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Congressional Record

PROCEEDINGS AND DEBATES OF THE 93$^{d}$ CONGRESS, FIRST SESSION

# SENATE—*Tuesday, September 11, 1973*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

### PRAYER

The Reverend Dr. Lewis Raymond, pastor, the Old Stone Church, First Presbyterian, Cleveland, Ohio, offered the following prayer:

Heavenly Father, we thank Thee for having been wakened to this day and its possibilities, and for the great gift of life. Especially do we thank Thee for all who now from their labors rest; for loving parents who gave us birth, whose dreams and hopes went far beyond our imagination; for conscientious teachers who stimulated in us the search for truth; for unheralded priests, nuns, rabbis, and ministers, who developed in us the true spirit of humility and love; for long since forgotten neighborhood friends and chums who developed in us the spirit of competition as well as that of cooperation; for loving wives and children who watch us with respect and pride.

For all these, and for all others who have touched us and influenced us, we thank Thee.

Now allow us to sow the seeds of the things of this day, that their influence upon us shall not have been in vain, and that in this place, hallowed by the memory of those who served here before us, we may truly know that we do not walk alone.

Bless us, our Nation, and our world. In Thy most precious name, we pray. Amen.

### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 10, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

### COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Delaware (Mr. BIDEN) is now recognized for not to exceed 15 minutes.

### PROPOSED SELECT COMMITTEE TO STUDY AND INVESTIGATE REGULATORY COMMISSIONS

Mr. BIDEN. Mr. President, just before the August recess, Senate Resolution 160 was introduced by the distinguished Senator from Minnesota (Mr. HUMPHREY) to establish a temporary Select Committee of the Senate To Study and Investigate the Regulatory Commissions of the U.S. Government. As its lengthy title indicates, the committee would be charged with conducting an intensive examination of the present operations and efficiency of the regulatory agencies. I would like this morning briefly to indicate what I believe are some of the areas of greatest concern.

There can be no doubt that the problem of agency performance is one of awesome magnitude. Regulatory commissions are vested with such far-reaching responsibilities that they have been dubbed "the fourth branch of government," a reasonably accurate assessment in light of their functional independence and power to affect the course of industry.

Agencies are, in fact, microcosms of our Federal system, exercising powers analogous to the three branches of Government: devising rules and regulations is a legislative task; formulating policy and implementing it are executive actions; and deciding controversies respecting contested matters before it is a quasi-judicial function. At the same time, regulatory bodies are created by the Congress, and must look to it for authority to regulate the industries within their ambit.

While Congress has delegated to the President certain controls over the agencies, such as the power to appoint commissioners, it is still the responsibility of Congress for the enabling statute, granting the agencies the authority which they have. This congressional-creating authority carries with it great responsibility for, once established, the agency must continue to operate within the framework of its legislative mandate, and has only such powers that have been specifically provided.

Over the years, the stresses and strains resulting from specific inadequacies in the administrative legislation have come to light, as well as inconsistencies in the power delegated to the different regulatory commissions. The wealth of suggestions for reform, and the controversy that has surrounded each proposal, is evidence of the need for a serious, comprehensive report to set out relevant considerations and point up areas for congressional action.

At present, it seems to me that too little hard, factual data is available for anyone to be able to make judgments on what substantive and procedural changes are in order.

The original pattern for regulatory legislation dates back to the Interstate Commerce Act of 1887. The ICC was charged to look to "public convenience and necessity" as the basic requirement for the performance of industry. Subsequent legislation echoed this language.

The Civil Aeronautics Act of 1934, for example, included the same standard for the Civil Aeronautics Board to consider in granting air carriage authorization. While such broad language has traditionally been supported in order to give administrative bodies as much flexibility as possible, perhaps it is time that Congress undertake a fundamental examination of the regulatory experience to amend or clarify its statutory directives in order to give further guidance or authority where needed.

New technological developments have created unanticipated problems. For example, both the ICC and the Maritime Commission regulate containerized shipments with differing policies at times, because their regulatory concerns are not necessarily consistent.

Another area of possible conflict of jurisdiction may arise between the Federal Power Commission and the Federal Communications Commission with respect to future supplies of power to be supplied by laser beams rather than across loadlines, because the technology apparently fits the language of both statutes. The complexity of such decisions is but one indication of the need for modern reanalysis.

A long-time criticism of the commissions has been that, because of the expertise which is the hallmark of their approach, both commissioners and staff tend to become representatives rather than regulators of the industries in their charge. The potential for this was noted before the turn of the century by then Attorney General Olney who advised a railroad president not to fight for the abolition of the ICC, because it could be of great use to the railroads. The ICC, he said:

> Satisfies the popular clamor for a government supervision of the railroads, at the same time that that supervision is almost entirely nominal. Further, the older such a commission gets to be, the more inclined it will be found to take the business and railroad view of things. It thus becomes a sort of barrier between the railroad corporations and the people and a sort of protection against hasty and crude legislation hostile to railroad interests . . . The better part of wisdom is not to destroy the Commission, but to utilize it.

I am not suggesting that the Interstate Commerce Commission is in fact such an important body today. I simply point out that there were others who had the same concern as I do about regulatory agencies, as far back as the turn of the century.

Consistent with this reasoning, regulators are on occasion heard to argue that whatever is best for the industry is best for the general public. While in some cases this may in fact be true, I think it presents a fundamental question as to the role of our regulators vis-a-vis the industries they are supposed to regulate. I realize this question is not new, but I would like to see it considered once again in light of past experience and in the context of the needs for the 1970's.

A related area for serious inquiry is the development of competing interests among agencies. The role of agencies in alternate transportation industries, including air, rail, and highways immediately comes to mind, as does the Federal Power Commission's concerns about natural gas supplies while the Atomic Energy Commission tries to encourage the development of a competitive fuel. I have no ready answers as to whether regrouping agencies is in order, or perhaps providing a better mechanism for interagency coordination, but I cannot help but ask whether or not our regulatory system is functioning most efficiently in this respect.

Another often heard criticism of our regulatory system is the inadequate opportunity for citizen participation in the decisionmaking process. Because decisions are made largely on the basis of material submitted to a commission, which comes generally from interested members of the industry, it is argued that the public interest is insufficiently represented. Such procedural difficulties as the relatively short published public notice before formal administrative action, and the relative obscurity of the information itself, add to difficulties of public participation in administrative action. Serious commentators on the administrative process, such as Roger Cramton, Chairman of the Administrative Conference of the United States, have argued for the desirability of broadened public participation in order to give decisions greater legitimacy and acceptance and to provide an expanded set of ideas, rewards and incentives for regulators. Recent court decisions expanding the law of standing will provide new opportunities for interested citizens to help in the determination of commission policy. Nevertheless, economic realities of such participation due to costs of information gathering and presentation may impair new opportunities for meaningful participation. I, therefore, would like very much to see a thorough study of some procedural improvements which have been suggested from time to time, such as the proposed creation of a separate Federal administrative court to have jurisdiction solely to review agency decisions. This proposal was made as early as the Hoover studies in the 1940's and renewed recently in the Ash report presented to President Nixon in January 1971. Other potential reforms such as a public ombudsman or consumer affairs department within each agency, or an independent public counsel corporation also deserve careful consideration. I look forward to a congressional study not only to reiterate past suggestions and evaluate them, but to provide sufficiently concrete information to lay the basis for meaningful legislation.

Another general area of concern that I would like to see studied is the process by which commissioners are selected. Originally, I believe, it was intended that commissioners would be able to bring special knowledge to their positions. However, political concerns have gradually come to erode the criteria of ability and expertise which were once thought to be the touchstone of regulation. The Landis report of 1960, which included an evaluation of regulatory personnel, noted: "A deterioration in quality, both at the top level and throughout the staff."

If this has remained so, perhaps Congress ought to consider specifying more definitely the qualifications for potential nominees, or at least provide some independent reviewing mechanism to raise the professional standards of commissioners and revitalize the regulation.

I have not attempted to canvass the field of issues which must be considered in evaluating the regulatory process, nor have I attempted to suggest answers. I hope, however, that my colleagues will join me in support of early passage of Resolution 160, so that we may promptly begin a much-needed task, and bring a complicated area into clear perspective.

## ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Tunney). Under the previous order, the Senator from West Virginia (Mr. Robert C. Byrd) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield such time from my order as he may desire to the distinguished Senator from Oklahoma (Mr. Bartlett).

Mr. BARTLETT. I thank the Senator from West Virginia.

## TWO-TIER CRUDE OIL PRICE CONTROLS

Mr. BARTLETT. Mr. President, the Cost of Living Council's present two-tier price control system of crude oil is ill-conceived and impractical—and will create an economic nightmare if it is continued.

This system was implemented with the intention of encouraging increased exploration and production while preventing windfall profits to oil producers and royalty interest owners.

Two-tier pricing of crude oil actually will create windfall profits. As long as the price of any previously established crude oil production is held down, higher than fair prices will be paid for new production to strike an average price level. All comparable quality oil has the same value whether it is old oil or new oil. Why should not the price be the same too?

Already the difference in at least one instance between the price of "new" and "old" crude is $1.35 per barrel. At least one refinery in Louisiana is purchasing "new" crude oil for $5.60 while it pays only $4.15 per barrel for "old" crude.

The price for new oil will approach the price of crude oil on the foreign market more quickly if old oil prices are held down. In some cases the price of new oil will exceed the world price of foreign oil because a purchaser of crude oil will be willing to pay a very high price for new crude oil if he also can obtain old oil contracts with the new oil. The disparity between the price of new oil and old oil will increase drastically.

There is nothing to prevent virtually any amount—$25 per barrel for example—from being paid for "new" crude that is tied in with a contract for a sizable amount of "old" crude held to a lower price.

This disparity would create windfall profits of huge proportions for the ownership and royalty interests of the new production—and would be grossly unfair to the ownership and royalty interests of the old oil which has the exact same value.

Once this two-tier system gets well underway, and the disparity between the price of old and new oil increases, there will be strong pressure to continue it—just as there is with natural gas regulation. Investments will have been made at high prices for new crude oil. Those sellers of new oil will oppose removing the controls on old oil, because they will fear that the free market will move to create an average price between the old and the new prices causing a price reduction.

An equal concern would be expressed by the purchasers of crude oil and consumers that eliminating the ceiling on the price of "old" crude oil would lead to rapidly rising prices that would approach the price of new oil and that "windfall" profits would occur. Regardless of the reason for their bias, both viewpoints would have the same improper conclusion—that the two-tier system should not be abandoned.

The longer the two-tier system is in effect the harder it will be to go back to a free market situation for crude oil.

The decision to adopt the two-tier price control system by the administration is incomprehensible because this is the method of pricing we already have for the sale of natural gas at the wellhead and the administration recognizes it has failed miserably to provide sufficient energy supplies. Actually, natural gas is sold in a multitier system, because "old" natural gas and "new" natural gas sold in the interstate market are allowed different prices by the Federal Power Commission and a third tier is created when natural gas is sold intrastate in a free marketplace.

Most energy experts place most of the blame for our domestic shortages of energy on the artificially and extremely low prices of natural gas established by the Federal Power Commission. They point out that the low price for natural gas has held down the prices of all competing fuels and has resulted in inadequate domestic supplies of all energy.

Past experience with the Federal Commission's control over natural gas shows the impossibility of raising sufficiently or removing controlled prices.

What about the argument that has been given by some in favor of the two-tier system of prices for crude oil that this will avoid "windfall" profits?

As I have already pointed out, the two-tier system will create huge "windfall" profits, not prevent them.

Inadequate prices for all fuels have resulted in about 50 percent less exploration and development activity for oil and gas as compared to 10 years ago.

"Shortfall" prices have produced "shortfall" profits—resulting in "shortfall" reserves and "shortfall" production of oil and gas—providing our "shortfall" of energy—shortages of oil and gas, which currently supplies 78 percent of the energy we use.

The free marketplace will replace any "shortfall" prices of energy with "fair" prices—not "windfall" prices. Fair prices will stimulate exploration and development of all sources of energy to eliminate eventually our shortage of energy. As shortages are eliminated, prices will decrease.

The price of foreign oil and gas has been skyrocketing because it is based on what the world market will bear. Foreign countries are taking full advantage of our "shortfall" supply of energy. They will continue to rise, until we permit the free market to establish fair prices—which will eventually eliminate our shortages.

The administration's two-tier system is an unworkable honor system that will place a huge administrative burden and financial expense on the industry and the Government.

The procedure that must be followed by sellers to determine the acceptable price which they can accept for their crude oil is complex and time consuming. An operator will have to sacrifice time, which could be spent trying to increase his production for the good of the United States, trying to determine by regulation the price which he might accept for the many different qualities of crude oil from the many different leases which he might operate.

The royalty owner is in an even more precarious position. The royalty owner might be totally unfamiliar with the crude oil pricing. Royalty interests are often owned by persons who may have no working knowledge of the petroleum industry and rely completely upon the operator to find a purchaser of the royalty interest crude oil. Under the current Cost of Living Council price regulations, the royalty owner would have to determine the price that he could accept for his crude oil independent of what the operator of the very same well could accept for his portion of the produced oil. This burden is entirely uncalled for.

Already it is a joke in the oil States that all the production of each State is now "new" crude oil eligible for the uncontrolled price.

The two-tier system on domestic crude oil prices is destined to be an even more dismal failure than the multitier system of natural gas prices which has more than any other factor caused our energy shortages.

The Nixon administration should immediately abandon the two-tier system of crude oil pricing by removing all price controls from petroleum and petroleum products.

Also, it should make an all-out effort to persuade Congress to remove all price controls on natural gas.

We can eliminate shortfalls of energy production by eliminating all controlled shortfall domestic prices and replace them with fair market prices.

This will also eliminate the "windfall" profits of the two-tier system and gradually reduce the currently gigantic "windfall" profits of the OPEC nations.

## ORDER OF BUSINESS

Mr. **BARTLETT.** Mr. President, I yield my remaining time to the Senator from West Virginia.

Mr. **ROBERT C. BYRD.** Mr. President, I yield back the remainder of my time.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER.** Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

Mr. **ROBERT C. BYRD.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The **PRESIDENT** pro tempore laid before the Senate the following letters, which were referred as indicated:

### TEXTS OF ILO CONVENTION NO. 136

A letter from the Acting Assistant Secretary for Congressional Relations, transmitting, pursuant to law, texts of ILO Convention No. 136 and ILO Recommendation No. 144 (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

### PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

### PUBLICATION ENTITLED INDEX TO EPA LEGAL AUTHORITY

A letter from the Acting Director, Office of Legislation, U.S. Environmental Protection Agency, informing the Senate that they will be shortly receiving a new EPA publication entitled "Index to EPA Legal Authority." Referred to the Committee on Public Works.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the **PRESIDENT** pro tempore:

A joint resolution of the Legislature of the State of California. Referred to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 30

"Relative to aviation user taxes

"Whereas, The federal government has a vital interest in the development of a national air transportation system, and to this end has concentrated its efforts in the field of airport development to the major metropolitan areas of our nation whose airports serve the national and international traveler; and

"Whereas, State government has accepted as its role the development of those airports that will complement the national system and bring air service to the small communities of the nation; and

"Whereas, The federal government has levied user taxes of such magnitude on the aviation public so as to preempt the field of taxation; and

"Whereas, The national policy has been established as being one that will encourage the redevelopment of the small cities and towns of this nation to combat the problems of urban strife; now, therefore, be it

*"Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to assure that the funds amassed by aviation user taxes on the federal level be returned in part to the states on an equitable basis so as to allow the states themselves to build and maintain the intrastate portion of the total national air transportation system to which this nation is firmly committed; and be it further

*"Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the National Society of the Sons of the American Revolution, praying for the maintenance of our military capabilities. Referred to the Committee on Armed Services.

A resolution adopted by the National Society of the Sons of the American Revolution, praying for a restoration of high military standards. Referred to the Committee on Armed Services.

A resolution adopted by the National Society of the Sons of the American Revolution, praying for a readjustment of the United States' financial support of the United Nations. Referred to the Committee on Foreign Relations.

A resolution adopted by the National Society of the Sons of the American Revolution, praying for the conservation of the nation's natural resources. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the National Society of the Sons of the American Revolution, urging the establishment and maintenance of the Edward Rutledge home as a permanent memorial. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the National Society of the Sons of the American Revolution, relating to observance of the dates commemorating George Washington's Birthday and Veterans Day. Referred to the Committee on the Judiciary.

A resolution adopted by the National Society of the Sons of the American Revolution, in support of publicly supported educational systems. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the National Society of the Sons of the American Revolution, in opposition to efforts to restrict accessibility to census records. Referred to the Committee on Post Office and Civil Service.

A resolution adopted by the National Society of the Sons of the American Revolution, urging proper honor for unknown soldiers in the Vietnam War. Referred to the Committee on Veterans' Affairs.

A resolution adopted by the National Society of the Sons of the American Revolution, relating to various and sundry matters. Ordered to lie on the table.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, with amendments:

S. 1739. A bill to amend the Federal Aviation Act of 1958 to provide a definition for inclusive tour charters, and for other purposes (Rept. No. 93-387), together with minority views.

**Mr. CANNON.** Mr. President, the Aviation Subcommittee of the Senate Commerce Committee held hearings in May on S. 1739 and S. 455. These bills would amend the Federal Aviation Act to authorize one-stop inclusive tour charters—ITC's—for both scheduled and supplemental air carriers, permit the marketing of such charters directly by the air carriers or through carrier-controlled tour operators, and remove certain existing restrictions on inclusive tour charters—such as the arbitrary pricing restriction and the minimum-stay requirement—which have impeded the development of this type of charter within the United States.

These bills are designed to make available to U.S. citizens the type of low-cost ITC service which has existed in Europe for over 15 years, and which has enabled millions of Europeans of modest means to take one or even two vacations annually by air. This popular type of charter service has been beneficial not only to the European consumer, but also to a whole range of European businesses which are engaged in providing tourist facilities and services—such as hotels, restaurants, sightseeing, and others. Perhaps the most popular ITC destination is Spain, where millions of Europeans as well as thousands of Americans have enjoyed low-cost ITC vacations.

But ITC's serve many other European vacation spots as well, and this type of air charter service has existed and developed side by side with regular scheduled airline service.

During the hearings on this legislation, the committee received expert testimony and detailed economic studies which demonstrated that the introduction of this form of charter service in the United States would be greatly beneficial both to consumers and to all classes of air carriers. The evidence presented not only enumerated the many benefits which European travelers have derived from this type of service, but also established beyond question that such service has not in any way injured intra-European scheduled airline service. On the contrary, ITC's have stimulated the market for air travel in general, including scheduled air travel. For example, one analysis of 1,800 European points served by ITC's showed that scheduled services to such points had increased steadily during the 10-year period in which intra-Europe ITC's experienced their most rapid growth.

I am pleased to report that the Senate Commerce Committee, having considered S. 1739, reports favorably thereon with amendments and recommends that the bill as amended be enacted. I am also pleased to submit a report on S. 1739 which clearly sets forth an analysis of this legislation as well as its need. Let me emphasize that this report specifically requires the Civil Aeronautics Board, in accordance with provisions of the bill as amended, to insure that the introduction of this type of charter service does not impair essential levels of scheduled service.

During the hearings, Mr. President, my subcommittee afforded all interested parties an opportunity to present testimony for or against this legislation. The Air Transport Association of America, the trade organization of the scheduled carriers, did appear and present testimony in opposition to one-stop inclusive tour charters, even though the scheduled air carriers which it represents would also be authorized to perform such charters. I might add that the testimony by this organization was conclusionary and unsupported by any factual studies or analyses to demonstrate why such legislation would not be in the public interest. Mr. Ignatius, the president of ATA, gave us only generalized statements of "gloom and doom," such as—

> Enactment of such legislation could herald the beginning of the end of the nation's air transportation system as we know it today.

These statements are strikingly similar to others made by that organization in response to past proposals, to provide expanded charter services to the American consumer. None of the fears expressed, however, have yet come to pass. And while the committee challenged the opponents of the legislation to submit factual studies demonstrating how this legislation would adversely affect them, no studies or other hard data have been submitted to the committee, nor, to our knowledge, have any such studies been made.

Despite the absence of any solid evidence to indicate that this legislation would adversely affect the scheduled airlines, the ATA has embarked upon a well-financed public relations drive designed to defeat this legislation. Unsupported allegations of adverse consequences that will flow to the scheduled air carrier system have been circulated to the public, businessmen, chambers of commerce, mayors, and all Members of Congress. These statements and pamphlets are filled with inaccuracies, and seek through scare tactics to stimulate public opinion against this consumer-oriented legislation.

The scare materials I refer to do not explain what the legislation is designed to do, or the benefit to the consumer—which, to say the least, is essential for a proper understanding of the matter. They do not tell you that scheduled fares, which on the average are 6.1 cents per passenger-mile—including promotional fares—are three times the seat-mile costs of charters. They allege without any factual substantiation that one-stop ITC's will cause a reduction in the volume of scheduled service but they do not tell you that the legislation contains specific provisions against impairment of essential levels of scheduled service. They neglect to tell you that the scheduled carriers themselves have admitted that there is excess scheduled service in the market today, and they have asked the CAB to waive the antitrust laws so that they can meet and agree among themselves to reduce the amount of service available in major markets.

In several respects this ATA propaganda is especially misleading. For example, much stress is placed on the claim that European scheduled air fares are higher than U.S. domestic scheduled air fares. The comparison, however, is based on international European fares. They fail to tell you that European domestic fares are lower than U.S. domestic scheduled fares which would have been a much more pertinent comparison than the one they used. I have had such a comparison prepared and I ask permission to have it inserted in the RECORD at this point. In brief, this comparison shows that European domestic fares are from 14 to 194 percent below comparable U.S. domestic fares.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

EXHIBIT I

COMPARISON OF U.S. DOMESTIC FARES VERSUS EUROPEAN DOMESTIC FARES, SEPTEMBER 1973

| | Nonstop mileage | Economy fare | | Percent U.S. fare higher |
|---|---|---|---|---|
| | | Before tax | After tax | |
| Madrid to Las Palmas | 1,097 | $64.82 | $64.82 | -------- |
| New York to Kansas City | 1,098 | 78.70 | 85.00 | 31 |
| London to Glasgow | 349 | 31.66 | 31.66 | -------- |
| St. Louis to Tulsa | 351 | 33.33 | 36.00 | 14 |
| Palma to Madrid | 339 | 29.84 | 29.84 | -------- |
| Memphis to Atlanta | 332 | 32.41 | 35.00 | 17 |
| Malaga to Madrid | 268 | 24.57 | 24.57 | -------- |
| Philadelphia to Pittsburgh | 267 | 26.85 | 29.00 | 18 |
| Ankara to Istanbul | 227 | 12.24 | 18.36 | -------- |
| Seattle to Spokane | 223 | 24.07 | 26.00 | 42 |
| Belgrade to Dubrovnik | 186 | 13.53 | 13.82 | -------- |

| | Nonstop mileage | Economy fare | | Percent U.S. fare higher |
|---|---|---|---|---|
| | | Before tax | After tax | |
| New York to Boston | 191 | $22.22 | $24.00 | 74 |
| Warsaw to Gdansk | 183 | 8.46 | 10.27 | |
| Baltimore to New York | 180 | 22.22 | 24.00 | 134 |
| Berlin to Hamburg | 163 | 19.38 | 19.38 | |
| Kansas City to Omaha | 166 | 21.30 | 23.00 | 19 |
| Geneva to Zurich | 144 | 17.95 | 17.95 | |
| New York to Providence | 149 | 20.37 | 22.00 | 23 |
| London to Birmingham | 100 | 12.77 | 12.77 | |
| Washington to Richmond | 104 | 17.59 | 19.00 | 49 |
| Zurich to Basle | 49 | 8.21 | 8.21 | |
| Kansas City to Topeka | 51 | 15.74 | 17.00 | 107 |
| Brussels to Antwerp | 21 | 4.42 | 4.42 | |
| Baltimore to Washington | 24 | 12.04 | 13.00 | 19 |

Source: OAG September 1973.

Mr. CANNON. While ATA states that scheduled air fares have decreased in the past 10 years, they fail to tell you that within the United States scheduled fares in the economy class, which is used by about 85 percent of the travelers, have increased in the same period between 19.6 and 69.6 percent for an overall average of 51.1 percent. Again, ATA fails to tell you that European air fares have increased on the average of only 42.1 percent during this period.

I ask unanimous consent that the comparison be printed in the RECORD at this point.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

DOMESTIC U.S. FARES INCREASED MORE IN THE PAST DECADE THAN INTRA-EUROPE FARES

| City pairs per ATA pamphlets | Economy fare | | Percent increase |
|---|---|---|---|
| | 1963 | 1973 | |
| Domestic United States: | | | |
| Dallas–Miami | $66.60 | $79.63 | 19.6 |
| Atlanta–Boston | 51.65 | 70.37 | 36.2 |
| Chicago–Pittsburgh | 25.15 | 36.11 | 43.6 |
| Detroit–Washington | 24.85 | 35.19 | 41.6 |
| Chicago–Detroit | 15.25 | 25.00 | 63.9 |
| New York–Boston | 13.50 | 22.22 | 64.6 |
| Wichita–Kansas City | 13.10 | 22.22 | 69.6 |
| Oklahoma City–Dallas | 13.10 | 22.22 | 69.6 |
| Simple average | | | 51.1 |
| Intra-Europe: | | | |
| Copenhagen–Rome | 108.50 | 142.10 | 31.0 |
| Paris–Milan | 40.20 | 58.40 | 45.3 |
| London–Paris | 26.80 | 39.00 | 45.5 |
| Hamburg–Copenhagen | 28.70 | 42.10 | 46.7 |
| Simple average | | | 42.1 |

Source: OAG, QRE September 1963 and September 1973 OAG, World-Wide Edition September 1963 ATA publication "How Air Service in the U.S. and Europe Is Different."

Mr. CANNON. The ATA has also asserted in its literature that "within Europe there are no discount or promotional air fares." They fail to tell you that the fact of the matter is that there are night fare discounts up to 30 percent in some of these markets and in markets where scheduled carriers must compete with inclusive tour charters, there are also inclusive tour basing fares.

Mr. President, one of the most despicable statements that the ATA and its member carriers are circulating through this propaganda machine is that scheduled service will probably be terminated to many communities if this legislation is enacted. This must be called what it is—"a big lie." This is not a new tactic on the part of ATA, when it seeks to preserve its vested interest. It made similar statements in 1962 when this Congress adopted legislation that created the supplemental industry. It made similar statements in 1962 when the Congress authorized inclusive tour charters. It made similar statements when the Civil Aeronautics Board adopted the travel group charter programs. These predictions of gloom and doom, threatened loss of air service, are tactics to influence you to vote against legislation which would enable the consumers to enjoy low-cost air transportation service. This legislation, S. 1739, will not cause any community the loss of air service. If the community loses air service or there is a reduction, it will be the result of carrier agreements presently pending before the Board which have nothing to do with this legislation at all.

Mr. President, I and my colleagues have recently been receiving a good deal of mail on this subject, most of it stimulated by the Air Transport Association in an attempt to defeat this bill.

At this point I ask unanimous consent to insert in the RECORD for the information and interest of my colleagues two letters I have recently received from individuals involved in air transportation and who are knowledgeable about the effects and ramifications of this bill. One letter is addressed to me, the other was addressed to Mr. Stuart Tipton, Chairman of the Board of the ATA a copy of which was sent to me by the sender for my information.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MARRAKESH EXPRESS CO., INC.,
*New York, N.Y., August 30, 1973.*

Mr. STUART G. TIPTON,
*Chairman of the Board, Air Transport Association, Washington, D.C.*

SIR: In reference to your letter of 27 August, I feel compelled to reply for the millions of persons whom the airline industry constantly ignores; the vacationing traveller. It has been the aim of this company and its IATA parent, Rodgers Travel, to provide low-cost, quality travel to large numbers of people. It never fails to amaze us that the attitude of the airline industry has always been that it is better to fly with empty seats than to sell those seats at rates which the carriers consider "unprofitable". What is more unprofitable than an empty seat? When one stops to consider the enormous amount of discounting, rebating, "illegal" charters and the like, it becomes quite evident that what the public wants, and deserves, is lower cost.

Let us take your points one by one: "Some elements of the travel industry *may* (emphasis added) believe that single stop ITC services . . . will boost tourism." There is absolutely no doubt in my mind and in the minds of many informed and reasonably forward thinking people that one-stop ITCs will promote fantastic tourism and not just to "some markets and to some destinations", but to new and as yet unspoiled places. The only drawback is that those very few destinations which are not as yet destroyed by rampant commercialism will shortly be so.

You refer to the "myriad of dependable scheduled service flights . . . on which the vast majority of sales are made today." You imply, for a reason which I, for one, do not at all comprehend, that these "myriad" flights will vanish from the OAG. And perhaps some shall. Surely with all those empty seats it would not be such a tragedy nor would it be a regression to the days when there were not twenty-odd flights daily from New York to London.

". . . concentrating flights in a relatively few high volume markets . . . would have an adverse effect on your business." This is perhaps the most nonsensical remark in your letter. Any means for promoting more travel, higher volume even at substantially lower cost, cannot but help the travel agent. Every travel agent will have the opportunity to promote and sell ITCs and with the large numbers of established agencies failing because of poor business perhaps this would be just the needed boost. At any rate, I cannot see mass travel as being deleterious to the Agent.

"The airlines believe that you have a right to know what issues are involved . . . ." This would certainly be the first time that the carriers told agents the real reasons and real issues involved. The general attitude has always been that the agent is the last to know. Now, suddenly, when the scheduled carriers are afraid that they might lose some business to supplementals, they are courting the agents. Now, when the American consumer is finally going to receive some of the benefits which his European brothers have had for many years, the Air Transport Association finds it necessary to warn travel agents of the financial dangers involved in good, inexpensive travel.

I have responded to your letter, Mr. Tipton, but not to the brochure, per se, because I feel that to answer the obviously slanted, distorted and, in many ways, slanderous allegations made therein would, perhaps, elevate that pamphlet to a plateau of some credibility. There is no credibility in that brochure that I can read.

In conclusion, I will continue to lobby for the rights of the travelling consumer in the hope that through international travel and understanding we may promote a better life for all.

Sincerely,

JAMES FINE,
*President.*

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THE INTERNATIONAL PASSENGERS CONSUMER ASSOCIATION,
*Limerick, Republic of Ireland,*
*September 7, 1973.*

Hon. HOWARD W. CANNON,
*Chairman, Subcommittee on Aviation, Committee on Commerce, U.S. Senate, Washington, D.C.*

Re. S. 1739.

DEAR SENATOR CANNON: I want first to congratulate you on your sponsorship of this bill which, if passed into law, will not only remove three burdensome restrictions from a form of travel for which there is, in other parts of the world, a truly massive demand, but will open up for Americans and for foreigners wishing to visit America a new vista of travel arrangements that must inevitably be for the benefit of America, for airline passengers of the future, and for airlines, both scheduled and supplemental. The questions that come to my mind are, why were ITC's hedged in by restrictions in the first place and why, in the light of European experience and of a rapidly growing demand for cheaper travel in America, has it been so long before action was taken to do away with those restrictive rules that have abridged the American's right to travel as freely as possible?

I believe the restrictions to have been—in all good faith—misconceived from the outset. The record of development of civil air transport does not support the view (on which the restrictions were based) that regular scheduled services would have suffered by the greater simplification of the cheaper forms of travel such as that now proposed by S. 1739. I believe the assumption on which the restrictions were predicated were groundless then and are, *a fortiori*, groundless today.

Let me introduce myself. I speak for the International Passengers' Consumer Association (IPCA) which includes in its membership Americans from forty states and persons from a total of thirteen countries. Among our purposes, we serve and promote the interests of people of all nations who are (or who may be) users of services or subjects of conditions incidental to travel. In two respects we differ (I believe) from many of the organizations that may have testified before your Committee. We aim to represent the interests of *travelers as whole:* first-class economy-class, right down to those who will use the so-called "Skytrain" services proposed by Laker Airways and a few others. In endorsing S. 1739, therefore, we have to satisfy ourselves that its passage into law would be unlikely to have any adverse effect on other categories of traveller.

Secondly, it is our belief that the long-term interest of travellers demands the continuing economic viability of air carriers, both those providing scheduled and those which operate non-scheduled services. Consequently, we examine carefully such evidence as there may be relative to questions (such as the subject matter of S. 1739) with a view to satisfying ourselves that competing interests may not be harmed unduly, nor that the long term interests of travellers in general may be imperiled.

Our view is that the removal from ITC's governed by the CAB rules of the three offensive restrictions (unnecessary and unwanted nightstops, a minimum charge for the "package", and a minimum stay) should not induce any abridgement of other types of service which would affect other categories of passengers, nor should it lead to reduced trading profits for any well-managed airline. On the contrary, profits both for supplemental and scheduled carriers may be expected to increase as a result of newly-generated traffic. This has already happened in Europe.

If we felt that by making ITC traffic more widely available one of the results would be seriously to reduce the availability of scheduled services, we would be bound to exercise great caution in supporting S. 1739 for, as I have said, our interests include those of the scheduled as well as the charter traveller. The upsurge of charter traffic over the North Atlantic and in Europe has been attended by a steady rise in the volume of scheduled services. If (especially over the North Atlantic) certain carriers have had some lean years financially, this must be attributed not to dilution of scheduled by non-scheduled traffic, but rather to almost prodigal expenditures on new types of aircraft and the resulting over-capacity. "Keeping up with the Joneses" is invariably costly!

Airlines engaged in scheduled services are eligible to share the charter segment of the total passenger market and, in fact, on the North Atlantic IATA carriers have captured charter traffic in excess of that captured by non-IATA airlines. The cake is available to all—as it should be.

We must confess to finding the arguments against S. 1739, based as they are on speculation and the gloomiest of prophecies, far less attractive than those which support the bill with the results of careful and painstaking analyses and with the experience gained elsewhere over more than a decade.

We believe that travel should be made as free of restrictions as is possible, having regard to all the relevant factors. The burden of proof that a restriction is necessary should fall fairly and squarely on those who would seek to introduce or to perpetuate it—not on those who oppose it or seek to have it removed. Around last Christmas or New Year I watched a television programme on the B.B.C. where a panel discussed, *inter alia,* cheap fares and related matters. On the panel was the Rt. Hon. Lord Boyd-Carpenter, Chairman of the C.A.A. It was indeed refreshing to hear him say that it was C.A.A. policy *to aim for the removal of every restriction that could not be shown to be necessary.*

We reject the proposition that S. 1739 will lead to abridgement of scheduled services to the disadvantage of that segment of the public which uses these services. There is no objective evidence to support this.

We find unimpressive the suggestion that scheduled carriers will lose financally if cheap travel is made more attractive by liberalizing ITC's: they will take a sizeable slice of whatever new traffic is generated and this should more than compensate them for any loss of revenue through certain passengers at present being compelled to go on scheduled flights availing themselves of the new ITC facilities.

If we thought otherwise, we would hesitate to support even something that is to the obvious advantage of so many travellers. Air fares (and conditions attaching thereto) must never be allowed to drop to levels where "low-cost travel this year" may mean "no services next year". We reject any suggestion that S. 1739 will lead to this. We believe the bill, taken in its entirety will be for the benefit of an increasing segment of the public with no foreseeable consequences that will adversely affect the interests of any specific segment of the public, including the travel or the air transportation industry.

Having said this, may I conclude on another note. To the extent that is possible and practicable travel should be kept free of restrictions. The Kremlin is open to criticism for refusing unimpeded rights to tourists to travel to places in the U.S.S.R. that they *want* to visit. Is the CAB so very different? For years it has compelled Americans, and visitors to America, to travel to, and make nightstops at, places in the U.S.A. that they do *not* want to visit. In the absence of the strongest reasons to the contrary, it is more than high time that Congress reversed this posture on the part of the CAB. For our part, we can find no such reasons for Congress to delay; and we support and endorse S. 1739 for the reasons stated.

Yours sincerely,
Geoffrey A. Myers, M.B., F.R.C.S., F.A.C.S.,
*President.*

P.S. It is requested that any correspondence arising out of this letter be directed to my private address: P.O. Box 497, Hamilton–5, Bermuda.

Mr. CANNON. Mr. President, I ask that my colleagues give S. 1739 their careful consideration before it comes to the Senate for debate in the near future. I ask that each Senator carefully read and review the report from the Commerce Committee which explains in detail the provisions of the bill and which will answer the malicious and erroneous criticism of this bill which has been engendered by the ATA.

By Mr. CANNON, from the Committee on Armed Services, without amendment:

S. 2316. A bill to authorize the disposal of copper from the national stockpile and the supplemental stockpile (Rept. No. 93–388).

## ORDER FOR PRINTING OF REVIEW OF REPORT ON MISSISSIPPI RIVER AND TRIBUTARIES, GREENVILLE, MISS. (S. DOC. NO. 93–148)

Mr. RANDOLPH. Mr. President, I present a letter from the Secretary of the Army, transmitting a favorable report dated January 5, 1973, from the Chief of Engineers, Department of the Army, together with accompanying papers and an illustration, on Mississippi River and Tributaries, Greenville, Miss., requested by a resolution of the Committee on Public Works, U.S. Senate, adopted February 27, 1967. I ask unanimous consent that the report be printed as a Senate document with illustrations and referred to the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATHAWAY:

S. 2398. A bill to develop employment opportunities and business in economically depressed areas by providing certain preferences for prospective Government contractors in such areas. Referred to the Committee on Government Operations.

By Mr. CANNON:

S. 2399. A bill to amend title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, and other officers and employees of the Office. Referred to the Committee on Rules and Administration.

By Mr. BELLMON:

S. 2400. A bill to amend section 202 of the Clean Air Act with respect to motor vehicle emission standards. Referred to the Committee on Public Works.

By Mr. MAGNUSON (for himself and Mr. Cannon):

S. 2401. A bill to promote safe transportation of people and property in commerce by establishing the National Agency for Transportation Safety as an independent agency of the United States to investigate transportation accidents, to make recommendations for avoiding such accidents, to represent the safety interests of the public before regulatory agencies, and for other purposes. Referred to the Committee on Commerce.

By Mr. McGOVERN (for himself and Mr. Abourezk):

S. 2402. A bill authorizing the construction of a dam and reservoir on the Little White River, South Dakota (Rosebud Site). Referred to the Committee on Public Works.

S. 2403. A bill to authorize the Secretary of the Interior to construct, operate, and maintain a larger and adequate spillway, and to improve the upstream slope protection on Belle Fourche Dam, Belle Fourche project, Belle Fourche, S. Dak., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON:

S. 2399. A bill to amend title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, and other officers and employees of the Office. Referred to the Committee on Rules and Administration.

Mr. CANNON. Mr. President, this legislation is introduced for the purpose of immunizing the Public Printer from civil and criminal liability for carrying out the specific commands of the Congress.

The Supreme Court in a 5-to-4 decision of May 29, 1973, in Doe against McMillan removed any immunity which heretofore had been imputed to the Public Printer, the Superintendent of Documents, and other employees of the Government Printing Office in carrying out their official duties in the printing, distribution, and dissemination of public documents.

As Justice Blackmun said in a footnote to his dissenting opinion in the above setout case:

> Thus, the Court has placed the Public Printer and Superintendent of Documents in the untenable position either of accepting the risk of personable liability, whenever a congressional document officially is printed and distributed or of violating the specific command of a congressional resolution ordering the printing and distribution.

We do not claim this bill to be a panacea to all the problems brought to a head by the Supreme Court decision. However, we do feel it to be a step in the right direction to help alleviate the problem.

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By Mr. BELLMON:

S. 2400. A bill to amend section 202 of the Clean Air Act with respect to motor vehicle emission standards. Referred to the Committee on Public Works.

### CLEAN AIR ACT AMENDMENTS

Mr. BELLMON. Mr. President, in a recent interview, Robert W. Fri, former Administrator of the Environmental Protection Agency, stated in reference to EPA transportation control proposals for Los Angeles, that:

> Such extreme remedies surely were not envisioned by Congress when it enacted the Clean Air Act of 1970.

He went on to say:

> Nevertheless, the government must take these steps to meet national ambient-air standards by May 31, 1975, unless the law is changed.

Mr. President, I propose to change that law.

I firmly believe that certain amendments to the Clean Air Act are indicated in order to prevent unnecessary waste of scarce energy resources which will cause great hardship and even deaths this winter among those who cannot get fuel for home heating and other essential purposes.

It has become abundantly clear that there is not enough fuel available at the present time to do everything everyone wants done. Nor will this condition improve in the immediate future. On the contrary it will likely get worse—perhaps much worse.

Already most Americans have had personal experiences with energy shortages. Empty gasoline pumps, brown-outs, reduced airline operations, shortages of energy-derived agricultural fertilizers, and empty home heating fuel tanks are only a few of the symptoms that "a nation that runs on oil is running short."

Mr. President, we presently consume in this country 16 million barrels of crude oil per day. Over 50 percent is represented by gasoline consumption. The present EPA regulations will significantly increase the consumption of the automobile population in the years to come. It has been estimated by the Office of Emergency Preparedness that these standards, which are highly questionable as to their effectiveness, will increase fuel consumption over the next 30 years by 48 billion barrels of crude oil, which amounts to almost 8 years of our annual crude oil consumption.

A strong debate has been going on since the passage of the Clean Air Act regarding the merits of the emission standards that were established. It has been argued that the emission standards, if attainable from a technological standpoint, may in fact not be that solution to the vehicle emission problem.

Mr. President, I wish to submit for the record a memorandum written by Dr. Edward G. David, Jr., of the Office of Science and Technology, regarding EPA vehicle emission regulations. This document seriously questions EPA regulations. In regard to the national automotive emissions standards, the Office of Science and Technology states it "does not believe it is in the interest of the consumer or the nation to have a uniform national automotive emissions standards."

Mr. President, I ask unanimous consent that the memorandum by Dr. David be printed in the Record following my remarks.

Not only are we faced with the danger of making the wrong decision that would cost billions of dollars to the American consumer, we are also running the risk of severely aggravating our present enerergy shortage through an inordinately high consumption rate brought about by these emission control devices.

It is for this reason, Mr. President, that I am introducing legislation to help husband the limited supplies of fuel we have available so that the highest priorities of human need can be met. It makes little sense to waste fuel nationwide in inefficient automobile engines in a premature effort to clean up the air in a few large metropolitan areas while much of the country is cold, dark, or paralyzed.

More time is needed to develop new fuel sources and new emission control devices. This bill will gain that time.

It is becoming more and more obvious that adding devices onto conventional automotive engines is not the ultimate solution to vehicle emissions. Even pursuing this course for some short term interim period until better technology is developed will cause a significant waste of energy resources. It will also produce 3 to 5 years of low-performance, high-maintenance cost cars, which require special expensive lead-free fuel.

Mr. President, this bill would amend the Clean Air Act to suspend all emission controls standards beyond the 1974 model year until such time that a thorough review of the entire vehicle emission control problem is completed.

In addition, it calls for careful consideration of any environmental regulations as to the effect they have upon the economic health of the country.

My proposal also calls for an in-depth study of the entire vehicle emission problem to be conducted jointly by the National Academy of Sciences, the Office of Technological Assessment and other interested governmental agencies. Upon completion of this study in 1976, a decision will be made by the Administrator of the Environmental Protection Agency with the consent of Congress as to what further course of action is required in the vehicle emission control area.

Mr. President, while I do not quarrel with the intent of environmental legislation, in view of the energy crisis this Nation faces it is apparent that a reevaluation of priorities is necessary and a determined search for rational solutions must be undertaken. We simply cannot afford to cause people to freeze in their homes this winter for lack of heat in order to achieve arbitrary environmental benchmarks.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill and memorandum were ordered to be printed in the Record, as follows:

### S. 2400

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 202 of the Clean Air Act is amended to read as follows:

### "ESTABLISHMENT OF STANDARDS

"Sec. 202. (a) Except as otherwise provided in subsection (b)—

"(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

"(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(b)(1) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1975 shall contain standards which were established for the 1974 model year.

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of enactment of the Clean Air Act Amendments of 1970), shall be prescribed by regulation within one hundred eighty days after such date.

"(3) For purposes of this part—

"(A)(i) The term 'model year' with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term 'model year' shall mean the calendar year.

"(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining 'model year' otherwise than as provided in clause (i).

"(B) The term 'light duty vehicles and engines' means new light duty motor vehicles and new light duty motor vehicle engines as determined under regulations of the Administrator.

"(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this Act. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 307(a) (relating to subpenas) shall apply.

"(5) (A) At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only, of the effective date of any emission standard required by paragraph (1) with respect to such manufacturer. The Administrator shall make this determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination, prescribe by regulation, interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during the duration of these standards.

"(B) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers, except that no technology shall be allowed that is not compatible with the expected ultimate system or that is likely to induce significant waste of scarce energy resources.

"(C) Within sixty days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that suitable technology, processes, or other alternatives are available to meet such standards.

"(c) (1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences and other concerned Government agencies to conduct a comprehensive study of the entire vehicle emission problem. Factors considered should include but not be limited to:

"(A) available technology for engine design and emission control systems,

"(B) energy conservation aspects of the desired solution,

"(C) air quality requirements and reasonable time frame for achieving them,

"(D) costs versus effectiveness for incremental levels of control, and

"(E) effect of alternate strategies such as transportation controls and land use planning or air quality.

"(2) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

"(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than January 1, 1974, and continuing until such study and investigation is completed, not later than July 1, 1976.

"(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this Act (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

"(5) Upon review of the report the Administrator shall recommend, after such hearings as he may deem advisable, additional congressional action necessary to insure implementation of the optimal engine-fuel-hardware strategy for emission control.

"(d) The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a) (1) of this section and section 207. Such regulations shall provide that useful life shall—

"(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs; and

"(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

"(e) In the event a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 206(a), the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a)."

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EXECUTIVE OFFICE OF THE
PRESIDENT, OFFICE OF SCIENCE
AND TECHNOLOGY,
*Washington, D.C., November 1, 1972.*

Memorandum for Mr. Donald E. Grabill, Office of Management and Budget.

From: Dr. Edward E. David, Jr.

Subject: EPA Proposed Regulation Affecting Lead in Gasoline.

OST has reservations with respect to both major thrusts of this regulation:

(1) The requirement that unleaded gas be made available nationally after July 1, 1974. Any individual who operates a single retail outlet which sells 200,000 or more gallons annually shall offer unleaded gas, or any person who operates six or more retail outlets shall offer unleaded gas at no fewer than 60% of such outlets.

(2) The requirement that the lead content per gallon in leaded gasolines be decreased from 2 grams to 1.25 grams per gallon during the period January 1, 1974 to January 1, 1977.

With respect to the first thrust of the regulation, the peak lead level specified of .05 grams and the peak phosphorous level of .005 grams per gallon seem adequate to meet the requirements of those catalytic emission control systems designed to meet the 1975–1976 standards. There is some question as to the sulphur content of gasoline and its effects on catalysts. While most modern refining techniques reduce sulphur considerably, we cannot be assured that only low sulphur gasoline would be available from all refineries. Experience to date indicates that sulphur may collect on catalysts and poison them when the driving cycle is mild. A demanding driving cycle seems to burn off deposited sulphur from catalysts. If sulphur does become a problem presumably EPA could regulate its content in gasoline at some future time but hopefully before catalysts in consumers cars are destroyed.

### NO NEED FOR A NATIONAL AUTOMOTIVE EMISSION STANDARD

However, OST does not believe it is in the interest of the consumer or the nation to have a uniform national automotive emissions standard. At least 30% of the nation's autos are in a region with an air quality that is unimpaired by cars meeting 1972 emissions standards. Much larger portions of the country have an air quality that would be unimpaired utilizing thermal reactors, some exhaust gas recirculation, and lead particulate traps if needed. Only a small portion of the country requires the most expensive emission abatement equipment, namely, catalytic converters mandated by the current automotive emission standards. Lead-free gasoline is needed only for this equipment.

The Clean Air Act should be modified to diminish the enormous financial burden with few compensatory benefits to the consumer required by present legislative requirements. Should the Clean Air Act be rationally modified, the requirement for unleaded gasoline to be nationally available in large quantities diminishes to a requirement for large quantities of unleaded gasoline in those regions where catalytic converters must be used and enough unleaded gasoline to provide reasonable mobility in those regions where cars equipped with catalytic converters may drive but are not required. The issue for the government is whether to require retailers to plan to have a uniformly widespread distribution of unleaded gasoline even though this would not be required if rational modifications to the Clean Air Act could be obtained.

With respect to the second thrust of these regulations, OST has reviewed the medical evidence that supposedly supports the EPA Administrator's desire to reduce the lead content of gasoline. OST finds the Administrator's position in this regard unsupported by the evidence. OST also finds that there are better strategies should the health issue be supportable than the one selected, namely, the use of lead traps in car exhaust systems rather than a general reduction of lead in gasoline.

### LACK OF MEDICAL EVIDENCE TO SUPPORT FINDINGS

With respect to the medical evidence, there is no correlation between airborne lead and lead levels in blood for the range of airborne lead levels encountered in rural or urban communities, as the following Table 1 indicates:

TABLE 1

| | Airborne lead density (micrograms/ $M^3$) | Lead blood level (micrograms/ 100 ml) |
|---|---|---|
| Pasadena | 3.4 | 17.5 |
| Ardmore (Philadelphia suburb) | 1.15 | 18.0 |
| Los Alamos | .2 | 15.0 |

On the average, it is true that urban populations have somewhat higher lead blood level concentration than suburban populations—19 micrograms as compared to 17 micrograms—of the order of 10%. However, there is the same difference in lead level concentration between smokers and nonsmokers. While it is true that airborne levels were higher in 1968–1969 than in 1961–1962, there is no indication that lead blood levels in either urban or rural populations are approaching clinically significant levels of 40 micrograms per milliliter.

EPA's health concern seems to focus on the ingested as compared to respired lead due to lead particulates exhausted by automobiles. EPA reports levels of lead in dust fall on some urban streets of 0.3% to 0.5%. They also point out that this is comparable to the current standard of lead paint, 1%, and that the proposed standard for leaded paint is .06%.

However, the lead dust fall in Los Angeles should be greater than lead dust fall in most other communities because of the greater dependence on the automobile. Airborne lead measurements seem to support this conclusion. Nevertheless, to the best of our knowledge, no lead poisoning attributed to ingestion of urban lead dust has occurred in the Los Angeles area in the last decade. However, in the older ghettos of urban areas with less automotive dependence than Los Angeles and lower concentrations of airborne lead, there are cases of deaths due to lead poisoning. It seems to be attributable to the very high concentrations of lead in paint (30%) in houses built before 1940. Both the stucco construction and the small number of houses predating 1940 in Los Angeles seem to minimize exposure to the lead in paint in Los Angeles.

Thus the urban area problem does not seem to be the dust fall due to lead in gasoline or even the lead in paint at the 1% level but the legacy of high lead concentrations in paint (30%) used before the 1940–1950 era. It would seem reasonable to concentrate abatement strategy on the greatest threat. There is no evidence that the lead in dust fall (at most 1.5% of the lead in old paint) is the critical exposure that leads to lead poisoning in children in older urban areas. There is no evidence that the high level of roadside lead in dust is correlated with regions where children are likely to play. There is no evidence of the duration of such levels as a function of wind or rainfall. In other words, EPA's presentation does not correlate high instances of urban roadside lead dust with exposure to children who might ingest it or to known instances of high lead blood levels. Before a lead abatement strategy could be promulgated by the Administrator on this basis it would seem that these issues would have to be addressed.

### LEAD ABATEMENT STRATEGIES

Should further analysis justify a general lead abatement strategy, OST believes that lead traps in muffler systems are an effective approach that will not diminish fuel economy and that will be more cost effective than the reduction of lead in gasoline. Long-term—in the 1980's—engine technology will probably develop so that low octane fuels without lead additives can be efficiently used.

While EPA grants the effectiveness of lead particulate traps for the large particle size, they seem concerned about the ability of lead particulate traps to operate on smaller particle sizes. This is an unrealistic concern for two reasons:

(a) The literature continues to report improvements in the ability of lead particulate traps to catch small particles.

(b) The smaller particles, less than 0.3 microns, probably are airborne for considerable periods of time and do not cause the high concentrations noted in roadside dust. For example, the settling time of 0.1 micron particles is 3–4 hours to fall one centimeter. The settling time for a one-micron particle is 5 minutes for one centimeter. The smaller range of particles contribute to the general burden of atmospheric lead but certainly not to roadside lead. Therefore, if the medical concern of EPA is roadside lead dust levels, particulate traps effective to 0.3 microns may be quite adequate.

The average muffler is replaced every two years. A lead abatement strategy that calls for a muffler that includes lead particulate traps would increase the price of installed mufflers by approximately 20%. A lead abatement strategy could require that all replacement mufflers include lead particulate traps. In a short time at low cost the bulk of the car population would be so equipped. Lead particulate traps within mufflers can contain the lead volumes that would be generated during 100,000 miles of driving. The cost of such a muffler replacement program would be less than the cost of altering the refining capacity to obtain the proposed lowering of the lead content of leaded gasoline and would provide greater lead reductions.

### COSTS OF REMOVING LEAD

Since there is no indication that lead is biologically helpful, one would naturally desire to remove lead unless there were a penalty in some other portion of the social system. That penalty is substantial. The penalty can be understood in terms of the automotive emission standards achievable by various technologies. Table 2 is a comparison of California 1975 standards, the standards achievable by use of a lean thermal reactor and the 1976 federal standards that may be achievable with catalytic converters and unleaded gasoline.

TABLE 2.—EMISSION STANDARDS

[gram/per mile]

| | California 1975 | Thermal reactor | 1976 Federal |
|---|---|---|---|
| HC | 1.0 | 0.6 | 0.41 |
| CO | 24.0 | 9.0 | 3.4 |
| $NO_x$ | 1.5 | 1.5 | .4 |

In current technology engines there is a fuel penalty due to lowering of compression ratio. In current technology engines lead additives are required to maintain compression ratio. This fuel penalty is variously estimated from 5.4% to 11.9%. The cost over an 85,000 mile car lifetime due to the decrease in compression ratio and the necessity to use nonleaded gasoline, is estimated to be a total of $160 per car—$30 due to increased fuel cost and $130 due to decreased mileage due to lower compression ratio. This cost penalty is based on the lower fuel penalty estimate, namely 5.4%.

Table 3 compares the cost of alternate approaches to meeting emission standards over the car lifetime. Because of measurement errors in background $NO_x$ levels and because of the penalties in meeting the 1976 $NO_x$ requirement, the costs are calculated in Table 3 for the current federal $NO_x$ standard at 0.4 grams per mile and an assumed change in that standard to 0.8 grams per mile. Furthermore, since it is by no means certain that catalysts can last for 25,000 miles, the costs have been calculated for two cases (1) where the catalyst is assumed to last for 25,000 miles and (2) where the catalyst is assumed to last for 50,000 miles.

By comparing Tables 2 and 3 it can be seen that the lean thermal reactor at a cost of $230 over the car lifetime can more than meet the California 1975 standards. The catalytic converter cost varies from $700 to $1100, over the car lifetime, and may not be able to meet the federal 1976 standards.

It is probably true that only 10–20% of the cars in the U.S. have to meet the 1976 federal standards in order to satisfy ambient air quality. The remainder would be satisfied either by cars utilizing 1973 technology or a lean thermal reactor. The net savings to the country is approximately $6 billion annually.

TABLE 3.—COSTS OF ALTERNATE APPROACHES OVER CAR LIFETIME (85,000 MILES)

[Dollars]

| | Lean thermal reactor | Catalytic converter | |
|---|---|---|---|
| | | (a) | (b) |
| Initial equipment | 230 | 390 | 390 |
| Fuel penalty: | | | |
| Compression ratio | | 160 | 160 |
| To achieve $NO_x$: | | | |
| At 0.4 gram/mile | | 230 | |
| At 0.8 gram/mile | | | 40 |
| Dual catalyst replacement (per change net costs): | | | |
| 25,000 mile lifetime | | 330 | |
| 50,000 mile lifetime | | | 110 |
| Total | 230 | 1,110 | 700 |

Table 4 represents the annual import cost of the catalytic converter relative to lean thermal reactor approach.

TABLE 4.—IMPORT COSTS RELATIVE TO LEAN THERMAL REACTOR

[Millions of dollars per year 1985]

| | $NO_x$ 0.4 grams/mile | $NO_x$ 0.8 grams/mile |
|---|---|---|
| Platinum/palladium [1] | 500 | 500 |
| Fuel ($4 barrel) [2] | 2,000 | 1,000 |
| Total | 2,500 | 1,500 |

[1] Platinum imports are a function of recycling capability which is not taken into account here.

[2] Fuel costs are lowest estimate provided.

It is well known that the costs exceed the benefits of the nationally imposed federal 1976 standards by considerable margins—approximately $6 billion per year. One should consider the costs to the consumer, the impact of the additional imports, and the cost/benefit relationship when evaluating the health threat.

### TECHNOLOGICAL FORECASTS

Engines developed for the 1980 time frame will probably be less dependent on compression ratio and flame front propagation than current engines. This means that lead additives would be unnecessary and low octane fuels would be appropriate. This is probably true for external combustion engines, gas turbines, compression ignition engines, spark ignited dual chamber and stratified charge engines. Most of these engines have promise of meeting the 1976 federal standards in the 1980's at lower cost and far greater fuel efficiency than the current spark ignited internal combustion engines. It would not be a wise expenditure of national funds ($2 billion) to provide for the refining and distribution of no lead gasoline when there is a strong possibility that alternate propulsion systems using an entirely different fuel may be predominant in the 1980's.

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By Mr. MAGNUSON (for himself and Mr. CANNON):

S. 2401. A bill to promote safe transportation of people and property in commerce by establishing the National Agency for Transportation Safety as an independent agency of the United States to investigate transportation accidents, to make recommendations for avoiding such accidents, to represent the safety interests of the public before regulatory agencies, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, when Congress enacted the Department of Transportation Act of 1966, we simultaneously created the National Transportation Safety Board. The Board is charged with the responsibility of conducting a continuing across-the-board review of safety in all modes of transportation; of determining the cause or probable cause of transportation accidents of conducting special studies and investigations on matters pertaining to safety in transportation and the prevention of accidents.

The legislative history of the 1966 act clearly indicates that while the Safety Board is to rely on the Department for administrative services, that it is lawfully independent from all other branches of Government. However, Senate Commerce Committee hearings held this summer revealed that the Board has been subject to pressure, harassment, and in some cases intimidation by officers of the executive branch on matters of substance involving policy and personnel. Not only is this in clear violation of the letter and spirit of the 1966 act, but it has also handicapped and impeded the Board in exercising its lawful responsibilities to protect the public from transportation accidents.

Several specific situations were uncovered which indicate the degree to which the independence of the Board has been compromised. The most serious have been attempts by the administration to intervene in the affairs of the Board regarding substantive matters over which the Board has authority. In 1970, in a well-documented incident, the Federal Aviation Administrator and his Deputy sought, in a closed door meeting with the Board, to intervene in an attempt to pressure the Board to change its procedures in accident investigations in a manner which would be more friendly and less critical to the Federal Aviation Administration.

Similarly, in April of 1973, another attempt was made to interfere with the Board's activities. In that instance, an Assistant Secretary of Transportation told Chairman Reed that unless the Republican members of the Board concurred on certain DOT views relating to the Board's annual report, that they would be "disciplined" by the administration. The threat was conveyed by Chairman Reed to three other members. The threat was subsequently "canceled" although that fact seems never to have been communicated to the Safety Board members.

In addition to this direct interference with the Board's activities, the hearing also revealed instances of political appointees being hired at the Board to replace competent and qualified civil servants. In early 1971, a highly regarded and competent manager was removed from the position of Executive Director of the Board on order of the administration and was replaced by the White House by a man without former government managerial experience or without any specific background in transportation. The position was changed from a career civil service to a noncareer executive appointment.

Clearly, whereas Congress intended to create a highly skilled and professional agency to insure the safety of our transportation network, in reality, that agency has become politicized and its attention has been diverted from its crucial safety mission. The legislation which I am proposing today will complete the job we set out to do in 1966: to create a truly independent National Agency for Transportation Safety (NATS).

As a new independent agency, NATS would not only assume all of the responsibilities of the National Transportation Safety Board, but it would also take on an expanded role in investigation, oversight and safety advocacy functions.

The Agency would be headed by a single administrator appointed not because of his political qualifications, but because he is an individual who, by education, training and experience is a professional in the field of accident reconstruction and safety engineering. He must also have distinguished himself in the field of transportation safety, safety systems, or design safety by writings, teaching or meritorious performance and must also have had administrative experience. The proposed bill would further insure the independence of the Administrator by limiting his service to one 6-year term.

The proposed bill mandates the new Agency to maintain its current level activity in assuring the safety of air travel but would also require a more active investigatory role in surface transportation accidents. In 1972, the NTSB undertook only 18 major surface accident investigations. Under the proposed bill, NATS would be required to investigate all marine accidents in which there is a fatality or property damage in excess of $500,000; a minimum of 500 motor vehicle accidents selected by the Agency which involve a fatality, all railroad accidents in which there is a fatality or property damage in excess of $500,000 and all pipeline accidents in which there is a fatality. Furthermore, the Agency would have the option to investigate any other accident which occurs in connection with the transportation of people or property which is catastropic, involves problems of a recurring character, or would otherwise carry out the policy of the act.

In addition to increasing the scope of safety investigations, the proposed legislation is designed to facilitate the implementation of those recommendations. Specifically, whenever the Agency submits a recommendation regarding transportation safety to the Secretary of Transportation, the Secretary must, within 120 days indicate his intention to accept, in whole or in part, or reject such recommendations and his reasons therefor. This procedure will not only insure serious department consideration of each and every recommendation, but will also serve as a record of disposition of those recommendations, thus increasing the accountability of Federal agencies.

In addition to this expanded investigatory mission, other new roles would be assigned to NATS. The Agency would become an advocate of transportation safety. Under the proposed bill, the Administrator could intervene in certain Federal and State proceedings where the result of the proceeding would substantially affect an important interest of the public in transportation safety, accident avoidance, or accident loss reduction, For example, if the Federal Railroad Administration which implements the Federal Railroad Safety Act is proceeding with a rulemaking function, it would have the benefit of NATS' comments on the proposed rule.

The new Agency would also pursue an oversight function of each of the modal administrations in the Department of Transportation. As part of its duties, NATS would evaluate, assess the effectiveness, and publish its findings with respect to the safety consciousness and efficacy in preventing accidents of other Government regulatory agencies. This would serve not only as an invaluable independent analysis for the subject agency, but also would alert Congress to weaknesses in our Federal structure designed to insure safe transportation.

Mr. President, so important is the issue of the independent status of the National Transportation Safety Board, that the Board itself has made a plea to Congress to enact such legislation. In its 1971 Annual Report, the Board said:

> Unfortunately, since the inception of the Board, its status within the Department has been misunderstood by the media, the public and other government agencies. To often it has been assumed that the Board is not independent, but a subordinate part of the Department, despite the legislative history of the Act which makes it clear that the Board is fully independent of the Department.

The Board has reiterated this plea in its 1972 report by stating:

> The Board now is constrained not only to reaffirm its previous position but to make an even stronger plea to the Congress to establish the Safety Board as a completely independent agency. The Board believes that legislation is required.

Clearly, there is inherent conflict in a department of the Federal Government performing an investigative function of itself. To be truly meaningful, that oversight activity must be from outside of the department, in an independent agency. It is for this reason that I have emphasized the need for independence.

In short, Mr. President, the legislation which I am proposing today will form the basis for the development and maintenance of a sophisticated and refined Federal capacity to monitor, inspect and make recommendations for improving the safety systems of our Nation's transportation network. In 1972, 60,275 Americans lost their lives in transportation accidents while an additional 2.1 million were injured. Clearly, this legislation deserves a high priority and I have scheduled hearings on this bill for September 12. I urge my colleagues to expedite consideration of this important legislation.

Mr. President, this bill which I am introducing along with Senator CANNON is a start toward reasserting the independence and the technical integrity of the NTSB. The bill is not necessarily in final form, nor do Senator Cannon and I necessarily support all the recommended changes embodied in the bill. Rather the bill is a draft, reflecting the work of our staff over the past several months and a focal point around which we may assess possible other alternatives in seeking to achieve the goals which I have outlined today.

Mr. President, at this point I ask unanimous consent that the bill as introduced be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 2401

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Agency for Transportation Safety Act of 1973".

### DECLARATION OF POLICY

Sec. 2. (a) Findings.—The Congress hereby finds and declares that—

(1) The National Transportation Safety Board was established by statute in 1966 (Public Law 89–670, 80 Stat. 935) as an independent government agency, located within the Department of Transportation, to promote transportation safety by conducting independent accident investigations and by formulating recommendations for safety improvement.

(2) The Board, while being lawfully independent from other branches of Government, has been subject to pressure, harassment, and in some cases intimidation by officers of the executive branch on matters of substance involving policy and personnel. This interference has handicapped and impeded the Board in exercising its lawful responsibilities to protect the public from transportation accidents.

(3) The governmental body which is charged to investigate transportation accidents, to review continually and assess the operating practices and operating regulations of governmental agencies involved in transportation, and to make recommendations to improve transportation safety should be totally separate and independent from any other department, bureau, commission, or agency of the United States.

(4) The current structure of the National Transportation Safety Board, which closely resembles a regulatory agency, is not appropriate for a government agency which exists only to ascertain facts and to make recommendations regarding transportation safety. The diversity of social, political, and economic viewpoints which characterize multimember Boards or Commissions is unnecessary in a government agency which has no regulatory role. An independent agency, headed by a single administrator selected and appointed on the basis of high qualification and experience in transportation or systems safety and the engineering sciences is a more appropriate structure for such a body.

(b) Purpose.—It is the purpose of this Act to promote safety in transportation by—

(1) establishing the National Agency for Transportation Safety as an independent agency of the United States;

(2) directing the Agency to assume the duties of the National Transportation Safety Board, which shall cease to exist, and to—

(A) study and investigate transportation accidents in commerce and reports of transportation accidents prepared by other governmental agencies and to make a determination of the cause or probable cause or causes of aviation, marine, motor vehicle, railroad, and pipeline accidents;

(B) report such findings and the facts, conditions, and circumstances relating to such accidents;

(C) recommend and advocate corrective steps and meaningful responses to reduce the likelihood of recurrence of such accidents, including, but not limited to, safety-oriented improvements in transportation systems, equipment, methods, and procedures; and

(D) assess the effectiveness of other government agencies in preventing such accidents; and

(3) authorizing the Agency to advocate the cause of safety in transportation by representing the safety interests of the public before Federal, State, and local agencies and instrumentalities.

### DEFINITIONS

Sec. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Agency.

(2) "Agency" means the National Agency for Transportation Safety established pursuant to section 4 of this Act.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(4) "Secretary" means the Secretary of Transportation.

### NATIONAL AGENCY FOR TRANSPORTATION

Sec. 4. a) Establishment.—The National Transportation Safety Board, previously established in the Department of Transportation, shall, on and after the ninetieth day after the date of enactment of this Act, be known as the National Agency for Transportation Safety and shall be an independent agency of the United States. Such Agency shall function continuously pursuant to the provisions of this Act.

(b) Organization.—The Agency shall be directed and administered by an Administrator, pursuant to the provisions of section 5 of this Act. The Administrator shall establish and maintain within the Agency distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation: aviation; marine and maritime; highway and motor vehicle; railroad and rail; and pipeline. The Administrator shall also provide for an appropriately staffed bureau, division, or office to oversee efforts for the safe transportation of hazardous materials.

(c) General.—(1) The General Services Administration shall furnish the Agency with such offices, equipment, supplies, and services as it is authorized to furnish to any other agency or instrumentality of the United States.

(2) The Agency shall have a seal which shall be judicially recognized.

(d) Staff.—The Administrator is authorized to—

(1) appoint, fix the compensation, and assign the duties of—

(A) three or more Associate Administrators: *Provided,* That any such Associate Administrator shall only take office upon issuance of a resolution, by both the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate, endorsing such appointment; and

(B) a General Counsel;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. No individual shall be appointed to such position unless he is specifically qualified by education and experience and competent to perform the specialized duties of the position and signifies his willingness to appear, upon reasonable request, before any appropriate congressional committee. Compensation shall not exceed the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code;

(2) appoint, fix the compensation, and assign the duties of such other employees of the Agency as he deems necessary, including but not limited to, attorneys, investigators, scientists, engineers, researchers, and clerical personnel;

(3) request in writing from any department, agency, and instrumentality of the executive branch of the Federal Government and any independent regulatory agency of the United States, on a reimbursable basis or otherwise, such assistance as the Administrator deems necessary including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating; and

(4) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for an individual.

(e) Duties.—The Agency shall—

(1) investigate or cause to be investigated in such detail as the Administrator shall prescribe, analyze and determine the cause or probable cause or causes of any—

(A) aircraft accident which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 6(d) of the Department of Transportation Act (49 U.S.C. 1655(d));

(B) marine accident in which there is a fatality or property damage in excess of $500,000 on navigable or territorial waters of the United States, in conjunction with the Secretary and the Commandant of the Coast Guard;

(C) motor vehicle accident that it selects but not less than five hundred such accidents which involve a fatality each year, in cooperation with the highway departments of the States;

(D) railroad accident in which there is a fatality or property damage in excess of $500,000;

(E) pipeline accident in which there is a fatality; and

(F) other accident which occurs in connection with the transportation of people or property which, in the judgment of the Agency, is catastrophic, involves problems of a recurring character, or would otherwise carry out the policy of this Act;

(2) report in writing on the facts, conditions, and circumstances of each accident investigated pursuant to paragraph (1) of this subsection and cause such reports to be issued to the public at reasonable cost and cause notice and a brief summary of such reports to be published in the Federal Register;

(3) issue periodic reports to the Congress, Federal, State, and local agencies concerned with transportation safety, and other interested persons recommending and advocating meaningful responses to reduce the likelihood of recurrence of transportation accidents similar to those investigated by the Agency and proposing corrective steps to make the transportation of persons as safe and free from risk of injury as is possible, including steps to minimize human injuries from transportation accidents and to improve the availability and quality of emergency health and medical and vocational rehabilitation services for victims of transportation accidents;

(4) advocate the cause of safety in transportation in accordance with section 6 of this Act;

(5) initiate and conduct special studies on matters pertaining to safety in transportation, including human injury avoidance;

(6) assess and reassess techniques and methods of accident investigation and prepare and publish from time to time recommended procedures for accident investigations;

(7) establish by regulation requirements binding on persons reporting accidents sub-

ject to the Agency's investigatory jurisdiction under this subsection;

(8) evaluate, assess the effectiveness, and publish the findings of the Agency with respect to the safety consciousness and efficacy in preventing accidents of other Government agencies;

(9) develop and maintain a sophisticated and refined capacity to monitor and inspect the adequacy of safeguards and procedures concerning the transportation of hazardous materials and continuously evaluate the performance of other responsible Government agencies charged with assuring the safe transportation of such materials; and

(10) review on appeal the suspension, amendment, modification, revocation, or denial of any operating certificate or license issued by the Secretary of Transportation, in accordance with the provisions of section 10 of this Act.

### ADMINISTRATOR

SEC. 5. (a) APPOINTMENT.—The Administrator shall be appointed by the President within ninety days after the date of enactment of this Act, by and with the advice and consent of the Senate from lists of qualified individuals recommended by the Consumer Product Safety Commission and the Comptroller General of the United States. As used in this subsection, "qualified individual" means an individual who is by education, training, and experience a professional in the field of accident reconstruction and safety engineering, who has distinguished himself in the field of transportation safety, safety systems, or design safety by writings, teaching, or meritorious performance, and who has had administrative experience. Each list of qualified individuals recommended to the President shall to the extent practicable be accompanied by biographical materials and reasons in writing with respect to each individual recommended on such list. At the time of submission of a nomination under this subsection to the Senate, the President shall transmit therewith a copy of each list of qualified individuals recommended together with all accompanying material submitted.

(b) TERM OF OFFICE.—The Administrator shall serve for a term of six years. A successor to the Administrator shall be appointed in the same manner as the original Administrator and shall have a term of office which shall expire six years from the date of his appointment, except that a successor to an Administrator who resigns prior to the expiration of his term of office shall be appointed and hold office only for the unexpired portion of such term. No Administrator or former Administrator of the Agency may be reappointed to another term of office as the Administrator, except that the Administrator may continue in office as Acting Administrator until his successor is duly selected and sworn.

(c) POWERS.—(1) The Administrator, or an employee of the Agency duly designated by him, may for the purpose of carrying out any of the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such evidence as the Administrator or such employee deems advisable. Subpenas shall be issued under the signature of the Administrator, and may be served by any person designated by the Administrator. Witnesses summoned to appear before the Agency shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production of evidence may be required from any place in the United States to any designated place of such hearing in the United States.

(2) The Administrator, or an employee of the Agency duly designated by him, may conduct an inquiry to secure data with respect to any matter pertinent to transportation safety, upon publication of notice of such inquiry in the Federal Register, and may require, by special or general orders, Federal, State, and local government agencies and persons engaged in the transportation of people or property in commerce to submit written reports and answers to such requests and questions as are propounded with respect to any matter pertinent to the duties of the Agency. Reports and answers required under this paragraph shall be submitted to the Administrator or such employee within such reasonable period of time and in such form as the Administrator may determine, and copies shall be made available for inspection by the public at any office of the Agency.

(3) The Administrator, or an employee of the Agency duly designated by him, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things therein necessary for a proper investigation. The Administrator or such employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities relevant to safety in transportation which is owned by or within the control of any person engaged for hire in the transportation of people or property in commerce. Each inspection shall be commenced and completed with reasonable promptness and the results of such inspection made available.

(4) In case of contumacy or refusal to obey a subpena, an order, or an inspection notice of the Administrator or any duly designated employee by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Administrator, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(5) The Administrator is authorized to enter into, without regard to section 3700 of the Revised Statutes, as amended (41 U.S.C 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and the duties of the Agency under this Act, with any government agency or any person.

(6) The Administrator, or an employee of the Agency duly designated by him, is authorized to obtain and shall be furnished upon presentation of appropriate credentials, a copy of the report of any autopsy performed by State or local government officials on any individual who dies as a result of involvement in an aviation, marine, motor vehicle, railroad, or pipeline accident. If necessary in the judgment of the Administrator, he may order an autopsy or seek other tests as he deems necessary to a proper investigation of the accident, consistent with local law.

(7) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time. The Administrator shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this paragraph shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(8) On or before August 1 of each year, the Administrator shall prepare and submit concurrently to the President and to the Congress budget estimates to carry out the provisions of this Act and all other authority of the Administrator for the following year. Whenever the Administrator submits or transmits any budget requests, supplemental budget estimates or other budget information, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to request or require the Administrator to submit his budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(9) The Administrator is empowered to designate representatives to serve or assist on such committees as he determines to be necessary or appropriate to maintain effective liaison with other Federal and with State and local government agencies in independent standard-setting bodies carrying out programs and activities related to transportation safety.

### SAFETY ADVOCACY

SEC. 6. (a) FEDERAL PROCEEDING.—Whenever the Administrator determines that the result of any Federal department or agency proceeding which is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code, or which is otherwise conducted on the record after opportunity for an agency hearing, may substantially affect aviation, marine, motor vehicle, railroad, or pipeline safety, the Administrator or any duly designated employee of the Agency may as of right intervene on behalf of the Agency as a party by entering his appearance or otherwise participating in such proceeding, and, upon intervening or otherwise participating for the purpose of representing the interests of safety in such proceeding. The Administrator or such employee shall comply with statutes and rules of procedure of general applicability governing the timing of intervention or participation in such proceeding, and, upon intervening or participating in such proceeding, shall comply with statutes and rules of procedures of general applicability governing the conduct thereof: *Provided*, That in the absence of statutes or rules of procedure authorizing such intervention, the Administrator or such employee shall have full opportunity to present to responsible officials of such Federal department or agency, orally or in writing, in an orderly manner and without causing undue delay, relevant information, briefs, and arguments.

(b) STATE OR LOCAL PROCEEDING.—The Administrator or any duly designated employee of the Agency is authorized to intervene, or otherwise to participate, in any State or local agency or court proceeding, where the Administrator determines that the result of such proceeding may substantially affect an important interest of the public in transportation safety, accident avoidance, or accident loss reduction and such intervention or participation has been requested in writing by any of the following:

(1) the Governor of a State or any official designated by him for such purpose;

(2) an agency or official duly authorized by a State to represent the interests of safety before any State or local agency or court; and

(3) the State or local agency or court conducting the proceeding.

### ANNUAL REPORT AND EFFECTIVENESS EVALUATION

Sec. 7. The Administrator shall report to the Congress on July 1 of each year. Such report shall include—

(a) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Agency during the preceding twelve months;

(b) a survey and summary, in such detail as the Administrator deems advisable, of the recommendations made by the Agency to reduce the likelihood of recurrence of such accidents together with the observed response to each such recommendation;

(c) a summary of the activity of the Agency in advocating the cause of safety in transportation, including a detailed listing of the interventions and appearances made on behalf of the Agency and the action, if any, taken in response to such intervention, participation, or appearance;

(d) an appraisal in detail of the accident investigation and accident prevention activities of other government agencies charged by Federal or State law with responsibility in this field;

(e) a biennial appraisal and critical evaluation and review, including recommendations for legislative and administrative action and change, with respect to—

(1) aviation accident investigation and aviation safety;

(2) marine accident investigation and marine safety;

(3) highway and motor vehicle accident investigation and motor vehicle safety;

(4) railroad accident investigation and railroad safety, including grade crossing accidents;

(5) pipeline accident investigation and pipeline safety; and

(6) competence, training, and resourcefulness of Agency executives and employees; the organization, management, and conduct of operations of the Agency; and the performance of the Agency's hazardous materials transportation and safety advocacy activities.

Such evaluation and review shall be conducted and prepared separately by a person who is independent of the Agency but retained by the Agency, specifically for this purpose and no other, as a consultant, at rates not to exceed $200 a day for an individual. The same person shall not prepare such an evaluation and review for the Agency more than once. Each such evaluation and review shall be published in the annual report exactly as submitted to the Agency except for proofreading corrections; and

(f) an introductory and concluding statement by the Administrator, including responses, if any, to critical observations and appraisals in the biennial independent review of Agency activities.

### PUBLIC ACCESS TO INFORMATION

Sec. 8. (a) General.—Copies of any communication, document, investigation or other report, or information received or sent by the Administrator or any employee of the Agency shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to subsection (b) of this section. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(b) Exception.—The Administrator shall not disclose information obtained by him under this Act which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed—

(1) upon request, to other Federal Government departments and agencies for official use;

(2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

In no event shall the name or other means of identification of any person injured in a transportation accident be made public by the Agency without the consent of the injured person or his survivor or survivors.

### RESPONSE TO AGENCY RECOMMENDATIONS

Sec. 9. Whenever the Agency submits a recommendation regarding transportation safety to the Secretary of Transportation, the Secretary shall respond formally and in writing to such recommendation not later than one hundred and twenty days after receipt. The response to the Agency by the Secretary shall indicate his intention to—

(a) adopt such recommendation in full and provide a proposed timetable for such adoption;

(b) adopt such recommendation in part, provide a proposed timetable for such partial adoption, and explain in detail why the remainder of such recommendation will not be adopted; or

(c) refuse to adopt such recommendation and explain in detail his reason or reasons therefor.

The Agency shall cause each such recommendation and response to be published in the Federal Register.

### REVIEW OF OPERATING CERTIFICATE OR LICENSE ACTIONS OF THE SECRETARY

Sec. 10. The Administrator and Assistant Administrators shall constitute a Review Board.

(a) Such a Board shall receive, hear, and decide upon any petition for review filed with the Agency by any person aggrieved by the final decision of the Secretary (including any agency subject to the jurisdiction of the Secretary) suspending, amending, modifying, revoking, or denying any certificates in accordance with section 609 of the Federal Aviation Act (49 U.S.C. 1429).

(b) Such Board shall also review, upon request, decisions of the Commandant, United States Coast Guard, on appeals from orders of the hearing examiners revoking licenses, certificates, documents, or registers in proceedings under Revised Statutes 4450, as amended (46 U.S.C. 239); Act of July 15, 1954 (46 U.S.C. 239 (a) and (b)); or section 4, Great Lakes Pilotage Act (46 U.S.C. 216(b)).

### CONFORMING AMENDMENTS

Sec. 11. (a) The Department of Transportation Act is amended by striking out section 5 thereof (49 U.S.C. 1654) in its entirety.

(b) The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended by striking out the words "National Transportation Safety Board" and "the Board" wherever the same shall appear in any section of such Act.

(c) Section 5314 of title 5, United States Code is amended by striking out the words "Chairman, National Transportation Safety Board" and inserting in lieu thereof the following words: "Administrator, National Agency for Transportation Safety".

(d) Section 5315 of title 5, United States Code, is amended by striking out the words "Members, National Transportation Safety Board.".

(e) Subsection (e) of section 8336 of title 5, United States Code is amended by inserting between "of service" and "is" the following words: "or an employee who serves a complete term of office as Administrator of the National Agency for Transportation Safety".

(f) Section 19 of the Act of February 28, 1871 (46 U.S.C. 239(a)) is amended by striking out the words "The Commandant of the Coast Guard" in the first sentence thereof and inserting in lieu thereof "The Administrator of the National Agency for Transportation Safety" and by striking out the word "made" in the last sentence thereof and inserting in lieu thereof the word "submitted".

### AUTHORIZATION OF APPROPRIATIONS

Sec. 12. There are hereby authorized to be appropriated for the purposes of this Act such sums as are necessary, not to exceed $14,000,000 for the fiscal year ending June 30, 1974; $16,000,000 for the fiscal year ending June 30, 1975; and $18,000,000 for the fiscal year ending June 30, 1976. Moneys appropriated for the Agency shall not be withheld by any agency or official of the United States.

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By Mr. McGOVERN (for himself and Mr. Abourezk):

S. 2402. A bill authorizing the construction of a dam and reservoir on the Little White River, South Dakota (Rosebud site). Referred to the Committee on Public Works.

### LITTLE WHITE RIVER PROJECT

Mr. McGOVERN. Mr. President, I introduce for appropriate reference on behalf of myself and Senator Abourezk a bill to authorize a dam and reservoir on the Little White River in South Dakota.

One of my first activities on coming to the Senate 10 years ago was to ask the Senate Committee on Public Works to look at the potential of multiple purpose development of the White River and its tributaries in South Dakota and Nebraska.

The committee, by resolution, directed the U.S. Army Corps of Engineers to study the river basin. That study has been completed.

The engineers surveyed a number of possible sites in a 10,200-square-mile area of southwestern South Dakota and northwestern Nebraska, an area which includes two major Indian reservations.

The report of the Missouri River Division Engineers to the Board of Engineers for Rivers and Harbors is not encouraging. None of the 25 sites examined was found, by the Corps of Engineers' standards, to be feasible when measured on a strict cost-benefit formula.

The Engineers did report, however, that the proposed Rosebud site, 1½ miles north of the Mellette-Todd County line, on the Little White River—

> Might provide regional opportunities for increased economic activities through expansion of the tourism industry.

Although the Corps of Engineers determined that the Rosebud site has a benefit-cost ratio of 0.3, or 30 cents of measurable benefit for every dollar of cost, the fact that the agency has identified clear economic benefits to the affected area is sufficient for me to introduce this legislation and urge its enactment.

The area which would benefit from the proposed dam and reservior on the Little White River is not unlike many rural areas in this Nation—it is losing population rapidly. The 1970 population of the White River Basin was 47,000—a decrease of 13 percent since 1940. Within the basin are two Indian reservations with the highest unemployment, the lowest per capita income, and the poorest health and housing and living conditions to be found in this Nation.

The Rosebud project is a modest proposal. It would cost, based on present estimates, about $7.5 million. It would create a scenic lake of 4.3 miles in length, with 26 miles of shoreline, and 2,400 acres of surface area. The dam itself would be 120 feet high and 4,000 feet long.

In the Agricultural Act of 1970 and the Rural Development Act of 1972, the Federal Government committed itself to a sound balance between rural and urban America. In the words of the 1970 act:

> The Congress considers this balance so essential to the peace, prosperity and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

Mr. President, the Rosebud project would assist the revitalization and development of one rural area. It would bring new dollars into the White River Basin, create new jobs, and provide opportunities for young men and women who would prefer to stay, rather than flee to the great cities. I urge enactment of this bill.

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By Mr. McGOVERN (for himself and Mr. Abourezk):

S. 2403. A bill to authorize the Secretary of the Interior to construct, operate, and maintain a larger and adequate spillway, and to improve the upstream slope protection on Belle Fourche Dam, Belle Fourche project, Belle Fourche, S. Dak., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

### BELLE FOURCHE DAM IMPROVEMENTS

Mr. McGOVERN. Mr. President, I send to the desk for appropriate referral a bill that will authorize the Secretary of the Interior to make some badly needed repairs and replacements in the spillway of the Belle Fourche Dam in South Dakota. The dam is a multipurpose structure that provides water for irrigation as well as protection against frequent flooding in the area. In its present condition, it is barely capable of fulfilling either of those functions. In a letter dated August 17 of this year, the acting Commissioner of the Bureau of Reclamation, Mr. William Graham, stated that he recognized—

> The need for replacing the existing spillway and for providing permanent protection of the upstream slope at Belle Fourche Dam.

He went on to say that the needed work should be given high priority. This, then, is the legislation that is needed to provide the authority to make the necessary repairs and I urge the Senate Interior Committee to give this bill prompt and favorable attention. I am pleased to announce that one of the members of that committee, my distinguished colleague, Senator James Abourezk, joins me in sponsoring this measure.

## ADDITIONAL COSPONSORS OF BILLS

### S. 2022

At the request of Mr. Tunney, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 2022, to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes.

### S. 2179

At the request of Mr. Williams, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 2179, the demonstration loan program for the elderly bill.

### S. 2180

At the request of Mr. Williams, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 2180, the Housing Security Act of 1973.

### S. 2181

At the request of Mr. Williams, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 2181, the Intermediate Housing for Elderly and Handicapped Act.

### S. 2185

At the request of Mr. Williams, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 2185, the extension of section 202 housing for the elderly and handicapped program.

### S. 2248

At the request of Mr. Williams, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2248, the Mobile Health Unit Act of 1973.

### S. 2255

Mr. BEALL. Mr. President, on July 26, 1973, I introduced S. 2255, which would amend the Washington Area Transit Authority Compact to require the inclusion of rail commuter service in the mass transit plan.

Senator Harry F. Byrd, Jr., was a strong supporter and cosponsor of this bill in the previous Congress and I am pleased that he has again consented to cosponsor this legislation.

I ask unanimous consent that his name be added at the next printing of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## SENATE RESOLUTION 167—SUBMISSION OF A RESOLUTION RELATING TO INVESTIGATION OF THE NEWSPRINT SHORTAGE

(Referred to the Committee on Commerce.)

### THE NEWSPRINT SHORTAGE

Mr. PEARSON. Mr. President, newspapers in the United States are faced with a severe shortage of newsprint. This shortage is immediate and expected to grow more intense over the coming months. According to industry experts and the National Newspaper Association, the basic demand and supply picture indicates that the shortage will continue for a period of years.

At the outset, Mr. President, let me set down my view that the Congress of the United States should be concerned with the well-functioning of a free and viable press as guaranteed by the first amendment. For many people, and particularly those who live in sparsely populated or isolated areas, the daily or weekly newspaper is the single most important source of information available.

Because the immediate newsprint shortage has its heaviest impact on small independent papers, it seems to me incumbent upon the Congress to seek means of reducing the impact of the shortage, before competition for available supplies begins to force more of these papers to stop publication. Already we have reports of weekly newspapers in the State of New Jersey which have closed for lack of available paper. The impact of the shortage is also being felt by large metropolitan dailies which are reportedly cutting back special editions. In my own State of Kansas, conditions are acute because the area lies at a great distance from domestic newsprint mills which are concentrated in a few areas of the country.

During the last several weeks, strikes of Canadian paper mills and railroads seriously curtailed production of newsprint in Canada, which supplies over 65 percent of all newsprint for U.S. domestic use. Even if all these labor disputes were settled tomorrow, the short term impact on American newspapers, which are literally running out of newsprint stocks, will be an immediate shortage that can cause the closing of many papers.

Over the past year the capacity of our domestic newsprint mills has been fully utilized as the consumption of newsprint has continued its rapid rise. In the past year the use of newsprint in this country increased by nearly 500,000 tons from a level of 10.2 to a level of 10.7 million tons, and this rate shows no sign of leveling off. In spite of this, however, we can expect no added domestic mill capacity before 1974. This situation leaves newspapers in the United States heavily dependent on the importation of newsprint from Canada and other sources, and makes it necessary to approach this shortage with a full understanding that any short term relief depends upon cooperation between the paper industries of the United States and Canada.

The resolution I am submitting today is intended to reinforce initiatives of several of my colleagues in calling the attention of the Congress to this serious national problem. The resolution calls on the Senate, acting through the Commerce Committee, to conduct a broad investigation into the problem to determine its nature and scope and recommend means of alleviating it. It would be my hope that, among other subjects, the investigation would address itself to determining the actual state of newsprint supplies in the country and projections for future supply and demand.

The question of whether our domestic mill capacity can be increased to help relieve the shortage, and how this could be done, would seem an appropriate one. A consideration of the process by which newsprint is manufactured and means of making it more efficient is needed And we should approach this entire matter with the conservation of our timber resources well in mind.

I think we should also give most careful attention to the requirements of a rapid increase in recycled newspaper production, a method which conserves our paper supply and reduces solid waste at the same time. Finally, the price structure of the entire industry, including the price of old newspapers used for recycling, has an important bearing on the present and future capability of the newsprint industry to meet the production needs of America's newspapers.

These are only a few aspects of the broad subject before us. I think we find ourselves faced with a situation where the activities of government, business, industry, labor, and agriculture could all suffer unless we sort out this problem soon. If newspapers in the United States find themselves compelled to reduce the frequency or quality of their publications, the public would be the loser. Early steps to inform the Congress and the public about the newsprint shortage are vital to those small and independent newspapers which do not have an assured supply of newsprint. A severe newsprint shortage in the country over a period of 6 months could destroy a large number of these publications.

I do not know where the answers lie, Mr. President. My resolution seeks only to focus the energies and attention of the Senate upon the problem. It calls on the committee to report its findings and recommendations before the end of this session. I am confident that if the Commerce Committee determines to investigate the matter, the Congress and the country will have a much better understanding of what should be done.

The resolution is as follows:

S. Res. 167

*Resolved,* whereas newspapers in the United States are facing a severe shortage of newsprint with which to produce their publications, and this shortage is expected to continue for a period of years;

Whereas the Congress of the United States must be concerned with the continuance of a free and viable press as guaranteed by the first amendment of the Constitution, and therefore must also be concerned with the problems of the press in obtaining adequate supplies of newsprint to fulfill their functions in a democratic society;

Whereas government, business, industry, labor, and agriculture all depend upon newspapers to keep the public informed of their activities;

Whereas small, independent newspapers which inform citizens in isolated and sparsely populated areas are often most vulnerable to the effects of newsprint shortage; and

Whereas strikes and labor controversies have seriously curtailed production of newsprint from Canada during the last several weeks, thus creating an immediate shortage that can cause the closing of many newspapers: Now, therefore, be it

*Resolved,* That the Committee on Commerce, or any duly authorized subcommittee thereof, is authorized and directed under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation with respect to the economics, production, and supply problems of the newsprint manufacturing industry in the United States, the problems relating to the importation of newsprint, and the effect of these problems on the publication of newspapers in the United States.

Sec. 2. The Committee shall report to the Senate at the earliest practicable date, during the first session of the 93rd Congress, the results of its study and investigation, together with such recommendations as it considers appropriate.

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## THE DISCLOSURE STANDARDS FOR WRITTEN CONSUMER PRODUCT WARRANTIES AGAINST DEFECT OR MALFUNCTION—AMENDMENT

### AMENDMENT NO. 474

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE. Mr. President, I submit an amendment to S. 356 and ask that it lie on the table and be printed.

Mr. President, this amendment establishes used-car warranty requirements. It requires all used cars to be sold with a written warranty unless the contract of sale contains a statement: "All repairs are the responsibility of the buyer." This statement must also be brought to the attention of the buyer orally.

It requires the used-car dealer to disclose certain basic information to purchasers and prospective purchasers. Among this information is a statement of any mechanical defects known to the dealer and any repairs made by that dealer to the car after he acquired it. If the vehicle is sold with a written warranty, then the dealer must disclose the place where repairs can be made and the exact extent of the warranty coverage.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 474

On page 68, following line 9, add the following:

TITLE IV—USED CAR WARRANTIES

DEFINITIONS

Sec. 401. As used in this title—

(1) "Dealer" means any supplier selling used motor vehicles to a consumer.

(2) "Mechanical defect" includes any damage, malfunction, or failure, in whole or in part, which affects the safety or normal use of the used motor vehicle.

(3) "Motor vehicle" means any vehicle propelled by mechanical power, manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.

(4) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, American Samoa, or any other territory or possession of the United States.

(5) "Used motor vehicle" means any motor vehicle which is offered for sale to a consumer after—

(A) such vehicle had previously been sold to a consumer; or

(B) such vehicle had been used by a dealer or any other person for the personal transportation of persons, or as a rental, driver-education, or demonstration motor vehicle and driven more than two hundred and fifty miles or so used for more than fifteen days.

WARRANTY REQUIREMENT

Sec. 402. (a) No dealer shall sell or offer for sale a used motor vehicle to a consumer without a written warranty which conforms to the requirements of this title and this Act, except as provided in subsection (b) of this section.

(b) A dealer may sell or offer for sale a used motor vehicle to a consumer without a written warranty if the contract for sale of such used motor vehicle contains the following notice in conspicuous type: "ALL REPAIRS ARE THE RESPONSIBILITY OF THE BUYER." If such contract is not written in the English language then such notice shall be expressed in the same language as the contract. In addition the dealer shall orally disclose to the purchaser that all repairs are the responsibility of the buyer.

(c) A written warranty shall meet the requirements of section 103 of this Act.

DISCLOSURE OF INFORMATION

Sec. 403. (a) No dealer shall sell a used motor vehicle unless he furnishes to the purchaser a written statement which contains the information required by subsection (b) of this section. The statement shall be furnished prior to the signing of any contract of sale by such purchaser.

(b) The statement required by subsection (a) of this section shall contain—

(1) a complete description of such used motor vehicle including but not necessarily limited to—

(A) the make model year of manufacture and any identification or serial numbers of such vehicle;

(C) a statement of the written warranty coverage of the used motor vehicle, except that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As Is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage;

(D) the date on which such vehicle will be delivered to such purchaser and the maximum number of miles which will appear on the odometer on such date;

(2) if the vehicle is sold with a written warranty, the name, address, and telephone number of each facility within a radius of fifty miles of the place of business of such dealer where such vehicle may be brought to have repairs, replacement of parts, and other service under the warranty performed;

(3) if the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

(c) If the vehicle is sold with a written warranty, the dealer shall warrant that such vehicle can pass any applicable state inspection requirements.

(d) At the request of a bona fide prospective purchaser of a used motor vehicle, the dealer shall furnish such purchaser the name and address of the previous registered owner of such vehicle (for purposes other than resale), whether such vehicle was used principally as a passenger vehicle or was commercially or publicly owned, and the type of sale, transfer, or other means through which the dealer acquired such vehicle, to the extent such information is reasonably available to such dealer. When such previous registered owner sells such vehicle to a new or used motor vehicle dealer, such owner may request that his name be withheld from the subsequent purchaser.

APPLICABILITY OF TITLE I

Sec. 404. The provisions of title I of this act are applicable to the extent not inconsistent with a provision of this title.

(B) a statement of any mechanical defects known to such dealer on the basis of his examination and evaluation of the vehicle prior to his acquisition of such vehicle or which otherwise becomes known to him while in his possession, and any repairs made by or under the direction of such dealer following his acquisition of such used motor vehicle;

(C) a statement of the written warranty coverage of the used motor vehicle, except that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage;

(D) the date on which such vehicle will be delivered to such purchaser and the maximum number of miles which will appear on the odometer on such date;

(2) if the vehicle is sold with a written warranty, the name, address, and telephone number of each facility within a radius of fifty miles of the place of business of such dealer where such vehicle may be brought to have repairs, replacement of parts, and other service under the warranty performed;

(3) if the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

(c) If the vehicle is sold with a written warranty, the dealer shall warrant that such vehicle can pass any applicable state inspection requirements.

(d) At the request of a bona fide prospective purchaser of a used motor vehicle, the dealer shall furnish such purchaser the name and address of the previous registered owner of such vehicle (for purposes other than resale), whether such vehicle was used principally as a passenger vehicle or was commercially or publicly owned, and the type of sale, transfer, or other means through which the dealer acquired such vehicle, to the extent such information is reasonably available to such dealer. When such previous registered owner sells such vehicle to a new or used motor vehicle dealer, such owner may request that his name be withheld from the subsequent purchaser.

## ADDITIONAL COSPONSORS OF AN AMENDMENT

### AMENDMENT NO. 448

At the request of Mr. GURNEY, the Senator from Texas (Mr. TOWER), the Senator from Kansas (Mr. DOLE), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Amendment No. 448 to the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

## NOTICE OF HEARINGS ON NOMINATIONS

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled public hearings at 9:30 a.m., on Tuesday, September 18, 1973, in room 4232, Dirksen Office Building, on the following nominations:

John H. Powell, Jr., of Maryland, to be a member of the Equal Employment Opportunity Commission.

Marjorie W. Lynch, of Washington, to be an Associate Director of ACTION.

Harry J. Hogan, of Maryland, to be an Associate Director of ACTION.

Lowell J. Paige, of California, to be an Assistant Director of the National Science Foundation.

## ADDITIONAL STATEMENTS

### A MATTER OF BALANCE

Mr. ROBERT C. BYRD. Mr. President, on Friday, August 10, during the recess, I had the pleasure of addressing the annual meeting of the Peabody Coal Co. in St. Louis, Mo.

Peabody Coal is the Nation's largest coal company with mining operations in 12 States of the Union and overseas. This important coal company, along with many other producers of our most abundant fossil fuel, will make a significant contribution toward the alleviation of our energy crisis over the next decade and beyond, provided that they are given a reasonable opportunity to do so.

As I believe I made clear in my speech, I am fully conscious of the need for sensible application of the conditions of the Federal Clean Air Act. I have sympathy for, and understanding of, the aims of environmentalism and ecology. I am also aware, however, that further stifling and stagnation of the industry that guarantees this Nation a secure energy future, will be too great a price to pay when technology, money, and serious scientific effort, if applied now, could eliminate the environmental shortcomings now associated with this precious energy asset.

I ask unanimous consent that my speech may be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY U.S. SENATOR ROBERT C. BYRD

Mr. Chairman and Gentlemen:

As a West Virginian to whom coal has been an integral part of life, it gives me a great deal of pleasure to be in the presence of the gentlemen who run the nation's biggest coal company.

I am also glad to visit once again, the great State that produced a President of the United States of whom every American can be proud.

Of all the many qualities that President Truman possessed, one of the greatest was his ability to cope with crisis, either foreign or domestic, and to these crises he applied a generous measure of sound, common sense. We, too, in our day and in our way, have a crisis, and it is long past time that we applied to it the common sense that was Harry Truman's trademark. I refer, of course, to the crisis in our energy fuels.

We all know that truth is sometimes hard, and we are faced, in America today, with the harsh truth that many years of profligacy in the use of our one-time abundant supplies of fossil fuels has brought us to a point where continued reluctance to face that truth will surely result in economic catastrophe.

Our options are clear: (1) we can increase production at home; (2) we can increase to a dangerous degree our dependence on foreign sources of energy fuels; and (3) we can so scale down our domestic consumption of energy as to make our requirements fit our capability to meet them.

Of the three options, the third will be the hardest to accept. It will involve a monumental task in public education and public responsibility to persuade the American citizen to forego some of the luxuries and conveniences of life to which he and she have become so accustomed. But some measure of it has to be attempted, and, after all, life will be very little different if we don't have electric toothbrushes or automobiles that look like battleships and travel only five miles on one gallon of gasoline. I am sure that the American people are resilient enough to handle whatever sacrifices are necessary, once the initial period of shock has passed.

The sacrifices will not all be personal. Industry must also tighten its belt and eliminate its wasteful and inefficient activities. It does not make sense to dump natural gas under boilers when it is a clean premium fuel that is needed to heat our homes and provide essential feed stocks for the chemical industry.

The nation needs vastly improved technology for the more efficient generation of electrical power. From the current 30% efficiency, we must reach at least twice that in the next fifteen years if our energy fuels consumption is to be kept within reasonable bounds. The research laboratories must mount a relentless effort to pinpoint waste, re-use heat values, and recycle raw materials. Our garden of plenty needs better husbandry.

It has long been a favorite slogan of the oil companies that the world runs on oil, and there is a great deal of justification for that claim. Certainly, in the industrial and technological history of this nation, oil has played a vital role. Along with natural gas, it has significantly fueled the developments that have made the United States the world's leading industrial country. These two energy resources have been plentiful, available, and relatively low-cost. These factors, combined with the relatively recent upsurge of environmental and ecological considerations, led us to use these fuels with what can only be described as complete abandon. We have enjoyed the orgy. Now comes the hangover. and this hangover cannot be dispelled with two Alka Seltzers and half-an-hour in the steam room. It will be cleared up only by a dispassionate analysis of exactly where we stand in the field of energy fuels, and an intelligent and workable plan for where we want to go. That analysis must recognize the fact that this nation will never again be self-sufficient in oil and natural gas. And, unlike the words of the old song, wishing will not make it so.

Certainly, we will have to turn to our second option of importing energy from foreign sources—as dangerous as that may be. At current rates of consumption, and in view of projected growth in the next decade, the United States will be importing more than half of our needs in oil and gas by the year 1985. I will not, at this point, go into the implications that that prospect has in terms of international relations and the international monetary picture, but as you know, these loom very large.

Even though we become more efficient and less wasteful, we still cannot avoid increased reliance on foreign *crude oil* and products; therefore, it is a national imperative that we develop new domestic systems of energy to alleviate a shortage in the supply of energy without which our comfortable lifestyle in the United States would retrogress. You know, and I know, that the answer is to utilize to the fullest, the one fossil fuel with which we are blessed in almost limitless quantities. It is imperative that our national attitude toward the use of energy fuel be directed away from mere convenience and cosmetics, to a practical, common-sense approach. It is projected that the coal industry will be required to increase output by 2½ times in the next ten or twelve years. An annual production of 1.5 billion tons is the figure most frequently mentioned. As far as proven reserves are concerned, this is no problem. For that matter, that figure could be doubled without any trouble, if availability were our only concern. Unhappily, it is not enough to have the coal in the ground. It also has to be extracted, processed, and marketed. In order to do this with maximum efficiency in the future, it will be necessary for us to come up with a complex, new coal production and conversion system that will incorporate more sophisticated technology than currently exists. In addition to whatever innovations are instituted by the industry, there will have to be parallel innovations in the attitude of government. I am not speaking only of long term prospects—I speak of changes that need to be made right now. It doesn't take a genius to understand that spending billions of dollars of public and private money on coal research and development is just so much wasted effort if governmental restraints prevent the manifestation of that research and development.

As I am sure everyone in this gathering is fully aware, the Supreme Court recently upheld the rulings of the United States District Court and the Court of Appeals in the *Sierra Club et al versus Ruckelshaus* case, in which a preliminary injunction was granted against any "significant deterioration" in air quality in areas where the air is already cleaner than the Clean Air Act requires. I fear this decision virtually precludes the construction of new industrial plants for the development of gas and oil from coal in areas of the country where the supply of coal is well nigh unlimited.

To my knowledge, the words "significant deterioration", have not been clearly defined, and it is hardly likely that industry will gamble with sizeable capital investment in new plants, unless and until a clear definition is given, and reasonable give-and-take is indulged in between environmentalism and industrial growth. If there can be no reasonable adjustment of such interests, the result will be economic and industrial paralysis.

It may well be that the answer is for Congress so to amend the Clean Air Act, to give the Environmental Protection Agency powers to modify the primary and secondary requirements to the States in the overall national interest—or at least extend the time limits.

According to EPA reports in April of this year, the Nation is well on its way to meeting the primary air quality standards, though the limits may be exceeded in some places. This is gratifying, and necessary, as we all know, but it is being achieved at a very serious cost in lost coal markets. In the face of the crucial shortage in energy fuels that faces us today, it is absolutely imperative that we find some mutual beneficial accommodation. Surely, the technology of which we are so justly proud can overcome the dilemma. American ingenuity has always been equal to every task that confronted us. It is inconceivable that we cannot conquer this problem, given the lead time that circumstances make necessary.

All of us would like to see Minnehaha living once again in the wigwam of Nokomis, by the shining Big-Sea Water. But that wigwam is now a power plant, and Minnehaha—who used to live in the wigwam—is making two hundred dollars a week working in the office of the President of the power plant, while Hiawatha is working his tail off in the plant to keep up the payments on a split-level, a station wagon, and a boat. Like it or not, ours is an industrial society, and unless we are prepared to sacrifice our entire life-style, we will remain an industrial society. That being so, we must make concessions to its continuance. I am not saying for a moment that the environmentalists of America do not have a case. Of course they have. All our luxuries of living won't mean a thing if we can't breathe enough to enjoy them. But I am convinced that the preservation of clean air need not mean the destruction of industry. As a matter of fact, if we cannot practice the art of the possible in the interests of both, we do really deserve neither.

We are all aware that the coal research that is now proposed by the Administration, and by legislation pending in the Congress, should have been started long ago. Because it was not, we will be forced to wait until the results of the research are available. We don't know exactly how long this will be, and the energy shortage is now. There really is no choice. There must be some review of the very rigid policies that have almost totally choked off any expansion in the coal industry for too many years. If this does not happen, the chances of the industry making a meaningful contribution to our current crisis are slim.

The people of this nation do not comprehend the enormity of the task involved in bringing coal to the consumer. If we were to produce, say, an additional four hundred million tons of coal annually, we would need more than 200 new mines for an annual production of 2 million tons each, requring a capital investment of approximately $6 billion. Additionally, more than 100 thousand new miners would have to be recruited, and trained qualitatively to work in the industry.

There are some things that can be said without fear of contradiction: (1) without a major breakthrough in mining technology, the industry cannot hope to produce the fuel that will be demanded of it in the next decade; (2) without concentrated research efforts in the liquefaction and gasification of coal, much of its potential will not be realized; and (3) without an easing of present government restrictions on the use of coal as an energy source, in all probability the industry will be unable to provide the grace period that the accelerated research will require before it can become effective.

I am sure that with goodwill on all sides, and a softening of bureaucratic dogmatism, an accommodation could be arrived at that would alleviate the burden on the coal industry without plunging the country into insufferable pollution.

It is very easy to argue with theories, but it is immensely difficult to argue with figures. It is estimated—and it was so noted by the President in his recent energy message to the Congress—that if the strict compliance with secondary standards demanded by EPA and the states in 1975 is not reconsidered, up to 155,000,000 tons of coal annually cannot be utilized. This is the equivalent of 1.6 million barrels of oil per day, which even at current import prices represents an expenditure of one-and-a half to two or more billion dollars a year. And that assumes that our oil imports will not be affected in the future by political upheavals in the Middle East, or by economic blackmail on the part of King Faisal or the Sheikh of Kuwait.

It will also be very difficult for the American people to argue when a light switch no longer provides instant light, or when a switched-on television volume control doesn't produce a picture on the screen. To be perfectly practical, I doubt that anybody is going to care a great deal whether eastern or midwestern coal has a sulfur content of 1.5% or 0.7% when the temperature in August is 95 degrees, and their air-conditioning unit isn't getting any power. I realize that the alternatives are tough, but I seriously doubt that we are ready and willing to accept the wholesale sacrifices that will be inevitable if environmentalism and ecology continue to wield the big stick, with not a bow in the direction of realistic review. Some sacrifice of luxuries the American people will accept, when they realize the alternatives, but total elimination of many of life's conveniences will not be tolerated without a calamitous upheaval in our lifestyle. The inescapable fact is that if we are going to avoid a paralyzing stoppage in almost every phase of our national life, we are just going to have to make accommodations.

It is absolutely imperative, and not something merely to be desired, that we arrive at a pragmatic agreement between the requirements of clean air, and a self-sufficiency in energy.

Furthermore, if we are going to formulate a truly realistic and durable national energy research policy, it must be keyed to the fullest possible utilization of coal, which, in fact, is really a national heritage. I am convinced that every penny spent on coal research now, will be a dollar earned in the future. It is also the only sure and certain way to lay down an invulnerable basis for future energy security. Coal is not glamorous like nuclear energy; it is not ethereal like solar energy; it is not romantic like windmills. But it is tremendously solid and dependable—and it's *there*.

It is because of my confidence in the contribution that coal will make to our energy future that I introduced an amendment, which was accepted by the Senate, to the Department of Interior appropriation for Fiscal Year 1974, adding $42 million for energy-related coal research. This additional money, including $3 million for the Pilot Test Facility at Cresap, West Virginia, will enable the Office of Coal Research and the Bureau of Mines to do even more than had been planned toward the goal of maximum coal utilization.

We know what coal has done, what it is doing, and what it can do. We also know its limitations. But some of these limitations, at least, can be eliminated by advancing technology. We must devote as much brainpower among our scientists and engineers to coal development as we have so studiously devoted to the development of atomic power generation. While I praise efforts to develop every possible means of producing power and energy by new methods for the future, I must deprecate, to some degree, the enormous investment of time and money that has gone into atomic power generation over the past fifteen years, to the detriment of progress in the utilization of more conventional fuels.

One does not need to be an expert to know that unless steps are taken immediately to spend a great deal more time and money on coal technology than has been previously spent, there is the very real danger that we will not have the coal to utilize, despite our enormous reserves.

Unless we truly dedicate our skills and our money to the development of coal technology, the production, distribution, conversion and consumption of this precious natural resource will encounter insurmountable barriers, and we will once again have lost an opportunity to enhance our national security and our national life style. Every ton of coal that can be gasified, liquefied, or burned reasonably cleanly in its natural state, is unquestionably a contribution to the future well being of this country. It is tragic that we have dragged our feet for so many years. It is deplorable that we are now faced with the crisis that these years of apathy and inaction have brought upon us.

Everyone can be a Monday morning quarterback, but when we consider that only five years ago the total monies appropriated to the Office of Coal Research for one year amounted to only $11,000,000 and contrast that with the billions that have been lavished on the more exotic experiments in the production of power that have not yet proved themselves, all of us should feel very sharp twinges of conscience. But while that conscience berates us, we can take a little solace in the knowledge that at long last, we are awakening from the trance of neglect and wishful thinking. Dormant as our common-sense has been toward the coal industry for so long, I am confident that in the next ten years, the coal industry will rise like the Phoenix, and will be, once more, the powerful factor in our lives that it was in the days of the iron horse and the warm hearth. Its form will often be different, but its contribution to our country will be even greater.

As a practical matter, if I were a man of means, instead of an impecunious member of the United States Senate, I would be investing a substantial portion of my money in companies like Peabody Coal. Though my financial wisdom might not be apparent immediately, my children and my grandchildren would be very appreciative of such a legacy.

## A CASE FOR AMERICAN NATIONALISM

Mr. TALMADGE. Mr. President, I was very interested to read an article in the September 1 edition of Business Week Magazine, "A case for American Nationalism," by Charles G. Bluhdorn, chief executive officer of Gulf and Western Industry.

Mr. Bluhdorn takes the position that he is an American nationalist and that when times are rough, the United States should look after its own interests first.

I completely concur with this point of view. I have long maintained that what we need down in the State Department is an "American Desk," and that what our Government and policymakers need to do is look after our own national interests above all others. That is what other nations do, and it is high time that we started doing the same thing.

We have gone on now for some 28 years in the post-World War II period trying to play policeman, banker, and Santa Claus for the whole world, and we have driven ourselves deeper and deeper into debt, almost to the tune of $500 billion. Inflation has been rampant for almost a decade, the dollar is in disrepute abroad, and American workers, taxpayers, and consumers are having to bear the burden of fast and loose fiscal policies of their government.

I found Mr. Bluhdorn's article right on target, and I bring it to the attention of my colleagues and ask unanimous consent for it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A CASE FOR AMERICAN NATIONALISM

(By Charles G. Bluhdorn)

Some of my friends in the European business community have recently described me as an American nationalist. I really consider that to be quite a compliment.

I have been, and I continue to be, very vocal in my insistence that in these times of international crisis the U.S. must first and foremost look out for its own interests.

This does not mean that I have abandoned my belief that I am an internationalist by nature. Nationalism and internationalism are not mutually exclusive concepts. They can—and they should—be reconciled.

Despite the heated controversy generated by some of the political acts we have taken as a world power in more recent times, I believe that there is no precedent in history for the unselfish course that the U.S. has followed in world affairs since World War II.

Twice within this century, America went to war to save Western Europe from the fate of oppression and tyranny. After World War II we did not behave like a conqueror seeking the spoils of victory. Quite the contrary. Where once we had been the "Arsenal of Democracy," we now became the "Arsenal of Rebuilding," not only by helping our allies but also by helping our erstwhile enemies. No wonder there is a standing joke that it pays to go to war against the U.S. and then be defeated.

It became a way of life for the world to look to Uncle Sam to be the provider, not only as a breadbasket but also as a free technological tutor who would faithfully train his impoverished students. Now we are in 1973, and these students are fat and rich. They are now the professors who have all the answers, but strangely they still want Uncle to go on being his usual generous self.

Specifically now, let's review some postwar history. I am going to cite only a few situations;

Japan and Germany were devastated after the war. We helped to build their industrial capacity, very often with more modern equipment and machinery than we had in our own country.

France was in such bad shape at the end of World War II that I remember Drew Pearson getting on the radio begging the American people again and again to send their spare clothing and food to help save the French people from starvation. It is obvious that the French Finance Minister—no matter how brilliant he undoubtedly is—does not remember those times when he delivers lectures to us today on how badly we are managing our economy and how responisble we are for today's monetary crisis.

Our wheat and our grain, which we shipped gratis in many cases, saved millions and millions of people from starvation in India, Bangladesh, and many other countries around the world. With only 6% of the world's population, we supported a good portion of the other 94%, as well as ourselves.

At the same time we delivered much of our know-how to our partners in the Free World, we opened our gates to allow them to compete freely with their goods in our marketplaces, often, and especially in the case of Japan, at artificially low prices, encouraged and even subsidized by their governments, who kept their exchange rates at unrealistic levels.

At the same time that American companies were severely restricted by our antitrust laws, we have been facing formidable foreign consortiums totally unrestricted in bidding and winning international contracts against us.

#### TIMING

All this is not to say that the U.S. can blame the rest of the world for the financial predicament in which we find ourselves today. We have been spendthrifts at home as well as philanthropists abroad.

The soaring inflation, which is occupying Americans today, is due to our lack of discipline, particularly in the last decade. The immediate postwar period, which saw America as the strongest economic power in the world, made us believe in our invincibility, and we failed to recognize that countries like Germany and Japan were becoming formidable competitors in the markets of the world.

In 1968, 1969, and 1970, I pleaded in Washington that the President of the U.S. should go on national television, again and again if necessary, to point out to the American people that the war on inflation was ultimately much more important than the war in Vietnam. I insisted that if such a Presidential appeal failed, the government should take the most drastic measures to institute wage and price controls.

Finally, circumstances forced the government to reverse its policy, and thus began the program that was carried out relatively successfully until January, 1973. At that time, the program was abruptly abandoned, and the nation turned back to the same classroom theories that had worked so poorly in the past.

I deplore the termination of Phase II, but not because I am an advocate of everlasting controls. Where I think we went terribly wrong was in our timing, and timing is everything.

Just when this country had begun to show the rest of the world that we meant business in containing inflation, we eliminated the controls. We did this at the very time that the nation was showing record balance-of-trade deficits. And we did it on top of the Russian wheat deal, which history will prove to have been a $10-billion disaster for the U.S. economy.

This was a classic example of one bad event feeding on another. When foreign holders of our dollars saw that after all we did not mean business in controlling our inflationary pressures, they lost whatever confidence had remained in the dollar. I said then, and I say now, that our second devaluation of the dollar in 14 months was a big mistake and a surrender to foreign speculators.

The record shows that we have done too many things too quickly and without giving enough thought to the consequences. The American taxpayer helped to finance a huge gift of wheat to the Soviet Union, whose own Communist system had been unable to cope effectively with the demands of their people. Our American taxpayers bailed out Mr. Brezhnev without considering what our own supply and demand picture in grains would look like after the sale.

So here we are today with an actual shortage of wheat in our own country and with the highest grain prices in history, with a devalued dollar, and facing a situation where we are suddenly aware of critical shortages in many areas. Not the least of these is oil, which we shall be forced to import in ever increasing quantities.

Our devaluation has made wheat cheaper for the Russians and oil imports more expensive for the U.S. I submit that this is not a very healthy way to solve our balance-of-payments situation or strengthen the dollar in the long run.

#### A PROGRAM

The solution to our problems must be a new attitude toward our failures at home and a new approach to our relations with other nations. In other words, a new American nationalism designed to conserve the economic strength of the U.S. instead of frittering it away. Here are some of the things we can do:

1. We must evolve an economic policy that is well planned and well explained and that does not shift from minute to minute and hour to hour. One day we say we believe in wage-price controls, and the next day we say we do not. One day we say we believe that the dollar is undervalued, and the next day we say we think that if it goes lower we will get a better trade advantage. One day we say it is great for our balance of payments to sell our grains abroad and the next day we realize that we have sold too much and now must suddenly stop selling to those we have criticized the day before for not buying from us. This type of zigzag policy is not likely to inspire confidence.

2. We must start to develop a program to produce in the U.S. smaller automobiles with lower gas consumption. This will have a double effect. It will reduce the number of imported small cars from abroad, and it will also reduce the long long-range growing demand for imported fuel.

3. We must go forward with all determination to develop oil resources in Alaska. It is folly to think of investing $6-billion in Siberian oil and then spending 10 or 20 years wondering what will be the fate of those developments—the same way we are now agonizing about our investments in the Middle East.

4. We must develop alternative sources of energy and treat this project with the same determination that we applied to the Manhattan Project in World War II and to the incredible achievements of our space program. What we need is an energy-space program on earth.

5. Our government should place the same restrictions on imports and investments in the U.S. that foreigners place on us. Why should we open our gates all the way when

many foreign gates are only half or one-quarter open to us?

6. We can no longer afford to be the unpaid policeman of the Free World. I am not unalterably opposed to keeping the U.S. military presence aboard. But I believe that it is up to the respective countries who are getting this protection to determine whether it is worthwhile for them to pay for these costs.

7. About $100-billion worth of our foreign debt should be converted into long-term, low-interest-bearing Treasury bonds. A year ago when interest rates were lower, I am convinced we could have gotten our major foreign creditors to accept 30-year U.S. notes at 3% or 4% interest, with a most important accompanying pledge that we would tightly control inflation in our country. This would have been cheaper for foreign central banks than the chaos and uncertainty that has ensued. We missed that opportunity, but it is not *too* late to institute such a program. In the light of history no one could call it charity toward the U.S.

### DETERMINATION

Let me say that no price controls can work and no inflation be contained if there is not a real *will* exercised by the people. What I mean is that the American people must realize that we are at an important crossroads where we must exercise the discipline to help maneuver supply and demand in our favor. With a shortage of oil foreseeable in the future, we must, as I said before, find other means, and we must be prepared to reduce our consumption of fuel. If we find that meat prices become prohibitive, then we must curtail our use of meat. During the war in Europe, many people were able to get along on the barest amount of meat and, in fact, an exceptionally low death rate in Scandinavia was attributed to a low-meat diet.

What can we do to restore stability? It all comes down to one word: Confidence. By this I do not mean blind, unreasoning optimism and a policy of drift. I mean the determination to deal with our problems and find the answers to them. Confidence in our strength and in our ability to use that strength.

Ultimately, the answer to all our present problems is that we must find ways to restore faltering confidence in our economic system, in our government, in our leadership.

One thing we should all remember is the fact that America is bigger than any single American. Our system will survive this crisis as it has others in the past. We must have faith—and above all confidence—in ourselves and in our country.

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## ADDRESS BY ADM. THOMAS H. MOORER BEFORE NAVY LEAGUE

Mr. THURMOND. Mr. President, an important speech defining the current state of U.S. military strength vis-a-vis the Soviet Union was presented last Thursday, September 6, 1973, by Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff before the District of Columbia chapter of the Navy League here in Washington.

Admiral Moorer drew some important parallels between United States and Soviet strength. Also of equal significance he laid out indisputable facts which demonstrate a history-making reversal of priorities in the last 4 years away from defense and toward social and economic programs.

As the Senate approaches the debate on the fiscal year 1974 military authorization bill, I believe my colleagues will find the remarks of Admiral Moorer mostly timely and informative.

Mr. President, I ask unanimous consent that this speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### ADDRESS BY ADM. T. H. MOORER

As always, I welcome the opportunity to speak to the members of the Navy League, but I am especially pleased to attend this "Welcome Aboard" Luncheon and address directly both the newly arrived and newly appointed flag officers in the Washington area. Having spent a goodly portion of my service career in Washington I can understand and sympathize to a degree with those who often go to rather unusual ends to avoid Washington duty. But in the same breath let me state my very strong conviction that no flag or general officer can expect to experience a well-rounded and complete career without serving at the hub of our nation's activity. To state the case in an ungrammatical yet expressive mode of today's world, "If you're looking for the action, this is where it's at."

It is no exaggeration that decisions made in Washington ripple in impact throughout the world, and such decisions with respect to military forces and national security are no exception. To be a part of and participate in this decision process is both a challenge and an experience that cannot be found elsewhere. So, to our newcomers, I commend to you a capital city assignment and I am certain that I speak for all of us who have been on the scene for a while in bidding you a hearty "welcome aboard."

We are now entering a period which I foresee as one of unusual challenge and complexity in national defense planning. Many factors and events contribute to the controversial pushes and pulls impinging on US defense programs. To highlight, I would cite the end of US combat involvement in Southeast Asia; pressures to achieve a peace dividend through reduced defense spending; the substantive arms build-up of the Soviet Union; a growing optimism towards détente; a persistent effort by some to discredit defense programs; the goal of an all-volunteer armed force; an apathy toward military service among too many of our nation's youth. I could go on and on, but the point should be clear that national security issues, and especially the American public's focus on these issues, are subject to many opposing and counteracting influences. What needs to be done and what we in Defense must energetically strive to do is to place the issues in a perspective that is understandable and meaningful to the American people. I am confident that our people do not want and will not accept a military force posture inferior to any other nation. I am equally confident that they will support those defense programs which are essential to insure against inferiority. But in order to make objective judgments and in order to have confidence in their public officials who must make the decisions, they must be aware of both the realities and the myths which surround national defense planning.

I want to spend my short time with you today in bringing into focus some of these myths and realities.

Let me begin with the reality of US strategic posture vis-a-vis that of the Soviet Union, for it is this relationship which is fundamental to our national strategy of deterrence. As you are aware, three weeks ago the Secretary of Defense officially announced that the Soviet Union has successfully demonstrated in flight tests a MIRV capability. Although this technological achievement by the Soviets is a vital advance, it came as no great surprise. Earlier this year, in my Report to the Congress on the U.S. Military Posture, I stated the view of the Joint Chiefs of Staff that the Soviet Union would soon succeed in its efforts to develop an effective MIRV system for its strategic missiles. Now that they have done so, it simply indicates a further diminution of the US technological lead that has been steadily narrowing over the past decade. It results from a very aggressive Soviet research and development program which continues to gain momentum, and as I have said many times, it underscores the imperative need for the United States to move decisively to protect our future options.

As you are aware, the initial rounds of the strategic arms limitation talks with the Soviet Union—now commonly referred to as SALT I—resulted in a formal treaty with respect to ABM system deployments and an interim agreement of five years' duration in regard to offensive systems. One of our primary objectives in pursuing the offensive weapon agreement was to stem the tide of Soviet momentum in both ICBM and SLBM deployments. While US missile deployments were fixed quantitatively because of prior decisions, Soviet deployments, prior to the agreement, were accelerating at a rate which could have resulted in a 2 to 1 advantage in their favor by 1977. We were successful in braking this trend—the interim agreement constrained the Soviet missile deployments to those operational or under construction at the time of signing. But even under these terms it was recognized that the Soviets would have a quantitative advantage in missile launcher deployments. This Soviet advantage—and let me emphasize that such advantage would have accrued with or without the agreement—was balanced on an interim basis by US qualitative advantages such as missile guidance and MIRV technology and by our superiority in intercontinental bombers, which were not subject to the agreement.

With the Soviets having now acquired the MIRV technology, US qualitative advantages begin to erode and I think it is quite obvious that should the Soviets marry the MIRV capability to their quantitative missile edge the result could prove unacceptable for the United States. The seriousness of such an eventuality would be compounded by the fact that Soviet missiles have a much greater throw-weight than do ours and thus the potential for greater imbalance in the total missile-warhead-megatonnage equation exists in favor of the Soviet Union.

The course of action for the United States is clear. We must be just as aggressive as the Soviet Union in the field of research and development if we expect to maintain technological leadership. We must not permit our country to slip backward into a position of technological inferiority.

Maintaining leadership in the field of advanced technology is always the most difficult task—the leader is always poking into the unknown, whereas the followers can capitalize on the known.

A vigorous research and development program is the only means whereby the United States can maintain the technological superiority so necessary to facilitate arms negotiations and at the same time hedge against the possibility of a breakdown in these negotiations. This is why the Department of Defense and the Joint Chiefs of Staff have urged the continued development of systems such as the B–1 and Trident. Those who wish to slow down or curtail these programs and adopt a "wait and see attitude" are, in my view, submitting our national security to unacceptable risk and thus courting disaster.

While I am speaking of negotiations, let me refer briefly to the coming talks on the mutual reduction of armed forces and armaments in Europe which will begin on October 30th. No one close to this problem expects that these negotiations will be other than very difficult and complex. The asymmetries in force posturing between and among the NATO nations and the Warsaw Pact countries and the very fact that the security goals of so many nations are involved militate against easy and rapid resolution. Yet, I believe that all parties in these negotiations are resolved to approach the question seriously in an effort to create a more stable military balance in Europe at lower levels of forces and costs.

You are aware that some members of the U.S. Congress are now seeking a reduction of American armed force strength in Europe. The objectives offered by the proponents of reduction are to reduce defense spending, help to alleviate the balance of payments strain and to contribute to detente and peace in the world. Their underlying philosophy with respect to the American commitment to the defense of Europe is that our intent will remain equally credible at the lower force levels.

I respect the sincerity of those who hold such views but I do not agree with them. I believe that unilateral reductions by the United States at this critical juncture would jeopardize the negotiations which will soon commence. We have persevered for more than twenty-five years awaiting the opportunity that now presents itself to achieve mutual accords on reducing the tensions in Europe. It would be a rash act indeed to initiate unilateral action which could undercut the goals and aspirations of our allies as well as ourselves.

Consider this comparison. Since 1961 the United States has reduced its troop level in Europe by 35 percent. The Soviets, on the other hand, have increased their troop levels by about 20 percent in the last five years. Is it now prudent to believe that U.S. unilateral withdrawals would be greeted by reciprocal action on the part of the Soviets? I think not. We must be firm in our insistence that change be mutual, not unilateral.

Let me turn now to one of the myths surrounding national defense—the contention that the defense budget is claiming a growing and excessive share of our national resources. The reality of the myth is borne out by the reality of the facts.

Let me use the FY 68 defense budget as a starting point for this discussion since that period marks our peak involvement in Vietnam. Comparing the FY 68 and FY 74 defense budgets in current dollar outlays—that is, the dollar value of outlays at the given time—the figures are $78 billion in FY 68 versus $79 billion for the current fiscal year.

There is no dispute that this is, in fact, an increase of $1 billion in current dollar outlays. But let us now compare these same defense outlays in constant FY 74 dollars; that is, adjusting for inflated costs and pay increases. The comparison now becomes $113.8 billion in FY 68 versus the $79 billion for FY 74. This means simply that the purchasing power of the defense budget has decreased by $34 billion since FY 68. The reality of the FY 74 defense budget is that, measured in dollars of constant buying power, it is at its lowest level since the Korean war.

Now let me return to the FY 68–FY 74 period to see what has happened to non-defense spending. Since FY 68, while the defense budget increased by $1 billion in current dollars, non-defense Federal spending increased by $93.9 billion and state and local government spending increased by $103.2 billion. The increases in Federal non-defense spending and state and local spending both exceed by far the total defense budget. So to those who clamor for a reordering of national priorities to meet our expanding domestic needs, I can only say that the priorities have already shifted. Defense spending, as a percentage of total Federal spending, is down from 42.5% in FY 68 to 28.4% in FY 74. As a percentage of GNP, it is down from 9.4% in FY 68 to 6.2% in FY 74. These figures are the realities and it is high time to put an end to the myth that the defense budget is the panacea for all other domestic needs.

There is one other subject I wish to bring to your attention before I close—the all-volunteer force. As you know, the induction authority under the Selective Service Act has expired and the President has not asked for its extension. Our experience in the no-draft environment is, of course, limited but presently there are some shortfalls in recruiting volunteers in the quantity and of the quality desired. These shortfalls can be overcome, but the prospects for doing so dim if the volunteer force goal continues to be regarded solely as an administration goal or a DOD goal or a military goal. I have repeatedly tried to bring home the point in my public appearances that the volunteer force goal must have the support of the American people—it must be their goal too. Young people who have an inclination for a military career must have the encouragement of their families and friends and they must foresee a public recognition that their service deserves. They will soon lose their inclination if military service is discouraged and maligned. So if the American people truly want a volunteer force they can have a volunteer force. It commands only their attention and their support.

We are, I recognize, now emerging from a period where public confidence in national defense policies has been diminished by the controversial aspects of a long, difficult war. Our military forces, as the instrument of national policy, are not immune from this loss in confidence. I am not here to argue for or against immunity. I will only say, as emphatically as I can, that the restoration of public confidence in our defense establishment must be a priority objective. That confidence is absolutely essential to the manifestation of national will that gives credibility to our strategy of deterrence.

Those of us serving in the military profession must continue to stringently abide by the Constitutional dictate of civilian control of the military. The option to obey only those orders and support only those policies that we like is not open to us—we must obey or support all. As I have said before, my only options, in this respect, are to obey orders or resign. The quality of personal integrity is one of the hallmarks of the military profession. It is a quality in which Americans will bestow their trust. It is up to you and to me to insure that that trust is inviolate.

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## WENTWORTH-BY-THE-SEA, MARKING ITS 100TH YEAR

Mr. McINTYRE. Mr. President, 100 years ago, one of America's great hotels was born.

Today this hotel, Wentworth-by-the-Sea, in New Castle, N.H., is known throughout the world.

Early in this century, Wentworth-by-the-Sea was the headquarters for the Russo-Japanese Peace Conference. Throughout the years many other distinguished Americans and foreign dignitaries have been guests at the hostelry.

Owned and operated since 1945 by Mr. and Mrs. James Barker Smith, the hotel continues to add to its services and facilities to accommodate guests. When Life magazine did its review of the most famous international hotels, Wentworth-by-the-Sea was included.

Mr. President, a history of the hotel recently appeared in the Portsmouth, N.H., Herald. I ask that this history be printed in the Record.

There being no objection, the history was ordered to be printed in the Record, as follows:

### WENTWORTH-BY-THE-SEA MARKING ITS 100TH YEAR

According to an article in the Portsmouth Times of July 1, 1873, the N.H. Legislature authorized the construction of a bridge at Little Harbor River, to connect the Island of New Castle to Rye (on the mainland). It was expected that the expense of the bridge construction would be paid by taxes from New Castle. The bridge was built and completed and opened to traffic in 1875.

It is reasonable to assume that the projected new bridge encouraged Charles E. Campell and his partner Daniel Chase of Somerville, Mass., to proceed with the construction of the Wentworth. Construction was begun in August of 1873 and the original building consisting of 82 rooms was completed and opened for business July 1, 1874, under Campell's management. The following year a wing consisting of 20 rooms was added at the side of the building toward the "back channel."

In 1879 the hotel was purchased by Frank Jones, who made some structural changes during his term of operation, including the addition of a third floor, addition of new rooms, the towers at each end of the building, and the "Swiss type" roof. In 1888 the dining room wing was added as part of the main building.

In 1898 the Colonial Wing was started as a separate venture. Separate, because at that time the size of wooden building was restricted by law. In 1902 when the restrictions were lifted the Colonial Wing was joined to the main building.

An interesting fact is that the Colonial House, as it was then known, was designed to accommodate a dining room on the top floor—a beautiful seaview restaurant serviced by a steam elevator! However, the restaurant was not a success and was closed in 1902.

After Frank Jones, death in 1902 the hotel was held in trust by the Jones estate, and was operated by Messrs. Harvey and Wood of the Bellevue in Boston. These gentlemen were the managers of the hotel during the Russo-Japanese conference.

In 1898, when Jones needed water for the Wentworth he had 11,000 feet of 8 inch main laid from Miller Avenue and Spring Street, in Portsmouth, to the hotel property—at his own expense. After his death the trustees of the estate sold the system to the city of Portsmouth for $3,121.50, with the stipulation that the hotel could buy any amount of water until June 4, 1908, at .06 cents per 1,000 gallons.

During the Russo-Japanese Peace Conference the negotiators stayed at the Wentworth (Aug. 8 to Sept. 5, 1905). Portsmouth and the Wentworth were chosen as the site of the conference through the efforts and recommendation of President Theodore Roosevelt who had found this area attractive and pleasing. Informal peace negotiations were done at the Wentworth where the treaty was drawn up and initiated, but the actual signing took place at the Portsmouth Naval Base.

From 1906 until 1920 the hotel was owned and operated by Henry Priest and his partner Al Shaw—a wealthy lumberman from Bangor, Maine.

In 1920 Harry H. Beckwith purchased the property and immediately launched into a program of rehabilitation, adding bathrooms, cutting in new windows, building a regulation size bowling alley, and importing and installing beautiful furnishings, antiques and rugs. Among the outstanding pieces is the antique tall-boy in the dining room, and the beautiful grandfather clock in the lobby. Another interesting feature is the ceiling of the Rotunda with its handsome painting.

Originally, swimming activities were accomplished at a small "beach" cleared at the water's edge on the "back channel." Under Beckwith's regime, a "proper" bathhouse was built on the Little Harbor side of the property where there is a small pleasant beach. Still later, Beckwith and his brother designed The Ship and the huge outdoor pool—reputedly the East Coast at that time. Beckwith's brother engineered the pumping system that supplied sea water as required above the water supplied by the tide.

Still later, a pool for the little children was added, to supply heated water for their swimming pleasure. Yet another project—the vegetable gardens at the back of the hotel—proved a source of fine fresh vegetables for the hotel tables all season long.

Another feature developed by Beckwith was the nine-hole golf course for the pleasure of his guests. Mr. Beckwith's projects really revitalized the Wentworth because until he took over the 265 rooms were serviced by about one bathroom per floor!

In 1945 the Wentworth By The Sea was purchased by Mr. and Mrs. James Barker Smith who have continued a program of modernizing and improving all along the way.

All the public rooms as well as the sleeping rooms have been redecorated and refurnished, more bathrooms have been added and old ones modernized, porches along the front of the Colonial Wing were enclosed and incorporated as suites, the North Wing was extended to accommodate the Avenida Lounge and Capri Room, and on the lower level The Tally-Ho Room, The Hunt Room and The Derby Room.

A new modern pool with spacious sundecks has been added and the pool complex contains modern air-conditioned dressing rooms, plus an Ocean Terrace for sandwich and bar service. The gardens which are constantly being beautiful, have been enlarged from 50 to 215 acres. The golf course has been enlarged to 18 holes and the clubhouse remodeled to accommodate Fairways members with locker space and a dining room to take care of hungry golfer's appetites.

Putting greens have been installed, and there is a challenging nine-hole Pitch-and Putt course. Four fine clay tennis courts are a source of pride to the owners and a joy and challenge to some of the top tennis stars of the country.

To keep all this establishment operating, there is a huge new heating plant, carpenter shop, plumbing shop, refrigerator rooms, and ultra modern kitchens, plus a staff of 350 persons!

While many of the staff return year after year, there are several long time employes, and Mrs. Alice Hackney and Joseph Bellevieu have 50 years continuous employment to their credit.

The display of memorabilia on the occasion of the 100th anniversary of the Wentworth includes pictures of the hotel during its construction, menus and souvenirs of the peace conference era, photographs of the negotiators, as well as scenes of the negotiations of the peace conference. There are photographs and registers of many famous persons who have visited here. A collection of letters from Governors who attended the conference in 1948 is noteworthy, as well as the permanent exhibit of letters and photographs of famous people in the 1874 room.

For tennis fans, there is the "gold" tennis racquet—given by Wright and Ditson in 1884 at the third annual lawn tennis matches, as well as numerous pictures of tennis stars.

For the golfers, there is a display of early trophies—while swimmers will be intrigued with the pictures of the early bath houses and "beach" bathing facilities.

Scrapbooks of activities at Wentworth By The Sea since it was purchased by Mr. and Mrs. James Barker Smith in 1945 are available in the Portsmouth Room.

A very special item is the hand-hooked rug designed and made by Mr. and Mrs. Fred Freed (the chef at Wentworth and his wife) and presented by them to Mr. and Mrs. Smith as a memento of this 100th anniversary. The rug occupies a place of honor on the wall in the Writing Room. Its design of the familiar symbol of the dolphin entwined in a "W" stands above the words "One Hundredth Anniversary".

Looking through the literature and pictures put out by 100 years of hotel owners one cannot help being impressed by the fact that the Wentworth has been a great attraction in this area.

Tying the exhibit together is the display of the collection of fans belonging to Mrs. Smith. These include two courting fans, several fans from Canton, China, in 1895, and given by Jeannette Trevor Pierce when she celebrated her 90th birthday and her 20th year as a Wentworth Hotel guest. There are feather fans, hand fans, ivory fans, and a brise fan, as well as one with lilacs—the New Hampshire state flower. This occupies a place of honor near a copy of the recording of the Robert Brunton Wentworth Symphony Orchestra! Music has had a favored place in hotel entertainment as early programs indicate.

The exhibit will remain open in the Geranium Room through tomorrow.

## CONGRESS SETS NATIONAL PRIORITIES

Mr. SCOTT of Pennsylvania. Mr. President, it is somewhat revealing to have President Nixon challenging the Congress to act favorably on dozens of his major proposals only to have us respond by passing a bill to ban television blackouts of certain sporting events. This kind of legislation hardly commands a priority as high as better schools or better communities.

I ask unanimous consent to have Tim Kelly's article entitled "Congress Sets National Priorities," from the Philadelphia Inquirer of September 8, 1973, printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Congress Sets National Priorities

It's time for a short quiz in political science. Name five powers invested in Congress by the Constitution.

Well, there's the power to:

Lay and collect taxes.

Coin money.

Declare war.

Raise and support armies.

And lift the television blackout of professional football games.

Well, that's not quite how the Founding Fathers wrote the last one. What they said was "Congress shall have the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

The way things have gone this week, it's obvious Congress ranks the National Football League right up there with the Indian tribes.

If you believe the NFL, the Senate's action Wednesday to ban television blackouts of home games sold out 72 hours in advance is roughly akin to Wounded Knee. And it may be right.

Sure, the bill applies to all sports, but the thrust obviously is toward the NFL.

The measure passed the Senate, 76–6, and has been sent to the House, which is conducting hearings on four similar bills. Subcommittee action is expected Monday or Tuesday, full committee on Wednesday and goes to the House floor for passage Thursday. Unless the House adopts the Senate bill, a joint conference committee will have to consider the two measures. Amazing how quickly the Congress can act when it wants. And it wants to now—the pro football season opens next Sunday.

The key provision in the Senate bill is that it would expire in one year, at which time Congress would review its action. The NFL feels that lifting the blackout will result in fewer fans in the stands—hence less concession and parking money—and the same studio atmosphere that killed boxing.

Both Pennsylvania senators voted for the bills, although Sen. Hugh Scott admitted he had "grave reservations" about the Congress picking on one segment of private enterprise.

But, as a Scott aide pointed out, "It's a motherhood issue." Indeed. Who could vote against it—and what kind of a President would veto it? Certainly not the kind of President who makes phone calls to locker rooms.

One person who would have voted against the measure is Don Kelly. Unfortunately, general managers of radio stations aren't allowed to vote in Congress. Kelly heads WIP Radio, which shells out well over $100,000 a year to broadcast Eagles games.

"It's not in our best interest," he admits. Obviously. Given the choice of watching an Eagles home game on TV or listening to it on WIP, most people would prefer TV. "This would also hurt the people who listen to an Eagles game on radio and watch another on TV," Kelly says.

So what's to do? Nothing, apparently, except to watch the NFL endure this year—and listen to it loudly pointing out the number of no-shows at supposedly sold-out games.

## RESOLUTIONS ADOPTED BY THE SONS OF THE REVOLUTION

Mr. HARRY F. BYRD, JR. Mr. President, on June 27, the National Society of the Sons of the American Revolution concluded its 4-day annual congress, the 83d to be held by this organization.

During its proceedings, the Society adopted 10 resolutions dealing with some of the major issues facing the United States at home and abroad.

I feel the Sons of the American Revolution are to be commended for their patriotism and for their wide-ranging interest in public affairs.

I ask unanimous consent that the text of the 10 resolutions adopted by the society at its 83d annual congress be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

### Text of 10 Resolutions

The National Society of the Sons of the American Revolution, at its 83d Annual Congress, assembled from June 24th through June 27th, 1973, at The Breakers, Palm Beach, Florida, adopted the following resolutions:

#### RESOLUTION NO. 1

Whereas, in seeming disregard of, the provisions of the Tenth Amendment to the Constitution of the United States, there appears in recent years to have been an increasing tendency to centralize in the federal government certain powers over subjects and matters not properly within the scope of federal authority or jurisdiction, and

Whereas, one area of vital and significant importance to the continued progress and well being of our great nation upon which such encroachment of federal power has seriously intruded in the field of education of our young people upon whom will devolve the responsibility for the conduct and preservation of our country, its institutions, and its form of government as we have known them,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress Assembled, that the design, structure, and administration of publicly supported educational systems is, and ought to be, the exclusive duty and responsibility of the individual and separate States of the Union in such manner and by such means as each of said States shall independently determine, and

Be it further resolved, that all federal agencies, including the Congress, the executive branch, and the courts should refrain from any interference, whether by coercion, force, persuasion, or otherwise, with the orderly performance by the several States of their responsibilities in the field of education.

### RESOLUTION NO. 2

Whereas, on the ill-founded premise that access to biographical data as contained in federal census records constitutes an invasion of privacy, and

Whereas, there is presently pending in the House of Representatives a Bill (H.R. 7762), some of the provisions of which will permanently restrict accessibility to the 1900 and later census records, thereby detrimentally affecting historians, researchers, genealogists and applicants for admission to memberships in many worthy organizations wherein lineage is among the factors determining eligibility, of the valuable information and data available in such records, and by so doing, seriously endangering the future growth of such organizations, including our own,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it opposes any efforts to restrict accessibility to the 1900 and later census records, whether by legislation, executive or administrative fiat, or by any other means.

### RESOLUTION NO. 3

Whereas, Pollution of the nation's air, water, and land and the misuse of our natural resources are a threat to our health and to our very existence, and

Whereas, widespread public concern has expressed itself to establish curbs on litter and pollution, and to encourage conservation of natural resources through the development and utilization of our technology and scientific research, and

Whereas, in response to the critical need for environmental education and action to combat and overcome pollution, and to expedite acceptance of resource recovery to conserve our natural resources, the nationwide, action-oriented environmental awareness program—Johnny Horizon '76—"Lets Clean Up America For Our 200th Birthday"—was developed by the United States Department of the Interior, with the support and cooperation of the Department of Defense, General Services Administration, the U.S. Postal Service, the President's Council on Environmental Quality, the Civil Service Commission, the Federal Highway Administration and the Tennessee Valley Authority, among others, along with more than 1,500 business, industry and citizens' groups and organizations, and

Whereas, the Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Program has widely demonstrated its ability to translate citizen concern into positive action such as community and country-wide cleanups, inner city beautification and conservation programs; in consequence whereby the American Revolution Bicentennial Commission in Washington, D.C. has officially recognized the Johnny Horizon '76 Program as an activity in furtherance of, and as a part of, the National Bicentennial Program and that it has been awarded the use of the Official Symbol.

Now, therefore, be it resolved:

1. That the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, acknowledges the overwhelming importance of the emerging environmental ethic in America based on the public demand that our air, water and land be cleaned up, and that our natural resources be conserved through resource recovery, all to the end that the quality of life might be improved for all our citizens.

2. That the said National Society agrees that the objective of cleaning up America, visually and ecologically, represents an important and highly desirable Bicentennial goal, as well as an ultimate objective for the well-being of all of us.

3. That the said National Society itself, and through its State Societies and local Chapter Program Committees—working in harmony with local civic and community organizations—do actively and consistently seek to help plan, develop and implement local Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Action Programs as a vital and significant part of our Nation's Bicentennial celebration effort.

### RESOLUTION NO. 4

Whereas, the United Nations membership has grown in number to 132 nations and

Whereas, each of the Nations has a vote in the United Nations, equal to the vote of the United States, and

Whereas, a two-thirds voting majority in the general assembly can be formed by nations with less than ten percent (10%) of the world's population and which contribute approximately five percent (5%) of the United Nations' assessed budget.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, that, pending the withdrawal of the United States from the United Nations entirely, we recommend to the consideration of our representatives and senators in Congress that the United States' financial support of the United Nations be re-adjusted to a more reasonable proportion, based upon a consideration of equal responsibility of all members.

### RESOLUTION NO. 5

Whereas, we deplore the abandonment of the actual dates of George Washington's Birthday and Veterans Day for random weekend dates, unassociated with the patriotic and reverent purpose of their inception, and

Whereas, our Society has as one of its purposes the preservation and reverence for such patriotic occasions,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, urges the observance of the actual dates of February 22nd and November 11th as the proper dates for honoring and commemorating George Washington's Birthday and Veterans Day respectively.

### RESOLUTION NO. 6

Whereas, the South Carolina Society has developed a project for the purchase and restoration of the home of Edward Rutledge, one of the signers of the Declaration of Independence;

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it endorses the action of the aforesaid South Carolina Society and urges the establishment and maintenance of the Edward Rutledge home as a permanent memorial to his memory.

### RESOLUTION NO. 7

Whereas, reliable reports indicate that the United States is rapidly eroding its international position of strength in regard to its military, air and naval capabilities, and

Whereas, George Washington admonished us, in the time of peace, to prepare for war,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that the preservation and security of American liberty and our Republican form of government make it imperative that the military capabilities of this country be continually maintained in such strength and posture as to enable the United States to successfully repulse all threats to its existence from within and without the territorial boundaries of this nation.

### RESOLUTION NO. 8

Whereas, the American people have paid tender tributes to the sacrifices of their sons who gave their lives in battle in World War I, World War II and the Korean Conflict by selecting unknown soldiers for special honors and respect at the tombs of the unknown soldiers in Arlington National Cemetery,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the United States Congress to honor in like manner the unknown soldiers, unidentified in death, who were victims of the Vietnam War, for their supreme sacrifice in the service and uniform of the United States of America.

### RESOLUTION NO. 9

Whereas, our armed services have traditionally constituted the shield and sword of the Republic against aggression by a foe, and

Whereas, such mission has been executed in the past in a brave and honorable manner by officers and men dedicated to the rigors and hazards of the armed forces, and

Whereas, during the past decade, there has developed a permissiveness, laxity in discipline, disrespect for authority, lowering of standards of personal appearance, and lowering of mental and physical standards, and

Whereas, such ideas have resulted in near-mutinies on fighting ships and at land bases, and have further resulted in a widespread decline in standards of morale and discipline as well as fighting capability,

Now, therefore, be it resolved, that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the President of the United States, as commander-in-chief of the armed services, to correct this troublesome situation by restoring a policy of traditional high military standards of conduct and discipline.

### RESOLUTION NO. 10

Whereas, it is reiterated and re-affirmed that all previous resolutions submitted at prior Congresses be re-affirmed.

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## LAND USE PROGRAM

Mr. FANNIN. Mr. President, when the Senate debated S. 268, the Federal Land Use Policy and Planning Assistance Act, this past summer I warned that it has a frightening potential to destroy traditional American rights. My views have not changed—in fact, I am more concerned than ever about the final form of this legislation.

It is encouraging that across the Nation people are becoming aware of this legislation and the danger it poses.

Columnist James J. Kilpatrick performed a public service by pointing out the shortcomings of this legislation in his column which appeared last Friday in the Washington Star-News. The headline on the column, "Bill on Land Use Ominous," is appropos.

Mr. President, I ask unanimous consent to have the column printed in the

Record for the benefit of Members who are concerned about this issue.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Bill on Land Use Ominous

(By James J. Kilpatrick)

Scrabble, Va.—Some years before he became the Father of Our Country, George Washington spent the summer of 1749 surveying in Northern Virginia. On July 24 he laid out the town that eventually would bear his name and become the county seat of Rappahannock County. That was the last significant planning done in our county until last Thursday evening, when everybody went down to the courthouse to talk about a zoning law.

I mention our local situation by way of backing into some observations on the Federal Land Use Policy and Planning Assistance Act. The bill, sponsored chiefly by Sen. Henry Jackson, D-Wash., passed the Senate by a vote of 64–21 on June 21. The House Interior Committee has completed its own hearings on a batch of similar bills, and a House version will reach the floor in a couple of months.

In its present form, the Senate bill may be a mildly useful bill. Potentially, in terms of our political values, it is the most dangerous and destructive piece of legislation ever passed by the Senate.

At the moment, the bill is no more than an enabling or authorizing bill. It would provide $100 million a year for the next eight years in federal grants to the states. The money would be used to foster the development of comprehensive plans within each state for the use of land. If this is truly all there is to the bill, about the worst that could be said of it is that it is obviously expensive and probably unnecessary. If Rappahannock County, Va., pop. 5,199, can finally get around to a zoning law, no community in the nation need despair of local action. We are not what you would call impetuous up here.

But I suspect there is vastly more to this bill than meets the eye. This bill has a nose like a camel; it has an edge like a wedge. I listen to the fervent declamation of its sponsors, whooping it up for states' rights, and I ask when Scoop Jackson and Hubert Humphrey got all that crazy about states' rights. What I hear is the squeak of a door opening; I hear the first shoe falling.

Back in June, when the bill was before the Senate, Jackson offered a little amendment. It was an amendment "to provide additional encouragement to states to exercise states' rights and develop state land-use programs." His additional encouragement went this way: If the states failed to adopt land-use programs in line with Jackson's idea of how land should be used, the states would lose part of their federal aid for highways and airports. In parliamentary jargon this device was described as a "crossover sanction." What it was, was extortion.

Jackson's amendment failed, but it failed by only eight votes. It is a fair assumption that his "sanctions will be urged anew in, the House, for such compulsions lie at the very heart of the liberal's view of the federal role. Such a liberal sees the countryside as unplanned, ugly, inefficient, helter-skelter and disorderly; he longs to impose professional planning that is rational, sensible, balanced, orderly, prudent and sound.

The need for wise planning in the use of our land is self-evident. It has been self-evident since Augustan Rome, when zoning laws first were decreed. But cherished principles of private property will be undermined and old safeguards of federalism will be destroyed if ever we leave it to a federal bureaucracy to say what planning is wise. Except where regional interests truly are involved, such decisions ought to be made down at the courthouse on a Thursday night.

Democracy is a charming form of government, Plato remarked, "full of variety and disorder." This element of "disorder" is vital to freedom. I do not want our beautiful country despoiled by the ticky-tacky Monopoly houses of a sub-divider—I pray our new law will prevent this—but neither do I want the use of our land determined, in effect, not in Washington, Va., but in Washington, D.C. Jackson and his fellow liberals insist this is not what they have in mind. So be it. They may not have it in mind for right now, but be forewarned: They have it in mind for later on.

## MARY McGRORY'S COLUMN ABOUT A NEW HAMPSHIRE INN

Mr. McINTYRE. Mr. President, I do not always agree with Columnist Mary McGrory. Indeed, on some issues our differences have been pronounced. But I have always respected Ms. McGrory's indignation over social inequities, political improprieties, and man's inhumanity to man, and I have admired her ability to articulate that indignation.

Moreover, I have long suspicioned that Ms. McGrory's capacity for outrage stemmed from a sensitivity that could respond with equal fervor to the bad or the beautiful, and her column of September 9 on "The Quiet Spell of a New Hampshire Inn" confirmed my suspicions.

Perhaps this New Hampshire native was ripe for a bit of sensitive prose about clean air, pure water, pine, birch, fern, and mountain, and the captivating charm of a traditional Yankee inn—given the last several weeks of Washington's smothering heat and suffocating air—but whatever the case, I was captivated by Ms. McGrory's essay and I ask my colleagues' unanimous consent to have it printed in the Record so that others may savor it as well.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Quiet Spell of a New Hampshire Inn

(By Mary McGrory)

Washington.—To go to Antrim, N.H., after a summer in Washington, D.C. is to make a number of important discoveries.

First of all, there is a sky. It is blue by day and pitch-black by night, studded with thousands of stars. And you can breathe, actually take breaths deeply, and nothing terrible happens. The sun does exist after all. It rises over the Monadnocks in the morning. It sets over Lake Gregg in the evening, sometimes with long streamers of pink and violet.

Then if you stay at the Maplehurst Inn, and we never go any place else, you discover that you can live without a telephone. An impasse was reached over a mysterious, variable balance on the bill, and the service was discontinued last January. It's novel but nice to be somewhere where you know the only bugs are flies or mosquitoes.

Most innkeepers would find the lack intolerable. But Mrs. Danforth, who runs the place along the lines of a medieval hospice—travelers require comfortable beds and good food, not communication—is philosophical.

"Many, many enterprises were transacted before Marconi was ever dreamed of," she says firmly.

Mrs. D., as she is called, is a small woman, but indomitable. Her back was bent now, and since she broke her hip a couple of years ago—she was carrying the cashbox through the dark dining room and collided with a tray-stand—she moved about rather like a bird. She lives on coffee and cigarettes, as far as anyone can tell, and the occasional official tasting of the gourmet dishes she prepares for her company.

The Maplehurst, I should explain, is an old-fashioned country inn. Not resolutely quaint like many New England Inns which feature reproductions of spinning wheels and spanking new-old hunting prints. The floors heave a bit, and there's one stretch where the list is so pronounced my brother says he feels he's at sea.

The dining room is superb. It is plain and low-ceilinged, with the original darkened beams, almost two centuries old. It is dazzlingly white, from the tablecloths to walls. The sun pokes in through the back window, gleams through the old bottles of colored water on the shelves, splashing ruby and aquamarine on the floor.

Sometimes Mr. Danforth, the breakfasters out of the way, goes to the upright piano in the corner. The strains of Sigmund Romberg and Victor Herbert, of "Tea for Two" and "Bye, Bye, Blackbird," drift through the ancient rooms.

The dinner menu is the most imposing thing about the Maplehurst and, like everything else, it is for real. The roast beef gives way under the fork, the potato cheese balls float off the plate. The baked Indian pudding is dark and rich and made on the premises. Verna, Mrs. D.'s chief of staff, bustles about with the trays and gives the reviews to the kitchen.

Sometimes the city travelers, replete with lobster pie and strawberry-filled meringue shell, looks about and sees a gold mine. Once, indeed, it was contemplated to make the old barn into a cocktail lounge. The stalls had been buffed to a honeyed glow by generations of itchy cows. And once they thought of digging up the meadow, which lies in the shadow of Mt. Crotchet, and putting in a swimming pool. These dreams of glory, which unnerved the aficionados, have faded like the wallpaper.

Lake Gregg is just up the road. When you approach it through the pine and birch along the fern-lined path, it looks blue, as blue as the hills which ring it on three sides. But when you're actually in it, it is the color of chablis. The sun shines through the ripples and makes a mosaic floor of the sandy bottom. Its consistency is silk but, like most things Yankee, it has a bite. Mountain springs bubble up polar pockets.

It is the one hotel where I have ever stayed where the leave-taking often is marred by a dreadful scene over undercharging. I've heard tell of a long-ago Boston gangster who put up there between engagements and was, like many Maplehurst clients, outraged over the small size of his bill. "It's all there, dear," Mrs. D. said to him, as she does to everyone.

Mrs. D. firmly believes in providence. Several years ago, lightning struck the belfry of the Presbyterian church next door. It knocked out the bells that chimed the hours, to the dismay of wakeful guests. The matter was clearly taken care of by a higher power. If thunderbolts, why not a telephone?

## WASHINGTON POST IGNORED PRESIDENT'S POSITION ON FORCED BUSING OF CHILDREN

Mr. HELMS. Mr. President, I read the Washington Post this morning to see what kind of coverage would be given to the President's message of yesterday and I was amazed to find that only a line and a half was given to the President's remarks on forced busing of schoolchildren. The paragraphs on busing were not quoted. No reference was made to them in the accompanying interviews and commentary. Nor was the slightest indication given in the summary of the topics covered by the President.

I find it rather interesting that the Washington Post, after giving extensive coverage both in the news columns, editorials, and letters to the editor to the local situation in Alexandria and Prince Georges County in an effort to convince its readers that busing is desirable, should suddenly become silent the moment that the President gives his views on the subject. Moreover, compulsory busing is a question of high interest in every section of the country. Constituents of many Members of Congress give it a high priority amongst their concerns. Yet, if those same Members of Congress relied on the Washington Post for their information about the President's views on this subject, they would scarcely know that the President had spoken.

Even the New York Times had the fairness to include the President's remarks on busing in the excerpts printed from his statement, although the accompanying sidebar story consisted only of 21 column inches of derogatory comment exclusively from those who favor forced busing.

Nevertheless, the President made a fine statement which exhibits his deep concern. It is a statement which any fair-minded person could subscribe to:

> Another area of renewed interest this fall is busing. I am opposed to compulsory busing for the purpose of achieving racial balance in our schools. I continue to believe that busing is an unsatisfactory remedy for the inequities and inequalities of educational opportunity that exist in our country, tragic as those discrepancies are.
>
> We have been working to end those discrepancies, and we will continue to do so. But we should also place effective and reasonable curbs on busing in a way which would aid rather than challenge courts.

I commend the President for his attitude. I might also point out that I have sponsored original legislation in this area, the proposed Public School Jurisdiction Act of 1973 (S. 2336), which meets the President's criteria. The Public School Jurisdiction Act is drafted within the constraints of recent Supreme Court decisions so that public school systems can be speedily removed from Federal court jurisdiction as soon as they meet the requirement of achieving a unitary school system.

My bill would allow the Federal courts to issue orders eliminating any inequities with regard to pupil assignment, and give a full school year to insure that the court orders were carried out. But once a unitary system has been achieved, the system would be removed from Federal court jurisdiction, and school boards could adopt any nondiscriminatory pupil assignment plan. Granting the nationwide sentiment against busing, I am sure that few school boards would adopt compulsory busing plans on their own. The schools could comply with recent Supreme Court decisions, and yet local control would return.

Thus, it would provide objective definitions of unitary school systems for uniform court enforcement and relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated schools. If any of my colleagues would be interested in cosponsoring S. 2336, I would be happy to discuss it with them further.

## FURTHER INSIGHTS ON EXPULSION OF JACQUES LESLIE

Mr. TUNNEY. Mr. President, late in July the Thieu regime in South Vietnam demonstrated once again its single-minded pursuit of dictatorial power, and its continued attempts to shield those facts from the American people. Without reason, a talented reporter for the Los Angeles Times, Mr. Jacques Leslie, Jr., had his press credentials revoked and was forced out of the country. Jacques Leslie's only crime was to practice his profession too well. His reporting to the American people was obviously becoming too embarrassing for the Saigon government, so they took the step which all dictatorships have refined to an automatic response: it stifled the source of the unwanted press coverage.

Practically from the day after the peace agreements were signed in January, the Thieu regime cracked down on domestic and foreign journalists. By the time American troops had been completely removed from South Vietnam, American journalists were finding it very difficult indeed to learn what was going on inside the country. One well-publicized example was the conscious policy of the South Vietnamese to prevent any press contact with North Vietnamese and Vietcong representatives who came to Saigon after the peace agreements were signed. It is clear that Thieu now feels that, with U.S. troops gone and therefore much less pressure available from the U.S. Government, he can transform his country more thoroughly to one-man rule, free of the glaring light of journalistic exposure. This is how much the South Vietnamese ruler thinks of the American people who sacrificed blood and money on behalf of his country.

With this in mind, I think my colleagues will be interested in excerpts from a press conference in Saigon held by the South Vietnamese Government press spokesman, Bui Bao Truc. I think it shows the transparency of the South Vietnamese attempt to stifle a free press in that counrty. At this point, I ask unanimous consent to print excerpts from this press conference.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

### EXCERPTS

Q. I have heard that Mr. Jacques Leslie has been expelled. Can you tell me how many more days he can stay before he is expelled?

TRUC. We don't expel him. We just don't give him any press card any more. That is the decision that came from Mr. Nha's office (Hoang Duc Nha, commissioner general for information) because for the last three or four months he has been writing articles attacking us, seriously. Imagine that kind of thing happened in Hanoi. The correspondent like that would some night go out and just disappear. We don't do that. We don't expel him. He can be here—he can continue to be here as a civilian doing any other thing. But we cannot help him—as we can help you foreign correspondents doing your job—anymore. He could get help from the other side.

Q. You said that he wrote articles attacking the government seriously. Are any of the articles inaccurate, in other words could you give us a list of the articles that were inaccurate?

TRUC. Well, I'm sorry but I don't have the article here with me. But I have them downstairs and many of the articles proved to be inaccurate.

Q. Can you give us some examples?

TRUC. Well there are so many.

Q. Just one then?

TRUC. But I'm afraid I don't have the answer right now. But you see that while he's in Saigon enjoying the security provided by the soldiers of the Republic of Vietnam (He is attacking our soldiers). We cannot have that.

Q. Mr. Truc, you said he could get help from the other side. (Could you elaborate?)

TRUC. Well, he would get help from the other side. But not from our side anymore. We cannot help people like him anymore. But we don't expel him.

Q. What do you call it then? Does he have three days or does he not have three days in which to get out of the country?

TRUC. Well, we don't order him to get out of Vietnam. We just take back his press card.

Q. Can he stay beyond three days or must he be out of the country by Monday?

TRUC. Well, that is up to the immigration service. But we don't make the decision.

Q. What has the immigration service said? How much time does he have left in the country?

TRUC. Well, look here. He came here as a journalist.

Q. He is here as a journalist, representing a legitimate newspaper. Is that correct?

TRUC. That is correct.

Q. He has had legitimate news credentials issued by the Vietnamese government. Is that correct, sir?

TRUC. Yes, but we cannot do that anymore.

Q. Is that being revoked?

TRUC. Well, we cannot give him a press card anymore.

Q. What does that mean, ultimately?

TRUC. That means he can be here as a civilian doing any other thing. But not as a foreign correspondent anymore.

Q. Does that mean that the South Vietnamese government would deny him the right to report for a legitimate news organization. Is that correct?

TRUC. Well, he can live here in Vietnam. He can do whatever he can but we cannot give him any help anymore.

Q. Does that mean that you will give him a visa beyond Monday?

TRUC. Well, he can try.

Q. As a civilian?

TRUC. He can try.

Q. And if he fails, then what?

TRUC. He can try but we cannot help him. If he fails we are not going to give him any assistance.

* * * * *

BENNETT. Would you mind telling, Mr. Truc, precisely what is the charge against Mr. Leslie?

TRUC. It is not your business. I'm sorry.

Q. I think that is a legitimate question.

TRUC. Well, you see, Mr. Leslie asks me then I'll answer Mr. Leslie. But I'm not going to answer you.

Q. You are not going to give me an answer?

TRUC. I'm not going to answer you. It is none of your business.

Q. It's none of my business?

TRUC. That is right.

Q. Isn't it any of the business of the press at all?

Truc. All right then. If Mr. Leslie, if he asks me then I will answer him.

Leslie (from back of room). All right, I ask you then.

Truc. Do you have a press card? (Laughter.) All newsmen coming here must have a press card. If you don't have a press card I ask you to leave the room immediately. Mr. Leslie, do you have a press card?

Leslie. No. I don't have a press card. You know that.

Truc. Please leave the room. Thank you. Goodbye.

Q. That still didn't answer the question.

Truc. I did answer him. In my office.

Q. You did not answer the question here. The question is what are the charges against Mr. Leslie?

Truc. I answered him in my office. I'm not going to . . .

Q. Why don't you answer it here?

Truc. Because he comes here not as a journalist.

Q. Is that a form of censorship, sir?

Truc. It is not censorship.

Q. Then why don't you answer the question?

Truc. It is the order (SIC).

Q. It is a legitimate question. I am not demanding. I am asking you the question. What are the charges against Leslie?

Truc. I don't have to answer you.

Q. You don't have to answer?

Truc (with sarcasm). I don't have to answer you.

Q. Or won't?

Truc. I will not answer you.

## THE RECURRING WATERGATE QUESTION

Mr. SCOTT of Pennsylvania. Mr. President, Robert L. King, who served from 1955 to 1957 as an assistant to then Vice President Nixon, gives us insight into one of the most complex Presidents in history with his illuminating article in today's New York Times. His description of President Nixon's personal philosophy answers the recurring Watergate question, "How could Mr. Nixon not have known?" I would like to share this article with my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Watergate as Part of the Purchase Price

(By Robert L. King)

San Mateo, California.—Since most of the Watergate testimony is now in, and the President has again stated his case, perhaps it is time for an additional perspective. My own frame of reference is built on long friendship with Mr. Nixon and whatever insight and understanding of his character I have gained from my association with him.

Perhaps I can offer at least a partial answer to the question: "How could Mr. Nixon not have known?" In his instructions to me when I first went to work for him in January 1955, Mr. Nixon told me that one of my prime duties would be to "protect" him so that he would have sufficient time to study, read, think and concentrate on the problems with which he was dealing. His overseas missions for President Eisenhower, even then, gave him his first and abiding interest in foreign policy and world politics. Much time was taken up in preparation for these trips and much time was absorbed in meetings of the Cabinet, National Security Council, Government Contracts Committee and other duties. He needed protection, and I, as the only male member of his immediate staff in those days, was the chief buffer. But Mr. Nixon's instructions embraced one other point. He said that in addition to protecting him, I had to protect myself. Otherwise, I couldn't do the necessary job for him.

However, too literal an interpretation on the part of top staff people in a highly political situation can lead to blindness and insensitivity on the part of both master and servant. Such phrases as "the Berlin Wall," and rumors that the top staffers were harder to see than the President, could have arisen only because of too strict a conformance with the admonition of "protect yourself." The result was to almost form a double moat around the Oval Office.

Such a system breeds an inordinate delegation of power. This, in turn, carries with it the seeds of its own destruction when such power reposes in individuals whose experience, capacity and political instincts are limited. Such a modus operandi might well have worked in other circumstances. In this instance, sincere, hard-working, intelligent, dedicated and patriotic young men were victims of a power-bred myopia which made them vulnerable to their own inexperience—particularly political inexperience.

These thoughts are offered by way of explanation, not absolution, as both the delegator and receiver of Presidential power share in the responsibility for what happened. But the daily inferences and outright charges that Richard Nixon has lied to the American people is a cruel lie itself. A reporter recently wrote that Mr. Nixon, in 27 years of political life, has never been caught in a lie. In my own 30 years of friendship and intermittent association, I have known a man who I think is constitutionally unable to lie, particularly about such an overriding question of morality and integrity.

In addition, he is simply too intelligent to even consider the risk of a "second-story job" on Democratic headquarters. It is completely out of character for a man who voluntarily denied himself the Presidency when it was probably within his grasp. I refer to 1960 when it is reported that J. Edgar Hoover and many friends urged him to contest the election because of known and provable vote frauds in Illinois, Missouri and Texas. I can imagine no more venal assault on the American system than that of the actual theft of ballots and perversion of the citizens' basic voting right at the ballot box.

Watergate happened because Mr. Nixon's remoteness and that of his top staff people made the latter vulnerable to an excess of power. The irony is that equal excesses of zeal and dedication to a great President (which normally are admirable qualities) were short-circuited by this fatal juxtaposition which gradually eroded the judgment of otherwise good men.

I have no doubt over the outcome. It will be proved to the satisfaction of the American people that President Nixon did not participate in either the planning or cover-up of Watergate. The scars he must inevitably bear for a staff system and personnel selection that made such a thing possible are only a part of the punishment for him. I'm sure he can accept this burden much more easily than the knowledge of what has happened to close personal friends and loyal supporters.

Mr. Nixon's "remoteness" is well-catalogued. But perhaps this remoteness, with the time it has given him to think and plan policy toward Russia and China, has been a key ingredient in today's peace and hope for the future. If so, and I personally believe this, perhaps Watergate, painful though it is, is part of the purchase price.

## ECOLOGY AND ENERGY

Mr. FANNIN. Mr. President, it is encouraging to find in the press a new understanding of the need to strike a balance between those measures which will protect the environment and those measures needed to protect our economy.

For a time the tide ran entirely in favor of the environmental extremists and it was woe to anyone who spoke otherwise. Now we have an awakening, an understanding that one of the worst things we could do to our environment would be to destroy our economy.

In last night's Washington Star-News there was a very good column by Richard Wilson pointing out the need for more rational actions which will enable us to meet our energy needs while doing our utmost to protect the environment.

Mr. President, I am pleased that we are starting a realistic discussion of environmental protection measures. We must have some frank debate and a determination that we will act on the basis of facts rather than wishful thinking.

Mr. Wilson in his column gives us some good points to consider in this debate. I request unanimous consent that the column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Ecology Craze Blocks Vital Energy

(By Richard Wilson)

Nature has finally cleared the air over the Eastern seaboard after weeks of envelopment in putrid smog which even extended into the usually refreshing atmosphere of the Blue Ridge Mountains.

It seemed as if the whole summer was spent in a dingy haze which robbed the mountain landscape of definition and cast a depressing pallor over all familiar objects in the urban scene.

The experience was enough to persuade skeptics they should join in the environmental craze—but not quite enough. Able to breathe freely again, the doubter can more easily assess what it is about the environmental craze that invites skepticism.

The environmentalists have taken up a cause which is bigger than they are. There were just as many cars spewing out pollutants and as many factories and refineries belching out filth after mother nature had enough and lifted the atmospheric inversion which trapped the East Coast in a suffocating blanket. But the air was clear again.

No doubt there will be other clean-air crises in the future, and it is not being said here that a lively concern for a clean environment is not urgent. But there are realities which do not yield to the naturist yearnings of the dedicated environmentalist. Among these realities are keeping people employed, getting them to work, keeping them warm or cool, maintaining production and distribution essential to life and order, and, it now becomes evident, conducting a foreign policy.

Because we are short on oil and other sources of energy, we are being blackmailed by Arabian potentates, we scramble for Siberian gas, and face the possibility of a winter heating crisis and power shortage.

So let's examine as concisely and succinctly as possible how the environmental craze is paralyzing the development of energy sources which the nation absolutely must have in the future. Here is a partial list.

1. The biggest single petroleum discovery in the Western Hemisphere, on Alaska's North Slope five years ago, will not produce oil for the American market before 1977 even if there are no further delays by the environmentalists.

2. Tremendous reserves of oil and gas in the outer continental shelf go undeveloped owing to environmentalist obstruction following the 1969 oil spill in the Santa Bar-

bara Channel off the California coast, which was not permanently damaging.

3. The full utilization of coal, the most plentiful energy source, is prevented by the Clean Air Act, court decisions and short-sighted policies heading the coal industry for a major depression. The problem is susceptible to solution but at great cost or modified air standards.

4. The cost of emission control on automobiles eventually will be enormous, running into the billions in a few years, using more gas, and adding up to $500 to the cost of a car.

5. Environmentalist opposition accounts in part for a standstill in oil refinery construction.

6. Environmental objection has blocked conventional steam and hydroelectric plants, as well as nuclear power plant construction. Construction of a new hydroelectric plant on the Hudson River has been blocked for 10 years while New York clamors for more power.

There is this much to be said for environmentalism: It has been effective. Also it has been disillusioning to some of its effective supporters, including Sen. Henry Jackson of Washington, one of its early champions and author of the National Environmental Policy Act of 1969, who insists on building the Alaska pipeline.

With impeccable credentials as an environmentalist, Sen. Bob Packwood of Oregon supported a federal ban on the powerful insecticide, DDT, but now has reversed himself because there is no other effective way of attacking the Tussock Moth which has destroyed 800,000 acres of Oregon timber this year.

Reality thus gets in the way of idealism, and the modern age does not give in to Rousseau, either the naturist philosopher or the naturalist painter who provided so much inspiration for the environmentalist idea.

Somewhere a balance will have to be struck between environmentalist ideals and national requirements for more energy. The chances are it will be struck somewhere short of cold houses, limited car uses and strangled economic expansion. Enlightened environmentalists should recognize that before an overabundance of zeal discredits the movement.

## THE UNITED NATIONS

Mr. McGEE. Mr. President, in late August of this year, U.N. Secretary General, Kurt Waldheim, released an extraordinary report on the work of this vital international organization.

At a time when all nations of the world, particularly the United States, should be seeking innovative means to make the United Nations a more effective and efficient tool of the international community, I found the Secretary General's remarks quite poignant and exceptional in their scope.

I was particularly impressed with the following observations in which the Secretary General noted:

> Of course, there is infinite room for improvement in the way the United Nations is used on immediate issues. It would be a far more effective Organization, for example, if Member States developed the habit of consistently responding to and respecting the decisions and findings of the main organs. It would be a more effective Organization if Member States were always prepared to put their influence behind the implementation of decisions of its organs. It would be a more effective Organization if the majority of Governments of Member States were more interested in pursuing long-term international aims, and in providing leadership in the pursuit of those aims, than in using the United Nations to achieve narrow goals and to protect short-term national interests. It would be a more effective Organization if there was a general recognition, in deeds as well as in words, that the present conditions of life on our planet demand much more of international cooperation than only the protection of national interests, and that the ability to co-operate in the pursuit of common interests and common goals may well in the end be a matter of human survival.

In a world that has become so interdependent, and with such a wide range of needs to be met, it is apparent that time is running out on us if we cannot achieve international cooperation on resolving these issues. It is painful that we must always pay a tremendous price for shortsightedness and selfish instincts. The price will be much greater, in almost geometric progression, unless we get down to the serious business of building upon the only supranational organization we have which is prepared to deal with our supranational problems. We no longer exist in the 18th or 19th century. We cannot escape from the rest of the world without affecting our own survival as a nation and as a people.

It is for these reasons that I found the Secretary General's remarks to the point and reflective of a wisdom and urgency we cannot ignore.

I ask unanimous consent that the document entitled, "Introduction to Report of the Secretary General on the Work of the Organization," be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

### INTRODUCTION TO THE REPORT OF THE SECRETARY GENERAL ON THE WORK OF THE ORGANIZATION—AUGUST 1973

#### I

In recent years the United Nations has taken important steps towards universality of membership, and for the first time in history an organization representing the whole of humanity is within our reach. It will be very different from the organization which the founders had in mind at San Francisco, but, if its Members so desire, it could have a vitality, a variety and a potential unmatched by any human institution which has existed before.

The necessity for international—even global—co-operation on a wide range of human activities has never been so great or so urgent. Quite apart from the political and security-related challenges of our time, there is now a whole range of global problems which can probably only be dealt with effectively through institutionalized multilateral channels. This fact also fundamentally affects the future of international organization.

The growing involvement of the United Nations in the fields of environment, natural resources, population, outer space and the sea-bed is a testimony to the awareness of States of this necessity. But while this development is to be welcomed, we must not lose sight of the fact that an important aspect of public disillusionment and disenchantment with the United Nations lies in the fact that a world in need as never before of peaceful and legitimate order to ensure its survival appears to be still institutionally incapable of assuring it.

Inevitably it will require time for us to learn how best to use wisely such a unique instrument as a universal organization, for it will present great problems as well as great possibilities. Nor will it always be easy to adjust international instruments created more than a quarter of a century ago to the global challenges which we now face. But time is not on our side, and we need action as well as thought, innovation as well as criticism, determination as well as idealism, if mankind is not to be overtaken once again by the destructive side of human nature.

The main purpose of this introduction is to provide a basis for constructive debate on the present state of our Organization and on some of the problems of its future development as a universal instrument in a world of interdependent sovereign States.

#### II

The United Nations and its family of organizations were set up to deal with the problems of a world very different from the one we live in today. The past quarter of a century has seen an unprecedented degree of change in the political, military, economic, social and technological circumstances of our planet.

The fact that, after 28 years, the United Nations is very different from the organization envisaged at San Francisco has given rise in many countries—and especially among some of the founding Members of the Organization—to considerable disappointment with its performance and effectiveness. This disappointment sometimes has tended to overshadow the promise of the new directions and forms of United Nations activities which have been developing. Indeed, the flexibility of the United Nations and its adaptability to new problems and possibilities has been one of its major strengths. This promise, however, can only properly be fulfilled if there is a widespread willingness to make a realistic assessment of the Organization's capacity and potential, and to decide on constructive, contemporary and imaginative ways in which it can be used to meet the present and future problems which we face. In this process, many fundamental adjustments will inevitably be necessary.

The United Nations Charter sets forth a series of objectives and ideals which are of lasting value in providing a broad framework within which differing political groupings and ideological systems can meet and reconcile their aims and interests. Some of the mechanism provided in the Charter for achieving these aims, however, has not proved workable in the rapidly changing world situation. Thus, as far as international peace and security are concerned, the Charter is very much associated with the international situation at the end of the Second World War, and with the developments which led up to that war. The cold war, the revolutionary development in weapons-systems of mass destruction, the change in the relative status of various major Powers, the rapid process of decolonization, and the increasing imbalance in economic resources between nations are only a few of the major postwar developments which have to some extent affected the machinery for maintaining international peace and security which was created at San Francisco. As a result the United Nations—and especially the Security Council—has often been frustrated and has developed various procedures and techniques in order to meet the challenges of the contemporary world. Such developments, though often less precise and decisive than the full range of activities provided for in the Charter, nevertheless demonstrate the vitality and resourcefulness of the world Organization.

On the economic and social side, many of our present world-wide problems were scarcely foreseen at all when the United Nations system of organizations was created. The pressing and global nature of such interrelated problems as development, trade, population, natural resources and environment requires an integrated response which is often hard to achieve through the international machinery set up for far more limited purposes over a quarter of a century ago. In fact in the economic and social fields the United Nations, far from being side-stepped, has become increasingly involved at so rapid a pace that institutions created in 1945 often no longer correspond to current needs.

It is in no spirit of defeatism that I have referred to some of the short-comings of our international institutions in relation to the world of today. On the contrary, I believe that these institutions provide an indispensable and solid foundation for future activity. But I am convinced that, if the United Nations is to live up to the resounding aims of the Charter and is to engage the confidence and support of the peoples of the world, the Member States, the Secretary-General, the secretariats and all the organizations and individuals—including the mass media—that play an important part in international co-operation, must consider the realities of the situation frankly and with a full measure of critical appraisal. The United Nations will not develop through ritual public statements of approval and support which are not backed by inner conviction, realism and wholehearted participation. If the United Nations is to become the organization which the Governments and peoples of the world require and which their problems demand, we have to make a continuous effort to assess the challenge of the radical changes in the world, to make the necessary adjustments and, where needed, to develop new machinery and methods.

Let there be no doubt about the crucial importance and difficulty of this task. It does not require only that States should examine the United Nations with care and imagination; they must also ask themselves whether their own attitudes, their assumptions, their goals and their machinery are adequate or appropriate for our times. We need to take a hard look at matters as they are, and to compare our high ambitions with our actual performance, our bold claims with our actual achievements.

### III

The original concept of the United Nations as an organization of which the primary function was to maintain, and if necessary impose, international peace and security has long been replaced by a more pragmatic approach. At the risk of oversimplification, the present efforts of Governments within the United Nations framework may be summarized under three forms of activity which proceed simultaneously.

There is the day-to-day effort to maintain peace and security, to deal with, and if possible prevent, conflict and to face immediate international problems in the political or other fields, as for example in emergency relief operations. There is the middle-term activity, which represents the vast proportion of the Organization's effort in terms of manpower and money. This deals with urgent problems requiring sustained efforts over a longer period, such as disarmament, development, trade, population, environment and natural resources, as well as preparing for the future in such questions as the sea-bed and outer space. Finally, there is the long-term goal for which these activities are the workshop, preparation and experimental ground. This is the process through which the present association of States in the United Nations may develop by practical experience into a more reliable instrument of world order and co-operation, accepted and respected by all Governments and capable of safeguarding the common interests of mankind in a crowded world of increasingly interdependent but sovereign States.

### IV

It is the first of these categories of activity which attracts most public attention and gives rise to much of the doubt concerning the Organization's effectiveness. Here especially the actual development has been very far from what was foreseen at San Francisco, and this has given rise in some countries to a disillusionment which has tended to obscure what the United Nations has actually done or can do in matters affecting peace and security. One difficulty here is the widespread idea that international problems invariably can and should be solved by logical and reasonable means and through established institutional procedures. This popular illusion accounts for much of the criticism of the political organs of the United Nations, especially the Security Council. The reality of the kind of hard-core political problems which come to the United Nations is of course very different. The proceedings of the Security Council, the work of Governments of Member States on these problems within the framework of the United Nations, and the efforts of successive Secretaries-General and the Secretariat have, it seems to me, been far more useful than is widely supposed.

Past experience has shown that the United Nations cannot either successfully deal with disputes if the Governments concerned do not wish it to do so, or, against their opposition, impose the settlement of a dispute. But throughout its history the Security Council has played a vital role on many occasions in defusing and de-escalating the problems brought before it by great and small Powers alike.

A large part of the agenda of the United Nations is a list of the chronic ailments of the international community. The United Nations may not often be able to cure these ailments, but it can, and does, do a great deal to prevent them from getting worse and from spreading and infecting new areas. In fact the conflict situations, or potential conflict situations, where the United Nations has been involved have tended to be far less violent and destructive than those where it has not been involved, even when the Organization has been unable to effect a settlement of the basic problems concerned.

The use of multilateral preventive diplomacy and good offices by one or other organ of the United Nations are activities which can certainly be further developed. Such efforts are not in competition with the normal bilateral dealings of Government but are complementary to them. They reflect the fact that there are some problems which are not soluble either by bilateral negotiations or through the general improvement in the international climate or *détente* among the great Powers. Examples of such problems are the Middle East conflict, the burning problems of southern Africa, and the situation in Cyprus. In such situations—and one could give other examples—the multilateral approach of the United Nations is complementary to normal bilateral diplomacy. It is necessary to emphasize that there is no inevitable clash between bilateral and multilateral diplomacy. They are, or should be, mutually supporting, each having particular advantages in particular situations. There is no single road to peace—we have to try all roads.

The fact that the international climate has greatly improved—especially as regards the relations among the great Powers—is an encouraging development. Great-Power confrontation, with all its potentially disastrous consequences, has begun to give way to constructive negotiations which have already produced results in some important and particular difficult problems. Recent personal meetings between leading statesmen are encouraging cases in point.

Obviously the relaxation of international tension by any means contributes to the general search for peace in the world. Thus, for example, the opening session of the European Conference on Security and Co-operation at Helsinki in July of this year, whatever difficulties may lie ahead, is an important and promising event. A Europe living harmoniously within itself, responsive to the needs of others and aware of its great international responsibilities and potential, would be a positive element in the establishment of a durable peace in the world.

Another example of an important initiative by a group of States in the general search for peace is the annual meetings of non-aligned Governments, the latest of which is taking place in September of this year in Algiers. The non-aligned countries have constantly expressed their full support for the United Nations and play a vital role in the work of the General Assembly and other United Nations organs.

It is to be hoped that the effects of great-Power *détente* will have an important influence in areas of special United Nations concern, such as disarmament, although the achievement of political *détente* is no automatic guarantee of progress in this field. Quite apart from the peril which the continuing world-wide escalation of armaments presents to world peace, mankind will continue to be deprived of vast human and material resources urgently required for more constructive purposes unless real progress can be made in disarmament. It is self-evident that a major relaxation of international tensions is an essential prerequisite for any significant advance. Bilateral and regional negotiations are an important part of the effort to achieve the larger objective of a more general process of disarmament.

The Convention concerning bacteriological (biological) weapons is one example of real progress, and it is to be hoped that the international community will soon move towards an effective prohibition of chemical warfare. Over almost two decades the issue of nuclear testing has been under active negotiation. The conclusion of the partial nuclear test ban treaty 10 years ago was a significant first step in this process. The time has now surely come for a general agreement to stop all nuclear weapons testing.

In all these matters the United Nations, in its pragmatic way, provides a wide range of possibilities. It can be an agency for mediation and conciliation; it provides a recourse for the oppressed and a safety-valve for the frustrated; it challenges even the most powerful States to account for their actions, and it permits even the weakest and poorest States to press their claims. Although such activities seldom provide the clear-cut and decisive actions and solutions which people originally were led to expect of the United Nations, they unquestionably have a cumulative effect. The ceaseless flow of United Nations activity in negotiation over the most difficult problems and in attempts to reconcile and adjust the differences of national policies and interests, quite apart from specific results achieved, compels Governments to turn their attention from domestic preoccupations to important and difficult international problems and to give continuous thought to one of the most important phenomena of our time—the increasing interdependence of nations.

### V

The activities of our Organization on specific problems are reported on in full in other documents. In this introduction, therefore, I shall touch only briefly on some which have particular significance in the context of the effectiveness and future direction of the United Nations.

This year has seen a new effort by the Security Council—the first since 1967—to tackle the problem of the Middle East as a whole. In the past six years many efforts have been made, both within and outside the United Nations, to assist the parties to finding a just and lasting settlement to this infinitely complex problem. My predecessor and I have both worked with the Special Representative to this end, and we have been constantly on the alert for new possibilities and approaches which might offer some promise of success. But despite all of these efforts and the recent deliberations of the

Security Council, a peace settlement in the Middle East remains elusive.

The intractable nature of this extremely complex problem lies not only in the deep emotions which it arouses in all the protagonists concerned, but also in the fundamental principles involved—the sanctity of the territorial integrity of States, the right of every State to be secure within its territorial boundaries, and the inalienable right of self-determination of peoples. These principles are of crucial importance in the formulation of any peace agreement.

Time is not on our side in this highly explosive situation. While much can be, and is, done through the United Nations to reduce tension and prevent escalation, the search for a settlement is crucial and must continue. In this search, the co-operation of the parties concerned is of decisive importance.

In Cyprus also the quest for a basic settlement continues, while the United Nations does its best to keep down tension and prevent a recurrence of conflict. As I have reported to the Security Council, the reactivated intercommunal talks, in which my Special Representative as well as constitutional experts from Greece and Turkey are present, have shown considerable promise of progress towards an agreed settlement, but have as yet not succeeded in overcoming certain fundamental obstacles. In this situation it has been necessary to maintain the United Nations peace-keeping force in the island despite increasing financial difficulties. I shall be reporting to the Security Council in detail on this matter at the end of the year. Here I shall only say that it is my intention to urge and assist the parties to the talks to expedite their search for a solution, not only for its own sake and for the good of the people of Cyprus, but also in order to relieve the United Nations of a heavy burden which it has now been bearing for over nine years.

In the South Asian subcontinent certain basic problems largely stemming from the 1971 conflict have political as well as humanitarian aspects. The three Governments concerned are making serious efforts to find solutions to these problems. In line with my policy of going to areas of special concern to the United Nations, I visited the subcontinent in February and had the opportunity to discuss the situation with all the Governments concerned. I have been encouraged by recent efforts of the three Government to overcome their difficulties and to find solutions to their unresolved political and humanitarian problems, which are closely interlinked. I hope these efforts will succeed. It goes without saying that I and my representative in Dacca, as well as the United Nations High Commissioner for Refugees, will continue to be of what assistance we can to the Governments concerned.

Despite all United Nations efforts, the completion of the process of decolonization is painfully slow. The fact that millions of people are still deprived of their fundamental rights to self-determination, freedom and independence is an anachronism which also constitutes a major obstacle to the relaxation of international tensions. In southern Africa especially, where colonialism, racial discrimination and *apartheid* are still prevalent, the situation has assumed proportions which, if it continues, will inevitably have serious consequences far outside the confines of the region itself.

It is a matter of continuing and grave concern that the Governments principally involved have so far failed to implement the resolutions of the General Assembly and the Security Council addressed to them on these matters. Nor have all States been willing to give effect to the mandatory sanctions imposed by the Security Council against the illegal régime in Southern Rhodesia.

In this connexion I wish to refer to the recent resolutions of the Security Council and the Economic and Social Council calling on all Member States, and on the United Nations system, to assist Zambia in rerouting between 50 per cent and 60 per cent of its foreign trade, previously transported through Southern Rhodesia, as a result of the closure of its southern border. The task here is not only to assist Zambia to maintain its flow of exports, but also to enable it to continue to apply the earlier Security Council decision on mandatory sanctions against Southern Rhodesia.

The Security Council in 1972 invited me, in consultation with a group of three members of the Council, to initiate contacts aimed at achieving the objectives of the United Nations with respect to Namibia. The contacts and efforts which I undertook have not produced the desired results, although they have served to clarify important issues. In view of the special responsibility which the international community has towards the Territory and people of Namibia, it is important that the competent organs of the United Nations, and the Security Council in particular should continue to seek effective approaches in their endeavour to bring about a solution based on the inalienable rights of the Namibian people to self-determination, national independence and preservation of the unity and territorial integrity of Namibia.

Delay in resolving the residual colonial problems of Africa can only lead to sharper confrontation and increasing bloodshed and suffering. The longer the impasse continues, the more difficult it will be to arrive at peaceful solutions and to restore genuine and lasting harmony between the conflicting parties. It is in the long-term interest of all the Governments concerned, and indeed of all Member States, that the right to self-determination and independence for the colonial peoples be respected and implemented without delay.

## VI

The United Nations has in recent years become increasingly involved in urgent and large-scale relief problems of various kinds.

In Bangladesh, after two years of intensive activity, the United Nations relief operation will be phased out by the end of 1973. This operation has demonstrated the generosity of the world community and its willingness to respond to the urgent needs of a new country in distress. It has also shown the capacity of the United Nations system to work effectively as a unified team in an emergency situation and to provide a co-ordinating element which enhances the effectiveness not only of multilateral but also of bilateral aid and of the work of voluntary agencies. It has shown that bilateral and multilateral aid can complement each other and be administered in a co-ordinated and effective fashion. I hope that good use will be made of this experience in the future.

I have had occasion in the past year to stress two related questions—the global problem of ensuring adequate availability of food, and the need for greater international action to prevent the further spread of deserts and to reduce the unproductiveness of arid lands. The tragic drought which has brought devastation to several countries in the Sudano-Sahelian zone of west and central Africa has forcibly brought both these problems to the attention of the world. In line with the call of the Economic and Social Council to organize co-ordinated assistance, I requested the Director-General of the Food and Agriculture Organization of the United Nations to arrange for that organization to serve as focal point for the United Nations effort.

Large quantities of aid have been forthcoming in response to this catastrophe, both on a bilateral basis and through the effective mechanism which the Food and Agriculture Organization has established. The predictable persistence of drought conditions in the area, however, will require the continuing and intensive applications of external assistance. For such assistance to be effective, it is of paramount importance that the international community, and the United Nations system in particular, approach the problems in the Sudano-Sahelian zone in a well co-ordinated manner and with one voice. I have therefore recommended, and the Economic and Social Council had endorsed, the framework of an over-all international strategy to provide the required co-ordination for medium- and long-term assistance to the affected countries. I am confident that the international community will respond generously to this urgent challenge.

## VII

Of course there is infinite room for improvement in the way the United Nations is used on immediate issues. It would be a far more effective Organization, for example, if Member States developed the habit of consistently responding to and respecting the decisions and findings of the main organs. It would be a more effective Organization if Member States were always prepared to put their influence behind the implementation of the decisions of its organs. It would be a more effective Organization if the majority of Governments of Member States were more interested in pursuing long-term international aims, and in providing leadership in the pursuit of those aims, than in using the United Nations to achieve narrow goals and to protect short-term national interests. It would be a more effective Organization if there was a general recognition, in deeds as well as in words, that the present conditions of life on our planet demand much more of international co-operation than only the protection of national interests, and that the ability to co-operate in the pursuit of common interests and common goals may well in the end be a matter of human survival.

I know that such standards will take a long time to become generally accepted and I also know that many Governments make steadfast efforts to live and abide by them. Until they are generally acknowledged, however, the Charter will inevitably remain to a large extent an as yet unrealized blueprint for world order.

The protection of human rights is an area where the credibility of the United Nations is especially at stake. Over the past years the international community has been faced with a number of matters affecting human rights, which have posed—sometimes in a very acute form—the difficulty of reconciling the sovereign jurisdiction of Member States with the principles laid down in the Universal Declaration of Human Rights. The United Nations has been active in attempting to improve fundamental human rights and freedoms in some areas but has proved unable to act in other cases. This has provoked considerable criticism. It has been possible for the Secretary-General to exercise his good offices in certain humanitarian situations, but it is clearly necessary that Member States continue to address themselves to the problem of developing more effective action by the Organization on problems of human rights wherever they occur. The twenty-fifth anniversary of the proclamation of the Universal Declaration of Human Rights, which will occur on 10 December this year, might be the occasion for renewed efforts in this field. Further steps to ratify the International Covenants on Human Rights would be one significant advance.

## VIII

The second category of activities, which I called the middle-term activities, absorb by far the largest proportion of the United Nations effort in terms of money and manpower. Although the bulk of the work in this category is more or less within the economic and social field, much of it has political overtones and implications as well. The value of the Organization's effort in these fields is that it constitutes a continuous endeavor to formulate approaches to global problems from the point of view not of a few great Powers but of the international community as a whole. It is essential that United Nations activities be undertaken in this spirit. Such enterprises as the United Nations Conference on the Human Environment and the forthcoming World Population Conference, for example, are not undertakings imposed on Member States. They are approaches to global problems undertaken essentially in the interest of all mankind.

In the economic and social field it seems to me that the time has come for a concerted effort to use the international system to re-establish confidence. The prevailing mood of uncertainty is not confined to the developing world, but now besets even the basic system of commercial and monetary interchanges between great trading nations. It is becoming increasingly clear that rich countries as well as poor ones are in need of a comprehensive new look at the world they live in, at the resources they depend upon, and at the organization and machinery of international co-operation.

The review and appraisal undertaken this year of the International Development Strategy for the Second United Nations Development Decade makes it plain that we face a major task in breathing new life into the global development effort. The fact that the growth rates of many countries are below the average, that debt burdens are threatening to get out of hand, and that aid levels are gravely short of target expectations requires our immediate and critical attention. Obviously negotiations now under way on the future shape of the international monetary system and on the world-wide trading arrangement under the General Agreement on Tariffs and Trade will have a very important bearing upon the future of development and of the poorer countries.

The concept of collective economic security has recently been brought forward for renewed attention in the sessions of the Economic and Social Council. I believe this step comes at a most useful time. The United Nations represents, among other concepts, the idea of a community of nations with interests that encompass the welfare of all its Members. Such an idea—valuable and even essential as it evidently is—cannot survive in stagnation, but on the economic as well as on the political side the will to collective international action has tended to weaken in recent years. Collective international action in any field needs the discipline of repeated practice if it is to prove effective. Co-operative international action in the economic and social field is undoubtedly also a vital factor in reducing political tensions. This fact and the growing realization that many problems are interrelated and cannot be solved in isolation or be contained within national boundaries make a renewed interest in collective responsibility and in collective economic security especially timely.

Certainly the attempt to assure the economic security of all Member States through collective action is a highly ambitious undertaking, but it should not be beyond the capacity of the United Nations system to make substantial progress toward this goal if the Members really desire it. Many of the tools for such a task are at hand if Governments wish to use them. But if this great attempt is to be made, there will have to be a wide-ranging reassessment of our international economic institutions. Such a reassessment is already beginning in the complex of trade and monetary matters, a reassessment in which all nations have, or should have a large interest, for it will determine the nature of the world economy in which they are to live. It is essential that such a reassessment take full account of the interests and special problems of developing countries.

The sustained efforts now under way to translate much of the consensus of the United Nations Conference on the Human Environment into programme terms demonstrate the international community's ability to act when the will to act exists. In another field of vital international concern, the oceans and the sea-bed, a large-scale effort is under way to combine such action with the safeguarding of a considerable diversity of national interests, an undertaking which involves adaptation of the law of the sea to meet new realities. The United Nations, as the centre for harmonizing the actions of States, has an essential interest in this process and will no doubt continue to play a major part in bringing this undertaking to a successful conclusion. Our new knowledge of the seas and oceans shows clearly the immense possible benefits and resources that should be used and husbanded for the good of all mankind. However, the potential which this domain holds for new disputes and conflicts, if international agreement is not reached or is too long delayed, is a factor to be given equal weight in an Organization devoted to peaceful and friendly relations among States. It is therefore of major importance to the Organization and to the international community that the present opportunity for broad and viable accords not be missed, as it will be if the pace of developments is such that agreement, when it is reached, has already been overtaken by events.

The demographic evolution of the world also underlines the urgency of assuring the future of marine resources, for they will be needed desperately and needed soon. The outlook is still for the doubling of the world's population in 30 years. The World Population Conference, to be held at Bucharest in August 1974, should help us to see the demographic situation more clearly in all its many dimensions.

The problems of the future only serve to underline the gravity of the problems of the present. Of these the persistence of mass poverty and unemployment is particularly striking as a phenomenon where only generous aid from the community as a whole, combined with massive and imaginative programmes by Governments, can be expected to defeat an evil which in itself constitutes a powerful impediment to progress.

The problems I have just mentioned call urgently for effective international action, but such action can only result from a general political will to solve them. Obviously legitimate national interests can never be ignored, but it is essential to increase our capacity for striking a balance national interests and the international goal of the welfare of all mankind.

### IX

Another obstacle to be surmounted is the temptation to take on problems piecemeal and out of context and to look for swift and easy solutions to issues which are inherently complex and which together form a pattern of interrelationships where each part affects all the others. The increasing interdependence of nation States has been matched by the growing complexity of the network of economic social, technological and political interrelationships in which these States must live. The United Nations system is poised at the apex of this pyramid of relationships which are in constant and precarious motion. The task of the United Nations system, and especially of the Economic and Social Council, is, or should be, to assist Member States to move towards agreed goals at a steady pace and rhythm under conditions of equilibrium. This immensely complex task requires continuous and patient negotiation and a clear vision both of the different parts of the puzzle and of the over-all conception of the world which the international community wishes to make a reality.

If the United Nations system is to succeed in this Herculean task, a continuous scrutiny of the instrumentalities and organization of international effort is also necessary. It cannot be denied that at present we are better equipped to deal with parts of the problem than with the whole and that, in spite of a high level of specialized expertise, the system is in constant danger of losing its way through excessive fragmentation.

This tendency has historical roots. The United Nations economic and social system was deliberately set up as a group of independent specialized agencies linked to the United Nations itself through the Economic and Social Council. This was done largely to enable specialists in various disciplines to meet and seek solutions to problems in forums where they would be more or less undisturbed by political considerations. While much of the rationale for such a system remains valid, the changes in the nature of problems to be solved that have taken place since 1945 and the emergence of a series of more or less global problems have given an unanticipated importance to the necessity for the various specialized organizations and their representatives in the field to work coherently together.

Over the past 28 years the United Nations system has developed rapidly in response to new challenges, very often through the establishment of new agencies and mechanisms. In fact, in the last decade hardly a year has gone by without the establishment of one or two important new international bodies. Although this development demonstrates the vitality of the system, it has also inevitably tended to make it cumbersome and to limit its coherence and ability to adopt an integrated approach to complex problems. The natural desire of different groups of Governments to give effect to their particular conception of the nature and goals of international co-operation has had an important impact on the way the system as a whole has developed. It is, I believe, vitally important that this natural tendency should be matched by a parallel effort to achieve the maximum degree of co-operation and thus to bridge the divergence of interests between major groups of countries.

### X

The United Nations system is confronted with the problem of striking an effective balance between the decentralization of functional responsibility and the necessity for maintaining a co-ordinated and coherent approach to complex problems. I fully recognize the value of diversity, decentralization and freedom of initiative in the different parts of the United Nations system. Certainly nothing could be less useful than to try to impose the control of an all-embracing central bureaucracy on all of the parts of the system. On the other hand, many of the problems we face require an integrated, disciplined and highly co-ordinated approach if the United Nations system is to operate with maximum effectiveness and if it is to be capable of clearly identifying degrees of urgency and of setting priorities in full knowledge of what is involved—in fact, of formulating a general policy. In an emergency such as the relief operation in Bangladesh, we have seen the striking efficacy and resourcefulness of the United Nations system operating as a team and speaking with one voice. Although not all situations call for such an approach, I feel very strongly that a determined effort must be made on all sides to exploit the advantages of interdependence rather than to succumb to the temptation to fragment and proliferate the system. This applies equally at the planning and operational end and at the administrative, financial and managerial level, where some degree of uniformity and common practice is essential if the United Nations system is to avoid becoming an increasingly disunited and undirected enterprise.

The reassertion of the constitutional authority of the Economic and Social Council within the system and it fulfillment of the function of providing the conceptual framework for the entire system of United Nations organizations would certainly be an important step in balancing the tendency to fragmentation. Ultimately the shape and content of the work of the United Nations system emerges from the combined views and policies of Member States as expressed through the councils and governing boards of the various organizations. The pressures and influences under which Governments act are diverse and often contradictory, and this fact is reflected in the differences that sometimes appear in the attitudes of Governments as expressed in various organizations. The leadership of the Economic and Social Council could do much to mitigate such contradictions and to underline the undoubted fact that the effectiveness of the United Nations system in pursuing global goals depends in large measure on its ability to schedule its work in a rational and co-ordinated manner. I urge Member States to keep these problems in mind when formulating their positions in the governing organs of the various United Nations bodies.

A most important development in the administrative field holding great promise for the achievement of higher levels of effectiveness in management has been the inauguration of programme budgeting and of a biennial budget cycle, replacing the annual budget presentations of past years. The adoption of programme budgeting is designed to give to Member States, when they consider the budgetary requirements of the United Nations at the General Assembly, a clearer insight into the actual programmes being planned or undertaken, the objectives towards which each programme or project is directed, what it is hoped or expected to achieve within the budget period as well as over the longer term, and what the programme or project is expected to cost. In this way the substance, the value, the worth of the programme can be set alongside its cost. Budgeting by programmes and by projects also gives to Governments and their delegations a better opportunity to detect duplications and overlaps with similar projects in the programmes of other international organizations. It is unfortunate that the first attempt at presenting a budget for a two-year period based on the principles of programme budgeting coincided with a grave currency exchange crisis which masked much of the effectiveness of this new system. The contrast in effectiveness of presentation under this new arrangement with the previous system based on primary objects of expenditure such as salaries, travel or publications—which explained what the required funds would be spent on, but not the purposes of the expenditure—will, it is confidently anticipated, become more evident with succeeding biennial presentations.

XI

The Organization has continued to make every effort to solve its financial problems. As a result of a policy of austerity, accompanied by a temporary freeze on recruitment, adopted early in 1972, a further deterioration of the Organization's debt position was held in check for that year. In addition, a number of Member States have made their payments at earlier dates than in previous years, which has helped further in covering the financial requirements of the earlier months. Despite these actions, however, a further special effort will be required of Member States in order to meet our obligations during the latter part of 1973.

As regards the problems of the liquidation of the Organization's debts, a special account established last year by the General Assembly has attracted pledges of voluntary contributions from a number of Member States willing to assist in the resolution of the Organization's financial problems, but a much wider response from Member States is essential if the United Nations is to be placed in a sound financial position.

The exchange fluctuations which have disturbed the money markets of the world during the early part of 1973 have had a serious effect on the Organization's current financial position. While roughly two thirds of the Organization's regular budget expenditures require United States dollars, one third or more requires other currencies. The decline in the value of the United States dollar since January 1973 has increased by as much as 25 per cent or more the cost, in dollars, of purchasing the currencies required to meet United Nations regular budget obligations in Geneva, Vienna and elsewhere. As a consequence, losses due to these currency exchange fluctuations are estimated to amount to at least $US 9 million in 1973–only a portion of which can, it is expected, be covered through offsetting savings or withholdings elsewhere in the regular budget. The effect on important humanitarian programmes—in particular the United Nations Relief and Works Agency for Palestine Refugees in the Near East—has been correspondingly serious. The experience of the specialized agencies in this connection is similar to that of the United Nations. Some of them have had modest reserves to draw upon while others have been obliged to resort to expenditure reductions, special assessments and other policies in order to maintain financial stability. The United Nations has no financial reserves to draw upon, and consequently supplementary appropriations by the General Assembly will be necessary. I assume that the Assembly will wish to consider the general aspects of this important problem at its forthcoming session.

In the preceding pages I have touched upon a number of trends and developments which I believe to be significant for the life and future of our Organization. As always, an institution works and develops only if there exists among its members the political will to make it work and develop. I hope that some of my comments may point to ways in which this political will might be usefully applied

There can be little doubt that a world organization such as the United Nations is necessary and even essential. At present there seems, however, to be no clear understanding among the Member States as to which road the Organization should take, and it is sometimes hard to avoid the feeling that not all Governments are fully prepared to accept the consequences of their membership in the United Nations or the need to orient their national policies in the ways required to make such an organization work.

Two questions inevitably arise. What kind of world organization do we need? And what kind of world organization are Governments prepared in reality to accept? An analysis of the problems which we undoubtedly face should provide a logical response to the first question, but the second is more difficult to answer. Do the majority of Member States really want an organization which is more than a conference machinery and a forum for the pursuit of national policies? Do they really want an organization which can play a useful and active role in focusing international efforts on the solution of the most difficult and controversial problems and which in doing so will in certain situations develop an impetus of its own? This is the basic question facing Member States in formulating their policies in the United Nations and other international organizations.

As in most political institutions we see in the United Nations the clash between idealism and realism, between the code of international behaviour of the Charter and the interests and pressures which confront Governments. Earlier in this introduction I mentioned the very long-term goal, for which all our efforts are in a sense the preparation—the goal of a reliable instrument of world order and co-operation, accepted and respected by all Governments and capable of safeguarding the common interests of mankind. In spite of present shortcomings and disappointments, it is essential to keep that goal in mind and develop our capacity to co-operate in reaching it. Only by doing so can we hope to shape a universal Organization which will really serve the needs of future generations.

KURT WALDHEIM,
*Secretary-General.*

August 23, 1973.

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## A CHRISTIAN'S VIEW OF WATERGATE

Mr. SCOTT of Pennsylvania. Mr. President, the negative aspects of human nature often give us an un-Christian perception of life and the nature of man. This is the thesis of Dr. D. Elton Trueblood as it pertains to the Watergate affair.

In his latest quarterly newsletter, Dr. Trueblood, a distinguished Quaker author, gives us four human qualities which he says have influenced our thinking on Watergate and asserts that—

> The only possible solution of the present crisis is one in which the entire issue is raised to a higher level.

Dr. Trueblood's theory is an interesting one and adds another dimension to our thinking on Watergate. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

### QUARTERLY YOKE LETTER

DEAR FRIEND: Most of my Quarterly Letters in the recent past have dealt with theological problems and I had another in mind for this particular letter. However, because of many requests from my valued readers and neighbors, I think it right to deal now with the issue which is on all our minds. The present predicament in our country is, by any standard, a great sorrow. It hurts, not merely those who are the targets of criticism, but the entire country. In so far as Watergate monopolizes discussion, it makes people forget the immense advances of the recent past, such as the conclusion of a long painful war and the bringing home of the prisoners of war. It also hinders effective planning for the future. Unfortunately, a deep sickness has settled on our land, and we who claim to be Christians must seek to find a cure.

Meditating on sad current facts, and mindful of the people who read this letter, I have become convinced that I should employ this medium to try to say something about the Watergate tragedy from the point of view of a Christian. I do this, partly, because comment from this perspective has been conspicuously absent during the entire controversy. There is abundant discussion from the point of view of politicans, but who has spoken as a Christian? It may be that healing will come in this way, as in no other.

The Christian, if he is loyal to the New Testament vision of human life, will begin with several solid points of conviction. Among these are the following:

1. *Judgment.* While not condoning wrongdoing in any way, the Christian is keenly aware of the dangers which arise when we become judgmental. Christ warns against becoming judgmental, employing the phrase "with what judgment you judge, you will be judged" (Matthew 7:2). A paradoxical devel-

opment often occurs in human experience, in that the reaction to sin is really worse than the sin itself. In the Biblical story of the prostitute, the woman comes off better than her accusers, the suggestion being that these men may not be entirely clean themselves. "Let him who is without sin among you be the first to throw a stone at her" (John 8:7). Perhaps it is because I have not listened adequately, but, in the furor of the past few months, I have not heard any references of this kind. Part of my sadness has arisen because the prevailing mood has been one of extreme harshness.

2. *Self-Righteousness*. It is part of the paradox of the Gospel to recognize that there is more spiritual danger in feeling righteous than in feeling sinful. The supreme illustration of this is the story of the Pharisee and the publican, in which the Pharisee thanked God that he was not as the other man (Luke 18:11). That self-righteousness feeds upon itself has been amply demonstrated by journalists, broadcasters and members of Congress during the last few months. The trick is to take on the look of the moral crusader who is incensed at the sin of other men. Then the crusader can be as vindicative as he likes and seem more righteous in doing so. The worst aspect of Watergate is the evidence of how widespread the Pharisaical mood is.

3. *Glee*. One of the most obvious reactions on the part of the leaders in what has many of the characteristics of a "witch hunt" is the glee with which the victims are pursued. Each new revelation of wrongdoing is reported with a virtual smacking of the lips rather than in sorrow. This is understandable by purely pagan standards, but it is very far from the Christian way. At the heart of the inspired description of love, from the Christian standpoint, is the penetrating observation, "It does not rejoice at wrong" (I Corinthians 13:6).

4. *Sin*. Underneath all of the furore is the nearly universal expression of surprise that sins have occurred. How this is possible is hard to understand, except upon the assumption of natural human goodness. It is that the Christian position is manifestly more sophisticated than that of the known alternatives. No Christian is ever surprised at the existence of sin because he recognizes it in himself. Because the recognition of sin has always been an essential element of Basic Christianity, the Christian is not easily shocked. The people about us who become most bitter and violent are, in many instances, those who have begun with a naive view of human nature, and when they find that it is not true, they lash out in all directions. How strange it is that they can see sin in others, but never in themselves!

The Watergate affair is fundamentally a sad revelation, not merely of dishonest practices which have been allowed to mar our political system, but also of any ugly mood in the life of the nation. That the considerations mentioned above are so seldom mentioned makes us know how extreme is the erosion of Christian standards. Thereby Christians can see how serious the problem is and something of the magnitude of the task of renewal.

The most important conviction of the Christian in this or in any other situation is that, "with God, all things are possible" (Matthew 19:26). Because God, reigns, tragedy can be transmuted into victory. In Lincoln's words. "The Almighty has His own purposes," and if we can find out what these are we may become His instruments in the healing process. It is to the task of healing rather than recrimination, that we must turn. The only possible solution of the present crisis is one in which the entire issue is raised to a higher level.

Sincerely,

D. ELTON TRUEBLOOD.

## ADDRESS BY REPRESENTATIVE GLENN ANDERSON

Mr. TUNNEY. Mr. President, my able colleague, Congressman GLENN ANDERSON, made some very poignant remarks recently concerning some of the more pressing problems facing the State of California and the Nation. I ask unanimous consent that Congressman ANDERSON's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### REMARKS OF CONGRESSMAN GLENN M. ANDERSON

Thank you, Mr. Chairman—Ladies and Gentlemen.

It is a great pleasure to be here today and to have this opportunity to speak about some of the problems facing our country and our state. I am particularly pleased to speak with you here in Orange County, although my own constituency lies in the harbor area of Los Angeles. Thus we are, in a manner of speaking, neighbors, and I hope today that we can reason together in a neighborly fashion. I might as well begin by admitting what I am sure you already know: Some Democrats—particularly those of a liberal bent—do not habitually break into cheers at the mention of Orange County. Indeed, those very words are enough to produce in some of my fellow Democrats approximately the same reaction the sight of a cat produces in a dog. Show them someone from Orange County and they almost instinctively start to growl and bare their teeth.

And while I must regret the fact that Orange County does not normally produce landslide victories for Democrats, what you have accomplished here—not merely in terms of population growth and economic achievement, but also in the quality of the lifestyle enjoyed by your fellow citizens—is simply too important to be ignored or dismissed. For there can be no question but that the spectacular growth of this community from a pleasant, rural retreat to a prosperous new metropolis is one of the major achievements not only of modern America, but of the western world. I have traveled fairly extensively about the world, and frankly I know of nothing quite like this place to be found anywhere else—a community literally reborn only two decades ago which in that brief span of time has achieved a tremendous degree of stability.

#### FEDERAL-LOCAL COOPERATION

As a congressman, Orange County interests me for another reason: It is a relatively good example of how federal power and federal funds can be used in coordination with local initiative and private business to help build a community that works. One reason for the high degree of educational and technical proficiency displayed by your people is the fact that a large proportion of them are veterans who have taken advantage of federal programs to help veterans go to college. The astonishingly rapid building of new homes in this area has been made possible, at least in part, through the Federal Housing Administration and the G.I. Bill. Many of your largest industries are engaged in sophisticated research for the space and defense requirement of this nation—funded of course by the federal government.

Some of your most beautiful areas, particularly along the coast, have been developed in conjunction with various State and federal programs. Finally, the President of the United States makes one of his homes here.

Thus, Orange County is an example of the use of federal power and federal funds to achieve what I believe the founding fathers intended the government to do—promote the general welfare, which today translates into helping build stable, prosperous communities which offer opportunity to anyone willing to strive and to work for a better life.

But there is really no point in my dwelling upon this matter, for I am sure most of you know far better than I what has been accomplished here and as fair-minded men and women, I doubt that many of you would deny the critical role the government has played in making all this possible.

And while it is pleasant to dwell upon our successes as a society and as individuals, it is also necessary to examine our shortcomings as well. I'm sure most of you know that all of the billions of dollars that Washington spends annually have not produced uniformly positive results, either in economic or in human terms. Much of our money—that is, your money—has been wasted and many of our programs have utterly failed to produce the intended results—indeed, in many cases they have produced exactly the opposite of a desired goal. And while I am a liberal, particularly with respect to human needs and to our collective responsibility to one another, I believe I am somewhat a conservative in matters economic. For example, I have been a critic of, and have consistently voted against the increasing national debt.

I have opposed and voted against much of the foreign aid and foreign giveaway programs.

Having been a businessman and a taxpayer, I do not like waste, mismanagement and stupidity in government—or free-loading on the part of our fellow citizens. And I do not subscribe to the theory that politicians can best secure themselves in office by lavishing money on the voters.

Corruption is a subject much, perhaps too much, in the news today. There is the corruption of those who seek to buy favors from politicians—which we rightly condemn. And there is the corruption of politicians who try to buy the favor of their constituents—which too often we simply overlook.

#### WELFARE

Thus, I would like to speak with you today about welfare. But I have a broader definition for that term than that which is generally used. Let us face the fact that the term "welfare" has become almost a dirty word in America. Curiously, it is often used with contempt by those who receive it as well as those who pay for it.

Now I do not believe there is anything inherently wicked about welfare. "Faith, Hope and Charity" have long been the basis of Western Civilization, and the greatest of these, said Saint Paul, is charity. I agree with that. I think, in a deeper sense, we are our brother's keepers. I think that a civilized community has a responsibility to help the widow and the orphan, the aged and the infirm and the poor when the poor cannot help themselves. I see nothing novel or wicked or revolutionary in any of these. Civilized communities do not let people starve when there is abundant food available; they do not let children die in the streets because their parents cannot afford medical help. As long ago as 1597, England had its "poor laws"—in effect a minimal welfare program designed to prevent actual starvation.

But the concept of welfare [a noble and compassionate idea], can be abused like any other good idea. It has been said that whereas once society existed at the expense of the poor, now the poor exist at the expense of society. Both of these are wrong. I believe that those who are too old, too sick, too young to take care of themselves should be the responsibility of us all—and that they should be assured an income adequate to maintain a decent minimum standard of life—that is, an American standard, which admittedly is much higher than you will find in most countries on this earth.

On the other hand, I find it shocking that in a land with so much useful work to be done—consider our need for schools, transportation systems, parks, and cultural facilities—that literally millions of our able-bodied fellow citizens are permitted, sometimes even encouraged, to pass their time doing nothing of any value to themselves or anyone else. I believe in the work ethic. I believe work, hard, useful work, is essential to a happy life. I believe that depriving someone of the opportunity, indeed of the right to work, is robbing that person even more than it robs those who support him.

And I can think of few things more tragic than the spectacle of millions of young people hanging around street corners waiting for a connection, at a time in life when energy and idealism and ability to contribute should be at their very highest. Surely there is something tragically wrong with a society which permits as many as fifty percent of the young men in some communities to simply hang around, out of school, out of jobs, out of luck. And to the extent that our present welfare laws have permitted, even encouraged this, we have surely sown the whirlwind of crime and drug addiction which we now reap.

That is one kind of welfare evil, and it is not hard to be against it. Even the poor have precious little to say in its behalf.

### WELFARE FOR THE RICH

But there is another kind, not so easily or comfortably attacked. I speak of welfare for the rich. In the words of a famous Orange County resident. "Let me make myself perfectly clear." There may well be some of you in this audience on the receiving end of governmental largess with little or no justification other than the fact that "It's legal"—"Others are doing it so I may as well get mine."

And that's exactly the reason I've chosen you as an audience to discuss this particular subject with.

You are—for the most part—highly successful in your businesses, professions—and in the community.

And you are the kind of public opinion moulders that could help us be successful. You're the kind of leaders that should be out in front.

Attacking welfare for the poor doesn't sound too good coming from you but—attacking welfare for the rich—you're the ones who could really stop it, and I ask your help.

For example, let's take the case of another famous neighbor of ours—one of my favorite actors.

In 1970, this gentleman and his partners—who hardly qualified as a "hardship case," received payments totaling $810,000 under various farm subsidy programs of the federal government. In 1971, his Arizona ranches, let's call them A, B and C, qualified for $218,000 in federal largese; last year Ranch "C" got a mere $54,995; but then it was a tough year for a lot of people.

Now I have always admired this man as a movie star, and he is regarded by millions as a great American. I'm usually happy to pay two bucks to watch him in the movies leading the Good Guys to a well-earned triumph over the forces of iniquity. And I always enjoy that triumphal moment at the end of the picture when our hero, having routed the villians, invites all the neighboring ranchers over for a barbecue. But somehow it doesn't seem fittin' for him to then call the local farm subsidy bureau and ask the federal government to supply the beef.

But then our friend is in some fairly distinguished company. Take Standard Oil of California, which in 1972 collected a neat $85,975 for not growing crops. Or the Tejon Ranch, (I believe a Los Angeles Times enterprise) which received $103,283. Or Tenneco, which got $231,225. Or Mr. Kenneth Frick, who is Director of the Farm Subsidy Program, received $36,863 . . . in addition to his ample government salary. His brother, Howard Frick, collected $55,000 in government farm subsidies. Or the Southern Pacific Railroad Company which annually collects tens of thousands of dollars in farm subsidies—I hope it's not for not growing cotton along its railroad tracks. The list goes on and on—and is virtually endless—but in California alone, last year (1972), some 1961 individuals and corporations received $80.2 million—roughly $43,000 each—for not growing crops. Secretary of Agriculture Butz himself describes this as "an income supplement payment because you get it without really doing anything to earn it . . ."

To the billions that are received for "not doing anything" must be coupled billions that go, in one form or another, to support prices—and this at a time when the President himself has described inflation as the nation's number one domestic problem. I needn't remind anyone here what has happened to the price of food in the past few months and years—but perhaps you don't realize that in many cases these high prices are being forced up by the government's left-handed subsidies while the same government's right hand struggles to combat inflation. This isn't necessarily corruption or avarice—in a way it's something worse—stupidity.

Actually, our price support program costs close to $4 billion a year.

An area almost the size of the State of Colorado (96,000 square miles or 61.5 million acres) was taken out of production—and in return the government pays them the subsidy to refrain from growing cotton, wheat, or feed grains on the land. About 20 percent of this land is in California.

Now—at this time I should correct the impression that this land necessarily lays fallow.

In order to pick up the government subsidy, the farmer must agree not to plant cotton, wheat or feed grains, but he can grow soybeans or seven other crops—or he can graze his cattle on this land without any penalty.

I remember in the 30's—the price support program was supposed to be for the small family farm.

Yet, the giant enterprises—representing less than seven percent of the nation's farms—collect 40% of the price support. While another 40 percent of the farmers (the small ones—those with sales less than $2500 annually) receive only 5 percent of the total subsidy.

So—it's the big ones—including the corporate farms—which are feeding at the public trough.

### WHAT DO WE GET—IN RETURN?

Now for this $4 billion annual subsidy you might ask—well, what do the American people get in return?

The answer would probably be—higher prices.

The price of wheat has almost doubled from $1.60 a bushel a year ago to $3 today—corn has almost doubled from its selling price of $1.29 a year ago to $2.33 a bushel today. Soybeans—now selling at $11.00 a bushel—were priced at $3.44 a year ago.

### WHAT HAVE WE DONE?

And, you might ask, "What are you guys in Congress doing about this?"

Good question.

And the answer—not much, but some of us have tried.

Due largely to reports in the press of the scandalously fantastic sums paid some individuals, and the pressure of many Members of Congress, we did act to limit farm subsidies somewhat. In 1970, the Congress placed a maximum of $55,000 that a "farmer" could receive in subsidies for each of three programs—cotton, wheat, and feed grains.

Many of us felt that this was too high and tried to lower the limit to $20,000 per farm, per crop—but we were unsuccessful. Actually, I introduced an amendment with a $10,000 limitation.

Thus, the law, theoretically, at least, states that the most one enterprise could collect in government payments was $165,000 annually.

But, in practice, many of the giant outfits simply split their farms between the wife, brothers and children—so that each could collect $55,000 per crop.

For example, J. G. Boswell, up in Kern County, received nation-wide notoriety in 1970 by leading the nation in government subsidies with $4.4 million.

But in 1972, as far as we can trace, his operation (J. G. Boswell Co.) collected a mere pittance—only $91,885—hardly enough to keep him in overalls.

The 1970 law—which established the $55,000 limit—expires this year. Hopefully, we can put an end to this giant welfare program by restricting the amount that any enterprise may receive in government payments—hopefully, my $10,000 limitation—or at least the $20,000 limitation per crop-per farm.

### THE INTERNATIONAL COFFEE AGREEMENT

Coffee: Another interesting deal that costs the taxpayers—as well as the consumers—is the International Coffee Agreement which costs us $790,000 simply in dues to belong to this International Cartel.

And, on top of the dues, we pay artificially higher prices at the market—because they are guaranteed in conjunction with the foreign interests. Thus, we pay $790,000 of your tax money to belong to a foreign cartel which results in our paying higher prices for a product that for the most part is not even grown in the United States. Actually, the only coffee that's grown in this country—is a minute fraction—Kona Coffee from Hawaii.

### THE INTERNATIONAL SUGAR AGREEMENT

Next, our government has us involved in a sugar program which costs each and every American—all 200 plus million of us—$3 a year more for our annual supply of sugar than it would if the government kept out of it. And where does this $600 million end up? Generally, it ends up in the pockets of the foreign sugar barons who fight to export sugar to the United States.

How does this work?

We are members of an International Sugar Agreement whereby the government establishes quotas. First, it determines the amount of sugar that can be grown domestically and by whom; and secondly, who can import sugar into this country and how much.

By restricting its cultivation and production domestically, foreign sugar interests are guaranteed a price above world market prices. As a result, like ants gathering at the sugar bowl, the foreign sugar barons go to great expense and enormous trouble to get a share of this lucrative market.

The taxpaying public gets hit two ways: First, we chip in $90 million each year to entice domestic sugar growers to restrict production. Secondly, due to inflated prices, the consumers pay an extra $600 million annually for the sugar we buy at the store.

And what do we receive for this $690 million?

While the English housewife pays 10 cents for a pound of sugar—

While the Norwegian housewife pays 12 cents a pound—

And while the Mexican housewife pays only 8 cents for a pound of sugar—

The American housewife pays 14 cents for the same pound of sugar.

And where does this new kind of foreign aid go?

Ecuador—a country which regularly takes pot-shots at our tuna fleet—received $11 million in sugar aid in 1969.

The Dominican Republic received $94 million worth in 1969.

Brazil—$89 million.

Peru—another nation with a history of hijacking our tuna fleet—collected $38 million.

### OVERSEAS WELFARE

Turning from domestic welfare to our overseas welfare programs: Recently we all read and heard about our fabulous deal in selling all that unwanted wheat to the Russians. As everybody here knows, we are sharp capitalist traders while the Russians are a bunch of communist bureaucrats who don't understand business. Well, our little Russian transaction will set the U.S. taxpayer back a cool $412 million in export and shipping subsidies, plus, I'm told, an estimated two to 2.8 billion in price increases.

Now I do not oppose selling wheat to Russia, or rice to China. But I see no earthly reason why we should give it away. If the people of Russia or China were starving I would certainly be willing to consider feeding the hungry regardless of ideological considerations. But the governments of Russia and China, according to the reports we get from the press, indicate that the ordinary Russian or Chinese has an adequate diet by his own standards—so why are we repeating a practice which has failed us practically everywhere in the world where we have tried it—the attempt to buy friendship?

As many of you know the dollar is under severe pressure. We have already devalued our currency twice in recent years and most economists foresee continuing pressure for an indefinite period — pressure which may lead to a third devaluation. A few years ago one German mark was worth 25 cents. Recently the mark has hovered around 38 cents. An increase of about fifty percent in the value of the mark in relation to the dollar. Now, as everyone knows, the Germans are strong economically. Yet, today the United States is maintaining roughly 400,000 troops in West Germany. These troops, together with their dependents, are costing the American taxpayer billions—much of it fed directly into the German economy and thus strengthening the mark in relation to the dollar. On a somewhat smaller scale, precisely the same situation exists in Japan.

Now I am not an isolationist. I believe we must play our proper part in world affairs; including the maintenance of certain military alliances. But why should we have more troops defending Germany than the Germans do? And why can't they at least help pay some of the costs for their own defense? Every year the taxpayers of the United States are subsidizing Japanese and German businessmen by relieving them of much of the cost of defending their own territory. Why should we be more concerned with European security than the Europeans, more willing to pay and die for freedom in Asia than the Asians?

Frankly, I regard much of our foreign aid programs, and many of our military commitments, as a kind of overseas welfare.

At the end of World War II when we had a virtual monopoly on the western world's wealth and power, this may have been justifiable as a subtle way of helping our former enemies get back on their feet. But as any American businessman trying to compete with German and Japanese products will testify, they are surely on their feet now—so why do we go on and on?

Now lest someone misunderstand me, I believe in military strength. I believe we should be as strong as any likely enemy or combination of enemies. I support a strong defense industry here at home. But I believe many of our policies abroad have in fact made us weaker, not stronger, by undermining the economic base upon which our whole society rests. And I do not believe that we can forever carry the burden of defending Europe and Asia with precious little assistance, particularly in the area of economics, from Europeans or Asians. I believe that in the long haul, the European and Asian nations which wish to maintain free governments will do so through their own efforts; and those which are unwilling to sacrifice for their own protection will not and cannot be protected by Americans. Further, I believe that sooner or later the American government—Republican or Democrat—will be forced to the same conclusion. My hope is that this will come to pass before the dollar—and the American economy which stands behind it—have ceased to command the respect of the world.

Finally, I believe this government can meet its constitutional responsibility to promote the general welfare, to help build the schools we need, the transit systems, to clean the air, the rivers, to provide jobs for people, particularly young people in the ghettos, on the farms and in the suburbs, and to maintain a strong and adequate defense. I believe we could do all of these things within the present tax structure. Provided only that we have the courage to look hard at policies and programs which, however justified and reasonable they may have once been, have now become sheer waste. I believe that Washington by using its power and resources wisely, can duplicate in Watts and in a thousand other areas of America, what has been accomplished here in Orange County. If not on the same scale, at least with the same result: stable communities, pleasant homes, good schools, general prosperity. To accomplish this we need policies which are at once more modest and more effective. Perhaps it is time to stop trying to right all the world's ills, and to concentrate on building a country that works for what it gets—and gets what it works for.

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## RESOLUTIONS ADOPTED BY THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

Mr. THURMOND. Mr. President, the 83d Congress of the National Society of the Sons of the American Revolution was held in June. There are many points contained in the resolutions adopted at the Congress which deserve careful consideration.

I ask unanimous consent that these 11 resolutions, adopted June 27, 1973, be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

### Resolutions

### RESOLUTION 1

Whereas, in seeming disregard of the provisions of the Tenth Amendment to the Constitution of the United States, there appears in recent years to have been an increasing tendency to centralize in the federal government certain powers over subjects and matters not properly within the scope of federal authority or jurisdiction, and

Whereas, one area of vital and significant importance to the continued progress and well being of our great nation upon which such encroachment of federal power has seriously intruded is in the field of education of our young people upon whom will devolve the responsibility for the conduct and preservation of our country, its institutions, and its form of government as we have known them.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress Assembled, that the design, structure, and administration of publicly supported educational systems is, and ought to be, the executive duty and responsibility of the individual and separate States of the Union in such manner and by such means as each of said States shall independently determine, and

Be it further resolved, that all federal agencies, including the Congress, the executive branch, and the courts should refrain from any interference, whether by coercion, force persuasion, or otherwise, with the orderly performance by the several States of their responsibilities in the field of education.

### RESOLUTION 2

Whereas, on the ill-founded premise that access to biographical data as contained in federal census records constitutes an invasion of privacy, and

Whereas, there is presently pending in the House of Representatives a Bill (H.R. 7762), some of the provisions of which will permanently restrict accessibility to the 1900 and later census records, thereby detrimentally affecting historians, researchers, genealogists and applicants for admission to memberships in many worthy organizations wherein lineage is among the factors determining eligibility, of the valuable information and data available in such records, and by so doing, seriously endangering the future growth of such organizations, including our own.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it opposes any efforts to restrict accessibility to the 1900 and later census records, whether by legislation, executive or administrative fiat, or by any other means.

### RESOLUTION NO. 3

Whereas, Pollution of the nation's air, water, and land and the misuse of our national resources are a threat to our health and to our very existence, and

Whereas, widespread public concern has expressed itself to establish curbs on litter and pollution, and to encourage conservation of natural resources through the development and utilization of our technology and scientific research, and

Whereas, in response to the critical need for environmental education and action to combat and overcome pollution, and to expedite acceptance of resource recovery to conserve our natural resources, the nationwide, action-oriented environmental awareness program—Johnny Horizon '76—"Let's Clean Up America For Our 200th Birthday"—was developed by the United States Department of the Interior, with the support and cooperation of the Department of Defense, General Services Administration, the U.S. Postal Service, the President's Council on Environmental Quality, the Civil Service Commission, the Federal Highway Administration and the Tennessee Valley Authority, among others, along with more than 1,500 business, industry and citizens' groups and organizations, and

Whereas, the Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Program has widely demonstrated its ability to translate citizen concern into positive action such as community and country-wide cleanups, inner city beautification and conservation programs; in consequence whereby the American Revolution Bicentennial Commission in Washington, D.C. has officially recognized the Johnny Horizon '76 Program as an activity in furtherance of, and as a part of, the National Bicentennial Program and that it has been awarded the use of the Official Symbol.

Now, therefore, be it resolved:

1. That the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, acknowledges the overwhelming importance of the emerging environmental ethic in America based on the public demand that our air, water and land be cleaned up, and that our natural resources be conserved through resource recovery, all to the end that the quality of life might be improved for all our citizens.

2. That the said National Society agrees that the objective of cleaning up America,

visually and ecologically, represents an important and highly desirable Bicentennial goal, as well as an ultimate objective for the well-being of all of us.

3. That the said National Society itself, and through its State Societies and local Chapter Program Committees—working in harmony with local civic and community organizations—do actively and consistently seek to help plan, develop and implement local Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Action Programs as a vital and significant part of our Nation's Bicentennial celebration effort.

### RESOLUTION NO. 4

Whereas, the United Nations membership has grown in number to 132 nations and

Whereas, each of the Nations has a vote in the United Nations, equal to the vote of the United States, and

Whereas, a two-thirds voting majority in the general assembly can be formed by nations with less than ten percent (10%) of the world's population and which contribute approximately five percent (5%) of the United Nations' assessed budget.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, that, pending the withdrawal of the United States from the United Nations entirely, we recommend to the consideration of our representatives and senators in Congress that the United States' financial support of the United Nations be re-adjusted to a more reasonable proportion, based upon a consideration of equal responsibility of all members.

### RESOLUTION NO. 5

Whereas, we deplore the abandonment of the actual dates of George Washington's Birthday and Veterans Day for random weekend dates, unassociated with the patriotic and reverent purpose of their inception, and

Whereas, our Society has as one of its purposes the preservation and reverence for such patriotic occasions,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, urges the observance of the actual dates of February 22nd and November 11th as the proper dates for honoring and commemorating George Washington's Birthday and Veterans Day respectively.

### RESOLUTION NO. 6

Whereas, the South Carolina Society has developed a project for the purchase and restoration of the home of Edward Rutledge, one of the signers of the Declaration of Independence;

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it endorses the action of the aforesaid South Carolina Society and urges the establishment and maintenance of the Edward Rutledge home as a permanent memorial to his memory.

### RESOLUTION NO. 7

Whereas, reliable reports indicate that the United States is rapidly eroding its international position of strength in regard to its military, air and naval capabilities, and

Whereas, George Washington admonished us, in the time of peace, to prepare for war.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that the preservation and security of American liberty and our Republican form of government make it imperative that the military capabilities of this country be continually maintained in such strength and posture as to enable the United States to successfully repulse all threats to its existence from within and without the territorial boundaries of this nation.

### RESOLUTION NO. 8

Whereas, the American people have paid tender tributes to the sacrifices of their sons who gave their lives in battle in World War I, World War II and the Korean Conflict by selecting unknown soldiers for special honors and respect at the tombs of the unknown soldiers in Arlington National Cemetery,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the United States Congress to honor in like manner the unknown soldiers, unidentified in death, who were victims of the Vietnam War, for their supreme sacrifice in the service and uniform of the United States of America.

### RESOLUTION NO. 9

Whereas, our armed services have traditionally constituted the shield and sword of the Republic against aggression by a foe, and

Whereas, such mission has been executed in the past in a brave and honorable manner by officers and men dedicated to the rigors and hazards of the armed forces, and

Whereas, during the past decade, there has developed a permissiveness, laxity in discipline, disrespect for authority, lowering of standards of personal appearance, and lowering of mental and physical standards, and

Whereas, such ideas have resulted in near-mutinies on fighting ships and at land bases, and have further resulted in a widespread decline in standards of morale and discipline as well as fighting capability.

Now, therefore, be it resolved, that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the President of the United States, as commander-in-chief of the armed services, to correct this troublesome situation by restoring a policy of traditional high military standards of conduct and discipline.

### RESOLUTION NO. 10

Whereas, it is reiterated and re-affirmed that all previous resolutions submitted at prior Congresses be re-affirmed.

### RESOLUTION NO. 11

Whereas, the 83rd Annual Congress of the National Society, Sons of the American Revolution, has been successful in every respect, and

Whereas, that success has been due to the efforts of those who planned and took part in the program.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution, that it hereby expresses its gratitude and deep appreciation:

1. to the President General for his able leadership.
2. to the officers, chairmen, and members of their committees.
3. to the loyal headquarters staff for their constant effort in providing an efficient operation.
4. to the speakers for their inspiring addresses.
5. to the various Armed Forces for furnishing a color guard.
6. to those who furnished music and entertainment.
7. to the press, radio, and television for their coverage of this Congress.
8. to all individuals who contributed to the success of this Congress.

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## AMERICA'S PRODUCTIVITY

Mr. TAFT. Mr. President, much has been written in recent years about Amerca's lagging productivity. The key to improvement in America's international competitive position, and to increasing the wages and salaries of our workers without causing inflation, is an increase in the efficiency of the American economy—that is, increasing productivity.

Between 1965 and 1970, the output per man-hour of Japanese workers increased by over 14 percent, while the comparable figure for American workers was about 2 percent. Although the percentage differential has been narrowed since that time, the problem is certainly still with us. I believe that an all-out effort should be made to increase the productivity of American industry.

In that respect, Senator JAVITS, Senator PERCY, and I wrote legislation to create a revamped Commission on Productivity and Work Quality, whose major function would be to serve as a catalyst in various ways for increasing American productivity and worker morale. Unfortunatley, even though this extremely important bill passed the Senate unanimously, it has now been stalled in the House of Representatives.

I hope that the House will begin to move upon this legislation again. An entity designed to bring ways to increase productivity to the attention of labor and management could only be beneficial.

The August 9 edition of the Wall Street Journal contained an article describing one such method. I ask unanimous consent that it be inserted in the RECORD so that both my colleagues and my friends in Government and private industry are made aware of it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### RAKING IT IN—STEELMAKER RAISES OUTPUT AND PRODUCTIVITY WITH INCENTIVES THAT MAKE EVERYBODY HUSTLE

(By Jim Montgomery)

DARLINGTON, S.C.—South Carolina's 300,000 hourly paid factory workers earned an average of $6,049 each last year. James Samuel Sr. is one of the 300,000, but he got a lot more than that—$12,110 plus $807 in profit sharing. And that isn't bad for a 47-year-old black ex-sharecropper who never reached high school and never made more than $4,000 a year before 1969.

It was in 1969 that Mr. Samuel and most of his 240 fellow hard-hats, a third of them black signed on as $1.00-an-hour trainees at Nucor Corp.'s new mini steel mill in this town of 6,990 people. "Fewer than 20 of them had ever been in a steel mill before," an executive recalls, and they were so startled by the fireworks of the first heat that "they all ran out of the mill."

Now they run up fat paychecks for producing some of the lowest cost steel in the world. Their secret in productivity; they turn out some 150,000 tons a year at a cost per ton of less than four man-hours—only 3.48 in one recent week—in contrast to a national average of more than eight man-hours and an average of six in Japan, one of the most efficient foreign producers.

### THE $20,000 MILLHANDS

Nucor is as new to steelmaking as most of its employes are, though the company previously fabricated steel joists from steel made by others. But it has found a quick route to success in the form of its lavish incentive-pay plan. Officials say the plan has made real hustlers out of everybody in the place from the billet molds to the executive office. Weekly bonuses for exceeding production goals often run 30% to 40%, and sometimes more than 60%, of employes' base pay. Last year, bonuses averaged 29% in the mill here and five joist plants elsewhere in the U.S., accounting for $2 million.

(It was just 10 years ago that Kaiser Steel Corp. and the United Steelworkers Union launched the industry's first big incentive-type pay plan. While it's "not exactly a pay incentive plan," a spokesman says, it has added $28.3 million since the start to the normal paychecks of hourly employes. It's paid monthly and represents a share in cost savings on labor, material and supplies. But it didn't keep employes from staging a 44-day strike at Kaiser's big Fontana mill during contract negotiations last year.)

On the average, hourly-paid workers at Nucor earned just over $10,000 last year, not counting profit sharing, about the same as the $10,771 that the Bureau of Labor Statistics figures was earned by hourly paid production workers in the industry as a whole. (But $10,000 goes further here in Darlington than it does in Pittsburgh.) But some of Nucor's hourly paid millhands cleared more than $20,000 and several melters topped $25,000. There were "a bunch of folks," according to the company, who made more than $12,000.

One of them was Mr. Samuel, who quit a $1.65-an-hour job in a local veneer plant to work at the mill at a base that has risen to $3.35 an hour. Mr. Samuel, a strand tender, controls the level of molten steel poured into a casting machine that spits out more than 20 tons of steel billets an hour.

It's a hot job, peering down from a grillwork platform at the white-hot metal filling the molds below, and Mr. Samuel and two other strand tenders must spell each other often to rest their eyes. But Mr. Samuel says he has no complaints. In four years he has been able to buy a sporty Plymouth Duster and a $15,500 home far more comfortable than his seven-member family ever could have dreamed of owning previously. He used to share his crops with his landlord to pay his rent. And he says it still seems unreal to get a bonus of more than $4,000 in cash a year for producing bumper crops of steel billets.

### ENVY DOWN THE ROAD

The production quota in the melting and casting operation is 10 tons of billets an hour. Each ton over that brings a 4% bonus for crew members. So far this year, actual output has exceeded 20 tons an hour on every work turn, and so every worker in the operation has collected bonus pay of at least 40% every week. One crew recently turned out 31 tons an hour in a day. Had they kept up the pace for a week, it would have got them an 84% bonus.

Even 40% bonuses "used to scare" Nucor's 47-year-old president, F. Kenneth Iverson. Now, he says, he worries only when bonuses are small. "If a man produces a great deal," he says, "you'd be amazed at how much you can pay him."

The pay at Nucor amazes a lot of people. It's a big topic of conversation on paydays at nearby beer parlors. After one session of beer guzzling and check comparing, union employes (Nucor is nonunion) at a metal-working plant down the road, reportedly in sheer envy, staged a wildcat strike. There isn't much chance of their going to work for Nucor, however. The backlog of applicants numbers 100 or so, and only some eight jobs a year open up.

Everybody at Nucor has an extra incentive to produce. Bonuses for department heads, such as plant controllers and rolling-mill superintendents, depend on whether they meet their plant budgets. Their bonuses normally don't exceed 20%, although last year a superintendent and a controller got 42%.

### NO CORPORATE FRILLS

One profit-sharing plan covers all employes, except eight top officials, with six months or more of service. The company contributes nearly 10% of its pretax earnings to the plan. The eight senior officials share in another incentive-compensation plan. Last year, they got 10% of pretax earnings above $2 million. Nucor actually earned $8.9 million before taxes. Mr. Iverson, the president, picked up $176,824 in incentive pay, half of it, deferred, on top of his $60,000 salary. To give the same incentive pay this year, however, the company's pre-tax earnings will have to rise by $3 million, because the incentive-pay base has been increased to $5 million from $2 million.

Nucor partly offsets this generosity by enforcing a bare-bones policy on corporate overhead. All executives—and there aren't many—fly economy class. The closest thing to an executive dining room is the cafeteria of a shopping center across the street from the company's modest, rented corporate headquarters in Charlotte, N.C. Only nine people work there, five of them secretarial and clerical employes. Mr. Iverson shares a secretary with Samuel Siegel, financial vice president, treasurer and corporate secretary. Marvin A. Pohlman, vice president and a director and general manager of the Darlington mill, has no secretary. "We run very lean," Mr. Iverson observes.

This philosophy has paid off for shareholders as well as for employes. The first cash dividend, a quarterly of five cents a share, is to be paid Aug. 15. Eight years ago, Nucor was running in the red. Sales had stagnated at $20 million a year. Since the present management took over in 1966, sales have risen by an average of 25% a year. Operating earnings have increased by an average of 35% a year. In 1972, net income hit a record $4.7 million, or $2.25 a share, on record sales of $83.6 million. For this year, Mr. Iverson expects per-share earnings in the neighborhood of $2.60 on sales of $95 million to $100 million. Next year, he expects profit to be enhanced by a second mill now nearing completion at Norfolk, Neb.

Still, it hasn't always been just one big happy family at Nucor. The Steelworkers Union attempted to organize the Darlington plant "a couple of years ago," says M. C. Weston Jr., director of the USW district based in Atlanta, and "got around 50% (of employes) signed up." Mr. Weston says, however, that "the drive just stalled there" because "the company and the area where it's located are extremely anti-union." During the organization drive, at least, Mr. Weston adds, Nucor workers were reporting to the union earnings "anywhere from 30% to 35% less' than industry levels.

## THE SURFACE MINING RECLAMATION ACT OF 1973

Mr. JACKSON. Mr. President, yesterday the Committee on Interior and Insular Affairs by a unanimous vote reported favorably S. 425, the Surface Mining Reclamation Act of 1973, which I introduced in January. I believe that my bill as amended by the committee provides for strong environmental protection while permitting continuation of coal surface mining where the lands involved can be reclaimed.

I wish to commend the junior Senator from Montana (Mr. Metcalf) for the outstanding job he did as chairman of the Subcommittee on Minerals, Materials and Fuels, in leading the committee's work on S. 425.

The Senator put in long hours chairing hearings and committee markup sessions. He offered and the committee adopted many amendments which greatly improved the bill. These include assurance of real opportunities for public participation in the administrative rulemaking and decision processes; requirements for review of land areas which may be designated unsuitable for surface mining; and authorization of citizen suits to assure operator compliance with and regulatory authority enforcement of State and Federal reclamation programs.

The junior Senator from Montana's willingness to listen to all viewpoints and his legislative skill in working out reasonable compromises were in large measure responsible for the committee's unanimous support for the bill as reported. The committee, the Senate, and the country are in his debt. I congratulate him for his outstanding performance.

## CLEAN UP AMERICA MONTH

Mr. THURMOND. Mr. President, the month of September 15 through October 15 has been declared "Clean Up America Month" by Secretary of the Interior Rogers C. B. Morton. It is part of Johnny Horizon '76, the nationwide campaign sponsored by the Interior Department to clean up America for the Bicentennial celebration in 1976.

During Clean Up America Month, participants will have an all-out drive to involve their communities in improving our environment.

Mr. President, this is indeed a worthwhile effort. Unlike so many Federal undertakings, it relies upon people at the grassroots level—people who are concerned about air, land, and water pollution and want to do their share in alleviating the filth.

Johnny Horizon '76 is a project in which both young and old alike can participate. For the young, brochures, posters, litter bags, and recorded instructions are available in a way which appeals to children. For adults, different types of antipollution campaign packets have been prepared with emphasis on how to conduct cleanup campaigns in every community.

I understand Secretary Morton is very pleased with the response this campaign has received so far. It is being supported by a growing list of Federal agencies and cosponsored by almost 2,000 other organizations.

I am pleased that many clubs and organizations in South Carolina responded to a newsletter I wrote on the subject May 28 of this year.

This response indicates that people do care about their country and are willing to give of their time and talents to improve it.

Mr. President, I would urge my colleagues to promote this campaign. If we work together, we can truly clean up America for 1976.

## THE WORLD BANK

Mr. McGEE. Mr. President, the President of the World Bank, Mr. Robert McNamara, has started serving his second 5-year term. Earlier this summer, the Washington Post and the New York Times took note of this fact in lengthy articles on how far the World Bank has come under the McNamara tutelage and the direction it will take in the next 5 years under his command.

Robert McNamara has been the driving force in the effort of the World Bank to aid in coming to grips with the fundamental problems of developing nations. As a consequence, the Bank has broadened its assault on these problems and it appears it will continue to do so.

As a vital international monetary institution in the relationship of the industrialized nations of the world to the developing nations, it is important that the United States continue to strengthen its participation in this organization. Our commitment to the institution is exemplified in Robert McNamara, and we wish him continued success in his next 5 years as the head of the World Bank.

I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 8, 1973]

## McNAMARA'S BANK

(By Stephen Rosenfeld)

The straight-back hair is thinner, the half-rimmed glasses thicker than when he gained the reputation as an architect of the Vietnam war, which seems to burden and spur him still. Yet the figure is as lean, the manner as intense, the mind as quick, and beginning his second five-year term as leader of the most ambitious global development effort since Genesis World Bank president Robert S. McNamara is doing what he plainly regards as the culminating work of his life.

On the floor by his desk is a large globe, an easy reference to the 122 countries that belong to "the bank," as it is known in its sprawling headquarters three blocks west of the White House. Only the Communist countries—in the bank's careful, non-political prose, the "centrally planned economies"—do not belong, mavericks Yugoslavia and Romania excepted.

McNamara would welcome all of them. For it is the essence of his creed—*gospel* perhaps suggests the passion behind it—that the world's essential divisions are not between Communists and non-Communists, East and West, but between rich countries with the means to lend to the bank and poor countries with the need to borrow. The sooner the world can rise above its political quarrels, the better it can treat its economic ills. The bank cannot solve others' political disputes, but it can, McNamara hopes, provide a measure of the vision and the money and the pressure to help nations turn to their peoples' desperate economic and social needs.

Five years ago, when Lyndon Johnson arranged for the 20 "executive directors" of the bank to elect McNamara, the former Ford Motor Co. president and secretary of defense was widely regarded as a political basket case, his spirit seemingly broken by the travails of Vietnam. Friends from his Berkeley and Harvard days knew him as a man who minored, so to speak, in the human condition.

The public had been given only one glimpse of his concern. In a 1966 speech (at Montreal), so far from the Pentagon norm that it attracted much attention (and private grumps from L.B.J.), McNamara had drawn a close link between global violence and global poverty. Practically by itself, that speech made his bank appointment respectable. The prevailing sense still was that he was being put out to pasture.

At that point in the Vietnam war (1967–68), the bank was thought of in Washington as a proven and worthy institution but not as a central or vital one. Its companion institution created in 1944 at Bretton Woods, the International Monetary Fund, ranked notably higher in the capital's pecking order. The bank's two previous presidents, George Woods and, before him, Eugene Black, were more traditional bankers who had kept its profile low.

### DOUBLE THE VOLUME

In retrospect one can see how these circumstances suited McNamara's style. He had inherited a tight ship. It had an expert international staff, since doubled to about 1,600 professionals from 100 countries (but no upper-rank women). Its blue-chip leadership and staff, and its record of making "sound" loans, had ensured it all the access it sought to world capital markets. Although it loans to some governments that on their own couldn't get in the front door of the central and private banks from which the bank borrows, it has never lost a penny.

In 1964–68, the bank committed $6 billion to help finance projects valued at upwards of $13 billion; the bank always draws in other public and private lenders with it. Some feared McNamara's reputation as a visionary resulting from the Montreal speech, might dry up the money

As though to quell the specter, he made his first major speech outside the bank at the Bond Club of New York. Ever concerned no to be pegged as a wild-eyed fanatic, he declared: "(The bank) is a development-investment institution, not a philanthropic organization and not a social-welfare institution."

In his first term, the bank borrowed sufficient money to more than double its loans, committing $12 billion to finance $30–$40 billion worth of projects, exactly as McNamara had planned. He has kept old sources and tracked new ones, for instance, the Mideast Oil states, to him "the largest single investment pool of medium- and long-term investable capital in the history of the world."

For his second term he expects to get the bank into an additional $50–$60 billion in projects. For a yardstick, note that American bilateral economic aid now hovers at around $1 billion a year.

McNamara took over a running operation. As one might expect of a manager of his bent, he has changed it. In 60 days he had set up a five-year planning framework; the bank is now in its "Second Five-Year Program." There soon appeared a "programming and budgeting department," a discreet shadow of the Office of Systems Analysis he had installed in the Pentagon.

Interestingly, he did not bring in a conspicuous group of new people, "whiz kids" or otherwise. His best known appointee is former AID official Hollis Chenery, a Harvard development economist who is the leading in-house policy adviser. His chief of staff is J. Burke Knapp, formerly of the Federal Reserve and State Department. Particular staff men whose ideas or programs grab him he sees for long and intensive meetings; others see him only on the elevator.

For all the warmth and wit he shows private friends, he runs the bank as an operation subordinate to his vision of its public duties. By a recent reorganization, sprung without notice, he deeply wounded scores of veteran professionals and, incidentally, thereby gave an important boost to the bank's "Staff Association," a fledgling union. McNamara professed to be astonished at the furor he had stirred.

### "PRESIDENTS AND PEASANTS"

His work habits continue to be somewhat a Washington legend: the hours; the quick intake of masses of new material; the capacity for framing—some say overframing—issues. He can dole out appointments to internationally known figures in five-minute pieces; he frets at holes in his schedule; his calendar bears notations like "12:00 noon—Nicaragua." On the road (66 countries, 432,330 miles in his first term), he paces himself relentlessly, seeing only "presidents and peasants," as one aide put it, exhausting his escorts.

Perhaps because he learned at the Pentagon not to become captive of his own staff, he ranges widely for counsel outside the bank keeping open old lines to the foundations, the Urban Institute, Aspen, and like places in order to receive fresh ideas. He was pleased to deliver personally Bangladesh's World Bank application to its president within two weeks after the latter got out of jail. As a second-term gift, staff members gave him a briefcase.

More meaningfully, the bank gave him his second term. By tradition and voting weight, the U.S. President fills the top bank slot. From Mr. Nixon's own distracted record on development, if nothing else, one could guess that McNamara was not his first choice for the term beginning last April. The administration had, in fact, shown political displeasure by abstaining on bank loans to Latin countries where American private firms were under siege McNamara was known to be unhappy about this and had publicly scored the United States for its declining performance on aid.

The names of former Treasury Secretary David Kennedy and former Commerce Secretary Maurice Stans were floated. The "constituency"— principally of borrowers—built by McNamara loan policies and speeches effectively came to his aid. Sixteen months in advance, the bank's 20 executive directors, including the one Nixon choice, went through the formal motions of renominating him. Some Europeans hinted that, if it were not to be McNamara, they might prefer a European. McNamara had become the indispensable man.

### THE MAN OF THE MOMENT

To understand why, look closely at the development scene in 1968. In the United States, the era of foreign aid was plainly closing. One political current held that aid was a form of interventionism that could produce another Vietnam. A second held that the United States had invested billions to help develop Third World countries but had reaped neither gratitude nor stability nor—unkindest cut of all—real development.

The reaction of traditional conservatives and dovish liberals alike, especially in Congress, was to urge that aid be diverted from direct, bilateral channels to multilateral channels, such as the World Bank, and further, that aid, especially on easy terms, be reduced. Thus would aid become less entangling and cheaper for the United States, if not more efficient and beneficial for the recipients.

The opportune moment for an ambitious man running an ambitious multilateral development bank, funded in the main from commercial, not congressional, sources, had come. McNamara leaped. Not only did he double bank lending—perhaps up to if not beyond some borrowers' absorptive capacity; he applied the bank's money and vigor to make it the center of virtually every important and innovative cooperative-development activity in the non-Communist world.

The bank now runs "clubs" of aid donors for 15 separate countries. It finances and coordinates the major international efforts in population and agricultural research; McNamara's quests for better birth-control methods and for technology that will do for "dry-lands" farming what the Green Revolution did for farming in irrigated areas are well launched. The bank has lines into the U.N. Development Program, the World Health Organization, and the Food and Agricultural Organization. Its individual regional departments are larger and generally more respected professionally than any of the regional development banks.

The careful bankers who led the bank until 1968 thought chiefly in terms of safe, conventional "infrastructure" projects, like dams and railroads, which borrowers could most easily be induced to support and which provided to borrowers and lenders visible, quantifiable evidence of "development" and "growth"—the concepts were then roughly equated.

Even by 1968, however, there was growing awareness that although a good number of the necessary infrastructure projects were already in existence, or in planning stages, no comparable increase was taking place in the general standard of living. Indeed, mass poverty was perhaps more widespread.

McNamara's predecessor had reacted by undertaking loans for so-called social projects in agriculture, health, education, and the like. McNamara quickened the pace in these fields. He also undertook to shift the thrust of bank loans from, in effect, engineering projects to more comprehensive programs in particular regions of a country or sectors of an economy. It means going beyond, say, building a dam and developing a river valley; the loans would also go toward setting up a population program in the valley, offering local farmers new credits, and so on.

### A NEW DOCTRINE

To win support for the change from lenders, borrowers, and, perhaps not least, his own bureaucracy, McNamara began preaching what was for the bank a radically new doctrine of development. It held that economic growth must be harnessed to the abolition of poverty and misery by providing more jobs, a better diet, and a more equitable distribution of income. For ammunition, he went outside as well as in. For studies on unemployment, for example, he went to the private, Washington-based Overseas Development Council, impatiently reading some of its papers in draft.

In 1972, in a speech that still echoes on H Street, McNamara cited studies done by a California economist (studies disputed inside the bank) indicating that throughout the 1960s in rapidly growing Brazil, "the very rich did very well. But . . the benefit to the poorest 40 per cent of the population was only marginal." The bank had loaned Brazil no less than $1.5 billion to nourish the kind of uneven growth he deplored.

Early on, McNamara had brought in Hollis Chenery, who is sometimes known in the fraternity as the "high priest of growth." It seemed significant that he now promoted to a key policy-planning post an unconventional Pakistani economist named Mahbub ul Haq, a man so driven to translate development into social justice that he had sometimes on his own espoused the Chinese model of state-forced development.

McNamara himself has not commended the Chinese way. One can guess he realizes how alarming it would be, not only to lenders but to some borrowers, to whom talk of social justice sounds suspiciously like giving aid and comfort to their domestic political foes. Nor is there universal agreement among economists at the bank and elsewhere, or among government officials, on the extent to which growth and redistribution of income can in fact be combined.

More concerned to persuade the unconverted than to paint a subtle portrait, McNamara tends to put his case in black-and-white terms that draw frowns from many professionals. Said an Indonesian finance minister after one typical McNamara appeal, "One cannot more equitably redistribute nothing."

Nonetheless, McNamara has not shrunk from pursuing his cause. His speech chastising Brazil for headlong pursuit of growth was given in a Latin setting, in Santiago. He preached population control not only to the students of Notre Dame but to the president of Mexico, a country whose need for such a program was rivaled (at least in 1971) only by its reluctance to start officially down that path. More than once a government has denounced McNamara's approach to a ticklish social problem, then has quietly begun addressing it.

### CARROTS AND STICKS

McNamara religiously eschews intervention in local affairs. Yet discretion blinds no one involved to the fact that a government or minister or planner whose country, sector or project gets a bank loan thereby acquires additional power.

The bank cannot easily use loans as sticks, withholding money until, say, the government mends its social ways. It can, however, withhold loans on grounds that a country's economy is so poorly run as to make it not "creditworthy." "You are bankrupt, sir," McNamara once told an African president, who subsequently shaped up. He told Chile's Marxist president, Salvador Allende, whose social policies are right down his alley, that the bank could offer no new loans because his economic practices were unsound. Chileans, among others, suspected that McNamara was allowing the bank to be misused as a collection agency for expropriated American firms.

The bank can also use loans as carrots, rewarding "good" social policy or effective economic performance. Especially in very poor countries that lack alternative sources of development capital, the bank can influence better financial and administrative practices and more rigorous planning. Staffers concede that at times the bank's leverage in these matters is weakened by their chief's determination to push out loans rapidly, and by local nationalistic pride. But, being prestigious, being multinational, being a development institution and not a sovereign state—and being rich—the bank can usually get away with wielding power.

Within the bank, income-redistribution reports are now routinely cranked into annual country surveys and loan applications. When the bank staff forgot, apparently inadvertently, to crank income into a proposal for a loan to prosperous cattle farmers in Brazil last year, some bank directors protested. Though reportedly not so instructed by his superiors in the U.S. Treasury, the American executive director, Robert Wieczorowski, went along with the protest, and partly for this reason lost his job. (The Treasury Department denies this tale.)

### A SOCIAL GOSPEL

McNamara has become known for preaching an international social gospel, which holds that, between nations as well as within nations, the problems of the poor must become ever more central to the policies of the rich.

The special object of his fervor is the International Development Association, the bank's "soft-loan window" opened in 1960 to offer easy money (50-year loans, 10 years' grace, ¾ per cent interest) to countries that couldn't afford the usual bank loans put out at (currently) 7¼ per cent. Money for IDA is deeply "political": It comes not from central or commercial banks, source of bank funds but from subscriptions by the developed countries—in the United States, from appropriated funds.

IDA credits are indeed "aid," and the United States has become increasingly reluctant to furnish them. Right now, Western Europe and Japan seem ready to have the rich countries put in $1.6 billion a year for the next three years, but the United States speaks of $1.2 billion and of reducing its share of the total from two-fifths to one-third. Says Rep. Otto Passman (D-La.), key man in this matter on Capitol Hill, "IDA takes from the poor in rich countries and gives to the rich in poor countries. I hope Mr. McNamara's judgment on IDA is better than his judgment on Vietnam."

For every two dollars committed by the bank, IDA commits only one. But because IDA credits go to the poorest of the poor—countries that otherwise would be swamped by their old debts and would get only crumbs—McNamara has invested enormous energy in that branch.

To hear this former captain of industry and defense denouncing the world's profligate spending on consumer goods and arms is to be in the presence of an astonishingly complex and compelling man. It is a stunning thing McNamara has attempted: to turn a rich nations' bank into an instrument of massive and real deliverance for the world's poor.

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[From the New York Times, July 8, 1973]

## WORLD BANK'S PROFIT-TURNING DO-GOODER; McNAMARA STARTING ON HIS SECOND 5 YEARS

(By Julius Duscha)

WASHINGTON.—Of all the men who came to Washington with John F. Kennedy in 1961, only Robert S. McNamara is still playing a major role in public life.

As Mr. McNamara begins his second five-year term as president of the World Bank, he is remarkably the same person he was 12 years ago when he became Secretary of Defense—precise yet personable; extremely shy personally but in his job bold and sometimes even daring; persuaded that man can best solve the world's problems by systematically quantifying and analyzing them; seeking to be both a social reformer and a hard-headed businessman turning a profit as he goes about doing good works.

During his first five years at the World Bank, or the International Bank for Reconstruction and Development, as it is formally known, Mr. McNamara doubled its annual loan volume, which now is more than $3-billion a year; quadrupled the amount of money the bank puts into agriculture; tripled loans for educational and training purposes, and made a significant beginning in changing the bank's historic emphasis on loans for steel plants, power facilities, highways and railroads to loans for rural development projects and the training of both rural and urban workers.

He is acutely aware that despite the $25-billion given to developing countries by the bank since it made its first loan in 1947, as well as the many billions in aid from the United States, the Soviet Union and other countries, life for most people in the developing countries is still miserable because not enough of the foreign-aid money has found its way to the rural areas, where the vast populations of Asia, Africa and Latin America live—no, not live, exist.

He is furthermore convinced that only by controlling their populations will the developing countries ever pull their people out of the morass of demeaning and debilitating poverty and in the last five years he has at times been a lonely voice calling for birth control.

Nevertheless, Mr. McNamara has kept talking about population control and today feels that it is now as much in the forefront of the thinking of the officials of the developing countries as is agricultural development, another of his favorite themes.

There are those who feel that Mr. McNamara's emergence from the money-mad corporate ethos of the Ford Motor Company and from the megaton and kill-ratio madness of the Pentagon and the war in Vietnam to the role of worldwide do-gooder is his deliberate, straight-forward way of expatiating the black deeds of Vietnam, and that working 12 hours a day at the World Bank to help make the world a better place to live is his personal atonement for Vietnam, about which he has never talked since walking out of the Pentagon in the bleak winter of 1968.

His friends, however, scoff at such reasoning and say that Mr. McNamara never was the kind of man to look back, in either self-justification or self-pity.

Whatever the reasons for the current emphasis of his Puritan work ethic, Mr. McNamara has been able to a surprising degree to combine the role of social reformer with that of tough banker.

He bristles at suggestions that he is more wild-eyed do-gooder than steely banker and points out proudly that in the last five years the World Bank's profits rose 30 per cent; that net borrowings increased three and a half times, and that liquid reserves almost doubled, from $1.4-billion to $3.7-billion.

"There is no conflict between sound banking and sound development," Mr. McNamara noted.

"The thing I'm proudest of," he said as he sat in his office one day recently, "is that the bank has been placing much greater emphasis on the fundamental contribution that a loan can make to the development of a country's economy, in addition to seeing to it that an investment carries a satisfactory rate of return.

"It is not sufficient that the loan leads to a high return; it must make a major contribution to the national economy of a country."

Critics of Mr. McNamara's stewardship at the bank reply that this is nice talk but there has not been enough follow-through.

Despite all of Mr. McNamara's preaching, they say, the bank has allocated precious little money to population-control programs, only $55-million in the last two years.

Industrial, electric power and transportation accounted for a third of the World Bank's loans in the fiscal year ended June 30, 1973, compared with a half or more in previous years. Critics, however, point out that these are considered "safe" loans and that the percentage of more risky loans for education and agriculture is hardly growing fast enough. In fiscal 1973 these also accounted for a third of the bank's loans, up from a fifth of the total in 1972.

Mr. McNamara's critics also assert the bank still favors borrowers like Brazil, Mexico, Iran and Turkey, which together received almost $1-billion in loans in fiscal 1972, despite their dismal records in helping their poor.

Other critics of Mr. McNamara feel that he is too little the banker and too much the social reformer—a criticism that reflects the built-in dichotomy the bank has faced since the plans for the bank were drawn up in 1944.

The visionaries who planned the World Bank in the midst of World War II thought that a solid 19th century institution like a bank could be put to use to make life better for the deserving poor of the 20th century. The idea, it turned out, has worked far better than its Marxist and Communist critics believed it could and even better than its capitalist supporters had dared hope.

Mr. McNamara looks younger than his 57 years and keeps fit with tennis and squash games in Washington and skiing in Aspen, Colo., where he and his wife have a home. (Their three children are grown.)

In Washington, the McNamaras live in the house in Georgetown that he bought when he became Secretary of Defense.

By eight o'clock in the morning Mr. McNamara is in his large, neat and comfortable office on the 12th floor of the World Bank's headquarters on Pennsylvania Avenue, just three blocks west of the White House. He seldom leaves for home or a party much before eight in the evening.

Once and sometimes twice a week he meets with the bank's 20 executive directors to approve or reject loan applications, which are always large and complicated. The bank is presently making about 140 loans a year.

Mr. McNamara's salary at the World Bank is $50,000 a year tax-free, more than the $35,000 a year he received at the Pentagon but a far cry from the approximately $500,000 a year in salary and bonuses he received as president of Ford.

As Mr. McNamara sits in his shirt sleeves in an easy chair in his office and talks about his work at the World Bank, one is reminded of Lyndon B. Johnson's remark about him after the first meeting of President Kennedy's Cabinet: "The only one who's worth a damn is that fellow with Sta-Comb in his hair."

The black hair is still straight back and there is little gray in it. The sideburns are maybe a half inch longer than they used to be, but the rimless glasses are still there and the shirt is a white button-down of oxford cloth.

The talk begins at precisely the appointed hour and ends when Mr. McNamara means it to conclude. There is no small talk; he knows exactly the points he wants to make and he makes them clearly and succinctly.

This man is no automaton, but statistics are still his guidepost and if he does not have them on the tip of his tongue they are at his fingertips in neatly arranged papers and indexed looseleaf notebooks.

"In placing more emphasis on loans that make a major contribution to the economy of a country," Mr. McNamara said, speaking in the flat but sharp tones of his native California, "we have made three major shifts: to agriculture, to education and to helping the poorest and least developed countries.

"We believe," he went on, "that education and agriculture are two of the worst bottlenecks to development. In many of the countries development of agriculture didn't have any sex appeal. To be modern, they believed they had to place major emphasis on industrialization.

"Yet, at least 60 per cent of the 2 billion people in the 100 countries we are dealing with live in the rural areas. Aid to agriculture, training programs for farmers and the providing of public utilities for them are fundamental contributions to development.

"As for the poorest and least developed countries, we have put more money into them in the last five years than in the previous 23 years of the bank's history—countries like Upper Volta, Niger, Sudan, Ethiopia.

"As we were trying to find effective ways to deal with the problems of the poorest countries," Mr. McNamara continued, "we examined the effect of high rates of population growth and found it to be a major barrier to development.

"I was initially criticized for discussing population growth and for proposing bank programs for dealing with it, but the recognition of the need of reducing the rates of population growth is now as widespread as the need for expanding food production.

"But," Mr. McNamara noted, "we know a lot less about what to do to reduce population than we do about how to increase food production. It's a two-, three-, or four-decade job.

"In India, for example, they have begun controlled experiments to try to find how to motivate Indian families to have fewer children. These experiments are tied to education, of course, and the expanding education of girls will lead almost automatically to a reduction of the birth rate.

"With the Indians we're also looking at the effect of changes in nutrition. Indian families want to have one son to survive to care for the parents. It is probable that malnutrition is a major cause of high infant mortality. Would improved nutrition lower the rate of infant mortality and would this in turn reduce the birth rate?"

There are many examples of the kind of programs Mr. McNamara is pushing. The World Bank, for example, contributed $26-million in loan funds to a $147-million drainage program in Egypt. The project will take water off 980,000 acres of marshy land in the Nile Valley and turn the area into good farm land that will be capable of providing a better life for the one million people living there.

For Zambia, the World Bank has approved a $5.3-million loan for education so that the country can train its own administrators, scientists and engineers. When Zambia became independent in 1964, only 150 of its major governmental posts were held by Zambians because the country had just 100 college graduates and only 1,000 persons with a high school education.

In Ethiopia, $3.5-million in World Bank funds are being used to increase the output of 6,000 subsistence farmers and to move 1,000 other farmers from the densely settled highlands to areas where they can make a better living.

The World Bank is made up of three institutions: the original International Bank for Reconstruction and Development, which was drawn up in 1944 to make loans to aid both postwar reconstruction and developing countries; the International Development Association (I.D.A.), which was set up in 1960 to make interest-free loans to the poorest countries, and the International Finance Corporation (I.F.C.), which was started in 1956 to help promote the flow of private capital to developing countries and the financing of private enterprise in these countries.

Also operating under the World Bank's auspices is the International Center for the Settlement of Investment Disputes.

The same staff serves the World Bank itself, the I.D.A. and the I.F.C. Mr. McNamara is president of all three organizations.

The World Bank also works closely with the International Monetary Fund, which was set up at the same time at the Bretton Woods Conference in 1944. The I.M.F. has just completed a new building across the street from the World Bank's headquarters in Washington.

The bank raises money by selling bonds in the capital markets of the world at interest rates of from 6 to 8 per cent. Central banks, pension funds and trusts are among the principal purchasers of its bonds.

Since Mr. McNamara became the bank's president on April 1, 1968, it has sold only one-fourth of its bonds in the United States, compared with two-thirds in previous years. Japan, West Germany and the Arab countries with extensive oil revenues have been among the large purchasers of the bank's bonds in recent years.

The World Bank itself has been lending money to the developing countries at 7¼ per cent interest, generally for periods of from 15 to 25 years with grace periods of five years.

I.D.A. loans are for 50 years with a 10-year grace period. They have no interest charge but carry a service charge of three-fourths of 1 per cent. I.D.A. funds come from contributions from the United States and other developed countries.

The capital stock of the World Bank is owned by its member governments. The bank's authorized capital is now the equivalent of $27-billion, of which $25-billion is subscribed. Only one-tenth of this is paid in, however. The other nine-tenths may be called upon by the bank, if it is needed to meet obligations arising from borrowing or loan guarantees.

A total of 122 countries belong to the World Bank, 112 to the I.D.A. and 98 to the I.F.C. Neither the Soviet Union nor China is a member of any of the institutions, but Mr. McNamara has said that he would welcome their membership. Of the Eastern European countries only Rumania and Yugoslavia are members.

Voting within the World Bank is weighted according to the wealth of the member countries. The United States has 23 per cent of the votes in the bank and 26 per cent in the I.D.A. Critics point out that just six rich countries—the United States, Britain, West

Germany, France, Japan and Canada—have about half the votes in the Bank and the I.D.A., while the six most populated poor countries—India, Indonesia, Brazil, Bangladesh, Pakistan and Nigeria—have only one-thirteenth of the votes.

But most of the bank's money comes from the rich countries and they are not likely to give up control of the institution.

It is not, however, necessarily true that you have to be from a poor country to appreciate the problems of developing countries. Mr. McNamara's first brush with Asian poverty was in 1943, when he was sent by the Air Force to Calcutta in the midst of a famine. The scene is still graphic in his mind.

"There were literally 10,000 dead bodies in the streets, and 10,000 living in the streets," Mr. McNamara said. "As you picked your way down a street you didn't know whether you were walking among the living or the dead. The conditions were unbelievable. I've never forgotten them."

## A TRIBUTE TO THE LATE WESLEY A. D'EWART

**Mr. CURTIS.** Mr. President, information has come to me concerning the death on September 2, 1973, of the Honorable Wesley A. D'Ewart, a former Congressman from the State of Montana. This is indeed sad news. Congressman D'Ewart was a dedicated public servant, an honest and honorable man, and a faithful friend to many of us.

It was my privilege to become acquainted with him when he came to Congress at the beginning of the 79th Congress in January 1945. He was reelected to the Congress for four additional terms.

All the Western States owe a special gratitude to Congressman D'Ewart for his interest and fine work in the development of the West, particularly in irrigation matters. After leaving Congress he served with distinction in the executive branch of the Government where he continued to make these contributions.

Mr. President, it is with a sad heart that I comment upon the death of our friend and former colleague, Wesley A. D'Ewart. I wish to extend my sympathy to all of his loved ones and to commend them to Him who has taught us that death does not end all.

## MILIUS OF POST CLARIFIES ROLE OF INTEREST RATES IN INFLATION FIGHT

**Mr. PROXMIRE.** Mr. President, one of the most puzzling and contradictory elements in the inflation fight to most Americans is monetary policy and interest rates.

Economists tell us that one way to fight inflation and indeed about the only way the Government seems to be fighting inflation now is by tightening credit, thus forcing up interest rates and making it harder for people to borrow money. The theory of course is that borrowers will borrow less, spend less and as they spend less, demand falls and prices come down.

As almost any borrower will tell you, however, millions of us have no alternative except to borrow money. Furthermore, regardless of rising interest rates business does borrow money and as happens with all costs the higher interest rates are reflected in higher prices for everything business sells us.

So tightening credit is supposed to reduce price increases by first raising the price of money and in turn other prices. In other words more inflation to get less inflation.

On Monday of this week the Washington Post carried an extraordinarily helpful explanation of this phenomenon by Peter Milius. Frankly I thought it was one of the best economic interpretive articles I have read in a long time. For anyone in or out of Congress who will take the time to read it, a great deal of the mystery clouding this crucial weapon in the inflation fight will dissolve.

If the Congress were a class in economics, the Milius article should be required reading.

For this reason, Mr. President, and with congratulations to Mr. Milius for a first class job, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### PRICE OF MONEY IS UP, TOO—62 PERCENT SINCE FIRST OF THE YEAR

(By Peter Milius)

U.S. Steel and the Chase Manhattan Bank are both huge corporations, and both exist for the same purpose: To make money.

The only difference between them is how they do it: The one company manufactures and sells steel, the other accumulates and rents out dollars.

When U.S. Steel announces a price increase, it is big news—it generally means the whole steel industry is going to raise its prices—and the same two things are always said about it.

First, the price increase is always expressed in percentage terms—the increase itself as a percentage of the old price—as a 4 per cent price increase, for example, or 5 per cent or 6 or whatever.

Second, the point is always made that this price increase is important because steel pervades the entire economy, and that its price is reflected in other prices, the price of cars, for example, or washing machines.

The same things could be said when Chase Manhattan raises its price—the interest rates it charges on loans. Almost always, when one big bank raises its rate, the rest of the lending industry follows suit—and nothing, not even steel, pervades the economy as much as credit.

In the lending industry, though, price increases are not expressed in the same way. All you are told is the old price and the new—that the prime lending rate went up yesterday from 6.5 per cent to 6.75, or 9.5 to 9.7. But you are not told the percentage increase.

It doesn't sound as much that way; it is, though.

In the last eight punishing months of inflation in this country, the price of money—some kinds of it, at any rate—has gone up even more than the price of food.

The prime lending rate charged by Chase and the rest of the nation's big banks has gone up from 6 to 9.75 per cent.

What that means is that the price of short-term loans to big corporations—the money that companies always are borrowing to modernize or expand or otherwise do business—has gone up 62 per cent since the first of the year. From the companies' standpoint, that is a cost increase like any other. Some of it is going to be passed along to the public in the form of higher prices.

The cost of most of the money the U.S. government borrows has also gone up more than 60 per cent since January, and that cost, too, is going to be passed along—if not in higher taxes, then in a bigger deficit, which is also inflationary, or in cutbacks in other government spending and government services.

In addition to these effects, the cost of loans the average citizen takes out himself—a mortgage loan to buy a house, a loan to send children to college—has always gone up, though not as much.

The cost of these loans—the price or interest rate—has gone up for the same reason any other price does, because the demand has been outstripping the supply.

In the case of money, however, there are some important differences.

The first is that the supply of money, unlike the supply of most other commodities, is controlled by the government, or at any rate by the Federal Reserve Board. (Some people think the Reserve Board, whose members are appointed by the President to 14-year terms somewhat in the manner of judges, is too independent of the government, by which they mean the White House and Congress.) The Reserve Board has the power, in various complicated ways, to expand or contract the supply of money and credit in the economy at any given time, and thereby, indirectly, to raise or lower the prevailing interest rates.

The second important difference is that, even though rising interest rates, like any other rising prices, are inflationary, the Federal Reserve Board has been driving them up all year long on purpose—and its purpose has been, in the long run, to reduce the rate of inflation.

The theory is that the harder it is to borrow, the less everyone will buy. If a loan is easy to get and cheap, you will buy that new car you've been wanting; if it isn't you won't. A big corporation is likely to behave in the same way. The less everyone is buying, the less general demand there will be in the economy, and the less upward pressure there will be on prices.

The delicate part of all that is how not to overdo it. A lot of the buying in the United States every year, by corporations as well as consumers, is done on credit. Too great a crackdown on credit, and thus on demand, can create a recession. That is one of the things that caused the recession in 1970. The Reserve Board cracked down so hard as to cause what you now hear referred to as a "crunch," meaning basically that there was no credit to be had anywhere. This time around, the Board has tried to deal with the problem in a gentler way. Loan demand has been going up sharply, as it always does in boomtime. The Reserve Board has let the money supply go up, too, but not as much; it has tried to drive up interest rates without drying up credit, and discourage borrowing without quite cutting it off. The idea is to cool the economy off, but not chill it.

The big question, though, about even this more limited use of the Board's great power is whether it is worth it—whether tight money, with all the pain it causes, is really a good way, or the best way, to cool off an economy.

In part, that becomes a political question. High interest rates are unpopular, but they are something that politicians can blame bankers for. The other way of slowing down demand, which is to raise taxes or cut government spending, is also unpopular, and it is something the politicians have to do themselves.

Arthur F. Burns, the Federal Reserve Board's chairman, has been saying for months now that too much of the burden of fighting inflation has been shoved off on the Board and its powers. He has urged the President and Congress to take more of the burden on themselves, most notably by raising taxes. They haven't.

In his press conference last week, while listing the steps being taken to combat inflation, the President started to take credit for having tightened up on the money supply, then thought better of it. "We are tightening up on the Federal Reserve," he said, "we are—Arthur Burns, in his independent capacity with the Board members are, I should say."

Politics aside, however, tight money is a quirky thing. Like a powerful drug that doctors prescribe, it has the effect it is supposed to, but it has some strange side effects as well.

Businesses do most of the borrowing in this country. (At the end of last year businesses owed a little more than half of the debt outstanding; governments—federal, state and local—owed about a quarter, and consumers a little less than a quarter. About two-thirds of the debt owed by consumers was in mortgages on homes.)

Business borrowing, moreover, is the area where the demand for loans has gone up the most this year. It is this demand the Reserve Board would most like to dampen, and that is why the prime lending rate has been driven up to 9.75 per cent, an all-time record.

The trouble is that, no matter what it says on those pieces of paper they sign at the bank, in real terms most businesses are not paying anything like 9.75 per cent.

One reason is the very thing the Reserve Board is trying to get at, the rate of inflation. The only reason is the way the tax laws are written.

It works like this. Suppose a corporation borrows $100 for a year at 10 per cent interest. That means that at the end of the year it will have to pay back $110. Suppose also, however, that the rate of inflation is 6 per cent. That means that, in terms of its purchasing power, each dollar will be worth only 94 cents in a year, and the $110, only $103.40. In these real terms, therefore, the corporation is paying only $3.40 in interest on its $100, or 3.4 per cent.

Add to that the fact that, while the tax rate on corporations is close to 50 per cent, a corporation, like an individual, can deduct interest payments in computing its taxable income. That means that the corporation saves in taxes close to half of whatever it pays out in interest. And that cuts the real interest rate on the loan once again, this time to something close to 1.7 per cent. At real rates like that, few corporations are going to be deterred from borrowing. The Federal Reserve can diminish demand, but not always the demand it wants to. It is armed with a club when what it sometimes needs is a knife.

Another and simpler example of the same fact has to do with food. Food prices are the main source of the present inflation. The government, meaning the White House this time, wants to drive them down, and the method it has chosen is to increase food production and thus food supplies. To do that, it has released millions of acres it previously had held out of production. It wants farmers to farm them.

To cultivate extra acres, a lot of farmers will have to borrow money; a farmer may need another tractor, for example. The Federal Reserve Board, which is also trying to fight inflation, has made that money more costly. The farmer is thus less likely to borrow it.

If the farmer does borrow the money, however, he is going to want to recover its higher cost in the form of higher prices, and that is the thing that is most perverse about tight money: It causes inflation in order to cure it.

How much it causes exactly—how much, for example, this year's rise in interest rates has caused the over all cost of living, the government's consumer price index, to rise—none of the experts seems to know.

The price index will tell you what has happened to the prices consumers pay directly; it doesn't tell you the hidden prices they are paying. It will tell you, for example, how much the price of clothing has increased. What it doesn't tell you is how much of that increase stems from higher interest rates being paid and passed along by the companies that produced the clothing.

As to the interest rates consumers pay directly, one kind has risen and one hasn't.

The loans on which rates have not gone up, or at least have not gone up that much, are the smaller ones. Auto loans are the leading example. Loans like these rarely change much in price. They stay high all the time. The Federal Reserve Board says the rates charged by banks on auto loans have not gone up all year—but they started the year at about 10 per cent. The same is true of bank rates on loans for other consumer goods. They haven't changed, but they were about 12.5 per cent when the year began.

The loans on which the rates have gone up are the big ones, mortgages. Mortgage interest rates were averaging about 7.5 per cent at the start of the year. They are averaging more than 8 per cent now, and where state laws permit, they have gone past 9.

The hard thing to explain about mortgage rates is not so much why they have gone up—they have gone up for the same reason as other interest rates, because supply is short of demand—but why they are still lower than the prime rate. The prime, after all, is the rate that banks give the big corporations that are their best customers. How can a homeowner get by for less?

The answer is that mortgage loans are long-term loans, and loans at the prime rate, generally are short-term. Long-term rates, by their nature, don't fluctuate as much as short-term do. If you're lending long-term, you're not as excitable. You're looking ahead 20 years instead of 90 days, you figure the short-term ups and downs will even out, and you're more philosophical.

That only holds true up to a point, however, which is why mortgage rates, while they haven't gone up as much or as far as the prime rate, have still gone up a lot.

There are different types of loans and lenders—long-term and short, for example—but they are all dealing in the same big money market. The borrowers are all bidding for the same dollars. If money gets tight, all rates go up some. If short-term rates get high, and stay high, they lure money out of the long-term market; a man can be only so philosophical. And the less money left in the long-term market, the higher the long-term rates become.

That is what has happened this year to mortgage rates. Most mortgage loans are made by savings and loan associations. The savings and loans attract money by offering to pay interest on it; then they lend it out at a little more interest, and live off the difference. For various reasons, most of them legal, there are limits on how much interest they can pay.

When other interest rates get a lot higher, and stay that way, as they have this year, money seeps out of the savings and loans. That means there is less money for mortgages, and sometimes no mortgage money at all.

That in turn has two further effects. One is to drive up mortgage interest rates. The other is to choke off residential construction. The housing industry, a big one, is generally the first to feel the effects of tight money; where tight money breeds recessions, housing is one of the places where they start.

The question left is who is getting rich in all this. If we're all paying higher interest, who is getting it? The quick answer is that the banks are, but that is only partly true. The banks and other big lenders are hardly hurting—they are prospering nicely—but they are having to pay higher interest rates themselves, to attract the funds they need to keep on lending. In the long run most of the interest comes back to the public—those members of it, at least, with lendable money saved up. Those that have the most are making the most.

There is one other thing to be said about this year's high interest rates, one other difference between the prices charged by the Chase Manhattan Bank and U.S. Steel. When steel prices go up, they generally stay up. Interest rates don't. No one is sure how long it will take, but one day—someday—they will come down again.

## INTERNATIONAL TRANSFER OF CONVENTIONAL ARMS

**Mr. ROTH.** Mr. President, I would like to call the attention of my colleagues to the report on the international transfer of conventional arms which has been delivered today by the Arms Control and Disarmament Agency pursuant to section 302 of the Foreign Relations Authorization Act of 1972. As the sponsor of the legislative provision requiring this report, I have had a special and continuing interest in the character and quality of the report. I appreciate the effort that the Arms Control and Disarmament Agency has made in grappling with what I believe all experts find to be a most complex and elusive subject. It is, of course, a good deal easier to ask the questions than to provide the answers, to ask for policy recommendations than to provide those recommendations. I look forward to reading the result and hope that it will meet the requirements of Congress.

Let me add a few words on what I consider to be the significance of this report, and what I hope it can help accomplish. During the past decade, the world has made progress in controlling certain aspects of the nuclear arms race, but little attention has been paid to conventional weapons of all kinds to the developing countries.

The human and material costs of these arms have been very expensive—both to supplying countries and to the recipients. Our Government in the past has occasionally asked for discussion in this area, but to my knowledge, we have never developed a coherent U.S. conventional arms transfer policy nor presented any specific proposals for international restraints.

When Congress asked for this report, it asked for more than a statistical compilation; it asked for policy guidance. This report is really a call for a policy for the identification of control possibilities, and for a U.S. initiative to focus attention on this forgotten aspect of the arms race.

I believe that this report is the only post-World War public report any government has made on conventional arms supplying policies and conventional arms control possibilities. We cannot act unilaterally to control this trade—the only kind of effective action must be international. As in the case of other forms of control, there must be mutual restraints by all the major arms suppliers.

If we are fortunate, this report will stimulate other countries—and particularly the Soviet Union—to reexamine their arms supplying policies and join in an international effort to develop control mechanisms. I hope this report will receive the widest possible dissemination among foreign governments, arms control specialists, and interested citizens. I also hope it will be useful as a basis for further endeavors in this area and that there is a continuing relationship between the Executive branch agencies and the Congress in development of our arms control policies. I certainly will be interested. I consider this report as not an end to our efforts to achieve some form of conventional arms control, but merely a beginning.

## RETIREMENT OF HERBERT S. ATKINSON

Mr. CANNON. Mr. President, I want to call attention to the fact that Mr. Herbert S. Atkinson, a longtime valued staff member of the Armed Services Committee, retired this last August after having served more than 31 years. Unfortunately, the Senate was in recess during this period and consequently little notice was taken of his departure. I therefore think it appropriate to mention that he served since 1942 at the inception of the Armed Services Committee when it was known as the Senate Naval Affairs Committee. He saw service under five chairmen, Senators Gurney, Tydings, Saltonstall, Russell, and Stennis. I accordingly wish to extend my appreciation for past services and wish him well in whatever avocation he decides to follow.

## THE VICE PRESIDENT

Mr. TOWER. Mr. President, during the recent recess several articles of syndicated columnist Bill Rusher appeared in some 30 newspapers which I feel address themselves to some pertinent points regarding our esteemed Vice Preident. I certainly commend Mr. Rusher's articles to my colleagues.

At this point I ask unanimous consent that these two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Conservative Advocate]

### Agnew Agonistes

(By William A. Rusher)

And so, as apparently they must to all high officials of the Nixon administration, the tar-brush and the paint-pot come to Spiro Agnew.

Note, first, the sheer felicity of the timing. It was on the very day that the Ervin committee turned off the kliegs and adjourned the first phase of its sensational Watergate hearings that the "Wall Street Journal" broke the story that Vice President Agnew had been formally notified that he was the subject of an investigation by the office of the U.S. Attorney in Baltimore, having to do with allegations of "bribery, extortion and tax fraud."

Note, next, the familiar pattern of the so-called "allegations". The normal secrecy that cloaks a U.S. Attorney's inquiries, precisely in order to protect the innocent, has been stripped away so we can all relish the raw unevaluated charges. The "Journal's" informant is (of course) anonymous; such types always are. Moreover, it appears that no evidence of any kind whatever, concerning Mr. Agnew, has so much as been presented, yet, to a grand jury. Reading between the lines, however, one gathers that two Marylanders named Lester Matz and Jerome Wolff are in fairly deep trouble over kickbacks and related matters, and that it has occurred to them, or been suggested to them, that immunity from prosecution for their alleged misdeeds might be forthcoming if only they would implicate some notable higher-up in their activities. Sound familiar?

Note, third, the tight spot in which U.S. Attorney George Beall of Baltimore consequently finds himself. Regardless of how little confidence he may have in the assertions of Messrs. Matz and Wolff, he dares not disregard anything they may say, lest he be accused of engineering a "cover-up", a "whitewash", and so on.

So we're off to the races again. But already some interesting differences are noticeable between this latest sensation and the Watergate affair.

In the first place, the second day of the new cause celebre brought forth a highly specific charge against Mr. Agnew, which it should be possible to investigate promptly and thoroughly. According to the "Detroit Free Press", Federal investigators are checking allegations that Mr. Agnew got weekly $1000 kickbacks from contractors while he was still in Maryland, and a $50,000 payment after he moved to Washington. Now, that is not a matter of interpreting a conversation on a tape, or something like that. Either it's true or it isn't, and it shouldn't at this point be terribly hard to find out which.

Moreover, the Vice President turns out to have some definite ideas of his own about the proper way to meet such charges. He called a press conference within 24 hours of the "Free Press" story, denounced its allegations (and the others too) as "damned lies", and answered for half an hour the meanest questions about them that could be devised by a Washington press corps (shall I tell you a secret?) that detests him.

Whatever else one may think of Mr. Agnew, it is impossible not to admire the swift, blunt way in which he has confronted and denied these charges. Thanks to him, the issue is squarely framed, and should be susceptible—at least in the matter of the cash payments—of swift resolution.

I have no knowledge of the truth or falsity of that charge, but I must say I rather like its simplicity. If it is true, a felony has been comimtted. But if it turns out to be false, I think it may at last be time for those who still honor public virtue in this country to launch a counterattack against the mudgunners of the media who have been shooting, lately, at anything that moves.

If Spiro Agnew is proved innocent, what recompense would be appropriate? A simple apology certainly wouldn't be enough. A libel suit, even if one were possible under current Supreme Court rulings, seems too bloodless a remedy to be wholly satisfying. No; it would take some national gesture of apology and renewed confidence in this man to make the necessary point: that justice for the innocent is at least as important as justice for the guilty, and that we as a nation have had, at last, enough of the smear that kills.

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[From the Baltimore Sun, Aug. 25, 1973]

### Let's Find Out If Agnew Is Innocent

(By William Rusher)

As the Watergate controversy boils on, leaving in its wake a battered but still incumbent Richard M. Nixon, our liberal friends have begun turning their attention (and ours) to an adjacent ring of their little circus. The sport here is bear-baiting, and the bear is Spiro T. Agnew.

The trouble, from the liberals' standpoint, is that Mr. Agnew simply will not cooperate. Instead of declining to make a public response when the usual anonymous informer leaked the first rumor that the Vice President was under investigation for possible "bribery, extortion and tax fraud," Mr. Agnew promptly called a press conference, denounced the charges of misconduct as "damned lies," and answered all the questions of hostile reporters.

Worse yet, instead of refusing to turn over the voluminous personal records requested by the United States attorney in Baltimore (whose first anxiety, these days, is obviously to avoid any charge of participating in a "whitewash"), Mr. Agnew turned them over—and added that he personally would be available for a talk, which the U.S. attorney had not even thought to request.

The awful suspicion begins to dawn that the Vice President may—just possibly may—be innocent of the charges.

In this precarious situation, the liberal manipulators of public opinion can be expected to fall back on a device tested and found serviceable during the Watergate hearings. Their central objective must be to avoid, at all costs, a firm conclusion that Mr. Agnew is in fact innocent.

Fortunately for them, in an investigation as sweeping as the one being conducted into the Vice President's affairs that somewhere, somehow, a question can be raised which he will find it impossible to answer with mathematical certainty, no matter how innocent he may be. ("Is it plausible that Mr. Agnew, while Governor of Maryland, did not know thus and so?" "Where is the missing document?" That sort of thing.)

With a little luck a series of such questions might finish the Vice President politically, whether he is guilty of anything or not.

Meanwhile, it is, of course, as much in Mr. Agnew's interest to have the charges against him convincingly disproved as it is in the liberals' interest to have them (failing proof) float around, unresolved and unresolvable, forever.

That is why friends of the Vice President are beginning to think that the particular form the allegations against him are taking may turn out to be a blessing in disguise.

According to press reports, about 20 Maryland residents are under investigation in connection with bribes to politicians. It further appears that two of those under investigation have requested, and one or more already may have received, a promise of immunity from proseccution in return for testimony that they passed cash along to Mr. Agnew.

Now surely, after the recent example of the delights of immunity afforded by the former White House counsel, John D. Dean 3d, most Americans are sophisticated enough to be a little cautious about believing uncritically whatever may be sworn to by a confessed wrongdoer who has been spared prosecution in return for his testimony against somebody else.

These men may not be lying, but—as it is put in detective novels—they had both motive and opportunity.

Thus it becomes important to inspect their charges very closely. They boil down to just one basic transaction: the alleged transmission of large amounts of cash ($1,000, $2,500 and in one case $50,000) to Mr. Agnew over a period of months or years.

Now, cash is not as easy to trace as a check, but it is hard to make such large quantities of it disappear without a trace.

As any Internal Revenue Service agent can tell you, a close study of a man's spending habits may reveal a great deal more than a look at his checkbook.

Let us hope that the grand jury in Baltimore is zeroing in on this charge—so clear, so specific, so comparatively easy to evaluate.

Then we can either impeach Mr. Agnew and convict him, or exonerate him and hold a series of nationwide apology rallies in his honor.

## THE CAPITAL NEEDS OF AGRICULTURE

Mr. McGOVERN. Mr. President, my colleague from Georgia (Mr. TALMADGE) has recently outlined a most sensible approach to alleviating the inflation that is eating away at the pocketbook of every consumer and every farmer.

It is my pleasure to serve on the Committee on Agriculture and Forestry which Senator TALMADGE leads with ability and distinction. As chairman of its Subcommittee on Agricultural Credit and Rural Electrification, I have become alarmed at the effect of a prime lending rate of 9.75 per cent on the availability of capital to finance the all-out expansion of food production which the Congress and the administration have called for.

Accordingly, I have asked the committee staff to begin assembling information about the capital needs of agriculture, the amount of available capital, and the cost of capital to the farmer.

I am pleased also to hear the chairman call for stricter regulation of the commodity markets.

The commodity markets of this Nation handle many billions of dollars more in annual trading than do the securities markets, yet the agency charged with regulating the commodities markets—the Commodity Exchange Authority in the Department of Agriculture—has only one-tenth the number of employees as the Securities and Exchange Commission, which regulates the securities markets.

It is my intention to introduce, shortly, legislation which would permit strict, independent regulation of commodity markets, where prices are set which have enormous impact both on the prices consumers pay for food and fiber, and the prices received by farmers for these goods.

I would also like to compliment Senator TALMADGE for his reasonable suggestion to find a way out of the controversy surrounding agricultural exports. The present intolerable situation has been allowed to happen because we have no cohesive, forward-looking policy which can deal with the present scarcity as well as the surplus which previously burdened American farmers.

The senior Republican member of our committee, Mr. AIKEN, and I have introduced Senate Resolution 157, relating to the establishment of domestic and world reserves of food. Our resolution attempts to define some policy parameters, to begin looking for a way in which we can deal with critical food shortages and rising prices, but at the same time be able to cope with surpluses in the event that they might reappear.

Chairman TALMADGE has outlined with powerful logic some of the steps we must take. I commend his speech to all Members, to the proper officials of the executive branch, and to all thinking Americans.

## EMPHASIS ON ENERGY

Mr. GRIFFIN. Mr. President, an editorial in today's Chicago Tribune discusses the country's fuel needs in relation to necessary concern for the environment.

Commending President Nixon's leadership on this front, the editorial argues "for a sensible balance between the conflicting demands of the economy and the ecology." I ask unanimous concent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Sept. 11, 1973]

### THE EMPHASIS ON ENERGY

It would be a tragic mistake to interpret President Nixon's new emphasis on meeting the country's fuel needs as an abandonment of environmental goals. On the contrary, the recommendations made by Mr. Nixon on Saturday and repeated in yesterday's auxiliary "State of the Union" message reflect a realistic awareness of how much worse it will be for the environment—and everything else—if we allow the fuel shortage to develop into a crisis.

It is all very well for some environmentalists to talk about overemphasis on production and materialism, our housewives spoiled by automatic appliances, and our wasteful motoring habits. Maybe in 10 or 20 years we can teach ourselves to walk to work and to be content scrubbing our underwear in a cold room. But rightly or wrongly, the American people will not be ready this winter or even next winter to tolerate a fuel crisis with cold houses, factory lay-offs, and rationing. An inflamed public opinion would force hasty actions which might well undo much of what has already been done in the battle for clean air and water.

The President wculd prefer to shift the emphasis deliberately than in panic.

A second thing to remember is that until recent weeks, the environmentalists have had clear sailing. Federal and state laws and regulations have been enacted in breathtaking proliferation and in single-minded dedication to purfying our air and water—with almost no consideration to their effects on our fuel supply.

As a result, Illinois utilities have had to give up using convenient [but smoky] Illinois coal, and have had to scrounge for new and more costly supplies from as far away as Montana. Businesses have been forced to convert to natural gas to meet pollution standards even tho, as things are going, natural gas will be the first fuel to be exhausted. Laws on automobile pollution have increased the consumption of gasoline even as we faced a gasoline shortage.

We have been awakened to the perils of pollution, and rightly so—but with such a jolt that we have overacted, disrupting the fuel market. We have forgotten that a certain amount of pollution is part of nature, and that up to a point nature is equipped to cleanse itself. A mountain stream purifies itself. Carbon gases are produced not only by automobile exhausts, but also by rotting vegetation, and within reasonable limits they are recycled by nature. Organic matter and even metal cans will decay and rust until they become part of the soil, enriching it. A bottle tossed into the ocean will be pulverized on the rocks, along with seashells and stones, and return to land in the form of sand.

Our goal therefore need not be to attain perfection, but only to reduce pollution to an amount that nature can handle and to concentrate on things that nature can't handle, such as plastics. We still have a considerable way to go, even to do this. We badly needed to be awakened to the threat to our environment, and to be reminded that all of the energy and income and fancy appliances in the world will be of little use if we stifle ourselves out of existence by polluting our air and water.

But the need now is to restore a sensible balance between the conflicting demands of the economy and the ecology. That is Mr. Nixon's purpose. In weighing his recommendations for legislative action, Congress must ask not what will happen to the environment if it supports him, but rather what will happen if it does not.

Though we'd prefer a trans-Canada pipeline, we are confident that the Alaska line can be built without causing the disasters so freeely predicted. People on the east coast may not relish the thought of deep water oil tanker ports off shore; but isn't one giant tanker better than four or five conventional ones? Mr. Nixon asks Congress to remove price controls on natural gas. We'd have avoided much of our present trouble if this had been done years ago. Mr. Nixon wants the laws against strip-mining of coal relaxed, especially in the west. Coal is our most plentiful source of energy and one which can—as Mr. Nixon urged—be converted into oil or gas. It is much easier to rehabilitate land made barren by strip-mining than to replace coal as a fuel. The construction of nuclear power plants has already been delayed much too long.

In the long run, a deliberate plan such as Mr. Nixon's will do far more to protect the environment than waiting for the crisis to blow up in our face and being hurled helter-skelter into hasty actions vastly more damaging.

## THE GENOCIDE CONVENTION AS IT APPLIES TO THE NUREMBERG TRIALS

Mr. PROXMIRE. Mr. President, in the closing months of World War II, as the Allies raced through Germany, the doors of one concentration camp after another were opened to the world only to reveal the horrors and atrocities of German genocide. Civilized persons everywhere were shocked and outraged. As a result, when the war was finally over, the victorious nations proceeded to investigate these crimes and to prosecute those responsible. From this emerged the Nuremberg trials, designed to seek justice for the men, women, and children so horribly slain.

These events took place nearly 30 years ago, and since then the sense of outrage has died down. With the passing of time, people are now asking the question, "What right did we have to conduct these trials?" While there is not much doubt that we had the moral right to seek punishment, it is argued, what legal right existed?

In fact, there was no precedent for trying the Nazi war criminals. The fact that their actions were more than reprehensible was not sufficient cause for us to morally judge every major and minor official. Rather, there should have been a standing international agreement which outlawed inhumane methods of persecution and wholesale slaughter. Such a treaty did not exist.

But it can exist. The International Convention on the Prevention and Punishment of the Crime of Genocide provides the necessary legal framework for future trials should they occur. Of course, no one desires a repetition of the events that necessitated Nuremberg; however, if another trial should take place, it will be essential that the prosecutors have something more substantial to stand on than moral indignation.

Mr. President, we have the opportunity to remedy this problem. I urge the Senate to take advantage of it and ratify the Genocide Convention now.

## ILLINOIS PORK PRODUCERS ASSOCIATION COMMENTS ON THE MANDATORY ALLOCATION PROGRAM FOR PROPANE

Mr. PERCY. Mr. President, I am pleased to make available to my colleagues the comments of the Illinois Pork Producers Association on the mandatory allocation program for LP gas. The association supports the adoption of a mandatory program and fully supports the concept that agricultural needs be considered a priority need for LP gas. The association points out the real need to insure that LP gas is available for heating farrowing and nursery facilities for swine and for crop drying as well.

Mr. President, I certainly concur with these comments and feel that agriculture must be of the highest priority in any allocation of fuel supplies. We must insure that food production needs in this country are met.

Mr. President, I ask unanimous consent that a statement by the Illinois Pork Producers Association be printed in the Record on the mandatory allocation program for LP gas as well as three additional statements by officers of the association on why such a program is needed.

There being no objection, the statements were ordered to be printed in the Record, as follows:

### Comments on the Establishment of a Mandatory Allocation Program for Propane

As representatives of the 7,000 members of the Illinois Pork Producers Association, we submit the following comments on the proposed mandatory allocation program for LP gas during the 1973–74 winter season:

1. We fully support the adoption of a mandatory allocation program for LP gas during this period.

2. We fully support the concept that agricultural needs be considered a priority use for LP gas.

In addition, we request that:

1. Special consideration to be given to insuring adequate supplies of LP gas for heating farrowing and nursery facilities for swine.

2. A special mechanism be set up to deal quickly with severe problems, such as the lack of LP gas for a farrowing or nursery swine facility in cold weather. Baby pigs can stand cold weather no better than human babies, and there is a need for a system of reporting and prompt action to prevent losses to animals under this stress condition. One possibility would be to set up a "hot line" for use by state departments of agriculture to report such acute problems to the appropriate federal agency that would result in decisive action to find supplies within 24 hours.

3. Since corn is used as a principal ingredient in hog rations, we strongly urge that steps be taken to insure that LP gas be available for crop drying as needed this winter.

Attached please find additional comments relative to the LP gas needs of the pork industry in Illinois during the 1973–74 winter season prepared before issuance of the proposed mandatory allocation program.

### Comment by Philip Bradshaw

I am Philip Bradshaw, President of the Illinois Pork Producers Association. I farm 550 acres between the Illinois and Mississippi rivers, specializing in a pasture hog operation. My farm is a typical western Illinois livestock farm, farrowing around 400 litters of pigs annually.

The fuel shortage is causing great concern in our area. The small streams have been used for a natural water supply for many years. Now, with EPA regulations the producers are raising their livestock in buildings and lots with no natural water supply. This has caused an increase in the use of fuel, especially LP gas. The use of LP gas water tank heaters has become an essential part of pasture operation. One producer in our community has over 20 LP gas tank heaters. Even though these heaters use very small amounts of gas, it is essential that water for livestock not freeze in the winter. The use of LP gas for heat in hog houses has become a common practice. The loss of heat in a farrowing house could cause a producer to lose one whole farrowing. The loss of heat for even a short time in a normally heated building is sure to cause severe loss of gain. Feed conversion and rate of gain is vitally essential. Feed conversion could conceivably go from a ratio of 3# of feed to 1# of gain up to 5# of feed to 1# of gain and possibly even higher. This heat loss would possibly cause illness or death loss even in mature hogs.

I, as most pork producers, dry large amount of grain to insure a good supply of feed. Many acres of crops were planted late in May and early July this year and if we are going to preserve our grain crop we must have LP gas to dry the grain.

Agriculture, especially pork producers, must be assured of a supply of fuel—LP gas. We appreciate consideration given agriculture on the fuel crisis and the opportunity to appear before you and discuss the problem.

### Comment by Quinten Appell

I am Quinten Appell, Vice President of the Illinois Pork Producers Association, and a livestock-grain farmer from Knox County, Galva, Ill. I farrow to finish 6000 hogs per year and have 1100 acres of corn. My hogs are raised in confinement and we are using LP (liquified petroleum) gas to heat our farrowing houses, nurseries and finishing houses. I am vitally concerned because my supplier of LP gas will not guarantee the necessary amount of LP gas to heat the hog houses in my operation.

During the winter of 1972–73 we experienced above normal warm temperatures, especially in the months of January and February. I will need a minimum guarantee of 110% of the gas usage of last year. If we have a below normal temperature experience any month of the 1973–74 winter I will need 120% of the amount used last year. My supplier is Knox-Warren Skelgas Service, Galesburg, Illinois. He will not give me any more gas than I used last year on a month to month basis.

All the corn from the 1100 acres that I farm must be dried to 15½% moisture count before milling into different rations for the hog operation. We cannot use any higher moisture content in the corn in our confinement houses because the grain will heat and spoil.

We use LP gas to dry our corn crop, all of which is used in our hog rations. We have one (1) 5,000,000 Btu. American Batch Dryer in operation. Last spring we decided to purchase a larger American Dryer with two (2) 5,000,000 Btu. burners supplementing our original equipment. In 1972 when cold weather developed we were cut off of any LP gas supply for drying corn—this was about December 1. The investment in a $24,000 dryer and $1100 vaporizer was intended to accomplish all corn drying before peak requirement of LP gas for heating—our target completion date was November 1. Now my supplier will not set any new tank to operate this new dryer and will not provide any LP gas per month to operate it.

My finishing hog houses have four (4) 250,000 Btu. heaters fired with LP gas supplied by Standard Oil Company, Galva, Illinois. They have reduced my allotment to 80% of prior year's use. For a normal winter we need 110% of last year's use. We need an assured supply of LP gas to provide meat for the consumer. I can not afford to go into the winter without the protection of heat for these hog houses.

Slatted floors in confinement houses makes it impossible to substitute or put bedding in these buildings. We stand to lose up to $200,000 per house if we run out of LP gas for these houses at any one time during the winter. With a risk of this magnitude and if we are to continue producing pork for the consumer of these United States, we need to be assured of a supply of LP gas.

At present we have nine (9) 500 gal. LP gas tanks and five (5) 1000 gal. LP gas tanks at our different operations. We need two (2) 1000 gal. tanks for our new corn dryer. Last year (a warmer than normal winter) we used 50,000 gal. of LP gas. Assuming this is a normal temperature winter we will need 55,600 gal. I have contacted different suppliers of LP gas and they inform me they will not take on any new accounts. At present we do not have our tanks on the farm filled. My supplier says I will get LP gas in September. Knox-Warren Skelgas of Galesburg, Illinois is a direct outlet of Skelgas Company. Their supply on hand September 1 was 53,000 gal. In July they received 85% of their July 1972 supply. August and September they are to receive 100% of the 1972 supply. The outlook for January, February, and March 1974 is a cut back to 75% of the 1973 amount for those respective months. They have turned down 150 customers and will not take any new customers. They will not set any new tanks to new or old customers. Price on LP gas from my supplier increased from 13¢ to 21.4¢ per gal overnight. This is a 65% jump.

My particular experience I give you as a realistic example of the plight of a typical Illinois Hog Confinement farmer producing pork for this nation's consumer. We have the same situation—shortage of LP gas—throughout the State of Illinois.

### COMMENT BY LARRY GRAHAM

Due to the ability of the American farmers, the productivity of our land and the technological advances made during the past several decades, we in the United States have enjoyed the luxury of having the best diet in the world, at the best prices in the world. However, during the past year, much of the surplus disappeared and food, so long taken for granted, has captured our national attention. One economic lesson of meat production has been learned by many the hard way—when not enough is produced to meet the demand the price goes up.

In the past pork producers have worked hard to produce better quality meat and have offered it to consumers in plentiful supplies, often at bargain prices. Now, the producers who have weathered the storms of low prices, high costs, disease losses, boycotts, price controls and government regulations, are still trying to produce this needed commodity that has suddenly become so important to the average housewife. However, due to the aforementioned problems, plus a few others, the supply of pork going to market is still not sufficient to meet demand and insure stable prices for either producer or consumer. It stands to reason, therefore, that it is in our national best interest to clear barriers to the production of meat and do everything possible to encourage more supply going to market.

One of the potential barriers to short term production (1973–74) could be a lack of propane gas to heat swine buildings this winter. Many of our members are reporting difficulties in obtaining guaranteed supplies.

There are annually over 11,000,000 hogs produced in Illinois. Of this amount approximately 65% or 7,150,000 are born in a central farrowing facility heated by propane gas during the winter months. Also, nearly 2,000,000 hogs are produced in confinement systems each year, and propane is used as heat for the animals after weaning and until they are ready to go into a finishing building to be fed to market weight. Baby pigs, like our own children, cannot survive in cold weather without heat. The buildings cannot be heated without propane gas. Switching to electrical heating would be so costly and so time consuming as to be out of the question at this time for the 1973–74 season. The loss of heat for even one day would seriously jeopardize the lives of all baby pigs in the building.

Therefore, in view of short supply situation and in view of the sure increase in prices that would follow a cut-back in production, we urge that you take the action that is in the best interest of producer and consumer alike and use the authority available to you to insure adequate supplies of propane gas for pork production this winter.

## GOVERNMENT SPYING

Mr. MONDALE. Mr. President, it is common knowledge that all levels of government spy on citizens. In some cases, of course, these actions are executed within established legal standards and in pursuit of legitimate governmental purposes. But recent events have made clear that all too often these spying activities are performed without legitimate justification and with little concern for an individual's constitutional rights.

None of us can afford to be insensitive to the grave implications of unjustified and unlawful spying by the Government. It poses a very real danger to the personal freedoms which are the cornerstone of our democratic system.

One man who very much appreciates the dangers of government spying is the junior Senator from Wisconsin (Mr. NELSON). He has introduced a joint resolution, Senate Joint Resolution 124, which would establish a Joint Committee of Congress to study government spying and to recommend whatever legislation may be necessary to safeguard an individual's privacy and other constitutional rights. The resolution is now awaiting action by the Judiciary Committee.

The August 1973 issue of the Progressive magazine includes an article by the Senator from Wisconsin, "How To Stop the Snooping," which details the extent of Government spying and the need for action by Congress. The need for congressional action to control government spying is echoed by James Reston in an article, "Government by Outrage," which appeared in the New York Times of Sunday, September 2, 1973. In his article, Mr. Reston also pays tribute to the Senator from Wisconsin and his efforts to have Congress enact appropriate legislation to remedy the problems of government spying.

Both the Reston article and the article by the Senator from Wisconsin deserve close reading by the Members of the Senate and the other readers of the RECORD.

Mr. President, I ask unanimous consent that both items be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### HOW TO STOP THE SNOOPING

(By Senator GAYLORD A. NELSON)

Government snooping poses a threat to freedom, and Congress must move to protect the individual and the nation.

Justice Felix Frankfurter observed some thirty years ago that "the history of liberty has largely been the history of observance of procedural safeguards." As we look beyond the Watergate scandal and view the events of the past few years of American history, it is apparent that procedural safeguards for personal rights of privacy have not been observed. It is equally obvious that the procedural safeguards themselves have been insufficient to resist the increased capability and compulsion of government officials to invade privacy and trample on individual liberty.

The ease with which investigative functions of the agencies of government can rapidly grow into massive, uncontrolled intrusions into the personal and political lives of individuals and organizations certainly predates the Watergate affair and the 1972 Presidential election.

Over the past years the record shows that the U.S. Army went on a binge of unlimited snooping of ordinary citizens within this country. Although these practices of the Army apparently have ceased, dossiers on more than 100,000 law-abiding citizens were collected and stored in more than 350 record centers throughout the country.

Also on the recent public record, we now know that the FBI engaged in general surveillance of thousands of people who participated in the first Earth Day rally in Washington, D.C., on April 22, 1970.

Statistics published by the Administrative Office of the United States Courts on the extent of government eavesdropping authorized under Title III of the 1968 Omnibus Crime Control and Safe Streets Act also reveal the increasing reliance in the past few years on government snooping. Under this authority, court-authorized wiretaps and bugs are on a rapid increase since this procedure was first formalized in 1968. In the five years for which statistics are available, more than 1,623,000 conversations involving 120,000 or so persons have been overheard.

What the Administrative Office figures on Title III taps do not reveal is the number of wiretaps and bugs which are installed without court orders under self-determined and much abused claims of national security. In 1969–1970 at least, the Government has indicated that there were as many unreported warrantless taps as there were taps under court orders. However, these self-justified taps lasted for an average of from almost three to nine times as long as the court-ordered taps and are believed to have monitored tens of thousands of individuals.

Today, with our knowledge of the proliferation of governmental snooping and surveillance, and with our knowledge of uncontrolled, self-initiated government forays into political espionage, several specific issues are paramount:

Who is collecting, storing, and using personal information about individual citizens and organizations in the United States?

How many citizens or organizations, and what kind of information, do these surveillance nets capture?

Under what authority or legitimate need to know is this surveillance conducted and the information collected, stored, and used?

What controls are exerted to assure that constitutional principles of due process and the protection of individual privacy are balanced with society's concerns for its general welfare and security?

Unfortunately, the Congress of the United States, like the general public, cannot answer these questions with any accurate, current, and comprehensive knowledge. Neither is the Congress in a position to obtain the facts of the matter in a complete and effective legislative manner because such comprehensive oversight capability has not been established to review government surveillance and information-gathering activities on a continual and regular basis.

The Constitution and the Bill of Rights established an important and delicate balance between the Government's interests and the interests of the governed. This balance dictates the need for the explicit civil liberty and political freedom of each citizen, as well as the security and welfare of the entire society. While neither the private nor the public interest is exclusive, both are necessary. It is incumbent upon Congress continually to oversee and balance both the citizen's private interest and the nation's interest.

Two centuries ago, the sanctity of the individual's right of privacy in his home and the importance of protection against unlawful invasion of privacy by the Government was argued with magnificent eloquence. The British were having difficulty collecting an excise tax that the Parliament had imposed upon cider. To solve their problem, it was proposed that the tax collectors be given the authority to enforce the cider tax by entering a man's house without knocking. When this proposal was debated in the House of Lords, William Pitt closed his argument in opposition to this government invasion of privacy by stating:

"The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement."

Two hundred and seven years after Pitt's stirring affirmation of individual privacy and resistance to the invasion of the home by forces of the Crown, it is necessary to argue the case against the Government's trampling of personal rights with equal fervor. In 1766, the British tax collector sought authority to break into a private home to collect a cider tax; in 1973, agents of Federal, state, and local government act on uncorroborated tips and without warrants, and proceed to batter down the doors of two Collinsville, Illinois, homes and terrorize two law-abiding families in their mistaken frenzy.

Now, in addition to the continuing reality of smashed doors and actual physical invasion of a private home, government forces have a more insidious tool: electronic eyes and ears that need break no doors to steal privileged thoughts and record private deeds.

The surest way to destroy the concept of democratic self-government is to stand idly by while the Government itself abuses the law. The security of the Government is based upon the trust of its people. This trust cannot be compelled; it can only be given freely if our form of government is to survive. If, in a government of laws, it is the government which disregards constitutional principles and legal process, an example is set for every man to flout the law, or withdraw his expression of trust. In both cases, the result is disrespect for a system of law and it points the way to anarchy.

We must move to bring the Government's surveillance and snooping powers under effective Congressional control and review immediately. Therefore, I have introduced legislation creating a Joint Committee of the United States Congress on Individual Rights.

One—This Joint Committee on Individual Rights will be strictly bipartisan. Of its twenty members, the ten Senate members that will be named by the president of the Senate, and the ten House Members that will be named by the speaker of the House of Reprsentatives, will be equally divided between the majority and minority parties.

Two—This Joint Committee on Individual Rights will conduct regular hearings on each and every agency and department of the Government that conducts surveillance or collects, processes, stores, and uses personal information about specific individuals.

Three—At least once each year, officials of the CIA, the FBI, all military surveillance units, and every agency of the Government that conducts personal information operations will appear before the Joint Committee on Individual Rights to testify under oath and provide all relevant books, papers, records, or other documentary evidence so that the Joint Committee on Individual Rights can ascertain the scope of Government surveillance and personal information activities, and determine whether these activities are conducted strictly according to recognized guidelines and with legal and constitutional safeguards.

Four—The Joint Committee on Individual Rights will provide a regular report to both the Senate and the House on at least an annual basis. This report to Congress and the public will contain the findings of the Joint Committee on Individual Rights on the exact scope and nature of the Federal Government's surveillance and personal information operations. The report will contain the Joint Committee on Individual Rights' recommendations for actions and legislation that will maintain the integrity and confidentiality of personal information on specific individuals, guarantee that surveillance and personal data operations are conducted under strict, identifiable legal and constitutional guidelines, and guarantee that the constitutionally guaranteed rights of our citizens and their privacy are vigorously protected.

This is the moment for bringing the Government's surveillance powers under scrupulous, responsible Congressional control. In addition to maintaining vigilant oversight of the Government's surveillance activities by Congress, it is critically important that the Joint Committee on Individual Rights evaluate the expanding scope of the Government's authority and powers in this area, and make recommendations for tightening the law to prevent abuse.

No one can view the vast dimensions of government snooping at the Federal, state, and local level without being alarmed by the threat this snooping poses to freedom in our society. In my judgment the corrosive and corrupting effect on the delicate fabric of our system is far greater than any possible benefits to society as a whole.

### GOVERNMENT BY OUTRAGE

(By James Reston)

WASHINGTON.—Personalities keep dominating the news here in the blazing heat of Washington. What's going on between President Nixon and Vice President Agnew? How are they going to deal with one another and with these independent characters like Judge Sirica, Attorney General Elliot Richardson, and Senator Sam Ervin, who keep asking awkward questions?

Washington loves things like this: Is Mr. Nixon mad at Mr. Agnew or is Mr. Agnew sore at Mr. Nixon? And if the President wasn't worried about what the Vice President was about to say or do, why would he hurry back from San Clemente at Mr. Agnew's request?

Well, it is all very intriguing and it takes your mind off the heat momentarily, but it also takes Washington's mind off the things that have to be done about correcting the corruption that is at the base of all these troubles.

Two specific problems, among many others, are ready for action around here, and they may be more important in the long run than what happens to the personalities and the popularity polls.

These are the problems of controlling the practice of spying on personal privacy, which got the President into so much trouble, and the practice of misusing vast government contracts for political or private gain, which is the basis of the criminal investigation of Vice President Agnew.

Aside from the present controversies over bugging and burglarizing the Democrats and using government contracts for political kickbacks, the fact is that, since the last World War, there has developed a very serious national problem in these fields that requires corrective legislation.

The Watergate scandals tell us almost more about the improper invasion of personal privacy in America than most people seem to want to know, but they don't tell us about the things we don't know about this growing system of surreptitious surveillance.

Senator Gaylord Nelson of Wisconsin has been howling in protest about this ever since 1967. He has been pointing out that at least 50 different Federal agencies, with more than 20,000 investigators, have been operating in the United States, often on legitimate missions, but often not, and always without effective Congressional supervision or control.

These include agents not only from the F.B.I. or the C.I.A. or the military intelligence services but also from the Post Office, the narcotics bureau of the Treasury, the Securities and Exchange Commission, the Internal Revenue Service, the Food and Drug Administration, the State Department and the Civil Service Commission, among many others.

Also, this is occurring at a time when new inventions in the field of electronic surveillance make it much easier to monitor telephones or even to overhear private conversations in private dwellings. In fact, the art of snooping has become so sophisticated that it almost makes you grateful for the clumsiness of the Watergate burglars and of the "so-called" intelligence operators of the Army, who kept dossiers on more than 100,000 American citizens and got caught storing all this information in more than 350 record centers throughout the country.

What has happened here over the last postwar generation is that the scientific capacity to use the arts of wartime espionage on private citizens has greatly expanded while the political capacity to control all this has actually declined.

In much the same way, the Federal Government's power to grant lucrative contracts for highways, government buildings and services, to pick builders, choose consultants, rent office space, finance public housing, university housing, etc., has greatly expanded—precisely at a time when the cost of political campaigning has gone through the roof. The temptations of all this are obvious.

Thus, every watchful mind in this city knows that the problems of illegal political spying and illegal political kickbacks are not limited to Watergate and the current Baltimore investigation. No doubt there was a lot of political fiddling, in the past but the explosion of electronic invention and of government building since World War II has greatly increased the temptations and the consequent need for remedial legislation.

Fortunately, sometimes our main hope in Washington is that these outrages will enable the Government to do sensible things. There is a danger, however, that the personal problems of the President and the Vice President may divert the Congress from acting on the legislation, which is already in committee and as a result of recent scandals could now be passed.

"The natural progress of things," Thomas Jefferson wrote 185 years ago, "is for liberty to yield and government to gain ground." And Mr. Justice Felix Frankfurter observed 30 years ago that "the history of liberty has largely been the history of procedural safeguards."

Well, liberty has been yielding, government has been gaining and the "procedural standards" have been breaking down, but with a little more public outrage on these fundamental issues, it is just possible now that something could be done.

## SALUTE TO THE NEW ATTORNEY GENERAL

**Mr. GRIFFIN.** Mr. President, recently the Flint Journal published two thoughtful editorials concerning challenges confronting Attorney General Elliot L. Richardson and some of the steps he has taken since assuming that office. I ask unanimous consent that the two editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

### SALUTE TO RICHARDSON—ON THE ROAD BACK

All of the Nixon administration leaders should take heed of a statement made by Atty. Gen. Elliot L. Richardson if they are sincere in attempts to make the rest of the presidential term as profitable as possible after Watergate.

Richardson spelled out in specific and convincing terms what his Department of Justice faces and what he intends to do about it:

"Having taken office . . . in the midst of the darkening cloud of suspicion and distrust engendered by Watergate, I recognize it as my first duty to do what I can to eliminate the causes of distrust."

Richardson recognized three areas "contributing to diminished confidence" in the Department of Justice:

First, the suspicion that political considerations or political influence can color the administration of justice.

Second, the suspicion that who you are or what you stand for is reflected in the inconsistent or unfair application of legal standards.

Third, the suspicion that the department is not sufficiently honest in its communication with press and public.

Although all these are of great importance and he proposes to take steps in all three areas, it is the third one upon which we would like to comment.

It is highly encouraging that the forum in which he discussed this matter was the influential American Bar Association where his attitudes are certain to be given the utmost consideration.

Richardson starts from the proper beginning, a statement that the department is accountable to the people of the United States and "has no interests and no objectives separable from theirs." He takes the next logical step, that it is the department's task to see these people are "as fully informed as possible about what we are doing and why," and that, therefore, it is incumbent upon the department that "the burden of proof" for withholding any information "should always be on establishing the need for withholding information."

He points out that the Department of Justice has a special responsibility for the administration of the Freedom of Information Act by the government as a whole and that it is "vital that the justified expectations of our citizens for access to executive information not be thwarted by administrative delays or inconsistent responses from the various agencies."

Richardson then told the lawyers that he has advised all executive agencies that the Justice litigating divisions will not defend freedom of information lawsuits unless the special committee he has set up has been consulted prior to a denial of request for information. It is important to note that he places the responsibility not on the agencies, but squarely in his department, and he insists that permission to deny information be granted before the decision is made by the agency.

In addition, he said he is promoting a governmentwide study of the Freedom of Information Act to guide both the executive branch and Congress in clarifying its provisions and in administering it.

Finally, Richardson takes the last and necessary step of recognizing that the news media is the one practical way to achieve this ideal of informing the public and that to do this it must be able to act freely and with as little restraint as is compatible with the individual's other rights.

"The way in which the Department of Justice carries out its functions in any situation where reporters or news media are involved is also important," Richardson told the lawyers. "Reporters have a primary responsibility to the public, just as we do. This responsibility can lead them into controversial situations. But the prosecutorial power of the department should never be used—not even by indirection or innuendo—in a way that could weaken the exercise of First Amendment rights."

He does not stop with rhetoric, but has taken such precautions as exempting news media personnel from being included in a program in which he is requiring a memorandum of "outside contacts" made by Justice personnel dealing with matters before the department.

Richardson stressed the enforcement of the 1970 guidelines which restricted issuance of subpoenas to the news media and said the department is considering a directive which would require his personal, specific approval before a newsman can be questioned, served with a subpoena or made a defendant in any federal court proceeding.

All of this is a far cry, indeed, from the attitudes, tactics and actions of Richardson's predecessors under President Nixon, and comes like bright rays of sunshine breaking through a leadened sky.

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### ATTORNEYS GENERAL NEED BUT ONE HAT

Opening up of the activities of the Justice Department through frankness and cooperation with the news media is only one of several steps Atty. Gen. Elliot L. Richardson has taken to restore confidence in that department.

In his recent talk before the American Bar Association, he told of plans and actions to strengthen management of the department. "My predecessors, by and large, have had little interest in this area," he said, "perhaps because they have thought of the department as first and foremost a law office and only incidentally as a government department like other government departments. Having come to Justice from four and a half years in other bureaucratic institutions, I tend to emphasize its latter aspect."

Richardson said he intends to build at the federal level "the kind of comprehensive planning capacity we have been urging on the states." One step will be to create a division with an assistant attorney general for management and budget.

He emphasized that a factor in restoring confidence was to convince the general public that the law is being applied equally to all. He revealed plans to set up an "Inspector General's office" to assure that "those who are charged with executive responsibility for a precious public trust are consistently worthy of that trust." In addition, he has established an Advisory Committee of U.S. Attorneys and a procedure for closer contact with the National Association of Attorneys General. These steps are to "develop and implement coherent and consistent approaches to matters of widespread public concern—in such areas as consumer protection, drug abuse prevention and protection of the environment."

If words were all, it would be advisable to withhold comment to see how well Richardson follows through. However, as Joseph C. Harsch, Christian Science Monitor columnist recently pointed out, in only 10 short weeks Richardson has done three things that have transformed the Department of Justice, revived confidence in its integrity, and "made himself a newly interesting political figure."

His first deed, Harsch says, was to appoint an independent investigator of Watergate and kindred political activities and then give him full support of the machinery of his department.

His second act was to reopen the Kent State shooting case in which four students lost their lives in a volley fired by National Guardsmen. "It was a dreadful business which should never have happened," Harsch wrote. "It has never been investigated satisfactorily. There has been the lingering suspicion of an attempt to cover up. It needed a thorough airing. It is getting one."

A third important step to restore confidence, Harsch believes, was allowing the investigation of the Baltimore bribery and payoff cases even though these have involved the name of the vice president.

Behind all these actions is the most important factor in Richardson's short tenure as attorney general—his decision to eschew political considerations as attorney general.

"In recent history, under both parties, the attorney general has been more than a political appointee, he has frequently been—both before and after he came to the Justice Department—a political operative as well," Richardson noted.

"Now, I have nothing against political operatives. I have been one myself. And there is still a place for politics as usual—but not in the Department of Justice . . . Past attorneys general have, I know, been able to draw a line between their political and professional responsibilities. But a citizen of the Watergate era who perceives an attorney general wearing his political hat is scarcely to be blamed for doubting whether he ever really takes it off.

"I have decided, therefore, that one direct contribution I can make to countering the suspicion of political influence in the Department of Justice is not only to foreswear politics for myself, but to ask my principal colleagues to do the same."

Richardson has made a tremendously significant point. Presidents must have political spokesmen within their official families. If, as in the past, they are a Postmaster General or a Secretary of the Interior or hold a similar post, no great harm has been done to the governmental processes. The office of Attorney General is a far different matter.

The Nixon administration under Atty. Gen. John N. Mitchell is only one of numerous proofs of that. President John F. Kennedy is open to criticism here since his appointment of his brother Robert to that position and use of him in political matters weakened the effectiveness of the office and created distrust among many citizens, even though no scandals were involved.

The classic example is Harry M. Daugherty, the political mainspring behind President Warren G. Harding. Although he was never convicted, he was tried for conspiracy to defraud, and he was the key figure in the failure of his department to uncover or properly prosecute the entire Teapot Dome scandal.

The nation will be a much better place in the future if Richardson's policies should become a permanent part of our unwritten governmental principle.

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## GEN. SAMUEL B. PHILLIPS

Mr. McGEE. Mr. President, because I was out of the city at the time, I did not have the opportunity to pay tribute to a friend and fellow Wyomingite who has distinguished himself in his country's service. Gen. Samuel B. Phillips of Cheyenne, Wyo., was on August 1, 1973, promoted to the rank of four-star general and assumed command of Andrews Air Force base.

Mr. President, we in Wyoming have

watched very closely General Phillips' accomplishments. We are proud of what he has achieved and believe his recent promotion is well deserved and a tribute to his exceptional talent and ability.

Sam Phillips' achievements are numerous. Although I will not elaborate on all his honors, I would like to briefly note some of them.

During World War II, he served with the 364th Fighter Group, 8th Air Force, in England and completed two combat tours of duty in the European theater of operations. He was awarded the Distinguished Flying Cross with one oak leaf cluster, Air Medal with seven oak leaf clusters, and the French Croix de Guerre.

General Phillips returned to England in 1956 as chief of logistics for the 7th Air Division of Strategic Air Command. His participation in writing the international agreement with Great Britain for the deployment and use of the Thor Intermediate Range Ballistic Missile earned him the Legion of Merit.

In September 1969 he was awarded the Air Force Distinguished Service Medal for his service with NASA from December 1964 to August 1969. He also was awarded two NASA Distinguished Service Medals by that agency in 1968 and 1969 for distinguished achievements and contributions to the Apollo program which put America's first men on the moon.

While this is just a brief summary of his many achievements and honors, it does provide an insight into General Phillips' abilities and talent. We in Wyoming wish him the best in his new assignment and offer him our sincerest congratulations.

## NEW CROP PREDICTIONS

Mr. DOLE. Mr. President, the Department of Agriculture has announced it will make public its internal working projections of next year's harvests.

The first issue of the new series of brief, periodic reports will be released on Friday, September 14, after the close of the commodity markets. The first report will focus on corn, feed grains in total, wheat, soybeans and products, upland cotton, and rice. It will consist of tables and accompanying text that analyzes and explains the data.

This report will make available to farmers, small commodity traders, and the general public the kind of expert forecasts which, until now, have been available only to some of the large traders, or Capitol Hill experts, or firms with the staff and sophisticated know-how to untangle the various threads of agricultural intelligence and weave them into a logical production pattern.

The public will now be informed as quickly as possible whenever new market-sensitive estimates are developed. This forthright action should abate some of the unfair criticism that has been hurled at the Department in recent months charging "secret knowledge."

Mr. President, I find it of interest that the first word of this new report came from a good friend, a fellow Kansan, and former wheat grower himself, Glenn Weir, who left the wheat fields of Kansas to come to the Department of Agriculture. He is currently working on behalf of the farmers of America as Associate Administrator of the Agricultural Stabilization and Conservation Service and announced the USDA decision at the U.S. Feed Grain Council's national meeting at Lake Geneva, Wis., last week. It is significant that a long-time farmer announce this decision which will give farmers such a vital tool in planning and managing their farming operations.

Mr. President, I ask unanimous consent that the news release announcing this new reporting service be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

### NEW USDA RELEASE TO GIVE LATEST SUPPLY-DEMAND DATA ON COMMODITIES

WASHINGTON, September 7.—The first issue of "Agricultural Supply and Demand Estimates," a brief periodic report carrying the latest estimates of acreage, supply, use, and carryover of major commodities, will be released on Sept. 14, the U.S. Department of Agriculture (USDA) announced today.

The report is the result of a joint decision by Carroll Brunthaver, USDA's assistant secretary of international affairs and commodity programs, and Don Paarlberg, the Department's director of agricultural economics, that the public be informed as quickly as possible whenever new market-sensitive estimates are developed.

Coordination, approval, and release of the report will be handled by the Department's Outlook and Situation Board. The report will augment and update the Board's economic analyses and forecasts, as regularly published in its Outlook and Situation reports.

The first issue of the new report will focus on corn, feed grains in total, wheat, soybeans and products, upland cotton, and rice and will consist of tables and accompanying text to briefly analyze and explain the data. The report, to be released the afternoon of Sept. 14 after the markets close, will mainly reflect any significant changes in supply and demand for these commodities due to crop production estimates the Department will have made Sept. 11 in its release of the monthly report, "Crop Production." Data in the report may also reflect changes in other factors affecting supply and demand prospects.

Subsequent issues of the report will be keyed to crop reports, to quarterly grain stocks reports, and to other releases which would significantly alter supply and demand prospects. Subsequent issues will also cover additional commodities as necessary.

A copy of "Agricultural Supply and Demand Estimates" will be available free on postcard (please include zipcode) or telephone (447–4026) request from the Office of Communication, U.S. Department of Agriculture, Washington, D.C. 20250.

## SOUTH DAKOTA'S WALL DRUG

Mr. McGOVERN. Mr. President, if you leave this Chamber, head west down Constitution Avenue, cross Roosevelt Bridge, take the George Washington Parkway to the beltway and then go on Interstate 70, you will have only 1,591 miles to go to Wall Drug.

It will be well worth the trip. Wall Drug is an institution, an unofficial national monument and a must stop for anyone who wants a truly complete visit to South Dakota.

To explain how and why this all came about, I ask unanimous consent to have printed a recent Wall Street Journal article about Wall Drug, my friends, Ted and Dorothy Hustead, and Wall, S. Dak., in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### WALL, S. DAK., HAS POPULATION OF ONLY 800, BUT ITS DRUGSTORE DRAWS 10,000 A DAY

(By Richard D. James)

WALL, S. DAK.—This is a one-industry town. Nearly a third of the families here work for it. It occupies about a quarter of the business district. The Chamber of Commerce president says flatly that without it, the town would dry up and blow away.

The industry is the town's drugstore—Wall Drug. You may have heard of it, especially if you have ridden the Paris or London subways or the canal boats in Amsterdam, or if you have been to Vietnam, the South Pole or Shanghai. There have been signs advertising the store in all those places. You have almost certainly heard of it if you have ever driven across South Dakota. Wall Drug signs grow thicker on the rolling prairie out here than almost anything else. Along one 45-mile stretch of interstate highway, there are 53 of them.

Signs have been a way of life for Wall Drug ever since 1936, when pharmacist and owner Ted Hustead put up the first one on the highway two blocks from the store. It promised free ice water to hot, dusty motorists if they would stop. They did, and Wall Drug prospered beyond his wildest dreams, growing into a store that now attracts some 10,000 customers a day during the tourist season and does more than $1 million of business a year.

During the summer it employs 150 people working seven days a week in two shifts from 5 a.m. to 10 p.m. It outgrew its original 24-by-40-foot building long ago and now occupies more than an acre of space, taking up the better part of one side of Wall's block-long business district.

The town prospered, too. In 1954 it and a neighboring community, Quinn, were the same size—600. Quinn has since shrunk to 150 people, but Wall has grown to 800.

#### THE ATTRACTION OF WATER

Free ice water is still one of Wall Drug's biggest attractions. Mr. Hustead, who now is 70 years old and is on the job every day, figures that the store gives away more than 5,000 glasses of it a day, not to mention innumerable water jugs that are filled and iced free. The store has $30,000 of equipment capable of turning out 1½ tons of ice daily, a far cry from the days when Mr. Hustead cut winter ice from nearby farm ponds and stored it for the summer.

Mr. Hustead bought the store in 1931 for $2,500. Business wasn't good. The first month's gross was $350. Fearing he couldn't maintain a home and make the grade in those Depression days, he curtained off the back 20 feet of the store and moved in with his wife, Dorothy, and their four-year-old son, Bill. This was home for more than six years.

The free ice water was Dorothy's idea. One blazing-hot Sunday afternoon in 1936, listening to the cars swishing by on their way from the Badlands to the Black Hills, she thought that the motorists must be terribly hot and dry. She suggested that Ted put up a sign: "Get a soda/Get a beer/Turn next corner/Just as Near/to Highway 16 and 14/Free ice water/Wall Drug." It was corny but effective. West of town he put up other signs: Slow down the old hack/Wall Drug Corner/Just across the railroad track."

Today there are some 200 signs in South Dakota, Wyoming and Minnesota. There are countless others—one estimate is 3,000—that friends have put up in other states. Two men and a truck work nine months a year servicing those in South Dakota and adjoining states. In addition, making new signs keeps two professional sign painters busy. This year Wall Drug will spend $100,000 on its signs, says Bill Hustead, now the store's general manager.

### SIGNS OF THE TIMES

Putting up signs overseas was started after World War II by a friend traveling across Europe for the Red Cross. The idea caught on among U.S. servicemen overseas, who began writing the store for more signs. They still do. The Husteads have sent more than 200 signs to servicemen in Vietnam.

The store has received snapshots of its signs taken by travelers all over the world. One from Shanghai shows a sign in English and Chinese that says: "Shanghai to Wall Drug Store, 9,066 miles."

The Husteads haven't any idea who put it up.

The advertising pays off. One survey shows that 45% of all westbound autos on Interstate 90 near Wall, and a slightly lower proportion of those eastbound, turn off to visit the store. A recent visitor walking along Main Street counted cars from 20 states, including Florida, California and New York.

Besides free ice water, one of the store's traditions has been a nickel cup of coffee and a breakfast of two eggs and two slices of toast for 25 cents. Rising costs have forced a change. The breakfast now is 49 cents, but coffee still is five cents. The original soda fountain has been expanded into a 475-seat cafe built around a huge cottonwood tree that grows up through the roof. On a busy day patrons consume 250 dozen eggs and 6,000 homemade donuts.

Of the 150 summer employes, about 70 are college students from around the country. Over the years the Husteads have bought 10 old houses in Wall to use as dormitories for the students. The students pay $8 a week rent, but if they stay through Labor Day, they get a $5-a-week refund as an incentive to stay the full summer.

The Husteads set curfews of 11:30 p.m. on weekdays and 1:30 on weekends. "It's hard work, and we feel they need a full night's sleep to do a good job," Bill says. "Besides, auto accidents can happen late at night, and we want to send our kids back home in one piece." The students don't seem to mind: about half of them return each year.

### A CRAM COURSE FOR EMPLOYEES

When they arrive, they are given a cram course in the history of the Badlands and the Black Hills and are told to memorize the mileage from Wall Drug to such tourist attractions as Mount Rushmore. Then, to make sure they have learned it, they are given a quiz. "If tourists remember Wall Drug, it won't be because we have such a great store but because of the people who waited on them," Ted Hustead says. "We want them to be cheerful and helpful."

Merchandise ranges from the usual drugstore items to steer skulls, cowboy boots, Sioux-made moccasins, snakebite serum, lariats, Levis and leather caps. And, yes, you can still get a prescription filled. Ted and Bill are both registered pharmacists, and they fill at least 20 a day.

There are also plenty of tourist souvenirs. Snake ashtrays made from plaster of Paris and painted to resemble rattlesnakes are a best seller. They are made by a Black Hills resident who uses live rattlers to make the molds for casting the ashtrays. Another popular item: Jack-a-Lopes. Made by a local taxidermist, they are stuffed jackrabbits sporting antelope horns.

The store has other atractions, such as the Cowboy Quarter—a mechanically animated display, including a hound dog that scratches its ear with a hind foot. Twenty-five years ago it was part of a window display at the May Co. department store in Denver. It pumps out Western music every 10 minutes and draws a crowd. Or there is a bucking horse (stuffed) that gets so much use by the kids it has to be replaced every two years.

Over the years Wall Drug has had its share of famous visitors including Jack Dempsey, Clark Gable and Ernest Hemingway. A few years ago the store began receiving mail for actor Frederick March. It accumulated for several weeks, and then one day, without warning, Mr. March walked in and asked if his mail had arrived. He explained he was heading East and had needed a place to forward his mail so he could pick it up along the way. It was handed over, and he thanked the Husteads and left.

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## RAILROAD RELOCATION STUDY IN OMAHA, NEBR.

Mr. **HRUSKA**. Mr. President, like many of my colleagues in this body, I used the opportunity of the recent congressional recess to spend time traveling in my home State. One of the most pleasant occasions during my stay was a meeting in Omaha on August 10. It was at that time that Mr. John Ingram, the Administrator of the Federal Railroad Administration, visited the city to announce a $70,000 grant for a railroad relocation study in Omaha.

Mr. President, this was a happy occasion for the citizens of Omaha and Council Bluffs, as well as our many friends in the six-county region which will be directly affected by the relocation study. It was not the dollar amount of the grant which was significant. Rather, the grant was another example of the joint effort being launched between the public and private sectors in Nebraska and Iowa—a partnership begun over a year ago that sees as its final goal the redevelopment of a 54-mile stretch along the Missouri River known to us as the riverfront development program.

The grant from the Federal Railroad Administration will enable Omaha and Council Bluffs to conduct a study to consolidate railroad trackage in the downtown Omaha area while releasing valuable riverfront land for higher priority use.

Mr. President, Omaha and Council Bluffs are the fourth and fifth largest railroad centers in the United States. Our communities have grown up with the railroads. Now we see the eight railroads serving the region, the cities of Omaha and Council Bluffs, and the riverfront program working together to combine talent and free resources for what we hope will be an era of real progress in developing the vital riverfront area.

Mr. President, the Federal Railroad Administration made a very special effort under their limited grantmaking authority to participate in this venture. The citizens of Omaha and Council Bluffs are indeed fortunate to serve as a model for other cities having similar transportation problems.

The role that the Federal Railroad Administration played in this grant and will continue to play as the study continues is no better stated than in the words of its Administrator. For these reasons, I wish to have printed in the Record the remarks of Mr. John Ingram.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Department of Transportation,
Federal Railroad Administration,
*Washington, D.C.*

Remarks Prepared for Delivery by John W. Ingram, Administrator, Federal Railroad Administration, at Rail Relocation Luncheon, Omaha, Nebr., August 10, 1973

Good afternoon, ladies and gentlemen.

I am delighted to be here in Omaha with you, and indeed honored by the presence of so many distinguished citizens, led by members of Nebraska's and Iowa's Congressional delegations.

The very fact that this room is filled with thoughtful and knowledgeable fellow Americans attests to their pride in the cities of Omaha and Council Bluffs. Their concern for improving their communities' way of life is exemplified by the importance they attach to advantageously relocating or consolidating metro center rail facilities for the betterment of these cities.

I think the most significant aspect of our meeting today is the cooperative discussion between community leaders, senior representatives of Omaha's business sector, top management executives of the eight railroads serving this area, and Federal, State and local Government officials. All of us are here to assist each other in achieving common goals.

This gathering symbolizes a community spirit that usually is apparent only during natural disasters or other sudden crises. But this same spirit can provide the energy for practical planning. Here in Omaha and the surrounding area, all of you who are directly or indirectly concerned with your cities and communities are jointly addressing a mutual problem. The fine lines drawn between public and private sector vanish in the recognition that it takes the efforts of many to create a better place for all of us to live. This assembly is proof that the cherished American motto—"E Pluribus Unum" (One From Many) is as valid today as when Benjamin Franklin, John Adams and Thomas Jefferson first proposed it for inclusion in the Presidential seal exactly 197 years ago today—on August 10, 1776.

As you all are aware, we in the Department of Transportation are participating in a number of studies intended to develop the feasibility and cost effectiveness of railroad relocation projects in the context of transportation improvements.

Efforts to advance urban railroad relocation projects frequently are deterred by administrative, financial or technical difficulties, or all three. Administrative difficulties are created by the multiplicity of parties involved, both public and private, and by the lack of *one* organization with sufficient overall responsibility and authority to advance the work.

Happily, this is *not* the case here in Omaha.

On the contrary, you astutely anticipated possible administrative difficulties, and vested in a single agency responsibility for your comprehensive program for integrated development of the riverfront Omaha shares with Council Bluffs.

Three years ago, you laid the foundation for the present Metropolitan Area Planning Agency (MAPA) by forming a transportation task force comprised of people representing local government; business; air, rail, highway and navigation interests; environmentalists; and others with a deep and abiding interest in the community's continued progress and growth.

I have watched your grass roots efforts with both interest and admiration, and I am well aware that two years of hard work and careful planning, as well as many compromises, made for the common good, have gone into your recommendations for the downtown Omaha Riverfront Redevelopment. The time you have invested in this effort will, I am sure, have a major payoff.

In early February of this year, members of my staff met with the Riverfront Development Committee, with MAPA and many other state and local officials. Their report said that the result of your combined efforts was the best organized, best planned, and most ready-to-go relocation study plan they had investigated.

Their findings weighed heavily in favor of the contract FRA has recently signed with MAPA, and there is no doubt in my mind that the Department of Transportation's infusion of study funds would have been made earlier except for the problem that FRA is not designated as a grant agency.

I am, indeed, happy that FRA is able to contribute to this study.

One of the first tasks ahead of you and the consultants hired for the project is a rail system inventory and analysis, upon which meaningful and valid decisions will have to be founded.

As of now, I doubt that there is anyone who really knows *all* the relevant facts—facts which are essential for rational and orderly planning and development.

We do know that the functional and physical obsolescence of the manufacturing plants and warehouses in the riverfront area has resulted in a major exodus of business and industry to the southwestern industrial parks.

We also know that the older residential areas closest to this economic and aesthetic blight have suffered.

But the renaissance of the riverfront has already started, thanks to your dedicated efforts. Changes have occurred already.

The Burlington Northern has relinquished its riverfront freight yard and consolidated it with the Gibson Yard in South Omaha. The land it formerly occupied is now cleared and available for redevelopment. So is the land formerly occupied by the Union Pacific passenger yards.

However, to permit redevelopment of the entire area, it may be necessary to consolidate approximately eight widely separated sets of tracks belonging to the Union Pacific, the Burlington Northern, and the Chicago and Northwestern into two or three sets of parallel tracks.

This much we know—or *think* we know.

The list of what we *don't* know is considerably longer, and it starts with such basics as—how many miles of track are we talking about? How much land is involved in the areas in which the tracks are still in place? What will the major changes contemplated require in the altering of rail operations?

Such questions pertain not only to the Omaha side of the river, but to the Council Bluffs side as well.

Now, it must be evident to everyone that the location of the rail plant in this area is not necessarily required for today's traffic pattern. Rail system needs today in the era of superhighways and canalized rivers obviously have greatly changed since the mid-1800's. When the Union Pacific chose the sites they use today, Omaha became a key point in the first transcontinental railroad line and the area grew and prospered. Today railroad facilities may be superfluous to the industry and create an impediment to urban progress.

For the railroads, poorly located plant and trackage poses severe problems of a different kind. It sometimes means needless maintenance costs, low speeds through areas with grade crossings, and other operational restrictions. These result in inefficient rail service—an important factor in railroad costs. Of course, some rail plant is located right where it should be—and in any case, there are costs associated with facility movement.

So, while we all can agree, I think, that the rail plant can be streamlined—even though the community and the railroads may reach these conclusions for entirely different reasons—divergent opinions may emerge on whether to relocate any given line or yard. Modern, streamlined railroad operations must be just as important an objective in this study as are the other laudable objectives.

Thus six countries—Nebraska's Sarpy, Douglas and Washington Counties, and Iowa's Mills, Pottawattamie and Harris Counties—may well be affected, directly or indirectly. The relocation study will investigate and probably develop several alternatives which should be considered on the basis of economic, physical, aesthetic and environmental merits.

Another factor which undoubtedly will influence the ultimate decision and adoption of a specific plan will be the cost of relocation—and who will pay for it. It will be important to perform exhaustive, in-depth cost/benefit analyses, so that all parties involved in a possible relocation move—the community, the railroads, industrial and other interests—will know the economic consequences of the implementation of any specific plan. It would be a serious mistake to develop a major relocation plan and not be concerned with the means to finance its implementation.

The eight railroads serving this area certainly are in sympathy and basic agreement with the community, and they are proving their good faith and goodwill by contributing to the dollar cost of the present study. The Union Pacific has agreed to render in-kind services. So has the Burlington Northern, the Chicago and Northwestern, the Illinois Central, the Missouri Pacific, the Milwaukee Road, the Norfolk & Western, and the Rock Island. Each will be cooperating.

The urban railroad problem is a large issue and getting larger. There are a host of plans on the shelf to deal with the problem, and, in most cases, quite frankly that is where they belong. Few have been coordinated with or into the master transportation plan for the community.

Planning as it may affect the railroads is a new process evolving within the Government, and, therefore, will move slowly. Where some of the transportation planning processes start with grant legislation as a base, the rail planning process often begins with the public debate over issues or problems. The absence of a grant program obligates the Federal Railroad Administration to problem definition and priority determination which it must do unilaterally. Grant programs differ in that they delegate a share of the planning process to the states or institutions involved.

Planning what will happen to privately owned railroads and then financing the needed work is something that is usually left to other than Government agencies. And this is right and proper. But as a result, most of the improvements in transportation have taken place in highways and waterways where Government grants support the needed planning and implementation. We would like to work toward including railroads in this planning process. Frequently public money would be better spent on rail than on other modes of transport but at present this option is usually not even considered.

In recent years we have seen that there is a real need for a planning program for the railroads. State and local governments have extremely limited resources for planning improvements in rail facilities. This is especially critical in urban areas where major rail facilities are being abandoned, relocated or improved. The immediate involvement of the railroads and their influence on social and environmental goals is clear. The identification of the railroads as a means of providing economic solutions to social and environmental problems has been made by the Federal Railroad Administration, and research programs to provide data to plan intelligently for a rail system which will enhance social betterment have been undertaken. But, because the industry is, after all, private enterprise and despite widespread economic regulatory authority, only a very small amount of rail alternative planning dealing with social and environmental problems is done.

It is our feeling that transportation at the metropolitan and state levels can no longer be planned and developed in modal isolation and without regard to general land use planning.

In Omaha, the Federal Railroad Administration is participating within the unified planning process. This will enable us to gain additional experience concerning rail transportation planning and funding policies, programs and procedures, including a common planning framework and guidelines for institutional arrangements. It should result in a single integrated product combining transportation improvements with associated nontransportation improvements. Together these improvements should serve to economically satisfy travel demand, reduce adverse impacts of transportation, and generally promote the quality of life by helping to solve other urban problems.

In conclusion, we believe that our participation and involvement in the Riverfront Development Study will ultimately enhance our ability to include rail transportation programs in the States and metropolitan areas' planning and implementation package. We believe that our efforts are consistent with a broad spectrum of potential legislative actions and would, in fact, facilitate recommendation of new legislation, should it prove to be necessary.

Here in Omaha, we are seeing again how business and Government are working together to create beauty where there was blight, to improve commerce where there was stagnation. All your efforts will be rewarded by the consummation of the program mapped by MAPA. The 21st Century will find Omaha and Council Bluffs ready for the great developments of the future in which the American railroads will continue to play an important part as they have in the past.

Thank you.

## NORMALIZING RELATIONS WITH CUBA

Mr. McGEE. Mr. President, now that the summer recess is behind us I am planning to resume hearings in my Western Hemisphere Affairs Subcommittee on the question of normalizing relations with Cuba.

In this connection, I am prepared to explore the possibility of introducing legislation repealing the Cuban Resolution of 1962. As many of my colleagues may recall, Senate Joint Resolution 230 became Public Law 87-833. The Cuban resolution authorized the President to take whatever action might be necessary to prevent the export of revolution by force from Cuba to the Western Hemisphere and to prevent a Soviet buildup of offensive weapons.

As I noted on February 26 of this year, it is imperative that this Nation continue down the road of rapprochement. This effort should not be limited only to our relations with Soviet Russia or with the People's Republic of China. It must be applied to all nations in the world, whether they be large or small, whether they are at the center stage of international attention or not.

I believe it is time for the United States to begin looking to our neighbor in the South and initiate serious efforts toward normalizing relations with Cuba. I do not harbor any illusions that any initiatives on our part would elicit an automatic response from Fidel Castro. However, I do believe that the initiative belongs with the United States and we should explore every means, and exploit every opportunity, to foster an atmosphere which would be more conducive to negotiating a normalization of relations.

The present rigidity of U.S. policy towards Cuba can only lead to an isolation of this Nation from our friends in Latin America, as well as those who are not our friends. The evidence continues to build regarding this serious possibility. At present eight Latin American nations have broken with the United States, ignoring the sanctions voted by the Organization of American States in 1962 against Castro. Ecuador, Venezuela and Costa Rica are expected also to reestablish relations soon. Thus, one by one, other nations break with our position while we remain rigidly locked into an increasingly untenable policy.

The two preconditions set by the administration for any improvement in relations with Cuba—severing military ties to the Soviet Union and discontinuance of the policy of exporting revolution—have had the effect of freezing both nations into their respective uncompromising positions. We have given Castro no alternatives. We are telling him that he should act first, but at the same time we are resurrecting conditions that make it impossible for Cuba to take that first step.

Thus, I believe it is imperative that we begin pushing on the question of Cuba. For that reason, when my hearings resume in September, I will be calling upon expert witnesses to discuss legislative activity on the part of the Congress, such as repeal of the 1962 Cuban Resolution, which would be constructive initiatives on our part.

## THE 28TH ANNUAL CONFERENCE OF NATIONAL CONFERENCE ON CITIZENSHIP SEPTEMBER 16 AND 17

Mr. STEVENSON. Mr. President, the National Conference on Citizenship, a congressionally chartered nonpartisan organization, is this year celebrating the 20th anniversary of its unique mandate and will be holding its 28th annual conference on September 16 and 17 at the Statler Hilton Hotel here in Washington, D.C.

Good citizenship is essential to a sound democracy. What citizenship means however, is something open to discussion. Under its mandate to "contribute concretely to the education of a more alert, conscientious and progressive citizenry," the National Conference has this year taken up its charge with new vigor and is holding an especially useful series of workshops, panels and addresses for the general public. I would urge my colleagues and members of their staffs to take as active a part as they can in these proceedings. They promise to be an important contribution to the development of a more mature and responsive political life for our country.

## THE SITUATION IN CHILE

Mr. KENNEDY. Mr. President, we all watch the unfolding violence in Chile with sadness and regret, to see the tradition of political freedom and democracy and civilian rule that is so much a part of Chile's history come to an end.

Regardless whether or not one approved of the policies undertaken by President Allende, he was elected by the people of Chile and one views the action taken today and the violence now underway with great concern. I would far more wish to have this or any other government changed by an election rather than by force.

## DR. G. D. "DUKE" HUMPHREY

Mr. McGEE. Mr. President, Wyoming lost one of its great educators, last night, with the passing of Dr. G. D. "Duke" Humphrey at the age of 76. I had the privilege of working under Dr. Humphrey for 12 years when I was a professor of history at the University of Wyoming while he served as its president, and thus, I have a particular appreciation and respect for his contributions to the only 4-year institution of higher education in our State.

Dr. Humphrey guided the University of Wyoming through nearly 2 years of postwar growth and achievement. He served 19 years as President of the institution, from 1945 until 1964. It was during this period that the reputation of the university spread nationwide as an institution of excellence. Dr. Humphrey was the prime mover in the rebuilding of the University of Wyoming, both academically and athletically.

Dr. Humphrey was born in Tipph County, Miss., on August 39, 1897. He attended Mississippi State Teachers College and received his Bachelor of Arts Degree from Blue Mountain College, Miss., in 1929. In 1931, he was awarded an M.A. degree from the Chicago University, and in 1939, he earned his Ph. D. degree from Ohio State University.

Dr. Humphrey was an active teacher, principal, school assistant superintendent, and coach in a number of Mississippi educational institutions during the 1930's. In 1932, he was on the faculty of Furman University before serving as the Mississippi State High School Supervisor for 2 years. From that position he moved to the presidency of Mississippi State College—now Mississippi State University—where he served in that position from 1934 until 1945. In 1945, he assumed the presidency of the University of Wyoming.

Dr. Humphrey held long and active membership in many education organizations and was one of the founders and president of the Western Interstate Commission for Higher Education. He served as a member of the National Science Foundation Board from 1950 to 1962, in addition to serving as a consultant for the U.S. Department of Agriculture and an adviser to the U.S. Department of Interior for Saline Water.

In 1951, Dr. Humphrey was named Wyoming's "Man of the Year," and he was the recipient of the national 4-H alumni award in 1958. He held honorary degrees from Ohio Wesleyan University, the University of Arizona, and the University of Wyoming. He was active in numerous nonprofessional organizations, which was indicative of his sensitivities to community needs.

Widely published and respected in educational circles throughout the United States, Dr. Humphrey served as president emeritus of the University of Wyoming from 1964 until his death.

Wyoming has indeed lost a great educator. Yet, those of us who were fortunate to be associated with Dr. Humphrey, and those in our State who were the beneficiaries of his progressive policies at the university, will always turn to his memory as the individual who brought academic excellence to our only university. Few men have, and I doubt few men ever will, contribute as much as Dr. Humphrey did to the educational achievements of the University of Wyoming.

## PUBLIC FINANCING OF POLITICAL CAMPAIGNS

Mr. CLARK. Mr. President, just a few weeks ago the Senate took an important step forward in the battle to rehabilitate the American political process by passing the Federal Election Campaign Act. The strict limits imposed on campaign expenditures and political contributions, the establishment of an independent Federal Elections Commission—these and other features of the bill are all of significant value.

But, as many of us pointed out during the debate on S. 372, unless we begin to consider an alternative to the present system, all of this "election reform" will come to very little. It can never be a substitute for public financing of political campaigns.

Senator Pell's Subcommittee on Privileges and Elections will begin hearings next week on the various public financing plans now before the Congress. Hopefully, these hearings will provide the impetus for the passage of a comprehensive public campaign financing bill in this session of Congress.

One of the first to recognize the critical need for such legislation was my distinguished colleague from California, Senator Alan Cranston.

He has contributed an article to the most recent issue of The Nation, which is an excellent statement of the urgent need for some kind of public financing. It also provides a preview of legislation which he will be introducing shortly. If there is no objection, I would ask that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Nation, September 17, 1973]

### How To Cure the Corruption

(By Senator Alan Cranston)

Our society has a recurring need to scrap and replace institutions and practices that have become outmoded. An egregious example of an American way whose time has passed is our method of paying for political campaigns.

It may have been all right in the free-swinging, underpopulated, largely agrarian democracy of the 19th century to have political candidates raise campaign money as they saw fit. At worst, rich people got richer and poor people got poorer, but the consequences of political corruption seldom shook the underpinnings of the American people's faith in the democratic system.

When Abraham Lincoln ran for Congress in 1846, his supporters raised $200 for his campaign. He won—and gave back $199.25, saying:

"I did not need the money. I made the canvass on my own horse; my entertainment being at the houses of friends, cost me nothing; and my only outlay was 75 cents for a barrel of cider, which some farm hands insisted I should treat to."

Today's candidate would envy Lincoln's concern with that barrel of cider. He did not have to worry about TV spots, computerized mass mailings, whistle-stopping by jet, $1,000 a-plate dinners, or the other superchrome paraphernalia of today's campaigns.

In the final third of the 20th century, social and economic power has grown prodigiously. The media possess a potential for influencing (if not controlling) the minds of millions of Americans. Corporate conglomerates have appeared, whose assets dwarf the wealth of nations. Our very government has grown into an unwieldy behemoth. An incipient American dictator would find in our government—right now—the tools for surveillance, for manipulation, for control and for retribution, beyond even George Orwell's predictions.

Our institutions of self-government and our elected officials are prime targets of those who seek to dominate these vast power resources. Gaining control of power is what political corruption in the 1970s is all about. And money, in the form of campaign contributions, is the means.

Watergate was a gross perversion of our democracy, but it was not an improbable consequence of the way campaign contributions, in huge sums, corrupt the political environment.

Political big money imperceptibly but inevitably erodes the imparitality of our best men and our best institutions. If the role of the big contribution continues to escalate in politics, Watergate will be only the first chapter in the deterioration of democratic government in the United States.

As Tom Wicker has written in The New York Times:

"All too plainly, and whatever laws may or may not have been broken, the sense of ethics of too many highly placed men in the Nixon Administration was sadly lacking. That fact, combined with too much money too eagerly given by too many compliant people, made Watergate and the cover-up possible, and the need for drastic change in election financing evident."

I believe that elected officials are clearly in the best position to know the effects of big money in politics. We have a moral responsibility to tell the American people how big money affects politics and we should have the courage to do so. I think the American people are in the mood for honesty. I know they will accept change in our method of financing elections if we talk to them honestly about the problem.

The costs of today's political campaigning force a candidate to seek hundreds of thousands, even millions, of dollars from private interests. The candidate and his campaign fund raisers must seek these people out.

Running for statewide office in California is an extreme illustration of the magnitude of such a fund-raising effort. A Senator from California serves the largest constituency ever to be represented by a legislator in the history of the world. Its 21 million people constitute a legislative district where political campaigning is big business requiring millions of dollars.

A Senatorial candidate might prefer to keep contributions small and broadly based, yet some reliance on big donors is politically inescapable because of the huge amount of money needed for a successful campaign in California. Senate races in California have cost up to $2 million.

A candidate knows that he will have to spend his time seeking out large contributors that would be better spent meeting as many constituents as possible—regardless of financial status. Sen. Walter Mondale has said, "the system . . . tells those who run for public office, 'you must first make your peace with those who have enough money to permit you to become elected.'"

The effect of large contributions on the victorious candidate is sometimes blatant, but usually subtle. He knows his victory was won in part by the generosity of those individuals who made large donations. He knows who they are; he remembers their names and the names of their companies.

If he is an honest man, he will not let big contributors determine how he is going to vote. But even the honest public official finds that he must give to the big donor's concerns his time and attention, his sympathetic ear, his willingness to intervene when he can do so legitimately.

The officeholder recognizes that while some big givers contribute solely for the sake of good government and a belief in the candidate and his principles, they are a minority. He knows that the majority expect their contributions will at least give them access to him. And access, at the least, means the ability to drop in anytime for an informal visit or to present their views before the officeholder acts on an issue.

A busy public official can see only a limited number of people in any one day. But he must always do his best to fit a major contributor into his schedule. That may squeeze out someone else who has as much—perhaps more—to say; it is utterly unfair, but inescapable under present conditions.

To eliminate the insidious influence of big money contributions we must, at the very least, impose absolute limits both on the amount of money an individual may contribute to a campaign and on the amount a candidate may spend. There's the rub. A meaningfully low limit on individual contributions would, under present methods of fund raising, create monumental problems for a candidate—especially for one who is challenging an incumbent in office.

Only public financing of federal campaigns can effectively resolve this problem. As Sen. Russell Long, chairman of the Senate Finance Committee has noted, public financing of campaigns would free candidates:

"from the need of going hat in hand to seek contributions, and in doing that it tends to protect the confidence of the public in the victor, and it tends to reduce the pressure to respond to the entreaties that are made to elected officials by those who contribute to the campaigns."

I believe we should limit the amount a person can contribute to a candidate for federal office to only $250—not $6,000 ($3,000 each in the primary and the general) as proposed in the Senate-passed reform bill. Not many people can afford to contribute $6,000 to campaigns—and those who do will continue to have preference over those who don't.

But to elicit the hundreds of thousands, perhaps millions of dollars of small contributions needed to amass the huge amounts required to run for the Senate or the Presidency would necessitate a massive and successful fund-raising campaign. This may not prove practicable for every candidate, especially for a challenger. To make things worse, such a fund-raising campaign itself would call for heavy outlays of money. Where is this "seed money" to come from?

The only workable answer, I believe, is a broad system of public financing to complement—and stimulate—small contributions by large numbers of people. I am introducing a comprehensive bill that will bring that about. Hearings on the measure will be held by the Senate Committee on Rules and Administration, chaired by Sen. Howard W. Cannon.

In brief, my bill would match with federal funds small individual private contributions in both primary and general federal elections. To qualify for federal funds a candidate for the House of Representatives would first have to raise at least $2,500 privately. A Senatorial candidate would have to raise $10,000; a Presidential candidate, $100,000. These are not formidable amounts, but they are high enough to keep out nonserious candidates who have no real base of popular support.

Candidates who raise this "qualifying" money from private sources would then become eligible for federal matching funds: 2 to 1 in the primary and 4 to 1 in the general election. However: (*a*) only private contributions of $50 or less would be eligible for federal matching, and (*b*) under no condition could any single person's private contribution exceed $250.

Moreover, there would be rigid limits on how much money—public and private—could be spent in a campaign: 10¢ per person of voting age in a Presidential primary and 15¢ per person in the general election, for example. All private and public contributions would be deposited in a single trust account to be expended under the supervision of a court-appointed bank officer.

The public financing formula I proposed has the advantage of covering primary as well as general elections. It would bring more people into the electoral process and decrease the influence of the so-called "fat cats."

Tight limits on nonmatching private contributions, added to the incentives of matching funds, will motivate a candidate to seek out the small contributor. Political influence no longer will require the kind of contributions made by Ashland Oil or American Airlines. It no longer will require the $2 million contribution of a Clement Stone. The American working man and woman will be on a par with the executives of the largest corporations. And what is equally significant, my proposal will enable the "outs" to raise sufficient funds to challenge the "ins."

The artificial limits imposed by other proposals severely hamper minor-party candidates. They fail to recognize that in some states or districts a third party may be, in fact, the major party, or that some candidates can run successfully as independents with widespread support. Handicapped by artificial limits, such candidates would find it impossible to run a winning campaign. My proposal places no restrictions on the minor-party or independent candidate. He can participate in the matching program as fully as his base of support justifies.

Incumbents in office have an understandable urge toward self-protection. We would be less than human if we did not. But we also know that equal opportunity is the very essence of democracy—and that the protection of equal opportunity for all Americans supersedes in importance the protection of incumbents in office.

Incumbents have overwhelming advantages quite apart from the matter of money. Some of these advantages—such as the recognition that comes from public service—cannot be affected by any form of legislation. But if we insist upon maintaining—or expanding—the money-raising advantages we already possess, we will betray our trust.

We should not try to postpone the inevitable. I believe reform must come, and I predict that more than one of those incumbents who stand in its path will be swept aside—and out. And rightfully so. After all, what have our careers in public life meant if we permit self-interest to dominate our actions on this most crucial of issues?

I estimate my proposal would cost the individual taxpayer $1 or $2 a year—a bargain price to pay to take the curse of big money out of the political system and get it back into the hands of the people, where it belongs. As Clayton Fritchey has pointed out, public financing of an election year's campaigns "at the maximum . . . would be less than one-tenth of one per cent of what Vietnam cost."

The fact is that big campaign contributions buy economic privileges of various kinds, like tax breaks, exceptions to the law, special subsidies or careless law enforcement. Every one of these economic privileges takes money out of the pockets of the average American taxpayer. By spending $1 to $2 a year the average citizen could get back literally hundreds of dollars in the form of fairer taxes, more competitive prices and better quality consumer products.

Events of the past year have caused some of those who have fought public financing in the past to rethink their positions. For example, Sen. Howard Baker, the vice chairman of the Senate Select Committee on Presidential Campaign Activities, said in late July: "I was one of the sturdiest opponents of public financing in the past. . . . In light of the hearings which have been held, I owe it to myself and the public to reconsider that possibility."

If enough members of Congress are willing to "reconsider that possibility," then we may finally be able to "shut off the underground rivers of private money that pollute politics at every level of the federal government," as Sen. Edward Kennedy put it. Ending our electoral system's dependence on large private donations may be the most crucial issue of our time. It goes to the very heart of our democratic process. How we resolve it will in turn determine how we resolve every other problem our nation faces.

## EDUCATIONAL PROBLEMS IN HIGH SCHOOL BOOKKEEPING

Mr. PELL. Mr. President, as I am sure my fellow Senators know, one of the side benefits of being a subcommittee chairman is that many new ideas in connection with the subcommittee are brought to the attention of the chairman. As chairman of the Education Subcommittee, I am in a position to hear about a broad range of ideas and proposals to improve education. Many times these ideas do not lend themselves to legislation but do have merit.

Recently, Nicholas Picchione from Rhode Island brought to the attention of the subcommittee an idea for the solution of educational problems in high school bookkeeping. He has suggested that the complexities of double-entry bookkeeping are too difficult for beginning high school bookkeeping classes and that the simpler approach of single-entry bookkeeping could well be used to introduce students to that course.

Mr. Picchione has developed a curriculum manual and a teaching guide to assist with the single-entry teaching method, which demonstrate an efficient and adequate yet simple method of teaching bookkeeping. It is for this reason that I would bring Mr. Picchione's comments on this subject to the attention of the Senate.

I ask unanimous consent that a letter from Mr. Picchione, together with his exhibits, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Nicholas Picchione & Co.,
*Providence, R.I., June 5, 1973.*

Subcommittee on Education, Health, Education, and Welfare,
*New Senate Office Building,*
*Washington, D.C.:*

I feel very strongly that something must be done to stop the tremendous number of dropouts in high schools and colleges in the introductory courses in the subject of Bookkeeping.

As a Certified Public Accountant and former member of the faculty of Northeastern University, I speak with broad knowledge and years of experience when I say that Bookkeeping is not being properly taught in high schools and colleges throughout the country.

The subject of Bookkeeping by its very nature is one of the most difficult and complex subjects for the teacher and for the student. To make matters worse, the presentation at the inception of the course is so cold, technical and dehumanizing that it is a small wonder that the dropouts are not larger. This is a great tribute to the student's inherent desire and determination to seek knowledge.

My chief concern and desire is that some way must be found to stop these severe dropouts. I think that I have found the answer to this vexing problem.

It is rather simple but effective, namely, a brand new approach in the initial presentation of the subject of Bookkeeping.

Under present-day standards it is extremely difficult for the teacher to hold the interest of the students for the simple reason that double-entry bookkeeping is as enticing as digging a hole, refilling it and digging a hole again. It is utterly impossible for the teacher to excite the students because the subject is so dull, dreary and demoralizing.

What can we do to make the subject more interesting thus preventing drop-outs?

The first step is to try a new approach which would create a new found interest on the part of the students. How is this accomplished?

This is accomplished by teaching the simple basic concepts of single-entry bookkeeping applicable to millions of small businesses, instead of teaching the complicated principles of double-entry bookkeeping which is applicable to only a small number of businesses. In this manner the students will learn to record a series of transactions in a way they can easily follow and understand.

It should be explained to the student that America is made up of millions of small businesses. The very foundation of our economy is small business. Therefore, from the very outset the student must understand, and the teacher must make clear, that their first priority in studying Bookkeeping is to know the needs and problems of small business and how to cope with them.

It's both shocking and amazing that with over 10 million (See Exhibit D) small business firms in America having sales of less than $100,000 per year that the only Bookkeeping the students are taught is double-entry bookkeeping. To make this situation even more unbelievable is the fact that over 7 million small businesses in America have sales of only $1,000 to $25,000 annually (See Exhibit D).

What good is it to the students to master the complexities of double-entry bookkeeping only to find out when they enter the business world that what they learned in high school and college does not apply to the great majority of situations they will encounter?

The goal of your Committee, educators, superintendents, principals and teachers is to try to put a stop to drop-outs in Bookkeeping classes. My plan, or idea, or suggestion may not stop drop-outs completely but will certainly sharply curtail them. If high school students can't generate enough interest in their course on Bookkeeping because teachers are shoving double-entry bookkeeping down their throats instead of winning the students over with Single-Entry Bookkeeping, then I say your Committee should do something about it. If what I say or recommend accomplishes this objective, then your Committee should take a firm hold on this unhappy situation and do something about it.

There are 10 million small business firms using single-entry systems out there in the business world, yet in their class rooms, the students never learn a thing about single-entry bookkeeping. Your Committee should do something about it.

As a Certified Public Accountant and former teacher, I am trying to do something about it. I cannot do it alone. Your Committee is the only one that can do it.

I have successfully designed a simple practice set in Single-Entry Bookkeeping and have been spending my time and money to reach the high schools and colleges in the country. I spoke to a group of bookkeeping teachers in California, Chicago, and Miami which has resulted in some success. Everywhere I go I am met with enthusiastic responses because there is a dire need for our young generation to learn Single-Entry Bookkeeping.

Here are excerpts from six school officials on their favorable reaction to the use of Single-Entry Practice Sets in their courses.

Dr. Keith N. Bennett, Principal of the Miami Senior High Adult Education Center, in his letter to me dated January 22, 1973 (See Exhibit G) was generous in his applause for the discovery of a new method of teaching Bookkeeping. Here are his words of praise, "Your single-entry bookkeeping system seems so logical and so necessary that I am amazed that no one advanced a theory and practice long before you did. I think your method and your materials are the answer to every small businessman's prayer. They want a bookkeeping system they can understand and manage by themselves".

Please note that in Dr. Bennett's letter he mentions my talk before Dr. Waggoner (who is the head of the Miami High School Department) and all of her department heads and how I made a "very positive impression".

From the Department of Education, State of California's letter to me dated July 19, 1972 (See Exhibit H) acknowledgement is made of the fact "that much of the teaching in our high schools in bookkeeping and accounting should be geared to job entry level employment". In this letter the significance of single-entry bookkeeping is recognized as having its place in high schools teaching the subject of Bookkeeping.

From the San Diego City Schools, you will find a letter dated February 29, 1972 (See Exhibit I) commenting on the samples of the Single-Entry Practice Sets sent for examination and review. In this letter Mrs. Rilla C. Lovell, Business Education Curriculum Consultant wrote as follows, "Teachers have reviewed the material and have recommended that it be added to our approved supplementary list of instructional materials".

As further evidence that the Single-Entry Practice Set is just what teachers are looking for here is a quote from the January 16, 1973 letter from the Jones County Junior College, Ellisville, Mississippi (See Exhibit J). "We certainly enjoyed using the Practice Sets. It is exactly what we want in our Distributive Education Course at Jones Junior College".

From Miss Georgianna C. Dedrick, a teacher in the Santa Fe High School, Santa Fe Springs, California, I received a letter dated November 13, 1972 (See Exhibit K) in which she acknowledges receipt of a supply of the Single-Entry Practice Sets and says, "My present plans are to use it either the second or third quarters—which class, I haven't decided".

From the Department of Education, State of Rhode Island, I received a letter dated March 15, 1972 which states, "After examining your material, I believe that it could be helpful to some bookkeeping teachers." (See Exhibit L)

In conclusion, what I am saying is that to teach double-entry bookkeeping exclusively, as is now being done, is an injustice to the students. The proper and correct method is to start every bookkeeping course with a Single-Entry Practice Set, which will give the student the proper foundation and make him mentally receptive to comprehend the complexities of double-entry bookkeeping.

I sincerely urge that your Sub-Committee on Education look into the present deplorable situation and immediately take steps to correct same. I shall be only too glad to appear before your Committee at any time.

Respectfully yours,
NICHOLAS PICCHIONE.

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### INDEX OF EXHIBITS

Exhibit A—Letter to The Journal of Accountacy by Richard J. Vargo, D.B.A.

Exhibit B—Article entitled "An Experiment with One-Semester Introductory Accounting Course" which appeared in the January 1972 issue of The Accounting Review.

Exhibit C—American Business is made up of Small People.

Exhibit D—Is There A Need For A Single-Entry System? The Answer is Yes!

Exhibit E.—Why Keep Records?

Exhibit F—Single-Entry Bookkeeping in High School Classes Totally Ignored. Why?

Exhibit G—Letter from Dr. Keith N. Bennett.

Exhibit H—Letter from Department of Education—State of California.

Exhibit I—Letter from San Diego City Schools.

Exhibit J—Letter from Jones County Junior College.

Exhibit K—Letter from Miss Georgianna C. Dedrick.

Exhibit L—Letter from Department of Education—State of Rhode Island.

Exhibit M—Program—Rio Hondo College, Los Angeles, California.

Exhibit N—Program—Chicago Business Teachers Association.

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### EXHIBIT A

[From the Journal of Accounting, January, 1972]

### LETTERS TO THE JOURNAL

(From Richard J. Vargo, D.B.A., College of William and Mary, Williamsburg, Va.)

While Professor John C. Burton (JofA, Sept.71, p47) painted a gloomier picture of the future of accounting on campus than I foresee, he neglected to mention any of the reasons for its less-than-favorable current position. In my opinion, there are three major contributors to our inability to attract a larger number of bright students to the field of accounting. All three affect the introductory course(s) in the accounting curriculum.

The first contributor is the archaic, procedural type of textbook that abounds in accounting. The influence of the "traditional" textbooks on accounting education is immense and stifling (see John W. Buckley JofA, Aug. 70, p. 41). Debits and credits at the introductory level not only "turn-off" many nonbusiness and business majors but also may seriously reduce accounting majors' creativity and professional development at more advanced levels. The writer is hopeful that a broader approach, such as contained in the Report of the Study Group on Introductory Accounting sponsored by The Price Waterhouse Foundation, will eventually be widely practiced.

The second contributor to our present dilemma is the advancement of some of the better teachers and young researchers to teaching graduate courses exclusively. While much can be said about the need for improved graduate instruction and research opportunities, such a movement leaves a tremendous void at the undergraduate level. More consideration should be given to using the best and most enthusiastic teachers, regardless of their graduate capabilities, at the introductory accounting level.

The third contributor to lower accounting enrollments is the use of graduate assistants and other part-time instructors for many introductory classes. Most graduate students have not had any teaching experience and are poorly supervised by staff members, and all have as their prime responsibility their own degrees. Part-time instructors generally suffer from having extensive outside commitments—which tend to curtail their class preparation and advising of students on campus—lack of supervision and, in many cases, a very procedural viewpoint of accounting. While both groups are fulfilling a social need, and possibly a budgetary requirement, many potential students are lost because of ineffective teaching.

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### EXHIBIT B

(Quarterly Publication of the American Accounting Association)

### THE ACCOUNTING REVIEW

Enforcement of the Code Ethics—Stephen E. Loeb.

Efficient Markets and External Accounting—Nicholas J. Gonedes.

Market Reaction to Depreciation Switch-Back—T. Ross Archibald.

Environmental Complexity and Financial Reports Henry Miller.

Effectiveness of Consistency Exceptions Elba F. Baskin.

Technical Change and Reported Performance William L. Felix, Jr.

On Taxonomy and Accounting Research Orace Johnson.

Interim Reporting for a Seasonal Business William J. Bollom and Jerry J. Weygandt.

Economic Social and Enterprise Accounting A. Charnes, C. Colantoni, W. W. Cooper and K. O. Kortanek.

Nonsampling Errors in Confirmations Eugene Sauls.

Models for Debt Processes Over Time William F. Melberg, Jr.

Ranking Techniques and Capital Budgeting H. Russell Fogler.

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[From the Accounting Review, January, 1972]

### AN EXPERIMENT WITH A ONE-SEMESTER INTRODUCTORY ACCOUNTING COURSE

(By H. M. Anderson, B. A. Coda and J. W. Giese of North Texas State University)

For the past several years, we have experimented with the curriculum for the introductory accounting course. Our primary objective was the development of new material which would increase the beginning student's knowledge of periodic income and how it is measured for a business enterprise. A necessary complementary objective was an increase in the students' understanding of balance sheet and the relationships between income measure, the balance sheet, and the funds statement. A corollary objective was a decrease in the reliance on double-entry bookkeeping as the basic method of teaching accounting concepts. Some secondary but important goals were: relate accounting measurements to the actual business activity; explain the historical development of basic concepts in terms of a changing economic environment; and increase the emphasis on the uses and limitations of accounting information.

#### USE OF A COMPLETED VENTURE

A completed venture model was used first to present the basic concept of income determination. In a completed venture, income and cash flow are easily related. Cash receipts and cash disbursements are familiar ideas to most students. Conventional pedagogy begins by explaining income as a change in wealth, or net worth, an explanation which presumes a rather sophisticated definition for assets and liabilities.

Income for a completed venture is measured by the application of three equations:

1. Revenue equals total cash received less the sum of receipts from debt investments and receipts from equity investments.
2. Expense equals total cash disbursed less the sum of disbursements to debt investors and disbursements to equity investors.
3. Income equals revenue less expense.

#### PERIODIC INCOME DETERMINATION

The course introduces periodic income determination for an on-going entity by using the ideas introduced in the discussion of a completed venture. Cash flows related to operating transactions serve as the foundation for periodic measurement of income. Income is still defined as revenue minus expense but the definitions of revenue and expense are modified.

The calculation of revenue in the matching framework is nothing more than a smoothing of cash receipts based on traditional rules for realization. To accommodate these rules accountants modify cash receipts from operations with additions or subtractions for changes in accruals and for changes in deferrals. The definition of revenue and expenses for a completed venture are expanded to include these modifications. Symbolic to show the relationships of revenues, expenses, accruals, and deferrals. Algebraic manipulations of the revenue and expense formulas permits derivation of the balance sheet and its articulation with the income statement.

Thus a financial accounting framework for profit seeking business entities that is compact, complete, and reasonably easy to understand is developed using inflows and outflows of cash as a foundation. No use of, or reference to, double-entry bookkeeping is required. Procedural contents is thereby substantially reduced leaving students more time and energy for comprehension of important concepts.

### INTRODUCTION OF DOUBLE-ENTRY

In our opinion knowledge of double-entry bookkeeping, which for centuries has been an important and integral part of accounting is necessary to fully appreciate and understand the discipline of accounting. For this reason double-entry was included as an integral part of the experimental course; however, *the introduction of double-entry was delayed until after the student had learned the basic concepts*. Topics covered prior to the introduction of double-entry are:

1. The nature and purpose of Accounting,
2. Concepts of Income Measurements—Stock and Flow Approaches,
3. Measurement of Revenues and Expenses,
4. Measurement of Financial Position,
5. Classified Financial Statements—The Income Statement,
6. Classified Financial Statements—the Balance Sheet,
7. Cash Flow and Funds Statements.

Given the background developed in the first seven topics, the coverage of double-entry is surprisingly easy and efficient. The delay in presenting double-entry also assists students with the difficult problem of distinguishing accounting recognition in the sense of financial statement effect from recognition in the sense of making a record of a transaction.

After presenting double-entry bookkeeping, the following topics are covered in the remainder of the course:

1. Disposition of Services and Collection of Cash,
2. Acquisition and Use of Services—General Consideration
3. Acquisition and Use of Short-Lived Assets,
4. Acquisition and Use of Long-Lived Assets,
5. Investment Transactions,
6. Consolidation Financial Statements and Analysis of Financial Statements.

As shown by the list of topics, organization of the latter part of the course was based on business activities, as compared with a traditional organization based on balance sheet categories.

### ADVANTAGES OF THE EXPERIMENTAL APPROACH

The impact of environmental forces on accounting is shown by relating the evolution of accounting concepts to historical events. For example, a student's comprehension of our preference for a flow approach to income determination is enhanced when the preference is explained in terms of industrialization, the large corporate business, and the separation of ownership from management. Other important concepts are similarly placed in historical perspective throughout the course.

The emphasis on income improves the student's comprehension of the modern balance sheet. Definitions of balance sheet categories are delayed until after students gain some insight into their nature through the process of computing income as defined in terms of modified cash flows.

Other benefits of the approach are (1) students learn relationships they need to know in order to work incomplete data problems; and (2) preparation of cash flow analyses from income statements and balance sheets are easily understood because students simply reverse the process they used to compute income.

Under "Acquisition and Use of Services—General Considerations" a number of issues sometimes omitted in a traditional approach were discussed. One example was a description and comparison of service, trading and manufacturing concerns, which permitted a useful overview of product costs and period expenses.

As compared with traditional courses, the experimental course permitted a higher degree of generalization in the treatment of several subjects. Acquisition, use and disposition transactions for tangibles and intangibles were handled at the same time. The similarities as well as the differences between services immediately recorded as expenses as compared to those recorded as assets were easier for the student to learn. The recurrence of recognition, classification and valuation problems in handling business transactions was continually emphasized.

Finally, the stronger conceptual background permitted fairly sophisticated treatment of some transactions that customarily get only surface treatment. Examples include leasing transactions, pension contracts and executive compensation.

### DISADVANTAGES OF THE EXPERIMENTAL APPROACH

The advantages of the approach used in the experimental course are not cost free. The conceptual emphasis is more abstract and thus more difficult to master. Rote learning will not suffice for most students. A student must understand the concepts thoroughly in order to survive.

The instructors suffered a number of inconveniences. Problems suited to the unorthodox content of the course were in short supply. Many long-standing teaching habits were useless in the early part of the course.

Material ordinarily considered standard content in a first course in accounting was omitted or introduced as extraneous material. Bank reconciliations, internal control, cash management, the voucher system, and the details of payroll accounting were materials that fall into this category.

### AN ALTERNATIVE

We believe that students in the experimental groups learned more of the things they need to know than they would have if we had used a "traditional" approach to the first course. This belief is far from a proven conclusion. Throughout this paper the word "experiment" has been used in the sense of trying something new, not in the scientific sense of identifying all the important variables and then controlling some of them to determine the effect on others. We altered organization and the points of emphasis substantially and content to some extent. These changes forced some changes in pedagogy. Our impression that students in the experimental groups came out better equipped for further study of business or accounting may be unwarranted optimism on our part.

There is one thing certain. We tried something different and now have a good feeling about it—another dab of yeast which might add to the fermentation of the accounting curriculum.

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## Exhibit C—American Business Is Made Up of Small People

The great bulk of businesses in America is represented by small business men and women. In fact, out of 9.1 million business tax returns filed more than 7 million or 76% of the returns had business receipts of less than $25,000.

Take a look at the following revealing figures:

| Size of receipts | Number of returns (millions) | Percent |
|---|---|---|
| Under $1,000 | 1.4 | 15 |
| $1,000 to $2,500 | 1.4 | 15 |
| $2,500 to $5,000 | 1.2 | 13 |
| $5,000 to $10,000 | 1.3 | 14 |
| $10,000 to $25,000 | 1.7 | 19 |
| Total | 7.0 | 76 |

Now let's take a look at how profitable (?) small business is:

| Adjusted gross income | Number of (returns (millions) | Percent |
|---|---|---|
| With losses | 2.3 | 25 |
| Under $2,000 | .2 | 2 |
| $2,000 to $5,000 | 1.4 | 15 |
| $5,000 to $10,000 | 2.7 | 30 |
| $10,000 to $20,000 | 1.8 | 20 |
| Total | 8.4 | 92 |

It is quite clear from the above figures that American business is made up of millions of small people and judging from the size of business receipts and profit they are in dire need of financial and management assistance. As we all know the Small Business Administration was created precisely for the express purpose of aiding and assisting these people.

What are the high schools doing to cope with this situation? Teaching double-entry bookkeeping is of no help to these millions of small businesses because double-entry bookkeeping is for big business and not small business.

What is the alternative? The solution to this massive problem is to teach high school students the simple concepts of single-entry bookkeeping.

Let's take the cases of the 7 million small businesses who take in less than $25,000 a year Is it fair to burden these people with the expense of a costly double-entry system?

What these 7 million people really need and should have is a single-entry bookkeeping system so simple to keep and understand that they could actually keep the system themselves.

What the high schools should teach is single-entry bookkeeping. This is what the outside business world demands and this is what the students need to know.

Single-entry bookkeeping is widely used by the masses today yet is not even taught in our high schools. The teaching of single-entry bookkeeping is so important that it should be made a mandatory pre-requisite to every course in bookkeeping or accounting at every high school in the country.

### CONCLUSION

Outside in the business world there are an estimated 10 million Single-Entry Bookkeeping Systems in use compared to only about 1 million Double-Entry Bookkeeping Systems. Isn't this sufficient evidence that there is a dire need for high school students to know about Single-Entry? The answer is obvious.

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## Exhibit D—Is There a Need for a Single-Entry System? The Answer Is Yes!

As everybody knows most of the business firms in America are small. As a matter of record 9 out of 10 business firms have receipts of *less than* $100,000 a year. What this means is that 9 out of 10 business firms are too small to employ a double-entry system but are perfect for a single-entry system. Another way of putting it is—that a small business firm doing $1,000 to $100,000 a year volume should definitely use a single-entry system of bookkeeping.

The beauty of a single-entry system is that it saves you money because you can do it yourself.

There are over ten million business firms in America with receipts under $100,000 a year. Take a look at the official figures below as copied from the Internal Revenue Service:

| | Number of returns | Receipts under $100, 000. 00 | Receipts over $100, 000. 00 |
|---|---|---|---|
| Sole proprietors | 9, 126, 082 | 8, 721, 086 | 404, 996 |
| Partnerships | 906, 182 | 734, 023 | 172, 159 |
| Corporations | 1, 735, 144 | 921, 404 | 813, 740 |
| Total | 11, 767, 408 | 10, 376, 513 | 1, 390, 895 |
| Percent | 100 | 88 | 12 |

| Receipts | Number of returns (millions) | Percent |
|---|---|---|
| Under $1,000 | 1. 4 | 15 |
| $1,000 to $2,500 | 1. 4 | 15 |
| $2,500 to 5,000 | 1. 2 | 13 |
| $5,000 to $10,000 | 1. 3 | 14 |
| $10,000 to $25,000 | 1. 7 | 19 |
| Total | 7. 0 | 76 |

Of the 9.1 million sole proprietorships 7 million returns or 76% showed business receipts of less than $25,000.

The above statistics were prepared from Statistics of Income 1967, Business Income Tax Returns, Internal Revenue Service, Pub. 438 (8–70).

These figures show that approximately 9 out of 10 business firms in the U.S. have business receipts of less than $100,000 per year. It is quite obvious that these 10 million plus small business enterprises are too small in size to warrant the installation of a double-entry system, the engagement of a Certified Public Accountant and the hiring of a bookkeeper.

The only alternative for these 10 million people is to use a simple, ready-made bookkeeping record that the proprietor can actually keep himself and without the services of a Certified Public Accountant or a bookkeeper.

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### EXHIBIT E—WHY KEEP RECORDS?

There are many reasons for keeping records. The most compelling reasons are, 1) to know how well you are progressing and 2) because record keeping is required by law. As a bookkeeper you should be acquainted with the legal consequences of failing to keep records. Three things can happen if you fail to keep records, they are:

1. Disallowance of an expense—Any deduction that is questioned could be disallowed. If you cannot prove a deduction it cannot be allowed.

2. Reconstruction of income—In any case where a taxpayer keeps no records or his records are not adequate, the Internal Revenue Service has the authority to compute his income in accordance with whatever method will clearly reflect income. Most common methods employed by the IRS are the following:

Net Worth Method
Non-Deductible Expenditures Method
Bank Deposits Method
Percentage or Unit Mark-Up Method

In fact the IRS can use any method that will clearly reflect income and courts have been rather liberal in supporting a particular method used by IRS.

3. Criminal or civil penalty—Where willfulness in failing to keep records can be proved it is possible for a criminal penalty to be imposed. The fact is that the failure to keep records can be a misdemeanor. Where any part of a tax deficiency is due to negligence or intentional disregard of the rules—without intent to defraud—a civil negligence penalty may be imposed.

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### EXHIBIT F—SINGLE-ENTRY BOOKKEEPING IN HIGH SCHOOL CLASSES TOTALLY IGNORED. WHY?

A single-entry system is a simple record of cash received and cash paid out. It is accurate, complete and accepted.

There are over 10 million single-entry bookkeeping systems in use today compared to 1 million double-entry systems. Yet only double-entry bookkeeping is taught in high schools and colleges. Why?

Single-entry bookkeeping is actually unknown to high school students studying bookkeeping. Why?

The Internal Revenue Service accepts tax returns prepared from a single-entry system. But little is known of this fact. Why?

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### EXHIBIT G

MIAMI SENIOR HIGH ADULT
EDUCATION CENTER,
*Miami, Fla., January 22, 1973.*

NICHOLAS PICCHIONE,
*Chairman of the Board,*
*Dome Educational Aids, Inc.,*
*Providence, R.I.*

DEAR MR. PICCHIONE: Yesterday, I received your letter and the materials. I am sure that you made a very positive impression upon Dr. Carrol E. Waggoner and her department heads. Your single entry bookkeeping system seems so logical and so necessary that I am amazed that no one advanced a theory and practice long before you did. I think your method and your materials are the answer to every small businessman's prayer. They want a bookkeeping system they can understand and manage by themselves.

When we start our new trimester on April 23, we are going to start the beginning students in the single entry system which you have suggested. I am quite sure that Mr. Joseph Zaher, our County Coordinator of Adult Business Education, will suggest that all adult schools experiment with your system. I have not talked to Dr. Waggoner, but she may delay using the materials until the new school year starts in September.

Again, thank you for being so generous with your materials. I am also very glad to have had the opportunity to meet and talk with you. I hope our paths will again cross soon.

Sincerely,

KEITH N. BENNETT,
*Principal.*

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### EXHIBIT H

STATE OF CALIFORNIA DEPARTMENT
OF EDUCATION,
*Sacramento, Calif., July 19, 1972.*

MR. NICHOLAS PICCHIONE,
*Chairman of the Board,*
*Dome Educational Aides, Inc.,*
*Providence, R.I.*

DEAR MR. PICCHIONE: Your remarks concerning single entry bookkeeping systems are quite appropriate. They point out a significant fact that much of the teaching in our high schools in bookkeeping and accounting should be geared to job entry level employment.

The significance of single entry versus double entry bookkeeping is over-shadowed by the need for examining office occupations training in the high school to compare with that portion of the bookkeeping/recordkeeping or accounting principles that are needed by an entry level student.

It is not the practice of the Bureau of Business Education, California State Department of Education, to recommend specific texts or practice sets. We do believe your remarks about single entry bookkeeping are germane and appreciate your sending us your letter and your comments.

Sincerely yours,

BRINTON R. AIKEN,
*Chief, Bureau of Business Education.*

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### EXHIBIT I

SAN DIEGO CITY SCHOOLS,
*San Diego, Calif., February 29, 1972.*

MR. NICHOLAS PICCHIONE,
*Chairman of the Board,*
*Dome Educational Aids, Inc.,*
*Providence, R.I.*

Thanks for sending the examination copies of "Simplified Weekly Bookkeeping Record."

Teachers have reviewed the material and have recommended that it be added to our approved supplementary list of instructional materials. I am sure there will be some teachers who will purchase the set for further evaluation.

Your offer to come to San Diego to meet with teachers is very generous; however, as a general procedure we do not plan such meetings because of the number of similar requests we receive. Teachers prefer to review materials and, if interested, purchase some copies for further evaluation.

Thanks again for the complimentary copies.

MRS. RILLA C. LOVELL,
*Business Education, Curriculum Consultant.*

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### EXHIBIT J

JONES COUNTY JUNIOR COLLEGE,
*Ellisville, Miss., January 16, 1973.*

MR. N. EVERETT PICCHIONE,
*President, Dome Publishing Company, The Dome Building, Providence, R.I.*

DEAR MR. PICCHIONE: We certainly enjoyed using the Practice sets. It is exactly what we want in our Distributive Education Course at Jones Junior College.

My schedule was such last year that all students who will graduate this May took the course then, so it will not be offered this school year, and then next year I will offer it again and every year thereafter.

Sincerely yours,

WILSON PARTLOW.

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### EXHIBIT K

SANTA FE HIGH SCHOOL,
*Santa Fe Springs, Calif., Nov. 13, 1972.*

MR. NICHOLAS PICCHIONE,
*Chairman of the Board,*
*Dome Educational Aids, Inc.,*
*480 Benefit Street, Providence, R.I.*

DEAR MR. PICCHIONE: I do have your supply of Dome practice sets to be used in one of my classes, originally in my Shorthand II–secretarial practice clas.

However, in September I found I was assigned to teach a simulated office class so have not as yet determined for which class I shall use the set.

My present plans are to use it either the second or third quarters—which class, I have not decided.

As soon as I have completed the set in either class, I shall be glad to let you know the outcome of its use.

Sincerely,

GEORGIANNA C. DEDRICK.

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### EXHIBIT L

DEPARTMENT OF EDUCATION,
*Providence, R.I., March 15, 1972.*

MR. NICHOLAS PICCHIONE,
*Dome Educational Aids, Inc.,*
*Providence, R.I.*

DEAR MR. PICCHIONE: After examining your material, I believe that it could be helpful to some bookkeeping teachers.

As previously stated, my suggestion is that you forward samples to department heads of business in the secondary schools of Rhode Island. Should any of them feel that they can use your aids, I am sure you will be contacted.

Very truly yours,

FRANK A. PONTARELLI,
*Consultant, Vocational-Technical Education.*

EXHIBIT M

SINGLE-ENTRY BOOKKEEPING WORKSHOP

(April 24, 1972—Rio Hondo College)

Chairman: Mrs. Joanne Murphy, Citrus College.

3:30–4:00 p.m.—Registration & Refreshments.

4:00–5:50 p.m.—Program.

6:00 p.m.—Dinner.

Speaker: Mr. Nicholas Picchione, Chairman of the Board, Dome Educational Aids, Inc.

Coordinator: Dr. Dorothy M. Ford, Consultant, Career Education, Office of the Los Angeles County, Superintendent of Schools.

Refreshments and Dinner Sponsored by Mr. Picchione.

EXHIBIT N

CHICAGO BUSINESS TEACHERS ASSOCIATION

Chicago Business Teachers Association is proud to announce the 1972–73 Accounting and Consumer Education section meeting.

Topics: Consumer education and bookkeeping.

Speakers: Dr. Gerald Bober, Bureau of Business Education, Chicago Board of Education.

"The Importance of Consumer Education in the Curriculum",

Mr. Alan Muncaster, Public Affairs Department, Continental Illinois National Bank, who will present Continental's new series of instructional materials on consumer education, and Mr. Nicholas Picchione, C.P.A., of Dome Educational Aids, Inc., will present a new approach to teaching bookkeeping.

Date: Friday, November 17, 1973.

Time: 4:00 p.m.–5:30 p.m.

Place: Jones Commercial High School—Cafeteria, 606 S. State Street.

All persons interested in consumer education and/or bookkeeping are invited to attend! Refreshments will be served. No reply is necessary.

SHARON IVERSON,
BARBARA O'CONNELL,
*Co-Chairmen.*

## FEDERAL ELECTION REFORMS

Mr. SCOTT of Pennsylvania. Mr. President, in a recent poll of its members, the U.S. Chamber of Commerce learned that greater than 90 percent of those responding favor public disclosure of campaign contributions and an overall reform of the election process. I ask unanimous consent to have both a summary of the poll, and the poll itself, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OVER 90 PERCENT OF BUSINESSMEN FAVOR FEDERAL ELECTION REFORMS, CAMPAIGN COSTS DISCLOSURE, NATIONAL CHAMBER POLL SHOWS

WASHINGTON, September 8.—Members of the Chamber of Commerce of the United States support "public disclosure of contributions to and expenditures by all candidates for federal office," results of the business federation's nationwide survey disclosed today.

An opinion poll conducted by the National Chamber shows 94 percent of those members responding to a mailed questionnaire on federal election reform in favor of public disclosure. Ninety-three percent indicated they favored overall reform of the election process.

Voluntary funding of political campaigns received 76 percent support, but almost half of the respondents believe individual contributions should be limited.

Amounts contributed to a political candidate or party labor union and business-related political action groups also received attention. Eighty-three percent indicated they would limit political action committee contributions.

Contribution ceilings preferred for individual contributions were $2,500 per candidate or party. Limitations for business and union groups or by the candidate and his family were mixed but fell between $2,500 and $10,000.

An overall limitation on campaign expenditures was favored by 79 percent, but 72 percent opposed a limitation for media advertising expenditures alone.

Among other reforms favored are:

Registration and absentee voting for Americans overseas (72 percent).

Stricter laws and penalties to curb violence and other improper campaign practices (92 percent).

Four-year term for U.S. representatives (73 percent).

An independent agency to govern and enforce the Federal Election Campaign Act (74 percent).

Shorter campaign periods (88 percent).

Tax deductions for political contributions (68 percent).

On the question of repealing Sec. 315 of the Federal Communications Act to allow radio and television stations the option of granting free time to Presidential and other federal candidates of only the major political parties, returns were equally divided.

But 68 percent specifically opposed requiring broadcasting stations to grant free time to Presidential candidates. Seventy-nine percent opposed that requirement for Senate and House candidates.

National Chamber membership is composed of about 2,500 local, state, and regional chambers of commerce, American Chambers of Commerce abroad, trade and professional associations and more than 46,000 corporations, firms and individuals. Eighty-five percent of the companies employ 25 persons or less. The Chamber counts its underlying membership as more than five million.

Of the 49,000 questionnaires mailed, 6,882 or 14 percent responded. The polling period covered the last two weeks in July.

A report of the results is attached:

OPINION POLL (TOTAL RESPONSES, 6,882; GENERAL MAILING, 49,550)

[In percent]

| | Yes | No |
|---|---|---|
| 1. Do you believe there is need for Federal election reforms? | 93 | 7 |
| 2. Do you favor continued voluntary contributions to finance political campaigns or do you prefer government subsidization (funding) of Presidential, Senatorial or House (Federal) campaigns? | | |

| | For | Against |
|---|---|---|
| Continued voluntary funding only of all Federal campaigns | 76 | 24 |
| Government funding only of: | | |
| Presidential campaigns | 32 | 68 |
| Congressional campaigns | 28 | 72 |
| Combination of voluntary and Government funding of all Federal campaigns | 32 | 68 |

| | |
|---|---|
| 3. Do you favor public disclosure of contributions to and expenditures by all candidates for Federal office; and if so, in what amounts? | |
| 94 percent yes; 6 percent no: | |
| $10 and more | 4 |
| $100 and more | 25 |
| $500 and more | 18 |
| $1,000 and more | 30 |
| All contributions and expenditures | 22 |

| | Yes | No |
|---|---|---|
| 4. Do you believe that an individual should be permitted, as at present, to contribute as much as he wishes to a political candidate or party in a Federal election? | 48 | 52 |
| 5. Do you believe that labor unions and business-related political action groups should be permitted, as at present, to contribute whatever amount they wish to a political candidate or party in a Federal election? | 17 | 83 |

| | $2,500 | $10,000 | $25,000 | $50,000 | Other (specify) |
|---|---|---|---|---|---|
| 6. If you favor limitations on contributions to individual political candidates or parties, what minimum limit would you set for contributions by: | | | | | |
| (A) An individual? | 47 | 26 | 8 | 8 | 12 |
| (B) A business/labor political action committee? | 28 | 31 | 16 | 14 | 12 |
| (C) A candidate or a candidate's family? | 23 | 25 | 17 | 24 | 11 |

| | Yes | No |
|---|---|---|
| 7. Do you favor an overall limitation on campaign expenditures by all Federal candidates? | 79 | 21 |
| 8. Or, do you favor a limitation only on campaign expenditures for media advertising by a Federal candidate, as in present law? | 28 | 72 |
| 9. If your answer is "yes" to either question 7 or 8, do you favor an established formula, based on a fixed number of cents per eligible voter in the candidate's campaign territory (i.e., Nation, State or congressional district)? | 81 | 19 |
| 10. Present law gives a taxpayer the option to designate $1 of his Federal tax payment (called tax checkoff) to go to his party of choice for Presidential campaign fund: | | |
| Do you favor this law? | 48 | 52 |
| Would you favor increasing the tax option? | 40 | 60 |
| Would you expand such fund use to all Federal elective offices? | 37 | 63 |
| Would you repeal this law? | 55 | 45 |

| | For | Against |
|---|---|---|
| 11. Present law allows either tax deductions ($50 per taxpayer, $100 per joint return) or tax credits ($12.50 per person, $25.00 per couple) for political contributions: | | |
| Do you favor: | | |
| Tax deductions? | 68 | 32 |
| Tax credits? | 53 | 47 |
| Would you favor increasing: | | |
| Tax deductions? | 42 | 58 |
| Tax credits? | 34 | 66 |
| Would you repeal: | | |
| Tax deductions? | 33 | 67 |
| Tax credits? | 39 | 61 |
| 12. It has been recommended that sec. 315 of the Federal Communications Act be repealed to allow radio and television stations the option of granting free time only to major (not minor) party candidates. Are you in favor of or opposed to this recommendation? | 50 | 50 |

| | Yes | No |
|---|---|---|
| 13. Should radio and TV stations be required by law to grant free time to major party candidates?: | | |
| Presidential/Vice Presidential | 32 | 68 |
| Senate and House candidates | 21 | 79 |

| | For | Against |
|---|---|---|
| 14. What is your opinion on proposals to: | | |
| Require the Federal Election Campaign Act, including disclosure requirements, to be governed and enforced by an independent agency? | 74 | 26 |
| Limit time period for political campaigns, including period for contributions and expenditures? | 88 | 12 |
| Require each candidate to have only 1 central reporting/record keeping committee? | 92 | 8 |
| Grant free or reduced postal rates for Federal candidates? | 17 | 83 |

| | Yes | No |
|---|---|---|
| 15. Do you favor enactment of stricter Federal laws to curb violence or threat of violence, fraud, misleading or malicious charges, sabotage, espionage, and other infringement on rights or privacy or other improper campaign practices, and to provide appropriate penalties for same? | 92 | 8 |

| | For | Against |
|---|---|---|
| 16. What is your opinion on: | | |
| Retention of present 4-year term for President, subject to reelection? | 70 | 30 |
| 6-year single term for President? | 40 | 60 |
| Elimination of present 2-term limitation for the Presidency? | 24 | 76 |
| Retention of present 2-year term for U.S. Representatives? | 40 | 60 |
| 4-year term for U.S. Representatives with half of House elected every 2 years? | 73 | 27 |
| A proposal to allow voter registration by postcard, via the mails, with Federal and State supervision and direction of such registration, and with applicants to be subject to State election officials' approval? | 34 | 66 |
| A proposal to authorize qualified American citizens overseas to register and vote absentee in all Federal elections in the last State where they resided prior to going abroad? | 72 | 28 |

| | |
|---|---|
| 17. Check 1 of the following to indicate your firm's major activity: | |
| Mining | 2 |
| Construction | 12 |
| Manufacturing | 25 |
| Transportation | 3 |
| Communications and utilities | 3 |
| Wholesaling | 10 |
| Retailing | 10 |
| Finance, insurance | 11 |
| Real estate | 1 |
| Services | 9 |
| Trade or professional association | 4 |
| Local or State chamber | 7 |
| Other | 3 |

## A GLOBAL FOOD PLAN?

**Mr. KENNEDY.** Mr. President, we hear a great deal, and rightly so, about the growing energy crisis. But another, equally fundamental, crisis is developing in the world—a worldwide food crisis.

The most essential commodity needed to sustain human life is, obviously, food. So the threat of food shortages is menacing whenever or wherever they occur. Even in our own country, with a history of surplus, families today are acutely aware of a growing world food crisis and the interrelationship between international food pressures and domestic supplies.

So, Mr. President, as we take steps to remedy food problems here at home, we cannot neglect the global food problems, particularly those affecting hungry people in the Third World countries.

Yesterday, the Washington Star-News columnist Milton Viorst reviewed the global food problem in a provocative column which I commend to the attention of all Senators. Mr. President, I ask unanimous consent that this column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Washington Star-News, Sept. 10, 1973]

(By Milton Viorst)

### Needed: Global Food Plan

It may not seem as if a beefsteak shortage in a Chicago supermarket has much to do with famine in the sub-Sahara. One seems to be the product of poor economic management in Washington, the other of African drought.

But, in the long run, they are closely related—because in food, as in so much else, the world is growing increasingly interdependent. And the experts seem apprehensive that we are on the edge of a worldwide food shortage which will require, for the first time in decades, global cooperation and perhaps even global planning.

The problem, paradoxically, seems to stem largely from an excess of riches in one part of the world and an excess of poverty in the other.

This can best be understood by examining cereals, which occupy three-fourths of the world's crop area and provide most of man's food energy. What distinguishes the rich societies from the poor is the way these cereals are consumed.

Americans consume per capita almost a ton of grain a year—but less than 10 percent of it is in the form of bread and bread products. Most of it is consumed indirectly, through the feed that goes into animals, as meat, milk and eggs.

The citizens of the underdeveloped world consume a fifth of the per capita American intake. They subsist by consuming grain directly, at the rate of about a pound a day They have little to spare for conversion into animal protein.

Thus, it's fair to say that it takes five times as much in agricultural resources—land, water, fertilizer—to support an American as it does to support a Nigerian, Indian or Colombian.

Furthermore, the curve of American consumption is still rising. We each ate 55 pounds of beef in 1940, 117 pounds in 1972, and no one knows our ultimate capacity. Meanwhile, the other industrial nations are catching up with us—which means, in terms of the world's grain supply, increasing stress on the undeveloped world.

Unfortunately for the undeveloped world, inadequate food production both causes and is perpetuated by poverty. While the industrial countries invest to get greater food yields, the poor countries haven't the capital for fertilizer, irrigation, machinery, energy and the spread of technical knowledge.

For a while, great hope was vested in the so-called Green Revolution, the development of hardier strains of seed that seemed to promise abundance. But the Green Revolution, too, has required investment—and, almost a decade after the phrase became current, it seems to be a source of disillusionment.

Indeed, countries with considerable land mass like India, Nigeria and Brazil can, perhaps, triple their food production, if they can get the funds necessary to bring per-acre yields up to Japan and the United States.

Instead, for the past 20 years, food production in the undeveloped world has barely held its own with population increase. More important, it has not provided the sense of economic security which demographers believe is a prerequisite to slowing the birth rate.

The net result has been (almost as if no one were paying attention) that the world's grain reserve—concentrated in the United States, Canada, Australia and Argentina—began to diminish, and with Russia's crop failure and subsequent huge purchase last year, it virtually vanished.

The shortage has meant a major rise in the price of grain in the United States, followed by the imposition of government price controls and a reduction of beef supplies going to market. In the sub-Sahara, it has meant—despite generous American shipments from depleted stocks—impending starvation.

The American government, responding tardily to these new conditions, shifted its farm policy this year to encourage planting on every available acre. The new policy promises to abate any food crisis in the next few years, but it ominously eliminated the world's largest acreage reserve.

The answer to this problem—and some experts doubt whether there really is one—seems to lie in more investment by the rich countries in the farm lands of the poor ones. Of course, an alternative may be to let millions starve. Or we may give up beefsteak. But whatever we decide, we're likely to feel the effects of a food shortage, personally, for a long time.

## INDIANA OPTOMETRIST HONORED

Mr. BAYH. Mr. President, the highest award given by the profession of optometry is called the Apollo Award. I would like to add my personal congratulations to all the other tributes that have gone to Henry W. Hofstetter, O.D., Ph. D., of Bloomington, Ind., upon his being so honored by the American Optometric Association at its recent annual congress.

Dr. Hofstetter is widely known in the State of Indiana as an outstanding educator and researcher—known not only by those in the vision field but by all educators. Dr. J. C. Tumblin, outgoing AOA president, has called him a man:

> Who has devoted his life to the research and education that forms the backbone of quality vision care.

Although he has excelled in all phases of the profession, his contributions to education are perhaps the key to his career. He organized, nutured, and guided the division of optometry at Indiana University and for 18 years served as its director.

If that alone were not enough to merit the recognition and appreciation of his profession, he has added contributions to visual research—research in varied and vital topics such as accommodation, accommodation-convergence studies, color vision, illumination, industrial and environmental vision, strabismus and stereopsis. He has surveyed and studied the demographics and income data in the field, industrial safety, and optometric history.

Dr. Tumblin numbers him among the most gifted and respected researchers in optometry—the results of his research have benefited millions of Americans who have received improved vision care.

In addition, Dr. Hofstetter is well known for his far-reaching international influence in optometry. He has personally visited and allied the profession and optometric institutions in Europe, Africa, Australia, New Zealand, India, the Philippines, Singapore, Hong Kong, Thailand, Ceylon, and Fiji.

Again, as an administrator, Dr. Hofstetter has left his imprint upon professional organizations, serving as president of the Association of Schools and Colleges of Optometry. He is the first educator/optometrist to serve as trustee and president of the 17,800-member AOA.

Dr. Hofstetter himself refuses to cover himself with such glory. He speaks of himself as "a worker who, so to speak, kept the faith and tried to do a good job."

Dr. Hofstetter has compiled a record of achievement that few of us could hope to match. It is the dedication of such individuals that pulls and prods the human race along the road to progress. We all owe a debt to Dr. Hofstetter's accomplishments in the field of vision, one of our most precious gifts.

## THE LEGACY OF A BAD DRUG LAW—NO-KNOCK NURTURES LAWLESSNESS

Mr. PERCY. Mr. President, as a result of the mistaken drug raids on two Collinsville, Ill., families, I have received numerous letters and articles about other incidents from across our Nation.

Many of the letters provide a vivid account of how certain law enforcement officials, Federal and local, have broken into the wrong residences and have unjustifiably harassed the victims.

Perhaps the most reprehensible and traumatic incident happened near Eureka, Calif., as reported by Joe Eszterhas in the publication Rolling Stone and recently highlighed by Andrew H. Malcolm in the New York Times. A total of 19 agents, including 5 Bureau of Narcotics and Dangerous Drugs agents, 2 Federal chemists, 9 sheriffs deputies and an IRS agent moved in on the mountain retreat of Dirk Dickenson on April 24, 1972. The objective of the raid was to seize what was thought to be a "giant lab" producing drugs.

After arriving on foot with dogs and by air in a borrowed helicopter, agents assaulted the cabin with guns and rifles. Reports indicate the agents were not in uniform and failed to identify themselves.

Mr. Dickenson, apparently frightened, ran towards the woods. One Federal agent fatally shot Dickenson in the back. No "giant lab" was found.

Another particularly distressing incident happened June 2, 1973, in Tucson, Ariz., and was reported in the Tucson Daily Star,. Agents of a metropolitan narcotics squad rushed into the wrong house, did not possess a search warrant, were not uniformed, failed to identify themselves, and proceeded to kick furniture around as they searched the house.

At a later time the agents determined they were in the wrong house. This incident seems particularly outrageous in view of the fact that the agents subjected a 23-year-old girl, a polio victim who walks with the aid of crutches, to such conduct.

Like the newspaper accounts of incidents, letters continue to flow into my office concerning similar irresponsible conduct by some narcotics agents during drug raids. Many relate abuses by city, county, regional, or State narcotics agents.

The letters do not highlight incidents only from one locality or section of the country. Such incidents have prevailed, and continue to occur across our country.

In response, my distinguished colleague, Senator SAM ERVIN, has strenuously objected to the mistaken and unreasonable searches of innocent homeowners. Specifically, he, like myself, ascribes much of this conduct to the no-knock provision in section 879 of title 21 of the United States Code—Public Law 91–513. It is my fervent hope that a greater awareness as to the number and severity of these drug raids will underscore the need for a wholesale reconsideration of this legislation. Its mere existence on the statute books appears to induce more repugnant conduct by certain law enforcement officials, who misconstrue the mandate, than constructive assistance to the critical law enforcement effort against illegal drug trafficking.

Mr. President, I ask unanimous consent to have the article "Death in the Wilderness" appearing in the May 24, 1973, edition of Rolling Stone, and the article "Wrong Residence Raided by Police" appearing in the Tucson Daily Star appended to my remarks at this point. In addition, I ask unanimous consent that a sampling of five letters, including one which was forwarded to me by Mr. and Mrs. Herbert Giglotto—forced to move from Collinsville, Ill., as a result of their experience as innocent victims of a deplorable drug raid—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### DEATH IN THE WILDERNESS

(By Joe Eszterhas)

They were asleep in their cabin, at the edge of a woodline of sequoia and madrone, tucked safely into that vastitude of green darkness. Something woke her. He was staring at the ceiling, eyes large and unblinking. He was trembling.

"Tell me," she said.

. . . An execution squad was coming for him. Shotguns in their hands, hair as long as his own, wearing jeans, Army jackets, holstered .38s on their hips. They shouldered the cabin door, ripped it from its hinges, and kicked at the dogs with steel-toed combat boots. They saw him and stopped. He was on the back porch, frozen by panic, and couldn't move. They said nothing. Their faces were blank and waxy. They aimed and fired. He heard the gunshots and saw the glop of his own blood. He was dying. . . .

She held him and shushed him, and, together, they sought the familiar, reassurances of their pitchblack nights: Susurrus of coastal wind, the languid whoosh of redwoods, the thud and patter of their two St. Bernards, the moon's gentle white eye.

She thinks about his dream when she visits him these days. Judy Arnold looks at Dirk Dickenson's grave, on a plot of tacky suburban land far from his rugged proud mountains, and she remembers how she calmed him.

*"You aren't going to die, babe, it's just a dream, a lousy, rotten, silly dream."*

Stretching along the fog-shrouded Mendocino coastline to the Oregon border, Humboldt County, California, is a wilderness of skyscraping trees, rich green and russet foliage, and rock strata stark and magnificent. Sheep graze the hills and, except for US 101, the roads are knife-thin, veinous and steep. Parenthesized by mountain, the countryside is velvet-like and soothing. It is easy to be charmed here, to observe that all this polychrome beauty exudes a serenity: a nimbus of peace which hovers protectively over the treetops.

But there is little harmony in Humboldt; its splendor is a cruel mirage. Acres of redwoods have fallen victim to conglomerate cash registers and their arsenals of chainsaws. So there are hillsides which form sad and gutted bleakscapes of stumps, profound testament to the unending savagement of the big trees. The sound of sawtoothed metal screaming into wood has been echoed by the screams of dying men and their killers' weapons.

On the evening of February 26th, 1860,

a delegation of Humboldt sourdoughs, white settlers, visited a tribal celebration of Mad River and Yurok Indians. A young newspaperman named Bret Harte recorded their visit in the Arcata Northern Californian: "A report was brought from Eureka during the night that nearly all the Indians were killed by persons unknown. A few loaded canoes bringing the dead bodies to Mad River confirmed the report. A more shocking and revolting spectacle never was exhibited to the eyes of a civilized people. Old women lay weltering in blood, infants scarce a span long with their faces cloven with hatchets and their bodies ghastly with wounds." Two hundred Indians died—massacred, a local historian wrote, because they were Indians.

Decades later, in 1885, another posse of sourdoughs collected 480 "Mongolian Highbinders" as guilty as the Indians—of being Chinese. Accused of practicing amoralism and smoking heathen opium, the Chinamen were herded into a warehouse on the Eureka waterfront and banished to the San Francisco Bay aboard two barely worthy steamers. In that year, The Eureka City Council passed a law which ordered: "1. Expelling all Chinamen from the city and that none be allowed to return. 2. Appointing a committee for one year whose duty it shall be to warn all Chinamen who may attempt to come to this place to live and to use all reasonable means to prevent their remaining. 3. Issuing a notice to all property owners through the daily papers asking them not to lease or rent property to Chinese."

In 1937, Eureka's Chamber of Commerce was still pointing with pride to the success of its program: "Eureka is the only community in the country in which there are no Oriental colonies." No pigtail infected the city until 1945.

Says another newspaperman, Dan Walters, the managing editor of the daily Eureka Times-Standard, a man with tublike shape, moony face and spontaneous warmth: "Until about ten years ago, when US 101 was built through here, Eureka and much of Humboldt was a very insular place. Understandably. Not many people ventured through. We had two-lane roads often blocked by mudslides. Lumber trucks would barrel and rocket up and down and some people would suddenly find themselves sandwiched in some tiny car between tons of wood and steel. The world stayed away from Humboldt. The ideas and, I suppose, the prejudices folks had suckled since the days of their grandpappies were allowed to stand unchallenged. Then they built the superhighway and the world rushed in full chisel. Tourists, money, crime, thousands of students to Humboldt State University, and worst of all, hippies."

The hippies came in the fall of 1969, refugees on the autobum up the Coastal Highway from Marin and Mendocino, ragged out and ——— elegant in surplus-store finery, some so thin and wasted the lumberjacks claimed they could smell the ——— right through them. They were, by and large, aging kids who'd left the ghettoized hippie hellholes they'd found in the cities and, seeking transcendence and salvation, carrying joints, snorebags and little else, they came to the high, deep parts of the wilderness, to towns like Garberville and Alderpoint and Whitethorn, places so tiny you could just about ——— from one end of town to the other. Adventurous freak pioneers, the survivors of other trips, they came to grub for survival.

Seduced by the meretricious charms of the land, they came joyously to settle and discovered themselves despised and unwanted aliens . . . the Mongolian Highbinders incarnate . . . furry-faced *redniks* among redwoods rednecks . . . ——— no-accounts leaving their ——— all over the doright folks' tidy acres.

The new pioneers picked their shady spots and tumbledown cabins, paid their few city-earned dollars, and moved in, befouling the countryside with packs of unleashed dogs and birdlike women, the child-eyed nymphets they ruefully called old ladies. They made crowbait homes like the one inspected by Eureka architect William Van Fleet: "The place was a pleasant area, carved out in the madrone trees, remotely situated on an old dirt road, with little more than a lean-to for inclement weather. Though they had to carry water a mile from the nearest river, their sanitation facilities seemed quite adequate. They had no electricity, but they were well-stocked with candles."

Many settled in Southern Humboldt, about 100 miles south of Eureka, around Garberville and Alderpoint, and the sourdoughs responded predictably. Storeowners claimed they were being "stolen blind" and filed insurance claims; Garberville Chamber of Commerce members said they were "scared to death"; a real-estate agent said: "The county would be better off if they'd never started coming here. A couple of hard winters ought to be enough to phase them out." But the new pioneers had an old-fashioned settler's sticktoitiveness which wouldn't countenance "phasing out." More and more of them arrived, some of them apostatized dopers who craved the sanctum of the woods; others banded together in free-flowing communes where, the sourdoughs were sure, the dope addicts ——— like rattlesnakes, fed their women ———, and ceremonially ——— on the American flag.

While a lonely county official defended the "invaders"—"They are young, college-educated and pessimistic. They are trying to live their own lives. They feel misunderstood"—other residents saw whorls and splotches of blood: Sheep were being cannibalized, packs of wild starved hippie dogs stalked their ranches like mountain cats, feasting on their livestock.

On February 26th, 1971, a ramshackle farmhouse in Whitmore Valley burned to the ground. It was the home of a Christ-bitten freak commune. On March 18th, near Maple Hill, down the road from Alderpoint, another house burned. Occupants: a long-haired family. March 19th, a farmhouse between Briceland and Ettersburg; occupants: a black man and three white women. March 22nd, two fires in Briceland: a garage occupied by a bearded poet and a house which the Division of Forestry defined as "a hippie domicile." There were more fires: on April 5th, April 12th, April 19th, April 20th. On May 24th, three houses burned at the same time. All the fires were the result of "suspected arson." No one was arrested. A Division of Forestry spokesman said: "No, we never discovered who set the fires. The woods are very dry that time of year." The freak pioneers were systematically being burned out.

On June 22nd, near Garberville, three freaks hitchhiking at dusk along a hinterland road were met by a pickup truck. The truck carried six men, several of them wearing black cowboy hats, all of them armed and drunk. The longhairs were pistolwhipped and left semi-conscious in the middle of the road, easy target for cars barreling around the blind curves.

But the new settlers found one unlikely friend, the Garberville Justice of the Peace, William Thomas, a former sawmill operator who watched the influx and said: "In the past, when I was working in the woods here, this area was filled with drunks, parole violators and pranksters. I think these longhairs have upgraded the place." A recall drive was initiated against Thomas in the fall of 1971, spearheaded by a rancher named Archie Brunkel, who was also a Humboldt County Sheriff's deputy. Thomas, now called The ——— of the Peace, was accused of letting knowing his ———from teabags, of letting hippie-dogs ravage the hillsides, of "constantly rendering decisions that in the opinion of the large segment of the community tend to favor the lawbreakers." Archie Brunkel, as florid as his television almost-namesake, put it more bluntly. "The judge is soft on hippies," he said. The recall failed, but emotions grew more fevered. Loaded shotguns were racked into pickup trucks; longhairs stockpiled their cabins with ammunition.

Into this landscape of soaring beauty, arson-charred houses, and the pasttime of shed blood, came one more settler in the fall of 1971. He sought anonymity and quietude like all the others, yet in another year his name would be woods-legend.

Dirk Dickenson was 24 years old. Auburn-red hair poured down his back; his face was long and drooping; his eyes were hooded and simmered like charcoals. He was six feet tall and weighed 165 pounds. He grew up around Sacramento, a child of suburbia, and was married and divorced by the time he was 21. "I don't want to be just another patsy working 40 hours a week with a house and two cars and not much to live for," he told his friends. He decided he "had to learn how to live."

He came to the wilderness with his girlfriend, Judy Arnold, whom he often called his wife. She was 23 years old, a nurse's daughter who met him soon after she graduated from high school. Her blonde hair was as soft as gossamer; she was lithe and sloe-eyed and lovely and she spoke to him in hushed half-sentences. "We don't need to talk," she'd say to him, "we don't need words."

They came to Humboldt to get away from the gaseous shrouds of the city, from the hassles and scams and fears of making it in the urban streets. They wanted their own back porch at sunset, where they could sip Jack Daniel's and live happily ever after.

### Patrick Berti 1948–1970

We Drink Hippie Blood, the sign said at the Ivanhoe Bar in Ferndale, a few miles south of Eureka. Backpacking caravans of barefooted freaks trudged through the weatherworn town in the summer of 1970 and the louse-infested hordes were obviously spreading their ——— and inner decay.

During commencement ceremonies at the local high school, the senior class had the brazenness to castigate its own administration. . . . At College of the Redwoods, Ferndale's new business school, four students showed up at graduation carrying a coffin with a placard that read: College of the Redwoods, Business as Usual. An enraged off-duty Ferndale policeman hastily performed a citizen's arrest and took the pallbearers to the pokey. The local paper urged readers to defend themselves: "For years we have been warning children not to accept rides from strangers. In today's world we must also tell them not to accept anything from strangers. Dispensers of drugs seem to not only frequent the big cities or some place miles from here, but have been known to recently approach local students with the idea of selling to them."

On Sunday, October 4th, 1970, an ambitious and hardworking Humboldt County sheriff's deputy sat on a dope stakeout in the deadfall on the banks of the Eel River near Ferndale. Two four-foot high marijuana plants were in full bloom, in clear violation of the State of California's Criminal Code. Watching the plants that week was sheriff's inspector Mel Ames, a hardnosed 15-year veteran of the department. Ames asked deputy Larry Lema, new to the force and eager, to watch the plants while he rested his eyes and took the weekend off.

On Sunday afternoon two young men came to the riverbank and began examining the plants in obvious merriment. One of them was Pat Berti, 22 years old, born and raised in nearby Ferndale, a member of Tau Gamm Theta fraternity, a graduate of Chico State

College, and about to enter San Diego Law School.

Deputy Sheriff Larry Lema knew Pat Berti (they were lifelong acquaintances) and saw him holding a twig of marijuana.

Lema thought the twig was a gun, a deadly weapon in the hands of a dope-grower. The deputy drew his gun and fired once from the bushes. Pat Berti, blood oozing from his chest, saw Lema as he bent over him. "* * * Larry," he grasped, "you've shot me," and died.

Humboldt County District Attorney William Ferroggiaro, a former public defender elected to office in 1967, took the case to the Humboldt County Grand Jury. The shooting was ruled "justifiable homicide."

Deputy Sheriff Lema was transferred off patrol to guard-duty at the crumbling Humboldt County Jail; a griefstruck young man confessed responsibility for cultivating the two plants; Pat Berti, who'd visited the riverbank because he couldn't imagine marijuana growing beanstalk-high, paid the price of his curiosity . . . and was buried.

Dirk Dickenson and Judy Arnold found the cabin at the very heart of the area scorched by the house-burnings. It was perched on the eastern slope of Pratt Mountain, 80 miles south of Eureka in the Humboldt hinterland, 13 miles from Garberville on the road to Alderpoint. They chose it for its view: Their back porch commanded a panoramic expanse of valley, woodline and mountain. They had no electricity, used a woodstove for heat, and piped the water from a hilltop a thousand feet away.

They faced immediate problems when they moved in. To get to their 40 acres from the road, they had to drive a snaking gravel path through the property of the rancher who had supplied water and electricity to their cabin's previous tenants. The rancher disliked longhairs and welcomed his new neighbors by shutting the water and electricity off. They answered him by making do. They built their own pipeline and didn't really need electricity. "After that," Judy Arnold says, "he let us alone."

They furnished their place as best they could. They lugged in a seven-foot redwood table and built a crude addition they called a living room. A bathroom was their next project. They already had a tub, but it was still out on the back porch. Until the new bathroom was ready, the living room would serve as their Saturday night bathing spa.

They missed the plastic comforts of their apartment in Hayward, a place of billboards and hamburger stands southeast of San Francisco, but it was an easy sacrifice. They were happy. Dirk was learning the woodworking craft and, most important, he had cleaned up his private life. He knew his way around drugs and, for a while in Hayward, he was next to people who were stuffing pillow covers with dope-deal money. But he was tired. He decided to strike out as a backwoodsman. He badly wanted to live in the mountains, and thanks to the growing redwood burl industry, he could make solid money and still open his eyes each morning to a lofty view.

The redwood burl business was booming in Humboldt. Demand for the burl tables in the city increased rapidly and some tourist-galleries on Ghirardelli Square and Union Street in San Francisco sold the tables for as much as $800. Crafting burls was a relatively simple process. You picked out a good burl tree, cut it up, smoothed the wood, and stood to make as much as $10,000 on that single tree. Or you could buy dry burls for $20 apiece, take them home, polish and smooth them for two or three days, and sell each burl for a minimum $200. Dirk Dickenson figured he'd even have an additional income from the hundreds of Christmas trees crowded onto his 40 acres. You didn't need a potful of money to survive in the wilderness.

While Dickenson happily scouted his burls, the San Francisco office of the United States Department of Justice's Bureau of Narcotics and Dangerous Drugs was feverishly trying to locate what it believed to be the largest manufacturing plant of PCP in California. Phencyclidine hydrochloride is a hallucinogen, an animal tranquilizer which provides an acidlike high and, doctors say, gradually damages the brain.

An informer providing "hard intelligence" told the BNDD the "million dollar" PCP-operation was rigidly organized and lethally dangerous; that members of this organization were armed and "would not hesitate to use guns." The ring's "master chemist," according to this informer, was Dirk Dickenson. His 40 acre site was allegedly the location of a "giant lab," supposedly guarded by Dickenson's St. Bernards, Boogie and Vernon, both "trained to go for the throat."

BNDD agents got in touch with the Humboldt County Sheriff's Department, specifically with Undersheriff Bob Bollman, 58 years old, hulking and plainspoken, the number two badge in the department, a hardline law and order man who made no secret of his belief that hippie-dopers were turning Humboldt County into a nightmarish scumpit.

Bollman assigned one of his most trusted men, Inspector Mel Ames, to liaison with the Feds. Mel Ames was his "dope expert," the cop who'd kept himself concealed in the bushes, eyes trained on the two marijuana plants, for a full week—before Deputy Sheriff Larry Lema shot and killed Pat Berti.

In February and March of 1972, Mel Ames scouted Dirk Dickenson's property three times, seeking a single glimpse of the "giant lab." He saw nothing but tree tops and foliage. For reasons known only to Mel Ames, all the reconnaissance was done from an airplane; no traditional surreptitious visits were paid to the property itself, though Dickenson was away for days at a time visiting his parents.

It was Mel Ames who devised the ploy of an "inside man" to help the future bust on the Dickenson property. The "inside man" was tailor-made for the job. He was the county dogcatcher, squarefaced Bill Bushnell, who held office hours at the Garberville Sheriff's Substation, headquarters of the sourdoughs' recall campaign against ——— of the Peace William Thomas.

Dogcatcher Bushnell knew the traps and secrets of the rugged terrain and often hiked miles to some isolated laid-back leanto. He'd arrived sweating like a bull, armed with a gun in one hand and a complaint about an unleashed/untagged hippie dog in the other. He'd finagle his way inside the house, with radar-eyes zooming in on ashtrays to spot a few suspicious cigarette butts. He'd come back hours later with Jeepsful of sheriff's deputies.

Fate provided Bill Bushnell the final qualification for being the inside man on the Dickenson raid. The BNDD informer said Dickenson kept those two go-for-the-jugular St. Bernards. Bushnell was expert at "incapacitating" dangerous dogs.

Undersheriff Bollman added another gothic wrinkle to the case. He neglected to tell the District Attorney about it. In the undersheriff's opinion, William Ferroggiaro was a liberal soft on law and order, a Hightalian egghead who talked like he'd swallowed a dictionary and more often than not acted like a pure-grade horse's ———. He could somehow botch the whole investigation and what the DA didn't know wouldn't hurt any ——— . . . neither the Sheriff's Department, nor the United States government.

Undersheriff Bollman saw no need, either, to concern the sheriff much with the Dickenson case. For all practical purposes, Humboldt County was without a sheriff. Oh, sure, there was a man sitting in a courthouse office, behind the fancy door that said SHERIFF on it, but Sheriff Gene Cox looked eroded and sallow and had all-consuming problems of his own. Sheriff Gene Cox drank too much and spent a few weeks in Napa now and then under clinical supervision—as even the Eureka Times-Standard was forced to report—drying out.

### BUNKY FERRIS—1950–1971

On December 4th, 1971, in a ——— Willow Creek bar near Hoopa in Northern Humboldt, site of the largest Indian reservation in the State of California, a fistfight broke out between Indians and local sourdoughs.

One participant was Bunky Ferris, a 21-year-old Indian, a UCLA student back at the reservation during semester break. Ferris was militant, longhaired and tough.

Robert Marmon, the jowly bartender, tried to "break up" the fight. Ferris and some of his friends disliked and distrusted Marmon who they said liked to taunt them with racial slurs.

Marmon tried to "break up" the fight with a gun. The gun "went off" and Bunky Ferris was dead.

Indian activists demanded District Attorney William Ferroggiaro seek a murder indictment against Robert Marmon. Ferroggiaro took the case to the Humboldt County Grand Jury.

One of the witnesses on the bartender's behalf, Indian militants claimed, was so drunk she fell off a chair. The District Attorney let the pratfallen lady's testimony stand, and, an Indian leader alleged, "He played to the majority around here who still feel the only good Indian is a dead Indian."

Ferroggiaro said he did the best he could.

The death of Bunky Ferris, the grand jury ruled, was "accidental."

"If it wouldn't have been for Under-sheriff Bollman's ego," says portly Dan Walters, managing editor of the Eureka Times-Standard, "chances are the world never would have found out about Dirk Dickenson. Chances are things might have been, you might say, *tidied up.*"

On Friday, the 24th of March, 1972, in McKinleyville, a tanktown 20 miles outside Eureka, a crewcutted 20-year-old named Allen Thornhill became despondent, went bersek, barricaded himself in his house, and started shooting target-practice at passersby with two pelletguns and a rifle.

All available sheriff's deputies surrounded the house and were pinned down by Thornhill's gunfire. It was a moment of high frontier drama, a carnival-like siege just like the ones produced periodically in Brooklyn, Detroit City and Chicago. The whole town buzzed about the shootout and reporters and photographers from the Times-Standard flitted grimly around the scene.

After several melodramatic hours, Thornhill, as a deputy said "came crawling out." Times-Standard photographers recorded his capture and next day's front page was plastered with three- and four-column pictures of gun-toting deputies leading the sniveling owly-eyed sniper off to jail.

"Bollman loved the publicity," says Dan Walters, "I mean, he thought it was the greatest thing to ever happen to the sheriff's department to get splashed like that all over the paper."

"Of course," adds Dan Walters sardonically, "I thought they looked like a bunch of ——."

The reason Dan Walters, who likes policemen and types himself a political conservative, thought the deputies looked like ——— was directly because of Undersheriff Bollman.

The undersheriff, more than anxious to command his forces in battle, never made it to the shootout. He didn't make it because, speeding to McKinleyville, he crashed a red light at 5th and V Streets in Eureka.

His patrol car glanced off one car, careened into another, then flipped like a jumping bean and tumbled 50 feet. Three Eurekans were rushed screaming to the emergency room, casualties in the war against crime. The Times-Standard ran a picture of Bollman's belly-up sheriffmobile with a headline that said: The Undersheriff Didn't Make It.

On the night of April 3rd, Undersheriff Bollman called Dan Walters and said he was giving him a good story, a story even better than the McKinleyville shootout. Undersheriff Bollman was officially in charge of the department; Sheriff Cox had temporarily exiled himself to a rehabilitation center called Duffy's in Calistoga.

Bollman dramatically told the managing editor to assign a reporter to him the next day and make sure the man brought his camera. He couldn't say why, but it was *big!*

Walters pressed for details. All right, Bollman said, I'll tell you: The Sheriff's Department was going to be involved in the biggest narcotics bust in the history of Humboldt County! Maybe the biggest bust in the history of the State of California!

The undersheriff didn't tell Dan Walters anything else, except that the bust would take place "up in the boonies."

On the morning of April 4th, 1972, a bright and sunny day, Dirk Dickenson and Judy Arnold got up at nine o'clock and decided to visit their tree. It was a splendrous majestic burl stretching high into the cloudless sky . . . perfect, Dirk thought, for eight to ten tables.

"It was so big we couldn't believe it," Judy Arnold says. "We stood there and looked up at it. Dirk was really jazzed, he was so excited."

They decided to buy it and inquired at a nearby ranch after the burl's owner. It belonged to Bill Bushnell, the dog-catcher.

They drove to Garberville looking for Bushnell and found him at the sheriff's substation. Bill Bushnell had time to talk to them; he was killing time. He was waiting to hook up with the Fed/sheriff posse which would raid Dirk Dickenson's property with a warrant for his arrest in less than three hours.

But the cagey dogcatcher said nothing to Dirk Dickenson about that and when Dickenson asked if the tree was for sale, Bushnell said sure—"No problem, you wanna buy it, it's yours."

They agreed to finalize their deal "tomorrow."

They shook hands on it; the dog-catcher smiled.

Dirk Dickenson and Judy Arnold climbed back into their blue Scout and drove down the street to a craft shop, listening studiously to the owner's advice about smoothing their burls.

"Then we went home," Judy Arnold says. "We stopped at the liquor store and Dirk bought me a real big bottle of Jack Daniel's. We were going home to celebrate our tree."

When Kenny Krusco, the pint-sized boss of the federal narcotics team, heard that the undersheriff of Humboldt County had invited three newsmen to accompany and film the mountain riders, he was furious. The bust would be a high-tension commando-like operation; they were going after criminals their intelligence said were armed and dangerous; they would be exposing their throats to the fury of homicidal St. Bernards. The newsmen would foul everything up; the witnesses would have to stay behind.

But Undersheriff Bollman, his eyes trained on Sheriff Cox' wobbly job, insisted the reporters go. There were some harsh words and Krusco, perhaps not wanting to offend a cooperating agency, backed off. No sweat, Bollman assured him, the reporters would take orders: They had promised to ask questions of no one except the two of them.

There would be three reporters: two Eureka television news-photographers, Ron Rose and Carol Olson, and Richard Harris, the sour ace of the Eureka Times-Standard staff, a former Vietnam Public Information Officer, so straight he didn't even drink, a young man with an old man's love of the golf course.

Krusco would honcho the bust. The raid would be composed of two assault teams, a total of 19 men: five Bureau of Narcotics and Dangerous Drugs narks, two federal chemists, nine sheriff's deputies and an IRS agent one of the reporters would describe as "a grayhaired Dustin Hoffman." Plus Bushnell, the dogcatcher. They would all be armed with shotguns, revolvers and rifles; fed narks would be camouflaged in longhair, Levis and tie-dyed T-shirts.

Two platoons were needed because of the logistical importance of the element of surprise. No one knew how many bigtime dopers would be holed up in the cabin. Gunplay, their intelligence said, was a probability since the members of the "Dickenson Ring" were thought to be armed. One nark team would drive to the cabin, lurk in the trees, and strike as grunts from the road. The other would be airlifted in a Huey helicopter borrowed from the US Army. When the chopper touched down in a clearing near the cabin, both teams would run for the cabin door. The St. Bernards, it was clear, might have to be shot. The killing of the dogs was the dogcatcher's special responsibility. The agents were certain the raid would uncover the "million dollar . . . giant lab." The three reporters would stay the hell out of the way and would under no circumstances take pictures which showed any of the agent's faces.

If there were any problems, Kenny Krusco would bark all the signals. Krusco was an experienced federal narcotics agent, the little big man of the BNDD's San Francisco office, a legend among his colleagues: the man who had put the cuffs on the Acid King himself, Owsley Stanley. He had also participated in the Kafkaesque 1970 arrest of Bay Area attorney Michael Metzger, the former assistant US District Attorney who had waged a one-man war against narcotics agents' tactics, a war directed primarily against Kenny Krusco and his drinking buddy, state narcotics agent Gerritt Van Raam. Metzger had called Krusco a liar several times in court (on one of those occasions the government couldn't even deny the allegations) and when the posse came for Michel Metzger, Kenny Krusco was there.

On this sunflecked day in the mountain town of Alderpoint, as the three reporters waited for the land/air assault to be launched, they kept hearing federal agents refer to the suspects they'd find in Dirk Dickenson's cabin. The agents kept describing these suspects with a hissed single word: "Creeps."

Richard Harris, the golf-loving reporter, had an unnerving flash of deja vu. It was Vietnam all over again. They were going to to take a remote hooch with a kind of helicopter strike; this time, instead of gooks, they were hunting creeps.

### DIRK DICKENSON, 1948–1972

When they got back to their cabin, Jack Daniel's No. 7 Tennessee Sourmash in hand, Dirk Dickenson and Judy Arnold stretched out on the back porch, cracked the seal on the new bottle, and toasted the burl tree that would make them rich. The bathtub was sitting out there too, incongruous and absurd in the noonday sun, and they decided to devote a lazy afternoon to building a room for it.

But the gunmen were coming for them. While Undersheriff Bollman, Inspector Mel Ames, and seven federal agents were airborne in the Huey, cameraman Ron Rose was near the rear of an elaborate nark caravan. "A blue Ford pickup with Bushnell, the animal control officer, was leading us," says Ron Rose, "the bed of the pickup had regular facilities for carrying animals. Then there were two sheriff's cars and a green Ford van plastered with tourist stickers that had two federal agents in it, followed by a Scientific Ident man's station wagon. Then us—Carol Olson, Rich Harris and I.

"We stopped twice, once a half mile from the cabin. The deputies were trying to make radio contact with the chopper. The chopper was about ten minutes out. We sat there for two or three minutes and then the caravan moved on to another clearing. There was a house on the right, people were out mowing their front lawn. This clearing came back to a point. At the end of that, a dirt road went on through the trees. We stopped the cars there. We still couldn't see the house. We got out of the cars and started walking. This was a heavily wooded area. We went from the roadway onto a hillside and we kept concealed in the trees waiting for the helicopter."

Judy Arnold says: "We were clearing the bathtub out and we were going to bring it inside, trying to figure out where to put it, and that's when we heard the helicopter."

Aboard the Huey, federal narcotic agent William Filben, gangling and carotene, looked down and saw armed longhairs hanging like apes out of the trees surrounding the cabin. Krusco's briefing had been less than complete and Filben got nervous. He thought the longhairs were creeps. "I really didn't think the whole time in the air we'd find anybody in the place at all," he'd say later. "But when I saw the bunch in the trees, I thought—'Oh, boy, we really walked into it.' It wasn't until we got down and I saw the TV cameras that I realized they weren't hostile."

"We heard the helicopter," Judy Arnold says, "and we'd just come inside. So we went out on the back porch again. We had our two dogs, Boogie and Vernon, with us. We weren't afraid. Dirk wanted to show the dogs; they'd never seen a helicopter before. He said—'Come on, you guys, wanna see a helicopter?"

The copter was coming toward the house. It was a long green unmarked copter. The door opened. It got right over the cabin and they looked down and smiled and waved at us. We smiled and waved back. They didn't look like police people at all. They all had fairly long hair and most of them had moustaches and they looked happy. They looked like they were having fun.

Dirk said—"It looks like it's gonna land." It was over the house and it was really low. We left the back door open and came back inside the cabin. Boogie and Vernon weren't barking. They were clam. Our front door was open and the copter was starting to land. Dust and dirt were coming into the cabin. Dirk walked over and closed the front door. Most of the door was glass. We stood at the corner of the big redwood table in the kitchen facing out the front door. We could see out the door. The copter set down and the men jumped off."

Landing the big Huey in the clearing next to the cabin wasn't easy; Mel Ames' skybound surveillance had miscalculated the length of their chaparral landing zone. When the chopper finally touched ground, the grunt assault team raced from the trees toward the cabin. Nine gunmen scrambled out of the Huey. It was a distance of 60–90 feet, a five second dash. The noise was deafening; agents couldn't hear each other from the shrill kuh-chook-chook-chook whirring of blades. At the crest of the hill overlooking the cabin, a logger named Ronnie Robertson looked at the figures scurrying below and thought: "It's like some stupid rabbit hunt, all those people running around like crazymen this way and that." Times-Standard reported Richard Harris watched the attack and jotted a nervous scribbled sentence into his notebook: "Looks like an assault on an enemy prison camp in Vietnam."

Both film photographers, Ron Rose and Carol Olson, saw the Huey land and the men running but both failed to catch the full sequence of the action with their cameras.

The gust from the force of the chopper-blades knocked Carol Olson to the ground. Her pictures blurred." "Just as the helicopter touched down," Ron Rose says, "something happened. It was the wind. It blew a large branch off a tree and it started showering down on me, so I turned my back and shut my camera off momentarily. And then I turned back around and started filming."

Judy Arnold says: "I didn't have anything to be afraid of until I saw the guns and I got petrified then. The guns were drawn, shotguns and rifles and everything. I thought it was some kind of ripoff."

As the commandos vaulted from the Huey toward the cabin door, agent William Filben allegedly stumbled and fell. "I did a belly-flop," he'd say later, "I just outran my feet."

Three men allegedly saw Filben fall—agents Krusco and Lloyd Clifton, a beefy 30-year-old former Berkeley policeman with a drooping mustache and long hair stickily layered with hairspray, and Undersheriff Bollman. No one else saw Filben's fall; neither camera recorded it.

Bollman, who said he had to step over Filben, said he didn't think Filben was hurt.

But Lloyd Clifton, as he was to testify, thought Filben had been shot by a sniper in the cabin.

Krusco backed him up and said he, too, thought Filben had been hit.

Judy Arnold says: "I saw a foot come through the door, the foot and then the door was pushed open. It was busted open. And at that time Dirk turned and ran and told me to run."

The man who busted the door down, shattering its plywood paneling and cracking the jamb, was Lloyd Clifton. Right behind him were Krusco, Bollman and federal agent Ed McReedy, 37 years old, a former Arizona highway patrolman, bearded, frizzy-haired, and looking a dozen years younger.

"Before I could do anything," Judy Arnold says, "they had me. Dirk jumped off the back porch and ran. There's a terrace back there and a slope toward the woodline. They told me to freeze. There were at least ten of them inside by now. The one who broke the door down, Clifton, ran through the house after Dirk. He wore a pair of Levis, a T-shirt, corduroy jacket and hair down to his chin. His size struck me. He was big, really big.

"It was terrifying. I was shaking. It was like some terrible storm had crashed down out of the sky at us. They held me. The dog got excited and they were barking. There was mad confusion in the place."

Lloyd Clifton was standing on the back porch.

He saw Dickenson running for the treeline.

He raised his snubnosed .38 revolver.

He aimed it at Dickenson's back.

He yelled, "Stop or I'll fire!"

He fired one shot.

Kenny Krusco, standing next to Clifton on the porch, had his shotgun trained on Dickerson's back but didn't pull the trigger.

The roaring kuh-chook-chook-chook of the helicopter had muffled the gunshot and, some said later, Clifton's order to stop. "I heard a crack," says Carol Olson, "which at the time in the rush I interpreted as a tree breaking. Agents were running around. Then I saw somebody down on the ground. It didn't occur to me that it could have been the sound of a shot until I actually saw somebody down on the ground."

"I heard somebody say—'He's been hit!'," Judy Arnold says, "I didn't hear the shot. The copter was taking off again and making this insane noise and the dogs were really barking. It was chaos."

Dickenson was shot in the back at a distance of 40 yards from a position 40 feet higher in elevation. He dropped 25 yards short of a steel and wire fence at the woodline, face down, and crawled forward a few inches. He wore a pair of Levis, work boots and a brown T-shirt. The bullet entered his back three inches above the waist next to the spinal cord, sliced down at a 60 degree angle, and exited through a small bloodless hole in the lower groin.

Undersheriff Bollman, gun in hand, ran toward the body "sure I'd find some sort of weapon." He found nothing. Incredulous, he scrambled down on his hands and knees and searched the entire area. Still nothing. Bollman, a newsman noted, was ashen.

Dirk Dickenson was still writhing on the ground, barely alive. "I was shooting film at close range," Ron Rose says, "Rich Harris and I were both asked to help hold his head. I heard Dickenson say—'I can't breathe, it's hard to breathe.' A deputy said—'He's already urinated his pants, he's in bad shape.' The deputy said—'Get the ——— first-aid kit and stretcher down here fast.' He was yelling. Another deputy said—'There's a stretcher in my car,' threw the key to someone else, and this guy started running up the embankment to where the cars were parked." Dickenson needed a doctor immediately. He couldn't be rushed to a hospital; the Huey had taken off again and had to be summoned back by radio.

Inside the cabin, Judy Arnold couldn't comprehend what was happening. "I heard he was out there and he'd been hit and I asked if I could go out there and see him. They said no. I said—"Well can I at least go out on the back porch and see how he is?" So they held me and took me to the back porch. I looked off and I could see him. I saw him move his leg. It was spasmodic, like a twitch. They said—"Oh, it's OK, he's gonna be all right." Clifton was leaning over him, saying something. I don't know what, he was too far away.

"They took me back to the cabin, they still hadn't identified themselves. I finally saw a badge on the inside of this guy McReedy's coat, but they still hadn't said who they were. So McReedy goes—'I'm gonna take you outside, ask you a few questions.' There were a couple more of them leaning in the door and they asked me if I was the only one there. As they were taking me out, I asked—'How's Dirk?' They wouldn't tell me how he was, wouldn't say anything. So they took me outside. There was an orange truck out there, Dirk's, with a busted motor. They put me in the orange truck and I said again—'Well, who are you?' That's the first time they officially told me who they were."

The three reporters, critically important eyewitnesses at the scene of a killing, were behaving less than authoritatively. They asked no questions. "I didn't ask anyone about the shot," Ron Rose says. "I didn't know who was who. I didn't know whether I'd be talking to an agent or a suspect. And we were told not to question anyone except Undersheriff Bollman and agent Krusco."

"The narks were treating me all right," Judy Arnold says. "They said—'If you promise not to run, we won't handcuff you.' So I told them OK, I wouldn't run. The guy said—'We're federal narcotics agents looking for a PCP lab.' And I just laughed. I just laughed in his face and I said—'Well, you blew it this time, there's no lab here.' And he goes—'Well, we know there is.' And I said—"There isn't' there's no lab.' So they took me out of the truck to the other side of the cabin."

Ron Rose says: "I started working myself down the hillside and onto the flat portion where there were some rabbit hutches and a chicken coop. They were going into the chicken coop and around it and into the woods. I presumed they were looking for something other than eggs."

"Then this agent, McReedy," says Judy Arnold, "starts talking to me about the land, how much he liked the land, wasn't this beautiful country, how much he'd like to live here. He was trying to act super-nice. He started telling me where he was from, his experiences in Arizona and all this. It was a big sick game. He was supposed to charm me into giving them information while they took my old man's body away. I kept asking how Dirk was and they wouldn't tell me. The copter was back and they were taking Dirk away and I said—'Can I go with him in the copter?' They said, 'No, you'd just be in the way.' One of the dogs, Boogie, was out there running around Dirk's body. They were carrying Dirk onto the copter and Boogie was crying. I guess he wanted to go along. The copter took off and Boogie stood underneath it, looking up—the roar wasn't scaring him at all now and he was howling."

As the agents continued interrogating Judy Arnold, Dirk Dickenson—who had to wait 20 minutes before the Huey came back—was dying. The bullet did not strike any bones or vital organs but had punctured major blood vessels in the abdomen, causing massive internal bleeding. When the chopper touched down in Eureka, Dickenson was dead. ("There was absolutely no chance of saving him," the coroner, Ed Nielson would say. "He would have died if he'd been shot in downtown Eureka.")

Kenny Krusco, meanwhile, ordered the three reporters off the property. "The cameras bothered the Feds," reporter Richard Harris would write, "and a half hour after we got there, we were told to leave the cabin area." Says Ron Rose: "We were asked by Krusco, through Bollman, to leave the area so that 'they could go about their work.' We went back to the Feds' van. We got into it because it was cold. The wind had come up and there was some cloud cover. We waited there quite a length of time."

"The copter took off," says Judy Arnold, "and they took me back to the other side of the cabin and took me back in the truck and a guy said—'I wanna ask you a few more questions.' Vernon, the other dog, was super-protective of me and he wanted to get in the truck with me. So they let Vernon in with me and the agent had the door open and he was talking to me about the dogs and everything. At one point, I got really mad, I don't remember about what, and the dog could feel my vibes and he tried to bite him. And so the agent slammed the door of the truck and he goes—'If you don't take care of the dog, I will. I'll have to shoot him.'

"So McReedy goes—'Well, we better take you out of the truck. I can't talk to you with your dog snapping at me in there. They locked Vernon in the truck and took me back to the cabin again. Then they left me by a tree while they searched the cabin. I was standing by that big tree looking up into the sun and starting to cry. I just kept thinking about Dirk, you know, wondering how he was, being scared, trying to feel myself together with him."

Ron Rose says: "We were sitting in the Feds' van and then Undersheriff Bollman came out and he gave us a very minor briefing. Then Kenny Krusco came out and at that time we were allowed to ask any questions we had. We asked what the weapon was. We wanted to make sure of our own hearing. We asked how many shots were fired. We did not ask who did the shooting. I think we all had enough common sense about us to know we would not get an answer. We were more interested, at this point, whether they'd found the lab or not." Adds Carol Olson: "I don't think we asked who did the shooting or why. Maybe we should have."

"We were asked at the scene," Rose says, "to have our film processed and before it was shown take it over to the sheriff's office so that Krusco and Bollman could look at it—and more or less—not censor it, but point out where we might have inadvertently gotten an agent's face into the picture. We agreed to this request."

"They packed me in a squad car and took me to the county jail in Eureka," says Judy Arnold, "and after a while, I'm not sure how long because I lost track of the time, they called me out and told me he was dead. Just like that. No beating around the bush. No softening it. He's dead. Almost like—'By the way, you know that guy you were with, well, he's dead.' I never felt that bad before in my life. The hurt was so bad I wouldn't believe it. I got sick. I was in a trance. I was a puppet and they had to guide me everywhere."

The fed/county raiders had a serious public relations problem. They had one dead body, they had no PCP lab. Their "master chemist" had been shot in the back as he ran unarmed. An extensive search of the area netted only a penny-ante stash. The contents of the "master chemist's" stash were neatly cataloged and listed in a summary some of Dirk Dickenson's friends would view as a grotesque requiem.

No. 1—One hand-rolled cigarette suspected marijuana.

No. 2—Excedrin bottle containing one partially smoked cigarette suspected marijuana.

No. 3—Plastic bag containing suspected marijuana.

No. 4—Plastic bag containing suspected marijuana.

No. 5—Bottle containing suspected marijuana.

No. 6—Bottle containing suspected peyote buttons.

No. 7—Bottle containing two suspected LSD tablets.

No. 8—Tin can containing five suspected peyote buttons.

No. 9—Brown jacket containing plastic bag suspected marijuana.

No. 10—Bottle containing partially-smoked cigarette suspected marijuana.

That day in Lincoln, California, 25 miles north of Sacramento, Mrs. Mittie Dickenson, the wife of a Chrysler Motors manufacturer's representative, got a phone call from a friend. Her friend was listening to the radio and humming along with the music and, as was her custom, she listened only half-mindedly when the news came on. That's how she found out, between jingles and commercials that Mittie's son was dead. She called only to tell Mittie how sorry she was. Mittie Dickenson gasped. No one had bothered to notify her.

Her husband, Chester, was on a business trip in Nevada. She dialed the phone and told him. Chester Dickenson heard his son was dead and said nothing for a very long time.

"Chester?" his wife finally said.

"I heard you," he said, "I heard you."

While they had a bullet-holed corpse and no PCP lab, the Feds made much of $1500 cash found in Dickenson's wallet, as well as what they called a "small arsenal"—three rifles, a crossbow and a shotgun—stockpiled in the cabin. Their emphasis of these discoveries implied this was enough to circumstantially prove Dickenson was indeed involved in a nefarious dope ring. The implication carried a sneaky bottom line: Think about it, pal, if the guy was a dope merchant in the business of corrupting your children, his corpse wasn't worth shrieking about.

The shooting catalyzed Humboldt and, in the weeks afterward, as investigations were demanded and proclaimed civil libertarians (mostly at Humboldt State College in Arcata and in the Bay Area), replied to the Fed innuendos by pointing out that in the primordial part of the wilderness where Dirk Dickenson lived, everyone was well-armed, especially those longhairs who survived the vigilante terrorism and the house burnings. Besides, as one attorney later said, "I don't care if the ——— hippie was a Mafia kingpin second only to Lucky Luciano's heirs, I still worry about that bullet in his back."

Civil libertarians were troubled by unanswered and nagging questions:

Since he knew a raid on the Dickenson property was imminent, knew there was a warrant for Dickenson's arrest, why didn't dogcatcher Bushnell arrest Dickenson? At least turn him over to a sheriff's deputy when Dickenson sauntered into the Garberville substation wanting to buy the burl tree?

What happened to the infallible "hard intelligence" which was the basis for the search warrant, which said the property housed a million-dollar lab? Why didn't the agents conduct a land survey before 19 men hit the cabin with their trigger-fingers ready?

Why didn't agents identify themselves when they came hurtling out of the sky to the cabin door? Why didn't they state their warrant and demand entry instead of savaging the door from its hinges?

Why did the reporters permit agents to view their films before those agents made their statements about the shooting (a question made critical by the fact Filben claimed he fell at the exact moment the two films blurred)?

Why did it take three days after the shooting . . . and after the agents had viewed the films . . . for Filben to reveal his fall and for Bollman, Krusco and Clifton to say they saw it happen?

Why did only three men out of a 19-man party—the killer, his superior and a raid organizer—see Filben's fall?

Why, if Filben did indeed fall, didn't Krusco and Clifton check him? Make sure he had been hit? Lean down and check the wound before one of them shot an unarmed man in the back?

Why, if gunplay was thought probable, was no provision made for the aid and evacuation of wounded men?

Why were the three reporters and their cameras suddenly ordered off the property after the raid? After it was clear there would be no more shooting and the reporters' lives wouldn't be endangered? Was there something to hide?

And those three lily-livered reporters? What about their sense of professionalism? How could they have agreed to an arrangement not to ask questions of anyone but Bollman and Krusco. How could they honor that agreement once they realized they had witnessed a killing? How could they, as Ron Rose admitted, still be concerned with the lab after two of them helped hold a dying man's head? Why didn't they even ask Krusco who had done the shooting or why shooting was necessary?

Local police officials quickly tried to explain the shooting by blathering on about the "Uptight Society." By this convoluted rationale, Dirk Dickenson was killed because of the policemen who'd been killed in America in the past. "You can't blame officers for being uptight," said Undersheriff Bollman. "They're aware of the situation today. Officers don't go out on duty thinking they're going to shoot someone, but many times they may wonder if they're going to return home that night. 'Is today my day?' they ask themselves."

Agents who participated in the raid said very little, except for Ed McReedy's comment that "the idea of shooting to wound is bush league. You just get more people killed that way." Lloyd Clifton, who had pulled the trigger, became very unavailable and was transferred from door-stomping duty to the anonymous safety of the BNDD chemical lab.

His fate rested with two agencies: the United States Department of Justice and the Humboldt County District Attorney's Office. Both announced high-priced investigations; no taxpayer dollars would be spared in the pursuit of "the facts." The Feds could technically indict Clifton on charges of violating Dirk Dickenson's constitutional rights, of "summarily executing" him. District Attorney Ferroggiaro could seek charges ranging from involuntary manslaughter to first degree murder. Or both agencies could do nothing, find the shooting regrettable and tragic, shed public crocodile tears, and conclude Lloyd Clifton's muted gunshot was "justifiable homicide."

Thirty-seven-year-old Bill Ferroggiaro, looking paler each day, his horn-rimmed glasses sliding in sweat off his spoon-shaped nose, was on the hot grill again. He was a man whose once grandiose political ambitions . . . the United States Congress, the Senate . . . were being sandbagged by twists of violent circumstance. He announced, with a fine sense of politic, that he would do nothing . . . until the Feds concluded their own investigation. Clifton, after all, was a federal agent and the Humboldt County DA said: "We're waiting for the Department of Justice to act and then we'll make our decisions."

In San Francisco, United States Attorney James K. Browning Jr. flashily told the press the government investigation would be far-reaching and fair. The fact that no federal narcotics agent anywhere in America had ever been charged by the government with violating a suspect's constitutional rights was coincidental and irrelevant. Browning admitted a rather brain-scalding conflict of interest: As the US Attorney, he was responsible for determining whether Dickenson's constitutional rights had been violated; and as the US Attorney, he was dutybound to act as defense counsel for all government personnel—including Lloyd Clifton.

A few weeks after the shooting, as the federal investigation got under way, US Attorney Browning said: "We are attempting to be as impartial as possible. We've got an open mind."

In the next sentence, long before the government's probe was even halfway complete, he demonstrated his impartiality. "Nevertheless, on the basis of incomplete reports received by this office, I suspect it will fall into the category of justifiable homicide."

It didn't look like either Lloyd Clifton, who pulled the trigger, or Kenny Krusco, his boss and chief corroborative witness, had much to worry about.

The sourdoughs of Humboldt were sharing their feelings about the dead hippie who'd kept marijuana in his home and lived in belly-to-belly sin with his sweetfaced girlfriend. The Times-Standard, which called vehemently for an investigation, was getting fat sacksful of letters to the editor:

"Why all the sympathy for a dope pusher escaping arrest? It's because of bleeding hearts like you that our valued lawmen are hampered by over-lenient courts and laws . . . It's about time that we started thanking the federal agencies instead of criticizing them. So hang in there, guys, you're all doing a great job."

Meanwhile, not long after the shooting, five lonely longhairs stood in bereavement outside the Eureka courthouse with a sign that said: Oh No, Dickenson Goodbye.

### WILLIAM SMITH

1934–1972

Three weeks after Dirk Dickenson's death . . .

On the evening of April 25th, 1972, 18 miles north of Eureka, in Arcata, the home of Humboldt State University, an adrenalized SRO crowd jammed into a college auditorium to hear America's most renowed Marxist. Herbert Marcuse, the grand old ideologist of the American Left, mentor to Angela Davis and hero to millions of Third World peoples, drove a lot of sourdoughs raving ga-ga with his visit. A celebrated Red was in their hometown, brainwashing their kids with sin and sedition. Police cruised the campus in teams, ready for action.

At 8:30 that night, while Marcuse stood at a speaker's stand less than 500 yards away, a 43-year-old California Highway Patrolman named Robert Hahn, with 13 years' service on the force, noticed a scruffy motorcyclist driving south on Highway 101 near the University gates.

The patrolman watched the cyclist ditch his machine on the side of the road and run through the brush. He thought the cyclist's actions suspicious and gave chase, gun in hand. The patrolman caught up with him on the embankment of the highway and yelled to the man to stop. The cyclist stopped and turned.

When he turned, Patrolman Robert Hahn shot him between the eyes with his Colt Officer's Model Match .38 Special revolver.

Patrolman Hahn walked back to his squad car and drove away; the cyclist's body was found later that night by a passing motorist. The motorist called the Highway Patrol. The dead man was identified as William Smith, 38 years old, a Win-Ton Indian, the father of five, an employee of the Simpson Lumber Company.

The first patrolman on the scene, Edward Radelich, listed the death as a hit and run accident until the coroner washed the corpse's face and found the bullet hole in the middle of the forehead. Radelich called another Highway Patrolman to help him with the investigation. He was Robert Hahn.

For three days, Patrolman Hahn investigated the killing with his colleagues. On the morning of the fourth day, he confessed to killing the Indian because, he said, "I couldn't sleep." He confessed, too, to falsifying his log, placing himself 20 miles away in McKinleyville at the time of the shooting. Why did he kill the Indian? "I don't know why I shot him," he said in a statement, "whether it was the heat of the chase or what."

District Attorney Ferroggiaro had a unique case: The cop who killed an innocent man, walked away from the bleeding body, made up an alibi, and then began investigating his victim's murder.

Yet the District Attorney only referred to the killing as an "accident" and called Hahn "negligent." In light of those statements, some thought it not very surprising that Hahn was charged only with involuntary manslaughter—a legal slap on the wrist when it comes to dealing with a homicide.

American Indian activists said: "The indictment is a joke. Hahn killed Bill Smith in cold blood. Smith's body actually landed at Hahn's feet. It was a senseless murder."

Hahn was dismissed from the Highway Patrol and there was a trial. His counsel was James McKittrick, in his mid-30s, an ice-pick-thin, vitriolic man who liked to run the table at George's Pool Hall on Third Street, drove a Lincoln Continental, wore suspenders like a Roaring Twenties gambler, and kept a private eye on his staff.

Hahn testified that when he asked Smith to stop and Smith turned, he felt an "object" strike his leg. The object, a stone, caused his gun to "discharge." He admitted the Colt was cocked and his finger was on the trigger when Smith turned. He did not say why he was chasing a man who had violated no law with a cocked gun . . . if he didn't intend to fire. (A Highway Patrol official testified: "It is extremely dangerous for an officer to cock a pistol unless he intends to fire it.")

The gun discharged, the hatchet-faced McKittrick maintained, because of a "faulty trigger mechanism." More exactly, the gun had been honed so that it could be fired "with less than standard trigger pressure." It had, in short, been hair triggered . . . souped-up the way Billy the Kid and Wyatt Earp and their gunslinging Wild West sidekicks doctored their Colts . . . and a Eureka gunsmith testified that honing guns was "a common practice among law enforcement personnel." No one knew, it turned out, who had hair triggered Hahn's gun, though it developed the patrolman had failed to turn in his weapon for its annual Highway Patrol inspection.

And Hahn?—the District Attorney questioned—Was he asked during his confession whether he shot Smith intentionally or whether the gun accidentally discharged? Both witnesses to the confession, another highway patrolman and an Arcata policeman, said they "couldn't remember" whether Hahn had been asked that seemingly routine and all-important question.

In his summation, defense attorney McKittrick dwelled on "the hundreds of policemen slain in America in the line of duty." He did not, understandably, tell the jury there had never been a cop killing in the history of Humboldt County.

He concluded: "The fact that people have been killed by officers is too bad, but I would say by and large they have brought their unhappy fates upon themselves."

The jury deadlocked 10–2 for acquittal.

District Attorney Ferroggiaro announced he would not ask for a new trial; Robert Hahn filed suit to regain his job with the Highway Patrol; Bill Smith's widow wondered how she'd feed her five children.

Pool-playing Jim McKittrick scored the biggest victory of his distinguished courtroom career, a victory which would take him a long way . . . to the Justice Department in Washington and the bullethole in Dirk Dickenson's back.

Bay Area attorney Phil Ryan was representing Judy Arnold, who had been charged after the raid with possession of marijuana and LSD, but the way he saw it, his real client was a dead man, Dirk Dickenson. Phil Ryan swore to himself he would not let a man get shot in the back without making every effort to bring his killer to justice.

He knew that two federal narcotics agents slept in Dirk Dickenson's cabin the night he was killed. They stayed on his land the next day, searching (with what must have been some desperation) for the million-dollar PCP lab their intelligence promised. They found nothing. A few days later, Undersheriff Bollman announced the property had been sealed off.

But nearly a full month after the shooting, District Attorney Ferroggiaro made his own inspection outing to the cabin site. He wanted to diagram the shooting. As the DA wandered around making his precise drawings, he stumbled onto a long black hose 200 feet from the cabin. He wondered where it would lead and—sweet creeping . . . it led to the million-dollar lab . . . at least part of it. The DA tracked the wondrous hose 200 yards into the woods and found a tent platform, two cans of a chemical component of PCP, a shattered measuring flask, and jagged bits and pieces of laboratory bottles.

Now this miraculous development was very strange. The entire 19-man nark posse had somehow overlooked the hose the day of the shooting, as did the two agents who scoured the ground the next day—even though the hose was right at their toes, 200 feet from the cabin! Unless, of course, the hose, the tent platform, and the whole suspicious jimbang hadn't been there that day. Unless someone had sneaked back onto the property to leave these incriminating little items . . . ready and waiting for the DA to come out to make his drawings.

According to courthouse insiders, District Attorney Ferroggiaro was apoplectic, he had blundered on to the ruins of that alleged lab. He felt he'd been set up, suckered into making a highly dubious discovery. Publicly, the DA said: "There's a certain taint to the discovery" and "the possibility must be considered that the materials were planted on the Dickenson property subsequent to the initial search."

When Phil Ryan heard the DA had found the lab, he laughed. He had no doubts the evidence was planted; no doubts the United States government would "obviously try every dirty sleazoid trick" to get one of its hired guns off the hook.

Ryan is a crusty Black Irishman who sees, in the attempted enforcement of drug laws, "the massive corruption of law enforcement." He likens agents to an "armed clergy" who have "a macabre lust for the death forces." He believes agents have a single rule of conduct: "You tell a lie often enough everyone will believe it," and once told a judge while court was in session: "I don't want any agents in this room, they're all liars."

When he heard once that narcotics agents were investigating him for his oft-expressed views, Ryan confronted the agent in charge, ambled genially close to him, and said, "Now let me give you some advice. If you bust me, you better have that search warrant pinned to your lapel. Because if I don't know who you are and you come crashing through my door, I'm liable to blow your ——— head off."

Ryan had examined the details of the Dickenson case, guessed at the extent to which the government would go to defend one of its own, and decided he needed some help. He asked attorney Michael Metzger, victim of one of the most tainted busts in BNDD history, a raid led by BNDD agent Kenny Krusco . . . who led the raid on Dirk Dickenson's cabin and was now agent Lloyd Clifton's superior and chief witness.

The two men made their own investigation of the case and reached very personal conclusions. They alleged that the raid on the Dickenson cabin was a twisted Keystone Kops affair; Krusco had been a miserable quarterback and no one knew exactly what was going on; that Lloyd Clifton shot Dickenson because he got carried away by the thrill and expectation of battle

That neither Clifton nor Krusco believed agent Filben had been shot and that they had worked out their alibis afterwards; that Clifton was lying to save his skin and Krusco was lying to save one of his men and his own reputation; and that the "PCP lab" had been planted for District Attorney Ferroggiaro because the government itself didn't want to "find" a lab a month late and badly wanted to soften the impact of the killing by sullying Dickenson's reputation at all costs.

(Metzger, who had worked with Krusco while a United States Attorney in San Francisco, had long alleged Krusco was a liar—"he never looked you in the eyes"—and had weakened Krusco's clout by forcing the government into a position where it could not defend some statements made by the agent in an affidavit. As a result, Krusco had been summoned to the office of the United States Attorney and questioned about his tactics and inconsistencies.)

Ryan went into high gear. He discovered a few words that seemed to weigh heavily against Lloyd Clifton, words contained in the BNDD's own manual to its agents. A paragraph of the manual (Subsection 42–43) said: "The agent should not shoot at any persons except to protect his own life or that of some other person. The agent will not fire at fleeing automobiles, suspects or defendants."

Lloyd Cilfton had killed Dirk Dickenson, Phil Ryan underlined, in violation of his own agency's regulations. He had fired at a "fleeing suspect."

Defending Judy Arnold, Ryan and Metzger were able to prove that Cilfton smashed the cabin door down without identifying himself or stating his warrant. The charges against Judy Arnold were dismissed by Federal District Court Judge William T. Sweigert, who reprimanded Clifton for his tactics.

In addition, Ryan filed a $2 million wrongful death suit against the federal government on behalf of Dickenson's family.

But the case seemed a bottomless pit and needed a herculean investigative job, and Ryan turned for further help to another man who'd had dealings with narcotics agents in the past. He was Michael Murphy, 27 years old, retired private detective, graduate of the Haight-Ashbury, a rail-thin longhair who had once convinced one of the California Bureau of Narcotics Enforcement's star informers to testify against her own superiors.

The informer was once asked by a reporter how many times she'd heard Murphy's name mentioned in the narcotics squad.

"At least 20," she said, "maybe 30."

"How many times were threats leveled against him?"

"Every time," she said.

A field supervisor for that agency had turned to the informer and said—"I want Murphy done." Murphy became such a thorn in the bureau's side he was shadowed everywhere and one top nark bragged: "We know every time Murphy ———."

Murphy's constant companions were Terror and Paranoia. The job devoured him and his personal life was in ruins. His wife, who complained she hardly saw him anymore, walked out. So, in the spring of 1972, Michael Murphy dropped out of the gumshoe business, stopped investigating narks, stopped investigating anything, and laid back doing odd jobs.

When Phil Ryan asked him to help with the Dickenson investigation, Murphy refused.

Ryan outlined the case to him, described the gruesome way the bullet ripped into Dickenson's back and exploded his insides, and Murphy changed his mind.

On a muggy summer day in 1972, he sat with a reporter who was also a friend—the two had helped derail one particularly sinister narcotics agent's high-speed career—and Murphy said he was happy to be investigating again. He had gotten himself together; he had patched fences with his wife; he believed in what he was doing.

The reporter asked to buy him a drink and Murphy refused. He was on the wagon, he said, no booze. Besides, he was busy, he had to run, on time to ———. He wanted to devote as many hours as he could to this particular job.

He was investigating BNDD agent Lloyd Clifton.

For five long months, working 12 hours a day, Michael Murphy delved into Lloyd Clifton's police background. When he began his digging, Clifton's image was snow-white; the hardworking Brigham Young sociology grad who had devoted his life to upholding the law. But as Murphy turned his reports in to Phil Ryan, agent Clifton didn't look immaculate anymore.

This is what Murphy found:

In the winter of 1968, while a Berkeley policeman, Lloyd Clifton stopped a man named James Baird for a traffic violation. He found a bottle of gas in Baird's car.

On February 21st, 1969, Clifton was questioned about the arrest by Baird's attorney, James Giller, in the Superior Court of the State of California. A court transcript revealed this dialogue:

Giller. Did you ask him [Baird] a question?

Clifton. Yes.

Giller. And what question did you ask him?

Clifton. I asked him what was in the bottle.

Phil Ryan. Tough-guy attorney had * * *.

Giller. Did he reply?

Clifton. Yes.

Giller. What did he say?

Clifton. He said "Gas."

Giller. Did you call him a name at that point?

Clifton. I referred to him as a "murder."

Giller. After you referred to him as a murderer, what did you do?

Clifton. He smirked at me and I hit him.

Giller. Where did you hit him?

Clifton. In the stomach.

Giller. With what?

Clifton. My baton.

Giller. Prior to beating him in the stomach with your baton, at any time did you choke him with your baton?

Clifton. No.

Giller. When you hit him in the stomach, he had made no gestures or any attempt to do anything to you, did he?

Clifton. No.

Giller. You just did that on your own?

Clifton. Yes.

Giller. You had never seen the man before?

Clifton. No.

Giller. Yet you called him a murderer?

Clifton. Yes.

Giller. What else did you do to him? How many times did you hit him after that? You hit him more than that one time, didn't you?

Clifton. Not that I recall.

Giller. You don't recall that, huh?

A few months later, a young black named Steven Wilson was arrested by the California Highway Patrol for ignoring some traffic warrants.

Wilson was taken to the Berkeley police station. He told the patrolmen the car in question wasn't his anymore and asked their permission to make a phone call. He said he could establish identity of the new owner. The arresting officers said fine, he could make the call.

He used the phone at the booking desk. He was going back to the patrolmen when policeman Lloyd Clifton walked into the room.

Steven Wilson alleged that Lloyd Clifton. . .

Grabbed him by the shirt and said: "What the ——— are you walking around here for?" Threw him into an open elevator and smashed his head against the side of it. Took him upstairs and continued beating and slapping him on the way up.

When they got off the elevator, Steven Wilson said several Berkeley policemen saw Clifton beating him. They grabbed Clifton and told him to "let the guy go."

The policemen told Lloyd Clifton to let him go because his victim was the son of Superior Court Judge Lionel J. Wilson.

(Judge Lionel Wilson, ironically, had been sitting on the bench when Clifton admitted hitting James Baird because "he smirked at me.")

Steven Wilson filed a formal complaint with the Berkeley Police Department; Lloyd Clifton was officially reprimanded for his conduct.

On March 24th, 1970, another young black man named Jemeral Young was being released on bond at the Berkeley City Jail. Present were Mrs. Edna Young, his mother, a bailbondsman and Lloyd Clifton.

Mrs. Young alleged that as they were getting ready to leave, Lloyd Clifton began beating her son with his fists. When she tried to stop him and screamed she'd bring charges, Clifton said her son was under arrest. The bailbondsman, streetwise and shrewd, talked him out of it.

Questioned by his superiors, Clifton did not deny the beating. He said he beat Young "because he called me a ———."

As he read Murphy's reports, Phil Ryan was sickened. The bullet in the back was not an isolated incident. Ryan saw a "pattern of conduct." Dirk Dickenson's killer was a man who had assaulted one suspect for a smirk, another for an obscenity, and a third for no discernible reason at all.

The Department of Justice, meanwhile, seemed in no hurry to conclude its investigation of Dirk Dickenson's death. A flurry of press releases in the spring and summer of 1972 announced the Feds were coordinating a task force of bigwigs to sift facts: A Department attorney from San Diego was assigned exclusively to the case; a BNDD Division of Inspection agent flew from Los Angeles to Garberville; all government investigators, the Department said, were "fully cooperating" with District Attorney Ferroggiaro.

In June, an assistant US Attorney in San Francisco said a decision whether Clifton would be indicted would be reached within three weeks. At the end of September, there was still no decision and a public relations assistant to Attorney General Richard Kleindienst in Washington hinted at an even lengthier delay: "We've had recent cases in which indictments have been obtained on one-year old cases."

At the same time, also in Washington, BNDD chief counsel William Lench said the Bureau had made no formal decision whether Clifton had violated its internal regulations "but on the basis of reports we've reached a preliminary conclusion Clifton was justified in shooting." The chief counsel obviously did not attach much significance to BNDD manual Subsection 42–23 which forbids agents to shoot "fleeing suspects."

On the 15th of November, Attorneys Phil Ryan and Michael Metzger wrote Attorney General Kleindienst demanding the government conclude its investigation "without further delay."

The letter also detailed the fruits of hardworking Michael Murphy's labors. "Our investigation," concluded the letter to Kleindienst, "has established that the violence which agent Clifton perpetrated on April 4th was part of a pattern of behavior in which he has engaged for some time and about which his superiors at the Bureau of Narcotics and Dangerous Drugs should be familiar."

Ten days later, in San Francisco, the bespectacled US Attorney for Northern California, Nixon-appointee James L. Browning, made the announcement which Ryan and Metzger feared and expected: In the government's eyes, Lloyd Clifton had done nothing wrong. He was cleared. The fatal bullet in the back had not violated Dirk Dickenson's constitutional rights.

While federal civil rights statutes prohibited an officer from acting "with the specific intent of depriving another of a federal constitutional right," Browning explained, Lloyd Clifton did not act with an intent to purposely inflict "punishment without trial."

Browning went to great pains to describe the scope of the Justice Department probe (if they put so much effort into it, they could not have been wrong): "Extensive independent investigation" by his office and the BNDD over a six-month period; interviews with more than 25 witnesses and the collection of scores of exhibits; the results of all this digging reviewed by Browning's office as well as by the Department of Justice in Washington.

Lloyd Clifton was off scot-free, unless the shellshocked Humboldt County DA, Bill Ferroggiaro . . . who was at that moment losing ingloriously to Jim McKittrick in the involuntary manslaughter trial of Highway Patrolman Robert Hahn . . . took some action. But Ferroggiaro said not surprisingly again that he would do nothing . . . for the time being, until he concluded the Hahn case.

Ryan and Metzger watched this legal tapdance with some alarm; they were being kept directly out of the case by their real client's fate (dead men don't testify) and they were thus powerless to go after Clifton in a criminal courtroom. That, if he chose, would be the task of the rather vague and muddling Mr. Ferroggiaro, who could seemingly do nothing right: branded a gutless voteseeker by those decrying the premature deaths of Pat Berti, Bunky Ferris and Bill Smith . . . and damned as soft on law and order by Undersheriff Bollman and most of the sheriff's department.

As the District Attorney weighed his decision—sure to cause him further grief from either sourdoughs or creep lovers—the routine of life in the Humboldt wilderness continued:

Another Highway Patrolman stopped a Wyot Indian for drunk driving. This Indian, flashing on the bullet in the forehead the other Indian got, asked the patrolman if

"I'm going to get shot too." The drunken Wyot was not shot, but was allegedly beaten to the ground.

In the Eureka jail, a policeman was questioning an Indian named Merrifield. Merrifield wasn't very cooperative. The policeman kicked the Indian black and blue and was charged with assault.

And then there was the newest caper pulled by sheriff's investigator Mel Ames . . . who had staked out that marijuana plant for a whole week . . . who had been Undersheriff Bollman's liaison with Kenny Krusco and Lloyd Clifton . . . who had conducted the airborne surveillance of the "million dollar lab."

One night Mel Ames and another sheriff's detective named George Gatto collared a kid they heard was dealing grass. They asked him to score for them. The kid was no dummy. "You kidding?" he said, "you guys smell like cops."

At which point Mel Ames and his partner threw the kid up against the car, put guns to his head, and said they were "Mafia gunrunners from Portland." Unless the kid scored, they said, "we'll blow your brains out."

The kid scored and, naturally, they arrested him. They offered him a deal. If he turned informer, they'd let him off. The kid turned informer, served them well in a dozen cases, so well that Mel Ames lent him out to other agencies.

When the kid was burned out and everyone in Humboldt County knew he was a nark (of no further use to any agency), Mel Ames arrested him again. The kid was charged with dealing grass.

An incredulous judge listened to these surreal details in court with eyes popping out of his skull, heard how Mel Ames had identified himself as a "Mafia gunrunner from Portland," shook his head, and threw the case out of court.

### MICHAEL MURPHY 1945–1972

Michael Murphy, the gangle-shanked private eye, relentlessly continued his investigation of Lloyd Clifton. He was sure the narks were aware he was mining Clifton's past, and he warned his wife, Pam, to remember all the old safeguards: Never let anyone into the house, always assume the phone is tapped, keep a close eye on schleppy salamander-like door-to-door salesmen. It was the same tired energy-draining games, but, remembering the threats agents had leveled against him in the past, he knew the game was high-staked. He knew, too, that the allegations he had unearthed impugning Lloyd Clifton's professional competence, allegations which Phil Ryan publicized in a press conference, had given the BNDD a black eye at a time they were most interested in sanctifying their public image.

Murphy believed in his job and was content. Doing investigative work for a cause he felt righteous gave him a deep sense of satisfaction; his work on the Clifton case even convinced him to apply for a California detective's license, the kind Lew Archer carried, to enable him to work as a full-fledged private investigator. He enjoyed Christmas with his wife and two-year-old son, told friends he spent too much but, what the ———, playing Santa Claus was a small way of making up for a stormy year.

He took his state investigator's exam four days after Christmas, on the 29th of December. He didn't study hard because he assumed the test, mostly designed for Popeye-biceped yoyos, would be a mickey mouse exercise. He'd put in over 4000 man hours of grueling investigative work and he figured if he didn't know the basics after all that sweat and worry, he never would. He got up a few minutes after 7 AM on the 29th, a ridiculous hour for Irishmen, and left his home in Berkeley just after eight.

The test began at nine o'clock. He had two and a half hours to finish it. The bozos sat at the desks around him and fidgeted. Murphy was through in an hour. He called Phil Ryan and suggested they meet for lunch to celebrate. "The test was a ———," he said.

They met at Perry's, a flashy and celeb-gathering restaurant on Union Street, a block from Ryan's office, and Ryan was more than an hour late. Murphy was sitting at the bar, sipping a beer. The bartender, a professional Irishman named Shamus, leaned over to Phil Ryan and cracked: "What the hell kind of Irishman is this guy? He's been here two hours and he drinks two beers."

Perry's was filled with junior execs and hustling salesmen so they walked a block to a less-popular place, Thomas Lord's. Murphy drank a glass of mountain red burgundy wine with lunch and a single Irish coffee. They talked about the Dickenson case.

Murphy was chagrined Clifton had been cleared by the government and, cynical and bitter, he said: "No one really cares. That's the trouble with nark cases. People say, 'Yeah, yeah, yeah, it's terrible,' but there's no movement against their excesses. People shake their heads but don't get involved and the narks move on to slap up the next guy."

Ryan complimented him for his painstaking research. Murphy said he "hoped it would help."

Around 2:30, Phil Ryan went back to his office and Murphy said he was headed for a music store to price guitars. "I can't work 24 hours a day," he laughed. "When he left," Phil Ryan was to remember, "he was stone sober."

Around 6:30, Pam, out visiting a girl friend called him at home. They spoke for a few minutes and Murphy told her he'd take her to a movie.

Then he said: "Listen something came up. I've got to go out for a little while to meet a guy. I'll be back by 7:30 and we can go to the show."

Pam didn't ask who the "guy" was and didn't ask what "came up." She remembered his fears about the phone being tapped and assumed from his tone it was "business."

"Watch yourself," she said.

"I always do," Murphy laughed.

At 8:25, 19 miles from home Michael Murphy drove his Volvo station wagon onto the MacArthur Freeway in San Leandro. He drove it onto an exit ramp—the wrong way. He raced it at speeds up to 75 mph—the wrong way—for two and a half miles. Cars swerved out of his way. Horns blared; tires screeched. Murphy drove on.

Two and a half miles down the freeway he hit a Toyota head-on. He was killed instantly; so were two people in the other car.

An autopsy by the Alameda County Coroner's Office showed he had a blood decibel count of .29 when he died. A blood alcohol count of .10 is enough for a drunk-driving arrest. At .20 the function of the motor area of the brain is depressed and the individual staggers. At .30 the more primitive perceptive areas of the brain are dulled and the person is stuporous.

Phil Ryan notified that Michael Murphy was dead was in shock. It was he thought a most suspicious accident. The guy had taken his test that morning, he had gotten his loose-jointed life together, he was hardly drinking, he was cold sober when he left lunch that afternoon . . . and now Phil Ryan was told Murphy died because he got stuporously drunk.

He didn't buy it. He thought Murphy could have been lured from home by a suckering phone call and drugged. He knew Murphy had made powerful enemies.

Ryan hired a nationally respected toxicologist to examine the body. Dr. Charles Hines' tests showed no traceable drugs in the blood or internal organs—except the booze. Pam Murphy went to the newspapers and asked the "guy" who met her husband that night to come forward. She got no response.

Michael Murphy's death was ruled "accidental."

Michael Murphy was buried in the first week of 1973. That same week, the Humboldt County Grand Jury indicted Lloyd Clifton for the murder of Dirk Dickenson. The charge was second-degree murder—an involuntary manslaughter charge was tacked on later—and Clifton became the first agent in the five-year nistory of the government's Bureau of Narcotics and Dangerous Drugs to face homicide charges.

District Attorney Ferroggiaro also charged that the Department of Justice had very definitely *not* cooperated with his investigation; that the Department "sat on its hands for a day and a half" after the shooting; that the BNDD purposely withheld its internal regulations manual from him; that "there was a delay" before the Department allowed him to interview federal agents who had participated in the raid.

The government expressed surprise: "It's a classical case of justifiable homicide under state law," said James Browning, the federal attorney for Northern California. "I've seen almost the same exact facts considered by almost every other district attorney in the state and it's been held to be justifiable homicide."

"That," said Ferroggiaro, "is ———."

The District Attorney told Phil Ryan he sought the murder charge on the basis of Michael Murphy's research. Clifton's record of past brutality, he thought, was most relevant to the single shot on Pratt Mountain.

The District Attorney, courthouse observers noted, was not in good humor. He felt he'd been tricked into finding the lab; he felt the government was treating him like a small-town briar. He felt he'd done his best in the trial of Highway Patrolman Hahn; yet he had been made to look foolish. The high-pitched Jim McKittrick, rocking back and forth on his heels like legendary San Francisco cop-lawyer Jake Ehrlich, had run dizzying legal circles around him. According to some courthouse analysts, the DA would not have pushed on the Clifton case if he had won a conviction on Hahn.

On January 16th, agent Lloyd Clifton, looking paunchier, with a new haircut but the same overdose of hairspray, was arraigned at the Humboldt County Courthouse. He was released on bond on his own recognizance and was never even booked at the county jail. The courtesies he received had been afforded no other indicted murderer in the history of Humboldt County.

At Clifton's side were a nondescript government attorney and the man who would be in charge of his defense. He was James McKittrick, who had concluded his summation in the Hahn case by saying: "The fact that people have been killed by officers is too bad, but I would say by and large they have brought their unhappy fates upon themselves."

Why was Humboldt County's hotshot mouthpiece defending Lloyd Clifton if the government was responsible for the agent's defense? The US Attorney quickly answered that intriguing question. Jim McKittrick was now a part of the government: He had been deputized as a special United States Attorney. He had been whisked to Washington, where he had taken the oath and met with Attorney General Richard Kleindienst. The federal government was paying all the costs.

The People vs. Lloyd Clifton was based on these arguments:

Lloyd Clifton had violated his own department's regulations—first by breaking down the Dickenson cabin door, then by firing at the fleeing Dirk Dickenson even though BNDD regulations specifically warned against "firing at a fleeing suspect."

In shooting Dirk Dickenson, Lloyd Clifton demonstrated an "abandoned and malignant heart." as the District Attorney later explained, "that he had a coldness or cast of heart by which he didn't exhibit care." This coldness was the basis of the second-degree murder charge. The other charge, involuntary manslaughter, was based on viewing Clifton's action as "without due caution and circumspection, a criminal negligence-type situation."

The government answered. Jim McKittrick, now a special United States Attorney, wrote a letter to the editor of the Times-Standard: "I should like to point out . . . that all of our institutions in this country are under fire today and that the police perhaps more than any other are called in question by radical elements in our society, who for reasons of their own desire to bring our country down. I do not include Mr. Ferroggiaro in this category, but I must say that his efforts during the past year must have been viewed with satisfaction by such persons."

The government argued that the District Attorney had not presented all the facts to the grand jury. He had not asked Lloyd Clifton to testify. Replied the DA: "It is poor practice to request or require prospective defendants to be subject to grand jury questions because they cannot be represented by an attorney at the hearing."

At the same time, the government argued the DA had given the grand jury too many facts—specifically the BNDD internal regulations manual forbidding the shooting of "fleeing suspects." To support this argument, McKittrick presented two letters. The first was from Attorney General Richard Kleindienst, which said BNDD regulations were "internal guidelines . . . not intended to negate any common-law rights or defenses." (The regulations make nice reading, Kleindienst seemed to be saying, but should not be taken too seriously.)

The other letter was even more remarkable. It was from Andrew Tartaglino, the acting director of the BNDD. Notwithstanding subsection 42–23, wrote Tartaglino, Clifton "properly and necessarily discharged his weapon . . . in accordance with BNDD regulations."

The usually low-key District Attorney seemed a bit riled by all of that and said "the statements are beyond belief, a brazen attempt to bootstrap an employee out of a situation created by that agency and that employee." The letters were "self-serving," the DA said, because Dickenson's family had sued the BNDD for $2 million. Ferroggiaro shook his head and said: "I expect next we'll have a letter from Nixon himself explaining how this whole thing falls under the jurisdiction of his heroin hotline."

The government argued that the prosecution of Lloyd Clifton was interfering with the process of Justice. To wit: Lloyd Clifton's reputation was being impeached in other cases involving other busts he had participated in. Attorneys representing those clients were moving to impeach Clifton's testimony by revealing that the man who had busted their client was an alleged murderer. The government expressed fear that if the murder/manslaughter charges weren't dismissed, then they'd lose a whole year's worth of narcotics cases.

But the government's main argument was a black humorist's dream: The charges against Lloyd Clifton had to be dismissed because of the . . . Civil Rights Movement!

It worked this way: Lloyd Clifton was acting as a federal agent, a man in the employ of the United States government, when he fired his revolver. The United States government's investigation absolved him of any wrongdoing. The County of Humboldt and the State of California had no right to institute proceedings . . . because Lloyd Clifton was a federal employee.

What would have happened, McKittrick asked, if civil rights registrars and federal marshals in the Deep South would have been arrested for "spitting on sidewalks" by redneck deputies and badge-wearing Klansmen in Selma, Montgomery, and Neshoba County, Mississippi? As McKittrick put it: "The Department of Justice is extremely concerned with Mr. Clifton's case. The Attorney General feels he has as great an obligation to protect Lloyd Clifton from prosecution here in Humboldt as he does in protecting federal voting rights officials. . . ."

McKittrick added: "If we are not to permit the Southern states to prosecute such federal officers, are we in a position to say—'Well, our motives are more pure than theirs and therefore we can do it while they can't.'?"

In reply to that, a member of the DA's staff posed this question: Say, just as illustration, that a government agency, like the FBI for instance, is taken over by evil and corrupt men who form its agents into execution squads. Say that these FBI assassins spread out around the country and kill ten men in ten different states. The FBI director announces an extensive impartial investigation which finds the agents innocent of wrongdoing.

Assume now that the government's argument in the Clifton case has been upheld: States can not prosecute federal employees for alleged crimes committed in the performance of duty. What happens then? According to the government's argument, nothing. The murderous FBI men go on to their next hit.

Almost as afterthought, in reply to McKittrick's Civil Rights analogy, District Attorney Ferroggiaro pointed out the charges against Lloyd Clifton were not charges of "spitting on the sidewalk."

At the same time, the government reiterated Federal Attorney Browning's claim that the shooting of Dirk Dickenson was not in violation of state law and should have been ruled justifiable homicide. At issue were State Penal Codes 196 and 197 which said:

"Justifiable homicide by public officers is . . .

". . . when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest . . . when necessarily committed in attempting, by lawful ways and means, to apprehend any person for a felony committed . . . or in lawfully keeping and preserving the peace."

The District Attorney said the key word was "necessarily" and asked: How did Lloyd Clifton know the man fleeing toward the woodline was Dirk Dickenson, accused felon? How did he know the running man 50 yards from him wasn't a visitor to the cabin terrified by the roaring helicopter and the gunmen who never identified themselves?

Ferroggiaro referred, too, to the regulations of other police agencies. The Highway Patrol Enforcement Tactics Manual said to justify shooting, "There must be actual fear for one's own life or of serious bodily injury . . ." The Humboldt County Sheriff's Firearm Regulations said: "Members must exhaust every other means of apprehension before resorting to the use of firearms . . . Firearms may be discharged in the defense of one's own life when all other reasonable means have failed." Was Lloyd Clifton's life threatened, the DA asked. Why didn't agents use a bullhorn to order Dickenson to stop when they admitted the helicopter was so loud they "couldn't hear each other"? Why wasn't Dickenson chased by the 19-man posse instead of shot in the back?

The District Attorney argued that his interest was to pose these questions to a jury and let them decide. Why did the government want to quash the charges before the case ever got to a jury?

The government's first formal step in trying to get the charges dismissed was to ask on January 22nd for the disqualification of a Superior Court Judge "for prejudice." He was William Watson, the man who had tossed Mel Ames' "Mafia gunrunner" drug case far out of court, who raised goats and was sometimes seen at a place called The Keg in Arcata, eating spaghetti and listening to a rock band. Watson didn't want the hassle and agreed to a disqualification.

That put the case before Superior Court Judge Thomas Montgomery, who had just returned from a New Zealand vacation and who said, the first time he heard the DA and McKittrick hammer away at each other, "I hope I don't have a Pentagon Papers trial on my hands." In mid-March, Montgomery denied the government's motion to dismiss the charges, which was not unexpected. The denial made it possible for the government to appeal and seek dismissal in more friendly territory—in federal court. In mid-February, Federal Attorney Browning had said: "We don't want to give the appearance of being heavy handed by asking a federal judge to take the play away from the state courts, but we don't want to rule that possibility out."

At the same time, Phil Ryan was informed that the government's file contained the transcript of a taped conversation between Judy Arnold and Dirk Dickenson's parents. Their dialogue was taped at Undersheriff Bollman's direction three days after the shooting, as Chester and Mittie Dickenson waited to post bond for Judy at the Humboldt County Jail. It was the first time they had seen each other since Dirk's death. They spoke over a telephone, separated by a pane of glass.

Judy. Hello [sobbing].

Mittie. Hi, honey. We're going to take you home . . . Cry, I know.

Judy. I have to get out of here. I'm going crazy.

Mittie. What dear?

Judy. I said, I have to get out of here. I'm going crazy.

Mittie. I know you are.

Judy. All I can think about is Dirk.

Mittie. It's a nightmare. I'm so sorry, Judy, so terribly sorry. [crying] Let daddy talk.

Chester. Hi, hon. We'll have you out of here in a little bit. We're going home as soon as we can get the paper taken care of.

Judy. How long will it be?

Mittie. It shouldn't take very long. I'm going to check.

Chester. Just a little while, sweetheart.

Judy. It wouldn't be so bad if they just . . . They have the radio on and it seems like the news about it comes on every 30 minutes.

Mittie. I don't know why they had to kill him.

Judy. There was no reason.

Mittie. [crying] No.

Judy. No reason, no reason.

Mittie. Have you eaten?

Judy. No, I haven't eaten in three days. I can't.

Mittie. You've got to have something to eat, honey. We haven't eaten either. Drink coffee and that's about it.

Judy. I don't think I even want to go to the funeral. I can't.

Mittie. I'm thinking of having a closed casket. I don't think I want it open.

Judy. I don't think I want to see him [softly]. I feel terrible saying that but I just don't.

Mittie. No, honey, I know what you mean. I understand. I understand, darling.

Judy. We had everything worked out. It was all going to be all right. And then it had to happen. It's horrible.

Chester. Ask her about his dogs and everything.

Judy. Uh, we have a friend taking care of the dogs.

Mittie. Oh, God, I'm so shocked Judy.

Judy. Yeah. It was quite a shock. It happened so fast. And they wouldn't even tell me. I didn't know he was dead 'til about seven o'clock. And they knew when they brought me here that he was. And they wouldn't even tell me.

Mittie. Did you have to identify him?

Judy. [crying] No.

Mittie. Well. . .

Judy. But there were so many of them; I couldn't believe it.

Mittie. Senseless, it was just a senseless killing.

Judy. I know. That's what I told them. That's what they kept asking me—why did he run? I go—What would you do if 20 men come bursting in your front door with shotguns? What would you do? And they go—Well, he didn't have to run. I go—Well, just what would you do if you were in his place? It was horrible. It was just no need for it to happen at all.

Mittie. What will we do?

Judy. I didn't get to make a phone call until yesterday. Last night was the first one I got to make. My lawyer just really flew apart at that. He raised a big stink about that and told them they had no right not letting me call. Because I asked as soon as I got here if I could make a phone call and they wouldn't let me.

Mittie. God.

Judy. It's been awful in this place. People were taking pictures and stuff. It was like a bunch of vultures. They acted like I committed murder or something.

Mittie. Are you warm enough?

Judy. Yeah, I have one blanket. It stays pretty warm in there. It's just an Army blanket.

Mittie. What clothes do you have

Judy. Just what I had on me. I couldn't even—they wouldn't let me bring my purse or nothing.

Mittie. Would you like a Coke or something? My mouth tastes like, I've smoked so many cigarettes my mouth tastes like a. . . .

Judy. I've had sips of coffee and that was it. The coffee tastes so bad. . . . We just didn't know what was happening. I couldn't believe it. You know, Dirk didn't run until they were inside the house, 'til they busted the door in and then, you know, he jumped off the back porch. Then they were trying to do me, you know, like—Oh, did Dirk have a gun with him? They were just trying to get me all confused and everything.

Mittie. Dirk never carried any gun.

Judy. No, he never had no gun with him. We were getting the house fixed up. We were going to put the bathroom in. It was awful.

Mittie. Oh, God.

Judy. I wonder if they are going to do anything about what happened to Dirk?

Mittie. Somebody else told us too that it was just out and out murder.

Judy. Yeah, that's it.

Mittie. Cold-blooded murder. Some gung-ho jerk.

Judy. I can hardly talk about it.

Mittie. Where's Dirk's clothes?

Judy. A lot of his clothes are in Garberville.

Mittie. Well, he's got quite a few clothes at home, too. I've cried when I didn't think I could. I'm just numb.

Judy. [crying] Just think of how happy we were.

Mittie. I know it. Daddy and I were talking about that. You were just so happy.

Judy. It's going to be so hard.

Mittie. Yes, Judy, it's going to be awfully hard on you, honey.

Judy. I just can't make it without him.

Mittie. What?

Judy. I just can't make it without him [crying].

Mittie. I'll be so glad when you get out of here so I can just love you.

Now, in May of 1973, more than a year after the shooting, the United States government's motion to dismiss the case of *The People* v. *Lloyd Clifton* is pending in federal district court. All sides agree it could take as long as two years for a final decision.

Asked whether he is optimistic, the weary District Attorney Ferroggiaro, his political ambitions a memory, answers with a wry, "No comment."

"I'm optimistic," McKittrick bubbles, "we'll win."

Says Phil Ryan: "The real victory of the people in this case was actually the indictment itself. To expect that Clifton is really going to be put on trial is to entertain illusions about how the system operates. I am saddened but hardly surprised."

The sun shines on Humboldt in the spring; rivulets of spunkwater dot the meadows; herds of deer lope through the sequoias searching for lily ponds; sheep wander the bleakscapes of stumps; canyons echo the chain saws' screams.

In the spring of 1973, at a meeting of the county planning commission, a logger named Pete Johnson gets up to speak his peace. "Sometimes I get in trouble because of talking too much," the logger says, "but I call it like I see it. It is those hippies against us straights, and the rednecks around here better wise up. Those hippies don't contribute one thing to the area except dope."

In Whitethorn, Ms. Elaine Lester, a veteran of New York and Berkeley, a grade-school teacher at an alternative school, is asked about life in the wilderness. She doesn't want to talk about it. "Things are hard enough for people just to survive," she says, "without media intervention—even the hip media."

On the nearby Samoa Peninsula, the coroner recovers another body. The body had a broken nose, broken hands, battered ears, startlingly blue eyes and Indian features. The body waits for an identification. Weeks pass and it is assumed the dead Indian will never be identified, just like the murdered Indian found near Kneeland four years ago.

A militant Indian named Russ Redner says: "We don't want to tear the whole damn thing apart, we aren't revolutionaries, but we will if that's the only way we can reach our goals. I wouldn't feel bad at all if we marched on the Humboldt Courthouse again and this time burned down the damn thing to the ground."

In early March, 1973, Mrs. Mittie Dickenson writes Phil Ryan a letter. Attached to it is a newsclip, a letter to the editor of the Times-Standard from a Eurekea housewife:

"Lloyd Clifton has been charged by our DA Ferroggiaro with the unnecessary killing of Dirk Dickenson. . . . I have been under the impression that we elect a DA for our protection and the grand jury is chosen to make our decisions. . . . From my point of view, Clifton was justified and did the public a big favor. . . . The past few years' record proves that it takes a lot of guts to enforce the law. So let's back 'em up and not mow 'em down."

Mittie Dickenson writes:

"I want so much to answer that letter. Lord, it's almost a year and it all still seems like a nightmare. Dirk had a right to a trial by jury, not death. I wonder if I'll ever accept his passing. The tears seem to flow more often instead of less."

In a cemetery in Lincoln, Calif., Judy Arnold stands in front of a gravestone, looking at the ground. She has lost weight; her eyes are sunken and hollow. She lives in Berkeley, taking the days "one by one, slowly." She is thinking about Dirk's dream. . . . They were coming for him. It was an execution squad. They shouldered the cabin door. Their faces were blank and waxy. He heard the gunshots and saw the glop of his own blood. . . . Judy Arnold stands by his grave and remembers how she comforted him: You aren't going to die, babe, it's just a dream, a lousy, rotten, silly dream.

In mid-March, a helicopter hovers over the eastern slope of Pratt Mountain between Garberville and Alderpoint. It is headed for a cabin. It is a long green Huey borrowed from the Presidio of San Francisco. The chopper touches down in a clearing and armed men leap from it and run for the cabin door. Leading the charge is BNDD agent Lloyd Clifton. Behind him are Undersheriff Bollman and agent Kenney Krusco. Suddenly Lloyd Clifton is on the back porch, and there is a shot.

It is a carefully orchestrated replay of the shooting. Watching everything is attorney James McKittrick. It ends when the Huey takes off again. There is a man inside play-acting Dirk Dickenson's death. The government wants no loose ends.

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[From the Tucson (Ariz.) Daily Star, June 2, 1973]

### WRONG RESIDENCE RAIDED BY POLICE

(By Ben MacNitt)

Undercover narcotics agents broke into the wrong northside home May 22 and held two innocent victims at gunpoint before realizing that their intended target was the home next door.

"When I first saw them, I thought they were gangsters," Kathy Rote says of her encounter with the narcotics team, which broke into her house without a warrant.

Police confirmed yesterday that agents, including Lt. Don Lowe, head of the Metropolitan Area Narcotics Squad, mistakenly broke into Miss Rote's home and threatened her friend, Earl Edmonson, with a gun in "an unfortunate incident" connected with a valid drug raid at an adjoining home.

Police Major Clarence Dupnik said that because the raid was made incidental to an arrest there was no need for a search warrant. He added that warrantless searches are standard operating procedure in such cases.

However, Deputy County Atty. David Dingledine said he would conduct a thorough investigation early next week into the incident to make sure "the constitutional rights of those involved were not violated."

After conferring with Dupnik, Dingledine said last night he was not sure whether the search made in the incident was legal without a warrant.

Miss Rote, 23, lives in a rented home at 3504 N. Geronimo Ave., which is separated by a walkway about eight feet wide from another home at the same address where police arrested Kevin M. Conlin and Steven R. Weisner on charges of possession of marijuana and attempted sale of marijuana.

Details of the incident supplied by Miss Rote, Edmonson and Dupnik are as follows:

On the morning of May 22, undercover narcotics agent Peter Pershing made a deal to purchase marijuana at the Geronimo address later in the day.

Three arrest teams were staked out near the house when Pershing arrived in the afternoon. When the transaction was about to take place, Pershing announced he was a police officer and arrested Weisner. Conlin reportedly fled and Pershing shot at him, hitting a kitchen cupboard.

When the arrest teams heard the shot and were told by radio what was happening they rushed the property thinking Pershing might have been injured. At least two and maybe as many as six other agents rushed the wrong house.

At the same time Edmonson was putting some trash into a garbage can outside the house when two men "who looked like hippies" jumped out of a car, pointed pistols at him and ordered him to "freeze."

After the incident, Edmonson recalled thinking, "Oh my God, I'm going to get shot, I'm going to get shot . . ." He ran, was stopped and forced to lie spread eagle on the ground.

Miss Rote, who was in the house, said she saw two men pointing guns at Edmonson and "they looked like gangsters" so she went to the telephone to call police. Before she made the call, two agents entered through the front door, pointed guns at her and told her to sit down.

Miss Rote is a polio victim and walks with the aid of crutches. She said her bout with the disease has weakened her heart and when the men entered with guns she began to feel her heart beat quite fast. "It's amazing what your subconscious can do when someone points a gun at your head," she said.

Shortly afterward, she said, two other men, one of them Lt. Lowe, entered the house by breaking through a screen at a rear bedroom window. One or two others came in later.

At no time, according to Miss Rote, did any of the men identify themselves or tell her why they were in her home. None were in uniform.

Lowe denies that and says he told Miss Rote he was a police officer on a narcotics raid. He was armed with a special police model 12-gauge shotgun. Dupnik said after the incident Sgt. Werner Wolff explained the police presence to Miss Rote. She says it is not so.

Miss Rote said the men searched her home, "kicked some furniture around" and slightly damaged a piece of sculpture in her living room. At one point a man wearing a badge entered the house and Miss Rote said she realized it was probably a police raid when she saw uniformed officers through a window outside.

Edmonson, meanwhile, was taken to the Conlin house. He said he saw a man, apparently Weisner, sitting in a chair with his hands tied behind his back. A police agent was giving him sips of beer from a can he had in his hand.

Edmonson was spread eagled against a wall and searched. Pershing then said, "He's not the one." Police confiscated 306 pounds of marijuana at the Conlin residence and later arrested Juan Z. Cota, a Sonoran, on charges of transportation and possession of marijuana for sale in connection with the same incident.

After telling police he had nothing to do with the Conlin house, Edmonson was escorted to the Rote home.

Both Edmonson and Miss Rote produced various pieces of identification and tried to convince the police they had no connection with the Conlin house. "That doesn't keep you from doing dope deals with them, does it?" one man asked, according to Miss Rote.

"Yes, it does," she answered. "You're in the wrong house. This is a separate house." One of the men then said to Edmonson, "Nothing personal, you understand," and the men left.

Edmonson said he did take the incident personally, adding that he was "scared spitless."

Dupnik said the department "has stringent procedures to try to preclude this sort of thing from happening. Unfortunately in the heat of battle when officers think their lives are at stake they begin to respond instinctively."

Edmonson was stopped, he said, because officers thought he was either attempting to get away or disposing of evidence in the garbage can. Edmonson said he was throwing out some watermelon rinds.

Police Chief William Gilkinson, following standard procedure, set up a board of inquiry immediately after the incident to investigate Pershing's use of his weapon. Dupnik said the department is also investigating other aspects of the incident.

Dupnik confirmed that no narcotics or marijuana was found in the Rote home and that neither Miss Rote nor Edmonson were in any way connected with the alleged drug traffic in the Conlin home. He said the department will pay for the damaged screen.

Two members of the force visited Miss Rote's home yesterday to explain the incident to her, he added.

CHICAGO, ILL.,
*May 19, 1973.*

DEAR SENATOR PERCY: I have heard that you are presently involved in getting investigations started on the various "mistaken" drug-raids which have been taking place throughout our state; I am writing to inform you of one more such raid that you might want to use to strengthen the case even more.

On May 9th of this year, 4 plain clothes policemen entered our apt. (at the above address) and because my husband didn't know who they were, he tried to prevent their further entry, at which time they jumped him. He was hit in the mouth, held in a neck lock—which had him literally choking for almost ten seconds (we have a witness to that part)—while that was going on—I was on the phone calling the police—because I also didn't know that these (for lack of a better word) attackers were in fact police officers. These men got my husband handcuffed, I told them that I had called the police at which point, they said that they were the police. I asked for their badges, etc. They then showed me a warrant which had a name I never heard of on it. Then they asked our name. The officers that I called on the phone arrived promptly (which I will always be grateful for). I requested that the uniformed officers stay, because quite honestly, after seeing how they had already treated my husband I was terrified. The officers said that they had a right to search our apt. even though the warrant had the wrong name on it. The thought occurred to me that there were so many men searching our apt. that it would be possible for them to plant drugs and there wouldn't be any way of preventing it. I immediately called a relative and asked that our lawyer be told of the situation. I told that relative all that I have told you. The police found nothing here but they still asked my husband to go downtown with them. Before they left, my husband had been released from the handcuffs. Presently he has been charged on 3 counts; 1) resisting arrest (which I really don't understand since he wasn't arrested before he left our home, and since he went with them on his own—without handcuffs etc.), 2) battery—the officers say that he attacked them (may I also add, my husband was kicked in the leg, hit on the head, and 1 officer put his foot on my husband's chest)—these claims can be verified by the doctor that examined him the following day, 3) possession of a control drug—which isn't true. The officers took one caps. of Achromycin we have already been told that that charge will probably be dropped.

Another reason I am writing is to say that my husband is an English citizen—needless to say his family is outraged, and to date the English Embassy hasn't been informed by the police of the incident—which according to the embassy is in violation of the international agreement. When it all happened I though that nothing could be done to prevent this type of thing happening to unsuspecting, and innocent people. I am grateful that a man of your importance and influence can see the urgency of the matter and that you are trying to do something about it. I believe that most people do want to fight against the improper use of drugs etc. and that most people want to respect the police. I never thought that the day would come in this country, when people would have to be afraid of the police, especially in their own homes. Anyone, that this type of thing has happened to, would feel inclined to sue the necessary authority, to get the officers involved better trained, and to spare anyone else such an ordeal. As things are, court and lawyer's fees—we will be barely able to afford proving ourselves innocent, without being able to do anything to prevent this type of thing from happening anywhere in the future. Thank you for involving yourself, your interest will do more than 100 such complaints or suits on the part of individuals.

I am not a member of your party but the fact that you introduced to the Senate the idea of insisting on an outside investigator (prosecutor) for the Watergate affair—I think will at least show that many politicians are still trustworthy. It was brave of you.

Thank you for your time and good luck in your endeavors.

Sincerely,

MRS. JAMES MICHAEL FLYNN.

P.S.—I'm not a Democrat either so I must be an independent. I have voted for you—if it matters.

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ESCONDIDO, CALIF.,
*May 1, 1973.*

DEAR MR. and MRS. GIGLOTTO: I read in my local newspaper what happened to you by the federal agents. I am writing to ask you to please press charges. You see. D.A.L.E. agents (Drug abuse law enforcement) broke into my home on April 9. They had no warrant and hung up on my lawyer. There was 20 of them, they called me names shoved me around and made my 8 yr. old and 7 yr. old boys watch the whole thing in tears. They would not let me put them to bed, they came in drinking beer and ate my dinner off the stove. I felt very much like a Jew during the war—No rights of any kind.

But you see I can not do anything, it seems my husband was arrested an hour earlier at another address for possession of marijuana.

Why they came to my home I'll never know. They seemed to only want to terrify my children and myself like they thought of it as a big party. My 8 year old is afraid now when a car drives up to our house at night.

Hundreds of people are terrorized by these men that act like they belong in a motorcycle gang but use a badge to justify their cruelty!

Please don't get me wrong I believe in a law enforcement against narcotics. But that night I was praying for a black & white car to drive up with a uniformed officer in it. By the way they found *nothing* illegal in my home, although they tore it up for two hours.

Please—for the sake of many others you are in the ideal spot to bring these so called "law enforcement officers" to the public's eyes. Don't let anyone tell you it was just one district of agents—they are like that almost every where. Please check into it before you chalk it up as a little thing! It's a big thing all over the U.S. It needs badly to be publicized!

Thank you.

NANCY C. PARVIN.

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TAYLOR, TAYLOR & SIKES,
*Chicago, Ill., May 22, 1973.*

Re *Barba, etc., et al.* v. *Battleson et al.*, No. 72 C 336.

Hon. CHARLES H. PERCY, Jr.,
*U.S. Senator, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR PERCY: In connection with the recent hearings which you conducted in Chicago concerning activities of the United States Bureau of Narcotics and Dangerous Drugs, I summarize the captioned lawsuit.

An automobile with a cache of marijuana was apparently followed to Illinois by agents of the Bureau of Narcotics and Dangerous Drugs (and also possibly by United States Customs Agents) from somewhere in Texas. It appears probable that the driver of the car was an informant for BNDD or Customs. On arrival in the Chicago area, as is the mode of operation of these cases, the informant called his intended receiver and said that his automobile was "disabled" on the south side of Chicago and asked if he could please arrange to have the car picked up.

Then, apparently, the receiver or someone acting on his behalf, approached the first of my clients, one Raymond Toledo, the operator of a repair shop on South Kedzie Avenue in Chicago and asked Mr. Toledo if he could tow a "disabled" automobile in for repair. Mr. Toledo dispatched a Mr. Charles Poltes, the second of my clients, with a tow truck. The "disabled" automobile was towed in by Mr. Poltes and dropped in an alley behind Mr. Toledo's repair shop. Moments later, federal agents arrested Mr. Poltes, Mr. Toledo, two mechanics of Mr. Toledo who were repairing other vehicles at Mr. Toledo's garage (the third and fourth of my clients) and two customers of Mr. Toledo who were waiting for the repair of the automobile of one of them (the fifth and sixth of my clients). The arrests occurred at approximately 5:30 p.m. on September 1, 1971.

All of my clients were handcuffed and some subjected to various physical assaults (slapping, kneed to the ground, etc.) and were then transported to the offices of the Bureau of Narcotics located in the same building as your Chicago office.

There, along with being photographed and fingerprinted, all six of my clients were subjected to various degrees of harassment and accusatorial conduct and questioning including being stripped of all clothing and placed in small cubicles having no lavatory facilities or furniture. What can best be described as college-type hazing then took place. Apparently the cubicles are serviced by outside lighting switches and have no windows. The agents kicked on the doors from the outside, flipped the light switch on and off and indulged in hazing laughter from outside the cubicles, and on occasion entered to see if the client wanted to confess.

At approximately 12:30 a.m. on the morning of September 2, 1971, all my clients were removed to the Chicago Police Department lock-up where they remained until the following morning. They were given some food or allowed to buy some food through the jailer. Until this time, my clients had had nothing to eat and were apparently allowed no meaningful opportunity to communicate with their families, although one client did get through to his wife.

The clients were brought before the United States Magistrate, but not until 2:30 p.m. the afternoon of September 2, 1971. It was at this point that I, having been designated the private attorney on duty with the Federal Defender Program, on that day, was appointed to represent the six above clients and a seventh, who subsequently jumped bond and has, to my knowledge, not been heard from since. I believe he was a receiver, or agent for the receiver.

The complaint that was filed against my six clients was dismissed, by the government. There simply was no probable cause. Thereafter, and mindful of the then recent case of *Bivens vs. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, I explained the civil rights to my clients. My clients employed me to represent them in the above civil case, which was filed in January, 1972.

I only knew the name of one agent, the one that had signed the complaint against all my clients. I undertook normal discovery to determine the names of the other agents that had participated in the unwarranted and illegal arrest and detention. In questioning a Mr. John Evans, Regional Director of the Bureau of Narcotics and Dangerous Drugs, I met with claimed executive privilege in answer to questions concerning reports filed by the arresting agents and the names of the agents.

In deposing the one known agent, I received the same executive privilege answer to questions concerning identification of other agents. The government simply will not reveal the names of the agents nor give me any of the relevant reports which are customary things in any civil action.

Since the agents must have been acting on someone's information, I also want the names of the informant or anybody else that has relevant knowledge concerning whether or not the agents had any probable cause to affect an arrest and detention of my clients. I am met with the so-called informer's privilege.

Respectfully, I prevail upon your good office to use your influence, legally, to remove this shroud of secrecy under which the government and, in particular, the Bureau of Narcotics and Dangerous Drugs, is attempting to sweep its gross violations of the fourth, fifth and sixth amendment rights of citizens.

While my clients have as their goal the vindication of constitutional rights via monetary judgment, I, as a citizen and officer of the court, am concerned greatly with the "O.K. Everybody downtown!" tactics and the constitutionally demeaning and personally debasing aura of such arrests and detention. Frankly, it is time to blow the whistle.

Thank you for your cooperation.

Yours very truly,

RICHARD T. SIKES.

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STANGE CO. ADD-A-SAUCE ® DIVISION,
*Broadview, Ill., July 17, 1973.*

Hon. Senator CHARLES PERCY,
*Senate Office*
*Washington, D.C.*

DEAR SENATOR: I read that you are opening Senate hearings to investigate the subject of narcotic officers breaking into the wrong homes and frightening innocent citizens. I recently had a very frightening experience while staying at a Holiday Inn in Providence, Rhode Island. It is described in the attached letter of complaint to the Holiday Inn's. I have enclosed their reply to my first letter and my subsequent reply. Also enclosed is a copy of a newspaper article from the Providence Journal detailing the arrests made at the Holiday Inn the night I thought I was dead!

Criminals should and must be apprehended. However, the honest citizen should not be subjected to frightening experiences and harassment by the very agencies they employ to protect them.

If my experience can be of any help in correcting the existing search and seizure laws, I will be only too happy to provide whatever assistance is necessary to prevent others from having an experience similar to mine.

Very truly yours,

CHARLES DAME.

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JUNE 22, 1973.

Mr. WILLIAM WALTON,
*President, Holiday Inn,*
*Memphis, Tenn.*

DEAR SIR: For many years I have spent many enjoyable hours at Holiday Inns both on business trips and vacations with my family.

On the evening of June 19, I was in Providence, Rhode Island on business and stayed at the Holiday Inn. I had a very frightening experience which I will briefly describe. I went to bed on the 19th at approximately 11:30 P.M. and locked the door. At approximately 2:50 A.M. I was awakened by a crashing noise as men entered my room. As I leaned up in bed, one man stood at the foot of my bed with a 38 revolver pointed at my head and shouted "don't move, freeze". Another man with a rifle pointed at me was beside him. I fully expected to be robbed and shot. Two more men, one with a shot gun and another with a rifle, walked into the room. They asked me where my companion was and did I have company earlier. Someone in the background said, "I think we have the wrong room". They searched the room and then someone said "Take it easy, we are Massachusetts State Police". They requested identification and then explained they had apprehended a rape suspect in the lobby and he had stated he had just left room 1400 (my room). They immediately obtained a pass key from the night manager and then burst into my room. I requested and saw the badge of the officer in charge and two arrest warrants but no search warrant. The officer apologized and left. I checked with the desk and was informed that police officers were in the building. I did not sleep the remainder of that night.

Needless to say, I want criminals apprehended but I also expect that when I rent a room at one of your Inns, to have some semblance of privacy and protection. I am not happy with the way the police handled the situation as they could have checked to determine who was in the room prior to unannounced entering and should have identified themselves immediately, which would have put me at ease. What would have happened if I had a heart problem or was armed and attempted to protect my property? Above all, I was disillusioned to find that the night lock can be easily overcome by simply having a master key. This certainly does not make me feel secure in a Holiday Inn.

I waited until approximately 6 P.M. on the 20th before complaining to your management. The assistant manager was surprised that such a thing happened and apologized. At approximately 9:30 that evening, the assistant manager called and said he had discussed the situation with the manager and that they were giving me the night of the 19th complimentary. Since I stayed two nights I only paid for one.

Not only am I horrified that such a thing happened to me but am disappointed that Holiday Inn's management never expressed any concern about the incident until I complained. Their apparent lack of knowledge of the situation only accentuates their lack of interest in the Inn's "guests". The shoddy condition of my room: a large burned area on the bathroom sink, dirty walls, and a partly painted ceiling, further amplifies poor management.

I think you should be aware of the condition of your Inns and what happens in them. How would you like to be awakened at 3 A.M. to find armed strangers in your bedroom and with a 38 revolver and rifle pointed at you?

Yours truly,

CHARLES DAME.

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CHICAGO, ILL.,
*May 23, 1973.*

Hon. CHARLES H. PERCY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PERCY: Perhaps you can explain to me why innocent citizens have to be subjected to humiliation, embarrassment, costly lawyers' fees, lost wages, wasted time, worry and aggravation for absolutely nothing.

I am aware that this country has a grave drug problem and law enforcement officers have a terrific job on their hands, but occasionally they are on the wrong track as in our case.

On March 9, 1973 my husband and I returned home from work and were greeted by our janitor with a Search Warrant. The Warrant was for possession of marijuana and the reverse side stated they had found a quantity of drugs in our apartment and for Robert to turn himself in Saturday, March 10, 1973 at 2:00 P.M. at 11th and State. He immediately called the Police Station telling them there must be some mistake and asked if he could come down that night and get it straightened out.

We got downtown at 7:00 P.M. and they let him out of jail at 3:30 A.M. on a $1,000.00 reconnaissance bond for Possession of Narcotics.

The narcotics they confiscated were nothing more than prescription drugs, for myself, my husband, and my ex-roommate, Lynda Morrissey. Her and I shared this apartment for a year and when Robert and I were married, we took over the lease. Lynda left numerous things here, furniture, clothes, and old prescription bottles, which I never thought twice about.

After this ordeal of 8½ hours at the Police Station was over, we began the task of seeking legal advice. The first lawyer we contacted quoted us a fee of $1,500.00. For what? Having prescriptions in our home? I never knew this was against the law. After numerous phone calls to many lawyers, American Civil Liberties Union, States Attorney, U.S. Attorney Offices, etc., with no results, we went to the 49th Ward Office. We spoke with a lawyer, Tom Riley, whose field was narcotics. He quoted us a fee of $500.00. This is ⅓ the price of the first lawyer, but who has $500.00 lying around. True, we were both employed, but being newly married we have more than our share of bills, and it would be financially impossible for us to take on even one more monthly payment.

We decided to try it on our own. We got copies of the lease Bob and I signed and the one Lynda and I signed and affidavits from doctors each of us have seen within the last four years.

The court date was April 16, 1973 at 9:00 A.M. We were there about 8:45 AM and his case was not called until 2:00 P.M. He presented all the documents and naturally the judge gave a verdict of "not guilty". So here is another 5½ hours of wasted time, one days lost wages, and one parking ticket. They conveniently provide no parking except a lot for "employees only" and line the street with two hour parking meters. Seeing that we were "occupied" for over two hours we returned to our car to find a $10.00 ticket. More expense!

All medication taken from our apartment became property of the Court. Why? Have you been to a drugstore lately? Prices of medication are even more outrageous than food prices these days. Just another loss we have to take because of the law!

Also my husband, who has never been arrested, has to go thru the rest of his life with a Police Record for Possession of Narcotics. Of course, the Record shows "not guilty" but what employer is going to hear those last two words.

Evidently Bob's employer didn't, for he was called into the office Friday and "fired"! Why? Because he has a Police Record. Company policy!!

But there is an alternative: Employ the services of a lawyer and for a mere $400.00 these records can be expunged. More expense to us, and one less paycheck coming in.

Now I ask you Mr. Percy, is this fair? Is this Justice?

I realize we will never be reimbursed for the expense and inconvenience we have already been put thru, but I am appealing to you, if there is anything at all you can do to get his record cleared, we will be eternally grateful.

Respectfully,

Robert G. Olson II,
Jennifer C. Olson.

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## JUDGE JOSEPH WADDY'S DECISION IN THE POCKET VETO CASE

Mr. KENNEDY. Mr. President, on August 15, 1973, during the summer adjournment of Congress, Judge Joseph C. Waddy of the U.S. District Court for the District of Columbia issued his decision in the court action I brought challenging the constitutionality of the President's use of a pocket veto to disapprove the Family Practice of Medicine Act during the 5-day Christmas adjournment of Congress in 1970. In his decision, Judge Waddy ruled that the President's use of the pocket veto was invalid and that S. 3418 is a valid law of the United States.

I ask unanimous consent that the text of Judge Waddy's decision and order in the case may be printed in the Record. I also ask unanimous consent that the text of the Family Practice of Medicine Act may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Memorandum Opinion

United States District Court for the District of Columbia

Edward M. Kennedy, Plaintiff, against Arthur F. Sampson, et al., Defendants

Civil Action No. 1583–72

This case is before the Court on defendants' motion to dismiss or in the alternative for summary judgment, and plaintiff's cross-motion for summary judgment. The case presents a question concerning the veto powers of the President of the United States under Article 1, Section 7 of the Constitution of the United States, specifically that portion involving what is known as the Pocket Veto.

In this action plaintiff seeks a declaratory judgment declaring that the Family Practice of Medicine Act, S. 3418, 91st Cong., 2d Sess., (hereinafter S. 3418), became a validly enacted law of the United States on December 25, 1970, without the signature of the President, in accord with Article I, Section 7, Clause 2 of the Constitution. He also seeks the issuance of an order in the nature of mandamus or a permanent injunction requiring the defendants, the Acting Administrator of the General Services Administration, and Chief of White House Records, respectively, to publish S. 3418 as a validly enacted law of the United States, "in accord with their ministerial, non-discretionary duties under 1 USC 106a, 1 USC 112 and 1 USC 113."

The following material facts are not disputed:

1. Plaintiff is a taxpaying citizen of the United States, the Senior Senator from the Commonwealth of Massachusetts and the Chairman of the Subcommittee on Health of the Committee on Labor and Public Welfare of the United States Senate.

2. On December 14, 1970, S. 3418 was presented to the President of the United States for his consideration. The legislation had been approved by the Senate, in which it had originated, by a vote of 64–1 and by the House of Representatives by a vote of 346–2 The Bill authorized the Congress to appropriate 225 million dollars for the fiscal years, 1971, 1972 and 1973 for grants to public and private non-profit hospital and medical schools to assist them in establishing special departments and programs in the field of family practice of medicine, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine.

3. Plaintiff was among the Senators voting in favor of the Bill.

4. On December 22, 1970 the Senate and the House of Representatives adjourned for the Christmas Holidays. The Senate was in adjournment until December 28, 1970, and the House until December 29, 1970. The adjournments were consented to by the Senate and the House of Representatives.[1] During the recess of the Senate the Secretary of the Senate was authorized by unanimous vote of the Senate to receive messages from the President of the United States and the House of Representatives and the President pro tempore or Acting President pro tempore was authorized to sign duly enrolled bills.[2]

5. On Thursday, December 24, 1970, while both Houses of Congress were in the aforementioned adjournment the President of the United States issued a Memorandum of Disapproval, announcing that he was withholding his approval from S. 3418.

6. Under the provisions of 1 U.S.C. 106a, 1 U.S.C. 112 and 1 U.S.C. 113, it is the duty of the Administrator of the General Services Administration of the United States to receive bills that have become laws of the United States and to publish them in slip form and in the United States Statutes at Large.

7. The Chief of White House Records is an employee of the United States whose duty is to receive enrolled bills from the Congress and to deliver bills that have become laws of the United States to the Administrator of General Services Administration of the United States for publication.

8. S. 3418 was not transmitted by the President or the Chief of White House Records to the Administrator of General Services Administration and it has not been published in slip form or in the Statutes at Large as a law of the United States.

9. On December 15, 1971, by Pub. L. No. 92–184, Congress appropriated $100,000 to carry out the program set forth in S. 3418 for the fiscal year 1972.[3]

"HEALTH MANPOWER"

"For an additional amount of 'Health Manpower' to remain available until expended to carry out the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress,) $100,000."

In reporting on the proposed legislation the Senate on Appropriations stated:

"The Committee recommends $100,000 to fund the provisions of the Family Practice of Medicine Act.

"There is no dispute that the most serious shortages within the private practice of medicine is that of general or family practitioners. Without exception, public witnesses who have appeared before the Committee over the years have emphasized these needs and many requested early implementation of the Family Practice of Medicine Act, overwhelmingly passed by the Congress during the 91st session. Last year the Congress included the modest sum of $100,000 in the 1972 Supplemental Appropriations Act to be allocated under the provisions of the Family Practice of Medicine Act. Unfortunately these funds were not allocated. The Committee is again recommending a modest sum to implement the provisions of this Act. The Committee views this amount as a first installment and would be receptive to a budget request for greatly increased funding for the item. Because of the impending expiration of the authorization legislation, the Committee has included language which allows the fund to remain available until expended." S. Rep. No. 160, 93rd Cong., 1st Sess., pp. 48–49.

10. Plaintiff is not within the class intended to be benefited by the Bill.

With regards to the merits of the case, the question before this Court is whether the President's exercise of the Pocket Veto in this case was constitutionally valid, or, in other words, did S. 3418 become law without the signature of the President. Before reaching the merits, however, the Court must consider several preliminary issues raised by the defendants in their motion to dimiss and/or for summary judgment. They contend that the plaintiff lacks standing to maintain this action; that the President is an indispensable party who cannot be sued; that the issue before the Court does not present a substantial case or controversy because it is (1) a non-justiciable political question, and (2) the complaint seeks an advisory opinion.

The Court holds that each of defendants' contentions is without merit.

### STANDING

In *Flast v. Cohen*, 392 U.S. 83 (1968) the Supreme Court of the United States stated:

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[1] S. Con. Res. 87, 91st Cong., 2d Sess. (1970).

[2] 116 Cong. Rec. 43221, (Dec. 22, 1970).

[3] On July 1, 1973, President Nixon signed into law the "Second Supplemental Appropriations Act, 1973," H.R. 9055, 93rd Cong., 1st Sess., Chapter VII of that bill provides in part:

"The fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated. The 'gist of the question of standing' is whether the party seeking relief has 'alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions. *Baker v. Carr*, 369 U.S. 186, 204 (1962). In other words, when standing is placed in issue in a case, the question is whether the person whose standing is challenged is a proper party to request an adjudication of a particular issue and not whether the issue itself is justiciable." 392 U.S. at 99.

In *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150 (1970), the Supreme Court formulated a dual test for determining standing to sue. This test requires, first, that plaintiff allege that the challenged acts have caused him "injury in fact, economic or otherwise," 397 U.S. at 152, and second, that "the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." 397 U.S. at 153. Or, as the Supreme Court stated in *Flast, supra*, a "logical nexus between the status asserted and the claim sought to be adjudicated." 392 U.S. at 102. This test for the determination of standing was reaffirmed by the Supreme Court in *Sierra Club v. Morton*, 405 U.S. 727 (1972).

When the above-mentioned test is applied to this action it becomes clear that this plaintiff has the requisite standing to sue. The precise injury of which he claims is that the President's exercise of the Pocket Veto to disapprove S. 3418 was an unconstitutional act that rendered plaintiff's vote in the Senate for the bill ineffective and deprived him of his constitutional right to vote to override the Presidential veto in an effort to have the bill passed without the President's signature. This claim of nullification of his vote for the bill and deprivation of his right to vote to override the veto and thus inhibiting him in the performance of his Senatorial duties, is a clear allegation of injury in fact.

The maintenance of the effectiveness of his vote in the Senate which plaintiff seeks to protect is certainly arguably within the zone of interests to be protected by Article I, Section 7 of the Constitution and supplies the logical nexus between his status as a Senator and the claim sought to be adjudicated.

A finding of standing under the circumstances here presented is consistent with the above-mentioned cases and with the finding of the Supreme Court in *Coleman v. Miller*, 307 U.S. 433 (1939) and of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell v. Laird*, No. 71-150 (March 20, 1973).

In *Coleman* a proposed Child Labor Amendment to the Constitution of the United States was submitted to the Kansas State Legislature. In 1925, that Legislature adopted a resolution rejecting the amendment.

Subsequently, in 1937, a resolution favoring ratification was introduced in the Senate of Kansas. When the resolution was considered by the State Senate 20 State Senators voted for ratification and 20 voted against. The Lieutenant Governor, the presiding officer, cast the deciding vote in favor of ratification. Thereafter, the resolution was approved by a majority of the Kansas House of Representatives. Twenty-one State Senators, including the twenty Senators who had opposed the resolution for ratification, and three members of the State House of Representatives, then brought a suit in the State Supreme Court contesting the validity of the resolution and alleging that the Lieutenant Governor had no power to cast his vote. Relief was denied and the Supmeme Court of the United States granted certiorari.

One of the principal contentions of the respondents before the United States Supreme Court was that the petitioners lacked interest to invoke the jurisdiction of the Court to review. Chief Justice Hughes, writing for the Court, squarely rejected that contention and stated:

"We find the cases cited in support of the contention, that petitioners lack an adequate interest to invoke our jurisdiction to review, to be inapplicable. Here, the plaintiffs include twenty Senators, whose votes against ratification have been overriden and virtually held for naught although if they are right in their contentions their votes would have been sufficient to defeat ratification. We think that these senators have a plain, direct and adequate interest in maintaining the effectiveness of their votes. Petitioners come directly within the provisions of the statute governing our appellate jurisdiction. They have set up and claimed a right and privilege under the Constitution of the United States to have their votes given effect and the state courts has denied that right and privilege." 307 U.S. at 438 (Footnote omitted) (Emphasis added).

In *Mitchell v. Laird*, supra, thirteen members of Congress filed an action in this Court seeking to enjoin the prosecution of the war in Indo-China and a declaratory judgment that the carrying on of the war by the defendants was in violation of Article I, Section 8, Clause 11 of the United States Constitution. On appeal the United States Court of Appeals for the District of Columbia, citing *Flast v. Cohen*, supra, *Data Processing v. Camp*, supra, and *Barlow v. Collins*, 397 U.S. 157 (1970), found that the Congressmen had standing to sue on a ground that had not been alleged by them. The Court stated at page 4 of the slip opinion:

"If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, or to take other legislative actions related to such hostilities, such as raising an army or enacting other civil or criminal legslation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint."

This Court is satisfied that these authorities support the determination that plaintiff has standing to sue in this case and so finds.

### INDISPENSABLE PARTY

Defendants contend that the President of the United States is an indispensable party to this suit and that under the constitutional scheme of separation of powers this Court lacks jurisdiction over the President. They quote the following provision of 1 U.S.C. 106a:

"Whenever a bill, order, resolution, or vote of the Senate and House of Representatives having been approved by the President, or not having been returned by him with his objections, becomes a law or takes effect, it shall forthwith be received by the Administrator of General Services *from the President*, . . ." (Emphasis theirs)

and argue therefrom that when a bill becomes law, it can be promulgated and published only through joint action of the President and the Administrator of General Services. This Court disagrees.

The language of 1 U.S.C. 106(a) relied upon by defendants is no more than a direction to the Administrator of General Services to get the bill from its custodian. This is made clear by the following language within the same paragraph of 1 U.S.C. 106(a) which appears immediately after that quoted by defendants: "and whenever a bill, order, resolution or vote is returned by the President with his objections, and, on being reconsidered, is agreed to be passed, and is approved by two-thirds of both houses of Congress, and thereby becomes a law or takes effect, it shall be received by the Administrator of General Services from the President of the Senate, or Speaker of the House of Representatives in whichsoever House it shall last have been so approved, and he shall carefully preserve the originals."

The complaint in this case and the relief requested by plaintiff do not require any jurisdiction by the court over the President of the United States. The order requested by plaintiff requires no action by the President.

Article I, Section 7, Clause 2 of the Constitution specifies the actions the President may take with respect to legislation presented to him by Congress. Thus, the President may approve the legislation by signing it into law or by allowing it to become law without his signature at the end of the ten-day period set aside by the Constitution for his action. Or, he may veto the legislation and return it to Congress with his objections. Or, he may "pocket veto" the legislation by withholding his signature when the ten-day period expires while Congress is in an adjournment that "prevents" him from returning the bill.

Whichever course he follows, the action of the President is complete upon the expiration of the ten-day Constitutional period. The time for deliberation has then passed. He has decided. His judgment has been made, and the status of the legislation has been determined. All that remains is for other Federal officers—in this action the defendants—to carry out their ministerial, non-discretionary duty of publishing Acts that have become laws of the United States in slip form and in the Statutes at Large.

This principle has been settled law since the ruling of Chief Justice Marshall in *Marbury v. Madison*, 5 U.S. 137 (1803). He stated at page 170:

"It is not the office of the person to whom the writ is directed, but the nature of the thing to be done that the propriety or impropriety of issuing a mandamus, is to be determined. Where the head of a department acts in a case, in which executive discretion is to be exercised; in which he is the mere organ of executive will; it is again repeated, that any application to a court to control, in any respect, his conduct, would be rejected without hesitation.

But where he is directed by law to do a certain act affecting the absolute rights of individuals, in the performance of which he is not placed under the particular direction of the President, and the performance of which the President cannot lawfully forbid, and therefore is never presumed to have forbidden; as for example, to record a commission or a patent for land, which has received all the legal solemnities, or to give a copy of such record; in such cases, it is not perceived on what ground the courts of the country are further excused from the duty of giving judgment . . . ."

*Marbury v. Madison* is one of the leading precedents for the principle that mandamus is an appropriate remedy to require subordinate federal officers to carry out their ministerial duties. That case involved the refusal by President Thomas Jefferson to acquiesce in the "midnight" judges appointed by President John Adams shortly before President Adams left office. While holding that the Act of Congress authorizing actions for mandamus to be brought in the original jurisdiction of the Supreme Court was unconstitutional. Chief Justice Marshall also held (1) that the action of President Adams was complete when the President signed Marbury's commision as a justice of the peace in the District of Columbia, (2) that all that remained was the ministerial, non-discretionary duty of President Jefferson's new Secretary of State, James Madison, to affix the seal of the United States to the commission and to deliver the commission to Marbury; and (3) that mandamus was an appropriate remedy to direct the Secretary to carry out his duty.

Similarly, in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the steel mill seizure case arising out of a threatened nation-wide strike of steel workers during the Korean War, the Supreme Court found no difficulty in granting relief against the Secretary of Commerce, who had seized the nation's steel mills pursuant to an Executive Order of President Truman, claiming the inherent power to take such action as President and Commander in Chief in a time of national emergency. The Court held that the President had no power under the Constitution to take such action, and affirmed a lower court decision granting injunctive relief against the Secretary.

Finally, it is noted that two prior cases involving the exercise of the veto clauses by a President of the United States have been decided by the Supreme Court. *Pocket Veto Case*, 279 U.S. 655 (1929); *Wright v. United States*, 302 U.S. 583 (1938). The President was not a party to either of those cases and the Supreme Court exercised its jurisdiction and decided the cases on the merits without considering the absence of the President as a party.

### SUBSTANTIAL CASE OR CONTROVERSY

The justiciability of plaintiff's claim inheres in the standing to sue that the Court has already found. Plaintiff seeks to protect the integrity and effectiveness of his vote. He claims that the refusal of the defendants to publish S. 3418 in reliance upon the Pocket Veto of the bill by the President has effectively nullified his vote. In order to decide plaintiff's claim it is necessary to determine the validity of the pocket veto of S. 3418 just as it was necessary in order to adjudicate the claims of the Indian tribes to determine the validity of the pocket veto in the *Pocket Veto Case*, supra, and in order to adjudicate the claim of David A. Wright to determine the validity of the return of the bill in the *Wright* case, supra.

In commenting upon the restriction of the jurisdiction of federal courts under Article III of the Constitution the Supreme Court stated in *Flast v. Cohen*, supra:

"Embodied in the words 'cases' and 'controversies' are two complementary but somewhat different limitations. In part those words limit the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process. And in part those words define the role assigned to the judiciary in a tripartite allocation of power to assure that the federal courts will not intrude into areas committed to the other branches of government. Justiciability is the term of art employed to give expression to this dual limitation placed upon federal courts by the case-and-controversy doctrine." 392 U.S. at 94–95.

The Court finds that this case meets those requirements.

Since as early as 1793, the restriction to "cases" and "controversies" has been accepted as imposing a rule against advisory opinions on federal courts. *Flast*, supra, note 14, at 96. Plaintiff does not contest this settled Constitutional principle. In part, the rule against advisory opinions maintains the doctrine of separation of powers under the Constitution by avoiding unnecessary confrontations between the Judicial Branch and the Legislative or Executive Branch of the Government. Another reason for the rule against advisory opinions is to insure that suits before the federal courts are pressed " . . . with that clear concreteness provided when a question emerges precisely framed and necessary for decision from a clash of adversary argument exploring every aspect of a multifaced situation embracing conflicting and demanding interests . . . ." Cr. *United States v. Fruehauf*, 365 U.S. 146, 157 (1961).

By these standards, the complaint in this action clearly demonstrates that the requisite elements of a "case" or "controversy" are present within the meaning of Article III of the Constitution. Contrary to the suggestion in the defendants' Statement, plaintiff seeks no advisory opinion from this Court. Plaintiff sponsored, supported, and voted for S. 3418 in the Senate. The action of the President in disapproving S. 3418 and the injury to plaintiff caused by the refusal of the defendants to perform their ministerial, non-discretionary duties in reliance upon that action provide exactly the sort of clear concreteness, precise framing of questions, adversary argument, conflicting and demanding interests, and necessity for decision that have always been regarded as meeting the Article III requirement for the exercise of Federal judicial power.

### THE MERITS

Article I, Section 7, Clause 2 of the Constitution establishes a basic part of the procedure by which our laws are made. Its provisions allocate a dual responsibility to Congress and the President that is an important aspect of our system of checks and balances:

"Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States. If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases, the Votes of Both Houses shall be determined by Yeas and Nays, and the Names of the persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, *unless the Congress by their Adjournment prevent its Return*, in which Case it shall not be a Law." (Emphasis added).

In effect, Article I, Section 7, Clause 2 contemplates four possible actions by the President when a bill passed by Congress is presented to him:

The President may approve the bill by signing it within the ten-day constitutional period.

The President may disapprove, or "veto" the bill by returning it to Congress with his objections within the ten-day period, in which case Congress has the opportunity to override the veto by a two-thirds vote in each House.

The President may allow the bill to become a law without his signature at the end of the ten-day period.

The President may disapprove the bill, by declining to sign it in circumstances where the adjournment of Congress "prevents" the President from returning the bill to Congress with his objections. In this last situation, the President is said to "pocket veto" the bill.

The issue on the merits of the present case is whether the Pocket Veto Clause of the Constitution is applicable in the circumstance of the Senate's 1970 Christmas recess. The specific question posed may be stated as follows:

Where a bill duly passed by both houses of Congress is submitted to the President of the United States pursuant to Article I, Section 7 of the Constitution of the United States and thereafter, during the same session of Congress, by mutual consent, the House of Representatives adjourned for a 6 day period and the Senate, in which the bill originated, adjourned for a 5 day period extending for 2 days beyond the 10th day the President had within which to sign or return the bill,[4] was the President *prevented* from returning the bill within the 10 day period where, prior to adjourning, the Senate designated its Secretary to receive messages from the President of the United States and its President pro tempore to sign duly enrolled bills during the adjournment.

This Court has concluded that the answer to that question is to the negative.

The question of when an adjournment of a House of Congress *prevents* the return of a bill under Article I, Section 7, Clause 2, has been before the Supreme Court on two occasions: *Okanogan Indian Tribe, et al v. United States*, 270 U.S. 655 (1929) (the Pocket Veto Case), and *Wright v. United States*, 302 U.S. (1937).

In the *Pocket Veto Case*, supra, Congress had approved an Act authorizing the Okanogan tribe and other Indian tribes in the State of Washington to pursue certain claims against the United States in the Court of Claims. On July 3, 1926, before the ten-day constitutional period for the President to consider the bill had expired, "the first session of the 69th Congress was adjourned." 270 U.S. at 672. The President did not sign the bill nor return it to Congress, and the Indian tribes filed a petition in the Court of Claims alleging that the Act had become a law without the signature of the President. The issue before the Court was whether the Pocket Veto Clause applied only to final adjournments at the end of a Congress, or whether it also applied to adjournments at the end of a session of Congress. The Court, in an opinion by Mr. Justice Sanford, held that the clause applied to adjournments at the end of a session; that the adjournment prevented the return of the bill, and that therefore the bill had not become a law.

Nine years after the *Pocket Veto Case*, the Supreme Court again dealt with the scope of the President's veto power. In *Wright* v. *United States*, supra, the bill in question granted jurisdiction to the Court of Claims to hear the petitioner's claims against the United States. The bill had originated in the Senate, which was the House to which the President's objections would be returned if the bill were vetoed. After the bill, as passed by both Houses, had been presented to the President, the Senate adjourned for three days, while the House remained in daily session during the period. During the recess of the Senate, the President vetoed the bill, and the bill was returned with his objections to the Secretary of the Senate. When the Senate reconvened, the message of the President was read and the bill was referred to the Senate Committee on Claims, in effect sustaining the President's veto.

Subsequently, the petitioner, as the beneficiary of the private bill, brought an action in the Court of Claims alleging that the bill had become law, on the grounds (1) that there had been no adjournment of Congress within the meaning of the Pocket Veto Clause, since only the Senate had adjourned, and (2) that the President's return of the bill with his objections was not valid, since the Senate had not been in session on the day of the return, and, under the *Pocket Veto Case,* supra, a return could not be made to the Secretary of the Senate as an agent of the Senate.

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[4] If the intervening Sunday, December 27, 1970, is not counted, the period the House was in adjournment is 5 days and the period the Senate was in adjournment is 4 days and would extend for only one day beyond the 10th day the President had within which to sign or return the bill.

Interpreting the Pocket Veto Clause and the other provisions of Article I, Section 7, Clause 2, the Supreme Court held, in an opinion by Chief Justice Charles Evans Hughes, that the bill had not become a law.

The Court held: (1) that since the House of Representatives was still in session, even though the Senate had adjourned for a brief period—there was no adjournment of "Congress" within the meaning of the Pocket Veto Clause of the Constitution as the reference to "The Congress" in the Constitution means the entire legislative body consisting of both Houses: (2) that in returning the bill to the Secretary of the Senate there was no violation of any express requirement of the Constitution since that instrument does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return; (3) that the three-day recess of the Senate did not "prevent" the President from returning the bill with his objections to the Senate, since the organization of the Senate continued and was intact and the Secretary of the Senate was available to receive the President's message; (4) that the fundamental purposes of the constitutional provisions are (a) to give the President suitable opportunity to consider the bills presented to him, and (b) to give the Congress suitable opportunity to consider his objections to bills and on such consideration to pass them over the veto if there are the requisite votes.

In reaching its conclusion in the *Pocket Veto Case,* supra, the Court emphasized that "the determinative question in reference to an 'adjournment' is not whether it is a final adjournment of Congress or an interim adjournment, such as an adjournment of the first session, but whether it is one that 'prevents' the President from returning the bill to the House in which it originated within the time allowed." 279 U.S., at 680. In concluding that the adjournment at the end of a *session of Congress* prevented the return of the bill in question, the Court adopted the view that the provision in the Constitution, for the return of a bill to a House, is intended to refer to a *House in session,* and that a return could not be made to an officer or agent of a House while the House was not in session. 279 U.S. at 680–687. In this connection the Court also noted that Congress had never enacted a statute authorizing such a procedure nor were there any rules of Congress granting an authorization, and opined that the delivery of the bill to such officer or agent, "even if authorized by Congress itself, would not comply with the constitutional mandate." 279 U.S. at 684.

The rationale for the Court's opinion was stated, in part, in the following language:

"Manifestly it was not intended that, instead of returning the bill to the House itself, as required by the constitutional provision, the President should be authorized to deliver it, during an adjournment of the House, to some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks or perhaps months—not only leaving open possible questions as to the date on which it had been delivered to him, or whether it had in fact been delivered to him at all, but keeping the bill in the meantime in a state of suspended animation until the House resumes its sittings, with no certain knowledge on the part of the public as to whether it had or had not been seasonably delivered, and necessarily causing delay in its reconsideration which the Constitution evidently intended to avoid." 279 U.S. at 684.

While this language of the Supreme Court appears at first blush to militate against this Court's conclusion, upon closer scrutiny it is clear that it does not. It must be kept in mind that the Supreme Court's language in the *Pocket Veto Case* applied to an adjournment *at the end of a session and not to a short recess during a session* where, as here, the Senate had specifically authorized its Secretary to receive messages from the President during the recess. Further, the subsequent opinion of the Court in the *Wright* case found the reasoning of the Court in the *Pocket Veto Case* to be inapposite to the circumstances of a case which involved a short temporary recess of the House in which the bill originated as distinguished from an adjournment of Congress at the end of a seession. The following excerpts from the Court's opinion in *Wright* support the view of this Court.

In commenting upon the "House in session" view of the Court in the *Pocket Veto Case,* supra, the Supreme Court in *Wright* stated:

"But that expression should not be construed so narrowly as to demand that the President must select a precise moment when the House is within the walls of its Chambers and that a return is absolutely impossible during a recess however temporary. Such a conclusion . . . would frustrate the fundamental purposes of the constitutional provision as to action upon bills." 302 U.S. at 594.

Referring to the rationale for the opinion in the *Pocket Veto Case,* mentioned herein previously, the *Wright* Court stated:

"The statements show clearly the sort of dangers which the Court envisaged. However real these dangers may be when Congress has adjourned and the members of its Houses have dispersed at the end of a session—the situation with which the Court was dealing—*they appear to be illusory when there is a mere temporary* recess." (Emphasis supplied). 302 U.S. at 595.

Continuing, the *Wright* Court said:

"Each House for its convenience, and *during its session and the session of Congress,* may take, and frequently does take, a brief recess limited, as we have seen, in the absence of the consent of the other House, to a period of three days. In such case there is no withholding of the bill from appropriate legislative record for weeks or perhaps months, no keeping of the bill in a state of suspended animation with no certain knowledge on the part of the public whether it was seasonably delivered, no causing of any undue delay in its reconsideration. *When there is nothing but such a temporary recess the organization of the House and its appropriate officers continue to function without interruption, the bill is properly safeguarded for a very limited time and is promptly reported and may be reconsidered immediately after the short recess is over.* The prospect that in such a case the public may not be promptly and properly informed of the return of the bill with the President's objections, or that the bill will not be safeguarded or duly recorded upon the journal of the House, or that it will not be subject to reasonably prompt action by the House, is we think wholly chimerical." 302 U.S. 595. (Emphasis supplied).

Although the Supreme Court found support for its holding in *Wright* in Article I, Section 5, Clause 4, its reasoning in support of its determination that a short temporary recess of a House existing on the final day for the return of a bill while the Congress is in session does not "prevent" the President from returning the bill is clearly applicable to the facts and circumstances of this case. Here we have a short temporary recess of the Senate, in which the bill originated, during the session of Congress. The recess was consented to by the House of Representatives. Prior to the adjournment the Senate by unanimous vote designated its Secretary to receive any messages from the President. The Senate returned on the third day after the final day for the President to act. The interim two days would have caused no long delay in delivery of the bill; no keeping it in "suspended animation". In three days the public would have been promptly and properly informed of the President's objections, and the purposes of the constitutional provisions would have been satisfied. Under these circumstances—

"(T)here is no greater difficulty in returning a bill to one of the two Houses when it is in recess during the session of Congress than in presenting a bill to the President by sending it to the White House in his temporary absence. Such a presentation is familiar practice. The bill is sent by a messenger and is received by the President. It is returned by a messenger, and why may it not be received by the accredited agent of the legislative body? *To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress, and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the plainest practical consideratons and by implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right.*" 302 U.S. 590 (Emphasis supplied).

In the instant case the Senate was in a short temporary recess extending at most for two days beyond the 10th day the President had within which to act. Its organization and appropriate officers continued to function without interruption. Indeed, the Senate specifically designated its Secretary to receive any messages from the President. Just as none of the dangers envisaged by the Court in the *Pocket Veto Case* were present in *Wright,* none are present here. *Under the facts of this case the Senate could have adjourned at the close of business on December 24, 1970, until December 28, 1970, without the consent of the House of Representatives and such adjournment would not have prevented the President from returning the bill.* This fact places this case squarely within the rationale of *Wright.* The circumstance that the recess began on December 23 with the consent of the House of Representatives in no way detracts from that conclusion. What is to be considered is not the time when the recess began but whether the House was in a recess on the tenth day that prevented the President from returning the bill.

As previously noted the two fundamental purposes of Article I Section 7 of the Constitution are (a) to give the President suitable opportunity to consider the bills presented to him, and (b) to give the Congress suitable opportunity to consider his objections to bills and on such consideration to pass them over the veto if there are the requisite votes.

As to the first of these purposes there can be no question in this case that the President had such opportunity and availed himself of it. In a Memorandum of Disapproval, dated December 24, 1970, one day before the expiration of the time allowed for his consideration, and released December 26, 1970, the President stated that he was withholding his signature from the bill and gave his reasons therefor.

As to the second fundamental purpose, the Senate returned from the recess on December 28, 1970. It did not adjourn *sine die* until January 2, 1971. There was ample opportunity to consider the President's objections to the bill and on such consideration to pass it over the veto provided there were the requisite votes. To find that the President's action in this case was a valid pocket veto would require the adoption of a construction that would frustrate the second of these purposes, contrary to the holding of the Supreme Court in *Wright.* 302 U.S. 583, 596.

The plaintiff has urged the Court to hold that the Pocket Veto Clause is applicable only to *sine die* adjournments and not to any adjournments within a session. Such a holding is not necessary for the determination of this case and this Court declines to swim in waters that the Supreme Court pointedly avoided in *Wright*. Cf. 302 U.S. at 598. All that is determined here is that the short recess of the Senate in this case, extending only two days beyond the ten day period the President had to sign or disapprove the bill, did not *prevent* the return of the bill to the Senate in which it originated. It follows therefore that the pocket veto was invalid and S. 3418 became a law without the signature of the President, in accord with Article I, Section 7, Clause 2 of the Constitution.

Based upon the foregoing the Court concludes that there is no genuine issue of a material fact and that plaintiff is entitled to a judgment as a matter of law.

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### ORDER

U.S. District Court for the District of Columbia

Edward M. Kennedy, Plaintiff, against Arthur F. Sampson, Acting Administrator, General Services Administration; Thomas M. Jones, Chief White House Records, Defendants.

Civil Action No. 1583–72

This matter having come before the Court on plaintiff's motion for summary judgment and defendants' motion to dismiss or, in the alternative, for summary judgment, and the Court having considered the pleadings, motions, and statements filed by the parties and having heard oral argument and having filed a memorandum opinion herein and having found that there is no genuine issue as to any material fact, and concluded that plaintiff is entitled to a judgment as a matter of law, it is this 15th day of August, 1973, hereby

Ordered, adjudged and decreed:

1. That plaintiff's motion for summary judgment be and it is hereby granted, and that defendants' motion to dismiss or, in the alternative, for summary judgment is denied.

2. That the Family Practice of Medicine Act, S. 3418 (91st Congress, 2d Session) became a law of the United States on December 25, 1970, in accord with Article I, Section 7, Clause 2 of the Constitution, and defendants are under a ministerial, nondiscretionary duty to publish said law in accordance with the provisions of 1 U.S.C. 106a, 1 U.S.C. 112 and 1 U.S.C. 113.

3. This Court retains jurisdiction and the matter of the issuance of an injunction restraining the defendants from failing and refusing to publish S. 3418 as a law of the United States in accord with the provisions of 1 U.S.C. 106a, 1 U.S.C. 112 and 1 U.S.C. 113 will be held in abeyance until September 19, 1973, on which date the defendants shall report to this Court at 10:00 am. the action taken by them to comply with the declaratory judgment entered herein.

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## TEXT OF S. 3418—THE FAMILY PRACTICE OF MEDICINE ACT

## TITLE I—FAMILY MEDICINE

SEC. 101. Part D of title VII of the Public Health Service Act is amended to read as follows:

### "PART D—GRANTS TO PROVIDE PROFESSIONAL AND TECHNICAL TRAINING IN THE FIELD OF FAMILY MEDICINE

#### "DECLARATION OF PURPOSE

"SEC. 761. It is the purpose of this part to provide for the making of grants to assist—

"(1) public and private nonprofit medical schools—

"(A) to operate, as an integral part of their medical education program, separate and distinct departments devoted to providing teaching and instruction (including continuing education) in all phases of family practice;

"(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a medical school or as separate outpatient or similar facility;

"(C) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine; and

"(D) to operate, or participate in, special training programs to teach and train medical personnel to head departments of family practice or otherwise teach family practice in medical schools; and

"(2) public and private nonprofit hospitals which provide training programs for medical students, interns, or residents—

"(A) to operate, as an integral part of their medical training programs, special professional training programs (including continuing education) in the field of family medicine for medical students, interns, residents, or practicing physicians;

"(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a hospital or as a separate outpatient or similar facility;

"(C) to provide financial assistance (in the form of scholarships fellowships, or stipends) to interns, residents, or other medical personnel who are in need thereof, who are participants in a program of such hospital which provides special training (accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education) in the field of family medicine, and who plan to specialize or work in the practice of family medicine; and

"(D) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine.

#### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 762. (a) For the purpose of making grants to carry out the purposes of this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1971, $75,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

"(b) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for the purpose for which appropriated until the close of the fiscal year which immediately follows such year.

#### "GRANTS BY SECRETARY

"SEC. 763. (a) From the sums appropriated pursuant to section 762, the Secretary is authorized to make grants, in accordance with the provisions of this part, to carry out the purposes of section 761.

"(b) No grant shall be made under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall have prescribed by regulations which have been promulgated by him and published in the Federal Register not later than six months after the date of enactment of this part.

"(c) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

"(d) In the case of any application for a grant any part of which is to be used for major construction or remodeling of any facility, the Secretary shall not approve the part of the grant which is to be so used unless the recipient of such grant enters into appropriate arrangements with the Secretary which will equitably protect the financial interests of the United States in the event such facility ceases to be used for the purpose for which such grant or part thereof was made prior to the expiration of the twenty-year period which commences on the date such construction or remodeling is completed.

"(e) Grants made under this part shall be used only for the purpose for which made and may be paid in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

#### "ELIGIBILITY FOR GRANTS

"SEC. 764. (a) In order for any medical school to be eligible for a grant under this part, such school—

"(1) must be a public or other nonprofit school of medicine; and

"(2) must be accredited as a school of medicine by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirements of this clause shall be deemed to be satisfied, if (A) in the case of a school of medicine which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in the first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

"(b) In order for any hospital to be eligible for a grant under this part, such hospital—

"(1) must be a public or private nonprofit hospital; and

"(2) must conduct or be prepared to conduct in connection with its other activities (whether or not as an affiliate of a school of medicine) one or more programs of medical training for medical students, interns, or residents, which is accredited by a recognized body or bodies, approved for such purpose by the Commissioner of Education.

#### "APPROVAL OF GRANTS

"SEC. 765. (a) The Secretary, upon the recommendation of the Advisory Council on Family Medicine, is authorized to make grants under this part upon the determination that—

"(1) the applicant meets the eligibility requirements set forth in section 764;

"(2) the applicant has complied with the requirements of section 763;

"(3) the grant is to be used for one or more of the purposes set forth in section 761;

"(4) it contains such information as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this part;

"(5) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require (pursuant to regulations which shall have been promulgated by him and published in the Federal Register) to assure proper disbursement of and accounting for all Federal funds paid to the applicant under this part; and

"(6) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R.

3176; 65 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(b) The Secretary shall not approve any grant to—

"(1) a school of medicine to establish or operate a separate department devoted to the teaching of family medicine unless the Secretary is satisfied that—

"(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical speciality disciplines; and

"(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; or

"(2) a hospital to establish or operate a special program for medical students, interns, or residents in the field of family medicine unless the Secretary is satisfied that such program will, in terms of the type of training provided, be designed to prepare participants therein to meet the standards established for specialists in the field of family medicine by a recognized body approved by the Commissioner of Education.

"(c) The Secretary shall not approve any grant under this part unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

### "PLANNING AND DEVELOPMENTAL GRANTS

"Sec. 766. (a) For the purpose of assisting medical schools and hospitals (referred to in section 761) to plan or develop programs or projects for the purpose of carrying out one or more of the purposes set forth in such section, the Secretary is authorized for any fiscal year (prior to the fiscal year which ends June 30, 1973) to make planning and developmental grants in such amounts and subject to such conditions as the Secretary may determine to be proper to carry out the purposes of this section.

"(b) From the amounts appropriated in any fiscal year (prior to the fiscal year ending June 30, 1973) pursuant to section 762(a), the Secretary may utilize such amounts as he deems necessary (but not in excess of $8,000,000 for any fiscal year) to make the planning and developmental grants authorized by subsection (a).

### "ADVISORY COUNCIL ON FAMILY MEDICINE

"Sec. 767. (a) The Secretary shall appoint an Advisory Council on Family Medicine (hereinafter in this section referred to as the 'Council'). The Council shall consist of twelve members, four of whom shall be physicians engaged in the practice of family medicine, four of whom shall be physicians engaged in the teaching of family medicine, three of whom shall be representatives of the general public, and one of whom shall, at the time of his appointment, be an intern in family medicine. Members of the Council shall be individuals who are not otherwise in the regular full-time employ of the United States.

"(b)(1) Except as provided in paragraph (2), each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year, after the date of appointment.

"(2) The member of the Council appointed as an intern in family medicine shall serve for one year.

"(3) A member of the Council shall not be eligible to serve continuously for more than two terms.

"(c) Members of the Council shall be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service, employed intermittently.

"(d) The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this part. The Council shall consider all applications for grants under this part and shall make recommendations to the Secretary with respect to approval of applications for, and of the amount of, grants under this part.

### "DEFINITIONS

"Sec. 768. For purposes of this part—

"(1) the term 'nonprofit' as applied to any hospital or school of medicine means a school of medicine or hospital which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'family medicine' means those certain principles and techniques and that certain body of medical, scientific, administrative, and other knowledge and training, which especially equip and prepare a physician to engage in the practice of family medicine;

"(3) the term 'practice of family medicine' and the term 'practice', when used in connection with the term 'family medicine', mean the practice of medicine by a physician (licensed to practice medicine and surgery by the State in which he practices his profession) who specializes in providing to families (and members thereof) comprehensive, continuing, professional care and treatment of the type necessary or appropriate for their general health maintenance; and

"(4) the term 'construction' includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings and initial equipment of any such buildings, including architects' fees, but excluding the cost of acquisition of lands or offsite improvements."

### TITLE II—MALNUTRITION

Sec. 201. (a) The Secretary of Health, Education, and Welfare, shall conduct a study, in cooperation with schools training health professional manpower, of the feasibility and desirability of establishing at such schools courses dealing with nutrition and problems related to malnutrition, and of establishing research programs and pilot projects in the field of nutrition and problems of malnutrition.

(b) The Secretary is authorized to make grants to health professional schools, in connection with the study provided for by subsection (a), for the planning of programs at such schools, and for the conduct of pilot projects at such schools, to assist such schools in the establishment of courses dealing with nutrition and problems related to malnutrition.

(c) The Secretary shall report to the President and to Congress by July 1, 1972, the results of such study, together with such recommendations as he deems advisable.

(d) There is authorized to be appropriated $5,000,000 to carry out the purposes of this section.

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## STATEMENT ON S. 994—THE KIDNEY TRANSPLANT ACT OF 1973

Mr. BAYH. Mr. President, kidney disease patients in this country still suffer from high costs and inadequate services. Of the 55,000 people who die each year from kidney disease, 13 to 19 percent could be treated by dialysis or transplantation if proper medical care were available to them. Long waiting lists for transplant operations exist; often, an individual must undergo twice-weekly hemodialysis for 1 or 2 years before a kidney for transplant becomes available.

For these reasons, Mr. President, I urge that the Senate act quickly and responsibly on S. 994, the Kidney Transplant Act of 1973. As introduced by Senator Mondale on February 26, 1973, and cosponsored by Senators Abourezk, Bible, Biden, Church, Clark, Dole, Hart, Hughes, Humphrey, Javits, McGovern, Moss, Pastore, Pell, Randolph, Schweiker, Sparkman, Stevens, Tunney, and myself, S. 994 seeks to remedy the situation facing our renal disease patients. Last year, the Congress passed H.R. 1, amendments to the Social Security Act, which included a section that made medicare benefits available to those suffering from chronic kidney failure. Although this was a step in the right direction, this coverage is not extended to all citizens, nor does it cover all costs for the expensive treatment needed by these patients. Moreover, H.R. 1 failed to set up any delivery system for these services. The problem which confronts us is not only supplying the money to the victims so that they can get treatments, but providing that facilities exist which can give these services.

The Kidney Transplant Act of 1973 offers a remedy to these problems. The bill, if enacted into law, authorizes the Secretary of Health, Education, and Welfare to make grants to the States to be used for the care and treatment of persons suffering from chronic renal disease. Each State would have to provide appropriate assistance to all residents who need this care. Under S. 994, 100 percent of the cost of care would be covered, less any amounts available from public and private insurance, which includes the medicare benefits offered under H.R. 1. In effect, this section of the bill insures that all citizens who need these services would not fail to have them for lack of finances. The bill also authorizes the Secretary to make grants to public or nonpublic entities to establish renal failure centers, which would provide a comprehensive range of services to kidney disease patients. This portion of the bill aims at reducing the probability that a patient will not be given treatment because facilities do not allow so. This will surely lower the tragic number of kidney disease patients who die every year, because hospitals reject victims for lack of space.

In addition, the bill authorizes the Secretary to make grants to public and private nonprofit entities for the construction or improvement of facilities for the collection and short-term preservation of organs and regional tissues used by transplant patients. Transplantation is now an accepted cure for kidney disease. The process is no longer termed experimental, but rather, therapeutic. A kidney transplant, when possible, is cheaper and safer for the patient. Dr. Benjamin T. Burton in 1971 wrote:

> Maintenance dialysis alone, without transplantation, would at best be a dismal solution for irreversible kidney failure because of the need for continued repetitive treatments for the life of the patient, because of the not infrequent failure to restore the patient to physiologic life, and last, but not least, because of its high and repetitive cost. (Annals of International Medicine)

S. 994 would, if passed, insure that, in all possible cases, kidney transplants will occur and these unfortunate victims will be able to resume a normal life.

Mr. President, it will be argued by some that this is an expensive adventure that we commence upon. No doubt it is expensive. But, we have invested much of our resources in technology and science, and the purpose has always been to provide our people with the benefits of the research. We are faced here with an alternative of saving money or saving the lives of the previously incurable. Given that choice, Mr. President, I opt for the latter and urge my colleagues to do the same.

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## POLITICAL PRISONERS IN SOUTH VIETNAM

Mr. KENNEDY. Mr. President, there appears to be a stubborn determination by this administration to continue discredited policies and programs of the past in South Vietnam. Nothing illustrates this more than the decision to continue American funding of South Vietnam's national police and prison system.

At least $15 million are earmarked in the foreign assistance authorization request for these programs in the Agency for International Development budget as well as in the Department of Defense budget. And evidence suggests that additional funds are hidden elsewhere.

Mr. President, this is a shameful waste of our foreign aid funds and violates the spirit, if not the letter, of the ceasefire agreements. Apparently our Government's continued heavy support of South Vietnam's police and prison system is viewed as "legitimate development projects within the context of our continuing permissible assistance to the Government of South Vietnam." What is "permissible" to the Nixon administration in this regard is hardly palatable to the American people or to many of us in the Congress.

The time is long overdue for our country to end, once and for all, our direct involvement in the internal affairs of Indochina, and to end our master-client relationship in our aid program. I appeal to the President once again to terminate all American-sponsored public safety and police programs in South Vietnam, and to immediately withdraw all current funding and new money for such purposes.

Mr. President, following my earlier statement on the floor last June 4 concerning the administration's continued support of South Vietnamese police and prisons, I wrote to Secretary of State William P. Rogers to inquire about the future direction of American policy in this area. On August 2, the Department of State responded in a letter to me.

I would like to review some of the Department's principal points, and then submit for the RECORD the complete text of our correspondence.

Mr. President, the Department's reply made these points:

First. It acknowledged that "implementation of the cease-fire agreement has been inadequate" in fulfilling the provisions for the release of political prisoners.

Second. It indicated that the administration would continue to provide funds for the police and prison system, because "it is our view that these are legitimate development projects within the context of our continuing permissible assistance to the GVN."

Third. It stated that the total American expenditure for police and public safety related programs in South Vietnam, from 1963 through 1973, amounted to $193,631,000. However, additional sums have been provided in local currency through the American Aid Chapter of the GVN national budget.

Fourth. It stated that "there are political prisoners in South Vietnamese jails and incidents of abuse and mistreatment do occur." The Department believes, however, "these problems have been exaggerated. The issue is an important one of concern to us, and we will continue to urge that the GVN make greater efforts to improve its performance."

Fifth. It indicated that "in general, cases of abuse appear to have occurred in the process of, or just after, arrest, while detainees are still under police control or interrogation. We have not hesitated to point out to the appropriate authorities the necessity for humane treatment of all detainees."

Sixth. It called charges against the GVN regarding political prisoners a "misleading picture of the Thieu administration as—a brutal, oppressive and dictatorial one, systematically stamping out every vestige of political opposition. The fact that the functioning opposition in South Vietnam is presently ineffective is primarily due to the traditionally divisive nature of Vietnamese political groups and, more importantly, to the confusion and uncertainty felt by most South Vietnamese as they attempt to enter a new political phase."

Seventh. It stated that the United States has repeatedly made diplomatic representations to the GVN in behalf of the humane and just treatment of all civilians detained for political reasons. The Department has urged without success, for the South Vietnamese Government to "liberalize its policy on visits to its detention facilities."

Eighth. It indicated that the remaining programs of the former Public Safety Directorate have been "transferred to USAID and—placed in appropriate general programs."

Mr. President, I ask unanimous consent that the complete text of the Department of State's response to my letter of June 7, 1973, together with my letter, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

### TEXT OF LETTER TO SECRETARY OF STATE WILLIAM P. ROGERS BY SENATOR EDWARD M. KENNEDY, CHAIRMAN OF THE JUDICIARY SUBCOMMITTEE ON REFUGEES

JUNE 7, 1973.

Hon. WILLIAM P. ROGERS,
*Secretary of State,*
*Department of State,*
*Washington, D.C.*

DEAR MR. SECRETARY: Earlier this week, on June 4, I spoke in the Senate on civilian detainees and political prisoners in Vietnam, an issue of concern to many in the Congress and to many other Americans. My comments were based, in the main, on the findings of the Subcommittee on Refugees' recent Study Mission to Indochina, and the Administration's presentation to the Congress on Indochina Post-War Reconstruction Assistance.

As you will note from the enclosed text of my statement, my comments were directed toward the number of detainees and prisoners, their condition and treatment, their status under the Agreement on Ending the War and Restoring the Peace in Vietnam, and our country's continuing support of the police and prison system of South Vietnam. Additionally, I offered four recommendations for action, involving American diplomatic representations over the issue of political prisoners, and the immediate termination of all American support of public safety oriented programs in South Vietnam. I strongly feel that the termination of these programs is not only in our national interest, but is also in keeping with the spirit, if not the letter of the ceasefire agreement.

As I suggested in my statement, I fully appreciate that there are no easy solutions to the people problems of Indochina, including the problem of civilian detainees and political prisoners in Vietnam. However, I share the view of many Americans that our government's record and position on this problem is less than adequate, especially today in the context of helping to heal the wounds of war.

In this connection, I would like to request the Department's latest assessment of the number of political prisoners, their condition and treatment, and their status under the ceasefire agreement. I would also like to request a full record of past and projected expenditures for public safety and related purposes, broken down by fiscal years and for all departments of the Executive Branch. And it would also be helpful to receive the Department's comments on the specific recommendations for action contained in my statement of June 4.

I am extremely hopeful, Mr. Secretary, that Congress and the American people can be fully assured of the Administration's concern over political prisoners in Vietnam, and that every effort is being made to encourage the amelioration and resolution of this difficult and sensitive problem.

Many thanks for your consideration, and I look forward to hearing from you soon.

Sincerely,

EDWARD M. KENNEDY,
*Chairman, Subcommittee on Refugees.*

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### TEXT OF DEPARTMENT OF STATE'S RESPONSE OF AUGUST 2, 1973

DEAR MR. CHAIRMAN: I refer to my letter of June 22, in which I indicated that the Department would compile the information necessary to answer your letter of June 7 which raised several questions concerning civilian detainees and political prisoners in South Viet-Nam, and solicited the Department's comments on the four specific recommendations for action you made in your June 4 presentation to the Senate concerning this matter. We have completed our research and will attempt to answer your questions; I apologize for the delay in our response.

First, you asked the Department's assessment of the number of political prisoners, their condition and treatment, and their status under the January 27 Agreement on Viet-Nam. The term "political prisoners" is subject to varying interpretations, which helps account in turn for the widely varying and often exaggerated estimates of their number. I assume that you employ the term, as we do, to describe those persons imprisoned because of nonviolent, noncommunist opposition to the present government of the Republic of Viet-Nam, and not to describe communist cadre or supporters, whose release is a specifically designated subject for negotiation between the two South Vietnamese parties in accordance with the January 27 Agreement. In view, however, of the complex, fluid nature of the problem and the difficulty that often arises in differentiating one category from another, it may be useful if I outline first the status of civilian communist detainees under the pertinent provisions of the January Agreement, and then comment separately on the matter of those noncommunist prisoners who are not covered under those specific provisions.

Article 8(c) of the January 27 Viet-Nam Agreement specifies that "the return of Vietnamese civilian personnel captured and detained in South Viet-Nam will be resolved by the two South Vietnamese parties" to that Agreement. Article 7(a) of the Protocol concerning the Return of Captured and Detained Vietnamese Civilian Personnel defines "Vietnamese civilian personnel" in the language employed in the 1954 Geneva Agreement, as follows: "The term 'civilian internees' is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities." We interpret this definition as applying to communist cadre, i.e., political cadre, saboteurs, terrorists, etc. Noncommunist civilian detainees, be they common criminals or "political prisoners" as we have above defined the term, generally do not come under the articles cited.

The January 27 Agreement and Protocol specify that the two South Vietnamese parties "will do their utmost to resolve this question", i.e., the return of "Vietnamese civilian personnel", "within ninety days after the cease-fire comes into effect." Representatives of the Government of the Republic of Viet-Nam (GVN) and of the Viet Cong, or "Provisional Revolutionary Government (PRG)" have been meeting in Paris and Saigon on this and the many other issues related to the implementation of the cease-fire agreement and the achievement of a political settlement. Although there has been some forward movement, progress has been predictably slow and intermittent. In recognition of the fact that implementation of the Agreement has been inadequate in this regard (as well as many others), the June 13 Joint Communique calls for scrupulous implementation of the Agreement and Protocol with regard to detained civilians of both sides. The communique states that all Vietnamese civilian personnel covered by Article 8(c) of the Agreement and Article 7(a) of the Protocol shall be returned "as soon as possible" and requires the two South Vietnamese parties to "do their utmost to accomplish this within forty-five days from the date of signature of this Joint Communique".

Pending resolution of the problem, Article 8(b) of the Protocol provides that all "Vietnamese civilian personnel captured and detained in South Viet-Nam shall be treated humanely at all times, and in accordance with international practice". It further proscribes all forms of torture and cruel treatment and provides that those detained be "given adequate food, clothing, shelter and the medical attention required for their state of health".

The issue is complicated and rendered even more difficult of resolution by the residue of decades of bitter warfare; both sides accuse the other of bad faith and of holding far larger numbers of prisoners than either acknowledges. The GVN lists 16,798 "civilian personnel" (i.e., government officials and cadre) and 51,823 additional civilians it claims have been kidnapped or captured by communist forces since 1954. (President Thieu brought the list with him when he visited the United States in April.) The first category would presumably come directly and specifically under Article 7 of the Protocol; the status of the second category is more in doubt, although an accounting would certainly be in order. In any case, when negotiations for the release of civilian detainees began, the PRG only listed 140 for release to the GVN. Subsequently, in response to repeated GVN requests, the PRG increased that total to 200, then 400 and later to 637, the total they currently use.

For its part, the GVN has listed a total of 5,081 civilian detainees for return to the PRG under the terms of Article 8(c). The PRG has charged that the GVN holds 200,000 "political prisoners" (its "estimates", in addition to further confusing the distinction between "political prisoners" and "civilian personnel" have in fact gone as high as 300,000) but has not to the best of our knowledge substantiated this in any way.

It appears that neither side has provided a complete list. The PRG's slowly ascending totals are patently unrealistic; the GVN total of 5,081 is also incomplete, but far less off the mark. (As Mr. Meyer of our Saigon Embassy wrote on April 3 to a staff member of your committee, the GVN has converted some communist detainees to common criminal status.) However, it is important to note in this connection that the GVN has been more forthcoming than the PRG in another regard in that it has offered to release any civilian detainees, in addition to the designated 5,081, the PRG names as belonging to its movement. The PRG insists that its 637 total is complete, and makes no further concession.

For the GVN and PRG to bridge the gap between their positions on this issue of the release of civilian detainees will be a difficult task of negotiation. The issue is one where both Vietnamese parties have responsibilities, and where reciprocity is clearly required.

Turning now to those non-communist civilian detainees whom we have defined as "political prisoners", it is our view that the thrust of the Agreement and attendant protocols, with their emphasis on reconciliation and a political solution, strongly implies the release of civilians held for political reasons by both sides, even though the specific provisions do not demand such action. The GVN is aware of our views on this subject; we have made them known on numerous occasions, before and after the signing of the Agreement, and will continue to do so. It should be noted that since the signing, the GVN has released over 7,000 prisoners of various kinds (including such "political prisoners" as Truong Dinh Dzu and some Buddhist oppositionists) as acts of amnesty and clemency. We expect further such releases.

There is a further point, however, that bears emphasis, concerning the categorization of civilian detainees. Leaving aside common criminals, it is extremely difficult for any outside entity such as the United States Government, to make a confident determination as to whether a particular civilian detainee should be considered to be in the Article 8(c) category or is detained for simple political dissent. Only the two South Vietnamese parties—the GVN and the Viet Cong—have the full information on the basis of which such a determination can be made.

This having been said, to the best of our knowledge, the number of non-communist civilians detained for political dissent, i.e., "political prisoners", is a small portion of the prison population. Our Embassy in Saigon in the letter mentioned above suggested that there may be between 500 and 1,000 detainees in this category. Although this estimate was based on the best information available to the Embassy at the time it was made, we are by no means certain it is accurate. We simply do not have the means to determine to our satisfaction, and yours, the precise number of political prisoners in South Vietnamese prisons.

With regard to the treatment of civilian detainees, both communists and non-communists, we have heard many allegations lately of widespread and systematic mistreatment of prisoners by the South Vietnamese Government, but we believe such allegations are unsubstantiated. As in any prison system, there are cases of abuse, but in our best judgment, based on years of first-hand observation by U.S. advisors to South Viet-Nam's Directorate of Corrections (all advisory assistance under this program has now been terminated) such cases are the exception in South Viet-Nam's greatly improved penal system, rather than a norm. In general, cases of abuse appear to have occurred in the process of, or just after, arrest, while detainees are still under police control or interrogation, and not in civilian prisons under the jurisdiction of the Directorate of Corrections. Any case of mistreatment of a detainee, wherever it occurs and whatever the category the detainee, of course, is a matter for concern and appropriate corrective action. We have not hesitated to point out to the appropriate authorities the necessity for humane treatment of all detainees.

You requested a "full record of past and projected expenditures for public safety and related purposes, broken down by fiscal years and for all departments of the Executive Branch."

With regard to AID, according to AID's financial records, the following amounts were obligated for the public safety program since FY 1963 (in thousands of U.S. dollars):

| Fiscal year | Security assistance | Technical assistance |
|---|---|---|
| 1963 | 3,326 | |
| 1964 | 1,343 | 2,806 |
| 1965 | 12,141 | |
| 1966 | 22,753 | 105 |
| 1967 | 7,033 | 8,752 |
| 1968 | 26,258 | |
| 1969 | 19,647 | |
| 1970 | 11,455 | |
| 1971 | 9,464 | |
| 1972 | [1] 8,948 | |
| 1973 | [1] 5,817 | |
| Total | 122,368 | 11,663 |

[1] Includes $411,000 in 1972 and $183,000 in 1973 for narcotics control taken from sources other than supporting assistance funds.

Our Public Safety program in Viet-Nam consisted of three projects: the National Police Support Project which assisted the Vietnamese National Police; the Corrections Centers Project which assisted the Directorate of Corrections in its operation or supervision of the prisons of Vietnam; and the Telecommunications Project which assisted the Combined Telecommunications Directorate to furnish communications support throughout Viet-Nam for 28 government civilian agencies, only one of which was the National Police.

There is some public confusion concerning the requirements of the January 27 Viet-Nam Agreement and its related protocols with regard to our Public Safety Program. The Agreement requires only that advisors to the National Police leave the country within 60 days and that any equipment furnished the National Police in the future falling into the category of "armaments, munitions, and war materiel" be limited to replacement items on a one-for-one basis. There are no other restrictions on assistance to the National Police such as training outside of Viet-Nam, nor are there any restrictions upon the Corrections and Telecommunications Projects.

Since January 27, 1973, all AID advice to the National Police has ceased and all advisors to the National Police departed the country within the required 60 days or found employment with other U.S. agencies or private contractors operating within Viet-Nam. It is our understanding that none of these former USAID Public Safety Advisors is serving in an advisory capacity to the National Police. Equipment furnished to the police has been limited to replacements as required. It had been planned to terminate the Corrections Project on June 30, 1973. However, since the goals of this project had been largely attained, all advisory assistance under it was terminated on January 28, 1973. (In addition to the AID Dollar Assistance provided in FY 1973, AID is also providing 50 million piastres, approximately $100,000, through the American AID Chapter of the GVN's CY 1973 Budget to the Directorate of Corrections.) When the Civil Operations and Rural Development Support (CORDS) element of the Military Assistance Command was dissolved, and with it the Public Safety Directorate, the Telecommunications Project together with the residual logistic and participant training functions of Public Safety were transferred to USAID and were placed in appropriate general programs.

As shown in the Congressional Presentation of AID for FY 1974, funds in the amount of $1,316,000 are requested to continue certain activities previously a part of the Public Safety Program in Viet-Nam which are in keeping with the Cease-fire Agreement. These AID funds include $600,000 for training outside Viet-Nam of 200 police officers in computer systems management, $196,000 for training outside Viet-Nam of police officers in other aspects of police management and $520,000 for replacement equipment for the Combined Telecommunications Directorate.

Department of Defense obligations for the public safety program since FY 1967 were as follows (in millions of dollars):

| Fiscal year: | *Amount* |
|---|---|
| 1967 | $4.1 |
| 1968 | 7.7 |
| 1969 | 11.4 |
| 1970 | 9.1 |
| 1971 | 7.3 |
| 1972 | 9.0 |
| 1973 | 11.0 |
| Total | 59.6 |

The Department of Defense has requested $1,343,000 in FY 1974 for Telecommunications equipment replacement and $7,519,000 for police equipment replacement.

You also requested the Department's comments on the four specific recommendations for action contained in your statement of June 4. First, you recommended termination of all American sponsored public safety oriented programs in South Viet-Nam, and immediate withdrawal of all current funding and new money requests for such purposes. I believe you would agree that the remaining programs we have for Viet-Nam, of the kind and in the amounts I have outlined above, do not violate the Agreement. You obviously feel that they are not in keeping with its spirit. It is our view that these are legitimate development projects within the context of our continuing permissible assistance to the GVN.

I would like to add a few more words on this emotionally charged subject which I realize is of great concern to many Americans. Quite frankly, I do not agree with what I gather to be the thrust of your June 4 statement to the effect that abuses within the GVN penal system, including the holding of political prisoners, are of such a nature and extent to justify measures such as you propose. There are political prisoners in South Vietnamese jails and incidents of abuse *and* mistreatment do occur. I believe, however, that the background information I have provided in this letter shows that these problems have been exaggerated and inflated in the current public debate. The issue is an important one of concern to us, and we will continue to argue that the GVN make greater efforts to improve its performance. Nonetheless, I wish to stress again it is our considered judgment that GVN failures in this area, the existence of which we acknowledge, are not sufficient to call for the termination of the projects I have outlined.

I would say further as a general point that the current debate on this issue creates a misleading picture of the Thieu administration; that it is a brutal, oppressive and dictatorial one, systematically stamping out every vestigate of political opposition. This is simply not accurate.

There is a great deal of political opposition activity in Viet-Nam, particularly for a country which has been so long at war. The charges of political opponents to the GVN are not without some substances. However, the fact that the functioning opposition in South Viet-Nam is presently ineffective is primarily due to the traditionally divisive nature of Vietnamese political groups and, more importantly, to the confusion and uncertainly felt by most South Vietnamese as they attempt to enter a new political phase while still fearful of conquest by the communists. These are the problems today for Vietnamese oppositionists, much more so than alleged GVN oppression.

In considering this whole problem, we must not lose sight of the threat against which the GVN has been trying to defend itself. Let it be recalled that the Viet Cong and their North Vietnamese supporters have not hesitated to resort to subversion of political institutions, sabotage and terrorist actions against civilian officials and the public in general, as well as outright military force to achieve their purposes. It is this range of extra-military activities to which the GVN has been forced to respond with an efficient police force and detention system and with some limitation on the full exercise of political freedom as we conceive of it in this country.

Second, you urged and we agree that the United States make diplomatic representations to the GVN in behalf of the humane and just treatment of all civilians detained for political reasons and for the release of political prisoners not covered by the Agreement. As I pointed out above, the United States has repeatedly stressed these points in the past, and will continue to do so. The fact that we believe significant improvement has been registered by the GVN in these areas does not mean we fail to recognize that much more must be done.

To "sort out" and "rectify the rolls" of GVN prisoner categories as you put it, we see as a matter to be negotiated between the South Vietnamese parties.

In the final analysis, they will have to work this out between themselves. We have indicated to both our desire that a solution be found to the civilian detainee problem as stipulated in the Agreement as a matter of high priority, but beyond such encouragement there is little we can do. This is a South Vietnamese matter, one which we probably ill understand and about which we would be ill equipped to enter into specific, detailed involvement. I indicated some of the complexities and pitfalls earlier in the letter.

With regard to your suggestion that the Thieu government invite an inspection of prison facilities under the auspices of the International Committee of the Red Cross, I wish to note that Article 9(b) of the Prisoner Protocol requires the two South Vietnamese parties to designate two or more national Red Cross societies to visit all places where detained civilians are held. The June 13 Joint Communique calls for immediate implementation of this Protocol provision, and the two South Vietnamese parties are at present attempting to work out modalities for arranging such visits by the Red Cross societies of Canada and Poland. Resolution of this issue is complicated by the insistence of the PRG that it does not have any detention facilities for the Red Cross societies to inspect. For our part, we hope that differences can be resolved so that the stipulation visits to the detention facilities of both sides can take place promptly. Our knowledge of the South Vietnamese government's prison system causes us to believe that inspection by an unbiased and qualified group would help correct the public record with regard to the inaccuracies and distortions presently widely accepted concerning that system. We have made this point frequently and strongly to the GVN, in urging that it liberalize its policy on visits to its detention facilities.

We completely concur in your third recommendation that the United States make diplomatic representations "to encourage and facilitate negotiations between the Thieu government and the PRG for the repatriation and return of those political prisoners on both sides covered by the Agreement." (We would not, however, define those prisoners to be exchanged as "political prisoners" but would rather call them "Vietnamese civilian personnel" as stated in the Agreement.) Both the parties concerned in fact are already aware of our desire that they promptly implement the pertinent provisions. We are encouraged by the new series of releases of Civilian detainers which began on July 23 and have, despite difficulties, already resulted in the exchange of approximately 800 persons.

Fourth, you recommended that in discussions concerning revisions of the 1949 Geneva Conventions "the United States should actively encourage and support reasonable initiatives to strengthen and better facilitate the protection of civilian detainees in areas of conflict and war." The United States has welcomed the current initiative of the International Conference of the Red Cross to re-examine and revise the laws of war. The United States participated in an ICRC-sponsored conference in 1972 which considered ways in which the international humanitarian law applicable in armed conflict can be further developed. At this conference preliminary drafts were discussed with a view to advising the ICRC in its efforts. The ICRC intends to produce drafts (which) will probably take the form of two protocols to the Geneva Conventions of 1949 dealing with international and non-international armed conflicts, respectively) to serve as the basis for negotiations at a 1974 diplomatic conference in Geneva. The United States regards this forthcoming conference as a major step in the process of bringing the law up to date, and we shall participate in it fully and enthusiastically. We hope that it will result in increased protection for persons detained in both international and non-international armed conflicts. In view of your interest in this subject I am enclosing a copy of a recent address by the Department's legal Adviser, George H. Aldrich, entitled "Human Rights in Armed Conflict: Development of the Law". Mr. Aldrich gave the address at an April 13 meeting of the American Society of International Law. His remarks reflect current Department thinking on this subject and were published in the June 18 *Department of State Bulletin.*

I appreciate this opportunity to review with you the Department's views concerning what you aptly term a "difficult and sensitive problem". I hope that I have been able to convey to you our genuine concern that the problem of detainees in Viet-Nam, of whatever category and by whichever side they are held, be resolved, together with the other issues which have separated the warring factions in South Viet-Nam for so many painful years. As a signatory to the Agreement, we will continue to do everything we reasonably and practicably can to encourage and stimulate compliance with the Agreement. At the same time, we must realize our limitations. The Agreement provides a context for the mutually suspicious South Vietnamese parties to solve their political problems, not immediately but over time. Patience is required; what we can best do is to continue to assist in maintaining the framework of the Agreement, and encourage them to settle their differences within this framework.

On the matter of "political prisoners" not specifically covered under the Agreement, we will continue to press the GVN to liberalize its policy. We think there is certainly room for improvement, but we also believe that here, as in other areas, quick judgments with regard to complex Vietnamese issues should be avoided.

I hope this is useful to you. Please let me know if I may be of further assistance.

Sincerely,

MARSHALL WRIGHT,
*Assistant Secretary for Congressional Relations.*

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## USED CARS

Mr. HARTKE. Mr. President, on May 23d of this year, I introduced the Used Car Warranty Act (S. 1881). This bill is designed to provide purchasers of used cars with the basic information they need when buying an automobile.

I know that there are many reputable used car dealers throughout the Nation—dealers who take pride in the cars they sell and back up their pride with meaningful guarantees. Yet it is all too clear that there are far too many disreputable dealers who are content to lure people onto their lots and then sell them anything which can be driven off the lot.

Mr. President, this is not only a question of consumer fraud; it is also a question of consumer safety. There is a direct relationship between the age of a car and its accident proneness. Owners of older vehicles must take special care to assure that steering systems, braking systems and the like remain in proper working order for time takes its toll on these vital parts. Far too many of the cars being sold off used car lots contain serious safety defects.

Mr. President, recently a reporter for Chicago Today spent 11 days posing as a used car salesman. His story highlights the manner in which unscrupulous used car dealers take advantage of an unsuspecting public. I ask unanimous consent that the first two parts of a series of articles written by reporter Howard S. Marks be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### HOW SHADY USED CAR DEALERS PREY ON THE DESPERATE

(By Howard S. Marks)

Jesse Johnson was happily looking forward to Christmas in Mississippi as he sat behind the wheel of his newly purchased 1968 Buick.

Cruising along at 70 m.p.h. thru western Kentucky en route from Chicago, he thought he was safe.

He had purchased the 3-year-old Buick in 1971 for $3,300 from a large dealership in Chicago that sells hundreds of cars monthly.

Suddenly, the cars in front of him stopped and Johnson slammed on his brakes, fully expecting to stop. He didn't.

He veered into a ditch, rather than smash into the trailer in front.

Johnson was lucky. The car was destroyed, but he escaped with bruises and cuts.

Jesse Johnson [not his real name] is among thousands of Chicagoans who each year buy low-quality cars at high prices because they can't get financing. Their credit records are too bad.

They turn to the dozens of lots that line Western and Cicero Avenues in Chicago that promise flashy cars at low prices for people with histories of bad credit, judgments, and wage garnishments.

These are the places that couldn't care less about the customers and whose questionable practices give a bad image to the many reputable used-car lots that do exist in the city.

Some of the customers are illiterate. They carry around stamps and rubber pads, so they can stamp their names instead of signing an X. Others can't even remember when they started their last job.

Many of them lie about their bleak financial pasts.

They are desperate for a car for a variety of reasons ranging from contempt for the Chicago Transit Authority to the need to reach a job in Lake County, Ind.

Car Credit Center Corp., 7600 S. Western Av., and 5670 S. Western Av., serves those desperate people.

To determine just how Car Credit operates, I worked as a used car salesman for the company for 11 days in mid-July.

I chose Car Credit because of its reputation—or lack of one.

The Better Business Bureau told us scores of complaints has been filed against Car Credit.

Altho the files of the bureau remain closed to the press, employes at Car Credit provided numerous examples of defective autos that were returned to the lot.

One involved a woman driving a 1967 Chevrolet costing $1,195 that went out of control on the Dan Ryan Expressway in June. Her brakes failed, and she avoided a nasty rear end crash only by heading for the shoulder.

The second involved the failure of the steering mechanism on a 1967 Chrysler after the ball bearings slipped. The driver somehow managed to stop the car.

Here are just a few of the practices I discovered while working in and around the Car Credit lot:

The cars are priced at a full 100 per cent markup before financing charges are added. The financing charges range up to 30 per cent annually.

Many of the cars won't even start on the lot. Several came close to catching fire. Coke cans are used to patch up exhaust pipes. Tuneups take two minutes.

Advertised specials are known as "bulls" because they are so smashed up that very few customers would want them. They are used as "bait" to get people down to the lot to buy more expensive cars.

A 30-day "guarantee" is not what it's cracked up to be—the customer winds up footing most of the repair bills.

Salesmen berate the car they're selling as "junks" and four-letter expletives—when there are no customers around. The customers themselves are "bad, extrabad, and superbad," one salesman said.

The salesmen themselves have been stuck with defective used cars they get as loaners.

Salesmen admit that buying a car at Car Credit is similar to Russian roulette. "Some people actually get a good car and return, while others really get their fingers burned."

This isn't the first time that the lot at 7600 S. Western Av. has been under investigation and exposed.

Chicago Today columnist Jack Mabley wrote a series of articles about disreputable practices on the lot in 1962 when it was known as Tim Kelly Inc. It then was owned by Bill Bass, brother of Eddie Bass, who the Secretary of State's office lists as the chief officer of Car Credit.

In 1964, Mabley discovered the lot operating again under the name of Friendly Bob Inc. After a second series exposing shoddy merchandise and high prices, the Secretary of State's office revoked Friendly Bob's license and ordered it out of business.

However, bad publicity has a way of disappearing once the "heat is off!" The lot long since has reopened under a third name.

During my 11 days at Car Credit I worked under an assumed name and address and successfully avoided detection—altho one salesman thought I might be an FBI agent.

I managed to sell five cars [two for half-commission] and earned $140 before taxes.

After my experiences at Car Credit I know there probably is no greater challenge in life than selling a car with snow tires in 90 degree heat or without windshield wipers on a rainy day.

I could do neither and thus was only a used-car salesman for less than a fortnight.

But I kept a diary of each days' events and some of the things I recorded in that diary would shock even the most skeptical.

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### OUR USED CAR "SALESMAN" BEGINS

(By Howard S. Marks)

Unscrupulous used car dealers are highly skilled in the art of prying the last dollar from those who can least afford it—the unwary and the bad credit risk. To get a first-hand look at how these dealers operate, reporter Howard S. Marks worked as an undercover used car salesman for 11 days at one of these lots and kept a diary of each day's events. In this second article of a series, Marks tells how he learned the "tricks of the trade" during his first day on the lot.

Thursday, July 5—The orange flags and newly washed row of sparkling late-model cars first caught my eye as I parked on Western Avenue and walked to my first day as a used car salesman at the Car Credit Corp., 7600 S. Western Av.

I was more than a little apprehensive—mostly over my role as an undercover investigator, but also because of the very real challenge of selling a used car.

It's an old adage that if you can hack it as a used car salesman you can make a fortune anyplace else. One thing that stuck in my mind when I was hired was the promise that I could make up to $500 a week in commissions.

I was told to report to work in a sports shirt and slacks. "We don't dress up around here," one of the salesmen said.

I showed up promptly at 8:55 a.m., but had to wait until 10:45 a.m. to be briefed by Frank, an assistant manager. Frank [not his real name] gets along famously with the salesmen and customers because he's a fast talker and keeps 'em laughing.

First, Frank explained why hundreds of people are lured to Car Credit each week by the promotion of low priced specials.

Specials are known to the salesmen as "bulls"—low priced, all right, but usually hunks of metal that barely run. After the wife sees them, it's easier to sell the customer a more expensive car.

"We make them as ugly as hell, but a person would have to be crazy to buy one of these cars," Frank said.

Yet, so desperate are the customers that even these "bulls" will disappear.

"The object is to get them on the lot,"

said one salesman. "Once they get here tell them the car has been sold just before they arrived and show them something else."

This happened during my second day when dozens of people were told over the phone that the advertised '68 Corvette for $1,695 was still on the lot when actually it was sold the day before.

Second, Frank explained the all-important credit application. All cars are financed by the Overland Bond and Investment Corp., 4701 W. Fullerton Av., owned by Car Credit. All deals are approved by Bob White, chief of Overland and a director of Car Credit.

Frank told me that the customers "lie like hell" and that I should be careful in asking questions and check drivers' licenses and other positive identification cards.

Most important, he told me that in the box known as race I should write one x for whites, a double xx for blacks, and triple xxx for "Spanish or Puerto Rican."

"Remember," he repeated at least four times, the whole idea is to get a lot [of money] to get a little [a low priced car]."

Frank then took me on the grand tour of the asphalt paved lot explaining the "secret code" for pricing. Each car has a price code number painted on the windshield.

For instance, 191168 would be a 1968 auto priced at $1,095. The first two digits and the last two digits refer to the year of the car and the middle two digits are the key to the price, in this case 11 representing a price of 1,100 [always less $5 as a sales gimmick].

Normally there is a 100 per cent markup on the cars. The price paid for the $1,100 car at auction [usually in Grand Rapids, Mich.] is roughly half the retail price [or $550 in this case.]

On all credit deals, a minimum of $500 is added to the wholesale price. This gives Car Credit extra protection on lower priced cars.

If a person pays cash, of course, he gets a better deal. A minimum of $350 is added to the wholesale price. But cash deals are frowned upon.

Trade-ins and repossessed cars are sold for $200 above cost. Some of these cars have the letter G between the year it was built. It stands for Gore line cars, or a car which has no value, but must be sold for at least $195, if the salesman is to get full commission.

My commission was $35 per car but most of the salesmen were earning $40 to $45 for each car. [There is no bonus paid salesmen as an incentive to hypo the price]. Each salesman also get a loaner.

Frank said to inflate the price by $200 if the person has a trade-in.

"Most people think their cars are worth a lot more than they really are," said Frank. "You can make them think they're getting a good trade-in deal by adding the $200 on to the real price we are willing to pay."

Frank cautioned me against answering technical questions about the car.

"The only one who will ask are young kids. Just open the hood and read whatever the printing says on the motor or the carburetor."

"Tell people that the car went through a systematic check at our diagnostic center," Frank said, pointing to the Enco station garage at 77th Street and Western Avenue, owned by Car Credit. "There is no diagnostic center," he confided with a grin.

Near the end of the day, one salesman turned to me and said selling cars at Car Credit was easier than selling new cars "because you don't have to know anything about junk."

Friday, July 6—We got some real action today when Chicago police were called to Car Credit.

Two cops had to settle a quarrel over four tires and a stereo recorder missing from a repossessed auto.

The former owner claimed that the belongings were in the car when it was brought back to Car Credit the previous Sunday night. He was really burning with rage.

But only after one of the porters [who start and clean cars] confirmed the customer's statements, did the police agree to fill out a theft report.

After the porter volunteered the information, he was pulled aside by a salesman and told "to mind his own business."

I was later told that the customer was given a check for the missing items.

I learned during my 11 days that the front row of late model cars is washed daily, but not the cars in the back rows. The interiors of the back row cars are littered with cigarette butts, traffic tickets, and assorted junk.

I learned that very few of the front row cars are sold.

Ralph [not his real name], one of the more honest salesmen, conceded that "I'm ashamed to take people back into the fourth row." The fourth and fifth rows along the dirt alley are where the bulls and gore cars [junks] are kept.

Another salesman said "the rats [referring to the customers] know exactly where to go, which are the back rows."

I later took a Chicago Transit Authority bus driver on a test drive in a 67 Ford station wagon, which was selling for $995.

When I couldn't operate the gas pedal, the driver told me "to drive it like a CTA bus." Never having driven a CTA bus I still couldn't get the car to move any faster than 30 m. p. h.

The muffler kept scraping the rear tire during the test ride, but I guess he never heard it. As a bus driver, he must have been used to the noise.

He still wanted to buy the car, but had to be turned down on credit because the savings bonds he wanted to use as payment turned out to be nonnegotiable.

I couldn't understand why he wanted the car—it looked like a wreck and I'm sure it had never been cleaned while it was on the lot.

In fact, the filthy condition of the backline cars appears to be a difficult problem for the beginning salesman.

Management does have a man who paints black tires with white lines. This is supposed to make the customers think the tires are factory whitewalls.

## SOVIET UNION AND HUMAN RIGHTS

Mr. KENNEDY. Mr. President, events which have occurred recently in the Soviet Union raise serious questions for all who are concerned about human rights.

Only a few days ago, Andrei Sakharov, distinguished Soviet physicist, told reporters that he had been warned against continued meetings with western reporters and urged that the process of detente be accompanied by continued pressure on the Soviet Union for greater respect for human rights.

Since then, both Sakharov and Alexander Solzhenitsyn have been named in ongoing trials against other Soviet dissidents, accused essentially in involvement in the distribution of underground newsletters. The clear threats against these two distinguished Soviet intellectuals for their outspoken defense of human rights are disturbing indications of a regression in the process of liberalization within the Soviet Union.

The trials of two other Soviet dissidents, with their public memorized statements of guilt, is all too reminiscent of an earlier era.

I ask unanimous consent that articles discussing the recent attacks on intellectual freedom in the Soviet Union that can only be described as persecution and oppression of criticism be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 9, 1973]

### FIRST, HUMAN DÉTENTE

(By HENRY M. JACKSON)

WASHINGTON.—Since the Moscow summit of May 1972, it has become fashionable to contrast the "crudity" and "bluntness" of earlier Soviet regimes with the "subtlety" and "sophistication" of Mr. Brezhnev and his associates. But there is nothing subtle about the latest wave of show trials, staged confessions and harassment in the Soviet Union. It is evident that the supposed "relaxation of tensions" in international affairs is not yet accompanied by a corresponding relaxation of Soviet internal controls.

In 1937, Thomas Mann, then in exile in Switzerland, was informed by the University of Bonn that "the faculty finds itself obliged to strike your name off its roll of honorary doctors."

In his written reply, Mann asked the Nazi Government he had fled:

"Why isolation, world hostility, lawlessness, intellectual interdict, cultural darkness, and every other evil? Why not rather Germany's voluntary return to the European system, her reconciliation with Europe, with all the inward accompaniments of freedom, justice, well-being and human decency, and a jubilant welcome from the rest of the world? Why not? Only because a regime which in word and deed denies the rights of man, which wants above all else to remain in power, would stultify itself and be abolished if, since it cannot make war, it actually made peace."

In 1969, Aleksandr Solzhenitsyn wrote to the Secretariat of the Soviet Writers' Union after being informed that it had expelled him:

"Your clumsy articles fall apart; your vacant minds stir feebly—but you have no arguments. What would you do without enemies'? You could not live without 'enemies'; hatred, a hatred no better than racial hatred, has become your sterile atmosphere. But in this way a sense of our single, common humanity is lost and its doom is accelerated. Should the Antarctic ice melt tomorrow, we would all become a sea of drowning humanity, and into whose heads would you then be drilling your concepts of 'class struggle'?"

The message of these two great writers is the same: A regime that denies the rights of man can never be reconciled to membership in the community of civilized nations.

The question today is whether recent East-West developments have in fact increased the chances the Soviet Union will decide to become a member of the community of civilized nations. I am bound to say that I share the apprehensions of those who remain doubtful. But this much is certain: How we design and implement the emerging policy of détente, the weight we assign to human rights in the development of relations with the Communist nations, and the depth of our own commitment to individual liberty will prove decisive.

This is the point that Andrei Sakharov communicated to us during his brave and outspoken press interview last month. "Détente," Sakharov said, "has to take place with simultaneous liquidation of isolation." Détente without democratization, would be "very dangerous . . . that would be cultivation and encouragement of closed countries, where everything that happens goes unseen by foreign eyes behind a mask that hides its real face. No one should dream of having such a neighbor, and especially if this neighbor is armed to the teeth."

Thus, without an increasing measure of individual liberty in the Communist world there can be no genuine détente, there can be no real movement toward a more peaceful world. If we permit form to substitute for substance, if we are content only with "atmospherics," we will fail to keep the peace.

Of all the human rights contained in the universal declaration of the United Nations, none is more fundamental than that in Article 13—the right to free emigration. And we assess the developing détente, a basic measure of progress will be its impact on the free movement of people. The importance of free emigration stems from the fact that whatever other liberties may be denied—speech, press, religion, employment—any and all of these can be restored by emigration to free countries of the West. Of human rights, free emigration is first among equals. Moreover, emigration has a special international character that necessarily places it in the context of international relations—for the state that wishes to receive emigrants has at least as much of a stake in free emigration as the state from which they come.

Significantly, the economy of the Soviet Union is in desperate straits, and we have been asked to extend to Russia the benefits of our markets on a most-favored-nation basis, of our capital at preferential rates, and of our superlative technology. There are those who argue that we must make these trade concessions in the interest of promoting détente but that we ought not to attach conditions that would, at the same time, promote human rights in the Soviet Union. This is the argument of the Kremlin. It is also, I am pleased to say, an argument that we in the Congress have clearly rejected. The overwhelming support for my East-West Trade and Freedom of Emigration amendment—77 cosponsors in the Senate and over 280 in the House—to make these benefits conditional on free emigration is, in my view, not only the best hope for the survival and freedom of many brave people, it is a sound and proper way to approach the potential détente.

Those who insist that the pace and development of détente should reflect progress in the area of human rights are often accused of opposition to détente itself. Nothing could be further from the truth. The argument is not between the proponents and detractors of détente, but between those who recognize that a genuine era of international accommodation must be based on progress toward individual liberty and those who choose to pretend otherwise.

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[From the New York Times, Sept. 9, 1973]

### TERROR IN MOSCOW

Kremlin terror tactics have almost extinguished the visible Soviet dissident movement, but not quite. That became evident yesterday when three Soviet citizens came publicly to the defense of Academician Andrei D. Sakharov and suggested him—very appropriately—for the Nobel Peace Prize.

The bravery of this trio—mathematician Igor R. Shafarevich and writers Vladimir Y. Maksimov and Aleksandr A. Galich—is underscored by the fact that the only other prominent Russian willing to speak out against the current Kremlin campaign of intimidation has been Nobel Prize winner Aleksandr Solzhenitsyn.

Until yesterday the Soviet press was full of statements denouncing Academician Sakharov, many of them signed by outstanding Soviet scientists, writers, musicians and other intellectuals of whom the world had a right to expect more decency. The intensity of Kremlin pressure has been so enormous that even men of such global renown as Academician Pyotr Kapitsa, the physicist, have felt it impossible to do more than keep silent. They can only hope that the world will realize the meaning of the absence of their signatures from the shameful lists.

The ruthlessness of the drive to stamp out dissent is epitomized in Mr. Solzhenitsyn's revelation that a Leningrad woman hanged herself after being forced by five days of continuous secret police questioning to reveal the whereabouts of a major underground Solzhenitsyn manuscript. Nevertheless, the Kremlin is clearly worried about negative Western reaction to its barbarous return to the Stalinism of the nineteen-thirties.

That fear was made plain when the Soviet Government suddenly held a press conference at which the freshly convicted former dissidents, Pyotr I. Yakir and Viktor A. Krasin, were called upon to re-confess their "crimes" in public. Their first confessions in the courtroom were apparently so poorly rehearsed that the Kremlin dared not let foreigners view the trial. Unfortunately for the Kremlin, the parallels between the Yakir-Krasin frame-up and the caricatures of judicial process in the purge trials of the thirties are too close to allow this latest example any credibility.

A wave of revulsion against the Moscow terror has swept much of the civilized world. In France, for example, the French Communist party has been hurt by Moscow's primitive behavior and is striving frantically to minimize the damage it suffers. In the United States, by contrast, the response in official quarters has been peculiarly ostrich-like. Thus, at the height of the program, the Secretary of Health, Education and Welfare has visited Moscow, where he last week held a news conference with the Soviet Health Minister. In addition, the Administration has made plain that its efforts to expand Soviet-American trade are going ahead full steam.

Secretary of State-designate Kissinger has disclosed that he was "very moved" by the Sakharov statement urging that the United States go slow on détente until the Soviet Union showed some sign of democratization. However, Mr. Kissinger insists in effect, that the United States must ignore everything Sakharov said and go right ahead building up Moscow's economic resources.

Some may feel that Watergate has so undermined President Nixon's moral status that he is in no position to criticize anybody else. Yet, by his silence on Moscow's excesses, the President is stumbling into another and even more serious trap.

In last week's news conference Mr. Nixon pleaded against any cut in the military budget lest this nation be deprived of bargaining leverage at SALT II. But his present policy of expanding Soviet trade, making advanced American technology available to Moscow and encouraging American businessmen to plan multi-billion dollar investments there are all designed to increase Soviet strength—military as well as economic.

And as Academician Sakharov has pointed out, helping a completely regimented Soviet Union become stronger could ultimately be the road to American suicide. On its side, the Kremlin does not interpret détente as requiring ideological disarmament. Why is the White House acting as though détente requires it to approve of every Moscow horror?

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[From the Washington Post, Sept. 9, 1973]

### BRANDT HITS SOVIETS ON DISSIDENTS

(By John M. Goshko)

BONN.—Chancellor Willy Brandt's Social Democratic Party issued a strongly worded protest against the "persecution" and "oppression" of dissident intellectuals in the Soviet Union.

The formal statement by the party's governing board was prompted by the Soviet Union's intensified crackdown on such domestic critics as Andrei Sakharov, the physicist, and Nobel-prize-winning novelist Alexander Solzhenitsyn. During recent days, Sakharov, in particular, has been the target of heavy denunciation from the government-controlled Soviet press.

The statement said: "The persecution and oppression that has been directed against critical scientists and writers in the Soviet Union has caused great concern among the German Social Democrats."

It added that such events as the recent trial of two other dissidents, Pyotr Yakir and Victor Krasin, were causing "great disquiet, particularly to those among the German people who strongly desire continuing normalization and good neighborly relations."

This declaration came a day after Austrian Chancellor Bruno Kreisky, who is also a Social Democrat, and a close friend of Brandt's, publicly defended Sakharov as a representative of those scientists "who are today leading the fight for freedom, tolerance and equality."

Today's followup by the West German Social Democrats reflected the increasingly angry comment being heard in press and intellectual circles here about the Soviet anti-dissident campaign.

Repeatedly, it is being noted here that the Soviet actions run directly counter to the goals that the West has proclaimed for the second stage of the Europen security conference, soon to get under way in Geneva. Western participants in the 35-nation conference have been insisting that it must provide for greater human contacts and freedoms throughout Europe.

During recent days, some of Brandt's political opponents have charged him with unwillingness to condemn the Soviet actions because of fears for his increasingly friendly relations with Soviet Communist Party chief Leonid Brezhnev. Today's statement by the Social Democratic leadership was intended, in part, to counter these accusations.

The sensitivity that the Soviet actions are causing here was underscored yesterday when German author Guenter Grass announced that he was putting off plans to visit the Soviet Union.

Grass, who is closely identified politically with Brandt, said that he had been asked by the West German ambassador in Moscow, Ulrich Sahm, to postpone his trip because of the atmosphere that the anti-dissident campaign has created in the Soviet Union.

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[From the New York Times, June 23, 1972]

### SOVIET PHYSICIST PROPOSES BILL OF RIGHTS AND A REDIRECTION OF ECONOMIC POLICIES

MOSCOW.—Andrei A. Sakharov, father of the Soviet hydrogen bomb and an outspoken critic of the Soviet treatment of dissidents, has proposed a bill of rights for the Soviet Union and urged a major redirection of Soviet economic and foreign policies.

The nuclear physicist's sweeping reform program is designed to democratize and liberalize Soviet society, which he asserts is threatened from inside by militarization of the economy and resurgence of Stalinist practices.

The paramount goal of the program, Mr. Sakharov said, is to protect human rights in the Soviet Union.

"Our society is infected with apathy, hypocrisy, narrow-minded egotism and hidden cruelty," he declared. "With hurt and alarm I am forced to note, in the wake of a largely illusory liberalism, the growth of restrictions on ideological freedom or persecution for political and ideological reasons."

#### SENT TO BREZHNEV IN 1971

The reform program, which he made available to some Western newsmen, consists of two signed documents: a "memorandum" dated March 5, 1971, and an "afterword" dated June, 1972.

Mr. Sakharov said he had sent the memorandum last year to the Soviet Communist party chief, Leonid I. Brezhnev. He wrote in the afterword, however: "It has gone unanswered. I do not consider it my right further to postpone its publication."

One of the world's leading nuclear scientists, Mr. Sakharov in the mid-sixties warned of the criminal character of a possible thermonuclear war and in 1968 attracted widespread attention with a privately circulated essay asserting that the United States and the Soviet Union had no choice but to cooperate on ending the immediate threat of a nuclear holocaust and join to solve world problems.

He was dismissed from his post as chief consultant to the State Committee for Atomic Energy soon after the essay appeared in the West. It has never been published in the Soviet Union.

### A FOUNDER OF RIGHTS GROUP

In his new memorandum, Mr. Sakharov, who is cofounder of the unofficial Soviet Committee on Human Rights, contended that "the single true guarantee of human values, in the chaos of uncontrollable change and tragic shocks, is the freedom of convictions of man."

Soviet society, Mr. Sakharov wrote, "does not require a foreign policy whose purpose is external political stabilization or the widening of zones of influence or export of its ideas."

"Messianism, delusions about the uniqueness and exclusive worth of its path and the negation of the worth of the paths of others are alien to society," he said. "Organically alien are dogmatism, adventurism and aggressiveness."

Mr. Sakharov condemned the Kremlin policy that permits military expenditures to take what he estimates is 40 per cent of the national income.

He declared, "Only a concentration of resources on internal problems will make it possible to overcome difficulties in the areas of the economy and the welfare of the population."

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"has as its chief goal the protection and insurance of the basic rights of its citizens. The defense of human rights is more important than other goals."

Mr. Sakharov's program included a detailed analysis of specific reforms that included these:

General amnesty for all political prisoners, including those sentenced on religious grounds, those detained for trying to leave the Soviet Union and those retired for escaping from labor camps.

An end to closed trials and review of all sentences made "in violation of the right to know."

New laws and clarification of current regulations under which political dissenters are held in mental hospitals.

The drafting of a new press law that would be put to the people for national discussion on the basis of "the right to know."

An end to the jamming of foreign radio broadcasts.

Liberal access to foreign literature.

Open borders for international travel and emigration.

Abolition of the death penalty.

A watchdog committee for those arrested, to protect them against physical methods of pressure, such as starvation and beating.

An increase in the fight against alcoholism. "Drunkenness has acquired the dimensions of a national calamity," Mr. Sakharov wrote. "It is one of the symptoms of a moral degradation of society which is more and more sinking into a condition of chronic alcoholic poisoning."

Mr. Sakharov bitterly denounced the "open and secret privileges" of the Government, party and cultural elite, who "are deeply indifferent to violations of human rights." He also suggested that salaries of officials be made public.

### ASKS RECALL PROCEDURE

The 51-year-old physicist proposed that single-slate elections be abolished, that provisions be made for the popular selection of Government and party leaders and the "genuine possibility of recall of officials, at all levels, in cases of unsuitability."

Mr. Sakharov's emphasis on the law reflects his role as the principal spokesman for Russia's dissident democratic movement.

The movement contends that there is nothing wrong with Soviet laws as they exist on the books, but that the Government has chosen to ignore or distort law to further personal ambitions and protect the privileges of the ruling class.

For democratization of Soviet society, Mr. Sakharov wrote, Soviet foreign policy must not detract from domestic progress.

"The main problem of foreign policy is relations with China," he declared.

He proposed that the Soviet Government offer "the alternative of economic, technical and cultural aid at the same time showing particular concern for insuring the security of our country."

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[From the New York Times, July 5, 1973]

## SOVIET SYSTEM DENOUNCED BY SAKHAROV

STOCKHOLM.—Andrei D. Sakharov, father of the Soviet hydrogen bomb, has issued an indictment of Soviet society in an interview published in a Swedish newspaper.

The 52-year-old nuclear physicist attacked what he described as a system that perpetuates criminality and privilege, and he called for an end to the single-party system and an ideology that is "antidemocratic in its essence."

Mr. Sakharov, a member of the prestigious Soviet Academy of Sciences, first delivered his outspoken attack in a recent Swedish television program that was filmed in Moscow. The uncut text of this interview was published for the first time this week in the influential newspaper Dagens Nyheter.

Mr. Sakharov said: "The Soviet Union has the same sort of problems as the capitalist world: criminality and estrangement. The difference is that our society is an extreme case, with maximum unfreedom, maximum ideological rigidness, and—and this is most typical—a society with maximum pretensions about being best, although it certainly isn't that."

### STATE CAPITALISM

He said that Russian socialism was nothing more than empty words and propaganda. "Realistically speaking, the Russian state represents an unprecedented concentration of economic and political power," he said. "But it is state capitalism, in which the state completely dominates economic life."

"The visa system secures divisions within our society. Territorial differences and injustices exist between different parts of the country. Moscow and other large cities are privileged when it comes to consumer goods, comforts, everyday life, cultural activity and so on."

Mr. Sakharov, a member of a dissident group called the Committee for Human Rights, urged an end to the Communist party's dominance, and reorganization of economic life that would permit more individual initiative.

### SEEKS MULTIPARTY SYSTEM

He urged a multiparty system with large numbers of candidates and said that the drab uniformity of the press must be altered.

The physicist did not depict the Soviet Union as a class society but he said that Communist party functionaries had received advantages at the expense of the working class.

"They have huge emoluments," he charged. He pointed to the special sanatorium system restricted to party members and hospital care.

He said: "People from the West often say, your society has many drawbacks but at least you have free hospital care." But it is obvious that it is not any more free than in Western countries and is often more expensive."

The dissident scientist spoke about restrictions on travel both to foreign countries and within the Soviet Union itself. He said that the antidemocratic nature of Soviet Marxism resulted in "isolation from the outside world, the absence of the right to travel beyond the borders and return."

Above all, he said, travel restrictions represent an enormous tragedy "for all those people who want to leave the country for personal or a variety of nationalist reasons."

He said he did not fear for his personal safety. "What I am most afraid of is a form of pressure which in the first instance would not involve me personally but my family, and my wife's family and relations," he said. "That is the most terrible type of pressure, and it is already at hand."

Mr. Sakharov recently was questioned by the secret police, Dagens Nyheter said.

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[From the New York Times, Aug. 18, 1972]

## THE SAKHAROV MEMORANDUM

(By Andrei D. Sakharov)

(Andrei D. Sakharov, Soviet Academician and a member of the Committee of the Rights of Man, wrote this "Memorandum" in March, 1971, to Leonid I. Brezhnev. It is presented here in excerpted form.)

I consider it imperative to request that the following suggestions be considered by the competent authorities.

In my view, the time was ripe long ago for dealing with the question of a general amnesty to political prisoners; including persons convicted by reason of their religion, persons confined to psychiatric institutions, person convicted of attempting to cross the border, political prisoners given additional sentences for attempting to escape from a camp, or of spreading propaganda in a camp. It is essential to take steps to insure extensive, factual publicity of the proceedings in all trials, especially those of a political nature.

I consider psychiatric punishment for reasons of a political, ideological or religious nature intolerable. It is essential to pass a law defending the rights of persons subjected to forced psychiatric hospitalization; also, to adopt resolutions and the necessary legislative refinements for the defense of the rights of persons presumed to be mentally disturbed in connection with prosecutions on political charges.

Concerning open public disclosure, free exchange of information and freedom of conviction, it is essential that a draft law concerning the press and other means of mass communication be submitted for consideration by the general public.

Concerning nationality problems and the problem of departure from our country, it is essential to pass resolutions and laws fully restoring the rights of the peoples resettled under Stalin and to pass laws ensuring the free and unimpeded exercise by citizens of their right to leave the country and to return to it freely.

Concerning international problems, it is essential to take the initiative and announce (or confirm—unilaterally, to start with) our refusal to be the first to employ weapons of mass destruction (nuclear, chemical, bacteriological or incendiary). It is essential to permit inspection teams on our territory for effective control of disarmament.

It is essential to alter our political position in the Middle East and in Vietnam, vigorously striving—through the United Nations and diplomatic channels—for the earliest possible peaceful settlement under conditions of a compromise.

It is essential to work out a clear and consistent program for further democratization and liberalization and to take a number of steps which are top priority and not to be postponed. This must be done in the interest of economic and technological progress; in the interest of gradually overcoming our backwardness in comparison with the advanced capitalist countries and our isolation from them; in the interest of the well-being of wide sections of the population; in the interest of the internal stability and the external security of our country. The development of our country is proceeding under conditions of considerable difficulties in our relations with China. We are faced with serious internal problems in the areas of economics and the well-being of the population, economic and technological progress, culture and ideology.

The following problems should be noted: aggravation of the nationality problem; complications in relations between the party-government apparatus and the intelligentsia, and in their relations with the basic mass of workers who find themselves in a relatively poorer position as far as living standards and economic situation go and in relation to job promotion and cultural growth, and who experience in a number of cases a feeling of disenchantment with "big talk" and the privileged group of "bosses," a group which for the most part often includes the intelligentsia in the eyes of the more backward strata of workers because of their traditional prejudices.

The state sets as its fundamental goal the protection and the guarantee of the basic rights of its citizens. The defense of the rights of man is the highest of all goals. All acts of governmental institutions are wholly based on laws which are stable and known to the citizenry. Observance of the laws is obligatory for all citizens, institutions and organizations.

Open publicity facilitates public control of the legality, equity and effectiveness of the system as a whole, favors the scientific democratic character of the administrative system, and contributes to the progress, well-being and security of the country.

The nation's basic energy is directed toward harmonious internal development with effective utilization of labor and natural resources. This is the foundation of its strength and prosperity.

Messianism is foreign to this society, as are delusions about the uniqueness and exclusive virtues of its own system and the negation of the system of others.

The basic problem in foreign policy is that of relations with China. While offering the Chinese people the option of economic, technical and cultural aid, fraternal cooperation and joint movement along the democratic path—always keeping open the possibility for the development of relations in that direction—it is essential at the same time to show special concern for insuring the security of our country, to avoid all other possible foreign and domestic entanglemnets, and to carry out our own plans for the development of Siberia, taking the above-mentioned factor into account.

It is essential to strive for nonintervention in the internal affairs of other Socialist states and for mutual economic assistance.

It is essential to take the initiative in creating (within the framework of the U.N.?) a new international consultative agency—an international council of experts on problems of peace, disarmament, economic aid to needy countries, on the defense of the rights of man, and on the protection of the natural environment—staffed by highly qualified and disinterested persons.

In the area of personnel cadres and administration, it is essential to make decisions requiring greater public disclosure on the work of governmental agencies at all levels, within the limits allowed by the national interest. Matters of special importance include review of the tradition of dealing with problems of personnel policy behind closed doors; extension of open and effective public verification of the selection of cadres and extension of the electivity and actual removal from office in cases of incompetence of managers at all levels. I also have in mind the usual demand in democratic programs for the elimination of the system of elections where the number of candidates does not exceed the number of posts, i.e., the elimination of "elections without choice."

Measures should be taken to facilitate an expansion of agricultural production on the personal plots of kolkhoz farmers, workers on sovkhozes, and individual peasants; revision of the tax policy, expansion of the tracts of land in this sector, revision of the system for provision to this sector of modern and specially designed agricultural equipment and fertilizers.

Finally, we should expand the possibilities and advantages for private initiative in the sphere of services, health care, retail trade and education.

The question of the gradual abolition of the passport system must be examined, since it is a great hindrance to the development of the country's productive forces and a violation of the rights of citizens—especially the inhabitants of rural areas.

In the sphere of information exchange, culture, science, and freedom of convictions, it is esential to encourage freedom of convictions, the spirit of inquiry, and concern for effectiveness. It is essential to discontinue the jamming of foreign radio transmissions, expand imports of foreign literature, join the international system for protecting authors' copyrights, and facilitate international tourism—in order to overcome the isolation which is ruinous to our development.

It is essential to make decisions ensuring the actual separation of church from state, and actual (*i.e.*, guaranteed juridically, materially, and administratively) freedom of conscience and worship.

It is essential to take another look at those aspects of the relations between the governmental-party apparatus and art, literature, the theater, and educational agencies, which act to the detriment of the development of culture in our country.

In the social sphere, it is essential to examine the question of the feasibility of abolishing capital punishment.

It is essential to consider the feasibility of establishing a public watchdog agency which would have the goal of ruling out the possibility of the use of physical force (beating, exposure to hunger and cold) on persons detained, arrested, under investigation, or convicted.

There must be radical improvement in the quality of education.

More extensive measures must be taken in combating alcoholism.

It is essential to step up measures in the fight against noise and the poisoning of the air and water, in the fight against erosion, the salination of the soil, and its poisoning by chemicals.

Concerning reform of the system of health care we must: expand the network of polyclinics and hospitals requiring payment of fees; increase the role of physicians, registered nurses, and practical nurses in private practice; increase the wages of medical workers at all levels; reform the pharmaceutical industry; increase the general availability of modern medication and remedies; introduction of closed-circuit X-ray television installations.

In the sphere of law it is essential to eliminate overt and covert forms of discrimination for one's convictions and for characteristics of nationality.

It is essential to consider the question of the ratification, by the Supreme Soviet U.S.S.R., of the Covenant on Human Rights adopted by the 21st Session of the U.N. General Assembly, and of adhering to the optional protocol to that declaration.

In the sphere of relations with national republics, our country has proclaimed the right of nations to self-determination, up to and including secession.

The right of the union republics to secede is proclaimed by the Constitution of the U.S.S.R. In fact, the mere discussion of such questions often provokes prosecution. In my opinion, a judicial analysis of the problem and the passing of a law guaranteeing the right to secede would have great domestic and international significance as a confirmation of the anti-imperialist and antichauvinist nature of our policy. It seems quite plain that none of the secessionist tendencies in any republic of the U.S.S.R. has a mass character and that they will undoubtedly weaken in time, as a result of the further democratization of the U.S.S.R. On the other hand, it is quite certain that any republic which, for whatever reasons, secedes from the U.S.S.R. by peaceful constitutional means will fully preserve its ties with the socialist commonwealth of nations.

In such a case, the economic interests and defense capacity of the socialist camp would not suffer, since the cooperation of socialist nations is of a very complete and all-embracing character and will undoubtedly be intensified even further under conditions of mutual nonintervention by the socialist states in each others internal affairs. For these reasons, consideration of this question does not strike me as hazardous.

If, at one point or another, the presentation of this memorandum is unnecessarily categorical in character, it is because of the demands of brevity.

The problems facing our country are intimately related to certain aspects of the worldwide crisis of the 20th century: the crisis in international security, the loss of stability in social development, the ideological dead-end and disenchantment with the ideals of the recent past, nationalism, the danger of dehumanization. By virtue of our country's special position in the world, a constructive solution of our problems—a solution at once cautious, flexible, and decisive—would be of great significance for all mankind.

Signature, A. SAKHAROV.

MARCH 5, 1971.

This "memorandum" was sent to the General Secretary of the Central Committee of the Communist Party on March 5, 1971. It has remained unanswered. I do not consider it my right to postpone its publication. This postscript is written in June 1972.

As before I cannot help but value the great salutary changes (social, cultural, economic), which have taken place in our country over the last fifty years, taking into account, however, the fact that similar changes have taken place in many countries, and that they reflect a development of worldwide progress.

Our society is infected with apathy, hypocrisy, narrow-minded egotism, hidden cruelty. The majority of the representatives of its highest stratum—the party and government administrative appartus, the most successful strata of the intelligentsia—hang on tenaciously to their open and secret privileges and are deeply indifferent to violations of human rights, to the interests of progress, to the security of future mankind. Others, in the depths of their souls, are concerned, but cannot allow themselves the slightest free thinking and are doomed to tortuous conflict within themselves.

For the spiritual recovery of the country those conditions must be eliminated which push people toward hypocrisy and accommodation, which create in them a feeling of helplessness, dissatisfaction and disenchantment. Complete ideological freedom is essential, a complete end to all forms of persecution for convictions.

With hurt and alarm I am forced to note, in the wake of illusory liberalism, the growth of restrictions on ideological freedom, of striving to suppress information not controlled by the government, of persecution for political and ideological reasons, of an intentional exacerbation of national problems.

The wave of political arrests in the first months of 1972 are particularly alarming. In the Ukraine numerous arrests took place. Arrests took place as well in Moscow, in Leningrad and in other regions of the country. Public attention in those months was drawn to the trials of Bukovsky in Moscow, Strokatova in Odessa, and others.

The use of psychiatry for political purposes is extraordinarily dangerous in its consequences for society and completely intolerable. Numerous protests and statements on this question are known.

The persecution and destruction of religion has been conducted with persistence and cruelty over the course of decades—doubtless one of the most serious in its consequences for the violations of human rights in our country.

I write this postscript soon after the signing of important agreements on the limitation of ABM and strategic rockets. One wants to believe in a feeling of responsibility before mankind on the part of the political rulers and officials of the military-industrial complexes of the United States and the U.S.S.R. One wants to believe that these agreements have not only a symbolic meaning, but will also lead to a real lessening in the arms race and to further steps which will soften the political climate in a world worn out with suffering.

In conclusion I think it essential to stress the importance which I attach to the proposal on organization of an international consultative organ of the international council of experts with the right to make recommendations whose consideration would be obligatory for the national governments. I consider that proposal to be realistic, on condition that it receive the broad international support which I am requesting.

I appeal not only to Soviet, but also to foreign readers, hoping for their active help in the struggle for human rights. I hope also that my voice from "inside" the socialist world will in some measure improve comprehension of the historical experience of the last few decades.

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[From the Washington Post, Aug. 19, 1973]

### Soviets Warn Sakharov

Moscow.—The Physicist known as the father of the Soviet hydrogen bomb says a Soviet legal official has accused him of giving out information of interest to foreign intelligence services.

Andrei D. Sakharov, a critic of Soviet civil rights policies, told of the warning yesterday in a written account of a meeting he had Thursday with M. P. Malyarov, deputy general procurator, a post similar to prosecutor. The account was made available to some Western newsmen.

Sakharov, 52, said he was reminded that he had worked in secret areas "of special importance" and had agreed not to meet foreigners.

"But you meet foreigners and give them information which is of interest to foreign intelligence services. I ask you to consider all the seriousness of this warning and draw your own conclusions," the account quoted Malyarov as saying.

The physicist, a founder of the Soviet Committee for Human Rights, denied any contact with secret work for five years and said his conversations with foreigners, many of them journalists, had nothing to do with state, military or technological secrets.

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[From the New York Times, Aug. 20, 1973]

### Sakharov Is Told To End Criticism

Moscow.—Forty members of the prestigious Soviet Academy of Sciences today called on Andrei D. Sakharov, the physicist, to cease his public criticism of the Kremlin's domestic and foreign policies.

An open letter, made public by the Government press agency, Tass, charged that Mr. Sakharov was siding with "the most reactionary imperialist circles" opposed to the Soviet approach to a relaxation of tension.

"We resolutely condemn his activity, which defames the honor and dignity of Soviet scientists, and hope that Academician Sakharov will carefully weigh his actions," the letter said.

The 40 scientists, out of a total of about 250 full members of the Academy, thus joined in an official campaign against the outspoken critic of Soviet society, set off by Mr. Sarkharov's recent meeting with Western newsmen.

The meeting, in which he denounced any East-West reconciliation that ignores the need for democratic reforms in the Soviet Union, had been held in direct definance of official warnings to Mr. Sakharov to stop seeing foreigners and making critical statements.

The Soviet authorities are apparently still considering what steps they can effectively take to silence the physicist. His standing in Soviet society has been far greater than that of any other dissident, both because of his membership in the Academy and his contributions to development of the Soviet hydrogen bomb.

[On Aug. 15, Mr. Sakharov was summoned to see a Soviet prosecutor about his dissident activity. The text of their conversation, as reconstructed by Mr. Sakharov, appears on the Op-Ed Page.]

So far the controlled Soviet press has reacted to Mr. Sakharov's latest statement on world affairs by reprinting critical articles from foreign Communist newspapers. This technique is often used as a stopgap measure while other official steps are being weighed.

The 40 signatures of top scientists critical of Mr. Sakharov were collected on relatively short notice and may not fully reflect sentiment within the Academy.

Historically, Academy members, who have the power to elect new members or expel one of their number have been eager to avoid political expulsions for fear of setting a precedent that could be turned against them.

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[From the Washington Post, Aug. 22, 1973]

### Soviet H-Bomb Physicist Warns West on Détente

(By Robert G. Kaiser)

Moscow.—Andrei D. Sakharov, the Soviet physicist who helped create a hydrogen bomb and later took up the cause of civil rights in Soviet society, today warned Western nations against detente on Soviet terms.

Speaking in his own bedroom to 11 Western journalists, Sakharov said detente would turn out to be "very dangerous" if it was not accompanied by some democratization of Soviet life and some reduction of Soviet isolation from the outside world.

He expressed satisfaction that many Western politicians "understand that rapprochement has to take place with a simultaneous liquidation of [Soviet] isolation." He said it was important for the U.S. Congress to pass the Jackson amendment—which would deny trade benefits to the Soviet Union as long as it restricted the emigration of Soviet citizens—both for its own sake and as a symbol.

The amendment should symbolize "the fact that rapprochement with the USSR must include some kind of control on this country, so it cannot become a threat to its neighbors," Sakharov said. An isolated Soviet Union able to pursue its aims secretly and "which hides its real face," could become a menace, he added.

The 52-year-old scientist made these comments at one of the most unusual press conferences ever held in Moscow. Sakharov called the meeting ostensibly to add a few comments to his report on an encounter last week with a senior Soviet legal official, who warned him against continuing his contacts with foreigners. Sakharov's report of that meeting reached Western journalists Saturday.

Merely by inviting correspondents to his apartment—something few Soviet citizens would dream of doing—Sakharov indicated apparent disdain for the warning which M.P. Malyarov, deputy prosecutor of the Soviet Union, gave him last week.

Sakharov said he did not recognize the "institution of warnings" as practiced by the KGB (Committee for State Security.)

Sakharov sat in a low chair in his bedroom, hands clasped in his lap, and talked calmly for about 90 minutes with his visitors, who sat around him in a ring. He occasionally put on a pair of glasses, one of whose lenses was cracked, and occassionally coughed into a white handkerchief.

Because of his role as principal contributor to the Soviet hydrogen bomb (which earned him a place in the prestigious Academy of Sciences at the unheard-of age of 32), Sakharov's friends and other intellectuals have regarded him as virtually immune from serious reprisals. But Sakharov has become increasingly more outspoken, and the authorities' warnings have become increasingly ominous.

Discussing dissident intellectuals at today's press conference, Sakharov observed that "the ranks are getting thinner and thinner because of much stronger reprisals in the last two years. It's a great injustice and personal tragedy for a great many people."

He could never think of the tiny band of dissidents as "a movement," Sakharov said. And he was sure that if you looked down on them "from above" (i.e., from a position of power), "I also think you would see no movement."

"The authorities shouldn't have any reason for disquiet, and even less for repression," he said. "Any grounds for disquiet exist only inside themselves." He also said that those in power have "a separate way of thinking—they probably can't react any differently."

Speaking of his own activities as a member of the tiny Moscow Human Rights Committee, Sakharov said he wanted it understood that they were always "loyal to the law" and had no political character.

Discussing his personal situation, Sakharov said he had no material difficulties. He lives in a three-room apartment with his wife and her family by a previous marriage. His income is 750 rubles (more than $1,000) a month, derived from membership in the Academy of Sciences and his position as an associate in a research institute, though he says he is doing very little work these days. This is a high salary by Soviet standards.

But, Sakharov said, pressures have been put on him indirectly. His wife's 23-year-old daughter was expelled from university in her final year, and the daughter's husband lost his job. His wife's 17-year-old son was denied a place in college this year and was told he was "marked."

Son, daughter and the daughter's husband have all been offered scholarships at the Massachusetts Institute of Technology, Sakharov said, but their applications for visas to go to the United States, filed five months ago, have never been answered.

Sakharov revealed at the press conference that he contributed his life savings of about 139,000 rubles (about $200,000, a staggering amount for a Soviet citizen to accumulate) to the Soviet Red Cross in 1969, but that he now regretted this move. He did not explain why.

He said there might be more pressures against his family and friends, "and of course, something might be done to me personally, but you can't make any predictions."

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[From the Washington Post, Aug. 25, 1973]

### Soviets Indirectly Criticize Sakharov

Moscow.—Tass, the Soviet news agency, today indirectly criticized nuclear physicist Andrei Sakharov, by printing an article from a French Communist paper accusing him of "holding back the process of detente."

It was the first reference in the Soviet media of criticism of the Soviet Union made Tuesday by the eminent scientist.

Sakharov, who helped develop the Soviet hydrogen bomb and is also a member of a small civil rights movement in Moscow, called Western newsmen to his home Tuesday, although he has been officially warned to curb his contacts with foreigners. He conducted the unusual news conference in his bedroom.

He spoke out against what he called the anti-democratic nature of the Soviet system, and said that detente between the West and the Soviet Union could be "dangerous" in such circumstances.

Tass carried the text of an article written by Yves Moreau which appeared in the French Communist Party newspaper L'Humanite. In it, Moreau said Sakharov and other dissidents "come out not only against detente, but also appeal to the reactionary forces of the Western countries for help."

The sole quotation from the press conference was Sakharov's statement that "Western countries risk being faced by a Soviet Union, armed to the teeth, that represents a danger to its neighbors if they accept peaceful coexistence on the Kremlin's terms."

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[From the New York Times, July 13, 1973]

### Soviet Accuses Sakharov of Slandering the Nation

(By Theodore Shabad)

Moscow.—The Soviet press agency Tass today accused Andrei D. Sakharov, the physicist and civil-rights advocate, of having slandered the Soviet way of life in an interview with Swedish television.

An article distributed by the press agency appeared to be part of a quickening official campaign against Mr. Sakharov, one of the most outspoken domestic critics of the Soviet system.

In the Swedish interview he called for the ending of one-party rule and said that the system perpetuated criminality and privilege, that the state-controlled economy stifled initiative and that ideological rigidity produced a drab cultural life.

The Tass article, one of the strongest personal attacks on Mr. Sakharov, accused him of taking up "questions on which he is utterly ignorant" and of "groveling before the capitalist system."

Since a crackdown on the once-vigorous dissident movement, Mr. Sakharov has probably been the most active champion of civil rights in the Soviet Union. He issues frequent statements to Western newsmen on what he considers injustices, such as the alleged use of mental institutions to detain foes of the system.

Long presumed safe from attack because of his scientific reputation as a member of the Soviet Academy, the 52-year-old physicist has come under increasing criticism this year.

The Tass article, written by Yuri Kornilov, a political commentator, took issue with Mr. Sakharov's statement that Soviet citizens had no right to travel freely and had been effectively isolated from the world.

The writer said five million foreigners had entered the Soviet Union over the last three years and "almost as many Soviet citizens traveled abroad." Foreign tourists are restricted to carefully controlled routes; Russians travel abroad mainly in guided groups and after exhaustive loyalty checks.

#### EDUCATION AND MEDICINE

The article, which appeared to have been written mainly for foreign consumption, also rebutted Mr. Sakharov's contention that the levels of Soviet education and medical care were free and education received "tremendous attention." Just last week the authorities announced a seven-year program to upgrade backward rural schools.

The rebuttal, conceding that "there are shortcomings in Soviet life and there are outstanding problems," said: "Soviet people regard criticism of these shortcomings, even the sharpest criticism, as useful and necessary because it helps us move ahead." It added that Mr. Sakharov's comments had "nothing in common with that kind of criticism."

Pressure on the physicist became apparent last March when he was summoned for the first time by the secret police and lectured about his civil-rights activities. In early May the authorities were reported to have increased the pressure by delivering a letter to the physicist, purportedly from a jailed dissident, saying that his statements played into the hands of Western propagandists.

The letter was attributed to Pyotr I. Yakir, who was arrested in June, 1972, and has been under interrogation since. He is said to have supplied information to the authorities on other dissidents but is expected to be tried on charges of anti-Soviet propaganda.

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[From the New York Times, Aug. 26, 1973]

### The Soviet Union—Sakharov: A Warning Defied

(By Theodore Shabad)

Moscow.—The lines of confrontation were sharply drawn last week between the Kremlin and one of its most prominent domestic critics, Andrei Sakharov, the 52-year-old physicist and reputed "father of the Soviet hydrogen bomb."

Within the Soviet Union's small dissident movement, Mr. Sakharov has posed a very special problem for the Government. His high standing as a scientist makes it difficult for the Soviet authorities to shut him up. And the fundamental nature of his criticism of Soviet society, which he has not hesitated to label as repressive and undemocratic, makes it difficult for them to tolerate his statements.

In recent months an official campaign of pressure has been gradually building up against the physicist. Mr. Sakharov remained undaunted. On Aug. 16 he was summoned to the Prosecutor-General's Office, the equivalent of the Department of Justice in Washington, and warned against meeting with Western newsmen and making what were described as anti-Soviet statements for publication abroad.

It was evidently meant to be a "serious warning." The physicist was told to "draw his own conclusions." And yet, in what seemed like deliberate defiance, he called Western newsmen in his apartment last Tuesday to discuss his personal plight and to express concern about what the present trend toward an East-West rapprochement could mean if not accompanied by democratic reforms within the Soviet Union.

Large-scale technological aid, he suggested, could free additional Soviet resources for increasing the regime's military power, and "the world would become helpless before this uncontrollable bureaucratic machines." He urged Western countries to make liberalization within the Soviet Union a condition of their economic agreements.

Mr. Sakharov's interview with the Proseutor included an exchange of opinions on Watergate. As recounted by the physicist, it went something like this:

Prosecutor: You seem to like the American way of life, but they permit unrestricted sale of guns, they murder their Presidents and now they've got this demagogic fraud with the Watergate case. Sweden too is proud of her freedom, but they have pornographic pictures on every street.

Sakharov: I am not familiar with either the American or the Swedish way of life. They probably have their own problems and I would not want to idealize them. But you mentioned the Watergate case. To me, it is a good illustration of American democracy.

Prosecutor: It is all calculated to be just a show. All Nixon has to do is show a little firmness and the whole thing will come to nothing. That's their democracy for you, nothing but fraud.

Mr. Sakharov, who was carefully shielded from public view while engaged in nuclear weapons research for 20 years, came to world attention in 1968 with publication in the West of his underground manuscript, "Progress, Coexistence and Intellectual Freedom."

Starting with the premise that the division of mankind into two hostile political systems threatened it with destruction, Mr. Sakharov argued for gradual convergence, with capitalism moving toward socialism and the Communist system being liberalized. He saw such convergence as the only basis on which the world could come to grips with such global problems as environmental pollution, hunger and overpopulation. As soon as he was thus thrust into the limelight, he was dismissed from his research job, although he retained the prestigious title of Academician and remained nominally on the staff of the Lebedev Institute of Physics in Moscow.

Mr. Sakharov, a baldish, slightly bowed man, has done little work in physics in recent years. He has devoted himself increasingly to the struggle for civil rights and the strict implementation of Soviet law, both on his own behalf and as a member of a self-styled Human Rights Committee he helped establish. That makes him the closest thing to a watchdog on human rights in this country. He tries to keep abreast of official proceedings against dissenters, and is ready to jump in with protests when he discovers an injustice or a violation of due process.

Mr. Sakharov's basic charge against Soviet society is one of excessive secrecy in public affairs and insufficiently democratic and humane implementation of the law. In a particularly outspoken recent interview with the Swedish radio, Mr. Sakharov denounced the ideology of the Soviet Communist party as "antidemocratic in its essence" and called for an end to one-party rule. He described Soviet society as having "maximum lack of freedom, maximum ideological rigidity and, at the same time, maximum pretensions to being the best society."

There is little doubt that the authorities are angry with him, especially since he has now defied an official warning against meeting with foreign newsmen. But the Government may not find it easy to take drastic action. Mr. Sakharov is a man of great scientific prestige, with an international reputation, who has made invaluable contributions to Soviet nuclear power. Any legal proceedings against him are likely to arouse a storm of protest, especially abroad, at the very time when Moscow is courting the West to attract both advanced technology and investment capital.

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[From the New York Times, Aug. 29, 1973]

### The Sakharov Dialogue

(The following is the text of a dialogue between Andrei D. Sakharov, the Soviet dissident physicist and civil rights advocate, and Mikhail P. Malyarov, First Deputy Prosecutor General of the Soviet Union, whose post as the nation's second-ranking law enforcement official corresponds roughly to that of the Deputy Attorney General in the United States. The dialogue was reconstructed by Mr. Sakharov from memory and was made available to Western newsmen. The translation is by the Moscow bureau of The New York Times. Mr. Sakharov's text follows:)

Moscow.—On Aug. 15, I received a telephone call from the Deputy Prosecutor General and was asked to come to see him. He did not say what it was about, asserting simply that it would be a man-to-man talk. I arrived at the Prosecutor's office on Aug 16 at noon and was met at the gate by an employe who took me into the building, another then accompanied me to an office, where I was received by M. P. Malyarov, the Deputy Prosector General, and another man who introduced himself only as Malyarov's assistant. He took notes and participated in the conversation.

Below I have reproduced the seventy-minute conversation from memory, and the reconstruction may therefore contain some paraphrases, minor unintentional abridgments and inversions in sequence.

Malyarov. This conversation is intended to be in the nature of a warning and not all my statements will be supported by detail proof, but you can believe me that we have such proof. Please listen to me attentively and try not to interrupt.

Sakharov. I am listening.

Malyarov. When you began a few years ago to engage in what you call public activity, we could not possibly ignore it and we paid close attention. We assumed that you would express your opinions as a Soviet citizen about certain shortcomings and errors, as you see them, without attacking the Soviet social and political system as such. To be sure, even then your statements were being published in the anti-Soviet press abroad and they caused noticeable harm to our country. Lately your activity and statements have assumed an even more harmful and openly anti-Soviet character and cannot be overlooked by the Prosecutor's office, which is charged with enforcing the law and protecting the interests of society. You are seeing foreigners and giving them material for anti-Soviet publications. That applies in particular to your interview with the Swedish Radio, In that interview you denounced the Socialist system in our country, calling it a system of maximum nonfreedom, a system that is undemocratic, closed, deprived of economic initiative, and falling to pieces.

Sakharov.—I did not say "falling to pieces."

Malvarov.—You keep meeting with reactionary newsmen, like the Swedish Radio correspondent Stenholm, and give them interviews that are then used for subversive propaganda and are printed by Possev, the publication of the N.T.S. [A Russian emigré organization with headquarters in Frankfurt, West Germany.] You must be aware that the N.T.S. program calls for overthrow of the Soviet regime. Possev publishes more of your writings than anyone else, and in your interview you adopted in effect the same anti-Soviet subversive position.

Sakharov.—I am not familiar with the N.T.S. program. If it does indeed include such a plank, it would be fundamentally opposed to my views, as stated, for example, in the interview with the Swedish Radio. There I spoke about the desirability of gradual change, about democratization within the framework of the present system. Of course, I am also referring to what I consider serious faults in the system and do not conceal my pessimism (with regard to possible changes in the near future). As for those publications, I never handed over any material for the N.T.S. or for Possev, and my writings have appeared in many foreign mass media besides Possev. For example, in Der Spiegel [West German newsmagazine], which the Soviet press has regarded as rather progressive so far.

Malvarov's assistant.—But you never protested publication in Possev. We found that most of your writings appeared in Possev, Grani [another publication of the Possev publisher] and in the White Guards newspaper Russkaya Mysl [of Paris].

Sakharov.—I would be very glad to have my writings published in the Soviet press. For example, if, in addition to [Yuri] Kornilov's critical article, Literaturnaya Gazeta [Soviet weekly] had also published my interview [with the Swedish Radio]. In that case, Kornilov would not have been able to distort the interview. But that is obviously out of the question. I consider openness of publication of great importance. I consider the content of publications far more important than the place of publication.

Malvarov's assistant.—Even if they appear in anti-Soviet publications for anti-Soviet purposes, as in Possev?

Sakharov.—I consider Possev's publishing activities highly useful. I am grateful to that publisher. I reserve the right not to identify Possev with the N.T.S. and not to approve of N.T.S. activities that may be viewed as even familiar, or to condemn those aspects of N.T.S. activities that may be viewed as provocative (like sending Sokolov as a witness to the Galanskov-Ginzburg trial, which did have such consequences). [The reference is to Nicolas Brocks-Sokolov, an N.T.S. courier, who was arrested on arriving in the Soviet Union and testified for the prosecution in the 1968 trial of two dissidents.]

Malvarov's assistant.—We are not talking about that now, that was a long time ago.

Sakharov. To go back, you called Stenholm [of the Swedish radio] a reactionary journalist. That is unfair. He is a Social Democrat, he is far more of a Socialist or Communist than I am, for example.

Malyarov's assistant.—The Social Democrats were the ones who murdered Rosa Luxemburg [German Communist, in 1919]. As for that "Communist" of yours, he evidently inserted into your interview that our system was "falling to pieces," if indeed you did not say it.

Sakharov. I am convinced that Stenholm quoted me correctly.

Malyarov. Let me go on. Please listen closely. By nature of your previous work, you had access to state secrets of particular importance. You signed a commitment not to divulge state secrets and not to meet with foreigners. But you do meet with foreigners and you are giving them information that may be of interest to foreign intelligence agencies. I am asking you to consider this a serious warning and to draw your conclusions.

Sakharov. What sort of information are you talking about? What do you have in mind, specifically?

Malyarov. I told you that our meeting was meant to be a warning. We have the information, but we will not go into details now.

Sakharov. I insist that I have never divulged any military or military-technical secrets that I may have known by nature of my work from 1948 to 1968. And I never intend to do so. I also want to call your attention to the fact that I have been out of secret work for the last five years.

Malyarov. But you still have your head on your shoulders, and your pledge not to meet with foreigners is still in effect. You are beginning to be used not only by anti-Soviet forces hostile to our country, but also by foreign intelligence.

Sakharov. As for meetings with foreigners, I know many people who used to be in my position and who now meet freely with foreign scholars and ordinary citizens. I do meet with some foreign journalists, but those meetings have no bearing whatever on any state, military, or military-technical secrets.

Malyarov's assistant. Those meetings are of benefit to our enemies.

Malyarov. We have now warned you. It is up to you to draw your conclusions.

Sakharov. I repeat. I would prefer to be published in the Soviet press and to deal with Soviet institutions. But I see nothing illegal in meeting with foreign journalists.

Malyarov's assistant. But you are still a Soviet citizen. Your qualification shows your real attitude toward our system.

Sakharov. Soviet institutions ignore my letters and other forms of communication. If we just take the Prosecutor's office, I remember that in May, 1970 (I think it was May 17), several persons, including myself, addressed a complaint to comrade [Roman A.] Rudenko, the Prosecutor General, in the case of [Maj. Gen. Pyotr G.] Grigorenko [a dissident committed to a psychiatric hospital in 1969]. There were many gross violations of the law in that case. There has been no reply to that complaint to this day. Many times I did not even receive confirmation of the delivery of my letters. The late Academician Petrovsky, who was a member of the Presidium of the Supreme Soviet of the U.S.S.R. [Ivan G. Petrovsky, rector of Moscow University, died this year] promised to look into the case of the psychiatrist Semyon Gluzman, sentenced in Kiev in 1972 in a trial fraught with violations of the law. That was the only time anyone promised to look into a case for me. But Petrovsky is now dead. And how about the Amalrik case? [Andrei A. Amalrik, dissident author]. He was unjustly sentenced to three years, he lost his health, suffered from meningitis, and now he has been sentenced in a labor-camp court to another three years. It is an absolute disgrace. He was in fact sentenced once again for his convictions, which he has refused to recant and does not force on anyone. And a labor-camp court! What kind of public proceeding, what kind of justice is that?

Malyarov. That Amalrik is a half-educated student. He contributed nothing to the state. He was a parasite. And Böll [Heinrich Böll, West German author] writes about him as if he were an outstanding historian. Is that the kind of information Böll has?

Sakharov. Böll and many others demonstrate a great deal of interest in Amalrik's fate. A labor-camp court is in fact a closed court.

Malyarov. I suppose you would have brought him to Moscow for trial?

Sakharov. In view of the wide public interest, that would have made sense. If I had known that I could attend Amalrik's trial, I would have done so.

Malyarov. Amalrik caused a great deal of harm to our society. In one of his books he tried to show that Soviet society would not survive until 1984, and in so doing he called for violent action. Any society has the right to defend itself. Amalrik violated the law, and he must take the punishment. In camp he again violated the law. You know the law, I don't have to tell you what it is. Abroad they wrote that Amalrik was deprived of a lawyer. That is a lie. Shveisky [Vladimir Shveisky, Amalrik's lawyer] attended the trial, and you know that.

Malyarov's assistant. In contrast to that dropout, you did make contributions to society.

Malyarov .Who gave you the right to doubt our system of justice? You did not attend the trial. You base yourself on rumors, and they are often wrong.

Sakharov. When proceedings are not publice, when political trials are consistently held under conditions allowing for violations, there are grounds for doubting the fairness of the court. I consider it undemocratic to prosecute under Articles 190–1 [On circulating false information defaming the Soviet State] and 70 [On anti-Soviet agitation and propaganda]. All the cases with which I am familiar confirm this. Take the recent case of Leonid Plyushch [a Kiev mathematician]. In that case, the court accepted the most grievous of three contradictory psychiatric findings without checking any of them. Although the court reduced the sentence, it was restored upon protest by the prosecution. Plyushch is being kept in a special [psychiatric] hospital, and his wife has not seen him for more than a year and a half.

**Malyarov.** You keep dealing in legal questions, but you don't seem to know them very well. The court has the power to determine the form of compulsory treatment regardless of the findings of an expert commission.

**Sakharov.** I am unfortunately all too familiar with that. And therefore, even when the expert commission recommends an ordinary hospital, there are grounds for fearing the worst. You say that I always rely on rumor. That is not so. I try to get reliable information. But it is becoming increasingly difficult in this country to know what is going on. There is no publication with complete and precise information about violations [of due process].

**Malyarov's Assistant.** You mean the Chronicle [The Chronicle of Current Events, an underground publication that has not appeared since October, 1972]?

**Sakharov.** Of course.

**Malyarov's Assistant.** You will soon be hearing about the Chronicle. You know what I mean. But now we are talking about more important matters.

**Malyarov.** You don't seem to like the fact that our [Criminal] Code contains Article 190–1 and 70. But there they are. The state has the right to defend itself. You must know what you are doing. I am not going to try to convince you. I know that would be useless. But you must understand what is involved here. And who is supporting you, anyway, who needs you? Yakir, whom you know well, was written about constantly in the anti-Soviet press abroad as long as he provided it with propaganda. As soon as he changed his views, he was forgotten. [Pyotr Yakir was arrested in June, 1972, and is now being tried.]

**Sakharov.** To say that I know him well is not correct. I hardly know him. But I do know that there is great interest in his case. Everyone is wondering when the trial will begin. Do you know?

**Malyarov's assistant.** No. When the trial starts, you will probably know about it yourself.

**Malyarov.** Your friend Chalidze [Valery Chalidze, now living in the United States] was quite famous in the West as long as he came out with anti-Soviet statements, and when he stopped, he was also soon forgotten. Anti-Soviet circles need people like [Julius] Telesin, [Vladimir] Telnikov [dissidents living in Great Britain] and Volpin [Alexander Yesenin-Volpin], who keep slandering their former homeland.

**Sakharov.** I don't think that Chalidze ever engaged in anti-Soviet activity. The same goes for the others. You mentioned Volpin. As far as I know he is busy with mathematics in Boston.

**Malyarov.** That may be, but we also have reliable information about his anti-Soviet activity.

**Sakharov.** You say that no one is supporting me. Last year I took part in two collective appeals, for amnesty and for abolition of the death penalty. Each of these appeals was signed by more than fifty persons.

**Malyarov.** Only asking that the matter be considered?

**Sakharov.** Yes. And we were quite distressed when the law on amnesty turned out to be a very limited one, and the death penalty was not abolished.

**Malyarov.** You did not seriously expect a change in the law just because you wanted it. This is not the time to abolish the death penalty. Murderers and rapists who commit serious crimes cannot go unpunished. [The death penalty also applies to serious crimes against the state, such as treason and espionage.]

**Sakharov.** I am talking about abolishing the very institution of the death penalty. Many thoughtful people are of the view that this institution has no place in a humane society and that it is amoral. We have serious crime despite the existence of the death penalty. The death penalty does not help make society more humane. I heard that abolition of the death penalty has been under discussion in Soviet legal circles.

**Malyarov.** No. One jurist raised the question, but he found no support. The time is not ripe.

**Sakharov.** The issue is now being debated throughout the world. Many countries have abolished the death penalty. Why should we be different?

**Malyarov.** They abolished it in the United States, but now they are forced to restore it. You've been reading about the crimes that have occurred there. Nothing like that happens here. You seem to like the American way of life, even though they permit the unrestricted sale of guns, they murder their Presidents, and now they've got this demagogic fraud of the Watergate case. Sweden, too, is proud of her freedom, and there they have pornographic pictures on every street. I saw them myself. Don't tell me you are for pornography, for that kind of freedom?

**Sakharov.** I am not familiar with either the American or the Swedish way of life. They probably have their own problems and I would not idealize them. But you mentioned the Watergate case. To me, it is a good illustration of American democracy.

**Malyarov.** It is calculated to be just a show. All Nixon has to do is show a little firmness, and the whole thing will come to nothing. That's their democracy for you, nothing but fraud. I think we better end this conversation. There was one more thing. You seem to have a high opinion of Belinkov [Arkady V. Belinkov, a Soviet writer, who defected to the West in 1968 and died two years later]. You know that name, don't you?

**Sakharov.** I consider Belinkov an outstanding writer on public affairs. I particularly appreciated his letter to the Pen Club in 1968 [protesting curbs on intellectual freedom in the Soviet Union].

**Malyarov.** Are you aware that Belinkov was once arrested and imprisoned for having distributed leaflets calling for the killing of Communists?

**Sakharov.** I don't know anything about that. That probably happened a long time ago under Stalin. How can you take that seriously? At that time anyone could be arrested as a terrorist.

**Malyarov.** No. Belinkov was imprisoned twice, the second time not so long ago. And how about your Daniel [Yuli M. Daniel, dissident writer, who served five years at hard labor, 1966–1970]? Didn't he call openly for the murder of leaders of the party and Government in his story "Day of Open Murders"? And Amalrik, is he any better? You better think about it.

**Sakharov.** "Day of Open Murders" is a work of fiction, an allegory, directed in spirit against the terror of the Stalin years which was still very fresh at that time, in 1956. Daniel made that quite clear in his trial. As for [Amalrik's] "Will the U.S.S.R. Survive Until 1984?" that, too, is an allegory. You know that the date stems from Orwell's story.

**Malyarov.** We better stop. I just want you to give serious thought to my warning. Any state has the right to defend itself. There are appropriate articles in the Criminal Code, and no one will be permitted to violate them.

**Sakharov.** I have been listening closely and I will certainly bear in mind every word you said. But I cannot agree that I have been violating the law. In particular, I cannot agree with your statement that my meetings with foreign correspondents are illegal or that they endanger state secrets. Good-by.

**Malyarov.** Good-by.

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[From the Washington Post, Aug. 31, 1973]

## Sakharov, Solzhenitsyn Named in Soviet Trial

(By Robert G. Kaiser)

Moscow.—Novelist Alexander I. Solzhenitsyn and physicist Andrei D. Sakharov were implicated today during testimony in the political trial of two dissidents who have acknowledged "subversive activities" against the Soviet system.

The trial itself received unprecedented publicity in tonight's edition of Izvestia, the government newspaper. Izvestia also printed four articles attacking Sakharov and Solzhenitsyn for their recent public statements.

All this contributed to an unusual propaganda offensive to counter Solzhenitsyn, Sakharov and other critics of the regime whose views have received wide publicity in the West in recent days .

The trial testimony implicating Solzhenitsyn and Sakharov was the first time they have been directly tied to allegedly illegal activities. This could presage direct action against one or both of them.

Sakharov, a member of the Soviet Academy of Sciences, was the principal developer of the Soviet hydrogen bomb. Solzhenitsyn, winner of the Nobel Prize for literature, wrote "The First Circle," "The Cancer Ward," and other novels, which are banned here.

According to Tass, the government news agency, Solzhenitsyn's name was raised in the trial by Pyotr Yakir, 50, one of the accused. Yakir, the son of a Red Army general executed in the purges of the 1930s, is a former activist who was arrested 14 months ago, and who has been cooperating with the political police.

### THE CHARGE

One of the charges against Yakir is that he participated in producing the "Chronicle of Current Events," an underground journal reporting the plight of dissidents in Soviet society. Tass said Yakir testified that Solzhenitsyn was "systematically sent the bulletins for evaluation."

Sakharov's name, according to Tass, "came up many times in the course of the trial." Tass accused him of having met with Yakir "many times" at farewell parties for foreign correspondents who had been expelled from the Soviet Union.

Sakharov has said he met Yakir only once, and briefly, at one such party for David Bonavia, a correspondent of the London Times.

Official accounts of the trial have noted that works by Sakharov were among the "anti-Soviet materials" allegedly produced and distributed by Yakir and Viktor Krasin, 44, the other defendant.

Tass said the questioning of witnesses had ended, suggesting that the trial was almost over.

### COOPERATION

Both defendants confessed their guilt at the beginning of the trial. Both indicated to friends months ago that they would cooperate with the authorities in the case.

The Tass account of the trial included references to foreign newsmen who allegedly helped Yakir and Krasin. Tass said Bonavia of the London Times, Ennio Caretto of the Italian paper La Stampa, Jay Axelbank of Newsweek and Roger Leddington of the Associated Press all had been associated with Yakir's and Krasin's activities.

Bonavia and Caretto were expelled from the

Soviet Union, Axelbank and Leddington are still here.

Izvestia tonight carried four articles signed by Soviet citizens attacking Solzhenitsyn and Sakharov. The main headline over these stories said, "Against the Interest of the People."

The Soviets have often responded to their critics for the benefit of foreign audiences, but tonight's Izvestia—bought by 8 million people—brought the issue into the homes of ordinary Soviet citizens, an unusual development.

Tass distributed a report on a letter to Pravda signed by a prominent Soviet writer, attacking Sakharov and Solzhenitsyn.

The letter said, "The conduct of people like Sakharov and Solzhenitsyn who slander our government and social system . . . can evoke no other feelings but the deepest scorn and contempt."

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[From the Washington Post, Aug. 31, 1973]

## Drive Against Dissidents Versus Détente

(By Robert G. Kaiser)

Moscow.—For nearly two years, the Soviet Union's political police have been trying to stamp out the last remnants of active intellectual opposition to the regime. Much of their work proceeded quietly and efficiently.

But in the last few weeks a remarkable coincidence of events has put the Soviets' campaign against dissidence at the center of international attention, vividly revealing one of the weak links in the new system of detente that East and West are jointly building.

Just this month, the Soviet image has suffered these embarrassments.

Outbursts of apparently official anti-Semitism at the World University Games in Moscow.

Bitter denunciations of the Soviet system by Alexander Solzhenitsyn, probably the single best-known private citizen in the outside world.

Defiant public statements from Andrei Sakharov, principal developer of the Soviet hydrogen bomb and another nonconformist intellectual whose fame assures wide publicity for his statements.

International protests against the new three-year labor camp sentence for the writer Andrei Amalrik.

Unfavorable publicity associated with the sudden removal of Soviet citizenship from Zhores Medvedev, an internationally known biologist.

A political trial in Moscow this week, which the Soviets are deliberately publicizing, has also drawn international attention to the campaign against dissidence.

Each of these events is tied to the security forces' attempts to wipe out the active dissidents, a campaign the Soviets regard as an internal matter.

### STATE'S RIGHT

"The state has the right to defend itself," one of the Soviet Union's senior law officers told Sakharov a fortnight ago, a message that Soviet officials repeat in private conversations with foreigners.

We have our own customs and traditions, and our own way of dealing with troublemakers, they say, and foreigners have no right to question us about them.

Yet foreigners do question them, and the Soviet authorities have recognized the connection between their domestic policies and international detente. The connection is acknowledged in Soviet replies to foreign critics.

For example, in response to numerous documented accusations that Soviet mental hospitals are used for the forcible treatment of dissidents, the government news agency Tass recently carried an interview with a Soviet professor of psychiatry. Disputing foreign criticisms, the professor said that "hired anti-Sovietests oblingingly spread these lies to please the circles that are interested in poisoning the international atmosphere and in preventing further detente."

Such comments represent a recognition that detente can be hindered if foreigners object to real or imagined aspects of Soviet internal policy.

In recent days the Soviets have mounted a propaganda offensive to respond to their critics. The responses, like that of the professor of psychiatry, often consist primarily of attacks on the accusers.

Another common response is a blanket denial. For instance, Tass simply denied that there were any displays of anti-Semitism at the university games, though these outbursts were witnessed by numerous foreigners, and one act was photographed.

Another form of reply is to blame manifestations of domestic dissidence on foreigners. This line emerged from the political trial of Pyotr Yakir and Viktor Krassin this week.

The speed and strength of recent Soviet replies to foreign and domestic critics confirms that their criticism is taken seriously.

The question remains how the Soviets will respond to it.

The current leadership has shown an unprecedented willingness to react constructively to some foreign pressure. The best example of this is the decision to allow thousands of Soviet Jews to emigrate, a decision that would have been inconceivable without foreign pressure.

### IDEOLOGICAL ORTHODOXY

Yet the same leadership has decided that relaxation of tensions with the West must be accompanied by the strictest ideological orthodoxy at home, a decision that has led to the crackdown on dissidents.

There are hints of a dispute inside the leadership on ideological issues. Leonid Brezhnev, general secretary of the Communist Party, said in a speech this month that he welcomed a freer exchange of people and ideas with the West, because this would win "more supporters for the ideas of scientific Communism."

This confident approach to a sensitive subject has not appeared in any other official Soviet statement before or after Brezhnev's speech. A few days after he spoke, Pravda published an authoritative article ignoring Brezhnev's formulation and reiterating the familiar Soviet position that any exchanges of people and ideas must respect the laws and customs of all countries—meaning specifically, censorship in the Soviet Union.

Whether these two views represent a debate or two sides of the same coin is not known.

In any case, discussions about vague notions like the freer exchange of people and ideas can't cover the difficult specific problems the Soviet leaders now face. The most obvious of these is what to do with two world famous Soviet citizens, Solzhenitsyn and Sakharov, whose statements command enormous attention.

Are they to be stamped out too? Or would the outcry abroad that would certainly follow any further repression of them jeopardize more important causes, like the detente policy? Is that policy already threatened by Western reaction to the suppression of nonconformists in the Soviet Union?

The Soviets may feel that they can, in the Washington phrase, tough it out. The Western countries may well decide that it is preferable to acquiesce to Soviet domestic policies and sacrifice the tiny handful of dissidents, if trying to defend them would jeopardize the new and favorable international atmosphere.

Moreover, even the most indignant Westerners can have trouble finding ways to pressure Moscow. One astute Westerner here asked. "What are they going to do, say we won't sell you our computers unless you release Andrei Amalrik?"

Nor, if the West is trying to nudge the Soviet Union out of its historic isolation, is it necessarily desirable to pressure the country's leaders to change their historic attitude toward nonconformists at the same time.

The Soviet word for dissidents translates literally as "those who think differently." Differently from what? That question hasn't been asked in Russia for years, neither under the czars nor under their successors.

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[From the Washington Post, Sept. 4, 1973]

## Soviet Composers Attack Sakharov

(By Robert G. Kaiser)

Moscow.—The Soviet Union's best-known musical composers today joined in the continuing public condemnation of physicist Andrei Sakharov.

Dmitriy Shostakovich, who was persecuted in Stalin's time, Aram Khachaturian and Rodion Shchedrin (the husband of ballerina Maya Plisetskaya) were among 12 musical personalities who signed a bitter attack on Sakharov published in this morning's Pravda.

Their letter said Sakharov's recent criticisms of the Soviet Union and his warnings to the West that detente must be accompanied by democratization in the Soviet Union "are a slur upon the honor and dignity of the Soviet intelligentsia."

This was the first group letter from prominent cultural figures in the organized campaign against Sakharov, which has now continued for six days.

There is no precedent in recent Soviet history. After six days, the authorities have still not hinted what, if any, action they will take against Sakharov, a member of the prestigious Soviet Academy of Sciences and the principal developer of the Soviet hydrogen bomb.

Some intellectuals here speculate that the campaign was begun in haste, in response to a press conference Sakharov gave to Western correspondents, and that its organizers still do not know how it should end.

The letters appearing each day in the press are similar, and none recommends any specific steps against Sakharov. Typically, the letters say that Sakharov's activities "are incompatible with the lofty title of Soviet citizen and Soviet scientists," as the musicians' letter put it.

Most of the letters also accuse Sakharov of opposing "the Soviet Union's policy of reducing international tensions," again to quote the musicians. In fact, Sakharov has not criticized the Soviet policy of detente specifically, though he has warned that if detente is to be meaningful, it must proceed in tandem with some opening up of Soviet society.

The letters are signed by scientists, engineers and workers—and, today, by musicians.

In another article today, Pravda, the newspaper of the Soviet Communist Party, obliquely informed its readers that there had been widespread criticism in the West of Soviet internal policy.

Pravda reprinted an article which it attributed to an Austrian Communist Party official, Hans Kalt. The article said that "In recent days the bourgeois press has launched another campaign of hysteria spearheaded against . . . the Soviet Union."

According to the article, the real reason for this campaign was fear in the West that "the ideas of socialism" are becoming more popular.

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Mr. KENNEDY. Mr. President, In another incident which occurred during the recess, press reports, which I ask unanimous consent to be included in the Record, described harassment of both Israeli basketball players participating in the world university games and Soviet Jews who sought to attend those games.

What is of particular concern is that

the anti-Semitism evidenced in these events was in no way disavowed by the government. In fact, Associated Press attributed some of the harassment inside the gym to some 100 Soviet army recruits dressed in blue sweatshirts. In a second incident, Reuters reported that Soviet plainclothesmen roughed up a group of Soviet Jews as they were leaving the gym.

Both the indication of government-sanctioned anti-Semitism and the offensive against Soviet dissidents constitute matters of grave concern, particularly to those who desire to see further progress toward détente. While further progress on arms control and détente in the military sphere is essential, in nonsecurity matters, the actions of the Soviet Union with regard to human rights remains a legitimate concern for this Nation.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 10, 1973]

### SOVIET ATHLETES DOMINATE; JEWISH FANS ARE BARRED

Moscow, August 18.—The Soviet Union, running away with gold medals at the World University Games, won eight more finals tonight—including four in the prestigious track and field competition—to raise its total to 17. All other nations have only six gold medals.

The United States, still frustrated in its efforts to gain gold medal No. 1, at least maintained its basketball prestige with another one-sided rout—a 140–34 decision over Portugal. But even in basketball the focus was not on the Americans.

Cuba beat Israel, 81–63, with large numbers of Soviet Jews barred from the arena by soldiers and police.

Nearly 115 Soviet army draftees, dressed in blue sweat shirts and white caps, surrounded the court at the Central Army sports complex. Outside, scores of fans—many of them Soviet Jews—waved their tickets frantically only to be ignored by the somber-faced police and soldiers. At Israel's first basketball game, against Belgium, Thursday, about 40 Soviet Jews showed up to cheer and during half-time crowded around the Israeli players, talking with them and exchanging pins and medals.

The police action in barring the Jews from the arena today appeared to indicate that Soviet authorities were displeased by the fraternizing that occurred at the Thursday game.

"It's a little sad," said Adin Talbar, the Israeli representative to the International Federation of Student Sports, organizer of the games. "They think we're here for politics but we just came to compete."

The Cuban team, bronze medalist at the Olympics last summer, had little trouble.

"We've got two good players and they've got 10," said the Israeli coach. Joshua Rosen, whose only bright spot of the day was the 30-point performance of his star forward, Shmuel Avishar.

With Yevgeny Arzhanov leading the way with a stunning late victory over favored Marcel Philippe of France and Fordham, the Soviet Union again dominated at the Lenin Stadium track. Arzhanov raced past Philippe with about 200 yards left and won by a yard in 1 minute 46.8 seconds.

"I suddenly found myself in the lead at 400 meters," said Philippe. "Then I knew I was dead."

Other Soviet victories went to pony-tailed Nadyeshda Kolesnikova in the women's 400 meters (52 seconds), Valery Podluzhky in the long jump (36 feet 9 inches) and Viktor Dgurba in the discus (202 feet 1 inch).

#### OLGA'S STILL NO. 1

The United States could do no better than a pair of fourth-place finishes by Rick Brown in the 800 and Dennis Schultz in the 400.

Away from the track, the Soviet Union proved to be almost as formidable with two gold medals in gymnastics, one in fencing and one in Greco-Roman wrestling.

Naturally it was the pixie-faced Olga Korbut who dazzled the packed house at the gymnastics competition. Dressed in turquoise with her pigtails tied back in matching ribbons, Miss Korbut took her second gold medal of the Games by winning the women's individual combined event with 77.65 points.

In fencing the Soviet Union scored a 1-2-3 sweep in the women's individual foil event.

The only other nations to crack the gold today were Britain and Cuba.

The Britons got their first gold medal in the men's 110-meter high hurdles when Berwyn Price overcame a terrible start to win in 13.7 seconds. The Cubans scored in the 400 meters when Alberto Juantorena upset David Jenkins of Britain in 45.4 seconds.

"I ran absolutely terrible," Price said. "I had a horrendous start, but I guess that's what happens when you have to run three races in three days."

#### A PROMISE BY BARNES

The United States basketball team was overmatched against the Portuguese, whose tallest player was only 6 feet 3 inches.

Tom Burleson, the 7-4 center from North Carolina State, who has 68 points in three games, had a field day on the backboards along with 6-9 Maurice Lucas of Marquette and 6-8 Marvin Barnes of Providence.

"We will beat the Russians—you can count on it," Barnes promised.

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[From the Washington Post, Aug. 20, 1973]

### SOVIET SOLDIERS JEER ISRAELIS

Moscow, Aug. 19.—The Soviets packed the smallest gym in town with soldiers today to jeer and howl at the Israeli basketball team at the World University Games.

"A disgusting exhibition," one Israeli player said after the 63–56 loss to Brazil. "Of course it rattled us," another player said.

Adin Talbar, an Israel team official, said he was going to protest to the International University Sports Federation, FISU, which sponsors the games. "This is against everything the federation is committed to," Talbar added.

"That was not sports," he said, "that was Russia against Israel."

The game was held in a Central Army Club gymnasium, which has only four rows of wooden bleachers. The entire front row was occupied by soldiers in identical blue sweatsuits. Uniformed soldiers were scattered throughout the crowd of about 400.

Some 25 Moscow Jews who had managed to obtain tickets tried to chant "El, el Israel," which one of the fans said meant "Go, go Israel." Each time the chant was started the soldiers raised a chorus of whistles and jeers.

Moshe Zilberman, Israel's high scorer with 23 points, said he had trouble keeping his mind on the game.

The crowd was quiet when a Brazilian player was standing at the foul line.

Each Brazilian score was greeted by a roar of approval from the crowd. The soldiers shouted the Russian equivalent of "good going" when a Brazilian made a field goal.

Talbar said he had asked FISU to send an observer to the game, "but nobody from FSIU came."

"Our players are being harassed. This jeering of the players disturbs them," he said. "Under the circumstances I would say our team played a marvelous game, but they are very upset."

A reporter asked one of the young men in the blue sweatclothes who they were. "We are soldiers," he replied. They were all about the same age and had the very short haircuts of Red Army recruits.

Their presence in the front rows appeared to have a crowd control aspect as well. At halftime they stood along the sidelines to prevent anyone from walking onto the court.

Outside the stadium security officials set up metal barriers staffed by police and uniformed soldiers. One Jew who was turned away before the game said he had been told his ticket was no good.

Saturday, officials refused entry to more than 60 Moscow Jews at the Israel-Cuba game. Today officials allowed some local Jews to get past the two rows of barriers.

A girl from the Danish basketball squad who stayed on to watch the Israel-Brazil game was nearly in tears.

"That was very ugly," she said.

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[From the Washington Post, Aug. 22, 1973]

### JEWISH FANS ARE ATTACKED IN MOSCOW

Moscow, Aug. 21.—Plainclothes Soviet security officials today physically attacked a group of Soviet Jews watching the Israeli basketball team at the 1973 World University Games here.

The Reuter news agency reported that about 20 Jews were leaving the Central Army Sports Club basketball hall when they were set upon by security men, seemingly irritated by the Jews' support for the Israeli team in today's match against Puerto Rico, won by the Israelis, 77–61.

Two women were almost knocked to the ground, a man had his arm twisted and his spectacles broken and three people, including two school children, were detained at a police station.

Members of the Jewish group said the two children were Marina Polski, 14, and Alexander Yoffe, 16.

During the match the Jews, who were made to sit as far away as possible from the Israeli team bench, were involved in scuffles with uniformed soldiers who ripped up an Israeli flag and destroyed a banner proclaiming in Hebrew, "Success to Israel."

Meanwhile, in New York, the Associated Press quoted U.S. sports officials as saying the Soviets' treatment of the Israeli athletes may have damaged the Soviet Union's chances of hosting the 1980 Summer Olympic Games.

"It's certainly a step in very bad taste, because the Russian-Jewish situation is bad enough," said Newgold Black, secretary to U.S. Olympic Committee president Philip Krum.

Black said that Krum would probably withhold comment until George Killian, the head of the U.S. team in Moscow, returns to the U.S. and gives Krum more details.

"I think it is a terrible state of affairs," said David Rivenes, president of the AAU. Politics should not enter into the Olympic Games, Pan American Games, and certainly not the University Games. It is merely supposed to be a get-together of students.

"My conclusion is that Russia is going to have a tough time convincing other countries to approve their bid. The facilities, language barriers and the almost prison-like security measures all raise questions."

The International Olympic Committee will vote next year at Vienna, Austria, on the site of the 1980 Summer Games. The 1976 Summer Games will be held at Montreal.

Claude Pinaud of France, secretary general of the International University Sports Federation (F.I.S.U.), was to have attended today's game but did not appear and Israel's F.I.S.U. representative, Adin Talbar, said later that the delegation would discuss tonight what new action to take, if any. "As things stand there is no question of our going home," Talbar said.

"This sort of thing will never stop us from competing in international sports. Anyway, how would the Jews here feel if we went home? They are heroes for the way they stand up to the regime," he added.

Pinaud, contacted at his hotel, said of the game, "I sent someone who reported to me what happened."

The delegate's account of what happened at the game left Pinaud with the impression that the atmosphere was simply one of "excited sports fans." He declined to say who his delegate was.

At today's game, the Associated Press reported that part of the gallery was calling the Soviet Jews who held the Israeli flag "kikes, kikes." Reuter reported the word as "Yids."

Throughout the game, soldiers in blue sweatsuits who made up one-fourth of the crowd jeered and whistled derisively at the Israeli athletes.

The soldiers in sweatsuits filled the bottom row of the four-tier bleachers. They were there ostensibly as monitors for crowd control.

It was the third straight game in which Russian soldiers were used to harass and jeer the Israeli basketball players. The first incident was last Saturday when Israel played Cuba. It was repeated Sunday in the game against Brazil.

Soviet organization of the World University Games, which began Aug. 15 and conclude Aug. 25, was being viewed as a test of their ability to host the 1980 Olympics.

The Israelis took an early lead in the game, giving about 30 Soviet Jews occasion to chant "El El Israel" (Go, Go Israel) and wave their paper banner.

The soldiers replied with earsplitting whistles. Several people in civilian clothes were heard to chant "kikes, kikes."

A Jewish woman told a reporter she had asked the police to intervene—racial slurs are prohibited by law in the Soviet Union. The police spoke only to the Jews and did nothing about the antisemitic shouts.

"We are not kikes," the woman told a reporter, "We are Jews."

During the second half of the game, when Israel had increased its lead to 47–36 and appeared to have a safe margin for victory, the Soviet Jews, who sat together at one end of the court, stood up and held the Israeli flag aloft.

Several uniformed soldiers made their way to where they were holding the flag, snatched it from the Jews' hands and ripped it into pieces. There was a brief scuffle while the police looked on.

After the game, Talbar said, "This causes a lot of anxiety. This is the organized creation of hostile atmosphere."

A French basketball player, whose team was to play England following the Israel-Puerto Rico game, commented: "It made me want to vomit."

A member of the Danish women's team, who came with several teammates to watch the game, said: "This is terrible." Indicating the jeering soldiers in sweatclothes, she said, "They're so awful."

The Soviet Jews who came to support Israel left the gym together. Outside they were surrounded by uniformed soldiers all the way to the gate.

A police colonel ordered his men to prevent a reporter from approaching them.

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[From the New York Times, Aug. 22, 1973]

### Twenty Jews in Clash at Moscow Games—Russian Fans of the Israeli Team Are Set Upon After Basketball Contest

(By Theodore Shabad)

Moscow, Aug. 21.—A group of Russians clashed today with about 20 Soviet Jews who had rooted for the Israeli basketball team at the World University Games here.

The Jews, leaving the Central Army Sports Club, where the basketball competition is being held, were set upon by unidentified Russians, seemingly irritated by the Jews' displaying of an Israeli flag and of Hebrew slogans during a game between the Israeli and Puerto Rican teams. Israel won, 77 to 61.

According to witnesses, two Jewish women were nearly knocked to the ground, a man's arm was twisted and his eyeglasses broken and three persons were taken to a police station.

The three were identified by friends as Viktor Polsky, a 43-year-old engineer who has been frustrated in attempts to emigrate to Israel, his daughter, Marina, 14, and another youngster, Aleksandr Yoffe, 16.

Today's incident was the latest in a series plaguing Israeli players and their Soviet Jewish supporters since the student games opened last Wednesday. These games, last held in 1970 in Turin, Italy, are conducted every three years and are open to athletes aged 18 to 28 and currently affiliated with an educational institution.

Soviet officials have described the games here as a dress rehearsal for the 1980 Olympics, which they also hope to hold here, and they seem to have been eager to convey an impression of efficient organization and orderly competition.

But from the opening day's parade of delegations, during which the Israeli team was jeered from the stands, team members are reported to have been harassed in many of their appearances. The harassment of the Israelis has been matched by vocal support from their Soviet Jewish fans.

It is almost unheard of for Soviet citizens to dare show enthusiasm for any but Soviet athletes, and the sympathy demonstrated by Jews for the Israelis must have been particularly irritating in view of the Kremlin's official hostility to Israel in her dispute with the Arabs.

Israeli athletic officials here have protested the repeated heckling to the International Federation of University Sports, which sponsors the World Student Games, and have requested that a representative of the federation attend events in which Israelis participate.

Although a representative of the international body was to have attended today's basketball game, none appeared, according to the Israelis.

In the game against Puerto Rico, witnesses reported, the Israelis were subjected to shouts of "Zhid! Zhid!" ("Kike!") as well as steady whistling and foot-stamping from about a hundred men in blue track suits ringing the arena.

Uniformed soldiers who also watched the game in the army gym were said to have ripped up an Israeli flag held by Soviet Jewish spectators and to have destroyed a banner bearing the slogan "Success to Israel," written in Hebrew. When the game ended, the Jewish demonstrators were quickly ushered from the hall and were set upon outside by waiting Russians.

Foreign athletes have been virtually isolated in a dormitory of Moscow University, ostensibly for their security, and that isolation has been particularly stringent in the case of the Israelis.

[From the Washington Post, Aug. 27, 1973]

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### Israel Protests Soviet Games

Tel Aviv, August 26.—Israel Deputy Prime Minister Yigal Allon, charging that his country's athletes were subjected to "racism and anti-Semitism" at the World University Games in Moscow, said today Russia should not host the 1980 Olympics.

Welcoming the team home, Allon said, "All this shows that this country (the Soviet Union) does not deserve to hold the next Olympic Games. Israel might take measures to demand that the Olympics be transferred somewhere else."

The Soviet Union is seeking to host the next Olympic Games.

Before the team left Moscow, the Israeli delegate to the games said the Israelis continually were harassed and insulted by Russians during the 10-day event, but that Israel's protests were ignored.

The incidents affecting the Israeli team reflected on the inability of the Soviets to stage a sporting competition "in the spirit of fair play," said Adin Talber, Israel's representative to the International Federation of University Sports (FISU).

There was scattered jeering and whistling at the Israelis by Soviet spectators during the finale, but it seemed more subdued than the booing directed toward the athletes during opening ceremonies.

Talber criticized the FISU for what he said was its inaction on Israeli complaints.

Talber said the Israeli basketball team was "continually harassed in an organized manner by hundreds of members of the Central Army Sports Club" during the Aug. 18 contest against Cuba. "The continuous jeering, whistling and screaming against our team had a detrimental effect on its play," he said.

"However, the worst moment of these games for the Israeli team came when a paper flag of Israel which was waved by a small group of people in the audience was torn up by uniformed policemen and civilians in an act of oppression against those friendly to us, and a flagrant insult to Israeli guests in these international student games in Moscow."

The Israeli official said his 32-member delegation appreciated the friendly interpretors, good food, satisfactory transportation, fair references and security. But he said he was dismayed that the Israelis were "totally ignored by Russian press and TV" and regretted that Israeli journalists were barred entry to the Soviet Union "contrary to the regulations of FISU."

The newspaper Sovietsky Sport today defended the Soviet spectators saying, "Yes, there may have been whistling, but people whistle in all stadiums."

Sovietsky Sport also denounced Western correspondents who, it said, "were only looking for facts which would help compromise the hosts of the Universiade." It said the newsmen "were trying in all possible ways to produce an impression among readers of foreign publications of an inadmissible situation in Moscow for conducting the next Olympiad."

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[From the New York Times Aug. 27, 1973]

### Soviet Terms Attacks at Games the Doing of Overzealous Fans

Moscow, Aug. 26.—The Soviet Union, evidently embarrassed by adverse publicity over the World University Games, today attributed incidents surrounding Israeli athletes to unruly fans of a type that could be found at any sports event.

An article in the official sports daily Sovetsky Sport charged that "episodes likely to occur at athletic contests" had been blown out of all proportion by the Western press.

The organizers of the student games, which ended yesterday, appeared to have been particularly upset by a widely published photograph that showed a group of fans, led by uniformed soldiers, rushing at Moscow Jews who had been waving an Israeli flag at a basketball game between Israel and Puerto Rico.

The games, which attracted about 4,000 student athletes from 70 countries to Moscow, appear to have been plagued by a basic conflict between two primary Soviet policy objectives.

On the one hand, the organizers of the games were evidently eager to convey the Soviet Union's ability to conduct an international event of such magnitude in an organized fashion. The games have been presented here as a dress rehearsal for the 1980 Olympics, for which Moscow is bidding.

On the other hand, the presence of a 40-member Israeli delegation was being used by pro-Israeli Moscow Jews as a focus of attention, and the Soviet authorities apparently felt that they could not tolerate such open support for the athletes of a country that what being denounced almost daily in the controlled press.

The Soviet organizers had sought to balance Israeli participation by extending an official invitation to Yasir Arafat, the most prominent Palestinian guerrilla leader. Mr. Arafat's presence in Moscow was widely publicized in the press.

But despite this attempt at political balance, the Israeli athletes posed particular problems for Soviet officials. They were subjected to special security measures and, after the first day of fraternization between the basketball player and Moscow Jews, an effort was made to isolate the Israelis from their Soviet fans.

The Soviet sports newspaper justified this special treatment of the Israelis on the gound that the Russians did not want a repetition of the massacre of Israeli athletes at the 1972 Olympic Games in Munich.

Although some whistling and foot-stamping by Soviet fans at Israeli events was thought to have been officially inspired the sports daily said:

"Passions tend to flare at many popular athletic events throughout the world, and sober, objective correspondents will treat them as such, knowing full well that not all the fans in the stands may be equally restrained and properly brought up."

### ALLON CHARGES "RACISM"

TEL AVIV, Aug. 26.—Deputy Premier Yigal Allon of Israel, charging that his country's athletes had met with "racism and Anti-Semitism" at the World University Games in Moscow, said today that the Soviet Union should not be host to the 1980 Olympics. He spoke at welcome-home ceremonies for the Israeli team.

Before the team left Moscow today, Israel's delegate to the games said that athletes were continually harassed and insulted by Russians, but that protests had been ignored.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

## FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 5, which the clerk will state by title.

The assistant legislative clerk read the bill (S. 5) by title, as follows:

A bill to promote the public welfare.

The PRESIDING OFFICER. Debate on this bill is limited to 1½ hours, to be equally divided between and controlled by the Senator from Minnesota (Mr. MONDALE) and the minority leader or his designee, with 20 minutes on any amendments and 10 minutes on any debatable motions or appeals.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, the pending proposal, S. 5, would establish a Council of Social Advisers, modeled after the Council of Economic Advisers, and require the President to submit to Congress an annual Social Report, modeled after the Economic Report.

The Council of Economic Advisers has played a central role in national economic decisionmaking over the last quarter century. It has helped to focus governmental and public attention on overall economic policy and has helped to stimulate development of highly sophisticated economic statistics. The congressional hearings on the President's Economic Report each year are a forum for administration officials to give an accounting of their economic stewardship, and for Congress, outside experts, and the general public to discuss and analyze the economic health of the Nation.

It is now time for us to focus that same kind of attention on the social health of the Nation and the effectiveness of our social programs.

The 1960's saw the passage of the most extensive and far-reaching social programs in our history. More recently, social scientists have begun to develop more useful and effective indicators of our social needs and of the effectiveness of social programs.

We can now begin to see what these programs have done, where they have fallen short, and where they can be improved. We can begin to determine what remains to be done, and how best to do it.

The effectiveness of Government food programs should be measured not by the amount of money spent on them, but by whether children in families receiving food stamps are healthier and stronger.

The effectiveness of education programs should be measured not by dollars spent or classrooms built, but by whether children are learning more.

The effectiveness of crime prevention programs should be measured not by the number of policemen on the streets, but by whether people in the neighborhood feel safe going out at night.

The new Council of Social Advisers would spur the further development of these new social indicators. Instead of the so-called "cold facts" of dollars spent and resources used, we will have the "hot facts" which measure the real impact of social developments and programs on people's everyday lives.

This kind of information is desperately needed if we are to make knowledgeable decisions on the many issues that confront us. But we do not have it now.

Mr. President, in the nearly 9 years I have served in this body, I believe that I have served on as many human problem subcommittees and committees as any of my colleagues. I have sat through hours and hours and hours of testimony to develop programs for education, health, housing, urban development, rural development, poverty, mental health, and the rest. Time and time again, I have shared with my colleagues the frustration of being unable to really depend on whether these programs are working, whether they might work in a better context or in a better way under a different context, and what might be done to make them more effective.

One of the reasons this frustration mounts is that so many of these statistics prepared by Government are virtually useless. I can recall a few years ago when the administration wanted to eliminate a third of the Job Corps camps in our country. We asked the administration spokesman to testify what their figures indicated as to the best way to train unskilled manpower.

How could we get the best return for our dollar? Which programs seemed to help the most, and what were their recommendations based upon those statistics?

They said they would provide the information, but when it arrived, the information was utterly useless. The truth of it is that the Labor Department did not have the slightest idea of what did not work, and despite the expenditure of billions of dollars, for all practical purposes the Government was headless insofar as the development of statistics that would help us determine what worked and what did not work was concerned.

I have seen this same phenomenon in education. For nearly 3½ years, under my chairmanship, the Select Committee on Equal Educational Opportunity sought to probe the question of how well our educational institutional institutions are doing in terms of delivering equality in education. We were overwhelmed with statistics, but none of them, or few of them, were helpful.

This phenomenon has been commented on by people in government. One of the best witnesses we have had in support of this proposal was Mr. Joseph Califano, who was President Johnson's top domestic adviser, and who for some years sought to develop for the President, with the support of the prestige of the President, the domestic programs of the Johnson administration.

In that capacity, he frequently called up Cabinet officers and other government officials to challenge their answers to the kinds of questions I have been discussing.

In testimony before our subcommittee, he said this:

> The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate, or expand vast social programs more nearly resembles the instituitve judgment of a benevolent tribal chief in remote Africa than the elaborate and sophisticated data with which the Secretary of Defense supports a major weapons system. When one recognizes how many and how costly are the honest mistakes that have been made in the Defense Department despite its sophisticated information systems, it becomes frightening to think of the mistakes which might be made on the domestic side of our government because of lack of adequate data.

Now, that statement was made in the context of an earlier observation about a conversation which Mr. Califano had had with the then Secretary of HEW, Mr. Gardner. He asked Mr. Gardner to tell him who was on welfare, how many were in the aid to dependent children category, how many were in the disabled class and other such categories, how many were adult males who could work but were not working, and the rest.

The Secretary said:

> I do not have that information with me, but I will go back to the Department. I am sure it is available, and I will submit the information to you in a few days.

I think the information took almost 2 years in coming, because even though the Department of HEW was spending at that time, I think, nearly $4 billion on welfare, they did not know who was on welfare. They had some vague figures, but no specific data, and it took them nearly 2 years to find out in specific terms who were the recipients of that $4 billion.

That is what led Mr. Califano to this observation that most of our judgments on these massive programs are intuitive.

Another witness, referring to what he called the "governmental strategy of suboptimization," said:

> The Government is getting better and better at little things, and worse and worse at big things.

One of the things we would hope to accomplish is to bring to Washington some of the best social scientists, the Walter Hellers of the social science field, to tell us how we are doing in meeting our needs in the areas of health, education, housing, equal employment, law enforcement, drug abuse prevention, this whole range of social issues and many others, and to try to develop a strategic approach, rather than a tactical approach, to the fulfillment and enrichment of the lives of our fellow Americans, and to try to better determine which programs work and under what circumstances.

It has been argued that this additional capability is not needed, that existing institutions are already taking care of the problem. The short answer is that they are not.

No one in the Federal Government is charged with taking an overall look at the social health of the country and the effectiveness of existing and proposed social programs, and reporting their findings to Congress and the public.

Each Federal agency looks only at its small piece of the problem, and is preoccupied with the day-to-day operation of its programs.

I think it is fair to say, with all due deference to these agencies—and a great many people are doing their best—that the natural tendency of each agency is to put out only good news, and to deemphasize and hide the bad news. So when you turn to agencies for help, what you usually receive is their official position. You do not receive the tough analysis that you need to really determine the questions which come before us here in Congress.

Nor do we have anywhere else that Congress can look. The OMB and the Domestic Council are designed solely to serve the Executive. Their work is done in secret, shielded by the claim of executive privilege, and they are accountable only to the President. Officials of OMB and the Domestic Council are not confirmed by the Senate, and they are not required to appear and testify before congressional committees.

A few years ago, when this proposal was before us, we were told that the Domestic Council was the answer to the needs raised by this proposal. We have found since that the Domestic Council was, above all, the place where the "plumbers" group was developed to accomplish a far different purpose. My opinion is that the Domestic Council is a body of virtually no significance in terms of helping this country analyze what should be done in these fields of human need.

The Council of Social Advisers, by contrast, would have three members appointed by the President and confirmed by the Senate, just as are the Members of the Council of Economic Advisers and the Council on Environmental Quality. They would be available for testimony before congressional committees, and they would be accountable to a public and professional constituency, just as CEA members are. The President's annual social report would be the occasion each year for the executive, the Congress, and the public to look carefully at the social health of the Nation, and the effectiveness of our social programs. There would be extensive press and media coverage, and congressional committees would hold hearings on the report, just as happens with the annual economic report.

We would hope that this would be the beginning of a public dialog in which our educational institutions, the public bodies, the press, the foundations, and the rest would all be involved in a far more focused and sophisticated discussion. Congress and the public would have the benefit of better information and better evaluations. Decisions on social issues would be greatly improved in in my opinion, both in the Executive and in Congress.

This greater public attention would stimulate more and better statistics and techniques to measure social conditions and evaluate social programs. The social indicators that have already been developed would be refined and improved, and new indicators would be devised just as we have seen through the work of the Council of Economic Advisers.

This work is vital if we are to fulfill the promise of our Nation and make Government work for the benefit of all our people.

If I may digress for a moment, I sense as I go around our country, that there is a growing sense of frustration and even despair as to the effectiveness of the programs we have for education, health, and the rest.

There is even a feeling, which I find scary, that this great society of ours is in some way lacking in capability to do such a fundamentally important thing as providing equal education for our children. That is the devastating conclusion which I think would undermine much of the hopes for social justice in our country. For that reason, I think, even more than may have been true in the past, we need to refocus our attention with the best minds in this country within the structure of the kind I am proposing, once again to regain the initiative and set this country on the right course in terms of social justice.

As Abraham Lincoln said more than 100 years ago:

> If we could first know where we are, and whither we are tending, we could better judge what to do, and how to do it.

That, Mr. President, is what we propose to do in this Council of Social Advisers.

This proposal has been adopted on two occasions by the Senate and in both cases by overwhelming majorities. I would hope that that would be the case today and that this time we might, since we have a little more time in this Congress than on previous occasions, find a response from the other body so that this might be adopted and sent on to the President, hopefully for his signature.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the bill, S. 5; a transcript of my remarks delivered on July 30, 1973, when this measure was called up in the closing days before the recess; remarks delivered by me to this body on July 25, 1972; and a letter which I have written to my colleagues along with my distinguished cosponsor, the Senator from New York (Mr. JAVITS), describing the details of this proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Full Opportunity and National Goals and Priorities Act".

## TITLE I—FULL OPPORTUNITY

### DECLARATION OF POLICY

SEC. 101. In order to promote the general welfare, the Congress declares that it is the continuing policy and responsibility of the Federal Government, consistent with the primary responsibilties of State and local governments and the private sector, to promote and encourage such conditions as will give every American a full opportunity to live in decency and dignity, and to provide a clear and precise picture of whether such conditions are promoted and encouraged in such areas as health, education and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal, and by measuring progress in meeting such needs.

### SOCIAL REPORT OF THE PRESIDENT

SEC. 102. (a) The President shall transmit to the Congress not later than February 15 of each year a report to be known as the social report, setting forth (1) the overall progress and effectiveness of Federal efforts designed to carry out the policy declared in section 101 with particular emphasis upon the manner in which such efforts serve to meet national social needs in such areas as health, education, and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal; (2) a review of State, local, and private efforts designed to create the conditions specified in section 101; (3) current and foreseeable needs in the areas served by such efforts and the progress of development of plans to meet such needs; and (4) programs and policies for carrying out the policy declared in section 101, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the social report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 101.

(c) The social report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the Committee on Labor and Public Welfare of the Senate and the Committees on Education and Labor and Interstate and Foreign Commerce of the House of Representatives. Nothing in this subsection shall be construed to prohibit the consideration of the report by any other committee of the Senate or the House of Representatives with respect to any matter within the jurisdiction of any such committee.

### COUNCIL OF SOCIAL ADVISERS TO THE PRESIDENT

Sec. 103. (a) There is created in the Executive Office of the President a Council of Social Advisers (hereinafter called the Council). The Council shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, and each of whom shall be a person who, as a result of his training, experience, and attainments, is exceptionally qualified to appraise programs and activities of the Government in the light of the policy declared in section 101, and to formulate and recommend programs to carry out such policy. Each member of the Council, other than the Chairman, shall receive compensation at the rate prescribed for level IV of the Executive Schedule by section 5315 of title 5 of the United States Code. The President shall designate one of the members of the Council as Chairman who shall receive compensation at the rate prescribed by level II of such schedule.

(b) The Chairman of the Council is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for the carrying out of its functions under this Act, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of relating to classification and General Schedule pay rates, and is authorized, subject to such provisions, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the social report;

(2) to gather timely and authoritative information and statistical data concerning developments and programs designed to carry out the policy declared in section 101, both current and prospective, and to develop a series of social indicators to analyze and interpret such information and data in the light of the policy declared in section 101 and to compile and submit to the President studies relating to such developments and programs;

(3) to appraise the various programs and activities of the Federal Government in the light of the policy declared in section 101 of this Act for the purpose of determining the extent to which such programs and activities contribute to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop priorities for programs designed to carry out the policy declared in section 101 and recommend to the President the most efficient way to allocate Federal resources and the level of government—Federal, State, or local—best suited to carry out such programs;

(5) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation to carry out the policy declared in section 101 as the President may request.

(6) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation as the President may request in appraising long-range aspects of social policy and programing consistent with the policy declared in section 101.

(d) Recognizing the predominance of State and local governments in the social area, the President shall, when appropriate, provide for the dissemination to such States and localities of information or data developed by the Council pursuant to subsection (c) of this section.

(e) The Council shall make an annual report to the President in January of each year.

(f) In exercising its powers, functions, and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such representatives of industry, agriculture, labor, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the direct participation in the Council's planning of such interested parties;

(2) the Council shall, to the fullest extent possible, use the servcies, facilities, and information (including statistical information) of Federal, State, and local government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided;

(3) the Council shall, to the fullest extent possible, insure that the individual's right to privacy is not infringed by its activities; and

(4) (A) the Council may enter into essential contractual relationships with educational institutions, private research organizations, and other organizations as needed; and

(B) any reports, studies, or analyses resulting from such contractual relationships shall be made available to any person for purposes of study.

(g) To enable the Council to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated (except for the salaries of the members and officers and employees of the Council) such sums as may be necessary. For the salaries of the members and salaries of officers and employees of the Council, there is authorized to be appropriated not exceeding $900,000 in the aggregate for each fiscal year.

## TITLE II—NATIONAL GOALS AND PRIORITIES

### DECLARATION OF PURPOSES

Sec. 201. The Congress finds and declares that there is a need for a more explicit and rational formulation of national goals and priorities, and the Congress needs more detailed and current budget data and economic analysis in order to make informed priority decisions among alternative programs and courses of action. In order to meet these needs and establish a framework of national priorities within which individual decisions can be made in a consistent and considered manner, and to stimulate an informed awareness and discussion of national priorities, it is hereby declared to be the intent of Congress to establish an office within the Congress which will conduct a continuing analysis of national goals and priorities and will provide the Congress with the information, data, and analysis necessary for enlightened priority decisions.

### ESTABLISHMENT

Sec. 202. (a) There is established an Office of Goals and Priorities Analysis (hereafter referred to as the "Office") which shall be within the Congress.

(b) There shall be in the Office a Director of Goals and Priorities Analysis (hereafter referred to as the "Director") and an Assistant Director of Goals and Priorities Analysis (hereafter referred to as the "Assistant Director"), each of whom shall be appointed jointly by the majority leader of the Senate and the Speaker of the House of Representatives and confirmed by a majority vote of each House. The Office shall be under the control and supervision of the Director, and shall have a seal adopted by him. The Assistant Director shall perform such duties as may be assigned to him by the Director, and, during the absence or incapacity of the Director, or during a vacancy in the office, shall act as the Director. The Director shall designate an employee of the Office to act as Director during the absence or incapacity of the Director and the Assistant Director, or during a vacancy in both of such offices.

(c) The annual compensation of the Director shall be equal to the annual compensation of the Comptroller General of the United States. The annual compensation of the Assistant Director shall be equal to that of the Assistant Comptroller General of the United States.

(d) The terms of office of the Director and the Assistant Director first appointed shall expire on January 31, 1977. The terms of office of Directors and Assistant Directors subsequently appointed shall expire on January 31 every four years thereafter. Except in the case of his removal under the provisions of subsection (e), a Director or Assistant Director may serve until his successor is appointed.

(e) The Director or Assistant Director may be removed at any time by a resolution of the Senate or the House of Representatives. A vacancy occurring during the term of the Director or Assistant Director shall be filled by appointment, as provided in this section.

(f) The professional staff members, including the Director and Assistant Director, shall be persons selected without regard to political affiliations who, as a result of training, experience, and attainments, are exceptionally qualified to analyze and interpret public policies and programs.

### FUNCTIONS

Sec. 203. (a) The Office shall make such studies as it deems necessary to carry out the purposes of section 201. Primary emphasis shall be given to supplying such analysis as will be most useful to the Congress in voting on the measures and appropriations which come before it, and on providing the framework and overview of priority considerations within which a meaningful consideration of individual measures can be undertaken.

(b) The Office shall submit to the Congress on March 1 of each year a national goals and priorities report and copies of such report shall be furnished to the Committee on Appropriations of the Senate and of the House of Representatives, the Joint Economic Committee, and other interested committees. The report shall include, but not be limited to—

(1) an analysis, in terms of national goals and priorities of the programs in the annual budget submitted by the President, the Economic Report of the President, and the Social Report of the President;

(2) an examination of resources available to the Nation, the foreseeable costs and expected benefits of existing and proposed Federal programs, and the resources and cost implications of alternative sets of national priorities; and

(3) recommendations concerning spending priorities among Federal programs and

courses of action, including the identification of those programs and courses of action which should be given greatest priority and those which could more properly be deferred.

(c) In addition to the national goals and priorities report and other reports and studies which the Office submits to the Congress, the Office shall provide upon request to any Member of the Congress further information, data, or analysis relevant to an informed determination of national goals and priorities.

### POWERS OF THE OFFICE

Sec. 204. (a) In the performance of its functions under this title, the Office is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Office;

(2) to employ and fix the compensation of such employees, and purchase or otherwise acquire such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated by the Congress;

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code; and

(4) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(b) (1) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Office, upon request made by the Director, such information as the Director considers necessary to carry out the functions of the Office.

(2) The Comptroller General of the United States shall furnish to the Director copies of analyses of expenditures prepared by the General Accounting Office with respect to any department or agency in the executive branch.

(3) The Office of Management and Budget shall furnish to the Director copies of special analytic studies, program and financial plans, and such other reports of a similar nature as may be required under the planning-programing-budgeting system, or any other law.

(c) Section 2107 of title 5, United States Code, is amended by—

(1) striking out the "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(9) the Director, Assistant Director, and employees of the Office of Goals and Priorities Analysis.".

### JOINT ECONOMIC COMMITTEE HEARINGS

Sec. 205. The Joint Economic Committee of the Congress shall hold hearings on the national goals and priorities report and on such other reports and duties of the Office as it deems advisable.

### PAYMENT OF EXPENSES

Sec. 206. All expenses and salaries of the Office shall be paid by the Secretary of the Senate from funds appropriated for the Office upon vouchers signed by the Director or, in the event of a vacancy in that Office, the Acting Director.

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## FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

The Senate continued with the consideration of the bill (S. 5) to promote the general welfare.

Mr. Mondale. Mr. President, S. 5, the pending measure, is a bill which has passed the Senate in almost identical form in two previous Congresses. It is the product of extensive hearings, extensive committee and Senate deliberation, and I would hope that it would pass overwhelmingly and that in this Congress we might see action in the House.

The measure seeks to establish a Council of Social Advisers in the office of the Presidency and require that council to prepare an annual social report which would be referred to the Joint Economic Committee and to the respective Labor and Public Welfare Committees of the House and the Senate. The council would have other responsibilities such as the establishment of an effort toward establishing social indicators to measure the social health of this country.

Mr. President, one of our most illuminating witnesses was Mr. Joseph Califano, who, as many know, served as President Johnson's key domestic counselor. Following his period of service in that position, he testified before our committee upon the almost total lack of information upon which we make social policy. Mr. Califano said:

"The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate, or expand vast social programs more nearly resembles the initiative judgment of a benevolent tribal chief in remote Africa than the elaborate sophisticated data with which the Secretary of Defense supports a major new weapons system."

Support for this institution has come from a broad range of leaders in the field of human development and from persons who have been in government, as well as the academic community. As a matter of fact, they have repeatedly and strongly urged the creation of this Council of Social Advisers.

In the development of this legislation I have been privileged to have the long-term support and the creative contributions of the distinguished senior Senator from New York (Mr. Javits), who has cosponsored this measure from its beginning and who has been so helpful over the years in trying to develop it, improve it, and strengthen it.

The present measure, in title II, contains a series of sections under the heading "National Goals and Priorities." It seeks to establish in the Congress an office to better prepare the Congress when dealing with the broad objectives of goals and priorities.

This measure was originally introduced in separate bill form by the distinguished Senator from New York (Mr. Javits) and is now found as title II in S. 5.

Together these titles are designed to do something about the present anarchy in the field of human programs.

We have a nation in which we spend billions in education, billions in health, billions on poverty, and billions on various other human programs. Yet, when we ask those involved in these programs whether they are achieving the results intended and whether they are doing so in the most efficient way, and, indeed, whether they are counterproductive, one is often at a complete loss to obtain that essential information upon which any intelligent government should base its decisionmaking, as one of our witnesses said, the American Government seems to be proceeding on the theory of substandardization, by which we are doing better and better in little things and worse and worse in big things.

This council is designed to try to better analyze and evaluate and plan social programs so that we might better understand how we seek to educate our children, so that we might know better how well we are doing at this task of education, so that we might know better how to improve and make more efficient the effort at education.

The same is true with our efforts in the field of health, in the field of manpower, in the field of employment, and in the other areas, housing and the rest, which are essential services for a healthy and developing people.

I have been in the Senate now for more than 9 years. I guess that I have served on as many or more human problem committees and subcommittees than any other Senator, or at least as many as any other Senator. I am constantly surprised and sometimes shocked when we are holding hearings on programs—some of which cost several hundreds of millions of dollars a year—when I ask those who are in charge of the programs to tell us what they are accomplishing and what we are getting for our money. Usually they can fill us full of statistics and information that really is not helpful. They can tell us how many bricks there are in a building and how many lunches are served in the hot lunch program. However, if we ask them how many children are being educated, often they do not have the slightest idea. The same thing is true with respect to health and manpower programs. What might be called the hot facts concerning what is being achieved through these programs is often not available.

Yet this very condition of anarchy and uncertainty is becoming a strong force in the hands of those who seek to counsel the Government and the people to give up this effort and to conclude that there is no hope and that we should stop trying to deliver the essential services needed for the social health of our people.

I can think of nothing that would be more tragic to our country than that, for we know that despite our wealth, despite our strength, and despite the magnificence of our great country, there are still millions and millions of Americans who in no meaningful way share in the fullness of American life.

The programs that this council would seek to better understand and guide are the very programs on which social justice in our Nation depend. And this institution could contribute enormously to a more sophisticated, responsible, balanced, efficient, and extraordinary approach to human problems.

Mr. President, this bill was reported from the Committee on Labor and Public Welfare on June 15, 1972. I am proud to state that it has 24 cosponsors from both sides of the aisle. The Senator from New York (Mr. Javits, who is the principal cosponsor of the bill, has contributed very significantly to the bill, including the sponsorship of a most important amendment to it. This amendment appears as title II of the bill.

A predecessor bill was extensively considered by the Subcommittee on Government Research of the Government Operations Committee during the 90th Congress under the distinguished leadership of the Senator from Oklahoma (Mr. Harris). An identical bill was considered and passed by the Senate in the second session of the 90th Congress. We have now accumulated five volumes of hearings on this bill and a consensus in support of it has been growing throughout the Nation.

Testimony in support of the bill has been heard from a number of former Cabinet members and White House aides. Former HEW Secretaries John Gardner and Wilbur Cohen and former Treasury Secretary Barr have testified for the bill. Former Labor Secretary Wirtz has spoken publicly in favor of it. A number of thoughtful spokesmen in the field of public affairs have supported the bill. The late Whitney Young was among them. A special study for the National Academy of Science's National Research Council included a recommendation for enactment of this bill. The report of the Commission on Violence, headed by Dr. Milton Eisenhower, also recommended enactment.

Few objections have been raised to enactment of this measure and those have dealt principally with the organizational aspect. It has been claimed that existing elements in the Executive Office of the President can do the job. However, I would like to point out that former Budget Director Zwick and former Special Assistant to the President Califano have testified in support of the bill. They now agree that the development of an annual social report and of a social indicators system would make an important contribution to dealing effectively with social problems. A Council of Social Advisers in the Executive Office would assist the President in stimulating and guiding these developments and in preparing an annual social report to be submitted by the President to the Congress.

The bill is patterned generally after the Employment Act of 1946 which, for the first time, established as a national goal the achievement of maximum employment, production, and purchasing power. To assist in achieving that goal, the Employment Act established the Council of Economic Advisers, provided for the annual economic report of the President, and established a Joint Economic Committee in the Congress.

It is our belief that this legislation will accomplish for the broad range of social policies what the Employment Act has done so well in the economic sector. By declaring a new national objective and increasing the quantity, quality, and visibility of information needed to pursue that objective, we should markedly advance our prospects for effective social action.

Mr. President, by now we have had a series of studies by prestigious commissions which have told us about the gap which remains in our society between the promise of full opportunity and the realities of deprivation, powerlessness, and poor fortune into which millions of our citizens are born. The increasing affluence of great segments of our society has merely sharpened the division between them and those who have not yet benefited from the phenomenal growth in our economy, in our technological and scientific base, and in our educational systems.

As a result, the demands of the deprived for their fair share in the benefits of our society and the responsiveness of our political institutions have both increased dramatically. At the same time, however, we have also become acutely aware of the fundamental inadequacy of the information upon which social policies and programs are based.

We have seen this phenomenon pressed upon us repeatedly and often tragically. One result of our information gaps is that national problems go nearly unnoticed until they are forced upon us by some significant and shocking event. Suddenly, we learn of widespread hunger in America, of the rapid deterioration of our environment, of dangerous tensions and unrest in our great urban centers, of the shocking conditions under which migrant farmworkers live, and of the absence of decent medical care for tens of millions of our citizens.

We desperately need ways to monitor such problems before they destroy or seriously damage our society.

Another tremendously expensive consequence of our lack of adequate information is that we devise and operate programs based on myth and ignorance or guess and supposition.

Examples are urban renewal, mass transportation, air and water pollution, and health delivery systems. In practically every major social problem in this country, it is not only a question of resources; it is not only a question of will; often it is simply a question of the unavailability of the information we need with which to deal effectively with the problem.

After years of experimenting with such techniques as program planning and evaluation systems, we still are quite ill-equipped to measure what our existing programs do accomplish. And we have no adequate means to compare the costs and effectiveness of alternative programs.

A Council of Social Advisers, dedicated to developing indicators of our social problems and progress, could well be a source of enormous savings to the taxpayer as well as of more effective solutions to the problems we face. Such a council, taking full advantage of the latest developments in planning, programing, and budgeting systems, in computerized data collection and statistical methodology, in systems analysis and social accounting, could unlock the enormous potential of the social sciences to assist the Congress and the Executive in developing and administering public policy.

A Council of Social Advisers would not itself, be a new decisionmaking forum. Rather, as a social monitoring, data gathering, and program evaluation agency, it would provide the President and his staff agencies with much of the information needed to make policy and program judgments. The President has available the broad range of economic information now furnished by the Council of Social Advisers. The Council of Social Advisers would fill a significant gap in the information system which is needed to buttress the policymaking apparatus under the President.

While title I of the bill, with its new Council of Social Advisers and its new social report, should greatly augment the capacity of the Congress to make intelligent policy decisions, title II of the bill is even more significant with respect to strengthening the Congress. I was delighted to cosponsor the amendment to the bill which was offered by the Senator from New York (Mr. JAVITS) to create a new congressional staff office of goals and priorities analysis.

Mr. President, the proposal embodied in title II, offered by the distinguished Senator from New York (Mr. JAVITS), comes at a very propitious time. We now know, based upon studies of the Brookings Institution and upon other sources, that in terms of general resources generated under the existing tax rate, we are in the middle of one of the deepest budget deficits in history, and the deficit is back-to-back with another budget deficit—with predictions next year of a budget deficit up to $40 million.

Mr. President, the predictions based on economic growth and the existing tax rate show a budget thinly balanced for the first time only 3 years from now. So, whatever may have been the case in the past, this Congress and this Government must judge more wisely than we ever have before. This applies to social fields, as well as to other aspects of the budget.

We can no longer rely, as we have in the past, on good will alone. We need far more information—and far better analysis—and far better strategies for dealing with the human problems which face America than we have ever had before, if there is any hope of success in those fields.

That is what this bill is all about. One of our experts said that the Federal Government has been pursuing increasingly a strategy of suboptimization which he defined to be a strategy of doing better and better with little things and worse and worse with important things.

We lack a strategic approach to the solution of human problems. We have a tactical approach, a great deal of data, and a great deal of minute detail in small areas and a failure to develop a proper overall approach to dealing with our problems. Much of this stems from ignorance about basic facts which is found at the funding level.

Mr. President, I have now served in the Senate nearly 9 years. Along with many of my colleagues, I spend most of my time dealing with the human problems with which the average American is confronted.

I never cease to be amazed by the abundance of evidence concerning how little we seem to know at the Federal level about what is really going on.

Thus, something as elementary as decent nutrition—something so essential to a sound body and a sound mind—was something about which the Federal Government was almost totally ignorant in 1967. We knew how many soybeans were grown. We knew how much money was being spent on the direct commodity distribution program, the food program, and so on. But no one had the slightest idea whether there was widespread hunger and, if there was, where it was to be found and why, what the cost of feeding the hungry was, what the cost of not feeding them was, what the cost of the program was, or any of the other fundamental questions directly related to the issue of the most basic necessity of American life itself. The same was true with respect to decent housing.

In 1967, even though we should have been warned earlier, the major American cities began to explode in our faces. Newark, Detroit, and one community after another literally blew up in an astonishing and cataclysmic explosion causing the widespread loss of human life, and human injury, and millions of dollars in property damage, and an emotional and cultural shock to Americans which we are still in the throes of. None of this was anticipated by the Government.

When hearings were started, this Nation was thrashing around; Congress and the Senate were thrashing around; members of the Cabinet and leading members of the executive branch were thrashing around, all trying to find out what was causing such a fundamental occurrence as this outrageous, heartbreaking phenomenon in American life.

We could go from this example to other examples. We lack an institution which takes not a tactical approach but a strategic approach to human problems which this society faces. We need to chart the social health of this country and seek to go forward; not, as John Gardner said, stumbling into the future. Instead, we must try to come up with the analysis, facts, and figures, and, as someone said, the "hot data" to help us understand our society and what we must do to make it more effective than it is in meeting this Nation's human problems.

One of our most impressive witnesses was Mr. Joseph Califano who formerly served as adviser on domestic programs to President Johnson. More than any other man he was in the Nation's hot seat trying to develop a program to advise the rightest official in the land on domestic programs.

He recounted several instances of the phenomena to which I have made reference. For example, on one occasion, the Secretary of Health, Education, and Welfare was in conference with Mr. Califano. He was asked how many people were on welfare, who they were, and all the rest. Since we are spending several billions of dollars one would have thought that information would be immediately available.

The Secretary thought the information would be available to him as soon as he returned to his office. He said that he would send it right back. As a matter of fact, it took HEW almost a year and a half to find out who was on welfare. Mr. Califano said this was a common experience with basic and fundamental human problems, to find that not even the President would have available to him the basic data necessary to make the choices upon which our very civilization depends.

He commented in this way about the issue of hunger:

"The even more shocking element to me is that no one in the federal government in 1965 knew how many people were hungry, where they were located geographically, and who they were. No one knew whether they were children, elderly Americans, pregnant mothers, black, white, or Indian."

Then Mr. Califano concluded with this statement:

"The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate or expand vast social programs more nearly resembles the intuitive judgment of a benevolent tribal chief in remote Africa than the elaborate sophisticated data with which the Secretary of Defense supports a major new weapons system. When one recognizes how many and how costly are the honest mistakes that have been made in the Defense Department despite its sophisticated information systems, it becomes frightening to think of the mistakes which might be made on the domestic side of our Government because of lack of adequate data."

Mr. President, for 5 years the Congress has been considering its need for additional information about social programs so that it can properly discharge its obligations to the public. The "power of the purse" has little meaning if we do not have the data and analyses to exercise that power meaningfully. The present and last administrations have agreed that we need this kind of information. However, they have insisted that it could be provided without any organizational change. By now, it is clear that this is not so. We must have a governmental agency charged by law with developing a system of social indicators or we will never have such a system.

Mr. President, for that reason I am hopeful the Senate will approve the pending measure, that it will soon be adopted by the House and sent to the President for signature.

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U.S. SENATE,
*Washington, D.C., September 10, 1973.*

DEAR COLLEAGUE: We are writing to urge your support for S. 5, which would establish a Council of Social Advisers and require the President to submit an annual Social Report to the Congress. S. 5 is scheduled to come to a vote on the Floor Tuesday, September 11.

S. 5 was first introduced in 1967, and has been passed twice before by the Senate—in 1970 and 1972—after extensive hearings. S. 5 was reported by the Labor and Public Welfare Committee on July 18 of this year by a vote of 13–3.

The Council of Social Advisers S. 5 would establish is modeled after the Council of Economic Advisers, which has been the focal point of economic policy-making and coordination in the executive branch for more than a quarter of a century. Like the CEA, the new Council of Social Advisers would have three members, appointed by the President and confirmed by the Senate, and thus available to testify before Congressional committees.

The new Council would focus public and governmental attention on the social and human needs of the Nation. It would develop better measures of our needs in health, education, housing, job training, crime and drug abuse prevention, and other social areas, and analyze thoroughly the way in which our existing programs are meeting those needs.

The President's Social Report—modeled after the annual Economic Report—would be the occasion each year for the Executive, the Congress, and the public to look carefully at the social health of the Nation, and the effectiveness of our social programs.

No one in the Federal government is charged now with the responsibility for this kind of public and authoritative overall evaluation. Each agency now looks only at its small piece of the problem and is preoccupied with the day-to-day operation of its programs. Neither the Domestic Council nor the Office of Management and Budget report to the Congress or the public on their activities. They are designed principally to serve the executive branch, and their officials are not subject to Senate confirmation.

The Council of Social Advisers and the Social Report will benefit the Congress as well as the Executive, and will help to inform and educate the public on social issues. Congressional committees will hold hearings on the Social Report, as they do on the Economic Report, and perform their own independent evaluations of the issues and programs covered in the report. The new social indicators the Council is charged with developing will be available to Congress, making it possible for the Congress better to evaluate existing and proposed programs.

For your information, Title II of S. 5, which would set up a Congressional Office of Goals and Priorities Analysis, was deleted from the bill by its author, Senator Javits, on August 3, and reintroduced as an amendment to S. 1541, the Congressional Budgetary Procedures Act, for consideration by the Government Operations Committee, which is now seeking to implement the recommendations of the Joint Study Committee on Budget Control.

If you have any questions on S. 5, please do not hesitate to let us know or ask your staff to call Jim Verdier (Senator Mondale, x5641) or John Scales (Senator Javits, x7686).

With warm regards.

Sincerely,

WALTER F. MONDALE.
JACOB K. JAVITS.

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The PRESIDING OFFICER (Mr. ABOUREZK). Who yields time?

Mr. TAFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. TAFT. The time to be equally divided——

Mr. MONDALE. Mr. President, would the Presiding Officer please tell me what the time situation is?

The PRESIDING OFFICER. The Senator from Minnesota has 22 minutes remaining, and the Senator from Pennsylvania has 37 minutes remaining.

Mr. MONDALE. I thank the Chair. I would be glad to agree to that time on the quorum call, but in no event should the time exceed 5 minutes from our side, if that is agreeable to the Senator from Ohio.

Mr. TAFT. That would be entirely agreeable to me.

Mr. MONDALE. Fine. As I understand it, then, the request is that the time will come out equally from both sides but in no event not more than 5 minutes from our side.

Mr. TAFT. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I do not know what the ultimate disposition of this particular measure may turn out to be. Some discussions have been underway at the present time and I may make a motion later in the debate to refer S. 5 to the Government Operations Committee.

As I am sure Members of the Senate are aware, title II has already been stricken from the bill, leaving only title I.

As pointed out in the minority views signed by Senators DOMINICK, BEALL, and myself, we expressed opposition to the entire bill but especially we expressed opposition to title I as establishing a council of social advisers in the Executive Office of the President and requiring an annual social report.

We indicated that we believed the President is the one in the best position, as head of the executive branch, to determine whether he needs an additional council to assist him in establishing social goals and priorities to recommend to Congress. We feel that the administration is justified in opposing the creation of this additional bureaucratic layer in the executive office.

Three years ago, the President, through executive reorganization, established the Domestic Council to assist him in the coordination and overview of domestic policy. The Domestic Council has great potential to provide coordinated planning and policy data to the President, and the recent personnel and organizational changes implemented with regard to the Council should prove to be quite constructive.

We would also point out that the Office of Management and Budget is very active in policy planning and coordination within the executive branch, especially at the current time, when, as the President recently pointed out, one of our top priorities must be to determine what the proper fiscal course of this Government will be.

The creation of a Council of Social Advisers as proposed in S. 5 would overlap the functions of the Domestic Council, OMB, and other executive branch organizations and represent in reality nothing more than an unnecessary additional expense to the Nation's taxpayers.

Mr. President, I feel that it would be an infringement on the internal executive branch's organization. I see no reason why a council is necessary or is likely to contribute materially to the course of the governmental process.

With respect to the Domestic Council, we have the distinguished and extremely capable Melvin Laird who has taken over on that Council recently, with new personnel. We have had, this very week, a comprehensive 24-page message from the President citing the various programs establishing priorities as advanced by the Domestic Council. Also, of course, particularly as we are talking about budgetary restraints, that is a good reason for not enacting title I from that point of view. Title I would authorize $1,500,000 to be appropriated for that program for each of 3 years. In other words, I feel that this Council is completely unnecessary.

Let me proceed for a moment to a discussion of the procedural situation in which we find ourselves at this time.

Title 1 is the only remaining part of the bill, title 2 having been stricken by an amendment by the Senator from New York (Mr. JAVITS). At the same time, the Senator from New York (Mr. JAVITS) offered an amendment to a bill pending before the Committee on Government Operations, and that amendment is pending at the desk. It would have the effect of bringing up the items in title 2 on that bill, when and if the bill comes to the floor.

As to title 1, I think it is clear that this measure properly should be considered by the Government Operations Committee and actually should have been originated by the Government Operations Committee. The rules of the Senate are quite clear that that committee has the responsibilities with regard to the matter of the organization of the executive branch of Government, and I feel that properly this measure ought to be there.

In due time, if others do not take such action, I expect, under the consent agreement we have before us, to move to refer the entire bill to the Committee on Government Operations. As I understand from the Parliamentarian, this would be in the nature of the motion to recommit which is referred to in the unanimous-consent agreement; and a vote would occur on it, unless other action is taken by the Senate, at 11:45 a.m., under the unanimous-consent agreement.

I think this would properly dispose of the measure at this time and put it on the right track for consideration as to whether any suggestions or questions are raised as to the current operation of the domestic council and the OMB that could be better provided for by looking at the proposals made in this measure. As I have said, I doubt it.

If I am constrained to vote on the measure at this time, I shall, of course, vote against it. The more orderly and proper procedure, it seems to me, is to refer it to the Committee on Government Operations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Does the Senator from North Carolina desire time?

Mr. ERVIN. Mr. President, will the Senator yield me 1 minute?

Mr. TAFT. I yield the Senator from North Carolina such time as he may desire.

Mr. ERVIN. Mr. President, I think this bill is clearly within the jurisdiction of the Committee on Government Operations. It would establish a council in the Office of the President, and for that reason the bill falls clearly within the jurisdiction of the Government Operations Committee. I hope the distinguished Senator from Minnesota will agree to a reference to that committee. I can assure him that we will hold a hearing on the bill immediately.

Mr. MONDALE. Mr. President, as I indicated to the distinguished Senator from North Carolina earlier, if it was his judgment that this is a matter which should be referred jointly to the Committee on Labor and Public Welfare and the Committee on Government Operations, I would have no objection; and if he felt it was a matter of exclusive jurisdiction, I might not object, either.

I am waiting now to consult Mr. JAVITS, the cosponsor of the measure. I hope only that the chairman could be in a position that some kind of expeditious treatment of this matter might be provided by the committee. I would not ask for a time agreement.

Mr. ERVIN. I assure the Senator that we would do all we could to give as speedy a hearing on the bill as possible.

Mr. MONDALE. Mr. President, as the chairman may know, the bill has been passed twice by a substantial margin, as I recall, and this is the third time it is being considered. This is the first time this particular question has been raised.

I do not feel too strongly about the proposal, but I would, first, like to speak with the minority cosponsor (Mr. JAVITS).

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, in conversation with my distinguished cosponsor, the Senator from New York (Mr. JAVITS), and the chairman of the Committee on Government Operations, the Senator from North Carolina (Mr. ERVIN), we have agreed that this matter can be referred to the Committee on Government Operations. The chairman, I believe, indicated he would be willing to agree to a 60-day reporting period.

I ask the sponsor of the amendment, the distinguished Senator from Ohio, if he could modify his amendment accordingly. If so, I think we can proceed on that basis.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. TAFT. Mr. President, I have not offered the proposal yet, but in view of that I will move to refer S. 5, the Full Opportunity and National Goals and Priorities Act, to the Committee on Government Operations, with instructions that the Committee on Government Operations is to report in 60 days, if that is agreeable to the chairman of the committee.

Mr. ERVIN. That is entirely satisfactory to me. The matter will be referred to the proper subcommittee. The cosponsor of the measure, the Senator from New York (Mr. JAVITS) is a member of the Committee on Government Operations. He is one of the most diligent members of the committee, and he renders extremely valuable services to the committee, the Senate, and the country in his capacity as a member of that committee.

Mr. MONDALE. I thank the distinguished chairman of the Committee on Government Operations.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think that the distinguished Senator from Minnesota (Mr. MONDALE) is well advised to agree to this resolution with a time limitation.

The Committee on Government Operations has under consideration right now a rather broad question of congressional machinery to deal with what are considered to be new responsibilities which have resulted from a new consciousness on the part of Congress and the President that the allocation of power, as it has been developed in recent decades—and certainly since World War II—is neither satisfactory to the United States nor to Congress. It is considering that in respect of impoundment; it is considering that in respect of congressional machinery to deal with priorities and objectives which have been so largely taken for granted in the executive budget.

It seems to me, therefore, that this effort to concentrate consideration across the board on the social aspects of our governmental operation—which although in the Executive hands would have its relation to the Congress—fits precisely within that pattern.

I am a member of the Committee on Government Operations, and have the honor to serve under the Senator from North Carolina (Mr. ERVIN). I wish to assure the Senator from Minnesota (Mr. MONDALE) that insofar as I can I will favor consideration of this matter in a very sympathetic way.

I have an idea that the way this matter ultimately will come out is that we will have a more complete framework than we have today and that the arch will have segments and I think hopefully this can be a segment of that arch.

I chose to strike title II of which I was the author from the bill because I saw so much under consideration by our committee. I would not for a moment counsel the Senator from Minnesota, but I think that although this will turn out perhaps not the optimum way to get this particular bill passed, it is the best way to have the idea made meaningful, and knowing the Senator from Minnesota as I do I feel that is what he wants primarily.

So I am pleased to see the resolution of the problem and I will do my utmost to cooperate.

Mr. MONDALE. Mr. President, I wish to add this point. I am agreeing to this referral without prejudice to any jurisdictional claims the Committee on Labor and Public Welfare may have on this matter or over such questions as confirmation.

Mr. President, I ask unanimous consent that a table indicating jurisdiction on similar matters on past occasions appear at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE

SELECTED UNITS OF THE EXECUTIVE OFFICE OF THE PRESIDENT WITH OPERATIONAL AUTHORITY AND SENATE LEGISLATIVE COMMITTEE INDICATED

| EOP unit | Authority | Title (if any) | Senate legislative committee |
|---|---|---|---|
| Council of Economic Advisers | 60 Stat. 24 | Employment Act of 1946 | Committee on Banking and Currency. |
| National Security Council | 61 Stat. 496 | National Security Act of 1947 | Committee on Armed Services. |
|  | 63 Stat. 579 | National Security Act Amendments of 1949 | Do. |
| National Aeronautics and Space Council | 72 Stat. 427 | National Aeronautics and Space Act of 1958 | Special Committee on Space and Aeronautics. |
| Office of Economic Opportunity | 78 Stat. 508 | Economic Opportunity Act of 1964 | Committee on Labor and Public Welfare. |
| Office of Emergency Preparedness | Reorg. Plan No. 1 (1958) and E.O. 11051 (Sept. 27, 1962). | None | None. |
| Office of Science and Technology | Reorg. Plan No. 2 (1962) | do | Do. |
| Office of the Special Representative for Trade Negotiations. | E.O. 11075 (Jan. 15, 1963) | do | Do. |
| Council on Environmental Quality | 83 Stat. 852 | National Environmental Policy Act of 1969 | Committee on Interior and Insular Affairs. |
| Office of Telecommunications Policy | Reorg. Plan No. 1 (1970) | None | None. |
| Council on International Economic Policy | Public Law 92-412 | Export Administration Act Amendments of 1972. | Committee on Banking, Housing and Urban Affairs and Committee on Foreign Relations. |
| Office of Consumer Affairs | E.O. 11583 (Feb. 24, 1971) and E.O. 11595 (May 26, 1971). | None | None. |
| *Special Action Office for Drug Abuse Prevention* | Public Law 92-255 | Drug Abuse Office and Treatment Act | Committee on Government Operations and Committee on Labor and Public Welfare. |

Mr. MONDALE. Mr. President, I am prepared to yield back my time.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be taken equally from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unanimous-consent agreement with relation to the pending business be vitiated.

The PRESIDING OFFICER. Without objection, the order will be vitiated.

Mr. TAFT. Mr. President, I believe the pending question is now my motion to refer.

The PRESIDING OFFICER. The Senator is correct.

Mr. TAFT. Mr. President, I yield back any time I have remaining.

Mr. MONDALE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Chair will advise the Senate that there is no time limitation since the unanimous-consent agreement has been vitiated.

Mr. MANSFIELD. Mr. President, would the Presiding Officer have the motion read again for the benefit of the Senate?

The PRESIDING OFFICER. The clerk will read the motion again.

The legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) offers a motion to refer S. 5 to the Government Operations Committee with instructions to report back within 60 days.

Mr. MANSFIELD. Mr. President, is it understood that when it is reported back within 60 days, it will be immediately placed on the calendar?

The PRESIDING OFFICER. That is the understanding of the Chair. That is the usual procedure.

The question is on agreeing to the motion (putting the question).

The motion was agreed to.

## APPOINTMENT BY THE VICE PRESIDENT—NORTH ATLANTIC ASSEMBLY

The PRESIDING OFFICER (Mr. ABOUREZK). The Chair on behalf of the Vice President, in accordance with Public Law 84-689, appoints the Senator from Alabama (Mr. SPARKMAN) and the Senator from Massachusetts (Mr. KENNEDY) to be delegates to the North Atlantic Assembly, to be held in Ankara, Turkey, October 21-27, 1973.

## APPOINTMENT BY THE VICE PRESIDENT—GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

The PRESIDING OFFICER (Mr. ABOUREZK). The Chair, on behalf of the Vice President, appoints the Senator from Rhode Island (Mr. PASTORE) and the Senator from Utah (Mr. BENNETT) to attend the 17th session of the general conference of the International Atomic Energy Agency, to be held in Vienna, Austria, September 18-24, 1973.

## APPOINTMENT BY THE VICE PRESIDENT—U.S. TERRITORIAL EXPANSION MEMORIAL COMMISSION

The PRESIDING OFFICER (Mr. ABOUREZK). The Chair, on behalf of the Vice President, in accordance with 48 Statute 967, appoints the Senator from Missouri (Mr. SYMINGTON) to the U.S. Territorial Expansion Memorial Commission, in lieu of the Senator from Idaho (Mr. CHURCH), resigned.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUDDLESTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

## MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1165. An act to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", and for other purposes; and

S. 1672. An act to amend the Small Business Act.

The enrolled bills were subsequently signed by the President pro tempore.

## INCREASE IN CERTAIN ANNUITIES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1866, which the clerk will now report.

The legislative clerk read as follows:

Calendar No. 335 (S. 1866), a bill to provide increases in certain annuities payable under chapter 83 of title V, United States Code, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Post Office and Civil Service with amendments, on page 1, line 7, after the word "than", strike out "twelve" and insert "12"; on page 2, at the beginning of line 10, strike out "thirty-six" and insert "9"; in line 14 after the word "Act" strike out "divided by the number of children; and" and insert a semicolon and "and"; at the beginning of line 17, strike out "twelve" and insert "12"; and, after line 20, strike out:

SEC. 3. (a) An annuity payable from the civil service retirement and disability fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $240.

(b) An annuity payable from that fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $132.

And, in lieu thereof, insert:

SEC. 3. Section 8332(b)(9) of title 5, United States Code, is amended by striking out "8339(h)" and inserting in lieu thereof "8339(i)".

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The annuity of an employee or Member retiring under this subchapter, or prior comparable provision of law, shall in no event be less than 12 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act. This subsection shall not apply to any individual receiving benefits under such title II."

Sec. 2. Section 8341 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The annuity of a survivor payable under this subchapter, or prior comparable provision of law, shall in no event be—

"(1) in the case of a surviving child, less than 9 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act; and

"(2) in the case of any other survivor, less than 12 times such primary insurance amount (including any such cost-of-living increase).

This subsection shall not apply to any individual receiving benefits under such title II."

Sec. 3. Section 8332(b) (9) of title 5, United States Code, is amended by striking out "8339(h)" and inserting in lieu thereof "8339(i)".

Sec. 4. This Act (other than section 3 and this section) shall become effective ninety days after its enactment. Increases in annuities provided by this Act shall apply with respect to a monthly payment of any annuity made for any month commencing on or after such effective date.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I bring before the Senate for consideration, S. 1866, as reported by the Committee on Post Office and Civil Service. Hearings were held during the 92d Congress before the Subcommittee on Compensation and Employment Benefits on legislation I introduced similar to that presently before the Senate. Again, during this Congress, the annuity situation was reviewed before the same subcommittee. I think that a substantial record was built to justify the legislation as reported by the committee. I would like to thank the distinguished chairman of the full Committee on Post Office and Civil Service, Senator McGee, my colleagues on the committee, and the staff for their diligent work in behalf of this and other legislation to benefit Federal retirees.

The bill before us proposes a minimum civil service retirement annuity equal to the social security minimum. Any individual receiving benefits under title II of the Social Security Act would be excluded from receiving the minimum civil service benefit established. The bill would also provide, in the case of a surviving child, that the monthly installment of annuity payable shall in no event be less than three-fourths of the minimum monthly amount allowed under social security. In the case of any other survivor, the monthly installment of annuity in no event shall be less than the monthly minimum allowed under social security. As my colleagues are aware, the present social security minimum payment is $84.50 per month.

S. 1866 further provides that the annuity for civil servants would change to reflect future increases in social security passed by Congress.

The committee estimates that the unfunded liability of the Civil Service Retirement Fund would be increased by $233.4 million, amortized by 30 equal annual installments of $14.5 million.

Mr. President, the intent of this legislation is to benefit those civil service retirees who need it the most. Cases have been presented to the Subcommittee on Compensation and Employment Benefits, which I chair, showing that workers with long Federal experience have retired on annuities far below the $84.50 minimum. For example, the National Association of Retired Federal Employees has told of a case in which a retiree with 23 years of service received $45 per month annuities. Another case showed a 27-year retiree receiving $75 per month, and yet another related the case of a 37-year Federal worker who now receives an annuity of $78. These people are asking for no more than subsistence—and bare subsistence at that—when they ask Congress for a minimum annuity equal to that provided others under the social security system. The committee felt that, by excluding from minimum annuities those receiving social security payments, the retired Federal workers who need help the most will be benefited. In other words, Mr. President, we are putting this retirement system on the same basis, in the same amount, and on the same footing as social security.

Mr. FONG. Mr. President, I rise to support the bill. It is a fair bill. This bill brings the lowest annuity of civil service retirees who are not receiving any social security retirement up to that of the minimum received by social security annuitants. I ask that the Senate pass the bill.

Mr. BURDICK. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment.

Mr. FONG. Mr. President, I suggest the absence of a quorum. The Senator from Florida (Mr. Gurney) has an amendment to the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, I call up my amendments numbered 448 to S. 1866, on behalf of myself and the Senator from Utah (Mr. Moss).

The PRESIDING OFFICER. The amendments will be read.

The assistant legislative clerk read the amendments as follows:

On page 2, at the end of section 2, insert the following new section 3:

"Sec. 3. (a) An annuity payable from the civil service retirement and disability fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $240.

"(b) An annuity payable from that fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $132.".

Renumber subsequent sections accordingly.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. GURNEY. Yes, I yield to the distinguished acting majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Florida for yielding.

Mr. President, I have discussed the following request with him and with the distinguished manager of the bill (Mr. Burdick) and the distinguished ranking Republican member of the committee (Mr. Fong). It is as follows:

I ask unanimous consent that the vote on the amendment by Mr. Gurney occur at the hour of 2 o'clock p.m. today, and that upon the disposition of that amendment the Senate then proceed to vote on passage of the bill (S. 1866), and that rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER TO CONSIDER H.R. 7724, TO AMEND THE PUBLIC HEALTH SERVICE ACT

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for one further request?

Mr. GURNEY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 1866 today, the Senate then proceed to the consideration of H.R. 7724, an act to amend the Public Health Service Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding.

## INCREASE IN CERTAIN ANNUITIES

The Senate continued the consideration of the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

The PRESIDING OFFICER. Does the Senator from West Virginia have a suggestion on the division of the time?

Mr. ROBERT C. BYRD. Yes, Mr. President. I ask unanimous consent that the time on the pending measure be equally divided between Mr. Burdick and Mr. Fong, or their designees, and that time on the amendment be divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mrs. President, I ask unanimous consent that the name of Mr. Tower, the Senator from Texas, Mr. Dole, the Senator from Kansas, and Mr. Randolph, the Senator from West Virginia be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, first of all, I want to commend the Post Office and Civil Service Committee for bringing out this bill, which I think is desperately needed as far as our civil service retirees are concerned, to increase their pension benefits in some small way, to bring them up to equal what some of our social security recipients are receiving. That is what the bill would do. Certainly, the committee is to be commended for recognizing this need and for bringing out this bill.

I do think, however, that we ought to do something a little more, and that is what my amendment provides. What it actually does is provide that for civil service retirees who retired prior to 1969 there would be a flat $20 a month increase, or $11 a month for surviving spouses in case the recipient of a civil service pension did not live.

Actually, of course, these figures, translated to a yearly level, would be $240 a year in the case of a civil service retiree and $132 in the case of his or her surviving spouse.

The 1969 date is used, as it was in the original bill, because prior to 1969 Federal retirement benefits were based on the high 5-year earnings. Since that time the benefits are based on the high 3 years of earnings, so that persons who have retired since 1969 generally have higher pensions than people who retired prior to 1969, all other things being equal. Moreover, substantial increases in salary for current civil service employees have taken place since that time, thereby widening the gap between the older and younger retirees.

I firmly believe that the arguments in favor of my amendment are overwhelming. As I pointed out in a floor statement yesterday, Federal retirees have received only one-half of the benefit increases in recent years that social security retirees have received, and usually that has not taken place until several months after the increases for the social security recipients.

For example, in the fact of a 20-percent increase effective last September, for social security retirees, civil service retirees received a 6.1-percent increase in their pensions this past July. That certainly is a long way from a 20-percent increase that we awarded the social security recipients, but certainly the cost of living, rent, food, clothing, and all the other products that people have to have or desire to buy with their retirement income is just as high for a retired postal worker or some other retired Government worker as it is for a former factory worker or someone else who is receiving social security.

I might point out that in recent months a number of articles in the press have described the shameful manner in which Americans have treated their elderly over the years. A few months ago a CBS documentary entitled "You'll Get Yours When You're 65" compared the retirement systems in Europe with ours here in the United States. To say that our retirement systems are inferior is to put it mildly, to say the least. While we do have the highest standard of living of any nation in the world, higher than any other country in the world, we have not done nearly as well for our elderly people to partake in the abundance of our Nation's wealth. Those who are employed do, but those who are retired do not.

For example, let us take a look at some of the comparisons between the benefit increases for social security recipients in recent years versus the benefit increases for Federal retirees.

In January 1970, we increased social security by 15 percent.

In August 1970—and there again, I point out the time gap between what we did for the social security recipients and what we did for the Federal civil service retirees—we increased the civil service pension by 5.6 percent, as contrasted to the 15 percent for those social security recipients.

In January 1971, we gave a 10-percent increase in the payments to the social security recipients.

In June of that year—6 months later—we came up with a 4.5-percent increase for the civil service retirees.

In September of 1972—last year—of course, we had a 20-percent increase for the social security recipients. I think that is the largest increase that has been granted during the history of the Social Security Act. In July of that year we increased the civil service recipients by 4.8 percent. Later on, we came back in July of this year—but that was a year later—and increased the civil service retirees by 6.1 percent. However, that was still only a little better than half of the increase which we had given to the social security recipients in September of last year.

I do not think that this is at all fair. I do not think it is necessary. I think that the country has enough wealth and abundance so that we can treat our civil service retirees a little better. Certainly it seems to me that if we have a soft spot in our hearts for anyone as far as retirees are concerned, we ought to think of the Government employees, people who back up our work in the Congress and in the Senate. We call on them again and again for information to help us do our work in the Congress.

It seems to me that we at least ought to treat them on a fair and equal basis with the social security retirees. There is not much question that the retirement pensions of a great many of our people are really less than adequate for today.

I live in the State of Florida. Florida has the highest percentage of elderly retirees of any State in the Nation. And that percentage is growing all the time. I am thoroughly familiar with the problems they have. I cannot help remembering just a few weeks ago when Congress was in recess that I did some shopping in my hometown in some of the supermarkets. I would watch an elderly couple go down the aisle with their food cart and select the items they were going to buy for the next week, or for whatever period it was.

I watched them pick up a can or some package of food from the shelf, examine it carefully and read everything on the label. They would then take another can or package of food and examine it also to be sure that they would get the most for their money.

I watched them put a can or food package of some kind into the cart and go on with their shopping. On some occasions, I would see them back up and put the can or package back on the shelf, because they did not think that they could afford that particular food item.

Mr. President, when one sees people buying staples for their daily diet, items that those of us in the Senate would never question as far as price is concerned, it drives home the fact that the elderly today are hard-pressed to stretch their income enough to provide for them the bare necessities of life—food, shelter, and clothing—that they have to have.

As far as the civil service retirees are concerned, faithful Government employees who have given all of their working lifetime to the Government service, we ought at least to treat them a little better in this particular pension bill. We did a good job in bringing it up to the social security minimum. However, those who retired prior to 1969 certainly are not getting a fair shake compared to those who retired after 1969.

As I have said before, the retirement income prior to 1969 was based upon the average yearly salary of a period of 5 years. After 1969, it was based upon the highest yearly salary over a period of 3 years.

Obviously those who retired with a pension calculated on the basis of the highest annual salary over a period of 5 years receive less than those who retired with their pension based on their average salary based on a period of 3 years on that basis alone.

Then, another discouraging thing is that the longer one stays in the Government, the higher the salary becomes so as to take care of the cost of living. And that is not reflected in the retirement benefits at all.

I believe that Congress must proceed with this very modest increase of $20 a month or $240 a year so as to give those people who retired prior to 1969 a little fairer shake than they received at the time they retired.

Mr. President, I reserve the remainder of my time.

Mr. BURDICK. Mr. President, as the author of the pending bill, and as the floor manager of the bill before the Senate today, I find myself in a very unusual position.

When I introduced S. 1866 in the Senate, the very provision now sought to be added by the distinguished Senator from Florida was part of my bill. I cannot take issue with the arguments raised by the Senator, because I fully agree with him. However, the problem we face is not in the merits. The problem we face is in the budget.

The Civil Service Commission appeared before the committee and very strongly testified against not only the material stated in the Senator's amendment, but also against the entire bill based upon a matter of cost.

The testimony shows that the amendment of the Senator from Florida would cost $1.935 billion over a 30-year period, or $119 million a year or more.

The minimum floor that was left in the bill would cost $233.4 million, or about $14.5 million a year over a 30-year period.

It was thought by the committee that we could better get the approval of the administration for the lesser amount, and that we might lose it all if we were to include the material suggested in the Senator's amendment. That is the rationalization for coming out with a minimum bill.

We should bear in mind that there are 70,000 annuitants in this country today who receive less than $84.50 a month. There are survivors of annuitants numbering 140,000 who will benefit by this minimum bill.

If we add this amendment to the bill, it might receive a veto and possibly we could not override it. However, then the 70,000 annuitants and the 140,000 survivors will have suffered loss of money they dearly need.

It is just a question of judgment. We believe that we can receive approval of the bill in its present form. And we are very apprehensive that it will not be approved if the amendment is agreed to.

As I said before, I am for the amendment. It was part of the bill when it was introduced in the first place. I have no arguments against it on its merits. However, I do on budgetary matters.

Mr. FONG. Mr. President, although there is some merit in the amendment of the distinguished Senator from Florida, I rise to oppose the Gurney amendment to S. 1866, a bill which as reported out by the Senate Committee on Post Office and Civil Service, establishes a minimum for Federal annuities.

The committee, after intensive discussion, decided to include in this bill provision only for a minimum or floor for annuities payable out of the Federal retirement fund. The minimum selected is the same as that payable under title II of the Social Security Act. At the present time this minimum is $84.50 per month.

The bill also provides that the minimum Federal annuity would change to reflect any future social security increases passed by the Congress. Any individual receiving benefits under title II of the Social Security Act would be excluded from receiving the civil service retirement minimum annuity benefit.

The cost of the bill as reported is $233.4 million. This cost would be amortized over a 30-year period by payments from the general treasury to the retirement fund—$14.5 million annually.

S. 1866, as introduced, contained an additional provision which would have given all Federal retirees who retired prior to October 20, 1969, a $240 per year increase in their annuities.

In other words, any retiree who retired prior to October 20, 1969, would be given $240 more a year, added to his annuity.

The October 20, 1969, date was selected, because that was the date when computations of Federal employee annuities were changed from a base of the average "high 5" salary to the average of the "high 3" salary rate.

During committee discussions on the measure which changed the base rate from "high 5" to "high 3" all Senators realized that a cutoff date had to be selected. It was decided that the change should be effective on the date of enactment and not be retroactive. It might be mentioned here that the change was necessitated by the keen competition for competent employees which was taking place then and continues to take place between Government and private industry.

To add to that, I wish to read from a letter from the U.S. Civil Service Commission dated June 6, 1973, addressed to Senator McGEE, a paragraph which explains why we changed from the "high 5" to the "high 3" computation.

The letter states:

> These liberalizations and their cost—

Referring to the cost of using the "high 3" rather than the "high 5"—

> can be justified because of the need to maintain the Government's competitive position in the labor market. This justification cannot be extended to employees already retired. Furthermore, the Federal Government has not, and in our opinion should not, adopt a policy of assuring its already retired employees that their benefits will be kept on a par with those available to employees currently retiring, taking into account increases in salary and liberalizations in the Civil Service Retirement law. Instead, as indicated above, the policy is one of providing annuities in amounts related directly to length of service and salary received and thereafter guaranteeing that the purchasing power of the "earned" annuity will be preserved by automatic upward adjustments in accordance with the rise in the cost of living as reflected by the Consumer Price Index.

When S. 1866 was being discussed in committee earlier this year, it was decided to strike from the bill being reported out the provision giving the $240-per-year annuity increase to all pre-1969 annuitants.

This decision was made on the basis of the consideration given in 1969 to making Public Law 91–93 prospective and not retroactive and the extremely high cost of the $240 provision.

The provision giving $240-per-year increase to all pre-1969 Federal annuitants—833,326 out of the total 1,192,465 persons on the Federal retired rolls—will cost almost $2 billion. Of the persons now retired, more than 70 percent were retired before 1969 and, if this amendment is passed almost three out of every four retirees will receive this increase of $240 per year. If this amendment is passed it will add another $2 billion to the unfunded liability of the Federal retirement fund.

At the present time the Federal retirement fund is $63.5 billion in deficit. Although Congress has provided for making up this deficit by the year 1980 it is still $63.5 billion in the red. Any liberalizations added for Federal annuities, increases this unfunded liability of $63.5 billion and increases the drain on the Federal Treasury.

If the $240 per year annuity increase provision was to become law the $2 billion cost would be amortized over a 30-year period with annual contributions of $119.9 million from the general treasury to the retirement fund.

In other words, we would take this money from the general treasury. However, if this provision is added to the bill, it would certainly run the real risk of a Presidential veto. In fact, the Civil Service Commission came before the committee and fought against this bill entirely—in other words, the Civil Service Commission was also against the bill as we have reported it here on the floor, which calls for an amortization of $14 million a year. If we add this $2 billion deficit to the $63.5 billion in arrears of the fund, it will surely be vetoed by the President.

The bill as reported out by the Post Office and Civil Service Committee is a bill that will help all of the Federal annuitants who are below the poverty level. These are the annuitants who need the help the most. This is what the committee intended to do. Adding the Gurney amendment to the bill is sacrificing these little people for a provision that will almost of a certainty bring a Presidential veto.

In referring to all Federal annuitants, the Congress in 1966 wrote into law the provision increasing Federal annuities whenever the cost of living index exceeded the base period by 3 percent for 3 consecutive months. Since the initial law was enacted the Congress has amended it to add a full 1 percent in addition to the cost-of-living increase figure.

Since 1966, Federal annuitants have received increases totaling 57.8 percent, because of the cost-of-living increase law.

That is the way the Congress intended to compensate the Federal annuitants—not with a $240 per year increase, which is far too expensive.

In view of the laws which have been passed increasing Federal annuities, the cost of the Gurney amendment, the current urgent need to exercise fiscal restraint in an anticipated deficit year, and a sure veto by the President if this amendment is passed, thereby killing the minimum annuitant provisions in this bill, I urge that the Senate approve S. 1866 as reported out by the committee and vote against the Gurney amendment.

Mr. GURNEY. Mr. President, I think we have some disparity in our figures here. My understanding is that the total cost of the bill with my amendment in it will be approximately $1.9 billion. If you take out the $233 million which the present bill supplies, that leaves the cost of my amendment, as I calculate it, about $1.66 billion, not $2 billion—not $2 billion. Then, of course, the other thing I think we must point out here is that the total overall bill of $1.9 billion will be amortized over a period of 30 years, which is a long time. It is not as though we are going to pick up that tab next year, but the $1.9 billion will be amortized out over a period of 30 years, with each year seeing a lessened amount of spending, because of the deaths which will occur to the older retirees.

So I do not think it is all that great big a thing. My record on economy in the

Senate equals that of any other Senator over the years. For that matter, it has been so in the 11 years since I came to Congress—House and Senate combined. Sometimes I have been called a total penny-pincher, but this is one area I do not believe in pinching pennies and that is in the retirement income area of our older people who need it and need it more desperately today than they ever have before. The way inflation goes on in this country today, each week, each month, shows a dwindling purchasing power, which of course affects the elderly segment of our society more than any other.

I have praised the merits of the bill that the committee has brought out. I did that in all sincerity and honesty and I still feel the same way. I also point out that my information is that this particular bill, so far as Federal civil service retirees are concerned, will affect only between 3, 4, and 5 percent of Federal civil service retirees—somewhere in that ball park figure. So the 95 percent, 96 percent, and 97 percent will not be affected at all. The only ones affected are those presently who are receiving only a civil service retirement pension that is less than the minimum paid to social security recipients. As I say, my information is that that is a very small percentage figure. We are not talking about helping many people.

I still go back to the same argument I made before: Why give these people any increase at all, even though it does cost us money?

Well, we do it because they are not being treated fairly and squarely in comparison to those who retired after 1969. To me, that is unconscionable, to retire a segment of employees prior to one year and give them retirement benefits less than those who retired after that year. I have never been able to understand that. I do not understand it in the military retirement system, either. It exists there, too. It seems to me that everyone should be treated on an equal basis.

So far as a Presidential veto is concerned, I must say that I am not worried about that too much. We can disagree with the President on occasion. I have done so myself, and so have other Senators on occasion. We will do so again. The thing we must think about here is, what is the fair and equitable thing to do? If we have to face a veto, we will face it and then come back and vote on it again.

I point out—and this is extremely important—that the information I get from retirement organizaions which encompass the bulk of retirees in this country, like the National Association of Retired Federal Employees, as well as the National Retired Teachers Association and the American Association of Retired People, is that all of these associations back this amendment 100 percent. They say that they would rather risk a Presidential veto than simply to get the rather limited benefits that are in the main bill, so far as the number of retired civil service employees is concerned.

So, I say, let us face the danger of a veto. We do not know whether we will get one or not. Ofttimes the 1600 Pennsylvania group of Government will make noises and try to discourage the Senate or the House from acting and then, after they have acted, those noises die away, just as the leaves in autumn.

I think that we can risk a veto here, if we feel in our minds that we are doing the fair and equitable thing—and I certainly think that we are.

Now, Mr. President, I am prepared to yield back the remainder of my time.

Mr. BEALL. Mr. President, the legislation currently under discussion, S. 1866, would provide for a minimum civil service retirement annuity equal to the minimum received by social security annuitants. As pointed out in the committee report, during the year 1971 over 70,000 Federal annuitants were receiving less than $84.50 a month, the current social security minimum. If our Nation's Federal retirees are to be equipped, at least in part, with the means necessary to meet the dramatic increases in the cost of living, this legislation must be enacted.

While I support passage of S. 1866, I strongly urge the adoption of Senator GURNEY's vital amendment to the legislation. This amendment, which I have cosponsored, would restore section 3 of the bill, which had been deleted by the Post Office and Civil Service Committee, to provide a $20 per month benefit increase for all those civil service employees who retired prior to October 1969 in an effort to aid those retirees who retired during the period of lower pay scales. In addition, those who retired prior to October, 1969 did not have the benefit of the liberalized retirement law which provided for a computation of annuities based on the 3 highest years rather than on the 5 highest years.

My contacts with the many Federal retirees throughout the State of Maryland certainly have indicated the necessity for a provision correcting the inequity which exists in this area and I am pleased to support Senator GURNEY in this effort.

### PLIGHT OF OUR SENIOR ANNUITANTS

Mr. DOLE. Mr. President, I have joined as a cosponsor of the amendment to S. 1866 now offered by the senior Senator from Florida. This amendment would provide a $20 a month increase for pre-1969 civil servant annuitants, or an $11 a month increase for their surviving spouses.

The justice of such an amendment is obvious since it would merely authorize pre-1969 retirees from a position the same benefits that an employee retiring from that same position today would be eligible to receive. And though there are significant costs tied to passage of this amendment, they are set costs. The population eligible for benefits under this amendment cannot expand, and therefore, neither can the Federal Government's liability. The cost of the annuity increase will also be spread over a 30-year period, and thus it is obvious that the item will not become a budget buster.

In addition, there is little doubt as to the need for the annuity increase. Older Americans across the Nation who are dependent upon fixed annuity incomes or social security have suffered the most from inflation. Their cost of living continues to increase, yet their income is fixed subject to adjustment only by an act of Congress. I feel it is incumbent upon those of us in Congress to remain aware of these needs and to act not only to assure a decent income for these elderly citizens, but also to halt the rapidly rising inflation which is the real cause of the problem.

Opponents of the amendment have stressed its cost and emphasized the inflationary impacts of such Federal spending programs. Limiting Federal spending is one effective means of controlling inflation, but the spending limitations must be imposed in such a way that they are not equally disastrous to our older citizens as is inflation itself.

I support this amendment as one of several legislative efforts which they desperately need and deserve. I am hopeful that the amendment receives favorable consideration, and that Congres will give other legislative proposals such as the property tax relief for the elderly proposed by the President in his message to Congress yesterday prompt and positive consideration.

Mr. BURDICK. Mr. President, I am prepared to yield back the balance of my time, but I understand that the Senator from Alaska (Mr. STEVENS) has an amendment. If the Senator from Florida is prepared to yield back his time——

Mr. STEVENS. Mr. President, I do have an amendment which I should like to call up. I understand that the time of the Senator from Florida (Mr. GURNEY) will run until 2 p.m., inasmuch as there is an agreement to vote on the bill at 2 p.m.; is that not correct?

The PRESIDING OFFICER (Mr. HATHAWAY). The agreement is to vote on the Senator's amendment at 2 p.m.

Mr. STEVENS. Yes, and that the vote will occur immediately thereafter on the bill; is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Would it not be in order to offer an amendment to be taken up in the meantime, if all time is yielded back on the Gurney amendment?

The PRESIDING OFFICER. It would take unanimous consent to do so.

Mr. GURNEY. Mr. President, I yield back the remainder of my time.

Mr. BURDICK. Mr. President, I yield back the remainder of my time.

Mr. FONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the Gurney amendment has now been yielded back.

Mr. STEVENS. Mr. President, I have an amendment at the desk and ask unanimous consent that I may be permitted to call it up at this time, with the vote on it to occur immediately after the vote on the Gurney amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

The amendment of the Senator from Alaska will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 1, line 3, after "That", insert "(a)".

On page 1, line 4, strike out "subsection" and insert in lieu thereof "subsections".

On page 2, line 2, strike out the quotation marks.

On page 2, between lines 2 and 3, insert the following:

"(p)(1) An employee retiring under this subchapter is entitled to have his annuity increased in accordance with this subsection, if the employee—

"(A) is residing, at the time of his entitlement to an annuity, in any State, territory, or possession of the United States in which employees are receiving an allowance under section 5941 of this title; and

"(B) has completed a period of at least 10 years service in one such State, territory, or possession.

"(2) Whenever an employee is serving in any State, territory, or possession in which employees are receiving an allowance under such section 5941, he may give notice in writing to the official by whom he is paid of his desire to become subject to this subsection. An employee satisfying the provisions of clauses (A) and (B) of paragraph (1) of this subsection may, at the time of retirement, give notice of his desire to become subject to this subsection. Upon giving any such notice, the amounts paid the employee as an allowance under section 5941 of this title shall be considered as basic pay for purposes of section 8334 of this title, except that deductions, contributions, and deposits made in accordance with such section 8334 shall not be made for any period after the first 10 years of total service in such States, territories, and possessions.

"(3) The provisions of this subsection shall not apply with respect to an employee, or survivor thereof, unless deductions or deposits (including interest), or both, have been made for such first 10 years of total service.

"(4) The amount of the increase in an annuity to which an employee is entitled under this subsection is the annuity of the employee computed under this section (other than this subsection) multiplied by the percent in effect under section 5941 of this title for that State, territory, or possession in which he resides at the time of retirement.

"(5) The amount of the increase in the annuity payable under this subsection shall be paid to the retired employee only for those full calendar months during which the annuitant resides in the State, territory, or possession in which he resided at the time of retirement."

(b) Section 8339 of title 5, United States Code, is further amended as follows:

(1) In subsections (j) and (k), strike out the phrase "subsections (a)–(i)" wherever it appears and insert in lieu thereof "subsections (a)–(i) and (p)".

(2) In subsection (l), immediately after "subsections (a)–(k)" insert the following: ", excluding any part of an annuity increased under subsection (p) of this section,".

(c) Section 8341, of title 5, United States Code, is amended as follows:

(1) in subsection (b)(1), strike out "section 8339(a)–(i)" and insert in lieu thereof "section 8339 (a)–(i) and (p)".

(2) In subsection (d) strike out "section 8339 (a)–(f) and (i) of this title and insert in lieu thereof "subsections (a)–(f) and (i) of section 8339 of this title, and subsection (p) of such section (if the employee had at least 10 years service in one State, territory, or possession of the United States in which employees received an allowance under section 5941 of this title and the employee died in such State, territory, or possession),".

(3) At the end thereof, add the following:

"(h) The amount that the annuity of a retired employee is increased as the result of section 8339(p) of this title shall not be included in computing the annuity of the survivor, widow, or widower under subsection (b), (c), or (d) of this section—

"(1) if the survivor, widow, or widower is not residing in the State, territory, or possession in which the employee resided at the time of retirement or death; and

"(2) commencing from the first day of the month in which the survivor, widow, or widower does not continuously reside in such State, territory, or possession after the date of retirement or death of the employee."

(d) Subsection (p) of section 8339 of title 5, United States Code (as added by subsection (a) of this section), and the amendments made by subsections (a) and (c) of this section shall apply to an employee (as defined in section 8331(1) of such title) and his survivors regardless of the date of retirement or death of the employee, except that the 10-year period of service for which deductions or deposits, or both, are required to be made shall be reduced by the period determined as follows: from the total number of months of service (not to exceed 120 months) that the employee was paid an allowance, prior to the effective date of this Act, under section 5941 of such title less the total number of months (not to exceed 120 months) that the employee was paid such allowance on and after such effective date.

Mr. STEVENS. Mr. President, at the time this bill was before the committee, I did indicate that I had a desire to discuss this question of the cost-of-living allowances. This amendment would correct a gross inequity in the civil service in Alaska, Hawaii, Puerto Rico, Guam, and any other areas which now or in the future are areas in which Federal employees may be eligible for cost-of-living allowances under section 5941 of title 5. These areas include stations "outside the continental United States," and also includes the State of Alaska, although that is within the continental United States.

These cost-of-living allowances were enacted many years ago by Congress to assist employees and to attract them to the Federal service in areas in which private industry created a great inducement and rendered the Federal service financially unattractive. They also enabled dedicated career Federal civil servants to be transferred to such areas with a high cost of living and to maintain a decent standard of living.

The cost of living in Alaska is still extremely high. Anchorage is the highest large city in the United States. Smaller towns in Alaska, particularly those north of Anchorage may be 50 percent higher. Fairbanks is much higher than Anchorage. Nome and Barrow are still higher. The cost of living in these parts of Alaska requires Federal civil servants be paid substantially more than those in the "Lower 48" just to maintain the same standard of living.

And that is not always possible. In many areas of Alaska severe cold plus relatively primitive conditions make it impossible to maintain a standard of living equivalent to a middle-class family in the "lower 48."

Although Alaska has the highest cost of living in the country, Hawaii is not far behind. I say to my good friend from Hawaii—Senator FONG—that I am aware that the fine city of Honolulu has the second highest cost of living of any major city. I am also aware of the higher cost of living in the other islands of the State of Hawaii.

This is the reason that Congress enacted section 5941. It gives the President the authority to establish in each such area the amount of any cost-of-living allowance. It sets a maximum of 25 percent of the basic pay of the employee. It does not require the amount—25 percent—be set in any area. Because of the extremely high cost of living in Alaska, the rate in my State is currently 25 percent. I understand it is significantly less—15 percent—in Hawaii. Section 5941 vests the discretion in the President to set the rate as he sees fit.

But even though section 5941 was enacted to attract Federal employees to the civil service in these high cost-of-living areas by increasing their take-home pay, the Federal Government has neglected another equally important aspect of the Federal salary problem.

This is the retirement benefits a Federal employee located in a high cost-of-living area can look forward to. Most unfortunately, there is no provision for an annuity program that will permit employees in these areas to contribute additional amounts to their annuity funds to enable them to receive annuities that will include funds sufficient to meet the high cost-of-living. There is no way now the dedicated civil servant who has put in 10 or more years in these extra high cost-of-living areas to retire, knowing that he will receive an extra cost-of-living allowance as an annuitant that will enable him to meet the high cost-of-living he will continue to face after retirement.

This has concerned us in Alaska for many years. In the 91st Congress I introduced S. 4243 to provide a cost-of-living allowance in Alaska to retired civil service employees. This bill was numbered S. 409 in the 92d Congress and was reintroduced as S. 191 in this Congress. This concept is embodied in my amendment.

My amendment has, however, been considerably revised at the suggestion of the Civil Service Commission and the Comptroller General. I shall discuss the details of these changes later in my discussion of the amendment.

This legislation will meet a very distinct problem in Alaska. It is a problem that was similar to the problem faced by the Federal Government during World War II in the then Territory of Alaska. A cost of living allowance was instituted in my State during the war by a number of agencies, one of which was the Post Office. To explain that concept, I would like to quote from the CONGRESSIONAL RECORD debates of February 2, 1948, as Congressman Farrington explained it:

> The Postal employees of Alaska do receive this 25% differential. There is a long history behind the payment of that 25%. It arose out of the conditions that developed during the

> War. I do not have the time to outline that now but it came about through the necessity of moving a great many people to those areas for the purpose of prosecuting the War and also because of the high cost of living in those areas.

We will shortly be seeing a similar influx of people in Alaska. They will be necessary to meet the critical energy needs of the United States and to construct the trans-Alaska pipeline. Many of them will bring with them their families and will become permanent residents of the State. Others will not, but all need government services—post office, fire protection, social services, law enforcement protection, et cetera.

Moreover, work must be provided for the families of these pipeline workers. Many of them are prime candidates for the Federal service. Many Federal agencies have offices in Alaska. These include the Federal Aviation Administration, the Bureau of Land Management and the Bureau of Indian Affairs just to name a few. Of course, the post office is a major federal employer in Alaska, and the post office has recently recorded a much higher turnover in the Anchorage and Fairbanks post offices than in comparable offices in the contiguous 48 States. One way we can assist the post office and other such Federal employers is to provide a good workable retirement system in Alaska. This will enable people to buy homes, make investments in the community, establish roots, particularly as they approach retirement age. Something must be done. We must do all we can to assure that the best employees remain in the Federal service in our noncontiguous States.

This concept will be highly acclaimed by Federal employees in the noncontiguous States. It will have an immediate and profound effect throughout the entire communities, in fact.

Although no action has been taken on the legislation I had introduced separately, I received a large number of letters from Federal employees in Alaska. I would like to quote from some of them.

One constituent writes:

> Just last Friday I attended a retirement party for six of my brother locomotive engineers who are retiring (from the Alaska Railroad) and not one of them is going to retire here. You ask them why. They say they can't afford it. I work for the railroad. I am a locomotive engineer. December 1, 1973 I will start my twenty-fourth year on the railroad. I am proud of it. But will I be able to retire here? Not as things are now.

Another constituent writes:

> I'm glad to see you are putting in a bill to increase our pensions for a 25% differential. I do not know if there is any hope for passage, but if so, it will mean the difference of my remaining or leaving Alaska.
>
> I have now resided in Alaska for close to 36 years. This is my home. This is where my friends are and where I want to live. I love this country and would find it hard to pull out and leave. Living costs in Fairbanks are at least 35% higher than most places outside. My retirement income is going to be low. Even after working my pay only equals my living expenses. How can I continue on approximately one half of that? I will leave Alaska only because I will need to, to survive. Nothing else would drive me away.

Mr. President, the high cost of living and the low retirement benefits are literally going to drive her away. I would like to see her stay.

Yet another writes:

> The cost of living here, of course, is such that a retired employee cannot afford to stay in Alaska once they are retired. This means selling a home and moving to a new location.

We are forcing our senior citizens to sell their homes and move thousands of miles away back to the mainland and the lower 48. This bill will help these people to retain the roots they have taken literally years to establish. It will help them to stay in their homes.

Yet another writes:

> The logic behind a cost of living allowance for retirees is an old one: Like pay treatment for like circumstances. It certainly follows that if the need exists for one group of federal employees, it exists for another. Actually the need is greater with the retired employee. The way it works now, an employee in Juneau is entitled to a 25% cost of living allowance until he retires. The day he retires, his cost of living allowance is cut off and in most cases, he is forced to leave the state because of the high cost of living. This hardly seems fair.

This hardly seems fair to me either, Mr. President. Why should the Federal Government turn its back on its dedicated civil servants the day they retire? Why should they be entitled to a cost-of-living allowance before they retire but be denied one after they retire?

Still another constituent writes:

> On or prior to August 1, 1974, I do plan on retirement, particularly as I did pass my 65th birthday last April. Your bill is very pertinent to my situation as I must make a number of decisions during the next 12 months concerning my future plans. Incidentally, at that time, I will have completed 33 years of federal service.
>
> We have lived in Alaska since 1950 and have owned our own home in Anchorage since 1955. We would like to retain our residence in Anchorage if financially possible.

I would like to help my constituents retain their home, too. One of the only ways they can do so is if we pass this amendment today. It is that important.

Mr. President, I have just indicated the feelings of many of my constituents. But one of them, Mr. Quinto L. Zanona of Palmer, mirrors the feelings of hundreds of similarly situated Alaskans. He wrote me in December 1970. He stated that this bill is—

> Without a doubt the most important document affecting the Alaskan white-collar Civil Service worker since the enactment of the 25% cost-of-living allowance back during the '40's when we were still under territorial status.

I ask unanimous consent that Mr. Zanona's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> PALMER, ALASKA,
> *December 30, 1970.*
>
> Hon. THEODORE STEVENS,
> *U.S. Senator,*
> *Washington, D.C.*
>
> DEAR SENATOR STEVENS: I am an active member of the American Federation of Government Employees, Lodge #1712, an 18-year resident of Palmer, Alaska, and a Civil Service Employee with over 29 years of Federal Service.
>
> I am taking this opportunity to express my appreciation to you and once again go on record in support of Senate Bill S. 4243 which you sponsored and introduced on 14 August 1970. This Bill is without a doubt the most important document affecting the Alaskan White Collar Civil Service worker since the enactment of the 25% cost-of-living allowance back during the '40's when we were still under territorial status. Up until the day that Senate Bill S. 4243 becomes Law, Alaskans will continue to be forced to face the hardship of selling their homes and leaving Alaska upon retirement simply because they cannot afford to continue living here on present retirement annuity which is geared to the cost of living in the lower '48.
>
> The need for passage of Senate Bill S. 4243 will become even more critical as we enter the 1972–73 time frame which will see the construction of the new petroleum pipeline, the attendant boom, and the inflationary spiral which will ensue.
>
> Your efforts in support of Senate Bill S. 4243 are deeply appreciated and will be closely followed by all of us here in the Anchorage Area.
>
> Respectfully yours,
> QUINTO L. ZANONA.

Mr. STEVENS. Section 5941 vests discretion in the President to set the rate as he sees fit. Even though section 5941 was enacted to attract Federal employees into the civil service in these high cost-of-living areas by increasing their take-home pay, we have neglected this cost-of-living allowance. Basically, this is what this amendment addresses. It addresses the problem of the retirement benefits of a Federal employee located in a high cost-of-living area.

In those areas, while employed, Federal civil servants receive a 25-percent cost-of-living allowance. When they retire, their retirement pay is based on the civil service schedule and does not include the 25-percent cost-of-living allowance they received during their years of Federal employment. So that when they retire, they face the problem of what to do if they are to continue to live in the high cost-of-living area and yet receive their retirement pay based upon the civil service schedule, which is substantially below what they received during the period of their active employment. The obvious choice for many retired civil servants is to leave the place where they have been employed, where they have children in school, or they have all their friends, and to move to another area of the country where they can afford to live during their retirement years.

The amendment I have offered would provide a cost-of-living allowance to retired civil service employees. I introduced a previous bill on this subject, S. 409, in the 92d Congress, and I reintroduced the bill, which is S. 191, in this Congress. The concept of both those bills is involved in this amendment.

We have had comments from the Civil Service Commission and the Comptroller General concerning the bills I have introduced, and I feel that it is proper to note that they have commented upon this subject.

I also point out to Members of the Senate that we are not very far from commencing construction of the Alaska pipeline. When the Alaska pipeline construction begins, all the costs in Alaska will go up. We know that we are going to have substantial inflationary pressures on our economy, and the problem these civil service employees face is going to be even worse after the pipeline construction starts, particularly as to those who have reached retirement age. As our cost of living goes above what it is now, I have no doubt that they will experience severe pressures to move from Alaska when they retire.

I hope the managers of the bill will accept this amendment and take it to conference for the purpose of discussing it with Members of the House and to get the viewpoints of the affected Government agencies concerning it.

We have a very difficult problem in Alaska for those people who retire and have been in civil service a sufficient length of time to retire. I think the only way to really deal with this problem is to extend the cost of living allowance to retirement benefits.

I have received strong support from the Alaskan Local No. 985 of the National Federation of Federal Employees and have also received the endorsement of the National Association of Retired Federal Employees. The NARFE states:

> We have only a few members in Alaska but I would be for this legislation even if we had no members whatsoever.

This indicates the importance these organizations attach to this amendment. Although very few people are involved with this amendment and its scope is not very large, I think a point of equity is involved, one which I would like to see Congress adopt. The amendment contains a requirement that deductions be made for the first 10 years of a Federal employee's service in a high cost-of-living area; and it provides the flexibility that is needed in dealing with the subject, so far as the Civil Service Commission and the President are concerned in the exercise of their discretion under existing law.

I ask unanimous consent that letters from the National Federation of Federal Employees and the National Association of Retired Federal Employees be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LOCAL NO. 985 OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
*Kodiak, Alaska, April 22, 1971.*

Senator TED STEVENS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR STEVEN: We want you to know that the members of Local 985 of the National Federation of Federal Employees strongly support Senate Bill S. 409 which you recently introduced. This is much needed legislation and we hope that it passes.

We are certain that many more retired employees would continue to live in Alaska if they received additional financial help in the way of a cost-of-living allowance after retirement. After all, if a cost-of-living allowance is necessary while an employee is still working, how much more so is it required after he retires with less income. Please do all you can to see that this bill passes.

We thank you sincerely for you help.

Sincerely yours,
MARY B. WALLACE, *Secretary.*

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NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
*Washington, D.C., March 2, 1971.*

Hon. TED STEVENS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR STEVENS: Thank you for your letter of February 26, 1971 and on behalf of my staff I apologize for having overlooked the introduction of S. 409. This is certainly the legislation I had in mind and in our April issue of Retirement Life magazine I will make special note of it because I think it is just and fair and should be granted to the people who would prefer to continue living in Alaska after retirement if they can financially afford to do so. We have only a few members in Alaska but I would be for this legislation even if we had no members whatsoever.

The National Association of Retired Federal Employees pledges full support to you, Senator, and let us all get together and see if we can persuade your committee to get together and approve S. 409.

With kindest regards, I am,

Most sincerely,
THOMAS G. WALTERS, *President.*

Mr. STEVENS. I would be happy to answer any questions the manager of the bill might have concerning the amendment. I apologize for not having discussed it with him other than briefly in the committee. I have not had the text of the amendment available, myself, until today, because we have been working on it, trying to make certain that it meets some of the objections raised by other people concerned.

Mr. FONG. Mr. President, as a Senator from Hawaii and representing constituents who would profit by this amendment, I find myself in a very ambivalent position. As the ranking minority member of the Senate Committee on Post Office and Civil Service and as one who has fought very strongly for the retention of the cost-of-living allowance for the State of Alaska and Hawaii and the outlying territories, such as Puerto Rico and the Virgin Islands, I find that my better judgment tells me that I should oppose this amendment although it would benefit some of my constituents.

I do not know whether the Senator recalls the very serious fight we had with respect to the retention of the cost-of-living allowance for Federal employees in those areas a few years ago. There was a time when we were almost denied the cost-of-loving allowance, and I hate to have this matter brought up again before Congress, to open that very sore question.

In my State, there are two categories of employees. One category consists of those known as the white-collar employees, who do receive a cost-of-living allowance of 15 percent. That cost-of-living allowance is adjusted every year according to the cost of living there as compared to that in Washington, D.C. The other category consists of the blue-collar employees who do not receive the cost-of-living allowance. Their salaries and their rates of pay are based upon the prevailing rates of pay in the community, and that is so with respect to all the blue-collar employees throughout the United States.

If this amendment is adopted, those who are not receiving a cost-of-living allowance now and who are blue collar workers will receive a cost-of-living allowance in their retirement pay, and those who have received a cost-of-living allowance while actually working will continue to receive a cost-of-living allowance during their retirement.

Many, many people who work in my State, who have come from other States to work, have received a cost-of-living allowance; but after their retirement, they have moved to other jurisdictions to live because of the high cost of living in Hawaii. Although I sympathize with them, although I feel that something should be done, I think this is not the way to do it.

I am afraid that this amendment would open up this question again.

So I oppose this amendment, on the ground that it would not be equitable to all retirees in these States who are not receiving a cost-of-living allowance while they are working and who upon retirement will receive a cost-of-living allowance.

So I am constrained to vote against the amendment, even though I find myself in a very ambivalent position.

Mr. STEVENS. Mr. President, I should like to comment on what the Senator from Hawaii has said.

I ask unanimous consent to have printed in the RECORD the comments of the Civil Service Commission, dated July 6, together with other correspondence submitted to the chairman of our committee, on the bill I submitted in the last Congress, S. 409, and the identical bill, S. 191, I introduced in this Congress. These bills contain the essence of my amendment, which should cure the major points argued against the bill by these agencies.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. CIVIL SERVICE COMMISSION,
*Washington, D.C., July 6, 1971.*

Hon. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on S. 409, a bill "To amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes."

S. 409 would amend the Civil Service Retirement law to increase by 25 percent the annuity of retirees (and their survivors) who had performed at least 10 years of service in Alaska prior to separation and who continue, thereafter, to live there. The increased rate would remain in effect as long as they maintained their Alaska residence. Persons retired before as well as after date of enactment would be eligible for the increased rate, but the allowance could not be paid for any period prior to the first of the month after date of enactment.

Under 5 U.S.C. 5941, pay of employees stationed outside the continental United States or in Alaska may be increased by up to 25 percent of basic pay to take account of (1) living costs substantially higher than in the District of Columbia, or (2) substantially different conditions of environment than exist in continental United States that warrant an allowance as a recruitment incentive, or (3) both factors. As a result, Federal employees in Alaska currently receive a 25 percent cost-of-living allowance.

The underlying purpose of this allowance is to attract people to Federal employment in Alaska and to retain them there. The same justification does not exist for increasing the annuities of former employees.

In addition to Alaska, similar allowances are made in other areas, for example, Hawaii and Puerto Rico; granting Alaska retirees higher annuity benefits would establish a precedent that would be cited by annuitants residing in these, as well as numerous other high cost-of-living areas, urging Congress to give them similar treatment. Furthermore, relative living costs do not remain static.

For these reasons, the Commisison opposes enactment of this bill.

The Commission estimates the enactment of S. 409 would increase the unfunded liability of the Civil Service Retirement and Disability Fund by $23.5 million. Under the provisions of section 8348(f) of title 5, United States Code, this would require direct appropriations to the retirement Fund of $1.2 million a year over the next 30 years.

If the Committee wishes to give favorable consideration to this bill, there are certain technical and conforming changes that should be made in the text. Our technical staff would be made available to advise on this, if the Committee so desires.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT E. HAMPTON,
*Chairman.*

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EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D.C., July 2, 1971.*

Hon. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on S. 409, "To amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes."

The bill would provide a 25% increase in the annuity of any Federal retiree (and his survivors) who retires in Alaska following separation, so long as he continues to reside there, and provided he performed at least 10 years of active service in that State.

In its report on this bill, the Civil Service Commission sets forth a number of reasons for opposing its enactment.

We concur with the views expressed by the Civil Service Commission and, accordingly, recommend against enactment of S. 409.

Sincerely,

WILFRED H. ROMMEL,
*Assistant Director for Legislative Reference.*

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COMPTROLLER GENERAL OF THE UNITED STATES,
*Washington, D.C., July 27, 1973.*

B-136898

Hon. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letter of June 29, 1973, requests our views and comments on S. 191, 93d Congress, a bill "To amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes."

The bill provides that the annuities of retired employees who have performed 10 years of service in Alaska prior to separation and who, after the commencing date of their annuities continue to reside in Alaska, without break in time after their separation shall be increased by 25 percent so long as the retired employees continue to reside in Alaska. The 25 percent increase also would be applicable to the annuities of survivors of such employees.

Under present law the computations of civil service retirement annuities for Federal employees are based on the rates of basic pay of the employees. 5 U.S.C. 8331, 8339. Cost-of-living allowances are not considered as part of basic pay in computing retirement annuities. The retirement law also provides that deductions by employing agencies of a portion of the basic pay of employees, and equal contributions from the appropriations or funds used to pay the employees, shall be deposited in the Treasury of the United States to the credit of the fund used to pay the annuities of retired employees and survivors. 5 U.S.C. 8334. Therefore, no retirement deductions are made from cost-of-living allowances paid to Federal employees in Alaska or elsewhere.

The bill would afford preferential treatment to certain employees retiring in Alaska because they would receive an additional annuity which would not be based on their contributions to the retirement fund, and because it would not include other Federal employees outside of the contiguous 48 states who receive cost-of-living salary allowances. Although these considerations are matters of policy for determination by Congress, we generally have not favored legislation granting such preferences.

Section 5941 of title 5 of the United States Code, which authorizes a cost-of-living allowance for Federal employees in Alaska, provides that the allowance may not exceed 25 percent of the rate of basic pay and that the allowance shall be paid in accordance with regulations prescribed by the President establishing the rate of the allowance. If the Committee considers the bill favorably, it may wish to provide similar flexibility for establishing the rate of the cost-of-living allowance for the Alaska annuitants in question to permit a reduction in the allowance to the extent warranted by any future change of conditions in Alaska.

Civil Service Commission records show that on December 31, 1969, there were about 2,705,800 Federal employees in the United States, of which about 14,400 were stationed in Alaska; also, that on July 1, 1969, there were 1,265 employee annuitants and survivors who resided in Alaska and received monthly annuities totaling $287,198. We have not requested current statistics nor estimated the additional cost of providing the employee annuitants and survivors with the cost-of-living addition contemplated by S. 191. We understand, however, that the Commission has been requested to comment on the bill. We assume that the Commission, if it is practicable to do so, will include data in its comments relating to the additional costs which would result from enactment of the bill.

As a technical matter, the subsection to be added by the bill should be designated "o" instead of "n" because former subsection "m" of 5 U.S.C. 8339 was redesignated "n" by Public Law 92-297, approved May 16, 1972.

Sincerely yours,

E. H. MORSE, Jr.,
For the
COMPTROLLER GENERAL
OF THE UNITED STATES.

Mr. STEVENS. The objections raised by the Civil Service Commission were quite similar to those just mentioned by the Senator from Hawaii, and we have attempted to meet those objections. The Civil Service Commission has told the committee that they felt that it would not be fair to extend this cost-of-living adjustment to civil service retirement annuities just to those people who live in Alaska, although they recognize that retired civil service employees in Alaska have the most difficult problem. To meet that objection, we drafted this amendment so that it applies to all people who receive additional cost-of-living allowances while they are employed as Federal civil servants.

Mr. President, this amendment provides that the cost will be partially funded by deductions from the pay of the employed civil servants. The 25 percent would be treated as income for that purpose and their contributions would be made on the 25 percent cost-of-living allowance, just as they make it on their own salaries.

Previously when we raised this matter, I was asked about the cost and I was unable to state the cost. The Civil Service Commission has worked out the cost and even if the Federal Government paid the entire cost for all the people who are employees of the Federal Government in Alaska, the cost is $1.2 million a year. That is a reasonable figure. If it were contributed to by the employees, the cost would be very small to the Government.

We originally tried to limit this to Alaska; because those employees face problems on the basic costs of living in terms of heat, clothing, the cost of food, which is so high, that other people do not face elsewhere as retired employees. But to be fair, and to meet the agencies objections, we have expanded it to other cost-of-living areas.

This bill has been tightened up so far as eligibility standards are concerned. The employee must elect at the time he commences services in an area where there is a cost-of-living allowance to receive the cost-of-living retirement benefit. If he does not there would not be a deduction from his pay while he served in that area; but if he did serve the 10 years in the cost-of-living area and had the deductions taken from the allowance, he would be entitled to civil service retirement annuities based on his total salary that he contributed upon. I think this is basic fairness. I am sorry that my good friend from Hawaii sees fit to oppose the measure.

Mr. President, I raised this question once before and I did not pursue the amendment at that time because of the comments that were made concerning the problems of the bill we had offered and its scope. However, we have worked long and hard to try to get an amendment which would be acceptable to those who administer the fund. It would, as I said, cover Alaska, Hawaii, Puerto Rico, Guam, and other areas where the cost-of-living allowance is paid to people on the Federal payroll.

I hope my good friend from Hawaii will reconsider the matter. I wish to point out to him that one of the provisions we have placed in this amendment is the so-called grandfather clause. Those people who have not contributed during the period of service but have the required time in the area would be entitled to retirement benefits under this amendment, but contributions would be required in the future from those who do to receive civil service annuity benefits on the cost-of-living allowance after the effective date of this bill.

I think we have tried to take care of the problems the Senator has raised. I think the proposal is as fair as we can make it if we are going to recognize the problem, and that is what I am asking, that we recognize the problem. A person who works a substantial portion of his life in a cost-of-living area, receives the 25 percent and then receives a retirement benefit which is based upon what would amount to 80 percent of his income, has no alternative but to move from a high cost of living area. We would like to keep our civil service employees in Alaska. That is where they have their investment in their lives and I think they have asked for nothing more than justice, so long as they are willing to contribute to retirement benefits.

Mr. BURDICK. Mr. President, I would like to accommodate my good friend from Alaska, but the distinguished Senator from Hawaii, my other good friend, indicates this is "a can of worms." There are a lot of unanswered problems. In conference a very difficult situation would develop in regard to the main purpose of the bill, and with this controversial addition it might not be beneficial to the final passage of the bill. Therefore, I hope my good friend from Alaska will permit this legislation to ride on its own weight. I am sure the committee would give it full consideration, but I would not like to have it added to the bill at this time.

Mr. STEVENS. I might say that I have previously discussed this legislation. I have had the proposal pending for 4 years and each time I pursue it I have the same problem. I hope that my two good friends agree to take this amendment to conference. Both Senators know we cannot get the people downtown to make sense about something until we show them we are in earnest. If there is a good chance that Congress is going to pursue this course, many times if an amendment is rejected in conference at least we make substantial progress in getting recognition of the problem.

We have tried to meet Civil Service objections in this amendment. I do not want to leave the impression that the Civil Service Commission supports the amendment, but if my friends would agree to this amendment and take it to conference, if the Civil Service Commission has further objection, we could meet those objections in further legislation and I would not object, if the Senators saw fit, if those objections were substantial enough, to delete the amendment from the bill. I am trying to get their attention on what I consider a serious problem for a few people. It has been very difficult to do because since I have been here and served on the Committee on Post Office and Civil Service, I have not been able to get them to recognize this as a substantial problem because it affects so few people and it is not something that most Federal employees are interested in. I really would prefer to call up the amendment unless we obtain some kind of understanding from the managers of the bill. I want to demonstrate that I am going to pursue this amendment in this type of legislation as long as I am here, until I get something worked out that will permit retired civil service employees to maintain their homes and families in the areas in which they work all their lives, or a substantial portion thereof.

Mr. FONG. Mr. President, in view of the history of the cost-of-living allowance discussion in Congress and in view of the fact that we are opening up something which may cause many of the employees in Hawaii to lose the cost-of-living allowance I certainly cannot consent to the amendment.

Mr. BURDICK. Mr. President, with a certain degree of reluctance I move to table the Stevens amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alaska.

The motion was agreed to.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that following the vote on the Gurney amendment—at which time it is my plan to offer an amendment which I have lying at the desk—that I have 10 minutes on the amendment, 5 minutes to the side, and an equal amount of time on any amendment to the amendment, and that at the conclusion of that time, there be a vote on the Humphrey amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. FONG. Mr. President, reserving the right to object, I would like to say that the Humphrey amendment will deal with social security, a matter with which I am not familiar. I would rather have the minority member of the Finance Committee present to say whether he would agree to that.

Subject to that information, I ask the Senator to withhold his request until I contact the minority member from the Finance Committee.

Mr. HUMPHREY. Mr. President, I withhold my request.

Mr. President, whether I get the unanimous-consent request agreed to or not, I would not be foreclosed from offering the amendment. I can offer my amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. I can do so after the vote on the Gurney amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Mr. President, the amendment speaks for itself. Therefore, debate can be limited to a brief period.

## TIME LIMITATION ON S. 7724

Mr. ROBERT C. BYRD. Mr. President, upon the disposition of the pending bill, the Senate under the previous order is to proceed to the consideration of H.R. 7724. I ask unanimous consent that, on that bill there be a time limitation of 1 hour to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees, that the time on any amendment be limited to 1 hour, that the time on any amendment to an amendment be limited to 30 minutes, that the time on any debatable motion or appeal be limited to 10 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INCREASE IN CERTAIN ANNUITIES

The Senate continued with the consideration of the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

Mr. HUMPHREY. Mr. President, I ask for some time on the Gurney amendment.

The PRESIDING OFFICER. All time on the Gurney amendment has been yielded back.

Mr. HUMPHREY. Mr. President, what are we going to do with the time between now and 2 o'clock?

Mr. BURDICK. Mr. President, I ask unanimous consent that the distinguished Senator from Minnesota may proceed for 3 minutes on the Gurney amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I thank the distinguished Senator from North Dakota. The reason I rise now is to explain, with respect to the pending amendment by Senator GURNEY, the intent of the further amendment which I shall offer. I want to make sure that what I have in mind will not in any way endanger the passing of the pending bill, because the pending bill is needed.

Some time ago Congress acted to provide a social security increase of 5.9 percent. That action was based on the rising cost of living between June of 1972 and June of 1973.

The result of the conference between the two Houses made the effective date for the increase in social security payments, for all practical purposes, July 1, 1974. In other words, the first check that anyone would receive would be received on July 1, 1974.

Everyone in this body knows that between 1972, when the last social security increase was provided, and now, there has been a tremendous rise in the cost of living which has worked a severe hardship upon the elderly.

The purpose of the amendment that I will offer will be to make the date for the 5.9-percent increase effective immediately upon the enactment of this pending legislation. In other words, there would not be a delay in the increased social security payment to June or July of 1974.

I think this delay would be wrong. It is cruel, and whatever anyone may say about the effect of the social security benefit increase upon the President's budget, let me say that the effect of inflation under economic policies of the administration upon the elderly people's budgets today, to provide for food costs and other items, is a tragedy. It is a personal tragedy.

Other Senators are interested in this matter. I note that my esteemed colleague from Idaho (Mr. CHURCH) has submitted a bill to provide a 7-percent cost-of-living increase in social security benefits effective January 1, 1974.

The amendment I am offering would facilitate immediate legislative action. We have already legislated 5.9 percent in line with the actual Consumer Price Index increase over the last fiscal year. The only item before us is to determine whether that would be effective on June 1, 1974, or on the date of the passage of the legislation before us. That is the purpose of my amendment. I hope it will be voted upon and given a positive, affirmative vote.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Gurney amendment.

The yeas and nays were ordered.

Mr. BURDICK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that following the vote on the Gurney amendment which has now been ordered, I be allowed 2 minutes on the amendment I have pending at the desk.

The PRESIDING OFFICER. To be equally divided?

Mr. HUMPHREY. To be equally divided, with Solomon-like wisdom.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, could we get the yeas and nays on my amendment?

The PRESIDING OFFICER. It would require unanimous consent to order the yeas and nays at this time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on my amendment at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to vote on the amendments of the Senator from Florida (Mr. GURNEY).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Utah (Mr. MOSS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. FANNIN) is detained on official business.

The result was announced—yeas 70, nays 20, as follows:

[No. 386 Leg.]

YEAS—70

Abourezk
Baker
Bayh
Beall
Bellmon
Bentsen
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cook
Cotton
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Fulbright
Gravel
Gurney
Hart
Hartke
Haskell
Hatfield
Helms
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Va.
Sparkman
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—20

Aiken
Allen
Bartlett
Bennett
Biden
Brock
Byrd, Harry F., Jr.
Curtis
Fong
Goldwater
Griffin
Hansen
Hathaway
Hruska
Percy
Roth
Saxbe
Scott, Pa.
Stafford
Taft

NOT VOTING—10

Bible
Chiles
Dominick
Fannin
Long
McClure
Moss
Packwood
Stennis
Weicker

So Mr. GURNEY's amendments (No. 448) were agreed to.

Mr. GURNEY. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? The Senator has an important amendment, and he is entitled to be heard.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. HUMPHREY. Mr. President, I call up an amendment on behalf of myself and Senators PASTORE, MONDALE, MUSKIE, CHURCH, CRANSTON, DOLE, GURNEY, RIBICOFF, KENNEDY, and MCINTYRE.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 3, line 8, strike all after "section" and insert "and section 5)."

At the end of the bill add the following section:

"SEC. 5. (a) Subsections (a)(2) and(c)(2) of section 201 of Public Law 93–66 are amended by striking out "May 1974" each place it appears and inserting in lieu thereof "the effective month of this section".

(b) Section 201 of Public Law 93–66 is further amended by adding at the end thereof the following new subsection:

"For purposes of subsections (a)(2) and (c)(2), the effective month of this section is the month in which this subsection is enacted.".

Mr. HUMPHREY. Mr. President, I neglected to include the names of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the distinguished Senator from Nevada (Mr. CANNON) as cosponsors. I ask unanimous consent that their names be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, under the unanimous consent agreement, there are 2 minutes on this amendment, to be equally divided. I will state my case very simply.

The purpose of this amendment is to make effective, immediately upon the enactment of the legislation before the Senate, the social security increase that was voted by Congress, which under the present law—Public Law 93–66—would become effective in June of 1974.

Old people need this cost-of-living increase. Frankly, it is less than they ought to have, 5.9 percent was the cost of living increase from June 1972 to June 1973. Since June 1973, considerably more has been added to the cost of living. After visiting my home State, I was impressed this August with the urgent necessity of this legislation, and I ask my colleagues in the Senate to give it their support. I ask all those who wish to cosponsor the amendment to add their names as cosponsors.

Mr. BENNETT. Mr. President, I will claim the minute in opposition, in the absence of the chairman of the Committee on Finance, which has not had an opportunity to consider this matter.

The best estimate I can get is that this amendment would add $2 billion to this fiscal year, without any opportunity to get any of that back in increased revenue because the taxes to support it are not contained in the bill. While the present tax system might support it, it would be our grandchildren who would pay for this $2 billion. Since this would break the budget in this fiscal year by at least $2 billion, I think the amendment either should be rejected or should be referred to the Committee on Finance.

Mr. HUMPHREY. Mr. President, there is enough money in the trust fund to take care of this. Further trust fund receipts will also result from the previous enactment of an increase in the social security tax wage base to be effective in 1974.

This amendment is desperately needed by the people. We should not be misled by arguments about the budgetary impact of a social security benefit increase. We are going to take some money from other items that are not needed in this budget, and we are going to give the money to the people who need it.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Minnesota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from Indiana (Mr. Hartke), the Senator from Utah (Mr. Moss) and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Bible), and the Senator from Louisiana (Mr. Long) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Dominick), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 59, nays 31, as follows:

[No. 387 Leg.]

YEAS—59

Abourezk
Aiken
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Dole
Eagleton
Eastland
Ervin
Fulbright
Gravel
Gurney
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NAYS—31

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd,
  Harry F., Jr.
Cook
Cotton
Curtis
Domenici
Fannin
Fong
Goldwater
Griffin
Hansen
Helms
Hruska
McClellan
Nunn
Roth
Saxbe
Scott, Pa.
Scott, Va.
Sparkman
Taft
Thurmond
Tower

NOT VOTING—10

Bible
Chiles
Dominick
Hartke
Long
McClure
Moss
Packwood
Stennis
Weicker

So Mr. Humphrey's amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. BURDICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage. The Clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from Arkansas (Mr. Fulbright), the Senator from Utah (Mr. Moss), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Bible), and the Senator from Louisiana (Mr. Long) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Dominick), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 71, nays 19, as follows:

[No. 388 Leg.]

YEAS—71

Abourezk
Aiken
Allen
Baker
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Gravel
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Va.
Sparkman
Stafford
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NAYS—19

Bartlett
Bennett
Brock
Cotton
Curtis
Fannin
Fong
Goldwater
Griffin
Hansen
Helms
Hruska
Nunn
Roth
Saxbe
Scott, Pa.
Taft
Thurmond
Tower

NOT VOTING—10

Bible
Chiles
Dominick
Fulbright
Long
McClure
Moss
Packwood
Stennis
Weicker

So the bill (S. 1866) was passed, as follows:

S. 1866

An act to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The annuity of an employee or Member retiring under this subchapter, or prior comparable provision of law, shall in no event be less than 12 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act. This subsection shall not apply to any individual receiving benefits under such title II."

Sec. 2 Section 8341 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The annuity of a survivor payable under this subchapter, or prior comparable provision of law, shall in no event be—

"(1) in the case of a surviving child, less than 9 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act; and

"(2) in the case of any other survivor, less than 12 times such primary insurance amount (including any such cost-of-living increase).

This subsection shall not apply to any individual receiving benefits under such title II."

Sec. 3. (a) An annuity payable from the civil service retirement and disability fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $240.

(b) An annuity payable from that fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $132.

SEC. 4. Section 8332(b)(9) of title 5, United States Code, is amended by striking out "8339(h)" and inserting in lieu thereof "8339(i)".

SEC. 5. This Act (other than section 3 and this section and section 6) shall become effective ninety days after its enactment. Increases in annuities provided by this Act shall apply with respect to a monthly payment of any annuity made for any month commencing on or after such effective date.

SEC. 6. (a) Subsections (a)(2) and (c)(2) of section 201 of Public Law 93–66 are amended by striking out "May 1974" each place it appears and inserting in lieu thereof "the effective month of this section".

(b) Section 201 of Public Law 93–66 is further amended by adding at the end thereof the following new subsection;

"For purposes of subsections (a)(2) and (c)(2), the effective month of this section is the month in which this subsection is enacted."

**Mr. BURDICK.** Mr. President, I move to reconsider the vote by which the bill was passed.

**Mr. MANSFIELD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NATIONAL RESEARCH SERVICE AWARDS AND PROTECTION OF HUMAN SUBJECTS ACT

The **PRESIDING OFFICER** (Mr. HELMS). Under the previous order, the Chair lays before the Senate H.R. 7724, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7724) to amend the Public Health Service Act to establish a national program of biomedical research, fellowships, traineeships, and training to assure the continued excellence of biomedical research in the United States and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to stike out all after the enacting clause and insert:

That this Act may be cited as the "National Research Service Awards and Protection of Human Subjects Act".

### TITLE I—NATIONAL RESEARCH SERVICE AWARDS

#### SHORT TITLE

SEC. 101. This title may be cited as the "National Research Service Award Act".

#### FINDINGS AND DECLARATIONS OF PURPOSE

SEC. 102. (a) Congress finds and declares that—

(1) the success and continued viability of the Federal biomedical and behavioral research effort depends on the availability of excellent scientists and a network of institutions of excellence capable of producing superior research personnel;

(2) direct support of the training of scientists for careers in biomedical and behavioral research is an appropriate and necessary role for the Federal Government;

(3) National Research Service Awards should be the key element in the training programs of the National Institutes of Health and the National Institute of Mental Health.

(b) It is the purpose of this title, by consolidating existing research training and fellowship authorities into a single National Research Service Awards authority, to increase the capability of the National Institutes of Health and the National Institute of Mental Health to carry out their statuory responsibility of maintaining a superior national program of research into physical and mental diseases and impairments of man.

#### NATIONAL RESEARCH SERVICE AWARDS

SEC. 103. (a) Except as amended by this Act, the authorities of the Secretary of Health, Education, and Welfare to establish and maintain fellowships and traineeships for training in biomedical and behavioral research pursuant to sections 301 and 303 of title IV of the Public Health Service Act are repealed effective upon the date of the enactment of this Act.

(b) Part G of title IV of the Public Health Service Act (42 U.S.C. 201) is amended by adding after section 454 the following new sections:

#### "NATIONAL RESEARCH SERVICE AWARDS

"SEC. 455. (a) The Secretary, in consultation with the Directors of the National Institutes of Health and the National Institute of Mental Health, shall provide through the Office of the Director of the National Institutes of Health National Research Service Awards in the following manner:

"(1) The Secretary shall establish and maintain National Research Service Awards for—

"(A) biomedical and behavioral research at the National Institutes of Health and the National Institute of Mental Health, and

"(B) training at such institutes of individuals to undertake research in matters relating to the cause, diagnosis, prevention, and treatment of the disease or diseases to which the activities of such institutes are directed. Any references in this section to the National Institutes of Health and National Institute of Mental Health shall be considered a reference to the Institutes and their respective research institutes, divisions, and bureaus.

"(2) The Secretary shall establish and maintain National Research Service Awards for—

"(A) biomedical and behavioral research at non-Federal public and at nonprofit private institutions, and

"(B) training at such public and nonprofit private institutions of individuals to undertake such research.

"(3) No National Research Service Award (or grants made thereunder) may provide for support of residency training.

"(b)(1) No National Research Service Award may be granted under subsection (a) to any individual unless such individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the requirement of subsection (c)(1).

"(2) Applicants for National Research Service Awards must be sponsored by the accredited institution at which training shall be carried out (in accordance with regulations promulgated by the Secretary). The grants of National Research Service Awards by the Secretary under subsection (a) shall each be subject to review and approved by the appropriate advisory councils to the Institutes referred to in subsection (a)(1)(A) whose activities relate to the research or training under such awards or at which such training will be conducted.

"(3) The period of any National Research Service Award provided any individual under subsection (a) may not exceed three years in the aggregate unless the Secretary for good cause should waive the application of the three-year limit to such individual.

"(4)(A) No National Research Service Award may be granted by the Secretary under paragraph (1) or (2) of subsection (a) to any individual unless the individual has submitted to the Secretary an application therefor and the Secretary has approved the application. The application shall be in such form, submitted in such manner, and contain such information as the Secretary may prescribe by regulation.

"(B) National Research Service Awards granted under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependents allowances) for the recipients as the Secretary may determine necessary.

"(C) A National Research Service Award under subsection (a)(2) shall also provide for payments to be made to the accredited institutions at which programs for research or training for individual recipients of the National Research Service Award are conducted, for the cost of support services (including, but not limited to, a portion of faculty salaries, supplies, equipment, staff, general research support, and overhead) provided such recipients by such institution. The amount of such awards to such institutions shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs to the institution for establishing and maintaining the quality of biomedical or behavioral research and training programs at such institution.

"(5) Notwithstanding sections 103(a) and 106 of the National Research Service Award Act the Secretary shall maintain all existing commitments for research training grants and fellowships existing on the date of enactment of this Act but shall make no new commitments for research training grants and fellowships except as authorized by section 455 of this Act for National Research Service Awards.

"(c)(1)(A) Each individual who receives a National Research Service Award under subsection (a) shall in accordance with paragraph (2) of this subsection—

"(i) engage in health research or teaching at an accredited institution, or

"(ii) if authorized by clause (B) serve as a member of the National Health Service Corps (established under section 329) utilizing the specialty for which he has been trained, and for which such award was granted; serve in his specialty in private practice in a geographic area designated by the Secretary as requiring that specialty; or serve in his specialty as a member of a nonprofit prepaid group practice authorized for reimbursement under title XVIII of the Social Security Act, for a period computed as follows: For each year during which the individual receives a National Research Service Award the individual shall—

"(aa) engage in twelve months of health research or teaching at an accredited institution,

"(bb) if so authorized, serve in his specialty as a member of the National Health Service Corps for a period of twelve months,

"(cc) if so authorized serve in his specialty in such designated private practice area for a period of twenty months or

"(dd) if so authorized serve in his specialty in such prepaid group practice for a period of twenty months.

"(B) Any individual who—

"(i) received a National Research Service Award, and trained to provide health care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to serve in any capacity described in section (c)(1)(A)(ii) in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual to enable him to comply with the research or teaching requirement of this paragraph or if the Secretary determines that such skills may be better utilized in another authorized capacity.

"(2) The requirements of paragraph (1) shall be complied with by any individual to whom it applies within a reasonable period of time, after the completion of such individual's National Research Service Award, as the Secretary shall by regulation prescribe. The Secretary shall by regulation prescribe the type of research and teaching in which individuals may engage to comply with such requirements and such other requirements respecting such research and teaching as he deems necessary.

"(3) (A) If any individual to whom the requirement of paragraph (1) is applicable, fails within the period prescribed by paragraph (2), to comply with such requirement, the United States shall be entitled to recover from such individual an amount equal to the product of—

"(i) the aggregate of (I) the amount of assistance provided to such individual under subsection (a), and (II) the sums of the interest which would be payable on such assistance if, at the time such assistance was provided, such assistance were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such assistance was provided and if the interest on each such assistance had been compounded annually, and

(ii) a fraction (I) the numerator of which is the number obtained by substracting the number of months equal to one-half the number of months of research or teaching performed by the individual in compliance with paragraph (1) from the total number of months in the period of research or teaching required to be performed by such individual by such paragraph, and (II) the denominator of which is a number equal to such total number of months.

Any amount which the United States is entitled to recover under this subparagraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this subparagraph on account of any assistance provided under this section is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury pursuant to clause (i) with respect to the assistance on account of which such amount is due the United States.

"(B) For purposes of subparagraph (A) the time at which assistance shall be considered as having been provided under subsection (a) to an individual shall, in the case of a National Research Service Award, be the date on which the National Research Service Award is awarded and shall, in the case of training, be the date on which such training was begun.

"(4) (A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

"(B) The Secretary shall by regulation provide for the waiver, reduction, or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d) There are authorized to be appropriated to carry out the provisions of this section $207,947,000 for the fiscal year ending June 30, 1974."

### "STUDIES RESPECTING BIOMEDICAL RESEARCH PERSONNEL

"SEC. 456. (a) The Secretary of Health, Education, and Welfare shall, in accordance with subsection (b), arrange for the conduct of ongoing studies annually to—

"(1) establish (A) the Nation's overall need for biomedical research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

"(2) assess (A) current training programs available for the training of biomedical research personnel which are conducted under the Public Health Act at or through the National Institutes of Health, the National Institute of Mental Health, and their respective research institutes, and (B) other current training programs available for the training of such personnel;

"(3) identify the winds of research positions available to and held by individuals completing such training programs;

"(4) determine, to the extent feasible, whether the programs referred to in paragraph (2) (B) would be adequate to meet the needs established under paragraph (1) if the programs referred to in paragraph (2) (A) were terminated; and

"(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

"(b) (1) The Secretary shall request the National Academy of Sciences to conduct such ongoing studies, required by subsection (a), under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

"(2) If the National Academy of Science is unwilling to conduct one or more such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (c).

"(c) The information required by subsection (a) pursuant to the studies thereunder shall be reported annually and the first such report is to be completed within the one-year period from the date of the enactment of this Act. Except for the first report, the reports on the results of such studies shall be annually submitted by the Secretary not later than January 31 of each year to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate.

"(d) National Research Service Awards shall be granted in any specialty only when the Secretary has certified, on the basis of evaluation of the study report required under subsection (c), that there is a need for additional manpower in that specialty. Such evaluation shall be completed within ninety days after submission of the first report as required under subsection (c).

### "DEFINITIONS

"SEC. 457. (a) As used in this title of the Public Health Service Act, the term "residency training" means that medical training in an accredited institution where less than six months per year of training is devoted to research in a laboratory.

"(b) As used in this title of the Public Health Service Act, the term 'accredited institution' means a nonprofit institution designated by the Secretary to carry out the purposes of this Act.".

### SEX DISCRIMINATION

SEC. 104. Section 799A of part H, title VII, of the Public Health Service Act, is amended by adding at the end thereof the following:

"In the case of a school of medicine which—

"(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

"(2) change is being carried out in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979."

### FINANCIAL DISTRESS GRANTS

SEC. 105. Section 773(a) of the Public Health Service Act is amended by striking "$10,000,000" and inserting in lieu thereof "$15,000,000".

### TECHNICAL AND CONFORMING AMENDMENTS

SEC. 106. (a) Section 308(b) of the Public Health Service Act is amended by striking out the words "in the United States and" wherever they appear.

(b) Section 301 of such Act is amended by striking subsection (c), by deleting the words "or research training projects" from subsection (d) and by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively.

(c) (1) Section 303(a) of such Act is amended by striking all of paragraph (1) and by striking the paragraph designation "(2)".

(2) Section 303(b) of such Act is amended by striking the words "paragraph (2) of".

(d) Section 402(a) of such Act is amended by adding the words "except for training in biomedical and behavioral research" after the word "training" in paragraph (3) and by striking paragraph (4) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(e) Section 407(b) of such Act is amended by adding at the end of paragraph (7) "no training stipends, fellowships, or carrier awards shall be made for training in biomedical or behavorial research."

(f) Section 408(b) of such Act is amended by adding after the words "training (including training for allied health personnel)" the words "except for training in biomedical and behavorial research."

(g) Section 412 of such Act is amended by striking paragraph (7).

(h) Section 413(a) of such Act is amended by striking paragraph (7) and redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(i) (1) Section 415(a) (2) of such Act is amended by adding in paragraph (C) after the word "disease," the words "Such programs shall not provide for training in biomedical or behavioral research."

(2) Section 415(b) of such Act is amended by inserting after the word "personnel," in paragraph (3) "except for training for biomedical and behavioral research".

(j) Section 422 of such Act is amended by striking paragraph (c) and by redesignating paragraphs (d) and (e) as paragraphs (c), (d), and (e), respectively, and by inserting in paragraph (e) as redesignated after the words "maintain traineeships," the words "except traineeships in biomedical and behavioral research."

(k) Section 434(c) of such Act is amended by adding at the end of clause (2), "such programs shall not provide for training in biomedical and behavioral research."

(l) Sections 433(a), 444, and 453 of such Act are amended by striking the second sentence of each section.

### TITLE II—PROTECTION OF HUMAN SUBJECTS

#### SHORT TITLE

SEC. 201. This title may be cited as the "Protection of Human Subjects Act".

SEC. 202. The Public Health Service Act (42 U.S.C. 201) is amended by adding after title XI the following new title:

### "TITLE XII—PROTECTION OF HUMAN SUBJECTS

#### "ESTABLISHMENT OF COMMISSION

"SEC. 1201. (a) There is hereby established within the Department of Health, Education, and Welfare, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

"(b) The Commission shall be composed of eleven members who shall be appointed by the President from persons who are especially qualified to serve on the Commission by virtue of their training, experience, or background. The members of the Commission shall be appointed from the general public and from among individuals in the fields of medicine, law, ethics, theology, biological science, physical science, social science, philosophy, humanities, health administration, government, and public affairs.

"(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one of the members to serve as Chairman and one to serve as Co-Chairman each for a term of four years at the time of appointment.

"(2) Of the persons designated under subsection (c)(1) at least, but no more than, one shall have conducted biomedical or behavioral research involving human subjects.

"(d) Not more than five members of the Commission shall be appointed who are or who have been engaged in biomedical or behavioral research involving human subjects.

"(e) The terms of each member shall be four years except that—

"(1) the members first appointed shall serve as designated by the President, three for a term of two years, four for a term of three years, and four for a term of four years; and

"(2) any member appointed to fill a vacancy occurring prior to expiration of such term shall serve only for the remainder of the term for which his predecessor was appointed.

"(f) In appointing the members of the Commission consideration shall be given to nominees from the National Academy of Sciences and other appropriate, independent, nongovernmental organizations.

"(g) No member shall serve for more than two full terms.

"(h) A vacancy in the Commission shall not affect the activities of the Commission and seven members thereof shall constitute a quorum. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(i) Members of the Commission who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Commission compensation at rates equal to the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members while so serving away from their homes or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

"(j) The Secretary shall make available to the Commission such staff, consultants, experts, information, equipment, office space, and other assistance as it may require to carry out its activities.

"(k) The Commission shall appoint an executive director who shall serve full time and whose duty it shall be to administer the daily activities of the Commission. Such executive director shall be compensated at a rate equivalent to the annual rate for a person serving at the level of GS-18 of the General Schedule.

#### "DUTIES OF THE COMMISSION

"SEC. 1202. (a) The Commission shall—

"(1) undertake a comprehensive investigation and study to identify the basic ethical principles and develop guidelines which should underlie the conduct of biomedical and behavioral research involving human subjects and develop and implement policies and regulations to assure that such research is carried out in accordance with the ethical principles identified by the Commission in order to assure the full protection of the rights of the subjects of such research;

"(2) develop procedures for the certification of Institutional Review Boards;

"(3) develop and recommend to the Congress the implementation of an appropriate range of sanctions (and the conditions for their use) for failure of certified Institutional Review Boards to respond to Commission rules, regulations, and procedures;

"(4) develop and recommend to the Congress a mechanism for the compensation of individuals and their families for injuries or death proximately caused by the participation of such individuals in a biomedical or behavioral research program; and

"(5) develop and recommend to the Congress within one year after the date of enactment of this section an appropriate mechanism to broaden the scope of the Commission's jurisdiction in order to assure that all human subjects in biomedical and behavioral research programs, demonstrations, and activities are protected.

"(b) In fulfilling the mandate of subsection (a) the Commission shall, among other subjects, consider—

"(1) developing appropriate guidelines for the selection of human subjects for participation in biomedical or behavioral research projects;

"(2) the nature and definition of informed consent in various settings;

"(3) the role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects;

"(4) the conditions and procedures by which appeal of an Institutional Review Board decision may be made to the Commission;

"(5) defining more precisely the boundary between biomedical and behavioral research involving human subjects and the accepted and routine practice of medicine;

"(6) evaluating and responding to, when appropriate, requests from the biomedical and behavioral research community and the public for clarification of particular ethical problems confronting society with regard to biomedical and behavioral research;

"(7) the need for variation in the review procedures carried out by the Institutional Review Boards;

"(8) evaluating and monitoring of the performance of Institutional Review Boards;

"(9) the question of conflict of interest in the performance of Institutional Review Board duties; and

"(10) conditions and procedures by which individual protocols may be referred to the Commission for decision.

Wherever there are duplications, overlaps, or conflicts, this title, and policies established by the Commission, and approved by the Secretary under this title, shall take precedence over existing Department of Health, Education, and Welfare policies governing biomedical and behavioral research involving human subjects.

#### "JURISDICTION

"SEC. 1203. The polices and procedures developed by the Commission pursuant to section 1202 shall to the maximum feasible extent be applied by the Secretary as appropriate to the delivery of health services in health service programs funded in whole or in part by the Department of Health, Education, and Welfare. Until such policies and procedures are developed, the provisions of section 1206(a), (b), and (c) of this title shall be applied by the Secretary as appropriate to the delivery of health services in health service programs funded in whole or in part by the Department of Health, Education, and Welfare.

#### CONSCIENCE AMENDMENT

"SEC. 1204. (a)(1) No individual shall be required to perform or assist in the performance of any portion of a health service program or research activity for which the provisions of this title are applicable, funded in whole or in part by the Department of Health, Education, and Welfare if such performance or assistance would be contrary to his religious beliefs or moral convictions.

"(2) No entity shall be required to make its facilities available for the performance of any health service program or research activity funded in whole or in part by the Department of Health, Education, and Welfare if such performance is prohibited by the entity on the basis of religious beliefs or moral convictions.

"(3) No entity may (A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or (B) discriminate in the extension of staff or other services to any physician or other health care personnel solely because he performed or assisted in the performance of a lawful health service program or research activity for which the provisions of this title are applicable in an unrelated facility, or solely because he refused to perform or assist in the performance of such a health service program or research activity, in a facility controlled by such entity on the grounds that his performance or assistance in the performance of such health service program or research activity would be contrary to his religious beliefs or moral convictions.

"(b) The provisions of this title shall not be construed as superseding the provisions of section 601 (b) and (c) of this Act.

#### "INSTITUTIONAL REVIEW BOARDS

"SEC. 1205. (a) No institution may receive Department of Health, Education, and Welfare grants or contracts to conduct biomedical or behavioral research involving human subjects unless such institution has established an Institutional Review Board certified by the Commission.

"(b)(1) The members and the Chairman of such Institutional Review Boards shall be appointed by the chief executive officer of the institution in accordance with policies, regulations, and procedures of the Commission.

"(2) Such Institutional Review Boards must be composed of sufficient members (including religious leaders, persons schooled in ethics, and non-health-care professionals) with such varying backgrounds of competence as to assure complete and adequate review. No member of such Institutional Review Board shall be involved in either the initial or continuing review of an activity in which he has a conflict of interest as defined by the Commission, except to provide such information as may be requested by such Institutional Review Boards.

"(c) Each Institutional Review Board shall establish two subcommittees as follows:

"(1) a Protocol Review Subcommittee, which shall be responsible for approving, disapproving, or offering suggestions for modifications of protocols for experimental procedures;

(2) a Subject Advisory Subcommittee, which shall be primarily concerned with the protection of the rights of subjects of biomedical and behavioral research, and shall assure that human subjects are as well informed about the nature of the research as is reasonably possible.

"(d) The membership of the Institutional Review Board and its subcommittees established under this section shall be in accordance with regulations established by the Commission.

"(e) Nothing in this section shall prohibit or limit the authority of the Secretary to make grants or enter into contracts for biomedical or behavioral research prior to the promulgation of procedures under section 1202(a)(2).

### "INTERIM PROVISIONS

"SEC. 1206. (a) Until such time as the certification of Institutional Review Boards has been established, each institution engaged in biomedical and behavioral research involving human subjects, shall determine that the rights and welfare of the subjects involved are fully protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained and that informed consent is to be obtained by methods that are adequate. Such informed consent shall be obtained in all but exceptional cases.

"(b) For the purposes of this section only, the term 'informed consent' shall mean the consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or his legal representative. The information to be given to the subject in such written agreement shall include the following basic elements:

"(1) a fair explanation of the procedures to be followed, including an identification of any which are experimental;

"(2) a description of any attendant discomforts and risks reasonably to be expected;

"(3) a fair explanation of the likely results should the experimental procedure fail;

"(4) a description of any benefits reasonably to be expected;

"(5) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

"(6) an offer to answer any inquiries concerning the procedures; and

"(7) an instruction that the subject is free to either decline entrance into a project or to withdraw his consent and to discontinue participation in the project or activity at any time without prejudicing his future care.

In addition, the agreement entered into by such person or his legal representative, shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, or to release the institution or its agents from liability for negligence. Any organization which initiates, directs, or engages in programs of research, development, or demonstration which require informed consent shall keep a permanent record of such consent and the information provided the subject and develop appropriate documentation and reporting procedures as an essential administrative function.

"(c) The term 'exceptional cases' as used in subsection (a) shall be strictly construed; shall permit the waiver only of those elements of consent listed in subsection (b) as may be justified by the circumstances of each case; and shall require the written concurrence in the acting physician's decision by at least two other licensed physicians not involved in the research project, unless in a lifethreatening situation, it is not feasible to obtain such concurrence.

### "DUTIES OF THE BOARDS

"SEC. 1207. It shall be the duty of the Institutional Review Boards, established under section 1204, to—

"(1) establish local policies for the review of research sponsored in whole or part by the Department of Health, Education, and Welfare, consistent with the national guidelines promulgated under section 1202;

"(2) advise the Commission with regard to procedural modifications deemed necessary for effective research;

"(3) assume full responsibility to ensure that biomedical and behavioral research involving human subjects is carried out under the safest possible conditions with the fully informed consent of the subject (or his family) in a manner fully consistent with the ethical principles developed by the Commission;

"(4) seek the consultative services of the Commission on any decision, or for the provision of information needed to arrive at a decision; and

"(5) initiate, if appropriate, the referral of particular decisions to the Commission in accordance with regulations promulgated by the Commission.

### "INSPECTIONS

"SEC. 1208. (a) The executive director in conclusion with the Secretary may at any reasonable time order the inspection by the appropriate agency of the Department of Health, Education, and Welfare of each institution involved in a biomedical and behavioral research program involving human subjects to deterimne if it is being operated in compliance with this title, and rules and regulations promulgated hereunder.

"(b) In the case of an institution inspected pursuant to this section, the inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities) bearing upon the conduct of the research in question.

### "RECORDKEEPING REQUIREMENTS

SEC. 1209. (a) Every biomedical and behavioral research program operated under the jurisdiction of the Commission shall establish and maintain such records, make such reports, and provide such information as the Commission may reasonably require to enable it to determine whether such program is being conducted in compliance with the provisions of this Act and standards prescribed pursuant to this title and shall, upon request of an officer or employee designated by the Commission, permit such officer or employees to inspect, verify, and copy appropriate books, records, and documents relevant to determining whether such program is being conducted in compliance with standards prescribed pursuant to this section.

"(b)(1) The Commission shall not disclose any information reported to or otherwise obtained by it pursuant to this section which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, except that such information may be disclosed to other officers or employees of the Commission and of other agencies concerned with carrying out this section, or when relevant in any proceeding under this section.

"(2) Records compiled pursuant to this section which concern personal or medical information shall be confidential and may be disclosed only for the purposes and under the circumstances expressly authorized under paragraph (3) of this subsection.

(3)(A) If a person, with respect to whom any given record referred to in this section is maintained, gives his written consent, the content of such record may be disclosed to medical personnel for the purposes of diagnosis or treatment of such person, to governmental personnel for the purpose of obtaining benefits to which the person is entitled, and to such personnel as may be designated by the Commission for the purpose of carrying out this section.

"(B) If a person, with respect to whom any given record referred to in this section is maintained, does not give his written consent, the content of such record may be disclosed to medical personnel to the extent necessary to meet a bona fide medical emergency and to such qualified personnel as may be designated by the Commission for the purpose of conducting scientific or epidemiological research, but such personnel may not identify, directly or indirectly, any individual in any report of such record, or otherwise disclose identities in any manner.

"(4) The prohibitions of this section shall apply to records required to be maintained under this section concerning any individual notwithstanding any statute of limitations or other law which may apply.

"(5) Persons required by this section to maintain the confidentiality of records may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to disclose such records.

"(6) Any person who unlawfully discloses the contents of any record referred to in subsection (a) shall upon conviction be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

### "REVIEW

"SEC. 1210. (a) In order to assess the efficacy of its policies and those of the Institutional Review Boards, the Commission shall annually evaluate its activities and duties under this Act by contract with a qualified, independent organization.

"(b) Not less than 1 per centum of the annual budget of the Commission shall be devoted to carrying out the purposes of subsection (a).

### "PUBLICATION OF DECISIONS

"SEC. 1211. The Commission shall compile a complete list of decisions pertaining to programs under its jurisdiction and annually publish and distribute reports of important decisions. The Commission shall establish such channels of communication among Institutional Review Boards as it determines necessary to carry out its responsibilities under this Act.

### "DEFINITIONS

"SEC. 1212. As used in this title the term—

"(1) 'Commission' means the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

"(2) 'Institution' means any person or entity (including Government departments or agencies) receiving Department of Health, Education, and Welfare support for biomedical or behavioral research involving human subjects.

"(3) 'Health service programs' means all programs administered by the Secretary except the Social Security Act.

### "AUTHORIZATION OF APPROPRIATIONS

"SEC 1213. There are authorized to be appropriated to carry out the purposes of this title $3,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975."

### AMENDMENT TO SPECIAL PROJECT GRANT AUTHORITY

SEC. 203. Section 772(a)(7) of the Public Health Service Act is amended by inserting immediately before the semicolon at the end thereof the following: ", or (C) providing increased emphasis on, the ethical, social, legal, and moral implications of advances in biomedical research and technology with respect to the effects of such advances on individuals and society".

SEC. 204. That part G, title IV, of the Public Health Service Act, as amended by this Act, is further amended by adding at the end thereof the following:

### "REVIEW OF GRANT AND CONTRACT AWARDS

"SEC. 458. The Secretary, after consultation with the Director of the National Institutes of Health and, where appropriate, with the Director of the National Institute of Mental Health, shall, by regulation, provide for the proper scientific peer review by assembled groups of qualified independent scientific experts of the review of all grants and for research and development contracts (except for grants under section 402(b) and 419(c) of this Act) administered by the National Institutes of Health or the National Institute of Mental Health, which will be awarded after the date of enactment of this section. Such system of scientific peer review shall be modeled after and shall utilize to the maximum extent possible appropriate peer review study section groups established by the National Institutes of Health or National Institute of Mental Health and shall be composed principally of non-Federal scientists and of no more than 20 per centum who are Federal employees in the scientific, biomedical, and behavioral research fields.".

### TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 205. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to XI" and inserting in lieu thereof titles I to XII".

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XII (as in effect prior to the date of enactment of this Act) as title XIII and by renumbering sections 1201 through 1214 (as in effect prior to such date) and references thereto as sections 1301 through 1314, respectively.

## TITLE III—SPECIAL COMMISSION DUTIES

### SHORT TITLE

SEC. 301. This title may be cited as the "Special Study of Biomedical Research Act".

### SPECIAL STUDY

SEC. 302. Title XII of the Public Health Service Act is amended by adding after section 1213 the following:

### "SPECIAL DUTIES OF THE COMMISSION

"SEC. 1214. (a) In addition to the duties prescribed under section 1202, the Commission shall undertake a comprehensive investigation and study of the ethical, social, and legal implications of advances in biomedical and behavioral research and technology, which shall include, without being limited to—

"(1) analysis and evaluation of scientific and technological advances in the biomedical services, past, current, and projected;

"(2) analysis and evaluation of the implications of such advances, both for individuals and for society;

"(3) analysis and evaluation of laws, codes, and principles governing the use of technology in medical practice;

"(4) analysis and evaluation through the use of seminars and public hearings and other appropriate means of public understanding of and attitudes toward such implications; and

"(5) analysis and evaluation of implications for public policy of such findings as are made by the Commission with respect to biomedical advances and public attitudes toward such advances.

"(b) The Commission shall make maximum feasible use of related investigations and studies conducted by public and private agencies.

"(c) The Commission shall transmit to the President and to the Congress, not less than once every twenty-four months, a report containing detailed statements of findings and conclusions of the studies conducted under subsection (a), together with recommendations for needed legislation or other appropriate action by public or private organizations or individuals.

"(d) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. KENNEDY. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that Eleanor Parker of my staff be accorded the privilege of the floor during the discussion and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that David Rust of my staff be accorded the privilege of the floor during the discussion and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent that the staff members of the Senate Health Subcommittee, both majority and minority, have access to the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I rise to urge the enactment of H.R. 7724, the National Research Service Awards and Protection of Human Subjects Act, which was reported to the floor unanimously by the Labor and Public Welfare Committee on August 3, 1973. This is one of the most significant pieces of legislation to emerge from that committee. Its goal is to strengthen this Nation's biomedical research activities. It does this in two ways:

First, by providing a mechanism to assure that the biomedical researchers of the future will be trained in sufficient numbers and equipped with sufficient skills to assure the continuation of a research effort which is already preeminent in the world.

Second, it establishes a Commission for the Protection of Human Subjects of biomedical research—to be sure that the highest possible ethical standards and safeguards are employed in each research project involving human subjects.

It is no accident that this legislation combines support for biomedical research training and the establishment of a Commission for the Protection of Subjects of that research. While there is an urgent need to discover the causes of, and develop the cures for killer diseases such as cancer and heart disease, it is important those solutions not come at the expense of unwitting victims of biomedical research projects conducted without adequate safeguards.

I would like to summarize the major provisions of the two titles:

### THE NATIONAL RESEARCH SERVICE AWARDS TITLE

It is generally conceded that the National Institutes of Health is the world's finest center for biomedical research. The Federal Government, through the Public Health Service, has been sponsoring the training of biomedical researchers since the Ransdell Act was signed on May 26, 1930. The training programs of NIH have grown in size and distinction since that time. In 1971, 18,000 trainees and fellows were supported by Federal funds.

With a record of over 40 years of excellence behind it, the NIH was justifiably shocked when the Office of Management and Budget made known that it was considering a drastic change in policy with regard to Federal support for the future biomedical researchers of this Nation. Before the biomedical researchers themselves knew that a battle was going on, the NIH had prepared a comprehensive document designed to rebut each of OMB's proposed changes. The NIH document concluded:

> The success, even the viability, of the Federal health effort will depend on the availability of excellent scientists and a network of institutions of excellence capable of producing superior research manpower.

When the President's 1974 budget proposals became public, the Nation's biomedical research community was stunned to learn of the proposed termination of the NIH fellowship and training grant programs. Nobel Laureate James Watson led the critics by describing the new administration policy as one of "sheer lunacy." As the magnitude of national opposition became clear, the administration, in a hearing before the Health Subcommittee, announced a change in position and proposed a fellowship program consisting of $30 million per year of new starts. The reaction from the biomedical research community was swift. John Cooper, president of the Association of American Medical Colleges stated:

> The proposal put forth by Secretary Weinberger indicates a lack of understanding of the process and system necessary to accomplish this purpose. This approach indicates a lack of understanding of the unique contributions that the training grant program has made to the advancement of education and research training in the biomedical sciences.

Mr. President, I ask unanimous consent that the full text of Dr. Cooper's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. KENNEDY. The national research service awards title of H.R. 7724 has received overwhelming support from the Nation's biomedical research community. With the exception of the administration, no witness testified against it.

The title repeals existing research training grant and fellowship authorities and substitutes for them a single national research service award. These awards will be administered out of the Office of the Director of NIH. This consolidation of overlapping authority will provide the Secretary with greater flexibility in the administration of the program. The legislation requires that the Secretary "fine tune" the number of trainees in any given specialty area to the Nation's actual needs for additional manpower in those areas. Those needs will be determined by an ongoing study to be conducted by an independent, well-qualified organization like the National Academy of Sciences.

Another important innovation is the incorporation of a payback provision. This requires that all award recipients engage in a period of national service. This service may be as a biomedical researcher at a recognized university, as a member of the National Health Service Corps, in private practice in a designated medical shortage area or in a prepaid group practice. Options other than university research require special secretarial approval.

It should be noted that service awards will be given both to individuals—who must be sponsored by institutions—and to institutions themselves. This latter category is intended to offset the sizable costs incurred by an institution that is sponsoring a research training program.

Yesterday, my distinguished colleague, Senator MAGNUSON, drew national attention to the severe impact of the administration's proposed cutback on funding of nursing schools. I want it to be clear that this legislation is intended to include biomedical research training for nurses.

### II. PROTECTION OF HUMAN SUBJECTS ACT

The Senate Health Subcommittee was both shocked and saddened by the testimony it received on abuses in the field of human experimentation. The sad facts concerning the Tuskegee syphilis study, the Montgomery sterilization cases, the use of DepoProvera for unapproved purposes, the unregulated performance of psychosurgery, are well known. The Protection of Human Subjects Act is designed to minimize the possibility of such events occurring again.

The legislation sets up a national Commission composed of scholars from a variety of disciplines, including ethics, philosophy, law, medicine and theology. This Commission will undertake a comprehensve investigation and study to identify the basic ethical principles which should underline the conduct of biomedical research involving human subjects. The Commission then has the authority to establish and implement policies designed to assure that biomedical research involving human subjects is carried out in accord with those principles.

If enacted, this Commission will become the first Government body whose sole responsibility is to protect human subjects of biomedical research.

It is interesting to note that this Nation's top biomedical researchers support this legislation. Dr. Albert Sabin, developer of the Sabin oral polio vaccine, summed up the consensus of testimony before the committee by saying: "This legislation is needed with no ifs, ands, or buts."

Whereas I believe that this Commission should have jurisdiction over all biomedical and behavioral research involving human subjects, this legislation is limited to programs sponsored in whole or in part by HEW. Significantly, the legislation does direct the Secretary to apply the principles and policies of the Commission to the maximum feasible extent to health services delivery programs, exclusive of the Social Security Act, which are funded in whole or in part by HEW.

The Commission is also directed to develop and recommend to the Congress a mechanism to broaden its jurisdiction so as to cover all participants in biomedical and behavioral research programs regardless of source of funding.

In addition, the Commission must undertake a comprehensive study of the impact of science and technology on the laws and social fabric of our society.

The Commission will operate through a series of certified local institutional review boards. Maximum flexibility has been built into the system so as to permit, wherever possible, local modification of national commission policies.

Part of the strength of the NIH has been its well-developed peer review system for all grants. When it became known that the administration was considering a drastic change in that system, the Nation's biomedical research community protested vehemently. This legislation puts into law for the first time, that NIH grants and research and development contracts must be subject to peer review. The legislation is designed to assure that existing peer review mechanisms be utilized to the maximum extent possible.

Mr. President, this Nation has had and must continue to have a biomedical research program second to none. It can have and it must have a system for the protection of human subject of research second to none. This legislation is designed to move forward on both fronts. The need for training the biomedical researchers of the future is clear. The events of the past several months have shown that it is equally urgent to develop a system to protect the human subjects of biomedical and behavioral research. I urge the prompt enactment of H.R. 7724.

### EXHIBIT 1

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
*Washington, D.C., July 9, 1973.*

Hon. EDWARD M. KENNEDY,
*Chairman, Subcommittee on Health, U.S. Senate, Washington, D.C.*

DEAR SENATOR KENNEDY: I am writing to you to express the deep concern of the Association of American Medical Colleges over the announcement by Secretary Weinberger concerning the future of the nation's biomedical research training program.

It is gratifying to us that the Administration has recognized that the national purpose requires Federal support for the training of biomedical scientists. Unfortunately, the proposal put forth by Secretary Weinberger indicates a lack of understanding of the process and system necessary to accomplish this purpose.

We have not had an opportunity to review the details of the Secretary's proposal, but it is our understanding that the Administration proposes to proceed with phasing out training grant programs and to support only postdoctoral students by direct fellowships. This approach indicates a lack of understanding of the unique contributions that the training grant program has made to the advancement of education and research training in the biomedical sciences.

The Secretary's proposal appears to neglect the fact that training for careers in biomedical research and teaching necessitates the provision of sites where special opportunities for learning advanced scientific knowledge and techniques are created by biomedical scientists working together to develop coherent, formal educational programs. His statement in fact implied that the trainees were being denied support because funds went to the institutions which prepare these special sites. It misses the whole point of developing institutional competence and excellence for the production process.

The Association wonders what types of training opportunities the Secretary envisions for the fellows he proposes to support. The resources for such training cannot be turned on and off in a capricious fashion. They are not available from other sources in the university or other Federal programs. Teams of skilled faculty and support personnel must be kept together over prolonged periods. They must be provided with the necessary equipment and supplies to develop and maintain their training programs. This can only be accomplished by providing stable funding to the institutions selected as training sites.

Furthermore, training grants have stimulated the faculty to develop more effective plans, both disciplinary and interdisciplinary, to provide students with the basic knowledge they require to do investigative work at the cutting edge of the biomedical sciences. This would be lost by a return to the apprenticeship training which is proposed under the Administration program.

Supporting the training sites solely through the mechanism of providing $3,000 per trainee per year will not permit the institutions to plan for or maintain ongoing, well organized training opportunities. Indeed, the amount proposed barely covers the cost of materials and supplies and is not adequate for supporting essential personnel. The Secretary's proposal, at best, will permit a few trainees to work with older scientists in an apprenticeship fashion. It will not promote the rigorous training of future investigators.

Limiting the support to postdoctoral students leaves completely unanswered the support of predoctoral students and medical students undertaking a combined program for the M.D.-Ph.D. degree. As we have previously stated, we believe it is essential that students at all levels seeking careers in teaching and research be provided adequate financial support during their education and training. They face the prospect of a lower income potential than those who prepare themselves for medical practice in residency programs for which they receive stipends. Faced with the necessity of incurring substantial debt to finance the full cost of their advanced training, many of these trainees would probably forego research careers, and opt to enter these more lucrative areas.

The proposed $90 million total support for biomedical research scientist training in future years is not enough. In 1972, Federal support of biomedical research training was $186 million. The manpower needs created by new research initiatives in cancer and heart and lung disease alone will require greater support than is now proposed. If promising research initiatives in other areas are to be pursued by creative, well-trained scientists, the absolute minimum investment by this nation must be at the level authorized by the Kennedy-Javits bill, S 2071.

The Association believes that the Administration's proposal will not assure the maintenance of our training capability which has reached such preeminence that it is the envy of every other nation. It will not provide the support for the further and continuing development of the structure of graduate medical education in the biomedical sciences to assure that we will maintain this level of excellence.

Mr. Chairman, the Association would like to thank you for this opportunity to comment on the Secretary's proposal, and would like to request that our comments be incorporated into the committee's record.

Yours truly,

JOHN A. D. COOPER, M.D.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. A parliamentary inquiry. Is there a time agreement?

The PRESIDING OFFICER. One hour on the bill and 1 hour on amendments.

Mr. KENNEDY. I would ask unanimous consent that it come out of my time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, on behalf of the distinguished Senator from Colorado (Mr. DOMINICK), I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 42, line 3, following the word, "disclosed", insert "(i)".

On line 4, change the comma following the word, "emergency", to a semicolon, strike the word, "and", and insert in lieu thereof "(ii)".

On line 9, following the word, "manner", change the period to a semicolon, and insert immediately thereafter the following:

"or (iii) if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the research program, and shall determine that the disclosure will not unduly interfere with the treatment of the patient or the conduct of the research program. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure. This section shall not supersede any other provision of federal law."

On line 14, change the word, "Persons", to "persons", and immediately prior thereto insert the following:

"Except as authorized under paragraph (3) of this subsection,".

Mr. BEALL. Mr. President, I understand that this amendment is acceptable to the manager of the bill, and that the Senator from Colorado (Mr. DOMINICK) has already talked to the manager about it.

Mr. KENNEDY. The Senator from Maryland is correct. The Senator from Colorado has spoken to us in the course of our deliberations during the markup of the bill, both in the executive session of the health subcommittee and in the full committee session.

At that time, the members of the committee understood what the Senator from Colorado was attempting to do, but his amendment did not have the language as precisely defined as we have it now. We are now in full support of this amendment.

I understand that the language here really incorporates the points being made by the Senator from Colorado and concerns the circumstances under which a court may inspect medical records. I have had an opportunity to examine the amendment. It is, I think, quite acceptable and I think it would be helpful.

Mr. JAVITS. Mr. President, I, too, have been consulted about this amendment of the Senator from Colorado, and it is agreeable to me to accept it.

Mr. BEALL. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. BEALL. Mr. President, I ask unanimous consent to have printed in the RECORD an explanation of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

### EXPLANATION OF DOMINICK AMENDMENT TO H.R. 7724

This amendment would clarify section 1209 of the bill which deals with the confidentiality of records required to be maintained by HEW-funded research programs. Unless a participant in such research gives his consent, the bill as reported permits disclosure of records pertaining to him only in case of a "medical emergency", or where needed for "scientific or epidemiological research". Unless one of these two conditions is met, all records kept by the research program are absolutely privileged, and disclosure cannot be compelled in a judicial or administrative proceeding.

This amendment would permit disclosure of records in a third situation—where specifically authorized by a court upon a showing of "good cause". In determining "good cause", the court would be required to consider potential adverse effects on the research participant, the physician-patient relationship, and the research program, and could not order disclosure where it would interfere with medical treatment of the research participant or conduct of the research program. This language is taken from the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255, sec. 408(b)(2)(C)). It is intended to permit disclosure in situations such as a criminal or other judicial proceeding where there may be a strong need for certain records which are not protected by the physician-patient privilege. In order to assure that this language would not disturb confidentiality provisions applicable to other categories of research participants—such as those involved in drug programs, this amendment specifically provides that it shall not supersede any other provision of federal law.

The General Counsel for the National Institutes of Health has informally advised that this amendment would not adversely affect NIH-funded research, and that the bill as amended by this amendment would afford research participants greater protection with regard to confidentiality of records than they now have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BEALL. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 33, between lines 13 and 14, insert the following:

"(c)(1) In addition to its other duties, the Commission shall conduct a study and investigation of the employment of psychosurgery with a view to determining the number and types of cases, during the five-year period ending December 31, 1972, in which psychosurgery has been performed in all private and public hospitals in the United States, and of compiling an analysis, on a case-by-case basis, of a sufficient number of such cases (together with followup information thereon) to provide the basis for an objective scientific evaluation of psychosurgery performed during such period with regard to the types of psychosurgery so performed, the conditions for which it was performed, and the results thereof. The Commission shall, not later than two years after the date of enactment of this subsection, complete such study and investigation and shall, on the basis of the information gained therefrom, establish policies indicating the circumstances (if any) under which the performance of psychosurgery is appropriate.

"(2) During the period beginning on the date of enactment of this subsection and ending on the date the Commission establishes the policies required under the second sentence of paragraph (1), no Federal funds shall be expended, or available for expenditure, for the purpose of conducting, or providing assistance in the conduct of, any project or activity which consists of, or includes, the performance of psychosurgery; and during such period, no Federal facilities shall be available for the performance of psychosurgery or any project which includes the performance of psychosurgery. After such period (A) any Federal funds made available with respect to the performance of psychosurgery shall be made available only on the condition that all psychosurgery conducted with the assistance of such funds be conducted in accordance with policies established by the Commission, and (B) no Federal facility shall be available for the performance of psychosurgery which is not performed in accordance with such policies.

"(3) As used in this subsection, the term 'psychosurgery' means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotion of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure, or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

Mr. BEALL. Mr. President, this amendment, if adopted, would declare a 2-year moratorium on the use of Federal funds and Federal facilities in projects involving the medical procedures known collectively as psychosurgery or psychiatric surgery. This amendment will further direct the National Commission for the Protection of Human Subjects of Biomedical and Behavorial Research to undertake a comprehensive study of psychosurgery designed to determine the number and type of cases performed during the last 5 years in all public and private hospitals in the United States. I am further asking, Mr. President, that the Commission compile and analyze data on a sufficient number of cases to provide the basis for objective scientific evaluation of this surgical technique. This study, which will include follow-up information on an appropriate number of selected cases, is to be compiled within 2 years from the date of the enactment of this legislation. The Commission is directed to establish policies indicating the circumstances—if any—under which the performance of psychosurgery is appropriate.

This amendment is a modified version of Senate Journal Resolution 86, which I introduced on March 29, 1973, along with the senior Senator from Colorado (Mr. DOMINICK), the junior Senator from New York (Mr. BUCKLEY), the junior Senator from Virginia (Mr. SCOTT), and the senior Senator from South Dakota (Mr. MCGOVERN). The fundamental difference between Senate Journal Resolution 86 and this amendment is the nature of the study. Senate Journal Resolution 86 directed the Secretary to conduct the study and submit the recommendation and supporting information to the Congress which would then determine if a public policy should be established regarding this type of surgical technique. Since H.R. 7724 establishes a National Commission for the Protection of Human Subjects and Biomedical and Behavorial Research and invests it with the authority to establish policies regarding human experimentation, I thought it appropriate to modify my original legislation accordingly. Under the provisions of this amendment, Federal funds and Federal facilities will be withheld from the support of psychosurgery projects until the Commission completes its study and establishes a national policy. During the duration of the Commission's study, which is not to last longer than 2 years, the amendment establishes a temporary moratorium on the use of Federal funds or Federal facilities.

Mr. President, earlier this year the Health Subcommittee of the Labor and Public Welfare Committee held extensive hearings on the topic of human experimentation. During these hearings, it was clearly established that few, if any, meaningful controls exist to regulate the use of experimental drugs, new and untested medical devices, or experimental surgical techniques. For instance, DES—diethylstilbestrol—is a drug whose carcinogenic characteristics have caused the Food and Drug Administration to severely restrict its use in humans, while banning its use in cattle, but it continues to be widely used as a morning after contraceptive in college infirmaries, clinics, and so forth. It became obvious to the members of the subcommittee that once a drug has been approved, even on a very restrictive basis, it is virtually impossible to prevent it from being prescribed for other unrelated uses. The testimony went on to clearly indicate that the Department of Health, Education, and Welfare has no effective authority to control experimental medical devices, such as the "super coil" which is used to induce midterm abortions, or surgical techniques such as the ones we are discussing today.

These hearings made it increasingly obvious that the Federal Government would have to play a larger role in regulating medical research on humans. This amendment is designed to assert a responsible Federal role in one such area of medical experimentation.

During the 20 years between 1935 and 1955, a surgical technique known as lobotomy was widely practiced in this country and throughout the world. It is estimated that approximately 50,000 Americans underwent this radical surgical technique which produced extreme changes in personality, emotional disturbances, impairment of judgment, and a frequent lack of control of basic impulses. During his testimony before the Health Subcommittee, Dr. Bertram S. Brown, the Director of the National Institute of Mental Health, stated:

> Unequivocally, that no responsible scientist today would condone a classical lobotomy operation.

Mr. President, I do not wish to simplistically equate the more sophisticated psychosurgical techniques with the classical lobotomy, but I do believe that we should take reasonable and responsible steps designed to protect our citizens from these new and essentially experimental surgical procedures. The classical lobotomy, which permanently disabled tens of thousands of our fellow citizens, fell into disuse only after the American Medical Association, and the American Psychiatric Association all failed to take decisive action to bring this practice to an end.

In the context of the current situation, it is estimated that between 500 and 700 psychosurgical operations are performed each year in this country. Many psychosurgeons, including Dr. O. J. Andy, who testified before our Health Subcommittee, no longer consider this technique to be experimental. Thus, the potential exists for rapid expansion in the number of operations taking place each year, and I believe that the time has come for the Federal Government to assert itself in such a way as to insure that our citizens are not once again victimized by the specious promise of a quick and lasting surgical cure for mental illness.

Mr. President, during the remainder of my remarks, I will attempt to raise, for the consideration of my colleagues, some of the complex and largely unanswered questions that surround the practice of psychosurgery. In his testimony, Dr. Brown stated that:

> We need to know that answers to such questions as: What chemicals are responsible for transmission of nerve impulses within the brain and how do these chemicals control different forms of behavior? What chemical or physical changes occur when learning takes place or when a memory is recovered from the brain? What anatomical systems and what chemicals are responsible for aggressive behavior, sexual behavior, eating behavior, drinking behavior, and the common state of sleep and dreaming? How is the brain and central nervous system related to the autonomic nervous system which controls many life processes such as heart rate, blood pressure, and a wide variety of visceral functions? What happens to the behavior and cognitive processes of men when portions of the brain are damaged through accident, birth injury, malnutrition or disease? Can functions that have been lost through such disruption of the brain be recovered or taken over by other portions of the brain?

In response to a question, Dr. Brown stated that:

> We know much more about the functioning of the human brain today than we did 30 years ago—but we know very little of what we need to know.

I believe that this observation succinctly sums up the reasons for suspending Federal support to psychosurgical projects until such time as we have, at our disposal, the type of comprehensive information needed to make a valid policy decision. Dr. Brown reinforced this point when he stated:

> We have no reliable data on the extent of the practice of psychosurgery in this country, the types of patients subjected to this technique, or the after effects on patient behavior. The most systematic attempt (in this country) to assess the effects of psychosurgery on patient behavior and intellectual capacities was the Columbia-Greystone project which was conducted in 1954. Since then, many changes in psychiatric and medical practice have taken place: chemotherapy has dramatically changed the nature of the patient population in mental hospitals, and new surgical procedures have been introduced which are quite different from those studied by the Columbia-Greystone project. In order to make any specific recommendations for overseeing or controlling the clinical practice of psychosurgery a systematic survey of the field must be conducted—perhaps by one of the many professional societies and private foundations that have recently begun to focus on ethical issues in life sciences. We need to gather existing data available from patient histories and other sources which never come to our attention because they are not federally funded. In order to answer the "hard" questions, we must first find out what's going on.

Later on in his testimony, Dr. Brown sought to explain some of the problems confronting the Department of Health, Education, and Welfare with regard to human experimentation for medical purposes. He outlined the HEW regulations related to "informed consent" which cover only those cases involving Federal funds. It became clear during the course of these hearings that these guidelines are most often observed in the breach.

The observation of Dr. Brown were reinforced in a recent article entitled "Psychosurgery—Myriad Tough Questions" which appeared in the New York Times on March 18, 1973. In this article it was pointed out that psychosurgery raises some difficult questions. Is enough known about how the brain works to be sure the surgery will have the desired effect and not interfere with otherwise normal responses and feelings? Or will those subjected to the refined techniques of modern surgery be "semivegetables" as were some patients who underwent the gross lobotomies of the decade past? How can it be demonstrated with certainty that the patient is unresponsive to more conservative treatment, especially if the patient is in a State institution where treatment is notoriously inadequate?

I might add, Mr. President, that a similar question might be directed to those cases involving small children. Many of the psychosurgeons, including one who testified before our subcommittee, perform surgery on children as young as 5 or 6 or 7 years of age. In fact, many of these children undergo multiple operations—sometimes numbering as high as five or six—until the desired effect is achieved. How can we be sure that the traditional forms of drug and psychiatric treatment have been exhausted when children this young are involved?

The ultimate question is probably what types of patients are considered to be acceptable candidates for psychosurgery. Targets are supposed to be depressed women, hyperactive children, drug addicts, alcoholics, epileptics, neurotics, psychotics, convicts. Targets are often blacks.

Typical patients include those who display what psychosurgeons refer to as "symptoms of abnormal behavior," such as emotional tension, anxiety, aggressiveness, destructiveness, agitation, distractability, suicidal tendencies, nervousness, mood changes, rage, stealing and explosive emotions. (Current Magazine—reprinted in the Baltimore Sunday Sun, March 23, 1973.)

The vastness of the range of potential psychosurgery patients is, in itself, a compelling reason for the Senate to give prompt and favorable consideration to the amendment I am introducing today. If we, as a Government, are going to make an error in judgment, then let it be on the side of caution—not on the side of haste. A very pertinent point was made by Dr. Willard Gaylin, president of the Hastings Institute, when he testified that 90 percent of the psychosurgical operations that are presently taking place would not occur if the proper guidelines and precautions were adhered to. This seems to me to be a very compelling argument for us to pursue at this time—a policy that will restrain and not encourage this type of experimental research. Dr. Breggin, who has emerged as a prominent spokesman in opposition to psychosurgery, expressed another area of concern when he summed up his views by stating that:

> The real issues are not scientific or technical. The real issues are moral, political, and spiritual. What is man—a machine, device, a space filled with molecules? Or is man a spiritual being, divine in origin, human in character, charged with life, with will, (and) with the ability to love. . . ? And how should man best live—under the control of others through behavioral modification, or to the best of his capacities within an environment that respects his freedom and his unique human and spiritual quality?

Mr. President, in conclusion let me say that the controversy surrounding psychosurgery has grown increasingly intense in recent months. I believe that the people are deeply distressed by the implications of a large-scale application of this surgical technique. Thus, the time has come for Congress to provide leadership in seeing that the Federal Government does not inadvertently promote the widespread use of an experimental surgical technique unless and until a more clearly defined public policy has been determined. The amendment I am offering today does not seek to preordain what that public policy should be, but it does mandate a pause in all Federal activities in this area until the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research has had an opportunity to compile, analyze, and act upon the vast amounts of existing data. Once this public policy has been established, I believe we can assure our citizens that maximum care has been taken to assure their safety.

Mr. President, the articles I have referred to in this statement and other supporting material were printed in the RECORD on March 29, 1973, when I introduced Senate Joint Resolution 86.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I hope the Senate will accept this amendment. We had testimony before the Senate Health Committee from Bert Brown, the head of the National Institute of Mental Health, who testified that there are great uncertainties about the impact of psychosurgery on the brain. The NIMH supports only one research program at the present time.

The thrust of this amendment, as I understand it, is to insure that any time Federal funds are made available for psychosurgery, the surgery will be performed under the highest ethical and the highest medical standards. That certainly is in complete conformity with the whole thrust and purpose of this commission and what the legislation intends to do.

So I think it will put this matter before the commission, and then at any time in the future, Congress will be able to review the actual results of the commission. Hopefully, we will be able to get the best possible minds in this country on the commission to consider this extremely important, complex, and difficult—yet, perhaps, hopeful—kind of medical procedure. It will not ban it as it pertains to the psychosurgery that has taken place. According to the testimony, approximately 500 operations a year are taking place at the present time, and I think some of them have taken place under very questionable circumstances. We had testimony that in some instances, it is even being practiced on children.

I think it would be wise for the Senate to accept this amendment. It is really one of the most challenging opportunities to which the commission can respond.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. BEALL. I yield.

Mr. COTTON. I find myself deeply interested in this debate, because I gather that the operation called a lobotomy is covered by this bill.

It happens that a member of my family had that type of operation 25 years ago, had been confined in institutions, was termed manic depressive, was suicidal, could not even have a knife and a fork. Even then, there was a great deal of controversy. Finally, in despair, we had the operation. It was an operation that changed the person's personality somewhat but in that case was extremely successful, so that the person is perfectly normal and has had a happy life for 25 years.

I have been told by many doctors that that operation is frowned upon now, that they felt it was too dangerous, and that the use of drugs is to take its place.

Let me ask this: Does this amendment affect shock treatments?

Mr. BEALL. It specifically excludes it. I will read the definition of psychosurgery.

The definition is as follows:

> The term "psychosurgery" means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure, or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

Mr. COTTON. The amendment offered by the distinguished Senator from Maryland would give this commission full power to regulate, without coming back to Congress?

Mr. BEALL. Yes, because this amendment and the basic legislation gives the commission the authority to develop policies regarding research on humans.

Mr. COTTON. Is not the amendment offered by the distinguished Senator from Maryland more stringent and more arbitrary in its effect than the original bill?

Mr. BEALL. Than the bill we are now debating?

Mr. COTTON. Yes.

Mr. BEALL. It does not allow Federal participation for the next 2 years. It is a ban so far as Federal funds are concerned. It does not prevent operations from being performed; it just states that Federal funds and Federal facilities cannot be used for this type procedure, for a 2-year period.

Mr. COTTON. Would the bill as amended by the amendment after 2 years prevent operations financed by individuals or their families, or whoever had control?

Mr. BEALL. The effect of the amendment would be that the commission would establish the guidelines under which this procedure shall be used.

Mr. COTTON. The medical profession would have to conform to those guidelines?

Mr. BEALL. The medical profession involved in Federal programs would have to conform to those guidelines.

Mr. COTTON. That is in the bill?

Mr. BEALL. It is in the amendment.

Mr. COTTON. I thank the Senator.

Mr. JAVITS. Mr. President, I, too, would urge the Senate to accept this amendment. It is consonant with the general spirit of the bill.

While I am on my feet, title II of the bill incorporates two measures which I introduced, one to establish the guideline concept, in the form of interior provisions according to the NIH guidelines, in view of our deep concern about the protection of human subjects, both in experimentation and such things as this amendment deals with. What the committee has done is to institutionalize the element of protection through the establishment of a Presidential Commission. The Presidential Commission having within its purview the identification of ethical principles which should underline the conduct of biomedical research involving human subjects and then develop policies and regulations to assure that such research is carried out according to the highest possible standards. The whole world is entering into not only psychosurgery but also organ transplants and so many other disease experimental treatment and diagnostic procedures, and the question of who shall live and who shall die, which doctors have to make and families have to make.

That, coupled with what we discovered about human subject experimentation in the Tuskegee syphilis study, induced me to introduce the legislation which in great measure is incorporated into the pending bill. Essentially, title II of this bill carries it through in three ways: the guideline concept; second, the interim provision until the commission actually operates, which was the subject of the bill I had introduced; and, third, the opportunity to establish in medical schools programs which would provide increased emphasis on the ethical social, legal, and moral implications of advances in biomedical research and technology. The third point was also included in the bill, S. 974, I introduced along with the Senator from New Jersey (Mr. WILLIAMS).

The bill is extremely desirable. I think it is indispensable for the reasons I mentioned, and also for the reasons I mentioned I favor this amendment which is proposed by the Senator from Maryland.

Mr. BEALL. I thank the Senator.

Mr. KENNEDY. Mr. President, I am ready to yield back the remainder of my time.

Mr. COTTON. Mr. President, will the Senator yield so that I may propound a question to the Senator from New York?

Mr. KENNEDY. I yield.

Mr. JAVITS. Of course.

Mr. COTTON. The Senator said that the matter of determining who shall live and who shall die shall be controlled. When it is the question of a chance to live a normal life as against spending one's life hopelessly confined in an insane institution, that is not exactly a question of whether one lives or dies, but whether the chance should be given.

It is my understanding that this bill and the amendment look forward progressively to what the medical profession, particularly the psychiatric portion of the profession, is approaching. I am not trying to turn back time but any Senator voting on this bill who has had someone near and dear to him able to spend 25 years in a home instead of 25 years in an insane hospital because of a partial—a lobotomy operation is what it was—it is difficult for me to start closing the door on that and permitting anyone to say people cannot have recourse in certain desperate cases to that kind of a risk, if there is hope for recovery.

I would like the Senator's comments on that.

Mr. JAVITS. I would like to take the last part first, if I may, because what the Senator said is touching and moves me so deeply. Of course, I cannot conceive the operation of this bill shutting off that opportunity to the family or the individual patient. The whole premise of the amendment is based heavily on the testimony of the Director of the National Institute of Mental Health. As shown on page 14 of the committee report, Dr. Brown testified that he considered it to be an experimental procedure which, if done, should only be done under the most well-controlled circumstances. He testified on the need for peer review to be sure that the quality of medical practice was consistent with the highest possible standards.

It has been mentioned here that what we are trying to curb, in the context of the protection of Human Subjects Act, is irresponsible use of experimental techniques, and the heavy emphasis is on the word "irresponsible." There is not the slightest desire nor any reason why there should be any inhibition imposed by law in such a situation or anything analogous to it.

Mr. COTTON. If the amendment of the Senator from Maryland is added to the bill, it would do that for 2 years.

Mr. BEALL. Only in Federal facilities.

Mr. JAVITS. Yes, only in Federal facilities. It gives us a chance to catch our breath and have a look.

The other thing about my statement on who shall live and who shall die had no relation to psychosurgery but only transplants. As regrettable as it is to all of us, we do not have enough hearts, kidneys, eyes, and other organs, so the doctor is placed in a terrible bind. The legislation I have introduced was in the hope of trying to find some answer.

Mr. COTTON. I thank the Senator.

Mr. JAVITS. I did not wish to be misunderstood.

Mr. COTTON. I agree with that.

The practice of surgical lobotomy in desperate cases is not a new experiment.

Mr. JAVITS. Not at all.

Mr. COTTON. It has been going on for many years. It is frowned upon. As I was advised by many doctors, before that risk is taken, the case must be hopeless in the sense of the patient being able to lead a normal life.

Mr. JAVITS. That is correct.

Mr. COTTON. And as long as that option is preserved, I am comforted to some extent, but it frightens me to think that that option might be taken away if the commission decreed it was bad medical practice and no surgeon would undertake it.

Mr. BEALL. It is not my intent as the sponsor of this amendment to foreclose any opportunity for a person to be made better through any surgical technique because I think we are going to broaden the opportunity to cure disease. I am concerned, and many of us learned during the testimony on the subject matter that although many of these operations are very successful, some not only were unsuccessful, but unnecessary.

All we want to make sure is that there are proper safeguards so that the responsible people are making the proper decisions and giving the proper advice in instances of this sort. Our objective is that there are some sort of guidelines established so protection is offered to the public.

Mr. COTTON. Established by whom?

Mr. BEALL. By the commission.

Mr. COTTON. By the commission.

Mr. BEALL. A commission made up of people who have competence in this field.

Mr. JAVITS. Mr. President, if I could have the attention of the Senator from Massachusetts, may I say to the Senator from New Hampshire I think it is fair to say the Committee on Labor and Public Welfare and its Health Subcommittee will be attentive to the work of this commission. What is made by law can also be unmade by law. Certainly there will be an adequate interval between the time the commission makes its recommendations and the promulgation of those recommendations in the binding way described by the Senator from Maryland.

I would like to give assurance to the Senator from New Hampshire that that procedure will be followed, so that we can all have a good, hard look at what the commission recommends, rather than have it, in some plenary way, installed and established as a matter of law. Our goal, if this bill should be passed, is to be sure, from the congressional point of view, that we are not locked in and have not given away our rights and privileges.

Mr. COTTON. May I say I appreciate the courtesy and patience of the Senators from New York, Maryland, and Massachusetts, in indulging me to the extent of this discussion. I feel comforted that this discussion establishes, in a sense, a legislative history and intent. It gives me some reassurance.

Nobody in the Senate could possibly feel more keenly about the dangers of this type of procedure, because 25 years ago I made an agonizing decision, and knew and was advised that I was running a terrible risk; but I was also advised by more than one doctor that it was the only chance. At that time I was aware of cases that had practically destroyed a person's cerebral capacity. It was because I have borne the scars of that all these years that I wanted to be sure about this bill.

I think the statements of the Senators from Massachusetts, New York, and Maryland as to the purpose of the bill and the legislative intent behind the bill are some reassurance to me, and again I thank them for their patience, because this is a rather emotional subject for me, and I appreciate their assurance.

Mr. BEALL. I thank the Senator for his support and also for making the clarification possible.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BEALL. I am happy to yield.

Mr. TAFT. I am not sure I understand the full import of this amendment. Does it relate merely to a study of psychosurgery, or does it prevent the use of psychosurgery in federally financed facilities?

Mr. BEALL. It prevents the use of psychosurgery for up to 2 years in Federal facilities or with Federal funds, while the Commission is establishing guidelines for the further use of psychosurgery techniques. Then, presumably, the Commission will establish its guidelines.

Mr. TAFT. I have tried to listen during the debate, and I share some of the concern of the Senator from New Hampshire. For instance, in certain cases in veterans hospitals, for instance, such as the one at Chillicothe which specializes in problems of mental disorders, the current medical practice may remain for considering psychosurgery. For these particular cases probably no other institution is going to be available.

I think we are sort of prejudging what the result is going to be in taking into our own hands and making a judgment as to what the proper medical technique is going to be, rather than turning that over to the Commission we are going to appoint, even though it is going to make the initial decision.

I have never been against a study. I think a study is desirable. But I wonder if the Senate or the Congress should take into its hands the decision as to what medical techniques are or are not going to be followed during the period this study takes place. It is all right to say we are not going to use Federal funds, but they can get it elsewhere, but as a practical matter, they may not be able to get it from their own resources. It may not be available to them. This remedy may be the one that a good deal of medical opinion would go along with, and the Commission might if the Commission were presented with the facts of the particular case.

I think the amendment perhaps goes too far in making that kind of judgment.

I particularly point that out because of something I want to get into in a few minutes, based on the provision that the Commission is prohibited from having more than five of its members be practicing physicians. This area, too, is on the fringes and bothers me considerably. I will go into that in a moment, but I do not want to distract attention from discussion of this particular amendment.

Mr. BEALL. The Senator from Ohio makes a good point. Some of these operations have been performed in veterans hospitals. I think approximately 16 operations of this type have been performed in Federal hospitals over the last several years. Perhaps, if it is the only procedure we would have to help a person under extreme circumstances, we should not completely ban it.

I would be willing to modify the amendment so as not to ban it altogether in Federal facilities, but perhaps allow them under the informed consent procedures already in the bill——

Mr. COTTON. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. COTTON. I think certain modifications would assure the Senator from New Hampshire, too. For instance, as I understand the Senator's amendment, it does not confine it to new experiments. The matter of lobotomy operations is not new. It is as old as the hills. The medical profession, by and large, prefer the use of drugs and resort to this procedure only in extreme cases.

I cannot help but agree with the distinguished Senator from Ohio that for 2 years to say that this could not be done, unless they are wealthy enough to go ahead and have it done privately, is a little unfair. If it would confine itself to new and experimental procedures, it would not be bad.

Mr. BEALL. I am more interested in providing the kinds of safeguards so that there is informed consent, so that the people have all the options and the dangers explained to them. We have seen cases where people have had this operation performed at some public institutions without fully understanding the implications. Of course, many are not capable of giving consent. We have seen operations performed on such people when perhaps other techniques could have been used.

I am more interested in having effective guidelines rather than preventing surgery if the surgery is deemed to be needed.

Mr. President, I expect to make a modification in my amendment that will satisfy both Senators, if the Senator from Ohio will allow me a few minutes.

Mr. TAFT. I will be glad to do that. I think, in the interest of expediting the procedure, if it is agreeable with the able manager of the bill, perhaps I could ask unanimous consent if I could talk out of order on the amendment, but on another aspect of the bill at this time.

Mr. KENNEDY. Mr. President, I have no objection. I would yield the time on the bill.

Mr. TAFT. Mr. President, I thank the Senator from Massachusetts.

The point that I want to talk about at this time relates to section 1201 of the bill. We find on page 28 that there is established in the Department of Health, Education, and Welfare the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

I certainly concur very strongly with that objective. I worked in the committee and attempted to make the bill as feasible and as workable as possible so as to achieve that goal. I am concerned, however, as to the particular makeup of the Commission.

It is stated that it shall be composed of 11 members who shall be appointed by the President. They are to be members appointed from the general public and from among individuals in the fields of medicine, law, ethics, theology, biological science, physical science, social science, philosophy, humanities, health administration, government, and public affairs.

While there is mention here of the field of medicine and biological science, there is no requirement that any member of the Commission be in effect a physician or one experienced in the field of biological science involving research on human subjects. I think this is a mistake.

It seems to me that while the committee report seems to indicate this, it certainly intends that there should be physicians on the board.

I do not see any requirement that there be any. As a matter of fact, even in subsection (d), I note that there is a requirement that says that of the 11 members of the Commission, not more than 5 members shall be appointed who are or who have been engaged in biomedical or behavioral research involving human subjects.

It does not require that these individuals or any member of them be physicians. There is no requirement, therefore, that there be physicians on the Commission.

Further, under section (c) (1) it states that the President shall appoint, by and with the advice and consent of the Senate, one of the members to serve as chairman and one to serve as cochairman each for a term of 4 years at the time of appointment.

It further states:

> Of the persons designated under section (c) (1) at least, but no more than, one shall have conducted biomedical or behavioral research involving human subjects.

Again there is no requirement that the individual be a physician. It seems to me that we are downgrading what I believe must be the leading role from a technical point of view, of the field of physicians in making the decisions here involved.

I am not saying that others should not be on the commission. I feel very strongly that in making the ethical judgments and in making the standards desired to be applied on the commission, there should be others than physicians on the board.

However, I feel that the tenor of section 1201(a) right through section 1201 (d) is somehow against the inclusion of physicians on the commission and against physicians having a primary role in the decisions from a technical point of view as to the decisions and standards the commission might apply.

I would like to ask the distinguished Senator from Massachusetts, the manager of the bill, if he would comment on the matter of whether he feels there might be some way in which we could assure ourselves that responsible physicians would be included on the commission. I do not know whether physicians are included in biomedical or behavioral research involving human subjects. I presume they are. However, could they appoint physicians not restricted by subsection (d)?

Mr. KENNEDY. Mr. President, I am glad to have the opportunity to clarify the impact of the particular provisions mentioned by the Senator from Indiana.

The provisions of section 1201(d) state

that not more than five members of the commission shall be appointed who are or who have been engaged in biomedical or behavioral research involving human subjects. That is not an attempt to try to say that there will be five or less members of the commission who are doctors, but not more than five who have actually done biomedical or behavioral research involving human subjects.

The basis for that was the testimony of Dr. Jay Katz, Dr. Bernard Barber, and others, recognized experts in the field, that the commission should have a majority of individuals who had not conducted such research. We have tried to provide the broadest possible participation in the development of the commission. Saying that not more than five members of the commission shall be appointed who are or who have been engaged in biomedical behavioral research involving human subjects does not limit the number of physicians. It is possible that all 11 members may be physicians. The prohibition is on researchers. We want to be sure to balance the views of those whose primary concern might be the research and not the research subject.

Mr. TAFT. In other words, the Senator does not feel that the standard of training of a physician, which does involve various other practices, does not in his mind in the language of the bill call for biomedical or behavioral research involving human subjects?

Mr. KENNEDY. The Senator is correct. Under that interpretation. Obviously in the training of doctors one would hope these issues are routinely discussed.

But there is a difference between the practice of medicine and the conduct of research. This structure for the commission is a reflection of a feeling by some of our consultants that the majority of commissioners should not be individuals actually conducting biomedical research involving human subjects. This bill would permit the Secretary to appoint five members, almost a majority, from that category. It would preserve, however, the opportunity for the inclusion of other disciplines.

Mr. President, I welcome the opportunity to point out that it is entirely possible that every member of the commission would be a doctor. He may be a doctor trained in ethics, administration, law, or any one of the other mentioned sciences here.

Mr. TAFT. Mr. President, does the Senator feel that perhaps we might include some type of provision that at least a certain number should be physicians?

Mr. KENNEDY. We are trying to leave that open to the discretion of the Secretary, based again upon the recommendations of our consultants.

Prior to this exchange, I was reviewing in my own mind whether there should be a designation of three or four. I would expect that the Secretary would probably appoint five or, perhaps, even six members of the commission who are physicians. However, I would rather not write that in. I would expect that many members would have a combination of training both in medicine and in these other areas.

I am somewhat reluctant to say that at least five members of the commission shall be individuals trained in medicine. I would rather leave it to the discretion of the Secretary

I prefer not to tie his hands. I would certainly expect, however, that five or six members would have as a kind of basic training, training in the medical sciences.

Mr. TAFT. I thank the Senator for his explanation.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. Mr. President, is the pending order of business my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BEALL. Mr. President, may I alter my amendment at this time?

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that the amendment be modified by deleting section (2) and renumbering section (3) accordingly.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. BEALL's amendment, as modified, follows:

On page 33, between lines 13 and 14, insert the following:

"(c) (1) In addition to its other duties, the Commission shall conduct a study and investigation of the employment of psychosurgery with a view to determining the number and types of cases, during the five-year period ending December 31, 1972, in which psychosurgery has been performed in all private and public hospitals in the United States, and of compiling an analysis, on a case-by-case basis, of a sufficient number of such cases (together with followup information thereon) to provide the basis for an objective scientific evaluation of psychosurgery performed during such period with regard to the types of psychosurgery so performed, the conditions for which it was performed, and the results thereof. The Commission shall, not later than two years after the date of enactment of this subsection, complete such study and investigation and shall, on the basis of the information gained therefrom, establish policies indicating the circumstances (if any) under which the performance of psychosurgery is appropriate.

"(2) As used in this subsection, the term 'psychosurgery' means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure, or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

Mr. BEALL. The effect of this amendment would be to have it apply to HEW, as does the whole bill. We avoid thereby the jurisdictional problems involved in having it cover the Department of Defense, the VA, or other governmental agencies.

I would like to say I have talked with the distinguished Senator from California (Mr. CRANSTON) about this matter, and he has indicated that the Veterans' Affairs Committee, of which he is a member, would, at the first opportunity, consider this matter in connection with appropriate legislation so that the same kind of safeguards may be applied to veterans' hospitals.

I think he also indicated that it was fair to point out to those who administer the veterans' hospitals that, though they are not covered by this legislation, it is the hope of those of us who sit in the legislative branch of the Government that they would voluntarily exercise the same kind of safeguards we are asking other institutions around the country to exercise with regard to this kind of surgical technique.

Mr. KENNEDY. Mr. President, I thank the Senator from Maryland for this modification. I think the amendment thereby is made to conform with the basic thrust of the legislation. I, for one, share the feeling of the Senator from Maryland that when this commission becomes established and earns, justifiably, the confidence of researchers throughout this country, and has the kind of membership that I think all of us believe it should have and can have, that then the guidelines which are developed will apply to the other agencies as well.

Let me remind the Senator from Maryland that we had a joint hearing of the Veterans' Subcommittee and the Health Subcommittee one day on the question of psychosurgery in the VA, and learned that the VA has developed some new guidelines themselves over the period of the last year and a half or so. That underlines the point, I think, of the Senator's comments; that we have one set of guidelines for the VA, another for HEW, and others for other agencies.

So we are very hopeful, or at least I am, that as the commission develops and gives these matters the kind of deep and thoughtful study that it should, it will be a guide for the other agencies as well.

I welcome the modification. I think it is desirable, and I urge, if there be no further comments, that the amendment as modified be accepted by the Senate.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. BEALL. Yes, I thank the Senator from Massachusetts.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 7, insert the following:

"PROHIBITION OF RESEARCH

"SEC. 1205. The Secretary may not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant."

Renumber subsequent sections.

Mr. BUCKLEY. Mr. President, the amendment is offered on my own behalf and on behalf of the Senator from Oregon (Mr. HATFIELD), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Iowa (Mr. HUGHES), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), the Senator from Delaware (Mr. ROTH), and the Senator from Kansas (Mr. DOLE).

The version of this bill as passed by the House has a provision comparable to the amendment I now offer. It was introduced by Representative RONCALLO of New York and was carried by the overwhelming vote of 354 to 9. My amendment is animated by the same spirit that prompted Representative RONCALLO to offer his, although the wording in some respects are different and, I believe more precise. Representative RONCALLO's office assures me that it is fully in keeping with the intention of his amendment.

My amendment provides:

> The Secretary may not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant.

The purpose of the amendment is very simple and straightforward, and, indeed, for the most part self-explanatory. It would prohibit the Department of Health, Education, and Welfare from funding in whole or in part, in the United States or abroad, any research or experimentation to be performed on a living human fetus or infant prior to, during, or after an induced abortion. The amendment is limited in its application to the induced abortion situation, for in that situation there is simply no way to obtain the kind of informed consent that ethical medical practice would normally require. The fetus or infant is, of course, incapable of providing the requisite consent; and where the mother has already consented to the killing of her unborn offspring, it seems to me that she has already abrogated any right she might otherwise have to consent to any medical procedure to be performed on her child.

I would like to make clear, Mr. President, that this amendment has nothing to do with the merits of the abortion controversy itself.

As Representative RONCALLO remarked on the floor of the House, for the purpose of this amendment, it matters not how the unborn child comes into the hands of the would-be experimenter. What matters is the limitation on the nature and purpose of the medical practitioner's procedure. If the research or experimentation be for the purpose of insuring the survival of the fetus or infant, then it would not be prohibited. Such a purpose, of course, is scarcely imaginable in a situation where the mother has consented to the killing of the unborn child, but I do not want to preclude in any way the possibility of some attending physician taking steps to save the life of such a child, however improbable it might be under the contemplated circumstances.

By limiting the application of this amendment to the induced abortion situation, we shall reach the overwhelming majority of those noxious experiments which have so outraged millions of Americans in recent weeks and months. It is the children who are aborted in the elective abortion situation who constitute the largest class of human guinea pigs now given over to the practitioners of the black arts of a perverted science. Condemned to death by their mothers, removed by physicians from their life-support systems, such children are now being subjected to the inhuman indignity of becoming grist for the experimenter's mill.

Some of this grisly research, I am sorry to say, is being funded by the American taxpayers. No one knows for sure the extent to which such research now goes on. Some months ago, officials of the Department of Health, Education, and Welfare were stoutly insisting that "to the best of their knowledge" no such research was being funded. Subsequent investigation has turned up a number of instances in which these officials were proved wrong. According to the Washington Post of April 15, 1973, the NIH has financially supported one Dr. Robert Schwartz, chief of pediatrics at Cleveland Metropolitan Hospital, in research on living aborted human fetuses. Dr. Schwartz's technique is to remove tissues and organs from the fetus while its heart is still beating. Shock at this exposé pales, however, when we note the work of Dr. Peter A. J. Adam, associate professor of pediatrics at Case Western Reserve University, who reported recently that in collaboration with Finnish doctors he had performed an experiment involving the severed heads of 12 fetuses obtained by abdominal hysterotomy.

It is worthy of note, Mr. President, that fetuses aborted by hysterotomy are always alive at the time they are removed from their mother's body, unless the child has died as a result of the abortion procedure itself or as a result of extraneous causes. Dr. Adam's work, shocking though it may be, and even though it is morally repugnant to millions of our citizens, is nonetheless being funded, at least in part, by Federal funds. Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks the Washington Post article and a description of Dr. Adam's work recently published in the Medical World News for June 8, 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. BUCKLEY. Mr. President, it is time to bring a halt to this sort of experimental medicine, at the very least that part of it which the American taxpayer is now being required to fund. The Supreme Court has said that the unborn child is not a person within the meaning of the Constitution. I disagree most strenuously with that decision, and as Senators know, I am now seeking by constitutional amendment to reverse the incalculable damage being done to the moral and legal fiber of the Nation by the Court's action. But whatever the Court may have said about the legality of the abortion decision, nothing in that opinion or in any other provision of law requires us to say that these poor children, so callously condemned to die by their mothers, must also become human guinea pigs. Let them, I say, die in peace, unmolested by the prying hands, electrodes, and chemicals of those who would play God in the laboratory.

It is a measure of our humanity, Mr. President, how we shall choose to treat those who are about to die. It is in a very real sense we who are on trial, we who shall be judged by the verdict of history. Whatever one's findings about the matter of abortion itself, surely we can all agree that the unfortunate and helpless victims of abortion should be treated with the same respect that ought to be accorded to any other members of the human species at the hour of their death. The House revealed just such an agreement when it voted so overwhelmingly to Representative RONCALLO's amendment. The size of that vote suggests, how deeply felt and how widespread is the revulsion against this sort of experimentation, and how deeply felt and how widespread the sentiment to prohibit Federal funding of this mortally repugnant research. I would hope that the Senate would do no less.

May I say in closing, Mr. President, that I have followed closely the work of the subcommittee as it has probed into the abuses now so widely evident in the area of human experimentation. The time for reform is long overdue. I congratulate the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), my senior colleague from New York (Mr. JAVITS), the Senator from New Jersey (Mr. WILLIAMS), and other Senators who have helped to bring this bill before the Senate.

Their obvious and sincere concern with the problem of human research and experimentation so much recently in the news has enlightened all of us, and I congratulate them for their fine efforts. The Commission proposed by this bill is, I believe, a badly needed first step in the right direction; and I pray that the Commission will give its most serious attention to the possible adverse effects of the medical research that is now taking place. We have already, I fear, gone too far down the road toward what some have described as "the new medical ethic," one in which the alleged "social utility" of certain medical procedures takes precedence over the moral and legal rights of the patient on whom the procedure is to be performed.

It is my profound hope that the Commission proposed under this bill will take a long, hard look at how far we have already come and, without diminishing some of the marvelous life-enhancing discoveries of medical science, recommend appropriate ways in which this Nation in the future may benefit morally as well as scientifically. The duties being imposed on the Commission are great, just as the problems to which it must address itself are complex. I have every hope that the Commission will judiciously discharge its mandate.

Mr. President, my amendment is predicated on the fact that whether or not it is endowed with constitutional rights, a human fetus is in fact a human being. This essential humanity is strikingly described in two articles entitled, respectively, "The Foetus as a Personality" and "World of the Unborn Child." I ask unanimous consent that they be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Exhibit 1

[From the Washington Post, Apr. 15, 1973]

### Scientists and Fetus Research

(By Victor Cohn)

An intense scientist named Dr. Jerald Gaull in period trips to Finland injects a radioactive chemical into the fragile umbilical cords of fetuses freshly removed from their mothers' wombs in abortions.

The fetus in each case is too young to survive, but in the brief period that its heart is still beating, Gaull—chief of pediatrics research for Basic Research in Mental Retardation on Staten Island—then operates to remove its brain, lung, liver and kidneys for study. First, he emphasizes, he severs the nervous connections that link the brain to the body "to make sure the fetus will feel no pain."

Dr. Robert Schwartz, chief of pediatrics at Cleveland Metropolitan General Hospital, goes to Finland for a similar purpose. After a fetus is delivered, while it is still linked to its mother by the umbilical cord, he takes a blood sample. Then, after the cord is severed, he "as quickly as possible," he states, operates on this aborted being to remove other tissues and organs.

The fetuses in these cases are so small and undeveloped that their lungs are not fully formed. They cannot breathe, and their brains undoubtedly die within a matter of minutes, though their hearts beat much longer.

But if Schwartz continues to perform his procedures in advance of brain death, while the fetus by all definitions is still alive, he will be violating a new rule just pronounced by the scientifically powerful National Institutes of Health.

Last Thursday the NIH stated: "We know of no circumstances at present or in the foreseeable future which would justify NIH support of research on live aborted human fetuses." Schwartz is an NIH grantee who will have to abide by this rule if he is to get future support.

Yet, he and many other Americans who, according to good medical sources, go to other countries to get access to fetuses, all believe passionately that what they are doing is of crucial importance in learning to understand infant development.

"What needs to be said," said Gaull, "is that we need to get information that will help the unborn who are going to be born, not aborted. Rather than it being immoral to do what we are trying to do it is immoral—it is a terrible perversion of ethics—to throw these fetuses in the incinerator as is usually done, rather than to get some useful information."

This position was quickly rejected last week as Roman Catholics and top NIH leadership reacted to the first public report that NIH for more than two years has been considering the matter of guidelines for scientists who study live, aborted fetuses.

No vast number of American scentists do these operations. However, a large number are interested in the possibility, and others like Gaull and Schwartz have been going abroad for various studies, or at least removal of fetal samples.

There is "a relatively minimal amount" in the United States, according to Dr. Kurt Hirschhorn of New York's Mount Sinai Medical School. Scientists say they can get access here to only "a very small number of fetuses" for two reasons:

There is emotional objection to even removing fetal samples by many American doctors as well as much of the public. And the main U.S. methods today of abortion—suction removal early in pregnancy and, later, injection of saline solution ("salting out")—produce only fragmented or dead fetuses.

Only in nations that abort many babies in mid-pregnancy by caesarean section, because doctors there consider "salting out" too risky to mothers, can researchers get easy access to the whole, at least recently thriving fetus.

"I have gone to Helsinki for three or four weeks," said Gaull in one of a series of interviews last week, "and I have been able to do five or six procedures a day there. I'm interested in the fetus' biochemical development. We must know much more about normal development for intelligent genetic counseling.

"My co-workers and I have even studied the whole, intact fetus, injecting radioisotopes and following certain chemical reactions. We have in Europe studied the transfer of amino acids"—body building blocks—"from mother to fetus while the umbilical cord was still intact.

"We also maintain our own bank of fetal tissues. Banks like these ought to be established everyplace so these tissues can be distributed to investigators instead of being thrown away."

There are other Americans doing this sort of thing in Denmark, Sweden, Japan and Britain, scentists report. And some at least are either doing so with federal funds or bringing tissues back in federally funded programs.

This seems obvious despite a NIH memorandum furnished to The Washington Post after a NIH computer search in midweek. "We . . . find no documentation in current NIH research grants or contracts reflecting the use of live fetuses as a research tool," the memo said.

Schwartz, however, works with NIH funds. Gaull works abroad with his own money, he reports, but in the United States funded mainly by New York state with help from a NIH grant held by Mount Sinai Medical School, of which he is a faculty member.

Dr. David Gitlin of the University of Pittsburgh Children's Hospital is another NIH grantee. "We used to do research on the intact fetus," he said. "Now we take tissues—the brain has stopped functioning but the tissues are still alive. I very frequently go to friends in Scandinavia. Without them I couldn't work."

Other scientists do not believe some tissues are really "alive" enough if the brain has stopped working. "We have to take some tissues within the first few minutes," said Schwartz. "It depends on what one is studying. After separation from the mother, certain processes deteriorate very rapidly."

This is one reason some scientists have preferred to work while the fetus is still attached to the mother.

"I did work in Finland. I last went there four years ago," said Dr. Abraham Rudolph of the University of California in San Francisco. While the mother-to-fetus link was still intact—after many studies in animals to make sure the mother would not be harmed—he injected radioactively labeled plastic microspheres into the fetus to study blood circulation. In this way, he said, he gained important knowledge of fetal circulation.

"However," he added, "we are not doing any work in human fetuses now. We feel that there are enough serious concerns on the part of people, including research people, that until there is a better clarification of the matter we will avoid any more attempts."

Just how much of this kind of research is really going on?

"Dozens of people have done it as part of their projects," one scientist asserted, "though they might not use their NIH funding for this part."

"It is difficult to tell just how much there is," said Dr. Andre Hellegers of Georgetown University, who sat—a minority member—on an NIH study section that suggested in late 1971 that "techniques used for temporary maintenance of functional integrity of isolated organs" should be "applicable without further restriction for terminal studies of the abortus."

In plain English, this would have meant keeping a fetus alive for at least three or four hours by artificial means.

"I oppose this," Hellegers said. He is both a professor of obstetrics at Georgetown and director of its Kennedy Institute for Study of Human Reproduction and Bioethics.

"We can all agree on the use of the fetus in research," Hellegers continued. "I am not opposed to the removal of tissues under proper safeguards from a dead fetus. But I am against the use of the live fetus, whether it is inside or outside the uterus.

"I do know that NIH has funded such work in Sweden, at the famous Karolinska Institute, by a well known Swedish scientist. But if there has been such work funded recently, one can't simply blame the federal government. NIH has no way of knowing everything that is being done under training grants or institutional grants."

In fact, Hirschhorn complained, there has recently been a lull in human fetal research by U.S. scientists both in the United States and abroad, just as "the work was getting off the ground" and "investigators were at the beginning" of some important developments. He blamed both the lull and other recent "roadblocks" on the lack of any dialogue between citizens and scientists on this issue, and on what might be permitted.

The only U.S. dialogue until last week was a non-public one, inside NIH confines.

The first recent NIH document was the September, 1971 study section report developed by a non-federal advisory group—mainly university doctors and scientists. It recommended "planned scientific studies" of the fetus under acceptable and "carefully safeguarded" formats.

Any fetuses studied, it added, should be positively "non-viable," fetuses that could not live to develop into full-term babies under any circumstances. This was defined as those no older than 20 weeks, no more than 1.1 pounds in weight and no longer than 9.8 inches, or meeting at least two of these rules.

This recommendation was then considered by the National Advisory Council on Child Health and Human Development, also a non-NIH group, though chaired by Dr. Gerald D. LaVeck, director of NIH's National Institute of Child Health and Human Development.

This group merely decided in March, 1972, that acceptable guidelines "must be developed." But it clearly included studies on aborted fetuses by specifying that hospital review committees should "insure that the investigator shall not be involved in the decision to terminate a pregnancy the product of which is intended for study within his own research grant or authority."

"Please make it clear," said one scientist last week, "we never would consider having a pregnancy ended just so we could obtain the fetus."

In Britain in 1972 there was a wave of anger over the disclosure that some researchers were both buying aborted fetuses from some unscrupulous doctors and keeping them alive by artifical means for up to 15 hours or more.

In May, 1972, a government-appointed commission called for strict controls on such research, while agreeing that it was so important to future generations that it should continue.

It has continued in Britain; without much more fuss. This will apparently not be the case here.

Last Thursday, Dr. Robert Berliner, deputy director for science, said NIH "does not contemplate approving the support of such research." A committee is still working on its recommendations for NIH policy, he noted, but it is expected that this committee will agree.

What is more, said Berliner, a respected scientist, "there is no scientific justification" for work on living human fetuses because "you can do the same studies with animals."

Here, developmental specialists like Hirschhorn, Gitlin and Gaull take violent issue. As much as possible can and should be studied in animals, they concede, but, as Gaull put it, "Our understanding of human development must be based on understanding of human tissues rather than monkey or rat or rabbit."

Ethics, Hirschhorn argued, are not violated because a nonviable fetus, one that cannot live, "is one that cannot in any way be made into a child."

That is wrong, maintained Hellegers in a view similar to one stated last week by many Roman Catholic groups. "I include the live fetus inside the human race whether it is inside or outside the uterus."

Besides, he said, guidelines so far proposed call for "informed consent" of appropriate parties to such research. "Who are you to ask?" he said, the fetus that cannot give consent, or a mother who has already consented to the fetus' destruction?

"What I fear," said Dr. Robert Jaffe of the University fo Michigan—a member of the group that suggested the September, 1971, guidelines—"is that the new NIH action may make the situation so rigid that all research in this area may now be foreclosed."

That, said NIH's Dr. Charles Lowe to nearly 200 concerned Roman Catholic students Thursday, is exactly what NIH intends as far as live fetal research is concerned, even though there is nothing to legally prevent any such research with non-federal funds. "In practice," he assured the students, "what we have set becomes common currency."

This could well make scientists like Hirschhorn ask, "When was there any public-scientist dialogue?"

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Exhibit 2

[From the Daily News, July 2, 1973]

### Only Human—World of the Unborn Child

(By Sidney Fields)

Until ten years ago the unborn child was a mystery to its mother and even to the doctor. The mystery always heightened fears for herself and her child. If she was told anything it was that the fetus is surrounded by a protective sac of amniotic fluid, something like a space capsule, which keeps the baby warm, insulates it against shock and feeds it.

But the relatively new science of fetology, the study and treatment of the unborn child, has unshrouded much of the mystery.

"By tapping the amniotic fluid we can now tell the sex of the fetus and get a lot of clues about its growth, health and deficiencies," said Dr. Sheldon Cherry, one of the pioneers in fetology. "We know that it feels, reacts to pain, hears, swallows and even hiccups. By humanizing the unborn baby the mother becomes a participant rather than a victim of reproduction."

Dr. Cherry, 39, from Brooklyn, where his parents ran a clothing shop, has written some 15 papers on the subject. He teaches obstetrics and gynecology at the Mt. Sinai School of Medicine and is an attending obstetrician at the Mt. Sinai Hospital. He got involved in fetology back in 1962 when he read of the work of a Dr. A. W. Liley in New Zealand. After analyzing the amniotic fluid of a woman and finding that her baby was anemic because of RH disease, a substance in the mother's blood that was destroying the baby's blood, Dr. Liley inserted a needle through the mother's abdomen and into the body of the child and performed the first intrauterine blood transfusion. In 1964 Dr. Liley came here and Dr. Cherry learned the technique from him.

Two years ago he had a patient with RH disease and established a first of his own. Working with Dr. Karlis Adamsons of Mt. Sinai, he carefully lifted out the head of the unborn child from the mother and performed a blood transfusion through the carotid artery in the neck.

"It showed that fetal surgery was possible for many other things," Dr. Cherry said. "Small consolation to the mother. She lost the baby. But we're working on uterine rejection now."

A lab analysis of amniotic fluid can now diagnose any of 45 different genetic and enzymatic defects and help take care of at least ten obstetrical problems like RH disease, toxemia, maternal diabetes. Fetology has contributed to a 20% reduction in the mortality of unborn babies.

"But unless it's medically indicated we do not do an amniotic tap," Dr. Cherry said.

One of his patients, Mrs. Barbara Kelley, an editor at Bobbs-Merrill, asked a lot of questions about fetology when she was pregnant, then persuaded him to write "Understanding Pregnancy and Childbirth." Published last week, it's the first book covering a specific medical area which made a Book-of-the-Month Club selection.

His friend and mentor, Dr. S. B. Gusberg, obstetrician and gynecologist-in-chief at Mt. Sinai calls it, "A superb presentation of modern obstetrical knowledge in a style that is a model of comprehension and clarity." It's complete, humorous and includes everything a woman should know before and after childbirth. Dr. Cherry removes all the fears and doubts about pregnancy and makes it a thing of joy and wonder.

When a patient asks him what she should do to have a boy instead of a girl he lists all the suggested methods, explains that none are scientifically valid, then adds, "You might as well try them. It's a lot of fun trying but you shouldn't ask me. I have four daughters."

They range in age from 4 to 14. His wife, Gloria, is a lawyer, whom he met when he was at Columbia. She was at Barnard and is a graduate of Columbia Law. He took his M.D. at the Columbia College of Physicians and Surgeons. When his wife was pregnant with their first child his mother-in-law warned her, "Don't lift your hands above your head. You'll choke the baby." At the time he was a resident in obstetrics and was hearing all the other persistent myths: Don't swim, ride a bike, play tennis. Eat. You're eating for two.

"Many people still think that pregnancy is an illness and the pregnant woman an invalid," Dr. Cherry said. "That's nonsense. She's healthier when pregnant than unpregnant. The more activity the better. If she ran a mile before she can run a mile after she becomes pregnant. I would not recommend that she take up skydiving after becoming pregnant. She might break a leg."

Among his patients are water and snow skiers and ballet dancers. One ballerina danced up to the ninth month of her pregnancy. She's 42 years old.

But there are things a pregnant woman should avoid: Excessive doses of aspirin, X-rays for diagnoses, certain tranquilizers, the ubiquitous antibiotic, tetracycline, and smoking, which is associated with premature birth and hence potentially dangerous. How about booze?

"In moderation it's relaxing, especially for the pregnant woman's husband."

When one pregnant woman asked him recently, "Can I fly?" Dr. Cherry assumed his most professional face and replied, "Yes. But be sure you use an airplane."

Mr. BUCKLEY. Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

I share the very deep and sensitive concern of my friend and colleague, the distinguished Senator from New York (Mr. Buckley), on this particular matter, which is of great importance and consequence and which is the subject of his amendment. One of the central issues raised by the amendment is the matter of determining whether there can be informed consent in a situation where the parent has decided to abort the fetus, who can uphold and speak for the rights of that fetus? This is a very complicated and involved question. It is just the kind of question on which we are hopeful that the Commission itself will be able to guide us, to inform us, and to lead us during the years ahead.

Part of the problem that is suggested by the amendment of the Senator from New York is its restrictive nature. Scientists are on the verge of some important breakthroughs in the area of genetics. These breakthroughs will have the potential to correct genetic defects affecting thousands of our citizens. Cures for diseases such as sickle cell anemia, diabetes, Tay-Sachs, several forms of mental retardation, and PKU may depend on this kind of genetics research.

So I would like to ask my friend from New York if he is not concerned by the limitation on the possibilities for research in these particular areas which offer very great opportunities to try to provide relief for children yet unborn in these areas and in other genetic areas.

If the amendment is accepted, then what we will be doing will be effectively to prohibit the research community from pursuing these vital questions.

I was, therefore, wondering, in the Senator's research, how he thought we could best cope with that?

Mr. BUCKLEY. Mr. President, I am as desirous as the Senator from Massachusetts for progress in learning how to cure some of the diseases he has mentioned.

Let me say that my amendment is not all-inclusive. It is of a restrictive nature and limits itself to those children removed from their mothers by virtue of an elective abortion where, by ordaining the killing of the unborn child, the mother has forfeited her natural right to speak for it.

The acceptance of my amendment does not preclude or rule out any research in this field, as long as it is performed within the confines of ethical medical practice, which means: First, that there must be consent given by the appropriate party; and second, that the procedure be performed for the benefit of the patient on whom it is performed.

It would, yes, limit the available class of human guinea pigs, but the problem of consent is all-important. Human experimentation ought properly to be limited by informed consent, either the consent of the person on whom the experiment is to be performed, or where that consent is not possible, then the consent of the natural guardian. In the situation of a fetus lifted out of the mother in an induced elective abortion procedure, the fetus is not in a condition to give consent. And as I say, the mother has clearly abrogated hers.

But the principle of protecting human dignity and human rights is far more important than might be a slowing down in some areas of potentially beneficial, research, if such research involves one human being for the benefit of another. Of course, the whole thrust of this legislation is based on an understanding that there are high ethical considerations that override social convenience, that override the right of the Government to conduct, for example, experiments on syphilitics because it might help somebody else.

One of the primary rules of medicine is that the doctor is entitled to work on a given human body only in the interests of that human being.

**Mr. KENNEDY.** The problem we are facing is illustrated by one of the arguments the Senator from New York is making; his concern about the question of consent for the fetus. The mother says, "I do not want the child"; therefore, we do not want to give her the right to okay research on that child. But who can speak for that child? Can anyone give consent? Is the only alternative death with dignity? These are the very questions that the Commission, and not the Senate, should decide on the other hand the Senator would allow research in cases of a spontaneous abortion.

I hope the Senator is interested in the rights of the child. I thought that was the ethical question—the right of the child. It seems to me that the Senator has lost himself in the circle. If we say at first that we are not going to permit research on the child because the mother does not have the right to give away the consent of the child to be a research subject, then how do we go ahead and say that in a natural abortion the mother does have a right to give it away?

I do not think we ought to be drawing up those different provisions on the floor of the Senate. That is why we are establishing the Commission, so that they can make the recommendations and they can spend the time to get the people dealing with theology, religion, medicine, and research to sit down and spend hours and days thinking about those various problems. That is what we are attempting to do. It is difficult to see how we can be expected to write this kind of prohibition here.

This is analogous to the amendment of the Senator from Maryland, which says that psychosurgery is pretty bad too, so we are going to ban that but only until the Commission can establish policy. That is what we should do here.

The point is that we are trying to let the Commission develop the guidelines. They can promulgate these guidelines, after a good deal of time and consideration. If those guidelines are not satisfactory or adequate and a sense of outrage about this issue develops, Congress can always act. But for us to try to decide those profound theological and religious questions here, really defeats the principal thrust and purpose of the legislation.

Let me remind the Senators that one cannot draw a distinction and say that you are going to be able to do the research if you have a natural abortion, but not if there is a voluntary one. The one issue is far more complex. It involves the rights of the fetus. I don't know the best way to handle that. Neither do others—it is a matter for commission study.

I think we ought to be able to foresee the circumstance that perhaps in ten years it may be possible to abort a child and then raise the child 4 months, perhaps, outside the womb. Some researchers think that is quite conceivable, quite possible, to be able to preserve the life in those instances. We find fetuses being aborted at the present time, just being lost, which I know offends the deep sensibilities of many people in this country, and the research by which it would be possible to preserve that life might very well be frustrated by this amendment. This factor must be weighed. If we could save this unwanted fetus it would become analagous to current adoption problems.

These are at least some of the questions and issues that are raised. I am hopeful that we will be able to treat this amendment the way we treated the psychosurgery amendment: to ban the research until the commission has a chance to develop the guidelines on this matter, and to implement those guidelines. Then, if necessary, the Senate can act. We can act very quickly. This afternoon, the amendment of the Senator from Minnesota with respect to the increase in the cost of living and social security was disposed of with 2 minutes of debate.

This matter affects the sensibilities and the ethics of the people of this country. It seems to me that, rather than our defining this, it would be much wiser to give the chance to the Commission to examine it and to give it full consideration.

I am extremely sympathetic with what the Senator from New York is attempting to accomplish. It concerns me that in the attempt to achieve perhaps one goal, about which I know he feels strongly—and I respect those views and in many instances share them—we are not going to take a step forward but may very well be taking two or three steps backward in terms of the preservation of life and in protecting the fetus. That is why I have some concern about this amendment.

**Mr. BUCKLEY.** Mr. President, will the Senator yield?

**Mr. KENNEDY.** I yield.

**Mr. BUCKLEY.** I should like to make one thing very clear, and that is that I am not personally passing judgment on whether or not a mother should be able to consent. I am merely saying that the amendment I have offered does not preclude the availability of such consent where hospitals, normal medical procedures, or municipal regulation find the circumstances or the situation acceptable in the case of a naturally aborted child. I am merely saying that in the case of induced elective abortion, there shall not be human experimentation, because, however problematic may be the case of maternal consent in the case of natural abortion, the one case that is clear is that the mother who is willing to kill her child in abortion is not the proper party to consent to any experimentation.

With respect to the comments of the Senator from Massachusetts as to the Commission and awaiting its findings, as I indicated in my remarks earlier, I find the appointment of this Commission to be most constructive; and I, for one, will be eagerly awaiting its recommendations in any number of areas.

But this body has a responsibility to act now, in the light of what has been discovered as to the misuse of Federal funds in helping to finance some research. I believe we have a responsibility and must make our own judgments, as imperfect in form as they may be, in order to call a halt to this experimentation.

Two years hence, or whenever the commission has completed its work, when it reports back to the Senate, the Senate can always change its mind. As my senior colleague from New York pointed out a few minutes ago, that which the Senate enacts today, it can abolish tomorrow. And as the distinguished Senator from Massachusetts pointed out, the Senate can act very rapidly.

So I suggest that we ought to do the right thing as we see it now; and if the commission should have a contrary recommendation 2 years hence, then we can judge the arguments, determine whether or not we agree with its contrary recommendation, and then if necessary modify the law we enact today.

**Mr. KENNEDY.** Mr. President, will the Senator yield?

**Mr. BUCKLEY.** I yield.

**Mr. KENNEDY.** We are acting now. I am hopeful that the Senator would agree with the amendment which would ban the research now—immediately—until we get the commission's recommendations. We will act today. I am quite prepared to follow the same kind of procedure we followed with respect to the Senator from Maryland's amendment, which would permit reasonable time for the commission to respond on this matter; that we wait until they have had a full opportunity to consider it. We act today, we act now, as the Senator from New York would like to do. Then we get the recommendations of the commission. But on the one hand the Senator from New York is saying he is interested in the commission going forward, but he proposes to ban one area of its potential jurisdiction.

It seems to me that we can do what the Senator is concerned about by acting now; banning it now until we have the best minds of this commission give it full consideration. Then, on the basis of their judgment they will act. If the Senate wishes to act at that time, I would give assurances to the Senator from New York that he will have every opportunity to come before our committee and be given full consideration. I do not think it does any good to talk about these issues that really require more careful, longtime considerations, and are subject to a variety of interpretations.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BUCKLEY. The Senator said we are dealing with something that is subject to a wide variety of interpretation. Would the Senator consider that the fact of the unborn child's humanity is subject to a wide variety of interpretation?

Mr. KENNEDY. No. I was listening to the argument on informed consent that the Senator from New York was making. I do not follow the Senator's logic when he says he is not concerned with the fetus naturally aborted. I fail to find logic in the reasoning of the Senator.

Mr. BUCKLEY. I believe I stated clearly that I am not passing personal judgment but I believe there are a number of procedures affecting a mother's right to speak on behalf of a child, which is relied upon not only in the medical profession but also in our hospitals.

Mr. KENNEDY. Can the Senator tell us what those normal procedures are? You cannot? That is the point I was making. The Senator does not know what they are, and I do not know what they are, nor does anyone in the Senate know what they are. The medical profession does not know. It feels more time and thought are needed. That is why we have this bill before us.

Mr. BUCKLEY. That is why I have so restricted the effect of the amendment to limit it to that situation where the decision has already been made to end the life of the child by abortion. Only in that situation would the amendment be effective. In the case of a spontaneous abortion, I am content for the present, however dissatisfied I may be with present procedures, to leave that matter to the Commission. If the Senator from Massachusetts is not prepared to accept my amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I am prepared to yield back my time.

Mr. BUCKLEY. Then, the chairman is not going to accept the amendment?

Mr. KENNEDY. No, I am going to offer a perfecting amendment.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. Does the Senator from New York yield from his time for a quorum?

Mr. BUCKLEY. Yes. I withdraw my request for the yeas and nays until I hear the perfecting amendment.

Mr. KENNEDY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is it appropriate at this time to offer an amendment

The PRESIDING OFFICER. It is not appropriate until the time is yielded back on the pending amendment.

Mr. BUCKLEY. Under the circumstances, I reassert my call for the yeas and nays.

The PRESIDING OFICER. Is there not a sufficient second.

Mr. KENNEDY. I would be glad to ask unanimous consent that it be in order to consider my amendment at the present time without the Senator from New York losing his rights.

Mr. BUCKLEY. That is satisfactory.

Mr. KENNEDY. Mr. President, I send to the desk a perfecting amendment.

The PRESIDING OFFICER. Is there objection to the Senator from Massachusetts offering his amendment at this time? Without objection, it is so ordered.

The amendment will be stated.

The amendment was read as follows:

After Sec. 1205 insert the following: Until such time after certification of Institutional Review Boards has been established and the Commission develops policies with regard to the conduct of research on the living fetus or infants.

The PRESIDING OFFICER. Is there amendment there will be 15 minutes to a side.

Mr. KENNEDY. Mr. President, this is an amendment to the amendment of the Senator from New York. The amendment would ban any of these research funds that come through HEW for research in this area as defined by the Senator from New York, but it does so only until the Commission has established the various review boards and establishes policies and procedures to govern the conduct of this research. This is the same procedure we have just followed in the matter of psychosurgery. I think the points raised by the Senator from New York are extremely important. They are of great significance and extraordinary consequence.

There are many difficult questions for the Commission to consider. These include: When can a child give consent? Who should be permitted to give consent for him and under what conditions? Who can give consent for the comatose patient? We have heard these issues, which involve an enormous degree of complexity, discussed before our committee by theologians, philosophers, and researchers in the area.

The Senate would be acting much more responsibly if we banned the use of any kind of funds only until we were able to get some kind of guidelines from the Commission.

This is the kind of issue which this Commission should consider and on which they should guide us.

I would be hopeful that the Senator from New York would be willing to accept the perfecting amendment. I value very highly his sense of concern on this whole issue and all of us know of that concern. He has given the matter a great deal of thought.

I believe this offers the fairest opportunity to protect the kinds of rights the Senator is concerned about and will provide the most responsible action we can take.

Mr. BUCKLEY. Mr. President, I deeply appreciate the effort of the Senator from Massachusetts to come to an accommodation which at least for 2 years would accomplish what I propose in this amendment. I wish I could accept it but I cannot. I say that reluctantly.

One of the things that concerns me with respect to our thinking about medical ethics in recent years has been the effect on our moral sensibilities and on society if we start downgrading the value of human life and upgrading all kinds of subsidiary considerations that are offered in the interest of social utility.

For us to accept the amendment offered by the distinguished chairman of the subcommittee would be, however subtly, to give some sort of tacit senatorial approval to the idea that it might be someday appropriate to permit these experiments on the child the mother is trying to destroy. I believe these subties are terribly important in the present environment.

I believe that what this body does sets a moral tone and has an influence on society at large. If we complete this legislation, and then a medical debate starts on the proprietry of certain questionable procedures, as in the case of the doctor who worked with the Finnish physician to take off the heads of 12 living fetuses—if we, in effect, condone this kind of debate, if we approve it by adopting the perfecting amendment, then we may be conceding a fatal premise and we may do a disservice to the moral climate of this country.

It could well be that the commission will come forward with a very forceful argument that may cause some of us to change our position, although I will submit I find myself rather set in my own feelings in the matter. But I believe that the Senate should speak its mind as the House did and put the burden on the commission to recommend to the contrary if that is its finding.

I therefore urge, Mr. President, that the perfecting amendment not be accepted.

Mr. KENNEDY. Mr. President, I do not accept the suggestion of the Senator from New York that we are giving any kind of stamp of approval in this area. What we are doing is setting up a procedure and establishing a commission to try to devise guidelines and directives in an extremely difficult and complex area.

The Senator from New York is carving out a small area and saying the commission shall not deal with that. What we are prepared to do is let them make further research into this area until the commission has time to develop its recommendations and policies. This is a very complex matter. If we are taking off one portion of commission jurisdiction, then why not ban the commission from determining how to treat elderly persons who are in a coma or in a terminal illness? Are we going to start imposing particular viewpoints and say, therefore, we are not going to let the commission deal with that, either, because we want to be sure that they are either going to be kept alive or die? What we tried to do was not involve ourselves in particular segments of difficult ethical and moral questions. We are trying to set up a procedure by which we can be guided, always reserving our right in the Senate or the Congress to act if some time in the future it should be so desired.

I think the amendment offered protects the principal concern of the Senator from New York. I was hopeful he would accept it.

Mr. President, I am prepared to yield back the remainder of my time and to vote on the amendment.

Mr. President, I suggest the absence of a quorum, the time to be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. Yes.

Mr. BUCKLEY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from New York. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. MOSS), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

The result was announced—yeas 53, nays 35, as follows:

[No. 389 Leg.]

YEAS—53

Abourezk
Aiken
Bayh
Beall
Bellmon
Bentsen
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Eagleton

Eastland
Fong
Gravel
Hart
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield

Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Ribicoff
Saxbe
Sparkman

Stafford
Stennis
Stevenson

Symington
Taft
Talmadge

Tunney
Williams

NAYS—35

Allen
Baker
Bartlett
Bennett
Biden
Brock
Buckley
Byrd,
  Harry F., Jr.
Cook
Cotton
Curtis

Dole
Domenici
Ervin
Fannin
Griffin
Gurney
Hansen
Haskell
Hatfield
Helms
Hruska
Hughes

McClellan
Metcalf
Pearson
Percy
Proxmire
Roth
Schweiker
Scott, Pa.
Scott, Va.
Stevens
Thurmond
Tower

NOT VOTING—12

Bible
Chiles
Dominick
Fulbright

Goldwater
Johnston
Long
McClure

Moss
Randolph
Weicker
Young

So the Kennedy amendment to the Buckley amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as amended.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the Chair on his efforts to enforce the rules and maintain order in the Senate, and I hope he will persist.

The PRESIDING OFFICER. The Chair thanks the distinguished Senator.

Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. BUCKLEY. I yield back my time.

The PRESIDING OFFICER (Mr. HELMS). All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 390 Leg.]

YEAS—88

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland

Ervin
Fong
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale

Montoya
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams

NAYS—0

NOT VOTING—12

Bible
Chiles
Dominick
Fannin

Fulbright
Goldwater
Johnston
Long

McClure
Moss
Weicker
Young

So Mr. BUCKLEY'S amendment, as amended, was agreed to.

Mr. KENNEDY. Mr. President, I send to the desk two technical amendments. They are corrections in the bill necessitated by typographical errors. They relate to a change of reference in the bill from one section of the Public Health Service Act to another. They are strictly technical in nature. I ask that the amendments not be read but that they be printed in the RECORD.

The amendments ordered to be printed in the RECORD are as follows:

On page 22, line 24, strike out "winds" and insert in lieu thereof "kinds".

On page 35, strike lines 4 through 6 and insert in lieu thereof the following:

(b) The provisions of this section shall not be construed as superseding the provisions of section 401 of the Health Programs Extension Act of 1973.

Mr. KENNEDY. I yield back the remainder of my time on the amendments.

Mr. JAVITS. I yield back the rest of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment of the amendment and the third reading of the bill.

The amendment was to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. HUGHES. Mr. President, I want to commend the distinguished Senator from Massachusetts (Mr. KENNEDY) and the staff of the Subcommittee on Health for their work on H.R. 7724, amending the Public Health Service Act to establish a national program of biomedical research, fellowships, traineeships, and training, and establishing a Commission for the protection of human subjects of biomedical and behavioral research. I am especially appreciative of the consideration given to the concerns which I expressed with respect to title II of the bill, which is the "Protection of Human Subjects Act."

I am convinced that title I, relating to the financing of biomedical research and training is urgently needed. We cannot permit the Administration to dismantle research and research training programs which are absolutely essential to the continued progress of biomedical and behavioral research.

Mr. President, my reservations with respect to the Protection of Human Subjects Act should not be interpreted as indifference to the present lack of clear ethical standards for research financed with public funds. Indeed, no one who has listened in recent months to the stories of inadequately considered psychosurgery, the uncontrolled use of drugs to modify the behavior of children, the performing of surgical sterilization without the informed consent of the patients, or the long-range tragedy of the patients in the Tuskegee study can be indifferent.

The bill seeks to fill a vacuum in the application of ethical standards to research projects involving human subjects, and certainly that vacuum must be filled. It goes a long way toward clarifying the meaning of "informed consent," and it would write into law the essential protections of policies, both personal and institutional, which are based on religious or moral principles.

My concern, Mr. President, has not been directed toward the purposes of this legislation, but instead toward the mechanisms it establishes for identifying ethical principles and translating them into appropriate governmental regulations.

The Commission created by the bill must perform both a long-range and a relatively short-range task. It is expected first to undertake a comprehensive investigation and study to identify relevant basic ethical principles. This study will inevitably require the exploration of extremely complex philosophical issues relating to the meaning and quality of life, the employment of science and technology in the service of man, the nature of our society and our aspirations for its future, and perhaps ultimately, the relationship of the individual to his God. These are problems with which mankind has grappled throughout recorded history. A comprehensive investigation is a long-term task requiring some of the Nation's best minds.

The Commission's second task is to develop and implement policies and regulations which will assure that research is carried out according to the ethical principles identified and articulated by the Commission.

This second phase of the Commission's work entails not only a high degree of sensitivity to ethical standards but also the technical skills and experience needed to devise appropriate, detailed regulations which must govern a wide variety of research projects.

Mr. President, I am not entirely convinced that a single commission, even with a staff of experts and consultants, can perform both tasks. It may well be that two separate commissions should be created composed of men and women with different qualities of mind and with different education and experience. Otherwise, we may find that the immediate task of devising appropriate standards and regulations will take precedence over the longer term intellectual exploration which could ultimately be far more significant.

An additional problem with which I am concerned is the grant of authority provided to the Secretary of Health, Education, and Welfare in section 1203 of the bill. Section 1203 gives the Secretary authority to apply the policies and procedures developed by the Commission for research programs to the maximum extent feasible to the delivery of health services in programs funded in whole or in part by the Department of Health, Education, and Welfare. Since the Department now funds such programs as community mental health centers, migrant health services, family planning services, and drug and alcohol treatment programs, it is obvious that the policies and procedures developed by the Commission might ultimately be applied to large numbers of patients who are not the subjects of research. The effect of this provision could be beneficial, and, of course, it is intended to be. However, it seems to me that we are giving the Secretary very substantial authority before we even know what standards and regulations are to be devised and how they might affect agencies which are engaged in the delivery of health services rather than in research.

Mr. President, in spite of the concerns I have expressed, I have concluded that on balance H.R. 7724 should be passed. I am assured both by leaders in the various biomedical and behavioral research disciplines and by religious leaders that they do support title II and are convinced that it is a significant step in solving the problems which now arise from the absence of any clear policy with respect to ethical standards in the conduct of research involving human subjects.

Mr. WILLIAMS. Mr. President, the health needs of the United States demand a continued level of excellence in medical research so that we can continue the progress that we have made in bringing about the best possible medical care for all the American people. Over the past years much of this progress has come as a result of federally supported scientific and medical research and the continued viability of the Federal biomedical and behavorial research effort demands the availability of excellent scientists, a network of institutions capable of producing superior research personnel, and the direct Federal support of the training of scientists for careers in biomedical and behavorial research.

Unfortunately, during the last few years, the administration has attempted to dilute these efforts. The President's fiscal 1974 budget request proposed an end to the important NIH fellowship and training grant program. This proposal sent shockwaves through the Nation's biomedical research community and because of such united opposition to that position, the administration announced on July 16 that it would not terminate the program but rather recommended a half-hearted and wholly inadequate fellowship and training program.

It is the first objective of this bill to restore Federal support for research training programs and to improve upon existing efforts by giving them more administration flexibility and consolidating research training and fellowships into a single national research service award program. This bill: First, eliminates the preexisting dual class system of fellowship and training grants and replaces them with a single national research service award to be administered out of the Office of the Director of the National Institutes of Health; second, such awards can be granted either directly to the individual applicant or to an accredited institution at which programs for research or training of recipients of the awards are conducted; and third, as a condition of receipt of such an award, this bill requires that the awardee pay back his time by engaging in health research or teaching at an accredited institution. If such an option is not possible, an awardee may pay back his service either by participating in the National Health Service Corps, a prepaid group practice, or in private practice in his speciality in an area which is unserved or underserved in that speciality.

The enactment of these provisions should, in my view, assure a continuing supply of well-trained researchers in the biomedical and behavioral area, and continue to make real this Nation's commitment to superior medical care for its citizens.

Mr. President, the second title of this bill deals with a more complex and yet equally important concern—the protection of human subjects of biomedical and behavioral research. Early this year, the Subcommittee on Health of the Committee on Labor and Public Welfare embarked on a lengthy series of hearings because of its concern that the human subjects of biomedical and behavioral research were often not fully protected during the course of such experiments. The testimony presented to the committee provided us with information about some shocking abuses and raised profound ethical questions which must be resolved. As a result of this investigation, the committee reported legislation establishing a National Commission for the Protection of Human Subjects of Medical and Behavioral Research. This 11-member Presidentially appointed Commission is charged with undertaking a comprehensive study to identify basic principles and specific guidelines which underlie the conduct of biomedical and behavioral research involving human subjects. Once those principles have been identified, the Commission is charged with developing and implementing policies and regulations to assure that all such research funded through programs and activities defined in the Public Health Service Act, the Community Mental Health Centers Act and the Developmental Disabilities Act, is carried out in accordance with the principles and guidelines established by the Commission.

The bill further provides that once such policies and regulations are established, the work of the Commission will be carried out through the mechanism of institutional review boards to be established wherever biomedical and behavorial research involving human subjects is conducted. These institutional review boards should assure that subjects in any given institution are protected to the same extent as subjects in any other institution.

In addition, this bill establishes interim controls on the protection of human subjects and requires that all human subjects of such research be provided with precisely defined "informed consent" protections.

Mr. President, as I said at the outset, this is indeed a very difficult and complex area which raises the most profound questions regarding human rights. The lengthy hearing record developed by the committee makes clear that no human being should be unprotected if he submits himself to experiments for the purpose of advancing biomedical and behavorial research. At the same time, however, and precisely because of the complexity of these issues, it was the committee's feeling that the guidelines, policies, and regulations, established by the Commission should first be applied to research supported by HEW health programs, and one of the first duties which this bill vests in the Commission is to develop and recommend to the Congress within 1 year an appropriate mechanism to broaden the scope of its authority. Thus, while there may be complex difficult legal and ethical questions which need to be resolved, it is my belief that we must work swiftly toward the time when all human subjects of biomedical or behavorial research are given the fullest possible protection.

Mr. President, both elements of this bill are critical to the ongoing success of health research and health care in America. The bill in my view reinforces the commitment that we have made to assure the highest quality medical care for all of our citizens, and that is a commitment which we must never forsake.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time on the bill.

Mr. JAVITS. I yield back the rest of my time.

The PRESIDING OFFICER. All remaining time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 81, nays 6, as follows:

[No. 391 Leg.]

YEAS—81

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Fong
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Williams

NAYS—6

Bennett
Cotton
Curtis
Helms
Hruska
Proxmire

NOT VOTING—13

Bible
Chiles
Dominick
Fannin
Fulbright
Goldwater
Johnston
Long
McClure
Moss
Tunney
Weicker
Young

So the bill (H.R. 7724) was passed.

The title was amended so as to read: "An act to amend the Public Health Service Act to establish a program of National Research Service Awards to assure the continued excellence of biomedical and behavioral research and to provide for the protection of human subjects involved in biomedical and behavioral research and for other purposes."

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. NUNN) appointed Mr. WILLIAMS, Mr. NELSON, Mr. KENNEDY, Mr. MONDALE, Mr. HUGHES, Mr. CRANSTON, Mr. PELL, Mr. EAGLETON, Mr. JAVITS, Mr. DOMINICK, Mr. SCHWEIKER, Mr. BEALL, and Mr. TAFT conferees on the part of the Senate.

Mr. KENNEDY. Mr. President, I wish to make some very brief acknowledgments and express thanks to the members of the Subcommittee on Health and the Committee on Labor and Public Welfare for their support, interest, and participation in the development of this legislation. First, I wish to mention the ranking minority member of the full Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS), and commend him for his work.

A number of provisions in this legislation were the result of his interest and his involvement. The Senator from Maryland (Mr. BEALL) also participated very actively. The Senator from Minnesota (Mr. MONDALE) has been interested in this whole area of the impact of scientific advances on the society. He has been very much involved in the development of the legislation as well.

I also wish to give special commendation to Dr. Larry Horowitz, of the Senate staff, to Lee Goldman, of the majority staff, and Jay Cutter of the minority staff. I also wish to acknowledge the work done by Dr. Jay Katz, of the Yale Law School, Dr. Bernard Barber, of Columbia, Dr. Robert Cook, vice president for medical affairs at the University of Wisconsin; and also my sister, Eunice Shriver, who has taken a deep personal interest and who attended the early meetings for the development of the legislation and who has also been very much involved in a number of steps along the way.

I want to acknowledge and thank these individuals, plus the many other members of the staff and the witnesses for their support and help in developing the legislation.

Mr. President, I yield the floor.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 11, 1973, he presented to the President of the United States the following enrolled bills:

S. 1165. An act to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar," and for other purposes; and

S. 1672. An act to amend the Small Business Act.

## TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT ON CONFERENCE REPORT ON H.R. 8070, VOCATIONAL REHABILITATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having cleared this request on the other side of the aisle, and at the suggestion of my distinguished senior colleague (Mr. RANDOLPH) and also at the suggestion of the distinguished Senator from Vermont (Mr. STAFFORD), that at such time as the conference report on H.R. 8070, vocational rehabilitation, is called up before the Senate, there be a time limitation thereon of 40 minutes, to be equally divided between Mr. RANDOLPH and Mr. STAFFORD, and that there be a time limitation on any debatable motion, or appeal, of 20 minutes, to be equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT ON MILITARY CONSTRUCTION AUTHORIZATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having been authorized to do so by the distinguished majority leader, for a time limitation on two bills which will be coming before the Senate shortly. These requests have been cleared with the leadership on the other side of the aisle, with the managers and the ranking members of the committees in both instances, and with other Senators.

I ask unanimous consent that at such time as the military construction authorization bill is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour, to be equally divided between Mr. SYMINGTON and Mr. TOWER; that the time on any amendment be limited to 30 minutes; that the time on any debatable motion or appeal be limited to 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT ON H.R. 8916, STATE-JUSTICE APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 8916, the bill making appropriations for the Departments of State and Justice, is called up before the Senate, there be a time limitation thereon of 2 hours, to be equally divided between Mr. PASTORE and Mr. HRUSKA; that time on any amendment thereto be limited to 1 hour; that time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement with respect to division and control of time be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR HUMPHREY ON MONDAY NEXT, AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND THE CONSIDERATION OF H.R. 8916

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, September 17, following the recognition of the two leaders or their designees under the standing order, the distinguished Senator from Minnesota (Mr. HUMPHREY) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes; at the conclusion of which the Chair lay before the Senate H.R. 8916, the State-Justice appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON VOCATIONAL REHABILITATION AND MILITARY CONSTRUCTION AUTHORIZATION BILLS ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, September 13, at conclusion of morning business, the Chair lay before the Senate the conference report on vocational rehabilitation, H.R. 8070, and that upon disposition of that conference report, the Chair then lay before the Senate the military construction authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON INTERNATIONAL ECONOMIC POLICY ACT OF 1972, AS AMENDED, S. 1636

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished chairman of the committee, the Senator from Alabama (Mr. SPARKMAN), and the distinguished ranking minority member of the Senate Committee on Banking, the distinguished Senator from Texas (Mr. TOWER). It has also been cleared with the distinguished Senator from Illinois (Mr. STEVENSON), and it has been cleared with other Senators on each side of the aisle.

I ask unanimous consent, subject to the approval of the distinguished Senator from Florida (Mr. CHILES), that at such time as the conference report on S. 1636, the International Economic Policy Act of 1972, as amended, is called up before the Senate, there be a time limitation thereon of 2 hours, to be equally divided between and controlled by the Senator from Alabama (Mr. SPARKMAN) and the Senator from Texas (Mr. TOWER); that time on any debatable motion or appeal be limited to 30 minutes, to be equally divided in accordance with the usual form, with the understanding that the usual form provides that, if additional time is needed on any debatable motion or appeal, time will be yielded from the time on the conference report by the managers thereof.

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, a conference report is a privileged matter and can be called up at any time. It is to be hoped that the time agreement will meet with the approval of the Senator from Florida (Mr. CHILES). If it does, it would then be the intention of the Senator from Alabama (Mr. SPARKMAN) to call up the conference report tomorrow following the vote on the nomination of Mr. Arnett.

Mr. President, I will say that I have put the agreement on a conditional basis because it is hoped by the leadership that the conference report could be disposed of under the consent agreement so as to permit the Senate at a reasonably early hour tomorrow to proceed to the consideration of the consumer product warranty bill. It is not a desirable thing on the part of the leadership to ask for unanimous-consent agreements and make them subject to the approval of Senators who are not on the floor at a particular time. However, this has been done occasionally when the circumstances have been extenuating, as is the case here.

The Senator from Florida (Mr. CHILES), it seems to me, wrote me a letter some time ago and asked to be contacted before any agreement was entered into on this conference report. I, therefore, feel obligated to the Senator from Florida (Mr. CHILES) to put the request in a conditional context. So, on tomorrow we will know whether the agreement meets with the approval of the Senator from Florida.

### ORDER FOR THE SENATE TO PROCEED TO THE CONSIDERATION OF EITHER S. 1636 OR S. 356 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the unanimous-consent time agreement on the conference report meets with the approval of the Senator from Florida (Mr. Chiles), that immediately upon the disposition of the nomination of Mr. Arnett on tomorrow, the Senate return to legislative session and proceed to the consideration of the conference report on S. 1636, and that upon the disposition of that conference report, the Senate then take up the bill with reference to consumer's product warranty, S. 356, or, in the alternative, if the agreement as to time is not agreeable to the Senator from Florida, the Senate then proceed as under the previous order to take up S. 356 upon the disposition of the nomination of Mr. Arnett.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, of course, if the time agreement does not meet with the approval of the Senator from Florida (Mr. Chiles), and is thus voided, it is understood that the Senator from Alabama (Mr. Sparkman) or any other Senator, under the rule, can call up the conference report at any time subject only to the limitation of the order entered which calls for the bringing up of S. 356 immediately upon the disposition of the nomination of Mr. Arnett. I ask the Chair if my understanding is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows: The Senate will convene at the hour of 10 a.m. tomorrow morning. After the two leaders or their designees have been recognized under the standing order, and at no later than the hour of 10:05 a.m. tomorrow, the Senate will go into executive session to consider the nomination of Mr. Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity.

There is a time limitation on that nomination, and the vote will occur on the confirmation of the nomination at the hour of 12 o'clock noon.

That will be a yea and nay vote. And upon the disposition of the nomination, the Senate will then either take up the conference report on S. 1636, the International Economic Policy Act of 1972, as amended, or S. 356, a bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes depending upon the approval or disapproval of the Senator from Florida (Mr. Chiles) with respect to the agreement in connection with the aforementioned conference report.

There will be a yea-and-nay vote on the confirmation of Mr. Arnett. There will be yea-and-nay votes presumably on amendments to S. 356, if such amendments are offered. It is to be assumed that there will likely be a yea-and-nay vote on the passage of that bill, and if and when the conference report on the International Policy Act of 1972, as amended, S. 1636, is called up, there may be a yea-and-nay vote on any motion with respect thereto, and possibly with respect to the adoption of the conference report.

So, there will be yea-and-nay votes on tomorrow.

On Thursday, the military construction authorization bill will be taken up. There will be yea-and-nay votes on the passage of that bill and amendments thereto, if amendments to the bill are offered.

### ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:48 p.m., the Senate adjourned until tomorrow, Wednesday, September 12, 1973, at 10 a.m.

### NOMINATIONS

Executive nominations received by the Senate September 11, 1973:

#### DEPARTMENT OF JUSTICE

Harold S. Fountain, of Alabama, to be U.S. marshal for the southern district of Alabama for the term of 4 years, reappointment.

John H. deWinter, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years, reappointment.

Marvin G. Washington, of Michigan, to be U.S. marshal for the western district of Michigan for the term of 4 years, reappointment.

Robert G. Wagner, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years, reappointment.

Charles S. Guy, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania for the term of 4 years, reappointment.

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years, reappointment.

#### INTERNATIONAL MONETARY FUND

Arthur F. Burns, of the District of Columbia, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years, vice John N. Irwin II.

#### INTERNATIONAL BANKS

William J. Casey, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank, vice John N. Irwin II.

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# HOUSE OF REPRESENTATIVES—*Tuesday, September 11, 1973*

The House met at 12 o'clock noon.

Rabbi Arnold G. Fink, Beth El Hebrew Congregation, Alexandria, Va., offered the following prayer:

O, Source of all being and guardian of our destinies—You are the ultimate mystery of the universe before whom all our endeavors are as naught. Yet, You have made man a partner in the process of unfolding life—of eternal creation. You have shaped his restless spirit that he might search for an elusive truth.

You who has shown Your will of old in the strivings of prophets and sages, we pray that You will make Yourself manifest this day in the assemblage of men and nations. May the dream of a better world permeate even the most common task. Inform the human heart that we may cause righteousness to spring forth from the earth and peace to descend from on high.

We praise You, O Lord, who sanctifies life with sacred promise. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1672) entitled "An act to amend the Small Business Act."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 386. An act to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to House Resolution 536, agreed to on September 10, 1973, he did on that day make certification to the U.S. attorney for the District of Columbia as required by House Resolution 536, of the refusal of George Gordon Liddy to be sworn or to take affirmation before a duly authorized subcommittee of the Committee on Armed Services on July 20, 1973.

## TRIBUTE TO RABBI ARNOLD G. FINK

(Mr. DULSKI asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DULSKI. Mr. Speaker, our prayer today was offered by Rabbi Arnold G. Fink of the Beth El Hebrew Congregation of Alexandria, Va., and I want to thank the Chaplain of the House, Dr. Latch, for making the arrangements for us.

Rabbi Fink was born in my home city of Buffalo, N.Y., where his late father, Rabbi Joseph Fink, served at the Temple Beth Zion for 40 years. The family is well known and highly respected and Rabbi Arnold Fink's service marks the family's 11th consecutive generation of rabbis.

After undergraduate studies at Princeton, Rabbi Fink's rabbinical studies were undertaken at Hebrew Union College where he was ordained in June 1962. He served at the Reform Congregation Keneseth Israel in Philadelphia from 1962 until accepting his present position.

His activities cover a broad range of civic and academic as well as religious areas. He is immediate past chairman of the Northern Virginia Synagogue Council; executive board member of the Jewish Social Service Agency; a 5-year chairman of the Institute on Judaism for Christian Clergy; served as rabbinic adviser and Torah Corps dean for the Temple Youth of Pennsylvania and Mid-Atlantic Federations; is rabbinical preceptor for Interfaith Associates in Metropolitan Theological Education of Washington, D.C.

He has lectured in Judaica at various universities for the Jewish Chautauqua Society; was a lecturer in history at Gratz College and instructor in Judaica at Manor College; has served as National Rabbinical Council member of the United Jewish Appeal, and belongs to Rotary Club, B'nai B'rith, Alexandria Clergy Association, Washington Board of Rabbis, Worship Committee of Reform Judaism in America, and the American Jewish Committee; yet has found time to write "Martin Buber's Concept of the Self," and "Aspects of Continuity and Discontinuity in the Role of the Rabbi," and has had various reviews and articles published.

It is a great pleasure for me today to welcome Rabbi Fink, his lovely wife Karen, and his children, Daniel, Jonathan, and Julie. On behalf of my colleagues, may I express appreciation for the inspirational prayer.

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## ANNOUNCEMENT OF DEATH OF WESLEY D'EWART

Mr. SHOUP. Mr. Speaker, I would like to call to the attention of my colleagues the recent death of former Congressman Wesley D'Ewart of Montana. I have arranged a special order on September 19, at which time those Members who wish to make commemorative remarks may do so.

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## MILITARY UPRISING IN CHILE

(Mr. FASCELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, we have just received confirmation from the State Department on the wire service reports that following a naval uprising in Valparaiso, Chile, earlier this morning, the heads of the three branches of the armed forces and the chief of the national police have issued an edict calling on President Allende to turn over the Government to the armed forces and police.

The edict refers to the social and economic crisis in Chile and the Government's inability to deal with that problem, and also expresses concern for the growth of armed groups in that country which inevitably would lead to civil war.

Reportedly also, the President had until 11 o'clock to make up his mind or the palace would be bombed. The latest wire service report indicates that indeed the palace is under attack.

Radio reports monitored out of Argentina said that the first Marxist Government in the Western Hemisphere has been toppled. That has not been confirmed. Strife still rages in Chile.

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## MILITARY WASTE ON SALE OF UNIFORMS

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I rise to inform the House of a deplorable and wasteful policy of the Department of Defense which would be laughable if it were not costing taxpayers millions of dollars.

In an effort to demilitarize surplus uniforms that are sold to the public, the services have been requiring that they be literally ripped and torn to shreds before the purchaser can take delivery.

Millions of pounds of overcoats, trousers, shirts, and raincoats have been fed into the military shredder. As scrap, they return to the Government only 2 to 3 cents a pound. If sold whole, they could return 10 to 20 times as much.

I was first notified of this situation by Mr. Nathan Feldman, a constituent of mine from Birmingham, Mich. He has shown me examples of brand new uniforms and nonuniform items, like woolen blankets, that have been destroyed.

I have requested the General Accounting Office to conduct an investigation. Uniforms could easily be demilitarized short of mutilation by removing military buttons and insignias.

This morning I was informed of still another huge sale of uniforms that will be destroyed before they are sold. In Richmond, Va., 200,000 pounds of trousers and costs will be open for bid next month. Under present conditions, I will be surprised if the military gets enough money to cover its own costs, for handling, baling and storing the clothes.

At a time when the cost of wool and, therefore, uniforms has reached record levels the military is somehow managing to lose money selling valuable material. The record speaks for itself. I have described only the tip of an iceberg. It borders on being a national disgrace.

I have requested that the Defense Department, the appropriate services and the Defense Supply Agency withdraw all present sales until they rescind this ridiculous policy.

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## CONFERENCE REPORT ON H.R. 7645, DEPARTMENT OF STATE AUTHORIZATION, 1973

Mr. HAYS. Mr. Speaker, I call up the conference report on the bill (H.R. 7645) to authorize appropriations for the Department of State, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, did I correctly understand that the gentleman from Ohio has asked unanimous consent that the report be considered as read and that the statement of the managers be read in lieu thereof?

Mr. HAYS. I have not done that yet. I called up the conference report and asked unanimous consent that the statement be read in lieu of the report.

Mr. GERALD R. FORD. Mr. Speaker, I will have to object on the ground that I do wish to make a point of order after the report has been read. As I understood the gentleman's unanimous consent request, it would bypass the reading of the report. Is that correct?

The SPEAKER. If the request is granted, the gentleman can make his point of order before the statement of the managers is read.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

### POINT OF ORDER

Mr. GERALD R. FORD. Mr. Speaker, I make a point of order against section 13 of the conference report, and I should like to be heard on the point of order.

The SPEAKER. The Chair will hear the gentleman.

### PARLIAMENTARY INQUIRY

Mr. SIKES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman from Michigan yield for a parliamentary inquiry?

Mr. GERALD R. FORD. I yield for a parliamentary inquiry.

Mr. SIKES. Mr. Speaker, I will have a similar point of order against section 10 of the bill. Am I protected in my right to raise that point of order subsequent to the disposition of the point of order on section 13?

The SPEAKER. After the first point of order is disposed of, Members may be recognized to make additional points of order on other matters.

Mr. SIKES. I thank the Chair.

Mr. GERALD R. FORD. Mr. Speaker, I make a point of order that the matter contained in section 13 of the substitute offered by the Conference Committee and accepted by the House Conferees would not have been germane to H.R. 7645 under clause 7, rule XVI if offered in the House and is therefore subject to a point of order under clause 4, rule XXVIII.

My point of order is specifically lodged against the language in section 13 of the conference substitute which reads as follows:

### ACCESS TO INFORMATION

SEC. 13. (a) After the expiration of any thirty-five-day period which begins on the date the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives has delivered to the office of the head of the Department of State, the United States Information Agency, the Agency for International Development, the United States Arms Control and Disarmament Agency, ACTION, or the Overseas Private Investment Corporation, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report of other material in its custody or control relating to such department, agency, or corporation, none of the funds made available to such department, agency, or corporation, shall be obligated unless and until there has been furnished to the committee making the request the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested.

(b) The provisions of subsection (c) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of any such department, agency, or corporation or to any communication that is directed by any such officer or employee to the President.

(c) Subsection 634(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(c)) is amended—

(1) by striking out "(1)"; and

(2) by striking out all after the phrase "so requested" and inserting in lieu thereof a period and the following: "The provisions of this subsection shall not apply to any communication that is directed by the President to a particular officer or employee of the United States Government or to any communication that is directed by any such officer or employee to the President."

I make my point of order on the grounds that this language is in violation of rule XXVIII, clause 4(a) which provides in brief that if a conference substitute contains language which, if originally offered in the House, would be nongermane under rule XVI, clause 7, a valid point of order lies against the conference report.

In the instance at hand the House originally considered H.R. 7645 on June 7, 1973.

When that bill passed the House there was no comparable provision such as section 13 of the conference report. The text of H.R. 7645 as it was reported to and considered in the House is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of State Appropriations Authorization Act of 1973".

### AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1974, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $282,565,000;

(2) for "International Organizations and Conferences", $211,279,000;

(3) for "International Commissions", $15,568,000;

(4) for "Educational Exchange", $59,800,000;

(5) for "Migration and Refugee Assistance", $8,800,000.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated for the Department of State for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $9,328,000 for increases in salary, pay, retirement, or other employee benefits authorized by law;

(2) not to exceed $12,307,000 for additional overseas costs resulting from the devaluation of the dollar; and

(3) not to exceed $1,165,000 for the establishment of a liaison office in the Peoples Republic of China.

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State $50,000,000 for protection of personnel and facilities from threats or acts of terrorism.

(d) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Secretary of State for the fiscal year 1974 not to exceed $36,500,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, relating to Russian refuge assistance.

(e) Appropriations made under subsections (a), (b), and (c) of this section are authorized to remain available until expended.

### TRANSFER OF APPROPRIATION AUTHORIZATION

SEC. 102. Any unappropriated portion of the amount authorized to be appropriated for the fiscal year 1974 under any of the paragraphs (1) through (5) of section 101(a) of this Act may be appropriated, in addition to the amount otherwise authorized for such fiscal year, under any of the other paragraphs in that section; except that the aggregate of amounts appropriated under any such paragraph shall not exceed by more than 10 per centum the amount authorized by such paragraph for such fiscal year.

### INTERPARLIAMENTARY UNION

SEC. 103. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276), is amended—

(1) by striking out "$102,000" and inserting in lieu thereof "$120,000";

(2) by striking out "$57,000" and inserting in lieu thereof "$75,000".

### STUDY COMMISSION RELATING TO FOREIGN POLICY

SEC. 104. Section 603(b) of the Foreign Relations Authorization Act of 1972, relating to the reporting date for the Commission on the Organization of the Government for the Conduct of Foreign Policy, is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1975".

### USE OF FOREIGN CURRENCY

SEC. 105. Subsection (b) of section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754) is amended—

(1) by striking out "$50" in the first sentence of such subsection and inserting in lieu thereof "$75"; and

(2) by striking out "published in the Congressional Record" in the last sentence of such subsection and inserting in lieu thereof "available for public inspection".

### AMBASSADORS AND MINISTERS

SEC. 106. From and after the date of enactment of this Act, each person appointed by the President as ambassador or minister shall, at the time of his nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such person and by members of his immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of his nomination and ending on the date of his nomination, which report shall be verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. The preceding sentence shall not apply with respect to any person who, during the three-year period ending on the date of his nomination, has performed continuous and satisfactory service as an officer or employee in the Foreign Service of the United States under the provisions of the Foreign Service Act of 1946, or in any case in which the personal rank of ambassador or minister is conferred by the President in connection with special missions for the President of a limited and temporary nature of not exceeding six months. As used in this section, the term "contribution" has the same meaning given such term by section 301(e) of the Federal Election Campaign Act of 1971, and the term "immediate family" means a person's spouse, and any child, parent, grandparent, brother, or sister of such person and the spouses of any of them.

The question at hand then is whether section 13 of the conference report would be germane if offered as an amendment to H.R. 7645, as reported to the House.

I say it would not be germane for these three reasons:

First, it is not consistent with the fundamental purpose of the bill—the title of which is to "authorize appropriations for the Department of State, and for other purposes."

The language in section 13, on the other hand, deals with substantive matters and duties concerning access to certain information and is clearly not related to "authorizations for appropriations."

It is well established that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911).

The second reason this provision is not germane is that it proposes to amend the Foreign Assistance Act of 1961 (22 U.S.C. 2394(c)), but H.R. 7645 as reported to the House contained no language amending that statute.

H.R. 7645 contained only four sections dealing with authorizations (Sec. 101), transfer of appropriations authorization (Sec. 102), use of foreign currency including amendments to the Mutual Security Act of 1954 (Sec. 103), and provisions dealing with the appointment of ambassadors and ministers (Sec. 104).

In addition, there were two committee amendments dealing with the International Parliamentary Union and a Study Commission on Foreign Policy.

Thus, it is clear that an amendment including the language of section 13 of the conference report which proposes to amend a statute not amended by the text of H.R. 7645 as reported to the House would be nongermane. (Chairman Flynt, February 23, 1972, pp. 5221, 5222.)

It is indeed well established that while a committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment (V, 5825).

Third. Furthermore, any amendment must be germane to the portion of the bill to which it is offered (V, 5822; VIII, 2927, 2931; Chairman Natcher, July 14, 1970, p. 24033–35).

The language of section 13 would not meet this test if offered to any of the 4 sections of H.R. 7645.

For these reasons, Mr. Speaker, I make my point of order against the conference report.

(Mr. GERALD R. FORD asked and was given permission to revise and extend his remarks and include extraneous material.)

The SPEAKER. Does the gentleman from Ohio (Mr. HAYS) desire to be recognized on the point of order?

Mr. HAYS. I do, Mr. Speaker.

Mr. Speaker, section 13 deals with the access to information necessary to committees to conduct their business. Rule XI, clause 28, spells out the responsibility of the standing committees of the House, and I will especially refer to 28(d) and 28(e).

Section 13 will enable the committee to discharge the responsibilities placed upon it by this rule.

The Senate amendment was applicable to the General Accounting Office, and any committee of Congress having jurisdiction over matters relating to the Department of State and the United States Information Agency, AID, the U.S. Arms Control and Disarmament Agency, ACTION, or the Overseas Private Investment Corporation.

When we go into a conference, we have to compromise somehow or other. We felt that the section was much too broad, and that we could not confer these powers on other committees. We insisted on limiting the application of the section to the two committees most intimately concerned, namely, the Committee on Foreign Affairs of the House, and the Committee on Foreign Relations of the Senate, and we went further and insisted that either of the committees could ask for information, not on the signature of the chairman alone, but after a vote by a majority of the committee.

All of the agencies enumerated in the conference report fall within the legislative oversight of the Committee on Foreign Affairs. Although this is a bill authorizing appropriations for the Department of State, that department is the principal policy-making agency in the field of foreign affairs. It gives policy guidance and administrative support to each of the others named. It assigns its personnel to work in these agencies. A great many of them are State Department personnel. Hence the committee in making an assessment of the operations of the Department of State must consider the whole range of its operations and the use of its personnel as well as the policies that result.

Rule XI, clause 28. (a) of the rule reads:

> In order to assist the House in—
>
> (1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and
>
> (2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, each standing committee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

Rule XI, clause 1(d) reads that—

> Each standing committee of the House shall in its consideration of all bills and joint resolutions of a public character within its jurisdiction, endeavor to insure that—
>
> (1) all continuing programs of the Federal Government, and of the government of the District of Columbia, within the jurisdiction of that committee, are designed; and
>
> (2) all continuing activities of Government agencies, within the jurisdiction of that committee, are carried on;
>
> so that, to the extent consistent with the nature, requirements, and objectives of those programs and activities, appropriations there or will be made annually.

We believe, as the committee in the other body does, that these committees could not exercise these functions under the rule without having access to the information we need.

The SPEAKER. Does the gentleman from California desire to be heard on the point of order?

Mr. MAILLIARD. Yes, Mr. Speaker, if I may.

Mr. Speaker, I would only like to add one more point to the arguments that have already been made in regard to the nongermane nature of section 13 of the conference substitute.

As can readily be seen, this provision purports to require the U.S. Information Agency, the Agency for International Development, the U.S. Arms Control and Disarmament Agency, ACTION, and the Overseas Private Investment Corporation as well as the Department of State to submit certain information to committees of this and the other body.

In the form in which H.R. 7645 was presented in the House, it dealt exclusively with authorizations for the Department of State.

From time to time the House considers authorizations for USIA, AID, ACTION, and the other international agencies as separate and distinct bills.

Thus it is clear that the authorizations for each of these agencies stands as an individual proposition.

Since it is very clear under the rule of germaneness that one individual proposition cannot be amended by another individual proposition even though the two belong to the same class (VIII, 2951–2953, 2963–2966, 3047) an attempt in the House to add an authorization for the Agency for International Development to a bill dealing with an authorization for the Department of State would be held nongermane.

Since such an amendment would be nongermane under rule 16, clause 7, it is not in order for a conference report to contain such language and still be in compliance with rule 28, clause 4.

Mr. HAYS. Mr. Speaker, I would like to respond with just one thing to the gentleman from California.

The SPEAKER. The gentleman is recognized.

Mr. HAYS. I am a little surprised that he makes this argument since he signed the conference report.

The SPEAKER. The Chair is ready to rule. The Senate amendment contained a section to permit the General Accounting Office or any committee of Congress to have access to information within the control of the Department of State and other agencies which deal with foreign affairs. The provision specified that unless the material were made available as requested no funds available to that could be obligated until the agency did comply.

The House bill contained no such provision.

The conferees have included within their agreement a provision similar to that in the Senate bill: however, it is more restrictive than the Senate version since it only gives the authority to demand such information to the Committees of Foreign Relations of the Senate and Foreign Affairs of the House.

The chair notes that certain agencies made subject to this new provision include some—such as ACTION, the U.S. Information Agency. The Arms Control and Disarmament Agency which are not authorized in this bill. The three agencies just mentioned are authorized funds by other legislation.

The chair concludes that the conference provision would not have been germane if offered to the House bill and the point of order against section 13 is therefore sustained.

### MOTION OFFERED BY MR. MAILLIARD

Mr. MAILLIARD. Mr. Speaker, pursuant to the provisions of clause 4, rule XXVIII, I offer a motion.

The Clerk read as follows:

> Mr. MAILLIARD moves that the House reject section 13 of the conference report.

The SPEAKER. The gentleman from California (Mr. MAILLIARD), is recognized for 20 minutes, and the gentleman from Ohio (Mr. HAYS), is recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. MAILLIARD), for 20 minutes.

Mr. MAILLIARD. Mr. Speaker, as my friend, the gentleman from Ohio (Mr. HAYS), pointed out, I did sign the conference report. It was a rushed conference, the Congress was just about to close for the August recess at the time. There were a great many issues of difference between the Senate and the House, and it was obvious that we had to accept certain Senate amendments if we were going to get a conference report at all.

Frankly, on reflection now, a month or so later, I think it probably would have been wiser had I not signed the conference report because I am convinced that this provision in the first place is nongermane and, frankly, I am tired of being in conference with the Senate Committee on Foreign Relations with a whole basketfull of nongermane amendments being attached. It seems to me, Mr. Speaker, that this is the opportunity to find out whether this new rule that we adopted is going to be effective in preventing the Senate from attaching nongermane material to House bills, as they have been doing from time immemorial. I think that is the basic issue we have here.

But, also, on merit, section 13 in my

opinion is highly dangerous and most undesirable because it would require the cutting off of funds for the operation of the State Department if after 35 days any information, excepting only communication directly to and from the President, requested by the House Committee on Foreign Affairs, or the Senate Committee on Foreign Relations, and these were not provided.

Let me give the Members just a few examples of what can easily happen. I am told, although I do not know of my own knowledge, that the Senate Committee on Foreign Relations now has a request pending in the Department of State for all of the documents involved in producing the negotiating position of the United States in the SALT talks.

Now, if those become part of the files of the committee, presumably not only all of the Senators would have access, but practically everybody on the Senate staff. If the same thing were true here in the House it would be possible to have several thousand people having access to some highly delicate information. And I do not think any of us would have any doubt that it would find its way into the press, thereby doing real injury to the security of the United States in my judgment.

If this condition is going to prevail, I am also convinced that certain things would follow therefrom. One, foreign governments would be very cautious in what they say to our representatives abroad, knowing that any report that went back to the Department of State might find its way into the public press. Our ambassadors would be very cautious as to what they say in their cables about personalities and individuals in the country in which they were accredited, or in other countries.

If the CIA had highly sensitive information, I doubt it would dare provide it to the Department of State if the Department of State were under this kind of a requirement to furnish any and all documents on any subject that might be demanded by either of these committees.

So I believe that this would do grave injury to our ability to conduct our foreign affairs. Therefore, on both grounds, one, to see if we can slow the Senate down with this mischievous habit of putting nongermane material on House bills, and, two, on the merits of the proposal itself, I hope it is rejected.

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## CALL OF THE HOUSE

Mr. SISK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call of the House was taken by electronic device, and the following Members failed to respond:

[Roll No. 444]

Andrews, N.C.
Ashbrook
Ashley.
Badillo
Bell
Blatnik
Bray
Broomfield
Brown, Ohio
Burke, Calif.
Chamberlain
Chisholm
Clark
Clawson, Del
Cleveland
Conyers
Davis, S.C.
Delaney
Diggs
Findley
Fish
Flowers
Ford, William D.
Fraser
Frey
Gray
Gubser
Guyer
Hanrahan
Hansen, Wash.
Heinz
Hudnut
Johnson, Colo.
Lott
McDade
McEwen
McSpadden
Mathis, Ga.
Milford
Mills, Ark.
Mitchell, Md.
Montgomery
Patman
Powell, Ohio
Reid
Rhodes
Riegle
Rooney, N.Y.
Runnels
St Germain
Steiger, Wis.
Stephens
Stokes
Stratton
Teague, Tex.
Veysey
Waggonner
Young, Alaska

The SPEAKER. On this rollcall 376 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

### PERSONAL STATEMENT

Mr. BELL. Mr. Speaker, I was present before the Speaker struck the gavel ending the quorum call, but the electronic voting system had been deactivated.

Then I tried to gain the Speaker's attention, but he did not see me.

The SPEAKER. The gentleman from Ohio (Mr. HAYS) is recognized for 20 minutes.

Mr. HAYS. Mr. Speaker and Members of the House, I consider the upcoming vote on the motion of the gentleman from California to be perhaps one of the most important we will have in this Congress. What is really at issue here is not the germaneness or nongermaneness of the amendment, because it would have been germane in the House if we had confined it to the State Department—and I hope to do that in subsequent legislation—but the matter at issue is whether the proper committee of the Congress has the right to have access to information in its oversight capabilities.

Dr. Kissinger is telling everybody that he is going to be more open, but at the same time he is covertly fighting this amendment which would require the State Department to come up with information that the committees deem important.

We carefully protected the President and his so-called confidentiality by excluding communications between the President and any individuals in the specified agencies. The same situation exists with the so-called files on Members of Congress. The FBI is not going to surrender them pending a law from the Congress.

What we have got is super bureaucracies conducting policies that the Congress passes by law and refusing to let the Congress know what they are doing.

Mr. Speaker, I say that the matter of germaneness or nongermaneness is not the issue. It is an issue of whether the Congress has a right to know and whether the Congress has any power and whether the Congress is going to do what the American people want it to do, and that is to reassert its power and its prerogatives that were granted to it by the Constitution.

It is as simple as that, and, Mr. Speaker, I ask that we vote "no" on the gentleman's motion to reject this.

Mr. MAILLIARD. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I was relieved to hear the ruling just now by the Chair that section 13 is not germane. Of course, it is not germane on its face, I would say, and I believe the fact that this section is not germane is quite an appropriate point for discussion.

The gentleman from Ohio said that what is really involved here is the right of Congress to have access to information so that we may perform our oversight functions. My answer to that is that the Foreign Affairs Committee does not need to have unlimited access to all kinds of highly classified information in order to perform our oversight functions adequately.

Mr. Speaker, it is not a question of fighting superbureaucracy, as the gentleman from Ohio has claimed, or the right of Congress to know. Quite obviously, in order to make informed judgments, Congress needs to get adequate information. Congress normally gets such information now, but we should not be allowed, nor should we seek, a blank check to classified information.

The result would quite obviously be, as the gentleman from California has already indicated, an inability on the part of our ambassadors in foreign countries to send back to the Department of State highly sensitive information which the State Department needs to have in order to execute policy intelligently.

Mr. Speaker, I would guess that there would be an outcry if this same approach were to be used in order to pry information out of the Defense Department. I believe quite appropriately there should be an outcry at this provision.

It was suggested that perhaps Mr. Kissinger is opposed to this proposal. If he is in his right mind—and I have no doubt that he is—as the next Secretary of State, as I hope he will be, he surely should be opposed to it.

I would hope that the President also would be aware of the danger of this effort to obtain absolute freedom of access to information by certain committees of Congress. I hope he would veto such a proposal if necessary.

So, Mr. Speaker, I hope we will continue what we have begun. We should reject this proposal, not only on the grounds that it is not germane, but that it is not in our interest. This is not essential for an appropriate oversight by Congress of foreign policy matters. Its approval would quite obviously result in a short-circuiting of needed information to the State Department, because this provision would have the result of making the State Department a conduit for all sorts of sensitive information becoming public.

In conclusion, Mr. Speaker, let me add that I believe section 10 also is not germane, and I am convinced that it is most unwise. That section seeks to deny funds to carry out any executive agreement concerning the stationing of American troops overseas, or any revision or extension of such an agreement, unless the Senate has given its advice and consent or unless the agreement has been approved by a concurrent resolution.

Approval of such language, Mr. Speaker, would unquestionably make it far more difficult to get foreign governments to enter into such agreements. Furthermore Congress would be burdened with the chore of approving—or disapproving—a great variety of agreements, many of little consequences. I must add too that there is no necessity for this kind of mandatory action on these agreements. Only last year Congress passed a law requiring the executive branch to report in detail on any executive agreements reached with foreign countries. In other words, we are already put on notice about any agreement involving the stationing of troops overseas. If we should disapprove of any such agreement, Congress could take steps to cut off funds for any project.

Mr. HAYS. Mr. Speaker, I would just like to take about 30 seconds to answer the gentleman from New Jersey.

No. 1, as I understood the Speaker's ruling, had this been confined to the State Department only, it would have been germane. We can just bet that if we have to go back to conference, we will come back with this confined to the State Department only.

The second thing is that again we have had the spectacle of a member of the committee signing the report and now coming in and trying to take out part of the report.

Mr. MAILLIARD. Mr. Speaker, I yield 1 additional minute to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Speaker, I am not sure whether the gentleman from Ohio thinks I was a conferee on this proposal. I can assure him, if he has already forgotten, that I was not a conferee. Had I been a conferee, I certainly would have objected to this language, and I certainly would not have signed the conference report.

Mr. HAYS. I am sorry, Mr. Speaker. I had understood the gentleman was a member of the conference committee, and I think possibly I made the statement inadvisedly.

Mr. MAILLIARD. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, let us look very carefully at the language of section 13 and what it would require.

It would require simply that the Department provide within 35 days to the Senate or the House Committees on Foreign Affairs or Foreign Relations any document, paper, communication, review, recommendation, and so forth, unless such document was directed specifically to the President or received from the President. Failure to comply would mean the loss of funds to the agency.

That is all-inclusive. It could have a very serious and very damaging effect on foreign policy. The day-to-day conduct of foreign relations could be crippled, because the Department would no longer be able to insure the confidentiality of diplomatic discussions unless they were held with the President. This in itself would present an impossible situation. The Department would virtually be excluded from receiving sensitive information from other Government agencies, since the law would require it to provide all information "in its custody" to the Congress.

The adoption of this language would be quite ironic, it seems, at a time when so many in the Congress want to restore the Department of State to a preeminent place in foreign policy.

Certainly we do not want now to have the Congress exclude the Department from the flow of sensitive foreign policy information. The provision would stultify free policy debate. It would encourage—listen to this—it would encourage State Department officers to play it safe and do nothing, because the provision would open all of their personnel and security office files to the Congress.

There are many people who already feel too little is being done by the Department of State in foreign affairs procedures. Let us not encourage this situation. We want the Department to be more aggressive in support of U.S. aims, not less.

The section would create mischief; it would do undue harm and restrict the operations of the State Department in a very crucial period in world history.

Mr. MAILLIARD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I wish to join in expressing opposition to that part of the conference report on H.R. 7645 contained in section 13—which undertakes to require to a committee of the House or Senate confidential communications between the Department of State and other related agencies and any other official or Government virtually without limitation.

Mr. Speaker, in the first place, I am opposed to any provisions which seem to prefer one group or committee of the Congress over other Members and other committees with respect to access to information affecting our Nation. If there are documents or other material of interest to the Representatives of the people, it seems to me they should be made accessible to all of the Representatives of the people elected to serve in this Congress.

Mr. Speaker, a further and more important objection to the language of this section is that it would seem to make available the private, confidential, and sometimes highly sensitive communications which characterize diplomatic relations between our Nation and other nations of the world. The paragraph offends the entire field of diplomatic exchanges which must be carried on with literally hundreds of individuals in diplomatic and governmental posts throughout the world, and which must remain private and confidential if our best interests are to be served in the international community.

Mr. Speaker, even with respect to the so-called Pentagon Papers which were copied, and then exposed for publication by the New York Times and the Washington Post—several volumes which contained private diplomatic communications, were never made public. The news media in question were both astute and patriotic in declining to publish this material, and it remains private and confidential to this day. A great disservice would have been rendered to our Nation, and particularly to the late President Lyndon B. Johnson by according public access and perhaps publication of various material in these volumes. Yet, the adoption of section 13 in the conference report would seem to require that such exchanges should be made accessible to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House.

Mr. Speaker, I am glad to note that Members of the House neither originated nor endorsed this provision.

Mr. Speaker, the obvious danger in this provision is noted in the statement of the committee on conference in which it is declared that—

> Any classified material supplied will be kept under appropriate safeguards in the Committee offices . . .

This is a recognition itself that the release of the information could do irreparable damage to our foreign relations—possibly even to our national security. The inclusion of this language in the conference report is both unwise and dangerous. I urge that the House reject section 13 in giving approval to the conference report on the Department of State Appropriations Authorization Act of 1973.

Mr. MAILLIARD. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, I am not one who fails to recognize that we have an important constitutional question here which deserves the attention of the Congress. There is legislation pending before the subcommittee headed by the gentleman from Pennsylvania (Mr. MOORHEAD), on the subject. I personally have done a certain amount of research on the subject, I may say.

I think right now the Congress has the power of contempt if we want to use it in appropriate cases. We have not done this. I think it may be wise to adopt some legislation spelling out a legal procedure and a resort to the courts. There is presently a statute on the books which gives certain committees the power to demand papers from executive departments. That statute can be expanded to all committees of the Congress. Then you can add to it the court procedure to carry out that expansion.

It is also possible that we even ought to have a constitutional amendment to clarify the situation of the respective rights and duties of the executive and the legislative branches. But to try to deal with this important thing in this meat-ax way, just cutting off funds for the operation of an important part of the Government if documents, unspecified, and regardless of the circumstances, regardless of whether any of them can be privileged documents under the circumstances or not, if they are not delivered within a certain period of time is, in my respectful judgment, a stupid way to do it and a wrong way to do it.

The Department of State is a very important department of our Government. It handles our foreign affairs. Now, it ought to be amenable to due process of the Congress; and it ought to be amenable to proper statutes; and it ought to be amenable to the courts, but it should not be handled in this meat-ax fashion, and the effort to do so ought to be rejected.

The SPEAKER. The time of the gentleman from Indiana has expired.

Mr. HAYS. Mr. Speaker, I will be glad to yield the gentleman from Indiana an additional minute if the gentleman will yield to me to answer a question, or, if not, I will take a minute on my own.

Mr. DENNIS. If the gentleman from Ohio wants to yield me a minute then I will yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I would go along with the argument presented by the gentleman that there is a law on the books that the General Accounting Office should have access to any papers it deems necessary in its accounting, and it has asked for papers and it has been refused.

This is a legal way to do it.

Mr. DENNIS. Then exercise the power of contempt, or amend that statute so as to add a specific court procedure, but do not do it this way. This is a meat-ax approach.

Mr. HAYS. We voted a contempt procedure against Mr. Liddy yesterday. I will be interested to see what our courts do on that one.

Mr. DENNIS. I think they will take care of it.

The SPEAKER. The time of the gentleman from Indiana has again expired.

Mr. MAILLIARD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I support this motion to reject section 13 of the State Department conference report. I do so because I think this is the wrong time, the wrong place, and the wrong way to go about gaining access to information from the various foreign affairs agencies of the executive branch. I think my colleagues are well aware of my outspoken criticism of the abuse of the executive privilege doctrine and my cosponsorship of legislation to narrowly define and proscribe the scope of that doctrine. I am strongly committed to the attribute of legislative inquiry which has its firm foundation in our constitutional history. I think the Congress must have the fullest access possible to pertinent information from the executive branch if it is to faithfully discharge its legislative duties in a responsible and informed manner.

So, it is certainly tempting for those of us who support this concept of legislative inquiry to in turn support section 13 of this report which has the honorable objective of insuring congressional access to information. But I would suggest that we would do well to first give the most careful scrutiny to the provisions of this section—and this is hardly something we can do in the brief 40 minutes allotted us, especially without the benefit of hearings and a committee report on the provision of section 13.

I have given section 13 careful study and consideration and have concluded that if we adopt this section we would be committing an excess in attempting to gain access. This is clearly an example of legislative overkill, for what we are saying in section 13 is that if any agency involved refuses to supply even a drop of information requested, no matter how valid the reason, all their water will automatically be cut off. This form of massive retaliation even goes far beyond the Old Testament concept of vengeance: Instead of an eye for an eye, we have in section 13 a body for an eye. We are told by the proponents of this provision that such a remedy is necessary, because the power of the purse is the only power we have left. But I do not think the framers of our Constitution, in granting the Congress the power of the purse, intended that the purse strings be used as a bureaucratic garrote, designed to strangle to death any agency which does not kowtow to Congress on command.

One would think, given the drastic and extreme remedy provided in section 13, that there had been a widespread pattern and practice of denying information to the Congress on the part of the Department of State, USIA, ACDA, OPIC, and ACTION. Why else would these be singled out for such harsh sanctions? And yet, there is no such record of widespread refusals. Only two instances were cited during the debate in the other body on this provision, and apparently in both of these instances there was no followup attempt to obtain this information by the procedure of a resolution of inquiry which is already provided for in our rules.

I think section 13 raises a very serious constitutional question. For while the Constitution delegates to the Congress the authority to appropriate money for an agency, this provision would make it possible for a single committee of the Congress, by making a controversial request, to automatically terminate that appropriation.

What would be the practical effect of section 13? Let us look, for example, at the Arms Control and Disarmament Agency which would be covered by section 13. If the House Foreign Affairs or Senate Foreign Relations Committee asked for the working papers of our SALT negotiators and these were denied for national security or negotiating flexibility purposes, the funds for the agency would be cut off and our negotiators would have to pack up their bags and come home. This would certainly provide a unique alternative to the constitutionally prescribed process for negotiating and ratifying a treaty, for we would be making it possible for one committee of the Congress to terminate negotiations before a treaty is even agreed to, let alone submitted to the Senate for ratification.

Presumably, section 13 would also make it possible for the committees involved to request the notes of conversations between our diplomats and those of other nations. The committees would also be in a position to demand access to security and loyalty investigation files. In both of the examples I have just cited, past Presidents have denied the availability of such information outside the executive branch and, I think, for good and obvious reasons. And yet, by the adoption of section 13, the State Department would risk losing all of its funds if it refused requests for any of this information.

Mr. Speaker, I am not suggesting for a moment that either the House or Senate committees would intentionally make difficult and controversial requests for information simply for the purpose of closing down certain agencies. But the potential for abuse is certainly implicit in the language of section 13, and I fear it has not been drawn carefully enough to take into account certain types of information which should not be made available outside of the executive branch and to prevent the abuse of this access sanction.

In conclusion, Mr. Speaker, I think we would do well to give the subject of congressional access to information in the executive branch far more consideration than we are able to today in this brief debate on section 13. Our own Government Operations Subcommittee on Foreign Operations and Government Information has been spending months in hearings on this issue and has yet to report a bill. I do not say that in criticism but rather to emphasize the point that this is a most difficult and complex subject requiring considerable deliberation. I testified before that subcommittee, as did other Members of this body and many constitutional experts. I happen to be a cosponsor of one of the bill's authored by a member of that subcommittee, the gentleman from Illinois (Mr. ERLENBORN)—a bill which would amend the Freedom of Information Act and narrowly proscribe the scope of executive privilege. There are several other important and equally well-intentioned bills currently pending in that subcommittee. Many important issues and differences between these various bills remain to be resolved. But I am convinced we should avail ourselves of the benefit of these hearings and deliberations before acting on executive privilege and access to information legislation. We should take the more comprehensive approach as suggested in these Freedom of Information Act amendments rather than the rash and drastic approach provided in section 13 of this bill which would apply only to the various foreign affairs agencies. I, therefore, urged adoption of this motion to reject section 13.

Mr. MAILLIARD. Mr. Speaker, I yield the remaining time to the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, every Member of this body on both sides of the aisle has an interest in the maximum amount of information that is needed for us to legislate intelligently, and we have a right to get that kind of information. It has been my experience that in practically every case a responsible inquiry does result in getting the kind of information that is needed. There may be some exceptions caused partly because of the way the information is requested, or in a particularly highly sensitive area. If we do not have the right mechanism to get everything that is justifiable, I think we either ought to change the law or, as the gentleman from Indiana (Mr. DENNIS) said, perhaps change the Constitution, but it does not make sense for us in this body to accept a nongermane amendment in this area with a strong—as the gentleman from Indiana said—meat-ax approach. It would be far wiser and infinitely better for the Committee on Foreign Affairs, or any other committee that thought it ought to have information, to come up with a legislative solution after adequate hearings and a precise focus on the problem.

Second, we have been plagued over a period of time with nongermane amendments by the other body added to legislation the House has passed. We have complained about it. We have said we would not tolerate it because the House did not have an adequate chance to consider the subject, because of its nongermaneness at the time we considered the bill. Here are two clearcut examples in section 13 and section 10.

The Chair has rightfully ruled that this amendment is nongermane, and if we now accept a nongermane amendment, I think we are making a serious error as we try to straighten out the comity between the House on the one hand and the other body on the other hand.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding and would like to associate myself with his remarks in opposition to this meat-ax approach to our oversight responsibilities.

I should simply like to add to the distinguished minority leader's outstanding argument that this type of action, following closely on the heels of the Senate Committee on Foreign Relations' rejection of an outstanding Foreign Service officer, Ambassador MacGodley, as Assistant Secretary of State for Far Eastern Affairs, for his dedication and industry in carrying out American foreign policy with too much enthusiasm, will inevitably be interpreted as a punitive way of conducting the legitimate congressional oversight function which we can and should develop in a constructive and progressive fashion.

Mr. Speaker, I agree with Mr. Ford that Congress has a right to the type of information that we must have to legislate in an informed and intelligent way. I agree that we can develop more means to secure information. However, this approach would erode rather than enhance the work of our ambassadors in communicating sensitive and delicate diplomatic information on behalf of American foreign policy and should be rejected by voting for the amendment of the gentleman from California.

The SPEAKER. The time of the gentleman has expired.

Mr. HAYS. Mr. Speaker, I yield 3 minutes to the gentleman from California.

Mr. MOSS. Mr. Speaker, I rise to support with enthusiasm the retention of this provision. I can think of no group who has a greater responsibility to have detailed information than the committees of both Houses of this Congress which are called upon to maintain oversight and to authorize programs.

Certainly they have as great a responsibility as the massive bureaucracy which rolls on endlessly down at Foggy Bottom. This is a good way of doing that which has proven most difficult over the years. It is using the power of the Congress to authorize and to appropriate funds.

The Budget and Accounting Act of 1921 says very clearly, and it is reinforced by a succession of opinions of the Attorneys General of the United States, that the Comptroller General of the United States will determine the documents available to him for audit, and yet time and time again they are refused to the Comptroller General of the United States in utter disregard and in open contempt of the clear mandate of the law.

I have not just entered into this area as a student of the doctrine of separation. I have for over 18 years actively engaged in running battles with executives of both political faiths. For some 16 years I chaired the Subcommittee on Government Information, and I think many of the Members who served here during the active years of my chairmanship know that I did not hesitate to have head-on clashes with the executive department under Democratic Presidents.

This is a matter of the rights and the privileges of the House being asserted against the outrageous claims of the executive department of our Government.

Let me tell the Members the people of this Nation want the Members of this House to exercise those powers. Go home as I did during the recess. I took no trips outside my district. Members will find at home their people are asking: "When are you people in Congress going to start acting responsibly and take control of things away from the departments downtown?"

Now is a good time to start.

Mr. HAYS. Mr. Speaker, before yielding to the next gentleman, I just want to observe—and I hope he has not left the Chamber yet—that I was not too surprised when the gentleman from New York (Mr. Kemp) closed the discussion on the other side, because I suspect that he not only wants to have a State Department blackout of information, but he even wants to black out football games to the American people.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Speaker, I find no constitutional difficulty with this section. It seems to me all this section says is that Congress will exercise that ultimate power which it has, the power of the purse, to withhold funds under this act under conditions where any of these departments refuse to produce the documents as listed: document, paper, communication, audit, review, finding, recommendation, and report or other material which may be pertinent to the question under investigation.

What is wrong with that? That is the duty of this House, to investigate and to look into those documents.

To say that the committees, in exercising their authority, will trench upon the constitutional authority of the President is to assume that the committees will ask for that which they should not ask for and cannot ask for, and cannot demand, under the Constitution. But the committee has been extra careful not to trench in that area by writing section (b). Section (b) says:

> (b) The provisions of subsection (a) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of any such department, agency, or corporation or to any communication that is directed by any such officer or employee to the President.

It may be that there may be other exceptional matters that fall within the executive privilege. If there be such exceptional matters, should we assume that the responsible committees on foreign relations of both Houses will not operate wholely within the confines of their constitutional authority? I think the committees are entitled to the same respect that we attribute to the President, and perhaps their records have entitled them to a little bit more respect in this area.

But, if the committees should overstep their authority and ask for privileged material protected by the Constitution under the doctrine of separation of powers, they could still be denied such materials. If they attempted to enforce the sanctions, a mandamus would lie to pay the funds, because this bill is obviously subject to the restrictions and limitations of the Constitution itself.

Therefore, to raise what seems to me to be an entirely unfounded question, that there will be some type of trenchment on Executive power, is to assure that the committees of this House will act wrongfully. In the first place, I say that that is an assumption that is not justified. In the second place, if they did, the sanctions that are exercised could not be exercised and a mandamus would lie to pay off the funds.

It seems to me that this is an excellent use of the only ultimate power that Congress has to command information which is necessary to it to make the decisions that relate to questions of foreign policy.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I thank my friend from Texas for yielding to me.

As the gentleman knows, I am sure, there is an act on the books adopted in 1928, I believe, and now section 2954 of the Annotated Code. It says:

> An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee. Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 413.

I suggest that a very simple and intelligent way to approach this matter would be merely to take this existing statute, expand it to apply to all the committees in both the bodies instead of simply the Committee on Government Operations; perhaps add a procedure section designed to enforce it, and go from there.

We do not need to proceed in this meat-ax fashion.

Mr. **ECKHARDT**. Mr. Speaker, is the gentleman ready for an answer to the question?

I would say that I would agree with him that such an act should be enacted, but I am a common law type lawyer and I would like to approach this thing when the issues come up and on the reasons we find convincing at that time.

Mr. **HAYS**. Mr. Speaker, I would like tc say in response a couple of things. One is that withholding of funds is not a new device. This administration has set new records in withholding funds which Congress has appropriated, but it surely sets up an outcry when "the shoe is on the other foot."

I do not know exactly what we may want to ask for, but it is consistent with the record of this administration in opposing this section that it has rolled out all the big guns on the other side to oppose it. Obviously, the administration does not want to be under any obligation to give any committee of Congress anything they do not want to give them, and that probably is nothing.

The gentleman from Florida made a big deal about people's personnel records being available. I think they ought to be because the only time my subcommittee has ever asked for a personnel record is about four times in the last 15 years when somebody came up and said an injustice was being done; that they were being selected out when their personnel record had nothing but good reports from their supervisors year in and year out.

I will say for the department that up to now I have not had occasion to request it of this administration, but in previous administrations they have brought them up and let us look at them and in every instance after we looked at them and they looked at them with us, they decided that they would not select the fellow out because it was inconsistent with his reports. Somebody had goofed.

I hope the gentleman is not saying we should not have the right to intervene up here on the side of justice.

If this thing is voted up—the vote I am asking for is a "no" vote—I am sure the Department, after hearing or reading the gentleman's speech, will refuse to show the committee anything.

As I said earlier, the only reason why this was ruled not germane was we took in parts of the Government that were not under the particular bill. I have talked with the chairman. Members can bet that if we have to go back to the committee we will come right back with one applying to the State Department, and it will be germane, and Members can vote up or down the conference report. We can give them some funds or do anything we want about it. It is immaterial to me.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The **SPEAKER**. The question is on the motion offered by the gentleman from California (Mr. MAILLIARD).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. **MAILLIARD**. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 213, nays 185, not voting 36, as follows:

[Roll No. 445]

YEAS—213

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Bafalis
Baker
Bauman
Beard
Bell
Bevill
Biester
Blackburn
Bolling
Bowen
Breaux
Breckinridge
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gilman
Goldwater
Goodling
Gross
Grover
Gubser
Haley
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heckler, Mass.
Heinz
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jones, Okla.
Keating
Kemp
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Lent
Long, La.
Lott
Lujan
McClory
McCollister
McKinney
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Mosher
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Pettis
Peyser
Poage
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Regula
Reuss
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Roy
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Steele
Steelman
Steiger, Ariz.
Talcott
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NAYS—185

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bennett
Bergland
Biaggi
Bingham
Boggs
Boland
Brademas
Brasco
Brinkley
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Clay
Collins, Ill.
Corman
Cotter
Crane
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
de la Garza
Dellums
Denholm
Dent
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evins, Tenn.
Fascell
Flood
Foley
Ford, William D.
Fountain
Fraser
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Gunter
Hamilton
Hanley
Hanna
Harrington
Hawkins
Hays
Hechler, W. Va.
Helstoski
Henderson
Holtzman
Howard
Hungate
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, Md.
McCloskey
McCormack
McFall
McKay
Macdonald
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pickle
Pike
Podell
Preyer
Price, Ill.
Randall
Rangel
Rees
Reid
Riegle
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Stanton, James V.
Stark
Steed
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—36

Andrews, N.C.
Ashbrook
Blatnik
Bray
Brown, Ohio
Burke, Calif.
Chamberlain
Clawson, Del
Conyers
Coughlin
Davis, S.C.
Delaney
Diggs
Findley
Guyer
Hanrahan
Hansen, Wash.
Johnson, Colo.
McDade
McEwen
McSpadden
Mathis, Ga.
Milford
Mills, Ark.
Patman
Rhodes
Rooney, N.Y.
Runnels
St Germain
Steiger, Wis.
Stephens
Stokes
Stratton
Veysey
Waggonner
Wright

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Waggonner for, with Mr. Rooney of New York against.

Mr. Rhodes for, with Mr. St Germain against.

Mr. Steiger of Wisconsin for, with Mr. Blatnik against.

Mr. Bray for, with Mrs. Burke of California against.

Mr. McDade for, with Mr. Conyers against.

Mr. McEwen for, with Mr. Stokes against.

Mr. Ashbrook for, with Mr. Stratton against.

Mr. Del Clawson for, with Mr. Diggs against.

Mr. Hanrahan for, with Mr. Delaney against.

Mr. Coughlin for, with Mrs. Hansen of Washington against.

Until further notice:

Mr. Davis of South Carolina with Mr. Brown of Ohio.

Mr. Mathis of Georgia with Mr. Guyer.

Mr. Mills of Arkansas with Mr. Veysey.

Mr. Wright with Mr. Findley.

Mr. Runnels with Mr. Chamberlain.

Mr. Andrews of North Carolina with Mr. Johnson of Colordao.

Mr. McSpadden with Mr. Milford.

Mr. Patman with Mr. Stephens.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### POINT OF ORDER

Mr. SIKES. Mr. Speaker, I make a point of order against section 10 of the substitute offered by the conference committee, and ask to be heard on the point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. SIKES. Mr. Speaker, I make a point of order that the matter contained in section 10 of the substitute offered by the conference committee and accepted by the House conferees would not have been germane to H.R. 7645 under clause 7, rule XVI if offered in the House and is therefore subject to a point of order under clause 4, rule 28.

Mr. Speaker, may I discuss the point of order?

The SPEAKER. The gentleman from Florida will be heard on his point of order.

Mr. SIKES. Mr. Speaker, the legislative objective of the conference report in question is the authorization of appropriation of funds for State Department operations for fiscal year 1974. The bill passed by the House (H.R. 7645) was limited in scope and directed solely at that objective. The Senate bill (S. 1248) was in the nature of a substitute resolution, which added a number of provisions, some of which would have been objectionable as nongermane in the House under clause 7 of rule XVI. The House sought a conference, and its conferees were authorized under general instructions. The resulting conference report contains provisions which are patently nongermane and, if originated in the House, would have been subject to points of order under clause 7 of rule XVI. One of these nongermane provisions is section 10.

Section 10 of the conference report provides as follows:

> FOREIGN MILITARY BASE AGREEMENTS
>
> SEC. 10. No funds may be obligated or expended to carry out any agreement entered into, on or after the date of enactment of this Act, between the United States Government and the government of any foreign country (1) providing for the establishment of a military installation in that country at which units of the Armed Forces of the United States are to be assigned to duty, or (2) revising or extending the provisions of any such agreement, unless such agreement is approved by concurrent resolution of the Congress or is submitted to the Senate for its advice and consent and the Senate gives its advice and consent to such agreement.

Again let me state: If the language of section 10 were offered as an amendment to the text of H.R. 7645 as reported to the House, it would clearly be nongermane under rule XVI, clause 7 and as such it is not in order to be included in this conference report.

Section 10 of the conference report is not germane to the "fundamental purpose" of H.R. 7645 (VIII, 2911), it amends various Defense Department laws not mentioned in H.R. 7645 as reported to the House—and thus it is "new subject" within the meaning of V, 5825—and finally, the language of section 10 is not germane to any portion of the original H.R. 7645 (VIII, 2927, 2931).

Cannon's Precedents contain a myriad of rulings down through the years on the application of the germaneness rule. Broad, general principles in point on the subject of germaneness are found in the annotations contained in Rules of the House of Representatives; for example, first, a specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (sec. 796, p. 444); second, two subjects are not necessarily germane because they are related (sec. 798, p. 455).

A 1965 ruling illustrates contemporary application of the rule in the light of classical precedents. The bill under debate was to establish a uniform Federal rule governing union security agreements—so-called right-to-work measures—and the amendment which was challenged sought to exempt members of religious groups from the applicability of certain labor-management agreements. In ruling the amendment to be nongermane, the chairman, Mr. O'Brien, stated:

> It seems to the Chair that the pending bill deals only with one particular aspect of existing law and that an amendment relating to the terms of either law, including section references not within the pending bill or touching other aspects of sections 14(b), 8(a), or 705(b) not relating to the question of the right to work, would be nongermane.

The chairman reviewed certain precedents in support of his ruling and concluded with a succinct statement of the rule as follows:

> The Chair would also like to direct the attention of the Committee to volume VIII of "Cannon's Precedents" of the House; sections 2946, 2947, and 2948.
>
> In section 2946 the Chair held: "To a bill amending the Federal Reserve Act in a number of particulars an amendment relating to the Federal Reserve Act but to no portion provided for in the pending bill" was not germane.
>
> In section 2947 the ruling was:
>
> "To a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill was held not to be germane."
>
> In section 2948 there was a similar ruling:
>
> "To a bill amendatory of one section of an existing law an amendment proposing further modification of the law was held not to be germane."
>
> The Chair might also call to the attention of the Committee an even older precedent which goes back to the turn of the century. In volume V of 'Hinds' Precedents." section 5806, it was held that "to a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill" was not germane. Sections 5807 and 5808 are to similar effect.
>
> The Chair believes that the cases cited clearly demonstrate the rule of germaneness stated in clause 7 of rule XVI. That rule provides that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

During the November 10, 1971, debate in the House on the conference report on the military procurement authorization for 1972, the application of the "germaneness rule" under clause 3 of rule XX—added by the Legislative Reorganization Act of 1970—came under considerable discussion. Mr. ARENDS introduced a motion to instruct the House conferees not to agree in conference to any nongermane Senate amendments. In support of his motion he pointed out the nongermane parts of some of the Senate amendments, which are illustrative of the general issue of germaneness. He said:

> Let me briefly review some of these nongermane Senate amendments to the House-passed bill to illustrate my point.
>
> Section 503 of the Senate amendment amends the United Nations Participation Act of 1945 by restricting the President's authority to prohibit the importation of materials determined to be strategic and critical pursuant to the Strategic and Critical Materials Stockpile Act.
>
> This clearly is a provision which is not germane to the subject matter of the House bill and had it been offered as an amendment in the House, would have been subject to a point of order.
>
> Section 507 of the Senate amendment states that none of the funds authorized or appropriated by this or any other act may be used for the purpose of carrying out aircraft flying operations at the U.S. Naval Air Station, Los Alamos, California, until the Secretary of Defense has submitted a report to the Congress.
>
> The military procurement bill does not authorize operation and maintenance funds and the amendment clearly would be a restriction on funds not authorized by the military procurement bill. This, clearly would be subject to a point of order, had the amendment been offered in the House.
>
> Section 601 of the Senate amendment sets a fixed date 6 months after the enactment of the proposed legislation for the withdrawal of all U.S. forces from Indochina subject to the release of all U.S. prisoners of war. The military procurement bill does not deal with this subject matter in any way and, thus, had section 601 of the Senate amendment been offered in the House it would clearly have been subject to a point of order.

No issue was taken as to his suggestions that these sections were nongermane. His motion failed and the conferees proceeded to conference under general instructions. The conference report omitted some of the nongermane amendments but incorporated three of those discussed in the debate on the Arends motion; that is, the Rhodesian chrome provision, the question of the limitation of assistance to Laos, and the so-called Mansfield amendment.

The House adopted House Resolution 696 which provided for the waiving of "all points of order against said conference report for failure to comply with the provisions of clause 3 of rule XX and clause 3 of rule XXVIII" and provided for a separate vote pursuant to clause 1 of rule XX upon demand on the individual nongermane sections. See CONGRESSIONAL RECORD, volume 117, part 31, pages 40479 to 40490.

Given the general acceptance of the nongermane character of the parts of the Military Procurement Authority Act of 1972 as contained in the conference report, there should be little doubt that closely analogous section 10 of the subject conference report should be considered nongermane under even the most liberal interpretation of the House germaneness rule. Aside from this general contemporary approach, the germaneness of section 10 is challengable in the following specific respects:

First. It purports to impose restrictions on funds other than those authorized by the subject conference report. (A point similar to that raised by Mr. Arends with respect to section 507 of the military procurement bill, supra);

Second. It extends beyond the fundamental purpose of the original House bill committed to conference (secs. 2911 and 2997, Cannon's Precedents, and a 1966 ruling where, during debate on a bill proscribing certain picketing in the District of Columbia, an amendment to extend this proscription nationwide was declared nongermane. [Congressional Record, vol. 112, pt. 15, p, 20113];

Third. It seeks to impose restrictions of a permanent nature, yet the legislative object of this conference report is applicable only to a fiscal year. (Such amendments have been held nongermane under rulings cited in secs. 2914 and 2915, Cannon's Precedents); and

Fourth. It is not germane to the subject matter of the conference report. Section 2923, Cannon's Precedents, and section 2993, Cannon's Precedents, which contains this extract of the Chair's ruling:

> To determine whether an amendment is relevant and germane, while not always easy, can best be done by applying certain simple tests. If it be apparent that the amendment proposes some modification of the bill, or of any part of it, which from the declared purposes of the bill could not reasonably have been anticipated and which cannot be said to be a logical sequence of the matter contained in the bill, and is not such a modification as would naturally suggest itself to the legislative body considering the bill, the amendment cannot be said to be germane.

Mr. HAYS. Mr. Speaker, as I said, the nongermaneness of this amendment, had it been brought up in the House, could have been avoided, but I think the House is entitled to an explanation of what it does, which is to prohibit the President from entering into foreign military base agreements he submits them to the Senate in the form of a treaty or submits them to both Houses as a concurrent resolution. It seems to me obvious from the last vote that the will of the House seems to be that the President can conduct foreign policy without any restrictions by Congress, to get us in war or out of war, or make agreements without Congress doing anything about it. I am not straining to butt my head up against a stone wall. I am sorry we did not have the votes on the other one, so I will concede the point of order.

Mr. MORGAN. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. I hope the House realizes that the function of the so-called Select Committee, headed by the distinguished gentleman from Missouri (Mr. Bolling) has a major job on its hands, because plainly under rule XI, clause 7, of the rules of the House it enumerates the jurisdiction on foreign affairs, and as we interpret rule XI, clause 7, my committee has sole jurisdiction over legislation of this type.

Mr. HAYS. I agree with what the gentleman has to say, but in view of the ruling of the Chair on the preceding amendment, with this new rule that the House adopted—and I do not quarrel with the Chair's ruling—I have no alternative but to concede the point of order.

The SPEAKER. The gentleman concedes the point of order; but since this is a de nova matter of a nongermane Senate provision in the conference report, the Chair desires to state his decision.

The Senate amendment included a provision prohibiting the obligation or expenditure of funds for implementing certain military base agreements with foreign nations unless such agreements are submitted to the Senate for its advice and consent and the Senate consents thereto.

The House bill carried no such provision.

The conferees have included a modification of the Senate language which provides that military base agreements may be approved whether by passage of a concurrent resolution by both the House and the Senate or by the Senate's giving its advice and consent to an agreement.

The Chair observes that the conference language prohibits not only the use of funds authorized by the pending act but all funds available to the executive branch which might be used to carry out such agreements.

The prohibition against the use of funds would apply not only to the Department of State and the programs funded in this bill but would also relate to all agreements which might be entered into, whether or not by the Department of State. It would go to the funds authorized in Military Construction Acts and thus to funds authorized by the Committee on Armed Services.

The Chair, therefore, concludes that the amendment would not have been germane if offered to the House bill and the point of order against section 10 of the conference report is, therefore, sustained.

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Sikes moves that the House reject section 10 of the conference report.

The SPEAKER. The gentleman from Florida is recognized for 20 minutes.

Mr. SIKES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me state first that I regret very much to find myself in opposition to the position of the distinguished gentleman from Ohio (Mr. Hays) who is speaking for the Committee on Foreign Affairs in support of the conference report. I know that he is a very conscientious and dedicated Member of the House. Nevertheless, I believe that the language of section 10 would cause a great deal of trouble in its administration. It would create innumerable problems in the day to day conduct of the work of Government, both within the administration and in Congress.

It has been clearly indicated that if the section remains in the State Department authorization bill, the likelihood is that the bill will be vetoed. It would seem a more practical and realistic procedure to eliminate the section now and avoid the mischief it would create.

Now let us examine it.

Section 10 of the bill entitled foreign military base agreements would cut off funds for implementing agreements permitting the establishment of military installations in foreign countries and for extending or revising such agreements, unless they are approved by two-thirds of the Senate or by concurrent resolution of the Congress.

This section impairs the ability of the Executive to respond quickly to international crises, and raises questions regarding the constitutional authority of the President to negotiate and conclude certain international agreements.

This section would even prohibit without formal congressional approval the dispatch of disaster relief units, not just combat units. The United States has 100 agreements for military facilities in some 40 countries. These agreements are usually technical and administrative covering a wide range of routine things and involving no significant foreign policy considerations. Yet the Congress would be required to debate and pass upon each of these. Such things as the agreement with the Philippines to permit private banking facilities at Clark Field Air Base or an agreement with the United Kingdom permitting construction of a road at Kindley Field in Bermuda would be treated as formal treaty agreements.

This provision is unnecessary. The Congress already participates actively in decisions to establish and maintain military installations, which cannot be constructed or operated without the congressional authorization and appropriation of necessary funds. None of the agreements covered would obligate the United States to station forces abroad. Many of the agreements covered would deal with relatively insignificant issues and extremely modest amounts of money, and many are designed as quick resolution of unforeseen but minor issues in larger programs which already have been or soon will be subject to congressional approval. They include claims, procurement of goods and services, property disposal, and all the other routine activities associated with overseas bases.

The Congress is already burdened with detail enough. Let us not delay consideration of important matters with these trivial matters. If section 10 became law, the Congress would be further encumbered with the burden of considering and debating dozens of insignificant agreements.

I urge your support in deleting section 10 from the State Department authorization bill conference report.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I wish to associate myself with the remarks made by the gentleman from Florida. I can think of no one who has had greater experience in this area. He has stated the facts correctly.

Not only is this amendment not germane under the House rules, which on its face we would not allow, but also the issue here is a very serious and basic issue. No hearings on this subject have been held at all that I know of in the House.

The issue comes before us as a nongermane amendment put in by the other body.

If we accept this, then I think we have done a very serious damage not only to the country; not only to the President in his carrying out of foreign policy, but to the prestige of the House itself.

**Mr. SIKES.** Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Louisiana (Mr. HÉBERT), chairman of the Committee on Armed Services.

**Mr. HÉBERT.** Mr. Speaker and Members of the House, I rise to support the position taken by the gentleman from Florida. As chairman of the House Armed Services Committee, I am sure every Member can understand my opposition to a suggestion of this type. I certainly do appreciate the views of those who have perhaps some diluted view of the military. I can appreciate their positions.

**The SPEAKER.** The time of the gentleman from Florida has expired.

**Mr. SIKES.** Mr. Speaker, I yield myself 2 additional minutes.

**Mr. HÉBERT.** In this particular situation here, we have perhaps a very understandable idea to do something to control the military. Yet, in its language, we have the frustration of what would develop. As the gentleman has suggested here, we have 100 commitments in 40 different countries. It would affect probably even going on dress parade, which is outside the jurisdiction of this particular commitment. It is a matter of certainly something that almost borders on the ridiculous, although at the same time I do understand the motives and objectives of those who advocate control and their justification.

Of course, I do not agree with them, but I think here is a time when the Congress now asserts its authority and expresses its ability and demonstrates its ability and should vote in favor of the opposition advanced by the gentleman from Florida.

**Mr. GROSS.** Mr. Speaker, there was much merit to the amendment contained in section 13 which has been rejected by the House and there is much merit to the pending amendment to the conference report known as section 10.

However, both amendments have been held by the Speaker of the House to be not germane to the subject matter of the bill. Both amendments are in this conference report because the Senate observes no rule of germaneness.

As one who has long protested actions of the Senate in attaching nongermane amendments to House bills I cannot, with consistency, vote to override the ruling of the Speaker on either of these amendments.

I hope that a way can be found to make these amendments or a variation of them germane. In that event I will vote for them.

**Mr. HAYS.** Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

**The SPEAKER.** The question is on the adoption of the motion offered by the gentleman from Florida (Mr. SIKES).

The motion was agreed to.

A motion to reconsider was laid on the table.

**The SPEAKER.** The motion to reject sections 10 and 13 of the conference report having been adopted, under the rule the conference report is considered as rejected.

### MOTION OFFERED BY MR. HAYS

**Mr. HAYS.** Mr. Speaker, pursuant to clause 4, rule 28, in view of the action of the House, I offer a motion.

The Clerk read as follows:

Mr. HAYS moves that the House recede from its disagreement and concur in the Senate amendment with an amendment, as follows:

In lieu of the matter proposed to be inserted by Senate amendment insert the following:

That this Act may be cited as the "Department of State Appropriations Authorization Act of 1973".

### AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1974, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $282,565,000;

(2) for "International Organizations and Conferences", $211,279,000;

(3) for "International Commissions", $15,568,000;

(4) for "Educational Exchange", $59,800,000;

(5) for "Migration and Refuge Assistance", $8,800,000.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated for the Department of State for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $9,328,000 for increases in salary, pay, retirement, or other employee benefits authorized by law;

(2) not to exceed $12,307,000 for additional overseas costs resulting from the devaluation of the dollar; and

(3) not to exceed $1,165,000 for the establishment of a liaison office in the Peoples Republic of China.

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State $40,000,000 for protection of personnel and facilities from threats or acts of terrorism.

(d) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Secretary of State for the fiscal year 1974 not to exceed $36,500,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, relating to Russian refugee assistance.

(e) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State for the fiscal year 1974 not to exceed $4,500,000 for payment by the United States of its share of the expenses of the International Commission of Control and Supervision as provided in article 14 of the Protocol to the Agreement on Ending the War and Restoring Peace in Vietnam Concerning the International Commission of Control and Supervision, dated January 27, 1973.

(f) Appropriations made under subsections (a), (b), and (c) of this section are authorized to remain available until expended.

### INTERPARLIAMENTARY UNION

SEC. 3. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) by striking out "$102,000" and inserting in lieu thereof "$120,000"; and

(2) by striking out "$57,000" and inserting in lieu thereof "$75,000".

### STUDY COMMISSION RELATING TO FOREIGN POLICY

SEC. 4. Section 603(b) of the Foreign Relations Authorization Act of 1972 (22 U.S.C. 2823(b)), relating to the reporting date for the Commission on the Organization of the Government for the Conduct of Foreign Policy, is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1975".

### USE OF FOREIGN CURRENCY

SEC. 5. Subsection (b) of section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754) is amended—

(1) by striking out "$50" in the first sentence of such subsection and inserting in lieu thereof "$75";

(2) by inserting immediately before "appropriate committees" the following: "Members and employees of"; and

(3) by striking out the colon and all that follows thereafter in such subsection and inserting in lieu thereof a period and the following:

"Within the first ninety calendar days that Congress is in session in each calendar year, the Department of State shall submit to the chairman of each such committee a report showing the amounts and dollar equivalent values of each such foreign currency expended during the preceding calendar year by each Member and employee with respect to travel outside the United States. Such reports of that committee shall be available for public inspection in the offices of such committee."

### AMBASSADORS AND MINISTERS

SEC. 6. From and after the date of enactment of this Act, each person appointed by the President as ambassador or minister shall, at the time of his nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such person and by members of his immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of his nomination and ending on the date of his nomination, which report shall be verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. As used in this section, the term "contribution" has the same meaning given such term by section 301(e) of the Federal Election Campaign Act of 1971, and the term "immediate family" means a person's spouse, and any child, parent, grandparent, brother, or sister of such person and the spouse of any of them.

### INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SEC. 7. (a) Section 2(2) of the Act of September 19, 1966 (80 Stat. 808; 22 U.S.C. 277d–31), is amended by striking out "$20,000" and inserting in lieu thereof "$25,000".

(b) Section 3 of the Act of August 10, 1964 (78 Stat. 386; 22 U.S.C. 277d–28), is amended by striking out "$20,000" and inserting in lieu thereof "$30,000".

(c) The last paragraph of the Act of September 18, 1964 (78 Stat. 956; 22 U.S.C. 277d–29), is amended by striking out "$23,000" and inserting in lieu thereof "$50,000".

### EXTENSION OF PUBLIC LAW 92–14

SEC. 8. Section 2 of the Act entitled "An Act to authorize the United States Postal Service to receive the fee of $2 for execution of an application for a passport", approved May 14, 1971 (85 Stat. 38; Public Law 92–14), is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

### BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEC. 9. There is established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs. In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there shall be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, appointed by the President, by and with the advice and consent of the Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs.

### FOREIGN SERVICE PROMOTIONS

SEC. 10. Section 623 of the Foreign Service Act of 1946 (22 U.S.C. 906) is amended to read as follows:

### "RECOMMENDATIONS FOR PROMOTIONS

"SEC. 623. (a). The Secretary shall establish, with the advice of the Board of the Foreign Service, selection boards to evaluate the performance of Foreign Service officers; and upon the basis of their findings, which, except for career ambassadors and career ministers, shall be submitted to the Secretary in rank order by class or in rank order by specialization within a class, the Secretary shall make recommendations in accordance with the findings to the President for the promotion of Foreign Service officers. No person assigned to serve on any such board shall serve in such capacity for any two consecutive years. In special circumstances, however, which shall be set forth by regulations, the Secretary shall have the authority to remove individual names from the rank order list submitted by the selection boards or to delay the inclusion of individual names until a subsequent list of nominations is transmitted to the President.

"(b) The Secretary may, pursuant to a recommendation of a duly constituted grievance board or panel or an equal employment opportunity appeals examiner—

"(1) recommend the President the promotion of a Foreign Service officer;

"(2) promote Foreign Service Staff personnel and Foreign Service Reserve officers with limited or unlimited tenure; and

"(3) grant a Foreign Service personnel additional step increases in salary, within the salary range established for the class in which an officer or employee is serving.

"(c) The Secretary may, in special circumstances which shall be set forth in regulations, make retroactive promotions and additional increases in salary within class made or granted under the authority of this section."

### REIMBURSEMENT FOR DETAILED STATE DEPARTMENT PERSONNEL

SEC. 11. (a) An Executive agency to which any officer or employee of the Department of State is detailed, assigned, or otherwise made available, shall reimburse the Department for the salary and allowances of each such officer or employee for the period the officer or employee is so detailed, assigned, or otherwise made available. However, if the Department of State has an agreement with an Executive agency or agencies providing for the detailing, assigning, or otherwise making available, of substantially the same numbers of officers and employees between the Department and the Executive agency or agencies, and such numbers with respect to a fiscal year are so detailed, assigned, or otherwise made available, or if the period for which the officer or employee is so detailed, assigned, or otherwise made available does not exceed ninety days, no reimbursement shall be required to be made under this section.

(b) For purposes of this section, "Executive agency" has the same meaning given that term by section 105 of title 5, United States Code.

### OVERSEAS KINDERGARTEN EDUCATION ALLOWANCE

SEC. 12. Section 5924(4)(A) of title 5, United States Code, is amended by inserting immediately before "elementary" the following: "kindergarten,".

### REQUIREMENT FOR CONGRESSIONAL AUTHORIZATION FOR THE INVOLVEMENT OF AMERICAN FORCES IN FURTHER HOSTILITIES IN INDOCHINA, AND FOR EXTENDING ASSISTANCE TO NORTH VIETNAM

SEC. 13. Notwithstanding any other provision of law, on or after August 15, 1973, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress. Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

### LIMITATION ON PUBLICITY AND PROPAGANDA PURPOSES

SEC. 14. No appropriation made available under this Act shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

(2) to influence in any way the outcome of a political election.

### HOUSING SUPPLEMENT FOR CERTAIN EMPLOYEES ASSIGNED TO THE U.S. MISSION TO THE UNITED NATIONS

SEC. 15. The United Nations Participation Act of 1945 (22 U.S.C. 287) is further amended by adding the following new section at the end thereof:

"SEC. 9. The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code—

"(1) grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and

"(2) provide such allowance as the President considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session. Not more than forty-five employees shall be receiving an allowance under paragraph (1) of this section at any one time."

### MUTUAL RESTRAINT ON MILITARY EXPENDITURES

SEC. 16. It is the sense of the Congress that the United States and the Union of Soviet Socialist Republics should, on an urgent basis and in their mutual interests, seek agreement on specific mutual reductions in their respective expenditures for military purposes so that both nations can devote a greater proportion of their available resources to the domestic needs of their respective peoples; and, the President of the United States is requested to seek such agreements for the mutual reduction of armament and other military expenditures in the course of all discussions and negotiations in extending guaranties, credits, or other forms of direct or indirect assistance to the Soviet Union.

### EXPRESSION OF INDIVIDUAL VIEWS TO CONGRESS

SEC. 17. Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended by striking out "appointed by the President, by and with the advice and consent of the Senate, to a position in" and inserting in lieu thereof "or employee of".

Mr. HAYS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

I will explain to the House that this is simply the conference report deleting the two amendments which the House has turned down.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Speaker, as I have just said, this is to get the conference report back to the conferees. We are taking it back to the Senate conferees without the two sections, 10 and 13, which the House deleted. We will explain to them that the House refused to accept them.

We will see what we can do from there.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

A motion to reconsider was laid on the table.

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## PROVIDING FOR CONSIDERATION OF H.R. 2096, DISCRIMINATORY IMPOSTS ON WINE

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 466 and ask for its immediate consideration.

The Clerk read the resolution as follows.

H. RES. 466

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 466 provides for an open rule with 2 hours of general debate on H.R. 2096, a bill to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine.

House Resolution 466 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

H.R. 2096 abolishes discriminatory taxes, license fees, and other discriminatory burdens imposed by some States on wines produced outside of the State, or from materials produced outside of the State. The bill requires that each State treat any such wine as favorably as any other wine of the same class sold in the State.

H.R. 2096 makes a congressional finding that the imposition by one State of discriminatory taxes or other measures on wine produced in other States, obstructs commerce among the several States.

Mr. Speaker, I urge adoption of House Resolution 466 in order that we may discuss and debate H.R. 2096.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the remarks just made by the gentleman from California concerning the rule. However, I do not share his enthusiasm for the passage of this legislation. It is really not an open and closed matter as the gentleman's remarks would indicate.

I wished that—the minority views which appear on page 15—would have listed the so-called control States in the Nation. These are States which maintain State stores for the sale of alcoholic beverages within the confines of their borders. They all happen to oppose this legislation and there are 18 of them.

The States of Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming are all "control" States.

Mr. Speaker, after the "control" States took a position against this legislation before the committee, an attempt was made—and I emphasize the word "attempt"—to overcome their objections. However, as reported in the minority views, the differences were not resolved to the satisfaction of these "control" States.

I believe it is most important that Members know the position of their States on this legislation, and how they are going to be affected, because most of the so-called "control" States will be adversely affected by this legislation. I believe it behooves all Members to pay close attention to the debate on this bill.

I do not happen to believe that we ought to oppose the rule. We should listen to the debate on the legislation and then vote according to the best interests of our individual States, as this is not a so-called national bill.

There are States, and I do not want to name them, which will benefit by the passage of this legislation much to the detriment of their sister States.

Mr. Speaker, I have no further requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 9553, THE SPORTS BLACKOUT BILL

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on the bill, H.R. 9553, as amended, the Sports Blackout bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## DISCRIMINATORY IMPOSTS ON WINE

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2096), with Mr. Fuqua in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 1 hour, and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 1 hour.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, the issue in this bill is very simple. Simply stated, the purpose of H.R. 2096 is to prohibit any State from imposing discriminatory burdens on wines produced outside the State or from materials produced outside of the State.

In summary, the bill would—

First. Make a congressional finding that the imposition by one State of discriminatory taxes or other measures on wine produced in other States, and the imposition of unreasonable requirements for shipment into and sale or distribution of wine in a State, obstructs commerce among the several States (section 1(a));

Second. Make a congressional declaration that the legislation is enacted as an exercise of the power conferred on Congress by article I, section 8, clause 3 of the U.S. Constitution to regulate commerce among the several States—the commerce clause (section 1(b));

Third. Prohibit any State from imposing discriminatory taxes or other discriminatory measures on wines produced (a) outside of the State, or (b) from materials produced outside of the State (section 2);

Fourth. Make clear that each State retains the right to engage in the purchase, sale, or distribution of wine and the right to exercise business discretion in the selection and listing of any wines purchased, sold, listed, or distributed by the State (section 3);

Fifth. Give any interested person standing to file suit in a district court of the United States of competent jurisdiction to enjoin any discriminatory measures proscribed by the legislation (section 4).

Mr. Chairman, I see no purpose in detailing the decisions of the Supreme Court which make this legislation necessary, they are set out in the committee's report on the bill. The executive agencies which have reported on the merits of the legislation indicate they are in accord with its objectives. The Justice Department in its report states that it will require the Supreme Court to reverse a line of precedents of the Supreme Court which were based on an erroneous impression as to the purpose of section 2 of the 21st amendment to the Constitution. I should note that these reports were all received after the report on the legislation was filed and are, therefore, not to be found in the report.

Mr. Chairman, it is seldom that in considering legislation in this House that we can relate its purpose directly to our constitutional scheme. However, it can be done in the case of H.R. 2096. As students of our history know after the conclusion of the Revolutionary War the Thirteen Colonies entered into Articles of Confederation which were the supreme law of the United States from March 1781 until the Constitution was adopted in 1789. One of the essential defects in the articles was that they established 13 separate economic systems—1 for each of the original 13 States. The system was unworkable and intolerable. The trade barriers which have been established by some States under the Court's mistaken interpretation of section 2 of the 21st amendment return us to the Articles of Confederation insofar as wine is concerned. Enactment of the legislation now under consideration by the House is necessary to correct that.

Mr. Chairman, I am not one who favors the consumption of alcoholic beverages. But as alcoholic beverages go certainly wine is to be preferred to most others. My purpose in supporting the legislation now under consideration by the House has nothing to do with the desirability of wine drinking, it is based on my belief that discriminatory trade barriers which have been established by some States with respect to wine are contrary to the Constitution and our system of government and should not be permitted to continue.

Mr. Chairman, I hope H.R. 2096 will be enacted by the House.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Yes, I will be happy to yield to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I am not taking a position one way or the other at this moment.

The reason for the so-called special tax in a State like mine is that the taxpayers in the State pay real estate taxes and the other State taxes which are pertinent to Pennsylvania law, and our State store closed system is financed by the State government. We do not charge any different markup on wines coming into the State than we do on domestic or State wines.

The only thing we have is a shelf tax which is charged to other States which do not pay taxes in Pennsylvania for the State's shelves that are provided by the people.

That has been going on for many years all over the country. For instance, in one State they have a 5-cent tax on cigarettes and in another 13 or 14 cents tax. So one State has a different problem with taxing limitations.

But so far as wine is concerned, we do not believe it is discriminatory against out-of-State wines when we place a shelf tax for the use of space provided by the State's taxpayers to out-of-State users of that shelf.

It is the same as our highways. We have a State tax on highways, but we have a partial tax for license plates and licenses for cars going over our highways. West Virginia, your own State, taxes gasoline or, if you do not buy the gasoline, you pay some taxes on the amount of gasoline you would have used in your vehicle going through the State of West Virginia.

So they have created a body of law in studying the relationship on out-of-State products or facilities. It is not a question, as I say, of our trying to discriminate but a question as to whether or not a State can provide facilities paid for by the taxpayers of that State and provide them free for competitors of the other State for the same product. That is what it amounts to.

Mr. STAGGERS. The gentleman misunderstands the whole proposition.

Mr. DENT. I do?

Mr. STAGGERS. Because the law does not say you pay anything. Your State does not have to buy another State's wines and put them on its shelves.

Mr. DENT. Just a minute.

Mr. STAGGERS. No, sir.

Mr. DENT. They do not have to buy if they are going to pay for the products of that State. We do not make one-tenth of 1 percent of the wines that we use.

Mr. STAGGERS. You do not have to buy potatoes from Idaho or Maine, either, but you do because the people want to buy them. The commerce clause of the Constitution says that you do not place barriers on commerce between the States.

Mr. LATTA. Will the gentleman yield?

Mr. DENT. Let me finish my point.

Will the gentleman yield to me to let me finish one point?

Mr. STAGGERS. I yield to the gentleman.

Mr. DENT. That claim of no rights by the State is absolutely out the window. If I buy a bottle of whisky in the city of Washington and take it into Pennsylvania, I have either got to meet the Pennsylvania charges against that purchase and tariff, which is a barrier against my buying in Washington, D.C., or Maryland. What kind of a deal is that?

Mr. STAGGERS. Just a minute, the gentleman misunderstands.

Mr. DENT. I am not misrepresenting anything but giving you the truth.

Mr. STAGGERS. Let me tell you the facts of the thing.

If you are going to try to impose barriers between States on everything grown in the United States, you will create problems.

You talked about cigarettes. No State can tax cigarettes from various States. A State puts on the tax after the cigarettes are brought in. It is the same on cigarettes from each of the different States.

Mr. LATTA. Will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. LATTA. I do not quite follow the gentleman's statement about the constitutionality of the matter, because the second section of the 21st amendment specifically requires the States clearly to do what they are doing and the Supreme Court decision interpreting this provision since that time has given the States the right to do what they are now doing.

What you are proposing to do by this legislation is to overturn section 2 of the 21st amendment to the Constitution.

I think you are arguing that the drafters of the amendment did not know what they were doing when they gave the States the right they now enjoy.

Mr. STAGGERS. I believe the gentleman is completely wrong. I will yield to the distinguished lawyer from the State of Texas to answer.

Mr. LATTA. I cannot agree with the gentleman's interpretation.

Mr. STAGGERS. I can give an answer to it, but I think the gentleman from Texas is one of the most distinguished constitutional lawyers in this House, and I yield to him for an answer.

Mr. ECKHARDT. Mr. Chairman, I thank the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS). I doubt that I deserve that credit.

I would say this: That we are not trying to overturn constitutional determinations that the Constitution permits the kind of taxes involved here. What we are trying to say is that we in Congress have the right to prevent a burden on interstate commerce in that our act in so doing is not unconstitutional. We are not in any way trying to reinterpret any constitutional decisions to the effect that the States may under existing provisions of the Constitution and under present law limit or encumber importation of wine, but we, on our part certainly have the right to pass legislation which prevents a burden on interstate commerce.

I think the points that were made here a minute ago that there can be a special shelf tax put on wine or some kind of special encumberance placed on a product made out of State, and this should be permitted, is entirely invalid. We certainly could not put such a tax on steel produced in Pennsylvania or oil produced in Texas because it would obviously be a burden on interstate commerce.

So what we are attempting to do here is to prevent the Balcanization of the rest of the country in an area in which an interpretation of an amendment which was solely passed for the purpose of permitting prohibition locally is applicable. What we are trying to do is prevent an economic barrier with respect to this particular type of product from being imposed by virtue of the permissive provisions of the end section of the 21st amendment.

It is an anomaly in the first place that alcoholic beverages are not subject to absolute prohibitions in the Constitution against a burden on interstate commerce, and we are simply abolishing that anomaly. But we are certainly not attempting to do anything which overrules the Supreme Court with respect to its decisions.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I will not yield, but I will permit the gentleman from North Carolina (Mr. BROYHILL) to yield. I will yield to the gentleman from North Carolina so that he can yield to the gentleman from Ohio.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I think it is most important that we clear up this matter. I want to thank the gentleman from Texas (Mr. ECKHARDT) for his remarks. I think the gentleman has correctly, adequately, and completely referred to constitutional interpretations on this matter, and I hope that the gentleman from West Virginia (Mr. STAGGERS) was listening.

Mr. Chairman, I would like to read a paragraph from a letter from the Department of Justice mailed to the Honorable HARLEY O. STAGGERS on July 18, 1973. The next to the last paragraph reads as follows:

> Nevertheless, we feel it appropriate to inform the Committee that if the Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for this legislation to be sustained. The Court noted recently that it had never squarely determined how the Amendment affects the power of Congress under the commerce clause. *Heublein* v. *So. Carolina Tax Commission*, 409 U.S. 275, 282 note 9.

I repeat, this paragraph was contained in a letter sent to the chairman of the committee by the Department of Justice.

I think the proponents are attempting, as I said previously, to do by statute what has not been done by the Constitution itself. And the States have every right under the Constitution to do what they have been doing. If we are going to amend the Constitution we ought to do it by proper process rather than by statute.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, today the House is debating H.R. 2096, the so-called wine bill. I oppose this legislation. During our committee deliberations, there appeared several flaws in this proposal. These flaws remain uncorrected.

The stated purpose of this proposal is to "eliminate the obstructions to the free flow of commerce in wine" by setting aside State laws which supposedly establish artificial trade barriers to the merchandising of wine. However, in practice, this bill does much more. This legislation, if passed by Congress would overturn many existing State laws and regulations which were enacted to control the purchase, storage, distribution and sale of alcoholic beverages in line with the preferences of that State's citizens.

These laws include, such long standing, State measures as the system of providing and regulating State liquor licenses as a condition of doing business in intoxicating liquors within the State, tax schemes in regard to alcoholic beverages and numerous other measures designed to control the traffic in liquors within the individual States.

An even more basic objection to the bill is that it attempts to take from the States those rights guaranteed to them by section 2 of the 21st amendment to the Constitution of the United States.

H.R. 2096 provides that wherever the law of any State permits the importation of wine, that State may not impose any requirements on wine produced outside the State which are not equally applicable to wine produced in such State. The bill further provides that any State which permits the sale of wine shall permit the importation of wine produced outside the State for sale upon terms equally applicable to all similar wines sold in the State.

There are presently 18 "control" States within the United States including my own State of North Carolina. These are States which have voluntarily chosen to have the alcohol beverage business in their State conducted by the State government. These States have enacted laws and regulations to control the purchase, storage, distribution, and sale of alcoholic beverages.

The procedures which these States employ in selecting the wines to be stocked and sold are commonly referred to as "listing" procedures.

It is obvious that due to capital, marketing, and storage space limitations the States simply cannot accept for listing all of the alcoholic beverage items, including thousands of wine items alone, offered from time to time. The purchasing agency must use extreme care in selecting those items for which a public demand has been demonstrated or can be reasonably expected, and which will, therefore, have an acceptable turnover. It is at this point that a great potential for being charged with discrimination occurs. Inasmuch as a sales operation can accommodate only a limited number of items, the States of necessity, have had to adopt regulations prescribing limitations on the number of items of the same type, quality, class, proof, size, et cetera, which may be listed.

The effect of this legislation on the 18 control States would be to severely restrict their rights to select and control the amount and kinds of wines that are transported into their territories and the application of this legislation would inevitably lead to the destruction of the States' wine business.

### EFFECT ON NONCONTROL STATES

In those States which have chosen to have their alcohol beverage business conducted by private interests, private interests are free to purchase and stock whatever wines they desire. They may mark up wines in a discriminatory manner if they wish and refuse to carry particular wines for any reason.

However, in those States which have chosen to have their alcohol beverage business conducted by the State governments, the situation would be entirely different if this legislation were to become law. Inasmuch as only the State government can legally import and sell wines within a control State, a refusal by such a State to contract for the purchase of a particular wine could be held as a violation of the provisions of this legislation. This sort of legal discrimination against the 18 control States and their citizens is simply unacceptable.

There is, however, an even more basic objection to H.R. 2096. That objection, as I mentioned earlier, is that the bill attempts to take from the States those rights guaranteed to them by section 2 of the 21st amendment to the Constitution.

Section 2 of the 21st amendment to the Constitution of the United States is as follows:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The Supreme Court has consistently held that the language of this amendment clearly leaves the States free to control the importation of and traffic in liquors within their boundaries. In a series of interpretative decisions rendered shortly after ratification of that amendment, the Court said that States have the authority and right under the 21st amendment to adopt legislation discriminating against intoxicating liquors imported from other States in favor of those from the home State. The Court has also said that such discrimination is not limited by the Commerce Clause.

In the case of *State Board of Equalization of California* v. *Young's Market Company*, 299 U.S. 59 (1936), it was argued that it would be a violation of the commerce clause and of the equal protection clause for a State to require a fee of persons importing beer from oustide the State.

### STATE UPHELD

Pointing out that such discrimination would have violated the commerce clause before adoption of the 21st amendment, the Court, speaking through Justice Brandeis, held that since that amendment a State was not required to—

> Let imported liquors compete with the domestic on equal terms. To say that, would involve not a construction of the Amendment, but a rewriting of it.

In addition, the history of the amendment's adoption makes it clear that Congress intended that the 21st amendment restore "absolute control' over liquor traffic to the States.

In response to a request by the Committee on Interstate and Foreign Commerce, the Department of Justice on July 18, 1973, submitted its views on H.R. 2096. In its comments on this proposal, the Justice Department stated that it felt it—

> Appropriate to inform the Committee that if Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for this legislation to be sustained.

For the reasons expressed, I strongly oppose passage of H.R. 2096 and ask for the support of my colleagues in defeating this measure.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Moss), a member of the committee.

Mr. MOSS. Mr. Chairman, I suggest that we look more closely at the letter from the Department of Justice, which states:

> Nevertheless we feel it appropriate to inform the Committee that if the Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for this legislation to be sustained. The Court noted recently that it had never squarely determined how the amendment affects the power of Congress under the commerce clause.

That was in Heublein against South Carolina Tax Commission.

It is interesting to note that the Department of Justice writes with such certainty in one sentence and then goes to great pains to point out that, rather than reversing well-established precedents, the Court has not set any well-established precedent. As a matter of fact the Court invites the Congress in this case to come forward and give an expression of the Congress.

Let me point out that in the absence of the 21st amendment to the Constitution, no State could impose the discriminatory kinds of levies which are now imposed on wine—no State. They cannot on any other product. They do it here solely because of a rather slipshod interpretation placed back in the 1930's on section 2 of the 21st amendment.

It is interesting that the gentlemen who were debating the 21st amendment in the U.S. Senate made clear that the intent was to give the dry States protection against the importation of alcoholic beverages into those States in contravention of the laws of the States; to protect the dry States only, but it did not confer, it did not intend to confer the right to discriminate.

We have heard about the 18 control States. 18 States sounds like an awful lot of power, but who expressed the opposition of the 18 control States? In one instance, the Governor of the State expressed the opposition. I checked with counsel to be very certain, but there is no resolution of the legislature of a control State expressing opposition to this legislation. I know of no action other than the action taken by an association of commissioners or officers—employees, if you please—of the States who think—and I underscore "think"—that they might see a danger from their legislatures if this legislation passes. They were not able to coherently state the nature of their opposition. They did involve themselves in an awful lot of obfuscation.

The idea that anyone in the exercise of business judgment—and in this legislation we tie the exercise of business judgment as an essential in determining the promulgation of lists—nobody in the exercise of a business judgment is going to make a list requiring either the stocking or the buying or the canvassing of every single product offered for sale. That would be an outrageous exercise of the poorest sort of business judgment.

So, these laws, this freedom upon the choice of management by the control States is not threatened. It is not a problem.

I think this bill is in keeping with the finest traditions of free trade between the States. It is the first truly common market; the 48 contiguous States of this Union, now expanded to 50. The rest of the world copies what we created almost 200 years ago while we are embarked on an effort here to take us back to a pattern of balkanization. Even with one product, it is wrong.

Therefore, I urge that all Members not be misled. This can be a very complicated subject for discussion. It need not necessarily be a complicated subject. It is simple. Do the Members want discriminatory tariffs levied by one State against the product of another?

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. HEINZ).

Mr. HEINZ. Mr. Chairman, as a member of a delegation from a so-called "control State," I feel that it is important to rise in support of H.R. 2096. The sole purpose of the bill before us is to prohibit one State from enacting discriminatory laws against the wine produced in another State. The language of the bill is carefully worded to avoid any notion that it might affect the power or operations of any controlled State.

Mr. Chairman, I believe H.R. 2096 should be enacted into law. I think it is important to reaffirm what the bill, contrary to some of the arguments of the opposition, actually does and what it does not do.

In fact, I should like to list five things the bill does emphatically not do.

First, the bill does not affect the right of any State to prohibit the sale of alcoholic beverages.

Second, the bill does not interfere in any way with the right of a State to fix license fees, markups, hours of sale, or the exercise of any other of its police powers.

Third, the bill does not affect the adoption by any State of local option laws.

Fourth, the bill does not interfere with the exercise of full discretion which the Commissioners have regarding the number of brands or the kinds of brands of wine a State wishes to purchase or sell.

Fifth and finally, the bill does not interfere in any way with the right of a "control" State to list or delist any or all brands of wine.

Let me repeat. The only purpose of H.R. 2096 is to prevent one State from passing any discriminatory tax, discriminatory regulation, discriminatory markup, or discriminatory requirement against wine produced simply because that wine is produced outside of the particular State.

Mr. Chairman, let us be candid. Most of us have particular agricultural or industrial enterprises within our States which are somewhat unique and which greatly affect the economies of our States. Each of us feels obligated, I am sure, to promote these local or regional interests in every way possible.

In the case of the wine industry, I suggest that the best and indeed the right way to promote these interests is to see that they are an attractive product competing in a free economy.

I strongly believe that it is in the interests of every one of us to maintain and to increase the flow of commerce in this country. This in fact was and is clearly the intent of article I, section 10 of the Constitution.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. HEINZ. Mr. Chairman, that is what H.R. 2096 is all about. It is concerned with implementing the Constitution of the United States. It is needed because of a few minor court decisions which favored special interests and which created an unwise legal precedent that has come into existence. Nothing more, nothing less is at stake here.

I, for one, am very proud to support any legislation which recognizes and supports a free, open, and healthy economic system in the United States. I certainly urge all my like-minded colleagues to vote in support of H.R. 2096.

Mr. STAGGERS. Mr. Chairman, I yield myself just a moment in order to congratulate the gentleman from Pennsylvania for his very fine and forthright statement. I believe it is excellent at this time.

Mr. Chairman, I yield 5 minutes to the gentleman from California, (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, H.R. 2096, the so-called Wine bill is simple in concept and equitable in its effect. I continue to be surprised and regretful that it also seems to be somewhat controversial.

In essence, the legislation merely provides that:

First, for purposes of any tax, regulation, prohibition, or other requirement, no State can treat any wine produced outside of its borders or from materials produced outside of its borders less favorably than wine of the same class produced within the State, and

Second, if a State permits the sale of any class of wine within its borders, it may not exclude wine of the same class produced outside of the State or from materials produced outside of the State.

That, Mr. Chairman, is the sum total of what the H.R. 2096 does. Of course, it provides a right of action for interested persons to enjoin violations of its provisions, but that is merely to assure its effectiveness.

To put the legislation in perspective, it might be helpful to briefly review the history behind it. In 1919, the 18th or "prohibition" amendment to the U.S. Constitution was adopted. This amendment adopted after years of regulation banned the manufacture, sale, or transportation of intoxicating liquors within or the importation of intoxicating liquors into, the United States. This "noble experiment" continued in effect for almost 15 years. Years during which crime, violence, and corruption were rampant in this country as a result of prohibition. In December of 1933, the 21st amendment to the Constitution was ratified which ended national prohibition by repealing the 18th amendment. In an effort to protect States which desired to remain "dry," the 21st amendment provided in section 2 that:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

There is no question but that this language was intended to permit any State to prohibit the importation of intoxicating liquors, but only if it prohibited the sale of such liquor within its borders. Unfortunately, the Supreme Court chose to apply the words rather than the intent of section 2. In four cases, decided in the latter half of the 1930's—which are cited in the committee report on H.R. 2096—the Court sustained discriminatory State statutes which but for section 2 of the 21st amendment would have been clearly unconstitutional. Subsequently, other States have passed legislation which discriminates against wine manufactured outside of their borders or from materials produced outside of their borders.

Enactment of H.R. 2096 would terminate these discriminatory State statutes which have Balkanized the United States insofar as commerce in wine is concerned. I should hasten to note, Mr. Chairman, that even though the Supreme Court may have misread the intent of section 2 of the 21st amendment that misconstruction is not the basis for the legislation. As set forth in section 1(b), the legislation is an exercise of the power to regulate commerce among the several States granted to the Congress by article I, section 8, clause 3 of the U.S. Constitution, which of course is coupled with and supplemented by article I, section 8, clause 18 which gives to the Congress power "to make all laws which shall be necessary and proper for carrying into execution the foregoing power."

Opponents of the legislation urge that the decisions of the Supreme Court on section 2 of the 21st amendment which were handed down in the late 1930's are definitive on this matter, and the Court would have to reverse itself in order to sustain this legislation. The Supreme Court itself has responded to this objection. In the Heublein case which was decided on December 18, 1972, the Court in the majority opinion noted:

> And though the relation between the Twenty-first Amendment and the force of the Commerce Clause in the absence of congressional action has occasionally been explored by this Court, we have never squarely determined how that Amendment affects Congress' power under the Commerce Clause.

Mr. Chairman, I think it is clear that the Congress not only has the power, but the responsibility to act to banish the proliferation of trade barriers which is taking place with respect to commerce in wine.

These trade barriers are not limited in the harm they do to domestic manufacturers of wine. Trade barriers seriously limit the range of choice that consumers of wine have and add substantially to the amount they must pay for wine. In addition, in a period when we are running deficits in our balance of payments and are seeking to increase trade with foreign nations, discriminatory State imposts on wine which apply to foreign wines as well as out-of-State wines seriously impair our ability to trade with wine exporting nations.

Mr. Chairman, hearings were held on this legislation in March of this year and on similar legislation in October of last year. The opposition to the legislation came from representatives of the "control States," that is, States which themselves engage in the sale or distribution of alcoholic beverages. The grounds given for their opposition was that the legislation as introduced would require any control State which stocked any variety of wine to stock every variety of wine tendered to it for sale. I felt that these concerns were unfounded. Nevertheless section 3 of the bill was amended so as to make it clear that each State retains the right to exercise discretion in the selection and listing of wine to be sold by the State. This intention is supplemented by language in the committee report.

Mr. Chairman, I urge the passage of H.R. 2096 as reported by the Committee on Interstate and Foreign Commerce.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in opposition to H.R. 2096, to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes. The State of Arkansas is not one of the 18 control States which have elected pursuant to the 21st amendment to the Constitution to have their alcohol beverage business conducted by their respective governments. I am, however, joining most of my colleagues from those States in opposing legislation which has been largely conceived and supported by my other distinguished colleagues who represent the several States where the wine industry is big business and whose wineries already enjoy a competitive advantage through economics of scale.

Although I will not dwell on the constitutional issue involved in H.R. 2096, I would urge my colleagues to exercise caution in considering their vote on a proposal which seeks to erode some of the control exercised by States in regulating alcoholic beverage traffic. In commenting on similar legislation before the 92d Congress, the Justice Department pointed out that we are setting up a new test case in the courts as to the scope of the 21st amendment. I share the doubt that Congress has the right to define this scope by legislation. It is my view that we should heed the warning that, if we enact this bill, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for the legislation to be sustained.

The State of Arkansas is frequently singled out for criticism as an example of abuse of State powers in discriminating against out-of-State wines. However, the facts of the situation do not point to discrimination nor do they show that we are impeding interstate commerce. Although Arkansas uses tax discretion to protect a native and growing wine industry, located in my district, this practice has by no means served as a barrier to competition by wines produced outside the State. Comparing 1972 to 1971, wines shipped into the State increased in sales by 31.7 percent. During the same period, the sales of wine produced in Arkansas dropped by 6 percent. This picture does not indicate stifled competition nor does the fact that the beverage control States, in 1972, recorded that 90 percent of their wine sales consisted of domestic products, principally from California and, to a lesser extent, New York.

Our Arkansas wine industry is small and its sales amount to less than one-half of 1 percent of total national sales. The cost of production of our infant wineries is therefore much greater than those giants who already have a lion's share of the market. Judicial precedent has long upheld the right of a State to implement taxation measures which protect and nurture growing native industry. The concept of "valid State interest" has been established as a steadying factor in the Federal interstate commerce power. In the long-term view, the growth of young industry will stimulate competition. Passage of H.R. 2096 would deliver a critical blow to our infant industry, and to those in other States as well. Although the intent of the bill is unrestricted competition, it would place our native industry in an impossible position n gaining a foothold in the Arkansas marketplace and thereby remove hope of stronger competition in the future.

My distinguished colleague from Arkansas, the Honorable WILBUR MILLS, is in the State convalescing from his recent surgery. During committee consideration of this bill, he testified before the Subcommittee on Commerce and Finance to speak against H.R. 2096 and similar bills. I would like to share with you his view of the long-term damage which would result from the legislation:

> I urge this subcommittee not to report these bills favorably, for to do so would be to defeat this committee's solid tradition for the preservation of free and open competition. Without the existing tax advantages for the infant wine industries, we will not only lose a substantial investment of labor and capital, but an unrealized growth potential for the wine industry as a whole, and a higher quality, more competitively priced product for the American consumer.

I urge my colleagues to vote against passage of H.R. 2096.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I rise in opposition to this bill.

In my mind it is clearly unconstitutional. The argument is made that the intent of the 21st amendment was simply to protect those States who wanted to remain dry in the enforcement of their prohibition laws. In order to get that interpretation of the language of the Constitution anybody would have to insert a word in there.

In other words, in violation of the prohibition laws thereof. That is not what the amendment says, it says in violation of the laws thereof.

In the State of Michigan back about 1937 the State imposed a tax of 50 cents on every gallon of wine, but it remitted 46 cents of every 50 cents of the tax if the winery was located in Michigan, and used in the manufacture of the wine Michigan-grown grapes. And under the present law, this is not as it was originally, but at the present time the winery must pay $100 per ton to the grower for the grapes.

This kind of an arrangement has placed a floor under the producer's market, and has encouraged the production of grapes in my part of Michigan, and I suppose it can be said to have encouraged the location of some wineries down there.

This bill, if enacted into law, and if it were to become valid law, would completely destroy that arrangement within our State of Michigan, and would hurt my particular congressional district considerably. Because, at the present time, as I say, there is a floor of $100 a ton for grapes used in the manufacture of wine in Michigan. And in order to get that tax advantage the wineries, if located there, have to pay $100 a ton. This bill would destroy this.

So I urge the House to reject this bill not only on the ground that it is unconstitutional, but on the ground that in this particular field of intoxicating liquors there is a particular State interest which should be preserved.

Mr. SISK. Mr. Chairman, would the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from California, if I have any time left.

Mr. SISK. Mr. Chairman, I thank the gentleman for yielding. The gentleman has me completely lost as to the gentleman's basic objection to this legislation, and as to how it would hurt his congressional district, and where this $100 per ton guarantee is involved.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. SISK. Mr. Chairman, if the gentleman from Michigan will yield still further, let me simply say that, as my colleague, the gentleman from Michigan well knows, I think we both have some interest in agriculture, and so on, I am am concerned, because if there is anything in the world that this bill does it is simply to eliminate discrimination. And I am totally at a loss as to how the grape people in Michigan could in any wise be hurt by this legislation.

The explanation given by the gentleman from Michigan somehow or other has not come through to me. I would appreciate the gentleman's comments.

Mr. HUTCHINSON. I will attempt to state it this way to the gentleman from California.

The growers of grapes in Michigan would no longer be assured of at least $100 a ton.

Sometimes the grape crop in Michigan is such, relative to the market, that they could very well receive much less than $100 a ton.

Mr. SISK. On what basis are they guaranteed this amount?

Mr. HUTCHINSON. The gentleman from California would like to know how they are guaranteed $100 a ton? That is by State law. That is to say, the winery has to pay $100 a ton to the grower if the winery is going to get the credit of 46 cents per gallon on this tax.

Mr. SISK. Of course, there again, actually, what the gentleman objects to of course is really discrimination thereof, is that not true?

Let us consider, say, cherries, or let us take peaches—and I know that the State of Michigan grows many of the same commodities that my State of California does. Would it not be discriminatory to permit the existence of that kind of a provision?

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield the gentleman from Michigan 2 additional minutes.

Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. The amendment does not talk about peaches, does it?

Mr. HUTCHINSON. No. The amendment only talks about intoxicating liquors. The point is that the Michigan law covers fruits other than grapes, so long as they are made into wine, but most wine is made out of grapes, so far as I know, so it conceivably could help the peach market but it does not.

Mr. SISK. Mr. Chairman, will the gentleman yield further?

Mr. HUTCHINSON. I yield to the gentleman from California.

Mr. SISK. There is a great deal of wine being made in America today from many fruits other than grapes, of course; but basically I again miss the point raised by our colleague, the gentleman from North Carolina. We are talking here of a matter of discrimination. Certainly, if we are talking about going back to prohibition, I know there are some people against liquor, and they have a perfect right to so be, but that is not the issue here. The issue here is simply a matter of discrimination between States and discrimination in connection with the private flow of business. This is the issue. I have great respect for my good friend, the gentleman from Michigan. I appreciate his comments, but, again in all fairness, I cannot understand how the Michigan people could be alarmed. I rather feel that maybe by this discriminatory practice the general public in Michigan are being hurt by not having an adequate flow of wine.

Mr. HUTCHINSON. I doubt that very much. It does encourage the Michigan wine industry, and it encourages the Michigan grape production—the law as it stands—so I oppose this bill.

Mr. STAGGERS. Mr. Chairman, I yield to the gentlewoman from Oregon for a question.

Mrs. GREEN of Oregon. I thank the distinguished chairman very much.

Apparently, the administrator of the Oregon State Liquor Control Commission has raised some questions about this legislation, Mr. Chairman, and in a letter from the Governor's office, signed by an administrative assistant, Dale Mallicoat, it states:

> This bill, among other things, would be very harmful to the operation of the OLCC retail stores.
>
> It is our understanding that the measure would require a State-owned store, if it lists one wine, to list all 60,000 to 75,000 domestic wines. The warehousing, inventory, and control needs of such a law would be absolutely impossible to meet and thus would force wines out of the state-controlled stores.

Mr. Chairman, my question is: Is this an accurate statement, and would this legislation indeed require them, if they listed one wine, to list 50 or 60 or 75,000 different wines?

Mr. STAGGERS. I might answer the question in this way by reading from the report:

> The only opposition to the legislation in the hearings was from representatives of the control States. They opposed the legislation *as introduced* on the grounds that it might be construed to require control States which stocked any brand or variety of wine to stock every wine which was tendered to it by a supplier which could require such a State to stock as many as 40,000 brands of wine. In order to allay this concern even though it was believed to be without foundation, the Subcommittee adopted a revised section 3 which appears in the legislation herein reported.

I will read that section:

> SEC. 3. (a) Notwithstanding the provisions of section 2 of this Act, each State retains the right—
>
> (1) to enage in the purchase, sale, or distribution of wine; and
>
> (2) to exercise discretion in the selection and listing of wine to be purchased or sold by each such State.

I think that answers the question very conclusively.

Mrs. GREEN of Oregon. Most of the gentleman's answer was in regard to stocking of wines. It does not require, for the legislative history, any of the controlled liquor stores to list any wines or all of them?

Mr. STAGGERS. No, it does not.

Mrs. GREEN of Oregon. I thank the Chairman.

Mr. STAGGERS. I yield 2 minutes to the gentleman from California (Mr. MATHIAS).

Mr. MATHIAS of California. Mr. Chairman, as one of the original sponsors of the discriminatory imposts on wine bill, I want to voice my support for H.R. 2096.

The sole purpose of this bill is to prohibit one State from enacting discriminatory taxes, discriminatory regulations, discriminatory markups, and discriminatory requirements against wine produced in another State. It simply asserts that in those States where wine is sold, whatever taxes or regulations a State may see fit to establish shall be equally applicable to wine produced within that State as well as wine produced in other States.

This bill will remedy a situation whereby some States, for a number of years, have used taxes and other restrictive prohibitions to obstruct the free flow of California wine into their State. By imposing taxes ranging from 15 cents to $1.50 per gallon, which are not placed on locally produced wines, these seven States have attempted to discourage and prevent out-of-State wines from entering the market.

H.R. 2096 in no way precludes or preempts the power of any State from prescribing laws, rules, and regulations governing the sale of alcoholic beverages. It does not take any powers away from the States except the right to discriminate against wines produced in another State.

The equitable regulation of interstate commerce among the States is an important part of our system of government and commerce. The establishment of artificial trade barriers, such as the discriminatory taxes and regulations imposed upon wine by some States, should be struck down.

I urge that the discriminatory burdens placed on the interstate commerce of wine be brought to an end with the enactment of H.R. 2096.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I am grateful for the opportunity to speak on behalf of H.R. 2096 for which I am a cosponsor.

The sole purpose of this bill is to prohibit one State from enacting discriminatory legislation against wine produced in another State. This measure is based on the power granted Congress by article I, section 8, clause 3, of the U.S. Constitution to regulate commerce among the several States.

This legislation in no way affects the right of any State to regulate and control the manufacture, sale, or distribution of wine within its borders. It does not affect the right of any State to legislate in any way it may choose pursuant to its legitimate authority. Furthermore, it does not affect the right of any State to completely prohibit the sale of alcoholic beverages or to enact local option laws, including the regulation of hours of sale. The legislation would apply only when a State permits the importation and sale of wine within its borders.

Cattle, automobiles, clothing, machinery, and virtually all agricultural products except wine move freely in interstate commerce. Enactment of H.R. 2096 would permit wine to be shipped in interstate commerce as are all other products and as the commerce clause of the U.S. Constitution guarantees.

Quite frankly, Mr. Chairman, I am at a loss to understand why many discriminatory barriers exist against wine in interstate commerce.

Several States impose a higher excise tax on wine produced outside the State or produced with products grown outside the State than on wine of the same class which is produced within the State. In one of those States, out-of-State wine is taxed at the rate of 75 cents per gallon while wine produced in the State from products grown in the State is taxed at the rate of 5 cents per gallon.

Some States impose a higher fee for an out-of-State firm soliciting orders for wine within the State or shipping wine into the State, than does a local solicitor to pay a nonresident license or registration fee.

A higher license fee is imposed on establishments which produce wine from products grown outside the State than on establishments which produce wine from products grown within the State.

A higher license fee is charged to sell wine at wholesale which is produced outside the State than is charged if only wine produced within the State is sold at retail.

In some States wine made from products from within the State may be sold directly to consumers whereas wine produced outside of the State must be sold to the State liquor control commission.

A tax is placed on products grown outside the State which are used for the production of wine while no tax is imposed on products grown within the State.

These statutory schemes which have actually been enacted in various States only illustrate the types of discriminatory State legislation which is enacted with respect to wine.

Mr. Chairman, I believe the Congress has an obligation to speak clearly on such matters. Such burdens on commerce between the States must not be allowed to continue, and it is for this reason that I urge all of my colleagues to vote for the passage of H.R. 2096.

Mr. McCOLLISTER. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GUBSER).

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, the bill before us today prohibiting discriminatory taxes by States against out-of-State wines and materials used in wine is a very vital one. The wine industry in America has developed today to the point that it is an important segment of our Nation's economy. Trade barriers imposed by some States against other States' wines and materials used in wine production has prevented the full development of this industry with resulting economic losses to both consumers and producers. With such discriminatory taxes and similar legislation, the ability of wine producers and grape growers in my district, and throughout California, to competitively sell their products in some States has been severely hampered.

The question involved here is really one of a constitutional nature. The Constitution empowers Congress to regulate the commerce among the States and preserve the free flow of such commerce. The various trade barriers this bill would outlaw have restricted such a flow of commerce in the wine industry on the national level and so have prohibited the development of a truly national economic system as the framers of our Constitution intended.

At the same time, H.R. 2096 retains the rights of the States to engage in the retailing of wine themselves and the obvious concurrent rights of choosing what brands to sell and the like. This important safeguard for these States will prevent the complication of their present marketing arrangements.

I commend my colleagues on the Interstate and Foreign Commerce Committee and especially on the Subcommittee on Commerce and Finance for the tremendous amount of work they have put into this area. The result of their efforts is a very good bill, enjoying bipartisan support, and a bill I deeply urge my colleagues to support.

Mr. GUBSER. Mr. Chairman, I rise in favor of this legislation. I realize that we are debating extremely complicated constitutional questions. At the outset let me tell those Members who do not already know it that I am not a lawyer so I am ill at ease in discussing these legal matters.

Nevertheless, lacking expertise in the field of law does not prohibit one from applying commonsense to the Constitution.

It seems to me that the latest judicial interpretation of the pertinent constitutional sections now before the House is in the case of Heublein against South Carolina. I quote a portion of that opinion:

> And though the relation between the Twenty-First Amendment and the force of the Commerce Clause in the absence of Congressional action has occasionally been explored by this Court, we have never squarely determined how that Amendment affects Congress' power under the Commerce Clause.

I do not think anyone here in this Chamber wants to say that the Supreme Court or the judicial system should have the power to prevent Congress from legislating. We have that power, and it is proper for us to exercise that power and it is then the duty of the Court to determine whether we have properly exercised that power.

In the meantime, I think it is incumbent upon us to follow what is clearly the spirit of the Constitution. I know these sections are not necessarily pertinent, but let me quote two sections of the Constitution:

> No tax or duty shall be laid on articles exported from any state.

Another section:

> No State shall, without the Consent of the Congress, lay any Impost or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States.

And so forth and so on.

I conclude, Mr. Chairman, by simply saying that it is a long-established principle in this country that we shall not have trade barriers between States. These discriminatory taxes on wines amount to, and in fact are, discriminatory trade barriers as between States.

The bill is perfectly proper and it is in keeping with the spirit of the Constitution. It clearly exercises the right which the Court recognized in the Heublein case as belonging to Congress; the right to legislate in this field.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, in Heublein against South Carolina, which I have in my hand, I do not see what the gentleman refers to. I do know that one of the Justices in a footnote to the case—in a footnote to the case—made the statement that he referred to about Congress, the courts never having had a direct case in this particular case, but the Court as a whole did not make that statement. Is that not correct?

Mr. GUBSER. Here we have a legal confrontation between a furniture manufacturer and an ex-farmer. However, I am quoting from the report of the committee, which I presume quoted one of the Justices. To my knowledge, no one took issue with the statement of that Justice. The sum and substance of the statement which he made was that the Court has never made the determination as to whether Congress has the right to legislate in this field.

Mr. BROYHILL of North Carolina. It is also true, is it not, if the gentleman will yield further, that in that particular case the judge is referring to the fact that the court upheld the State of North Calorina and imposed Federal taxes on the alcoholic beverages that are brought within the State.

Mr. GUBSER. This is certainly true that the court did uphold that right, but it did state at the same time that it did not know what it would do if Congress should happen to legislate in the field.

I do not think the Congress of the United States should be enjoined and restrained from legislating because of one court decision.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I must say that whatever the gentleman's background, he has made one of the best explanations of the Constitution and its application I have heard.

I should like to point out that the provision is indeed in a footnote, but it is a footnote which is in the majority opinion. It appears in Heublein, Inc. against South Carolina Tax Commission, on page 7, footnote 9, with reference to Mr. Justice Blackmun's separate opinion, and precisely what the gentleman has quoted is what is in the footnote. I believe the gentleman properly interprets the decision in this respect.

Mr. GUBSER. I know the gentleman's reputation as a very able lawyer, and I can tell him this farmer appreciates his assistance.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in support of H.R. 2096. There are some 38 of us from a number of States who have authored this legislation.

I believe that were the legislation enacted we would certainly have a freer flow of commerce around this country. Certainly the California liquid sunshine or the red and white liquid agricultural products from the State of California, the State of New York, the State of Arkansas, and other States that want to produce these commodities, should be ratably amortized among all of the States within the framework and limitations as set forth by the 21st amendment.

I believe to look at the reasons for regulating this commerce one merely needs to look at article I, section 8, which says that the Congress shall have the power to lay and collect taxes and to set uniform duties and imposts. Likewise it says that the Congress shall regulate commerce with foreign nations, and among the several States, and with the Indian tribes, and so forth.

Then if we look at amendment 21, in the first section of the amendment we see we repealed the 18th amendment to the Constitution of the United States in section 1. Section 2 reads simply as follows:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The question then is, What are "the laws thereof"?

If we had intended that each State should have the exclusive opportunity to set up an alcohol or a wine cartel within its own borders we would have said not "transportation or importation," but "manufacture, distillation, commercial processing, and so forth." We did not say that. Obviously we wanted to get rid of a constitutional amendment that was causing us crime problems in the United States. We were not being too precise when we did it. We legislated the way we legislate many times in this House.

I believe the reasonable interpretation of section 2 is that States merely have the right to stay dry if they want to, and they have the exclusive local option in this particular regard. I believe the legislation embodies a principle essential to the economic survival of the United States: That interstate commerce should flow unfettered by artificial restraints within our borders. The dangers inherent in allowing the separate States to impose regulations of the sort we are addressing here today were clearly recognized by the framers of our Constitution as a result of our experiences under the Articles of Confederation. James Madison wrote:

> The defect of power in the existing Confederacy to regulate the commerce between its several members is . . . clearly pointed out by experience.

And Alexander Hamilton, writing also in the Federalist papers, pointed out the obvious dangers of 50 different sets of trade rules:

> The spirit of enterprise, which is natural to America, . . . would naturally lead to outrages, and these to reprisals. . . .

The things these great men feared are coming to pass; due to a quirk interpretation of the 21st amendment, we are witnessing the beginnings of a full-scale trade wine war completely within our own borders.

While we are on the subject of the Supreme Court's interpretation of clause 2 of the 21st amendment, I would like to bring to your attention the statement made on page 5 of the committee report, that the "Brandeis cases," generally conducted to be the Court's statement on this matter, were all ruled upon with absolutely no effort made to look behind the language of section 2 to the intent of Congress in adopting the section.

Since we are all aware of the importance of legislative history, this is a serious oversight indeed; for when one looks at that history, it becomes clear that the intent of the section was to allow States to discriminate against alcoholic beverages; never did the Congress intend to allow States to discriminate among alcoholic beverages to the injury of other States.

The Constitution of the United States was adopted in large part, because of the obvious need for 1 instead of 13 competing economic systems. That need is even more acute today. Our burgeoning wine industry is a potential product of some magnitude in world trade, but in order for it to reach its fullest potential, we must dispose of certain overseas barriers to its importation by negotiation. How, then, are we to bargain with a straight face with the rest of the world to remove the restrictions on our wine, when we refuse to lift our own arbitrary domestic restrictions voluntarily?

Mr. Chairman, there is one other objection to this measure raised on the minority views which I would like to address, and that is the contention that passage of this measure would endanger the smaller wine businesses in several States. If this argument were true, the complete internal industrial development of the United States would be nothing short of a devine miracle. No other industry besides alcohol has, in the history of our Constitution, ever had this type of preferred tax treatment within our borders. That "spirit of enterprise" pointed out by Alexander Hamilton has been solely responsible for the tremendous economic development the United States has accomplished, and unless those who oppose this measure can assure us that that spirit is now dead, I see no reason to abandon it by defeating this measure. In the spirit of 200 years of American history, I urge passage of this bill.

Unfortunately, as the Supreme Court interpreted the 21st amendment it painted with quite a broad brush in allowing some old California statutes to stand and a number of other statutes of some of the States to be incorporated within the terms of section 2 of the 21st amendment.

Mr. Chairman, I believe that the statement in the Heublein case is good law. It is the latest law that currently we have from the Supreme Court. It is the latest expression from the Supreme Court. As the gentleman from Texas has indicated, it may be incorporated in a footnote. It was incorporated in a footnote, because the point was not decided. Certainly we are looking toward a further Supreme Court decision by the enactment of this legislation.

We referred in the past to the statements made by the various executive agencies. I believe that regardless of what the current interpretation of the law is, each of the executive agencies supports a modification of the law to allow this free liquid agricultural commerce to permeate the States that want to go off a dry status, with specific exception for those States which have, in fact, a controlled status.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

Mr. ECKHARDT. Mr. Chairman, I yield 1 additional mintue to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, the Department of Justice stated, after outlining the constitutional problems, as follows:

> (There is evidence that the original purpose of the Amendment was to permit dry states to protect themselves from importation of liquor rather than to permit liquor producing states from erecting trade barriers against out-of-state products. Generally speaking, there has always been a strong policy in favor of interpreting the Constitution to prohibit such barriers.)

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, as commerce developed in the early American colonies, trade barriers were set up by individual colonies as protection against products entering from other areas. When our Founding Fathers met in Philadelphia to draft the Constitution, the importance of eliminating hindrances to trade among the newly created States was thoroughly discussed. As a result the Constitution which emerged encouraged the development of interstate trade and commerce.

The history of this Nation's commerce has been one in which the Congress and the Supreme Court have moved as one to provide a free flow of goods between the States. A fundamental principle of the United States is to provide a basis for commercial competition on a national basis which treats all competitors fairly.

In 1933, the States of the Union adopted the 21st amendment to the Constitution, repealing the so-called "Prohibition Amendment." The original intent of section 2 of that amendment was to prevent the importation of alcoholic beverages into an area where the sale of alcohol was prohibited. The section in question reads:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 2 of the amendment has been grossly misinterpreted by States to allow them to institute arbitrary licensing, storage, and marketing regulations as well as discriminatory taxes on wine imported from other States, while exemptying locally produced products from being subject to those same regulations. For a State to impose a tax or regulation on an out-of-State product while not imposing a similar tax on like products produced within the State, is clearly without legal justification.

The legislative history of this section clearly indicated that it is intended solely as a safeguard to protect those States who wished to remain "dry" following the repeal of prohibition. The intention of the section was not to impose a discriminatory tax against the manufacture of alocoholic beverages; but that is the manner in which it is currently being utilized.

The Congress, which has often exercised its constitutional authority to regulate commerce among the States, must now again take appropriate action, because a number of States are unfairly restricting competition in the wine industry.

Article I, section 8, clause 3 of the Constitution empowers the Congress to regulate commerce between the States. We have the authority by legislative and judicial precedent to restrict the discriminatory taxes imposed by some States on the sale of wine.

The proposal before us today reasserts the congressional legislative intent by providing that where States permit the sale of wines, any wines produced in another State of the Union shall be treated equally with the wines from the home State and in a manner consistent with the free flow of interstate commerce. Other commodities move freely between the States; there is no reason why wine should be any different.

There has been on occasion some question about the purpose and effects of this bill. Let me state at this time that the sole purpose of H.R. 2096 is to prohibit one State from enacting discriminatory taxation, discriminatory regulations, discriminatory markups and or discriminatory requirements against wine produced outside of that particular State. The bill is not intended to, nor does it in any way, affect the powers or operations of any control States.

The bill addresses itself to every State and the sole purpose of the bill is to prohibit any State, whether control or open license, from discriminating against any wines, imported or domestic, which come into the State, in favor of the wines produced in the State. The objective of the legislation has nothing to do with the marketing practices of either a control State or an open license State, except if such practices discriminate against any wines produced in other States or imported wines in favor of wines produced in the State.

Great care was exercised to protect the integrity of all States; that is, if a State is "dry" or if a State does not permit the importation or sale of wine, this right is protected.

The proposed legislation does not interfere with the right of any control State or other State to impose taxes, markups, or merchandising practices it chooses or to enact any regulations so long as they do not discriminate against wines produced or imported from without such State.

It does not interfere in any way with the right of a control State to list or delist any or all brands of wines.

It does not interfere with the exercise of full discretion which the commissioners have regarding the number of brands or the kinds of brands of wine a State wishes to purchase or sell.

It does not affect the adoption by any State of local option laws.

It does not affect the right of any State to prohibit the sale of all or any alcoholic beverages.

It does not interfere in any way with the right of a State to fix license fees, markups, hours of sale, or the exercise of any other police powers it now has.

Again I assure you that this legislation in no way precludes or preempts the power of any State to prescribe laws, rules, and regulations governing the sale of alcoholic beverages. It simply asserts that in those States where wine is sold, whatever taxes or regulations a State may see fit to establish, shall be equally applicable to wine produced within that State as well as to wine imported from other States.

Discriminatory taxes such as those which have been imposed by certain States merely serve to retard the growth of the wine industry as a whole. When trade is curtailed, it is a detriment to the entire Nation.

In the interest of an expanding national economy, the Congress must take action to insure that the wine industry in every State has the opportunity to compete on an equal basis in the American market.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the distinguished majority whip, the gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Chairman, the flexibility of our constitutional Government is one of its greatest inherent strengths. In many areas, such as the administration of contracts, estates, and trusts, and the criminal law, each State is free, under the Constitution, to make—within certain limits—whatever laws its citizens deem proper. In this way each State is a continuing dynamic laboratory in which differing legal theories are tested and proved.

However, the Constitution does set aside certain areas for regulation only by the Federal Government. One of the most important areas is the regulation of interstate commerce. In almost no case may States make laws which impede the free flow of commerce among and between the several States.

The necessity for such a restriction on State power is obvious. Were it otherwise there would be customs houses at every border and a pound of fresh crab, harvested in Maryland at $2, might cost $3.50 in Delaware, $5.50 in Pennsylvania, and $10 in New York. Further, distribution, licensing, and advertising standards might be so different in each of these jurisdictions that multi-State marketing could become a virtual impossibility for all, but the most wealthy shippers.

If every State were free to erect trade barriers against the lawful products of every other State, economic chaos would result, and the United States would no longer be a viable economic entity. The commerce clause prohibits such a result, except for wine and other alcoholic beverages.

Let me cite two examples. Several States impose a higher tax on wine produced outside of the State than on wine of the same class produced within the State or wine produced from locally grown fruit. One such State taxes its own wines at $0.05 per gallon, but taxes wines made in other States at $0.75. Another State taxes its own table wines at $0.40 per gallon while taxing out-of-State table wines at $1.50. The disparity in this State on dessert wines is even more dramatic: local dessert wines are taxed at $1 per gallon while those from out-of-State pay an excise tax of $2.50 per gallon.

These examples are but representative of the discriminatory legislation and regulations on the books of 19 States. Six States, besides the two already alluded to, practice tax discrimination against out-of-State wines. Eleven States discriminate in favor of local manufacturers or raw products. One of these permits local wineries to produce wine from in-State products at no license fee. But if a winery uses grapes of other origin the winery must pay a license fee of $250. Another State, while permitting the production of wine from local materials grown by the winemaker at no cost, charges $500 for a license to produce wine from grapes grown by others. In addition, this State requires a winemaker who uses other than local grapes to obtain a bottler's license at $250 per year in order to bottle his wine.

Seven States discriminate in favor of their wines by increasing the burden on distributors of out-of-State wines. Thus one State requires salesmen of an out-of-State firm to register at an annual fee of $100 while salesmen of local firms must pay only a $5 registration fee. Another State requires, as a condition precedent to the shipping of wine to distributors within its borders that out-of-State shippers obtain a certificate of compliance at an annual fee of $10. An out-of-State shipper's agent soliciting wholesalers within this State must obtain a license at a fee of between $100 and $300. In addition, salesmen of such a licensed agent must secure a salesman's license at an annual fee of $10. But an agent soliciting for a local producer need only obtain the $10 salesman's license.

Numerous other examples of discrimination exist, but by now the problem should be clear. What has happened, and is continuing to happen—just this year a State enacted new taxes which discriminate against out-of-State table and dessert wines by $0.55 and $0.65 per gallon respectively—is that certain States have taken advantage of a very dubious construction of the 21st amendment, one which ignores the expressed intent of the Congress which enacted it, to fragment this sector of the American economy. The Founding Fathers intended that the United States operate under one economic system, not 13. Certainly they never indicated any intent to require, or even permit, wine to be subject to differing economic treatment of 50 States.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Sisk).

Mr. SISK. Mr. Chairman, I rise, of course, in support of this legislation.

I will admit to some considerable amount of interest in it.

Certainly we are not here today debating prohibition. The only issue is discrimination between States. That is the only concern, and I believe the Court has on more than one occasion indicated that the Congress should act in this field. The actions and the interpretations given to one of the phrases used in connection with the repeal of prohibition, which is to provide the right of States to remain dry if they so desire, have been twisted. There is no question but what they have been distorted from those intended, according to the debate in Congress at the time that amendment was passed.

Mr. Chairman, I simply hope that the Members will vote for this legislation to remove this type of discrimination.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I would like to join with the gentleman from California (Mr. Sisk) in support of this measure. I would also like to point out to my friend on the committee, the gentleman from California (Mr. Sisk), that in Idaho we are a controlled State.

We also have an infant wine industry, and to make matters even more interesting, I personally own an interest in a new vineyard in Idaho which has been planted with the intention of competing with wine from the gentleman's State, the State of California.

It is our attitude that if we cannot grow a juice that will make a wine that is as good as is grown in other States, we would not want to have the local politicians of Idaho pass protective measures to keep the good wine from the lips of the wine consumers in our State.

So we are going to support your measure. We are all for free trade between States.

Mr. SISK. I appreciate very much the comments of my friend from Idaho. And let me say we love Idaho potatoes, also.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the bill.

I shall not say much, because I think the interpretation of the Constitution by the gentleman from California (Mr. Gubser) is so practical and so correct that it needs very little addition.

The point that is made is that the Constitution must be read as a practical document dealing with the subject matter in the light of the purpose for which the language was written.

Section 2 of the 21st amendment was obviously written to permit the States to enact local prohibition in spite of the fact that the 21st amendment abolished national prohibition. It was permissive to the States; it was not restrictive on Congress. So Congress in this present bill is simply acting under the authority of the commerce clause to do a very practical thing: that is, to prevent a burden on interstate commerce with respect to commerce in wine of exactly the same nature as exists in a free exchange of other products in commerce.

That is all it does. It does not change prior constitutional decisions; it merely exercises the authority that Congress undoubtedly has to accomplish this purpose.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Stark).

Mr. STARK. Mr. Chairman, I thank the gentleman from Idaho for his kind remarks about the California wine industry and, as the poet John Gay said, from wine strong friendships spring, and also invite him to the great Livermore Valley in the Eighth Congressional District where we have the Wente and Conc Annon wineries, the most famous in the world. I am glad to invite him to a tour of these world-famous vineyards.

I rise in support of the bill. I think you will find that we can make available to all of the people of the United States the opportunity to enjoy the products of people in neighboring States without interference.

I ask all of you to support us in the spirit of good friendship that wine does, indeed, bring.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Van Deerlin).

Mr. VAN DEERLIN. Thank you.

Mr. Chairman, it will come as no surprise that I, too, join the chorus of support for this splendid legislation; not, let me say, because I am a Californian, but because I am a citizen of the United States of America and not the Balkan Peninsula.

Mr. ALEXANDER. Mr. Chairman, even before my election to the Congress, I was deeply concerned about and involved in the problems of our Nation's smaller communities. Since coming to Congress, I have worked for legislation which will allow these small towns to offer the opportunities necessary to keep their youth at home. Up to this point in time there has been mass outmigration from these communities to the already overcrowded metropolitan areas.

The State of Arkansas like several other States recognized the need to encourage local industry and encourage her people to help themselves. Arkansas, under the authority of the 21st amendment passed legislation that offer tax protection for its wine manufacturers.

At the same time this statute assists the small fruitgrowers since it restricts the wine manufacturers to the purchase and use of Arkansas fruits and vegetables if available.

If the out-of-State tax is rescinded, Arkansas wineries will be free to buy their produce from less expensive out-of-State growers. Who, then, will buy the Arkansas fruits grown for this purpose? Transportation costs would prohibit sales to California or New York. Thus, with passage of this legislation, the Congress would be in effect killing several communities in Arkansas whose lives and livelihoods center around the wine industry. I do not think this situation peculiar to Arkansas. Doubtless, towns in other States would also suffer from this legislation.

Although I have twice stated my opposition in testimony before the Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee, I would like to take this opportunity to share with my colleagues the facts and figures which have led me to oppose this measure.

Wine sales in Arkansas increased 900 percent between 1950 and 1967. The direct payroll of the Arkansas wine industry in 1967 was three times as large as the payroll in 1960. An economic impact study has shown that the growing wine industry has had a most significant impact on the employment rate of Franklin County in which the largest wineries are located. In 1960, 6.8 percent of the workers in the county were employed by the wine industry. By 1967 this figure had grown to 11 percent and is still increasing.

Supporters of H.R. 2096 say that States such as Arkansas are losing revenue by not taxing their in-State wines fully. However, the impact study shows and the Arkansas State Revenue Department has backed up the fact that the Arkansas wine industry brings in more revenues to the State indirectly, per gallon sold—through the income taxes of growers who sell their grapes to wineries, labor withholding taxes, gasoline taxes of the industry from vineyard to retailer, sales taxes, property taxes, excise taxes on machinery and equipment, and so forth, not to mention the multiple economic impact of these recirculated dollars—than the imported wine tax brings in directly. When Arkansas wines made by Arkansans from Arkansas products, are sold outside the State they bring money into Arkansas. When imported wines are sold in the State they remove money from the economy of Arkansas.

This wine industry in my State is a growing one. Once limited to the small Italian, or German colonies in the Ozarks of northwest Arkansas, growers are now turning a profit in north-central and eastern Arkansas.

Yet, with all this increase in production, I do not think that it can be argued that Arkansas wineries are offering a serious threat to the larger wine-producing States. A report from the Department of Finance and Administration, Revenue Service Division, Little Rock, Ark., indicates that wines shipped into the State of Arkansas increased in sales in 1 year from 1971 to 1972 by 31.7 percent.

Arkansas sales amounted to less than one-half of 1 percent in 1971 while California produced 84.9 percent of all wine produced in the United States and 73.9 percent of all wine consumed that year. Foreign wine sales that year were 11.2 percent. A large percentage of the remaining sales belongs to New York. Surely this one-half of 1 percent means much more to the State of Arkansas in terms of economic development and growth than it even could to the larger States of California and New York.

In conclusion, I would like to emphasize my belief that passage of this legislation would be contrary to the congressional goals for national development. Passage of this measure would destroy the industry which has sprung up because of the enterprising use of the natural resources available in the countryside of Arkansas and other States. I ask that my colleagues join with me in defeat of this bill.

Mr. CONABLE. Mr. Chairman, I rise in support of H.R. 2096, a bill which would abolish discriminatory taxes, license fees, and other discriminatory burdens imposed by some States on wines produced outside of the State or from materials produced outside of the State. The bill would not preclude a State from enacting excise taxes as high as it chose so long as it applied to all wines; it simply asserts that in those States where wine is sold, whatever taxes or regulations a State may see fit to establish shall be equally applicable to wine produced within that State as well as wine imported from other States.

The need for this legislation arises from the intent of the constitutional amendment repealing prohibition. Although the Supreme Court has never decided a case involving a discriminatory State excise tax on out-of-State wine, it is clear from other decisions concerning the 21st amendment that the Court regards the issue as a political one where Congress has not used all of its available power. The language at issue is section 2 of the 21st amendment which provides that "the transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof, is hereby prohibited." The legislative history of the 21st amendment indicates that this was intended to give the States the authority to control whether or not alcoholic beverages could be sold within the State. The issue of whether a State could discriminate against certain out-of-State products simply did not come up. James Madison in his notes on the constitutional convention correctly assessed the issue before us today when he stated that the commerce power of the States would depend "on the extent of the power—of Congress—'to regulate commerce.'" It is this type of clarification we must decide today.

Certainly none of us can argue with the importance of John Marshall's judicial pronouncement that the regulation of commerce was a national power when viewed in relation to the economic development of our country. Since World War II the grape products and wine producing industry has been an important part of our economy. New York State represents an important part of that growth. The 35th District of New York, which I represent, contains some grape growing and wine interests. Mr. Speaker, I urge support for H.R. 2096. I do not feel the power of Congress to regulate commerce should be limited by circumstances and am glad Congress is addressing this issue at this time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. All time having expired, pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purposes of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Section 1. (a) Congress finds that the imposition by one State of State taxes, regulations, prohibitions, and requirements which discriminate against wine produced outside the State, and the imposition of unreasonable requirements as conditions for shipment into and sale or distribution of wine in a State, materially restrain, impair, and obstruct commerce among the several States.

(b) Congress declares that, in the exercise of the power to regulate commerce among the several States granted to it by article I, section 8, clause 3 of the United States Constitution, its purpose and intent in enacting this Act is to eliminate the obstructions to the free flow of commerce in wine among the several States resulting from acts of the States which impose discriminatory and unreasonable burdens upon such commerce.

Sec. 2. (a) Wherever the law of any State permits the transportation or importation of wine into that State, such State may not impose with respect to any wine produced outside the State, or from materials originating outside the State, any tax, regulation, prohibition, or requirement which is not equally applicable with respect to wine of the same class (established under section 5041(b) of the Internal Revenue Code of 1954) (1) produced in, or from materials originating in, the State imposing such tax, regulation, prohibition, or requirement, or (2) produced outside the State, or produced from products produced outside the State.

(b) A State which permits the sale of wine within the State shall permit the transportation or importation of wine of the same class (established under section 5041 (b) of the Internal Revenue Code of 1954) produced outside the State, or from materials originating outside the State, into such State for sale therein upon terms and conditions equally applicable to all wine of the same class (established under section 5041 (b) of the Internal Revenue Code of 1954) sold in the State.

Sec. 3. (a) Notwithstanding the provisions of section 2 of this Act, each State retains the right—

(1) to engage in the purchase, sale, or distribution of wine; and

(2) to exercise discretion in the selection and listing of wine to be purchased or sold by each such State.

(b) No State which exercises the rights set forth in subsection (a) may impose with respect to wine of any class (established under section 5041(b) of the Internal Revenue Code of 1954) any tax, regulation, license fee, prohibition or markup, which discriminates against wine of such class produced outside such State.

Sec. 4. Whenever any interested person has reason to believe that any State has violated any of the provisions of section 2 or 3(b) of this Act, such person may file in a district court of the United States of competent jurisdiction, a civil action to enjoin the enforcement thereof. Such court shall have jurisdiction to hear and determine such action, and to enter therein such preliminary and permanent orders, decrees, and judgments as it shall determine to be required to prevent any violation of section 2 or 3(b).

Sec. 5. As used in this Act—

(1) the term "State" means any State of the United States, any political subdivision of any such State, any department, agency, or instrumentality of one or more such States or political subdivisions, and the Commonwealth of Puerto Rico; and

(2) the term "person" means any individual and any corporation, partnership, association, or other business entity organized and existing under the law of the United States or of any State.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed at this point in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. Fuqua, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes, pursuant to House Resolution 466, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROYHILL of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 152, answered "present" 1, not voting 33, as follows:

[Roll No. 446]

YEAS—248

Abzug
Addabbo
Alexander
Anderson, Calif.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Beard
Bell
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Breckinridge
Brooks
Brotzman
Brown, Calif.
Burgener
Burke, Mass.
Burlison, Mo.
Burton
Camp
Carey, N.Y.
Carney, Ohio
Chisholm
Clancy
Clausen, Don H.
Clay
Cohen
Collier
Collins, Ill.
Conable
Conte
Corman
Cotter
Cronin
Culver
Daniels, Dominick V.
Danielson
de la Garza
Dellums
Denholm
Dent
Dickinson
Donohue
Drinan
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Fraser
Frelinghuysen
Frenzel
Froehlich
Fulton
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Gude
Haley
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hays
Hébert
Heinz
Helstoski
Hillis
Hinshaw
Holifield
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McFall
McKinney
Macdonald
Madden
Madigan
Mailliard
Maraziti
Martin, Nebr.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Podell
Price, Ill.
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Rousselot
Roybal
Ruppe
Ryan
Sandman
Sarasin
Sarbanes
Saylor
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Thompson, N.J.
Thone
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vanik
Waldie
Walsh
Whalen
White
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wyman
Yates
Young, Alaska
Young, Ga.
Zablocki
Zion

NAYS—152

Abdnor
Adams
Andrews, N. Dak.
Archer
Bafalis
Baker
Barrett
Bauman
Bennett
Bevill
Blackburn
Bowen
Brinkley
Broomfield
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chappell
Clark
Cleveland
Cochran
Collins, Tex.
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
Dellenback
Dennis
Devine
Dingell
Dorn
Downing
Duncan
du Pont
Eilberg
Esch
Eshleman
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Frey
Fuqua
Gaydos
Gettys
Ginn
Goodling
Gross
Grover
Gunter
Hammerschmidt
Harsha
Harvey
Hechler, W. Va.
Henderson
Hicks
Hogan
Holt
Huber
Hutchinson
Jones, N.C.
Jones, Tenn.
Keating
Kuykendall
Landgrebe
Latta
Lott
McCormack
McKay
Mahon
Mallary
Mann
Martin, N.C.
Mayne
Miller
Mitchell, Md.
Mizell
Montgomery
Morgan
Nelsen
Nichols
Nix
Owens
Parris
Patman
Pickle
Poage
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Regula
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Roush
Roy
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Snyder
Spence
Steelman
Steiger, Ariz.
Stephens
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thomson, Wis.
Thornton
Treen
Vander Jagt
Wampler
Ware
Whitehurst
Whitten
Williams
Wyatt
Wylie
Yatron
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zwach

ANSWERED "PRESENT"—1

Teague, Calif.

NOT VOTING—33

Anderson, Ill.
Andrews, N.C.
Ashbrook
Bray
Brown, Ohio
Burke, Calif.
Chamberlain
Clawson, Del
Conyers
Davis, S.C.
Delaney
Derwinski
Diggs
Findley
Green, Pa.
Guyer
Hanrahan
Heckler, Mass.
McDade
McEwen
McSpadden
Mathis, Ga.
Milford
Mills, Ark.
Rhodes
Rose
Runnels
St Germain
Steiger, Wis.
Stratton
Veysey
Vigorito
Waggonner

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Rhodes against.

Mr. Waggonner for, with Mr. Chamberlain against.

Mr. Conyers for, with Mr. Guyer against.

Mr. St Germain for, with Mr. Green of Pennsylvania against.

Until further notice:

Mr. Delaney with Mr. Anderson of Illinois.

Mr. Vigorito with Mr. Derwinski.

Mr. Davis of South Carolina with Mr. Veysey.

Mr. Diggs with Mr. McEwen.

Mr. Mathis of Georgia with Mr. Del Clawson.

Mr. McSpadden with Mr. Bray.

Mr. Mills of Arkansas with Mr. Findley.

Mr. Rose with Mr. Hanrahan.

Mr. Stratton with Mrs. Heckler of Massachusetts.

Mr. Milford with Mr. Steiger of Wisconsin.

Mr. Andrews of North Carolina with Mr. Brown of Ohio.

Mr. Runnels with Mr. McDade.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, on behalf of the Committee on Rules, I ask unanimous consent that the committee may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## EMERGENCY EUCALYPTUS ASSISTANCE

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution as follows:

### H. Res 511

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4), rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1697) to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amend-

> ments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, let me assure my colleagues that so far as the rule is concerned we will move as rapidly as we can. I recognize that the bill may have a slight bit of controversy. However, we would hope that the rule might be adopted quickly to permit the committee to debate the issue.

Mr. Speaker, House Resolution 511 provides for an open rule with 1 hour of general debate on S. 1697, a bill to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California.

House Resolution 511 also provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill.

S. 1697 provides a program designed to meet an extraordinary problem not addressed under current interpretations of Federal law—a threat of forest fire sweeping through a populated area carrying with it a high probability of major Federal disaster despite exhausting local efforts to abate the threat. In the East Bay Hills area above the cities of Oakland and Berkeley, Calif., 2,700 acres of eucalyptus trees ranging as high as 150 feet have been, through action of an unprecedented freeze in December 1972, transformed into a volatile fuel that carries the potential of a holocaust in the populated areas of the East Bay Hills and the cities below. In order to supplement and augment local efforts made to date to abate the threat of disastrous fire, S. 1697 reaffirms the authority provided the President under existing disaster statutes and also provides additional Federal funds matched to State and local contributions.

The Committee on Agriculture estimates the cost to be incurred by the Federal Government during the current and the five subsequent fiscal years at approximately $11 million.

Mr. Speaker, the threat of a forest fire is great, unless we can provide the assistance needed for tree removal and fire suppression activities. I urge adoption of House Resolution 511 in order that we may discuss and debate S. 1697.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California has explained the provisions of the resolution.

Mr. Speaker, I would like to read an article that has been reported from California.

The article is as follows:

### CALIFORNIA PROVIDES $710 MILLION TAX BREAK

> Californians will receive a $710 million tax break under a 1973 law. The law cancels any 1973 state income tax for those with adjusted gross incomes of $8,000 a year or less and provides a sliding scale of tax credits ranging from 35 percent to 25 percent of liability for higher incomes. Effective October 1, the sales tax will be rolled back from 6 percent to 5 percent for six months. The sales tax increased to 6 percent July 1 under a school finance-tax switch law passed last December; but subsequently the State amassed an $800 million surplus.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. Teague).

Mr. TEAGUE of California. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

I would like to make this plea to my colleagues. I am well aware that this is a very controversial bill. I am not personally involved, nor are any of my constituents. The area affected is 300 or 400 miles from where I live.

I hope, however, that all of us will show the fairness to vote for the rule so that those Members of the House who happen to be liberal Democrats, as well as myself, a reasonably conservative Republican, will have an opportunity to explain the bill.

Mr. Speaker, I hope very much that the Members will vote for the rule.

Mr. QUILLEN. Mr. Speaker, it is reported that this bill is needed because of a freeze in 1972 that killed or damaged an estimated 2 million eucalyptus trees in Alameda and Contra Costa Counties, in California. These trees are highly combustible and threaten to cause a major public disaster.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to both the rule and the bill.

As a Member of the California delegation, I am disappointed in the way that this legislation is being handled, and I believe it is unfair to ask the Congress of the United States to become involved in a tree-trimming problem in California that basically should be handled either by the State or by other means.

To show you that this is clearly not in keeping with the basics of what experts on the subject say, I would like to quote from a letter addressed to Senator Cranston, from Edward C. Stone, professor of the School of Forestry and Conservation, University of California, at Berkeley, which is part of the area affected by this legislation.

Professor Stone writes:

> The extreme fire danger that prevails almost every year in the Berkeley hills during the late summer and fall I have never minimized; and on more than one occasion I have attempted to get the Regional Parks to do something about it. But to simply cut down the eucalyptus is no solution and it is totally dishonest to let the public believe that it is. Eucalyptus-stands are certainly one of the several highly inflammable units in the vegetational mosaic, but what has been resolutely overlooked by the "experts" consulted, is that these same eucalyptus-stands are one of the easiest vegetation units to "fire-proof" The straight trunks can be pruned to keep the crowns beyond the reach of ground fire, and the annual deposition of fuel can be readily removed or burned when safe to do so. It is for these reasons that eucalyptus is systematically strip-planted at intervals throughout the highly inflammable Monterey pine plantations in South Africa.

I am sorry that I find myself in disagreement with some of my other colleagues from California, but I think it would be unfair to come to this body to request these kinds of dollars when really and truly it can be solved without asking for heavy Federal financing and involvement. In my opinion, it can be done in that manner. Therefore, I urge my colleagues to vote against the rule and to vote against its final passage.

Mr. STARK. Will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my colleague from northern California, and an area partially affected.

Mr. STARK. I thank the gentleman for yielding.

I would like to explain to my colleague from California that there are many eucalyptus trees which the fire officials and the park officials feel must be destroyed that still show some partial signs of life. They have established at most the growth left is 10 to 15 percent.

Mr. ROUSSELOT. And so they do not have to all be totally destroyed.

Mr. STARK. They do not. Those have to be destroyed partly because they feel the fires starting in these trees that show some live green growth could have an almost chimney-like effect on the remaining available trees and it would only be a matter of a year or two before those trees with some partial growth will die.

There is some misunderstanding that the trees that are 80- to 90-percent dead cannot possibly live for maybe another year or two, and it is equally important that they be destroyed along with those that are dead.

Mr. HUNT. Will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New Jersey.

Mr. HUNT. I thank the gentleman for yielding.

I think I recall a few days ago reading an article in a newspaper telling about the enormous surplus of money that the State of California has—over $800 million. Why do you want to rook us for $11 million more?

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. ROUSSELOT. I thank the gentleman for yielding me the additional time.

I would like to say in answer to the question of the gentleman from New Jersey that I am saying to my colleagues I do not believe it is necessary to ask the Federal Government—when we are already debt-ridden in our Federal budget—to spend this kind of money for a problem that can clearly be solved in the State of California.

As stated by Edward Stone, who spent his life there and has been regarded highly for his outstanding service in this field of conservation and forestry, this is not needed.

I believe that testimony, unfortunately, has not been heard, and I do not think we need to spend $11 million, especially when the State of California has had a surplus—and a substantial surplus—of almost $800 million. If it were really needed, it could be done by the State.

In my opinion this is the kind of legislation that makes us look ridiculous.

Mr. HUNT. Mr. Speaker, I commend my colleague, the gentleman from California (Mr. Rousselot) for his statement. I think it is a good idea that we defeat the rule.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from southern California.

Mr. BROWN of California. And from an area not involved.

Mr. Speaker, I have before me the letter the gentleman from California quoted from, from Dr. Stone, whose credentials as an expert are beyond question. I think that Dr. Stone has been somewhat affronted by the recommendations of the U.S. Forestry Service, and the other, presumably less expert people, whom he construed as recommending the wholesale destruction of the eucalyptus trees—and he is apparently a lover of eucalyptus trees.

But the gentleman from California (Mr. Rousselot) did not quote the third page of his letter which says:

> There is still a need for funds to reduce the fire hazard in the hill area just as there is in the many expanding rural-urban interfaces throughout the State.

And he suggests that the bill be modified to require that the $11 million be spent in a more comprehensive and long-range program of eradicating the fire hazard. In other words, Dr. Stone differs with the diagnosis but he does not question the need for the $11 million.

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, the gentleman from California is absolutely correct. We have a forestry program of fuel modification, and that is where the dollars should be spent. It should be under the basic jurisdiction of the Forestry Service. That is why I could not agree more with the gentleman who wrote the letter, Dr. Stone. But this is not the proper way to do it. It should be under proper supervision. Therefore, I do agree with my colleague, the gentleman from southern California (Mr. Brown) and the gentleman from Berkeley, that there is a better way to do it, and this is not the way to do it.

Mr. COLLIER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. COLLIER. Mr. Speaker, I do recognize and I do have sympathy with the problem that this legislation is directed to. However, I cannot for the life of me find any equity in this type of a bill when we in the Middle West for years have had a serious and very costly problem, one which has cost many millions of dollars in connection with the Dutch elm disease. The cost for handling this problem has been borne by the counties, in many instances, and by the local communities and by the State.

I feel that this is really a very unfair approach if we are going to get into this kind of an arrangement. But if we are to get involved in it, then perhaps we should be certain that it ought to be the type of legislation that would present some relief from the very serious, expensive, and very costly problem that we have had in the Middle West also in connection with the Dutch elm disease over the years.

Mr. ROUSSELOT. Mr. Speaker, I think the gentleman from Illinois makes an excellent point. If we are going to get in the habit of calling upon the Federal Government each time a new disease occurs to some type of trees, and have to spend money on that, rather than dealing with it through the normal forestry program, I think that is wrong. I think the gentleman from Illinois is correct. Because if we follow that course we will never come to the end in dealing with such problems.

Mr. Speaker, I sincerely believe that Federal legislation is not the proper way to handle California's problem with diseased eucalyptus trees; as expressed and stated by the gentleman from the University of California at Berkeley, Dr. Stone, it is an improper program.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I realize that we have other problems in this country, and we are spending hundreds of millions of Federal dollars on them, but I have not heard of the Dutch elm disease killing anybody. Let me simply say that the Forest Service of the United States has declared that to be an historic and unique problem.

Again, I am not in the area affected, I am 1,000 miles or more from it. But based on their own interpretation, the danger is very paramount for the loss of human lives, and this danger is unique in the history of this country from the standpoint of the magnitude of the problem.

And while we are talking about the letter that was just read earlier from Dr. Stone, I might say that on August 22, two other doctors got into the act in connection with this problem.

I might say that one of these was an Australian university faculty member who declared that his area, the Tilden Regional Park, is an area of extreme eucalyptus fire hazard and that freeze-struck trees, sprouting suckers, offer new perils. And I quote:

> The observation came from Dr. Spencer Smith-White, University of Sydney geneticist and was joined in by Dr. Herbert Baker of the University of California Botany Department. The two men made a detailed survey of the park.
>
> Dr. Smith-White observed that when the freeze-struck trees become covered with sprouts along the main trunk a grass fire can easily ignite the new growth at lower levels causing what he described as an explosive atmosphere of flaming gas which quickly carries to the crown of the tree and then spreads.
>
> Similarly, freeze-killed trees with their loose, dead bark can easily be ignited by grass or brush fires; the flames race up the trunk and then spread to any live trees that may be nearby.
>
> Both of these dangerous conditions now exist in Tilden, Dr. Smith-White declared.
>
> Wherever eucalyptus grow in abundance, the two faculty members said, human settlements must face up to the fact of extreme fire hazard. This results from massive accumulations of ground litter as well as from the oil content in the live trees.
>
> The two professors said the area of greatest danger in the Park exists in a zone bounded roughly by South Park Drive, Big Springs Trail, Sea View Trail and a line running due east from the Native Plant Botanic Garden. There are dead trees, remaining from a previous fire, in this area.
>
> The men advised that all dead eucalyptus should be removed along with any live trees which might form a "fuel pocket" and brush, tree limbs and other eucalyptus litter should be removed annually along with dead trees. Grass should be cut and fire road networks maintained.

I do not know how familiar the Members are with eucalyptus trees, but they are almost as volatile as gasoline. I simply want to note that there are differences of opinion.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Of my colleague, the gentleman from California, I would ask only this one question. Not denying the ultimate debate that exists with these trees, there is presently no law in the State of California to preclude the State of California from paying for the damage.

Mr. SISK. I might say that there very definitely is. The matter is going to be discussed later by another one of our colleagues. As my colleague, the gentleman from California, knows, both the local people, the county, the cities of Oakland, Berkeley, and the State together have already spent some $8 or $9 million under what authority they have.

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield myself 1 additional minute, and I yield to the gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Speaker, I should hope that the House would allow us to discuss this matter, to discuss whether or not the State ought to pay for it, whether or not there is a need for the money. It is a fire hazard. It is a health hazard. We should like to have the opportunity to present the truth of these matters, and certainly the Members ought to vote in favor of the rule to allow us to discuss it, and then they can make up their minds, after they have heard the arguments on both sides.

Mr. SISK. I appreciate the statement of my colleague, the gentleman from California.

I yield 5 minutes to the gentleman from California (Mr. Waldie).

Mr. WALDIE. Mr. Speaker, I hold no brief for the fact that the Governor of our State will not in fact permit the utilization of any State surplus to meet the needs that we are presenting on the floor of this House. I personally think he should. It is a plight that we have; there is a surplus that we have; and the people in California are being subjected to the imminent hazard that this condition subjects them to in Contra Costa and Alameda Counties when at the same time there is the wherewithal in the State treasury, if it were the will on the part of the State administration, to take care of the problem. But the fact of the matter is we are confronted with a Governor who refuses to do it, and we are representing people whose lives are in jeopardy. We are not exaggerating this. We are representing people whose very lives are in jeopardy, whose property quite clearly is being endangered by the threat of a holocaust; but, more important than the property, the very numerous lives of people residing in that urban area, surrounded as it is and intruded into as it is, by these growths, now dead, of the eucalyptus trees in the millions, are really jeopardized. It is not a fantasy; it is not an exaggeration to suggest that they are living on the edge of extreme peril, and the State administration will not recognize it to the extent that it will spend any money to assist in any meaningful terms. So we are coming to the Congress because, No. 1, we believe the Congress is more understanding and more sensitive to this sort of a need than is the Governor of the State of California. We believe that to be so.

No. 2, we are coming to the Congress because the Congress of the United States under the present disaster provisions, should a holocaust occur, would clearly step in. The law is eminently clear that once we have destroyed the Bay Area of California, once we have destroyed and killed off numbers of people and destroyed enough property, we will step in. The law is there and very clear. The question is when the holocaust is imminent, will we step in and will we spend at least an ounce now to prevent a pound of cost when that holocaust occurs? We would not expect this House of Representatives to be moved and to be guided by the same motivations and the same lack of sensitivity that the Governor of our State is. We are coming here because we assume this is a different body of people.

So we are asking the House of Representatives to understand that the cost that the Government will bear, if this disaster occurs, aside from the deaths and the tragedies that will result, will be enormous, and the cost will be overwhelming. And that imminent fact is present. To the extent we do not prevent it, we are risking and inviting not only a disaster for those people in that area, many of whom I represent, but we are buying ourselves also a very costly bargain at the end. That does not make sense from any viewpoint.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to my friend, the gentleman from southern California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Is it not true that part of the problem the Governor faces is the State legislature?

Mr. WALDIE. I would not say that is true at all. I would say the problem the Governor faces is his inability to understand human needs. If we could solve that problem, we would have no problem.

Mr. ROUSSELOT. Is not part of the problem to begin with the fact that the ecology groups did not want to cut those trees down?

Mr. WALDIE. If that were true that might be part of the problem, but the Governor has never been known to be an ecologist, and that is not true.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. Mr. Speaker, I have listened with interest to our colleague, the gentleman from California, saying this holocaust is imminent. If the citizenry of California feel this holocaust is imminent, then certainly there is a duty upon the Governor and the legislature of California, with their money, to take care of it rather than to sit around and wait for the people of the other 49 States to take care of their problem.

Mr. WALDIE. The gentleman is most astute in stating what I stated at the beginning of my remarks, as the gentleman would have heard had he been listening. The gentleman is quite correct. This is a move which I wish the Governor and the State legislature would undertake, but the fact is if it is not undertaken the Federal Government will have to assist after the disaster. That is the point I am making. We can play all kinds of games we want to play today, but the fact is if that property is damaged and those people are injured and killed, then we will pick up the tab.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. QUILLEN. I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, this appears to be California Day. If the Members will read the minority report they will find in it an old adage that says: "Evil begun, rarely undone." I submit to the Members of the House of Representatives today we are proposing to start a very bad precedent.

Are we going to remove dead trees everywhere? I have dead apple and peach trees in my orchard every year. I say they are not a fire hazard, but they are an insect and disease hazard. I am not coming to the Federal Government and asking it to remove those trees for me.

We were shown some pictures during the hearings on this particular bill. I admit some of these trees are very difficult to remove. I saw a lot of other trees 10 or 15 feet from homes. If they were within 10 or 15 feet of my home, I would have my strong back and my ax and my chain saw and I would get rid of them in a hurry, but apparently the people of California are not willing to do that. I do not know why they are any different than the people of any other section.

I asked some of the proponents of this bill who appeared before our committee, "How do you propose to get rid of these trees once they are down?"

Frankly, they did not know. Some of them said, "Well, I suppose we will burn them."

If these trees are as inflammable as some of these people would have us believe they are, with the pollution problem they already have in California, to burn several millions of trees certainly is not going to do anything to correct that pollution problem.

California has traditionally had fires ever since I have known anything. They have already had their fires this year, and I do not believe they had a single fire in the area where these eucalyptus trees are. In spite of this, in spite of the fire hazard, they continue to build higher priced homes in these fire-prone areas. I can say quite frankly I have not heard one issue mentioned this afternoon.

I was in the great State of California a few weeks ago and happened to be riding with a man from the Sierra Club. He pointed out to me tree after tree after tree which was supposed to be dead but was now sprouting new growth. Some of the trees were so green I thought there were vines on the trees, but they were not vines at all; they were eucalyptus trees sprouting new growth.

Why should this bill be defeated? My heart bleeds for the State of California. Mention has been made of this before on the floor this afternoon, but while I was in California, I picked up this editorial written by Bill Stall of the Associated Press. I am going to read just a few paragraphs of this editorial:

> Californians begin reaping a one-time tax bonanza October 1, getting back a total of $721 million in state treasury surplus.
>
> That figures out to nearly $35 for every man, woman and child in the state.
>
> Governor Ronald Reagan called it the largest state tax rebate in the nation's history when he signed the bill into law Thursday.
>
> The reverse flow of taxes was made possible by an unexpected treasury surplus of $829 million built up over the past two years.

Now I ask those people, how can the great State of California have the colossal nerve to come into the Congress of the United States and ask the taxpayers of 49 other States to pick up a bill which they should pick up themselves? The argument has been made that we should pass the rule and then argue the merits or demerits of this bill. I do not see any better time to argue those merits or demerits than right now.

Therefore, I say let us get on to the business and defeat this rule, because it is a bad bill. I think a great many people are willing to admit that it is a very bad bill. Therefore, I repeat, let us defeat the bill and get on with the business of the House.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. RARICK).

Mr. RARICK. Mr. Speaker, I have no constituents in either north or south California.

I rise in support of House Resolution 511. I want to assure my colleagues that it is becoming more and more difficult to even get time to debate any of this legislation if we are going to argue all the merits of the case every time the rule comes up. I agree that there may be differences of opinion as to the philosophy of this legislation, but I believe we should vote for the rule and let the case be heard.

I remind all of my colleagues that I am from the State of Louisiana. We have suffered many, many natural disasters over the past years. My people have often come to the Federal Government asking for aid, relief and assistance. And in each instance that we have been hurt, our Federal Government has replied and has shown us the way back from disaster.

I am only asking that we extend the same courtesy to the people and their Representatives from the State of California.

Let us remember that this involves only two counties, with an estimated 2 million dead eucalyptus trees. If any Member is persuaded by the fact that a eucalyptus is somehow like a peach tree or a Dutch elm, remind him that the eucalyptus is a rare imported tree which is very explosive because it contains certain kinds of volatile oils. This makes it almost as combustible as gasoline. If a fire starts this tree throws its branches out when it ignites, and speeds up the fire.

I am not persuaded by the argument that the State of California is fiscally able to handle this situation. I am sure that the people in these two counties of Contra Costa and Alameda feel like my people back home. The State officials send them to the Federal Government for assistance, and the Federal Government says, "It is not our problem, it is for the local people." Then, the two levels of government fight back and forth. In the meantime week after week turns into month after month and the fire hazard and the predisaster condition remains as it is at this moment.

As background information, I should like to inform our colleagues that in the hearings before our Forests Subcommittee we heard testimony from the Office of Emergency Preparedness and the U.S. Forest Service. They indicated in expert testimony that an imminent threat of major disaster did indeed exist. This testimony was corroborated by statements of our colleagues from California, Mr. STARK, Mr. DELLUMS, and Mr. WALDIE, and the senior Senator from California, Senator ALAN CRANSTON.

This threat of a major disaster was not determined by our Forests Subcommittee, but rather by the OEP of the executive branch.

The testimony before the Forests Subcommittee was also supported by the findings of the staff of the Agriculture Committee itself. Our distinguished chairman (Mr. POAGE) directed that a member of the committee staff be sent personally to California to view the situation firsthand and ascertain the facts. His observations and report to the full committee upon his return simply reinforced the findings of the Forests Subcommittee.

May I state clearly to our colleagues that this is not precedent-setting legislation. The executive branch, through the OEP, has already made the determination that a major disaster is imminent. Federal funds are being used for fire suppression in California at this very moment, through the action of the executive branch. Are we then to say it is only a matter for the State government when the President has already, in a limited manner, declared that the Federal Government is directly involved in any disaster which may result in this area of California?

The legislation we seek would but assist the elected Representatives of the people of California to the House of Representatives in their efforts to help the State and local people in their funding and to further alleviate all threat of any major fire disaster.

Mr. Speaker, I suppose the people of California also read the articles in the newspapers which say that their tax money is going for Turkish earthquakes or African or Bangladesh droughts, and they wonder: "Why does all this money go for foreigners?" Yet, some of our colleagues would tell the people of California that we in the House would not even approve a rule so that they could have a day of hearing in the House.

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. SISK. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. RARICK. Mr. Speaker, the people of these two counties in California are faced with a grave problem not of their own making. We would not be upholding our duty if we turned our backs on them. We should at least give them their day in this Chamber. I, for one, will not have the refusal to give them an opportunity to be heard on my conscience.

Mr. Speaker, they have asked for our help. They deserve to be heard. I, for one, will never turn a deaf ear on any American who asks for help, aid, and assistance from the threat of disaster.

Mr. Speaker, I urge the adoption of the rule so that the House may consider the bill.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. RARICK. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, would not my friend agree that we have here a predisaster situation which is quite comparable to that which resulted in the building of levees on the Mississippi River, where the Federal Government spends hundreds and hundreds, and probably millions, of dollars to prevent disaster?

Mr. RARICK. Mr. Speaker, I agree completely with the gentleman. I remind the gentleman that only last week we passed a Flood Insurance Act, which was also aimed at a predisaster situation.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, this is one of the worst bills that I have ever seen come before the House of Representatives in my time in Congress. This bill has absolutely no business being here.

There is no reason why the California legislature, a State with a surplus of $700 to $800 million, cannot provide the $11 million requested from the Federal Treasury to take care of this situation.

If this legislation is approved it will establish a precedent which will say to the people of Iowa, the Midwest and elsewhere that if, for instance, you have a cloudburst in the upper reaches of one of your rivers it will not be necessary to wait and determine whether there is a flood. All you have to do is pick up the telephone, call Uncle Sugar in Washington, tell him that a flood is threatened because there is a heavy rain and demand a handout from the Federal till.

I repeat that this is a dangerous precedent which will open the door to limitless raids on the U.S. Treasury.

Mr. Speaker, this bill, if approved, will be known as the "You clipped us" bill, and I do not want the job of going home and explaining to my constituents that I voted for it.

Mr. Speaker, I hope the rule will be defeated.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. SHOUP).

Mr. SISK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I appreciate the comments which have been made. Many of us here have been confronted with disaster after disaster.

I recall Hurricane Agnes, and I could not help but think of my friend up in Pennsylvania. Many of us supported the legislation offered in connection with that disaster as we have supported emergency help for people throughout this country. I believe again the gentleman from Pennsylvania has adequately explained the reasons why the Members of this Congress should be urged to support the legislation for impending disaster to these people, who are faced with disaster just as imminent and just as dangerous and just as hazardous as are the hurricanes which we spent hundreds and thousands and millions of dollars for on the east coast.

I believe it is unfortunate that at least the implication has been left that these people are seeking a handout. They are not seeking a handout; they are seeking help.

Mr. EDWARDS of California. Mr. Speaker, currently, the cities of Oakland and Berkeley, Calif., are faced with an imminent fire hazard. During December of last year, a freeze killed over 2 million eucalyptus trees, which cover the Oakland-Berkeley hills. Because of the large population in the hills and the high flammability of eucalyptus trees, a fire in this area could result in over $200 million in damages and the loss of many lives. In order to avert this potential disaster it is necessary to remove the dead trees and debris.

State and local agencies have spent $4 million on fire prevention and control measures. Emergency water supply facilities have been built to provide greater protection for the area. A state of emergency has been declared in the two counties involved which makes them eligible for $2 million in Federal aid. However, this aid is insufficient to eradicate the hazard. It is estimated that the total cost to the area for complete removal of the dead trees will exceed $50 million. This is certainly too high a price for State and local entities to bear alone.

H.R. 7545 calls for $11 million from the Federal Government to aid the potential disaster area. The passage of this bill is necessary to eliminate the immediate and extraordinary threat with which the people of Oakland and Berkeley are faced. We must act quickly to alleviate this potential disaster which is beyond the capabilities of State and local government to prevent.

Mr. SYMMS. Mr. Speaker, the time honored phrase "Evil begun, rarely undone" quite appropriately describes the dangerous precedent-setting aspects of S. 1697 as it provides "predisaster" assistance and further assumes that it is the Federal Government's duty to assist private property owners in the protection of their property. The long-run implications of this action would be to increase the degree of Federal protection or control of private land, which is highly undesirable.

What disturbs me more, perhaps, is the fact that the State of California has a budget surplus of $850 million—they are rebating $600 million this year to the taxpayers—yet Alameda and Contra Costa Counties have the nerve to ask the taxpayers in the other 49 States to subsidize this project. It is important to point out that other States have had similar problems, but they have been solved at the local level. For example, Denver, Colo., has removed about 18,000 Dutch elm trees in the last 6 years at a cost of $100 per tree overall; this was provided by State and local funds.

In my opinion, Mr. Speaker, the Federal Government is grossly overextended in its activities right now, so why get involved in another area that is a local or private matter. During the August recess I visited the affected areas in California. I will admit that there is a fire hazard. But fiat paper money is also a fire hazard, and the inflation it causes is hazardous to all Americans in all 50 States. Mr. Speaker, I urge my colleagues to carefully consider the precedent that would be set by S. 1697 and join me in defeating the rule for this bill.

Mr. DELLUMS. Mr. Speaker, I am pleased to rise in support of House Resolution 511 which deals with the bill to provide much needed relief from a potentially catastrophic fire.

Today the House is scheduled to consider S. 1697, to provide additional Federal help for fire suppression and removal of 2 million volatile dead and freeze-damaged eucalyptus trees in Contra Costa and Alameda Counties, Calif. The area has already been declared eligible for Federal assistance. Local residents and State and Federal officials have been working continuously to abate the fire threat created by the trees since the extent of the damage was discovered in February of this year.

Despite these efforts the Forest Service has estimated there is a very significant chance of a fire of major Federal disaster proportions—approximately $200 million in damage—occurring in this area. In all likelihood, many people could be expected to perish in such a holocaust.

Critics of the bill have attempted to imply that this situation is no different from any other area threatened by forest fire or plagued by damaged trees. Nothing could be further from the truth. Forest Service officials testifying before the Congress have stated that this fire threat is unique in the history of the United States due to the combination of the highly flammable damaged eucalyptus and suburban area with limited narrow roadways as the only escape route for thousands of low- and middle-income residents.

Make no mistakes. Exhausting local self-help measures have been taken and are continuing in an attempt to clear the damaged trees. The State government is seeking and finding ways around a prohibition in the California constitution against providing aid to private individuals. Further Federal encouragement to abate the fire threat is necessary to provide safety to the area. Local State and Federal expenditures have totaled over $10 million but still remain inadequate.

The damaged trees have turned Alameda and Contra Costa Counties into a tinderbox threatened by arson and accidental fire. According to official estimates, a fire beginning in the damaged eucalyptus stands could wipe major urban areas completely off the face of the earth. This threat will be intensified next year as more ground fuel builds up this winter.

S. 1697, as amended by the Committee on Agriculture, does not authorize 1 penny of additional Federal assistance unless more State and local dollars are spent on tree removal and fire suppression. Even then, the cost-sharing and matching-fund features of the bill will probably limit Federal expenditures to slightly above one-third of the total cost of abatement of the fire threat. This is a one-time bill to meet a one-time threat.

Last December northern California experienced a very rare and ruinous winter freeze; temperatures dropped so far below the normal range that snow fell in the East Bay instead of rain. Everywhere plant life suffered and died, and the statewide agriculture losses are estimated at over $210 million.

In the East Bay an estimated 2 million eucalyptus trees are dead. Now these trees, located in the heart of a major urban area, must be removed because they have become an imminent dangerous fire hazard to the 1 million people who live and work in the Bay Area.

The fire threat posed by the dead eucalyptus trees is particularly unique. They are like gasoline, they explode, and their flaming debris has been known to travel up to 12 miles. Their combustibility combined with their location in a major urban area poses the potential of a holocaust, one far greater than the normal fire threats of southern California and a possible tragedy that would significantly dwarf the problems caused by the death of other trees.

Eucalyptus are generally regarded as a "dirty" species of tree because of falling bark, leaves, and seed pods. As such, they present a unique fire problem because of the oil content, stringy bark, and fuel buildup. Because of the exfoliating bark ground fires can become rapidly extended into tree crowns. The oil content of the trees was not affected by the freeze and the leaves retain their volatile characteristics which have been highlighted by the stripping of the dead bark from the damaged trees. In addition, blue gum eucalyptus trees are now sprouting profusely from the trunks and stems and the new exfoliation intensifies the fire hazard of this unique species.

Federal officials state that the fire problem is 51 percent greater in the dead eucalyptus stands than existed in the live stands. Additionally, Federal officials have stated several additional factors increase fire hazards in the area. First, with the loss of the tree canopy, increased temperatures and wind movement may be expected at the ground level, resulting in a reduction in moisture content in the ground fuels and an increase in ignition potential; second, separation of bark from the trunk will increase both aerial and ground fuels; third, bark separation into larger pieces will increase spotting potential because of larger firebrands. Leaves remaining on the trees will contribute to spotting; and fourth, more flammable ground fuels increase the potential for ignition from aerial firebrands.

I might also add, that I was a member of the Berkeley City Council for 3½ years, and we discussed on numerous occasions the lack of accessibility of fire equipment into the Berkeley-Oakland Hills. The streets are winding, narrow, and crowded in the hills. A small fire could easily become a major holocaust before the necessary equipment could get into the area, as there are few access roads into the Berkeley-Oakland Hills.

The effort to meet this disaster has been a magnificent bipartisan effort on the part of the State government, local governments and agencies and private citizens.

Governor Reagan has actively joined with local officials, Senators CRANSTON and TUNNEY and the Bay Area congressional delegation to meet the crisis.

The State and local governments have already expended approximately $7 million dollars on fire suppression. The projected cost is $54 million.

The disaster legislation clearly recognizes the desirability of Federal participation in meeting potential disasters of this magnitude.

Unlike the problems of the potential hazards of floods which can be addressed under existing legislation by the Corps of Engineers, there is no Federal agency presently authorized to fully provide the needed assistance.

The Senate has already acted, House action now can help to insure that we will not have to act subsequent to a holocaust that, if it happens, is projected to destroy hundreds of millions of dollars and hundreds of lives.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PRICE of Illinois). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Mr. SISK. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 233, not voting 38, as follows:

[Roll No. 447]

### AYES—163

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Biaggi
Bingham
Blatnik
Boggs
Bolling
Bowen
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Burke, Mass.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Clausen, Don H.
Clay
Corman
Daniels, Dominick V.
Danielson
de la Garza
Dellums
Denholm
Dent
Dorn
Eckhardt
Edwards, Calif.
Evans, Colo.
Flood
Foley
Ford, William D.
Fraser
Frelinghuysen
Fulton
Gettys
Ginn
Goldwater
Gonzalez
Gray
Gubser
Gude
Hanna
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Hungate
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Kazen
Kluczynski
Koch
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McFall
McKay
Mahon
Mailliard
Mathias, Calif.
Matsunaga
Mayne
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Moakley
Mollohan
Morgan
Mosher
Moss
Myers
Nedzi
Nix
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pickle
Poage
Podell
Price, Ill.
Price, Tex.
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Roberts
Rodino
Roe
Rooney, Pa.
Roybal
Ruppe
Sandman
Sarbanes
Seiberling
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stark
Steelman
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Treen
Ullman
Van Deerlin
Vigorito
Waldie
Wampler
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Young, Ga.
Young, Tex.
Zablocki

### NOES—233

Abdnor
Andrews, N. Dak.
Archer
Arends
Armstrong
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Biester
Blackburn
Boland
Breaux
Broomfield
Brotzman
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Camp
Carter
Casey, Tex.
Cederberg
Chappell
Clancy
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Fascell
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heckler, Mass.
Heinz
Henderson
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Karth
Kastenmeier
Keating
Kemp
Ketchum
King
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Lent
Lott
Lujan
McClory
McCollister
McCormack
McKinney
Macdonald
Madden
Madigan
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mazzoli
Michel
Miller
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Natcher
Nelsen
Nichols
Obey
O'Brien
Parris
Pettis
Peyser
Pike
Powell, Ohio
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rinaldo
Robinson, Va.
Robison, N.Y.
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruth
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Shipley
Shoup
Shriver
Shuster
Snyder
Spence
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Vander Jagt
Vanik
Walsh
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

### NOT VOTING—38

Anderson, Ill.
Andrews, N.C.
Ashbrook
Brademas
Brasco
Bray
Brown, Ohio
Burke, Calif.
Chamberlain
Clawson, Del
Collins, Ill.
Conyers
Davis, S.C.
Delaney
Diggs
Evins, Tenn.
Findley
Guyer
Hanrahan
Hillis
McDade
McEwen
McSpadden
Mathis, Ga.
Milford
Mills, Ark.
Murphy, N.Y.
Rhodes
Rooney, N.Y.
Rose
Runnels
Ryan
St Germain
Skubitz
Steiger, Wis.
Stratton
Veysey
Waggonner

So the resolution was rejected.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Rhodes.
Mr. Waggonner with Mr. Chamberlain.
Mr. Davis of South Carolina with Mr. Bray.
Mr. Diggs with Mr. Findley.
Mr. Mathis of Georgia with Mr. Skubitz.
Mr. McSpadden with Mr. Veysey.
Mr. Mills of Arkansas with Mr. McEwen.
Mr. Stratton with Mr. Del Clawson.
Mr. Milford with Mr. Anderson of Illinois.
Mr. Andrews of North Carolina with Mr. Ashbrook.
Mr. Delaney with Mr. Brown of Ohio.
Mrs. Burke of California with Mr. Guyer.
Mr. St Germain with Mr. McDade.
Mr. Conyers with Mr. Steiger of Wisconsin.
Mr. Murphy of New York with Mr. Hillis.
Mr. Rose with Mr. Hanrahan.
Mr. Evins of Tennessee with Mrs. Collins of Illinois.
Mr. Brademas with Mr. Runnels.
Mr. Brasco with Mr. Ryan.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## PERMISSION FOR THE COMMITTEE ON THE DISTRICT OF COLUMBIA TO FILE REPORTS ON H.R. 9682, DISTRICT OF COLUMBIA REORGANIZATION

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the House Committee on the District of Columbia may have until midnight tonight to file certain reports on H.R. 9682, the District of Columbia reorganization bill, called the home rule bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

## FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce an addition to the program for this week of H.R. 9536, the bill that prohibits blackouts of professional sports events that are sold out. The bill is scheduled to be heard by the Rules Committee on Thursday morning and if a rule is granted it is our intention to call the bill up that afternoon.

I might also add that we intend to follow the same procedure with H.R. 9639, the School Lunch Act amendment, which is already on the schedule this week, which is before the Rules Committee.

## PERSONAL EXPLANATION

Mr. BRADEMAS. Mr. Speaker, on the rollcall just completed I was at the time of the rollcall participating in a conference in the Capitol on the arts and humanities bill. The bells did not ring in that room. Had I been present I would have voted "aye" on the rule (H. Res. 511).

## PERSONAL ANNOUNCEMENT

Mr. HOLIFIELD. Mr. Speaker, I was necessarily absent from the sessions of the House of Representatives on Wednesday, September 5, Thursday, September 6, and Monday, September 10, on official business. Had I been present, I would have voted as follows:

| Rollcall: | Vote |
|---|---|
| 434 | Nay |
| 435 | Yea |
| 436 | Yea |
| 437 | Yea |
| 438 | Yea |
| 439 | Yea |
| 440 | Nay |
| 441 | Yea |
| 442 | Yea |
| 443 | Yea |

### PUBLICITY ON FARM PRICE INCREASES

(Mr. POAGE asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. POAGE. Mr. Speaker, last weekend there was considerable publicity given to the price figures released by the Department of Labor, indicating an increase in farm prices and processed foods of 19.3 percent. Very few, if any, news reports have stated over what period this increase took place. Actually, I am advised that the figures reflect the increase from July 10 to August 14. This is a sizable increase, but the thing that made it spectacular is that it occurred suddenly.

Over the last 20 years, there has been an increase of 133 percent in manufacturing wages, whereas the 20-year increase from agricultural products, including the recent upsurge, has been only 110 percent.

The Labor Department reports generally were reported in a manner that would indicate that farm prices were responsible for the entire increase in the price of food. This simply is not true. Take the case of bread, which sold at 16.3 cents per pound loaf 20 years ago, when wheat brought $1.87 per bushel. A pound loaf now is bringing 26.5 cents, with wheat quoted at the end of last week at $4.95. This is an increase of 10.2 cents per loaf. If we were to figure wheat at $5.25, its August 20 level and the highest on record, the cost of the wheat in a 1-pound loaf of bread still would be only 6.1 cents. Twenty years ago it was 2.4 cents, a difference of only 3.7 cents.

Obviously, only a third of the increase taking place in the retail price of bread over the past 20 years can be attributed to the increased return to the grower of the wheat used in that loaf. So how can anyone justly charge the farmer with responsibility for the 10-cent increase in the price of bread.

The most disturbing feature of the entire report on farm prices is that the Labor Department selected the particular dates that it did for this survey taken August 14. The very same news story—Washington Post, September 8—points out that after August 14, corn prices dropped 30 percent, soybeans 47 percent, wheat 10 percent, cattle 15 percent, hogs 25 percent, and chickens 27 percent. These drops are considerably larger than the increases which were reported in the headlines. Indeed, in every case, current farm prices are actually less than they were on August 13, and in most cases substantially lower. But a drop in farm prices is rarely headlined and even more rarely noticed by the consumer. Consumers often demand lower farm prices but rarely benefit from such lower prices when they occur.

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### STATEMENT ON THE CIVIL RIGHTS ASPECTS OF GENERAL REVENUE SHARING

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I rise to call to the attention of my colleagues the very crucial area of the civil rights aspects of general revenue sharing. Surely, all of us are aware of the results of the drastic slashes of the Nixon administration in categorical assistance to many of our citizens, senior and otherwise, who need aid in health and dental care, legal services, vocational training, and community services.

Perhaps, not as well known is the fact that over 38,000 jurisdictions of government are receiving in the first year of the program over $5 billion in general revenue sharing funds. Of increasing concern to the Subcommittee on Civil Rights and Constitutional Rights of the House Judiciary Committee, which I chair, is the failure to collect and analyze beneficiary impact data and to develop adequate compliance machinery to insure that Federal civil rights laws are being complied with in the expenditure of these funds.

Interest in this vitally important area has prompted the subcommittee to initiate a series of hearings on the civil rights aspects of general revenue sharing. Mr. Graham Watt, Director of the Office of Revenue Sharing, appeared before the subcommittee on September 6, 1973, and pledged to "initiate all the administrative actions necessary to effect the forfeiture of funds used in programs found to be discriminatory, and we will not hesitate to withhold all entitlement funds from such a government—until it is established that the government will comply with the nondiscrimination provisions of the State and Local Fiscal Assistance Act (Sec. 122) and of our Regulations (38 CFR § 51.32)."

In another month and a half, it is our intention to hold additional hearings during which the subcommittee will hear from representatives of national, State, and local organizations relative to the disbursement of general revenue sharing funds in their communities. I have already been apprised of several possible violations of the nondiscrimination provision and it is the responsibility of my subcommittee to look into the circumstances and to refer these matters to the Office of Revenue Sharing and the Department of Justice if such action is appropriate.

Mr. Speaker, I would hope that all Members are alert to this important subject, the requirement that these huge sums be spent in compliance with the will of Congress as enacted in the various civil rights laws.

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### THE FUTURES MARKETS

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, in the last Congress and again in this Congress, I have sponsored a bill to require that commodity futures markets designate a number of places at which commodities may be delivered to satisfy obligations under futures contracts.

One of the commodities markets contributions to our economy, is to provide a means for farmers, rural elevators, and processors to shift speculative risks to people who want to speculate and give the producers and processors a more secure operating position.

The commodities markets are now under fire because of large, unreasonable fluctuations in prices which many believe is the result of excessive speculation. The value of contracts has frequently been out of any reasonable relationship with the cash value of the commodities involved. A couple of years ago, Pork belly contracts were 50 percent higher than the actual commodity during a squeeze by the longs. In recent months, contracts for corn were far above the cash market because no one could get corn into Chicago to deliver in settlement of their futures contracts.

Obviously, if speculation and manipulation of the futures contracts is to be curbed and a reasonable relationship to the actual commodity maintained, it must always be possible to settle up by delivering the commodity itself.

In the past year, lack of transportation for grain has added to the problem. In the case of soybean and grain crops, even if storage was available for delivery on futures contracts, farmers and rural elevators who had hedged commodities could not get transportation to make delivery.

As a consequence, hundreds and perhaps thousands of farmers and rural elevators who sold futures contracts to "hedge' or protect their prices, were financially hard pressed because they could not sell or settle with actual commodities in an almost wildly rising market.

Two Iowa State University economists have recently released a study concluding that the Chicago Board of Trade, as one example, should designate 20 or 30 approved delivery points for corn and soybeans.

I am including in the record an account of that report published by Feedstuffs magazine.

In view of the failure of the commodity exchanges to establish alternate or multiple delivery points, as is clearly needed, it is my opinion that Congress should enact legislation speedily to require that a strong regulatory agency with authority and responsibility be designated to establish this and other reforms for commodity futures trading. Currently the Commodity Exchange Authority lacks muscle and is not effectively regulating the billions of dollars of transactions under their surveillance.

The article follows:

[From Feedstuffs magazine, Aug. 27, 1973]

ECONOMISTS SEEK GRAIN FUTURES DELIVERY CHANGE

AMES, IOWA.—Two Iowa State University economists have proposed changes in grain futures contracts that they say would restore the usefulness of the futures market for hedging. Bob Wisner and Marvin Skadberg have suggested the Chicago Board of Trade permit delivery of corn and soybeans at up to 20 to 30 approved locations in ma-for midwestern producing states as well as in Chicago, the only current delivery point.

The economists contend that the futures market's function of reducing price risks for farmers and the grain industry has been hindered by transportation and storage problems in Chicago. Now either farmers receive lower grain prices or grain users pay higher prices than would occur if the hedging market was working effectively, they said.

With the handling and storage problems in Chicago this past season, Wisner and Skadberg said the threat of delivering actual grain on a futures contract was greatly reduced. So at times, wide and unpredictable differences existed between cash and futures prices at contract maturity.

The ISU economists cited July corn futures as an example of the effects delivery impediments can have on cash-futures price relationships. On July 20, 1973, the July corn futures price closed at $3.80 per bushel—about $1.13 per bushel above the closing Chicago cash price for No. 2 yellow corn on that day. If delivery had been possible, a strong incentive would have existed to buy cash corn, sell futures contracts and deliver on the futures contracts, Wisner and Skadberg said.

They added that several Iowa grain elevators verify it has been almost impossible to deliver on corn and soybean futures contracts in recent months. The specialists cite full warehouses, need for additional working space to handle heavy export movement and congestion in the rail switching district of Chicago.

They also pointed to recent grain industry trends as favoring more delivery points. "We are producing and marketing twice as many soybeans and 50% more corn today than just 10 years ago," they said. "Capacities of warehouses approved for delivery on futures contracts in Chicago have not kept pace with this volume of grain being marketed."

While the volume and value of the Chicago cash market continues to grow, other cash markets also are growing, leaving Chicago with only a fraction of the total marketings, they added. The domestic processing industry, U.S. feeding market, and major exporting points have developed in other parts of the country.

Wisner and Skadberg refer to the success of multiple delivery points for soybean oil and meal, live cattle and live hog future contracts. They believe the multiple delivery point concept will work for corn and soybeans, too.

The proposed change would permit delivery of corn and soybeans at approved warehouses in major midwestern producing states as well as in Chicago. Approved warehouses outside Chicago would include country and terminal elevators that meet specified minimum facilities and handling capabilities.

According to the proposal, futures prices at points outside of Chicago would be reduced by the rail freight cost from there to Chicago. Extensive deliveries on a futures contract would not be anticipated since they would be made only when the market is not operating properly. With multiple delivery points, a wider section of the grain industry including farmers would help keep the futures-cash price relationships reasonable.

## THE LATE MARGUERITE DAVIS

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, it is with sadness that I inform the House of the death August 17 during the congressional recess, of newswoman Marguerite Davis. Maggie Davis, as we knew her, was a United Press International reporter and news executive for more than 30 years.

Everyone who knew Maggie Davis loved her. We in the Michigan delegation knew her especially well because as a UPI regional reporter she covered our State. Maggie was a sharp and thorough reporter, but she had a gentle quality which made her peculiarly endearing.

Miss Davis joined UPI, then United Press, in December 1942, in Madison, Wis. She later worked in Omaha and Lincoln, Nebr., and in Chicago, where she became the first woman to head a major UP bureau. She also managed the Lincoln bureau.

Maggie was transferred to Washington in October 1959 as a Midwest regional reporter and became a member of the general staff in 1971. She went to New Orleans last December to be with her family after brain tumor surgery.

Miss Davis was born October 22, 1917, in Huntington, W. Va., and attended the public schools in Memphis, Tenn.; Gulfport, Miss.; and Las Animas, Colo. She was graduated from Sophie Newcomb College in New Orleans.

She worked briefly in public relations after her graduation from college and then joined UP. A wonderfully kind person, Miss Davis devoted much of her free time to helping the disabled.

Miss Davis is survived by a brother, Terrell, and an aunt, Nina P. Davis, both of New Orleans.

We will all miss Maggie. She was a wonderful person.

## THE LATE MARGUERITE DAVIS

(Mr. GROSS asked and was given permission to extent his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, I join with the distinguished minority leader, Mr. FORD, in expressing my deep regrets and sense of loss in connection with the death of Marguerite Davis, one of the ablest and dedicated news reporters I have ever known.

I came to know "Maggie," as she was known to so many of us, when she was assigned by United Press International to report the news in Congress affecting the Midwest region.

Her untimely and tragic death as the result of a brain tumor is a real loss to the journalism profession as well as a personal loss.

## A LONGER LOOK AT OUR RAIL PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY), is recognized for 10 minutes.

Mr. MCKINNEY. Mr. Speaker, the court-imposed October deadline for a congressional solution to our rail crisis is fast approaching. While there is consensus in Congress that the Penn Central cannot be allowed to go out of business, there exists no consensus on how to save the Penn Central and the other bankrupt railroads.

Innumerable legislative proposals have been introduced to design a new structure for the railroad industry, ranging from outright nationalization, creation of regional authorities or for-profit corporations, an Amtrak-type partnership of Federal money and private management, to liquidation or Federal subsidy of existing companies.

I have studied these various plans and frankly find them inadequate to the task of designing a new structure for the railroad industry. Several of the proposals create the danger of losing too much trackage or provide for inadequate restructuring; the organizational and financial complexity of some of the bills is staggering; many avoid or seem hamstrung by the labor question; still others address the issue of abandonments in a manner appalling to the economic viability of some of our local communities. Moreover, most of the plans only contemplate acquirers of the bankrupt Penn Central line as other railroads or the Federal Government. No recognition is given to the fact that perhaps other carriers could acquire parts of the Penn Central empire; that perhaps State and local governments might want to participate in the system; that perhaps shipper cooperatives or even private business might buy portions of the railroad.

Gentlemen, a highly innovative—yes, revolutionary—approach to our rail system is imperative. When Congress created Amtrak we had high hopes but we have witnessed no dramatic revitalization of passenger service. We now face a much more serious dilemma: preservation of our Nation's freight and passenger service. To insure rejuvenation of our railroads, we must preserve the maximum number of options and I do not see this materializing through hurried congressional action. We need a master plan for survival, not any tinkering approach.

Before passing legislation on the railroads, Congress must have answers at its fingertips: what the core system will be; the value of rail lines and property; how much it would cost to acquire such a system; what Federal assistance is necessary and what form it should take; the availability of private moneys for investment; the possible capital and debt structure of any new corporation to be created; what type of structural changes are needed in the industry; what size labor force is required to operate the system; what kind of supervision of the railroads is appropriate; what amount of revenues can be expected; how much money is needed for rehabilitation and modernization; how best to handle the several interests of employees, creditors and shippers, et cetera.

No one really knows enough at this time to lay out specific programs or dollar commitments. It would be a mistake to pour money into a system without adequate preplanning and unless there are fundamental changes in the system. I do not want to effect an unnecessary degree of governmental intervention or cause a voter backlash or Presidential veto because of overauthorization. What I am saying is by enacting legislation now—without a full and complete study of the situation—we will be legislating blindly. There are too many unknowns to approach the problem rationally and in a fiscally responsible manner.

Moreover, I might add that I do not believe Congress should simply address itself to the Northeast rail crisis at this time—and later to the Midwest rail situation which, undoubtedly, will shortly also become a crisis. We must provide a coordinated, integrated rail system for the entire Nation and not approach the problem in our usually piecemeal fashion, only legislating when a crisis occurs. Our national transportation system demands a total approach.

Hence, before the August recess I joined with the other Members of the Connecticut congressional delegation in introducing H.R. 9929, the Midwest and Northeast Rail System Development Act. This legislation establishes a Rail Emergency Planning Office within the Interstate Commerce Commission, with the mandate to identify a restructured rail system and to submit recommendations as to the best means to bring into existence the restructured rail system. This Office would be answerable to the Congress since monthly reports must be submitted to the House and Senate Commerce Committees. In its task the Office would be assisted by the Department of Transportation, the ICC, and an advisory council.

Under this legislation the Rail Emergency Planning Office would be required to conduct a comprehensive investigation, surveying existing rail transportation operations and facilities, analyzing rail service needs, and studying methods of effecting economies in the cost of rail system operations. While economic factors will play a vital role in the authorized investigation, at the same time the legislation spells out in detail the social and environmental factors that also must be considered. In other words, the facts on all aspects of restructuring the rail system would be garnered in order that a sensible and viable rail identification plan could be devised. And from there would follow the recommendations—and alternative plans—for effecting the restructured rail system. With such comprehensive information at its disposal, Congress could then legislate a solution—and I use the term "legislate" in the true sense of the word.

Granted this bill—a study-plan over a 1-year period—may look like a "bailout" or "copout" because it does not establish a new railroad organization immediately. But as I have said, legislating without the facts can only be legislating chaos.

At this time I would like to discuss some of the provisions of H.R. 9929. Undoubtedly the most difficult problem to resolve was the question of who should identify the core rail system and make the recommendations for its implementation; the Department of Transportation, the Interstate Commerce Commission or a blue-ribbon panel? Although I have had many objections to actions of the ICC, I believe that because that agency has had vast experience with railroad operations and the economies of the various sections of our States, it is better equipped than any other governmental body or group of experts to make the difficult decisions as to what services are essential to the public and what services can be dispensed with in the name of operating economy. Also, the ICC proposal for reorganization of the rail system did not provide for as much trackage reduction as DOT's plan and the ICC seems more sympathetic to the labor issue. Moreover, the ICC proposal provided for Federal-State subsidies for abandonment as opposed to DOT's plan which permitted abandonment without customary ICC controls. Finally, the ICC expressed the interest and willingness to participate in designing the core system.

However, I do not believe that the decisions regarding the core system should be left solely to the legal and economic expertise of the staff of the Rail Emergency Planning Office and the ICC. Hence the bill provides for an Advisory Council, representing rail management, labor and passengers, shipper and consumer interests, and representatives of the States in the rail emergency region to assist in the development of the restructured rail plan. In order to insure that the Council's advice and recommendations would indeed be seriously considered, the bill provides that the final identification plan of the Rail Emergency Planning Office must receive majority approval of the Advisory Council.

As we all know, the freight and passenger service which the Penn Central provides for the Northeast is no luxury; the Penn Central is at the very heart of the transportation system of the entire northeastern sector of the country, essential to the well-being of our economy and environment.

My district alone has a sizable commuter constituency, almost 25,000 daily commuters to New York. I have been assured by Connecticut's department of transportation that even if the Penn Central is liquidated, the commuter service will continue because of prior arrangements the Connecticut Transportation Authority and the Metropolitan Transit Authority of New York have made with the railroad and the courts. Moreover, Connecticut has the option to purchase the rail right-of-way. However, the liquidation of the Penn Central would place an enormous burden upon Connecticut, even in the commuter area, and any legislation that Congress passes on the rail problem must take into account commuter and intercity passenger service. Hence, of importance to my district is that provision of the bill requiring a study of intercity and commuter passenger service in the rail emergency region and the incorporation of such passenger service in the core system.

Also, the bill requires that DOT submit to Congress and the Rail Emergency Planning Office its proposed plan for implementation of its "Recommendations for Northeast Corridor Transportation," a study which that agency completed in 1971. I believe it is time the Federal Government acquire a right-of-way between Washington, New York, and Boston. We must have such a transportation system and the price will never be lower.

From New England's point of view, one major problem is that the Office of Management and Budget has rejected DOT's proposal to modernize the entire Northeast passenger rail corridor and is pushing for a much cheaper modernization of only the Washington to New York section of the corridor. The New England's Governors' Conference has taken a strong position in favor of the modernization of the entire corridor and I agree. No more of this piecemeal approach; we need total passenger transportation in this growing megalopolis.

Another reason for my cosponsorship of the study bill is that I do not see that any of the other legislative proposals offer much hope for improved, or even continued freight service to the tristate area of Connecticut, New York, and New Jersey.

Connecticut industry depends heavily upon the Penn Central for raw materials and for getting its products to market. If the trains stop, Connecticut's alrealy overburdened highways will have to accommodate approximately 1,000 more trucks per day to carry the nearly 7.3 million tons per year of freight which we now move by rail. Neither the highways nor the environmental and social costs can tolerate such a situation.

Immediate initiation of increased rail freight movement in our area has now become imperative, and we need expanded facilities and improved connections for enhanced rail freight movement through the Northeast corridor. The economy of our area necessitates a thorough study of the situation. For example, we have to remove the bottlenecks which impede rail freight transit in our area, including the elimination of the barrier of the Hudson River at a point of lower New York City. Improvement to the connections among the rail lines must also be investigated. Clearances must be raised to permit passage of piggy-back trailers; construction of piggy-back terminals and car loading terminals to serve rail freight forwarders and consolidators is imperative. The feasibility of construction of a tunnel in upper New York Bay and a New Jersey-Brooklyn connection to utilize the Hell Gate Bridge must be studied. All these possibilities could well be included in the investigation authorized by H.R. 9929.

Again of particular importance to our area's freight and passenger service is that provision of the bill requesting the Governors of each State included in the rail emergency region to submit an analysis of present and future rail service needs of their respective State. This is vital to the rail system being responsive to the requirements of the various States.

Another aspect of importance to Connecticut and every other State in the rail emergency region is the question of abandonment. A line up for abandonment may be uneconomic to a railroad but can mean economic life or death for a manufacturer, shipper, the workers and the community. Abolished freight service to a manufacturing town, for instance, even though it may be financially unprofitable to the railroad, may be even more costly in terms of unemployment, added pollution from increased trucking, or the isolation of communities cut off from a vital flow of commerce. More than economic costs must be contemplated before abandonments are granted. Hence, this legislation provides for a study of the costs and benefits of any consolidation, relocation, abandonment, or other changes in the promised core system. Moreover, consideration must be given to proposals to help subsidize rail operation over short routes which would otherwise be abandoned.

Of crucial importance to our States and communities is that provision of the bill providing a moratorium on all abandonments. In the Northeast we have a situation where railroads are overbuilt with too much track and too many competing lines. Consolidation will have to occur. But premature abandonments could eliminate choices in determining the core system. We must keep the facilities available for a coordinated system.

Also of paramount importance is preservation of rail rights-of-way. The rights-of-way on lines that are dropped from the core system and not subsidized by the States, communities, shippers or manufacturers, must be protected. Technical developments may restore economic possibilities of feeder lines in the future and other modes of transportation might make use of old transportation corridors. Once a railroad right-of-way has been sold for development, it can never again serve transportation. Hence the Connecticut delegation has mandated the Rail Emergency Planning Office, in preparing an economic and operational study and analysis of present and future rail service needs, to take into account preservation of existing rights-of-way—whether in use or not—for future mass transit use.

I might mention here that Connecticut has acted with great foresight in this area. It is the policy of the State, when an application for an abandonment is approved, to purchase the abandoned right-of-way and put it in the State's land bank for possible future rail transit use.

Mr. Speaker, I believe H.R. 9929 is essential, not only to my State, not only to the Northeast, but also to the entire Nation. I regret it is necessary to go this route of study legislation as I know the public is distressed, to say the least, that Congress has not acted earlier on this matter. Such a study should have occurred 2 years ago when the trustees of the Penn Central first issued their warning on the financial condition of the railroad. Congress did nothing at that time and hence I believe Congress has largely invited this crisis upon itself. But again I emphasize that we will not help the situation if we plunge into this legislation without the facts. One hundred million people live in the 17 States directly serviced by the financially endangered railroads of the Northeast. For these millions of Americans, rail transportation is essential to life itself. We cannot allow these railroads to shut down nor can we rush through legislation and later suffer the repercussions of hasty action. We must move deliberately, with facts in hand, to insure a system of rail service, both passenger and freight, that will prove to be a model for emulation.

## N. GWYNNE DODSON, CITIZEN-INDUSTRIALIST RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SAYLOR) is recognized for 10 minutes.

Mr. SAYLOR. Mr. Speaker, I call the attention of my colleagues to the following newspaper account of the successful career and recent retirement of Mr. N. Gwynne Dodson, president and chief executive officer of the Pennsylvania Electric Co.

Mr. Dodson's career began in 1924, when, at the age of 16, he was employed as a messenger for a utilities company later to become part of the ever growing Penelec system. Since that time, Gwynne Dodson has worked and excelled in every position he has held within the utilities industry. The confidence, initiative, and expertise with which he accomplished his tasks over his first 45 years in the business earned him the presidency of the Johnstown, Pa.-based utility company in 1969.

He has not only been a success in his professional endeavors—Mr. Dodson has been a model citizen. His interest and leadership in local activities range from the Boy Scouts and Junior Achievement to education and hospital work.

I am sorry to see Gwynne leave the utilities business as I am certain Penelec will miss his administrative responsiveness, integrity, and perseverance. However, I am relieved to know, as are the citizens of Greater Johnstown, that Gwynne Dodson will remain active in local civic affairs and continue to give all that one man can give to the well-being of his fellow citizen.

The article, which is taken from the Johnstown Tribune-Democrat, follows:

### PENELEC CHIEF TO RETIRE

N. Gwynne Dodson of 305 Beaver Court, president and chief executive officer of Pennsylvania Electric Co., will retire at the end of August after a 49-year career in the utility business.

Mr. Dodson, widely recognized for his leadership in community, educational and energy industry affairs, has been serving since 1969 as chief executive of the Johnstown-based utility. Penelec has approximately 3,800 employes and serves 465,000 customers in approximately one-third of the Commonwealth and a small part of New York State.

Mr. Dodson was praised by William G. Kuhns, president of General Public Utiliites Corp., Penelec's parent company as "an effective and respected business and civic leader who has distinguished himself through his integrity, his courage, his good sense and his service to his fellow man."

"Gwynne Dodson's dedication to the safety and the general well-being of his associates and his neighbors and his contributions to his company, his industry and the community have earned him continuing admiration and gratitude and a continuing role as a valued civic leader," Mr. Kuhns said.

### BEGAN AT AGE 16

Mr. Dodson began his utility career in 1924, at age 16, as a messenger in Altoona with the former Penn Central Power & Light Co., which later became part of the Penelec system.

After serving in the transportation, meter and sales departments at Altoona, he was named a district manager in Hollidaysburg in 1939. He served as manager in Lewistown for five years and in 1945 became Eastern Division commercial manager in Altoona.

He was advanced to division sales manager in 1959 and was appointed Eastern Division manager in 1961. He moved to Penelec's corporate offices in Johnstown in 1962, when he was selected to organize and head a new companywide sales department as system sales manager. He was elected vice president in charge of sales, industrial development and public relations in January 1963.

In September 1965, he was elected to the board of directors and named vice president with responsibilities for personnel, public relations, purchasing, stores, transportation and related general services.

Mr. Dodson was elected to the Penelec board's executive committee in 1967. In 1969 he was elected president and chief executive.

He also is president and a director of the Nineveh Water Co. and the Waverly Electric Light & Power Co., both Penelec subsidiaries.

He is a vice president and a member of the board of directors of the Johnstown Savings Bank and is a member of the boards of Utilities Mutual Insurance Co., New *York City;* Glosser Bros., Inc., and of the Edison Electric Institute, principal national trade association of the electric utility industry.

He is a graduate of the public utilities executive course at the University of Michigan.

Mr. Dodson is a member of the executive committee of the Greater Johnstown Committee, Inc., the executive committee of the Advisory Board of the University of Pittsburgh at Johnstown, and the executive board of the Penn's Woods Council, Boy Scouts of America. He serves on the board of directors of the Cambria Somerset Chapter, American Red Cross, and the advisory board of Junior Achievement of Johnstown.

In recent years, he has held leadership roles in support of such activities as the Mercy Hospital of Johnstown, Greater Johnstown Chamber of Commerce and Cambria County Child Welfare Association, and in communitywide efforts to achieve sound industrial development and to beautify the hillsides in the Johnstown area.

## HEW SAYS HMO'S WILL SAVE BILLIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas, (Mr. ROY) is recognized for 5 minutes.

Mr. ROY. Mr. Speaker, we hear much these days about the increase in the cost of living. We particularly hear about the increase of the costs of medical care.

Tomorrow we will consider a bill which promises to help restrain the increase of the costs of health care—the Health Maintenance Organization Act of 1973—H.R. 7974.

Last year the Department of Health, Education, and Welfare estimated the projected cost savings that would result from the development of HMO's. The study concluded that "we might expect to save between $4.5 billion and $18.1 billion as a direct result of the development program."

Mr. Speaker, because of the magnitude of the estimated savings, I include the HEW report in the RECORD at this point:

### PROJECTED COST SAVINGS ATTRIBUTABLE TO THE PROPOSED HMO DEVELOPMENT PROGRAM

In response to the request for information on the potential ten-year savings from HMO development, we have developed several estimates under different assumptions. As you realize, the key factors in estimating the savings are: (1) the growth rate of HMO enrollment; and (2) the relative difference in personal health care costs for persons served by HMOs as compared with those served by fee-for-service providers.

In order to estimate the potential savings which might be attributable to HMO development efforts, we have projected a program growth rate that would provide the HMO option to 90% of the population by 1980. This increased enrollment is incremental to the baseline enrollment in existing HMOs, which has been assumed to grow at the historical rate of 8 percent per year.

In addition, we have used three estimates for total HMO health care expenditures relative to traditional system expenditures:

Eighty percent—roughly the maximum potential savings which we believe might be achievable with an industry comprised of highly organized, efficient, experienced group-practice type HMOs, similar to the most efficient Kaiser-Permanente units or Group Health Cooperative of Puget Sound;

Eighty-five percent—roughly the potential savings reasonably achievable with an industry comprised of efficient, experienced, variable sponsor, group and individual practice HMOs, including non-hospital and hospital-based plans, physician groups, and foundation-type plans;

Ninety-five percent—roughly the potential savings achievable with an industry comprised of reasonably efficient, but less experienced, variable sponsor group and individual practice HMOs.

Based upon these assumptions and subject to the qualifications indicated below, we estimate that potential savings from the contemplated HMO development effort will fall within the following range:

NET 10-YEAR HMO SAVINGS

| HMO costs relative to traditional provider costs | Savings (billions) Federally supported HMO's | All HMO's |
|---|---|---|
| 80 percent | $18.1 | $27.4 |
| 85 percent | 13.5 | 20.5 |
| 90 percent | 9.0 | 13.7 |
| 95 percent | 4.5 | 6.8 |

Depending upon how efficient these prospective HMOs become relative to traditional providers, we might expect to save between $4.5 billion and $18.1 billion as a direct result of the development program. Expansion in the enrollment of the presently existing HMOs could add as much as $9 billion to that savings. The probable range of savings, as herein defined, would fall in the $9 billion to $13 billion range.

The data and assumptions underlying these very rough projections are subject to many infirmities, some tending to produce an understatement of potential savings, and some tending to produce an overstatement. Major factors which might tend to produce an underestimate of potential savings include:

The methodology does not consider potential savings in facility investment derived from the lower utilization rate of inpatient facilities in HMOs.

The methodology does not consider potential savings in drug, long-term care, and administrative costs.

The methodology does not take into account the possible effect of increased demand, due to National Health Insurance, on gross national costs.

The methodology does not consider the effect of HMO development on the demand for health manpower, and consequent education costs, arising from the fact that prototype HMOs appear to utilize manpower more effectively.

Major factors which might tend to produce an overestimate of potential savings include:

The possibility of unduly optimistic expectations regarding the rate of HMO enrollment growth.

The validity of the fundamental assumption, yet to be demonstrated, that the effectiveness of prototype HMOs can be validly extrapolated to a large number of new organizations. (It is reasonable to expect that a significant period of learning and experience will elapse before new HMOs achieve the efficiency and general effectiveness of the established prototypes.)

The possible effectiveness, also yet to be demonstrated, of other measures to increase efficiency and contain costs in the traditional health care system, such as continuation of direct economic controls, and general application of a Professional Standards Review system.

The possibility, not taken into account in the estimates, that a number of rival HMOs in a competitive situation might make excessive investments in facilities which duplicate facilities in the traditional system and in other HMOs.

Moreover, the estimates depend upon population and health expenditure projections which are highly uncertain.

In addition, we should point out that these estimates compare HMOs with the traditional system but do not project any impact on the traditional system from HMO competition. We believe this is a highly unrealistic assumption; on the other hand we have no valid basis from which to project the effect of competition on the traditional system.

The effect of such competition, whatever it may be in quantitative terms, would tend to lower costs in the traditional system thereby, (1) decreasing the differential between HMO costs and traditional system costs, and (2) increasing the savings, perhaps markedly, between what the traditional system could be expected to produce in the absence of an HMO development effort and what may be expected in gross national health care costs under the influence of an effective HMO development effort.

We wish to reiterate that the very complex and difficult nature of the problem and the limited resources which we were able to apply combined to produce quite gross results. These should be taken as indicative of the general nature and direction of probable economic implications of the HMO development effort, but must be regarded as rough approximations only.

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## CORRECTION OF CLERICAL ERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, in submitting a bill, H.R. 10011, and a resolution House Resolution 528, both dealing with nerve gas, during the final hours before adjournment for the summer recess, due to a clerical error one of my colleagues was inadvertently included as cosponsor of the bill instead of being included as a cosponsor of the resolution. I am resubmitting both today with the corrections as follows:

LIST OF COSPONSORS OF RESOLUTION

Mr. Owens (for himself, Ms. Abzug, Mr. Ashley, Mr. Brown of California, Mrs. Chisholm, Mr. Conyers, Mr. Corman, Mr. de Lugo, Mr. Dellums, Mr. Edwards of California, Mr. Green of Pennsylvania, Mr. Hamilton, Mr. Helstoski, Mr. Koch, Mr. Kyros, Mr. Leggett, Mr. McDade, Mr. McKay, Mr. Mollohan, Mr. Riegle, Mr. Reuss, Mr. Rooney of Pennsylvania, Mr. Sarbanes, Mr. Thompson of New Jersey, Mr. Ullman and Ms. Schroeder) submitted the following resolution; which was referred to the Committee on Armed Services.

H. RES. —

Whereas the Geneva Protocol of 1925 banning use of chemical and biological warfare, authored by the United States, has never been ratified by the Senate because the question of whether herbicides and tear gas are covered by the protocol has never been resolved, and

Whereas the United States has conducted intensive and fruitful disarmament negotiations with other nations since 1969, and the United States position in negotiations to ban chemical weapons currently underway in Geneva is not clear because the United States has never ratified the Geneva Protocol of 1925, and—

Whereas adequate methods of inspection for possible violations in production of nerve gas not available in 1969, are being developed, and

Whereas the Department of Defense did not detoxify the four hundred and sixty-three thousand gallons of nerve gas by 1973 stored at the Rocky Mountain Arsenal in Denver as pledged in 1969, and the Secretary of the Army has recommended that large stockpiles of nerve gas stored there be moved to the Tooele Army Depot in Utah; therefore, be it

*Resolved,* That it is the sense of the House of Representatives that both the President and Congress should resolve the position of the United States on the status of herbicides and tear gas so that the Senate may move forward toward immediate ratification of the protocol, and be it

*Resolved,* That it is the sense of the House of Representatives that a public reevaluation of the necessity for stockpiling nerve gas is needed at this time, and be it further

*Resolved,* That it is the sense of the House of Representatives that the Department of Defense should detoxify that amount of nerve gas which was to have been destroyed by now, and keep Congress informed of progress in meeting its timetable.

LIST OF COSPONSORS OF BILL

Mr. Owens (for himself, Ms. Abzug, Mr. Ashley, Mr. Brown of California, Mrs. Chisholm, Mr. Conyers, Mr. de Lugo, Mr. Dellums, Mr. Edwards of California, Mr. Green of Pennsylvania, Mr. Hamilton, Mr. Helstoski, Mr. Koch, Mr. Kyros, Mr. Leggett, Mr. McDade, Mr. McKay, Mr. Mollohan, Mr. Riegle, Mr. Reuss, Mr. Rooney of Pennsylvania, Mr. Sarbanes, Mr. Thompson of New Jersey, and Mr. Ullman) introduced the following bill; which was referred to the Committee on Armed Services

H.R. —

A bill to insure that no public funds be used for the purpose of transporting chemical nerve agents to or from any military installation in the United States for storage or stockpiling purposes unless it is the sense of the Congress to do so

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a new section following section 409(b) of the Act of November 19, 1969 (50 U.S.C. 1512), is inserted as follows:

"None of the funds authorized to be appropriated by this Act or any Act may be obligated or expended hereafter for the purpose of transport of chemical nerve agents to or from any military installation in the United States for storage or stockpiling purposes unless the President has (a) made known to the Congress his position on the status of herbicides and tear gas under the

> Geneva protocol of 1925; (b) provided Congress with a reevaluation of the necessity for the United States policy of stockpiling chemical nerve agents; and (c) certified to the Armed Services Committees of Congress that such transportation is necessary in the interest of national security and that its disposal by detoxification would be seriously detrimental to the chemical weapon deterrent capability of the United States.".

## VOTE TO OVERRIDE VETO OF EMERGENCY MEDICAL SERVICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON. Mr. Speaker, in his 1972 State of the Union message the President called for an improved national emergency medical services capability. Partially in response to this call and also in recognition on its own of the Nation's emergency medical service problem, the Congress has responded with a modest but potentially effective first step. This action should demonstrate a joint commitment by the administration and the Congress to move into what has been a disasterous vaccum which has contributed to the death of thousands and the crippling and misery of additional thousands of Americans each year.

Unfortunately, the duration of the administration's commitment seems to have spent itself, battered by bureaucratic opposition. What had been articulated in the State of the Union message as a positive step in the direction of a real effort in emergency medical services died on the bureaucratic drawing boards of the Department of Health, Education, and Welfare as just another demonstration project.

This would be unfortunate if viewed only by itself. However, when seen in relationship to the drift of overall administration policy on public health it becomes frightening.

While the Congress has attempted to move forward in this field with passage of the Emergency Medical Services Act the administration's commitment has withered to a demonstration project. This, in turn, has been underscored by the President's veto of this legislation. The true picture of the administration's lack of commitment to and apparent apathy toward America's public health services is further revealed in the 43-percent proposed cutback in health manpower funds, its efforts to dry up medical and biomedical research funds, the fiscal assaults on the National Institutes of Health and the tragic tendency within this area to base decisions not on the Nation's needs or scientific and medical knowledge, but on bureaucratic political considerations.

In fact politics rather than national need has become so much a criteria for evaluation by the Federal health bureaucracy that former Surgeon General Jessee L. Steinfeld has said of the administration's health programs and policies:

> Programs are supported or discarded not in relation to their long-range health care value, but in relation to their immediate political public relations value.

An example of this tragic events was the administration's loudly proclaimed commitment to the battle against cancer. This led to complaints that other programs were being shortchanged in order to fund the cancer effort which was getting all the visibility. Now, recently, we learn from those in charge of the cancer program that they are not getting the money they were promised or need to do their job.

Thus, the direction of the administration in the field of public health is evident. There is no commitment to progress. Rather their is clear and evident apathy to public need.

What is the significance of this veto in view of this and what is at stake if we fail to override?

By voting to override we not only demonstrate to the administration, but to the people of America that the Congress is concerned and we are committed. Public health is not something to be manipulated by a bunch of political bureaucrats for what ever purpose it might serve them at any given time. Rather public health, whether it be emergency medical services, U.S. PHS hospitals or whatever must be a constant and enduring concern of the U.S. Government.

What is threatened here is much more than a local service program which is unborn or the closing of eight Public Health Service hospitals.

Where will the Nation recoup the 12,000 medical and paramedical personnel trained each year by these Public Service facilities?

What economies will be realized by contracting out the care of those patients now served when the cost of such an arrangement is three times what is now?

Where will the research work now carried on at these institutions be transferred and continued?

And what domino will fall after the demise of the Public Health Service facilities?

I suspect and fear that our Veterans' Administration hospitals and medical facilities are next slated to undergo the political budgetary knife which is wielded by the bureaucracy under the guise of economy and efficiency.

One might be tempted to reply that an expression of concern in this regard for the Veterans' Administration's hospitals is simply setting up a strawman. However, I would point out that the step from fiscally undermining Public Health Service hospitals and research operations is but a short distance from an assault on one of the largest Federal health operations, the Veterans' Administration. Nor have the bureaucrats been reluctant to attack the economic viability of the veteran. I recall that only this year an attempt was made to reduce harshly veterans compensation benefits.

The President, in his veto message, said this program was too expensive and charged it violates an area which historically has been within the jurisdiction of local government. These arguments will not meet the test of fact.

The spending of $185 million over 3 years to save an estimated 186,000 lives and prevent the crippling or countless others is no great investment in terms of dollars or the allevialtion of human suffering. This authorization by no measure can be considered a "budget buster."

As for local jurisdiction, this argument can be laid to rest by the simple fact that any effort made to date at the local level has been made in spite of not due to Federal absence. Personally I have not heard one word of objection to this legislation from any State or local official or jurisdiction within my congressional district.

A great deal more is at stake here than simply the override of a small authorization bill. What we must consider is whether or not we intend to abandon to administrative fiat the public health responsibilities of the Federal Government. To do so would be a tremendous disservice to the Nation today and to many generations yet unborn.

Mr. Speaker, I respectfully urge that this veto be overriden.

## THE U.S.S.R. SHOULD BE DENIED HOST COUNTRY STATUS FOR THE 1980 OLYMPIC GAMES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am sending a letter today, signed by 40 Members of Congress, to members of the International Olympic Committee protesting the designation of Moscow as the host city for the 1980 Olympics.

I am sure you were distressed to read the recent reports of the hostile treatment which the Government of the U.S.S.R. and its citizens accorded the Israeli athletes participating in the World University Games recently held in Moscow.

It was reported that Red Army soldiers "ripped apart the Israeli flag during a basketball game between Israel and Puerto Rico;" allegedly this was the third incident in which Soviet soldiers harassed and jeered the Israeli team.

During the Israeli-Cuba basketball game, Soviet officials refused admission to Soviet-Jewish citizens who held tickets for the game. The Israeli press was barred from covering and broadcasting the games. And, in the course of the game, the Soviet citizens assembled in the arena subjected the Soviet-Jewish spectators and world sportsmen to cries of "kikes, kikes."

For a number of months, the Soviet Union has been seeking designation as host country for the 1980 Olympic games. Moscow is presently the only city known to be planning a bid to host the games of the XXII Olympiad in 1980. The bids are due by March 31, 1974, and will be reviewed in late May 1974.

In retrospect, that the Olympics were held in Nazi Germany in Berlin in 1936 was regrettable. And, while the West German Government was not at fault, the memory of the Munich Olympic tragedy in 1972 is still with us. Let us not make another mistake. We cannot ignore the fact that the Soviet Government itself is directly responsible for the incitement and encouragement of these anti-Semitic acts. And, this should make th U.S.S.R. ineligible to host the 1980 Olympics.

The following letter is being sent today to Lord Michael Killanin, president of the International Olympic Committee, and to Douglas Roby and Avery Brundage, the delegates from the IOC to the U.S. Olympic Committee:

> We, the undersigned, strongly oppose the designation of the Soviet Union as host country for the 1980 Olympic Games. The recent treatment of Israeli athletes and Soviet Jews during the World University Games in Moscow does not qualify the Soviet Union for that honor. The Olympic Games are supposed to promote the spirit of sportsmanship, fair play and brotherhood. This cannot be done in a country that has unabashedly shown that it does not understand nor practice these concepts.
>
> The recently concluded World University Games were to have served as a trial run for the 1980 Olympics. Indeed they have. They have demonstrated that Moscow is not the place for America's nor the world's athletes in 1980.

The letter was signed by Mr. ADDABBO, Mr. BADILLO, Mr. BIAGGI, Mr. BRASCO, Mr. BUCHANAN, Mr. CONLAN, Mr. COTTER, Mr. CRANE, Mr. DERWINSKI, Mr. DON EDWARDS, Mr. EILBERG, Mr. FORSYTHE, Mrs. GRASSO, Mr. GUNTER, Mr. HECHLER, Mrs. HECKLER, Mr. HOGAN, Mr. HOWARD, Mr. KOCH, Mr. LEHMAN, Mr. CLARENCE LONG, Mr. MCEWEN, Mr. MINISH, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. WILLIAM MOORHEAD, Mr. MORGAN MURPHY, Mr. PEPPER, Mr. PEYSER, Mr. PIKE, Mr. PODELL, Mr. RANGEL, Mr. RONCALLO, Mr. ROSENTHAL, Mr. ROUSSELOT, Mr. STEELE, Mr. WILLIAM STEIGER, Mr. TREEN, Mr. WALDIE, and Mr. WON PAT.

## SAKHAROV ON JEWISH EMIGRATION FROM RUSSIA

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, at an unprecendented news conference on August 21, Dr. Andrei Sakharov, the father of the Soviet H–bomb, in effect supported "the demand for freedom for Soviet citizens to emigrate or simply to travel abroad, without having to have relatives in another country and regardless of nationality or profession." Dr. Sakharov told Western reporters that "such a demand coming from the Western partners in detente could in no way be considered an infringement on the sovereignty of the Soviet Union."

As a result of that news conference, as well as for other criticisms of Soviet repression, Dr. Sakharov has been subjected to a vicious Soviet propaganda campaign. There is speculation that he will be arrested, or expelled from the Soviet Academy of Sciences.

I agree with the courageous Dr. Sakharov that the demand for freedom of movement as embodied in the Universal Declaration of Human Rights in no way infringes upon the internal affairs of any country. That is why I, along with more than 250 of my colleagues from both parties, have pledged to support the Jackson-Mills-Vanik amendment which would prohibit "most-favored-nation" trade relations with any country which denied its citizens the right to live in the country of their choice.

In regrettable contrast to Dr. Sakharov's statements is a resolution adopted by the participants of the Fourth Summit of Nonalined Nations which specifically endorsed Soviet restrictions on Jewish emigration. Such a resolution is in flagrant contradiction of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, and signed by many of those nations now supporting Soviet repression. One of the most basic rights proclaimed in that great declaration is "the right—of everyone—to leave any country, including his own, and to return to his country."

The transcript of Dr. Sakharov's interview is a historic document and deserves careful study by all those interested in the question of East-West détente and the preservation of basic human freedoms. The text of the interview, as published in the New York Post of August 23, 1973, follows:

### A TALK WITH SOVIET DISSIDENT ANDREI SAKHAROV

(By Edouard Dillon)

MOSCOW.—Prof. Andrei Sakharov, father of the Soviet H-bomb, held an unprecedented press conference on Tuesday with Western reporters in which he warned the West not to accept detente on Soviet terms. In the following exclusive interview conducted yesterday with Agehre France Presse Moscow bureau chief Edouard Dillon, Sakharov talks about the Soviet government's repressive treatment of dissidents such as himself and says the West ought to require the Soviet Union to allow its citizens to travel the world freely as a condition of detente.

Q: What attitude do you think the West should adopt at the conference on European security next month?

A: It goes without saying that we all hope for a reduction of tension and a relaxation of the danger of a thermonuclear war. That is incidentally what started the evolution of my own position since 1955, or to be more precise, the danger of nuclear tests, the armaments race . . .

I began to express open objections in 1958, in confidential letters to [then-premier Nikita] Khrushchev regarding nuclear tests. From 1961 on, my opposition became better thought out and I began to express it more forcefully in 1962.

In 1964, shortly before his fall, Khrushchev ordered documentation to be gathered compromising me following my speech on the genetics problem before the Academy of Sciences. That speech was considered an interference in politics.

On the occasion of the 23d party congress, I signed a collective letter against attempts to rehabilitate Stalin. In collaboration with a journalist I wrote an article, which was never published, on antimissile defense and the role of intellectuals in the modern world.

This led directly to my 1968 memorandum in which I gave precise expression to my thoughts on detente and on the hope of a convergence of the two systems—that is, the evolution of the socialist camp toward greater democracy and that of the Western camp toward socialism.

I still consider such a convergence the ideal solution. But to get down to realities, to what has been happening recently, in the last 18 months, reality is extremely complex and it is hard to define it or to evaluate it with precision.

We are watching a process of rapprochement which probably has very great perils hidden behind it. These dangers may show up in the way in which the authorities of our country may, and perhaps already can, exploit this rapprochement—not toward democratization but, on the contrary, in the direction of a greater rigidity.

The aim is apparently to strengthen economic and administrative structures. But regarding the problem of freedom of thought, the consequences that we see now are clearly negative.

Political reprisals have been getting worse in this country as far back as the beginning of 1972. Since January of that year, and especially in the Ukraine, political repression has been very hard. Several examples are known of absolutely draconian verdicts.

I would like to point to a new and very threatening trend—repeated arrests. In the '30s and '40s there was a term, "renewed,' used for people who as soon as they completed their prison sentences were arrested all over again, in fact for the same reasons as the first time, simply because the hardening of reprisals pushed Stalin to consider the completed prison term insufficient.

The case of dissident intellectual Andrei Amalrik caused a strong reaction around the world.

We are afraid that there are many more such cases of which we are unaware. The similarity of all this to the Stalin era makes us particularly sensitive to the phenomenon.

To come back to the question of whether or not all this is linked to the change in the international situation, I cannot get rid of the impression that the link exists, and I believe that it ought to show the Westerners that in accepting rapproachement they should be clearly aware that this rapprochement cannot be unconditional.

Otherwise, it will be just one more capitulation to our anti-democratic regime, an encouragement to its sins, and that will have particularly heavy and tragic consequences for the entire world situation.

It would lead to contaminating the whole world with the sickness that is devouring us.

The key demand that should be made from the start ought to concern ending the isolation of this country. This means the freedom to leave the country, the freedom to come back, the freedom to abandon or keep Soviet citizenship. It means the university recognized rights of man, which at present are not really applied in this country.

Our courts consider the attempt to leave the country an act of treason and punish it with 10 years in a camp. If the person has already been convicted of something, the sentence goes up to 15 years.

I believe that the demand for freedom for Soviet citizens to emigrate or simply to travel abroad, without having to have relatives in another country and regardless of nationality or profession, that such a demand coming from the Western partners in detente could in no way be considered an infringement on the sovereignty of the Soviet Union.

I believe that such a demand constitutes a fair and indispensable condition for rapproachment.

There can be no mutual confidence if one of the parties resembles an immense concentration camp. In the Soviet Union, prisoners call the camps they are locked up in "the small zone." The rest of the country is "the large zone."

I mentioned political repression. Perhaps it is harder for Westerners to do anything about that aspect of things. But I wouldn't want the problem ever to be forgotten, even for an instant. Don't let them stop trying.

Q. The objection that immediately occurs to a Westerner is that if we ask the Soviet Union for all that, the answer will be no. Must detente then be sacrificed?

A. So far the Soviet Union has not said no. It says: You are worrying about nothing, everything is fine in our country. That shows that the Soviet Union cannot give up the economic interconnection with the West. In this dialog the Soviet Union is the party with interests at stake.

And the Soviet Union bluffs a lot. I think it is very important for the Western countries to make the most of their possibilities in this situation, to use all the trumps in their hand.

But they should understand that they are dealing with an extremely shrewd party which has the advantage of a totalitarian regime. That is why the Western countries should put questions of principle on which they are all fundamentally agreed, above individual or group problems.

Q: What happened to that Soviet sailor who tried to leave a Soviet ship in American territorial waters to seek refuge on board an American ship?

A: The captain of the American ship agreed to give [the sailor] back to the Soviet ship, thinking that after all, they aren't savages, they won't hurt him. Then in plain sight of the Americans the sailor was beaten unconscious and his leg was broken.

Later he was sentenced to 10 years in a camp for high treason, even though he had not tried to escape from a war ship but from a merchant ship.

I wouldn't like to see our degree of civilization overestimated.

## SANITATION IN THE FISH INDUSTRY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today I am introducing legislation which would guarantee a vastly improved level of sanitation and wholesomeness in the U.S. fish industry, from the initial harvesting of fish by fishing boats through the retail sale of seafood products to the American consumer. Although the U.S. interstate meat and poultry processing industries are regulated by the Department of Agriculture, no such mandatory program exists for fish and seafood products. My bill would amend the Food, Drug and Cosmetic Act to give the Food and Drug Administration — FDA — the legislative authority to enforce mandatory hygienic regulation of the U.S. seafood industry.

Per capita consumption of fish in the United States is now 12.2 pounds annually; the incredible recent rises in the price of meats have forced many consumers to seek alternate protein sources, particularly fish, and, if they are to have a viable and safe choice in planning their marketing budgets, then effective surveillance over the fish industry is imperative. Fish is highly perishable, and it is contaminated easily if grown in impure waters or improperly handled, stored, or processed. Contaminated fish caused 400 cases of salmonella poisoning in the United States in 1966, and subsequent outbreaks of fish poisoning have received public attention. This legislation I am proposing is necessary to protect the health of the American consumer from the dangers presented by contaminated seafood.

The impetus for this bill stems from recent revelations of unhygienic and dangerous practices in the U.S. fish industry. In March 1973, the General Accounting Office issued a report to Congress entitled "Protecting the Consumer From Potentially Harmful Shellfish." This study of the national shellfish sanitation program—NSSP—a voluntary, tripartite cooperative program composed of Federal, State, and shellfish industry representatives, dealt with one important segment of the seafood industry and reported a severe potential health hazard to the American consumer. GAO found that 17 percent of all shellfish reaching consumers have excessively high bacterial counts and an additional number contain large amounts of metallic deposits. Even more alarming was the finding that 40 percent of the shellfish processing plants which were inspected maintained unacceptable levels of sanitation.

One of the NSSP's salient defects is its voluntary nature, and the GAO determined that the program is unable to supervise adequately the harvesting and processing of shellfish. My bill would convert this voluntary system into a mandatory program, toughening the sanitary requirements which harvesters and processors must observe, and increasing surveillance over the seafood industry.

The gravity of the total inadequacy of Federal health controls in the seafood industry is underscored by the fact that shellfish is the only fish product currently subject to any regulation and the existing shellfish program is largely ineffective.

The results of FDA inspection of conditions in the fish industry reveal widespread cases of inadequate processing, improper equipment, lack of essential machines, and poor quality control. Retail stores often sell refrozen and thawed fish as fresh fish. The FDA, under the Food, Drug and Cosmetic Act, possesses neither the legal authority to compel harvesters, processors, and retailers to meet adequate sanitation standards and maintain quality, temperature, and time controls on their vessels and in their establishments nor the administrative power to seize contaminated fish.

Fish consumers deserve the same safeguards that are presently afforded to purchasers of meat and poultry. About $175.3 million was appropriated in 1973 for mandatory meat and poultry inspection while only $3.3 million was appropriated for voluntary fish inspection. This imbalance is emphasized by the fact that the numbers of fish and meat processing plants in the United States are roughly equivalent.

My bill would improve the poor hygienic conditions currently prevalent in the fish industry by establishing a mandatory program of inspection and licensing.

The required Federal licensing of all fish harvesters, processors, and sellers would provide a method for determining the identities of businesses engaged in the fishing and fishery products industries and would consequently increase the efficiency and thoroughness of the inspection process. In order to obtain a license, the operator of a vessel or establishment would be required to submit to an intensive inspection by the FDA. Each license would be valid for 2 years and would be renewable following reinspection. Fish importers would also be subject to the licensing requirement, and they would be required to import fish and fishery products from countries which either permit American inspectors to examine their processing plants or which maintain a plan for the regulation of harvesting and processing equivalent to that established by this bill.

My proposal authorizes the FDA, with the assistance of fishery experts, to conduct a survey of the conditions in the fishing industry in order to institute appropriate standards for regulating fish. To insure the promulgation of effective standards, the FDA would subsequently consult with representatives of various Federal and State agencies, consumer and environmental organizations, and the commercial fishing industry.

The FDA standards would include criteria for determining the following: First, the metallic and coliform bacterial levels at which waters should be placed off limits to harvesters in order to prevent contaminated fish from entering the stream of commerce; second, employee education and training requirements which should be imposed in the fish industry; third, the types of equipment and warning devices considered necessary to maintain a proper level of sanitation and to guarantee adequate temperature, quality and time controls; fourth, the insurance needed to cover damages caused by the sale of contaminated fish; fifth, the type of grading system which can distinguish among various qualities of fish; sixth, labeling information to inform the consumer of the product's nature; seventh, the optimal type of fish container based on considerations of human health and the visibility of the product; and eighth, the length of time during which fresh and frozen fish may be safely stored, sold, and consumed.

Retail outlets are also included in the regulatory plan. In addition to the requirement of storing fish and fishery products at the proper temperature and in sanitary areas, retailers would be obliged to conspicuously label all thawed fish and to discard all frozen fish which has been thawed and refrozen. Refrozen fish can be dangerous to human health; thawed fish has a low protein content and is more readily perishable than fresh or frozen fish.

Since self-regulation by the fish industry has proved ineffective, mandatory surveillance over all phases of fish production constitutes an important element of this bill. FDA inspection of fishing vessels, processing establishments, and sales outlets would be authorized to ensure compliance with the applicable standards. Violation of the regulations could result in the denial or suspension of a license. Seizure of fish or fishery products which do not conform to the FDA regulations would be permitted after an opportunity for a hearing and judicial review. If a violation posed an imminent danger to the public health, the FDA would have the authority to seize the suspected goods prior to a hearing and, if necessary, prohibit the operator from selling any of his products pending a hearing. To safeguard the interests of the owner, a confiscated product could be processed to prevent spoilage in the event that scientific analysis indicated that the fish was uncontaminated.

Inspectors would also be empowered to detain, return, or destroy any contaminated foreign fish or fishery product. This provision prevents any inequity between the standards for domestic and imported fish.

To aid the FDA in determining the frequency with which inspections should be conducted, this bill would require licensees to maintain records relating to the origin of the fish and the conditions under which it was processed and displayed. A licensee would also be required to report all known incidents of contamination and poor processing practices to the FDA to facilitate its discovery and detention of impure products.

A uniform system for receiving, investigating, and answering consumer complaints would be initiated.

New civil penalties of up to $10,000 for each violation of a regulation would be instituted. These penalties would authorize the levying of fines in instances in which sanctions presently are applied infrequently due to the reluctance of prosecutors to seek and judges to impose the existing criminal penalties.

Any State which initiates an inspection and enforcement program at least equal to that which would be established by this bill would be permitted to supervise such a plan, subject to annual review by the FDA. This system would guarantee maintenance of an effective surveillance program and enable Federal inspectors to conduct better inspections in those other States which do not initiate fishery plans.

Appropriations for research to promote better methods for harvesting, processing, and displaying fish and fishery products would be made available. Too often, fish becomes contaminated as a result of antiquated machinery. This bill would allow the FDA to join with individuals and agencies engaged in fishery studies to improve the quality of fish consumed by the American public.

Thus, this bill would provide the FDA with the legal power needed to protect American consumers from poorly processed fish and to furnish them with the necessary information to make a sound choice when purchasing, and I urge the Congress to give it full consideration at the earliest possible opportunity.

I include the following section-by-section analysis:

### Section-by-Section Analysis

Section 1. Title.

Section 2. This section describes the Congressional findings which underlie the bill.

Section 3. This section amends Section 201 of the Federal Food, Drug and Cosmetic Act by adding definitions of terms used in this Act which relate to the fish industry.

Section 4. This section amends Section 301 of the Federal Food, Drug and Cosmetic Act prohibiting certain practices in the fish industry, and it amends Section 303 of that Act by increasing existing criminal financial penalties for violation of the Act and by adding new civil financial penalties for each such violation.

Section 5. This section amends Chapter IV of the Federal Food, Drug and Cosmetic Act as follows:

Section 410(a) authorizes the Secretary of H.E.W. to promulgate regulations based upon a study of the fishing industry within six months after the appropriation of necessary funds.

Section 410(b) sets forth the standards which would govern the operation of the fishing industry:

(1) fish and fishery products must not be adulterated;

(2) vessels and establishments must be sanitary;

(3) fish and fishery products must be sanitary;

(4) the sale of fish and fishery products beyond a specified expiration date and the sale of refrozen fish and fish products are prohibited;

(5) all fish and fishery products shall be graded based upon the quality of the product involved;

(6) packaged fish and fishery products must be placed in approved containers;

(7) warning devices must be attached to processing equipment to alert the owner of any malfunctioning of such equipment;

(8) employees must meet the educational and training requirements established by the Secretary;

(9) owners of fish establishments must purchase insurance against damages caused by the improper harvesting, processing, displaying or selling of fish and fishery products; and

(10) labels on fish and fishery products must include such consumer information as the date after which the fish or product may not be sold, the grade, name and composition of the fish or product, and identification of all thawed fish and products.

Section 410(c) requires the Secretary to consult with interested agencies and groups before he may amend sanitation standards, and it requires the owner of a fishing vessel or establishment to obtain his initial license within 6 months (or a year if the Secretary determines more time is needed) after the promulgation of the regulations and biannually thereafter.

Section 410(d) authorizes the Secretary to grant licenses 9 months after the appropriation of funds and sets forth the conditions which must be fulfilled by an applicant for a license before it can be issued or renewed by the Secretary:

(1) an applicant must show the Secretary, by permitting a thorough inspection of his vessel or establishment, that he is able to comply with the applicable standards of subsection (b);

(2) an applicant must furnish the Secretary with the name of his business, the locations of his establishments, and the docking places of his vessels;

(3) an applicant must provide the Secretary with a listing of all the fish and fishery products that he harvests, processes, displays or sells; and

(4) an applicant must inform the Secretary of the areas from which he harvests fish and the methods he uses to process, displays and sell fish and fishery products. Section 410(e) provides the applicant with the opportunity for a hearing and judicial review should his application for a license be denied.

Section 410(f) requires a licensee to:

(1) comply with sanitation standards and the requirements of his license;

(2) hold back from public sale any fish or fishery products which he believes was improperly harvested, processed, or displayed and to report such action to the Secretary; and

(3) use a label and official mark prescribed by the Secretary.

Section 410(g) provides that the Secretary may suspend a license after an opportunity for a hearing and judicial review, or without such an opportunity, subject to an injunctive proceeding, when the licensee refuses to permit an authorized inspection of his vessel or establishment or where a sanitary violation involves an undue risk of imminent harm to consumers. The Secretary may reinstate a license upon determining that the holder of a suspended license will comply with the applicable regulations.

Section 410(h) provides that a license may be altered, transferred or surrendered only upon agreement by the Secretary and 30 days' public notice.

Section 410(i) instructs the Secretary to coordinate his efforts with those of the State fish regulating agencies and to establish a coordinated F.D.A. program for gathering, investigating and responding to consumer complaints.

Section 410(j) requires the Secretary to authorize his inspectors to inspect the vessels and establishments of licensees and of applicants for licenses to determine whether they conform to prescribed standards.

Section 410 (k) empowers the Secretary to provide for the sampling of fish and fishery products during an inspection, and to segregate, subject to an opportunity for a hearing and judicial review, any product believed to be adulterated and to destroy any adulterated product which cannot be purified by reprocessing.

Section 410 (l) sets forth conditions, enforceable 6 months after the granting of licenses, for the importation of fish and fishery products:

(1) fish and fishery products may not be imported from a foreign establishment if they do not meet prescribed sanitary standards;

(2) fish and fishery products may be imported from establishments in those countries which maintain fish inspection programs at least equal to those established by this Act, provided that the foreign program is reviewed at least annually by the Secretary;

(3) all imported fish and fishery products which violate sanitary standards and regulations shall be destroyed or returned to the country of origin, unless the defect in the nonconforming article can be remedied;

(4) to facilitate enforcement of this Act, certain ports may be designated, based upon considerations of commercial need, for the importation of fish and fishery products;

(5) a person who purchases foreign fish or fishery products not in excess of 50 pounds for his own or for his household's consumption is not subject to the provisions of this section and a person who catches fish for sport may, at the Secretary's discretion, also be exempted from these regulations; and

(6) the Secretary is required to report annually to Congress on the administration and enforcement of the regulations concerning the importation of fish and fishery products.

Section 410 (m) establishes standards of adulteration for fish and fishery products:

(1) within 6 months after the appropriation of funds, if a State fails to designate areas of water restricted to harvesters based upon criteria promulgated by the Secretary and subject to his approval, the Secretary, within 9 months after the appropriation of funds, shall determine which waters are unsanitary;

(2) fish harvested from such impure waters are considered adulterated; and

(3) the States and the Secretary are empowered to redesignate areas of water to conform to approved sanitary standards.

Section 411(a) authorizes the Secretary to require licensees to maintain, and to permit inspectors to examine, records concerning the disposition of fish and fishery products under their control and the sanitary, quality, temperature and time counsels observed by them.

Section 411(b) authorizes the Secretary or his inspectors to detain for evaluation by the appropriate Federal or State authority, subject to an opportunity for a hearing and judicial review, any fish or fishery product that is adulterated or misbranded or that was improperly harvested, processed, displayed or sold.

Section 411(c) exempts, subject to termination by the Secretary, any individuals who harvest or process fish or fishery products for their own use or for members of their households' consumption.

Section 411(d) prohibits the sale of any fish or fishery product not intended for use as human food, unless it is so identified or has been denatured.

Section 412 provides an opportunity for a hearing and judicial review for any person adversely affected by a ruling of the Secretary.

Section 413 authorizes the Secretary to issue subpenas requiring the attendance and testimony of witnesses and the production of relevant documentary or other evidence to facilitate an investigation.

Section 421 empowers the Secretary to cooperate with a State agency to develop State fish and fishery product surveillance programs which are at least equal to those established by this Act, to develop a system of classification of shellfish growing areas, and to provide the State agency with advisory, technical, laboratory and financial assistance if the Secretary approves the State surveillance and enforcement plan.

Section 422(a) requires the Secretary to designate in the Federal Register, subject to the provisions of this Act, any State which did not develop or is not enforcing requirements at least equal to those of this Act, but permits the Secretary to withdraw such designation if the State develops and enforces an acceptable plan.

Section 422(b) empowers the Secretary to redesignate any State upon 30 days' notice to the Governor and publication in the Federal Register if that State no longer effectively enforces its regulations governing the fishing industry.

Section 422(c) mandates an annual F.D.A. review of the requirements and enforcement procedures of all State plans relating to the harvesting, processing, displaying and selling of fish and fishery products.

Section 422(d) requires the Secretary to inspect biannually, for the purpose of relicensing, vessels and establishments in any State conducting its own fish surveillance program.

Section 423 prohibits the States from imposing requirements different from those established by this Act.

Section 431 authorizes the Secretary to enter into cooperative agreements with other Federal agencies and State departments to facilitate the enforcement of this Act.

Section 432 authorizes the Secretary to conduct research, either directly or through grants, to improve sanitation practices and methods of surveillance in the fishing industry.

Section 433 authorizes the Secretary to appoint a national advisory committee, composed in part of representatives of consumer and environmental groups, to advise him on matters relating to Federal and State fish regulatory programs.

**Section 6(a).** This section amends Chapter VIII of the Federal Food, Drug and Cosmetic Act as follows:

Section 802(a) authorizes the Secretary to establish regulations for the inspection of foreign fish processing plants and to notify the Secretary of the Treasury if an inspector is barred from an establishment in a country not enforcing regulations equivalent to the provisions of this Act.

Section 802(b) requires the Secretary of the Treasury, upon receiving notice of noncooperation from the Secretary of H.E.W., to prohibit the importation of fish and fishery products from:

(1) a foreign country which neither has an approved fish surveillance program nor permits inspectors to inspect its fish processing establishments;

(2) a foreign establishment which does not permit inspection of its facilities; and

(3) a foreign establishment which fails to meet the required standards promulgated by the Secretary.

Section 802(c) authorizes the Secretary of the Treasury to enforce the provisions of section 802.

Section 802(d) provides that any fish or fishery products imported into the United States in violation of the regulations issued under this section shall be deemed in violation of the Tariff Act of 1930 and subject to forfeiture.

Section 6(b). This section's provisions shall become effective six months after the promulgation of standards under section 410(b), unless the Secretary finds that six more months is needed.

Section 7(a). This section amends Section 4 of the Fish and Wildlife Act of 1956 by increasing the amount of money available for fisheries loans to $35 million and making owners of establishments, vessels and gear eligible for such loans.

Section 7(b). This section amends Section 7(a) of the Fish and Widlife Act of 1956 by authorizing the National Marine Fisheries Service of the Department of Commerce to provide technical assistance to the commercial fishing industry to improve its standards of sanitation and its quality, temperature and time controls.

Section 8. This section conforms other parts of the present Food, Drug and Cosmetic Act, the Fair Packaging and Labeling Act, the Public Health Service Act and other Acts to this legislation and provides that the requirements of this Act shall not exempt any person from liability under State or common law.

Section 9. This section authorizes the appropriation of funds for the effectuation of the provisions of this Act.

## PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, yesterday I was absent on account of official business in my district and missed rollcalls No. 442 and No. 443, the first relating to the contempt citation against Gordon Liddy and the second relating to the little cigar bill. If I had been present I would have voted aye on rollcall vote 442 and on rollcall vote 443.

## STALINISM AT HOME AND DÉTENTE ABROAD

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PODELL. Mr. Speaker, I have taken this floor many times to denounce the anti-Semitic policies of the Soviet Government and to urge freedom of emigration and freedom of religion for all. The harassment of Israeli athletes and Jewish spectactors at the World University games in Moscow dramatized the Kremlin's attitude. But anti-Semitism is only one facet of discrimination. Repression feeds upon itself and Russia today faces the threat of a new Stalinism which could terrify the people of the Communist world and destroy the growing détente between our countries.

The current attacks against Andrei Sakharov and Aleksandr Solizhenitsyn, if successful, could signal the end for all internal dissent. For years these two men have courageously spoken out for human rights; sheltered from government displeasure by their great prestige. Solzhenitsyn is Russia's greatest living writer and Sakharov her most prominent physicist. Now even their privileged positions are crumbling.

On August 21, Sakharov warned against a reconciliation between the great powers which came at the expense of basic reforms in the Soviet Union. A wave of denunciations by his peers in the Academy of Sciences and other leaders in education and the arts has followed. These denunciations are likely to provide the foundation for a political trial.

This organized campaign is reminiscent of Stalinist era tactics when the intellectual community was forced to join the ranks of the accusers or be themselves attacked in the government search for scapegoats. It is ironic that the weapon for stifling dissent within should be the policy of cooperation with the community of nations without.

While the economic and political benefits of detente have brought about a shift in Soviet foreign policy, the fear that contact with the West will create a deep change in the country's hopes, attitudes, and expectations has driven the leadership to a hard domestic line for maintaining the status quo.

For years Soviet rhetoric assured the world that they had no quarrel with the American people but only with the American Government. Present policy reverses this line. The Kremlin is eager to trade, bargain, and exchange information with the American Government but it demands protection from the American people and apparently from their own population as well.

The detente they envision is not one where the two peoples will be able to deal with each other openly and freely but through the intermediaries of their respective governments.

America must heed Mr. Sakharov's warning to his fellow countrymen. We must make it clear to the Soviet leadership that we will not accept a reconciliation born out of blood and silence. Unfortunately our own administration has been all too quick to adopt the methods of the Soviet Government by stressing secret negotiations and warning the American people and the Congress not to take independent action or raise public outcries which might jeopardize trade and military arrangements. Rather we are told to trust in the good offices of the administration.

Those who continue to speak out in Russia face social ostracism, removal from their professions, and, ultimately, imprisonment. Their courage demands our support. A concerted outcry will bolster the dissidents and persuade the Soviet Government that they must deal with a concerned American public.

Reconciliation is necessary and long overdue but it must be meaningful and productive.

## THE HIGH PRICE OF BAGELS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PODELL. Mr. Speaker, the residents of New York's 13th Congressional District having been having a rough time trying to make ends meet under the hardships of President Nixon's economic policies. Rents are at an all-time high; meat has either disappeared from the stores or else carries a prohibitive price tag; and wages and pensions have failed to keep pace with the skyrocketing cost of living.

The most recent casualty of phase IV is a consumer item that is very popular in my district—the bagel. For those who may be unfamiliar with this product, a bagel is a hard, glazed doughnut-shaped roll made of flour and water. It is quite delicious, especially when spread with cream cheese and smoked salmon.

For the past few years, the price of bagels had stabilized at 8 to 10 cents apiece. Then Mr. Nixon arranged for the sale of one-quarter of America's wheat harvest to the Soviet Union, giving inside information to a few speculators who were thus able to make a fortune on the deal. Finally, and incredibly, the President removed all price controls on wheat. The result was a substantial increase in the cost of flour. As a result, my constituents are now paying 12 to 15 cents for a bagel, an increase of between 20 to 50 percent.

I would like to emphasize that the administration's wheat policy is the sole reason for these increases. Labor costs and bakers' profits have not increased. The blame lies squarely with President Nixon and Secretary of Agriculture Butz, who are philosophically opposed to any sort of economic controls, however desperately they are needed, and who have used these hard times for the economic advantage of their corporate friends. The noted economist John Kenneth Galbraith recently remarked that having these men administer price controls is analogous to putting the Paulist Fathers in charge of a birth control clinic.

When will the Nixon administration start thinking about the American consumer? The Russian wheat deal and the lifting of economic controls made headlines for Mr. Nixon and millions of dollars for his friends in the business community, but the average consumer in Brooklyn was on the losing end of the deal. What is needed is a complete redirection of our national priorities in favor of our own citizens. Much more is at stake than merely the price of bagels. The President's electoral mandate gave him the responsibility to represent the interests of all the people, not just the wealthy few. It is time for Mr. Nixon to wake up to the realities of the consumers' nightmare, and by his actions to justify the faith placed in him by so many Americans.

## TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the Committee on Education and Labor has been receiving a great many inquiries from congressional offices concerning the recently announced allocations to local school districts under title I of the Elementary and Secondary Education Act. Since thousands of school districts have been notified by the U.S. Office of Education that they are due to suffer severe cutbacks in funding. I am taking the floor today to urge prompt action by the Congress to avert these cutbacks and the elimination of local education programs which would subsequently result.

The reason for these announced cutbacks is that Congress did not include a local educational agency "hold harmless" provision in either the House-passed Labor-HEW appropriations bill or in the continuing resolution for fiscal year 1974. That provision would have guaranteed every local school district the same level of funding under title I as it had last year.

We must include this local educational agency "hold harmless" in the appropriations bill and in the continuing resolution for fiscal year 1974 because of the inequitable distribution of funds resulting this year under the title I formula. That formula, which distributes funds to local school districts according to their numbers of poor children, has become extremely outmoded within the past few years.

The poor children counted for purposes of the title I formula are those from families with incomes under $2,000 a year according to the census and those from families with incomes over $2,000 a year from AFDC payments. The AFDC part of the formula was included in 1965, when ESEA was written, in order to serve as a minor undater, on an annual basis, of the more reliable and more uniform decennial census data. But that originally minor part of the formula has grown over the years to such an extent that it is now the major factor in the formula. In 1966, of the 5.5 million poor children counted under title I, only 600,000 were AFDC children. This year, fiscal 1974, of the 6.2 million title I children, more than 3,600,000 will be AFDC children. This development has skewered the title I formula toward the wealthier States since those States are the ones able to afford to make the high AFDC payments which qualify them to count these children under title I.

The Committee on Education and Labor and our companion Senate committee are now engaged in rewriting the title I formula to remove some of the inequities which have resulted over the years. But the committees and the Congress cannot possibly finish work on this updating until November or December at the earliest. Therefore, the appropriations bill and the continuing resolution for fiscal 1974 must provide a local educational agency hold harmless provision to safeguard local programs for this school year.

The House-passed Labor-HEW appropriations bill included a State hold harmless provision; but, because the title I formula distributes funds directly to the local school district level, a State hold harmless simply is not adequate to safeguard local programs. In fact, a State hold harmless provision without a local educational agency hold harmless results in radical shifts in funding within States so that the wealthier areas of the States gain funds at the expense of the poorer areas. This again is due to the fact that even within States it is the wealthier areas which are able to afford higher AFDC payments and therefore which gain under the present title I formula.

The Senate Labor-HEW Appropriations Subcommittee began work this week on the Labor-HEW appropriations bill. It is my hope that the members of that committee will recognize the need for a local educational agency hold harmless and include it in their version of the appropriations bill.

I am including for the record a copy of the statement which I presented to the Senate Appropriations Subcommittee on July 24. This statement explains in detail the need for a local educational agency hold harmless provision. I am also including for the record several letters which I have received from local school administrators describing the problems facing their school districts if no local educational agency hold harmless provision is included in the appropriations bill.

The articles follow:

### STATEMENT OF CONGRESSMAN CARL D. PERKINS, CHAIRMAN, HOUSE EDUCATION AND LABOR COMMITTEE, BEFORE THE SENATE LABOR-HEW APPROPRIATIONS SUBCOMMITTEE

JULY 24, 1973.

Mr. Chairman, I appreciate very much being given the opportunity to appear today before this Subcommittee which has been so instrumental in expanding the educational opportunities available to the American people.

I appear today in strong support of the education appropriation bill passed by the House of Representatives on June 26th. In light of the President's proposal for a drastic reduction in funding, I believe that the House Appropriations Committee did an excellent job in attempting to maintain the forward thrust of Federal educational programs.

The statement which I submitted to the

House Labor-HEW Appropriations Subcommittee when I appeared before it this May 14th supports the action subsequently taken by that committee and by the House. I, therefore, ask that it be made a part of the record of these proceedings.

My major purpose in appearing before you today is to emphasize the importance of the State "hold-harmless" provision for Title I of the Elementary and Secondary Education Act as it appears in the House bill, and to urge the addition of a local educational agency "hold-harmless" provision.

I make this request with the greatest urgency. Unless a local educational agency "hold-harmless" provision is incorporated in the appropriations bill, a distorted distribution of funds will occur within each State *even though* the State is receiving the same amount of Title I funds. The school districts suffering the greatest hardship will be those least able to cope with it—the poorest school districts in the country.

The basic cause of this problem is the imbalance in the Title I formula which has resulted between the statistics used from the census and those used from the AFDC program.

Each local educational agency in the country receives an allocation under Title I based on the number of poor children within its school district. These poor children were defined in 1965—when ESEA was enacted—as those from families with incomes under $2,000 a year according to the census and those from families with incomes over $2,000 from AFDC payments.

A family income of $2,000 was an accurate indicator of poverty in 1965. But I am sure that nobody would argue that it is an accurate definition of poverty today.

Under the law, however, we are required to use that definition in determining this year's allocations. And we are also required to count the children in each school district from families with incomes over $2,000 from AFDC payments.

The AFDC part of the formula was included in the original Act to serve as an updater on a minor basis for the 1960 census data. The decennial census data, because of its national uniformity and accuracy, was meant to be the basic means for the distribution of funds.

The AFDC part of the formula, however, has created a distortion in the program. In 1965 there were only 600,000 of the 5.5 million Title I children who were counted from AFDC. By 1973 the AFDC program had grown so tremendously that there were 3.2 million AFDC children counted. During this present school year AFDC children will probably total 3.6 million and will far exceed the number of children counted under the new census. (See table.)

This growth in the numbers of AFDC children counted under Title I has occurred in the wealthier areas of the country. According to testimony presented to the House Education and Labor Committee by the Department of Health, Education, and Welfare, AFDC is not an accurate indicator of rural poverty or of poverty existing among various ethnic groups, such as the Spanish-speaking.

From my personal experience I know that there are just as many poor children in my area of the country as there were in 1960 or 1965. But AFDC data does not show that poverty, and the $2,000 poverty definition used for the census data is so out-of-date that it too does not accurately depict the extent of that poverty.

The House Committee on Education and Labor is now in the process of updating the definition of poverty contained in the 1965 law. I am hopeful that the Committee and the Congress will accept a revision which will be in accord with our original intention in enacting ESEA. But we need a local educational agency "hold-harmless" provision for this year's appropriation so that no local educational agency will lose funds while we are in the process of updating that law.

If Congress enacts a State "hold-harmless" provision only, such as the one contained in the House bill, it will not be adequate to save local school districts from drastic and unwarranted cutbacks. With your permission, I will use my own State of Kentucky as an example.

The House bill provides that Kentucky is to receive the same amount in Title I funds for grants to local educational agencies as it received during fiscal year 1972. This provision was included because Kentucky this year has at least the same, and maybe a greater, percentage of poverty as it had in 1965 when we wrote the Act. Therefore, Kentucky should be held at the same level of funding as it had last year until we can update the formula.

The following facts support this conclusion. Kentucky had 193,559 children from families with incomes under $2,000 a year according to the 1960 census, but only 68,780 according to the 1970 census, a decrease of 64.46 percent. However, if we use the official definition of poverty adopted by the Federal Government in 1969, Kentucky now has 208,462 poor children, an increase of 7.69 percent over the 1960 census.

Due to the peculiar nature of the Title I formula, however, a State "hold-harmless" provision, giving Kentucky the same amount it received last year, will not be adequate to guarantee continued support for local programs. The Title I formula is unique among Federal-State education programs in that it distributes the funds down to the county level. The result of this type of formula will be that even though Kentucky stands to receive this year the same amount of funds under the House bill as it received in 1972, there will be tremendous fluctuations within the State.

These fluctuations will occur because census data will be much less important and AFDC data will be much more important in determining allocations to local educational agencies. Since there has been this statistical decrease of 64.46 percent in the children from families under $2,000 according to the census, and since the total number of AFDC children will be the same or greater within Kentucky, the degree to which a school district in Kentucky received Title I funds because of AFDC children becomes tremendously important in determining its new allocation.

Generally the poorer, rural areas did not, and do not, have many AFDC children while the urban areas account for many such children. Therefore, there will be a tremendous cutback in funds in the rural areas and a huge increase in urban areas.

Perry County, for example, received $712,952 last year, but it stands to receive only $546,797 this year even though the House bill contains a State "hold-harmless" provision. Perry County had 4.669 children from families under $2,000 according to the 1960 census, but it had only 1,072 such children under the 1970 census. But if Title I used the official Federal definition of poverty, Perry would be credited with 5,250 children, an actual increase over the 1960 census.

It does not make much sense to me to cut Perry County's Title I funds by 25 percent for one year while we are working on updating the Title I formula.

These tremendous fluctuations in funding can be remedied for this year by providing that no local educational agency will receive less than it received during fiscal year 1973. This one-year provision will give the authorizing committees and the Congress the time needed to revise the basic law. Therefore, I urge this Subcommittee to expand the State "hold-harmless" concept contained in the House bill to its logical conclusion by guaranteeing each local educational agency the same amount of money it received last year.

I am urging a 1972 State "hold-harmless" and a 1973 local educational agency "hold-harmless" because I believe that it is a reasonable compromise. The State provision will keep the poorer States at the level of funding they received in 1972 when the appropriation for Title I was $1.585 million, while spreading the additional $200 million contained in this year's House-passed appropriation bill among the wealthier States.

The 1973 local educational agency "hold-harmless" will guarantee the poorer areas of many States the same level of funding they received last year while spreading any increased funds among the relatively better-off areas.

I would like Dr. Lyman Ginger, the State Superintendent of Instruction in Kentucky, to explain the effects of this proposal in my State. I believe that the experience there would be typical of many States.

The specific language which I urge the Subcommittee to insert in the appropriation bill reads as follows:

"Provided further, that the grant to any local educational agency under title I, part A shall not be less than the grant made to such agency for fiscal year 1973."

Turning to the area of postsecondary education, Mr. Chairman, I wish to again applaud the House Appropriations Committee for having put together a measure which more realistically reflects the needs in postsecondary education than does the Administration's request.

I do feel, however, that there are certain selected areas where still further corrections are needed. Of greatest importance is the provision of adequate funding for the basic opportunity grant program. I wish to applaud the Administration's request for full funding of BOGs. I am convinced that it is this program which holds the greatest promise of meeting the often-stated Congressional goal that no student be denied a higher educational opportunity because of financial barriers.

Properly funded and efficiently administered, the basic grant program will provide all needy students with assistance in a meaningful, equitable and timely manner. It is my hope that the appropriations measure approved here in the Senate will be at the level of the Administration's request for $959,000,000. If this is not possible, I strongly urge that funding be much closer to the Administration's request than the $440,500,000 proposed in the House-passed bill.

Finally, Mr. Chairman, neither the Administration request nor the House-passed bill would provide funds for the new institutional aid program, the career and occupational education program, and the community college program. I will not discuss this matter in detail, but I simply want to reaffirm my recommendation to the House Appropriations Committee which stressed the importance of providing initial funding for these three programs.

Thank you very much for allowing me to appear today.

INCREASE IN AFDC CHILDREN COUNTED UNDER TITLE

| States | AFDC children fiscal year 1966 | | AFDC children fiscal year 1973 | | Increase from fiscal year 1966 to fiscal year 1973 |
|---|---|---|---|---|---|
| | Actual number | Percentage of total [1] | Actual number | Percentage of total [1] | |
| Alabama | 0 | 0 | 1,074 | 0.4 | 1,074 |
| Alaska | 795 | 14.9 | 4,723 | 46.6 | 3,928 |
| Arizona | 5,603 | 12.6 | 17,624 | 30.3 | 12,021 |
| Arkansas | 0 | 0 | 0 | 0 | 0 |
| California | 102,073 | 33.1 | 560,993 | 70.4 | 458,920 |
| Colorado | 7,303 | 17.9 | 37,295 | 51.0 | 29,992 |
| Connecticut | 7,595 | 26.8 | 47,116 | 65.9 | 39,521 |
| Delaware | 0 | 0 | 5,711 | 40.2 | 5,711 |
| Florida | 0 | 0 | 25,472 | 14.8 | 25,472 |
| Georgia | 0 | 0 | 45,995 | 15.9 | 45,995 |
| Hawaii | 2,413 | 21.5 | 13,902 | 60.2 | 11,489 |
| Idaho | 2,403 | 16.4 | 6,570 | 34.0 | 4,167 |
| Illinois | 82,499 | 35.9 | 270,392 | 62.9 | 187,893 |
| Indiana | 3,515 | 4.4 | 51,115 | 38.1 | 47,600 |
| Iowa | 9,265 | 11.4 | 29,074 | 28.1 | 19,809 |
| Kansas | 5,400 | 12.0 | 23,011 | 35.2 | 17,611 |
| Kentucky | 0 | 0 | 32,334 | 14.1 | 32,334 |
| Louisiana | 192 | .1 | 18,778 | 8.4 | 18,586 |
| Maine | 2,725 | 12.9 | 19,730 | 49.1 | 17,005 |
| Maryland | 9,420 | 14.9 | 59,407 | 49.2 | 49,987 |
| Massachusetts | 16,817 | 26.3 | 118,674 | 69.4 | 101,857 |
| Michigan | 21,029 | 14.4 | 194,106 | 59.4 | 173,077 |
| Minnesota | 11,678 | 13.1 | 45,154 | 35.4 | 33,476 |
| Mississippi | 0 | 0 | 0 | 0 | 0 |
| Missouri | 11,297 | 8.3 | 37,152 | 22.3 | 25,855 |
| Montana | 1,477 | 9.6 | 5,575 | 27.4 | 4,098 |
| Nebraska | 664 | 1.9 | 15,821 | 30.8 | 14,911 |
| Nevada | 675 | 17.0 | 2,427 | 38.4 | 1,752 |
| New Hampshire | 1,052 | 15.1 | 6,698 | 47.4 | 5,646 |
| New Jersey | 25,496 | 29.9 | 170,877 | 71.4 | 145,381 |
| New Mexico | 4,315 | 10.3 | 13,975 | 26.5 | 9,660 |
| New York | 99,890 | 33.3 | 565,968 | 69.7 | 466,078 |
| North Carolina | 3,515 | 1.1 | 39,056 | 10.6 | 35,541 |
| North Dakota | 1,775 | 7.1 | 5,150 | 17.6 | 3,375 |
| Ohio | 25,472 | 14.4 | 137,774 | 45.7 | 112,302 |
| Oklahoma | 11,168 | 11.6 | 30,372 | 25.6 | 19,204 |
| Oregon | 6,288 | 20.8 | 26,326 | 48.7 | 20,038 |
| Pennsylvania | 60,258 | 25.6 | 246,945 | 56.3 | 186,687 |
| Rhode Island | 4,007 | 24.9 | 18,308 | 58.3 | 14,301 |
| South Carolina | 0 | 0 | 4,561 | 2.2 | 4,561 |
| South Dakota | 1,528 | 4.8 | 6,537 | 16.8 | 5,009 |
| Tennessee | 0 | 0 | 0 | 0 | 0 |
| Texas | 0 | 0 | 79,326 | 16.4 | 79,326 |
| Utah | 2,088 | 15.3 | 15,058 | 54.2 | 12,970 |
| Vermont | 580 | 7.5 | 6,325 | 42.8 | 5,745 |
| Virginia | 3,088 | 1.8 | 50,142 | 22.3 | 47,054 |
| Washington | 9,842 | 23.0 | 53,427 | 57.9 | 43,585 |
| West Virginia | 82 | .1 | 14,553 | 11.8 | 14,471 |
| Wisconsin | 10,444 | 15.2 | 46,691 | 41.7 | 36,247 |
| Wyoming | 661 | 10.9 | 2,213 | 28.0 | 1,552 |
| District of Columbia | 5,900 | 28.4 | 39,640 | 71.4 | 33,740 |
| Total | 582,288 | 10.5 | 3,269,192 | 38.6 | 2,686,904 |

[1] Percentage of total title I children within the State which are in families with an income above $2,000 from AFDC.

MENIFEE COUNTY SCHOOLS,
*Frenchburg, Ky., July 19, 1973.*
Hon. CARL PERKINS,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN PERKINS: I am writing you to notify you of the decrease in Title I funds in the Menifee County Schools for 1974.

In the 1960 Census the Menifee County children in the low income group was 696. In the 1970 Census according to figures received by the State Department of Education we only had 68 children in the low income group. The total eligible children in Title I in 1973 was 786. The total eligible children for Title I now is 118. This decreases our funds from $110,181.00 to $41,202.00 for the 1974 year.

I believe there has been a mistake because the economic status of Menifee County has not improved enough to cause such a decrease of children in the low income group. Please investigate to see if there is not a mistake in the number of children in the low income group in Menifee County.

We have had some economic improvement here but definitely not much.

I have been working with these children for the past 25 years and I know each of these children individually and their financial condition. Income in this county is low.

We have not had a decrease in school population.

Will you please check the 1960 Census for low income children and the 1970 Census for low income children. I don't believe it went from 696 to 68 as sent to State Department of Education, Frankfort, Kentucky, by Health, Education and Welfare of Washington.

Sincerely,

GEORGE ALICE MOTLEY,
*Superintendent.*

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GREATER LATROBE
SCHOOL DISTRICT,
*Latrobe, Pa., August 7, 1973.*
Hon. CARL D. PERKINS,
*Congress of the United States, House of Representatives, Chairman of the Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.*

HON. CARL D. PERKINS: Funds for Title I of the Elementary and Secondary Education Act have recently been appropriated for the Congress on the basis of a "hold-harmless" provision which guarantees that every state will receive as much funding in fiscal 1974 as it did in fiscal 1973. In fact, many states are receiving somewhat more in fiscal 1974 than they did in fiscal 1973. The problem which presents itself to those of us at the school district and county level is one which is closely associated with the 1970 census. As of fiscal 1973–74, the 1970 census was used in determining the number of eligible Title I students in a school district. Using this figure a county such as Westmoreland County in Pennsylvania receives a severe slash in the size of its entitlement and, in particular, the Greater Latrobe School District suffers with many of its neighbors to the extent of a ⅓ to ½ cut in entitlement.

Such severe decreases are serious enough in terms of the cost in human resources they become particularly serious when we recognize the fact that the school districts were given no notice of such decreases in funding. As I am sure everyone knows, a school district, much as any other governmental body must prepare its budget for the fiscal year in accordance with the provisions in the Pennsylvania School Code. With nothing more to go on than rumor we had to proceed with the idea in mind that the program would be funded. In fact, we received verbal reassurance that Title I funds would be equal to or slightly more than the preceding year. Many newsletters out of Washington to which we subscribed also testified to this effect. Thus, we went ahead with at least tentative plans to receive funds which would be equal to our preceding year's entitlement.

It is with a great deal of alarm that we view the knowledge that we were made aware of on Thursday, July 26, 1973. This news conveyed to us the rather startling knowledge that almost all school districts in Westmoreland County receive rather severe cuts based upon the 1970 census, and many school districts would receive between 40 and 50 per cent cuts in their Title I allocations.

Upon receipt of this news I immediately called the Bureau of Statistics in Harrisburg, and the decreased number of Title I children was verified by that office. The case in point, our school district, received a total decrease in eligible Title I children of 303 youngsters. This is broken down in the following manner: 1972–73 Title I students included 445 students from families earning less than $2,000, 259 students from families on AFDC, and 7 students from foster homes for a total of 711; 1973–74 figures were altered drastically in that we received credit for only 152 students from families earning less than $2,000, and while we have no definite knowledge about the other categories, Westmoreland County supposedly lost 325 students from AFDC roles. This does not seem consistent with the economic picture which has existed in Westmoreland County over the past several years, particularly in view of significant recessions in such as the tool steel industry. Many sources have reported widespread concern about the dates reflected in the 1970 census with it generally being considered very much less than reliable. In addition, it is very doubtful that the present poverty level of below $2,000 is anywhere near realistic. Many are saying there will be a change to $4,000 which would be very much desired.

Of greatest concern to all those who care about the needs of economically, educationally, and culturally deprived students is the fact there is not always a high correlation between the economically deprived and the culturally and educationally deprived. With a decrease, for example, of 303 eligible students in a given school district such as ours it becomes apparent that the district would loose in the neighborhood of $30,000 of Title I monies. Not only would such monies be lost, but they would be lost after the budget was built which would certainly create a situation in which those monies were being depended upon to provide services to youngsters.

Local school districts, of course, are encountering great difficulty in raising funds for a truly significant educational effort. They are becoming increasingly dependent upon such monies as Title I for the vital kinds of individualized programs which will help the target youngsters. It has been increasingly difficult to attempt to plan for the needs of these students when funding is consistently in doubt and always follows the closing of the local budget. Such uncertainties make it difficult to plan to use such monies well and, in particular, it puts the school district in the position of contracting to hire certain kinds of specialists for very vital positions and then being in doubt as to whether or not they are going to be able to afford to pay for them. It is very well to say the districts should fund all of these programs, but as is always the case local effort can raise only so much money and must consistently depend upon other funding sources for programs to meet highly specialized needs of deprived students.

It is my feeling that if the states can benefit from a "hold-harmless" provision assuring them as much funding in fiscal 73–74 as they received in fiscal 72–73, school districts who are working directly with the affected children should be able to benefit by the same type of provision. Many of us are very doubtful about the validity of the 1970 census figures, and we believe that it is a very dangerous and almost criminal act to decrease the entitlement in such a severe and arbitrary manner with no previous notice at all.

Many excellent programs have been conducted to meet the specialized needs of these youngsters including reading, language arts, learning disabilities, elementary counseling, etc. If we may count upon consistent funding for these programs, they may be continued and in my opinion will bring many benefits to children who otherwise may go through life without remediation or correction for these problems. I hope and trust that we, at the school district level and particularly the children, may count upon your support in this matter. We believe that it is fair to ask that no decrease be suffered by the school district and by the county, but more particularly. if such things do occur we believe that a fair warning should be delivered which would make it possible for school districts to plan to fund these programs locally or to phase part of the specialized staff for such programs into regular educational assignments.

Should there be anything further that could be done at this level, I would appreciate receiving notice from your office. May I extend my sincere appreciation for the previous interest shown by you and your staff in matters educational.

Sincerely,

Charles U. Findley,
*Assistant to the Superintendent.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McEwen (at the request of Mr. Gerald R. Ford), for the week of September 10, 1973, on account of illness in the family.

Mrs. Burke of California (at the request of Mr. Hawkins), from September 10, 1973, to September 14, inclusive, on account of the sickness of a member of her family.

Mr. McDade (at the request of Mr. Gerald R. Ford), for today, on account of a death in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Landgrebe) and to revise and extend their remarks and include extraneous material:)

Mr. Steiger of Arizona, for 15 minutes, September 13.

Mr. McKinney, for 10 minutes, September 11.

Mr. Saylor, for 10 minutes, today.

(The following Members (at the request of Mr. Owens to revise and extend their remarks and include extraneous material:)

Mr. Roy, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Owens, for 5 minutes, today.

Ms. Abzug, for 5 minutes, today.

Mr. Fulton, for 10 minutes, today.

Mr. Leggett, for 60 minutes, September 12, 1973.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gross to insert his remarks during the debate today on the conference report accompanying the bill H.R. 7645.

(The following Members (at the request of Mr. Landgrebe) and to include extraneous material:)

Mr. Zwach in six instances.

Mr. Steiger of Arizona.

Mr. Whalen.

Mrs. Holt in two instances.

Mr. Derwinski in two instances.

Mr. Nelsen.

Mr. Martin of North Carolina.

Mr. Harvey.

Mr. Wyman in two instances.

Mr. Huber in two instances.

Mr. Anderson of Illinois in two instances.

Mr. Broyhill of Virginia.

Mr. Hosmer.

Mr. Froehlich.

Mr. Burke of Florida.

Mr. Young of Florida in five instances.

Mr. Gilman.

Mr. Buchanan.

Mr. Smith of New York.

Mr. Conable.

Mr. Frenzel in six instances.

Mr. Hunt in two instances.

Mr. Roncallo of New York.

Mr. Keating in three instances.

Mr. Shriver.

Mr. Hudnut.

Mr. Parris in five instances.

Mr. Frelinghuysen.

Mr. Collins of Texas.

(The following Members (at the request of Mr. Owens), and to include extraneous matter:)

Mr. Riegle.

Mr. O'Neill.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Aspin in 10 instances.

Mr. Mollohan in two instances.

Mr. Matsunaga in 10 instances.

Mr. Roe in three instances.

Mr. Harrington in five instances.

Mrs. Hansen of Washington in 10 instances.

Mr. Patten.

Mr. Bevill.

Mr. Waldie.

Mr. Bennett.

Mr. Koch in two instances.

Mr. Anderson of California in three instances.

Mr. Badillo in two instances.

Mr. Evins of Tennessee.

Mr. Preyer.

Mr. Fulton in five instances.

Mrs. Mink.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1165. An act to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cirgarette Smoking Act of 1969 to define the term "little cigar", and for other purposes; and

S. 1672. An act to amend the Small Business Act.

## BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 10, 1973 present to the President, for his approval, a bill of the House of the following title:

H.R. 6912. An act to amend the Par Value Modification Act, and for other purposes.

## ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 48 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 12, 1973, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1335. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting notice of the proposed transfer of the destroyer ex-U.S.S. *Joseph P. Kennedy, Jr.* (DD–850) to the Massachusetts Memorial Committee, Fall River, Mass., pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

1336. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting the texts of International Labor Organization Convention No. 136 and Recommendation No. 144, concerning Protection against Hazards of Poisoning Arising from Benzene (H. Doc. No. 93–150); to the Committee on Foreign Affairs and ordered to be printed.

1337. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 189, *Red Lake Band, et al., Plaintiffs,* v. *The United States of America, Defendant,* pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1338. A letter from the Chairman, Indian Claims Commission; transmitting the final determination of the Commission in docket No. 300, *the Stockbridge Munsee Community, the Stockbridge Tribe of Indians and the Munsee Tribe of Indians by Arvid E. Miller and Fred L. Robinson, Plaintiffs,* v. *The United States of America, Defendant,* pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1339. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to provide increased protection for consumers from shipment of unfit and adulterated food; to the

Committee on Interstate and Foreign Commerce.

*1340*. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration; to the Committee on Post Office and Civil Service.

1341. A letter from the Administrator of General Services, transmitting a prospectus revising the previously approved prospectus for alterations to the Military Personnel Records Center, St. Louis, Mo., pursuant to the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

1342. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a report on the international transfer of conventional arms, pursuant to section 302 of Public Law 92–352; to the Committee on Foreign Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. H.R. 9639. A bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs; with amendment (Rept. No. 93–458). Referred to the Committee on the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9256. A bill to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes. (Rept. No. 93–459). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9107. A bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for the purposes. (Rept. No. 93–460). Referred to the Committee on the Whole House on the State of the Union.

Mr. EILBERG: Committee on the Judiciary. H.R. 981. A bill to amend the Immigration and Nationality Act, and for other purposes; with amendment (Rept. No. 93–461). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 7555. A bill to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse (Rep. No. 93–462). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9281. A bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes (Rep. No. 93–463). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7699. A bill to provide for the filling of vacancies in the Legislature of the Virgin Islands (Rep. No. 93–464). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7730. A bill to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip; with amendment (Rep. No. 93–465). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 9682. A bill to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes (Rep. No. 93–482). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9553. A bill to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games with amendment (Rept. No. 93–483). Referred to the Committee of the Whole House on the State of the Union.

Mr. MATSUNAGA: Committee on Rules. House Resolution 539. Resolution providing for the consideration of H.R. 8789. A bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes. (Rept. No. 93–466). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 540. Resolution providing for the consideration of H.R. 6576. A bill to authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments; with amendment (Rept. No. 93–467). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 541. Resolution providing for the consideration of H.R. 7974. A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes; with amendment (Rept. No. 93–468). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 4507. A bill to provide for the striking of medals in commemoration of Jim Thorpe; with amendment (Rept. 93–469). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 4738. A bill to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado; with amendment (Rept. 93–470). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 5760. A bill to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974; with amendment (Rept. No. 93–471). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 8709. A bill to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco (Rept. No. 93–472). Referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committee were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. S. 84. An act for the relief of Mrs. Naoyo Campbell (Rept. No. 93–473). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 89. An act for the relief of Kuay Ten Chang (Kuay Hong Chang) (Rept. No. 93–474). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 155. An act for the relief of Rosita E. Hodas (Rept. No. 93–475). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 278. An act for the relief of Manuela C. Bonito; with amendment (Rept. No. 93–476). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judicary. H.R. 1342. A bill for the relief of Rita Swann; with amendment (Rept. No. 93–477) Referred to the Committee of the Whole House.

Mr. KEATING: Committee on the Judiciary. H.R. 1463. A bill for the relief of Emilia Majowicz; with amendment (Rept. No. 93–478). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 1955. A bill for the relief of Rosa Ines Toapanta; with amendment (Rept. No 93–479). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 2533. A bill for the relief of Raphael Gidharry; with amendment (Rept. No. 93–480). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 6828. A bill for the relief of Edith E. Carrera (Rept. No. 93–481). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG (for herself and Mr. Murphy of New York):

H.R. 10142. A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit; to the Committee on Banking and Currency.

By Mr. ANDERSON of California:

H.R. 10143. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings, and for other purposes; to the Committee on Ways and Means.

H.R. 10144. A bill to provide for a 7-percent increase in social security benefits beginning with benefits payable for the month of January 1974; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself and Mr. Long of Maryland):

H.R. 10145. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of Illinois (for himself, Mr. Archer, and Mr. Eshleman):

H.R. 10146. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. ARCHER:

H.R. 10147. A bill to provide for annual audits by the Comptroller General of the Federal Reserve Board and the Federal Reserve banks and their branches; to the Committee on Banking and Currency.

H.R. 10148. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. ASPIN:

H.R. 10149. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enable units of general local government to increase the numbers of police; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 10150. A bill to regulate interstate commerce by amending the Federal Food, Drug, and Cosmetic Act to provide for the licensing of vessels and establishments used in the harvesting, processing, displaying, and selling of fish and fishery products, for the inspection of the vessels and establishments after licensing, and for cooperation with the States in the regulation of intrastate commerce with respect to State fish inspection programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 10151. A bill to amend title 38 of the United States Code to make more equitable the procedures for determining eligibility for benefits under the laws administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOWEN:

H.R. 10152. A bill to provide for the establishment of an American Folk Life Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

H.R. 10153. A bill to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. Biester, Mr. Cohen, and Mr. Diggs):

H.R. 10154. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "development disability" to include autism; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. Anderson of California, Mr. Bell, Mr. Burton, Mr. Del Clawson, Mr. Conyers, Mr. Cronin, Mr. Danielson, Mr. Dellenback, Mr. Dellums, Mr. Edwards of California, Mrs. Green of Oregon, Mrs. Hansen of Washington, Mr. Hawkins, Mr. Hosmer, Mr. Johnson of California, Mr. Leggett, Mr. Mailliard, Mr. McCormack, Mr. Meeds, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Nix, Mr. Pettis, and Mr. Rangel):

H.R. 10155. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. Rees, Mr. Riegle, Mr. Roe, Mr. Roybal, Mr. Sisk, Mr. Stokes, Mr. Waldie, and Mr. Charles H. Wilson of California):

H.R. 10156. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 10157. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. CRONIN:

H.R. 10158. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. GUNTER:

H.R. 10159. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces; to the Committee on Armed Services.

By Mr. HARRINGTON:

H.R. 10160. A bill to amend the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. HARVEY:

H.R. 10161. A bill to accelerate the effective date of the recently enacted cost-of-living increase in social security benefits; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts (for herself, Mr. Young of Georgia, Mr. Davis of Georgia, Mrs. Holt, Mr. Moss, Mr. Conlan, Mr. Cronin, Mrs. Chisholm, Mr. Cleveland, Mr. Hinshaw, Mr. Anderson of Illinois, and Mr. Cohen):

H.R. 10162. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. HELSTOSKI:

H.R. 10163. A bill to provide financial assistance to the States for improved educational services for handicapped children; to the Committee on Education and Labor.

By Mr. HINSHAW:

H.R. 10164. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, Santa Ana and San Diego in the State of California; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of Pennsylvania:

H.R. 10165. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. KEATING (for himself, Mr. Kemp, Mr. Archer, Mr. Armstrong, Mr. Blackburn, Mr. Crane, Mr. Williams, Mr. Steelman, Mr. Derwinski, Mr. Ketchum, Mr. Symms, Mr. Treen, Mr. Collins of Texas, Mr. Long of Maryland, Mr. Steiger of Arizona, and Mr. Ashbrook):

H.R. 10166. A bill to repeal the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. KEATING (for himself, Mr. Mollohan, Mr. Howard, Mr. Baker, Mr. Hosmer, Mr. Podell, Mr. Hechler of West Virginia, Mr. Whitehurst, Mr. Rose, Mr. Rosenthal, Mr. Johnson of Pennsylvania, Mr. McDade, Mr. Conte, Mr. Flood, Mr. Clancy, Mr. Mitchell of Maryland, Mr. Broyhill of North Carolina, Mr. Breckinridge, Mr. Jones of Oklahoma, Mr. Ware, Mr. Charles H. Wilson of California, Mr. Moakley, Mr. Mayne, Mr. Buchanan, and Mr. Winn):

H.R. 10167. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

By Mr. KEATING (for himself, Mr. Charles Wilson of Texas, Mrs. Chisholm, Mr. Gilman, Mr. Brasco, Mrs. Boggs, Mr. Murphy of New York, Mr. Eckhardt, Mrs. Collins of Illinois, Mr. Mazzoli, Mr. Cohen, Mr. Rhodes, Mr. Eilberg, Mr. Danielson, Mr. Steele, Mr. Kemp, Mr. Kuykendall, Mr. Gerald R. Ford, Mr. Frenzel, Mr. Hogan, and Mr. Sarbanes):

H.R. 10168. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

By Mr. LANDRUM:

H.R. 10169. A bill to amend section 101 (1)(3) of the Tax Reform Act of 1969 in respect of the application of section 4942(d) of the Internal Revenue Code of 1954 to private foundations subject to section 101(1) (4) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 10170. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mrs. MINK (for herself, Mr. Fraser, Mr. Stark, and Mr. Waldie):

H.R. 10171. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities designed to achieve educational equity for all students, men, and women, and for other related educational purposes; to the Committee on Education and Labor.

By Mrs. MINK (for herself, Ms. Abzug, Mr. Aspin, Mr. Bevill, Mr. Bingham, Mr. Brown of California, Mrs. Chisholm, Mr. Clay, Mr. Drinan, Mr. Edwards of California, Mr. Helstoski, Mr. Howard, Mr. Leggett, Mr. Lehman, Mr. Moss, Mr. Nedzi, Mr. Rangel, Mr. Rees, Mr. Rose, Mr. Roybal, Mr. Tiernan, Mr. Charles H. Wilson of California, and Mr. Won Pat):

H.R. 10172. A bill to amend title 5 of the United States Code to provide that whoever contributes more than $5,000 to the political campaign of a Presidential candidate shall be ineligible to serve as an ambassador, ministor, head of an executive department, or a member of an independent regulatory body while such candidate is President; to the Committee on Post Office and Civil Service.

By Mr. NELSEN:

H.R. 10173. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN (for himself, Mr. Martin of North Carolina, Mr. Ruppe, and Mr. Widnall):

H.R. 10174. A bill, Emergency Medical Services System Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN (for himself, Mr. Devine, Mr. Carter, Mr. Hastings, Mr. Heinz, Mr. Hudnut, Mr. Regula, Mr. Zwach, Mr. Fish, Mr. Peyser, Mr. Gilman, Mr. Burgener, Mr. O'Brien, Mr. Coughlin, Mr. Johnson of Colorado, Mr. Talcott, Mr. Mizell, Mr. Young of Illinois, Mr. Huber, Mr. McClory, Mr. Lott, Mr. Winn, Mr. Quie, Mr. Frenzel, and Mr. Anderson of Illinois):

H.R. 10175. A bill, Emergency Medical Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mrs. Boggs, Mr. Brown of California, Mr. Diggs, Mr. Eilberg, Mr. Flood, Mr. Ginn, Mr. Hanna, Mr. Johnson of Pennsylvania, Mr. Matsunaga, Mr. Podell, Mr. Rees, Mr. Riegle, Mr. Roe, Mr. Rooney of Pennsylvania, Mr. Rosenthal, Mr. Roush, Mr. Roybal, Mr. Sarbanes, Mr. Studds, Mr. Charles H. Wilson of California, and Mr. Winn):

H.R. 10176. A bill to amend the Elementary and Secondary Education Act of 1965 to provide for drug abuse therapy programs in schools; to the Committee on Education and Labor.

By Mr. REID:

H.R. 10177. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. SAYLOR:

H.R. 10178. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements; to the Committee on Banking and Currency.

By Mr. SCHERLE:

H.R. 10179. A bill to amend title 38, United States Code, to provide veterans a 10-year delimiting period for completing educational programs; to the Committee on Veterans' Affairs.

By Mr. SISK:

H.R. 10180. A bill to prohibit the telecasting of professional basketball games during certain periods when regularly scheduled intercollegiate or interscholastic basketball or football games are played, and for other purposes; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. Ashley, Mr. Podell, Mr. Mollohan, Mr. Stuckey, Mr. Moorhead of Pennsylvania, Mrs. Boggs, Mr. Conlan, Mr. Drinan, Mr. Sarbanes, Mr. Widnall, Mr. Mann, Mr. Steiger of Wisconsin, Mr. Gunter, Mr. Corman, Ms. Jordan, Mr. Roe, Mr. Helstoski, Mr. Charles H. Wilson of California, Mr. Owens, Mr. Harrington, Mr. Thompson of New Jersey, Ms. Abzug, Mr. Ware, and Mr. Hawkins):

H.R. 10181. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. STARK (for himself Mr. Carney of Ohio, Mr. Eckhardt, Mr. Rangel, Mr. Stokes, Mr. Dellums, Mr. Conyers, Mr. Litton, Mr. Studds, Mrs. Chisholm, and Mr. Roybal):

H.R. 10182. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. SYMMS:

H.R. 10183. A bill to prohibit the licensing of hydroelectric projects on the Middle Snake River below Hells Canyon Dam at any time before September 30, 1978; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN (for himself and Mr. Roush):

H.R. 10184. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile and limit exports of copper and copper scrap; to the Committee on Armed Services.

Mr. WHITEHURST (for himself, Mr. Wolff, and Mr. Won Pat):

H.R. 10185. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit; to the Committee on Agriculture.

By Mr. WHITEHURST (for himself and Mr. Won Pat):

H.R. 10186. A bill to amend the Horse Protection Act of 1970, to provide for criminal sanctions for any person who interferes with any person while engaged in the performance of his official duties under this act, and to change the authorization of appropriations; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST (for himself, Mrs. Boggs, Mr. Matsunaga, and Mr. Moakley):

H.R. 10187. A bill to amend title 38, United States Code, to provide that remarriage of the widow of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. WYLIE:

H.R. 10188. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ZWACH:

H.R. 10189. A bill to amend Public Law 92-181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. BADILLO:

H.R. 10190. A bill to encourage and coordinate amateur athletic activity and promote physical fitness in the United States and in international competition in which American citizens participate, and for other purposes; to the Committee on Education and Labor.

By Mr. BROWN of California:

H.R. 10191. A bill to amend the National Science Foundation Act of 1950 to provide for the development of a system of continuous monitoring and forecasting of air pollution levels in certain regions with persistent air pollution problems, and for other purposes; to the Committee on Science and Astronautics.

By Mr. McFALL:

H.R. 10192. A bill to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. SATTERFIELD:

H.R. 10193. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. Huber, Mr. Mitchell of New York, Mr. Walsh, Mr. Wolff, Mr. Steelman, Mr. Pritchard, Mr. Roncallo of New York, Mr. Ketchum, and Mr. Fish):

H.J. Res. 716. Joint resolution providing for a Congressional investigation into the status of those American men missing, captured, or dead in Southeast Asia, and for other purposes; to the Committee on Rules.

By Mr. LANDGREBE:

H.J. Res. 717. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. HUBER (for himself, Mr. Bowen, Mr. Conlan, Mr. Hogan, Mrs. Holt, Mr. McEwen, Mr. Minish, Mr. Nichols, Mr. Satterfield, Mr. Shoup, Mr. Shriver, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Won Pat, and Mr. Young of South Carolina):

H. Con. Res. 293. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. TALCOTT:

H. Con. Res. 294. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII,

295. The SPEAKER presented a memorial of the Senate of the State of Ohio, relative to clarification of abortion laws and decisions; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANNA:

H.R. 10194. A bill for the relief of Mr. Peter J. Montganoli; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 10195. A bill for the relief of Modesto Marroquin-Merla; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 10196. A bill for the relief of Edward E. Mosier; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause I of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

274. By the SPEAKER: Petition of Louis Berenguer, Flushing, N.Y., relative to impeachment of a U.S. district court judge; to the Committee on the Judiciary.

275. Also, petition of the Iowa Conference, Churches of God in North America, Sutherland, Iowa, relative to protection of the rights of the unborn, the aged, and the infirm; to the Committee on the Judiciary.

276. Also, petition of Milton Mayer, New York, N.Y., relative to redress of grievances; to the Committee on the Judiciary.

277. Also, petition of the Conference of State Sanitary Engineers, Berkeley, Calif., relative to funding of the water pollution control program; to the Committee on Public Works.

# EXTENSIONS OF REMARKS

## CENTRAL FOUNDRY—AN OUTSTANDING CORPORATION CITIZEN

### HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HARVEY. Mr. Speaker, in recent years, industry has carried the brunt of criticism, much of it unfounded, for air and water pollution. There is no question that some businesses have abused our Nations environment. But, by and large, industry wants to cooperate and wants to contribute in protecting our Nations greatest natural assets—clean water, clear air, and less noise.

I am particularly pleased and honored to cite a major industry in our Eighth Congressional District as a real pace setter in this regard—the Central Foundry Division of the General Motors Corp. Only last week Central Foundry officials announced that the last of the coke-fired cupolas had been decommissioned at its giant malleable iron plant in Saginaw, Mich., marking the end of a 5-year, $30,000,000 project completed on schedule.

As pointed out by the public media, this means that the plant now has been entirely converted from coal-burning to electricity in the melting process. In place of those coke furnaces now stand five 65-ton coreless electric induction ovens along with charge preheating and emission control equipment. It is the largest new installation of its kind in the world.

This is truly an excellent example of "citizenship" for not only other businesses and industries to follow, but each individual citizen. I am proud to salute Central Foundry with special recognition to its outstanding management team under Elmer Braun and all its workers.

At this time, I would like to include the following editorial which apeared in the Septmeber 2, 1973, edition of the Saginaw News, Saginaw, Mich. It is entitled: "Central Foundry Sets Fine Example for All."

The editorial follows:

CENTRAL FOUNDRY SETS FINE EXAMPLE FOR ALL

If the measure of a good corporate citizen is one that lays out a plan and a promise to clean up its own adverse impact on the environment and sticks to it until that promise is kept, then Central Foundry Division of General Motors measures up in every way today.

Announcement Friday by Central Foundry officials that the last of the coke-fired cupolas has been decomissioned at its giant malleable iron plant here marks the end of a five-year, $30 million project completed on schedule.

This means that the plant has now been entirely converted from coal-burning to electricity in the melting process. In place of those coke furnaces now stand five 65-ton coreless electric induction ovens along with charge pre-heating and emission control equipment. For what it is worth—and it is worth plenty—this just happens to make it the largest new installation of its kind in the world. So there has been nothing half-hearted about Central Foundry's approach to the problem.

This, however, is only part of the story—although an important part.

Behind the impressive figures connected with what has been accomplished at the malleable iron operation to bring it into conformance with state clean air standards is the rest of the story.

The turning away from belching coal operations at Central Foundry is more than just the investment of time, money and intense planning to satisfy the state. It means much to the entire city and to residents living near the plant.

With the promise now of virtually smokeless days in and over southerly portions of the city and surrounding area, the GM operation can truly be credited with contributing much to that area's potential for future development.

It deserves to be pointed out, moreover, that this latest improvement and modernization project is not a singular or Johnny-come-lately achievement. It is just one more advance consistent with a string of clean-up and improvement projects carried out at Central Foundry in recent years. If a foundry operation can be beautified, C–F is committed to that and is proving that it can be done.

Needless to point out, Central Foundry management wasn't trying to hide its pride in making the completion announcement the other day. It was proud—and justifiably so—in pointing out the coming of the "clean era" in malleable iron production.

It is likewise no secret that it had been looking forward to the big day just as much as those who have long suffered the heavy smoke emissions. It knew, too, that nobody was going to be completely satisfied until the last of those "smokestacks" ceased.

That now becomes a thing of the past. Central Foundry Division of General Motors has kept at it and made good on a promise delivered five years ago. One by one the cupolas have been turned off until now there are none—and soon the idle stacks, too, will be gone from the skyline.

As the result of a solid commitment to even cleaner air over Saginaw, malleable now has a better, more efficient operation and an industry has again proved that it can indeed be a good corporate citizen; that it does have more than an obligation to provide jobs and build products.

That, too, is consistent with the GM philosophy today. In Saginaw the challenge to help clean up the environment is being met—and with results. Other industries which haven't yet owned up to that might well look in our direction and take note. An excellent example is being set here.

## SENATOR SAM

### HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. PREYER. Mr. Speaker, my State of North Carolina is a cautious State. Historians have often noted that we joined the Union too late to vote for George Washington and left it too late to vote for Jefferson Davis. Ours is a caution, however, not born of cowardice or reaction but of independence of spirit and of a tradition of concern for individual liberty that we inherited from those who sought refuge from tyranny on our frontier shores.

Almost 200 years ago North Carolinians refused to ratify the Constitution, because the document presented then did not contain a bill of rights. These were men fully aware that a strong government was necessary if their loose federation of States was to survive but they demanded that such a government be secured by an instrument that clearly protected the rights of free men.

They believed, in the words of one of the members of that convention in Hillsborough in 1788, that:

> The most humble and trifling characters in the country have a right to know what foundation they stand upon and that that foundation should set forth those rights which ought never to be infringed.

That simple demand was echoed throughout the original States and the Constitution was strengthened by the addition of the Bill of Rights.

Today we are again experiencing one of those periods of confrontation in which constitutional guarantees are in question.

Today that concern for the security in his liberty of each free man is eloquently defended by the senior Senator from my State, SAM ERVIN.

Senator SAM has reminded us that the Constitution is a living document. He has sent people scurrying to read it who haven't done so in years. Indeed, he has called it to the attention of some who apparently never heard of it.

The press has noted that not all Tar Heels agree with Senator ERVIN and that is true. Who could expect a State of 5 million to be in unanimity about questions that divide a whole nation?

I think most North Carolinians, however, are proud of their senior Senator and his commitment to the principle that it is no contest when political expediency is put in competition with our liberties.

While they may disagree on personalities or have different judgments about culpability, I am convinced that North Carolina will always come down on the side of liberty.

Perhaps the best North Carolina statement on Senator ERVIN and the Constitution is contained in a recent editorial by Bill Armstrong in North Carolina magazine. The magazine is published by the North Carolina Citizens Association which is a voluntary organization of citizens in business, industry and the professions who work for good government, sound fiscal policies and a healthy business climate; and Bill Armstrong is one of our State's most respected and responsible journalist.

The editorial follows:

SENATOR SAM

Nothing which has thus far occurred at the Senate Select Committee's Wategrate hearings has diminished our affection, admiration and respect for Senator Sam J. Ervin, Jr.

Let no one read this as a partisan endorsement for Senator Sam should he choose to run next year for another term in the Senate. Nor let it be read as a judgment of the culpabilities in the Watergate case.

Rather, let it be read as an affirmation of the fundamental honor and decency of a self-styled country lawyer before whose committee these past several weeks have paraded many witnesses in whom honor and decency appeared to reside only slightly, if at all.

We are saddened by the volume of letters to the major state newspapers condemning Senator Sam for what the writers regard as harrassment of witnesses and the hearings as a witch hunt in which he is the chief inquisitor. Granted, the Senator may let go with some injudicious hyperbole when he characterized the Nixon Administariton as the most repressive in history and the Watergate case as a greater national tragedy than the Civil War. And perhaps in a few instances his "country lawyer" style of cross-examining certain witnesses smacked a bit too much of a recorder's court solicitor boring in on an accused moonshiner.

On balance, however, we have found the Senator's conduct of the hearings to be judicious dignified and conscientious in seeking to get at the truth in that sad and sordid business of the Watergate burglary and related outrages.

Democrats and Republicans alike have been shaken and frightened during these hearings by revelations of burglaries in the name of national security, of attempts to corrupt and compromise the FBI and CIA, and of casual comments to the effect that constitutional guarantees against illegal search and seizure are obsolete.

If those revelations and comments have outraged Senator Sam, who knows and loves the Constitution as perhaps no other individual of our time, then we are delighted at his outrage. For those who cherish our liberties and regard them as fragile rights in need of constant protection, Sam Ervin is one of the best friends we have.

## SCHOOL INTEGRATION IS FAVORED BUT NOT BUSING

## HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mrs. HOLT. Mr. Speaker, a recent nationwide opinion poll obtained some interesting results on the attitudes of Americans toward integration of schools and the use of busing to attain this goal.

According to the findings of this survey, the vast majority of Americans favor the integrated school; however, they are opposed to the use of busing to achieve this end. These results substantiate what many of us in this body have constantly maintained, that is, opposition to busing in most cases is based on factors other than racial prejudice.

Numerous pieces of legislation have been introduced this session to eliminate the use of busing without undermining our commitment of an equal quality education for all children. As of today, however, there still has been no action on this needed legislation.

In this survey, as well as in many others, the American public has expressed its overwhelming opposition to the use of busing as a tool to achieve racial balance. I hope that my colleagues will carefully assess the position of their constituents on this issue, and then take action to eliminate this unnecessary and unpopular device.

## IT'S NICE TO BE APPRECIATED—THANK YOU, KNBC

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BROWN of California. Mr. Speaker, all of us who hold public office grow quite used to seeing broad-brush attacks on politicians every time some one elected officeholder or another is involved in something unethical or illegal. Most of us have come to accept it as an occupational hazard and just shrug it off, remembering Harry Truman's famous advice to "stay out of the kitchen if you can't stand the heat."

But it is an unfortunate fact that the widespread image of elected officials as corrupt and lazy tends to influence young potential Government leaders away from careers in public service. Idealistic, highly motivated young men and women are less likely to run for office when the media paints a picture of officeholders as undesirable characters.

Therefore I was very pleased to recently come across a copy of an editorial which KNBC television in Los Angeles broadcast on June 28 of this year. For the particular information of all Members of the California delegation, as well as all other Members of Congress, I would like to read the editorial into the RECORD at this time:

### WORKING REPRESENTATIVES

To many people these days, the word Washington is synonymous with Watergate. A combination Sodom and Gomorra on the Potomac. A place we send money to, and get, in return, gobbledegook, red tape and an occasional subsidy.

Those half-truths are hard to fight. There *was* a Watergate incident. Bureaucracy there has been developed to a fine art. And sin in Washington gets bigger headlines than in, say, Omaha.

But we've just returned from a few hot, muggy days there, and the impression that sticks with us is that your elected representatives, at least, are worth every nickel you're paying them. They're in their offices early in the morning, they're in committee meetings all day, and they're still at work when the civil servants are home relaxing in Alexandria and Georgetown.

We met with one California Congressman early in the morning after he'd flown all night returning from a speaking engagement the evening before in his district. He spent the day presiding over meetings of his committees and taking part in debate on the House floor. And that night he was still in discussions on Congressional business until nearly 10 o'clock. And he was back in his office bright and early the next day. You probably don't hear much about that kind of performance, simply because it's not unusual. The juicy tales that make news *are* the exceptions; the stories of people being wined and dined and generally relaxing at your expense are news simply because they're out of the ordinary.

We can't guarantee the quality of performance of all the people in Washington. Or even all the members of the House or the Senate. But we did come away with the distinct feeling you're getting your money's worth from your two senators and your 43 representatives. You may not even agree with everything they're doing. But you can be sure they're trying.

And may I add that I am sure I speak for every Member of this body in expressing my appreciation to KNBC for those most kind words.

## MURDER BY HANDGUN: A CASE FOR GUN CONTROL—NO. 16

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HARRINGTON. Mr. Speaker, today I have another case where a gunman died by his own gun. But Patrick Acton was not killed by an angered mob—he committed suicide.

In an article in today's Washington Post, E. J. Bachinski reports that when Mr. Acton met his wife to discuss their divorce settlement, he carried a gun. Acton shot his wife in the side after pleading for a last embrace. He told her the noise was caused by a firecracker. And while they drove around together for an hour, she did not realize she had been shot.

Acton left his wife at the hospital and rented a motel room. After phoning his relatives, telling them he was going to kill himself, Patrick Acton put a bullet through his head.

Mrs. Arlene Acton is in serious condition, and if there are any children, the police have not found them yet.

A gun kills more swiftly than drugs or razors, and is probably the safest way of committing murder, especially murdering oneself.

Gun control legislation must be implemented to stop the easiest suicides—by handguns.

I include the Washington Post article at this point:

### COUNTY MAN WOUNDS WIFE, KILLS SELF

(By E. J. Bachinski)

A Prince George's County man shot and seriously wounded his estranged wife last night and later committed suicide in a county motel after taking his wounded wife to the hospital, Prince George's County police reported.

Police identified the dead man as Patrick Henry Acton, 34, of 6004 44th Ave., Hyattsville. Acton was found dead shortly before midnight in a room at the Bladensburg Motel, 6500 Annapolis Rd., Bladensburg, police said.

About an hour before his body was discovered, police said, Acton had taken his wife, Arlene Marie, to the emergency room at Prince George's General Hospital for treatment of a gunshot wound in the side.

Mrs. Acton, was listed in serious condition at the hospital about 2:30 a.m. today.

Police said the incident began about 8 p.m. when the recently separated couple agreed to meet in the parking lot of Prince George's Plaza Shopping Center to discuss a property settlement.

Police said Mrs. Acton later told them that during the conversation in his car at the parking lot, Acton asked her to "give him one last kiss and hug."

During the embrace, Mrs. Acton told police, she heard a loud report and felt a pain in her side. Acton told her that the noise was caused by a firecracker and to disregard it.

The couple then drove away in Acton's car and continued the conversation while driving around for about an hour, police said.

All the while, Mrs. Acton told police, she did not realize she had been shot.

Shortly after 9 p.m., Mrs. Acton discovered her wound and Acton agreed to take her to the hospital, where he left her and the car, police reported.

Acton then walked to the nearby Bladensburg Motel and rented a room. He phoned relatives and told them that he was going to kill himself, police said.

Relatives notified police, who went to the motel and found Acton lying dead on a bed with a bullet wound in the temple. A .22 caliber pistol was found near the body.

Police said they did not know exactly how long the couple had been separated or if there were any children.

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## NO AID CONSIDERED UNTIL MISSING ACCOUNTED FOR

### HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. SHRIVER. Mr. Speaker, I have joined in the introduction of a House concurrent resolution expressing the sense of Congress that our Government shall not consider aid, trade, diplomatic recognition, or any other form of accommodation with North Vietnam or the Vietcong as long as full cooperation from them is not received in the search for our missing-in-action personnel.

I recently visited our Joint Casualty Resolution Center at Nakhon Phanom Air Base in northeast Thailand for a firsthand observation of the efforts being made to resolve the status of our missing men. I came away convinced that the 135 U.S. military and civilian specialists at the Center have the ability to accomplish their mission. The major obstacle in this task is the lack of cooperation from North Vietnam, the Vietcong, and the Pathet Lao.

Regardless of the technical capabilities which have been developed by the Joint Center, they cannot begin to locate our missing Americans if they are not allowed to physically investigate the more than 1,000 crash sites. So long as permission to visit these sites is not forthcoming, any official U.S. Government accommodation with North Vietnam is unthinkable.

Our direct military involvement in Indochina has ended, but our concern about the fate of our missing men will never end until their status is resolved. This sense-of-Congress resolution will publicly declare our determination to obtain the cooperation of all governments in the area in this task.

I would add to this my hope that diplomatic pressures will continue to be exerted on the Governments of the Soviet Union and the People's Republic of China to secure their active assistance in regard to their allies in Indochina.

We all remember the joyous family reunions which followed the release of our prisoners of war last spring. There are even more American families for whom the waiting goes on. Every effort, including prompt consideration and enactment of this resolution, should be taken to end their anguish.

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## IRELAND SHOULD BE A UNITED COUNTRY

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BIAGGI. Mr. Speaker, I would like to draw my colleagues' attention to two articles printed in the February 10, 1973, issue of the Irish People—a newspaper geared toward the Irish community of New York City.

The two articles explain the historical background of the four Provinces that rightfully make up Ireland; as such, the columns provide an important historical perspective on why there is a need for the final reunification of Ulster Province with the rest of the Irish Nation.

HOW VALID ARE THE TERMS "NORTHERN" OR "SOUTHERN" IRELAND, OR "EIRE"?

The 26 county entity is today known as the "Republic of Ireland." It has not been legally known as "Eire" for over two decades; Eire is a geographical expression for Ireland today. Prior to that the 26 county state was known as the Irish Free State. It is, like the 6 county entity, the artificial creation of British policy, not the Irish Republic proclaimed by Pearse on Easter Monday, 1916. To refer to the 26 county state as "Southern Ireland" is not only incorrect, it is ridiculous; geographically the County Donegal extends north of anything in equally misnamed "Northern Ireland." Historically, southern Ireland is the Province of Munster, eastern Ireland is the Province of Leinster, western Ireland is the Province of Connacht, and northern Ireland is the entire Province of Ulster (not just six of her nine counties). The four provinces are integral parts of one Ireland, whose only border is the sea.

IF REASONS OF HISTORY BE DISCOUNTED, CAN THE REUNIFICATION OF IRELAND BE JUSTIFIED?

Why should Ireland be a united country just because it has been an historic island nation since long before the first Saxon left Germany? If one were nasty enough, one could ask a similar question about Great Britain itself. Why should it be united, because all three countries, Scotland, Wales, and England are parts of the same island? Since the historical record of the conquest and apparent pacification of Scotland and Wales by England is inadmissable evidence under the rules of popular sovereignty, the Englishman's answer is that the majority of the people on the island wish it to be united. The Irish reply is that the overwhelming majority of the people of Ireland wish Ireland to be re-united. Several resolutions submitted to the Congress propose that they be given the opportunity to express their desire in an all-Ireland plebiscite.

But if the nation is not to be the unit for self-determination by popular sovereignty, how about the province? Obviously the British reject this. Only six of artificially divided Ulster's nine counties are in question. Why not then make the determination on a county by county basis? What is so sacrosanct about the six-county entity that caused it to be suddenly created by the British Parliament half-a-century ago? As any student of the gerrymander could discover, a county vote would put Fermanagh, Tyrone, Armagh, and Derry (called Londonderry by some foreigners) in the Irish Republic, leaving only Antrim and Down in the British Empire; on the other hand, the high-density Unionist population in the Belfast metropolitan area can counter-balance the nationalist majorities in the countryside. But even a British run enclave of Antrim and north Down would not solve the problem of the absence of "minority consensus" in the large Catholic ghettos of Belfast, nor the irredentism of the "Provisional" Irish Republican Army.

Half-a-century ago we went to war to make the world safe for democracy. National self-determination was a major part of our policy; according to the President of the United States it still is. History, geography, the Natural Law, justice, and our own credibility require the application of this principle to the Irish Question. The reunification of Ireland presents the only means of restoring conditions for full justice and domestic tranquillity for all the inhabitants of Ireland.

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## NORTH VIETNAMESE "SETTLERS" IN SOUTH FARE POORLY

### HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HUBER. Mr. Speaker, the North Vietnamese continue their blatant aggression in South Vietnam. Press accounts carry stories of Khe Sanh as a major center for the North Vietnamese in South Vietnam, complete with a reconditioned airfield and SAM sites. In Paris, we have the North Vietnamese stating that they have 330,000 troops in South Vietnam. Daily, reports of North Vietnamese attacks on small outposts continue as the North Vietnamese continue their salami tactics against South Vietnam.

As an adjunct of this strategy, North Vienam has brought civilians south as so-called settlers in South Vietnam. They are not faring too well in this hasty, ill-conceived action of the Communists. An interesting report appearing in the London Daily Telegram of August 9 tells the story. This is all illustrative of the behavior of the North Vietnamese and clearly shows why we are having such difficulty in securing any cooperation in the accounting for our MIA's. The article follows:

TWO HUNDRED DEATHS OF "REVOLUTION VOLUNTEERS"

(By John Draw)

SAIGON.—One of every six persons forced by the North Vietnamese Army to resettle in Communist-controlled areas of Northern Quang Nam Province, has died of illness.

According to a Viet Cong member who surrendered to South Vietnam Government forces, more than 200 deaths were recorded between March and June among some 1,200 villagers forced by the North Vietnamese to move from the lowlands of Dai Loc and

Duc Duc to "join the revolution" in Quang Nam's jungle areas.

Most of the deaths were caused by lack of medicines, the defector said, adding that malaria had taken the heaviest toll.

It was also reported that this rate had been at least partly due to the innumerable work days "volunteered" by the civilian population to help achieve such "revolutionary objectives" as the transportation of military supplies for North Vietnamese Army units and the creation of strategic roads through the jungle.

It was learned that former residents of Dai Loc and Duc Duc districts had to spend more than 10,000 work days building route 12, which links Northern Quang Nam to Hanoi's war zone of A Luoi to the north.

## REPEAL OF ECONOMIC CONTROLS

### HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. KEATING. Mr. Speaker, it has now been 2 years since the introduction of wage and price controls with the freeze of August 15, 1971. The economic record since that date shows that controls have failed against inflation and have caused damage to the economy. I am therefore today reintroducing legislation to repeal the Economic Stabilization Act which gives the President power to impose wage and price controls.

Various types of control programs have been tried since August of 1971. The evidence strongly suggests that none of these "phases" have been effective. In the 2-year period of controls, consumer prices have risen 8.4 percent and food prices 16.5 percent. By comparison, in 1971, prior to controls, the Consumer Price Index was rising at a rate of 3.8 percent while food prices were rising at a rate of 5 percent. No one knows what inflation would have been without controls, but the inflation rates which have prevailed since August 15, 1971, have been greater than the trend of inflation occurring prior to controls.

The problem in using wage and price freezes to fight inflation occurs because of what is termed "post-freeze bulge." This term refers to the fact that prices generally rise sharply immediately after a freeze is lifted because of pent-up pressures. Rises in food prices following the lifting of ceilings on July 18 are a dramatic example of "post-freeze bulge."

The recent beef shortage provides an excellent example of how wage and price controls can harm the economy. Meat processors could not buy cattle at prices that made it profitable to sell at the ceiling prices for beef. As a result, there was a beef shortage until the administration made it clear that the ceiling price on beef would be removed. On August 1, 1973, I urged the President to terminate the beef price ceiling immediately.

Because of the beef shortage, prices on beef substitutes such as poultry, pork, fish, and eggs rose higher than they would have otherwise because of increased demand for these products. Many other products besides meat are in short supply because of the recent price freeze. Any shopper can draw up a long list. These shortages feed inflation since purchasing demand has fewer goods to satisfy the demand.

The time has come to end the experiment with direct wage and price controls and to deal effectively with inflation. The recent acceleration in inflation rates points up the need for effective action. In the first half of 1973, the Consumer Price Index rose at an 8-percent rate while grocery prices rose at a 25-percent rate.

The way to fight inflation is by strictly limiting governmental spending and making sure that money supply growth is at a reasonable rate. One encouraging sign is that President Nixon has stated his intention to balance the budget in fiscal year 1974. This compares with an approximate $14.4 billion deficit in fiscal year 1973 and should help reduce the rate of inflation.

Sound fiscal policy on the part of the Federal Government will be much more effective than the hodge-podge of artificial barriers now encumbering our economy.

It is my hope that the Banking and Currency Committee will hold hearings on this bill.

## VITAMINS AND THE FDA

### HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HOSMER. Mr. Speaker, another editorial voice has been raised in protest of the FDA's arbitrary plan to proscribe the access of citizens to vitamins and mineral supplements which have never been shown to be harmful when used in large amounts. The editorial aired by KNBC from Los Angeles on August 9 follows:

AUGUST 9, 1973.

VITAMINS AND THE FDA

The big flap last week over vitamins and whether they're dangerous drugs or harmless nutritional supplements is a perfect example of how easy it is for the government to go too far.

The Food and Drug Administration ruling is that each vitamin capsule can contain no more than 1½ times the FDA recommended dosage.

For Vitamins A and D, the government agency seems to be doing its job setting reasonable limits for product potency. Taken to excess over prolonged periods, those vitamins can cause some medical problems. You'd have to take an awful lot, but too much Vitamin D can cause bone deformities. And too much Vitamin A can cause pressures within the skull. Certainly, for those two substances, restrictions make sense. People who want to take 50 or 100 times the daily recommended limit can still do it, but they'll have to take 50 or 100 capsules or get a doctor's prescription for more potent pills.

Where the FDA goes too far is in slapping the same restrictions on all other vitamins too. There's no medical proof all other vitamins are harmful. In fact, some scientists are claiming big doses of certain vitamins cure schizophrenia, colds and other ailments. Maybe so. Maybe not.

In any case, most vitamins haven't been shown to be harmful, so we can see no valid reason for the Food and Drug Administration to impose limitations on their sale. It's a meat-ax approach that strikes us as unnecessary and badly over-done.

We don't expect the Food and Drug Administration to admit its mistake. That would be too much to ask. We look now to Congress to step in and strike a better balance between sensible regulation and the excessively heavy hand of government controls.

## REGIONALIZATION OF GOVERNMENT BY EXECUTIVE ORDERS

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. RARICK. Mr. Speaker, I have previously inserted material concerning regionalization of government by Executive Orders. I request that the following related material from the Committee to Restore the Constitution, Inc. be included at this point.

The material follows:

"1313" AND THE COUNCIL ON FOREIGN RELATIONS

The private agencies through which the Council on Foreign Relations (identified by much testimony as the secret government of the United States)[1] influences officials at the city, county, and state levels of public administration, are located at the Rockefeller University of Chicago.

At this one address, 1313 East 60th Street, Chicago (hence the nickname "1313") are listed no less than twenty-five METRO organizations. Through this interlocking directorate sixty (or seventy-one) decision-makers at the top echelon of the C.F.R. shape and manipulate domestic United States policy. The most visible of these conspirators is David Rockefeller, Chairman, Council on Foreign Relations; also, Chairman of the Board, Chase Manhattan Bank, and head of a family of oil magnates.

By 1953, a political conglomerate of twenty-two METRO agencies (see box) had been established at the University of Chicago. To this group of "1313" control agencies were subsequently added: The National Association of Counties (NACo), The National League of Cities (NLC), and, The U.S. Conference of Mayors (USCM). All were directly involved in the promotion and passage of the infamous "regional governance" bill, "The Intergovernmental Cooperation Act of 1968," (Public Law 90–577). All are implicated in the seditious conspiracy of "regional governance."

These twenty-five coordinating organizations control, in turn, their policy unit within the federal government, which is entitled "The Advisory Commission on Intergovernmental Relations." ACIR is the United Nations "cell" within Congress. Significantly, UN penetration of the U.S. legislative process is explained by the fact that the United Nations Organization is an arm of the Council on Foreign Relations.[2] The CFR established the UN for the purpose of directing U.S. foreign affairs, as "1313" directs U.S. domestic affairs.

Unsuspecting city, county, state, and federal officials who may be affiliated with these seemingly benign service organizations should be alert to their true purpose.

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[1] American Legion Resolution No. 62–631–28, "Council on Foreign Relations Declared Subversive".

[2] "Invisible Power Behind the UN," by Arch E. Roberts, Lt. Col. AUS, ret.

METRO professionals in Chicago prepare "regionalism" regulations and statutes which are then passed on to city, county, and state governments, via "1313" agencies, for passage and implementation. Falsely heralded as "local" laws, these ultra vires acts seek to change the form of government without the knowledge or consent of the people.

The common point of origin of these world government "laws" is revealed by identical language and purpose of "regional" measures simultaneously promoted throughout the United States.

Seizure of private property; homes, businesses, and farms, via the ploy of reassessment under United Nations METRO guidelines (see County Assessors Handbook) is the central objective of the madmen who now direct national policy.

Escalating taxes are assured under the spoils system devised by METRO planners. Local collectivists are promised more "revenue sharing" dollars if they meet tax reassessment goals.

CFR elitists thus hope to achieve federalization of all land, resources, and production facilities under a central governmental authority without serious public challenge. Self-rule and self-determination are to be phased out of the U.S. society, the Constitution overthrown, and the American citizen made an economic serf on the land which once was his.

Key points concerning the CFR conspiracy are: (a) The attack is against private ownership of property. (b) Police power (regulation and control) is centralized. And (c) METRO rule is by appointed officials, under command of the CFR-dominated Executive Branch of the Federal government.[3]

THE "ORIGINAL" C.F.R. METRO ORGANIZATIONS

| Organization | Founded | To Chicago |
|---|---|---|
| American Public Works Association | 1894 | 1934 |
| Municipal Finance Officers Association | 1906 | 1932 |
| Public Personnel Association | 1906 | 1935 |
| National Association of Attorneys General | 1907 | 1935 |
| National Governor's Conference | 1908 | 1938 |
| International City Managers' Association | 1914 | 1929 |
| American Municipal Association | 1924 | 1932 |
| American Public Welfare Association | 1930 | 1932 |
| American Committee for International Municipal Cooperation | 1932 | 1932 |
| Council of State Governments | 1933 | 1933 |
| National Association of Housing and Redevelopment Officials | 1933 | 1933 |
| Public Administration Service | 1933 | 1934 |
| National Association of Assessing Officers | 1934 | 1934 |
| American Society of Planning Officials | 1934 | 1935 |
| Federation of Tax Administrators | 1937 | 1967 |
| American Society for Public Administration | 1939 | 1940 |
| National Association of State Budget Officers | 1945 | 1947 |
| National Association of State Purchasing Officials | 1947 | 1947 |
| National Institute of Municipal Clerks | 1947 | 1951 |
| National Legislative Conference | 1948 | 1948 |
| Conference of Chief Justices | 1949 | 1949 |
| Interstate Clearing House on Mental Health | 1953 | 1953 |

### THE "REGIONAL GOVERNANCE" CONSPIRACY

Americans today witness the concluding acts of a seventy year conspiracy by a semi-secret organization of monetary power whose agents have infiltrated all departments of the federal government for the purpose of destroying it.

Warning signals of national crisis include a rising tide of revolutionary violence (euphemistically called a "crime wave"), progressive dollar devaluation (heralding the introduction of U.N. World Bank currency), and the restructuring of federal, state, county and city governments by decree.

World government watchers warn that these crisis conditions portend a coup by those who seek to overthrow the Constitution and erect a dictatorship of the financial elite upon the ruins of the Republic.

The national emergency is confirmed by the insidious and largely silent thrust for regional governance, made operational by "regionalism" directives masked as local legislation. Regional governance, meaning control by regulation in place of law, is rapidly erasing state, county, and school district boundaries, and is dissolving representative government by transfering the authority of elective office to appointed agents. These surrogates are controlled by a network of private but public service-appearing associations.

Goal of the conspirators is absolute command, through federal regional councils and their sub-divisions, of all land, water and resources; production facilities, farms and businesses; and the apparatuses of public administration, education and the religious orders.

### BEHIND "REGIONALISM" STANDS WORLD GOVERNMENT

It is no surprise to learn that regional governance springs from the articles of the United Nations Charter. Departments of the federal government, acting in consonance with the "Purpose and Principles" of the world organization, are now free agents, unhindered by the clear restrictions of the United States Constitution.

The late Carl B. Rix, former President, American Bar Association, when testifying before the Senate Committee on the Bricker Amendment, May 11, 1955, summarized the elicit transfer of constitutional powers in these words:

"Congress is no longer bound by its constitutional system of delegated power. Its only test is under the obligatory (the word is that of the Attorney General) power to promote human rights in these fields of endeavor: Civil, political, economic, social and cultural. These (powers) are found in articles 55 and 56 of the Charter of the United Nations, a ratified and approved treaty," said Attorney Rix. "They are being promoted in all parts of the world by the United Nations."

"Congress may now legislate," Rix continued, "as an uninhibited body with no shackles of delegated powers under the Constitution. Our entire system of government of delegated powers of Congress has been changed to a system of undelegated power without amendment (of the Constitution) by the people of the United States."

Testifying before the Committee on the Judiciary of the United States Senate, the Attorney General of the United States, on April 7, 1953, took the position that action under articles 55 and 56, United Nations Charter, is obligatory.

"A notable example," he said, "is articles 55 and 56, United Nations Charter, obligating the parties to promote stated social and economic objectives and pledging themselves to take joint and separate action for the achievement of these purposes."

The new test of constitutionality applies to all legislation by Congress, since 1945, which deals with any of the five fields of endeavor. The United Nations Charter is, by definition, the "Supreme Law of the Land."

Evidence points to interlocking operations by a host of public and private agencies working in unison to overthrow the U.S. Constitution and erect a new kind of government upon the dead body of American liberty.

It is also apparent that these groups are acting at the direction of a principal interest—a power which has at its disposal limitless financial resources and political authority.

### FEDERAL LAW ESTABLISHED REGIONALISM AS A WAY OF LIFE

Transformation of the Republic into a totalitarian state under the terms of the United Nations Charter could not occur, of course, without the compliance of elected officials.

Betrayal of public trust by Congress (via U.N.-conferred powers) was given legal collaboration by passage of landmark regional bill, "The Intergovernmental Cooperation Act of 1968," (Public Law 90-577) dated October 16, 1968. The word 'intergovernmental' is interchangeable with the word 'regional'.

Public Law 90-577, 90th Congress, S. 698, October 16, 1968:

"To achieve the fullest cooperation and coordination of activities among the levels of government in order to improve the operation of our federal system in an increasingly complex society, to improve the administration of grants-in-aid to the States, to permit provision of reimbursable technical services to State and local government, to establish coordinated intergovernmental policy and administration of development assistance programs, to provide for the acquisition, use, and disposition of land within urban areas by Federal agencies in conformity with local government programs, to provide for periodic congressional review of Federal grants-in-aid, and for other purposes."

Public Law 90-577 destroyed the separation of powers which is the principle of the U.S. Constitution. By its Title IV Congress purported to yield legislative power to the U.S. President.

Title IV—Coordinated intergovernmental policy and administration of development assistance programs.

Sec. 401. (a) ". . . The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of national resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design."

The President, in turn, purported to yield these law-making powers to his appointees in the federal regions and sub-divisions, per Sec. 403 of the Act.

Sec. 403—Rules and Regulations

"The Bureau of the Budget or such other agency as may be designated by the President is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this title."

Out of this arrangement has grown the controversial A-95 clearing house review system designed by the Presidential Office of Management and Budget. The system straps regional governance over the entire nation. American citizens are now ruled by non-laws, rules and regulations formulated by agents of the Council on Foreign Relations to advance the "Purposes and Objectives" of World Government.

### TYRANNY ARRIVES IN THE GUISE OF HUMANITARIANISM

"Tyranny has never come to live with any people with a placard on his breast bearing his name. He always comes in deep disguise, sometimes proclaiming an endowment of freedom, sometimes promising help to the unfortunate and downtrodden, not by creating something for those who do not have, but by robbing those who have. But tyranny is always a wolf in sheep's clothing, and he always ends up by devouring the whole flock saving none." (J. R. Clark, Jr.)

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[3] July Bulletin (1972), Committee to Restore the Constitution.

Pollution problems, the crime wave, deteriorating education, confiscation of property through oppressive taxation, inflation, shortage of housing, food, fuel—these are but a few of the problems that have been created by revolutionaries in government. The reason is as old as politics itself. It is the Hegelian principle of bringing about change in a three-step process: Thesis, antithesis, and synthesis. The first step: Create the problem. The second step: Create opposition to the problem, i.e.; panic, fear, hysteria. The third step: Offer a solution or change which would have been impossible to impose without the proper psychological conditioning of the people achieved by stages one and two.

Make no mistake—War has been declared against the American people by revolutionaries posing as humanitarians. At issue is whether you will live under the protection and freedom of a constitutional Republic, or under a dictatorship of the financial elite.

The choice is yours to make . . . today.

## FOURTH BRANCH OF THE GOVERNMENT

### HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. MARTIN of North Carolina. Mr. Speaker, a recent editorial appearing in the Statesville Record & Landmark of my district contains some provocative, and indeed, timely thoughts which deserves the attention of all those concerned with the future of our constitutional system. The editorial follows:

With all the Watergate-inspired interest in the constitutional system of checks and balances among the executive, legislative and judicial branches of the government, surprisingly little note has been made of the growing importance of a fourth entity—one that was never dreamed of by the Founding Fathers.

It is surprising because so much of our daily news diet and our information about what is going on in Washington emanates from this source.

For want of a better name, call it the Department of Leaks.

Unlike other branches, agencies, bureaus, etc., whose functions are spelled out by the Constitution or by public law, who are tied to yearly budgets and whose offices can be found at definite geographical locations, the Department of Leaks is a ghostlike thing.

It has no chief or secretary, no staff, no headquarters. Yet it operates everywhere within the government and is feared and respected by the lowliest clerk on up to the President himself.

There are White House leaks, congressional committee leaks, State and Defense Department leaks—you name it.

They may be quasi-official, as in "a high-placed administration spokesman said today that . . ." Or they may be more suspect, as in "informed government sources speculate that . . ."

They may be petty: Who is being considered for an undersecretaryship. Or they may be world-shaking: The details of our fallback position on a nuclear disarmament treaty with the Soviet Union.

That the Department of Leaks has as much power to change history as the President or a Supreme Court is shown by one of its most famous, or infamous, jobs of this century, the Pentagon Papers. This case was unusual, however, in that it was one of the rare times that a leak has been associated with, and admitted by, an identifiable person.

It was frustrating White House leaks that helped create the climate of paranoia that led to Watergate (so testify the would-be "plumbers"), and it is Justice Department leaks that are currently being blamed by Vice President Agnew for what he calls trial by newspaper over his difficulties with his home state of Maryland.

Several newspapers have agreed that the vice president has a point, though none apologized for printing the leaks.

Which underscores the fact that powerful and pervasive as it is, the Department of Leaks would be as impotent as a lame-duck junior congressman if it did not have somewhere to leak TO.

Thus it is actually the press, not the Department of Leaks, that has come to exercise the function of a further check and balance over government. The press is not only the Fourth Estate; it is in many ways the fourth branch.

This may be both good and bad, and some journalists may be reluctant to accept the responsibility for the latter. But that does not change the fact of it.

The Founders, to be sure, recognized the vital function of an unfettered press in a free society and took steps to guarantee it in the First Amendment.

But the press must not only be mindful of its traditional role as a watchdog over the nation's welfare. It must be ever alert to the danger, through its close working relationship with the "Department of Leaks," of becoming a lapdog for those who would use it for their own purposes.

## HEARINGS SHOULD BE HELD ON FDA VITAMIN STANDARDS

### HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. KOCH. Mr. Speaker, the proposed Food and Drug Administration regulations governing vitamin and mineral supplements have aroused a great deal of concern among various groups in this country. Judging from the mail I have received on this very controversial issue, it appears that the effects of these proposed FDA regulations setting potency limits for the sale without a doctor's prescription of vitamin products as food supplements are not clearly understood by the American public.

The Hosmer bill, H.R. 643, on this subject has been referred to the Public Health and Environment Subcommittee of the House Interstate and Foreign Commerce Committee for consideration but no hearings have been scheduled.

I do not have sufficient facts to take a position on the issue of regulating the sale of vitamin and mineral supplements. I do feel strongly, however, that this controversy can only be solved to the satisfaction of those concerned by holding congressional hearings to receive testimony from experts representing all points of view. Only in this way will consumers be satisfied that all sides of the question have been heard, and only then will Members of Congress be in a position to take a stand on the issue.

I urge the distinguished chairman of the Interstate and Foreign Commerce Committee, HARLEY STAGGERS, to conduct hearings as soon as possible during this session of Congress since the proposed regulations are to take effect in January 1974.

## THE NEW FRONTIER: RIDING ROUGHSHOD OVER WATERGATE

### HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HUNT. Mr. Speaker, the New Frontier of the Kennedy era is blossoming again as part of the Watergate special prosecution force led by one-time frontiersman, Archibald Cox. And, once again they are pitted against the arch foe of 1960, Richard M. Nixon.

Furthest from the minds of these aggressive liberals, is the election of 1960, perhaps more devastatingly corrupt than Watergate will ever prove to be. But they would like us to believe it never happened.

In the August 4 issue of Human Events there is a story entitled "'Cox's Army' Spells Trouble for Nixon and GOP." In it is a rundown on Cox's key aides, and a brief history of each. I ask my colleagues to consider the following:

Henry S. Ruth, deputy special prosecutor, is Cox's top aide. Ruth served under R. F. K. when the late Senator was Attorney General. The 42-year-old former Justice Department prosecutor is fresh from a 3-year hitch in the cabinet of New York's liberal Democratic mayor John Lindsay.

James Vorenberg, one of Cox's two Kennedy-oriented special assistants, has been described as a frequent critic of Nixon's law-and-order pronouncements. Vorenberg was R. F. K.'s choice as the first director of the Office of Criminal Justice in 1964, served as a special assistant to Attorneys General Nicholas Katzenbach and Ramsey Clark as well as Bobby Kennedy. Like Cox, the 45-year-old Vorenberg is a Harvard law professor. He also headed a task force on crime for Senator GEORGE MCGOVERN when MCGOVERN was running for President.

Philip B. Heymann, another Harvard law professor, is the other special assistant to Cox. Heymann was assistant to the Solicitor General during J. F. K.'s administration and later served in the Johnson administration as executive assistant to the then-Under Secretary of State Katzenbach.

James Neal will head the Watergate task force. This 43-year-old Nashville attorney was a special assistant to Bobby Kennedy in the Justice Department from 1961 to 1964.

Thomas McBride, a former associate director of the Urban Coalition, who also served in the Justice Department during the Kennedy years, will lead the task force examining "campaign contributions."

William H. Merrill, a chief assistant U.S. attorney during both the Kennedy and Johnson administrations, is in charge of the "Plumbers" task force. Merrill was chairman of the Michigan Citizens for Robert Kennedy for President in 1968.

And it goes on, down through the lower levels of Cox's office. Almost all credentials are alike—Democrat-liberal.

And there you have it. All young men whose natural political enemy is Republican. Out to bag the biggest one of all, the President of the United States, Richard M. Nixon.

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## ALABAMA NEWSPAPER COMMENDS REPRESENTATIVE JULIA BUTLER HANSEN

### HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BEVILL. Mr. Speaker, the outstanding dedication and work of one of the members of the House Appropriations Committee was recognized during the August recess by the Florence Times Tri-Cities Daily in northwest Alabama.

In an editorial, the newspaper praised the effort of our colleague, Representative JULIA BUTLER HANSEN, for her efforts to continue construction of the Natchez Trace Parkway.

Because of the significance of the editorial I am including it as a part of my remarks so that all of our colleagues may know of Mrs. HANSEN's endeavors to complete this national asset.

The editorial follows:

#### CONGRESSWOMAN HANSEN BEFRIENDS NATCHEZ TRACE

The outstanding Congresswoman from Washington State, Rep. Julia Butler Hansen, is due a hearty thank-you from the people of this area for her fine efforts in forging another link in the Natchez Trace Parkway.

In cooperation with Congressman Bob Jones of Alabama and Congressman Jamie Whitten of next-door Mississippi, Rep. Hansen has initiated funding for planning and construction of a big section of the still uncompleted Natchez Trace Parkway in Mississippi.

Mrs. Hansen, the head of the powerful Interior Appropriation Subcommittee in the House, this year directed that $560,000 be used for planning and $2,000,000 for start of construction on nearly 16 miles of the Parkway from U.S. 45 north of Tupelo to Mississippi Highway 371 near Kirkville. The Senate will consider these funds in the Appropriations Bill in the near future.

Representative Hansen's support for the Natchez Trace development is not surprising when one considers the wide range of her contributions to a better national life through her service in the Congress. For more than a decade she has helped mold landmark legislation through her work on the Education and Labor Committee, the Veterans Affairs Committee, and the Interior and Insular Affairs Committee. She is the first woman to be chairman of an Appropriations Subcommittee and it is through this office that she has aided the Parkway.

The hard-working Congresswoman from Washington knows firsthand of the beautiful sections of the Natchez Trace which have been completed. She has visited the area and conferred with the region's representatives about the requirements for enhancing this great asset. It is heartening to those of us who have worked so long for completion of this historic roadway to know of her personal interest in seeing the Trace completed in a timely fashion.

Numerous segments of the Trace remain unfinished but Mrs. Hansen's help in allocation of funds for a major section offers great hopes that this attractive and popular parkway is moving much closer to completion and enjoyment by all Americans.

Our hats are off to the gracious lady from Washington State.

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## WILL ENVIRONMENT LOSE OUT TO THE NUMBERS GAME?

### HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HUDNUT. Mr. Speaker, there is much discussion currently relative to the effects of the Clean Air Act on our energy crisis. The picture being painted by the media concerning this issue is not an entirely accurate one, however. The quest for an "energy versus environment" headline is very misleading to many Americans in that both problems affect all of us.

An interview story with Mr. Perry E. Miller, former technical secretary of the Indiana Stream Pollution Control Board, which was published in the August 27, 1973, edition of Industry Week, provides a realistic perspective on this issue. As Mr. Miller says:

> We've allowed ourselves to become so preoccupied with "pollution" that we're ignoring the environment and we're ignoring conservation.

In my opinion, the points he makes could be very useful in guiding congressional policies on this matter. Under leave to extend my remarks, I include the interview herewith for the benefit of my colleagues:

#### WILL ENVIRONMENT LOSE OUT TO THE NUMBERS GAME?

"We've got to begin to understand that going all out 'to stop pollution' will be harmful to the environment. For today we're failing to consider the requirements we're placing upon air, water, land, and energy to meet our arbitrary and scientifically meaningless pollution regulations.

"We've allowed ourselves to become so preoccupied with 'pollution' that we're ignoring the environment and we're ignoring conservation."

Environmental engineer Perry E. Miller stretches out behind his desk like a piece of rolling Indiana farm land. He comes from a small town in Indiana and was raised to respect that land.

"After all, you don't destroy matter. You change its form, and you do something with it. I've been an environmental engineer all my life. When I have a waste product which I must return to the environment, I ought to be able to use my knowledge to determine what alternative means of disposal will be least objectionable and have the least environmental effect.

"Take the matter of 'zero discharge' for water. When you call for zero discharge, that means you are going to put the substance on the land. But that concept fails completely to recognize the relationship between ground water and surface water.

"Now look at a substance like common table salt. You use it on your food and it doesn't hurt you.

"You find it in the oceans and they are teeming with life. But when you *must* put it on the land, concentrations build up and the land becomes arid like the salt flats of Utah.

"So this is the kind of thing we are doing: promulgating regulations without a sound understanding and data base on what treatment alternatives we have, on what can be accomplished, on differing environmental circumstances in various parts of the country that relate to treatment requirements, and on the environmental, health, and conservation effects of our actions.

"Environmental improvement used to be a scientific and technical problem. But it's changed from a problem of applied knowledge to a problem of applied politics."

#### "WHAT" REPLACES "WHY"

Mr. Miller has been working for environmental improvement for more than 30 years. He has been instrumental in environmental programs both as a state health official and in industry—most recently as director of environmental control for Republic Steel Corp., Cleveland. He has now returned to Indiana as an environmental consultant.

Mr. Miller is concerned that we have become so preoccupied with *what* we are doing that we have forgotten *why*. He recounts the gradual change.

"I joined the Indiana State Board of Health in 1940 when we were mainly interested in water pollution as it affected public water supplies and the quality of the water for use by the public. This was part of an ongoing program that had come about because of the typhoid epidemics many years earlier.

"But many evolutions have occurred simultaneously. One has been growth itself. At that time in Indiana we had around 350 canning plants. Today I would suppose there aren't 50. But the total product canned is probably as great or even greater now. And that means that the discharges are more concentrated and therefore more significant.

"So we have had considerable development and growth of this kind—agricultural, industrial, and urban. As growth occurs, eventually you reach a point where the streams no longer can assimilate the waste load and then discharges must be treated to maintain water quality.

"So it was on that kind of basis that during the decades of the 1940s and 1950s and even into the early 1960s our state treatment requirements were designed to maintain water quality in the streams. You analyzed the water and you made engineering determinations of what was actually needed to do that individual job.

"But beginning about the mid-1960s we began an abrupt swing away from letting the environment tell us what a problem was to letting numbers tell us what a problem was. And we have now come to believe in those numbers to a degree that few question where they came from or what they mean. And we wouldn't think of checking with the environment for that would take knowledge and judgment.

"The first major water quality act was passed back in 1948, and its significance in retrospect is that it first brought the federal government into what had been a state activity. But the program was put under the Public Health Service, and we state people had excellent relationships with the men in Washington and in the field offices.

"These men were career technical experts. They had been involved for many years in studies such as the quality of water in major rivers, in public water supply treatment, and in the analysis of municipal waste treatment operations. They knew what they were talking about.

"The states went to these men for help, and they got help. Then the states followed up to take the actions required to get the job done working with local jurisdictions and local industries.

"We studied problems, we found answers, and we made progress. But perhaps as technical people we had not moved fast enough or not tried hard enough to explain what we were doing and what our objectives were. Or perhaps engineering judgment in applying the treatment needed to maintain water quality for specific purposes may have been too difficult for lawyers and the public to understand.

### "ENTER ENFORCEMENT CONFERENCES

"There's no doubt that in the early 1960s public interest was growing concerning the environment. We had public interest earlier, but it was on the part of people directly affected by a specific situation. Now there was developing a more generalized interest concerning the environment, and, when you find that kind of concern on the part of the public, that in turn generates a concern on the part of people seeking political office.

"So the legislators responded with enforcement conferences to bring the public and the state people together. And when you have the public involved, it apparently is necessary that you have some kind of yardstick by which the public and the judicial system can judge whether there is a problem or not.

"As a result, the law established enforcement conferences and standards in specific numbers. But it went farther. Amendments in 1965 required the states to establish those standards subject to the approval of the Federal Water Quality Administration. So for the first time, the states' decisions on water quality were subject to federal approval.

"In retrospect, it now seems clear that beginning with that required approval the states lost their power of engineering judgment on what was needed to maintain environmental quality and that henceforth those decisions were to be made in Washington.

### "POLITICS SUPPLANT KNOWLEDGE

"For with each new piece of legislation at the federal level since that time, a new layer of bureaucracy has been imposed at the top. As a result, the decisions and judgments and policies are being made increasingly by nontechnical people. The technical men we worked with and respected in the 1940s and 1950s are long since gone. And while there are still some technical people there, political appointees are responsible for the decisions that are being made.

"This structure means environmental determinations are being made on a basis of *political needs rather than environmental needs.*

"We have moved from state-administered plans with consultative services by the federal government through a situation in which the state still played a dominant role with the federal government setting certain standards of achievement, to a situation today that is almost a total dictatorship of the federal government in telling a state what it must do and how it must do it.

"Now this in turn has had several effects. One is that, with each new law and each new change in the federal structure, the paperwork has increased more or less geometrically. As an Indiana state official, I found that my staff was eventually spending its time filling out forms for the federal government rather than spending its time in the field identifying and solving environmental problems.

"But worse still, this all has been done in a way that keeps the laws changing and the requirements changing so rapidly that planning has been impossible on any kind of long-range basis.

"Nitrogen oxides in air are a recent example where standards were set and the government has now made a determination that the analytical techniques were inaccurate. So they have now drawn back from those standards.

"But the states, to meet the time requirements of the legislation, adopted those more stringent standards for nitrogen oxides. They have the regulations on the books. Now, when they are told that the data upon which the standards were based are invalid and thus that the standards are unnecessarily strict, states must amend those regulations. One can question how many are following through.

"Beyond that, now we have industry faced with a situation in which the federal government says it is drawing back because of invalid data, states which may or may not draw back, and local agencies within a state which also may or may not draw back. And if so, how far?

"In a situation like that, just how is industry supposed to know what it has to do?

"When you look at what we're facing it seems clear that we're on a collision course. The Clean Air Act of 1970 sets forth certain requirements for meeting ambient air quality standards. For some emissions, certainly, the mid-1975 deadline can be met.

"But for others we have neither the technology nor the wherewithal to have the facilities in place prior to the deadline. That means either we're facing a large number of court cases with inevitable delays and other consequences, or we must recognize these standards are unrealistic and be satisfied with the substantial progress from developing technology.

"And in water, the effluent guidelines need not be established until Oct. 18, 1973—a year after the effective date of the 1972 act. Yet on these guidelines hinge the permits to discharge which industry must obtain to continue to operate.

### "WHAT'S A COMPANY TO DO?

"In this numbers game, the only thing a man responsible for environmental control in industry can take to his board of directors is a program which he considers to be based on sound treatment methods and which will work. Then he can only hope that this will bring his company into compliance with the effluent standards yet to be established.

"In arriving at the 'best practicable' currently available treatment called for by the law for existing facilities, you would assume that you might be able to meet with both the state and federal people to discuss what you are doing and what it will achieve. But there is no mechanism set up to do this and, again, you can only hope that you will be dealing with reasonable and knowledgeable people.

"Unfortunately, therefore, industry can only endeavor to use sound engineering judgment and try to do those things which will make an improvement and operate reliably.

"It might be that if you used this approach, and could demonstrate to the regulatory agencies that you were doing the best job possible, they would not prosecute. But you now have both under the federal act and many of the state acts the right of civil suit. And this means that any citizen or conservation group can collect samples and from them ascertain that your company is not in compliance and bring an action.

"What that means is that even if you should convince the regulatory agencies that you are doing the best practicable job, you may still wind up in court defending yourself in citizen suits.

"So this is what you create when you set standards that eliminate the need to determine whether or not there actually is a harmful effect. We face a time of turmoil and litigation to sort out these helter-skelter piecemeal requirements that no longer relate to environmental equality and do not consider the best use of our resources.

"For if we have to go all the way in every situation—allowing nature to do none of the waste assimilation—then we are squandering energy and creating countless new problems.

### CAN WE TURN BACK TO PROGRESS?

"Sooner or later we're going to have to begin looking once again at what kind of treatment we actually need both to conserve our resources and maintain the quality of the environment.

"It seems ironic that we call the regulatory agencies 'environmental protective agencies' when they are actually administering laws completely devoid of any environmental judgment as to what effect one action may have upon others.

"And this extends beyond simply the environmental effects. For while the consumer pays the immediate cost of irrational pollution control programs, ultimately the future cost of overutilization of our natural resources will face generations to come."

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## SAN CLEMENTE AND KEY BISCAYNE

## HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. MOLLOHAN. Mr. Speaker, a recent editorial in the West Virginian of Fairmont, W. Va., accurately pinpoints what I believe are some of the fundamental questions the American public has about the spending of tax dollars on the private property of our Chief Executive. This issue, which has stirred controversy for some months now, has generated comment and concern that transcends party lines.

The West Virginian, for example, has been a solid Republican newspaper for more than 100 years. It is ably edited by Richard Parrish, an unusually discerning editor who has long been a well-informed advocate of good government. His observations on this issue will undoubtedly be of interest to everyone concerned about the disturbing news from San Clemente and Key Biscayne:

### SPENDING OUR MONEY ON THE PRESIDENT

Few Presidents have been more demanding of economy in government than Richard Nixon.

This was his excuse for his last-ditch fight against the 20 percent increase in Social Security last year and his more recent opposition to the five percent increase.

This was the reason he gave for opposing measures providing for specific programs and money for handicapped children, for preschool children, for schoolchildren, for college students, for the nation's libraries, for slum dwellers, for the sick, for the mentally ill, for scientific and medical researchers and for public television.

In the face of all of this, he has admitted, at long last, that more than $10 million was spent in public money for his personal safety at his homes at San Clemente and Key Biscayne.

Originally, the public was grudgingly told that the sum of about $34,000 was spent for "security and communications installations" at his two homes, but that figure has finally reached $10 million—now that a congressional investigation is under way.

It is a shocking thing, particularly in view of the fact that many of the improvements at the home had nothing to do with security.

San Clemente and Key Biscayne are expensive homes, but the President obtained them for a song through influential friends. Now their value has been increased a thousand times thanks to money provided unwittingly by the taxpayers.

Other beneficiaries of the federal funds are Charles Rebozo, the President's close friend, whose Maryland property is occupied by Mr. and Mrs. David Eisenhower, the latter a daughter of the President, and property in the Bahamas owned by Robert Abplanalp, where the President visits occasionally.

The improvements to the Nixon homes represent a violation of the Constitution in the view of Roger D. Masters, a professor of government at Dartmouth College.

Read this by Professor Masters as it appeared in an article he wrote for the Washington Post:

"Article II, Section 1, of the Constitution, declares that 'The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.'

"In flat violation of this clause, President Nixon has received emoluments in the form of improvements to his private residences in San Clemente and Key Biscayne. While some of the $2.2 million (now up to $10 million) expended on the Nixon estates could be justified in terms of 'national security,' it is hard to class a $2,800 swimming pool heater in this category. And, while the old furnace at San Clemente may well have been a hazard, a new $13,500 electrical heating system is a capital improvement to a private residence, an 'emolument' in the constitutional sense.

". . . The concept of equating a swimming pool heater or a new heating system in Mr. Nixon's private residence with 'national security' is shocking. In monarchies the personal comfort of the king may be a matter of national security. Under the U.S. Constitution it is not."

We think most Americans would agree with that.

## THE NEED FOR MORE BLACK PHYSICIANS

### HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. YOUNG of Georgia. Mr. Speaker, a study being conducted by Morehouse College of Atlanta for the National Institutes of Health reveals an urgent need for more black and other minority health professionals, and finds that the need "is reaching alarming proportions" in the Southeast.

In Georgia, for example, there were 4,233 white non-Federal physicians in 1970—a ratio of 1 doctor to every 801 white Georgians. But there were only 100 black non-Federal physicians, making the ratio 1 black doctor to every 11,871 black Georgians. In the 1972–73 school year there were 14 black first-year students enrolled in the medical schools in Georgia, compared to 244 whites.

The situation for dentists in Georgia is similar: In 1970 there were 36 black dentists—1 to every 32,976 blacks—and 1,400 white dentists—1 to every 2,422 whites). There were about 16 times as many white first-year dental students as blacks in the 1972–73 school year.

These disturbing facts speak for themselves. In the words of Dr. Joseph N. Gayles, program director of the Morehouse project:

> Our early investigations made it apparent that greatly increased numbers of minority physicians and dentists are urgently needed," he said. "In-depth analysis of this problem, however, has yielded information which describes an acutely serious situation. Of particular concern is the fact that at the present rate of production of minority professionals, it will not be possible, regardless of the important issues of maldistribution, to produce the numbers of minority health professionals needed.

The Morehouse project is continuing, with emphasis on developing a curriculum of quality to produce more doctors and dentists from the minority population.

Mr. Speaker, I submit an interim report on this provocative and informative study.

### NEED FOR MORE MINORITY PHYSICIANS AND DENTISTS REVEALED BY MOREHOUSE COLLEGE

Meeting the need for more minority physicians and dentists should be a top priority concern in the United States, according to a report recently submitted to the National Institutes of Health by the Morehouse College Medical-Dental Education Project. The report reveals that the need for more minority health professionals is especially acute in the southeast and in Georgia, and is reaching alarming proportions in these areas.

The College's Medical-Dental Education Project is the result of a contract received by Morehouse in February. The contract was awarded by the Bureau of Health Manpower Education of the National Institutes of Health. Under the auspices of this contract, Morehouse College is examining the feasibility of establishing a system in medical and/or dental education which would be roughly equivalent, but not necessarily liimted to, the basic science components of M.D. and/or D.D.S. and D.M.D. degree-granting institutions.

In commenting on the findings of the Morehouse report to the National Institutes of Health, Dr. Joseph N. Gayles, Program Director of the Morehouse Project, stated that demonstration of the *need* for a new system in medical and dental education was a contract requirement.

"Our early investigations made it apparent that greatly increased numbers of minority physicians and dentists are urgently needed," he said. "In-depth analysis of this problem, however, has yielded information which describes an acutely serious situation. Of particular concern is the fact that at the present rate of production of minority professionals, it will not be possible, regardless of the important issues of maldistribution, to produce the numbers of minority health professionals needed."

The study revealed that if 2,000 black physicians could be produced each year, it would take approximately ten years, if no current black physicians died, for the country to reach a ratio of one black physician to every 1,000 black people. The critical need is for primary health providers in the black community.

According to Dr. Edmund Casey, president of the National Medical Association, "an optimum ratio of minority physicians to minority population will not be obtained until 2020 at our current rate of medical school admissions."

Over the past several months, staff members of the Morehouse Medical-Dental Education Project have met with representatives of local, state, and national professional organizations, community organizations, practitioners, educators, and accrediting bodies. In addition to Dr. Gayles, Dr. Thomas E. Norris and Mrs. Alice G. Green are members of the Project staff.

In the next few months, a great deal of time will be spent on considerations of curriculum. Dr. Norris, Project Director, pointed out that there are several constraints around which the curriculum in basic medical and dental science will be developed. "We will look into ways to eliminate, whenever possible, the considerable redundancy in the teaching of the sciences which are fundamental to the education of the physician and/or the dentist. We hope to avoid the artificial discontinuity that characterizes pre-medical and pre-dental studies and early years of medical and dental school studies," he said. "Our goal is to increase the number of qualified minority persons who become physicians and/or dentists. It is our hope that they will serve in presently underserved areas."

The Project will emphasize a curriculum of quality that will produce students who can compete openly in all phases of medicine and/or dentistry, and there will be in-depth analyses of new and innovative programs in health professional education.

The following table, based on findings by the Medical-Dental Education Project, demonstrates the need for more minority physicians and dentists in Georgia:

| | |
|---|---|
| White Population of Georgia (1970) | 3, 391, 242 |
| Black Population of Georgia (1970) | 1, 187, 149 |
| Number of White Non-Federal Physicians in Georgia (1970) | 4, 233 |
| Number of Black Non-Federal Physicians in Georgia (1970) | 100 |
| Ratio of White Physicians to White Population in Georgia (1970) | 1/801 |
| Ratio of Black Physicians to Black Population in Georgia (1970) | 1/11, 871 |
| Number of White First-year Medical Students in Georgia (1972–73) | 244 |
| Number of Black First-year Medical Students in Georgia (1972–73) | 14 |
| Number of White Dentists in Georgia (1970) | 1, 400 |
| Number of Black Dentists in Georgia (1970) | 36 |
| Ratio of White Dentists to White Population in Georgia (1970) | 1/2, 422 |
| Ratio of Black Dentists to Black Population in Georgia (1970) | 1/32, 976 |
| Number of White First-year Dental Students in Georgia (1972–73) | 140 |
| Number of Black First-year Dental Students in Georgia (1972–73) | 9 |

## PARENTS ACTION COUNCIL OF PRINCE GEORGES COUNTY

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mrs. HOLT. Mr. Speaker, I rise today to commend the efforts of the Parents Action Council in Prince Georges County, Md.

This organization is concerned with children who have a specific language disability. It is estimated that some 24,000 children in Prince Georges County alone suffer from this impairment. These children have no known primary physical and emotional disability contributing to their underachievement except for their perceptual reading problem.

The Parents Action Council has, for the past year, worked diligently to bring this problem to the attention of schools and parents, and it is through these unceasing efforts that hope is offered for quality education for these children. I would like to add my words of support and praise for these dedicated parents, and for all those involved in this vital reeducation program.

## MURDER BY HANDGUN: A CASE FOR GUN CONTROL NO. 17

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HARRINGTON. Mr. Speaker, according to Ann Landers:

> At least 80 percent of the gun murders are—the unplanned acts of violence of an enraged, out-of-control assailant.

The death of William Pauneto was motivated by anger. Irritated because his car ran out of gas, Pauneto made a scene on the sidewalk, waving his gun around. When two women came down from an apartment to see what the commotion was about, they were shot, allegedly by Pauneto.

But William Pauneto can never be arrested. He was shot and beaten to death with his own gun by someone in an angry mob who got there before the police.

Handguns are now so widely distributed that they no longer protect their owners. They have become an offensive weapon, used to vent anger on friends, relatives, or bystanders. Only immediate gun control legislation can lessen fatal results from incidents such as these.

I would like to include both the Ann Landers column on gun control from the September 5, 1973, Washington Post and the Pauneto article from the September 10, 1973, Washington Post at this time.

The articles follow:

#### Ann Landers

Dear Ann:

Your piece on gun legislation should be printed every month. Where does our love of guns come from? It is a national disgrace and it shows our pathetic lack of positive values.

Someone tried to teach the power of love 2,000 years ago. Have we learned nothing in all that time? What do wars say about the human race? I wouldn't attempt to answer that question. It hurts too much and it makes me too ashamed.—Heartache In Oregon.

Dear Heartache: Thank you for your sensitive, thoughtful letter. It was like a breath of fresh air amidst the thousands of hysterical cries from frightened Americans who foolishly believe that guns are going to protect them.

The more guns loose, the more people are going to get killed. It has to happen. At least 80 per cent of the gun murders are performed by "friends," neighbors or relatives. They are the unplanned acts of violence of an enraged, out-of-control assailant. If no gun were available, the attacker would vent his anger with a fist, a hammer, a knife, a ball bat or a frying pan—and the chance of fatal results from such weapons is far less than the 90 million handguns floating around this country.

It is true, as many of you have written to say, that the criminal who wants a gun will get one. But the vast majority of gun killings are not acts of premeditated murder. They are impetuous or drunken responses to anger or frustration. If these hotheads had no guns they'd put people in hospitals instead of morgues. If you don't believe me, talk to a police officer who has worked in homicide. He knows the score.

#### Gunman Is Beaten By Angry Crowd

New York, September 9.—An angry crowd fatally beat a man late last night and shot him with his own pistol after the victim apparently shot two women during a quarrel, police said.

A spokesman said the victim, William Pauneto, 32, New York, whose car ran out of gas, had been waving the gun about on the sidewalk. The women came down from an apartment to see what the commotion was about. When their friends followed, they told police, the two women were lying shot on the ground and a crowd was beating Pauneto.

## PETE STARK LEADS EFFORT TO REVITALIZE DISTRICT

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BROWN of California. Mr. Speaker, the matter of the location of Federal buildings in the District of Columbia has recently come under questioning by officials of the District and some Members of Congress. My colleague and good friend from California (Pete Stark) has been instrumental in an attempt to compel the Federal Home Loan Bank Board to build new headquarters in the downtown urban renewal area of the city. The matter is by no means settled yet, and has evolved into a controversy involving possible legislative action by the House.

Recognizing that we may find ourselves voting on this matter at some point in the future, I would urge all of our colleagues to read a column about the subject written by Congressman Stark, which appeared in the Outlook section of the Washington Post on Sunday, August 26. For the convenience of those Members who do not have a copy of the Post of that date, I will enter the text in the Record at this point.

The text follows:

#### The Placement of Federal Buildings

Washington's redevelopment effort is again being thwarted by an agency of the federal government. This time it is the Federal Home Loan Bank Board, one of the original proponents of urban renewal. The Board, the supervisory agency for the nation's savings and loan industry, is apparently reneging on the stated commitment of its member institutions to the revitalization and development of our cities. It has chosen to locate its new headquarters just outside the periphery of the downtown urban renewal area at 17th and G Sts. NW.

The decision has sparked a controversy between the members of the Board and some members of the National Capital Planning Commission supported by 11 members of the House Committee on Banking and Currency. The issue, of course, is a much larger one, and one that eventually must be settled between the federal government and the District of Columbia. It is centered around the question of whether or not the federal government, as a developer or landowner, has a responsibility to help meet the economic and social needs of the city in which it is located.

I do not believe that the District should acquiesce so quietly. The basic question at stake is one too critical to the future viability of the District as a financial entity to be lost by tacit consent.

The responsibility for successful urban planning has been borne throughout the country by a coalition of business, government and social planning representatives. The failures have been marked. But where progress has been made, it is due to the notable amount of cooperation between the many interests at stake. The savings and loan industry has traditionally been the most constant and encouraging partner in any effort. That cooperation, though, is sorely lacking in the District.

The prestige associated with a business address in the so-called "Wall Street" area on 15th St. NW, is well accepted. The FHLBB, however, carries so much prestige in its own name that a Bank Board building would actually bring a great deal of prestige to a downtown neighborhood. This image would also be heightened by the sort of office building planned. The Bank Board and the NCPC, as well as others, are in agreement that the structure shall have arcades at the ground level for commercial purposes. This use of accessible areas of the building would make it a thriving and attractive public center as well as a dignified and stately financial nucleus. In view of the present "wait and see" attitude expressed by private developers regarding the downtown area, this would surely be the first step in a long trend of rebuilding.

The factors which may seem prohibitive to a small firm considering locating east of the White House do not, however, apply in the case of a large, self-sufficient government agency that acquires, builds and occupies an entire office building. Such an agency does not have to be concerned with finding suitable tenants to occupy surplus space. There is no problem of maintaining a constant rental intake to meet overhead requirements. The only substantial cost factors involved for a government agency are those associated with acquiring land and construction.

I understand that increased costs might be incurred by the FHLBB if a change of site were to be made at this late date in their planning. This, then, is the only cost differential of any magnitude involved in the controversy. Are the increased costs of the selection of a new site, in the urban renewal area, justifiable in terms of the long-term financial benefit that will accrue to the city?

From a purely fiscal point of view, it must be noted, however, parenthetically, that the site now contemplated for the FHLBB at 17th and G Streets NW, would yield substantial tax revenue to the city if privately developed. Equally lucrative private development can not be anticipated at this stage of development in the downtown urban renewal area.

More critical in terms of long-term financial benefit is the incentive for growth that the FHLBB headquarters would provide the surrounding neighborhood. This cannot be quantified, but all concerned authorities in the city concur in its magnitude. It would provide valuable, and long-overdue, stimulation. In light of these arguments, the FHLBB's position in favor of the needed "prestige and dignity" of the site west of the White House seems to fall rather flat.

Resolution of this question is not likely to come easily. The members of the Bank

Board have so far stood firm in their intention to purchase and build on the site just west of the White House. They have not been swayed by the entreaties of NCPC members, members of Congress, Downtown Progress, or any others working for downtown development. Legislative recourse is available, if necessary. Both the House Committee on Banking and Currency and the House District Committee have jurisdiction to compel the FHLBB to locate elsewhere.

I do hope that the FHLBB will take the initative, rather than have its hand forced by Congress. Voluntary revitalization will be much more effective than arbitrated or obligated relocation.

FORTNEY H. (PETE) STARK, Jr.,
*Member of Congress.*

# THE PRESIDENT'S CONFIDENCE PROBLEM WITH THE CONGRESS, COURTS, AND THE PRESS

## HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to have reproduced and reprinted in the appendix to the RECORD a recent article by the noted columnist, Mr. James Reston, of the New York Times, which provides some provocative observations concerning the President's problems with the Congress, the courts, and the press.

The column follows:

A PRESIDENT ON THE ATTACK

(By James Reston)

It's the normal and prudent rule of power and politics that you never try to fight more than one battle at a time, even when—you're fighting from a position of strength, but President Nixon is back in Washington, weak, breathless and defiant, fighting on three fronts at the same time.

It is good theater but bad politics. For, at his latest news conference, he blamed the Congress for high prices and inflation, blamed the reporters rather than the burglars and spies for his Watergate troubles and even told the Supreme Court that he would only obey a "definitive" judgment on the Watergate tapes, without explaining what "defiinitive" meant, or why he alone of all Americans had the right to pass judgment on Supreme Court decisions.

This is very strange. The Congress has come back from its vacation in a compromising mood. Most members seem to be saying that Watergate is an insoluble mess, but let's try to make the best of it. Mike Mansfield in the Senate and Tip O'Neill in the House, the Democratic leaders, have been arguing that the crisis is too serious to be exploited for political advantage.

But the President has come back to town telling the Congress to shape up. "We have, had this year," he told the press, "as far as Congress is concerned, a disappointing performance so far." This has merely irritated the Congress, which doesn't think Nixon's performance has been very helpful.

The President's approach to the press and the courts is about the same as his attitude toward the Congress: When in trouble, attack! When Richard Valeriani of NBC asked him whether he had a problem of rebuilding confidence in his leadership, he replied that he did, and then blamed this lack of confidence, not on the burglaries, financial deceptions, and political espionage and sabotage of his own supporters, but on the congressional investigation and newspaper reporting of these facts.

Nixon was equally skeptical of the courts. Get Watergate off television and into the courts, he said, but he would not give the courts the right to listen to the Watergate tapes in camera, and he would not, he insisted, abide by anything but "definitive" Supreme Court judgment, which he refused to define.

It could be that this is why he has a "confidence" problem. His trouble is more personal than legal. He is not trusted because he trusts no man, and no institution. He lives under the dominion of fear. As he sees it, the world, the Congress, the courts, the press are all against him. He feels that maybe his own national security officials are suspect and have to be bugged, and now it is reported that he even had his own brother followed and wires tapped by the Secret Service.

The interesting and troubling thing about all this is why, with 3½ years to go and with all his problems, he keeps on proclaiming the independence, freedom and integrity of the Congress, the courts, and the press, and then fusses with them, defies them and bames them for his agonies, and insists on fighting on three or four fronts at the same time.

For almost everyone in Washington, it's a bore to keep on psychoanalyzing these strange actions of the President—his restless movements from Camp David to Florida, to San Clemente, his long silences and disappearances, and then his sudden appearances and defiant proclamations.

But this is the heart of the President's confidence problem. It is not so much the facts of Watergate, disturbing as they are, but the attitudes and atmosphere that made Watergate possible, and the deceptive manipulations and inconsistent testimony of the case that perpetuate the doubts in the Congress, the courts and the press.

His confidence problem, which is clear in the popularity polls and which he has not yet faced, was defined long ago by Homer:

"For I hold that man as
hateful as the gates of
Hell, Who says one
thing, while another in
his heart lies hidden well."

# ECONOMICS

## HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. ZWACH. Mr. Speaker, the state of our economy is one of the biggest concerns of our people in the Minnesota Sixth Congressional District.

This concern is mirrored in numerous editorials appearing in our district newspapers.

With your permission, and to bring this concern to the attention of my colleagues, I would like to insert into the CONGRESSIONAL RECORD a recent very excellent editorial by Carroll Fey of the Edgerton Enterprise which all of us should bear in mind when legislation comes before us:

ECONOMICS

There are certain truths which are true no matter how much the world may question or deny them. In the economic realm, for instance, you cannot legislate the poor into freedom by legislating the wealthy out of it. You cannot multiply wealth by dividing it. Governments cannot give to people what they do not first take away from people. And that which one man receives without working for, another man must work for without receiving it. And nothing can kill the initiative of a people quicker than for half to get the idea they need not work because the other half will feed them, and for the other half to get the idea it does no good to work since someone else receives the rewards.

# DRUG RAID DEATH A CHRONOLOGY

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. RANGEL. Mr. Speaker, on April 4, 1972, Bureau of Narcotics and Dangerous Drugs Agent Lloyd Clifton fatally shot Mr. Dirk Dickenson in Humboldt County, Calif., during an illegal raid. Agent Clifton was not suspended for his actions and the Federal Government cleared him of any wrongdoing. The State of California, however, indicted Agent Clifton on second degree murder and involuntary manslaughter charges. This case is now in the courts.

San Francisco Chronicle correspondent Paul Avery has written several excellent articles on this occurrence and its aftermath. I place these in the RECORD at this point:

NO CHARGES IN DRUG RAID DEATH

A United States attorney said yesterday no federal charges will be filed against the narcotics agent who shot and killed a fleeing suspect in a controversial helicopter drug raid in Humboldt county last April.

The U.S. attorney, James L. Browning Jr., said "a lengthy investigation by (my) office, the Humboldt county district attorney's office, and the Bureau of Narcotics and Dangerous Drugs Office of Inspection" turned up too little evidence to prosecute agent Lloyd Clifton for the shooting of Dirk Dickenson, 24.

CABIN

Dickenson was shot by Clifton as he fled a remote mountaintop cabin during a raid coordinated with other raids in Burlingame and Hayward.

Agents had expected a drug "factory" but found only a little marijuana, hashish, peyote, and an old pill-making machine.

Attorneys for Dickenson's girl friend, Judy Arnold, 24, and five additional suspects picked up in the other raids, argued that illegal actions on the part of narcotics agents made any evidence obtained unusable in court.

As part of that case they said that Clifton had deprived Dickenson of his civil rights when he shot the unarmed man after he fled out a back door.

However, yesterday Browning said Clifton "did not act with specific intent of purposely inflicting punishment without trial" on Dickenson. Other agents who took part in the raid say they thought Dickenson had shot at them.

JUDGE

Last month U.S. District Judge William Swegert was skeptical enough of the story told by narcotics agents to suppress all evidence obtained in both the Humboldt county and the Hayward raids.

In a trial that followed, based on the Burlingame raid, one suspect, Marion Bruce Phelps was convicted of selling drugs and is awaiting sentencing.

Defense attorney Philip Scott Ryan said yesterday that he still intends to pursue a $1.5 million civil suit against Clifton on behalf of Dickenson's parents, the dead man's 6-year-old daughter Monica, and Miss Arnold (against whom all charges have been dropped).

In his statement yesterday Browning said the investigation was conducted solely to determine if Clifton broke any federal law, and "other governmental agencies have the responsibility to determine whether State or other laws have been violated."

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### A $3 Million Suit in Drug Raid Slaying

A $3,050,000 damage suit was filed in federal court here yesterday in connection with the killing by a narcotics agent of a fleeing suspect in a controversial helicopter drug raid in Humboldt county last April.

Named as defendants in the fatal shooting of 24-year-old Dirk Dickenson were the U.S.A., the State of California, State narcotics agent William Filbea, and Federal narcotics agents Kenneth Krusco and Lloyd Clifton.

Clifton was the agent who shot the unarmed Dickenson as he fled from his remote mountaintop cabin, but the U.S. Attorney's office here later decided there was insufficient evidence to prosecute Clifton for the shooting.

Plaintiffs in the suit were Dickenson's parents, Chester and Mildred Dickenson; his six-year-old daughter, Monica Dickenson: her mother, Mercedes Ripley; and Dickenson's girlfriend, Judith Arnold.

The suit asked for $1 million in punitive damages and $1 million for the parents, $1 million for Miss Arnold and $50,000 for the daughter—on various grounds.

The suit says the agents "wilfully, wantonly, maliciously, intentionally, negligently and carelessly shot and killed" Dickenson.

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### Narcotics Agent Indicted—Murder

(By Paul Avery)

Eureka, Humboldt County.—A Federal narcotics agent who fatally shot an unarmed fleeing suspect in the back during a raid last April was arraigned here yesterday on a charge of second degree murder.

Agent Lloyd Clifton was indicted on that charge by the Humboldt county grand jury after it conducted a lengthy investigation into the death of 24-year-old Dirk Dickenson.

Clifton is the first agent of the Bureau of Narcotics and Dangerous Drugs ever to be charged with homicide in connection with a "line of duty" shooting, a spokesman for the bureau said in Washington.

Clifton was silent throughout the brief proceedings before Superior Court Judge William G. Watson, Jr.

Although the grand jury voted the indictment nearly two weeks ago—on January 5—its return was kept secret until yesterday afternoon.

#### COURTESY

Apparently this was a courtesy extended by District Attorney William Ferroggiaro to the U.S. Justice Department in order to allow Clifton to obtain counsel and to surrender himself without having to undergo arrest in San Francisco where he is stationed.

Clifton was represented by two counsels, Assistant U.S. Attorney James Hazard from San Francisco, and James McKittrick, a prominent trial lawyer from Eureka.

Hazard told Judge Watson it was the position of the "United States (government)" that it "does not recognize the (state) court's authority to proceed in this matter."

#### ATTEMPT

(In San Francisco, U.S. Attorney James Browning said the government "will attempt to convince the state of California and its courts that the charge should be dismissed."

(Browning said it is the government's position "agent Clifton's acts did not amount to criminal homicide." He cited the State Penal Code's section on justifiable homicide as the basis for that position.)

Last November Clifton was cleared by the U.S. Justice Department after an investigation, lasting nearly seven months to determine if the agent had violated Dickenson's civil rights during the raid on April 4, 1972.

District Attorney Ferroggiaro withheld taking the matter before the county grand jury until the federal investigation was concluded.

Ferroggiaro declined to give any details concerning his investigation or what evidence and witnesses were brought before the county grand jury. Transcript of the testimony ran to 500 pages.

The Chronicle learned, however, that no fewer than 15 witnesses—including county Undersheriff Robert Bollman, federal narcotics agent Kenneth Krusco and state narcotics agent William Filben—all of whom took part in the raid, testified. Judy Arnold, the dead man's girlfriend, who was at the scene of the shooting, also testified.

Dickenson was fatally wounded when a raiding party of 19 federal and state narcotics agents and county sheriff's officers stormed a remote mountain cabin near Alderpoint in search of a suspected drug laboratory.

#### FALL

It was learned that Clifton told his bureau superiors that in the confusion of rushing the cabin he saw another agent fall, assumed the agent had been shot, and fired the fatal bullet at Dickenson believing that he had shot the agent.

It turned out no one had been shot. One agent stumbled and fell while running.

And a search of the cabin following the two-month federal investigation into the suspected drug manufacturing operation turned up no laboratory.

Miss Arnold said she and Dickenson, alone in the cabin at the time—were terrified when they suddenly saw a group of "hippie-looking" men with guns running toward them and that Dickenson panicked and ran.

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### Second Charge for Drug Agent in Slaying Case

Eureka, Humboldt County.—The grand jury here added a second count—involuntary manslaughter—yesterday to the second-degree murder indictment against Federal narcotics agent Lloyd Clifton.

The new count, which District Attorney William Ferroggiaro said was added as an "alternative," was announced as Clifton appeared in Superior Court for continuation of his arraignment.

Clifton faces the charges as the result of the fatal shooting of Dirk Dickenson, 24, during a raid by narcotics agents last year on a mountain cabin 75 miles south of Eureka.

Judge Thomas Montgomery recessed the hearing yesterday. The judge will hear arguments on defense dismissal on March 9.

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### New Facts Told on Raid Slaying

Eureka, Humboldt County.—Defense attorneys for a federal narcotics agent indicted for the shooting of an unarmed suspect in a drug raid are expected to file today for a dismissal of the charge of second degree murder.

Agent Lloyd Clifton was indicted January 5 by the Humboldt county grand jury after it conducted a lengthy investigation into the death of 24-year-old Dirk Dickenson on April 4, 1972.

Clifton was part of a raiding party of 19 federal and state agents who swept down on a remote backwoods cabin near Alderpoint, the alleged location of a drug laboratory.

#### SLAIN

When the agents approached the cabin, Dickenson fled out a rear door and was shot and killed, apparently by Clifton. Small quantities of various drugs and an old pill-making machine were found, but no laboratory equipment was turned up.

Last November Clifton was cleared of any charges by the U.S. Justice Department after a seven-month investigation.

Clifton told his bureau superiors that he saw another agent fall and had assumed he had been shot by Dickenson.

However, further descriptions of the raid came to light last week with the release of the 386-page transcript of the grand jury investigation.

The man who fell, state narcotics agent William Filbin, testified "did a belly-flop on the ground" intentionally as the raiding party ran toward the cabin.

Two other lawmen, county undersheriff Robert Bollmann and federal agent Kenneth Krusko, said they noticed Filbin's fall but did not think he had been shot.

"I don't think I would have shot myself," Bollman testified.

#### KNOCK

Krusko and several other agents added they did not see Clifton knock at the cabin door or announce his legal authority.

Instead, Clifton—who was at the head of the raiding party—kicked the front door down and rushed into the cabin, Krusko testified.

The defense motions on behalf of Clifton will be filed in Humboldt county Superior Court and are expected to be the start of a long legal battle between local authorities led by District Attorney William Ferroggiaro and federal officials represented by U.S. Attorney James Browning.

Browning has claimed that the shooting death was justifiable homicide and also that the state court has no jurisdiction in the matter.

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### Dismissal Is Rejected in Raid Slaying

Eureka, Humboldt County.—A Superior Court judge here refused to dismiss homicide charges yesterday against a federal narcotics agent accused of killing a suspected drug manufcturer.

Judge Thomas Montgomery rejected federal efforts for dismissal of charges against Lloyd Clifton, a 30-year-old agent with the U.S. Bureau of Narcotics and Dangerous Drugs.

Clifton is charged with second-degree murder and involuntary manslaughter in the killing on April 4, 1972, of Dirk Dickenson, who was shot to death when a narcotics raiding team landed by helicopter at his remote mountain cabin.

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### Charge U.S. Is Shielding an Agent

Washington.—The Justice Department was accused yesterday of trying to protect a federal narcotics agent from prosecution for killing a man during an illegal raid in California.

Congressman Charles B. Rangel (Dem.-N.Y.) said he had asked Attorney General Elliot Richardson to withdraw a motion filed by the department in a California court asking for dismissal of second-degree murder and involuntary manslaughter charges against Lloyd Clifford an agent of the U.S. Bureau of Narcotics and Dangerous Drugs.

Rangel, in his protest to Richardson, said Clifton should stand trial for the slaying of Dirk Dickenson, who was shot in the back as he fled from his cabin in Humboldt county during a raid by federal narcotics agents dressed in "counter-culture fashion."

## HOW TO TRADE WITH COMMUNIST

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## Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. FRELINGHUYSEN. Mr. Speaker, of necessity, we are becoming increasingly aware of the interrelationship of international trade and foreign policy. Many of our most difficult foreign policy problems have their origin in trade and international economic policy disputes.

In an interesting article, "How To Trade With the Communists," in the August 13 issue of U.S. News & World Report, the views of David Rockefeller, chairman of Chase Manhattan Bank, are presented on the prospects and pitfalls of U.S. trade with the Communist world. As an aid to understanding this complex subject and its foreign policy implications, it should be of considerable interest.

### HOW TO TRADE WITH THE COMMUNISTS

(Interview with David Rockefeller, chairman, Chase Manhattan Bank)

(NOTE.—Can the U.S. do business with the Communist world without getting skinned? David Rockefeller talked with top leaders in Moscow, Peking, Eastern Europe. He describes prospects—and pitfalls—in this interview conducted in the magazine's conference room.)

Q. Mr. Rockefeller, how much business is there for the U.S. in the Communist countries?

A. Potentially, a good deal. After all, in terms of population and even in terms of total output—gross national product—the socialist countries, as they prefer to call themselves, occupy a big slice of the world.

One out of every four babies born in the world today is Chinese. When you add the Soviet and the Eastern European socialist countries, you have a very important segment of the world which, for a long period of time, kept pretty much to itself but which now, I think, is coming to feel that it wants to have contact with the rest of the world.

Perhaps both they and we are becoming somewhat more mature in our outlook in feeling that we can have ideologies which are different and still maintain sensible economic and political relationships with each other.

Q. Will it take a long time for trade with those countries to reach major proportions?

A. That may come sooner than I thought before I made the trips that I have this year. I think there's a real desire to see a growth in trade, and I'm quite surprised at the rapidity with which it has grown with the Soviet Union, even without our granting them the same "most favored nation" treatment that we accord to most other nations.

Indeed, I was talking with a high-ranking Soviet official who told me that it is quite possible that Soviet purchases from the United States this year will exceed those of any other country in the world, including Japan and Germany.

Q. Does that include their big purchases of grain?

A. Yes, but even so, this increase is really quite astonishing, because only three or four years ago our trade was negligible. Grain, while important, is by no means the whole thing.

Q. How do you explain the great interest in trade with the United States?

A. I've been a member of a group called the Dartmouth Conference that consists of citizens of the Soviet Union and the United States that has been holding meetings for a little over 10 years, and trade from the earliest meetings has been something the Russians wanted to talk about and felt would be mutually beneficial to promote. Of course, the U.S. resisted until very recently. It really is only since the initiatives of President Nixon with Mr. Brezhnev [General Secretary Leonid I. Brezhnev] and Mr. Kosygin [Premier Alexei N. Kosygin] that some of the serious stumbling blocks, obstacles to trade, have been eliminated. That accounts for the sudden pickup in activity.

Q. What kinds of deals interest the Russians most?

A. The Russians, essentially, would like long-term loans, transfers of technology, and the ability to export to the United States. They are not interested at this moment in any joint ventures that would involve ownership of equity in any projects in Russia that we would be involved in. But I think they are willing to consider new arrangements which would enable an American participant to share in some way in profits through an agreement to receive part of the product, particularly in a project that would involve large-scale investments and a rather slow rate of return—for example, natural gas that would be produced in Siberia.

Q. What is there in this for the U.S.?

A. The natural resources in the Soviet Union could help alleviate prospective U.S. shortages, especially of fuels.

Also, there will be growing opportunities to export U.S. manufactured products, first for use by Soviet industry and later for Soviet consumers. If we fail to act now to gain a foothold in the Soviet market, companies of other countries might well be able to limit the ability of American companies to operate in this market, which is already weighted heavily in favor of Europe.

Western European nations are exporting some 3 billion dollars a year of goods to the Soviet Union, mostly of machinery and equipment which U.S. producers are capable of selling. This compares with 547 million dollars of U.S. exports in 1972. Bigger exports mean additional jobs for American labor.

Q. Does an American businessman deal exclusively with officials in Moscow?

A. This certainly is the point of departure, and so far as we are concerned at Chase Manhattan, since the banking headquarters is in Moscow, I imagine our relations will continue to be primarily in Moscow.

I'm not so sure that that will be true of companies that deal in products which are produced in other parts of the country. I think they will be permitted to go to the factories and the natural-resource areas. A number of American petroleum executives have been permitted to visit gas fields, petroleum fields and refineries. Some of our steel-industry people have been to steel plants.

Q. Will the American businessman have more leeway in the Eastern European countries than in Russia?

A. The Eastern European countries would probably like to have closer ties with American companies than the Soviet Union or China at the present time. But distinctions have to be made.

Certainly the country that has gone farthest in this direction is Yugoslavia, which has created its own type of market socialism. They have a form of joint venture which goes quite a little farther than the Russians will go.

Hungary and Rumania have both passed laws which make possible joint ventures with American companies, and are just beginning to undertake such ventures.

I had quite a lengthy talk with Mr. Edward Gierek, the First Secretary of the Polish United Workers Party, who so far as I know had never met a "live capitalist" before. We discussed what was being done in some of the other countries and the kind of thing that might be of interest to the U.S. I'm told that he later told a group of visiting Senators that, as a result of these talks, he was proposing to recommend joint-venture laws in Poland that might be even more generous than in the other two countries.

Q. Why are our companies so interested in joint ventures?

A. Because these arrangements provide for an ongoing relationship in which there is the possibility of some form of profit participation, even though there is no equity ownership. Socialist countries don't even allow their own citizens to be shareholders, in our sense of the term, in any major industry, and certainly they are not about to allow it for foreign companies or citizens.

Q. Do American firms feel they must have some ownership rights if they are to make large investments in Communist enterprises?

A. I don't think so. We are learning that there are ways of accomplishing essentially the same thing. After all, the aim is to share in the profit of the foreign company. It doesn't really make much difference to some companies whether they have ownership, provided they know that they will have a share in any profit.

Businessmen are devising new and rather ingenious devices which permit the socialist country to preserve its desire not to have equity participation but which enable the American company to participate in the benefits.

Q. Can businessmen deal with Communist managers with any feeling of security?

A. The experiences of people who have had fixed agreements with the socialist countries have been very good. By and large they've lived up to the agreements very faithfully. If they've borrowed money they've paid it back on time, paid the interest and so on.

Q. Is there a limit to the amount of business the Russians will allow the Eastern European nations to do with the U.S.?

A. Certainly the Russians have substantial trade and other economic ties with these countries. But even so, over the last few years, the Eastern European nations have expanded their trade with the U.S. One can expect further growth because the Russian will probably not be able to supply the Eastern European countries with all the goods they require. This should give the Eastern European socialist countries a little more latitude, and I think they're well aware of this and are taking advantage of it.

Q. Is there a danger that Moscow will someday want to re-establish a tighter hold over the Eastern European nations?

A. Obviously, this is a risk that one takes. It would be premature to conclude that the military competition between the Soviet Union and the United States is at an end. Much will depend on negotiations on defense and security matters and on how agreements are carried out.

But I don't believe that Russia wants to jeopardize her relationships with the United States if she can possibly avoid it. It seems to me that the chances of warfare between the Soviet Union and the United States are much less than they were. That's one of the reasons why trade is a good thing; it does increase contacts and tends to lessen tensions.

Q. You recently returned from Peking. How do you size up the climate for business with China?

A. The experience of going to a country as big as China with as long a history as they've had, but which effectively for the last 24 years has been cut off from us, is a very exciting one—like visiting a new world. And I have to say that the Communists have accomplished a great many exciting and important things.

They've deliberately cut themselves off from the rest of the world because they wanted to develop and consolidate an entire new structure of their society, and to a considerable extent they've succeeded in doing that. Now they are suddenly feeling that they're in a position where they can re-establish contacts with the rest of the world, and they recognize that we and other industrial powers have many things that they don't have that they'd like to have in the way of technology and capital and goods.

I think they're very serious about wanting to expand not only political but economic and cultural relationships; they are eager to learn about what's going on in our country.

Q. What is the significance of the arrangement Chase Manhattan made with the Bank of China?

A. There have been no banking or financial ties between the People's Republic and the United States since the revolution in 1949, with the result that in the last couple of years—since we've started some limited trade with the People's Republic—all of that trade has been financed by non-U.S. banks, even when the transactions were denominated in U.S. dollars.

We expect the Chinese eventually to use our bank, and in time others, to handle the financing and mechanics of exports and imports with the United States.

Q. Can that be done before we have formal diplomatic relations?

A. I don't think that's going to prove to be a problem. Chou En-lai obviously would like the U.S. to recognize the People's Republic as the only China and having jurisdiction over Taiwan. They look upon Taiwan as a province of China.

On the other hand, they have a rather different sense of time from us, and I don't think they feel that this is a matter of great urgency. I think they're rather pragmatic about it at present.

Q. Will your bank open up a large office in Peking?

A. There are no plans to have a banking branch of Chase in Peking, and I do not foresee that possibility, given present realities. Perhaps more likely, down the line, would be a representative office allowing us both trade and communication links. But even this is something that will require further discussion.

Q. Can the Chinese turn out attractive products for export?

A. They are skilled artisans. We visited some craft factories where they were doing tapestry work and embroidery and carving of ivory, ceramics and so on, and the work is extraordinarily good from the point of view of craftsmanship.

One of the disturbing things is that there seems to be very little opportunity for the creative artist—whether in individual arts or the performing arts—to express his creativity. Everything has to be within the framework of the Marxist-Leninist doctrine, and the arts are used as a medium of propaganda, if you like, or of education, as they would put it. Creativity is virtually nonexistent.

Q. Do the Chinese expect the United States to be a lucrative market for their exports?

A. They may. They are developing a broadly diversified industrial structure through the system of communes that they've developed. It's quite impressive to me, and I think labor is relatively cheap. I can imagine them becoming very competitive with the Japanese.

Q. Will China and Russia need large amounts of credit from the United States to cover their purchases from us?

A. Yes, particularly the Soviets. Up till now, China has not been prepared to accept loans or long-term credits. All that they've done—and this has been mostly with Japan—is to accept what they call deferred payment, which is akin to medium-term credit.

The Chinese are very proud of the fact that they have accomplished so much without the help of any outside nation. They're very mindful of the European occupation of many of their cities during the nineteenth century and the Japanese occupation in the twentieth century, and the way the Soviets in the 1950s pulled out all the technicians they had supplied and plans for plants they were helping to build after World War II.

Their experience with foreign assistance has been bad, and they don't want again to become so dependent. What they'd really like to do would be to buy whole factories, install them and expand manufacturing that way—or buy patents and U.S. technology.

### NEED FOR CREDIT FROM U.S.

Q. Won't they need credit to pay for the plants until they can use them to increase their exports?

A. Probably so, but their present thinking is not to buy more than they can afford to pay for. In 1972, they generated a trade surplus of about 800 million dollars in exports through Hong Kong, Singapore and Macao. These earnings can be expanded a good deal.

Certainly if the Chinese were to pay attention to the requirements of Western markets, as they did during the eighteenth century when export china was bought all over the United States and Europe, they might do a very big business in that field alone.

I think there are probably other areas where they could increase their sales.

Q. Can the United States compete with Japan for the Chinese market?

A. The Chinese don't want to deal exclusively with any country. They are eager to see us in addition to Japan as trading partners.

Q. Will the U.S. Government have to guarantee all loans to the Communist countries?

A. No. Our bank has extended an 86-million-dollar credit to the Soviets for the Kama River truck plant, without a guarantee by our Government. It runs *pari passu* [on equal terms] with a credit of the same size by the Export-Import Bank.

And I think that you will see more credits that are not guaranteed, at least up to a certain amount.

Q. Where will the money come from?

A. It's going to have to come from international money markets, not just the United States, particularly when you get into huge financing projects, such as the development of natural gas. As you know, there are two projects under consideration in Siberia. On one of them, the Yakutsk project, involving the shipment of natural gas from Eastern Siberia to the West Coast of the United States, our bank is acting as financing agent. The other project involves a shipment of gas from Western Siberia through Murmansk to the East Coast of the United States.

Q. Would the Japanese be willing to help with the financing?

A. On the Yakutsk project, it now appears likely that the Japanese will take a substantial portion of the gas and will probably be responsible for a proportionate amount of the financing. It is also very likely that both the Japanese and Western European companies will be competing vigorously with U. S. companies to be major suppliers to both of these projects, and a major portion of the financing will probably take the form of equipment credits.

Q. How would the loans be paid off?

A. The loans would be paid back out of the product produced—natural gas. And I think the Soviet Union would stand behind the credits and make sure that they were paid on time out of any resources that are available.

Q. Will the Soviet Union have to sell more gold than they have in past years?

A. That could be. However, this would depend upon over-all management of their balance-of-payments situation. Nobody really knows how much gold the Soviet Union has or how much they're producing. Certainly the amounts they have must be substantial.

Q. Mr. Rockefeller, does all this mean that the Soviet Union is becoming more and more tied to the West?

A. In a sense, this is true. They've found that their series of five-year plans has not produced the rate of growth they hoped. Improvements in productivity have not been as rapid as they hoped, particularly in agriculture. If they're going to give a higher standard of living to their population, they're going to need outside assistance.

In the past, when economic trouble arose, the Soviet policy makers urged workers to work harder and consumers to hold down consumption. Belt-tightening programs now appear to be less acceptable. The alternative is to turn to the West for improved ties with the United States and other Western countries. The improvement in the world political climate, especially the ending of direct U. S. military involvement in Vietnam, has also helped.

This could be a very healthy thing. Interdependence among nations, it seems to me, is likely to lessen tensions and lessen the likelihood of war.

Q. Could the U.S. use trade as a political tool to win concessions from Russia?

A. Any relationships have a political overtone and implication. And in the long run, good economic relations are bound to have a beneficial effect politically. But it would be a mistake for us to use trade, in a direct sense, as a lever or a threat. I think the Soviets would react rather sharply to that.

Q. Why should that be so, if they have such a need for our economic help?

A. They're proud people. I really don't believe they wouuld submit to direct political pressure of that kind. Also, they claim—and certainly with some degree of validity—that many other nations in Western Europe and Japan are ready to supply them with what they want from us.

They feel that we can give them things—some that they want and need—and they'd rather come to us. But I don't think that we can feel that we have full control over them. Indeed, for the last 20 years we have cut off most trade, most exports, and this has not brought them to their knees, has not forced them to come begging to us, and has not prevented them from rearming and becoming more powerful in the world.

Q. Then you apparently disagree with those who say the U.S. should withhold most-favored-nation treatment on Russian products unless the Soviet Union makes it easy for all Jews who wish to do so to emigrate?

A. This is a highly complex and sensitive subject, both here and in the Soviet Union. The trade agreement and the Lend-Lease arrangement already reached with the Russians are conducted upon the Congress granting most-favored-nation status.

The lack of that status does threaten the potential growth of Soviet exports to the U.S. and hence the ability of the Soviet Union to purchase American products. And it represents a real psychological barrier to improved relations, because the Soviets are opposed to doing business with countries that discriminate against their goods.

I know there are aspects of Soviet life that we as Americans don't like. And there are aspects of our society that they don't like.

I favor the free flow of people and ideas across national borders and the full development of every person's talents. The question is how to promote such personal contacts and exchanges of ideas which are essential to the breaking down of barriers between East and West. Increased commercial relations are one important way of getting each side to better know the other.

If the most-favored-nation issue proves a stumbling block to a broader range of economic exchanges, we may lose a good opportunity to refashion the world along more rational and more co-operative lines.

The more we know about the Soviet Union and the Soviet people, the better we will be able to assess their future intentions. The more the Soviets know of the United

States and the American people, the better they will be able to appreciate our system and values. To achieve these goals, flexibility and compromise will be required on both sides.

Q. Should the U.S. remove all restrictions on exports of strategic items?

A. No. When it comes to strategic weapons or materials that are directly related to war production, I would not favor abandoning restrictions. But the export-control list used to include something like 1,600 items, including many that have nothing to do with defense. The vast majority of those restrictions should be removed, and many of them already have. A lot of people who are much more knowledgeable than I are inclined to feel that there are relatively few things that the Russians can't easily get access to in other ways. Therefore, our preventing the export of those items to them is not effective.

Q. Is there a danger that American industry may become too dependent on trade with the Soviet Union?

A. It's conceivable. But I can't imagine that being a concern for a very long time to come. People have raised this question with respect to natural gas, but I'm told that if we bought all of the output of the two Siberian gas fields, by 1980 that would represent only 4 to 5 percent of total U.S. demand for natural gas.

RUSSIANS ARE "TOUGH BARGAINERS"

Q. After the recent wheat deal, many Americans feel the Russians outsmarted us. What kind of bargainers are the Russians?

A. They're tough bargainers, but I believe American businessmen can stand up to people from any other country, including the Soviet Union.

Q. Then why didn't the U.S. come out better on the sales of grain?

A. You have to look at the grain deal in proper perspective. At the time that the Russians came to buy the grain, we had substantial surpluses, and people were delighted to sell. There was a good deal of secrecy, and the Russians bought from a number of sources. Suddenly the total amount proved to be very large and had a much more dramatic impact on price than had been expected.

Perhaps in the future we will have to have our Government involved more deeply than it was this time. But to say this deal was unfavorable to us is true only in the sense that, if we had been able to get present-day prices for what they bought, we'd be better off. But that's part of the game.

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## CHARACTER EDUCATION AND DEVELOPMENT

## HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BENNETT. Mr. Speaker, I include herewith an excellent article from the Christian Science Monitor's September 8 edition:

CHARACTER EDUCATION—TEXAS SCHOOLS DEAL WITH TOUCHY SUBJECT, STIMULATE PUPILS TO THINK ABOUT BEHAVIOR

Do American schools have a responsibility to teach character or values? Many parents think so. Others believe the public schools should stay clear of any instruction smacking of morals and religion. This they see as a private matter. A San Antonio-based program is trying to steer a middle course between these two viewpoints, as reported in the following article.)

(By Kenneth G. Gehret)

SAN ANTONIO, TEX.—Schools not only have a responsibility to deal with values in the classroom, there are ways of doing so without offending children and their parents. That is the contention of the American Institute for Character Education, a local foundation.

The organization's character education project (CEP) has been in use in a number of San Antonio schools during the past five years and now is being introduced into classrooms in many parts of the United States.

The fear that any discussion of character inevitably will lead to the imposing of values on schoolchildren does not apply to CEP, foundation officials insist. Says one headquarters spokesman: "We aren't teaching morals; we are teaching about morals."

Young Jay Mukley of CEP comments:

"What we're trying to do is make children think. We want them to think about both sides of an issue, to experience the interaction with other students, and to be able to discuss their own feelings in a free atmosphere."

Will this lead to socially acceptable attitudes and actions?

Mr. Mukley replies, "We believe that, in the process, students will come to recognize the most acceptable way to behave."

Filmstrips, printed materials, and teacher guidebooks have been developed and tested by the institute for CEP. These are appropriate to the grade level that begins with kindergarten. Teacher seminars and workshops also are conducted by CEP staff members.

A visitor may see the program in action in Mary Ellen Mauze's first-grade classroom at Walzem Elementary School, a demonstration and test site.

Youngsters huddle together on the floor, facing the movie screen. Mrs. Mauze briefs them on the filmstrip they are about to see as she threads it into the projector.

As the picture begins, Susie is saying she doesn't want to go to school today. But she finally decides to go. Once there, she complains of "tummy aches" and asks the teacher to call her mother to come for her.

Mrs. Mauze questions her pupils as the film progresses:

Is Susie telling the truth? What do you think about Susie? How does she feel? How does her mother feel about Susie?

The class joins eagerly in the discussion. It ends with lively answers to the teacher's question: Why does it make you feel good to tell the truth?

This session is one of several going on daily throughout Walzem school here in San Antonio.

Mrs. Mauze says she is "thrilled to pieces with CEP. I can see the difference in the children," she comments. "They are acting it out, living what they learn. There's a great sense of sharing."

Principal Clyde W. Dent, too, is enthusiastic about CEP. He came to Walzem school last fall, after the program had been running there four years. His initial reaction to CEP was: What's the need of it? Are we teaching religious values? Does it have a place in the curriculum?

This caused Mr. Dent to think more deeply about what schooling is or should be. He came to the conclusion, he reports, that "our value of what is useful has regulated our education. We have bombarded students with academic knowledge. Success has been held up as the goal in life."

In doing this, the principal continues, "we have ignored the person himself. The most valuable thing we can do in education is help the child to deal with himself. Ignoring this, we end up with college grads who are brilliant in math but do antisocial things."

On that basis, and after a hard look at CEP methods and content, Mr. Dent backed the program fully.

Originally, the public schools emphasized individual character and moral virtue. Early American society felt a need for instruction of its youth that went beyond the three R's to responsible citizenship and personal integrity. Education was built on the principles of an active Christianity. It supplemented the church's religious instruction. In more recent decades, declining church influence, efforts to eliminate religious bias and a questioning of absolute values have had their effect on the public schools.

CEP officials do not see their program as usurping the prerogatives of church and home or as offending the value system of any ethnic group. They view emphasis on such qualities as honesty and fairness as acceptable to all groups and cultures and relatively free of controversy.

In two days of classroom visits in San Antonio, I found no evidence of outright instruction in "right" behavior. But teachers did guide pupils in the desired direction, for example:

A class of third graders was discussing courage, using the Cowardly Lion in the Wizard of Oz as the starting point. Teacher Susan Gilger explained that a person shows courage when he does something he is afraid to do, like sleeping in the dark.

She then asked the class, in the context of courage, if they would do what a friend requested, even though they felt it was wrong.

One boy raised his hand eagerly, then blurted out, "Yes, if he was a friend of mine, I'd do what he wanted."

Mrs. Gilger heard him out, but made no comment. Instead, she turned to another youngster, who responded in the negative. The teacher did not openly approve of his answer, but she did invite further discussion of this reply, thus emphasizing the "right" attitude.

CEP materials were developed by a number of college and public-school people over a period of years in the late 1960's. They were then scrutinized by some 1,200 teachers in field tests before being introduced in five demonstration schools.

Development costs have been underwritten by funds from several private sources, principally the Lilly Endowment of Indianapolis.

San Antonio school administrators and teachers say CEP fits in well because they do not have to treat it as separate subject but make room for materials and discussions in language arts, social science, and other established curriculum areas.

Also, no one forces CEP on them. Individual principals and teachers make their own decision to use the program or not. But those who do, get lots of help from CEP staffers.

From its Texas base, CEP has spread in a short time into several areas of the state and beyond. It is currently in use in 351 schools across the United States, from Ohio to California. Numerous teacher inservice-training sessions and seminars for educators have been held.

This summer, a total of 22 such gatherings were scheduled, ranging from one-day institutes and one- or two-day inservice meetings to seminars that lasted from three days to three weeks. These took place in Ohio, Maryland, Indiana, Wisconsin, Texas, and California, an indication of the geographic spread of interest in the character-education program.

Readers are invited to comment on the above article and on character education more broadly. Brief letters will be considered for publication, in whole or part. Please send them to the Education Page, The Christian Science Monitor, Box 353, Astor Station, Boston, MA 02123.

Mr. Speaker. I would also like to include at this point the excellent recent article by Jack Anderson in the same vein as follows:

THE MERRY GO ROUND

(By Jack Anderson)

WASHINGTON.—The danger threatening our nation today is not one that can be repulsed by taking down our muskets from the mantel and joining the colors.

Our belief in ourselves is unraveling under the stresses of shattering scandals, breakdowns and breaches of faith in high places. A sense of things gone wrong pervades the land, of values lost, of anger against those who symbolize that loss.

Whatever it was we were trying to do together, whatever it was we once stood for, is dissolving into uncertainty and disillusion.

The only cures for lost identity are rediscovery and rededication. What is our national purpose? What is the source and measure of our patriotism?

Americans cannot find their answers in the traditional bonds that glue other nations together—the bonds of time and homogeny. "A thousand years scarce serve to form a state," said Winston Churchill. America has had but 200.

Other patriotisms are built upon a common race and ethnic origin, a common mother tongue, the same religion, a traditional music, culture and cuisine, even a shared hatred of neighboring nationalities, a pride of ancestry that can be traced back half a millenium.

Our people are made up of diverse nationalities that are traditional enemies, of a babble of mother tongues, a score of religions that have warred against one another.

Most of us can't trace our ancestors back further than some foreign wharf or railway depot and few would want to, for we are a nation descended from outcasts, escapees and bondsmen—the impoverished, starving and persecuted of the world. Even within our borders, we are a nation of wanderers, ever on the move from state to state.

Who could possibly unite and give purpose to such a kaleidoscopic populace? Abraham Lincoln had an answer: common belief in the ideas on which the nation was founded.

Every person should be equal before the law, in the voting booth and in his treatment by society.

Every person has freedoms and rights no one can justly take away—to pursue the path his abilities take him, to acquire knowledge without hindrance, to come and go as he pleases, to enjoy the fruits of his own labor, to be judged and rewarded on his merits, to speak his mind without fear, to worship in his own way, to be secure in his home, to be considered innocent of crime until fairly proved guilty.

Our national purpose was to show that people could live and flourish in freedom, and thus to furnish an example for oppressed peoples everywhere to emulate.

Now the beliefs that bind us are eroding. For many, personal freedom has been degraded into a license to seek cheap thrills and an excuse to escape from duty.

Government has been transformed into an instrument, not for safeguarding but for obtaining special favors at general expense. The federal establishment has been bloated up beyond recognition. It claims "inherent powers," wages secret wars, proclaims the right to lie to us, break into our homes, open our mail and tap our telephones.

There are many signs today of a hunger in the land for old truths. The time is at hand to turn this inchoate yearning into a movement of national regeneration.

In 1976, we shall celebrate our national bicentennial. Two years ago, the federal establishment took charge of making the arrangements for this momentous event. As usual, Washington operators turned it into a boondoggle.

Why not take it back from the government?

Suggestions occur by the dozens. Families might begin again to tell their children of the codes of George Washington and Benjamin Franklin.

Television networks might give us more programs like "The Waltons."

Political clubs might undertake a search, if they dare, to see if any resemblance can be found between their party platforms and the precepts of Thomas Jefferson and Abraham Lincoln.

Taxpayers' groups could wrap in the flag the forgotten virtue of frugality.

Corporations and cooperatives could conduct seminars to measure how far they have sold out the rights of free enterprise for the government subsidy.

Unions could sponsor efforts to regain the lost American supremacy in workmanship and productivity.

Bar associations might stiffen ethical standards.

Journalists might resolve to do something about the chief censors of the truth—their lassitude and their editors.

My friend Hank Meyer, the sage of Miami Beach, has proposed a theme: "I Love America." There are 200 million ways to say, "I Love America" and an awesome need that each of us say it in his own words. If the words are to be true, they must come, not from the ad agencies, not from government promoters, but from the hearts of the people.

Finally, Mr. Speaker, I would like to call attention again to the bill H.R. 128, which I am sponsoring to provide grants from the Department of Health, Education, and Welfare, to State educational agencies to assist them in establishing and carrying out programs under which students attending public elementary and secondary schools will be provided instruction in moral and ethical principles. I hope this legislation can be promptly enacted as I feel it is greatly needed.

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## TRIBUTE TO FRANK PARK SAMFORD

## HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BUCHANAN. Mr. Speaker, the State of Alabama and, indeed the Nation, has recently suffered the loss of a most distinguished son in the passing of Frank Park Samford of Birmingham. "Mr. Frank," as he was known by the thousands who knew and loved him worked incessantly for the betterment of the lives to those around him.

A member of one of Alabama's most distinguished families, Mr. Samford was the grandson of former Alabama Gov. William J. Samford and the son of Judge William Hodges and Kate Park Samford. Mr. Samford, a native of Troy, Ala., moved to Birmingham and worked tirelessly to contribute to the city of Birmingham and indeed, to the future of his beloved Alabama.

Through his own efforts, Frank Samford became the head of what is one of the Nation's most respected life insurance firms, but this was not his only endeavor. He was a multifaceted man who gave his tremendous talent for leadership to every effort of life.

Mr. Samford served his alma mater, Auburn University as trustee and vice chairman of the board of trustees for many years. He also served for more than a third of a century on the board of trustees of Howard College. Because of his support and leadership as chairman of the board, the college, which prospered greatly during his tenure, was renamed Samford University in his honor in 1965. Mr. Samford was the university's greatest individual benefactor. Frank Samford's contributions have not gone unnoticed. He has received such honors as "Man of the South," "Citizen of the Year" and Birmingham's "Man of the Century." Mr. Samford was also a devoted churchman, serving as a life deacon at Southside Baptist Church in Birmingham. Mr. Speaker, it is because of men like Frank Park Samford that this Nation is what it is today.

Not only to his wife and family do I extend my sympathy today, but also to the inestimable number of people whose lives he enriched. It is with a deep sense of admiration that I pause today to honor this giant of a man.

Dr. Leslie S. Wright, president of Samford University, in his eulogy to Mr. Samford, expressed the feelings of a great number of people and I insert his remarks in the RECORD at this point:

EULOGY TO FRANK PARK SAMFORD

(By Leslie S. Wright)

It was the philosopher William James who said, "The greatest use of life is to spend it for something that will outlast it".

This morning we honor the life and mourn the passing of one who exemplified this philosophy as he spent his life for institutions and causes that have outlived his earthly span and will perpetuate his influence for so long as the Lord lets this civilization stand. A native of Troy, Alabama, Mr. Frank P. Samford came into this world with a rich inheritance of family background. He was the son of the late Judge William Hodges and Kate Park Samford, and the grandson of William J. Samford, Governor of Alabama from 1900 to 1901, who died in office. In like manner, Mr. Samford has left a wonderful legacy. He is survived by his wife, Mrs. Hattie Mae Samford, a son, Frank, Jr., a daughter, Mrs. Ann Upchurch, a sister, Mrs. Albert Smith of Monroeville, a brother, James D. Samford of Auburn, 7 grandchildren and 4 great-grandchildren.

Shakespeare's words, "Some are born great; some achieve greatness; and some have greatness thrust upon them", accurately typify Mr. Samford in many ways. He was at home with greatness and he knew greatness in every aspect of his life.

Similarly, his life demonstrated the astuteness of Bismarck who said, "A really great man is known by three signs—generosity in the design, humanity in the execution, moderation in success".

A multi-faceted man, Mr. Samford gave his tremendous talent for leadership to every area of life. His outstanding business ability is reflected in the marvelous growth and development of Liberty National Life Insurance Company which was blessed with his leadership as president and board chairman for 39 years. He was well-known for his closeness to his employees and was greatly loved by all of them.

As a dedicated humanitarian and civic leader, his talents and abilities were given freely in the support and guidance of community organizations. A multitude of honors were bestowed on him for exemplary service to his community and his state. He wore such accolades as "Man of the South," "Citizen of the Year," and Birmingham's "Man of the Century" with the deep humility which was so much a part of his life.

A life deacon at Southside Baptist Church, Mr. Samford was a devoted churchman and a wonderful Christian. He was a man of vision and compassion who loved his Lord and served Him daily.

Mr. Samford's interest in higher education blessed and enriched two great universities, Auburn and Samford. Both institutions will bear his imprint for all time to come. Countless young men and women will have educational opportunities which would not have been theirs had he not given so much of himself to higher education.

At Auburn he served his beloved alma mater as Trustee and Vice Chairman of the Board during the years of Auburn's greatest growth and progress. Samford Hall on that campus is a memorial to his family and commemorates his service as well.

As Trustee and Chairman of the Samford University Board for more than a third of a century, he was the institution's greatest individual benefactor. His service and contributions were without parallel in the 132 years of the school's history. In recognition of this unprecedented leadership and support, this Christian institution, formerly known as Howard College, was renamed Samford University in his honor in 1965.

Mr. Samford's close association with the University which bears his name gives greater meaning to the words of Emerson who reminds us that "an institution is but the lengthened shadow of one man." Truly, Samford University's magnificent campus and its commitment to excellence in Christian higher education will extend Mr. Samford's influence throughout eternity. Generations yet unborn will inherit the greatness he has created, as young men and women dedicate their lives in useful service to God and man.

The poet has said, "A bell is not a bell until you ring it, a song is not a song until you sing it, and love in your heart was not put there to stay, love is not love until you give it away."

Love for God and all mankind was the embodiment of Frank Samford's service to the multitude of causes for which he gave himself so freely.

Phillips Brooks beautifully characterized Mr. Samford when he wrote, "Be such a man, and live such a life, that if every man were such as you, and every life a life like yours, this earth would be God's paradise."

So many of you who were also Mr. Samford's friends and close associates for so many years knows as I do that, "To meet him was to esteem him, to know him was to love him, and to be associated with him was a rare and unforgettable experience."

May God give us the wisdom and strength to merit the love and devotion which Mr. Samford gave so freely to so many.

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## BROADCASTING RESPONSIBILITY

### HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. WALDIE. Mr. Speaker, for many years, radio station KNBR in San Francisco has established a distinguished record in public affairs broadcasting. In a recent interview with San Francisco business magazine, Mr. Heber Smith, vice president of the National Broadcasting Co. and general manager of KNBR discussed the role and responsibility of the broadcaster today. I am submitting the comments made by Mr. Smith at this time and recommend they be read as a thoughtful analysis of media responsibility today.

[From San Francisco Business, September 1973]

BROADCASTING RESPONSIBILITY

KNBR is in the communications business, and that means being understood, not just being heard. It's easy to generate talk; it's a lot more difficult to generate thought. A radio station has a responsibility to know its community. Find out what the problems are and then become a part of the solution. The only thing we have to sell is time. When a minute is past, it's gone, and we can't use it again, so we can't afford to waste what we have.

A radio station can entertain, inform, educate and sell the public. Each one of those items is a separate and distinct responsibility. Through editorials, feature programs, public service and public affairs, we want to focus attention, not just on what's wrong, but rather on positive and creative alternatives.

EDITORIALS

On editorials, our policy is simple: Don't say anything unless what you have to say is worth hearing, and don't complain unless you've got a better idea. When KNBR takes an editorial position, we seek out opposition speakers and make time available for rebuttal arguments. The more information the public has on any issue, the more likely they are to make the right decision.

ECOLOGY

Right now ecology is one of the most popular and one of the most complex issues we have to deal with. The media, and broadcasters in particular, have a very important role in helping the public to understand the relationship between environmentalism, employment and all of the factors that go into making up the quality of life. As with many popular issues, the difficulty is dealing with knee-jerk reactions. Many people seem to want to choose up sides, and automatically they're either for or against sources of energy, construction, housing, high-rise, rapid transit, zoning changes or recreational facilities without either working for better alternatives or giving intelligent consideration to growth or no-growth philosophies.

KNBR has a feature series titled "Environmental Action." Time is made available for individuals, groups, or businesses to present one-minute messages on subjects of environmental impact. These messages are directed towards personal involvement and the contribution that each person can make to improving the environment. When the station allows strongly opinionated statements on any subject, time is made available to opposition views to give the other side of the story.

What KNBR and the media have to be working towards is an overview of ecological advancement. No one wants a world that's not fit to live in, but closing industries and promiscuously throwing people out of work is equally unacceptable. After all, the ability to earn a living is a very important part of our environment.

CONSUMERISM

Another responsibility of broadcasting is running a responsible business. Even though the listeners don't pay for our services, they select, or "buy," us just as they would toothpaste. In the end, all that we really have to offer is credibility. If we run a commercial that makes a promise, it's up to us to know that that promise can be fulfilled. If the consumer acts on the basis of something he heard on KNBR and he gets "burned" with Brand X, he's just as likely to be angry with our station as he is with Brand X. And that doesn't do us or the rest of our sponsors any good. That's why we have a program standards department to audit every commercial.

The media can perform an important function for the consumer by providing access to answers which appear too remote or complex for the consumer to deal with. Whether it's a matter of credit or a delivery schedule or a service commitment, the consumer often feels that he is a faceless cog caught in the wheels of some giant organization. A radio station can act as an ombudsman, cutting through the red tape and trying to find an answer. This station has strongly supported the work of the Better Business Bureau, for example. We hope that the new consumer-business arbitration program will help to restore the faith of some frustrated consumers. The most valuable service a radio station can perform is to bring all of the elements of the community together. Any business with a long-term commitment to the San Francisco Bay Area knows that, in the final analysis, the best interest of business and the best interest of the consumers are really one and the same.

WHERE ARE WE?

Another important part of broadcasting is a constant review of who and what we are, where we came from, and where we're going. The Bay Area collectively is the most exciting, productive, and vital place in the world. There's so much history, romance and activity here. By giving a promotional boost to groups, big and small, we can help to build that sense of total community that keeps the Bay Area moving ahead. Over the past few years, we have been broadcasting a series of vignettes on the people, places and happenings that made San Francisco San Francisco—the people after whom the streets were named, the origin of the names of towns in Northern California, the men who started the business—big and small—that flourish today, and the cultural and social contributions of the myriad of ethnic groups which form our population. In a way, this type of broadcasting is just as important as the latest newscast, because we don't have any basis for understanding where we are if we don't know where we came from.

PARTNERSHIP

Business and labor, retailers and consumers, taxpayers and elected officials, environmentalists and industries, all have a stake in the continued economic and social health of our area. It is not the role of the media to be either an apologist, promoter, or accuser from any single point of view. At its best, it can mirror the attitudes of the community and work for a partnership of all the elements that make up the public interest.

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## WOMEN'S EDUCATIONAL EQUITY ACT

### HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mrs. MINK. Mr. Speaker, for too long now our society has arbitrarily perpetuated the sterotyping of roles for men and for women which have resulted in limitations of opportunity for both sexes. From infancy our children are taught that boys are expected to do certain things and behave in certain ways, that girls are to "serve" in secondary roles or to fit into a preordained role of "women's work." This is aptly seen in some of our primary school textbooks which portray men as doctors, engineers, lawyers, while women are always busy cleaning house, arranging carpools, being nurses or teachers.

What our children read and learn from their textbooks creates their opinions about themselves and severely limits their own aspirations.

> After first-term finals, Anne finds herself at the top of her medical school class . . ."
>
> Psychologist Matina Horner, now president of Radcliffe College, asked a group of female undergraduates to complete the story. A typical response:
>
> "Anne doesn't want to be number one in her class . . . she feels she shouldn't rank so high because of social reasons. She drops down to ninth in the class and then marries the boy who graduates number one."—Quote from Washington Post, September 9, 1973.

Many women feel that their desire to achieve has been frustrated by society's limitation of what is "acceptable" for women to aspire to. Similarly, men may feel pressured into "achieving" because of society's imposed expectations. By accepting the belief that roles are predetermined, we limit our children's views of themselves and deny them the right to the full and free self-determination of their capabilities as individuals in their own right.

The primary level textbooks have consistently neglected the changing role of women. When we are confronted with the fact that over 40 percent of mothers work outside the home and that children's literature almost exclusively depicts adult women as homebound mothers, we are aware of the extent of change which is required for even the depiction of the real world to our children. Today each person is willing and capable of assuming unprecedented responsibility for him or herself in dimensions previously unheard of. The role of women, as well as of men, is changing. While women are ready to accept their position and responsibility as coequals of men, they are often denied access to them. At the same time men should feel it is within their scope to assume any new virtues previously denied them because it was "unmasculine." We should be concerned with the emancipation of individuals, not the perpetuation of stereotypes.

Children's textbooks should note this as well as the strides of women in our history. This is a neglected but easily remedied area. Women have not been duly recorded as integral parts of the events that shaped our country. Where are our other Sojourner Truths and General Tubmans and Susan B. Anthonys?

Tomorrow, September 12, and continuing on the 13th, the Subcommittee on Equal Opportunities of the House Committee on Education and Labor will commence the second series of hearings on my Women's Educational Equity Act, H.R. 208. If enacted, the bill would create greater access of opportunity to women. The act would provide funds for special education and programs and activities including the development of nonsexist curriculum materials, training programs for counselors and other educational personnel, community education programs and other programs designed to achieve educational equity for all. The hearing will be held in room 2257, Rayburn House Office Building, Washington, D.C., and will begin at 10 a.m. on Wednesday and at 9 a.m. on Thursday. Witnesses are:

September 12, 1973: Hon. BELLA ABZUG; Hon. WILLIAM LEHMAN; Hon. PATRICIA SCHROEDER; Hon. FORTNEY "PETE" STARK; and Hon. LEONOR SULLIVAN.

September 13, 1973: Women on Wards and Images, Princetown, N.J.; Dr. Estelle R. Ramey, Georgetown University School of Medicine, Washington, D.C.; ANNE LADKY, Scott, Foresman and Co. publishers, Glenview, Ill.; JO JACOBS, Committee to Study Sex Discrimination in the Kalamazoo public schools, accompanied by Allene Dietrich, Kalamazoo, Mich.

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## BASIL J. MEZINES: "A GREAT MAN"

## HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. PATTEN. Mr. Speaker, last week I had the privilege of attending the farewell reception in honor of Basil J. Mezines, who resigned as executive director of the Federal Trade Commission—FTC. Over 300 officials and employees were there to show their respect and affection for one of the most distinguished officials in the Federal Government.

As one of the speakers at the ceremony, I told those present that I was not only proud of Basil because of his notable achievements in Government, but also because he and his wonderful family are such fine people and citizens. I have known them for many years and they are the very best.

Mr. Speaker, when the present Chairman of the FTC, Lewis A. Engman, called Basil Mezines, "a great man" at the reception, he was not exaggerating, because there is greatness in Basil—as a Government executive—and as a man. And when a former chairman who is now an FTC commissioner, Paul Rand Dixon, praised Basil for carrying out his duties "with efficiency, dispatch, and honor," he was speaking for many others.

When Basil Mezines finally spoke on that sad day—sad because the Federal Government lost a man of rare talent, dedication and integrity—he said, "I love this place."

Mr. Speaker, I also know that the more than 300 persons who gathered to show tribute to Basil Mezines, love him, for he represents the finest qualities an official and person should have. If all government officials were like Basil, what a better and greater nation America would be.

He served the FTC in several responsible positions during the 24 years he was there and he rose to the top because he had outstanding ability, strong leadership, and a warm and ingratiating personality. He leaves behind thousands of friends, and as far as I know, he did not have any enemies, but if he had a few, perhaps it was because he was too efficient, too honest, and too wise.

The FTC did not always enjoy the high esteem it has today and I know that one of the reasons it reached its present peak of respect was the vigorous executive leadership of Basil Mezines, who had such a vital role in its rejuvenation and success. How fortunate government was to have him for 24 years.

Basil has always been my friend—and always will be. My adiminstrative assistant, Stephen G. Callas, is also Basil's friend. Steve likes to write, so he wrote a quatrain in honor of Basil, called:

### THE BEST

He was the best in mind and heart,
And leaves behind a golden name.
Yet, honor never can depart,
Nor can our spirit be the same.

Mr. Speaker, I hereby insert in the CONGRESSIONAL RECORD a copy of the official news release announcing Basil Mezines' resignation, as well as an article from the Washington Post of Sunday, September 9, 1973, entitled, "Mezines Leaving Confident About FTC Future."

The articles follow:

### BASIL J. MEZINES, VETERAN FTC ATTORNEY, LEAVES AGENCY FOR PRIVATE LAW PRACTICE

Basil J. Mezines, holder of numerous high-level staff positions at the Federal Trade Commission, is leaving the agency after 24 years to enter private law practice.

The veteran attorney, 49, has been serving as a consultant at the FTC since his resignation as executive director last June 30. He is joining the Washington law firm of Stein & Mitchell, whose name will be changed to Stein, Mitchell & Mezines.

In acknowledging Mr. Mezines' departure, FTC Chairman Lewis A. Engman wrote to him: "During your career with the Commission, you have seen a great many progressive changes take place; and, indeed, you have been instrumental in bringing many of them about. Through your dedication to the public interest and your skills as a lawyer and administrator, you have contributed significantly to the work of the Commission and thus to the welfare of the American people. . . . I wish you the very best in your new career in the private sector and I am confident that all of us will continue to benefit from your counsel in the years ahead."

In a letter to Chairman Engman, Mr. Mezines said: "As you know, I have served the Commission in several capacities in the past 24 years—as trial attorney, assistant to the executive director, associate executive director, executive assistant to the chairman, director of the Bureau of Competition, and, lastly, as executive director. I have thoroughly enjoyed every one of these assignments and will sorely miss being a part of this vital agency."

Mr. Mezines added that "I am especially sorry that I will not be able to work under your leadership which is already making the Commission a more effective and vital agency."

A native of Perth Amboy, N.J., Mr. Mezines received an A.B. degree in 1946 and an LL.B. degree in 1948 from George Washington University. Following a year of private practice in Washington, he joined the FTC staff. He was named to the highest staff position—executive director—on October 12, 1970.

He is active in the American, Maryland, Federal and District of Columbia bar associations and has taken a special interest in these groups' antitrust activities.

Mr. Mezines has written numerous articles for law reviews and has lectured on antitrust and trade regulations at law schools in all parts of the country. His articles have appeared in the New York University Law Review, the Administrative Law Review of the Administrative Law Section of the American Bar Association, the Antitrust Bulletin, Boston College Law Review, Commercial Law Review, the Notre Dame Lawyer, and the District of Columbia Bar Journal.

Mr. Mezines is married to the former Betty

Eileen Weethee of Washington, who also is a graduate of George Washington University. They have three daughters, Sue, Joan, and Betsy and live at 5121 Worthington Dr., Bethesda, Md. They are members of St. Sophia Greek Orthodox Cathedral in Washington.

### MEZINES LEAVING CONFIDENT ABOUT FTC FUTURE

(By Carole Shifrin)

After nearly 24 years, veteran Federal Trade Commission official Basil J. Mezines is leaving the agency, confident that its future is as bright, maybe even brighter, than ever before.

Since 1949 when he came to the FTC as an investigator in the Washington field office, Mezines has served under nine chairmen and believes that current chairman Lewis A. Engman has the right climate, commission and staff "to really get the commission moving."

Mezines, who has served as executive director for the last three years, cited two recent court decisions giving the agency broad authority to define unfairness and to issue trade regulation rules defining what is expected of business, "a fine commission," an outstanding staff, and a public and Congress receptive to the kinds of things the consumer protection agency can do.

"We have a clear mandate and the public is saying, 'Use it,' " Mezines said in an interview last week. In addition, he believes the commission will be subjected to less interference and pressure than in the past. "Watergate has produced this salutary effect," he says. "Everyone is super-careful not to do anything like that.

"So Engman has a better opportunity to do a real job at the FTC than anyone has in the past," Mezines contends. Although "time will tell whether he fully utilizes the opportunity to be a good chairman," Mezines says Engman "give every indication" of wanting to oversee an aggressive agency.

Mezines predicted that the FTC—bolstered by its recent court victories—would move in some "pioneering" ways to affect business conduct. The agency is no longer restricted to watching business to make sure it isn't doing anything wrong, but can now tell it what it must do, he said.

The area of product disclosures is a candidate for agency action, he noted. A company selling a product has not had to tell consumers much about it, so long as the company said nothing false. In the future, manufacturers may be required to tell consumers very specific kinds of information about products, he said.

Although he is looking forward to private practice with the firm of Stein and Mitchell ("It'll be a lot of fun"), Mezines says "it's very hard leaving here. It's been my whole life for years . . . there's a tremendous opportunity for you to do the right thing here . . . this is just a wonderful place to work."

The law firm will become Stein, Mitchell & Mezines.

He is also cognizant of the problems he may encounter in private practice. "I don't want to get involved in conflicts of interest," he says. Also, "I could never come down to the commission and face the staff representing a crook and saying he's a good guy."

Among the accomplishments Mezines lists as executive director with some pride are:

Encouraging two previous chairmen to give the regional offices more authority to try cases; it stemmed from his "bitter experience" when he started at a regional office, he says.

Helping devise the job of consumer protection specialist, a slot enabling non-lawyers to work on cases with lawyers.

Spearheading a house-cleaning of the commission staff under chairmen Caspar W. Weinberger and Miles W. Kirkpatrick, and hiring "the smartest bunch of lawyers in town."

He thinks the next executive director may have to do some more house-cleaning.

Although some of the people who were "encouraged" to retire were friends of former chairman Paul Rand Dixon, a current member, Mezines said Dixon held no ill feelings. He recounts a call one evening about 6 p.m. from Dixon asking what Mezines was doing. When Mezines replied he was working, Dixon told him to "come on up here and have a drink with me; you might as well; you fired every one of my old friends."

Mezines contends that each of the chairmen he worked under had some special strength and finds himself unable to grade any of them as the "best." For instance, he called Dixon "a fine, honest guy with a big heart" who was able, when chairman, to get increased appropriations needed for a growing agency.

The highly critical Nader Report on the FTC was "overly hard" on Dixon, Mezines feels. "There was a lot wrong with the commission but you could have gone into AT&T or IBM and found the same thing," he says. Dixon's finest achievement was his vigorous stand on the cigarette warnings, Mezines says.

Weinberger, under whose leadership the house-cleaning started, was responsible for a widespread reorganization of the commission. "He is the warmest man but very tough when it came to doing the job," he says.

"Kirkpatrick's genius came in allowing the right people to do the job," Mezines says.

Since Mezines came to the commission in 1949, the FTC budget has grown from $3.7 billion with 654 people to a $30.4 billion budget in fiscal 1973 with 1,595 people. "The American people get a lot out of this: it's a real bargain," he says.

A project he says he has spent more than a year on will soon come to fruition—a digest to tell business, lawyers and state and local officials what is happening in consumer protection law.

Although Mezines is reluctant to leave the agency—he contends government service has never been the "sacrifice" some say it is—he believes now is the time to do it. "I love it so much that I wanted to leave it while I could walk out of it, instead of being thrown out," he told well-wishers at a farewell reception last week.

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## PLUG THE LEAKS

## HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HUNT. Mr. Speaker, our system of justice, theoretically at least, holds that any man is innocent until proven guilty in a court of law. Of late however, this system is being threatened by "leak" journalism, served up to us by "anonymous" and "high level" sources.

A goodly number of the press in this country wants the right to withhold its sources. But when the shoe is on the other foot so to speak, they demand from our President and Vice President, full disclosure of their most intimate and confidential conversations.

I submit for the RECORD the following editorial from the Asbury Park Sunday Press which puts "advocacy" journalism in its proper perspective:

### AGNEW'S CIVIL RIGHTS

Vice President Agnew's civil rights are being violated by those who have leaked information about the Maryland investigation and those in the media, notably The New York Times who have embraced "leak journalism."

Mr. Agnew's innocence or guilt is not the issue in his protest to Attorney General Richardson that he is being defamed by these leaks before he has his day in court. The leaks have made him a target of prejudicial publicity that impairs his right to a fair grand jury hearing of any evidence the government produces or to a fair trial if he is indicted.

This is sordid business. If it can be employed again a Vice President it can also be used by prosecutors and others to inflame opinion against defendants with lesser resources.

The U.S. News and World Report properly rebukes those elements of the press that have ambushed Mr. Agnew by giving credence to the leaks in a manner that the public cannot verify because the leaks are attributed to "reliable sources" or "highly placed informants in the Justice Department."

This form of what has become known as advocacy journalism shields the motives of the sources of the leaks but offers Mr. Agnew no opportunity to identify his accusers. Instead of a leak being used as a tip to pursue information that would document the truth, or expose the leak as a move to destroy a foe, advocates of "leak journalism" blare headlines and television bulletins with the speed of light and the leaks attain the color of truth.

This reckless haste explains applause for Mr. Agnew's disclosure that he was a target of the Maryland investigation rather than a retreat into silence and let the scurrilous gossip of the cocktail circuit defame him and his office.

The restraints that are the mark of a free society and a fair system of criminal justice cannot be abandoned in the Agnew case without grave risk to every citizen. If the Justice Department cannot plug the leaks and if some elements of journalism do not employ more caution in appraising them the constitutional guarantees of both a free press and a fair trial will be downgraded.

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## ACCESS TO INFORMATION

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HARRINGTON. Mr. Speaker, H.R. 7645, the Department of State Appropriations Authorization Act of 1973 can be an effective means to reassert congressional authority that has been eroded over the last 25 years. Recent Watergate disclosures have exemplified the dangerous consequences of unchecked executive power. Furthermore, America is presently trying to disengage itself from a war that was carried out by executive prerogative. The recent votes in Congress to curb the President's warmaking powers indicate to me that Congress does in fact share an interest in foreign and warmaking policies, as it was intended to do.

The reported bill from conference contains a provision which should be approved if Congress is to carry out its constitutional duties with adequate information. Section 13 of House Report No. 93–367 to H.R. 7645 states that funds shall be cut off after 35 days if departments or agencies fail to "furnish any document, paper, communication, audit, review, finding, or other material so requested" by the Senate Foreign Relations Committee or the House Committee on Foreign Affairs. This provision applies to the Department of State, USIA, AID, U.S. Arms Control and Disarmament Agency, ACTION, and the Overseas Investment Corporation.

This provision is imperfect in that it leaves interpretation of what can be disclosed in the hands of the Executive. However it does represent a step in allowing Members of Congress to have greater access to information necessary for making rational decisions. Although the Senate language would have allowed the request to be made by the GAO or any committee of Congress having jurisdiction over the above-mentioned agencies, the original intent, it seems to me, remains the same. If Congress has the power of the purse and is accountable to the taxpayers as to how their money is spent, it is imperative that it receive adequate information from the Executive in order to carry out its duties.

For too long a period, money appropriated by Congress has often been used for purposes other than what it was intended. Transferred funds have been used by agencies to finance covert activities without the knowledge or approval of Congress, for example, the sending of advisers into Vietnam in 1955 and most recently into Cambodia. Further, it has been alleged that the White House used "contingency funds" to pay legal expenses of the Watergate burglars. Too often money has been appropriated for programs without full knowledge of how these programs are to be carried out.

I do not feel that Congress intended to use money appropriated for public safety programs for assassination campaigns or to encourage the jailing of political prisoners, but that is what has happened in South Vietnam.

Approval of this conference report would help prevent such abuses and misuse of funds by placing greater congressional oversight on appropriated moneys. Although I would like to see this provision expanded to enable more congressional committees to have greater access to information, it does represent a beginning in that direction.

I therefore urge all my colleagues to approve this legislation. Mr. Speaker, at this point I would like to insert a copy of the provision into the RECORD so that it may be examined by my colleagues:

ACCESS TO INFORMATION

SEC. 13. (a) After the expiration of any thirty-five-day period which begins on the date the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives has delivered to the office of the head of the Department of State, the United States Information Agency, the Agency for International Development, the United States Arms Control and Disarmament Agency, ACTION, or the Overseas Private Investment Corporation, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report of other material in its custody or control relating to such department, agency, or corporation, none of the funds made available to such department, agency, or corporation, shall be obligated unless and until there has been furnished to the committee making the request the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested.

(b) The provisions of subsection (a) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of any such department, agency, or corporation or to any communication that is directed by any such officer or employee to the President.

(c) Subsection 634(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(c)) is amended—

(1) by striking out "(1)"; and

(2) by striking out all after the phrase "so requested" and inserting in lieu thereof a period and the following: "The provisions of this subsection shall not apply to any communication that is directed by the President to a particular officer or employee of the United States Government or to any communication that is directed by any such officer or employee to the President."

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## NATIONAL SNOWMOBILING WEEK

### HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. FROEHLICH. Mr. Speaker, on August 3, 1973, I introduced House Concurrent Resolution 287 in the Congress with Mr. SYMMS and Mr. ROUSSELOT. The immediate objective of this resolution is to proclaim the week of January 14 through January 20, 1974, as "National Snowmobiling Week." However, the more far-reaching purpose for my action is to create a greater public awareness of the profound impact that snowmobiling has had on the lifestyle and economy of North America.

Climatic conditions across the snowbelt States of this Nation have left an indelible mark upon the economic and social development of many northern rural communities. Areas which are heavily populated and economically healthy during the summer months, as a result of the fine recreational opportunities they offer, are often isolated and nearly deserted during the snowbound winter months. This has been true of many communities in my own district.

I say "has been true" because this situation has undergone a surprising metamorphosis during the past 10 years, largely in response to the growing use of the snowmobile. No longer are the havens of summertime rest and relaxation boarded up at the first signs of snow. Rather, they begin to cater to the recreation of more than 2 million snowmobile owners and 6 million snowmobile enthusiasts who look forward to the first snowfalls of the year. This change has taken place in communities all across the United States, from Maine to Alaska.

Snowmobiling today is one of the fastest growing wintertime activities in America. According to a 1971 task force study on off-road recreational vehicles conducted by the Department of the Interior, sales of snowmobiles in 1960 amounted to no more than 500 machines. Only 13 years later, an estimated 600,000 new vehicles are sold annually. During those few short years, snowmobiling has generated a billion dollar industry in capital investment and in sales of machines, accessories and supplies. This is an unbelievably phenomenal growth by any standard of measurement.

The recreational opportunities made available by the snowmobile are manifold. It provides a unique way to expand family recreation to include all members—young, old and inbetween. For those unenthusiastic about the traditional winter sports, snowmobiling is an exciting and leisurely way to enjoy the outdoors. For the elderly, it allows winter vacations when the physical exertion required for skiing, skating or tobogganing is no longer feasible. And, for those accustomed to snowbound, isolated winters in the north country, the snowmobile makes socializing and group activities possible for the first time in winter.

The impact of the snowmobile on the lifestyle in snowbelt States has not been restricted to recreation. Little known to most Americans is the widespread use of this vehicle by many people in the course of their professional lives. The snowmobile is used today by ranchers to feed and care for herds of cattle, by farmers to perform around-the-farm chores and by game wardens to reach trapped and starving animals during the winter months. Mailmen in rural areas have employed snowmobiles where snowplows could not get through the drifts in time. Telephone linemen and repairmen have used snowmobiles to restore blizzard-interrupted services.

Snowmobiles have provided emergency transportation in dire situations too. Instances have been recorded when snowmobiles were used to rescue airplane crash survivors, to rush firemen and firefighting equipment to the sites of conflagration, to deliver medical help and medicine, to search for accident victims and to perform the routine but vital safety policing of ski areas.

Just recently, the U.S. Snowmobile Association named the Minnesota Para-Rescue team as the official first aid service for all U.S.S.A. sponsored events. The Minnesota Para-Rescue team is a volunteer group trained in first aid, survival and emergency work, which uses every thing from scuba gear to snowmobiles to rescue those in need.

I am fully aware that the snowmobile is not without controversy and criticism. Some of it is warranted, but in most cases this criticism stems from the discourteous use of the snowmobile by a very small minority of enthusiasts. The proclamation of National Snowmobiling Week is not only aimed at promoting snowmobiling as a wintertime recreation, but is also intended to serve as a prime opportunity for focusing attention upon the environmental and safety aspects of this activity, as well as an impetus for encouraging the establishment of separate snowmobile trails and areas.

The primary citation brought against snowmobiles is the noise factor, although this situation is being dealt with rapidly. It is my feeling, and a feeling that is well substantiated, that considerable progress has been made in the field of snowmobile noise pollution by the manufacturers and State and local governments.

Several States, including Maine, Massachusetts and New York, have established snowmobile noise levels which work progressively down the decibel scale as years pass. This is commonsense legislation which will effectively limit snowmobile noise emission. Manufacturers, who must work with a highly sophisticated two cycle engine, need approximately 2 year intervals to properly engineer and test quieter engines, if they are not to sacrifice the safety and dependability of their machines.

The snowmobile industry has shown a welcome sensitivity and positive reaction to criticisms levelled at it. Manufacturers have successfully reduced noise levels from the 100 decibel plus level, measured at 50 feet on the "A" scale, to a common level of 82 decibels today. I think it is important to point out that the former 100 decibel level is equivalent to the sound level exposure inside a DC-9 aircraft. Now, some major manufacturers are producing and selling snowmobiles that operate at the 73 decibel level recommended for 1978 by the National Industrial Pollution Control Council.

Snowmobiling has been assailed for alleged environmental damage to young trees, snow-covered foliage and croplands, by compacting the protective layer of snow. This supposedly causes severe temperature changes in the subsoil. To say these charges are questionable is not an overstatement. It appears to me that with nearly 3 million snowmobiles in use in the United States and Canada—used, by the way, often in highly concentrated areas—that the damaging evidence should be overwhelming and irrefutable. This is not an apologist's rhetoric. Rather, my point is that the evidence does not exist to substantiate the degree of damage that is alleged. If, in fact, some damage does occur because snowmobilers have been negligent, the logical solution is to regulate snowmobile use in sensitive areas, not to condemn the entire recreation.

To my way of thinking, the most practical and least disruptive manner of correcting adverse noise and environmental effects of the snowmobile is to encourage manufacturers to continue their research and either to urge or require snowmobilers to use their private property or specific public snowmobile trails or areas.

This latter suggestion does not require massive Government spending or the extensive use of public lands. Already, through the cooperation of local authorities, snowmobile enthusiasts, and private corporations, a number of snowmobile trails have been established and maintained in several States. In Wisconsin, for example, enthusiasts put together more than 100 miles of trail consisting of abandoned railroad rights-of-way, private property, certain areas of the Nicolet National Forest and land owned by the St. Regis Paper Co. This is just one example. Today, Wisconsin has more than 1,400 miles of public snowmobile trails and hundreds of miles of private trails.

The Old Forge, N.Y., trail is a 500-mile system built on State, township, and private property by a local snowmobile club. The State of Maine has 13 snowmobile areas with 88 miles of trails. Massachusetts has established a fund to build and maintain snowmobile trails. Minnesota has 1,778 miles of trails and 2,000 miles of designated trails. Pennsylvania has six snowmobile areas and allows the limited use of certain State forest trails.

As has been experienced before when infant industries become billion dollar babies overnight, advanced planning is often left behind in the headlong rush of enthusiasm. I sincerely hope that "National Snowmobiling Week" will effectively serve as a forum for private individuals and organizations to take the initiative to regulate and instruct snowmobilers in snowmobile safety and courtesy. As national legislators, we should encourage this type of self-regulation and initiative which will go a long way toward eliminating the problems snowmobiling has created.

The question of safety is ever present in a discussion of motorized vehicles. Although snowmobiles cause nowhere near the casualties per vehicle that automobiles have caused, this serious concern must be confronted. I am proud to report to my colleagues that Eagle River, Wis., a small town in my district, hosted the National Snowmobile Safety Conference this July. A number of useful seminars were conducted for representatives of six States dealing with snowmobile safety instruction. A committee was also established to coordinate existing State safety manuals in a more effective manner so that snowmobile drivers' certificates can be honored by all States on a reciprocity basis.

Several States already have safety instruction programs. A fairly recent article in the Minneapolis Tribune—February 13, 1972—indicated that 60,000 Minnesota young people have completed a snowmobile safety course conducted by the State department of natural resources. In Wisconsin, more than 2,100 adults have volunteered to instruct snowmobile safety to young people. A snowmobile safety instruction course is now required by State law for all 12- to 16-year-olds before snowmobile operators' permits will be issued to them.

It is this type of action that "National Snowmobiling Week" will encourage. By focusing attention on the recreation of snowmobiling, we can promote safety and individual responsibility. Many safety problems will be resolved with this increasing awareness and the corresponding activities of local government and snowmobile organizations.

The most outstanding information I have reviewed indicates the magnitude to which snowmobiling has positively affected the economy. At least 10 States have snowmobile manufacturers or related industries that employ nearly 100,000 people, according to the International Snowmobile Industry Association. But this is just the tip of the iceberg. Untold thousands of businessmen have received the long needed expansion of their income earning seasons, due primarily to snowmobiling.

The Upper Great Lakes Regional Commission estimated, after extensive surveys and research, that $212,180,000 was spent during the winter of 1970–71 on snowmobiling activities in Michigan, Minnesota, and Wisconsin alone. This includes significant amounts over and above that spent for new machines, which were spent on lodging, food, winter clothing and various accessories.

It is hard for those living in year-round warm weather to imagine the impact that snowmobiling has had on the economies of northern rural areas. Eagle River and Rhinelander, Wis., which are fabulous summertime resort areas, have become centers of snowmobiling in Wisconsin, providing more income to more area residents in the wintertime. One town cited in the Department of Interior report I mentioned earlier, realized a $400,000 increase in local business transactions during the weekend a snowmobile meet was held there. In northeastern Wisconsin, more than 400 traditionally summertime resorts have opened up during the winter months to house snowmobile enthusiasts. In some cases, enterprising marina owners have expanded their facilities to provide summertime storage for snowmobiles.

North central Pennsylvania, which is normally dormant during the wintertime has become a year-round recreation area because of the demand that snowmobilers have created. Bankers have realized huge increases in loans to summertime residents in northern areas who want to "winterize" their residences in order to spend the winter snowmobiling. Needless to say, this building and remodeling keeps hundreds of northern residents employed in carpentry, plumbing and finishing during the year. The list of similar examples is probably endless.

A few of my colleagues have expressed a concern about the amount of gasoline used by snowmobiles, especially in view of the alleged gasoline shortage. This argument does not appear reasonable to me. The International Snowmobile Industry Association is now conducting a study to determine the gasoline usage of these vehicles. Preliminary figures show that lawnmowers use three times as much gasoline as snowmobiles do. Consider for a moment that two or three times as many outboard motors as snowmobiles are used in this country. Examine the figures and you will find that motorcycles and minibikes outnumber snowmobiles. Motorized campers, which are purely recreational vehicles, use much more gasoline per vehicle than snowmobiles do and campers pulled by automobiles greatly reduce the miles per gallon of gas used in trucks and cars. If we are to single out snowmobiles for using gasoline unnecessarily, despite the fact that they are of critical importance to many people in their professional lives, then let us criticize all recreation vehicles, all outboard motor owners, families that drive more than one car and everyone who uses a gasoline powered lawnmower rather than a manually powered one.

Mr. Speaker, my resolution to proclaim "National Snowmobiling Week" is not aimed merely at recognizing snowmobiling as a wonderful winter recreation. It is designed to promote snowmobile safety, to encourage consideration for others, and to point out the need for planning and establishing separate snowmobile areas which will help to protect the environment from random abuse, and safeguard the rights of nonsnowmobilers as well. "National Snowmobiling Week" will bring nationwide recognition to an activity that is rapidly changing the lifestyle of snow-covered North American communities. I hope my colleagues will agree with me that these are worthwhile pursuits.

The text of House Congressional Resolution 287 follows:

H. CON. RES. 287

Whereas snowmobiling is one of the fastest growing winter recreational activities in the United States; and

Whereas the snowmobile provides a convenient and exciting way to enjoy the outdoors for many Americans who might otherwise not be able to do so during the winter months; and

Whereas citizens of the United States have joined together to form more than two thousand organizations related to snowmobiling throughout the Nation; and

Whereas the snowmobile has had a significant social impact upon the residents of snow-covered areas during the winter months; and

Whereas the snowmobile provides a fast, reliable, and efficient means of transportation and communication (heretofore unknown in snowbound areas of the Nation) for game wardens, forest rangers, conservationists, trappers, farmers, and other individuals to carry out the activities of their chosen professions; and

Whereas the snowmobile industry and snowmobile enthusiasts have made and are making considerable efforts to reduce the adverse environmental effects and misuse of the snowmobile; and

Whereas snowmobile enthusiasts are working diligently to enhance the safety of the snowmobile and snowmobile activities; and

Whereas the snowmobile industry has generated one hundred thousand jobs in manufacturing and sales, and snowmobiling activities have enhanced the income of thousands of Americans employed in the recreation business: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the President is requested to issue a proclamation designating the week of January 14 through January 20, 1974, as "National Snowmobiling Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

## COMMENCEMENT ADDRESS

### HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. O'NEILL. Mr. Speaker, this past spring, I spent a most pleasant day at Boston College, where I had the privilege of receiving an honorary degree. Other than being at Boston College, what made the day particularly pleasant, and thought provoking, was the commencement address delivered by the president of Dartmouth, John Kemeny.

John has lead a distinguished academic career, having taught at America's finest universities and lectured on several continents. While a master of mathematics, he nevertheless maintains a humanist's interest in philosophy. Among his works is "A Philosopher Looks at Science."

John's comparison, in his commencement address, of his recent arrival by boat in Manhattan with his arrival there some 33 years ago, as an immigrant, should remind us all of the challenges facing our Nation. We must see to it that the United States continues to be a land of hope and opportunity. We must not accept as inevitable the deterioration of the quality of life.

John Kemeny places the burden of meeting the future on the universities and on the young. But we in Congress must share in that burden—or become obsolete. I have confidence that drawing on our Nation's universities, especially when they are headed by men like John Kemeny, drawing on our Nation's young, and working hard, we can measure up to the challenge of tomorrow.

I commend John Kemeny's address to my colleagues as a step in that direction.

The address follows:

#### COMMENCEMENT ADDRESS BY JOHN G. KEMENY

President Monan, Your Eminence, Members of the Faculty, Distinguished guests, Men and Women of the graduating class:

As I read the daily papers for the last few days, it appears that there is a compulsory theme for all commencement speakers in this particular month. It seems that the only allowed topic is Watergate. However, I happen to be a great believer in the elective system and therefore I hope you will permit me to reject the compulsory theme. I will not speak about Watergate today. I would like to speak about some problems of the nation that seem to me more deeply rooted and perhaps more dangerous to the health of the nation.

I had an experience last week that recalled something that happened 33 years ago when I first arrived in the United States as an immigrant and landed by boat in Manhattan. It so happens that last week my wife and I also arrived in Manhattan by boat from Europe. We looked out at that magnificent skyline on the Island of Manhattan and I couldn't help thinking about the enormous change that had taken place in 33 years. It is true that the skyline is more beautiful than it has ever been before, but it somehow has a different meaning for me today than it did 30-odd years ago when I went to high school on that particular island.

Today, new skyscrapers seem to rise practically daily, built in the midst of the worst congested area in an already over-crowded island. Five minutes after we cleared customs we were enmeshed in the most incredible traffic jam—the kind that only New Yorkers seem to get used to—and we were breathing polluted air. We eventually arrived at the hotel and looked out at lovely Central Park but were warned not to try to walk in it. And for all of this I had the privilege of paying prices that I couldn't possibly afford. As I looked down on the street from one of the taller buildings in Manhattan and dimly saw masses of human beings walking along, I had the terrible illusion that they were not human beings at all but lemmings rushing to their own destruction.

Yet 33 years ago when I landed in Manhattan, to me and to hundreds of thousands of other Europeans the United States was the land of hope and opportunity. As a matter of fact, it is a view I will never be able to change. As I stand here today, a first generation immigrant who happens to be President of one of the oldest universities in the United States, I will always feel that the United States *is* the land of hope and opportunity. And it is precisely for that reason that it depresses me to see not only a deterioration in the quality of life but the fact that most of us seem to accept this deterioration as inevitable. Somehow we seem to have lost the ability to plan our collective future, we seem to be resigned to a gradual worsening of all facets of life, we seem to be subject to defeatism, a defeatism I can only describe as un-American—contrary to all that has made this nation great.

Somehow we have allowed the growth of urban sprawls with little constructive planning. We have watched the increase in pollution for two decades and have done very little about it. As energy crisis has been clearly predicted for a long time and we still don't have an effective solution. At a time when it is clear that mass transportation is badly needed in the United States we have allowed our railroad system to go out of business. Sometimes I wonder if the combination of these crises may eventually save us by cancelling each other out. For example, when we run out of gasoline completely, we will be able to eradicate air pollution.

Each year there is an increasing crime rate and we grumble about it but seem unable to reverse the trend. Each year the dollar seems to be worth less and we seem to watch rather helplessly. (Indeed that is an area that greatly puzzles me and when I get back to Dartmouth I hope that some distinguished economist will explain to me why it is that if some international gamblers in gold happen to decide to buy more gold, the effect is that Americans have to pay more for a hotel room in London, but citizens of England or France do not have to do so. These mysteries that seem to influence our lives are sometimes tremendously difficult to understand.) Medical research is at an all-time high and yet we have not been able to design an effective health care delivery system that will help all the citizens of our nation. The percentage of elderly is increasing to the point where soon one out of six people will be retired and yet we do not have any systematic plan on how to make life meaningful for those who have retired.

It seems to me that perhaps our greatest progress has been in the growth of bureaucracy. I think there are endless numbers of stories about the effect of bureaucracy. I will share one story with you, that I am rather fond of, and that seems to be typical. I happen to be a member of a National Commission. The National Commission, in getting started, wished to hire its first secretary. It took two days to find out which office authorizes new secretaries in Washington and then we found out that it is really very simple. You just fill out form 297–83 (five copies of course) and as soon as that is filled out, the new secretary will be authorized if everything else checks out. The only difficulty was that that particular office did not have the foggiest idea as to where form 297–83 could be obtained!

At the same time that there is a great growth in our problems it seems to me there has been a spread in selfishness and in greed in this nation. We have seen many examples of immorality in high places, to the point perhaps where the level of public morality is dangerously low.

And yet, having said all that, I still happen to be an optimist and I do think that there is great hope for the future. In my mind there is great hope because I believe in your generation. From the thousands of students I have known I think that your generation is less interested in making a quick buck and more interested in the needs of fellow human beings and has a much deeper dedication to having a meaningful life.

I was very interested to read in yesterday's New York TIMES a report of a study conducted by the American Management Association (AMA) that surveyed lower and middle management nationwide and found that two-thirds of those surveyed do not look to their work for realization of their aspirations and feel that the organizations they work for are not even aware of their aspirations. The conclusion of the study was that organizations that do not serve first the interests of people experience difficulty in finding qualified candidates interested in serving them. I think what is happening is that the values that your generation has espoused for the last few years seem at last to have become the values of society in general.

Why is it so difficult for us to mobilize our natural resources when we do have ample resources for solving our problems? We seem to be able to do it in time of war. We have done it again and again—we have rallied the whole nation, we have mobilized all resources and have achieved incredible results. We can do it whenever catastrophe strikes and we all pull together. But we seem to have great difficulty doing it in time of peace. Perhaps the only outstanding exception has been our space program, when a very popular young President captured the imagination of the nation and we achieved in an incredibly short time the tremendous task of putting a man on the moon.

Somehow we must find the means of rededicating ourselves as a nation. We must change our values, perhaps change them back to what they once were. We must somehow gain confidence in our ability to solve these problems and that is going to be half the battle. The other half of the battle, however, consists of finding new means for the solution of our perennial problems. Civilization has become so complex that many traditional solutions which we try out with the best of intentions simply no longer work.

The highly complex social organizational systems that we employ in our nation and in the world require new methods of study and new approaches to lead to understanding. I am convinced that this will require a major breakthrough in the social sciences and that a tremendous research effort is highly overdue. Before we are through, all major areas of knowledge will have to contribute to this effort and therefore I see this as the great new challenge to our universities and particularly to our private universities. The universities of the nation have the diversity of knowledge necessary to launch such an enormous research effort. We private universities are freer from government pressure; it is not necessary for us always to react to the latest whim of government and we can look ahead decades instead of looking at the needs of tomorrow.

I feel convinced that if great new ideas will come, they will come from our universities. If we are going to design a new mass transportation system, our universities are our best hope. It is in our medical schools that the new health delivery system is most likely to arise. It is in the laboratories of universities that we are most likely to discover new sources of energy, means for stabilizing the economy, means of applying modern technology in such a way that it will humanize rather than dehumanize human beings, find means by which we can eradicate poverty from a very rich nation, and above all find means by which the lives of human beings can be made more meaningful.

We, the universities of the nation have served in several wars as laboratories and think tanks for our nation. It seems to me that it is now encumbent upon us to take the initiative to play that same role for the needs of peace, even though no one is pushing us and no one is paying us for the effort. I am convinced that if we are willing to dedicate ourselves to such a task it will lead to a rejuvenation of universities, and if we can carry out this task in a partnership between faculty and students, we will automatically train a new generation of leaders who will be much better equipped to face the perennial problems of our nation.

Men and Women of the Graduating Class, I am very much afraid that my generation is leaving you with more problems than we inherited when we graduated from college. We have also tried to develop some of the tools that are necessary for solving these problems and have tried to give you these tools. I hope that in spite of the problems you face you will never lose the idealism that makes your generation so special, nor your faith in mankind. Don't ever accept the deterioration of the quality of life as inevitable, but live your life in such a way that you may leave the world to the next generation a better world than that which you inherit. Men and Women, the future is in your hands.

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## RESTORING PRAYER TO OUR PUBLIC SCHOOLS

## HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. YOUNG of Florida. Mr. Speaker, more than a decade has passed since the controversial Supreme Court decisions which outlawed prayer from our public schools. During that time, thousands of Americans have written their Congressmen asking for a constitutional amendment to restore this precious privilege. One of my first acts in Congress was to sponsor such an amendment, House Joint Resolution 193, introduced in the 92d Congress. This prayer amendment was identical to House Joint Resolution 191, which was narrowly defeated after a discharge petition brought it directly to the floor for a vote by the House.

I reintroduced my prayer amendment in the 93d Congress as House Joint Resolution 125, and it was referred to the House Judiciary Committee, which took no action on it or any other prayer amendment.

On July 27, however, the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee opened hearings on proposed constitutional amendments to guarantee the right of public, nondenominational prayer in public schools and other public places, as well as at public functions and in public documents. Following is the testimony on behalf of such an amendment which I submitted to the committee:

### Constitutional Amendment To Restore Prayer to Public Schools

Mr. Chairman, may I first say how pleased I am that this Committee has broken the logjam and opened hearings on amendments to return prayer and bible reading to our public schools and other public and governmental functions. It is a sad commentary on Congressional responsiveness to deep public concern that these are the first committee hearings to be scheduled on prayer amendments since 1966 on the Senate side and 1964 on the House side. Every action taken on this important question in recent years has been directly on the Floor of both Chambers, and it is highly indicative of continued national concern that such action was taken at all in the absence of prior committee consideration.

During the 92nd Congress, I was proud to sign the Discharge Petition which brought H.J. Res. 191 directly to the Floor for a vote. H.J. Res. 193, which I had introduced, was identical with this resolution, which proposed a Constitutional amendment permitting nondenominational prayers and biblical reading in public schools, institutions, or other places, so long as participation was on a voluntary basis. The resolution, which I have reintroduced in the 93rd Congress as H.J. Res. 125, also permitted references to or invocations of the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, or institution, as well as upon any coinage, currency, or obligation of the United States.

Mr. Chairman, our pledge of allegiance says that we are "one Nation, under God, indivisible, with Liberty and Justice for All." Throughout our darkest days, belief in the Supreme Being has carried this Nation through to victory. It has permeated our national pride and consciousness with a belief in ourselves, our goals, and our future. It has seen spontaneous expression in public life ranging from the daily opening of House and Senate proceedings to the somber ceremonials of a Presidential funeral. It has been carried to the very frontiers of mankind—our astronauts' journeys into space. By whatever name we call Him, by whatever way we worship Him, God has been the wellspring of our national strength for almost 400 years.

It is not surprising, then, to find that the use of prayers and Bible readings at the opening of the school day is a tradition stemming from the very beginning of our Republic. Documents dating back to the earliest colonial times confirm the importance of prayer in the educational process. After the Revolution, the new States uniformly continued these long-established practices in the private and public grammar schools. Public schools of all the States retained and relied upon the morning devotional exercises throughout the nineteenth and well into the twentieth century. The controversies over possible infringements of the First Amendment were not centered around devotional exercises as such, but principally about the elimination of plainly sectarian practices and textbooks, and led to the eventual substitution of nonsectarian, though still religious, exercises and materials.

Nonsectarian expressions of religious belief in our schools and public life are not, as some would claim, an infringement on the First Amendment. They are a voluntary affirmation of the fundamental tenet of our national pledge and our national heritage—that we are, indeed, one Nation under God. The willingness of educators as well as the general public to encourage such expressions of belief reveals their understanding that daily religious exercises in schools serve very broad goals—better discipline in the classroom, elevation of the level on which the school day opens, affirmation of the moral values of the community, and fostering a sense of unity and harmony. These are the same goals for which we strive in all our public activities as a Nation, and any element which impels us toward these goals should be given its proper place of consideration.

The framers of the Constitution did a masterful job in creating a *flexible* instrument of law and government which has served us for almost two hundred years. I believe that the 1962 and 1963 decisions by the Supreme Court which effectively outlawed prayer in schools and left a whole range of public and governmental functions open to the same threat are a misinterpretation of the First Amendment.

But if the Courts remain adamant on this point, then the Congress must carry out the will of the people and change the law itself. The First Ten Amendments to the Constitution, added immediately after its adoption, constitute a massive effort to delineate those freedoms about which our Founding Fathers were especially concerned. I believe that the amendment which this Committee is considering, to guarantee the free right of religious expression in public schools and places, is as essential to the continued moral and civil strength of this Nation as the First Ten Amendments. I urge this Committee to bend its efforts to developing the language which will enable the people of this country, and especially our youth, to reaffirm their belief in a Supreme Being so that we can once again truly say that we *are* "one Nation under God."

## WHO IS TELLING THE TRUTH ABOUT RED CHINA?

## HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HUBER. Mr. Speaker, in the Detroit Free Press, a column appears regularly entitled: "People," by Robin Adams Sloan. Yesterday, in this column a reader asked:

> I don't see how we can be friendly with Red China. Don't they liquidate their enemies like any dictatorship?

The answer given was as follows:

> No, the Chinese leaders have shown leniency to rivals. Unlike Stalin, who slaughtered millions of adversaries, Mao Tse-tung has rarely had his enemies killed. (We wouldn't say never.) He adheres to the idea that everyone who has erred can be redeemed through self-criticism and good behavior, or at worst, held up as a "bad example." Premier Chou En-lai is now stabilizing the country and rehabilitating members purged by the Red Guards. Former Communist Party Secretary Teng Hsiao-ping has reappeared lately and the revolutionary General Chen Tsai-tao has been redeemed. Many old faces are coming back.

On the other side of the question in National Review of September 14, 1973, page 981, there is an item as follows:

> During Bao Ruo-wang's seven years in a Chinese forced-labor camp, his wife visited him only to deliver a shrill tirade against him (his two small sons would not even wave good-bye, for shame and fright). He saw a fellow prisoner's brains blown out for a homosexual act; he knew other prisoners who regarded insects as delicacies, including worms retrieved from dung. But Bao's memoirs are more than a horror story; even in a pre-publication abridgement (in the August 28th World) they are full of analysis, humor and compassion. Among his conclusions: There are at least 32 million Chinese in such camps; and yet, "not only is the society within the camps in many ways purer than the larger one outside but it is also freer. It is in the prisons and camps that the notions of friendship and personal freedom are the most highly developed in China."

Added to this for the edification of Robin Adams Sloan should be the study issued in 1971 by the Senate Internal Security Subcommittee entitled: "The Human Cost of Communism in Communist China," by Professor Walker of the University of South Carolina. Professor Walker graphically outlines how Mao compares very favorably with Stalin, both in the numbers of people he has killed as well as the number of persons he has put in forced labor camps. And if this does not outline the horror of Red China sufficiently, Robin Sloan should read "The Revenge of Heaven" by Ken Ling—Ballantine, 1972—who himself was a Red Guard and explains how gentle Mao and his government are. In this book a former Red Guard outlines how thousands of people died violent deaths in Mao's efforts to "purge" the revolution during the so-called "cultural revolution."

It seems to me it is high time that American journalists pull themselves together and present the American public with a balanced picture of Red China and not just shine the spotlight on small carefully manicured corners of that nation, which are set up for viewing by the infidels.

## CROSS-FLORIDA BARGE CANAL—A QUESTIONABLE PROJECT

## HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. YOUNG of Florida. Mr. Speaker, the controversy over the Cross-Florida Barge Canal continues unabated, despite the fact the matter is now in the courts. Essentially, only a small minority of people in Florida have any real interest in the completion of a project that environmental specialists who have studied the matter, as well as the President of the United States, have concluded could seriously affect the environment of all of Florida.

It is then heartening that a voice of reason, in the area where the proponents of the project are the loudest, has once again spoken in the interest of a majority of Floridians.

For the information of my colleagues, I would like to include the text of an editorial by television station WJXT, Jacksonville, Fla., which was televised August 23 and 24, 1973:

> CROSS FLORIDA BARGE CANAL . . . A QUESTIONABLE PROJECT
>
> For several weeks the Cross Florida Barge Canal has been on trial in federal court. When the judge announces his decision it will probably set the stage for appeals and an eventual decision by the U.S. Supreme Court.
>
> But even if it is finally decided that the President had no authority to halt construction of the canal, it remains a very questionable project.
>
> Not only are there very serious environmental questions, the project is open to question on economic grounds also.
>
> To justify such projects the government uses a yardstick known as the cost-benefit ratio.
>
> There's no mystery about the cost—millions of dollars out of the national treasury.
>
> But the benefit is another story. Even though the cost is borne by all of the taxpayers, the benefit often goes to a few.
>
> Some projects have broad public benefit. Restoring public beaches hit by erosion, for example. But the benefits of the canal will go mostly to shippers.
>
> The courts may decide the President did not have the authority to halt the project. Even so Congress should not resume construction of the canal unless it can be justified—environmentally and economically.

## RUNAWAY YOUTH ACT REINTRODUCED

## HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. KEATING. Mr. Speaker, today I am reintroducing the Runaway Youth Act with 45 cosponsors. This bipartisan list demonstrates the support that is in the Congress for action in this area.

The Equal Opportunities Subcommittee of the House Education and Labor Committee, chaired by Congressman AUGUSTUS HAWKINS, has scheduled hearings on all runaway youth bills for September 26 and 27.

In the wake of the tragic murders in Houston, national attention has focused on the problem of our children who run away from home and become victims of crime or resort to criminal activities such as prostitution and drug abuse.

One of the serious difficulties in this area is the lack of uniformity in the codes of the 50 States in the treatment of runaways.

Today, I am releasing a study compiled for me by the National Criminal Justice Reference Service of the Law Enforcement Assistance Administration which outlines the legal status of runaways in the various States.

According to this report in a majority of States a runaway is either labeled a "delinquent" or can be labeled a "delinquent" on the basis of being a runaway. Under these laws a runaway may be institutionalized temporarily or for a longer period with juvenile delinquents who have committed criminal acts.

State legislatures may want to examine their juvenile codes to determine if runaways should be subject to the same treatment as juvenile delinquents.

I believe we should try to provide an alternative to a street life of crime for young runaways.

The Runaway Youth Act is designed to establish a communication network to help parents and law enforcement officials locate missing youth. In addition, the bill provides Federal support for runaway houses where young people could receive medical assistance, guidance, and food and shelter for a short period of time.

The chief effort of the runaway youth facility should be to reunite the family as quickly as possible with followup counseling to try and resolve the problem from which the youth ran.

The Federal Government cannot legislate the runaway problem out of existence, but national attention and action is needed to coordinate State and local assistance for runaway youth and their families.

I intend to ask the Committee on Equal Opportunity to fully explore the use of a national registry for runaways where information on missing youth could be very helpful in finding runaways. Such a system would also provide accurate data on runaways.

The following is a list of the cosponsors of the bill:

LIST OF COSPONSORS

Mr. Baker, Mrs. Boggs, Mr. Brasco, Mr. Breckinridge, Mr. James Broyhill, Mrs. Chisholm, Mr. Clancy, Mr. Cohen, Mr. Conte, Mr. Danielson.

Mrs. Collins, Mr. Eckhardt, Mr. Eilberg, Mr. Flood, Mr. Gerald Ford, Mr. Frenzel, Mr. Gilman, Mr. Hechler, Mr. Hogan, Mr. Hosmer.

Mr. Albert Johnson, Mr. James Jones, Mr. Kemp, Mr. Kuykendall, Mr. McDade, Mr. Mayne, Mr. Mazzoli, Mr. Parren Mitchell, Mr. Moakley, Mr. Mollohan.

Mr. John Murphy, Mr. Podell, Mr. Rhodes, Mr. Rose, Mr. Rosenthal, Mr. Sarbanes, Mr. Steele, Mr. Ware, Mr. Charles Wilson, Mr. Charles H. Wilson, Mr. Winn, Mr. Whitehurst, Mr. Buchanan, Mr. Howard.

At this point I would like to insert the report from the LEAA National Criminal Justice Reference Service:

THE LEGAL STATUS OF RUNAWAYS*

Twenty-six states within their Juvenile codes make specific reference to runaways. Arizona, Arkansas, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Maine, Michigan, Mississippi, Montana, Nevada, New Mexico, Oregon, Virginia and West Virginia label the runaway a "delinquent." Kansas, Nebraska, Ohio, Rhode Island, South Dakota and Wyoming label him a "juvenile status offender" (wayward, in need of supervision, unruly, etc.). The Wisconsin code identifies the runaway as being within its jurisdiction, but allows the judge discretion in attaching either a "delinquent" or a "juvenile status offender" label. The California code similarly identifies the runaway as being within its jurisdiction, but does not attach a specific legal label to him. Finally, the New York code specifies a procedure for the apprehension and detention of juveniles suspected of being runaways. This procedure, however, may eventually lead to the adjudication of the runaway as a "juvenile status offender."

In the remaining states and the District of Columbia, the runaway is brought within the jurisdiction of the court by means of an "omnibus" clause. (An "omnibus" clause is one which is broadly drafted in such a way as to give the court jurisdiction over almost any conduct.) In Colorado, Georgia, Idaho, Iowa, Minnesota, Missouri, New Hampshire, New Jersey, North Carolina, Texas and Utah, he may be labelled a "delinquent." In the District of Columbia, Florida, Hawaii, Maryland, Massachusetts, North Dakota, Oklahoma, Tennessee and Vermont, he may be labelled a "delinquent." The runaway, in Alaska and Illinois, may be labelled either a "delinquent" or a "juvenile status offender." And, in Alabama and Pennsylvania, he may be labelled either "neglected" or a "delinquent." Finally, in Washington, the runaway may be labelled "dependent."

Once adjudicated, only Alaska, the District of Columbia, Florida, Kansas, Maryland, Massachusetts, North Dakota, Ohio, Pennsylvania, and Tennessee have provisions within their codes which prohibit the institutionalization of the runaway. However, in the District of Columbia, Kansas, North Dakota, Ohio and Tennessee, the "chronic" runaway may be institutionalized.

Finally, the Interstate Compact on Juveniles, provides for the out-of-state return of runaways, escapees, and absconders. As of January 1973, New Mexico was the only state that had not enacted the necessary legislation to be a member of the Compact. The return of a runaway through the Compact, virtually precludes an informal disposition in that the "requisition of return" is a formal court order.

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*As of the end of the 1972 legislative year.

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## THE IMPACT OF SANCTIONS VIOLATIONS ON RHODESIA

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. FRASER. Mr. Speaker, since the imposition of sanctions in 1966 against the Rhodesian regime, opponents of the sanctions have stated that the economic and political effects on Rhodesia would be insignificant. However, an article published in the Rhodesian Financial Gazette on July 13, 1973 states that repeal of the Byrd amendment will represent a loss to Rhodesia that "will not only be a monetary one but also a psychological blow."

It is clear from this article that Rhodesia regards the U.S. violation of sanctions as more than an economic boon. The significance of the official U.S. violation of the sanctions goes beyond simple questions of increased foreign exchange earnings for Rhodesia. The passage of H.R. 8005 and the negation of the Byrd amendment will restore the U.S. commitment to its international obligation and discourage future violations by other countries based upon the precedent set by the United States in 1971.

For those who have doubted the importance of section 503 of the Military Procurement Act, fiscal year 1972, in bolstering the morale of the illegal regime, this article should be of particular interest. The article follows:

[From the Rhodesian Financial Gazette, July 13, 1973]

WASHINGTON TO CHANGE ITS MIND?—SALE OF CHROME IS IN JEOPARDY

(By Len Horne)

SALISBURY.—Rhodesia's biggest and most successful export breakthrough—the sale of chrome to America—is in serious danger of floundering.

No official comment was forthcoming this week, but it is learned that Government and mining industry officials are extremely concerned about the latest moves in Washington to block Rhodesian chrome imports.

According to U.S. figures, Rhodesian chrome exports to America brought in more than $7.2 million last year in foreign exchange. And this year's exports have been running at an even higher level.

Even more important, the American decision to defy United Nations sanctions opened the door for other countries to follow suit and was seen here as the first signs that sanctions would loosen their grip and eventually fade.

Now the White House has announced that Rhodesian chrome and other minerals are not considered important to American national security.

This apparent reversal of policy by President Nixon has been eagerly seized upon by traditional anti-Rhodesia lobbyists in Washington such as Negro Congressman Charles Diggs, Senator Hubert Humphrey and Congressman Donald Fraser.

All three are currently preparing legislation calling for the repeal of the Byrd Amendment and are claiming to have considerable support.

Previous efforts have failed largely because of presidential support for the import of Rhodesian chrome. It is the withdrawal of this White House support which is worrying the Rhodesian Government.

One theory put forward in Salisbury this week is that President Nixon is unwilling to fight for Rhodesian chrome because of the Watergate scandal.

Last year's bid to repeal the Byrd Amendment failed by only four votes in the Senate and the fear here is that Nixon no longer has the forces to mount such a close battle.

There is, too, the fact that America's strongest argument in ignoring sanctions to buy Rhodesian chrome was to escape dependence on Russia.

It hasn't worked. Far from leading to a shift away from dependence on Russia, imports of Soviet chrome ore have increased.

Official figures show that while Rhodesia's share of US chrome ore imports rose from 2 per cent to 8 per cent as a result of the Byrd Amendment, Russia's share rose from 23.7 per cent to 40.9 per cent.

The two countries which have suffered are South Africa (down to 23.1 per cent from 32.5 per cent) and Turkey (down to 9.6 per cent from 26 percent).

The quality of Turkish chrome is very similar to that of Rhodesian and there are powerful arguments circulating in Washington that Turkey, a country friendly towards the United States, should not be made to suffer while Rhodesian chrome imports continue.

Firstly, there are large and important U.S. military bases in Turkey; and secondly, the Nixon Administration has recently persuaded Turkey to wage war on her opium market, much of which was finding its way into America.

Nor is it only chrome ore which is affected. Rhodesia is also exporting to the U.S. chrome metal (which the anti-Rhodesia lobbyists are falsely claiming is a threat to home production) and nickel.

All the indications are that the Byrd Amendment will not survive another onslaught without White House support.

The loss to Rhodesia will not only be a monetary one but also a psychological blow. Mining sources are reasonably confident that if Nixon decides to stop importing Rhodesian chrome, other markets will open up to replace the lost revenue.

But it will make life more difficult.

"I don't like the way things are going," conceded one mining source. "But there's nothing we can do except sit back and see what happens."

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## CONGRESSMAN WESLEY A. D'EWART

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BIAGGI. Mr. Speaker, I wish to take this opportunity to join with my colleagues in paying tribute to a distinguished former colleague, the Honorable Wesley A. D'Ewart from Montana.

Congressman D'Ewart had an impressive life of public service which was culminated by his 10 years of service in the House of Representatives, from 1945 to 1955. His overriding concern in all of his elected positions was to provide the best service possible to his constituents. Of particular benefit to the people of Montana was his chairmanship of the Public Lands Subcommittee in the House.

Although Congressman D'Ewart was unsuccessful in his efforts to become the U.S. Senator from Montana, he continued to serve the interests of the people of this great State through his work in both the Agriculture and Interior Departments.

Congressman D'Ewart was a public servant in the true sense of the word. His work in the Congress should serve as an example for those of us who have the honor of serving in the House today, and for all those who serve in the years to come.

## CONGRESSMEN DO NOT ALWAYS REPRESENT THEIR VOTERS

### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BURKE of Florida. Mr. Speaker, as Members of Congress, I am sure most of us are interested in the views of our American citizens respecting the value and effectiveness of the Congress. During the summer recess, Mr. Budd W. Boyer, assistant editor of the Sun-Sentinel newspaper which serves Fort Lauderdale and Pompano Beach, Fla., most of which is in my congressional district, wrote an editorial urging changes in the rules of Congress or a constitutional amendment that would give to the people the right to demand the proper measure of accountability from representatives whose deliberate actions usurp the power of the ballot vested in the people. I thought my colleagues might be interested in the article which reads as follows:

CONGRESSMEN DO NOT ALWAYS REPRESENT THEIR VOTERS

The seemingly interminable duration of the Watergate hearings and interim postmortems during recess raise a point of interest in the area of representative government.

Members of Congress are elected from defined areas of political boundary by voters within those areas. In the case of senators, the elections are statewide, while with representatives, the distinction is by congressional district.

In theory, these elected officials speak for and are accountable to the electors within those specific boundaries. In practice, however, as delegates to a national body, in this instance the Congress of the United States, the expressions and actions of individual congressmen purport to be spoken and taken as agents of all Americans.

Under the philosophy of one-man, one-vote, which in these enlightened times might better be expressed as one-citizen, one-vote, the principle intended is that every citizen is entitled to cast a vote for the individual he or she desires to represent him or her in government.

A friend of ours who is in the legal profession and who has served in a vital government elective post, pointed out recently the fallacious operation of this philosophy as it is applied in the top federal and state legislative echelons.

Representatives who presume to speak as agents for citizens beyond the areas in which they may be called to account are, in fact, flagrantly violating the vital essence of representative government as espoused by the one-man, one-vote philosophy.

And it should be evident that this philosophy neither contemplates nor authorizes delegation of authority to represent beyond that to which the candidate has aspired.

To be more specific, no one senator or representative should be accepted as a dominant voice of authority to the exclusion of his or her contemporaries on the Constitution.

A constitution, be it national or state, should be, in the applicable articles, the basic precept for proposal, debate and decision for every individual who is elected to office under pertinent guidelines of the appropriate provisions.

If that individual is not informed and knowledgeable on those guidelines, then he or she is not qualified to serve, let alone perform in the name of the majority which gave the mandate of representation.

The real problem, as we see it, rests in the fact that under existing governmental organization, it is not only possible, but actually happens, that far too many elected officials hold authority in vast areas for which they cannot be called to account by those affected.

A few powerful committee members, for example, can bottle up legislation and appropriations desired and endorsed by a majority of the citizens of the country. But these same few members are accountable to only a fraction of the voters, and they may or may not be sufficiently concerned to take remedial action.

Certainly there could be a remedy to this situation through reformation by the Senate and House of existing rules. Indeed, it is possible to pry shelved measures out of committee by floor action, but individuals in the Congress are reluctant to take such drastic action since it could result in similar and retaliatory moves affecting some of their own committee prerogatives.

It is perhaps time for serious consideration of a constitutional amendment that would give to the people the right to demand the proper measure of accountability from representatives whose deliberate actions usurp the power of the ballot that is vested in the people.

Just as impeachment is an involved and burdensome process which compels those vested with this authority to give deep and serious study to charges that might invoke the procedure, so too would be a provision for national mandate to compel recall consideration.

At the same time, enabling constitutional authority would do much to restrain the temptation to usurp while becoming an apparent necessary vehicle for redress.

## THE FLAG SPEAKS

### HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HOSMER. Mr. Speaker, Edward G. Jacobson of Long Beach, Calif., is a combat veteran of his country's service and one of the finest patriots I know. There is much inspiration for the citizens of our country in the following essay which he recently published:

REMEMBER ME

(By Edward G. Jacobson)

Some people call me Old Glory, others call me the Star Spangled Banner, but whatever they call me, I am your flag, the flag of the United States of America. Something has been bothering me, so I thought I might talk it over with you, because it is about you and me.

I remember some time ago, people lined up on both sides of the street to watch the parade and, naturally, I was leading every parade, proudly waving in the breeze. When your daddy saw me coming, he immediately removed his hat and placed it against his left shoulder so that his hand was directly over his heart—remember?

And you, I remember you, standing there straight as a soldier, you didn't have a hat, but you were giving the right salute. Remember little sister? Not to be outdone, she was saluting the same as you with her right hand over her heart—remember?

What happened? I'm still the same old flag. Oh, I have a few more stars since you were a boy. A lot more blood has been shed since those parades of long ago.

But now I don't feel as proud as I used to. When I come down your street, you just stand there with your hands in your pockets and I may get a small glance and then you look away. Then I see the children running around and shouting—they don't seem to know who I am—I saw one man take his hat off then look around. He didn't see anybody else with theirs off so he quickly put his back on.

Is it a sin to be patriotic any more? Have you forgotten what I stand for and where I've been? Anzio, Guadalcanal, Korea and now Viet Nam.

Take a look at the Memorial honor rolls sometime, of those who never came back to keep this Republic free. One nation under God. When you salute me, you are actually saluting them.

Well, it won't be long until I'll be coming down your street again. So, when you see me, stand straight, place your right hand over your heart, and I'll salute you by waving back, and I'll know that you remember.

## INTRODUCTION OF EMERGENCY MEDICAL SERVICES SYSTEMS ACT

### HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. NELSEN. Mr. Speaker, I am today introducing for myself, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT the Emergency Medical Services Systems Act of 1973. This bill is identical to the emergency medical services part of S. 504, a measure recently vetoed by the President. It does not, however, contain that portion of the bill which would tie the hands of the Congress and the Executive in any good faith effort to close down Public Health Service hospitals.

My purpose in introducing this bill is to give my colleagues an opportunity, should the veto on S. 504 be sustained, to vote up or down on an important program as that program was developed by the subcommittee, the full committee, and the conference committee. It would free the measure of the Public Health Service hospital provision—a provision which was attached to the original emergency medical services bill in a manner designed to avoid full and fair hearings by any committee or subcommittee of this House.

I strongly believe that as a matter of principle my colleagues on the Interstate and Foreign Commerce Committee and the Public Health and Environment Subcommittee have the right to consider in depth such a controversial proposal.

I should quickly note, Mr. Speaker, that I am not alone in this belief, all of the minority members of our subcommittee having joined with me in cosponsoring this bill. We are deeply concerned that a questionable tactic, such as the one used in depriving the committee and subcommittee of the opportunity to perform their duty in developing major legislation, should be so encouraged.

As to the substance of this bill—effective emergency medical service can truly spell the difference between life and death. And while I might have certain reservations with some of the particulars of this measure, it would do a great deal to assist States and localities in developing and improving such services.

I would be happier, however, if the program gave greater assurances of adequate assistance to rural areas. These areas contain some of our poorest citizens. They are forced to rely on the most outdated emergency services in our Nation. Often a critically ill or injured individual must be taken great distances in order to receive any help at all. The rural areas need to be assured that they will receive their fair share from this program, and I intend to offer on the floor amendments which would do just that. I stress, however, that those amendments would not change the structure or thrust of this bill. They would, as I have indicated, merely insure that rural areas are fairly dealt with.

I urge my colleagues to support this bill, and more importantly, the concept that we are elected to do a job and must not seek to deprive one another through parliamentary maneuvering the right and opportunity to do that job.

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## TRIBUTE TO REPRESENTATIVE J. VAUGHAN GARY

## HON. JULIA BUTLER HANSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mrs. HANSEN of Washington. Mr. Speaker, I wish to join my colleagues in paying tribute to the service of a very beloved former Member of this House, Representative J. Vaughan Gary of Richmond, Va.

It was my privilege to have served with Representative Gary on the important Appropriations Committee. During his service on that committee Representative Gary was a member of the Appropriations Subcommittee on Foreign Operations and General Government Matters.

Although Representative Gary was a firm believer in economy in government, he fully recognized the responsibilities of the Federal Government in providing funds for necessary programs beneficial to the country. Indeed he was an outspoken supporter of the Marshall Plan and foreign aid with a well designed administration.

I need not recite for you his many achievements in his own State, but I would comment that he gave generously of his time and effort to that State. As a member of various boards and a distinguished member of the Virginia House of Delegates prior to coming to the Congress, he was honored many times by his fellow Virginians.

During his years in Congress he not only won the respect and confidence of his associates as a conscientious member of the Appropriations Committee, but he was a delightful person and gentleman. It was a privilege to know and work with him, and I felt extremely fortunate to have had those opportunities.

My deepest and sincerest sympathy to his family and to his State for the loss of a fine and distinguished citizen and public official.

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## FAIR TRIALS FOR POLITICIANS, TOO!

## HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. RONCALLO of New York. Mr. Speaker, it would be appreciated if the attached article "Fair Trials for Politicians, Too!" printed in the Church World, Maine's Official Catholic Weekly, may be inserted in the Congressional Record so that I may share these thoughts with my colleagues.

The article follows:

### Fair Trials for Politicians, Too!

(By Father Andrew M. Greeley)

In the past years any time a political radical came up for trial, we were informed by liberal journalists and columnists that the American judicial system was on trial. Was it possible to get a fair trial with conservative judges, aggressive, ruthless prosecutors, and "blobs" in the jury boxes? Your honest, upstanding American radical couldn't possibly get a fair trial from the "system." Indeed, a distinguished president of Yale University was quite explicit on the matter: the Black Panthers couldn't get a fair trial in New Haven.

Of course, all the radicals are free either on acquittal or reversal; they did get fair trials, the system didn't fail, and the United States didn't send people to jail for their political beliefs. Quite the contrary, far from being eager to create political prisoners, American juries leaned over backwards to keep the radicals out of jail. One prosecuting attorney ruefully remarked to me, "It is impossible in our society to get a conviction of a radical." No small compliment, it seems to me, to the American judicial system, a system that has got precious little credit for its tolerance—either from the radicals, who would certainly have been jailed in any other society (including the English one), or from their worshippers in the press.

But there is another kind of political trial beginning to take place in the United States, and scarcely anyone has asked whether indicted politicians can get fair trials. Prosecuting attorneys have recently discovered, much to their delight, that once one has brought an indictment against a politician, no matter how frivolous or badly drawn, juries will routinely and quickly convict the politician whatever the evidence.

I hold no more brief for politicians accused of corruption than I do for radicals, but I do believe that both deserve to be presumed innocent until proven guilty in the American legal system. The national press was delighted over the conviction of Judge Otto Kerner and Edward Barrett and the indictment of Alderman Thomas Keane in Chicago. I have no idea whether the three men did in fact engage in the behavior of which they are accused, but I have some considerable questions as to whether this behavior was proven in court.

The complex Kerner indictment of 15 counts was decided in six hours, scarcely evidence of serious deliberation. Barrett was convicted in a trial presided over by an old political enemy who made cheap jokes throughout the proceedings and virtually said in the presence of the jury that he believed Barrett was guilty. The Keane indictment, according to the best sources of information I have, was demanded by the State's Attorney's public relations man over the protests of his chief legal assistants.

I would not want to be identified as a defender of all the words and behavior of Edward Hanrahan. It is nonetheless true that he was indicted on the basis of testimony that was clearly perjured, mostly because newspapers, the Bar Association, and the liberal elite of Chicago chose to believe the perjured testimony.

The Cook County Democratic party organization may indeed be corrupt; all the newspapers say so, and they are always right. But as I read the Constitution of the United States, even people who are "corrupt" still have a right to be presumed innocent before the law until they are proven guilty. I am fully prepared to concede that Daniel Berrigan's freedom is my freedom. When he is convicted without a fair trial, I suffer, as does everyone else in American society. His loss of freedom diminishes my freedom. But in the same way, everyone is on trial when Eddie Barrett is on trial. When he loses his freedom and his job in an atmosphere marred by the jokes of a vindictive judge, then my freedom is diminished. And when the press defends the freedom of one kind of political prisoner and does not defend other political prisoners who are being prosecuted by a group that seizes political power in the courts when they couldn't obtain it in the polls, the press fails in its duty and all of us suffer.

Similarly, what chance for a fair trial do the various Watergate conspirators really have? When Ehrlichman and Haldeman face the jury, is their fate not already decided? Will the ordinary laws of evidence hold, or are men like them guilty the moment they walk into the courtroom?

If the American judicial process was on trial when the Berrigans were before the bar, it is even more so when Ehrlichman and Haldeman are before it. The judicial system survived the trials of the radicals; whether it will survive the trials of the politicians remains to be seen.

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## MINORITY EMPLOYMENT

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. ASPIN. Mr. Speaker, on Friday, December 17, 1971, I discussed with my colleagues Ethnic Enterprizes, a minority business in Milwaukee, Wis.

At that time, I described Ethnic Enterprizes as a business "on the verge of becoming a going concern in Milwaukee."

Now, less than 2 years later Ethnic is a growing business dedicated to the training and placing of minority persons. This success is mostly due to its founder, Mrs. Saint Charles Lockett. Mrs. Lockett has worked extremely hard and is to be commended for her fine efforts.

Commendation must also be shared, however, with others who worked hard for Ethnic. For this reason, I would like to tell my colleagues about the work of Mr. Gerald Stewart.

Mr. Stewart is the director of minority sources at General Motors. Recently, Mrs. Lockett wrote to me to share the excitement of a new contract with General

Motors. She expressly mentioned Gerry Stewart and said that she could not "thank him enough" for all of his help and interest.

Ethnic Enterprizes is devoted to providing employment to minorities so that the cycle of poverty in which they have been trapped can be broken. It has done a tremendous job, but not without help.

I ask my colleagues to join with me in thanking Gerry Stewart for showing that private industry does care.

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## RICHARD NIXON—THE GREAT UNIFIER

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BROWN of California. Mr. Speaker, I come neither to praise Richard Nixon nor to bury him, but simply to comment that he is managing to bring America together in ways that he probably never imagined during his campaign. Republicans and Democrats alike condemn the breakdown of law and order which has come to be known as the Watergate syndrome. The organized labor movement, widely split last year over politics, has joined together with consumers across the Nation in opposition to Nixon economic policies which are pushing the cost of living up faster than any wage increases could possibly keep pace.

Repeated devaluations of the dollar, along with Watergate-induced nervousness in the stock market, have brought large segments of the business community together with leading economists in opposition to Nixon's economic policies as well.

And during the August congressional recess I discovered another meeting of the minds that some would have considered improbable, this one based on Richard Nixon's policies in Southeast Asia. The Daily Report, a rather conservative, business-oriented, Republican newspaper in California's 38th Congressional District, recently published the following editorial, which I would like to enter in the RECORD with my wholehearted endorsement:

### WE WERE DECEIVED

Democracy is a form of government in which the people—the ruled—choose those who rule them.

But if in practice the rulers do not tell the people what they are doing, or if they do the opposite of what they tell the people they are doing, then to the extent of that deception the citizens of that democracy are living under a rule hardly different from the dictatorships they abhor in other lands.

Americans have been deceived before in history, of course. Or to put it more acceptably, things have been kept from them. The Manhattan Project, which developed the atom bomb, is the best example of necessary secrecy which excluded all but a handful of people.

To paraphrase Lincoln, it is necessary to fool all of the people some of the time, and there has probably never been a president who has not been faced with such a decision.

But never before the administration of Richard M. Nixon have the American people been lied to so consistently, for so long a time and to so little ultimate service to the nation as they have been over Cambodia.

Even while professing the strictest adherence to Cambodian neutrality in 1969 and 1970, the administration was sending American bombers on regular sorties. It has now been revealed that American ground troops made excursions into Cambodia long before the 1970 invasion.

The American people were lied to. The parents of those soldiers who died in Cambodia were lied to. Congress was lied to. Even the secretary of the Air Force was lied to.

Why was Cambodia kept so secret?

At the time Prince Sihanouk still ruled the country, it almost appears that he, the North Vietnamese and we had a gentleman's agreement: They would not blow the whistle on our violations of Cambodian neutrality if we wouldn't complain too much about theirs.

This ended with the toppling of Sihanouk by the army and President Nixon's decision to knock out the Cambodian sanctuary in one fell blow.

We can see now, however, that all it accomplished was to seal the doom of Cambodia.

The situation finally came to a head this year when Congress, in a belated display of courage and conviction and exercise of its constitutional duties, ordered a bombing cutoff date of Aug. 15.

Already the administration is attempting to saddle Congress with the blame for the expected fall of the Lon Nol government—a government that did not, does not now and never would exist without the support of American bombers.

One hopes Congress' shoulders are strong enough to shoulder this responsibility.

One also hopes that the accidental obliteration of the town of Neak Luong by American bombers, one of the few towns in Cambodia not held by the Communists, is the last such tragedy in a decade of tragedies in Southeast Asia.

One hopes, finally, that we are reaching an end to the lying.

I might add, Mr. Speaker, that the Daily Report is, unfortunately, correct in their assessment of our action in ordering a bombing cutoff date last month as "a belated display of courage and conviction and exercise of its constitutional duties" on the part of Congress. As you know, Mr. Speaker, there were some Members of Congress, including myself, who opposed our actions in Southeast Asia much earlier, but the Daily Report statement still stands as a description of the posture of the Congress as a body.

This is not the first time, by any means, that I have agreed with the Daily Report, and I certainly hope that it will not be the last, but it is rare that we are in such complete and unqualified agreement as in this particular case. And there have been some cases in which I have been in rather strong disagreement with the Daily Report, two good examples being the columns last year in which they endorsed my opponents in both the primary and general elections.

So, on behalf of myself and John Jopes, editor of the Daily Report, I would like to thank the President for following through on his 1968 campaign pledge to bring Americans of differing philosophies and political beliefs together. Unless Mr. Nixon begins to make some major changes in his present policies I expect to find myself standing side by side with the Daily Report more and more frequently in the coming months.

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## VOLUNTEER ARMY SHAPES UP

## HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. STEIGER of Wisconsin. Mr. Speaker, one of the most important policy initiatives implemented by the Nixon administration has been the all-volunteer military. End of reliance on conscription has meant that millions of America's young men no longer face the prospect of involuntary service disrupting their lives.

The draft has been ended. Those entering the service now are men and women who want to serve in the defense of the Nation. And reforms have been made within the services to improve conditions, to make service life more attractive and meaningful.

Despite all the pluses of such a concept, the Volunteer Army has been the subject of considerable controversy. Many look for the slightest sign it is not working. Finding problems is not impossible—or even difficult. It would be completely unrealistic to expect there would not be problems as we make this transition from years of the draft to voluntary service.

But it often seems that those saying the Volunteer Army will not work are simply refusing to accept the multitude of indications that it is in fact working. James J. Kilpatrick, in an article in Monday's Washington Star-News, presented one of the best analyses I have seen to date on the success of the Volunteer Army. Mr. Kilpatrick, who is one of the most perceptive of all columnists, acknowledged the areas in which it falls short, and then applauded the all-volunteer armed service as "a welcome exception" to the bad news which makes up much of our daily reading fare. The column follows:

### VOLUNTEER ARMY SHAPES UP

(By James J. Kilpatrick)

It is an inescapable aspect of the news business that much of the news we report is bad news. But in one major area of national policy, the news for a change is good: The concept of an "all-volunteer army" is not working perfectly, but it is working better than pessimistic critics had predicted.

Two consultants attached to the Brookings Institution, Martin Binkin and John D. Johnston, have sketched a generally promising picture in a report to the Senate Armed Services Committee. In their view, the recent monthly "shortfalls" in recruiting are not critical. The quality of the new "true volunteers" is holding up well; indeed, in their view, quality standards may have been set too high for certain military needs.

In brief, the consultants say, "to the extent that experience with true volunteers in fiscal 1973 holds true for the future, the services should have little difficulty in meeting long-term accession requirements."

One apprehension, widely voiced a year ago, was that the armed services, once they were denied the uses of the draft, would succeed in attracting only a bunch of dropouts and dullards. It hasn't worked out that way. To be sure, this transition period has witnessed a steady, but modest decline in the proportion of enlistees with above-average scores on qualification tests, but it also has seen a moderate increase in those with average ability. Of most importance, the two consultants observe, the armed services are achieving "a steady decrease in enlistments of those scoring below average."

Concern also had been voiced about the number of non-whites who might be attracted by the pay, the bonuses, and the fringe benefits of military service. The spectre was raised of a nation composed predominantly of whites hiring blacks to do their fighting for them. Suppose blacks took over a couple of armored divisions: Were we fostering a possible racial revolution?

The percentage of non-white recruits has indeed increased, from 14.4 percent in 1970 to 19.6 percent in 1973. (In June, after the consultants had completed their report, non-whites made up 35 percent of the month's total, but Army Secretary Howard H. Callaway has discounted the significance of the June figures.) The non-white component is expected to level off at about 20 percent.

The generally encouraging picture is offset to some extent by three areas of concern. The armed services, even with enlistment bonuses ranging up to $3,000, still are having difficulty in attracting recruits for such critical skills as electronics. Enlistments are lagging in the reserves. And doctors and dentists are still hard to come by.

Binkin and Johnston made no effort to minimize the problems of meeting recruiting goals now in effect. If the object is to enlist 356,000 young men a year, "one out of every three qualified and available men will have to volunteer for active military service before reaching age 23." Put that way, the task sounds formidable; nevertheless, in fiscal 1973, "true volunteers enlisted at a rate that, by implication, satisfies this long-term requirement."

The armed services, in the consultants' view, need not rely so heavily on young male volunteers. Almost three-quarters of military assignments are non-combat duties, capable of being performed as well by women as by men, but the present plan is to increase the number of women merely from today's 2 percent to 4.2 percent by 1977. Enlistment quotas could be further adjusted by turning perhaps 100,000 military jobs over to civilians. This is known, in the consultants' horrid noun, as "civilianization," and they are all for it.

As I remarked earlier, most of a newsman's grist these days is gloomy stuff. Many programs of national importance—public welfare, for one notable example—are palpable fizzles. But the development of an all-volunteer armed service may prove a welcome exception. The plan appears to be working fairly well and you can hardly say that about much of anything, anymore.

## THE LIDDY CONTEMPT CITATION AND THE LITTLE CIGAR ACT

## HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. LEHMAN. Mr. Speaker, on Monday, September 10, I was attending an important meeting in my district with the Florida Association of Broadcasters and was, therefore, unable to cast my vote in Washington.

Had I been present I would have voted "aye" on rollcall No. 442, the contempt citation for G. Gordon Liddy, and "aye" on rollcall No. 443, the passage of the Little Cigar Act.

## EUGENE B. McDERMOTT

## HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. COLLINS of Texas. Mr. Speaker, a few days ago we lost one of our greatest citizens in Dallas. Eugene B. McDermott was outstanding in so many ways. He was brilliant of mind and creative of spirit. He was most generous and his momory will be in perpetuity in Dallas.

I most admired Gene McDermott for his commonsense. I remember so well a conversation we had at a dinner party a few months ago. The conversation had drifted around to the subject of ways to make life easier. Gene pointed out so forcefully with illustration after illustration that progress comes through hard work. There was no arbitrary way to set up quotas for top jobs or for top academic leadership. He said it takes a lot of reading to get smart. He said it takes a lot of work to build success.

Here was a man that loved everyone he ever saw. Gene was a gentle, kindly man. If there were a way to make life easier, he would have been the first to want to provide it for others. But I wish everyone could have heard his excellent advice that night as he told them there is no shortcut for opportunity and success.

I include for the RECORD the editorial of August 28, in the Dallas Times Herald.

The editorial follows:

### EUGENE B. MCDERMOTT

In the death of Eugene B. McDermott, this community has lost one of its outstanding philanthropists and civic leaders. Mr. McDermott was co-founder and chairman of the board of Texas Instruments, Inc. As one of the key persons who built TI into a giant electronics industry, Mr. McDermott established himself as a highly successful businessman.

But his success as a human being was far greater. As one of Dallas' foremost civic and cultural leaders for many years, Mr. McDermott gave generously of his time and talents and money to institutions and causes to enhance the quality of life in Dallas. He was especially generous with his money.

Said his business partner, former Mayor Erik Jonsson: "I never knew him to say no to any worthy cause. He had little regard for money, just for money's sake."

In addition to contributions to charity, he and Mrs. McDermott gave millions of dollars to educational institutions, particularly to Southwestern Medical School here.

The great esteem in which his fellow Dallasites held him is illustrated by the numerous honors bestowed on him. Included among these honors were the 1972 service award of the Dallas Hospital Council, the Distinguished Citizens Award of the Dallas Chamber of Commerce, the Santa Rita Award of the University of Texas System Development Board and the prestigious Linz Award for his contributions, benefiting Dallas.

"He was the most generous and kindly man I've ever known," said Mr. Jonsson. "He will be missed very much . . ."

And indeed he will be missed. This community is a much better place in which to live because of Eugene B. McDermott. It will be poorer for his passing.

## SEEKING OUR MIA'S

## HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. GILMAN. Mr. Speaker, today I am introducing a measure calling for a thorough and complete investigation into the status of our servicemen still designated as "missing in action" as a result of our military involvement in Southeast Asia.

Since the termination of our military operations in Vietnam and Cambodia, we have welcomed home more than 500 prisoners of war. Yet our joy at the homecoming of those brave men is dampened by the uncertainty of the status of over 1,200 servicemen still missing.

Our Nation has been attempting to pursue the destiny of those 1,200 Americans. Agreements with the North Vietnamese Government in the peace treaty of January 1973 and the joint communique of June 1973, emphasized and detailed the procedure by which we would seek information concerning our missing men.

We have established the Joint Casualty Resolution Center and created the Four-Party Joint Military Team. Both of these agencies have been seeking information since military operations were terminated. However, must of their effort has been thwarted by disagreements with the North Vietnamese Government. As a result, we are still awaiting definitive information as to the whereabouts of over 1,200 American men.

The families and friends of these men have been remarkably patient—but there is a feeling of despair and disappointment among those concerned parents and spouses which grows daily without any information concerning their loved ones.

For over 6 months, the inquiries of families and friends have been held in abeyance while our governmental investigatory attempts have resulted in relatively no new information.

Accordingly, the resolution I am introducing today calls for:

First, a thorough, coordinated investigation by the House Foreign Affairs Committee and the Senate Foreign Relations Committee in an endeavor to exhaust all possibilities of procuring information relative to those men still missing in Southeast Asia, with the objective of developing recommendations as to the most expeditious method for resolving the existing impasse in negotiations and in determining the status of the over 1,200 missing servicemen.

Second, in the interim, prohibiting aid of any type to the North Vietnam Government until such time as we resolve those conflicts with respect to our missing, captured, or dead American servicemen.

Third, inquiry with all the nations in the vicinity of Vietnam concerning any American citizens held in any nation as a result of our Vietnam conflict.

Mr. Speaker, there is an urgent need for an exhaustive congressional inquiry into this lingering problem. I urge and invite my colleagues to join in this effort to determine the status of those unaccounted servicemen.

I am pleased that Congressmen HUBER, MITCHELL, WALSH, RONCALLO of New York, KETCHUM, PRITCHARD, WOLFF, STEELMAN, and FISH have joined in sponsoring this measure in an effort to bring the question of our MIA's to a satisfactory resolution.

## OBJECTIVES AND RESPONSIBILITIES OF THE FEDERAL RESERVE SYSTEM

### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. FRENZEL. Mr. Speaker, last Saturday, Chairman Arthur Burns of the Federal Reserve System was in Minneapolis for dedication of the Minneapolis Federal Reserve Bank.

His address, "Objectives and Responsibilities of the Federal Reserve System," is a brief and clear statement which should be of interest to all who are concerned by actions of central banks. I commend it to my colleagues:

OBJECTIVES AND RESPONSIBILITIES OF THE FEDERAL RESERVE SYSTEM

(Address by Arthur F. Burns)

It is a great pleasure to join you here today at the opening ceremonies of the Federal Reserve building that now graces the Twin Cities. The beautiful new home of your Federal Reserve Bank, with its truly unique architectural design, is the physical expression of the hopes and dreams of many people.

The Directors of the Federal Reserve Bank of Minneapolis were looking to the future when they chose the site for this building. They had the courage and vision to make this new facility an integral part of the Gateway Redevelopment Area. In earlier times, the Gateway was known as the entrance to the vast Western prairies. Today, this Federal Reserve Bank can be the gateway to a brighter and better economic future for all Americans.

The business leaders of this great metropolitan area played a prominent role in the planning and construction of the new building. Joyce Swan, the former Publisher of the Minneapolis Star and Tribune, was Chairman of the Board of Directors of this Reserve Bank through 1968. In that capacity, he directed the early planning for the building. The late Robert Leach, a highly-respected St. Paul attorney, succeeded Mr. Swan as Chairman of the Board, serving the Federal Reserve from early 1969 until his untimely death in December 1970. The present Chairman, David Lilly, played a substantial role in bringing the project to completion.

The man chiefly responsible for the new building, however, is the late Hugh Galusha, the former President of this Bank, whose career was cut short by a tragic accident in 1971. Hugh Galusha was a most remarkable man. He had the inquiring mind of a scientist, and at the same time the spirit of the frontiersman. He was venturesome, bold, joyous, and imaginative. He was not afraid of newness and challenge, as the unique structure to which he devoted so much of his energy indicates. His fine judgment led to the selection of the architect for the building—Gunnar Birkerts—and to the approval of its unusual design. He convinced skeptics at the Federal Reserve Board of the wisdom of his plan, and he did so in a gentle but persuasive manner.

Over the years, the Federal Reserve System has been fortunate in attracting outstanding men like Hugh Galusha—and his successor Bruce MacLaury—to devote their lives to public service at the central bank. The reason for this lies in the character of the Federal Reserve System and the vital role it plays in national economic policy.

The Federal Reserve was endowed by legislative mandate with a substantial degree of independence within government. Freedom from the daily pressures of the political process has given the Federal Reserve the opportunity to make the hard choices that continually confront those who are responsible for economic and financial policies. Over the years, the Congress has significantly enlarged the duties and responsibilities of the Federal Reserve System. The stature of our central bank has therefore grown within the counsels of government and in the minds of our people. Nowadays, the people of America expect the Federal Reserve to use its great powers to thwart—or at least to moderate—business recessions, and they also look to the Federal Reserve as the ultimate defender of the purchasing power of their currency.

To earn the confidence of the American people, the members of the Federal Reserve family have observed rules of conduct such as animate our great universities and our courts of justice. We have sought to foster a spirit of freedom and objective inquiry in the field of economic analysis. Our staff in Washington and the staffs of the individual Reserve Banks are encouraged to analyze economic and financial problems in the spirit of science and to express their findings freely. The Directors of our Reserve Banks, who are drawn from every region and practically every branch of business in our country, provide a constant stream of up-to-date information on business and financial developments. When the Presidents of the individual Reserve Banks meet with the Federal Reserve Board, as they do at very frequent intervals in our nation's capital, they have at their disposal a system of economic intelligence that cannot be matched by any organization or agency in our country or, for that matter, anywhere else in the world.

Concern for the general welfare, moral integrity, respect for tested knowledge, independence of thought—these are the basic concepts of the Federal Reserve. They are the foundation on which our nation's monetary policy is constructed.

The Federal Reserve must, of course, account for its stewardship to the Congress and to the general public. We do so through news releases, publications, public addresses, and testimony before Congressional committees. The information that our central bank discloses about its myriad activities vastly exceeds, both in promptness and detail, that of any other central bank. We do, of course, withhold for a time information that could cause embarrassment to a foreign government or that might enable the more alert members of the financial community to gain an early and unfair advantage over other citizens by becoming privy to the precise plans that the Federal Reserve has set in motion. Even here, once the need for delay in reporting has passed, full disclosure is made by the Federal Reserve, so that the Congress and the interested public may be in a position to appraise the System's policies and actions, and so that we ourselves may benefit from outside review and criticism.

It is precisely because of its openness and impartiality that the Congress has resisted occasional demands to bring the Federal Reserve under this or that administrative branch of the Federal Government. Both the Congress and the informed public have perceived the great damage that could be done to our nation's prosperity by weakening the independent voice of the Federal Reserve within our government. This sentiment, I believe, has been shared by every President since Woodrow Wilson's time, although the fervor of our presidents for the independence of the Federal Reserve may at times have been greater upon leaving office than when they themselves were still wrestling with the nation's economic problems.

Monetary policy in this country carries a heavy burden of responsibility for the maintenance of economic stability. Actually, our nation sometimes expects more from the Federal Reserve than we can reasonably expect to accomplish, in view of the imperfect tools with which we work and the complex problems that our nation faces.

During the past decade, our nation has generally experienced prosperity, but the prosperity has been marred for many of our people by persistent and rapid inflation. Many factors are responsible for this unhappy development—among them, a protracted and unpopular war, and abuses of market power by some of our business firms and trade unions. But I believe that the most important underlying cause has been the looseness of our Federal fiscal policies. Federal spending has been rising with disconcerting speed during the past decade. Despite the costly war in Vietnam, new governmental programs have been enacted at a dizzy pace, almost without regard to their cost or to the state of public revenues.

Deficits have therefore mounted in both good years and bad. In fiscal 1965, a year of rapidly advancing prosperity, the Federal deficit came to $1.6 billion. In fiscal 1973, a similarly prosperous year, the deficit amounted to $14.4 billion. In three of the past six years, the deficit came close to—or actually reached—$25 billion. Nor do even these figures tell the full story of how much Federal money has been paid out to the public beyond what the government collected in taxes. Governmentally-sponsored corporations, such as the Federal National Mortgage Association and the Federal Home Loan Banks, have also gone heavily into debt and poured out additional billions that are excluded from the budgetary totals. In the fiscal year just ended, the net borrowing by Federally-sponsored agencies exceeded $11 billion.

The continuance of large Federal deficits at a time of rapid resurgence of the economy has inevitably stimulated private spending and aggravated upward pressures on the level of prices. In fact, our economy is suffering at present from stronger inflationary pressures than at any time since the outbreak of the Korean War. Prices have risen sharply since the beginning of this year, and they are continuing to rise.

In view of the huge expansion in production and employment that we have experienced during the past year, it would have been difficult to avoid an appreciable upward movement of the price level even with a balanced Federal budget. But as the Fates would have it, several unusual factors combined to impart a new dimension to our inflationary problem this year. First, the devaluation of the dollar not only resulted in higher prices of imported goods; it also affected our price level by leading to some substitution of domestic for foreign products and by imparting a sharp impetus to foreign demand for our products. Second, our economic expansion has been accompanied by rapid expansion in virtually every other industrial country.

The world-wide demand for capital equipment and industrial materials—goods for which the United States is a major supplier—has therefore burgeoned. Third, our current ability to expand output of basic industrial materials is narrowly limited—in large part because investment by producers of key materials has been held back in recent years by unsatisfactory profits and new environmental controls. Fourth, bad weather in a number of countries severely restricted agricultural production last year—at the very time when the demand for foodstuffs was rising rapidly in response to the world-wide expansion of incomes and employment. The concatenation of these special factors has played a decisive role in driving up prices this year.

The inflationary problem we are dealing with today is therefore quite complex, and we must be prepared for a further rise in prices in the months ahead. The resulting damage can be minimized, however, if aggregate monetary demand is restrained. The inflationary forces that now plague us will then have a better chance to burn themselves out.

The Federal Reserve is pursuing a course of monetary policy that is designed to minimize the threat of excess demand by restricting the growth of the monetary and credit aggregates. Monetary policy began to move in this direction in the spring of 1972, but at a pace that may appear in retrospect to have been too gradual. In any event, restrictive actions have multiplied both in frequency and impact in recent months. By now, even skeptics in the financial community should be convinced that the Federal Reserve will not flinch in its determination to moderate substantially the pace at which money and credit supplies have been expanding.

A restrictive monetary policy cannot be carried out without causing difficulty for some business firms or households that seek additional credit. The homebuilding industry, in particular, is very sensitive to the level of interest rates and the availability of mortgage money. In view of the outflow of funds from thrift institutions into higher yielding market instruments, mortgage commitments have been diminishing and this is bound to affect homebuilding adversely in the months immediately ahead.

Early in 1970, anticipating precisely the kind of development that is now under way in the housing field, the Federal Reserve Board undertook a comprehensive study of the ways in which the chronic fluctuations of housing construction may best be moderated. Two years later, in March 1972, the Board presented its report to the Congress. The Board's recommendations for legislative action deserve more careful consideration than they have yet received. If the needed reforms come too late to help in the present difficulty, they can still serve the larger purpose of stabilizing housing finance over the long future. Meanwhile, the several housing agencies, which have been softening the impact of credit shortages on homebuilding activity, are in a position to continue to do so. And the Federal Reserve System, as the lender of last resort, will, of course, honor its obligation to provide emergency credit in the event of need. I might add that it appears unlikely that such a need will arise.

The time will surely come when monetary policy can again be less restrictive, but that time has not yet arrived. At present, there is no real alternative to a restrictive monetary policy. To be sure, if we permitted money and credit to expand at a more rapid pace, short-term interest rates would decline for a brief period. But in so doing we would be adding fuel to the inflationary fires now raging. Before very long, interest rates would rise again, and probably well beyond their present level, as both lenders and borrowers adjusted to the quickened pace of inflation. The simple and inescapable truth is that inflation and high nominal interest rates go together.

The Federal Reserve must therefore persevere in its present policy. Fortunately, there are some signs that our efforts are bearing fruit. For example, the narrowly defined money supply—that is, currency plus demand deposits—grew at an annual rate of 6 per cent during the first half of 1973, compared with a growth rate of 7½ per cent during 1972. In recent weeks, the growth rate has slowed further. During July and August, the money stock rose at an annual rate of only about 2 per cent. These signs of better control over the growth of the money supply are encouraging, but the Federal Reserve will need more convincing evidence on moderation of the monetary and credit aggregates before it can responsibly relax its pressure on the monetary brake.

Of late, there have also been encouraging developments with respect to our international balance of payments. Our competitive position in world markets has dramatically improved over the past year, and the deficit in our trade accounts that was for some time a source of great concern has now all but vanished. In fact, we enjoyed a modest trade surplus in the month of July, and the outlook for our exports continues to be very promising. These developments have not gone unnoticed in the financial world, and the dollar has strengthened markedly in recent weeks in foreign exchange markets. Intervention in these markets by the Federal Reserve has helped to bring about this turn in the dollar's value. However, a more basic factor in the recent improvement in the value of the dollar relative to other currencies is the increasing recognition abroad that the American people are determined to bring inflation under control and that they will support any reasonable policy that promotes this objective.

Governmental efforts to stabilize the general price level must therefore persist until the forces of inflation are fully dissipated. Since direct controls over wages and prices in the present environment can provide only limited benefits, primary reliance in this struggle must be placed on monetary and fiscal policies.

Clearly, monetary policy must play a major role in the fight against inflation, but we should not expose the economy to unnecessary risks by overburdening this tool of policy. Additional restraint through fiscal policy, in the form of reduced government spending or increased taxes, would be helpful even now. Particularly appropriate would be fiscal measures that could be quickly reversed if economic activity began to weaken, as sometimes happens after a prolonged period of economic expansion.

We also need to improve our instruments of monetary policy to gain better control over the monetary aggregates. More precise management of money and credit supplies could be achieved if the reserve requirements that apply to demand deposits of Federal Reserve member banks were extended to all commercial banks.

The present limitation of the reserve requirements imposed by the Federal Reserve to the System's member banks, apart from being inequitable, weakens monetary control. All demand deposits are a part of the nation's money supply, and they should be treated equally from the standpoint of reserve requirements. The difficulties already imposed on monetary policy as a result of the unequal treatment of demand deposits at member and nonmember banks will become more acute in the years ahead in the absence of corrective legislation. The Federal Reserve Board must therefore urge the Congress to give this problem its earnest consideration. The solution that we shall propose will not infringe in any significant way on our dural banking system, and yet it will enable the monetary authority to achieve more precise control over the monetary aggregates.

I need hardly say, in closing my remarks, that there is much unfinished business to attend to in our struggle to control inflation, to manage the nation's money supply, to stabilize housing construction, and to deal with a host of other economic and financial problems. I am optimistic, however, about the future of our nation's economy. Progress in moving toward equilibrium in our international payments accounts has been encouraging. So also has the recent evidence of moderation in the growth of monetary aggregates. And agricultural production in this region of our nation and elsewhere is now on the increase, offering hope that food supplies will soon be more plentiful.

The principal source of my optimism, however, lies not in these general indicators of progress in dealing with economic and financial problems, but in my faith in our nation and its good people. Our country has been blessed with rich natural resources and our people have been endowed with the vision and energy to strive for a better life. Let us dedicate the new Federal Reserve building today to the brighter future that is the hope and dream of every American.

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## A PROPOSAL TO INCREASE THE AMOUNT A SOCIAL SECURITY RECIPIENT MAY EARN AND ALSO COLLECT SOCIAL SECURITY BENEFITS

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. ANDERSON of California. Mr. Speaker, figures just recently released by the Federal Bureau of Statistics show the overall rate of inflation is now hovering around the 8-percent mark for this year alone. But even more disturbing is the fact that food prices in themselves have jumped over 20 percent in the last year. Increases in wholesale food prices for the month of August, combined with the end of the price freeze on beef recently, promise an even more dismal picture for America's consumers.

But as great a hardship this is for us all, it is particularly burdensome for those older Americans on fixed incomes. They have no strong unions to negotiate wage increases, no investments on which to reap dividends, no excessive cash deposits to draw upon. For many, the only source of income is their monthly social security check.

Earlier this year the Congress passed and the President signed into law H.R. 7445, a bill which increased social security benefits by 5.6 percent. It also raised the floor on income that an individual can earn and still receive full benefits from $2,100 a year to $2,400.

At the time, the administration hailed these reforms as a major step toward providing an adequate income for America's elderly citizens. Now, 2 months later, these gains have been erased even before they are due to take effect by the inflation which has characterized recent years.

Secretary of Agriculture Butz suggests that Americans should eat less. But for many senior citizens, hard pressed before these recent rounds of inflation, it may mean eating next to nothing. Many, in fact, have difficulty affording one adequate meal a day.

Immediate solutions to this problem are not easy to come by. Increasing social security tax contributions to finance larger retirement benefits places an even greater burden on the American worker who now contributes almost 6 percent of his income to the social security system.

However, we can allow those retirees who are willing and able to supplement their income to do so. For this reason, I favor an immediate increase in the amount of outside income a social security retiree can earn and still receive full benefits from $2,400 a year to $3,000.

For the more than 5 million elderly Americans who now live at or near poverty this added reform will come as a blessed relief toward closing the gap in their income due to inflation. But more importantly, it will be another step toward ending the archaic earnings test which runs counter to the high value our society places on independence and the willingness of individuals to support themselves.

Thus, Mr. Speaker, to permit the elderly who are willing and able to continue to contribute to our society through meaningful work without fear of losing part of their social security benefits, I am today introducing legislation to increase the amount a retiree may earn from $2,400 to $3,000 without penalty.

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## THE ABORTION CULTURE

## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. CKANE. Mr. Speaker, it is ironic that men and women today proclaim themselves "sophisticated" and "liberated" on the basis of their rejection of traditional mores and values. The society toward which such liberated individuals are attempting to move us is one in which the most essential value of our civilization, the sanctity of life itself, is downgraded and viewed in a strictly utilitarian manner.

What is ironic, initially, is that individuals and groups which are concerned, and justifiably so, about any discrimination against Negroes, Catholics, Jews, homosexuals, women, or whatever, are not concerned about the mounting attack against the sanctity of life itself. If one or another branch of the human family is under attack, they rise to the barricades in a moral battle. When man himself is under attack, they find themselves among the attackers.

Discussing "The Abortion Culture," Columnist Nick Thimmesch points out, for example, that—

> Fetal life has become cheap. There were an estimated 1,340,000 legal and illegal abortions in the U.S. last year. There were a whopping 540,245 abortions in New York City in a 30-month period under the liberalized state abortion law. The abortion culture is upon us. In one operating room, surgeons labor to save a 21-week-old baby; in the next, surgeons destroy, by abortion, another child, who can also be reckoned to be 21 weeks old. Where is the healing?

Too often the value of human life is being discussed on the basis of "cost-benefit analysis" factors in deciding who is to live and who is to die. This is as true in the discussions at the present time of euthanasia as it is of abortion.

Mr. Thimmesch points out that—

> Utilitarianism isn't all abortion or euthanasia. Utilitarians ran the experiment in which syphilitic black men died through lack of penicillin. There are also experiments on free-clinic patients, students, the institutionalized . . . This monkeying around with people is relentless. . . . We can brake the tendencies of technocratic-minded doctors and administrators coldly concerned with "cost-benefit analysis." There was no such brake in Germany.

Hopefully, we are not heading toward the kind of society in which the dignity of the individual is replaced by a bureaucratic analysis of the worth of the individual to society. Too many who speak of beng "liberated" forget that what they are, in fact, liberating themselves from is civilization and the basis of a free society.

I wish to share with my colleagues the article, "The Abortion Culture," by Nick Thimmesch, which appears in the July 9, 1973, issue of Newsweek magazine, and insert it into the RECORD at this time:

### THE ABORTION CULTURE

(By Nick Thimmesch)

A journalist often gets caught up in events flaring into instant print and broadcast—a Wategate, feverish inflation, a fretful fuel crisis. We grab at these, try to make some sense out of it all and soon turn to what's next. Occasionally we come on to something that strikes the core and won't go away. For me, it has been the question of the value of human life—a question embracing abortion, letting the newborn die, euthanasia and the creeping utilitarian ethic in medicine that impinges on human dignity. It's all reminiscent of the "what is useful is good" philosophy of German medicine in the '30s—a utilitarianism that sent 275,000 "unworthy" Germans to death and helped bring on the Hitler slaughter of millions of human beings a few years later.

Now super-abortionists and others who relish monkeying around with human life cry that this is scare stuff inspired by hysterical Catholics waving picket signs. Not so. There is growing concern among Protestant and Jewish thinkers about "right to life" and the abortion-binge mentality.

Fetal life has become cheap. There were an estimated 1,340,000 legal and illegal abortions in the U.S. last year. There were a whopping 540,245 abortions in New York City in a 30-month period under the liberalized state abortion law. The abortion culture is upon us. In one operating room, surgeons labor to save a 21-week-old baby; in the next, surgeons destroy, by abortion, another child, who can also be reckoned to be 21 weeks old. Where is the healing?

#### PLASTIC BAGS

Look beyond the political arguments and see the fetus and what doctors do to it. An unborn baby's heartbeat begins between the 18th and 25th day; brain waves can be detected at seven weeks; at nine to ten weeks, the unborn squint, swallow and make a fist. Look at the marvelous photographs and see human life. Should these little human beings be killed unless it is to save the mother's life?

Other photos show this human life aborted, dropped onto surgical gauze or into plastic-bagged garbage pails. Take that human life by suction abortion and the body is torn apart, becoming a jumble of tiny arms and legs. In a D and C abortion, an instrument slices the body to pieces. Salt poisoning at nineteen weeks? The saline solution burns away the outer layer of the baby's skin. The ultimate is the hysterotomy (Caesarean section) abortion. As an operation, it can save mother and child; as an abortion it kills the child. Often, this baby fights for its life, breathes, moves and even cries. To see this, or the pictures of a plastic-bagged garbage can full of dead babies, well, it makes believers in right-to-life.

It's unfair to write this way, cry the super-abortionists, or to show the horrible photos. But Buchenwald and Dachau looked terrible, too. Abortions are always grisly tragedies. This truth must be restated at a time when medical administrators chatter about "cost-benefit analysis" factors in deciding who lives and who dies.

#### THE "GOOD DEATH"

The utilitarian ethic is also common in the arguments of euthanasia advocates at work in six state legislatures. Their euphemisms drip like honey (should I say, cyanide?) just as they did in Germany—"death with dignity," the "good death." Their legal arguments fog the mind. Their mentality shakes me. One doctor, discussing the suicide-prone, wrote: "In such instances, positive euthanasia—a nice, smooth anesthetic to terminate life—appears preferable to suicide." Dr. Russell Sackett, author of the "Death With Dignity" bill in Florida, said: "Florida has 1,500 mentally retarded and mentally ill patients, 90 percent of whom utilitarians had concluded the same when they led the first group of mental patients to the gas chamber at the Sonnestein Psychiatric Hospital in 1939. It bothers me that eugenicists in Germany organized the mass destruction of mental patients, and in the United States pro-abortionists now also serve in pro-euthanasia organizations. Sorry, but I see a problem.

Utilitarianism isn't all abortion or euthanasia. Utilitarians ran the experiment in which syphilitic black men died through lack of penicillin. There are also experiments on free-clinic patients, students, the institutionalized. Senate hearings revealed that two experimental birth-control drugs were used on the "vulnerable" for purposes other than those approved by the Food and Drug Administration.

This monkeying around with people is relentless. Some medics would like to sterilize institutionalized people from here to breakfast. Psychosurgery is performed on hundreds of Americans annually, not to correct organic brain damage, but to alter their behavior. This chancy procedure, a first cousin of the now discredited prefrontal lobotomy that turned 50,000 Americans into human vegetables, is performed on unruly children and violence-prone prisoners.

Experimenters produce life outside the womb—combining sperm and ovum—and dispose of the human zygotes by pouring the solution down the sink drain. Recently scientists debated guidelines for experimenting with the live human fetus. To those considering the fetus as an organ, like, say, a kidney, Dr. Andre Hellegers of Georgetown University pointed out the fetuses have their own organs and cannot be considered organs themselves. How does one get consent from a live fetus? he asked. Or even from its donors—the parents who authorized the abortion?

Once fetal experimentation is sanctioned, are children to be next? Far-fetched? No. In the New England Journal of Medicine, Dr. Franz Ingelfinger recently advocated removing the World Medical Association's absolute ban on experimenting with children and mental incompetents.

We can brake the tendencies of technocratic-minded doctors and administrators coldly concerned with "cost-benefit analyses." There was no such brake in Germany. After the first killings at Sonnestein, respected German doctors, not Nazi officials, killed 275,000 patients in the name of euthanasia. Many were curable. Eventually the doomed "undesirables" included epileptics, mental defectives, World War I amputees, children with "badly modeled ears" and "bed wetters."

### UTILITARIAN ETHIC

The worst barbarisms often have small beginnings. The logical extension of this utilitarian ethic was the mass exterminations in slave-labor camps. In "A Sign for Cain," Dr. Frederic Wertham tells how death-dealing technicians from German state hospitals (and their equipment) were moved to the camps in 1942 to begin the big job.

Could the "what is useful is good" mentality lead to such horror in the U.S.? Not so long as I am allowed to write like this—which German journalists couldn't. Not so long as right-to-life Americans can dispute—which Germans couldn't. The extremes of the utilitarian mentality rampaging today through medicine, the drug industry and government will be checked by our press, lawmakers and doctors, lawyers and clergymen holding to the traditional ethic. The Germans weren't blessed that way.

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## SOME POINTED QUESTIONS FOR KISSINGER HEARINGS—PART III

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. ASHBROOK. Mr. Speaker, a variety of pertinent questions for the Kissinger hearings now in progress before the Senate Foreign Relations Committee were implicit in the views expressed by 10 panelists at a foreign policy seminar held here in Washington last Saturday, September 8. The seminar, sponsored by the University of Plano in Dallas, Tex., covered a variety of issues of topical importance in a wide-ranking review of current foreign policy over an extended period of 6 hours. A summary of the seminar and its findings was released by Plano University today, a copy of which I insert in the RECORD at this point.

### ACADEMIC PANEL VOICES CONCERN OVER KISSINGER FOREIGN POLICY

Dr. Kissinger's foreign policy regarding the Soviet Union is built on premises, the ignoring of which could bring disaster to the United States, an eminent American specialist on Soviet affairs warned in Washington this week.

Dr. Joseph Schiebel, Director of Georgetown University's Russian Area Studies program, was one of ten experts who examined Kissinger's foreign policy critically and extensively during a public seminar on Capitol Hill.

Some of the most basic premises of the Kissinger/Nixon foreign policy were questioned and shown to be without actual foundation by these experts.

Scheduled for the week during which Dr. Kissinger's testimony is being heard by the Senate Foreign Relations Committee, the six-hour panel discussion pointed to the failure of certain senators on the Foreign Relations Committee to question Dr. Kissinger critically on substantive matters and the evident deterioration of US foreign policy and decline in US prestige abroad.

"Questions (regarding Kissinger's Soviet policy) seem to be coming from an unusual source, namely the Russian intellectuals—the Russian scientists—rather than from the lips of the Senators," observed Dr. Robert Morris, President of the University of Plano.

"This is something for us to be ashamed of," responded Professor Schiebel.

Meeting in the historic Caucus Room of the House of Representatives, other seminar participants included Allan Brownfeld, noted journalist; David Lichenstein, general counsel of Accuracy in Media, Inc.; Alan Bock, Editor of the Pink Sheet on the Left; Paul Deac, National Executive Chairman of the National Committee of Ethnic Groups; government economist Reed Irvine; Mr. Miroslav Gregory, Chrm, Washington Chapter of Ethnic Groups; retired US diplomat and Soviet expert John Hemenway, who also is Dean of Plano University in Washington; and, Secretary General of the Freedom Leadership Foundation, Gary Jarmin.

Several participants found the current Kissinger/Nixon foreign policy to be reminiscent of Chamberlain's disastrous Munich policies of the nineteen-thirties.

### KISSINGER'S WHEAT DEAL WITH SOVIETS

Soviet purchase of US wheat and shipment (on US credits) was identified as a principal cause of current inflationary pressure in the United States. Statements by Federal Reserve Chairman Burns and Secretary of the Treasury Shultz were cited to establish that bad judgmens and faulty policy assessments for which Dr. Kissinger is responsible were involved in the US/Soviet wheat transaction.

### NO EVIDENCE TO SUPPORT BASIC FOREIGN POLICY PREMISES

Professor Schiebel of Georgetown summarized three premises crucial to and underlying the Kissinger foreign policy which, he thought, may be premature and are unsupportable:

(1) The assertion that the Soviet Union has ceased to be a revolutionary power and now is a *status quo* power interested in playing according to the rules;

(2) The assumption that increased commercial and cultural ties will accelerate the conversion of the USSR into a *status quo* power to provide us with "peace in our time."

(3) That the Sino/Soviet conflict is permanent and so severe that US policy and a new balance of power can be built upon it.

Dr. Schiebel observed that not only is the evidence to support these assumptions inadequate, there is a good deal of evidence to the contrary.

### THE BYRD AMENDMENT AND KISSINGER'S CONFUSED "NONINTERFERENCE" DOCTRINE

The ten experts agreed that US foreign policy implementation necessarily involved an attempt to influence the domestic affairs of other nations, if only to stimulate a foreign policy response to our needs. Dr. Kissinger's assertions that the US could not attempt to interfere in behalf of Soviet scients Sakharov and Solzhenitsyn was seen as an erroneous application of a moral double standard. In the same hearing Dr. Kissinger professed support of a move to repeal the Byrd amendment, thereby proposing action—if not advocating it—tantamount to direct interference in the internal affairs of a foreign country.

### THE ROLE OF THE FOREIGN RELATIONS COMMITTEE

The ten experts wondered why the Senate Foreign Relations Committee did not inform the public of the issues by putting the right questions to Kissinger. The belief was expressed that many Americans are not aware of certain fundamental questions that are not being pressed by the Committee and that a disservice is performed by not facing up to hard questions and issues.

Dr. Morris of the University of Plano noted that the most incisive questioning concerning the wisdom of US foreign policy seemed to be coming from an unusual source: Russian intellectuals and Soviet scientists.

Several panel members expressed their concern that, during the first day of his hearing Dr. Kissinger was allowed to retreat into the specific details of specific questions severely limited both in scope and implication. No senator probed for Dr. Kissinger's broad strategy of the US foreign policies under his direction.

A consensus developed among the panel members who concluded that, under Dr. Kissinger's direction, US foreign policy stands up for no principles that can be clearly identified. In the view of the panel, the ideology of American freedom and a search for human dignity and freedom should underlie all US policy. Instead, under Kissinger, for all practical purposes there is no US foreign policy; it is all *ad hoc* reaction to events.

The ten experts want the US Senate to demand answers to vexing problems and to require a satisfactory general outline of the strategy of US Foreign Policy *before* Kissinger is confirmed, rather than *after* he leaves office, when many men suddenly become very wise.

### MANY OTHER AREAS DISCUSSED BY THE SEMINAR OF EXPERTS

The Nixon Doctrine was criticized for its imprecision—yet another indication that there is no identifiable US foreign policy, merely "pragmatic" reaction to a series of events. Allan Brownfeld remarked that not one senator questioning Dr. Kissinger wondered aloud what the US actually had gained from the Moscow or Peking trips or whether the Paris Agreements actually had produced "Peace With Honor", a claim advanced for the Agreement which permits North Viet Nam to keep hundreds of thousands of its troops in the territory of South Viet Nam. In fact, panel experts concluded that the Nixon/Kissinger policy was simply to "get out", i.e., to abandon our allies, but, if possible, without evident embarrassment to the administration.

The Soviet Government was characterized as a "bureaucratic despotism". Panelists agreed that such tyrannies must be resisted wherever they are found, whether it is in the US in the form of OEO encroachments on liberty or threats against liberty from foreign despotisms. To protect what America stands for, the ten foreign policy experts believed it essential to project America's idealism overseas and, when and if necessary and practicable, to interfere in the affairs of another nation in order to promote developments that are in the US national interest. At this time, all ten of the experts believed that the Soviet Union needs western technology, western food, western help and friendship. Therefore the US should not consider providing these valuable considerations without advancing US interests and American idealism in the process. The Kissinger/Nixon foreign policy has failed to exploit this advantageous situation in the interest of freedom.

A common denominator for common action was suggested by Dr. Morris, the President of the University of Plano. President Morris observed that, "Since there is a moral imperative for all men to 'love your brother' and since all of mankind is his brother, every American should work for his brother's interests, which include his liberty and freedom. On the positive side, therefore, American foreign policy efforts should be directed in the interests of the liberty and freedom of all men." Dr. Morris' view was compatible to the views of the other panel members.

"Solzhenitsyn and Sakharov 'twist slowly in the wind' ", thanks to Kissinger's foreign policy, declared Alan Bock. The West watches these men bravely and shrewdly fight to be free men and, by their actions, undermine the legitimacy of their authoritarian government, which is alien to US foreign policy objectives. Despite dire warnings from Soviet intellectuals of the highest rank and credentials, concerning the intentions of the Soviet leadership and the risk to peace, United States policy of detente seems wedded to the concept of "peaceful coexistence."

Nixon's Asian Policy has been calculated to create the propaganda image of a "generation of peace" by "grand slam" tactics, according to Allan Brownfeld, who believes that the Nixon/Kissinger style of diplomacy is "dangerously ineffective." He declared that any advantages of the trip to Red China have been more than offset by serious long-lasting disadvantages that include:

(1) A general setback to democracy in Asia;

(2) Near collapse of the friendly Sato government in Japan;

(3) Expulsion of the Republic of China (Taiwan) from the UN;

(4) The near or imminent collapse of Cambodia;

(5) The necessity to introduce martial rule in South Viet Nam.

"The United States is now militarily No. 2," according to John Hemenway, former Pentagon official, retired U.S. diplomat, and Soviet-German specialist. Hemenway wondered why the President had his facts wrong. Hemenway recalled President Nixon's assertion to the VFW in New Orleans a few weeks ago to the effect that the U.S. will not be allowed to slip to No. 2, militarily. Yet that is exactly where we are. The strategy of "bargaining from strength," considered by all of the panel members as essential in negotiations with the Soviet Union appears to have been abandoned in fact, although the rhetoric continues.

A Steady Deterioration of U.S. Foreign Policy was noted by all ten experts of the panel, who, in various different ways, noted the total absence of any moral direction or purpose in U.S. policy which seems to have lost its direction under the Nixon/Kissinger leadership.

Curiously, during the six-hour discussion of U.S. Foreign Policy of the William P. Rogers era, Secretary of State Rogers' name was seldom mentioned. There was little doubt in the mind of any panelist that the real Secretary of State in the "Rogers" era was Henry Kissinger.

A Haunting Memory of Munich was recalled by historical precedents presented by Professor Schiebel who drew an analogy of the present period with U.S./Soviet relations in the thirties in which intense U.S. interest in detente, commercial ties, and technological aid to Moscow nevertheless culminated in the Ribbentrop/Molotov Pact, ending all hope in the West for "Peace in our Time". John Hemenway recalled British PM Stanley Baldwin's dreadful "confession" to the House of Commons in which he admitted that he had not advised preparedness when Hitler was rearming. Baldwin thereby left Chamberlain in the lurch to face up to Hitler at Munich, totally unprepared. Hemenway saw a parallel in the present failure of the Senate Foreign Relations Committee critically to examine Kissinger by drawing out the real issues.

A Profound Change may be taking Place in U.S. Policy, reflected Dr. Morris of the University of Plano. University President Morris said that, "Judging from yesterday's (the first day) Hearings, we do not seem to be coming to the essence of U.S. foreign policy." Dr. Morris explained that the seminar of ten experts was hastily convened because the Senate Foreign Relations Committee now is examining the credentials of Dr. Kissinger to be Secretary of State. These important events made it imperative for the academic world to examine our foreign policy in an open-minded way so that we might give some guidance and direction to its furtherance.

## NEW ATTACK ON DISASTERS

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. TEAGUE of Texas. Mr. Speaker, Mr. David F. Salisbury, staff writer of the Christian Science Monitor, in that publication of August 29, 1973, discusses the value of timely warning of disasters which is provided through our national space program. Mr. Salisbury discusses the National Oceanic and Atmospheric Administration's prototype disaster warning satellite which will be launched next year to track severe storms, spot tidal waves, and provide early flood warnings.

The savings in lives and property accrued from space technology are already substantial. The next satellite described in this interesting article will take us another major step forward in applying space to the benefit of every man. The article follows:

United States Readies New "Look" for Frontal Attack on Disasters—Plan Uses Satellites, Computers Against Fire, Flood, Wind, Quake

(By David F. Salisbury)

Boston.—Ten U.S. government agencies are joining in a new five-year plan to reduce the loss of life and billions of dollars a year in property damage, caused by hurricanes, floods, forest fires, earthquakes, and other natural disasters.

In a report entitled "A Federal Plan For Natural Disaster Warning and Preparedness" the agencies detail steps that they will soon be taking to improve the U.S. disaster warning and preparedness network—already one of the best in the world.

Satellites, up-to-date radar, and computers are the key improvements.

With these and other new tools, the agencies hope to give more accurate and timely warnings of disaster, including tornadoes, tidal waves, droughts, volcanic eruptions, and others.

SATELLITE TO HOVER

Early next year the National Oceanic and Atmospheric Administration (NOAA) hopes to have a prototype of its disaster warning satellites in orbit. If the Geostationary Operational Environmental Satellite (GOES) works properly, it will become part of the first space monitoring system using satellites that hover over one part of the earth.

The satellites will keep track of severe storms as they develop, spy out tidal waves before they hit, and provide warnings of rapidly developing floods.

They will also have communications channels that instantaneously link various weather centers around the country so that each will have access to the entire weather picture.

Radar is the mainstay of the present warning network, but according to the NOAA's Dr. Clay Jensen, coordinator of the new plan, this system has two problems.

The network of local radars covers only about two-thirds of the U.S. And most of these local radars are of World War II vintage so that spare parts must be handmade when they fail.

The new plan calls for replacing them with newer radar sets and filling in all the major gaps.

Minicomputers will be installed in Weather Service Offices across the country.

"Especially during a disaster alert," explains Dr. Jensen, "forecasters get so tied up sending out warnings that they can't always keep track of the storm. So this new automation system will free them from a lot of busy work."

Included will be a special warning device. The forecaster's computer will alert him when the storm begins acting in a way he didn't predict so he will be sure to keep his forecasts as up-to-date as possible.

In order to get better warnings for flooding, particularly after hurricane Agnes, the plan proposes a system that links up computer radar sets. The computer will transform the radar echoes into numbers that correspond to the amount of rain falling in different areas.

An embryonic earthquake-monitoring system engineered by the U.S. Geological Survey will be expanded. Experts feel it can provide valuable information about earthquake risks that will be helpful in designing buildings and roads—even if no one can yet accurately predict when a quake will occur.

But no matter how elaborate a system is constructed, if local communities do not make use of it, the warning system will not be effective. So an important part of the five-year plan includes an intensified effort to educate the public as to what they should do during emergencies.

Officials are requesting an extra $34 million in 1974 to begin. If it cuts down just property damage by 10 percent, that would mean a national saving of $100 million a year, they estimate.

## UNITED STATES/MEXICO COLORADO RIVER SALINITY CONTROL AGREEMENT

### HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HOSMER. Mr. Speaker, the recent agreement reached between the United States and Mexico concerning the degree of salinity of the Colorado River as it crosses the international boundary calls for building of a massive desalting plant. In order that the installation of this very significant amount of capacity proceed in an orderly and beneficial way I have made certain suggestions contained in the following letter to the President dated September 10:

September 10, 1973.

Re United States-Mexico agreement in Colorado River salinity problem.

The President,
*The White House.*

Dear Mr. President: A part of the recent agreement entered into between Mexico and the United States to improve the salinity of the Colorado River as it is delivered to Mexico at the International Border calls for a $62 million reverse osmosis desalting plant which will treat the highly saline return flows from the Wellton-Mohawk Irrigation District.

This will become the world's largest desalting plant which, when operated at 90% load factor, will produce 100 million gallons of desalted water per day, or about 101,000 acre-feet per year for blending to improve the quality of flows to Mexico.

I am concerned that the installation of this large amount of desalting capacity at one time will overtax the manufacturing capability of the desalting industry and result in its expansion in a distorted and possibly non-competitive fashion.

To avoid this, I strongly recommend that it be planned to install this capacity in increments over a period of 10 years, more or less.

The temporary shortfall of fresh water which will result from this slow down in building desalting capacity can be made up by diverting an appropriate quantity of Colorado River water from the allocation of the Metropolitan Water District of Los Angeles, permitting it instead to flow on to the International Boundary for blending purposes. The MWD's loss in turn can be made up by diverting additional Northern California water to Los Angeles via the Statewide Water Project. During the period of time involved, that Project will still be operating substantially below capacity and can handle the load.

The cost of balancing MWD's water account would, of course, be a Federal expense chargeable to the desalting project.

The above recommended procedure will allow various competing manufacturers of reverse osmosis systems to enlarge their manufacturing capability reasonably in relation to a normal market for their products rather than in response to the heavy one-time demand imposed by the U.S./Mexico Agreement. It will also permit the later increments to benefit from continuing improvements in desalting technology.

Evaluation of this suggestion by appropriate government agencies is requested.

Very respectfully,

CRAIG HOSMER,
*Member of Congress.*

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## BLUE COLLARS ARE NEEDED, TOO

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. DERWINSKI. Mr. Speaker, some emphasis is needed to expand the technical education and vocational training programs in high schools. There is a failure of the educational system to develop sufficient programs in this field. Therefore, I am especially interested in an editorial in the Thursday, August 16, issue of the Southwest Messenger Press which serves the communities in south suburban Cook County in Illinois.

I commend the editor of that publication, Mr. Elmer Lysen, for an effective commentary on the need to expand education for the so-called blue collar positions. The article follows:

### BLUE COLLARS ARE NEEDED, TOO

College enrollment will drop for the first time in ten years this fall. This may be one of the best things that has happened to young people in quite awhile.

During the past few years, plumbers, mechanics and carpenters seemed on the verge of extinction, because everyone was rushing off to college, and relatively few young people were bothering to learn these occupations anymore. But the fact is that these and other blue collar trades are every bit as essential to the maintenance of society as are the professions—law, medicine, etc. A college education is still, for some, a prelude to chosen careers, and today's high school graduates should be encouraged to pursue the goals of their choice. But a college degree is not the only means to happiness and security. Young people should be made aware of other avenues that might better suit their needs.

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## WHY FOOD PRICES ARE SKY-ROCKETING

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BROWN of California. Mr. Speaker, like most of our colleagues, I spent much of the August recess back in my district, meeting with many of my constituents. And the question I was most frequently asked, both in public meetings and in private conversations, was why have food prices risen so dramatically?

Retired Americans living on their meager pensions and others on fixed moderate incomes not only are outraged at the food price increases but also are wondering how it could have happened. They want to know who or what is responsible for the upsurge.

Jack Anderson, the noted journalist, has written an article which provides some insight into the causes of the massive price rises. The story appeared in the September 2 issue of Parade magazine. I would like to insert it in the RECORD at this time, for the information of the many people who are so justifiably concerned about this serious problem.

### WHY FOOD PRICES ARE SO HIGH

(By Jack Anderson)

WASHINGTON, D.C.—Across the Nation, grocery shoppers are staring at the cash register totals in utter disbelief. When supermarkets run rare specials, early arriving housewives fill their shopping carts, leaving only the pickings for others. Pensioners sift through shelves of canned goods, looking for older stock with lower prices. A suburban matron pockets a tomato, and store clerks turn their heads to avoid noticing.

The time may be upon us when a chicken in every pot can again be a tempting political promise to Americans who have two cars in their garages and little meat on their tables.

Two of the key burdens, adding weight to the price tag like a butcher's thumb on the meat scale, are commodities few shoppers ever wanted—war and Watergate. We are still paying for these national tragedies with every bite.

The billions thrown away on bombs, bullets and bribes in Southeast Asia have materially weakened the dollar. The wages of war have drained the U.S. and the greenbacks have been piling up like autumn leaves around the world. This has forced the devaluations of the dollar, which have made American farm produce far cheaper abroad.

#### LOSS OF CONFIDENCE

The scandals, which have come to be lumped under the word Watergate, have also made the dollar worth less. Foreigners hurried to convert their dollars into more tangible assets.

"We have been told for years that the balance of payment deficits meant nothing, that devaluations meant nothing," Gordon Nelson, a broker for a leading commodities firm, told us. "That is 100 percent nonsense. The American people are being conned. What has happened is that foreigners, seeing our paper money worth less every day, have rushed to convert their currency into something real. Our commodities, because of inflation, have become cheaper for them, so they buy them up. And we don't get them."

The biggest deal, known ruefully inside government circles as The Great Grain Robbery, was the wheat sale to Russia—an adventure in capitalism that still has Kremlin leaders chuckling in their borscht.

Two winters ago, the crunch of winter destroyed huge quantities of Soviet grain. Smothered by the snows and hindered by a frigid spring, most of the Russian wheat crop was ruined. The Soviet leaders knew only one nation could solve their acute food shortage—the United States.

The Kremlin sent squads of bright young men to study the U.S. commodity market. They developed a remarkable understanding of how the market operates, and then they began making piecemeal purchases. Agriculture Department officials, eager for the business, agreed to charge the world rate of $1.65 a bushel and to subsidize any price increases with U.S. money.

#### TOO LITTLE, TOO LATE

By the time the Americans woke up to the bold dimensions of the Soviet purchase, it was too late. The Russians had gobbled up more than 400 million bushels of wheat—over a quarter of our total crop. They paid the subsidized price of $1.65 while Americans were paying $2.75 a bushel. This, plus shipping and storage subsidies and a three-year $750 million loan made up more than $950 million of the billion-dollar Soviet purchase. As a result, of course, wheat prices climbed higher.

This grain drain coincided with a seemingly unrelated event on the Peruvian coastline, which combined to put jet propellent into the price of food in the U.S. Tiny silver fish called anchovies vanished mysteriously from once-teeming Peruvian fishing beds.

Anchovies happen to be a prime feed enricher for hogs, cattle and poultry. As the Peruvian catastrophe reduced the world anchovy catch to a fifth its former size, farmers looked desperately for another meal replacement. They found it in soybeans, another protein-rich additive.

Soybean prices in the U.S. soared out of sight as farmers fought to keep up the quality of their feed. But inevitably, farmers were forced to reduce the protein they fed to hogs and cattle. A farmer who cut the protein additives in his hog meal by 3 percent could expect his sows to give birth to litters a sixth smaller. Result: fewer hogs on the market.

#### IN THE SQUEEZE

The cattlemen, for their part, were caught in a squeeze between high feed prices and frozen beef prices. The ranchers, therefore, simply turned their herds loose on the open range. Munching away on grass, the animals fatten more slowly, and less expensively. But the consumers will get stringier, less appetizing meat when the cattle come to market.

The weather also took its toll. More than a quarter million cattle died—a net loss of 120 million pounds of beef—during what the Cattlemen's Association called "the worst winter with the greatest impact in history." The retail worth of the lost meat amounted to over $150 million. The bad weather also obliterated the onion crop and some fruit harvests.

#### FARM SUBSIDIES

Government policies and programs have also contributed to the present plight. For years, small farmers have been pushed off the land by the big-money operators who are able to turn the sod and a buck more efficiently. These big operators have influenced Congress to grant them handouts for what they plant and payoffs for what they don't plant.

This great concentration of economic power—the gentlemen farmers call it "agribusiness"—now has such clout it can virtually manipulate the market price at will.

One long-standing effect of agribusiness is the trek to the cities of the unskilled poor, no longer needed on the big, mechanized farms. These hapless citizens make up a large chunk of the welfare cases. Part of their dole, the food stamp program, which costs $3 billion a year, has given many of the poor their first taste of decent food. This has increased the demand, and therefore the price, of better-grade foodstuffs.

The Food for Peace program, another laudable attempt to share the surplus of our groaning granaries with the hungry of the world, now adds to the pocketbook pressure at home. Almost 10 percent of last year's wheat harvest was bought by the government to distribute free or through easy-interest loans to needy foreign countries. The program will ship out 130 million bushels of wheat this year, at a cost to the taxpayers of $800 million. This will increase the cost of bread and the price of fattening cattle.

#### "BEEFALO"

As food prices soar, enterprising businessmen have made some bizarre innovations. Sawdust manufacturers have begun to market their product for cattle feed. A West Coast rancher has perfected a new hybrid called the "Beefalo"—half cow, half buffalo—as a source of quality meat at cheap prices. In the prairie states, owners of growing bison herds are offering steaks made of pure buffalo.

And while consumers have yet to alter their eating habits, the President's National Commission on Productivty is pushing still another new entry to the nation's meat counters—bull steaks. Although the bull is assumed to be less appetizing than his cousin the steer, young bulls may soon offer low-cost protein to American diets.

#### THE FUTURE

The food industry is also at work on innovations to cut costs and speed up shopping. In the years ahead, say industry spokesmen, the present cash register system will be replaced by lightning-quick computers. Food products will be packaged in specially tagged wrappers that register prices instantly when passed by electronic sensors. This should end the ungainly checkout lines and expensive personnel costs. Electronic wizardry promises huge savings in food storehouses, too. Once packers begin shipping produce in standardized containers, machinery will process what is now sorted cumbersomely by men.

But none of this is going to bring down the cost of groceries this week. And the worst is still ahead.

#### NEW GRAIN DEAL

For the sake of international relations, particularly the new warmth with Russia and China, the Nixon Administration plans in the next 12 months to sell an additional 400 million bushels of grain and soybeans to these two countries.

Normally, prices at the grocery counters offer Americans the world's best bargain. But the combination of bad weather, bad policies and world demand have joined to keep food prices soaring.

## DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION

### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. FRENZEL. Mr. Speaker, I rise in opposition to this conference report. I do so reluctantly, but two provisions would seriously undermine the Department of State's ability to function effectively and would also seriously undermine national security. I find the sentiments of those who support these provisions laudable, but the provisions themselves could cause almost irreparable harm.

The problem is really to get the Congress back to its rightful place as a coequal branch of Government. Congress needs a more important role in the decisionmaking process on foreign policy matters. I believe it is imperative that methods be found to accomplish this task. But I also believe that this be done without radically changing the character of our negotiation process, not the confidentiality of communications received from foreign heads of state.

I believe that there must be some changes made in our foreign base agreement procedures. However, the solution suggested in section 10 of this conference report, while worthy in sentiment, fails to leave flexibility needed for secret agreements for small missions. If the conference committee would have a minimum size needed for the agreement to be elevated from an executive agreement to a treaty, I would have had a better basis for support of this provision.

This section calls for approval of these agreements by either passage of a concurrent resolution by both the House and the Senate or by the Senate giving its advice and consent. It is obviously redundant. Why not use one method or the other? Being a Member of the House, I would prefer the concurrent resolution but if these agreements are being raised to treaty status, an argument could rightly be made for just the Senate's advice and consent. Having both of these methods open to use is either redundant or conflicting. Actually, this Congress has plenty of power in the normal lawmaking process, especially the appropriations process, to exercise its decisionmaking powers. Because we already have the power, this Senate amendment is mischievous.

Section 13 of this report mandates the State Department, if requested in writing by either the House Foreign Affairs Committee or the Senate Foreign Relations Committee, to turn over any documents requested except those directed to, or directed by, the President. This would undermine the State Department in such a way that negotiations in the future would be better carried out by the Foreign Affairs Committee and the Foreign Relations Committee. The State Department would lose its ability to negotiate in secret with other nations. Its effectiveness would be hamstrung for fear that all of what they do would become public information.

Sometimes heavy armtwisting is needed to secure agreements which are in the best interests of the United States. Other times, foreign governments would be embarrassed if some of their positions during negotiation were made public to the folks back home. Foreign governments simply would not communicate with us under these conditions. Nations would not negotiate with the United States in the future because this amendment would give these nations second and third thoughts about how to approach the negotiations without the potential of being embarrassed.

I fully realize that this amendment only includes documents which are requested by the Foreign Relations Committee or the Foreign Affairs Committee. I am also confident that if this power were granted, it would be used sparingly and judiciously. However, the possibility exists for abuse, and this power, abused only once, would cause irreparable harm to the State Department and the United States.

I appreciate that these committees want to be made more of the decisionmaking process. However, better ways must be sought than a blank check. I would support a reasonable alternative if the conference committee could agree on one.

I oppose this conference report reluctantly. I hope that it is recommitted and that the two provisions I have mentioned are scrapped. The Congress can have a greater say in our foreign policy but it does not have to ruin the Department of State or national security to do so. I believe that this is possible and I urge recommittal.

## THE NEED TO PROTECT AMATEUR ATHLETES' RIGHTS

### HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. BADILLO. Mr. Speaker, during the past year, considerable attention has been focused upon the various problems which confront American amateur athletes who participate in international competition. The difficulties at last year's Olympics and the recent World University Games highlighted the fact that our amateur athletes are often subjected to mismanagement and mistreatment and really have no voice in the decisionmaking processes of the governing bodies which control amateur sports in the United States. It became increasingly clear to the general public and the average sports fan that not only are amateur athletes prevented from having any say in those decisions, policies, and programs which directly affect them, but too frequently, the sports federations and governing bodies have made decisions which are simply not in the best interest of those who actually compete and participate in amateur sports. As Ms. Donna de Varona, a two-time Olympic gold medalist, recently noted:

> Too often, they have failed to solicit the opinions of those who are active in development and competition, those who know the needs of a sport.

This situation seriously threatens the very foundation of amateur athletics in this country and cannot be allowed to persist. This Nation has thousands of talented, dedicated, and highly trained athletes and we simply cannot permit their careers to be damaged or needlessly curtailed by the senseless rivalries and jurisdictional disputes—such as the AAU–NCAA feud—which presently exist. Further affirmative action must be taken to encourage physical fitness and sports development and to provide the foundation for better training, better coaching, and better facilities for amateur athletes.

A number of approaches have been suggested and several measures are currently pending in both Houses of the Congress which address themselves to part of the problem. However, probably the most comprehensive bill is the Amateur Athletic Act of 1973 which was reported out of the Senate Commerce Committee earlier this summer. While this legislation is no panacea, it is an important and meaningful step in the right direction and comes to grips with a number of the most important problems plaguing amateur athletics in this country. Spearheaded by Senator JOHN V. TUNNEY of California, the Amateur Athletic Act has been described as necessary to end the current situation of athletic serfdom in this country.

I am today introducing the final, amended version of the Amateur Athletic Act as reported by the Senate Commerce Committee and urge that the House now take prompt and favorable action on this long-overdue and urgently required legislation. We must move to restore some balance into amateur athletics in this country, to end damaging feuds and rivalries and to further spur physical fitness by our fellow countrymen.

Mr. Speaker, to further describe the need and intent of the Amateur Athletic Act, I insert herewith, for inclusion in the RECORD, a letter to the editor from Senator TUNNEY and an article by Mr. Gar Williams, national president of the Road Runners Club of America, both of which appear in the September issue of Runner's World magazine:

### LEGISLATION

In the August issue of Runner's World, an editorial ("Shaking Up Track's Rulers") discusses the many problems in the present structure of track and field in this country. However, you dismiss Congressional efforts to solve those problems by referring to the formation of a so-called "super-group" and conclude, "This won't solve anything." I would like to register my disagreement in the strongest possible terms.

With regard to the proposed Amateur Athletic Act of 1973, I and Senators Pearson, Cook, Gravel and Thurmond feel this bill could be a very real answer to the problems of amateur athletes in this country.

The legislation would create an Amateur Sports Board which would oversee the activities of those groups which are recognized as the governing bodies for Olympic sports in the country. One of the requirements for recognition is that at least 20% of the voting power in any such body be held by athletes. Contrary to your suggestion that this will lead to less responsiveness to the needs of athletes, we firmly believe that this will have to make amateur sports bureaucracies more responsive to the needs of athletes.

In addition, the charters awarded by the Board in Olympic sports would expire every four years, and the performance of the group which had held a charter in any sport would be subject to rigorous review. This will clearly improve the present situation in which sports bodies are self-perpetuating and interested only in preserving their powers and not in the interests of athletes.

The editorial further goes on to suggest that a "central clearing house for information" is a present necessity in sports. The proposed Board would have two divisions (Facilities, Safety and Health), the purposes of which would be the collection, analysis and dissemination of information just as you suggest.

Further, you advocate more funds for development and research. The proposed legislation contains provisions for the establishment of a National Sports Development Foundation, which would administer a trust fund made up of as much as $50 million in private funds and $50 million in Federal matching funds. This would mean that $5–10 million per year could be spent on the precise areas of need to which you refer. Indeed, these two areas are the very ones with which the Foundation would be created to deal.

In summary, we believe that the Amateur Athletic Act of 1973 is a reasonable and well thought-out way to deal with the problems which concern all of us who are interested in the future of amateur athletics. It is not an attempt to create a massive Federal bureaucracy which will administer sport on a day-to-day basis. It is an attempt to see that the athletes are able to compete under the best conditions possible.

Because we believe that we share these concerns with you and your readers, we would like to solicit your support for our efforts. This legislation could signal the beginning of a progressive new era in American amateur sports.

JOHN V. TUNNEY,
*U.S. Senator.*

### CASE IN CONGRESS

(Gar Williams is president of the Road Runners Club of America. The group strongly supports sports reform legislation pending in Congress (see "Athletes' Case in Congress," Aug. 73). Williams clarifies the proposals and expresses the RCA viewpoint:)

*RW* readers now have a unique opportunity to help advance the cause of sport and physical fitness. Federal legislation has been proposed which will result in vastly improved sports programs for both the well-trained competitor and the runner concerned with basic fitness. The bill is the "Amateur Athletic Act of 1973," the preliminary ideas of which were discussed by Jeff Darman in last month's *RW*. Co-sponsored by Senators Tunney (D-Calif.), Pearson (R-Kans.), Gravel (D-Alaska), Cook (R-Ky.) and Thurmond (R-S.C.), it is due to be voted on by the full Senate very soon. Then it will go to the House of Representatives.

Contrary to early rumors, this legislation does *not* provide for government control or supervision of amateur sports and does not superimpose on sport a vast federal bureaucracy. It only provides the tools for the efficient administration of amateur athletics by those who really care about their sport. This bill has two parts or "titles."

Title I creates a US Amateur Sports Board. This board would not govern amateur sports. Rather, it would simply grant charters to individual sports bodies for them to govern the sport of their interest. The members of the Sport Board would be appointed by the President of the United States, with the advice and consent of the Senate.

Board members must all have demonstrated ability, knowledge and experience in amateur athletics. One member must be an athlete who has competed on an international level within the past three years. No two members serving at one time shall have been officers or employees of the same sports organization. No person could be on the board and simultaneously serve as an official in a national or international sports organization. No member can serve more than once; and each member serves for four years.

Each sport would be autonomously governed by a *different* group which would be licensed by the Board. (*Only* those sports included in the Olympics and Pan-American Games are involved in this part of the legislation. Also, the bill does not apply to interscholastic competition.) The association in charge of each sport must have shown competence in administration. At least 20% of its voting members must be athletes, two of its officers must also be active athletes. And its policies must reflect the views of its athletes.

The charter expires every four years. At that time, any other group may apply for a charter if it feels the current holder is not doing a good job. (Hopefully, everyone interested in a given sport could unite into one democratically-operated organization and work together.)

As the sole US body in charge of a given sport, each association should have no difficulty gaining international recognition, and the Board can revoke the charter in the unlikely event that the group in charge is not recognized.

The Sports Board would appoint a temporary nine-member US Olympic Commission of diverse representation including two 1972 Olympians, and giving consideration to the representation of women and minority groups. The Commission would review US participation in the Olympics—the administration of the Games in general, the role of the US Olympic Committee, method of selection of teams and officials, and care of athletes. In so doing, the Commission would give particular attention to the views of those who have competed in the Games. It would report its findings within six months to the President, Congress and the Board, and then go out of business.

The Sports Board would have two divisions, both charged with research and study tasks. One division will be the Division of Athletic Facilities and the other the Division of Athletic Safety and Health.

Title II creates a fund, not run by the US government to promote athletics. Uses of the monies are couched in general terms in the bill, but the funds could be used to (1) increase participation of women, youngsters, older people and low-income groups in running; (2) provide financial assistance to nonprofit sporting organizations such as running and promotional clubs; (3) advance coaching and physical education programs, and (4) expand the exchange of runners and coaches with foreign countries.

What an improvement this legislation would be over the present situation! Your help is urgently needed to bring it about. Write a brief letter right now to each of three people—your US Congressman and your two US Senators—and express your strong support for the Amateur Athletic Act of 1973. Mention your participation in running and the fact that this legislation will be a big step forward for sport and physical fitness.

Your letter is important. It's the only way your representatives in the Government will know that you care about this issue. If you don't let them know that you, their constituents, are concerned, there's no telling how they may vote. Take one minute and do it now. Address: The Honorable (name) US House of Representatives, (or US Senate), Washington, D.C.

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## ERMA BOMBECK

## HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. WHALEN. Mr. Speaker, the Mark Twain Award to the top humorist in the country has been given this year to Erma Bombeck. Mrs. Bombeck, the author of the nationally syndicated column, "At Wit's End," received the award from the International Platform Association. I take this opportunity to congratulate Erma, a native of Centerville, Ohio, and a fellow University of Dayton graduate.

In the current issue of Reader's Digest there is condensed a tribute to fathers written by Mrs. Bombeck. As another University of Dayton alumnus, R. C. (Jim) Brown of Jackson Heights, N.Y., wrote in bringing Erma's prose to my attention:

> In these cynical times it is refreshing to come across as touching a piece of writing as the enclosed.

For the enjoyment of all the fathers in the House and throughout the country, I am pleased to insert Erma's column at this point in the RECORD:

### WHEN GOD MADE A FATHER

(By Erma Bombeck)

When the good Lord was creating Fathers he started with a tall frame.

And a female angel nearby said, "What kind of Father is that? If you're going to make children so close to the ground, why have you put Father up so high? He won't be able to shoot marbles without kneeling, tuck a child in bed without bending, or even kiss a child without a lot of stooping."

God smiled and said, "Yes, but if I make him child-size, whom would children have to look up to?"

And when God made a Father's hands, they were large and sinewy.

The angel shook her head and said, "Large hands can't manage diaper pins, small buttons, rubber bands on pony tails—or even remove splinters caused by baseball bats."

And God smiled and said, "I know, but they're large enough to hold everything a small boy empties from his pockets, yet small enough to cup a child's face in."

Then God molded long, slim legs and broad shoulders.

"Do you realize you just made a Father without a lap?" the angel clucked.

God said, "A Mother needs a lap. A Father needs strong shoulders to pull a sled, to balance a boy on a bicycle, or to hold a sleepy head on the way home from the circus."

God was in the middle of creating two of the largest feet anyone had ever seen when the angel could contain herself no longer. "That's not fair. Do you honestly think those large boats are going to dig out of bed early in the morning when the baby cries? Or walk through a small birthday party without crushing at least three of the guests?"

God smiled and said, "They'll work. You'll see. They'll support a small child who wants to ride a horse to Banbury Cross or scare off mice at the summer cabin, or display shoes that will be a challenge to fill."

God worked throughout the night, giving the Father few words, but a firm, authoritative voice; eyes that saw everything, but remained calm and tolerant. Finally, almost as an afterthought, he added—tears. Then he turned to the angel and said, "Now, are you satisfied that he can love as much as a Mother?"

And the angel said no more.

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## VICE PRESIDENT LAUDS ARENDS AND EXHORTS REPUBLICANS

## HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. McCLORY. Mr. Speaker, the Vice President of the United States, SPIRO T. AGNEW, delivered a major address at the Kane County Fair Grounds in St. Charles, Ill., on Saturday evening, September 9. This 11th Annual Kane County Republican rally was described this year as "A Tribute to Congressman LESLIE C. ARENDS."

Mr. Speaker, this successful affair which attracted some 3,000 citizens of Kane County, Ill., was organized under the Republican county chairman, William H. Wake, and by the county chairwoman, Edith Morgan, who were supported by many other hard-working Kane County Republicans.

It was an inspiring and memorable experience to appear on the platform and to participate in this program with our great Vice President. His remarks in behalf of our distinguished Republican whip of the House, Congressman LESLIE C. ARENDS, were both cogent and eloquent, and the Vice President's usual astute analysis of the political events of the day was unequivocal and forthright.

Mr. Speaker, I deem it highly appropriate for my colleagues on both sides of the aisle to review carefully the Vice President's talk and to receive guidance from his suggestions. Our Nation is greater than either one of its political parties, and its destiny must not be bogged down by partisan influences and attacks.

Mr. Speaker, both because of the Vice President's tribute to our distinguished Republican whip, Congressman LES ARENDS, and because of the timely message which his speech contains, I am attaching herewith the text of the remarks of Vice President SPIRO T. AGNEW at the 11th Kane County Republican rally:

### ADDRESS BY THE VICE PRESIDENT OF THE UNITED STATES

Thank you very much Les for your very warm and very personal introduction. I can't really think of anyone who would please me more to have say such kind things about me as you. Certainly, you are in the House of Representatives Mr. Republican and it's not simply a matter of your service, it's a matter of how your colleagues feel about you, the esteem in which they hold you and the trust they have in you. I'll talk a little more about Les later but I do want to say the people of Illinois, not just of Kane County, are privileged to have that kind of representation in the House of Representatives.

Reverend Clergy, Congressman Bob McClory, distinguished State and Party officials, and particularly I want to recognize your Senate leader, Bill Harris, and your House leader, Speaker of the House Bob Blair, who are seated on this platform, and your very distinguished Party officials, State Chairman Don Adams and National Committeeman Cliff Carlson.

It's really great when we have all of these Republicans—officeholders in government and officeholders in the Party present—pulling together as they are here in Illinois.

Your warm reception makes me realize an immutable fact.

The distance between the District of Columbia and the State of Illinois is not great, especially by today's standards; but the distance between current political opinion in Washington and current political opinion in Kane County is indeed awesome.

I want to begin by thanking my Republican friends here for giving me this opportunity to relax for a little while outside the impact area of the big guns of the other Party.

You have some great Congressmen in this part of the country. In the 13th District you have Bob McClory. Irrespective of what he says about our tennis game, he's a pretty serious tennis player I want you to know that. He plays extremely well and he's cagey, just as he's cagey in the House when he looks out for the interest of the 13th District. He's a great Congressman; he's doing a wonderful job for you there and I'm really privileged to have this chance to share the platform with him tonight.

I don't know whether George O'Brien, your new Congressman from the 17th District has arrived yet. He said he was going to try to be here. There he is. But here's a new Member of the House, who Les tells me is already making a very profound impression on his colleagues. He is very diligently representing his District and looking out for the interests of the United States and it's great to have you there George in the House.

It is heartening to be back in Illinois, the State that has meant so much and continues to mean so much to the Republican Party. I'm looking forward to returning to Chicago on October 4th to help with the United Republican fund drive as they celebrate their 39th anniversary of outstanding service to the Party. I was with them last year and I hope to be back this year.

But in your great State—I think it's important for us to realize that the roots of Republicanism go very deep—the First Republican President came to maturity here. He struggled for recognition, and he achieved the highest office the American people can bestow. He endured unprecedented vilification during his lifetime. All you have to do is look at some of the old wood cuts of what was said about him when he was alive. But he left a unique mark of simple decency and integrity on the pages of American history.

Other great Illinois Republican leaders have carried on the Lincoln tradition. Many of us here tonight were privileged to know personally the great contemporary leader of the Senate, Everett McKinley Dirksen. I'll always treasure the honor that was given me in that I was sworn into my first term as Vice President by Senator Dirksen. His eloquence and his civility often gentled the harsh partisan encounters in the Upper Chamber.

But the past must not obliterate the importance of the present. For tonight gives me a singular opportunity to recognize and to applaud a man who has been devoted in his career, unselfishly devoted to the service of others. He has preferred that the spotlight fall on his Party rather than on himself. This man has worked quietly and effectively in the Congress for 38 years, serving his country, his State and his District with total commitment to principle above politics. He has earned the respect of his colleagues for his courage and his dependability and his fairness.

No man in the Congress enjoys a higher degree of his President's confidence than does the man we honor tonight.

Personally, I would put it this way: The man consistently—it seems almost instinctively—does the right thing. Ladies and gentlemen, there is no person in this country with whom I would rather share this platform than your distinguished 20-term Congressman, the senior Republican Member of the House of Representatives, Les Arends.

I deem it a special privilege to join you tonight in honoring Les, for his record of service is a tribute to the spirit and the ideals that form the bedrock of the Party in which we take great pride.

Some of you here tonight are just beginning to really know Les because redistricting has made you a direct constituent for the first time. As you get to know him better, I am sure that you will come to respect him and depend on him as much as those who have known him over the years.

One who has known and depended on him over the years is President Nixon, who sees him as an experienced and able legislator, a man who understands American values, and a staunch friend. I am proud to associate myself with the President's evaluation of Les Arends.

While I am on the subject of Presidential evaluations, I might mention that President Nixon's judgments of the Nation's needs have received little attention in recent months because of the almost total focus on what has come to be known as "The Watergate Affair."

Now, most Americans will agree that those who are convicted of the break-in or the cover-up should be punished; but we must remember that adjudications are necessary before accusations can be made to stick. Accusations are not adjudications. It is very easy to go around accusing people of anything. Sometimes the motives of the accusers should be closely examined before any dignity is put in what they are saying. Moreover, the morbid preoccupation with Watergate threatens the ability of a government to concentrate on the problems that it has been elected to solve. And, therefore, what it really amounts to is an indirect obstruction of the will of the people.

Our opponents will argue that the strength of our free system lies in our willingness to wash our dirty linen in public; and, to some extent, they are right. But even a strong garment cannot be put through the washing machine over and over without wearing it out, and I happen to think that the Watergate jeans—and I know how popular it is for young people to wash the blue out of their jeans, but they still have a little left—are losing their blue and, moreover, they're beginning to fall apart.

We all know that Presidents must take some heat. It is reported that Lyndon Johnson told Richard Nixon just before President Nixon was inaugurated that sometimes "The Presidency is like being a jackass caught in a hailstorm. You've got to just stand there and take it." President Johnson said to President Nixon, referring to Vietnam at that time, "That's what I'm doing now." And we all have to admit that he was doing a good bit of it at that time.

Well, President Nixon has been standing there and taking it ever since Senator Ervin has been doing his rain dance in that Washington committee room. The good Senator wanted a warm summer rain that he hoped would make Democrats grow, but it seems to me that if public opinion continues to cool that rain, Senator Ervin might find himself caught in the same kind of hailstorm that President Johnson mentioned. In any event, there's a time for standing there and taking it until its over and then there's a time for picking up your head and getting going and that is what President Nixon is going to do right now.

Watergate is not only a preoccupation in Washington, it has become something of a parlor game. The city is currently populated with experts on the characters of John Dean and Gordon Liddy, men who know all there is to know about executive privilege, and devotees who can tell you who contradicted whom before what committee on the second Tuesday in July.

But try to find one of these Watergate experts who knows or cares much about the energy crisis, inflation or the problems of the American farmer. Those are currently non-Washington issues and therefore not really worth their serious attention.

If you think I'm exaggerating, ask Les Arends, who has been trying to bring up these matters for serious discussions in the Congress. Or consider the problems the President has had in trying to draw attention to the programs we were elected to implement.

We were elected with your help to deal with the problems confronting American society, and we would be negligent if we bowed to those who would divert us from this task. And I can promise you here tonight that the President isn't going to let that happen.

I suspect that by 1974 the American people are going to be asking not who yelled loudest about Watergate, but who was out there looking for answers to our economic problems and working for world peace. The American people are fair-minded and considerably more intelligent than some of our opponents seem to think.

That is why they aren't about to blame our Party for the misguided actions of a few zealots. And that's why the American people are going to demand performance from men who seek their support.

The Republican Party is healthy. We've been winning elections all summer—and in every part of the country.

We've won mayoral races in Georgia, Mississippi and Michigan, five straight assembly races in California, and a special Congressional election in Maryland just last month.

And before the year is out, we can expect to elect Republican governors in both Virginia and New Jersey, because the American people are looking for outstanding candidates who intend to get on with the business of government and stop playing politics every single day of the week.

The preoccupation with anything and everything related to Watergate is the most obvious, but not necessarily the most insidious by-product of the affair. Far more dangerous, in my opinion, is the persecutorial atmosphere hanging over the American political system.

Some people have always been a little disdainful of those of us who choose to be politically active, but never to the extent evident today. Recent polls indicate that millions of Americans have been "turned off" by this whole episode and party identification is falling precipitously.

That is perhaps the most tragic by-product of Watergate, for our Republic depends on a strong two-party system able to attract men and women of stature to public service.

Today, however, the motives of those of us involved in politics at all levels are being called into question.

Many assume that we are out simply for ourselves, with no thought of the public interest.

Practices and procedures that were acceptable two months ago are being condemned today as being purely political.

A President of the United States is criticized for trying to appoint men who agree with him to policy-making positions in the Government he was twice elected to lead.

Political appointments are condemned as patronage when in fact they provide the only way of getting control of an entrenched and reluctant bureaucracy that is unwilling to adjust to the will of the people. We are, in short, attacked for trying to carry out the programs that won such overwhelming support just a few short months ago.

Ladies and gentlemen, in a democratic system, elected leaders must have an opportunity to serve the people who elect them. They must be allowed to influence policy. If they are denied this ability, then the system becomes a shell and elections will be meaningless because the elected officials will be unable to implement their campaign platforms.

Now, during the first Nixon Administration the President set out successfully with the help of our friends in the Congress to do something about it. And he did do something about it because General Revenue Sharing was passed by the Congress. General Revenue Sharing was the linchpin that allows local and State governments to have the flexibility of decision-making that is absolutely essential if control is to be removed from a handful of people in Washington and placed with the leaders who are close to the people they represent.

But the job isn't over. We still have on the books waiting action of the Congress the Special Revenue Sharing program which might more appropriately, in some cases, be referred to as block grants. This again will allow your county officials and State officials the right to make the decisions based on their particular knowledge of your needs as to how Federal assistance dollars are to be spent, not based on the dictates of some strong and powerful lobby in Washington that has inserted itself in positions of power with the middle-level bureaucracy. We need control to be with the people, we don't need designees of career people in Washington who live in Illinois circumventing, obfuscating and completely destroying the will of the people as they wish to express it through the people they just elected. The Nixon Administration is dedicated to that concept.

Now, let me say again tonight, I do not want to leave a misimpression. I do not try, as I stand here, to minimize the lessons of Watergate. There were real and tragic abuses. But the abuses resulting from the current climate are much more subtle and much more tragic in proportions.

But we have reached the watershed of Watergate.

In spite of that, it is obvious that some of this country are going to continue to attempt to milk this issue dry. Those embittered critics of this Administration and this Party who could not discredit us at the polls in November will make every effort—no matter how reckless—to discredit us now.

But I wonder if they've ever stopped to consider how hollow a victory theirs will be if the Presidency and our two-party system are crippled in the process.

There are still battles to be won, and I can promise you that with your continued support they will be won. I am referring, among other things, to the continuing struggle against inflation, the struggle for peace and the fight to reduce the size of Government and to make it more responsive to the people for whom it exists.

I am convinced that those Americans who gave us our mandate last November want us to continue with those aims. And I can promise you tonight that they aren't going to be disappointed.

Let me digress from my text for just a moment to take on an issue that is difficult for the Administration at this time. I am speaking about inflation. We all know that the rate of inflation is too high. We all know that interest rates at the present time are too high. But these are two statistics that opponents can pluck out of our economic montage at the moment and disregard the others. In spite of the rate of inflation consider this, and this is statistically accurate. Consider that earnings, individual earnings, are increasing at the rate of five percent per annum, that is real earnings after inflation and after taxes. So you see that while the rate of inflation—particularly with regard to food is very bad—earnings are still increasing more than inflation is. In short, we do not have a recession; we do not have a depression. We have one facet of our economy that needs attention and as bad as our inflation is it can't hold a candle to inflation in some foreign countries—in most foreign countries.

And as bad as our interest rates are they can't hold a candle to interest rates in Great Britain. Interest rates in Great Britain today are 11¾ percent. Now you can see that it's very easy to sit back and sharpshoot about the matters that still need correction in our economy, but we as Republicans must do is to point out that these temporary dislocations are a small price for us to pay when we consider that for the first time since the Eisenhower years we have peace and prosperity coexisting. We have no war.

I want to remind you that when President Nixon took office, or shortly before President Nixon took office, America was losing 300 young men a week on the battlefields of Vietnam. Today there are no Americans being killed on foreign shores.

And I also want to remind you that when President Nixon took office there were 25,000 young Americans being drafted every month. Today no young Americans are being forcibly compelled to enter the Armed Forces.

Now, we've got to stand up under these attacks. We have to get fighting for the progress that has been made and to make sure it's not buried under a whole load of political propaganda from the other side. Because the plain truth is, my Republican friends, that this Administration under the leadership of Richard Nixon has made more gains in four solid years—four and a half years—of activity then nearly any Administration in our memories—those of us who live today. This Administration has brought us to a point where peace is on the horizon. We are no longer engaged in a cold war with the Soviet Union. We have opened new initiatives with the Peoples' Republic of China. Our balance of trade and our balance of payments are improving because we are looking at coexistence within the world in a sense that will allow us to utilize the trade potentials, to diminish tensions, and to help our people achieve a better way of life at the same time we help others.

Now what about these attacks? I realize that some of you may be somewhat discouraged because of the unrelenting attacks. These are difficult times for all of us, but if our adversaries think that we Republicans are going to simply lie down and let them roll over us, they don't know very much about Republicans.

Republicans have never been quitters. We have worked tirelessly against great registration odds for many years to build a strong and effective organization. That work resulted last year in the reelection of a Republican Administration by one of the biggest majorities in American history.

These who would reverse our electoral victories will not succeed. Our Party's framework—framework of values and ideals and accomplishments—is strong enough to weather partisan assaults, and broad enough to include all Americans who want to build upon—not destroy—the progress our country has made at home and abroad during the past four and a half years.

We are going to continue to build upon that progress, ladies and gentlemen; and we will do so by continuing to work tirelessly and enthusiastically toward that day when the Republican Party is once again America's majority party.

I began my remarks tonight by articulating a simple but sincere sentiment. Let me conclude with another, one that I know is shared by Les Arends and by everyone here tonight.

It is simply this, and I think I said it not too long ago in a speech in this very section of the country. I've never been more proud of my Party. I am as proud of my Party today as I was on the first day I registered Republican. I know that the reason that you are here tonight is that you have that kind of feeling about the Republican Party and certainly there could be no better place to have that feeling begin a resurgence, and begin a burgeoning that will carry it to that majority status I spoke of. Let's get out there now and get the job done.

## PARAPLEGICS' PLIGHT

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## HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HOSMER. Mr. Speaker, I am sure every Member of this body has institutions located within his congressional district in which he can take great pride. I was most pleased to note that the Long Beach Independent and Press-Telegram in its Sunday magazine entitled "Southland Sunday" saw fit to present a fine article concerning the work of our veterans hospital and that hospital's spinal cord injury section. This article featured an interview with the unit's director, Dr. Ibrahim El-Toraei, who came from Cairo, Egypt, taught in many European universities, speaks seven languages fluently, and is an international authority on spinal cord injuries. Long Beach is an internationally known facility and its spinal cord injury unit is the world's largest, most advanced, and most respected today. I am very pleased to commend this excellent article to the Members of this House. I am sure it clearly demonstrates why I have such great pride in this fine medical facility.

The article follows:

### THE PRIVATE STRUGGLE OF THE PARAPLEGIC

(By Robert Benn)

"I've been a POW for 18 years. I've been a prisoner of this body for that long," said Jim Collins, 43, of the Spinal Cord Injury Section of the Long Beach Veterans Administration Hospital.

Jim Collins was injured during the Korean War. The nonbattle injury (he was hurt in a fight) paralyzed him from the waist down and he has been in and out of spinal cord injury sections of V.A. hospitals—almost always the Long Beach branch—for two decades.

Collins is inter-ward chairman of the Spinal Cord Injury Section, a position he was named to by the executive committee of the ward council.

Recently Collins was passing blood clots. Although he was pale, he didn't look really ill. He was lucid, articulate, confident, frank, his speech driven by an ineffable vitality.

"This injury is probably the most severe to take in the world," he said, "because your brain and your mind are really not affected. It's not fatal. You can live as long as anyone else. With the right care. It's just that a certain portion of your body is paralyzed. The challenge is living with that fact. Living with a wheelchair. And living with constant medical supervision for the rest of your life.

"If there's one thing I've learned in these 18 years," said Collins, "it's that the emotional problems are just as important as the medical ones for a paralyzed vet. Now they've got psychologists and social workers here to work with the newly injured. There's a team assigned to each ward. And, boy, have they got some job cut out for them. You've got to accept your paralysis. This isn't as easy as it sounds. It's the steepest hill a man can climb. But little by little, most of them make it. Despite all the professional help in the country, in the end, it's only the paralyzed vet himself who can do it."

"I've got nothing to hide," added Collins. "I've had more emotional problems in my time than most of them. I got messed up with drugs once. You know we have a high suicide rate. And we have a big problem with alcohol and narcotics. I think I've beaten that rap. I work with the younger paralyzed vets. I know what a packet of heroin i . I can tell 'em straight. I've been there and so they listen. I conduct classes in drug abuse and alcoholism. When I can't get down to the meeting room in the basement, the class comes right up here on the ward. We have the class around my bed."

Jim Collins is one of many paralyzed vets who struggle each day to overcome the monumental physical limitations of their paralysis. The object of this personal battle is to return to the community as a productive citizen. The fight is to attain human dignity in a wheelchair. These paralyzed veterans may not be patriotic heroes like the POWS or Sergeant York, but their daily courage, determination and immense individual struggle to conquer one of the most severe human disabilities demands acclaim. This is a heroism which begins after combat and continues for the rest of the veteran's life.

The V.A. Hospital in Long Beach, across from Long Beach State University, with a 1,600-bed capacity and spread out on 102 acres, is the largest V.A. hospital in the United States. On June 1, 1950, the V.A. took over the Navy Hospital on this site. Several years later, the first V.A. Spinal Cord Injury Section, started in 1946 at Birmingham Army Hospital, Van Nuys, was moved to the Long Beach location. The section was expanded into today's 205-bed facility with 401 employes, 21 professional and administrative people—with a two to one staff-to-patient ratio—an internationally renowned facility. The Spinal Cord Injury Section at the Long Beach hospital is the world's largest, most advanced and respected today. Only Stokes-Manderville Hospital near London, with a 180-bed spinal cord injury section, can currently compare in extent and competence of services, facilities, technology and medical knowledge, with the SCI Section here.

In March 1973, Dr. Ibrahim El-Toraei, became acting chief of the SCI Section at the Long Beach Hospital. Dr. El-Toraei was professor of surgery at Cairo Medical School, has taught in many European universities, speaks seven languages fluently and has served as chief of the SCI section in the East Orange, N.J., V.A. Hospital. That the intricacies of fate and international politics allowed Dr. El-Toraei to arrive in Long Beach, rather than Moscow, is a blessing for the paralyzed veterans of the SCI section.

"The V.A. is a compassionate service," said Dr. El-Toraei, a polite, soft-spoken and personable physician. "Funds are always available when needed. The V.A. pioneered spinal cord injury research in this country. I have never known them to be obstructive."

Dr. El-Toraei discussed the most common nonfatal and fatal complications of spinal cord injuries. Skin-care problems, genitourinary difficulties, bladder infection, kidney failure, erratic blood pressure were discussed in clinical detail. Spinal cord injury victims do have pain, even though their cords are completely transected. There are sexual limitations of paralysis, of course, but Dr. El-Toraei said, there is a quadriplegic, paralyzed from the neck down and currently on one of the wards, who has fathered two children. The acting chief of the Spinal Cord Injury Section said a paralyzed patient can live a normal and successful life in the community, although the spinal cord injured must have continual and regular medical supervision for the rest of his life, and he must make a trying emotional acceptance of his paralysis.

"There are three basic stages of emotional readjustment that I have noticed," said Dr. El-Toraei. "The first stage is denial. The paralyzed patient denies his injury and denies its permanency. He may have some grounds for this belief although seldom is there 'spontaneous recovery' as in stroke patients. In the second stage, he accepts the final permanency of his paralysis. He is bitter and full of self-pity. This is the critical stage. We must work especially hard to lift him out of this condition. Psychiatrists, psychologists, social workers and chaplains are all mustered to help the patient at this point.

"The final stage," said Dr. El-Toraei, "is the adjustment stage. He now accepts his disability for what it is. Active rehabilitation can then begin. We start with retraining him in the basic skills necessary for daily living: dressing himself, cooking and driving a car. His paralyzed muscles are re-educated. His hand-eye coordinations are redeveloped. Vocational and educational counseling prepare him to re-enter the community. If the patient and our staff make a maximum effort, the paralyzed vetern goes out into the community with a vocation and self-esteem. This happens every day here. But each time it happens, it is always an awesome, wonderful and inspiring experience for me. I shall never get used to it."

Charles Robert Munns, 38, was a dentist in Anchorage, Alaska, until Christmas 1972, when, while a civilian, an auto accident rendered him a quadriplegic overnight. A quadriplegic is paralyzed from the neck down. Dr. Munns is one of the most recent spinal cord injury victims at the Long Beach hospital. He is a handsome man with delicate features, and he spoke in a quiet, controlled, clear voice.

"It's hell. Every single day since my accident has been hell," said Charles Munns. "I think it is the cruelest thing that could happen to a man. I have a high injury, between the six and seventh cervical vertebrae. I am paralyzed from the mid-chest down. I don't know if I've accepted what's happened to me. I don't know if I ever will? I keep asking myself: 'Why me?' "

"I do think this is the right place to be in my condition," he said. "I feel good about the staff here. I'm convinced that they are a very dedicated team. The therapy programs seem very advanced. I spend all day down in the basement. Physical, correctional, occupational therapy. By 4 in the afternoon I'm pretty pooped out. But I can feel myself getting stronger. Getting better."

"I expect to leave in October or December. Exactly what I'll do is still a bit too far in the future for me right now. I would like to put my professional background to work. Maybe get into some kind of Public Health dentistry. Or dental administration. A national health insurance program could open up a lot of possibilities for me."

"Do you have any severe pain?" I asked.

"No," said Dr. Munns. "I have no real pain. The pain is being stuck in this bed. Being stuck within myself. The pain is in living each new day. But they tell me to take it step by step. Day by day. I do see some improvement. Maybe it will work out."

Wallace Oliphant, 49, who was injured in a shooting accident, has been a paraplegic for 17 years. He has the great broad shoulders of an Olympic weighlifter and the meaty arms of a blacksmith. Like many other paraplegics, he has built up his upper body over the years and has developed the arm, chest and back strength to transfer himself easily from wheelchair to car to bed, to wherever he must go. Since his injury, Wallace Oliphant has spent most of his time gainfully employed in the community.

"I checked in here on Feb. 26 of this year," said Oliphant. "I've got a pin-hole leak in my lower urethra. It wouldn't take any pressure. I'm getting that patched up now. I'm a self-care patient. I get in and out of bed when I want. My car is parked out in the lot. I was working at Community Industrial Rehabilitation on Anaheim Street when this happened. I had an apartment near there. I could get a Class-A pass (permission to leave hospital evenings and weekends) if I wanted it. But I'm not quite ready for it yet."

"I was treated at the V.A. Hospital in Richmond, Va., when I was first injured. It was tough right after the accident. The sexual thing really hit me hard. Back then, they didn't give us that long to live. Today we can live as long as anybody. Longer! I remember I was a bit of a devil back then. But I got over the bitterness. I got divorced. And then I came back. Slowly. Built up my arms. Learned to shave, shower, to dress myself . . . then I got out for the first time. I ran this little grocery store for a friend of mine. I found out how great it was to be out. There was plenty to live for. Then I took a job working with mentally retarded kids in North Carolina. That was great work. Somehow I could really get close to the kids. Maybe it was because I was in a wheelchair? The kids really trusted me.

"I've got a daughter back East. Never really had much a chance to bring her up. Now she wants to come out here to Long Beach and live with me. Take care of her pop in his old age. Hah! Before this happened I was gonna get a nice two-bedroom apartment and send for her. I'll need to get back with Industrial Rehabilition again or something else. My pension ain't much since I'm non-service-connected. I can't wait to get out. A guy was telling me to apply for ATD (Aid to the Totally Disabled.) Hell! I ain't totally disabled! I got plenty of work left in these hands."

Wayne Capson, 52, a paraplegic for 22 years after a Korean War combat injury, was visiting the SCI Section. He had been an in-patient at Long Beach in 1952. Capson is past president of the Paralyzed Veterans of America, the largest and most politically viable organization of its kind in the nation. He was recently re-elected to its executive council. He has traveled over 100,000 miles with one airline alone, to Sacramento, Washington, D.C., and throughout the country, lobbying for the general benefit and the removal of architectural barriers for wheelchair citizens. His wife is a quadriplegic and they often travel together.

"Many of my friends are not disabled," said Capson, who looks like an upper-echelon executive for a large American corporation, "and they think of me as just another buddy. They're always getting me to run off somewhere with them. They forget the steps and curbs which slow a guy in a wheelchair down. But we get there, in the end.

"Steps and curbs and getting on airplanes or buses are no jokes for a disabled person, much less a paralyzed veteran. Much of our political fight over the years has been directed at just these architectural barriers. We've had quite a bit of success of late, too, especially in new federal buildings. But in all fairness to the public, the percentage of Americans in wheelchairs is not that large. But if you take a minute and add up all the people with canes, crutches and women in late pregnancy—you have a sizable chunk of the population. There is a larger group of senior citizens in our country today than any time in our history. The demand for more elevators and less rows of 15 flights of stairs will increase as the years go by. With a bit of architectural forethought, disabled Americans can use public buildings and public transportation just like anybody else.

"When I first entered the V.A. Hospital here over 20 years ago, yes, it was a bit different. The SCI Section was smaller. They had fewer advanced prosthetic devices, fewer programs of rehabilitation than they do now. I remember that penicillin was a great boost to our boys. Bladder and lung infections were rough then. Penicillin knocked these out. I was 19 then. When I got here, I had pretty well licked the self-pity. But then again, the spinal cord program has really not changed that much since I was a patient. There was the same basic philosophy: become more and more self-sufficient and prepare to enter the community again. That certain kind of guts never changes. That's what rehabilitation always boils down to anyway.

"I remember the first trip out of the hospital. Some friends invited me out for a beer. I soon learned that it was not so easy to get in and out of a car. But I made it. Later I got my own hand-controlled car. All they had was stick shifts then. So you can imagine the kind of system they had to devise to shift a car with hand controls. Today dozens of companies manufacture hand-controlled cars.

"In the long run, I think all paralyzed vets will stick together. They've got to. As you can see, the V.A. has done a lot for me. If there's any possible way we can help a younger vet to make it, we're going to try it. Ninety-five per cent of these guys can make it. It may take a little time. But I've seen it work a thousand times. There's a basic human dignity which prevails if you push hard enough and long enough. No disability can hold it down."

The traumatic disabilities of the paralyzed veterans in the Spinal Cord Injury Section of the Long Beach V.A. Hospital is no light subject. The personal struggle which occurs there each day is very real and very painful. The Veterans' Administration has taken the responsibility for the future of these paralyzed ex-servicemen, whether they were injured in combat or in civilian life.

But the final and complete struggle is won by the paralyzed veterans themselves. It is won alone in the last analysis. "Adjustment" and "rehabilitation" are high-sounding but hollow words without individual effort, courage and persistence. There is a coherent sense of self-identity and self-esteem which can only be demonstrated by the paraplegic himself. And the man who is retrained and leaves the Spinal Cord Injury Section certainly displays a valor which no man can say is unheroic.

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## REGIONALISM: THE QUIET REVOLUTION

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. RARICK. Mr. Speaker, as I have often said, to understand the enemies of individual freedom our people must first be able to identify them. Once unmasked and exposed, rhetoric and fancy promises will no longer shield the one worlders from those people who love America and our constitutional system of limited government.

Revolutionaries in government have created economic chaos, shortages in food and fuel, confiscatory taxation, a crisis in education, and other diversions to condition Americans for dictatorship.

The technique is as old as politics itself.

The first step is to create the problem. The second step is to generate opposition to the problem—fear, panic, hysteria. The third step is to offer the solution to the problem—change which would have been impossible to impose on the people without the proper psychological conditioning achieved by stages one and two.

The objective of the current economic,

social, and political convulsion is the establishment of regional governance throughout the land. "Regionalism" seeks to dissolve county governments, transfer State powers to a central authority in Washington, administer the affairs of U.S. citizens through a network of Federal regions and State subdivisions, seize control of the land and production facilities, change the form of government, and reduce Americans to the status of economic serfs on the land which once was theirs.

Successful challenge of the one worlders who would overturn the Constitution and erect a dictatorship of the financial elite upon the ruins of the Republic must be inspired by an informed electorate directing their energy and force upon the centers of political decision.

Four definitive articles on the proven threat from regional governance are included in recent bulletins published by the Committee To Restore the Constitution. They are:

First. "Regionalism: The Quiet Revolution,"

Second. "Seven Fatal Steps to Dictatorship,"

Third. "1313 and the Council on Foreign Relations,"

Fourth. "The Regional Governance Conspiracy."

I include the text of the first two articles in my remarks:

### REGIONALISM: THE QUIET REVOLUTION

(By Archibald E. Roberts)

Transformation of the United States Republic to a dictatorship of the "financial elite," the New World Order fashioned for Americans by the Council on Foreign Relations, reached political reality in 1972 under the administration of President Richard M. Nixon.

Although given little publicity, the White House, on March 27, 1969, pronounced that the United States had been divided into ten Metro regions. In so doing, President Nixon and his controllers set in motion a series of pre-planned events which would, by February 12, 1972, place virtually every facet of the lives of U.S. citizens under the domination of socialist planners.

Flouting the prohibitions of Article IV, United States Constitution, Mr. Nixon, in his statement of 1969, "Restructuring of Government Service Systems," purported to "streamline" the Department of Labor, the Department of Health, Education and Welfare, the Department of Housing and Urban Development, the Office of Economic Opportunity, and the Small Business Administration by establishing "uniform boundaries and regional office locations."

Significantly, regional boundaries and the boundaries of major United Nations programs, and Federal Reserve System areas, in the United States were made co-terminus.

Few realized then, or comprehend now, that regional governance is a new form of government which has been covertly engineered to replace the city, county, state, and school district system. Boundary lines of these familiar political subdivisions are to be dropped and a new set of geo-political lines followed.

Under regional government there are now ten U.S. provinces, or regions. Each province has a designated "capitol" to handle all matters within that particular province. Offices of HUD, OEO, SBA, and Labor were moved into the new capitols of each province, with more agencies added later. The objective is to establish the mechanics for controlling the lives and ambitions of the people from a central authority in Washington, and to direct their efforts into channels ordered by a Bureaucratic Civil Service.

An examination of the type of government proposed under regional government shows that it is a government by appointed rather than elected officials. Under regional government disfranchised U.S. citizens are to be held in bondage, in perpetuity, as producers and servers for a self-appointed Oligarchy.

The ten new political subdivisions to which the fifty States have been allocated by this unconstitutional decree are:

Region I—Capitol: Boston—

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II—Capitol: New York City—

New York, New Jersey, Puerto Rico, Virgin Islands.

Region III—Capitol: Philadelphia—

Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV—Capitol: Atlanta—

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V—Capitol: Chicago—

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI—Capitol: Dallas-Fort Worth—

Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII—Capitol: Kansas City—

Iowa, Kansas, Missouri, Nebraska.

Region VIII—Capitol: Denver—

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX—Capitol: San Francisco—

Arizona, California, Hawaii, Nevada.

Region X—Capitol: Seattle—

Alaska, Oregon, Washington, Idaho.

One of the early federal money bills designed to finance Metro governance in the nation was H.R. 2519, introduced January, 1969. This bill was to provide bloc grants if regional "modernization" conditions were met by the States.

To qualify for the promised grants the States were required to enact legislation enabling, or mandating in some instances, the collectivizing of counties into sub-regions which would fit neatly into the federal ten-region governance formed by Presidential proclamation.

Following the White House pronouncement of March 27, 1969, the same measure was renumbered H.R. 11764 and reintroduced on May 28. Sections were added to give control over twenty-two and a half billion tax dollars for Metro funding to one man, President Nixon.

On February 12, 1972, Mr. Nixon dropped the other shoe.

By Executive Order 11647, Federal Regional Councils (Federal Register No. 30), the President authorized staffing of the ten regional capitols, and effected appointment of a chairman, or commissar for each province.

"Three years ago," said Mr. Nixon in his order, "I directed the senior regional officials of certain of the grant-making agencies to convene themselves in regional councils to better coordinate their services to Governors, Mayors, and the Public.

"Now, therefore, by virtue of the authority vested in me as President of the United States it is hereby ordered as follows:

"Section 1, Federal Regional Councils. (a) There is hereby established a Federal Regional Council for each of the ten standard Federal regions. Each Council shall be composed of the directors of the regional offices of the Department of Labor, Health, Education, and Welfare, and Housing and Urban Development, the Secretarial Representative of the Department of Transportation, and the directors of the regional offices of the Office of Economic Opportunity, the Environmental Protection Agency, and the Law Enforcement Assistance Administration. The President shall designate one member of each such Council as Chairman of that Council and such Chairman shall serve at the pleasure of the President. Representatives of the Office of Management and Budget may participate in any deliberations of each Council."

It is intended, of course, that regional council members will assume all real authority over State governments and the people they represent. The people and the States will be reduced to political impotency.

The image of a police state becomes chillingly real under the provisions of Executive Order 11490, "Assigning Emergency Preparedness Function to Federal Departments" (Federal Register, October 30, 1969). By this order regional council members, under color of law, can control all food supply, money and credit, transportation, communications, public utilities and other facets of the lives of every citizen.

Seizure of private property via the ploy of reassessment under United Nations tax guidelines; homes, businesses and farms, is a concurrent objective of the madmen who now direct national policy.

Robert C. Weaver, former Chief, Department of Housing and Urban Development, said of Metro governance:

"Regional government means absolute Federal control over all property and its development regardless of location, anywhere in the United States, to be administered on the Federal official's determination. It (regional government would supersede state and local laws . . . Through this authority we seek to recapture control of the use of land, most of which the government has already given to the people."

World government planners hope to achieve federalization of all land, resources and production facilities under regional government authority without serious public challenge. Self-rule and self-determination are to be phased out of the society, the Constitution overthrown, and the citizen made an economic serf in the country that once was his.

President Nixon, in his plea for cooperation in "revenue sharing" (another technique for financing Metro governance) admitted that we are experiencing a "New American Revolution." Proof that the "New American Revolution" is an actual revolution is borne out by evidence from "Hearings Before the Subcommittee on Urban Affairs of the Joint Economic Committee," United States Congress, May 19–26, 1971:

"Regionalism: The Quiet Revolution.

"Local government is changing itself in an effort to better meet the needs of the people. Across the nation, cities, counties, towns, and school districts that serve a common area are joining together in a regional effort to solve mutual problems. In a quiet way, regionalism is a revolution in the structure of our Federal system."

The impact of Metro governance on the freedoms of person and property formerly guaranteed to the people by the Constitution is obvious.

Interlocking subversion in government departments can, however, be successfully challenged by an informed electorate motivated to act within the authority of the U.S. Constitution.

The law involved is the fundamental law of agency: Actions of an agent are not binding on the principal if those actions are not authorized by the principal. Constitutionally, States are Principals and federal departments are Agents of the State.

To escape the "New World Order" being prepared for us by the Council on Foreign Relations and the aristocracy of finance Americans must demand that their State lawmakers investigate the illegal actions of federal agents who attempt to abridge the U.S. Constitution in violation of their oath of office.

### Seven Fatal Steps to Dictatorship

Accurately predicting imminent dissolution of the Republic a spokesman for the Committee to Restore the Constitution asserted, on 6 March, 1969, that America would be taken over by an international cartel "within two years."

"Nixon will be the one to lead us into total world government," said Archibald E. Roberts, director of the national organization. ("Roberts Says U.S. Within Two Years of 'Take-Over'," Casper, Wyoming Star Tribune, Friday, March 7, 1969.)

Exactly three weeks later, on 27 March, 1969, President Richard M. Nixon announced that he had divided the United States into eight (subsequently ten) Federal Regions. The President, by his act, set in motion a series of events which, unless reversed, will dissolve sovereign state governments, disfranchise the electorate, and merge the American pioneer spirit in an amorphous "world citizenship."

In the intervening years, by stealth and subterfuge, the American people have been moved into the orbit of a financial/industrial cabal who control their corporate world state through the United Nations, the U.S. Congress, and other front organizations.

The fatal steps which transformed the Republic into a dictatorship of the financial elite are set out in the following Congressional statutes, executive orders, and proclamations which trace a seditious conspiracy of interlocking subversion in government departments during the period 16 October, 1968 to 20 October, 1972. (Many important supplementary statutes and regulations have been omitted for reason of space.)

The "Dispossessed Majority" can, of course, eject the criminal cabal from their seats of power and restore the American society to health and vigor—providing that the genetic will to survive has not been bred out of our people during the past four-hundred years of nation-building on the North American continent.

The answer to that question will be revealed in the months immediately ahead.

#### FATAL STEP NUMBER ONE—16 OCTOBER, 1968

Public Law 90-577, 90th Congress, S. 698. Intergovernmental Cooperation Act of 1968.

"To achieve the fullest cooperation and coordination of activities among the levels of government . . . to establish coordinated intergovernmental policy and administration . . . to provide for the acquisition, use, and disposition of land within urban areas by Federal agencies.

Public Law 90-577 destroyed the separation of powers which is the principle of the U.S. Constitution. By its Title IV the U.S. Congress purported to yield legislative power to the President. He, in turn, allegedly transferred that law-making power to his appointed directors in the grant-making agencies of the Federal Regions per section 403 of the bill. Out of that arrangement has grown the A-95 regional clearing house review system, designed by the Office of Management and Budget. The resulting Federal Region-Sub State control system straps regional governance (control by regulation) as a way of life over all America.

#### FATAL STEP NUMBER TWO—27 MARCH, 1969

Statement by the President on restructuring of Government Service Systems, The White House.

Quoting the Reorganization Act, signed the same day, as his authority President Nixon divided the United States into eight (later ten) Federal Regions or provinces, each with a new provincial capitol. Coordination and control of the ten Federal Regions would be administered from Washington. Formation of such "super states" is, of course, a violation of paragraph 1, section 3, Article IV, United States Constitution.

Objective: To transfer political power from the respective sovereign State governments to appointed Federal agencies, whose controllers are the directors of the corporate world state.

#### FATAL STEP NUMBER THREE—30 OCTOBER 1969

Executive Order No. 11490, "Assigning Emergency Preparedness Functions to Federal Departments and Agencies," The Federal Register.

E.O. 11490 consolidated executive orders of previous administrations into one omnibus directive, and provided for implementation of its powers "by an order or directive issued by the President in any national emergency type of situation."

E.O. 11490 authorizes the Office of Emergency Planning to put all controls into effect "in times of increased international tensions and economic or financial crisis." Takeover by government agencies includes: Communications media; All electrical power, gas, petroleum fuels, and minerals; Food resources and farms; All modes of transportation and control of highways, seaports, etc.; Health, education, and welfare functions; Airports and aircraft. Provision is also made for the mobilization of civilians into work brigades under government supervision; Directs the Postmaster General to operate a national registration of all persons; Permits the Housing and Finance Authority to relocate communities, and grants authority to the Department of Justice to enforce the plans set out in E.O. 11490, and to operate penal and correctional institutions.

#### FATAL STEP NUMBER FOUR—AUGUST 15, 1971

Executive Order No. 11615, "Providing for Stabilization of Prices, Rents, Wages, and Salaries," The Federal Register.

E.O. 11615 designated the Chairman, Board of Governors of the Federal Reserve System as the director of a Cost of Living Council, with authority to request the Department of Justice to bring actions for injunctions "whenever it appears to the Council that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order issued pursuant to this Order." (See EO 11490.)

The Chairman of the Federal Reserve Board thus became czar over prices, rents, wages, and salaries, in addition to his control over money, interest rates, and the stock market, granted under the provisions of the Federal Reserve Act of 1913.

#### FATAL STEP NUMBER FIVE—AUGUST 15, 1971

Proclamation No. 4074, "Imposition of Supplemental Duty for Balance of Payments Purposes," The President.

The principle objective of Proclamation 4074 was to "declare a national emergency" and so establish stand-by authority to implement any or all of the provisions of Executive Order No. 11490 at such time as the American people had been conditioned to accept dictatorship. The people are now being brainwashed to accept, in fact, demand, full government control over their lives and property.

#### FATAL STEP NUMBER SIX—12 FEBRUARY, 1972

Executive Order No. 11647, "Federal Regional Councils," The Federal Register.

E.O. No. 11647 ". . . established a Federal Regional Council for each of the ten standard Federal Regions" which Nixon effected by proclamation of 27 March, 1969. The Office of Management and Budget was designated the control agency.

By this order the ten provincial capitols were staffed by the directors of the grant-making agencies: Department of Labor, Health, Education and Welfare, and Housing and Urban Development, the Secretarial Representatives of the Department of Transportation, and the directors of the regional offices of the Office of Economic Opportunity, the Environmental Protection/Agency, and the Law Enforcement Assistance Administration.

The President subsequently appointed a commissar for each Federal Region.

#### FATAL STEP NUMBER SEVEN—20 OCTOBER 1972

Public Law 92-512, 92nd Congress, H.R. 14370; Federal-State revenue sharing.

"To . . . authorize Federal collection of State individual incomes taxes, and for other purposes."

The primary function of P. 92-512 is to provide that, "after January 1, 1974, if two or more States request it of the U.S. government, and at the option of the individual States, all State taxes may be collected and administered by the federal government." (The decision is irreversible.)

Under this Act state and county governments will, in time, wither for lack of tax funds, representative government will die (although the trappings of a republican form of government may be retained to fool the people), and dictatorial control over people and property will be imposed upon once free Americans. (See One through Six, above.)

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## BRAD MORSE ADVOCATES LONGER TERM PLANNING FOR WEST AFRICA

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. FRASER. Mr. Speaker, a continued international effort must be made to meet the disaster and development needs of West Africa. On August 1, 1973, F. Bradford Morse, Under Secretary General of U.N. Political and General Assembly Affairs, appeared on an American University broadcast program, "Overseas Mission." Mr. Morse discussed the drought in the Sahel against the background of the U.N. system. He related the response to the drought to the changing pattern of relationships within the international arena. Finally, he emphasized the need for improved development planning, research and financing to deal with the problem of scarce food resources.

Mr. Morse expressed the view that—

> In general, the most important problem facing the United Nations—and it isn't one that'll find its way as a specific item on the agenda of the General Assembly—is the question of the capacity of the people of the developed world, be it North American or European or Asian, to comprehend to be sensitive to, to be aware of and understand the rights and the interests and the problems and the priorities and the aspirations of the people of the developing world, and vice versa.

The U.N. has delegated to the Food and Agriculture Organization the primary responsibility for developing the long-term solutions as well as the immediate response to drought and famine in west Africa. Mr. Morse, however, underscored the efforts of the six affected countries to unit and cooperate among themselves. The six countries, in his words—

> Have organized a permanent interstate committee with the headquarters in Ouagadougou, which is the capital of Upper Volta,

> for the particular purpose of putting together an integrated approach from the standpoint of the countries which have been so adversely affected. And I think the African states here, four of which are among the least developed countries in the world, deserve great credit for this effort.

The gradual desertification of the Sahel has contributed in large part to the present crisis and may aggravate the overall development of the area. Mr. Morse indicated that the U.N. is in—

> The process of organizing a massive technological approach to it, which will involve reforestation; it will involve development of large-scale water management projects: it will involve the development of farm ranch agro-industries and the development of an infrastructure.

Studies have been conducted by the American Association for the Advancement of Science as well as research groups in Europe and India on the problems of arid and desert areas of the world. According to Morse, an effort is underway to computerize a series of approaches to desertification. Desertification is not unique to West Africa. Central America, India, parts of China, the southern tip of the Arabian Peninsula and part of Russia are suffering under similar conditions. What is learned from the Sahel situation will have application to these areas as well.

Rebuilding livestock herds is an essential part of medium term development plans for the Sahel area. The livestock population in the six countries affected was about 57 million. Up to 40 percent of these livestock have been lost. Climatological change, the development of pasture lands and the discovery of new water sources are also now being explored.

Full development of the area could take between 50 and 100 years. Undersecretary Morse believes that the major foreign assistance efforts will be "intellectual and technological inputs" rather than financial inputs.

Under Secretary Morse recognizes that major technological changes will involve changes in cultural patterns disruptive to traditional lifestyles.

He stated:

> Any effort, be it as a result of devastating disaster such as we're now facing or any other development effort, naturally has cultural implications which must be considered.

When asked about the effectiveness of multilateral and bilateral assistance to the area, Morse expressed deep satisfaction over the "extraordinary degree of cooperation among all potential donor sources." He went on to say—

> We've got all of the elements of the United Nations' system, including the specialized agencies, the health organizations, the UNESCO, education, which is going to be a real part of it, the Food and Agricultural Organization. We've got cooperation from the U.S. AID, which has been fantastic. The United States, by the way, has made a remarkable contribution in this emergency period having given over a hundred and fifty thousand metric tons of food in the last few months and provided cash for transport and other things . . .
>
> We have got the cooperation of the Development Assistance Committee of the OECD, of the FED, the Fund for Economic Development of the European Economic Committee, the French cooperating. It's really an extraordinary venture. The Chinese, the People's Republic of China, are providing food.

Ad hoc international assistance efforts for disaster relief is one thing the international system is getting good at. I hope that this capability will be extended to include the prevention of food crises that accompany natural and manmade disasters.

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## MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

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## HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. SMITH of New York. Mr. Speaker, it is my privilege to insert in the RECORD each month the monthly calendar of the Smithsonian Institution. The September Calendar of Events follows:

### SEPTEMBER AT THE SMITHSONIAN

TUESDAY, SEPTEMBER 4

*Lecture-concert*

*John Cage's Last 60th Birthday Party.* The final celebration in a year-long series of world-wide birthday parties celebrating the 60th year of John Cage—an innovative and controversial artist whose experimentation and invention has influenced contemporary dance, visual art, new music and mixed media events. Other observances were held in West Berlin, Bremen, London, Bonn, Basel, The Hague, Pamplona and New York City. 8 p.m. Baird Auditorium, Natural History Building. Sponsored by the Smithsonian Resident Associates Program. $4 members, $6 non-members. Call 381–5157, for information.

THURSDAY, SEPTEMBER 6

*Creative screen*

The Art and History of Filmmaking. Two films entitled *The First Flickers* (27 min.)—a nostalgic trip back into celluloid history; and *Film: The Art of the Impossible* (27 min.)—the role of the director in filmmaking, with scenes from films including *Birth of a Nation, Lawrence of Arabia,* and *Downhill Racer.* Complete showings at 11:15 a.m., 12:30 and 1:45 p.m. The Renwick Gallery.

SATURDAY, SEPTEMBER 8

*Museum lecture*

*U.S. Postage Stamp Design (1847–1973).* Speaker: Franklin R. Bruns, Jr., Associate Curator, Division of Postal History. 10:30 a.m., auditorium, National Museum of History and Technology.

*Indian legends*

A program of Indian stories, history and games, with Jenice Bigbee, a Comanche from Oklahoma. Designated for children, sponsored by the Smithsonian Resident Associate Program. $2 members, $3 non-members. Call 381–5157 for further information.

WEDNESDAY, SEPTEMBER 12

*Exhibition*

*Chinese Figure Painting.* Fifty-nine paintings, some never before exhibited, ranging from 10th century to 18th century. The paintings illustrate a variety of style and cover four subject categories: narrative and illustrative; Buddhist and Taoist; portraits; and *genre.* The exhibit is part of a year of special activities honoring the 50th anniversary of the Freer Gallery of Art. Through January 15 at the Freer Gallery.

*American Aviation Historical Society*

Monthly meeting and program. 8 p.m., National Air and Space Museum Conference Room. Public is invited.

SATURDAY, SEPTEMBER 15

*Exhibition*

*Africa: Three Out of Many—Ethiopia, Ghana and Nigeria.* Celebrating the sixth anniversary of the Anacostia Neighborhood Museum. Ritual and secular art and artifacts displayed in three bamboo structures, one for the objects of each country. Rare icons and religious manuscripts from Ethiopia, Ashanti stools from Ghana, and bronzes, musical instruments and ceremonial masks from Nigeria are among the artifacts to be displayed. An introduction to Africa and African art and a brief history of each country will also be included. Anacostia Neighborhood Museum, 2405 Martin Luther King Jr. Avenue, S.E., Through December 26.

*Museum lecture*

*The Evolution of American Warship Construction.* Speaker: Dr. Philip K. Lundeberg, Curator, Division of Naval History. 10.30 a.m., auditorium, National Museum of History and Technology.

TUESDAY, SEPTEMBER 18

*Lecture*

*Whilhelm Schickard, Scholar of the Early 17th Century.* Speaker: Dr. Uta Mertzbach, Curator, Section of Mathematics, 2:30 p.m., History and Technology Building auditorium.

WEDNESDAY, SEPTEMBER 19

*Lunchbox forum*

This program begins the fall season of monthly informal lectures relating to the air and space field. Persons attending are invited to bring their lunch. Room 449, Smithsonian Institution Building, 12 noon. Speaker will be announced.

*The ascent of man*

*Lower Than the Angels*—first in a series of thirteen films produced by BBC TV and Time-Life Films featuring Dr. Jacob Bronowski and his personal views of the history of man seen through a history of science. Sponsored by the Smithsonian's Free Film Theatre and the Office of Seminars. All films begin at 8 p.m., Baird Auditorium, Natural History Building. Remaining films are scheduled as follows: Sept. 26 *The Harvest of the Seasons;* Oct. 3 *The Grain in the Stone;* Oct. 10 *The Hidden Structure;* Oct. 17 *Music of the Spheres;* Oct. 24 *The Starry Messenger;* Oct. 31 *The Drive for Power;* Nov. 7 *The Ladder of Creation;* Nov. 14 *World Within World;* Nov. 28 *Knowledge or Certainty;* Dec. 5 *Generation upon Generation;* Dec. 12 *The Long Childhood.* Each film will be introduced by a member of the Smithsonian Institution staff. Dates tentative. Call Dial-a-Museum, 737–8811, for confirmation.

THURSDAY, SEPTEMBER 20

*Creative screen*

The Art and History of Filmmaking. *Film Firsts* (27 min.)—ideas, techniques and stories of the earliest films. *Film: The Art of the Impossible* (27 min.)—the director's role in filmmaking. Complete showings 11:15 a.m., 12:30 and 1:45 p.m. Renwick Gallery.

SATURDAY, SEPTEMBER 22

*Museum lecture*

*The Medical Practice of Cupping: Antiquity to the 20th Century.* Speaker: Doris J. Leckie, Research Assistant, Division of Medical Sciences, 10:30 a.m., auditorium, National Museum of History and Technology.

MONDAY, SEPTEMBER 24

*Audubon lecture*

*Florida's Cypress Sanctuary—Fishing Creek.* Barred owl, red-shouldered hawk, scrub jay, and blue bird, as well as the nesting of the rare caracara are shown in the cypress wilderness close to Lake Okeechobee, Florida. 5:30 and 8:30 p.m., Baird Auditorium, Natural History Building. Co-sponsored by the Audubon Naturalist Society and the Smithsonian Resident Associate Program. Tickets for individual programs: $1.50 members, $2.50 non-members; series (7 monthly programs through April): $7 members, $15 nonmembers. Children's discount also available. Call 381-5157 for further information.

*Exhibition*

*23rd National Exhibition of Prints.* A survey of the state of American printmaking today shown through 71 graphics selected from 463 entries. One print was submitted by each artist and selections were made by Victor Carlson, Curator of Prints and Drawings, Baltimore Museum of Art, and printmakers Misch Kohn and Peter Milton. Among the artists represented are Sam Gilliam, Wayne Thiebaud, Gabor Peterdi, and Clayton Pond. Originated by the Library of Congress in 1934, the exhibition this year is being cosponsored by the National Collections of Fine Arts. Through November 23, NCFA.

### WEDNESDAY, SEPTEMBER 26

*Ascent of man*

*The Harvest of the Seasons*—man discovers agriculture and domesticates plant and animal, imposing his will on the wild wheat and the horse. 8 p.m., Baird Auditorium, Natural History Building. Tentative—See Sept. 19 for further details.

### THURSDAY, SEPTEMBER 27

*National Capital Shell Club*

Monthly meeting and program, 8:15 p.m., Room 43, Natural History Building. The public is invited. For further information call 381-5604.

### SATURDAY, SEPTEMBER 29

*Museum lecture*

*The Evolution of False Teeth.* Speaker: Everett Jackson, Museum Specialist, Division of Medical Sciences. 10:30 a.m., auditorium, National Museum of History and Technology.

## Continuing Exhibitions

### THE FREER GALLERY OF ART

(12th and Jefferson Drive, S.W.)

Turkish Art of the Ottoman Period. Manuscripts, miniatures and ceramics representing the 600 years of the Ottoman dynasty. Through December.

### NATIONAL AIR AND SPACE MUSEUM

(10th and Independence Avenue, S.W.)

Experimentarium. Prototype of a spacearium to be built in the new National Air and Space Museum opening in 1976. Demonstration shows, designed to introduce the spacearium concept, are scheduled to resume in September and will be announced on Dial-A-Museum 737-8811.

### NATIONAL COLLECTION OF FINE ARTS

(8th and G Streets, N.W.)

A Measure of Beauty: The Diffusion of Style in Early 19th Century America. Eighty prints, drawings, watercolors, banknotes, bandboxes and wallpaper by artists of the 1800's. Through Sept. 16.

### NATIONAL MUSEUM OF HISTORY AND TECHNOLOGY

(14th and Constitution Avenue, N.W.)

Henry R. Luce Hall of News Reporting. Multi-media chronical of news gathering and dissemination from colonial times to the present days of instantaneous satellite reporting.

Hall of Photography. Permanent exhibition of the history of the art and technology of photography including a temporary print exhibition entitled New Images 1839-1973.

### NATIONAL MUSEUM OF NATURAL HISTORY

(10th and Constitution Avenue, N.W.)

Paintings of Natural History Subjects, by Erik Hans Krause, 2nd floor. Through September 28.

### NATIONAL PORTRAIT GALLERY

(8th and F Streets, N.W.)

The Black Presence in the Era of the American Revolution 1770-1800. A comprehensive view of the participation of black men and women in the Revolutionary War and the early years of the Republic. Free guide service 10 a.m.-3 p.m. daily.

### THE RENWICK GALLERY

(17th and Pennsylvania Avenue, N.W.)

Form and Fire: Natzler Ceramics 1939-1972. Retrospective of 174 objects created by Gertrude and Otto Natzler. Through October 21.

Arts and Crafts Movement in America 1876-1916. Through September 9.

American Coverlets. 15 coverlets and 13 color reproductions. Color slide presentations included on weaving, spinning, and dyeing, with taped folk songs of a Williamsburg master weaver. Through September 13.

## Upcoming Events

(Sponsored by the Smithsonian Associates)

For prices and other information call 381-5157.

### KENNEDY CENTER SERIES

Five performances and five informal discussions with celebrated personalities intimately connected with the production or the art. A rehearsal of the National Symphony Orchestra is included as a new feature. October 3-December 12. Registration deadline September 12. Individual lecture tickets also available.

### THE WOMEN'S MOVEMENT

Eight distinguished women writing, working and speaking in the Liberation Movement. Oct. 4 Betty Friedan; Oct. 11 Catherine East; Oct 18 Jane O'Reilly; Oct. 23 Cong. Shirley Chisholm; Oct. 30 Cong. Martha Griffiths; Nov. 9 Phyllis Schlafly; Nov. 15 Midge Decter; Nov. 29 Robin Reisig.

### ART THROUGH THE ARTS

Exploring one art form through other media. With Stephen Bates, music, Bill Adair, video and Mary-Averett Seelye, movement. Sept. 22, Oct 13 and Nov. 10. 10:30 a.m.-noon.

### LUNCHEON TALKS WITH MUSEUM DIRECTORS

Oct. 17 William R. Tyler, Dumbarton Oaks; Oct. 24 Marvin S. Sadik, National Portrait Gallery; Nov. 14 Wilbur Harvey Hunter, Peale Museum, Baltimore; Nov. 28 James Biddle, President, the National Trust for Historic Preservation. Cocktails and buffet included.

### BALLET—DISCUSSION/PERFORMANCE SERIES

Oct. 15 Ben Stevenson, Director of the National Ballet; Oct. 22 George Gelles, dance critic, Evening Star-News; Oct. 29 Jan van Dyke, dancer-choreographer.

### BRUCE BAILLIE: A RETROSPECTIVE FESTIVAL

Three-day festival with introductions and discussions by Bruce Baillie. Oct. 26, 27, 28. Tickets for individual showings also available.

## Puppet Theatre

(Arts and Industries Building)

### ALICE IN WONDERLAND

Final performances September 1 and 2, 11 a.m., 1 and 2 p.m. Admission $1 children, $1.25 adults.

### PATCHWORK

An original anthology of children's songs, poems and stories performed by the puppets and people of Allan Stevens and Company. Preview .performances September 26-30. Wednesday-Friday, 10:30 and 11:30 a.m., Saturday-Sunday, 11 a.m., 12:30 and 2:30 p.m. All preview tickets $1. Regular performances begin October 3.

For further information or reservations call 381-5395.

## Radio Smithsonian

Radio Smithsonian, a program of music and conversation growing out of the Institution's many activities, is broadcast every Sunday on WGMS-AM (570) and FM (103.5) from 9-9:30 p.m. The program schedule for September:

2nd—*Dag Hammarskjold—A Retrospective,* with Ambassador Rajeshwar Dayal, a close associate of the late Secretary-General of the United Nations.

9th—*The 1973 Festival of American Folklife,* Part I. A sampling of the people and music that make the Folklife Festival one of the Smithsonian's most popular events.

16th—*The 1973 Festival of American Folklife,* Part II.

23rd—*The 1973 Festival of American Folklife,* Part III.

30th—*It Talks, It Whispers, It Sings.* A look at the history of the phonograph.

## Demonstrations

(Museum of History and Technology)

(No demonstrations Sept. 3.)

*Steam Engines.* Wednesday through Friday, 1-2:30 p.m. 1st floor.

*Machine Tools.* Wednesday through Friday, 1-2 p.m. 1st floor.

*Spinning and Weaving*—Tuesday through Thursday, 10 a.m.-2 p.m. 1st floor.

*Printing and Typefounding*: Monday, Tuesday, Thursday, Friday, 2-4 p.m., 3rd floor.

*Musical Instruments.* A selection of 18th and 19th century instruments, and American folk instruments, Hall of Musical Instruments, 3rd floor, 1:30 p.m. Mondays and Fridays—keyboard instruments; Wednesdays—lute and guitar; Thursdays—folk instruments.

*Music Machines—American Style.* Mechanical and electronic music machines. Monday through Friday, 1 p.m., 2nd floor. As part of this exhibit, excerpts from musical films are shown continuously as follows:

Aug. 31-Sept. 5: Highlights from MGM Musicals.

Sept. 6-12: Highlights from Disney films II.

Sept. 13-19: Highlights from MGM Musicals.

Sept. 20-26: Highlights from Disney films I.

Sept. 27-Oct. 3: Highlights from Disney films II.

## Study Tours

### DOMESTIC STUDY TOURS

For further details write Mrs. Kilkenny, Room 106-SI, Smithsonian Institution, Washington, D.C. 20560.

*Acadia National Park, Maine:* Sept. 9-15.

*Sea and Shore Laboratory:* Oct. 11-18.

*Louisiana Plantation Architecture:* November 2-8.

*Big Cypress Swamp and Everglades National Park:* Nov. 11-18.

### FOREIGN STUDY TOURS

For further details write Miss Schumann, Smithsonian Institution, Washington, D.C. 20560.

*Copernicus:* The cities in Poland and Italy where he lived and worked. Oct. 1-23.

*West Africa:* Jan. 8-Feb. 1, 1974.

*India and Nepal:* Jan. 23-Feb. 14, 1974.

*Sites of Civilization,* Cruise from Rome to Athens: April 6-27.

*Greece,* Sites and Flowers on the mainland and Peloponnesus: April 27-May 12.

*Ethiopia and Africa:* May 23-June 14.

*Black Sea Cruise:* Sept. 17-Oct. 6.

*Afghanistan and Pakistan:* Oct. 21-Nov. 11.

## Hours

(Open 7 days a week)

Museum of History and Technology, Museum of Natural History, Arts and Industries Building, National Air and Space

Museum—10 a.m.-5:30 p.m.; *10 a.m.-9p.m., through Labor Day.*

Freer Gallery of Art, National Collection of Fine Arts, National Portrait Gallery, Smithsonian Institution Building—10 a.m.-5:30 p.m.

The Renwick Gallery—10 a.m.-5:30 p.m.

National Zoo buildings—9 a.m.-6 p.m.

Dial-a-Phenomenon—737-8855 for weekly announcements on stars, planets and worldwide occurrences of short-lived natural phenomena.

Dial-a-Museum—737-8811 for daily announcements on new exhibits and special events.

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## PROGRAMS HELPING COLLEGE STUDENTS

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 1973*

Mr. HARRINGTON. Mr. Speaker, the New York Times carried an article on September 4 describing the five major programs administered by the U.S. Office of Education for the purpose of aiding postsecondary school students. Eligibility for each program was explained, followed by instructions with regard to how to apply, when to apply, the criteria for receiving aid, the size of grants that a recipient can expect, and the terms of payments. The Times article also included relevant concluding comments.

This is the kind of information that could be useful to every high school student we represent, and to each of their guidance counselors and parents. For their information and use, I insert the New York Times article in the RECORD at this time.

The article follows:

### PROGRAMS HELPING COLLEGE STUDENTS

Following are the five major programs administered through the United States Office of Education for aiding post-secondary school students and the major state-operated programs in the metropolitan area. In addition to these programs there are other specialized forms of Federal assistance, private loans and a wide variety of scholarships offered by foundations, agencies and the educational institutions themselves.

### BASIC EDUCATIONAL OPPORTUNITY GRANTS

Eligibility: Open to full-time freshmen at colleges, universities and vocational and technical schools who did not attend a post-secondary educational institution prior to July 1, 1973.

How to apply: Applications are available from post-secondary institutions, high schools, post offices, state employment offices, county agricultural extension agencies and Box G, Iowa City, Iowa 52240.

When to apply: As soon as possible for the academic year now beginning.

Criteria: Family income and assets determine who gets a grant, academic achievement having no bearing. Applicant must complete a detailed financial statement that is subject to comparison with the Federal income tax return that parents have filed with the Internal Revenue Service. In general, a student from a family of four with an income of $11,000 or more would not qualify for a grant. However, factors that can offset a higher income and enable a student to get a grant are a large family, brothers and sisters in college, both parents working and unusually large medical expenses.

Size of grant: Ranging from $50 to $452—the top grant going to a student from a family that according to its income and assets cannot afford to contribute anything toward the student's education.

Terms of repayment: This is a grant and there is no repayment involved.

Comments: No eligible student whose certifiable need meets the established criteria will be turned down by this program. Also, the grant will be awarded regardless of any other Federal grants or loans the student may receive. If a sufficient level of funding is authorized by Congress, the program is to be expanded to include all needy undergraduates, full-time and part-time. The top grant would be $1,400.

### GUARANTEED STUDENT LOANS

Eligibility: Anyone enrolled as an undergraduate or graduate student in any of 8,200 participating colleges, universities and nursing, vocational, technical, trade, business or home study schools.

How to apply: Applications may be obtained from participating educational institutions, banks, savings and loans, credit unions and the United States Office of Education.

When to apply: At any time.

Criteria: All students are eligible, regardless of how high the family income. Only those with established need, however, can qualify to have the Federal Government pay the interest on the loan; others must pay their own interest. Those seeking interest-subsidized loans must fill out a needs analysis divulging income and assets. Such factors as a large family, brothers and sisters in college, both parents working and unusually large medical expenses are taken into consideration. The financial aid office of the educational institution processes the application, applying a mandated formula, and recommends to the potential lender the amount of the interest-subsidized loan (including a possible zero dollar recommendation) for which the student qualifies. Prior to March 1, a student from a family with an adjusted income of less than $15,000 could qualify for an interest-subsidized loan, but under new regulations many students who formerly qualified are finding themselves ineligible.

Size of loan: In general, loans may be for up to $2,500 a year—not to exceed $7,500 during an entire undergraduate career and $10,000 during the course of undergraduate and graduate education. The annual amounts and cumulative totals vary, though, in some states, including Connecticut and New York.

Terms of repayment: No payment on principal is required until nine to 12 months after the student leaves school or until after service in the military, Peace Corps or VISTA. Once repayment begins, it is to be completed over a period of not more than 10 years and not less than five years or sooner if the loan can be paid off at a rate of $360 a year. In the event of default, the Federal or state guarantee agency will compensate the private lender and attempt to recover the money from the student.

Comments: While this program appears to be open to all applicants it has not worked out that way. All of the money being loaned belongs to private lenders who participate voluntarily and retain the ultimate decision about who gets a loan. The new needs analysis formula has had the effect of disqualifying many of the students who would have gotten interest-subsidized loans under the old rules. The lending institutions could go ahead and give loans through the program that are not interest-subsidized, but are reluctant to do so. Not only is this a time of tight money, but apparently the lenders do not want to get too much of their money tied up in loans on which payment on the principal is delayed until after the student leaves school.

Moreover, while a lender can bill the Federal Government in one lump sum for the interest on all the subsidized loans, students must be billed individually for interest on unsubsidized loans—making such loans unattractive to the lender because of the greater servicing costs. The March 1 regulations were ostensibly to make it easier for the middle-class to get the guaranteed loans, but the change has had the opposite effect. Congress has had hearings on the problems that have developed and there is a widespread opinion among authorities on the program that the law needs further changes if it is actually meant to be of use to students from a wide range of income groups.

### SUPPLEMENTARY EDUCATIONAL OPPORTUNITY GRANTS

Eligibility: For undergraduates in colleges and universities and students in other approved post-secondary schools. Half-time as well as full-time students.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: For students of "exceptional need," who without the grant would be unable to continue their education. Final determination of need is up to the college's financial aid office. This grant is often given in combination with National Direct Student Loan and College Work-Study aid to form a single assistance package.

Size of grant: Not less than $200 or more than $1,500 a year. Normally, renewed for up to four years—or five years when course of study requires extra time. The total that may be awarded is $4,000 for a four-year course of study and $5,000 for a five-year course.

Terms of repayment: This is a grant and there is no repayment involved.

Comments: In the past, 72.7 per cent of these grants have gone to students whose family income is below $6,000; students from families with incomes in excess of $9,000 have received 4.2 per cent of the grants.

### COLLEGE WORK-STUDY

Eligibility: For undergraduates and graduate students in colleges, universities and approved post-secondary schools. Half-time as well as full-time students.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: The offer of a job is based on need, as determined by the college's financial aid office. The Federal money is used to pay the wages. The job may be for as many as 40 hours a week at a nonprofit on-campus (cafeteria, library, laboratory) or off-campus (hospital, school, government agency) site. Usually awarded as a package in combination with Supplementary Educational Opportunity Grant and National Direct Student Loan.

Amount of pay: From $1.60 to $3.60 an hour. Average annual compensation being $600.

Terms of repayment: These are wages for hours worked and there is no repayment.

Comments: In the past, 56.7 per cent of the work-study jobs have gone to students whose family income is less than $6,000; students from families with incomes in excess of $9,000 have received 17.3 per cent of the jobs.

### NATIONAL DIRECT STUDENT LOANS

Eligibility: For undergraduates and graduate students in colleges and universities and approved post-secondary schools. Half-time as well as full-time.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: The loan is based entirely on need, as determined by the college's financial aid office. Usually awarded as a package in combination with College Work-Study and Supplementary Educational Opportunity Grant.

Size of loan: Up to a total of $2,500 while enrolled in a vocational school or during the first two years of a degree program. Up to a total of $5,000 while studying toward a bachelor's degree and up to $10,000 during the entire undergraduate and graduate career.

Terms of repayment: Begins after leaving school or service in military, Peace Corps or VISTA. Interest of 3 per cent on unpaid balance of loan is charged when repayment period begins. Maximum length of repayment period is 10 years. Loan is canceled and no repayment necessary for teachers of the handicapped and teachers in inner-city schools and servicemen who spend one year in a combat zone.

Comments: This is the original of the Federal assistance programs for students, which began as the National Defense Student Loans in the late nineteen-fifties in the wake of the panic over the launching of the Soviet Union's first satellite. It was awarded on the basis of academic achievement, largely to students in the sciences and education. Academic achievement no longer figures in the loan and major field of study makes little difference. Students from families with incomes in excess of $12,000 get 10.6 per cent of the loans.

These are the major state-operated aid programs in the metropolitan area.

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# HOUSE OF REPRESENTATIVES—*Wednesday, September 12, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Whatever task lies to your hand, do it with all your might.*—Ecclesiastes 9: 10 (NEB).

Eternal God, our Father, as we wait upon Thee at this altar of prayer, may we feel Thy presence near and in the assurance of Thy love and find deliverance from our fears and our frustrations. Help us to walk in Thy good ways, thinking good thoughts, speaking good words, and doing good deeds that we may prove ourselves worthy of the high position we hold in the life of our Nation.

O Thou joy of loving hearts, give to us such a lift for life that work may not become drudgery, but that we may see in it a dignity of service which seeks the highest welfare of our country. May we learn the long, long lesson of patience as we live and labor for the day when justice shall rule the minds of men and good will shall reign in the hearts of all, enabling the nations to live together in peace.

In the spirit of Christ we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## APPOINTMENT OF CONFEREES ON H.R. 8917, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS

Mrs. HANSEN of Washington. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8917) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentlewoman from Washington? The Chair hears none, and appoints the following conferees: Mrs. Hansen of Washington, Messrs. Yates, McKay, Long of Maryland, Evans of Colorado, Mahon, McDade, Wyatt, Veysey, and Cederberg.

## PROPOSED HARRY S. TRUMAN MEMORIAL VETERANS HOSPITAL

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker, I am today introducing legislation to designate the Veterans' Administration hospital at Columbia, Mo., in the Eighth Congressional District as the Harry S. Truman Memorial Veterans Hospital. Joining me in introducing this measure are my distinguished colleagues from Missouri, Mr. Randall, Mr. Hungate, Mr. Burlison, Mr. Clay, Mrs. Sullivan, Mr. Taylor, Mr. Litton, and Mr. Symington.

Mr. Speaker, we have not often seen in this country a man, a President, as committeed to the welfare of our Nation's veterans as President Harry S. Truman.

President Truman did not ignore the plight of American veterans nor did he attempt to pacify them with postwar rhetoric.

Harry Truman was responsible for the implementation and development of the comprehensive system of benefits and services which our veterans and their families enjoy today. Because of his efforts, the veterans of three wars have been able to complete their education, purchase their homes, and receive proper medical care.

It is important to note that only four other Americans have been honored by the naming of a VA medical facility in their memory. It is indeed appropriate to include Harry S. Truman in this group of Americans, as distinguished as Royal C. Johnson, Franklin Delano Roosevelt, Audie Murphy, and Sam Rayburn.

The State of Missouri has four veterans hospitals and the Columbia hospital is one of the newest in the Nation. It is a splendid facility, one of which Mr. Truman would indeed be proud to have named in his honor.

We can do no less for this man from Missouri who carried the burden of the free world but never forgot the men who fought to keep it free.

## THE MILITARY ALL-VOLUNTEER CONCEPT—SECOND SEGMENT

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MONTGOMERY. Mr. Speaker, to continue my series of 1-minute speeches, the Army announced yesterday that under the all-volunteer program they were 19 percent short of their goal of 17,000 recruits for the month of August.

Since February 1972, a month after draft calls ended, the Army has failed to meet the overall enlistment quotas each month.

The Navy seems to have done a better job of recruiting in August by reaching its goals. They did not reach their goals in June and July.

The Air Force, Mr. Speaker, is having no trouble in recruiting under the all-volunteer concept. However, the Marine Corps did not reach its quota in August.

The Reserve Forces are going to grow, Mr. Speaker, and be a stronger arm in the defense of our country. However, the Regulars have a real problem in the volunteer era.

## FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce that we are indefinitely postponing consideration of H.R. 6452, the urban mass transit bill. Today we will consider S. 504, the emergency medical services vote to override the President's veto; H.R. 7974, the health maintenance organization, under an open rule with 1 hour of debate; and H.R. 8789, the Bicentennial coinage design, under an open rule with 1 hour of debate.

## CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 448]

Ashbrook
Badillo
Burke, Calif.
Burton
Clark
Clawson, Del
Collier
Conyers
Davis, S.C.
Dellums
Denholm
Diggs
Fisher
Gibbons
Gray
Green, Pa.
Gubser
Guyer
Hanrahan
Harrington
Hicks
Hunt
Ichord
Kuykendall
Litton
Lott
McEwen
McSpadden
Macdonald
Mathis, Ga.
Mayne
Milford
Mills, Ark.
Mink
Powell, Ohio
Railsback

Reid
Riegle
Roybal
Runnels
Ryan
St Germain
Sandman
Satterfield
Shoup
Stark
Stratton
Teague, Tex.
Udall
Veysey
Waggonner
Whalen

The SPEAKER. On this rollcall 382 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

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## EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 1973—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is: Will the House, on reconsideration, pass the bill (S. 504) to amend the Public Health Service Act to authorize assistance for planning, development and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS) for 1 hour.

Mr. STAGGERS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is to me one of the most important issues I have ever brought before the House in my 25 years in the Congress and my service as chairman of the Committee on Interstate and Foreign Commerce. I think this bill means more to America than any other issue I have ever advocated and stood for. This is the Emergency Medical Services Systems Act.

It is not my word but the word of the experts who testified before our committee from many organizations that passage of this bill will save from 60,000 to 100,000 lives a year. For instance, the American Heart Association, which is for this bill, said at least 10 percent of the 275,000 lives that are lost each year through heart disease could be saved if they had fast service and trained personnel to take care of the situation.

That is exactly what this bill is designed to do: to train personnel, to provide ambulance services for Americans. Many communities have ambulance service but they do not have trained personnel to run them. This bill will assure everyone that when he calls for an ambulance and it arrives the ambulance will have trained personnel to treat the person on the way to the hospital.

This bill will also assure a communications system in the ambulance to enable communications with the doctor and the hospital. Also there will be a communications system so that two or three ambulances will not be coming to answer a call but one ambulance if only one is needed will go with personnel trained to handle the problem.

The thousands of automobile accidents annually kill 55,000 people. It is estimated by the Ambulance Associations that of these 55,000 Americans each year 15 to 20,000 lives would be saved if we had trained personnel and adequate ambulance service to answer the calls. Many of the thousands killed in accidents that occur in homes, could also be saved by this system.

In fact, the President of the United States said twice, once in his recent state of the Union message, and in another message, that he was for emergency medical services adequate to take care of the citizens of the land. Now, the red herring that comes across the scene is the inclusion of the Public Health Service hospitals.

I would like for every Member of the House to know why it was put in the House bill. The Senate put in seven of the Public Health Service hospitals. I knew that we would have to deal with them some way when we went to conference. They neglected to put in one, which was in the great State of Virginia. I said that this was wrong and could never be considered in any way, so I asked the Rules Committee whether it could be included and it was included and we voted on it in the House, a majority of this House.

It has been said that they are superfluous, that we do not need them, they are outmoded. I have in my possession here letters from two Surgeons General of the United States saying that they are all important to America. One of them is from Luther Terry, who says that this is one of the most important things we can have for experimentation and for carrying on the obligation that this Government made in 1798 to our citizens who fight in our wars and carry our cargoes over the seas.

I have a message from another former Surgeon General, Jesse Steinfeld, who says that to him the Public Health Service hospitals are the great experimental places of the land and that when he took over as Surgeon General in December 1969, he had a program set forth to utilize them in this way and he never could get this administration to put it into effect.

Mr. Speaker, I want to say that we have every veterans' organization in the land backing this. They have passed their resolutions in their national conventions and have gone back to every post in America. We have the National League of Cities, the National Association of Counties, the Governors' Conference, the AMA, all of which want this bill. The AMA wanted $600 million in the bill when they came before the committee and said we needed it. The American Heart Association, the PTA, the Senior Citizens, the AFL–CIO and all their associated labor organizations, the National Ambulance Service of America are only some who have passed resolutions, and they have their posts in every small part of America. They have said in the resolutions that they have passed, that they want this bill passed because it is for the good of America.

Mr. Speaker, I just urge to all Members of this House that this bill be passed.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, the allocation of time, as I understand it, would be 30 minutes to a side. If the gentleman from West Virginia will allocate the 30 minutes to me, I will then determine the time.

Mr. STAGGERS. No, I will not do that. The time stays with the chairman, and I will allocate it.

Does the gentleman wish to have the gentleman from Minnesota (Mr. NELSEN) speak first?

Mr. DEVINE. I do.

Mr. STAGGERS. Mr. Speaker, I yield 10 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Speaker and Members of the House, this issue is one that I regret perhaps more than any one I have ever been involved in. The chairman of the full committee is a dear friend of mine; and the chairman of the subcommittee, who is perhaps one of the most able and one of the greatest students of health programs in the United States today.

The issue here is the emergency medical services bill, which was considered in the subcommittee and approved. It was considered in the full committee and approved, with my support.

Then, to my surprise, when the rule was asked for, the Rules Committee was asked to grant a rule that would permit nongermane amendments to the bill. So the Public Health Service hospital bill came into the picture. The minority was never advised of it. The committee never considered it.

In my judgment we spend a lot of time complaining about the Senate coming in with nongermane amendments, yet here we are doing the same thing ourselves, when an issue should be considered on its merits separate from the emergency medical bill.

So I opposed the bill on final passage because of that fact. Others did. And 50 of us have reintroduced the emergency medical bill, because we still believe in it, and we still believe it should be considered and it should not be, shall we say, "snuck in" under a waiver of points of order granted by the Rules Committee.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. If the gentleman was not at the Rules Committee hearing, he should have been there, because I asked for an open rule and that this be done, and told why. They had ignored one State in the Nation, and I did not think it was right.

Mr. NELSEN. I will concede that the gentleman from Minnesota was there, but it was a total surprise.

Being a country boy—not a country lawyer, but a country boy—I was without the proper language to debate the issue at the moment. I believe I should have been advised of what the gentleman was going to do. That is the way the committee has so successfully and continually operated; in an atmosphere of total friendship.

Mr. STAGGERS. I agree with the gentleman.

Mr. NELSEN. Mr. Speaker, getting to the emergency medical bill, 50 of us have introduced the bill in its exact language. We have not changed a single period or a single word in that bill, because we believe it would not require a hearing. It could be brought back to the floor and passed.

Dealing with the Public Health Service hospital issue, I was on the conference committee about a year and a half ago. If we go back just a few decades, we had 30 of them. Year by year we have reduced the number. We can go back to the Eisenhower days, or go back to the Kennedy days or go back to the Johnson days. All of these Presidents recommended that we begin to phase out the Public Health Service hospitals.

In this case there is a good deal of misunderstanding because actually, what is being phased out is the inpatient care alone. The outpatient care, which is the major function the Public Health Service Hospitals provide, will be continued. The dental care will be continued.

The outpatient care services thousands of people all over the United States.

I was down at Galveston and visited the hospital there. The number of people of low income waiting to see a doctor was very, very impressive to me.

The inpatient caseload has been diminishing year after year. Under the terms set forth in these proposals the inpatients would be taken care of in other hospitals.

The outpatient care, the really important part of the care, would be sustained in these Public Health Service hospitals.

Really there has been a good deal of misunderstanding as to what is being proposed. We, as a committee on the Hill, should not say to a department downtown, "Every time you move you have to clear it with us."

I ran an agency, the Rural Electrification Administration. Some of that was attempted. Had some of the recommendations I received at that time been put into practice down there, I would have had my hands tied all the time.

I do not want to tie anybody's hands, but under the law the administration must report to us and give us 90 days before any move is made.

We can still review any proposed closings in our committee, and I regret that there has been any oversight, as referred to by my good chairman. However, I want to say that these issues should have been divided. We should have voted immediately on the emergency medical services provision. I will again vote for it, and I am sure the administration will support it, and if they do veto it—which I am sure they will not—I will support it all the way.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, does the gentleman have assurances that the President will sign the bill?

Mr. NELSEN. Mr. Speaker, we have assurances from the President in the form of a letter which the minority leader, Mr. GERALD R. FORD, has received from the President, and which, I am sure, he will refer to.

I will yield to the minority leader, Mr. GERALD R. FORD, to make reference to it at this time, if the gentleman wishes to hear from him.

Mr. GERALD R. FORD. Mr. Speaker, I did not hear the question that was asked, but I have some time of my own which I will use to explain it, if that will be helpful.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I asked the gentleman if he had assurances that the President would sign the bill, if it passed.

Mr. GERALD R. FORD. Mr. Speaker, I will make a comment on that in my own time.

Mr. STAGGERS. Mr. Speaker, does the gentleman from Minnesota care to answer my question?

Mr. NELSEN. It is my understanding——

Mr. STAGGERS. It is the gentleman's bill, and I want an answer from him.

Mr. NELSEN. What answer does the gentleman want from me?

Mr. STAGGERS. Mr. Speaker, I want to know if the President has assured the gentleman that he will sign the bill which the gentleman put in the hopper.

Mr. NELSEN. Mr. Speaker, I have not asked him, but the minority leader, Mr. GERALD R. FORD will address himself to that subject. He has a letter.

Mr. STAGGERS. Mr. Speaker, I do not think secondhand information will do. If the gentleman puts in the bill and then tells me the President will do something that he cannot assure the House that he will, that will not do. That is what I am asking the gentleman.

Mr. NELSEN. Mr. Speaker, I am telling the gentleman the bill will be signed.

Mr. STAGGERS. But the gentleman is not sure? The gentleman told me that he is not sure.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. Yes, I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I will amplify this later on, but I will put my reputation on the line and say that if the gentleman gets this bill out stripped of the Public Health Service provisions, I can convince the people in the White House that the President should sign it.

Mr. STAGGERS. Mr. Speaker, that will not do for me, and I do not think that will do for any Member on your side, because I do not think the gentleman has the power to make the President of the United States do something if he does not want to do it. I do not believe the gentleman has that power.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I will be glad to yield to the minority leader.

Mr. GERALD R. FORD. Mr. Speaker, no one can be certain of his influence with any administration, but I do know this: I do know the logic of the position taken by the gentleman from Minnesota (Mr. NELSEN) and the position taken by other Members on our side of the aisle on that subcommittee.

It is a sound and a responsible position, and I do believe that the President, when the facts are presented to him, as they will be by me personally, he will see the need and the necessity for this legislation, and I will stake my reputation on it.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield for just 1 second?

Mr. NELSEN. I will yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I wish to say that the gentleman who is speaking in the Chamber is a great man, really a great legislator and a great representative of his people. He was utterly honest in what he tells me. He tells me that he does not know, and I can say to the Members that one could never put his reputation or anything on the line concerning something that is said secondhand or thirdhand, because only God knows what is going to happen. We are beginning to doubt whether we will have the final passage of this bill unless *it is* passed today. If it is not passed today, there will be a doubt forever whether it will pass this House ever again and be signed by any President.

Mr. NELSEN. Mr. Speaker, I cannot agree with the chairman of the committee. He is attempting to put words into my mouth. I would not generally go along with that technique.

I am sorry that this issue has become clouded by going to the Committee on Rules without any advance notice to the minority side. We have never operated that way.

I want to call attention to another issue that I have not mentioned up to this point.

The Fort Worth Public Health Service Hospital has a facility, and about a year and a half ago, the Bureau of Prisons wanted that facility for treatment of drug addicts. In our conference committee, the majority opposed it, and I think the chairman did also. I went along with the other body to transfer the Fort Worth facility for a worthy cause; yet he opposed even that.

In my judgment, we were wrong then, and I believe we are wrong now in bringing the two issues together. We could consider them separately, as we should.

I hope that the chairman and I, after this is all over, can have a cup of coffee together.

Thank you.

Mr. STAGGERS. I can assure my friend we will.

Mr. Speaker, I now yield 1 minute to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, as a member of the Appropriations Subcommittee on Health, I was surprised some years ago to learn of the high number of deaths caused by lack of facilities when first needed. This is especially true in the case of heart attacks and shock caused by accidents. As the one who proposed and promoted the idea of using National Guard helicopters as emergency ambulances, I have also been interested in securing better emergency facilities for victims to be taken to.

Mr. STAGGERS. Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. HASTINGS), a member of the committee.

Mr. HASTINGS. Mr. Speaker, Chairman STAGGERS has very well articulated the reason why an emergency medical service bill should be in fact approved by this Congress and signed by the President. I will certainly take no back seat at all in support of emergency medical services, and both the chairman of the full committee and the chairman of the subcommittee know that. I was a sponsor last year of the emergency medical services bill when, although we completed subcommittee action, we were not able to get the bill on the floor. I was a sponsor of the emergency medical services bill this year, as we spent many, many days of hearings and markup sessions to bring this bill before this House for its consideration.

I will repeat what Mr. NELSEN said. I was somewhat shocked and surprised to find after our subcommittee had spent all of its time and the full committee spent all of its time in approving an emergency medical services bill that the Public Health Service section was added to the Committee on Rules.

I think the Public Health Service issue is one that the Subcommittee on Public Health spent a great deal of time on and has every intention of spending more time on. I voted against the emergency medical services bill when the bill came on the floor with PHS in it because I will not surrender my prerogative as a member of that committee to make a determination as to what type of legislation comes out of our committee.

I think it is probably well that in fact the Public Health Service section was added to the bill, because my understanding was that the administration was opposed to the emergency medical services as we brought the bill out. I might say I would have been here on the floor defending that bill without the Public Health Service section in it.

Now, I think, in answer to the chairman's question as to whether or not the administration will in fact sign a separate bill that has been introduced by Mr. NELSEN, myself, and 50 other sponsors now, I will stand on this floor and say if the administration were to veto that, I would defend an override as strongly as today I am imploring this House to sustain for the reason that the Public Health Service section was added without the consent of our subcommittee or the full committee. I will give that commitment to you.

I have been a firm advocate of EMS, and I will continue to be so whether the administration goes for it or against it. I will stand on this floor and defend the emergency medical service. And with the backing of the minority leader, the gentleman from Michigan (Mr. GERALD R. FORD), we have every reason to believe without categorically being able to indicate so to you at this time that we can take a separate EMS bill without one word being changed, and get the approval of the administration, which is something we could not have done before.

Mr. STAGGERS. If the gentleman will yield, again the gentleman refers to EMS and the PHS hospitals getting in there. We knew, and the gentleman knew, that there were seven hospitals put in by the other body. There was one left out. I did not know this until just before we went to the Committee on Rules when it was brought to my attention. I said that it was not fair to treat one part of America in a different way than we treat the rest of America. I went before the Committee on Rules, and offered an amendment. I did not shove it down the throat of anybody. It was voted on in the Committee and the House.

Mr. HASTINGS. It was added as a nongermane amendment with waivers of points of order on the floor.

Mr. STAGGERS. But it was voted upon, it was not stuck in here.

Mr. HASTINGS. I only repeat that my subcommittee, on which I am a member, and happily so, never had an opportunity to consider that question. I think that we should, in fact, have that opportunity.

As a matter of fact, we had oversight hearings going on over at the subcommittee at the very time this matter was added.

Mr. STAGGERS. But I believe if the gentleman wanted to be the chairman, the gentleman would find——

Mr. HASTINGS. I am not the chairman, as the gentleman knows.

Mr. STAGGERS. Will the gentleman yield further?

Mr. HASTINGS. Certainly.

Mr. STAGGERS. The gentleman is talking about an amendment that we passed in this bill coming back and being vetoed. But does the gentleman know that over 200 lives are lost each day that we are fooling around with this matter?

Mr. HASTINGS. I have already admitted that the gentleman has made great arguments in favor of my position in support of EMS. And I can say to the gentleman that we have a better chance, as it turns out, to pass the EMS bill than we had before because we believe we can have the support of the administration.

Mr. STAGGERS. The gentleman has no assurances of that. The gentleman may have assurances, but the gentleman can not tell us that it will be done.

Mr. HASTINGS. I think we are in a better position now than we were months ago, in my opinion, I think the gentleman will admit, as far as administration support is concerned.

Mr. ROY. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Kansas.

Mr. ROY. Mr. Speaker, I thank my distinguished colleague for yielding.

Is it true that the bill, H.R. 10176, that was introduced by the gentleman in the well and the gentleman from Minnesota (Mr. NELSEN) and others, contains the same authorization figures that the present bill does?

Mr. HASTINGS. It is identical in language to the bill reported by the subcommittee and the full committee.

Mr. ROY. Am I correct in assuming then that the gentleman from Minnesota (Mr. NELSEN) and the gentleman now in the well, and the other cosponsors reject the idea that this is a budget buster, which was the President's No. 1 objection to this bill in his veto message?

Mr. HASTINGS. As the gentleman from Kansas well knows, I can only speak for this gentleman. I cannot presume to speak for anybody else. Since I was a cosponsor of that bill and since I sat next to the gentleman from Kansas, the gentleman knows that the subcommittee approved that figure, and I guess I would have to say certainly that I support that funding level. I do not believe it is a budget buster, and I still support it.

I urge very strongly that this House sustain the veto, and get the emergency medical services bill back to the floor in the reintroduced form.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. SYMINGTON), a member of the committee.

Mr. SYMINGTON. Mr. Speaker, I thank the Chairman for yielding me this time.

Mr. Speaker, I would that I could speak the requisite number of appropriate words to help this House act affirmatively on this measure—not to overcome a veto, but the tenacious obstacles between the American people and adequate emergency medical service. It would be tempting to outline the manifest need in my State, my district, for such an investment, but we are not here to cast a district vote; it will be a national vote.

Remember Burke, who said:

> I am not a member of Bristol; I am a member of Parliament.

I could turn to my own side of the aisle and call any wavering Democratic colleagues to the colors of their partisanship, or to my Republican friends, and urge them to fling aside the bonds of partisanship, but the smiling death that lurks in the chaos and incompetence of America's emergency medical systems is not partisan.

How, then, can the effort to escape it be so considered? The Public Health Service hospitals—visit them, talk with the doctors, nurses, patients, and community residents, and then vote, if you can, to close them down.

Finally, Mr. Speaker, this is not a test of will; it is a test of conscience and of accountability to the people we serve.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. MURPHY), a member of the committee.

Mr. MURPHY of New York. Mr. Speaker, I rise to add my voice to urge that this body vote to override the President's veto of S. 504, the Emergency Medical Service Systems Act of 1973. The authors of that legislation have given proof beyond question of the need for emergency medical service systems in the United States. I will not add further to the litany of good reasons why the Congress must override this veto.

One of my major concerns has to do with that portion of the legislation that would maintain the Public Health Service system in operation. I would point out to Members that late yesterday and early this morning, at the 11th hour, the Secretary of the Department of Health, Education, and Welfare sent a letter to the New York delegation that I consider as a fraud being perpetrated on this body.

In April and May the Committee on Merchant Marine and Fisheries held extensive hearings on the Public Health hospitals and the closure thereof. The Secretary of Health, Education, and Welfare was a witness on May 11 at those hearings. I was very surprised this morning when I received a letter by Caspar Weinberger, the Secretary of Health, Education, and Welfare, which letter is as follows:

SEPTEMBER 11, 1973.

Hon. JOHN M. MURPHY,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. MURPHY: As you know, September 1973 is the date set for the House to vote on the President's veto of S. 504, the "Emergency Medical Services Systems Act of 1973." S. 504, by a floor amendment, would also prevent the Department from shifting inpatient care from the eight remaining Public Health Service Hospitals to local community hospitals. You may recall that originally there were 30 PHS hospitals in the Federal system. Gradually, they have been phased out and HEW has now made arrangements in seven of the eight cities to provide better care to the Federal beneficiaries, often considerably closer to their homes, in much newer and better equipped community hospitals.

The provisions for the transfer of inpatient care in the PHS hospitals was made in accord with P.L. 92-585, which required a plan be submitted to Congress 90 legislative days in advance of the proposed transfer. The plan for six of the hospitals was transmitted to Congress by the Department on March 28, 1973 and the plan for the seventh hospital on July 2, 1973. In both plans, Congress was informed that the Department will continue to operate the outpatient departments and dental clinics located in each of the seven affected hospitals.

The purpose of my writing to your delegation is to inform you of the situation of the eighth PHS hospital located on Staten Island. As you know, we have repeatedly stated that we would transfer to community hospitals only when alternative arrangements were available which met our criteria of better care in more modern and convenient facilities. We have evaluated carefully the proposal which has been submitted to us in the case of the Staten Island hospital, and we have now concluded that these criteria have not been met. The greater New York City area does not have the surplus acute care hospital beds that exist in the other areas served by the other seven PHS hospitals. Accordingly, we have decided that the Staten Island hospital is to continue its operation unchanged, and the Department presently has no plan either completed or under development to transfer to community hospitals the care now provided there on an inpatient or outpatient basis.

I hope this clarifies any misunderstanding among your delegation regarding the Staten Island PHS hospital.

Sincerely,

CASPAR W. WEINBERGER,
*Secretary.*

It is political charlatanism of the worst possible sort.

The administration is in trouble on this vote and they know it. They also know that if they can turn around the New York delegation, they have a chance of beating the veto override. In what I consider a flagrant attempt to buy off the New York Congressmen, Mr. Weinberger has written to each member of the delegation promising to keep open the Staten Island Hospital. I point out to my colleagues from New York that this letter is fallacious on two counts. First, and of a more simple and direct nature, Mr. Weinberger has offered us a carrot if we are "good boys" and go along with the President. I urge my colleagues to consider the letter carefully, because there is no guarantee that this facility will not be considered for closing the minute this vote is over. Based on Mr. Weinberger's record, I believe it is safe to say that he will do just that—close the hospital once he has divided us for the purpose of sustaining the veto.

Of more importance, the letter assumes that we are concerned with just the Staten Island Hospital, and while that facility is in my district, I, of course, do have an overriding concern over its future. However, that is not the question at issue here. The issue is the future of the entire Public Health Service system. While the hospitals form the core of that system and are vital to its operation, it is the system that must be continued.

It is the system that provides medical care to hundreds of thousands of persons each year, the bulk of whom will be denied such treatment if the system is destroyed.

This is what we are voting on today—the survival of a vital health care delivery system in the United States that cannot be replaced or, contrary to what Mr. Weinberger says, reproduced. The Secretary deceptively states in his letter that alternate care in the seven hospitals besides Staten Island can be found elsewhere in the community. This is simply not true. Hearings before the House Merchant Marine and Fisheries Committee proved that this was not true, and showed Mr. Weinberger up for the charlatan he is.

The hearings proved beyond question that in each of the seven hospital areas, vital services will be curtailed or stopped altogether.

Mr. Weinberger cannot tell us where the ghetto dweller in Galveston will go for an eye if the eye bank at the PHS hospital in Galveston is shut down.

Mr. Weinberger cannot tell us where the cancer patient at the Baltimore PHS hospital will go for treatment if that unique program is shut down.

Mr. Weinberger cannot tell us where drug addicts in Boston will go for their treatment if the methadone maintenance program in that PHS facility is shut down.

Mr. Weinberger cannot tell us where the secondary beneficiaries will go in New Orleans for treatment, nor can he tell us where children with dyslexia and other learning disabilities can go for therapy and pediatric treatment, because the New Orleans PHS hospital has the only program of its kind in that area.

Mr. Weinberger cannot tell us where the 10 medical and dental schools, the colleges, community health centers, and hospitals in San Francisco will turn for training and direct patient care that is now provided by the PHS hospital.

Mr. Weinberger cannot tell us who would pay for the services presently provided by the Seattle PHS hospital to the Seattle Indian Health Board and the Seattle Free Clinic.

Mr. Weinberger cannot tell us these things because they were not included in the plan he asks us to accept today by sustaining the veto of S. 504.

Mr. Speaker, these are only some of the highlights of the wealth of information contained in our hearings which point out the serious flaws in Mr. Weinberger's plan to replace the Public Health Service system. I would point out that most of the information came from Mr. Weinberger's own subordinates, who feel that the closing of the Public Health Service system would constitute a callous disregard for hundreds of thousands of American citizens. The overriding issue on the Public Health Service question was, did the HEW proposal meet the statutory requirement that the PHS beneficiaries be assured of continued equivalent care?

The preponderance of the evidence proved that the HEW plan did not meet this standard. As a major health care executive, who was in line to take over PHS beneficiaries under the HEW plan, told me, "We are second best to PHS."

Mr. Speaker, it is unacceptable that the PHS beneficiaries should get "second best" treatment.

It is unthinkable that some primary beneficiaries and most secondary beneficiaries get no treatment at all. I am convinced that the Congress agrees with that position. We are not asking in this amendment for the perpetuation of these hospitals indefinitely. We are simply asking that HEW be required to *comply* with Public Law 92-285, which requires that HEW submit a plan that would provide equal care. Until this is done, the Congress must keep the system in operation. I urge Members to vote to override the President and give the people of the United States these vital systems which will mean life or death to thousands in the months and years ahead.

Mr. STAGGERS. Mr. Speaker, I at this time yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, one of the more tragic aspects of our being in the House is to see us get bogged down in terms of protocol, in terms of a whole lot of niceties. While the lives of people are at stake, while we gloss over gut issues. Someone is suggesting now that these Public Health Service hospitals be wiped out, and I think that is the height of asininity and stupidity to suggest this.

Only a few short months ago one of our colleagues, Bill Fitts Ryan, sat over there dying of cancer. He came on this floor to make a vote when he was dying of cancer. In the Public Health Service hospital in Baltimore City there is a fantastic cancer research operation ongoing. All the hospitals in the area feed into that facility.

Go ahead—kill this, and kill another Bill Fitts Ryan, if the Members dare.

Mr. Speaker, I am constantly amazed at the toleration level of the American people. Millions of Americans are unemployed or subemployed, and have been so for years, but they tolerate this. Millions of Americans live in abominable housing where they are blatantly exploited, but they tolerate this. I have grave concerns that if this body fails to override the Presidential veto that we shall strain the toleration limits of people to the breaking point. The issue before us today is the matter of sheer survival. It is the matter of citizens having the right to medical care. It is the matter of fathers and mothers having the right to medical care for their children.

The opponents of this measure will argue that adequate medical care will be made available through other sources.

This is simply not so. They will further argue that the cost associated with this legislation is prohibitive and inflationary. This is simply not so.

What is at stake today is whether one man, the President; and one agency, the Department of Health, Education, and Welfare can dictate to all of America policies which threaten the very survival of millions of people.

It comes to my mind that we faced an analogous situation some years ago. During the time when Senator Joseph McCarthy was intimidating decent Americans and attempting to dominate the political life of this country through the use of smear tactics, half truths and outright lies; finally one strong voice had the courage to speak. You will recall it was the Attorney, Mr. Welch, who finally confronted Joseph McCarthy and in words to this effect said: "At long last Sir have you no sense of decency left?" I think today the House of Representatives must turn to an administration which has denied decent housing, which has accepted persistent chronic unemployment, and we must say, "At long last is there no sense of humanity left?" This is not a partisan matter, this is the matter of the right to life.

I am fully aware of the tactics being used to pressure and bulldoze Members of this Chamber into supporting the President on this issue. I know of the number of Members who have been summoned to the White House. I know of the promises made, that will not be kept. Having full knowledge of these things I still believe that this House will protect the most precious commodity we have—human life. It will do so because many of us realize that blind loyalty to any administration, be it Democratic or Republican, can never justify an act of inhumanity. So I beseech my colleagues to override the veto, and in so doing let the message be heard loud and clear that we seek to protect the right of people to survive—we here today attempt to insure the right to life.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan, the minority leader (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, the distinguished chairman of the Committee on Interstate and Foreign Commerce emphasized the importance of this vote. I fully agree. Then he qualified it by indicating that the issue involving the Public Health Service hospitals was a red herring, and I use his words, not mine. I do not think this issue of the Public Health Service hospitals is a red herring. I believe that we should have emergency medical services legislation. I disapprove of the Public Health Service hospital provisions which, although nongermane to the EMS bill, were tacked on.

The chairman of the committee indicated that the President of the United States on two occasions has asked for such legislation. This indicates White House support for such legislation. However, the Public Health Service hospital problem is one that we ought to face up to.

As I recollect discussions with those who are more knowledgeable than I, at one time we had some 30 Public Health Service hospitals and from time to time as the need has changed they have been phased out. There has been understandable reluctance in one community and another that those hospitals should be phased out, but they have been.

Just recently in my State of Michigan we had one phased out. There was a Public Health Service hospital in Detroit that served the maritime people in the Great Lakes. It was phased out. There was vigorous objection and there were dire predictions made, but the truth is that now that it has been turned over to the State of Michigan, the county of Wayne, and the city of Detroit, it is being appropriately used and more functionally used. The maritime personnel in the area, the people who originally were served, are now better served than they were under the old Public Health Service hospital concept. The State, the county, and the city are using that hospital which was a former Public Health Service hospital and using it effectively. That is what the administration wants to do with all but one of those remaining.

Now I am told if we sustain this veto, that in the process of eliminating the traditional Public Health Service hospitals we will end up with a continuation of the outpatient care, and that is the major share of the responsibility at the present time. Secondly, if these Public Health Service hospitals are phased out with the exception of the one on Staten Island, under contract services with local hospitals our maritime employees will get better service closer to their homes than they do under present circumstances.

I was surprised at my good friend, the gentleman from New York, from Staten Island, who talked about being "bought."

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. No; just a minute. The gentleman knows very well that the circumstances in that hospital are different than in the others and the reasons for keeping that hospital open are unique and unusual and it should be kept open. The others are in a different category.

I will be glad to yield to the gentleman for a comment.

Mr. MURPHY of New York. Mr. Speaker, I asked the gentleman to yield for a question, really. Is the gentleman aware that the district court granted an injunction against the Federal Government, the executive branch, from closing all the hospitals, and, in their opinion, they said that HEW does not have the power to close those hospitals, that the power to close those hospitals rests with the Congress?

Mr. GERALD R. FORD. That is a lower court decision. Legal action has not been concluded, and the facts are that, if we pass this legislation, we will insure that these hospitals will be kept open despite the fact that the medical profession as a whole recognizes that they should not be kept open.

One final observation. In a colloquy I had with my friend, the gentleman from West Virginia, I assured the gentleman and I assure Members of this body who are here that I can be sufficiently persuasive to convince the President of the United States that he should sign an EMS bill minus the Public Health Service features. I am convinced that we can get it through the White House if the gentleman from West Virginia will report it out of the committee.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Michigan (Mr. CONYERS) such time as he may consume.

Mr. CONYERS. Mr. Speaker, what the distinguished minority leader failed to mention is that the Marine Hospital Complex was given to State and local control, and is now divided into two portions, both badly needed and appreciated by the citizens of Detroit. One portion of the compound is devoted to mental health facilities which include inpatient care, rehabilitation offices, and after care for released patients. The other portion of the complex, is a nonprofit community based operation which provides a drug abuse treatment center. This center is now in full operation under a community based board and meets all FDA, State Board of Pharmacy and DEA requirements. It is most certainly not an example of citizens who are unconcerned about keeping open an emergency medical center.

The Emergency Medical Services Act, vetoed by the President, provides $185 million over a 3-year period to provide training and emergency health care equipment. At present there is no coherent system or the provision of emergency medical services in this country and so approximately 175,000 people die needlessly each year because they cannot get adequate medical care in an emergency. If rural America and the disadvantaged residents of inner cities are to have adequate emergency health care, it is imperative that the House vote to override this veto. Improvements in our country's emergency medical services have long been needed, and it would be tragic if the potential benefits provided by this modest legislation, which should be understood to be a completely nonpartisan issue, were lost. The patchwork of fragmented and inadequate emergency medical services is in fact a deadly threat. Testimony presented before the Committee on Interstate and Foreign Commerce confirms that there is no greater cause of unnecessary death and disability in the United States today than that caused by lack of proper emergency medical services. This fact is a tragic reality for older Americans who see little irony in the fact that almost half of this country's ambulance services are provided by funeral homes.

The time is long overdue for Congress to stand up to its constitutional mandate. The Emergency Medical Services Act is good legislation, moderately funded, to meet a pressing need. The intent of Congress has already been made clear. How many more lives must be lost before the inadequacies of the existing emergency medical services are realized and corrected?

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the chairman of the subcommittee, the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. Mr. Speaker, I hope we can begin to get back on the track on what really is the question before us today.

Mr. Speaker, this body and each of us as individual Members of Congress have for our decision today the issue of whether we will reaffirm the action we have previously taken, that this Congress has taken, saying that we need in this Nation an emergency medical services bill. That is the principal question. It is perhaps as important a bill as ever we have had, because this bill talks about doing something now, with knowledge we already possess; and not talking about having to do more research to get results. The bill says to do something now for our communities and our people.

Mr. Speaker, the issues before us as we approach the vote on whether to sustain the Congress original action in passing S. 504 are simple: First, are the American people entitled to receive technical and financial assistance for the improvement of the shameful state of our emergency medical services? Second, can the bureaucrats at the Department of Health, Education, and Welfare be allowed to disobey the laws of the Congress by submitting a plan for transferring or closing six Public Health Service hospitals that is grossly violative of the legislative requirements guaranteeing proper treatment of dependents?

Most importantly, Mr. Speaker, this bill will save lives. All of us are familiar with the inadequacies of emergency services in our rural areas and in our cities. Late ambulances, unskilled attendants, improper emergency room practices are all too well known.

Mr. Speaker, this program is not a large one. It is a project designed to allow communities to receive a start in EMS. First, seed money is authorized for planning of a proper program. Second, 1-year grant money is made available for a portion of the costs of establishment and initial operation of the EMS system. A second-year's grant, at a lesser Federal contribution, is authorized if the EMS system is progressing satisfactorily. After that, the system is on its own. So this is not a massive infusion of Federal money into local EMS systems, Mr. Speaker. It represents a Federal commitment to allow deserving communities to plan and get started with effective emergency transportation and care.

Mr. Speaker, an amendment to this bill mandates that the Public Health Service hospitals remain open until the Congress says otherwise. Frankly, I am sorry that this amendment is necessary, but it became necessary because of the bad faith of a few HEW officials. Last year, Congress passed a law which allowed closing or transfer of the hospitals if certain assurances were given beforehand to the Congress. HEW chose not to cooperate with the Congress by submitting a detailed plan mandated by law which would have given assurances that persons entitled to care and treatment at the hospitals would continue to be provided equivalent care. Mr. Speaker, the plan submitted to the Congress was no plan at all. It was simply a decision to close the hospitals with no attention to the beneficiaries save a few vague commitments from surrounding hospitals concerning hospital bed availability. Dr. Vernon Wilson, the former Administrator of the Health Services and Mental Health Administration, testified that—

> There are no plans of substance any place in the report that would help me as a professional to be assured that the primary beneficiaries will receive adequate care.

Judge Pratt, in a decision enjoining the proposed transfer agreed. He stated that—

> There is substantial doubt as to whether the Plan as submitted to Congress . . . meets the requirements of P.L. 92–585. . . .".

So this amendment became necessary, Mr. Speaker, to protect the beneficiaries and the integrity of the Congress. It does not mandate that the hospitals remain open in perpetuity. I can assure the Congress that when and if HEW submits a plan consistent with this act to the Congress, the Health Subcommittee will hold immediate hearings to consider the proposal and will consider it with an open mind.

Who is behind this bill? Nobody but people. They are the only ones. Senior citizens and their representative groups have endorsed it, these are people who have heart attacks. It is estimated that 275,000 people who have heart attacks every year never make it to the hospital simple because effective emergency care is not available. What is needed is a way to get there; teams that know how to handle the medical problem and keep patients alive until they get to the hospital; communications to alert the hospital so they are ready to take care of them. The American Heart Association estimates that 10 percent of prehospital coronary deaths could be prevented if prompt, efficient emergency care were available. Ten percent, that is almost 30,000 people.

Jacksonville, Fla., has already instituted a program. The city received a Federal grant for a demonstration project—now the Federal Government is out of it and they are carrying it on their own financially.

This is the kind of program that the Members can help get implemented for their communities right now, and it is their judgment today whether this should be done. We do not know whether the President would sign another bill.

What about accidents? We have just gone through Labor Day. Do the Members know how many people were killed in automobile accidents just this past weekend? Almost 600 were. The first reports were 559, and they estimate it will be up to 800 when all the reports come in. That is just over a weekend. Do the Members know what they estimate we could save out of 55,000 automobile deaths a year if EMS were available? About 15 to 20 percent. That is a savings just simply by putting our knowledge to work in this bill.

When we talk about rural areas, it is unbelievable what the need is out there for emergency services. Do the Members know who is behind this bill? I will tell them; mothers and fathers of 15 million children involved in accidents. It is the greatest cause of deaths between the ages of 1 and 37 in this Nation; 16,000 children die in accidents, many because they could not get to the hospital or did not have a team come in time that knew what to do in what situation.

The Veterans of Foreign Wars say they are for an override. The Legionnaires say they are for it. The county governments say that we need it. The city governments say that we need it.

This is not a big Federal program. It is about $60 million per year. Do the Members know what this House just voted the other day, and the distinguished minority leader joined, as others did? He joined in voting for $100 million—I commend him for doing it—to do something about 200 deaths a year from lead-based paint. I do not know whether the President will sign that bill or not; perhaps the gentleman will convince him to, but what I am saying is that here are 60,000 lives that can be saved.

As the chairman said, now the opposition is trying to shift the debate, and there is no point of going through this charade, shifting the debate and saying, "Well, we cannot approve it because of the Public Health hospitals."

I think it is unfortunate that there is some personal pique on this, and I understand it, but that should not be the determinant factor in this debate. We have an obligation to the American people.

The SPEAKER. The time of the gentleman from Florida has expired.

Mr. STAGGERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, let me say, with respect to Public Health Service hospitals, that all we ask is that the administration come up with a decent plan as to how they will take care of the beneficiaries. That is what the Court stated they ought to do. That is what the law said they ought to do.

Mr. Speaker, in conclusion I will say that it will cost more—and I have the facts here—to close these hospitals, more for the Federal Government, than if we continue them now. The average cost per patient per day in the Public Health hospitals now, the projection for 1974, is $92, and outside it is $169. We will save $76 per patient per day on every patient. It will save money to override this veto.

Mr. Speaker, the last time we were required to vote on a veto of a health services bill was in June of 1970, when the Congress overrode, by a vote of 279 to 98, a veto of the Hill-Burton hospital construction bill. Mr. Speaker, the response against this veto from the American people indicates that Emergency Medical Services System Act deserves the same support.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to a member of the subcommittee and a member of the committee, the distinguished gentleman from Pennsylvania (Mr. Heinz).

Mr. HEINZ. Mr. Speaker, I rise in opposition to the veto override.

This has been no easy and quick decision. I voted last year for the emergency medical services bill. I am an original cosponsor of this year's bill from our subcommittee, and of course I voted to report it from the subcommittee and the full committee.

I am a supporter of emergency medical services, and the record proves it.

What is more, I like the provisions in the bill before us, the EMS bill, a portion of what is before us.

Moreover, I tend to disagree with most of the HEW and administration arguments against the EMS portion of this bill.

But there is another section in S. 504, and the purpose of that section is to mandate the maintenance of this Nation's Public Health Service hospitals. Let us examine this section for a moment.

It was never offered as an amendment in the subcommittee. It was not offered as an amendment in the full committee. Neither the Public Health and Environment Subcommittee, on which I serve, nor the full Committee on Interstate and Foreign Commerce received one word of testimony as to this portion of the legislation that is before us here today.

Yet the Public Health Service hospital portion of this bill asks us to mandate the expenditure, which of course is far beyond providing an authorization, of $80 million a year. That is $240 million over 3 years.

Let us consider this in comparison to the 3-year cost of the EMS portion of the bill, $185 million. The Public Health Service hospital section of the bill would not just double the cost of the bill, it probably would triple the cost of the bill in actual cash spent. It is therefore obvious to me that to vote in favor of S. 504 because it contains a needed, well-conceived, and overdue emergency medical services section is to let the tail wag the dog. The Public Health Service hospital section of the bill is not merely a minor adjunct to S. 504, it largely is S. 504.

Let us examine the Public Health Service hospital section further.

Others have indicated the shortcomings in the cumbersome and, I believe, totally unworkable procedure, for either improving or modifying or reducing any of the services provided by the Public Health Service hospitals.

As a matter of fact, even though my committee never had the opportunity to study the legislative situation wisely, I am inclined to believe that these hospitals do a good job and their vital services are deserving of continuation.

So much the more reason not to hamstring the Public Health Service in the administration of these important health resources by making them come to Congress for every change. The way this bill is written they practically have to come to Congress to change a diaper.

Many fear that a "no" vote today is a vote to kill Emergency Medical Services and the PHS hospitals.

If I believed that for 1 minute, if I believed it would injure or delay the establishment of Emergency Medical Services or jeopardize in actual fact the services of the PHS hospitals, I would not vote "no" and I would not be urging my colleagues to vote "no" as I plan to do today.

What, then, is the effect of a "no" vote?

The fact of the matter is that it will return both legislative matters to the Health Subcommittee for prompt and responsible action. And I believe that the Health Committee, on which I am privileged to serve under the distinguished leadership of our chairman, the gentleman from Florida (Mr. ROGERS), will act promptly on an EMS bill, an EMS bill identical to that section of S. 504 before us and identical to the bill by the gentleman from Minnesota (Mr. NELSEN) put in yesterday.

And I am equally confident our committee will hold legislative hearings, as should have been done in the first place, to preserve the considerable benefits of this Nation's PHS hospitals. Moreover, I would expect our committee to move such legislation quickly and expeditiously to the floor.

If both the PHS hospitals and the EMS legislation do not come to the floor it will not be the fault of the minority members of the committee.

I firmly believe my colleagues can vote "no" on the override with a clear conscience. It is a "yes" vote for responsible legislation.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas Mr. TEAGUE).

(Mr. TEAGUE of Texas asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. TEAGUE of Texas. Mr. Speaker, there is no way I can say what I have to say concerning this bill and the veto in 2 minutes, but there is no question that every veteran group in this country knows and believes that the heart and soul of our veteran program is our veteran hospital program.

For 25 years I have watched the Bureau of the Budget, the OMB, nibble away at our hospital programs and there is no question that they will attempt to put these people from Public Health Service hospitals into our veteran program.

Now, Mr. Speaker, recently in Missouri, the President made the statement that he would maintain a separate hospital program. The Director of OMB, Mr. Ash, told me personally in my office—and I am sure he will not mind my repeating it—that this will be maintained. But at the same time this was going on, in HEW they were making a plan to take these veterans hospitals and put them into an overall national health program. So, Mr. Speaker, every veteran group is suspicious and skeptical, with every right to be, of this program, and these groups are all in favor of overriding the President's veto.

Mr. STAGGERS. Mr. Speaker, the minority side has yielded 1 minute to the gentleman from Kentucky (Mr. CARTER). I will yield the gentleman 2 additional minutes, giving him a total of 3 minutes.

The gentleman is a member of the subcommittee and also a member of the full committee and has considered this bill all the way through.

Mr. CARTER. Mr. Speaker, health should have no politics. The best facilities we have for diagnosis, treatment rehabilitation, and transportation are none too good.

From 350,000 to 400,000 people die each year of heart attacks. It has been estimated by health authorities that 60,000 of these might well be saved with better trained ambulance attendants and medical personnel.

Some 54,000 people are killed each year on our highways. Thousands more are permanently injured due to faulty handling by untrained personnel; thousands more could well be saved.

As many of you know, up until approximately 3 years ago, funeral homes throughout much of the United States, and particularly in my State, furnished ambulance services. But a regulation from HEW required any company offering ambulance service to have two trained attendants on duty at all times. Because of this implementation of the Federal regulation, almost every ambulance company or funeral home offering ambulance service in my area was forced out of business.

A small company simply cannot afford to keep six trained men on duty during a 24-hour period. The funeral homes and many of the ambulance companies went out of business, and as a result the burden fell on the counties, the small county hospitals throughout Kentucky and the United States.

This places an intolerable financial burden upon our counties and hospitals. It would range in cost from $70,000 in a small county to millions of dollars in a county like Jefferson County. The Federal Government here in Washington promulgated these regulations and placed this enormous financial burden upon our small counties and communities.

Therefore, I submit, Mr. Speaker, that it behooves us to help the small counties throughout the United States in training ambulance personnel, and with financial assistance in the purchase of equipment necessary for adequate and meaningful ambulance service.

Much has been made of the fact that our Public Health Service hospitals are underused. In some cases, I must admit that this is true. However, in others, such as the hospital in Baltimore valuable research is being done in the area of cancer causation, detection, and treatment.

As a physician, it would be very difficult for me to advocate closure of an institution which might well find the cause of cancer and through research develop a cure for this insidious disease which, this year, will kill 400,000 of our people.

I know, Mr. Speaker, many of you think it cannot happen to you. I want to tell you that what you least expect will happen and what you dread the most seldom ever occurs. I have seen close personal friends stricken with this almost always fatal disease—and I have seen few complete recoveries.

Now Arthur Younger, who sat on the committee of which I am now a member, developed leukemia; the Honorable Glenard Lipscomb, in whose diagnosis I was involved, was taken from us at the height of his effectiveness.

The facility in the Public Health Service hospital at Baltimore might one day find the cause or cure of this silent insidious disease. Would you, Mr. Speaker, be one to lock the doors of an institution which held such promise?

Many times on our highways, among the 54,000 who are killed each year, a femoral or brachial artery may be severed. The attendance of a skilled technician might well prevent a fatal hemorrhage. This legislation provides for such trained attendants. Will you, Mr. Speaker, be the one to deny the unfortunate person who is hemorrhaging to death the skillful care and attention which is necessary to save his life?

Mr. Speaker, on our highways, of the 54,000 who are killed each year, many suffer spinal injuries with pressure upon the spinal cord. Without experienced care, loading, and transportation, this would result in irreparable paralysis. Would you, Mr. Speaker, vote to deny that person with a spinal injury the right to have a skilled attendant to see that he is not paralyzed as a result of unskilled handling?

The cost of this bill is $185 million. A little more than we pay each year for our deployment of troops in Italy; a little less than we pay for our military installations in Great Britain. It would result in the saving of at least 60,000 people a year from fatal heart attacks, 30,000-odd people from crippling injuries.

Mr. Speaker, this bill is supported by almost every medical organization in the United States, the American Heart Association, the American Cancer Society, the American Hospital Association, the Association of Mayors and of County Officials.

Today, we are asked to sustain the veto of our President. I regret to say I feel that he has received poor advice and by voting to override we shall be doing our people a great service

I would give a word of advice, Mr. Speaker, to our fine young freshmen Congressmen: You are elected by the people of your district, and to them you owe your allegiance.

Today I ask you to vote your consciences, to vote as the people of your district would have you vote, and not according to the way a separate division of our Government, which is not conversant with your problems, would have you to do.

A vote for this legislation is a vote to save lives on our highways; to care for those who are wounded. A vote for this legislation is a vote for further research, care, and treatment of our cancer patients.

The sum of money which we authorize today will cost approximately as much as two destroyers.

We need to make our country stronger from within and a better place in which to live. I urge that you vote to override and assure you that the thinking people of your district will support your action.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Kansas (Dr. Roy), a member of the subcommittee and the full committee.

Mr. ROY. Mr. Speaker, I would like to associate myself with the remarks of Dr. Carter, my fellow physician on the subcommittee.

Dr. Carter has served the people of his State well, first as a skilled and compassionate physician and now as a legislator who is a strong supporter of effective health legislation. Both Dr. Carter and I want legislation that will work and not health legislation just for the sake of health legislation. The EMS bill is such legislation. It will work.

On no piece of health legislation have I received so many calls, letters, and telegrams from health professionals in support of a bill. I have heard especially from private practitioners of medicine who say, "Bill, we want to deliver satisfactory emergency services, but we need your help to establish good emergency medical service systems."

The need is desperate for an emergency medical services bill. In each of our congressional districts over 100 people will die each year because of the lack of emergency medical services. An estimated 45 people per congressional district will die from accidents because of the lack of emergency services. Another 55 will die of heart attacks, and about 10 will die of other causes because of the unavailability of emergency services.

I feel we must support this bill now and that we cannot wait for another bill to go through the committees of both bodies and again appear on this floor. And everyone knows, we have received no assurances that another EMS bill will not be vetoed. If indeed we can go the long legislative route, we have no assurances that we will not be back here again at this point of attempting to override a veto at that time.

So I appeal to my colleagues, do not play legislative roulette with greatly needed emergency medical services while thousands of Americans die because of a lack of competent systems to meet the emergency needs of our people, but to vote now to override.

Mr. STAGGERS. Mr. Speaker, at this time I yield 1 minute to the distinguished gentlewoman from Oregon (Mrs. Green).

Mrs. GREEN of Oregon. Mr. Speaker, I suggest that most of us probably tune out most commercials on television, but there is one current commercial that has relevance to this bill. It says simply, if you have your health, you have got just about everything.

I am not suggesting that prompt, efficient ambulance service or Public Health Service hospitals are the total answer for good health. They provide only a very small part of it. But for anyone who is critically ill and needs service available at that Public Health Service hospital or needs an ambulance at that moment—then those services do indeed mean everything.

Food, housing, everything else fades into insignificance at a time of critical illness—health comes first. Is there any Member of this House today who would say they could not draw up a list of priorities and that they could not find other places where they could save $65 million this year? An area not as critical as programs supplying basic health needs?

If time allowed, I could suggest a dozen areas where we can save $65 million and we would not be taking away services which provide the most vital—the most basic item to any American "health." Let us not choose this as "the" place to economize.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on House Administration, the gentleman from Ohio (Mr. Hays).

Mr. HAYS. Mr. Speaker and Members of the House, I heard the distinguished gentleman from Pennsylvania (Mr. Heinz) talking about how he was for the bill, but, I just want you to think about one thing. I am told this bill will cost $185 million for 3 years. It is estimated that it will save 180,000 lives during the next 3 years. The President says we cannot afford it, but we are building aircraft carriers which the President says we can afford. This total bill would not cost as much for 3 years as one-fifth of one aircraft carrier, which could go under the water with one well-placed bomb down its stack, and that was proved in World War II.

It seems to me if you have got any qualms about "I am for it, but—," this ought to answer the "but" for you, and it ought to establish some kind of a priority.

I am for the defense budget, but I am for 180,000 human lives before I am for one-fifth of an aircraft carrier.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Adams).

Mr. ADAMS. Mr. Speaker, it is very difficult for any of us in this short debate to explain the anguish that we feel that this bill has been vetoed, and that it might not be overridden today.

To answer the minority leader, the gentleman from Michigan (Mr. Gerald R. Ford) I have here a letter from the people who reviewed that hospital in Seattle at the request of HEW, and they said that it has to be kept open because there is no alternative plan for us.

We also have a cancer center there. Those of us who have members of our families and our friends suffering and dying from cancer know that that center has to be shifted someplace else, and at incredible expense.

Here is a letter from the medical hospital at the University of Washington that says that one-fourth of their medical student interns are interning at the Public Health Service hospital.

When you talk in terms of what the expenses are of this bill we must remember that there has been a tonnage tax on merchant tonnage for years to support this. That was removed in 1906, but it was earmarked, and it is still there, so that money should pay for these hospitals.

I was very disappointed when I learned that the President had seen fit to veto the Emergency Medical Service Systems Act. It is clearly the intent of a majority of the House and the Senate that the Federal Government involve itself in the very important business of saving lives that are currently being lost because of the lack of immediate medical attention when they need it most—at the point of injury.

As the distinguished Congressman from West Virginia and chairman of the Interstate and Foreign Commerce Committee noted in his statement on May 31, 1973, before the House of Representatives:

> Our Committee found in its hearings that one of the most visible and unnecessary parts of our country's health care crisis is the present deplorable way in which we care for medical emergencies. Every year 55,000 people die in automobile accidents. Every year 16,000 children die in accidents. Every year 275,000 people die from heart attacks before they reach the hospital.

On the same occasion, my distinguished colleague and chairman of the Public Health and Environment Subcommittee of the House Interstate and Foreign Commerce Committee noted that this legislation has the potential for saving over 60,000 lives each year .

The President, who has distinguished emergency medical services as one of his health priorities, indicates in his veto message that the Federal Government should attack this problem on a demonstration project basis. The Congress, however, emphatically stated its position that the Federal Government has the responsibility of engaging actively in the fight to save these lives by passing the Emergency Medical Services Act by a vote of 261 to 96 in the House and 79 to 13 in the Senate. When the conference report was passed, this statement was even more strongly reiterated—by a vote of 97 to 0 in the Senate and 306 to 111 in the House; the Senate vote of 77 to 16 to override the veto stresses this point again.

Another of my concerns with the President's action on this bill is the fact that he is hereby ignoring the intention of Congress to keep the Public Health Service Hospital System open. In his veto message, Mr. Nixon noted:

> These hospitals have a record of service to this Nation, and especially to its merchant seamen, which is long and distinguished. Nevertheless, it is clear that their inpatient facilities have now outlived their usefulness to the Federal Government.

While it has been clear since late 1970 that the administration has intended to use any method available to close the hospitals—what has not been clear is that the inpatient facilities at these hospitals have "outlived their usefulness" to the beneficiaries of the hospitals. These beneficiaries, in fact, have gone so far as to file suits against the Federal Government charging that the plans submitted to Congress did not assure the beneficiaries of adeqaute care. The beneficiaries, therefore, seem to find the impatient facilities "useful"—whether or not the President finds them "useful to the Federal Government." So did the group appointed to study this for HEW because there was no plan to keep this service.

I would also like to point out that the Public Health Service hospitals play a substantial role in health manpower training, health research and as support facilities for a wide variety of community health programs serving those people who would not be able to purchase these services independently. These hospitals serve the needs of the entire country through extensive research projects, including unique projects in cancer, cardiology, endochrinology, infectious diseases—the list is extensive. The cancer center will have to be shifted at enormous expense. They participate in the cooperative training of 12,000 medical and paramedical personnel each year and provide backup inpatient services to projects involving services to crippled children, patients services to projects involving services to crippled children, patients in need of kidney machines and to the little-publicized victims of leprosy, among others. Backup inpatient services will certainly not be available under HEW's plan—and research activities involving inpatient care will be terminated along with manpower training programs. The University of Washington has a substantial intern program in the hospital.

In conclusion, it is the overwhelming opinion of the beneficiaries of the Public Health Service hospitals that they will not be better served through the HEW contract system. HEW has had the opportunity in the plan required under Public Law 92–585 to indicate what their alternatives will be and to give the local community an opportunity to respond to that plan. They have not supplied a plan that provides any specifics on how care will be provided and they have estimated that the cost per patient under a contract system will be increased significantly.

In passing the Public Health Service hospital amendment in the beginning, the House put itself on record as being opposed to the hospitals being closed—and in strong votes of both the House and the Senate this was confirmed when the conference report was passed. I propose that we support the Senate's decision and vote to override this Presidential veto—to insure that the beneficiaries of the hospitals will continue to receive good medical care until HEW can come to Congress with hard facts to prove that they can provide better care without the hospitals—and to begin on a National level the attack against the needless loss of over 60,000 lives per year.

Finally there is still in existance a tonnage tax on merchant shipping which was originally to finance this obligation, so taxes are still being collected for these facilities.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the distinguished gentleman, the chairman of the Committee on Agriculture, Mr. POAGE of Texas.

Mr. POAGE. Mr. Speaker, I think it is fair to say that all of us recognize the need for this medical service. I do not believe that is the question before us. On the contrary I think that this boils down to a question of financing.

I have been criticized from time to time as being too conservative on the question of expending tax money. Maybe I am. In any event I don't want to see us commit the Government to spend money we do not have, even for a good cause.

The gentleman from Pennsylvania suggested that if we overrode this veto that this bill would cost three times as much as it would otherwise cost. Certainly this particular bill would cost more, but the cost to the U.S. Government will be about three times greater if we do not pass this bill because we still will have to take care of these people who are in those hospitals. We are under contract to take care of these people right now, and we are going to take care of them. Everybody agrees we are, including the gentleman from Pennsylvania. So if we take them out of these hospitals and put them in some other and more expensive institution then the cost will be about three times what it is today.

None of these institutions are in my district. As I see it it is just a matter of sound business to keep the hospitals in operation. The issue is do you want to pay a lot of unnecessary costs in order to say that you supported the President. I do not believe that is good business.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CAREY).

Mr. CAREY of New York. Mr. Speaker, I would just like to make this observation—downstairs on the first floor of this building we supply emergency medical services to all of the Members of this body, and all the people around the Capitol for everything from poison ivy to hyperacidity. We also supply equivalent services to all high-ranking members of the executive branch over at Bethesda. How dare we deny to the American people what we have carefully supplied to ourselves? It is their right to have competent medical service just as we have it in case of emergency.

Mr. Speaker, there has been a great deal of talk by this administration about achieving economies throughout Government. I think that is laudable—we should expect the executive to carry out their mandate as efficiently and as economically as is consistent with the policy and program goals determined by the Congress—even if that means saving $20 million at HEW by shutting down most of its communications programs and transferring these funds to the office of the Secretary. I presume that these funds will be impounded by the present incumbent as is his wont with "surplus" funds.

However, I take strong issue with Mr. Weinberger and company when they talk about economies in health care and preventive medicine and then fight tooth and nail against a program that will save the Nation billions of dollars and save Americans—you and I, even members of the Cabinet—from the needless anguish and pain of emergency health disasters that are presently untreated, or treated inadequately; even dangerously.

Mr. Speaker, the short-term economy of not investing in the emergency services that would be provided by this legislation is more than offset by the costs in long-term care, rehabilitation, handicapping, disfigurement, and death. There is absolutely no comparison between the two, and this administration knows it. The veto of this program, which the President originally supported, is just another example of callous slashing of funds for health programs throughout the Nation.

Traffic deaths run between 50,000 and 60,000 per year in the United States. About 15,000,000 children suffer serious accidents every year and 15,000 of these die as a result of their injuries. But it has been shown that 15 to 20 percent of highway deaths could be prevented if prompt, effective emergency care were made available at the scene of an accident, on the way to the hospital and during the first hour of care at the emergency room or in surgery at the hospital. We could also substantially reduce the number of children dying as a result of their injuries if they had access to the type of emergency care this legislation will provide. Ten percent of the 275,000 yearly prehospital coronary deaths could be eliminated with proper emergency care.

Mr. Speaker, this veto is an outrage not only on economic grounds but in the speciousness of the arguments put forth in opposition by both the White House and the Department of HEW. Arguments are put forth that this is just "another narrow categorical program, that takes initiative, direction and responsibilities away from the local governments."

That statement is absolutely false. This legislation provides assistance to local governments and then lets them utilize it in the way best suited to their needs. The administration also states that we need only a demonstration program to develop and test new techniques in emergency care. That statement also makes no sense whatsoever. We have right now the medical, technological, electronic, transportation and testing know-how and capability—all that is needed is the funding and paramedical training this bill provides. Thousands of lives may well be lost by a failure to insist on this bill becoming law.

All I can say to my colleagues as we deliberate on this bill is that the next emergency could be you, your family or loved ones, and I, for one, would rather trust myself to competent, swift and well-equipped emergency treatment and transportation than to the tender mercies of empty administration assurances and specious argument and logic. I know when tragedy struck my own family through a multiple-fatality traffic accident, I could only wish that emergency care and transportation, like that provided by this bill, had been readily available. We need this legislation and we need it now.

Mr. Speaker, there is another title to the bill that is of great importance to the medical well-being of many Americans. I refer to the provisions mandating the continued operation of the eight Public Health Service hospitals across the Nation.

The number of these hospitals has gradually dropped to eight. The Congress has mandated, in legislation, that 90-day notice must be given by the administration before the proposed closure date for these hospitals. In this notice there must be contained detailed and supportable evidence, that those receiving medical care at these hospitals must continue to receive at least the same level of care at other facilities, that the closing would result in economies in spending Federal funds, and that the relevant health planning organization would have time in which to comment on the proposed closure.

Mr. Speaker, these closure notices or plans have all been received by the Congress and every last one of them fails miserably to measure up to the requirements of Public Law 92–585. There is no assurance, other than a cursory review of available beds elsewhere, that the care of those served by the present system will be adequate. There is clear-cut evidence that providing equal services will cost far more than maintaining the hospitals in operation. And only 10 working days were permitted planning agencies to comment on what was not the plan, but only a letter outlining in glowing terms the generalities of what was planned in providing alternate care and research activities.

Mr. Speaker, I have received many letters from those now being served by the Public Health hospitals in this Nation. And while merchant seamen do receive treatment and care at these facilities, their use is far broader. Letters have been received from veterans, retired military, the poor, and from many who find this hospital their only source of medical care and treatment.

Until the administration at least has the courtesy of providing the Congress with adequate compliance with the provisions that would permit closing these hospitals, they should remain open until such time as the Congress determines they can be replaced with equal or superior treatment facilities through some other aegis. The administration apparently feels that mere lipservice to the letter of the law is sufficient to shut down the only medical care to which thousands of Americans presently have access.

Mr. Speaker, in order to assure this needed health care and in order to save Americans from 150,000 needless accident fatalities, 400,000 totally disabled, and a loss of over $25 billion annually, the Congress must vote to overturn this senseless, heedless, and economically foolish veto.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Ohio, the ranking member of the Committee on Interstate and Foreign Commerce (Mr. Devine).

Mr. DEVINE. Mr. Speaker, it is nice to legislate in an atmosphere that is cool and objective and unemotional. I feel that some of the lobbying tactics in favor of overriding the President's veto are a little questionable. A number of my colleagues have come to me and said that they had received telephone calls from Members of the majority saying, "Do you want to be responsibe for 60,000 lives? Unless you vote to override the President's veto their blood will be on your hands."

An unemotional approach and an objective approach, of course.

Mr. Speaker, we have had some comparisons here, like comparing bananas and apples. The question here today is not whether emergency medical services will be provided.

There has been introduced H.R. 10174 with over 50 sponsors on this side, which contains the original medical emergency services bill not loused up with the Public Health Service hospital question. I can say to the Members that this Member, who is one of the cosponsors among the 50 others, in the event that bill does come out of our committee, will vote for it, notwithstanding any objection of the President or anybody else, because I think the vast majority on this side of the aisle, as well as on that side, support emergency health services.

I am reminded of one of our former colleagues who retired from the Congress, Page Belcher of Oklahoma, who always pointed out when we had a bill like this that it had a lot of good features, but some bad features in it as well. Along these lines he said:

> You know, if you had a barrel here with 49 gallons of distilled, pure water, and over here a one-gallon can of contaminated poisoned water, and if you take that one gallon and pour it into the 49 gallons, what do you have?

He said:

> You have 50 gallons of contaminated water.

What we have to do is to keep the 49 gallons of pure water, which is the Emergency Medical Services Act that we all favor, and eliminate the Public Health Service thing that was put in this bill by waiving points of order, and not the subject of hearings in our committee, and we will have an emergency medical care bill.

I cannot speak for the President, nor can the minority leader, but I can assure the Members that I, as one of the cosponsors of the uncluttered EMS bill by itself, will vote to sustain that position, and am confident the folks downtown will accept our new legislation.

I yield back the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to our distinguished Speaker, the gentleman from Oklahoma (Mr. Albert).

Mr. ALBERT. Mr. Speaker, since the issues of this debate have been fully developed I think we should take a little bit of inventory. When the House first considered this bill it passed by a vote of 261 to 92 or nearly 3 to 1. When the bill came back by way of conference, not the Senate, not the Committee on Rules, not the Committee on Interstate and Foreign Commerce but this House, by a vote of 306 to 111 which is more than 2 to 1—almost 3 to 1, sustained this proposition with the eight public health hospitals included. That action was the action of the House. The action of more than two-thirds of the Members acting on this bill.

Today the responsibility lies, not with the majority party, but with the more than two-thirds of the Members who voted on this bill when the conference report was before the House.

The question today is this: Are we going to play a merry-go-round and pass one bill after another because the Senate happens to put something in it that someone does not like, but which the

House accepts by more than a 2-to-1 vote?

I have no criticism of the minority leader or of the gentleman from New York and others who voted against this proposition when it was here in the conference report. But how are the other Members who voted for the conference report, going to be able to go back to their constituents and tell them that their conscience was wrong; that their constituents were wrong when they sent the Members here to exercise their judgment; that the Members had to wait for the Secretary—the unelected Secretary—of Health, Education, and Welfare to tell them what is good for their people.

The reputation of the House of Representatives is at stake. We should all stand up and be counted for our people.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry that we do not have any more time, but I want to congratulate everyone who has spoken here today. I believe the discussion has been in the proper tenor and there has been good debate on good legislation.

I would like to say to my friend, the gentleman from Ohio, while we are talking about lobbying from the majority, that I have seen two men from the White House standing out here and lobbying each day, talking to people and telling them what to do. What about calling men to the White House last night? How about that?

Of course, we have a perfect right to talk among ourselves. We are the legislative body and we ought to legislate as our consciences tell us.

The evidence is all in. We are the jury. This is the greatest and the most powerful body that has ever been known in the world in the history of mankind. Every segment of this country and every citizen of this Nation is represented in this body. The verdict lies within our hands.

The verdict does not lie with the U.S. Senate. They rendered their verdict before the recess and it was heard all over America. They voted 77 to 16 that this was a good bill.

Do we think they were voting in the wrong way over there? We know they were not. They considered what they were doing.

I hope this House will certainly do the same thing. We hold in our collective hands here today the fate of 60,000 lives, as has been testified to before the committee, and the lives of untold thousands who will be injured or disabled and who will not be saved if we do not pass this bill. We will lose over 200 Americans each day if we fail to take any action.

This reminds me of the old question: Shall the verdict be based upon political expediency or political pressure or shall the verdict be based upon our wisdom and experience and compassion?

Some day each one of us will have to stand before the uncorrupted judge in the skies who keeps the records and he will have to stand there before the bar of judgment. How will each of us be voted upon there if we vote "no" today when by a "yes" vote we can save the lives of people, by just our single vote?

I say to the Members that record will be kept in the annals of mankind from now on as to how we vote on this important issue, this issue which is so important to America.

Mr. KASTENMEIER. Mr. Speaker, 175,000 people die needlessly each year because they are unable to get adequate medical care in an emergency. It has been estimated that proper emergency care would save approximately 60,000 of these lives annually. We have the means to save many of those lives through the assistance provided in the Emergency Medical Services Systems Act.

The record of the inadequacy of our emergency medical services has been amply documented. Even the American Medical Association, hardly known for its extravagances in recommending Federal funding, asked earlier this year for $630 million to do what S. 504 proposes. Yet, the bill that the President says is too expensive, provides only $185 million over a 3-year period to upgrade emergency medical care.

How do you explain to a mother whose child has just died from drowning largely because of the inability of poorly trained ambulance attendants to administer proper care, that we could not afford to provide the training that might have saved her child. How do you justify authorizing $800 million more for military assistance to South Vietnam and Laos than the Defense Department says can be spent in compliance with the cease-fire accords, while denying the emergency medical care that might save the 16,000 children that die from accidents each year.

How do you tell children who have just lost their mother in a traffic accident largely because only one doctor was on duty to administer to emergency cases and he simply did not get to their mother in time, that all we could afford were five emergency medical services demonstration projects and their community just wasn't one of them. How do you explain that we can afford to build planes that do not fly and to subsidize private defense industries, but we cannot afford to save the 15 to 20 percent of the 55,000 highway accident victims that could be saved through emergency care each year.

Mr. Speaker, this is not a question of demonstrating support for any one man. It is not a question of uniting in support of or opposition to the President. It is a question of saving human lives, and we cannot play politics with human lives. We have the opportunity to enact legislation that has the potential to save thousands of lives each year. If we can afford to spend billions of dollars on military operations that destroy lives, surely we can afford to spend a few million to save lives.

Mr. Speaker, I urge this body to override the veto of this bill.

Mr. PATMAN. Mr. Speaker, it is no secret that emergency medical services in the United States of America are, to say the least, sadly inadequate—particularly in our Nation's rural areas where the distances between accident and hospital are often substantial and always crucial.

The quality of medical attention that is administered to victims of accidents or sudden illness is, in many cases, the difference between life and death—and I believe that the assistance provided in the Emergency Medical Services Act, S. 504, can make that medical attention mean life.

The emergency medical treatment system which was developed by our military forces in Southeast Asia proved that prompt and expert care can be delivered to injured people within a matter of minutes, even in a combat situation, and that such speed and expertise does save lives. On the civilian scene, accidents are the leading cause of death for Americans under age 38, and it is estimated that proper emergency care could save as many as 60,000 lives each year. In my mind, Mr. Speaker, this is justification enough for immediate enactment of the emergency medical services bill.

Studies done by the Department of Health, Education, and Welfare and Federal transportation safety officials have abundantly documented the scarcity of properly equipped ambulances and hospital emergency rooms throughout the United States, and the almost complete lack of training found among ambulance attendants is appalling. In this connection, I would like to point out that there are particularly difficult problems in rural areas where citizens have long depended upon funeral homes to provide emergency transportation for accident victims. It is obviously unreasonable to expect that these drivers are adequately qualified to administer emergency treatment.

Furthermore, in several counties within my own congressional district, some private ambulance operators have found that it was no longer economically feasible for them to continue providing ambulance service, with the result that these areas have been left virtually without adequate emergency transportation systems. I believe that residents of our small towns and rural areas have a right to equal protection of life and limb.

In view of the fact that we know precisely what the shortcomings are and how to correct them, and considering that we have the resources to provide prompt and expert emergency treatment, in my mind, Mr. Speaker, there is no reason to delay further in the passage of S. 504. In vetoing this measure, the President suggested that this has been traditionally an area of State and local concern and that the problem should be left up to officials at the local level.

The truth, however, is that many political entities simply do not have the necessary resources to do the job, and I believe it is altogether necessary and proper that the Congress make available the modest levels of assistance recommended in S. 504—particularly in light of the fact that it specifically provides for control by State and local governments and private nonprofit groups who will be responsible for planning, establishing, and improving emergency medical services.

Too many lives are at stake. We can no longer in good conscience look the other way and ignore the pleas of concerned officials who have asked the Federal Government to help them provide up-to-date emergency medical service to meet the needs of a great nation.

Mr. LEGGETT. Mr. Speaker, I have in my hand President Nixon's veto message on the Emergency Medical Services Systems Act. I think we can fairly summarize his objections to the emergency health program with these two points: First, this is a matter for State and local—rather than Federal—jurisdiction. Second, it costs too much.

I suggest neither position is tenable.

First, let us consider the question of jurisdiction. In most cases I believe the more local control the better. But this is one of the exceptions to the rule. A man with a coronary attack, or with an artery cut and spurting from an auto accident, needs the same kind of emergency treatment in California that he needs in Maine or Alabama. There is no such thing as local emergency medical treatment; there is only good treatment and bad treatment. If we leave this up to States and localities, we will have some good programs and some bad ones. If we make it a Federal grant program we can impose Federal standards to see that the equipment and training is first-rate everywhere. And we can insure that the results of the latest research will be promptly disseminated to and incorporated in emergency facilities all around the country.

Second, there is the cost question. Mr. Nixon says $185 million over 3 years "is far in excess of the amounts that can be prudently spent." In his state of the Union message he tells us we cannot free up funds by cutting the military budget because "we are already at the razor's edge in defense spending."

I say anybody who tried to shave with this razor would wind up with a face like a pepperoni pizza. Look at our top-heavy, tail-heavy, mission-light force in Europe as an example. In these pleasure spots of the world we have proportionately more generals and admirals than we had at the peak of the hot war in Vietnam; we have more than three times the proportion we had when we were winning the hot war in Europe 30 years ago. Our ground fighting force of 64,000 men is buried in the blubber of 253,000 support troops and another 250,000 dependents. We could finance the entire emergency medical program with a fraction of 1 percent of the cost of our European commitment: a cut which would have no military effect and which would leave us continuing to meet our full NATO commitment, unlike any of our allies who are NATO's principal beneficiaries.

Mr. Speaker, today I believe some Members may vote in response to an undercurrent issue unrelated to the merits of the bill. Administration lobbyists are saying the President needs support at this time when his popularity and prestige are at the bottom of the Grand Canyon. I say I would like nothing better than to have Mr. Nixon redeem himself from Watergate by the doing of good works. But this veto is not a good work. If he plants his flag on the high ground and calls to Congress and the American people for their support, he can expect to receive it. But if he adopts an unworthy cause, as he did with Haynsworth and Carswell and as he does today, he cannot and should not expect support.

The committee estimates, and President Nixon does not dispute, that this bill will save 60,000 lives per year, which works out to a cost of $1,000 per life. We rarely have the opportunity to buy so much for so little.

When a pilot was downed in Vietnam, on many occasions we would rightly expend tens of thousands of dollars in fuel and munitions and risk millions of dollars worth of aircraft to rescue him. Today we have a chance to save in 1 year more lives than were lost in the entire course of the war; we can do it for the cost of a single C–5 airplane.

When Apollo 13 ran into trouble, the President canceled all White House parties and the Nation held its breath for 4 days hoping for the survival of three men. We would rightly have spent millions of dollars to save them. During those 4 days more than 300 Americans died who would have lived had the facilities provided by this bill been available. These were people who had decades of healthy lives ahead of them, which they lost because we had not spent the necessary $1,000 per head. They died, unnoticed by President or media, because death in such situations was a part of the American way of life.

If Mr. Nixon has his way, it will continue to be part of the American way of life into the future. I do not question his motives, but I must condemn his judgment. The life of an American citizen is worth more than $1,000. This veto should be overriden.

Mr. SKUBITZ. Mr. Speaker, it is my purpose to vote to sustain the President's veto on the emergency medical services systems bill, S. 504. I shall do so for the same reason that I voted against the measure on its original passage, namely that through a parliamentary device of a rule that waived points of order, an amendment was attached here on the Floor that had little or nothing to do with bringing emergency health services to people who need such help.

That amendment to maintain a number of Public Health Service hospitals was never considered in our Interstate and Foreign Commerce Committee. I never voted for it nor would I have. In my judgment, the procedure followed in this instance was bad legislative practice and I so indicated by my vote against the amended bill.

If the President's veto is sustained, and I trust it will be, I intend to support the bill introduced yesterday by my colleague, the gentleman from Minnesota (Mr. Nelsen) and a number of others. It is identical with the bill I originally supported and voted for in committee. It carries out my view that emergency medical services should be made available and particularly to rural areas and smaller communities. I believe that the administration supports such a policy and most certainly I do and will so vote.

Let the issue relating to our Public Health hospitals stand on its our merits. Let the committee hold hearings, present the facts, and then let this body make its determination.

Mr. PODELL. Mr. Speaker, while no one doubts the very real benefits of medical discoveries and scientific advances we too often neglect the necessary steps for using our increased knowledge and for bringing its benefits to the public. The Emergency Medical Services Act is a key step in remedying this. Tens of thousands of Americans die each year not because the medical knowledge to save them is unavailable but because the knowledge is not used.

Traffic accidents have become part of the American way of life as every holiday we listen to the latest death tolls as though they were new sports records. Current traffic fatality figures are at the rate of 55,000 a year and this is less than half of the death rate for all accidents. Literally millions suffer significant injuries each year. Hundreds of thousands suffer fatal heart attacks.

This enormous loss of life can be sharply cut and many serious injuries alleviated if immediate medical attention is available. Reliable estimates are that 60,000 lives could be saved annually by an adequate system of emergency care.

Unfortunately such care is all too often the exception. High percentages of ambulances are insufficiently equipped, ambulance drivers poorly trained, and hospital emergency rooms inefficient. All too few doctors are involved full time in emergency care.

The bill before us is a necessary and effective step toward meeting this problem. It will stimulate planning, research and action for regional emergency care programs. If we reject it we will not save the country money but will only prove our preference for grand schemes and future promises while we ignore the demands of the present.

Legislation for emergency services was recommended by the administration, though Mr. Nixon has now turned his back on the problem. The $185 million authorized is not excessive; in fact it is a modest amount in terms of the scope of the problem, and other Federal expenditures.

If we sustain the President's veto we will be setting a pattern for the type of compromise the President has requested. The President could in the future veto all legislation he dislikes and Congress would provide the compromise by backing down.

However I do not ask the House to override the veto as a show of strength, but to preserve an important and worthwhile bill, a bill we have already passed once by an overwhelming margin.

The quality of health care available to all citizens is at stake.

Mr. HUDNUT. Mr. Speaker, it is my hope that the House will vote to sustain the President's veto of S. 504, the Emergency Medical Services Act of 1973. As a cosponsor of the original bill reported by the Subcommittee on Public Health and Environment, I have reached the decision to vote to sustain the veto reluctantly and after much consideration.

While I believe there is a need for additional aid to State and local governments as well as to organizations such as volunteer fire associations and rescue squads to assist them in their efforts to remove the barriers that prevent the citizens of this Nation from having prompt access to effective, efficient, and acceptable emergency medical services when needed, I feel the nongermane amendment which was added directing the Secretary of Health, Education, and Welfare to continue operation of the in-patient facilities of the eight general hospitals presently maintained by the Public Health Service makes this measure unacceptable.

According to information available to me, the Public Health Service hospitals are outmoded in some instances and the number of individuals they serve is declining. They have a good record of service to this Nation, and especially to merchant seamen; nevertheless it is clear that they have outlived their usefulness so far as in-patient services are concerned. Therefore, to provide continued care for those now served by these hospitals, the Department of Health, Education, and Welfare has embarked upon a program of contracting with community hospitals. The fact is that many of our community hospitals are more modern, better equipped and more conveniently located than the Public Health facilities and thus would provide better medical care.

I have joined in cosponsoring a new Emergency Medical Services Act which we feel meets the President's objections to S. 504 and at the same time provides a better method for getting needed assistance to the appropriate areas. If the veto is sustained, I am hopeful that immediate action will be taken on the new bill.

Mr. DOWNING. Mr. Speaker, Virginia's Public Health Service hospitals serve more than 90,000 beneficiaries, citizens to whom this Government is obligated by law to provide medical service.

To fail to override this veto would be to deny this service to these citizens.

The Department of Health, Education, and Welfare commissioned a survey in the Tidewater area which it funded in the amount of $42,000. Here are the highlights of that survey:

First. There is no sponsor available to convert this hospital to community use.

Second. There are few or no physicians willing and able to provide service under contract.

Third. There are no hospitals in our immediate area or as far away as Richmond—90 miles—that can obligate facilities to provide in-patient and out-patient care for these citizens.

In short, the administration is willing to contract out this obligation at a greatly increased annual cost but HEW knows that the manpower and facilities are not available. Still it says "close these hospitals."

Close them if you will, condemn 90,000 Americans to suffering and this House to shame.

I say override.

Mr. PRICE of Illinois. Mr. Speaker, one of the most deplorable aspects of the current crisis in health care is the shortage of emergency medical facilities. To deal with this shortage the Emergency Medical Services Act was passed overwhelmingly by both Houses of Congress only to meet with a Presidential veto on August 1.

The veto was justified in part on the ground that emergency medical services are traditionally a concern of State and local governments. This seems small reason for failing to provide adequately for thousands of Americans who will be in need of emergency care each year. The same logic would suggest that a parent should not save his drowning child simply because the child had always managed to struggle ashore in the past.

It should be all too clear by now that States are unable to shoulder the burden of emergency medical services alone. In no other area are Federal funds needed more, and to say that the Federal role should not be enlarged in this case demonstrates not only rigidity of thought but also hardness of heart.

Federal support of emergency medical services, which involves human lives and human suffering at the most immediate level, is not an issue to be fashioned into the rope for an ideological tug-of-war between the President and Congress. The man or woman who lies in a crowded emergency room waiting in pain for treatment cares little about the respective merits of opposing theories of federalism.

If we must have a showdown over the proper role of the National Government, let it be over a matter of less impact on basic human needs.

The Emergency Medical Services Act has been endorsed by esteemed associations of medical men, including the American College of Emergency Physicians, the American College of Surgeons, and the American Hospital Association. Members of these organizations realize better than anyone the need for Federal aid.

Mr. Speaker, as we vote on overriding the veto of the Emergency Medical Services Act, I suggest that we ourselves face an emergency of sorts. We must not stop short in our efforts to assure every American a long and healthy life. We must continue working to establish a high standard of health care, which unquestionably requires adequate emergency services. I urge that the veto be overridden.

Ms. BURKE of California. Mr. Speaker, the passage of the Emergency Medical Services Act is one of the most important actions this Congress can take to assist in providing better medical attention to many of our citizens. The passage of this act really must transcend partisan considerations because it will probably do more to cause lives to be saved in the short run than most medical bills that will come before the Congress this year.

I rise in strong support of this bill not out of a feeling of duty to a partisan purpose, but out of the knowledge and the evidence and the conviction that the emergency medical service concept is a viable and effective way to save many lives; it is a program that with Federal assistance can and will operate efficiently all over the Nation.

I have witnessed the development of the Los Angeles County emergency medical program since the authorizing State law was passed in 1968 while I was in the California Legislature. Los Angeles County quickly took advantage of this law to reorganize and retain its disconnected emergency medical services which competed with 77 cities, some of which had their own programs. All this was done without Federal money to show what could be done with it.

The guiding concept in Los Angeles has been to train competent paramedics "to take the hospital to the patient." This means 5-week training programs to teach ambulance drivers to administer intravenous fluids, to give intramuscular injections, to defribulate a heart attack patient, and to insert a tube in the air passage of a choking patient.

If any of my colleagues have talked with their city or county officials in charge of emergency medical services, I am sure that they have been told of the great interest in this program. At last, under this bill, local officials are given the means to increase the quality and training of their ambulance personnel as well as to deliver necessary medical services to the patient in immediate danger. Moreover, it now gives them an opportunity to organize their emergency medical services across city and perhaps county lines and even to develop the capacity to respond to medical needs caused by a natural disaster, such as an earthquake, flood, hurricane, or fire.

In Los Angeles, 286 active paramedics stand ready to serve the county who have been trained to deliver emergency medical services. Fifty are trained every 5 weeks. Many of the independent municipalities have stated in writing that if there were Federal money available, they would place their drivers in training. These are the smaller cities which cannot afford to lose their medical personnel for a 5-week course without having to pay others for the overtime work needed to pick up the missed work schedule for the trainees.

In Los Angeles, these cities which have not taken advantage of this program include Compton, El Segundo, Palos Verdes Estates, Lynwood, Downey, Montebello, San Gabriel, Santa Monica, Pico Rivera, Whittier, Glendale, and many others. Many of these cities have stated to Col. Gaylord Ailshie, director of the paramedic program for the county of Los Angeles, that they want very much to participate, but just do not have the necessary funds at the present time; with this demand, it is therefore difficult to understand the President's contention that the modest yearly sum of approximately $60 million "is far in excess of the amounts that can be prudently spent."

It is ironic that at a time when effective delivery of health care is of high priority to President Nixon that he vetoes this bill which is a practical way of providing part of the total health needs of the Nation. It is paradoxical that the administration should assume responsibility for all health care coverage by developing its own national health insurance bill while at the same time refusing to support the most urgent health need of all, emergency medical services.

Moreover, President Nixon identified

emergency medical services as a major health need on January 20, 1972, in his state of the Union address. Yet since that time the President has argued that no new funds or legislation are needed to respond to the unnecessary loss of lives because of inadequate emergency care.

In his recent veto message, the President has stated that the Federal Government should not be thrust "into an area which is traditionally a concern of State and local governments." Now, one has to wonder just what commitment the President is really making to insure that adequate emergency health care is a national priority and not left to the overburdened budgets of the States and municipalities.

What is the supreme irony of all is that the emergency medical program of Los Angeles County actually saved the life last month of this country's only living five star general of the Army, Gen. Omar Bradley. In a letter dated August 14, 1973, Kitty Bradley acknowledges the vital service which was performed for her husband when he was stricken. She says, and I quote:

> Gallantry in motion is the one phrase that comes repeatedly to mind when I recall your response to my call for help. There is no question whatsoever that you gentlemen saved my husband's life. Thank you.
>
> How mild those words are when measured against the depth of my gratitude to each and every one of you.
>
> KITTY BRADLEY.

That letter is moving testimony of a citizen to the value of the emergency medical program. But the practicing medical community has also acclaimed the critical value of this program. Dr. Elliott Corday, past president of the American Heart Association and a member of the President's health care panel, has stated that in the first 9 months of the operation of this program, in his area of practice, 30 patients owed their lives to the emergency medical services program.

I would think that this evidence is ample proof of the medical value of this program and the general interest of cities across the country in it. Under this bill, the Federal dollar is stretched a long way to directly apply medical knowledge to save lives.

Mrs. HOLT. Mr. Speaker, I rise to express my support for overriding the President's veto of S. 504, the Emergency Medical Services Systems Act. A cursory review of the magnitude of accident-related deaths in the United States clearly demonstrates the need for improved emergency health care procedures.

The bill before us today will establish a grant program for the training of personnel in emergency procedures and for the purchase of necessary equipment. The price tag of this proposal is a modest $185 million over a 3-year period. Far from being a "budget-busting" piece of legislation, I think this bill contains a reasonable authorization for a program whose results cannot be assigned a dollar and cent figure.

In addition, it will prevent the closing of Public Health Service hospitals without legislative authority. The PHS hospital in Baltimore, which adjoins my district, has a long history of providing quality medical care. Currently it is functioning as a general medical-surgical facility with extensive training and research programs. The Cancer Research Center located at this institution and its continuing education program for health professionals have greatly contributed to the outstanding reputation of the Baltimore PHS hospital.

Expressions of support for this bill have been voiced by a wide range of groups including veterans organizations, labor unions, and medical services organizations. I hope my colleagues will join with me to override the veto of S. 504.

Mr. ANDERSON of Illinois. Mr. Speaker, unlike so many other issues we have faced in recent months, the resolution before us today does not involve any question of congressional rights, powers, or prerogatives. Indeed, the issue is quite the opposite: Having succeeded in demonstrating our determination to reclaim the rightful congressional role in national policymaking, the question now is whether or not we are equally prepared to assume the responsibilities of governing.

May I remind my colleagues that the right to share fully in the great decisions of war and peace and the setting of national priorities brings with it a commensurate responsibility to face the tough choices and make the difficult trade-offs that inevitably arise in a nation of such diverse interests as ours, and one in which claims on our limited resources far outstrip our ability to provide for them.

I do not dispute the need to initiate a new Federal effort to upgrade local emergency medical services. The current local patchwork system is so woefully inadequate that we have little choice. I would also point out, however, that in the days and weeks ahead we will be confronted with costly legislative proposals designed to ameliorate no less urgent problems in many other areas: Start-up assistance for HMO's, mass transit aid, land use planning assistance, a new housing program, a bail-out for the ailing Northeast railroads, to cite only a few examples.

Yet, in light of the dire budget outlook for the next 5 years or more, I would simply ask my colleagues how in the world can we expect to make progress in all of these areas, how can we expect to incur major new budgetary obligations for the problems of health care, transportation or housing if we are utterly unwilling to search for economies or more efficient means of accomplishing objectives among the vast panopoly of programs we already have on the books?

Have we become so bedazzled by the simplistic notion that changing national priorities involves nothing more than reallocating a few billion from the military budget to the domestic areas that we have lost sight of the complicated, vexing issues really involved? Have we become so accustomed to piling layer upon layer of new programs on the old that we have forgotten the Federal Treasury is not an inexhaustible source of booty?

I will not pretend the proposed phaseout of inpatient services at these seven public health hospitals will save funds of the magnitude with which we sometimes deal, or free up vast new revenues for initiatives in some of the areas I have just mentioned. But I must nevertheless insist that the savings would by no means be negligible, and that the proposed contract payment system for hospitalization services would be far more economical than the current system.

According to the HEW, the costs of contracting versus direct provision of services would be nearly comparable on an operating basis. Yet to continue the current PHS hospital system, and provide the quality care to which beneficiaries are entitled, would require capital outlays of almost $50 million. In light of the obvious economies of moving to a contractual system why is it that some Members of this body seem ready to stand like Horatio at the Bridge to preserve an outmoded, archaic, and inefficient system? Is the PHS hospital system so sacrosanct that we must refrain from publicly admitting it has outlived its usefulness?

Moreover, it is not as if a successfully operating system has been suddenly subjected to the arbitrary whim of the OMB meat ax. At least three previous Presidents have recognized the need for a new approach and since 1943—for the last 30 years—we have been gradually closing facilities and reducing the caseload. Since 1943 more than 20 public health hospitals located all across the country—in Key West, Fla., Pittsburgh, Cleveland, Chicago, and Detroit—have been closed due to obsolescence, excessive costs or declining patient loads. Just since 1967, the average daily patient load has declined by more than 25 percent, and in the case of some of the facilities involved, by almost 50 percent—Baltimore.

No one is proposing that the seaman and other beneficiaries involved be callously dumped out into the streets, or that the outpatient services provided to the communities in which these facilities are located be abruptly terminated. What has been proposed is simply that we find a more economical means to provide these services and that the quality of such services be improved in the process.

I know a great campaign to save the PHS hospitals has been launched, that intense pressure has been brought to bear on many Members of this body, and that the press has blown this question into an executive-congressional test of power far beyond any relationship to the substantive issues involved. But let me say that if we truly do want to reinvigorate this institution, if we genuinely desire to redress the balance of power between the two branches, then we had better get used to such pressures.

The current campaign to save the PHS hospitals is parochial in motivation and has thrived on the worst kind of distortion and misinformation; it represents a misguided effort to freeze the status quo which has nothing to do with the best interests of either the beneficiaries of the system or the taxpayers of the Nation.

The President was absolutely correct in vetoing the EMS bill because of the ill-advised PHS amendment; an amendment which was appended on the House floor without either committee consideration or debate. Therefore, the test today is not between the executive and the Congress, but is a test of the Congress itself. If we want to gain more than the mere fleeting, painless trappings of power and, instead, assert a permanent, substantive role in national policymaking, then we must be prepared to bear the responsibilities of governing, and to forego the temptation to yield to political expediency. I hope this House proves sufficient to the test. If it does not, the encouraging progress of the past few months may prove hollow and short-lived indeed.

Mr. HORTON. Mr. Speaker, I have given a great deal of thought to the vote that confronts the House of Representatives this afternoon, as to the fate of the President's veto of the Emergency Medical Services Act which we adopted before the August recess.

I voted in favor of the Emergency Medical Services Act both last year, when it was before the House in October, and earlier in this session when we adopted it for Presidential signature.

I must admit that initially, I was disappointed with the President's veto of this bill, because I feel strongly that for the relatively small amount of money involved in this program, $185 million over a 3-year period, we can do a great deal of good and save hundreds or thousands of lives by applying the skills, systems and technology available in the field of medical emergency care to areas which do not presently benefit from these techniques.

I have explored the reasons for the President's veto quite deeply, and I find that the principal administration objection to the bill is its inclusion of a nongermane amendment, which was adopted by a voice vote, which would force the administration to reverse its plans to close several Public Health Service hospitals. I understand that of the hospitals originally slated for closing, all but one on Staten Island, has been able to make adequate and acceptable arrangements for care of its patient population with other hospitals located in the communities they serve. Once it was learned that such arrangements could not be made for the care of the patients at Staten Island Public Health Service Hospital, the decision was made to continue that facility in operation. In my opinion this was a wise decision, and the only one that could have been made under the circumstances of a hospital bed shortage currently facing the New York City area.

I further understand that some groups, notably veterans organizations, are fighting the President's veto of this bill because they feel the closure of some PHS hospitals is a first step toward the elimination of some Veterans' Administration hospital and medical facilities. I questioned the White House quite closely on this charge, and I have been assured that there are no plans or intentions to close VA hospitals.

Furthermore, I understand that if the veto is sustained by us today, the President will sign a bill which contains the program for Federal support of emergency medical services, but which does not tie his hands on the closing of these Public Health Service hospitals.

Based on this assurance, which I have received directly from the White House, I have decided to sponsor Congressman ANCHER NELSEN's bill to establish this emergency medical services program, which I understand has an excellent chance of being considered and reported quickly, and to vote to sustain the veto of the original bill, because of its provision requiring the continuance of these hospitals.

Mr. MEEDS. Mr. Speaker, I rise to challenge President Nixon's veto of S. 504, the Emergency Medical Services Act. I urge the House to override this veto, because it is a tragic misreading of American priorities.

A more direct case of cutting human needs in order to spend more on military hardware could not be imagined. Here is a chance to save up to one in five of our 55,000 automobile fatalities each. Here is a chance to save 1 in 10 of the 225,000 coronary attack victims each year. By approving this bill we can help save the lives of gunshot victims, poisoning victims, the lives of thousands of Americans who suffer traumatic injuries—and die for lack of rapid, trained treatment.

Speedy evacuation and treatment of combat wounds in Vietnam saved thousands of lives. The rate of combat deaths from wounds in Vietnam was the lowest of any war in which we have participated. Why can't we use these techniques—and some of the personnel—to save the lives of our relatives and friends who die unnecessarily on the highways?

We can use these techniques and fund other emergency services for $60 million a year. This cost pales along the huge Pentagon budget. This bill can save 60,000 lives a year—all for the cost of only five F-111 fighter-bombers in the Pentagon budget. It could save more lives in 1 year than we gave in 10 years of involvement in Vietnam.

Seattle's Medic I emergency medical services program has shown what can be done with rapid, properly trained care. The University of Washington has underway programs to aid development of properly equipped hospital emergency rooms to handle trauma patients. Yet the veto of this bill would end these promising programs—and close Seattle's Public Health Service Hospital.

As a member representing a district of small cities and rural areas, I am acutely aware of the problems in getting emergency medical aid outside urban areas. We must not abandon accident victims simply because their misfortune took place on a country lane—not across the street from a hospital.

Mr. Speaker, I urge my fellow Members to override this thoughtless veto.

Mr. GILMAN. Mr. Speaker, while I support the basic objective of improving our emergency medical services, I rise in support of sustaining the President's veto of S. 504, the emergency medical services program.

This bill, along with its nongermane amendment prohibiting the Department of Health, Education, and Welfare from closing Public Service Hospitals, has been grossly misunderstood.

In the President's veto message, two objections to this measure were emphasized: First, the bill provides $185 million for a national system of emergency medical services as compared to $15 million budgeted for these purposes; second, the administration recommends phasing out seven of the outmoded Public Service hospitals and substituting contracting services for these patients at community hospitals.

As the House approaches a final decision on this veto measure, we are confronted with a totally new proposal. The President has given assurance that he will remove his objections to the emergency medical provisions of the measure if the Department of Health, Education, and Welfare is allowed to proceed to contract out the services now being provided in seven Public Service hospitals.

Mr. Speaker, this offer of compromise on the part of the administration should fall on welcome ears.

We urgently need an expanded emergency medical services program, particularly in the rural sections of our Nation. Accidents account for the fourth largest death toll in our United States, often terminating lives at the height of their productivity.

Accordingly, I have joined Congressman HASTINGS in introducing an emergency medical bill identical to the one passed earlier by the House and now under consideration as a portion of the bill before us; a measure which the administration guarantees to be acceptable.

This new measure which we have introduced and which we hope will be given priority consideration by the Interstate and Foreign Commerce Committee provides $185 million over a 3-year period in grants to local communities for improved emergency medical services. By giving a Federal thrust to this formerly neglected health need we will be taking some real steps forward in meeting crucial health needs.

I would not be able to sustain the President's veto if I had not been assured that the emergency health provisions in our bill would be acceptable and the Staten Island Public Service Hospital would remain open. The Staten Island Public Service Hospital is an exception to the rule since it has a reputation as the largest and most effective of all of our Public Service hospitals. Keeping that hospital open assures adequate medical care for the seamen and military men in our region, since there are insufficient community hospital services in that area.

The contracting out of inpatient services in the seven other Public Service hospitals in the Nation is a constructive effort of seeking better health care for those patients.

HEW reports its intention of contracting with hospitals in communities closer to the homes of those seamen and others who are now being serviced by Public Service programs. These efforts are intended to provide better care, in more modern and well-equipped hospitals at locations more readily accessible to the homes of those afflicted individuals.

Such improved accessible services in community hospitals should not only provide for better and more extensive care, but also render that care through a more economical method.

Public Service hospitals will soon suffer a serious shortage of doctors and paramedicals due to our new all-volunteer Army concept. The expense of hiring new staff is an onerous burden—contracting out of patients to be cared for in the modern and effective hospitals closer to their homes promises to provide better care, at less expense to the taxpayer.

For these reasons, by sustaining the President's veto, we will be getting the best of both worlds:

First. We have been assured that the administration will support an effective and extensive emergency medical program;

Second. We have the assurance of keeping open the largest and most efficient Public Service Hospital at Staten Island, N.Y.

Third. Those patients formerly served by outmoded Public Service hospitals in seven major cities across the country will now be able to receive treatment in modern, community hospitals closer to their homes.

Accordingly, I am not only supporting the President's veto but I am inviting and urging my colleagues to support our new emergency medical services bill, H.R. 10175.

Mr. GOLDWATER. Mr. Speaker, we do not have to be reminded that the President's veto of the emergency medical services bill was politically an unpopular move for him. I can assure my colleagues that as a strong supporter of expanded emergency medical services, I certainly do not relish the idea of voting to sustain that veto.

Yet, Mr. Speaker, sometimes we must look beyond the political ramifications and ask ourselves, on the balance, what is the proper course of action in restoring our national economy to some semblance of fiscal sanity? I submit that the answer lies in working with the President to hold the line on increased Federal spending, which is the principal cause of inflation.

There is much in the bill before us to recommend it. After all, since the Federal Government started getting involved in the health business, emergency medical services has really not fared too well in competing for the Federal health dollar. Nevertheless, I am not convinced that the creation of another new categorical program is the answer, especially in view of the cost involved. This approach invariably leads to topheavy dependence on the Federal Government for funds in an activity that traditionally is local in nature, and it tends to duplicate much of the existing authority in the field of EMS.

Another point about this bill that bothers me is the method by which it has been brought to the floor for debate. I am a member of the Interstate and Foreign Commerce Committee, and the matter of U.S. Public Health Service hospitals was not discussed by the committee when we considered the EMS bill. While not a member of the Public Health and Environment Subcommittee, I am informed that the subcommittee did not discuss this phase of the bill either. It seems to me that if the bill is to be germane, the question of the Public Health Service hospitals should be taken up separately.

I am very hopeful that we can work out a program in conjunction with the White House to expand EMS at a level that is consistent with current budget priorities. EMS is vital, and it should be continued as a cooperative venture between local and State government and the Federal Government. The President discussed this in his state of the Union address last year, and I know that he and this administration will work with us to improve EMS at a level of funding that is not excessive. The distinguished ranking minority member of the Health Subcommittee has indicated as much.

Whatever the amount of Federal funding for EMS, I must warn that this is not a panacea for solving the basic problem connected with EMS. Many States, including California, have made great strides in formulating an EMS program that works. Several States, including California, have already received Federal demonstration contracts for EMS. But, these programs are only as good as the actual time involved in the emergency rescue operation, especially in high density areas when accidents or natural disasters occur and which threaten the loss of many lives.

It has been proven that one of the most effective ways of providing EMS in such situations is the use of the helicopter. This concept has already proven itself over and over in the case of a major highway accident in which it is virtually impossible to get a surface EMS vehicle to the accident scene when traffic is backed up. I have long argued that we have many serviceable helicopters used by the military in Vietnam, and which are now idle, that could be used for this purpose. A good example of the cooperative venture that I mentioned earlier would be an arrangement between the Department of Defense and the States to provide these military vehicles on a permanent loan basis for EMS. After all, the taxpayers have already paid for the helicopters.

I personally feel that if the House sustains the veto it will in no way hamper the progress made in EMS. We can work with the President in finding a middle ground that provides flexibility in EMS while at the same time coordinating the effort at a reasonable cost. I, for one, will certainly work toward that end.

Mr. HARRINGTON. Mr. Speaker, I rise to urge that the House vote to override the President's veto of S. 504, the Emergency Medical Services Act of 1973.

There is little need to further document the fact that millions of Americans have inadequate access to efficient and basic medical services. Whether they are rich, poor, or somewhere in between, and regardless of whether they live in cities, suburbs, or rural areas, Americans often find it difficult to get prompt attention, in locations accessible to them, for injuries like broken bones, heart attacks, strokes, auto accidents, sporting accidents, and poisonings. The problem of effective "delivery systems" has perplexed medical reformers for years. It is regrettable, but true, that the present ordering of priorities for medical services often permits the medical establishment to install expensive, prestigious, but rarely used transplant units in a hospital before it provides inexpensive, often used, but unprestigious units to dispense emergency treatment in less centralized locations.

The Emergency Medical Services Act is designed to fund services such as medical "hot lines," adequate ambulances, and properly staffed emergency rooms for communitywide use. It would do so by providing financial assistance to either public or nonprofit entities for the design of such services.

Because such systems are in varying stages of development in different areas, the bill provides three funding mechanisms. Individual planning and feasibility grants would be made in amounts determined by the Secretary of Health, Education, and Welfare, with the final report to be delivered within 1 year. Establishment and initial operation grants would be limited to 2 years, with 50 percent Federal matching in the first year and 25 percent in the second. Expansion and improvement grants for existing but limited systems would be available in amounts not to exceed 50 percent of the costs of the project. The bill also provides grants to medical schools and other educational institutions for research and training in emergency medical care. The bill authorizes $185 million over the next 3 fiscal years. The measure also prohibits the closing of eight Public Health Service hospitals unless the Department of Health, Education, and Welfare can demonstrate to Congress in each case that beneficiaries will receive equal or better care.

In his veto message, the President stated his opposition to the bill on the grounds that it would create a new categorical aid program in an area "which is traditionally a concern of State and local governments and should remain under their jurisdictions." This is another area in which the administration has opted to give the States and localities responsibility for provision of services without giving them the means to fulfill the responsibility. To accept this argument would be to accept the "new federalism" in empty gesture only.

This veto, Mr. Speaker, is a "cheap shot" designed by the administration to dramatize" fiscal responsibility" and lay blame on Congress for our current economic woes. In fact, if the veto is sustained, people will die because we have failed to provide adequate emergency service. In my book, human life should not be used as a pawn for public relations purposes. Human life is the real subject of the debate today and my vote is to override this veto and save lives.

Mr. ROSTENKOWSKI. Mr. Speaker, much has been said in this Chamber today about the need for economy in Government, about the need for Congress to act decisively to control inflation. This is indeed a noble and praiseworthy thought. But it is definitely not a new one. The Appropriations Committees of both Houses of Congress have successfully reduced the administration's budget requests in many areas. But I feel that this is one area in which the Congress must draw the line.

The President's veto message states

that the Emergency Medical Services Act of 1973 would authorize the expenditure moneys far in excess of what can be prudently spent. It appears that the President believes that it is necessary to trim his budget by spending only token amounts on "demonstration" emergency health projects rather than providing local communities with the means to develop effective "working" emergency health projects that are so desperately needed.

Without further prolonging the debate on this matter, I would just like to associate myself with the remarks of so many of my colleagues who have expressed their intention to vote to override the veto. I support their efforts and shall join them in casting a vote for substantive health services rather than token demonstration projects which do little to better the actual health of our people.

Mr. BROOMFIELD. Mr. Speaker, I rise to announce my support of the veto of S. 504. I object to the method by which this legislation would deliver emergency medical funds to local governments. Once more Washington would step in and dictate how, when, and where these funds should be spent. By employing a narrow, categorical grant approach, the experience and advice of local officials would be shunted aside in favor of one homogeneous and monolithic approach.

Unfortunately, solutions are not quite that simple. Emergency medical services traditionally have been within the jurisdiction of State and local governments. Local officials do not need Washington to tell them what their problems are and how they can best be solved.

President Nixon has for the past 2 years committed the Federal Government to a program of research and development. The idea is to have Washington undertake a position of leadership by developing and exploring a whole range of medical service alternatives.

From these, local officials can then pick and choose, tailoring Federal suggestions to their particular and unique needs.

Second, this measure requires the continued operation of eight Public Health Service hospitals which are now outdated.

In the interests of providing the best possible care, HEW has already arranged for more efficient and modern treatment in community hospitals in seven of the affected cities.

In 1969, the Detroit Public Health Hospital was closed under the same circumstances. The State has taken over the facility and now uses it for mental health and drug abuse treatment. In short, the total health care capability of Metropolitan Detroit has been improved by this long overdue consolidation.

Mr. Speaker, I urge the House to sustain this veto. Our first priority should be to draft emergency medical service legislation with a flexible delivery system designed to maximize results and without forcing the Federal Government to operate substandard hospitals.

Many communities, including those within my own district, have a real and legitimate need for emergency health care systems. Ambulances, paramedical training, and comprehensive disaster control plans are desperately needed. We should pass a bill which will allow local officials, who are familiar with these needs, to proceed promptly and freely in the interests of the health and well-being of their constituents.

Mr. CLEVELAND. Mr. Speaker, I rise in support of the President's veto of S. 504. While I voted for the measure on initial passage, I take the position that a veto in the interests of spending restraint poses an issue entirely separate from the merits of a specific piece of legislation. This is particularly the case when we in the Congress have yet to adopt reforms which I am cosponsoring to equip ourselves to produce a legislative budget and meet our responsibility for setting priorities. At the same time, I wish to emphasize that the choice before us is not whether to encourage emergency medical service improvements or not, in that great progress is already being made in this field under the Highway Safety Act.

### PUBLIC BACKS SPENDING CURBS

Top priority must be given the curbing of inflation and its threat to our standard of living. Extraordinary distortions in the demand-supply situation in agricultural products aside, we cannot escape the fact that excessive Government spending remains a prime factor underlying inflation. To continue to allow prices to rise unchecked or to burden our citizens with higher taxes would further erode purchasing power. The people recognize this, or those in my congressional district at any rate. Preliminary responses to my 11th annual questionnaire list the economy as far and away the prime concern. Moreover, preliminary tabulations indicate that my constituents favor by a 2-to-1 ratio the reduction in existing programs as an alternative to higher taxes.

The question of the bill's overlapping of existing efforts merits elaboration. The Congress has rightly recognized that some duplication exists in programs already on the books. The 1-year extension of basic health programs earlier in the session, which I supported, was intended to provide the Congress an opportunity to review and restructure the programs involved. This body also voted to extend biomedical research and training activities, on grounds the existing program had proven its worth. Again, I supported this measure and joined in the successful effort to persuade the administration to reinstitute support for this type of activity. But the program before us today, by contrast, represents a new categorical program whose duplication is recognized at the outset.

### HIGHWAY SAFETY ACT IMPROVES SERVICE

One of the main arguments in its support is the provision of emergency aid to victims of traffic accidents. I yield to no Member of this body in my concern for traffic safety programs, greatly expanded this year under the Highway Act, and incidentally funded largely from the much-maligned highway trust fund. With a 3-year total of $2 billion, the authorization includes support for State and community safety programs under 18 national standards, including emergency medical services. The improvement of the level of emergency care related to traffic accidents also serves to stimulate an overall upgrading of emergency services.

The purpose of standard 11 under the act is to provide an emergency care system insuring quick identification and response to accidents, measures to sustain and prolong life through proper first aid both at the scene and in transit, and coordination of the transportation and communications necessary to bring the injured to competent medical treatment without risking further hazard.

Through fiscal 1973 the 50 States and the District of Columbia and Puerto Rico had obligated some $45.5 million for emergency medical services, with almost $12 million being obligated in fiscal 1973 alone. Examples of its impact include Alaska, where prior to the program only about a fifth of the population had access to ambulance service within a 30-minute period. The proportion has since been raised to three-fourths. In addition, 23 Georgia counties which previously had no ambulance service now are served.

### NEW HAMPSHIRE PROGRESS CITED

Mr. Speaker, my own State of New Hampshire has steadily improved its emergency medical service. On July 1, 1971, the "Act to Promote Competent Ambulance Service" was enacted, and the following March the director of the Division of Public Health approved regulations for the licensing of ambulance service, the vehicles and attendants.

As of November 1, 1971, 52 percent of the 1,700 ambulance attendants then believed in service had no certifiable, currently valid first-aid training. By now, there are 99 licensed ambulance service organizations or agencies in the State, and 1,777 licensed ambulance personnel. All have received a 26-hour advanced course in first aid, and about half have also taken the Department of Transportation's 81-hour Emergency Medical Technician-Ambulance Course. In addition, there are 174 licensed ambulance vehicles.

Therefore, I would urge colleagues from States which have not done so to recommend that State and local jurisdictions avail themselves of the opportunities under this legislation rather than press for a wholly new program at a time of budget constraint.

In conclusion, Mr. Speaker, I wish to take note of reports that the administration, in a spirit of compromise, has pledged to cooperate in development of an emergency medical services substitute in the event the veto is sustained. I understand that this assurance does not include keeping open Public Health Service Hospitals which have become outmoded or whose inpatient load is declining. The administration at least states a case which should be examined by the Subcommittee on Health and the full Commerce Committee in light of contrary arguments. I regret that normal procedures were bypassed in the process of bringing this issue, that is, the Public Health Service Hospitals, to the floor.

If the veto prevails, I would urge my colleagues on the subcommittee and full committee to examine the progress under the Highway Safety Act and the potential for further improvements in light of our recent action in expanding and strengthening its provisions.

Mr. DONOHUE. Mr. Speaker, I most earnestly hope that this House will override the Presidential veto of the Emergency Medical Services Act that was so recently approved here, on behalf of the American people, by a vote of 306 to 111 and in the Senate by a vote of 94 to 0.

On this score, let me suggest that a conviction, once expressed and in the absence of any new or additional evidence substantially affecting the original determination, should be maintained in order to preserve the integrity of this legislative body and, equally important, in order to retain and strengthen public confidence in the ability and intention of the Congress to fulfill its obligation, especially in this challenging period, to legislatively act independently as a separate but equal branch of our National Government.

The fact of this legislative matter is that the administration has offered no new or additional contradictory evidence to justify the withdrawal of the original House approval of this bill.

The fact is that the most respected professional authorities in this field overwhelmingly advocate the adoption of this measure, over the Presidential veto.

The fact is that expert testimony demonstrates that accidents kill more persons in this country in the productive age group of 1 to 37 than any other single factor and accidents are the fourth most common cause of all the deaths that occur in this Nation.

The fact is, expert testimony emphatically indicates that efficient emergency care could save at least 60,000 lives a year that are now lost because of accidents and sudden illness.

The fact is that the same expert witnesses have unhappily revealed that the present emergency care system in this country is almost totally inadequate for the purpose intended.

By any ordinary impartial objective measure it very clearly appears, Mr. Speaker, that this bill reflects the hopes of millions of Americans for a vitally needed improved level of Emergency Health Care Services; that the comparative cost of accomplishing this wholesome objective is prudent and reasonable; and that the public benefits of these expanded emergency medical treatment facilities would more than offset the cost of the program over the next 3 years.

For these substantial reasons, as well as many others, I very deeply believe the original approval of this bill by this House should be upheld today.

Mr. FINDLEY. Mr. Speaker, I have today joined a bipartisan group of House Members in introducing the Emergency Medical Services Systems Act of 1973. This bill is identical to the bill which President Nixon vetoed except that the controversial provision requiring that eight antiquated Public Health Service Hospitals be kept in operation has been deleted.

Illinois and the Nation need an Emergency Medical Services System, and I am determined to help enact legislation to that end.

Illinois has pioneered in the development of trauma treatment centers. Forty-five such medical centers have been established throughout the State, staffed by 200 specially trained trauma nurses and 4,000 emergency medical technicians. No other State has so many.

Four trauma centers are located in west-central Illinois—at Springfield, Jacksonville, Quincy, and Litchfield. A statewide ambulance coordination system will assure that accident victims or critically ill persons can quickly be taken to the nearest hospital which is equipped to provide the life-giving support needed.

On the way to the hospital, trained ambulance personnel can often take care of immediate medical requirements.

Each year more people die on our Nation's highways than died during the entire 10 years of the Vietnam war. Thousands more die from other accidents and diseases which strike suddenly. Many of these could be saved, and much pain and agony could be spared, if medical services could be more quickly provided. The bill which I am introducing today will do just that.

Dr. David R. Boyd, the director of the Illinois Trauma-Emergency Medical Services project, has written me an excellent letter outlining the Illinois program and urging my support for emergency medical services legislation. I am placing his letter in the CONGRESSIONAL RECORD at the conclusion of my remarks. Dr. Boyd recognizes that—

> The addition of Public Health Service hospitals continuation funding makes this package a very objectionable issue to some.

I agree.

The bill which passed the House and and was vetoed by the President not only provided for emergency medical services, but also required that the Federal Government continue to operate eight Public Health Service hospitals for merchant seamen. These hospitals are old, some are dilapidated, many cannot meet State and Federal code requirements. There are not enough doctors to staff them, and the quality of patient care is suffering. If the Government is required to keep them in operation, it will cost $45 million to modernize them.

Yet, the hospitals located in Seattle, Boston, San Francisco, Galveston, New Orleans, Baltimore, Norfolk are all located in cities that presently have hundreds of unused hospital beds in modern facilities. It makes sense for the Federal Government to move the patients from the antiquated hospitals into other facilities where the medical care they will receive will be at least as good, and probably better, than what they have been receiving. Each and every patient now being cared for or eligible for care will be much better off. And the taxpayers will not have to pay $45 million to modernize these unneeded facilities. The Secretary of Health, Education, and Welfare has determined that the hospital in Staten Island, N.Y., is still needed to accommodate patients in that area, and so this facility will be retained.

For these reasons, I shall vote to sustain the President's veto of the bill which passed Congress and push for early enactment of the bill I have introduced today, which provides identical emergency medical services but does not require the Government to maintain dilapidated hospitals for merchant seamen. Early consideration of this bill seems assured if the veto is sustained, and President Nixon has virtually promised to sign it.

DEPARTMENT OF PUBLIC HEALTH,
*Springfield, Ill., August 24, 1973.*

Hon. PAUL FINDLEY,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN FINDLEY: As Program Director for the Illinois Trauma-Emergency Medical Services Project, I feel it is my responsibility to inform you of our efforts and accomplishments over the last two years in Illinois. July 1, 1971, we started our Trauma Program with the designation of Trauma Centers and are now near completion of the Hospital Trauma Net. Last year we were fortunate to negotiate one of the HEW Demonstration Contracts for the development of the Statewide Total Emergency Medical Services System. Our Trauma-Emergency Medical Services Demonstration Project will probably be one of the best of the five that were granted.

This demonstration project has been developed to show the way for future and the rather large anticipated Federal, State and local spending for emergency services. The Illinois Demonstration Contract has allowed us to make significant advances with one-time equipment expenditures, the initiation of training programs and other EMS service coordination efforts. It is the goal of the Illinois Demonstration effort to build local expertise and responsibility for the continuation of this program.

We have just completed a Statewide Program categorization of hospital emergency capabilities in Illinois. This has been done at the local community level with the development of some 43 Areawide Emergency Medical Services service districts with active subcommittees on hospital services, training programs, transportation, communications, public education and program monitoring.

In Illinois there are some 45 Trauma Centers (Regional, Areawide and Local), and three special regional centers. There are professional and paraprofessional training programs being conducted at each of these Trauma Centers and we have trained 200 Trauma Nurses and 4000 Emergency Medical Technicians (EMT–A)—more than any other State. We have two physician residency training programs in emergency medicine (Peoria and Evanston). We are developing a Statewide ambulance strategy for placement of ambulance in Chicago and the suburbs and downstate metropolitan cities and in rural areas which is enclosed.

There are four trauma centers located in the 20th Congressional District, a regional center at St. John's Hospital, Springfield and three local centers at St. Francis Hospital, Litchfield; Blessing Hospital, Quincy; and Passavant Memorial Hospital in Jacksonville. To assist coordination of emergency medical services and support the care of the critically ill and injured patient at these centers, a trauma coordinator is located at each of these hospitals.

The trauma coordinators supervise the instruction of the Emergency Medical Technician-Ambulance course three times a year at no cost to the students. The 82 hour course includes training in basic life support techniques and is open to all ambulance attendants—municipal police and fire personnel and private ambulance operators.

A "paramedic" level course has also been established by Dr. Robert Miller, a Critical Care Fellow at Southern Illinois University in Springfield. This course will provide the highest level of training for ambulance attendants in the State.

These four trauma centers were part of the pilot project conducted before the initiation and implementation of the Trauma Program throughout the State. The communications and transportation systems that have been developed for the State were tested in this region.

A radio console is located at St. John's Hospital and will provide the communications link between the trauma centers and the surrounding hospitals, ambulances and helicopters. This regional trauma center will soon become the central communications center facilitating the transportation and triage of the critically ill and injured patients in this area.

Through the joint efforts of the Illinois Bureau of Emergency Medical Services and the Illinois Department of Transportation, U.S. D.O.T.-approved ambulances have been placed in your district on a matching-fund basis, in support of the total State plan for upgrading ambulance services. This is consistent with the Illinois Statewide Ambulance Placement Strategy. (enclosed)

Our progress for the first year is outlined in our First Annual HEW Report and other special program activities are described in the Journal of Trauma both of which are enclosed. I would like you to consider the progress here in Illinois as a model that the rest of the nation may follow. The existing Emergency Medical Services legislation (S.B. 504) has had considerable input from Illinois. I personally testified for this legislation and assisted in the writing of the Rogers' draft.

The addition of the Public Health Service Hospitals continuation funding makes this package a very objectionable issue to some. However, I feel that the basic intent of the Emergency Medical Services legislation is good and will allow the rest of the nation to develop as we have and will help us to further progress and complete our project here. After the end of our contract the total program will continue, but will cost considerably less to run.

I am not sure of the essential timing of this legislative initiative. We have found in Illinois that considerable strategic planning and researching out of local resources is time well spent. To develop sound systems to support patient care for trauma, acute cardiac, high-risk infants, poisoning and psychiatric problems, your strategy must begin prior to the application for implementation of funds. The Emergency Medical Services non-system, as it existed in Illinois and now exists across the rest of the country can be worsened with the infusion of massive amounts of money. Considerable project planning must be developed prior to the funding of State or regional projects.

It is with this background information that I would appreciate you reviewing the EMS portion of S.B. 504. I am more than willing to discuss our program and the merits of the EMS legislation and the best possible timing for passage with you at your convenience. Also, I would like to invite you to review our EMS program when you are in Illinois or again at your convenience in Washington, D.C.

Sincerely,
DAVID R. BOYD, M.D.C.M.,
*Chief, Bureau of Emergency Medical Services and Highway Safety.*

Mr. WOLFF. Mr. Speaker, I rise to urge the House to override the President's veto of the Emergency Medical Services Act.

Both the House and Senate have clearly expressed their intent that this legislation become law. It passed both bodies last year, passed again this year and the Senate has already acted to override the President's veto. There is no question in my mind that, if this Congress is to assert its rightful role as a coequal branch of government, the House must follow the example set by the Senate and reiterate its support for this legislation.

With all due respect to the President's views, the Emergency Medical Services Act simply does not fall within the category of inflationary legislation. The $185 million it authorizes over the next 3 years is small in comparison to the cost of accidents alone, estimated by HEW at $28 billion annually in death, disability, and property damage. Far more important, however, is that the cost is miniscule in terms of the number of lives this legislation could save annually, an estimated 60,000 Americans, including 10 percent of our annual coronary fatalities and 15 to 20 percent of our 55,000 annual traffic deaths. This measure addresses itself to one of our most critical health care problems and one which has not received adequate attention—that is, emergency medical care for victims of accidents or sudden illnesses. Studies show that 20 percent or more patients each year could be saved if they had received proper and prompt emergency medical treatment. Currently, emergency medical care varies widely from community to community with no coherent system intact to meet what is becoming an increasingly monumental problem. S. 504 would enable communities to make emergency medical treatment an integral part of their health care delivery systems, and would enable this country as a whole to reduce the number of fatalities resulting from accidents and catastrophic illnesses.

In addition, this legislation prohibits the closing of eight Public Health Service hospitals across the country. Last year, Congress directed the Department of Health, Education, and Welfare to show that patients at these hospitals would receive equal or better medical care were they to be transferred to community facilities and the PHS's closed. Not only did HEW fail to give this proof, but, in violation of the intent of Congress, announced plans to contract for outside medical care and close the Public Health Service facilities. In the long run, HEW's plan could only result in increased costs, particularly with the shortage of facilities and personnel that would be created by a closing of the Public Health Service hospitals.

Mr. Speaker, my own area of New York has one of the largest Public Health Service hospitals in the country. It provides medical care to veterans, Federal employees, merchant seamen, senior citizens and many other New Yorkers who depend on continued operation of this facility. Not only is the hospital invaluable in meeting the health-care needs of thousands of New Yorkers, but it is also the third largest employer on the whole of Staten Island. It would be impossible for area hospitals to absorb patients now being treated at this facility should it be forced to close.

Mr. Speaker, in the past 2 weeks I have heard from diverse elements in our society in support of the Emergency Medical Services Act—from the medical and nursing professions, from city and local officials, from veterans, senior citizens, and education groups, in effect, from virtually everyone in this country who is concerned about the health care of our people. We in the Congress have a mandate from the people to override the President's veto and persist in our efforts to provide a better life for Americans.

Mr. BIAGGI. Mr. Speaker, I rise in support of this effort to override the veto by the President of the Emergency Medical Services Systems Act of 1973. I totally disagree with the administration's view that the Federal Government should not help the States expand medical health services.

One of the most serious deficiencies in our country's health delivery system is the inability to respond rapidly and effectively to emergency medical crises in our many communities. Proper medical care at the scene of an accident or enroute to the hospital can save 10 to 20 percent of those now dying as a result of improper or inadequate treatment.

This bill provides a 3-year authorization of $185 million for emergency medical service systems, training, and research. It also continues the operations of the Public Health Service hospitals.

Over the last 5 years, this administration has done everything possible to reduce or eliminate the Federal commitment to improving and upgrading our health delivery system. Where the health of the people is concerned, I for one do not want to find myself on the side of those who voted too little and as a result lives were lost.

The measure before us today is a fair and equitable proposal and certainly within the budget limitations proposed by the President. A small reduction in waste and inefficiency in the Defense Department and elimination of excess bureaucracy in other departments will more than adequately compensate for the cost of this 3-year program.

I urge my colleagues to vote to override this veto and provide for proper medical care for all Americans.

Mr. REID. Mr. Speaker, I rise to express my concern over the President's veto of the Emergency Medical Services Act, and to urge my colleagues to vote to override this veto.

Mr. Speaker, I was shocked at the President's veto of this bill. In my view, the veto was unnecessary and unjustified, and above all represented a callous approach to the health of hundreds of thousands of Americans.

The vetoed legislation would, first of all, create a new 3-year, $185 million emergency medical services grant program; second, it would create a new 1-year $10 million emergency medical training program; and finally, it would continue the operation of the eight Public Health Service hospitals, the largest of which is in Staten Island, N.Y.

Just this morning we in the New York delegation received in our offices a letter from HEW Secretary Weinberger notifying us that HEW appeared to have reevaluated the need for the Staten Island PHS Hospital, and that this hospital would therefore continue to operate even if the veto was sustained.

This is of course fine news for New Yorkers, but I would be more anxious to applaud the administration's newly realized concern if it had come before the 11th hour—today, of course, has long been scheduled as the day of the veto override vote. The situation and the need for this hospital, which serves over 150,000 New Yorkers, have not changed since President Nixon recommended phasing it out. It is only an apparent shortage of votes in the House that has persuaded the administration to change its position and show any concern for the thousands of New Yorkers who would have been without medical care if the veto as originally intended had been sustained.

I would point out, however, that still in the bill are funds critical for New York State and the health of New Yorkers. New York State could expect to receive $15 million of the funds authorized under the emergency medical services grant program, with New York City possibly receiving $5 to $7 million.

Mr. Speaker, this is not the time to cut back on our health resources. With health costs skyrocketing—in the last 5 years they have increased 43 percent in the New York area—with hospital facilities and beds already being taxed beyond their capacity, and with doctors and other medical personnel at an acute shortage, we must devote a great deal more—not less—of our efforts to solving what is indeed becoming a health crisis not only in the State of New York, but throughout the Nation.

Mr. Speaker, apparently the President, and, I might add, Governor Rockefeller—from whom we in the New York delegation have not heard a peep, even though we have received appeals and notices from county leaders, labor unions, mayors, and numerous other State leaders—fail to recognize that in the State of New York, at least, where prices, including health costs, are rising far faster than income, people simply can no longer afford to get sick.

Mr. Speaker, I urge that the veto be overridden by the House, as it was by the other body.

Mr. YOUNG of Florida. Mr. Speaker, I am casting my vote to override the President's veto of S. 504, legislation providing Federal support for State and local emergency medical services programs, and requiring the continued operation of eight general hospitals operated by the U.S. Public Health Service.

When I voted for the Emergency Medical Services bill on May 31 of this year, I shared my colleagues' overwhelming opinion that the Federal Government could, with the relatively modest funding contained in this bill, take a great step forward in helping to save more than 60,000 lives every year. The American Heart Association has estimated, for example, that more than 25,000 prehospital coronary deaths could be prevented with proper emergency medical facilities.

In the State of Florida, one of the model EMS programs in the country has been serving a seven-county area centered on Jacksonville. The success of this program has demonstrated that a coordinated EMS program can save lives by assuring rapid access to sophisticated lifesaving medical techniques even for isolated rural areas. Victims of auto accidents, severely injured or poisoned children, elderly lung or heart sufferers—all are assured rapid emergency care through the EMS program.

The eight Public Health Service hospitals which would be preserved in operation by S. 504 have a record of service to this Nation, and especially to its merchant seamen, which is long and distinguished. These hospitals provide valuable medical and paramedical training programs, and also operate several valuable ongoing research programs which benefit their patients and the general public as well. The Baltimore PHS hospital operates an important multimillion dollar cancer research center funded by HEW, and the New Orleans hospital has several community-oriented health programs, including a Poison Control Center which handles some 200 cases per month.

While I have consistently supported the President's efforts to reduce Federal spending and eliminate waste in Government, I feel strongly that the health of this Nation is too important for program reductions or funding cutbacks. Every dollar which we spend for health care provides a major return in lives saved, work-days added to the economy, and the relief of human misery.

Emergency medical services are an important but as yet underdeveloped component of the health care field. Accidents are the fourth most common cause of death for all ages, and the President has estimated that they cost the Nation more than $28 billion annually. S. 504 authorizes Federal spending of $185 million over a period of 3 years; this is a small price to pay for making a big dent in that $28 billion loss. I am therefore voting to override on S. 504, so that the citizens of this Nation may have rapid and safe access to vital medical treatment in case of emergency.

Mr. ROBISON of New York. Mr. Speaker, it is not necessary for this Member to demonstrate his support of the basic Emergency Medical Services Act.

I state that because—as the record shows—I was privileged to be an original cosponsor, along with my colleague from West Virginia (Mr. MOLLOHAN), of the legislative proposal that, with some modifications, became the Emergency Medical Services Act as reported out by the House Committee on Interstate and Foreign Commerce and as then passed by this House.

When I first introduced that legislative idea, with Mr. MOLLOHAN, I noted in my supporting statement that a prime incentive had been the President's use of his state of the Union message for 1972 to impress us with the need for improved emergency health care. Let me include the President's words, here, as they bear so strongly on my own conviction that we must have this legislation. President Nixon said on January 20, 1972:

> Last year, more than 115,000 Americans lost their lives in accidents. Four hundred thousand more were permanently disabled. The loss to our economy from accidents last year is estimated at over $28 billion. These are sad and staggering figures—especially since this toll could be greatly reduced by upgrading our emergency medical services. Such improvement does not even require new scientific breakthroughs; it only requires that we apply our present knowledge more effectively.
>
> To help in this effort, I am directing the Department of Health, Education and Welfare to develop new ways of organizing emergency medical services and of providing care to accident victims. By improving communication, transportation, and the training of emergency medical personnel, we can save many thousands of lives which would otherwise be lost to accidents and sudden illnesses.

Those compelling reasons for new Federal initiatives have not changed. In fact, they have grown more severe. Also unchanged is the general ineffectiveness and overlapping of the Federal agencies which now support emergency medical services in some fashion—at least 25 different offices and agencies according to the National Academy of Sciences.

I took President Nixon's figures, added my own—400,000 yearly victims of heart attack who never reached the hospital—and spent several months gathering comments from virtually every national expert on emergency medical services. These individuals unanimously suggested that much of what was wrong with the Nation's emergency medical capability could be corrected by more effective organization and management of the Federal Government's own present efforts.

The bill which eventually emerged from the Interstate and Foreign Commerce Committee was primarily a vehicle to accomplish those ends. Included in the measure was a complete definition of an emergency medical system, which sets the standards for the entire Federal Government. A new interagency task force was created, headed by the Secretary of Health, Education, and Welfare to assure Government-wide coordination of emergency health-care policy, and an identifiable office within the Department of Health, Education, and Welfare was to be accountable for the disbursement of any grants or contracts authorized in the act.

The bill placed long-needed emphasis on training of ambulance attendants, only a small minority of whom have completed the basic 70-hour course designed by the National Academy of Sciences, or an equivalent course. And, a 1-year legal study was provided to determine existing legal barriers, such as State statutes which impede the application of on-the-scene emergency care, and inadequate "Good Samaritan" laws—or lack of any at all—which deter a passing physician or health professional from coming to a victim's aid.

The President has since said in his veto message that emergency health care was preeminently a local and State responsibility. I certainly will not argue with that; but I must also suggest that it always has been so, and obviously the States and localities either do not have the resources to contend with a problem of such massive proportions, or have simply ignored that problem. We therefore have a situation in which an individual can never be sure, as he moves from one part of the country to the next, how quickly he can receive emergency care or how competently it will be administered in the event of accident or sudden illness.

Thus, the Federal Government can most appropriately act now to achieve some balance in the quality of emergency medical services in different parts of the country without necessarily preempting local responsibilities.

In that veto message, the President also complained that, with enactment of such a Federal program, we would be creating a new and potentially expensive categorical grant program when, instead, we ought to be consolidating and even eliminating some of the existing and overlapping categorical grant programs. Something can be said in support of that latter idea and, in general, I do support its thrust. However, if my colleagues, Mr. Speaker, have read the hearings on this bill, if they have noted the testimony of virtually every national expert on emergency health care, they will understand that this is a reorganization bill—not a new program. It is a bill to improve upon the work that is already being done by some 25 Federal offices and agencies by enhancing the organization and management of the Federal Government's present emergency medical service activities.

Next, there is the question of the cost of this program—if enacted and funded at a reasonable level. As a member of the Appropriations Committee, as a Member of this Congress, and even simply as a taxpaying-citizen, I understand and share the President's concern over the relationship between deficit Federal spending and inflation. He is right in calling our attention to the same, but I am not deterred—in this instance—by this bill's $185 million authorization, spread over 3 years.

For, not only can that cost—or whatever portion thereof is actually funded—largely be off-set by those other costs, however difficult to compute, incident to the loss of those human lives whom this program, once implemented, can help save, but I further believe that this Congress is now, finally, on its way toward achieving the mechanism necessary to determine its own budgetary priorities and then to fit them in under its own, overall expenditure ceiling.

Until the arrival of that day, however—which I, for one, hope will make the plaguing question of Presidential impoundments largely academic—we must deal with things as they are, rather than how we would wish them to be.

So, I come down, now, to this particular vote—on the question of sustaining or overriding this Presidential veto—and the necessity to find the best way out of our current dilemma.

It seems to me, Mr. Speaker, that the addition of the Senate rider relative to the Public Health Service hospitals brought an unnecessary and wholly nongermane but complicating issue into this picture. As an issue, whatever its true merits, it should be dealt with separately; I think we all acknowledge that, even if some of us will only do so privately.

The President's letter of September 10, addressed to the minority leader, suggests that approach, and it is the right approach. At the same time, that letter does not adequately tell us what the President's further position on the EMS portion of this legislation would be if we now simply sent it back to him stripped of the PHS rider.

The ranking member on the committee, the gentleman from Minnesota (Mr. NELSON), has urged us to now join him in cosponsoring the EMS portion of this legislation, unchanged, as a separate vehicle. In doing so, he has adopted the same approach I undertook, with others, earlier this year, when we all faced a somewhat similar dilemma after a veto of vocational rehabilitation legislation, which veto was sustained. At that time, as accommodation of the differing points of view as between President and Congress was eventually achieved—and I hope and believe the same can be accomplished, here.

The spirit of accommodation—and compromise—tenuous as it was earlier this year when that agreement on the vocational rehabilitation bill was arrived at, is even more tenuous, now. One could say, I think, that it now hangs by the barest of threads.

But we can all agree, can we not, that it is essential to do what we can to keep that spirit alive?

I have remained doubtful, until even this afternoon, as to the President's own intentions in this regard—for accommodation is, of course, a two-way street. However, I have now received assurances, sufficient to me, that the President will sign what might be called the "clean" EMS bill—as offered by Mr. NELSEN and which I am also cosponsoring—along with assurances that I consider of even greater importance since any veto of such a "clean" bill could clearly be overridden, that the President will, however reluctantly, accept an appropriate level of funding for the programs under such a bill.

These latter assurances—if they can even be termed that—are much less convincing. I wish I felt surer of them than I do. And, yet, I believe one has to be pragmatic, as opposed to being political, when confronted by this sort of a situation. It seems to me, Mr. Speaker, that the question comes down to this: Do we who support a proper EMS initiative, want an issue, or an implementable program? We could ram the present vetoed bill, with the PHS rider, down the President's throat, so to speak, by overriding his veto and then voting a follow-on appropriation, at whatever level we could agree upon, to fund the EMS programs. There are certain things we do not know about the President, but one thing we do know is that he has a clear stubborn streak. That trait, by itself, is not to be criticized unless carried to extremes. However, can anyone here imagine that if we take Mr. Nixon to the mat—again so to speak—on this issue in such a fashion, that he will do anything other than to issue orders to impound such moneys as we may subsequently vote for the EMS programs?

Wanting the EMS programs more than I, for one, want an issue, I have accordingly decided to vote to sustain this particular veto, and then to hope—and to work—for what might be called the best.

It seems to me, in essence, that again this is the pragmatic—the practical—thing to do; and that, besides which, in this fashion we may encourage that faint spark of compromise against dying out in an atmosphere of stifling confrontation which could only make these next 3 years intolerable ones for both President and Congress, let alone the Nation.

One final thing, though: I am not moved, Mr. Speaker, by the notion, advanced by some, that this vote is a test, somehow, of the effect of "Watergate" upon the President's effectiveness, or lack thereof. I sincerely hope we do not fall into that trap as we enter upon this fall session. "Watergate"—whatever else it may mean—must not be allowed to interfere with, or be confused with, the difficult issues both President and Congress must face in the months ahead, or with the decisions they must separately make thereon. If we were to allow that to happen we would only be doing both ourselves and the President harm—the President by perpetuating the doubts and animosities the very word "Watergate" triggers; and ourselves by bending to the implication that at least some of us must seek to dispel the Watergate charges through our action on matters having absolutely no relation to Watergate. If even just those of us who hope, for the sake of both the institution that is the Presidency and of the Nation, that Mr. Nixon can, somehow, weather Watergate, we would have to appreciate the fact that no single vote could counteract all that term has come to mean, and that we would be called upon to try to carry out that impossible task time and time again during the next 3 years.

And so I say, Mr. Speaker, let us stick to the real issues—and the real issue in this instance is, how can we best advance the cause of improving the emergency medical services available to the people of this Nation. There is ample room for disagreement over what is the proper route to that goal, but I am choosing the one I think is best and can only hope time will prove me right.

Mr. FOUNTAIN. Mr. Speaker, when S. 504, known as the Emergency Medical Service Systems Act of 1973 was first considered and passed in this Chamber, I had no doubts about the real worth of the proposed program, and especially the need for a continuation of existing public health service hospitals which the administration seeks to close.

Beyond any question the emergency medical health services portion of the bill has basically meritorious objectives which I have always supported. However, when this legislation was voted on by the House, I doubted the wisdom of embarking upon another new spending program at a time when the economy is in serious trouble and when deficit spending is the basic cause of our national economic ills.

However, we have been assured by the minority leader, our distinguished and able colleague from Michigan, Mr. GERALD R. FORD, and others, that if we vote to sustain the President's veto of this legislation, an identical bill, without the PHS hospitals provision, will be supported by the President, and, if enacted into law by the Congress signed by him.

This means that spending $60 million annually for the next 3 years on a new emergency medical services program is no longer the issue with the President—

the issue which bothered me when this bill passed the House.

At that time, my concern was not over keeping the PHS hospitals open or over the merits of the emergency medical services provision of the act, but entirely about the advisability of starting any new and potentially costly spending programs, however meritorious.

In any event, in view of the President's intention to support a bill identical to S. 504, but without the PHS hospital provision—a worthy part of the bill—and for reasons which I have mentioned, and others which have already been extremely well articulated during this debate, including the merits of the emergency health services program, I have decided to vote to override the President's veto of this legislation.

Mrs. BOGGS. Mr. Speaker, I support this motion which will provide the emergency medical care capable of saving an estimated 60,000 lives—16,000 of them teenage—a year and will continue the operation of Public Health Service hospitals and their research and training facilities.

My remarks will be concerned with the PHS hospital in New Orleans since I am particularly familiar with the essential role it plays in our own community and surrounding areas, including several other States.

I want to state at the outset that I am strongly opposed to the HEW proposal. Recognizing our inflationary problems, I am for economizing as much as anyone else, but I believe that HEW is basing its proposal upon false economic principles. I further believe that many of its other justifications for this move are not factual.

HEW says that the proposed plan would cost $81 million for operating expenses and another $7 million for other costs in the fiscal year beginning July 1, 1973. A lot could be done to improve existing facilities and service with that kind of money. Admittedly, some of the PHS facilities are in poor physical shape, but dereliction in keeping them modern should not be used as a reason for closing these hospitals.

HEW also claims that the PHS hospitals' patient loads show a continuing decline and that it will be cheaper to form contractual agreements with community hospitals to absorb PHS hospital inpatient loads.

The U.S. Public Health Service has maintained a medical facility in New Orleans since 1802 when Congress appropriated $3,000 to provide medical care for American seamen. Since that time, with the exception of the Civil War, the PHS hospital has been an essential health care institution in our community and region.

The director of the Public Health Service hospital in New Orleans has said that he seriously doubts the capability of community hospitals to absorb the inpatient load of the PHS facility if it is phased out.

He says there would not be sufficient beds to care for the current load of 193 primary beneficiary inpatients per day.

Supposedly, the HEW contractual program would be limited to primary beneficiaries, such as merchant seamen, active duty Coast Guard personnel, and PHS commissioned officers, and members of the National Oceanographic and Atmospheric Administration.

Secondary beneficiaries, which include active duty personnel of the Defense Department and their dependents, dependents of primary beneficiaries, and retired persons who otherwise would have qualified for PHS services, would require other arrangements.

There has been no appreciable decrease in the patient load at the New Orleans facility, according to the hospital's director.

The average number of daily patients in the hospital for 1958 was 314; it was 312 in 1969, and 299 in 1972.

Although the average number of patients in the hospital has decreased slightly, the number of admissions has increased significantly, from 4,918 in 1958 to 7,637 in 1972.

Outpatients visits totaled 74,208 in 1958 and 135,684 in 1972.

The average daily inpatient load for January 1973 was 313; for February 1973, it was 326.

These figures certainly do not support HEW's contention that the hospital is not being utilized and that activity is decreasing.

Most significant is the cost factor. HEW claims it will be cheaper to set up contractual arrangements for patient care. However, studies show that the average cost per day for 12 hospitals in the New Orleans area over the past several months is approximately $104.09, which does not include physician fees. On the other hand, the average cost per day for the entire Public Health Service hospital system is less than $70 per day.

A 1970 study showed that because prescriptions were cheaper through the Public Health Service hospital as compared to community hospitals, the Federal Government saved over $1 million in this area alone. Similar savings were recognized in the pathology department and X-ray department. If these services were on a contractual basis, it would probably cost the Federal Government about $3 million a year more than it does now.

HEW has also resorted to the argument that the PHS hospitals serve a select group. But I contend that the Indian health hospital and the Veterans' Administration hospitals also serve select groups—people who need and are entitled to the services extended.

The New Orleans hospital today serves Louisiana, Missouri, Arkansas, Tennessee, Alabama, Mississippi, Florida, and the Panama Canal Zone. A poison control center is staffed on a 2-hour basis at the hospital and renders service to the entire 50 States, plus it is a backup to the national clearing house in Washington.

In addition, the closing of the New Orleans facility would have an adverse economic impact on our area. Presently there are approximately 600 employees at the PHS hospital and their employment and purchasing power would be severely curtailed if this hospital is closed down. I hope that the House of Representatives will not allow us to suffer these difficulties.

Mr. BURKE of Massachusetts. Mr. Speaker, the President has stretched the demand for fiscal economy too far. He is saving money when he could be saving lives, and he is forgetting the recommendation which he made to all of us in his Presidential message to the House in January of 1971.

At that time he correctly stated that emergency medical services were in a "sorry state." He demanded that Congress take action in this matter just as he demanded our prompt action to certain other legislative priorities earlier this week. And we responded to his call in providing vitally needed emergency medical services legislation. In short, we followed the President's mandate only to have our efforts vetoed. Perhaps he is testing our determination to carry out his wishes. Perhaps in overriding the veto on this bill, we will be proving our faith and allegiance to legislation initiated by his request.

I can see no other reason for his veto of S. 504. Surely, the President realizes that proper emergency care could save an estimated 60,000 lives a year and that proper training and skilled use of emergency medical facilities could spare over 25,000 Americans from the severe and often permanent injury which is the inevitable result of a lack of such equipment and personnel. I am sure the President is aware of the American Heart Association's report that an estimated 10 percent of the yearly 275,000 prehospital coronary deaths could be prevented if proper care were administered at the scene and en route to the hospital. It is certainly no secret that thousands of highway deaths could be prevented each year if only the resources were made available to enable well-equipped, competent personnel to respond within the crucial and limited time period required.

When the toll of human life is this high and when we have the power and resources available to significantly reduce this avoidable suffering and death, there can be no justification for turning our backs and allowing this veto to stand. I am fully aware that efforts are underway to produce a watered down version of this bill in order to make it more acceptable to the administration. I do not believe that any erosion on the impact of this bill is acceptable. It can never be acceptable that we chose to save the lives of only 30,000 or 45,000 individuals when we have the potential to save 60,000 lives.

The administration also feels that public health service hospitals are no longer economically acceptable. The President advises that these hospitals should fall under the responsibility of State and local governments. If the Federal Government does not have the economic means by which these hospitals can be maintained, then how are our State and local governments expected to assume this responsibility? The administration would have us believe that State and local governments are perfectly capable of assuming the costs of these hospitals. We know this is unrealistic. The inevitable result will be the extinction of these vitally needed PHS hospitals. Each year, public health service hospitals train 12,000 physicians, dentists, medical technicians, licensed practical nurses, physicians assistants, orthopedic assistants, medical librarians and other paramedical personnel. This in itself is justification for continuing Federal support of public health service hospitals.

The patients now served by these facilities will have nowhere to turn—unless, of course, they are able to bear the 40 to 50 percent higher cost of health care in private hospitals. What will become of the people who staff these hospitals? I know in Massachusetts, where the Chelsea Naval Hospital—only a few miles from the Boston PHS Hospital—has been closed, and where military cutbacks have sent unemployment into the crisis stage, that these people will find no jobs available. Is Massachusetts also to assume the costs of increased unemployment?

Mr. Speaker, I have observed first hand the outstanding work performed by the Boston PHS hospital. I have seen people helped who could not have found aid elsewhere. If I were convinced that the administration's proposed transfer of this facility was in the best interest of everyone involved I would not object. But I am not so convinced, and I do object. I feel a strong responsibility in this area and I will vote to override the President's veto of the Emergency Medical Services Act. I urge my colleagues to join me in this effort.

**Mr. DOMINICK V. DANIELS.** Mr. Speaker, I rise in support of this resolution to override President Nixon's veto of the Emergency Medical Services Act, S. 504.

After months of careful deliberation the Congress passed S. 504, a bill that recognizes that communities all over America lacked vital services for emergency treatment. S. 504 provides community based emergency services with 50 percent Federal matching funds the first year and 25 percent in the second, with grants available in succeeding years for not more than 50 percent of the total cost of a project. The main thrust of this legislation provides both the impetus, the technical assistance, and the funds for developing emergency health services. The bill also authorizes funds for medical school training in emergency health care.

This is not an expensive bill, by any means. We are authorizing $185 million over a 3-year period to correct a critical health care problem. We heard testimony from every sector of the American medical community including hospitals, private physicians, medical schools, community, and State health departments. All attested to the tremendous shortage of emergency health facilities.

In addition, this bill would prohibit the closing of eight Public Health Service Hospitals, including the one located on Staten Island which serves my constituents in Hudson County, N.J. These PHS Hospitals fill a vital role in providing needed health services.

Mr. Speaker, I strongly disagree with President Nixon's rationale that this is a State and local responsibility. We are returning Federal taxes to the people who paid them in the form of services they need and want.

The President recently issued a statement that Federal Government must cut back on spending but that he would refuse to accept any cuts in military hardware in spite of hearings in the Senate and the House which clearly show that a substantial portion of this spending is wasteful and does not serve the defense of the Nation. Instead, the President demands that the Congress cut back spending on domestic programs that clearly serve the interests and needs of the American people.

These are strange priorities indeed, that prohibit returning vital health, education, and other domestic services to the American taxpayers, but permit cost overruns to defense contractors, an unwarranted $300 million in subsidies to grain dealers for wheat exports to Russia, and over $10 million to renovation of the President's personal homes. I find it difficult to reconcile these priorities with the traditional American concept that purpose of the American Government is to serve all of the American people.

I urge my colleagues to override this veto.

**Mr. TREEN.** Mr. Speaker, I cast my vote to sustain President Nixon's veto of the Emergency Medical Services Act of 1973. I did so because I am convinced that the President's proposals with regard to U.S. Public Health hospitals offer a unique opportunity to provide better medical care to entitled recipients while saving considerable sums of money for the American taxpayer. I wish to emphasize the point that I am confident that the treatment of those patients in the USPHS hospital health care system will be improved.

Before I cast my vote to sustain the President's veto, I was assured by the Secretary of the Department of Health, Education, and Welfare, Mr. Caspar Weinberger, that the people of Louisiana would not suffer in any way as a result of the implementation of the Department's plan. In fact, Mr. Weinberger made it quite clear that the administration would not have proposed this plan to Congress if there were any chance that persons entitled to medical care at the USPHS hospitals would receive less than equivalent care. Mr. Weinberger also reaffirmed his belief to me that this proposal will result in better medical care for USPHS eligible patients.

Let me point to some of the misinformation that has surrounded this legislation. First of all, the issue with respect to the Public Health hospitals, including the one in New Orleans, was not simply whether to close them or keep them open. The issue was whether the Congress would prevent the President from implementing a plan to provide better health care at reduced cost to American taxpayers. If the President's veto had been overridden that plan would have been killed.

Second, the President's plan does not, repeat, does not involve closing the Public Health hospital in New Orleans; it only proposes that inpatient care be provided in hospitals located in or near the community where the patient lives.

Third, free inpatient care to those entitled will continue to be provided in contracting hospitals at no cost, repeat, no cost to the recipient.

Fourth, all persons entitled by law and/or regulation to medical care will continue to receive medical care.

Fifth, the USPHS hospitals, including the one in New Orleans, will remain open, repeat, remain open for outpatient and dental care.

Sixth, the President's plan does not, repeat, does not have any bearing on veterans hospitals or medical care for veterans whatsoever. The President is, and I am also, a staunch supporter of maximum health services for veterans. No diminution of veterans facilities or services is involved in any way whatsoever, and rumors to the contrary are totally unwarranted and unfounded.

Seventh, every President since President Truman has sought to make the changes President Nixon is proposing; each was motivated by the same desire to make substantial savings without curtailing medical services.

Eighth, substantial savings can be achieved by the President's plan because the low inpatient load at the USPHS hospitals does not justify the tremendous costs to remodel, equip, and maintain the hospitals to provide modern health care; it is far less expensive for the Government to pay other hospitals for this inpatient care.

In my State of Louisiana, and a triparish area that includes part of my congressional district, the New Orleans USPHS hospital had a daily primary beneficiary patient load of 193 and an annual outpatient workload primary beneficial visits of 52,431. In New Orleans, as I pointed out, the administration proposes to continue all outpatient care, including the dental clinic in its present form. For primary inpatient care, the administration proposes to contract with local community hospitals. Thus, the patient, for the first time, will have the opportunity to stay within his home area and easy reach of his loved ones. The administration's proposal to phase out the New Orleans PHS hospital inpatient care will not only provide better and more economic inpatient care for the primary beneficiaries in the New Orleans area, but contracts with other community hospitals for patients who have had to travel from as far away as Mississippi, Tennessee, and Florida will now enable these patients to receive care in their own communities, at no cost whatsoever to themselves.

I would also like to point out that as a result of these changes much of the load now carried by the New Orleans hospital, both outpatient and inpatient, will be taken up by hospitals in other cities with which HEW has contracts. Thus, there will be a reduction of outpatient loading in New Orleans which, in turn, should result in more prompt medical attention for those who continue to use the New Orleans hospital for outpatient treatment.

Mr. Speaker, the guarantees I have received from the Department of Health, Education, and Welfare make me confident that all persons under the law will continue to receive the medical care I have just described, and I can assure you that I will go to bat for any patient who does not.

For primary patients in the New Orleans area, the following hospitals will be able to provide the following approximate number of beds as listed:

| | Beds |
|---|---|
| West Jefferson Hospital | 20 |
| Hotel Dieu Hospital | 20 |
| Sara Mayo Hospital | 32 |
| Flint-Goodridge Hospital | 15 |
| East Jefferson Hospital | 10 |
| Southern Baptist Hospital | 5–10 |
| Mercy Hospital | 5–10 |
| Eye, Ear, Nose, and Throat Hospital | 5 |

Furthermore, once the Hotel Dieu Hospital is fully staffed a total of 180 beds can be committed to USPHS beneficiaries.

Equally important is the treatment for "secondary" patients, particularly military servicemen and their dependents. As I indicated earlier, these patients will continue to receive outpatient care at the USPHS hospitals in New Orleans. For inpatient treatment, the naval hospital for New Orleans had a 100-bed facility approved in fiscal year 1973. Because of the possible termination of inpatient treatment at the New Orleans USPHS Hospital, a contingency plan had been devised earlier by the Department of Defense to add 150 additional beds in fiscal year 1974. The few that might not be able to obtain inpatient medical care at the naval hospital will certainly be able to obtain inpatient care at the other community hospitals under the civilian health and medical program of the Uniformed Services—CHAMPUS.

Insofar as veterans are concerned, this legislation will have no negative impact whatsoever—all rumors to the contrary. Our U.S. health care system is continuing to grow at very impressive rates. This year alone the VA health care system will provide one-third more inpatient care for veterans than it did 4 years ago, and it will handle 70 percent more outpatient visits—7.1 million—during the same period.

So I think, Mr. Speaker, that the time has come for us not to play on the fears of the public. The time has come for us to show that we can eliminate programs that have outlived their major purpose. I think this should set the example for many of the other Federal programs that no longer serve their purpose, save to drain the Federal Treasury and the American taxpayers pocketbook. If we can meet this challenge, I believe we will have taken the first step to restoring fiscal responsibility to our country, to curbing inflation, and to stabilizing the economy. And, I might add, without detriment in this case to the medical care of the patients we are all concerned about.

Mr. Speaker, I was elected on a platform of reducing the cost of government wherever possible without degrading or diminishing our obligations. I am convinced that such an opportunity exists in the President's plan.

The **SPEAKER**. All time has expired.

Mr. **STAGGERS**. Mr. Speaker, I move the previous question.

The previous question was ordered.

The **SPEAKER**. The question is, will the House, on reconsideration, pass the bill the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 273, nays 144, answered "present" 1, not voting 17, as follows:

[Roll No. 449]

YEAS—273

Abdnor
Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hogan
Holifield
Holt
Holtzman
Howard
Hungate
Hunt
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Mailliard
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schroeder
Seiberling
Shipley
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—144

Anderson, Ill.
Archer
Arends
Armstrong
Bafalis
Baker
Bauman
Beard
Blackburn
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burleson, Tex.
Butler
Camp
Cederberg
Clancy
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Findley
Fish
Flynt
Ford, Gerald R.
Frelinghuysen
Frenzel
Frey
Froehlich
Gilman
Goldwater
Goodling
Gross
Grover
Hansen, Idaho
Harsha
Harvey
Hastings
Heinz
Hillis
Hinshaw
Horton
Hosmer
Huber
Hudnut
Hutchinson
Ichord
Johnson, Colo.
Johnson, Pa.
Keating
Ketchum
King
Kuykendall
Landgrebe
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
Madigan
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
O'Brien
Parris
Powell, Ohio
Price, Tex.
Quie
Quillen
Rarick
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rousselot
Ruppe
Ruth
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Smith, N.Y.
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Treen
Walsh
Wampler
Ware
Widnall
Wiggins
Williams
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Ill.
Young, S.C.
Zion
Zwach

ANSWERED "PRESENT"—1

Mahon

NOT VOTING—17

Ashbrook
Burke, Calif.
Clawson, Del
Collier
Davis, S.C.
Guyer
Hanrahan
McEwen
McSpadden
Mathis, Ga.
Mills, Ark.
Runnels
St Germain
Sandman
Shoup
Stratton
Waggonner

So, two-thirds not having voted in favor thereof, the veto of the President was sustained, and the bill was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Mills of Arkansas and Mr. Stratton for, with Mr. Mahon against.

Mrs. Burke of California and Mr. St Germain for, with Mr. Collier against.

Until further notice:

Mr. Davis of South Carolina with Mr. Ashbrook.

Mr. McSpadden with Mr. McEwen.

Mr. Mathis of Georgia with Mr. Sandman.

Mr. Waggonner with Mr. Shoup.

Mr. Runnels with Mr. Hanrahan.

Mr. Guyer with Mr. Del Clawson.

Mr. **MAHON**. Mr. Speaker, I have a live pair with the gentleman from Arkansas (Mr. MILLS) and the gentleman from New York (Mr. STRATTON). If they had been present they would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The **SPEAKER**. The Clerk will notify the Senate of the action of the House.

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## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7724. An act to amend the Public Health Service Act to establish a national program of biomedical research fellowships, traineeships, and training to assure the continued excellence of biomedical research in the United States, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7724) entitled "An act to amend the Public Health Service Act to establish a national program of biomedical research fellowships, traineeships, and training to assure the continued excellence of biomedical research in the United States, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. NELSON, Mr. KENNEDY, Mr. MONDALE, Mr. HUGHES, Mr. CRANSTON, Mr. PELL, Mr. EAGLETON, Mr. JAVITS, Mr. DOMINICK, Mr. SCHWEICKER, Mr. BEALL, and Mr. TAFT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1866. An act to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84–689, appointed Mr. SPARKMAN and Mr. KENNEDY to be delegates to the North Atlantic Assembly to be held in Ankara, Turkey, October 21 to 27, 1973.

The message also announced the Vice President, pursuant to 48 Stat. 967, appointed Mr. SYMINGTON to the U.S. Territorial Expansion Memorial Commission in lieu of Mr. CHURCH, resigned.

## GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just considered.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## HEALTH MAINTENANCE ORGANIZATION ACT OF 1973

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 541 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 541

*Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7974) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7974, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 14, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 7974 as passed by the House.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 541 provides for an open rule with 1 hour of general debate on H.R. 7974, a bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations.

House Resolution 451 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

House Resolution 451 also provides that after the passage of H.R. 7974, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 14, and it shall then be in order in the House to move to strike out all after the enacting clause of S. 14 and insert in lieu thereof the provisions contained in H.R. 7974 as passed by the House.

H.R. 7974 provides for assistance to develop new health maintenance organizations. It allows grants to be made for determining the feasibility of developing or expanding HMO's by entering into contracts with public and nonprofit private entities and contracts with private entities for projects for medically underserved areas.

The bill also provides for assistance in meeting the initial costs of operating a new or significantly expanded HMO by making loans for public or nonprofit private HMO's and loan guarantees for profitmaking HMO's which will serve residents of medically underserved areas.

H.R. 7974 provides for a 5-year authorization of $240 million.

Mr. Speaker, I urge adoption of House Resolution 541 in order that we may debate and discuss H.R. 7974.

Mr. LATTA. Mr. Speaker, today we are considering House Resolution 541, which is the rule providing for the consideration of H.R. 7974, the Health Maintenance Organization Act of 1973. This is an open rule with 1 hour of general debate. The rule also makes the committee substitute in order as an original bill for the purpose of amendment and makes it in order to insert the House-passed language in the Senate bill.

The purpose of H.R. 7974 is to provide a 5-year program of assistance to develop new health maintenance organizations—HMO's. An HMO is an organization for providing health care in a geographic area to a voluntarily enrolled group of persons. In exchange for providing the agreed-upon health services the HMO is reimbursed through a predetermined, fixed, periodic prepayment from each person enrolled in the HMO.

The committee report notes several advantages which HMO's offer. An HMO can take advantage of economies of scale, efficient management, and more productive use of health manpower. Since an HMO may be responsible for an individual over a period of time, it can do more preventive medicine, and thus correct some problems before they require expensive hospitalization. The committee report states that HMO's provide physicians pay which is competitive with what physicians make in fee-for-service practice. In addition, a physician can plan his working hours, while being assured other physicians will cover for him while he is off duty.

Prototype HMO's have operated for over 40 years, and in 1972 provided health services to over 7 million people. The committee report expresses concern about the fact that HMO's have not grown more rapidly than has been the case. Three reasons are given for the slow growth: First, HMO's are expensive to start; second, restrictive State laws often make the operation of HMO's illegal; and, third, HMO's cannot compete effectively in employer health benefit plans with existing private insurance programs. The third factor occurs because HMO premiums are often greater than those for an insurance plan, even though the total costs to a family will be less in the HMO because the benefits provided by HMO are more comprehensive.

This bill is designed to correct two of the three problems noted above. First, it will provide financial assistance for the developments of HMO's. Second, it will require employers to offer HMO's as an option in employee health benefit plans.

The total cost of this bill is $240 million over a 5-year period.

Mr. Speaker, I have no requests for time.

Mr. Speaker, I urge the adoption of this rule.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7974) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia, Mr. Staggers.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill H.R. 7974, with Mr. Udall in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes, and the gentleman from New York (Mr. Hastings) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7974, the Health Maintenance Organization Act of 1973. This legislation provides for a 5-year, $240 million program of assistance in developing new health maintenance organizations.

Programs of Federal assistance for starting HMO's were first proposed to us by President Nixon in his health message to Congress in 1971. Prototype HMO's have operated for over 40 years and in 1972 cared for more than 7 million people. The administration is presently running an HMO program, without specific legislative authority, in which they have spent $26 million and funded 110 HMO projects.

The present legislation provides: a definition of HMO's that specifies what services they must provide; assistance in studying the feasibility of HMO's, planning and developing them, and meeting their initial operating costs; continued regulation by HEW of HMO's which receive assistance; a requirement that employers of more than 25 employees, who offer their employees a health benefit plan, must as a part of that plan give the employees the choice of joining an HMO, if there is one in the area; and a thorough evaluation of the HMO program by the Secretary of HEW and the Comptroller General.

An HMO is an entity including four essential attributes: First, an organized system for providing health care in a geographic area which accepts the responsibility for providing care to its members; second, an agreed-upon set of basic and supplemental health maintenance and treatment services; third, a voluntary enrolled group of people; and fourth, a predetermined, fixed, periodic prepayment arrangement in which payment by the members to the HMO is made without regard to the amounts of actual services provided.

Many people have told us of a health care crisis in this country. Medical care costs have risen far more rapidly than other costs. Medical care is available only after people become sick rather than being used to keep people well. In many places medical care is unavailable or inaccessible. HMO's have been suggested as possible solutions to all of these problems. The committee has heard evidence that they control costs, keep the members healthier, and increase the availability of care.

H.R. 7974 has been carefully prepared by our committee to test whether or not these advantages of HMO's will, in fact, appear if Federal assistance is used to start them. These are important problems to which the public is demanding solutions. This is a good bill which will help find these solutions. I urge your support for it.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Hastings).

Mr. HASTINGS. I thank the Chairman.

Mr. Chairman, this HMO bill that is here on the floor of the House is a measure which was produced after a great deal of time and a great deal of effort in the Public Health Subcommittee. I might say that it is a compromise measure. After many segments of the health delivery system in the country indicated some opposition to certain portions of it, a substitute was introduced and was approved by the full subcommittee and by the full committee thereon, and this bill reaches us today without any great opposition of which I am aware at this time.

This bill contemplates a one-time-only program which would terminate after 5 years. It has a total cost of $240 million attached to it over the 5-year period of time. The bill authorizes assistance for feasibility studies, planning, initial development, and initial operations of health maintenance organizations. It allows greater flexibility for allocating funds among these provisions, and construction loans which were originally included have been omitted. The question of dual choice which was included, national mandatory dual choice, will be available to health maintenance organizations which meet certain specifications which are provided for in the legislation; and in a rather controversial section originally, employers of 25 or more people would be required to offer one of each type of qualified plan, that is, qualified HMO serving his particular area, and there would be no pre-emption of State laws or subsidies.

This bill, as I mentioned, is one that to my knowledge does not have a great deal of opposition. And I strongly urge the support of the House.

Mr. Chairman, I reserve the balance of my time.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. Rogers), the chairman of the subcommittee.

Mr. ROGERS. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, the Health Maintenance Organization Act of 1973 represents carefully considered legislation which has a broad base of support. HMO's bear great significance for the health of the American people and are capable of reducing the cost of health care in this country. They deserve a boost from the Congress. That is what this bill will do.

Simply stated, Mr. Chairman, the bill is designed to assist in the planning of an initial operation of new health maintenance organizations in this country. HMO's, which have been in existence for over 40 years, offer an organized system for providing agreed upon health services for which the HMO is reimbursed through a prepaid, fixed payment without regard to the amounts of actual services rendered. Experience has shown that, through this arrangement, HMO's can contribute to the alleviation of some of the major health problems in this country: uneven access to physician care, substantially rising costs, and orientation to care of the sick rather than on preventive medicine. HMO's have been shown to be capable of controlling health costs, cut down on unnecessary operations and effectively maintain the health of their enrollees.

Mr. Chairman, this is a free enterprise bill. It authorizes short-term support for feasibility studies, planning, and initial development and operation of HMO's, through grants, contracts, and loans. The mandatory benefit package is large enough to insure that practically all health problems of its enrollees will be met, but is not so expensive as to make the HMO's noncompetitive with other, more traditional modes of practice. It is our intent that this legislation will not only serve to foster HMO's in a substantial number of communities—probably on the order of 100—but also serve to demonstrate the concept of HMO's to health professionals and to the American people. The bill has received careful attention by the Subcommittee on Public Health and Environment and deserves the support of the overwhelming majority of the House.

Mr. HASTINGS. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. Nelsen).

Mr. NELSEN. Mr. Chairman, this bill has been in our committee for a considerable length of time. Many parts of it were controversial. One of the concerns I had was that many of the programs we now have provided for medical schools and new starts in our medical schools and health manpower find funding a little difficult. So I was concerned about adding new programs which would reduce the dollar figure for the very necessary ones we all agree we must have. We tailored this bill toward a more conservative level and many of the controversial parts of the bill have been eliminated. For example preemption of State laws and also the subsidies for the enrollees in an HMO were stricken, and these were debatable items.

The bill we have here is, I think, a fair and reasonable one and an acceptable one.

In many parts of the country we have already set up some HMO's, and I have in mind one at Two Harbors, Minn., which, for many years has been operating successfully and doing a very good job entirely with their own money. One of the fears I have had consistently is that if we set up one delivery system with Federal dollars involved it may compete with what we already have and create an unfair situation.

We have been very careful about this bill and we hope it has a sort of a seed money effect and that it will turn out that way.

Mr. Chairman, I will insert at this point an editorial from the Wall Street Journal:

### PUTTING HMO's TO THE TEST

One of the more interesting debates coming up as Congress reconvenes is how heavily the government should promote formation of health maintenance organizations (HMOs), which are founded on a theory that it's better to try to keep people well than to wait for them to develop illnesses before treating them.

Whether HMOs are an attractive alternative to more traditional forms of health care delivery has had inconclusive testing and debate. There would seem to be no reason why some modest government aid should not be applied to carrying the test further.

But the HMO debate will also pit two opposing theories of government. It will be a good opportunity for Congress to demonstrate that it has moved beyond the kind of thinking, so common in the '60s, that tackles complex problems—to lift a Nixon phrase—by "throwing money at them."

The administration itself, it should be noted, was guilty in 1971 of that style of thought on health care. It adopted HMOs as a panacea for a general discontent over medical costs, proposing to make HMOs available to 90% of the population by 1980. Today, however, it is merely backing a $60 million, one-year House bill to subsidize HMO formation, which by federal standards, puts the program in the largely experimental category. Senator Kennedy, however, has pushed a bill through the Senate calling for spending $805 million over three years.

Some of the latter-day administration diffidence is perhaps attributable to budget concerns or possibly lobbying against HMOs by the American Medical Association. But the main reason is more likely a timely fear that a vast, taxpayer-financed federal overhaul of health care delivery might produce a fiasco on the order of, say, some of the housing schemes of the '60s.

Simple, facile prescriptions for the problems of American health care should always be approached with skepticism. Health care is a complex and pluralistic industry. Its quality and ability to meet varieties of needs is better than its critics maintain. Some of the difficulties of the poor which are blamed on the medical profession are far broader—having to do with nutrition, inadequate housing, drug misuse and ignorance of rudimentary principles of health protection.

But there can be little doubt that for some people, and for some types of illnesses, high costs are a fundamental problem. Past government efforts to deal with the cost problem, through such giant programs as Medicare, have reduced costs for some people but exacerbated them for others by increasing inflationary pressures in the industry. Massive subsidies, as usual, have generated new inequities.

Government can, however, tackle some of the problems of health care in relatively undramatic ways. Government, for example, has the authority to supersede self-regulation in the health industry when self-regulation has failed to allow broad enough access to the medical profession and sufficient scope for new methods of health care delivery, such as HMOs.

The administration's HMO bill moves in this direction through provisions that would seek to pre-empt state laws that inhibit the development of HMOs. These laws, for example, bar corporate practice of medicine or classify HMOs as insurance schemes that must meet certain capitalization requirements. This kind of legislative approach is tough and ticklish, involving as it does state and professional prerogatives. But in fact, nine states, with federal urging, have themselves moved to clear the way for HMOs since 1971 and another 20 or so have changes in the works.

This kind of hard, slogging legislative work is what government should be about. It is time to bury the idea that complex problems must always be tackled with dramatic, sweeping programs. Too often, such programs are characterized by lack of sufficient thought, a waste of taxpayer money and benefits to all sorts of people except those who have the problem.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. Roy).

Mr. ROY. Mr. Chairman, I would like to speak in support of the health maintenance organization bill which is before us. As has been stated, this was a bill that consumed considerable legislative time because there were areas of controversy but thanks especially to the works of the gentleman from New York (Mr. Hastings) and also to the able work of the gentleman from Minnesota (Mr. Nelsen), Dr. Carter, of Kentucky, and other subcommittee members, we were able to bring before the House what I feel is an excellent health maintenance organization bill.

Health maintenance organizations are organizations that deliver medical care to a given number of enrollees who, for a prepaid amount, have a contractual right to the provision of this care by the health maintenance organization. Health maintenance organizations differ from insurance companies in that for the prepaid premium they deliver health care to the enrollee rather than pay for health care delivered by others.

We are facing, as most people know, great problems as far as the delivery of health care in this Nation is concerned. One of the greatest problems is the cost of health care. In 1972, last year, the total expenditures for health care in this country were $84 billion. Next year, it is estimated that the total expenditures for health care in this country will be $105 billion, an increase of $21 billion in 2 short years.

It is believed by the Speaker, and I believe by the members of the committee, that health maintenance organizations hold promise for holding down the rate of rapidly increasing cost of health care and the increasing expenditures the American people are presently making and will make for health care. There are several reasons why HMO's are able to do this. One is that a health maintenance organization is able to treat the enrollees, the patients, in appropriate facilities and by appropriate personnel. Another is the fact that the health maintenance organizations contracts are for relatively comprehensive care. When there are comprehensive benefits, it becomes much easier to treat the patient in the appropriate facility and by the appropriate personnel because there is not the situation whereby insurance pays one place but not the other and may be a determining factor in choosing the facility in which the patient is treated.

In addition, health maintenance organizations receive a prepayment for a given period of time, and because they have this prepayment and because they are obligated by contract to deliver comprehensive health care, they, like most other businesses and most other industries, must work within a predetermined budget. This results in efforts to stay within the budget while delivering quality care.

Mr. Chairman, I think we all realize that cost savings are not enough, that the quality of health care is even more important. I think, from the evidence which came before us in committee, that health maintenance organizations, and the prototypes of health maintenance organizations already operating in this country, are almost without exception delivering quality health care. There are several reasons for this.

Most health maintenance organizations rely upon a group practice to deliver the professional component of health care. This, of course, results in the individual physician being carefully observed by his fellow physicians. I think all of us realize that one of the great drives in any profession, even in the Congress of the United States, is the drive for the respect of one's colleagues and of one's professional associates. Some quality control comes about from this factor alone.

In addition, quality health care is often less expensive than health care of lesser quality. This is true when health maintenance prevents more serious illness.

The greatest contribution presently available to health maintenance is what is called first-symptom care. There is no barrier of payment to the receipt of health care. Therefore the patient is more likely to seek care and not say, "I will wait 2 or 3 days and perhaps I will feel better," and then suffer greater morbidity and need more care, and more costly care.

In this country, in addition, we have a maldistribution of physicians and other health professionals. We know we need additional access to and additional availability of health professionals, and that this maldistribution makes this difficult or impossible.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. ROY. Mr. Chairman, I would not like to mislead my colleagues by telling people the passage of an HMO bill is going to overcome the problem of the availability and accessibility, the maldistribution, of professionals. But I do believe the Health Maintenance Organization as an organization has the ability to plan and to reach out in such a way that there will be some improvement in the availability and accessibility of health professionals as a result of the establishment of additional HMO's.

Several other things should be said at this time. The HMO bill is not a panacea for all of the problems we face so far as cost, availability, accessibility and quality of health care are concerned. I believe this is basically a small step, albeit an important small step, toward encouraging a better organization of health care delivery.

I believe it is important to emphasize that I believe this small step will set up a ripple effect whereby the present health care delivery system of the private physician practicing fee-for-service medicine, the voluntary private hospital, and the private pharmacist, the system we have presently, will work to improve utilization review and peer review, and it will compete successfully as it has wherever we have seen the establishment of prototype HMO's.

Again I congratulate the chairman of the subcommittee (Mr. ROGERS) and the chairman of the full committee (Mr. STAGGERS) for their help with the Health Maintenance Act. I especially appreciate the cooperation of the gentleman from New York (Mr. HASTINGS) and those on the minority side.

Mr. HASTINGS. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Chairman, I rise in support of the passage of this HMO legislation.

I should like to express my appreciation to the Public Health and Environment Subcommittee, of which I am a member, and to the Committee on Interstate and Foreign Commerce, and to the distinguished chairmen of these two committees, for their very able leadership in developing this legislation, of which I am a cosponsor.

I believe that in a nation as large and complex as ours we must have, not a single but a pluralistic health care delivery system. I believe the HMO's can constitute a very useful and helpful part of this more total system of health care delivery, particularly as these HMO's affect medically underserved areas such as rural areas and ghettos.

I should like to make a statement about one portion of the bill, which I believe could be stronger, although I do not intend to offer an amendment on this subject.

I believe that mental health services should be included as a basic offering of HMO's rather than as a supplement to be contracted for on a voluntary basis. Mental health services are included in the basic offering in the Senate version of this bill, and our bill would be better if we had included them in the basic rather than the supplemental. But the committee did not feel that way, and I yield to their judgment.

It has been suggested that a high percentage, from 50 to 75 percent, of patients who present themselves to physicians' offices or to hospital emergency rooms are suffering from some form of mental or emotional problem.

If the old adage of "a stitch in time saves nine" has any merit, it would seem that an optimum working system within an HMO should include basic mental health services in order to maintain the mental health of the members, since their mental health is not only inseparable from, but contributory to, their physical health.

Mr. Chairman, I believe there is a demonstrable correlation between a person's mental health and his physical health, and if we were to include these mental health services as basic services, perhaps we could help in the long run to attack the problem of keeping Americans healthy by attending to their mental health needs in a more adequate way.

The American Psychiatric Association, representing about 20,000 of the 25,000 practicing psychiatrists in the United States today, testified before the Subcommittee on Public Health and Environment as follows:

> The Health Maintenance Organization shows great promise. It is innovative and emphasizes preventive health care and maintenance. It offers incentives to keep the population healthy—the Health Maintenance Organization should provide adequately for the mental health as well as the physical health needs of its enrollees—The American Psychiatric Association urges that Mental Health Services be placed under basic benefits. We maintain that mental well being is necessary for good health. For we, as psychiatrists, have it dramatically demonstrated to us, day in and day out, that nothing at all is meaningful to the individual or to the family, in the absence of mental health.

Mr. Chairman, I might add that as a clergyman I have had this same fact demonstrated to me for many years in my professional life.

Another reason for believing that mental health services should be basic and not supplemental is that the cost would not be as burdensome as many people suppose. I believe we must dispel the myth that mental health services inevitably mean tremendous extra cost in general, and here in particular, as they might be built into the health maintenance system. It is remarkable as well as unfortunate that the rumor persists that including coverage for mental illness in health insurance plans would cause rates to skyrocket. I do not believe a thorough investigation of the matter would bear this out.

Just for example, the National Association for Mental Health, using as its source a study of more than 40 private health insurance plans as well as several Government plans under the title "Health Insurance and Private Psychiatric Care: Utilization and Cost," has indicated that at 1969 hospital cost levels, coverage for hospital care of mental conditions could be provided to a working population for about $4.50 a year for each person covered, that this would provide up to 365 days' care per admission in all types of hospitals, and that coverage of physicians in hospital service and major medical benefits for outpatient psychiatric care would add about $3 more per person covered.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. HUDNUT) has expired.

Mr. HASTINGS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Indiana.

Mr. HUDNUT. In Wichita, Kans., Armfield-Cole Consultants, working on an electricians' union health and welfare plan, were advised in July 1972 that Aetna Life and Casualty Co. would be willing to quote "80–20 percent coinsurance out of hospital mental and nervous coverage for the group with an additional monthly cost on a composite rate basis for this feature of 38 cents, or a little more than $4 a year."

The American Psychiatric Association estimates that the probable cost of providing mental health benefits at current rates would be at a low level of some $7.50 to $15 per year—covering hospital care, inpatient physician service and out-patient care—and at a higher level would possibly range from $8.65 to $17.30 per year.

So, Mr. Chairman, I believe when we are talking about the additional cost of maintaining mental health service coverage in the total premium cost, recognizing that the emphasis is on ambulatory care, rather than bed care, and that we are not talking about long-term hospitalization for chronic mental illness, it seeems that such coverage can be provided for somewhere between $4.50 and $7.50 per year or 35 cents to 64 cents a month.

Mr. Chairman, finally, I would like to ask one of the distinguished members of the committee:

As I understand this legislation, it is not intended to subsidize private medicine; it is not intended to become socialization of medical practice here in America; it is limited in scope and experimental in nature. Is that a proper understanding?

Mr. NELSEN. Mr. Chairman, if the gentleman will yield, my answer to the gentleman is that that is my interpretation.

I just wish to add this: The gentleman referred to the mental health services which have been included as basic benefits.

In my State of Minnesota, many, many years ago, we set up our Community Mental Health Centers. As a result of that, the number of in-patients in our State hospital is way down, and many of the people who might have gone to the State hospital are back home living useful lives.

Mr. Chairman, I wish to congratulate the gentleman for his reference to this particular feature of the bill.

Mr. HUDNUT. Mr. Chairman, I thank the gentleman from Minnesota for his remarks.

Mr. ROY. Will the gentleman yield?

Mr. HUDNUT. I yield to the gentleman.

Mr. ROY. I am sympathetic with the gentleman, Mr. HUDNUT, regarding the delivery of mental health services. Personally, I wish every service could be mandated and this could be totally comprehensive, but it was necessary because of the cost of the total package to eliminate some services. Unfortunately, mental health services was one of the services chosen to be eliminated from the basic benefit package. They are supplemental.

Mr. HUDNUT. That is correct.

Will the gentleman answer this question, since he is the primary author of this bill? Is it your understanding that this bill is basically experimental and it is not intended to unravel into a long-term subsidization of American medical practices?

Mr. ROY. I do not feel the HMO's are experimental, but I would feel Federal support for the establishment of HMO's is indeed experimental. I do not think we will get into the practice of subsidizing them over a long period of years, and this bill does not subsidize those that are regulated but only assists in the establishment and the maintenance of them.

Mr. HUDNUT. The point of the bill is to help them get established on their own feet and then become self-sustaining. Is that correct?

Mr. ROY. That is correct.

Mr. STAGGERS. Mr. Chairman, I

yield 10 minutes to the gentleman from Kentucky, Dr. CARTER, a member of the subcommittee and a member of the full committee.

Mr. CARTER. Mr. Chairman, let me at this time state my support for the Health Maintenance Organization Act of 1973 (H.R. 7974). My colleagues and I on the Public Health and Environment Subcommittee have devoted intense study to the development of a reasonable and effective measure to assist in the further exploration of the advantages and disadvantages of prepaid group practice.

Essentially, the bill under consideration provides $190 million in grants and $50 million in loans over 4 years for HMO development. It authorizes separate grants and loans for feasibility planning and initial development, and loans for operating costs for 36 months. Eligibility would depend upon an HMO's offering basic and supplemental health services on a prepayment community rating system basis through either group practice or individual practice associations such as a medical foundation. Let me point out here that basic health services include all types of hospital and physicians' services and specified lab preventive services. Supplemental services must be offered by an HMO, but are not part of the basic package, and would require extra payments by the subscriber.

Authorization levels for the measure are $40 million for fiscal year 1974, $45 million for fiscal year 1975, and $50 million for fiscal year 1976. This would all be for grants to HMO's, and an additional $55 million is authorized for fiscal year 1977 for initial development grants only. The bill defines a number of requirements to be met prior to the approval of grants, loans, or guarantees, and the Secretary is authorized to bring civil suits against HMO's which fail to provide services promised in grant applications.

Under this legislation, grants are authorized to public and nonprofit organizations of up to $50,000 to pay for feasibility studies to determine the need for an HMO in a particular area. No project may receive more than one grant and all projects must be completed within 12 months, except that the Secretary may authorize no more than one additional grant and up to 12 additional months to complete the project if he determines this is necessary. Priority in grant approvals must be given to medically underserved areas and such grants may cover 100 percent of project costs. For HMO's in other areas, only 90 percent of project costs may be covered by Federal grants. All grant applicants must pledge to cooperate with areawide health planning agencies and to consult with any medical societies in the area.

Further, the Secretary may also make grants or loans to public or nonprofit entities for plannng and initial development costs for HMO's. Loan guarantees and contracts are also available to private organizations for such purposes when an HMO is to be built or expanded in a medically underserved area. Only one loan, grant, or loan guarantee is normally permitted per project and under no circumstances may the Secretary authorize more than one additional grant, loan, or guarantee—where he determines this is necessary.

Planning grants, loans, and guarantees are limited to $125,000 and may not cover more than 90 percent of project costs except in medically underserved areas, in which case the full amount of project costs may be borne by the Federal Government. As with feasibility studies, grant applicants must cooperate with areawide planning agencies and consult with medical societies in order to be eligible.

Initial development grants, loans, and loan guarantees are limited in amount to the lesser of $1 million or $25 times the number of members to be enrolled in the HMO when first becoming operational. Again the maximum grant cannot be greater than 90 percent of the project cost for regular projects or up to 100 percent of project costs for HMO's in medically underserved areas. No initial development or planning assistance commitments may be given by the Secretary after June 30, 1977.

H.R. 7974 also authorizes loans to public or nonprofit HMO's to assist them in meeting initial operating costs for the first 36 months, or to assist HMO's in meeting operating costs incurred after a significant expansion of membership or area served. This section also authorizes loan guarantees to cover initial operating costs to private HMO's in medically underserved areas. Loans and loan guarantees are limited to $1 million per fiscal year, and in no case may the aggregate of such loans or guarantees exceed $2.5 million. All loans and loan guarantees are to be financed from a loan fund established in the Treasury, for which $20 million is authorized in fiscal year 1974 and $30 million in fiscal year 1975 to capitalize the fund. The amount of loans allowable in any year is to be determined by appropriations acts.

It is my feeling that Federal legislation is needed as a temporary measure in order to stimulate the introduction of HMO's into a broader market. The need for Federal coverage of initial operating costs is clear, and we must further emphasize the critical needs of our medically underserved areas.

Mr. Chairman, we have worked to produce a bill that will not work a severe hardship on the taxpayer, and at the same time will help us look more closely at ways to improve health care delivery in our Nation.

I urge my colleagues to support this reasonable and important measure.

Mr. HASTINGS. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, let me commend our committee for clearing up two sections in this HMO legislation. The final bill eliminated the subsidized capitation payment which would have provided coverage to individuals above medicaid's earning level. Unless this had been changed we would have been on the road to nationalized health insurance.

The second clause that was removed was an overbearing provision because this provision had preempted existing State laws.

The final bill restores the balance in State-Federal jurisdictions.

But the thing I wanted to stress strongly today was to urge that our conferees hold firm within the conference. The original Senate bill asked for $5 billion. That is where the Senate started, $5 billion. The Senate subcommittee reduced this to $3 billion. The full committee cut this down to $1.5 billion. And on the Senate floor, where they had 2 full days of debate on the bill, where they had four amendments, the bill was passed for $805 million. Now, although this was only 15 percent of the starting sum, it shows the Senate intentions of creating a real financial tiger. While the Senate is asking here for $805 million, the House bill requests only $240 million. This is a big difference. Even with the Senate ending up asking $805 million, it is a mighty big spread from the House version of $240 million. So I want to urge strongly that the conferees hold this program to a sound logical commitment while we are testing and experimenting with ideas so that we will avoid fiscal irresponsibility.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of H.R. 7974 which is designed to provide a 5-year program of Federal assistance to develop new health maintenance organizations—HMO's—in this country. The HMO concept is nothing new in America; HMO's have been around for some 40 years, and at present there are some 482 HMO-type organizations serving 12.2 million subscribers. These prepaid, comprehensive group practice plans are particularly suited to lowering health costs, encouraging preventive care, improving efficiency, providing more appropriate allocation of health services, and reducing hospital overutilization.

And yet, despite the obvious advantages of HMO's and the fact that they have been in existence for so long and have proven themselves, the fact remains that only 2.5 percent of our population is currently covered by HMO's, and they have not experienced the type of growth which should be commensurate with their success and desirability. This can be attributed in large part to their high start-up costs, and the purpose of the bill before us today is to remove this initial financial impediment by providing Federal start-up assistance. Specifically, this bill provides $190 million in grants and $50 million in loans over 4 years for HMO development. This includes $40 million, $45 million, and $50 million in grants and contracts for feasibility studies, planning and initial development in fiscal years 1974, 1975, and 1976 respectively; $55 million in grants and contracts for initial development in fiscal 1977; and $20 million and $30 million in fiscal years 1974 and 1975 respectively to capitalize the loan fund for initial operating costs.

Another obstacle to the initiation and expansion of HMO's in the past has been their inability to compete effectively with existing employer health benefit plans and private insurance programs. This is because the premiums for HMO's are generally greater than those for an insurance plan because HMO's provide more comprehensive coverage. Thus, although the premiums may be higher, this is deceptive because a family's total health care costs under HMO's is actually less than under the private insurance programs due to the greater benefits afforded by HMO's.

This bill would meet this problem by requiring that employers offer HMO's as an option in employee health benefit plans, thus giving employees a greater choice and at the same time providing a spur to the growth of HMO's.

Mr. Chairman, I think it is important to point out that this bill does not establish a permanent, federally operated health maintenance organization program. The HMO's will be privately operated, and the Federal support will terminate after 4 years. This bill is limited to providing the necessary seed money and incentives for establishing new HMO's to serve a larger portion of our population.

Finally, Mr. Chairman, I want to emphasize that this bill does have the support of the administration, though it is not identical to the original HMO bill proposed by the administration back in 1971. In his State of the Union Message this week, President Nixon said, and I quote:

> An attainable goal for these final months of 1973 is passage of the Administration's proposed Health Maintenance Organization Assistance Act, which would provide Federal money to demonstrate the promising innovation of group medical centers where quality care can be maximized and costs minimized. . . . The House is presently developing a bill which would be a fiscally responsible demonstration effort. If such a bill is passed by the full Congress, I will support it.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the bill.

Mr. Chairman, I want to make just a few general points.

First, I think when the voters at home ask, "What have you done in Congress to reduce the cost of delivering health care in this country?" the one thing we can point to, and it may be the only thing we will be able to point to in this session, is this innovative approach, the health maintenance organization bill. Perhaps it is only a baby step in the direction of reducing health care costs, but it certainly is a step in the right direction, and one we can point to with justified pride. I hope it will be supported by everyone.

Second, I want to point out that this bill represents an effort in cooperation in the best sense of the word. We have heard a lot about the spirit of cooperation in the past few weeks here in the Congress. This bill in concrete form represents this, I think, in an admirable way. I do not imagine there are many bills that have ever been considered in this House that have had more hours spent on them than this bill. I doubt there are many bills that have been redrafted more times than this particular bill. We have changed it. We have modified it as new information came to light, as new positions formed on it. I think now that all of that time was worth the time that was taken on the bill. It has been settled down into a very solid piece of legislation.

I think the gentleman from Florida (Mr. ROGERS) deserves most of the credit for being able to put this bill together while considering so many different sources and shifting pressures, and shifting information.

Finally, I want to commend Dr. BILL ROY and his staff for all they have done on this bill. BILL is the principal craftsman of this bill and has been the moving force behind it. I think for a second-term Congressman to draft and get passed a bill involving such a major change in health policy is a truly remarkable achievement. It took not only intelligence, it took a great deal of stamina, because he was involved in it literally day and night. I think that this bill and his role in it will turn out to have been a truly historic contribution to American medicine. I think all of us in America who will be sick—which is all of us—will some day be very grateful to him for all he has done.

Mr. HASTINGS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I rise for the purpose of directing a question or two to the chairman of the committee. I refer first to section 1211, which is the program evaluation section. Originally this bill, before its final amendments included several HMO mixes providing subsidies in a limited number of HMO's to provide membership for the indigent, individuals in underserved areas and individuals with high health risk which would be evaluated over a 3-year period of operation.

Since they have been omitted, I would like to ask the chairman to state, if he will, exactly what is intended and expected of this evaluation section now. What may we reasonably expect it to produce?

Mr. ROGERS. I should hope that the evaluation would go to the entire operation for these 36 months.

We would want to know how they operate, what it is costing people, the quality of care they are getting—in other words, is this really a worthwhile program, to make a judgment as to whether we should want to expand this type of program as had been recommended by HEW when it first went to it. I think the gentleman has played a very significant role in making sure that we do have a proper evaluation on which I agree with him, and the subcommittee supported him in that we ought to have a proper evaluation before moving ahead to embark on this tremendous program.

Mr. SATTERFIELD. It is contemplated, then, that we would get this report before we would proceed further with HMO programs?

Mr. ROGERS. Yes, it is, and I think that was the intent of the committee.

Mr. SATTERFIELD. I am concerned with another part of this section. Item 2 refers to the general provisions respecting evaluation and review of HMO's.

I invite the gentleman's attention to subsection (d) of section 1206 which says that before a grant can be made to one of these HMO's, there must be organizational arrangements, established in accordance with regulations of the Secretary of Health, Education, and Welfare which deal with the process to be followed in the delivery of health services.

I am wondering if the chairman could state for me exactly what is intended by this phrase. Are we talking merely about the operation in the HMO, or are we talking about the health delivery process employed by individual physicians in the HMO's?

The CHAIRMAN. The time of the gentleman has expired.

Mr. HASTINGS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Virginia.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from Florida.

Mr. ROGERS. I would say that this has to go to the services rendered in the whole process within the HMO. This is what we are looking at.

I might yield to one of the coauthors of the bill, Dr. ROY, who is a physician, also to amplify that intent of the committee.

Mr. ROY. I thank the gentleman.

Mr. Chairman, it is my interpretation that when we are speaking of having organizational arrangements, we are talking about making health care available and accessible. It is obviously not enough to take prepayment and not provide the care that is contracted for. I think this is what we are speaking of with regard to organizational arrangements.

The second part of that is an ongoing quality insurance program. We determined in committee that we did not want to set up, in addition to the present attempts to establish professional standards, review organizations, additional quality controls for HMO's.

But we did ask the Health Maintenance Organizations to establish an internal quality review and then to assure us that they were following the procedures they had submitted to the Secretary with respect to internal quality review.

Mr. SATTERFIELD. When we talk of delivery of health services in this section then we are really referring to whether or not an HMO provides the basic services provided in the first part of the bill rather than the manner in which the procedures followed by the physician would provide a specific health service?

Mr. ROY. I agree with that entirely.

Mr. SATTERFIELD. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, the Health Maintenance Organization Act of 1973 which we are considering today is the most significant, innovative health legislation to reach the floor of the House in many years. H.R. 7974, which authorizes $240 million over the next 5 years to support and develop health maintenance organizations, has a long history in the Congress with an equally long list of predecessor bills. It is not a revolutionary program, as it builds on some 40 years of experience in this country with HMO's. Last year 7 million people were served by HMO's. The Federal Government has been providing the kind of support envisioned in this bill for several years. Passage of this bill, however, will institutionalize Federal involvement in this organized, comprehensive system of health care delivery, and, hopefully, bring about a quantum leap in its availability across the Nation.

There is a steadily growing need for HMO's, as medical costs continue to rise and persistent gaps in medical service and inadequate coverage in insurance plans remain. Americans spend more of their income on medical care than any other people in the world, and HMO's are designed to bring those costs down, while increasing the quality of care. HMO's provide economies of scale, efficient management, and better, more productive uses of health manpower. There is considerable evidence that they can successfully reduce the cost for quality medical care and, even more importantly, provide preventive health services which reduce the need for extensive corrective care.

People in Texas are increasingly aware of the advantages of HMO's and have recently begun to make organized efforts to establish HMO's within the State. The Group Health Association of America has contracted with HEW to help develop HMO's in Texas. A coalition of labor, religious, senior citizens, consumers, and health professionals is forming to promote HMO's in the State, and the resources provided in this bill will be critically important to them. HMO's are extremely expensive organizations to establish, so that Federal capitalization is essential. A medical team has to be assembled; a sufficient number of patients who will pay in advance for their benefits has to be signed up. Three years are usually required for a profitable arrangement to work itself out, and during that time the Federal Government's help is essential to meet operation losses. I am hopeful that speedy action will be taken in Texas to remove existing statutory or regulatory barriers to the establishment of HMO's, since the bill we are considering today will not override such existing restrictions.

Passage of this bill today should reverse the trend of recent years which has seen medical care become increasingly difficult to find, to pay for, and to be reasonably satisfied with. I urge my colleagues to support this bill.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Chairman, I support this legislation and would like at the same time to advise the Members of the crisis that many of our citizens face with respect to health care in the fifth largest city of our Nation. I am trying to figure out in my mind how and when and if the HMO Act of 1973 is going to ever get to them.

We started off with the OEO programs which subsidized clinics to operate on a nonprofit basis, and then through the machinations of HEW they were forced under a new program where they had to pay their own way. Is it not true that the HMO's will have to pay their own way? This question is addressed to the chairman of the committee or the chairman of the subcommittee, or the coauthor of the bill.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, yes, the HMO's do require that.

Mr. CONYERS. Mr. Chairman, if that is so, this is not going to do one thing for the millions of people who are involved in the health crisis that was reported in the committee's findings, is that right?

Mr. ROGERS. No, that is not necessarily true.

Mr. CONYERS. How are they going to be able to afford to pay for the health maintenance organization services if they are unemployed? If they are not working? If they cannot pay for the cost of medical services?

Mr. ROGERS. Mr. Chairman, if the gentleman would permit me to answer, I would tell him that this program is designed to be experimental, to be a demonstration program. It is true that some way of payment would have to be worked out. If they have insurance, if they are on medicare or medicaid, the law permits use of health maintenance organizations for people in that category. It will not help people who simply are not covered by those laws and have no other way of paying. That is a true statement.

So, some plan has to be worked out for payment so that they could have entry into these 100 organizations that will be set up, but it will help many people who cannot now pay for the cost by allowing them entry.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for his response. I know he has done superior work in this area.

But how many health maintenance organizations do we have in mind, considering the millions of people who cannot afford medical services in this land? As the subcommittee chairman knows, groups of citizens in Detroit have been trying for a long time to get in the Federal door on any kind of program like this with only limited success.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. STAGGERS. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. ROGERS. This program anticipates about 100 in this period of time. Then, evaluating where we should look in this whole area. But the gentleman is correct, it will not solve all the problems, this beginning program. This is more of a demonstration, a pilot program than anything else. I will agree with this statement.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for the information, because I think there are going to be some Members, unfortunately, who are going to think that the need for supporting comprehensive medical delivery systems nationally is in some way abated because of the passage of this bill, if we are successful here today.

Mr. ROGERS. No, this is not a financing bill.

Mr. CONYERS. It is not a providing bill either. One hundred health maintenance organizations is a delivery system that will only affect a few hundred thousand people.

Mr. ROGERS. This is correct.

Mr. HASTINGS. Mr. Chairman, I have no further requests for time. I would like to take this opportunity to thank the chairman of the subcommittee, Mr. Rogers, for the work he has done in the consideration of the health maintenance organization bill; and certainly the chairman of the full committee, Mr. Staggers, for giving us time on the floor.

I would be delinquent here if I did not give credit where credit is due, to Dr. Bill Roy, who probably had more to do with the development of this legislation than any other individual.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Maine (Mr. Kyros).

Mr. KYROS. Mr. Chairman, I take this opportunity to express my full support for the eloquent remarks made by my distinguished colleague, Mr. Hudnut, in behalf of our amendment to H.R. 7974.

The Health Maintenance Organization, Mr. Chairman, is designed to offer a comprehensive approach to the health care needs of its subscribers. Without the inclusion of mental health services as a primary benefit, along with physicians' services and hospitalization benefits, that claim to comprehensiveness would not be legitimate. In 1973, with the scientific knowledge which is available to us, it would be a very great mistake for the Federal Government to perpetuate the erroneous assumption that physiological and psychological problems can be viewed and treated separately, as though the one had nothing to do with the other. Medical science has long since come to the realization that this is not the case, and it is time that the Federal Government followed suit. As the American Psychiatric Association testified to the members of the Public Health Subcommittee, "Mental well-being is necessary for good health. For we, as psychiatrists, have it demonstrated to us, day in and day out, that nothing at all is meaningful to the individual or to the family, in the absence of mental health."

Mr. Chairman, there is no question in my mind that the amendment which we are offering today is scientifically responsible. But what I want to emphasize to the membership of this body today is that it is fiscally responsible as well. A number of comprehensive studies have been made in the last few years which indicate that the cost of providing mental health services in HMO's would by no means be prohibitive, or price HMO's out of the competitive arena. This is largely due to the fact that the HMO has as its major emphasis ambulatory outpatient care, rather than long-term hospitalization for chronic illness. Additionally, the mental health services provided by an HMO would not be those of psychiatrists alone. Rather, the use of well-trained paraprofessionals would be stressed to keep costs down.

In short, Mr. Chairman, it is my contention that both scientifically and fiscally, mental health services can, and must, be made a primary benefit under

H.R. 7974. In so doing, we will improve upon what is already an outstanding piece of legislation.

Mr. STAGGERS. Mr. Chairman, I yield to the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Chairman, I would like to add my voice to those who have already risen in support of this HMO legislation. The committee report makes note that in New York we have already existing one type of an HMO that might be funded by this bill, the health Insurance plan (HIP). As the committee report notes the use of HMO's can lead to fewer and shorter hospital stays, more preventive medicine, and a better chance of assuring real quality control, all while keeping down the rising cost of health care. However, it should be noted at the outset that this legislation is at best minimal and marks only the beginning.

Americans spend more per capita and a larger share of the gross national product—7.6 percent—on health care than any other nation in the world. Last year the total, average health bill per person in America was $379. This cost represents an increase of almost 200 percent since 1960. In the last 6 years the average per day hospital cost rose over 100 percent to more than $100 per day.

The legislation before us today authorizes approximately $240 million, a figure that is less than one-eighth of 1 percent of our total health bill for 1 year. It authorizes it for the development and expansion of a program that has demonstrated an ability to provide, for its enrolled population, longer life, lower medical bills, and over all better health care. This measure, if adopted will, through its community rating system, guarantee that high risk enrollees will not be priced out of the health marketplace. This will give some reassurance to those who need this care the most, the elderly and the chronically ill, that they can receive quality health care without exhausting either all of their own resources or those of their relatives.

The other sections of this bill which will give priority to medically underserved areas is a much to be desired feature. As the committee report noted:

> In many places, while physicians and hospitals do exist, they are not accessible outside of the regular working week. It is often impossible to obtain any medical care except in emergency rooms in the evenings or at night.

Unfortunately, the situation described is often the rule rather than the exception for many of my constituents. While many people believe that New York, with its great medical institutions, can provide quality health care for all, the situation in reality is that New York attracts many fine and brilliant specialists but the problem for the family with an ill child at night is as difficult in New York's inner city as it is in any rural area.

With the passage of this much-needed legislation we will be a long way toward assuring every American a decent health system at a cost that he or she can afford. Let us hope that the passage of this measure will mark the start of a new campaign for real and more substantive health programs.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. Mr. Chairman, I just want to take this time to say that I think the House should recognize the very outstanding work the Members of the subcommittee have done. They have worked with this problem long and hard.

Dr. Roy was so helpful and the real mover of this legislation. Mr. Hastings of New York had a great input in bringing about compromise. Mr. Nelsen, Mr. Carter, Mr. Preyer, every Member; all of them have helped in a most significant way. I feel the committee and the subcommittee are due the credit for seeing that we have been able to work out a bill which I think meets the significant suggestions to bring about some progress in this area and an acceptance I think by almost every group in this country.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I am delighted to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I want to commend the subcommittee and the full committee for the approach they took on this bill. There was a natural temptation to make this a larger bill, to try to solve a great many, if not all, of our health problems. The inclusion at the beginning of matters pertaining to capitation grants and preemption of State laws involved controversial matter for many States. The subcommittee dropped back and said, "Let us get on common ground and agree on a sound basis and put it to a sensible test."

There is a need for this type of health program. If we can make it work it will be of great help to the people of this country.

The committee has bent over backwards to work out these problems and let us all take a good long look at the program. I commend the committee and I certainly support the legislation.

Mr. ROGERS. I might say that the gentleman from Virginia (Mr. Satterfield) was one of the driving forces in getting us to come into a compromise position.

Mr. PICKLE. Yes. His was a wise voice.

Mr. ROGERS. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. Roy).

Mr. ROY. Mr. Chairman, I should like to thank every Member of the subcommittee and of the full committee for making it possible for this bill to get to the floor. I should especially like to thank the gentleman from New York (Mr. Hastings) because I believe without his legislative skill we might very well not have arrived at being able to bring the bill to the floor of the House of Representatives. I especially thank him.

Mr. STAGGERS. Mr. Chairman, I yield myself 1 minute.

I want to congratulate and commend all the Members of the subcommittee, who did work hard in compromising and working out the provisions of this bill, which I believe will be of great benefit to the masses of the people. Certainly it will be a new type of landmark legislation.

With that in mind, I say to all the Members of the House that I believe the bill should be passed unanimously by the House, and I urge that this be done.

Mr. MICHEL. Mr. Chairman, "hospital" has been a magic word in this Chamber for many years. Any piece of legislation that has anything to do with hospitals is almost guaranteed passage by the House, because no one feels he can justify an "antihospital" vote to the folks back home.

All it takes is a whisper from the cloakroom about Hill-Burton or Public Health Service hospitals to fill page after page of the Congressional Record with eloquent speeches on the need for better health care facilities in this country.

It is easy to associate better health care with new hospitals, because buildings are so highly visible. There they are, eye-catching, concrete examples of how much we really care about our sick and our poor, and how much we are doing for them. It is easy, but it is a copout.

The fact of the matter is we are overbuilding hospitals in this country—overbuilding in the areas that need them least, and the resulting effect is just exactly the opposite of what we say we want to do. These unneeded hospital beds result in higher health costs, increased insurance costs, higher taxes and deterioration of the quality of health care provided.

I am sure most of us have seen the series of articles that appeared recently in the Washington Post concerning the uncontrolled building boom that is going on in this area—a boom that some say will result in as many as 2,300 unneeded hospital beds.

The tragedy is that this is not happening just in this area alone. The chickens are coming home to roost, and the results of our knee-jerk reactions to hospital and health care legislation are beginning to become as visible as the empty beds in the expensive, unnecessary new hospital wards.

Earlier this afternoon we saw a very close vote on the President's veto of the Emergency Medical Services legislation. A part of that issue, again, was hospitals—Public Health Service hospitals—and the emotionalism of the controversy came close to carrying the day.

Now, here we are preparing to go off in another direction with a concept that is at best dubious and unproven on the scale that is proposed.

While I do support this legislation, because I believe we need to fully evaluate the potential that Health Maintenance Organizations appear to offer, I also believe there are still too many unknowns to justify launching Federal support of HMO's on a massive scale.

The House bill may be more than is actually necessary to fully test the value and effectiveness of HMO's, but it is far preferable to the legislation that has been developed by the other body, and my major concern at this point is what will come out of the conference committee.

I hope our conferees will be able to stand firm on what the House does here today, because I would find it extremely difficult to justify support of anything that goes beyond the legislation before us.

We have the potential here for another "easy out," because a beautiful, new Health Maintenance Organization can be just as visible as a beautiful new hospital. And just as inappropriate to the health needs of the community, I urge my colleagues to give this some thought as we consider this bill this afternoon.

Mr. HARRINGTON. Mr. Chairman, I rise today in support of H.R. 7974, entitled the "Health Maintenance Organization Act of 1973." The bill is designed to assist and encourage the establishment and expansion of health maintenance organizations.

It is well known that the present health care delivery system has several shortcomings. First, many people cannot obtain health care when they need it and in the form they need it. This is the result of: First, the unavailability of adequate manpower and facilities; second, the unaccessibility of physicians, nurses, and hospitals, due to poor transportation, language or racial barriers, inadequate hours, et cetera; and third, the discontinuous treatment of the patient. While health care may be available and accessible, a patient might not be treated as a person with a continuing or a variety of problems, but rather as a single isolated health care problem incident.

A second problem is the rapidly increasing costs of health care services. The present system is a model for inflation, with a limited supply of health care service facilities having a fragmented financing mechanism, coupled with a soaring demand for health care services. Uneven efforts toward effective cost review and control have accompanied the traditional reimbursement of providers—by the Federal Government, insurance plans, and hospital and medical service corporations. In addition, services are often duplicated or used inefficiently. Furthermore, the present system has an improper structure of incentives. One finds that no group, individual, or organization is responsible for the use of more economical facilities and services, including those related to preventive care. Thus greater income is generated for the providers by the use—more often—of more expensive facilities and services.

The third shortcoming is the quality of the health care delivered. The quality varies throughout the country, from the very best to very poor. As there are no means to measure the quality of the health care process or the health care results, it is extremely difficult, if not impossible, to effectively design and implement a program to rectify defects.

The preceeding was not intended as a comprehensive look at the health care crisis in America. Rather it was an attempt to highlight some of the major shortcomings of the present system. One alternative means to help alleviate some of the problems is the health maintenance organization—HMO.

An HMO is an organization which operates or manages an organized health services delivery system to an enrolled group of persons for whom the organization furnishes the needed services for a prepaid fixed fee. The HMO will lessen the difficulties posed by the current health care delivery system by addressing directly the problems of availability, accessibility, and continuity of health care services, since it is a health care delivery system. It is responsible to its enrollees to furnish those health care services necessary to meet the obligations it undertakes.

The HMO should provide incentive toward decreasing costs in delivering health care. The providers are obligated to deliver a specified set of health care services to a limited number of people prepaying fixed sums of money. This fixed amount of income provides an incentive to control costs. Dr. James Cavanaugh, former Deputy Assistant Secretary for Health and Scientific Affairs for the Department of Health, Education, and Welfare, has underscored the basic advantages of the HMO—p. 216 of the March 6–7, 1973, subcommittee hearings:

> HMO's reward efficiency whereas the current system all too frequently rewards excessiveness. While fee-for-services providers rely on illness for their livelihood, HMO providers gain most from health.

While conclusive judgments cannot as yet be made, the record on the surface demonstrates that HMO's have made improvements in the efficiency of health care. Available evidence—pages 162–164 of subcommittee hearings—indicates that, while outpatient visits to doctors went up, both hospital admissions and hospital patient days went down rather dramatically and drug prescriptions decreased sharply.

At the present time, the Department of Health, Education, and Welfare is utilizing funds from the following sections of the Public Health Service Act for planning and developing specific HMO's: 314(e); 304; and 910(c). I agree with the Under Secretary of Health, Education, and Welfare that additional legislation is needed. First, it is necessary in order for HEW to make operational grants and contracts to those HMO's that will extend their services to medically underserved areas. The beginning costs in these areas are so high that additional support is needed for a viable demonstration. Although prepaid group practice is more efficient, Government support is necessary because private capital is unwilling to undertake the risks inherent in developing a new plan. Second, the passage of this bill would provide congressional endorsement for the concept of a demonstration which would enable HMO's to receive more private capital.

Mr. Chairman, I will not analyze the bill in detail, but I would like to summarize its main provisions. The bill authorizes grants and contracts for planning costs, with priority for medically underserved areas. It also provides Federal loans and loan guarantees to HMO's for initial operating costs and for the construction of facilities. H.R. 7974 would subsidize the premiums which an indigent individual or a high-risk enrollee would pay to an HMO. A specfied number of urban and rural HMO's would receive grants and contracts for these purposes, with limitations on retention rates.

Section 1215 of H.R. 7974 provides for a Federal preemption of State laws and practices which restrict or inhibit an HMO from providing services. This section removes a large impediment to the growth of HMO's.

In addition, Congressmen HUDNUT and KYROS are offering an amendment this afternoon to require that mental health services be offered in all HMO's as a basic rather than supplemental benefit.

One in 10 Americans suffers from mental illness. By refusing them access to HMO's, we perpetuate the double standard which has characterized our attitude toward mental illness. Somehow, mental illness is still not a valid illness, it is something shameful, to be hidden at all costs and ignored whenever possible. Our Government has helped to perpetuate this concept of mental illness when it should have been leading the fight to eradicate this dark ages mentality and provide those suffering from mental illness with adequate health care.

I have introduced legislation to provide equal national health coverage for mental and physical illness. This amendment will legitimize mental health care and put Congress on record as making a start at recognizing and correcting the existing inequality. In addition, all available studies demonstrate that mental health coverage does not substantially increase the cost of health care systems. It is in our own interest to obtain final and conclusive cost data so that when we act on national health insurance, we will provide coverage for mental illness. And, of course, it is imperative to act now to help at least some of those 20 million Americans presently suffering from mental illness.

### CONCLUSION

Mr. Chairman, we all know that national health insurance is necessary. Health costs have risen faster than any other sector of our economy. The health care industry employs the second highest number of people of any industry in the Nation, and it is continuing to grow. The middle-class individual is caught in an economic squeeze and is finding it harder and harder to obtain and pay for adequate health care for himself or herself and their families. We have an obligation in Congress to find ways of guaranteeing every American the right to decent health care, and the passage of the HMO legislation will allow us to observe the effectiveness of this particular approach to the health care crisis.

National health insurance will probably not be voted on by Congress until 1975. In the meantime, the establishment of HMO's should give us an indication of how effective Federal funding can be in the health care delivery system and will provide guidance for future input into a national health insurance program.

The passage today of the HMO legislation will be a significant step by Congress toward recognizing its role in health care in America.

Mr. CULVER. Mr. Chairman, the continuing health care crisis and the low priority being accorded this urgent problem has been recently demonstrated by the Presidential veto of the Emergency Medical Services Act and the recent criticism of the administration's inaction in this area by its own former Surgeon General.

There is an urgent need to improve the availability of adequate health care in the Nation and to keep the cost of such care within the means of the average citizen. The high cost of medical care is causing a particular hardship upon many elderly and other people who must live on a fixed income during these times of inflation. Furthermore, adequate health care is not available at all to many Americans who live in the Nation's rural areas.

The President's refusal to sign the Emergency Medical Services Systems Act of 1973 was tragic. This act creates a new program of Federal assistance in the development of emergency medical services. Passed with substantial bipartisan support in both houses of Congress, the act would be a major step in promoting effective delivery of emergency health care.

Not only has the administration vetoed new health legislation, but apparently it is also dragging its feet in implementing existing medical programs needed by the country, according to widely reported statements by Dr. Jesse I. Steinfeld, former Surgeon General of the U.S. Public Health Service under President Nixon. He charges that Federal health affairs are in "a kind of chaos."

Under these circumstances, therefore, it is imperative that Congress continue to press for a national program which provides adequate and available health care to all Americans at a reasonable cost. This bill, Mr. Chairman, is an important step in that direction.

H.R. 7974 creates a 5-year, $240 million program to encourage the development of health maintenance organizations—HMO's. These entities are operated by insurance companies, medical groups, hospitals, consumer groups, or others for the purpose of providing members with a full range of medical services, from prevention to necessary treatment. The HMO may operate its own hospital or contract for such services.

Health maintenance organizations have been advocated as a means of controlling medical care costs, encouraging preventive medicine, and improving the availability of medical care. HMO's have an incentive to keep its members healthy and thus to control its costs. In many cases, HMO's, which have existed for 40 years and now serve 7 million people, have provided better health care at lower cost than other health care systems in areas in which they operate. This bill will encourage growth of these organizations by providing assistance in the early stages of formation.

HMO's will not solve all of the Nation's health problems, but their development may provide better health care for many Americans in the areas they serve. However, for many other Americans who live in geographical areas which are unable to support HMO's, adequate health care delivery systems will remain a major problem.

In Iowa, for example, where there is only 1 doctor for every 841 patients—a 1-to-500 ratio is widely regarded as desirable—there are many people in rural areas who do not have access to adequate health care. Many of these are poor and elderly individuals who do not have the financial means or mode of transportation available to travel to the nearest health facility. This is a serious problem, especially in sparsely populated areas, and one to which I intend to devote continuing attention during my time in Congress.

The seriousness and urgency of the Nation's health care problems require a greater commitment to seeking solutions to the health care crisis than is now being given by the administration. These solutions are not to be found in slow implementation of existing programs or refusal to approve new medical programs.

One solution is to encourage new approaches to better health care delivery systems. The development of HMO's is a significant step in that direction and I urge support for this important legislation.

Mr. PRICE of Illinois. Mr. Chairman, it grows ever more obvious that serious reform and bold innovation must be the answers to the health care situation in this country. The Health Maintenance Organization Act will test the effectiveness of one such promising innovation.

Health maintenance organizations, or HMO's, have operated for 40 years and currently serve 7 million enrollees. On this relatively limited level HMO's have provided better health care at lower cost than other health care systems. By concentrating on preventive medicine they have decreased hospital costs, while at the same time improving the availability of medical care, especially to the working men and women who enroll in the programs.

The question before us now is whether federally assisted HMO's can bring these benefits to a larger number of Americans.

Mr. Chairman, the present crisis over the quality of health care is important enough and the probability of a successful HMO program is great enough that we cannot afford to lose this opportunity to undertake a significant restructuring of the American health care system.

It should be noted that in funding HMO's the Congress will maintain continuous oversight of each one through a variety of measures, including a GAO evaluation and annual reports by HEW. Thus the program, by coupling an already well-tested health care delivery system with stringent administrative safeguards, is assured of maximum success.

Mr. Chairman, I urge passage of the Health Maintenance Organization Act as another important step in bringing adequate health care to all Americans.

Mr. DONOHUE. Mr. Chairman, I intend to support this pending bill, H.R. 7974, the Health Maintenance Organization Act, and I most earnestly hope it is overwhelmingly adopted by the House this afternoon in the public interest.

This measure authorizes a 5-year program of Federal funding for the development of health maintenance organizations, in response to the very urgent national need to encourage the growth of these organizations by providing assistance in the early, most expensive stages of their formation.

From the expert testimony that has been presented and the application of the lessons of experience gained from the 40 years of HMO's existence, to the point where they now serve more than 7 million people, it is clearly apparent that these organizations can provide better health care at lower costs than other health care systems operating in the same or similar medical treatment areas.

It is also apparent from the authoritative views supporting this measure that the basic thrust of these organizations is preventive care and health maintenance rather than the treatment of illness after its occurrence. It is commonly agreed that the preventive illness and health maintenance attitude is the most modernly prudent and effective manner of attaining better national good health level and this approach also and unquestionably, results in decreasing hospital costs to the organization members.

In summary, Mr. Chairman, this bill is designed to and will meet an imperatively urgent national health need; its projected cost is unquestionably prudent; and fiscal and efficiency evaluations of the program by the General Accounting Office are provided for in the bill as well as annual reports to the Congress by the Health, Education, and Welfare Department.

Beyond being supported by the administration itself, it is also supported by such impressively authoritative units as Blue Cross and Blue Shield, the American Hospital Association, the Group Health Association of America, the American Association of Medical Colleges, the American Association of Medical Clinics, and many others.

In view of all these factors, I think this measure merits the sustaining support of this House and I urge its overwhelming adoption without extended delay.

Mr. VANIK. Mr. Chairman, I rise in support of the concept of Health Maintenance Organizations as expressed in the bill H.R. 7974 that is before the House today.

Costs of personal and family health care have risen rapidly in the last decade—almost 200 percent since 1960. Though many incomes have risen also, millions of Americans are effectively denied the good health and quality health care that most of us take for granted. Too large a percentage of our population has actually been priced-out of quality health service.

Despite a national average of 150 doctors for every 100,000 Americans, there are areas in our country with less than 4 percent of that figure. And both rural and urban areas in our country are affected; the inner core areas of many of our largest cities suffer from a deplorable shortage of doctors.

Health Maintenance Organizations—HMO—offer families or individuals the chance to take part in a single prepayment, general health care system that provides any amount of needed health services. It has been already demonstrated that HMO systems can actually cut down on overall medical costs because of their emphasis on preventative medicine and health maintenance, thus stopping major illnesses before they require drastic, and usually expensive, treatment and operation. Medicare, for example, has found that they spend less on beneficiaries who are HMO enrollees than they do on non-HMO members.

The idea of health care organizations—HMO's—is not new. There are examples of successful HMO's that have existed for 40 years or more. The bill, H.R. 7974, simply seeks to stimulate national development and establishment of more HMO's.

In regard to the inclusion of mental health care in H.R. 7974, I agree with my colleagues who have argued that such provisions should be added to the basic health services of the bill rather than being considered as only a supplemental service. Mental and physical health are truly correlated: we cannot ignore the mental health of a patient if we hope to be successful in treatment of his physical health.

Although I do not expect HMO's to be the complete panacea for our national health care problems, I think it can be one of many valuable steps toward achievement of a national health system. Through the expansion of HMO's, we can take an important action both to improve the quality and the quantity of health care for Americans, while lowering the prices for those services.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Maintenance Organization Act of 1973".

PUBLIC HEALTH SERVICE ACT AMENDMENT

SEC. 2. The Public Health Service Act is amended by adding after title XI the following new title:

"TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1201. For purposes of this title:

"(1) The term 'health maintenance organization' means a public or private entity organized to provide, directly or indirectly, basic and supplemental health services to its members in the following manner:

"(A) Each member is to be provided basic health services for a basic health services payment which (i) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (ii) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (iii) is established under a community rating system, except that if the entity establishes to the Secretary's satisfaction that compliance with this clause would prevent it from competing effectively for the enrollment of new members or for the retention of current members, the Secretary may permit the entity to establish, for the first year of its operation, rates for its basic health services payment without regard to this clause; and (iv) may be supplemented by such additional nominal payments which may be required for the provision of specific services (within the basic health services) and which are to be fixed in accordance with the regulations of the Secretary.

"(B) For such payment or payments (hereinafter in this title referred to as 'supplemental health services payments') as the entity may require in addition to the basic health services payment, the entity shall provide to each of its members each health service (i) which is included in the definition of supplemental health services in paragraph (3), (ii) which can reasonably be made available to the members of the entity, and (iii) for the provision of which the member has contracted with the entity.

"(C) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the entity or through a medical group (or groups) or individual practice association (or associations), except that this subparagraph shall not apply in the case of health professionals' services which are provided out of the area served by the entity or which the entity determines, in conformity with regulations of the Secretary, are infrequently used. For purposes of this subparagraph, the term 'health professionals' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health care as the Secretary may by regulation designate.

"(D) Basic health services (and supplemental health services in the case of the members who have contracted therefor) shall, within the area served by the entity, be available and accessible to each of its members promptly, as appropriate, and in a manner which assures continuity; and such services shall be provided to any member when he is outside such area, or he shall be reimbursed for his expenses in securing such services outside such area, if it is medically necessary that the services be rendered before he can return to such area.

"(2) The term 'basic health services' means—

"(A) physician services (including consultant and referral services by a physician);

"(B) in-patient and out-patient hospital services;

"(C) diagnostic laboratory and diagnostic and therapeutic radiologic services;

"(D) home health services; and

"(E) preventive health services (including preventive dental care for children and children's eye examinations conducted to determine the need for vision correction).

If a physician service included in subparagraph (A) may under applicable State law be also provided by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through a dentist, optometrist, or podiatrist (as the case may be) licensed to provide such service. For purposes of this paragraph, the term 'hospital' has the same meaning as is prescribed for that term by section 645(c); and the term 'home health services' means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization.

"(3) The term 'supplemental health services' means—

"(A) services of facilities for long-term care (as such facilities are defined by section 645(h));

"(B) vision care not included under clause (A) or (E) of paragraph (2);

"(C) dental services not included under clause (A) or (E) of paragraph (2);

"(D) mental health services;

"(E) physical medicine and rehabilitative services (including physical therapy); and

"(F) prescription drugs.

"(4) The term 'member' when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

"(5) The term 'medical group' means a partnership, association, or other group of persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State and who (A) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession; (B) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (C) utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in the regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the members of the partnership, association, or other group; and (D) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the partnership, association, or other group.

"(6) The term 'individual practice association' means a partnership, corporation, association, or other legal entity which has entered into an arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State under which—

"(A) such persons will provide their professional services in accordance with a compensation arrangement established by the entity; and

"(B) to the extent feasible (i) such persons will utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, (ii) medical and other records, equipment, and professional, technical, and administrative staff are shared by such persons, and (iii) their continuing education is arranged for and encouraged.

"(7) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (hereinafter in this title referred to as a 'section 314(a) plan'); and the term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (hereinafter in this title referred to as a 'section 314(b) plan').

"(8) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, and (B) each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area.

"(9) The term 'community rating system' means a system of establishing rates of basic health service payments. Under such a system rates for basic health service payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but, except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of basic health service payments may be established under such system:

"(A) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting basic health service payments from the following categories of members:

"(i) Individuals (including families).

"(ii) Small groups of members (as determined under regulations of the Secretary).

"(iii) Large groups of members (as determined under regulations of the Secretary).

"(B) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program other than the health benefits program authorized by chapter 89 of title 5, United States Code, or any health benefits program for employees of States, political subdivisions of States, and other public entities.

### "GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

"SEC. 1202. (a) The Secretary may (1) make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations, and (2) enter into contracts with private entities for projects for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations which will serve residents of medically underserved areas.

"(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe, and shall contain—

"(1) assurances satisfactory to the Secretary that, in conducting surveys or other activities with assistance under a grant under this section, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) consult with the medical society serving such area; and

"(2) such other information as the Secretary may by regulation prescribe.

Each contract entered into under subsection (a)(2) of this section shall require the cooperation and consultation described in paragraph (1) of this subsection.

"(c) In considering applications for grants and contract proposals under this section, the Secretary shall give priority to applications and contract proposals for projects for health maintenance organizations which will serve residents of medically underserved areas.

"(d)(1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

"(A) If a project has been assisted with a grant or contract under subsection (a), the Secretary may not make any other grant or enter into any other contract for such project.

"(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

"(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(e) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed $50,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve residents of a medically underserved area, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

"(f) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(h) Payments under grants and contracts under this section shall be made from appropriations made under section 1205. The Secretary may not make any grant or enter into any contract under this section for a fiscal year beginning after June 30, 1976.

### "GRANTS, CONTRACTS, LOANS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

"SEC. 1203. (a) The Secretary may—

"(1) make grants to and enter into contracts with public or nonprofit private entities, and make loans (from the loan fund established under section 1207(e)) to public entities, for planning projects for the establishment of health maintenance organizations or for significant expansion of the membership of, or area served by, health maintenance organizations;

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of health maintenance organizations for the purpose of serving residents of medically underserved areas; and

"(3) enters into contracts with private entities for planning projects for the establishment or expansion of health maintenance organizations for the purpose of serving residents of medically underserved areas.

The Secretary may not make any grant or enter into any contract under this subsection for a fiscal year beginning after June 30, 1976, and he may not make any loan or loan guarantee under this subsection in any fiscal year beginning after such date. Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization and such other plans as the Secretary may require for the purpose of making the determination required by subsection (c)(2)(B).

"(b) The Secretary may—

"(1) make grants to and enter into contracts with public or nonprofit entities, and make loans (from the loan fund established under section 1207(e)) to public entities, for projects for the initial development of health maintenance organizations;

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which will serve residents of a medically underserved area; and

"(3) enter into contracts with private entities for projects for the initial development of health maintenance organizations which will serve residents of medically undeserved areas.

The Secretary may not make any grant or enter into any contract under this subsection for a fiscal year beginning after June 30, 1977, and he may not make any loan or loan guarantee under this subsection in any fiscal year beginning after such date. For purposes of this section, the term 'initial development' when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization.

"(c)(1) No grant, loan, or loan guarantee may be made under subsection (a) or (b) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe, and shall contain such information as the Secretary may by regulation prescribe; except that an application for a grant, loan, or loan guarantee under subsection (a) for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, loan, or loan guarantee is sought, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) consult with the medical society serving such area. Each contract entered into under subsection (a) of this section shall require the cooperation and consultation described in the preceding sentence of this paragraph.

"(2) If the Secretary makes a grant, loan, or loan guarantee or enters into a contract under subsection (a) for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant, loan, or loan guarantee or enter into a contract under subsection (b) for the initial development of that health maintenance organization; but no grant, loan, or loan guarantee may be made or contract entered into under subsection (b) for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, loan, or loan guarantee, or by the person with whom such contract would be entered into, as the case may be, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant or such person, as the case may be.

"(d) In considering applications for grants and contract proposals under subsections (a) and (b), the Secretary shall give priority to applications and contract proposals for projects for health maintenance organizations which will serve residents of medically underserved areas.

"(e)(1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loans, loan guarantees, and contracts made under subsection (a) of this section:

"(A) If a planning project has been assisted with a grant, loan, loan guarantee, or contract under subsection (a), the Secretary may not make any other grant, loan, or loan guarantee or enter into any other contract for such project.

"(B) Any project for which a grant, loan, or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant, loan, or loan guarantee is made or contract entered into.

"(2) The Secretary may not make more than one additional grant, loan, or loan guarantee or enter into not more than one additional contract for a planning project for which a grant, loan, or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(f)(1) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project made or guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan made or guaranteed under such subsection, may not exceed $125,000, and (B) the aggregate of the amounts to be paid for any project by the United States under any grants or contracts, or both, under such subsection when added to the amount of principal of any loans made or guaranteed under such subsection for such project may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve residents of a medically underserved area, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, loans, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

"(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial-development project made or guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project for a health maintenance organization under any grants or contracts, or both, under such subsection when added to the amount of principal of any loans made or guaranteed under such subsection for such project may not exceed the lesser of—

"(A) $1,000,000 or the product of $25 and the number of members that the health maintenance organization will have (as determined under regulations of the Secretary) when it first becomes operational after its establishment or expansion, whichever is the greater; or

"(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a healh maintenance organization which will serve residents of a medically underserved area, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, loans, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

"(3) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under this section may not exceed such limitations as may be specified in appropriation Acts.

"(4) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statues (31 U.S.C. 529; 41 U.S.C. 5).

"(h) Payments under grants and contracts under this section shall be made from appropriations under section 1205; and loans under this section shall be made from the fund established under section 1207(e).

### "LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

"SEC. 1204. (a) The Secretary may during the period beginning July 1, 1973, and ending June 30, 1978—

"(1) make loans (from the loan fund established under section 1207(e)) to public or nonprofit private health maintenance organizations to assist them in meeting the costs of the first thirty-six months of their operation;

"(2) make loans (from the loan fund established under section 1207(e)) to public or nonprofit private health maintenance organizations to assist them in meeting the costs of their operation which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred during the first thirty-six months of operation after such expansion; and

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization for the costs referred to in paragraph (1) or (2), but only if such health maintenance organization will serve residents of a medically underserved area.

"(b) No loan or loan guarantee may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c)(1) Except as provided in paragraph (2), the principal amount of any loan made or guaranteed under this section in any fiscal year for the operation of a health maintenance organization may not exceed $1,000,000 and the aggregate amount of principal of loans made or guaranteed, or both, under this section for the operation of any health maintenance organization may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under this section may not exceed such limitations as may be specified in appropriation Acts.

"(d) Loans under this section shall be made from the fund established under section 1207(e).

### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 1205. (a) For the purpose of making payments under grants and contracts under sections 1202, 1203(a), and 1203(b), there are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1974, $45,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976; and for the purpose of making payments under grants and contracts under section 1203(b) for the fiscal year ending June 30, 1977, there are authorized to be appropriated $55,000,000.

"(b) There are authorized to be appropriated to the loan fund established under section 1207(e), $20,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975.

### "GENERAL PROVISIONS RESPECTING APPLICATIONS FOR ASSISTANCE

"SEC. 1206. (a) The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless he determines that the applicant would not be able to complete the project or undertaking for which the application is made without such grant, contract, loan, or loan guarantee.

"(b)(1) The Secretary may not approve an application submitted under section 1203 or 1204 or enter into a contract under section 1203 unless he determines that when the health maintenance organization for which such application is submitted or contract proposed is first operational after its establishment or expansion it will—

"(A) have (i) a fiscally sound operation, and (ii) insurance which protects its members against the risk of its becoming insolvent and which is approved by the Secretary or such other provision against such risk as the Secretary determines is adequate;

"(B) be organized in such a manner (as prescribed by regulations of the Secretary) that assures its members a meaningful role in the making of policy for the health maintenance organization, and provide meaningful procedures for hearing and resolving grievances between the members and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services);

"(C) encourage and actively provide for its members (i) health education services, and (ii) education in the appropriate use of health services;

"(D) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program provides review by physicians and other health professionals of (i) the process followed in the delivery of health services, and (ii) the quality of the results obtained through the health services provided;

"(E)(i) provide in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on a periodic basis) relating to (I) the cost of its operations, (II) the patterns of utilization of its services, (III) the availability, accessibility, and acceptability of its services, (IV) to the extent practical, developments in the health status of its members, and (V) such other matters as the Secretary may require, and (ii) disclose, at least annually, such data to its members and to the general public;

"(F) assume full financial risk on a prospective basis for the provision of basic health services; and

"(G) enroll persons who are broadly representative of the various age, social, and income groups in the area it serves.

"(2) The requirement of subparagraph (F) of paragraph (1) does not prohibit a health maintenance organization from obtaining insurance or making other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) for the cost of providing basic health services to its members while they are outside the area served by the organization, or (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 110 per centum of its income for such fiscal year.

"(c)(1) The Secretary may not approve an application submitted under section 1203 or 1204 or enter into a contract under section 1203 unless the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted or contract proposed, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary, been provided an opportunity to review the application or contract proposed and to submit to the Secretary for his consideration its recommendations respecting approval of the application or contract proposal. If under applicable State law such an application may not be submitted or such a contract entered into without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the Secretary may not approve such an application or enter into such a contract unless the required approval has been obtained.

"(2) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for assistance and proposals for contracts for health maintenance organizations.

### "GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

"SEC. 1207. (a) (1) The Secretary may not approve an application for a loan guarantee under this title unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this title.

"(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this title the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this title may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this title shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this title shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved, and, to the extent permitted by subparagraph (C), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(b) (1) The Secretary may not approve an application for a loan under this title unless—

"(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

"(2) Any loan made under this title shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing on the date the loan is made, with respect to loans guaranteed under this title, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this section, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(c) (1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this title.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or otherwise appropriate. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(3) Interest paid on any loan to a public agency guaranteed under this subsection shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purposes of chapter 1 of the Internal Revenue Code of 1954.

"(d) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary under this section and in connection with loan guarantees under sections 1203 and 1204 and other property or assets derived by him from his operations respecting loan guarantees under sections 1203 and 1204, including any money derived from the sale of assets. If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under sections 1203 and 1204. To the extent authorized by appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under sections 1203 and 1204 and other property or assets derived by him from his operations respecting loans under those sections and under subsection (c) of this section, including any money derived from the sale of assets.

### "CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1208. (a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this title as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 1209—

"(1) fails to provide basic and supplemental services to its members,

"(2) fails to provide such services in the manner specified in section 1201(1), or

"(3) is not organized or operated in the manner described in section 1206(b),

the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 1209 or when application was made under this title for a grant, loan, or loan guarantee or in connection with a contract under this title.

"(b) The Secretary shall administer this section through an identifiable unit within the Department of Health, Education, and Welfare.

### "EMPLOYEES' HEALTH BENEFITS PLAN

"SEC. 1209. Each employer—

"(1) who is required during any calendar quarter to pay his employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay his employees such wage but for section 13(a) of such Act), and

"(2) who during such calendar quarter employed an average number of employees not less than twenty-five,

shall, in accordance with regulations which the Secretary shall prescribe, include in any health benefits plan offered, in the calendar year beginning after such calendar quarter, to his employees the option of membership in at least one health maintenance organization which provides basic health services through health professionals who are members of the staff of the entity or a medical group (or groups), and at least one health maintenance organization which provides basic health services through an individual practice association (or associations) but only if such a health maintenance organization is serving the area in which such employer's employees reside and the health maintenance organization provides assurances satisfactory to the Secretary that it will provide basic and supplemental health services to its members in the manner specified in section 1201(1) and that it is organized and operated in the manner described in section 1206(b). No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between an employer and his emtion 15 of such Act.

"LIMITATION ON SOURCE OF FUNDING FOR HEALTH MAINTENANCE ORGANIZATIONS

ployees. Failure of any such employer to comply with the requirements of this section shall be considered a willful violation of sec-

"SEC. 1210. No funds appropriated under any provision of this Act other than this title may be used—

"(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health care to a defined population on a prepaid basis;

"(2) for grants, loans, or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

"(3) for grants, loans, or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities;

"(4) for loans or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

"PROGRAM EVALUATION

"SEC. 1211. The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 1202, 1203, or 1204. The period of operation of such health maintenance organizations which shall be evaluated under this subsection shall not be less than thirty-six months. The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months. Such report shall contain findings with respect to the ability of the organizations evaluated—

"(1) to operate on a fiscally sound basis without continued Federal financial assistance,

"(2) to meet the requirements of section 1206(b)(1) respecting their organization and operation,

"(3) to provide basic and supplemental health services in the manner prescribed by section 1201(1),

"(4) to include the indigent and high-risk individuals in their membership, and

"(5) to provide services in medically underserved areas.

The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 1209. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after the date of the enactment of this title.

"ANNUAL REPORT

"SEC. 1212. The Secretary shall periodically review the programs of assistance authorized by this title and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

"(1) a summary of each grant, contract, loan, or loan guarantee made under this title in the period covered by the report,

"(2) the data reported in such period to the Secretary in accordance with section 1206 (b)(1)(E), and

"(3) findings with respect to the ability of the health maintenance organizations assisted under this title—

"(A) to operate on a fiscally sound basis without continued Federal financial assistance,

"(B) to meet the requirements of section 1206(b)(1) respecting their organization and operation,

"(C) to provide basic and supplemental health services in the manner prescribed by section 1201(1),

"(D) to include the indigent and high-risk individuals in their membership, and

"(E) to provide services in medically underserved areas.".

CONFORMING AMENDMENTS

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "Titles I to XI" and inserting in lieu thereof "Titles I to XII".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XII (as in effect prior to the date of enactment of this Act) as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to such date), and references thereto, as sections 1301 through 1314, respectively.

(c) Section 306(g) of the Federal National Mortgage Association Act (12 U.S.C. 1721(g)) is amended by inserting ", or which are guaranteed under title XII of the Public Health Service Act" after "chapter 37 of title 38, United States Code".

(d) The first section of the Act of August 5, 1954 (42 U.S.C. 2001), is amended by inserting "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) In carrying out his functions, responsibilities, authorities, and duties under this Act, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.".

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS

SEC. 4. Within three months of the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall report to the Congress the criteria used by him in the designation of medically underserved areas for the purposes of title XII of the Public Health Service Act. Within one year of such date, the Secretary shall report to the Congress (1) the areas and population groups designated by him under section 1201(8) of such title as medically underserved areas, and (2) the comments (if any) submitted by State and areawide comprehensive health planning agencies under such section with respect to any such designation.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to get one or two things clear.

Is it true that this bill calls for approximately $240 million, running into the fiscal year 1977?

Mr. ROY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Kansas.

Mr. ROY. Yes, it is true.

Mr. GROSS. Who has the crystal ball that can foresee what the financial condition of this country will be in 1977, and to incur an obligation of $240 million running through 1976 and 1977, much less 1974 and 1975?

Mr. ROY. I know of no one who has such a crystal ball, but I would say to the gentleman that we are making investments in the first 2 or 3 years of operations under this bill which I believe will require further financing over that period of time. If we discontinued the financing precipitately prior to that time we might very well be throwing the taxpayers' money away. I am sure neither of us would like to see that happen.

Mr. GROSS. Fortunately or unfortunately, I was here when the National Institutes of Health were created. I thought that the further planning and feasibility of health programs, as well as research, would be carried out through the medium of the National Institutes of Health.

Apparently I was mistaken. Apparently more millions of dollars, as this bill provides, are to be spent for new administrative setups for new research, planning, feasibility, and all that sort of thing.

Where in the world is this going to end, or is there any end to these studies? I do know one thing—there is a bottom to the U.S. Treasury and the pockets of the taxpayers. And the $240 million called for in this bill is a lot of money to me.

Mr. ROY. Mr. Chairman, I am aware that this argument is not conclusive with all Members, but we have been very careful in this bill to authorize only the amount of money requested by the President for the coming fiscal year, in other words, $60 million. I believe we have been quite financially responsible throughout this process.

We are not establishing any type of organization which is a nonprivate organization, nor are we establishing any organization which I would foresee would require ongoing support.

I personally see this, and I believe the majority of the committee sees this as a one-shot bill. Now, I understand fully that senior Members may say that this has not been their experience, but I would like to put myself on record as saying that this is a one-shot bill and not a continuing bill.

Mr. Chairman, let me say, in addition to that, that I believe we will save more money than we spend, and I feel that in the face of the fact that we are spending $23 million more each day on health care services than we were the previous day, we need to find other organizational forms which will help contain the spiraling cost of health care, and I believe this is likely to be such a form.

Mr. GROSS. Mr. Chairman, with all due respect to the distinguished gentleman, I have heard the argument before about saving money by spending more money. It never seems to work out that way and I am not impressed. I can only hope the gentleman is right.

Mr. ROY. Mr. Chairman, that is my hope also.

Mr. GROSS. I will also say to the gentleman that while I respect the President of the United States, the fact that he has endorsed $60 million for any part or parcel of this program does not impress me. The President also endorses $18 billion of spending for the foreign handout program this year. I do not go along with him at all in that matter and I do not agree with the President that we cannot reasonably cut the defense budget. The President indicated last week that we cannot cut either defense or so-called foreign aid.

Mr. Chairman, I do not agree, simply because the President says that $60 million is necessary for any part of the pending bill.

Mr. ROY. Mr. Chairman, will the gentlemen yield?

Mr. GROSS. Yes, I yield to the gentleman.

Mr. ROY. Mr. Chairman, I would like to state that in this respect I agree with the gentleman; I concur with his evaluation of both foreign aid spending and defense spending, and many of the other Members do also, of course.

Mr. GROSS. Mr. Chairman, I have priorities in the expenditure of public funds, and in the consideration of those priorities, I do not agree with what the President has suggested.

Mr. Chairman, I thank the gentleman for his response.

Mr. HEINZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a few minutes ago the Health Subcommittee, on which I am privileged to serve, had another bill before this House. Unfortunately on that bill, S. 504, there were serious disagreements among members of the subcommittee. The House now has another subcommittee bill before it, and on this bill, the Health Maintenance Organization bill, there is no disagreement among the members of the Health Subcommittee.

What we have before us now is a Health Maintenance Organization bill that the gentleman from Florida (Mr. ROGERS) the chairman of the subcommittee, the majority members of the subcommittee and the minority members of the committee have labored on long and hard. The chairman has been extremely patient and wise, and wisely guided the subcommittee in its deliberations on this bill.

Mr. Chairman, it is a bill of which the gentleman from Florida is well-justified in being proud. It is a bill which Dr. ROY has been working on ever since he came to Congress and today he sees the fruits of his hard work finally coming to the House floor.

This bill deserves enactment. It is a good bill. It represents, I believe, some extremely creative and flexible thinking on the part of the committee.

Mr. Chairman, I certainly hope that the House will adopt the bill in the form in which it was reported to the floor. I believe we can, if the bill is enacted as it is, give the people of this country some very good and some very meaningful protection against illness and the prevention of illness.

Mr. Chairman, the need for this legislation is clear The time for health maintenance organizations has arrived. We must do something to control health care costs. The medical care industry accounts for more than 7 percent of our gross national product. Prices in this economic sector have been rising at an annual rate of 6.1 percent, with hospital costs jumping an average 13.3 percent each year from 1969 to 1971. The public indignation over these skyrocketing costs has already resulted in congressional amendment to the medicare and medicaid programs, and in special provisions in the President's economic programs to control health care costs.

The Health Subcommittee has been presented with data that show that while HMO premiums may be greater than those of competing insurance plans, the total costs per family will be less under the HMO plan because the benefits provided by the health maintenance approach are more comprehensive.

COMPARATIVE PERFORMANCE OF HMO'S ON COST (ANNUAL HEALTH COSTS PER FAMILY)

| | HMO | Insurance plan 1 | Plan 2 |
|---|---|---|---|
| Premium costs | $122 | $115 | $110 |
| Out-of-pocket costs | 102 | 137 | 149 |
| Total | 224 | 252 | 259 |

These data indicate that nationally we can expect substantial savings on health care costs if we move into development of HMO's. Moreover, the frequency and duration of hospitalization, the single most expensive part of medical care, is substantially lower in HMO's than in other health plans.

COMPARATIVE PERFORMANCE OF HMO'S ON HOSPITAL USE

| | HMO | Other |
|---|---|---|
| Number of hospital days per 1,000 persons per year | 744 | 955 |
| Number of hospital admissions per 1,000 persons per year | 70 | 88 |
| Hospital surgical cases per 1,000 persons per year | 49 | 69 |
| Tonsillectomies per 1,000 persons per year | 47 | 94 |

At the same time that HMO's apparently are capable of controlling medical costs, we heard convincing evidence that HMO's do work effectively to maintain their members' health. For example, the members of a New York HMO, the health insurance plan of New York City, are less likely to give birth prematurely when pregnant, experience less infant mortality, and are likely to live longer than people who do not belong to an HMO.

COMPARATIVE PERFORMANCE OF HMO'S ON HEALTH

| | HMO (HIP) | Traditional mode (NYC private patients) |
|---|---|---|
| Premature births per 1,000 live births: | | |
| White | 5.5 | 6.0 |
| Nonwhite | 8.8 | 10.8 |
| Infant mortality per 1,000 births: | | |
| White | 22.7 | 27.3 |
| Nonwhite | 33.7 | 43.8 |
| Annual mortality of elderly population (18 Mos or more after plan membership) | 7.8 | 8.8 |

With these impressive data, Congress should move toward making HMO's a vital part of a pluralistic health care system. Our goal must be to make quality health care available to every American at a reasonable cost. Health maintenance organizations should be able to play an important role in moving America toward that goal.

This is a good bill. H.R. 7974 is a cautious, moderate approach to encouraging the development of prepaid health maintenance groups. This bill is the result of more than a year and a half of hard bargaining between the Health Subcommittee and HEW. The compromise bill authorizes grant programs for feasibility studies, planning, and initial development of HMO's. For initial operations, a revolving loan fund is established and initially authorized with $50 million. The final committee bill deletes earlier provisions overriding State laws, management training programs, advisory councils and other provisions.

Our subcommittee has worked long and hard to produce this legislation. I urge my colleagues to give it their full support.

Mr. RARICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address several questions to the chairman or one of the members of the subcommittee.

Certainly I have been greatly impressed by the statements that by adoption of this bill we are going to help poor unfortunate people of our country receive better health care services. The bill, however, goes further than this. On page 33 of the committee report I find this language:

> The proposed legislation offers unusual opportunities to improve the measurement and assurance of the quality of care. The medical profession has traditionally been involved with peer review, medical audit, and utilization review, although these functions have rarely received the attention they deserve. This lack of attention has followed from a variety of difficulties with these mechanisms, such as the difficulty of gathering and storing data, and technical and methodologic constraints. However, the major reason why the assurance of quality has not received proper attention is the lack of ongoing organizational arrangements to bring about continuous quality assurance.
>
> The HMO makes possible a major advance in quality assessment, or measurement, in that the enrolled population will be defined clearly. This allows the development of denominator data essential to the calculation of rate and ratio measures of quality. Quality assurance involves a process by which shortcomings measured in this quality assessment process are rectified by means such as continuing education, and administrative or manpower changes.

I would like to ask one of the members of the committee, does this phrase "the enrolled population will be defined clearly" mean that the patients who submit themselves for treatment are going to be computerized and their identity along with their diagnosis become the property of HEW?

Mr. ROGERS. Will the gentleman yield?

Mr. RARICK. I yield to the gentleman.

Mr. ROGERS. I am sure the gentleman understands the concept of the HMO. It is where you enter into a contractual relationship with a group of doctors and their assistants and their equipment where your health is to be maintained for a year for a certain set fee to began with. In other words, the emphasis now will be to get those doctors to keep you healthy and maintain your health rather than waiting until you get into a critical situation and have to go to the hospital for the most expensive care. So they will be following you carefully as your own private doctor would in the relationship of doctor-patient. They will know, I hope, the diseases you have and what you do not.

Mr. RARICK. I understand that.

Mr. ROGERS. And they will give you good health care, we hope.

Mr. RARICK. The portion of the report that I am referring to is with regard to the phrase "enrolled population." My question is, will we have a national computerized patient list?

Mr. ROGERS. No.

Mr. RARICK. This is what it suggests.

Mr. ROGERS. It only suggests it.

Mr. RARICK. I hope we are not plowing new ground that will undercut the patient-doctor relationship. Few doctors could maintain their patients' confidence if the patient understood his name and condition were to qualify him as a medical statistic on a national computer.

Mr. ROGERS. The enrolled population simply means those people enrolled in the HMO.

Mr. RARICK. Will these patients' medical records not then become the property of the public domain so as to destroy the privacy of the classic patient-doctor relationship?

Mr. ROGERS. The patient-doctor relationship is not destroyed.

Mr. RARICK. Then, you do not feel that this bill establishes political control over the patient list itself?

Mr. ROGERS. No. I do not think the gentleman needs to worry about that.

Mr. RARICK. On the same page of this report we read: "the relationship of HMO quality assurance programs to geographically oriented review organizations such as the Professional Standards Review Organizations"—also known as PSRO—"and the possible role of members in the quality assurance program."

What kind of controls are going to be exercised over the doctors by PSRO?

Mr. ROGERS. Well, the normal peer review that will be called for and is already called for by law, as I am sure the gentleman knows.

Mr. RARICK. What do you mean? That is what I am asking.

Mr. ROGERS. Yes.

Mr. RARICK. Did the Congress itself prepare these laws?

Mr. ROGERS. If you voted for the social security law, it was in the social security law.

Mr. RARICK. Were regulations and guidelines for professional standards prescribed by the Congress or by HEW? Did not Congress delegate this power to HEW?

Mr. ROGERS. Of course, they are in compliance with the law. It will be done by HEW.

Mr. RARICK. Can a medical practitioner who is not in compliance with PSRO or the politicians downtown, on review, be denied the practice of medicine?

Mr. ROGERS. I do not think it goes to that all. It simply says on this they will try to encourage peer review, so it is an insurance that our fellow citizens can get the best care possible.

Mr. RARICK. But, I would ask the gentleman from Florida, a review by whom?

Mr. ROGERS. By their peers, doctors.

Mr. RARICK. By the doctors? Is that what is provided by law? It is our intent then that doctors will be reviewed by doctors. And this is what is intended by the law, a review by their peers. In other words, other doctors, experts in the medical profession?

Mr. ROGERS. However, it is set up by HEW.

Mr. RARICK. But we know HEW is not composed of medical doctors, and that is the difference. I do not want my people thinking that we are authorizing a bunch of politicians to be in their doctors' offices, snooping on the doctors, or that the doctors' performances are going to be reviewed by a group of politicians.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. RARICK was allowed to proceed for 5 additional minutes.)

Mr. RARICK. Mr. Chairman, I am sure the gentleman from Florida appreciates my concern. I certainly want to help the people, especially the poor people, but I am wondering whether we are taking the necessary precautions to keep the politicians out of the doctors' offices and out of their patients' examination rooms and medical records.

Mr. ROGERS. I feel definitely that we do.

Mr. RARICK. Then, referring to the bill itself, at page 89, subsection (D), which says:

> . . . have organizational arrangements, established in accordance with regulations of the Secretary, . . .

I wonder how the bill gives Congress the authority to regulate and to set the standards when we have delegated this power to the Secretary? Very clearly, this does not indicate to me that any review is going to be by a group of peers when the bill says in the very same paragraph, "review by physicians and other health professionals."

Mr. ROGERS. I think the gentleman will find that this does not go to the quality, and that if the gentleman will read it, the gentleman will find that goes to the situation of the HMO and their business arrangements.

Mr. RARICK. It would seem to me we are giving a blank check over control to the people downtown.

Mr. ROGERS. No, I do not think we are giving a blank check to the people down town by any means. There are definite requirements of the law here. We are also doing a double check which I think will please the gentleman in that we will have to evaluate this constantly, and we will even have the General Accounting Office evaluate this for us, and not rely on HEW.

Mr. RARICK. In other words, it is not the intention of the gentleman to surrender all of the prerogatives of the patient or the medical practitioners or for that matter this body?

Mr. ROGERS. No, it is not.

Mr. RARICK. We will not have a bunch of politicians running our hospitals, snooping on the patients, and their doctors?

Mr. ROGERS. No, and I hope we do not ever have that in this country.

Mr. RARICK. Does the gentleman from Florida feel that the review and the oversight that this commitee now has is adequate to maintain responsible control over these medical programs, not only to protect the patients and doctors but also the taxpayers?

Mr. ROGERS. I might say to the gentleman from Louisiana that everybody appears to be concerned about the abuse of powers in the Congress, but, as the gentleman I am sure well knows, some Members did not even vote to stand by the bill that the Congress had passed in the veto vote earlier today. So I do not see much point in talking about the powers of the Congress when we cannot even get some of the Members to stick up for what we decided upon earlier. So that that argument seems to be getting academic.

Mr. RARICK. Is the gentleman from Florida aware that in my State of Louisiana a Federal grand jury is now investigating one of these well intended health care organizations in an effort to determine what has happened to some $60 million in HEW and other Federal funds given to that organization. What makes it more ridiculous is that while the grand jury is so investigating, HEW is continuing to announce new grants of tax dollars to these same people.

Some of the incidents relating to this nonprofit medical care organization should be quite interesting to the Members here. One fact brought out is that this organization owns and operates five airplanes, two of which are jets. It has been maintaining a lobbying office right here in Washington, and all with taxpayers money. The greatest part of this medical service money is apparently not being used to help any poor people, but rather as seed money for lobbying to gain additional funds. I have on numerous occasions reported these blatant violations to HEW, urging them to supervise these people, and police their programs. I have even asked the General Accounting Office to investigate. This has always been promised, but an audit report is yet to be received. Meantime they continue to fly the jets, and continue to get more Federal funds.

The entire medical society of my State has publicly denounced this operation as an affront to the taxpayers and a discredit to the medical profession.

It is beyond my comprehension that this medical care outfit can escape the same safeguards that you assure us will protect us from similar possible abuses by HMO.

Mr. ROGERS. I would suggest that perhaps the gentleman call this to the attention of the grand jury that is looking into it.

Mr. RARICK. I am aware that the grand jury is investigating this matter yet I am also aware that these professional people have the ear of the people downtown and are continuing to get large grants not only from HEW, but even the Department of State to enlarge the organization to the multinational level.

Mr. ROGERS. That would be a good reason not to continue the grants. Perhaps the gentleman might even like to start a court action himself. I suppose the gentleman could prevail. He is a judge, and he knows what he can do in court to stop those sorts of grants.

Mr. RARICK. If the U.S. Attorney, a Federal grand jury, and a U.S. Congressman as well as the State medical society cannot find out what these people have done with the money they already have received, what oversight protection does the average citizen have?

Is the gentleman from Florida reassuring us that this bill protects the American taxpayers, the patients, and the doctors?

Mr. ROGERS. Yes, and I think the gentleman ought to bring to the attention of HEW those problems he is talking about.

Mr. RARICK. HEW has done little to date. This is the reason I am telling the gentleman, so that he may know how these well-intentioned, political-promise programs can get out of hand.

Mr. ROGERS. I think the gentleman should call it to their attention.

Mr. RARICK. I thank the gentleman from Florida.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to begin first by complimenting the Subcommittee on Health and Environment for proceeding with this legislation in a very cautious way, and especially for the approach that has been employed to take a cautious step with the idea that we would stop and look before taking a second step, particularly when we proceed down a road, the ending of which we do not know. Nevertheless, I am concerned about two aspects of this measure now on the floor. Originally when we proceeded with this measure, we were considering including in the bill the various combinations of HMO membership to provide aid to the indigent, and to provide help to people in medically underserved urban and rural areas in a limited number of HMO's, and to experiment in a limited number whose membership would include people with high health risk situations. It seemed to me at that time that the idea of an evaluation of all of the possible membership mixes would serve a very valuable purpose because the hearings that we conducted made it abundantly clear that nobody in this nation knows whether or not an HMO subsidized by the Federal Government for any of these purposes, will be viable.

What has happened is that we are now faced with considering a bill which includes funds only for the purpose of surveying in an area to determine whether or not an HMO might be feasible, grants which will help those who want to organize an HMO to get them started, and loans to help their initial operation and that is all.

As much as I should like to feel that this is a one-shot proposition and that we will not go any further until this committee has a chance to review the evaluations which the bill requires I cannot. I recognize that the chief proponents of HMO's and of this legislation who appeared before our committee make it abundantly clear that the ultimate purpose of an HMO, as a health delivery system to provide that health delivery to those in meager financial circumstance, those living in medically underserved areas, and those with a high health risk. I fully expect that from time to time we will be confronted with legislation which would add these subsidy programs to the HMO's then in existence and that we may not then have an opportunity to evaluate them in the same fashion as is written in this bill. I am concerned about that.

I am further concerned that at this time when we are confronted with a succession of tremendous deficits, that with this measure we are taking the initial step down the road with a whole new health program which, if it becomes full blown, will cost as much as any that we have ever had before, the full amount of which cannot be intelligently prognosticated. I do not think this is the time for us to consider such a new program without knowing its future cost or its impact on future budgets.

For these reasons, Mr. Chairman, I am going to vote against this measure.

I yield back the remainder of my time.

The CHAIRMAN. The question is on the Committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. UDALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7974) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes, pursuant to House Resolution 541, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 40, not voting 25, as follows:

[Roll No. 450]

YEAS—369

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patten
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
Sarasin
Sarbanes
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling

Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

### NAYS—40

Archer
Bauman
Burleson, Tex.
Byron
Camp
Casey, Tex.
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Dennis
Edwards, Ala.
Fisher
Flynt
Ginn
Gross
Holt
Landgrebe
Lott
Montgomery
Pettis
Poage
Powell, Ohio
Rarick
Roberts
Robinson, Va.
Rousselot
Ruth
Satterfield
Snyder
Steiger, Ariz.
Symms
Talcott
Taylor, Mo.
Treen
Waggonner
Wiggins
Young, Alaska

### NOT VOTING—25

Ashbrook
Burke, Calif.
Clark
Clawson, Del
Collier
Davis, S.C.
Guyer
Hanrahan
Kuykendall
Landrum
McEwen
McSpadden
Mathis, Ga.
Mills, Ark.
O'Neill
Patman
Pepper
Reid
Rooney, N.Y.
Runnels
St Germain
Sandman
Shoup
Stratton
Ullman

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Pepper.
Mrs. Burke of California with Mr. Ullman.
Mr. McSpadden with Mr. Ashbrook.
Mr. Stratton with Mr. Kuykendall.
Mr. Mills of Arkansas with Mr. Reid.
Mr. St Germain with Mr. Sandman.
Mr. Davis of South Carolina with Mr. McEwen.
Mr. Mathis of Georgia with Mr. Del Clawson.
Mr. Runnels with Mr. Collier.
Mr. O'Neill with Mr. Shoup.
Mr. Clark with Mr. Guyer.
Mr. Landrum with Mr. Patman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 541, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

The Clerk read the title of the Senate bill.

#### MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 14 and to insert in lieu thereof the provision of H.R. 7974, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7974) was laid on the table.

## GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## APPOINTMENT OF CONFEREES ON S. 1081 TO AMEND MINERAL LEASING ACT OF 1920

Mr. HALEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, S. 1081, to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil and gas pipeline, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. HALEY, MELCHER, JOHNSON of California, UDALL, SAYLOR, STEIGER of Arizona, and YOUNG of Alaska.

## NEW COINAGE DESIGN AND DATE EMBLEMATIC OF THE BICENTENNIAL OF THE AMERICAN REVOLUTION

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 539 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 539

*Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8789) to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarters, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 8779, the Committee on Banking and Currency shall be discharged from the further consideration of the bill S. 1141, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 8789 as passed by the House.

The SPEAKER pro tempore. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 539 provides for an open rule with 1 hour of general debate on H.R. 8789, a bill to provide a new coinage design and date, emblematic of the Bicentennial of the American Revolution for dollar, half dollar, and quarter dollar coins.

House Resolution 539 provides that after the passage of H.R. 8789, the Committee on Banking and Currency shall be discharged from the further consideration of the bill S. 1141, and it shall then be in order in the House to move to strike out all after the enacting clause of S. 1141 and insert in lieu thereof the provisions contained in H.R. 8789 as passed by the House.

The bill provides that all dollar, half-dollar, and quarter dollar coins, minted for issuance beginning July 4, 1975, and continuing until such time as the Secretary of the Treasury may determine, shall bear designs on the reverse side emblematic of the Bicentennial. The design to be used on the coins will be chosen from a nationwide competition conducted by the National Sculpture Society. It is the intention of the Treasury Department to incorporate in the selected designs the usual inscriptions "United States of America" and "E Pluribus Unum," and a designation of the value of the coin.

No new costs are anticipated as a result of the enactment of H.R. 8789.

Mr. Speaker, I urge the adoption of House Resolution 539 in order that we may discuss and debate H.R. 8789.

Mr. LATTA. Mr. Speaker, House Resolution 539, the rule on H.R. 8789, the New Coinage Design and Date Emblematic of the Bicentennial of the American Revolution bill, is an open rule with 1 hour of general debate. This rule also makes it in order to insert the House-passed language in the Senate bill.

In order to commemorate the Nation's Bicentennial, H.R 8789 provides that all dollars, half-dollars, and quarters minted for issuance beginning July 4, 1975, until such time as the Secretary of the Treasury may determine, are to bear designs commemorative of the Bicentennial on the reverse side.

This bill represents a compromise between the coin collectors, who wanted Eicentennial designs on all coins, and representatives of the U.S. Mint, who indicated that a change on all coins would overburden the capacity of the mint. According to the committee report this compromise bill, which affects only dollars, half-dollars, and quarters, sets requirements which are within the capacity of the mint.

The design to be used on the coins is to be chosen in a national competition conducted by the National Sculpture Society.

The committee report indicates that no additional cost will result from the passage of this bill because the face value of the coins issued is greater than the cost of the metals used.

Mr. Speaker, I urge the adoption of the rule.

### AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA. Mr. Speaker, I offer an amendment for the purpose of correcting a printing error in the resolution.

The clerk read as follows:

Amendment offered by Mr. MATSUNAGA: On page 2, line 6, strike out "H.R. 8779," and insert "H.R. 8789."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Hawaii.

The amendment was agreed to.

Mr. MATSUNAGA. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mrs. SULLIVAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8789) to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8789, with Mr. MATSUNAGA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentlewoman from Missouri (Mrs. SULLIVAN) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill does not go as far as the coin collectors and many other citizens have been urging in utilizing our coinage to commemorate the Bicentennial of the American Revolution, but it represents our best judgment as to what is feasible. We were urged most persuasively by the numismatic hobby to require changes in all of our coins for 1976—a complete change of design on both sides of every coin. This is what Canada did in observance of its Centennial several years ago. And we would have loved to do the same thing for our Bicentennial.

As a matter of fact, the Advisory Panel on Coins and Medals of the American Revolution Bicentennial Commission recommended to the Commission—and the Commission in turn recommended to the President—that all denominations of coins be changed in 1976 and for the subsequent 25 years to commemorate the Bicentennial. However, the administration was adamantly against any special commemorative coinage for the Bicentennial. Mr. PATMAN, Mr. WIDNALL and I subsequently met with the Director of the Mint, the Honorable Mary Brooks, to urge reconsideration of this position and Mrs. Brooks took up the issue further with Secretary Shultz. Eventually the administration relented and sent up a bill early this year proposing Bicentennial designs on the reverse of the dollar and half-dollar coins only. Mr. PATMAN, Mr. WIDNALL, Mr. WYLIE and I then introduced this administration bill on March 6 as H.R. 5244.

In the hearings of the Subcommittee on Consumer Affairs in May, we went into this issue in depth and learned of the tremendous technical difficulties the Bureau of the Mint would experience in trying to meet the surging demand for more and more coins for daily commerce if the designs of all of the coins were changed. Working around the clock, three shifts a day, they could not meet the projected demand. It is not that the Mint could not produce enough for commerce. But it could not do so and also produce the billions of additional coins which would be diverted from circulation as Bicentennial commemorative collector pieces.

### COMPROMISE NEGOTIATED TO INCLUDE QUARTER

The reason the administration suggested changes only in the dollar and half-dollar coins for the Bicentennial is that these coins do not normally circulate in any large volume. If they all disappeared from circulation as collector pieces and keepsakes in 1976 and subsequent years we would still be able to have enough coinage for necessary purposes—you can use two quarters instead of a half. And the dollar coin is not in very big demand. The coin collectors pointed out that restricting the bicentennial designs to those two coins would not make the bicentennial a daily reminder to the public, and pleaded to have at least the quarter included.

We negotiated a compromise with the administration on this issue by persuading the Treasury to agree to include the quarter as well as the dollar and half-dollar, and the price of that agreement was that we include in the bill a provision which permits the Mint as a temporary measure to use its bullion depository at West Point, and any of its other noncoinage facilities, for both the production and storage of coins. The Mint would then move some of its old coin presses to West Point or other facilities and thus increase its total capacity. And it would be able to begin turning out coins long before the distribution date because it would then have places to stockpile them.

However, it does not have this kind of storage capacity at the existing mints, according to Mrs. Brooks. H.R. 8789 is a clean bill carrying out the decisions made in the subcommittee which were acceptable to the administration.

The quarter is one of our most widely used coins. Of course the penny is the one produced in greatest volume—about 10 times as many pennies are produced as nickels and quarters—and the dime is second, but followed very closely by the nickel and quarter. So we are going to need an awful lot of quarters for circulation in 1975 and thereafter, plus the many, many millions of them which will be taken out of circulation and saved as collector pieces.

The provisions of H.R. 8789 were unanimously approved in the subcommittee and the bill was unanimously approved by the full committee.

### NO PROVISIONS DEALING WITH GOLD OR SILVER

I might say there is nothing in this bill dealing with gold. In passing a Bicentennial coinage bill, the Senate included a provision ending by January 1, 1975, all restrictions on Americans owning gold. Such a provision would not be germane to H.R. 8789 and was not offered in our committee. Besides, this issue of gold ownership was resolved last week when the House approved the conference report on the par value modification bill. The Senate Bicentennial coinage bill also contains a provision requiring the issuance of a gold coin for the Bicentennial, and one requiring the production of at least 60 million Bicentennial coins between July 4, 1975, and January 1, 1977, containing 40-percent silver. Both proposals were rejected in our committee, the gold coin amendment on a rollcall of 9 to 15 and the silver coin amendment on a voice vote. With the very high cost of gold today, any gold coin would have to be very, very small and would have to be sold at a tremendously high price; and if we used a 40-percent silver alloy in the Bicentennial coins, the value of the silver in the coins could substantially exceed their face value. I would be willing to try to work out in conference some accommodation on the use of silver in, say, a limited number of proof coins to be sold at a premium, as was done in the case of the Eisenhower dollars, but I strongly oppose the Senate provision requiring the production of at least 60 million silver Bicentennial coins at a time when silver is in short supply and priced at more than double the traditional monetary value of silver, which is $1.29 per ounce.

We are anxious to have the bill expedited so that the Mint can proceed with its plans for a national design competition, and have the new coins ready for initial distribution by July 4, 1975, when the Bicentennial year begins.

### BACKGROUND OF THE LEGISLATION

The American Revolution Bicentennial Commission, created by Public Law 89-491 to "plan, encourage, develop and coordinate observances and activities commemorating the historical events that preceded and are associated with the American Revolution," named a group of outstanding numismatists in 1970 as an Advisory Panel on Coins and Medals to recommend suitable programs for the issuance of commemorative numismatic materials as part of the Bicentennial observance. The Panel included curators of numismatics from the Smithsonian Institution, editors of numismatic publications, authors in this field, leaders of numismatic associations, Members of Congress, and representatives of the Treasury and of the National Endowment for the Arts, to provide research, professional opinions, and recommendations on the role of coins and medals in perpetuating the Bicentennial.

Proposals made by the Advisory Panel in 1971 for an extensive program of Bicentennial commemorative medals were adopted by the Commission, forwarded to the Congress by the President and authorized by Public Law 92-28 on the recommendation of the Committee on Banking and Currency, following hearings by the Subcommittee on Consumer Affairs. Under that act, a series of annual Bicentennial medals and Philatelic-Numismatic Commemoratives (PNC's) consisting of a medal and related commemorative stamps issued as a set, was begun in 1972. In the first year of the medals program, 791,000 of the PNC's and 672,000 of the individual medals were sold to collectors at $5 and $3 each, respectively. The net proceeds from this program have so far made possible distributions by the Commission of $200,000 each to the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation to initiate on a pilot basis a bicentennial project grants program, and created a fund of $2,100,000 for matching grants so far up to $40,000 to each of the 50 State bicentennial commissions and that of the District of Columbia, and up to $25,000 each to Puerto Rico, American Samoa, Guam, and the Virgin Islands for specific bicentennial projects of a State or local nature. Sales of the medals and stamp-medal combinations in 1973 and subsequent years will increase these grant funds.

A comprehensive bicentennial coinage program was also recommended by the Advisory Panel in 1971 and adopted by the Commission, but it was initially rejected by the administration on grounds that changes in coinage designs for 1976 were neither desirable nor feasible. Chief among the Panel's coinage proposals were that all denominations of circulating coins bear Bicentennial designs in 1976 and for the subsequent 25 years, and that a special commemorative coin "unique in design and composition" be issued in 1976.

At the urging of the numismatic hobby, of individual Members of Congress, and of the Director of the Bureau of the Mint, the Honorable Mary Brooks, the administration later modified its position opposing changes in coinage designs for 1976. It sent to Congress this year a draft of legislation providing for special Bicentennial designs on the reverse side of dollar and half-dollar coins minted for issuance on and after July 4, 1975, and for an indefinite period thereafter, and for special commemorative dating of such coins. The administration proposals were introduced as H.R. 5244 by Representatives Wright Patman and Leonor K. Sullivan, chairmen of the Committee on Banking and Currency and of the Subcommittee on Consumer Affairs, respectively, and by Representatives William B. Widnall and Chalmers P. Wylie, ranking minority members of the full committee and the subcommittee, respectively.

### SUBCOMMITTEE HEARINGS

Subcommittee hearings on H.R. 5244 were held on May 2, 1973. Treasury Department witnesses testified on the practical production problems involved in providing sufficient coinage for the needs of commerce if any of the coins in wide daily use were to bear new designs making them attractive as collector pieces or souvenirs. Mrs. Brooks stated (p. 8 of the hearings):

As a member of the Advisory Panel on Coins and Medals of the American Revolution Bicentennial Commission, I have participated in numerous discussions on how the mint could best and most effectively participate in the numismatic observance of our Declaration of Independence.

It has been proposed that we change the designs of all our coins to commemorate the Bicentennial. We would oppose such a change for several reasons.

Foremost to be considered is the mint's production capacity and its primary responsibility to meet the Nation's coinage requirements. I realize many of the coin collectors would like for us to change all of our coins to commemorate the Bicentennial year. We have given this very careful consideration. The danger is that this could result in a coin shortage which would cripple our daily commerce. Therefore, changing the reverse of only the circulating dollar and half-dollar is strongly recommended:

(a) By the year 1976, demand for domestic coin for circulation, excluding any unusual demand for the new dollars and half-dollars, could range from 11 to 12 billion pieces, according to the Federal Reserve forecast. Our present resources enable us to produce a maximum of 13 billion coins on a full three-shift basis. The mint's anticipated production capacity for 1976 provides limited latitude for the new Bicentennial coins to be removed from circulation as we know a major portion will be.

(b) A change of the half-dollar and dollar would both be of interest to numismatists and not be disruptive to the mint's operation. The general demand for these two coins has been significantly lower than the other denominations.

(c) For many years the Treasury Department has opposed the minting of special event noncirculating commemorative coins and none have been authorized since 1951 and none minted since 1954.

(d) To prevent the abuses of the past that precipitated this Treasury Department policy which I will go into more fully later on.

(e) It will make a most important and lasting contribution to the Bicentennial celebration.

I might add that the proposed changes would mark the first time in our Nation's history that designs on circulating coins would be changed honoring an anniversary of American independence.

Also, in 1976, proof and uncirculated specimens of these two circulating coins would be available under the mint's four special coin programs.

Additionally, because of the historical importance of the new designs, the mint is formulating plans with the National Sculpture Society to conduct a nationwide design competition for both coin reverses to acquire the best possible designs and to more fully involve our artistic community in the coinage celebration of our Bicentennial.

The following exchange took place between the chairman of the subcommittee and the Director of the Mint (p. 22):

Mrs. SULLIVAN. What are the practical difficulties of changing all the coins for 1976? You have mentioned a few aspects, but I do not think the numismatists' representatives would go along with them. I am sure they will tell us later this morning that with your ability and resourcefulness you could really put out a complete set of Bicentennial coins and meet all the needs of commerce as well as the desires of the coin collectors. If you had to do it, could you do it?

Mrs. BROOKS. Well, we would have a terrible time keeping up with production. We are planning to put new presses in the Denver Mint, as you probably know, but they will not be functional for several years. * * * our very top production would be around 15 billion coins.

The coin demand is a mysterious thing. I do not know where they all go. This country must be loaded with coins. They are at home in dresser drawers or somewhere. Because every year we make 500 to 600 million more coins. I have the figures here, and I can insert them into the record. This year we made 8,300 million coins. This year the Federal Reserve forecast for the year of 1976 gives between 11 and 12 billion coins.

[The projected estimate of coin demand referred to by Mrs. Brooks follows:]

PROJECTED ESTIMATE OF COIN DEMAND,[1] FISCAL YEARS 1974-80

[In billions of coins]

| | Cents | Nickels | Dimes | Quarters | Halves | Dollars | Total |
|---|---|---|---|---|---|---|---|
| Fiscal year: | | | | | | | |
| 1974 | 6.9 | 0.6 | 0.8 | 0.5 | [2] 0.175 | [2] 0.075 | 9.1 |
| 1975 | 7.6 | .6 | .9 | .6 | [2] .190 | [2] .080 | 9.9 |
| 1976 | 8.3 | .7 | 1.0 | .6 | .207 | .087 | 10.9 |
| 1977 | 9.0 | .8 | 1.1 | .7 | .226 | .095 | 11.9 |
| 1978 | 9.8 | .8 | 1.2 | .8 | .246 | .104 | 13.0 |
| 1979 | 10.7 | .9 | 1.3 | .8 | .269 | .113 | 14.1 |
| 1980 | 11.7 | 1.0 | 1.4 | .9 | .293 | .123 | 15.4 |

[1] Coin production based on maintaining adequate inventories to meet these demands.

[2] Does not reflect coins required in proposed Bicentennial legislation.

Source: Office of Public Services, Bureau of the Mint, Apr. 26, 1973.

Mrs. BROOKS. Now, we are very realistic about the coins that we would put out. They would no doubt most of them be collected. That would mean that we would face probably a crisis. I do not think we could possibly, even if we added more presses in every available facility, do anything over 15 billion coins. We are not sure we could do that by 1976. So it is an impractical manufacturing problem for us, as much as I would really love to do it.

I might say it was my visit with Secretary Shultz that reversed the longstanding opposition of the Treasury Department to ever changing any of our coinage. I explained to him that I thought we could handle the two coins that are not circulating as much as the minor coins, and that we could probably get by producing them if we could get a good lead on them.

Mrs. SULLIVAN. If we changed the designs too much they might all disappear?

Mrs. BROOKS. They might disappear, and we would be in a terrible bind.

The other point about changing the dates on all the coins, my technical people tell me that on several of the coins there is not room to change the date, we would have to change the designs.

Mr. Hugh A. Hall, Acting Director of the American Revolution Bicentennial Commission, described the much more comprehensive changes in Bicentennial coinage proposed by the Commission's Advisory Panel and endorsed by the Commission, but added (p. 28):

> From our discussions, subsequently, with representatives of the Bureau of the Mint concerning the feasibility for commemorative coinage, we have been impressed by their concern for the severe strain which a wholesale change in the design of U.S. coinage would place on the production capacity of the U.S. Mint. We are satisfied that many of our original goals of public exposure and artistic quality can be realized in a combined program as envisaged under H.R. 5244.

However, witnesses from the numismatic hobby, including Margo Russell, editor of Coin World and cochairman of the Commission's Advisory Panel on Coins and Metals, and Chester L. Krause, publisher of Numismatic News and other publications in the coin collecting field, expressed keen disappointment over the fact that only the dollar and half-dollar were to be changed for the Bicentennial, pointing out that neither coin circulated widely and therefore would not serve as a ubiquitous reminder in daily commerce of the Nation's 200th birthday. Both endorsed the Advisory Panel's full recommendations, as did John Jay Pittman, president of the American Numismatic Association. Mr. Pittman added, however (p. 68):

> We appreciate the proposal of the Government as outlined in H.R. 5244 to place on the 50-cent and $1 coins "1776–1976" in lieu of the date of coinage and to change the reverse design of these two coins—the two U.S. coins having least circulation. However, we do not feel that this proposed change goes far enough. If the Government feels that the obverse design of the circulating coins cannot or will not be changed, we feel that all the reverse designs of the circulating coins should be changed to commemorate the Bicentennial of the American Revolution and all the U.S. circulating coins should bear "1776–1976" in lieu of the date of coinage.
>
> The greatest single personality of our American Revolution was George Washington, the Father of our Country, who served as commander in chief of the Army. The bicentennial of Washington's birth was commemorated in 1932 when his portrait was placed on the obverse of the 25-cent piece, which is one of our most widely circulating coins. Since Washington is on the obverse of this coin, it could be made a true commemorative of the Bicentennial of the American Revolution by placing a bicentennial design on its reverse. We feel that a bicentennial design change should occur at least on the reverse of the 25-cent piece, if on no other coin. Therefore, we ask that H.R. 5244 be amended to include a change in design on the reverse of the Washington quarter.

Mr. Pittman added:

> * * * I do think since the Washington quarter is a true commemorative of the birth of Washington, that at least we should have the Washington quarter included among bicentennial coins. (p 69)

### SUBCOMMITTEE CONSIDERATION

Following the hearings, and impressed by Mr. Pittman's plea for inclusion of the quarter, the subcommittee urged the Treasury to restudy the feasibility of adding the quarter to the Bicentennial coin list. Mrs. Brooks subsequently reported that it would be possible to coin sufficient Bicentennial quarters for both commercial and collector purposes only if Congress provided authority to the mint to produce and store coins and medals at facilities of the Bureau of the Mint not engaged in coinage operations, such as the West Point, N.Y., Bullion Depository, where machines scheduled to be replaced at the Philadelphia Mint could be installed for coinage purposes.

As a result, the subcommittee on June 14 amended H.R. 5244 to include the quarter as well as the dollar and half-dollar among Bicentennial coins, and added a new section 3 permitting the use of facilities of the Bureau of the Mint other than the Philadelphia and Denver Mints and the San Francisco Assay Office for the temporary production and storage of coins and medals. The subcommittee unanimously approved H.R. 5244 as amended and authorized the introduction of a clean bill, H.R. 8789, carrying out the subcommittee's recommendations.

### COMMITTEE ACTION

H.R. 8789 was considered in the full committee July 19 and approved by unanimous voice vote following defeat of proposed amendments to (1) require the issuance of up to 60 million gold commemorative Bicentennial coins and (2) require use of silver in at least 60 million Bicentennial coins. Both the gold and silver coins, of unspecified denominations, would have had to be made for issuance between July 4, 1975, and January 1, 1977, under these proposed amendments.

### DESIGNS OF THE COINS

The legislation provides for designs on the reverse side of the dollar, half-dollar, and quarter emblematic of the Bicentennial of the American Revolution rather than the general requirement of section 3517 of the Revised Statutes (31 U.S.C. 324) for the figure or representation of an eagle. However, it is the intention of the Treasury to incorporate in the selected designs the usual inscriptions required on the reverse by section 3517, "United States of America," and "E Pluribus Unum," and a designation of the value of the coin.

The committee was assured that the nationwide competition to be conducted by the National Sculpture Society to develop suitable designs for the Bicentennial coins will be an open one rather than one restricted only to the members of that society. All citizens will be eligible to compete.

### COST OF THE LEGISLATION

Pursuant to the requirements of clause 7 of rule XIII of the Rules of the House of Representatives, your committee concludes that H.R. 8789 will entail no net additional cost to the Treasury but will, in fact, result in a substantial increase in seigniorage profits from the additional coins expected to be produced as collector pieces and Bicentennial souvenirs under the legislation. The more coins produced and distributed for circulation through the Federal Reserve System, the higher the profits to the Government. Seigniorage profits (the difference between the cost of the metals used and the face value of the coins) aggegated in fiscal 1972, $575,007,036.83 on production of 8,246,733,000 coins. For the three denominations covered by this legislation, the dollar, half-dollar, and quarter, seigniorage profits for fiscal 1972 were $489,523,000 for the cupro-nickel coins. On a cupro-nickel 25-cent coin, the seigniorage is 23 cents; for the 50-cent coin, 47 cents; and for the one dollar coin, 95 cents.

While the added coin production required to meet the anticipated heavy demand for the special Bicentennial coins will, of course, call for increased appropriations for coinage operations, the added receipts from the sale of the additional coins will far outdistance the costs of production. Similarly, the prices charged by the Bureau of the Mint for special mint sets and proof sets sold directly to collectors by the Mint more than cover all costs associated with its numismatic offerings. The Bureau of the Mint not only coins money but makes money in its coinage operations. Net profits go to the general fund of the Treasury.

New dies are made for the obverse of all coins each year to accommodate changes in dates, and dies for both the obverse and reverse of all coins are constantly replaced during the year because of wear. Hence, the requirements of H.R. 8789 for commemorative dates on the obverse and special designs on the reverse of the dollar, half-dollar, and quarter will not present an unusual cost burden for the preparation of dies.

### DEPARTMENTAL POSITION

H.R. 8789 has the full endorsement of the Treasury Department, in view of the committee's action in adding section 3 providing temporary authority to use the West Point or other noncoinage facilities of the Bureau of the Mint for both production and storage of coins and medals.

The following letter was received by the committee from the Under Secretary of the Treasury for Monetary Affairs, the Honorable Paul A. Volcker, relating to the proposal subsequently rejected in the committee to require the issuance of a gold coin for the Bicentennial:

THE UNDER SECRETARY
OF THE TREASURY,
FOR MONETARY AFFAIRS,
*Washington, D.C., July 13, 1973.*

Hon. WRIGHT PATMAN,
*Chairman, Banking and Currency Committee, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your committee is scheduled to consider in the near future H.R. 5244, a bill proposed by the administration to provide a new design and date on dollars and half-dollars emblematic of the Bicentennial of the American Revolution. This bill would significantly contribute to the celebration of the birth of our Republic—certainly the greatest moment in the history of our country.

It would be unfortunate if the laudable purpose of this bill would be obscured by unrelated issues involving gold policy. As you know, the Senate recently passed S. 1141, the companion bill to H.R. 5244, with various amendments concerning gold. One of the amendments directs the Secretary of the Treasury to issue special gold coins during the Bicentennial period; the second terminates the regulation of private gold ownership as of January 1, 1975; and the third amendment would restrict the authority of the Secretary of the Treasury to sell gold in the private market by requiring that the price be not lower than the average private market price for gold in the month preceding the date of sale.

As a general observation, we doubt the wisdom of enacting any legislation at this time which pertains to the private ownership of gold—whether in the form of bullion or coin. Under prevailing conditions, it would, in all probability, have a damaging effect on the already uncertain monetary situation. Congressional action requiring the minting of gold coins would be particularly unfortunate. It would give rise to unwarranted speculation and uncertainty on the part of the international financial community as to the intentions of our Government with respect to the role of gold in the future monetary system. The issuance of gold coins by the U.S. Government would be viewed abroad as an attempt to reemphasize the monetary importance of gold. This would be especially regrettable in light of our Government's firm position that the role of gold should be diminished in the international monetary system.

Furthermore, the issuance of gold coins, in our view, would be a misuse of the Nation's gold reserves. The annual industrial demand for gold in the United States now totals in excess of 7 million ounces and is steadily rising. About 80 percent of this total must be supplied by imports of gold from abroad. At present prices, this has an adverse effect on our trade balance of over $600 million a year. Under these conditions, if gold were to be taken from our monetary stocks, it would make much better sense to make gold available to American industry from our stock at the market price than to divert the gold for the minting of coins.

Finally, because of the considerable disparity between the monetary and the private market price of gold, it would be impossible to produce a coin of a quality which would appropriately commemorate the American Revolution and, at the same time, could be sold at prices within the means of the average American. If the gold content of the coins were valued at the monetary price, there would be a very strong incentive for the holders to melt the coins down into bullion. To avoid this, the coins would have to be priced high enough to reflect the market value of the gold. In this case, however, the coins would be within the means of only a small and affluent segment of the public. On the other hand, a coin that could be minted and sold at prices which would make them accessible to the average American would either contain a negligible amount of gold or would be very small in size. In either event, we do not believe that it would be an impressive commemoration of such a historical occasion as the Bicentennial.

Turning to the second amendment, we consider a serious mistake any legislation which would establish a definite date for the removal of regulations on private gold ownership. It is essential to effective progress on monetary reform that the timing of the move should be left for determination by the President when he finds that the elimination of regulations would not be detrimental to the overall monetary interests of the United States. This is the position adopted in the par value modification bill passed by the House and now pending in conference.

The final amendment restricting the present flexibility of the Secretary of the Treasury to sell gold on the private market could also have seriously adverse consequences. We have been strongly urged by Members of Congress and the public to undertake limited sales of gold from our gold stock at the prevailing market price. A provision which would establish a floor price for such sales would make it more difficult to reach a reasonable understanding on this issue with other monetary authorities. Moreover, it would effectively prevent any sale of Treasury gold at certain times—for example, when the market price of gold is declining. This provision would thus sharply curtail the present authority of the Secretary of the Treasury to effectively use our gold reserves in the national interest.

In summary, I believe that legislation authorizing the issue of coinage to commemorate the Bicentennial of the Republic should not be encumbered with amendments which would adversely affect the international monetary objectives of the United States.

Sincerely yours,

PAUL A. VOLCKER.

LETTER FROM FEDERAL RESERVE CHAIRMAN

The following letter was received from the Chairman of the Board of Governors of the Federal Reserve System, the Honorable Arthur Burns, on the subject of gold as it relates to this bill:

CHAIRMAN OF THE
BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
*Washington, D.C. July 17, 1973.*

Hon. WRIGHT PATMAN,
*Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I am writing in regard to legislation authorizing issuance of coins to commemorate the Bicentennial of the American Revolution, which I understand your committee will consider on Thursday of this week.

In acting on a companion bill last week the Senate adopted amendments which would (1) require issuance of 60 million gold coins, (2) terminate regulation of private transactions in gold by January 1, 1975, and (3) provide that any sale of gold by the Treasury should be at a price no lower than the average market price in the previous month. These amendments, if enacted into law, would tend to raise the market price of gold at a time when we have been experiencing a sharp speculative run-up in that price. The amendments would thus tend to reinforce speculative forces that have worked against efforts to restore price stability in this and other countries. In addition, reduction of U.S. international monetary reserves by issuing gold coins could further erode confidence in the dollar at a time when it is already seriously undervalued in exchange markets.

Moreover, enactment of these amendments would adversely affect negotiations now underway regarding the future role of gold in a reformed international payments system. The need to expedite these negotiations has been recognized by your committee in H.R. 6912, amending the Par Value Modification Act. It would be most regrettable if progress toward monetary reform were further delayed by the confusion regarding this Government's gold policies that I fear would ensue from adoption of the Senate amendments.

In short, I believe this is a particularly inopportune time to enact legislation that would tend to increase the demand for gold, thereby risking a further drain on our balance of payments. With regard to terminating restrictions on private ownership of gold, your committee and the House have agreed that this step should be taken when it can be done without adversely affecting the international monetary position of the United States. I hope that you will hold to that position.

With warm regards,

Sincerely yours,

ARTHUR F. BURNS.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 8789. I am pleased to tell you this bill was reported out of the Committee by a unanimous voice vote. It will stimulate widespread citizen recognition of our Nation's Bicentennial without cost to the Government. H.R. 8789 is favored in its present form by the administration. With a record like that, I would hope the Committee on Banking and Currency can brag a little about bringing a bill to the floor that is not controversial.

Mr. Chairman, the gentlewoman from Missouri has explained the background and the progress of the legislation. So I need not repeat all of what she has said. I do want to note, however, that I am one of those who initially favored making all new coins from the penny on up bicentennial coins. I am sorry that we cannot do this but I am convicend without reservation that it would not be possible to mint all new coins without precipitating a coin shortage of such a magnitude that the commerce of this country would be seriously impeded. The memory of our last coin shortage is still fresh in my mind and I do not want to see another.

At the same time, I think it is of the utmost importance that we produce a Bicentennial coin which will enjoy wide circulation. Dollars and half dollars do not meet that test so we have included the requirement for a bicentennial quarter. Quarters do enjoy wide usage even among children as the good humor will testify and we believe it will be a good harbinger of the Bicentennial message.

Mr. Chairman, I want to point out that the bill provides that these special bicentennial coins are to be put in use beginning on July 4, 1975. That is less than two years from now. When you consider the time required to select a proper design, strike dies, and to produce and distribute an initial inventory of coins, this is a very short period of time. We had hoped to have this bill passed before this, but it is imperative that it now be enacted into law as soon as possible. Any action, or inaction, on our part may cause delays which could prevent the timely issuance of these coins. I think this would be a disaster because from where I sit it does not appear that the Bicentennial Commission's proposed programs are moving ahead very vigorously and these coins may well be the one commemorative activity on which we can rely.

I mention this particularly because the bill passed by the other body contains three troublesome provisions which may also be offered here today. I hope we will vote them down if they are.

One of these calls for the minting of a gold coin, one for a silver coin, and one fixing a date certain for the private ownership of gold. The gold provisions are particularly onerous to the administration in view of the chaotic conditions in world gold markets and negotiations on monetary reform. If this legislation is sent to the White House with these provisions we run the risk of a veto and further delays in working on these Bicentennial coins.

Mr. Chairman, our Nation has its troubles as we are all too well aware. But it would be a great mistake for us to let those troubles blind us to our great accomplishments as a nation during these past 200 years.

The time has come to rededicate ourselves to those principles which have made us the leading nation in the world. I believe the Bicentennial coins will bring that message to every man, woman, and child. I urge the passage of this bill without encumbering amendments.

Mr. PATMAN. Mr. Chairman, in less than 22 months—on July 4, 1975—the Nation will enter the 200th year of its founding, launching a series of observances which we all hope will stimulate a rededication by our citizens to the principles of freedom, justice, and democracy. We have gone through an ordeal of public disenchantment and disillusionment in the processes of self-government. As a people with a proud heritage, we desperately need to renew our confidence in our ability to manage our national affairs in a manner which will once again inspire in every citizen a sense of personal participation in, and identification with, one of the greatest and noblest and most durable political experiments in the history of man.

H.R. 8789 proposes a significant contribution to the observance of the Bicentennial of the American Revolution through changes in the designs of certain of our major coins. These coins will be available to the public not only as commemorative keepsakes to be saved and treasured as family heirlooms and collector pieces but also as instruments of daily commerce, to remind each of us when we receive or spend such a coin in commerce that many brave men died, and a courageous population suffered many hardships to provide Americans with the independence on which to build the precious rights and privileges of American citizenship.

Our coins have traditionally reflected our pride of heritage in the meaning of

America—the requirement that the design on the obverse "shall be an impression emblematic of liberty, with an inscription of the word 'Liberty,' " and that the reverse bear the inscriptions "United States of America" and "E Pluribus Unum." Since 1955, all of our coins must bear the motto "In God We Trust," reflecting the spiritual foundation of our society.

So each time we receive or spend a coin of any denomination, we are reminded of the meaning of our nationhood. Under H.R. 8789, we will be similarly reminded during the Bicentennial observance, and probably for many years thereafter, of our origins as a Nation, whenever we spend or receive a dollar coin, or a half-dollar, or a quarter.

For those coins will bear on their reverse side designs which commemorate Lexington and Concord, or Valley Forge, or the Declaration of Independence or whatever themes are selected from a nationwide competition open to all citizens, not just professional sculptors or designers.

Under H.R. 8789, every dollar, half-dollar and twenty-five cent coin minted for issuance beginning July 4, 1975, until January 1, 1977, would bear the anniversary date "1776–1976", and all such coins would bear on their reverse side designs emblematic of the Bicentennial. The special coins could be minted indefinitely into the future, until the Secretary of the Treasury decides to terminate this means of observing the Bicentennial, but beginning January 1, 1977, the dates would have to be changed. In addition to the actual date of coinage, those minted for issuance in 1977 and thereafter could also bear dates emblematic of the Bicentennial.

A further provision of the bill permits the Bureau of the Mint to use any of its facilities for the production and storage of coins, until such time as the Secretary determines that the mints of the United States are adequate for the production of ample supplies of coins and medals.

The bill was unanimously approved by the Commitee on Banking and Currency.

I urge support of this legislation.

Mrs. SULLIVAN. Mr. Chairman, I have no request for time.

Mr. WYLIE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### H.R. 8789

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the reverse side of all dollars, half-dollars, and quarters minted for issuance on or after July 4, 1975, and until such time as the Secretary of the Treasury may determine shall bear a design determined by the Secretary to be emblematic of the Bicentennial of the American Revolution.

SEC. 2. All dollars, half-dollars, and quarters minted for issuance between July 4, 1975, and January 1, 1977, shall bear "1776–1976" in lieu of the date of coinage; and all dollars, half-dollars, and quarters minted thereafter until such time as the Secretary of the Treasury may determine shall bear a date emblematic of the Bicentennial in addition to the date of coinage.

### AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 2, after line 4, add the following new section and redesignate the succeeding sections accordingly:

SEC. 3. Notwithstanding any other provision of law, rule, regulation, or order, the Secretary of the Treasury is authorized and directed to coin and issue or cause to be sold, between July 4, 1975, and January 1, 1977, special gold coins commemorating the Bicentennial of the American Revolution of such design, in such denomination, in such quantities (not exceeding sixty million pieces), and containing such other metals, as he determines to be appropriate. Notwithstanding any other provision of law, coins minted under this section may be sold to and held by the public, and the Secretary of the Treasury is authorized, by regulation, to limit the number of gold pieces which any one person may purchase.

Mrs. SULLIVAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. CRANE. Mr. Chairman, there is nothing unique or original about this amendment to the bill. In fact, this language is contained in the Senate equivalent of the bill under consideration by this body. It was introduced by Senator HATFIELD and passed overwhelmingly.

The amendment simply provides an opportunity for the Treasury, on the occasion of our bicentennial of the Republic, to mint 60 million coins containing gold for distribution to American citizens under terms regulated by the Secretary of the Treasury. I believe it is an altogether fitting and appropriate type of memorial.

It seems to me that when future civilization attempts to look back on the rise and fall of the American Republic, as surely some historian will, that historian is going to be impressed by the fact that early in the years of the Republic we did indeed have magnificent gold and silver coinage.

It seems to me, at this juncture in our history, when we are talking about celebrating our 200th birthday with the minting of the cupro-nickel or so-called sandwich coins, it is a rather sad commentary on the state of the Republic in 1976.

There have been arguments advanced both by Under Secretary of the Treasury Volker as well as the distinguished chairwoman of the Subcommittee on Consumer Affairs, in opposition to this particular amendment. One of the objections that has been advanced has been the charge that abroad, at the time we are trying to secure international monetary reform, there are some who would view this action as one lending perhaps some degree of credence to the notion that we are trying to reemphasize the role of gold in our national monetary system.

It strikes me that nothing could be further from the truth, inasmuch as we are talking about 60 million coins with the quantities to be regulated by the Secretary of the Treasury for purchase by American citizens only. This is particularly so when one considers the testimony of Treasury in the hearings before our committee. They indicated that they would have to sell a coin containing 0.13 ounces of gold for $35, and this would be based on a market price of $120 an ounce. I do not believe there is the remotest possibility that anybody will misinterpret what is the intent of this body if it does accept this amendment.

Second, the charge was made by Under Secretary of the Treasury Volker that at $35 an ounce this cost would be prohibitive to the average American, who would be denied the opportunity to purchase one of these precious coins.

I would only remind the Under Secretary that we have been selling, as he well knows, savings bonds in this country—the lowest denomination being a $25 bond—and during the fiscal year 1973 alone we sold $134 million worth. Since 1941 we have sold $3.5 billion of savings bonds of a variety of denominations.

Another charge that has been advanced is that this would somehow adversely affect our balance of payments. It would not if we took this gold out of the Treasury. To mint 60 million coins at the market price for gold today we would be taking $800 million worth of gold out of the Treasury; but at the official price it would be only $336 million worth.

In addition to this we should consider again the testimony by the Treasury Department about what the percentage of gold would be in these coins. At 0.13 ounce per coin, and selling for $35 each, Treasury would reap a profit, at the market price for gold, of $1.3 billion by minting these 60 million coins. If we take the official price for gold the Treasury profit would amount to $1.7 billion.

Finally there has been a suggestion that if we incorporated this particular amendment in the present bill we would run into some kind of a deadlock or stalemate, haggling with the Senate in conference.

Mr. Chairman, that hardly seems probable inasmuch as this particular provision is already in the Senate bill, and it strikes me that this simply provides an opportunity to expedite the work of the conferees when the two bodies, the Senate and the House, get together.

### POINT OF ORDER

Mrs. SULLIVAN. Mr. Chairman, I make a point of order against the language in this amendment, because under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class.

This bill merely changes the designs of our existing coins. It does not change the content of the coin or of the denomination.

Further, Mr. Chairman, we are dealing here in this bill with currency and not commemorative coins.

Mr. Chairman, I insist upon my point of order.

The CHAIRMAN. Does the gentleman from Illinois (Mr. CRANE) wish to be heard on the point of order?

Mr. CRANE. Yes, Mr. Chairman, I would like to be heard.

It must be abundantly clear to one and all that we are not talking about coin of the realm when we talk about minting a gold coin with 0.13 ounce of gold that will be selling for $35. We are speaking exclusively about commemorative coins. If we were talking about minting coin of the realm and circulating that, we would have to sell the coins at a figure substantially half that figure of $35 which the Treasury ordered.

Second, with respect to the question of the action of this particular bill, it seems to me that there is something much more dramatic involved than overturning existing law on the subject of what shall be on the reverse or the obverse side of any coin, which at the present time regulations dictate cannot be altered except once every 25 years, and that the talk of creating another commemorative coin for distribution to those who wish to memorialize the Bicentennial is not nearly so radical a departure from the intent of this legislation and, in fact, is, indeed, germane.

Mr. WYLIE. Mr. Chairman, I rise in support of the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. WYLIE. Mr. Chairman, I believe this amendment is not germane to the bill before us and, therefore, think that a point of order on germaneness should lie. This bill does deal with coin of the realm. The entire purpose of having half dollars, dollars, and quarters minted into Bicentennial coin is because they are coins in general circulation at the present time.

Mr. Chairman, this amendment would create a whole new coin which would be a collector's item and not be coin of the realm, as the gentleman has suggested. Therefore, I do think that it changes the subject of the bill; changes the purpose of the bill, and, therefore, is not germane.

The CHAIRMAN (Mr. Matsunaga). The Chair is prepared to rule.

The Chair having listened to the arguments made by the gentlewoman from Missouri (Mrs. Sullivan), the gentleman from Illinois (Mr. Crane), and the gentleman from Ohio (Mr. Wylie) recalls that on October 15, 1969, the Chair, while presiding over the debate on H.R. 14127, had a similar amendment offered, and at that time the Chair ruled that to a bill relating to the minting and issuance of public currency, as is the case proposed by H.R. 8789, an amendment providing for minting any coin for a private purpose or for a commemorative purpose was held not to be germane.

Accordingly, the Chair is constrained to sustain the point of order.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, do I understand that all seigniorage and profits otherwise will go to the Treasury of the United States and none of it will be directed into funds for colleges or something of that kind?

Mrs. SULLIVAN. Will the gentleman yield?

Mr. GROSS. I yield.

Mrs. SULLIVAN. That is right. It will go right back to the Treasury and stay in the Treasury.

Mr. GROSS. And all of these coins will be minted out of the same scrap metal we now have in our coins. Is that correct?

Mrs. SULLIVAN. The same as our present coins. Yes, sir.

Mr. GROSS. Does the committee have any idea whether by 1976 we will be using plastic or wood for coins?

Mrs. SULLIVAN. The committee has not any idea on this, and I think we have to ask the director of the mint.

Mr. GROSS. Would she know whether we are going to have any value left in our coins, even though our quarters today actually have an intrinsic value of about 2 cents and our 50-cent pieces an intrinsic value of about the same amount of perhaps 3 cents and dollars about the same amount? Would she and—I believe it is a she—the director of the mint have any idea of what the situation will be like by 1976, in view of the fact that the value of the dollar in April was 31 cents?

Mrs. SULLIVAN. I would say that if the inflation was going at the same rate as it is going today, there may be some question. We will just have to wait until that time.

Mr. WYLIE. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. WYLIE. I do not think that is quite a proper response. The bill before us merely amends the present law so that Bicentennial coins would be made of the same material as those now in general circulation——

Mr. GROSS. The gentleman would not want scrap metal quarters in circulation, would he, in 1976 if otherwise our minting was done in plastic or by the use of wood?

Mr. WYLIE. If the gentleman will yield further, what I am suggesting is that Bicentennial coins will be manufactured of cupronickel as coins are now. We are not talking about plastic coins or coins of some other substance. The law now provides that the dollar, the half dollar, and the quarter will be made of cupronickel and all this bill does is to change the design on the back of certain coins to depict the Bicentennial.

Mr. GROSS. What I am trying to get at is whether the coins will still be scrap metal.

Mr. WYLIE. They will not be plastic or wood.

Mr. GROSS. Or whether they will have some intrinsic value.

I have not taken the opportunity to go to the dictionary, but what is the meaning of "cupro"?

Mr. WYLIE. Copper.

Mr. GROSS. I thank the gentleman.

### AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Crane: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:

Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

(b) The Secretary of the Treasury shall mint and issue, in uncirculated proof form, the above-specified coin in quantities and prices as he shall determine to be appropriate.

Mrs. SULLIVAN. Mr. Chairman, I reserve a point of order against this amendment also.

The CHAIRMAN. The gentlewoman from Missouri reserves a point of order on the amendment.

Mr. CRANE. Mr. Chairman, I think that the particular amendment in question meets all of the objections that were raised under the point of order on the question of minting Bicentennial gold coins because the fact is we are already minting dollar denominations in coins of cupro-nickel.

Mr. WYLIE. Mr. Chairman, would the gentleman yield?

Mr. CRANE. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding, and I would ask the gentleman from Illinois if we could have a copy of the amendment since we have not seen it.

Mr. CRANE. Mr. Chairman, the gentleman from Idaho (Mr. Symms) can provide the Members of the House with copies of the amendment.

Mr. WYLIE. I thank the gentleman.

Mr. CRANE. Mr. Chairman, getting back to my point, we are already minting $1 coins. All this particular amendment does is follow the precedent established with the minting of the Eisenhower silver dollars, which contained 40 percent silver. That is all this particular amendment would do with regard to the Bicentennial dollar coin proposed in the bill.

As I say, Mr. Chairman, I think this amendment meets all of the objections that were provided by both sides of the aisle with respect to gold coins because under this Bicentennial Coinage Act indeed we are going to continue to mint dollar coins, all we are going to do is to change the reverse side of the coin and put an emblem there to celebrate our Bicentennial.

All this amendment would do in addition to that is to give latitude to the Secretary of the Treasury to create in at least this denomination a coin of a more exquisite nature, that is, which is made up of 40 percent silver.

I would strongly urge my colleagues in this body, in the best tradition of minting the Eisenhower silver dollars, to accept this proposal as a fitting way to celebrate our Nation's 200th birthday.

Mr. Chairman, I would be very happy to yield some time to my good friend, the gentlemen from Idaho (Mr. Symms), inasmuch as I in fact stole the gentleman's amendment here. The gentleman is from a State that I am sure would particularly appreciate the minting of a coin containing more silver. And I take this time to apologize to the gentleman from Idaho for introducing the gentleman's amendment while the gentleman was out of the Chamber.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from Illinois for yielding me the time, and I would also like to speak on the point of order.

The CHAIRMAN. The Chair will state to the gentleman from Idaho that comments on the point of order that has been raised are not in order at this point.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from Illinois (Mr. CRANE) for introducing the amendment which is similar to an amendment which I had brought to the floor today, and had intended to introduce. I rise in support of the amendment offered by the gentleman from Illinois.

I think that the anniversary we are to celebrate, the 200th anniversary of the freedom of this country, would not be properly celebrated if we have more of these counterfeit coins, which are being minted now at the mint. I think this would only be cruel treatment to the young people in the future of this country if they are not allowed to have some good, precious-metal. These coins would have a third of an ounce of silver in them at the price that the Treasury acquired that silver, which would work out to be an average of 50 percent from the cost the Treasury has minted, disregarding the current price of silver, which could actually return directly to the Treasury money that the American people would spend to have hold of something good, some good money instead of the counterfeit money that we have been printing down there on 14th Street for the past few years. Our currency and coins are cheap sad commentary to the principle of freedom on which our country was founded.

I would like to say to the gentleman from Illinois that this would be the first money, except for the Eisenhower and Kennedy dollars and half dollars, dollars that are made of silver, that this country has minted for quite some time, and that is not just pure counterfeit.

I think if the gentleman (Mr. CRANE) and I were to go to his basement with a printing press and print paper that the Members of this Chamber could not tell from the kind that they print down on 14th Street, we would find that we would be arrested for counterfeiting; but the Government prints those down at 14th Street and it is called money—because of the legal tender laws. This would give us an opportunity to put some money in circulation, which, of course, would be hoarded by the people, because bad money, as Gresham's law points out, always drives good money underground—as long as we have a Government that declares valueless money the legal tender. I think still, even though hoarded, it would be saved by the American people, and this would not be the rich and wealthy but the person on the street who would like to have the opportunity to celebrate this 200th anniversary and have a good silver dollar, and have the old dollar be as sound as the dollar it once was back in the days when we used to put silver in money, and meant it when we said "In God we trust," I think it would be a real tribute to this country, particularly when the silver available for this is already in the Treasury. It is in the mint, and would be a real service to the American public to put it in divisible form of coins and place it in their hands—so when the day of reckoning does come when we have to carry bushel baskets of fiat money to buy a mere loaf of bread, thanks to irresponsible politicians inflationary, our money supply, thereby diluting the value of our money.

The other argument that there is a shortage of silver is pure poppycock—we have lots and lots of silver yet to be mined in my State and we will be glad to provide it as the market calls for it.

The CHAIRMAN. The time of the gentleman has expired.

### POINT OF ORDER

Mrs. SULLIVAN. Mr. Chairman, I insist on my point of order.

Mr. Chairman, I make the same point of order as I did previously.

Mr. Chairman, I repeat what I said on the previous amendment. Under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class.

The CHAIRMAN. Does the gentleman from Illinois wish to speak on the point of order?

Mr. CRANE. Yes, Mr. Chairman, I should like to.

Mr. Chairman, it strikes me that the gentlewoman's objections are not consistent. In the last one we were talking about striking an altogether new coin and minting gold coins. Under the provisions of this particular act we are planning to continue to mint a dollar denomination coin. All that is proposed is changing in the present legislation the imprint on the reverse side of that coin. What this particular amendment does is give the Secretary of the Treasury further instructions with respect to the content of that coin, stipulating that approximately 40 percent of this shall be made up of silver instead of the percentage of composition of copper and nickel in the present coinage.

The CHAIRMAN. Does the gentleman from Ohio wish to be heard on the point of order?

Mr. WYLIE. Mr. Chairman, I should like to be heard on the point of order.

I support the point of order made by the gentlewoman from Missouri. Again, the Eisenhower proof set dollar was not minted as coin of the realm. These 40-percent silver dollars were minted to be sold as collectors' items, as proof coins. As the gentleman in the well knows, they are being sold for $10 apiece. They are not in general circulation. They are not being minted for general distribution.

The bill before us specifically provides for the minting of general circulation coin of the realm.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. CRANE. I am not suggesting, in response to the objection the gentleman raises, that these coins not be distributed as coin of the realm. Instead, they will be minted with only 40 percent of silver content. The Treasury can still make a profit by selling those at $1. So these are coin of the realm.

Mr. WYLIE. On that point the gentleman's amendment says and I read:

> The Secretary of the Treasury shall mint and issue, in uncirculated proof form, the above-specified coin in quantities and prices as he shall determine to be appropriate.

The language in the gentleman's amendment specifically says that the coin shall be in proof form.

Mr. SYMMS. Mr. Chairman, *will the* gentleman yield?

Mr. WYLIE. I yield to the gentleman from Idaho.

Mr. SYMMS. Will the gentleman from Ohio withdraw the point of order on that point if we strike section (b) from this amendment? Section (a) of this amendment is strictly coin of the realm.

Mr. WYLIE. No; because I do not think a silver coin provision would be germane to this bill in any event.

Mr. SYMMS. Mr. Chairman, I should like to speak to the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho on the point of order.

Mr. SYMMS. I thank the Chairman.

Section 3 in this amendment is in two sections, section (a), and section (b).

There certainly should be no objection to section (a) of this amendment because it deals strictly in coin of the realm, and I would argue the point of order that section (b) would be open to amendment and we could scratch the section (b), if it would suit the committee, in debate of the bill.

Mr. WYLIE. If the gentleman will yield, I did not understand him entirely.

Mr. SYMMS. On the amendment, section (a) says:

> Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, . . .

That is coin of the realm. Then section (b) provides:

> The Secretary of the Treasury shall mint and issue, in uncirculated proof form, the above-specified coin in quantities and prices as he shall determine to be appropriate.

So there are two sections in here and we would be able to strike section (b) if that would help.

Mr. WYLIE. I think there is a point of order pending on the floor at this time, so I do not think it would be appropriate to talk about striking section (b) or any part of the amendment.

The CHAIRMAN (Mr. MATSUNAGA). The Chair is prepared to rule.

The Chair, after listening to the arguments on both sides, is constrained to sustain the point of order for the reason that the bill now pending provides for a new coinage design that would be emblematic of the Bicentennial of the American Revolution and it applies to dollars, half-dollars, and quarters. The amendment goes to the metal content of the dollar coin, a matter not within the preview of the bill, coin, and the Chair therefore is constrained to sustain the point of order.

### AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SYMMS: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:
>
> SEC. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined

by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

### POINT OF ORDER

Mrs. **SULLIVAN**. Mr. Chairman, I make a point of order against this amendment. It goes to the metal content of the coin and not the design of the coin.

The **CHAIRMAN**. The gentlewoman raises a point of order.

Does the gentleman from Idaho wish to speak on the point of order?

Mr. **SYMMS**. Mr. Chairman, I would say on the point of order, it is coin of the realm, and I would be willing to hear the ruling of the Chair.

The **CHAIRMAN** (Mr. MATSUNAGA). The Chair is prepared to rule.

The Chair's previous ruling applies to the point of order against the amendment, that this amendment goes to the metal content of the coin whereas the bill pending before the committee pertains only to the design and date of the coin proposed to be minted. The Chair therefore sustains the point of order.

The **CHAIRMAN**. The Clerk will read.

The Clerk read as follows:

SEC. 3. Until the Secretary of the Treasury determines that the mints of the United States are adequate for the production of ample supplies of coins and medals, any facility of the Bureau of the Mint may be used for the manufacture and storage of medals and coins.

The **CHAIRMAN**. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having resumed the chair, Mr. MATSUNAGA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8789) to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes pursuant to House Resolution 539, he reported the bill back to the House.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **WYLIE**. Mr. Speaker, I object to the vote on the ground that a quourm is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 4, not voting 34, as follows:

[Roll No. 451]

YEAS—396

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—4

Rangel
Waldie
Wiggins
Wilson, Charles H., Calif.

NOT VOTING—34

Anderson, Ill.
Ashbrook
Barrett
Bolling
Burke, Calif.
Chisholm
Clark
Clawson, Del
Collier
Davis, S.C.
Delaney
Guyer
Hanrahan
Hébert
Kemp
Landrum
Lujan
McEwen
McSpadden
Mathis, Ga.
Mills, Ark.
Mitchell, Md.
Mollohan
O'Neill
Powell, Ohio
Reid
Rooney, N.Y.
Runnels
St Germain
Sandman
Shoup
Stratton
Teague, Tex.
Ullman

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Collier.
Mr. St Germain with Mr. Sandman.
Mr. Rooney of New York with Mr. Lujan.
Mrs. Burke of California with Mrs. Chisholm.
Mr. Davis of South Carolina with Mr. McEwen.
Mr. McSpadden with Mr. Ashbrook.
Mr. Mills of Arkansas with Mr. Kemp.
Mr. Clark with Mr. Guyer.
Mr. Landrum with Mr. Delaney.
Mr. Stratton with Mr. Mollohan.
Mr. Mathis of Georgia with Mr. Del Clawson.
Mr. Hébert with Mr. Powell of Ohio.
Mr. Barrett with Mr. Mitchell of Maryland.
Mr. Reid with Mr. Shoup.
Mr. Teague of Texas with Mr. Ullman.
Mr. Anderson of Illinois with Mr. Runnels.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. Pursuant to the rule, the Committee on Banking and Currency is discharged from further consideration of the bill (S. 1141) to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes.

The Clerk read the title of the Senate bill.

### MOTION OFFERED BY MRS. SULLIVAN

Mrs. SULLIVAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mrs. SULLIVAN moves to strike out all after the enacting clause of the Senate bill S. 1141 and insert in lieu thereof the provisions contained in H.R. 8789 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8789) was laid on the table.

## GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

## PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO FILE A REPORT ON S. 1914, BOARD FOR INTERNATIONAL BROADCASTING ACT OF 1973, UNTIL MIDNIGHT THURSDAY

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs have until midnight Thursday, September 13, to file a report on S. 1914, Board for International Broadcasting Act of 1973.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## PERSONAL STATEMENT

(Mr. DULSKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DULSKI. Mr. Speaker, I was unavoidably detained in my district September 10, 1973, and so missed two rollcall votes. Had I been present, I would have voted "yea" on both roll No. 442 and roll No. 443.

## EMERGENCY MEDICAL SERVICES

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, when I was elected to office, I determined that I would try not to vote for new programs or the expansion of existing programs which would place a heavier tax burden on the taxpayers by causing either increased taxes or additional deficit spending. I am, therefore, reluctant to vote for any legislation which would cause an increase in Federal spending. However, there is in the emergency medical services bill a provision for the continuation of the Public Health Service hospital in Norfolk, which serves 90,000 inpatient and outpatient beneficiaries who are entitled by statute to such treatment. I have sought both from local medical authorities and from the Department of Health, Education, and Welfare information to justify either the continued operation or the closure of that hospital.

I had a meeting with officials of the Department of Health, Education, and Welfare who, although explaining that they felt that the services could be provided in other local hospitals, did not document their beliefs, and their arguments were unconvincing. I, therefore, sought additional information from the Tidewater Regional Health Planning Council. That organization was paid $42,000 by the Department of Health, Education, and Welfare to study the impact of the closure of the Public Health Service hospital on the total health care delivery service in the Tidewater area. I include in the RECORD a copy of the telegram which I received from Judge E. Preston Grissom, president of the Tidewater Regional Health Planning Council, in response to my inquiry:

> All attempts to identify alternative facilities and physician manpower resources to provide adequate care for primary and secondary PHS beneficiaries at this time have failed. Initially identified sponsors to convert the US PHS hospital to community use have since withdrawn their proposals. Formal contact with area medical societies in an attempt to secure physicians willing and able to contract for the care of PHS beneficiaries was to no avail. Formal contact with hospitals in the Tidewater area and as far west as Richmond, Virginia fail to identify and obligate in patient and out patient facilities resources in quantity necessary to adequately care for PHS beneficiaries at this time. In the face of an increase of military population being relocated to the Tidewater area the Navy's medical manpower is down 36 percent.
>
> It is the formal position of the Tidewater Regional Health Planning Council that area hospitals do not at this time possess the capabilities to provide adequate in patient and out patient care for PHS beneficiaries.
>
> Based upon an indepth study conducted by TRHPC and paid for by the DHEW, the Council concluded that the closure of the US PHS hospital would cause undue and unnecessary hardship upon the health care delivery system in Tidewater Virginia.
>
> It may be helpful if you would share this information with other Virginia congressmen.
>
> E. PRESTON GRISSOM,
> *President, Tidewater Regional Health Planning Council.*

Since that time I have had a telephone call from the president of the county medical association which represents all of the doctors in the Norfolk-Portsmouth-Chesapeake area which includes the Tidewater area in the Fourth and Second Districts of Virginia. He concurred in every statement made in the telegram which I received from the Tidewater Regional Health Planning Council.

I also sought information from the Norfolk Area Medical Center Authority which is responsible for the new medical college operating in the city of Norfolk, Va. I quote from the letter received from the chairman of that authority:

> Although the Norfolk Area Medical Center Authority has never made a study of the impact of the closing of the United States Public Heath Service Hospital on this area, because such a study is the function of the Planning Council and not of the Authority, I, as an individual, share the general view of the community that the abrupt closing of the hospital without first making adequate provision for patients now being cared for therein would be disastrous insofar as the delivery of health care in the Tidewater area of Virginia and eastern North Carolina is concerned and would cause severe dislocations in the health delivery systems presently available to the population of this area.

All three of these organizations confirm the findings that the hospital should not be closed. The simple fact is that, according to the information furnished me by the organization who made the study and the other competent medical organizations in the area, if that hospital is closed, either the average daily patients of 127 who occupy that hospital and the 90,000 outpatients who use it will displace civilians currently using the civilian hospitals or they will go untreated.

I cannot, therefore, in good conscience vote to close that hospital.

## SUPPORT OF THE NATIONAL ALLIANCE OF POSTAL AND FEDERAL EMPLOYEES

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, I would like to bring to your attention a legal dispute now pending between the National Labor Relations Board and the U.S. Postal Service. The U.S. Postal Service is being charged with unfair labor practices as those practices are defined in section 8(1) of the National Labor Relations Act, as amended.

While the Postal Service bureaucracy has consistently turned a deaf ear to the requests of black postal workers, this latest case is a result of their present refusal to acknowledge the representative validity of the National Alliance of Postal and Federal Employees, a black controlled union.

The Postal Reorganization Act passed by Congress in 1970 has had both positive and negative ramifications. However, in this case it is being used as a means of further oppressing black employees. This is a situation which we can not tolerate. We can not allow legislation which was designed to expedite postal service in this country to be used instead to impede the Nation's social progress.

Robert L. White, president of the NAPFE, has consistently stressed that his union does not seek favoritism for minority employees. They seek only fair and equal treatment as a body representing thousands of employees. However, they have received anything but fair treatment. The history of their battle for acknowledged legitimacy as a bargaining power is a history of the Postal Service's collusion with the craft unions it seeks to nurture.

Why would the Postal Service, which

in the past has boasted of its degree of compliance with the Equal Opportunity Act, suddenly run scared when faced by a legitimate claim by a predominantly black union? The answer, I feel, lies in the fact that in recent years the Postal Service has, at best, halted its progress and, at worst, has done an about face in dealing with social programs. Take, for example, the report released by Postmaster General Klassen which announces the appointment of 7,585 postmasters since November 1970. While the Postal Service has been unable to provide us with the number of minority group employees which were appointed, we know for a fact that there is not a single black postmaster in any major city in the country. Figures like these naturally make the Postal Service uncomfortable about exposing their labor practices to objective scrutiny.

We are facing a time in which collusion within Government agencies, designed to cover up shady practices within those agencies, threatens the credibility of our entire governmental structure. The collusion between the Postal Service and the craft unions, aimed at filtering out the voices of minority employees, contributes in just that manner. In accordance with our already acknowledged priority of seeking out and eliminating those "deals" which counteract our representative function in Government I urge you to support the claims of the National Alliance of Postal and Federal Employees.

There is a second issue which I would bring before you today and that is the importance of credit unions to the black and poor community. Such unions represent one of the major means through which disadvantaged groups can move towards economic independence.

In November of 1971 the National Alliance of Postal and Federal Employees, representing as it does approximately 40,000 postal employees, decided to apply for a credit union charter. At that time NAPFE was assured by the National Credit Union Administration investigator assigned to the application, that a charter "would be routinely issued." However, on April 13, 1972, NAPFE received a curt and dubious rejection of its application. Appeals of that decision have proved as fruitless as the original effort. Since applications identical to NAPFE's have been, and are being, accepted—the latest being the United Mine Workers—I can only conclude that we are facing the same prejudices which are operating in the issue of representation. Racial biases and bureaucratic "malaise" are leaving thousands of postal employees with virtually nowhere to turn, or forcing them to turn to loan sharks and other exploitative devices. The action of Congress in the past 8 years have indicated a desire to combat this situation. To back down now that the battle has shifted from the local scene to the national, would serve to invalidate the credibility of our actions in the future.

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## SAFEGUARD REQUIREMENTS FOR COMPUTER INFORMATION

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GOLDWATER. Mr. Speaker, we are all aware of the great assistance rendered society by the computers of our technological age. Without them, many of the activities we take for granted would become slow and cumbersome. Without computers, many of the great scientific and medical events of the past years would not have happened.

These same helpful computers, however, can be detrimental to individuals and society as a whole when they are used to invade our privacy and allowed to encroach upon our lives as free citizens.

To remedy any detrimental effect a computer or data bank may have, I recently introduced legislation that would provide for safeguard requirements in the area of computer information. Under my proposal, any individual would have the right to know what information is being recorded and maintained about him, and to obtain a copy on demand. He could then challenge the pertinence, accuracy or timeliness of the information, and find out who has been given access to the information. I would urge my colleagues to give this legislation serious consideration, as it affects all of us.

Mr. Speaker, at this point in my remarks, I would like to include a copy of the bill I have introduced for the benefit of our colleagues who have an interest in this vital matter:

### H.R. 10042

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Code of Fair Information Practices of 1973".

### FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds—

(1) that an individual's personal privacy is directly affected by the kind of disclosure and use made of identifiable information about him in a record;

(2) that a record containing information about an individual in identifiable form must be governed by procedures that afford the individual a right to participate in deciding what the content of the record will be, and what disclosure and use will be made of the identifiable information in it;

(3) that any recording, disclosure, and use of identifiable personal information by an organization not governed by such procedures must be proscribed as an unfair information practice unless such recording, disclosure, or use is specifically authorized by Federal statute.

(b) The purpose of this Act is to insure safeguards for personal privacy from recordkeeping organizations by adherence to the following principles of information practice:

(1) There must be no personal data recordkeeping systems whose very existence is secret.

(2) There must be a way for an individual to find out what information about him is in a record and how it is used.

(3) There must be a way for an individual to prevent information about him obtained for one purpose from being used or made available for other purposes without his consent.

(4) There must be a way for an individual to correct or amend a record of identifiable information about him.

(5) Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take reasonable precautions to prevent misuse of the data.

(6) Deviations from these principles should be permitted only if it is clear that some significant interest of the individual data subject will be served or if some paramount societal interest can be clearly demonstrated. No deviation should be permitted except as specifically provided by statute.

### DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "automated personal data system" means a collection of records containing personal data that can be associated with identifiable individuals, and that are stored, in whole or in part, in computer-accessible files.

(b) The term "data that can be associated with identifiable individuals" means that by some specific identification, such as a name or social security number, or because they include personal characteristics, it is possible to identify an individual with reasonable certainty.

(c) The term "personal data" includes all data that describes anything about an individual, such as identifying characteristics, measurements, test scores; that evidence things done by or to an individual such as records of financial transactions, medical treatment, or other services; or that afford a clear basis for inferring personal characteristics or things done by or to an individual, such as the mere record of his presence in a place, attendance at a meeting, or admission to some type of service institution.

(d) The term "computer accessible" means recorded on magnetic tape, magnetic disk, magnetic drum, punched card, or optically scannable paper or film.

(e) The term "data system" includes all processing operations, from initial collection of data through all uses of the data, including outputs from the system. Data recorded on questionnaire, or stored in microfilm archives, are considered part of a data system, even when the computer-accessible files themselves do not contain identifying information.

(f) The term "organization" means any Federal agency; the courts of the United States; the government of the District of Columbia; any public or private corporation, partnership, agency, or association which operates an administrative automated personal data system, or a statistical-reporting and research automated personal data system; and which is supported in whole or in part by Federal funds, Federal systems, or federally supported systems, or which directly or indirectly makes use of any means or instruments of transportation or communication in interstate commerce, or of the mails, or which carries or causes to be carried in the mails or interstate commerce, or by any other means or instruments of transportation any personal data; and any organization which maintains a record of individually identifiable personal data which it does not maintain as part of an administrative or as a statistical-reporting and research automated personal data system and which transfers such data to one of the above organizations in interstate commerce.

(g) The term "administrative personal data system" means one that maintains data on individuals for the purpose of affecting them directly as individuals; and for making determinations relating to their qualifications, character, rights, opportunities, or benefits.

(h) The term "statistical-reporting or research system" means one that maintains data about individuals exclusively for statistical reporting or research and is not intended to be used to affect any individual directly.

(i) The term "unfair personal information practice" means a failure to comply with any safeguard requirements of this Act.

(j) The term "data subject" means the individual whose name or identity is added to or maintained on an automated personal data system or a statistical-reporting or research system.

### SAFEGUARD REQUIREMENTS FOR ADMINISTRATIVE PERSONAL DATA SYSTEMS

SEC. 4. (a) GENERAL REQUIREMENTS.—(1) Any organization maintaining a record of individually identifiable personal data, which it does not maintain as part of an administrative automated personal data system, shall make no transfer of any such data to another organization, without the prior informed consent of the individual to whom the data pertain, if, as a consequence of the transfer, such data will become part of an administrative automated personal data system that is not subject to these safeguard requirements.

(2) Any organization maintaining an administrative automated personal data system shall—

(A) identify one person immediately responsible for the system, and make any other organizational arrangements that are necessary to assure continuing attention to the fulfillment of these safeguard requirements;

(B) take affirmative action to inform each of its employees having any responsibility or function in the design, development, operation, or maintenance of the system, or the use of any data contained therein, about all these safeguard requirements and all the rules and procedures of the organization designed to assure compliance with them, and the nature of such action shall be supplied upon the reasonable request of a data subject;

(C) specify penalties to be applied to any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unfair personal information practice;

(D) take reasonable precautions to protect data in the system from any anticipated threats or hazards to the security of the system;

(E) make no transfer of individually identifiable personal data to another system without (i) specifying requirements for security of the data, including limitations on access thereto, and (ii) determining that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed—except in instances when an individual specifically requests that data about him be transferred to another system or organization;

(F) maintain a complete and accurate record of every access to and use made of any data in the system, including the identity of all persons and organizations to which access has been given;

(G) maintain data in the system with which such accuracy, completeness, timeliness, and pertinence as is necessary to assure accuracy and fairness in any determination relating to an individual's qualifications, character, rights, opportunities, or benefits, that may be made on the basis of such data.

(b) Any organization maintaining an administrative automated personal data system that publicly disseminates statistical reports or research findings based on personal data drawn from the system, or from systems of other organizations shall—

(1) make such data publicly available for independent analysis, on reasonable terms; and

(2) take reasonable precautions to assure that no data made available for independent analysis will be used in a way that might reasonably be expected to prejudice judgments about any individual data subject's character, qualifications, rights, opportunities, or benefits.

(c) PUBLIC NOTICE REQUIREMENT.—Any organization maintaining an administrative automated personal data system shall give public notice of the existence and character of its system once each year, in the case of Federal organizations in the Federal Register, or in the case of other organizations, in a media likely to bring attention to the evidence of the records to the data subject. Any organization maintaining more than one system shall publish such annual notices for all its systems simultaneously. Any organization proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall specify:

(1) The name of the system.

(2) The nature and purpose(s) of the system.

(3) The categories and number of persons on whom data are (to be) maintained.

(4) The categories of data (to be) maintained, indicating which categories (to be) stored in computer-accessible files.

(5) The organization's policies and practices regarding data storage, duration of retention of data, and disposal thereof.

(6) The categories of data sources.

(7) A description of all types of use (to be) made of data, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them.

(8) The procedures whereby an individual can (A) be informed if he is the subject of data in the systems;

(9) The procedures whereby an individual, group or organization can gain access to data used for statistical reporting or research in order to subject such data to independent analysis.

(10) The title, name, and address of the person immediately responsible for the system.

(11) A description of the penalties to be applied to any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings attention to any evidence of unfair information practices.

(d) RIGHTS OF INDIVIDUAL DATA SUBJECTS.—Any organization maintaining an administrative automated personal data system shall—

(1) inform an individual asked to supply personal data for the system whether he is legally required, or may refuse, to supply the data requested, and also of any specific consequence for him, which are known to the organization, of providing or not providing such data;

(2) upon request and proper identification of any data subject, clearly and accurately disclose to the data subject, in a form comprehensible to him—

(A) all data about the data subject;

(B) the sources of the information;

(C) the recipients of any transfer, report, dissemination, or use of data about the data subject, including the identity of all persons and organizations involved and their relationship to the system;

(3) comply with the following minimum conditions of disclosure to data subjects—

(A) an organization shall make the disclosures required under subsection 4(d)(2) during normal business hours;

(B) the disclosures required under section 4(d)(2) shall be made to the data subject (i) in person if he appears in person and furnishes proper identification; the data subject is entitled to personal, visual inspection of data about him; or (ii) by telephone if he has made a written request, with proper identification; telephone disclosures are to be made without charge to the data subject; and (iii) by mail if he has made a written request, with proper identification; and (iv) by providing a copy of his file, if requested, at a charge not to exceed 10 cents per page;

(C) the data subject shall be permitted to be accompanied by one person of his choosing, who shall furnish reasonable identification. An organization may require the data subject to furnish a written statement granting permission to the organization to discuss the data subject's file in such person's presence;

(D) subsection 4(d)(2) disclosure, shall not apply to subject files that are (i) directly related to international relations or international subversive activities, or (ii) active criminal investigatory data, except active criminal investigatory data which has been maintained for a period longer than reasonably necessary to bring indictment, information, or to commence prosecution.

(4) assure that no use of individually identifiable data is made that is not within the stated purposes of the system as reasonably understood by the individual, unless, in the case of each use of such data, the informed consent of the individual has been obtained in writing;

(5) assure that no data about an individual is made available from the system in response to a demand for data made by means of compulsory legal process, unless the individual to whom the data pertain has been notified of the demand; and

(6) If the completeness, accuracy, pertinence, timeliness, or necessity for retaining the data in the system is disputed by the data subject and the dispute is directly conveyed to the organization by the data subject, the following minimum procedures shall be followed:

(A) The organization shall within a reasonable period of time investigate and record the current status of that data unless it has reasonable grounds to believe that the dispute by the data subject is frivolous or irrelevant.

(B) If, after such investigation, such data is found to be inaccurate or can no longer be verified, the organization shall promptly delete such data.

(C) The presence of contradictory information in the data subject's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(D) If the investigation does not resolve the dispute, the data subject may file a brief statement setting forth the nature of the dispute; the organization may limit such statements to not more than one hundred words if the organization provides the data subject with assistance in writing a clear summary of the dispute.

(E) Whenever a statement of a dispute is filed, unless there are reasonable grounds to believe that it is frivolous or irrelevant, the organization shall, in any subsequent transfer, report, or dissemination of the data in question, clearly note that it is disputed by the data subject and provide either the data subject's statement or a clear and accurate summary thereof.

(F) Following any deletion of data which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed data, the organization shall, at the request of the data subject, furnish notification that the item has been deleted, or a statement, or summary, which contains the deleted or disputed information to any person specifically designated by the data subject.

(i) The organization shall clearly and conspicuously disclose to the data subject his rights to make such a request.

### SAFEGUARD REQUIREMENTS FOR STATISTICAL-REPORTING AND RESEARCH SYSTEMS

SEC. 5. (a) GENERAL REQUIREMENTS.—(1) Any organization maintaining a record of personal data, which it does not maintain as part of an automated personal data system used exclusively for statistical-reporting or research, shall make no transfer of any such data to another organization without prior informed consent of the individual to whom the data pertain, if, as a consequence of the transfer, such data will become part of an automated personal data system that is not subject to these safeguard requirements or the safeguard requirements for administrative personal data systems.

(2) Any organization maintaining an automated personal data system used exclusively for statistical-reporting or research shall—

(A) identify one person immediately responsible for the system, and make any other organizational arrangements that are necessary to assure continuing attention to the fulfillment of the safeguard requirements;

(B) take affirmative action to inform each of its employees having any responsibility or function in the design, development, operation, or maintenance of the system, or the use of any data contained therein, about all the safeguard requirements and all the rules and procedures of the organization designed to assure compliance with them;

(C) specify penalties to be applied to any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unfair personal information practice;

(D) take reasonable precautions to protect data in the system from any anticipated threats or hazards to the security of the system;

(E) make no transfer of individually identifiable personal data to another system without (i) specifying requirements for security of the data, including limitations on access thereto, and (ii) determining that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed—except in instances when each of the individuals about whom data is to be transferred has given his prior informed consent to the transfer; and

(F) have the capacity to make fully documented data readily available for independent analysis.

(b) Public Notice Requirement.—Any organization maintaining an automated personal data system used exclusively for statistical-reporting or research shall give public notice of the existence and character of its system once each year, in the case of Federal organizations in the Federal Register, or in the case of other organizations, in a media likely to bring attention to the existence of the records to the data subject. Any organization maintaining more than one such system shall publish annual notices for all its systems simultaneously. Any organization proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall specify—

(1) the name of the system;

(2) the nature and purpose(s) of the system;

(3) the categories and number of persons on whom data are (to be) maintained;

(4) the categories of data (to be) maintained, indicating which categories are (to be) stored in computer-accessible files;

(5) the organization's policies and practices regarding data storage, duration of retention of data, and disposal thereof;

(6) the categories of data sources;

(7) a description of all types of use (to be) made of data, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them;

(8) the procedures whereby an individual, group, or organization can gain access to data for independent analysis;

(9) the title, name, and address of the person immediately responsible for the system;

(10) a statement of the system's provisions for data confidentiality and the legal basis for them.

(c) Rights of Individual Data Subjects.—Any organization maintaining an automated personal data system used exclusively for statistical-reporting or research shall—

(1) inform an individual asked to supply personal data for the system whether he is legally required, or may refuse, to supply the data requested, and also of any specific consequences for him, which are known to the organization, of providing or not providing such data;

(2) assure that no use of individually identifiable data is made that is not within the stated purposes of the system as reasonably understood by the individual, unless, in the case of each use of such data, the informed consent of the individual has been explicitly obtained;

(3) assure that no data about an individual and made available from the system in response to a demand for data made by means of compulsory legal process, unless the individual to whom the data pertain—

(A) has been notified of the demand, and

(B) has been afforded full access to the data before they are made available in response to the demand.

### ENFORCEMENT

Sec. 6. (a) Injunctions for Compliance.—Whenever it appears to the Attorney General of the United States that any organization has engaged, is engaged, or is about to engage in any acts or practices constituting an unfair personal information practice under this Code, he may by his own discretion bring an action, in the district court of the United States or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and showing there is or is about to be such engagement, a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Attorney General any such court may also issue injunctions commanding any organization to comply with any section of the Code. The court may grant as relief, as it deems appropriate, any permanent, or temporary injunction, temporary restraining order, or other order, at the prayer of a data subject or class of data subjects.

(b) Civil Liability for Unfair Personal Information Practice.—Any organization which commits an unfair personal information practice shall be liable in an amount equal to the sum of—

(1) any actual damages sustained by the data subject(s) as a result of the unfair practice, but not less than liquidated damages of $10,000; and

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(c) Criminal Liability for Unfair Personal Information Practices by Federal Officers or Employees.—Any officer or employee of any Federal agency, the courts of the United States, the governments of the territories or possessions of the United States, or the government of the District of Columbia who willingly or knowingly permits or causes to occur an unfair personal information practice shall be fined not more than $10,000 or imprisoned not more than one year or, suspended from employment without pay for not more than one year, or all three.

(d) Jurisdiction of Courts; Limitations of Actions.—An action to enforce any liability created under this Code may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court or competent jurisdiction, within two years from the date on which the liability arises, except where a defendant has materially and willfully failed to comply with the safeguards under this Code, the action may be brought at any time within two years after discovery by the individual data subject.

### SEVERABILITY

Sec. 7. If any provision of this Code or the application thereof to any particular circumstance or situation is held invalid, the remainder of this Code, or the application of such provision to any other circumstance or situation shall not be affected thereby.

### EFFECTIVE DATE

Sec. 8. This Code shall take effect one year after the date of its enactment.

### STATE LAWS

Sec. 9. (a) No State law in effect on the date of passage of this Act or which may become effective thereafter shall be superseded by any provision of this Code except insofar as such State law is in conflict with this Code.

(b) The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for more stringent safeguard standards than do the provisions of this Code shall not thereby be construed or held to be in conflict with this Code. The provisions of any State law or regulation in effect upon the operative date of this Act, or which become effective thereafter, which provide for safeguard standards for which no provision is contained in this Code shall not be held to be in conflict with this Code.

### FEDERAL AGENCY REGULATIONS

Sec. 10. (a) Each Federal agency shall, with the advice of the Attorney General of the United States pursuant to the Administrative Procedure Act, promulgate, adopt, and from time to time amend and administer comprehensive rules and regulations necessary to further the purposes of this Act for the internal activities of such agency and in a manner consistent with the safeguards specified herein.

(b) Notwithstanding any statute or regulation to the contrary, rules and regulations issued hereunder shall govern and control the collection, security, and dissemination of all automated personal data by each Federal agency.

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## A HEARTY "WELL DONE" TO THE FOLKS AT LTV AEROSPACE

(Mr. MILFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, I rise to commend the folks of LTV Aerospace Corp. in my district for their pride of craftsmanship which has resulted in a superior product. These folks have long taken great pride in their crafts for over half a century, yet it is hard for them to crow too much at their own accomplishments so I thought I might do a little of that for them.

I would like to take a few minutes of time and add a few points about LTV Aerospace product performance that not enough people are aware of. First, over the last 25 years on all major systems contracts, LTV has averaged within 4 percent of contract target costs Mr. Speaker, in this day of massive cost-overruns, I would like to simply repeat that statement—LTV has averaged within 4 percent of contract target cost—which is a figure well below contract ceilings. Secondly, LTV has delivered its products on time; and thirdly, they have done their job.

Mr. Speaker, I would like to read into the record the following article which emphasizes very dramatically that the LTV product does its job, and, once again, give a hearty "well done" to the folks at LTV Aerospace:

## How the A-7D Rewrote the Book in SEA

(By John L. Frisbee)

NOTE—In the closing weeks of the Vietnam War USAF sent the 354th TFW and its A-7Ds to Southeast Asia. During those ten weeks, the Little Hummer flew some 4,000 sorties—interdiction, close support, SAR, escort, Linebacker II. The wing lost only two aircraft in combat ops. Its accuracy with iron bombs set a new standard for tac fighters.)

'When our flight of three A-7s got to the target area in Laos, three F-4s were working it with laser-guided bombs. They were going after a bridge and had damaged it extensively before their fuel ran low and they had to leave.

"Then the FAC put us on the bridge. One of our pilots was a first lieutenant on his second mission in SEA—the second time he had ever dropped bombs in combat. We destroyed that bridge with three bombs.

"Next, the FAC gave us a bypass bridge about 100 meters down the river. We dropped it with two bombs and went over to a ferry crossing on another river. With three bombs, we destroyed the ferry cable, the dock, and the ferry.

" 'Okay,' the FAC said, 'I've got only one more bridge.' We went down to that bridge and destroyed it with three bombs. Fantastic!"

The A-7D mission that Capt. Buddy Sizemore—a pilot of the 354th Tac Fighter Wing out of Myrtle Beach AFB, S. C.—described may not have been exactly typical, but it wasn't all that untypical of the wing's experience in Southeast Asia, either. And Captain Sizemore's "Fantastic!" is the judgment of a pilot who had been there before. Earlier in the war, he flew a tour in F-4s, based at Phu Cat.

### HIGH ACCURACY, LOW LOSSES

If you didn't know that USAF had an A-7D wing in SEA during the closing months of the Vietnam War, you're forgiven. Despite the remarkable record of the 354th TFW and its A-7D "Little Hummer," they got scant notice in the press. But they were there, all right.

The wing, then commanded by Col. Thomas M. Knoles, arrived at Korat Royal Thai AFB in mid-October 1972. Its seventy-two birds flew some 4,000 sorties between October 16 and the end of December, when the Linebacker II bombing campaign ended US participation in the Vietnam War. A squadron of the 354th is still there, along with one squadron from the 355th TFW, Davis-Monthan AFB, Ariz., both under Col. William D. Curry, now the 354th Wing Commander.

Although neither Guinness nor anybody else keeps record books on tactical fighter wing achievements, the 354th TFW must have set a lot of new marks. Its deployment from Myrtle Beach to Korat set the tone for the entire operation. Col. John Rhemann—then Wing Deputy for Operations and now Wing Commander Rear, back from SEA and running the show at Myrtle Beach—said, "This was one of the few times in Air Force history that a wing of fighter aircraft departed the US and arrived at its overseas destination with all aircraft on schedule."

During its ten weeks of combat in 1972, the wing—operating at a 0.87 frag rate for its seventy-two aircraft, which comes out to sixty-two sorties a day—dropped nearly 25,000 bombs, most of them Mark 82 500-pounders. According to FACs and other interested observers of bombing accuracy, they probably had an average miss distance of about ten meters.

Capt. Harry G. Rodman is a FAC who worked the 354th A-7s, mostly against interdiction targets. He's now stationed at Hurlburt Field, Fla., with the 549th Tactical Air Support Training Squadron. Captain Rodman says that the A-7D "was tremendously accurate. You could depend on the weapon system to put an iron bomb exactly where you wanted it—an unguided system that could be used with confidence against point targets. When all its systems were operating, it was nearly as accurate as guided bombs."

Against all kinds of targets—trucks, storage sites, ammunition caches—the wing averaged close to twenty-five percent secondary explosions, significantly higher by estimates of experienced pilots than normally scored by other tactical fighters.

The A-7D proved to be reliable and easy to maintain. It had a ground abort rate of 0.3 percent and an air abort rate of 0.5 percent. Tactical Air Command's "acceptable" rate is 5.0 percent.

Perhaps most remarkable of all was the A-7D's combat loss rate. The 354th was fragged against all kinds of targets in South Vietnam, Laos, and Cambodia, with emphasis on generally well-defended interdiction targets. During Linebacker II, they supplied the bulk of the daytime strike force, hitting undisclosed targets—some of them near downtown Hanoi—requiring extreme accuracy. The wing lost only two aircraft in its combat operations. One of the pilots was captured and subsequently returned when the POWs were released by North Vietnam. The other, regrettably, was killed.

### THE A-7D'S SMARTS

What accounts for the 354th TFW's unprecedented accuracy in delivery unguided bombs and for its combat loss rate, which must be the lowest in the history of tactical fighter operations? Ask any A-7D pilot, and he'll tell you it was the airplane—not the pilots.

Even though fighter pilots are not noted for their modesty, we'll discount that statement. With two or three exceptions, all of the 354th pilots who flew in SEA were old hands. Most of them had at least one previous SEA tour in F-100s, F-105s, or F-4s. The same goes for the rated members of the wing staff and the squadron commanders who led missions. And they all had a good bit of A-7 time in the States. You don't write off that kind of experience as a neutral factor.

Nevertheless, a large share of the credit must go to the bird itself. Its electronic systems were described in some detail by Capt. Tom Ryan, a 354th pilot, in an article, "A-7D—That Super-Accurate SLUF," published in our March 1972 issue. The systems include forward-looking radar, Doppler, an Inertial Measurement System, and a radar altimeter. The information supplied by these systems is digested by a tactical computer and displayed on a Projected Map Display System (a map in the cockpit on which the aircraft's precise position is continuously indicated) and on a Head-Up Display (HUD) projected on the windscreen, which gives the pilot all information he needs to control the aircraft and deliver bombs or 20-mm shells on target. The systems can be used for accurate straight-and-level bombing from medium altitude, radar offset bombing, computed gunfire, and for dive-bombing—the most accurate bomb delivery mode.

One of the beautiful things about the Little Hummer's systems is the flexibility they give a pilot in his dive-bombing run. After the navigation systems have led him to the target area, all he has to do is identify the target, then, looking through the Head-Up Display on his windscreen, put the HUD's aiming symbol on the target and press a "designator" button on the stick. The computer almost instantaneously figures out the point in space where bombs must be released to hit the target. The pilot can take evasive action all the way down the chute until the aiming symbol meets the target. At that point, he levels his wings for "about three seconds," pickles the bomb, and pulls off the target. Bull's-eye or a near miss! No more worries about parameters of airspeed, dive angle, release altitude, which have always demanded so much of a pilot's attention, kept his head in the cockpit, and made him a predictable target for enemy gunners.

### STAY HIGH, STAY SAFE

Except in cases where they had to go low in order to identify a target, the 354th pilots released from altitudes between 5,000 and 7,000 feet—well above the effective range of small-arms fire and most enemy AAA. So the A-7D's electronic systems in the hands of competent pilots came up with unequalled accuracy and survivability.

Here's how Lt. Col. Charlie Copin, Commander of the wing's 856th Squadron commander was to make sure that targets were hit and that the airplanes came back so they could be used again the next day. It was damned nice to be able to put a 8,000-foot-above-the-ground minimum altitude restriction on my pilots, knowing that they could hit the target without getting down in the weeds. It was the airplane, not the pilots, that allowed us to do that."

The A-7's accuracy did create an educating job for the pilots. "We had to get the FACs to not talk in general terms," Captain Sizemore said. 'They would say, Okay, fifty meters west of my smoke.' You'd drop a bomb and the FAC would say, 'Now ten meters east.' We had to tell them, 'Hey, wait a minute. I see a tree on a rocky point. Where do you want it in relation to that?' We had to educate them to use specific points."

Should the A-7 be modified to carry laser or electro-optical guided bombs? Capt. Don Cornell doesn't think so. "To be realistic, LGBs are more accurate than the A-7's iron bombs. The difference in accuracy isn't great, and it's not going to cost you as much to destroy a given target with the A-7 as with guided bombs."

Another virtue of the A-7D's systems was pointed out by Capt. Dave Sawyer. "The tac computer allows you to come in on a target from any direction, dive angle, and airspeed. With several A-7s working a target, each with different parameters, you really can keep the defenders busy. And you don't have to waste any time finding the target. All pilots know where it is from their systems. You can hit it and get out fast."

When operating on long missions, as they did in SEA, and for deployment, the A-7D's navigation system is a real boon. Captain Cornell said that occasionally, during the deployment to Korat, the KC-135s that refueled them over the Pacific would update their navigation systems from his. "I was less than a mile off course between Hawaii and Wake Island. This was entirely on the Inertial Measuring System, and without the Doppler, since we were over water."

### LITTLE BIRD—LONG LEGS

Another plus for the A-7D—and for Seventh Air Force planners—was the length of the airplane's legs. Colonel Rhemann has a bunch of charts in his briefing room at Myrtle Beach AFB, centered on Korat RTAFB. They show the areas in which combat-loaded A-7Ds could operate without refueling from tankers—essentially all of Southeast Asia.

A typical configuration was for a mission with a 350-nautical-mile radius. That radius takes in all of western South Vietnam, North Vietnam to within about ninety miles of Hanoi, Cambodia, and Laos except for the extreme northern tip. Carrying two 300-gallon wing tanks, eight Mark 82 bombs, and 1,000 rounds of 20-mm ammunition, the bird had thirty minutes in the target area and 2,300 pounds of fuel reserve on return to Korat. By cutting the fuel reserve to 1,500 pounds, combat radius was increased to 480 nautical miles—well beyond Hanoi and Haiphong, without refueling.

Often a pilot was fragged against a target in southern South Vietnam, diverted to one in north Laos, and was still able to give the FAC twenty to thirty minutes in the target area without refueling. Some Linebacker II missions were flown without tanker support; on others, external tanks were left off in order to increase the A–7's bomb load, and tankers were used.

The A–7D's range came in handy in two other missions assigned to the 354th: search and rescue (more about that later), and night escort for the AC–130 Spectre gunships. Maj. Jack Terry believes that the A–7 was the best aircraft in SEA for gunship escort "because we could stay with them so long—about an hour and a half. When escorting the Spectres, we did flak suppression on the big guns," which was never a real fun job.

Did the wing do much night work? "No," said Lt. Col. Dave Eknes, the 355th Squadron Commander. "The A–7 is well adapted to night operations because of the precision of its systems, but we were limited by the number of aircraft we had over there. They wanted us in the daytime."

### SEARCH AND RESCUE

When the 354th went to SEA, they expected to be flying interdiction and close support. It turned out to be more interdiction than close support, largely because of the nature of the conflict at that time. Very few U.S. ground forces were involved, and, during late 1972, there were fewer troops in contact, so the number of true "close-support" sorties was considerably less than in previous years. Then they flew some bombing missions that could be classified as strategic during Linebacker II.

The big surprise, however, was being given the Sandy role in search and rescue (SAR) operations—locating and protecting downed airmen, covering the rescue helicopters, and coordinating action in the pickup area. That happened three weeks after their arrival at Korat, because the A–1s that had done the Sandy job throughout the Vietnam War were being turned over to the South Vietnamese Air Force.

"There was considerable skepticism about the A–7's suitability for the Sandy mission," Colonel Rhemann recalled. "We went into an extensive training program to develop new tactics. By comparison to the A–1, the A–7 is a relatively fast, high-performance aircraft. Tactics had to be changed significantly. We had a couple of pilots who had flown A–1 Sandys in SEA, and that helped.

"A week after taking over the Sandy job, our pilots participated in the pickup of two F–105 pilots near Thanh Hoa in some very marginal weather. It was a difficult mission, and, after that, there was little doubt that the A–7 was not just an adequate replacement for the A–1. It was far superior in that role."

Before the air war ended eight weeks later, 354th Sandy pilots had taken part in the rescue of twenty-two downed flyers. The "difficult mission" Colonel Rhemann spoke about was certainly among the classics of the SAR business. Here is how it went:

An F–105 Wild Weasel had been hit by a SAM in the vicinity of Thanh Hoa, on the coast, some ninety miles south of Hanoi. The Weasel crew bailed out at about 11:00 p.m., landing at the base of the first ridge line west of the city. The following day, three of the 354th Sandys went up in very bad weather and got the survivors located, part way up the ridge line, but separated from each other.

A SAR force of about seventy-five aircraft was put together late that day and during the night by the Joint Rescue Coordination Center at Tan Son Nhut Air Base, near Saigon. It included F–105 Wild Weasels to suppress the SAMs around Thanh Hoa, F–4 Wolf FACs and F–4 MIG CAP aircraft, tankers, an HC–130 Kingbird (the mission coordinator), H–53 Jolly Green rescue helicopters, A–7Ds with smoke for screening purposes, and three 354th TFW Sandys. Pickup was set for first light the following day, with takeoff for the Sandys at 0430.

Maj. Colin A. "Arnie" Clarke, who was operations officer of the 354th TFW's SAR organization, led the Sandys. He has been awarded the Air Force Cross for his part in the show.

The Sandys rendezvoused with the Jolly Greens above a solid overcast along with the Laos-North Vietnam border. While the Jollys held in orbit, Major Clarke and his wingmen worked east from the Plaine des Jarres in Laos, looking for a break in the overcast through which a chopper could let down. Approach from the Gulf of Tonkin seemed out of the question. The Thanh Hoa areas was heavily defended by anti-aircraft guns and SAMs, while just north of the town was a MIG field.

### INTO THE VALLEY

Major Clarke told his wingmen to hold while he let down several times into narrow valleys, trusting to the accuracy of his Projected Map Display and radar altimeter. Each time he broke out under very low ceilings, the valley proved too narrow to turn in, and ahead the clouds closed down over rises in the ground.

Giving up on the valleys, Clarke climbed up on top, flew east, and let down over the Gulf to see if there was any way to work a Jolly through the enemy defenses along the coast. There wasn't. He did get the survivors pinpointed and marked on his Projected Map Display so both men on the ground could be found immediately on return.

Clarke now went back over the Gulf, picked up his wingmen and the smoke-carrying A–7s, and took them in to see where the survivors were. The A–7s took several .51–caliber hits. But weather in the pickup area had improved somewhat—2 50-foot ceiling with lower broken clouds, rain, and three miles' visibility. It was still too low for the supporting F–4s to use their delay-fuzed CBU antipersonnel bomblets against enemy gun positions. To the west, the only approach route for the choppers, it was still down in the valleys.

Everything pointed to an aborted mission. But Major Clarke "knew that the weather wouldn't be any better for days. The survivors couldn't last that long." Having been shot down himself on an earlier tour as an F–100 Misty FAC, he knew that it was now or never.

Going back west again, Major Clarke let down on instruments in a valley wide enough to turn in. While he orbited just above the ground, one of the Jollys did a DF letdown on him, but ran low on fuel, climbed back through the clouds, and headed for home.

The mission now was six hours old.

Two more Jollys came up from Nakhon Phanom and held while Clarke went out to a tanker for a rest and fuel. At that point, he set a pickup time for the SAR force. Going back west, he once more let down on instruments into a valley "wide enough to hold a two-G turn" and a chopper DFed down on his position—about forty-five miles west of the survivors.

Flying ahead and doing 360-degree turns to stay with the chopper, Clarke led it to near the pickup area, where he told the Jolly to hold while he went in to get the survivors alerted and suppress fire from enemy guns.

Clarke now discovered a .51-caliber gun position on the ridge, just above one survivor, who was hiding in tall brush. "A guy could have thrown a hand grenade from the gun pits onto the survivor." He and his wingmen, Captains Sawyer and Cornell, kept fire on the guns while the A–7 smoke birds laid down a screen.

By this time, there was a lot of lead flying around and a lot of chatter on the radio. The Jolly Green pilot decided to come in, unaware of the gun position close to one survivor. Miraculously, he made both pickups, then headed west, directly past the .51-gun pits.

Clarke made "a very low pass" on the guns to protect the Jolly and took a hit "by something that felt like a 57-mm." He lost all his systems and pulled up into the clouds "with what I hoped was wings level. About that time a SAM radar picked me up, and things didn't look too good." The SAM apparently didn't fire.

Clarke broke out on top, joined up with a couple of A–7s, and made an IFR landing at Da Nang, flying the wing of one A–7. Mission time: about nine hours.

The "57–mm hit" turned out to have been a .51-cal tracer that exploded one of his empty wing tanks, blowing in the side of the fuselage and bowing the underside of the wing.

That was one to remember.

### MANY PLUSES—A FEW MINUSES

The 354th Tactical Fighter Wing was the first to try out the A–7D in combat. They went to Korat to fly interdiction and close support. That they did, and gunship night escort, search and rescue, helicopter escort—and Linebacker II daytime strike missions in and around Hanoi. They did a lot of things that no tactical fighters have done before, and some things that other fighters haven't done as well.

No one in the 354th bad-mouths the A–7D. Not the pilots, who came from F–100, F–105, and F–4 units. Not the ground crews or support people.

Like every airplane, the A–7D has its faults—like its ground-loving tendency on a hot, 105-degree runway with a full load—but they're few compared to its virtues. And, so far as runway length is concerned, Charlie Copin pointed out that "where you don't have to fly as far to target as we did in SEA, you can leave off the wing tanks, carry the same bomb load, and reduce take-off roll by 3,000 feet."

If they could redesign the A–7D, how would they change it? More power? Of course. Every pilot wants that in any airplane. A bigger gun? Maybe, but if you can hit a tank with bombs on the first pass, do you really need a bigger gun?

Anything else?

After a long pause, Capt. Don Cornell replied, "I guess about the only thing I'd do would be to make it a little prettier."

And that just about sums up the 354th Tactical Fighter Wing's feeling of affection for its Little Hummer.

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## TO NAME VETERANS' ADMINISTRATION HOSPITAL IN COLUMBIA, MO., AS THE HARRY S. TRUMAN MEMORIAL VETERANS HOSPITAL

(Mr. HUNGATE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HUNGATE. Mr. Speaker, I am happy to join with my distinguished Missouri colleagues today in introducing legislation to name the Veterans' Administration hospital in Columbia, Mo., as the "Harry S. Truman Memorial Veterans Hospital."

We were all saddened at the loss of Missouri's President, Harry S. Truman, one of our Nation's great leaders. It is most fitting that we name the Veterans hospital in his honor for it will serve those many unheralded heroes who followed President Truman's lead and served our country so well.

I would like at this time to repeat a prayer offered at the Memorial Services for President Truman at the Washington Cathedral on January 5, 1973, offered by the Very Rev. Francis B. Sayre, Jr., Dean of the Washington Cathedral and grandson of Woodrow Wilson. This prayer holds special meaning for all Missourians and honors the many fine men and women from the "Show-Me" State who have served our Nation well.

### For Missouri

Great God whose plough is weather and whose season is Time itself, we thank Thee for the earth Thou hast fashioned in Missouri: smoothing the glacial plain with great blades of ice; irrigating the land with burnished streams and bounding it with Ozark beauty.

When Thou wast ready, Thy spirit stood by the Gate, inviting all mankind to heart of Thy goodly continent.

Bless us now as we seek to retrace the mighty sweep of Thy making; possessing our inheritance to the little step of mules, or the roar of city wheels; by the flutter of a steamer upon the river, by the sound of sweet blues upon the lips of a trumpet, or the cry of some distant train across the night.

At every turn may we find the door; beyond learning to wisdom; beyond living to Life; beyond receiving to the happier joy of giving; And so, as river threads the prairie, may our hearts be open to Thy truth and blessed independence; through Him who is Lord of all. Amen.

This hospital at Columbia, Mo., can stand as a great memorial to President Truman and those like him whose sacrifices have made our freedom possible.

## PRESIDENT THOMAS E. MARTIN

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, Thomas E. Martin, recently elected president of the American Legion Boys Nation, is an inspiration for American youth. It is encouraging and refreshing to see a young man of his principles and ideals being elected to a position of national leadership by the young leaders of our Nation.

Mr. Martin is the first black governor of South Carolina's Palmetto Boys State. He was elected governor by more than 600 young men representing virtually every high school and community in South Carolina, who met earlier this summer at the Citadel in historic Charleston. Later this summer, at American University here in Washington, Thomas Martin was elected president of Boys Nation. This is one of the highest honors that could come to a young American in our country today. He is the first South Carolinian ever elected president of Boys Nation.

Even before his election as governor of Palmetto Boys State, young Martin had compiled a splendid record of service and achievement. He has served as an advisor to Gov. John C. West on racial relations, and as as advisor to State Superintendent of Education Cyril Busbee. He has been elected president of the South Carolina Association of Student Councils and was a State winner in the Voice of Democracy Contest. Thomas Martin is the son of Mr. and Mrs. Clarence T. Martin of Route 2, Roebuck, S.C., which I am pleased to say is in the congressional district of my esteemed friend and distinguished colleague, Hon. JAMES R. MANN.

The selection of this dynamic young black leader as governor of Palmetto Boys State exemplifies what is rapidly becoming a tradition in South Carolina. This is still another indication that South Carolina is solving its problems of today and tomorrow through tolerance, brotherhood, understanding, and respect for all of our people.

Only 2 years ago Harry Walker was elected president of the University of South Carolina student body and became one of the first black student body leaders in any major university. This was followed closely by the election of Jim Clyburn, another outstanding young black leader, as president of the Young Democrats of South Carolina.

Mr. Speaker, may I take this opportunity to commend the American Legion for its sponsorship of Boys State programs throughout the Nation and Boys Nation here in Washington. This is a positive program with emphasis on learning more about government—local, State, and national. The American Legion is rendering outstanding service in preserving freedom and individual liberty through its sponsorship of Boys State and Boys Nation, Boy Scouts, essay contests, and American Legion baseball. Participation in these programs by countless thousands of our young people has strengthened respect for the flag, promoted leadership, sportsmanship, and love of country.

We are proud in South Carolina of Thomas E. Martin. The American Legion is proud to be represented by such an outstanding young American and the Nation will be proud of him as president of Boys Nation.

## FURTHER LEGISLATIVE PROGRAM

(Mr. FRENZEL asked and was given permission to address the House for 1 minute.)

Mr. FRENZEL. Mr. Speaker, I have taken this time to ask the distinguished majority whip about the program for tomorrow and the day following.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, the first item of business will be H.R. 6576, the water project investigations, and the second will be H.R. 9536, the bill that prohibits blackouts of sports events that are sold out and then we will bring up H.R. 9639, the School Lunch Act amendment bill.

The school lunch bill is before the Rules Committee tomorrow, and it will be necessary either to get unanimous consent to bring the bill up, or a two-thirds vote to suspend the rules and bring it up.

I am advised by the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) that the gentleman wants to bring this bill up tomorrow, and that the gentleman does not anticipate that there will be objection to bringing the bill up.

Ordinarily we would not announce as a part of the program the possibility of another motion, but I understand there will possibly be an appointment of conferees on the agricultural appropriation bill, and there may be a motion to instruct or some other motion at that time.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman from California.

I would ask the gentleman from California whether it is possible that we may not work on Friday?

Mr. McFALL. If the gentleman will yield still further, if we can complete the business that I have just outlined, and I am confident that we can, then there will be no program on Friday.

Mr. FRENZEL. I thank the distinguished majority whip.

## A WARRIOR PASSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, former Congressman Wesley A. D'Ewart, who represented my congressional district in this House from 1945 through 1954, died September 2, bringing an end to a very distinguished career as a Montana public figure.

Wes D'Ewart was born in Worcester, Mass., in 1889 and moved to Wilsall, Mont., in 1910, where he was employed by the Forest Service. He then became a farmer and rancher. A man of energy and conviction, he served in the State legislature, was elected to Congress in a special election in 1945 to succeed James F. O'Connor, and served as the representative of Montana's Eastern Congressional District for 10 years.

Wes D'Ewart lost his bid for the Senate when he ran against Senator James E. Murray in 1954.

One of the Montana newspapers has described Wes D'Ewart as "probalanced budget, for an invincible defense force, proagriculture and for eliminating all subversives from Government." Sometimes he has been labelled as extreme in his views, and he was. He continuously and energetically espoused his points of view from the day he entered politics until his death. In 1971, at age 81, he filed as a candidate for delegate to the Montana Constitutional Convention where, I am sure, he would have been a stout advocate of the conservative policies he consistently and vigorously defended throughout his life.

Wes D'Ewart never wavered, either as to his convictions or his energetic support and advocacy of them.

During my public life, I had many contacts with the former Congressman. As a member of the Montana State Legislature, I met him frequently in the sixties. He was in Helena as a representative of the Montana Farm Bureau. His client was vigorously represented. He was, as he always was, a very well informed and candid proponent of his convictions for honest government, for developing the West, and for a progressive water policy.

The Second Congressional District of Montana is heavily agricultural and Wes D'Ewart always took a special interest in agricultural issues. He was an early proponent of rural electrification. He was an active member of the House Interior Committee, and, as could have been anticipated, his grazing bill was one of the most controversial issues before that committee in the years that he served on it.

After his service in the House, D'Ewart served for about 3 years in the Department of Agriculture, returning to Montana to run for the Republican gubernatorial nomination in 1960, when he was 71 years old. Eleven years later, at age 81 and still interested and active in politics, he made the race for delegate to our State Constitutional Convention.

I am sure that Wes D'Ewart's name will long be remembered in Montana, because of the issues which he involved himself. Wes D'Ewart will be remembered as a stalwart and courageous proponent of the things in which he believed, who continued to make his contribution to policy debates through all of his more than 4 score years of life.

I have always respected Wes D'Ewart. I regret his passing for we need men of his vigor on all sides of our public policy debates. He was never afraid to take a stand, and defend it once taken.

## AN ADDITIONAL TAX EXEMPTION FOR CERTAIN VOLUNTEER FIREMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, anyone who resides in an area served by volunteer firemen knows how unselfish and courageous they are. They give their time freely and often risk their lives to protect their neighbors and their property.

The historical tradition of the volunteer firefighter includes our early leaders such as Benjamin Franklin, founder of the first colonel volunteer fire company.

I do not believe that many will dispute the importance of the volunteer firemen, but I wonder how many people recognize the fundamental difficulties our firemen must overcome.

These men are on call 24 hours a day for the purpose of protecting the property of their neighbors. They are often required to enter burning buildings and, in civil disturbances, they have sometimes been bombarded with rocks and fired upon by snipers.

If we are to encourage a high level of professional competence in our volunteer firefighters, we must do more than pat these men on the back. We must give them tangible recognition of our gratitude. I am today introducing a bill which I feel is a very appropriate way in which to indicate this gratitude and support for their efforts.

This bill would provide an additional personal exemption of $750 for volunteer firemen who have been active for a period of 15 years or longer.

I feel that a proper way to recognize their contributions would be through granting them an additional personal tax exemption as in the bill I have introduced today.

In this bill we have an opportunity to turn our words of gratitude into action. I urge that the House adopt this bill as soon as possible.

I insert the full text of this bill in the RECORD at this point:

H.R. 10210

A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for certain volunteer firemen

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Additional Exemption for Volunteer Firemen.—

"(1) In general.—An additional exemption of $750 for the taxpayer if during all of the taxable year he has served (determined under regulations to be prescribed by the Commissioner of Internal Revenue) as a tenured member in a volunteer fire company.

"(2) Volunteer fire company defined.—For purposes of this subsection, the term 'volunteer fire company' means an organization—

"(A) organized and operated to provide a firefighting service for a community;

"(B) which meets the minimum standards for such organizations—

"(i) established by the State in which such organization provides such service; or

"(ii) to be established by such regulations as the Commissioner of Internal Revenue shall prescribe, in the case of any such organization with respect to any period during which such State did not prescribe such standards;

"(C) which makes no charge for its firefighting activities; and

"(D) which is exempt from income taxation under section 501(c)(4).

"(3) Tenured member defined.—For purposes of this subsection, the term 'tenured member' means any individual who during at least 180 months before the beginning of the taxable year has served as an active member of one or more volunteer fire companies."

SEC. 2. Section 3402(f)(1) of the Internal Revenue Code of 1954 (relating to withholding exemptions for income tax collected at source on wages) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; am"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) one additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowed an exemption under section 151(f) for the taxable year under subtitle A in respect of which amounts deducted and withheld under this chapter in the calendar year in which such day falls are allowed as a credit."

SEC. 3. The amendments made by the first section of this Act shall apply only with respect to taxable years ending on or after the date of the enactment of this Act. The amendments made by section 2 shall apply only with respect to wages paid on or after the first day of the first month which begins more than ten days after the date of the enactment of this Act.

## REVENUE SHARING PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WALSH) is recognized for 5 minutes.

Mr. WALSH. Mr. Speaker, the adoption of a revenue sharing program by the Congress of the United States will be hailed as a milestone in intergovernmental cooperation and relations. The Federal Government thus, for the first time becomes a contributing member to many of the mundane services the local units must provide.

One of the most important aspects of the law is the requirement in section 121 that planned and actual use reports be published in local newspapers so the public may be made aware of what their Government is doing with the funds.

There is, however, one aspect of this requirement which is creating much consternation in many small local units of government. I think the problem is best sumed up by a resolution recently adopted by the Cayuga County Association of Villages in my district, which reads:

> Whereas, News releases seem to reach a greater proportion of our residents with information, and
>
> Whereas, The law for Federal Revenue Sharing states that a "copy" of each report must be published which has been interpreted to mean the entire report including all blank spaces, and
>
> Whereas, Most reports consist of only one or at most very few lines of information, and
>
> Whereas, The cost of publication of the entire form is very high, and
>
> Whereas, this is *tax* money, be it Federal Revenue Sharing Funds or local municipal funds, and
>
> Whereas, Our taxpaying citizens are justifiably opposed to excess expenditures of public funds,
>
> Now therefore be it hereby resolved that our Cayuga County Association of Village Officials states that it is opposed to this excessive expenditures of tax funds, and that we be permitted by the Treasury Department to publish only that information applicable to each separate municipality as a news release item.
>
> Adopted: July 17, 1973, Cayuga County Association of Villages.

Mr. Speaker, I could not agree more with the association on this point. I am sure that the original drafters of this requirement did not intend to create such an inequity. I am equally sure, however, that the general publication requirement is a sound one.

I am, therefore, introducing legislation today that would amend section 121 to exempt any unit of local government which receives not more than $5,000 for any entitlement period from the requirement that planned and actual use reports be published in a newspaper.

What my bill will require of these governments instead, is that a copy of each report be displayed in a post office within the geographic area of that government, or if there is no such post office, at a public place within the same area.

This proposal will remove an inequity in the revenue sharing law and at the same time will maintain the integrity of this landmark legislation. I urge the support of all my colleagues for this measure.

## OCCUPATIONAL HEALTH AND SAFETY ACT OF 1970

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BEARD) is recognized for 10 minutes.

Mr. BEARD. Mr. Speaker, in one way or another most of the Members of this body have had experience with the Occupational Health and Safety Act of 1970. For many of us, the controversy generated since its enactment more than 2 years ago clearly indicates a need for reform to improve on-the-job safety for the American worker.

The vast majority of the complaints I have received of OSHA come from small employers who are unfamiliar with Federal regulation and procedures and who resent the way the act is being enforced. This sentiment reveals itself all the way from calls for modification of Labor Department implementation of the law to flagrant and outright disregard for OSHA standards. The net effect of which is to create a climate of hostility toward adequate standards of protection which many businesses have long sought to provide their employees as a matter of course. It is my firm belief that in enacting OSHA, Congress intended to get at those employers who willfully maintained practices detrimental to the welfare of their employees. The practical effect of OSHA standards has created an opponent-adversary relationship between employers and Labor Department officials.

What we must strive to achieve in reform of OSHA is a restoration of cooperation in attaining high levels of safety for employees. Certainly, the majority of American businessmen recognize that adequate and safe working environments are an important part of good employer-employee relations. In considering possible reforms, I believe Members on both sides of the aisle agree that many employers—especially small ones—have not been fairly treated by OSHA. The No. 1 complaint of business people in my State has been OSHA regulations. The sentiment was clearly reflected during last year's Senate debate on the Labor-HEW appropriations bill when several amendments exempting small businesses were offered. These were rejected, but I believe more for the fact that they do not address the root problems encountered with existing OSHA programs. To many, mere exemption of firms of certain size solves nothing and is highly discriminatory.

There is also considerable debate on whether the difficulty with OSHA is with the way it is being enforced or with unfair provisions in the law. Whatever, there is little question that the place to consider our experiences with OSHA is not on the floor of either House, but in the appropriate legislative committees of each body. Serious consideration must be given to altering the existing statute so that any changes will not diminish the high standards originally intended by Congress. The goal of OSHA is worthwhile and commendable. Certainly, a safe and healthful environment for all American workers is something we can all support. But I believe that the act, as presently written, too often resorts to a philosophy that is punitive rather than constructive in nature. Moreover, the President's 1972 report on occupational health and safety indicates that the current approach is not working. The report reveals that only 25 percent of employers inspected were found to be in compliance with the act.

The question we must then ask ourselves is why OSHA is not accomplishing its prescribed goal. I believe this results from two major causes. First, the act lacks any incentive or emphasis on assisting employers—particularly small ones—to comply with its terms. Second, because of this, employers are openly hostile toward the Department and OSHA regulations.

Let there be no mistake—I fully believe employers have had a responsibility to comply with the law and that penalties should be meted out where it is disregarded. But it is obvious that the objectives of the act cannot be achieved without cooperation by all parties. No amount of regulations, standards, or Federal inspectors to enforce them will coerce the employers of the Nation to compliance. Even if this were possible, it would be a sad day for America if we were to attempt it.

We must face the facts. OSHA has forced U.S. businessmen to react negatively to a policy—of providing a safe and quality work environment—which they under previous circumstances have considered to be an important element in productivity and positive worker relations. In this regard, OSHA enforcement has been counterproductive in attaining its stated goal. Moreover, we must accept that employers—especially small ones—require assistance in understanding and complying with the complex and all too often monolithic standards of the OSHA.

For these reasons, I am today offering legislation which will bring about a more constructive and positive atmosphere toward OSHA practices without in any way jeopardizing the safety or health of the American worker.

The bill I am proposing seeks to restore the proper attitude of employers to offer workers an occupational environment which does not impinge on their well-being. None of the provisions of my bill would reduce standards of coverage, but only address flagrant abuses of bureaucratic power which have limited the effectiveness of what Congress intended in 1970. Rather than attempt to exempt some from coverage, I have undertaken a reform which will continue protection for all and improve the method of achieving that protection. At the same time, I fully expect that my bill if enacted will result in increasing such protections set out by the act.

By way of explanation of the reforms prescribed by my legislation, I offer the following section-by-section analysis which I hope my colleagues will find helpful:

### SECTION-BY-SECTION ANALYSIS

### EXPLANATION OF SECTION 2(a)

Many of the standards in effect do not materially affect worker safety or health, yet are extremely costly to the employer. This amendment would not dictate that the Secretary could not continue to promulgate these regulations which afford minimal worker protection regardless of cost; however, it would force the Labor Department to openly recognize the cost-benefit ratio and, more importantly, would also provide employers with some of the information necessary to make a reasoned judgment as to whether or not they should contest the standard itself in the courts under Section 6(f) of the Act.

Additionally, this proposal would require the Secretary to ascertain which industries were directly affected by the proposed rule (in order to compute cost) and would therefore directly assist the Secretary in any attempts to promulgate standards on a vertical industry basis as opposed to the "across the board" coverage found in most standards in effect.

### EXPLANATION OF SECTION 2(b)

This section would establish "grandfather clauses" for equipment and facilities which are often expensive to phase out and yet do not represent dangers of any magnitude to employees. Legislation that has severe financial impact often has reasonable delay dates in its implementation; however, the safety law had only brief delays for the legislation itself and in most cases, only an additional short delay for educational purposes where the regulations affected capital investments.

A review of testimony offered in support of the bill as originally passed shows that the necessity to pass this law was based on employee exposure to what are considered "serious violations". The suggested amendment would not delay the implemenation of the law in favor of capital investments where those types of violations were concerned.

### EXPLANATION OF SECTION 2(c)

This change suggests that once the objective criteria regarding employee health is determined by the Secretary, the employer would determine within the scope of available options which ones he would employ to protect the employees. For instance, a paint spray booth, under the regulations, might have to be ventilated with exhaust fans when in use, although not any one employee would spend more than one hour in the area. Requiring this expensive ventilation equipment (plus the anti-pollution equipment which might be required due to EPA regulations) would not seem practicable when the use of respirators would protect the employee just as well, assuming that use of the respirator did not represent a separate health hazard.

The noise problem is also indicative of the unjustified impact of restricting an employer to certain methods of abatement. Requiring engineering controls to be used before the employer is allowed to employ personal protective devices (ear plugs or muffs) is far less practicable and affords no more safety to the employee. This inequity is magnified when one considers that after employing these controls the problem may only be partially abated and the employer would have to go to personal protection anyway as a last resort.

### EXPLANATION OF SECTION 2(d)

The suggested amendment would make two changes to the existing law regarding emergency standards.

The first change would afford those employers and employees affected a short period of time, i.e., 30 days after the standard has been published to find alternate methods for dealing with the hazardous agent or finding a substitute without forcing temporary shutdowns of affected operations.

Additionally, emergency standard making which is without the protections of the Administrative Procedures Act, would only be employed where there was clear evidence of such a need.

### EXPLANATION OF SECTION 3(a)

The change to Section 8 of the Act would give the employer an opportunity to have a qualified safety professional at the facility during the time of inspection so that any tests to be made could be monitored by the employer. In many instances, especially tests of the environment, this opportunity to be sure the inspection is being properly conducted is necessary in order to provide an effective defense to the Department's charges should a contest be undertaken by the employer. Under the present law it is conceivable that although a test was made improperly, the employer, not having a professional at the scene, would not know whether the results were accurate, and might thereby agree to paying a fine which should not have been proposed in the first instance.

The fear that employers would use this opportunity of advance notice to correct violations is overstated and, in any event, could be met by issuing citations for violations that have been evaded under Section 9(c) of the law, with the compliance officer being informed of these "quickie" abatements during the walk-around.

It should also be noted that employers who would be intent on taking advantage of this advance notice can presently refuse admission to their plants without penalty. The Labor Department's internal procedures contemplate that in such a situation a court order be sought to obtain entry; however, there is not any penalty to the employer for forcing this action. The net result would be to provide the business with 24–48 hours advance notice of the second inspection.

### EXPLANATION OF SECTION 4(a)

This amendment would require the Department of Labor to *suggest* a course of action which would correct the cited violation. This would, in effect, provide a small, yet oftentimes necessary, insight into what the Labor Department will accept as reasonable abatement of the violating condition, although it would not bind the employer to use that course of action to the exclusion of any others he may feel are more suitable in correcting the condition.

### EXPLANATION OF SECTION 4(b)

This amendment would change the Department's regulation 1903.16(b). The language would afford employees with reasonable notice if a contest was being undertaken by the employer of the Secretary's citation, penalty, or abatement period, and would also remove from the regulations the unnecessary and punitive requirement that the employer post the citation after the violation is abated.

### EXPLANATION OF SECTION 4(d)

This new Section 9(b) would cover those situations where standards are in effect to cover a contemplated hazard that does not exist in some facilities. By giving the employer the right to show the standard need not apply to his workplace, much of the harm that has resulted from implementing broad horizontal standards could be alleviated. Additionally, this new Section 9(b) would allow an employer to protect his employees with alternative safety measures other than those contemplated by the standard. The present law rarely provides for performance standards as opposed to specification standards. This results in requiring employers to protect employees only as the regulations suggest, although there may be less costly and just as effective methods of meeting the problem.

There is a procedure in Section 6(d) of the Act for obtaining Labor Department approval of alternative methods through a permanent variance; however, it is a cumbersome and time-consuming approach for the employer and would probably involve substantial aggregate legal costs to small employers who do not have the expertise or the in-house manpower to file petitions. In any event, once cited for a violation of a standard the burden should be on the Secretary to show that there was in fact an unsafe condition.

The change would also recognize that the Congress does not intend to hold the employer to a test of strict liability whenever a violation occurred. Although the Review Commission has recognized in several cases that the employer cannot absolutely insure employee compliance the Labor Department continues to cite for violations created by employees against express instructions.

### EXPLANATION OF SECTION 4(e)

This change is intended to restate the Congressional directive in Section 8 that citations would *only* be issued after an inspector had formally established his presence at the worksite and that inspections were to be conducted with walkaround rights afforded to both employers and employees. There have been several cases where this directive of the Congress has been ignored by the Secretary.

### EXPLANATION OF SECTION 5(a)

This section would change the period of time in which an employer must decide upon whether or not to contest a citation from 15 working days to 30 working days. The 15 day period is far too short and inconsistent with most other laws affording due process in the appellate area. The change would also work to relieve employers, the Labor Department, and the Review Commission of the unnecessary appeals which are filed quickly because there is insufficient time to consider the merit of the citation and penalty.

### EXPLANATION OF SECTION 5(b)

This change would further amend Section 10(c) of the law by indicating that the Review Commission was in the position of upholding, reducing, or dismissing penalties proposed by the Department. In approximately 10% of the cases that have gone to a full hearing the word "modifying" has been taken to mean by the Commission that they had the authority to raise penalties which were being contested by the employer.

The Commission was established to afford "relief" to employers appealing orders of the Secretary where they thought the penalty was too high. Subjecting employers to the possibility of a higher fine after a hearing is not only contrary to the intent of Congress but has a chilling effect on exercising the right of appeal.

### EXPLANATION OF SECTION 5(c)

The law is unclear in 10(c) as to who hears appeals for extensions of abatement periods. The change would validate the existing practice of having the Commission rule on these appeals.

### EXPLANATION OF SECTION 5(d)

This change would guarantee employers who have appealed orders of the Secretary the right to withdraw from the case at any time prior to their hearing without subjecting themselves to any conditions except to do exactly what he would have had to do if he had not asserted his right to a hearing. A paper-pushing practice has mushroomed at the Commission which makes it difficult for anyone to withdraw from a case unless he has the services of a lawyer. No one should be penalized simply beacuse he availed himself of his constitutional right to a hearing nor be subjected to a maze of Government red tape for no apparent reason.

### EXPLANATION OF SECTION 5(e)

Section 11(a) of the Act would be changed to continue the stay of the Secretary's order if affirmed by the Commission or grant a stay of the Commission's decision if the employer appeals to the appropriate Court of Appeals. The Court has discretionary power to grant relief in this manner; however, there is not any provision for staying the order of the Review Commission until at least the employer is informed of whether or not the court shall exercise their discretion and grant a continuing stay until resolved by the judiciary. The law as passed has a chilling effect on the employer's right of appeal as penalties for failing to abate past the date of the Review Commission's decision could result in fines as high as $1,000 per day.

### EXPLANATION OF SECTION 6

Removal of Section 17(c) of the law would, in effect, remove the Department's authority to penalize employers for violations considered to be nonserious upon a first inspection. It is these non-serious violations which result in relatively minor penalties that have contributed substantially to the outrage of employers. Businesses are being fined for relatively insignificant violations without having been informed of some of the requirements of the standards and although the right to appeal is present, it is far more expensive to contest than to pay the penalty proposed by the Department of Labor.

### EXPLANATION OF SECTION 7

Section 18 of the Act is designed to allow states the opportunity to enforce safety and health laws within their jurisdiction if they are at least as effective as the federal Act. Although business fought hard for this language, a major shift in sentiment has occurred due to many states favoring more restrictive safety standards than the Federal Government and for enforcement procedures less acceptable than those found in the Act. The Federal Government has encouraged this by requiring either tougher standards or those nearly identical to the federal Act.

The suggested amendment would remove both of those possibilities leaving the concept of local enforcement intact.

### EXPLANATION OF SECTION 8

The suggested language would specifically direct the Secretary of Labor to provide onsite consultation to employers without the authority to issue citations for violations found on these employer initiated visits. The amendment would not affect the Secretary's right to seek injunctions for hazardous conditions representing "imminent dangers." The Secretary is also required to suggest methods of eliminating any hazards disclosed to the employer.

Failure of the Secretary to disclose violations on this consultative visit would not preclude the issuance of citations on a subsequent Section 8 inspection. Such failure, however, coupled with the employer's request for consultation, should be of significant value on appeal based on a "good faith" argument as provided under Section 17(j) of the Act.

Mr. Speaker, it is my hope that this body will recognize the need for this comprehensive reform. I agree completely with the designers of the 1970 Act in their intent. Now, that we have had 2 years to examine its application and effectiveness, we should not presume this statute to be perfect but strive to make improvements necessary to make it work better.

I include the text of my proposed legislation in the RECORD:

### H.R. 10200

A bill to amend the Occupational Safety and Health Act of 1970 and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Occupational Safety and Health Act Amendments of 1973."

SEC. 2. (a) Section 6(b)(2) of the Occupational Safety and Health Act of 1970 is amended by inserting at the end thereof the following: "The Secretary shall not propose any rule promulgating a new occupational health or safety standard before he (A) has, as part of each such proposal, reviewed and published in the Federal Register the financial impact of such proposed standard and (B) has determined with due regard for that impact that the benefit to be derived from such standard justifies such proposal."

(b) Section 6(b)(4) of such Act is amended by inserting "(A)" immediately after the paragraph designation and adding a new subparagraph as follows:

"(B) No standard adopted or promulgated under this paragraph shall require any employer to phase out, change, or replace existing equipment or facilities before the normal useful life of that equipment or facility has expired unless failure to so phase out, change, or replace that equipment or facility prematurely would result in a serious violation as defined in section 17(k)."

(c) Section 6(b)(7) of such Act is amended by inserting after the second sentence thereof the following:

"Protective equipment and control or technological procedures other than those prescribed by such standard may be utilized by the employer where (a) such other equipment and control or technological procedures will afford adequate protection to employees and (b) the use of such other equipment and control or technological procedures does not create a new hazard to the health and safety of the employees affected."

(d) Section 6(c)(1) of such Act is amended to read as follows:

"(c)(1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency standard to take effect 30 days after publication in the Federal Register if he determines (A) that there is clear and recognized evidence of employees being exposed to serious danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standards is necessary to protect employees from such danger."

Sec. 3. (a) Section 8 of such Act is amended by redesignating subsections (b) through (g) as subsections (c) through (h), respectively, and by inserting after subsection (a) thereof the following:

"(b) The Secretary shall provide reasonable advance notice to the employer to be inspected that an inspection will be made where (1) such notice would afford the employer an opportunity to have qualified management personnel or consultants present during the inspection and (2) where the Secretary has determined that such notice would not unreasonably hamper or defeat the purposes of this Act."

(b) Section 2(b)(10) of such Act is amended to read as follows:

"(10) by providing an effective enforcement program;"

Sec. 4. (a) The first sentence of section 9(a) of such Act is amended by inserting before the period the following: ", and shall stipulate with particularity a suggested course or courses of action which if implemented would correct the violating condition or process".

(b) Section 9 of such Act is amended by redesignating subsections (b) and (c) thereof as subsections (c) and (d), respectively, by adding at the end of subsection (c) as redesignated the following: "Such posting shall not be required after (1) the date on which the violation is abated, or (2) 30 days after the employer has filed a notice contesting any action of the Secretary as provided in section 10(c), whichever occurs later.", and by inserting after section (a) thereof the following:

"(b) Any employer inspected under section 8 who has been found to be not in compliance with any rule or standard adopted or promulgated under sections 6(a), (b), or (c) shall not receive a citation or penalty for such violation if he is able to show (1) that implementing such rule or standard would not materially affect the safety or health of his employees in the facility inspected, (2) that he has employed alternative procedures to protect his employees from the hazards contemplated by the rule or standard which are as effective in protecting the safety and health of his employees, or (3) that he has furnished adequate notice and exerted all reasonable efforts, pursuant to such regulations as the Secretary may prescribe, to obtain the compliance of his employees, that such violation was attributable to such employees, and that he could not otherwise have reasonably prevented such violation."

(c) Section 9 of such Act is amended by adding at the end thereof the following new subsection:

"(e) A citation which is not issued in accordance with the provisions of sections 8(a) and 8(e) shall be of no force or effect."

Sec. 5. (a) Section 10 of such Act is amended by deleting the term "fifteen working days" wherever it occurs and inserting in lieu thereof the term "thirty working days".

(b) Section 10(c) of such Act is amended—

(1) by striking out the word "modifying" and inserting in lieu thereof "reducing",

(2) by striking out the word "Secretary" in the third sentence and inserting in lieu thereof "Commission", and

(3) by adding at the end thereof the following: "Any employer who has notified the Commission that he intends to contest a citation issued under section 9(a) or a notification issued under subsection (a) or (b) of this section may withdraw such notice at any time prior to the conclusion of a hearing thereon and the citation and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency."

(c) Section 11(a) of such Act is amended by striking out "not, unless ordered by the court," in the fourth sentence thereof.

Sec. 6. Section 17 of such Act is amended by striking out subsection (c) and redesignating subsections (d) through (l) as subsections (c) through (k), respectively.

Sec. 7. Section 18(c)(2) of such Act is amended by striking out "at least as effective" and inserting in lieu thereof "identical".

Sec. 8. Section 21 of such Act is amended by changing the heading thereof to read as follows:

"Training, Education, and Technical Assistance" and by adding at the end thereof the following new subsection:

"(d)(1) In order to further carry out his responsibilities under this section, the Secretary shall visit the workplaces of employers for the purpose of affording consultation and advice to such employers. Such visits (A) may be conducted only upon a valid request by an employer for consultation and advice at the workplace on the interpretation or applicability of standards or on possible alternative ways of complying with applicable standards, and (B) shall be limited to the matters specified in the request affecting conditions, structures, machines, apparatuses, devices, equipment, or materials in the workplace. Where, after evaluating a request by an employer pursuant to this subsection, the Secretary determines that an alternative means of affording consultation and advice is more appropriate and equally effective, he may provide for such alternative means rather than onsite consultation.

"(2) The Secretary shall make recommendations regarding the elimination of any hazards disclosed within the scope of the onsite consultation. No visit authorized by this subsection shall be regarded as an inspection or investigation under section 8 of the Act and no notices or citations shall be issued nor shall any civil penalties be proposed by the Secretary upon such visit, except that nothing in this subsection shall affect in any manner any provision of this Act the purpose of which is to eliminate imminent dangers.

"(3) Nothing in this subsection shall be deemed to require the Secretary to conduct an inspection under section 8 of the Act of any workplace which has been visited for consultative purposes. The failure of the Secretary to give consultation and advice regarding any specific matter during a consultation visit shall not preclude the issuance of appropriate citations and proposed penalties with respect to that matter.

"(4) In prescribing rules and regulations pursuant to this subsection, the Secretary shall provide for the appropriate separation of functions between officers, employees, or agents who conduct visits pursuant to this subsection and officers, employees, or agents who conduct inspections or investigations under this Act."

Sec. 9. This Act shall take effect sixty days after the date of its enactment.

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## ON UNITED STATES POLICY TOWARD CHILE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 30 minutes.

Mr. HARRINGTON. Mr. Speaker, yesterday, Salvador Allende's government was removed by a coup d'etat. Fighting has been reported in the streets of Santiago as the military moved to take over the reins of government, imposing martial law on the nation as their first act. While many factors contributed to Allende's downfall, I believe that it is important to recognize that part of what was and is ailing Chile is the United States policy toward the Allende government since its election in 1970. We have interfered in every way possible with the internal affairs of Chile, in an attempt to undermine, discredit, and ultimately topple the democratically elected government of that nation. We have maintained a hard line, rejecting out of hand the socialist government regardless of its legitimacy in the eyes of its own people, and we have acted solely to protect American business interests, without regard to the effects of such a policy on our relations with Latin America and the rest of the Third World. The establishment of a military regime in Chile is not in the best interests of the United States. While we did not directly encourage its establishment and are not entirely responsible for it, we must recognize that we have placed tremendous stress on Chilean society by our actions, and contributed to the disruption which climaxed in Allende's ouster.

It is worth noting, in addition, that while we shut Chile off from our economic resources, we continued to approve arms sales to that country, and provide them with about $10 million in military aid. We should not be surprised that with such a misallocation of resources, the army is stronger than the government proper. I intend to ask that the appropriate committees of both Houses of Congress investigate the abuses which I will document, and the role of the United States in the fall of Allende's government.

The highest councils of this administration have directed diplomatic slights and rhetorical threats at the Chilean Government. Even prior to the 1970 election, the administration commented that Allende's election would lead to "some sort of Communist regime and create massive problems for the United States and for democratic forces in the hemisphere." With this outmoded cold war response, the U.S. Government proceeded to systematically cut off Chile from the resources of more developed nations and to attempt to isolate it from its Latin American neighbors. This has indeed created "massive problems for the United States"—but ones which are a result of our shortsighted and destructive policy.

A recounting of the actions taken by the U.S. Government with regard to

Chile draws a clear picture of the abuses of power by this Nation and demonstrates a total disregard for the sovereignty of other nations.

From the first, President Nixon made no particular secret of his disapproval of the government that the Chileans had chosen for themselves. He omitted sending the traditional congratulatory telegram to Mr. Allende on his election. The diplomatic slights continued when in 1971 the administration rejected an invitation to send a carrier to pay a courtesy call at the port of Santiago, an invitation which had been accepted as a matter of course by Admiral Elmo Zumwalt. Our refusal was taken, as intended, as a slap in the face to Allende.

United States-Chilean tensions were increased when Director of Communications Herb Klein commented to the White House press corps that he had obtained the "feeling" that the Allende government "would not last long." He made this comment following what might be ironically called a goodwill tour of Latin America with Robert Finch. The Chilean response to this gratuitous comment seemed apt—that it "implied grave foreign intervention" in Chilean affairs by a nation which had proclaimed its desire for friendship with the Chilean Government.

While we have indicated in various diplomatic ways that we are cool to the Allende government, it is our economic actions which tell the real story. Pressure of the sort that we have placed on Chile's already weak and endangered economy was intended to disrupt its society, and we can see in the present state of affairs how well it has succeeded.

Funds from the Agency for International Development have not been requested for Chile by the administration since Allende's election. In light of the fact that our diplomatic relations are technically normal, this is a highly unusual step. Although Public Law 480 and other government-to-government programs continue to operate we, have cut the heart from the foreign aid program in an attempt to starve the nation into submission.

The case of collusion between the CIA and the International Telephone and Telegraph Co. in attempting to prevent Allende from assuming power is still under investigation. The New York Times' publication of an 18-point memorandum from ITT to U.S. Government officials of strategy to bring about the fall of Allende within the first 6 months of his administration indicates how carefully such intervention was considered. It is important to realize that, while this case is extreme, economic intervention of a more subtle nature is quite consistent with U.S. policy.

The prime bone of contention has been Chile's decision to expropriate holdings of American companies. American corporations have long been involved in the development of Chile's resources for corporate benefit but have failed to pass those benefits along to the Chilean people. Since 1953, U.S. corporations have earned more than $1 billion through their development of Chile's resources, but have invested only $71 million. Foreign capital appropriates Chile's wealth and returns very little to the Chileans. Chile's nationalization of basic resources represents an attempt to increase its economic independence. Nationalization is legal under a Chilean constitutional amendment, and even American policy recognizes the right of a nation to nationalize industries concerned with basic resources. However, the U.S. responded to the Chilean expropriation in the narrowest possible way, by moving to protect business.

The Overseas Private Investment Corporation has refused to extend insurance to the companies which decide to invest in Chile, assuring that no new foreign capital will come into Chile to help with payment of outstanding debts. The Export-Import Bank's Foreign Credit Insurance Association has refused to extend political risk insurance for Chilean investment. Further, other complaints against Chile by ExIm bank regarding debts make reopening of insurance for Chile contingent on the settlement of debt renegotiation—which, according to an Ex-Im spokesman, is "not on the immediate agenda." Negotiations on both expropriation and debts are stalemated by the hard line taken by both sides. It would have been in the interest of American foreign policy objectives to reconsider the hard line and salvage our relations with one of the few democratically elected governments in the hemisphere, but we have held to our position and exerted economic pressure in an attempt to convince Chile of the error of its ways.

Reprisals against Chile took many forms. First, the Export-Import Bank of the United States refused Chile's request for financing for the purchase of commercial jets, preventing the modernization of Chile's commercial air service. The U.S. Government shortly after declared Chile in default on debt payments to AID, Ex-Im Bank, and the Department of Agriculture when Chile suspended payments on its debt pending renegotiation. Although Chile clearly intended to keep its debt obligations, the temporary suspension was the excuse the United States was looking for to close Chile off financially and to push its economy further into disarray. Although Chile had been deeply in debt under President Eduardo Frei, requests for rescheduling had been considered sympathetically. Cutting off all the future loans in this way tightens the vicious circle in which Chile with U.S. help finds itself: foreign capital reserves are running out, making repayment impossible; foreign capital is not forthcoming because the possibility of investment is eliminated without insurance. The question of loans and development grants to Chile has become a touchy one in the international finance community. Ex-Im Bank, as I said, does not consider debt renegotiation a priority, letting Chile strangle in ropes of the U.S. making. The World Bank has not extended any loans to Chile since 1970—hardly a coincidence—and the loans to be considered this year will have the opposition of the United States due to our tough expropriation policy. The executive directors of the International Monetary Fund and the Inter-American Development Bank are directly responsible to the Secretary of the Treasury of the United States, effectively depriving Chile of any aid which might be forthcoming from the organizations. In fighting for U.S. business interests, we have used even international agencies, which were not intended to be tools of American decisions and mistakes—to punish Chile, and as a result have wrecked the economy of the nation.

Clearly our policy is a coherent one. We have tried through the example of Chile to kill economic nationalism and socialism in Latin America. The administration's ties to the business community do not justify intervention of this magnitude in Chile's internal affairs in an attempt to destroy its economy and government for the benefit of multinational corporations. We have business interests and outworn ideology replace realism in our foreign policy toward Chile. Despite our ability to deal with the Governments of China and the Soviet Union, despite our avowed policy of accepting governments as they are we have found ourselves unable to deal with a democratically elected socialist government in our hemisphere. We have helped to destroy its government and our relations with all of Latin America.

I hope the Chile policy, one of intervention in internal affairs for the purpose of destroying of government which does not meet with our approval does not prove a harbinger of future policies toward nations which experiment with democratic socialism. If it does, the consequences to the prestige of the United States will be damaging, and we will find ourselves, rather than our opponents, isolated in this hemisphere.

## U.S. TROOP LEVELS IN EUROPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 15 minutes.

Mr. HAMILTON. Mr. Speaker, one of the distinctive features of the 93d Congress is the increasing attention the Congress has paid to the size, purpose, and cost of U.S. troop levels abroad.

There is broad agreement that reductions can be made in the over 600,000 American troops overseas. There is less of a consensus on U.S. troop levels in Europe. The question often arises, "Why should over 300,000 American troops be in Europe 28 years after World War II?" These forces cost the United States directly about $7 billion each year to maintain, and are responsible for about $2 billion of the American balance-of-payments deficit.

Despite these costs, I do not feel we should apply unilateral cuts to our forces in Western Europe at this time.

This is not to say that reductions in our troops levels elsewhere are not warranted, or that improvements in our defense posture in Europe are not needed. Indeed, we should take every necessary step to improve the ratio of combat to support troops, insure that combat troops are in the most effective locations, and avoid the placement of tactical nuclear weapons where detonation or capture by the enemy are the only options available.

While I support mutual and balanced

force reductions in Europe, I am opposed to the unilateral reduction of American troop levels there for several compelling reasons.

### VITAL TO U.S. SECURITY

The most important reason for my opposing such troop cuts is that they could jeopardize our own security. The independence and security of Europe is vital to the security of the United States and Europe's security is, in turn, dependent upon a credible deterrent and defense against attack. A reliable defense posture would be undermined by unilateral U.S. troop cuts, especially when we are about to negotiate mutual reductions with the Soviet Union and Warsaw Pact nations.

The importance of Europe to our national security is demonstrated by the fact that we have felt twice in this century that we should involve ourselves in world wars in order to help insure the survival of nations friendly to us in Western Europe. We do not maintain troops there now without good reason: they are there for our own protection, not just that of the Europeans. NATO Europe, with its industrial, economic, technological and military strength and potential is second only to the United States in strategic importance to the non-Communist world.

### MAINTENANCE OF DÉTENTE

Unilateral troop cuts would also adversely affect the atmosphere of détente that has characterized East-West relations in recent years.

The changing political environment owes a good deal to the stability that the present European security system has provided. The NATO alliance and the substantial American military presence in Europe have permitted Western European states to stabilize themselves and pursue novel forms of cooperation with reduced risks of external interference. Chancellor Brandt's Ostpolitik is a case in point.

The military balance that the United States has helped to maintain in Europe is really the foundation for the era of negotiation that we are now in. It has allowed for diplomatic manuvering room and a willingness to pursue bilateral and multilateral talks—such as the Conference on Security and Cooperation in Europe and SALT II—on a wide range of issues. Any unilateral troop cuts on our part would substantially dampen the atmosphere surrounding these talks and inhibit their progress. Simple prudence dictates that a military balance that has kept the European peace for so long and now serves to underpin negotiations should not be cast lightly to the winds.

### UNDERMINE MUTUAL FORCE REDUCTIONS

The talks on mutual force reductions scheduled to begin October 30 are one example of the negotiations that have accompanied a reduction in East-West tensions, and they would be directly and adversely affected by any unilateral troops cuts on our part.

Why should the Soviet Union agree to pursue mutual troop reductions when it can sit back and watch us reduce ours unilaterally? There would be no incentive for the Soviet Union to seriously negotiate when it could get something for nothing. We would have already given away our bargaining tool and have a substantially weakened position at the negotiating table.

A unilateral withdrawal would be all the more unfortunate now because of the nuclear parity between the United States and the Soviet Union, a parity that places a higher value on NATO's conventional military capabilities. While assessments of the comparative nonnuclear military strengths of NATO and the Warsaw Pact vary, most observers feel that NATO has a quantitative disadvantage but a qualitative advantage. A unilateral American withdrawal would further add to the quantitative imbalance and even jeopardize the maintenance of high-quality forces, since the United States would presumably take some of its advanced equipment out also. Thus, any subsequent, negotiated mutual reduction in forces would be to the disadvantage of the West, which could, for that reason, have less interest in MBFR talks, period.

Additionally, the MBFR talks have been in the making for nearly a decade and have been preceded by lengthy and delicate diplomatic discussions on procedural matters. Unilateral action on our part would throw the results of this sensitive multilateral groundlaying into a cocked hat, and quite possibly negate or indefinitely postpone any chances for meaningful, reciprocal reductions, leaving Europe to pick up the prices.

### ADVERSE EFFECTS ON ALLIES

Our NATO allies are watching our domestic debate on troop reductions quite attentively, and they are quite concerned that a reduction on our part would actually occur. The impact of a unilateral reduction on our allies would be devastating to the solidarity of the NATO alliance, for several reasons.

First. A U.S. troop reduction would prompt Europeans to view us as growing increasingly isolationist and less interested in maintaining our commitment to defend them. Militarily, the alternative to a strong NATO conventional capability is apt to be earlier recourse to nuclear weapons—a quantum jump in weaponry and one that scares the Europeans since these weapons would be used on their own soil. In the absence of NATO conventional forces adequate to do the job, an enemy—as well as our allies—might calculate that the United States, loath to respond to an attack with nuclear weapons, and lacking conventional forces on the scene, might be muscle-bound and unable to respond at all.

Second. A U.S. reduction at this time could also prompt domestic political pressures on Western European governments to make unilateral reductions of their own. The entire fabric of our common decisionmaking could be torn apart and our common defense posture seriously damaged. These developments would be ill-timed, since the Europeans are making substantial efforts, as they should be, to increase their military contributions to NATO as well as to find additional ways of reducing the financial burden borne by the United States because of our troop commitment. Though the United States is still paying more than its "fair share" of NATO expenses, according to the Secretary of Defense, encouragement can be taken from the fact that our allies now provide 90 percent of NATO ground forces, 80 percent of the air strength, and 75 percent of the naval forces.

Third. The "Eurogroup" within NATO would be affected adversely by the repercussions of a U.S. withdrawal. This body has established its own task forces which are working toward such goals as equipment standardization, joint training programs and other measures to reduce duplication of defense efforts. These attempts at allied coordination could be shattered by a sudden unilateral withdrawal on our part.

Fourth. Finally, a U.S. troop reduction would lead to a loss of U.S. influence in Europe and could prompt an increase in Russian influence. It should be remembered that, while the threat of Soviet attack on Western Europe may have declined during recent years, the Soviet Union is still interested in establishing its political and economic influence in that region. Since the Soviet Union is much more powerful than any single European nation, we could very well see a repeat of the Finlandization process. George Ball touched on this possibility when he noted in a recent article that:

> It is possible that NATO's conventional forces could be reduced further without tempting the Soviet Union into the military adventures. But the real question centers on the degree of inferiority that would still constitute sufficiency in the all-important psychological balance. At what point would West Europeans cease feeling reasonably safe? When might some of the more exposed countries begin to adapt their policies to the assumption that their security depends more on Soviet good will than on American guarantees? The answers to these questions depend on a subjective sense of adequacy—which in turn depends heavily on the presence of the U.S. . . .

### CONCLUSION

Mr. Speaker, I have given a very brief rundown of some of the repercussions of a unilateral U.S. troop reduction in Europe. I have raised these matters because they should be on the minds of my colleagues when we consider troop levels overseas. Just as the NATO policy of strength is succeeding is not the appropriate time to junk it. The entire atmosphere of détente that has characterized East-West relations in recent years could be jeopardized.

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## THOMAS R. AMLIE, 1897–1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, it is my sad duty to inform the House of the recent passing of a former member, Thomas Ryum Amlie, of Wisconsin.

Tom Amlie was first elected to the House as a Republican from Wisconsin's First District to fill a vacancy in the 72d Congress—October 13, 1931, to March 3, 1933. He subsequently won election from the First District as a Progressive in the 74th and 75th Congresses—January 3, 1935, to January 3, 1939. During this period, Tom Amlie was part of a vibrant group of House Progressives that included such outstanding figures as Maury Maverick of Texas, Gerald Boileau of Wisconsin, Earnest Lundeen of Minnesota, and Usher Burdick of North Dakota. Tom Amlie was one of the best voices of intellectual progressivism in national politics and he participated in many of the key legislative proposals that helped shape Franklin D. Roosevelt's New Deal. Declining to seek reelection to the House in 1938, Tom Amlie left Washington and moved to Madison, Wis., where he resumed the practice of law and maintained an active interest in politics and national affairs.

Both in the Congress and in private life, Tom Amlie was a leader in the cause of social and economic justice for all Americans. He also was dedicated to the cause of world peace. As a constituent of mine, I always welcomed and valued having his wise counsel.

I extend my condolences to his wife, Gehrta, and his children, and I am certain that those who knew Tom Amlie will mourn the passing of this most distinguished American.

Mr. Speaker, I would like to include an editorial from the August 24, 1973, Madison, Wis., Capital Times eulogizing the late Tom Amlie.

### TRIBUTE TO TOM AMLIE

A lengthy illness, that extended over several years, has finally claimed the life of Thomas R. Amlie, former Wisconsin Progressive party leader who served three distinguished terms in the U.S. House of Representatives in the 1930s.

From the day when Tom Amlie came off a North Dakota farm to earn a law degree at the University of Wisconsin, he was a crusader for liberal causes. Mr. Amlie has not been in the public eye for more than a decade but the contributions to his country as one of the progressives in Washington who pushed through Franklin Roosevelt's New Deal has earned him the gratitude of the public.

Mr. Amlie's liberalism also earned him some powerful enemies, who were able to deny him a post on the U.S. Interstate Commerce Commission, when Roosevelt sent his name up to the Senate in 1939.

Mr. Amlie was a key figure in the formation in Fond du Lac in 1934 of the old Progressive party and played a major role in the party until its dissolution in 1946 at Portage.

Until illness sapped his strength he was a persuasive contributor to the Voice of the People always in behalf of liberal causes. Wisconsin owes him a debt of gratitude.

## BIG BUSINESS VERSUS THE PEOPLE'S BUSINESS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, the President has been trying to convince the country that it should forget about Watergate so the Government can begin looking after the "people's business."

It is now clear that the administration is interested in big business and is insensitive to the "people's business."

Recently, the President vetoed the increase in the minimum wage proposed by Congress and he delayed a badly needed 4.7-percent increase in the pay of Federal workers. He cited the state of the economy and the need to hold down inflation as the reasons for these actions.

At the same time, his Cost of Living Council was increasing the price United States Steel could charge for rolled steel by $9-a-ton or $400 million a year. The administration did not seem concerned about what this action would do to the economy.

The people who would have benefited from the increase in the minimum wage—to a magnificent $80 a week—are among the poorest paid workers in the country and the Federal workers will now have to wait an additional 2 months before they get a cost-of-living increase which will not come close to meeting the latest increases in the prices of necessities.

When he made these moves the President said he knew the people understood that they were necessary and that they would be willing to carry their share of the economic burden.

Apparently, United States Steel does not have to make the same sacrifices. If the company was operating below the poverty level, such as the people who earn only the minimum wage must do, or if it could not afford many of the basic necessities like many of our Federal workers, the increase might be justified.

However, according to the last quarterly report the company sent to its stockholders, its earnings for the second quarter of this year are better than the first 6 months of last year.

The report states that profits for the second quarter of 1973 were $84.9 million or $1.56 per share. For the first 6 months of 1972 the company earned $71.4 million or $1.32 a share.

This is hardly the picture of a company operating at the poverty level.

It seems to me, Mr. Speaker, that if United States Steel needs more money then so do the poorest workers in the country.

In this case what is good for United States Steel is good for the people and I intend to vote to override the President's veto of the bill to increase minimum wages.

## ECONOMIC GROWTH OF FREE CHINA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

Mr. HANLEY. Mr. Speaker, I want to take this opportunity to join with my colleagues in congratulating the people of Free China on what is surely one of the most fantastic economic growth rates in the world. The Taiwanese, enjoying freedoms and initiatives unknown by their brothers and sisters in Red China, have managed to produce an economic miracle. Productivtiy is at an alltime high. Their GNP is rising at a rate which almost boggles the mind, and yet they have been able to achieve this without the awesome ravages of inflation which now inflict the rest of the free world, and also without having to resort to countless billions and billions of dollars in military appropriations, a fact which I hope some of our more strident colleagues here in this body will note.

It is interesting to point out, Mr. Speaker, that of all our so-called friends in the world, Taiwan has taken the lead in attempting to help the United States solve some of her economic woes. For the first, if not the only time in modern international trading annals, the Taiwanese recently voluntarily sent an economic delegation to Washington to help discover ways in which our increasing balance-of-payments deficit with them could be decreased and hopefully eliminated. I fear this fact has been lost on too many of us.

I have said on countless occasions both here and in other public forums that the United States has only a few real allies left in this world. One of them is Taiwan. Let us not let her down.

## SOCIAL SECURITY BENEFITS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. CULVER) is recognized for 5 minutes.

Mr. CULVER. Mr. Speaker, today I am joining with several of my colleagues in introducing a bill that would make the 5.9-percent increase in social security benefits effective immediately.

Congress originally intended that such a raise would go into effect this year, but considerable opposition from the administration delayed the increase until June 1974. This delay will mean unnecessary hardship to elderly Americans who must live on social security benefits. Of the many myths that exist about social security, surely the most damaging is the belief that current benefits are adequate to meet the basic needs of the recipients.

In light of the neglect with which we have treated the needs of elderly Americans, it is startling to realize that senior citizens comprise the fastest growing segment of our population. The total population of the United States has tripled since 1900, while the older population has increased more than twice as fast.

This 5.9 percent increase in benefits is an important beginning for efforts to focus more of the Nation's resources on the needs of senior citizens. Every older person should have an income adequate to maintain health and enable an individual to be self-sufficient, and yet even that moderate standard of living is beyond the reach of about half of all aged people.

Older Americans living on limited incomes are perhaps those most severely victimized by the effects of inflation. This rise in prices over the past 4 years has often been sharpest for services or products of special importance to them. The impact of a 39-percent increase in property taxes has been especially severe, because nearly 70 percent own their homes. Public transportation costs have risen by 32.3 percent, and yet many elderly have no other means of transportation. The rise in food prices affects many American families, but the aged spend about 27 percent of their income for food compared with 17 percent for all Americans.

The rapid, uncontrolled rise in the cost of basic necessities of life had made a mockery of the intent of Congress to provide better living conditions for elderly Americans. In spite of the fact that consumer prices rose 8.3 percent in the first 5 months of this year, the administration continues to oppose an immediate 5.9 percent social security increase on the premise that it is inflationary.

Congress has voted that a cost-of-living adjustment mechanism go into effect in 1975, but only 1974 price increases will be taken into account. Nor can senior citizens rely, as the administration has suggested, on other sources of income—savings, private pensions, and so forth—for such sources are particularly vulnerable to inflation.

A recent article in the Cedar Rapids Gazette documented the manner in which Iowans have tried to cope with the difficulties posed by aging. The article poignantly illustrated the economics of aging in America with the example of one man who, after his monthly payment on a small bungalow, had less than $90 left from his social security check.

In my judgment, such facts more than justify an immediate raise in social security benefits. Congress and the administration must, of course, cut needless spending, but I strongly believe that we can continue to make reductions in such areas as military and foreign spending and can tighten tax loopholes in order to establish and maintain a realistic spending ceiling and a balanced budget. It is in no way responsible to reduce spending in matters vital to the well-being of older Americans.

I strongly urge that Congress fulfill its intent of 1972 and enact an immediate increase in social security benefits to keep pace with the rapid rise in prices. Congress must meet its responsibility to insure senior citizens the dignity and respect they so much deserve.

## ELI WHITNEY AND THE COTTON GIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINN) is recognized for 5 minutes.

Mr. GINN. Mr. Speaker, the year 1973 marks the one hundred eightieth anniversary of one of the most momentous developments in the history of American society: Eli Whitney's invention of the cotton gin, a development that was destined to change for the better both the face of America and the life of her people forever. It was on September 11, 1793, that Whitney perfected his amazing new machine.

I am proud to say that this historic event took place in my own district in Georgia, at Mulberry Grove Plantation, only a few miles from Savannah. It was the fall of 1792 when Eli Whitney arrived in Savannah, bound for a tutor's job in South Carolina. He had just graduated from Yale, but scarcely met the usual description of a young man just out of college: Whitney was 27 when he graduated; he had spent several years as a craftsman and entrepreneur before making the decision to seek a higher education. From his youth he was mechanically inclined, and while still a teenager he established his first business enterprise, a nail foundry. The Revolutionary War had cut off the American market from British foundries that had long supplied nails to the colonies. Whitney realized this basic need and moved to combat it. Whitney arrived in Savannah an experienced young man, skilled as a mechanic and businessman as well as a tutor. As I mentioned before, he came to the South with the intention of being instructor to the children of a South Carolina planter, Major Dupont, but fate intervened: upon arriving, he was told that the salary offered was only half what he had originally anticipated.

While Whitney waited to return to Connecticut, the hospitality of Mulberry Grove was offered to him. Mulberry Grove, a large and stately plantation, was the home of Catherine Greene, widow of Gen. Nathaniel Greene, one of the outstanding American generals of the Revolution. The estate had been donated to him by the grateful citizens of Georgia in recognition of the services he had rendered to them in helping drive British troops from their soil during the struggle for Independence. After the general's untimely death, Mrs. Greene retained Phineas Miller, a transplanted northerner, as manager of the farm. A friend of the president of Yale, it was Miller who had acted as Major Dupont's agent in securing the services of Eli Whitney, and it was to Mulberry Grove that the disappointed tutor returned. By great and good fortune the man and the hour had met. Whitney was to provide the catalyst that would radically alter the South.

The combination of circumstances which led to the invention of the cotton gin reads almost like a novel. The South was in economic doldrums and needed a profitable cash crop to maintain its growth. Of the major products grown in southern farms and plantations at that time, rice and indigo were little in demand overseas, while tobacco crops left the soil depleted of its minerals after only a few years of cultivation. The planters of the South had considered cotton but found it economically unfeasible. Only one variety grew successfully, green seed cotton, a short staple cotton, but the tremendous amount of labor expanded to remove the seeds from this variety made it unprofitable to grow. At the same time across the sea in England, the mills were crying for cotton. The 18th century had seen a steady improvement in the ability to produce cotton cloth cheaply and efficiently. Spurred by the development of innovations such as the spinning jenny and the water frame, English cotton weavers were able to build large factories where tremendous efficiency in production of the cloth was attained. In 1793 these mills were crying for cotton. The demand for cotton cloth far outstripped the available supply of raw cotton.

Into this gap stepped Eli Whitney. While at Mulberry Grove he had the chance to talk with some of Mrs. Greene's neighbors, planters who bemoaned the fact that despite the great need for cotton fiber, the short staple cotton grown in Georgia required too many man hours to clean. The planters put the idea into Whitney's head, and he at once set to work on the new invention. Ten days later he unveiled a small working model of the machine which was to change the face of America. Like many of the products of genius, the cotton gin was masterful in its simplicity. A roller pulled the fibers through a sort of screen which culled the seeds and dropped them into a tray below, leaving the strands ready for bailing. Whitney estimated that one man using a full-size machine could turn out as much in 1 day as 50 men working by hand.

The cotton gin spread throughout the South with incredible rapidity, stimulating settlement of the whole broad Cotton Belt stretching today as far as Texas. The changes wrought by widespread cotton cultivation were little short of astounding. While the population of the United States as a whole increased by a third between the years 1790 and 1800, my own native Georgia doubled its population during the decade, growing from 80,000 to 160,000 in this short time.

The increase in cotton production itself is even more astounding. During the revolutionary decade in which Whitney's invention was introduced, production of cotton in the United States grew from a 1790 figure of 3,000 bales to the astounding total of 73,000 bales in 1800, a more than twentyfold increase. Cotton sent to meet the demand of British mills provided one of the few solid exports of the young Nation, helping to offset our payments deficit, while cotton shipped to the North helped fuel the development of America's own infant industries.

The importance of cotton's contribution has increased down to our present day. Cotton is not only used in producing fabrics, although this continues to be of tremendous importance. Now every part of the cotton boll is used. Cottonseed is rich in oil; it is transformed into vegetable shortenings, margarine, salad dressings, face creams, soaps, and automobile lubricants. The crushed hulls of the cotton boll are an ingredient in the manufacture of plastic. The pressed kernels furnish fertilizer for other crops, while hulls and kernels, ground together, are an important animal feed. Cotton "linters," the short fuzz adhering to the seeds after ginning, are even more versatile in their uses; they find their way into such widely diverse products as rayon, shatter-proof glass, plastics, writing paper, varnishes and lacquers, and even dynamite.

Cotton has, through its versatility, proved an ever greater asset to our society, an invaluable factor in our unprecedented standard of living. And it all started "down home," in my native State of Georgia, barely 12 miles from Savannah, I salute the memory of Eli Whitney on the 180th anniversary of his great invention, and I salute cotton, America's "White Gold," an incomparable and inexhaustible national resource.

## THE FIGHT GOES ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 5 minutes.

Mr. PODELL. Mr. Speaker, in the last few weeks, events in the Soviet Union have served to remind us of a great task as yet unfinished. The new wave of repression practiced against a few courageous dissidents, the statements of Andrei Sakharov, the famed Soviet physicist, demonstrate that we have a great obligation left to fulfill.

Just as it seemed that the cause of Soviet Jewry had subsided because there were no incidents of note, merely the ordinary, run-of-the-mill harassment, Dr. Sakharov spoke up to remind us that the Soviet Union is not a safe environment for those who value their human rights. We in the Congress were well aware of this when we declared our support for the Freedom of Emigration Act. We must never lose our awareness of this fact.

In spite of temporary easings of the restrictions against Jewish emigration from the Soviet Union, most notably when Chairman Brezhnev visited the United States last June, it is still virtually impossible to get out of the Soviet Union if you are anything more than a laborer or clerk. Take the case of Valery Panov, the gifted dancer, as an example.

Mr. Panov has, for the past several years, asked permission to emigrate to Israel. He feels that, both as a Jew and as an artist, it is impossible for him to survive in the Soviet Union. The Russian Government responded by not only denying him permission to emigrate, but by also denying him the right to work as a dancer. He could not perform; he could not even practice. After an international outcry by his colleagues in the performing arts, the Soviet Government let it be quietly known that it would grant Panov permission to emigrate at the beginning of September if he were not made the object of so much publicity. Thus, statements on his behalf by artists and political leaders ceased. When Panov went to reapply for his passport a few days ago, he was turned down again.

Panov is only one of many stories. He has become well-known in the West because of his stature as a performing artist. But there are so many others, both those who have applied for visas, and those who would like to apply but are too afraid of government reprisals, who are looking to us in the Congress for help. When we gave our names in cosponsorship of the Freedom of Emigration Act, we made a promise to hundreds of thousands of men, women, and children in the Soviet Union. We promised them nothing short of freedom.

No matter how important it is to the prestige of the administration to win a major reform of the trade laws and to expand trade with the Soviet Union, it is still more important for our Nation to act morally and responsibly. After what we have seen of the way the wheat deal was handled last year, we should not be so anxious to rush into new trading agreements with the Soviet Union unless we are sure that we will be getting something of value in return. That something of value need not be consumer goods, or even currency. Russia has precious little of either. That something of value can be, in fact, must be, the freedom of men, women, and children in Russia, to leave that nation. That something of value must be a relaxation of the climate of repression in the Soviet Union, so that men like Sakharov, who contributed so much to Russia's scientific development, need not live in fear of their very lives.

The Trade Reform Act will soon be before us for our consideration. As we debate this legislation, we should remember all those hungry souls in the Soviet Union who look to us for their last hope for freedom. The relative quiet for the last few months should not lull us into a false sense of security that all is well. Instead, we should all feel that the struggle has only just begun.

## FBI FILES ON MEMBERS OF CONGRESS SHOULD BE DESTROYED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on September 11, Jack Anderson in his column, "The Washington Merry-Go-Round" reported on the files that the FBI maintains or has maintained on Members of Congress. I have had extensive correspondence with the FBI Directors beginning with Acting Director Gray and most recently Director Clarence Kelley on this subject.

I think it is very important that this Congress take appropriate action to bar the FBI from maintaining files on Members of Congress except where they do so in pursuit of criminal investigations. The files I have reference to relate to personal material which can only be collected and ultimately used for the purpose of intimidating a Member and have no reference at all to criminal activities.

I believe the political dossiers maintained on Members of Congress by the FBI should be destroyed. Director Kelley and his predecessors have taken the position that the law prohibits the FBI's destruction of those files. I intend to introduce legislation which will direct the destruction of these files.

It is particularly appropriate at this time that I also mention legislation which I have prepared and will be circulating for cosponsorship which will regulate all of the files now being collected and computerized both by public and private agencies on all our citizens. The citizens of this country have the right to limit the kind of information being collected about them individually which is not related to criminal activities and to see the information that is being collected so as to make certain that it is accurate and only used for a valid reason.

Mr. Speaker, for the examination of our colleagues, I am annexing the correspondence that I have had with the FBI and others on this matter, together with related congressional correspondence, and the Jack Anderson column:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., November 1, 1972.*

Hon. L. PATRICK GRAY,
*Acting Director, Federal Bureau of Investigation, Department of Justice, Washington, D.C.*

DEAR MR. GRAY: Having learned for the first time that there are dossiers kept by the FBI on Members of Congress, we, the undersigned, request that those dossiers relating to each of us, be furnished to us.

We ask you to send our respective files to our offices immediately so that we may examine them and ascertain exactly what it was that the FBI was collecting.

Sincerely,

EDWARD I. KOCH,
BENJAMIN S. ROSENTHAL,
JONATHAN B. BINGHAM.

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U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
*Washington, D.C., November 24, 1972.*

Hon. EDWARD I. KOCH,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN KOCH: As you may know, Acting Director Gray recently was hospitalized with an intestinal obstruction. We do not know at this time when he will return to his office.

Your letter of November 1, 1972, was being given careful consideration prior to Mr. Gray's hospitalization. You will appreciate the importance of your request necessitates his personal attention; therefore, we are unable to predict when we will be in a position to respond. I assure you that upon Mr. Gray's return we will respond to your request as quickly as possible.

Sincerely yours,

W. MARK FELT,
*Acting Associate Director.*

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U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
*Washington, D.C., January 2, 1973.*

Hon. EDWARD I. KOCH,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN KOCH: I regret that my illness followed by surgery has delayed this response to your letter of November 1, 1972.

For your ready reference, I am enclosing a copy of my press release of October 27, 1972, announcing the termination of the FBI program of collecting biographical data on major nonincumbent Congressional candidates.

The FBI does not maintain secret files or political dossiers on Members of Congress, and you will note that I neither stated nor implied that we do in my press release. The creation of dossiers was neither the intent nor the purpose of the program I terminated on October 27. Its purpose was to assist officials of the FBI in the conduct of our relations with the Congress of the United States.

Let me describe for you the program that I ordered discontinued and how it operated. I believe this will greatly enhance the understanding of this matter.

Around 1950, the officials of the FBI then responsible for dealing with the Congress decided it would be most beneficial to them if they had some biographical data on newly elected Members and a knowledge of any prior contacts by FBI representatives with these new Congressmen and Senators. Initially, they orally requested FBI field office officials to furnish the desired information. In 1960, the practice was begun of requesting such information by sending routine slips to the various FBI field offices. This has been followed each election year since that time.

The information was gathered for our own internal use and not in response to any regulation or statute. At first, information was sought only on nonincumbent candidates for Congress. In 1960, the requests were expanded to include nonincumbent candidates for Governorships, since FBI officials also felt their contacts with Governors could be enhanced by some prior knowledge of the individual's background.

No investigation was conducted to secure this information, and no investigative file was opened either in the field offices or at FBI Headquarters. The biographical information was collected by individual Agents covering the home area of the candidate. It was gathered from local newspapers, campaign brochures, and reference books such as city directories or books which publish biographical information—all sources readily available to the general public. This information was augmented by a summary of any data (already in the files) of the field office. This might include correspondence exchanged with the candidate; memoranda concerning personal contacts; results of investigations involving the candidate, either as a subject, a victim, a witness, or a reference; or information voluntarily submitted to the FBI.

The material collected by the field office was sent to FBI Headquarters where it would be held until the results of the election were known. If the candidate was defeated in his bid for office, all of the material submitted by the field office would be promptly destroyed and no record of it kept. If the candidate was successful, a memorandum summarizing the material submitted by the field office would be prepared. Into this summary memorandum also would be incorporated a brief abstract of any information already contained in the files at FBI Headquarters. Here again, the information might include correspondence exchanged with the candidate; memoranda concerning personal contacts; results of investigations involving the candidate, either as a subject, a victim, a witness, or a reference; or information voluntarily submitted to the FBI. The raw material forwarded by the field office would be destroyed, and only the summary memorandum would be retained and incorporated into FBI files.

I am giving serious consideration and study to the ultimate disposition of these summary memoranda.

Sincerely yours,

L. Patrick Gray III,
*Acting Director.*

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U.S. Department of Justice,
Federal Bureau of Investigation,
*Washington, D.C., October 27, 1972.*

"The FBI is not investigating and has not investigated Members of Congress or Congressional candidates," Acting FBI Director L. Patrick Gray, III, declared today. "The only exceptions have been where a Member was alleged to have violated a Federal law or where the Member is being considered for a top-level Government appointment.

"It has just come to my attention," he said, "that since 1950 personnel at FBI Headquarters responsible for dealing with Congress have, as a matter of routine practice, gathered biographical data on major candidates for the House of Representatives and the Senate from newspapers, magazines, campaign literature, and various reference publications. FBI Field Offices from time to time have been requested, by means of a routing slip directive, to assist by providing information that was readily available from local files and local publications.

"Initially, the purpose of this was to provide briefing material for FBI officials who might desire it before making a call on a newly elected Congressman or Senator. In short, the routine was a part of the Congressional relations program of the FBI. Later, following the enactment of Public Law 91-644 dealing in part with violent offenses against Members of Congress and Members of Congress-Elect, it became apparent that such information would be of immediate use in following investigative leads arising in the event such offense were to be committed against a Member or a Member-Elect of Congress.

"I became aware of this program," Mr. Gray continued, "as a result of inquiries alleging that an FBI Agent in Lorain County, Ohio, had been making inquiries about the background of the Democratic candidate for Congress in Ohio's 13th District. This Agent's inquiries were not authorized, and were in violation of specific instructions that the gathering of information on Congressional candidates is to be made from readily available published sources only, and not through any outside inquiries. The FBI is conducting an internal administrative investigation of this Agent's actions to determine why this instruction was not followed.

"At the same time," Mr. Gray continued, "because the program of gathering briefing material on Congressmen and Congressional candidates has been brought to my attention through this incident, I have given consideration to the need for such a program. Such a program is not essential to FBI operations, and I believe it is obvious that it can be misinterpreted easily as a program to investigate Congressmen and Congressional candidates. Therefore, I have decided to terminate this program as of today."

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U.S. House of Representatives,
*Washington, D.C., January 10, 1973.*

L. Patrick Gray III,
*Acting Director, U.S. Department of Justice, Federal Bureau of Investigation, Washington, D.C.*

Dear Mr. Gray: I am delighted that you have recovered from your illness and have returned to your duties.

I do appreciate your detailed response of January 2. Please do let me know whether the three of us who requested our files from you were among those who were included in the "FBI program of collecting biographical data on major nonincumbent Congressional candidates."

If I was included, I would very much like to see that file.

All the best for the New Year.

Sincerely,

Edward I. Koch.

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U.S. Department of Justice,
Federal Bureau of Investigation,
*Washington, D.C., January 24, 1973.*

Hon. Edward I. Koch,
*House of Representatives,*
*Washington, D.C.*

Dear Congressman Koch: Your letter of January 10, 1973, has been received, and I appreciate your kind comments about my return to duty.

As outlined in some detail to you in my letter of January 2, 1973, the FBI collected biographical information on major nonincumbent Congressional candidates beginning around 1950. At no time was an investigation conducted on you or any other member of Congress as part of this program. No investigative file was kept on you or any other member of Congress as part of this program. The methods of collecting the information, the specific types of information involved, and the methods of recording that information were all set out in the January 2 letter. As I indicated in that letter, if the candidate was successful, a memorandum summarizing the biographical information was prepared and incorporated into FBI files.

Such recorded information retained by the FBI is subject to the regulation and control of the Attorney General. It is not available for inspection except for authorized purpose and then only on a need-to-know basis. Therefore, I must decline your request.

Sincerely yours,

L. Patrick Gray III,
*Acting Director.*

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U.S. House of Representatives,
*Washington, D.C., April 17, 1973.*

Hon. Philip A. Hart,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator: Thanks so much for sending me a copy of the letter of April 13, the original of which you sent to the Attorney General. I very much appreciate your keeping me informed of the status of the matter.

Sincerely,

Edward I. Koch.

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U.S. Senate,
*Washington, D.C., April 13, 1973.*

Hon. Richard G. Kleindienst,
*Attorney General of the United States, Department of Justice, Washington, D.C.*

Dear Mr. Attorney General: At the recent hearings on the nomination of Patrick Gray to be Director of the Federal Bureau of Investigation, the question was raised about possible legal obstacles to destruction of files kept on members of Congress or other public officials by the Bureau.

Mr. Gray suggested that specific statutory provisions prohibited their simple destruction. Further, he seemed to suggest that the elaborate process of review and recordation required for their destruction in compliance with present law would create an even greater danger for misuse of the information they may contain than would their continued existence.

Because this is a matter of such concern, would you please furnish me with the citation to all federal statutes, and also regulations of the Bureau or the Justice Department, which would bear on this problem.

I would also appreciate any thoughts your Department might have on the question of arranging for the disposal of such records. However, since I realize this latter evaluation may take some time, could you please send me the citations I have requested in the meanwhile.

With best wishes,

Sincerely,

Philip A. Hart.

U.S. House of Representatives,
*Washington, D.C., June 5, 1973.*
Mr. William D. Ruckelshaus,
*Acting Director, Federal Bureau of Investigation, Department of Justice, Washington, D.C.*

Dear Mr. Ruckelshaus: As you may know, the FBI maintains political dossiers on Members of Congress. In November, 1972, three members of the House of Representatives, Reps. Rosenthal, Bingham and I, requested our files of your predecessor. The correspondence I had with Director L. Patrick Gray, was placed in the *Congressional Record* and is herewith enclosed.

I ask you now to provide each of us with copies of our respective records for our own inspection. I also urge that these congressional political dossiers be turned over for inspection to all congressmen who desire to see them.

During the hearings held by the Senate Judiciary Committee on the L. Patrick Gray nomination, Mr. Gray maintained that it was his desire to physically destroy these files but that current law prohibited such an action. I am not certain that his analysis of the law was, in fact, correct, as I believe that the files can be destroyed. If his legal analysis is correct, I would appreciate your advising me as to what changes in the law are required in order to authorize such destruction of these files so that I may introduce appropriate legislation.

I would appreciate this information at your earliest opportunity.

All the best.

Sincerely,

Edward I. Koch.

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U.S. Department of Justice,
Federal Bureau of Investigation,
*Washington, D.C., June 22, 1973.*
Hon. Edward I. Koch,
*House of Representatives,*
*Washington, D.C.*

Dear Congressman Koch: Your letter of June 5, 1973, has been received. I am sorry I can add no additional information to that previously furnished to you by Mr. L. Patrick Gray, III. As you know, I am bound by the same restrictions which precluded his furnishing the information you requested.

Specifically, records within the terms of 44 U.S.C. section 3301 must be destroyed in accordance with the provisions of 44 U.S.C. sections 3302–3303a. These provisions require the submission of records proposed for destruction to the Administrator of General Services for his approval. This law, of course, can be clarified simply enough if Congress desires and your proposal is certainly an alternative.

Cordially,

William D. Ruckelshaus,
*Acting Director.*

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U.S. House of Representatives,
*Washington, D.C., June 27, 1973.*
Hon. Philip A. Hart,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator: I should like to bring you up to date on my efforts to obtain release of the files that the FBI maintains on Congressmen, the subject of your letter of April 13th to then Attorney General Richard G. Kleindienst. You were kind enough to send a copy to me.

I am enclosing the letter of June 22nd which I have received from William D. Ruckelshaus, Acting Director of the FBI, in response to my letter of June 5th which is likewise enclosed. I would very much like to pursue this matter with you legislatively to do the following:

a. Permit Members of Congress to see their files.

b. Direct the destruction of these files.

I would also like to see broader legislation which would protect all members of the public. My federal privacy bill, a copy of which is enclosed, would do that. Senator Bayh introduced it in the 92nd Congress and I believe is considering reintroducing it in the current Congress.

Again, I would like very much to work with you on this subject.

Sincerely,

Edward I. Koch.

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U.S. House of Representatives,
*Washington, D.C., July 23, 1973.*
Hon. Clarence M. Kelley,
*Director, Federal Bureau of Investigation, Washington, D.C.*

Dear Mr. Kelley: As you may know, the FBI maintains political dossiers on Members of Congress. In November, 1972, three members of the House of Representatives, Reps. Rosenthal, Bingham and I, requested our files of L. Patrick Gray. Again on June 5, 1973, I requested these files of your immediate predecessor, William D. Ruckelshaus. The correspondence I had with L. Patrick Gray was placed in the *Congressional Record* and is herewith enclosed. I have also enclosed the most recent correspondence I have had with Mr. Ruckelshaus.

Every member should have the right to see his own file. Despite Mr. Gray's comments that the files maintained by the FBI are not investigative, but rather in the form of biographical memoranda, the contents of those files are shrouded in mystery. I am not requesting that you destroy the files, since your predecessor stated that legislation to do so is required. I am simply asking again that we be permitted to see our own files.

I would appreciate your consideration of this request.

Sincerely,

Edward I. Koch.

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U.S. House of Representatives,
*Washington, D.C., July 23, 1973.*
Hon. Peter W. Rodino, Jr.,
*Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.*

Dear Mr. Chairman: As I mentioned to you on the Floor recently, I would hope that the Judiciary Committee would involve itself in securing from the FBI the dossiers which the agency maintains on Members of Congress. For your information, I have enclosed my most recent correspondence on this subject with Director Clarence M. Kelley.

I believe that a Committee request to produce the files for inspection by the respective members might meet with the Director's affirmative response. I urge you to consider having the Committee make such a request.

Sincerely,

Edward I. Koch.

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U.S. House of Representatives,
*Washington, D.C., July 26, 1973.*
Hon. James O. Eastland,
*Chairman, Senate Judiciary Committee, Dirksen Office Building, Washington, D.C.*

Dear Mr. Chairman: I understand that you have set up a special panel of the Senate Judiciary Committee to oversee the operations of the FBI. I would like to bring to your attention a situation which, I think, merits your investigating. It is fully described in the statement I made on the floor of the House some time ago, a copy of which is enclosed, and the matter still remains unresolved.

I have asked each of the Acting Directors of the FBI, L. Patrick Gray and William D. Ruckelshaus, and the current Director, Clarence M. Kelley, to release to the Members of Congress for their personal inspection, the separate files which the FBI maintains on these Members. The acting directors both refused and I have not yet heard from Mr. Kelley. The copies of the correspondence that I have had on this matter are also enclosed.

I believe that the very integrity and independence of the Congress is at stake.

Sincerely,

Edward I. Koch.

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U.S. Department of Justice,
Federal Bureau of Investigation,
*Washington, D.C., July 27, 1973.*
Hon. Edward I. Koch,
*House of Representatives,*
*Washington, D.C.*

Dear Congressman Koch: Your letter of July 23, 1973, in which you allege that the FBI maintains political dossiers on members of Congress has been received.

In response to your request that you be permitted to see your "own files," I would like to repeat the information that was furnished to you by letter from former Director Hoover dated April 5, 1971, that you have never been the subject of an investigation by the FBI and this Bureau has no investigative file or dossier relating to you. Further, as indicated by the copies of the pages of the "Congressional Record" of February 7, 1973, enclosed with your letter of July 23, 1973, the facts concerning the collection of biographical data by this Bureau were fully disclosed to you by letter dated January 2, 1973, and I can add nothing to that statement at this time. Therefore, it will not be possible to comply further with your request.

Sincerely yours,

Clarence M. Kelley,
*Director.*

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Congress of the United States,
Committee on the Judiciary,
House of Representatives,
*Washington, D.C., July 30, 1973.*
Hon. Edward I. Koch,
*House of Representatives,*
*Washington, D.C.*

Dear Ed: I appreciate your letter of July 23, 1973 concerning F.B.I. dossier.

Our Subcommittee on Civil Rights and Constitutional Rights is currently giving considerable attention to the entire subject of criminal justice information. As a result, I am referring your letter to Representative Don Edwards who is the chairman of that Subcommittee.

With kindest regards, I am

Sincerely,

Peter W. Rodino, Jr.,
*Chairman.*

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U.S. House of Representatives,
*Washington, D.C., August 2, 1973.*
Hon. Don Edwards,
*Rayburn HOB, Washington, D.C.*

Dear Don: I have received Chairman Rodino's letter of July 30 in which he advised that he had turned over the matter raised in my letter of July 23 concerning F.B.I. dossiers on Members of Congress. I do hope you will have hearings on this subject so as to secure those files.

I am enclosing my latest correspondence with Kelley which is subsequent to the information furnished to Chairman Rodino.

I hope you enjoy the recess.

Sincerely,

Edward I. Koch.

U.S. HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 3, 1973.*
Hon. CLARENCE M. KELLEY,
*Director, Federal Bureau of Investigation, Washington, D.C.*

DEAR DIRECTOR KELLEY: I have your letter of July 27 for which I thank you. I am pleased to be advised that I "have never been the subject of an investigation by the FBI and this Bureau has no investigative file or dossier relating to (me)." If that is also true of and applicable to all Members of Congress (that there are no files on them), then I am bewildered by Acting Director Gray's testimony to that effect on February 28, 1973 before the Senate Judiciary Committee. In response to a question from Senator Hart concerning the destruction of what I believe to be files on citizens prominent in public life including Members of Congress, Acting Director Gray said:

"Well, the Archivist is required to review material to be destroyed, and I do not want people to read some of this rot that is in those files, that is where the hurt comes in, and I am not going to, as long as I am the guardian of those files, I am going to break my back to protect those files because it is wrong to let some of that stuff out. Somebody has got to read them. And once again, you get the question of who is going to do that."

What is this "rot" that he did not want others to see and is it a reference which also includes material relating to Members of Congress? (See enclosed copy of my testimony in which I refer to Mr. Gray's prior testimony.)

Finally, your letter of July 27 again refers to "the collection of biographical data by this Bureau." I would like to know whether your files have such biographical data on me and if they do, may I examine the material?

To sum it up, would it not be in the best interest of the Congress and the F.B.I. that any dossier which you have on any Member of Congress be made available for inspection by that Member if he or she desires that opportunity. In the interest of preserving the independence and integrity of the Congress shouldn't all such files be destroyed?

If you are lacking in authority to destroy them, as your predecessors appear to believe is the case, shouldn't you request appropriate legislation to permit you to do that?

I look forward to a resolution of this matter which will be in the best interest of the United States, and would appreciate your further comment.

Sincerely,

EDWARD I. KOCH.

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U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAN OF INVESTIGATION,
*Washington, D.C., August 16, 1973.*
Hon. EDWARD I. KOCH,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN KOCH: Your letter of August 3, 1973, has been received.

In my letter of July 27, 1973, to you, I stated as plainly as I could the facts concerning your inquiry. In response to your letter of August 3, 1973, I cannot interpret for you the statement you attributed to Mr. Gray. However, I note that the enclosure to your letter included a passage quoting Senator Hart in that regard as follows:

"I think in fairness I had better reserve an expression of opinion until I have looked at that transcript to see whether any question was clear and explicit and if there was a possibility of confusion, recognizing that the preparation of the letter to you is more carefully done than a response from the stand. That seems a disturbing contradiction but perhaps it is not."

I will say that it is possible the reference to "rot" was based on the knowledge that some information received during an investigation or voluntarily submitted to the FBI without our request is recognized by this Bureau as hearsay, or mere speculation, and treated as such. That, however, has nothing to do with the assembly of publicly available biographical data as described to you by letter dated January 2, 1973.

Let me repeat what you have been told previously: The FBI has no investigative file or dossier relating to you. We have file references to your name principally to locate the several letters you have written to this Bureau which, of course, we retained in our files. I am confident that you have file references in your office on me and my predecessors for the same reason. I see nothing sinister in your maintenance of your file references on me, and I trust you would agree this Bureau is equally entitled to maintain such file references concerning you. If you do not agree and you feel that there is a need to purge all references to you from FBI files, or that you must inspect our files, certainly you are entitled to seek appropriate legislation to accomplish your objectives.

It is my view that FBI files should not be disclosed except where a governmental purpose would be served thereby.

Sincerely yours,

CLARENCE M. KELLEY, *Director.*

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U.S. HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 23, 1973.*
Mr. CLARENCE M. KELLEY,
*Director, Federal Bureau of Investigation, Washington, D.C.*

DEAR MR. KELLEY: I enjoyed your letter. You have a very good sense of humor and that is important.

Let's have lunch. I'll call you when Congress reconvenes in September.

Sincerely,

EDWARD I. KOCH.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., July 11, 1973.*
Hon. CARL ALBERT,
*Speaker of the House,*
*The Capitol.*

DEAR MR. SPEAKER: Members of my Delegation very concerned that the F.B.I. has maintained files on Members of Congress have asked me to take the matter up with you. I am informed that on October 27, 1972, L. Patrick Gray, Acting Director of the F.B.I. announced the termination of the F.B.I. program of collecting biographical data on candidates for Congressional office. Thereafter, several Members wrote to Acting Director L. Patrick Gray requesting that they be given the opportunity of inspecting their own files and were refused the opportunity by the Acting Director. At the Senate hearings held on the nomination of L. Patrick Gray to be Director, he was interrogated with respect to the dossiers maintained on Members of Congress. He testified that it was his desire to destroy the files but that specific statutory provision prohibited such simple destruction.

I understand that the subsequent Acting Director, William D. Ruckelshaus also denied Members the opportunity of seeing their respective files, after being requested to do so.

Mr. Speaker, many of our colleagues are distressed with the situation whereby the Executive Branch through the use of the F.B.I. has collected dossiers on Members of Congress and has refused to exhibit that material to the respective Members as well as the F.B.I. taking the position that while it will no longer collect such material it cannot destroy the existing files.

I have been requested to seek your intervention in this matter with the thought that you could secure those files for the separate and private inspection by the respective Member, and also the destruction of the files.

I believe, Mr. Speaker, this to be a grave matter which affects the integrity and independence of Congress and which must be immediately resolved.

Sincerely,

JAMES J. DELANEY,
*Chairman, New York Delegation.*

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THE SPEAKER'S ROOMS,
U.S. HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 28, 1973.*
Hon. JAMES J. DELANEY,
*Chairman, New York Delegation,*
*Rayburn House Office Building.*

DEAR MR. CHAIRMAN: This will acknowledge your letter expressing the concern of Members of your Delegation regarding files relating to Members of Congress maintained by the Federal Bureau of Investigation. I regard this as a very serious matter and regret that the press of business before the August adjournment and the subseqent recess have occasioned this delay in responding to you.

I have asked the newly appointed Director of the Federal Bureau of Investigation, Mr. Clarence M. Kelley, to comment on the points which you have raised on behalf of your Delegation. It may be that he will want to reconsider the policy regarding the availability and eventual destruction of these files which had been in effect under Acting Directors Gray and Ruckelshaus. After Mr. Kelley's views on this have been made known to me, I will be in a better position to consider these matters and take such action as may appear appropriate at that time.

Warmest regards and very best wishes.

Sincerely,

CARL ALBERT,
*The Speaker.*

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[From the Washington Post, Sept. 11, 1973]

### ALBERT QUERIES FBI ABOUT HILL FILES

(By Jack Anderson)

Speaker Carl Albert has asked the FBI's new boss, Clarence Kelley, to advise him on the "very serious matter" of FBI congressional files.

For years, we have been reporting on the FBI's habit of keeping files on prominent Americans, including members of Congress. As evidence, we have quoted excerpts from the secret FBI files.

When Kelley's predecessor, Pat Gray, took over the FBI, he blandly assured newsmen: "None of you guys are going to believe this—and I don't know how to make you believe it—but there are no dossiers or secret files."

We immediately offered to tell Gray, since he was new around the FBI, where some of the secret files were stashed. We even printed several of the file numbers to help him locate the hidden dossiers.

But it wasn't until the FBI was caught snooping into the private life of a Democratic congressional candidate six months later that Gray admitted the FBI had been collecting information on both congressmen and candidates since 1950.

Several congressmen, eager to find out what the FBI has been compiling about them, have asked to see their FBI files. But the bureau has contended that the law prohibits the destruction or dissemination of existing files.

Now the mighty House Speaker has joined in the inquiry. As yet, Kelley hasn't responded to Albert's request. But he has been turning down other congressional requests.

For example, Rep. Edward Koch (D-N.Y.), a leader in the effort to close the books on the FBI's political files, got nowhere with Kelley.

"I am confident," responded the FBI chief in a private letter, "that you have file references in your office on me and my predecessors (to locate correspondence). I see nothing sinister in your maintenance of file references on me, and I trust you would agree this bureau is equally entitled to maintain such file references concerning you."

From our own access to the FBI's secret files, however, we can report that the FBI keeps far more than routine references. The congressional dossiers, in addition to newspaper clippings and biographical data, also contain eavesdrop information, surveillance reports and gossip from informants.

Speaker Albert's FBI file, for example, contains a report about his relationship with lobbyist Fred Black, based upon a conversation picked up by an FBI listening device.

The firm but friendly Kelley, however, shows no inclination to open up the congressional files. Although the FBI hasn't hesitated in the past to show files to favored congressmen and newsmen, Kelley wrote to Koch "If there is a need to purge all references to you from FBI files or that you must inspect our files, certainly you are entitled to seek appropriate legislation to accomplish your objectives."

Unless Albert's intervention carries more weight with Kelley, in other words, it will take an act of Congress to eliminate the FBI's political files.

Diplomatic Express—Most of our wandering legislators are now back from their summer junkets, but the souvenirs they bought are following behind. Usually, these are shipped home by diplomatic pouch as if they were state secrets.

Thus the taxpayers not only pay the travel expenses for flying members of Congress all over the world but also the freight charges for bringing back their accumulated loot.

In South Vietnam, for instance, some visiting congressmen went on a shopping spree. They dumped their vases, jade elephants and bric-a-brac upon the U.S. embassy which shipped them by diplomatic air pouch to Capitol Hill.

But the U.S. embassy in Thailand balked when Rep. Lawrence Hogan (R-Md.) tried to send a rattan patio set home by diplomatic pouch. The embassy fired off a cable to the State Department requesting guidance.

"Air freight cost on packages Congressman Hogan requested embassy escort officer to pouch to Washington will amount to $620," explained the cable. "Embassy escort officer advised Congressman Hogan shipment via air pouch would be very expensive and recommended packages be forwarded via surface pouch.

"Congressman Hogan stated another embassy had forwarded his packages by air pouch and thus did not agree shipment should be via surface pouch . . . Advise recommended means of transport."

The State Department finally notified Hogan he would have to pay commercial freight charges to ship his patio furniture to Washington.

Hogan told us he never asked the embassy to send his packages by diplomatic air pouch but merely mentioned that the Saigon embassy had done so.

Footnote: The other House members in Hogan's party were Bella Abzug (D-N.Y.), Joshua Eilberg (D-Pa.), Marvin Esch (R-Mich.), and William Steiger (R-Wis.). The Navy flew them, their wives and Bella Abzug's husband to the Far East.

## PLAUDITS FOR SOLZHENITSYN AND SAKHAROV

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, in light of the most recent wave of repression experienced by Soviet Jews and intellectuals, it is particularly appropriate to recognize the courage of two men who have unhesitatingly fought for the freedom of all Soviet citizens. Author Aleksandr I. Solzhenitsyn and Physicist Andrei D. Sakharov should receive the admiration of all Americans for their determined resistance to the continued harassment conducted by the Soviet Government.

I am appending the following articles from the New York Times and the Washington Post because they serve as reminders that these extraordinary men have not been silenced. Mr. Solzhenitsyn's statement of September 11 should give cause for reflection to those Americans who are willing to exempt the Soviet Government from the standards of human decency they apply in judgment of their own and other Governments. Mr. Sakharov's statement of September 12 is an eloquent response to those who would confuse concern for the liberties of Soviet citizens with opposition to international harmony and cooperation.

It is clear that the United States has an excellent opportunity to use the Soviet Government's desire for detente to exercise leverage toward putting a stop to the brutal repression of Russian dissidents. To do less would be to endorse the moral vacuum represented in Mr. Kissinger's statement quoted in the Washington Post editorial of 2 days ago. That editorial and a companion one from the New York Times are included below. They are representative of an increasingly strong feeling by many Americans that the Nixon administration has been tragically remiss in its refusal to use the peaceful means in its power to oppose the continued violation of individual liberties by the Soviet Government. If two individuals, Solzhenitsyn and Sakharov, in the Soviet Union itself are willing to stand up to their oppressive government—should we here in safety do less? I hope not.

The articles follow:

[From the New York Times, Sept. 12, 1973]

### SOLZHENITSYN ASSAILS LIBERALS IN WEST

(By Theodore Shabad)

Moscow, Sept. 11.—The novelist Aleksandr I. Solzhenitsyn has accused Western liberals of dual standards of morality in what he described as their quick readiness to denounce oppression in rightist countries but reluctance to criticize the Soviet Union.

In a wide-ranging commentary on world events, focusing on the basic issues of peace and war and "violence of the state," the 54-year-old author also called United States Senate leaders "hypocritical" in their charges of political misconduct in the Watergate affair.

He was critical of a visit last year by the British Labor party leader, Harold Wilson to Czechoslovakia, of a trip made to North Vietnam by Ramsey Clark, the former United States Attorney General, and of what Mr. Solzhenitsyn described as Western silence at the time of the Communists' massacre of South Vietnamese civilians in Hue in 1968.

#### A 3,000-WORD STATEMENT

The dissident writer made these and other points about what he said was Western timidity in a 3,000-word statement, which also contained the nomination of Andrei D. Sakharov the physicist and civil rights advocate, for the 1973 Nobel Peace Prize. The full text became available here today, a day after the nomination was disclosed.

Both Mr. Solzhenitsyn and Mr. Sakharov have been targets of official press attacks in recent weeks for interviews with Western newsmen that criticized the Kremlin's domestic and foreign policies.

Mr. Sakharov, in particular, has drawn the Government's anger by suggesting that there can be no genuine East-West reconciliation unless it is accompanied by democratic reforms leading to a more open society in the Soviet Union.

Mr. Solzhenitsyn took up the theme in his review of world affairs when he said that peace could not be assured by the absence of war but also an end of other forms of violence, including domestic political controls by governments.

Challenging the validity of the Soviet Union's policy of "Peaceful Coexistence," the novelist said: "Coexistence on this tightly knit earth should be viewed as an existence not only without wars—that is not enough—but without violence, or anyone's telling us how to live, what to say, what to think, what to know and what not to know."

He as in part attacking Soviet residence restrictions that have kept him from obtaining an official permit to reside in Moscow at the apartment of his present wife, Natalya Svetlova. The novelist said in an interview two weeks ago that he would disregard the order.

Mr. Solzhenitsyn noted in his latest statement that railroad embankments in the Soviet Union were often decorated with stone mosaics spelling out the words "Peace to the World."

He commented, "That propaganda might be very useful if it meant that not only that there be no wars in the world, but that all internal violence cease as well."

#### DANGER OF APPEASEMENT

A major theme in his statement was the danger of appeasement. It was in this context that he criticized some trips by Western public figures to Communist countries.

He also played with the notion that Neville Chamberlain, the prewar British Prime Minister, might have been awarded the Nobel Peace Prize after having signed the Munich pact with Hitler in 1938. Chamberlain described the treaty as assuring "peace in our time," but World War II began a year later with Germany's invasion of Poland. Chamberlain has since become a symbol of appeasement of the Nazis.

Charging that Western liberals were often reluctant to take a stand against Communist regimes, Mr. Solzhenitsyn said, "And yet, how they would close ranks if it were a matter of protesting the other way."

He mentioned the case of Pyotr G. Grigorenko, a Soviet dissident, who has been detained in a mental hospital for four years, and then asked whether world opinion would ever permit South Africa to detain a black African leader in this fashion.

"The storm of worldwide rage would have long ago swept the roof from that prison!" he said.

#### HYPOCRITICAL, CLAMOROUS RAGE

He charged that the "hypocrisy of Western protests" extended even to such aspects of Western political life as the Watergate affair. Without pretending to defend President Nixon or the Republican party, he said, he is "amazed at the hypocritical, clamorous rage displayed by the Democrats."

Depicting American democracy as a system devoid of solid ethical foundations, he wrote, "Wasn't that democracy full of mutual deception and cases of misconduct during previous election campaigns, except, perhaps, that they were not on such a high level of electronic technology and remained happily undiscovered?"

The Watergate upheaval, he said, suggested to him similarities between the final years of Czarism in Russia, which he has been researching for his books, and the United States, which he said was "in what, I dare predict, are also its final years before the great breakdown."

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### SAKHAROV: THIS, NOT THAT

Moscow.—The newspaper campaign [in the Soviet Union] with respect to my recent interviews employs as its fundamental argument the accusation that I am supposedly speaking against the relaxation of international tension, almost in favor of war. This is an unscrupulous play on the antiwar feelings of the nation which suffered the most from the Second World War, which lost millions of its sons and daughters. This is a deliberate distortion of my position.

Beginning in 1958 I have spoken out both in print and in private for ending nuclear tests in the atmosphere. I believe these efforts made their contribution to the conclusion in 1963 of the historic Moscow treaty banning tests in three environments.

In my fundamental public statements, my 1968 "Thoughts on Progress and Peaceful Coexistence," my 1971 "Memorandum" and my 1972 "Afterword," I have written about elimination of the mortal danger of thermonuclear war as the main problem facing mankind. Therefore I have always welcomed and welcome now the relaxation of international tension and the efforts of governments toward rapprochement of states, toward limitation of the arms race, toward elimination of mutual mistrust. I have believed and believe now that the only real way to solve world problems is the movement of each side toward the other, the convergence of the capitalist and socialist systems accompanied by demilitarization, reinforcement of social protection for workers' rights and creation of a mixed type of economy.

This has been my consistent position and it was restated again in my recent interviews with foreign correspondents in Moscow. In these interviews I also emphasized the importance of mutual trust which requires extensive public disclosure and an open society, democratization, free dissemination of information, the exchange of ideas, and respect for all the fundamental rights of the individual, in particular respect for everyone's right to choose the country where he wishes to live.

I call attention to the danger of seeming détente, not accompanied by increased trust and democratization. I consider this warning my right and my duty. Is this warning really a statement against détente?

I am speaking up for the trampled rights of my friends in camps and psychiatric hospitals, for Shikhanovich, Bukovsky, Grigorenko, Plyushch, Amalrik, Borisov, Fainberg, Strkata and many others. I cannot consider these statements slanders of our system as the newspapers describe them. I deem it important that human rights in our country should be afforded no worse protection than in the countries entering into new, more friendly relations with us, that our towns, our countryside and our internal life be open, as in those countries, to foreigners and our own citizens as well, including such institutions as places of confinement, psychiatric hospitals and places of residence and work of those freed on probation. Let the presence of the Red Cross lead to removal of the barbaric "muzzles" from the windows of Soviet prisons and stay the hand of the criminals who gave haloperidol to Leonid Plyushch in the hell of Dnepropetrovsk prison psychiatric hospital.

The newspaper campaign involving hundreds of persons, among them many honest and intelligent individuals, has deeply grieved me as still another manifestation of brutal coercion of conscience in our nation, coercion based on the unrestricted material and ideological power of the state.

I believe not my statements but just this newspaper campaign, so foolish, and so savage with respect to its participants, can harm international détente.

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[From the New York Times, Sept. 11, 1973]

### WARNING TO MOSCOW

More than any other group of men and women, scientists live with the terrifying knowledge of humanity's precarious balance on the edge of self-destruction. An awareness of awesome risks, together with their own responsibility in creating them, leads scientists at times to reach across national boundaries to appeal to the conscience of men of power. It was in such a moment of humane solidarity that the National Academy of Sciences reached out to its Soviet counterpart in a warning that the arrest or further harassment of Andrei D. Sakharov, the eminent Soviet physicist, might jeopardize the future of American-Soviet scientific cooperation.

Academician Sakharov, father of the Soviet hydrogen bomb but also a prime mover for the nuclear test ban, has come to be a symbol of lonely courage in the battle against the new upsurge of repression in Moscow. He has courageously told his countrymen: "Intellectual freedom is essential to human society—freedom to obtain and distribute information, freedom for openminded and unfearing debate, and freedom from pressure by officialdom and prejudice."

Just such pressure is now being brought to bear on Academician Sakharov with such organized force that even the members of the Soviet Academy of Sciences, with a few honorable abstentions, have surrendered to the Kremlin and attacked their colleague.

This new line of persecution, along with the stepped-up Soviet campaign of terror against all dissent and recent incidents of organized anti-Semitism, is being pressed at the very time when American and Soviet officialdom extol the mutual benefits of the new spirit of detente and cooperation. The Soviet people, who stand to derive great personal benefits from trade with the United States, must conclude that the American Government is giving tacit approval to what can only be considered as neo-Stalinism. A succession of Cabinet-level American delegations to Moscow, coinciding with the new terror inevitably reinforces this impression.

American scientists have now made it clear that they cannot in good conscience cooperate with those who stifle dissent and suppress intellectual freedom. Would that the United States Government, as represented by President Nixon and Secretary-designate Kissinger, had a comparable sense of moral purpose.

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[From the Washington Post,
Sept. 12, 1973]

### THE REQUIREMENTS OF DÉTENTE

The very difficult question of what is to be the substance of Soviet-American "detente" is passing from a debating phase to a political phase. A significant number of Americans now appear to believe it is neither desirable, possible nor safe to improve relations with the Soviet Union unless the Kremlin liberalizes some of its domestic policies. So the National Academy of Sciences has just conditioned its support of further scientific exchanges on an end to Kremlin harassment of physicist-libertarian Andrei Sakharov. House Ways and Means Chairman Wilbur Mills (D-Ark.) says he will resist expanded East-West trade "if the price is to be paid in the martyrdom" of Sakharov, Nobel laureate Alexander Solzhenitsyn and other noted dissenters. Congressional consent for expanded trade has already been linked to Soviet consent for freer emigration, especially emigration of Jews.

As the excitement of summitry wore off, people were bound to start examining the stuff of detente, the more so as the inflationary impact of last year's Soviet grain purchases came to be felt. Distracted perhaps by Watergate, Mr. Nixon has given no evidence that he has coped with the issue himself, as he should have. For it is a plain fact that, though he made his first-term breakthroughs largely alone and in secret, their consolidation requires public support. He needs the support of scientists to expand exchange, and of Congress to broaden trade. Meanwhile, the situation on the Soviet side has not been static. The Soviet government, eager to reap the benefits of detente without cost to its domestic grip, has intensified its crackdown on dissenters; they in turn have reached out for foreign support. The sharper the foreign protests, the more determined some in the Kremlin become to ignore them. Those Soviet leaders who had doubts about detente all along are no doubt arguing now that the current American "interference" in Soviet affairs proves their original point.

The attitudes of American critics require closer scanning. Some Americans who now speak for Soviet human rights may well do so because they never "trusted the Russians." Others may be making political hay. Still others, particularly American Jews, see an opportunity and feel an obligation to help their co-religionists. Scientists and intellectuals have an interest in their Soviet counterparts. Whether or not one sympathizes with any of these attitudes, the fact remains that there is a substantial and growing constituency which expects political and economic progress to be accompanied by progress in opening up Soviet society. It is a fundamental American tenet to equate trustworthiness and openness. It is deeply disturbing that the Kremlin is not subject to the same checks on the arbitrary use of power that operate on democratic governments, however imperfectly. It is offensive to find the Soviet state denying human values and it cannot avoid raising doubts about how reliable a partner it will be in joint political and economic enterprises. A form of "interference" in Soviet affairs is a natural consequence of this concern. But our own self-interest is involved as well. And that is what makes the problem so difficult for us.

Secretary of State-designate Henry Kissinger last Friday pronounced himself personally "disappointed" and "dismayed" by the recent reports of oppression from Russia. "Yet," he went on, "we have as a country to ask ourselves the question of whether it should be the principal goal of American foreign policy to transform the domestic structure of societies with which we deal or whether the principal exercise of our foreign policy should be toward affecting the foreign policy of those societies." This way of posing the issue is entirely consistent with Dr. Kissinger's view that foreign policy is essentially global strategy and that domestic considerations and pressures should not be allowed to impinge on it. Moreover, he is surely well positioned to understand the never-absent risk that the Kremlin majority currently supporting a detente policy could crumble.

The appropriate approach to the issue he poses, however, is not merely to caution those concerned with human rights. That is not only questionable politics but questionable diplomacy. The appropriate approach is to go on to caution the Soviet leadership that it is simply not possible to mold the necessary public support for a detente policy in the United States while the Kremlin continues acting as it does with respect to human rights. The real problem, we suspect, is not so much that the Soviet Union practices domestic policies repugnant to many Americans. The problem is that at a time of East-West promise when many Americans had expected a softening effect on Soviet internal policies, the Kremlin seems to be going *backwards*. It is this sense of disappointment, of betrayal, which energizes many critics of Soviet performance on human rights. The remedy, then, is not a "transformation of the Soviet domestic structure" but some reasonable amount of evidence of positive changes—some movement in the right direction, rather than the other way around. Such evidence would almost certainly loosen the knot now tightening around certain aspects of Soviet-American detente. President Nixon has no more compelling piece of international business than to set the Soviet leadership straight on what, as a practical political matter as well as a question of principle, detente requires if it is to achieve a necessary measure of support in this country.

## REPORT ON BLACK FINANCIAL INSTITUTIONS

(Mr. MITCHELL of Maryland asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MITCHELL of Maryland. Mr. Speaker, recently several major studies have disclosed that, despite gains by black citizens, the economic gap between blacks and whites is increasing, not diminishing. Obviously, black financial institutions are affected by this development. The June 1973 edition of Black Enterprise carried a significant analysis of black financial institutions. My colleagues should read this analysis in order to make an appraisal of the administration's highly publicized black capitalism efforts.

### REPORT ON BLACK FINANCIAL INSTITUTIONS

For anybody, capital can oftentimes be difficult to come by; for blacks and other minorities it can sometimes be a near impossibility. But the latter situation has been alleviated somewhat by the recent rapid growth of black financial institutions. Minority-operated banks, savings and loan associations and insurance companies have been leaders in offering black support in such areas as business capitalization, home mortgages and health coverage. But sometimes, in their willingness to aid minorities, they have extended themselves beyond their means, producing some hard lessons in practical business sense. Herewith, their story and state of affairs.

Nobody knows exactly when Black America awoke to the knowledge that it had little financial stake in the growing affluence of the nation, that it was capital and credit poor, subsisting on the periphery of an economy whose soaring gross national product continued to set new records almost annually.

That is not to say there were no efforts by blacks in the past to enter business, for there were black entrepreneurs dating back to Reconstruction and beyond. It is to say that those abortive efforts frequently ran aground on the shoals of inexperience, poor training, the indifference of lending institutions and the problems of racism.

But 1973 has seen the emergence of a growing number of black-controlled banks, the continued stability of black savings and loan associations and the enduring viability of black-managed insurance companies. Today, there are 37 black-controlled banks, 44 black savings and loan associations and 42 black-managed insurance companies.

Indeed, the growth of minority-owned banks has been nothing short of phenomenal. Eighteen of them, or 48.6 per cent, have come into being since 1968 and more than two score are in the formulative stages. Four of the nation's 44 black savings and loan associations, or nine per cent, were started after 1968 and another 12 to 14 are engaged in serious planning talks. The majority of these new institutions, however, will be run by Mexican-Americans, says a spokesman for the Savings and Loan League, and "only two or three will be black." The predominantly black league has about 16 members who are either Puerto Rican, Mexican or Asian-American.

Moreover, these fledgling financial concerns have had to shoulder an incredibly large share of the loans granted to minority entrepreneurs. For example, in 1971, with the assets of the nation's majority banks at a bulging $700 billion and the assets of minority banks at $600 million, minority banks granted $60 million in business loans to minorities while majority banks granted $150 million in such loans.

So while minority banks had less than one per cent of the nation's bank assets, they accounted for more than 33 per cent of the business loans granted to minorities.

More important than the policies of minority banks, has been the ripple effect of their influence, which far exceeds their numbers.

Spurred by the Department of Commerce, the National Bankers Association with the aid of Capital Formation, a private organization, was able to attract $100 million in new deposits for minority banks from the government and major corporations. And members of the white American Bankers Association pledged $1 billion in business loans to minorities by 1975.

Similarly, black savings and loan associations have served as a catalyst for increased activity among a number of white associations which previously bypassed minorities who sought credit. In Washington, D.C., for example, Independence Federal Savings and Loan Association, the first minority controlled S&L in a city that numbers 21 savings and loan associations, has become the number one source for black mortgage credit in the nation's capital.

"Eighty-five per cent of our loans are in the inner city," says William B. Fitzgerald, president of the Savings and Loan League. Begun in 1968, Independence was responsible last year for more than 800 mortgages to black homebuyers in the district. Equally important, it apparently has helped unlock credit from other associations in Washington which previously turned their backs on black borrowers. Though Independence is still responsible for a disproportionately large number of loans to new home-owners in the district, the city's 21 other savings and loan associations appear to be changing their policies about black borrowers. Two prominent Washington personalities have become the first black board members of two of the city's associations and while participation by the majority S&Ls is still small, it has increased.

A predominantly black city, Washington is expected to soon have another association owned and staffed by minorities. Independence, meanwhile, hopes to open three new branches in the coming months and Fitzgerald predicts a heady climb in assets from $21 million to $50 million in eighteen months.

Fitzgerald's projections are particularly interesting since the nation's two largest black-controlled savings and loan associations, Broadway Federal in Los Angeles and Carver Federal in New York, have $60,451,990 and $60,000,000 in assets respectively. In any case, there seems little doubt that it is one of the fastest growing black financial institutions in the country.

With $1,413,824,208 insurance in force and $129,233,894 in assets, North Carolina Mutual Life Insurance Company of Durham continues to hold its premier position, as the most successful and durable of black businesses in the country.

Established in 1899, North Carolina Mutual owes its birth to the same group of Durham citizens, led by a barber, John Merrick, who later established Mechanics and Farmers Bank in 1907 and Mutual Savings and Loan in 1921.

Mutual's longevity and success epitomizes both the promise and the failure of black business development in this country. For years, the company grew solidly and profitably on premiums sold to black policy holders in a segregated market left to it because white insurance companies would not insure blacks at the time. Indeed, like a crown jewel, its glittering success mocked the piddling efforts of thousands of under-capitalized black enterprises that foundered in a sea of segregation and credit isolation.

But just as major white insurance companies shifted gears and began to aggressively pursue black customers, Joseph W. Goodloe, the company's president before he stepped down last year to be succeeded by William J. Kennedy III, decided to go after group coverage for the nation's blue chip corporations. The result has been more than $500 million worth of group insurance for N.C. Mutual and a quantum jump from 892 on the list of U.S. insurance companies to 207th in the nation's rankings by the National Underwriter Co.

But the future of black financial institutions depends upon whether they, like any small businesses, can carve out a place in the market and keep it. Moreover, if they are to survive they must compete with firms in the majority society. One of the reasons for the growth of black-controlled banks in Chicago, it is believed, is Illinois' banking laws which do not permit branch banking. Indeed, 15 of the nation's 42 insurance companies are located in Louisiana, the result of the state's lenient insurance laws and the attitude of white insurers. Until the late 1940s, Louisiana did not have an independent insurance department and insurance for blacks was obtained largely from membership in the Masons and other fraternal orders.

But there have been few times in history when the future of black financial institutions looked as promising. Indeed, a growing cadre of blacks believe that black-managed banks, insurance companies and savings and loan associations may be the instruments to stimulate capital flow into communities that in the past have been by-passed, and that they may also offer increased financial support for the black entrepreneur.

"We're in the business of identifying businesses that have economic viability," says Boyd. "After all, the success of black banks or any bank is dependent upon picking winners."

BANKS

| Name of company | Location | Chief executive officer | Year started | Number of employees | Total deposits | Total assets 1972 |
|---|---|---|---|---|---|---|
| Seaway National Bank of Chicago | Chicago, Ill | Harold Algar | 1965 | 108 | $45, 899, 103 | $48, 797, 915 |
| Freedom National Bank | New York, N.Y | Robert Boyd | 1964 | 106 | 43, 378, 534 | 47, 111, 915 |
| Independence Bank of Chicago | Chicago, Ill | Alvin J. Boutte | 1964 | 88 | 44, 000, 000 | 47, 000, 000 |
| Citizens Trust Bank | Atlanta, Ga | Charles M. Reynolds | 1921 | 110 | 33, 072, 000 | 40, 744, 588 |
| Industrial Bank of Washington | Washington, D.C | B. Doyle Mitchell | 1934 | 74 | 37, 000, 000 | 40, 000, 000 |
| Mechanics and Farmers Bank | Durham, N.C | John H. Wheeler | 1907 | 51 | 34, 166, 230 | 37, 697, 158 |
| 1st Independence National Bank | Detroit, Mich | David B. Harper | 1970 | 40 | 27, 632, 574 | 30, 000, 000 |

SAVINGS & LOAN ASSOCIATIONS

| Name of company | Location | Chief executive officer | Year started | Number of employees | Total deposits | Total assets 1972 |
|---|---|---|---|---|---|---|
| Bank of Finance | Los Angeles, Calif | Edward L. Tillmon | 1964 | 75 | $27,500,000 | $29,000,000 |
| National Industrial Bank of Miami | Miami, Fla | Garth C. Reeves | 1964 | 27 | 25,855,403 | 26,865,545 |
| United Community National Bank | Washington, D.C | Samuel L. Foggie | 1964 | 38 | 21,000,000 | 23,254,000 |
| Douglas State Bank | Kansas City, Kan | Sharnia Buford | 1947 | 42 | 17,000,000 | 20,000,000 |
| Consolidated Bank & Trust Co | Richmond, Va | V. W. Henley | 1903 | 40 | 18,000,000 | 19,617,243 |
| Tri-State Bank of Memphis | Memphis, Tenn | A. Maceo Walker | 1946 | 35 | 17,800,000 | 19,600,000 |
| Gateway National Bank | St. Louis, Mo | I. Owen Funderburg | 1965 | 39 | 14,000,000 | 16,700,000 |
| North Milwaukee State Bank | Milwaukee, Wis | Felmers O. Chaney | 1971 | 27 | 13,879,478 | 14,568,453 |
| Unity Bank and Trust Co | Roxbury, Mass | Marvin Peck | 1968 | 30 | 14,000,000 | 14,000,000 |
| 1st Plymouth National Bank | Minneapolis, Minn | John Warder | 1969 | 29 | 12,500,000 | 14,000,000 |
| Swope Parkway National Bank | Kansas City, Mo | Edward V. Kerrigan | 1968 | 33 | 10,500,000 | 12,000,000 |
| Vanguard National Bank | Hempstead, N.Y | John Bates | 1972 | 17 | 9,000,000 | 12,000,000 |
| Highland Community Bank | Chicago Ill | George Brokemond | 1970 | 21 | 10,547,800 | 11,627,500 |
| Riverside National Bank | Houston, Tex | Dr. Carl Carroll | 1963 | 30 | 9,531,104 | 10,787,823 |
| Gateway National Bank | Chicago, Ill | Joseph Bertrand | 1955 | 32 | 6,250,000 | 10,176,600 |
| Citizens Savings Bank & Trust Co | Nashville, Tenn | M. G. Ferguson | 1904 | 15 | 7,810,052 | 8,423,229 |
| 1st Enterprise Bank | Oakland, Calif | Robert W. Steiner, Jr | 1972 | 20 | 7,133,000 | 8,380,000 |
| Atlantic National Bank | Norfolk, Va | Earle Thomas | 1971 | 17 | 7,300,000 | 8,300,000 |
| Carver State Bank | Savannah, Ga | Robert E. James | 1947 | 11 | 7,000,000 | 8,000,000 |
| 1st State Bank | Danville, Va | L. Wilson York | 1919 | 12 | 6,979,805 | 7,793,472 |
| Unity State Bank | Dayton, Ohio | Robert L. Davis | 1970 | 22 | 6,300,000 | 7,200,000 |
| Liberty Bank of Seattle | Seattle, Wash | James C. Purnell | 1968 | 20 | 5,812,901 | 6,414,679 |
| Liberty Bank & Trust Co | New Orleans, La | Alden J. McDonald, Jr | 1972 | 9 | 3,928,872 | 6,089,718 |
| Midwest National Bank | Indianapolis, Ind | James Sedwick | 1972 | 16 | 3,500,000 | 5,500,000 |
| Freedom Bank of Finance | Portland, Oreg | V. F. Booker | 1969 | 14 | 4,694,945 | 5,409,281 |
| Peoples National Bank of Springfield | Springfield, Ill | Leon H. Stewart | 1970 | 10 | 4,805,000 | 5,300,000 |
| Guaranty Bank & Trust Co | Chicago, Ill | Oscar S. Williams | 1972 | 25 | 4,000,000 | 5,200,000 |
| Victory Savings Bank | Columbia, S.C | Henry D. Monteith | 1921 | 14 | 4,623,706 | 5,044,069 |
| Greensboro National Bank | Greensboro, N.C | Henry Frye | 1971 | 9 | 4,089,547 | 4,851,922 |
| American State Bank | Tulsa, Okla | Gerald B. Nelson | 1970 | 15 | 4,252,000 | 4,807,000 |
| Broadway Federal Savings & Loan Association | Los Angeles, Calif | Elbert Hudson | 1947 | 45 | 47,863,938 | 60,451,990 |
| Carver Federal Savings & Loan Association | New York, N.Y | Richard T. Greene | 1948 | 60 | 50,000,000 | 60,000,000 |
| Illinois Federal Savings & Loan Association | Chicago, Ill | A. W. Williams | 1934 | 27 | 31,463,000 | 34,500,000 |
| Family Savings & Loan Association | Los Angeles, Calif | M. Earl Grant | 1948 | 23 | 24,085,200 | 30,196,000 |
| Hyde Park Federal Savings & Loan Association | Chicago, Ill | Paul H. Berger | 1961 | 15 | 22,029,189 | 26,641,104 |
| Independence Federal Savings & Loan Association | Washington, D.C | William B. Fitzgerald | 1968 | 11 | 18,500,000 | 21,000,000 |
| Home Federal Savings & Loan Association of Detroit | Detroit, Mich | W. R. Phillips | 1947 | 16 | 14,653,700 | 15,966,000 |
| Citizens Federal Savings & Loan Association | Birmingham, Ala | A. G. Gaston | 1957 | 15 | 13,000,000 | 15,000,000 |
| Mutual Savings & Loan Association | Durham, N.C | John S. Stewart | 1921 | 8 | 9,802,854 | 13,194,647 |
| Mutual Federal Savings & Loan Association | Atlanta, Ga | Fletcher Coombs | 1925 | 16 | 11,500,000 | 12,500,000 |
| Service Federal Savings & Loan Association | Chicago, Ill | Harold Thatcher | 1950 | 12 | 10,213,382 | 11,857,343 |
| Allied Federal Savings & Loan Association of New York | New York, N.Y | Frank L. Thompson | 1958 | 17 | 8,135,957 | 10,254,768 |
| Advance Federal Savings & Loan Association | Baltimore, Md | W. O. Bryson, Jr | 1957 | 12 | 8,268,515 | 10,012,285 |
| New Age Federal Savings & Loan Association | St. Louis, Mo | Henry Harding | 1915 | 11 | 9,139,498 | 10,000,567 |
| United Federal Savings & Loan Association | New Orleans, La | Anthony J. Hackett | 1964 | 9 | 7,984,875 | 9,601,189 |
| Enterprise Savings & Loan Association | Compton, Calif | Cornell R. Kirkland | 1963 | 12 | 7,100,000 | 9,600,000 |
| Quincy Savings & Loan Co | Cleveland, Ohio | Charles V. Carr | 1952 | 9 | 7,894,689 | 9,145,094 |
| Connecticut Savings & Loan Association | Hartford, Conn | Edward J. Barlow | 1968 | 8 | 6,700,000 | 7,500,000 |
| Berean Savings Association | Philadelphia, Pa | Robert Horton | 1888 | 8 | 6,000,000 | 7,500,000 |
| Peoples Building & Loan Association | Hampton, Va | Lawrence Barbour | 1889 | 8 | 5,822,405 | 7,320,827 |
| First Federal Savings & Loan Association of Scotlandville | Baton Rouge, La | B. V. Baranco | 1956 | 7 | 5,885,294 | 7,142,628 |
| American Federal Savings & Loan Association | Greensboro, N.C | J. Kenneth Lee | 1959 | 6 | 5,388,947 | 6,995,842 |
| Standard Savings Association | Houston, Tex | Mack H. Hannah | 1959 | 7 | 5,585,000 | 6,355,000 |
| Tuskegee Federal Savings & Loan Association | Tuskegee, Ala | L. A. Hayden | 1894 | 5 | 4,600,000 | 5,500,000 |
| Major Industrial Federal Savings & Loan Association | Cincinnati, Ohio | Theodore Walker | 1921 | 5 | 4,600,000 | 4,800,000 |
| Columbia Savings & Loan Association | Milwaukee, Wis | W. Dale Phillips | 1924 | 7 | 4,035,131 | 4,653,771 |
| Berkley Citizens Mutual Savings & Loan Association | Norfolk, Va | Elbert Stewart | 1913 | 6 | 3,946,654 | 4,243,059 |
| State Mutual Federal Savings & Loan Association | Jackson Miss | Jack Young, Sr | 1955 | 6 | 4,200,000 | 4,200,000 |
| Community Federal Savings & Loan Association | Nashville, Tenn | Alfred C. Galloway | 1962 | 4 | 3,700,000 | 4,200,000 |
| Mutual Federal Savings & Loan Association | Memphis, Tenn | Lawrence Wade | 1957 | 6 | 3,200,000 | 3,900,000 |
| Dwelling House Savings & Loan Association | Pittsburgh, Pa | Norman T. Hardy | 1958 | 4 | 3,275,414 | 3,550,280 |
| Washington Shores Federal Savings & Loan Association | Orlando, Fla | Charles J. Hawkins | 1963 | 6 | 3,100,000 | 3,500,000 |
| Gulf Federal Savings & Loan Association | Mobile, Ala | D. Z. Crawford | 1964 | 4 | 3,031,000 | 3,240,000 |
| Union Mutual Savings & Loan Association | Richmond, Va | Garfield Childs | 1961 | 4 | 1,645,187 | 2,707,646 |
| Community Federal Savings & Loan Association | Tampa, Fla | James T. Hargett, Jr | 1967 | 4 | 2,389,142 | 2,478,713 |
| Equity Savings & Loan Association | Denver, Colo | Earl M. West | 19[illegible] | 3 | 1,164,650 | 1,569,307 |
| Security Federal Savings & Loan Association | Chattanooga, Tenn | Jesse McCants | 1971 | 4 | 1,483,086 | 1,528,863 |
| Morgan Park Savings & Loan Association | Chicago, Ill | J. L. Campbell | 1921 | 5 | 1,221,035 | 1,356,648 |
| Ideal Building & Loan Association | Baltimore, Md | E. Gaines Lansey | 1963 | 5 | 808,210 | 918,272 |
| Imperial Savings & Loan Association | Martinsville, Va | H. P. Williams | 1929 | 3 | 840,000 | 900,000 |
| Community Savings & Loan Association | Newport News, Va | Samuel L. Urquhurt | 1958 | 2 | 526,615 | 552,613 |
| Louisville Mutual Savings & Loan Association | Louisville, Ky | George Cordery | 1961 | 1 | 351,272 | 393,078 |
| Magic City Building & Loan Association | Roanoke, Va | Walker Atkinson | 1915 | 1 | 87,620 | 255,800 |
| North Tulsa Savings & Loan Association | Tulsa, Okla | Clarence Fields | 1968 | 3 | 127,000 | 230,000 |

LIFE INSURANCE COMPANIES

| Name of company | Location | Chief executive officer | Year started | Number of employees | Total deposits | Total assets 1972 |
|---|---|---|---|---|---|---|
| North Carolina Mutual Life Insurance Co | Durham, N.C | William J. Kennedy III | 1899 | 276 | $1,413,824,208 | $129,233,894 |
| Atlanta Life Insurance Co | Atlanta, Ga | N. B. Herndon | 1905 | 1,000 | 317,096,543 | 80,803,984 |
| Golden State Mutual Life Insurance Co | Los Angeles, Calif | Ivan J. Houston, FLMI | 1925 | 650 | 1,118,625,578 | 44,018,698 |
| Universal Life Insurance Co | Memphis, Tenn | A. M. Walker, Sr | 1923 | 800 | 254,192,066 | 40,890,966 |
| Supreme Life Insurance Co. of America | Chicago, Ill | John H. Johnson, Ray Irby, president. | 1921 | 500 | 566,841,951 | 39,277,244 |
| Chicago Metropolitan Mutual Assurance Co | do | Anderson M. Schweich | 1927 | 500 | 203,508,608 | 28,376,843 |
| Mammoth Life & Accident Insurance Co | Lousiville, Ky | Julius E. Price, Sr | 1915 | 600 | 138,493,749 | 20,997,420 |
| Pilgrim Health & Life Insurance Co | Augusta, Ga | W. S. Hornsby, Jr | 1898 | 275 | 85,356,329 | 14,331,937 |
| Afro-American Life Insurance Co | Jacksonville, Fla | I. H. Burney II | 1901 | 400 | 174,405,635 | 11,275,598 |
| Booker T. Washington Insurance Co | Birmingham, Ala | A. G. Gaston | 1923 | 350 | 99,421,480 | 11,245,498 |
| American Woodmen's Life Insurance Co | Denver, Colo | James H. Browne | 1901 | 36 | 28,852,871 | 10,070,308 |
| United Mutual Life Insurance Co | New York, N.Y | Nathaniel Gibbon, Jr | 1933 | 30 | 42,000,823 | 8,778,359 |
| Central Life Insurance Co. of Florida | Tampa, Fla | Edward Davis | 1922 | 175 | 32,000,000 | 6,621,000 |
| Winston Mutual Life Insurance Co | Winston-Salem, N.C | George E. H I | 1906 | 150 | 27,900,000 | 5,500,000 |
| Peoples Life Insurance Co. of Louisiana | New Orleans, La | Benjamin J. Johnson | 1922 | 200 | 30,000,000 | 4,000,000 |
| Southern Aid Life Insurance Co | Richmond, Va | H. H. Southall, Sr | 1893 | 179 | 23,632,242 | 3,917,545 |
| Virginia Mutual Benefit Life Insurance Co | do | Booker T. Bradshaw | 1933 | 160 | 18,371,976 | 3,809,435 |
| Protective Industrial Insurance Co. of Alabama | Birmingham, Ala | Virgil L. Harris | 1938 | 147 | 23,394,245 | 3,460,046 |
| Good Citizens Life Insurance Co | New Orleans, La | Mrs. R. L. Johnson | 1933 | 200 | 20,000,000 | 3,000,000 |
| Union Protective Life Insurance Co | Memphis, Tenn | C. A. Rawls | 1933 | 132 | 19,000,000 | 3,000,000 |

## CHILEAN TRAGEDY COMPOUNDED BY PRESIDENT ALLENDE'S DEATH

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, the reported death of President Salvador Allende compounds the tragedy of yesterday's action by the Chilean Armed Forces to force out a democratically elected government in the face of a mounting crisis which threatened civil war.

Only time and the skillful statesmenlike conduct of Chileans of every political persuasion can contain the damages to the Chilean people. Based on Chile's long history of respect for democratic institutions and political sophistication, there is a sound basis for hope that the present dangerous period may yet pass without doing irreparable damage.

Mr. Speaker, the methods President Allende was following in his attempt to socialize Chile gave rise to concern in and out of his country. Nevertheless, Salvador Allende was a formidable figure who commanded the respect of his fellow citizens including many who opposed him.

The events of the last several weeks and especially the last few days sadden all of us who have hoped that somehow Chile would resolve her problems peacefully.

This morning Miami Herald carried a thoughtful editorial and article on the Chilean situation in, which I am sure my colleagues will be interested:

[From the Miami Herald, Sept. 12, 1973]

### THE EXPLOSIVE EVENTS IN CHILE MAY HAVE A FEARSOME FALLOUT

Like a tropical storm that boils into being out of the extreme forces in the atmosphere, the revolution in Chile was as inevitable as now it is dangerous.

Chileans are essentially a peaceful people with a continuous history of constitutional government since 1833 and a tradition of military non-involvement in politics. The storm that has burst around Salvador Allende has changed all that.

Sr. Allende is the first freely elected Marxist president in the Western Hemisphere. While he preserved some of the democratic amenities including relative freedom of the press and assembly, he was committed to an extremity, and that at length has brought him down.

The country has been riding to ruin for months economically and it is in the grip even now of countless strikes. With the exception of an abortive tank regiment attack on the presidential palace in Santiago two months ago, until yesterday the military simply attempted to keep order. It even stood by while Allende drove two air force generals meekly into retirement.

Where there is prolonged political deadlock, as there has been in Chile for many months, power brokers sooner or later will intervene, and that is the meaning of yesterday's military maneuvers which can plunge the country into raging civil war.

If the outcome has a familiar pattern somewhat after the design of Peru and Brazil, it is in a sense deceptive. Chile has liked to stage its confrontations at the polls, not the barricades. Too, Sr. Allende enjoyed and probably still enjoys at least a paramilitary following, including a part of the police who wore the only uniforms usually seen in Santiago.

"So far," writes Laurence Whitehead of The Guardian earlier this week, "the Allende regime has proved capable of surviving each of the successive trials of strength, but the achievement has been to survive rather than to govern.

"It has not been possible for the regime to tackle the economic and political conditions which stoke up the confrontation. To bring the economic situation back under control and restore public order would require the virtual capitulation of either the Congress or the executive, and neither side's supporters are in the mood to tolerate the least sign of compromise among their leaders."

Prophetic, but only so far. Enter, the army in what always had to be the final act. How that act is played out, either in the savagery of conflict or the quick restoration of political moderation, can affect the whole hemisphere.

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[From the Miami Herald, Sept. 12, 1973]

### INFURIATED MIDDLE CLASS KEY TO ALLENDE'S FALL

(By William Montalbano)

The guns that rained fury into Salvador Allende's presidential palace Tuesday belonged to the armed forces. But it was the beleagured and infuriated Chilean middle class that pulled the triggers.

Allende's world shattered around him three years and one week from the bright spring day he became the first Marxist elected democratically to the presidency of an American republic.

In recent weeks Chile has danced to an extremists' tune. The extremists on both sides, like the economy, raced beyond Allende's control.

Chile became a kind of Western Hemisphere Northern Ireland, it had its own daily list of terror and casualties.

When Salvador Allende first came to power he had great dreams for Chile.

After nearly four decades in opposition, the urbane, 65-year-old Allende came to office in 1970 pledging to put Chile on the road to socialism. He said he would govern within existing democratic institutions.

Chile's Marxist president envisioned a peaceful, low-cost revolution whose principal beneficiary would be the Chilean poor. They were his most avid constituents, about 40 per cent of the population.

The Allende government catered frankly to the workers. And they profited, tangibly, through pay increases and easier access to basic goods. And tangibly, the government said, they profited through increased state control of the economy.

The rich suffered in anger—and often in exile. But that was an acceptable price in a country where two-thirds of the people vote to the left of center.

For some of Allende's reforms he had broader support than his own electoral base. In the nationalization of copper, for example, nearly everyone was for him.

But with major industries under state control—about half the economy—the government kept wanting more and more. After the "monopolists" had fallen, middle-sized and small industrialists, farmers, merchants and entrepreneurs began to feel the pressure. They felt they were next. They were afraid Allende would not stop only with the rich.

Politically, Chile became a vortex of hatred. It split into two poles. There was no middle 60 percent to the opposition, 40 percent to the government. And each side became shriller, more angry, more intransigent as time went on.

Economically, poor planning, inept administration and entrenched opposition spelled disaster. The Chilean economy went from bad to worse to incredible.

Inflation galloped out of control. Basic commodities became scarce. The black market became Chile's only growth industry.

By and large, the Chilean middle class—about half of nine million people—would have been tolerant, if not content, to see the poor raised to their level.

Instead, middle class Chileans perceived themselves being dragged down by Allende, their economic and social status eroded, and their political dominance vanishing, perhaps for all time, under the threat of Marxist dictatorship.

Last October, the middle class rebelled in a prolonged strike spearheaded by truckowners. Of 50,000 members of the truck owners' union, according to union president Leon Vilsrin, 14 men are fleet owners. The remainder own one, two or three trucks.

The truck owners became a symbol of the entire middle-class. Last October's strike nearly brought Allende down.

As an alternative, the Chilean armed forces entered the government at cabinet level, but without real authority. This cooled Chile down and the opposition said, guaranteed the integrity of nationwide congressional elections last March.

Allende displayed greater strength in the elections—44 per cent—than his opponents dreamed possible.

The military quit the government. The opposition became disheartened. The government pushed harder than ever.

The economy worsened even more: the world's worst inflation, production declines, crop failures, political distribution of foodstuffs, acute shortages.

The screaming became shriller. Each side accused the other of trying to provoke a civil war. Talk of civil war filled the cold winter air like snowflakes.

There were calls for peace and reconciliation, but they were drowned out by the shouting. Extremism of both the left and the right flourished.

Drawn into the struggle, as by a magnet, came the armed forces.

Chile, a nation of Spanish and Italian immigrants, is no banana republic. Its respect for the constitution and constitutional institutions is stronger perhaps than anywhere else in Latin America. Its soldiers are noninterventionist by both training and inclination.

But by the end of July, when the truckers struck again, the armed forces had become thoroughly politicized. In June elements of one tank regiment attempted a coup. In July, the extreme left was caught lobbying openly for a mutiny among soldiers and sailors.

As the strike continued last-ditch efforts at a political settlement—again with military participation—failed utterly. Gen. Carlos Prats, the army commander who had shored Allende, resigned.

New soldiers, less committed to Allende, replaced Gen. Prats.

The middle class rebellion showed no signs of slackening. Indeed it appeared to be growing as each day a new faction went on strike and Chile mired deeper in hatred and despair.

The pressures on the officers, themselves of the middle class, became intolerable.

It must have seemed that they had only two choices: Topple Allende or watch Chile collapse around them.

On Tuesday the tanks rolled.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. FRENZEL), to revise and extend their remarks, and to include extraneous matter:)

Mr. FINDLEY, today, for 5 minutes.

Mr. HOGAN, today, for 5 minutes.

Mr. YOUNG of Alaska, today, for 5 minutes.

Mr. MCCLORY, today, for 60 minutes.

Mr. WALSH, today, for 5 minutes.

Mr. BEARD, today, for 10 minutes.

Ms. ABZUG (at the request of Mr. MATSUNAGA), to revise and extend her remarks today for 10 minutes.

(The following Members (at the request of Mr. BREAUX), to revise and extend their remarks, and to include extraneous matter:)

Mr. HARRINGTON, today, for 30 minutes.

Mr. HAMILTON, today, for 15 minutes.

Mr. Kastenmeier, today, for 5 minutes.
Mr. Gonzalez, today, for 5 minutes.
Mr. Eilberg, today, for 5 minutes.
Mr. Hanley, today, for 5 minutes.
Mr. Culver, today, for 5 minutes.
Mr. Ginn, today, for 5 minutes.
Mr. Podell, today, for 5 minutes.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Fisher and to include extraneous matter, notwithstanding the fact that it exceeds 2¼ pages of the Congressional Record and is estimated by the Public Printer to cost $470.25.

Mr. Koch in two instances and to include extraneous matter.

Mr. Koch and to include extraneous matter, notwithstanding the fact that it exceeds 3¼ pages of the Congressional Record and is estimated by the Public Printer to cost $679.25.

Mrs. Sullivan to include extraneous matter and letters during debate on H.R. 8789.

Mr. Long of Louisiana to extend his remarks following the remarks of Mr. Leggett on his special order.

(The following Members (at the request of Mr. Frenzel), and to include extraneous matter:)

Mr. Brown of Ohio.
Mr. Derwinski in two instances.
Mr. Whalen.
Mr. Steiger of Arizona.
Mr. Spence.
Mr. Lent in three instances.
Mr. Landgrebe in 10 instances.
Mr. Gilman.
Mr. Frenzel.
Mr. Findley.
Mr. Winn.
Mr. Collins of Texas in four instances.
Mr. Zwach.
Mr. Huber.
Mr. Broomfield in two instances.
Mr. Moorhead of California.
Mr. Keating in two instances.
Mr. Hunt in two instances.
Mr. Roncallo of New York.
Mr. Price of Texas.
Mr. Harvey.

(The following Members (at the request of Mr. Breaux), and to include extraneous matter:)

Mr. Charles H. Wilson of California in two instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Evins of Tennessee in two instances.
Mr. Harrington in four instances.
Mr. Fraser in five instances.
Mr. Patten in two instances.
Mr. Hamilton in 10 instances.
Mr. Won Pat.
Mr. Waldie in three instances.
Mr. Murphy of Illinois.
Mr. Reid.
Mr. Dorn in three instances.
Mr. de Lugo.
Mr. Jones of Tennessee.
Mr. St Germain.
Mr. Zablocki in two instances.
Mr. Brown of California in 10 instances.
Mr. Anderson of California.
Mr. Dulski in three instances.

(The following Members (at the request of Mr. Matsunaga) and to include extraneous matter:)

Mr. Edwards of California.
Mr. William D. Ford.
Mr. Moakley in 10 instances.

## ADJOURNMENT

Mr. MATSUNAGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Thursday, September 13, 1973, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1343. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting a report of the facts concerning a revised Department of the Navy shore establishment realinement action at the Naval Ammunition Depot, Oahu, Hawaii, pursuant to section 613 of Public Law 89-568; to the Committee on Armed Services.

1344. A letter from the Deputy Assistant Secretary of the Interior, transmitting a report on the disposal of surplus Federal real property for park and recreation purposes covering fiscal year 1973, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7976. A bill to amend the act of August 31, 1965, commemorating certain historical events in the State of Kansas; with amendment (Rept. No. 93–484). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on Foreign Affairs. H.R. 9715. A bill to authorize appropriations for the U.S. Information Agency (Rept. No. 93–485). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 7395. A bill to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended (Rept. No. 93–486). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 5943. A bill to amend the law authorizing the President to extend certain privileges to representatives of member States on the Council of the Organization of American States (Rept. No. 93–496). Referred to the Committee of the Whole House on the State of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KEATING: Committee on the Judiciary. H.R. 1353. A bill for the relief of Toy Louie Lin Heong; with amendment (Rept. No. 93–487). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 1466. A bill for the relief of Luigi Santaniello. (Rept. No. 93–488). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 2514. A bill for the relief of Mrs. Gavina A. Palacay; with amendment (Rept. No. 93–489). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 2628. A bill for the relief of Anka Kosanovic. (Rept. No. 93–490). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 2629. A bill for the relief of Leonard Alfred Brownrigg (Rept. No. 93–491). Referred to the Committee of the Whole House.

Mr. WIGGINS: Committee on the Judiciary. H.R. 3043. A bill for the relief of Mrs. Nguong Thi Tran (formerly Nguyen Thi Nguong, A13707–473D/3), with amendment (Rept. No. 93–492). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 3207. A bill for the relief of Mrs. Enid R. Pope (Rept. No. 93–493). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 4438. A bill for the relief of Boulos Stephan (Rept. No. 93–494). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 6829. A bill for the relief of Mr. Jose Antonio Trias. (Rept. No. 93–495). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois (for himself, Mr. Hudnut, and Mr. Whitehurst):

H.R. 10197. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. ANDERSON of Illinois (for himself, Mr. Archer, and Mr. Eshleman):

H.R. 10198. A bill to amend section 1951, title 18, United States Code, act of July 3, 1946; to the Committee on the Judiciary.

By Mr. CLANCY:

H.R. 10199. A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems; to the Committee on Interstate and Foreign Commerce.

By Mr. BEARD:

H.R. 10200. A bill to amend the Occupational Safety and Health Act of 1970 and for other purposes; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself, Mr. Harrington Mr. Holifield, Ms. Holtzman, Mrs. Burke of California, and Mr. Sarasin):

H.R. 10201. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes; to the Committee on Armed Services.

By Mr. BIAGGI (for himself, Mrs. Burke of California, Mr. Holifield, Ms. Holtzman, and Mr. Sarasin):

H.R. 10202. A bill to increase the subsistence payments to students at the State marine schools; to the Committee on Merchant Marine and Fisheries.

By Mr. BLATNIK (for himself, Mr. Jones of Alabama, Mr. Harsha, Mr. Kluczynski, Mr. Grover, Mr. Wright, Mr. Cleveland, Mr. Gray, Mr. Don H. Clausen, Mr. Clark, Mr.

Snyder, Mr. Johnson of California, Mr. Zion, Mr. Dorn, Mr. Hammerschmidt, Mr. Henderson, Mr. Mizell, Mr. Roberts, Mr. Baker, Mr. Howard, Mr. Shuster, Mr. Anderson of California, Mr. Walsh, Mr. Roe, and Mr. Cochran):

H.R. 10203. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Public Works.

By Mr. BLATNIK (for himself, Mr. Roncalio of Wyoming, Mr. Bafalis, Mr. McCormack, Mr. Abdnor, Mr. James V. Stanton, Mr. Hanrahan, Ms. Abzug, Mr. Taylor of Missouri, Mr. Breaux, Mr. Studds, Mrs. Burke of California, Mr. Ginn, and Mr. Milford):

H.R. 10204. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Public Works.

Mrs. COLLINS of Illinois (for herself, Mr. Hawkins, Mrs. Burke of California, Mr. Stark, and Mr. Edwards of California):

H.R. 10205. A bill to enforce the Treaty of Guadalupe-Hidalgo as a treaty made pursuant to article VI of the Constitution in regard to lands rightfully belonging to descendants of former Mexican citizens, to recognize the municipal status of the community land grants, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DEVINE:

H.R. 10206. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of dietary supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DORN:

H.R. 10207. A bill to change the name of the Trotters Shoals Dam and Lake, Georgia and South Carolina, to the Richard B. Russell Dam and Lake; to the Committee on Public Works.

By Mr. DORN (by request):

H.R. 10208. A bill to provide for the automatic guaranty of mobile home loans; to the Committee on Veterans' Affairs.

By Mr. FINDLEY (for himself and Mr. Foley):

H.R. 10209. A bill to provide safeguards to producers in the storing and selling of grains; and to establish the Federal Grain Insurance Corporation; to the Committee on Agriculture.

By Mr. HOGAN:

H.R. 10210. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for certain volunteer firemen; to the Committee on Ways and Means.

By Mr. HOSMER (for himself, Mr. Delaney, Mr. Broomfield, Mr. Henderson, Mr. Talcott, Mr. Blackburn, Mr. Price of Illinois, Mr. Hogan, Mr. Preyer, Mr. Latta, Mr. Flood, and Mrs. Holt):

H.R. 10211. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ICHORD (for himself, Mr. Symington, Mr. Clay, Mr. Hungate, Mr. Burlison of Missouri, Mrs. Sullivan, Mr. Randall, Mr. Taylor of Missouri, and Mr. Litton):

H.R. 10212. A bill to designate the Veterans' Administration hospital in Columbia, Mo., as the "Harry S. Truman Memorial Veterans' Hospital", and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KARTH:

H.R. 10213. A bill to promote the peaceful resolution of international conflict, and for other purposes; to the Committee on Government Operations.

By Mr. KING:

H.R. 10214. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 10215. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. METCALFE (for himself, Mr. Diggs, and Ms. Holtzman):

H.R. 10216. A bill to amend title 18 of the United States Code to establish an Office of the U.S. Correctional Ombudsman; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. Brown of Michigan, Mr. Broyhill of North Carolina, Mr. Buchanan, Ms. Chisholm, Mr. Collier, Ms. Collins of Illinois, Mr. Derwinski, Ms. Heckler of Massachusetts, Mr. Leggett, Mr. Lujan, Mr. Mitchell of Maryland, Mr. Parris, Mr. Railsback, Mr. Shuster, Mr. Sikes, Mr. Charles Wilson of Texas, and Mr. Winn):

H.R. 10217. A bill to amend the Occupational Safety and Health Act of 1970 to improve the administration of that act with respect to small business; to the Committee on Education and Labor.

By Mr. JAMES V. STANTON:

H.R. 10218. A bill to regulate Federal election campaign financing by establishing a Federal Election Campaign Bank and by establishing a Board of Elections and Ethics; to the Committee on House Administration.

By Mr. VANIK (for himself, Mr. Studds, Mr. Rees, Mr. Tiernan, Mr. Won Pat, Mr. Leggett, Mr. Rosenthal, Mr. Rose, Mr. Koch, Mr. Veysey, Mr. Flood, Mr. Cronin, Mr. Price of Illinois, Mr. Brown of California, Mr. Nix, Mr. Milford, Mr. Harrington, Mr. Edwards of California, Mr. Stark, Mr. Steelman, Mr. Roybal, Mrs. Collins of Illinois, Mr. Bingham, Mr. Eilberg, and Mr. Hechler of West Virginia):

H.R. 10219. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, to provide for public disclosure of the fuel consumption rate of every automobile, to provide funding to develop more efficient automobile engines, and for other purposes; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Podell, Mr. Bergland, Mr. Gunter, Mr. Seiberling, Mr. Burgener, Ms. Holtzman, and Mr. Wolff):

H.R. 10220. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, to provide for public disclosure of the fuel consumption rate of every automobile, to provide funding to develop more efficient automobile engines, and for other purposes; to the Committee on Ways and Means.

By Mr. WALDIE (for himself and Mr. Seiberling):

H.R. 10221. A bill to prohibit the importation of articles of harp seal and hooded seal; to the Committee on Ways and Means.

By Mr. BOB WILSON (for himself, Mr. Gubser, Mr. Broyhill of Virginia, and Mr. Burgener):

H.R. 10222. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the Survivor Benefit plan; to the Committee on Armed Services.

By Mr. BRAY:

H.R. 10223. A bill to limit certain legal remedies involving the involuntary busing of schoolchildren; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 10224. A bill to amend the Presidential Election Campaign Fund Act, and for other purposes; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 10225. A bill to amend the act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966; to the Committee on Interior and Insular Affairs

H.R. 10226. A bill to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HUNT:

H.R. 10227. A bill to prohibit any State from levying income taxes on nonresidents of the State; to the Committee on the Judiciary.

H.R. 10228. A bill to amend section 106 of title 4 of the United States Code relating to State taxation of the income of residents of another State; to the Committee on the Judiciary.

By Mr. KEATING:

H.R. 10229. A bill to amend section 410 of title 39, United States Code, to provide that certain provisions of the National Environmental Policy Act of 1969 shall apply to the Postal Service; to the Committee on Post Office and Civil Service.

By Mr. KEATING (for himself, Mr. Rousselot, and Mr. Goldwater):

H.R. 10230. A bill to repeal the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. MEZVINSKY:

H.R. 10231. A bill to recognize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MOAKLEY:

H.R. 10232. A bill to protect the right of privacy by forbidding the conditioning of Federal assistance for the treatment of drug abusers or the control of drug abuse, under the Omnibus Crime Control and Safe Streets Act or any other act, on the recipient's furnishing any list or other means of identifying any persons treated by such recipient; to the Committee on the Judiciary.

By Mr. MOLLOHAN:

H.R. 10233. A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN (for himself, Mr. Conte, Mr. Teague of California, Mr. Johnson of Pennsylvania, Mr. Findley, Mr. Bafalis, Mr. Baker, Mr. Frey, Mr. Camp, Mr. Sebelius, Mr. Shuster, Mr. Horton, Mr. Ware, Mr. Derwinski, Mr. Hillis, Mr. Wydler, Mr. Taylor of Missouri, Mr. Quillen, Mr. King, Mr. Ketchum, Mr. Madigan, Mr. Spence, Mr. Walsh, Mr. Parris, and Mr. Hammerschmidt):

H.R. 10234. A bill, Emergency Medical Services Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN (for himself, Mr. Keating, Mr. Brotzman, Mr. Thone, Mr. Brown of Michigan, Mr. Mann, Mr. Hansen of Idaho, Mr. Duncan, Mr. Wampler, Mr. Robison of New York, Mr. Pritchard, and Mr. Price of Texas):

H.R. 10235. A bill, Emergency Medical Services Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Ms. Abzug, Mr. Addabbo, Mr. Anderson of California, Mr. Ashley, Mr. Badillo, Mr. Bergland, Mr. Bevill, Mr. Bingham, Mr. Blatnik, Mr. Brademas, Mr. Brasco, Mr. Brown of California, Mr. Carney of Ohio, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Conyers, Mr. Conte, Mr. Corman, Mr. Culver, Mr. Dominick V. Daniels, Mr. Davis of South Carolina, Mr. Dellums, Mr. de Lugo, and Mr. Denholm):

H.R. 10236. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Dent, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mr. Fascell, Mr. Flood, Mr. Foley, Mr. Fraser, Mr. Gaydos, Mrs. Grasso, Mr. Green of Pennsylvania, Mr. Gude, Mr. Gunter, Mr. Guyer, Mr. Harrington, Mr. Hawkins, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mr. Horton, Mr. Howard, Miss Jordan, Mr. Koch, and Mr. Leggett):

H.R. 10237. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Lehman, Mr. Lent, Mr. McCloskey, Mr. McCormack, Mr. McFall, Mr. Melcher, Mr. Mezvinsky, Mr. Moakley, Mr. Mollohan, Mr. Moorhead of Pennsylvania, Mr. Moss, Mr. Murphy of New York, Mr. Nix, Mr. O'Hara, Mr. Owens, Mr. Pepper, Mr. Podell, Mr. Price of Illinois, Mr. Rangel, Mr. Reuss, Mr. Riegle, Mr. Rinaldo, Mr. Rodino, and Mr. Roe):

H.R. 10238. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Roncalio of Wyoming, Mr. Roush, Mr. Roy, Mr. Roybal, Mr. Sarbanes, Ms. Schroeder, Mr. Seiberling, Mr. Shipley, Mr. Shoup, Mr. James V. Stanton, Mr. Studds, Mr. Symington, Mr. Thompson of New Jersey, Mr. Thone, Mr. Thornton, Mr. Tiernan, Mr. Vigorito, Mr. Charles H. Wilson of California, Mr. Won Pat, Mr. Wydler, Mr. Young of Florida, and Ms. Holtzman):

H.R. 10239. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. VANIK (for himself and Mr. Wolff):

H.R. 10240. A bill to provide for assistance in International Drug Control through the use of trade policy; to the Committee on Ways and Means.

By Mr. WALSH:

H.R. 10241. A bill to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than $5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper; to the Committee on Ways and Means.

By Mr. BROWN of Ohio:

H.J. Res. 718. Joint resolution authorizing and requesting the President to issue a proclamation designating October 7 to 13, 1973, as "Newspaper Week" and also designating October 13, 1973, as "Newspaper Carrier Day"; to the Committee on the Judiciary.

By Mr. PATMAN (for himself, Mr. Barrett, Mrs. Sullivan, Mr. Reuss, Mr. Ashley, Mr. Moorhead of Pennsylvania, Mr. Gonzalez, Mr. Widnall, Mr. J. William Stanton, Mr. Blackburn, Mr. Brown of Michigan, and Mr. Rousselot):

H.J. Res. 719. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes; to the Committee on Banking and Currency.

By Mr. SPENCE (for himself, Mr. Collins of Texas, Mr. Conlan, Mr. Crane, Mr. Derwinski, Mr. Fisher, Mr. Ichord, Mr. Robinson of Virginia, Mr. Sebelius, Mr. Smith of New York, Mr. Symms, Mr. Ware, and Mr. Young of South Carolina):

H.J. Res. 720. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

By Mr. ZWACH:

H.J. Res. 721. Joint resolution to designate the period February 11, 1974 through February 17, 1974 as "National Peanut Butter and Milk Week"; to the Committee on the Judiciary.

By Mr. SNYDER (for himself, Mr. Derwinski, Mr. Collins of Texas, Mr. Gross, Mr. Rarick, Mr. Skubitz, Mr. Davis of Georgia, Mr. Landrum, Mr. Symms, Mr. Ketchum, Mr. Camp, Mr. Burke of Florida, Mr. Rousselot, Mr. Steiger of Arizona, Mr. Stubblefield, Mr. Mann, Mr. Don H. Clausen, Mr. Cleveland, Mr. Myers, Mr. Gubser, Mr. Grover, Mr. McCloskey, Mr. Dickinson, Mr. Stephens, and Mr. Gettys):

H. Con. Res. 295. Concurrent resolution providing for the date of sine die adjournment of the 93d Congress, 1st session; to the Committee on Rules.

By Mr. WON PAT:

H. Con. Res. 296. Concurrent resolution relative to giving serious consideration to the political status preference of the people of Guam and to recognize the contribution of their elected representatives toward the principle of government by the consent of the governed; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY:

H. Res. 542. A resolution creating a select committee to conduct a study concerning possible American involvement in the overthrow of the Chilean Government of President Salvidor Allende in September 1973, and in the death of President Allende; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Ohio:

H.R. 10242. A bill for the relief of Capt. Terence A. Cochran, M.D., U.S. Army; to the Committee on the Judiciary

By Mr. McKINNEY:

H.R. 10243. A bill for the relief of John J. Easton; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

278. The SPEAKER presented a petition of Rev. H. Roy Anderson, Mount Vernon, N.Y., relative to court proceedings; to the Committee on the Judiciary.

# SENATE—*Wednesday, September 12, 1973*

The Senate met at 10 a.m. and was called to order by Hon. Dick Clark, a Senator from the State of Iowa.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, our Creator, Redeemer, and Judge, may Thy spirit lay hold upon this Nation to forgive and renew its heart. Be to us now what Thou has been to our fathers. Open our eyes to all that belongs to things of the spirit. Open our minds to the truth. Open our lips to speak Thy word. As we toil here in high endeavor, use us for the cleansing and the moral renewal of the Nation.

We pray in His name who came to show us the kingdom. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
*Washington, D.C., September 12, 1973.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. Dick Clark, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

James O. Eastland,
*President pro tempore.*

Mr. CLARK thereupon took the chair as Acting President pro tempore.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Clark) laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of David J. Cannon, of Wisconsin, to be U.S. attorney for the Eastern District of Wisconsin, which nominating messages were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 11, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, is it so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire to be heard?

Mr. SCOTT of Pennsylvania. Mr. President, things are going along pretty peacefully here. I think I will not have anything to add to that at the moment.

## EXECUTIVE SESSION—OFFICE OF ECONOMIC OPPORTUNITY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to consider the nomination of Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity, with the vote thereon to occur at 12 noon today.

The time will be equally divided between majority and minority leaders.

The clerk will state the nomination.

The second assistant legislative clerk read the nomination of Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken equally out of both sides and, may I say, I turn my time over to the distinguished Senator from New Jersey (Mr. WILLIAMS).

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. How much time does the Senator yield?

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. WILLIAMS. What is the time situation?

The ACTING PRESIDENT pro tempore. The time between now and 12 o'clock, when the vote is scheduled, is equally divided between the majority and minority leaders, and the majority leader has yielded his time to the Senator from New Jersey.

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, on August 2, 1973, the committee voted 11 to 1 to favorably report out the nomination of Alvin J. Arnett for the position of Director of the Office of Economic Opportunity.

The committee's action was based on Mr. Arnett's forthright commitment to the goals and ideals of the Economic Opportunity Act.

During the committee's hearings, Mr. Arnett clearly stated that it was his intention to enforce the law as Congress had written it despite the administration's past position to the contrary.

Such sentiments are indeed refreshing, especially in light of certain events of the recent past which I would like to recall for my colleagues.

In January of this year, the President designated Mr. Howard Phillips to be the Director of OEO without sending his name to the Senate for confirmation. Shortly thereafter, despite the clear abuse of constitutional process and lack of regard for statutory intent, this appointee set out to accomplish his declared goal of dismantling the agency and gutting its programs—programs specifically designed by the Congress to help the poor and disadvantaged of this country.

As if these blatant illegalities alone were not enough, it was the results of these actions—the disruption brought to hundreds of worthwhile programs and to thousands of innocent lives, which prompted me to take immediate, and admittedly extraordinary, action—redress through the judicial arm of government. Joined by three of my committee colleagues, Senators PELL, MONDALE, and HATHAWAY, legal proceedings were initiated in the U.S. district court to stop the agency's dismantling and to remove the "Acting Director" from office.

The subsequent events, of course, are well known—the "Acting Director" was ousted; OEO as an agency survived the fiscal year, impounded funds were released; and once again the poor and disadvantaged of this country were given hope.

Immediately upon his appointment on June 26, 1973, as Director-Designate, Alvin Arnett was thrust into a veritable cauldron of controversy. Under court order, OEO was mandated to review and process some 650 pending grants before the end of fiscal year 1973—June 30. Ironically, most of these grants were the same ones purposely abandoned and left to die by Mr. Arnett's predecessor.

To his credit, and with the aid of two court-sanctioned extensions, the nominee succeeded in processing the outstanding grants. I should also like to note that Mr. Arnett acted responsibly to my request for a special review of some 30 new grantees in which there were indications of possible substantive and/or procedural improprieties. As a result, almost all of these applications were either rejected or modified; thus saving several million dollars of taxpayer money.

In response to an appeal by committee members, Mr. Arnett extended the life of existing backup research centers, which provide vital input into the delivery of legal services to the Nation's poor and disadvantaged.

In addition, Mr. Arnett showed a singular quality of political courage when he decided to override the Governor of Mississippi's veto of that State's legal services program.

It is my understanding that all OEO grantees have been currently funded at least through the first quarter of this fiscal year. And I have been given assurances that such funding shall continue when appropriations are made available.

Let me be frank to say that there are areas in which I disagree with Mr. Arnett; one such area being the delegation of the Agency functions to the old-line departments. While the enabling statute does indeed permit such transfers for the purpose of operating the Agency's programs, it must be remembered that OEO in no way waives its responsibility for such programs. OEO still retains the complete responsibility for both oversight and evaluation of its statutory functions. In addition, the Agency retains the right to modify and revoke any delegation upon the failure of any departmental delegate to fulfill its pledged obligations.

However, if his deeds manifest his words, Mr. Arnett should make a worthwhile contribution toward the goals sought by the Economic Opportunity Act. In his opening remarks to the committee, the nominee stated:

> I honestly and openly state that I stand ready to comply with the law in every respect as determined by the Congress and the President and to carry on the remaining OEO functions during fiscal year 1974 to the very best of my ability. I make my personal commitment to that purpose. . . .
>
> I come to you with no private agenda, but rather to continue to do my part in helping to alleviate poverty. I come to you in the spirit of cooperation, knowing full well the prospects of confrontation.

And in a private communication to me as the committee's chairman, Mr. Arnett said:

> If the Congress chooses that this agency's work should continue in full or in part, then I would hope that we could do that work better than it has ever been done before. I firmly believe and my life has been so dedicated that this Nation's commitment to its disadvantaged and economically disfranchised is a responsibility of the highest order and one we neglect at our peril as a people.

Therefore, it is rather ironic that some of my colleagues intend to oppose the nomination for the very reason that Mr. Arnett has chosen not to follow the footsteps of his ill-fated predecessor, Howard Phillips; and indeed because he has instead declared his desire to follow the clear dictates of congressional intent, and not impound funds or stifle programs destined to help the Nation's poor and disadvantaged.

Mindful of the important issues at stake, and of its responsibility to safeguard the interests and needs of those who look toward the Office of Economic Opportunity as their voice in Government, the committee voted in favor of Mr. Alvin J. Arnett to be the Agency's Director.

Therefore, Mr. President, I am pleased to say that the committee is enthusiastic about this nominee. I strongly support him.

Mr. JAVITS. Mr. President, will the Senator yield?

**Mr. WILLIAMS.** I yield.

**Mr. JAVITS.** Mr. President, I, too, support the nomination; and after Senator CURTIS has spoken, I will state my reasons.

**Mr. GRIFFIN.** Mr. President, because of the unanimous consent agreement, the control of time in opposition to the nomination, ironically, is under the control of the minority leader, who favors the nomination, and so does the assistant minority leader. There really are no problems in terms of time available.

I ask unanimous consent that the time under the control of the minority leader be under the control of the distinguished Senator from Nebraska and that if he is required to leave the floor, he be able to redelegate the time to someone else.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

**Mr. CURTIS.** Mr. President, I yield myself such time as I desire.

The **ACTING PRESIDENT** pro tempore. The Senator from Nebraska may proceed.

**Mr. CURTIS.** Mr. President, the significance of the vote which we are about to take today is much greater than to resolve the question of the directorship of the Office of Economic Opportunity. At stake are much larger issues, including the future course of policy concerning some of this country's most controversial social programs. Ultimately, the question is whether that course will be determined by Congress and the President, who are the elected officials of the legislative and executive branches of our Federal Government, or by nameless and faceless members of a burgeoning bureaucracy who have constituted themselves an independent "branch" of government and whose inscrutable will may be questioned only by Federal judges. In order to place today's vote in its proper perspective some recent historical background will be helpful.

Less than 1 year ago the voters had an opportunity to choose between a candidate for President who openly favored the accelerated expansion of all manner of wasteful and ineffective social programs and a President who said that creative and constructive means, such as revenue sharing must be found to return to the people the power to make derevenue sharing, must be found to reverse the flow of power from the States and localities to Washington which has proceeded unchecked for several decades. The American people responded by reelecting President Nixon by a resounding landslide, and just after the first of this year the President made it clear that he interpreted the election as a mandate for him to reorganize the Federal bureaucracy to make it responsive to the policies of his administration.

In January of this year the President appointed Howard Phillips Acting Director of OEO. The agency had been created in 1964 to centralize and coordinate Federal efforts on behalf of the poor. During the intervening years OEO became the means by which millions of dollars of Federal funds were spent to support the pet projects and indulgences of an army of bureaucrats and professional poverty fighters. The scandals associated with OEO in general, and with the community action and legal services programs in particular, have filled hundreds of pages in the RECORD. Mr. Phillips was assigned the task of dismantling OEO by June 30, discontinuing some programs, transferring some programs to other agencies, and placing the legal services program under an independent Legal Services Corporation which the President asked Congress to create. Because of the uncertainty of the fate of legal services at the hands of a Congress which was skeptical in view of the program's excesses and because of the central importance of this self-styled "advocate for the poor" in the poverty warriors' scheme of things, the debate concerning this program quickly became the focal point of the larger struggle over the future of OEO.

Amazingly, the legal services program had operated since its inception in 1965 without any stated goals or objectives by which to measure the performance of the program and hold its administrators accountable for its success or failure. Mr. Phillips and Director of Legal Services J. Laurence McCarty proceeded to remedy this situation in May by issuing a detailed set of regulations to govern the program. The most important of these stated—

> The only . . . overriding objective for line attorneys employed in the program: To provide quality legal services in noncriminal matters to individuals who meet the eligibility criteria established by the Office of Legal Services and who are otherwise unable to afford counsel.[1]

The regulation went on to say that—

> Law reform will no longer be a primary or chief criterion in evaluation or refunding projects.[2]

The entire set of regulations was designed to prevent legal services attorneys from taking advantage of the policy vacuum in Washington to pursue their own agenda for "law reform" at the expense of the welfare of individual needy clients.

Approximately 1 month later, on June 21, the House of Representatives passed H.R. 7824, the Legal Services Corporation bill, but not before it added some two dozen amendments to the committee bill, all of which were designed to curb the excesses of the program. Singled out for special attention were the 12 national backup centers, which were supposed to provide research assistance to staff attorneys but whose involvement in such cases as the Detroit busing case had made them obnoxious to a broad spectrum of Congressmen. A pair of amendments sponsored by the distinguished Congresswoman from Oregon, Mrs. EDITH GREEN, and passed overwhelmingly by the House, would effectively abolish these backup centers. Other amendments were designed to prevent involvement of legal services attorneys in suits involving busing, abortion, and draft evasion and to restrict such activities as the representation of political pressure groups.

In late June Judge Jones, of the Federal District Court for the District of Columbia, ruled that Mr. Phillips could not continue as Acting Director and nullified his actions in office for the technical reason that his name had not been submitted to the Senate for confirmation within 60 days of his initial appointment. However, by this time, the electorate, the President, and the House of Representatives had spoken, and there was every reason to expect that the new Acting Director, Alvin J. Arnett, who seeks confirmation today, would continue to implement the clearly stated policies of this administration with respect to OEO. This seemed to be confirmed when Mr. Arnett appeared before the Senate Committee on Labor and Public Welfare and asked that no further funding be provided for OEO. Then a bizarre series of events took place. Under further questioning by the committee Mr. Arnett stated that his personal views, as opposed to those of the administration which appointed him, were that the agency should continue to exist as an advocate for the poor and as a federally funded poverty "think tank."

One such episode was Mr. Arnett's decision to engulf the sparsely populated Trust Territory of Micronesia in a veritable tidal wave of legal services funds. Micronesia has only the bare beginnings of a legal system, yet the Acting Director has approved a grant of $600,000 over the protest of the High Commissioner and despite the recommendation of his staff that the grant be drastically cut or terminated.

Mr. Arnett also approved a technical assistance grant of $298,000 for the National Legal Aid and Defender Association—NLADA—with the substantial likelihood of further funding in the face of staff recommendations that the organization be given a contract, rather than a grant, of $220,000. The contract approach to funding would have provided a much larger measure of control by the agency than does a grant, which permits a recipient to do essentially what it pleases with Federal money. Further funding would have been contingent upon NLADA's performance under the terms of the contract. Mr. Arnett's action here suggests that he is, in effect, ceding to create Federal social policy which rightfully belongs to responsible public officials.

Mr. Arnett has attempted several times to fill the vacant position of Director of Legal Services, a position which is of pivotal importance in this period of transition from an OEO program to a corporation, with individuals such as Mr. Dan Bradley who are identified with the discredited militant law reformist approach to legal services. The program badly needs responsible direction, but Mr. Arnett has passed up several opportunities to appoint a moderate conservative who would administer the program in a manner which would be consistent with the policies of this administration rather than with the radical doctrines, which have been soundly rejected at the polls. Mr. Arnett's persistent attempts to install the likes of Mr. Bradley at the helm of Legal Services, whether by direct appointment or by appointment as a Special Assistant to the Director with responsibilities in the area of legal services, raise the question whether the radical elements may be able to win through the good offices of Mr. Arnett what they lost last November and thereby effectively subvert the electoral process in this country.

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[1] 45 C.F.R. Sec. 1061.5–6(a)

[2] 45 C.F.R. Sec. 1061.5–6(b)

Equally alarming are the reports I have been receiving concerning negotiations which Mr. Arnett has been conducting with the employees union at OEO. Mr. Arnett has apparently agreed in principle, among other things, to testify favorably on the question of continued funding of OEO, to take no adverse action against any employee without approval by an arbitrator, to consult with the union on all major policy actions, to permit the election of supervisors, to impose union shop conditions on appointments and promotions within the agency, and to permit the union to conduct its ongoing program of agitation on Government time with the use of Government facilities and equipment. The list of concessions goes on and on, and I understand that Mr. Arnett may sign a contract this very day which would give the union virtual control over this agency—signed, sealed, and delivered.

All I can say is that I tried to hold up this unfortunate nomination long enough for both Mr. Arnett and the administration to consider whether or not Mr. Arnett could administer the agency in good faith in view of the apparently irreconcilable conflicts between Mr. Arnett's actions and announced administration policies. From now on I, along with millions of others who are disturbed at the direction which some of the Federal social programs appear to be taking, will be watching every move Mr. Arnett makes. We will be anxious to see whether or not the Director approves the funding requests of several grantees whose projects should never have been funded in the first place but who have made a record which leaves a responsible official no choice but to terminate or phase out their grants. We will be watching to see whether or not Mr. Arnett will now appoint a Director of Legal Services who will place concern for the needs of poor clients ahead of service to radical movements whose objectives are completely at odds with those of the citizens whose taxes support the program. Finally, we will peer over Mr. Arnett's shoulder as he prepares to turn virtual control of the agency over to a union which cynically believes that Federal agencies exist for the benefit of the defiantly entrenched employees rather than the taxpayers, an action which would bring to a bitter conclusion the efforts over a period of many months of those dedicated public servants who sought to carry out the President's mandate on behalf of the vast majority of Americans.

In short, Mr. Arnett, we will, indeed, "judge you by your stewardship" and will be prepared to respond in accordance with the record which you establish as Director of OEO.

I yield the floor.

Mr. WILLIAMS. Mr. President, I wonder if the Senator would yield for just a clarifying question.

Mr. CURTIS. I am happy to yield.

Mr. WILLIAMS. As I understand the Senator's opening remarks, he associated himself favorably, as I interpreted the beginning remarks, with the procedures that were undertaken by Mr. Phillips, who was never nominated to this position, but was in a position to direct the agency until removed from that position by court order. Mr. Phillips, a very honest man, said that he was in the position to dismantle the agency.

I got the impression that the Senator from Nebraska, my good friend, looked favorably back to that period and agreed with that approach—that the Presidential election of last year somehow indicated a mandate for this kind of activity.

Mr. CURTIS. The Senator is correct. I believe that was the case. I believe that Mr. Phillips in general was carrying out administration policy. My hope is that Mr. Arnett will continue with that, but, for the reasons that I recited, I am disturbed about it.

Mr. WILLIAMS. Hearing that disturbs this Senator, because it places executive policy above the Constitution and above the law of the land.

Mr. CURTIS. No; I think it conforms with that.

Mr. WILLIAMS. It was on September 19, 1972, that the President signed into law Public Law 92-424, wherein the economic opportunity amendments were continued for 2 years. In other words, the Office of Economic Opportunity was authorized to continue through fiscal year 1974. That is the law of the land, and the Constitution clearly states that the President shall take care that the laws are faithfully executed.

I am certain that the Senator from Nebraska is an ardent supporter of these constitutional provisions and of the constitutional powers of the Congress, the legislative branch, and of the Presidential branch. That is what those court cases were all about. Howard Phillips defied both the law and the Constitution.

Mr. CURTIS. I do not follow the distinguished Senator's reasoning on the constitutional principles involved. There is no principle in our Constitution that requires any offical to continue a program that is wasteful, that is creating problems, and that needs reform.

Just as clearly as that the Congress passed an extension of the OEO Act, it also passed the Reorganization Act, and there is no statutory or constitutional obligation on anyone to continue a program or the manner of conducting a program if it clearly is in trouble, if it is wasteful, if it is proceeding against the interests of the established government; and I believe that to be the case.

The power of the President to reorganize has at least equal standing with, perhaps greater standing than, the mere extension of the program.

Mr. WILLIAMS. Reorganization was never the issue, but rather the dismantling, discontinuing, and killing of programs enacted under law.

Mr. CURTIS. I do not believe that a majority of the Congress intended, for instance, when they voted for a program that would provide legal services to the poor, to have that money used for political purposes or in the area of controversial policy determination.

I think Congress was voting for a program which provided that if a distressed and needy individual required legal counsel in his personal situation, it would be there for him. So I do not concede that those matters that were being discontinued by Mr. Phillips—and I believe at the direction of the administration—constituted the will of the Congress.

Mr. WILLIAMS. It certainly was viewed otherwise by a majority of the Congress—I can assure the Senator of that—and that is why these questions went to the courts—a most extraordinary step, but made necessary by the actions of Mr. Phillips. The courts upheld the proposition that I am now advancing; that the Office of Economic Opportunity was validly enacted into law and that continued it in law. The President's duty under the Constitution is to execute the law of the land, and this was not done, and, therefore, the impoundments were stopped and Phillips was ordered to vacate his position.

Mr. CURTIS. I believe the controlling and main element of the judges' decision revolved around the lack of confirmation and was not a direct challenge of the wisdom or lack of wisdom of Mr. Phillips' actions.

Mr. WILLIAMS. If the Senator from Nebraska (Mr. CURTIS) had fully read the text of Judge Jones' decisions, he would have seen that they clearly rejected the substantive actions of Mr. Phillips as being contrary to the intent of Congress. I can say the end result was a wise result, in my judgment. I dislike to put so much of this debate as a burden on Mr. Arnett when we talk about Mr. Phillips' actions some time back. So let me thank the Senator from Nebraska for his conscientious attention to expressing his views here.

Mr. CURTIS. Mr. President, may I say that the distinguished Senator from New Jersey (Mr. WILLIAMS) has helped to put the issue in a correct perspective. I believe that the President acted wisely in his directions to Mr. Phillips, and I have great misgivings as to whether Mr. Arnett would so act.

I also feel that the court decision, regardless of what dictum may or may not have been involved in the decision, to be one that was determined on the basis of the Senate confirmation.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WILLIAMS. Mr. President, I yield 5 minutes to the Senator from Maryland.

Mr. BEALL. Mr. President, I thank the Senator from New Jersey for yielding me time.

Mr. President, I rise in support of the nomination of Mr. Alvin J. Arnett to be Director of the Office of Economic Opportunity for several reasons.

First of all, Mr. Arnett is a resident of the State of Maryland. And I am naturally happy that a resident of our State has been selected to head an agency of such significance in our Government bureaucracy.

Second, I have more than a passing acquaintance with Mr. Arnett, extending beyond my election to office in January 1971. Mr. Arnett was a member of my staff for 10 or 11 months, as executive assistant, after I took office.

Third, and most importantly, I am happy to rise in support of the nomination of Mr. Arnett to be Director of the Office of Economic Opportunity because I think he is eminently qualified to hold the office. As I have said, Mr. Arnett was my executive assistant when I first came to the Senate.

More than that, Mr. President, for 3 years before joining me in the Senate, he had been with the Appalachian Regional Commission and had moved up through the ranks in that agency. We are all aware of the fine work that commission has done over the 14-State region under its jurisdiction. We are aware of the fact that this agency has given new hope to many people and many local governments in the 14-State area in which it has jurisdiction.

Through this agency, we have been able to build a kind of base on which private agencies can go in and help them improve their ways of life. Mr. Arnett had very valuable experience there, and after being with me for 10 or 11 months, the Governors of the States covered by the Appalachian Region, called him back to that agency and selected him to be executive director of the agency. He has served with distinction in that capacity.

Mr. President, I think that these are, indeed, difficult times for the Office of Economic Opportunity. Its future, of course, is not set. But while the future is not set, I think it is important that Mr. Arnett head the agency because of his experience, his personality, and his understanding of the people and their problems. He could deal effectively with the matters coming before the agency and could deal effectively with the programs facing the people.

Mr. Arnett can be of great help to this agency by virtue of his experience in the Appalachian Commission and by virtue of his own personality and his knowledge of the people's problems and his great sensitivity and experience. He will be able to deal with these problems in an efficient way.

I think the President has made a good choice. I hope that the Senate will look with favor upon this nomination.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. BEALL. Mr. President, I ask unanimous consent that the time be equally divided between the proponents and the opponents.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield whatever time he desires to the Senator from Maine.

Mr. HATHAWAY. Mr. President, I am going to vote no on this nomination and feel an obligation to my colleagues to explain why I am taking this position.

As a preface to my remarks, I should state my conviction that the Office of Economic Opportunity is an important agency and that its directorship, particularly now, is an important job. The 25 million people who lead lives of poverty in this country need a strong advocate in the councils of the Federal Government. They do not need special privileges, but they do need protection from arbitrary action which can diminish their resources and, ultimately, their self-respect. Whether we like it or not, government at all levels in this country has tremendous power to affect the daily lives of all our citizens. Being able to afford neither lawyer nor lobbyist, having no representative in the seats of the mighty, weighed with the pressure of simple survival, these people deserve, at least, that their case be made. The OEO offers a vehicle, albeit an imperfect one, for this purpose.

It is for these reasons that the director of this agency holds a vitally important job, particularly so when the administration in power has expressed hostility to the agency and the intention to end its very existence. Although I believe that this nominee feels a genuine commitment to the poor, his recent appearances in these halls have raised doubts in my mind about his ability to translate that commitment into effective action.

Because of the special mission of the OEO, its director must have two special qualities in addition to a basic commitment to the poor. One of these is candor—a kind of straightforwardness that can engender confidence in those we are endeavoring to serve. The second is political toughness—the ability to make and stick to difficult decisions in the best interests of the poor despite strong conflicting pressures from Governors, Senators, or even Presidents.

Based upon my investigations of the nomination and observations during committee hearings and private meetings, it is the requisite degree of these two characteristics that I find lacking. Because my conclusions are obviously subjective, it is with some reluctance that I take this position. But my strong feelings about the OEO and the people it serves permit me no other course.

Mr. JAVITS. Mr. President, with the permission of the Senator from New Jersey, I yield myself such time as I may desire.

Mr. President, I strongly urge that the Senate confirm Alvin J. Arnett as Director of the Office of Economic Opportunity.

It is well known that this Office in the past fiscal year has had a very rough time under the former Acting Director, Howard Phillips. And I have no criticism of him whatever as a person. We are talking about his actions in an official capacity. He attempted to dismantle the agency. I am sure that he did this upon the instructions of the administration.

These efforts failed primarily because of the actions of the judicial branch, and in that respect, my colleague, the Senator from New Jersey (Mr. WILLIAMS), with whom I worked closely, joined in the litigation, together with other Members of the Senate. It was a very great privilege of these Members to join in the litigation insisting that the law enacted by the Congress be carried out during the fiscal year 1973.

This same situation will pertain during this fiscal year, 1974, under the court decisions—that is, the program must be carried out—so long as appropriations are made available by the Congress and the Executive for those purposes; such is now the case under a continuing resolution, House Joint Resolution 636, which expires September 30, and it is likely that the Senate will soon follow the action of the House in providing funds for the remainder of this fiscal year, which will take us to June 30, 1974.

In light of this history and these prospects it is all the more important that the Office of Economic Opportunity have as Director a person who has the experience, moral commitment to the poor, and personal commitment to carry out the programs for whatever period the Congress, the Executive, and the courts determine that they should be continued under law.

In my opinion, the administration's nominee, Mr. Arnett, meets these qualifications.

First, with respect to experience, Mr. Arnett comes to OEO with a very firm background in dealing with the problems of the poor. Between 1971 and 1973, he served as Executive Director of the Appalachian Regional Commission and prior to that held a number of other positions with the Commission, which as we know grapples daily with the problems of poverty in the Appalachian region with many of the same tools utilized by the Office of Economic Opportunity—preschool education, child care, economic development, legal services, programs for senior citizens.

It should be noted that the Appalachian Regional Commission adopted on March 27, 1973, a resolution in appreciation of services rendered by Mr. Arnett, citing his "unique imaginative, and fruitful services to the Appalachian program," and noting that—

> Many, who have worked in this program for the development of the Region, have shared a deep commitment to its objectives, but few have approached and none have surpassed, Al Arnett in depth and sincerity of feeling for the people of Appalachia.

Already, as Acting Deputy Director of the Office of Economic Opportunity, he was assigned by the courts late in fiscal year 1973, the responsibility of carrying out the law, and by all accounts, he did so with great intelligence and skill.

Accordingly I share the views of Senator BEALL, a member of the Committee on Labor and Public Welfare and a former employer of Mr. Arnett, to the effect that Mr. Arnett is "eminently qualified to hold the job for which he has been nominated" and that "over the past 5 months he has professionally gone about his task; quietly, humanely, thoroughly."

Second, with respect to moral commitment, I believe that Mr. Arnett's words, as well as his experience, speak of a very high commitment to the elimination of poverty.

During his appearance before the committee, he stated quite frankly that—

> There are those who have told me that I am but a piece of meat in a vise today. Rather than receiving congratulations of the last 24 days, I have been in receipt of condolences. But I am more than willing to be that piece of meat in the vice if it can help bring sense and order to our difficulties, and I commit to you my dedication to work with you in seeking the answers that we all want.

Senator BEALL noted in his statement before the hearing on confirmation, held July 20, 1973, that—

> Mr. Arnett . . . is the kind of person that is not only knowledgeable of people's prob-

lems, but has the sensitivity and the experience with which to deal with those problems.

Third and importantly, Mr. Arnett has made it clear that he will carry out the law, which includes the court's orders and the determinations of Congress. During his confirmation hearing, he stated:

> I honestly and openly state that I stand ready to comply with the law in every respect as determined by the Congress and the President and to carry on the remaining OEO functions during fiscal year 1974 to the very best of my ability. I make my personal commitment to that purpose.
>
> I come to you with no private agenda, but rather to continue to do my part in helping to alleviate poverty. I come to you in the spirit of cooperation, knowing full well the prospects of confrontation.

In that regard, it was very important to me that he answered so very properly the question put to him by the Senator from Pennsylvania (Mr. SCHWEIKER) at the confirmation hearing on my account as well as on Senator SCHWEIKER's, Senator SCHWEIKER having explained that I was engaged on the Senate floor in connection with the war powers bill, which I managed on the floor with the Senator from Maine (Mr. MUSKIE).

During the hearing of July 20, in response to questions proposed by Senator SCHWEIKER and myself, Mr. Arnett testified:

> (1) That he sees the value of having an agency whose special concern is the poor and that he would see himself not only as a person required to carry out the programs but as an "advocate" for the poor—an aspect, incidentally, which the President himself has emphasized on numerous occasions;
>
> (2) That in his personal view, after this fiscal year (1974) we will continue to need some agency, whether or not it is called OEO, whose concern is the poor;
>
> (3) That if he felt it was necessary, he would advise the President to submit a budget request for continuation of the program beyond this fiscal year 1974;
>
> (4) That in his opinion, many community action agencies would not survive if they were dependent solely on state or local funding;
>
> (5) That he will try to establish an atmosphere in which funding can be handled more smoothly and equitably;
>
> (6) That until a legal services corporation is established, he will refrain from any major changes in the goals of the current legal services program or in the manner in which it is conducted; that he will consult closely with members of the organized bar; and that if for any reason a new corporation is not ongoing by January 1, 1974, he will give consideration to continuation of the legal services back-up centers beyond that date, having already provided for their funding for the first half of this fiscal year.

Mr. President, I ask unanimous consent that pages 23 through 26, inclusive, of the transcript of Senator SCHWEIKER's questions and Mr. Arnett's answers be printed in the RECORD at this point as a part of my remarks.

There being no objection, the excerpt from the hearings record was ordered to be printed in the RECORD, as follows:

### QUESTIONS AND ANSWERS

The CHAIRMAN. Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Mr. Arnett, yesterday before the Appropriations Committee you are quoted in the paper as saying that you feel that OEO should be lean and mean, rather than an amorphous institution. I wonder if you would explain a little bit what you mean by that.

Mr. ARNETT. I will be happy to.

Senator SCHWEIKER. Maybe it was a misquote.

Mr. ARNETT. No. The context was such that it needs to be explained. My personal view is that OEO should be the prod, should be at the spearpoint, punching larger operating agencies to do things for poor people. OEO, or whatever agency it is that carries the burden for poor people, should serve as the burr under the saddle, rather than being burdened down as a packhorse.

What is represented in these delegation agreements is the maturation of OEO initiated programs that have simply gone operational. For example, operating educational programs have been moved to HEW, an agency that deals with educational programs.

My view of OEO as lean and mean comes from Coach Bear Bryant's old line—somebody asked him about his small linemen, and he said that size does not really matter, so long as they are mobile, agile, and hostile. I think that is exactly what OEO should be with other agencies: agile, mobile, and hostile.

Senator SCHWEIKER. Who would you be hostile to again?

Mr. ARNETT. Not poor people.

Senator SCHWEIKER. I was not quite sure for a minute.

Mr. Arnett, this goes without saying that community action in poverty programs have been taken on a very rough ride by the administration over the past fiscal year, ending up of course with action by the courts. Now the Economic Opportunity Act of 1964 continued just only last October for 2 years provides that the Director shall carry out the program.

If you are confirmed as head, do you intend to do just that without any personal agenda to the contrary or any anticipation that they are to be phased out after fiscal year 1974 or what is your position?

Mr. ARNETT. I intend to do just that. I will tell you what I have done over these past 24 days so that I can do just that. All CAPS have been forward funded with fiscal year 1973 moneys. Half of them are funded through the first quarter of fiscal year 1974 and another half funded through the second quarter of fiscal year 1974 or to December 31. That was as far as I could take them before the money ran out last night.

The $185 million that you see in the House appropriations for community action, given that forward funding will be a sufficient amount to keep the program level in fiscal year 1974 for CAPS at the level it was in fiscal year 1973. I am mandated by law to obligate that money.

Senator SCHWEIKER. President Nixon said on February 19, 1969, in an antipoverty message, and I am quoting now from the President:

"From the experience of OEO we have learned the value of having in the Federal Government an agency whose special concern is the poor."

Do you agree with that statement, and if you do, would you see yourself not only as one required to carry out the program, but as an advocate for the poor?

Mr. ARNETT. Yes, on both points.

Senator SCHWEIKER. Would you also agree that even after this fiscal year we will continue to need, whether it is called OEO or not, some agency in the Federal Government whose concern is the poor?

Mr. ARNETT. In my personal view, yes.

Senator SCHWEIKER. Would you advise the President to submit a budget request if you felt it was necessary to carry out the obligations and the objectives that you have been answering affirmatively to?

Mr. ARNETT. Yes, I would.

Senator SCHWEIKER. The administration budget, as we know, for fiscal year 1974 contains no request for funds for OEO or community action operations and contains the following statement:

"After more than 7 years of existence, community action has had an adequate opportunity to demonstrate its value. In addition to private funds, State and local governments of course use general and special revenue sharing funds for these purposes."

This is in contrast to the report of the committee on appropriations of the House, in providing funds for continuation of these programs, and I quote from the House committee report:

"The committee action in continuing Federal support for community action agencies for an additional year is based on its belief that a majority of these agencies are performing important functions and that in many cases there will be no other local agency capable of assuming those functions if the community action agencies are terminated."

Now do you agree that many community action agencies would not survive if they were dependent solely on State or local funding?

Mr. ARNETT. With my limited knowledge, I would agree with that statement.

Senator SCHWEIKER. During the past year a number of community action agencies and other grantees have been subjected to rather rough treatment in terms of discontinuation of funding and being charged with violation of the law without adequate notice.

In short, many have felt harassed by the Office of Economic Opportunity. Do you personally pledge to make every effort to comply with the provisions of the law with respect to the notice of discontinuation of funding, and even beyond that will you try to establish an atmosphere in which these matters can be handled more smoothly and equitably?

Mr. ARNETT. It is going to sound like a wedding, but I will.

Senator SCHWEIKER. And you know this committee will soon consider legislation to establish a new legal services corporation. In the interim, it is absolutely essential that the existing program maintain its spirit and services so that there is the momentum obtained in transition into a new corporation, whatever that corporation might be, and I am not asking you where you stand on the various issues arising in connection with the legislation because even now Congress is in the process of adjudicating those differences.

But in respect to the present program, in the interim, No. 1, will you refrain from any major changes in the goals of the program or the manner in which it is conducted?

Mr. ARNETT. Yes.

Senator SCHWEIKER. Would you consult closely with the members of the organized bar and others who are interested in the program so that their views are continually taken into account?

Mr. ARNETT. I already have and will.

Senator SCHWEIKER. Third, will you tend toward continuation of existing projects that they are operating? In this connection I am pleased with the commitment you made to me and other members of this committee to continue at least through December.

Would you also agree that if for any reason the new corporation is not ongoing by that time that you will give consideration to continuation of the centers beyond that date?

Mr. ARNETT. Yes.

Senator SCHWEIKER. I would like to submit some questions for the record, Mr. Chairman, on behalf of Senator Stafford and would like answers in writing.

Senator Stafford would like one question answered in writing and he would like for me to ask two at this point.

The Vermont Legal Aid has received a 3-month grant extension to October 1, 1973. Is that grant going to be extended further and what is the status of the grant periods pending final action on the legal services corporation?

Mr. ARNETT. Senator, on a particular project I would have to simply come back to you. I would hope that I could supply that.

Senator SCHWEIKER. Under the broad provisions for disaster aid as a result of the June 30 flooding, Vermont has applied for a relief grant through the Office of Economic Opportunity, most of the grants are designed to go to community action agencies, but legal aid has been designated for some relief funds, primarily in anticipation of the needs to advise—defend Vermonters in regard to home improvement frauds, racketeering, following disasters, and I wonder if you could provide for the record a response to that statement?

Mr. ARNETT. Yes.

[The following information was subsequently supplied:]

### VERMONT LEGAL AID FUNDING

Vermont Legal Aid Service, located in Burlington, Vermont, was funded in Fiscal Year 1971 at a level of $325,266 to operate a statewide legal services program for 14 months. This grant is due to expire on July 31. Accordingly, the grantee received an additional grant for $108,820 on June 30 to provide continued support through October 31 of this year.

### OEO DISASTER RELIEF EFFORTS IN VERMONT

In response to the recent flooding in Vermont, OEO participated in a federal disaster assistance team effort coordinated by the FDAA. The regional office in Boston highlighted the disaster relief efforts of community action agencies in the State, including home repair activities, emergency feeding programs and general community outreach. Moreover, the regional office has received numerous requests from stricken communities for additional OEO emergency funds. OEO is currently funding a $30,000 grant to provide a lawyer and three paraprofessionals in Vermont to provide assistance over the next 9 to 12 months.

Senator SCHWEIKER. I might say that Senator Javits had hoped to be here and some of these questions are on his behalf as well. Unfortunately he is performing a very commendable service on the floor in shepherding through the war powers bill, so I would like to make record of the fact that he is sorry he could not be here and is involved with that.

Also, Senator Stafford is in the highway conference. Hopefully they are going to confer and have a final report.

That is all I have.

The CHAIRMAN. Thank you, Senator Schweiker. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Mr. Arnett, you come here today, one day after you appeared before the Senate Appropriations Committee, asking for zero funding for the OEO headquarter in Washington, zero funding for the 10 regional offices, zero funding for community action programs which are operated at the local level, and asking for the transfer or destruction of every OEO program on the books, and ask us to confirm you as OEO Director.

Why should we?

Mr. ARNETT. I think it goes——

Senator KENNEDY. Could you speak up a little bit.

Mr. ARNETT. I think it goes to continuum.

Senator KENNEDY. What do you mean by continuum?

Mr. ARNETT. Well, we are in a situation where the budget request, the money that is not coming, the programs that are spinning off, simply are not fitting together. Events have overtaken us.

Senator KENNEDY. I do not understand "events have overtaken us" or "continuum."

Could you be somewhat more specific about these programs? People are benefiting from many of these programs, obviously there are some inefficiencies, some inequities, some programs ought to be streamlined. I think you will find every member of this committee interested in working with the administration and trying to eliminate inefficiencies, inequities, duplications, overlapping, but I do not understand the words "continuum" or "events that overcome us," to indicate that is your intention.

Could you be more specific, please?

Mr. ARNETT. OEO is in existence on the 20th of July. The budget that was presented on the 29th of January asked that there be no OEO in existence on the 20th of July.

Senator Williams referred earlier to a February 1969 meeting at the White House on Appalachia. In February 1969 Appalachia in the administration's view was in absolute nadir, it was going out of existence. In the 1974 budget Appalachia received what it asked for and has now become a favorite of the administration.

I think we are precisely in that same place today. I think that the confusion, the difficulties that we are in are caused by the conflict that arises out of the budget that has not been accepted. You asked why do I want this job under those circumstances. The answer is that I expect there will be a program for poor people that will and must continue regardless of what it is called.

This I think is where we are on the 20th of July.

Senator KENNEDY. Well, the program not accepted by who? Not accepted by the administration? Not accepted by the Congress? Not accepted by who?

I don't understand. You come up and ask us, to get back to the original question, you ask us to confirm you as Director the day after you asked for absolutely zero funding for these programs.

Mr. JAVITS. Mr. President, for all of these reasons, I believe we at last have a worthy nominee for Director of OEO, and I shall vote for and support, and urge the Senate to support, his confirmation.

Before I sit down, Mr. President, I wish to make it clear that the administration came through in this matter in deference to the court's decision. Some may say that it had no choice. But there is always some choice, some way of trying to get around a court order or a law.

The administration chose—and I am glad it did and I compliment it for it—to forthrightly accept the court's order, and to give us a nominee whom we could accept and who deserves and I hope will have today a resounding mandate from the Senate. I hope very much that this particular instance of working with the court may be a model for the President, and I hope very much that he will give the American people the same assurances in other court proceedings which affect the President so deeply, and which are now pending.

Mr. MONDALE. Mr. President, I rise to support the confirmation of Alvin J. Arnett, as Director of the Office of Economic Opportunity.

Over the past 8 months, OEO has been rocked by a series of events which have attracted widespread attention and comment. Beginning with the appointment of Howard Phillips as Acting OEO Director, and the failure to send his name to the Senate for confirmation, the Nixon administration attempted to accomplish through subterfuge what it could not accomplish openly with the Congress—the elimination of OEO, and in particular, the strangulation of its most valuable programs, such as the OEO Legal Services program.

As a result of court action in which I was proud to join with the distinguished Senator from New Jersey (Mr. WILLIAMS), the distinguished Senator from Rhode Island (Mr. PELL), and the distinguished Senator from Maine (Mr. HATHAWAY), Mr. Phillips was ousted from office, and the name of Mr. Arnett was submitted to the Senate.

I have been pleased with many of Mr. Arnett's actions in the period since his appointment. In particular, his response to me—and to other members of the Labor and Public Welfare Committee—at the hearings held on his nomination on July 20 were most encouraging.

On the basis of those responses, I was and am convinced that Mr. Arnett will exercise his responsibilities within the law, and that he will do everything possible to carry out the will of the Congress on the future of the Office of Economic Opportunity.

In particular, I was pleased with his responses on the question of legal services for the poor. His support of an independent legal services corporation, and of the need for a full range of alternatives available to legal services lawyers; his support of legal services back-up centers and his disavowal of the unconscionable legal services bill which passed the House of Representatives all give me hope that he will depart from the destructive actions of his predecessor on this vital program.

Hopefully, we in the Senate, in the coming weeks, will be able to consider and enact meaningful legal services legislation without encountering the type of harassment and obstructionism which marked the activities of Howard Phillips during House consideration of a Legal Services Corporation bill.

I commend Mr. Arnett for his forthrightness, and look forward to his tenure as Director of OEO.

Mr. DOLE. Mr. President, the future course of our Federal efforts to fight poverty in America have been at issue between the Congress and the Executive for some time now.

Those questions of substance about methods and approaches in the antipoverty effort, however, are incidental to the question before us today.

There is presently a Federal Antipoverty Agency. It exists in fact and in law, and it is in need of a director.

The President has sent us his nomination of a man—Alvin Arnett—to serve in that post. The only question now before us is whether the Senate shall confirm that nomination.

In Arnett's qualifications, reputation and experience, I find nothing but good reason for the Senate to act favorably on the nomination.

He knows the agency he is asked to direct. He has served it since February as a deputy to the previous Director. Before that, he served the staff of the Appalachian Regional Commission, most recently as its executive director.

His administrative skills are well tested.

His appreciation not only of the needs of the poor, but of their dignity, is widely and highly regarded.

Alvin Arnett's qualifications dictate an affirmative response by the Senate on the question of his nomination.

His experience merits our consideration. His reputation merits our attention.

And so his nomination merits our consent.

Mr. TAFT. Mr. President, I am pleased to support the nomination of Mr. Alvin Arnett to be the Director of the Office of Economic Opportunity. Mr. Arnett's qualifications are excellent to assume the Directorship of this challenging office. His background includes a term as Executive Director of the Appalachian Regional Commission and service as an Executive Assistant to Senator J. GLENN BEALL.

I am extremely hopeful that Mr. Arnett will be able to provide strong leadership, as Director of OEO, and work to revitalize this agency as innovator and tester of methods to alleviate poverty and create social reform. Further, I am hopeful that Mr. Arnett will be able to provide positive and strong leadership in the creation of an independent Legal Services Corporation.

Beyond these considerations, I am especially hopeful that Mr. Arnett will draw upon his experience, from working in the legislative branch, to keep the Congress fully informed of the developments with regard to the future of OEO. As ranking minority member of the Employment, Manpower and Migratory Labor Subcommittee, the subcommittee with direct jurisdiction over OEO matters, I have been somewhat disappointed with the lack of information and input to Congress regarding the future of OEO, and I am certain Mr. Arnett will correct this problem. I also have been assured by Mr. Arnett that he will not encourage or authorize authorship of foolish and naive memoranda regarding Members of Congress similar to one which surfaced last year from OEO.

With these understandings, and assurances I received from Mr. Arnett in confirmation hearings before the committee, I shall support his nomination.

### LEADERSHIP FOR OEO

Mr. CRANSTON. Mr. President, President Nixon's fiscal year 1974 budget represents what I consider to be a callous disregard for the poor of America—and for the longstanding Federal commitment to help the poor to help themselves. Nowhere is this administration policy more clearly reflected than in the effort to destroy the Office of Economic Opportunity, which has served within the Federal System as a focal point of advocacy for meeting the needs of the poor.

We all recognize the wisdom of redesigning, or even ending, programs that do not live up to their promise. But the modestly funded antipoverty programs under the Economic Opportunity Act—representing only one-tenth of 1 percent of the Federal budget—could not be expected to close the multibillion dollar poverty income gap. They were not designed to do so. Rather, antipoverty programs reflect an attempt to begin to attack the causes of poverty—an attempt to regain for our Nation the resource represented by 25 million Americans locked without hope in the cycle of poverty.

In his effort to discontinue the community action programs—the very heart of the war on poverty—the President has asked us to give up on a deep and honorable commitment made by his predecessor 9 years ago. A commitment reaffirmed by the Congress only last fall.

I deplored the President's decision to seek no new funding for the Office of Economic Opportunity—a decision made in direct defiance of specific legislation passed by the Congress. I have joined with many other Senators in urging the Senate Labor-HEW and Related Agencies Subcommittee of the Appropriations Committee—the Appropriations Subcommittee having jurisdiction over OEO funding—to continue OEO funding for fiscal year 1974 at levels at least equal to those adopted in the House, and thereby reaffirm the Congress intent to continue its commitment to the least fortunate among us.

The courts have halted the actions which the now defrocked Acting Director of OEO, Mr. Phillips, had said were in anticipation of congressional agreement on the President's budget message. These court decisions—particularly the decision which determined that the President's refusal to submit the nomination of Mr. Phillips to the Senate for confirmation was unlawful—have reaffirmed congressional authority—and more importantly, reaffirmed the rule of law.

Today we have before us for consideration the nomination of Alvin J. Arnett to be Director of the Office of Economic Opportunity. Mr. Arnett's performance as Director-designate has been the subject of most intensive scrutiny by the Senate Labor and Public Welfare Committee—an opportunity, a right, not afforded the committee in the case of his predecessor, Mr. Phillips.

Mr. President, I considered the Labor and Public Welfare Committee's hearing on Mr. Arnett's nomination to be of utmost importance, not only because of my great concern about the future of the Office of Economic Opportunity as a whole, but because of my particular and long-standing concern about OEO National's continued refunding of the California State Office of Economic Opportunity—CSEOO. This State agency has been performing one principal function for several years; hostile reviews and investigations—investigations which are of highly questionable validity—of other OEO grantees in California. The agency has been in repeated violation of State and Federal contract and grant requirements, has used inappropriate and improper accounting and personnel procedures, expended Federal funds for unauthorized activities, and, at best, generally followed unorthodox and highly irregular practices which I very strongly feel have not been in the best interest of the poverty community.

In June 1972, 21 members of the California congressional delegation joined with me in requesting that the Comptroller General conduct an investigation of numerous charges and allegations about the State agency, which had come to our attention. These charges included using technical assistance resources to conduct investigations hostile to OEO grantees; filling professional staff positions with persons lacking proper qualifications; paying staff to carry out functions not authorized within grant provisions; contracting for consultant services in violation of maximum fee regulations; using grant funds in connection with partisan political campaigns; and failing to comply with non-Federal share requirements.

On June 14, 1973, after a year-long investigation of CSEOO, the General Accounting Office issued its report, "Activities of the California State Economic Opportunity Office." I then wrote to the Comptroller General regarding several matters which I felt had been left unresolved in the initial GAO June 14 report.

Mr. President, I ask unanimous consent that this letter and the GAO response be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

U.S. SENATE,
COMMITTEE ON
LABOR AND PUBLIC WELFARE,
*Washington, D.C., June 12, 1973.*

Hon. ELMER B. STAATS,
*Comptroller General of the United States,*
*General Accounting Office, Washington, D.C.*

DEAR MR. COMPTROLLER GENERAL: Thank you very much for your June 11, 1973, letter transmitting to me an advance copy of GAO report B–130515, "Activities of the California State Economic Opportunity Office".

A preliminary examination of the report reveals a matter of grave concern to me. This relates to chapter 6, "Non-Federal Contribution", which states on page 33 that of $482,500 in recorded CSEOO claims for non-Federal contribution "about $376,649 of the total was questionable because of inappropriate claims or improper valuation". Included in this latter figure was a claim for $276,700 which the table on page 33 shows as "questionable" and which is described as "Migrant program 'excess'" representing "the State's required contribution under another OEO grant not involving CSEOO . . . [which was] required . . . so the State could qualify for Federal funding under the migrant program." *

Despite the fact that our request for a report from you has been pending for almost one year (since June 30, 1972), and despite the fact that your questioning of the permissibility and legality of this non-Federal contribution claim was communicated to OEO eight months ago in an October 11, 1972, letter, your report reaches no conclusion on this matter, noting instead: "The OEO regional director advised us on April 12, 1973, that the OEO Office of General Counsel had not yet determined whether the questioned costs should be allowed."

The report further states:

"CSEOO officials also stated that the non-Federal contribution was not a statutory requirement but rather an OEO administrative requirement and that, therefore, OEO could waive the requirement."

In this connection, I have reason to believe that numerous opinions on the legal issue involved have been issued by the OEO Office of the General Counsel with respect to other OEO grants.

I am most concerned about several additional aspects of your attempted disposition of this questionable claim which are raised by the quoted sentence. First, I specifically request a legal opinion from you as to the permissibility under the law and applicable Government-wide and OEO regulations of counting a State expenditure twice for the purposes of receiving two separate Federal grants each requiring a particular non-Federal share.

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* The double counting question is not restricted to this item, although it is by far, the largest example in dollar terms. Two other items in your list of "questionable claims" entail non-Federal contributions in connection with grants from two other agencies, HUD—$14,649 "for donated services unrelated to CSEOO"—and the Labor Department—$20,000 for "State expenditures under the Emergency Employment Act". Thus, my subsequent comments and questions related to these items as well.

Second, I am very concerned about your apparent condonation of a retroactive waiver of a regulatory requirement with respect to a non-Federal contribution in connection with a grant under section 231(a) of the Economic Opportunity Act of 1964, as amended. One question that immediately presents itself in this connection is, is the regulation involved a "statutory" regulation (see the direction to "establish procedures, . . . rules and regulations" in section 602(n) of the Economic Opportunity Act of 1964, as amended), as that term is used in longstanding interpretations by the Comptroller General? A second question is whether or not there is provision in OEO's own regulations, or anywhere in applicable Government-wide regulations, permitting retroactive waivers. If not, would such waivers be legal on a completely *ad hoc* basis? If there is a basis for retroactive waivers in appropriate regulations, then I ask by what provision of law are such retroactive waivers authorized and is such an authorization generally in accordance with holdings of the Comptroller General in connection with interpretation of Federal grant and contract statutory authorities? Finally, in this regard, what is the status of a regulatory requirement—such as the non-Federal contribution requirement in question—which has existed for many years and about which the Congress has been informed and has raised no objections? I often see it contended by Federal agencies that such regulations, in which it is said the Congress has "acquiesced", cannot be altered without Congressional approval.

I request your urgent attention to these matters, which I feel should have been addressed in your original report. I cannot believe that it is your position that the Congress of the United States and its duly authorized investigative and fiscal accounting arm—the General Accounting Office—is without recourse to render judgment on questionable claims by virtue of the directly responsible agency's delaying indefinitely the issuance of its interpretation and legal decision on such a matter.

Sincerely,

ALAN CRANSTON.

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COMPTROLLER GENERAL OF
THE UNITED STATES,
*Washington, D.C., July 20, 1973.*

The Hon. ALAN CRANSTON,
*U.S. Senate.*

DEAR SENATOR CRANSTON: Your letter of June 12, 1973, raises certain questions concerning matters discussed in an advance copy of our report, B-130515, entitled "Activities of the California State Economic Opportunity Office." This report was formally issued on June 14, 1973.

The activities of the California State Economic Opportunity Office (CSEOO) are funded in part by an Office of Economic Opportunity (OEO) grant under section 231 of the Economic Opportunity Act of 1964, as amended. Our report concerns various aspects of CSEOO's operation for its program year 1972 (fiscal year 1972).

Chapter 6 of our report examines charges that CSEOO failed to comply with non-Federal contribution requirements for program year 1972. Chapter 6 states in part, at page 33:

"OEO requires State agencies to provide either cash or in-kind contributions of at least 20 percent of program costs.

"CSEOO's non-Federal contribution requirement for program year 1972 amounted to $249,436, including $78,436 of mostly non-Federal contributions which had been questioned by OEO audits in previous years. We found that CSEOO's non-Federal contribution for program year 1972 may have been deficient by $143,585 because of questionable claims.

"CSEOO recorded claims for non-Federal contributions of $482,500 for the year, $233,064 more than actually required. Our examination of CSEOO's documentation, however, showed that about $376,649 of the total was questionable because of inappropriate claims or improper valuation. The balance, $105,851, was either not examined or not questioned. * * *"

The report lists the following categories and amounts of non-Federal contributions which we questioned:

| Description | Non-Federal contributions | | |
|---|---|---|---|
| | Claimed | Examined | Questioned |
| Migrant program "excess"<br>The amount claimed represents the State's required contributions under another OEO grant not involving CSEOO. OEO required this contribution so the State could qualify for Federal funding under the migrant program. | $267,700 | $276,700 | $276,700 |
| Volunteer services<br>About $38,800 of the amount questioned consists of Federal and matching non-Federal expenditures by a county under a Department of Housing and Urban Development grant. The remaining $14,649 consists of claims for donated services unrelated to CSEOO, unidentified, or unfairly valued. | $95,200 | $95,200 | $53,449 |
| State supportive services<br>The amount claimed consists of difference between what the State charged CSEOO for services rendered and what CSEOO estimates the actual cost would be outside the State system. For example, CSEOO estimates it would have cost $3,600 more to rent private space rather than use State-owned space. In another instance, CSEOO claimed $8,700 as the difference between what the State charged it for duplicating services and what it estimated such services actually should cost. | 30,200 | 30,200 | 26,500 |
| State expenditures under Emergency Employment Act<br>The amount claimed is actually the State's required in-kind contribution under another Federal (Department of Labor) grant. | 20,000 | 20,000 | 20,000 |
| Total | | | 376,649 |

On October 11, 1972, we wrote to CSEOO and the OEO regional director for Western Region IX (San Francisco) to inform them of these questioned costs and to obtain their comments. On April 4, 1973, CSEOO officials advised us that they were awaiting a decision from OEO headquarters regarding the allowability of the questioned migrant program excess. CSEOO officials also stated that the non-Federal contribution is not a "statutory" requirement but rather an OEO "administrative" requirement and, therefore, that OEO could waive this requirement. The OEO regional director advised us on April 12, 1973, that OEO Office of General Counsel had not yet determined whether the questioned costs should be allowed. By letter dated May 21, 1973, in commenting upon our report, the Acting Director of OEO indicated that this matter is still under review by the Office of General Counsel.

Your letter of June 12 refers to the alleged non-Federal contributions for migrant program excesses ($276,700), county expenditures in connection with a Department of Housing and Urban Development grant ($38,800), and State expenditures in connection with a Department of Labor grant ($20,000). You specifically request our opinion as to:

The permissibility under the law and applicable Government-wide and OEO regulations of counting a State expenditure twice for the purposes of two separate Federal grants, each requiring a particular non-Federal share; and

The permissibility of retroactive and ad hoc waiver of a regulatory requirement with respect to non-Federal contributions in connection with a grant under section 231(a) of the Economic Opportunity Act.

Subsequent to receipt of your letter, we attempted without success to obtain from OEO's Office of General Counsel some indication as to the status of their consideration of these issues, as well as any tentative conclusions which they might be able to offer. We are not, of course, precluded from passing upon the issues which you raise in the absence of an opinion or submission by OEO. As a general practice, we prefer to obtain the views of the agency having primary expertise and initial responsibility with respect to such issues in order to arrive at the most thorough determination possible and as a matter of fairness to parties who may be affected by our determinations. However, in accordance with your request and in view of our inability to obtain a response from OEO, we will proceed to consider the issues raised on the basis of the information now before us.

Section 231(a) of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2824(a), authorizes grants to State agencies for the provision of technical assistance, coordination, and other advice and assistance in connection with community action programs under title II of the act. We are not aware of any provision in the act which specifically requires a non-Federal contribution for State agency grants under section 231. Compare, for example, section 225(c) of the act, 42 U.S.C. 2812(c), as amended by Public Law 92-424, 86 Stat. 692, which does impose specific non-Federal matching requirements with respect to certain other title II grants. However, OEO Instruction 7501-1 (Role of State Economic Opportunity Offices), dated March 25, 1970, states in paragraph 9(b):

"The state's share for funding under section 231 shall be a minimum of 20 percent of the total cost of the operation in cash and/or in kind."

The text of this instruction, including the non-Federal contribution requirement, is also set forth at 45 CFR §§ 1075.1-1, 1075.1-11(b) (1973). The OEO instruction does not specify any qualifications or exceptions to the 20 percent non-Federal contribution for section 231 grantees. On the contrary, paragraph 9 (i), 45 CFR § 1075.1-11(i), states in part: "As OEO grantees, the SEOO's [State economic opportunity offices] shall comply with all applicable OEO Instructions. * * *"

The preamble to the text of OEO Instruction 7501-1 in the Code of Federal Regulations states that it is issued under the authority of section 602 of the act, as amended, 42 U.S.C. 2942. Section 602 provides in part, quoting from the United States Code:

"In addition to the authority conferred upon him by other sections of this chapter [the act], the Director [of OEO] is authorized, in carrying out his functions under this chapter, to—

* * * * *

"(n) * * * establish such policies, standards, criteria, and procedures, describe such rules and regulations * * * and generally perform such functions and take such steps as he may deem necessary and appropriate to carry out the provisions of this chapter."

Also relevant are the following excerpts from OEO Instruction 6000-2 (Applicability of Directives), dated May 10, 1971, page 1:

"1. POLICY

"The general conditions of all OEO administered grants made under the authority of Titles I-D, II and III-B of the Economic Opportunity Act, as amended, provide that program funds expended under the grant are subject to OEO directives. * * *

"2. BACKGROUND

"OEO's present issuance system is made up of the following types of issuances which either set forth policy and procedures to be followed by a grantee or offer advice as to how a grantee may better accomplish its objectives: OEO Instructions, OEO Notices, OEO Guidelines, and OEO Handbooks. * * *

"a. *OEO Instructions:* These issuances set forth policies and procedures and are binding on the grantees to which they are applicable as shown in the Appendix to this instruction."

It is clear that OEO Instruction 7501-1, having been issued and promulgated by the Director pursuant to express statutory authority, constitutes a "statutory" regulation in the sense employed in numerous decisions of our Office. As such it has the force and effect of law; and the agency has no authority to waive its requirements on a retroactive and *ad hoc* basis. *See, e.g.*, B-158553, July 6, 1966; 43 Comp. Gen. 31, 33 (1963); 37 *id.* 820 (1958); 31 *id.* 193 (1951); 22 *id.* 895, 899–900 (1943); 21 Comp. Dec. 482, 484 (1915). Compare 21 Comp. Gen. 550, 555 (1941). To hold otherwise would undermine the uniformity which such regulations are designed to insure, and would be manifestly unfair to other grantees which have complied with applicable requirements. Moreover, once provision of a non-Federal contribution has been undertaken by acceptance of a grant which incorporates this requirement, it becomes in effect an obligation owing to the United States which cannot be waived or given away. See 51 Comp. Gen. 162, 164–165 (1971); 47 *id.* 81, 83–84 (1967) and authorities cited therein.

It remains to consider whether the three CSEOO claims referred to in your letter may be applied to the non-Federal contribution requirement. As noted previously, we determined that these three claims actually constituted required contributions under grants other than CSEOO's section 231 grant. None of the three claims bears any relationship to CSEOO. The $38,800 and $20,000 items, relating respectively to grants by the Department of Housing and Urban Development and the Department of Labor, require no further explanation. The $276,700 item represents an expenditure by the State of California in satisfaction of a special condition imposed under an OEO migrant program grant, which required off-season maintenance of migrant housing facilities. Accordingly, even if this expenditure could somehow be related to the CSEOO grant, it does not appear to be "excess" with respect to the migrant program.

OEO Instruction 7501-1 merely imposes a 20 percent cash and/or in kind non-Federal contribution requirement for section 231 grants, without further elaboration in terms of the acceptability of particular claims. We believe it is obvious, however, that a grantee cannot apply a single claim in satisfaction of more than one non-Federal contribution requirement. *Cf.*, 47 Comp. Gen. 81 (1967); 32 *id.* 561 (1953); *id.* 141 (1952). Such double credit would, of course, effectively nullify one of these requirements. In any event, it appears that OEO Instruction 6802-08 (Non-Federal Share), dated May 10, 1971, expressly prohibits such double credit. This instruction states in part:

"The non-Federal share may be provided by any public or private agency, but may not include assistance provided through other Federal programs, *nor may any portion of the non-Federal share under any other Federal program be used to meet matching recruitments for community action programs.* * * * (Italics supplied.)

Section 231 grants are part of community action programs under title II of the act. The preface to OEO Instruction 6802-08 states that it applies to all grants under title II; and OEO Instruction 6000-2, *supra*, Appendix A, page 8, specifically indicates that Instruction 6802-08 applies to section 231 grantees.

For the reasons stated above, we conclude (1) that the 20 percent non-Federal contribution requirement set forth in OEO Instruction 7501-1 constitutes a statutory regulation which is binding upon CSEOO and cannot be waived; and (2) that the purported non-Federal contributions discussed herein do not constitute valid claims against this requirement. We have today transmitted a letter to the Acting Director of OEO advising him of the foregoing conclusions, and requesting that OEO take appropriate action in accordance therewith.

We are forwarding a copy of this response to your June 12 letter to the Honorable Chet Holifield.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General of the United States.*

Mr. CRANSTON. Mr. President, the GAO report validated virtually every allegation made to the congressional delegation the previous year. Subsequent to receipt of the GAO report, on June 30 and July 11, National OEO announced two new grants to the CSEOO totaling $683,000. On July 11, Senator TUNNEY and I wrote to Acting Director Arnett requesting a full explanation of the rationale behind these two new grants, which I felt, and still do feel, were ill advised, urging that strictly monitored special conditions be imposed on CSEOO to insure that the recommendations of the GAO report were carried out by the CSEOO and OEO, and to insure that the findings contained in the report were not repeated. On July 10, 1973, I wrote to the Comptroller General requesting his review of these two grants, as well, in order to determine whether appropriate steps had been taken by OEO to insure that the findings reflected in the GAO report did not reoccur.

Mr. President, I ask unanimous consent that these two letters, along with Mr. Arnett's response, be printed at this point in the RECORD.

U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
*Washington, D.C., July 10, 1973.*

Hon. ELMER B. STAATS,
*Comptroller General of the United States, General Accounting Office, Washington, D.C.*

DEAR MR. COMPTROLLER GENERAL: As you may know, subsequent to the June 14, 1973, General Accounting Office report B-130515, "Activities of the California State Economic Opportunity Office"—the findings of which noted use of Federal funds for unauthorized activities, substantial violation of State and Federal contracting, accounting and personnel requirements, and highly irregular procedures—the Office of Economic Opportunity announced, on June 30, 1973, a new $382,000 grant to CSEOO.

To say the least, I have the gravest reservations about OEO National's decision to refund a grantee with such a history of irregularities and lack of contract compliance.

I, therefore, request that the G.A.O. immediately review this new contract to determine if the conditions of the grant will ensure that the June 14 G.A.O. report recommendations are carried out and that the apparent violations and irregularities noted in that report will not be repeated.

Additionally, your recommendations 7, 8, and 9, in the April 4, 1973, G.A.O. report B-130515, "Need for More Effective Audit Activities, Office of Economic Opportunity," would clearly indicate that such a review of this grant by G.A.O. is appropriate in order to determine how and to what extent these recommendations in that report are being implemented by OEO.

In this regard, I trust that you will agree that assurances from OEO National that "corrective actions have begun" is hardly satisfactory evidence. Rather, given the repeated violations of grant conditions by CSEOO and the subsequent retroactive waiver or condonation of those conditions by OEO National (a procedure about which I raised serious questions in my June 12, 1973, letter to you), I feel close scrutiny by the G.A.O. of the conditions of the June 30, 1973, grant is essential to ensure that such "corrective actions" are indeed taken.

In closing, I note that a month ago, on June 12, 1973, I wrote you regarding several matters which I felt should have been addressed in your original report, which you were kind enough to provide me in advance of release. I very much regret not having yet received a response from you or any communication from any member of your staff. I am deeply concerned about the continued funding of CSEOO by OEO National in the face of your report findings, and ask that you personally undertake the review of the June 30 OEO grant to CSEOO and the findings of your June 14 report. I look forward to your early reply to this letter and my June 12 letter.

Sincerely,

ALAN CRANSTON.

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U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
*Washington, D.C., July 11, 1973.*

Mr. ALVIN J. ARNETT,
*Acting Director,*
*Office of Economic Opportunity,*
*Washington, D.C.*

DEAR MR. ACTING DIRECTOR: We regret that the first matter about which we write to you in your new capacity as Acting Director of the Office of Economic Opportunity is with regard to our very serious and long standing concern about OEO's funding of the California State Economic Opportunity Office (CSEOO).

Before turning to that subject, we want to express our strong support for your actions since assuming leadership of OEO to override the veto of the Mississippi Legal Services Program, and your decision to extend funding for legal services back-up centers through the conclusion of this calendar year.

However, we have the gravest reservations about the justification for the eleventh-hour new $382,000 grant to CSEOO announced June 30, 1973.

We are sure you are familiar with the findings of the June 14, 1973, G.A.O. report No. B-130515, "Activities of the California State Economic Opportunity Office," which indicate substantial violation of grant provision and other applicable Federal and State procedures and requirements, inappropriate and improper accounting and personnel procedures, use of Federal funds for unauthorized activities, and, at best, highly irregular practices by the State agency. We have long felt that the CSEOO has not acted in the best interests of the poverty community, and feel that the findings in the G.A.O. report require a radical reorganization and personnel turnover in the state agency before further Federal funding is even considered. At the very least, the G.A.O. report requires a careful review and continuing very close monitoring of the State agency by National OEO if further Federal funds are to be reinvested in this sorry venture.

As you are undoubtedly aware, the G.A.O. recommendation stated:

". . . that the Acting Director, OEO, see that the corrective action proposed by CSEOO and the OEO San Francisco regional office is taken."

It is our understanding, that although the grant was announced on June 30, negotiations between CSEOO and OEO National regarding the special conditions of the grant are not yet completed. We would urge that in any such negotiations OEO National insist upon conditions which will ensure that the irregularities found in the G.A.O. report and which have been so characteristic of this grantee will not again be repeated, and that careful monitoring by OEO National of the grantee's compliance with such conditions be provided for and carried out throughout this program year. (Such action by OEO National would be consistent with the April 4, 1973, G.A.O. report, "Need for More Effective Audit Activities—Office of Economic Opportunity" recommendations 7, 8, and 9—with which the Agency generally agreed—regarding the necessity for verification of correction action by grantees.)

We also request that you forward us immediately a copy of the entire CSEOO grant package as announced June 30, and copies of any subsequent amendments to the grant conditions which may occur.

Finally, we thought you should be aware that Senator Cranston has asked the Comptroller General to review this new CSEOO contract with a view toward ensuring that the irregularities noted in the June 14 G.A.O. report are not continued or repeated.

Thank you in advance for your attention to this very serious matter. We look forward to your early reply.

Sincerely,

ALAN CRANSTON,
JOHN V. TUNNEY.

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OFFICE OF ECONOMIC OPPORTUINTY,
*Washington, D.C., July 17, 1973.*

Memorandum to: Alvin Arnett, Director Designate.

From: Alan Freeman, Deputy Director, Division of State & Local Government.

Subject: Status of California State Economic Opportunity Office.

This is in response to the statements made in the July 11 letter from Senators Alan Cranston and John Tunney of California.

First, the lateness of the $382,000 refunding grant was attributable to the lack of grant making authority. The announcement was the same date as all other SEOOs in Region IX and within days of other regions. Consistent with our refunding of SEOOs, the amount is a reduction by 40% of the prior year funding level for a duration of seven months starting July 1, 1973, Region IX has, however, applied some special conditions (see attached correspondence from Regional Office to Sal Espana dated June 30, 1973) that bars grantee from expenditure of $140,000 grant funds until resolution of the excess federal participation. On July 14, 1973, after meeting of grantee and regional office, the CSEOO agreed to accept audit disallowance in their letter to you of that date. (Attached herewith)

Pending final acceptance in Regional Office of that proposal, CSEOO appears to have met needs of special conditions. Rest assured that the Division of State and Local Government, who has the prime responsibility to oversee activities of the SEOOs, is careful and alert to the need for special monitoring of this grantee.

The GAO Report "Activities of the California SEOO" covers a long period of time (1966–1972) and many changes have been made to date and others are in the process. The Executive Director has held his job only a few months and is attempting to comply fully with OEO guidance procedures.

I have requested from the Regional Director a copy of the 1973 CSEOO grant package for the Senators and will forward it when it arrives. Amendments to grant conditions are attached.

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JUNE 30, 1973.

SAL ESPANA,
*Executive Director, California State Office of Economic Opportunity, Sacramento, Calif.*

GENTLEMEN: I am pleased to inform you that a grant action has been approved to assist you to finance the program referred to in the enclosed Statement of OEO Grant and attachments. This grant action, however, is subject to your acceptance of the conditions described in the grant and attachments and to the action of the Governor of your State. You will be advised of the Governor's action.

If you accept the grant, funds will be available to finance allowable costs incurred beginning with the date shown in Block 3 of the Statement of OEO Grant. You are cautioned, however, that if the Governor should disapprove the proposed program within 30 days afer receiving a copy of the grant action, any expenses incurred by you (even though after the date in Block 3) cannot be charged to grant funds, if the grant is not favorably reconsidered by OEO.

The enclosed instruction set forth procedures to be followed in the interim period to expedite the release of funds if the grant becomes effective.

We wish you success in your program.

Sincerely,

THOMAS H. MERCER,
*Regional Director.*

Enclosures:

Original and one copy of the Statement of OEO Grant (OEO Form 314) including —— attached pages of modifications/conditions.

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OFFICE OF ECONOMIC OPPORTUNITY,
STATEMENT OF OEO GRANT,
*July 1, 1973.*

1. Name and address of grantee: California State Office of Economic Opportunity, 555 Capitol Mall, Room 325, Sacramento, California.

2. Grantee No. 90455, fund source code S, fiscal year 1973, action No. 04.

3. Effective date, July 1, 1973.

4. Obligation date (*Date mailed to Governor or Grantee*).

5. Program year: from July 1 to June 30.

6. P.A. No. 77.

7. Program activity code GN1.

8. Program account name, State Agency Assistance.

9. Federal funds awarded this action, 382,000.

10. Required non-Federal share:

11. Amount, 276,694*.

12. Termination date (*If applicable*).

13. Planned minimum No. months funding provided, 7.

14. Total, 382,000.

*This grant action includes a non-Federal share charge to resolve audit adjustment per audit No. 9–73–156 (ST).

### STATEMENT OF OEO APPROVAL

Federal funds as shown in Column 9 are hereby obligated for the program proposed by the grantee as noted above and in the attachments to this statement. Program account budgets may be modified by the grantee only under general flexibility guidelines or in accordance with written OEO approval. The non-Federal Share may be met by pooling as allowed by OEO Instructions.

Approved by: Thomas H. Mercer, Regional Director.

Signature, E. Gonzales.

Date, June 26, 1973.

### GRANTEE ACCEPTANCE OF GRANT

On behalf of the grantee, I accept the grant and all medications, general conditions, special conditions 1 through ———, and requirements attached hereto. There are ——— pages attached to this form.

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OFFICE OF ECONOMIC OPPORTUNITY,
COMMUNITY ACTION PROGRAM.
SPECIAL CONDITION

1. Name of grantee: California SEOO.

2. Grant No. 90455; program year—1973; Action No. 04.

3. Special condition applies to all program accounts in grant action.

This grant is subject to the Special Condition below, in addition to the applicable General Conditions governing grants under Title II or III–B of the Economic Opportunity Act of 1964 as amended.

I. Grantee shall expend not more than $242,000 of the federal funds awarded in this grant action pending resolution of the apparent excess federal participation of $138,335 in Audit No. 9–73–156 (ST). The remaining sum of $140,000 shall not be expended until a resolution of the excess federal participation is reduced to writing by OEO and transmitted to the grantee.

II. A non-federal share amount of $276,694 has been required on this grant action pending resolution by OEO in writing of the acceptability of $276,694 in claimed non-federal share earned by Migrant Services as reported in Audit No. 9–73–156. Pending receipt by the grantee of written resolution by OEO of this non-federal claim, grantee shall provide said non-federal share during the course of its program operations funded by this grant action.

(See attached audit letter).

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OFFICE OF ECONOMIC OPPORTUNITY,
*San Francisco, Calif.*

Mr. SALVADOR J. ESPANA,
*Director, State of California Office of Economic Opportunity,*
*Sacramento, Calif.*

Re: Audit No. 9–73–156–(ST); Grant No. CG–0364–F

DEAR MR. ESPANA: In accordance with our audit review procedures, we have reviewed your response to the above-referenced audit and the following is our determination:

A. *Accounting System and Internal Controls.*

In your response you did not comment on the auditor's findings relative to this item nor did you indicate the action taken to correct the deficiencies noted. You are advised to insure that corrective action is, in fact, taken. The results will be evaluated during a subsequent audit.

B. *Questioned Costs—$399,552.*

1. *Federal Share—$7,464.*

a. *Salary Paid in Excess of OEO Regulations—$7,464.*

In your response you stated that you accepted the disallowance for this item and that you would reimburse your current Federal grant from State funds.

We accept your response and $7,464 is disallowed. In addition, we accept your method of settlement and will expect your unexpended Federal funds balance for the funding period ending June 30, 1973 to reflect the $7,464 being replaced by State funds.

2. *Non-Federal Share—$392,088.*

The auditor questioned the non-Federal share expenditures, totaling $392,088, because they were unallowable and excessively valued.

In your response you indicated that you have withdrawn your claim for non-Federal share, totaling $115,394. In addition, you stated that you have requested a ruling from headquarters OEO as to the acceptability of $276,694 in non-Federal share credits earned by Migrant Services. You further asked OEO to defer settlement until a decision has been reached.

We accept your withdrawal of the non-Federal share claim; **however, we** cannot grant you the requested deferment. This results in excess Federal share participation of

$138,335, as computed below, which must be remitted to OEO.

COMPUTATION OF REQUIRED NON-FEDERAL SHARE

| | | |
|---|---|---|
| Total Federal budget (including reprograming) | | $854, 682 |
| Less F/2 which did not require non-Federal share | | $105, 400 |
| Federal budget subject to non-Federal share | | $749, 282 |
| Non-Federal share required (25 percent of Federal share) | | $187, 296 |
| Total grant budget: | | |
| Federal | $854, 682 | |
| Required non-Federal | $187, 296 | |
| Total | $1, 041, 978 | |

Note: Maximum Federal share $854,682÷$1,041,978=82 percent.

COMPUTATION OF EXCESS FEDERAL PARTICIPATION

| | | | |
|---|---|---|---|
| Federal expenditures per this audit report | | $838, 764 | |
| Less audit disallowances (SEOO stated will be reimbursed to grant) | | $7, 464 | $831, 300 |
| Non-Federal contributions per this report | | $484, 303 | |
| Less: | | | |
| Non-Federal contributions by SEOO withdrawn | $115, 394 | | |
| Unauthoriced transfers from migrant program | $276, 694 | | |
| Contributions required to settle prior audit disallowances per Grant Action 72/04 | $78, 436 | $470, 524 | $13, 779 |
| Total expenditures | | | $845, 079 |
| Maximum Federal rate (percent) | | | 82 |
| Maximum Federal expenditures | | | $692, 965 |
| Actual Federal expenditures | | | $831, 300 |
| Excess Federal participation | | | $138, 335 |

Although we have disallowed the above, if the OEO General Counsel renders a decision in your favor regarding the acceptability of the non-Federal share credits generated by the Migrant Program, OEO will make the necessary adjustments resulting from this disallowance.

SUMMARY

We have disallowed $7,464 in Federal share expenditures, which you are to reimburse your current grant from State funds.

We have also disallowed $138,335 in excess Federal participation, as the result of your withdrawal of $115,394 in non-Federal share claims and the unacceptability of $276,694 in non-Federal share credits earned by the Migrant Services, pending an OEO ruling.

Unless you appeal the above determination within thirty (30) days from the date of this letter, this determination shall become final. Any appeal within thirty (30) days should be in accordance with OEO Instruction 6801-1, "Grantee Fiscal Responsibility and Auditing," dated August 5, 1970, as amended. Should you decide to appeal, please mail your appeal to the Regional Director, Office of Economic Opportunity, 100 McAllister Street, San Francisco, California 94102.

Sincerely,

CARL W. SHAW,
*Chief, Administration & Finance Division.*

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. CRANSTON. Mr. President, I did not find Mr. Arnett's memorandum in response to my July 11 letter to be at all satisfactory and questioned him extensively during his confirmation hearing with regard to OEO National's responses to the GAO report, and also submitted additional questions to him following the hearing on this same matter. Mr. President, I ask unanimous consent that the relevant passages from the hearing transcript, along with my subsequent written questions submitted to Mr. Arnett and his August 2 written answers and the accompanying backup materials to which he refers in his response, be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection it is so ordered.

SENATOR CRANSTON QUESTIONS OF ALVIN J. ARNETT, SENATE LABOR AND PUBLIC WELFARE COMMITTEE NOMINATION HEARINGS

Senator CRANSTON. Thank you very much, Mr. Chairman.

Mr. Arnett, as you know, I have had a long-standing concern about OEO Nationals continued funding of the California State Office of Economic Opportunity. The state agency has come to the attention of this Committee on several occasions, perhaps most clearly during the consideration of the nomination of one of your predecessors and the entire controversy which surrounded the C.S.E.O.O.'s evaluation of California Rural Legal Assistance (C.R.L.A.), one of the most effective legal services programs in the nation. At that time, then OEO Director Carlucci ordered an evaluation of the charges made by the Commission on C.R.L.A., a panel made up of three justices of State Supreme Courts—very, very eminent, highly qualified people.

I would like to cite for you some of the comments made by the C.R.L.A. Commission regarding C.S.E.O.O.'s evaluation of California Rural Legal Assistance:

"Following a most careful consideration of the many and various matters set forth in the California Evaluation"—this refers, of course, to the C.S.E.O.O. evaluation of C.R.-L.A.—"the Commission is of the opinion that, except to the very limited extent mentioned elsewhere herein, the charges of wrongdoing on the part of C.R.L.A. set forth in the California evaluation are unfounded and without merit."

"The evidence in the Uhler Report"—again this refers to the C.R.L.A. evaluation by C.S.E.O.O.—"and the evidence adduced thereon, do not, either taken separately or as a whole, furnish any justification whatsoever for any findings of improper activities by C.R.L.A."

"The evidence adduced completely exonerates C.R.L.A. as an organization of any wrongdoing."

"The Commission finds that these charges by C.S.E.O.O. were totally irresponsible and without foundation."

This, Mr. Arnett, is the result of a study which cost the taxpayers an estimated half-million dollars—$500,000 to decide that C.S.E.O.O. had conducted an evaluation that was "totally irresponsible and without foundation."

I suppose we would call that water under the bridge or money under the bridge, except it is a pattern that has been repeated consistently by this state agency. In fact, the new Director of the C.S.E.O.O. was one of the investigators that compiled the original, totally discredited, C.R.L.A. evaluation.

I am particularly concerned about your recent June 30 grant of $382,000 and the July 11 grant of $301,000 to C.S.E.O.O. I have long felt that C.S.E.O.O. has not acted in the best interest of the poverty community. I am at a loss to determine the justification for these most recent grants. The grants seem particularly unjustifiable in light of the findings of the June 14, 1973, GAO report, called "Activities of the California State Economic Opportunity Office," which indicates, substantial violation of grant and contract procedures, and use of federal funds for unauthorized and, at best, highly irregular practices by the state agency.

As you know, on June 11, 1973, Senator Tunney and I wrote you regarding this very important matter and I appreciate the copy of the preliminary O.E.O. memorandum on this matter which you have provided me.

Mr. Chairman, I ask that my July 11 letter to Mr. Arnett and his response which I understand is on the way to me today, and OEO memorandum, along with the July 10 letter on the same matter which I wrote to the Comptroller General be placed in the hearing record at this point.

The CHAIRMAN. They will be.

Senator CRANSTON. After reviewing the preliminary O.E.O. memorandum and the two special grant conditions which were attached to the $382,000 grant, I must say that I do not feel it answers the issues raised in my June 11 letter, and I would like to give you a more precise statement of my concerns and get your responses now for the record.

So, first, it is true, is it not, that you are familiar with the June 14 GAO report which we discussed on Tuesday?

Mr. ARNETT. I have seen it. I have not absorbed it, Senator.

Senator CRANSTON. Secondly, the OEO National Deputy Director for the Division of State and Local Governments has advised me that the two grant conditions listed in the document you forwarded to me are the only two conditions of the June 30 grant.

They relate to some $414,000 in questioned, non-federal share claims arising out of prior C.S.E.O.O. grants. I believe this issue should be resolved before any more funds go forward to C.S.E.O.O., particularly in light of the GAO June 14 report, which raises serious questions about this entire matter, by pointing out that most of this amount relates to C.S.E.O.O.'s attempt to double count as its local contribution funds required to be put up as the non-federal contribution to receive other grants. The O.E.O. response to this finding of the GAO report was perhaps its most evasive of many evasive answers:

"The matter is under review by the O.E.O. Office of the General Counsel."

This morning I was advised that the second condition regarding $277,000 double counting of a non-federal share contributed under a migrant grant was deleted. What is the status of that matter? Has the General Counsel issued a ruling? If not, why was the condition deleted?

Mr. ARNETT. I have no idea as to either question.

Senator CRANSTON. Would you find out?

Mr. ARNETT. Yes, indeed. After the visit with you, you queried me on both of these grants. I am headed out to California in August on the hearing on Southern Alameda. I have asked that I be fully brought up to date on these C.S.E.O.O. grants, as well as, just as soon as I can get to bottoming out the answers.

Senator CRANSTON. I presume we do not have to wait for you to go to California in August to learn answers to these questions?

Mr. ARNETT. No, I am gathering a California package as it were.

Senator CRANSTON. I have written the Comptroller General requesting his legal opinion on the matter and ask that that letter along with a response which I understand is on its way to me be entered into the record at this point.

The CHAIRMAN. They will be.

Senator CRANSTON. Why should the funding go forward, and indeed need it go forward while there is a legal review under way of the legality of these actions?

Mr. ARNETT. Senator, I think it need not go forward.

Senator Cranston. Fine. Does that mean it will not go forward?

Mr. Arnett. It will not go forward.

Senator Cranston. Thank you. I would like to ask you several questions regarding National OEO's response to GAO conclusions which began on page 57 of the report and which relate in a very real way to the need for special conditions on the new C.S.E.O.O. grants.

In GAO conclusion No. 1 it is pointed out that:

"C.S.E.O.O. did not comply with the special conditions of the 1972 grant which prohibited the conduct of investigations and unilateral evaluations. The OEO San Francisco Regional Office was aware that C.S.E.O.O. was conducting unilateral evaluations and found them useful for assessing grantee performance. OEO made no effort to prevent C.S.E.O.O. from conducting evaluations or to modify the restrictions in the grant. OEO apparently was not aware of C.S.E.O.O.'s investigative activities."

The OEO response reads as follows:

"The special conditions of the 1971–1972 grant which prohibited investigations and unilateral evaluations were not met. It must be understood, however, that the work program could easily have been construed as contrary to review rights secured all Governors through the Economic Opportunity Act. Normally, evaluations are an appropriate and expected function to be performed by a State Economic Opportunity Office. The conditions promulgated in that work program have been deleted from subsequent C.S.E.O.O. work programs. The evaluations and investigations were performed with full knowledge on the part of O.E.O. Hence, it may be said that these restrictions were implicitly waived by the Agency."

As you may have noticed, in reviewing the report, the San Francisco Regional Office and OEO National differ in that Regional OEO disclaims knowledge of any of the "investigations," whereas OEO National's response indicates full knowledge of the "investigations." What is the basis for the conflict reflected here? Do you know?

Mr. Arnett. No, I do not.

Senator Cranston. Would you try to find out and advise us on that?

Mr. Arnett. Yes, indeed.

Senator Cranston. What is your view on implicit waivers of OEO grant conditions?

Mr. Arnett. I have no idea that there is such a thing, as an implicit waiver. It would seem to me on any waiver it must be an explicit act.

Senator Cranston. Can we assume you will halt that practice.?

Mr. Arnett. Yes, indeed.

Senator Cranston. OEO Regulations, titled "General Conditions Governing Grants" state:

"Requirements found in grant conditions or OEO directives may be waived only by a written notification signed by an authorized OEO official. Any such waiver must be explicit, no waiver may be inferred. . . ."

So, there are current regulations backing up what you say you will do?

Mr. Arnett. Yes.

Senator Cranston. Could you explain why there is no special conditions regarding this matter of investigations and unilateral evaluations attached to the present grant—since it is an area dating back to the C.R.L.A. Commission Report, in which C.S.E.O.O. has been particularly recalcitrant and has seemed to have wasted a great deal of money?

Mr. Arnett. At this particular time I cannot respond.

Senator Cranston. We would appreciate your explaining as soon as you can.

Mr. Arnett. The California package is growing larger.

Senator Cranston. Would you not think that perhaps some very concise and tight special conditions would be in order in a relationship to any grant that might be made in the light of this sort of history?

Mr. Arnett. A general response to that, a special condition is only as good as the enforcement.

Senator Cranston. Nonetheless, special conditions set ground rules, and you can see whether they will be lived up to.

Mr. Arnett. That is true.

Senator Cranston. In response to GAO conclusion No. 2 regarding unqualified personnel, OEO stated that a "cursory review" of C.S.E.O.O.'s staff qualifications demonstrated a respectable degree of "suitability."

Now, in light of the GAO finding that "it was questionable as to whether 13 of the 27 professionals employed as of August 1972 met specific job qualifications," and that 10 of 27 employees received salaries in excess of OEO limitations, do you not think that more than a "cursory review" is appropriate?

Mr. Arnett. Yes, I do.

Senator Cranston. Could you provide us with some specific idea of what OEO National intends to do to see that the situation with regard to C.S.E.O.O. personnel hiring practices is corrected?

Mr. Arnett. Senator, if I could have as much as a week, I think I could have some full answers to you on each of these inquiries.

Senator Cranston. It is understood that as I understand it, at least during that week there will be no grant funding going forward, unless all these matters are cleared up?

Mr. Arnett. That is right.

Senator Cranston. In response to GAO Conclusion Number 3—regarding the unauthorized utilization of consultant fees—which equaled more than $67,600 and included such occurrences as one contract in which the C.S.E.O.O. could not even produce one copy for GAO investigators of a report on legal services done by one of its consultants, OEO stated that:

"An expenditure for consultant services is normally allowed under the general funding for 'technical assistance.' The C.S.E.O.O.'s internal controls over contracting were inadequate in the past, but have now been corrected. The procedures adopted are consistent with GAO's recommendations."

Could you please tell the Committee precisely what those C.S.E.O.O. contracts are?

Mr. Arnett. I will have them for you, yes, sir.

Senator Cranston. You can submit that for the record.

Mr. Arnett. Yes.

Senator Cranston. How does OEO intend to monitor the grants for that particular purpose?

Mr. Arnett. Well, that is why it will take me a week. The mechanism for monitoring that I would like to have in place, simply is not in place at this moment. Part of the problem arising here comes from internal headquarters, a weakness that I am simply going to have to harden up.

Senator Cranston. You will strictly monitor whatever grants go forward to C.S.E.O.O.?

Mr. Arnett. Yes, sir.

Senator Cranston. GAO Conclusion Number 4 states: "Although OEO established a policy in April, 1970, of requiring grantees to return prior years unexpended funds to the U.S. Treasury, the policy was not required by law and the C.S.E.O.O. was permitted to retain its prior years unexpended funds." OEO's response was:

"It is correct that C.S.E.O.O.'s in California and a number of other states as well as other OEO grantees, have been permitted to use carryover balances."

I would like to say, Mr. Arnett, that that response rather obviously ducks the question. Could you elaborate on the OEO policy as it will be under your direction, should you be confirmed with regard to carryover balances and unexpended funds?

Mr. Arnett. Yes, sir.

Senator Cranston. Do you have any comment on that generally today—without a specific statement?

Mr. Arnett. I would rather respond to you when I can be much more sure of the facts.

Senator Cranston. All right, GAO Conclusion Number 6 states:

"In addition, CSEOO did not fully comply with the 1972 grant concerning the establishment of an advisory committee and the preparation and implementation of an affirmative action plan."

The OEO response says the situation has been corrected.

Prescisely what steps have been taken by C.S.E.O.O. in that regard?

Mr. Arnett. I will get the answers on that for you, Senator.

Senator Cranston. How many members of the advisory committee have been selected? I presume you will answer that also in writing?

Mr. Arnett. Yes, sir.

Senator Cranston. How many meetings have the advisory committee held in the last six months? And what steps have been taken to implement the required affirmative action plan; and finally, could you provide the Committee with a specific listing of the employees who have been hired in keeping with the plan and how they meet plan goals?

Mr. Arnett. I will.

Senator Cranston. The State Agency has been performing one function, and one function only for several years. Reviews and investigations—investigations which are of highly questionable validity—of grantees. No technical assistance has been provided of any measurable quality. The relations of the C.S.E.O.O. with the poverty community have been shown by the G.A.O. investigation to be negligible at best. I simply cannot understand this notion of funding the California Governor's Office to carry on its own private war on anti-poverty programs.

I could sit here all day and cite reviews of that agency—but I imagine even Mr. Arnett will concede that C.S.E.O.O.'s function as an anti-poverty agency is somewhat dubious.

To my knowledge, we have not yet initiated a no-strings, revenue sharing to Governors for their own version of anti-poverty activities. Yet this grantee, repeatedly in violation of OEO regulations, OEO guidelines, state procedures and regulations, and its own grant conditions—and apparently with OEO's silent, if not actual, consent—keeps getting federal funds.

In view of all of this, Mr. Arnett, can you explain why there are fewer special conditions on this latest grant than on last year's grant?

Mr. Arnett. Not at this time.

Senator Cranston. Why do regional OEO employees advise us that, contrary to National OEO claims, they have not done new monitoring of the grantee?

Mr. Arnett. Again, I have no knowledge, Senator.

Senator Cranston. I trust you understand, Mr. Arnett, that all I have said regarding the June 30 $382,000 grant applies fully to the July 11 $301,000 grant, as well?

Mr. Arnett. Yes.

Senator Cranston. In regard to the monitors that you will be employing, what sort of people do you have in mind, what sort of background, what sort of qualifications?

Mr. Arnett. Just better than they are now, is all I can say at this point in time.

Senator Cranston. Are there any now?

Mr. Arnett. There may be. I have got to search out the headquarters operator, just simply find the very best people. I do have personnel problems, and all sorts of reorganization problems that is next on my agenda.

Senator Cranston. Part of the personnel problems obviously relate to OEO consultants recently brought on board of the consultants and other temporary employees retained by Mr. Phillips, how many now remain on the payroll?

Mr. ARNETT. I have 16 consultants remaining.

Senator CRANSTON. What are your intentions with respect to those?

Mr. ARNETT. Well, you know, I really do not know who they are at this point in time. I am not adverse to using consultants. As a matter of fact, they are very handy fellows from time to time. I would like to make an assessment as to just exactly who these 16 are, what they do, and if indeed they are brought in for phase out purposes, they will be phased out. It is my understanding we are down now to 16 people who were here, who antedated Phillips, as a matter of fact. Sixteen consultants at OEO is a miniscule amount.

Seantor CRANSTON. Would you submit to the Committee a list of these who are now there, their resumes and their assignments?

Mr. ARNETT. Yes.

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### ADDITIONAL QUESTIONS OF SENATOR ALAN CRANSTON FOR ALVIN J. ARNETT—NOMINATED TO BE DIRECTOR OF THE OFFICE OF ECONOMIC OPPORTUNITY

Mr. Arnett, it has come to my attention that your predecessor, Mr. Phillips, took some action to order the repeal of OEO Instruction 7501-1 (Role of State Economic Opportunity Offices), which had been issued March 25, 1970. This Instruction, in paragraph 9(b) stated:

"The state's share for funding under section 231 shall be a minimum of 20 percent of the total cost of the operation in cash and/or kind."

It is my understanding that while the new policy did not go into effect during Mr. Phillips' tenure, this longstanding non-Federal share requirement has now been eliminated for all grants to State Economic Opportunity Offices (SEOOs)—effective with the FY 1974 grant period.

I have enclosed a copy of the July 20, 1973 response of the Comptroller General—a comparable letter has already been forwarded directly to you—to my June 12, 1973, letter to him requesting an opinion on the entire non-Federal share issue raised in the G.A.O. June 14, 1973, Report, "Activities of the California State Economic Opportunity Office." The Comptroller General's letter concludes that O.E.O. Instruction 7501-1 is a statutory regulation with the force of law, which cannot be waived selectively.

I have now asked the Comptroller General whether it can be revoked across the board retroactively in view of the following three questions (and several others):

1. It is my understanding that, as part of the U.S. District Court Judge Jones' decision with regard to the continued operation of the Office of Economic Opportunity—consistent with Congressional intent—the Judge found that all policy issuances, directives or instructions, or the repeal of same, which were not published in the Federal Register for the 30 day advance period required under section 623 of the Economic Opportunity Act of 1964, were invalid. I should like to know how under this Court ruling the 20 percent non-Federal share requirement for SEOOs set forth in OEO Instruction 7501-1 was repealed without prior publication in the Federal Register. As a corollary, since all actions of Mr. Phillips have been invalidated by the Senators' suit, what actions have you taken in compliance with section 623 to repeal the instruction?

2. This non-Federal share request has existed for many years with Congressional acquiescence through several extensions of the Economic Opportunity Act of 1964. Has not it become, to use the Comptroller General's words, a regulation "with the force and effect of law" which now would require, as part of its legislative history, some expression of Congressional approval in order for its repeal to be effective? I might cite you to numerous holdings by the Veterans Administration to exactly this effect with regard to G.I. Bill interpretations and regulations.

3. In light of SEOOs substantial access to non-Federal share resources, particularly in comparison to other OEO grantees, do you think the elimination of this requirement would be good policy in view of OEO's admittedly limited funds? Further, is it an equitable or appropriate policy for an antipoverty agency to continue to require the poorest grantees to provide local shares, but not to require governments to do so?

CONSUMER PROGRAMS

4. Mr. Arnett, the October 1972 amendments to the Economic Opportunity Act added a new section 228 which I authored, authorizing an annual expenditure of $7.5 million for Consumer Action and Cooperative Programs. No funds were spent under this authority in FY 1973. I think it is evident that no other agency deals with the unique problems of poor consumers, such as availability of credit, higher cost and poor quality of goods and services, and the inability of the poor person to enforce his rights through an expensive and often slow judicial system. Do you plan to develop and carry out a program in the coming year that will address itself to the problems of the poor consumer?

5. Mr. Arnett, there are some 250 low-income credit unions started with the help of OEO, with over 100,000 members and $11 million in savings, that desperately need help if they are to survive and grow to become meaningful resources for their communities. Have you planned or do you plan any program of support for these credit unions that will help them achieve self-sufficiency?

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### RESPONSE OF DIRECTOR-DESIGNATE ALVIN J. ARNETT TO SENATOR CRANSTON'S ADDITIONAL QUESTIONS

[U.S. District Court of the District of Columbia—Civil Action No. 1295-73]

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, PLAINTIFF, v. ALVIN J. ARNETT, INDIVIDUALLY, AND AS DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY, DEFENDANT

ORDER

Pursuant to the consent of the parties, it is Ordered, Adjudged and Decreed that the Temporary Restraining Order entered on July 18th, 1973, is hereby extended until the Defendant takes the proper action to grant the $298,574 to the Plaintiff, but no later than 5:00 P.M. on Friday, August 3, 1973.

Dated this 27th day of July, 1973.

W. B. JONES,
*Judge.*

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OFFICE OF ECONOMIC OPPORTUNITY,
*August 2, 1973.*

Hon. HARRISON A. WILLIAMS, Jr.,
*Chairman, Senate Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.*

DEAR SENATOR WILLIAMS: This letter is in reply to questions raised by Senator Cranston at the July 20 hearing of the Committee on Labor and Public Welfare and in a subsequent memorandum to the Committee regarding the California State Economic Opportunity Office.

As I indicated at the hearing, I am giving heavy priority to a range of OEO-related problem areas in California. To expedite resolution of some of them following the hearing, I called the parties to Washington. Progress has been made and continues to be made, so please view this response by way of a progress report and an indication of my earnestness in attempting to solve some of these problems.

The Office fo Economic Opportunity will be making a comprehensive reply to the Comptroller General with respect to the issues raised in his report, B-13015, entitled "Activities of the California State Economic Opportunity Office," as well as in his letter of July 20. In addition, Senator Cranston's memorandum raises new questions for analysis by the Comptroller General; and, we expect to have the opportunity to furnish our viewpoints in comprehensive form for use by the Comptroller General in reaching a final determination.

Secondly, we are forwarding copies of the GAO report to the CSEOO, with a request that the CSEOO, as grantee, assume the primary responsibility for furnishing detailed responses to specific questions or criticisms. Upon receipt of a written report from the grantee, the Office of Economic Opportunity will furnish additional comments, as appropriate.

Beyond that, permit me to respond on the following matters:

1. The two grant actions previously approved by OEO officials (T. 106—Transcript of Proceedings, July 20, 1973, Page 106) are under an administrative hold, whereby no funds can be released to the CSEOO. However, I would anticipate ultimately releasing those monies, if and when the OEO San Francisco Regional Office successfully renegotiates its grant to the CSEOO.

2. That renegotiation is based upon several changes of the CSEOO position which are more fully described in paragraph 3 below, and upon the grantee's acceptance of adequate special conditions, to include a requirement that the grantee satisfactorily respond to the GAO Report. Upon completion of these steps, I would probably be satisfied that this agency can continue to provide federal financial assistance to the California State Office in the same manner as assistance is supplied to similar offices in all of the other states.

3. With respect to the questioned non-Federal share, (T. 107-108) please know these recent developments:

(a) CSEOO has withdrawn its request for a credit of $276,694 under the 1972 OEO grant.

(b) CSEOO has accepted the audit disallowance of $138,335.

(c) The State of California is contributing $131,500 and an additional amount approximating $28,000, towards the costs of conducting current OEO approved programs.

Attached are copies of relevant letters, dated July 18 and July 27, from the SEOO Director.

4. With respect to the reported conflict between OEO headquarters staff and OEO regional staff on the grantee's operations, it appears that the problem is primarily one of interpretation of events. I have not yet reached a complete understanding of these events, and I am still pursuing a full explanation. In any event, I intend that similar problems will be avoided in the future with closer communication and coordination among OEO offices dealing with the same grantee.

5. With respect to the matter of implied waivers of grant conditions (T. 111), I fully concur that all grant conditions should have been met. However, General Counsel advises me that the fact of knowledge, coupled with lack of appropriate action on the part of an authorized OEO official, constitutes a barrier to any retroactive administrative sanction in matters not covered by statute. I intend that in the future all OEO requirements will be fully enforced.

6. With respect to the lack of special conditions prohibiting any evaluations, (T. 111-112) such a prohibition would be inconsistent with the authorities generally provided to state economic opportunity offices by virtue of OEO Instruction 7501-1 (copy attached). We will hold this grantee to the activities described in the instruction.

7. With respect to the establishment by the grantee of controls (T. 112-113), the grantee has furnished the OEO Regional Office with a copy of its internal instruction setting forth these matters in detail.

8. With respect to the matter of carry-over funds (T. 115) it is regrettable that the OEO official who responded informally to the Comptroller General's representative did not take into account a letter dated December 26, 1972 to Mr. Benedetto Quattrochiocchi signed by Wesley L. Hjornevik, then OEO Deputy Director (copy attached). As set forth in that letter, the facts and circumstances discussed in Chapter 5 of the report were fully examined at the request of the Comptroller General by relevant officials within the Office of Economic Opportunity. In my opinion, that letter adequately discusses the issues.

With respect to the substantive problem, I presently intend to continue the following OEO policies:

(a) For program years that are consecutive, grantees will be permitted to retain and utilize, as carry-over balances, funds which were provided but not used in the first program year.

(b) Grantees will be required to return to the Treasury such monies that are found in later (i.e. non-consecutive) years, by audit or otherwise.

(c) The OEO Director will retain the discretion to allow the retention of such monies, depending upon the facts and circumstances of any particular case.

9. With respect to the matters raised on the SEOO's Board (T. 115) I have been assured by staff of the following recent developments:

(a) The California SEOO's Advisory Board was established on March 1, 1972 and is complying with grant special conditions regarding meeting four times a year and proper composition.

(b) During the last six months three meetings have been held and another is scheduled for August 20.

(c) The Advisory Board is well-balanced ethnically.

(d) Special committees have been established by the Board: one to work on housing problems, the other to coordinate with SEOO staff.

(e) The full Board reviews and comments on the California SEOO work program. I have taken steps to fully document these developments.

10. With respect to the matter of OEO's discontinuing the non-Federal share requirement for SEOOs, I am not in a position to make a final determination. The litigation initiated by Senators Williams, Pell, Mondale and Hathaway (Civil Action No. 490–73), United States District Court for the District of Columbia) is a matter which is still pending before the Courts. Discussions are under way with appropriate officials within the Department of Justice regarding the prosecution of an appeal.

In addition, I am advised by the OEO General Counsel that the relaxation of a previous administrative requirement, provided it is both prospective and non-discriminatory as to members of the class, is not subject to the requirements of Section 623 of the Economic Opportunity Act of 1964. As you know, all grants to all State Economic Opportunity Offices which were approved during the period January 29 through June 11, 1973 were processed and approved, and funds were released, without regard to any requirement for non-Federal share.

Finally, a review is currently under way with respect to all OEO guidelines, instructions, etc. promulgated during the period in question, so that I may determine which, if any are appropriate for continued effect.

11. In regard to Senator Cranston's second written question, the issue he raises is a difficult and complex legal one that I cannot deal with summarily. It is being evaluated by our General Counsel. I respectfully request additional time to review this matter.

12. Without making a final determination, or personal commitment, it is my present belief that it is not inappropriate or inadvisable for the Office of Economic Opportunity to exempt State Economic Opportunity offices from any non-Federal share requirement. With respect to community action agencies and certain other organizations receiving Federal financial assistance under title II of the Act, the requirement of non-Federal share has been imposed by statute.

I hope this letter represents not just a progress report but a demonstration of my personal commitment to addressing and dealing with problems of Congressional concern.

Sincerely yours,

ALVIN J. ARNETT,
*Director-Designate.*

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OFFICE OF ECONOMIC OPPORTUNITY,
*Sacramento, Calif., July 27, 1973.*

Mr. ALAN MACKAY,
*Acting General Counsel, Office of Economic Opportunity, Washington, D.C.*

DEAR MR. MACKAY: On July 26, 1972 former CSEOO Director, Robert Hawkins submitted to you a request for program account amendment (CAP Form 25b) relative to a $276,694 State of California General Fund appropriation to HRD, Migrant Services which this office wished to claim as matching monies to its OEO grant #CB0364.

We hereby officially withdraw that request.

Sincerely,

SAL ESPANA, *Director.*

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[CAP Form 25b]

REQUEST FOR PROGRAM ACCOUNT AMENDMENT

From: State of California Department of Human Resources Development.
To: State Office of Economic Opportunity.
Re change in either Federal or non-Federal share.

JULY 26, 1972.

The California State Department of Human Resources Development is the grantee for both Title II and Title III OEO grants. Section 225(d) of the Economic Opportunity Act, as amended, provides that if a community (in this instance the State of California) provides non-Federal share under this title exceeding its requirements, said excess may be used to meet its requirements under another title. OEO Instruction 6806–02 provides that pooling of non-Federal share effort provided to a community may be permitted.

The State of California General Fund appropriation for fiscal year 1971–72 amounted to $276,694 to H.R.D. Migrant Services.

These funds were expended for off-season maintenance of migrant housing projects during the period ending June 30, 1972. These funds were not required to match any other program funds expended for the Migrant Program. These non-Federal share credits bay be transferred from H.R.D. Migrant Services to H.R.D. State Office of Economic Opportunity Division.

Under the Economic Opportunity Act, as amended, there is no requirement for a non-Federal share contribution for grantees funded under Part C of Title II, including sections 230 and 231; however, OEO Instruction 7501–1 does require a 20 percent non-Federal share contribution for grants funded under section 231 of the Act. The non-Federal share requirement for SEOOs is administrative rather than statutory which would allow OEO greater flexibility.

We request authorization to transfer this $276,694 non-Federal share credit from program account 92, Migrant Temporary Housing, to program account 77, State Agency Assistance.

ROBERT B. HAWKINS, Jr.,
*Director.*

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JULY 18, 1973.

Dr. EUGENE GONZALES,
*Deputy Regional Director, Office of Economic Opportunity, Western Region IX, San Francisco, Calif.*

DEAR GENE: This is in response to the July 2, 1973, letter from your office signed by Carl Shaw, Chief Administration and Finance Division, concerning Audit #9–73–156 (ST).

This is to advise you that this office is waiving its right to appeal the determination made in said letter and its acceptance of the disallowance of $138,335. We request that the amount of the disallowance be added to the non-Federal share requirement for the current program year, Grant #90455, as provided by Section 243C of the Economic Opportunity Act.

An amount in excess of the audit disallowance has been appropriated by the California State Legislature and approved by Governor Ronald Reagan as matching funds for this office. $131,500 is a direct maching fund contribution by the State for our Federal Grant, and approximately $28,000 will be contributed by the State to cover SEOO's cost of salary increases approved by the legislature to take effect July 1, 1973.

On the question concerning the deficiencies in the internal controls, I am submitting to you two documents which show the new procedures established in this office which should provide much tighter control in the areas of establishing salaries for new employees and executing contracts. Regarding the auditor's notation on the need for better procedures for recording non-Federal share contributions: since there is no non-Federal share requirement on the current grant, the proper recording of in-kind contribution will not be a factor in the current program year.

I trust this communication will resolve the questions raised in your letter of July and clear the audit disallowance which is now pending.

Sincerely,

SALVADOR ESPANA,
*Director.*

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DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT,
*Sacramento, Calif.*

EXCERPT FROM POLICY ON HIRING PERSONNEL

"One of the basic steps in checking an applicant's references shall be to confirm the prior salary of applicant with his former employer.

The processing of employment documents will not begin nor will the salary be established until such time as the previous salary has been confirmed. Upon confirmation, a salary consistent with the 20% maximum salary increase limitation (OEO Instruction 6900–01, Part A, Section 2) shall be established."

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[Retype of letter dated Dec. 26, 1972]

OFFICE OF ECONOMIC OPPORTUNITY,
*Washington, D.C.*

Mr. BENEDETTO QUATTROCHIOCCHI,
*Assistant Director, Manpower and Welfare Division, U.S. General Accounting Office, Washington, D.C.*

DEAR MR. QUATTROCHIOCCHI: This is in response to your letter of November 7, 1972 requesting clarification on four points involving certain elements of the funding of the California State Office of Economic Opportunity (SEOO) for the conduct of the Legal Services Experiment.

Before commenting on the specific aspects of your request in the interest of assisting you in resolving this audit I would like to observe that there may be too great an emphasis placed by your staff on the April 1970 telegram instructing funding offices to deobligate FY '65 and '66 funds. While the telegram represented sound fiscal policy at the time it was issued, its issuance was not required by law nor was the Agency legally obligated to engage in the process of recovering funds which the telegram and subsequent instructions called for. Moreover, in the instant case, deviation from this policy was approved by me after a full justification was presented at a meeting held in my office. In addition, the Agency presently is involved in the development of an instruction which, in effect, represents a general revision of the policy recited in my April 1970 telegram, and thereby allows for reprogramming or equivalent utilization without reprogramming of already obligated funds much in the same manner as was accomplished in the California SEOO funding.

In the light of the foregoing, I offer the following in response to the numbered items contained in your letter.

1. Basis for issuing the April 1970 telegram. With the new Administration of the Agency only one year old, it became apparent to responsible officials, that greater fiscal responsibility was needed among OEO grantees. The presence of excess carry over funds resulting from errors in reporting expenditures of funds in FY 65 and 66 on the books of OEO grantees represented a fertile area for bringing to bear on this Administration a resolve to improve grantee bookkeeping and financial reporting. This challenge was buttressed by the knowledge that it would be broadly beneficial to cover into Miscellaneous Receipts of the Treasury, such carry over funds. As stated earlier, however, this decision was predicated upon policy and not because such funds could not have been reprogrammed legally had an appropriate situation warranted that action.

A further basis for the policy related to the fact that program spin offs to other agencies accomplished or to be announced represented complicated decisions as to the application of carry over balances as between OEO and the gaining agency. It was thought that an effort to wipe the slate clean might eliminate some intricate decisions on the sharing of carry over balances between sister agencies.

A final and less important reason was that the program year concept which permits carry over funds from one program year to be used in a subsequent program year, was not in effect until after January 1966. Therefore, grantees were not operating under this concept during much of fiscal year 1966 and, because of this, it seemed reasonable to declare that unexpended funds for this year be returned to the Treasury. In any event, however, our records indicate that the FY 66 grants were made after January, 1966.

2. National OEO action to recover $56,002. The records do not indicate precisely what, if any, action was taken by Headquarters to collect the $56,002. It would be reasonable to assume that collection action was undertaken only by the Regional Office in view of the fact that the SEOO did not submit a final CAP 28 (Unexpended Federal Funds Report) and the responsible collection office (Finance and Grants Management Division) did not receive a final audit report which would have enabled that office to render a collection action determination.

3. The OEO system for follow up of similar collection actions. The OEO System for following up similar collection actions during the period in question was governed by CAP Staff Instruction 6710-1 (May 1969) (at pages 10, 11 and 12). Analyst notebook #90 (at page 21), my telegram of April 1970 and memorandum of May 19, 1970 which included collection action procedures as an attachment. The responsibility for collection was assigned to the regional or headquarters office which funded the particular grant involved. Without a considerable effort in inquiries of our regional offices, we would not be aware of the echelons of personnel responsible for collection action in the regional offices. As to Headquarters collections besides involvement of the program officials, the Chief, Finance and Grants Management Division, actively engaged in making such collections but did not do so in this case because, as noted earlier, neither the final CAP Form 28 nor the final audit report had been received by this office.

4. Basis for reprogramming funds rather than to deobligate such funds. The SEOO was asked to undertake the planning of an experimental Legal Services project on behalf of the national emphasis program. Although this was within the general charter of authority of the SEOO it was not the kind of activity that would normally have been conducted by the SEOO but was undertaken at the request of OEO in connection with the resolution of very difficult problems concerning the Legal Services Program in California. If successful, the project was expected to benefit the entire Legal Services Program.

In connection with this undertaking which was approved in a number of meetings between high officials of OEO and of the California State Government, there arose a misunderstanding with respect to certain preliminary activities. The California officials incurred substantial planning expenses for the Experiment apparently in good faith, which the OEO officials did not believe had been duly authorized in advance. We have information to indicate that the services were performed at considerable expense, and that they related to the overall project which the SEOO had undertaken at OEO request. There is some evidence and correspondence which tends to support the view of the SEOO that it was reasonable to believe that the SEOO had the authority to begin the planning phase. On the other hand, OEO officials involved were not entirely satisfied that specific authorization had indeed been given.

The issue was one that turned on a factual dispute which could have been difficult to resolve and contrary to the interest of effective relations between OEO and the State officials and contrary to the interests of carrying out the Experiment. It could have been solved by the making of a fresh grant to the SEOO retroactive to July 1.

Having determined that the SEOO should be reimbursed, OEO had the alternative of funding for the planning phase out of current funds reserved for the Experiment or to permit reprogramming of the carry over funds in question. The fomer alternative would take away from funds otherwise available for actually carrying out the Experiment. On the other hand, the latter and selected choice represented a method of payment to the SEOO for services received on behalf of National OEO without enhancing the SEOO's funding guidelines as far as authorized funding of State programs were concerned.

Under these circumstances, it was found possible to resolve both disputes at once without any net cost to the Government by allowing to the SEOO the benefit of the carry over funds but only for the restricted purpose of making them available to cover the disputed claim for services in connection with the Legal Services Program.

OEO was satisfied, and at all times has been that funds in these circumstances are legally available for reprogramming (or under present procedures, equivalent utilization without reprogramming) but had made for policy reasons a policy decision not to reprogram under certain circumstances. Although I made that decision as a general rule, I was satisfied that on the facts of this particular case the policy grounds that led to it were not controlling and that the possibility of settling at one, without cost to the Government, this difficult problem made an exception to the rule appropriate and I accordingly authorized it.

The earlier policy decision was reflected in the telegram referred to above. While it reflects a policy decision which OEO General Counsel believed to be within the legal authority of OEO, it was not expressed in a manner that OEO General Counsel believed legally accurate and has some misleading implications. The telegram represents, moreover, an approach to the problem that was found in practice not productive of the results that had been hoped for. Accordingly, as I stated earlier in this letter, the entire policy decision and the accurate statement of it has been under review.

In conclusion and upon reflection, we believe a sound funding decision was made in permitting the exception to my April 1970 telegram and subsequent issuances.

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STATE OF CALIFORNIA,
OFFICE OF ECONOMIC OPPORTUNITY,
*Sacramento, Calif., July 14, 1973.*

Mr. ALVIN ARNETT,
*Director, Office of Economic Opportunity, Washington, D.C.*

DEAR MR. ARNETT: On this date I am informing the Western Regional Director, Dr. Eugene Gonzales, that we are accepting the audit disallowance of $138,335 reflected in Audit No. 9–73–156, which represents a deficit of the California SEOO's required non-Federal share for Fiscal Year 1971–72.

At the same time, we are requesting that the required non-federal share for Grant No. 90455—73/04 be increased by an amount commensurate with the disallowance. Our request is based on the provisions of Section 243(c) of the Economic Opportunity Act, which states that "the Director may seek recovery of (disallowed) sums involved by . . . a commensurate increase in the required non-federal share of the costs of any grant or contract with the same agency or organization which is then in effect, or which is entered into within 12 months of the date of disallowance."

It is our intention to meet the audit disallowance with funds which have been recently appropriated to this office by the California State Legislature and approved by Governor Ronald Reagan. $131,500 is a direct matching fund contribution by the State for our federal grant, and approximately $28,000 will be contributed to this office by the State to cover SEOO's cost of salary increases approved by the Legislature. Since there is no requirement for non-federal share on the 1973–74 program year grant, the full amount of the State contributions is available to offset the audit disallowance.

Please let us know if you need additional information on this matter.

Sincerely,

SAL ESPANA,
*Director.*

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EXCERPTS FROM CALIFORNIA STATE BUDGET

(e) For family planning services in accordance with Sections 10053.2 and 10053.3 of the Welfare and Institutions Code, Health Protection System: $2,780,096.

(f) Reimbursements: $2,352,188.

(g) Federal grants: $7,664,115.

(h) Estimated family repayments: $1,764,000—provided, that upon order of the Director of Finance, funds may be transferred to Item 243 as necessary to accomplish unallocated savings in the budget of the Department of Health, provided that such transfers for this purpose shall not exceed $6,257,500. Provided further, that such transfers shall be reported quarterly to the Joint Legislative Budget Committee.

Item 266—For support of Department of Human Resources Development, for transfer by the State Controller to the Manpower Development Fund for expenditure for the work incentive program as specified in Section 5400 of the Unemployment Insurance Code (Chapter 1369, Statutes of 1968): $5,674,191—provided, that the State Controller shall transfer these funds only at such time as federal funds are deposited in the Manpower Development Fund and no transfer so made shall exceed twenty-five (25) percent of the amount of federal funds so deposited; provided further, the amount available for transfer to the Manpower Development Fund shall be reduced by the amounts in cash or in kind available from other sources as the state's share of the work incentive program as determined by the State Department of Human Resources Development and certified to the State Controller.

Item 267—For support of Department of Human Resources Development, for transfer by the State Controller to the Manpower Development Fund, for expenditure for the purposes of the Human Resources Development Act of 1968 commencing with Section 9000 of the Unemployment Insurance Code: $4,154,773.

Item 268—For support of Department of Human Resources Development: $131,500—and, in addition, any amounts received from federal grants or other sources shall be available for expenditure in accordance with the provisions of this item.

Schedule:

(a) Office of Economic Opportunity: $1,338,314.

(b) Federal grants: —$1,206,814.

Item 269—For support of Department of Human Resources Development: $510,657—and, in addition, any amounts received from federal grants or other sources shall be available for expenditure in accordance with the provisions of this item.

Schedule:

(a) Commission on Aging: $29,668,910.

(b) Federal grants: —$29,158,253.

Item 270—For payment to various local jurisdictions and state agencies for support of the Migrant Master Plan in cooperation with the federal government programs, resulting from the Economic Opportunity Act, Department of Human Resources Development: $409,298.

Schedule:

(a) Operations: $2,345,556.

(b) Federal grants: —$1,936,258.

Item 270.5—In augmentation of the migrant day care component of the Migrant Master Plan, Department of Human Resources Development: $124,500—provided, that the Department of Human Resources Development shall allocate these funds only to replace any loss of federal funds caused by revision of federal regulations covering the eligibility of participants or the limitation or termination or restriction of the use of funds for social services under the Federal Social Services Act.

Provided further, that the Department of Finance may, by executive order, transfer these funds shown above, for and in augmentation of the amount contained in schedule (a) of Item 270 of this act for the purpose of providing additional funds for migrant day care.

Item 271—For support of Department of Human Resources Development, payable from the Department of Human Resources Development Contingent Fund: $1,181,351—and in addition thereto, any grants made available by the federal government, provided, that all or any portion of this appropriation may be transferred to the Unemployment Administration * * * Finance.

Item 83—For providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423 and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part I of Division 4 of Title 2 of the Government Code, State Controller: $18,000,000—The appropriation made by this item shall be in lieu of the appropriation for the same purpose contained in Section 16109 or 16140 of the Government Code, and may not be augmented.

Item 84—For reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to Section 1d of Article XIII of the Constitution: $647,250,000.

Item 85—For transfer as needed to the Personal Income Tax Fund by the State Controller for the purpose of providing refunds to renters are required by Section 17053.5 of the Revenue and Taxation Code as added by Section 25 of Chapter 1406, Statutes of 1972, Franchise Tax Board: $40,000,000. The appropriation from the General Fund made by this item shall be in lieu of any appropriation for the same purpose from the Personal Income Tax Fund pursuant to Section 32 of Chapter 1406 of the Statutes of the 1972 Regular Session of the Legislature.

Item 88—For salary Increase Fund, for state officers and employees whose compensation including staff benefits, or portion thereof, is payable from nongovernmental cost funds, there is hereby appropriated from each nongovernmental cost fund from which such officers and employees are paid (a) an amount sufficient to provide the increase in compensation provided for in any increased salary range or rate including staff benefits established on or after July 1, 1973, by the State Personnel Board or other salary-fixing authority; and, (b) with respect to state officers whose salaries are specified by statute, an amount sufficient to augment by 15.9 percent the amount of salaries received by such officers as of June 30, 1973, during the 1973–74 fiscal year; pursuant to Section 11569 of the Government Code: $32,844,000 which amounts is to be made available by executive order of the Department of Finance in augmentation of their respective appropriations for support or for other purposes.

Provided, that increases in compensation provided by this item for increased salary ranges for positions established for the 1973–74 fiscal year shall not result in total annual salary increases, including staff benefits, of more than $32,844,000.

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### Senator Cranston—Written Question No. 4

Q. Mr. Arnett, the October 1972 amendments to the Economic Opportunity Act added a new section 228 which I authored, authorizing an annual expenditure of $7.5 million for Consumer Action and Cooperative Programs. No funds were spent under this authority in FY 1973. I think it is evident that no other agency deals with the unique problems of poor consumers, such as availability of credit, higher cost and poor quality of goods and services, and the inability of the poor person to enforce his rights through an expensive and often slow judicial system. Do you plan to develop and carry out a program in the coming year that will address itself to the problems of the poor consumer?

A. The $7.5 million for section 228 to which you refer is the Authorization level. Since only $790.2 million was actually appropriated in FY 1973, which only covered the existing programs, it was not possible for OEO to make any new starts. In spite of this, some Consumer Action type programs were funded under section 232 of EOA. As to FY 1974, organizational and funding uncertainties have made it difficult to formulate a firm program of consumer protection, but discussions are being held on OEO's role in this activity.

### WRITTEN QUESTION NO. 5

Q. Mr. Arnett, there are some 250 low-income credit unions started with the help of OEO, with over 100,000 members and $11 million in savings, that desperately need help if they are to survive and grow to become meaningful resources for their communities. Have you planned or do you plan any program of support for these credit unions that will help them achieve self-sufficiency?

A. The same thing is true in regard to OEO's Credit Union Programs as is true with the Consumer Programs in terms of funding levels. In Fiscal 1973 we did provide credit union funding through Section 221 of the Act where local Community Action Agencies gave them high priority. The number and amount of credit union funding was therefore geared to the importance attached to them locally by the CAAs.

Mr. CRANSTON. Mr. President, I was particularly distressed by point No. 10 in Mr. Arnett's August 2 response. Section 623 of the Economic Opportunity Act of 1964, as amended, states:

> All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date.

OEO Instruction No. 7501–1, issued on March 25, 1970, states in section 9(b):

> The state's share for funding under Section 231 shall be a minimum of 20 percent of the total cost of the operation in cash and/or kind.

Section 231 of the EOA, the section referred to, authorizes the Director to provide financial assistance to State Economic Opportunity Offices.

In his response to my questions on the elimination of the required 20-percent non-Federal share requirement, without compliance with the 30 days' prior notice requirement of section 623.

Mr. Arnett basically said in his reply, on advice of counsel, that OEO does not deem section 623 to apply with regard to the elimination of the SEOO non-Federal share. Mr. Arnett further stated in the August 2 reply, again on the advice of the OEO General Counsel, that the new policy was a "relaxation," and thus "is not subject to the requirement of section 623 of the Economic Opportunity Act of 1964."

Mr. President, according to my legal counsel and my own reading of the law, this response is a totally inaccurate interpretation of the law. After reviewing it, I feared that we were again about to witness more of this administration's lawlessness—a disregard for the law which had so characterized OEO's actions during the first 6 months of this year and which culminated in the U.S. District Court decisions halting the dismantling of OEO.

I immediately contacted the Acting Director and told him of my concern about the ramifications of this matter. Shortly before the Labor and Public Welfare Committee vote on Mr. Arnett's nomination, I spoke with Mr. Arnett personally about this and gained his assurance that the statement in his August 2 response was an inaccurate characterization of OEO's interpretation of section 623 as he would administer that provision.

Mr. President, I ask unanimous consent that Mr. Arnett's subsequent August 3 letter to me, further clarifying our discussion prior to the full committee vote, be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICE OF ECONOMIC OPPORTUNITY,
*August 3, 1973.*

Hon. ALAN CRANSTON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR CRANSTON: This further responds to your inquiries regarding the matter of non-Federal share.

First, as Director, I will view Section 623 as *both* a publication and notice requirement. Henceforth, OEO regulations will not be valid unless there has been publication in the Federal Register at least 30 days before the effective date.

I am advised, however, that the Department of Justice is making the legal argument on appeal that Section 623 only requires publication and that failure to publish does not invalidate the Agency's action. The Court of Appeals will decide this issue and I take no position on the legal merits.

Second, I was faced with the results of the unusual circumstances for the period January 30 to June 26. In the interest of administrative integrity, I affirmed the authority of subordinate officials to make grants. I could not individually review each and every grant made, so I authorized a general approval of prior grant actions signed by OEO officials. By this action, grants to state economic opportunity offices of fiscal year 1973 funds were allowed to stand without any matching share from non-Federal sources.

Third, I have not made a decision on non-Federal share for state economic opportunity offices for FY '74 but I am inclined to reinstate the requirement. In any event, any change to the regulation on the matter of non-Federal share will be published in the Federal Register.

And lastly, as I noted at the hearing, implicit waivers of regulations will have no place in my administration.

Sincerely yours,

ALVIN J. ARNETT,
*Director-Designate.*

Mr. CRANSTON. Mr. President, I should point out that while Mr. Arnett's August 3 clarification is reassuring, I felt that the entire question had most serious ramifications, and, after a meeting of members of my staff and the GAO, requested a legal interpretation from the Comptroller General on this issue along with other matters. Although some of Mr. Arnett's responses to my extensive questioning of him during and since his confirmation hearings are not altogether satisfactory, I believe that taken as a whole—and when coupled with the assurances he provided to other committee members about his intentions as Director of OEO—they are acceptable and reflect a sincere desire to carry out his duties in a manner consistent with the purposes of the Economic Opportunity Act of 1964, as amended, and to work in cooperation with the Congress in fulfilling those purposes. The Findings and Declaration of Purpose clause of the EOA says in part:

> It is therefore, the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity.

Based on the information and assurances which I have received from Mr. Arnett, I voted for the favorable recommendation of his nomination from the Labor and Public Welfare Committee and believe that he will uphold the law and try to carry out the purposes of the Economic Opportunity Act. I join with the committee in urging my colleagues in the Senate to confirm his nomination to be Director of the Office of Economic Opportunity.

Mr. President, I ask unanimous consent that my August 24 letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. SENATE,
*Washington, D.C., August 24, 1973.*

Hon. ELMER B. STAATS,
*Comptroller General of the United States, Washington, D.C.*

DEAR MR. COMPTROLLER GENERAL: Pursuant to discussion with G.A.O. staff, I am writing in further regard to the June 14, 1973, General Accounting Office report B-130515, "Activities of the California State Economic Opportunity Office", and the questions I raised regarding that report in my June 12, 1973, letter to you and my subsequent July 10, 1973, letter requesting that the G.A.O. immediately review the $382,000 June 30, 1973, grant to C.S.E.O.O. by the Office of Economic Opportunity.

At the outset, I want to thank you for the ruling in your July 20 letter in partial reply to my June 12 letter.

Several additional matters have come to my attention which I hereby request be included in the investigations to be conducted pursuant to my June and July letters.

First, on July 11, 1973, the Office of Economic Opportunity announced an additional grant in the amount of $302,053 to C.S.E.O.O. I request that the contract review I requested on July 10 be carried out with regard to this second grant to C.S.E.O.O. as well.

Second, O.E.O. National's response to G.A.O. conclusion #1 in the June 14 report agrees that C.S.E.O.O. did fail to meet the special conditions of the 1971–1972 grant which prohibited investigations and unilateral evaluations. O.E.O. National makes two contentions in that regard: that the special conditions could be construed as "contrary to the review rights secured all Governors through the Economic Opportuntiy Act"; and that the "evaluations and investigations were performed with full knowledge on the part of O.E.O. Hence, it may be said that restrictions were implicitly waived by the Agency." Such implicit waivers would appear to be in direct violation of the O.E.O. regulations titled "General Conditions Governing Grants" which state:

"Requirements found in grant conditions or O.E.O. directives may be waived only by a written notification signed by an authorized O.E.O. official. Any such waiver must be explicit, no waiver may be inferred. . . ."

As you are aware, these special grant conditions were imposed on C.S.E.O.O. as a result of extensive Congressional inquiry into the State agency, including a July 20, 1971, hearing held by a Special Subcommittee of the House Committee on Education and Labor. During the course of those hearings, commitments were made to the Congress that special grant conditions would be imposed designed to ensure that the unilateral, highly irregular investigations and evaluations by C.S.E.O.O. would be halted. O.E.O. officials (including the then Director, Frank Carlucci, future Director Phillip Sanchez, and the then Regional O.E.O. Director, H. Rodger Betts), repeatedly committed O.E.O. to reforming the State agency and assured the Subcommittee that the grantee would function correctly in the future. The findings of the June 14 G.A.O. report make it clear that C.S.E.O.O. has repeatedly been in violation of the grant conditions imposed pursuant to the Congressional hearing.

The nature of the imposition of the special conditions on the 1972 C.S.E.O.O. grant and the special role of the Congress in seeking those special conditions appears to place Congress in the posture of a third-party beneficiary to the 1972 contract. Consequently, O.E.O. National's contention that an "implicit waiver" released C.S.E.O.O. from its commitments to comply with the 1972 grant conditions not only violates O.E.O. National's own regulations, but could be viewed as violating the rights of the Congress as a third-party beneficiary of that contract.

Therefore, I request your opinion regarding any rights Congress may have had with respect to the 1972 contract—particularly with regard to such implicit waivers—and an opinion regarding the validity, or lack thereof, of O.E.O. National's contention that the grant conditions may have been contrary to the review "rights" of the Governor under the Economic Opportunity Act of 1964, as amended.

I would also like your opinion on the validity of O.E.O. violating its own regulation against implicit waivers, both in terms of general Government-wide standards and the 30-day advance publication requirement of section 623 of the Economic Opportunity Act of 1964, as amended.

In another, but related matter, it has come to my attention that O.E.O. National sometime this spring repealed section 9(b) of O.E.O. Instruction 7501–1 (Role of the State Economic Opportunity Offices) which had been issued on March 25, 1970, with respect to the FY 1974 grant period for S.E.O.O.'s. In your July 20, 1973, letter to me you held that O.E.O. Instruction 7501–1 is a statutory regulation with the force of law, which cannot be waived "on a retroactive and *ad hoc* basis". In response to questions I raised about the repeal—without prior notification as required under section 623 of the Economic Opportunity Act of 1964, as amended—of section 9(b) of Instruction 7501–1, O.E.O. Director-Designate Alvin J. Arnett at first responded—on August 2—that the "O.E.O. General Counsel [advises] that the relaxation of a previous administrative requirement, provided it is both prospective and non-discriminatory as to members of the class, is not subject to the requirements of section 623 of the Economic Opportunity Act of 1964".

It is my understanding that, as part of U.S. District Court Judge Jones' decision with regard to the continued operation of the Office of Economic Opportunity—consistent with Congressional intent—the Judge found that all policy issuances, directives or instructions, or the repeal of same, which were not published in the *Federal Register* for the 30-day advance period required under section 623 of the Economic Opportunity Act of 1964, were invalid. Consequently, I request your opinion as to how, under section 623 and the Court ruling, the 20 percent non-Federal share requirement for S.E.O.O.'s set forth in O.E.O. Instruction 7501–1 could be effectively repealed without prior publication in the *Federal Register* or by implication in view of the above discussion.

Finally, in this regard, what is the status of a regulatory requirement—such as the non-Federal contribution requirement in question—which has existed for many years and about which the Congress has been informed and has raised no objections? I often see it contended by Federal agencies—particularly the Veterans Administration—that such regulations, in which it is said the Congress has "acquiesced", cannot be altered without Congressional approval. I raised this question in my June 12 letter to you with regard to the elimination of the non-Federal share requirement for S.E.O.O.'s, and the question was not answered in your July 20, 1973, letter.

During the course of Director-Designate Arnett's July 20 confirmation hearing before the Senate Labor and Public Welfare Committee, I stated that, in light of the numerous unresolved questions concerning C.S.E.O.O. which had arisen as the result of the June 14 G.A.O. report findings, and in light of the legal questions—still pending a G.A.O. response—raised in my June 12 letter to you, I saw no justification for the two new C.S.E.O.O. grants to go forward until such time as these questions were resolved. My staff has provided a member of the G.A.O. General Counsel's staff, Mr. Henry R. Wray, with a copy of the relevant portion of the July 20 hearing transcript in which I was assured by Mr. Arnett that the two C.S.E.O.O. grants would indeed not go forward. I have enclosed a copy of the additional questions which I submitted to Mr. Arnett following the July 20 hearing and a copy of his August 2 response to those questions which was followed by his August 3 clarification thereof, in which he commented on several of the matters I have discussed above and which I believe you will find of interest.

I am deeply concerned not only about National O.E.O.'s continued refunding of the C.S.E.O.O. but also about the much larger legal issues raised which I have discussed above. I look forward to your early reply to this and my July 10 letter.

Sincerely,

Alan Cranston.

Mr. CRANSTON. Mr. President, in closing I would like to express my appreciation for the effort Mr. Arnett has made to provide satisfactory answers to the questions and concerns of the committee—a task not readily accomplished—and for his cooperation with me and the members of my staff throughout the committee's consideration of his nomination.

### SENATOR RANDOLPH SUPPORTS ALVIN J. ARNETT FOR OEO DIRECTOR

Mr. RANDOLPH. Mr. President, I support the nomination of Alvin J. Arnett to be Director of the Office of Economic Opportunity. Hearings before the Senate Committee on Labor and Public Welfare confirmed my personal opinion—that Al Arnett will administer his high office with compassion, with fairness, and in accordance with the law.

Al Arnett is a native of our State of West Virginia. His early life was characterized by accomplishment. In high school in Charleston, he was a member of the National Honor Society. As an honor student at Marshall College in Huntington, he was selected for inclusion in "Who's Who Among Students in American Colleges and Universities," the National Leadership Honor Society, and the National Political Science Honor Society.

Prior to going to OEO, Mr. Arnett served as Executive Director of the Appalachian Regional Commission. When he left the Commission, he was honored with a resolution of appreciation from the Federal and State officials of the Commission.

Mr. President, I believe the Senate should know what this resolution has to say about Alvin Arnett:

> The Appalachian Region Commission wishes to express its appreciation to Alvin J. Arnett for his unique, imaginative and fruitful services to the Appalachian Program over the years he has been associated with the Commission . . . .
>
> . . . Many, who have worked in this Program for the development of the Region, have shared a deep commitment to its objectives, but *few have approached, and none have surpassed,* Al Arnett in depth and sincerity of feeling for the people of Appalachia.

As the nominee of the President to head this beleaguered and bruised agency, Mr. Arnett is especially qualified to serve during this period of confrontation between the President and the Congress over OEO. He has testified before the Senate Labor and Public Welfare Committee that he has been and will continue to be a voice within the administration for OEO.

He said:

> I'm very strong on advocacy for the poor.

Mr. President, let me read, if I may, the concluding paragraph in Mr. Arnett's opening statement to the Senate Committee on Labor and Public Welfare confirmation hearings held on July 20, 1973:

> I honestly and openly state that I stand ready to comply with the law in every respect as determined by the Congress and the President and to carry on the remaining OEO functions during Fiscal Year 1974 to the very best of my ability. I make my personal commitment to that purpose.

The Economic Opportunity Act of 1964, places on OEO the heavy responsibility—

> To stimulate a better focusing of all available local, State, private and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become self-sufficient.

This mandate is contained in the law of the land. To head the Agency of the Federal Government charged with this high responsibility requires one who not only has a deep commitment to its objectives, as well as an abiding respect for the law, but just as importantly, one who possesses a deep and a sincere feeling for people. For when the tumult and shouting have died, the Economic Opportunity Act and OEO are basically and fundamentally concerned with people.

Alvin Arnett respects the law. It has been said of him that none have surpassed him in depth and sincerity of feeling for people. He is uniquely qualified to be the Director of the Office of Economic Opportunity.

I know that Alvin J. Arnett will bring to his high office a dedication to helping the poor, the competence to meet the challenges inherent in the job; and a creativity and aggressiveness which will prove him worthy of the honor.

I support his nomination, Mr. President, and urge Senators to vote in the affirmative.

## LEGISLATIVE SESSION—TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now return to legislative session and that there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there further morning business?

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SYMINGTON, from the Committee on Armed Services:

S. 2408. An original bill to authorize certain construction at military installations, and for other purposes (Rept. No. 93-389).

By Mr. PASTORE, from the Committee on Appropriations, with amendments:

H.R. 8916. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-390).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MONDALE:

S. 2404. A bill relating to the mortgage insurance premiums applicable to home mortgages insured by the Secretary of Housing and Urban Development, and requiring certain reports to the Congress by the Secretary with respect to the funds used by the Secretary in carrying out the various home mortgage insurance programs, and the premium levels necessary to sustain such funds. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 2405. A bill to amend title II of the Social Security Act to extend the time within which certain Federal-State agreements may be modified to give noncovered State and local employees under the divided retirement system procedure an additional opportunity to elect coverage. Referred to the Committee on Finance.

By Mr. BROCK:

S. 2406. A bill for the relief of Doctor Jesus Fernandez Tirao and his wife, Benylin-Lynda Obiena Tirao. Referred to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 2407. A bill to establish the Federal Audio-Visual Coordination Board, regulate production by Federal agencies of audio-visual materials, and provide certain labor standards in connection therewith. Referred to the Committee on Government Operations.

By Mr. SYMINGTON, from the Committee on Armed Services:

S. 2408. An original bill to authorize certain construction at military installations, and for other purposes. Placed on the calendar

By Mr. McGOVERN (for himself, Mr. Case, Mr. Hart, Mr. Kennedy, Mr. Humphrey, Mr. Cranston, and Mr. Nelson):

S. 2409. A bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs. Referred to the Committee on Agriculture and Forestry.

By Mr. TOWER (for himself and Mr. Sparkman):

S.J. Res. 152. Joint Resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MONDALE:

S. 2404. A bill relating to the mortgage insurance premiums applicable to home mortgages insured by the Secretary of Housing and Urban Development, and requiring certain reports to the Congress by the Secretary with respect to the funds used by the Secretary in carrying out the various home mortgage insurance programs, and the premium levels necessary to sustain such funds. Referred to the Committee on Banking, Housing, and Urban Affairs.

### PROPOSAL TO REDUCE FHA MORTGAGE INSURANCE RATES

Mr. MONDALE. Mr. President, the bill I am introducing today could cut homebuyers' costs for FHA insurance by 50 percent.

My proposal will do this by cutting the FHA insurance premium from one-half of 1 percent to one-fourth of 1 percent. This would save a Minnesota family with an average of $19,000 mortgage as much as $943. A family with a $25,000 mortgage could save $1,280.

If my proposal is accepted, it would lower the present inflated cost of buying a house appreciably. Mortgage interest rates for FHA-insured mortgages have been above 7 percent for the past 4 years. During 1969 and 1970, when President Nixon was making his disastrous effort to control inflation by depressing the housing industry, mortgage rates soared to 8.26 percent and 9.05 percent respectively. And they never came down to normal levels. In fact, they are now rising again. This is bad news for the homebuyer. A rise from 7 to 7¾ percent in the maximum FHA interest rate has already been announced.

A reduction in mortgage insurance premium levels has the same effect as a reduction in mortgage interest rates. Homebuyers pay a one-half of 1 percent insurance charge on their outstanding mortgage balance every month. This payment usually goes in with the check for the mortgage payment. Cutting the insurance fee in half is exactly like lowering the mortgage interest rate by one-fourth of 1 percent.

There is little doubt that a reduction of 50 percent in the premium is actuarially conservative and sound. The current one-half of 1 percent has been charged homebuyers since 1934. It is designed to cover a long-term default rate almost as severe as was experienced during the worst year of the Great Depression.

This overly pessimistic assumption has led to an enormous and unnecessary accumulation of reserves. From 1934 through June 1972, the FHA collected about $4.8 billion in premiums while paying out only about $1.3 billion to cover defaults.

TABLE I

Cumulative net losses through June 30, 1972 on acquired properties and assigned mortgages:

| | *Million* |
|---|---|
| Mutual mortgage insurance fund | $873 |
| General insurance fund | 430 |
| Cooperative management housing insurance fund [1] | |
| Special risk insurance fund | 33 |
| | $1336 |

[1] A profit of less than $0.7 million.

FHA insurance fund reserves now total about $1.4 billion, more than total defaults since 1934.

Actually, the reserves in the Mutual Mortgage Insurance Fund are about $1.8 billion. FHA projections suggest these reserves will rise by about $165 million at the end of fiscal year 1974. The other funds include the special risk insurance fund to which appropriations to absorb losses were contemplated. The right to use accumulated Mutual Mortgage Insurance Fund reserves for other losses would be clarified in accordance with my bill.

Instead of accumulating another $165 million of mutual fund reserves in fiscal year 1974, my proposal would lead to some reduction in already excessive reserves in the short run. This is as it should be. Reserves should be brought down in the next few years, and the FHA forced to seek more economy in its operations.

By lowering the rate to one-quarter of 1 percent, my proposal would cut the fat out of the FHA's insurance programs. It will force the FHA to take a careful look at its administrative costs so that it can get by on the lower premium.

Over the years, 38 percent of the insurance premium has been going to pay FHA's expenses. More of the homeowners' premium payments are going to cover FHA expenses than to meet mortgage defaults. FHA administrative costs should be reduced, and I believe that my bill would help accomplish this goal.

Mr. President, the Senate Committee on Banking and Currency has before it S. 2182 which includes legislation revising the National Housing Act. The House Banking and Currency Committee is now working on its version of this legislation.

The Senate bill would consolidate FHA insurance funds into two main funds, one for general insurance, and the other for special risk mortgages. Both bills retain a third fund, which is much smaller, for cooperative housing as well.

My bill would lower the premium for all these funds. For the subsidized mortgages under the special risk program, this makes sense because the high premium for subsidized mortgages simply adds to the Federal housing subsidy payment. Charging the occupant a premium raises the cost of the subsidy. This is so because the occupant's payment is limited to a given percentage of his income. The difference has to be made up by the subsidy voted by the Congress.

My bill, therefore, also requires the Secretary of HUD to consider the cost saving which could be acheived by eliminating the premium altogether for subsidized housing.

To summarize, my bill stipulates that within 30 days of the effective date of legislation, mortgage insurance premium rates on all new FHA-insured mortgage loans would be reduced to no higher than one-fourth of 1 percent per annum on outstanding balances. Rates on older mortgages would drop to this level also within a few months.

Within 90 days after the effective date of the legislation, the Secretary of HUD would be required to provide Congress with recommendations with respect to the transfer of as large a part as possible of FHA insurance reserves accumulated in the past to new insurance funds set up under new housing legislation.

The Secretary will also be required to make recommendations concerning further premium reductions or to justify a higher premium level if this seems to be required after the Congress has determined that all possible economies have been made. The Secretary must also evaluate the administrative savings which might be achieved by eliminating the premiums on subsidized housing.

My bill requires that in the future, the Secretary of HUD make an annual report on the level of the insurance premium so that Congress may be certain that the home buyer is getting the lowest possible premium rate.

Mr. President, the American homebuyer has paid a very high price for ill-conceived economic policies in the past few years. He has paid and continues to pay outrageously high mortgage rates. The Congress needs to attack this problem, and accepting my proposal on insurance premiums is one important way to do so.

I ask unanimous consent that my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2404

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the insurance premium for any mortgage insured by the Secretary of Housing and Urban Development under the National Housing Act, or any Act supplementary thereto, shall not exceed one-fourth of 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time. With respect to any such mortgage which is outstanding on the effective date of this section, the Secretary shall adjust the insurance premium applicable to such mortgage in conformity with this section at such time (not later than 12 months after such effective date) as the next annual premium amount for such mortgage is determined.

(b) This section takes effect upon the expiration of 30 days after the date of enactment of this Act.

SEC. 2. (a) (1) The Secretary of Housing and Urban Development shall, not later than 90 days after the date of enactment of this Act, report to the Congress his recommendations with respect to transferring as large a part as practicable of the reserves of the Mutual Mortgage Insurance Fund, created by section 202 of the National Housing Act, to the General Insurance Fund and the Special Risk Insurance Fund, created respectively by sections 519 and 238(b) of such Act. In making such recommendations the Secretary shall have regard to (A) the fact that the General Insurance Fund and the Special Risk Insurance Fund are now the principal funds for carrying out the home mortgage insurance programs administered by the Secretary, (B) the fact that the reserves of the Mutual Mortgage Insurance Fund were accumulated in significant part through premium payments by mortgagors whose interests in the properties covered by insured mortgages have been transferred, and (C) the paramount interest of the Government in view of the ultimate underwriting of risk by the United States and the importance of spreading the risk over an extended period of time.

(2) The report required under paragraph (1) shall also include the recommendation of the Secretary with respect to a reduction of the premium for the insurance of any mortgage by the Secretary to a level lower than one-fourth of 1 per centum per annum of the amount of the outstanding principal obligation of the mortgage. If the Secretary determines that it is not practicable to recommend a reduction of the premiums below one-fourth of 1 per centum per annum or if he determines that a premium greater than one-fourth of 1 per centum per annum is necessary then he shall recommend that minimum per centum which he deems to be feasible not to exceed four-tenths of one per centum per annum. In making any such recommendation the Secretary shall have regard to the recommendations made under paragraph (1) and shall indicate the actuarial factors assumed.

(3) The report required under paragraph (1) shall also include the Secretary's recommendation with respect to the feasibility of reducing administrative costs by eliminating mortgage insurance premiums in the case of that class of mortgages for the insurance of which premiums are now collected and deposited in the Special Risk Insurance Fund, and his recommendation for reducing mortgage insurance operating expense in other areas.

(b) In addition to the report specified in subsection (a), the Secretary shall report annually to the Congress (1) his analysis of the financial condition of each of the mortgage insurance funds administered by him in the light of the then current risk experience and actuarial assumption, and (2) his recommendations, on the basis of such analysis, of the appropriate mortgage insurance premium levels. The first such report shall be made not later than one year after the date on which the report required under subsection (a) is submitted, and subsequent reports shall be made at annual intervals thereafter.

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By Mr. MONDALE:

S. 2405. A bill to amend title II of the Social Security Act to extend the time within which certain Federal-State agreements may be modified to give noncovered State and local employees under the divided retirement system procedure an additional opportunity to elect coverage. Referred to the Committee on Finance.

### SOCIAL SECURITY COVERAGE FOR STATE EMPLOYEES

Mr. MONDALE. Mr. President, I am today introducing legislation to permit additional State employees now covered under State retirement systems to obtain coverage under social security.

Under the so-called "divided retirement systems" now in effect in Minnesota and 19 other States, State employees are given the option of social security coverage under agreements between the State and the Secretary of HEW.

Those who choose not to be covered under social security may, under specified circumstances, be given the opportunity later to change their mind and obtain social security coverage.

This opportunity for a second chance, however, is very limited. Existing law now effectively denies this opportunity to any individual employee, although groups of employees may still switch over if a majority of the group agrees to do so in a referendum.

I believe individual employees should have an opportunity to obtain social security coverage even if a majority of the employment group to which they belong does not.

The legislation I am introducing today would permit this. Under the bill, States like Minnesota would have until the end of 1974 to enter into an agreement with the Secretary of Health, Education, and Welfare giving individual State employees who wish to do so a second chance to obtain social security coverage.

Those who have worked hard all their lives should not be denied a decent retirement income because of one wrong choice. They deserve a second chance. This bill would give it to them.

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By Mr. CRANSTON:

S. 2407. A bill to establish the Federal Audio-Visual Coordination Board, regulate production by Federal agencies of audio-visual materials, and provide certain labor standards in connection therewith. Referred to the Committee on Government Operations.

Mr. CRANSTON. Mr. President, for almost 40 years congressional committees have studied various aspects of Government activities that are or may be in competition with private enterprise. The Government relies heavily on contractors to provide goods and services needed to support its missions. Historically, government policy has favored contracting for goods and services rather than providing them in-house. However, only limited expressions of this policy appear in our statutes and executive branch procedures.

I am introducing a bill, the Federal Audio-Visual Act of 1973, that would eliminate needless Government competition with private industry in one of these areas, the making of audiovisual materials.

More than $300 million is spent annually by the Federal Government on audiovisual production. Despite the fact that the movie industry is suffering from major economic problems, the Government is producing an increasing amount of its own material. Instead of utilizing the private sector, the Government has developed its own massive radio-television motion picture producing capability. This makes the Federal Government the Nation's single largest producer of audiovisual material.

In March 1971 officials of the American Federation of Television and Radio Artists presented this problem to Congressman **BARRY GOLDWATER**, Jr. Last fall, he issued a 66 page report on Federal involvement in audiovisual production based on a comprehensive study of the problem and specific inquiries to agencies to determine their role in this production.

In response to the inquiries, 13 Government agencies declared they had a total of $15 million worth of audiovisual equipment. The investigation showed that the Defense Department alone has more than $289 million dollars worth of audiovisual equipment.

Six of the seven major agencies, including the Department of Health, Education, and Welfare possess separate facilities, equipment, and personnel. Not only is there useless duplication of equipment and personnel, but there is also duplication of products within departments. The Defense Department is one of the biggest offenders. In 1971 and 1972 the DOD produced 12 films on one subject: "How To Brush Your Teeth."

The Goldwater investigation inquired into governmental policy on procurement of audiovisual materials through contracts with private producers, only to find that no agency has an established policy on the amount of audiovisual materials it produces through contract with outside companies.

The following is a list of the percentage of in-house production of material by the agencies themselves. The balance is produced on a contract basis.

Department of Agriculture, 47 percent; Department of Justice, 76 percent; Atomic Energy Commission, 63 percent; Department of Treasury, 54 percent; Department of Interior, 19 percent; Housing and Urban Development, 62 percent; Health, Education, and Welfare, 57 percent.

Department of Defense: U.S. Air Force, 97 percent; U.S. Army, 40 percent; U.S. Navy, 20 percent and U.S. Marine Corps, 62 percent.

This information indicates that the Government is producing an average of 54 percent of its own audiovisual material.

The waste of taxpayers' money through duplication and mismanagement is just part of the inequity and inefficiency created by Government competition with the private film industry. The investigation also found that the Federal Government often does not pay prevailing wages to individuals with which it contracts for radio, television, or film productions. Mr. **GOLDWATER**'s report indicates that the Government on the average pays one-sixth the prevailing wage scale to performers.

My bill addresses these problems by requiring all Federal agencies to pay prevailing wage rates to all persons who are hired to work in or produce audiovisual materials. It further requires all outside contractors who produce audiovisual materials for the Federal Government to pay prevailing wages to their employees. The bill would also limit Federal agencies from producing audiovisual materials except up to 25 percent of materials, which must be solely for the internal use of the agency. Classified material or materials for the purposes of scientific research, crime investigation, or intelligence are exempted from this limitation.

The Federal Audio-Visual Act of 1973 is an attempt to end needless Government in-house audiovisual production. There need be a broadened investigation of Government in-house industrial and commercial competition with the private sector. I hope this bill will trigger this urgently needed inquiry.

Mr. President, I ask unanimous consent that the text on the bill appear at this place in the **RECORD**.

There being no objection, the bill was ordered to be printed in the **RECORD**, as follows:

### S. 2407

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Audio-Visual Act of 1973."

### PURPOSE

SEC. 2. The purpose of this Act is to provide regulation and coordination of the use and production of audiovisual material by Federal agencies.

### DEFINITIONS

SEC. 3. Where used in this Act—

(1) the term "audio-visual materials" means motion pictures, television video tapes, radio tapes, slide films, filmstrips, photographs, phonograph records, and transcriptions;

(2) the term "audiovisual supplies and equipment" means unexposed, unprocessed, or unrecorded films, tapes, and recording discs, and cameras, projectors, sound recording devices, and related equipment, but does not include any equipment or supplies which are primarily used for the reproduction (by

photograph or otherwise) of documents, correspondence, and other paperwork;

(3) the term "employees" means actors, announcers, newsmen, singers, musicians, dancers, phonograph recording artists, laborers, mechanics, craftsmen, technicians, and other supporting personnel engaged in the production of audiovisual materials;

(4) the term "production", when used in conjunction with audiovisual materials, means creating, preparing, editing, reediting, or reproducing such materials;

(5) the term "Board" means the Federal Audio-Visual Coordination Board established by this Act; and

(6) the term "Federal agency" means any department, independent establishment, commission, board, bureau, division, office, or subdivision thereof, and any corporation wholly owned by the United States, but does not include the Congress, the courts of the United States, the governments of the territories or possessions of the United States, or the government of the District of Columbia.

### FEDERAL AUDIOVISUAL COORDINATION BOARD

Sec. 4 (a) Establishment.—There is established a board to be known as the Federal Audio-Visual Coordination Board.

(b) Duties.—The Board shall—

(1) work to achieve a coordinated and cooperative relationship between Federal agencies and the audiovisual industry of the United States;

(2) undertake systematic appraisals of Federal agency procurement, utilization, and production of audiovisual supplies and equipment; and promulgate standards to create uniformity and interchangeability, and increase economies;

(3) organize and supervise the administration of section 5, and prescribe such rules and regulations as are necessary to carry out this Act.

(c) Membership.—The Board shall be composed of eleven members as follows:

(1) the Director of the General Accounting Office

(2) five members appointed by the President from persons who represent the audiovisual units of Federal agencies;

(3) five members appointed by the President who represent the private audiovisual production industry (two of such persons shall represent the organized labor sector of such industry).

(d) Terms.—Members shall be appointed for terms of three years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(e) Chairman.—The Chairman of the Board shall be the Director of the General Accounting Office

(f) Pay and Travel Expenses.—(1) Except as provided in paragraph (2) members of the Board shall each be entitled to receive $25 for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Board.

(2) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Board.

(3) While away from their homes or regular places of business in the performance of services for the Board, all members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 4 of the United States Code.

(g) Director and Staff.—The Board shall have the power to appoint and fix the compensation of a Director and a staff of not more than five persons without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapters III and IV of chapter 53 of such title relating to classification and General Schedule pay rates. The Director shall be paid compensation at a rate not to exceed the rate prescribed for level IV of the Federal Executive Salary Schedule, and any staff appointed shall be paid compensation at a rate not to exceed the rate of basic pay in effect for grade GS-11 of the General Schedule.

(h) Experts and Consultants.—The Board may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code.

(i) Staff of Federal Agencies.—Upon request of the Board the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist it in carrying out its duties under this Act.

(j) Administrative Support Services.—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(k) Mails.—The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(l) Government Agency Cooperation.—All Federal agencies are authorized and directed to cooperate with the Board, and shall furnish to the Board, upon its request, any information necessary to enable it to carry out this Act.

### AUDIOVISUAL PRODUCTION

Sec. 5. (a) General Rule.—No Government agency, except as provided in subsection (b), shall produce any audiovisual materials. All such materials shall be obtained from private sources.

(b) Exception.—Any Government agency may produce up to 25 per centum of the audiovisual materials which are solely for the internal consumption of such agency. Such 25 per centum shall be based upon the monetary value of the materials produced.

(c) Adjustments to Standard.—In these instances where the Board finds that a measure which is based entirely upon monetary value is either inequitable or unworkable, it is authorized to require such adjustments, or apply such other types of measure, as it finds necessary.

### LABOR STANDARDS

Sec. 6. Amendment to Service Contract Act of 1965 section 8(b) of the Service Contract Act of 1965 (79 Stat. 1034) is amended by inserting the words "laborers, mechanics, craftsmen, technicians, professional employees and related or supporting personnel involved in the production of motion picture films; and" immediately after the word "means".

### EXEMPTIONS

Sec. 7. This Act shall not apply—

(1) where the audiovisual materials or production involved include information classified, or likely to be classified, pursuant to Executive Order Numbered 10501 (Safeguarding Official Information);

(2) where the audiovisual materials are used or produced by a Federal agency for the purposes of scientific research, testing, or development; or as part of official surveillance for crime investigation, administration of law enforcement activities, or collecting and compiling intelligence regarding national security;

(3) to restrict a Federal employee or member of the Armed Forces from appearing in any audiovisual material in which he is portrayed in a role which is contained in his job classification, but only if he is regularly employed by the Federal agency for which the audiovisual material is being produced and regularly functions in such role; or

(4) where the Board, by a vote of two-thirds of its members, has found it in the interest of the United States to provide an exemption.

### AUTHORIZATION

Sec. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

### EFFECTIVE DATE

Sec. 9. This Act shall take effect sixty days after the date of its enactment.

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By Mr. TOWER (for himself and Mr. Sparkman):

S.J. Res. 152. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TOWER. Mr. President, today I am introducing a bill which will hopefully put an end to this on-again, off-again situation of the FHA insurance authority.

To briefly bring us up to date, last May the House passed House Joint Resolution 512. That resolution contained simple 1-year extension of FHA authority, and it extended authorization levels for certain community development programs. House Joint Resolution 512 did not emerge from the Banking, Housing, and Urban Affairs Committee in precisely that form, however.

The resolution was amended to provide for specific dollar authorizations instead of open-ended authorizations. The resolution was also changed to add two other amendments. These changes have proven to be highly controversial. One would make it mandatory that HUD release and spend all funds that had been authorized and appropriated for the federally subsidized urban and rural housing programs. The other provision would expand the HUD section 518(b) program to include houses built under the section 203 and section 221 programs. This program allows HUD to compensate purchasers of homes for defects that existed at the time they purchased the home. These are defects which should have been discovered by the FHA at the time of the appraisal, but were not.

Now we took these provisions to the conference which we had with the House. The House came to the conference with the position that they passed a simple extension bill, under a suspension of the rules, and they did not want to turn this bill into a "Christmas Tree." In fact, I am told that prior to their passing of House Joint Resolution 512, they made every effort and were successful in keeping this a clean bill. Many House Members had a desire to add certain provisions, but they withheld from the temptation to make sure that the bill remained noncontroversial. This was done to make sure that the bill would pass quickly and FHA authority would not die.

Mr. President, we have had many meetings before the House and Senate conferees finally decided on a conference report. There was hard bargaining on both sides of the table. What finally occurred was that, after much debate, the House narrowly agreed to take the two controversial provisions that the Senate added and bring them back to the floor of the House for consideration.

On September 5, just a few days ago, the House voted on the conference report. By a vote of 202 to 172, they voted to recommit the report back to the conference committee. Mr. President, if you will examine the record of the debate on this vote, you will find that the resulting vote was due to the strong opposition in the House to the two controversal amendments to which I have previously referred.

Since the House vote, the conference committee has met again to try to resolve this problem. But again, as in late June, and as was the case immediately prior to the August recess, time is running out. The FHA authority will expire in just a very short time. This stop and go continuation of authority has got to stop. While it is true that high mortgage interest rates are having a disastrous effect on housing production, the month-by-month granting of FHA authority is proving to have a similar effect. Lenders and builders are not going to put all their resources into FHA programs knowing that at the time they are ready to close a deal there might not be any authority in existence. And today, more than ever, this country needs the FHA programs. While the FHA maximum interest is now 8½ percent, that is still a far sight better than 9½ percent or 10 percent conventional mortgage interest rate. For many thousands of potential purchasers, FHA is the only way at this time.

And so, Mr. President, with the conference committee unable to reach a decision as yet, and with the expiration of FHA authority around the corner, I am introducing a joint resolution which will resolve the crisis that is facing us. It is identical to what the conferees on House Joint Resolution 512 have agreed to with one exception. Those provisions which the House objected to so strenuously on the floor, during debate on their motion to recommit, have been deleted. Additionally, it provides an extension of FHA authority to October 1, 1974. If the controversial provisions are worthy and just, then it is my opinion that they should pass the test of both bodies of this Congress as separate legislation. Let us not jeopardize the continuation of the FHA programs any longer.

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## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 1550

At the request of Mr. TOWER, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 1550, to provide tax incentives to encourage physicians, dentists, and optometrists to practice in physician-shortage areas.

### S. 1610

At the request of Mr. MOSS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1610, a bill to require the installation of airborne, cooperative collision avoidance systems on certain civil and military aircraft, and for other purposes.

### S. 1769

At the request of Mr. MAGNUSON, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1769, to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes.

### S. 2217

### ANIMALS—NOT ORDINARY AIR CARGO

Mr. DOLE. Mr. President, we have long been a nation of animal lovers. We have devoted more money, more time, and more effort to the care and well-being of our domesticated animals than any other modern society. Our Congress has always been responsive to the need for laws to protect our animals. Today I am joining a growing group of Congressmen and Senators who are asking for a legislative remedy to a serious problem affecting a large number of pet owners, and which troubles those who care about all animals—pets, laboratory animals, and exhibition animals alike. I am referring to the inhumane treatment of animals transported in commercial airlines.

With alarming frequency the news media relate incidents of animals which have suffered or died because of the frightful conditions connected with flying in commercial airlines. According to a recent article in Air Line Pilot, the death, injury and loss of live animals has reached a point where our humane societies consider the problem a major issue. The Air Transport Association of America estimates that about 200,000 dogs and cats are moved by air each year. Add to that the number of animals being shipped to laboratories and pet stores, and the problems connected with air shipment take on mammoth proportions.

The problems are numerous, and there are many differing opinions as to which is the most serious. It would serve no purpose here to rank the points; suffice it to say they are all horrible. And they begin as soon as shipment by air carrier is considered.

### CROWDED FLIGHT

There are a number of options to anyone shipping live animals by air. According to the Washington Humane Society, however, none is good or very safe. Animals can be shipped as passenger baggage, air express, air freight, or special air freight. In some cases, when the flight is long and the owner is aboard as a passenger, rules may permit a small pet to ride up front with his owner. Otherwise, most live animals ride in the belly compartment with the other cargo, and they are treated as cargo. Humane societies charge that to a cargo handler a box of white mice or a crated puppy is just another piece of cargo to be moved from one place to another. Never mind the fact that a living creature is involved.

Once headed for the cargo compartment, the animal will encounter inexcusable conditions. First off, it may be some time before the animal is actually loaded onto the plane. Mixed in with suitcases and cartons of nonperishable goods, small animals may sit for hours in the blazing sun, pouring rain, or freezing snow before loading. Once aboard, a whole series of atrocities can, and often do, occur.

Despite the claims of many airlines, few cargo compartments have adequate ventilation or any temperature control devices. During long periods when the craft is sitting on the runway, the temperature within the compartment may fall as low as 0°, and has been reported as high as 130°. To add insult to injury, there may be, accompanying the temperature problem, a ventilation one.

Though cargo compartments are pressurized, on many aircraft they are sealed after loading as a fire prevention measure. In such cases, there is almost no ventilation and animals must survive on the air present at loading. Factors of time and overcrowding may conspire against an animal's chance of survival under these conditions.

We also know about incidents of animal crates being stacked near or directly next to dry ice, placed on board to preserve fresh flowers. I do not deny the worthiness of beautiful flowers, nor would I threaten the income of florists, but small live animals cannot survive in closed compartments with dry ice.

Another danger comes from the thoughtless and careless piling of crates on top of each other, and crowding them in with bulky cartons and luggage. In these circumstances, air supply can be drastically reduced, and it is not unheard of for crates and their occupants to be crushed.

This brings to mind still another problem—that of the crates themselves. Public enemy No. 1, in the opinion of many humane societies, is the slatted fruit crate. This container cannot withstand weight or pressure and it splinters easily, allowing frightened animals to injure themselves severely. Animals are often shipped in boxes which are too small to allow them to lie down and sit comfortably. In some cases, larger wild animals are in crates too large to confine them sufficiently to prevent injury. Shippers frequently fail to provide for adequate ventilation, water, or food. Often crates are so flimsy as to be easily crushed or broken, thereby injuring the animal, or giving him a way to escape. This sin of inadequate crating is often committed by pet owners.

### UPON ARRIVAL

Once at their destination, the animals face a new set of dangers. Some can be shipped as special air freight, an arrangement offered by some carriers for packages of a certain size, which allows the animal to be claimed minutes after arrival. For many others, in particular those arriving on weekends, there may be a delay of several days. During that period there is no assurance that the animal will be checked, watered or walked. Sick and injured animals are frequently unattended. In fact, many freight receivers will not go near an animal which appears to be suffering.

Commercial pet stores and laboratories are the worst offenders. Because there is no emotional attachment to the animals, there is insufficient incentive to be prompt about picking them up. Curiously, some humane society workers report that the Federal agencies are remiss in getting to the terminals when they should. Large and frequent shipments of mice and expensive primates, used by the Government for health research, are often left for several days before someone is dispatched to claim them. It is interesting, and sad in this case, that, along with the reluctance of the recipient to send a truck to the depot, the freight handlers traditionally have not had delivery services.

### ANIMAL WELFARE ACT

There have been attempts to alleviate these problems. In 1970 Congress passed the Animal Welfare Act, which does afford some protection for airborne animals. However, its provisions are not adequate, nor are they followed or enforced. Under the 1970 law, exhibitors, dealers, and research facilities are required to meet certain standards for transportation of domestic animals.

Regulations promulgated by the Secretary of Agriculture under the act do provide a base upon which to build new regulations. They require that the transporting vehicles be mechanically sound and that the animal cargo compartments be clean.

The regulations are quite specific as to the transporting cages or crates. They must be well ventilated, yet sufficiently closed to protect the animal from the elements. They must be easily opened in the event of emergency, and they must be so designed that the inner temperature will not exceed the outside temperature. They must be constructed in such a way that the inside temperatures never go above 95 degrees and temperatures between 85 and 95 degrees are not present for more than 4 hours at a time.

The crates must be large enough to allow the animal to sit or lie in a natural position. Further regulation prohibits shipping incompatible animals in the same crate.

Crates without solid floors may not be placed one on top of the other; and all crates must be cleaned and sanitized between shipments.

Special attention is given in the regulations to trips which take more than 12 hours. In those cases, the vehicle must be stopped—this would obviously not apply to airplanes—and potable water made available to the animals for at least one hour. Adult dogs and cats must be fed once every 24 hours, and puppies and kittens every 6 hours. Dogs must be removed from the carrier at least once every 36 hours for water and exercise.

The regulations also name the attendant or driver as the person responsible for checking the animals and determining if any need veterinary care. If so, it is his duty to arrange for a veterinarian to check the animal.

### MORE PROTECTION IS NECESSARY

The 1970 act and the regulations are all needed. But they are not enough. They are not specific to the problems of air transportation and they do not cover conditions at the terminals or the air freight warehouses. They do not place restrictions on retail pet dealers, or on those who earn only a small portion of their income from the breeding and raising of dogs and cats and the subsequent sale to dealers or research facilities. Clearly, new, stronger and more complete provisions are needed.

Mr. President, Senator BAKER has introduced legislation, S. 2217, which would lead to substantial improvements in the care and handling of animals transported by air. S. 2217 requires the Secretary of Transportation, in cooperation with the Civil Aeronautics Board, to complete a study of existing conditions in air transportation of animals within 60 days after enactment. Then 60 days thereafter, the Secretary would be required to promulgate regulations, including minimum standards, providing for the humane treatment of all animals in air transportation.

Mr. President, I am pleased to join as a cosponsor to S. 2217.

### S. 2328

At the request of Mr. McINTYRE, the Senator from Colorado (Mr. HASKELL) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2328, a bill to require the certain information about gasoline be disclosed to consumers.

### SENATE JOINT RESOLUTION 147

At the request of Mr. McINTYRE, the Senator from Iowa (Mr. CLARK), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Joint Resolution 147, calling for a report on the People's Republic of China grain purchase.

## REMOVAL OF COSPONSOR OF A BILL

### S. 1103

At the request of Mr. HATHAWAY, his name was removed as a cosponsor of S. 1103, to provide for public financing of campaigns for nomination for election, or election, to the Congress of the United States.

## SENATE RESOLUTION 168—SUBMISSION OF A RESOLUTION RELATING TO SOVIET TREATMENT OF INTELLECTUAL DISSIDENTS

(Referred to the Committee on Foreign Relations.)

Mr. MONDALE. Mr. President, newspaper reports of the past 10 days have revealed that the Soviet Government is waging new and intensive campaigns against Nobel Laureate Alexander Solzhenitsyn and physicist and civil rights advocate Andrei Sakharov.

Mr. Sakharov, the father of the Soviet hydrogen bomb, but also an outspoken advocate for the nuclear test ban, issued a manifesto in 1968 urging intellectual freedom and humanitarian rights. Since that time, he has become a leading Soviet civil rights activist. On August 25, he invited a group of foreign correspondents to his Moscow apartment and warned that—

> Rapproachment without democratization is very dangerous. It might lead to grave consequences inside our country and contaminate the whole world with an anti-democratic character.

He has also stated:

> Intellectual freedom is essential to human society—freedom to obtain and distribute information, freedom for open-minded and unfearing debate, and freedom from pressure by officialdom and prejudice.

Alexander Solzhenitsyn, perhaps the greatest Russian writer of this century, has also been subject to a barrage of criticism for his overtures to the West. Mr. Solzhenitsyn, saying that his life has been threatened by the KGB, reports that in the event he is imprisoned or killed, he has made provision for publication of "the main part" of his works, heretofore unpublished.

For the past 10 days, the Soviet Government has orchestrated a widespread campaign against these and other dissidents. Hundreds of letters and articles have been directed against these men in the pages of the Soviet press. Violinists David Oistiakh and Leo Kogan, warned that Sakharov is "stirring up the dying coals of the cold war." Composer Shostakovich accused him of "debasing the honor and dignity of the Soviet intelligensia."

It is feared that this campaign is being waged to prepare public opinion for legal action against Mr. Sakharov with the possibility of throwing him into a mental asylum, which is a common punishment for Soviet dissidents, or into jail.

Indeed, Mr. Sakharov suggested in Moscow Saturday that delegates to an international conference on schizophrenia in the Soviet Union next month demand to see people who, he said, were forcibly confined in psychiatric hospitals for political reasons. The American Psychiatric Association appeared to be taking up his suggestion.

This campaign of the Soviet Government to harass and intimidate those who have demonstrated enormous courage in advocating civil liberties, truth, and human decency, offends the conscience of free peoples everywhere. Indeed, in the First Circle, Solzhenitsyn asks:

> Aren't writers supposed to teach, to guide? . . . And for a country to have a great writer—don't be shocked, I'll whisper it—is like having another government. That's why no regime has ever loved great writers, only minor ones.

I am therefore submitting a sense of the Senate resolution today which urges the President, in this period of relaxed international tensions and American-Soviet détente, to impress upon the Soviet Government the deep and growing concern of the American people with the continuing intimidation of these men and women who do not adhere to prevailing ideology.

It also urges the President to call upon the Soviet Government to permit the free expression of ideas by all its citizens in accordance with the Soviet Constitution and the Universal Declaration of Human Rights.

Finally, the resolution urges that the President use the medium of current negotiations with the Soviet Union, as well as informal contacts with Soviet officials, in an effort to secure an end to the repression of dissent.

Yesterday the National Academy of Sciences, in a telegram sent by Dr. Philip Handler, its president, to Dr. Mstislav Keldysh, president of the Soviet Academy of Sciences, warned that American scientists will refuse to participate in joint projects as long as Moscow continues to harass Mr. Sakharov. The cable stated:

> Harassment or detention of Sakharov will have severe effects upon the relationships between the scientific communities of the U.S. and the U.S.S.R. and could vitiate our recent efforts toward increasing scientific interchange and cooperation . . .
>
> Were Sakharov to be deprived of his opportunity to serve the Soviet people and humanity, it would be extremely difficult to imagine successful fulfillment of American pledges of binational scientific cooperation, the implementation of which is entirely dependent upon the voluntary effort and goodwill of our individual scientists and scientific institutions.
>
> It would be calamitous indeed if the spirit of the detente were to be damaged by any further action taken against this gifted physicist who has contributed so much to the military security of the Soviet people and who now offers his wisdom and insights to that people and to the entire world in the interests of a better tomorrow for all mankind.

The National Academy of Sciences is to be commended on issuing this bold statement of humanitarian concern and solidarity with its Soviet counterpart.

I was therefore extremely dismayed to learn that HEW Secretary Weinberger, upon his return from a tour of health facilities in the Soviet Union and Poland, sharply criticized the National Academy of Sciences for sending this telegram and for "firing brickbats through the daily press." Secretary Weinberger declared that Soviet-American scientific cooperation must not be affected by what he described as "an internal Soviet affair." I totally reject this callous and shortsighted position which demands that we ignore actions which suppress intellectual freedom and stifle dissent. I would hope that this attitude does not represent the official position of the administration. If it does, there is all the more reason for the Senate to pass this resolution with particular urgency.

I would hope, rather, that this body will follow the lead of the American scientists and approve a resolution which would put the Senate on record as opposing Soviet repression and intimidation.

Mr. President, let me emphasize that these Soviet actions also violate the obligations of the Soviet Union under article 5 of the "International Convention on the Elimination of All Forms of Racial Discrimination," which was ratified by the Soviet Union in 1969. This section guarantees:

> The right of everyone . . . to equality before the law, notably in the enjoyment of the following rights . . . the right to freedom of thought, conscience, and religion; the right to freedom of opinion and expression; and the right to freedom of peaceful assembly and association . . .

In addition, under article 19 of the "Universal Declaration of Human Rights"—a declaration that was unanimously adopted by the U.N. in 1948—

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of subject.

Last week, in ongoing trials against other Soviet dissidents, Soviet historian Pytor Yakir and economist Viktor Krasin gave chilling public confessions in which they admitted working for anti-Soviet organizations and receiving payment from Western journalists for distributing newsletters critical of the Soviet Union. For many, their memorized statements of guilt conjures up again the public confessions at the Stalinist public trials in the late 1930's and reminds us of the sham trials described by Arthur Koestler in "Darkness at Noon."

Mr. President, the pattern of persecution against dissidents closely parallels the persecution of those Jewish Soviet citizens whose only crime is to want to establish new lives in Israel. It also closely follows new incidents of government-sanctioned anti-Semitism, such as the shameless outbursts at the World University Games against Soviet Jews who voiced support for the Israeli team and against the Israeli basketball players themselves. The press reported that Soviet plainclothesmen roughed up Soviet Jews as they were leaving the games.

These most recent Kremlin crackdowns raise new questions about the importance of humanitarian concerns as détente with the Soviet Union is pursued. Solzhenitsyn's warning of "woe to any nation whose literature is cut off by the interposition of power" might eventually be heeded by the Soviet Union. But for now, this body must express its condemnation of such practices and urge that progress toward détente be accompanied by continued pressure on the Soviet Union for greater respect for human rights.

The resolution reads as follows:

> Whereas, physicist Andrei Sakharov, novelist Alexander Solzhenitsyn, historian Pytor Yakir, economist Viktor Krasin, and other citizens of the Soviet Union have demonstrated enormous courage and intellectual honesty in advocating and defending the importance of fundamental civil and political liberty, the necessity for the free and unrepressed dissemination of ideas, and the meaning of basic human decency although faced with increasing harassment and imminent danger of criminal sanction; and
>
> Whereas, the intensive and thorough campaign of the Soviet Government to intimidate and deter those who have spoken out against repression of political and intellectual dissent profoundly offends the conscience of a free people: Now, therefore be it
>
> Resolved by the Senate, That it is the sense of the Senate that the President of the United States of America shall take immediate and determined steps to—
>
> (1) impress upon the Soviet Government the grave concern of the American people with the intimidation of those within the Soviet Union who do not adhere to prevailing ideology; and
>
> (2) call upon the Soviet Government to permit the free expression of ideas by all its citizens in accordance with the Soviet Constitution and the Universal Declaration of Human Rights; and
>
> (3) use the medium of current negotiations with the Soviet Union as well as informal contacts with Soviet officials in an effort to secure an end to repression of dissent.

## DEFENSE AUTHORIZATION BILL, 1974—AMENDMENTS

### AMENDMENT NO. 475

(Ordered to be printed, and to lie on the table.)

Mr. BAYH. Mr. President, I am today submitting together with the distinguished senior Senator from Ohio, Mr. SAXBE, an amendment to H.R. 9286, the defense authorization bill, to delete continued funding for the Army's SAM-D missile system. The SAM-D's unit cost has escalated 350 percent since it was approved for development in 1967. It is seven times as expensive as the improved HAWK system it is supposed to replace, and the improved HAWK is a substantially new system just now beginning to be deployed. It is essentially a European weapon, justified for the protection of the 7th Army, yet our NATO allies have made it clear that they consider it much too sophisticated and expensive. Senator SAXBE and I have carefully reviewed studies of the SAM-D by the Research and Development Subcommittee and the General Accounting Office and are convinced that the SAM-D is precisely the type of "excessively expensive weapon system" which the Armed Services Committee in its report on this bill called upon the military to "resist."

This morning I testified before the Defense Appropriations Subcommittee setting forth in some detail what we believe to be the case against SAM-D. I ask unanimous consent that my testimony be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

### TESTIMONY OF SENATOR BIRCH BAYH

> Mr. Chairman, I very much appreciate the opportunity which you and the members of your Subcommittee are today giving to the other members of the Appropriations Committee and of the Senate to express our views on defense expenditures. A few weeks ago, the United States finally brought to an end its involvement in the Indochina war—the longest and in many ways perhaps the most costly war in our history. This year, therefore, seems to me to be a particularly appropriate time for us to take a serious look at the level of resources we are devoting to national defense and whether these resources are being spent wisely. In spite of the fact that we have ended military operations in Indochina and in spite of the fact that we have taken a significant step with SALT I towards an arms accord with the Soviet Union, the level of defense expenditure continues to grow, this year by $5.6 billion. I do not believe that such continued growth is necessary for the maintenance of a fully adequate defense posture.
>
> As Secretary Packard, one of the most respected experts in this field, noted in 1969: "The most certain way to waste resources is to spend hundreds of millions of dollars on a development and then conclude we will not need what we are developing." Likewise, as the distinguished Chairman of the Armed Services Committee, Senator Stennis noted in 1971: "If we can afford a permanent force structure of only one-fifth as many fighter aircraft or tanks as our potential adversaries—because our systems are about five times more expensive than theirs—then a future crisis may find us at a sharp numerical disadvantage." Although Chairman Stennis was speaking in terms of aircraft and tanks, we clearly face a similar situation with regard to expenditures on air defense. The warnings of responsible defense officials and

members of Congress against excessive complexity and cost in any one weapon system were apparently not heeded in the decision to go ahead with the weapon system I will discuss today.

I have taken the time to examine with some care the programs and projects for which the Defense Department has requested funding for this fiscal year. Included within that request are several weapon programs about which I believe serious questions arise that need to be answered before we in the Congress approve their funding. One such weapon system which I would like to discuss in some detail with the Subcommittee today is the Army's request for continued engineering development funds for its SAM-D air defense missile system. This weapon system could very well become the Army's version of the C-5A. Already its cost is 350% higher than estimated, but it is still seven years from production. Per unit it is more expensive than the F-14. Congress balked when the Main Battle Tank was to cost three times more than the M-60 tank it was to replace. SAM-D costs seven times more than the Improved HAWK now being deployed, according to current estimates.

In my view, the SAM-D program exhibits many of the characteristics identified with questionnaire weapons in the past. These include changing capability requirements, unrealistic threat assessments, persisting technical uncertainties, postponed testing, incomplete cost-effectiveness analysis, escalated costs for fewer units and inadequate justification for the quantities to be procured. I would like to address each one of these problems in turn.

The SAM-D system was originally conceived for defense against tactical or intermediate range nuclear missiles. The interception of such weapons required the development of a new and very rapid type of radar to combine the previously separated tasks of surveillance, target-tracking, and missile guidance as well as a very fast missile. However, after much of the initial development work had been done, both the contractor and the Army apparently concluded that effective interception of such missiles was simply *not* within the current state of the art. They then had a weapon system in search of a mission, and that has now become one of defense against manned aircraft. Yet in spite of this drastic change in mission, none of the technical characteristics were altered. There is good reason to believe that some of the SAM-D's characteristics which would be necessary if it were to be used against tactical ballistic missiles may actually be disadvantageous when directed against manned aircraft. For example, the wingless missile is easy to outmaneuver. SAM-D can be exhausted by decoys, can be destroyed by radar-seeking or infrared missiles, or simply by attack from the side or the rear. Each fire section is, after all, a high value target. The question arises then, are we not putting too many eggs in one basket?

### THREAT ASSESSMENTS

The essential justification for any weapon system must lie in our best assessment of what military threats our forces will be faced with in the future—in this case in the 1980's and 1990's. It we are to be able to make any rational judgment at all about how best to spend our defense dollar, it is crucial that we have the best possible estimates of our potential enemy's likely capabilities. Such assessments are the primary responsibility of the Defense Intelligence Agency, and it is my understanding that all the branches of our Armed Forces are expected to base their planning on the estimates that are provided by D.I.A. Yet inexplicably, the threat estimates on which the Army bases its case for the SAM-D are vastly different from those of D.I.A. Although the precise figures are classified, it is possible to speak in terms of rough comparisons.

The documentation supporting the threat which SAM-D will be required to counter is based on estimates made by the Army in 1970. When we compare these 1970 Army data with the D.I.A. estimates for the same period we find that as to aircraft models currently known to exist the Army's estimates are approximately 44% higher than those of D.I.A. As to models of aircraft not now known to exist but postulated for future development (Advanced Tactical Aircraft) the Army's estimates exceed those of D.I.A. by about 270%. In addition, the Army assumed that these future models would have two to six times more damage capability than do presently known models.

Furthermore, the Army assumes that strategic aircraft would be used for attacks against the 7th Army in Central Europe and estimates that the number of such aircraft available to the Soviets for this purpose to be 340% greater than the number postulated by D.I.A. I am, of course, no expert in strategic theory, but I would question whether either the Soviets or the United States would commit their strategic bomber forces for this purpose, particularly since we know that the Soviets have a very limited number of such strategic aircraft.

Moreover, if one looks at the most recent D.I.A. threat estimates (as of 1972) one continues to find essentially the same discrepancy. For example, the number of Advance Tactical Aircraft now postulated by D.I.A. continues to show a difference of over 250%. The major difference between the 1970 and 1972 D.I.A. estimates involves the assumed number of reconnaissance aircraft, as well as the time period for which present models will be retained. Thus, although the Army's and D.I.A. estimates as to current aircraft are basically similar, there remains the very substantial discrepancy as to future models.

Finally, and perhaps most importantly, the Army in its justification studies assumed that Army Air Defense would have to do the job all by itself by ignoring the contribution of United States Air Forces attacks on their airfields and allied air forces and air defense systems. If this is true, we in the Senate should perhaps reconsider authorizing the funds for maintaining the tactical air forces, as well as purchasing new aircraft such as the F-111 and the F-15.

### TECHNICAL UNCERTAINTIES

Although under the Department of Defense's own regulations major new weapon systems are not to be moved into engineering development until technical uncertainties are resolved by adequate testing, these requirements have been waived as to two crucial aspects of SAM-D. Most importantly the target-via-missile (TVM) guidance system which has no technical or operational precedent was never flight tested. This in spite of the fact that such a TVM guidance system had twice been rejected by the Navy, once with its Typhon system and later with its Aegis system, as being too risky and not necessary for an anti-aircraft weapon. The Army says that computer simulation testing has insured that the guidance system would operate properly. But by the time that the guidance system's capability is actually demonstrated, and there are those who doubt that it ever will be, we will have spent some $793 million on the program. Secondly, the critical warhead-fusing device which is again without technical precedent will not, under present plans, be flight tested for several years. In addition, there are other technical uncertainties which normally should be resolved before proceeding to engineering development which have not been adequately dealt with. Studies are apparently underway, for example, to determine how to provide SAM-D with a 860 degree radar coverage instead of the substantially more limited coverage of which the present phased-array radar is capable. Furthermore the phased-array radar has never been deployed for field use.

### HIGHER COSTS—FEWER UNITS

The most recent cost estimates of the total SAM-D system as of the end of 1972 are $4.377 billion. This compares with initial cost estimates made in 1967 of $4.031 billion. However, although the currently estimated total cost has thus increased by only about 9% since 1967, the planned procurement of SAM-D tactical fire sections has decreased 68% and the total number of missiles to be purchased has decreased 52%. Thus, the unit costs of one tactical fire section is now about three and one-half times the initial estimates, a level of cost escalation which we unfortunately are all too familiar with in other questionable weapon systems.

### SAM-D AND U.S. FORCE LEVELS

One technique which the military has used many times in the past in convincing Congress of the cost-effectiveness of a particular weapon system is to maximize the number of such weapons needed to protect U.S. forces in order to reduce the unit costs. In justifying the number of SAM-D units to be procured, the Army made the following assumptions, all of which appear to me to be highly questionable:

(1) That the United States will have more than three times the number of active divisions in Europe, as compared with the present level of four divisions, a number which itself seems likely to be reduced before the SAM-D becomes operational in the early 1980's.

(2) A world-wide force level of 21 and ⅓ active divisions, as compared with a present authorized strength of 11 and ⅔ active divisions.

(3) That the United States will be required to provide SAM-D defense not only for the 7th Army in Europe and related installations, but also for other logistic and port facilities. In other words, that our NATO allies will not be able to provide any such defense themselves.

(4) That a substantial number of SAM-D units will be moving at any one time and therefore be inoperative.

(5) That non-European U.S. forces throughout the rest of the world would be faced with the same threat in quantity and quality and therefore require the same level of SAM-D defenses. No justification is given for the extrapolation of the European threat levels to the rest of the world. Although, I am no expert, it is difficult for me to imagine that the North Koreans or the Chinese for example will possess the same degree of technical sophistication as do the Soviets.

### THE IMPROVED HAWK—AN ALTERNATIVE TO THE SAM-D

In 1972 the Army began deployment of a new air defense system for the field army which provided substantially improved effectiveness over the older Nike Hercules and basic HAWK. Although this system, called the Improved HAWK represented a modification of the earlier HAWK, it is in reality a significantly different and more sophisticated weapon. The Army itself acknowledged that "either the Improved HAWK or the SAM-D weapon system is capable of providing an adequate defense" but went on to conclude it would be more expensive to procure enough Improved HAWKS to meet its postulated threat than to develop SAM-D. The problem is that there is substantial reason to believe that the Army used quite different criteria in comparing the cost effectiveness of the two systems. For example, the operating costs of the Improved HAWK were expended over a period of 23 years, while those of the SAM-D for 15 years. More importantly, the Improved HAWK is already in production and deployment has begun. Thus the technical and cost risks associated with any new weapon system have now been minimized. The SAM-D system has, however, just entered engineering development, and as I have previously pointed out, certain critical capabilities of the system have yet to be demonstrated. If the Army had used identical criteria in simulation and costing for the two air defense systems, their conclusion might well have been that Improved HAWK was more cost effective than the SAM–D. Accordingly, the General Accounting Office in their study concluded that a new, updated cost-effectiveness study may well be warranted in view of the "changes made to the SAM–D performance characteristics, quantities, and additional changes contemplated, as well as the product improvement program on the Improved HAWKS." The significant cost increase that has taken place since the 1970 study by itself may justify a new cost-effectiveness study.

The Army's primary justification for the technical superiority of SAM–D lies in its planned ability to fire at many targets at the same time. Since many ballistic or tactical missiles can be fired at the same time, simultaneous engagement of many incoming warheads is crucial if that is the threat you are attempting to counter. Aircraft attacks, on the other hand, are generally flown in waves with several minutes between flights, for a total attack duration of 15 to 30 minutes. Against attacking aircraft, therefore, sustained firepower is normally more important than instantaneous firepower. In this respect the Improved HAWK has a substantial advantage due to its much shorter reloading time. For example, during a 30 minute attack period, the Improved HAWK with its substantially more rapid reloading capability could fire many more missiles, particularly when deployed in the TRIAD configuration, whereas SAM–D would be limited to the missiles initially on its launchers.

### CONCLUSION

In conclusion, Mr. Chairman, the SAM–D is an extremely complex and extremely costly system which demonstrates many of the problems we have seen arise with other weapon systems in the past. Its cost growth has already exceeded in percentage terms what we experienced with the C5–A. It is seven times more expensive than the system that it is designed to replace. The cost per unit is so high that it will become a high value target to the enemy and the level of resources that the enemy will have to expend to defeat SAM–D may well be less than the level of resources we are devoting to its production. Within any reasonable budget projection we will not be able to purchase enough SAM–D's to provide total protection for our forces.

I would seriously question whether devoting a large percentage of the funds available to the Army for research and development of SAM–D is wise in view of the repeatedly stated urgent need for modernization of the basic Army. Weapons such as forward air defense, tanks, anti-tank weapons, guns, and support vehicle, form the backbone of any modern Army. Congress has clearly decided that funds available for defense expenditures are not unlimited. Therefore, it is essential to make careful decisions about how these limited funds are allocated among the Army's needs.

Perhaps most importantly, the question arises of the wisdom of spending $1.1 billion in research and development alone on a weapon system whose justification is based on the Soviet threat to our forces in Europe. As the Subcommittee is aware there is a substantial likelihood that the level of these forces will be reduced (and certainly not increased as the Army has assumed) through discussions currently going on between the NATO countries and those of the Warsaw Pact. Continuation of full scale engineering development of SAM–D would not appear to be warranted since we do not know what, if any, U.S. forces will remain in Europe by the 1980's.

Experience has shown us that the United States has generally been unable to sell systems as expensive and complex as SAM–D either to our allies or to neutral countries. Given the current difficiency in our balance of payments, shouldn't we rather develop systems which can be more readily sold to these countries?

Finally, for almost 25 years the United States has borne the major burden of defending our European allies. Such expenditures were essential in the earlier post World War II period. It is now time, however, for these nations to assume an increasing share of this burden. Since as I have indicated the SAM–D is justified by the Army itself as being necessary for the purposes of European defense, wouldn't it be reasonable to expect those nations to pay for or at least share a major portion of the costs of SAM–D's development? As Senator Stennis indicated in the floor debates on the Defense Authorization bill last year this "system is extremely costly, and I believe that a more simple system can be available. Also, this is a weapon primarily welcomed by NATO to be used by the Army in Europe, although it can be used in the United States against attack from aircraft." (Congressional Record, vol. 118, pt. 20, p. 26027.) If our NATO allies are not now willing to participate in its development costs, then I can see no reason why we should bear this burden alone. If the Europeans believe in the end that they cannot afford a system as costly and complex as SAM–D, I would raise the question whether, with so many demands on our limited resources, can we?

## NOTICE OF SUBCOMMITTEE HEARINGS RELATING TO LEGAL FEES

Mr. TUNNEY. Mr. President, I wish to announce that the Judiciary Subcommittee on Representation of Citizen Interests will hold 6 days of public hearings on the subject of legal fees. The schedule is as follows:

Wednesday, September 19, 9:30 a.m., room 2228, Dirksen Office Building: Consumer access to attorneys.

Thursday, September 20, 10:00 a.m., room 2228, Dirksen Office Building: Minimum fee schedules.

Monday, October 1, 9:30 a.m., room 2228, Dirksen Office Building: Government regulation and subsidy of legal fees—The Black Lung Benefits Act of 1972.

Tuesday, October 2, 9:30 a.m., room 6226, Dirksen Office Building: Government regulation and subsidy of legal fees—Veterans' benefits under title 38 and the Criminal Justice Act.

Thursday, October 4, 9:30 a.m., room 2228, Dirksen Office Building: Court awards of attorneys' fees.

Friday, October 5, 9:30 a.m., room 2228, Dirksen Office Building: Court awards of attorneys' fees—continued.

The members of the subcommittee, in addition to myself, are Senators Ervin, Bayh, Cook, and Mathias.

## ADDITIONAL STATEMENTS

## SENATOR MUSKIE DEFENDS SENATE WATERGATE HEARINGS

Mr. MANSFIELD. Mr. President, last evening, in a speech to students at Georgetown here in Washington, our distinguished colleague from Maine (Mr. Muskie) put into focus the relationship between the legislative work of the Congress, and the Watergate hearings being conducted by the Senate Select Committee on Presidential Campaign Activities.

His analysis concluded that the Watergate inquiry is "a vital exercise of one of the legislative branch's most important functions: to inquire into all aspects of Government, to expose official impropriety, to inform the Nation and to lay out a record on which we can build new safeguards for the democratic process."

But he also pointed out that the Senate inquiry "does not preclude constructive legislation for a stronger society"—the kind of work we in Congress have been performing throughout this year, and which we expect to continue.

Mr. President, I commend Senator Muskie's speech to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### SPEECH BY SENATOR EDMUND S. MUSKIE

The Watergate affair is an essential part of the public business. It is not a wallow for partisans; it is a revelation for all Americans of the danger that unchecked executive authority inevitably poses to individual liberty. And until all its facets have been uncovered and understood, we will not be in a position to correct the damage that has been done to our confidence in ourselves and in our leaders.

The President and the Vice President would like you to believe that the Senate inquiry into the complex of political corruption that goes by the name of Watergate is somehow more damaging than the corruption itself. Their attitude is simple: the fault is not with those who abused power but with those who want that abuse investigated and corrected.

The tactic is an old one—discredit your critics when you can't contest their facts—but it is a hollow evasion of responsibility. It reminds us of the Bourbon Kings of France of whom Talleyrand reputedly said: "They have learned nothing and they have forgotten nothing."

The President's long message to Congress yesterday was part of the same political exercise. His legislative laundry list was apparently meant to remind us of his priorities, but, if that was the purpose, the effort miscarried.

In the year that Watergate has shown us how urgently we need substantive changes in the way we finance political campaigns, the President urges us to establish a commission to study campaign reform.

We know the illness; what we need is a cure, not another diagnosis.

In the year that Watergate has revealed the deception with which government secrecy infects our system, the President urges us to enact new secrecy laws that risk establishing a degree of official censorship never known in the United States. We have seen how officials can cover up their misbehavior; what we need is positive steps for disclosure, not more protection for wrongdoing.

In the year that has given us the highest rate of inflation in our history—because the President mismanaged the wage and price control authority Congress gave him to use—we do not need more pious lectures on economy in government. And we do not need programs that ask the poorest Americans—those worst hit by price increases—to bear an even greater sacrifice.

Finally, in a year that has seen the President treat Congress only as an obstacle, not a responsible partner in government, we do not need any more homilies about "the preservation of the requisite powers of the executive branch." What is at issue is the preservation of the constitutional balance between the branches of government.

A President who refuses to execute the

laws Congress enacts and who questions the authority of the courts to judge the legality of his actions is a President who seeks to place himself above the law. The President can call for cooperation with the Congress as much as he likes, but he will have to understand if we treat his promises with a measure of skepticism.

A long time ago John Mitchell asked observers of the Administration to "watch what we do, not what we say." The President's real willingness to work together with the Congress has yet to be tested. When the test comes, his actions are going to count far more than his words, even if the words now are lightly flavored with honey.

Until he decided that the separation of powers doctrine made a convenient cloak for him to hide behind. President Nixon was far more interested in monopolizing power than separating it. Impounding funds Congress had appropriated—to gut programs he had opposed but failed to stop; sending bombers to devastate Cambodia in secret—because he knew Americans would not tolerate such actions if they were known; withholding information from Congress—in order to paralyze the legislative branch by denying it knowledge; and destroying the Office of Economic Opportunity by putting at its head a man whose name he would not even send to the Senate for confirmation—in all these ways the President attempted to usurp authority. And in all these attempts, the Congress and the courts forestalled him.

The impoundments have been invalidated by court order. The Cambodian bombing has been halted by order of Congress. The illegally appointed head of the OEO has been forced out of office. And the courts are now considering a congressional subpoena against the President for the tape recordings he thinks only he and H. R. Haldeman have the right to hear.

So the system designed in 1789 has proved that it can still respond to crisis. The response comes slowly and many of us may think it comes imperfectly. But compromise has been the genius of American politics since the Constitution was written. Over time, consensus—not confrontation—has been the guarantee of our liberty.

Of course, we are not going to move completely out of our impasse unless the President now undertakes a more responsible course. First of all he must stop blaming Watergate for the collapse of his other policies.

The cost of living is not going to go down by making Watergate go away. Our reservoirs of fuel are not going to fill up by deflating the interest in Watergate. High prices—high interest rates—high pollution levels—high stakes in the Middle East—have nothing to do with the low political practices of the Committee to Re-elect the President or the insistence that those practices be uncovered and punished.

Secondly, the President must see that he can only regain the people's confidence if he moves to restore confidence in the integrity of the institutions his associates perverted. As long as he continues to condemn his critics—instead of the criminal behavior they attack—and to blame them for all his troubles, he will also continue to deny dissent its rightful place in our political tradition.

If he gives only lip service to the notion that campaign practices—particularly campaign financing—must be reformed, he leaves the door open to a future of fraud in our political life.

If he refuses to put new restraints and adequate outside supervision on the agencies which are supposed to enforce the laws, he cannot free the government's power to tax, to investigate and to regulate from the threat of political influence.

His power to harm our system has been curbed by exposure of that power's misuse. But his power to strengthen the system and to redeem his errors is limited only by his ability or willingness to see the need for action.

Without the Senate investigation into the Watergate scandal, we might not know how close we came to tyranny. And we might not have found within the system the strength to resist. But the hearings have educated Americans again to the value of their liberties and to the constant danger that government poses to individual freedom.

For that educational function, if for no other, the Senate hearings must continue. Until we know the full story of the corruption Watergate symbolized in our political process, we will not know enough about how to prevent another near calamity. Until Americans understand fully how their right to vote—their voice in shaping policy—can be stifled by electoral fraud, they will not know how to protect that power from another attack.

The work the Senate committee is doing—and must finish—is not, as President Nixon claims, a partisan scheme to destroy him or a debilitating obsession with minor misconduct. It is, rather, a vital exercise of one of the legislative branch's most important functions: to inquire into all aspects of government, to expose official impropriety, to inform the nation and to lay out a record on which we can build new safeguards for the democratic process.

It is possible, of course, that the committee will hear new and conclusive evidence that either exonerates the President of charges of conspiracy or implicates him so deeply that impeachment becomes necessary. It is possible, as well, that the committee will obtain proof that men in the Democratic Party broke the rules of fair political conduct in the 1972 campaign. Perhaps such evidence will deepen public cynicism about all politicians.

But the committee's work, as I see it, must inevitably strengthen the resolve of citizens to take part in politics, to clean it up if necessary, to monitor the behavior of those who win office, to make the concerns of ordinary men and women heard and felt in government. For the main lesson of Watergate is that remote and isolated rulers become oppressors, that only an open political process can produce a government the people trust.

The overriding job of the Watergate investigation is to make the truth known and by doing so to restore the public's confidence in the institutions of government.

The Senate committee is not a perfect instrument for determining all the truth. Issues of criminal guilt or innocence can only be resolved in court. But the truth about official conduct that is grossly improper—if not technically illegal—can only be made known through a congressional investigation that has captured America's attention.

I do not think the process hurts us; we can stand to know the truth about ourselves because our basic decency is far stronger than our temporary wrongdoing.

While the investigation proceeds, of course, the Congress and the President have every opportunity to work out their other differences and to enact legislation that will help us meet our pressing social needs. Continuing the investigation does not foreclose any other options.

We can tackle our energy problems constructively if the President will recognize that conservation of existing fuel supplies is as important as the development of new ones. We can bring government spending under control if the President will recognize that the defense of our freedom depends as much on sound government programs in our cities as it does on military force abroad.

We can build the schools, the hospitals, the housing and the transportation systems we need if the President will recognize that the Federal Government's obligation to ensure a fair distribution of the revenues it collects is as important as the desire to make that distribution more responsive to varied local conditions.

Energetic investigation of wrongdoing does not preclude constructive legislation for a stronger society. The President poses a contradiction that is not real. If he will drop that pose and implement his promises of cooperation, the Congress will respond to fair treatment, as it will not respond to threats.

I was moved and deeply disturbed when one young man who had worked in the White House told the Senate committee that he would advise others considering careers in Washington to "stay away." I can appreciate his personal despair, but I cannot share it.

I would hope that four years from now when you are ready to graduate, government work will appear to many of you as it does to me—an honorable choice, an opportunity to engage private energies in making public choices, a chance for dedication to translate ideals into practice.

If the Watergate scandal were to contribute only to greater citizen apathy in America, it would have done greater damage to our system than the actual attempt to subvert one political campaign or sidetrack one criminal prosecution. But my reading of the reaction to Watergate is more hopeful.

It has reaffirmed the ability of the Congress, of the courts and of an aroused citizenry to check the abuse of executive power. And it has reconfirmed our duty as Americans—the duty of demanding the truth from those who hold public trust and the duty of participating vigorously and critically in the process of choosing policy and the individuals who make it.

It may even have taught us the patience Emerson urged on his countrymen 125 years ago when he wrote: "Eager, solicitious, hungry, rabid, busy-bodied America: catch thy breath and correct thyself."

## SENATOR CHARLES MATHIAS

Mr. SCOTT of Pennsylvania. Mr. President, I was very pleased to note that the distinguished national columnist, Marquis Childs, has recently written about the services that the Senator from Maryland, Senator Charles McC. Mathias, has performed and about the respect and trust which he has inspired throughout this body and his home State.

Senator Mathias' stature has risen during his 8 years of service in the House of Representatives and his 5 years with us in the Senate. And I am confident in predicting that the best is yet to come.

I would like to ask unanimous consent that Mr. Childs' column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Independence Keeps Mathias Clean

(By Marquis Childs)

Washington.—The late summer smog in this capital is compounded by the miasma of doubt and suspicion that is a heritage of Watergate.

How much President Nixon has done to dispel the fog by his televised address the days ahead will tell. As for his Vice President, Spiro T. Agnew, the cloud hangs heavy over his head growing out of the charges of corruption and fraud in the letter sent him by the United States district attorney of Baltimore, George Beall, notifying him he was under investigation.

Since the Agnew story broke with the charges based in large part on Mr. Agnew's record as Governor of Maryland, the media have had a field day with the politics of that ancient state. A catalogue of horrors is starred with the conviction of former Senator Daniel B. Brewster for accepting a bribe.

Against the background of gloom and doom, this observer would like to record an example that goes directly contrary to the current cynicism that all politicians are crooked. In Senator Charles McC. Mathias, Jr., Maryland has one of the ablest men in the Congress. A Republican, he defeated Mr. Brewster, a Democrat, in 1968, which means he will be up for re-election next year.

Mr. Mathias is one of perhaps a dozen Republican Senators who on issue after issue have asserted their indepednence. They have been in effect cut off from the Nixon administration almost as completely as though they were of the opposition party.

Asked when he had last visited the White House, Mr. Mathias recently replied: "When I was there the last time the food was good, the wine was good and Lyndon Johnson was a gracious host."

Although the election is a year off, these independents, along with other Republicans of similar outlook in the House, are brooding on their fate as they touch base with the voters. It is not merely the shadow cast by Watergate over their party. As he did in the 1972 campaign, the President has been blithely indifferent to the fate of congressional candidates.

One of the White House lists that surfaced during the Watergate hearings was of 100 Democrats friendly to the administration in whose districts Republican efforts were to be held to a minimum.

Mr. Mathias and likeminded Republicans realize they will be on their own in 1974. Even if the President should decide to give aid and succor to those who have often dissented from his policies, it is doubtful how much his help would count. Last year he went into Rhode Island to boost the former secretary of the Navy, John H. Chaffee, to defeat Senator Claiborne Pell. Mr. Pell won by a comfortable margin.

Voting to cut off all bombing in Cambodia, Mathias opposed the August 15 compromise as a capitulation to the President's war policy. He voted against the President's nominees to the Supreme Court, Clement F. Haynsworth and G. Harold Carswell. The last was the unforgiveable sin, as the President made plain when he excoriated the Senate for turning down the two candidates he had proposed.

Countering the cynical admonition that surfaced in the Watergate hearings—stay out of politics and government—Mr. Mathias came up through the political ranks. After service in the Navy, he was assistant attorney general of Maryland and later was elected to the House of Delegates. He served four terms in the House of Representatives before his election to the Senate.

While it is much too early to indulge in predictions about '74, if able, independent men like Mr. Mathias are knocked off next year the tragedy of Watergate will be multiplied by a geometric ratio.

His roots are deep in his native state and he has moderate independent means, an advantage in these times when the smell of outside money sets the bloodhounds of righteousness to baying.

As in other states, the Democrats in Maryland are in disarray. They are snarled in the same web of campaign contributions and contributions in which Mr. Agnew is caught up.

The Vice President as a Marylander is continuing to make the correct political moves. He went down to the Eastern Shore to speak at a bull roast for Robert E. Bauman, the Republican candidate in a special election to fill the seat of William O. Mills. Accused in a matter involving campaign contributions, Mr. Mills committed suicide, rated a victim of the current atmosphere. Those who knew Mr. Mills were astonished, saying he could easily have refuted the charge.

What happens before the grand jury in Baltimore will determine far more than the fate of the former Governor who was plummetted into national fame in the vice presidency. The outcome can set the stage not only for '74 but for 1976.

## RECOVERY OF STOLEN SECURITIES

Mr. JACKSON. Mr. President, confidential information provided by the Senate Permanent Subcommittee on Investigations to the New York district attorney's office has led to the recovery of $1 million in stolen securities and the arrest of three men connected with organized crime.

The New York district attorney's office reported that two suspects—Anthony Vinci and Robert Longo—were arrested Wednesday night in a Manhattan hotel with $500,000 in New York City Housing Agency bonds which had been stolen last month from the brokerage firm of duPont, Walston & Co., Inc.

The suspects, who had planned to fence the stolen securities through organized crime channels, were charged with grand larceny, conspiracy, and other crimes, the district attorney's office said.

The district attorney's office has also recovered in the past few days another $500,000 in bearer bonds which were being smuggled out of the firm of Hornblower & Weeks-Hemphill Noyes through the mails. As chairman of the Investigations Subcommittee, I wish to announce that this recovery also resulted from information provided by the subcommittee. A third suspect, Charles Tuzzolini, was arrested Thursday morning in connection with the thefts from Hornblower & Weeks. He was also charged with grand larceny and conspiracy.

The district attorney's office reported that the three suspects are connected with organized crime.

Both of these recoveries, which total $1 million, came about because of information provided by the Investigations Subcommittee to the New York district attorney's office.

Since 1971, when this subcommittee first began looking into the role of organized crime in the stolen securities racket, Senate investigators have exchanged information with local, State, and Federal law enforcement agencies.

The district attorney's office in New York—with the district attorney himself, Frank Hogan, showing the way—has been especially cooperative with this subcommittee in assisting us. I am pleased to note that we are able to help Mr. Hogan and his investigators as well.

The most recent recoveries of stolen securities bring to a total of $5.5 million those stolen stocks and bonds and other securities which have been captured, because of confidential information provided by the subcommittee to law enforcement offices.

The Investigations Subcommittee is conducting an inquiry into the worldwide traffic in stolen and counterfeit securities and the key role played by organized crime in this racket.

Witnesses before the subcommittee have testified that stolen, lost, or bogus securities totaling $50 billion are being used to perpetrate frauds in the United States and in major European banking centers such as Zurich, Brussels, and London.

Previously, subcommittee investigators provided information to law enforcement agencies that led to these actions:

In Los Angeles on April 29, 1971, the Organized Crime Strike Force of the Department of Justice recovered $400,000 in stolen U.S. Treasury bills and arrested four persons for possession and interstate transportation of stolen securities.

On May 5, 1971, the New York District Attorney's Office recovered $2.6 million in stolen stock certificates and arrested seven persons who were charged with grand larceny.

In Las Vegas on May 26, 1971, the Clark County Sheriff's Department recovered a $1 million U.S. Treasury note which had been stolen from the Chase Manhattan Bank. Three persons were charged with possession of interstate transportation of stolen securities.

On September 17, 1971, the Justice Department's Organized Crime Strike Force in New York recovered $500,000 in five stolen U.S. Treasury bills and arrested one person who was charged with their possession.

One recent witness before the Investigations Subcommittee asserted that if all the securities in the free world were called back to be authenticated, there would be a serious economic setback, because so many of them are stolen or counterfeit.

This is a problem that poses a threat to the very foundation of our economy—and the economies of most of the major nations in the world.

The uses of stolen securities are varied. Organized crime figures use them to establish credit and as collateral on loans. They launder them in Switzerland and elsewhere.

There was a time when the underworld was not interested in stealing securities. They wanted cash only. But that has changed. Today securities are a commodity much in demand among criminals, particularly in organized crime as the big crime syndicates are moving more and more into legitimate pursuits as a way to "cleanse" their illegally gained profits.

The Investigations Subcommittee has already documented in considerable detail the way the traffic in stolen securities operates. Our inquiry is continuing. New hearings will be held this fall.

This recent action by the District Attorney of New York is a timely reminder that organized crime will exploit any situation where it can turn an illicit profit.

## INTERNATIONAL FINANCIAL INSTITUTIONS — SWEARING-IN CEREMONY

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD the remarks of Secretary of the Treasury Shultz at the swearing-in ceremony of various U.S. officials of the International Financial Institutions, and an article published in the New York Times on Monday, August 20, 1973.

I am particularly pleased by the swearing in of Kenneth Guenther as Alternate U.S. Executive Director of the Inter-American Development Bank. Mr. Guenther was a member of my staff as economic adviser until he assumed this new and distinguished post for which he was confirmed by the Senate.

There being no objection, the remarks and article were ordered to be printed in the RECORD, as follows:

### THE HONORABLE GEORGE P. SHULTZ, SECRETARY OF THE TREASURY, REMARKS AT THE SWEARING-IN CEREMONY OF VARIOUS U S. OFFICIALS OF THE INTERNATIONAL FINANCIAL INSTITUTIONS, AUGUST 22, 1973

We are swearing in to office today four men—Charles Sethness as U.S. Executive Director of the World Bank, and Hal Reynolds as his Alternate; Rex Beach as the U.S. Director of the Asian Development Bank; and Kenneth Guenther as the Alternate U.S. Executive Director of the Inter-American Development Bank. This event marks another important step in the foreign economic policy of the United States. Along with John Porges and Jesun Paik who have already assumed their duties as Inter-American Bank Executive Director and Asian Bank Alternate Director, respectively, we now have a full management team representing the U.S. in the international financial institutions.

Little public attention has been focused on the important programs of these institutions, and I would like to say a few words about them and the important work of our representatives here.

Development is something that goes on quietly day after day. These banks rarely get headlines except for the more dramatic help they give in the wake of natural disasters or their efforts to finance rebuilding after a destructive war.

Development takes time, persistence, patience and dedication. It also requires sound financial and economic policies. These men have the difficult task of seeing that the effort is well managed—that sound policies are followed and that U.S. interests are looked after. They must be hard-nosed bankers, diplomats of no small moment, besides having the dimension of vision and understanding. It is one of the most important tasks and yet, by its nature, if it is well done, it will not be heard of—there will just be steady progress.

Last September, President Nixon called for a "total reform of international economic affairs" to help shape the world for a generation of peace. He warned the members of the International Monetary Fund of the increasing potential for economic conflict as the danger of armed conflict decreased. His words strengthened a growing worldwide sentiment that something had to be done, some action taken, and we began a series of negotiations for reform.

Through the IMF's Committee of Twenty we are approaching agreement on international monetary reform. In several weeks I will go to Tokyo where international reform discussions will officially begin with other trading nations of the world under the General Agreement on Tariffs and Trade to expand world trade and reduce trading barriers. The Congress is presently considering comprehensive legislation on trade submitted by the President to enable us to participate meaningfully in these negotiations. The third part of our foreign economic policy, to which the President is deeply committed, concerns our relations with the developing countries. He feels strongly that the programs of the international financial institutions, which are of vital importance to those countries, are an integral part of a cooperative international economic system.

To encourage and sustain this move toward global cooperation, it is essential that the United States maintain its fair share in these programs. Our active role ensures a beneficial effect on the world system in general and, in particular, on developing countries, as well as for ourselves. These multilateral programs constitute part of a balanced development assistance program and are a complement to our bilateral programs. They represent a shared responsibility and leadership.

Let me take just a moment to describe these institutions:

The World Bank Group is the global structure. It has three parts to it—the Bank itself, the International Development Association or IDA, and the International Finance Corporation. The Bank is the oldest of the institutions with over 25 years experience, and plays a leading role in coordinating economic assistance. It brings the collective judgment of its 122 member nations into play to promote sound economic policies in borrowing countries.

The regional development banks were created to bring special expertise to bear on development problems in the particular geographic areas they serve. The Inter-American Development Bank, established in 1959, is made up of the U.S., Canada and 22 Latin American countries. The Asian Development Bank was established in 1966, with the strong support of the U.S., and now has 24 Asian members and 14 non-Asian members. The African Development Bank, established in 1963, consists of 36 independent African nations but is increasing its scope as Europeans and Japanese join the new African Development Fund. The U.S. is not yet a member.

These banks do a great deal to further economic growth and stability in the less developed countries—which is just as important to us as it is to those countries themselves. This encourages growth in world export and import markets and, as the less developed countries grow, opportunities for the U.S. also grow. In these times of inflation, developing countries are a prime source for raw materials and for semi-manufactured products. One-third of the raw materials used by the U.S. come from less developed countries and this ratio is rising. And we export products to these countries. Year after year the United States has had a positive balance of trade with them—even in 1972 when we had a deficit balance with other countries.

The international financial institutions also promote participation by the private sector in the financing of development assistance through the sale of their bonds in the private capital markets. In addition, both domestic and foreign private investment in the less developed countries increases when the banks finance infrastructure and other important economic development projects.

I think you can see why we feel it is important to continue our participation through our contributions to these banks. We pay our "fair share" in funding the international financial institutions—a fair share internationally negotiated on the basis of burden-sharing considerations. Our contribution is roughly related to the U.S. relative economic strength among the donors to the specific institution. This burden-sharing relieves some of the pressures for bilateral aid. For example, the World Bank and the Asian Bank are prepared to head a group of member nations to mobilize resources from many capital-exporting countries for reconstruction aid to Indochina.

The President strongly supports the programs of the banks. They form a key component of his foreign economic policy. Our shares in them fit in with our budgetary and balance of payments objectives. They make good sense. And, they are an efficient and effective instrument for channeling our support to the less developed countries.

We are working hard to help shape the programs and the procedures of the international financial institutions so that they are responsive to the legitimate joint concerns of Congress and the Executive Branch. We have already been able to bring about a number of desirable changes and adaptations in the banks. The key to further success in doing so clearly lies in the professional skills of those who represent us.

We will continue negotiating with other nations in our efforts to resolve our differences and to "erect a durable structure of peace in the world from which all nations can benefit." The road to that goal includes working for international cooperative improvements through the international financial institutions—a task which these four gentlemen will now help us to carry out.

[From the New York Times, Aug. 20, 1973]

### UNITED STATES LAGS IN GIVING SUPPORT TO BANKS AIDING POOR NATIONS

(By Edwin L. Dale, Jr.)

WASHINGTON, August 19.—An unfinished highway in Ohio, the Japanese ancestry of a Senator and the Chicano constituency of a Congressman are among the many forces at work in Congress that are threatening to frustrate what the Nixon Administration regards as an important part of its foreign policy.

The issue, which gets little public attention at home but a good deal abroad, is the lagging American contribution to the resources of the internation lending institutions that aid the economic development of the poor countries. The institutions are the World Bank, the Inter-American Development Bank and the Asian Development Bank.

For about five years the Administration has encountered gradually increasing difficulty in winning Congressional assent to the agreements establishing the United States contributions which are now far behind schedule. Four separate committees of congress are involved, and even if the committee stage is hurdled, floor action in both House and Senate is increasingly unpredictable.

With the United States foreign aid program dwindling—the bid for this year barely passed by the House last month provided less than $1-billion in economic aid for the whole world apart from Indochina—the contributions to the international banks are seen by the State and Treasury Departments as the chief remaining sign of United States interest in the nearly 100 poor countries.

"This frustrating business is complicating things for us elsewhere," says Paul A. Volcker, Under Secretary of the Treasury for Monetary Affairs. "It is subject to the interpretation that we are going isolationist. In matters like trade and monetary reform, the less-developed countries are less enthusiastically with us than they might otherwise be."

Congress, or at least an apparent majority of Congress, seems to be unimpressed. This is the current evidence.

The United States is more than a year behind schedule in the current round of contributions by the rich countries to the International Development Association, the World Bank's subsidiary, which helps the very poorest of the poor countries with easy-term loans. The other industrial countries had to volunteer their subscriptions before they were legally obliged to do so to prevent the association from stopping operations altogether last year.

Congress has still not approved the United States pledge of $100-million to the comparable division of the relatively new Asian Bank first agreed upon three years ago.

Congress last year approved only half of the pledged amount for the Inter-American Bank, and a further cut is threatened this year in the $500-million requested.

#### LABORIOUS TALKS ON SHARE

In all of these cases, the United States share of the contribution was worked out in laborious international negotiations, conducted mainly by the Treasury Department. The United States share in the International

Development Association, for example, is 40 percent.

Why the Congressional hostility?

One part of the answer is exemplified by the case of Representative Clarence F. Miller, Republican of Ohio, a member of the appropriations subcommittee that handles funds for the international banks.

Part of Mr. Miller's district lies in Appalachia and President Nixon's budget austerity has resulted in the halting of construction on a half-finished highway there. Mr. Miller is furious and believes that his district should come ahead of little-known international lending agencies of which his constituents have barely heard.

Representative Edward R. Roybal, Democrat from Los Angeles, is another member of the subcommittee. Mr. Roybal is said to have soured on the inter-American Bank because, in his view, it has not hired enough Spanish-speaking Americans.

### INOUYE FEARS JAPAN

An ironic case is that of Senator Daniel K. Inouye, Democrat of Hawaii, who heads the Senate appropriations subcommittee, Senato Inouye, a member of the Watergate investigating committee, was called "that little Jap" by John J. Wilson, the attorney for H. R. Haldeman and John D. Ehrlichman, the former Presidential assistants.

In fact, one of Senator Inouye's chief concerns about the international lending agencies is his fear that Japan is coming to dominate the Asian Bank, which makes him reluctant to approve a large United States contribution. Meanwhile, because of Congressional delays and doubts, the American share in the capital of the bank has dropped to only 9 percent.

Of deeper importance than these particular cases is the general apathy, and even hostility, in Congress about foreign aid in general, of which the international banks are an important part. The House passed this year's foreign aid bill by only five votes, and at one point last year the Senate voted to kill the aid bill altogether.

### SOME "REAL RISKS"

"One of our problems," says John M. Hennessy, Assistant Secretary of the Treasury for International Affairs, "is that the people in Congress never hear from home about this."

Mr. Hennessy and others argue that the United States would take "real risks" if, by finally abandoning its contributions to the international banks, it showed a lack of interest in the underdeveloped countries.

"There is a race for raw materials in the world," he points out. "We cannot be pushing for international solutions in the trade, monetary and investment fields and fail to pick up our part of the burden in the fourth area—proving resources for the developing countries.

Meanwhile, most of the other industrial countries have expressed a willingness to approximately double their contributions in the next round. Given the problem of Congressional attitudes, the United States negotiators have been able to make no commitments so far.

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## A CHILD'S "COST OF LIVING"

Mr. CRANSTON. Mr. President, if phase 4 is rough on adults, it is just plain disastrous for kids.

Last year, Los Angeles schoolchildren paid a nickel for a half-pint of milk, provided under federally subsidized school feeding programs.

This fall, that half-pint of milk will be sold to children for 10 cents—a 100-percent increase—and some children will not be able to afford it.

There are a number of reasons why this is happening: Presidential budget-cutting, diminished or exhausted food surpluses, and congressional failure to resolve Senate-House differences in an agriculture spending bill.

The crunch on kids could not come at a worse time. A number of American families are having to skip some of the traditional staples of good nutrition—meat, fish, eggs—in the face of climbing prices. For children from poor families, who seldom eat as well as they should at home, the meal at school can be the nutritional high-point in an otherwise skimpy daily regimen.

But this month, thousands of American schoolchildren will find school meals featuring more soybean meal and less meat, little or no cheese, and milk either nonexistent or well up in price. In Denver schools, even napkins and straws are no longer free: For the first time, these "frills" will cost a penny apiece.

Mr. President, I know that the overall problem of price increases in school feeding programs is as complex as it is serious. But there is at least one area in which the Congress can take immediate action to resolve a part of the crisis, and that is in the milk subsidy program.

Prior to the August recess, the Senate passed an agriculture appropriations bill that raised funding for the special milk program from $25 million to $97 million, roughly equal to last year's spending level. But by not yet meeting in Senate-House conference on the bill, the Congress has allowed the administration to fund the milk program at about one-quarter the Senate amount, or $25 million.

Mr. President, in the interest of California children and children throughout the country, I urge the Senate conferees to maintain the Senate position on this urgent program, and see that the full $97 million is available at once.

Mr. President, I invite the attention of Senators to an article in the National Observer, of September 3, entitled "Inflation Also Shows Up on School-Lunch Menus." I ask unanimous consent to print the article to which I have referred in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Inflation Also Shows Up on School-Lunch Menus—Vanished Surpluses Help Boost Prices; Soybeans, in Disguise, Invade Lunchrooms

American youngsters will be paying more for lunch and enjoying it less as they head back to school after summer vacation. Lunch prices in many schools will be raised a nickel, and most of the hamburgers will contain soybean meal. For a lot of youngsters, there won't be a glass of milk to wash it all down with.

School-lunch supervisors are dealing with the same problems worrying supermarket shoppers—shortages of certain food items (macaroni and peas, nearly everywhere) and astronomical rises in the price of meat. Besides that, the schools are being hurt by the evaporation of Federal food surpluses. Until this year, the Agriculture Department shared these surpluses, which it had acquired over the years through its price-support programs, with school lunchrooms. But most of the surplus items, such as cheese and dried milk, are gone.

### STALLED SUBSIDIES

Milk prices will be higher at many schools because the Agriculture Department has suspended a Federal milk-subsidy program that last year allowed school lunchrooms to sell half-pints of milk for a nickel. Milk is going up to 10 cents in many schools; schools in Salt Lake City will hold it to 8 cents, but it'll be 11 cents in Austin, Texas. A $97 million appropriation that might restore the subsidy is tied up in a Senate committee.

Many items counted on in the past "just aren't available this year," says Wade Bash, chief of the food-service program for Ohio schools. He told the Associated Press: "We will try to provide as much meat as possible. If some foods are scarce, the supervisors are going to have to use all the ingenuity they have to provide meals that will meet the nutritional requirements of the Federal Government."

To be eligible for Federal cash-subsidy programs, a school must provide "cooked edible protein," a fruit or vegetable, and bread and butter. "Cooked edible protein" has heretofore been taken as Government gobbledygook for "meat"—but no longer.

### "MECKLENBURGERS"

Schools in Charlotte and Mecklenburg County, North Carolina, are mixing soybean meal with ground beef, cutting the price to 30 cents from 35, and calling it a "Mecklenburger." Soybean "stretchers" are being used in Columbia, S.C., and Portland, Ore., too. But cooks there are calling their dishes by the same old names.

Most school districts are raising the price of lunches a nickel to help absorb costs that have risen as much as 50 per cent on some foodstuffs. Denver schools haven't. But students there soon will have to pay for some extras that used to be free. Straws, napkins, and lumps of sugar will sell for a penny, tabs of mustard and catsup and squares of margarine will go for 2 cents, and soda crackers will sell for 3 cents a package.

Some schools officials are trusting to a little luck. Tom Stokes, director of food services for Richland County District No. 1, which includes Columbia, S.C., is "blind-ordering" meat. "We're having a hard time finding it at any price, and we're ordering some not knowing until it arrives how much it will cost," he says.

### TVP LOAF

Stokes, like lunchroom operators in other cities, is using "TVP," for textured-vegetable protein, as a stretching mix with meat loaf, spaghetti, and sloppy joes. TVP is made of soybeans, and up to 30 per cent of meat loaf can be TVP. Ground beef, which Stokes paid 62 cents a pound for last year, now costs 91 cents, and chicken legs and thighs have gone to 87 cents a pound from 42 cents. Precooked broiled-beef patties have gone to 12 cents from 7, and the price of beans and peas is nearly 20 per cent higher.

Columbia youngsters needn't look for Vienna sausages. "Vienna sausages are just out of sight," says Stokes. "The last time I looked, they had gone up $11 a case. They might be higher now. I don't know, and I'm not even going to look. I'm not buying." His lunchrooms still serve milk for a nickel, but extra milk costs 10 cents a half-pint.

Mrs. Ruth Smalley, co-ordinator of food services for the largest school district in Portland, Ore., expects to serve a lot of fish, which remains cheaper than most meats. She, like her colleagues, finds that the meat shortage pinches hardest in the upper grades: "The older children simply expect bigger portions." Her meat suppliers promise "adequate" supplies, but most of them want only short-time contracts. She expects shortages in flour.

### PARENTS UNDERSTAND

In Salt Lake City, lunchroom supervisors report "a great deal of hedging" by canners, who despite bumper crops of fruit and vegetables, seem to be holding back supplies. James C. Gatherum, director of food services for Granite School District, the largest in Salt Lake City, reports that he contracted three times for 300,000 pounds of frozen, precooked, chicken-fried steaks and three times the contracts were canceled. He cut his potato costs in half by contracting to buy a farmer's crop before it was planted.

Some school officials find little parent grumbling about the situation. "People are pretty realistic about food prices," says Portland's Ruth Smalley, whose costs have jumped 11 per cent over last year. "If the housewife sees her own costs go up in the supermarkets, she knows that the lunchroom's costs are going up too."

Like resourceful housewives, lunchroom supervisors are forced to use novel solutions. The lunchroom supervisor in Yukon, Okla., was so strapped for red meat when school opened that the school bought its own herd—five head of cattle—and slaughtered them.

## PRESIDENT NIXON'S LAUDABLE SUPPORT FOR THE ARTS AND HUMANITIES

**Mr. PERCY.** Mr. President, it was my pleasure to read in the September 1, Washington Post a column by Clayton Fritchey applauding President Nixon's continuing dedication to the improvement of the national status of the arts and humanities. I would like to add my own expression of appreciation to Mr. Fritchey's commendation, for I do, indeed, believe that President Nixon deserves tremendous credit for his support for the National Endowments of the Arts and Humanities.

During Mr. Nixon's Presidency, authorizations for the two endowments have increased from $22.575 million in fiscal year 1969, to $80 million in fiscal year 1973. Also of great significance is the fact that proportionate appropriations levels have risen dramatically during this time. In 1969, less than 56 percent of the authorized amount was appropriated; in 1973, 95 percent was available for expenditure.

As a trustee, the Kennedy Center, representing the U.S. Senate, I have seen first hand the consistent support the Nixon administration and the first family has given to this magnificient national asset.

Without the President's enlightened and enthusiastic cooperation and support for the arts and humanities, the notable gains achieved would certainly not have been possible.

For those who did not have the opportunity to read Mr. Fritchey's fine article, I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 1, 1973]

### A BRAVO FOR NIXON ON THE ARTS

(By Clayton Fritchey)

A reader writes to ask, "Isn't there anything the President can do in the eyes of the press that is right?" The question was posed before the appointment of Henry Kissinger as Secretary of State, which the media has generally approved, but, beyond that, there is one sphere in particular where Mr. Nixon deserves high marks. Perhaps more than any other President, he has been doing right by the arts and humanities.

In all the years before he went to the White House, Mr. Nixon seemed no more enthusiastic about art than about communism. The only thing more surprising than the President's trips to Peking and Moscow has been his good will tour of Parnassus, which has left the Muses in a state of wonder.

When Mr. Nixon unexpectedly began showing interest in the arts soon after he took office in 1969, some skeptics thought it would be a flash in the pan, but instead White House support for the National Council of Arts and the National Endowments of Art and Humanities consistently increased, with notable results.

Unless something untoward occurs, Congress will soon send to the White House the greatest federal appropriation ever made in this country for the once sadly neglected arts.

Before Congress recessed, the House (309–63) passed a bill giving the Endowment $145 million a year. Earlier, the Senate (76–14) voted $160 million for fiscal year 1974, $208 million for 1975 and $400 million for 1976, or a total of $760 million for three years.

When Congress reconvenes, a joint conference committee will reconcile the differences between the House and Senate, but with White House backing there seems little doubt that the compromise will be on the generous side. In any case, the appropriation will break all records, for even the House sum is nearly double the $76 million appropriation for the current year.

When Roger Stevens retired as the first chairman of the National Arts Council in 1969, the budget for the Endowments was only around $15 million a year. Even so, he predicted the appropriation would reach $150 million within a decade. It sounded like a pipe dream at the time, but the dream has been realized in a mere four years.

Mr. Nixon, of course, does not deserve all the credit, for both John F. Kennedy and Lyndon Johnson helped pave the way for public and political acceptance of government support and encouragement of the arts, a policy long established elsewhere in the Western world.

Senators like Jacob Javits (R-N.Y.), J. W. Fulbright (D-Ark.) and Claiborne Pell (D-R.I.) have also for years been generating bipartisan support on Capitol Hill for aiding the arts. Javits, in fact, introduced the first such bill as far back as 1949. In floor debate this year, he argued that a country "that can devote $80 billion a year for the military can in a bicentennial year (1976), devote $400 million for cultural enrichment."

John F. Kennedy's efforts were cut short by his death, but Lyndon B. Johnson enthusiastically carried on at first. Both the Arts Council and the Endowments were established by law under him in 1965, with an opening budget of $5 million. But he lost interest when the intellectual and artistic community turned against him over his Vietnam policy.

Fortunately, Roger Stevens, who knows the art of politics as well as the art of show business, saved the program by his courtship of Congress. He kept reminding the legislators that the U.S. budget for the arts was about 14 cents a year per person as against $1.40 in Canada, $2.80 in West Germany, $5.50 in Austria.

Mr. Nixon supplanted Mr. Stevens with Nancy Hanks and Michael Straight as chairman and deputy chairman of the Arts Endowments, and they, too, have been effective both on and off the Hill. But there is no voice as compelling as the President's, as Mr. Nixon showed when he said:

"We could be the richest nation in the world, the most powerful nation in the world, the freest nation in the world—but only if the arts are alive and flourishing can we experience the true meaning of our freedom, and know the full glory of the human spirit."

Seven years ago, Meg Greenfield wrote in The Reporter: "In Washington, art is sometimes called culture, and it is thought, on the whole, to be good. The sentiment is not new, but its widespread acceptance is new, and so is the growing conviction that the federal government has an important part to play in the artistic life of the nation." That just about sums it up, even today.

## REVIVAL TIME FOR LOUISVILLE

**Mr. HUDDLESTON.** Mr. President, an article in the September 8 issue of Business Week magazine noted the fine redevelopment that has been undertaken in the city of Louisville, Ky., under local leadership.

I commend the accomplishments of this project and believe that it can serve as a model for urban planners in other areas.

I, therefore, ask unanimous consent that this article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### REVIVAL TIME FOR LOUISVILLE

Until a redevelopment effort led by business jelled four years ago, Louisville, Ky., had shared the experience of other medium-sized U.S. cities in watching its downtown deteriorate while suburbs absorbed new growth. "Louisville had always been long on antiques and old silver but short on risk-taking capital," explains lawyer Gordon B. Davidson, a former president of Louisville Central Area, Inc., a 12-year-old civic and business group whose rejuvenation efforts are now showing impressive results.

A five-year, $2-billion redevelopment plan combining public and private effort has left the worries over risk money mostly a memory. The plan for the city's downtown and Ohio River front has already given Louisville a new skyline, a reclaimed waterfront, and a growing reputation as a revived regional business center. The new look is drawing civil leaders from such cities as Memphis, Dayton, Birmingham, and Flint for a "how to" lesson in central city development.

Among the major projects at the heart of Louisville's revival:

A traffic-free shopping mall, lined with trees and outdoor cafes. The three-block retail hub is the nation's third-largest pedestrian shopping mall. Its $1.5-million cost was financed by a special city tax on owners of property along the mall, at the suggestion of merchants and landlords themselves. Besides upgrading the quality of central city life, the mall is putting more dollars into store cash registers. In the two months since it opened, area retailers report a 15% sales increase over last year. New businesses are also coming to the mall. This fall, for instance, Ayr-Way Stores, Inc., a discount subsidiary of Associated Dry Goods Corp. that has four stores in suburban Louisville, will move into the mall with its first downtown outlet.

Plaza/Belvedere, a 7-acre, $13.5-million park, dedicated in May, on the riverfront. Beneath the complex of overlooks, landscaped courts, walks, and fountains is a 1,600-car municipal garage. The Plaza/Belvedere has been a catalyst for adjoining projects built on land reclaimed from auto wrecking yards and crumbling warehouses that once blighted the city's waterfront. Already the $6-million Louisville Trust Co. building, the

$4-million American Life & Accident tower, and the $10.5-million, 29-story Galt House hotel have been built adjacent to the Plaza/Belvedere. More than $62-million in additional construction is planned for the waterfront. Among the projects are a Hilton hotel, two 30-floor apartment buildings, office buildings, and shops.

Also included is a $14-million complex containing county and city courts and public safety headquarters, now under construction. And a convention and exhibition center is planned to link the shopping mall with the riverfront. The state has guaranteed $25-million for the new convention facility.

The city's bankers, who provided interim financing for the Plaza Belvedere three years ago when high interest rates discouraged selling of municipal bonds, have spurred the building boom with their own office towers. Along with Louisville Trust, the city's two largest banks have built high-rise corporate headquarters in the past five years. And the addition of more than 100 floors of modern office space to the city's rental stock has helped keep business from leaving the city. For example, Celanese Corp. was considering moving its downtown regional offices, but decided to stay after the new bank towers went up.

A youth movement. Louisville has never lacked plans for development—merely the push to bring them to fruition. The shopping mall, for example, was originally proposed in 1943, when Wilson Wyatt, Sr., was mayor. Now, 30 years later, the mall is a reality partly because of the efforts of 29-year-old Wilson Wyatt, Jr., the former mayor's son and the current executive director of Louisville Central Area, Inc.

The talents of young civic and business leaders like Wyatt has been a key element in Louisville's new push. Says Maurice D. S. Johnson, chairman of Citizens Fidelity Bank & Trust Co. and a former resident of Kansas City, Mo.: "When I came to Louisville, I was struck by the fact that two nationally known companies, Kentucky Fried Chicken and Extendicare, were staffed by extremely young men. They were living examples that inspired a lot of young people as entrepreneurs."

The mix of youthful leaders and older, more established men gives the city what some Louisvilleans call their "unstructured power structure." Says lawyer Davidson: "There is no single power source. Consensus of just a few people can really make a project go."

Self-help. Most urban planners see such collaborative effort as the key to redeveloping other medium-sized cities. Says Crawford C. Westbrook, vice-president of Victor Gruen Associates, the Los Angeles planning firm that helped Louisville update its downtown plan in 1969: "There was no Mayor Daley or Mayor Lindsay, and the federal government isn't playing Big Daddy any more. Redevelopment is almost exclusively a matter of leadership. And when a community like Louisville becomes self-reliant, it can always find the resources."

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## CIGARETTE BAN

Mr. ERVIN. Mr. President, I was dumbfounded during August to read in the newspapers that Mr. Richard O. Simpson, Chairman of the new Federal Consumer Product Safety Commission, said that the Commission would attempt to regulate the sale of cigarettes.

Last year when the Senate and House were considering the Consumer Product Safety Act, which created the Commission and endowed it with certain powers and responsibilities, we were very careful to include language to the effect that tobacco and tobacco products are exempt from the jurisdiction of the Commission.

Section 3 of the act, which defines the term "consumer product" for purposes of the statute, expressly states that the definition "does not include . . . tobacco and tobacco products."—Public Law 92–573). The Senate report on the bill (92–835) contained the unqualified statement that—

> Tobacco and tobacco products were completely exempted from the definition of consumer product by the Committee on Commerce.

It is as crystal clear as the noonday sun in a cloudless sky that Congress intended the Commission to have no authority to regulate the sale of cigarettes. Nevertheless, Mr. Simpson argued that such power could be construed from the act. This strained interpretation is based on section 30, which transferred the functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act of 1960, as amended, to the Commission. It is faulty on two grounds.

First, the legislative history of the Federal Hazardous Substances Act reveals beyond doubt that it never was intended to apply to tobacco and tobacco products. During hearings of amendments to the act in 1964, Deputy Commissioner John L. Harvey of the Food and Drug Administration testified:

> I think it is reasonably clear that the act does not presently cover cigarettes or tobacco. Certainly the coverage of cigarettes was not in contemplation of the Congress at the time of the enactment of the bill and the law would need some modification to cover cigarettes properly because it deals separately with different classes of hazardous substances, such as toxic, corrosive, irritant and so forth.

Congressman Kenneth A. Roberts of Alabama then said:

> I agree with you because I sponsored that act and I remember that we certainly did not at that time intend to cover tobacco. (*Hearings before the House Committee on Interstate and Foreign Commerce on Cigarette Labeling and Advertising*, 88th Cong., 2nd Sess., 45 (Comm. print, 1964).)

Second, the Congress has seen fit to preempt the area of cigarette regulation by enacting the Federal Cigarette Labeling and Advertising Act of 1965 and the Public Health Cigarette Smoking Act of 1969 (15 U.S.C. 1331 et seq.). These two statutes were passed subsequent to the Federal Hazardous Substances Act of 1960, and they represent the pronouncements of Congress relative to the regulation of cigarette sales in interstate commerce. Coupled with the express exemption of tobacco and tobacco products from the Consumer Product Safety Act of 1972, they leave no doubt that the Commission has absolutely no power to regulate cigarettes.

Should the Commission attempt to do what it has no authority to do, then as chairman of the Committee on Government Operations I would have no alternative but to conduct oversight hearings.

The independent regulatory agencies are creations of Congress, and they have only the powers that Congress has expressly given them. Certainly they have no authority whatsoever to legislate, which is exactly what the Commission would do if it attempts to regulate cigarettes.

Perhaps the Commission would do well to retain a constitutional lawyer for its staff, for judging by Mr. Simpson's statements the Commission could use some good advice about what the Constitution so clearly states in article I:

> All legislative Powers herein granted shall be vested in a Congress of the United States. . . .

We have seen too many attempts on the part of the Executive to legislate in the past few years. We certainly do not need such attempts on the part of the independent agencies.

Mr. President, I wrote to Mr. Simpson on August 31 in protest of his statements. I ask unanimous consent that the text of that letter, along with editorials from the Raleigh, N.C., News & Observer and the New York Times, and news reports from the Wall Street Journal and the New York Times, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENT OPERATIONS,
*Washington, D.C., August 31, 1973.*

Hon. RICHARD O. SIMPSON,
*Chairman, Federal Consumer Product Safety Commission, Washington, D.C.*

DEAR MR. CHAIRMAN: I was amazed to read of your comments on August 22 that the Federal Consumer Product Safety Commission may attempt to regulate the sale of cigarettes. The Commission very clearly has no such authority.

Section 3 of the Consumer Product Safety Act of 1972, P.L. 92–573, which created the Commission, very clearly states that the term consumer product "does not include . . . tobacco and tobacco products." The language of this statute could not be clearer: tobacco and tobacco products are expressly exempt from the regulatory powers of the Commission.

Furthermore, the functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.), which were transferred to the Commission by section 30 of the Consumer Product Safety Act of 1972, did not include any authority whatsoever to prohibit the sale or distribution of cigarettes.

The legislative history of the Federal Hazardous Substances Act reveals beyond doubt that it does not apply to cigarettes. During discussion of amendments to the Act in 1964, Deputy Commissioner John L. Harvey of the Food and Drug Administration testified:

"I think it is reasonably clear that the act does not presently cover cigarettes or tobacco. Certainly the coverage of cigarettes was not in contemplation of the Congress at the time of the enactment of the bill and the law would need some modification to cover cigarettes properly because it deals separately with different classes of hazardous substances, such as toxic, corrosive, irritant and so forth."

Congressman Kenneth A. Roberts of Alabama then said:

"I agree with you because I sponsored that act and I remember that we certainly did not at that time intend to cover tobacco." (*Hearings before the House Committee on Interstate and Foreign Commerce on Cigarette Labeling and Advertising*, 88th Cong., 2nd Sess., 45 (Comm. print, 1964).)

Since the statutes do not give the Commission power to regulate tobacco or tobacco products, any attempt to do so would constitute a usurpation of the legislative function of Congress by the Commission. Needless to say, any such violation of the doctrine of separation of powers shall not be taken lightly.

The Committee on Government Operations has oversight jurisdiction over all Executive and independent agencies. As Chairman, I would have no alternative but to conduct oversight hearings should the Commission attempt to expand so radically its powers by fiat without any statutory authority whatsoever.

To my mind, your premature announcement that the Commission would attempt to regulate cigarettes was highly improper. The role of the independent agencies, including the Commission, is quasi-judicial in nature, and your statements indicate to me that you have prejudged this issue before the evidence is even presented. The statements have placed you in the irregular position of prosecutor, judge and jury.

Only the Congress possesses the constitutional power to regulate interstate commerce, and it has in no way delegated authority to ban the sale of cigarettes. Therefore, I would suggest that the Commission stick to the job ordained for it by the enabling legislation.

Sincerely,

SAM J. ERVIN, Jr.,
*Chairman.*

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[From the Raleigh (N.C.) News and Observer, Aug. 29, 1973]

### CIGARETTE BAN IDEA ARROGANT

For the time being others must take Richard O. Simpson as seriously as he takes himself. He's the new chairman of the Federal Consumer Product Safety Commission, and he says he expects that regulatory agency to ban cigarettes. Naturally, a number of tobacco state officials and cigarette industry spokesmen have hit the ceiling with outcries of shock and disbelief.

There is not much chance that Simpson will succeed, because the idea is so fundamentally foolish. It also rests on a very dubious legal basis. But there is no doubt that his agency can propound a cigarette ban, give it the force of administrative law and put tobacco interests to a great deal of trouble and expense to undo his mischief.

Motivating Simpson, evidently, is the personal belief that people simply shouldn't smoke. And he has determined, on grounds satisfactory to himself and other tobacco haters, that a cigarette ban is possible by employment of his commission's rule-making authority and provisions of the federal Hazardous Substance Act of 1960.

The 1960 act defines as toxic or hazardous "any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation or absorption through any body surface." That is a perfectly sound law to regulate various chemicals, compounds and gases, but there is not the slightest thing about its legislative history to suggest that Congress meant it to be applied to cigarettes. Indeed, specific legislation aimed at cigarettes, because of the smoking-and-health controversy, was passed in 1965 and amended in 1969. No critic of the health hazard of smoking, before or since, except for Simpson, has suggested any legal basis ever existed for attempting to ban cigarettes.

What is behind Simpson's campaign, besides his personal feelings, is a formal request that he says he anticipates from several members of Congress asking him to take this very step. Foremost among the petitioners-to-be is Utah's Sen. John E. Moss, long an arch foe of tobacco.

It would save a lot of people a lot of trouble if this campaign were called off. At bottom it is an arrogant, meddlesome and self-righteous effort. It won't succeed in any ban on cigarettes, but it may give some stature to the evil notion that, for good enough reason, the government really could dictate to millions of citizens in quite personal ways.

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[From the New York Times, Aug. 26, 1973]

### EDITORIAL—ANOTHER PROHIBITION?

Richard O. Simpson, chairman of the newly established Federal Consumer Product Safety Commission, entertains the "serious expectation" that his agency may ban the cigarette once and for all. The commission would, of course, have to go through an elaborate process, including a thorough review of the Surgeon General's findings on the health hazards of smoking, as well as the arguments of cigarette manufacturers and others. Even then, it might come up with a ban on only those cigarettes that exceed a level of tars and nicotine which the commission considers safe. But the surprising thing is that so drastic a move should be contemplated or even thought to be feasible.

The law that created the commission last fall exempted tobacco from the agency's range of action, but the law did authorize it to administer the Hazardous Substances Act. Mr. Simpson takes that law as his source of authority—since it gives the Government the right to ban products on the basis of the severity and frequency of the injuries they cause. The Surgeon General has held that cigarettes are an important factor in cancer, emphysema, coronary disease and other grave disorders, but domestic cigarette consumption continues to rise in spite of required warnings on the package and in advertising. Hence, Mr. Simpson reasons, a complete or partial ban may have to be the next step.

Putting aside both the logic and the legal questions involved, we have grave doubts that a Government ban would be a wise approach. This newspaper long and consistently urged measures to compel warnings of the type now legally required. We warmly supported official action to educate the public on the dangers of smoking. But from the first it has been our position that it "should be enough for public health agencies to discourage the habit by means short of prohibition."

That is still our position. Forty years after its repeal, the failure of the Eighteenth Amendment is still vivid in the national memory—along with the evils of bootlegging, gang warfare and general contempt for law that it brought in its train. On much the same reasoning, we have supported the recommendation of the National Commission on Marijuana and Drug Abuse that penalties be abolished for the private use and possession of marijuana.

A ban on those cigarettes violating a fixed safe-content standard is a more reasonable approach, not too different from present Government limits on harmful additives and other potentially dangerous substances in food and drug products. But, with all respect to Mr. Simpson's courage and integrity, we believe that even this type of control would prove unenforceable and, in the end, undesirable. The most effective function for Government is to make certain that the health hazards are fully understood. It would be as much a mistake to penalize those who refuse to heed such warnings as to penalize a glutton for overeating.

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[From the Wall Street Journal, Aug. 24, 1973]

### UNIT AIMS TO CURB, OR BAN, CIGARETTE SALES BY LISTING SMOKES AS HAZARDOUS SUBSTANCES

WASHINGTON.—A new battle on cigaret smoking is heating up.

The fledgling Consumer Product Safety Commission plans to propose regulations that could ban the sales of some, or all, cigarets as hazardous substances.

The plan, disclosed by the commission chairman, Richard Simpson, after a speech in Newark, N.J., comes as a surprise—and, indeed, a shock, to the tobacco industry. For one thing, the Consumer Product Safety Act, which created the independent commission, specifically excludes tobacco products from the agency's jurisdiction. However, Mr. Simpson said the commission can use its authority under another law, the Hazardous Substances Act, to regulate cigarets as a substance that causes injury or illness to humans.

The plan quickly drew fire from Tobacco Institute Inc., which termed the proposal "a sheer bureaucratic arrogation of power." The institute is the cigaret industry's trade association. "The plain fact is that the federal Hazardous Substances Act of 1960 wasn't designed for, or intended to be used in any way, in connection with questions relating to cigaret smoking and its alleged effects on health," said Horace Kornegay, president of the Tobacco Institute. "We cannot and won't voluntarily comply in an overzealous attempt to terminate the existence of an industry that has been part of America since 1607," he added.

Although the commission believes it has the authority to move on its own, Mr. Simpson said it plans to act on the basis of a petition being prepared by Sen. Frank Moss (D., Utah). Sen. Moss' petition would propose maximum allowable levels for tar and nicotine in cigarets. The Senator has been a leading sponsor of anti-cigaret legislation, including the 1971 law banning cigaret advertising on television.

In Louisville, Brown & Williamson Tobacco Corp. said it hadn't any comment to make on the commission's proposal, but noted that it was "following the matter with interest."

Lorillard Corp., owned by Loews Corp.; R. J. Reynolds Industries Inc.'s tobacco division; Philip Morris Inc. and American Brands Inc. also declined comment.

The commission's plan also is a surprise because attempting to ban cigarets is an unusually controversial move for a new agency. The five-member commission began operations in May. Yet it does have unusually broad powers to regulate the safety of a wide range of consumer products, stretching from toys to mobile homes.

One tobacco-state Congressman, Rep. Wilmer "Vinegar Bend" Mizell, a North Carolina Republican, attacked the commission's plan as an "unlawful" and "audacious empire-building scheme." Rep. Mizell, a former major league baseball pitcher, also threw a high, hard one at Mr. Simpson by calling for his resignation. The Congressman said he plans to introduce legislation that would specifically exempt tobacco products from the Hazardous Substances Act.

A spokesman for the Product Safety Commission responded that the commission and Mr. Simpson plan to remain firm in their position. He noted that Mr. Simpson actually had publicly mentioned the possibility of regulating cigarets before Wednesday but that the idea hadn't received wide publicity. "This isn't a trial balloon. He's serious" about the cigaret plan, the spokesman added.

One reason the commission is considering acting against cigarets is that the consumption of cigarets has continued to rise despite health-warning labels required on cigaret packages in recent years under a program administered by the Federal Trade Commission. The FTC earlier released a statistical report showing that the number of cigarets sold in the U.S. last year increased for the third straight year, to 561.7 billion cigarets, up from 547.2 billion in 1971.

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[From the New York Times, Aug. 23, 1973]

### CIGARETTE BAN TO BE ASKED BY FEDERAL SAFETY OFFICIAL

(By Gerald Gold)

NEWARK, August 22.—Richard O. Simpson, chairman of the new Federal Consumer Product Safety Commission, said today that he was prepared to seek a ban on all or some cigarettes if, as expected, an examination confirms the surgeon general's findings in recent years on the hazardous nature of cigarette smoking.

Mr. Simpson said he was awaiting a petition from Congressmen calling for the commission to set standards for cigarettes, although the commission could act on its own.

The staff of Senator John E. Moss of the Senate Commerce Committee has begun studying the possibility of such a petition. Mr. Simpson said he felt congressional backing would enhance the chances for successful action against cigarettes.

A spokesman for the Utah Democrat said the staff was working on a petition that would call for the commission to set maximum levels for tar and nicotine in cigarettes. Those brands with contents above that level would be banned.

Mr. Simpson agreed that such an approach probably would be the opening one by the commission. He said he could not say specifically whether any cigarettes now on the market would be able to meet the standards, since the guidelines had not been drawn up yet.

Mr. Simpson mentioned the possibility of action on cigarettes in passing in an address this morning at the Product Liability Prevention Conference at Newark College of Engineering attended by several hundred representatives of professional, technical and trade groups. Later, in an interview, he expanded on his comment.

He said the commission has the power to set cigarette standards or ban cigarettes under the Hazardous Substances Act, which defines a toxic substance as "any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation or absorption through any body surface."

The Consumer Product Safety Act, which set up the commission, specifically exempts tobacco from the commission's purview, but the Hazardous Substances Act, which the commission also administers, does not.

Despite the labeling of cigarette ads on television and radio. Mr. Simpson noted, cigarette sales have increased. The Agriculture Department has reported that domestic cigarette consumption went up 2.5 percent in the 10 months that ended in April, 1973.

### POWERS OF COMMISSION

The influence, Mr. Simpson said, is that the labeling and the TV-radio ban have not worked. Under the Hazardous Substances Act, the commission can halt the sale of a product if it finds that, despite cautionary labeling, the product is still a hazard.

After receiving a Congressional petition, the commission procedure would be to examine the petition, go over the supporting evidence (including the findings of the surgeon general of the Public Health Service), propose regulations or standards and publish them in the Federal Register, receive comments from industry and others and then, assuming it stood by the finding that cigarette smoking was harmful, publish final regulations banning some or all cigarettes. The whole procedure would take a number of months.

Mr. Simpson said he expected that any action or proposal would be challenged at the outset by the industry and that the issue would probably go before the courts.

"His expectations for a fight are exactly right," a tobacco industry spokesman said in response to questions. The spokesman, Horace Kornegay, president of the Tobacco Institute, the trade association of the major cigarette manufacturers, said:

"It thought it had been understood for years that the Hazardous Substances Act does not include tobacco. The Food and Drug Administration has taken that position. The act was never contemplated to cover tobacco. It was to prevent household injuries, such as children swallowing cleaning fluids and that kind of thing."

Mr. Simpson maintained, however, that the "reasons for labeling cigarettes dangerous ought to stand up under the Hazardous Substances Act, too." He said that among the criteria for banning products was the severity and frequency of the injuries they cause, in this case "cancer and death".

He emphasized that "we have a serious expectation of achieving a ban," and asserted that he felt the agency "should and will be able to achieve it."

In his address at the Newark College of Engineering, Mr. Simpson stressed the "motivations" that he hoped would encourage full compliance by industry with the agency's regulations and actions on product safety in all fields.

"One of these 'motivations' is criminal penalties," he said. "Whereas corporations can pay civil penalties, people who work for corporations pay criminal penalties. I am personally inclined in a criminal proceeding to seek out the board chairman or the corporate president, in addition to other officials, because I believe they are in the best position to assure corporate compliance."

However, he noted that he had no intention of conducting a "witch hunt" of products and strongly urged industry to work with the agency in voluntary compliance. Mr. Simpson said that so far he felt everyone he had talked with in industry had generally been cooperative.

He said his agency had completed compiling a priority list of product categories in order of the safety hazards they presented and would make the list public next week.

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## THE 75TH ANNIVERSARY OF THE AMERICAN HOSPITAL ASSOCIATION

Mr. PERCY. Mr. President, I wish to bring to the attention of my colleagues in the Senate that today, September 12, 1973, over 7,000 hospitals and health care institutions nationwide are commemorating the 75th anniversary of the American Hospital Association. These institutions, and the 19,000 personal members of the association share an objective that is important to all Americans—the provision of better health care services.

This 75th anniversary of AHA, then, should be a time not only for recognition of the association's existence and its accomplishments over the years, but for supporting the services of its allied State and metropolitan hospital associations throughout the Nation and the efforts of our community hospitals.

Since its earliest days, when eight hospital superintendents met to exchange ideas and information in Cleveland, Ohio, the purpose of the American Hospital Association has been to develop ways in which health services may be made more effective, accessible, and convenient for more people. Often we forget that as recently as the turn of the century, our hospitals were predominantly almshouses or shelters for the sick poor, the aged, and the mentally ill. The hospital was considered by many communities to be a last resort for persons in distress.

Largely as a result of great strides in medical science, public demands for the benefits of those advances and the efforts of such organizations as the American Hospital Association in meeting the challenges of change, today's hospitals have emerged as the center of the medical world and vital components of their communities. Progress, however, has also brought a more critical attitude about health services generally. There is rising concern, for example, about gaps in service, rising costs, and time lags in bringing the latest scientific discoveries to the patient's bedside. Health care institutions have stirred public interest and concern, and the attention of all branches of Government, including the Congress. While often critical, this increasing attention to health affairs is primarily an expression of the growing value and importance that the public places in a viable health care system.

We can, therefore, be grateful to organizations, such as the American Hospital Association, which dedicate their efforts to health care administration. The AHA conducts hundreds of educational programs and conferences for administrators and health care personnel each year. It maintains a research program, in cooperation with public and private resources, that results not only in valuable data for all who hope to improve the delivery of health care services but also brings to light the potentials of new organizational designs that can lead to a more effective and coordinated health care system of the future.

Of special interest to Members of Congress are AHA's activities with respect to Federal health legislation and Federal health agencies that work to implement such significant programs as medicare. The association has been active in the development of a proposal for national health insurance and for improving the health care system. It has taken an active role in the quest, through legislation, for improved emergency medical services, for assuring the Nation's blood supply, and for establishing standards of quality for health care. The association has been in the forefront of efforts to reduce inflation in the health services industry, and has struggled with the paradox of holding down costs while maintaining the highest quality care possible as the scope of services expands to meet health needs.

Thus the association during the past 75 years and most notably in recent decades, has developed a constituency as broad as its interests and accomplishments—hospitals, nursing homes, and other long-term care facilities, ambulatory care centers, planning agencies, individual providers of health care services, and representatives of patients and their families. Its spectrum and concerns are as broad as the spectrum of health care in America.

In serving its constituency well, the American Hospital Association has served all of us. I feel, therefore, that we should express our congratulations to AHA on its 75th anniversary and our hopes for the successful continuation of its efforts in the years ahead.

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## WASHINGTON POST SCORES SCHOOL MILK CUT

Mr. PROXMIRE. Mr. President, last week the New York Times on its editorial page sharply criticized the administration for slashing the school milk program from $97 million to $25 million as well as the Congress for failing to quickly reverse this action. I was pleased to place this editorial in the CONGRESSIONAL RECORD.

At the same time I overlooked a similar editorial by another of the Nation's finest newspapers—the Washington Post. This editorial also condemns this year's school milk cutback—pointing out that it will mean far less nutrition for the Nation's schoolchildren since, with the rising cost of producing milk, even last year's $97 million would have been inadequate.

I am very hopeful that the House-Senate conferees on the Agriculture appropriations bill will meet soon to approve the Senate school milk increase to $97 million. Every day we wait is a day of inadequate nutrition for the schoolchildren of the United States.

I ask unanimous consent that the Washington Post editorial be placed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 31, 1973]

### NO MONEY FOR MILK

It was inevitable that the rising costs of food would include school lunch programs in the dismal ascent. Local school systems report such rises from 35 cents to 45 cents for elementary school lunches and an increase from 5 cents to 10 cents a half-pint carton of milk. As predictable as these hikes may be, what wasn't predictable is that nationally about 40 million eligible American school children may get no milk at all when they return to classes next week. Some Washington-area children may be among the neglected. With large numbers of children already subjected to mostly junk-food diets, even before their parents' wallets were attacked by high food prices, it is especially dismaying that they will now be deprived of milk, a high nutrition item.

The cause of this neglect is the not unusual combination of congressional and administration indifference. The tangle on the Hill is caused by legislation left sitting in a conference committee where differences between Senate and House versions still need to be settled. The Senate bill asks for $97 million, a more realistic sum but one far surpassing the administration's request for $25 million. Currently, the milk program is operating on a continuing resolution providing $25 million.

It would be thought that with a little foresight the current situation could have been avoided; as late as last March, the Senate Select Committee on Nutrition and Human Needs was warning that the $25 million figure was inadequate. But what needs to be done now is clear: immediate action by the Senate-House conference committee when Congress reconvenes. The language of the legislation needs to specify that the money is to be provided to school districts now, with no qualifying clauses that might delay the money. Apparently, many school officials had believed that a continuing resolution would maintain the program for the amount provided last year: $95 million. Only too late did they learn the grim reality.

It should be noted, finally, that the children are not the only potential victims. The businessmen who supply the milk and the school administrators ordering it also stand to lose because of the confusion.

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## REPORT ON SCHOOL BUS SAFETY

**Mr. JAVITS.** Mr. President, I report herewith on the results of a survey on schoolbus safety which I sent to sample residents throughout New York State, with the exception of the heavily urbanized areas of New York City, Buffalo, Rochester, and Albany where travel by schoolbus is not as usual a practice as elsewhere in the State. Also included in my report today is a letter from Secretary of Transportation Claude S. Brinegar responding to my inquiries about current Transportation Department efforts on schoolbus safety.

Of nearly 4,000 responses, the overwhelming majority—96 percent—expresses concern regarding the safety of children traveling daily to and from school in buses, some 45 percent of all New York State schoolchildren, and supported efforts to improve safety factors.

A sizable proportion of the respondents—5.5 percent—indicate that greater stress should be placed on the training and selection of schoolbus drivers. Several persons, for example indicated that they felt that the buses were only as safe as their drivers while others cited examples in which drivers drove recklessly. There was also some reaction against "moonlighting"—a typical response stated:

> The job requires the utmost in alertness and this is not always the case with tired and exhausted men who work a full day at some other job.

In connection with the issue of driver training, Secretary Brinegar indicated to me that the National Highway Traffic Safety Administration—NHTSA—"is currently developing curriculum materials for schoolbus driver training. These materials will be available to the States in early 1974. NHTSA's next step in this emphasis area is to develop a supervisory program."

There was also a stress on the use of seat belts by 4 percent of the respondents who felt that the use of such belts should be made mandatory on all school buses. Typical comments were:

> I believe the school bus standards should be equal to any other vehicle standards in regard to the use of seat belts and our most valuable cargo travels without the use of safety belts.

A smaller number—3 percent—stressed the need for supervision of children while traveling on schoolbuses. A former schoolbus driver pointed out, for instance, that "the danger lies in the misconduct of the students."

A different view was taken by some of the 1.5 percent of the respondents who urged the use rather of protective padding and higher seat backs. It was pointed out, for example, that seat belts could be used as weapons in the hands of mischievous youngsters and that it would be difficult to install three sets of belts per seat.

The matter of schoolbus construction standards, which includes padding, was given especial emphasis in the letter from Transportation Secretary Brinegar who wrote that:

> The Notice of Proposed Rulemaking on bus passenger seating and crash protection was issued in February 1973 and will apply to all school buses manufactured after September 1, 1974. The second recommended standard on the strength of structural joints of school buses is being processed within NHTSA. It is expected that the Notice of Proposed Rulemaking pertaining to this subject will be released soon.

Another 1 percent of survey respondents urged action with respect to overcrowding; and 1 percent offered other suggestions, including facing of seats to the rear, the installation of air bags and installation of an additional emergency exit on the bus roof.

Not all respondents—4 percent—were in agreement with my efforts here for schoolbus safety. Most of these objected to the proliferation of regulations and Federal controls and to the additional tax burden. One respondent, for example, observed that statistics available do not warrant the increased costs that would be necessitated by changes in present practices.

It is my intention to present the survey responses to the Senate Committee on Commerce when I testify at its anticipated hearings on schoolbus safety this fall, as well as bringing the results of the survey to the attention of the appropriate committees in both houses of the New York State Legislature, the New York State Department of Education, the New York State Department of Motor Vehicles and school superintendents in the area of the survey as well as those New Yorkers who responded to the survey.

I ask unanimous consent to have Secretary of Transportation Brinegar's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD.

The full text of Secretary of Transportation Brinegar's letter reads as follows:

SECRETARY OF TRANSPORTATION,
*Washington, D.C., August 23, 1973.*

Hon. JACOB K. JAVITS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR JAVITS: Thank you for your correspondence of July 17, 1973. We appreciate your continued interest in Pupil Transportation Safety and your particular concern with the National Highway Traffic Safety Administration's School Bus Task Force Report of May 1973. You will be pleased to learn that six of the seven recommendations contained in this report are already being implemented.

For example, the Notice of Proposed Rulemaking on bus passenger seating and crash protection was issued in February 1973 and will apply to all school buses manufactured after September 1, 1974. The second recommended standard on the strength of structural joints of school buses is being processed within NHTSA. It is expected that the Notice of Proposed Rulemaking pertaining to this subject will be released soon.

Chassis manufacturers are encouraged to supply the school bus manufacturer with equipment containing the advanced braking systems that conform to the Federal Requirements effective in 1974 and 1975. School bus manufacturers are, in turn, being asked to request new braking systems for their special needs. Advanced braking systems, which will be standard when the new requirements become mandatory, are now being made available to the purchaser as optional equipment.

The General Environments Corporation, Springfield, Virginia, has subjected two school buses, one manufactured by Superior Coach Division of Sheller Globe Corporation and the other by Wayne Corporation, to extensive compliance testing. Each of these buses were found to be in compliance with all of the applicable Federal Motor Vehicle Safety Standards.

Recently, Dynamic Science, Division of Ultrasystems, Inc., Phoenix, Arizona, was awarded contract, DOT-HS-046-3-694, School Bus Improvement Program. The objective of this twelve-month program is to develop, test and recommend practical safety improvements in school bus construction. Initiation of this program fulfills the fifth recommendation of the Task Force.

Plans for school bus data collection and analysis, recommendation number 6, are underway, but the data collection activities have not yet been fully implemented. All high severity accidents involving three or more student fatalities are now being investigated by our Multidisciplinary teams.

Specific implementation of items referenced in your correspondence are a part of Task Force recommendation number 7 and will be accomplished by the States and their political subdivisions with assistance from NHTSA. Any on-going activity is conducted along guidelines provided to the States for carrying out provisions of Highway Safety Program Standard #17, Pupil Transportation Safety. Further, NHTSA is currently developing curriculum materials for school bus driver training. These materials will be available to the States in early 1974. NHTSA's next step in this emphasis area is to develop a supervisory program. We are presently addressing the liaison, coordination and programming needs of the special education student.

As you state, both the Department of Health, Education and Welfare and the Department of Labor should be consulted and we certainly concur. Our staff contacts will insure that program development is reviewed and coordinated for acceptance among the several agencies concerned.

As you can see we have moved ahead rapidly in implementing the recommendations made by the School Bus Task Force. Consequently, I see no need for further legislation at this time.

Sincerely,

CLAUDE S. BRINEGAR.

## PENSION REFORM

**Mr. ROBERT C. BYRD.** Mr. President, on behalf of the distinguished Senator from Indiana (Mr. HARTKE), I ask unanimous consent to have a statement by him, and two insertions printed in the RECORD.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

### STATEMENT BY SENATOR HARTKE

### PENSION BILLS ARE INADEQUATE

Mr. HARTKE. Mr. President, in the continuing debate on real pension reform, I would like to bring to the attention of my colleagues an important message from the academic community.

All of these experts, who have made a thorough and penetrating analytical study of the pension bills before Congress, indicate in no uncertain terms that S. 4 and S. 1179 are severely inadequate. The deficiencies of these proposals are in the areas of requiring adequate coverage, vesting, widow's benefits, and protection of pension reserves and claims.

Precisely in these specific fields I plan to offer amendments to S. 4 which will make pension reform a reality rather than an illusion. My first amendment will require full vesting after 5 years and will set up a bureau of experts in the Department of Labor who will be available to those unfortunate workers who have been dismissed from employment for the sole reason of making them ineligible for their earned vested credits.

My second amendment would treat the issue of survivors' benefits. Widows are certainly deserving of 50 percent of the retiree's annuity benefits without any reductions in his initial benefits, and I want to make sure that they receive them. I would also make it compulsory that participants in the pension program waiver the survivors' benefits in writing if they so desire.

Thirdly, in order to buttress the more progressive vesting provision, I call for the mandatory establishment of a portability fund and national clearing house. A benefit which is vested but not portable is not available in the case of disablement. My provision would also assure that the retiree's funds are not eroded by inflation.

The bills now before the Congress fall short of solving the problems in these areas. The amendments which I propose can correct these weaknesses and make pension reform actual rather than a pretense.

Mr. President, I add herewith a press release and statement, as follows:

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### PRESS RELEASE AND STATEMENT OF PROF. MERTON C. BERNSTEIN

### MAJOR PENSION BILLS BEFORE CONGRESS INADEQUATE, ACADEMIC EXPERTS DECLARE

"The major pension bills receiving serious Congressional consideration—the Williams-Javits bill, the Senate Finance Committee (Bentsen) bill, and the Dent bill—fall short of the needed reforms" a group of academic experts declared in a statement issued today. The group of teachers of law, economics and social welfare includes some of the country's foremost experts on pensions, income maintenance and labor relations.

With Congress about to begin debate on private pension reform, the university professors issuing the statement found the bills reported to the Senate inadequate in the areas of requiring adequate coverage, vesting, widows' benefits, protection of pension reserves and claims. They noted that while most families need supplements to Social Security, private pensions do not provide them and the bills under consideration will not fill the gap. Their statement declares that pension plans now cover less than half the civilian work force, seldom pay benefits to widows, pay small benefits even to those who achieve vesting, "lack adequate protection against diversion to uses other than benefits for the elderly" and non-union employees do not have protection against firing to defeat pension claims.

The bills now before the Senate, they stated, "all fall short of rectifying these shortcomings." They urged Congress to consider vesting of at least half an employee's pension credits after 5 years of work growing to 100% after 10 years, mandatory widows' benefits and more effective prevention of conflict of interests. (Full text and the list of signatories follow.)

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### STATEMENT ON PENSION LEGISLATION

Legislation to reform the private pension system is overdue. At present and prospective levels of Social Security benefits regular, reliable, and substantial retirement income supplements are needed by our retirees. Individual savings typically do not bridge the gap between income and maintaining living standards. And in a high-consumption society such saving cannot be expected to do so.

The private pension system does not provide the needed supplements. It covers less than half the civilian work force and, among the covered, many cannot expect to achieve benefit status due to length of service requirements. And a great many of those who do achieve vested credits will obtain only small benefits. Although widows are the most necessitous of the elderly, private plans seldom provide effective survivor benefits. In addition, the over $150 billion in private pension reserves, augmented by about another $15 billion each year, lack adequate protection against diversion to uses other than benefits for elderly. An unfortunate number of plans terminate lacking adequate funds to pay valid claims; extrapolating from a 1973 Treasury plan termination study, as plans now operate, three-fourths of a million workers with vested benefits will receive no benefits in the next two decades.

The major pension bills receiving serious Congressional consideration—the Williams-Javits bill, the Senate Finance Committee bill, and the Dent bill—all fall short of rectifying these shortcomings and thereby fall short of the needed reforms.

#### VESTING

A national consensus has been achieved that it is unconscionable to deny pension benefits to long-term employees. And all current proposals would achieve complete vesting after 15 years of service. However, while some dramatic examples of pension loss involve long-term employees, the great bulk of pension losses occur to shorter term employees—most of them with fewer than 10 years of service. As the Senate Labor Subcommittee study of plans in existence for about two decades shows (had shorter lived plans been included, the showing would have been more distressing), 93 percent of employees separated under plans requiring more than 10 years unbroken service for vesting had no pension rights to show for their service. For plans with 10 year vesting, the comparable figure was 78 percent.

Actuarial studies done for the Senate Labor Committee show that the Williams-Javits bill (providing for 30 percent vesting after 8 years service increasing by 10 percent annual increments) would increase pension costs very little—which indicates that the proposed formula would salvage little for most employees separated from pension covered jobs. Few would be aided, and those few would receive only small benefits. For example, an employee separated after 8 years of service under a typical plan—one providing $5 a month per year of service—would obtain a vested benefit of $12 a month or less than $150 a year.

The Senate Finance Committee bill does only a little better—vesting 25 percent after 5 years service and improving by 5 percent annually* (but not starting until age 30). A 5 year benefit under the same $5 pattern would produce a vested benefit of $6.25 a month, or $75 a year payable years later.

Of course, better plans will cost more. However, if coverage were broadened, with earlier vesting the costs would be spread over more companies and more years, often leading to lower unit costs than when only the last employer pays all.

We urge serious consideration be given to requiring 50% vesting after 5 years of service, increasing annually by 10 percent increments. Only such a formula would improve substantially employee benefit achievement over the current unsatisfactory situation. Only such a formula, for example, would enable women—who typically have shorter service—to begin to achieve pension benefits in a substantial way.

The Senate Labor Committee has documented many cases in which employers fire employees just before their pension credits would have vested. To make vesting work, reform legislation must provide effective protection against discharge and lay-off for non-bonafide reasons. To forestall and correct such abuses, employees should have the rights of protection now afforded employees under the National Labor Relations Act and collective bargaining agreements—including reasonably prompt and low cost relief.

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*Achieving 50% vesting for 10 years service, it would vest an additional 10% each year thereafter, reaching 100% for 15 years service.

COVERAGE

If private pension plans are to provide the supplementation needed by all, they must cover all workers. None of the bills before Congress effectively addresses the problem of coverage. Before requiring such coverage, experimentation with a national, low-cost "boiler plate" plan should be carried out. By eliminating time- and money-consuming installation costs, small company coverage will be stimulated. As many such companies are short-lived coverage should follow principles similar to those employed by TIAA/CREF regarding full and immediate vesting and a mixture of guaranteed and variable benefits.

Voluntary individual purchases of pension coverage will not solve the coverage problem. Experience in Canada shows that the Nixon Administration's proposal for such individual purchases will benefit those with above average income and least need.

CONFLICT OF INTEREST

It is high time that pension funds be treated as money belonging to employees and their beneficiaries. To that end, fund trustees should be completely neutral and owe loyalty only to plan beneficiaries. Company and union officials should not be qualified to serve because their institutional interests can conflict with those of employees at crucial times. All dealings between pension funds and the companies and unions concerned should be prohibited. The United Mine Workers case, as well as others, shows how long it takes to discover trust infidelity and how inadequate recovery is through law suits—relief was given for only three years despite findings of 20 years of improprieties.

WIDOW BENEFITS

Few plans provide survivor annuities. Many provide options for survivor benefits, but the options are seldom elected. At the least, survivor options should be required, and they should be regarded as exercised unless affirmatively rejected in writing.

REINSURANCE

A plan that fails to pay off for earned benefits is a failure. A reinsurance plan to enable terminated plans to meet substantial portions of their obligations is highly desirable and should be tried.

BARGAINING RIGHTS FOR RETIREES

Very few plans have provisions to adjust benefits to offset inflation—helping to make pensioners the chief victims of inflation. Pensioners should be able to bargain with their former employers (and successors), and such employers should be obligated to bargain with retiree representatives chosen by retirees in appropriate units. The National Labor Relations Act should be amended to provide such rights, obligations, and the election mechanism. The representative will in most cases be the *active* employee's bargaining agent. But many companies with pension plans and retirees do not have unions; unionization of active employees should not be a requirement for retiree bargaining. Without such a mechanism, private pension plans will provide unreliable benefits, and reform legislation will do almost nothing to benefit retirees.

Fifteen years have passed since the last pension reform legislation, which achieved little reform. We urge this Congress to enact the reform needed. The opportunity to do so may not come again for a very long time.

LIST OF SIGNATURES

*Name, institution and school* *

Professor James Schultz, Brandeis (Economics).

*Professor Charles Schottland*, Brandeis (Social Welfare) Former Commissioner of Social Security Administration.

Professor Leonard Hausman, Brandeis (Economics).

Professor Elliott Sclar, Brandeis (Economics).

Professor Herbert Bernhart, Baltimore (Law).

Professor Thomas P. Lewis, Boston University (Law).

Professor Donald Wollett, California-Davis (Law).

Professor George Cooper, Columbia (Law).

Professor Walter Gellhorn, Columbia (Law).

Professor Milton Konvitz, Cornell (Law).

Professor George Savage King, Emory (Law).

Professor Paul Harbrecht, Georgia (Law).

Professor Stuart Schwarzschild, Georgia State (Insurance).

Professor Vern Countryman, Harvard (Law).

Professor Julius Getman, Indiana (Law).

Professor Raymond G. McGuire, Maine (Law).

Professor James Morgan, Michigan (Economics).

Professor Jacqueline Brophy, Michigan State (Economics).

Professor Leo Kanowitz, New Mexico (Law).

Professor Morton C. Bernstein, Ohio State (Law).

Professor Bruce Jacob, Ohio State (Law).

Professor Michael Kindred, Ohio State (Law).

Professor William P. Murphy, North Carolina (Law).

Professor Robert Koretz, Syracuse (Law).

Professor George Rohrlich, Temple (Economics).

Professor Jerry L. Anderson, Utah (Law).

Dr. Harold L. Sheppard, Upjohn Institute (Sociology).

Professor Jerry L. Mashaw, Virginia (Law).

Professor Florian Bartosic, Wayne State (Law).

Professor Ronald C. Brown, William & Mary (Law).

Professor Abner Brodie, Wisconsin (Law).

Professor George Arnold, Wyoming (Law).

Professor Clyde W. Summers, Yale (Law).

Professor Thomas I. Emerson, Yale (Law).

Professor Yung-Ping Chen, UCLA (Economics).

Professor Abraham Monk, New York at Buffalo (Social Policy).

Visiting Professor George Shatzki, Pennsylvania (Law).

*Dean Wilbur Cohen*, Michigan (Education) Former Secretary of Health, Education and Welfare.

Professor Juanita Kreps, Duke (Economics).

Adjunct Profesor Jerome Brooks, Wayne State (Labor Law).

Professor Kenneth S. Cohen, Case Western Reserve.

Professor Leon Cabinet, Case Western Reserve.

Professor Melvyn R. Durchslag, Case Western Reserve.

Professor Martin Rein, Mass. Institute of Technology (Urban Studies).

## THE COST OF LIVING COUNCIL'S PRICE CONTROLS ON THE GASOLINE RETAILER

Mr. BARTLETT. Mr. President, a Living Council's—CLC—final regula- gross inequity exists within the Cost of tions pertaining to the sale by retailers of gasoline, No. 2 diesel fuel, and No. 2 heating oil. It seems to me that the retailers of petroleum products have been excluded from the supposedly all-encompassing phrase "liberty and justice for all." There is nothing "just" about the regulations adopted by CLC as far as retailers are concerned.

Not only has the petroleum industry been the only industry excluded from the "small business exemption," but the retailer has been picked arbitrarily by the CLC to absorb the increasing costs to obtain crude oil, much of which is being imported at prices much higher than domestic prices.

The CLC's final regulations allow a retailer to add his markup on January 10, 1973, to his August 1, 1973, costs. Thus no passthrough of cost increases since August 1, 1973, are being allowed even though the wholesale price paid by the retailer has risen in many cases.

Retailers are being choked to death by the CLC. The retailers are up in arms and thousands plan to shut down in protest this weekend—and this could be catastrophic to many consumers.

Many stations simply cannot afford to stay open. They cannot operate on a so-called "guaranteed 7-cent minimum margin" that has been eroded by cost increases incurred after August 1, 1973.

Price increases for petroleum products are inevitable because of the high prices of the world market—much higher than domestic prices. It is not fair to make the retailer pay for these increased costs, especially to the independent retailer, whether he owns a branded station or an unbranded station, because he is an important part of our national fuel distribution system and fosters competition within the marketing segment of the petroleum industry. Not only has the retailer been discriminated against because he has been excluded from the small business exemption granted to all other industries, but he also is clearly discriminated against by being the only segment of the petroleum industry not allowed to pass on costs.

I have written Secretary of Treasury George Shultz; the Director of the President's Energy Policy Office, John Love; the President's Domestic Adviser, Melvin Laird; Cost of Living Council Director, John Dunlop; and all the other members of the Cost of Living Council, to protest this unjustified discrimination toward the retailer of gasoline and other fuels.

My sincere hope is that the Cost of Living Council will act promptly to change the phase IV regulations and alleviate this unjust situation.

## OMISSION OF THE WORD "POLITICAL" IN THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, a number of persons have written to me about the omission of the word "political" from the definition of those groups covered by the Genocide Convention.

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* For Identification only.

This is a legitimate concern, because people have been killed on a large scale in some parts of the world because of their political views. Is the omission of political genocide from the list of crimes the Genocide Convention seeks to prevent and punish a good reason for the United States to refuse to ratify the treaty?

On March 10, 1971, Arthur Goldberg addressed this question while testifying before a subcommittee of the Senate Foreign Relations Committee in support of the Genocide Convention. I think that his remarks will be helpful to everyone who is concerned about this issue:

TESTIMONY OF ARTHUR J. GOLDBERG ON BEHALF OF THE AD HOC COMMITTEE ON HUMAN RIGHTS AND GENOCIDE TREATIES

The real question is, should political groups have been included? Well, if I had been the negotiator of that treaty I would have struggled with might and main to put it in. Our Constitution, which has been given new vitality, and I hope it holds, in recent years, protects political dissenters, but in negotiating a treaty, as I discovered in my own experience, the perfect is never the enemy of the good. I presume—I did not negotiate it so I can only presume—that what happened was that faced with an objection to the word "political" a compromise was made, and a settlement was made on the basis, let us cover as much as we can even if we cannot cover everything, and I presume that is why the word "political" was omitted from the treaty.

For myself, I would have welcomed the inclusion of the word "political" because it ought to be included. People are being killed on a large scale in some parts of the world because of their political views. I need not burden the record of this committee; the Senators and the full Committee know full well what is going on in the world, but, nevertheless, we have a treaty which like all treaties is not written by our prescription but is negotiated, and as negotiated it reaches a very important concern and that concern is the mass extermination of people for their racial, religious, and ethnical views. That is what the treaty encompasses, and that is already quite an achievement, even if it does not cover everything.

Perhaps we can look forward to the days when we can change the treaty. It does have a provision which authorizes revision.

When I negotiated the space treaty or helped negotiate the nonproliferation treaty, as I remember full well, as I discussed both before this full committee, there were questions raised as to why we did not go beyond what we did. The answer is very simple.

If we had gone beyond it, we would have had no treaty. Therefore, we settled for the best treaty possible.

I take it we stand somewhat like this. Here we have a treaty. It is not perfect. It could have been made a lot better. It is a negotiated document. In my experience in negotiations, negotiated documents, domestic or foreign, are rarely perfect. You agree, and you agree on these compromises. We agree on the compromise. The test ought to be, does the compromise imperil anything sacred to us, and I say to this committee the answer is no, it does not imperil anything sacred to us.

Mr. President, I agree with Mr. Goldberg that the Genocide Convention, while not perfect, imperils nothing which is sacred to the American people. At the same time it guarantees and embodies a deep concern which we do hold dear, the right to life for all peoples.

Mr. President, I urge the Senate to ratify the Genocide Convention without further delay.

## EXPORT TO JAPAN TRADE FAIR

Mr. PERCY. Mr. President, on November 6, 7, and 8 this fall an Export to Japan Trade Fair will be held in Chicago under the sponsorship of the Chicago Association of Commerce and Industry. The main purpose of the fair is to encourage increased exports to Japan and to contribute to the betterment of United States-Japan relations.

United States firms will be exhibiting products of export potential to Japan and major Japanese business organizations will be bringing buyers to the fair.

Mr. President, it is increasingly important for the United States to have better and stronger economic ties with Japan. As the country with the world's third largest GNP, Japan is increasingly a world economic power. A more specific aim of the fair is to encourage increased U.S. exports to Japan in hopes of reducing the balance-of-trade deficit the United States has with Japan.

Mr. President, I commend all the sponsoring and participating organizations in this effort and hope the fair will be most successful.

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## PRODUCERS, NOT CONSUMERS, ARE KEY TO HOME HEATING OIL SHORTAGE

Mr. RIBICOFF. Mr. President, the Nation is confused and alarmed over the threatened critical shortage of home heating oil this winter. Contradictory statements and lack of decisive action by the administration have clouded the situation with uncertainty. As a result, we are threatened with a totally unnecessary situation in which independent operators will be forced out of business and the Northeast, at least, will suffer shortages of heating oil.

It is frankly impossible to comprehend the administration's position. Less than a month ago, Gov. John A. Love, Director of the President's Energy Policy Office, explained to a group of oil industry representatives that he had decided not to implement a mandatory fuel allocation system "primarily because I did not believe the current supply situation warranted that degree of Government intervention." That decision was made August 9.

Then, last Thursday, September 6, Governor Love called a press conference to warn that the supply situation is going to be so tight that he was drafting a plan for rationing the heating oil that could be burned this winter by individual consumers, even in private homes.

To confuse matters the more, President Nixon announced over the weekend, after meeting with his energy advisers, that we are not faced with a crisis after all. It is, rather, a "short-term problem" that can be met by easing emission standards and permitting the burning of imported, high-sulfur heating oil—at a projected higher cost of 2 cents a gallon—which big oil can incur by buying the more expensive fuel from overseas affiliates, and then pass the additional cost on to the American homeowner.

Is the administration's energy planning and evaluation capability so confused that the heating oil supply is viewed one month as not being severe enough to warrant even a mandatory allocation program, and then is viewed the next month as being so severe that nothing less than rationing will do, and now is seen as a short-term pollution problem?

Mr. President, what this situation needs is facts. I have just completed a survey—conducted by my Subcommittee on Reorganization, Research and International Organizations—which voids administration warnings of a critically tight supply of heating oil. The results clearly show that there is no critical shortage among companies which produce home heating oil; only among the independent operators who have to distribute most of it. Furthermore, there is now on hand or available enough heating oil to get us through the winter along the east coast, which includes 65 percent of the Nation's heating-oil consumers, if—and this is a big "if"—it is well managed by Government-policed mandatory allocations to assure fair distribution to independent terminal operators and suppliers. Such a mandatory system would also assure that the higher price and sulfur content of imported oil would be distributed fairly across the country, rather than concentrated in the Northeast, which would be the case if the burden of importing oil fell mainly on the independents.

The subcommittee sent questionnaires to all 32 oil companies producing No. 2 fuel oil for the east coast. Questionnaires were returned after 2 months by 30 of the 32 companies, including all the major producers. The companies were asked how much fuel the producers have in their storage tanks—and how much of it they have agreed to sell to independents—by the first day of the home heating season, October 1.

I am today releasing the results of my survey which throw into serious question the administration's claim of a shortage so critical that only sharp cutbacks in consumption—not tougher control of supply—can cope with it.

Figures supplied by the oil companies themselves show that on October 1, their oil storage tanks along the east coast will be filled to 82 percent of capacity with 79.4 million barrels of No. 2 fuel. This is 14 percent more than the 69.5 million barrels in storage exactly 1 year ago. This year's October 1 supply is just shy of the 79.6 million barrels that were on hand at the same time 2 years ago. So, the major producers are better off this year than last.

What is different is the situation of the independent operators who supply heating oil to 40 percent of the wholesale customers and 90 percent of the retail customers in New England, where winter strikes the hardest along the east coast. Furthermore, a supply of 70 to 80 percent of capacity on October 1 is considered by the independent operators to be the margin of safety they need to meet peak winter-demand needs. However, the independent operators have been allocated so little heating oil by these producers that their storage tanks are only 25 percent full with 3.9 million barrels. A year ago, the independents had almost twice as much in storage—7.0 million barrels—and slightly more in 1971—7.4 million barrels—according to figures supplied by the 16-member Independent Fuel Terminal Operators Association and major nonaffiliated operators.

Comparative heating oil inventories for producers and independent operators on October 1 over the past 3 years follow:

EAST COAST—DISTRICT 1—HEATING OIL INVENTORIES

| | |
|---|---|
| OIL PRODUCERS | |
| October 1971 | 79, 630, 221 |
| October 1972 | 69, 513, 797 |
| October 1973 (projected) | 79, 439, 400 |
| INDEPENDENT OPERATORS | |
| October 1971 | 7, 359, 400 |
| October 1972 | 6, 959, 782 |
| October 1973 (projected) | 3, 944, 974 |

My survey makes clear that the problem is not an acute, aggregate shortage of heating oil along the east coast, but rather a failure by big oil to adequately supply the independents.

Mr. President, the Independent Fuel Terminal Operators Association recently has prepared two papers on the heating oil supply problem—one a memorandum to Governor Love urging immediate implementation of a mandatory allocation system, the other a background memorandum on the factors that make such action necessary.

The association, in its memorandum to Governor Love, stated the problem succinctly:

> If our distribution systems are not fully supplied, the millions of homeowners who rely on us for heating oil will go cold.

I ask unanimous consent that these two documents be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. RIBICOFF. Mr. President, my survey, according to data supplied by the oil producers themselves, revealed a clear pattern of most independent producers facing sharp cutbacks, cutoffs or delay of No. 2 fuel shipments from producers since June, when last year's contracts expired. One major producer was late in providing this information to the subcommittee, and I have delayed releasing our detailed results on this problem until it is submitted. I hope to have this data, showing the specific supply status of the independents, by tomorrow, when Governor Love testifies before my subcommittee on the allocation situation.

The east coast independent operators experienced a record deficit of 3.1 million barrels of No. 2 fuel compared with what they had in their storage tanks on October 1 of last year. By contrast, the producers in the past 4 months have filled their tanks with 3 million barrels more than they did over the same period last year. This 3 million barrels was part of a record "summer fill" by oil producers along the east coast. Perhaps significantly, the producers' 3 million barrel surplus is almost exactly the 3.1 million barrel deficit of the independents. Had the 3 million barrels been allocated voluntarily rather than hoarded by the producers, the independent operators and their customers would at least be where they were last year at the onset of cold weather.

A 3-million barrel allocation to the independents still would have left the producers with 7 million barrels, or 10 percent, more in their tanks than they had last year on October 1. This would have provided the producers the necessary cushion to offset a projected increase in heating-oil demand of 6 to 10 percent over last year.

This allocation of 3 million barrels is precisely what the oil producers should have done under the voluntary system which the administration tells us has been in effect, and working, to assure fair distribution of the available supply.

If the voluntary allocation system is working, as the administration insists, why cannot major independent operators in my own State of Connecticut and throughout New England get even a substantial fraction of the heating oil needed to assure an ample supply for the homes, schools, stores, factories, and hospitals among their customers?

If the results of my survey show anything, it is that the administration's voluntary fuel allocation program is a failure and that it must be replaced by a mandatory system. But this the administration still refuses to do.

Why does not the President exercise his authority under the Economic Stabilization Act to make heating-fuel allocations mandatory?

Perhaps the administration really cannot make up its mind on what the heating-oil problem is, much less on how to deal with it, and thereby generates uncertainty and delay that benefit big oil and imperil the independent operators and their customers.

Or does the refusal to impose mandatory allocations represent a Government-sanctioned effort by the producers to squeeze the independent operators out of existence, reducing competition, even if it means freezing out the 90 percent of New Englanders who buy their heating oil from independents?

If the administration has not hesitated to exercise authority under the Economic Stabilization Act to assure natural gas and propane supplies to homeowners on a first-priority basis, why, then, does it speak icily of possible rationing of home heating oil?

Is big oil playing Russian roulette with our home heating supply, and is the administration spinning the wheel?

I intend to raise these issues tomorrow when Governor Love and representatives of the Independent Fuel Operators Association appear before my subcommittee to discuss the problem as part of our hearings on the bill, S. 2135, to establish a Department of Energy and Natural Resources.

I think the solution will be found in a mandatory system utilizing our own domestic reserves and hemispheric sources to the fullest, with assistance from overseas outlets, as necessary, to meet peak demand of a cold winter.

The time to take off the gloves is now before we have to begin wearing them indoors. The administration must switch to a mandatory allocation system. Other Senators and myself have written to the President requesting it. The Senate has twice passed a bill to require such a system, but the House has yet to act. Such a bill, however, is unnecessary if the President acts.

I urge him to do so before the Nation is left out in the cold.

EXHIBIT 1

MEMORANDUM: SUPPLY PROBLEMS—EAST COAST INDEPENDENT DEEPWATER TERMINAL OPERATORS, REPORT NO. 4

*September 7, 1973.*

GOV. JOHN A. LOVE,
*Director, Energy Policy Office:*

On July 6, August 8, and August 21 in response to the request of the Energy Policy Office, the Independent Fuel Terminal Operators Association submitted reports of inventory levels during July and August.[1] In accordance with our desire to keep the Federal Government fully informed, the Association submits herewith a report of current inventories and supply problems.

1. INVENTORIES, SEPTEMBER 1

Our current inventories of home heating oil are as follows:

NO. 2 FUEL OIL INVENTORIES

[Net, in barrels]

| | Aug. 15, 1973 | Sept. 1, 1973 | Desired stock level, Oct. 1[1] | Total storage capacity |
|---|---|---|---|---|
| New England (7 companies) | 1, 290, 000 | 2, 045, 000 | 4, 590, 000 | 6, 550, 000 |
| New York City area (6 companies) | 600, 000 | 760, 000 | 3, 860, 000 | 5, 520, 000 |
| Total, Northeast (13 companies) | 1, 890, 000 | 2, 805, 000 | 8, 450, 000 | 12, 070, 000 |

[1] 70 percent of total capacity. This is a conservative requirement; if tanks were filled to 80 percent of capacity, a greater margin of safety could be provided to meet peak demand needs.

2. FUEL SHORTAGE

It is clear from these inventory figures that the stocks of independent deepwater terminal operators in the Northeast are not building to levels sufficient to meet next Winter's demands. Particularly disturbing are stocks in the New York City area, which have remained at very low levels throughout the summer.

has taken place, and we approach the start of the heating season in an alarming position.

Unless our storage tanks are filled to at

The figures provide further confirmation of the fact that this year the "summer fill"[2] least 70% of capacity by October 1, a fuel oil shortage will almost surely occur in the areas we serve.

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[1] The Association is composed of 16 companies who operate deepwater oil terminals along the East Coast from Maine to Florida. None is affiliated with a major oil company. Members market No. 2 fuel (home heating) oil, No. 6 (residual) fuel oil and gasoline at the wholesale and retail level. Members of our Association market at wholesale nearly 25% of the No. 2 fuel oil consumed in District I (the East Coast from Maine to Florida) and 40% of the No. 2 fuel oil consumed in New England. A list of members and more

### 3. MANDATORY ALLOCATION PROGRAM

In order to reach 70% of capacity more than 5.5 million barrels of No. 2 fuel oil must be moved into independent storage in the Northeast over the next month—a build-up of nearly 1.5 million barrels per week.

This will not take place unless you move immediately to institute—and make effective—a mandatory allocation program which will require domestic refiners and their foreign affiliates to deliver No. 2 fuel oil to independents.

The voluntary allocation program has been a failure. The alarming inventory levels and supply prospects outlined herein offer ample proof of this fact. Few refiners have cooperated with the voluntary program; most have, despite encouraging public statements, simply refused to comply. Most of the refiner-supplies who have provided oil to the members of our Association on an annual basis over the past 5 to 15 years have refused to maintain their supply contracts or delivery levels. No deliveries are scheduled or promised from these suppliers over the next few weeks, much less the next year.

### 4. INDIVIDUAL COMPANY PROBLEMS

At your request, the members of our Association recently submitted to you analyses of their specific supply problems.

Since the date of submission of this data, attempts have been made to encourage domestic suppliers who provided No. 2 fuel oil to independent deepwater terminal operators during 1972–73 to deliver the same quantities during 1973–74. Despite your efforts, which we appreciate, there has been no change of position on the part of any domestic refiners. Those who were willing to provide product prior to mid-August are still willing to supply the product. Those who have cut off or sharply reduced deliveries to independent deepwater terminal operators continue to refuse to restore or increase those deliveries.

In brief, the failure of the refiners to cooperate with your efforts offers strong evidence of the need for a mandatory allocation program to assure adequate supplies for the independent sector of the market and the consumers they serve.

### 5. ESSENTIAL ROLE OF INDEPENDENTS

As we have indicated, independent deepwater terminal operators handle 25% of the heating oil volume along the East Coast—and 40% of the volume in New England. We move that oil through a massive and expensive distribution system, involving docks, storage tanks, pipelines, inland storage facilities, and fleets of trucks.

There is no substitute for this system; it cannot be magically replaced on short notice by the major oil companies or by Government order. Simply stated: over the next heating season we will perform an essential function which no one else can. And, if our distribution systems are not fully supplied, the millions of homeowners who rely on us for heating fuel will go cold.

Thus, unless you act immediately, it may be too late. Unless refiners are required to move substantial quantities of No. 2 fuel oil into the independent distribution and storage system over the next month and subsequent months, no amount of emergency action by you next fall or winter—including rationing—will avoid a serious shortage.

A year ago, the Federal Government, despite our repeated warnings, assured the public that No. 2 fuel oil supplies were ample and there was no cause for concern. This projection was acknowledged to be wrong by early December; at that time some emergency steps were ordered, but it was only the arrival of unseasonably warm weather in January that prevented a major national catastrophe. Unfortunately, the failure of the Federal Government to recognize the danger and act in time did cause severe heating oil shortages in many areas last winter.

A crisis can be avoided this winter—if prompt, effective action is taken.

Arthur T. Soule,
*President, Independent Fuel Terminal Operators Association.*

### Members: Independent Fuel Terminal Operators Association

Belcher Oil Company, Miami, Florida.

Burns Brothers Preferred, Inc., Brooklyn, New York.

Cirillo Brothers Terminal, Inc., Bronx, New York.

Colonial Oil Industries, Inc., Savannah, Georgia.

Deepwater Oil Terminal, Quincy, Massachusetts.

Gibbs Oil Company, Revere, Massachusetts.

Meenan Oil Company, New York, New York.

Northeast Petroleum Corp., Chelsea, Massachusetts.

Northville Industries, Corp., Melville, New York.

Patchogue Oil Terminal Corp., Brooklyn, New York.

Ross Terminal Corp., Bayonne, New Jersey.

Seaboard Enterprises, Inc., Boston, Massachusetts.

Southland Oil Company, Savannah, Georgia.

C. H. Sprague & Son Company, Boston, Massachusetts.

Webber Tanks, Inc., Bucksport. Maine.

Wyatt, Inc. New Haven, Connecticut.

The companies listed above own or control terminals capable of receiving ocean-going tankers; none is affiliated with a major oil company. All are qualified to participate in the No. 2 fuel oil program established under Section 2(a)(1) of Presidential Proclamation 3279, as amended, and Section 30 of the Oil Import Regulation under which 50,000 b/d of home heating oil is presently being imported into District I (the East Coast). The members of the Association are independent marketers of No. 2 fuel oil, No. 6 fuel oil, gasoline and other petroleum products.

Members of the Association distribute 40% of the No. 2 fuel oil consumed in New England, and more than 20% of the No. 2 fuel oil consumed along the East Coast (District I). Metropolitan Petroleum Company (a subsidiary of the Pittston Company), a nonmember, is an independent who markets an additional 3–4% in District I.

The independent share of the total East Coast market for No. 2 fuel oil, at the terminal level, is approximately 25%; the remaining 75% is controlled by refiners.

Of the nation's No. 2 fuel oil consumption (for heating purposes), New England accounts for 20%. New York, New Jersey and Pennsylvania account for 35% and the remainder of District I accounts for 10%. Thus 65% of the nation's No. 2 fuel oil is consumed in District I.

### Mandatory Allocation Program and Increased Supplies of Home Heating Oil

In recent weeks, Federal energy policy officials have stated that "allocation schemes . . . do not increase supply."

That is not correct.

Given the current state of the domestic and foreign markets and the Phase IV price regulations, a mandatory allocation program will:

Increase the supply of No. 2 fuel oil available to U. S. consumers.

Reduce the price of that product in the Northeastern states.

The impact of a mandatory allocation program would be as follows:

#### INCREASED SUPPLY

Domestic refiners are currently planning to supply most of their domestic demand from their domestic refineries.

Independent terminal operators and other independent marketers are, as a consequence, apparently expected to purchase the major portion of their requirements from foreign sources.

These independents do not have extensive overseas organizations, foreign refineries, foreign crude oil production, foreign tanker fleets or vast financial resources. Since they are not integrated internationally, they do not have preferential access to foreign crude oil and refined product production of their own affiliates, as do the majors. Thus, unless there is a mandatory program the independents will be able to buy less oil than the majors, will be forced to pay higher prices, and will face a severe supply gap caused by the short-fall in domestic deliveries.

If there is a mandatory program, domestic refiners will be required to provide a substantial portion of their domestic production to independent marketers to fill this gap. As a result, a supply gap may be created in their own systems; in order to fill this gap the refiners will have to enter the world market to purchase additional supplies.

However, because of their greater buying power and access to overseas supplies (in large measure from their own overseas affiliates) the refiners will surely be able to purchase and import the quantities of No. 2 fuel oil required to meet the demands of their own systems and the demands of independents they must supply under the allocation system. In fact, there are strong indications that the major international refiners are presently buying and storing substantial quantities of No. 2 fuel oil (gasoil) that they could, if required, ship to the U. S. market.

In helping to meet total U.S. No. 2 fuel oil needs these majors may not enjoy an optimum economic return, but their performance in dealing with the supply disruption caused by the 1967 Suez crisis demonstrates that—if they are forced to do so—the majors can exercise enormous flexibility and ingenuity in meeting supply problems through their world-wide operations. And while it may not be the optimum, they will make a substantial profit on sales to the U.S.

In sum, the allocation system will force the importation of additional quantities of No. 2 fuel oil—by those companies who have control of supplies and are in the best position to do the importing—and thus increase total supply available to U.S. consumers.

#### LOWER PRICES

As indicated, under current conditions—without a mandatory system—independent deepwater terminal operators and other independent marketers are apparently expected to bear the burden of importing substantially more No. 2 fuel from foreign sources than in past year.

Under the new Cost of Living Council rules, the importer may average the cost of these high priced imports over his entire inventory. However, most independents handle smaller volumes and serve more limited market areas than the major refiners.

Imported heating oil is currently much more costly than domestic. Thus, as the proportion and quantity of imports by independents increases, the prices paid by their customers will rise sharply.

Since most imports will naturally flow into the Northeastern states, customers of independents in that area will be forced to bear almost the entire burden of higher cost imported No. 2 fuel oil. In effect, there will be a two-price system within the United States—a high level for the Northeast and a lower level for the remainder.

In contrast, as indicated above, under a mandatory allocation system, the proportion

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detailed description of the Association is enclosed (Attachment A.)

[2] This is the process which in past years has raised inventories to near capacity levels *before* the onset of cold weather.

of imports by independents would be lower than under current conditions; the imports by refiners, higher

However, the refiners would be permitted, under CLC regulations, to average the cost of the imported heating oil and in doing so, would spread the costs over a much larger inventory base and in most cases, throughout their national marketing system.

Thus, a mandatory allocation system would eliminate the two-price system or, at the least, sharply reduce the price differentials, and provide substantially reduced costs for consumers of fuel oil in the Northeastern states.*

## AMERICAN PEOPLE SUPPORT BALANCED BUDGET CONCEPT

Mr. HELMS. Mr. President, I desire to place in the Record several newspaper articles and editorials which are representative of the kind of support that I have seen throughout the country for the principle of a balanced budget for the Federal Government.

Earlier this year, Senator Byrd of Virginia and I introduced S. 2215, the Emergency Anti-Inflation Act, which focuses upon large-scale deficit spending and a growing national debt as the primary cause of inflation in our economy. This bill will require the Federal Government to operate on a budget in which no more is spent than is taken in.

It is encouraging for me to report to the Senate that 16 Senators have joined Senator Byrd and me as sponsors of this bill: Senators Bartlett, Bellmon, Brock, Buckley, Curtis, Domenici, Dominick, Fannin, Gurney, Goldwater, Hansen, McClure, Nunn, Scott of Virginia, Thurmond, and Talmadge.

There is no question in my mind that the American public is fully aware of the terrible effect that inflation is having upon our economy and our way of life in this country. The businessman, the farmer, the workingman, their families and all retired Americans can no longer afford to pay for this ever increasing inflation.

I am convinced that people are tired of being misled by promises that economic controls and high interest rates will reduce inflation. The American public is too smart to be fooled by excuses. Americans realize that the Government is causing inflation through its deficit spending and large public debt policy. They also realize that the individuals that were elected to represent them in Congress and in the Presidency can reverse this trend if they are willing.

The way to do this is to start at the beginning and eliminate inflation at its source by balancing the Federal budget and reducing our national debt. This way, and only in this way, can we restore a stable value to the American dollar and insure that our generation and future generations will be able to enjoy the high standards of living and prosperity that the natural wealth of this Nation has to offer.

Mr. President, I ask unanimous consent that several newspaper articles and editorials in this connection be printed in the Record.

There being no objection, the newspaper articles and editorials were ordered to be printed in the Record, as follows:

[From the Cheyenne (Wyo.) State Tribune]

### The Best Anti-Inflation Deal Yet

One of the unfortunate byproducts of Watergate has been the loss of the President's clout in his battle to cut back on federal spending. A Senate group which includes Wyoming's Cliff Hansen now has picked up the cudgel.

A bill whose prime sponsor is Sen. Jesse Helms, R-N.C., has been introduced to mandatorily require a federal balanced budget beginning with Fiscal Year 1975 which commences next July 1.

The bill is properly titled "Emergency Anti-Inflation Act of 1973," and we say it is apt because federal spending has more to do with inflation in America today than any other single factor.

"If we are serious about controlling inflation and eliminating the prospect of an increasing national debt in the future," says Senator Helms, "then the Senate must face up to the facts regarding deficit spending in the last four years."

During the past four years, the U.S. budgets have run up a deficit of $100 billion, which Helms calls "the primary stimulus for the inflation which has seriously eroded the purchasing power of the dollar both at home and abroad."

President Nixon has achieved partial success in his struggle with the Democratic-controlled Congress over exorbitant spending; but it has not been enough of a victory.

While most liberals in Congress pay lip service to cutting back on federal spending, they still vote their true sentiments by seeking to increase the federal outlay in almost every sector. This is the peculiar weakness of Congress because while its members perhaps understand the cause for inflation, as do their constituents, every time a reduction is made in a particular area which affects some of their folks back home, the latter let out a might yell of anguish and the senator or congressman involved then makes an effort to get the money restored. As a result, we are unable to make any progress on cutting federal spending and as a result, inflation continues its ugly progress.

Says Senator Helms: "We have heard a good deal of rhetoric over the need to do something about inflation and the need to control and limit the national debt. Well, here is an opportunity to take some action, to face up to the danger that reckless federal spending has presented to our nation's economic security and to protect against future increases in the national debt."

Wage and price controls will never stop inflation, the North Carolinian points out, "because these controls are not directed at the cause of inflation. Not even Phase VI can stop inflation. There is no question that it will be difficult for some senators to commit themselves to a balanced federal budget, because such a budget will necessitate cutting down substantially on federal expenditures."

Helms says, however, that he is "firmly convinced that an overwhelming majority of the American people would rather see the government spend less, thereby stopping this inflation, than to see larger and larger federal deficits being spent with money that inflation has made practically worthless."

Besides Senator Hansen from our own state and Virginia's Harry F. Byrd Jr., who joined initially with Helms in introducing the bill, the other cosponsors are three Democrats, Ernest Hollings, South Carolina, Sam Nunn, Georgia, and Herman Talmadge, Georgia; and 12 other Republicans. Among the latter are Barry Goldwater, Ariz., Strom Thurmond, S. C.; Dewey Bartlett, Okla.; Henry Bellmon, Okla.; William Brock, Tenn.; James Buckley, N. Y.; Carl Curtis, Neb.; Peter Domenici, New Mexico; Peter Dominick, Colo.; Paul Fannin, Ariz.; and James A. McClure, Idaho.

That's not very many but it is a nucleus. We remain to be shown that very many others will join this effort, but it is a beginning at least. It can put the rest of the members of Congress, senators and congressmen alike, on notice it's not enough to talk about inflation; one has to do something about it.

[From the Canton (Ohio) Repository]

### Balancing the Budget

A bill introduced in the U.S. Senate shortly before Congress recessed may well be the focal point of another historic confrontation between the legislative and judicial branches of government.

Introduced by Sens. Jesse Helms, R-N.C., and Harry F. Byrd Jr., I-Va., the bill would require the President to submit and the Congress enact a balanced budget for the fiscal year beginning July 1, 1974.

In the bill, the sponsors contend the current fiscal policy by the federal government has resulted in substantial borrowing from both public and private sources and that the "aggregate of such borrowing has resulted in an exorbitant national debt totaling more than $450 billion."

Noting that the federal funds area of the budget has run a deficit of some $100 billion over the past four years, Sen. Helms said:

"If we are serious about controlling inflation and eliminating the prospect of an increasing national debt in the future, then the Senate must face up to the facts regarding deficit spending in the last four years.

"Truly no senator can ignore the impact that this $100 billion in deficit federal spending has had upon our economy. It has been the primary stimulus for the inflation which has seriously eroded the purchasing power of the dollar both at home and abroad."

Sen. Helms sees no quarrel developing with President Nixon over the issue since the President has stated his goal is a balanced budget for fiscal 1974.

There will be a problem or two, however. First, Mr. Nixon may challenge the mandating of a balanced budget by Congress—an act he could interpret as overstepping its authority.

Second, he may resist the mandate on the basis that too many financial forces have been at play too long to produce a truly balanced budget in a short period of time.

Of course, neither the Senate nor the House of Representatives has even voted on the proposal yet. But its introduction and the public interest in a balanced budget to offset the present smothering inflation promise to produce some lively debate in coming months.

It is time the President, Congress and the people of the nation study seriously the disastrous implications of continued deficit spending.

[From the Chattanooga News-Free Press]

### A Bill To Back

Taxpayers who are more than a little tired of inflation-spurring, excessive spending by the federal government are being offered something they can shout for in the coming months. It's the Helms-Byrd bill in the Senate calling for fiscal responsibility in federal spending.

The bill, titled Emergency Anti-Inflation Act of 1973, was introduced before the congressional recess by Sen. Jesse Helms, R-N.C., and Sen. Harry F. Byrd Jr., Ind.-Va., and within days, 16 other senators signed as cosponsors. Included in that group are Sen. Bill Brock, R-Tenn., and both Sens. Sam Nunn and Herman E. Talmadge, D-Ga.

In short, the bill requires the President to submit and the Congress to enact a balanced budget for the fiscal year beginning July 1, 1974. Sen. Helms says the measure offers "an opportunity to take some action, to face up to the danger that reckless federal spending has presented to our nation's economic security and to protect against future increases in the national debt."

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* It should be noted that 60% of the nation's heating oil is consumed in the Northeastern states; and each 1 cent increase in the price of heating oil costs the consumers of New England an additional $50 million per year, and the consumers of New York an additional $50 million per year.

The senator points to the deficit spending in just the last four years that has totaled about 100 billion dollars. He said, "No senator can ignore the impact that this 100 billion dollars in deficit federal spending has had upon our economy. It has been the primary stimulus for the inflation which has seriously eroded the purchasing power of the dollar both at home and abroad."

It will be remembered that President Richard Nixon, in his statement July 18 on Phase 4 of wage-and-price controls, said, "I propose that we should now take a balanced budget as our goal for the present fiscal year." Sen. Helms has reported the President has given him personal assurance of that aim, adding, "The bill will readily pave the way for the preparation of a balanced budget. . . ."

Getting both the President and the Congress to agree on this much-desired goal may be something else again. Sen. Helms is aware, as are many inflation-weary citizens, that some congressmen will find it difficult to adjust to the idea of cutting down substantially on federal expenditures, because far too many have pet projects.

But the goal is worthy, and here is a bill taxpayers can get behind and write letters about to Congress, if they really want to do something about inflation at the key stopping point—the big-spending federal government.

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[From the Goldboro (N.C.) News-Argus]

### Balanced U.S. Budget May Be Real Possibility

Many must have scoffed the other day when Senators Jesse Helms and Harry F. Byrd, Jr., introduced a bill requiring the federal government to live within a balanced budget beginning July, 1974.

No one doubts the sincerity of Senator Helms and Senator Byrd.

But history has left most of us far too cynical to pay much attention to talk about balanced budgets.

We all may be in for a pleasant surprise.

Word around Washington is that it might be possible to balance the budget this fiscal year. Congress appears more conscious of the pitfalls of deficit spending. Inflation, caused largely by government overspending, has reached unacceptable levels politically and economically.

Ironically, this same inflation is contributing toward balancing the budget by producing expected billions of extra dollars in taxes.

Some research people are forecasting budget surpluses in the years ahead.

The bill introduced by Senators Helms and Byrd wouldn't rely on happenchance to realize a balanced budget.

It would require the President to submit a budget in which non-trust fund expenditures do not exceed non-trust fund revenues for each fiscal year.

It would prohibit the government from spending more than it takes in during the fiscal year.

There's nothing new in the Helms' approach to budget-balancing.

It's also an approach on which no one has been able to improve.

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[From the Louisburg (N.C.) Franklin Times]

### Balanced Budget Answer to Inflation

With the President almost scrambling trying to figure out ways to curb inflation, with controls on prices and all the other Phases of the President's program for Economic Stabilization we wonder why no one thought of a balanced budget before.

Senator Jesse Helms and Senator Harry F. Byrd of Virginia have introduced a bill that would require the government to balance its budget beginning with the 1974 fiscal year.

The bill probably stands little chance of passing; but, is one that should be seriously considered.

As Senator Helms has pointed out "controls on prices and wages will not stop inflation because it is not directed at the cause of the inflation."

He said ". . . I am firmly convinced that an overwhelming majority of the American people would rather see the Government spend less, thereby stopping this inflation, than to see larger and larger Federal deficits being spent with money that inflation has made practically worthless."

Certainly, anyone will admit that inflation is the most pressing problem with the American public today. It is the one problem that affects them most closely and most often.

Everyone agrees that some drastic measures, a balanced budget, which would be over what has been being spent running upwards to a $450 Billion Federal debt, would be a drastic change. But one would hope that our legislators will have the courage to be willing for the sake of the people who put them in office, to come up with some drastic measures to halt inflation.

The time has come for our congress to stop playing politics and staging television shows and get down to the serious business of trying to solve the grave problems facing our country.

We are in a time of crisis. People have become rather complacent about things that go on in government over the years but the time is lost forever when we as American citizens can afford to be complacent.

This is not to sound like giving up on our system of government or our government itself. This country has faced many crises before and has weathered them. But if we don't realistically face up to this one now, it is going to be some hard times ahead for the American public.

Senators Helms and Byrd should be commended for the bill and hopefully it will be looked at for what it can mean to the John Q. Public. After all who is the real government and country?

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[From the Henderson (N.C.) Daily Dispatch]

### It Can Be Done

If enough people want to enough, the Federal budget can be balanced. It can be done without any higher taxes. It can be done without sacrificing any vital Federal Service. What's more, it can be done in the next budget (the current one is too far gone).

Preposterous, you say? Certainly not. It is only a matter of sound financing, something which Washington has not been accustomed to in a generation, except for a very few years.

Senator Helms has introduced a bill in the Senate which would require that the government spend no more than it takes in for any one fiscal year. The senator has challenged a colossal problem. It's colossal because Congress and the administration have allowed it to become that. Between the two branches of government, fiscal sanity can be restored to the Federal establishment.

A gentleman from the Washington scene was in the office the other day. He said there is a growing consciousness on Capitol Hill that the ridiculous habit of deficit and borrowing year after year must be ended. That's one of the most encouraging reports we have heard from the seat of power in many a day. The wonder is as to whether the honorables will follow through or ignore the dictates of conscience.

One hopeful sign is that more and more Americans are becoming fed up and disgusted with fiscal irresponsibility in the house of the mighty. If there shall be enough of that, those in control will sense the threat to their political future and will act accordingly and sensibly.

Trouble now and all along has been and is that citizens generally are too callous and indifferent about affairs of their government. When and if they are sufficiently concerned, results will be had. The dollar will strengthen abroad, foreign trade can be balanced, people will have greater confidence in Congress and the administration, and the nation will have made a new start toward monetary integrity.

The Helms proposal is proper. It is long overdue. But it will be a steep hill to climb. There will be obstacles to overcome. The ascent is possible and the obstacles can be tossed aside. Where there is a will there is a way. It is a question of whether there is enough will among those who can accomplish these objectives. It is possible. One wonders if it is probable.

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[From the Dunn (N.C.) Daily Record]

### Seventeen Senators Support Helms Bill

Washington.—Seventeen Senators have joined as cosponsors of a bill by North Carolina Senator Jesse Helms which will require a balanced federal budget. Senator Harry Byrd (I–Va.) joined Helms initially in introducing the Helms-Byrd measure.

The bill requires the President to submit and the Congress to enact a balanced budget for the fiscal year beginning July 1, 1974.

Included among the cosponsors are Senators Dewey Bartlett (Rp. Okla.), Henry Bellmon (R–Okla.), Bill Brock (R–Tenn.), James L. Buckley (CR–N.Y.), Carl T. Curtis (R–Nebr.), Pete V. Domenici (R–N. Mex.), Peter H. Dominick (R–Colo.), and Paul J. Fanning (R–Ariz.).

Also listed as cosponsors are Senators Barry Goldwater (R–Ariz.), Clifford P. Hansen (R–Wyo.), Ernest F. Hollings (D–S.C.), James A. McClure (R–Ida.), Sam Nunn (D–Ga.), William L. Scott (R–Va.), Herman E. Talmadge (D–Ga.), and Strom Thurmond (R–S.C.).

"I am extremely pleased to have this group of distinguished Senators join me in this effort," Helms said. "I am convinced this bill is a first step toward eliminating inflation and building a firm foundation for a stable economy in this country."

"It is time we face up to the danger of continued reckless spending by the Federal government and the threat it poses to our economic security," Helms continued. "Controls will never stop inflation because they are not directed at the cause of inflation.

"I know it is difficult for some Senators to commit themselves to a balanced budget because such actions will necessitate cutting Federal expenditures. I am happy to see so many of my colleagues willing to come forward in support of the Helms-Byrd bill."

## A MESSAGE FOR PARENTS EVERYWHERE—PLEASE READ

Mr. McINTYRE. Mr. President, earlier this summer two young men died in a mountain climbing accident in New Hampshire. The story of the accident, illustrated by a dramatic photograph, was widely publicized, which might well raise the question of why I, a Senator from New Hampshire, would want to call renewed attention to a tragedy that took place in his native State.

I do so, Mr. President, because of a column that appeared in the August 24 issue of the Baltimore Sun, a column written by Edgar L. Jones. Mr. Jones was the father of Dana Jones, 28, one of the victims of the climbing accident, and this column—a letter to his daughter in India about her brother's death—was so moving, and said so many truths our generation must heed, that I want to share it with my colleagues and with all who read the Congressional Record.

I will make no effort to capture Mr. Jones' eloquence in my own words. That would be futile and presumptuous. But simply to indicate why I believe that every parent who has felt the trying pangs of the generation gap should read this column, let me quote at some length from the text I intend to put into the Record:

On his son:

> He had found a kind of peace and inner strength in the mountains. He had found as well a fellowship with young people who had many of the same values and respect for the out of doors . . . I wrote to you of these things because, as you know, when he left with you three years ago in a long eastward quest for inner peace, he did so as a rejection of what he considered to be the prevailing American value system. He rejected not only the superpower and war mentality but the culture that revolves around status and possessions . . . While he did not reject his parents—Dana was too imbued with family love for that—he did believe, I know, that we were too conditioned by our own place in the American system to comprehend, as he would have liked us to comprehend, what was on his mind. He felt a barrier between us . . . But Mother and I know that somehow he managed to work it out in the mountains. He was never happier than in the past year. Between our vacation trips to New Hampshire and his several trips to Baltimore, we saw quite a bit of him, and he had developed an easy, comfortable relationship with us. He was, let's be honest about it, still of a restless, questing nature and was not at all certain what he would do in life. But he had definitely found his bearings.

On the accident:

> There are many worse ways to lose a loved one than when he is doing what he really liked to do. We are mercifully free of the anger we might have felt if he had been killed in an ugly war; or the hate we might have known if he had been knocked from his bicycle by a careless motorist, or the self-reproach that might have been ours if he had died, say, of an overdose or a drinking habit. Other parents have suffered and will at other unfortunate times come to know more burdensome tragedies than this one.

On his son's friends who came to the funeral:

> These were friends with whom Dana had worked and climbed . . . They kept coming in, some from scattered places, first an early few, then a dozen, a score, two score—we didn't try to count. They were Dana's age, your age, and even some younger, long-haired, bearded, blue-jeaned; the young people who out on the highways are lumped as hippy types. My thought, what honesty and openness of emotions, what sensitivity, what love and what a sense of responsibility! . . . It occurred to me that young people like yourself and Dana's friends who have been referred to scornfully as flower children have been closer to pure Christianity than most organized churches have been in a thousand years.

On the parents of these young men and women:

> I know just as clearly as I know some of my own previous thoughts that they have parents who worry that they are wasting their time and will never amount to anything unless they return home and get good jobs. They are indeed, many of them, working at the most lowly of occupations in order to support themselves in an environment they find congenial and compatible with their values. But, what communion of spirit they have; what unstinting love and respect for one another; what purity of emotions and maturity. I wish it were possible to reach out to each of their parents and say from the heart, stop worrying that they may never become somebodies. They already *are* somebodies; beautiful individuals, and they gave us so much of a part of Dana we had never known and so much of themselves that we came away enriched rather than bereaved.

Mr. President, near the close of Mr. Jones' moving column he challenges John Donne's contention that every man's death diminishes the lives of those who survive.

He writes,

> Under our own, perhaps special circumstances, John Donne was basically wrong. One young man's death did not diminish the lives of those who knew him but, instead, brought a heightened love and a new found inner strength to all those around him.

The letter to Mr. Jones' daughter which makes up his August 24 column, closes on this note:

> As a postscript may I add that while this is your letter, written solely and expressly for you, there is a substantial portion which I wish to offer to a wider audience in the hope that it may in some way further an understanding between other parents and their children.

Mr. President, it is with that same hope that I now ask unanimous consent to have the full text of Mr. Jones' column printed in the Record:

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Baltimore Evening Sun,
Aug. 24, 1973]

### The Hardest Letter—Made Easier by Love

(By Edgar L. Jones)

Dear Barbie:

The most difficult thing I ever had to do, worse than I can bear now to think about, was to send such a terse, impersonal message to you in far-off India that your brother Dana had been killed in a mountain climbing accident. Even though you may by now be so deeply into yoga and meditation that you can accept death with more spiritual understanding than your mother and I can, nevertheless it must have been a terrible shock for you, made worse by the long wait for details and the many miles between us.

The last time you saw Dana, almost exactly two years ago when he was so ill in Afghanistan that he had to leave your small group and fly home, he was incredibly thin and weak—to us almost a ghost of his old self. I don't know if you are fully aware of the extent to which he rebuilt himself physically with a strenuous regime of exercises and the vegetarian dietary principles you both follow. By the time he left for the New Hampshire mountains he was already in good physical shape.

After he started working for the Appalachian Mountain Club and doing extensive climbing up those long trails to the peaks of the White Mountains, he broadened in the shoulders and thickened in the legs until, when next we saw him, he looked incredibly healthy to us. More important, he radiated a new happiness and a satisfaction with life. He had found a kind of peace and inner strength in the mountains. He had found as well a fellowship with young people who had many of the same values and respect for the out-of-doors. And in time he found, as surely I have written previously, a beautifully tender love in and through Michele. We wish you could have known her and seen them together.

I write to you of these things because as you well know, when he left with you three years ago in a long eastward quest for inner peace, he did so as a rejection of what he considered to be the prevailing American value system. He rejected not only the superpower and war mentality but the culture that revolves around status and possessions. He resented that in this country a person had to *be* somebody to be accounted as worth anything. While he did not reject his parents—Dana was too imbued with family love for that—he did believe, I know, that we were too conditioned by our own place in the American system to comprehend, as he would have liked us to comprehend, what was on his mind. He felt a barrier between us.

I am sure you know better than we do, Barbie, how devastating it must have been for him to have been stricken in Afghanistan while following the pull of yoga and meditation which drew you onward to the peace and security of an ashram in a distant corner of India. He was thrown back on his family, weak and dependent, and through the long months before he was able to set off on his own again, he was obviously struggling with conflicting values and a sense of not getting through to us and the world at large. But Mother and I know that he somehow managed to work it out in the mountains.

He was never happier than in the past year. Between our vacation trips to New Hampshire and his several trips to Baltimore, we saw quite a bit of him, and he had developed an easy, comfortable relationship with us. He was, let's be honest about it, still of a restless, questing nature and was not at all certain what he would do in life. But he had definitely found his bearings. We can only wish that we could have known how such a life, already crowded in 28 years with enough experiences for three lifetimes, eventually would have unfolded.

When in my terse message I said "letter follows" I had expected that it would be the hardest letter of my life. I had planned to say some of the above because I thought that the uncertainties of communication between you and Dana might have left you unaware of his happiness in the past year and that you might find some consolation in it. I had also thought I would have to give you some details of how he died. But Mother and I found that the details are irrelevant.

He and the other young man, Mark Lawrence, were friends; they were both experienced climbers; they had been on the ropes together on previous occasions, and they were in familiar climbing territory. They died together, the result of any one of a number of things that can go wrong in rock climbing, as they well understood. There are many worse ways to lose a loved one than when he is doing what he really liked to do. We are mercifully free of the anger we might have felt if he had been killed in an ugly war; or the hate we might have known if he had been knocked from his bicycle by a careless motorist, or the self-reproach that might have been ours if he had died, say, of an overdose or a drinking habit. Other parents have suffered and will at other unfortunate times come to know more burdensome tragedies than this one.

As I say, this much I had in mind for this hardest of letters, only to have found later a whole added dimension. You would know of course of the friends and relatives of our family who would so quickly come to our side. They were of tremendous help. But we could not possibly have anticipated the love that engulfed us from the moment, late Monday afternoon, when we walked hesitantly into the AMC lodge in Pinkham Notch. We were hugged and kissed and had our hands held amid an outpouring of mutual tears and words, many words, and all the right words.

These were friends with whom Dana had worked and climbed this summer or during the previous year. They kept coming in, some from scattered places, first an early few, then a dozen, a score, two score—we didn't try to count. They were Dana's age, your age and some even younger, long-haired, bearded, blue-jeaned; the young people who out on the highways are lumped as hippy types. My, though, what honesty and openness of emotions, what sensitivity, what love and what a sense of responsibility!

Mother and I had supposed that we would have some kind of service at the funeral home, way over on the other side of the mountains, and then a cremation. I had some vague idea of taking the ashes to a spot at the lake which Dana had liked. But his friends wanted a memorial service close to Pinkham Notch. How all the arrangements got made has become a blur, but your Aunt Dorothy knew in round-about fashion of a minister, Mr. Davidson, who worked with young people in the area. He was wonderfully simple and direct, not pretending for a moment that he had known Dana personally. He spoke only of what he had learned from friends, and he couched his message in terms of his own search 35 years earlier for the peace and inspiration which the mountains had given to him and to others. There was also an all-too-brief period of silence for prayer and meditation, during which time Dana's hutmaster felt moved to speak beautifully of what Dana had meant to them all.

Much the most moving part was at the beginning when as Dana's friends came in, each in his or her natural attire, they quietly walked forward; now one, now another; and lay little bunches of wildflowers before the altar. They had so carefully refrained from ravaging nature and had brought only the most common and plentiful varieties—goldenrod, a few black-eyed susans and jewelweed. It was also impressive that somehow friends from Dana's earlier associations, like Fred and Susie from Friends School and Lee from Union College, had managed to get there. Newspapers are often accused of capitalizing on tragedy, and the Boston papers (I'm told) made sensational news of the accident; but the function of a newspaper is to make the news, however sad, widely known; and because of the eye-catching dissemination, friends of Dana's learned and came from New York, Boston, Albany, Worcester, Maine and Vermont—and I don't know from where else.

It was also extremely gratifying to us—although gratify is hardly an adequate verb—that the family of the other young man came to our service, having been through their own service at a considerably more distant place the previous day.

We had assumed that Dana had rejected Christianity along with other western values; but no, it turned out that Michele knew he had a favorite part of the Bible, which was read at the service. I wish some day soon you would read Luke 12, verses 22 to 32, because I believe it may be the place where your eastern religion and our more westernized religion come closest together in spirit. It is the part about the lilies and how they grow in which Jesus tells His disciples to give no thought to how they will eat or what they will wear but to seek first, the Kingdom of God and all their material needs will be met. It occurred to me that young people like yourself and Dana's friends who have been referred to scornfully as flower children have been closer to pure Christianity than most organized churches have been in a thousand years.

The mountain children, if I may now think of them as such, not only wanted a simple church service but they also knew instinctively what was right for the ashes. The next day eight of them, along with your cousin Dorothy and your little brother Robert, who is far from little any longer, went high into the mountains to an overlook where they knew Dana had enjoyed moments of contemplative peace. They took a few flowers, a Robert Frost poem and their own thoughts, spoken or unspoken. We did not intrude by asking the nature of their service, if indeed it could be called a service. We only know from Robert that they had shared a spiritual experience of having let Dana go free to find his destiny.

I think, Barbie, that you would have been greatly touched by and proud of these young people, who are so very much your young people and by now our young people as well. I know just as clearly as I know some of my own previous thoughts that they have parents who worry that they are wasting their time and will never amount to anything unless they return home and get good jobs. They are indeed, many of them, working at the most lowly of occupations in order to support themselves in an environment they find congenial and compatible with their values. But, what communion of spirit they have; what unstinting love and respect for one another; what purity of emotions and maturity.

I wish it were possible to reach out to each of their parents and say from the heart, Stop worrying that they may never become somebodies. They already are somebodies; beautiful individuals, and they gave us so much of a part of Dana we had never known and so much of themselves that we came away enriched rather than bereaved.

One of my favorite pieces of devotional writing long has been John Donne's admonition to inquire not for whom the bell tolls, because with each man's death goes a part of everyone else. As a humanitarian statement I still admire it. But under our own, perhaps special circumstances, John Donne was basically wrong. One young man's death did not diminish the lives of those who knew him but, instead, brought a heightened love and a new-found inner strength to all those around him. This is the thought that Mother and I rather desperately are trying to hold onto, back here in Baltimore, and which I wish to hold out to you for whatever comfort it can bring. We love you, Barbie, as you surely know.

And as a postscript may I add that while this is your letter, written solely and expressly for you, there is a substantial portion which I wish to offer to a wider audience in the hope that it may in some way further an understanding between other parents and their children. Since I write a weekly column which often deals with my personal observations and small pleasures, it would seem dishonest to me simply to avoid reference to the past week as though it had never happened to us. I feel confident you will understand.

Love, as always.

Dad.

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## FOREST SERVICE TOLD TO KEEP CUTTING TREES

Mr. TAFT. Mr. President, an article which I recently read in the Washington Post, concerning the report entitled "Financial Planning Advice" which the U.S. Forest Service has sent to its field offices around the country, has disturbed me greatly.

The gist of this report is that the Forest Service shall concentrate on getting trees sold and cut even if this means postponing or cancelling programs designed to help hikers and others use the national forest for recreational purposes. The document advises the field offices to limit land use planning to those areas in the next 5 years where the highest activity in terms of timber, oil, gas or coal production or transmission will take place. At the same time, it declares that planning for new recreational projects will not be done in fiscal 1974, that the parks will be open for a shorter time during the off-season than in previous years, and that consideration should be given to shutting down "high cost, low use facilities"—in other words, the facilities in the less populated areas of the parks.

At a time when the Forest Service admits that it is considerably behind schedule in replanting the forests, and Americans' recreational needs and desire to use the forests are burgeoning, this report is quite unfortunate. I am well aware that there has been a very high demand for timber, although it seems to have slackened off in the past several months. But regardless of that demand, it would certainly be shortsighted to halt or drastically curtail our efforts to conserve, maintain and improve the areas which remain uniquely suitable to fulfill many of our recreational needs.

I expressed my concern months ago with respect to the possible relationship of the recent high level of log exports, coupled with high domestic demand, to environmental damage of our forests. However, since less than 10 percent of the exports are from Federal lands, the proposed financing priorities would affect the Federal forests to a much greater degree than log exports possibly could.

In view of the serious nature of these concerns, I urge that the appropriate committee of the Senate, the Agriculture Committee, look into this question immediately as part of its review of pending legislation dealing with management of our national forests.

Alterations of the Forest Service's budget or a much more specific directive from Congress indicating how the Forest Service should spend its money may be found necessary. If so, Congress should not hesitate to take decisive action.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

### Cut More, Forest Service Told—Guidelines Urge Downplay in Recreational Use

(By George C. Wilson)

The U.S. Forest Service must concentrate on getting trees sold and cut even if this means postponing programs designed to help hikers and others use the national forests, according to the latest White House budget guidance.

This Nixon administration philosophy runs through an 85-page report entitled "Financial Planning Advice," which the U.S. Forest Service has sent to its field offices around the country.

John R. McGuire, chief of the U.S. Forest Service, said the document represents his implementation of what the White House Office of Management and Budget wants his agency to do in fiscal 1974.

McGuire, while stopping short of disavowing the directive, said "it is unfortunate that the country is facing inflation and thus cannot do more for natural resources." He added that the budget does not include "everything we would like to do."

The book of guidance will further fuel the current controversy over how much the Forest Service should get to manage the national forests and who should receive top priority in using them.

"In light of the current high demand for timber products for housing, etc." states the guidance document, "and the national economic importance of increased lumber and plywood production, you must make every effort to insure that these levels are met or exceeded."

The levels refer to the amount of timber that can be sold and cut from the national forests. Secretary of Agriculture Earl L. Butz and John T. Dunlop, director of the President's Cost of Living Council, announced on May 29 that 10 per cent more timber would be sold off in calendar 1973 than contemplated originally for fiscal 1973. The amount for that year and fiscal 1974 is 11.8 billion board feet, more than can safely be cut in the opinion of some conservationists, but not in the view of McGuire.

McGuire has said however, that the Forest Service is way behind schedule in replanting the forests—a pacing item for determining how many trees can be cut down without reducing the yearly yield.

The guidance document stresses that in spending money, productive areas of the national forests should take precedence over the out-of-way places favored by hikers, birdwatchers, hunters and fishermen:

"Limit land-use planning to those areas where activity levels in the next five years will be greatest or where high-level commitments cannot be deferred . . . Fiscal 1974 general land use planning will be primarily concentrated on the largest timber producing forests and areas where it must be done in response to high impact developments (e.g., oil, gas or coal; transmission lines; etc.) Defer routine planning for less critical areas. . . .

"Planning for new recreation projects will not be done in FY 1974," the document continues. "Close high-cost, low-use facilities. Shift as much work as feasible to timber purchases, states and counties, permittees or contractors . . ."

Further, the guidance book states, "recreation operation and maintenance costs will be reduced by giving consideration to closing up to 80 per cent of facilities for which standard level of operation and maintenance is estimated to cost more than $3 per visitor-day for campground and $6 per visitor-day for picnic, boating and swimming sites. Exemptions where justified can be made . . ."

In guidance which goes against the new trend for people to use parks and forests in the off-season to avoid crowds, the document states that U.S. forest facilities will be open a shorter time than usual in the off season in fiscal 1974.

In discussing roads and trails that run through the national forests, the budget guidance stated that any money saved in maintaining those routes "shall be reprogrammed to timber support activities."

This type of emphasis and the amount of money in the Nixon administration budget for the Forest Service is only part of the reason the service has suddenly become so controversial. Other reasons include the growing number of people who want to use the forests for recreation, the militancy of environmental groups who are suing the Forest Service over its tree-cutting practices in a number of places, and qualms among lawmakers about shipping U.S. logs to Japan at a time when timber supplies are limited.

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## FERTILIZER SHORTAGE

Mr. **BARTLETT**. Mr. President, although it has received inadequate attention in the press, the farmers of the United States are facing a serious shortage of fertilizer.

This shortage can be attributed to several factors including:

First, the large increase in domestic demand for fertilizer due to strong agriculture prices;

Second, a strong export demand; and

Third, domestic price ceiling.

Senator BELLMON and I have written Secretary Butz requesting that he urge the administration to drop the price ceiling on fertilizer. With the current ceiling, domestic purchasers are unable to compete with foreign markets that can pay higher prices.

Our farmers would rather pay higher prices for fertilizer than be without it.

Dr. J. C. Evans, vice president for extension at Oklahoma State University has prepared an excellent analysis of the current shortage. I ask unanimous consent that Dr. Evan's material be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COOPERATIVE EXTENSION SERVICE,
OKLAHOMA STATE UNIVERSITY,
*Stillwater, Okla., August 31, 1973.*

The Honorable EARL L. BUTZ,
*Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C.*

DEAR SECRETARY BUTZ: Though I know that many have expressed a concern to you regarding the current fertilizer situation, I would like to communicate directly to you our concern here in Oklahoma.

Our State USDA Rural Development Committee decided to do a quick survey of 39 of our wheat-producing counties. This decision followed very quickly after one of the four regional meetings your office held on the wheat production requests for next year.

The attached results of the rapid survey are interesting and perhaps clearly demonstrate the concern. This is not a scientifically conducted survey, but I rather suspect the errors might be compensating. From conversations with plant food suppliers and local dealers, we would seem to be about to get 65% to 75% of last year's supply, and this at a time when requests are being made by your office not only to increase yields, but to increase the number of acres planted, each of which will require more plant food. Coincidentally with this, during August of 1973 we have had approximately a 20% decline in soil tests run in our lab over the quantity tested in 1972 (2,284 in 1972 to 1,796 in 1973).

The information being passed along to us by the fertilizer industry is that a substantial quantity of the plant food material is being siphoned off into international trade because of the less favorable domestic price ceilings. It very well may be that selling plant food materials to other nations results in a more favorable international trade balance than selling wheat, but if this be the case, then the probability of our being able to increase wheat production by either attempting to increase acres or yields or both is considerably lessened. It very well may be that the U.S. Government has two competing and perhaps conflicting objectives: (1) a favorable balance of trade; and (2) increased wheat production.

Also attached is a brief report developed by one of our Extension Economists which you might find useful.

We are simply alerting you to the fact that we face a very difficult task in trying to respond to your request to increase food production while facing a probability of less plant food materials than we had last year.

We simply thought you ought to be aware of this and not be surprised at the product next year in the event this situation persists.

I am writing to you as the elected chairman of the State USDA Rural Development Committee. I also serve as the Vice President for Extension at Oklahoma State University.

Sincerely yours,
J. C. EVANS,
*Vice President for Extension.*

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### 1973–74 FERTILIZER SITUATION [1]

The fertilizer supply situation in Oklahoma, as elsewhere, is tight and is likely to become more severe. There appear to be several basic factors which have led to the current situation: (a) a large increase in domestic demand due mainly to strong agricultural prices, (b) a strong export demand, (c) dollar devaluation on top of the strong export demand, and (d) domestic price ceilings.

There are some additional problems facing the Oklahoma market: (a) transportation problems, (b) technical difficulties in several of the anhydrous ammonia plants that normally serve this geographic area, and (c) a large increase in demand at a time of the year when national fertilizer stocks are usually lowest.

The national situation with respect to the three major fertilizers is as follows:

*Nitrogen*—The nitrogen demand-supply balance is tight and will probably become much worse. Consumption of nitrogen in the U.S. for fertilizer in 1971–72 was 8.1 million tons. Consumption figures for 1972–73 won't be out until October. But it appears that it may have been as high as 8.9 to 9 million tons. Net exports in 1972–73 were 500,000 tons. Net exports for 1973–74 may run as high as 900,000 tons. Because of excess production capacity which faced the industry during most of the 1960's, little new capacity has been planned. One new plant has been announced for opening in Mid-1974. This is the only new plant announced for future completion.

Another factor which could become a problem is the supply of natural gas. It takes about 32,300 cubic feet of natural gas to produce a ton of anhydrous ammonia. If natural gas supplies become critical this winter, fertilizer manufacturers may be asked to cut back production.

*Phosphate*—The phosphate supply-demand balance is tight and will continue to be so through 1973–74. Domestic consumption of phosphates for fertilizer in 1971–72 was about 4.8 million tons. Domestic consumption in 1972–73 may have been as high as 5.1 million tons. Estimates for net exports in 1973–74 are 1.4 million tons, about 24 percent of the estimated available supplies. Supplies of phosphates should increase substantially by late 1974 if all of the announced 1.9 million tons of new wet phosphoric acid plant capacity is on stream by then. Until then, supplies will be tight and prices at or near their ceilings.

*Potash*—The potash supply is adequate and probably will be for the next few years. Prices may be up slightly particularly during the spring rush when prices are seasonally higher. Transportation may continue to cause problems with timely delivery.

Supplies of nitrogen and phosphate in Oklahoma are tight and will continue so. Some dealers are completely out of phosphate and are having considerable difficulty getting further supplies. Indications now are that many dealers will not be able to supply the same quantities this fall as were sold last fall. For those dealers fortunate enough to receive adequate supplies, timely delivery for normal planting will present a problem. It is quite likely that much of the additional wheat acreage that is anticipated will receive little or no fertilizer this fall. This may take the form of no fertilizer on some acreage or reduced application rates on all acreage. Some farmers have indicated that they may top dress with phosphate after the wheat has come up if supplies are available.

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[1] Report prepared by Dr. Robert Rathjen, Extension Agricultural Economist, Oklahoma State University, Stillwater, Oklahoma, August 29, 1973.

## PRESENTATION OF THE EMERGENCY FUEL OIL SUPPLY COMMITTEE TO CONGRESS

Mr. McINTYRE. Mr. President, over 850 fuel oil dealers from New England, New York, New Jersey, and Pennsylvania, have today warned Congress that unless immediate action is taken to establish a mandatory fuel oil allocation procedure that severe shortages will develop in the Northeast this winter.

Speaking for a united New England senatorial delegation that supports the Emergency Fuel Oil Supply Committee's position, we call for the immediate establishment of mandatory allocations of fuel oil.

The seriousness of this situation warrants immediate action.

Mr. President, I request unanimous consent that the position statement of the Fuel Oil Supply Committee be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EMERGENCY FUEL OIL SUPPLY COMMITTEE OF THE RETAIL FUEL OIL DEALERS FROM NEW ENGLAND, NEW YORK, NEW JERSEY, AND PENNSYLVANIA—STATEMENT OF POSITION, SEPTEMBER 12, 1973

### 1. HOME HEATING OIL IS VITAL

No. 2 fuel oil is vital to the health and safety of the majority of the homeowners in our states.

*Heated by oil*

Area, percent of homes, number of homes:
New England, 75, 2,800,000.
New York State, 57, 3,500,000.
Long Island, N.Y., 80, 550,000.
New Jersey, 53, 1,300,000.
Pennsylvania, 35, 1,300,000.

Nearly 60% of the nation's No. 2 fuel oil is consumed in the nine Northeastern states—the highest concentration of usage in the nation.

### 2. ROLE OF INDEPENDENT HEATING OIL RETAILER

The major portion of this oil is delivered to homes by independent retail dealers:

*Percent of Oil-Heated Homes Supplied by Independent Heating Oil Retailers*

| | |
|---|---|
| New England | 82 |
| New York State | 85 |
| Long Island, N.Y. | 90 |
| New Jersey | 85 |
| Pennsylvania | 90 |

If these retailers are not guaranteed the full quantity of fuel oil needed to serve their customers, many of these customers will simply go cold. There is no substitute for the delivery system—the storage facilities and trucks—owned and operated by independent retailers. If the independent has no fuel, the homes he supplies will have no fuel.

### 3. MASSIVE SHORTAGE OF HOME HEATING OIL

All projections, analyses and statistics demonstrate that—unless prompt action is taken by the Federal Government—there there will be a massive shortage of No. 2 fuel oil in the Northeast this winter. Homes, schools, hospitals, factories and all other users of oil heat could well go cold; the result will be a severe threat to health, massive disruptions of public services and substantial loss of jobs.

Independent heating oil retailers in the Northeast have already been notified by their suppliers that deliveries in the coming winter will be far below last year's levels. The projected shortage in some areas is already as high as 40%.

### 4. PLAN OF ACTION

Immediate action is needed to prevent cold homes, hospitals, and schools:

*A. Mandatory allocation program for No. 2 fuel oil*

We strongly support Congressional legislation to increase supplies by establishing a mandatory allocation program for distillate products. Such a program must provide:

That independent retailers and wholesalers are *guaranteed 100% of their base period supply of No. 2 fuel oil;*

That major oil companies must import the substantial additional quantities of No. 2 fuel oil needed to meet the demands of their own systems and total requirements of independent retailers. Cost of Living Council rules must be amended to require that foreign costs be averaged with domestic and to permit passthrough—by both importers and retailers—of all costs of foreign product.

A mandatory allocation program will:

Increase supplies of home heating oil in the total U.S. market and in the independent market, thus preventing severe hardship for millions of homes served by independent retail dealers.

Prevent continued sharp escalation of prices in the Northeast, by assuring that a greater portion of lower priced domestic No. 2 fuel oil is made available to consumers in the 9 state area.

End discrimination by the Federal Government against homeowners who use fuel oil. Federal policies now *guarantee* full supplies of natural gas, electricity and propane to homes that rely on these fuels for heat. Only in the case of No. 2 fuel oil has the Federal Government refused to guarantee supplies to the homeowners. The lack of clear policy discriminates against the Northeastern states, where fuel oil consumption is highest in the nation.

Prevent refiners from exploiting the current fuel shortage to drive independent retailers out of business by arbitrarily cutting off their supplies, thereby severing supply relationships that, in many cases, date back for decades.

Preserve and strengthen the independent sector of the petroleum market.

We are strongly opposed to any plan for *rationing* of fuel oil to the consumer. Such a plan would be unworkable and result in chaos in the retail heating oil market.

*B. Amendment of Phase IV price regulations*

The Phase IV Oil Regulations blatantly discriminate against independent retailers of heating oil and gasoline.

All segments of the petroleum industry can pass through all increased costs, up to retail level; the retailer is forced to absorb all increased costs, except increased costs resulting from imported product.

Retailers are forced to use a mark-up date of January 10, 1973; the producers, manufacturers, and major oil companies are allowed a May 15, 1973 mark-up date. Thus, the independent heating oil retailer is forced to absorb all costs since January 10th. Product and nonproduct costs have obviously increased markedly from January 10th to May 15th. The major oil companies have already passed these increased marketing costs on, but the independent retailer cannot.

The independent heating oil and gasoline retailers are the only segments of the economy and the only class of retailers who are not allowed under Phase IV to pass through increased costs on a dollar-for-dollar basis.

In brief, unless substantial changes are made in the Phase IV regulations, many independent dealers, within the next few weeks, will be faced with selling substantial volumes of product at a loss. In such cases, the retailer, a small independent businessman, will be forced out of business, and the homeowners who rely on the retailer for fuel will be without heat.

We therefore strongly recommend *the following amendments to the Phase IV rules:*

The independent heating oil retailer must be permitted to adjust retail prices to reflect foreign and domestic product cost increases on a dollar-for-dollar basis, and to institute each retail adjustment on the date that the cost changes are experienced.

The independent heating oil retailer must be permitted to adjust prices to reflect all non-product cost changes such as labor, truck maintenance, and other related operating expenses, on a dollar-for-dollar basis.

The August 19, 1973 ceiling price should be calculated by using the average cost of inventory on August 1, 1973 plus the actual mark-up on June 1 to 8—the dates of the freeze. The mark-up presently permitted under the Phase IV petroleum program may be feasible for some gasoline retailers, but is completely inadequate for the heating oil retailer who must buy and maintain fleets of delivery and service trucks and bulk storage facilities, plus provide 24 hour service and deliveries and extend credit and face substantial delays in receiving payment.

The independent heating oil and gasoline retailer should be eligible for the small business exemption applicable to all other industries under the Phase IV regulations.

In addition, we urge prompt action by the Cost of Living Council to correct the gross inequities and discriminatory aspects of the Phase IV rules and regulations on the independent petroleum retailer.

*C. Temporary amendment of air quality standards*

We are pleased that the President and the Director of the Energy Policy Office recognize the need for a temporary relaxation of air quality standards in certain areas of the Northeast.

We recommend that, during the period October 1, 1973 through April 30, 1974, the state agencies permit—where it is currently prohibited—the burning of No. 2 fuel oil of ½ of 1% sulfur content and No. 6 (residual) fuel oil of 1% sulfur content.

This will result in increased supplies of oil to heat homes as imports of higher sulfur fuel oil from foreign refineries increase and the use of No. 2 fuel as a blend with No. 6 decreases.

*D. Summary*

In short, we need help from Congress in two major areas:

1. Immediate legislation to assure adequate supply and equitable distribution through a mandatory allocation program.
2. Support, assistance and, if necessary, legislation to correct the inequities of Phase IV as it applies to the independent retailer.

*Organizations*

New England Fuel Institute and Affiliated Associations.
Vermont Oil Heat Institute.
Better Home Heat Council of New Hampshire.
Better Home Heat Council of Massachusetts.
Independent Connecticut Petroleum Association.
Home Heating Council of Rhode Island.
Home Heating Council of Northern Rhode Island.
Maine Oil Dealers Association.
Oil Heat Institute of Long Island.
New York Oil Heating Association.
Empire State Petroleum Association.
Pennsylvania Petroleum Association and ten affiliated associations.
Delaware Valley Fuel Oil Dealers Association.

## PENSION REFORM

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Pension Reform Must Be Saved" published in the Los Angeles Times of September 4, 1973.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PENSION REFORM MUST BE SAVED

The disclosure that Rep. Wilbur D. Mills (D–Ark.), chairman of the House Ways and Means Committee, has undergone back surgery comes as bad news for reasons going beyond sympathy for his discomfort. It means that several vital pieces of legislation before his committee will probably be delayed.

One is the trade bill, the early passage of which is essential for elective U.S. participation in the coming world trade negotiations. Another is pension reform legislation.

Voluminous testimony before congressional committees has left no doubt of the need for federal legislation to assure the tens of millions of Americans covered by corporate pension plans that the retirement benefits they expect will actually be forthcoming.

According to a government study released just the *other* day, retirement benefits were lost by almost 20,000 workers in 1972 alone when their employers terminated the pension plans they had been depending upon. Experts believe that the figure was higher in previous, less prosperous years when the incidence of business failures was more serious.

Workers frequently lose their benefits, too, when the company for which they work is merged into another firm or when investment of the funds is managed dishonestly or ineptly. More frequently still, employes with long years of service lose their accumulated pension benefits when they change jobs before retirement age.

Sen. Jacob K. Javits (R-N.Y.) is the principal sponsor of a bill that would go far toward providing the additional safeguards that are needed.

It is taken for granted that some version of his proposal will be passed by the Senate this month, but it is in danger of being watered down to meet objections that federal insurance to provide protection against loss of benefits when a plan goes bankrupt or is otherwise terminated would be too expensive.

The House Ways and Means Committee hopes to consider pension reform legislation quickly after disposing of the trade bill. And there is the rub.

Originally, Mills promised that the committee would complete work on trade legislation before the August recess. Partly because of the disablement he has suffered from a ruptured disc in his lower back, the committee didn't make the deadline. However, he still had hoped to clear the trade bill for action by the full House in late September. Now even that target date is in jeopardy because of Mills' surgery.

The Chairmen of all congressional committees are powerful men, and Mills is more powerful than most. Rep. Al Ullman (D-Oreg.), who will fill in as acting chairman, will find it very difficult to arrange the compromises between contending economic interests that are necessary to put together an effective trade bill that will withstand challenge on the House floor.

It is important, however, that he succeed in doing so. If too much of the public's business is delayed until next year, there is the danger that it won't get through at all.

Pension reform was allowed to die in the last Congress. It is too important, to too many people, to be allowed to die again.

## CHAIRMAN SIMPSON'S THREAT AGAINST TOBACCO REBUKED BY SENATOR HELMS

Mr. HELMS. Mr. President, during the August recess of Congress, hundreds of thousands of people in my State, and in other States, learned the disconcerting news that a threat had been voiced to ban cigarettes in America. Needless to say, Mr. President, such a threat, if carried out by the Federal Government, would paralyze the economy of my own State along with several others.

I will not dwell on that economic fact of life, Mr. President. But I do desire to comment on the circumstances leading up to the incredible announcement by Richard O. Simpson, newly appointed Chairman of the newly established Federal Consumer Product Safety Commission that he is entertaining the serious expectation that his agency may move to ban the cigarette absolutely.

It goes without saying, Mr. President, that Mr. Simpson's appointment is now widely regarded in my State as something akin to the Roman Emperor Caligula's choice of his horse for the post of Consul.

That aside, Mr. President, it is interesting to note that Chairman Simpson disclosed that he was triggered to act when informed a month earlier that he would be receiving a petition from one or more Members of Congress calling on Mr. Simpson and his agency to ban cigarettes.

Who are the signers of this anticipated, but as yet unfiled, petition? Who, Mr. President, are those Members of Congress whose mere contemplation can trigger a Federal bureaucrat who is yet to warm his new seat?

Not much looking was required in order to find the answer. Very quickly, the cat was out of the bag. And it was my distinguished colleague from Utah, Senator Moss, who identified himself as the author of the petition that triggered Chairman Simpson to undertake to destroy the 365-year-old tobacco industry in America—and along with it the jobs of hundreds of thousands of Americans.

Now the distinguished Senator from Utah (Mr. Moss) knows of my personal affection for him. We serve together on the Committee on Aeronautical and Space Sciences. He is a very pleasant, affable gentleman. I do not doubt his sincerity. But he should not doubt mine when I say to him that he is in for a fight. My distinguished friend can trigger as many bureaucrats as he can muster, but this Senator and many others do not intend to stand by idle and silent, while he and Chairman Simpson undertake to cripple the economy of my State and destroy the livelihood of hundreds of thousands of families.

To be sure, Mr. President, my distinguished colleague (Mr. Moss) couched his revelation of participation quite delicately. Indeed, it is important to study the precise language of a statement issued by Senator Moss:

> I commend Chairman Simpson of the Federal Consumer Product Safety Commission, for his comments regarding a ban on the sale of cigarettes if found to contain poisonous substances medically harmful to users.

May we assume from the "iffy" clause that my distinguished colleague has some doubts about the alleged health hazard of tobacco? If so, perhaps we are making some progress toward objectivity, which has been long lacking in the controversy over smoking and health. An objective review of all the medical literature—a task which has not yet been undertaken—would, I think, sustain more than reasonable doubt about the role of smoking in causing diseases.

My distinguished colleague (Mr. Moss) goes on to acknowledge the fact that he did the prodding leading up to Chairman Simpson's threat. Senator Moss said:

> Some time ago, I assigned to my staff a study of various substances including tobacco and asked it to prepare a petition if justified to the Consumer Product Safety Commission to issue a ruling.

Again, Mr. President, there is an "iffy" clause. May we hopefully anticipate that the Senator's staff, after applying its legal and scientific expertise, will find such a petition is not justified? Or, may we anticipate finding that other of the various substances in their study might also be included in their petition to the Commission? Like milk, butter, eggs, and other foods high in cholesterol? Like beer, wine, and liquor? Like aspirin, tranquilizers, and saccharin? Like coffee, tea, sugar, and soda pop? Like aerosol sprays, gasoline, and cooking gas?

The list of substances is long, and not limited to tobacco. For, as my colleague interprets it, the Hazardous Substances Act is sweeping. It seems to throw a very tight dragnet over the economy, covering, in his view, all that can adversely affect mankind by "ingestion, inhalation, and absorption through any body surface." Since he believes that "a habit of use" should not override "a known threat to health," perhaps we can anticipate a move to prohibit overeating, and a Federal injunction against that as well. The question is: How far is the Senator willing to go? How fair does he intend to be?

Farmers, workers, and businessmen in other fields should take warning. Even though the Senator is pointing his arrow at tobacco, the threat is broad. If he hits this bull's-eye today, other targets may be selected tomorrow.

Even if he misses, citizens should be forewarned to keep their heads down, for my distinguished colleague has a second arrow in his quiver. If prohibition does not get you, taxation may.

Earlier this year Senator Moss got off a practice shot with the second arrow of taxation which few noticed. He inserted in the RECORD an article advocating a tar and nicotine tax as a means of pursuing his policy objectives.

The author of that article is a consultant to the management firm which designed a series of such so-called incentive taxes for Mayor Lindsay to impose on Fun City.

The Senator from Utah also shot out a volley of reprints to State legislators and city officials all over the country, encouraging them to get in on a good thing. He sent along a model tax bill to help those who might not know how to draft one.

The power to tax, John Marshall said, is the power to destroy. In this case the operational word is "destroy." My colleague has given all of us a Hobson's choice—destruction of the tobacco industry by prohibition, or by taxation. We should accept neither.

In "Mein Kampf" Hitler was ruthlessly frank in setting down his strategy of world conquest. The author of the article, inserted in the RECORD by my distinguished colleague, is no less ingenuous—and no less wrong-headed. A young man, he makes up in academic degrees—A.B. Harvard, M.A. Oxford, J.D. Yale—what he may lack in experience and sensitivity.

For example: The young expert urges upon this Government—and evidently Senator Moss does not disapprove—"the tried strategy of the old British Empire: Divide and Rule." Is the young man aware, or does he care, that this was the strategy that imposed a yoke of colonialism upon millions of people in India, Ireland, Palestine, the Middle East, Asia and Africa, to say nothing about pre-Revolutionary America?

Many have vocally professed to shrink in horror from the so-called White House "enemies list" revealed in the Watergate hearings. But what about this gross application of discredited international power politics against a legal domestic industry and a legal domestic product and the millions of Americans who enjoy it?

Having identified tobacco and tobacco smokers as the "enemy" on which to apply the divide-and-rule strategy, the youthful management expert calls for—and evidently Senator Moss approves—Government intervention to determine the most coldly efficient mechanism. "There are two possibilities," he says, "taxation and/or selective prohibition."

And, my distinguished colleague from Utah, like an approving grandparent, is ready, with a taxation bill in one hand and a prohibition petition in the other, to give the young expert his choice of mechanisms, to play with.

Self-righteousness is heady business, Mr. President. It permits its possessor to accomplish what he regards as noble ends with ignoble means. And all in the name of necessity. The old ways do not work. New ways must be used.

For as the young "management consultant" sees it, "despite the Government's efforts, the health situation has not improved." By that he means, people have not sufficiently responded to warnings, higher taxes, propaganda, and Government harassment, and continue freely to decide for themselves whether to smoke or not. This sad state of affairs exists, says this young expert, "because the Government's interventions have all shared the common, unrealistic goal of reducing total cigarette consumption." He goes on to observe:

> Legislators and public officials must learn from these past experiences: Most smokers cannot or will not quit.

The only answer, he states, is taxation and/or selective prohibition.

The author is industrious to point of zealotry, ingenious to the point of sophistry. Arguments pile on argument, with references, citations, and footnotes stretching out from the end in an impressive festoon like a peacock's tail. But withal, his lengthy analysis is defective.

It comes down to this. His basic premise is false. He has threaded his pearls of wisdom on a broken string.

For it is not Government policy to discourage smoking, and certainly not by hook or crook.

This may be a satisfactory policy to some Members of Congress. It may be their fervent wish to become Government policy. But so far it is still only a gleam in their eyes.

Government policy with regard to cigarette smoking as established by Congress in the 1965 act and again in the 1970 act is designed to provide the American people with the facts about the alleged health effects of smoking and let them make their own free choice.

Let me read the declaration of policy of Public Law 91–222, an act to extend public health protection with respect to smoking:

> It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—
>
> (1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and
>
> (2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

Mr. President, I can understand my colleague's frustration. What do you do when millions of people reject your well-intentioned efforts to protect them from themselves?

This is a profound question. If a man or a woman knows that cigarettes may be harmful to his health, and knows exactly how much "tar" and nicotine they contain, and wants to smoke anyway, is it the Government's function to tell him that he cannot, or that he must pay higher taxes, or that the tobacco industry cannot even produce the kind of cigarettes he wants?

I submit, Mr. President, there is inherent in our American system and its traditions a citizen's fundamental right to be left alone. As basic as our right to privacy, is our right to be left alone to choose how to exercise our individual freedom.

How far shall the Government intervene to impose upon its citizens an official party-line view of the good life? Apparently there are those who would impose behavioral prohibition or behavioral taxation, or other forms of compulsion, coercion, and control. But, this is not a health question. It is an ethical question, a political question in the highest sense of the word.

A surgeon general or a government bureaucrat is no more an expert on answering this profound question than a butcher, baker, or candlestick maker. Nor is a Senator from Utah, or North Carolina, or a management consultant, or the mayor of New York City.

It is a question for the people to decide. Fortunately for the Nation, we have an indication of what the people themselves will decide. In New York City since July 1, 1971, there has been in effect a tar and nicotine tax, imposed by Big Brother Lindsay as a seminoble experiment in behavior control.

How poorly has this sumptuary tax fared? Let me count the ways.

First. Administrative costs of tax collection, compliance, and enforcement climbed. Under the New York City scheme, consumers pay the basic 4-cent city tax on cigarettes with up to 17 milligrams of tar and 1.1 milligrams of nicotine. For cigarettes higher in *either* category, they are taxed at 7 cents; brands higher in both, are taxed at 8 cents. In theory, the consumers were supposed to switch brands to avoid the tax. In practice, the ordinance shattered a fairly uniform price structure. Cigarette prices now differed by length—regular, king size, long—and also by their fluctuating tar and nicotine content.

It became extremely difficult for retailers or consumers to figure out the selling price and the tax. The result: Retailers, who have to bear the cost of all the additional bookkeeping, tended to raise prices on all brands by 4 cents. Thus, the brand-switching incentive disappeared out the window and additional enforcement costs came in the door.

Second. Contempt for the law and bootlegging increased. It is estimated that organized crime controls the distribution of half of all cigarettes sold in New York City. They get a steady flow of cash to subsidize their other criminal activities such as narcotics and loan sharking. This state of affairs is the inevitable byproduct of an unwanted and unenforceable tax, which raises legal cigarette prices to an exorbitant level, about 70 cents a pack. On the black market, popular brands are offered at a substantial discount, and are snapped up by consumers.

The tar and nicotine tax is actually an incentive to organized crime which seems to be the primary beneficiary of the new prohibition as it was of the old.

Third. Legitimate retail sales have suffered, and so have tax revenues. The onerous cigarette tax has driven 20 percent of cigarette sales to the suburbs. In addition to loss of cigarette volume, the retailer loses the sales of allied products, such as candy, tissues, razor blades, and other sundries. In little over a year after it was imposed, New York City lost $4 million in excise taxes and $2.5 million in sales taxes on cigarettes alone.

Fourth. Consumers have resisted behavior control. Sick and tired of scare propaganda and high taxation tactics, New York City's consumers have not switched to what Mayor Lindsay's bureaucrats claim are safe cigarettes. They have switched their source of supply from legitimate New York City dealers to suburban stores. That is, of course, those who can afford to make the trip. Those who cannot, that is the inner city residents, have switched to the bootlegger. For it is ironic that this tax, advocated by and implemented by men who call themselves liberals and who champion the impoverished, is extremely regressive. It falls most heavily upon those least able to afford it; the least affluent who comprise 22 percent of the city's population.

For example, the tar and nicotine tax, in combination with the other tax levied on cigarettes, costs the two-pack-a-day smoker $240 a year, which means 8 percent to a person living on $3,000 a year as against only 1 percent to a person earning $25,000 a year.

Mr. President, let me offer an observation. I hope my colleague takes it to heart. If we fail to remember the errors of the past, we will be doomed to repeat them. No matter how you slice it or how you cut it, it is still prohibition. And what this country needs least is another prohibition.

Strangely, Mr. President, I find myself in the same camp on this issue as the New York Times. I ask unanimous consent that an editorial published by the New York Times on August 26, 1973, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed as requested.

And finally, Mr. President, let me raise one other vitally important issue. Does our scientific knowledge really justify the liquidation of the tobacco industry? In other words, are we as a nation being stampeded into deciding whether to hang the defendant or put him in the electric chair before the verdict has been rendered?

The millions of men and women who earn their living in all phases of the tobacco industry and in tobacco farming have not been guilty all these many years of putting their vested interest before the public interest. The so-called powerful tobacco lobby has not been conducting a blindly selfish resistance against medical fact.

On the contrary, after decades of scientific investigation the question of smoking and health is still a question. The causes of dread illnesses, such as cancer and heart disease, are still unknown. The Congress commitment of millions in research funds for the conquest of these two diseases is ample evidence that we do not have the answers and that we must close the gaps in our knowledge if we ever expect to get those answers.

Now in this situation of uncertainy the gravest danger is in a refusal to admit our own ignorance, to seize upon the wrong answer or a partial answer. As Mark Twain put it: "It's not what you don't know that can hurt you, it's what you know that ain't so."

To make tobacco the scapegoat of our fears and ignorance of these dread unknowns would ultimately be the greatest disservice to mankind and to science itself. For once you have found the scapegoat, you need not struggle to find the cause.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the New York Times on this subject dated August 26, 1973.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### ANOTHER PROHIBITION?

Richard O. Simpson, chairman of the newly established Federal Consumer Product Safety Commission, entertains the "serious expectation" that his agency may ban the cigarette once and for all. The commission would, of course, have to go through an elaborate process, including a thorough review of the Surgeon General's findings on the health hazards of smoking, as well as the arguments of cigarette manufacturers and others. Even then, it might come up with a ban on only those cigarettes that exceed a level of tars and nicotine which the commission considers safe. But the surprising thing is that so drastic a move should be contemplated or even thought to be feasible.

The law that created the commission last fall exempted tobacco from the agency's range of action, but the law did authorize it to administer the Hazardous Substances Act. Mr. Simpson takes that law as his source of authority—since it gives the Government the right to ban products on the basis of the severity and frequency of the injuries they cause. The Surgeon General has held that cigarettes are an important factor in cancer, emphysema, coronary disease and other grave disorders, but domestic cigarette consumption continues to rise in spite of required warnings on the package and in advertising. Hence, Mr. Simpson reasons, a complete or partial ban may have to be the next step.

Putting aside both the logic and the legal questions involved, we have grave doubts that a Government ban would be a wise approach. This newspaper long and consistently urged measures to compel warnings of the type now legally required. We warmly supported official action to educate the public on the dangers of smoking. But from the first it has been our position that it "should be enough for public health agencies to discourage the habit by means short of prohibition."

That is still our position. Forty years after its repeal, the failure of the Eighteenth Amendment is still vivid in the national memory—along with the evils of bootlegging, gang warfare and general contempt for law that it brought in its train. On much the same reasoning, we have supported the recommendation of the National Commission on Marijuana and Drug Abuse that penalties be abolished for the private use and possession of marijuana.

A ban on those cigarettes violating a fixed safe-content standard is a more reasonable approach, not too different from present Government limits on harmful additives and other potentially dangerous substances in food and drug products. But, with all respect to Mr. Simpson's courage and integrity, we believe that even this type of control would prove unenforceable and, in the end, undesirable. The most effective function for Government is to make certain that the health hazards are fully understood. It would be as much a mistake to penalize those who refuse to heed such warnings as to penalize a glutton for overeating.

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## NO EXPORT CONTROLS

Mr. DOLE. Mr. President, current market prices for agricultural commodities reflect the results of supply and demand. Throughout the world, people of nearly all nations are enjoying improved status or affluency compared to their plight in past years. With this affluence they have gained knowledge about nutrition, and these two factors are probably the two most important factors that are causing the increased world demand.

In recent years our farmers have been forced to accept the market price offered them for their wheat or other commodity, and that price is directly related to the export demand. Now, for over a year, we have seen constantly increasing demand for food and fiber, and resulting improvement in the prices received by farmers. Let us look at the results.

Farm income is at an all-time high.

Farm subsidies are at the lowest in years and, if prices prevail, could be eliminated next year under the new farm bill.

Farmers are responding to the increased demand by expanding their production for next year, and many are contracting their production, whenever possible, to assure the higher prices.

We are rightfully concerned about increased prices for food. But, it is interesting to note that, according to recent Department of Labor figures, food and petroleum product costs have increased far more than other items in the cost-of-living index. The past year the average increase in cost of living without considering food and petroleum is only 4 percent.

Because food is the major cost item in the American family's budget it deserves careful consideration. However, it is interesting to note that wholesale farm prices declined 11 percent between August 14 and September 7. Secretary Butz said it well in commenting on this drop:

> When farm prices go up, they usually come down later. But when other prices go up, they usually stay up.

There is every reason to believe that our farmers' expansion of production will stabilize prices. Prices will not drop to previous lows, however. The improved value of other currencies resulting from devaluation of the dollar means that export prices will likely remain at higher levels and our domestic prices have always been closely related to world prices.

Mr. President, during this period of erratic and increasing prices there has been repeated discussion and some suggestions of the imposition of export controls or licensing to assure an adequate supply of food and fiber for our domestic demand.

I question the ability of our Government bureaucracy to control exports and assure this supply without breaking the market to low levels once again. We witnessed their ability in this area in June when an embargo and allocation system was invoked on soybeans, soybean products, and related or competitive protein or oil products. The results were disastrous, dropping the market prices and endangering our relations with customer nations who now have cause to doubt the sincerity of our trade commitments after such action and our reliability for delivery.

It seems simple and appropriate to suggest export controls when wheat prices are $5 per bushel, cotton is 83 cents per pound, corn at $2.44 per bushel—and we know our domestic supplies are dwindling. But adequate domestic supplies can be purchased with higher, competitive bids. When those supplies are assured, either by forward contracting or increased production, then those commodity prices will stabilize—a far more sensible system than artificial export control which we know will penalize the produce and eventually have to be equalized through supply and demand.

I have given considerable thought to the prospect of export licensing or controls. There are several questions that I find I am unable to resolve and would pose them for consideration by control proponents.

First. What level of commodity exports would you authorize for this marketing year?

Second. To which countries should such exports go and in what quantities?

Third. How much will farm prices fall in the U.S. market and who will be the beneficiaries of such a drop in prices?

Fourth. What prices do you believe are equitable prices for the farmers of this Nation?

It is only after you examine these questions and provide the answers to the Congress that we can take such a proposal seriously. A sharp drop in farm prices, which would be the result of export controls, would reduce farm income in every State producing the affected commodities.

With such a proposal we are in effect saying that the U.S. consumer, with the highest per capita income in the world, cannot afford to pay world prices—before export shipping charges—for these basic commodities. I am confident that we are capable and willing to pay fair prices to our farmers for their commodities and do not want to return to the multi-billion-dollar farm subsidies to equalize their costs and the desired low prices in the market.

Let us examine other reasons why such controls would be damaging.

First. It is well known that export controls with lower export prices will weaken the U.S. currency, which in turn will mean U.S. consumers paying more for the things we import.

Second. We will shortly be entering into negotiations with our distinguished trading partners to seek liberalized trade through the General Agreement on Tariffs and Trade. Entering into the GATT negotiations at the same time we have export controls will weaken our negotiating position. Already Japan is seeking alternative sources of soybeans as a result of the short run export controls we placed on this essential product.

Third. We need these export markets to pay for essential imports.

Mr. President, I repeat, I share the concern over increased food prices and the above questions are the result of considerable study into the proposal of export controls. The answers to these questions, which suggest themselves to me, substantiate my position of opposition to export controls.

Through expanded markets and expanded production in agriculture we are building a new solid foundation for economic stability for this Nation—a peaceable economic stability, I would add—and I am confident that if we allow the capitalistic system to function, it will work properly and fairly, just as it has for nearly 200 years.

## DR. G. D. "DUKE" HUMPHREY, PRESIDENT OF THE UNIVERSITY OF WYOMING

Mr. HANSEN. Mr. President, my State of Wyoming this week mourns the passing of one of the State's great and longtime leaders.

Dr. George D. Humphrey was president of the University of Wyoming for almost 20 years. The university is the only 4-year institute of higher learning in our State and therefore plays a greater role in all phases of Wyoming life and in our Government, than would a similar university in the more typical State with greater population density.

President Humphrey was a great builder of our university, at a time when building and expansion were very much needed. He was a great educator, and served our State well for many years—not only in his career field, but as a willing and welcomed adviser in many areas—including Government. His passing will be mourned by his thousands of friends in every community of our State and by professional associates at the national level. It was my privilege to know "Duke" Humphrey on a personal basis for many years. He was a dependable friend.

During my service as a member of the university's board of trustees, of which I was for a time president, I had the opportunity to see firsthand a small Western college at Laramie become known nationally as an institution with standards of excellence second to none. And it was my opportunity to see who provided the principal leadership and innovations from which sprung this quality growth. The physical plant also grew through those Humphrey years of the University of Wyoming, and the student body increased greatly in size as the school's reputation for superior education expanded along with its facilities. Today the total on and off campus enrollment at Wyoming is near 11,000, with many of the students natives of States from coast-to-coast.

Although a dyed-in-the-wool Wyomingite, Duke Humphrey himself was a naturalized westerner, being a native of Mississippi, where he was acquainted, it is my understanding, with both of our distinguished colleagues from Mississippi. In fact, Dr. Humphrey was for about a decade the president of Mississippi State University, then Mississippi State College, before becoming president of our university at Laramie in 1945.

It has often been observed that no position demands a greater variety of talents than does that of a university president. Duke Humphrey enjoyed the confidence of the people of Wyoming. His rapport with the State legislature set a standard which has seldom been equaled in the history of public education. He understood Wyoming.

He knew many of Wyoming's people, each of her counties, intimately and well. The solid support accorded the university by succeeding legislatures during his long tenure of office attested to the high regard in which this man was held.

While Governor, as an ex officio member of the university board of trustees, I was able to continue to work with Dr. Humphrey on university matters, and he was never reluctant to respond to my frequent requests for counsel in the field of education. I believe the educator is at the top of the ladder in relation to the value of a citizen to his country. Dr. Humphrey's significant talents in his career field have been lost, but the thousands for whom he helped make an outstanding education possible are a living memorial to his ability.

## RETIRED CHIEF JUSTICE WARREN AT THE ABIDJAN WORLD PEACE THROUGH LAW CONFERENCE

Mr. JAVITS. Mr. President, by authority of the Foreign Relations Committee I was privileged to attend and address the World Peace Through Law Conference between August 26 and 29 in Abidjan, Ivory Coast. Charles Rhyne of the United States, former president of the American Bar Association, has done a most historic and distinguished work for years as president of this organization. One of the many distinguished speakers to address the conference was retired Chief Justice Earl Warren. In my judgment, Chief Justice Warren's address was the high point of this conference of 2,500 judges and lawyers from all over the world—a realistic, albeit somber appraisal of the world community's efforts to date to give effect to the 16 basic human rights treaties that have been adopted by the United Nations. The large U.S. delegation was distinguished also by the presence of Justice Thurgood Marshall of the U.S. Supreme Court who made a brilliant speech on the worldwide responsibility of the bench and bar for human rights.

Unfortunately, the United States "track record" in ratifying and, therefore, in taking the lead in implementing these international conventions that give legal effect to the basic civil rights and human liberties that all peoples need and deserve, is not good enough. The United States has ratified only 2 of the 16. One of those as yet unratified treaties, the Genocide Convention, is now on the Senate calendar. To shed further light on the necessity of Senate approval of this vital convention and to make Chief Justice Warren's incisive comments available to the Senate, I ask unanimous consent that it be printed in the Record at the conclusion of my remarks, together with the welcoming address by President Felix Houphouet-Botyny of the Ivory Coast.

There being no objection, the addresses were ordered to be printed in the Record, as follows:

### Address Delivered by Honorable Earl Warren

The approach of the 25th anniversary of the Universal Declaration of Human Rights should fill us all with a sense of impatience at the slow progress toward the goals it proclaims. Great goals not yet attained are not diminished. But great goals, unpursued, diminish all mankind. Thus, impatient is an essential quality for us to bring to this anniversary.

It is especially fitting that we should gather together here on the continent of Africa to mark this anniversary. This is not just because some of the most urgent problems of human rights—ranging from apartheid to near-genocide—confront us on this continent. Hopefully, our being here may encourage restraint on those given to bigotry and to the torture and killing of their fellow men.

But, most certainly, our being here is a dramatic and positive recognition that much of the progress the family of nations has made toward implementing the Declaration of Human Rights has been due to the initiative and the persistence of the representatives of African States. This meeting is an appropriate way of acknowledging the debt of gratitude the entire world owes to them.

During these past 25 years, the Declaration has become considerably more than was claimed for it when first presented to the United Nations General Assembly by Mrs. Eleanor Roosevelt.

A number of legally binding international conventions on human rights have incorporated direct references to the Declaration. So have various peace treaties.

Nearly twenty of the new African States, as well as a number in other parts of the world, include references to the Declaration and its provisions in their Constitutions. The Declaration has clearly inspired human rights provisions in the Constitutions of a number of other African States and such new non-African States as Cyprus, Jamaica, and Trinidad and Tobago. Even national courts have made reference to the Declaration and, in several instances I understand, have juridically applied it.

In the legislative work of the United Nations, the Declaration has become an arbiter and a standard of reference against which every new text on human rights is measured. In 1960, for example, the Assembly adopted by unanimous vote the Declaration on the Granting of Independence to Colonial Countries and Peoples, which specifies that "all states shall observe faithfully and strictly the provisions of the . . . Universal Declaration of Human Rights."

So there is much for which to be grateful. Yet, fidelity to the pioneers in the struggle for human rights requires us to be profoundly dissatisfied with the current state of affairs.

No one of us, if he looks with a clear and honest eye, can fail to see close at home as well as in distant places far too many manifestations of man's inhumanity to man. On every continent, including this one which is so hospitable to use, there is an ever ready tendency to divert attention from transgressions at home by crying out at the sins of neighbors. There is constant resort to rhetoric and legalisms as the substitute for constructive action. And governments everywhere have been persistently inept in finding ways to express national interests in terms of cooperation to advance individual human welfare. Bigger budgets for arms rather than stronger helping hands is still the order of the day.

Much law has been written but very little of it has been ratified. A study made in 1968 showed that, of the sixteen human rights treaties adopted by the United Nations, the total number of ratifications was barely more than twenty per cent of the maximum attainable number.

Only three—the Genocide Convention, the 1926 League of Nations Slavery Convention as amended in 1953, and the Supplementary Slavery Convention—had received more than half the maximum number of ratifications. Only seven States had ratified a majority of the sixteen. Fifty-nine States have ratified only two or less. I regret to say my own country appeared on this sadly long list of 59. Fortunately, we escaped being among the fourteen States that ratified none. The intervening years have not changed the picture substantially. That is more than a sad record; it is a disgraceful one.

It seems to me there are three deep-seated reasons for this state of affairs that must be faced before substantial progress is a reasonable possibility.

First of all, there are fundamentally different concepts of relationships between the individual and the state.

Second, international machinery to deal with the rights of individual citizens poses a sharp challenge to traditional concepts of national sovereignty. This is especially true in a period of history outstandingly marked by the rise of new nations.

And third, there is the problem of translating specific concern with violations in one region into a general concern for all regions.

The issue of whether the individual exists for the state, or the state for the individual, is far from being resolved.

There are thoughtful and persuasive advocates of the view that individuals are but part of the community; that the very understanding of human rights is a governmental concept, and that the rights of human beings cannot be considered outside of the prerogatives of government.

The American history and tradition are, of course, quite different. They find their finest expression in our Declaration of Independence and in the Bill of Rights of our Constitution. In these documents, the rights of the individual are held as "anterior and superior" to the state and, as such, are inalienable; the role of the state is, essentially, to create conditions that will help each individual exercise his right to "life, liberty and the pursuit of happiness."

These are differences that, under the best of circumstances, are not easy to reconcile. This is particularly the case in an organization like the United Nations whose members are states. Moreover, a new dimension is added when dealing with the relation of individuals to supranational authority.

The issue came sharply into focus in the earliest days of the UN in regard to the individual's right to petition the UN for protection.

The individual lost. In 1947, the Commission on Human Rights adopted a self-denying rule declaring that it has "no power to take any action in regard to any complaints concerning human rights. That inhibition, to a shameful extent, still inhibits. Three years ago, the Commission did agree to examine situations which reveal a "consistent pattern of gross violations" of human rights. But this promising development has yet to show positive results.

It is a testament to the high regard that ordinary citizens all over the world have for the United Nations and for the Commission of Human Rights that, despite repeated failures to cope with abridgements of man's fundamental rights, people continue to address their complaints to the UN. The average number of complaints about human rights violations for years had exceeded 15,000, but last year it was 27,500.

It is a tragic commentary, both as to the sensitivity of man for his fellows and as to the adequacy of our international machinery, that these complaints are almost certainly doomed to orbit in space—which is merely a contemporary way of saying they are buried in a bureaucrat's file!

This state of affairs is rooted not only in differing concepts of the relationship between the individual and the state, but in the more traditional concepts of national sovereignty.

When we met in Belgrade two years ago, I began my remarks there by observing that "perhaps the most tragic paradox of our time is to be found in the failure of nation-states to recognize the imperatives of internationalism." Then I was referring mainly to the way in which science and technology have robbed the nation-state of its ability to discharge the primary function of providing security for its citizens. Today, the question is raised in the larger context of the ability of our political mechanisms to contribute not only to the security but to the quality of life of their citizens.

The domestic jurisdiction clause in Article 2 of the United Nations Charter has inhibited the development of effective international organization on many fronts—not the least of which has been the International Court of Justice. Yet, it is in the human rights area that governments consistently have imposed the broadest interpretation possible to block inquiries into their own human rights practices. As a result, except in a few special instances, fact-finding, public exposure or airing of an issue or violation of human rights, to say nothing of conciliation, negotiation or adjudication, have been blocked.

The third barrier to progress has been the tendency to make human rights largely a matter of regional concern. Thus far, only in dealing with apartheid and decolonization has the United Nations been able to override arguments of domestic jurisdiction and create machinery to implement declarations. Without minimizing the importance of these actions, it is well to recognize they were designed to serve political as well as human rights objectives. Moreover, they cover only a small, though vital, portion of the rights of man that should concern us all.

It is too early to judge the effectiveness of the machinery which has been created to deal with deprivations arising from apartheid and decolonization. We must watch them with hope—for their own sake and for the guidance they can give us for the future. Also, we must look forward to the day when the commendable initiatives of the Africans and the Asians are extended to other important aspects of human rights.

I can understand the fears that supranational institutions might infringe upon the hard-won sovereignty, or become vehicles for the re-entry of interests or values associated with former colonial powers. But I also believe special efforts must be made to summon the good will and common purpose which are needed to overcome the fears that bar the way to progress.

Standing before us is the title of the Declaration whose birthday we honor; and its first word is "Universal." If the precedents established out of regional concerns can help us move toward broader applications that would be a fitting crown to the initiatives which have come from Africa and Asia.

Standing before us also is the basic fact that a body of international law on human rights now exists. And because it exists we can now turn our attention to the means by which it can be implemented.

The heart of any legal system is compliance. That must now become our central concern.

Any assessment of what now needs to be done gains strong encouragement from two major sources: The International Labour Organization and the Council of Europe.

For the past three years, I have had the good fortune to be associated with a judicial review panel of the ILO. I have been impressed at the extent to which the basic features of effective implementation are built into the constitutional structure of the ILO—fact finding, exposure, conciliation, and adjudication.

The handling of complaints, which is the heart of meaningful enforcement of human rights, has been carefully structured in a precise procedural manner. What is still more important, there is a record demonstrating that these arrangements have produced concrete results.

Though there may be limits to the use of ILO as a precedent, there is experience there that can be applied effectively to the entire range of human rights concerns.

The Council of Europe has faced a harsh reality that the United Nations Human Rights Commission has sought, all too often, to avoid. The stark fact is that an individual's rights ordinarily are not violated by a foreign government, but by his own. And governments have been reluctant, to say the least, to allow their citizens to appeal to a higher authority.

The European Convention on Human Rights, which came into force in September 1953, is an historic victory over this age-old reluctance. It provides clearly defined methods by which individuals can submit complaint petitions to supranational bodies with clearly defined powers for doing something about them. Moreover, the methods have been used. The powers have been exercised. Equally significant, the governments have survived, and the screams of pains from passionate defenders of national sovereignty have been neither long nor loud.

In at least three cases, internal laws have been altered to conform with the purposes of the Convention: Norway amended its Constitution in connection with a freedom of religion issue. Belgium adopted an amendment regarding freedom of expression. Austria altered its code of Criminal Procedure.

In addition, national courts have invoked or referred to the Convention in literally hundreds of decisions.

With such encouraging and concrete guidelines before us, it would be reasonable to expect a period of progress lies ahead. The present prospects, sadly, are quite the contrary. Consider, for example, the status of the proposal for a United Nations Commissioner for Human Rights whose powers would be restricted largely to tactful efforts to obtain redress of grievances. Even such a modest proposal has failed to win support at successive sessions of the General Assembly, and its prospects for adoption this year are dim.

Indeed, the most likely prospect for action at the forthcoming session of the UN Assembly portends a serious setback. It could well be a setback of far more serious consequence than the highly unfortunate self-denying rule adopted by the Human Rights Commission.

I refer to the attempts to place inhibitions on international television transmission by satellite. In this reaction of fear to a new technology that can do so much to water deserts of ignorance and misunderstanding, we face a direct challenge to the right of free access to knowledge.

In Belgrade two years ago, I observed that "science has made it possible for man to live bountifully upon this planet, but that only man himself will civilize it and make it habitable." There is no more urgent need than to share and apply the knowledge man already possesses.

There are large issues here; and real problems. Some fear that differences in culture, values and language will disappear under the impact of worldwide communications. Others eagerly anticipate the discovery and appreciation of the rich variety of the human family. It should be possible to find ways to avoid the fears of the first group while fulfilling the hopes of the second, and far more significant group.

Others point out that modern communications technology not only embraces system for spreading knowledge over the planet but also devices for invading the privacy of the individual. Our experience is already filled with far too many examples of such perverted use. New and vigorous steps to protect the individual against intrusion in to his private life and his personal choices most certainly are called for.

But even though the same technology may produce both, there is a world of difference between bugging and broadcasting. We must expect our statesmen to be able to make the distinction.

All mankind will be the loser if nations and their spokesmen look upon modern communications capabilities and potentialities in fear of what might be transmitted rather than in eager anticipation of what can be shared for the benefit of all.

We must not put shackles on what can be the most powerful instrument science and technology have yet placed in our hands for building a community of nations and enriching the family of man.

Five years ago, at the United Nations Conference in Teheran marking the 20th anniversary of the Declaration of Human Rights, the representative of Australia declared:

"If the last twenty years may be called the stage of definition, the next twenty years may prove to be the stage of implementation."

That states clearly the task before us.

A substantial body of international law on human rights has been clearly defined. It goes without saying that every government should be encouraged to ratify and, thereby, become contracting parties to global conventions and covenants covering human rights issues.

But the crucial issue remains implementation.

We have fashioned and tested models for bringing about compliance with an effective body of human rights law. But, we have held back timidly from making the earnest, sustained effort at creating the truly international institutional machinery of implementation that is required if the fruits of our labors to date are to be harvested.

Five of those twenty years already have passed. There is no time to waste.

The efforts to build a more peaceful, more productive world will succeed only if they are fueled with passionate convictions about the worth and the capabilities of the human spirit. The driving force behind the search for world community must be a sense of brotherhood, for, as the Declaration of Human Rights resoundingly asserts, "Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." Truer words were never spoken.

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### Address by Felix Houphouet-Boigny

Excelencies, Ladies, Gentlemen: It is my pleasure, in the name of the Ivorian people and its Government as well as personally and in my capacity as Chief of State and also as a man and a citizen, to add my welcome and my best wishes to those of President Boni for the success of the Sixth World Peace through Law Conference.

Nothing indeed could better define the goals of the Ivorian nation and its profound character than the sponsorship under which the elite of legal and juridical professions meet today in our capital. If there is indeed a heartfelt need within us of nobleness and meaning, it is that of peace. This peace is neither an abstraction nor a practical source of ritual evocation but rather an essential and concrete object of our most fundamental aspirations and a renewed occasion for our most well thought-out actions.

If it is, on the other hand, a conviction which is important to us, it is this peace which is the preliminary condition to any progress and well being. If peace is to be sincere and durable, it can only result from the law, which is to say, the definition and establishment of rules of harmony and reason which govern the relationships among states and among men and contribute to the promotion of a greater justice.

As the important regulator of social and international life, as the reflection of morality freely accepted by the majority, the law should only be the instrument of justice and of a policy whose first purpose would be to foster the well being of all men and peace among nations for the general interest.

We take into account, certainly, the implicit difficulties in the realization and the maintenance of such an ideal in a world more often tempted by violence than by tolerance.

After one of the most horrible wars in the history of mankind, it is inevitable that a more real harmony in the world must be imposed. Barring a collective suicide, peoples and government were no longer able to envisage the use of brutal force to resolve their differences because of the huge accumulation of destructive potential.

Since then and in spite, alas, of new conflicts, certainly more localized but too often happening in a wounded third world, realism combined with the deepest feelings of our populations brought us to join the efforts to change what was often only a precarious truce into a consensual coexistence and then into a meaningful peace.

Moreover, the fabulous expansion of science and technology used in a society eager for material comfort, but because of this, ready for many excesses and disillusionments, has very quickly raised problems threatening certain balances existing at the national level as well as values on a global level.

In that regard, who will ever say enough about all the future violence and revolts implied by the arbitrariness and injustice governing today the means of production and exchange and the distribution of the fruits of development?

Peace, even if it is at first only the cessation of armed conflict, is not solely that. It is also and above all, concerned and dynamic action each day. The advent of a pacific and happy world will only result from a passionate and constant search which is the only means to solve our most dramatic common problems in a constructive and productive way.

In this spirit, the goal of the law is not only to ensure order and peace but also to promote more justice in a society of nations, corrupted by egotism and the arrogance of power. If it is important that law contribute to a reduction in the number of armed confrontations, it is essential that it increase people's awareness of the tragic conditions of life of two thirds of mankind and the awareness of the measures of fraternal solidarity and political realism to be taken before it is too late.

I would like to emphasize that, as you wish to participate in this daily construction, you have chosen the best way, that is, a concerted action as universal as possible for the questions whose reality and urgency no one can ignore. Through concerted action, you wish to propose rules, certainly incomplete, but also realistic and acceptable.

Your cooperation is the more valuable as your daily contact with problems raised by the interpretation and implementation of substantive law, everywhere in evolution, and your experience in the legislative, political, administrative and diplomatic fields, give an irresistable value to your proposals. That is to say how welcome you are in the Ivory Coast which will always be a privileged land for concerted action and cooperation, and how much we wish the full success of your meetings.

We want to be, indeed, a country of tolerance and dialogue not only because we are convinced that we remain in the mainstream of the most authentic African tradition but also because no other way can better prevent conflicts, limit their consequences, and allow the finding of their solutions.

To all of you who are our guests, we wish an agreeable stay among us with the only regret being that this large and constructive gathering of people and ideas, of which we have been so proud and happy to have been able to organize, will be so brief.

Excellencies, Ladies and Gentlemen, I have the great honor to declare open the Sixtieth World Peace through Law Conference.

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## THE ENERGY CRISIS

Mr. CLARK. Mr. President, last week, NBC News presented an excellent program which outlined the many facets of the energy problem now facing this country.

Our national way of life depends on energy, and what is called the energy crisis threatens the daily habits of every American. By giving an objective and thorough analysis of our current situation and future prospects, NBC has performed a valuable public service. Every possible solution to the energy shortage is controversial. Already the hunger for energy is encouraging abandonment of efforts to clean up the environment.

In his State of the Union energy proposals the President emphasized the critical need for increasing energy supplies, but skimmed over the effects of these proposals on our land and air and water, and completely ignored the potential for energy conservation.

An editorial in yesterday's Des Moines Register points out the effects of the President's policy:

> The energy policy announced Sunday by President Nixon shows little imagination or courage, but it may be politically realistic for the short run. Most of Mr. Nixon's proposals boil down to somehow providing more fuel to feed the vehicles, generators, furnaces and air conditoners of an America bent on consuming all the energy it wants with too little regard for tomorrow.
>
> Thus the President would encourage more strip mining of coal, relaxation of clean air standards, opening up of some U.S. Navy oil reserves and a half-dozen other measures to increase the supply of energy. He said little or nothing about conserving energy—for example by selective taxation or by rational transportation planning.

No one who coughed or rubbed his eyes or could not breathe during the recent pollution alerts here can ignore the need for improving air quality. Before gutting the Clean Air Act, the President should take a look at the alternatives. The distinguished Senator from Washington, Mr. Jackson, said Sunday that a mandatory allocation program for petroleum products would make retreat from the Clean Air Act unnecessary. I agree with him.

We need to develop a balanced approach to energy policy. Environmental laws should not be made the scapegoat for energy shortages. We are not faced with a simple choice between cold homes and dirty air. We have other alternatives—not in themselves solutions to the energy shortages—but ways of seeing that homes are heated. For the short run, one of the best alternatives is a mandatory allocation program. For the long run, a clear alternative is a commitment to the conservation of energy resources.

Knowing the alternative is a prerequisite for dealing with the energy problem. NBC did a very thorough job of presenting the alternatives. The show did not provide the answers. It did present the questions. NBC should be commended for this program, and for taking 3 hours of prime time to present it. I ask unanimous consent that a transcript of the program be printed in the Record. I am sure it will be useful to everyone who's concerned about the national energy situation.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

### NBC Reports—An American White Paper: "The Energy Crisis"

These are some of the people who will be seen on "The Energy Crisis":

Public utilities executives/coal company executives:

George O'Connor, President, Montana Power Company.

Charles Luce, Chairman of the Board, Con Edison.

Eugene Luntey, Executive Vice President, Brooklyn Union Gas Company.

David Fogarty, Vice President, Southern California Edison.

Howard Allen, Vice President, Southern California Edison.

Jack Horton, Chairman of the Board, Southern California Edison.

T. L. Austion, President, Texas Utilities Company.

Thomas J. Galligan Jr., President, Boston Edison Company.

William P. Reilly, President, Arizona Public Service Company.

James R. Underkofler, President, Wisconsin Power and Light Company.

Alvin W. Vogtle, President, the Southern Company.

Frank M. Warren, President, Portland General Electric Company.

Edwin Phelps, President, Peabody Coal Company.

Public officials:

Gov. Tom McCall, Oregon.

Mayor Ralph Troy, Monroe, Louisiana.

Sen. Edward Kennedy, Massachusetts.

Sen. Phillip Hart, Michigan.

Sen. Lee Metcalf, Montana.

Sen. Henry Jackson, Washington.

Gov. Edwin Edwards, Louisiana.

Gov. Tom Judge, Montana.

Robert Killian, Attorney General, Connecticut.

Gov. Robert Ray, Iowa.

Gov. Robert Docking, Kansas.

Sen. Adlai Stevenson, Illinois.

Sen. James Abourezk, South Dakota.

Sen. William Fulbright, Arkansas.

John Nassikas, Federal Power Commission Chairman.

Dixy Lee Ray, Chairman, Atomic Energy Commission.

Rogers Morton, Secretary of the Interior.

John Love, Director, Energy Policy Office.

James T. Halverson, Division of Bureau of Competition, FTC.

Jack Bridges, Joint Committee on Atomic Energy.

Environmentalists:

Ralph Nader.

David Brower, President, Friends of the Earth.

Larry Moss, Southern California Representative, Sierra Club.

Edward Koupal, Chairman, People's Lobby.

Kit Muller, Executive Secretary, Northern Plains Resource Council.

Oil executives:

Joe Clements, Independent Gas Dealer, Twin Falls, Idaho.

Jay Mull, President, Mull Drilling Company.

Ron Peterson, Chairman of the Board, Martin Oil Company.

Frank Jungers, President, Aramco.

Jim Donalson, Witchita Wildcatter.

Frank Ikard, President, Petroleum Institute.

Thornton Bradshaw, President, Arco.

Orin Atkins, Chairman of the Board, Ashland Oil Company.

John McLean, Chairman, Conoco.

Rawleigh Warner, Chairman of the Board, Mobil.

Clifton Garvin, President, Exxon.

William Tavoulareas, President, Mobil.

Arnold Kaulakis, Vice President, Energy Division, Pittston Company.

Ed Hopkins, Shell, Oil, Canada.

Newspaper editors:

Duan "Doc" Bowler, Billings Gazette, Editor.

Aubrey Larson, Six Montana Weeklies, Publisher.

John Cole, Maine Times, Editor.

American Indians:

Dave Stewart, Chairman, Crow Tribal Council.

Alan Rowland, Chairman, Northern Cheyenne Tribal Council.

Bob Bailey, Secretary, Northern Cheyenne Land Owners Association.

Academicians:

Daniel Bell, Sociologist, Columbia University.

David Freeman, Sociologist, Ford Foundation.

Maury Adelman, MIT, Oil Expert.

M. King Hubbert, Geologist.

Ralph Lapp, Nuclear Scientist.

David Rose, MIT, Physicist.

Fred Hoffman, Rand Corporation.

Ron Doctor, Rand Corporation.

Stanford Field, Stanford Research Institute.

Herman Daley, Economist, Louisiana State College.

Foreign leaders:

King Faisel of Saudi Arabia.

Sheikh Zaki-Yamani, Minister of Petroleum and Mineral Resources, Saudi Arabia.

Prince Fahad of Saudi Arabia.

Fernand Spaak, Director for Energy, European Community.

Abd al-Rahman al-Atiqi, Kuwait Minister of Finance and Oil.

Yahuhiro Nakasone, Minister of International Trade & Industry, Japan.

Gerald Regan, Premier Nova Scotia.

Ahmed Douaij, Director, Kuwait Planning Board.

Hisham Nazer, President, Central Planning Organization, Saudi Arabia.

Amir Abbas Hoveyda, Prime Minister, Iran.

### ENERGY CREDITS

1. The energy crisis, . . . An American White Paper. Copyright, the National Broadcasting Co., Inc., 1973, all rights reserved.
2. Reported by Frank McGee.
3. Produced by Len Giovannitti, Alvin Davis.
4. Written by Len Giovannitti, Fred Freed.
5. Directed by Darold Murray.
6. Field producers: Adrienne Cowles, Peter Freedberger, Sandra Granzow, George Orick, Marion L. Swaybill.
7. Correspondents: Richard Hunt, Walter Sheridan, John Rich, Fred Briggs.
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12. Film researcher: Barbara Steinberg; researcher: Rory Tetrault; production associate: Karen Ruthledge; unit managers: John Kerwin, Larry Cobb, Judy Murray.

13. Executive producer: Fred Freed.

(Reported by Frank McGee)

King Faisal (in translation). We do not wish to place any restrictions on our oil exports to the United States but as I mentioned, America's complete support of Zionism against Arabs makes it extremely difficult for us to continue to supply the United States petroleum needs or even to maintain our friendship with the United States.

Frank Jungers. The reserves in Saudi Arabia—are greater than all of those in the United States and Russia and China combined.

Man. . . . up to the prices as they are now.

Another Man: It's impossible to buy gas.

Man. Why? Merely because it's just a conspiracy and. . . .

Senator Henry Jackson. If they know they can just shut us down tomorrow obviously their bargaining advantage is enormous. . . .

Man. The government should do something about it. Myself, I think it could be a conspiracy, too.

Woman. Eleven gallons is all they'd let us have.

Interviewer. Going to try to fill up at another station?

Woman. Sure. We gotta get there.

Sen. James Abourezk. It's ridiculous to talk about a shortage . . . when we have thirty seven billion barrels of proven reserves of oil.

Woman. Really. I would like to know. Really what is happening simply because the simple reason of it is . . .

Thornton Bradshaw (President, Arco). Oh, there's most certainly a shortage and there will continue to be an oil shortage for a long time to come.

Interviewer. . . . exactly what happened tonight?

Man. Well, we had a shortage, a power failure . . .

Woman. . . . If the choice is between a refrigerator and surviving, then I think that . . .

Bradshaw. We've got to get used to living in a situation where we are short of all forms of energy.

Woman. Everything seems to be running out. Our electricity, they've got to get power . . .

Blonde Woman. Electricity . . . when you try to dry your hair, or turn on the air conditioner and you get this low whirr . . .

Gov. Tom McCall. And my wife looked at me and she's very even handed and very pleasant. At breakfast the next morning, just growling, and said, one thing you're never going to take away from me is my dishwasher . . .

David Freeman (sociologist, Ford Foundation). Energy efficiency has not been part of anyone's thinking. Not the automobile industry. Not the housewife. Not anyone.

Ed Hopkins (Shell Oil, Canada). We just can't survive without energy . . .

Woman. There are not many that want to go back to the horse and buggy . . .

Herman Daley (economist, Louisiana State College). There is just something inherently repugnant about an economic system for there is no such thing as enough . . .

Edward Koupel (chairman, People's Lobby). Profit for profit's sake is not sufficient.

Howard Allen (vice president, Southern Cal-Edison). There's no free lunch. Somebody's going to pay for it. And it's the consumer that's going to pay.

Robert Sansom (Environmental Protection Agency). There is a tension between the energy people and the environmentalists . . .

Jack Bridges (Joint Atomic Energy Committee). By '85 we could have a real disaster. It would be similar . . . almost like losing a war.

Darold Murray. We do have a problem?

Man. We do have a problem; yes. And I think, well, I think the nucelar power plants is one solution.

Ralph Nader. The consequences of just one of these plants having a catastrophic accident could be in excess of the fatalities of Hiroshima only this time it'll be in the United States.

Blonde Woman. Maybe if it does became a crisis and people get up in arms, the government may have to step in, because . . .

Tom Schwinn. The situation in Washington is absolutely horrible. There are over sixty agencies and departments and committees in Washington working on the energy problem and second to Watergate, it's the biggest show in town.

Frank McGee. That's the way people were talking this summer about the energy crisis. We are going to be examining that crisis here for the next three hours. One of the things we will not do, in that time, is solve it. Every part of it from the reason you can't get gas for your car to the question of whether or not we should build nuclear power plants is complicated. Intelligent and honest people disagree, even on the facts. But one thing we are sure of is that we had better try to understand as much as we can about this crisis because we are going to have to make decisions about it that involve great risks and that are going to change the way we live and the kind of world we are going to live in.

This is what we are going to be dealing with and it is neither simple nor easy.

John Love. Well, I suppose crisis is a semantic sort of argument. If you've run out of gasoline over the weekend and there are no stations open, there's a crisis for you.

Fred Freed. What's the answer?

Bradshaw (President, ARCO). I think that's why they call it a crisis. We don't have the answer.

McGee. We are a high energy, technologically advanced, affluent society, wasteful and polluting. There are those who think that is what we should go right on being, regardless of the environmental cost.

Stanford Field. (Stanford Research Institute). We think that the environmentalists have exaggerated positions to advocate their own position. We believe that unemployment is too high a price to pay for cleaning up the environment.

McGee. They say this: That our affluence is built on growth. On using energy. That if we stop growing, our economy will stagnate; the poor will remain poor, we will have unemployment; our living standard will deteriorate. Others argue that we are destroying our environment by using so much energy. That the price of using that much energy is too high. David Brower is one of these.

Fred Freed. Somebody said you were a druid that worships trees and sacrifices human beings.

David Brower. (Friends of the Earth). Well. That was Charles Frazier's definition of the conservationists he classed as druids. I think that he finally decided I wasn't one. But, I don't mind being a druid of that kind except that I would really only sacrifice the people that don't like trees.

McGee. Mr. Brower believes we ought to use less energy. He is President of the Friends of the Earth.

Brower. We are friends of the earth, yes. But we are friends of people who are friends of the earth

Freed. Why have you opposed the Alaska pipeline?

Brower. To have it come across Alaska of course is I think environmentally unsafe, and the other point that is very important to bear in mind is that that resource isn't limitless and we are not constrained right at this moment in time, even though it is a little hard to get all the oil we want for our own conveniences, we're not constrained to use it up in our time.

McGee. In a way, the pipeline across Alaska was the test in the struggle between the environmentalists and energy producers. Sides were taken. The lines were clearly drawn.

At Prudhoe Bay in Alaska, on the north slope, they discovered the biggest oil field on the continent. It could produce, they said, two million barrels of oil a day. The oil companies wanted to build a pipeline to bring that oil to the lower forty-eight states. David Brower and the other environmentalists fought them. They said it would destroy the tundra, kill the caribou because, they said, the caribou wouldn't cross the pipeline. They delayed the pipeline for five years. They still oppose it.

Brower. That oil is there. It's been there for a long time. We should take it out very carefully by the best method we can devise. I would say we found it and for Alaska's benefit, for the culture up there, we must do something that isn't as disruptive to wilderness, to environment, to our own culture here, as their proposal, which is to hurry and use it up.

McGee. The energy producers say if you protect the environment at the expense of energy you will finally destroy the economy. They say we have to have more coal, gas, oil . . .

Jack Horton (Chmn. of the Board, Southern Cal. Edison). This country runs on energy and if we put environmental concerns forward so predominantly that we have a severe shortage of energy, then the country is not only going to suffer economically but they'll suffer environmentally.

Brower. It's costing the earth something every time they want added conveniences. And it's not only costing the earth something but it's going to cost their children and theirs on down the line.

McGee. So we find in the course of these next three hours that we come again and again back to this basic difference. Back to the choices it involves and the cost of those choices. The cost of cleaning up our environment. Of using less energy. Of using more energy. The cost of having a nuclear power plant or an oil well or a strip mine on land that was once used to graze a cow or have a picnic.

The cost of dirty air and dirty water. The cost of cleaning them up. These are the decisions we are going to have to make.

Thornton Bradshaw. It is going to cost you very much more to drive your car because you're going to get much less mileage out of a gallon of gasoline. And that gallon of gasoline is going to cost a good deal more.

Bradshaw. But the important thing I think is that the American people come to the realization and I think they are coming there quite rapidly, that the profligate use of energy is not a good way to live. Not only because they are depleting a resource which is not replaceable. Because it just leads to a way of life that in the long run is not acceptable.

Freed. To meet the energy crisis right at the moment would you favor temporarily lifting some of the environmental restriction?

Bradshaw. I would indeed. Only because I know of no other answer.

McGee. Thus, we are continually confronted with the need to decide. We need energy to drive our cars. To run our air conditioners. To wash our clothes. We even need energy to clean up the environment. We don't want a new refinery near us. We don't want oil to be drilled off our beach.

David Freeman (Sociologist Food Foundation). I guess you're really asking the question where do we put the skunk works. We still have a demand for skunks. Well the first thing I think one does is attempt to clean the skunk up to the extent that one can. But putting that question aside, you finally are left with the realization that we need energy production projects. And they have to be placed somewhere. I think that. That we have to recognize that it's the energy that's causing the pollution and we can't turn back. Sure, this is, it's much more complicated to have an energy system that's clean than dirty and this is why I said earlier that switching from dirty to clean is a painful thing. The only thing more painful is not switching.

Rawleigh Warner. (chairman of the Board, Mobil). I think we all have to come to grips with everybody's desire for cleaner air and cleaner water by way of understanding what it's going to cost and assessing and establishing how much we're prepared to do at what cost. Now I think the consumer deserves to understand what the price is. No environmentalist is prepared as far as I can see to say this is what we ought to have and if we achieve this there is this price to be paid. The price is either in an increased cost in energy, or certain people are going to have to go without certain forms of energy.

McGee. Both sides agree there is a crisis. That it has been compounded by our increased consumption of energy doubling every sixteen years . . . one-third of the world's total consumption of energy. But that's all they agree on. The environmentalists say we must limit the ways in which we produce energy to save our environment. The energy producers say that unless we produce more energy, suspend at least temporarily some environmental restrictions, we will destroy our society.

What are we willing to pay? For clean energy. For clean air and water. For growth. For affluence. We are dealing in this energy crisis with choices. With option. With decisions we are going to have to make it is a crisis whose resolution one way or the other, is going to be up to us.

Frank McGee. Coal. They used to call it King Coal. Then, because it was dirty and hard and dangerous to mine, people began to use other fuels. But, as it turns out, coal is the only fossil fuel we have plenty of and in the near futue, we may have the technology to make it economically, into gas and oil. So now, in this energy crisis we have begun to look at it again . . . with its promise . . . and its problems.

McGee. This is eastern Montana. Cattle country. The last open range.

Wally McRae. (Rancher). This is part of my winter pasture and most of the land that you can see here is slated for strip mining.

McGee. In the next half century, they expect to strip sixty million tons of coal from under the surface of this land.

McRae. It bothers me to think that some day this country that I know and have worked and ridden and been over most of it, is going to be turned upside down. Turned into spoil banks and electric lines and railroad tracks, and cars and trucks. People and gasification plants and liquification plants and steam generating plants.

Fred Freed. How do you assess the opposition of some of the ranchers out there?

George O'Connor. (President, Montana Power Company). Oh, there are people down there who are against any development. I can understand that. If I had a twenty five thousand acre kingdom down there and I had a reasonably good economic setup and a pretty good life running that ranch, I might resist change, too.

McRae. I think that he's right. I kind of like living on my little kingdom. I think that the coal company man or the energy company man that told you that a kingdom of his own, and I think he'd fight and scrap and just like I'm doing to save his kingdom.

McGee. Wally McRae's kingdom is the Rocker Six Cattle Company. A twenty seven thousand acre ranch. Custer crossed it on his way to the Little Big Horn. It's hot in the summer. Cold in the winter. A dry, barren, much loved land.

And underground, the coal. The coal country stretches from Saskatchewan in Canada across Montana and the Dakotas into Wyoming.

It's called the Fort Union Basin. The richest coal deposit on this continent. Enough, some estimate, to last five hundred years. For a long time, no one wanted it. People used oil, natural gas, electricty. Coal supplied only 13% of our energy. What changed everything in Montana was this: The 1969 National Mine Safety Act doubled the cost of deep mining coal. The Clean Air Act of 1969 prohibited the use in many places of high sulfur, dirty coal, like much eastern coal. And we began to have a fuel shortage. The rest of the country began to need Montana coal. This is the Montana Power Company's Western Energy Mine at Colstrip . . . about twenty miles north of Wally McRae's ranch.

Freed. Someone said, we have it good here in Montana. Why spoil it?

O'Connor. All of eastern Montana for many years has been a depressed area. The counties we're talking about where the coal is, has consistently lost population since I think about 1920.

Maybe that's good. But from the standpoint of the business man who is trying to make a living on the street selling groceries, I don't know that he's going to applaud that so much. I'm sure the poor devil that starved out there didn't think it was very good.

Freed. A lot of people have said Montana is being asked to do something for the rest of the country which brings no real good to Montana.

O'Connor. We aren't a foreign country out here that should have embargoes on things that come in from other countries or restrictions on the things we can contribute.

Freed. How much of an area are you mining?

O'Connor. Well, we have leases of about twenty-two thousand acres in that particular part of Montana but we mined about, the most we have mined is about one hundred twenty acres in a year.

McGee. When they mine in Montana they mean strip mining. They talk about "disturbing" the land.

This is what they mean.

In this kind of mining, the machines do the work. The men work in safety and health. Only the land is disturbed.

In the East, you may find a forty inch seam one hundred eighty feet down. Here, thirty feet down the seam may be fifty or one hundred feet thick. This year, they will strip mine about sixteen million tons of coal. Over the next fifty years, sixty billion tons. The coal companies say to do this, they will have to disturb only about one hundred thousand acres of grazing land.

Environmentalists don't believe them.

Kit Muller (environmentalist). Thus far in the state of Montana, over a million acres are under lease. A million acres of coal.

Freed. Is there talk that the million acres will be actually mined?

Muller. There are only four active mines in the state now and a fifth that may be opening up. Other companies have expressed interest in opening new mines but we have no clear notion at all, I don't think anybody in the state has any clear notion of what the long range plans are of the eighty seven odd corporations that presently own, that have leased coal mineral in the state. I don't think anybody in the state can answer that question. I wish we could.

McGee. Kit Muller. Second generation Montana. Harvard '72. Secretary of the North Plains Resource Council.

Muller. From our point of view, given the size of the resources and the percentage of it that can only be retrieved by deep mining, we feel it preferable if deep mining was brought into the area rather than strip mining.

Freed. Why isn't there any deep mining?

O'Connor. Well, we've had deep mining in Montana. Right now, it isn't very active. . . It simply became uneconomic. It was noncompetitive. . .

Freed. If the cost of reclamation went up, would it make deep mining economical again?

O'Connor. It would have to go astronomically high. It's hard to conceive a reclamation going that high.

McGee. Mining on the surface, unlike deep mining, is cheap, safe and efficient.

But in West Virginia, Kentucky, Illinois, strip mining destroyed the land. Left is scarred, broken, useless. Like each source of energy we will look at in this program, coal presents us with unpleasant choices.

We are going to look at those choice in Montana. The crucial questions are these: to what extent will mining be followed by plants generating electricity, liquifying or gasifying the coal? What many people in Montana worry about is that extensive strip mining will destroy what they see as a special way of life. If the land is to support wild life, hunting, cattle, it will have to be reclaimed, restored after the coal is stripped.

Freed. Can this land that is being stripped be reclaimed?

Muller. Thus far, there is no hard, scientific information.

Freed. What's your guess?

Muller. With sufficient funding and with sufficient time, probably twenty years, this land could probably be reclaimed. I'm inclined to think that it won't be reclaimed.

The plains country is very fragile. It has to be treated with respect and if you rip it all up . . . no one knows what the long range consequences will be.

McGee. This is the Big Sky Mine of the Peabody Coal Company, a subsidiary of the Kennicott Copper Company. Environmentalists have called Peabody the "worst" company. Peabody says it's going to be the "best".

Freed. Is there any land here where Peabody's been mining in Montana that can be called reclaimed yet?

Gene Tuma (Peabody Coal Company). No. We just simply haven't been here that long.

Freed. What's the cost of that kind of reclamation?

Tuma. We have stated to the State Bureau of Lands that it will cost as much as sixty five hundred dollars per acre.

Freed. You've spoken of spending large sums of money. I believe it's six thousand dollars an acre to reclaim strip mined land in Montana. Why is it worth it on land that sells for twenty dollars or thirty dollars an acre?

Edwin Phelps (President, Peabody Oil Company). Well, let me say I never, I don't believe I was ever quoted as saying it was worth spending the six thousand. I think that it does, if that's what the law requires us to do, then we must do it according to the law.

And to spend that much on it is not an economical way to reclaim it. But that's the law and so therefore we must live with it.

McGee. If Montana is the west of wide open spaces, it is also the west of the dying small towns. Young people are leaving this part of the state. The population is declining. In some places, forty percent are unemployed. They complain about a shortage of doctors. Inferior schools. A stagnant economy. Many believe the coal must be mined if there is to be progress and development.

Jim Posewitz. My question with progress and development these have been cornerstones of our society. Our conversation, at least. The question is where are we progressing towards and what are we going to try to grow into? And it's very difficult for somebody to answer when you say, show me the optimum quality of human life.

Where is it? And I think it's pretty close to where we are here in Montana.

McGee. Thus, what is an energy crisis for coal users in Duluth, Hammond and Seattle, is a crisis of lifestyle in Montana. A struggle is going on over how the land will be used. And for whom. Many feel the decision, once made, may be irrevocable.

At the state capital in Helena, development along with legalized gambling, is the hottest, and most ambiguous issue for Montana politicians.

Governor Tom Judge is strongly for tough environmental controls.

Governor Judge (Montana). We feel that if this mining is to proceed, it must proceed only with very stringent regulations.

McGee. Governor Judge is also strongly for development.

Governor Judge. I think that strip mining could create some badly needed jobs in our State. It certainly will mean some revenue to State Government.

McGee. The legislature is divided. A bill to ban mining was beaten. A strong . . .

* * * * *

. . . the demands of the rest of the country?

Goers. That's the sixty four dollar question.

McGee. Sixty percent of the coal land is owned by the Federal Government. Most of the rest is owned by the Burlington Northern Railroad or the Indian tribes. The decisions Washington makes will be crucial.

Freed. John, you said that you worry about what Washington bureaucrats will do, the decisions they'll make that may sabotage the protection programs Montana has under way?

Goers. The administration's proposed reclamation bill would take away the privilege of any State imposing reclamation standards more strict than that which is carried in a rather weak reclamation law at the Federal level.

And if the administration's bill comes, goes through, it will be out of Montana's control.

Rogers Morton (Secretary of the Interior). Obviously, when development takes place in an area that has not been developed there is a great feeling of resistance on the part of the people affected.

McGee. On a day in July, the Secretary of the Interior is flying over Montana. Below him, he can see the cattle ranches . . . and the strip mining.

Morton. If you carry the environmentalist point of view to the end point you would cut off the switches. You would turn off the valves. You would discontinue a highly sophisticated industrial civilization. On the other hand, if the developer proceeded without any environmental controls, we would desecrate the environment to where the quality of life would just deteriorate in this country. So there has to be, I think, a meeting of the minds . . . and this is going to take some doing.

McGee. The Indian lands, where much of the coal is in Montana, are divided between two tribes. Four thousand two hundred Crow live on a reservation of a million and a half acres.

Five coal companies have leased two hundred thirty five thousand acres for exploration.

To the East, on four hundred thirty seven thousand acres live two thousand five hundred of their ancient enemy, the Northern Cheyenne.

Over half of that land is committed to exploration by the coal companies.

Sixteen thousand acres have been leased by the Peabody Coal Company to begin mining operations. The Northern Cheyenne have petitioned the Department of the Interior to cancel these leases.

Marion Swaybill. Why do you want to cancel the leases you made with the coal companies?

Alan Rowland (Chairman, Northern Cheyenne). Well, for one thing, they don't offer us enough money and another thing is Indian Bureau didn't comply with all the regulations.

Swaybill. Do you think you were cheated?

Rowland. I think so. You bet.

Phelps. We didn't make the deal with just one man. We made it with a tribal council and it was, at that time, it was their opinion that they needed this. They wanted the money, the income and so forth from coal development. It was at a period when coal wasn't as valuable in people's minds as it is today.

They didn't realize the future of it. So, we were the first ones in there and we did get a better deal than maybe some of the later ones got.

Say, I'm not ashamed of the deal we made with the Cheyennes. I think it was a fair deal for them and it was a fair deal for us.

Bob Bailey (Northern Cheyenne Landowners Assn.). The lure that was used in that first initial approach was money, certainly our people here are in need of money.

The scenery that we see right now is not going to be the same in ten, fifteen, twenty years from now. All we're going to be looking at out here is spoil banks, rock piles. The other change I foresee is the lifestyle of the people is going to change overnight.

McGee. It's expensive and inefficient to ship low heating Montana coal East. It would be more profitable if the companies could build electric power generating or gasification plants at the mine mouth. The first ones are already being built.

Bailey. In the energy conversion plants that are being planned by some of the coal companies there is an estimate twenty or thirty thousand people that will all come into the reservation.

Now, if we expect thirty thousand people into the reservation as compared to the two thousand five hundred Cheyennes that live presently on this land, the Cheyennes themselves are certainly going to be minorities . . . on their own piece of land.

This coal development ultimately is going to be the final demise of the northern Cheyenne.

Swaybill. What if a vote was taken tomorrow on the coal issue here on the reservation?

Bailey. Well, I'm sure it would be pro development.

McGee. The other tribe, the Crow, live across the western border of the reservation. They are for development.

They want it as soon as possible.

Dave Stewart (Chairman, Crow Tribal Council). Our potential is such that we can't sit back here and let the wheels of progress go by as we sit back and depend on our natural Indian culture. We can't do that. We must progress with the outside world.

McGee. The most serious doubts come from outsiders, environmentalists . . . And state officials.

Fletcher Newby (Director, Environmental Quality Council). The Indian land is really obviously a problem. The state in terms of legislation has practically no jurisdiction at the present time over what happens on the Indian reservation.

Freed. Isn't it true that if it happens there it would be hard to really control it in the rest of Montana?

Newby. In a word, yes.

McGee. The real issue as many people in Montana see it, is not reclamation, which they say makes good Eastern cocktail conversation. The real issue, they say, is the people who live in Montana. Is coal going to be good for them or bad for them? And how can they control the mining, and the processing and generating plants that will follow, so that it will be good for them?

Doc Bowler (Editor, Billings Gazette). We think the coal is going to be mined. Our opinion is that there should be something left when they get done, for Montana, besides a hole in the ground.

Freed. Do you trust the coal companies to do what's best for Montana and the environment?

Bowler. I trust them to obey the law as long as somebody's there to enforce it.

Freed. There's been a kind of a tradition in Montana of taking from the state and taking from the land and not giving much back hasn't there?

Bowler. I think that's a fair statement of what they've done. It's not new. This has gone on for well since the fur trappers came out here I suppose. The way the west was won.

Aubrey Larson (Newspaper Publisher). Our property taxes are the highest of all eleven western states. Our income tax is the highest of the eleven western states. Our per capita income is near the bottom of the eleven western states. And sure, these are established facts everybody knows it. And I say that maybe we'd better start doing something about it. And coal is one way. One place to start.

Freed. You're not worried about all these new people coming in will change things?

Larson. Now. Why be scared of change? Sure, it's going to change. We feel for the better.

McRae. I think the answer to that is to take a look at Appalachia. I don't think that the coal development in Appalachia over the long term has done anything but make their situation worse.

Freed. Wouldn't it though create for now new schools, more doctors, and things like that?

McRae. I think so. And also more lawyers and more sociologists and more policemen and more social workers and certainly more doctors if the air quality gets bad. I couldn't agree with you more.

McGee. The coal companies have been buying leases to explore or mine wherever they can. The ranchers in Eastern Montana are deeply divided over whether they should sell the coal rights or not.

Marcus Nance (Rancher). Basically, the conflict is whether you have coal under your land or you don't have coal under your land. Those ranchers that do have coal either fortunately or unfortunately as you might look at it, can derive great economic benefit from the coal that is under the land.

Swaybill. Do you own the coal rights to your land?

Nance. We own coal rights to approximately, my family and I, to approximately six thousand acres of coal rights.

McGee. Estimates of what six thousand acres of coal will bring vary between forty and sixty million dollars.

Freed. Do you own the coal rights to your land?

McRae. No.

Freed (VO). Wally are you going to sell out?

McRae. No. I might get forced out but they better come with a big gun.

One of the people from Peabody told me that I could sell out and make more money and I think he's probably right. And I told him, my granddad came into this country in the 1880's and I was sure that several times during his time in this country he could have sold out and financially benefited himself. But, I asked this guy from Peabody, I said, if my grandfather had done this, if he had sold out, where would I be now?

McGee. The mining has begun. Most people in Montana think it's inevitable. They want to make it as painless for themselves as possible. They want to make the payments in terms of protection and benefits to themselves as high as possible. That will mean higher costs and less power and fuel in some other parts of the country. How do you weigh heat for a house in Duluth or a school in Hammond or a kitchen in Seattle against a unique way of life on twenty dollars an acre land in Montana. Is this way of life really being threatened or is this a fantasy of the ranchers and the environmentalists? How much of the coal money will find its way into the pockets of people in Hardin and Forsyth? How do you balance the needs of environment against the needs of energy?

This is a question we will be asking over and over in these three hours. It is in many ways, the crucial question. It goes deep. It's a profound question.

It asks us to examine who we are. What life is about. What man's purpose is.

Frank McGee (SOF). We used to think we had all the electric power we needed. But now, we are running short of ways to make it. There are no more dammable streams and coal pollutes and oil has to be imported and is expensive.

And we keep using more and more electricity. Dishwashers and air conditioners have become necessities. Business needs computers. Factories need automation. Electricity has become an indispensable part of our lives . . . and we can't get enough of it anymore.

Howard Allen is Vice President of Southern

California Edison, the 4th largest operating electric utility in the country.

He believes people ought to be able to use electricity for the things they want.

Howard Allen (Executive Vice President, Southern California Edison). I think that the public authorities, the public in general, are beginning to realize that energy is basic to our society and that electric energy is an absolute necessity to our way of life today.

David Brower (Friends of the Earth). They really for one thing should make a concerted effort to get people to use less energy.

Fred Freed. You're saying we are facing a choice between preserving our environment or preserving our high energy lifestyle?

Brower. Yes, I think we very much are.

Allen. If we don't have energy this country is going to be in real trouble which is going to affect jobs, tax base and life styles and even the national security of the Nation.

McGee. Thus, the issue is joined. It is a basic decision we have to make about ourselves and what we want. Electricity is the biggest business in the country.

Half again as big as the oil business. The question is whether it should get bigger. In 1972, the Rand Corporation did a study of California power needs for the National Science Foundation.

Ron Doctor (Rand Corporation). What we found was that electricity was growing and supposed to grow about seven times the 1970 consumption levels by the year 2000.

Doctor. That seven times more electricity means a growth of about 600 percent in household use of electricity. A growth of 1100 percent in commercial use of electricity. And a growth of about 300 percent in industrial use.

McGee. Edison serves 7,500,000 people in Southern California in cities around Los Angeles. They have had no bad shortages yet. But they say unless they can build more power plants that won't last.

Allen. If you don't have the generating capacity, you can't supply the kilowatts. You're going to have a power shortage in Southern California in 1975 and 1976.

Allen. It won't be a blackout like New York's barring some unforseen catastrophe, but it will mean interrupting certain customers one, two, or three hours in certain sections and then moving to other sections.

Brower. The thing they should do I think is really make a much realer effort to persuade the public to use less. It is a very hard thing for the American system to do.

Man. I just don't understand it.

Woman. I can't understand it.

Man. Why is our electric bill so high?

Woman. Maybe I forgot to pay the last bill.

Brower. It just goes against the grain. But here the alternatives are so environmentally bad that I think they've got to do it.

Allen. I think each individual has his own value judgments as to what he thinks is important to his standard of living and way of life.

Man. I thought I asked you to keep this plugged in?

Woman. Sorry.

Brower. I think that anyone who's living on a finite earth is unreasonable if he refuses to admit its finiteness and that is what they are refusing to admit.

Man. Jane, have you been leaving the light on in the basement?

Allen. You can't build a power producing plant today without some adverse effect on the environment.

Brower. They are somehow expecting a spare one to be shipped out when we wear this one out and I don't think it's going to happen.

Freed. What would you say to someone who is now talking about having an all electric kitchen? Would you tell him not to do it?

Jack Horton. (President, S. Calif. Edison). Oh. No. We wouldn't tell him not to do it. We'd tell him that it's their choice.

McGee. Jack Horton is Chairman of the Board of Edison. He doesn't think Edison can tell its customers what they should use electricity for. He doesn't think they should try.

Freed. The waste isn't the reason we're in this power crisis?

Horton. I think not.

I think the main reason is this: essentially you have to have two things to produce energy.,Number one is a power plant.

And number two is fuel. The major power companies in the United States have had great difficulty in the last few years in building new plants.

Allen. In 1969, Edison Company had five plants under construction. Today, we don't have a single plant under construction and in the last three or four years, we've grown about 2½ kilowatts.

We have six projects on the boards. Five of the six of those plants have been delayed anywhere between a year and 2½ years.

You have to consider whether or not the environmental benefits that result from holding up the construction are of total public benefit more than letting the construction go forward.

Brower. It's sort of good for their conscience, it's good for their technology that they have to find better ways.

Allen. We realized that we had a number of oil and gas firing plants in the Los Angeles Basin and the air pollution problem was critical and even before they passed laws that said you couldn't build any more plants here, we decided that we better get out of here just from a public relations and public responsibility standpoint.

We decided to build a coal plant there where the air was not burdened by other pollution, where the atmospheric conditions were such that it would be blown away and dissipated. We were welcomed by New Mexico because of the jobs and the tax base and the great benefits economically to the Indians.

Then the environmental crunch came along. They looked upon us as outsiders using their clean air and their water to supply energy to Southern California. So that we were great heroes in the early sixties.

But today, they are putting in more and more controls and saying in effect, we don't want you here anymore.

McGee. Recently, to avoid California environmental restrictions, Edison applied for the right to build a coal fired power plant in the desert at Kaiparowitz, Utah. They were turned down by the Secretary of the Interior.

Rogers Morton (Secy. to the Interior). We should not concentrate a whole group of power plants in the desert simply to take care of metropolitan communities 500 miles away in order that those communities can meet their air standards.

Freed. Without Kaiparowitz, you would have to use oil wouldn't you?

Horton. Use oil or nuclear.

Freed. Well, at the moment, you're having some problems with nuclear?

Horton. Yes, indeed.

Freed. If you had to use the oil, you would have to get it from abroad?

Horton. As the matter appears today, yes.

McGee. The oil would have to come from abroad because it would have to be low sulfur oil to meet environmental standards.

Some of it would have to come from the Middle East. The price of Middle East oil has doubled in the last two years.

Edison says the solution is to relax the rigid standards of the Clean Air Act.

Horton. I think that's the only thing we can do for the alternative is going to be chaos.

Freed. And you think the environmentalists will have to accept this?

Horton. For a temporary period. Yes.

McGee. But environmentalists do not accept this. They say we cannot survive in the kind of environment it would create.

They say there are other answers. We should use less electricity.

We should find a way to transmit power from one part of the country to another where it's needed.

Charles Luce (chairman, Con Edison). There are lots of environmental objections raised in building transmission lines.

It would be necessary to construct a much larger and heavier national grid.

It will cause, I would say, as much environmental objections and as much litigation, maybe more, than is caused by construction of power plants. And this is because people who live along the line don't want the line. They say, put it somewhere else. Well, of course, somewhere else is next to someone else.

Freed. Is nuclear energy the only practical alternative?

Allen. I think that in the long run nuclear energy is the answer to the energy needs of the nation.

Freed. What do you say to the scientists who argue that they are not safe enough?

Allen. I say this. There's risk in everything we do. There's risk when you drive here on the freeway.

Ralph Nader. We are convinced that there is overwhelming scientific evidence that the lives of millions of people in this country are being subjected to wholly unreasonable risk by the continued operation of the nuclear power plants.

McGee. Ralph Nader and the Friends of the Earth announced that they were suing to close down Edison's nuclear plant at San Onofre and twenty other plants.

Nader. Each of these plants contain a quantity of radioactive material, equivalent to the fallout from several thousand Hiroshima-sized nuclear weapons. Yet, the safety systems are crude and untested.

Freed. It is said that the emergency core cooling system used in nuclear plants has never been successfully tested. Is that true?

David Fogarty (Vice President, So. Cal. Edison). I think yes. In effect that is true.

Freed. How then can we be sure that the emergency cooling system is safe?

Fogarty. The way in which we approach that is to test the various components of the system as individual pieces and then as subsystems right up to the point of injecting the coolant water into the reactor vessel.

Freed. And to your satisfaction you feel that it is safe enough and the risk is small enough to go ahead?

Fogarty. Oh certainly.

McGee. The risk they are talking about is this:

That the emergency core cooling system would fail.

That the hot, radioactive material would melt through its container. That it would spread into the ground and water.

Horton. We don't think there's a matter to worry about in the sense that we don't believe according to my technical people that a meltdown at San Onofre or any other modern nuclear plant . . . is a realistic possibility.

Brower. Well, I like John Gofman's line here. He says people who make a claim like that are like a person who built a wooden house yesterday and say it feels perfectly secure because it hasn't burned down yet.

McGee. If the emergency core cooling system failed, if there were a melt down, some scientists think an area half the size of Philadelphia might be contaminated. One hundred thousand people might die.

Dixy Lee Ray. There is no industry that the world has ever known that has had such safety features built into it. And there is no activity, no industry, no technology that has ever developed such stringent rules for operation.

Henry Kendall (Nuclear Physicist, MIT). There is a large majority of the reactor experts that the AEC relies on who have the most serious doubts about these safety assurances.

We have hundreds of documents that have been suppressed by the AEC whose sources is the safety community and these demonstrate very clearly that the controversy over the AEC's claims is very deep and very serious.

McGee. On the subject of nuclear safety there are few facts of one expert that another expert does not dispute. But this much is clear.

There are risks. From a meltdown. From sabotage. From an outside catastrophe. From the nuclear waste they create that cannot be safely disposed of for thousands of years.

What is in dispute is how great these risks are. And what we ought to do about the nuclear plants.

Brower. My own personal feeling is that they should all be closed down until their safety can be demonstrated.

Allen. We've got twenty nine nuclear plants operating in the United States. No one has been killed or injured in a nuclear plant operating for peaceful use of electricity. The problem is that they say, well, can you say positively, this won't happen and you can't say positively it won't happen.

You can say, we have designed these things to the point where there's one chance in ten thousand or a hundred thousand years. I say, that's a pretty good chance when you consider the alternatives.

McGee. On a day in July, the Presidents of six electric utility companies sat around a table in a hotel room in New York City, and after lunch, talked about their problems.

Freed. What you gentlemen have described has not been an energy crisis but really an environmental crisis.

You describe the impact of the new environmental thinking in your business.

It is fair to say that that is your view of what it is?

Thomas Galligan, Jr. (President, Boston Edison Co.) The answer to your question is yes. Where the crisis is too strong and where it's suddenly a major significant problem that's been brought on by changes in priorities involving the environment that exists in the United States. There's no question.

Freed. If these environmental considerations did not exist, you would be meeting the growing demand?

Galligan. The answer to the question is yes.

But I don't think, at least speaking for myself, I don't think we should say that we want to go back to the old days.

Frank Warren (President, Portland Gen. Elec. Co.). They will tell you at one time, you must clean up the stack 97% and you order the equipment and you engineer it and you install it and before you have finished, they have changed it to 98.5%. All right, it takes an entirely different process to do that. So you've spent your money and you still haven't met the standard that you tried.

James Underkofler (President, Wisconsin Power & Light Co.). Maybe we in our generation have been over indulgent in respect to what technology can do but.

I think the younger generation is not yet fully appreciative of the real options we have and the fact that technology is going to solve this situation.

Warren. I think it's fairly useful to say it's a crisis of decison making more than it is anything else.

McGee. If we decide to use more air conditioners, frost free refrigerators, washers, dryers, computers, automated machines . . . than, however, efficiently we operate those machines, we will still need more electricity and we will have to find ways to get it.

We can get it from nuclear power. If we do we will take risks to our safety that may be very great.

We can get it from coal. If we do, the power companies say we will have to lower, temporarily, environmental standards.

We can get it from oil. If we do, we will have to buy that oil in the Middle East. It will be expensive. It will effect our balance of payments. It may prevent our using oil for something else.

In the long run, we will probably be able to get the power in other ways. Some geothermal. Gas from coal.

Oil from shale. Nuclear fusion. But for now, our options are limited, and we will have to choose among them, and the price we pay, whatever we choose, will be high, uncomfortable, and perhaps painful.

Frank McGee. Once, we deliberately burned up natural gas because we thought it was useless. Then we found it was cheap, clean and efficient as fuel. In the fifties and sixties, we thought it was the solution to our fuel problems. But of course, that was too good to be true. And it wasn't true.

There is this simple fact: We are consuming ourselves out of natural gas. Natural gas heats half our homes. It fuels half our industrial production.

It used to produce a quarter of our electricity. It supplies one third of our energy . . . and we are using it twice as fast as we are finding it. The natural gas industry warned us for five years that a shortage was coming. But no one paid much attention.

Then, this year, in some places, that shortage was here.

Reporter. Mr. Locke, how serious is the power shortage?

John Locke (Chairman, City Public Service). It's very serious.

Reporter. Would you care to elaborate on that a little bit?

Locke. Well, meaning this: That we are only receiving delivery of one third of the amount of gas that we need to deliver full service.

Reporter. What happens if the people don't save enough power? Are you just going to have to turn the switches off?

Locke. We'd just have to cut the service, that's all.

Locke. And the lights may start going out in San Antonio?

Locke. Well, the lights would be the last thing.

McGee. That was this summer.

Last winter the gas shortage closed factories in Ohio, New York, Pennsylvania, New Jersey . . . Schools had to close.

This spring in some areas there was no natural gas for new customers. Next fall farmers in the middle west may not be able to dry their corn because there is a shortage of propane.

What happened?

In the long run we just don't have enough natural gas.

In the short run there is enough. But nobody is looking for it very hard.

One reason is that the price of natural gas sold interstate is regulated at the well head by the Federal government.

The gas industry says, despite recent increases, that price is still too low.

By that they mean until they're allowed to charge more money.

Meanwhile, there are the people who use natural gas. They live here in Brooklyn, New York, Ohio, Michigan, Indiana and forty five other states.

They're almost half of the population of the United States. Eighty million Americans encouraged by an expensive advertising campaign switched to natural gas.

Now . . . this summer . . . they are being told there isn't enough anymore.

Eugene Luntey (Exec. VP, Brooklyn Union Gas Co). We serve a territory of four million people. About one third of those people use gas for house heating. There are in our territory alone.

One million two hundred thousand people who depend on natural gas for cooking and that means about one billion meals a year are cooked with natural gas. If the gas from Louisiana, Texas were suddenly cut off New York City would suffer very greatly.

The customers and consumers in New York City would exist in a very cold atmosphere this coming winter.

Auctioneer. Texas has four hundred twenty three bids. The first is a joint bid of Kerr McGee, Cabot Belmont Case Pomeroy. Fifteen million.

McGee. In New Orleans one thousand miles away on a summer morning, natural gas that will be consumed in 1976 is changing hands.

Auctioneer. Three million six hundred and forty six thousand and eighty dollars.

And the per acre is six hundred thirty three dollars. Six million one hundred and twelve thousand dollars the per acre is one million sixty one dollars and eleven cents.

McGee. Six point two billion dollars will be bid in the next three hours for offshore drilling rights. It'll take three years to get the gas they're bidding for now to a house in Brooklyn.

Auctioneer. The next is a joint bid.

McGee. When they bring the gas out of the sea from down as deep as fifteen thousand feet north. At this point ownership of the gas passes from the company that took it out of the sea to the company that owns the pipeline. Very little of it will remain in Louisiana.

Gov. Edwin Edwards (Governor of Louisiana). Now we find ourselves on a paradox of producing twenty five percent of all the gas that's used in America every twenty four hours. Yet we have a shortage of supply right here in our own state.

We operated or lived in the belief that we had an inexhaustible supply of natural gas. We now find ourselves in a situation where we recognize that the supply is beginning to terminate.

And the State of Louisiana cannot use any portion of this gas since it has all literally been committed by long term contracts.

McGee. The pipeline passes under fields of sugar cane between the Gulf and New Orleans.

The sugar refineries need gas. They can't get it from the pipeline.

John Thibaut (President, American Sugar Cane League). Under the curtailment procedures instituted by the Federal Power Commission, ten or twelve of our factories were curtailed and actually refused gas for a period of time, when we lost over a million dollars worth of sugar cane.

McGee. The pipeline pushes north past New Orleans.

Benjamin Sisson (Chairman, Jax Breweries). It was in January of last year during the cold snap.

That our brewery along with the others here in the community and a number of other plants were closed down because of a shortage of natural gas.

McGee. The pipeline runs from New Orleans past the Exxon refinery at Baton Rouge.

George Orick. How do you feel about the gas going right through your state like that?

Gov. Edwards. Sick.

It passes through Louisiana in multiple pipelines by the billions of cubic feet per day. And we sit here helplessly with an economy dependent on natural gas and watching others benefit from this cheap gas.

McGee. Monroe, Louisiana. Population sixty thousand. The pipeline goes past on its way north.

Last winter on the coldest day of the year, the people of Monroe were told by the Federal Power Commission that they could no longer use natural gas to make the electricity that heated their houses.

In a time of natural gas shortage, too wasteful, the commission said they would have to convert to some other fuel. But they had always counted on natural gas, because it had always been there, right under their feet.

John Beyer. We're standing over the Monroe field about a five hundred square mile field. This is a compressor station that's compressing the gas that's gathered from the field and it's being compressed and being carried a thousand miles say to the north of us here.

Mayor Ralph Troy. Hello Governor.

Gov. Edwards. Hello.

Troy. Ralph Troy.

Gov. Edwards. Hi. How're you doing Mayor?

Troy. Fine. I've got a little problem that you're well aware of. Our gas situation.

Gov. Edwards. Your gas situation. Yes, it's one that frequently crosses my desk I'm afraid.

McGee. Mayor Ralph Troy. He's been in office for fourteen months.

Mayor Troy. The economy of this city was built on that cheap fuel. And suddenly to have it jerked out from under you as is happening to us now is traumatic for the city and for its people. If we are required to discontinue its use then that means we have to find some other means of generating electricity. And the expense of going to another system would be intolerable for us.

McGee. One third of the people of Monroe live below the poverty line. For them, up to now, fuel has always been cheap.

Mayor Troy. Most of these people live in poorly insulated homes. Some with no insulation at all and some with no windows at all. And they heat these with space heaters which burn gas. And these heaters just go full blast all winter. The problem for us is just that we don't have an alternative source of fuel. We don't see how we can get one.

First Man. Monroe. You can't have the gas that you've explored in Monroe. We're going to send it to Brooklyn or to the east.

Second Man. Well I read in the paper where there's a number of reserves off Long Island and I just wondered why they could not drill there and get the gas there and leave the gas that we produce down here.

Third Man. They don't want to go offshore and develop their deposits. Well that's their tough luck, far as I'm concerned.

Woman. Why do they have to have our gas? Why can't we keep it here?

Luntey. Absolutely, there seems no reason to me that the people in Louisiana should develop the gas off of their shore, ship it two thousand miles to the Northeast and for us to sit here with undiscovered resources unexplored resources off our shore. Within three hundred miles of the South Shore of Long Island here lie petroleum and natural gas deposits that could carry this Nation well into the twenty-first century. And yet no one has drilled one well one exploratory well between Florida and the main border.

McGee. To people in Nassau and Suffolk counties in Long Island, off-shore drilling means derricks on their skyline and oil on their beaches. They would rather continue to get their gas from Louisiana.

Ralph Caso (Nassau County Official). The last thing that I would want to see . . . is oil rigs about three miles off this beautiful shore line, and can you imagine what would happen here with that visual pollution, the problem of oil spills.

And the potential danger that is involved with the whole operation.

John Klein (Suffolk County Official). The price is simply too high. What we're talking about is the way of life, the quality of life of nearly three million people.

Caso. It's almost like the people of Louisiana saying well because we are deteriorating that your area should deteriorate also.

Mayor Troy. It galls me to see people say look we don't want anyone drilling off our coast. We don't want the environment messed up. We don't want tankers coming into our coast.

Troy. Well there are gas wells all out there. And those derricks aren't very pretty when they go up and they mess up the environment.

Sen. Bennett Johnston. Before our Committee on the Interior, some of the states have come up and testified they don't want to drill for oil and gas . . . they don't want to contribute one bit of the effort that this nation needs to produce the energy . . . and yet they want our oil and gas.

Walter Sheridan (NBC Correspondent). Does it seem to you, Senator, that the situation in Monroe rather epitomizes how small towns and small industries are getting caught in the bigger power struggle?

Sen. Johnston. I think it is, Walter. It's particularly painful in Monroe because it sits right on top of what used to be the richest gas field in the country.

Sheridan. Right.

Johnston. And here they don't have enough gas to run their own power plants.

Sheridan. Senator, what activities have there been here on Capitol Hill in connection with the natural gas shortage?

Sen. Johnston. Well, every aspect of the natural gas shortage . . . is being studied from research and development to anti-trust, the whole gamut of natural gas is being studied on the hill.

Sen. Edward Kennedy. And I want to find out whether the Power Commission has done any kind of study.

If they were to get a de-regulation what the impact was going to be over the consumers and over what period of time.

I don't think that's a very . . . that's a rather it's a question on the mind of every consumer that uses gas in this country.

John Nassikas (Chairman, Federal Power Commission). I understand and say that over . . .

Kennedy. Well, what are we going to tell them?

Sheridan. The natural gas industry and the Federal Power Commission say that regulation by the commission of the price of gas has kept the price too low and thus discouraged exploration for new gas.

Kennedy. Well, let's speculate. What will the price go up or will it go down?

Nassikas. I assume the price will go up on deregulation because of the fact that gas has been maintained at extremely low levels, by the regulation of the Power Commission, which I head.

Kennedy. Well, how much will it go up?

Nassikas. This, this cannot be predicted?

Sheridan. John Nassikas, the Commission's chairman, wants the Commission to stop regulating the price of natural gas. He says that a recent independent study by the Commissions shows that the shortage is real and acute and that the natural gas reserves are even less than originally estimated.

Nassikas. As I say I have no estimate to give you.

Kennedy. You don't know?

Nassikas. I have no estimate to give you.

Sheridan. Critics say that the Commission study was not independent, it was dominated by industry representatives, and its conclusions were based on data furnished by the industry.

James T. Halverson of the Federal Trade Commission has conducted his own investigation and subpoened some industry records. His inquiry thus far indicates that the industry has underestimated its reserves.

Committeeman. But you don't know how much that under reporting is, do you?

James Halverson (Director, Bureau of Competition, FTC). Well, it's been high as ten to one, sometimes three hundred percent, four hundred percent. It depends on which field you're talking about.

McGee. Whatever the facts are, decisions made here in Washington are going to change the lives of people in Monroe, Louisiana, and Brooklyn, New York. Some of those decisions have already been made.

One decision has been to buy natural gas abroad. In the next ten years two trillion cubic feet of liquified natural gas will come by tanker to this country. Some from Algeria. Thirty billion dollars worth from the Soviet Union.

In Montana, they will try to begin turning coal into gas if environmentalists can be convinced that will not destroy their land and their way of life.

Nuclear devices will be used to loosen natural gas from deep inside the earth.

We will have natural gas. But we will never again have it in the cheap plentiful supply they enjoyed for so long in Monroe and so briefly in Brooklyn. They will have to depend in the future on what happens in places like Moscow, Algiers and Helena, Montana.

It may be a long cold winter in Monroe.

A bitter Christmas in Brooklyn.

The crisis of natural gas is not a complicated one. Whatever we do in the short term, whether conspiracy created our problem or bumbling politics, finally we simply do not have enough natural gas. We will have to look elsewhere.

In the long future, there is no future in natural gas.

McGee. As we have been going along this evening, you may have been wondering what the Government is doing about this energy crisis. The answer is not as much as a lot of people would like, more than some would like and whatever it's doing hardly seems to please anybody.

Rawleigh Warner, the Chairman of the Board of Mobil, thinks the Government interferes too much.

Rawleigh Warner. Well, those of us in the oil business have, I think, a strong belief that interference with our normal operations via various commissions, via various administrative rulings have had an impact upon the industry and have helped produce this shortage.

Ralph Nader. And there is no reason why we can't go into these energy conservation programs quickly, using the Government as an example . . .

McGee. And Ralph Nader doesn't think the Government interferes enough.

There are 74 Federal agencies that deal with energy. That doesn't include 8 congressional committees. Because of this, it is very hard for anybody to get a necessary answer to anything from Washington, and often you get conflicting answers.

Governor John Love of Colorado has been appointed director of the energy policy office. He says he's not an energy czar.

John Love. I'm just of course newly aboard but I've been given every assurance insofar as staffing and access to the President. And I don't think that power is going to be the problem in actually making this office work efficiently.

McGee. Love now has a staff of 12.

By comparison, the Department of Health, Education, and Welfare has 125,000 people. One of the problems is that some people are working to save the environment and some are working to get us more energy and sometimes they are working at cross purposes.

Russell Train is the new environmental boss but he has not yet been confirmed in his job by the Senate. Many people say that we don't have an energy policy, the question has been asked whether we ought to have an energy policy. At the White House, they call it the energy "situation". The President does not use the word "crisis" to describe it. Whichever it is, there is a good deal of confusion, duplication and conflict about it in Washington. Things more at a snail's pace. Hardly anybody is satisfied. But in fact, at the moment, it is not at all clear . . . except in the area of research and development . . . what the government policy ought to be. In the area of research and development, it is clear that we ought to be doing more . . . but more what? We are putting most of our research money into nuclear projects. But there is opposition to this on the ground that nuclear plants are not safe. Proponents of geo-thermal, hydrogen, shale, gasification, solar energy and windmills all insist they should get most of the money. Now of course, no one really knows where technological breakthroughs will come next, or what may turn out to be practical tomorrow. We probably do not have a Government policy because the truth is, at this moment we have no consensus about what that policy should be. So in the absence of the consensus, we are muddling through what the President still insists is a "situation", not a crisis.

Less than a hundred years ago, they drilled the first American oil well in Pennsylvania. We used to produce more than half the oil in the world. Now we produce about eighteen percent. But we are using more oil than we ever used before. In the next ten years we will use more oil than we used in the last hundred years. Every day we are using more oil than we can produce.

Radio Gas Watch Announcer. This list is a couple of hours old. Some of these stations might be closed and some of these stations might be limiting gas to ten gallons or less.

Frank McGee. Finally it came down to this: A man with a car and no gas. An oil company ran an ad that said a nation that runs on oil can't afford to run short of oil. This summer that seemed to be what we did.

We apparently ran short of oil.

David Freeman (Sociologist, Ford Foundation). Who's to blame? Who failed us? Well I believe there's enough blame that we can tag almost every segment of government and industry and even the consumer is a partial villain.

McGee. David Freeman. Director of a three million dollar study of the energy crisis for the Ford Foundation.

Freeman. I think in this country we traditionally pride ourselves in not facing up to problems until, until we see the whites of their eyes so to speak.

McGee. This summer we began to see the whites of their eyes. In New Jersey, highway drivers were limited to ten gallons of gas. In Albany, New York, a dealer charged ninety nine cents a gallon.

In Colorado, in August, gasoline stations closed down all across the state, leaving drivers stranded all across the state. One Denver dealer strapped a gun to his waist and warned his irate customers not to make trouble. In the Midwest they ran out of diesel oil and farmers couldn't get enough to drive their tractors and farm their land.

Governor Robert Ray (Iowa). You listen to those people talk about the balance of payments. The balance of trade. Well the one place where we are still able to help in that critical area is with our agricultural products and so it's absolutely imperative that we plant those crops. Which we did get planted in the spring and now we have to get them harvested and we can't do it if we can't run tractors.

McGee: So the problems the gas shortage creates feed on each other and all the shortages and the problems are related. And you have to begin with a series of questions. Why is there an oil shortage? Is it real or contrived? Who is to blame for it? How long will it last? How can it be resolved? The questions are easy to ask but they are not easily answered.

The business of providing the oil on which this country runs is complicated. Perhaps more complicated than any other business. For the next hour we will examine the questions and try to find some answers. We begin with some hard facts.

In 1972, oil provided 45% of all the energy we used. The demand for oil, for a variety of reasons, has been growing. This year, despite increased production,the demand was greater than the supply. This was one reason.

We have 100 million cars on our roads.

The engines get bigger. More people want air conditioners, power brakes, power steering. Emission control devices are required to protect us against air pollution. All of these increase the consumption of gasoline. Now we don't seem to have enough. Are we running out?

Frank Ikard (President, National Petroleum Institute). Probably in the next two or three generations we'll come to the end of the hydrocarbon age and have to look to some exotic or synthetic kinds of energy. But at least in your lifetime and mine, petroleum will be the basis of it. Or our energy sources.

Fred Freed. Mr. Bradshaw, why is there an oil shortage?

Thornton Bradshaw (president, ARCO). Well, in the simplest terms demand has outrun supply. Behind that is a very complex story reaching back many many years because it has been building up for many many years.

Freed. Why weren't you able to predict that?

Bradshaw. We were not able to predict the enormous increase in demand that derived from this very heavy economy we have now. This very affluent society.

McGee: If the demand increased faster than the oil companies anticipated, their other problem was that the supply did not increase as fast as they anticipated.

Bradshaw. Let's go back to the year 1968. A sort of a watershed year. In 1968 the North Slope field had just been discovered. The Prudhoe Bay field. The largest field of oil and gas ever discovered on the North American continent. And our executive committee in that year had written that oil would be delivered to the California coast by 1972.

The Alaskan oil was frozen and as a matter of fact of course still is in 1973.

Just prior to 1968 there had been a large find or series of finds of oil off-shore Santa Barbara. The Santa Barbara spill. And the age of environment and certainly from our point of view none too soon.

Freed. You mean we needed that?

Bradshaw. We needed some dramatic event to focus the attention of the American people on the fact that our environment had been degraded.

Santa Barbara oil was shut in and still is shut in. Off-shore drilling and exploration was slowed down enormously.

Rawleigh Warner. (Chairman of the Board, Mobil Oil). We've got a whole series of problems.

They relate to the availability of gas. They relate to nuclear energy and the general disappointment that's come from that source. They relate to coal and the impact of environmental actions, so that the end result of all this is that everything has fallen back on oil.

McGee. This is the case the oil companies make. Whatever the reasons, the simple fact is last year we consumed sixteen million barrels a day while we produced nine and a half million barrels a day. The shortage was made up by importing oil. This year we will import more. Many critics of the oil industry do not believe that we really can't produce enough oil to meet our demand.

Senator James Abourezk. I think it's ridiculous in the United States of America to talk about a shortage of gas for automobiles, for transportation, fuel for heating homes and businesses and schools, when we have thirty seven billion barrels of proven reserves of oil in the United States today. It's ridiculous to talk about a shortage when we have an excess of refinery capacity in this country of three hundred and twenty-two thousand barrels a day.

McGee. As in everything else in this oil story, there is disagreement here, even among critics, as to what the oil companies are doing wrong.

Maur. Adelman. (MIT Oil Expert). I think it's almost entirely a failure of refinery capacity because the consumption grows from year to year. And what's happened is simply that refinery capacity hasn't expanded and there isn't a great deal of slack anywhere else in the world. Especially Europe.

Fernand Spaak. (Director for Energy, European Community). In Europe we have an excess of refined products and this explains why we are in a different situation at the moment.

And this explains why the U.S. is to such an extent now relying on our excess capacity to supply the American market.

McGee. Europe depends on *imported oil* and has refineries to process it. We are still the largest producer of crude oil and we don't have the refineries.

Warner. I think it's the age old question of people wanting their product, but they don't want the plant that produces it too close to them.

The main reason why we don't have the refining capacity is that for a variety of environmental and legal reasons people have made it very difficult to build refining capacity in this country.

Ralph Nader. It's not a question of environmentalists. The question is that we, who hold this country in trust for future generations and people, who want a relatively safe environment, would not allow refineries to be built until they can be built as safe as they can be built.

They want to get off cheap and put the cost on the public in terms of contaminated environment.

Warner. I think to me the thing that's been missed by all those who want a clean environment is the simple fact that for everything they demand there's a price.

McGee. They talk about compromise on both sides. So far there has been none. One place where they meet head on is Eastport, Maine. The boats are coming in with herring. They are blowing the whistle to tell the sardine packers that there will be a day's work. Fifty years ago there were twenty canneries in Eastport. Now there is one. That's about all the industry they have in Eastport now. Eastport exists in a deepening private depression.

But Eastport is also a port with twenty two foot tides. The only true deep water port in the United States. Because of that the Pittston company wants to build a three hundred and fifty million dollar oil refinery here.

Arnold Kaulakis (Vice President, Pittston Company). Expansion in refining capacity anywhere on the east coast of the U.S. has got to be based on running imported crude oil. Now that crude is going to come from the Middle East.

You can build a refinery anywhere but a harbor having the potential to be developed into an oil port for the use of these very large crude carriers which carry over one and a half million barrels in one trip is a rare natural resource. And Eastport has that natural resource.

Ken Layton (Eastport City Council). I think the town needs it.

Since I've lived here for twenty four years and it's gone nothing but downhill the past twenty four years and this is something we need to put new life into the town. Into Eastport.

Harry Raye (Electrical Worker). At this time I am not working. I haven't worked since the last week of March. I'm like a good many in this area drawing unemployment compensation at this time.

McGee. But there is opposition to the refinery. Supporters say it comes mostly from retired people who have bought houses in the area. Who don't need the jobs.

The refinery can't be built unless it is approved by the Maine Environmental Protection Board. On the board are a retired conservationist. A law professor. A dairy farmer. A retired Navy captain. A housewife. A retired chemist. They will decide whether or not Pittston can build the refinery at Eastport. John Cole, Editor of the Weekly Maine Times, is chief spokesman for the environmentalists.

John Cole. We don't want to keep Maine poor as some people say environmentalists do. But I do want to keep Maine from being industrialized, particularly the Maine coast which is not only the property of Maine people but it is the property of people all over the U.S. and the rest of the world.

The decision has not been made. The debate continues. If the environmentalists win it, Pittston has another place to go to build its refinery.

Kaulikas. There is a second excellent site in the Canso Straits in Nova Scotia.

We have also entered into discussions with Nova Scotian authorities on the possibilities there.

McGee. What Maine is debating, Nova Scotia wants . . . and has. One refinery is operating now. Two more are being built. A fourth is planned. They are ready to consider a fifth, the Pittston refinery. The Premier of Nova Scotia.

Gerald Regan (Premier, Nova Scotia). I suppose it can be interpreted that I am saying to a degree that we are prepared to take some risks that the residents of the east coast of the U.S. have shied away from.

George Orick. Why are you doing it?

Regan. Well, we want to have a higher standard of living for Nova Scotians.

McGee. Thus once again we see the energy crisis as a crisis of decision.

If Eastport rejects Pittston's refinery, Nova Scotia is ready to build it. We will get more of the refining capacity we need. Maine will not have to risk damage to its coast line. But in Eastport, the twenty four year economic slide Mr. Layton described will continue. If Maine decides to allow the refinery to be built, that part of the state will change forever. No one can say whether for better, or worse. That is the gamble they are being asked to take . . . or reject.

First Man. Well, we used to be open on Sundays in these stations. Now they're closed. I mean, there's gotta be a reason for it. I mean, you know, this is the greatest country in the world. I mean there shouldn't be a shortage of anything.

Second Man. I go to work early in the morning and get home late at night. And I can't get gas.

Woman. Well, I do think that the oil companies practically own America, along with a couple of the Detroit's automobile manufacturers.

Third Man. But I believe they have gas and just not saying it just in order to raise the prices.

Fourth Man. Oh, it's killing me. It's killing me like it's killing thousands and thousands of all American people. Same thing, because it's affecting your life, your blood . . .

Frank McGee. It was killing us. Nothing like it had ever happened to us before. We looked around for someone to blame.

David Freeman (Sociologist, Ford Foundation). The reason I think a lot of people think it's all a giant conspiracy is that it's just unbelievable to them. And maddening in a high energy civilization . . .

Exxon Commercial Narrator. Fill up with Enco Extra for those long serious drives. But fill up with Enco Extra too if you're going to be doing something like this. Either way you've got a tiger on your side.

Freeman. All of a sudden, the oil industry that has been giving them glasses and green stamps to buy gas are now saying that there's not enough to go around.

Man on Gulf Commercial. We're going to need a national energy program where our government and industry can work together to develop our future energy sources so we won't have to rely on somebody else's. You and I can help too. By not wasting the energy we already have.

Freeman. The general public had no reason to think that this reservoir of energy had any bottom to it at all . . .

Senator Henry Jackson. I have no proof that there is a conspiracy. Very responsible people . . . state attorney generals, public officials, people in the private business sector, said there is such a conspiracy. I think there are some other things that I can say with certainly and that is that I think the oil companies want to find too the supply and demand. That is, they know that if supply of petroleum is very tight and demand is substantial, that it will cause prices to rise and when prices go up, profits go up. And that's what they're in business for. Profits . . .

Robert Killian. (Attorney General Connecticut). This whole shortage situation, so called, alleged, is directed toward putting independent wholesalers and retailers out of business, destroying the secondary brands, the unbranded marketer, who has provided the only competition in an industry that's been almost totally without competition over a period of many, many years.

Independent Dealer. My problem is that I'm having a heck of a time trying to get gas and stay in business.

McGee. This was the summer of the independent. The summer of his public agony. He couldn't get any gas. By June, some estimated 2,000 independents had shut down.

It was clear that from the start, the independent had, in fact, been a dependent. He owed his existence to the big oil companies.

Thornton Bradshaw. (President, ARCO). For many years in the United States, we have had a surplus of refining capacity. This means that the barrels of oil which we cannot use ourselves we were glad to sell to the independents and generally at low prices. This is called the incremental barrel.

And it helped us by pushing the capacity of the refineries up. The operating capacity of the refineries up: It helped the independents by providing them with oil at rather cheap prices.

Fred Freed. And they charged less, didn't they?

Bradshaw. They charged less.

McGee. Over the past forty years, the independents became an institution in the oil business. The refineries of the big companies were operating at less than capacity. They had oil available. The independents fitted into their plans.

Bradshaw. They began to get a very large share of the market. In some states, it reaches I believe, as high as 25% of the market. They grew all during this period of time while the share of market of the majors was declining.

Now, all of a sudden we are producing our refineries all out. We have no incremental barrels. We have no surplus barrels. So this is a different kind of situation.

McGee. This "different kind of situation" bothered a lot of people, among them some senators. They wondered whether this wasn't a cleverly orchestrated effort to drive the independents out of business. They heard a series of witnesses, various kinds of independents, each asking for help against the big oil companies they said were trying to wipe them out.

M. B. Holdgraf, Hudson Oil Company of Kansas City. One of the big independents. He gets his oil where he can find it.

M. B. Holdgraf. We looked hither and yon. It's rather unique and ironic that a company dealing in millions of gallons and barrels that I get down and plead for one tanker of gasoline for my station in Henderson, Nevada to keep the door open . . .

McGee. Charles Shipley. He represents the Retail Service Station Dealers of Michigan. They don't feel very independent this summer.

Charles Shipley (Executive Director, Service Station Dealers, Michigan). Independence is not a word that should be attached to any businessman who is not a part of an integrated oil company. He has no room to move except as he responds to the pull on the string that comes from his supplying company. No jobber or dealer dare introduce any market innovation or take any independent action not having the stamp of approval by his supplier.

From the control at the wellhead, through the pump nozzle, every transaction must have the blessing of the major oil companies. Almost without exception, every major integrated oil company . . . reacting to the inroads, being made in the total volume by unbranded marketers saw fit to masquerade as independents themselves.

Fred Briggs (NBC correspondent). In Texas, Sello stations look like independents, but they are owned by Mobil Oil. Whale gas stations in Kentucky are owned by American Oil. Alert Stations on the East Coast, owned by Exxon. In Oklahoma, R.I.D.E. Stations are owned by Shell Oil. E–Z Go in Chicago, that's part of Gulf. This is one of a chain of Chicago independents. In the last two months, it's only been open 20% of the time.

Independent Station Owner. I cannot understand how major oil companies can deprive me of product yet open stations to compete with me under other names. If there is no surplus, why are they opening their own independent outlets? What chance do we have?

Freed. Are the independents going out of business?

Bradshaw. I don't think the independents are going out of business. The only thing that we are talking about is whether or not by some mechanism of government, they should be provided the opportunity to buy oil for less than other segments of the distributive chain.

Freed. Why do the majors sell some of their gasoline under other names?

Bradshaw. Well, I think we recognize that there are two markets, the service market. My wife, for instance, wants to go to a full service station . . . And then there's another market that has been growing where people buy on the basis of price and quality, and they don't want the service. And we and other majors, we're looking at both of those markets and hoping to supply both of those markets.

McGee. The fact is that the "price alone" market is the one that kept the independents alive. It enabled them to sell their gas at a lower price.

Now the majors, as Mr. Bradshaw points out, are moving into that market. At the same time, the independents are finding it hard to get any gas at all from their suppliers who happen to be the majors.

Joe Clements owns two gas stations in Twin Falls, Idaho, one in Burley.

Freed. Are you still having trouble?

Joe Clements (independent oil dealer). Yes, I am. we're closed more than we are open. I've been at the same dentist, Frank McCaffee, for I'd say twenty five years. And he called me up and told me he was going to have to quit because this winter I wasn't going to be able to get any fuel oil to keep him warm. Frank's getting to the age where he don't want to be cold. You see, and so he's left me out in the cold. I can't serve him fuel oil any more because he's going to go to one of the big boys.

Freed. So you've lost business?

Clements. Yes. I've lost quite a lot of business.

Freed. You say that you think this is something deliberately planned by the oil companies. What evidence do you have?

Clements. Well, you see, you put me in a difficult spot. I can't give you much evidence.

All I can use, I think, is horse sense, that how could the guys have more computers than I've got trucks and customers, I imagine, be caught short on a deal like this?

This summer I sold a half a million gallons less than I sold last year. Does that mean people are conserving gasoline?

No, that means that the majors sold a half a million gallons more and I sold five hundred thousand gallons less.

Walter Sheridan. How important are the independents in your view?

Senator Adlai Stevenson. That's the only competition there is. They keep the majors honest. They keep the prices down for gasoline and they also serve areas of the country, consumers, who otherwise have great difficulty getting gasoline. I had one independent in Illinois who supplied 15,000 farmers and one of the major oil companies cut off that independent.

Sheridan. Is that Mr. Hicks?

Senator Stevenson. Mr. Hicks was cut off by CITGO.

Charles Hicks. Cities Service cut us off the first of April. And the first of April then we had to cancel out seventy seven wholesale customers scattered all over the state of Illinois.

Charles Hicks (President of Hicks Oil Company). Some of these major oil companies seem to make it, try to make it, appear as if we're kind of fly by nights in the gasoline business. But I feel like if we've bought from two different companies for fifteen or twenty years, we mustn't be too much of a fly by night.

We've always got along very excellent. No fuss. No muss, with none of them. But it's a little different picture today. We don't know which way to turn.

Rawleigh Warner (Chairman of the Board, Mobil). Well, I have the most dreadful time, hearing people say about this industry in which I have lived for twenty five years, that we are engaged in a conspiracy and contrived a shortage. Now, conspiracies connote doing things behind everybody's back. Connote meeting together in clandestine fashion and carving up markets. We have dozens upon dozens of Government Agencies. We have the Federal Trade Commission. We have the Federal Power Commission. We've got Commissions coming out of our ears, who are into every aspect of our business, and rightly so. I'm not against that at all. I'm citing it because I'm trying to get across a feeling and a depth of passion that says to you that we are not and we cannot conspire, and if we were so obtuse as to think that we could conspire, we are just stupid.

Robert Shevin (Attorney General, Florida). I wonder whether or not this was not manipulated ...

McGee. On July 9th, the Attorney General of Florida filed an anti-trust suit alleging that fifteen oil companies had conspired to create a gasoline shortage and to drive up prices.

On July 17th, the Federal Trade Commission filed a formal complaint charging the eight biggest oil companies with "coordinating" their activities over a twenty three year period to monopolize the refining of petroleum products.

On July 26th, the State of Connecticut brought suit against twenty oil companies charging them with violating the anti-trust laws.

Killian (Attorney General, Connecticut). It is my belief that these twenty major oil companies have enjoyed a virtual stranglehold on gasoline and petroleum products, that has long meant inflated prices for the consumer and more recently a shortage of supplies, whether real or contrived. Far from serving as an example of the free enterprise system at its best, these companies represent a monopoly that controls petroleum production from the moment that exploration activities are commenced until the final product is dumped, pumped into the gasoline tanks of our cars.

James Halverson. (Director, Bureau of Competition, FTC). Our investigation suggests that activities by the major integrated petroleum companies have had significant anticompetitive effects. Their control of refinery capacity ...

McGee. What the Federal Trade Commission complaint alleged was this: That the eight major oil companies prevent competition; that they do that by acting together to control the "gathering" of oil . . . the transporting of oil . . . the refining of oil . . . the pricing of oil . . . that they control the pipelines it travels through . . . that they control who get gasoline, and that all along this process, acting together, they have kept independents out, held competition down, pushed profits up . . .

Warner. What they have said is that these eight elements in the industry have followed a common course of action. Now, in the normal course of business, one business does tend to do what other businesses do. They've also said that a company vertically integrated . . . by that I mean to say in all the phases of the business . . . is in violation of some law. Now, that's a novel, according to our lawyers, that's a novel complaint and one which we do not feel is at all justified.

Sheridan. Do you feel that you have the evidence to try the case successfully?

Halverson. We have put a very large amount of resources into investigating the situation before it was brought to the recommendation level, and we feel that we have the types of information that will make for a successful case.

McGee. Mr. Halverson said the FTC had been gathering evidence for two years. He said he could not reveal what that evidence is before the hearings begin. Meanwhile, business goes on pretty much as usual. The hearings, when they begin, will be long and complex. It will take time for the FTC to hand down its decisions. Then, if the oil companies lose, there will be years of appeals through the federal court system. It may, in the end, be a landmark case, but it will not have much effect on what happens to Joe Clements of Twin Falls or the other independents, one way or the other . . . or to their customers.

Mr. McGee. This is King Faisal of Saudi Arabia. He is going to have a great deal to say in the next few years about the way you live.

He rules over a desert kingdom of six million people. In this decade of the oil shortage he is one of the most powerful men in the world. Under these sands there are proved deposits of a hundred sixty billion barrels of oil.

Saudi Arabia and Iran and Kuwait which have a hundred thirty billion barrels of oil . . . own more than half of the world's known oil reserves. For at least the next fifteen years our oil supply is going to depend largely on what these three countries and eight other middle eastern countries with smaller oil reserves decide to do about their oil production.

The leader of one of those countries is Colonel Muammar Qaddafi of Libya.

Last month, he took over fifty one percent of the Libyan properties and assets of Occidental Petroleum, Continental, Marathon and Amarada Hess, and he was able to raise the price of their crude oil to almost five dollars a barrel.

Three days ago, he nationalized fifty one percent of the holdings of the remaining foreign oil companies . . . Exxon, Texaco, Socal, Mobil, Shell. These five companies are so far resisting this action, refusing the terms offered by Colonel Qaddafi. But the question is: can they hold out, given the world oil shortage?

William Tavoulareas (President, Mobil Oil Co.). I don't know of any effective way that the consuming nations economically can get together to bring pressure on prices in the producing nations.

The man with an essential commodity in short supply has a distinct advantage when he has no anti-trust laws to worry about.

Senator Henry Jackson. So priority number one of all the priorities involves the skill of our diplomacy, in working out the kind of arrangement with nations abroad that will provide continuity of supply in the critical period ahead. This is the biggest problem of all.

McGee. In non-diplomatic language that means that we had better get along with the Middle Eastern nations, because we are using almost two billion barrels more of oil a year than we produce. So unless we *ration* it we are going to have to import it. We will have to import about fifty percent of our oil by the 1980's. Most of it from the Middle East where our interests are complicated and conflicting.

John McLean (Chairman, Conoco). Well, we have three sets of relationships in the Middle East, all involving the legitimate interests of the United States. First we have an emotional interest in Israel and some would go so far as to base a military commitment upon it. Second, we have a deep economic interest in Arab oil and indeed our position as a major world power in the next ten or fifteen years is going to be heavily dependent on the continuity and the flow of that oil.

Third, we've got an overriding strategic interest in avoiding a conflict with Russia in the Middle East. So the essence of our problem is to reconcile these three diverse sets of interest without doing undue damage to any one of them.

McGee. Why do we have to get our oil from the Middle East? A blunt answer is that we can't get the amount we need anywhere else.

So we come back to those three countries. They have plenty of oil. But there are problems about our getting it. And one is that we are going to have to compete for it against other industrial countries like Japan and France who are even hungrier for oil than we are.

Fernand Spaak (Director for Energy, European Econ. Community). Now this is what is called the scramble for oil. People wanting to get control of oil reserves at any cost.

Len Giovannitti. Is such competition going on now?

Spaak. Well, it is starting, it is starting.

McGee. There are one million people in Kuwait . . . living over one of the largest pools of oil in the world. A generation ago they lived in mud huts. The average per capita income last year was thirty five hundred dollars. They are a modern, industrialized country enjoying the kind of living standard they can.

* * * * *

McGee. Iran has the third largest pool of oil reserves in the non-communist world.

The Shah, who is the absolute ruler, has taken a different view of how to use his oil from the Kuwaitis. He is producing as much as he can, using the money he gets to modernize and industrialize Iran.

As a result, Iran has one of the highest growth rates in the world. They are spending every penny they get from oil, and when they sell more oil they rewrite their economic programs to spend the additional money.

They know the oil is going to run out some day, so while they have it they are selling it as fast as they can, to anyone who can pay for it, without regard to politics.

Amir Abbas Hoveyda (Prime Minister of Iran). We don't deal only with the major companies. We deal with everybody. We deal with smaller companies. We deal with bigger companies. As a matter of fact we have oil, we can't drink it. We have to sell it. And we wish to sell it at the best price. And I could assure you that our people when they deal in oil are very shrewd.

McGee. One of the "shrewd benefits" Iran has managed, is to trade some of its oil for a share of ownership in the Ashland Oil Company, one of the big American independents.

The Arab countries have wanted for a long time to share in the income from refining and marketing oil for the West. Now Iran has such a deal, on American soil.

Orin Atkins (Chairman of the Board, Ashland Oil Company). We have entered into a memorandum of understanding with the National Iranian Oil Company under which they will acquire a fifty percent participation in our refining and marketing operations in New York State. They in turn will supply us with quantities of crude oil and this is really the only way that the United States is going to be able to assure itself in my opinion of a stable supply of oil for the future.

Ashland is definitely involved in negotiations on a number of fronts, including Saudi Arabia to mention one.

Hunt. This barren patch of desert is perhaps the world's most expensive piece of real estate.

It's the Ghowar oil field in Saudi Arabia and it covers the world's richest pool of oil.

McGee. Saudi Arabia is over eighty percent desert. Its six million people are conservative, deeply religious. They still live in an underdeveloped country. And one of the problems of their oil is that it's bringing them billions of dollars every year.

Thornton Bradshaw (President, ARCO). How are they going to spend their share which might amount to as much as thirty to forty billion dollars a year?

Well if they put it in balances throughout the world. I know of no monetary system that can sustain that. I know of no way that with balances such as that floating around the world that we can have a viable international trade situation. They could invest throughout the world but after all in one year Saudi Arabia could buy all of General Motors at once.

McGee. Saudi Arabia is now producing eight million barrels of oil a day. We want them to produce more. The question is whether they will do it, or not.

Sheikh Zaki Yamani (Minister of Petroleum and Mineral Resources, Saudi Arabia). If it is up to us only, I mean if we are going to apply our internal requirements, then we will produce exactly what we can spend. And I think this shouldn't exceed the present level of production.

Anything we do beyond that will create a problem for Saudi Arabia. A financial problem. And there should be an incentive for that.

McGee. One incentive would be to help modernize Saudi Arabia. It's an ancient country. It needs schools, roads, hospitals. This year, the Saudis are completing their first nationwide telephone system. They are building sewers for their cities. So they will trade oil for our technical help. This sounds good for us. But in fact there is a limit to how much oil we can get from Saudi Arabia because we have to find a way to pay for it with our shrunken dollars, and they have to find a way to absorb all that money.

Bradshaw. If Saudi Arabia cannot spend the money for the benefit of their own people they might think why not stretch out the oil. Why not cut back on producing oil?

And that would sound like a fairly rational decision and wise decision on the part of the Middle Eastern nations.

But it would be catastrophe for the world because the world would not have the energy which it by then will desperately need.

McGee. So this is the dilemma we face. The oil we need is in Saudi Arabia. We need the oil more than they need our money. Thus the question is what can we do for them? And this brings us into the arena of Middle East politics, and the question of Israel.

Our ties with Israel and our aid to Israel anger the Arabs. The more radical Arabs and the Arab guerrillas attack Saudi Arabia for being too close to the United States. Now our oil shortage is seen by some Arabs as a weapon to change a policy that they think is not what we tell them it is.

Frank Jungers (President, Aramco). In actual practice I believe that most Arabs would feel that the policy has not been even handed.

McGee. Frank Jungers is President of Aramco, the Arabian American Oil Company.

It is the largest crude oil producing company in the world. Saudi Arabia owns twenty-five percent of it. American oil companies own seventy-five percent.

Sandra Granzow. We were just granted the first interview King Faisal has even given to American television. Why do you think he chose to speak out at this time?

Jungers. I think the King now is very much concerned with his position in the Arab world as being the one who is still pro-American in the face of what the others feel. And now that he has had an opportunity for a company like NBC to come here and to interview him he has chosen this as a way to get across his feelings to the American public in a friendly way.

King Faisal. As a friend of the Uniited States we are deeply concerned that if the United States does not change its policy in the Middle East and continues to side with zionism, then I'm afraid such course of action will affect our relations with our American friends because it will place us in an untenable position in the Arab world and vis a vis the countries which zionism seeks to destroy.

Hunt. If I am correct, His Majesty at one time said that oil and politics did not mix. Has something occurred in the last several months to change your thinking on these lines?

King Faisal. Undoubtedly, we are now under attack from the Arabs themselves because of our friendship with the United States and we are accused of being in collusion with zionism and American imperialism against the Arabs.

Hunt. Your majesty's remarks on this subject in the past have been interpreted to mean that Saudi Arabia might restrict its shipments of oil, particularly to the United States. Is that a correct interpretation?

Faisal. We do not wish to place any restrictions on our oil export to the United States but as I mentioned, America's complete support of zionism against the Arabs makes it extremely difficult for us to continue to supply the United States' petroleum needs and to even maintain our friendly relations with the United States.

Hunt. Since Britain withdrew its forces from the Arab Gulf, Your Majesty, several countries around the Gulf including your own have shown an interest in buying more modern weapons. Would you comment on that please?

Faisal. It is to protect themselves against the dangers of communism and zionism that the Arab countries have been forced to strive to acquire such weapons and military preparedness as to be able to defend their stability, their homeland and their independence.

Hunt. Is there a relationship between these purchases of weapons and oil?

Yamani (Minister of Petroleum and Mineral Resources, Saudi Arabia). Well I think we have to defend ourselves. And probably the outsiders will be more greedy when they look at the wealthy country. We attract their appetite so we have to buy more arms for that, to defend ourselves.

Senator William Fulbright. The United States, which is by far the major supplier of arms to Israel has also contracted to provide some four billion dollars worth of arms to Iran, Saudi Arabia, and to Kuwait. The Soviet Union for its part is deeply involved in Iraq, as well as Syria and to some remaining extent in Egypt.

The Arab oil producing states quite naturally are thinking about the leverage their oil wealth might provide them in their dispute with Israel and in their related dealings with the great powers that buy their oil.

James Akins (U.S. State Department). If a country is selling oil to us and it then cuts that oil off unless we change our policy, I think that there is no better word than blackmail.

McGee. The Saudis have said they have no intention of cutting off our oil. They have said they are even prepared to increase their production. But in the last few days, they have come under increased pressure from Libya and Egypt to use their oil to force us to change our Middle East policy.

In a telephone interview on Sunday, Saudi Petroleum Minister Yamani told NBC News this:

Yamani. Our policy is strongly against nationalization. . . .

McGee. That Saudi policy is strongly against nationalizing foreign oil holdings.

That Saudi Arabia will "carefully study all the consequences of the Libyan action and then act accordingly." That there will probably be "some modification" in the "present arrangement." That Saudi Arabia's policy toward the United States remains as stated by King Faisal on this program.

Thus, more than ever, as a result of Libya's actions and the recent meeting between Sadat of Egypt and King Faisal, Saudi Arabian oil seems the key to what happens in the Middle East.

Whether we like it or not, politics and oil are mixed. We need oil and we need it from Saudi Arabia. The Saudis say they are our friends but they are under pressure from the other Arabs because of Israel.

Now they are putting pressure on us, and the pressure they have is our need for more oil.

For almost three decades, we have been the richest, most powerful nation on earth.

Now a nation of six million tells us we must change our foreign policy if we want full gas tanks.

This is the world we can expect until we begin to produce new fuels to replace the oil we no longer have.

Frank McGee. Oil was romance once . . . black gold. The wildcatter . . . It's still there, but like all the past, dying now. This is El Dorado, Kansas. Jay Mull of Wichita. He owns about fifteen hundred low-yield wells that altogether might match two wells in Saudi Arabia.

Jay Mull (president, Mull Drilling Co.). This area is gonna produce oil and a good million barrels of oil. The best estimates the geologists can come up with working all over the country is that we haven't found half of the oil that's present in the United States to date.

Yes, there's plenty of oil.

It's the wildcatting independent who's found historically eighty–eighty-five percent of all the oil in the United States that's ever been found.

McGee. Jay Mull is still wildcatting, still an optimist.

Mull. The well you see pumping here has been here about eighteen years. It would push this well to do ten barrels a day, but it's been producing all these years and it started out making about fifty barrels a day.

McGee. But if there is plenty of oil, wildcatters like Jay Mull won't be the ones who find it, or get it. Those days are gone. Like most other small entrepreneurs in his time, Jay Mull feels he is being squeezed out. The big companies are too big. Finding oil on the Alaska slope or the Continental Shelf, is getting too expensive. We're now dealing with a world of multinational giants.

Rawleigh Warner (chairman of the board, Mobil). Now in our terms as a multinational corporation and we operate in over a hundred countries.

William Tavoulareas (president, Mobil). We find oil in all parts of the world and we bring energy to all other parts of the world. And I've never had, I've never been faced with the situation where I'd say to myself I'm only going to be a good citizen of one country because, if I do that, I'm no longer a multinational oil company.

Warner. In terms of what we ought to be doing for our shareholders, we are a profit-making concern.

We ought to be trying to get the most attractive rate of return on the money that our shareholders have given us. We are trying to make a profit.

McGee. We are talking about companies that operate in a hundred countries. Whose revenues are greater than the income of some of those countries. About one company, Exxon, that earned a billion dollars in the first half of this year. We are talking about at least six oil companies with world sales this year between ten and forty billion dollars. So in the end, no matter how sentimental we feel about Mr. Mull, the wildcatter, whether we get enough oil to run our cars, our furnaces, our factories, depends on those big oil companies. And we've seen how among many people in government, in the oil business and people who use oil, suspicion exists that those big companies are conspiring to control and manipulate our supply.

Senator Lee Metcalf. You read that Exxon has such and such a percent in Saudi Arabia and Gulf has such and such a percent and Shell has such and such a percent.

Then you go to little old Kuwait and it's exactly the same percentage of oil in that state. You go down into the sheikdoms and you get the same percentage down there. So they have divided up the sources of supply in the markets pretty well all over the world and if that isn't collusion I don't know what is.

Fred Freed. As you know it's been suggested that this is really the result of a conspiracy among the major oil companies to create this gasoline shortage for a number of reasons. Is there any truth in that?

Thornton Bradshaw (President Arco). If it's a monopoly it's the worst run monopoly I've ever seen.

Warner. So I have to say to you that we are not making what some people choose to believe I don't believe an inordinate amount of money.

John McLean (Chairman of the Board, Conoco). We presently earn somewhere around eleven percent per annum after tax return on investment. Characteristically it's been below the average of all manufacturing industries in the United States.

Clifton Garvin (President, Exxon). The oil business like any other business in our society is a highly competitive one. It works in the market place and the old law of supply and demand works in the market place.

Tavoulareas. When people talk about we're not competitive they just don't know what they're talking about. We fight, we sit down, we give our people instructions almost like the old gladiators, now go in there and get em. That is what we do all the time each and every day.

Bradshaw. I wish we had control over the total environment which it is alleged that we have.

McGee. What is alleged is that the big companies control the oil of the world from the wellhead to the gas pump. That they control the wells, the refineries, the pipelines. That in this way they are able to shut off competition. That they are able to decide how much oil is available, and at what price. None of this has been proved, although the Federal Trade Commission and several states are trying to prove it. What is undeniable is that the big oil companies are very big, that they deal with very large sums of money, that they work together on joint ventures and often share refining facilities. What is also undeniable is that they have prospered during the oil shortage.

In the end the fact that concerns most of us is that there is a shortage of gas and that the price of gas is going up.

Bradshaw. The demand has outrun supply for some very real reason.

There're reasons of governmental interference, perhaps governmental policies which certainly were not thought through, there were reasons of our overreaction to the problems of environment. They were actually reasons which provided to us by mother nature. It's getting harder and harder in the United States to find oil and gas. All the easy oil and gas has been found. Those are very real things. And that's the base. Real things . . .

Freed. The oil companies blame the drivers and they blame Detroit and they blame the government. Do you think they have any blame themselves?

Joe Clement (Independent Gas Dealer, Idaho). A man in American Falls answered that this way. He said you know there's three Gods in this country. The one we go to church and talk about on Sunday. And the second God is the major oil cartels, and the third one is the Federal Government. And the big mix up here and the difficulty is that Uncle Sam wanted to get up in place of number two and oil companies are a little irked about that.

A. J. Meyer (Harvard University). To an American public possessed of wildly wasteful energy habits and long accustomed to bargain energy costs, there is no denying that oil companies offer a visible and enticing target.

Their recent quarterly earnings are up.

Tankers and refineries will continue to pollute our environment, there will certainly be selective shortages of oil and gasoline and cost of energy of all kinds to consumers, will continue to rise. But whether one likes oil companies or not there is at the moment no workable substitute for them in sight.

Frank McGee. One of the things we are told is that we waste energy; that if we didn't waste so much energy, we wouldn't have this energy crisis. Is that true? Well, we do use a lot of energy, that's true. We live in a high energy society. We are 6 percent of the world's population. We use a third of the world's energy. We use that energy to provide our basic needs, which we cannot give up . . . and luxuries which we don't want to give up.

We consume energy at such a growing rate that the new twin towers of the World Trade Center in downtown New York use as much energy as the city of Syracuse. Well, how can we save energy? We could save a lot of energy if we begin to wash dishes by hand, use mass transportation to get to work, turn off the television, give up air conditioning, electric stoves, frost-free refrigerators. Our factories might return to making things by hand. Businessmen could give up their computers. There are hundreds of ways that we can conserve energy. But the cost would be to turn us back to a more primitive way of living, and not many of us want that.

Wasting energy is something else. We waste energy driving big cars instead of small ones. If we reduced the average weight of our cars from 35 hundred pounds to 25 hundred pounds, we would save 1.2 million barrels of oil a day . . . almost equal to the expected daily production from the North Slope of Alaska. If we heated and insulated and cooled our houses more efficiently and more sensibly, we could save between one and 1½ million barrels of oil a day. There are many other things like those that we could do.

That would help. How much energy we would save, no one knows. But it would be a lot. We do waste energy. Yet, having said that, we have also to say that that will not solve the energy crisis. There are still only two ways to do that.

We can simply use much less energy and live a different kind of life, not at all like the one we know now, or we can put a great deal of money and manpower into finding new sources of energy that will allow our economy to continue to grow. Those are our real choices. And the longer we postpone deciding between them, the more acute our energy crisis will become.

Our demands for energy now require supply from other countries. Most of those countries are underdeveloped, have a lower living standard, are far less wasteful than we. Their people yearn for a better life, a living standard like the one we enjoy. How long will they be willing to sustain our wasteful, insatiable, high energy society?

Frank McGee. We've been talking in these three hours about two energy crises, not one. The first, the one that concerns us right now, in our daily lives, is a crisis caused by the transition from dirty to clean fuel. Because of it, there are shortages. Because of it, fuel will cost more. Because of it, we will have to create new technologies. But it is a crisis of transition; a crisis that will pass. The second crisis, that we are simply running out of the fossil fuels we have been using to feed our machines. We are going to have to find new fuels, or we are going to have to find a way to live that does not use very much energy. This is the crisis we are going to look at now.

Jack Bridges (Joint Committee on Atomic Energy). I think the largest single problem in the energy crisis is that the whole thing is literally beyond the comprehension of the American people and their leaders. Now we've never really had to face anything like this. . . . Our total history has been one of surplus.

Literally when the pilgrims stepped ashore, they could see more timber right in front of them, than they had left in a large portion in Europe.

By the time we had Pittsburgh opened up, we could produce as much iron as all of Europe.

World War II literally floated on a sea of American oil.

McGee. How do we understand what it would be like if a country like this suddenly ran out of energy. . . . We may be able to get some idea if we look at something that happened in England last year.

Last year, English coal miners went on strike. Coal provides 75% of the fuel for English electric power plants. As the production of electricity stopped, this is what happened. In the first ten days, schools began to close. Factories cut back to a three day week. By the end of the month, 400 thousand people were out of work. Electric heating of shops, offices, restaurants, and other public places were forbidden. Blackouts lasting from a few minutes to eight hours were put into effect. As the strike dragged on, factories began to work one day a week. One million people were out of work.

When the lights go on again, all over the world.

Thornton Bradshaw (President, Arco). Now, all of this, the British took with a stiff upper lip and in some ways, really almost liked it because it brought, at least some of the older ones, back to the days of the war when they endured far worse than that . . . but that's not the gut of the problem. The real core of the problem is that at the peak of the coal strike, there were a million people out of work directly attributable to the lack of energy and they were going out of work at the rate of 300,000 a day.

Now, where is the catastrophe point? That's what it's all about.

McGee. So what we are talking about is an economy and a society coming apart and in

England in 1972, when only some of its energy was cut off, it took only five weeks.

Bridges. Things like this we simply cannot comprehend.

That is the largest single problem getting the magnitude and the complexity of the problem understood and believed by the American people and our leaders.

McGee. The point is, it could happen here. It could happen to us. Not tonight or tomorrow. It has nothing to do with the problems we've been looking at . . . dirty energy, rising costs, temporary shortages, balance of payments, possible conspiracies. It has to do only with this:

Somewhere around the end of this century, we're going to begin running out, forever, of the fossil fuel that has provided the energy for our modern society. Sometime before that, we are going to have to decide what we can do about it and what we want to do about it. Some people think we simply ought to change the way we live.

David Brower (Friends of the Earth). I get back to the main point we have in Friends of the Earth. There must be a concerted effort to use less and it's not going to hurt that much. In fact, I think it will be better if we get out of these things which kind of fatten us too much.

And there are going to be lots of jobs in healing the damage that man has done in his rather reckless rampage around the earth over the last century or two.

McGee. If you see our age of technology as the reckless rampage Mr. Brower does, the answer is easy. Stop! Go back to living at a much lower energy level. Living in a much different way. But if, despite the pollution and the waste, you want to live in a high energy society, the decisions are harder.

Because saving and efficiency don't help enough. You are going to need to use more energy. And the question is whether, around the year 2000, you are going to be able to find it.

This plant turns coal into gas; it is being operated experimentally. But we do not know yet, how to make this process work on a scale big enough and cheap enough to be practical. Over the past eleven years, the government has spent about $40 million on coal gasification research. It will spend $125 million in the next three years. This is less than we spend every year to pay employees in military commissaries, about what it cost to bomb Cambodia for a month.

This is another of the options some people think will help us solve our energy problems. Magnetohydrodynamics. MHD. It doesn't convert coal into anything. It burns it more efficiently. Twice as efficiently as coal is now burned. The Soviet Union is now testing a small power plant with an MHD generator. Some scientists think it is very promising. The only trouble is that, despite its promise, it has not yet been proved commercially practical.

Some people feel we can find an answer to the energy crisis in rock like this. It is called shale. An amount of oil six times greater than all the proved reserves that now exist in the world is known to be trapped in this shale rock under eleven million acres of land in Colorado, Utah and Wyoming.

The trick is to get it out.

Bradshaw. We made some 80 studies of the environmental impact of a shale plant and then a shale industry in the western, arrid regions of Colorado. And we are quite convinced that all ecological and all environmental problems can be handled.

So basically we think the shale industry is ready to take off.

McGee. Some geologists estimate if we produce a hundred million barrels of oil from shale, we will also produce twenty cubic miles of waste.

But if oil can be taken from shale cleanly and economically, it will help. But it won't solve this long range energy crisis. At best, it will only help to hold it off and slow it down.

There are no environmental problems with windmills. And they do generate power. But not enough.

Tidal power. Here at the Bay of Fundy in Nova Scotia, they have fifty foot tides. But most places don't have tides like this. and tidal power simply doesn't seem practical to most scientists.

In northern California, they have these geysers that spew steam from underground.

This steam can be used and is beginning to be used to generate electricity. Geothermal power is cheap and clean. The problem is, there isn't enough of it that we can get at and use. There is an enormous amount at the core of the earth. We don't have the technology to reach it.

Where it is near the surface, there are often serious problems. Southern California Edison and other companies have been trying for 25 years to use the steam geysers in the Imperial Valley.

Howard Allen (vice president, Southern California Edison). In the Imperial Valley, it is hot water, contaminated with minerals and dissolved solids that will clog up any generator within a short period of time.

But, even if we were to conquer this problem, which is a tremendous technical one, it is our judgment that geothermal will not provide any more than five to eight percent of the energy needs of Southern California in the next twenty to twenty five years.

McGee. We have spent billions of dollars to develop nuclear power. But geologists estimate that the uranium we will need for the reactors we are building will run out in about forty years.

This is called a breeder reactor. It is remarkable because it creates more fuel than it uses. We have bet billions on the breeder. Critics argue that it is unsafe; that it creates serious waste disposal problems, that it cannot provide new nuclear fuel as fast as we need it.

So, as you can see, there are plenty of ideas as to how we can solve this energy crisis. Some of them will help. Some are impractical on any large scale. Now, we're going to look at two sources that we know could fill our energy needs as long as this earth survives. They would be clean and they would be cheap. We know how we can use them. What we don't know yet, is how to make them work.

McGee. Solar energy. The unlimited energy of the sun. The problem is the sun isn't always shining.

Dr. Peter Glazer. (solar energy expert). We always have day and night. The sun is obscured by clouds and we can't predict when.

Where the sun shines nearly 24 hours a day and that place is in orbit around the earth. And that is a satellite solar power station concept that we've been pursuing for the past five years. Now, if we put out a satellite in space, 22,300 miles away we can arrange solar collectors to convert sunlight and then produce electricity. Here we have 24 hours of sunshine and thus, we no longer need the energy storage which we would have to have with any device using solar energy on the earth because the sunlight there is continuous. With the beam that we form, we can control very accurately so that we can hit any of the desired places where power is required on the face of the earth.

McGee. But we are a long way from having solved the problems we need to solve to make solar energy practical on a large scale. The solution most scientists are counting on is nuclear fusion.

David Rose (MIT Physicist). This is our M.I.T. controlled nuclear fusion, toy, if you like.

McGee. The nuclear reactors we use now release their energy by fission. The atoms come apart. Fusion generates energy from the atoms coming together. Nuclear fusion would be safe. It would be clean. There would be no waste problem. And we have an almost infinite amount of the element deuterium, which comes from sea water, that we could use for nuclear fusion.

Rose. Estimates are that to prove whether controlled nuclear fusion is scientifically feasible would require an experiment perhaps ten times as large as this. So this is, a toy. But what a toy!

It will be something like 1980 before people can tell scientifically whether it can come about.

McGee. And that, finally, is the question. Are we going to be able to make this fusion reactor work, sometime in the future? Or will we find it's just not possible?

On how that question is answered will probably depend the kind of world our children and their children live in.

Frank McGee. We have been with this energy crisis for 3 hours. We have left out a lot. Three hours has not been enough to say all there is to say about it. We have not solved it. It is a crisis precisely because it is not easy to solve. In this country, we have used energy as if it would last forever.

We have desecrated our environment. Now we have come to a time when we can no longer afford to do either. We have come to a time when we are going to have to decide, by the choices we make in the market place, at the polls, as citizens of this republic, the shape of our future.

It is, quite simply, up to us. 40 years ago, commenting on the way we were using up our resources. Will Rogers said that "when we want steam, we dig up some coal; when we want wood, we chop down a tree; when we want oil, we dig a hole in the ground. It's when we run out," Will Rogers said, "that we'll find out how good we really are."

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to recess until the hour of 11:55 a.m., but before I do so, I will put in a quorum call and want to ascertain precisely the status of the unanimous-consent request entered into on yesterday in connection with the conference report that was to be called up today.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands in adjournment until the hour of 9:45 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from New York (Mr. Javits) be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR MONDALE TOMORROW VACATED; ORDER FOR RECOGNITION OF SENATOR MONDALE ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for the recognition of the Senator from Minnesota (Mr. Mondale) tomorrow be vacated, and that he be recognized on Monday next, following the remarks of the distinguished junior Senator from Minnesota (Mr. Humphrey), for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## VALIDATION OF CONSIDERATION NEXT WEEK OF CONSIDERATION OF S. 1636, THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972; ORDER TO CONSIDER S. 356, CONSUMER PRODUCTS AND WARRANTIES BILL TODAY

Mr. ROBERT C. BYRD. Mr. President, the order which was conditionally entered into yesterday with respect to S. 1636, the International Economic Policy Act of 1972, as amended, is validated by virtue of a conversation I have had today with the distinguished Senator from Florida (Mr. Chiles). However, the conference report will not be called up until next week. Consequently, I ask unanimous consent that upon the disposition of the nomination of Mr. Arnett today, the Senate proceed to the consideration of the consumer products and warranties bill, S. 356.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, so it is the understanding that there is a time agreement on the conference report on S. 1636, the International Economic Policy Act of 1972, without condition.

The ACTING PRESIDENT pro tempore. The Senator is correct.

## RECESS UNTIL 11:55 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 11:55 a.m. today.

The motion was agreed to; and the Senate, at 11:18 a.m., took a recess until 11:55 a.m.; whereupon the Senate reconvened when called to order by the Presiding Officer (Mr. Montoya).

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now resume, in executive session, its consideration of the nomination of Alvin J. Arnett to be Director of the Office of Economic Opportunity.

What is the pleasure of the Senate?

Several Senators. Vote! Vote!

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is: Shall the Senate advise and consent to the nomination of Alvin J. Arnett of Maryland to be the Director of the Office of Economic Opportunity?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Johnston), and the Senator from Louisiana (Mr. Long), are necessarily absent.

I also announce that the Senator from Colorado (Mr. Haskell) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Colorado (Mr. Dominick), and the Senator from Arizona (Mr. Fannin), are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. Dominick) would vote "yea."

The result was announced—yeas 88, nays 3, as follows:

[No. 392 Ex.]

YEAS—88

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hatfield
Helms
Hollings
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Curtis
Hathaway
Muskie

NOT VOTING—9

Baker
Dominick
Fannin
Fulbright
Hartke
Haskell
Humphrey
Johnston
Long

So the nomination was confirmed.

Mr. JAVITS. I ask that the President be notified.

The PRESIDING OFFICER. The President will be so notified.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate will now return to the consideration of legislative business.

## THE MAGNUSON-MOSS WARRANTY-FEDERAL TRADE COMMISSION IMPROVEMENT ACT

The PRESIDING OFFICER. Under the previous order the Senate will proceed to the consideration of S. 356, which will be stated by title.

The bill was stated by title, as follows:

A bill (S. 356) to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce and the Committee on Banking, Housing and Urban Affairs with amendments.

The amendment of the Committee on Commerce is to strike out all after the enacting clause and insert:

That this Act may be cited as the "Magnuson-Moss Warranty-Federal Trade Commission Improvement Act".

### TITLE I—CONSUMER PRODUCT WARRANTIES

#### DEFINITIONS

Sec. 101. As used in this title—

(1) "Commission" means the Federal Trade Commission.

(2) "Consumer product" means any tangible personal property which is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property regardless of whether it is so attached or installed. Notwithstanding the foregoing, the provisions of sections 102 and 103 of this title affecting consumer products apply only to consumer products each of which actually costs the purchaser more than five dollars.

(3) "Consumer" means the first buyer at retail of any consumer product; any person to whom such product is transferred for use for personal, family, or household purposes during the effective period of time of a written warranty or service contract which is applicable to such product; and any other person who is entitled by the terms of such written warranty or service contract or by operation of law to enforce the obligations of such warranty or service contract.

(4) "Reasonable and necessary maintenance" consists of those operations which the purchaser reasonably can be expected to perform or have performed to keep a consumer product operating in a predetermined manner and performing its intended function.

(5) "Repair" may, at the option of the warrantor include replacement with a new, identical or equivalent consumer product or component(s) thereof.

(6) "Replacement" or "to replace", as used in section 104 of this title, means in addition to the furnishing of a new, identical or equivalent consumer product (or component(s) thereof), the refunding of the

actual purchase price of the consumer product—

(1) if repair is not commercially practicable; or

(2) if the purchaser is willing to accept such refund in lieu of repair or replacement. If there is replacement of a consumer product, the replaced consumer product (free and clear of all liens and encumbrances) shall be made available to the supplier.

(7) "Supplier" means any person (including any partnership, corporation, or association) engaged in the business of making a consumer product or service contract available to consumers, either directly or indirectly. Occasional sales of consumer products by persons not regularly engaged in the business of making such products available to consumers shall not make such persons "suppliers" within the meaning of this title.

(8) "Warrantor" means any supplier or other party who gives a warranty in writing.

(9) "Warranty" includes guaranty; to "warrant" means to guarantee.

(10) "Warranty in writing" or "written warranty" means a warranty in writing against defect or malfunction of a consumer product.

(A) "Full warranty" means a written warranty which incorporates the uniform Federal standards for warranty set forth in section 104 of this title.

(B) "Limited warranty" means written warranty subject to the provisions of this title which does not incorporate at a minimum the uniform Federal standard for warranty set forth in section 104 of this title.

(11) A "warranty in writing against defect or malfunction of a consumer product" means:

(A) any written affirmation of fact or written promise made at the time of sale by a supplier to a purchaser which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing to refund, repair, replace, or take other remedial action with respect to the sale of a consumer product if such product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between the supplier and the purchaser.

(12) "Without charge" means that the warrantor(s) cannot assess the purchaser for any costs the warrantor or his representatives incur in connection with the required repair or replacement of a consumer product warranted in writing. The term does not mean that the warrantor must necessarily compensate the purchaser for incidental expenses. However, if any incidental expenses are incurred because the repair or replacement is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the purchaser as a condition of securing repair or replacement, then the purchaser shall be entitled to recover such reasonable incidental expenses in any action against the warrantor for breach of warranty under section 110(b) of this title.

### DISCLOSURE REQUIREMENTS

SEC. 102. (a) In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, the Commission is authorized to issue rules, in accordance with section 109 of this title, which may—

(1) prescribe the manner and form in which information with respect to any written warranty shall be clearly and conspicuously presented or displayed when such information is contained advertising labeling, point-of-sale material, or other representations in writing; and

(2) require the inclusion in any written warranty, in simple and readily understood language, fully and conspicuously disclosed, items of information which may include, among others:

(A) clear identification of the name and address of the warrantor;

(B) identity of the class or classes of persons to whom the warranty is extended;

(C) the products or parts covered;

(D) a statement of what the warrantor will do in the event of a defect or malfunction—at whose expense—and for what period of time;

(E) a statement of what the purchaser must do and what expenses he must bear;

(F) exceptions and exclusions from the terms of the warranty;

(G) the step-by-step procedure which the purchase should take in order to obtain performance of any obligation under the warranty, including the identification of any class of persons authorized to perform the obligations set forth in the warranty;

(H) on what days and during what hours the warrantor will perform his obligations;

(I) the period of time within which, after notice of malfunction or defect, the warrantor will under normal circumstances repair, replace, or otherwise perfom any obligations under the warranty;

(J) the availability of any informal dispute settlement procedure offered by the warrantor and a recital that the purchaser must resort to such procedure before pursuing any legal remedies in the courts; and

(K) a recital that any purchaser who successfully pursues his legal remedies in court may recover the reasonable costs incurred, including reasonable attorneys' fees.

(b) Nothing in this title shall be deemed to authorize the Commission to prescribe the duration of warranties given or to require that a product or any of its components be warranted, except that the Commission may prescribe rules pursuant to section 553 of title 5, United States Code, that the term of a warranty or service contract shall be extended to correspond with any period in excess of a reasonable period (not less than ten days) during which the purchaser is deprived of the use of a product by reason of a defect or malfunction. Except as provided in section 104 of this title, nothing in this title shall be deemed to authorize the Commission to prescribe the scope or substance of written warranties.

(c) No warrantor of a consumer product may condition his warranty of such product on the consumer's using, in connection with such product, any article or service which is directly or indirectly identified by brand, trade, or corporate name; except that the prohibition of this subsection may be waived by the Commission if it finds that the imposition of such a condition is reasonable and in the public interest.

### DESIGNATION OF WARRANTIES

SEC. 103. (a) Any supplier warranting in writing a consumer product shall clearly and conspicuously designate such warranty as provided herein unless exempted from doing so by the Commission pursuant to section 109 of this title:

(1) If the written warranty incorporates the uniform Federal standards for warranty set forth in section 104 of this title, and does not limit the liability of the warrantor for consequential damages, then it shall be conspicuously designated as "full (statement of duration)" warranty, guaranty, or word of similar meaning. If the written warranty incorporates the uniform Federal standards for written warranty set forth in section 104 of this title and limits or excludes the liability of the warrantor for consequential damages as permitted by applicable State law, then it shall be conspicuously designated as "full (statement of duration)" warranty, guaranty, or word of similar import. "(Liability for consequential damages limited; remedy limited to free repair or replacement within a reasonable time, without charge)", or as otherwise prescribed by the Commission pursuant to section 109 of this Act.

(2) If the written warranty does not incorporate the Federal standards for warranty set forth in section 104 of this title, then it shall be designated in such manner so as to indicate clearly and conspicuously the limited scope of the coverage afforded.

(b) Written statements or representations, such as expressions of general policy concerning customer satisfaction which are not subject to any specific limitations shall not be deemed to be warranties in writing for purposes of sections 102, 103, and 104 of this title but shall remain subject to the provisions of the Federal Trade Commission Act and section 110 of this title.

### UNIFORM FEDERAL STANDARDS FOR WRITTEN WARRANTY

SEC. 104. (a) Any supplier warranting in writing a consumer product must undertake at a minimum the following duties in order to be deemed to have incorporated the uniform Federal standards for written warranty—

(1) to repair or replace any malfunctioning or defective consumer product covered by such warranty;

(2) within a reasonable time; and

(3) without charge.

In fulfilling the above duties, the warrantor shall not impose any duty upon a purchaser as a condition of securing such repair or replacement other than notification unless the warrantor can demonstrate that such a duty is reasonable. In a determination by the Commission or a court of whether or not any such additional duty or duties are reasonable, the magnitude of the economic burden necessarily imposed upon the warrantor (including costs passed on to the purchaser) shall be weighed against the magnitude of the burdens of inconvenience and expense necessarily imposed upon the purchaser.

(b) If repair is necessitated an unreasonable number of times during the warranty period the purchaser shall have the right to demand and receive replacement of the consumer product.

(c) The above duties extend from the warrantor to the consumer.

(d) The performance of the duties enumerated in subsection (a) of this section shall not be required of the warrantor if he can show that damage while in the possession of the purchaser or unreasonable use (including failure to provide reasonable and necessary maintenance) caused any warranted consumer product to malfunction or become defective.

### FULL AND LIMITED WARRANTIES OF A CONSUMER PRODUCT

SEC. 105. Nothing in this title shall prohibit the selling of a consumer product which has both full, full (with limitation of liability for consequential damages) and limited warranties if such warranties are clearly and conspicuously differentiated.

### SERVICE CONTRACTS

SEC. 106. Nothing in this title shall be construed to prevent a supplier from selling a service contract to the purchaser in addition to or in lieu of a warranty in writing if the terms and conditions of such contract are fully and conspicuously disclosed in simple and readily understood language. The Commission is authorized to determine, in accordance with section 109 of this title, the manner and form in which the terms and conditions of service contracts shall be clearly and conspicuously disclosed.

### DESIGNATION OF REPRESENTATIVES

SEC. 107. Nothing in this title shall be construed to prevent any warrantor from making any reasonable and equitable arrangements for representatives to perform duties under a written warranty except that no such arrangements shall relieve the warrantor of his direct responsibilities to the purchaser nor necessarily make the representative a co-warrantor.

### LIMITATION ON DISCLAIMER OF IMPLIED WARRANTIES

SEC. 108. (a) There shall be no express disclaimer of implied warranties to a purchaser if any written warranty or service contract in writing is made by a supplier to a purchaser with regard to a consumer product.

(b) For purposes of this title, implied warranties may not be limited as to duration expressly or impliedly through a designated warranty in writing or other express warranty.

### FEDERAL TRADE COMMISSION

SEC. 109. The Commission is authorized to establish rules pursuant to section 553 of title 5, United States Code, upon a public record after an opportunity for an agency hearing structured so as to proceed as expeditiously as practicable to—

(a) prescribe the manner and form in which information with respect to any written warranty shall be disclosed and the items of information to be included in any written warranty as provided in section 102 of this title;

(b) prescribe the manner and form in which terms and conditions of service contracts shall be disclosed as provided in section 106 of this title;

(c) determine when a warranty in writing does not have to be designated in accordance with section 103 of this title;

(d) define in detail the disclosure requirements in paragraph (2) of subsection (a) of section 103 of this title; and

(e) define in detail the duties set forth in subsections (a), (b), and (c) of section 104 of this title and their applicability to warrantors of different categories of consumer products with "full" warranties.

### PRIVATE REMEDIES

SEC. 110. (a) Congress hereby declares it to be its policy to encourage suppliers to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms. Such informal dispute settlement procedures should be created by suppliers in cooperation with independent and governmental entities pursuant to guidelines established by the Commission. If a supplier incorporates any such informal dispute settlement procedure in any written warranty or service contract, such procedure shall initially be used by any consumer to resolve any complaint arising under such warranty or service contract. The bona fide operation of any such dispute settlement procedure shall be subject to review by the Commission on its own initiative or upon a written complaint filed by any injured party.

(b) Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under a written warranty or service contract in writing subject to this title may bring suit for breach of such warranty or service contract in an appropriate district court of the United States subject to the jurisdictional requirements of section 1331 of title 28, United States Code. Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this title may bring suit in any State or District of Columbia court of competent jurisdiction. Prior to commencing any legal proceeding for breach of warranty or service contract under this section, a purchaser must have afforded the supplier a reasonable opportunity to cure the alleged breach and must have used the informal dispute settlement mechanisms, if any, established under subsection (a) of this section. Nothing in this subsection shall be construed to change in any way the jurisdictional or venue requirements of any State.

(c) Any purchaser who shall finally prevail in any suit or proceeding for breach of an express or implied warranty or service contract brought under section (b) of this section shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by such purchaser for or in connection with the institution and prosecution of such suit or proceeding unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(d) (1) For the purposes of this section, an "express warranty" is created as follows:

(A) Any affirmation of fact or promise made by a supplier to the purchaser which relates to a consumer product or service and becomes part of the basis of the bargain creates an express warranty that the consumer product or service shall conform to the affirmation or promise.

(B) Any description of a consumer product which is made part of the bargain creates an express warranty that the consumer product shall conform to the description.

(C) Any sample or model which is made part of the basis of the bargain creates an express warranty that the consumer product shall conform to the sample or model.

It is not necessary to the creation of an express warranty that the supplier use formal words such as "warranty" or "guaranty" or that he have a specific intention to make a warranty. An affirmation merely of the value of the consumer product or service or a statement purporting to be merely the supplier's opinion or commendation of the consumer product or service does not by itself create a warranty.

(2) Only the supplier actually making an affirmation of fact or promise, a description, or providing a sample or model shall be deemed to have created an express warranty under this section and any rights arising thereunder may only be enforced against such supplier and no other supplier.

### GOVERNMENT ENFORCEMENT

SEC. 111. (a) It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person (including any partnership, corporation, or association) subject to the provisions of this title to fail to comply with any requirement imposed on such person by or pursuant to this title or to violate any prohibition contained in this title.

(b) (1) The district courts of the United States shall have jurisdiction to restrain violations of this title in an action by the Attorney General or by the Commission by any of its attorneys designated by it for such purpose. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction shall be granted without bond: *Provided, however,* That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the interests of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) (A) Whenever the Attorney General has reason to believe that any person under investigation may be in possession, custody, or control of any documentary material, relevant to any violation of this title, he may, prior to the institution of a proceeding under this section cause to be served upon such person, a civil investigative demand requiring such person to produce the documentary material for examination.

(B) Each such demand shall—

(i) state the nature of the conduct alleged to constitute the violation of this title which is under investigation;

(ii) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(iii) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(iv) identify the custodian to whom such material shall be furnished.

(C) No demand shall—

(i) contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in a proceeding brought under this section; or

(ii) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in any proceeding under this section.

(D) Any such demand may be served at any place within the territorial jurisdiction of any court of the United States.

(E) Service of any such demand or of any petition filed under subparagraph (G) of this subsection may be made upon any person, partnership, corporation, association, or other legal entity by—

(i) delivering a duly executed copy thereof to such person or to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, partnership, corporation, association, or entity;

(ii) delivering a duly executed copy thereof to the principal office or place of business of the person, partnership, corporation, association, or entity to be served; or

(iii) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person, partnership, corporation, association, or entity at its principal office or place of business.

(F) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(G) The provisions of sections 4 and 5 of the Antitrust Civil Process Act (15 U.S.C. 1313, 1314) shall apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section: *Provided, however,* That documents and other information obtained pursuant to any civil investigative demand issued hereunder and in the possession of the Department of Justice may be made available to duly authorized representatives of the Commission for the purpose of investigations and proceedings under this title and under the Federal Trade Commission Act subject to the limitations upon use and disclosure contained in section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313).

### SAVING PROVISION

SEC. 112. Nothing contained in this title shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined as an Antitrust Act.

### SCOPE

SEC. 113. (a) The provisions of this title and the powers granted hereunder to the Commission and the Attorney General shall extend to all sales of consumer products and service contracts affecting interstate commerce: *Provided, however,* That such provisions and powers shall not be exercised in such a manner as to interfere with warranties applicable to consumer products, or components thereof, created and governed by other Federal law.

(b) Labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, not identical to those set forth in section 102, 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the procedures set forth in section 109 of this title, or with guidelines of the Commission, shall not be applicable to warranties complying therewith. However, if, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with the Federal Trade Commission Act, as amended) that any requirement of such State (other than a labeling or disclosure requirement) covering any transaction to which this title applies—

(1) affords protection to consumers greater than the requirements of this title; and

(2) does not unduly burden interstate commerce,

then transactions complying with any such State requirement shall be exempt from the provisions of this title to the extent specified in such determination for so long as such State continues to administer and enforce effectively any such greater requirement.

(c) Nothing in this title shall be construed to supersede any provision of State law regarding consequential damages for injury to the person or any State law restricting the ability of a warrantor to limit his liability for consequential damages.

### EFFECTIVE DATE

Sec. 114. (a) Except for the limitations in subsection (b) of this section, this title shall take effect six months after the date of its enactment but shall not apply to consumer products manufactured prior to such effective date.

(b) Those requirements in this title which cannot be reasonably met without the promulgation of rules by the Commission shall take effect six months after the final publication of such rules which shall be published (subject to future amendment or revocation) as soon as possible but no later than one year after the date of enactment of this Act: *Provided,* That the Commission, for good cause shown, may provide designated classes of suppliers up to six months additional time to bring their written warranties into compliance with rules promulgated under this title.

(c) The Commission shall promulgate initial rules for initial implementation of this title, including guidelines for the establishment of informal dispute settlement procedures pursuant to section 110(a) of this title, as soon as possible after enactment but in no event later than one year after the date of enactment of this Act.

## TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS

Sec. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce".

Sec. 202. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (6) as amended by section 212 of this title the following new paragraph:

"(7) The Commission may initiate civil actions in the district courts of the United States against persons, partnerships, or corporations engaged in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a) (1) of this section with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive and is prohibited by subsection (a) (1) of this section, to obtain a civil penalty of not more than $10,000 for each such violation. The Commission may comprise, mitigate, or settle any action for a civil penalty if such settlement is accompanied by a public statement of its reasons and is approved by the court."

Sec. 203. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (7) as added by section 202 of this title the following new paragraph:

"(8) After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a) (1) of this Act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purpose, may institute civil actions in the district courts of the United States to obtain such relief as the court shall find necessary to redress injury to consumers caused by the specific acts or practices which were the subject of the proceeding pursuant to subsection (b) of this section and the resulting cease-and-desist order, including, but not limited to, rescission or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages, except that nothing in this section is intended to authorize the imposition of any exemplary or punitive damages. The court shall cause notice to be given reasonably calculated, under all of the circumstances, to apprise all consumers allegedly injured by the defendant's acts of the pendency of such action. No action may be brought by the Commission under this subsection more than two years after an order of the Commission upon which such action is based has become final. Any action initiated by the Commission under this subsection may be consolidated as the court deems appropriate with any other action requesting the same or substantially the same relief upon motion of a party to any such action.

Sec. 204. Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 45(1) is amended by striking subsection (l) and inserting in lieu thereof the following new paragraph:

"(l) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Attorney General of the United States or by the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

Sec. 205. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(m) Whenever in any civil proceeding involving this Act the Commission is authorized or required to appear in a court of the United States, or to be represented therein by the Attorney General of the United States, the Commission may elect to appear in its own name by any of its attorneys designated by it for such purpose."

Sec. 206. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or whose business affects commerce".

Sec. 207. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(a) deleting the word "corporation" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof the word "party";

(b) inserting after the word "Commission" in the second sentence of the second unnumbered paragraph the phrase "acting through any of its attorneys designated by it for such purpose", and

(c) deleting the fourth unnumbered paragraph and inserting in lieu thereof the following:

"Upon the application of the Attorney General of the United States or of the Commission, acting through any of its attorneys designated by it for such purpose, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the Commission issued under this Act."

Sec. 208. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by deleting the third unnumbered paragraph and inserting in lieu thereof the following:

"If any corporation required by this Act to file any annual or special report shall fail to do so within the time fixed by the Commission for filing such report, then, if such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure. Such forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought by the Attorney General or by the Commission, acting through any of its attorneys designated by it for such purpose, in the district where the corporation has its principal office or in any district in which it does business."

Sec. 209. Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or having an effect upon commerce".

Sec. 210. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer, and is prohibited by section 5, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final within the meaning of section 5, would be in the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing that such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond: *Provided, however,* That if a complaint under section 5 is not filed within such period as may be specified by the court after issuance of the temporary restraining order or preliminary injunction, the order or injunction may be dissolved by the court and be of no further force and effect: *Pro-*

*vided further,* That in proper cases the Commission may seek, and, after proper proof, the court may issue a permanent injunction. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

Sec. 211. Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended to read as follows:

"Sec. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5 of this Act, it shall—

"(a) certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection; or

"(b) itself cause such appropriate proceedings to be brought."

[Sec. 212. (a) Section 5(a)(6) of the Federal Trade Commission Act (15 U.S.C. 45(a)(6)) is amended—

[(1) by striking out "banks,"; and

[(2) by adding at the end thereof before the period a colon and the following: "*Provided, however,* That with respect to financial institutions such authority shall only be exercised to prevent unfair or deceptive acts or practices affecting commerce (including acts or practices which are unfair or deceptive to a consumer)".

[(b) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end of subsection (m), added by section 305 of this title, the following two new subsections—

["(n) Rules and regulations prescribed by the Commission in carrying out the authority conferred by this section with respect to unfair or deceptive acts or practices (including acts or practices which are unfair or deceptive to a consumer) shall, insofar as they apply to or affect any financial institution as defined in section 5(o)(3) of this Act, be issued only after consultation with—

["(1) the Comptroller of the Currency, if the institution is a national bank or a bank operating under the code of law of the District of Columbia;

["(2) the Board of Governors of the Federal Reserve System, if the institution is a member bank of the Federal Reserve System (other than a bank referred to in paragraph (1));

["(3) the Board of Directors of the Federal Deposit Insurance Corporation, if the institution is a bank the deposits of which are insured by such corporation (other than a bank referred to in paragraph (1) or (2));

["(4) the Federal Home Loan Bank Board, if the institution is a member of a Federal home loan bank or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; or

["(5) the Administrator of the National Credit Union Administration, if the institution is a credit union the accounts of which are insured by such Administrator.

["(o)(1) The power of the Commission to prevent financial institutions from using unfair or deceptive acts or practices affecting commerce (including acts or practices which are unfair or deceptive to a consumer), pursuant to paragraph (6) of subsection (a) of this section, shall be delegated by the Commission, subject to paragraph (2) of this subsection, to—

["(A) the Comptroller of the Currency, if the institution is a national bank or a bank operating under the code of law of the District of Columbia;

["(B) the Board of Governors of the Federal Reserve System, if the institution is a member bank of the Federal Reserve System (other than a bank referred to in paragraph (A));

["(C) the Board of Governors of the Federal Deposit Insurance Corporation, if the institution is a bank the deposits of which are insured by such corporation (other than a bank referred to in paragraph (A) or (B));

["(D) the Federal Home Loan Bank Board, if the institution is a member of a Federal home loan bank or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; or

["(E) the Administrator of the National Credit Union Administration, if the institution is a credit union the accounts of which are insured by such Administrator.

["(2) At any time by rule in accordance with section 553 of title 5, United States Code, the Commission may request and shall receive redelegation of the power to prevent particular financial institutions regulated by a particular agency described in paragraph (1) of this subsection from using unfair or deceptive acts or practices affecting commerce (including acts or practices which are unfair or deceptive to a consumer) from any agency to which such power has been delegated in accordance with such paragraph, upon a finding that such redelegation is necessary to prevent any such financial institutions from using unfair or deceptive acts or practices.

["(3) As used in this section, the term "financial institution" means—

[(A) any bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

[(B) any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

[(C) any thrift or home financing institution which is a member of a Federal home loan bank; or

[(D) any credit union the accounts of which are insured by the Administrator of the National Credit Union Administration."]

The amendment of the Committee on Banking, Housing and Urban Affairs is to the substitute amendment of the Committee on Commerce, to strike out the language beginning on page 60, after line 12, down to and including line 2 on page 64, and insert as follows:

TITLE III—FINANCIAL INSTITUTIONS

Sec. 301. (a) In order to prevent unfair or deceptive acts or practices affecting commerce (including acts or practices which are unfair or deceptive to a consumer) by financial institutions, each Federal regulatory agency of financial institutions shall establish a separate division of consumer affairs which shall receive and take appropriate action upon complaints with respect to such acts or practices by financial institutions subject to its jurisdiction. The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section, including regulations defining with specificity such unfair or deceptive acts or practices.

(b) Compliance with the requirements imposed under this section shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks and banks operating under the code of law for the District of Columbia by the division of consumer affairs established by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than banks referred to in clause (A) by the division of consumer affairs established by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than banks referred to in clause (A) or (B)) and mutual savings banks, as defined in the Federal Deposit Insurance Act, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the division of consumer affairs established by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this section shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any other authority conferred on it by law.

(d) The authority of the Board of Governors of the Federal Reserve System to issue regulations under this section does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this section.

(e) Each agency exercising authority under this section shall transmit to the Congress not later than March 15 of each year a detailed report on its activities under this section during the preceding calendar year.

(f) As used in this section—

(1) the term "financial institution" means—

(A) any bank the deposits of which are insured by the Federal Deposit Insurance Corporation and any mutual savings bank, as defined in the Federal Deposit Insurance Act;

(B) any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

(C) any thrift or home financing institution which is a member of a Federal home loan bank; and

(D) any credit union the accounts of which are insured by the Administrator of the National Credit Union Administration; and

(2) the term "Federal regulatory agency of financial institutions" means—

(A) the Comptroller of the Currency, if the institution is a national bank or a bank operating under the Code of Law of the District of Columbia;

(B) the Board of Governors of the Federal Reserve System, if the institution is a member of the Federal Reserve System (other than a bank referred to in clause (A));

(C) the Board of Directors of the Federal Deposit Insurance Corporation, if the institution is a bank the deposits of which are insured by such corporation (other than a bank referred to in clause (A) or (B)) or a mutual savings bank, as defined in the Federal Deposit Insurance Act;

(D) the Federal Home Loan Bank Board, if the institution is a member of a Federal home loan bank or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; and

(E) the Administrator of the National Credit Union Administration, if the institution is a credit union the accounts of which are insured by the Administrator.

## MODIFICATION OF ORDER APPOINTING EX OFFICIO CONFEREES ON S. 1081

**Mr. JACKSON.** Mr. President, I ask unanimous consent that the order of

September 7, 1973, appointing the Senators from Alaska (Mr. STEVENS and Mr. GRAVEL) as ex officio conferees on S. 1081, the so-called Alaska pipeline bill, be modified to provide that they shall have full participation in the conference but without the right to vote. This is in keeping with the understanding I had with the Senators before the appointments were made.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDER OF BUSINESS

Mr. SPARKMAN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, may we have order while the Senator from Alabama speaks.

The PRESIDING OFFICER. Will Senators please be seated.

The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I would like to get some information. I have heard the order of business announced. We had been told that we would be expected to call up a conference report at this time. Of course, a conference report is a privileged matter. Now, upon coming to the Chamber with all of my material in connection with the presentation of that conference report I am told that it is to be displaced by the present proposed legislation.

I am interested in the legislation that has just been laid before the Senate. I intend to be here in connection with it, but I had no notice that we should not call the conference report up at this time. No one has spoken to me about it. I had a conversation with the majority leader yesterday afternoon. He said it would be the intention of the leadership to call it up today and he asked me about setting a time. I told him I had no objection to a limitation of time, that I had not discussed it with the ranking minority member (Mr. TOWER). The Senator from Texas (Mr. TOWER) did come around about that time and he said he had no objection. The majority leader asked me if I knew of anyone that might have some question about it and would object to the time limitation.

I told him I did not know of anyone; that no one had spoken to me; that I had seen a letter that was put out during the adjournment of Congress, addressed "Dear Colleague," pertaining to that particular matter; and that the first Senator's name on it was that of the Senator from Florida. I said I thought we should talk with the Senator from Florida and ask how he felt about a limitation of time.

Not another word did I hear from him until I came to the Chamber for this rollcall. I simply do not understand that kind of procedure.

I understand that the request is that the conference report go over; in fact, I asked the majority leader if anyone had a "hold" on it. He reminded me that it was a privileged matter and that no one had a right to a "hold" on it.

Then I told him about the "Dear Colleague" letter and that I was the first to be contacted.

I was told when I came in that that had been done; that the Senator from Florida (Mr. CHILES), my good friend, had asked that the conference report go over until next week, but not on Monday. I happen to have some obligations, too. I plan to be here on Monday, Tuesday, and Wednesday. Then I am supposed to be here on Thursday to attend a meeting of the International Monetary Fund and the World Bank. So I have obligations.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. TOWER. I might note that Mr. Shultz, Mr. Simon, and Mr. Flanagan are all currently in Japan, involved in rather sensitive negotiations.

I think the House, since, has already acted by an overwhelming majority. It becomes incumbent upon the Senate to act with as much dispatch as possible. We cannot be in a very good bargaining position if Congress seems to be dragging its feet on the creation of a Council on International Economic Policy.

I am wondering whether Senators who are interested in this matter could agree, perhaps, to acting on it on Friday. I know we had not anticipated a session on Friday, but I would be glad to come in on Friday to dispose of the matter, because next week is going to get pretty crowded.

Mr. SPARKMAN. I can only say that it is crowded for me, although I was going to add this: As far as I am concerned, if we can work out a time limitation and deal with the matter on either Tuesday or Wednesday, and be certain that we bring it to a conclusion on the date that it is set for, I would not object.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. ROBERT C. BYRD. The Senator from Alabama has correctly stated the litany of events that led up to the present moment. In talking with me yesterday, he indicated that possibly Mr. CHILES ought to be contacted about the conference report on which we were seeking to get a time agreement.

Mr. SPARKMAN. If the Senator will allow me to interrupt him, I hope he will not say "possibly." The Senator from Florida was the first on the "Dear Colleague" letter.

Mr. ROBERT C. BYRD. The Senator is correct. So I sought to get in touch with the Senator from Florida but was unable to do so. I thereafter propounded a unanimous consent request and conditioned it on the approval of the Senator from Florida (Mr. CHILES), stating that this was not a procedure which the leadership felt to be desirable, and that only under extenuating circumstances did we seek time agreements and condition them on the approval of a Senator who was absent from the Senate at the time.

The Senator from Florida had contacted me—and I am not absolutely positive; I cannot find the letter, but I thought it was directed to me—at some time or other, orally or in writing, and said that before this conference report was taken up he would like to be contacted. So I based the consent agreement on his approval.

In talking with him this morning—I think I am correctly stating what the Senator told me; he is on the floor and can speak for himself—as I recall, he indicated he would have no objection to the time agreement, but that he would like for the conference report to be put over until next week. He and Mr. STEVENS were not prepared at the moment to voice their objections to the report and possibly to offer motions in connection therewith.

I said to the Senator that, of course, conference reports are privileged matters. They can be brought up at any time by the Senator from Alabama or any other Senator; but in view of the fact that we have a tentative time agreement on it, I would try to get the report put over until next week in order to preserve the time agreement on it. I said, "How about Monday?" The Senator from Florida said Monday would not be a good day for him because, I believe, he had other engagements and could not be here Monday. If I am incorrect, the Senator can correct me.

I said Tuesday, Wednesday, Thursday, and Friday are going to be difficult because there is going to be a glut of bills on the floor, but that I would attempt to work it out.

So I take the whole responsibility, Mr. President, for having stated that the conference report would not be called up until next week. In doing so, I committed an oversight. I did it inadvertently. I should have contacted the distinguished manager of the bill and cleared it with him, because he is the manager and he—as well as the able ranking minority Members—has to carry the responsibility for the conference report. He has to carry the responsibility through the hearings, he has to carry the responsibility for managing a bill on the floor, of carrying the bill in conference, and bringing the conference report back to the floor. I know he also has many other responsibilities calendarwise. The same must be said for the distinguished floor manager on the other side, Mr. TOWER.

So I take the responsibility for having erred in this instance in not letting both Senators know that this was being considered. I hope they will forgive me. It is my fault for saying on the floor that the agreement was not conditional any longer and that the matter would be taken up next week. So I can only confess my sins in public and hope that I will be forgiven.

Mr. SPARKMAN. Mr. President, I am certainly not going to try to interpose any objection to the plan that is now submitted.

Just for my own learning, I would like to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPARKMAN. This conference report has been around here since about the 3d of August. A conference report is a privileged matter. Now, despite the announcement made by the majority leader, if we insisted upon bringing this conference report up as a privileged matter, could we do so?

The PRESIDING OFFICER. The Senator is correct. The conference report still remains a privileged matter and can be called up at any time as a privileged matter.

Mr. SPARKMAN. I just wanted that on record to show that it was not due to our dereliction. The Senator from West Virginia confesses his fault and asks for forgiveness. I could not hold anything against the Senator from West Virginia, regardless of what he did. He does not have to have forgiveness, but I did want the record to be clear that we could bring the conference report up.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. AIKEN. I hope the Senator is not forgetting there is a very important executive meeting of the Foreign Relations Committee set for next Tuesday. No one knows how long it will last, and the presence of the Senator from Alabama is almost necessary. Also, there is a meeting Monday at which the Senator from Alabama is expected to be present. So I wonder what is the use of making rules most of us rely on if those rules can be set aside because a single Member of the Senate wants to be gone for some reason or another to some part of the world or some part of this country.

I am simply saying to the Senator from Alabama I hope he does not agree to anything which makes his presence at these foreign relations executive committee meetings impossible.

Mr. SPARKMAN. I will be at those meetings, because I have to be. As the Senator knows, the Senator from New Jersey (Mr. CASE) and I served as a two-man subcommittee on very important matters, and we have to make a report.

Mr. AIKEN. If we set aside the rules because a single Member of this body wants the rules set aside, then there is no use in having any rules at all.

Mr. SPARKMAN. Mr. President, I am not going to interpose any objection. I just want to make it clear that I believe when a committee has a privileged matter to present and it has been set, it ought not be changed until the particular Senators engaged in that privileged matter could be consulted.

I would not have interposed any objection if I had known anything about it, but here is material that we have been working on during the morning; staff members are on the outside waiting permission to enter the Chamber; and so forth. It is perfectly all right to me.

I am glad the Senator from Vermont (Mr. AIKEN) reminded me that we do have some very important meetings before the Foreign Relations Committee on Monday and Tuesday. I hope sometime by Wednesday we will be able to work out something.

Mr. AIKEN. Mr. President, if the Senator will yield again, I might remind the Senate that if, as a result of the executive meetings of the Foreign Relations Committee on Monday and Tuesday, the committee gives its approval to a nominee to be Secretary of State, then it is almost imperative that that nomination be acted upon by the whole Senate. I do not know how much debate there will be on it. We know there is opposition to it. But he is slated to make a speech for the United States on the following Monday, which leaves just next week to get this work all done and get him all cleared, or else find out he is not going to be cleared. That is about as important as anything we have right now.

Mr. SPARKMAN. The Senator is right. I will just say that I will cooperate with the Senator from Florida (Mr. CHILES) or anybody else, and with the leadership. I know my friend from Texas will be in the same attitude in working out a satisfactory time.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. TOWER. I will be perfectly willing to bring it up tomorrow or Friday or Monday. I have a speaking engagement Monday, but I will cancel it in order to be here and participate in the consideration of this legislation, because I see us facing a tremendous crunch next week, and we have important business which should be disposed of.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me once more?

Mr. SPARKMAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Florida is here on the floor. In view of the fact that, as the distinguished manager of the conference report (Mr. SPARKMAN) has correctly stated, a conference report can be called up at any time, if that conference report were to be called up I would think, out of courtesy to the Senator from Florida (Mr. CHILES) and to the Senator from Illinois (Mr. STEVENSON), the time agreement which was entered into conditionally ought to be vitiated, and it may be that the distinguished Senator from Florida would be willing to proceed at any time with that understanding. He knows that that conference report can be called up by the Senator from Alabama after we complete action on the consumer products warranty bill. It could not be called up prior to that because an order has been entered. Once we dispose of that bill the Senator could call up the conference report. Perhaps we ought to vitiate the time agreement on the report. I thought perhaps the Senator from Florida (Mr. CHILES) would have some suggestion as to what we ought to do about that.

Mr. SPARKMAN. Mr. President, I would agree with that. And let us, when we do decide to call it up, work up a time agreement. I assure the Senator from Florida that I will not call it up at a time not acceptable to him.

Mr. ROBERT C. BYRD. Mr. President, may I say as a postscript that we cannot call it up on Friday for various reasons as far as the leadership is concerned. It could be called up later today, tomorrow, or Monday. However, we could not consider it on Friday.

Mr. SPARKMAN. Let me say, Mr. President, that I would not call it up and interfere with any planned absence of the Senator from Florida.

Mr. GRIFFIN. Mr. President if the Senator would yield very briefly, just so that we have all of the circumstances clear and so that we are not working under any misapprehension, the Senator will recall that while there was a unanimous consent agreement that the Senate proceed to the consumer's warranty bill, it is my understanding that there is no unanimous consent agreement covering debate or a limitation of time on amendments or anything of that kind in connection with the bill.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GRIFFIN. That being the case, I would propose a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BIDEN). The Senator will state it.

Mr. GRIFFIN. Mr. President, even though the consumer's warranty bill is the pending business, would it not be possible for the chairman of the committee or for some other Member of the Senate, if he got recognition, to call up the conference report as a privileged matter?

The PRESIDING OFFICER. (Mr. BIDEN). The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, the Senator is correct. I had forgotten that there is no time agreement limiting debate on the consumer's warranty bill. Under the existing order, we would only proceed to the consideration of the consumer's warranty bill. The Senator from Michigan is quite correct.

Mr. GRIFFIN. Mr. President, I thought there might be a misunderstanding. And I wanted to be sure that all Senators realized the situation.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Florida.

Mr. CHILES. Mr. President, I want to say that I had notified the office of the Senator from West Virginia as well as the Democratic Policy Committee that I did want to be notified if any unanimous consent agreements were going to be entered into in this matter.

Mr. President, I wanted to be notified, if I could, some time in advance of when this matter was going to be called up. I am sorry that I could not be contacted on yesterday. As a number of Senators have pointed out, there are occasions when some of us has some business, whether it be committee business, or some other senatorial business, that makes it hard to do something on a particular day.

I do not believe that the junior Senator from Florida has been on the floor too many times holding up the work of the Senate and trying to put a burden on another Senator or trying to delay the business of the Senate. And I do not intend to do that now.

I say to the distinguished Senator from Alabama that I want to work with him in any way I possibly can to see that this matter comes up at a time that is completely convenient to him and in no way inconveniences the Senator from Texas.

I want to do that now. And I see no reason why we could not come up with a mutually satisfactory time that would be satisfactory to all Senators concerned. I do not want to hold up the work of the Senate. This conference report has been on the calendar for a long time. I have not kept it there. I have only asked that I be notified in advance when the matter was going to be called up, and in advance of any unanimous consent agreement so that I could have my input into that agreement.

Mr. ROBERT C. BYRD. Mr. President, I had no opportunity to contact the Senator from Florida prior to yesterday with reference to the conference report because I had no knowledge until yesterday that the manager and the ranking minority member of the committee were ready to call it up. I could not contact the Senator prior to yesterday.

Mr. CHILES. Mr. President, I can certainly understand that. However, it has not been the junior Senator from Florida who has kept the conference report on the calendar during this period of time. My request has been that I be notified in advance of when it was going to be called up and in advance of any unanimous-consent agreement so that I could have my input into that agreement.

Mr. SPARKMAN. Mr. President, may I say that a number of weeks have been taken up by the August recess. We had no particular time to call up the conference report. I just wanted to take a convenient time for the Senate. We have been ready ever since we came back from recess. However, we had considerable pressing business, and we wanted to wait until there was a gap in the legislative business. There is no fixation in my mind with reference to today or any other day. I am sure that we can work out a satisfactory time.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Alabama has been very gracious in this matter, as he always is. He was entitled to be notified, and so was the distinguished ranking minority member of the committee, when there was any disposition on the part of the leadership to put this conference report over to next week.

I confess that I am chagrined that I unconsciously or subconsciously never thought of doing so, but took it for granted that it would be all right.

The Senator from Alabama was entitled to notification, and the Senator from Texas was also entitled to notification. This was my error. I regret it. And I do appreciate the kind attitude in which both Senators have accepted the situation.

Mr. TOWER. Mr. President, I certainly do not imply any criticism of my distinguished friend, the Senator from West Virginia. I think that he does an excellent job. However, I think we ought to get this matter pinned down now so that we will know when we are going to consider the conference report. It is of enormous importance.

Mr. ROBERT C. BYRD. Could we do that at this time?

Mr. SPARKMAN. Mr. President, I am not ready to work it out at this time, because as the Senator from Vermont (Mr. AIKEN) has pointed out, we have a very heavy schedule before the Foreign Relations Committee on both Monday and Tuesday, and perhaps on Wednesday. However, we will watch the time, and any time when it may appear that we can call it up and get a limitation of time, we will try to work it out. I hope that we can do so. I also hope that my friend, the distinguished Senator from West Virginia, will not feel chagrined. If I have any way of erasing his chagrin, I will do all I can to erase it.

Mr. ROBERT C. BYRD. Mr. President, my chagrin is brought about by my own failure, and has not been inflicted by the distinguished Senator.

Mr. CHILES. Mr. President, I apologize if I have caused the Senator from West Virginia to feel chagrined.

Mr. ROBERT C. BYRD. Mr. President, it was an inadvertence on my part. The Senator owes me no apology. If the distinguished Senator would agree, before the day is over perhaps we can agree on when the conference report will be called up after consultation with all parties.

Mr. SPARKMAN. The pinch I am in, as the Senator from Vermont has indicated, is because we have some matters before the Foreign Relations Committee that we are going to have to take care of. We do not know how much time they will take. However, if we can find any time when the Senator from Texas, the Senator from Florida, and the Senator from Illinois will be free, I will agree to take it up at that time.

Mr. TOWER. Mr. President, I am available any day except Saturday.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators. I want to apologize to the distinguished manager of the consumers warranty bill, Mr. Moss, for imposing on his good nature and on his time.

Mr. MOSS. That is quite all right.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8917) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mrs. HANSEN of Washington, Mr. YATES, Mr. McKAY, Mr. LONG of Maryland, Mr. EVANS of Colorado, Mr. MAHON, Mr. McDADE, Mr. WATT, Mr. VEYSEY, and Mr. CEDERBERG were appointed managers on the part of the House at the conference.

The message also announced that the House had rejected the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7645) to authorize appropriations for the Department of State, and for other purposes; and that, subsequently, the House receded from its disagreement to the amendment of the Senate to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in winter, and for other purposes, was read twice by its title and referred to the Committee on Finance.

## MAGNUSON-MOSS WARRANTY—FEDERAL TRADE COMMISSION IMPROVEMENT ACT

The Senate continued with the consideration of the bill (S. 356) to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the amendment of the Committee on Banking, Housing and Urban Affairs to the substitute amendment of the Committee on Commerce.

Mr. MOSS. Mr. President, I ask unanimous consent that during the consideration of S. 356 and any amendments thereto, Mr. Pankopf, Mr. Clanton, Mr. Sutcliffe, Mr. Merlis, and Mr. Allison of the staff of the Commerce Committee be permitted to be present on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. I yield to my colleague for a unanimous-consent request.

Mr. TOWER. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. Mike Burns of the staff of the Committee on Banking, Housing and Urban Affairs be permitted to be present on the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Tom Adams of the Commerce Committee minority staff also be included among the members of the staff permitted to be present on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, today the Senate will be considering one of the most important pieces of legislation in the consumer field this session—The Magnuson-Moss Warranty — Federal Trade Commission Improvement Act. This bill would both bring fairness and rationality to consumer product warranties and provide the Federal Trade Comcission with much needed tools so it can better police the marketplace for unfair or deceptive acts or practices.

The major provisions of this bill are not new to the Senate; they have passed this body twice, last time by a vote of 76 to 2.

The Senate Commerce Committee, which I chair, has for a number of years now been exploring the consumer headaches associated with warranty practices. The committee continues to receive a seemingly never ending flood of complaints from consumers throughout the United States—complaints on automobiles, televisions, washers, dryers, and other basic consumer products. In the 91st Congress the committee held extensive hearings and formulated a comprehensive products warranty act designed to deal with the problems stemming from consumer product warranties.

Although that badly needed bill passed the Senate almost 3 years ago, today we still have no comprehensive Federal warranty legislation. In the 92d Congress, substantially similar warranty provisions were incorporated into the consumer product warranties and Federal Trade Commission Improvements Act of 1971. That bill passed this body in the 92d Congress by a vote of 72 to 2. The problems surrounding warranties that led to the passage of the warranty reform provisions of this bill in the Senate during the 91st and 92d Congress are still with us; the need for reform is now greater than ever, and I urge my colleagues to put themselves once again on record in favor of this vitally needed measure. This Congress, I think the House will act.

Title I of this bill deals with warranties on consumer products. Essentially, it is designed to make warranties understandable to consumers, and to insure that the promises made in warranties are lived up to. As chairman of the Commerce Committee, I have seen that it is a relatively frequent occurence that the consumer's understanding of what a warranty means does not always coincide with the legal meaning; as a result, warranties have for many years confused, misled, and frequently angered American consumers. It seems to me that some anger is expectable when purchasers of consumer products discover that the warranty of that product may cover a 25-percent part but not the $100 labor charge or that there is full coverage on a piano so long as it is shipped at the purchaser's expense to the factory. Title I is designed to eliminate these sorts of misunderstanding. It will also assist the consumer in knowing such essential items of information as where to take his warranted defective product for repair, how soon repair or replacement can be expected, and what his responsibilities are after notification.

Title II of this legislation is designed to improve the Federal Trade Commission's ability to serve as a viable consumer protection agency.

As early as 1938, a minority of the House committee reporting the Wheeler-Lea Act criticized the inadequacy of the limited enforcement powers of the Federal Trade Commission. The recent awakening of the agency to its consumer protection responsibilities has made this lack of adequate regulatory tools even more apparent. This bill would give the Commission the tools it needs.

First, the bill provides the Commission with the power to seek a preliminary injunction so that the whistle can be blown at the moment a violation of the Federal Trade Commission Act is detected—before consumers are damaged. By allowing the FTC to stop immediately an alleged unfair act or practice, it can do a much better job of protecting consumers.

The bill also enables the Commission to levy realistic penalties against those suppliers of consumer goods who commit unfair or deceptive practices. The Commission's own attorneys could seek civil penalties against those suppliers of consumer goods who commit unfair or deceptive practices. The Commission's attorneys could seek civil penalties against those who knowingly violate the Federal Trade Commission Act, and these penalties will provide a more realistic deterrent, with a $10,000 maximum per violation.

The provisions of title II which dealt with the Commission's power to promulgate trade regulation rules defining specific unfair or deceptive acts or practices has been deleted. We were delighted that the second circuit has now held that the Commission already possesses ample, unfettered rulemaking powers.

The bill would also grant the Commission authority to provide specific remedial relief to consumers injured by suppliers who committed unfair deceptive acts or practices. Thus, this bill would allow the Commission to order specific redress for injured consumers; no longer would it have to rely merely upon a slap of the violator's wrist to maintain fair play in the marketplace, and, if the Commission pursues the matter, the consumer may have his injury made whole. A mere cease-and-desist order has frequently let a wrongdoer keep his ill-gotten gains.

I am aware of two amendments that wil be proposed to this bill. The first amendment deals with section 212, and has been proposed by the Committee on Banking, Housing and Urban Affairs Their amendment can be accepted by sponsors if that proposal can be perfected. Senator Moss and I have an amendment prepared which is designed to do this. I am also advised that Senator HARTKE has an amendment prepared that deals with the warranty provisions of title I as they relate to sales of used cars. This is also acceptable to the managers of the bill.

Mr. MOSS. Mr. President, I would like to offer some comments on S. 356, the Magnuson-Moss Warranty Federal Trade Commission Improvements Act. Since the act under consideration this morning is not substantially different from S. 986 of the 92d Congress which was passed by the Senate by a vote of 76 to 2 on November 8, 1971 and similar to S. 3074 of the 91st Congress on which I delivered comments to the Senate on July 1, 1970, the CONGRESSIONAL RECORD for those dates should also be consulted.

The legislation has been designed to provide necessary safeguards in the use of warranties, and to provide the Federal Trade Commission with the adequate enforcement tools it needs to deal with commerce in the 20th century.

Title I of this bill brings about the warranty reform that has been needed for years. One of the most important effects of the legislation will be its ability to relieve consumer frustration by promoting understanding and by providing meaningful remedies. The bill should also foster intelligent consumer decisions by making warranties understandable. At the same time, warranty competition should be fostered, since consumers would be able to judge accurately the content and differences between warranties for competing consumer products.

Most importantly the bill provides the consumer with an economically feasible private right of action, so that when a warrantor breaches his warranty or service contract obligations the consumer can obtain effective redress. The bill has been refined to place only a minimum burden on the courts by requiring as a prerequisite to suit that the purchaser give the supplier reasonable opportunity to settle the dispute out of court, including the use of fair, informal dispute settlement mechanisms which the bill encourages suppliers to set up under the auspices of the Federal Trade Commission. A greater likelihood of warrantor performance is also assured through prohibition of express disclaimers of implied warranties.

As Mrs. Virginia Knauer characterized the problem confronting a consumer attempting to have product repaired under a present style warranty, "the bold print giveth, and the fine print taketh away." For many years warranties have confused and misled American consumers. A warranty is a complicated legal obligation whose full essence lies buried in myriads of legal decisions, reported and unreported, and in complicated state codes of commercial law. The consumer's understanding of what a warranty on a particular product means to him is not likely to coincide with the legal meaning of the words.

One of the most important and long range effects of the legislation will arise from its attempt to promote better product reliability. The bill does not mandate any particular life-span or reliability quotient for consumer products, but instead attempts to organize the rules of the warranty game in such a fashion as to stimulate manufacturers to produce more reliable products for competitive reasons. This is accomplished by the use of market pressure, by first arming the consumer with sufficient information and understanding about warranties to enable him to look to the warranty duration as a guide to product reliability.

Unfortunately when a consumer brings a defective product in for service under a present style warranty, he is invariably in for a rude shock—discovering that the "warranty" he has received at the time of purchase could be more accurately described as a limitation on the manufacturer's liability. The consumer's rights are usually diminished rather than increased by the "warranty" now given. The implied warranties were arrived at by the common law courts as being what reasonable men would expect to believe the results of the purchase and sale of items in the marketplace would imply. Unfortunately the present law allows a seller to renounce these implied warranties. Where this is done between merchants, this may be acceptable. But when it is forced on a consumer who lacks effective purchasing power to command better terms of sale it is outrageous. The Magnuson-Moss Act would give new life to the principles derived by the common law from hundreds of years of commercial experience by prohibiting the rejection of implied warranties in the retail market.

In operation, the act might work in this manner: Upon purchasing an automobile, for instance, the warranty would be designated on its face as being either a "full" warranty—one which would have to cover all parts and labor for the time period designated—or a "partial" warranty—one which does not require repair or replacement without charge. All warranties which are not "full warranties" would have to indicate their limitations prominently.

For example, a seller who was only willing to provide parts and not labor for a period of 1 year would designate his warranty "One Year Parts Only Warranty."

Now in commenting on title II of S. 356, I would like to quote from the American Bar Association's report and recommendations, referring to S. 986, the bill passed by the Senate in the 92d Congress, which is virtually identical to S. 356, the pending measure:

> The Committee [of the American Bar Association] recommends the adoption of federal legislation [S. 986]—which can effectively utilize federal enforcement agencies; which will provide for swift and efficient relief to injured consumers harmed by significant abuses; which will obviate complex and protracted private proceedings; and which can be harmonized with existing and proposed statutory controls on the state levels.
>
> Machinery would be established within the framework of the Federal Trade Commission for the most prompt and uncomplicated recovery of actual damages by consumers who are injured by such practices.

Mr. President, the need for this legislation is urgent. We have dangled the carrot before the public on previous occasions. In the 91st Congress we passed the Warranty measure. In the 92d Congress we passed a virtual duplicate of S. 356. On both of these occasions the House failed to act. It is early in the 93d Congress; the House Committee on Interstate and Foreign Commerce is working full speed on this measure; I am confident that we will see meaningful consumer product warranty legislation coupled with improvements in the machinery of the Federal Trade Commission enacted into law this session.

Over the 6 years that this legislation has been considered, the Consumer Subcommittee has spent many hours fashioning the bill. We have held many days of hearings on the legislation. We have spent many hours reviewing the legislation in executive session. I would like to note that the ranking minority member of the subcommittee, the Senator from Kentucky (Mr. COOK), contributed a great deal to make this measure a better consumer protection measure. I urge prompt passage of this legislation today.

Mr. President, I yield to my colleague from Texas for a brief unanimous-consent request.

Mr. TOWER. Mr. President, I ask unanimous consent that the following staff members of the Committee on Banking, Housing and Urban Affairs be allowed the privilege of the floor during the consideration of this measure: Mr. Dudley O'Neal, Mr. Gerald Allen, Mr. Ken McLean, Mr. Steve Paradise, Mr. Mike Burns, Mr. Tony Cluff, and Mr. T. J. Oden.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, the distinguished Senator from Indiana (Mr. HARTKE) has an amendment which is printed and is now before the Senate. The Senator from Indiana cannot be in the Chamber at this time and, therefore, on his behalf, I offer his amendment to the bill and ask that it be stated. It is No. 474.

The PRESIDING OFFICER (Mr. BIDEN). The committee amendment must be acted on prior to the amendment of the Senator from Indiana.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I understand that the committee amendment is before the Senate at this time; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MOSS. Mr. President, this bill was referred to the Banking, Housing and Urban Affairs Committee to work out the way in which federally regulated financial institutions such as banks and savings and loans institutions would be regulated to prevent the commission of unfair and deceptive acts and practices. That committee has proposed an amendment to the proposal of the Senate Commerce Committee which was earlier worked out with the Banking Committee.

In essence, the Banking Committee would propose to prevent federaly regulated financial institutions from engaging in unfair or deceptive acts or practices by authorizing the Federal Reserve Board to adopt rules against unfair and deceptive acts or practices. These rules would then be enforced by the various agencies responsible for regulating the federally regulated financial institutions.

For the most part I think the proposal of the Banking Committee makes sense and is acceptable. But there is one area that still troubles me. The FTC might decide that a particular practice of a finance company was unfair or deceptive to consumers and promulgate a rule outlawing such practice. A bank or Federal credit union engaging in the same practice would be able to continue such practices until the Federal Reserve Board adopted a similar regulation.

I think it is necessary to coordinate the activities of the Federal Reserve Board and the FTC to assure fair treatment for the consumer. Therefore, I would propose a perfecting amendment to the Banking Committee amendment which requires the Federal Reserve Board to issue a regulation substantially similar to a regulation issued by the FTC to cover activities which federally regulated financial institutions might engage in.

This amendment would not get the FTC into the regulation of banks or savings and loans.

The Federal Reserve Board is only required to issue "substantially similar" regulations. And the enforcement of those regulations is left to the Federal agencies which regulate the financial institutions.

Now someone might argue that the FTC is not the source of all wisdom and power. What if they promulgate a rule which the Federal Reserve Board does not think is unfair or deceptive to consumers? In that case the Federal Reserve Board can make such a finding and publish its reasons and it is relieved of its responsibility to issue substantially similar rules.

I send to the desk an amendment which would do what I have spoken of. I have discussed this amendment with the representatives of the Banking Committee.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. TOWER. Mr. President, I ask that the clerk read the amendment in its entirety, so that we know that we have all the agreed-upon modifications in order.

Mr. MOSS. I agree.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read as follows:

> On page 64, line 15, insert the following: "In carrying out its responsibilities under this section, the Board shall issue substantially similar regulations proscribing acts or practices of financial institutions which are substantially similar to those proscribed by rules or regulations of the Commission within sixty days of the effective date of such Commission rules or regulations unless the Board finds that such acts or practices of financial institutions are not unfair or deceptive to consumers or it finds that implementation of similar regulations with respect to financial institutions would seriously conflict with essential monetary and payments systems policies of the Board, and publishes any such finding, and the reasons therefor, in the Federal Register."

Mr. TOWER. Mr. President, the amendment as modified has been worked out between members of the Committee on Commerce and members of the Committee on Banking, Housing and Urban Affairs, and I believe it is satisfactory to all hands. Therefore, I think I can say on behalf of the Banking Committee that we accept this amendment as modified.

The Banking Committee amendment to the consumer products warranties bill, S. 356, is a step designed to preserve the full ability of the Federal Reserve Board to effectuate monetary policy through the banking system, while at the same time carrying out a major purpose of the bill to strengthen the protection of the consumer in the credit field.

The bill, as reported by the Commerce Committee, would bring commercial banks and other financial institutions under the jurisdiction of the FTC as to "unfair or deceptive" acts affecting consumers. While I do not oppose the general purpose of the bill, I do believe that the proper locus of authority over the consumer and his credit relationship with a depository financial institution lies in the central banking organization and the other regulatory agencies with jurisdiction over depository institutions. This is appropriate because of the uniquely important role of monetary policy in our economy and in the economic welfare of American citizens. Monetary policy is carried out through a fractional reserve banking system, operated through the instrument of the commercial banks of this country. By acting on this banking system through reserve requirements, open market security operations and discount policy, the Fed is able to govern within broad limits the level of credit within the economy.

Because the actual impact of these policies depends to a significant extent upon the nature of the credit instruments and practices involved in commercial banking, laws, and regulations affecting such credit instruments and practices affect the efficacy of monetary policy. For example, if the FTC had jurisdiction over consumer practices of banks and decided to change drastically the attributes of consumer credit instruments by abolishing the holder in due course doctrine, the very nature of consumer "money" will be changed and to cope with that change monetary policy must be altered in some as yet unforeseeable manner. If the bank credit card is no longer able to be used as a substitute for pure purchasing power, but instead the traditionally neutral function of the bank is converted into one of a substantive party to the consumer transaction being financed, various unintended side effects could occur. Merchants might find that it is less costly and less troublesome to offer substantial cash discounts in order to avoid entanglements with banks over warranty-type questions. This could lead to a dramatic shift away from credit card use and into cash transactions—with a consequent reduction in the reserves of the banking system and a consequent contraction of credit.

Of course, it may be possible for the Fed to counteract some specific impacts on the monetary system of such actions with relatively little effort; perhaps in other situations it would be difficult, or the effect of an FTC credit rule might leave monetary conditions in simply a less stable state which would complicate the already tremendously complicated job of managing our credit system. Not being an economist or monetary expert myself, I would have difficulty in trying to list here every type of troublesome situation that could develop by having an agency without monetary expertise taking actions which can affect and impair the policies of the central bank. I do know that Dr. Burns is very concerned about the impairment of the Fed's ability to set and carry out monetary policy in the face of the Commerce Committee bill, as is Dr. Brimmer who testified before us and the other members of the Fed. The members of the other financial regulatory agencies are equally concerned about the problem of meeting their respective legislated responsibilities in the face of the proposed FTC authority to determine the nature of the creditor-consumer relationship.

By adopting the Banking Committee amendment the Senate is not in any sense voting against the consumer. The consumer is still covered by the protective powers of the financial regulatory agencies, who will have the power from this bill and other existing statutes to assure that individual consumer rights and complaints vis-a-vis depository institutions are fully taken care of. Yet these agencies and especially the Federal Reserve Board also have the longer-run economic viability of this Nation and the economic well-being of every one of its citizens at stake within their scope of responsibility. It is not meant as a criticism of the FTC to say that in consumer matters it will tend to take a short-run, pocketbook-oriented viewpoint of the consumer's interest, while the Fed has to be looking at the longer-range, structural economic situation in the country in shaping monetary policy, for the ultimate employment and income benefit of all of our citizens. Maintenance of the Fed's discretion to deal with consumer relationships with respect to depository institutions and to meld this into a coherent policy with fundamental economic concerns seems to me to be essential in a well-managed modern economy.

I would hope therefore that the Senate will adopt the Banking Committee amendment, recognizing that there are fundamental economic concerns of this Nation which must be coordinated with our consumer policies, if the overall interests of our citizens are to be properly cared for.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. **TOWER.** Mr. President, I move to reconsider the vote by which the modified amendment was agreed to.

Mr. **MOSS.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **PROXMIRE.** Mr. President, I support the amendment offered by the Senator from Utah to provide for uniform regulation between banks and other creditors. I believe that this amendment preserves the essential recommendations of the Senate Banking Committee. At the same time, it insures that all creditors will be subject to reasonably uniform regulations and that all consumers will receive substantially the same protections—whether they borrow from a bank or a nonbank creditor. The Senator's amendment represents an effective compromise between the Commerce Committee version and the Banking Committee version of the legislation and I congratulate him for offering it.

Under the original Commerce Committee bill, the FTC was empowered to write rules and regulations to prevent all business firms including banks and other financial institutions from engaging in unfair or deceptive credit practices. These regulations would have been enforced by the FTC and by the appropriate bank regulatory agencies with respect to the institutions under their supervision.

Under the Banking Committee version of the bill, the rulemaking power would be split between the FTC and the Federal Reserve Board. The Board would be empowered to write rules and regulations affecting banks and other financial institutions. The FTC would be given rulemaking authority over all other creditors including finance companies and retailers.

I have been critical of the Banking Committee version of the legislation because I do not believe the divided regulatory approach is workable. It is possible and indeed probable that creditors under the FTC's jurisdiction will be subject to one set of rules while banks and other financial institutions will be subject to a less stringent set of rules. A consumer who borrows from a bank would thus receive less protection than if he borrowed from a finance company or retailer.

I do not believe it is fair to consumers or to the credit industry to have two sets of rules. At the same time, I can sympathize with the strong desires of financial institutions to be regulated by a single Federal agency familiar with the unique problems of their industry. These divergent objectives would be reconciled by the Magnuson-Moss compromise amendment.

Under the compromise amendment, banks and other financial institutions would continue to be under the rulemaking authority of the Federal Reserve Board as recommended by the Banking Committee. However, in exercising its responsibilities, the Board is directed to provide for substantially similar regulation as compared to the regulations issued by the FTC. This will insure that banks and other financial institutions are subject to substantially the same regulations, while permitting the Board to exercise some flexibility to take into account the unique situation of banks and other financial institutions in our economy. For example, if the FTC issued a regulation on debt collection practices, the Board would be required to issue a similar regulation although it would not have to be precisely identical to the FTC regulation. The Board also has the option of issuing no regulation if it determined that the particular act or practice was not unfair or deceptive and published its reasons for such a finding. At the same time, nothing in the amendment would prevent the Board from issuing regulations on its own initiative in areas where the FTC has not acted. For example, the Board could issue a "truth in savings" regulation prescribing uniform interest rate computation methods if it determined such a regulation to be in the public interest.

I would expect that in most cases the FTC and the Federal Reserve Board would reach agreement and issue identical regulations. However, there may be a few areas where modifications are necessary. In such cases, the Federal Reserve Board is given sufficient latitude to prescribe appropriate modifications.

Mr. President, I believe the Senator from Utah has offered a fair and reasonable compromise amendment and I urge its adoption.

Mr. BROCK. Mr. President, I rise in support of the Banking Committee's amendment to S. 356.

Section 212 of the Commerce Committee's bill contains a grant of power to the Federal Trade Commission to promulgate rules with respect to financial institutions as to matters involving "unfair or deceptive acts or practices." This section eliminates the exemption that banks have enjoyed from the Federal Trade Commission so far as unfair and deceptive practices are concerned.

The Banking Committee's amendment will strike section 212 and add a new title to confer this rulemaking authority upon the Federal Reserve Board, instead of the Federal Trade Commission. It will also establish a separate division of consumer affairs within each financial regulatory agency to receive and act upon consumer complaints.

Before taking this action, the Consumer Credit Subcommittee heard and received reports from the bank regulatory agencies including the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration, the Federal Reserve Board, and the Treasury Department. These agencies were unanimous in their view that the responsibility for the regulation of the financial institutions should be left in the specialized agencies. A number of sound reasons were advanced for this.

In dealing with the financial institutions, there is a need for expertise in the financial area and in the functioning of the monetary system. The Nation's monetary and payments system is very complex requiring a great deal of specialization on the part of those regulatory agencies having the responsibility for its functioning. Action taken in this area can have an adverse effect on the entire economy as well as segments of the economy such as the housing market.

It can place in jeopardy the safety of deposits in the institution.

It can inhibit the proper functioning of the check payments system.

We should not lose sight of the fact that consumers consist not only of borrowers from the institution but also depositors and persons using the payments system.

Here we are talking about the small businessman who relies on the commercial banks for services and the retired person with savings in a savings and loan association or credit union.

The interest of these consumers should not be neglected.

Another point is that financial institutions are currently in a transitional stage. They are moving away from the using of checks for settlement and much more toward reliance on the electronic payments mechanism. These innovations would be beneficial to consumers and the best way to assure that this comes about is to provide rulemaking authority in the banks' supervisory agencies familiar with and deeply concerned with the evolution of the payments mechanism.

The President has recently sent to Congress recommendations for vast and revolutionary changes in the structure of financial institutions. It is my understanding that the Financial Institution Subcommittee will be looking at these recommendations this fall. It would be far better to postpone any alterations of the regulatory framework over financial institutions than to take a piecemeal approach as is now being advocated.

Another problem is that the banks and other financial institutions are already among the most regulated forms of business in the country today. We should proceed cautiously before we impose an additional layer of regulations by bringing in an agency such as the Federal Trade Commission.

A number of arguments have been advanced favoring giving regulatory authority over the financial institutions to the Federal Trade Commission.

It is said that only in this way will there be uniformity in regulation over consumer credit. But if simple uniformity is the sole objective, then we would abolish all of the regulatory agencies—the Interstate Commerce Commission, the Federal Power Commission, the Federal Communications Commission and a host of others—and place their authority for regulating business practices in the Federal Trade Commission. Obviously, this would not work because there is a need for expertise in the regulatory agencies to carry out the public policy assigned to them by Congress. This is equally true so far as the financial institutions are concerned.

Another argument advanced is that the bank supervisory agencies are not interested in the consumer but in protecting the solvency of the financial institutions. This argument overlooks the basic fact that depositors as well as borrowers are consumers. In addition, the recent record of the Federal Reserve Board in promulgating regulations under the Truth in Lending Act is exemplary. In fact, the Senate thought so highly of this record that it recently passed by unanimous vote the Truth in Lending Act amendments vesting new powers in the Federal Reserve Board to write consumer credit regulations.

In sum, the approach taken by the Senate Banking Committee is a sound one. It will protect not just one class of consumers but all consumers who utilize the banking system. I urge Senators to support the Banking Committee's amendment.

Mr. MOSS. Mr. President, the Banking Committee amendment, as amended, is before the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. Mr. President, I move that the Banking Committee amendment, as amended, be adopted.

The PRESIDING OFFICER. The question is on agreeing to the Banking Committee amendment, as amended.

The Banking Committee amendment, as amended, was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the Banking Committee amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 474

Mr. MOSS. Mr. President, it is my understanding that the bill is open to further amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. Therefore, Mr. President, I send to the desk an amendment proposed by the Senator from Indiana (Mr. HARTKE) to the Commerce Committee substitute amendment.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. COTTON. I am sure that the distinguished Senator from Utah's explanation will be full and lucid. Is it a long amendment?

Mr. MOSS. It is not of great length. It is about four pages.

Mr. COTTON. Then, I ask that the amendment be read in full, because I have not seen it.

Mr. MOSS. I have no objection to that.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read as follows:

### TITLE IV—USED CAR WARRANTIES

### DEFINITIONS

SEC. 401. As used in this title—

(1) "Dealer" means any supplier selling used motor vehicles to a consumer.

(2) "Mechanical defect" includes any damage, malfunction, or failure, in whole or in part, which affects the safety or normal use of the used motor vehicle.

(3) "Motor vehicle" means any vehicle propelled by mechanical power, manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.

(4) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, American Samoa, or any other territory or possession of the United States.

(5) "Used motor vehicle" means any motor vehicle which is offered for sale to a consumer after—

(A) such vehicle had previously been sold to a consumer; or

(B) such vehicle had been used by a dealer or any other person for the personal transportation of persons, or as a rental, driver-education, or demonstration motor vehicle and driven more than two hundred and fifty miles or so used for more than fifteen days.

### WARRANTY REQUIREMENT

SEC. 402. (a) No dealer shall sell or offer for sale a used motor vehicle to a consumer without a written warranty which conforms to the requirements of this title and this Act, except as provided in subsection (b) of this section.

(b) A dealer may sell or offer for sale a used motor vehicle to a consumer without a written warranty if the contract for sale of such used motor vehicle contains the following notice in conspicuous type: "ALL REPAIRS ARE THE RESPONSIBILITY OF THE BUYER." If such contract is not written in the English language, then such notice shall be expressed in the same language as the contract. In addition, the dealer shall orally disclose to the purchaser that all repairs are the responsibility of the buyer.

(c) A written warranty shall meet the requirements of section 103 of this Act.

### DISCLOSURE OF INFORMATION

SEC. 403. (a) No dealer shall sell a used motor vehicle unless he furnishes to the purchaser a written statement which contains the information required by subsection (b) of this section. The statement shall be furnished prior to the signing of any contract of sale by such purchaser.

(b) The statement required by subsection (a) of this section shall contain—

(1) a complete description of such used motor vehicle, including, but not necessarily limited to—

(A) the make, model, year of manufacture, and any identification of serial numbers of such vehicle;

(B) a statement of any mechanical defects known to such dealer on the basis of his examination and evaluation of the vehicle prior to his acquisition of such vehicle or which otherwise becomes known to him while in his possession, and any repairs made by or under the direction of such dealer following his acquisition of such used motor vehicle;

(C) a statement of the written warranty coverage of the used motor vehicle, except that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As Is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage;

(D) the date on which such vehicle will be delivered to such purchaser and the maximum number of miles which will appear on the odometer on such date;

(2) if the vehicle is sold with a written warranty, the name, address, and telephone number of each facility within a radius of fifty miles of the place of business of such dealer where such vehicle may be brought to have repairs, replacement of parts, and other service under the warranty performed;

(3) if the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

(c) If the vehicle is sold with a written warranty, the dealer shall warrant that such vehicle can pass any applicable State inspection requirements.

(d) At the request of a bona fide prospective purchaser of a used motor vehicle, the dealer shall furnish such purchaser the name and address of the previous registered owner of such vehicle (for purposes other than resale), whether such vehicle was used principally as a passenger vehicle or was commercially or publicly owned, and the type of sale, transfer, or other means through which the dealer acquired such vehicle, to the extent such information is reasonably available to such dealer. When such previous registered owner sells such vehicle to a new or used motor vehicle dealer, such owner may request that his name be withheld from the subsequent purchaser.

### APPLICABILITY OF TITLE I

SEC. 404. The provisions of title I of this Act are applicable to the extent not inconsistent with a provision of this title.

Mr. ROBERT C. BYRD. On behalf of the Senator from Indiana (Mr. HARTKE) I ask unanimous consent that the name of the Senator from Rhode Island (Mr. PASTORE) be added as a cosponsor of amendment No. 474 to S. 356.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, it is the feeling of the members of the subcommittee that the amendment of the Senator from Indiana does prescribe warranty guidelines for the sale of used motor vehicles and that it would be acceptable as an amendment. Although I believe the provision of title I would generally apply to the used motor vehicle market, this amendment specifically addresses a problem which has a long history of plaguing consumers. Under the amendment, a used car dealer would have the option of warranting the vehicle that he sells. However, regardless of whether or not such dealer chooses to offer a warranty, whenever a dealer sells any used motor vehicle, the purchaser is entitled to be supplied with certain information about the vehicle which he purchases. I believe that this amendment takes a giant step forward in easing the burden on purchasers of used motor vehicles, and I commend the Senator for his efforts in protecting the consumer.

Mr. President, the substitute amendment before this body is subject to further amendment or perfecting amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. Mr. President, I send to the desk a modification of the Hartke amendment to the substitute amendment, which is now pending, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In section 403(c), strike the "." and add "in the State where such vehicle is sold.".

In section 403(d) strike the last sentence and insert in lieu thereof the following: "The name and address of such previous registered owner shall not be released to the subsequent purchaser without the express written consent of such owner. The dealer who purchases such vehicle from the previous registered owner shall solicit such consent at the time of sale in a manner that will clearly disclose to the previous registered owner his rights under this subsection."

Mr. MOSS. Mr. President, this is a perfecting amendment that has been worked out by the staff of the majority and the minority.

It is clear that this amendment would, first, preserve the right of privacy if an owner does not wish to have his name used; and, second, it avoids the abuse that has been common in this field of passing on to a prospective buyer the name of an owner who is thought to have been respectable or careful, or some other desirable trait, and using that as a tool to sell the automobile, when it may not be an accurate representation.

This amendment would give this needed protection we seek. If the perfecting amendment were agreed to, we think the Hartke amendment would be acceptable and I would move its passage.

Mr. COTTON. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MOSS. Certainly. I yield.

Mr. COTTON. The yeas and nays have not been requested on the original amendment. I therefore believe the Senator has a perfect right to modifying his amendment.

Mr. MOSS. I thank the Senator. I will await the ruling of the Chair to see if that is correct.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. MOSS. I thank the Presiding Officer and I thank my colleague for bringing this matter to our attention.

Mr. President, if the amendment is modified as the modifying amendment provides I would then be ready to vote on the Hartke amendment as modified.

Mr. COTTON. Mr. President, will the distinguished Senator from Utah yield so that I may address two or three questions to him?

Mr. MOSS. Certainly. I yield.

Mr. COTTON. I am an ex officio member of the Consumer Subcommittee that dealt with the pending bill. I know that the majority staff of the subcommittee seasonably notified and gave information to the minority staff of the contents of this amendment. Then, together apparently they prepared the perfecting amendment.

However, I think the procedure provided for in the amendment is rather complicated. For example, a portion of the amendment sets forth specific disclosure requirements which must be set forth in a written statement, and if sold without a warranty, then on the contract for sale. It is rather complicated and I therefore think the record should show that this amendment was never presented to either the subcommittee or to the full committee.

Mr. MOSS. I think that is correct. The amendment was drafted and sent in after the bill was reported.

Mr. COTTON. I am informed, however, that a representative or representatives of the National Automobile Dealers Association had an opportunity to examine this amendment and have indicated it is something they can live with. Is that correct?

Mr. MOSS. That is correct. This amendment has been discussed with the National Automobile Dealers Association and they have indicated that they could live with it, yes.

Mr. COTTON. Did they indicate that by letter?

Mr. MOSS. The National Automobile Dealers Association has indicated that they do not object.

Mr. COTTON. The reason I wanted to get this on the RECORD and make sure about it is that there is one point about this amendment that troubles me. This concerns the fact that, as I listened to it read and examined it briefly in the hands of the minority counsel, it seemed to me that the process of information disclosure—the written statement, the warranty, and all the other steps to be taken—might prove to be so complicated that the amendment is in danger of defeating its own laudable purpose of protecting the consumer from deceptive practices in the used car field.

In view of the fact that, unless the dealer sells the used car "as is," he has to go through such an involved process and assume so much responsibility, the Senator from New Hampshire is of the opinion that more and more dealers will sell such cars without a warranty, informing the buyer he has to take his own chances.

We have already written into the law that no longer can a dealer falsify the mileage of a car. This amendment restates this law, but then adds a great many other requirements.

I think the purpose of the amendment is entirely laudable. But, I also believe it is not the best legislative practice to offer an amendment with all the requirements that this one has without giving interested parties, such as the used car dealers an opportunity to be heard, either in the subcommittee or in the full committee, before bringing the bill to the floor. However, since a used car can be sold without a written warranty and avoid the whole thing, which is perhaps more of a defect than a safeguard, I am not disposed to really oppose this amendment. I do so, however, with some reluctance. I hope that in the future amendments of this kind will be presented either in the subcommittee or the full committee, so that members of the committee can have full opportunity to consider the provisions. Also, if members of the committee, or the chairman of either the subcommittee or the full committee, feels it is necessary, some opportunity for a hearing can be presented.

I have the feeling that we may, regardless of whatever assurance may have been given privately by representatives of the Used Cars Dealers Association, have some outcry from used cars dealers because of the duties and probable "redtape" imposed upon them by this amendment.

Mr. MOSS. I thank the distinguished Senator from New Hampshire for his comments. Certainly I agree with a good part of them. I agree that it would be desirable to have a timely introduction to this sort of thing, so that hearings could be held and more discussion had.

But I reiterate my response made earlier that the National Automobile Dealers Association, which is covered by the bill and is very much involved in both the sale of new and used cars has indicated that the bill is acceptable to them. I cannot give that assurance about the Used Cars Dealers Association, which is a smaller group and is confined to used cars.

In answer to the Senator's comments about there being some redtape, perhaps it does have some redtape. But, at the same time, this language applies to the person selling a car. If he wants to use the warranty as a tool for selling the car, he has to be prepared to measure up to the provisions in the bill. If he does not want to take the risk of doing so, then he has to sell it without a warranty. The bill does not say he must sell it with a full warranty or with a partial warranty.

Mr. COTTON. If I may interrupt for a second, this amendment does not apply, as I understand it, to transactions between individuals. If I sell my car to the Senator from Utah, I am not considered a dealer. Is that correct?

Mr. MOSS. That is correct. If a dealer who is in business to sell used cars, or cars of any kind, wants to use a warranty as a part of his selling pitch, as a tool for selling, then he has to live up to certain requirements.

Mr. COTTON. I recognize fully that the dealer does not have to give a written warranty. He can simply sell the car "as is" and so indicate.

Mr. MOSS. No, he is not prohibited from selling without a warranty. A warranty is something in writing. The bill does not protect buyers in that way.

Mr. COTTON. Can the dealer sell it simply by his own word? I thought, as I heard the amendment read, that the dealer had to pass some kind of paper to the buyer that indicated that the buyer was buying with knowledge.

Mr. MOSS. That is correct. A warranty has to be in writing.

The dealer could say to the buyer, "This is a perfectly clean car. A little old lady down the street had it all these years." In spite of what he wants to say orally, he can still sell the car "As Is." If the buyer accepts that sales pitch and buys the car, he has to beware, because the old maxim caveat emptor still applies in the marketplace.

But if the dealer wants to put it in writing and say that the car is warranted, he has to live up to certain requirements.

Mr. COTTON. I do not think I made my question quite clear. Does not the amendment provide that if a dealer desires to sell a car and does not give a written warranty, then he must sell it to a buyer, who will take his own risk, other than the odometer requirement now in the law about mileage? I thought it was in the amendment that the dealer must, not only orally, but also in writing, inform the purchaser that he is buying it at his own risk.

Mr. MOSS. Mr. President, the Senator is correct. And if the Senator will recall, one of the thrusts of the pending measure is that warranties have been used heretofore in many instances to disclaim any implied warranty and to actually take from the purchaser some of the warranties implied in the sale of the vehicle.

Mr. COTTON. I remember all of that. I think that we are covering a lot of ground here. I just wanted to make sure, and the Senator may correct me if I am wrong, that the dealer cannot sell a used car, if this bill passes and has this amendment incorporated in it, without a written warranty. In other words, he still has to deliver something in writing to the buyer that there is no warranty.

Mr. MOSS. The Senator is correct. On the bill of sale or whatever paper he uses to transfer the car, he marks "As Is."

Mr. COTTON. Section 403(b)(1)(C) says that there must be "a statement of written warranty coverage of the used motor vehicle, except that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As Is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage."

Mr. MOSS. That is on the bill of sale, the Senator is correct.

Mr. COTTON. It says "in the space provided for warranty coverage."

Mr. MOSS. This is on the written statement that accompanies the bill of sale. He simply indicates that on there.

Mr. COTTON. If he is going to use a written warranty, that goes in. And, if he is not going to do so, this statement clearly indicating this to the purchaser of the car has to be attached.

Mr. MOSS. The Senator is correct.

Mr. COTTON. Well, as far as the Senator from New Hampshire is concerned, now that those matters have been cleared, the Senator from New Hampshire still feels that this may cause more used cars to be sold without warranty than with one. However, although the Senator from New Hampshire is not quite satisfied with this, he is not disposed to raise the issue and oppose it.

I want it clearly understood that in all that the Senator from New Hampshire has said, he has not suggested for one moment that his good friend, the Senator from Utah, has not dealt fully and fairly with the committee. Others have informed members of my staff, and they have informed me. We knew about it. However, I still feel that it is a rather unfortunate matter to legislate in this manner. But I am not going to raise the issue.

Mr. MOSS. Mr. President, I thank the Senator from New Hampshire.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. MOSS. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, may I inquire whether existing law, on the bill as it comes from the committee, deals in any way with anything other than new products?

Mr. MOSS. Yes. It does deal with articles sold to consumers. It is not restricted to new products.

Mr. CURTIS. Mr. President, does it relate to the first sale?

Mr. MOSS. If it goes through a dealer, it is for resale. The only matter excluded is a trade between two private individuals. If a man wants to sell a car to his neighbor and talk to him over the back fence, he can do so.

Mr. CURTIS. Mr. President, on page 33, lines 15 to 16, of the bill, it states:

> "Consumer" means the first buyer at retail of any consumer product . . .

What does that mean?

Mr. MOSS. Mr. President, if the Senator goes to line 20, it states:

> . . . any other person who is entitled by the terms of such written warranty or service contract or by operation of law to enforce the obligations of such warranty or service contract.

Mr. CURTIS. Mr. President, does that not refer back to the written warranty on a new product? Are we not talking about a new product when a warranty is given and that product is sold to another person before the warranty expires?

Mr. MOSS. No.

Mr. CURTIS. Is that not the purport of lines 15 through 22?

Mr. MOSS. Mr. President, as it defines consumer, but it goes on and expands it to any other person.

Mr. CURTIS. Mr. President, it talks about a warranty given on a new product and some other person, a consumer, acquires that product before the warranty has expired. Is that not correct?

Mr. MOSS. A warranty may be given on a used product, not only on a new product. Any dealer who wants to use the warranty as a tool to make the sale has to live up to certain conditions. It can be the sale of a new product or a used product. But if he wants to give a warranty, he must live up to the terms of the warranty.

Mr. CURTIS. This proposal would extend this law to used automobiles. So far as I know, it may be a good proposal and in the public interest. However, I would like to inquire why the committee did not incorporate the amendment in the bill.

**Mr. MOSS.** We thought we had covered this situation generally, as I have indicated in my statement here, because this amendment had some additional guidelines about where he may come and bring his car, if he is given a warranty, to obtain service. It would add something to it, and we were willing to accept it on that basis.

**Mr. CURTIS.** Mr. President, how many days of hearings did the committee have on the proposal that this act apply specifically to used automobiles?

**Mr. MOSS.** Mr. President, that is a very hard question for me to answer. This matter, as the Senator realizes, has been before us for about 6 years.

**Mr. CURTIS.** Mr. President, did the committee have any witness appear before it who specifically talked about used cars and asked specifically that they be brought under the bill?

**Mr. MOSS.** Mr. President, I do not believe that we can say we were asked to have used cars under the bill. However, we were dealing with all products. And among other parties appearing before the committee, we had the National Automobile Dealers Association. And as I have indicated, the dealers say that they can live with it.

**Mr. CURTIS.** Mr. President, is that statement contained in the hearings?

**Mr. MOSS.** I am not sure. I would have to look and see. However, they have appeared before the committee and have had many consultations with us. And they have testified before the committee.

**Mr. CURTIS.** Mr. President, it is not true that this proposal which specifically applied this jurisdiction to used cars in the manner set forth in the proposed amendment was never heard by the committee and that the committee did not give notice that it was going to take up such a matter and that no one appeared and testified against the proposal.

**Mr. MOSS.** I do not think that used cars were ever pinpointed. However, automobiles formed a good part of our discussions, and the warranty game, as it is called, was played with automobiles perhaps more than with any other type of product.

**Mr. CURTIS.** Mr. President, how much of that discussion concerned new cars and how much concerned used cars?

**Mr. MOSS.** Well, of course, I cannot answer that. I have made no study of the time spent in hearings on each portion of the bill.

**Mr. CURTIS.** My distinguished friend was chairman of the committee.

**Mr. MOSS.** That is correct, and I held many of the hearings.

**Mr. CURTIS.** What is difficult about that simple question? Did the committee take up this proposal of extending jurisdiction to used automobiles, notify the public, and have any testimony?

**Mr. MOSS.** No, nor we did not take up used vacuum cleaners, used hair dryers, or used anything else, because they were all consumer products covered by the bill.

**Mr. CURTIS.** Is the distinguished Senator going to offer an amendment relating to the used vacuum sweepers and the other items he has mentioned?

**Mr. MOSS.** No, I think they are covered. I think the bill would also have covered used automobiles, except for the fact that it added some guidelines which we think are acceptable, and therefore we are willing to take the amendment.

**Mr. CURTIS.** It might well be that we need some Federal legislation on used cars. I do not know. But here is one Senator who would prefer that the appropriate committee hold some hearings on the matter, and that notice be given that such a proposal is pending, so that the interested parties—consumers, dealers, mechanics, and all others—would know about it, and could come in with their recommendations and their ideas on the subject. I dislike this method of legislation.

I suppose some conversation has occurred between the distinguished chairman or the staff and some people who purport to represent used car dealers. But I do not think that a very high percentage of these car dealers are informed of what is going on. They may or may not support their national organization.

I feel that the Senator ought to, if he thinks strongly on this matter, take it back to his committee and hold some hearings, but not ask to extend this legislation dealing with consumer product warranties to used cars, a specific class of product, without some hearings.

Again, I repeat, it may well be true that we need some legislation. But I am not rising to propose legislation. I am rising to suggest before any committee comes in and asks for the enactment of something as broad as this, they owe it to the Senate to give notice of what they are doing, hold some hearings, and take the testimony of the most appropriate individuals who can be located.

**Mr. GRIFFIN.** Mr. President, will the Senator yield?

**Mr. MOSS.** I will be happy to respond to the Senator's statement.

**Mr. CURTIS.** I am happy to yield, if I have the floor.

**Mr. GRIFFIN.** To add to what the Senator from Nebraska has just said, and also the Senator from New Hampshire, both of whom have made some very valid points, at least as far as the legislative process is concerned, I think it is unfortunate that consumer groups and others besides used car dealers who might be affected and interested in this matter did not have an opportunity to come in and present testimony. I think it has already been expressed here by the Senator from New Hampshire and others that if there is any field where there probably is some need for legislation, it is in the sole of used cars.

How do we know that the amendment goes far enough, in terms of protecting the consumer, without any hearings and without any opportunity for those who are concerned about it to come in and testify specifically about standards that should relate to used cars? Because there is a different situation, I think, than that which applies to the new car dealer. I can see very easily that the new car dealers who will be covered by these warranties would not particularly be concerned, perhaps, if it extended in terms of their sales to used cars. But I think that when you have others involved who will not be covered by the warranties, and apply it to sales not originally contemplated, it would seem to me that it would have been useful and would have provided better protection to the consumer if we could have had hearings.

**Mr. CURTIS.** I thank the Senator for his concern.

I raise some further questions about lines 15 to 22 on page 33. The Senator from Utah says that extends the legislation to used products. I am not so sure that it does. Let us look at it:

> "Consumer" means the first buyer at retail of any consumer product; any person to whom such product is transferred for use for personal, family, or household purposes during the effective period of time of a written warranty or service contract which is applicable to such product; and any other person who is entitled by the terms of such written warranty or service contract or by operation of law to enforce the obligations of such warranty or service contract.

To me that means this: The consumer is the first buyer at retail of a product, which would imply a new product. If that product is transferred to another person during the period of its warranty, any other person as mentioned in line 2 stands in his shoes to enforce it, and I submit that if that gives jurisdiction to this act over the sale of used products generally, the language needs some correction, because to say the least it is very hazy, indefinite, and ambiguous.

I believe if we are going to have this measure cover the sale of used products, the language should specifically say so.

**Mr. MOSS.** Mr. President, if the Senator will yield, he is correct in pointing out that the consumer is defined as meaning the first buyer at retail of any consumer product. So we must go back to the definition of "consumer product," which is paragraph 2:

> "Consumer product" means any tangible personal property which is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property regardless of whether it is so attached or installed. Notwithstanding the foregoing, the provisions of sections 102 and 103 of this title affecting consumer products apply only to consumer products each of which actually costs the purchaser more than five dollars.

So a consumer product is not limited to a new product. It is any tangible personal property. What I perhaps did not make clear, in responding to the Senator from New Hampshire and others, is that we did discuss automobiles at great length, and we discussed used automobiles and new automobiles. There is no distinction intended.

**Mr. CURTIS.** But here the Senator comes with an amendment, rather lengthy in nature, specifically addressed to used automobiles, and according to his own statement, he gave no notice that that was going to be included, he conducted no hearings dealing specifically with used automobiles; neither the dealers, the mechanics, the public, nor anyone else appeared and testified on how to write a good law relating to used automobiles.

I feel that the committee has such an obligation, before they come in here and ask that it be passed. Again I repeat, I am not opposing the committee.

Mr. MOSS. If the Senator will yield——

Mr. CURTIS. It may be necessary, but we are entitled to hearings.

Mr. COTTON. Mr. President, will the Senator yield first to the Senator from Utah, and then to the Senator from New Hampshire?

Mr. MOSS. In the first place, I did not offer an amendment, because I believe that used cars are covered. Neither did the chairman bring the amendment. It was brought by the Senator from Indiana (Mr. HARTKE), who is not in the Chamber today.

Mr. CURTIS. Does the Senator advocate the amendment?

Mr. MOSS. I am willing to accept it, that is what I am saying, for the committee; and we have conferred with the staff. We think that it is in harmony with the general tenor of the bill.

Mr. CURTIS. I am sure the committee has a very good and dedicated staff, and I believe the Senator; but I also believe that a matter this involved, that people have to live under, should have notice that there are going to be hearings.

Mr. MOSS. In the first place, we did have extensive hearings over a period of 6 years in which automobile dealers of all kinds reported to us. Let me read the last paragraph——

Mr. CURTIS. I will ask the Senator again, did you have a single used car dealer there?

Mr. MOSS. Yes, we did.

Mr. CURTIS. Exclusively a used car dealer?

Mr. MOSS. We never had a distinction between used and new cars. We just talked about automobiles.

Mr. CURTIS. Who was the used car dealer?

Mr. MOSS. I do not know. I cannot give the Senator the name. I did not come prepared with that.

Mr. CURTIS. Are not the hearings indexed?

Mr. MOSS. Let me read the last paragraph of the statement prepared by the Senator from Indiana (Mr. HARTKE).

He says:

> Mr. President, I would also like to inform my colleagues that I have had extensive discussions over the past several months with representatives of the National Automobile Dealers Association and the National Independent Auto Dealers Association which is a group of used car dealers. While neither group has endorsed amendment No. 474, both support its objectives and realize the need for greater consumer protection in this area.

So the Senator from Indiana says he has been in contact for several months. I am sure that he has been working on his amendment for some time. But it was never felt by the committee that there needed to be this distinction. Now the Senator thinks it should. I think, because he has had some guidelines that are acceptable, I am willing to accept them. That is my position.

Mr. COTTON. Mr. President, will the Senator yield for a moment?

Mr. CURTIS. I yield the floor.

Mr. COTTON. I should like to speak to the Senator from Nebraska for one moment before he leaves on the matter which he has raised, concerning the interpretation of the words as regarding a "first buyer at retail" and the used product sale. I am not talking about automobiles now, but the general language questioned by the Senator from Nebraska.

Although I was not present at the subcommittee deliberations, I was present when it was discussed in the full committee.

It is my understanding—and the Senator from Utah will correct me if I am wrong—that this bill—forgetting about automobiles—was clearly stated to apply to the first purchase of a product. But, if a supplier desired to sell a used product with a written warranty, then he had to do so in compliance with the bill's provisions. But, it was designed for the first purchase. There is, however, provision if a supplier wants to offer a written warranty.

Mr. MOSS. The Senator is correct, yes.

Mr. CURTIS. The Senator is not talking about the Hartke amendment now?

Mr. COTTON. No.

Mr. CURTIS. What does the Hartke amendment do in that regard?

Mr. COTTON. Mr. President, as to the Hartke amendment, I do not know anything about what took place in the hearings. I do not know anything about what took place in the subcommittee. But, when the full committee considered this matter, I was present. So far as I can remember, not one word was said about used cars. The point was not even raised. Personally, I never considered that used cars were treated any different than any other article in this bill until I learned of this amendment.

My only objection now to the amendment is that I remember very well a used car dealer in my home city who gave a young man just back from Vietnam a job selling used cars. The dealer told him that he could tell every customer the law required that the odometer could not be tampered with, and was, so far as the dealer knew, absolutely accurate.

Now, if he is going to employ that young man to go out and sell used cars after adoption of this amendment, then he has got to be able to fill out all these disclosure requirements, such as the names of the garages available within a certain radius where the vehicle can be repaired, and so forth. He has to take care of all of those representations.

If he goes back to his boss, his boss will say, "Forget all that stuff. I cannot bother with it. Tell the customer the odometer is correct, and to take the car 'As Is.' We will only sell it to him 'As Is.' So fill in the forms that way."

To that extent, I insist, this amendment in its present form will cause less use of the warranties rather than more.

Mr. MOSS. I may suggest, this is an advantage, that if that dealer in that town wants to say, "I warrant all my cars and I will give a written warranty," he had better have it written out if he is going to give a written warranty. So, therefore, he says, "Young man, you can go out and say to all these people, 'If you buy a car from me, you will get a written warranty and it will protect you.'"

So he is using that as a sales technique and he is entitled to use it, provided he will stand behind the warranty. If he does not want to give a warranty he might say: "I have a good car that has not been abused. The speedometer is correct." If the person is persuaded and says he wants the car, he will get a written statement that says all repairs are the responsibility of the buyer. This is the distinction to make.

The thrust of the bill is to prevent the warranty process from being abused. Many dealers, sales people, and advertisers have held warranties out to consumers as something to protect him, when really, the warranty limits his rights and hurts him rather than helps him.

Mr. COTTON. Mr. President, I thank the Senator for his observations.

Let me add this brief word. In the first place, the distinguished Senator from Utah (Mr. MOSS) is completely sincere and wholly blameless in this matter. The amendment was handed to him by the Senator from Indiana to offer on his behalf, and he saw nothing objectionable to it.

Now, I have no wish to make a controversy of this matter and force it to a vote. A Senator might vote against the amendment because he did not like this way of legislating and thought the committee had not had sufficient opportunity to consider this particular amendment. But, in so casting his vote, he will be pointed to by anyone back home as voting against the consumer and voting in favor of other interested parties. I would not be a party to putting any Senator in this body in that situation.

I therefore am not going to oppose the amendment. I am for the bill. But, the next time we have an amendment of this kind dropped in our laps on the floor of the Senate without having been discussed, brought up, or considered in the committee, without hearings, I think I will be disposed, as I believe the Senator from Utah would be disposed, to oppose it. I think the Senator from Utah is not entirely happy about this method of arriving at this amendment.

Mr. MOSS. The Senator is correct. I appreciate his discussion of this point and his cooperation. He has been most fair in his discussion and has pointed out that this matter was not timely brought to attention, as I said. My only explanation has to be that I think it is compatible with the rest of the bill and does add some guidelines. That is the reason why I am willing to accept the amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. MAGNUSON. I merely want to say that I appreciate what the Senator from New Hampshire has said. I thought the Hartke amendment would be voted up or down. That is not unusual. Senators present amendments on almost every major bill on the floor of the Senate on which there have not been hearings or somebody has not spoken about them. We vote them up or down.

In this case, I think it is wise to do what we are doing here today; namely, accept the amendment. I believe it fits the objectives of the bill, which are mainly that if you are going to sell anything and you put a warranty on it, I do not care whether it is second-hand or new, it belongs there and you have to live up to it.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COTTON. I think the distinguished chairman agrees with us and agrees with me.

Mr. MAGNUSON. I do.

Mr. COTTON. I must leave at this time to attend a session of the Appropriations Committee. I just wanted to make sure the Senator did not say anything about me after I left. [Laughter.]

Mr. MAGNUSON. I merely wanted to compliment the members of the committee, who worked so long on this bill. It has been a long time objective of the committee, and I am glad we are getting it done now, in this session, in the hope that it will be enacted. I suspect that an amendment of this kind might occur in the Senate, anyway, if it were brought up and discussed.

Mr. MOSS. Mr. President, I move the adoption of the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MOSS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement by the distinguished Senator from Indiana, together with several insertions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement and insertions read as follows:

### STATEMENT OF SENATOR HART

Mr. HARTKE. Mr. President, as we become more aware of the need for legislation to protect the American consumer, we are finding ourselves inundated with worthy subjects for our attention. One particular subject, however, which has been a popular recepticle of public scorn for many years has been the used car business. There are hundreds of highly reputable used car dealers; unfortunately, they are far outnumbered by the disreputable ones. Tens of thousands of complaints are filed with Government agencies each year about the sale of used cars. Some pertain to odometer turnbacks; others pertain to failure on the part of the dealer to perform under the car warranty; still others pertain to mechanical defects which were not made known to the purchaser.

A year ago it came to my attention that cars sold at public auction in the District of Columbia were being taken to other States and resold at substantial profits. While news media reports indicated that most of these cars had been auctioned at $50 each, they were being resold for as much as $500. Unfortunately, no major repairs were performed on these cars and at least six were subsequently rendered inoperative within a month of their resale.

While many dealers purchase cars cheaply and then make several hundred dollars worth of repairs, the dealers in the case of the six cars in question apparently made no such permanent repairs. They merely rendered the cars operative so that, to an untrained purchaser, they appeared to be in good condition. This is a familiar practice of unscrupulous dealers who then sell the car "as is", without a warranty, and then claim no responsibility for the car's defects.

Upon learning of these deceptive practices, I surveyed consumer protection officials in all fifty States and the Commonwealth of Puerto Rico. The responses which I received from officials in forty-one States, including Puerto Rico, read as follows:

TABULATION OF RESPONSES TO STATE OFFICES OF ATTORNEYS GENERAL AND LOCAL CONSUMER PROTECTION OFFICIALS

| | Yes | No | Don't know or no answer |
|---|---|---|---|
| 1. Has your State monitored the relat'onship between used cars and automobile accidents? | 3 | 34 | 4 |
| 2. Does your State have any laws regulating the sale of used cars? | 23 | 15 | 3 |
| 3. Are you aware of any municipalities in your State which make a practice of selling abandoned cars at auctions? | 26 | 8 | 7 |
| If so, is any effor made to monitor the subsequent use of cars sold at such auctions? | | 18 | 23 |
| 4. Are you aware of any significant number of complaints involving used cars? | 35 | 2 | 4 |

I believe that there is a relationship between the age of a vehicle and vehicle accidents. There is no current uniform set of standards for motor vehicles in use. Some states included in my survey had no vehicle inspection program whatsoever. Among the others which did, not all required that the inspection be performed prior to the sale of the used vehicle.

Two deficiencies result from this state of affairs. First, the highways of this nation are populated with unsafe vehicles. A study performed in 1968 by Operations Research Inc., under contract for the National Highway Safety Bureau, indicated that all vehicles degrade with use and, therefore, ultimately operate with safety-related defects on public highways. The same study found that an estimated forty percent of the almost 100 million vehicles then on the road had at least one safety defect.

The second deficiency is that used car purchasers are buying cars which contain safety defects of which they are unaware. In states with no inspection program, they may not become aware of the defect until an accident occurs. In states with inspection programs which do not require an inspection prior to the sale of the car, the purchaser must pay the cost of repairing a defect of which he was unaware.

My survey of consumer protection officials—exhibit A—indicates that few states have monitored the relationship between the age of vehicles in use and automobile accidents. It also indicates that nearly thirty-seven percent of the respondents to my questionnaire indicated that their state had no special laws to deal with the sale of used cars. Those which did often limited their attention to the licensing of used car dealers or prohibition against the turnback of odometers. The result is that consumers have limited recourse against the deceptive practices of used car dealers.

The depth of this problem is indicated in a second survey which I undertook late last year. A questionnaire was sent to approximately 300 lawyers who work with indigent clients. The poor are often the ones most victimized by unscrupulous consumer practices. One need only look at the geographic placement of used car lots to know that this group of people is looked upon as a prime market for used cars. As of this date, 100 responses to my questionnaire have been received.

The following is the tabulation of these responses.

TABULATION OF RESPONSES TO USED CAR QUESTIONNAIRE

Total number of questionnaires tabulated, 100.

Total number of questionnaires mailed, 300.

Responses Expressed as Percent:

*Question 1a.* Does the average consumer receive a warranty with the purchase of his used car?

Yes, 27.
No, 45.
Sold as is (1), 28.

*Question 1b.* If so, what type of warranty?

Less than 30 days, 3.
30 days, 62.
30–90 days, 19.
More than 90 days, 0.
Don't know, 16.
What is its scope?
Parts & Labor, 3.
Parts only, 15.
Partial parts, 3.
Labor only, 3.
Partial labor, 3.
Part parts & all labor, 3.
Part labor & all parts, 3.
Part parts & part labor, 55.
Don't know, 9.

*Question 2.* In your opinion, what is the practical value of used car warranties currently in use?

None, 42.
Little, 41.
Some, 4.
Much, 0.
No answer or don't know, 13.

*Question 3.* Are buyers informed of any repairs made by the dealer prior to the sale of the used car?

Never, 61.
Rarely, 28.
Usually, 2.
Always, 0.
Don't know, 9.

*Question 4.* If the used car is covered by a warranty, is the buyer informed of where the necessary repairs may be during the warranty period?

Yes, 44.
Yes, but only with difficulty, 5.
No, 34.
No answer or don't know, 17.

*Question 5a.* Under a normal warranty, is it possible for a buyer to return a purchased vehicle and receive a full refund if not satisfied with the vehicle?

Yes, 2.
No, 77.
Only with Lawyer's assistance, 14.
No answer or don't know, 7.

*Question 5b.* Is recission of contract possible?

Yes, 3.
No, 54.
Only with a lawyer's assistance, 36.
No answer or don't know, 7.

*Question 6.* How frequently do you handle complaints involving odometer turnbacks?

None, 39.
Some, 52.
Many, 5.
No answer, 4.

*Question 7a.* Is the buyer usually informed whether a car offered for sale by a used car dealer has been involved in an accident?

Yes, 0.
No, 90.
Don't know, 10.

*Question 7b.* To what extent do consumer complaints involve the failure to inform the buyer of this information?

None, 20.
Some, 35.
Many, 13.
Don't know, 32.

*Question 8a.* How extensive is the problem of double financing?

Not prevalent, 12.
Somewhat prevalent, 20.
Very prevalent, 56.
Don't know, 12.

*Question 8b.* Are buyers informed of the fact that dealers may sell their note to a bank or other institution when credit is extended to the buyer by the dealer and that the buyer may not have any legal recourse against the dealer?

Yes, 4.
Not always, 7.
Never, 56.
Told only in the written contract, 13.
Don't know or no answer, 20.

*Question 9a.* Does State law require used cars to pass an established inspection procedure prior to its sale by a dealer?

Yes, 24.
No, 70.
Don't know, 6.

*Question 9b.* If not, is it customary for the used car dealer to pay for any repairs necessary to pass inspection if there is a post-sale inspection program?

Yes, 0.
Sometimes, 10.
No, 36.
No answer or don't know, 54.

*Question 10a.* Are you aware of any cities in your area that engage in the practice of selling abandoned cars at auctions?

Yes, 36.
No, 64.

*Question 10b.* If so, is any attempt made to monitor the subsequent use of cars sold at such auctions?

Yes, 1.
No, 29.
No answer or don't know, 70.

(1) "As Is" vehicles are those vehicles sold without warranty in purchases where the purchaser specifically acknowledges that he buys the car without a warranty.

I contacted the officials of Fairfax County, Virginia, when I noticed that that county had conducted a public auction of vehicles last year. My purpose was to determine if any effort was made to follow up on the use to which these vehicles were put following their sale at the auction. Although the county made no such followup effort, they did provide me with the names of the purchasers of the vehicles sold at that auction.

I subsequently made my own followup effort by contacting each of the purchasers by letter. Each was asked to answer five basic questions about the vehicle he purchased. Although there were approximately 125 cars involved in the auction, many purchasers bought more than one car. Nevertheless, I received only eight responses to my questionnaire. Despite the lack of statistical significance to this survey, I believe that it is important because, to my knowledge, it represents the first effort in the Nation to follow up on the uses to which vehicles are put after they are sold at public auction.

The questionnaire reads as follows:

### SURVEY OF POST-AUCTION SALE USE OF USED VEHICLES SOLD IN FAIRFAX COUNTY—JUNE 6, 1972

1. Was the vehicle purchased at the June 6th auction retained for personal use or resold?

| | |
|---|---|
| Personal use | 5 |
| Resold | 3 |

2. If the vehicle was retained for personal use, was the vehicle stripped for parts or left intact and used for transportation?

| | |
|---|---|
| Parts | 0 |
| Transportation | 5 |

3. If the vehicle was retained for personal use, were any repairs made on the car?

| | |
|---|---|
| Yes | 4 |
| No | 1 |

4. If the vehicle was resold, was it stripped and sold as parts?

| | |
|---|---|
| Yes | 1 |
| No | 2 |

5. If the vehicle was resold, was it sold to be used as transportation?

| | |
|---|---|
| Yes | 1 |
| No | 1 |
| No answer | 1 |

The used car amendment which I offer today is designed to recitfy many of the problems uncovered in my year-long investigation specifically, it would do the following:

### WARRANTY REQUIREMENTS

The amendment requires that all used cars be sold with a written warranty unless the contract or sale for the vehicle contains the following notice in conspicuous type: "All repairs are the responsibility of the buyer." The dealer must orally bring this same notice to the attention of the buyer.

In short, used cars can continue to be sold without any written warranty, but the dealer must make it clear to the buyer that there is no written warranty. This provision of the amendment eliminates one of the most frequent causes for consumer complaint pertaining to used cars.

Written warranties must meet the requirements of section 103 of S. 356. If the dealer gives a full warranty, then that warranty must cover any malfunctioning or defective part within a reasonable time and at no charge. Most used car warranties, however, limit the liability of the warrantor and require the purchaser to pay a portion of the cost. S. 356 requires all such warranties to be conspicuously designated.

### DISCLOSURE OF INFORMATION

Dealers who sell used cars must furnish the purchaser with a written statement containing the following information:

1. A complete description of the used car, including:

A. The make, model, year of manufacture, and any identification or serial numbers of the vehicle;

B. A statement of any mechanical defects known to the dealer on the basis of his examination and evaluation of the vehicle prior to his acquisition of the car or which otherwise becomes known to him while the car is in his possession. (The purpose of this amendment is to require the dealer to disclose to the purchaser what he knows about the vehicle. What it says is, in the course of his evaluation of the car prior to the time he acquires it, or during any work which he does on the car after he acquires it, if he discovers any defect in the car—as that term is defined in my amendment—he must disclose it to the purchaser. Mechanical defect includes any damage, malfunction, or failure, in whole or in part, which affects the safety or normal use of the car. If the dealer knows the car has defective brakes, he must tell the purchaser before the contract of sale is signed.)

C. A statement of any repairs made by or under the direction of the dealer after he acquired the car.

D. A statement of the written warranty coverage of the used motor vehicle. If there is no written warranty, then the words "as is—all repairs are the responsibility of the buyer" are entered in the appropriate space on the statement.

E. If the vehicle is sold with a written warranty, the name, address and telephone number of each facility within a radius of 50 miles of the place of business of such dealer where the car can be brought to have repairs performed.

F. If the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

2. If the vehicle is sold with a written warranty, the dealer is required to warrant that the vehicle can pass any applicable State inspection. Only 13 States now have inspection programs, but other States require an inspection at the time title to a car is transferred. Many used car purchasers complain that they cannot get their cars past inspection. This provision of my amendment means that, if the car does not pass inspection, the dealer must make any repairs necessary to assure that it will pass inspection.

3. The amendment also establishes a procedure whereby a bona fide potential purchaser of a used car can get the name of the previous registered owner of that vehicle. I believe that such information can often be useful, but I am also sensitive to dangers posed by this invasion of privacy of the previous registered owner. For that reason, I have restricted access to such information only to those persons who are bona fide potential purchasers—a person with a serious interest in the vehicle. The amendment also includes a provision which enables the previous owner to request that his name be withheld from a subsequent purchaser.

This amendment is needed now. It fits hand in glove with S. 356. Its provisions are nothing new to reputable used car dealers—they already meet the requirements of the amendment. It is the dishonest and disreputable car dealer who will be forced to change his practices. That is what my amendment accomplishes, and I urge my colleagues to give it their full support.

I would also like to inform my colleagues that I have extensive discussions over the past several months with representatives of the National Automobile Dealers Association and the National Independent Auto Dealers Association which is a group of used car dealers. While neither group has endorsed amendment #474, both support its objectives and realize the need for greater consumer protection in this area.

**Mr. COOK.** Mr. President, as a member of the Senate Commerce Committee which reported out S. 356, I believe it is an excellent bill and one which I think will probably accomplish as much for consumers as any action the Senate can take this year. Comments from manufacturers, suppliers, consumer groups, and advertisers were elicited by the committee, and subsequently compiled, synthesized, and debated with many of the suggestions finding their incorporation in the bill.

I am pleased that this version of the warranty bill is absent several provisions which I strongly objected to last year. Basic objection was the rulemaking power of the FTC, which has now been resolved by court decision, and that I can support and embrace its principal objectives which will protect the American consumer both collectively and individually.

**Mr. DOLE.** Mr. President, the legislation before us this afternoon, S. 356, the Warranty-Federal Trade Commission Improvement Act, adds the necessary fine tuning to the body of Federal law which is needed for effective consumer protection in the 20th century.

The need for this legislation is pressing, as it has been over the past 6 years, since the Senate first considered the legislation. The need for economic methods of adjudication for the consumer is still wanting. The warranty provision of S. 356 is designed to meet four basic needs: the need for consumer understanding, the need for minimum warranty protection for consumers, the need for assurance of warranty performance, and the need for better product reliability.

### CONSUMER UNDERSTANDING

Frequently, suppliers of consumer products fail to communicate to consumers what in fact they have offered in their warranty. There is a great need to supply consumers with a clear and honest disclosing of the terms and conditions of the warranty, along with what to do if the product becomes defective.

### BASIC PROTECTIONS

Unfortunately, purchasers of consumers products do not always know the meaning of words in an express warranty which state limits on the warranty on its merchantability of fitness. There is a great need in this area for consumers to know what basic protections are provided and that it is not taken away in the fine print or in words which are not understood.

### ENFORCEMENT

There is a need to insure warrantor performance by monitarily penalizing the warrantor for nonperformance. One way made available by this new legislation would be to allow reasonable attorneys' fees and court costs to successful consumer litigants. This may also develop informal dispute settlement procedures for the settlement of consumer complaints.

### RELIABLE PRODUCTS

Under present marketing conditions, the consumer has little information about product reliability. It is hoped that the ability to differentiate should produce economic rewards for increased sales and reduced service costs for the producer of more reliable products.

The PRESIDING OFFICER. The question is on agreeing to the Commerce Committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

## S. 356

An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Magnuson-Moss Warranty-Federal Trade Commission Improvement Act".

## TITLE I—CONSUMER PRODUCT WARRANTIES

### DEFINITIONS

SEC. 101. As used in this title—

(1) "Commission" means the Federal Trade Commission.

(2) "Consumer product" means any tangible personal property which is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property regardless of whether it is so attached or installed. Notwithstanding the foregoing, the provisions of sections 102 and 103 of this title affecting consumer products apply only to consumer products each of which actually costs the purchaser more than five dollars.

(3) "Consumer" means the first buyer at retail of any consumer product; any person to whom such product is transferred for use for personal, family, or household purposes during the effective period of time of a written warranty or service contract which is applicable to such product; and any other person who is entitled by the terms of such written warranty or service contract or by operation of law to enforce the obligations of such warranty or service contract.

(4) "Reasonable and necessary maintenance" consists of those operations which the purchaser reasonably can be expected to perform or have performed to keep a consumer product operating in a predetermined manner and performing its intended function.

(5) "Repair" may, at the option of the warrantor include replacement with a new, identical or equivalent consumer product or component(s) thereof.

(6) "Replacement" or "to replace", as used in section 104 of this title, means in addition to the furnishing of a new, identical or equivalent consumer product (or component(s) thereof), the refunding of the actual purchase price of the consumer product—

(1) if repair is not commercial practicable; or

(2) if the purchaser is willing to accept such refund in lieu of repair or replacement. If there is replacement of a consumer product, the replaced consumer product (free and clear of all liens and encumbrances) shall be made available to the supplier.

(7) "Supplier" means any person (including any partnership, corporation, or association) engaged in the business of making a consumer product or service contract available to consumers, either directly or indirectly. Occasional sales of consumer products by persons not regularly engaged in the business of making such products available to consumers shall not make such persons "suppliers" within the meaning of this title.

(8) "Warrantor" means any supplier or other party who gives a warranty in writing.

(g) "Warranty" includes guaranty; to "warrant" means to guarantee.

(10) "Warranty in writing" or "written warranty" means a warranty in writing against defect or malfunction of a consumer product.

(A) "Full warranty" means a written warranty which incorporates the uniform Federal standards for warranty set forth in section 104 of this title.

(B) "Limited warranty" means written warranty subject to the provisions of this title which does not incorporate at a minimum the uniform Federal standard for warranty set forth in section 104 of this title.

(11) A "warranty in writing against defect or malfunction of a consumer product" means:

(A) any written affirmation of fact or written promise made at the time of sale by a supplier to a purchaser which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing to refund, repair, replace, or take other remedial action with respect to the sale of a consumer product if such product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between the supplier and the purchaser.

(12) "Without charge" means that the warrantor(s) cannot assess the purchaser for any costs the warrantor or his representatives incur in connection with the required repair or replacement of a consumer product warranted in writing. The term does not mean that the warrantor must necessarily compensate the purchaser for incidental expenses. However, if any incidental expenses are incurred because the repair or replacement is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the purchaser as a condition of securing repair or replacement, then the purchaser shall be entitled to recover such reasonable incidental expenses in any action against the warrantor for breach of warranty under section 110(b) of this title.

### DISCLOSURE REQUIREMENTS

SEC. 102. (a) In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, the Commission is authorized to issue rules, in accordance with section 109 of this title, which may—

(1) prescribe the manner and form in which information with respect to any written warranty shall be clearly and conspicuously presented or displayed when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing; and

(2) require the inclusion in any written warranty, in simple and readily understood language, fully and conspicuously disclosed, items of information which may include, among others:

(A) clear identification of the name and address of the warrantor;

(B) identity of the class or classes of persons to whom the warranty is extended;

(C) the products or parts covered;

(D) a statement of what the warrantor will do in the event of a defect or malfunction—at whose expense—and for what period of time;

(E) a statement of what the purchaser must do and what expenses he must bear;

(F) exceptions and exclusions from the terms of the warranty;

(G) the step-by-step procedure which the purchaser should take in order to obtain performance of any obligation under the warranty, including the identification of any class of persons authorized to perform the obligations set forth in the warranty;

(H) on what days and during what hours the warrantor will perform his obligations;

(I) the period of time within which, after notice of malfunction or defect, the warrantor will under normal circumstances repair, replace, or otherwise perform any obligations under the warranty;

(J) the availability of any informal dispute settlement procedure offered by the warrantor and a recital that the purchaser must resort to such procedure before pursuing any legal remedies in the courts; and

(K) a recital that any purchaser who successfully pursues his legal remedies in court may recover the reasonable costs incurred, included reasonable attorneys' fees.

(b) Nothing in this title shall be deemed to authorize the Commission to prescribe the duration of warranties given or to require that a product or any of its components be warranted, except that the Commission may prescribe rules pursuant to section 553 of title 5, United States Code, that the term of a warranty or service contract shall be extended to correspond with any period in excess of a reasonable period (not less than ten days) during which the purchaser is deprived of the use of a product by reason of a defect or malfunction. Except as provided in section 104 of this title, nothing in this title shall be deemed to authorize the Commission to prescribe the scope or substance of written warranties.

(c) No warrantor of a consumer product may condition his warranty of such product on the consumer's using, in connection with such product, any article or service which is directly or indirectly identified by brand, trade, or corporate name; except that the prohibition of this subsection may be waived by the Commission if it finds that the imposition of such a condition is reasonable and in the public interest.

### DESIGNATION OF WARRANTIES

SEC. 103. (a) Any supplier warranting in writing a consumer product shall clearly and conspicuously designate such warranty as provided herein unless exempted from doing so by the Commission pursuant to section 109 of this title:

(1) If the written warranty incorporates the uniform Federal standards for warranty set forth in section 104 of this title, and does not limit the liability of the warrantor for consequential damages, then it shall be conspicuously designated as "full (statement of duration)" warranty, guaranty, or word of similar meaning. If the written warranty incorporates the uniform Federal standards for written warranty set forth in section 104 of this title and limits or excludes the liability of the warrantor for consequential damages as permitted by applicable State law, then it shall be conspicuously designated as "full (statement of duration)" warranty, guaranty, or word of similar import. "(Liability for consequential damages limited; remedy limited to free repair or replacement within a reasonable time, without charge)", or as otherwise prescribed by the Commission pursuant to section 109 of this Act.

(2) If the written warranty does not incorporate the Federal standards for warranty set forth in section 104 of this title, then it shall be designated in such manner so as to indicate clearly and conspicuously the limited scope of the coverage afforded.

(b) Written statements or representations, such as expressions of general policy concerning customer satisfaction which are not subject to any specific limitations shall not be deemed to be warranties in writing for purposes of sections 102, 103, and 104 of this title but shall remain subject to the provisions of the Federal Trade Commission Act and section 110 of this title.

### UNIFORM FEDERAL STANDARDS FOR WRITTEN WARRANTY

SEC. 104. (a) Any supplier warranting in writing a consumer product must undertake at a minimum the following duties in order to be deemed to have incorporated the uniform Federal standards for written warranty—

(1) to repair or replace any malfunctioning or defective consumer product covered by such warranty;

(2) within a reasonable time; and

(3) without charge.

In fulfilling the above duties, the warrantor shall not impose any duty upon a purchaser as a condition of securing such repair or replacement other than notification unless the warrantor can demonstrate that such a duty is reasonable. In a determination by the Commission or a court of whether or not any such additional duty or duties are reasonable, the magnitude of the economic burden necessarily imposed upon the warrantor (including costs passed on to the purchaser) shall be weighed against the magnitude of the burdens of inconvenience and expense necessarily imposed upon the purchaser.

(b) If repair is necessitated an unreasonable number of times during the warranty period the purchaser shall have the right to demand and receive replacement of the consumer product.

(c) The above duties extend from the warrantor to the consumer.

(d) The performance of the duties enumerated in subsection (a) of this section shall not be required of the warrantor if he can show that damage while in the possession of the purchaser or unreasonable use (including failure to provide reasonable and necessary maintenance) caused any warranted consumer product to malfunction or become defective.

### FULL AND LIMITED WARRANTIES OF A CONSUMER PRODUCT

SEC. 105. Nothing in this title shall prohibit the selling of a consumer product which has both full, full (with limitation of liability for consequential damages) and limited warranties if such warranties are clearly and conspicuously differentiated.

### SERVICE CONTRACTS

SEC. 106. Nothing in this title shall be construed to prevent a supplier from selling a service contract to the purchaser in addition to or in lieu of a warranty in writing if the terms and conditions of such contract are fully and conspicuously disclosed in simple and readily understood language. The Commission is authorized to determine, in accordance with section 109 of this title, the manner and form in which the terms and conditions of service contracts shall be clearly and conspicuously disclosed.

### DESIGNATION OF REPRESENTATIVES

SEC. 107. Nothing in this title shall be construed to prevent any warrantor from making any reasonable and equitable arrangements for representatives to perform duties under a written warranty except that no such arrangements shall relieve the warrantor of his direct responsibilities to the purchaser nor necessarily make the representative a cowarrantor.

### LIMITATION ON DISCLAIMER OF IMPLIED WARRANTIES

SEC. 108. (a) There shall be no express disclaimer of implied warranties to a purchaser if any written warranty or service contract in writing is made by a supplier to a purchaser with regard to a consumer product.

(b) For purposes of this title, implied warranties may not be limited as to duration expressly or impliedly through a designated warranty in writing or other express warranty.

### FEDERAL TRADE COMMISSION

SEC. 109. The Commission is authorized to establish rules pursuant to section 553 of title 5, United States Code, upon a public record after an opportunity for an agency hearing structured so as to proceed as expeditiously as practicable to—

(a) prescribe the manner and form in which information with respect to any written warranty shall be disclosed and the items of information to be included in any written warranty as provided in section 102 of this title;

(b) prescribe the manner and form in which terms and conditions of service contracts shall be disclosed as provided in section 106 of this title;

(c) determine when a warranty in writing does not have to be designated in accordance with section 103 of this title;

(d) define in detail the disclosure requirements in paragraph (2) of subsection (a) of section 103 of this title; and

(e) define in detail the duties set forth in subsections (a), (b), and (c) of section 104 of this title and their applicability to warrantors of different categories of consumer products with "full" warranties.

### PRIVATE REMEDIES

SEC. 110. (a) Congress hereby declares it to be its policy to encourage suppliers to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms. Such informal dispute settlement procedures should be created by suppliers in cooperation with independent and governmental entities pursuant to guidelines established by the Commission. If a supplier incorporates any such informal dispute settlement procedure in any written warranty or service contract, such procedure shall initially be used by any consumer to resolve any complaint arising under such warranty or service contract. The bona fide operation of any such dispute settlement procedure shall be subject to review by the Commission on its own initiative or upon a written complaint filed by any injured party.

(b) Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under a written warranty or service contract in writing subject to this title may bring suit for breach of such warranty or service contract in an appropriate district court of the United States subject to the jurisdictional requirements of section 1331 of title 28, United States Code. Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this title may bring suit in any State or District of Columbia court of competent jurisdiction. Prior to commencing any legal proceeding for breach of warranty or service contract under this section, a purchaser must have afforded the supplier a reasonable opportunity to cure the alleged breach and must have used the informal dispute settlement mechanisms, if any, established under subsection (a) of this section. Nothing in this subsection shall be construed to change in any way the jurisdictional or venue requirements of any State.

(c) Any purchaser who shall finally prevail in any suit or proceeding for breach of an express or implied warranty or service contract brought under section (b) of this section shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by such purchaser for or in connection with the institution and prosecution of such suit or proceeding unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(d)(1) For the purposes of this section, an "express warranty" is created as follows:

(A) Any affirmation of fact or promise made by a supplier to the purchaser which relates to a consumer product or service and becomes part of the basis of the bargain creates an express warranty that the consumer product or service shall conform to the affirmation or promise.

(B) Any description of a consumer product which is made part of the bargain creates an express warranty that the consumer product shall conform to the description.

(C) Any sample or model which is made part of the basis of the bargain creates an express warranty that the consumer product shall conform to the sample or model.

It is not necessary to the creation of an express warranty that the supplier use formal words such as "warranty" or "guaranty" or that he have a specific intention to make a warranty. An affirmation merely of the value of the consumer product or service or a statement purporting to be merely the supplier's opinion or commendation of the consumer product or service does not by itself create a warranty.

(2) Only the supplier actually making an affirmation of fact or promise, a description, or providing a sample or model shall be deemed to have created an express warranty under this section and any rights arising thereunder may only be enforced against such supplier and no other supplier.

### GOVERNMENT ENFORCEMENT

SEC. 111. (a) It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person (including any partnership, corporation, or association) subject to the provisions of this title to fail to comply with any requirement imposed on such person by or pursuant to this title or to violate any prohibition contained in this title.

(b)(1) The district courts of the United States shall have jurisdiction to restrain violations of this title in an action by the Attorney General or by the Commission by any of its attorneys designated by it for such purpose. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction shall be granted without bond: *Provided, however,* That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the interests of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2)(A) Whenever the Attorney General has reason to believe that any person under investigation may be in possession, custody, or control of any documentary material, relevant to any violation of this title, he may, prior to the institution of a proceeding under this section cause to be served upon such person, a civil investigative demand requiring such person to produce the documentary material for examination.

(B) Each such demand shall—

(i) state the nature of the conduct alleged to constitute the violation of this title which is under investigation;

(ii) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(iii) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(iv) identify the custodian to whom such material shall be furnished.

(C) No demand shall—

(i) contain any requirement which would be held to be unreasonable if contained in a subpena *duces tecum* issued by a court of the United States in a proceeding brought under this section; or

(ii) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpena *duces tecum* issued by a court of the United States in any proceeding under this section.

(D) Any such demand may be served at any place within the territorial jurisdiction of any court of the United States.

(E) Service of any such demand or of any petition filed under subparagraph (G) of this subsection may be made upon any person, partnership, corporation, association, or other legal entity by—

(i) delivering a duly executed copy thereof to such person or to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, partnership, corporation, association, or entity;

(ii) delivering a duly executed copy thereof to the principal office or place of business of the person, partnership, corporation, association, or entity to be served; or

(iii) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person, partnership, corporation, association, or entity at its principal office or place of business.

(F) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(G) The provisions of sections 4 and 5 of the Antitrust Civil Process Act (15 U.S.C. 1313, 1314) shall apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section: *Provided, however,* That documents and other information obtained pursuant to any civil investigative demand issued hereunder and in the possession of the Department of Justice may be made available to duly authorized representatives of the Commission for the purpose of investigations and proceedings under this title and under the Federal Trade Commission Act subject to the limitations upon use and disclosure contained in section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313).

### SAVING PROVISION

SEC. 112. Nothing contained in this title shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined as an Antitrust Act.

### SCOPE

SEC. 113. (a) The provisions of this title and the powers granted hereunder to the Commission and the Attorney General shall extend to all sales of consumer products and service contracts affecting interstate commerce: *Provided, however,* That such provisions and powers shall not be exercised in such a manner as to interfere with warranties applicable to consumer products, or components thereof, created and governed by other Federal law.

(b) Labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, not identical to those set forth in section 102, 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the procedures set forth in section 109 of this title, or with guidelines of the Commission, shall not be applicable to warranties complying therewith. However, if, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with the Federal Trade Commission Act, as amended) that any requirement of such State (other than a labeling or disclosure requirement) covering any transaction to which this title applies—

(1) affords protection to consumers greater than the requirements of this title; and

(2) does not unduly burden interstate commerce, then transactions complying with any such State requirement shall be exempt from the provisions of this title to the extent specified in such determination for so long as such State continues to administer and enforce effectively any such greater requirement.

(c) Nothing in this title shall be construed to supersede any provision of State law regarding damages for injury to the person or any State law restricting the ability of a warrantor to limit his liability for consequential damages.

### EFFECTIVE DATE

SEC. 114. (a) Except for the limitations in subsection (b) of this section, this title shall take effect six months after the date of its enactment but shall not apply to consumer products manufactured prior to such effective date.

(b) Those requirements in this title which cannot be reasonably met without the promulgation of rules by the Commission shall take effect six months after the final publication of such rules which shall be published (subject to future amendment or revocation) as soon as possible but no later than one year after the date of enactment of this Act: *Provided,* That the Commission, for good cause shown, may provide designated classes of suppliers up to six months additional time to bring their written warranties into compliance with rules promulgated under this title.

(c) The Commission shall promulgate initial rules for initial implementation of this title, including guidelines for the establishment of informal dispute settlement procedures pursuant to section 110(a) of this title, as soon as possible after enactment but in no event later than one year after the date of enactment of this Act.

## TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS

SEC. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce".

SEC. 202. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (6) as amended by section 212 of this title the following new paragraph:

"(7) The Commission may initiate civil actions in the district courts of the United States against persons, partnerships, or corporations engaged in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive and is prohibited by subsection (a)(1) of this section, to obtain a civil penalty of not more than $10,000 for each such violation. The Commission may comprise, mitigate, or settle any action for a civil penalty if such settlement is accompanied by a public statement of its reasons and is approved by the court."

SEC. 203. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (7) as added by section 202 of this title the following new paragraph:

"(8) After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this Act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purpose, may institute civil actions in the district courts of the United States to obtain such relief as the court shall find necessary to redress injury to consumers caused by the specific acts or practices which were the subject of the proceeding pursuant to subsection (b) of this section and the resulting cease-and-desist order, including, but not limited to, rescission or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages, except that nothing in this section is intended to authorize the imposition of any exemplary or punitive damages. The court shall cause notice to be given reasonably calculated, under all of the circumstances, to apprise all consumers allegedly injured by the defendant's acts of the pendency of such action. No action may be brought by the Commission under this subsection more than two years after an order of the Commission upon which such action is based has become final. Any action initiated by the Commission under this subsection may be consolidated as the court deems appropriate with any other action requesting the same or substantially the same relief upon motion of a party to any such action."

Sec. 204. Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 45(l)) is amended by striking subsection (l) and inserting in lieu thereof the following new paragraph:

"(l) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Attorney General of the United States or by the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

Sec. 205. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(m) Whenever in any civil proceeding involving this Act the Commission is authorized or required to appear in a court of the United States, or to be represented therein by the Attorney General of the United States, the Commission may elect to appear in its own name by any of its attorneys designated by it for such purpose."

Sec. 206. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or whose business affects commerce".

Sec. 207. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(a) deleting the word "corporation" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof the word "party";

(b) inserting after the word "Commission" in the second sentence of the second unnumbered paragraph the phrase "acting through any of its attorneys designated by it for such purpose", and

(c) deleting the fourth unnumbered paragraph and inserting in lieu thereof the following:

"Upon the application of the Attorney General of the United States or of the Commission, acting through any of its attorneys designated by it for such purpose, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the Commission issued under this Act."

Sec. 208. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by deleting the third unnumbered paragraph and inserting in lieu thereof the following:

"If any corporation required by this Act to file any annual or special report shall fail to do so within the time fixed by the Commission for filing such report, then, if such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure. Such forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought by the Attorney General or by the Commission, acting through any of its attorneys designated by it for such purpose, in the district where the corporation has its principal office or in any district in which it does business."

Sec. 209. Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or having an effect upon commerce".

Sec. 210. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer, and is prohibited by section 5, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final within the meaning of section 5, would be in the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing that such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond: *Provided, however,* That if a complaint under section 5 is not filed within such period as may be specified by the court after issuance of the temporary restraining order or preliminary injunction, the order or injunction may be dissolved by the court and be of no further force and effect: *Provided further,* That in proper cases the Commission may seek, and, after proper proof, the court may issue a permanent injunction. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

Sec. 211. Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended to read as follows:

"Sec. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (l) of section 5 of this Act, it shall—

"(a) certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection; or

"(b) itself cause such appropriate proceedings to be brought."

## TITLE III—FINANCIAL INSTITUTIONS

Sec. 301. (a) In order to prevent unfair or deceptive acts or practices affecting commerce (including acts or practices which are unfair or deceptive to a consumer) by financial institutions, each Federal regulatory agency of financial institutions shall establish a separate division of consumer affairs which shall receive and take appropriate action upon complaints with respect to such acts or practices by financial institutions subject to its jurisdiction. The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section, including regulations defining with specificity such unfair or deceptive acts or practices. In carrying out its responsibilities under this section, the Board shall issue substantially similar regulations proscribing acts or practices of financial institutions which are substantially similar to those proscribed by rules or regulations of the Commission within sixty days of the effective date of such Commission rules or regulations unless the Board finds that such acts or practices of financial institutions are not unfair or deceptive to consumers or it finds that implementation of similar regulations with respect to financial institutions would seriously conflict with essential monetary and payments systems policies of the Board, and publishes any such finding, and the reasons therefor, in the Federal Register.

(b) Compliance with the requirements imposed under this section shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks and banks operating under the code of law for the District of Columbia, by the division of consumer affairs established by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than banks referred to in clause (A)), by the division of consumer affairs established by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than banks referred to in clause (A) or (B)) and mutual savings banks, as defined in the Federal Deposit Insurance Act, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the division of consumer affairs established by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the division of consumer affairs established by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this section shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this section, any other authority conferred on it by law.

(d) The authority of the Board of Governors of the Federal Reserve System to issue regulations under this section does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this section.

(e) Each agency exercising authority under this section shall transmit to the Congress not later than March 15 of each year a detailed report on its activities under this section during the preceding calendar year.

(f) As used in this section—

(1) the term "financial institution" means—

(A) any bank the deposits of which are insured by the Federal Deposit Insurance Corporation and any mutual savings bank, as defined in the Federal Deposit Insurance Act;

(B) any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

(C) any thrift or home financing institution which is a member of a Federal home loan bank; and

(D) any credit union the accounts of which are insured by the Administrator of the National Credit Union Administration; and

(2) the term "Federal regulatory agency of financial institutions" means—

(A) the Comptroller of the Currency, if the institution is a national bank or a bank operating under the Code of Law of the District of Columbia;

(B) the Board of Governors of the Federal Reserve System, if the institution is a member of the Federal Reserve System (other than a bank referred to in clause (A));

(C) the Board of Directors of the Federal Deposit Insurance Corporation, if the institution is a bank the deposits of which are insured by such corporation (other than a bank referred to in clause (A) or (B)) or a mutual savings bank, as defined in the Federal Deposit Insurance Act;

(D) the Federal Home Loan Bank Board, if the institution is a member of a Federal home loan bank or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; and

(E) the Administrator of the National Credit Union Administration, if the institution is a credit union the accounts of which are insured by the Administrator.

### TITLE IV—USED CAR WARRANTIES

#### DEFINITIONS

SEC. 401. As used in this title—

(1) "Dealer" means any supplier selling used motor vehicles to a consumer.

(2) "Mechanical defect" includes any damage, malfunction, or failure, in whole or in part, which affects the safety or normal use of the used motor vehicle.

(3) "Motor vehicle" means any vehicle propelled by mechanical power, manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.

(4) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, American Samoa, or any other territory or possession of the United States.

(5) "Used motor vehicle" means any motor vehicle which is offered for sale to a consumer after—

(A) such vehicle had previously been sold to a consumer; or

(B) such vehicle had been used by a dealer or any other person for the personal transportation of persons, or as a rental, driver-education, or demonstration motor vehicle and driven more than two hundred and fifty miles or so used for more than fifteen days.

#### WARRANTY REQUIREMENT

SEC. 402. (a) No dealer shall sell or offer for sale a used motor vehicle to a consumer without a written warranty which conforms to the requirements of this title and this Act, except as provided in subsection (b) of this section.

(b) A dealer may sell or offer for sale a used motor vehicle to a consumer without a written warranty if the contract for sale of such used motor vehicle contains the following notice in conspicuous type: "ALL REPAIRS ARE THE RESPONSIBILITY OF THE BUYER." If such contract is not written in the English language, then such notice shall be expressed in the same language as the contract. In addition, the dealer shall orally disclose to the purchaser that all repairs are the responsibility of the buyer.

(c) A written warranty shall meet the requirements of section 103 of this Act.

#### DISCLOSURE OF INFORMATION

SEC. 403. (a) No dealer shall sell a used motor vehicle unless he furnishes to the purchaser a written statement which contains the information required by subsection (b) of this section. The statement shall be furnished prior to the signing of any contract of sale by such purchaser.

(b) The statement required by subsection (a) of this section shall contain—

(1) a complete description of such used motor vehicle, including, but not necessarily limited to—

(A) the make, model, year of manufacture, and any identification or serial numbers of such vehicle;

(B) a statement of any mechanical defects known to such dealer on the basis of his examination and evaluation of the vehicle prior to his acquisition of such vehicle or which otherwise becomes known to him while in his possession, and any repairs made by or under the direction of such dealer following his acquisition of such used motor vehicle;

(C) a statement of the written warranty coverage of the used motor vehicle, except that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As Is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage;

(D) the date on which such vehicle will be delivered to such purchaser and the maximum number of miles which will appear on the odometer on such date;

(2) if the vehicle is sold with a written warranty, the name, address, and telephone number of each facility within a radius of fifty miles of the place of business of such dealer where such vehicle may be brought to have repairs, replacement of parts, and other service under the warranty performed;

(3) if the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

(c) If the vehicle is sold with a written warranty, the dealer shall warrant that such vehicle can pass any applicable State inspection requirements in the State where such vehicle is sold.

(d) At the request of a bona fide prospective purchaser of a used motor vehicle, the dealer shall furnish such purchaser the name and address of the previous registered owner of such vehicle (for purposes other than resale), whether such vehicle was used principally as a passenger vehicle or was commercially or publicly owned, and the type of sale, transfer, or other means through which the dealer acquired such vehicle, to the extent such information is reasonably available to such dealer. The name and address of such previous registered owner shall not be released to the subsequent purchaser without the express written consent of such owner. The dealer who purchases such vehicle from the previous registered owner shall solicit such consent at the time of sale in a manner that will clearly disclose to the previous registered owner his rights under this subsection.

#### APPLICABILITY OF TITLE I

SEC. 404. The provisions of title I of this Act are applicable to the extent not inconsistent with a provision of this title.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion was agreed to.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more rollcall votes today.

I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR A BILL TO BE PRINTED IN THE RECORD AND TO LIE AT THE DESK WITHOUT REFERRAL TO COMMITTEE

Mr. CRANSTON. Mr. President, I ask unanimous consent that a bill I have just sent to the desk be printed in the RECORD and that it lie temporarily at the desk, without referral to committee.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRIFFIN subsequently said: Mr. President, I ask unanimous consent that a unanimous-consent order requested by Senator CRANSTON with regard to a bill introduced be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REMOVAL OF INJUNCTION OF SECRECY ON EXECUTIVE Q, R, AND S—93D CONGRESS, 1ST SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Protocol, dated at Vienna, July 7, 1971, relating to an amendment to article 56 of the Convention on International Civil Aviation (Ex. Q, 93d Cong., 1st sess.); the Statutes of the World Tourism Organization done at Mexico City on September 27, 1970 (Ex. R, 93d Cong., 1st sess.); and the Treaty on Extradition between the United States of America and the Republic of Paraguay, signed at Asuncion on May 24, 1973 (Ex. S, 93d Cong., 1st sess.). These treaties were transmitted to the Senate today by the President of the United States, and I ask that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages are as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on Extradition between the United States of America and the Republic of Paraguay, signed at Asuncion on May 24, 1973. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty significantly updates the extradition relations between the United States and Paraguay and adds to the list of extraditable offenses narcotics offenses, including those involving psychotropic drugs, and aircraft hijacking.

This Treaty will make a significant contribution to the international effort to control narcotics traffic. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

RICHARD NIXON.

THE WHITE HOUSE, *September 12, 1973.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol, dated at Vienna July 7, 1971, relating to an amendment to Article 56 of the Convention on International Civil Aviation.

Article 56 of the Convention relates to the composition of the Air Navigation Commission and provides that it shall be composed of twelve members. The present Protocol would increase the membership of the Commission to fifteen members. I transmit, for the information of the Senate, the report received from the Department of State with respect to the Protocol.

I recommend that the Senate give early and favorable consideration to the Protocol submitted herewith and give its advice and consent to ratification.

RICHARD NIXON.

THE WHITE HOUSE, *September 12, 1973.*

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to ratification, the Statutes of the World Tourism Organization done at Mexico City on September 27, 1970. The report of the Department of State is enclosed for the information of the Senate.

The Statutes establish the World Tourism Organization as an international organization of intergovernmental character replacing the International Union of Official Travel Organizations, a non-governmental organization.

The World Tourism Organization will continue the activities of the International Union of Official Travel Organizations in promoting and facilitating international tourism. Additionally, because of the World Tourism Organization's intergovernmental character and close association with the United Nations system, it is anticipated that it will become an even more effective organization. I recommend that the Senate give early and favorable consideration to the Statutes and give its advice and consent to ratification.

RICHARD NIXON.

THE WHITE HOUSE, *September 12, 1973.*

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## AMENDMENT OF THE PUBLIC HEALTH SERVICE ACT TO PROVIDE FOR THE DEVELOPMENT OF COMPREHENSIVE AREA EMERGENCY MEDICAL SERVICES SYSTEMS

Mr. CRANSTON. Mr. President, I ask unanimous consent that a bill I have sent to the desk be printed in the RECORD. I am not introducing the bill at this time, but I serve notice that I shall introduce it subsequently.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### LIST OF COSPONSORS

Mr. Cranston (for himself, Mr. Kennedy, Mr. Schweiker, Mr. Williams, Mr. Javits, Mr. Beall, Mr. Dominick, Mr. Eagleton, Mr. Hathaway, Mr. Hughes, Mr. Mondale, Mr. Nelson, Mr. Pell, Mr. Randolph, Mr. Magnuson, Mr. Stevenson, and Mr. Taft.

S. —

A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Medical Services Systems Act of 1973".

### EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by adding at the end thereof the following new title:

### "TITLE XII—EMERGENCY MEDICAL SERVICES SYSTEMS

### "DEFINITIONS

"SEC. 1201. For purposes of this title:

"(1) The term 'emergency medical services system' means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

"(2) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(3) The term 'modernization' means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

"(4) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a).

"(5) The term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and the term 'section 314(b) plan' means a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b).

### "GRANTS AND CONTRACTS FOR FEASIBILITY STUDIES AND PLANNING

"SEC. 1202. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects which include both studying the feasibility of establishing (through expansion or improvement of existing services or otherwise) and operating an emergency medical services system, and (2) planning the establishment and operation of such a system.

"(b) If the Secretary makes a grant or enters into a contract under this section for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under this section for such project, and he may not make a grant or enter into a contract under this section for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

"(c) Reports of the results of any study and planning project assisted under this section shall be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe, and a final report of such results shall be submitted to the Secretary and such Committee not later than one year from the date the grant was made or the contract entered into, as the case may be.

"(d) An application for a grant or contract under this section shall—

"(1) demonstrate to the satisfaction of the Secretary the need of the area for which the study and planning will be done for an emergency medical services system;

"(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

"(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

"(e) The amount of any grant under this section shall be determined by the Secretary.

### "GRANTS AND CONTRACTS FOR ESTABLISHMENT AND INITIAL OPERATION

"SEC. 1203. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206 (a)) for the establishment and initial operation of emergency medical services systems.

"(b) Special consideration shall be given to applications for grants and contracts for systems which will coordinate with statewide emergency medical services systems.

"(c)(1) Grant and contracts under this section may be used for the modernization of facilities for emergency medical services systems and other costs of establishment and initial operation.

"(2) Each grant or contract under this section shall be made for costs of establishment and operation in the year for which the grant or contract is made. If a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan contained in his application (pursuant to section 1206 (b)(4)) for the first grant or contract.

"(3) No grant or contract may be made under this section for the fiscal year ending June 30, 1976, to an entity which did not receive a grant or contract under this section for the preceding fiscal year.

"(4) Subject to section 1206(f)—

"(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

"(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

"(5) In considering applications which demonstrate exceptional need for financial assistance, the Secretary shall give special consideration to applications submitted for emergency medical services systems for rural areas (as defined in regulations of the Secretary).

### "GRANTS AND CONTRACTS FOR EXPANSION AND IMPROVEMENT

"SEC. 1204. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

"(b) Subject to section 1206(f), the amount of any grant or contract under this section for a project shall not exceed 50 per centum of the cost of that project (as determined pursuant to regulations of the Secretary).

### "GRANTS AND CONTRACTS FOR RESEARCH

"SEC. 1205. (a) The Secretary may make grants to public or private nonprofit entities, and enter into contracts with private entities and individuals, for the support of research in emergency medical techniques, methods, devices, and delivery.

"(b) No grant may be made or contract entered into under this section for amounts in excess of $35,000 unless the application therefor has been recommended for approval by an appropriate peer review panel designated or established by the Secretary. Any application for a grant or contract under this section shall be submitted in such form and manner, and contain such information, as the Secretary shall prescribe in regulations.

"(c) The recipient of a grant or contract under this section shall make such reports to the Secretary as the Secretary may require.

### "GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

"SEC. 1206. (a) For purposes of sections 1202, 1203, and 1204, the term 'eligible entity' means—

"(1) a State,

"(2) a unit of general local government,

"(3) a public entity administering a compact or other regional arrangement or consortium, or

"(4) any other public entity and any nonprofit private entity.

"(b)(1) No grant or contract may be made under this title unless an application therefor has been submitted to, and approved by, the Secretary.

"(2) In considering applications submitted under this title, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a).

"(3) No application for a grant or contract under section 1202 may be approved unless—

"(A) the application meets the application requirements of such section;

"(B) in the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as determined by the Office of Management and Budget) located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted;

"(C) in the case of an application submitted by an entity described in clause (4) of subsection (a), such entity has provided a copy of its application to each entity described in clauses (1), (2), and (3) of such subsection which is located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted and has provided each such entity a reasonable opportunity to submit to the Secretary comments on the application;

"(D) the—

"(i) section 314(a) State health planning agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

"(ii) section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the service area of such system,

have had not less than thirty days (measured from the date a copy of the application was submitted to the agency by the applicant) in which to comment on the application;

"(E) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this title; and

"(F) the application is submitted in such form and such manner and contains such information (including specification of applicable provisions of law or regulations which restricts the full utilization of the training and skills of health professions and allied and other health personnel in the provision of health care services in such a system) as the Secretary shall prescribe in regulations.

"(4)(A) An application for a grant or contract under section 1203 or 1204 may not be approved by the Secretary unless (i) the application meets the requirements of subparagraphs (B) through (F) of paragraph (3), and (ii) except as provided in subparagraph (B)(ii), the applicant (I) demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will, within the period specified in subparagraph (B)(i), meet each of the emergency medical services system requirements specified in subparagraph (C), and (II) provides in the application a plan satisfactory to the Secretary for the system to meet each such requirement within such period.

"(B)(i) The period within which an emergency medical services system must meet each of the requirements specified in subparagraph (A) is the period of the grant or contract for which application is made; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require.

"(ii) If an applicant submits an application for a grant or contract under section 1203 or 1204 and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in subparagraph (C) within any specific period of time, the demonstration and plan prerequisites prescribed by clause (ii) of subparagraph (A) shall not apply with respect to such requirement (or requirements) and the applicant shall provide in his application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

"(C) An emergency medical services system shall—

"(i) include an adequate number of health professions, allied health professions, and other health personnel with appropriate training and experience;

(ii) provide for its personnel appropriate training (including clinical training) and continuing education programs which (I) are coordinated with other programs in the system's service area which provide similar training and education, and (II) emphasize recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel in such area;

(iii) join the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which (I) utilizes emergency medical telephonic screening, (II) utilizes, or, within such period as the Secretary prescribes will utilize, the universal emergency telephone number 911, and (III) will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate emergency medical services systems;

"(iv) include an adequate number of necessary ground, air, and water vehicles and other transportation facilities to meet the individual characteristics of the system's area—

"(I) which vehicles and facilities meet appropriate standards relating to location, design, performance, and equipment, and

"(II) the operators and other personnel for which vehicles and facilities meet appropriate training and experience requirements;

"(v) include an adequate number of easily accessible emergency medical services facilities which are collectively capable of providing services on a continuous basis, which have appropriate nonduplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system;

"(vi) provide access (including appropriate transportation) to specialized critical medical care units in the system's service area, or, if there are no such units or an inadequate number of them in such area, provides access to such units in neighboring areas if access to such units is feasible in terms of time and distance;

"(vii) provide for the effective utilization of the appropriate personnel facilities, and equipment of each public safely agency providing emergency services in the system's service area;

"(viii) be organized in such a manner that provides persons who reside in the system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system;

"(ix) provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring such services;

"(x) provide for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

"(xi) provide for a standardized patient recordkeeping system meeting appropriate standards established by the Secretary, which records shall cover the treatment of the patient from initial entry into the system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

"(xii) provide programs of public education and information in personnel facilities, and equipment of each public safety agency the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services) which programs stress the general dissemination of information regarding appropriate methods of medical self-help and first-aid and regarding the availability of first-aid training programs in the area;

"(xiii) provide for (I) periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency health care services provided in the system's service area, and (II) submission to the Secretary of the reports of each such review and evaluation;

"(xiv) have a plan to assure that the system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies; and

"(xv) provide for the establishment of appropriate arrangements with emergency medical services systems or similar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to such services would be more appropriate and effective in terms of the services available, time, and distance.

The Secretary shall by regulations prescribe standards and criteria for the requirements prescribed by this subparagraph. In prescribing such standards and criteria, the Secretary shall consider relevant standards and criteria prescribed by other public agencies and by private organizations.

"(c) Payments under grants and contracts under this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary determines will most effectively carry out this title.

"(d) Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) No funds appropriated under any provision of this Act other than section 1207 or title VII may be used to make a new grant or contract in any fiscal year for a purpose for which a grant or contract is authorized by this title unless (1) all the funds authorized to be appropriated by section 1207 for such fiscal year have been appropriated and made available for obligation in such fiscal year, and (2) such new grant or contract is made in accordance with the requirements of this title that would be applicable to such grant or contract if it was made under this title. For purposes of this subsection, the term 'new grant or contract' means a grant or contract for a program or project for which an application was first submitted after the date of the enactment of the Act which makes the first appropriations under the authorizations contained in section 1207.

"(f) (1) In determining the amount of any grant or contract under section 1203 or 1204, the Secretary shall take into consideration the amount of funds available to the applicant from Federal grant or contract programs under laws other than this Act for any activity which the applicant proposes to undertake in connection with the establishment and operation or expansion and improvement of an emergency medical services system and for which the Secretary may authorize the use of funds to carry out a grant or contract under section 1203 and 1204.

"(2) The Secretary may not authorize the recipient of a grant or contract under section 1203 or 1204 to use funds under such grant or contract for any training program in connection with an emergency medical services system unless the applicant filed an application (as appropriate) under title VII or VIII for a grant or contract for such program and such application was not approved or was approved but for which no or inadequate funds were made available under such title.

### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 1207. (a) (1) For the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975; and for the purpose of making payments pursuant to grants and contracts under sections 1203 and 1204 for the fiscal year ending June 30, 1976, there are authorized to be appropriated $70,000,000.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 15 per centum shall be made available for grants and contracts under this title for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 1203(c) (5)).

"(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

"(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for such fiscal year.

"(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 (relating to establishment and initial operation) for such fiscal year, and

"(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 (relating to expansion and improvement) for such fiscal year.

"(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

"(A) 75 per centum of such sums shall be made available only for grants and contracts under section 1203 for such fiscal year, and

"(B) 25 per centum of such sums shall be made available only for grants and contracts under such section 1204 for such fiscal year.

"(b) For the purpose of making payments pursuant to grants and contracts under section 1205 (relating to research), there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and for each of the next two fiscal years.

### "ADMINISTRATION

"SEC. 1208. The Secretary shall administer the program of grants and contracts authorized by this title through an identifiable administrative unit within the Department of Health, Education, and Welfare. Such unit shall also be responsible for collecting, analyzing cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under section 1203 or 1204.

### "INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 1209. (a) The Secretary shall establish an Interagency Committee on Emergency Medical Services. The Committee shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to emergency medical services and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and shall make recommendations to the Secretary respecting the administration of the program of grants and contracts under this title (including the making of regulations for such program).

"(b) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, the National Academy of Sciences, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Each appointed member of the Committee shall be appointed for a term of four years, except that

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Secretary shall make available to the Committee such staff, information (including copies of reports of reviews and evaluations of emergency medical services systems assisted under section 1203 or 1204), and other assistance as it may require to carry out its activities effectively.

### "ANNUAL REPORT

"SEC. 1210. The Secretary shall prepare and submit annually to the Congress a report on the administration of this title. Each report shall include an evaluation of the adequacy of the provision of emergency medical services in the United States during the period covered by the report, an evaluation of the extent to which the needs for such services are being adequately met through assistance provided under this title, and his recommendations for such legislation as he determines is required to provide emergency medical services at a level adequate to meet such needs. The first report under this section shall be submitted not later than September 30, 1974, and shall cover the fiscal year ending June 30, 1974."

(b) (1) Section 1 of the Public Health Service Act is amended by striking out "Titles I to XI" and inserting in lieu thereof "Titles I to XII".

(2) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XII (as in effect prior to the date of enactment of this Act )as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to such date), and references thereto, as sections 1301 through 1314, respectively.

### TRAINING ASSISTANCE

SEC. 3. (a) Part E of title VII of the Public Health Service Act is amended by inserting after section 775 the following new section:

### "TRAINING IN EMERGENCY MEDICAL SERVICES

"SEC. 776. (a) The Secretary may make grants to and enter into contracts with schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), especially training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act.

"(b) No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section shall make such reports at such intervals, and containing such information, as the Secretary may require.

"(d) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974."

(b) Section 772(a) of such Act (42 U.S.C. 295f–2(a)) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) establish and operate programs in the interdiscriplinary training of health personnel for the provision of emergency medical services, with particular emphasis on the establishment and operation of training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act."

(c) Section 774(a) (1) (D) of such Act (42 U.S.C. 295f–4(a) (1) (D)) is amended by inserting "(including emergency medical services)" after "services" each time it appears.

### STUDY

SEC. 4. The Secretary of Health, Education, and Welfare shall conduct a study to determine the legal barriers to the effective delivery of medical care under emergency conditions. The study shall include consideration of the need for a uniform conflict of laws rule prescribing the law applicable to the provision of emergency medical services to persons in the course of travels on interstate common carriers. Within twelve months of the date of the enactment of this Act, the Secretary shall report to the Congress the results of such study and recommendations for such legislation as may be necessary to overcome such barriers and provide such rule.

## ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from New York (Mr. JAVITS) tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, earlier today, one of our colleagues referred to the distinguished majority whip as the "traffic cop of the Senate floor." He certainly is that, but I want to say that he is much more than that, obviously, as he does his best to schedule legislation and do the work that faces the Senate and Congress.

Here we are, adjourning at 3 o'clock in the middle of the afternoon, in the middle of the week, when I know it would be the wish of the distinguished majority whip and the leadership on both sides that we could be disposing of other matters. It is essential, if we are to move along and make a good record, that there be cooperation among more than just those in the leadership. We need the cooperation of our colleagues.

On both sides of the aisle, we are often requested to accommodate the personal desires and schedules of individual Senators. I want to join in the plea of the distinguished majority whip that from here on out in this session, we would have fewer and fewer of those requests. Senators should expect to have the legislation scheduled as the distinguished dean on our side of the aisle (Senator AIKEN), made plain earlier in his remarks on any day of the calendar week. There are always going to be one or two Senators who will be absent and we are not going to be able to accommodate 100 Senators every day of the week.

So, I commend the distinguished majority whip for what he said. I want to indicate my strong support for it.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Republican whip. May I say, on behalf of the leadership on this side of the aisle, that the leadership, could not hope for or expect finer cooperation than the leadership on this side of the aisle consistently get from the distinguished minority leader, the distinguished minority whip, and the Senators on the other side.

I say that without any reservation. There are times when we have our differences but, being human, I do not see how that can be avoided. We have heavy responsibilities on both sides, as Senators and as representatives of two great political parties. Differences must arise. But I have yet to see a time when I have left this Chamber with any feeling in my heart that the leadership on the other side of the aisle is not being fair, cooperative, or understanding.

I think that I would want to say, if I may continue just briefly that, on the part of the majority leader and myself, we are grateful that we have on the other side of the aisle the leadership in the persons of Senators SCOTT and GRIFFIN.

This Senate has made a remarkable record of achievement this year. It has passed 420 measures——and it has confirmed 37,639 nominations. There have been 383 rollcalls to date.

At least 23 or 46 percent of the 50 bills which the President listed in his message on Monday have already been passed by the Senate. I know of 13 additional bills on the President's list of 50 that are either on the Senate Calendar or are in committee markup or on which hearings have been completed or on which hearings are in progress. This accounts for a total of 72 percent of the 50 bills the President enumerated in his message.

In addition to those 23 bills which have already passed the Senate and which were on the President's list, the Senate has passed a remarkable array of important legislation that originated in the Senate or in the House—397 measures to be exact. I think the membership of the Senate on both sides of the aisle should be complimented for working together in producing this kind of record.

The Senate, I think, is so far along with its work that by the time we pass the defense appropriation bill, we will, I feel confident, have passed easily two-thirds of the bills—maybe more—on the President's list, in addition to those initiated by the Senate and House.

So there will be no question about an October adjournment, if it is left up to the Senate. If we can get the defense procurement bill through conference reasonably soon, I think we can wind up our work for this session in October.

Thus, I am grateful for the splendid cooperation of the membership on both sides of the aisle. We have to debate our differences at times, of course; but, beyond that, we are friends. That is the way it is going to be, so far as I am concerned.

We all work hard. The leadership, really, is in the position of being servants to all the Members of the Senate.

I would want to echo the suggestion made by the distinguished Republican whip, and that is that each of us think of the convenience to the Senate, of the work of the Republic, rather than of our own personal convenience as we go into these last days of the first session of this Congress. I know that we will get that kind of cooperation, but I would want, on behalf of Mr. MANSFIELD, to state, as we go forward, that the leadership will need flexibility in scheduling bills in order to complete the work of the Senate before it adjourns.

Mr. GRIFFIN. The distinguished majority whip has been so generous and so complimentary that it makes it difficult for me to say anything that would indicate the slightest disagreement. But I would not want the record to indicate satisfaction on my part with the legislative record in this session.

In many instances the Senate has acted, but final passage of important bills has not taken place.

I want to remind the Senate and Congress that here we are, well into the third month of the new fiscal year, and we have only enacted 3 out of the 13 regular appropriation bills.

That is not the first time this has happened. But it is very unfortunate when the agencies and departments of the Government—and, indeed, the local units of government, the school districts, that rely on the appropriations of Congress—have no assurance until well into the fiscal year, sometimes even going the whole fiscal year, knowing what funds they will receive. They cannot plan.

So I do not think we have made a very good record in that field. Let us face it. That is not the fault of the Senate. We cannot pass an appropriations bill until the House passes it.

But in other respects as well, I think we have no reason to be too satisfied with our accomplishments. For example, we are facing an energy shortage.

In this connection, look at the various proposals that are pending before Congress. While we have taken action in both bodies on the Alaska pipeline, a conference report still has not been agreed upon. We have legislation relating to the siting of nuclear powerplants which could be very helpful in terms of speeding up applications for using nuclear power to generate electricity. We need to develop quickly deepwater ports for some of the large oil tankers.

Many people believe that some change in the regulation of the pricing of natural gas has to take place if we are going to encourage more exploration and delivery of natural gas. A proposal is pending for a Department of Energy and Natural Resources, which would bring together the various agencies of the Federal Government which have a bearing on energy decisions.

All these measures still have not been enacted. So we do have a great deal to do in this one field, to say nothing about the challenges that await us in other areas.

However, having said that, I do not detract one iota from the remarks that the Senator from West Virginia, the distinguished majority whip, has made in terms of the efforts of the leadership, and in his appeal to the Members on both sides of the aisle to give us more cooperation so that we can move along faster with legislation.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. PASTORE. I do not want to engage in a dispute with my friend, the distinguished Senator from Michigan. He knows the high regard and the affection I have for him.

I think that much of the fault is on both sides, if any fault is to be found. I am not trying to pat myself or anybody else in the Senate on the back, or the Senate at large. But we have been working hard; there is no question about it. We come in early in the morning. We have to attend hearings. Many of them are behind closed doors; there is no fanfare. It is not like the publicity given the Watergate Committee. It is hard work, sometimes without any publicity.

Referring directly to the question of appropriation bills, as chairman of the subcommittee, I have just reported the appropriation bill that has to do with the State Department, the Justice Department, the Commerce Department, and other allied agencies.

I have heard many witnesses, hour after hour. The bill involves international agencies and commissions, and the bill amounts to approximately $4,555,000,000 to date. Within the bill are the Commerce Department, with its Economic Development Agency, and all the other agencies I have mentioned.

The one thing that has always disturbed me is that while we have terminated our hearings, we receive amendment after amendment after amendment from the administration, so there is no way that we can bring the bill in. I would hope in the future that the administration, once it sends up its estimates and makes its request, sets a deadline, either of June 30 or July 1 or August 30, to the effect that nothing after that date will be sent up to Congress unless it is to appear in a supplemental bill. In that way, we can conclude our work, mark up the bill, and report it to the Senate.

We have gone through that process right now with this bill. As a matter of fact, over and above the original estimate, more than $300 million was requested by the administration in supplemental amendments that were not heard by the House. All these appropriation bills originate in the House, and we have more than $300 million of add-ons that have to be considered originally by the Senate, when under the Constitution the original responsibility and the jurisdiction are in the House.

To return to what I was saying, I think that many times we are at fault, and I think that many times the fault is downtown. But the idea that "I am pure and you are impure" is a philosophy I cannot buy. If anyone is to be blamed, I think we are all to be blamed.

As to the idea that the Senate has been dragging its feet, we have not been dragging our feet. The Senator knows that many of the issues that come before the Senate are very controversial, and many of the votes are very close. Here we have unlimited debate, and everybody has a right to be heard. Sometimes we do talk a little longer than we should. But in the long run, I do not know that I would want to change that, because sometimes, by prolonged debate, we have refined an issue and corrected mistakes that possibly would have been serious if we had not talked them out at length. These things are important.

I do not want to take any credit away from the President, but I do not think the President ought to take any credit away from Congress. I think we have been working hard. I do not have a San Clemente to go to. I do not have a Key Biscayne to go to.

I do not have a Camp David. The only place I can go to is my own back yard, and that is where I spent August. I say, frankly, that when I went back home, I needed the rest.

Mr. AIKEN. That is the best place.

Mr. PASTORE. It certainly is.

As a matter of fact, one will never see housing for the elderly from the veranda of San Clemente. Where I sit, you can see them. You can see the people who need the help. You can see the traffic tie-ups. You can see the need for a transportation bill. You can see the need for housing for the poor. You can see the need for housing for the elderly. We walk through it every day. We are on the ground. We meet the people who have the complaints.

I go to the supermarket. I do not know whether President Nixon has ever gone to a supermarket, but I go to the supermarket, and I push that little carriage around together with my wife. I am not ashamed of it. I know what is happening in the market. I see sticker after sticker, the price going up with every new sticker; and you say to yourself, "How come." They had that item in stock; they bought it at a price. Why is the same article one price at one time, another price at another and then a third price? The price keeps rising, because the new lot costs a little more. These are the things that should be investigated, just how much the American consumer is being gouged. Who is making this profit?

I picked up the paper the other day and read that in the first quarter of this year as against the first quarter of last year—would the Senator from West Virginia (Mr. ROBERT C. BYRD) believe this?—corporate profits were up 26 percent. Why do they not share this money with the consumer? Why do they keep increasing the price? Because they would rather distribute it in dividend checks so they can sell more stock and make it look good on the board in Wall Street. Fortunately, the majority leader, Mr. MANSFIELD, and I do not own much stock, so we do not have that to worry about.

Some say we are not doing the right things, but I do not think they are doing everything right in the White House, either. It is about time they took a good look at themselves in the mirror to see a little of their own faults.

Mr. President, do you know what we say? We say, Let he who is without sin cast the first stone.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Republican whip mentioned the appropriation bills. For the record, I think it should be stated that the Senate this year has passed three supplemental appropriation bills; one was vetoed. It has passed 8 of the 13 regular appropriation bills. One of the remaining five appropriation bills has been reported to the Senate today. One of the remaining four appropriation bills will be reported to the Senate the first of the week, leaving three of the regular appropriation bills—military construction, military procurement, and foreign aid—yet to be acted on.

Of course, as all Senators know, the Senate is at the mercy of the other body in that the Senate has to await action by the other body on appropriation bills before we can proceed. But it has to be said to the credit of the chairman of the Senate Committee on Appropriations and the members of that committee—Democrats and Republicans—that the subcommittes proceed every year to conduct hearings on appropriation bills prior to their enactment by the other body and once they are sent over here by the other body the bills are reported expeditiously—often on the same day the bill arrives in this body from the House or within a day or two thereafter.

I want to say again that the record of the Senate, being an excellent one to date, is due in considerable part, it has to be said, to the excellent cooperation that the leadership on this side of the aisle has had from the leadership and the Members on the other side of the aisle.

I want to pay tribute to the Republican whip and others on that side of the aisle for helping the leadership on this side of the aisle in establishing the fine legislative record of the Senate.

Any Senator who joins in criticizing this Senate for its record is to some degree pointing the finger at himself because he is a part of the Senate. While I want to accord every Senator a just and fair share of the tribute for the good record the Senate has made, any Senator who downgrades that record, whoever that Senator may be, downgrades himself.

Mr. GRIFFIN. Mr. President, I wish to make clear, as I indicated in my remarks, that the Senate is limited by the Constitution. We cannot consider appropriation bills until they are passed by the other body.

I would join with the majority whip in commending the members of the Committee on Appropriations of the Senate who work very hard and who have moved along expeditiously in the consideration of these measures.

It is altogether possible, I would say, that we have reached a stage where the appropriation measures now are so complex and take so much time going through both bodies of Congress that we should give serious consideration to moving the fiscal year of the Federal Government to a calendar year basis. It is almost impossible now in many respects for Congress to be expected to pass all the appropriation bills before the beginning of the fiscal year which starts on July 1. Nevertheless, it is still a difficult job for the other branches of Government and, indeed, the other levels of Government who do depend on Federal appropriations, when the fiscal year is half over before we can enact appropriation bills, regardless of perfectly reasonable justifications for the delay.

But that does not detract from the fact that the Senate works hard. We have, as the distinguished majority whip indicated, compiled a very impressive record in terms of the action that has been taken on the appropriation bills.

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## EMERGENCY MEDICAL SERVICES ASSISTANCE ACT OF 1973

Mr. CRANSTON. Mr. President, I send to the desk a bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive medical emergency assistance and I ask for its first reading.

Mr. GRIFFIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, this, of course, is a procedure which the distinguished Senator from California is entitled to take. But as he knows and would expect, I have to object to the immediate consideration of a bill which is of such importance and so complex. If nothing else, it could not be understood at the present time. I understand the request is for the immediate consideration.

Mr. CRANSTON. The Senator is correct.

Mr. GRIFFIN. Of course, my objection will mean that the procedure will be open for the bill to go on the calendar, and I assume it is probably the purpose of the Senator from California to do that, so that the bill would not be referred to a committee. It is perfectly within his rights to take that course, but in my position of leadership on this side of the aisle, I would have to object, regardless of the merits of the bill, and I do object.

The PRESIDING OFFICER. The request was to have the bill read the first time.

Does the Senator object to that?

Mr. GRIFFIN. Mr. President, my objection is to its immediate consideration.

The PRESIDING OFFICER. The bill will be read the first time by title.

The legislative clerk read the bill by title, as follows:

A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I now ask for second reading of the bill.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I ask for the immediate consideration of the bill that I have sent to the desk.

Mr. GRIFFIN. As I indicated, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m. Immediately following the recognition of the two leaders or their designees, the distinguished senior Senator from New York (Mr. JAVITS) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate will proceed to the consideration of the conference report on vocational rehabilitation (H.R. 8070).

There is a time limitation on that conference report of 40 minutes. Whether or not there will be a yea and nay vote on the adoption of the conference report, I cannot say.

At the conclusion of the action on the conference report, the Senate will take up S. 2408, the military construction authorization bill. There is a time limitation on that bill. There may be amendments thereto, and Senators are alerted to the possibility of yea and nay votes thereon.

Mr. President, may I say also that other conference reports are eligible to come up at any time, and the leadership would like Senators to be aware of the possibility that the leadership might have to call up bills from the calendar that have been cleared for action, without prior notice, if circumstances should require.

As we get into what we hope will be the last few weeks of the session, the leadership would want the usual fine cooperation and understanding of Senators on all sides of the aisle, so as to allow the leadership the utmost flexibility under these circumstances to promote the business of the Senate.

Mr. President, I modify my statement of the program slightly. Immediately before the close of routine morning business tomorrow the Chair will automatically, under the rule, lay down the Cranston bill for a second reading, and if a Senator objects at that time to any further proceedings the bill will then automatically go on the calendar. Am I correct?

The PRESIDING OFFICER. The Chair is advised that the bill will be laid before the Senate tomorrow for a second reading, and if objection is heard on second reading, the bill will go on the calendar.

Mr. ROBERT C. BYRD. If any objection to further proceedings is made?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Following

that, morning business will be closed, and at that time the Senate will then proceed to the consideration of the conference report?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. I make the appropriate adjustment in my statement of the program.

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## ADJOURNMENT TO 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:45 tomorrow morning.

The motion was agreed to; and at 3:30 p.m. the Senate adjourned until tomorrow, Thursday, September 13, 1973, at 9:45 a.m.

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## NOMINATIONS

Executive nominations received by the Senate September 12, 1973:

### DEPARTMENT OF JUSTICE

John R. Bartels, Jr., of New York, to be Administrator of Drug Enforcement vice a new position created by Reorganization Plan No. 2 of 1973, dated March 28, 1973.

John L. Bowers, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee for the term of 4 years. (Reappointment.)

Dean C. Smith, of Washington, to be U.S. attorney for the eastern district of Washington for the term of 4 years. (Reappointment.)

James M. Sullivan, Jr., of New York, to be U.S. attorney for the northern district of New York for the term of 4 years. (Reappointment.)

### IN THE AIR FORCE

The following-named officers for promotion in the Air Force Reserve, under the appropriate provisions of chapter 837, title 10, United States Code, as amended, and Public Law 92-129:

#### LINE OF THE AIR FORCE

*Lieutenant colonel to colonel*

Ablard, Charles D., [redacted].
Agolia, Richard, [redacted].
Anderegg, Richard D., [redacted].
Anders, William A., [redacted].
Angueira, Raymond G., [redacted].
Aptaker, Edward, [redacted].
Ayers, S. T., [redacted].
Baker, Walter T., [redacted].
Balch, Donald H., [redacted].
Barrett, Lawrence A., [redacted].
Batten, Newton R., [redacted].
Becker, Charles E., Jr., [redacted].
Bemis, Rowland H., [redacted].
Bernhard, George K., Jr., [redacted].
Betts, Donald J., [redacted].
Boyd, Robert J., [redacted].
Brand, Joseph W., [redacted].
Breeden, Earnie K., Jr., [redacted].
Brinson, Edward, [redacted].
Browne, Leslie F. S., [redacted].
Butler, James L., Jr., [redacted].
Calman, Edwin C., Jr., [redacted].
Campbell, Keith H., [redacted].
Casey, Thomas E., [redacted].
Cavaretta, Michael J., [redacted].
Chapman, James E., [redacted].
Clarke, Harold D., [redacted].
Cohen, Sydney M., [redacted].
Collins, Robert L., [redacted].
Cooper, Jay P., [redacted].
Corbley, John F., [redacted].
Cutshaw, Thomas S., [redacted].
Davis, William R., [redacted].
Dismang, Kenneth M., [redacted].
Dolan, Hugh J., [redacted].
Dolbey, Alfred F., [redacted].
Dowds, John P., [redacted].
Duggan, John F., [redacted].
Duguid, Robert, III, [redacted].
Duke, Howard W., [redacted].
Eaton, Curtis A., [redacted].
Ellis, Stanley A., [redacted].
Enmon, William G., [redacted].
Feick, Thomas W., [redacted].
Fletcher, James H., [redacted].
Frye, Pierre A., [redacted].
Galfo, Armand J., [redacted].
Garrett, Howard L., Jr., [redacted].
Gerwin, Arthur, [redacted].
Giesecke, Eberhard, [redacted].
Giesen, Herman M., [redacted].
Gill, Sloan R., [redacted].
Gilroy, John E., [redacted].
Green, Elmer H., [redacted].
Greenfield, Albert D., [redacted].
Gregory, Thomas J., [redacted].
Groux, Richard W., [redacted].
Guest, Buddy R., [redacted].
Guminski, David, [redacted].
Haberman, Leo, [redacted].
Hanak, Walter K., [redacted].
Hanson, Eugene E., [redacted].
Haugen, Donald E., [redacted].
Hay, James C., [redacted].
Healey, William J., Jr., [redacted].
Hile, Richard K., [redacted].
Hill, Rodney F., [redacted].
Hirsch, Paul M., [redacted].
Hollis, Alton B., Jr., [redacted].
Jarvis, Donald B., [redacted].
Jones, Charles E., III, [redacted].
Jordan, William A., [redacted].
Kernan, Clarence B., [redacted].
Kessler, Robert H., [redacted].
Knight, Donald L., [redacted].
Koonce, Andrew M., [redacted].
Kulman, Oscar D., [redacted].
Langdell, Samuel F., [redacted].
Licker, Donald J., [redacted].
Loeb, Leonard L., [redacted].
Lombardo, Michael J., [redacted].
Longenecker, William H. J., [redacted].
Luchsinger, Vincent P., Jr., [redacted].
Lum, Richard W., [redacted].
Lundy, James P., [redacted].
Luongo, John A., [redacted].
Madsen, Albert A., [redacted].
Manning, Stanley J., [redacted].
May, Gayle L., [redacted].
McGoey, John J., [redacted].
McRae, Floyd W., Jr., [redacted].
Meyer, Arthur B., [redacted].
Miller, George W., III, [redacted].
Miller, Thomas S., [redacted].
Milliken, Walter R., [redacted].
Miner, Richard E., [redacted].
Mock, Ralph, [redacted].
Mollnow, Marvin A., [redacted].
Morris, John K., [redacted].
Morse, Marvin H., [redacted].
Munson, Harlow T., [redacted].
Myers, William S., Jr., [redacted].
Nathanson, Philip E., [redacted].
Nott, Joseph G., [redacted].
Orlove, Alan H., [redacted].
Padelford, Edward A., Jr., [redacted].
Palmer, Millard A., [redacted].
Perdzock, Robert C., [redacted].
Pilotte, Ellard J., [redacted].
Plitt, James R., [redacted].
Prettyman, Forrest J., [redacted].
Proctor, Daniel A. K., [redacted].
Rasley, Charles W., [redacted].
Raushenbush, Walter B., [redacted].
Reidy, Edward J., [redacted].
Reig, Raymond W., [redacted].
Rice, William H., Jr., [redacted].
Richardson, Elwood H., Jr., [redacted].
Royals, Thomas F., [redacted].
Russ, Walter H., [redacted].
Rutenbeck, Blaine A., [redacted].
Scorpati, Louis V., [redacted].
Scott, Harrey L., [redacted].
Serio, Bernard M., [redacted].
Shosid, Joseph L., [redacted].
Shuck, Robert E., [redacted].
Siegel, William L., [redacted].
Smith, John H., [redacted].
Stange, Paul W., [redacted].
Stead, David N., [redacted].
Svetlich, William G., [redacted].
Theos, Gregory O., [redacted].
Thomas, Richard B., [redacted].
Thompson, Raymond, [redacted].
Tradd, Ronald J., [redacted].
Troutman, James S., [redacted].
Trudel, Theodore H., [redacted].
True, Edward L., [redacted].
Vanderweide, Sam W., [redacted].
Waltman, Leslie H., [redacted].
Weaver, John E., [redacted].
Wegner, Richard A., [redacted].
Weikert, William P., [redacted].
Weinert, Ronald B., [redacted].
White, Frank W., [redacted].
Whitney, Henry M., [redacted].
Whitton, Roy P., [redacted].
Wilde, Roland J., [redacted].
Wilford, Edward B. III, [redacted].
Williams, Benjamin B., [redacted].
Williams, Earl M., [redacted].
Williams, Robert A., [redacted].
Wong, Howard, [redacted].
Wriggle, Paul A., [redacted].
Young, Francis L., [redacted].

#### CHAPLAINS

Arrow, Henry D., [redacted].
Clark, John P., [redacted].
Dinkel, Julian G., [redacted].
Grothjan, James K., [redacted].
Hamilton, Philip A., [redacted].
Jones, Henry D., [redacted].
Mathre, Paul G., [redacted].
McCall, Thomas D., [redacted].
Nesbitt, Charles B., [redacted].

#### DENTAL CORPS

Clements, Robert V., [redacted].
Kihara, Junior T., [redacted].
Roraff, Arthur R., [redacted].
Wilhoit, John W., Jr., [redacted].

#### MEDICAL CORPS

Fleckner, Alan N., [redacted].
Jordan, William S., [redacted].
Magee, John W., Jr., [redacted].
O'Brien, Eugene T., [redacted].
Severs, Ronald G., [redacted].
Skinner, Odis D., [redacted].
White, Melvin J., [redacted].

#### NURSE CORPS

Beck, Josephine V., [redacted].
MacFarlane, David J., Jr., [redacted].
McKenna, Madeline A., [redacted].
McKenna, Marion E., [redacted].
Showalter, Anna M., [redacted].
Underwood, Ethel S., [redacted].

#### MEDICAL SERVICE CORPS

Miller, Russell H., [redacted].
Mudd, Lee S., [redacted].
Pinkus, Alan D., [redacted].
Rasken, Sam A., [redacted].
Raynes, Alfred F., [redacted].

#### VETERINARY CORPS

Chapman, Neil F., [redacted].
Myatt, Barney A., [redacted].

#### BIOMEDICAL SCIENCES CORPS

Foley, Thomas J., Jr., [redacted].
Hersey, David F., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of section 8376, title 10, United States Code and Public Law 92-129:

#### MEDICAL CORPS

*Lieutenant colonel to colonel*

Olson, Robert M., [redacted].

#### LINE OF THE AIR FORCE

*Major to lieutenant colonel*

Arnau, Robert R., [redacted].
Baer, Richard T., [redacted].
Baird, Richard L., [redacted].
Barnum, Charles W., Jr., [redacted].
Beck, Lyle A., [redacted].

Bethea, Herman R., [redacted].
Blair, George A., [redacted].
Bower, James N., [redacted].
Bradach, Bernard, [redacted].
Brog, David, [redacted].
Brookbank, David A., [redacted].
Canney, Paul J., [redacted].
Christensen, Russell N., [redacted].
Cimini, Guido J., [redacted].
Cook, Margaret E., [redacted].
Dixon, David L., Jr., [redacted].
Dodd, William W., [redacted].
Dowell, James E., [redacted].
Dunn, Earl J., Jr., [redacted].
Duval, Herbert J., Jr., [redacted].
Ferrell, Joseph B., [redacted].
Friesen, Merle R., [redacted].
Gilchrist, James, Jr., [redacted].
Gleske, Elmer G., [redacted].
Gooch, Edwin J., Jr., [redacted].
Goschke, Richard R., [redacted].
Hageman, Dwight C., [redacted].
Hancock, William R., [redacted].
Hansen, William, [redacted].
Heiser, Frank W., [redacted].
Hepp, James T., [redacted].
Higgins, Carlos W., [redacted].
Hills, Frank D., [redacted].
Holway, Warren A., [redacted].
Hummer, Walter L., [redacted].
Husak, Johnny R., [redacted].
Jefferson, William J., Jr., [redacted].
Jenkins, James R., [redacted].
Johnson, Donald H., [redacted].
Johnson, Thurmond L., [redacted].
Jope, Howard E., Jr., [redacted].
Kalmar, George E., [redacted].
Keenan, Herbert A., [redacted].
Keeny, James S., [redacted].
Kite, John T., [redacted].
Kop, Dietrich R., [redacted].
Koopman, Howard W., [redacted].
Land, Clarence J., [redacted].
Larson, John H., [redacted].
Lawrence, Rogers W., [redacted].
Leeman, David E., [redacted].
Livingstone, John D., [redacted].
Lockhart, Floyd R., [redacted].
Lord, John F., Jr., [redacted].
Madden, Thomas A. L., Jr., [redacted].
Manly, Donald L., [redacted].
Markalonis, Vincent J., [redacted].
Moroney William P., [redacted].
Morrison, William J., [redacted].
Morton, Norman E., [redacted].
Pascuzzi, Eugene D., [redacted].
Ritter, Joseph L., Jr., [redacted].
Robertson, Bruce M., [redacted].
Rubeor, Russell G., [redacted].
Salem, Harold D., [redacted].
Shelton, John L., [redacted].
Shirley, Millard G., [redacted].
Smiley, Ralph P., [redacted].
Smith, Thomas J., Jr., [redacted].
Solkey, Arthur R., [redacted].
Taylor, Larry L., [redacted].
Teitelbaum, Robert D., [redacted].
Thomas, Robert J., [redacted].
Tinsley, Robert L., [redacted].
Tracy, Robert P., [redacted].
Turner, Thomas H., [redacted].
Walker, James A., [redacted].
Waterman, Donald J., [redacted].
Williams, Arthur B., Jr., [redacted].
Young, Thomas C., [redacted].

CHAPLAINS

Pearson, Roger H., [redacted].

MEDICAL CORPS

Sanders, James G., [redacted].

NURSE CORPS

Brady, Eugene P., [redacted].
Howland, Richard J., [redacted].
Larscheid, Jon L., [redacted].
Morgan, Richard T., Jr., [redacted].
Peterson, Roger M., [redacted].
Schnepper, Patricia A., [redacted].

BIOMEDICAL SCIENCES CORPS

Bottom, Bobby D., [redacted].
Taschner, John C., [redacted].

The following person for appointment in the Reserve of the Air Force and USAF (temporary) (Medical Corps), in the grade of colonel, under the provisions of sections 593, 8444, and 8447, title 10, United States Code and Public Law 92–129, with a view to designation as a medical officer under the provisions of section 8067, title 10, United States Code:

MEDICAL CORPS

*To be colonel*

Masters, Orlan V. W., [redacted].

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be general*

Lt. Gen. Robert J. Dixon [redacted]FR (major general, Regular Air Force), U.S. Air Force.

UNITED NATIONS

The following-named persons to be representatives of the United States of America to the 28th session of the General Assembly of the United Nations:

John A. Scali, of the District of Columbia.
W. Tapley Bennett, Jr., of Georgia.
William F. Buckley, Jr., of Connecticut.

The following-named persons to be alternate representatives of the United States of America to the 28th session of the General Assembly of the United Nations:

Margaret B. Young, of New York.
Mark Evans, of the District of Columbia.
William E. Schaufele, Jr., of Ohio.
Clarence Clyde Ferguson, Jr., of New Jersey.
Richard M. Scammon, of Maryland.

The following-named persons to be representatives of the United States of America to the 28th session of the General Assembly of the United Nations:

Robert N. C. Nix, U.S. Representative from the State of Pennsylvania.

John H. Buchanan, Jr., U.S. representative from the State of Alabama.

## WITHDRAWAL

Executive nomination withdrawn from the Senate September 12, 1973:

JUSTICE DEPARTMENT

David J. Cannon, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years, which was sent to the Senate on August 9, 1973.

## CONFIRMATION

Executive nomination confirmed by the Senate September 12, 1973:

OFFICE OF ECONOMIC OPPORTUNITY

Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

# EXTENSIONS OF REMARKS

## PRESERVATION OF THE STRIPED BASS

### HON. ABRAHAM A. RIBICOFF

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

*Wednesday, September 12, 1973*

Mr. RIBICOFF. Mr. President, for years sportsmen from Connecticut and throughout the entire Northeast have enjoyed fishing for striped bass in Long Island Sound. Now there is a serious possibility that New York's Consolidated Edison Storm King powerplant on the Hudson River may destroy the Sound's striped bass.

Many of the striped bass are hatched in the Hudson River. Fishermen fear that the Storm King plant, which will take in 9 million gallons of Hudson River water a minute will also suck in and destroy the bulk of the river's striped bass eggs, larvae, and new born fish.

Because it is such a complex problem, I have asked the Atomic Energy Commission to have its Oak Ridge National Laboratory, which has a model of the site in question, to thoroughly review the issues involved.

I ask unanimous consent that my letter of September 10, 1973, to Dr. Dixie Lee Ray, the Chairman of the AEC, be printed in the Extensions of Remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 10, 1973.

DR. DIXIE LEE RAY,
*Chairman, U.S. Atomic Energy Commission, Washington, D.C.*

DEAR DR. RAY: I am writing to request the assistance of the Oak Ridge National Laboratory in getting answers to questions that a number of Connecticut striped bass fishermen have asked me about.

The questions concern the Storm King pumped storage hydroelectric power plant that Consolidated Edison proposed to construct on the Hudson River at Cornwall, New York. Many of the striped bass that are hatched in the Hudson spend their adult lives in Long Island Sound where they provide outstanding and valuable sports fishing for Connecticut anglers. The fishermen fear that the Storm King plant, which will take in nine million gallons of Hudson River water a minute, will also suck in and destroy vast numbers of eggs, larvae and young striped bass and thus cause the fishing in Long Island Sound to decline drastically.

The Storm King plant, which has been licensed by the Federal Power Commission has been the subject of litigation for nearly ten years. Still, the effect of the plant on the fishes of the Hudson, particularly striped bass, remains in dispute. Consolidated Edison maintains that a study shows the Storm King plant would remove only an insignificant three per cent of the yearly striped bass hatch. In rebuttal, fishermen state this claim is based on incorrect mathematics because the equation used in the study to predict mortalities did not include the tides in the Hudson. The fishermen also state that density-induced currents were not treated fully in the study.

The fishermen's assertions would appear to have some substance, inasmuch as W. Mason Lawrence of the New York State Department of Environmental Conservation has admitted by letter, that "the river was treated as if it flowed in one direction only" and thus "tidal recycling of eggs and larvae past the intake was not included in the calculations of the potential effect of the plant." Concerned fishermen point out that the Hudson River reverses flow with each tide, four times in a day and, as a result, striped bass eggs and larvae floating past the plant intake would be subjected to removal not once but ten to twelve times. The kill then would not be an insignificant three per cent but a most significant 35 per cent, possibly more, depending upon the volume of freshwater entering the Hudson during spring spawning.

Because of these different opinions, I wish to submit the question of just what effect the Storm King plant would have on striped bass to the Oak Ridge National Laboratory. The aquatic biology section, led by Dr. Charles Coutant in the Environmental Sciences Division, enjoys the finest reputation and the laboratory has, most importantly, a biological model of the Hudson used in the Indian Point Number Two operating license hearing recently concluding by the Atomic Energy Commission.

Specially, I pose the following questions to the Oak Ridge National Laboratory:

1. What percentage of the striped bass hatch in the Hudson will be removed or destroyed by operation of the Storm King plant?

2. Is the percentage significant or insignificant?

3. What effect will this removal or destruction have on striped bass fishing in Long Island Sound?

4. In the event operation of the Storm King plant would have a significant impact, can hatcheries be used to sustain striped bass fishing in Long Island Sound?

Best wishes,

Sincerely,

ABE RIBICOFF.

## HAYWOOD COUNTY, TENN., SESQUICENTENNIAL

## HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. JONES of Tennessee. Mr. Speaker, it is my pleasure to announce the sesquicentennial celebration of Haywood County, Tenn., which begins September 13, and continues through September 17.

The section of Tennessee in which Haywood County is located was first founded by Henry Rutherford in 1785. Mr. Rutherford descended, with his party, the Cumberland, Ohio, and Mississippi Rivers to a small stream the Indians called Okeena and which this surveying party named Forked Deer. The surveyors report of this fertile region, well-adapted to cotton, caused many to predict the great migration to it which followed in 1819. By an act of the Tennessee Assembly in 1823, Brownsville was designated the county seat and the town was incorporated in 1826. Brownsville was named for Gen. Jacob Jennings Brown of Pennsylvania who was distinguished in the War of 1812.

Colonel Richard Nixon came from Jackson through the cane brakes to his land grant and settled 4 miles east of Brownsville on Nixon Creek. It was at Nixon's home that the first courts were held until March 8, 1824, at which time the first courthouse was erected of logs.

The county jail, a log cabin, was built in 1825 for $185 and in 1824–25, public roads were cut from Brownsville to neighboring county seats.

Cotton made its appearance in Haywood County in 1828, and also in that year the first cotton gin—Bradford's—was operated. In 1829, there was a horse-propelled grist mill, in 1874, a cotton mill and in 1825 the first school was established.

The first newspaper, The Bee, was published in May 1868, and became the States in 1870.

Some of the early educational institutions founded in Haywood County were: Union Academy, Brownsville Male Academy, Brownsville Female Institute, Dancyville Female Institute, Baptist Female College, Brownsville Seminary, Cageville Male and Female Academy, and Wesleyan Female College. The academies were replaced by public high schools as exemplified by transfer of title of trustees of the "Old Male Academy" to the Brownsville Board of Public School Directors in 1897. Progress came rapidly to Haywood County primarily due to this section's agricultural foundation. No war was connected with the settlement of this county. The country was peaceful and settlements sprang up rapidly everywhere.

Thomas Bond, who came to Haywood County in 1826, is best remembered for the beautiful houses that he caused to be built, two of which still remain on West Main Street in Brownsville.

The western district was settled by men already attached to some church organization. Baptist and Methodist influences predominated. The Methodist annual conference of 1821 established two regular circuits in west Tennessee and the Baptist followed in 1882. In 1827 Thomas H. Taylor deeded to the elders of the Presbyterian Church certain church and academy grounds. Zion Episcopal Church was organized in 1832. St. Andrews Mission Episcopal was established in 1841 at St. Gregory's chapel in Brownsville and later on held meetings in the county court house.

Firms established in Brownsville prior to 1870 were Emil Tamm, Raglands and Felsenthal's, still in operation today.

Although Haywood County's prosperity through its first 50 years of history was dependent upon agriculture, now modern factories manufacture plastics; including toys, gloves, television parts and heating and air conditioning equipment.

The citizens of Haywood County are proud of their progressive and rapidly growing communities, and I am proud to represent such a county in the U.S. House of Representatives.

## DIANE STRAWBRIDGE—A YOUNG LADY WITH A NOBLE PURPOSE

## HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

*Wednesday, September 12, 1973*

Mr. HELMS. Mr. President, I call my fellow Senators' attention to a remarkable project which has been undertaken by a young lady in my State, Miss Diane Strawbridge, of Durham, N.C.

This splendid young lady has been an inspiration to me for the past couple of years. I well recall the first time she contacted me about a project she had in mind. I tried to lend her a hand then, and since that time she has devoted an incredible amount of time and energy to it.

Jimmy Dumbell, a columnist for the Charlotte, N.C., Observer, wrote a fine article about Diane for the September 5 edition of his paper. I ask unanimous consent that this column be printed in the Extensions of Remarks, so that my colleagues in the Senate may be informed about Diane Strawbridge and her project.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### DIANE STRAWBRIDGE CONTINUES HER CAMPAIGN AGAINST CRIME

Diane Strawbridge is single, pretty, 20, a sophomore at N.C. State University in Raleigh and hardly the type you would figure to carry on a fervent campaign against crime. But she is.

She estimates that in the past year she has spoken to more than 15,000 people, including some professionals in the crime-fighting business. She has received some 5,000 letters and petitions from residents of 35 states, letters that she has solicited, asking and demanding that existing laws be enforced and that new and stricter legislation be enacted.

Her goal is 50,000 letters. When she gets them, she says, she will take them to Washington "and then we'll get something done."

"I started this last fall. I'm not a woman's libber or anything. I just want to make the world safe for my family and children. If I waited for something to happen to make me do all this it might be too late.

"The point of all this is to combat crime. We want to strengthen the court system. There's corruption in some courts and police departments. We need stricter punishment, too, and more uniformity in sentences. To get the death penalty back would be a deterrent, and 99 per cent of those I've heard from agree on this."

She feels prisoners need better rehabilitation, "but we can't let prisoners out until they have been rehabilitated. Okay, like if you have stricter punishment and better rehabilitation and enforce the laws we've already got, then the crime rate is bound to come down.

"Like I say, I need as many letters and petitions as I can get. I've been working real closely with several senators and congressmen on this and Sen. Jesse Helms, particularly.

"And they tell me that they need some evidence of the people's desire to fight crime before they can do anything and that if I'll bring them 50,000 letters and petitions, that will indicate enough public pressure to get some of the crime-fighting laws passed."

Miss Strawbridge, who in junior high school was named "Outstanding Teen-ager of America," began her campaign with one letter to the editor of her hometown paper in Durham. In it she called for the changes she still asks.

"My phone rang all day long with people agreeing with me. I got a letter from Jesse Helms and one from President Nixon. I don't know how he found out about my letter. All these people said they felt I was right and they would work and help in any way they could."

School has not interfered with her campaign, nor will it interfere in the coming months. She has spoken to church groups, civic clubs, book clubs, high school assemblies, Boy Scout and Girl Scout troops, the graduation exercises of the South Carolina Police Academy in Columbia and the Southern Police Institute Alumni Retraining Conference at Myrtle Beach in the past few months.

Letters in support of her campaign can be addressed to P.O. Box 32 in Durham. She still needs 45,000 of them.

## TAKING ADVANTAGE OF THE CONSUMER

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. LENT. Mr. Speaker, it is not necessary to dwell upon the fact that the rapid increase in the cost of living is the most serious domestic problem we face in this country today. While I do sympathize with all sectors of the economy, I cannot help but feel that the consumer is the most frustrated and adversely affected of all. The Honorable John S. DaVanzo, councilman from the Town of North Hempstead, N.Y., has been in Washington this week to meet with representatives of the Cost of Living Council to discuss the plight of the consumer, and particularly the Long Island consumer. His remarks on the high cost of living, and especially the potential heating oil price increase, are worth noting, and I wish to include them in the Record at this point:

Statement of Councilman John S. DaVanzo

The time has come, and indeed is long past for the voices of our consumers to be heard. We in town government have said time and again that the almost skyrocketing of the cost of food and now many other items is unconscionable. For years, the American housewife has had to contend with rising prices, but never in recent memory has the suffering been so unequal or so great. We vigorously protest this uncontrolled spiral and must demand some affirmative action from your body.

We, in local government, have always tried to help all the people in our communities solve the problems which afflict them. This is not a partisan concern . . . it is a concern for the health and welfare of all our residents. It is indeed unfortunate that we must use this final forum to express the mounting frustration of our residents trying to live within their incomes. The people in our communities must feed and clothe their families, and these abrupt spurts in the cost of living are far outpacing the ability of our wage-earners to keep up.

The inescapable conclusion is that these increases in the cost of living are no longer simply a manifestation of the rising cost of doing business. The American people are being taken advantage of, and gentlemen, you are the ones who can stop it. I appeal to you to do so . . . and do so quickly.

As if these steep rises in the cost of food weren't enough, we on Long Island now find that this winter will be cold indeed, principally through the action of major oil companies, which have sharply reduced the supply of home heating oil alloted to both industrial and residential users. The only way to avoid this situation is through prompt and effective action. We must appeal to you to look closely at this situation. We have been told that this is the direct result of economic controls. Surely we are not seeking any action which will raise the price of anything, but regulations must apply equally, and if that is where the problem lies, the council must see to it that our residents are not frozen out of their homes this winter.

## THE BOMB AT THE BRITISH EMBASSY: MORE VIOLENCE

### HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. KEATING. Mr. Speaker, the recent explosion of a letter bomb at the British Embassy in Washington provides yet another example of the continued reliance of many persons on the use of violence to achieve their objectives.

Like other acts of indiscriminate terrorism, the letter bomb sent to the British embassy resulted in the serious injury to an innocent person. Like other acts of violence which are committeed in the name of some "just" cause, the letter bomb produced no tangible results except to further undermine the rule of law in the United States and elsewhere around the world.

It would be a small comfort if this recent use of violence could be looked upon as a rare and unusual occurrence. Unfortunately, such is not the case.

The seige at the Bureau of Indian Affairs in Washington almost 1 year ago, the seige at Wounded Knee earlier this year, the attempt by dissidents to close down the Federal Government in May of 1971—all of these incidents are based upon the premise that violence is a legitimate tool to be used in achieving certain objectives.

No society can remain free and democratic unless there is a strong determination to obey the laws of that society, and unless there is a strong determination to punish those who choose not to obey those laws.

The failure to adequately prosecute perpetrators of crime and violence, however, is not just confined to the well-known acts of terrorism and violence such as occurred at the British Embassy.

A similar neglect of responsibility to enforce the rule of law can be seen through recent acts of violence in our own State of Ohio.

Last May, employees of the Burr Oak State Lodge in Morgan County went on strike in support of a move to achieve an objective: Union recognition.

Yet the strike dragged on for more than 4 months, and the tactics employed became increasingly violent each week.

When telephoned bomb threats forced the evacuation of the lodge on three consecutive nights in late July, the situation had deteriorated to the point where the county sheriff proclaimed he was no longer able to guarantee the safety of the citizens who wanted to use this public facility.

The subsequent decision to close down the Burr Oak State lodge provided a clear message to the citizens of Ohio: Those persons who are involved in a dispute will be encouraged to use violence or the threat of violence to achieve their objectives.

This retreat from the rule of law represents a clear failure on the part of public officials in the State of Ohio to fulfill their responsibility of enforcing the laws enacted by the Ohio General Assembly.

This surrender to those who seek to deny members of the public access to a public facility, this surrender to those who seek to threaten the safety and welfare of the people of Ohio can only encourage further violence and further disrespect for the law.

The law is either being enforced or it is not being enforced. It is time for public officials everywhere to take a clear and firm stand on this matter: That no matter who breaks the law, and no matter how just or unjust the objectives sought, the law will be enforced with vigor and fairness in all circumstances.

When participants in violence are convinced in advance that they will be held accountable for their crimes, no matter how righteous their cause, they will be less likely to destroy property, detain and injure people, and otherwise demonstrate contempt for law and society.

The efforts of public officials in Ohio, and elsewhere in the United States, should be directed at insuring that American justice is carried out and that the grievances of different groups be met at civilized levels of human behavior.

## CONGRESSMAN HUNT'S QUESTIONNAIRE

### HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HUNT. Mr. Speaker, each year since I first came to Congress I have submitted an annual questionnaire so that I might learn the views of my constituents. This year I mailed out 144,000 questionnaires and have, to date, received 19,800 responses. The following is a tabulation of the responses by percentage from the respondents:

Hunt Congressional Questionnaire, 1973

1. Should the United States contribute to the post-war reconstruction of North Vietnam? Yes, 10%; no, 83%; and undecided 7%.

2. Should amnesty be granted deserters or draft evaders? Yes, 17%; no, 77%; and undecided, 6%.

3. Do you favor further economic and cultural trade with China and Russia? Yes, 78%; no, 14%; undecided, 8%.

4. Should the death penalty be restored nationally for such crimes as premeditated murder, treason or hijacking? Yes, 88%; no, 7%; undecided, 5%.

5. Should a news reporter have the right to refuse to reveal the name of the source of a news story? Yes, 59%; no, 30%; undecided, 11%.

6. Do you support the Administration's efforts to lower Federal spending through freezing of funds appropriated by Congress? Yes, 51%; no, 32%; undecided, 17%.

7. Would you favor a Federal law imposing ten year mandatory sentences without parole for first offense drug pushers and life

sentences for second convictions? Yes, 84%; no, 10%; and undecided, 6%.

8. Which Congressional course of action on abortion do you favor? (a) do nothing at all and let Supreme Court decision permitting abortion stand? Yes, 42%; (b) enact amendment to let each State decide abortion question? Yes, 47%; and undecided for (a) (b), 11%.

9. Should strikers qualify for food stamps? Yes, 28%; no, 65%; undecided, 7.

## SLAUGHTER OF HARP SEALS

### HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. WALDIE. Mr. Speaker, the cruel and senseless slaughter of baby harp seals by Norwegian and Canadian companies is still continuing in the St. Lawrence River and off the coast of Canada. The yearly hunts which these companies undertake—last year's "harvest" amounted to 300,000 seals—serve no other purpose than to provide those who have the expensive tastes for luxury products of seal fur and leather at an incredibly painful cost to the harp and hooded seal populations. The United States is a large market for these fur industries and our silence is nothing less than an inhumane condemnation of these unprotected animals.

The legislation which I am introducing today prohibiting the importation of any product derived from the harp or hooded seal is an appeal to the moral and ethical sense of the people of the United States.

The continued destruction of fur-bearing mammals is only one indication of the environmental and ecological crises which we are approaching. I feel that the unbelievably cruel killing method used on the harp seal paints an even more atrocious picture of this senseless destruction and makes even more imperative the need to put an immediate end to this practice. Therefore, I am introducing this bill to bring this situation to the attention of my colleagues in the hope they will be made more aware of it toward the objective that it be passed into law to protect these endangered animals.

The bill follows:

H.R. 10221

A bill to prohibit the importation of articles of harp seal and hooded seal

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"13. The entry, or withdrawal from warehouse, for consumption of any article covered by these schedules which is in whole or part of harp seal (Pagophilus Groenlandicus) or hooded seal (Cystophora Cristata), whether or not such article is in chief value of harp seal or hooded seal, is prohibited."

SEC. 2. The amendment made by the first section of this Act shall take effect on the thirtieth day after the date of the enactment of this Act.

## THE AGNEW LEAKS

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. MICHEL. Mr. Speaker, an editorial entitled, "The Agnew 'Leaks'" appearing in the Monday, August 27, 1973, edition of the Peoria Journal Star speaks for itself. I would have no comment to make other than to respectfully suggest to our friends in the media that a copy of this editorial be posted in a convenient location so that all of those engaged in reporting on the activities of the Congress and the executive branch can read it and ponder its message. I include the text of the editorial to be placed in the RECORD at this point:

THE AGNEW "LEAKS"

(By C. L. Dancey)

We of the press have painted ourselves into a corner and are now in danger of looking completely asinine.

The Agnew "Leak" uproar has reached the limits of absurdity when we get to printing speculations by other anonymous sources about who the original anonymous sources might have been!

Now we are printing "leaks" about previous "leaks" and who leaked them! How reliable is that technique, friends? Are the people who spied-and-spilled also going to stool-pigeon on themselves? Are the newsmen who got the original secret information now going to seek other "leaks" to expose the first one?

Don't the New York Times, the Associated Press and others concerned already know where they got the stories?

Of course they do.

Hence, in the whole fouled up mess some of the press seems intent on putting itself in the most rediculous position of all.

Now the key news question and the key news sought in the whole Agnew affair is clearly: Who is responsible for those original leaks?

That is the news story that needs publishing—the big story.

That is what the "people's right to know" focuses on as something they have a "right to know" at this moment.

It is rather like the "tapes" in the Watergate matter. In the Agnew affair, instead of the "tapes" which might give clear answers, it is the identity of the secret informant that might make key things clear.

And this is not being withheld by Agnew, of course, or under any executive privilege. It is being withheld by the New York Times, The Associated Press and others. They invoke "confidentiality of sources."

The basis for that claim is not national security but for the newspaper's own security as a requirement of "freedom of the press." Some maintain that such modes of operation as assist the press are essential in serving "freedom" and the "people's right to know."

Hence that rationale proves to be a bit more complicated in its justification than "separation of powers," which is bad enough.

Can we expect courts and public to refuse to accept the "separation of powers" concept as a basis for the confidentiality of presidential records—and yet willingly accept "freedom of the press" as providing a basis for confidentiality of news sources?

Look where it puts us! Those who did leak the investigation secrets about the Agnew matter must hide behind the "people's right to know" as the reason they don't tell the people what the people most want to know right now—who was responsible!

Doesn't the "people's right to know" entitle them to know where this disputed data came from so they can reasonably judge the purposes involved? Don't we need to know if it was an "outrageous" attempt to prevent the system of injustice itself? If it was, it is an example of political corruption? Just like all those other shady, hidden activities we've been discussing all these months?

Haven't some of us in the press, indeed, painted ourselves into a corner and aren't we in the process of making ourselves look asinine? Invoking the "people's right to know" in order to frustrate and deny the "people's right to know?"

Doesn't this double standard make us look silly, egocentric, unreasonable, unfair and abusive regarding others—and yet secretive, sneaky, manipulative, and with it all self-righteous in our own operations?

In the midst of all our saintly demands about the Garden-of-Eden atmosphere in which politics ought to be practiced, aren't we stumbling badly over our own sacred principle of the "right to know?" where we are involved?

## "MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 18

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HARRINGTON. Mr. Speaker, on September 9, an employee of a 7–11 store was shot and killed by two gunmen who began shooting as soon as they entered the store. Their victims were given no warning. They were not threatened and given a chance to "turn over the money." They were immediately attacked by the swiftest killer—the handgun. George Stevens was shot at least twice in the chest, and James Ivison was shot in the elbow. Ivison was able to press an alarm button on the floor that summoned the police. They were not in time.

Gun control is not a law to infringe on homeowners' safety and sportsmen's pleasure. It is legislation that would save thousands of lives every year—lives like George Stevens.

I would like at this time to include the September 10 Washington Post article.

ONE KILLED, TWO WOUNDED IN SHOOTING AT STORE

(By Martin Weil and E. J. Bachinski)

An employee of a Seven-11 store in Prince George's County was shot and killed last night during an apparent holdup attempt in which the store manager and a customer were also shot, county police reported.

Police said that two men armed with handguns walked into the food store at 6011 Arbor St. in Cheverly about 9:45 p.m. and began shooting almost at once.

The employee who was killed was shot at least twice in the chest as he stood near the rear of the store, police reported. He was identified as George H. Stevens of 6335 Landover Rd., Hyattsville.

The store manager, identified as James A. Ivison, was admitted last night to Prince George's General Hospital for treatment of a gunshot wound in the elbow.

The customer, identified as Raymond D. Evinger, 29, of 2402 Lake Ave., Cheverly, was also admitted to the hospital with gunshot founds in the right arm and side. His condition was termed fair.

Evinger was shot near a soft drink cooler. Ivison, the manager, was hit behind a counter. After being shot, Ivison fell to the floor and pressed an alarm button that brought police to the scene.

They arrived to find the counter spattered with blood and the drawer of a cash register standing open.

But it was not immediately known, police said, whether any money was taken.

Nor did police offer any explanation as to why the gunmen began firing as they entered the store.

Residents of the area around the store, near an exit ramp from Rte. 50, said that just after the shots were fired, they saw two men run from the store and go behind some houses.

Soon afterwards, they said, they saw a late model green Ford leave the area at high speed.

There are more than 200 Seven-11 stores in the Washington area. Generally they remain open later than many other neighborhood stores and some have become the targets of robbery.

## HOW THE A-7D REWROTE THE BOOK IN SOUTHEAST ASIA

### HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. FISHER. Mr. Speaker, I am much impressed by an article which I read in the August issue of the Air Force Association magazine, entitled "How the A-7D Rewrote the Book in Southeast Asia." It covers the A-7D combat record in Southeast Asia during the last 10 weeks of the Vietnam war.

In terms of accuracy, survivability and reliability, the A-7D and the A-7E there demonstrated in close to 50,000 combat sorties that the system operates most effectively. The enthusiasm of the pilots who flew those missions, expressed in the article, is understandable. They should be the best judges of the equipment. In this instance the A-7D's weapons systems represents the very best in engineering achievement and adds up to the best tactical air-ground weapons delivery system for medium ranges within the free world.

Moreover, we must also remember that the A-7D is a ground attack aircraft and was never intended to be a fighter. Its capability is concentrated on the air-ground delivery of weapons. By so doing, the airplane can be produced at minimum cost and maximum effectiveness. Some detractors have claimed the A-7D is limited in utilization to the so-called "permissive" environment, but it has been demonstrated that this is simply not true.

#### EFFECTIVE DEFENSE AGAINST GROUND WEAPONS

This airplane depends on speed and method of weapons delivery for its defense against ground weapons. The abortive invasion of South Vietnam into Laos to cut the Ho Chi Minh Trail failed because of, among other things, the effectiveness of enemy shoulder-held missiles against helicopters and slow flying airplanes when operating at low altitudes. Of course the Air Force is "working on the problem" as far as a defense against this type of weaponry is concerned, but an effective solution has not been reached.

In the meantime, the A-7D delivers its weapons from a higher altitude at a greater speed with greater accuracy, and is thus able to operate in the face of the enemy shoulder-held weaponry, as well as better than other tactical aircraft in the projected future inventory. I believe our experience in Vietnam confirms this fact.

Some of the fighters that we are buying at this point for air-to-air purposes depend on their close turn ratio compared to that of enemy airplanes to provide disengagement and the ability to get home when opposed. The A-7D has the same or better turn ratios and thus possesses disengagment capability equal to fighters which are actually purchased for use as air-to-air weapons rather than air-to-ground weaponry. Again, we do not need to speculate about this; the record of performance under combat conditions confirms it.

#### NATIONAL GUARD AND RESERVE EQUIPMENT MUST BE COMPARABLE TO THAT OF REGULAR FORCES

Mr. Speaker, Subcommittee No. 2 of the House Armed Services Committee has program in the Air Force for equipping shown deep concern over the lack of a the Air National Guard and the Air Force Reserves with reasonably effective airplanes. As chairman of that subcommittee I have repeatedly referred to the Secretary's pronouncement on that subject. It will be recalled that Mr. Laird, while Secretary of Defense, announced a program which all of us considered to be very commendable.

This was the so-called Total Force Concept. Under this concept, all of the forces including the Reserve components are to be considered as a part of the total force to be available to meet any potential enemy. It follows that in order for this concept to be effective the Reserve components must be equipped with effective weapons systems as well as be manned and trained up to the levels of the active establishment.

#### AIR NATIONAL GUARD IS UNDEREQUIPPED

In spite of the significant overall reduction in defense dollars while simultaneously increasing the effectiveness of the total force, the Air Force has not yet elected to do this in the tactical area; the Air National Guard is still equipped with F-100 airplanes which are not only marginally effective in the air-ground role, but are on their last legs as far as even peacetime operation is concerned. In other words, great savings could be effected in these days of high personnel costs by manning and properly equipping the Reserve components. It would seem that the A-7D, which has the very latest in air-to-ground delivery systems, would be a very effective and economical way to bring the Air National Guard and the Air Force Reserve up to their proper combat effectiveness.

Mr. Speaker, I emphasize that we do not need to speculate about the capability and the performance of the A-7D. It has proven its worth time after time under extreme combat conditions. At the beginning of my remarks I referred to an article which appeared in the August issue of the Air Force magazine. It relates to the effectiveness of the A-7D and the weapon delivery system, as well as the enthusiasm of those who have been flying the airplane in combat.

Under leave to extend my remarks, I include the article. It follows:

### HOW THE A-7D REWROTE THE BOOK IN SEA

(By John L. Frisbee)

"When our flight of three A-7s got to the target area in Laos, three F-4s were working it with laser-guided bombs. They were going after a bridge and had damaged it extensively before their fuel ran low and they had to leave.

"Then the FAC put us on the bridge. One of our pilots was a first lieutenant on his second mission in SEA—the second time he had ever dropped bombs in combat. We destroyed that bridge with three bombs.

"Next, the FAC gave us a bypass bridge about 100 meters down the river. We dropped it with two bombs and went over to a ferry crossing on another river. With three bombs, we destroyed the ferry cable, the dock, and the ferry.

"'Okay,' the FAC said 'I've got only one more bridge.' We went down to that bridge and destroyed it with three bombs. Fantastic!"

The A-7D mission that Capt. Buddy Sizemore—a pilot of the 354th Tac Fighter Wing out of Myrtle Beach AFB, S.C.—described may not have been exactly typical, but it wasn't all that untypical of the wing's experience in Southeast Asia, either. And Captain Sizemore's "Fantastic!" is the judgment of a pilot who had been there before. Earlier in the war, he flew a tour in F-4s, based at Phu Cat.

#### HIGH ACCURACY, LOW LOSSES

If you didn't know that USAF had an A-7D wing in SEA during the closing months of the Vietnam War, you're forgiven. Despite the remarkable record of the 354th TFW and its A-7D "Little Hummer," they got scant notice in the press. But they were there, all right.

The wing, then commanded by Col. Thomas M. Knoles, arrived at Korat Royal Tha AFB in mid-October 1972. Its seventy-two birds flew some 4,000 sorties between October 16 and the end of December, when the Linebacker II bombing campaign ended U.S. participation in the Vietnam War. A squadron of the 354th is still there, along with one squadron from the 355th TFW, Davis-Monthan AFB, Ariz., both under Col. William D. Curry, now the 354th Wing Commander.

Although neither Guinness nor anybody else keeps record books on tactical fighter wing achievements, the 354th TFW must have set a lot of new marks. Its deployment from Myrtle Beach to Korat set the tone for the entire operation. Col. John Rhemann—then Wing Deputy for Operations and now Wing Commander Rear, back from SEA and running the show at Myrtle Beach—said, "This was one of the few times in Air Force history that a wing of fighter aircraft departed the US and arrived at its overseas destination with all aircraft on schedule."

During its ten weeks of combat in 1972, the wing—operating at a 0.87 frag rate for its seventy-two aircraft, which comes out to sixty-two sorties a day—dropped nearly 25,000 bombs, most of them Mark 82 500-pounders. According to FACs and other interested observers of bombing accuracy, they probably had an average miss distance of about ten meters.

Capt. Harry G. Rodman is a FAC who worked the 354th A-7s, mostly against interdiction targets. He's now stationed at Hurlburt Field, Fla., with the 549th Tactical Air Support Training Squadron. Captain Rodman says that the A-7D "was tremendously accurate. You could depend on the weapon system to put an iron bomb exactly where you wanted it—an unguided system that could be used with confidence against point targets. When all its systems were operating, it was nearly as accurate as guided bombs."

Against all kinds of targets—trucks, storage sites, ammunition caches—the wing averaged close to twenty-five percent secondary explosions, significantly higher by estimates of experienced pilots than normally scored by other tactical fighters.

The A-7D proved to be reliable and easy to maintain. It had a ground abort rate of 0.3 percent and an air abort rate of 0.5 percent. Tactical Air Command's "acceptable" rate is 5.0 percent.

Perhaps most remarkable of all was the A-7D's combat loss rate. The 354th was fragged against all kinds of targets in South Vietnam, Laos, and Cambodia, with emphasis on generally well-defended interdiction targets. During Linebacker II, they supplied the bulk of the daytime strike force, hitting undisclosed targets—some of them near downtown Hanoi—requiring extreme accuracy. The wing lost only two aircraft in its combat operations. One of the pilots was captured and subsequently returned when the POWs were released by North Vietnam. The other, regrettably, was killed.

THE A-7D'S SMARTS

What accounts for the 354th TFW's unprecedented accuracy in delivering unguided bombs and for its combat loss rate, which much be the lowest in the history of tactical fighter operations? Ask any A-7D pilot, and he'll tell you it was the airplane—not the pilots.

Even though fighter pilots are not noted for their modesty, we'll discount that statement. With two or three exceptions, all of the 354th pilots who flew in SEA were old hands. Most of them had at least one previous SEA tour in F-100s, F-105s, or F-4s. The same goes for the rated members of the wing staff and the squadron commanders who led missions. And they all had a good bit of A-7 time in the States. You don't write off that kind of experience as a neutral factor.

Nevertheless, a large share of the credit must go to the bird itself. Its electronic systems were described in some detail by Capt. Tom Ryan, a 354th pilot, in an article, "A-7D—That Super-Accurate SLUF," published in our March 1972 issue. The systems include forward-looking radar, Doppler, an Inertial Measurement System, and a radar altimeter. The information supplied by these systems is digested by a tactical computer and displayed on a Projected Map Display System (a map in the cockpit on which the aircraft's precise position is continuously indicated) and on a Head-Up Display (HUD) projected on the windscreen, which gives the pilot all information he needs to control the aircraft and deliver bombs or 20-mm shells on target. The systems can be used for accurate straight-and-level bombing from medium altitude, radar offset bombing, computed gunfire, and for dive-bombing—the most accurate bomb delivery mode.

One of the beautiful things about the Little Hummer's systems is the flexibility they give a pilot in his dive-bombing run. After the navigation systems have led him to the target area, all he has to do is identify the target, then, looking through the Head-Up Display on his windscreen, put the HUD's aiming symbol on the target and press a "designator" button on the stick. The computer almost instantaneously figures out the point in space where bombs must be released to hit the target. The pilot can take evasive action all the way down the chute until the aiming symbol meets the target. At that point, he levels his wings for "about three seconds," pickles the bomb, and pulls off the target. Bull's-eye or a near miss! No more worries about parameters of airspeed, dive angle, release altitude, which have always demanded so much of a pilot's attention, kept his head in the cockpit, and made him a predictable target for enemy gunners.

STAY HIGH, STAY SAFE

Except in cases where they had to go low in order to identify a target, the 354th pilots released from altitudes between 5,000 and 7,000 feet—well above the effective range of small-arms fire and most enemy AA. So the A-7D's electronic systems in the hands of competent pilots came up with unequalled accuracy and survivability.

Here's how Lt. Col. Charlie Copin, Commander of the wing's 356th Squadron, put it: "My job as a squadron commander was to make sure that targets were hit and that the airplanes came back so they could be used again the next day. It was damned nice to be able to put a 3,000-foot-above-the-ground minimum altitude restriction on my pilots, knowing that they could hit the target without getting down in the weeds. It was the *airplane*, not the pilots, that allowed us to do that."

The A-7's accuracy did create an educating job for the pilots. "We had to get the FACs to not talk in general terms," Captain Sizemore said. "They would say, 'Okay, fifty meters west of my smoke.' You'd drop a bomb and the FAC would say, 'Now ten meters east.' We had to tell them, 'Hey, wait a minute. I see a tree on a rocky point. Where do you want it in relation to that?" We had to educate them to use specific points."

Should the A-7 be modified to carry laser or electro-optical guided bombs? Capt. Don Cornell doesn't think so. "To be realistic, LGBs are more accurate than the A-7's iron bombs. The difference in accuracy isn't great, and it's not going to cost you as much to destroy a given target with the A-7 as with guided bombs."

Another virtue of the A-7D's systems was pointed out by Capt. Dave Sawyer. "The tac computer allows you to come in on a target from any direction, dive angle, and airspeed. With several A-1s working a target, each with different parameters, you really can keep the defenders busy. And you don't have to waste any time finding the target. All pilots know where it is from their systems. You can hit it and get out fast."

When operating on long missions, as they did in SEA, and for deployment, the A-7D's navigation system is a real boon. Captain Cornell said that occasionally, during the deployment to Korat, the KC-135s that refueled them over the Pacific would update their navigation systems from his. "I was less than a mile off course between Hawaii and Wake Island. This was entirely on the Inertial Measuring System, and without the Doppler, since we were over water."

LITTLE BIRD—LONG LEGS

Another plus for the A-7D—and for Seventh Air Force planners—was the length of the airplane's legs. Colonel Rhemann has a bunch of charts in his briefing room at Myrtle Beach AFB, centered on Korat RTAFB. They show the areas in which combat-loaded A-7Ds could operate without refueling from tankers—essentially all of Southeast Asia.

A typical configuration was for a mission with a 350-nautical-mile radius. That radius takes in all of western South Vietnam, North Vietnam to within about ninety miles of Hanoi, Cambodia, and Laos except for the extreme northern tip, Carrying two 300-gallon wing tanks, eight Mark 82 bombs, and 1,000 rounds of 20-mm ammunition, the bird had thirty minutes in the target area and 2,300 pounds of fuel reserve on return to Korat. By cutting the fuel reserve to 1,500 pounds, combat radius was increased to 480 nautical miles—well beyond Hanoi and Haiphong without refueling.

Often a pilot was fragged against a target in southern South Vietnam, diverted to one in north Laos, and was still able to give the FAC twenty to thirty minutes in the target area without refueling. Some Linebacker II missions were flown without tanker support; on others, external tanks were left off in order to increase the A-7's bomb load, and tankers were used.

The A-7D's range came in handy in two other missions assigned to the 354th: search and rescue (more about that later), and night escort for the AC-130 Spectre gunships. Maj. Jack Terry believes that the A-7 was the best aircraft in SEA for gunship escort "because we could stay with them so long—about an hour and a half. When escorting the Spectres, we did flak suppression on the big guns," which was never a real fun job.

Did the wing do much night work? "No," said Lt. Col. Dave Eknes, the 355th Squadron Commander. "The A-7 is well adapted to night operations because of the precision of its systems, but we were limited by the number of aircraft we had over there. They wanted us in the daytime."

SEARCH AND RESCUE

When the 354th went to SEA, they expected to be flying interdiction and close support. It turned out to be more interdiction than close support, largely because of the nature of the conflict at that time. Very few U.S. ground forces were involved, and, during late 1972, there were fewer troops in contact, so the number of true "close-support" sorties was considerably less than in previous years. Then they flew some bombing missions that could be classified as strategic during Linebacker II.

The big surprise, however, was being given the Sandy role in search and rescue (SAR) operations—locating and protecting downed airmen, covering the rescue helicopters, and coordinating action in the pickup area. That happened three weeks after their arrival at Korat, because the A-1s that had done the Sandy job throughout the Vietnam War were being turned over to the South Vietnamese Air Force.

"There was considerable skepticism about the A-7's suitability for the Sandy mission," Colonel Rhemann recalled. "We went into an extensive training program to develop new tactics. By comparison to the A-1, the A-7 is a relatively fast, high-performance aircraft. Tactics had to be changed significantly. We had a couple of pilots who had flown A-1 Sandys in SEA, and that helped.

"A week after taking over the Sandy job, our pilots participated in the pickup of two F-105 pilots near Thanh Hoa in some very marginal weather. It was a difficult mission, and, after that, there was little doubt that the A-7 was not just an adequate replacement for the A-1. It was far superior in that role."

Before the air war ended eight weeks later, 354th Sandy pilots had taken part in the rescue of twenty-two downed flyers. The "difficult mission" Colonel Rhemann spoke about was certainly among the classics of the SAR business. Here is how it went:

An F-105 Wild Weasel had been hit by a SAM in the vicinity of Thanh Hoa, on the coast, some ninety miles south of Hanoi. The Weasel crew bailed out at about 11:00 p.m., landing at the base of the first ridge line west of the city. The following day, three of the 354th Sandys went up in very bad weather and got the survivors located, part way up the ridge line, but separated from each other.

A SAR force of about seventy-five aircraft was put together late that day and during the night by the Joint Rescue Coordination Center at Tan Son Nhut Air Base, near Saigon. It included F-105 Wild Weasels to suppress the SAMs around Thanh Hoa, F-4 Wolf FACs and F-4 MIG CAP aircraft, tankers, an HC-130 Kingbird (the mission coordinator), H-53 Jolly Green rescue helicopters, A-7Ds with smoke for screening purposes, and three 354th TFW Sandys. Pickup was set for first light the following day, with takeoff for the Sandys at 0430.

Maj. Colin A. "Arnie" Clarke, who was operations officer of the 354th TFW's SAR organization, led the Sandys. He has been awarded the Air Force Cross for his part in the show.

The Sandys rendezvoused with the Jolly Greens above a solid overcast along the Laos-North Vietnam border. While the Jollys held in orbit, Major Clarke and his wingmen worked east from the Plaine des Jarres in Laos, looking for a break in the overcast through which a chopper could let down. Approach from the Gulf of Tonkin seemed out of the question. The Thanh Hoa area was heavily defended by antiaircraft guns and SAMs, while just north of the town was a MIG field.

### INTO THE VALLEY

Major Clarke told his wingmen to hold while he let down several times into narrow valleys, trusting to the accuracy of his Projected Map Display and radar altimeter. Each time he broke out under very low ceilings, the valley proved too narrow to turn in, and ahead the clouds closed down over rises in the ground.

Giving up on the valleys, Clarke climbed up on top, flew east, and let down over the Gulf to see if there was any way to work a Jolly through the enemy defenses along the coast. There wasn't. He did get the survivors pinpointed and marked on his Projected Map Display so both men on the ground could be found immediately on return.

Clarke now went back over the Gulf, picked up his wingmen and the smoke-carrying A–7s, and took them in to see where the survivors were. The A–7s took several .51-caliber hits. But weather in the pickup area had improved somewhat—2,500-foot ceiling with lower broken clouds, rain, and three miles' visibility. It was still too low for the supporting F–4s to use their delay-fuzed CBU antipersonnel bomblets against enemy gun positions. To the west, the only approach route for the choppers, it was still down in the valleys.

Everything pointed to an aborted mission. But Major Clarke "knew that the weather wouldn't be any better for days. The survivors couldn't last that long." Having been shot down himself on an earlier tour as an F–100 Misty FAC, he knew that it was now or never.

Going back west again, Major Clarke let down on instruments in a valley wide enough to turn in. While he orbited just above the ground, one of the Jollys did a DF letdown on him, but ran low on fuel, climbed back through the clouds, and headed for home.

The mission now was six hours old.

Two more Jollys came up from Kakhon Phanom and held while Clarke went out to a tanker for a rest and fuel. At that point, he set a pickup time for the SAR force. Going back west, he once more let down on instruments into a valley "wide enough to hold a two-G turn" and a chopper DFed down on his position—about forty-five miles west of the survivors.

Flying ahead and doing 360-degree turns to stay with the chopper, Clarke led it to near the pickup area, where he told the Jolly to hold while he went in to get the survivors alerted and suppress fire from enemy guns.

Clarke now discovered a .51-caliber gun position on the ridge, just above one survivor, who was hiding in tall brush. "A guy could have thrown a hand grenade from the gun pits onto the survivor." He and his wingmen, Captains Sawyer and Cornell, kept fire on the guns while the A–7 smoke birds laid down a screen.

By this time, there was a lot of lead flying around and a lot of chatter on the radio. The Jolly Green pilot decided to come in, unaware of the gun position close to one survivor. Miraculously, he made both pickups, then headed west, directly past the .51-gun pits.

Clarke made "a very low pass" on the guns to protect the Jolly and took a hit "by something that felt like a 57-mm." He lost all his systems and pulled up into the clouds "with what I hoped was wings level. About that time a SAM radar picked me up, and things didn't look too good." The SAM apparently didn't fire.

Clarke broke out on top, joined up with a couple of A–7s, and made an IFR landing at Da Nang, flying the wing of one A–7. Mission time: about nine hours.

The "57-mm hit" turned out to have been a .51-cal tracer that exploded one of his empty wing tanks, blowing in the side of the fuselage and bowing the underside of the wing.

That was one to remember.

### MANY PLUSES—A FEW MINUSES

The 354th Tactical Fighter Wing was the first to try out the A–7D in combat. They went to Korat to fly interdiction and close support. That they did, and gunship night escort, search and rescue, helicopter escort—and Linebacker II daytime strike missions in and around Hanoi. They did a lot of things that no tactical fighters have done before, and some things that other fighters haven't done as well.

No one in the 354th bad-mouths the A–7D. Not the pilots, who came from F–100, F–105, and F–4 units. Not the ground crews or support people.

Like every airplane, the A–7D has its faults—like its ground-loving tendency on a hot, 105-degree runway with a full load—but they're few compared to its virtues. And so far as runway length is concerned, Charlie Copin pointed out that "where you don't have to fly as far to target as we did in SEA, you can leave off the wing tanks, carry the same bomb load, and reduce takeoff roll by 3,000 feet."

If they could redesign the A–7D, how would they change it? More power? Of course. Every pilot wants that in any airplane. A bigger gun? Maybe, but if you can hit a tank with bombs on the first pass, do you really need a bigger gun?

Anything else?

After a long pause, Capt. Don Cornell replied, "I guess about the only thing I'd do would be to make it a little prettier."

And that just about sums up the 354th Tactical Fighter Wing's feeling of affection for its Little Hummer.

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## DONALD E. WELCH

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. ASPIN. Mr. Speaker, I wish to take this opportunity to commend and congratulate a young constituent of mine, Donald E. Welch, on his recent election as the president of the National Junior Classical League, an organization designed to encourage in young people an interest in and appreciation for the civilization, language, literature, and art of ancient Greece and Rome, at its 20th annual convention in Claremont, Calif.

Donald is presently a senior at Parker High School in Janesville, Wis., and is in his 7th year of the study of Latin. He is active in the Latin Club and is a past president of the Wisconsin branch of the classical league with Mrs. Arlene Silness ably serving as his advisor.

Donald's activities are not limited to the study of the classics, however. He was also a representative to Badger Boys State this past summer, and is active in the National Honor Society, drama, and has played basketball since 9th grade. In addition, Donald has worked with mentally retarded children in an education class.

I am happy to join Donald's parents, Mr. and Mrs. Donald Welch, Sr., as well as Donald's fellow students and the faculty of Parker High, in their pride for this fine young man.

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## THE PRESIDENT, THE "FED" AND HIGH INTEREST RATES

## HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, many who heard the President's recent press conference had their worst fears confirmed when the President said that his economic advisers had guessed wrong and advised him wrong with respect to economic policy.

The erratic course of the administration's economic policy has been difficult to fathom—many feel wage-price controls were applied too late and lifted too early. Selective price controls are working great hardships on not only American consumers, but also small businessmen and other segments of our economy. Inflation continues to increase. The dollar has twice been devalued and interest rates continue too high. The proper remedy seems not yet in sight.

Because of the interest of my colleagues and the American people in this most important subject, I place in the RECORD herewith a perceptive article by Mr. Hobart Rowen appearing in the Washington Post.

The article follows:

### MR. NIXON, THE "FED" AND HIGH INTEREST RATES

(By Hobart Rowen)

Sitting in the White House East Room for President Nixon's press conference last Wednesday, one thing became perfectly clear: the administration has no new ideas for controlling inflation.

Sidestepping any blame for himself, the President took a dig at his economic advisers for the disastrous price spiral of 1973.

"I'm afraid I can't be any more perceptive than my economic advisers have been and their guesses with regard to, as you know, the numbers insofar as inflation have been, have not been very good."

He then tossed the advisers a crumb of comfort by saying he didn't blame them because of "factors . . . (they) did not foresee."

Mr. Nixon's advisers have been wrong on more than guessing the rate of inflation. At almost every turn, from the original "game plan" of 1969 which produced inflation and recession at the same time, to the ill-fated junking of Phase II of wage-price controls on Jan. 11, Mr. Nixon and his experts have botched the job of managing the economy.

This isn't to say that there were no problems beyond their control, notably a worldwide boom that contributed to rising prices here.

But lots of our present economic headaches could have been avoided or mitigated. There were plenty of warnings, for example, that the Agriculture Department was following a policy of scarcity all during 1972, when food demand was booming. But the department had a monolithic concentration on boosting farm income rather than the national food supply.

And consistently, Federal Reserve Chairman Arthur Burns—whose name the President invoked twice at the Wednesday press conference—begged for a stronger tax policy that would ease the inflation-fighting burden imposed on monetary policy. Had that advice been heeded, interest rates wouldn't be so high today.

For all of the policy mistakes, only two notes of grace can be recalled. First, Treasury Secretary George P. Shultz has admitted that Phase III was a disaster, and Burns concedes that the Fed should have exerted greater monetary restraint last year.

Government expenditures should also have been reined in last year. A golden opportunity to trim back military spending coincident with the winding down of war in Vietnam was missed.

But now the monkey is on the back of Mr. Burns and his six fellow governors. Almost the entire fight against inflation depends on a high interest rate policy—and the Fed is the first to admit that there are serious limits to what should be expected from monetary measures. The Fed can establish a goal—and have no assurance that it can reach it. Moreover, it is uncertain what effect a given policy, even if achieved, will have on prices.

Former Fed Governor Sherman Maisel points out in a soon-to-be published book, "Managing the Dollar," that the present Fed policy of allowing unlimited credit to those who can pay the price must at some point price others out of the market.

Burns himself, in testimony Aug. 3 before the Joint Economic Committee, said that interest rates "could go so high that we would be laying the foundation for the breakdown of our economic and social order."

He cited, in that connection, the fact that the 180-day interest rate in Chile was 90 per cent, because the inflation rate had hit 200 per cent.

"If I accomplish nothing else this morning," Burns told that hearing, "I want to emphasize the simple truth that inflation and high interest rates go together, and that both the one and the other pose perils for economic and social stability in our country."

But in the month since then, interest rates have forged relentlessly upward. We may not yet be suffering from a Banana Republic style of inflation, but for the first time in recent history, interest rates, like other elements of price inflation, are being measured in double numbers—11 per cent or so for bank loans to small business, 10 or 11 per cent in the "overnight" rate at which banks borrow from each other—and 10 per cent is widely predicted for the banks' prime lending rate, the price of money to the best and biggest customers.

When asked Wednesday whether "the tax structure should be altered in any way to help strengthen the economy," Mr. Nixon responded:

". . . a number of my advisers, including, incidentally, Arthur Burns, have strongly recommended that the answer to this whole problem of inflation is the tax structure, you know. That there's this gimmick and that one. And by saying gimmick, I don't mean anything disrespectful to Arthur Burns, because he's very important to us at this moment . . . But there isn't a chance that a responsible tax bill would be passed by this Congress in time to deal with that problem."

That may be a correct political judgment. But if proposing higher taxes of some sort is the right policy; the President shouldn't shrink from it. Just his willingness to develop a more even-handed economic program might have a beneficial effect.

Right now, the burden of monetary restraint is very uneven. Housing gets clobbered. Smaller businessmen get hit hard when borrowing money. Local communities find it tough or impossible to get the money they need for community projects.

To those affected by high interest rates, it is little comfort to hear that with 6 per cent inflation, a 10 per cent interest rate works out to a "real" money cost of only 4 per cent.

That may be significant to the big businessman, to whom interest rates are but another operational cost, with the government picking up as much as 50 per cent of it on his tax return, anyway.

But to the homeowner, or small borrower, a high interest rate is just another inflated price, along with the rest of them, which reduces the amount of money in his pocket. If it goes on long enough, a recession is a certainty—but it won't necessarily cure inflation.

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## NOTES ON LOCAL INSTITUTIONS

### HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. DE LUGO. Mr. Speaker, I was sorry to note that the Cafe Brittany on the Island of St. Thomas is closing. This has been an outstanding restaurant, and I am sure that it is familiar to many of my colleagues who have visited the island.

Not only has the Brittany been a gourmet's delight, but under its general manager Jerry Meyer the cafe has been a leader in career training programs for young Virgin Islanders. It has been an example of a business with an enlightened social conscience, and I sincerely hope that a way will be found for the Brittany to reopen in the near future.

I am including with my remarks an article from the Daily News written by Benita Cannon which describes the many contributions of the Cafe Brittany and the reasons for its closing. On the brighter side, the article also describes the fine photography show of Sammy Hall, a native of St. Thomas, and an artist of unusual talent.

The article follows:

NOTES ON LOCAL INSTITUTIONS

(By Benita Cannon)

The word embraces not only public, government-sponsored projects, but also private businesses that render significant services to their communities, and it is in that sense that the word is used here.

One of these, the Cafe Brittany has closed, and that is sad, sad news for its patrons and friends, and for the island of St. Thomas where it operated for nearly six years, meeting some very special community needs.

The Brittany could well boast of its fine food, excellent service and pleasant atmosphere, but those were fractional parts of its community role. It was Cafe Brittany whose doors stood open for meetings of local organizations, whether those attending ordered a meal or not. When any worthwhile cause undertook a fund-raising campaign, Cafe Brittany could be counted upon to donate a certificate covering a number of dinners, and those were cherished raffle prizes or auction items for the annual Community Chest drive and for many, many other philanthropic, educational and social welfare organizations.

Jerry Meyer, Cafe Brittany's general manager, was one of the first local businessmen to participate in career training programs for young Virgin Islanders, and he encouraged other businesses to adopt the practice.

Cafe Brittany succeeded superbly in serving its community. It was as a business that it failed. It suffered all the difficulties presently confronting many Virgin Islands businesses—a diminished tourist trade and smaller numbers of vacationers, fewer people going out at night, and enormous operating costs, particularly for a first-class restaurant. I have been told, although I cannot verify it, that the Brittany had another problem: unpaid charge accounts. According to quite a few people, much of the Brittany's business was on a "chit" basis and too many of those chits were never paid. If that is so, it speaks badly for a lot of us.

There seems to be some possibility that Jerry Meyer will manage to put it all back together again. A reopening of Cafe Brittany would be glad tidings indeed, and I join with all his other friends in wishing him the best of good luck in his efforts.

On a happier note, a good friend and beautiful human being (there aren't too many of these around these days) is having a one-man photography show at the A. H. Riise Art Gallery. His name is Sammy Hall, and he is a photographer of unusual accomplishment. He uses only black-and-white film, then colors the prints by hand, carefully and tediously. The finished photograph resembles a painting, with all the subtle understatement of a master artist's touch.

Sammy was born on St. Thomas, spent some years living and working in New York, and now resides on St. John with his wife and family. He is a genuine "local talent"—a Virgin Islander who shares, through his photographs, his love and appreciation for the natural wonders of his region.

In this case, of course, the "institution" is A. H. Riise, whose small but handsome art gallery provides a showcase for the output of Virgin Islands artists, affording an opportunity for their work to be seen by the community and by the streams of visitors who pass through the doors of A. H. Riise daily. It has offered a "leg up" for a number of gifted local artists.

Like Cafe Brittany, A. H. Riise is generous in its support of local philanthropies, and it is almost inevitable to find contributions from it on the prize or auction lists of worthy organizations trying to raise money.

Cafe Brittany and A. H. Riise: institutions. Businesses, yes, but community-minded, seeing their roles as something beyond commercial enterprise.

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## ANNOUNCEMENT OF HEARINGS ON H.R. 187, TREATMENT AND REHABILITATION OF NARCOTICS ADDICTS

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will continue its hearings on H.R. 187, to amend title 18 of the U.S. Code to enable the Federal criminal justice system to deal more effectively with the problem of narcotic addiction, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enable the State and municipalities to deal more effectively with that problem, and for other related purposes.

On Tuesday, September 18, 1973, at 10 a.m. in room 2226, Rayburn House Office Building, the subcommittee will hear testimony from Dr. Robert DuPont. Dr. DuPont is director of the Special Action Office for Drug Abuse Prevention.

Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. 20515.

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## THEY CARED ABOUT PEOPLE

## HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HARVEY. Mr. Speaker, during the congressional recess I returned to the eighth district for a series of office hours throughout many of the small communities. One of my favorite stops is the community of Millington because, as has been the case in each of the last 10 years, Bill Throop is always there with a warm greeting and handshake.

This year was no exception. Bill, long active in veterans' affairs and a fine community leader, made his visit. But, I was saddened to learn that his lovely wife, Lucille, had passed away.

Many might consider Lucille and Bill Throop as plain, ordinary people. They would be proud of that designation. But, I have and continue to think of them as very special people.

Mrs. Lilia DeBoer, veterans' counselor and another distinguished Tuscola County resident, touched on the Throops in a very nice tribute that she extended in her regular radio program over WKYO in Caro last month. While Mrs. DeBoer's tribute to the Throops follows my personal comments, I wanted to particularly single out the following segment from that radio statement:

> At one time Lucille and Bill had the used clothing room at their home and Lucille saw to it everything was in good condition and looked after the clothes room herself. I wonder how many people would be willing to turn their glassed-in front porch into a clothing room for the needy.

Lucille and Bill Throop have always had one great characteristic—they cared about people. Lucille is gone now—passing away on July 21, 1973, but you can be certain that Bill will carry on the wonderful and commendable work of both—caring about people.

Mrs. DeBoer's radio comments follow:

> July 21st we were saddened to receive a phone call from Millington that Lucille Throop had passed away. Lucille was the angel of Millington. Everybody loved her and she was always ready to give a helping hand to anyone in need. She was the wife of Bill Throop of Millington and both of them were interested in people. At one time Lucille and Bill had the used clothing room at their home and Lucille saw to it everything was in good condition and looked after the clothes room herself. I wonder how many people would be willing to turn their glassed-in front porch into a clothing room for the needy. I never saw Lucille when she wasn't smiling. If you stopped into her home she was always ready to make you a cup of tea and give you some of her homemade bread, cookies or fried cakes. If anyone was ill she sent them a card and if at home she took them some of her good home baked goods; if there was a death in the family she was always there with food for the family and always sent a card. The young people in the community loved her. I can recall one time when Bill was in the VA hospital at Saginaw, they made tray favors for all the veterans in his ward and sent them over with Lucille. She was crossing guard for the school and an excellent one. No matter when you passed her corner she would smile and wave her hand. All of us in the office will miss her as she very seldom came in that she didn't bring cookies, cake or fried cakes for us to have with our coffee. She always sold unique Christmas Gifts and made quilts to sell, and I for one will be lost as I never had to go out to shop, Lucille brought things to my door. Lucille was a person who did her good deeds quietly and she was always there but she never made a big fuss about what she did. It will take the people a long time to get over her loss and as time goes on we will realize more and more how much she did for people. She is probably already learning the needs of people in Heaven and is busy taking care of them as she is that type of person. She never complained and seemed ageless so it was a terrible shock to learn of her passing. She was a person that enriched your life just by knowing her. We hate to see the passing of people like Lucille as she was a good citizen; a good neighbor, a good wife, a good mother and grandmother. Her good deeds are too numerous to mention on this program but she will be missed by all who knew her.

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## CONSTITUTIONAL AMENDMENT ON BUDGET CONTROL

## HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. SPENCE. Mr. Speaker, I think a good many of my colleagues discovered during the recent August recess a fact which they certainly could not have learned from the Washington media; namely, that the American people, though concerned about Watergate, are not nearly so concerned about that problem as they are about the continuing inflationary spiral and the state of the Nation's economy.

Recent experience with price controls has demonstrated again what had already been proven over and over. If anyone had cared to look at past history he could have foreseen the present failure of price controls to stem inflation and stabilize the economy. Indeed, President Nixon told us repeatedly that they would not work before hysterical political pressure finally forced him to demonstrate the fact again for an unbelieving Congress and public. Now we as a people have once again come face to face with the reality that wage and price controls treat only the symptoms of economic dislocation, not the causes. And we are seeing an ever-increasing awareness on the part of the people that the primary cause of inflation is rampant deficit spending by the Federal Government. According to a January Harris survey, 74 percent of Americans believed that Federal spending was the single greatest cause of continuing inflation. That alone, of course, is not conclusive evidence that they want the spending reduced. It has always been popular to say it, but for years most of us—whether legislators or the general public—have behaved as if it were not true. It has been good political rhetoric, but it has not been popular when translated into political action. Now, however, I think the time has come when the people again perceive the truth and are going to expect their elected Representatives to behave in responsible ways which will bring Federal spending under control, eliminate deficits, and begin to reduce our gigantic national debt in order that runaway inflation can actually be curbed.

It is for this reason that I am today introducing a constitutional amendment which I believe will enable us to achieve the goal of balanced budgets in the most expeditious, forthright, and sustained way possible.

In offering this amendment I am fully aware of the many proposals which have already been presented to this Congress to deal with the problem of budget control and inflationary Federal spending. Among these proposals are one recommended by the Joint Committee on Budget Control (H.R. 7130), which I support, and a constitutional amendment requiring balanced budgets which I have cosponsored.

However, after a careful study of all these proposals and the issue in general, I have become convinced that none of the remedies thus far introduced is adequate to do the job that needs to be done. A statute providing for a balanced budget and the limiting of expenditures, no matter how detailed its procedures for implementation, can be easily repealed or supplanted by a subsequent act of Congress. This means that, as future pressures to spend mount and present resolves and the lessons of present experience fade into history, a future Congress can renege with relative ease on any brave commitments we make this year. It is equally true that a constitutional amendment which only requires that the budget be balanced establishes a good policy but would be extremely difficult to implement. It is necessary to spell out who establishes the spending priorities, what happens when there is not enough money to pay for all the programs Congress may enact or the President may request, and so forth. Any solution which does not do this—any solution which is not essentially self-implementing—assures that Congress and the Executive will continue to be subjected to the same "politics by pressure group" which now prevents us from achieving the balanced budget goals most of us at least profess to desire.

It is for this reason that I presume to offer yet another proposal in the area of budget control. The resolution I submit today is identical to Senate Joint Resolution 142 which has been introduced in the Senate by Senator CARL T. CURTIS and a number of his colleagues. I would certainly be remiss if I did not take this opportunity to commend Senator CURTIS for the splendid record he has compiled over his many years of public service on the issue of fiscal responsibility and for the valuable contribution he has made in developing this proposed constitutional amendment.

Mr. Speaker, I will ask unanimous consent to include in the RECORD at the conclusion of my remarks a copy of the resolution and an outline of its proposals. Stated very concisely, however, this amendment makes it mandatory upon the Congress to impose additional personal and corporate income taxes, in the form of a surtax, to pay for any deficit that occurs. It does this by providing for a thrice annual estimate of expenditures and income: one by the President at the time he proposes his budget for the succeeding fiscal year and two by the Congress. After each estimate, a surtax is imposed in the next tax year to make up any deficits which occur. In addition, at the end of the fiscal year, the President must make a determination of the actual deficit and, if previous surtaxes have been inadequate to cover it, an additional tax must be imposed in the next tax year to cover the remaining deficit. Such mandatory surtaxes can be avoided if Congress acts to reduce spending or finds other means of increasing revenues in order to balance the budget. Also Congress could suspend the mechanism by a formal declaration of war or a formally declared national emergency as determined by a three-fourths vote.

I suspect there are those who will express concern about incorporating into the Constitution so precise a mechanism for controlling spending and balancing the budget. We have become a people who eschew precision because it forces us to assume a greater measure of responsibility than we can comfortably accept. I think Alice Rivlin and Charles Schultze made an excellent point in this connection in a recent Washington Post article—September 9, 1973, page C1—when they noted:

> Until a few years ago, after all, the piecemeal strategy appeared to favor liberal legislation. Major new programs—social security, Medicare, Great Society programs—could be enacted because they had small initial costs and it was not necessary to worry about how they would be financed in the future. Deep down, many liberals appeared to believe that if the problem of choosing among programs is explicitly faced—and if new social spending is seen to depend on cuts in other programs or on tax reform—the status quo will win. They are afraid that the only way to get social progress is to bring it in surreptitiously.

It may be equally true that many conservatives have permitted this piecemeal strategy to continue because it was easier to complain about excessive Federal spending than to face up to the task of reforming the procedures—easier to engage in rhetoric than to face up to the task of making the difficult decisions about spending priorities and have to explain to the voters why such and such a program had to be drastically cut or eliminated.

But I would remind those who may find my amendment too precise and detailed that the Founding Fathers saw a place for both general principles and precise formulas in the Constitution. The electoral college procedure for electing the President, the apportionment of the House of Representatives, the careful balancing of powers among three coequal branches of Government, the mechanisms for declaring war and ratifying treaties, the enumeration of powers—all are precise and detailed. Some of them have been outgrown and have required amendment, but that has taken many years. Other "general principles" such as the commerce clause and the 14th amendment could have benefitted from more precision, in view of the constant litigation which they have prompted and the broad scope of actions which have been undertaken under their vague authority. It is conceivable that at some point in the future the formula proposed in my amendment may require modification. For the foreseeable future, I believe it is not only workable but essential.

Other critics may feel that, by establishing the principle of mandatory taxes, I am, in effect, advocating not only balanced budgets but constantly escalating taxes. "Those Congressmen will never cut spending; they will simply go on spending and our taxes will go up and up and up," I can hear some folks saying to themselves. In fact, I am convinced the amendment will work quite to the contrary, and I would not offer it otherwise. We must keep in mind that a constitutional amendment, to take effect, not only must be passed by both Houses of Congress but also must be ratified by three-fourths of the State legislatures. If such an amendment is ultimately ratified, then it can hardly be construed as anything but a clear indication that the people are determined to effect a rational policy of Federal spending and balanced budgets. Any Member of Congress who, by his vote, made it necessary to impose the mandatory surtax permitted under the amendment, would surely be exposing himself as a target for a wrathful electorate. And under this mechanism, the electorate would know exactly where to go to find the culprit. Under the present fragmented procedure for authorizing programs and appropriating the money for them, everyone can blame someone else's vote or someone else's program for the fact that the budget is out of balance and the electorate has very little opportunity to assess where the responsibility for fiscal irresponsibility actually lies.

Let us assume for a moment, however, that I am wrong and that Congress did, indeed, go on spending more than the current tax structure provides in revenue and had the temerity to continue increasing taxes in order to pay for their spending schemes. When one looks at the record of inflation over the past several years, it must occur to him that what would happen under my amendment is not very different at all from what is actually happening today. The only real difference is that the amendment would impose overt taxes, in the form of a surtax, rather than the hidden tax of inflation which constantly gnaws away at our earnings and savings today. The truth is then that if my amendment works, as I believe it will, the American people will have gained a mighty measure of control over spending. The greatest political pressure on Congress will then be exerted in behalf of cuts in spending and balancing the budget rather than, as at present, in behalf of increased spending and enlarged deficits.

Mr. Speaker, let me reemphasize in closing that I do not regard this amendment as a cure-all. There is a definite need for statutory reform of the procedures by which Congress authorizes programs and appropriates the revenues to finance them. There is a definite need for statutory reforms which will enable us to take a long-range view of Federal spending and to engage in meaningful debate and consideration of relative spending priorities. I see merit in the proposal which would make the fiscal year coincide with the calendar year; in the proposal which would provide for appropriations over at least a 2-year period so that authorizing legislation could be considered in one session of Congress and appropriations bills in the succeeding session; in the proposal which would accommodate the concept of zero budgeting; and in many other new concepts now under consideration. But we can only resolve the overall problem by undertaking a firm commitment to fiscal responsibility and by securing that commitment to the rock of the Constitution so that it will not be whipped to pieces in the winds of political expediency. We must go beyond a mere statement of policy and detail the mechanism whereby our commitment can be met with the least controversy and chaos. It is to that purpose, I repeat, that I have offered the resolution which follows.

I am pleased to point out that a number of my colleagues have joined me as cosponsors of the proposal and I take this opportunity to urge that the Rules Committee, which is already considering budget control legislation, and the Judiciary Committee, to which all constitutional amendments are assigned, engage in a coordinated effort so that we do not wind up with a piecemeal effort at resolving a problem which has resulted, at least in part, from our present piecemeal method of operating.

The material follows:

### JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATIVE TO THE BALANCING OF THE BUDGET

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. On or before the fifteenth day after the beginning of each regular session of the Congress, the President shall transmit to the Congress a budget which shall set forth separately—

"(1) his estimate of the receipts of the Government, other than trust funds, during the ensuing fiscal year under the laws then existing;

"(2) his recommendations with respect to outlays to be made from funds other than trust funds during such ensuing fiscal year; and

"(3) if such recommendations exceed such estimate, a surtax rate which the President determines to be necessary to be applied with respect to the income tax of taxpayers to those portions of taxable years of taxpayers occurring during such fiscal year, so that such receipts will equal such outlays.

Such surtax shall be effective and so applied to such fiscal year except as otherwise provided in section 2 of this article.

"SEC. 2. During the first quarter of each fiscal year, and during the third quarter of each fiscal year, the Speaker of the House of Representatives shall—

"(1) estimate the receipts of the Government, other than trust funds, during such fiscal year;

"(2) estimate outlays to be made from funds other than trust funds during such fiscal year; and

"(3) (A) if such estimate of outlays exceeds such estimate of receipts, determine a surtax rate which the Speaker considers necessary to be applied, with respect to the income tax of taxpayers, to those portions of taxable years of taxpayers remaining in such fiscal year, so that such receipts will equal such outlays; or

"(B) if such estimate of outlays equals such estimate of receipts, determine that no surtax rate is necessary to be applied.

Any such determination shall be effective, and so applied, with respect to the remainder of such fiscal year commencing on the first day of the first month commencing at least thirty days after such determination by the Speaker. The surtax rate determined by the President under section 1 of this article shall not thereafter be applied commencing with such effective date.

"SEC. 3. During the last month of each fiscal year, the President shall review whether the receipts of the Government, other than trust funds, for such year will be less than the outlays other than trust funds for that fiscal year. If he finds that such receipts are going to be less than such outlays, he shall determine a surtax rate which he considers necessary to be applied with respect to the income tax of taxpayers, so that taxes received by the Government from such surtax, when added to other receipts of the Government, will equal such outlays. Such surtax shall be effective, and so applied, as determined by the President only during the next succeeding fiscal year. The surtax effective and applied under this section is in addition to any other surtax that may be effective and applied under this article and may not be superseded or modified under section 1 or 2 of this article.

"SEC. 4. The provisions of sections 1, 2, and 3 of this article may be suspended in the case of a grave national emergency declared by Congress (including a state of war formally declared by Congress) by a concurrent resolution, agreed to by a rollcall vote of three-fourths of all the Members of each House of Congress, with each such resolution providing the period of time (not exceeding one year) during which those provisions are to be suspended.

"SEC. 5. This article shall take effect on the first day of the calendar year next following the ratification of this article.

"SEC. 6. The Congress shall have power to enforce this article by appropriate legislation.".

BASIC OUTLINE OF PROPOSED SPENCE AMENDMENT: A CONSTITUTIONAL AMENDMENT FOR BUDGET CONTROL

(1) When the President submits his budget at the beginning of each year (e.g., in January, 1974), he must include an estimate of the income surtax necessary to cover any deficit in the proposed budget (i.e., the budget for FY '75).

(a) If he submits a deficit budget, Congress must either

(i) find other ways of financing the deficit in that fiscal year, or

(ii) reduce expenditures, or

(iii) the surtax automatically goes into effect (for FY '75).

(2) Twice later, in the first and third quarters of the fiscal year for which the budget is effective (e.g., FY '75), the Speaker of the House must again estimate income, outlays and (if that estimate shows a deficit) the amount of surtax necessary to cover the deficit.

(a) Thus, if the President has miscalculated or if Congress has acted in such a way as to create or increase a deficit, then:

(i) Congress must enact some other method of raising the necessary revenue, or

(ii) Congress must reduce expenditures, or

(iii) Congress must impose an additonal surtax which goes into effect automatically (for the remainder of FY '75), sufficient to cover the additional deficit.

(3) At the end of the fiscal year (i.e., FY '75), the President makes a final estimate of income and outlays and any necessary adjustment in the surtax to cover any actual deficit.

(a) Again the surtax is automatic, but this time it is imposed in the succeeding fiscal year (FY '76).

(b) This surtax is in addition to any surtax which may prove necessary to meet a deficit in the budget for the succeeding fiscal year (i.e., FY '76) as a result of a deficit budget proposed by the President (in January, 1975) or a deficit situation created by the Congress through the enactment of legislation.

(4) The automatic surtax can be rescinded in a deficit situation under only two circumstances:

(a) By a formal declaration of war by Congress, or

(b) By a national emergency, formally declared as such by the Congress by a three-fourths vote.

(5) Any declaration of war or national emergency is effective for only one year and, unless renewed annually by the prescribed vote of the Congress, the emergency lapses and any deficit is again required to be funded by the automatic surtax provisions unless otherwise accommodated by Congressional action increasing the revenue or reducing spending.

(6) Trust funds would not be considered a part of the regular budget, and surpluses in those trust accounts would not be applicable toward offsetting any deficit in the regular budget.

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## CONGRESS BROUGHT ON SHIFT OF POWER TO PRESIDENCY

### HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. MOORHEAD of California. Mr. Speaker, most of us would agree that it is the responsibility of each one of us to work toward a strong and responsible Congress. It is highly important, if we are to do this, that we pass legislation now before our committees which would reform our budgetmaking procedure. Surely, fiscal responsibility is one of the most important criteria of a responsible Congress.

The following editorial which ran on August 29, 1973 in The Burbank Daily Review points out the need for this kind of reform:

CONGRESS BROUGHT ON SHIFT OF POWER TO PRESIDENCY

Sen. Mike Mansfield has taken issue with President Nixon's charge that the 93rd Congress has been so preoccupied with Watergate politics that it has failed to meet its legislative responsibilties during the first seven months of 1973.

Indeed, the leader of the Senate's Democrat majority declares that Watergate has had a beneficial effect on Congress, restoring power to the legislative branch of the federal government at a time when there has been concern about the accumulation of power over the years in the executive branch.

That judgment may be premature at best. Our reading of the current relationship between Congress and the executive suggests that Senator Mansfield has mistaken a momentary weakening of the presidency for a strengthening of Congress. There is a difference. It becomes apparent when we consider whether power has been flowing to the executive because presidents have been reaching for it or because a succession of congresses has been surrendering it.

The enormous Washington bureaucracy which represents the swollen executive was built by Congress, brick by brick, over a period of four decades and owes its continued existence to congressional appropriations. In fact, the main effort to control its growth or whittle it down right now is not coming from Congress but from the White House and the cabinet.

Throughout this year, with impoundment of funds and vetoes of "budget-busting" programs, President Nixon has been trying to keep federal spending within bounds that his economists regard as non-inflationary. The response by the Democrat leadership in Congress has been to seek to override such vetoes and to pass legislation that would force the President to spend impounded monies.

Meanwhile, Congress has authorized spending that exceeds the 1973–74 budget by $1 billion, and bills that would reform its own slipshod budget-making procedure are on that long list of matters which it has not had the time or inclination to pursue.

This hardly conforms to any model of a strong and responsible Congress. The 93rd Congress has been handed more than enough issues on which it could assert its legislative prerogative—the energy crisis and the urgent need for new trade legislation to mention only two where its delinquency is threatening to hurt. It has been more concerned with raking over the past, in terms of Watergate or such issues as whether Mr. Nixon did or did not use his power as commander in chief properly in a bombing policy in a war which he now, happily, has put behind us.

So far, at least, this will not go down as an auspicious year for the President in terms of getting the cooperation of Congress in the passage of legislation that the country needs. However, it hardly promises to be any better from the standpoint of Congress acting to solve a problem in the distribution of governmental power which existed before Watergate and will be with us regardless of how the chips fall when that case is finally put to rest.

## FRENZEL EXTENSION ON H.R. 6452—URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1973

## HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. FRENZEL. Mr. Speaker, as much as I believe that the Federal Government has an essential role to play in the development of modern public transit systems, this bill in my judgment turns transit spending priorities upside down. Furthermore, the most desirable features of this bill, namely the increase in the Federal Government's share of capital grants to 80 percent and the extension of capital grant authority, were incorporated into the highway bill already signed into law.

What we have left here is the provision for operating subsidies totaling $400 million for each of the next 2 years. There are several reasons why I strongly feel that the Federal Government should stay away from operating subsidies at this time.

First, this is in my judgment really an "Obsolete-systems Protection Act." New York City's operating deficit alone totals more than one-third of the $400 million contained in this bill. While system improvement incentives are given passing consideration in the distribution formula, four or five cities already carry the major proportion of transit riders nationally and would under this bill receive the lions share of the subsidies. Any formula including ridership as a part of its distribution is certain to favor a few big cities at the expense of the rest of the country.

Second, the Federal Government should use its fixed numbers of transit dollars for what it can do best. That is; we should continue to concentrate on transit research and development and capital grants. Every dollar we vote in operating subsidies is a dollar which is unavailable for development and deployment of new technology transit systems. It is these new systems which are our best hope for substantially increasing transit ridership. Operating subsidies will inevitably delay this regenerative processes.

Third, to the extent that operating subsidies are necessary, State and local governments should be asked to bear this burden. The vote in Denver this past Friday is just one more indication that the voter will tax himself for operating subsidies if, in the bargain, he receives a first rate transit system. Residents of the Minneapolis-St. Paul area already are being taxed to support our aggressive and imaginative efforts to upgrade transit service in the area. It is not at all clear to me why the residents of rural Montana should be taxed to support an inefficient system in Minneapolis, or worse, be taxed to subsidize the New York system.

Finally, I know of no way to administer equitably a Federal subsidy program. Transit operator wages differ substantially, as do fare structures and levels of service. Some areas already tax themselves to support their systems. Others do not. Some systems are reasonably efficient while others are grossly mismanaged. The mind of man is incapable of bringing equity to a situation of such diversity unless we give the administrator of UMTA authority to impose uniformly stringent controls on the hundreds of transit systems throughout the country. Nobody, least of all the administrator of UMTA, wants the Federal Government to exercise that kind of authority. I hope the House will not have to vote on this matter at all, but if so, then we should vote to reject operating subsidies. We should permit UMTA to continue the vital business of developing the kinds of transit systems which people will be anxious to ride.

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## THE GREENING OF CHICAGO

## HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. MURPHY of Illinois. Mr. Speaker, one hears a lot these days about trash dumps, vacant lots, and rundown areas in our cities. Public officials and private citizens bemoan the fact that funds to correct these conditions are not available.

The city of Chicago stopped complaining about its inability to do something about these eyesores and put the ingenuity of its department of human resources to work. Local funds were provided to clear lots of rubble and prepare the soil for planting.

With a minimum of expense and effort and a maximum of energy and enthusiasm, the project got underway in June. The crop yield has been good considering the lateness of the planting. There are plans to expand the program next year and make arrangements for spring planting.

Chicago youths who might otherwise be without work were hired to supervise the planting and growing. Kids who had little prior contact with green grass and fresh vegetables were introduced to soil cultivation and the nurturing of young seedlings.

Residents might find the gardens give them something in common—a renewed pride in the appearance of their neighborhoods. A spot of color and greenery must be a welcome addition to an area which has an overabundance of concrete and congestion.

I am including a recent Christian Science Monitor article which reports on Chicago's garden experiment:

### THE GREENING OF CHICAGO

(By Monty Hoyt)

CHICAGO.—Does your city have too many rubble-strewn lots? Too many unemployed teen-agers ripe for vandalism? A need for cheaper food?

And if you could do something about all three at the same time, wouldn't you? Chicago can—and is.

Last April, officials tried to think of productive ways to use the city's unsightly vacant lots. A quick inventory revealed that the city, as the major landlord, and the Department of Urban Renewal owned nearly 1,600 such sites throughout Chicago.

As fast as it takes to gather a rake, a hoe, and some seeds, the Neighborhood Farms program was launched.

"It's the greatest thing that ever happened to us," says Mrs. Annie Hightower, a registered nurse and long-time resident of the city's South Side. "We've had little vegetable gardens for 15 years, but everything was haphazard. We didn't know how to plant things the way we do now. Now we do it scientifically.

"You've got to see it," she says, jumping up to show visitors how her tomatoes, corn, and mustard greens are doing.

City farms are not new. Boston's Fenway has provided eight acres of garden land since 1943, a holdover from the victory gardens of World War II. City fathers in Rockville, Md. (a Washington suburb), and Windsor, Conn., have set aside a parcel of land to rent out to would-be green thumbs.

But Chicago's new program takes the farms to the people by making available public land, free of charge, in their own neighborhood, stresses Dr. Deton J. Brooks Jr., commissioner of the Chicago Department of Human Resources (DHR), which is sponsoring the pilot project.

And not just land. The city has cleared the site of debris, roto tilled the earth, provided 1,100 packets of seeds, 1,300 seedling plants, gardening tools, fertilizer, water from nearby hydrants when necessary, and a PhD consultant on vegetable crops.

#### LATE-PLANTING CURTAILED

Twenty-one sites throughout the city—more than two acres—now have green vegetables ripening on the vine. There would have been many more sites, says project coordinator Richard S. Clewis, except for the late start. (Planting did not begin until mid-June.) Many sites had to be eliminated because of unsuitable soil, lack of nearby water sources, or lack of a local family or civic-group sponsor.

Rising food prices, however, prompted 140 families and 12 civic organizations citywide to try a hand in this greening of Chicago project. Firemen at more than 30 firehouses have joined in as well, planting and hoeing gardens of their own in their spare time.

#### TEACHING HOW TO WEED

"Some of the people are pulling vegetables when they think they're pulling weeds," says Dr. Clark Nicklow, the city's agricultural consultant. One of the drawbacks initially, he explains, is that many of the project's gardeners "have never worked with the soil before." But he rates the workers high on enthusiasm and predicts a "satisfactory" yield for their efforts.

The city is conducting workshops at some sites to instruct neighborhood youth on planting and weeding techniques and care of the gardens. In future years, the city plans to show families how to can and freeze vegetables.

The city's green-thumb effort has had several side benefits in the process: neighborhood beautification, jobs for 100 youths helping to prepare the sites through the Public Employment Program and Neighborhood Youth Corps, practical educational experience for children and adults alike, and activity that has brought neighbors together.

"I can't say we've saved too much money on our food bill this summer," says Victor R. Gonzalez, an old hand at gardening. "That's because we've given so much away to my children and grandchildren. But the city sure got rid of a lot of mosquitoes when they took out all the weeds next door."

#### SAVINGS FOUND

Other city-sponsored gardeners, however, are looking at fresh produce costs—tomatoes at 55-cents a pound, head lettuce at 54-cents a pound—and have no difficulty totaling up sizable savings from their efforts.

"We're going to have a big feast and invite the neighbors over when everything's ready. I love green tomato pie," says Mrs. Hightower. Secretly, she says she has her eye on another empty lot down the block for next summer.

With a head start next year, DHR officials hope to expand the program to 300 or more sites. The rock-bottom budget so far for this greening project is $2,500 for plants and equipment. The seeds were donated, as were the time and manpower from four city departments.

## PEANUT BUTTER AND MILK WEEK

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. ZWACH. Mr. Speaker, each year in the month of February, Litchfield, Minn., a town of 5,500 population in my congressional district, celebrates the "international peanut butter and milk festival" a 4-day event that involves the urban as well as the rural citizenry. Representatives of peanut growing States like Alabama and Georgia come northward to share in our friendship and activities. In October of each year, we return the favor, and send reciprocal representatives to Alabama for their big national peanut festival.

This annual event in Litchfield is handled by the chamber of commerce and I must say they do an excellent job. I am looking forward to this year's activities—come bitter cold or drifting snow.

Mr. Speaker, I am today introducing a House Joint Resolution commemorating February 11 through February 17, 1974, as "National Peanut Butter and Milk Week," and authorizing the President to issue a proclamation calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies.

Mr. Speaker, I have gathered together some interesting facts about milk and peanut butter, and would like to share them with my fellow Members.

#### FACTS ON MILK AND PEANUT BUTTER

#### MILK

Total milk production in 1972 amounted to 120.3 billion pounds. Of this amount, 52.3 billion pounds went for fluid use, 22.9 billion pounds went into butter manufacture, 23.1 billion pounds was made into cheese, while 21.9 billion pounds were used in the production of other dairy products.

On January 1, 1973 there were 11,651,000 milk cows on farms in this country compared to 22 million in 1950. Production per cow has increased from 5,314 pounds of milk in 1950 to 10,271 pounds in 1972.

Farm income from the sale of milk and cream reached $7,156 million in 1972—more than 11 percent of the total income from the sale of agricultural commodities by farmers. Off the farm, milk is processed for fluid use or manufactured into a variety of dairy products in more than 5,000 plants across the country. These plants have almost 300,000 employees with a payroll of well over $2 billion annually.

Nutritionally, milk is generally considered by nutritionists to be "nature's most perfect food". In 1971, the U.S. Department of Agriculture estimated that dairy products, excluding butter, provided more than 11 percent of the total food energy, 22 percent of the protein, 76 percent of the calcium, 36 percent of the phosphorus, 11 percent of the Vitamin A value, 42 percent of the riboflavin, and 20 percent of the Vitamin $B_{12}$ in the American diet.

As a food buy, milk is a bargain. Measured in real terms, the price of milk has been declining in recent years. For example, it took 10.9 minutes of work to buy half gallon of milk at the grocery store in 1965, while in 1971 9.9 minutes of work was needed.

#### PEANUT BUTTER

The U.S. Department of Agriculture estimates that 550 million pounds of shelled peanuts are expected to be used for peanut butter in 1973, resulting in 525 million pounds of peanut butter.

Peanut butter is one of the most nutritionally valuable foods in daily use today by the American public.

Peanut butter is 26 percent pure protein, a percentage higher than eggs, dairy products and many cuts of meat and fish known as traditional protein foods.

More than 15 million pounds of peanut butter are furnishd annually without cost to the schools under the National School Lunch Program.

Roughly two-thirds of all peanuts are used by the peanut butter industry, and are grown in at least a dozen Southern states.

Mr. Speaker, when it comes right down to it, it is pretty hard to beat the combination of a cold glass of milk and a peanut butter sandwich. Both are nutritious and economical. People of all ages can, and do enjoy them. Milk and peanut butter deserve to be celebrated, and I think the city of Litchfield, Minn., should be commended for doing so.

## OPENING PRISON DOORS

### HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. RAILSBACK. Mr. Speaker, as William Raspberry stated in this morning's Washington Post, "We waver between prison 'reform' and tough law enforcement." Clearly, none of us know the answer to our crime problem—particularly in the case of our young offenders—and his editorial poses some interesting questions for us to consider.

Mr. Speaker, under the leave to extend my remarks in the RECORD, I include "Opening Prison Doors" for the review of my colleagues:

#### OPENING PRISON DOORS

(By William Raspberry)

What should you do when you know that (1) what you're doing is worse than useless, (2) you don't know any better way, and (3) you don't dare do nothing?

Don't expect to find the answer here; it's all I can do to try to persuade you that the question makes sense. What brings all this on is a piece I've just read in the current issue of the magazine Psychology Today.

The editors seem to think that the heart of the report (largely a rehash of an article in the December, 1969, issue of Prospectus: A Journal of Law Reform) is its discovery that our images of juvenile delinquents are mostly wrong.

Bill Haney and Martin Gold, the authors, point out, for instance, that our stereotype of the j.d. as a sullen, black teen-age member of the ghetto gang is far from the mark.

"The stereotype has emerged from the profile of youths who are *caught and referred to court,*" they say "and the police, in turn, tend to catch and refer those who fit the stereotype. Everyone has assumed that detected delinquency accurately reflects undetected delinquent behavior. This assumption . . . is largely wrong."

That's very interesting, although many of us have suspected as much for a long time.

But the authors found something else that is vastly more interesting—and disturbing: that *catching juvenile delinquents leads to more subsequent delinquent behavior than not catching them.*

"The consequences of getting caught are contrary to societal interests," they conclude from their own and earlier findings. "Whatever it is that the authorities do once they have caught a youth, it seems to be worse than doing nothing at all, worse even than never apprehending the offender. Getting caught encourages rather than deters further delinquency."

Now, what do you do with *that?*

It may be worth pointing out that the Haney-Gold study is based on delinquency in Flint, Mich., not the slums of New York or Philadelphia, and it involves youngsters for whom apprehension does not mean near-automatic consignment to the juvenile institutions that largely have become training schools for crime.

They found out about delinquent acts, not by looking at records but by asking the juveniles themselves (with a good deal of care given to making sure that the responses were truthful).

A number of things became clear, among them that it is not possible to typify delinquents: They include all kinds of boys and girls, all kinds of offenses at all kinds of frequencies. The findings also indicate how few of those who commit delinquent acts are ever apprehended—on the order of 3 percent—and even then frequency rather than seriousness of offense is the most important factor in apprehension.

But the most troublesome finding is that once a child, by virtue of being caught, becomes an official delinquent, both he and society are likely to be worse off than if he hadn't been caught.

If this is true of juveniles, might it not be true of adult offenders as well? (Certainly there is little in the literature that indicates that adult offenders become more socially responsible as a result of arrest, conviction or imprisonment.)

But try translating this into social policy. Once you get beyond increased efforts at crime prevention, what, logically, do you do with the fact that it is more harmful than helpful to apprehend criminal offenders? Do you use police only for crime prevention? Do you not pursue a fleeing suspect? Do you not investigate criminal activities, and limit your official response to looking after victims of crime?

And what happens when juvenile delinquents (and adults) who used to be careful to avoid being caught discover that you're no longer interested in catching them? Do they commit more and bigger offenses? Wouldn't that plunge the society headlong into uncontrolled savagery?

If you think you know the answer to all these questions, it's likely you haven't spent enough time thinking.

For the truth is, most of the things we rely on most deeply—gut reaction, prejudice and common sense—desert us when we address the subject of crime and punishment.

Experts with no interest in maintaining prisons and jails tell us that you could unlock all the prison gates in the land without a noticeable increase in criminal activity. We must believe it, since we routinely release prisoners who have "paid their debt" knowing full well that hardly any of them has been "rehabilitated."

We waver between prison "reform" and tough law enforcement, although we know neither of these produces anything useful. But we won't stop doing what we're doing, although we don't know any better thing to do, because we are afraid to risk doing nothing at all.

## HEATING OIL SHORTAGE IN THE NORTHEAST

## HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. ST GERMAIN. Mr. Speaker, the prospect of a severe heating oil shortage this winter in the Northeast looms large as a grim and likely possibility.

All statistics and studies point to shortage of alarming proportions. Estimates project the shortage to be as much as 40 percent in some areas.

This is more than a question of economics. Not just factories, but schools, hospitals, and homes are threatened to be without heat.

The residences of approximately 40 million persons in the nine northeast States are heated by oil. Thus, the health and safety of millions of people and the breakdown of public services is at stake.

It is imperative that steps be taken immediately to avert a shortage. A mandatory oil allocation program must be instituted. This will increase supply and will also prevent continued price increases.

Thus, I strongly favor congressional legislation to establish a mandatory allocation program that guarantees to independent wholesalers and retailers 100 percent of their base period supply of No. 2 heating oil. In view of the inaction by the administration, it is essential that the Congress enact legislation to this effect as soon as possible.

At this point I would like to include an editorial from the Providence Journal which comments on the discrimination at work in Federal policies with the result that New England is affected far more severely by the oil shortage than other regions of the country:

### FAIR PLAY ON OIL

Shortages of fuel oil are foreseen for the coming winter months, and federal officials are predicting the crunch will be worse than last year. The situation became so acute in the Midwest then that some schools had to shut down for days at a time.

New England has long suffered higher fuel-oil costs than the rest of the country because of short-sighted and discriminatory federal regulations. Now it may find itself not only paying more but unable to get as much oil as it needs at any price.

President Nixon's energy policy office is drafting a tentative rationing plan. Early reports indicate New England may wind up with 30 per cent less of a supply than it needs, as against a 10 to 15 per cent shortage nationally.

Any such plan to continue regional discrimination cannot go unchallenged. New Englanders expect no special treatment at the hands of the federal government, but they cannot be expected to sit quietly by their cold furnaces playing Cinderella while their sister states enjoy preferred status. If state congressional delegations do not rise up in concerted protest against such discrimination, some may well find, come November 1974, that their electoral coach has turned into a political pumpkin.

Along with the requirement of fair play in rationing, a second aspect in the fuel shortage comes up for question. That is the requirement of clean air versus adequate fuel for home heating and power production. Clean air standards now in effect have ruled out the use of high sulphur content residual fuels. New England utility plants, deprived of this fuel source, have been turning to natural gas as a substitute. But now natural gas is itself in short supply, more so than last winter.

The use of natural gas during the summer months, when temperatures are high and natural ventilation over the land mass is poor, makes good sense. But the conditions that cause temperature inversions and stagnant air in summertime do not hold in the winter months, particularly along the Eastern coastal region. Would it not be feasible to lower sulphur emission standards for the winter months, allowing public utilities to burn the cheaper and more plentiful grades of residual oil, and leaving the higher grade fuel for home heating use?

Such a plan, of course, now endorsed in principle by President Nixon, should not be allowed to become an opening wedge toward making dirty air acceptable. If it were adopted, utility companies should still be required to keep pollution emissions to the lowest practical level, and use of the low-grade fuels should be limited strictly to such months and conditions as do not endanger human health.

## FARM PROFITS

## HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. ANDERSON of Illinois. Mr. Speaker, in this time of rising farm prices, we must remember that, for the first time in a long while, the farmer has an opportunity to realize a profit.

An article in the September 6, 1973, issue of the Christian Science Monitor describes the situation of Richard Walters who, with his brother, farms 1,600 acres in northeastern Illinois. Walters' net profits have ranged between a high of $9,500 in 1972, to a net loss of $5,000 in 1970. This year he expects his net profits to be greater than the 1972 level, allowing him to pay off his mortgage faster and to purchase new equipment—expensive equipment.

I believe this article to be well worth the attention of my colleagues and am, therefore, submitting it for their review:

### KEY TO "FINANCIAL SUCCESS": MAKING THE MOST OF A GOOD FARM YEAR

(By David Mutch)

WOODSTOCK, ILL.—For farmer Richard Walters, this will be a good year.

Things have not always been so, and it has taken patience, good management, a lot of capital and a "friendly banker" to keep his farm going, Mr. Walters says.

He and his brother, Daniel, farm 1,600 acres here in McHenry County in northeastern Illinois. They raise corn, soybeans, hogs, and cattle.

Carrying loans of more than $500,000, they are using the financial management methods of big business to operate big farming. It is a change almost everyone in agriculture agrees is necessary to be a financial success these days.

Census bureau figures have shown for years the trend toward big indebtedness. It has come because 25 years of inflation has continued to narrow profit margins—with the dramatic exception of this year—in which net farm income nationally is soaring from a 1972 figure of $19.7 billion to $25 billion—or 25 percent. And government policies have held down prices farmers receive. Farmers have had to gross more and more to keep their net up.

Mr. Walters has been in farming for 12 years. When still in high school he rented a small farm to launch his career. His father helped him get started.

He received the 1972 National Young Farmers and Ranchers Award and he is active in several state and county farm organizations.

Mr. Walters and his wife, Donna, and their four children—Janet, 11, Sandy, 9, Ken, 8, and Nancy, 6, eat their own pork and beef. Mrs. Walters puts up her own beans, corn, applesauce, strawberries, and three kinds of jelly—grape, raspberry, and strawberry. They live on less than 1 percent of their gross income so it can build for their future.

### "PAINTING THE HOUSE"

"This year I'm going to have to paint the house," Mr. Walters says, adding, "there are a few things Donna wants this year and has waited for."

The youngsters gave this reporter a good tour of the pig houses, where they have chores.

The magic word in the Walters vocabulary is "management." He says: "With good management you can grow in farming. But I know operators our size that have gone down in the past few years because they have not made the right decisions.

"It is different for every farm. I also know six small operations that closed last year because the owners took the good year as a chance to pay their debts and get out."

A small farmer who owned 250 acres in McHenry Country—if it was prime land—could sell it for over $300,000. Prudent investment could yield $15,000 income from that principal. But farming 250 acres rarely yields a net of over $8,000.

Mr. Walters says, however, that it is cheaper to rent land than buy it. He figures the annual cost of renting land is $36 an acre, while it costs $47 an acre to buy it.

He and his brother now own 750 acres—with mortgages varying from 20 to 30 years—and they rent an additional 850 acres. They bought their first property—240 acres—in 1962, and just last year they added their latest piece of land. In 1962 they paid $390 an acre, and last year they paid well over $1,000 an acre.

Could someone start up in farming now the way he did 12 years ago? "No," according to Mr. Walters. An aspiring young farmer today, given the proportionately higher costs of land, equipment, taxes, and so on, and the average lower net income yields, would have to start out with someone who is already in the business—a father or a brother. If 1973 farm prices hold up—and most farmers are skeptical—this picture could ease somewhat, although costs are rising fast, too.

He says the high profits this year are the exception rather than the rule. He and his brother expect to gross $750,000 or over, a whopping increase over the $450,000 he grossed in 1972. Last year he himself netted $9,500 from the gross, he says, but he expects to jump considerably this year.

Mr. Walters does not want the public to think it is all gravy: "In 1971 I had only a $3,500 net, and in 1970 I had a $5,000 loss, which is why I say it takes a friendly banker. This year I'll get ahead maybe two years by paying off the mortgages faster and buying equipment that makes us more efficient. If we can't get ahead this year we never will."

## DOING THEIR THING

## HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. LANDGREBE. Mr. Speaker, in this day and age, we hear a lot about freedom in America. What is not pointed out often enough, however, is the fact that freedom is not free. That freedom can only survive when linked with responsibility. This fact was made very well in an editorial in the Valparaiso, Ind., Vidette-Messenger on August 27, 1973. With our thanks to Vince Anderson, the general manager and Herb Steinbach, the managing editor, I submit that editorial for the RECORD and the close scrutiny of my colleagues:

### DOING THEIR THING

How often have we heard in recent times that glib statement, "We want to do our own thing"?

Actually this challenging comment sounds acceptable to those who counter with the query: "Well, this is a free country, isn't it?"

Thankfully, we in America are still a free people—but those who loudly proclaim they want to do their own thing, forget the other side of the coin—that freedom must be linked with responsibility.

Politicans of both parties have frequently demonstrated their lack of concern for propriety when doing their thing. Businessmen aren't always ethical. Workers aren't always loyal to those for whom they work.

The need for responsibility is downplayed, and in fact often sneered at. So it should come as no great surprise that the sports world is following suit.

Certainly there have been a rash of shocking events involving athletes in very recent days. The most common excuse for these acts is that they are such exhibiting their frustrations. Others say they are just "doing their thing."

The Chicago Cubs' Fergie Jenkins is taken out of a ballgame by his manager and he hurls bats onto the field in a display of temper. He then says he wants to be traded because he doesn't like Chicago fans. The fact that he wangled a large chunk of salary money from his bosses, and is having a "subpar" pitching year, he doesn't seem to take into consideration.

Jenkins is a fine athlete, and so is Duane Thomas, who stars on the football field. Currently, he's playing with the Washington Redskins, whom he has just joined. He too has been receiving publicity for "doing his thing."

Thomas and the 'Skins were in Buffalo for an exhibition game. He turned his back during the playing of the National Anthem. This embittered some of the fans in attendance, who taunted him. He later tried to climb a four-foot fence to get at some of his hecklers? Did Thomas show his freedom? He certainly did—but didn't he forget the other side of the coin—his responsibility?

Of course "doing their thing" has also extended to the international sports scene.

For example take the incident at Moscow during the World University Games. America's basketball team defeated a representative team from Cuba—but thrown into the action was a melee which included swinging of fists and flailing of chairs.

The Cuban players were reported to have resorted to such back-alley tactics, while, it was said, our athletes showed admirable restraint. It was also noted that the Cubans had a prior history of such rough-house antics.

A sporting event—or a free-for-all? Certainly there was every indication that the Cubans were just "doing their thing."

Most shocking, however, was the example of someone exercising their freedom at the recent All-American Soap Box Derby in Akron.

While not strictly classified as a sports event—it has many elements of an athletic spectacle.

In this case, it's hard to assume that the driver, a 14-year-old youngster, was responsible for rigging his entry. Rather it must be assumed that some older eager-beaver was "doing his thing" in an effort to assure victory.

The entry from Boulder, Colo., was disqualified after winning first place, and a $7,500 scholarship. This action was taken after it was discovered that this car had an illegal built-in electromagnetic system designed to help pull the racer at an accelerated pace in its get-away from the starting gate.

While it's bad enough for professional athletes to show a complete failure of responsibility in their personal quest for freedom, it seems to us that it's even worse for someone to involve a 14-year-old boy in such shenanigans.

During his investigation the Boulder County District Attorney commented in the case of the derby scandal, "When it comes to youngsters of the country, we have to be very concerned and conscientious that we don't guide them wrong."

We believe, however, that professional and amateur athletes also have an obligation not to guide their hero-worshiping youngsters wrong.

## SETTING A TIME LIMIT ON CERTAIN LEGAL DISCUSSIONS OF THE ALASKA PIPELINE

## HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. PICKLE. Mr. Speaker, I have reserved time today to present an idea that I feel will become more and more attractive as our complex technical society moves forward.

On August 2, I presented an amendment to the Alaskan pipeline bill which embodied this idea (H. 7304).

I do not want to rehash the debate over whether or not the Alaskan pipeline should be built. I stated clearly with my remarks and votes on August 2 that I strongly supported such a move.

Returning to my legislative concept, I propose that serious consideration be given to establishing, congressionally, a time specific for hearing certain cases by the judicial branch of the Government. Such action would be for extremely exceptional cases.

Now before there is an outcry that such a policy is unconstitutional as a violation of the "due process" clauses of our Constitution and is an undue interference by the legislative branch in the judicial process, I suggest a review of the proposed law. We start with the Constitution, article III, section 2, which states in part:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, *with such Exceptions, and under such Regulations as the Congress shall make.* (Italics added)

Combining this section with the fact that Congress can ordain and establish Federal courts other than the Supreme Court at its pleasure—United States Constitution, article III, section 1—one can make a very strong argument that Congress has total 100-percent plenary control over the jurisdiction of the Federal lower courts and the appellate jurisdiction of the Supreme Court.

If this theory is accepted—and many scholars do accept it—see "The Constitution of the United States of America—Analysis," pages 750–762, 1973—then there is no question that the idea that I propose for study is constitutional.

I would not rest my argument here, on its strongest basis—one, because this would weaken my position, and two, I really do not believe that the legislative branch can manipulate at will the jurisdiction of the courts.

The most instructive case to the point that there is a limit to the congressional power to manipulate jurisdiction is *United States* v. *Klein*, 13 Wall. (80 U.S. 128 (1871).

The Klein case was an outgrowth of the monumental struggle between President Andrew Johnson and Congress over post-Civil War Reconstruction policies.

During the Civil War, the Congress had passed a number of acts providing for the confiscation of property of those in rebellion. In doing so the Congress had also enacted the constitutionally unnecessary act granting the President the authority to grant rebels pardons on such conditions that he, the President, deemed advisable.

In the Presidential proclamation setting out the procedures for pardons to rebels and the return of confiscated property was that former disloyal people take an oath of loyalty to the United States.

Some in President Johnson's administration strongly opposed his rather lenient pardon policies and challenged in the Court of Claims the right of those pardoned to recover their confiscated property.

The Supreme Court, of course, upheld the Presidential pardons. See *United States* v. *Padelford*, 9 Wall. (76 U.S.) 531 (1869).

The Congress did not agree with the Padelford decision.

It repealed the pardon statute and passed an act declaring that the Supreme Court would have no jurisdiction over any case when as a point of fact it was determined that a claimant who had participated in the rebellion against the United States had succeeded in recovering his confiscated property because of a Presidential pardon, and not because the claimant had met with certain requirements as set out by the Congress for pardon.

It is not necessary to discuss the constitutional questions raised on the Congress encroachment on the Presidential power to pardon at this time.

The Supreme Court responded to the congressional act in Klein by rejecting the notion that Congress could determine the outcome of a case by basing the jurisdiction of the courts on fact and legal conditions uncovered during the argument of the case.

The Court put the congressional intent succinctly when it stated:

> It is evident . . . that the denial of jurisdiction to this court . . . is founded solely on the application of a rule of decision, causes pending, prescribed by Congress. The Court has jurisdiction to the cause to a given point; but when it ascertains that a certain state of things exist, its jurisdiction is to cease and it is required to dismiss the cause for want of jurisdiction.
>
> It seems to us that this is not an exercise of the acknowledged power of Congress. . . . *Klein*, 145–146.

I would thus suggest that the Klein case gives us the clear limits of congressional plenary power over the jurisdiction of Federal courts.

Let us measure my proposal of August 2 against the findings of the Klein case, and then turn to the famous *Ex Parte McCardle*, 6 Wall. (74 U.S.) 506 (1868).

Put simply, I suggested that, if a lawsuit was brought against the issuance of permits for the construction of the trans-Alaskan pipeline under the National Environmental Protection Act of 1969, jurisdiction of the Federal courts over such a lawsuit would cease right at 6 months from the date of enactment of the trans-Alaskan pipeline bill.

The policy reasons for my approach are clear: First. I feel it is only right that the people who feel that the pipeline does not conform with NEPA be allowed to have this legal question decided in Court. Second. I feel that the construction of the pipeline is so important that it should not be put off 2 to 3 more years by delaying legal tactics by lawyers.

But the question here is, "Was this suggestion constitutional?"

I admit that my proposal could result in the withdrawal of the Supreme Court right in the middle of the case if the 6 months tolled.

I do not admit, however, that my proposal is a manipulation of jurisdiction to satisfy a rule of decision, or outcome, as ruled invalid in Klein.

A decision rendered under my proposal of August 2 could have gone either way. In fact, I allowed for two exceptions under my amendment to make it clear the Federal court would retain jurisdiction to insure fair play for both parties in case the Court ruled NEPA had not been conformed to by the Executive branch.

Exception No. 1 was that if the decision was an injunction against the construction of the pipeline, then the Court would have jurisdiction for all time to enforce the injunction. As unlikely as it might seem, I did not want anyone in the executive branch to ignore a court order without the threat of contempt of court.

This exception does not really reinstate a partial NEPA jurisdiction for the Court, as I feel it is accepted that an inherent power of a court is jurisdiction to enforce its equity orders.

Any proceeding after the 6-month period under this first exception would thus be only if someone disobeyed a court order.

The second exception would be that if an injunction is issued saying the Government has not conformed to NEPA and it is clear from the opinion what could be done to bring the Government into compliance with NEPA. In this case, then the Government could bring suit after the 6-month period to have the injunction lifted when conforming steps, in line with the Court's decision had been taken.

The scenario would be this: The Court enjoins the Government for failure to comply with NEPA on actions A, B, and C. The Government gets busy and conforms with A, B, and C. The Court also enjoined the Government because it had done D and E wrongly; the Government goes back and does D and E differently.

Now the Government has followed the Court's position on A, B, C, D, and E. The Government should be able to go back to court and have the injunction lifted.

Some would say that this is a restoration of the Court's jurisdiction under NEPA and that new NEPA arguments would be brought up.

I would think that any court would realize the purpose of my proposal and not allow the NEPA issues to be relitigated on new ingenious legal theories the second time around.

The Court would look upon this second exception as another inherent extension of its power over its own equity orders.

The Court is free to mold its equity remedies.

For example, if the Court's injunction held that by the forces of nature the pipeline could never conform with NEPA, then the Government could not go back into court pleading conformance with NEPA.

On the other hand, the Court could order the Government to do things specific to comply with NEPA. If it did, surely the Government could get the injunction lifted when it had conformed to the Court's instructions.

I have gone into this rather elaborate exception hypothesizing to show that no jurisdictional manipulation was proposed by me.

Instead, I wanted to place a simple time limit on the jurisdiction of the Federal Court. How the Court would decide the issue in the time period was obviously something I did not want to control.

In discussing my idea with various people, this problem with Congress performing the judicial function, as in Klein, has not been the most discussed point.

Instead, most complain that setting up a system whereby jurisdiction could be withdrawn right in the middle of court proceedings would be a violation of due process, and thus unconstitutional.

I would posit that *Ex parte McCardle* (6 Wall. (74 U.S.) 506 (1868)) teaches us that my proposal would be constitutional on this point.

McCardle was being held by military authorities in 1867. He sought a writ of habeas corpus to effect his release under the act of 1867, which expanded and extended the Federal judicial power to issue such writs.

His application for a writ was denied in the lower Federal courts, and he appealed to the Supreme Court.

After arguments had been heard, but before the Court rendered a decision on McCardle's application, the Congress repealed the provision of the 1867 act authorizing an appeal from the Circuit Court to the Supreme Court. The congressional action was taken over a Presidential veto.

What did the Court do? It dismissed forthwith McCardle's appeal, even though the case was in the middle of proceedings before that Court. The Court said:

> Without jurisdiction the Court cannot proceed at all in any cause. Jurisdiction is power to declare the law and when it ceases to exist, the only function remaining to the Court is that of announcing the fact and dismissing the cause. *Supra*. 515

If to dismiss a case in midstream on jurisdictional grounds would violate fifth amendment due process, one would have assumed that the Court would have decided McCardle and refrain taking jurisdiction over future cases arising under the 1867 act.

It is also important to point out that it is accepted jurisprudence that a court can always examine the jurisdictional question no matter what stages the proceedings are in.

Some would say McCardle is bad law; this remains to be seen.

But even if McCardle is bad law, I still do not think my proposal violates due process.

What is the main message of due process? It is according a fundamental element of fair play to the parties involved.

Would it have been basically unfair to require the litigants and the courts to handle NEPA questions concerning the trans-Alaskan pipeline within 6 months time? I do not think so.

Let us look at the facts: The NEPA questions on the pipeline had been presented fully to a District Court and to the Court of Appeals. Lawyer briefs had been written and research on the facts completed.

In the time between the D.C. Court of Appeals' decision on the right-of-way and the enactment of the pipeline bill, no new facts or issues under NEPA, per se, had surfaced at least to the public's knowledge.

Thus it would have been very easy for all parties concerned to have presented a full case on the Trans-Alaskan pipeline and NEPA within 6 months.

It is true that putting time limits on jurisdiction for new laws, or for instances where the issues and facts had not developed, would be basically unfair.

But in the Alaskan pipeline case this was not the situation; and my proposal would have violated no one's due process, whether McCardle is good law or not.

Thus in concluding, Mr. Speaker, I would implore my colleagues to give serious consideration to my proposal that the legislative branch put a timeframe on court litigation in certain rare instances such as in the pipeline case.

These rare instances would be when two laudable and necessary national goals are on a collision course and when the conflicts as to fact and issues between the two goals have been fully developed. We should not establish or approve any policy that denies people their day in court.

Mr. Speaker, the question about the constitutionality of my proposal to put a time-certain on the jurisdiction of the Federal courts is twofold. One, was my proposal an unconstitutional legislative manipulation of the courts' jurisdiction? I have tried to demonstrate that Klein teaches us that the answer is no. Two, would my proposal be a violation of due process? I have tried to explain that this is not so measured against a sense of fair play and against the teachings of Ex Parte McCardle.

In short, there can be circumstances and events in which there is no violation of the Constitution if, or when, the Congress sets a reasonable time limitation to settle a well-defined pending issue, and if not settled in that time period the Federal courts lose jurisdiction over the case.

This may be a new or controversial approach to the concept of due process, and the power of Congress to control jurisdiction of the courts; but I think that the concept is sound—and this may be a breeze in the wind that takes hold.

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## BILLS INTRODUCED TO INSURE FARMERS' GRAIN DEPOSITS

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. FINDLEY. Mr. Speaker, a farmer's deposit of grain in an elevator or warehouse should be just as safe as a deposit of money in a bank. Now, in some cases, it is not.

Under traditional business practices, a title to it, sell the grain at an agreed price but defer receipt of payment, or sell with price agreement deferred to a later date. In each circumstance, he loses custody of his grain but does not receive immediate payment. The purpose of this bill is to insure the value of his grain up to $25,000 until he gets paid.

Some States have no laws whatsoever to protect grain deposits. Some have legislation on the books but in times of crisis these laws have been insufficient to protect the farmer.

During the past few years, over 20 grain warehouses and elevators have closed their doors, gone into bankruptcy or lost their licenses for other reasons. These closings have resulted in more than $2 million losses to farmers. Even the best bonding protection is only partial.

Today, the gentleman from Washington (Mr. FOLEY) and I are introducing a bill that would create a Federal Grain Insurance Corporation that would provide each farmer with full protection against any such loss up to $25,000.

After the initial expense of setting it up, the corporation would be self-financing with fees charged to members sufficient to cover all expenses, including administrative. It would be administered by the Secretary of Agriculture.

The corporation would provide insurance in the following manner:

Grain warehouses, elevators and other dealers could become corporation members on a voluntary basis. Membership requirements would be set by the Secretary of Agriculture.

Membership fee would undoubtedly be recovered by a nominal fee paid by farmers. Membership requirements would promote sound business management, so it is reasonable to anticipate that losses to the corporation would be small. The cost to farmers would probably be a tenth of a cent or less for each bushel they store. This would mean not more than $25 for the maximum $25,000 coverage.

Not only would the insurance protect farmers, it would also strengthen the warehouse and elevator business. Federal Deposit Insurance has been used effectively by banks to promote and stabilize the banking industry. Federal Grain Insurance could do the same for the grain industry.

I am particularly honored to have Mr. FOLEY join me in sponsoring this legislation. As chairman of the House Subcommittee on Livestock and Grains, he has proven time and time again that his legislative skills are great. He has championed many great causes concerning agriculture as well as other important areas. His interest in the problem that this bill could solve will add greatly in reaching our goal.

The text of the Federal Grain Insurance Act follows:

FEDERAL GRAIN INSURANCE ACT

An act to provide safeguards to producers in the storing and selling of grain; and to establish the Federal Grain Insurance Corporation

SECTION 1. Short Title—This Act may be cited as the "Federal Grain Insurance Act."

SEC. 2. It is the purpose of this Act to promote the national welfare by improving the economic stability of agriculture through a sound system for the storing, selling, and insuring payment for producer originated grain.

SEC. 3. Definitions.

(a) Meaning of words. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

(b) Terms defined. The definitions of terms contained in the Act shall apply to such terms when used in any regulations issued thereunder. In addition, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

1. "Act" means the Federal Grain Insurance Act, as amended and supplemented.

2. "Department" means the United States Department of Agriculture.

3. "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

4. "Producer" means a landowner, landlord or tenant involved in the originating of the grain to be insured.

5. "Grain" means all products commonly classed as grain such as, wheat, corn, oats, barley, rice, rye, soybeans, flaxseed, grain sorghums, dry edible beans, sunflower seed and such other agricultural products merchandised at or stored in a Member's facilities.

SEC. 4. Creation of the Corporation. To carry out the insurance purpose of the Act,

(a) There is hereby created as an agency of and within the Department of Agriculture a "Federal Grain Insurance Corporation" (hereinafter called the "Corporation"). The principal place of business of the Corporation shall be the District of Columbia, but there may be established agencies elsewhere in the United States under rules and regulations prescribed by the Board of Directors.

(b) The Corporation shall have a capital stock of $50,000,000 subscribed by the United States of America, payment of which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.

(c) There is hereby authorized to be appropriated such sums as are necessary for the purposes of subscribing to the capital stock of the Corporation.

(d) Receipts for payments by the United States of America for and on account of such stock shall be issued by the Corporation to the Secretary of Treasury, and shall be evidence of the stock ownership by the United States of America.

(e) Management of Corporation.

(1) The management of the Corporation shall be vested in a Board of Directors (hereinafter called the "Board") subject to the general supervision of the Secretary of Agriculture. The Board shall consist of the Manager of the Corporation, two other persons employed in the Department of Agriculture, and two persons experienced in the grain and insurance business who are not otherwise employed by the Government. The Board shall be appointed by, and hold office at the pleasure of the Secretary of Agriculture, who shall not, himself, be a member of the Board.

(2) Vacancies in the Board so long as there shall be three members in office shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(3) The Directors of the Corporation who are employed in the Department of Agriculture shall receive no additional compensation for their services as such Directors, but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The members of the Board who are not employed by the Government shall be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine.

(4) The manager of the Corporation shall be its chief executive officer with such power and authority as may be conferred upon him by the Board. He shall be appointed by, and hold office at the pleasure of, the Secretary of Agriculture.

(f) The Corporation—

(1) Shall have succession in its corporate name.

(2) May adopt, alter, and use a corporate seal, which shall be judicially noticed.

(3) May make contracts and purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of such property held by it upon such terms as it deems appropriate.

(4) Subject to the provisions of the Act, may sue and be sued in its corporate name in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is hereby conferred upon such district court to determine such controversies without regard to the amount in controversy: *Provided*, that no attachment, injunction, garnishment or other similar process, mesne or final, shall be issued against the Corporation or its property.

(5) May adopt, amend, and repeal by-laws, rules, and regulations governing the manner in which its business may be conducted and

the powers granted to it by law may be exercised and enjoyed.

(6) Shall be entitled to the free use of the United States mails in the same manner as the other executive agencies of the Government.

(7) With the consent of any board, commission, independent establishment, or executive department of State or Federal Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this title.

(8) May conduct researches, surveys, and investigations relating to insuring payment for producer originated grain and shall assemble data for the purpose of establishing sound basis for such insurance.

(9) Shall determine the character and necessity for its expenditures under this Act and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government; and

(10) Shall be empowered to issue subpoenas and subpoenas duces tecum, as authorized by law, and to revoke, quash or modify any such subpoena.

(11) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

(g) Personnel

(1) The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil service laws and regulations.

(h) Monies of the Corporation

(1) Monies of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(2) The banking or checking accounts of the Corporation shall be kept with the Treasurer of the United States.

(3) The Corporation is authorized to borrow from the Treasury, and the Secretary of Treasury is authorized to loan to the Corporation on such terms as may be fixed by the Secretary of Treasury and the Corporation, such funds as in the judgment of the Corporation's Board of Directors is needed for insurance purposes not exceeding in the aggregate $200 million provided that the rate of interest shall not be less than the average rate on outstanding marketable and nonmarketable obligations as of the last day of the month preceding the making of such loan.

(4) The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation. The financial transactions of the Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report.

(5) The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property, shall be exempt from all taxation now or hereafter imposed by the United States or by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(i) The Corporation shall establish a *Grain Insurance Fund* of $50 million to be held by the Corporation for the payment of valid claims for producer originated grain insured under the Act. Such payments shall be restricted to a limit of $25,000 for any one producer with any one Member.

(j) A member is any party approved for the purpose by the Secretary of Agriculture under provisions of the Federal Grain Insurance Act and producer patrons of a Member are eligible for insurance benefits.

(k) Producer patrons are insured under the Act for payment for producer originated grain up to the limit prescribed in (i) above and valid claims will be paid whenever the Secretary determines that a Member has failed to meet the demands of his producer patrons.

SEC. 5. Administration.

(a) The Secretary shall administer the Act.

(b) That the Secretary or his designated representative is authorized, upon application to him, to issue to any party a Certificate of Membership in the Corporation in accordance with this Act and such rules and regulations as may be made hereunder. Such Certificate shall be prominently displayed in the Member's place of business.

SEC. 6. Insurance Benefits—To carry out the purposes of the Act—

(a) Commencing with May 1, of the year following passage of the Act, the Corporation is authorized and empowered to insure producers of grain dealing with a Member of the Corporation against loss due to the failure of such Member to make proper payment for such grain.

(b) Insured grain shall be that grain to which the producer has retained continuous legal title.

(c) The insured price of grain shall be:

(1) The insured price shall be that price agreed upon, if any, at time of sale between the producer and the Member,

(2) or as determined by the method of pricing agreed upon, if any, at time of sale between the producer and the Member,

(3) or in the absence of any such agreed price, the price shall be full market value less Member's usual trading margin at the Member's location as of the date the Secretary determines demand was made on the Member by the producer and the Member failed to make payment;

(4) or if a receivership develops and no prior demand has been made the price shall be as determined by the receiver,

(5) and such prices shall be reduced by any unpaid liens against the grain.

(d) The quantity shall be that evidenced by original source documents less any quantities for which settlement has been made, and less any quantities required to offset conditioning authorized by the producer.

(e) The Corporation may withhold payment of such portion of the insurance payment of any producer as may be required to provide for the payment of any liability of such producer to the Member.

(f) Upon payment of any insurance claims hereunder the Secretary shall be subrogated to all rights of the beneficiary of such claims to the extent of such payment.

(g) Such insurance is limited to the persons and dollar restriction prescribed in Section 4, paragraphs (i), (j) and (k), and claimants for losses must comply with regulations issued hereunder.

SEC. 7. Eligibility Requirements.

Parties making application for Membership in the Corporation shall—

(1) Legally be in the business of buying and/or storing grain and have suitable fixed facilities for the receiving and handling of grain.

(2) Shall have and maintain at all times a financial condition at least equivalent to that required for the issuance of a Certificate of Membership; the failure to maintain such a condition will render the Certificate subject to suspension or revocation.

(3) Have reputable, experienced and competent management.

(4) Have a bond or bonds to secure the faithful performance of his obligations as a storer and/or buyer of grain in such amount as may be determined by the Secretary.

(5) Keep such accounts, records, and memoranda as fully and correctly disclose all transactions involving his business, including the true ownership of such business by stockholding or otherwise; whenever the Secretary finds that the accounts, records and memoranda of any such Member do not fully and correctly disclose all transactions involved in his business the Secretary may prescribe the manner in which they shall be kept.

(6) Every Member shall make reports to the Secretary concerning such Member's business in such form and at such times as the Secretary may require.

(7) Be licensed, if required, and faithfully observe all requirements under any license to store or buy grain held under any applicable State or Federal law.

(8) Observe sound warehousing and merchandising practices.

(9) Have and maintain such insurance and fidelity bond coverage as the Secretary may deem necessary.

(10) Observe any other requirements the Secretary may deem necessary.

SEC. 8. Examinations.

The Secretary is authorized to cause examinations to be made of any applicant, or Member's business including facilities, grain stocks, books, records, papers and accounts.

SEC. 9. Termination of Membership.

(a) A Member may terminate his status as an insured Member by giving Notice in writing of Intent to terminate.

(b) The Secretary may, after opportunity for hearing has been afforded to the Member concerned, suspend or revoke any Certificate of Membership for any violation of or failure to comply with any provisions of this Act or of the rules and regulations made hereunder. Pending investigation, the Secretary, whenever he deems necessary, may suspend a Member temporarily without hearing.

SEC. 10. Cooperation with States.

In the discretion of the Secretary, he is authorized to cooperate with State officials charged with enforcement of State laws relating to storing, and/or buying of grain; but the power, jurisdiction and authority conferred upon the Secretary under the Act shall be exclusive with respect to all persons securing a Certificate of Membership hereunder so long as said Membership remains in effect.

SEC. 11. Fees.

The Secretary may charge, assess and cause to be collected a reasonable fee for every examination, Certificate of Membership, and assessment for insurance (as determined by the Corporation) under the provisions of this Act and the regulations thereunder. All such fees collected, shall be deposited with the Secretary of Treasury for the account of the Corporation.

SEC. 12. Action on Insolvency.

Notwithstanding any other provisions of law, if the report of an examination discloses that the obligations of a Member to other parties has been jeopardized by an insufficiency or deterioration of assets, the Secretary may take possession of the Member's business and his assets, shall cause an audit to be made, and if the audit discloses insolvency the Corporation shall be appointed Receiver.

SEC. 13. Criminal Penalties.

(a) Whosoever falsely advertises, represents, publishes, or displays any sign reasonably calculated to convey the impression that a non-member has insurance under this Act, shall be punished as follows: A Corporation, association, partnership, business trust or other business entity by a fine of not more than $1,000; an officer or member thereof participating or knowingly acquiescing in such violation or an individual violating this Section, by a fine of not to exceed $1,000 or imprisonment for not more than one year, or both.

(b) Whosoever knowingly conceals, removes, disposes of, or converts to his own use or that of another, any assets used by a Member to influence the Secretary in granting of a Certificate of Membership or continuation thereof shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction, be fined not more than $5,000 or imprisoned not more than five years, or both; but if the value of such assets does not exceed $100, he shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Whosoever shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any Member subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such member, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such Member, or who shall willfully refuse to submit to the Secretary or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such Member in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

SEC. 14. Separability.

The Sections of this Act and the subdivisions of sections are hereby declared to be separable, and in the event any one or more sections or parts of same of this Act are held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this Act.

SEC. 15. Appropriations and Regulations.

(a) There are hereby authorized to be appropriated such sums, not in excess of $5 million for each of the first five fiscal years beginning with the fiscal year during which enactment occurs to cover the operating and administrative costs of the Corporation in such amounts and at such times as the Secretary may determine.

(b) The Secretary and the Corporation, respectively, are authorized to issue regulations as may be necessary to carry out the provisions of this Act.

SEC. 16. Right to Amend.

The right to alter, amend or repeal this Act is hereby reserved.

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## BUFFALO CIVIC LEADER HONORED

## HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. DULSKI. Mr. Speaker, many years ago I had the privilege of serving on the Buffalo Common Council under the able leadership of Council President Elmer F. Lux, and we developed a firm and lasting friendship.

Elmer Lux has played an important role in Buffalo, not only in political circles, but through his many civic and charitable endeavors.

His active efforts on behalf of his fellow man received just recognition this week, when a newly refurbished residence-rehabilitation facility for cerebral palsy patients was dedicated as the "Elmer Lux Hostel." Local, regional, State, and national leaders paid tribute to him during the ribbon-cutting ceremony, but perhaps the essence of Elmer F. Lux is best sumed up in his own words:

> Be loyal to the place you call home and to the people who live in it. And try as hard as you can to be of service to that place and to your neighbors. This is the good life, and that's what everyone is seeking.

He does know the good life, and his home and neighbors know the benefits of it.

As part of my remarks I would like to insert two recent articles from the Buffalo Courier-Express:

### MANY INTERESTS OF ELMER LUX ALL ADD UP TO BOOSTING BUFFALO

(By Grace Goddard)

Elmer L. Lux of Linwood Ave. often sports a tie emblazoned with a buffalo. And on him it looks good.

For this ultraneighborly man in the City of Good Neighbors has been a Buffalo booster all of his life.

Mr. Lux is most appreciative of the blending of the customs, cultures and cuisines of other lands that lends color and variety to this city's life.

And despite his own busy way of life, Mr. Lux has never been too busy to reach out to the area's sick, disabled and disadvantaged.

At 11 Tuesday morning the United Cerebral Palsy Assn. of Western New York and the United Cerebral Palsy Assn. of New York State will dedicate a new facility in Halbert St. as the "Elmer Lux Hostel for the Development Disabled."

This new concept in rehabilitative service aimed at the social rehabilitation of cerebral palsy patients is adjacent to the Niagara Frontier Vocational Rehabilitation Center at 100 Leroy which Mr. Lux helped establish six years ago.

"Our budget that first year, with the help of the United Fund, was $85,000 and we planned to serve from 50 to 75 persons. This year it's over $1 million, serving 450" said Mr. Lux. The center now receives federal assistance.

Mr. Lux's latest project is to help incorporate the International Heritage Center proposed for stately old Post Office building, Washington St. The center would serve as a showplace for what Mr. Lux terms "the many ingredients that go into the melting pot we call America."

Mr. Lux is joined by Horace A. Gioia and Edward Posluszny in the task of incorporating and for filing to secure the building for that purpose.

"Heritage" is the name selected, rather than "ethnic," because Mr. Lux says, the latter tends to set people apart, while the former doesn't.

Mr. Lux envisions compartmentalized offices on the first, second and third floor balconies of the buildings—each devoted to the background of a different nationality.

The main floor concourse would be used for performance of music, songs and dances of the lands from which Americans have come.

Mr. Lux, son of Mr. and Mrs. Frank Luksch, was reared in Buffalo's Kensington section in a modest home in Olympic Ave.

The late Mr. Luksch operated a barber shop in Bailey Ave. which was a mecca for voters and politicians alike since Mr. Luksch was active in politics.

Mr. Lux's lifelong interest and participation in politics—he's a former president of the Buffalo Common Council—most probably was influenced by his father. Mr. Lux is a Republican.

He remembers that old neighborhood as "the greatest place, where nobody ever locked doors, where nobody was rich but everybody was generous and a place where first, second and third generation Americans from various 'old countries' opened their hearts and homes by sharing traditions."

Mr. Lux's antecedents are German, but he recalls that his growing up years were enriched by the Chamberlains and Johnsons from England, the Reids from Scotland, the Kumlanders from Norway, the Scotch-Irish MacKays, the Coppolas from Italy, the Jankowskis from Poland and the Zornicks from Hungary.

"You name it and we had it in that neighborhood, and we all were friends—great friends," said Mr. Lux who for many years has escorted his widowed mother to German Day celebrations in Genesee Park.

Mr. Lux is currently extremely busy as chairman of New York State's Division for Servicemen's Voting which furnished absentee ballots to men and women in military service. This is a year-round operation which takes Mr. Lux weekly to Albany from his office in the State Building in Court St.

Mr. Lux attended Masten Park High School when the school's principal was the late, great Frank A. "Pop" Fosdick. After his graduation Mr. Lux rose in rank from errand boy to executive in the motion picture industry. He was upstate sales manager for RKO Radio Pictures Inc. and later served as president of Darnell-Elmart Theaters—a chain of 21 motion picture houses in New York, Ohio, Kentucky and Virginia. During this time he took courses at the University of Buffalo.

Mr. Lux was president of the Buffalo Redevelopment Foundation when it brought together business, industry and government to establish a workable program of urban renewal.

Booth Memorial Hospital of the Salvation Army has been another main interest of this man who also helped set up Buffalo's first Telethon for Muscular Dystrophy.

At 65 Mr. Lux shows no signs of slowing down. He's an active volunteer worker at Roswell Park Memorial Institute. He is president of the United Cerebral Palsy Assn. of New York State, a board member of the Niagara Frontier Vocational Rehabilitation Center, chairman of the advisory board of the Sisters of Social Service, a board member of the area Salvation Army.

He is past president of Tent 7, Variety Clubs International; past vice president of the American Ordnance Assn.; past president United States Army Assn.; past president of the National Defense Transportation Assn.

He is senior co-chairman of the National Council of Christians and Jews Brotherhood Week.

He's a local member of the Boy Scouts of America and a member of the Advisory Committee of United Fund. He sings with the Male Choir Bavaria and the United German Singers.

Mr. Lux and his wife, the former Nina Belle Wilson, have a daughter, Mrs. Robert Kallet of Oneida. They also have three grandsons. Michael Kallet, 23, attends the Berkeley School of Music, Boston, Mass. Steven Kallet, 21, is enrolled in Syracuse University's School of Journalism, and Douglas Kallet, 19, is studying for a career in dentistry at the University of Arizona.

Mr. Lux offers encouragement whenever he can to young people interested in a political career, and in participating in community service.

"When I was 40, Nina and I spent a few weeks in New Orleans where a sidewalk artist offered to sketch my picture," he said. "I asked him instead to try to sketch it as I would appear at age 60.

"The resemblance on my 60th birthday was absolutely uncanny and I said to myself 'Now here's an experienced old gent who's at an age when he can offer advice to the young.'

"This is the best and only advice I can give: Be loyal to the place you call home and to the people who live in it.

"And try as hard as you can to be of service to that place and to your neighbors. This is the good life, and that's what everyone is seeking."

### ELMER LUX TO BE HONORED

(By Anne McIlhenney Matthews)

Many years ago Elmer F. Lux and his charming wife, Nina, counted their blessing of a whole and normal girl-child and decided that because that seemed to be the end of the road in their progeny that they would take as their "family" those who so badly needed helping hands—the afflicted of cerebral palsy.

On Tuesday at the corner of Halbert and Brewster Sts., a refurbished two-story building will be officially named the "Elmer Lux Hostel." It will be a residence-rehabilitation center, hopefully transitional for all who are admitted, so that they can be trained for more independence.

It is naturally a tribute to Elmer and his years of vision and endeavor for these people, baby to adult, a spiraling program of care, education, training and diagnostic and therapeutic services. It is an enterprise that has secured a legion of supporters and much selfless endeavor on the part of people from all economic and social strata. But the Board of the United Cerebral Palsy Assn. of Western New York Inc., decided at a meeting held last Thursday that the new building should bear the name of one of them who has worked tirelessly in getting money and volunteers for the enterprise.

The Lux Hostel was formerly called Halbert House and a part of the Cerebral Palsy and Frontier Rehabilitation Centers complex in the LeRoy Avenue area. It is now completely set aside as a private hotel for the handicapped. It is being renovated to accommodate 20 persons in private rooms. It also has a dining room, living room, game room, laundry and kitchen.

There are entry ramps and some ramps to downstairs areas. All bathrooms have bars in showers and along walls and there are railings along all walls and extra wide doors to facilitate wheel chairs, etc.

"The idea of the hostel is to make it completely individualistic," says Edward I. Dale, program director of the Hostel.

"A strong emphasis will be made on social rehabilitation so that residents can become as independent as possible and move out into private or public housing and, possibly, free from being public charges," said Edgar J. Schiller, executive director of the Cerebral Palsy Rehabilitation Center.

Elmer Lux phrased it briefly and aptly. He said:

"It is to keep people out of institutions and to take them out of there."

All members of the Western New York Cerebral Palsy Association's Board will attend the naming and ribbon-cutting ceremoney next Tuesday. A group from the state association also will be on hand headed by Alan Miller, commissioner of the New York State Department of Mental Hygiene. Also James Warde, commissioner of mental health for Erie County; Erie County Executive Edward V. Regan; Robert Nitsch, president of the United Cerebral Palsy Assn.; Social Services Commissioner George Sipprell and several other legislators on committees of the State Mental Health Dept. will attend.

Lux is President of the Cerebral Palsy Assn. of the state and has been a member of the executive committee for many years. He is chairman of the Booth Memorial Hospital Advisory Council and is a former president of the Buffalo City Council and currently director of the New York State Military Ballot Commission. He has been a sales executive consultant, a public relation consultant, and former head of RKO Pictures in Buffalo.

"I can't tell you how pleased I am of the honor," said Lux. "It is another step in our long road and I hope it will focus the attention of the great community on our many needs.

"The United Cerebral Palsy Assn. is very proud of their contribution to the community and particularly to the families served. There is, however, a growing awareness of need, that these services are neither complete nor are they available to the numbers of people in the community who could well use them.

"The quality and quantity of services available to the handicapped must be increased to provide the comprehensive program necessary to meet the multiplicity of problems in a family with a handicapped member. If the problem which arises in a family with a severly handicapped member was a singular one, and if it could be easily diagnosed, a single treatment could be devised to meet that need. There is, however, no single formula to provide for the needs of such a family," Lux said.

"Our goal is towards total service. If total service is invested early in a handicapped child's life there is every indication that the effect on the individual and his family, and the community can be minimized," he said.

"The United Cerebral Palsy Assn. of Western New York, in the total service plan, would like to see the handicapped individual receive services on a continuous basis, as services are needed from the time it is recognized that the individual has a handicap. These services would range from infancy, and pre-school, through pre-vocational, vocational, job placement, and social integration into the community in which he lives.

"Approximately half of the children and adults with cerebral palsy have speech defects, 20 per cent have faulty hearing, more than a third suffer from visual defects, and nearly two-thirds suffer from varying degrees of mental retardation. Most frequently two or more of these impairing conditions may affect one individual," Lux said.

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## DOMESTIC INFLATION AND THE DOLLAR

## HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. ZABLOCKI. Mr. Speaker, it is becoming more and more evident, based on my own personal observation and conversations with my constituents during the August recess, as well as conversations with my fellow colleagues this last week, that inflation, higher interest rates, and seemingly unending increases in the price of food and other consumer goods are cause of much concern and frustration to the American people.

At the same time, while there is a general consensus that inflation is our No. 1 national problem there is substantial disagreement and confusion as to how to proceed to solve this admittedly complex problem.

As you know, Mr. Speaker, a scholarly article on this subject by our friend and fellow colleague Representative HENRY S. REUSS entitled "Dollar Woes" appeared in the August 26 issue of the Washington Star-News.

As an internationally known and respected authority in the area of international economics and monetary affairs, I am sure that our colleagues, the administration, and the general public will find Representative REUSS' article a constructive and penetrating analysis of some of the major steps needed to solve our domestic and international economic problems.

With the thought that some of our colleagues may have missed Representative REUSS' article as they visited their respective home districts during the August recess, I include the text of his article at this point:

### DOLLAR WOES: MAJOR CAUSES INCLUDE: WATERGATE, AND THE LOSS OF CONFIDENCE IN THE WAY WE ARE HANDLING OUR DOMESTIC POLICIES

(By HENRY S. REUSS)

Throughout the late 1960s, the dollar was clearly overvalued against the other leading currencies. The world was stuck with fixed international exchange rates, and with the over-valued dollar as the leading reserve currency. That meant that the United States couldn't change the external value of the dollar, and the other countries wouldn't change it, because they were enjoying a booming export business with the United States.

The result of the over-valued dollar was that American consumers were able to buy imported motor cars, color television sets and almost everything else at bargain prices. For a while, before the bubble finally burst, it looked as if Japan and the United States would each be manufacturing what it could most efficiently manufacture: the Japanese all the goods the United States wanted, and the United States the one thing it was good at—printing greenbacks which shortly wound up in the Japanese Central Bank!

American investors abroad, mainly our multinationals, were likewise finding they could buy up foreign factories and equipment at a huge discount. Why build a plant in Milwaukee when you can build one in Spain or Taiwan or Mexico for a fraction of the price? This extra incentive to invest abroad played a large role in turning American labor, worried at the prospect of lost jobs, from free-traders into protectionists in a few years' time.

Likewise, American tourists went abroad in unparalleled numbers, lured by the prospect of Europe on $5 a day. And American generals found that our over-valued dollar enabled them to conduct foreign military adventures on the cheap.

Then the bubble burst. On August 15, 1971, in the face of the danger that our foreign creditors might demand gold in exchange for their dollar holdings, the United States slammed shut the gold window and let the dollar float downward. The devaluation of December, 1971, at the Smithsonian soon proved inadequate. It was followed by the even more severe devaluation of February-March 1973. Since then the dollar has floated down and down against the other leading foreign currencies.

After two devaluations and a depreciation, the dollar is no longer over-valued but under valued. And why is the dollar selling at such bargain prices, of close to 30 percent in the last two years? The financial people of the world tell us that their disdain for the true value of the dollar derives from two causes:

Watergate, and the loss of confidence in the way we are handling our domestic economic policies.

Phase II price-wage controls, which were working very well, were abandoned last January apparently for the reason that they were working very well. Businessmen have been investing in plants and equipment, and consumers have been buying on credit, at record-breaking rates—in large part because people have become afraid of inflation and want to spend before prices go even higher. The overall budget, far from showing the surplus which is necessary at a time of inflation like the present, still exhibits a deficit. Because of the failure to obtain additional tax revenues, the Federal Reserve is called upon to do most of the inflation-fighting, and exhorbitant interest rates are the consequence.

The dollar's under-valuation produces additional complications. The rest of the world, needing feed grains, soybeans, scrap metals and lumber, takes advantage of our artificially low prices to buy in record amounts. The Nixon administration is then panicked into export controls. These serve to alienate the Europeans and the Japanese, to whom we have always promised free access to American products. Worse, foreign holders of dollars become even more panicky when they get the message that the United States is reducing the value of their dollar by telling them what they can and what they cannot buy.

So, despite the attempt by the Federal Reserve and other central banks to rig the market by artificially forcing the dollar's prices upwards, confidence in the dollar remains low.

What is to be done? If the problems are the Watergate and the domestic economic mess, as they are, the solution would seem to be for the President to come clean on the Watergate, and for the government to clean up the economic mess.

Specifically, the inflationary boom in plant and equipment could be tuned down by modifying the present investment tax credit, as Federal Reserve Board Chairman Arthur Burns wisely advocates. Consumers could be restrained from borrowing too much from the future by reinstituting controls over the amount of the down payment and length of the term of installment credit.

The budgetary situation should be rescued by the prompt tightening of the minimum tax. First enacted in 1969 to compel wealthy tax-avoiders to pay at least a pittance to the Treasury, it itself is so full of loopholes as to be relatively valueless. A sensible tightening of the minimum tax, as advocated by the Brookings Institution, could yield an additional $4.5 billion a year. This would enable us not only to bring the budget into surplus, but to embark upon a necessary program of public service employment to make sure that the rate of joblessness improved, rather than deteriorated, during the transition period that lies ahead.

As for price-wage policy, the administration would do well to return to an improved version of Phase II, concentrating on those cost-push areas of the economy such as steel, automobiles, aluminum, heavy chemicals.

Such a program—fumigating our political institutions, and getting hold of our economic institutions—is the only way I see to get the dollar off its back and into the international monetary ring once again. When it does, foreign pressures on our scarce goods will subside for the simple reason that they will cease to be such irresistable bargains.

With the dollar thus in equilibrium for the first time in a decade, with the wild swings between over-valuation and undervaluation moderated, we can once again earn the respect, the friendship, and the economic cooperation of the rest of the world. It is a long road, but the sooner we start on it the better.

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## NATIONAL LAND USE POLICY AND LOCAL RESPONSIBILITY

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## HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. STEIGER of Arizona. Mr. Speaker, I would like to call to my colleagues' attention an article by Senator CLIFFORD HANSEN that appeared in the August 30 edition of Public Utilities Fortnightly. This article, entitled "National Land Use Policy and Local Responsibility," addresses a number of the provisions in S. 268, the bill recently passed by the Senate dealing with land use planning.

Since the House will have to come to grips with this measure, I urge the Members of this body to give careful consideration to Senator HANSEN's remarks:

### NATIONAL LAND USE POLICY AND LOCAL RESPONSIBILITY

(By Hon. CLIFFORD P. HANSEN, U.S. Senator From Wyoming)

It has been my experience with federal legislation that if the intent of the Congress is not written into new law, the intent of the Congress will, inevitably, be misinterpreted in many areas. More often than we like to recognize, the intent of Congress is misinterpreted when it is written into the law.

This was a major reason the Senators who supported minority views of the Senate Interior Committee version of the Land Use Policy and Planning Assistance Act (S 268) made the effort to get as much clarification as we could written into this bill, both in committee sessions and during the Senate floor debate. There was more accomplished by the minority in the former than the latter. But there were several notable accomplishments in the Senate chamber.

Most visible, of course, was the defeat of the cross-over sanctions floor amendment offered by the committee chairman (Senator Henry Jackson, Democrat, Washington). The chairman preferred to call this "incentives" rather than "sanctions," during some phases of its consideration. The action by the National Governors' Conference earlier in June, registering their unanimous opposition to cross-over sanctions in federal land-use legislation was no insignificant help in influencing the 52-to-44 Senate vote that prevented the imposition of sanctions.

The Congress should have the wisdom to heed the advice of our nation's governors, especially in matters that have to do with the traditional rights of state and local governments, and on federal legislation that requires a high degree of co-ordination between state and federal government if it is to be workable. Because the governors did favor enactment of land-use legislation at the federal level, there was some misunderstanding among Senators early in the debate on the issue of cross-over sanctions and the positon of the governors of the states on that specific issue.

Actually, the governors' position, unanimously opposing sanctions, scarcely could have been clearer. Their policy position stated:

"The national land-use policy should refrain from the imposition of economic sanctions against states which are unable to comply with federal land-use policy requirements. Because of the highly sensitive nature of land-use control, major accommodations will have to be made between state and local governments before such controls can be exercised equitably and judiciously. Furthermore, sanctions generally have proved an ineffective tool in bringing about desired change. In this instance, they would be even less likely to be effective, since they focus on the governor alone, when it is the equal responsibility of state legislatures and local governmental officials to develop the joint relationships necessary for exercising land-use control."

The Senate, in 1972, rejected the sanctions provision in the land-use legislation (S 632) of the 92nd Congress, and the House, of course, failed to act on the bill last year. The House is expected to act on land-use legislation this year, and we can speculate that, in general, the Senate pattern will be followed, excluding sanctions.

One particular matter we sought to establish in the legislative history of the land-use act was to prevent any conclusion that action on the bill would resolve the shortage of petroleum in the United States, or resolve the failure of states to site any refineries.

The committee chairman cleared this up in the debate when he stated:

"We face an emergency in connection with the refining problem and some other land-use aspects of the energy problem, so we are dealing with the problem on a special basis in the energy facilities siting bills so we can get action without delay. But S 268 looks down the road and asks the states to assume the responsibility to identify these areas in advance so that they can crank it into their land-use program, well in advance of need.

"That is the distinction: One is an emergency in which we are holding hearings separately so that we can deal with the specific problem, for we find ourselves curiously in a situation, even with all the petroleum coming in (when the Alaskan pipeline is in operation), where we would not be able to handle it; that is, refine it, and make it available to the fellow who wonders why he does not have gasoline at his local station. So we have that problem to deal with separately from S 268. That is what we have done.

"I hope that clarifies the record."

But the actual language of the bill in its definitions pointed out that provision is made for the identification of major facilities on nonfederal land for the development, generation, and transmission of energy.

While it would be unrealistic for me, engaged as I am in private life in agriculture, to claim exceptional knowledge in the energy field, my interest in it is understandable. Wyoming is one of the major energy storehouses of the United States. We rank fifth in the order of states in production of oil and gas, and probably first in coal reserves, which is why we share with the nation's power users and producers keen interest in the surface mining bill (S 425), which was reported by the committee in early July.

Wyoming is at least second in known uranium reserves and production, and with Colorado and Utah, shares the major oil shale reserves of the nation. In addition, any member of the Congress who does not attempt to understand the remedies for the nation's energy shortage is not doing his duty, and if he does not understand that the energy shortage poses a threat to the American way of life, it must be suspected that he is not capable of doing his duty.

There was never very much question as to whether the Senate would pass a land-use planning bill. If you talk about farming, land-use planning, or doing away with crime, if you are for motherhood, or whatever subject it is, each person in his own mind likes to think what he believes that particular phrase or act or idea embodies. It is easy to say, "yes, we are for land-use planning," because we are frustrated with the fact that we get into a traffic bottleneck and it takes an hour and a half to get to work.

Another person's idea of land-use planning may have to do with his not liking the building going in next door to his home. It could be what still another person thinks about conditions which obtain in the neighborhood that militate against the financial success of his business. All of these are understandable concerns and interests that people have, and we would be hard pressed to find a sizable number of citizens who do not hold an opinion on land-use planning, whatever that title may conjure up in a mind. The very word "planning" for most of us connotes a reasoned approach, and no one really likes to be labeled as against "planning." There always is a bit of psychology involved in the titling of a bill.

One of the other accomplishments during the floor debate, which may seem rather simple to those who were unable to follow the committee sessions on the bill, was in getting a definition for adjacent lands. A major section of the bill dealt with federal-state coordination and co-operation in the planning and management of federal and adjacent nonfederal lands.

Without definition, there apparently were no limits to application of the legislation. The federal government owns in Wyoming, for example, 48 per cent of the land. The federal government owns even more in several other states. But in Wyoming, if a factor of only one mile were used by the Secretary of the Interior in his categorization of "adjacent lands," the federal government's scope of control in that state would be increased to 73 per cent. The definition finally agreed to was that adjacent lands are only those "which are in the immediate geographic proximity of and border . . ."

Some Americans—those who had their children home from school last winter because there was not fuel to heat the institutions, who were laid off from work because there was not fuel to run the factories, or who have stopped at service stations this spring and summer only to be told, "We are out of gas"—may have cause to wonder at the priorities of the Senate which put land-use planning legislation ahead of legislation that would deal directly with the energy crisis such as Alaskan pipeline and refinery building. There is a particular urgency about our energy supply situation, and the American people are going to have to let their representatives in the Senate and House know of their concern. When we contemplate blackouts, the closing of schools and factories, the stop page of transportation system, and the possible threat to our national security that could result if the military were unable to perform its duty, the energy crisis transcends the importance of the national land-use plan.

The laws of supply and demand are incontrovertible. Yet, while many Americans would be astounded to find it happening among people who have experienced the benefits of life in our free society, there are some in our country and even some in the Congress who apparently have slight regard for the free enterprise system that has helped to make this nation the greatest in the world.

A former Director of the U. S. Geological Survey and subsequently Under Secretary of the Interior, the late Dr. William T. Pecora, whose veracity and integrity stand unchallenged, barely more than a year ago said that the oil and gas waiting to be discovered in this country and the outer continental shelf probably would equal 100 times the quantities consumed by the United States in 1971.

Senator Bill Brock of Tennessee elaborated on this bit of irony in some well-chosen remarks to the Senate on June 18th:

"And yet (despite these great stores of energy), exploratory drilling for new supplies has declined from a peak of more than 15,000 wells annually in 1955 to fewer than 7,000 wells in 1971. Why? Simply because it is no longer very profitable to drill an exploratory well.

"I think that fact is a remarkable representation of just how far afield we have gone from the free enterprise system that Republicans and Democrats alike take as the basis of their economic beliefs. Imagine, in a time of critical shortage and immense demand, it not being worth anyone's while to increase the supply. But that is what has happened. The government has so overregulated and stifled private initiative that what should be boom-time conditions look more like an era of over-supply.

"Taxes, management errors, inflation, and restrictive pricing policies and poorly drawn environmental regulations all played a role in doing what the prospect of 25,000 feet of hard rock could not—they have caused the oil man to decide not to drill."

We wonder what kind of nation we would have today had the concept of a fair profit been alien to its development. We can only guess by looking at the standard of living in some of the communist countries. There are not many Americans, nor have there ever been many, who do not expect to receive fair returns from their endeavor, whether it involves capital investment, scholarly pursuits, or manual labor.

In the United States, private ownership of land has been a major stimulus for man's initiative and incentive. It has helped make the standard of living in America the envy of all the world. The marketplace historically has dictated the highest and best use of land.

But, as proposed at start of the Senate debate, S. 268 could have discouraged private ownership of vast areas of the nation's land. When the use of land is tightly restricted, its productivity can be lost, along with its value.

Despite the efforts of some extreme social planners who wanted to expand the police powers of the state with this bill by modification of the constitutional amendments which protect the rights of private property owners, we were successful in getting the language in the bill to protect those rights, and were successful in spelling it out in the legislative history. Senator Hubert Humphrey and I sought to establish in the legislative history during floor debate that the land-use bill would not pose a threat to the traditional and constitutional rights of private land ownership. The critical issue was how far the use of property can be restricted without compensating the property owner for diminution of value. A definition of when a restriction becomes a "taking" was sought, keeping in mind that the Fifth and Fourteenth amendments to the Constitution of the United States provide that private property shall not be taken for public use, without just compensation.

The pertinent passage from the *Congressional Record* follows:

"HANSEN. I gather from what the Senator from Minnesota has said that it is not the intent of this amendment to reduce, minimize, or qualify the rights of private property owners.

"HUMPHREY. That is correct. That is why I asked the question of the floor leader of the bill, to make sure that this bill, in any of its provisions, does not reduce those rights."

Senator Humphrey had stated previously, and received confirmation from the bill's floor leader, his understanding that "nothing in S. 268 would reduce, in any way, the traditional property rights of individuals, including the right to compensation for property taken by the government for public purposes."

I am in full agreement that some legislation concerning a national policy for land use should be enacted.

But such legislation must preserve local and state prerogatives for primary responsibility in land-use planning. As passed by the Senate, S. 268 vests too much of this power in the hands of the Secretary of the Interior. I subscribe wholeheartedly to the decision by the Congress that is implicit in the revenue sharing concept, that local people, who live with and confront local problems, can make the best judgments in arriving at local solutions.

Hopefully, the U.S. House of Representatives will be able to improve further upon this Senate-passed legislation.

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## SANTA CLARA COUNTY-SAN JOSE CITY JOINT ACTION ON DEVELOPING LAKE CUNNINGHAM REGIONAL PARK

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. EDWARDS of California. Mr. Speaker, I wish to take this opportunity to inform my colleagues of a very good example of intergovernmental cooperation between two local governments in my district. There exists a vacant parcel of land in San Jose that is the future site of Lake Cunningham Regional Park. In large part due to the diligent and creative efforts of Velma Million, development of this land was prevented and instead the land will become a major recreation facility in the metropolitan area.

Both the Santa Clara County Board of Supervisors and the San Jose City Council agreed to evenly split the cost of purchasing the land, with the city's money coming from revenue-sharing funds. With this pooling of resources, an important and needed recreation area can come into being now. I insert the text of an editorial from the San Jose Mercury News entitled "Sharing Resources," that will describe in more detail this cooperation and the benefits that will result from it:

#### SHARING RESOURCES

Santa Clara County supervisors have agreed to join with San Jose in the development of a man-made Lake Cunningham in the East Valley. The project will provide all county residents with a major, water-oriented recreational center. It is, in the best sense, an example of the dividends to be derived from intergovernmental cooperation and the pooling of financial resources.

The supervisors have agreed to pay half the estimated $4 million cost of acquiring 300 acres for the proposed park and lake between Cunningham Road and Capitol Expressway.

San Jose's City Council previously set aside $2 million of revenue-sharing funds to aid in the land acquisition."

The only similar facility in Santa Clara County is Lake Vasona in Las Gatos, a beautiful recreational complex that is so popular it frequently is filled to capacity. One such facility obviously is not enough to serve local residents.

Thanks to city-county cooperation, then, another big need is closer to being filled.

The fact that two local governmental agencies working together and sharing expenses can provide services and facilities that they could not provide alone is worth underlining.

The approach is too little used. Greater use of it could be and should be made in Santa Clara County—not simply between San Jose and the county, but among all cties and the county.

## WELFARE PROBLEM

## HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. WALDIE. Mr. Speaker the implementation of new welfare payment levels in California is currently a topic of controversy between the legislature and executive branch. An editorial printed in the Los Angeles Times, September 7, sums up the situation quite well. I include the editorial for my colleagues' review at this time.

### COLLISION COURSE ON WELFARE

Once again the Reagan Administration and the Legislature appear on a collision course.

Only a short time ago a deadlock saddled Californians with an unneeded and unwanted penny increase in the sales tax for three months. Now it is the needy blind, disabled and elderly who are caught in the middle.

Under new federal law, the basic federal aid grant will be set at $130 for an individual starting Jan. 1, and states will be required to adopt plans for supplemental help. The average grant in California is now $212 for an individual and $377 for a couple, and the state cost amounts to roughly $500 million a year.

Democratic leaders, in the Assembly at least, have been insisting on far higher grants. One Assembly bill originally proposed equalizing all grants at $255 for an individual and $460 for a couple. The added first-year cost to the state was estimated at $277 million by the legislative analyst office, and at more than $375 million by some in the Administration.

The Senate rejected a bill originating in that house that would also have provided substantial grant increases. It then followed by stripping the Assembly bill of virtually everything but its title, and sent it back to the lower house as the basis for a compromise. The measure has already been sent to a two-house conference committee to see what can be worked out.

But the Administration thus far has been holding out for maintenance of the status quo, with no appreciable added state costs. And it is dead set against repeal of the "responsible relatives" clause that requires children who live in California to contribute to the support of parents on welfare. That clause was in both measures, and the governor has vetoed similar repeal proposals twice in the past.

Unless agreement can be reached between the executive and legislative branches, it is conceivable that welfare grants could drop to the federal level Jan. 1 and, as a penalty, the federal government would cut off $600 million in Medi-Cal payments now coming into the state.

Gov. Reagan has pledged that will not happen, that recipients' checks will not be reduced. His aides are attempting to determine how current payments can be maintained.

It is obvious that there is going to have to be some give and take on both sides. Perhaps some categories of aid should be increased. Possibly extra consideration should be given cases of special need where extra costs are involved.

California already pays among the highest welfare grants in the nation. The burden of proof for further increases in those welfare checks thus rests with the legislative proponents. If they can make a case, the Administration should be willing to recognize it.

It will serve no purpose if an Administration spokesman continues to charge the lawmakers with playing "Russian roulette," and if legislators accuse the governor of "playing a callous game of chicken which threatens the livelihood of our most needy citizens."

We've already had too much rhetoric. What is needed now is prompt resolution of the impasse.

## NATIONAL NEWSPAPER WEEK AND NEWSPAPER CARRIER DAY RESOLUTION

## HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. BROWN of Ohio. Mr. Speaker, National Newspaper Week will have its observance this year the week of October 7–13, with Newspaper Carrier Day observed Saturday, October 13.

For many years these two occasions have been observed by Presidential proclamation following the passage of a joint resolution by the Congress. I am today introducing a joint resolution designating "Newspaper Week" and "Newspaper Carrier Day," and hope that it will see expeditious action by the Congress in order that these two occasions can be appropriately observed by Americans.

Mr. Speaker, I would like to note that America's newspapers constitute one of the most significant factors in the many elements that make up our lifeblood of democracy. They are read for their news content, for the advertising that supports our free enterprise system, for their opinions and for entertainment. The American public is served by more than 1,600 daily newspapers with a combined circulation of more than 62 million daily copies. In addition, there are more than 7,500 weekly newspapers, with a combined circulation of nearly 32 million copies to American homes each week. These figures, representing the full opportunity for Americans to keep informed by a free, uncensored press, are truly representative of our democracy.

Most Americans receive their newspapers—especially their daily papers—on their doorstep each morning or afternoon through the effort of their local newspaper carrier boy. These boys number approximately 1 million at any given time. They travel an average of 1 million miles per day on their delivery routes, and they earn an estimated $600 million per year in this free enterprise exercise.

In making their rounds, they are often up before sunrise and on their afternoon rounds they are willing to forgo the free time that other youngsters have to make sure that the reader has his newspaper on time. They are out in all types of weather and their bundles of papers often seem bigger than they are, but they do the job and do it well. It is fitting that they have their day of observance once each year by their fellow Americans.

Mr. Speaker, I take pleasure in introducing this resolution honoring America's newspapers and newspaper carriers. I urge its early passage in order to facilitate their appropriate observances this year.

## WHY WATERGATE IS IMPORTANT

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. BROWN of California. Mr. Speaker, as you know, part of the President's defense strategy during his current cisis has been to shift the focus of the American people's attention away from the various sordid activities committed in his name by his handpicked assistants. Claiming complete ignorance of the various crimes being conducted under his nose, while at the same time refusing to comply with a court order to turn over evidence which could prove him innocent or guilty, Mr. Nixon has attempted to divert the public's attention to various other subjects. In a speech last month, grasping for straws, Mr. Nixon told a nationwide radio and television audience that all of this attention on Watergate has meant that Congress has not been doing its job; that we are all, supposedly, just sitting around here talking about Watergate, watching the recent hearings in the Senate, and generally ignoring our legislative business.

This is, as you know, nothing more than the desperate tactics of a desperate man. Richard Nixon knows full well that, aside from the one select Senate committee which is looking into last year's election, very few Members of Congress are spending any appreciable time on activities related to the Watergate affair. We are too busy. During the months prior to the August recess the 93d Congress enacted 865 items of legislation. Despite the time devoted to the Watergate hearings by a few of our colleagues in the other body in July, the Senate conducted 349 rollcall votes prior to the recess, an all-time record for that period of time. Congress certainly need not apologize for its record so far this year, by any means.

But behind these attempts to distract attention from the Watergate affair lies a basic premise that the Watergate affair itself is of minimal importance, certainly not worth all the attention it has been getting. Mr. Speaker, I believe we must not allow Mr. Nixon to sell such a story to the American people. On July 22, in the weekly Intelligence Report feature which Lloyd Shearer prepares for Parade magazine, an item appeared under the heading "Why Watergate Is Important." I submit the article for inclusion in the RECORD at this point:

### WHY WATERGATE IS IMPORTANT

(By Lloyd Shearer)

Last month, after polling the American public on its reaction to Watergate, the Gallup organization revealed the following: (1) Two out of every three Americans believe that President Nixon was involved in the scandal to at least some degree. (2) Approximately half the people polled (46 percent) dismiss the Watergate affair as "just politics—the kind of things that both parties engage in," although an increasing number believe it is a "very serious matter," indicative of corruption throughout the Nixon Administration.

The Watergate subversion was far more than "just politics." It was a sinister attempt by arrogant, unprincipled and ambitious men to destroy gradually the two-party system and the democratic processes as we have established them in this country over a period of almost 200 years.

One man who perceived that drift very early in his investigation of Watergate was the junior U.S. Senator from Connecticut, a Republican, Lowell Weicker.

On the opening day of the Ervin committee hearings, Weicker tellingly described the Watergate participants as men "who almost stole America." And they almost did.

It was some of the President's most trusted aides who established a Department of Dirty Tricks. It was they who hired stupid lackeys, supervised by a former CIA agent of idiot morality, to burgle, break in and bug. It was they who taught clean-cut, handsome younger men to equate dissent with treachery, to despise the press, to treat the opposition party as "the enemy."

It was they who substituted hate and vindictiveness for competition and fair play in the 1972 Presidential campaign. To accuse one candidate of being a homosexual, to accuse another of consorting with a prostitute in the back of a car, to steal mail, to compromise the FBI and the CIA, to besmirch the hard-earned reputations of such men as L. Patrick Gray and Richard Helms by pressuring them to commit or approve deeds of dubious legality—these are the tactics of a police state, and their practitioners are the possessors of a fascist mentality, whether they know it or not.

How much President Nixon had to do with all this—only he knows. What he is guilty of at least is incredibly poor personnel judgment. He surrounded himself in part with abrasive men of ill will, and they in turn, hired others in their own image.

Surely there is room in this country for honest dissent by men of honest conscience. There is no room in any American administration for a Department of Dirty Tricks. That bag belongs to political tyrants who have no faith in the values and traditions of the country they seek to subvert.

Mr. Speaker, we will very shortly be celebrating the 200th anniversary of the founding of this Nation. The great patriots who wrote our constitution provided an example which all the world has admired ever since. If we can hope to celebrate, not only a 200th anniversary, but still more decades and centuries of democratic government under our constitution, we must heed the famous words of Thomas Jefferson, "The price of liberty is eternal vigilance." And therefore, we must not shut our eyes to Watergate.

## A QUOTATION FROM CHOU EN-LAI

### HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. FISHER. Mr. Speaker, in the September 17 issue of U.S. News & World Report is found the following news item:

*In Peking,* reporting to the Communist Party Congress in his role as No. 2 to Chairman Mao, Chou En-lai had such plain talk as this: "*Relaxation* (of tensions with non-Communist states) is *a temporary and superficial phenomenon* and great disorder will continue. Such great disorder is *a good thing* for the people, not a bad thing. It throws the enemies into confusion and causes division among them . . ." This is *favorable to Communists* and "unfavorable to imperialism (U.S. and Russia), modern revisionism (Russia) and all reaction."

## OSHA AND THE SMALL BUSINESSMAN

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, the publication Human Events, in its current issue, contains an article concerning the impact of the enforcement of the Occupational Health and Safety Act under guidelines and regulations established by the Department of Labor on American small businesses.

The thrust of the article is that the regulations are too stringent and extreme and are driving many smaller companies out of business. I should like to point out that the Subcommittee on Environmental Problems Affecting Small Business of the House Small Business Committee held hearings on this matter, and further that the members of the committee are greatly concerned over the application of this act and its effect on small businesses throughout the country—many complaints have been received by our committee.

Because of the interest of my colleagues and small businessmen in this matter, I place excerpts from the article in Human Events in the RECORD herewith.

The excerpts follow:

[Excerpts from an Article in Human Events, Sept. 15, 1973]

OSHA AND THE SMALL BUSINESSMAN

(By Karen C. O'Hara)

The Occupational Safety and Health Act, commonly known as OSHA, is another example of the crippling effect on private enterprise caused by hastily conceived federal regulations. The net result of the OSHA regulations has been to push up costs and to drive many smaller companies out of business. To thousands of America's small businessmen it is perhaps the most burdensome in a growing list of federal efforts to patch the garment of free enterprise with the cloth of socialism.

Many working people, whom the Act is designed to protect, feel the same way, as they see the layoffs and the business closedowns which are resulting from enforcement of OSHA.

"After all," said one employee who lost his job because the employer could not afford to make the changes required by OSHA," is it better to have a job where there are some minor risks of injury—or no job at all? Even though my employer would have been required to make substantial modifications in our facilities to meet the standards, we never had an on-the-job injury in all the time I worked there."

No one questions the need to reduce the level of work-related illness and injury. To the vast majority of businessmen, however, federal regulation through OSHA is perhaps the worst possible way of achieving that result. What began as an effort to insure adequate standards for on-the-job safety has turned into an example of administrative lack of foresight and outright federal oppressiveness.

What's wrong with OSHA? The most frequent complaints concern regulations promulgated by the Department of Labor, and the way the Act has been administered. It is impossible to enumerate all the various types of complaints lodged against the Act; however, the following list of the most serious and oft-cited complaints will afford some indication of the scope of the problem.

The Act is punitive in its approach where it should be remedial.

Standards promulgated were originally developed by national consensus organizations and cannot readily be applied on an indiscriminate industry-wide basis.

There is no way for the businessman to readily determine which of the standards apply to him.

Procedures for adopting the standards are of questionable constitutionality.

Let's take a closer look at the Occupational Safety and Health Act. OSHA establishes procedures whereby the Secretary of Labor promulgates federal standards for on-the-job health and safety. It provides that as soon as practicable during the two-year period following the effective date, the Secretary of Labor must promulgate national consensus standards as interim national occupational safety and health standards. The Act provides that the standards should be issued without regard to the rule-making procedures required under the Administrative Procedure Act.

In addition to setting and promulgating standards, the Secretary of Labor is also made responsible for the enforcement of those standards; the power to investigate and inspect are provided by the Act. These inspections are typically conducted without advance notice to the employer. In fact, the Act provides that anyone who gives such advance notice without authority to do so may be subject to a maximum fine of $1,000 and six months' imprisonment.

The restriction against providing advance notice is indicative of the punitive approach of the Act. Businessmen rightly complain that the drafters of the OSHA legislation have treated them as "criminals"—that they apparently feel the employers cannot be depended upon to comply voluntarily with the OSHA guidelines, and must be "sneaked up on" and caught in the act.

Yet when businessmen contact the Department of Labor to request assistance in complying with the Act, they are told that if the department were to send an inspector to the employer's place of business, he would be obligated to issue a citation for any alleged violation found during the visit. In other words, no on-site consultation may be provided concerning how to comply with the law in advance of an official inspection.

The policy of unannounced inspection visits has given rise to some unanticipated side effects: The latest rackets include men posing as OSHA inspectors who in reality are industrial spies, potential thiefs looking over security measures, and con men talking the employer into offering a bribe not to impose heavy "fines."

At an official inspection, the federal OSHA inspector issues a citation and proposes penalties for each violation, including the most minor non-conformity. If the employer does not contest the finding within 15 working days, it becomes a final order and cannot subsequently be appealed.

This time period of 15 working days has frequently been called totally inadequate. As an example, the case of an electrical contractor was cited in testimony before the Environmental Problems Subcommittee of the House Permanent Select Committee on Small Business. After citing the contractor for alleged violations of OSHA, the inspector admitted that an error had been made and that there were no violations after all. The only way to correct the error, however, was to contest the citation; the contractor informed the Department of Labor that this was his intention. In response, the department sent him a package of highly technical material. When the contractor wrote requesting clarification of the material, the response was that the period of 15 working days in which to contest the citation had expired, and he was liable for the fine assessed.

In the event the employer does contest the citation within the 15-day period, the issue is heard by an examiner at the Occupational Safety and Health Review Commission. According to the Commission, 1,610 such cases were reviewed at this level during calendar year 1972; almost an equal number were reviewed during the first half of 1973. The approximate time from receipt of a case to issuance of a judge's order is 220 days (including 50 days waiting time for transcript and briefs). This in turn becomes a final order within 30 days, unless one of the three commissioners directs that it should be reviewed. (This occurs in about 10 per cent of the cases, and takes about 240 additional days.)

Only after completing the foregoing procedure can an employer take the matter into court. Even then, however, the provision for judicial review is sharply limited. No trial by jury is provided; the court does not conduct a trial de novo but confines itself to the record of the Review Commission. No objection can be raised which has not been raised before the Commission (except in extraordinary circumstances) and Commission findings of fact are ordinarily conclusive.

Another category of frequent complaint concerns the inapplicability of many of the standards. The Act provided for promulgation of national consensus standards and established federal standards. The term "national consensus standards" refers to those for which interested parties have reached substantial agreement after taking into account divergent views. However, since these standards were developed by private organizations in which the small businessman had little representation, there was virtually no input by the small businessman in their development.

Furthermore, many of the standards were promoted by special interests more concerned with the safety of property than with the health and safety of workers, and were developed as minimum industry standards for equipment and systems in which the member organizations had a monetary interest. When they were drafted, they were never intended to be applied to all business and industry alike on a nationwide scale.

To aid the employer in determining which of the provisions apply to him, it has been suggested that for each major segment of industry a separate publication should be issued containing just the standards applying to that segment. This would eliminate the necessity for reading through all the volumes of adopted standards in an attempt to determine just which ones apply. A few such compilations have been prepared, but OSHA still has a long way to go before such "targeted" compilations are available for all major segments of industry.

Questions have been raised regarding the constitutionality of procedures authorized under the Act. Employers urge that the Act should be ruled void for vagueness, charging that its provisions are so ambiguous that employers have no adequate notice of what conduct is proscribed. They are concerned, too, that the Act apparently permits unlimited searches of the employer's premises, and allows the searches to be made without a show of probable cause and without a warrant. These concerns were aptly expressed by a Pennsylvania manufacturer who wrote, "The Act is vague and imposes penalties without a hearing. It places the burden of proof upon an employer. The employer has no right to a hearing except under arbitrary rules of the Commission. The employer has no right to a jury trial. The procedure for enforcement of the Act denies due process."

Apparently the government is reluctant to test the constitutionality issue in court. Rather than meet the issue squarely the government has tended either to dismiss or greatly reduce the penalties shortly before trial. This reluctance tends to substantiate the claim that the government is waiting for a case with highly charged emotional overtones before allowing the constitutionality issue to be tested in a court of law.

It appears that there is more support in the Congress for the amendment of OSHA than for its repeal at this time. Over 50 bills have been introduced to revise the Act, while only one would repeal it entirely.

That the Occupational Safety and Health Act needs revision is beyond question. Even leading union figures have suggested that it is unworkable in its present form. Debate last year over exemption amendments offered to the Labor-HEW appropriations bill found even some of the strongest advocates of the Act admitting certain deficiencies.

Numerous bills have been introduced in the House and in the Senate to accomplish needed revisions. Sen. Curtis has introduced a revised version of the comprehensive amendments that he and Rep. Charles Thone (R.-Nebr.) proposed in the last Congress. A less comprehensive proposal has been introduced by Sen. Peter Dominick (R.-Colo.) to deal with only those changes which the senator feels are absolutely necessary to make the Act work.

On the House side, a large number of bills have been introduced which seek to amend a single aspect of the Act, or which provide an across-the-board exemption to small businessmen. Rep. Ancher Nelson (R.-Minn.) introduced a comprehensive bill which is the Curtis-Thone bill of last year, unrevised. Rep. Steve Symms (R.-Idaho) is the author of the measure to repeal the Act completely.

The most comprehensive of the bills make major alterations in the due process procedures of the Act: Under the redrafted Curtis version, the federal OSHA inspectors would no longer function in the dual role of administrator-prosecutor; the prosecuting function would be in the office of the U.S. attorney general. Where suit is warranted, the attorney general would institute proceedings in the appropriate U.S. District Court, which would conduct a trial *de novo* to determine facts and assess penalties.

Additional provisions would eliminate much of the Act's penal approach by allowing pre-inspection and on-site consultation for small businessmen. To further assist the employer in complying, the Secretary of Labor would be required to distinguish between classes of employers, and to determine to which class(es) each regulation should apply.

There is widespread support for revising the oppressive provisions of OSHA, as evidenced by concern from such organizations as the Southern States Industrial Council, the National Association of Wholesaler-Distributors, the National Electrical Contractors Association, the National Small Business Association, and the Associated General Contractors of America, Inc.

However, unless the support which does exist quickly directs its views toward Congress, the effort at revision is likely to fail. There is already a strong possibility that the efforts at revision will die in committee.

Congress has been dilatory in acting on the OSHA amendments proposed this year. No hearings have yet been scheduled on any of the more than 50 bills that have been introduced, although the appropriate Senate and House subcommittees have indicated that consideration may be given sometime during this winter. It is imperative then to waste no time in informing your senators and congressmen of your views concerning the debilitating effect of the Act and the urgent need for revision.

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## ADMINISTRATION'S INEPTITUDE HANDLING OF ENERGY CRISIS

### HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. WILLIAM D. FORD. Mr. Speaker, the brinksmanship being practiced by the Nixon administration in dealing with the energy crisis has brought us to the point of a first great jump into disaster.

That this country is in the midst of an energy crisis that is both real and tangible should not be news to anyone.

Last winter, homes in the Midwest went without heat. Many of last year's crops were lost or spoiled, due to the lack of propane for drying ovens. This past summer saw filling stations being put on short rations of gasoline and then closing down when their allotment ran out. And as early as last winter, we were all discussing the possibility of a fuel shortage this winter.

While I cannot argue that the administration has not recognized the fact that we are experiencing a fuel shortage, I do believe it has demonstrated an unforgivable lack of foresight. Why did not the President and his esteemed advisors anticipate the degree of our present fuel crisis and provide a way to deal with it?

The recent actions of the Energy Policy Office, under the leadership of Gov. John Love, have strengthened my conviction that the administration's handling of the energy deficiency has been far from adequate.

This past Wednesday, September 5, the Energy Policy Office announced in the Federal Register that, due to the critical shortage of propane, a mandatory allocation program has been established and 1 day of public hearings would be held on September 7. The total ignorance of pressing and continuing need for propane fuel shown in the proposed priorities is shocking.

This obscure notice of 48 hours was hardly enough time for propane users and suppliers to prepare statements and arrive in Washington to appear at the hearing even though health, safety, jobs, and production schedules in several of this Nation's vital industries will be pushed aside without consideration if the proposed executive regulations are put into effect. It is not possible that any bureaucrat, even minimally informed as to the possible consequences to industry and business now using most of the propane needed in this country, could proceed in this cavalier and irresponsible way.

Why, when the August 9 statement of the EPO revealed that a severe problem exists with propane supplies, did the Office wait until September 5 to announce a hearing for September 7 on the mandatory allocation program? Although Governor Love defends the short notice with claims that he is acting under emergency provisions, why was the announcement not made in the early part of August, when they were first aware of the propane crisis?

But my objections are not only limited

to the extremely short notice of the hearing. I also dispute the proposed priority system which excludes industrial users of propane from consideration and have made my objections known in the form of a telegram to Governor Love.

I think it essential that the EPO reconsider its priorities. Curtailing the availability of propane to industries will cause factory shutdowns all over the country. General contractors will be forced to discontinue winter construction projects because of a lack of heating. But most importantly, I believe that a lack of propane will force many industries to violate major provisions of the Occupational Safety and Health Act.

While I understand that the EPO has extended by a week its acceptance period for comments on the propane allocation system, it must also consider a reordering of priority users. I call on my colleagues in the Congress to support these efforts and to work to prevent another hastily devised and announced energy conservation policy.

## CONSUMER VOICES MUST BE HEARD

## HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. RONCALLO of New York. Mr. Speaker, it would be appreciated if the attached statement of Councilman John S. DaVanzo, of the town of North Hempstead, to the Cost of Living Council may be inserted in the CONGRESSIONAL RECORD so that I may share these thoughts with my colleagues.

The statement follows:

### STATEMENT OF COUNCILMAN JOHN S. DAVANZO TO THE COST OF LIVING COUNCIL

The time has come, and indeed is long past for the voices of our consumers to be heard. We in town government have said time and again that the abrupt skyrocketing of the cost of food and now many other items, is unconscionable. For years, the American housewife has had to contend with rising prices, but never in recent memory has the suffering been so unequal or so great. We vigorously protest this uncontrolled spiral and must demand some affirmative action from your body.

We, in local government, have always tried to help all the people in our communities solve the problems which afflict them. This is not a partisan concern . . . it is a concern for the health and welfare of all our residents. It is indeed unfortunate that we must use this final forum to express the mounting frustration of our residents trying to live within their incomes. The people in our communities must feed and clothe their families, and these abrupt spurts in the cost of living are far outpacing the ability of our wage-earners to keep up.

The inescapable conclusion is that these increases in the cost of living are no longer simply a manifestation of the rising cost of doing business. The American people are being taken advantage of, and gentlemen, you are the ones who can stop it. I appeal to you to do so . . . and do so quickly.

As if these steep rises in the cost of food weren't enough, we on Long Island now find that winter will be cold indeed, principally through the action of major oil companies, which have sharply reduced the supply of home heating oil allotted to both industrial and residential users. The only way to avoid this situation is through prompt and effective action. We must appeal to you to look closely at this situation. We have been told that this is the direct result of economic controls. Surely we are not seeking any action which will raise the price of anything, but regulations must apply equally, and if that is where the problem lies, the council must see to it that our residents are not frozen out of their homes this winter.

## IMMEDIATE SOCIAL SECURITY INCREASE NEEDED

## HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. YOUNG of Florida. Mr. Speaker, I have today sponsored legislation to put into effect immediately the social security cost-of-living increase originally scheduled for July 1, 1974. America's 21 million senior citizens need our help now, not next year.

In July, the House approved a 5.9-percent increase in benefits to make up for the inflation of the past fiscal year. At that time, I favored making the increase effective right away—after all, a "catch-up" increase which does not catch up until a year later is not much good.

However, proponents of the delay argued that it was necessary to avoid a budgetary drain and also to give time for the social security tax to be increased to pay for the new outlays. A majority of the Members of Congress agreed and the effective date of the payment increase was thus delayed.

Such a delay is no longer supportable. The Department of Agriculture is now predicting that food prices alone will increase at least 20 percent this year. Medical costs and prescription drug prices continue to soar—and medicare does not come close to covering all these costs for our senior citizens. For some of my constituents, it has become a harrowing choice between food or medicine. This is a choice that no American should have to make.

Nearly three out of four Americans over the age of 65 have annual incomes below $3,000, including 2.5 million persons with no income at all. The 5.9-percent increase which is pending represents about $9 a month for the individual retired worker, raising his monthly benefits to $176. I see nothing inflationary about giving these persons an extra $9 a month, especially when it means they may be able to eat decent meals again.

Mr. Speaker, 85 of my colleagues have joined with me in calling for an immediate social security increase. Yesterday the Senate approved an amendment presented by the distinguished Republican Senator from Florida, EDWARD GURNEY, to make the increase effective now. In the name of humanity toward our senior citizens, I urge the House to take similar swift action.

## CHARISMA

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. DERWINSKI. Mr. Speaker, my attention was directed to a very interesting and thoughtful column by Dennis Wheeler, editor of the Star-Tribune publication which serves south suburban Cook County in Illinois.

In his column, which appeared in the Star-Tribune of August 23, Mr. Wheeler very intrigueingly covered the subject of "Charisma."

The article follows:

### AN EDITORIAL—CHARISMA

(By Dennis Wheeler)

Sometime back there during the 60's the word "charisma" got to be a big thing.

According to Webster, charisma means "a quality of extraordinary spiritual power attributed to a person or office capable of eliciting popular support in the direction of human affairs."

Possibly it's simpler than that. Like: a person has charisma if he possesses enough personal magnetism that people fall back in awe or rush forward in tribute when that person appears in public.

I got to wondering the other day about who, of the people I've seen or met, had charisma. I further pondered what it was about them that endowed them with charisma.

I finally decided that in my life I've seen only three people close up who really had it. Others were exciting to meet, but they didn't have real charisma. When I was 12, for example, I got Stan Musial's autograph at Wrigley field, and wandered on a cloud for awhile, but Musial didn't have charisma. Neither did Bobby Kennedy when I shook his hand in 1961. He was too young and too much in his brother's shadow to have the charisma he reportedly developed later.

Ted Williams didn't have it, and neither does Hank Aaron, although I certainly hope he breaks Babe Ruth's (the Babe had it in spades, they say) home run record.

Richard Nixon has no charisma, and neither did Harry Truman, while it is reported that Franklin Roosevelt, Dwight Eisenhower, and Lyndon Johnson had lots of it.

But in my experience—only three.

The three are President John F. Kennedy, Chicago machine boss and mayor, Richard J. Daley, and golfing millionaire Arnold Palmer.

I saw Kennedy in person only once. It was September, 1960, in Cadillac Square, the State and Madison of Detroit. Kennedy was there to kick off his campaign for President in the traditional Democratic party way by making a speech to the holidaying workers on Labor Day.

More than 100,000 people were packed into the square. Suddenly waves of motion in the crowd began to eddy around a coterie of men pushing their way toward a raised speaker's platform. In an instant you could pick out Kennedy in the middle. Tailored brown suit. Shock of youthful brown hair. Mahogany tan. Big smile. Nodding his head at and pushing to meet individual handshakers.

His speech was no big deal. But the crowd was captured by the candidate's charisma, and it would not have mattered if he had given his talk in Swahili.

I met Mayor Daley in his office while I was in college. The occasion was a journalism class field trip to Chicago city hall, during which Daley had agreed to hold a press conference in his office for the college journalists.

We waited for him in his austere but magnificently appointed office. Suddenly, a door burst open and Daley strode briskly into the room, followed by several hurrying men. Very short and stocky. Looking up at each of us and making warm eye contact as he shook our hands. Jowls shaking slightly as he talked in almost funereal tones to each young man or woman. So quiet you had to strain to hear. Deep tan. Strikingly well-fitting business suit.

I remember not a thing discussed in the press conference—the issues were mundane. But I remember the hypnotism wielded over those in the room by the short, stocky machine politician who said "dere" for "there" and "doze" for "those."

In June of this year, we sat behind the fourth green at Midlothian country club watching threesomes of professional golfers play through. Then up at the dogleg there appeared this giant throng of people, marching down along the restraining ropes toward the hole. With them, but slightly in front, came a strapping, sportshirted individual striding purposefully up the fairway.

He stalked past where his last shot had come to rest some 20 yards from the green and walked up to study the green and where he intended to land his next shot. Brow furrowed in concentration. Easy talk with a few members of the gallery. Slight smile gnawing at the corners of his mouth as he recognized someone he knew in the crowd. Barely controlled patience while he waited for his playing partners to lag up to the green.

And then a sweeping motion of triumph as he knocked in a long putt after chipping to the green. Modest acknowledgement of the giant swell of sound erupting from his "army" as the putt dropped.

Everyone within hearing distance knew without asking that Arnold Palmer had just played Number Four.

So what we have is a President of the United States, born into a kind of American royalty. A Harvard graduate who traveled the world. Scholarly and witty and the most powerful man in the world during the early 1960's.

And we have a back of the yards Irishman who struggled up through Chicago's tough Democratic machine ranks with only the barest talent in speaking the English language. One of the most controversial leaders in America.

And there is the man who became so famous and wealthy playing golf that he owns companies, land, and a Lear jet.

What common denominators can be divided into these three widely divergent personalities?

What in short, gave them charisma?

I think the most important factor is intensity. All three, whether in laughter or in anger, were very intense people, deeply involved in living. None appeared capable of truly relaxing. All seemed extremely anxious to get on with things.

Another trait common to the three was their openness toward people. None were guarded, suspicious, or withdrawn. All seemed anxious to meet people on a personal level, not just for ceremony. When a crowd was around—whether the crowd was 100,000 people in Detroit's Cadillac Square or 10 young writers in Chicago's city hall—the men strode forward eagerly to meet that crowd.

All three looked you in the eye and seemed to be trying to remember you for the future. You had the feeling that if you met them in five years, they might recognize you.

Finally, charisma is definable in terms of success. Unsuccessful people don't have charisma, and it is probably also true that people with charisma are almost always successful.

The success comes, I think, because people with charisma seize life and try to take control of it. I think they are convinced they are in control of it most of the time.

When they show anger, as Daley did during the Democratic Convention of 1968, it's because control has been temporarily lost. When they show sorrow, as Kennedy did when his son died after only a few days of life, they shake it and continue to meet life head-on. When they show frustration, as Palmer does over his putting almost every time he plays, it's a frustration he throws off in his haste to get to the next tee to smash one 300 yards.

Since we all wish we could react to life in these ways, we fall willingly into the ranks of the followers of such people.

So it is that Webster is right when he says someone with charisma is "capable of eliciting popular support in the direction of human affairs."

## INDIA INDEPENDENCE DAY

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. BIAGGI. Mr. Speaker, on August 15, the great nation of India celebrated her 26th anniversary as a free democratic public. In memory of the occasion there was a special Indian gathering in New York City to celebrate with song, food, and dance. A copy of the program will be included at the end of these remarks.

This nation, the largest democratic republic in Asia, and the seventh largest in the world, deserves a tribute from all Americans for her great courage and diligence in her fight for freedom, not only in terms of independence from British colonialism, but also in terms of assuring every Indian citizenship in a democratic society. India's revolutionary leaders stand high in world history, their work no less revered than that of our own great leaders.

Let us here in America hail India's anniversary as the Indians themselves do—with the hope of future strength and growth as well as the knowledge that Indian democracy shines as one of the finest in the world today.

The program follows:

INDIA'S 26TH INDEPENDENCE DAY CELEBRATIONS

About 10,000 of New York's 100,000 Indians will celebrate the 26th Anniversary of India's Independence. The celebration will take place on Sunday, August 12, 1973 at 12:00 Noon in Public School 139, 93-06 63rd Drive (at Wetherol Street, 3 blocks south of Queens Blvd. at Alexander's) Rego Park, Queens. The celebration will be graced by the presence of the Honorable A. K. Ray, Consul General of India.

Part of the celebration will be screening of "Bhuvan Shome" (Bha-von-shom), the winner of the President's Gold Medal for the Best Feature Film of 1969. Music will be performed by ancient temple instruments including the shehnai, sitar, and veena. Paintings by Indian artists will be on exhibition. Four or five stalls will serve Indian culinary delicacies such as samosa (Sa-mo-sa), rasgulla (Russ-goo-la), rasmalia (Rus-mul-li), and tea.

India became independent from Great Britain on August 15, 1947. Its greatest freedom fighter, Mohandas K. Ghandi, spearheaded the independence movement by using a new form of resistance called "non-violence disobedience". This program included nonpayment of taxes, refusing to go to British schools and courts and sometimes defying British rule by sitting in the streets. Today India is the largest democratic country in Asia. It is the 7th largest country in the world having a population greater than that of all the people of Africa and South America put together. Indians speak 14 major languages and over 700 dialects. For hundreds of years India meant mystery, wealth and excitement to the people of the Western World. Exotic names like Delhi, Bombay; Madras and Calcutta have conjured up visions of saris and the Taj Mahal. On August 12th, America's Indian Indians will share the fruits of their ancient culture with other Americans at their Independence Day Celebrations.

## OHIO VALLEY SUMMER THEATER PLAYS TO SOUTHEASTERN OHIOANS

## HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. MILLER. Mr. Speaker, while in southeastern Ohio recently, I had occasion to meet with the directors and a number of supporters of the Ohio Valley Summer Theater OVST—which is based at Athens and draws greatly from the talents and cooperation of Ohio University.

What began 23 years ago as a summer production group offering Athens area residents and Ohio University students adaptations of popular plays and Broadway musicals, has since expanded to the point that this past summer OVST journeyed beyond Athens to present its first musical drama—Sing Out Sweet Land—to grateful audiences in 20 southeastern Ohio communities. The production was also presented to the visitors of five area State parks as well as to various State correctional and mental health institutions throughout the Ohio Valley.

The expanded summer production was made possible in part with assistance from the Ohio Arts Council and several State agencies. However, having talked at length with the persons responsible for the success of OVST and having briefly acquainted myself with the history of the theater, it has become obvious to me that its success can be directly attributed to its many imaginative pioneers, past and present, who have brought the best in dramatic arts and theater to southeastern Ohio.

The first offering of OVST in 1951 was George Bernard Shaw's commemorative festival. The season included "Androcles and the Lion," "Candida," "Fanny's First Play," and "The Devil's Disciple." Two Shaw movies were incorporated into the season, "Pygmalion" and "Major Barbara." A special bonus play, "Two Blind Mice," was given by university theater students at the end of the season.

That first OVST season generated such enthusiasm locally that venturing into yet another year was a certainty.

Since that first season, thousands have enjoyed the theater's productions. Judging from the warm response the cast received from southeastern Ohioans witnessing American history being recaptured through song and dance of "Sing Out Sweet Land" this past summer, the theater is bound for continued success. The fact is, the means for such cultural input and entertainment has been seriously lacking in southeastern Ohio for decades. OVST has recognized the need for a regional theater and it is now putting the concept into effect.

I am confident that I speak for all those who have seen the productions of OVST this past summer in saying that future offerings are anxiously awaited. We are presently in the process of assisting the group with plans to come to Washington for a performance and I would like to take this opportunity to encourage my colleagues in both the U.S. House of Representatives and U.S. Senate to join with me in saluting this fine organization and wishing them continued success.

## CONNECTICUT FAIRS

## HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mrs. GRASSO. Mr. Speaker, Connecticut fairs celebrate Connecticut life. Activities at fairgrounds across the State provide a variety of styles and interests matched only by those of Connecticut, itself.

Our people love their yearly fairs, and yearly they combine to make their town's annual offering the State's best. Some help with the food or the drink; others with the arts or crafts, the fruits or vegetables on sale in the fair's pavilion. Still others take tickets, park cars, or aid in hoisting the tents.

Often, fairs harken back to a time when life was simpler in Connecticut, when the oxen held his place before the plow. Intense competition fills the air with a tension, as judges slowly circle prize beefers, or oxen owners urge their huge horned beasts to pull harder, harder.

Added to these agricultural goings-on are the mechanical treats in store for the strong of mind and stomach. Whirring coasters, twisters, and loop-a-loops of every description guarantee to teach a child the value of fasting from cotton candy before the rides.

Connecticut fairs bring people together. In times past, no doubt, they were places to see a friend from the year before, who lived two or three farms over, and managed to take time off from milking, haying, or the like only once a year. Nowadays, with automobiles, electronic milkers, and automatic balers, fairs are more likely to be reunions between farm and city folk, than farm folk alone.

Mostly, though, Connecticut fairs are meant for enjoyment. What better way to spend a weekend afternoon, than browsing through a sun-drenched field, meeting old friends and making new ones, partaking of the foods, watching the feats of strength in the oxen ring, or considering lazily whether this or that painting, or leather piece, is worth the asking price.

Mark Van Doren loved Connecticut, and seeing Connecticut through the eyes of the poet, chronicled the comings and goings of our State's people. His words on the Goshen Fair catch the spirit and the feeling that have captivated generations of fairgoers in Connecticut.

For the interest of my colleagues I am inserting the following poem written by Mark Van Doren and entitled "Goshen Fair." The poem appeared for the first time in print in the August 30 edition of the Lakeville Journal:

### GOSHEN FAIR

(By Mark Van Doren)

September, and the sleeping field
We passed all summer is full of folk:
The same ones, I think, for nothing
Changes; even the sheep, the chickens,
Even the great horses, even
The resting cows that children doze with,
Weary against their sides, even
The small boys high up on tractors,
Steering, even the band blaring—
Nothing is new, nor should be; I
Too am the same, and would not alter,
While I live, the heat of this day,
The din, the dust, and the smell of mustard
Where the hot dogs are made, or the whirling
Horrors beyond the merry-go-round,
The exhibits, the pulling oxen, the lost
Children—surely these are the same,
Surely all of us are—surely
The meadow at last has opened its eyes,
The spell is broken, surely the long
Year's nap is over and done with now.

## AMERICA—LAND OF THE BRAVE AND HOME OF THE FREE, WHETHER LIBERAL OR CONSERVATIVE

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. BROWN of California. Mr. Speaker, after my remarks yesterday in which I commented upon what I considered to be a relatively uncommon wholehearted agreement between the editors of the Ontario, Calif. Daily Report and me, a member of my staff brought to my attention another Daily Report editorial, 2 months old, which I had earlier missed. And it appears that we were in complete agreement on this issue also, namely, the toleration of dissent and respect for individual liberties which have made this Nation so unusual and put America in the moral leadership role that we have enjoyed since our beginnings 200 years ago. This is an issue upon which free men and women of both conservative and liberal political persuasions must unite if we are to remain free from the grasp of tyrants and monarchists who would play upon the temporary unpopularity of various groups and opinions for their own purposes. Although this item appeared on July 3, I do not believe that a single thought contained in the editorial is out of date, and I would like to call it to the attention of every one of our colleagues. The editorial follows:

### SOW DANGEROUS SEEDS

It was a minor incident and no far-reaching conclusions should be drawn from the unfortunate experience of a demonstrator during a presidential visit to Pekin, Ill.

First, police and Secret Service agents made the man take his "Impeach Nixon" sign off its pole, then ordered him to remove it from its plywood backing.

When he gave them an argument, they arrested him and, according to a wire service report, hustled him around a corner where an officer clamped metal keys over his mouth, jerking his head back and forcing him to his knees. Then he was handcuffed.

If it was a case of "police brutality," or just the use of somewhat more physical force than might have been necessary, it is not the first time it has happened in this country, or anywhere else, and won't be the last. And after all, presidents have been known to be assassinated during public appearances.

Even if we grant this, however, and even if we dismiss the demonstrator as some sort of kook or a troublemaker, there was also the unpleasant sight of a policeman with a rifle shouting from the top of a nearby building: "No pictures!"

What would he have done if some news photographer had taken a picture—shot him?

Yes, the demonstrator in Pekin may have been a kook, just as drug pushers may be "the very vermin of humanity," as Myles J. Ambrose, a federal drug abuse official, said recently in defense of lawmen who have mistakenly broken into homes of innocent citizens and terrorized them on more than one occasion.

But we could do worse than recall a statement attributed to an anti-Nazi martyr whose name at one time was well-known in America:

"In Germany they first came for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me—and by that time no one was left to speak up."

For Communists or Jews or trade unionists, substitute kooks or demonstrators or "vermin" and Pastor Martin Niemoller's words strike uncomfortably close to home today.

## SPECIAL ACTION REPORT FROM CONGRESSMAN BOB PRICE

## HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. PRICE of Texas. Mr. Speaker, it is my policy to publish a periodic report at my own expense to keep my constituents advised of my activities in their behalf. The following is the text of my latest action report:

### COMMONSENSE, NOT CONTROLS, ANSWER TO INFLATION SAYS CONGRESSMAN PRICE

#### PRICE URGES COST OF LIVING COUNCIL ACTION

In various meetings and conversations with Cost of Living Council officials as well as in legislation I have introduced in the House, I have worked for the repeal of price freeze regulations which threaten to cause serious shortages in agricultural products and financial ruin for producers.

My office has been working with and assisting individual citizens and businessmen who have been encountering problems related to price control regulations. I strongly urge producers to directly contact the Cost of Living Council, 2000 M St. N.W., Washington, D.C. 20508, which is prepared to handle individual requests for relief and exemptions from provisions which have created great hardship or loss. I welcome hearing from any citizen facing such problems if my office can be of assistance in any way.

On January 3 of this year, the first day of the 93rd Congress, I reintroduced a Constitutional Amendment to require the Federal Government to balance expenditures with revenues and to dry up the sea of red ink spending which has cut into the buying power of every working American. I believe the people are fed up with rising taxes and government spending. If our economy is to remain in the long run, controls cannot substitute for a free economy nor can they take the place of self-discipline in fiscal and monetary policy.

In addition to my Constitutional Amendment, as part of an overall effort to control inflation and wasteful government spending, I have thus far this year taken the following actions:

Wrote to the President to oppose any increase in salaries for Members of Congress or other government officials;

Successfully supported legislation to prohibit costly food stamps to strikers engaged in a labor dispute and an "escalator clause" for food stamp benefits;

Secured approval of my amendment to prohibit any foreign aid to North Vietnam under the Food for Peace program;

Voted against any increase in the national debt ceiling; and

Opposed legislation to increase the minimum wage to $2.20 per hour.

### Businessmen-Federal Procurement Conferences Held

### GOAL: BUSINESS OPPORTUNITIES AND MORE JOBS

This year I again sponsored with the assistance of local business and civic leaders and the U.S. Departments of Commerce and Defense two conferences for area businessmen to discuss opportunities for selling their products and services to the Federal Government, the world's largest consumer.

The all-day conferences held August 13 at the Holiday Inn West in Amarillo and August 15 at Midwestern University brought together local citizens and experts from over a dozen different Federal agencies and several large private prime contractor corporations to explore new marketing and job opportunities for the people of the 13th District.

### PRICE SERVES ON TWO MAJOR COMMITTEES

Because of my seniority in the 93rd Congress, I have been appointed to serve on two instead of one major House Committees—Agriculture and Armed Services. As a lifelong rancher myself and in light of the important role of agriculture in our District, I felt it necessary to retain my seat on the Agriculture Committee. And as a Veteran jet fighter pilot and firm advocate of a strong national defense my presence on the powerful Armed Services Committee will assure that the people of the 13th District will have a voice on this important issue, including decisions affecting Sheppard Air Force Base at Wichita Falls.

### PERRYTON YOUTH NAMED INTERN

Debbie Rylee, daughter of Mr. and Mrs. Ray Gene Rylee of Perryton, has been appointed by Congressman Price to serve in his office this summer as a Congressional Intern. Miss Rylee is a graduate of Perryton High School and second year student at Southwestern State College in Weatherford, Oklahoma.

13th District residents enrolled as full time college students this fall who are interested in the 1974 Congressional Intern program are invited to write Congressman Price early next year.

### ENERGY CRISIS COULD HAVE BEEN AVERTED, PRICE SAYS

Ever since first being elected to the Congress nearly eight years ago, I have warned of an impending energy crisis. That crisis is now upon us and has reached the farm gate affecting the planting and harvesting operations of those who furnish our basic food and fiber supply. I have worked closely with the Office of Oil and Gas and Department of Agriculture to alleviate immediate fuel shortages as they have occurred, but to provide a long term solution, the time has come for the Congress to enact bills I have introduced to provide tax credits and incentives for the development of new oil and gas reserves, to deregulate the price of natural gas at the well head, to construct the trans-Alaska pipeline, and to create a Council on Energy Policy.

### YOU HAVE FOUR FULL-TIME OFFICES AT YOUR SERVICE

If you are having a problem involving the federal government, or if you think I can assist you in any way, please feel free to write or call my office:

Congressman Bob Price, 430 Cannon Building, Washington, D.C. 20515. Phone (202) 225-3706.

Or for your convenience, you may prefer to contact my closest district office:

310 Post Office Bldg., Amarillo, Texas 79105. (806) 376-5151, Ext. 2381.

208 Post Office Bldg., Wichita Falls, Texas 76301. (817) 767-0541.

Rm. 7 Post Office Bldg., Pampa, Texas 79065. (806) 665-2351.

### ZACK FISHER JOINS STAFF

To better assist me in serving the sprawling new 13th District, I have appointed Zack B. Fisher to head my Wichita Falls office. As a farmer-rancher and businessman from Memphis and Gruver and former agricultural advisor to Senator Tower, Zack is familiar with the problems and concerns of our area, and will travel periodically throughout the District to hold Town Hall meetings and bring my office closer to you and your neighbors. Zack is married and the father of two children.

### THANKS

DEAR FRIEND: Just a brief note to thank each of you for the many cards and letters which I received as a result of my illness earlier this year.

My recovery has been excellent and I am again working full time on the issues and problems facing our District and our Nation. I look forward to keeping in touch with you in the weeks and months ahead and appreciate your continued interest in my work in the Congress. It is a real privilege to serve you.

Sincerely,

BOB PRICE,
*Member of Congress.*

### QUOTE WORTH QUOTING

"We have a great deal to be thankful for as Americans. We are the best-clothed, best-fed, best-housed people in the world; we are the envy of every nation in that respect. This year, for the first time in 12 years, we are at peace in Vietnam and our courageous prisoners of war have returned to their homes. This year, for the first time in a generation, no American is being drafted into the armed forces. This year, we find our prospects brighter than at any time in the modern era for a lasting peace and for the abundant prosperity such a peace can make possible."—President Nixon

JUNE 13, 1973.

### FINANCIAL AID AVAILABLE FOR STUDENTS

This year first year post-secondary students with a proven financial need who are enrolled full time at an approved college, vocational school, technical institution, or hospital school of nursing will be eligible for financial assistance through the newly enacted Basic Educational Opportunity Grant program.

Information and application forms can be obtained at local high school counseling offices, state employment offices, county agricultural extension offices; or write directly to: Basic Grant Program, Box G, Iowa City, Iowa 52240.

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## INVESTIGATION OF CHILEAN COUP

## HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. MOAKLEY. Mr. Speaker, I am today introducing legislation to create a select committee to conduct a study concerning possible American involvement in the overthrow of the Chilean Government of President Salvador Allende as well as the President's death.

Those who know me, are certainly aware that I have never been particularly enthusiastic about President Allende's politics but we are dealing here with a moral question which goes far beyond labels such as "left" or "right."

We are dealing with the death of a chief of state and, with it, the death of South America's most stable democracy. And we are dealing with the suspicion that none of us here can truly escape that this violent episode could have been financed by unscrupulous private interests in this country.

It is a matter of public record, in congressional testimony, that ITT offered funds to the Central Intelligence Agency to finance the overthrow of the Allende government. In light of this I think we have a responsibility to our own country and our neighbors in this hemisphere to determine how strongly the shadow of American involvement falls today upon the bloodied streets of Santiago.

The text of the resolution I am introducing follows:

### H. RES. 542

Resolution creating a Select Committee to conduct a study concerning possible American involvement in the overthrow of the Chilean government of President Salvador Allende in September, 1973, and in the death of President Allende

*Resolved,* That there is hereby created a select committee to be composed of nine Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Not more than five members shall be appointed from the same political party. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of the possible involvement of the Central Intelligence Agency, any other executive agency (as defined in section 105 of title 5 of the United States Code), and any corporation incorporated in any State of the United States (1) in the overthrow of the government of Chile under President Salvador Allende in September, 1973, and (2) in the death of President Allende.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary (including the production of any matter required by statute or executive order to be kept secret in the interest of the national defense or foreign policy). Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

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## MAGNETISM AS A POWER SOURCE

### HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. BROYHILL of Virginia. Mr. Speaker, my constituent, Mr. John W. Ecklin of Arlington, Va., has invented a small, simple-to-build device, which he believes may lead to the use of magnetism as a source of power.

A letter from Mr. Ecklin to the editor of the Rosslyn Review, printed on August 16, 1973, entitled "Magnetism as a Power Source," explains his theory, as does a letter he wrote on August 16 to the editor, "The Physics Teacher."

As I believe Mr. Ecklin's theory will be of interest to many who are now engaged in attempts to solve the problem of power shortages, I insert both letters at this point in the RECORD:

LETTER TO EDITOR

ARLINGTON, VA., *August 10, 1973.*

Mr. JOHN JACOBS,
*Editor, Rosslyn Review*
*Arlington, Va.*

DEAR MR. JACOBS: When I picked up your Aug. 9 issue I was really amazed that you printed my letter of July 20, 1973 and Attention Physicists and Engineers!!!! Please Read This.

Someday the whole world will thank you as I have not been able to get any of the mass media interested and this includes technical publications.

Your headline was very perceptive as engineers, once they build the simple model, will solve all of the problems associated with the shields, using known technology.

I believe this is too long to get into the Congressional Record. If you could print the enclosed, and this letter, then Congressman Joel T. Broyhill could enter it so the whole country would know.

There is an optimum engineering design and the more people thinking on this problem the sooner it will be solved.

Sincerely,

JOHN W. ECKLIN.

P.S.—Not only is the enclosed much shorter and simpler but it gives a better description of how to build a small model.

MAGNETISM AS A POWER SOURCE

There is plenty of energy in each (PM) permanent magnet's field and we can tap it. If you can't comprehend this description of this new scientific principle, then for 8 cents and some scrounging you can build a device that demonstrates this new discovery which will provide the solution to our energy, pollution, dollar and Middle East Crises.

Once you see the scientific basis of the device, there are thousands of ways to mechanize it, using variations of well-known technology. Herein lies the problem: There is an optimum design and we need to find the best design in the shortest time. Thus the more people who know, the sooner we get the best solution, so I will ask Representative Joel T. Broyhill to print this letter in the Congressional Record so all Americans can be informed and help in a timely solution.

Cut a 1'' square from an iron (tin) can for a shield and put thin cardboard on each side of the shield; find a 7/16'' diameter ball bearing, get two 1/2'' diameter by 3/16'' thick PMs, part #40820 at 4 cents from Edmund Scientific, Barrington, N.J. 08007. Tape the PMs to cardboard 1'' apart. Place bearing between PMs. Slide shield between bearing and PM and bearing will be attracted to other PM. If not, put more cardboard on the shield. Repeat. Back and forth motion is easily converted to circular motion. To automate shields, have bearing compress springs before shield is inserted so you can store extra energy to automate shields. Magnets repel much further than they attract (try this before taping). Iron gathers magnetic lines of force tightly together so little, if any, of a PM's field gets beyond a shield. Shields and bearing are (TM) temporary magnets which can only be attracted. Bearing is attracted almost as much as another PM. F equals m'm/urr, m equals PM and m' equals TM. The (PE) potential energy of m' is CHANGED when shield is inserted and changes (u) permeability of the air between the TM and PM. ANY CHANGE in PE means work has or can be done. Since a 15 lb. PM attracts 350 lbs. and this device has 4 times the power stroke of a 4-cycle engine, car engines of the future will be smaller and lighter and use no fuel.

These same prime movers can turn a generator to heat your home, light your lights and run your power appliances. We thus also get rid of light poles and leaky gas lines.

The scientific basis of these prime movers is very simple if we but pause and think. It is so simple that it has been overlooked.

Magnetism can be induced in magnetic material in two ways to make temporary magnets out of this material:

1. The material is within the field of a permanent magnet.

2. The material is near a straight wire or within a coiled wire which is conducting current.

An induced temporary magnet of the first type can only be attracted.

Two permanent magnets on both sides of a shield always stick to a shield but a temporary magnet NEED NOT.

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ARLINGTON, VA.,
*August 16, 1973.*

The EDITOR,
*The Physics Teacher, Physics Department,*
*SUNY, Stony Brook, N.Y.*

LETTER TO THE EDITOR: Because a basic law of physics can be proven wrong with a device that can be built in 10 minutes for 25¢ I challenge every instructor and professor to build one and discuss it in class or every student to take one to class as textbooks can not be rewritten soon enough to be of value to this year's students.

Cut a 1'' square from an iron (tin) can for a shield and put thin cardboard on each side of the shield. Get a 7/16'' diameter ball bearing. Get two ½'' diameter by 3/16'' thick (PM) permanent magnets, part #40820 at 4¢ each from Edmund Scientific, Barrington, NJ 08007.

Magnets repel much further than they attract either vertically or horizontally. Bearing is attracted almost as much as another PM. Two PMs on each side of a shield, regardless of polarity, stick to the shield. Substitute a (TM) temporary magnet for a PM and it sticks much less.

Tape the PMs to cardboard 1'' apart. Place bearing between PMs. Slide shield between bearing and PM and bearing will be attracted to other PM, if not, put more cardboard on shield. Repeat at other PM. Back and forth motion is easily converted to circular motion. To automate shields compress springs before shield is inserted so you can store extra energy to automate the shields. Iron gathers magnetic lines of force tightly together so little, if any, of a PM's field gets beyond a shield. Shields and bearings are TMs which can only be attracted.

$F=m'm/urr$, $m'=TM$ and $m=PM$. The (PE) potential energy of m' is changed when the shield is inserted and changes (u) permeability of the air between the TM and PM. Any change in PE means work has or can be done. A 15 lb PM attracts 350 lbs and this device has 4 times the power strokes of a 4 cycle engine so car, generator and other prime movers of the future will be smaller and lighter and use no fuel.

After you build or see the 25¢ device so you believe the scientific basis of a PM prime mover you will ask, why should automating the shields require very little energy? The shields can be on a common arm or shaft, each magnet must be alternately shielded so pulling a shield from one is aided by the other magnet attracting a shield in front of it. The magnetic forces are normal to the reciprocating mass and at right angles to the shields which means the shields operate with conservative or no work forces. If the magnets are equal we should only have to make up for friction losses to rotate the shields if we believe in Newtonian mechanics.

Sincerely,

JOHN W. ECKLIN.

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## INTRODUCTION OF A CONCURRENT RESOLUTION ON GUAM'S POLITICAL STATUS

### HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. WON PAT. Mr. Speaker, I am introducing today a concurrent resolution which asks the support of Congress for Guam's efforts to review its present political status through a duly constituted Constitutional Convention which will present its finding to the Congress for appropriate action.

At stake are the political aspirations of the American people of Guam and their efforts to solidify their ties with their fellow Americans in the States. As Americans, we are simply seeking congressional recognition of our efforts to improve our political status, an action which is in keeping with the American system and the statutory obligations of the United States to the people of Guam.

If passed, this measure would impose no other obligation on the Congress, nor would passage of my resolution infer that the territory is asking for statehood.

During the 75 years since Guam came under the American flag in 1898, it has been our unswerving goal to develop closer ties with this great Nation. Congress, in 1950, granted us an Organic Act which established Guam as an unincorporated territory of the United States, brought into being the American tripartite governmental structure for the island, and bestowed upon the people of Guam the cherished privilege of American citizenship. Since that time, Congress has also approved an elective Governor position for the territory and, last year, passed legislation authorizing Guam to elect its own nonvoting Delegate to the House of Representatives.

For its historically unparalleled willingness to extend the principles of democracy to the inhabitants of an island 6,500 miles from the shores of mainland America, this country has earned the heartfelt devotion and loyalty of the people of Guam, and the frank admiration of our fellow islanders in other parts of the Pacific.

In 1969, Guam held a Constitutional Convention to explore our future political goals. Although we learned many things from that exercise, the Convention, unfortunately, lacked the sanction of Congress.

More recent developments, such as the current status talks between the United States and the residents of the Pacific Trust Territory, have again brought to the fore the matter of Guam's future political status. This, coupled with the continued allegations by the United Nations Subcommittee on Decolonization that the United States is failing to promote and encourage the political development of Guam, has led the 12th Guam Legislature and the Governor of Guam to establish within their own branches, several months ago, a political status unit. The Commission is charged with reviewing all matters which have a bearing on the present and future relations between the Federal Government and the people of Guam.

Whatever the results of these findings, I assure all of my colleagues that Guam will continue to cherish its close ties with our fellow Americans.

We, the American citizens of Guam, do not seek a path which would alienate us from the relationship we have labored so hard and long to develop. Rather, we seek to establish our own goals with regard to our internal affairs and our continuing relations with the Federal Government, within the framework of the Federal Constitution.

Accordingly, I now submit to this body a concurrent resolution asking that Congress support the wishes of the people of Guam by agreeing to give its serious consideration to the future recommendations of a duly constituted Guam Constitutional Convention, which shall be ratified by popular vote.

## QUESTIONNAIRE FROM THE SEVENTH CONGRESSIONAL DISTRICT OF WISCONSIN

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## HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. OBEY. Mr. Speaker, during August, as I have done many times in the past, I distributed a questionnaire on matters facing the Congress to every home in Wisconsin's Seventh Congressional District.

Although a few of these questionnaires are still being returned to my office daily, my staff has tabulated the results of more than 15,000 responses. I think these results may be of interest to other Members of the House of Representatives.

In summary, the residents of the Seventh Congressional District who responded indicated overwhelming support for shifting the emphasis on the spending of Federal dollars from space, foreign aid, and the defense budget to programs filling domestic needs; 62 percent wanted more dollars for health, 54 percent wanted more for law enforcement, 52 percent asked for more energy research, and 50 percent wanted more for social security, 86 percent wanted less spent on foreign aid, 78 percent less on space programs, and 62 percent less on defense. Only 6 percent wanted more for defense.

Concerning Watergate, 54 percent of the respondents said they thought that the President knew about or participated in the planning of the episodes that led to the Watergate scandal and 71 percent indicated that they believe the President knew about or participated in the coverup of the various Watergate episodes. Forty-two percent indicated support for impeachment of President Nixon and another 17 percent said a congressional resolution to censure is justified. Twenty percent said no congressional action is justified and 21 percent said it is still too early to tell.

While 18 percent listed "Watergate and Government corruption" as the Government problem bothering them the most—a number that placed second only to "taxes" at 19 percent—a combination of economic problems was mentioned by far the most in this category, 47 percent mentioned economic issues such as inflation, medical and food costs, Federal spending and unemployment as their "No. 1" concern.

Overall, 72 percent considered the President's handling of the economy "poor," 17 percent termed it "average," 8 percent "good" and only 3 percent "excellent."

Resumption of the bombing in Cambodia was strongly opposed; 72 percent said Congress should not give the President authority to resume the bombing if he asked for it, 14 percent said "Yes" and 14 percent were unsure.

The complete results of the August questionnaire are as follows:

(1) In trying to strike the best balance in the way the government spends your money, on which of the following do you feel we should be spending more money, less money or about the same?

[In percent]

| | More | Less | Same |
|---|---|---|---|
| Defense | 6 | 62 | 32 |
| Education | 38 | 12 | 50 |
| Energy | 52 | 10 | 38 |
| Farm | 38 | 33 | 29 |
| Foreign aid | 2 | 86 | 12 |
| Health | 62 | 2 | 36 |
| Law enforcement | 54 | 6 | 40 |
| Pollution | 47 | 8 | 45 |
| Poverty | 35 | 30 | 35 |
| Social security | 50 | 9 | 41 |
| Space | 2 | 78 | 20 |
| Transportation | 39 | 21 | 40 |

(2) Congress has passed and the President has signed a law cutting off all funds for bombing Cambodia as of August 15, 1973. If the President asks for an extension of that deadline, should Congress give it to him? Yes 14%; no 72%; unsure 14%.

(3) Which of the following factors do you feel are responsible for causing shortages of energy?

[In percent]

| | Yes | No | Unsure |
|---|---|---|---|
| Too few tax incentives to major oil companies? | 15 | 59 | 26 |
| Lack of real competition between major oil companies? | 63 | 18 | 19 |
| Too much pressure from environmentalists? | 26 | 37 | 37 |
| Too little concern for energy conservation? | 69 | 9 | 22 |
| A quota system which has restricted oil imports? | 44 | 19 | 37 |
| Insufficient funds for research on solar, geothermal, and other alternative sources of energy? | 40 | 24 | 36 |

(4) Do you favor: (check one)

Construction of the trans-Alaskan pipeline which would pipe oil to Southern Alaska for shipment to the West coast by tanker? 43%

A six-month study to determine the possibility of piping oil to the Midwest by constructing a cross-Canadian pipeline? 57%

(5) Polls have been conducted to determine national public opinion on Watergate. This could be a very serious question facing me if an impeachment resolution is eventually filed in the House, and I would like to have the specific opinions of the people I represent in Northern Wisconsin on the Watergate scandal.

Do you think the President *knew about* or participated in the *planning* of any of the episodes that led to the Watergate Scandal? Yes 54%, No 34%, unsure 12%.

Do you think that the President *knew about* or participated in the *coverup* of the various Watergate episodes? Yes 71%, no 16%, unsure 13%.

Based upon the opinions you expressed above, do you believe: (check one)

| | Percent |
|---|---|
| Impeachment is justified? | 42 |
| A resolution to censure is justified? | 17 |
| No Congressional action is justified? | 20 |
| It is too early to tell? | 21 |

Which of the following 2 statements do you believe is true?

Watergate is *more* serious and more widespread than scandals involving previous Administrations? 68%

Watergate is *no more* serious or widespread than activities engaged in by other Administrations? 32%

(6) How much influence do you feel each of the following groups has on the decisions made in Washington?

[In percent]

| | Great deal | Only some | Hardly any | Not sure |
|---|---|---|---|---|
| Large corporations | 97 | 3 | 1 | 4 |
| Large financial institutions | 77 | 8 | 1 | 14 |
| Organized labor | 50 | 38 | 3 | 9 |
| The press | 22 | 57 | 7 | 14 |
| Ralph Nader | 9 | 47 | 23 | 21 |
| Environmentalists | 10 | 52 | 21 | 17 |
| Farmers | 7 | 24 | 54 | 15 |
| Women's rights groups | 3 | 21 | 55 | 21 |
| Senior citizens | 0 | 24 | 66 | 10 |
| Average citizen | 1 | 15 | 71 | 13 |

(7) If you live on a farm or in a community of less than 7,500 people, what is the worst problem facing your community?

| | *Percent* |
|---|---|
| Farm Income | 13 |
| Transportation | 5 |
| Quality of Education | 2 |
| Taxes | 36 |
| Inadequate Housing | 1 |
| Inadequate Health Care | 2 |
| Inadequate Employment Opportunities | 36 |
| Others | 5 |

If you live in a community of more than 7,500 people, what is the worst problem facing your community?

| | *Percent* |
|---|---|
| Urban Renewal | 1 |
| Transportation | 3 |
| Quality of Education | 3 |
| Taxes | 60 |
| Inadequate Housing | 8 |
| Inadequate Health Care | 6 |
| Inadequate Employment Opportunities | 13 |
| Others | 6 |

(8) Overall, how would you rank the President's handling of the economy? (circle one)

| | *Percent* |
|---|---|
| Excellent | 3 |
| Good | 8 |
| Average | 17 |
| Poor | 72 |

(9) Please rank 1-2-3 the government problems that are bothering you the most.

| | *Percent* |
|---|---|
| Street crime | 4 |
| Drug abuse | 3 |
| Energy shortages | 1 |
| Taxes | 19 |
| Abortion | 1 |
| Inflation | 13 |
| Medical costs | 11 |
| Unemployment | 1 |
| The war | 4 |
| Federal spending | 11 |
| Food prices | 11 |
| Retirement problems | 3 |
| Watergate and Government corruption | 18 |

(10) As you know, we hold office hours in each of the 17 counties in the 7th District on a monthly basis so that citizens can personally tell us about the problems they might have with the government. Do you think this service is worth continuing?

Yes, 66%; no, 7%; unsure, 27%.

Mr. Speaker, in the questionnaire I also asked constituents to tell me how I could best improve my representation of the district. The responses ranged from "You're doing an OK job now" to "I wish you'd resign, immediately."

## THE REQUIREMENTS OF DÉTENTE

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## HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. VANIK. Mr. Speaker, the month of August was a particularly terrible month for those in the Soviet Union concerned about the democratization and liberalization of their nation. It was a terrible and depressing month for us in the Western nations who favor a détente with the Soviet Union. While there have been numerous signs of increasing contact and friendliness between the Soviet Union and the West in recent years, within the Soviet Union, there seem to be growing signs of a deterioration in human concerns.

Increasingly, we in the West who favor an opening of doors to the East have had to ask ourselves to what kind of government we are extending our hand of friendship.

A few days ago, Andrei Sakharov, one of the leading scientists, intellectuals, and civil libertarians in the Soviet Union, said that the West should be on guard about extending further trade and credit advantages to the Soviet Union as long as that society remained a closed and repressive society.

Today's newspapers carry accounts of a curious letter sent to the Nobel Prize Committee by Alexander Solzhenitsyn. The wire stories on the letter indicate that this world-famous Soviet writer has criticized one of our Nation's two political parties and the preoccupation with Watergate matters. But if one reads the whole story carefully, it appears that the letter may well be a disguised warning to the United States not to be taken in by some Communist regimes. The Nobel Prize winner, Solzhenitsyn, whose life may be on the line already, has once again pointed out—as clearly as he dared—that men are tortured and made to sign ridiculous confessions under some Communist regimes. For the first time in years, the West has just been treated to the circus spectacle of such a trial and "public confession" process. Solzhenitsyn himself may be brought to such a trial. It will not be his first experience with his country's prison system. Lest we forget what is possible, we should all reread Solzhenitsyn's novel of prison life, "The First Circle." The title of this book is an allusion to Dante's first circle of hell—a type of prison hell in which so many of Solzhenitsyn's countrymen passed through during the Stalinist era. It is the fear of movement back to this first circle that concerns the Soviet intellectuals and those of us in the West who desire true and meaningful détente.

These recent events raise the most serious questions about what the West should expect from détente. We cannot settle for just more trade, more profits, better balances of payment, and business as usual. Our decisions and actions in the next few weeks may be decisive concerning the future direction of the West and of the Soviet Government. As Sakharov has stated, the "Freedom of Emigration Amendment" to the trade bill, being offered by Chairman Mills and myself and by Senator Jackson in the other Chamber, should be accepted.

Mr. Speaker, I would like to enter in the Record at this point an editorial from this morning's Washington Post entitled "The Requirements of Détente." This is a thoughtful editorial on the need for us in the United States to see some "reasonable amount of evidence of positive changes."

The editorial follows:

### The Requirements of Détente

The very difficult question of what is to be the substance of Soviet-American "détente" is passing from a debating phase to a political phase. A significant number of Americans now appear to believe it is neither desirable, possible nor safe to improve relations with the Soviet Union unless the Kremlin liberalizes some of its domestic policies. So the National Academy of Sciences has just conditioned its support of further scientific exchanges on an end to Kremlin harassment of physicist-libertarian Andrei Sakharov. House Ways and Means Chairman Wilbur Mills (D-Ark.) says he will resist expanded East-West trade "if the price is to be paid in the martyrdom" of Sakharov, Nobel laureate Alexander Solzhenitsyn and other noted dissenters. Congressional consent for expanded trade has already been linked to Soviet consent for freer emigration, especially emigration of Jews.

As the excitement of summitry wore off, people were bound to start examining the staff of détente, the more so as the inflationary impact of last year's Soviet grain purchases came to be felt. Distracted perhaps by Watergate, Mr. Nixon has given no evidence that he has coped with the issue himself, as he should have. For it is a plain fact that, although he made his first-term breakthroughs largely alone and in secret, their consolidation requires public support. He needs the support of scientists to expand exchange, and of Congress to broaden trade. Meanwhile, the situation on the Soviet side has not been static. The Soviet government, eager to reap the benefits of détente without cost to its domestic grip, has intensified its crackdown on dissenters; they in turn have reached out for foreign support. The sharper the foreign protests, the more determined some in the Kremlin become to ignore them. Those Soviet leaders who had doubts about détente all along are no doubt arguing now that the current American "interference" in Soviet affairs proves their original point.

The attitudes of American critics require closer scanning. Some Americans who now speak for Soviet human rights may well do so because they never "trusted the Russians." Others may be making political hay. Still others, particularly American Jews, see an opportunity and feel an obligation to help their co-religionists. Scientists and intellectuals have an interest in their Soviet counterparts. Whether or not one sympathizes with any of these attitudes, the fact remains that there is a substantial and growing constituency which expects political and economic progress to be accompanied by progress in opening up Soviet society. It is a fundamental American tenet to equate trustworthiness and openness. It is deeply disturbing that the Kremlin is not subject to the same checks on the arbitrary use of power that operate on democratic governments, however imperfectly. It is offensive to find the Soviet state denying human values and it cannot avoid raising doubts about how reliable a partner it will be in joint political and economic enterprises. A form of "interference" in Soviet affairs is a natural consequence of this concern. But our own self-interest is involved as well. And that is what makes the problem so difficult for us.

Secretary of State-designate Henry Kissinger last Friday pronounced himself personally "disappointed" and "dismayed" by the recent reports of oppression from Russia. "Yet," he went on, "we have as a country to ask ourselves the question of whether it should be the principal goal of American foreign policy to transform the domestic structure of societies with which we deal or whether the principal exercise of our foreign policy should be toward affecting the foreign policy of those societies." This way of posing the issue is entirely consistent with Dr. Kissinger's view that foreign policy is essentially global strategy and that domestic considerations and pressures should not be allowed to impinge on it. Moreover, he is surely well positioned to understand the never-absent risk that the Kremlin majority currently supporting a detente policy could crumble.

The appropriate approach to the issue he poses, however, is not merely to caution those concerned with human rights. That is not only questionable politics but questionable diplomacy. The appropriate approach is to go on to caution the Soviet leadership that it is simply not possible to mold the necessary public support for a détente policy in the United States while the Kremlin continues acting as it does with respect to human rights. The real problem, we suspect, is not so much that the Soviet Union practices domestic policies repugnant to many Americans. The problem is that at a time of East-West promise when many Americans had expected a softening effect on Soviet internal policies, the Kremlin seems to be going *backwards*. It is this sense of disappointment, of betrayal, which energizes many critics of Soviet performance on human rights. The remedy, then, is not a "transformation of the Soviet domestic structure" but some reasonable amount of evidence of positive changes—some movement in the right direction, rather than the other way around. Such evidence would almost certainly loosen the knot now tightening around certain aspects of Soviet-American détente. President Nixon has no more compelling piece of international business than to set the Soviet leadership straight on what, as a practical political matter as well as a question of principle, détente requires if it is to achieve a necessary measure of support in this country.

## DISCRIMINATION AGAINST GASOLINE STATION OPERATORS

### HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. BROOMFIELD. Mr. Speaker, the time is ripe for Congress to do something to assist the more than 160,000 gasoline station operators in this country who have been forced to the brink of bankruptcy as a result of the arbitrary and discriminatory actions of the Cost of Living Council.

Phase IV regulations allow the major oil companies to pass through any cost increases in domestic crude oil to the gasoline station owner. The major oil companies who have watched their first half earnings reach record heights are now in a position to dictate economic life or death for these small businessmen.

Only last week several of the major firms increased per gallon cost to the dealers by 1 cent. For an industry that already operates on a very slim profit margin this is bad enough but, on top of what the Cost of Living Council had already done, this was the final straw.

Phase IV stipulates that service stations are restricted to the per gallon profit they received as of January 10, 1973.

It so happens, Mr. Speaker, that many viewers, especially those in Michigan, were engaged in a price war at that time. Profit margins were ridiculously low. It is estimated that average profit to stay in business is at least 8 cents a gallon. A fair return in order to operate efficiently and effectively is 9 to 11 cents depending upon location and volume of sales.

In Michigan, on January 10 profits were as low as 7 cents per gallon. Furthermore since retailers can no longer pass through price increases from suppliers, last week's crude oil increase reduced profits to an unrealistic 6 cents a gallon.

I have urged, and the Michigan congressional delegation has joined me in this, that the Cost of Living Council straighten this mess out by giving owners a chance to receive a fair and reasonable per gallon profit. Our appeal has unfortunately fallen upon deaf ears.

The courts have been petitioned for relief and they respond that we, the Congress, should and must take action.

Mr. Speaker, unless we act soon we are going to have a handful of major oil companies operating all the gasoline stations in this country. There is no telling how high the price of gas will go without the competition which 160,000 service station operators provide for this industry.

All these small businessmen want is a fair shake and the opportunity to stay in business. They have already had to cut back service and payrolls to the bare bone. Their backs are up against the wall and once they fall you can be sure it will be the American public who will suffer the most.

If anyone should be prevented from passing on costs it should be the major oil companies who tally up their profits in billions instead of the small operator who has to fight and scrape just to get by.

## THIRTY-FIRST DISTRICT QUESTIONNAIRE RESULTS

### HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. CHARLES H. WILSON of California. Mr. Speaker, in July of this year I mailed out an opinion poll to the residents of my 31st Congressional District. Since this questionnaire covers a wide range of topics that are of concern to the Congress, I would like to share the results with my colleagues:

RESULTS OF QUESTIONNAIRE

On aid to Vietnam:

58.8% oppose aid to both South and North Vietnam.

24.4% favor aid only to South Vietnam.

15.7% favor aid to both South and North Vietnam.

1.1% favor aid only to North Vietnam.

On amnesty for draft deserters:

45.9% feel draft evaders should face trial.

34.7% would grant deserters amnesty in return for 2 or more years of public service.

13% favor unconditional amnesty.

6.4% suggest other alternatives, primarily "let them stay where they are."

On expanding non-military trade with the Soviet Union and mainland China:

65.5% are in favor.

26.3% oppose.

(8.2% no opinion.)

On wage and price controls:

37.5% would expand controls on wages and prices.

24.8% would eliminate all controls.

15.5% would place controls on prices only.

11.4% favor voluntary controls, except for health, construction, and food costs.

10.8% cite alternate economic policies such as tax reform.

On the performance of the U.S. postal service:

55.4% feel service has deteriorated in the past two years.

37.6% feel service has remained the same.

7% feel service has improved.

In closing voting places throughout the Nation simultaneously during national elections:

51.8% support.

31% oppose.

(17.2% no opinion.)

On confidence in President Nixon:

56.9% have less confidence than they did in 1972.

32.9% have the same degree of confidence.

10.2% have more confidence.

On abortion:

52.7% favor the Supreme Court decision to allow abortions up to 90 days after conception.

28% would allow abortions for specific medical reasons only.

11.2% would return power to set abortion laws to the States.

8.1% would outlaw all abortion by Constitutional Amendment.

On federally-sponsored research on live aborted human fetuses:

47.4% oppose such research.

38.3% favor.

(14.3% no opinion.)

On construction of the Alaskan oil pipeline:

72.2% favor.

21.1% oppose.

(6.7% no opinion.)

On requiring the President to attain congressional approval before committing U.S. troops abroad:

72.4% favor.

24.9% oppose.

(2.7% no opinion.)

On health insurance:

62.4% would have the Federal Government establish a program of health care for all Americans.

31.2% would continue the present system of having private companies provide health insurance.

6.4% would establish a health insurance program covering only the poor.

On gun control:

66.1% support registering and licensing handguns in the same manner as automobiles and drivers.

30.7% oppose.

(2.2% no opinion.)

On rationing gasoline if necessary to comply with Federal air quality standards:

65.3% are opposed.

30.4% favor.

(4.3% no opinion.)

On a Federal "shield law" to protect news reporters from being forced to disclose sources of confidential information:

64.9% favor.
27.1% oppose.
(8% no opinion.)

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## BUSING PROGRAM IS LIBERAL RACISM

## HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HUBER. Mr. Speaker, we hear much these days about the renewed determination of the legislative branch to reassert its rightful constitutional place in the American framework of government in relation to the executive branch. For too long, we are told, the executive has grown increasingly powerful, in the process usurping the prerogatives of the Congress, and subordinating the legislative will before the executive will.

Yet at the same time these selective constitutionalists are strangely silent when the topic turns to encroachments by the third coequal branch of government—the judiciary—upon the Congress. Despite repeated efforts by this body and the Senate to make clear their opposition to the mindless forced busing of public school students away from neighborhood schools in order to equalize racial balances, the Federal courts, including the U.S. Supreme Court, have continued without pause to mandate this upon hundreds of local school districts. They have done this both through misconstruction of laws, and through totally ignoring the considered judgment of this body, the elected representatives of the people.

I am constantly being asked why we in Congress are not doing more to end the folly of busing than we have done. After all, polls have consistently shown overwhelming opposition by 75 to 95 percent of our people to forced school busing, as well as opposition by the President of the United States. My response has been, and must continue to be that Federal court decisions have so straitjacketed our legitimate legislative discretion that no one here knows what type of effective measures can be taken which will not be summarily overruled by our superlegislative judiciary.

M. Stanton Evans, editor of the Indianapolis Star, has expressed the thoughts of many of us on this subject very well in the following article from Human Events:

### BUSING PROGRAM IS LIBERAL RACISM

(By M. Stanton Evans)

As somebody or other was remarking about six months ago before the Watergate scandal engulfed the known world and blotted all other issues from the human consciousness, it might be a good idea if the U.S. Congress got off its tail and did something effective to halt the busing of America's school children.

The notion of getting the busing stopped was commendable when first suggested and it is equally plausible today. Nothing much has changed in the interim—except for the worse. The courts have continued to rule on the matter exactly as they please, handing down "racial balance" orders which on their face are blatant reversals of statutory law intended to prohibit busing. The Congress has responded by lying low and permitting the usurpation without a fight, with the result that throughout America the buses are revving up once more to haul their human cargo all over the map. It is a spectacle as curious as it is appalling.

If there were ever an issue on which the American people have spoken as one, busing would appear to be it. Polls have shown the public by votes of 70 to 80 percent is opposed to busing and wants to maintain the neighborhood school. President Nixon has said he is opposed to busing, as have countless members of Congress. All across the land state officials and school boards have vowed their hostility to the practice, and those who waffle may find themselves removed from office. Just about everyone, it seems, is opposed to busing. So the question is this: How come we have busing?

The standard answer of federal bureaucrats and liberal interest groups who have promoted busing is that practices of this nature are required to overcome the effects of historic discrimination and to bring about authenic "integration," allegedly mandated by the U.S. Constitution and the nation's civil rights laws. It is in supposed service to these legal requirements that the courts keep ordering "racial balance" mixes, cross-county transfers, and avoidance of racial tipping-points.

Yet in point of fact such racial balance busing is directly *contrary* to the law of the land as previously stated by the U.S. Congress.

The Civil Rights Act of 1964, which allegedly gives federal judges judisdiction in such cases, says that "'de-segregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance." And it further states that ". . . *nothing herein shall empower an official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.*" (Italics added.)

Busing forces prefer to ignore this language if at all possible, but when called upon to recognize it, say it was meant to forestall busing only in cases of *de facto* segregation, not in cases where segregation has been accomplished by law. In the latter instance, it is argued, the courts may order the discriminatory evil. This explanation explains nothing, however, since the author of the language in question, former Rep. William Cramer of Florida, explicitly noted that its goal was to prevent "*any* balancing of school attendance by moving students across school district lines to level off percentages where one race outweighs the other." (Italics added.) To prevent, in sum, exactly what has been ordered by federal courts all over America.

Nor is the '64 Civil Rights Act the only such manifestation of congressional intent. Over the past eight years Congress has expressed its wish that the busing cease and desist, that federal funds should not be used to promote busing, and that a moratorium be imposed on court-ordered busing plans. The judicial busers have treated these enactments with impartial contempt, and gone right ahead to cram the practice of busing down the unwilling throats of the American people. Our supposedly resurgent national legislature has met the challenge by looking the other way, gawking over Watergate, and attending to the serious matter of doing in Cambodia.

If the "law of the land" does not compel busing, what does? The answer may be discerned in the more esoteric literature of the educationist fraternity, some aspects of which have been rehearsed in previous contributions to this space. It may in particular be discerned in two pivotal documents which emerged from the Johnson Administration back in 1966 and 1967—the Coleman Report on equality of educational opportunity, and a report of the U.S. Civil Rights Commisson called ***Racial Isolation in the Schools.*** Between them these studies provide the Orwellian rationale for busing.

The Coleman Report is an exhaustive study of educational "inputs" which concluded, to the surprise of all and sundry, that differences in expenditure, pupil-teacher ratios, and physical facilities have almost no correlation to the quality of educational achievement. In particular, the survey found, there seemed no observable nexus between physical measures of "quality" schooling and the classroom performance of Negro pupils who entered school with educational deficits and got further behind in succeeding years.

The conclusion reached was that the Negro child was losing the "good" effects of his expert schooling when he returned to his disadvantaged home and neighborhood. What is therefore required, on Coleman's analysis, is "a more intense reconstruction of the child's own environment" which goes beyond the matter of non-discriminatory school assignment. In particular: "For these children whose family and neighborhood are educationally disadvantaged, it is important to replace this family environment as much as possible by an educational environment—by starting school at an early age, and by having a school which begins very early in the day and ends very late."

In the report of the Civil Rights Commission, a further point is added, making it clear that legal segregation is not in fact the issue—that *de facto* separation of the races by reason of circumstance is just as objectionable as *de jure* separation created by law. The commission asserted that both should be eliminated because "Negro children suffer serious harm when their education takes place in public schools which are racially segregated, *whatever the source of such segregation may be.*" (Italics added.) The commission therefore recommended that no school have higher than 50 per cent black enrollment—thereby preventing it from becoming predominantly black in character.

In sum, the educationists have convinced themselves and apparently some of our federal judges that Negro children must be taken out of their homes and neighborhoods and placed in an "artificial environment" created by government, where they will be immersed as fully as possible in an altogether different culture. The objects is to break into the Negro family and culture pattern and remold black children according to guidelines preferred by middle-class (and predominantly white) social planners who think they have a commission to tinker around with the psychic makeup of the human species.

Busing is essential to this enterprise. It involves long periods of transportation which maximize the amount of time a child is away from his home and parents, and it takes him to a distant school where his parents in many cases can have little knowledge of what is occurring, can exert zero influence in the school's official performance and would feel constrained from doing so even if they could physically reach the school. At the same time the busing is required to shuffle the students around so that no school becomes predominantly Negro—which would re-immerse the student in the self-same culture he is supposed to be escaping.

Against that background it is apparent that nearly all the discussion which surrounds this issue is off the point. All that argument about *de jure* and *de facto* segregation is essentially phony, since the object is to prevent the schools from becoming black in character for whatever reason.

The busers are not in fact trying to enforce the mandate of the Constitution, uphold the laws of Congress, or even to provide nondiscriminatory schooling. What they are trying to do is manufacture black children into imitation white children by steeping them in white society, and in pursuit of that obsession they have set themselves to evade the intent of Congress when and wherever they can.

Congress has the necessary tools with which to combat this obsession if it will use them: A bill to remove the subject of schooling from the appellate jurisdiction of the federal courts, and a constitutional amendment to forbid assignment of pupils to one school or another on the basis of their race.

If our liberal brethren who have been talking about the integrity of the legislature really mean it, they can prove the point by reasserting the will of Congress and bringing this social engineering horror to a halt.

## SNOWBALL AND STUMP

### HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. WINN. Mr. Speaker, the Watergate incident has led to a great many revelations about our political and governmental processes. The subsequent investigations have uncovered a great deal of dirt and wrong-doing, but I think the comments and questions posed by Eric Meyer, a student at the University of Kansas, deserve attention from all Members of Congress.

I submit the following article from the University Daily Kansan, the student newspaper at Kansas University, to my colleagues for consideration:

### SNOWBALL AND STUMP

(By Eric Meyer)

"Did Gordon's boss really tell him to do that? Or was it those two suspicious Krauts, Bob and John? And how much did kindly old Papa Dick know about the affair? Tune in next week for the exciting continuing story of . . . ."

The Watergate hearings replaced television's soap operas in more than one way. The hearings became a national pastime—a cross between "Secret Storm" and "Perry Mason," not to mention "To Tell the Truth," "I've Got a Secret," "Who Do You Trust" and others.

Now, the Watergate hearings are in recess. And, hopefully, America will reflect on the events of the past year.

No one can deny that Watergate has had great impact on the nation. But the nation should remember exactly what it's all about.

The whole investigation centers on a two-bit burglary and fruitless eavesdropping attempt by a handful of minor bureaucrats and their friends. The administration did not okay the plan. Someone, however, did try to hide the burglary.

What resulted was a snowball. When a minor official lied, his superiors, in absence of truth or in fear of consequences, consciously or otherwise told more lies to cover the first one.

As the snowball rolled, it grew larger and larger. Each layer covered the one beneath it. Finally the snowball reached such enormous proportions that several highranking officials were crushed beneath it. And the President himself is now scurrying for cover.

The Senate hearings may be the stump in the snowball's path—the obstacle that will crack the monster, stop the rolling and reveal the snowball's small, dirty core.

Proving the President innocent would be the opposite of what the investigators are seeking. The senators who initiated the televised hearings sought them as a "Get Nixon" tool. Much of the committee's questioning has revealed this.

Although the senators are giving such witnesses as John Dean the exact question they want in order to have revenge on the man who fired them, the senators might be doing the President a favor.

The hearings have revealed nothing except the extent to which partisan and ideological politics can go.

The hearings have no legal function. In fact, they jeopardize the judicial system's fairness, and thus its ability to bring justice.

The hearings are grandstanding, masterfully led by the prototype pompous senator, Sam Ervin, with able assistance from such screamers as Lowell Weicker.

Some people are deceived. Some people believe John Dean to be a brave, truthful man. But he is, by his own admission, a liar, thief and self-seeker. His testimony, including such "expert" statements as "I could tell by the tone of his voice . . . ," "I thought he would have known since I told Ehrlichman to tell Haldeman to tell him . . ." and "I heard a rumor that . . . ," are useless.

While some are amazed or think little about the witnesses' on-the-stand memory, the remembering of such exact, minute details as are testified to leads others to believe the stories are well-rehearsed lies.

In short, the American people see two things. First, politics is dirty, with Joe McCarthy-like witch hunts crammed down the nation's collective throat by the electronic media. Second, with lying, cheating people like John Dean in government, it is no wonder Watergates develop.

It is clear that the American people must choose who they will believe.

Will they believe the only witness against the President? Will they believe this fired young lawyer who, after he broke many laws, pleaded like a coward for immunity? Will they believe this man who obviously is working in conjunction with the political opponents of the President?

Or will they believe the man who ended the war in Vietnam, the man who brought East and West together?

More importantly, will Watergate paralyze our government? America cannot enjoy the luxury of political sniping by Ervin and his gang in this time of foreign and domestic crises.

## A PROFESSOR'S VIEWS ON NATIONAL AND INTERNATIONAL AFFAIRS

### HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HELSTOSKI. Mr. Speaker, I always find it enlightening to read the views of a distinguished professor of national and international affairs.

Prof. Nasrollah S. Fatemi, dean of the Graduate Institute of International Studies at Fairleigh Dickinson University in New Jersey, does not confine himself to academic research and teaching. On many occasions, Dr. Fatemi shares his scholarly knowledge with the public by writing articles or editorials for the Bergen Record, the Jersey Journal, as well as other publications.

On April 5 of this year, Professor Fatemi wrote a guest editorial in the Jersey Journal on why phase III of the administration's economic program was a flop. This editorial was followed by another one on August 16 on "The Fourth Flop." By juxtaposing these two articles, one can gain a better appreciation of why the administration's economic policies have failed and will continue to fail so long as the symptoms of inflation are treated rather than the causes.

In another article written for the Bergen Record on August 10, Dr. Fatemi discussed United States-Japan relations. Quite appropriately, he argues that the United States has spent close to $100 billion on military, economic, financial aid, and investment in Japan for the past 20 years, and Japan should assume her own defense burden to help the United States in her present economic difficulties. At the present time, Japan has more reserves than the United States, so there is no question that our Asian ally can assume her own defense burden. The same holds true for West Germany, which currently holds reserves almost three times greater than the United States.

Mr. Speaker, the three excellent articles by Professor Fatemi follow:

[From the Jersey Journal, April 5, 1973]

### PHASE III A FLOP

(By Nasrollah S. Fatemi)

(NOTE.—In keeping with its policy of presenting all sides of public questions, The Jersey Journal from time to time prints visiting editorials written by qualified persons on specific subjects. Today's editorial is by Dr. Nasrollah S. Fatemi, director of the Graduate Institute of International Studies at Fairleigh Dickinson University.)

On Jan. 17, 1973, it was stated here that the end of price and wage controls was "the wrong step at the wrong time."

Now, three months after the end of Phase II, President Nixon is forced to freeze the price of meat, and three months hence, he will be compelled to declare a total freeze on all prices and wages. Unfortunately, as usual, this step is too little and too late. During the past three months the prices of meat, fish, and fowl, has increased close to 20 per cent.

This half-hearted policy is responsible for the pessimism on the United States' economic prospects as reflected in the stock market and the international monetary system. A study by Manufacturers Hanover Trust finds fear and mistrust throughout the country in the midst of one of the strongest periods of economic expansion in the history of any nation.

What are these fears and how valid is the reasoning underlying them?

1—The most important cause of this concern is a renascent inflation. Since then the Administration's policy of abandonment of controls has created an unprecedented rise in food prices and demands for higher wages, causing the stock selloff.

Whatever the intentions of the policy-makers and planners in Washington have been, the end of Phase II has caused considerable damage. The 12 per cent annual rate of increase for industrial commodities prices in the February wholesale price index no doubt reflected in a large part the assumption that the Administration has lost its way against inflation.

Furthermore, the much publicized "club" never left the closet. This lack of attention emboldened the farmers and wholesale dealers, the oil companies, landlords, and the banks, to raise their prices and interests as much as the traffic would bear.

2—The second largest trade deficit in February reminds us that, despite two devaluations of the dollar and many promises and press releases, we are still suffering from a great disadvantage vis-a-vis Japan and Western Europe.

3—The American public pays no attention to the problems of the balance of payments. A good example is travel: The total United States' payment to foreigners for international travel passenger fares was more than $9 billion, while receipts totaled about $6.2 billion. If the 6 million overseas travelers had used American airlines and services they could have contributed more than $3 billion to our balance of payments.

4—Probably as important as fear of inflation, is the fear of "credit crunch" and an increase in the interest rate.

5—High government spending abroad has shown that the administration has not learned any lesson from its past mistakes. We are still spending $2.2 billion in Indo-China and more than $10 billion on our military and foreign aid expenditures all over the world.

These factors have created a belief at home and abroad that the political and economic planners in Washington are incapable of putting their internal and external accounts into order.

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[From the Jersey Journal, August 16, 1973]

### THE FOURTH FLOP

(By Nasrollah S. Fatemi)

(NOTE.—In keeping with its policy of presenting all sides of public questions, The Jersey Journal from time to time prints visiting editorials written by qualified persons on specific subjects. Today's editorial is by Dr. Nasrollah S. Fatemi, director of the Graduate Institute of International Studies at Fairleigh Dickinson University.)

For approximately four years the Nixon Administration has been experiencing a steady acceleration in inflation. During the election of 1968, President Nixon stated that the most important issues of his administration would be control of inflation without recession. Unfortunately, so far, we have had an extreme dose of both.

Why? Because the different measures introduced by the administration to counter this inflationary trend have been half-hearted and based on political rather than economic conceptions. They also have been at odds with the goals set and have been applied at the wrong times and in the wrong dosages.

The first step of the administration in 1969 was a "numbers game" hoping that through high interest, credit crunch and unemployment, they could stabilize or cool down the economy. The results were recession and more inflation.

Realizing absolute failure, on August 15, 1971, the administration produced the 90-day freeze. This was followed by Phase II which, despite its shortcomings, exerted positive effects in the stock market and brought about a temporary cooling off of inflation. By the end of 1972 inflation was within 4 per cent. But suddenly the unpredictable administration came up with the wrong step at the wrong time, Phase III.

Phase III pleased nobody and created an unprecedented inflation: food prices went up 23 per cent, gasoline and oil products, 13 per cent, the average rise in the cost of living so far has been 10 per cent.

Furthermore, Phase III, had a great reverse effect on the stock market. At no time in history, has a strong, prosperous, and viable ecoomy been plagued so much by confusion and lack of confidence in the ability and integrity of the Washington bureaucrats.

Reaction to this flop has been credit crunch and high interest. In fighting inflation, too much importance has been attached to monetary and credit policy. This theory, which died with the depression of 1929, is resurrected by the administrators. They believe that by introducing the highest interest rate inflation could be stopped. To the contrary, high interest rates cause more expenses for the producers and higher prices for the consumers. Monetary pressure has become "the girl Friday" of Mr. Burns from which he demands performance which cannot deliver under the present circumstances.

Washington does not understand that Phase IV is a hodgepodge of half-controlled, half-free and cryptic regulations which will produce more runaway inflation. Furthermore, it is devoid of any plan for a purposeful economic policy based on harmony between private domestic consumption, government spending, as well as foreign demand with production capacity.

After four years the administration has not been able to produce a plan, taking into consideration inter-relationships among national financial markets, government spending at home and abroad, the high level of liquidity, national priorities, employment factors, productivity, wages and a fair and equitable tax system.

These errors of the past have hurt the health strength and growth of the American economy. Now the country has reached a crossroads in respect to economic stabilization. We must decide either to go down the path of leaving the economy alone and let the market decide—or introduce regulations and guidance which would help, not hinder, the economic growth, producers and the consumer.

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[From the Bergen (N.J.) Record, Aug. 10, 1973]

### JAPAN, REBUILT, MUST NOW HELP UNITED STATES

(By Nasrollah S. Fatemi)

Japanese Prime Minister Tanaka, after visiting President Nixon, remarked that the United States was no longer able to solve the problems of the world alone and that other nations should not expect us to do so.

This is a welcome statement, and the Administration should ask the Japanese first to share the burden of their own defense and then to accept a reciprocal trade arrangement so that American exports enjoy the same advantages that Japanese imports receive in this country.

Close to $500 of every American's taxes go for defense expenditures in Japan and Germany. The Japanese citizen spends only $15 on the defense of his own country. Last year one third of total Japanese exports were to the United States. For 20 years the United States has spent close to $100 billion on military, economic, and financial aid, and investment in Japan.

America arrived in Tokyo Bay in 1945 as conquerors. Thanks to General MacArthur and a number of devoted and experienced American civil and military officials, the United States never lost sight of the goal of making Japan an independent and viable democracy. The United States record in Japan has been one of the most effective and statesmanlike attitudes of conqueror to conquered in history.

The day Japan surrendered it was a defeated, devastated, and bankrupt state. Its industry had been destroyed; its cities demolished; its farms abandoned, and hunger and desperation were abroad in the land.

Fortunately, the Japanese found themselves to their surprise so well treated by their victors that in less than 25 years they became the third largest industrial nation in the world. The story of a Japanese farmer who, asked by a reporter for his opinion of Americans, replied: "The Emperor could have not chosen better servants," is an excellent testimony to the American approach to the rebuilding of Japan.

The land reform, planned and implemented by MacArthur, freed Japan from a ruthless feudalism. Japanese scholars and statesmen admit that no Japanese government, caught in the web of feudal families and vested interests, could have achieved the present state short of a bloody revolution.

The Americans brought to Japan technology, efficient administration, and new machinery. Unfortunately, the United States did not loosen its apron strings in Japan early enough. This resulted in a trade and monetary crisis for the United States, and has created problems for the future relations of Japan with her neighbors and the United States. Japan has had rapid internal modernization, now has great economic power, but has no independent foreign policy or participation in the defense of Asia.

Ideally, we should have asked Japan to become a partner in our policy in Asia and pay for her own defense. This would have prevented our carrying the burden of the defense and military expenditures, and our trade with Japan would have been based on reciprocal arrangements.

If Washington had let go the reins in Japan, the thrust of the United States intervention in Vietnam might have been blunted by overt opposition from one of its key Asian partners.

To everybody's sorrow our misadventure in Indochina alienated many of our friends in Asia and perpetuated a sense of resentment and frustration in Japan. Now the wheel has come full circle. The United States, it is hoped, will be out of Indochina by August 15 and there may be Asian solutions for Asian problems. Japan, as one of the four great powers in Asia, must undertake an important role. So far, unfortunately, Japans' partnership has been economic. This has been very profitable for her alone. Now the question of partnership must be extended to defense and support of the military expenditures of the United States. It is impossible for this country to carry on the burden of $5 billion for the defense of Japan and other Asian nations.

The first postwar quarter-century of United States-Japan relations has been a remarkable testament of America's generosity and wisdom. Our purpose was to create a strong, viable Japan, and a friend and partner. This achieved, it is hoped Japan will act as a responsible partner, sharing economic and political power, and in the meantime be ready to pay the price which goes with this partnership.

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## THE NEED FOR WORLDWIDE INTEREST RATE DISARMAMENT

## HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HANNA. Mr. Speaker, the Banking and Currency Committee is currently engaged in holding crucial hearings on high interest rates and the current credit crunch. These hearings are properly focused on the domestic causes of our tight money situation and what reforms are needed in our own institutions to correct the problem.

Nevertheless, Mr. Speaker, on a broader level, it is important to understand that at least part of our domestic problem has causes which are international in nature. We are currently in the midst of an international interest rate boom. Spurred by the shortsighted desire to retain currency surpluses, rates have been raised to attract "hot" money and to serve as an artificial stimulus to currency flows which otherwise might not occur. Once one country starts the cycle, other countries raise their interest rates in progression in an attempt to neutralize the international effects of the initial rate increase. Like an upward spiral in the arms race, the only net result is economic dislocation. Just as the one leads to a chilling balance of terror, the other leads to a precipitous balance of economic peril.

Mr. Speaker, it is time to disarm this interest rate arsenal. The international economic effects of interest rate brinksmanship are clearly disruptive; the domestic effects are disastrous. Mortgage rates, for example, have climbed as high as 10 percent plus points, and housing starts are threatened with a dramatic decline.

The meeting of the International Monetary Fund at Nairobi later this month provides the international community with the opportunity to remedy this situation. To be sure, the items presently on the IMF agenda are critical and important problems; but none is more pressing than this international interest rate spiral, and the delegates would be well advised to negotiate an interest decrease which would be to the advantage of all countries.

I commend to my colleagues' attention a recent article in the Economist which discusses the causes and cures of the international interest rate spiral. I join with it in stating that now is the time to "defuse the interest rate bomb."

The article follows:

### Defuse the Interest Rate Bomb

The time has come to call a truce in international interest rates, and it is important to understand why. The world is now repeating, on an international scale, the mistake that the Bank of England and other central banks made on a national scale all through the trade cycles of the nineteenth century; the familiar mistake, which Keynes called "the most dangerous technique for the maintenance of equilibrium which can possibly be imagined", of thumping up interest rates in order to counter a boom just after it has begun to turn down.

We are all now riding the roller-coaster of the interest and trade cycle. Restricting demand in several countries in 1970–71 generally led to greater unemployment than had been intended, and nowhere led to any toning down of inflation whatsoever. By the summer of 1971 everybody was therefore reflating demand again, and by this past winter of 1972–73 the industrial world had gone into its biggest boom ever. In the seven largest free world industrial countries the average annual rate of expansion in real gnp last winter was over 8 per cent and in industrial output over 12 per cent; this sent commodity and then consumer prices soaring.

At this point, some time around April, the boom tailed off. This has not yet been recognised by those who are still looking at previous wrong forecasts, generally made by themselves. But in the United States real gnp, which rose at an annual rate of 8.7 per cent in January–March is believed to have risen at less than a third of that rate in April–June; in Britain preliminary estimates show a similar fall from an annual 6½ to about 3 per cent; other countries will show slowdowns when their figures come in. Those who foresaw this also thought, wrongly, that there might logically be an early turndown in commodity prices and interest rates too.

Both have gone on soaring. Some of the rise was a matter of time lags, some of a run of natural disasters, but much arose out of the indefensible economic policy followed by West Germany. Frightened by an 8 per cent inflation rate at a time of huge trade surplus, Herr Brandt's government introduced a soak-the-rich budget (hitting especially at savers) and a tighter money policy (which temporarily sent day-to-day interest rates to astronomical heights) while still trying to keep the D-mark within the European snake by ineffective controls against a capital inflow.

It would have been impossible to devise a policy more certain than this to cause speculative one-way option flights out of the deficit currencies (dollars and sterling) into the D-mark via commodities on the way; to force the dollar and sterling thus to fall just when commodity prices were temporarily going further up; therefore to force America and Britain to raise interest rates; and then to prove once again that rate rises in these two big money market countries serve to put up interest rates in progression round the world.

What remedies? The logical recommendations are easy. The first priority at the meeting of the International Monetary Fund at Nairobi later this month should be to negotiate international disarmament of interest rates by 3 per cent all round. To the argument that some countries need high interest rates as a weapon against excessive demand, the sensible answer is that anybody who looks to the most likely forward prospect for demand between now and mid-1974 should not be expecting undue inflation of it. The tactful answer is that a country which wants to regain control over its internal demand needs to control money supply rather than interest rates. Money supply is controlled by selling sufficient government bonds to the public, which cannot be done when everybody suspects that international competition is going to force interest rates up still more, and so the future selling prices of government bonds down.

Although this sort of agreement—a semi-secret deal to edge rates down—at Nairobi would be sensible, and would cause all the other talk there about committee of 20 reforms to be recognized as the irrelevance it largely is, the sensible is not going to be achieved. Interest rates will remain too high for a while; they are unlikely to precipitate the world economic slowdown into a real recession because governments in control of fiscal policies will be too sensible for that. But they will cause the slowdown to be sharper than it should be. This will probably make steeper the drop in commodity pries between now and the end of next year and the eventual but delayed drop in interest rates. . . .

(T)he most obvious recommendation is . . . to speak loudly in favor of international interest rate disarmament. At the moment this is not being discussed by the finance ministers and central banks of the world, partly because the analogy between their present mistakes and those frequent nineteenth century howlers simply has not occurred to them.

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## LEE HAMILTON'S SEPTEMBER 12 WASHINGTON REPORT ENTITLED "MEDICAL RESEARCH FUNDING"

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my September 12, 1973, Washington Report entitled "Medical Research Funding.":

### Medical Research Funding

Proposed Administration cutbacks in federal funding for medical research have become a concern of scientists, the health care community and the Congress. One Nobel Prize-winning scientist commented a few months ago that, "Today lights are going out in laboratories all over America."

Since World War II the United States has developed the greatest biomedical research capacity in the world. Advances in medical science have lowered infant mortality, extended life expectancy and led to significant victories over disease, discomfort and death. Once-dread diseases, such as tuberculosis, diphtheria, polio, rheumatic fever and others have been tamed.

The scientific community and the federal government have formed an effective partnership to combat menacing diseases. One-third of all medical students receive federal assistance, federal funds pay for about one-half of all medical school expenditures, and a major proportion of the nation's graduate students in medical and biosciences receive federal aid for their training.

The President plans basic surgery for the 1974 budget that would greatly reduce the priority for medical research and training. Funding of new research would drop 40 percent from last year, with increased funding targeted on a few specific projects.

The President's proposed budget cuts for medical research would have a major impact in the following areas:

#### HEART DISEASE

A recent Administration study recommends a $46-million increase above the President's budget for research at the National Heart and Lung Institute as the first step in a 5-year, $2.6-billion campaign against heart disease, the nation's number-one killer. Although chances of surviving a heart attack have increased markedly during the past years, much remains to be learned about heart disease, which accounts for 54 percent of all deaths in the U.S. (killing two Americans every minute) and affects 28 million Americans.

#### CANCER

Cancer, public health enemy number-two, which causes the deaths of 350,000 Americans every year, has been allotted much less federal research aid than the director of the National Cancer Institute feels is necessary. The Institute requested $640 million, but is scheduled to receive $500 million, a cut which will cancel or curtail 19 key research programs which could save thousands of lives.

#### OTHER DISEASES

The Administration adopted the philosophy that medical research should be concentrated on diseases where there may be a direct pay-off, rather than funding basic research (e.g. in genetics or on the nature of cells) which, according to scientists, must be done if real breakthroughs are to be achieved. Funds for research on diseases other than cancer and heart disease were cut in the 1974 budget, and the President's plan to target research on specific diseases is drawing fire from scientists.

#### RESEARCH TRAINING

Under the Administration's new budget, "market forces," rather than federal training grants, fellowships, and aid to research institutions, will have to supply sufficient researchers for national research efforts. As a result of these program cuts and phase-outs, medical schools face the prospect of laying off faculty members, reducing class sizes, curtailing needed expansion, and having 40 percent fewer research trainees.

It should not be surprising, then, that a struggle between the President and the Congress has developed over medical research funding. The Congress is unwilling to accept the cutbacks and has voted to reinstate the programs and provide funding at last year's levels. Three days after the House overwhelmingly rejected the President's proposals, the Department of HEW decided to review its plans to phase out training grants and fellowships, which may signal that the President might not veto the Congress' appropriations for medical research.

With all the work to be done, and the gains in human health to be realized, I do not believe the government should allow the lights to go out in the nation's medical laboratories, and I shall continue to support federal medical research programs at previous levels.

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## AMERICA AND THE DOLLAR CRISIS

## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. CRANE. Mr. Speaker, during the past year Americans have been more concerned about the state of our economy than about any other single issue.

They have witnessed the devaluation of the dollar, a mounting inflation, a shortage of meat, difficulty in obtaining mortgage money, and a host of other difficulties.

They have also seen that policies such as compulsory wage and price controls have done little to solve our problems. In many instances, they have seen that such policies have compounded problems which already existed.

Hopefully, our present economic situation will cause an increasing number of Americans to ask themselves some very basic questions about our economy, and about the real causes of inflation. Unless we understand what causes inflation, we are unlikely to cure it.

Fortunately, there are many informed and articulate men and women who are prepared to teach the Nation a much-needed course in basic economics. One of these men is Dr. G. C. Wiegland, professor of economics at Southern Illinois University in Carbondale, Ill.

Writing in the March 22, 1973, issue of the Commercial and Financial Chronicle, Dr. Wiegland writes that, in spite of our economic situation—

> Congress wants to continue deficit spending, union leaders demand wage increases far in excess of increases in productivity, and welfare recipients demand even higher payments. It is this complete disregard of economic rationality which has spread around the globe . . .

Inflation, Dr. Wiegland points out, is a result of the excess demand created by the Federal Reserve Board. He notes that—

> The vast deficits since 1971 would not have been possible, if the Federal Reserve had not acquired $10 billion of additional government securities. No doubt, a refusal of the Federal Reserve to finance the federal deficit would have resulted in a major political, if not constitutional crisis, and might have ended the pseudo-independence of the Federal Reserve, but it might also have been the "shock therapy" needed to awaken Congress and the American people to the danger of the situation.

It is time that we end the deficit spending which is itself the major cause of the inflation we have witnessed in this period. It is, similarly, the major cause of the devaluation of the dollar. All economic plans, such as wage and price controls, which do not deal with the real causes of inflation can hardly be expected to contain the real solution.

I wish to share with my colleagues the thoughtful article, "America and the Dollar Crisis," by Dr. G. C. Wiegand, and insert it into the RECORD at this time.

The article follows:

### AMERICA AND THE DOLLAR CRISIS

(By G. C. Wiegand, Ph. D.)

Since the middle of February, the world's monetary markets have been in a state of growing chaos and paralysis. "Two devaluations in 14 months have shaken the confidence and the people are looking for harbors of safety," Dr. Arthur F. Burns told Congress. But where is such a harbor? There is no doubt about "the urgency of the task" of creating a new international monetary system, but fundamental differences of opinion divide the experts within the United States and throughout the world. What are the causes of the collapse of the Bretton Woods system which served the world so well for a quarter of a century? How can a more stable international monetary system be created?

The approximately $45 billion of monetary gold held by the central banks and international monetary institutions are in effect immobilized, since the central banks cannot buy gold at the official price of $42 as long as the market price is between $70 and $80, and they would be foolish to sell at the official price. The $80-90 billion of inconvertible dollar claims held by foreigners which, under the Bretton Woods agreement, were "as good as gold," and which, for the past 25 years, had been freely accepted in place of gold, are no longer freely accepted. And the same is true of the $9.3 billion Supplementary Drawing Rights, the "paper-gold" issued by the International Monetary Fund.

The world is rapidly approaching the point of having no more universally acceptable international medium of exchange to finance international trade and financial transactions, a situation obviously far more dangerous than the American public is led to believe.

Since the second devaluation of the dollar, the initiative seems to have shifted to the surplus nations, i.e. western Europe and Japan, who speak with many tongues. When Treasury Secretary George P. Shultz, upon his arrival in Paris, was asked about the seeming impasse, he replied: "I am here to listen I have no plan." From a diplomatic psychological point of view, this may be a change for the better since the days when Treasury Secretary Connally attempted to dictate the terms of a new international monetary system, which the surplus nations were to accept pronto—but didn't! But in the meantime, the situation has become far more dangerous, and the world is no closer to a solution than it was in August 1971, when Washington "closed the gold window," thus making the dollar inconvertible, or at the Smithsonian meeting, when the dollar was devalued for the first time. Under Secretary of the Treasury Paul A. Volcker, who for all practical purposes seems to determine American monetary policy, still clings to his preconceived notion that gold must be completely eliminated from the international monetary system, while the surplus nations seem equally determined not to base the new monetary system on another form of inconvertible paper SDR's in place of inconvertible dollars—with no adequate controls over the quantity to be issued.

#### WARNINGS IGNORED

Yet nobody seems prepared to spell out in clear terms that no international monetary system will work in the end as long as the leading trading nation, i.e. the United States, suffers from a basic internal disequilibrium. The world would love to use convertible dollars in reasonable quantities, but it refuses to be drowned in a flood of inconvertible paper dollars.

As far back as 1959, Professor Robert Triffin, one of the world's great experts on international finance, warned the Joint Economic Committee of Congress, that "the evolution of the past ten years (i.e. the 1950's) has now brought us to a point where (international monetary policy and domestic economic policies) have become inextricably tangled with one another, and where we can no longer afford to ignore the impact of our internal policies upon our external position, and vice versa." A few months later, the same warning was repeated even more emphatically by the eminent French economist Jacques Rueff in a series of three articles which appeared in "Fortune".

But nothing happened!

Since then, the American balance of payments deficit has grown tenfold from $1.5 to $15 billion; the gold holdings have declined from $19 to a little over $10 billion (at the old gold price); and the nation's short term dollar obligations have skyrocketed from $20 to almost $90 billion. Obviously, the dollar is at present no longer "as good as gold", which was one of the fundamental assumptions on which the Bretton Woods gold exchange standard system was built. But it is not merely a question of an excessive amount of dollars held abroad. Even today, the ratio of American gold reserves to foreign dollar holdings is almost twice as high as the gold backing of the pound before the first World War, and the dollar dilemma has not seriously impaired America's huge economic potential. But before 1914, the world had confidence in the pound; at present it lacks confidence in the dollar, and this for the simple reason that for more than twenty years, the United States has pursued economic policies at home and abroad which may or may not have been politically expedient and socially desirable but which undermined the belief of the world in America's willingness to face the reality, that America was printing more dollars than we produced goods and services.

#### DOMESTIC REFORM COMES FIRST

All the schemes now being discussed to develop a new international monetary system will be futile unless the basic disequilibrium in the United States between supply and demand has been greatly reduced. This will not be an easy task—either from a political or a social point of view—and it involves major economic risks. The greatest difficulty, however, lies in the fact that neither Congress nor the general public seem aware of the problem, as the newspaper headlines illustrate only too clearly. "Dollar Plummets, Gold Price Soars"—"Unions to Ignore Wage Guidelines"—"Meany Suggests 7½ per cent Wage Increases"—"Senate Votes 2 per cent REA Loans"—"Albert Says Congress Will Fight Cutbacks". Add to this the announcement a few days earlier that the Federal Reserve had forced several banks to rescind a minor increase in the prime rate, at a time when the minimum lending rate of the Bank of England was 50 per cent higher than the prime rate in New York, thus inviting the out-migration of short-term funds.

The collapse of the Bretton Woods system is overwhelmingly due to the fact that for more than twenty years, the United States has produced more dollars, relatively speaking, than goods and services, and has taken the attitude that it is none of the business of any foreigner—whether he holds billions of inconvertible paper dollars or not—to question domestic American policies. The artificially creatd excess demand produced on the one hand chronic inflation at home, and on the other a steady outflow of surplus dollars in exchange for goods and foreign assets.

In other words, America has lived above her means at least since 1950. The nation's international liquidity—not allowing for the tremendous growth of long term foreign assets—has declined by $90–$100 billion since 1950, and probably even more important—throughout the economy, we are confronted by chronic inadequate capital formation and "deferred maintenance". We no longer have the fuel and the power we need and we have no idea how we shall pay for the oil we shall have to import from the Arab countries during the next 5–10 years. The railroads, the postal service and the inner cities are in a deplorable state. In the late 1950's, America was the largest steel exporter; today we are the largest steel importer in the world. Less than ten years ago, America had an export surplus of more than $6 billion; 1972 closed with a deficit of over $6 billion. For twenty years, we have consumed too much, in the private and in the public sector, and have saved and invested too little, until today the competitive position of large segments of the American economy is seriously threatened. This is the ultimate cause of the dollar crisis.

Since 1950, the number of public employees has risen from six to more than 13 million, and while the American economy can theoretically support 13 million bureaucrats and an increasing standard of living for the 25 million not fully productive—or unproductive—Americans who are officially classified as "poor", this would require either a substantial increase in production—which in turn would call for a much higher rate of capital formation—or a reduction of the standard of living of the great American middle class, which accounts for 60–70 percent of the electorate, and which is not prepared to sacrifice its affluence.

Even though few politicians will admit the fact, it is the middle class—the $8,000 to $35,000 a year families—who pays for the bureaucracy and the welfare state, and since the middle class refuses to reduce its standard of living, the steady growth of taxes and the chronic inflation are offset by increased consumer borrowing and continued inadequate capital formation.

### THE MIDDLE CLASS PAYS FOR BOTH RICH AND POOR

While the Japanese during the past 25 years saved between 22 per cent and 25 per cent of their Disposable Income, and the Germans 12–15 per cent, we regard 8 per cent as excessive. The results are obvious. We have developed a fantastically high standard of living for the "rich" and "poor" alike; we are supporting a wasteful public sector; but we have neglected to maintain our productive capacity on which the country's strength rests. In doing so, we have followed the road which Britain took after the war. Instead of concentrating on the rehabilitation of the country's industrial capacity, post-war Britain built a huge and costly welfare state. Germany, on the other hand, starting virtually from scratch, lived at a miserably low level for many years, but saved and invested. This is, to a large extent, the explanation for the "German economic miracle" and the chronic difficulties of the pound.

### PINPOINTING WHEN WE WENT WRONG

The first dollar crisis occurred in 1960 during the presidential campaign—and partly because of the wild charges and promises made by both sides. The gold price in London rose briefly to $42, corresponding to a depreciation of the dollar of 20 per cent. It was an obvious danger signal, and at that time, America was still strong enough to end the 10-year-old record of balance of payments deficits without serious dislocations at home and abroad. But instead of balancing the budget and curbing the excess credit creation, the country went on the wildest inflationary spree in the nation's history. While the output of goods and services—the GNP in real terms—rose by 67 per cent between 1960 and 1972, the money supply, using M–2 as a basis, increased by 110 per cent, about 50 per cent faster than the supply of goods and services. Federal Reserve credit, the basis of the inflationary boom, jumped from $29 to $78 billion; consumer loans increased by $100 billion (abt. 180 per cent), home mortgages by $200 billion (140 per cent), and the federal debt by $160 billion (well over 50 per cent), not to mention the vast increase in the corporate debt, and the debt of state and local governments.

For more than a decade, the country financed the growth of the bureaucracy, the affluence of the middle class, the rising standard of living of the "poor"—not to mention the cold war—by printing and swapping IOU's. That we did not have a much higher rate of inflation was due to the fact that out of $270 billion of newly created money, about $70 billion flowed abroad in payment of goods, services and assets, and to protect our position as the leading power of the western world.

### WE ARE ALL GUILTY

How could this continue for more than a decade?

Fearing a collapse of the worldwide boom from which they, too, greatly benefited, the surplus nations "cooperated" with the deficit nations in developing ever new emergency measures: the London gold pool; the de facto "stillhalte agreement" of the surplus nations (which did not convert their dollars into gold), swap arrangements; and various camouflaged foreign exchange restrictions on the part of the United States. The two main surplus nations, Germany and Japan, in particular, felt politically and psychologically compelled to support the inflationary policies of the American government. Within the United States, politicians and union leaders clearly benefited from the "prosperity"; the middle class attained a level of affluence which would have seemed almost impossible during the 1950's. Between 1965 and 1972 per capita Disposable Income rose by 62 per cent, and between January 1970 and January 1973, i.e. the period of the growing dollar crisis, retail sales rose from $30 to $40 billion. The "poor" and the Black, meanwhile, received ever larger subsidies—financed through more credit.

### THE "MORNING AFTER" IS TODAY

Now the Mardi Gras is over. Lent is upon us. The world has grown reluctant to accept more of the paper dollars we have printed so freely in recent years. America now faces the after-Mardi Gras hangover; but few people are aware of the fact. The nation has become so accustomed to living above its means, that it will be difficult for the individual families, for the bureaucracy, and for business to consume no more than the nation produces. This will involve serious political and social problems. Politicians will not find it easy—or palatable—to convince their constituents that the federal government—and ultimately the taxpayer—are not a bottomless barrel from which one can draw at will. The loud cries of governors and mayors, the screaming mobs in the streets, and the steady pressure of the bureaucracy and of special groups seem far more real and immediate problems than the future of the dollar. Nor should one underestimate the economic dangers. The American economy has grown accustomed for more than twenty years to a steady increase in credit-created demand, and a progressive lowering of the debt burden through chronic inflation. The life of a businessman is relatively easy, as long as aggregate demand exceeds supply, and he can count on having to pay back only part of his debts; the inflation takes care of the rest. It will not be easy for the consumer and the government to live within their means, but it will be equally difficult for business to operate under quite different conditions of cost and demand. There is no assurance that the American people, after twenty years of a credit-financed fool's paradise, will have the will and the strength, individually and collectively, to face the task. Yet the future of the country, and to a large extent of the free world, will be partly determined by the attitude of the American people during the next year or two.

How could a nation so resourceful, so intelligent as the American people, have permitted itself to slide into a way of life which must ultimately destroy the nation's strength and the well-being of the great majority of the people?

### WHY IT HAPPENED

Most of the American people had no idea, of course, what was happening. Those who asked questions were reassured by "the experts" that Washington had learned to "fine-tune" the economy. Besides, the experts provided a seemingly logical justification for the inflationary policies.

We inherited from the 1930's an economic doctrine which was eminently true and practical when it was first presented in 1936, in the depth of the depression, namely that the world's ills were the result of inadequate consumption and the accumulation of idle savings. But somehow, the experts, the politicians and the great mass of the people failed to see that what was true in 1936, ceased to be true on September 1, 1939, when the second World War began. Even before Pearl Harbor, the free reserves of the American banking system—the "idle savings"—had declined by 40 per cent, and ever since, the world has suffered not from underconsumption but from excessive demand—to pay for the hot and cold wars, the growing world-wide affluence, the welfare schemes, and the rapid population growth and high expectations of the developing countries. All these goals were financed in part through a tremendous world-wide increase in production, and for the rest by growing reliance on the printing press. In a little over 30 years, the purchasing power of all the paper money in the world on an average has declined by 70–75 per cent. The dollar alone has lost about two thirds of its domestic value since Pearl Harbor. Never in the history of mankind has there been such a widespread and rapid depreciation of money.

### WASHINGTON'S DILEMMA—THE WRONG DECADE FOR THE RIGHT CURE

Yet Washington still acts as if we are living in a depression caused by inadequate demand. The Full Employment Budget, for instance, assumes that if the government creates additional purchasing power through deficit spending, more people will spend more money, which will call for more employment, and will thus produce greater total income and taxes, until the budget is balanced at the full employment level. This "self-fulfilling" dream—a largely theoretical brainstorm of "under-consumptionist" *minded* economists rests largely on a false picture of the economy. At least fifty and probably seventy per cent of the unemployment in the United States is due to a variety of institutional, social and political factors which have nothing to do with inadequate demand. In fact, there is a shortage of skilled and unskilled labor. There are not enough skilled and reliable workers—and probably not enough are trained—while many of the unskilled find it more advantageous to stay on relief. The more than $60 billion deficit during the past 2½ years, designed to eliminate unemployment, has obviously not done so, but it has greatly increased the inflationary pressure, and because of the wage-price stops at home much of the surplus spending power spilled over into world markets.

### NOTHING HAS CHANGED—EXCEPT OUR CIRCUMSTANCES

Yet Congress wants to continue deficit spending, union leaders demand wage increases far in excess of increases in productivity, and welfare recipients demand even higher payments. It is this complete disregard of economic rationality which was spread around the globe in fat headlines since Congress reconvened in January—rather than doubts regarding the effectiveness of Phase 3—which produced the latest dollar crisis. To be sure, Dr. Burns, in his Toronto address in December 1972, called for a "shock therapy", a possible freeze or near-freeze of all additional federal spending, and in February, he warned Congress: I can't emphasize too much that as far as I am concerned, this is the last devaluation. That ought to be our national policy . . . There is no room for complacency.

But in the end, who else but the Federal Reserve has created the excess demand? The vast deficits since 1971 would not have been possible, if the Federal Reserve had not acquired $10 billion of additional government securities. No doubt, a refusal of the Federal Reserve to finance the federal deficit would have resulted in a major political, if not constitutional crisis, and might have ended the pseudo-independence of the Federal Reserve, but it might also have been the "shock therapy" needed to awaken Congress and the American people to the danger of the situation.

As the "Economist" remarked: "Like childbirth, devaluation is less painful and quicker the second time." In fact, to judge by the experiences of some of the Latin American countries, devaluations can become an almost painless way of life! And the "Economist" is probably largely correct that the "United States continues to be one of the few countries in which just about everyone of importance thinks that a devaluation is lovely"; at least, it appears to most Americans as a convenient and painless way out.

### DEVALUATION AND MORALITY

"The stigma of devaluation is a thing of the past." Yet, on the same page, the "Economist" pointed out that the 1971 devaluation caused a shrinkage in the value of the monetary reserves of the developing countries by about a billion dollars. It is undoubtedly "old-fashioned" to argue that the devaluation of a key currency—i.e. the partial repudiation of a large nation's obligations—involves not only economic and political, but moral aspects. Back in the 14th century, a period of great social and economic upheaval, three French writers—Pierre Bois, Jean Burridan and, best-known, Nicole Oresme—condemned the policy of the French King to reduce progressively the metal content of the coin, as a form of theft, contrary to moral law! As recently as 1935, four Justices of the United States Supreme Court, protesting against the repudiation of the gold clause in private contracts, and the fact that the Federal Government "gained" $2.8 billion through the increase of the gold price, warned: "Loss of reputation for honorable dealing will bring as unending humiliation; the impending legal and moral chaos is appalling." The "Economist" may be correct that in our modern world, devaluation has lost its stigma, but there is no doubt that the probably unnecessary devaluation of the pound in 1931 represented an important milestone in decline in Britain's position in the world.

### THE TIME FOR DECISION IS NOW

Yet no politician and no news commentator has pointed out to the American people, that the two devaluations of the dollar within 14 months, while the country continues to live above its means, involves not only serious economic and political consequences, but also important moral aspects.

If a man sees large cracks appearing in his house, he can have the cracks filled and painted over. But new cracks will appear, as the foundations of the house continue to shift. In the end, the man will be faced with the alternative of either rebuilding the foundations—i.e., a drastic change in the allocation of resources in the American economy—or of seeing his house collapse.

America is confronted with some of the most serious and far-reaching alternatives in its 200 years' history.

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## JUSTICE FOR AMERICA'S ELDERLY

## HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. ROSENTHAL. Mr. Speaker, I am today introducing legislation to put into effect immediately a social security increase originally scheduled for July 1, 1974. Joining me as cosponsors are 95 of our colleagues.

Just prior to last month's recess, the Congress enacted a 5.9-percent increase in social security benefits to meet the increase in the cost of living for the year ending June 1973 but delayed payment for a year.

Social security recipients should not have to wait until next year to meet last year's inflation. Especially in light of the soaring increase in the cost of living and the worst inflation in our history, America's 21 million elderly citizens need our help now, not a year from now.

During the recent recess, I had an opportunity to go back to my district and talk to thousands of constituents; in addition I have been receiving hundreds of letters from around the country. It is abundantly clear to me that most Americans are in a desperate plight because of drastically higher prices for food and other essential items. Shoppers have had their incomes practically drained because of rapidly accelerating rises in the cost of living.

While the administration has been lax in its restrictions on the big firms which are showing tremendous profits—the Cost of Living Council just gave the go-ahead to raise the prices of steel, cars, and many other items—its misguided economic policies have forced the elderly into a precarious position which has become intolerable.

The Agriculture Department predicts food prices alone will rise at least 20 percent this year and wholesale prices have already reached their highest level in history. Those hit hardest by such developments are the poor and the elderly, persons who traditionally live on small, fixed incomes and spend 30 percent of their disposable income on food.

There is nothing inflationary about giving these persons an extra $9 a month. This bill will raise the average monthly benefit for a retired individual from $167 to $176, and for an aged couple it will be increased from $278 to $294.

Nearly three out of every four Americans over the age of 65 have annual incomes below $3,000, including 2.5 million persons with no income at all. The chart below shows the number of people age 65 and over in each of the indicated income categories:

*Persons 65 and over with income* [1]

| *In dollars* | |
|---|---|
| 1 to 999, or less | 4, 266, 028 |
| 1,000 to 1,999 | 5, 435, 950 |
| 2,000 to 2,999 | 2, 780, 074 |
| 3,000 to 3,999 | 1, 634, 283 |
| 4,000 to 4,999 | 974, 348 |
| 5,000 to 5,999 | 880, 037 |
| 6,000 to 6,999 | 501, 082 |
| 7,000 to 7,999 | 372, 530 |
| 8,000 to 9,999 | 481, 185 |
| 10,000 to 14,999 | 521, 442 |
| 15,000 or more | 434, 971 |
| Total, all categories | 18, 309, 910 |

[1] Income is reported for individuals, male and female, only. This does not imply it is the only support an individual and his family may have.

Source: U.S. Bureau of the Census, Census of Population: 1970, Detailed Characteristics, Final Report PC(1)-D1, U.S. Summary, table 245.

In all fairness, Mr. Speaker, this increase should be a lot more than just 5.9 percent. Living costs have continued to soar since we enacted Public Law 93-66 in June to provide the added benefits.

As you know, the Senate yesterday passed an identical measure as an amendment to S. 1866, a bill to increase Federal annuities. The vote there was 57 to 32.

The following is a list of cosponsors of the legislation I am introducing today:

### List of Cosponsors

Bella Abzug, Joseph Addabbo, Bill Alexander, Glenn Anderson, Thomas Ashley, Herman Badillo, Bob Bergland, Tom Bevill, Jonathan Bingham, John Blatnik.

John Brademas, Frank Brasco, George Brown (Calif.), Charles Carney, Shirley Chisholm, Cardiss Collins (Ill.), John Conyers, Silvio Conte, James Corman, John Culver.

Dominick Daniels, Mendel Davis, Ron Dellums, Ron de Lugo, Frank Denholm, John Dent, Robert Drinan, Don Edwards (Calif.), Joshua Eilberg, Dante Fascell.

Daniel Flood, Thomas Foley, Don Fraser, Joseph Gaydos, Ella Grasso, William J. Green (Pa.), Gilbert Gude, Bill Gunter, Tennyson Guyer, Michael Harrington.

Augustus Hawkins, Ken Hechler (W. Va.), Margaret Heckler, Henry Helstoski, Elizabeth Holtzman, Frank Horton, Jim Howard, Barbara Jordan, Ed Koch, Robert Leggett.

William Lehman, Norman Lent, Paul McCloskey, Mike McCormack, John McFall, John Melcher, Edward Mezvinsky, Joe Moakley, Robert Mollohan, William Moorhead (Pa.).

John Moss, John Murphy (N.Y.), Robert Nix, James O'Hara, Wayne Ownes, Claude Pepper, Bertram Podell, Melvin Price, Charles Rangel, Henry Reuss.

Donald Riegle, Matthew Rinaldo, Peter Rodino, Robert Roe, Teno Roncalio, J. Edward Roush, William Roy, Ed Roybal, Paul Sarbanes, Pat Schroeder, John Seiberling.

George Shipley, Dick Shoup, James Stanton (Ohio), Gerry Studds, James Symington, Frank Thompson (N.J.), Charles Thone, Ray Thornton, Robert Tiernan, Joseph Vigorito, Charles Wilson (Calif.), Antonio Won Pat, John Wydler, Bill Young (Fla.).

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## ON H.R. 10160 TO AMEND THE ECONOMIC STABILIZATION ACT

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. HARRINGTON. Mr. Speaker, for more than 4 years, the administration has sought to control the rampant inflation which continues to plague every

American consumer, worker, and businessman.

The President and his advisers have adopted and canceled many programs to reduce the rate of inflation, none of which have worked. After five game plans, two freezes, and four and a half phases, inflation continues unabated.

Last April, the Congress voted to extend the Economic Stabilization Act of 1970 under the Conference Committee Report S. 398, without major provisions requiring mandatory controls. Although I was disappointed, I voted in favor of the simple extension—and later for final passage—because it was the only measure which could be passed promptly to prevent a vacuum of authority with regard to inflation.

Now, although the administration has authority, it has failed miserably to exercise that authority in a constructive manner. Believing that controls will not work, the administration promised to dismantle them as soon as possible. They did not enforce them strictly. The result is that businessmen, consumers, and working people have little confidence that strict controls will be enforced. And the ultimate result of this situation is that the entire control program has failed. In fact, it appears that it may have encouraged inflation. With that type of mentality guiding the program, it cannot work unless Congress imposes strong, mandatory, automatic controls. That is what I propose today.

I have introduced H.R. 10160 to amend the Economic Stabilization Act of 1970. The major provision of the bill would be to establish automatic, mandatory price controls on all businesses in any sector whose prices rise by more than 3 percent on an annual basis—three-fourths percent per month—in any consecutive 3-month period. This is essentially the same position recommended last April by the Banking and Currency Committee, but rejected by the House in favor of a straight extension of the President's authority. I hope that the House will now reverse its position, and recognize its responsibility to enact strict, mandatory wage and price controls in the absence of administration action.

Mr. Speaker, I urge each of my colleagues to consider the consequences of not acting, and of not adopting a credible program with real teeth in it. I hope that when they consider this, they will support my proposal.

A section-by-section analysis of H.R. 10160 follows:

### SUMMARY OF H.R. 10160

#### SECTION 1: AMENDMENTS TO THE ECONOMIC STABILIZATION ACT OF 1970

Para. 204 imposes a ceiling on all prices and interest rates at levels prevailing on September 12, 1973. The President is directed to immediately carry out a plan to roll back prices and interest rates below levels prevailing on September 12, 1973, ceiling and to report to Congress within 60 days on his progress including justification for exemptions from the ceiling compliance.

This section also establishes an automatic mechanism to control inflation by requiring the President to impose mandatory controls on all sectors of the economy whenever the annual rate of inflation exceeds 3 percent for any three consecutive months, or 2.5 percent for any 12 consecutive months.

In addition, the President is directed to make all data publicly available and information used to formulate any standards issued by the President or his agencies under this resolution also available.

Para. 205 stabilizes all rents at September 12, 1973, levels, except to the extent that State and local rent controls are more stringent. The President may allow some increases when State or local taxes, or service charges, or capital improvements are made during the period of occupancy.

Para. 206 permits the Secretary of Agriculture to regulate credit margins on commodity futures contracts. This provision is designed to regulate excessive speculation in commodity futures trading which has the effect of inflating consumer prices and industrial costs.

Para. 207 establishes the Office of Consumer Counselor within the legislative branch of government to represent consumer interests in wage price decision. The Consumer Counselor is authorized to investigate official actions taken by the President, Cost of Living Council, and/or other Federal officials in controlling the economy. The Counselor may examine all records and other information relating to the rulemaking and adjudications of those bodies authorized by the President to carry out economic stabilization policies. The Consumer Counselor may also require a public hearing by the Cost of Living Council on any wage or price decisions.

Para. 208 authorizes the Comptroller General of the United States to review all reports concerning prices, profits, wages and salaries, and interest rates submitted by any person or company to the President or the Cost of Living Council. It further directs the Comptroller General to promptly inform Congress of any actions taken by anyone in violation of the standards established under this Act.

#### SECTION 2: REPORTS

This section directs the President to submit quarterly reports to the Congress describing changes in productivity, consumer prices, wholesale prices corporate earnings, interest rates, wage earner rates, and employment and unemployment on an industry basis. He is also required to submit monthly reports to the Congress describing his actions taken under this Act and his assessment of the status of his programs.

#### SECTION 3: ALLOCATION OF PETROLEUM PRODUCTS

This section authorizes the President to establish priorities for the use and allocation of petroleum products. It is designed to give the President flexibility to meet the energy needs of various sections of the United States and to prevent anti-competitive effects resulting from shortages of petroleum products.

#### SECTION 4: DEFINITION OF SUBSTANDARD EARNINGS

Under this provision, substandard earnings are defined as $3.50 per hour or less, and grants such substandard wage earners exemption from controls under this Act.

#### SECTION 5: DEFINITION OF WAGES AND SALARIES

This section amends the definition of wages and salaries in the Economic Stabilization Act of 1970 to insure that employer contributions to pension and other fringe benefit plans are not included in wages and salaries.

#### SECTION 6: ADMINISTRATIVE PROCEDURES

This section provides that no order may be issued under this Act which has the effect of reducing wages or salaries in an appropriate employee unit unless such order is made on the record after opportunity for a hearing and a statement of explanation is made within 30 days after issuance of the order to the affected parties and the public.

#### SECTION 7: HEALTH INSURANCE PRICES

This section directs the President to submit quarterly reports to the Congress explaining price changes for hospital and physician services, health insurances premiums, and changes in health insurance administrative costs. The President is also required to report his actions to stabilize health insurance prices and to make recommendations for appropriate congressional action.

#### SECTION 8: GENERAL ACCOUNTING OFFICE STUDY

This section directs the GAO to Study the relationship between consumer food prices and commodity exchanges. The GAO is further required to submit its findings to the Congress within four months of the enactment of the section, within recommendations for Congressional or other Federal action.

#### SECTION 9: AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

Under this provision, the Export Administration Act of 1969 is amended to improve controls on exports when there is a threat of domestic inflation or short supply.

The Secretary of Commerce is directed to investigate what materials or commodities should be subject to export controls due to current or prospective domestic inflationary impact or domestic supply shortages in the absence of controls. The Secretary of Commerce is further directed to develop forecast indices of supply and domestic demand for certain materials and commodities to determine their availability to domestic consumers at stable prices.

In addition, this section imposes export controls on softwood logs and lumber unless within 30 days of enactment, the Secretary of Agriculture certifies that at least 11.8 billion board feet of softwood lumber from national forests will be on the market in 1973. No timber may be sold for export from federal lands west of the Rocky Mountains until the President has certified that an adequate supply of lumber is available for domestic use at reasonable prices.

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## HOW WILL HISTORY VIEW NIXON NOW?

## HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. MICHEL. Mr. Speaker, there has been a good deal of comment and speculation in the media and elsewhere as to what effect the Watergate incident will have on President Nixon's place in history.

In that regard, I noticed an article written by M. C. Forbes, Jr., vice president of Forbes magazine appearing in the September 15, 1973, edition of that widely read and highly respected publication, entitled "How Will History View Nixon Now?"

Mr. Forbes refers to previous Presidents who were faced with problems and difficulties during their administrations which at the time threatened to diminish their respective places in history, however, their positive achievements in larger areas of responsibility eventually overshadowed the negative aspects of their years in the White House and their place in history was assured. Mr. Forbes suggests that President Nixon will fare equally as well and I am inclined to agree with that observation. I ask that the article be placed in the RECORD at this point.

HOW WILL HISTORY VIEW NIXON NOW?

(By M. S. Forbes, Jr.)

Few if any U.S. Presidents have faced a scandal on the scale of Watergate. How will the Watergate affair affect Richard Nixon's historical reputation?

Surprisingly, not as much as one might think.

Sordid as it is, Watergate is unlikely, in the eyes of future historians, to compare in importance with the Nixon initiatives, achievements in foreign affairs.

What will overshadow Watergate in the years ahead will be the working relationships Nixon (and Henry Kissinger) established with adversaries Russia and China. Thanks to these, the possibilities of a general war involving major powers are less today than at any time since the years following the 1815 Congress of Vienna.

Nixon has done here what hundreds of presidents, prime ministers, foreign secretaries, diplomats, Nobel Prize winners have failed to do in this century—he has brought peace for his time.

Imagine, instead of vilifying the U.S., Russia and China are, for all practical purposes, competing for our favor.

Regional conflicts like the Middle East and Southeast Asia may continue. But the chances of those escalating into a Great War have lessened significantly.

And that's the stuff history is made of.

When looking at the past, it is the basic issues of peace, war, prosperity, depression that mostly capture the historian's attention.

Abraham Lincoln is more remembered for preserving the Union than for taking extraordinary liberties with civil liberties. History is more concerned with Franklin Roosevelt's leadership during the Great Depression and the Second World War than with his coziness with corrupt big city bosses or black-hating Southerners. Harry Truman's historical reputation will rise or fall on the issues of the atomic bomb, the Marshall Plan and the Korean War—not on the fact that some of his cronies had their hands in the till.

Domestically, President Nixon is not so naked either. Despite inflation, the economy has never been so strong and prosperous.

Nixon's Gallup with future historians will easily outdistance his Gallup today.

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# SENATE—*Thursday, September 13, 1973*

The Senate met at 9:45 a.m. and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, in whose almighty hand the future lies, we trust in Thee. Give us understanding minds, patient hearts, and determined wills that through us the patterns of Thy kingdom may be formed in this Nation. Remove from us all that obstructs the clear leading of Thy spirit. May pettiness or prejudice never rob us of our highest and best achievements. Give us greatness of spirit to match the great needs of the day. As we pray for ourselves, we pray for the whole Nation that a new spirit of penitence and patience, humility and common purpose may come upon us, so that under Thy rulership and by Thy grace, we may set forward the destiny Thou hast for that Nation whose God is the Father of our Lord and Saviour, in whose name we make our prayer. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., September 13, 1973.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. PROXMIRE thereupon took the chair as Acting President pro tempore.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (S. 504) to amend the Public Health Service Act to authorize assistance for planning, development and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions, returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was resolved that the said bill do not pass, two-thirds of the House of Representatives present not having voted in the affirmative.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 12, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized at this time for not to exceed 15 minutes.

(The remarks Senator JAVITS made at this point on the introduction of S. 2411, the Export Priorities Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

## TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

## S. 2410, A BILL TO AMEND THE PUBLIC HEALTH SERVICE ACT

The ACTING PRESIDENT pro tempore. The Chair now lays before the Senate S. 2410 for a second reading.

The second assistant legislative clerk read as follows:

To amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

Mr. GRIFFIN. Mr. President, is there any action contemplated on this measure?

The ACTING PRESIDENT pro tempore. Does the Senator from California (Mr. CRANSTON) contemplate taking any action on this measure?

Mr. CRANSTON. Mr. President, I object to further proceedings on the bill at this time under rule XIV, paragraph 4.

The ACTING PRESIDENT pro tempore. Objection having been heard under rule XIV, paragraph 4, the bill will be placed on the calendar.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that S. 2410, which had its second reading earlier today and was placed on the calendar under rule XIV, be taken off the calendar and referred to the appropriate committee which, in this instance, I believe, is the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. The Senator is correct, and without objection, it is so ordered.

## VETO OF MINIMUM WAGE BILL

Mr. TAFT. Mr. President, I noted with considerable interest the recent statements made by many distinguished labor leaders and Members of the Congress criticizing the President for vetoing the minimum wage bill. While I can understand the deep conviction that these individuals have with respect to the necessity of enacting amendments to the Fair Labor Standards Act, I am disappointed that they rejected many efforts made to reach a compromise on points of difference while this issue was being considered by the Congress. Numerous efforts were made by myself and Senators DOMINICK and BEALL in the Labor Committee to resolve points of disagreement. Efforts were also undertaken in the other body by Congressman ERLENBORN and Congressman QUIE. The Department of Labor, through efforts of the Under Secretary, also attempted to reach agreement with organized labor on this issue. Unfortunately, all of these efforts were rejected and the President was left with no other alternative but to veto H.R. 7935.

I sincerely believe that an increase in the minimum wage is necessary and share the general convictions with many of my colleagues in the Congress from both sides of the aisle that legislation in this area is needed to benefit millions of low-income families. The President also strongly supports responsible proposals to increase the minimum wage and stated in his message to the Congress earlier this week that enactment of constructive legislation in this area is essential.

The House will act on the President's veto message on the 19th of this month, and while it is difficult to predict with certainty what the disposition of this issue will be, there is a strong possibility that the President's message of disapproval will be sustained. If that is the case, I am extremely hopeful that agreement can be reached on this issue. I have already offered to meet with leaders of organized labor to attempt to resolve this impasse and will make every effort to see that an orderly and expeditious disposition of this issue is obtained. All parties must remember, however, that if agreemen is to be reached, whether it be procedures to minimize youth unemployment or any other issue, a spirit of compromise must prevail.

I ask unanimous consent that editorials from two leading papers in Ohio, the Columbus Dispatch and the Akron Beacon Journal, supporting the President's position on this issue be printed in the RECORD

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

### MINIMUM WAGE—NEW BILL HARMFUL, EDITORIAL SAYS

[From the Columbus Dispatch, Aug. 11, 1973]

The latest modification in the Fair Labor Standards Act, which Congress is sending to President Nixon, seems certain to create more poverty than it removes.

This, of course, is not the intent of congressional sponsors or organized labor who have supported an extension of minimum wage coverage to 6.7 million more workers. If President Nixon signs the bill, federal law would extend to five million federal, state and local government employes as well as to one million domestic workers.

Higher minimum wages often force businesses to close or substitute machinery for human labor. As a result, the benefits to some low-wage workers are more than offset by the income loss to others who are displaced or affected by the inflationary impact.

Indeed, Federal Reserve Board Chairman Arthur Burns discovered in one survey that unemployment rates invariably rose after an increase in the minimum wage. This joblessness harmed unskilled workers, especially teenagers and women.

If past experience is a guide, the same groups have most to lose from adoption of the latest minimum wage bill. Coverage of government workers still hamper federal and local programs to cope with the hard-core unemployment of unskilled or minority group labor.

Refusal of Congress to adopt an administration proposal for a differential allowing employers to hire teenagers at less than the minimum wage will do nothing to improve the job opportunities for young people.

The jobless rate for teenagers is presently five times the rate for adult males.

Nobel Price winning economist Paul Samuelson has written that minimum wage laws "often hurt those they are designed to help." If Mr. Samuelson is correct, as many economic studies suggest, Congress might better lower the minimum wage, not increase it.

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[From the Akron Beacon Journal, July 28, 1973]

### NEW MINIMUM WAGE BILL DESERVES A NIXON VETO

If ever a bill deserved a presidential veto—and is likely to get one—it is the new minimum wage bill passed by both houses of Congress.

The bill would increase the present minimum from $1.60 an hour for most workers to $2 two months after enactment. A year later the minimum would go to $2.20. Other workers, including some eight million exempt workers, would have their minimum wages increased over a longer period of time, until three years from now all covered workers would have a $2.20 minimum.

This doesn't mean just the guy on the factory line or the clerk in the store. It means farm workers, teenagers picking up Summer money and domestic help.

Before we are accused of presenting a self-serving argument, let it be recorded that the bill itself would affect no one at the Beacon Journal. All our regular employes get more than $2.20.

Let it also be noted that we are not objecting to decent wages. Our objection to this bill is that it is too encompassing and inflationary and would wipe out jobs rather than create bigger paychecks.

The housewife or working mother who is currently paying perhaps $1.50 for domestic help—and in many parts of the country the level is even lower—is going to reappraise the cost-benefit ratio at $2.20. If she can possibly arrange it, she will cut her domestic help from two days a week to one, so that a part-time job that now brings in, say, $24 a week will be worth only $17.60.

The teen-ager now willing to cut lawns or bag groceries isn't going to be allowed to in many cases. This job will not pay more, but be eliminated.

And the laws of economics and human behavior being what they are, the increased minimum will not ease the pressure only at the bottom. The next worker up the line, the one now making $2.20, will naturally enough demand $2.80 or $3 an hour, just to maintain the differential. The man making $3 will want $4 for the same reason.

It is a well worn but accurate truism in business and industry that the greater the cost of an hour of labor, the more management is willing—and compelled—to spend to eliminate it. If a job is already marginal, it will be abolished—no bag boys, for instance. If the cost of keeping a worker on the job rises beyond the cost of buying a machine to replace him, the machine is going to win.

Part of our financial problem now—and one of the main reasons the dollar has been devalued roughly 20 percent already this year—is that American labor is no longer competitive in the world markets. We do not say American labor is not as good. We do say it is not competitive. Our radio isn't made in Japan because it's better, but because it's cheaper.

This bill, as President Nixon has said, will not solve our problems but compound them. Now we trust he will put his objections in writing—in a veto message.

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## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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## DISPOSAL OF COPPER FROM THE NATIONAL STOCKPILE

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 366, S. 2316, a bill to authorize the disposal of copper from the national stockpile and supplemental stockpile.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2316) to authorize the disposal of copper from the national stockpile and the supplemental stockpile.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PASTORE. Mr. President, this bill was introduced by me and is cosponsored by the distinguished Senator from Connecticut (Mr. RIBICOFF) and the junior Senator from Rhode Island (Mr. PELL).

The bill under consideration authorizes the Administrator of General Services to dispose of 251,600 short tons of copper from the national defense stockpile for use by copper fabricators in Rhode Island and throughout the United States.

First of all, I should like to express my gratitude to the Armed Services Committee, particularly the Honorable STUART SYMINGTON and the Honorable HOWARD CANNON, for expediting to the floor for consideration this important legislation.

The shortage of copper has reached crisis proportions. Jobs in the industry are on the line. Plants in Rhode Island are facing massive layoffs.

I have received telegrams and letters from copper fabricators in Rhode Island underscoring the urgency of this problem. These companies will be forced to reduce production and lay off employees unless some action is taken immediately to increase the domestic supply of copper.

The situation is particularly serious, Mr. President, in Rhode Island where we received a staggering, stunning blow last

April, when the Defense Department, with reference to base closings, eliminated with one stroke 5,000 civilian jobs and approximately 17,000 military personnel as well.

The indirect repercussions of this Defense Department move are unknown, but the loss of civilian jobs may approach 19,000 by the time this plan is executed. The loss of payroll in Rhode Island will amount to approximately a quarter of a billion dollars a year and we are already confronted with an existing unemployment rate of close to 6 percent.

In the past week, I met with the Deputy Secretary of the Department of Defense, Mr. Clements, and the Secretary of the Navy, Mr. Warner, in an effort to determine the amount of excess real estate they will return to Rhode Island so that we may use it for industrial purposes.

Thus far no decision has been made on this point. Meanwhile, many of those persons who were laid off as a result of the base closings are still on the streets with no available jobs.

Therefore, it is imperative that we maintain in health what industry we have in Rhode Island. We simply cannot afford to put more skilled labor out in the street. The passage of this bill will help to prevent any further reduction in jobs.

I am still working on another front to protect Rhode Island jobs.

Secretary of Commerce Dent is looking into, I hope, a ban on the exportation of copper in order that more copper will be made available for use by local copper fabricators. However, we cannot wait for the Department of Commerce to act. The copper fabricating industry might die in Rhode Island in the meantime.

For these reasons, I urge my colleagues to support this bill to authorize the Administrator of General Services to dispose of 251,600 short tons of copper from the national defense stockpile for use by copper fabricators in Rhode Island and throughout the United States.

The jobs of copper fabricators in Rhode Island and throughout the country are at stake. We simply cannot afford to permit this industry to be destroyed.

I hope the House will act expeditiously and that the President will sign the bill.

I merely want to conclude by saying that I am very grateful to Mr. RIBICOFF and Mr. PELL for their consideration in this matter. Mr. RIBICOFF desired to be on the floor this morning, but he is meeting on another crisis. He is meeting with a number of independent oil dealers in New England. Here, again, we have a serious crisis in New England, not only as to the paucity of the supply of oil but also as to the astronomical cost involved because of the sky-rocketing prices. I understand that Mr. RIBICOFF will file a statement later.

So, Mr. President, without further ado, I ask my colleagues to support us in this very important matter.

Mr. RIBICOFF. Mr. President, I am pleased to join with my good friend and distinguished colleague, the senior Senator from Rhode Island, in seeking passage of S. 2316, the legislation needed to release 251,600 tons of copper from the national stockpile. I wish to commend Senator PASTORE for taking a leading role in this effort to ease the current serious copper shortage, and I also wish to thank the very distinguished chairman of the Armed Services Committee, Senator STENNIS, for his prompt action in getting this bill through the committee.

Across the country and in my own State of Connecticut, copper and brass plants have been forced to lay off workers because of the severe shortage of copper. This has been in large part caused by higher prices paid for this metal abroad and the exports this demand produced.

When I was informed of this situation last July, I introduced my own bill, S. 2274, with the cosponsorship of Senators WEICKER and PERCY, calling for the release of 258,700 tons from the national stockpile. I also wrote to the distinguished chairman of the Armed Services Committee urging prompt action on this proposal. At that time I was reassured by the committee that this would take place—and today we see that this promise has been fulfilled.

Last August 16 I met with both representatives of labor and management from Connecticut-based brass mills and copper fabricators about all aspects of this problem. We discussed my own proposal and the entire range of problems facing the industry. All agreed that releasing copper from the stockpile was a much-needed first step to avoid plant shutdowns and layoffs. It was strongly felt that this practical, effective measure should be implemented as soon as possible.

I am deeply gratified that the Senate is taking the lead on this issue of such great importance to Connecticut. While approval of this bill will not solve all the outstanding problems, I believe that it will help secure jobs until other measures can be taken. This was my intent when I first introduced my own bill and when I joined with Senator PASTORE in sponsoring his proposal.

I am aware of the overwhelming support in the Senate for our bill. But it will be up to the other body to follow our lead and take prompt action.

Following this, the next step is some sort of rational control over the export of this metal. The President already has the power under the Export Administration Act of 1969, specifically section 3(2) of Public Law 91–184, to place restrictions on the export of copper scrap. I urge him to review the current situation and act promptly to save a vital American industry and thousands of American jobs.

We in the Senate are today doing something concrete to solve this problem, and I hope that the House and the executive branch will demonstrate their own concern without delay.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately two hundred and fifty thousand six hundred short tons of copper now held in the national stockpile established pursuant to the Strategic and Criticial Materials Stock Piling Act (50 U.S.C. 98–98h) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided*, That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

Mr. PASTORE. Mr. Presdent, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## THE PRESIDENT'S DUTY TO OBEY THE SUPREME COURT'S RULING IN THE WATERGATE TAPES CASE

Mr. KENNEDY. Mr. President, the most distressing question now emerging from the Watergate controversy is the increasing speculation in recent days, fueled by President Nixon's statements at his recent press conferences, that he may decide not to obey a Supreme Court order to turn over the tapes unless the Court's decision is "definitive," and that the President is the one who will determine what is "definitive."

The constitutional crisis we now have over Watergate pales by comparison to the crisis that would ensue if the President were to defy the Supreme Court.

The mere talk of such defiance today is an arrogant and gratuitous affront to the Supreme Court, four of whose members, including the Chief Justice, are appointees of President Nixon himself.

And, actual defiance of the Supreme Court would be an act of such profoundly serious consequence for our democratic form of government—overturning 200 years of American legal history and nullifying our Nation's great tradition of judicial supremacy—that Congress should not and could not let it stand.

If this country stands for anything, it stands for the principle that no man is above the law. If President Nixon defied a Supreme Court order to turn over the tapes, a responsible Congress would be left with no recourse but to exercise its power of impeachment.

If we search American history, we look in vain for any precedent that could justify the President's defiance of a Supreme Court order. True, we have had great confrontations between Presidents and the Supreme Court in the past, including Jefferson and Lincoln and others among our greatest Presidents. But always before, the President has accepted the rule of law and complied with the rulings of the Nation's highest Court, even in matters of the gravest national urgency.

In the modern era, I think of President Harry Truman, bowing to the Supreme Court's decision in the Steel Seizure case. The Court held that the President's seizure of the mills was an unconstitutional exercise of Presidential power, even though he had seized them to avert a nationwide steel strike that in his view would cause a severe national emergency in the early months of the Korean war. In spite of the obvious crisis over national security, Harry Truman gave up the mills. Surely, under a Supreme Court order, Richard Nixon would have to give up the tapes.

I think also of the constitutional crisis of the 1930's over President Franklin D. Roosevelt's New Deal legislation. I hold no brief for the Court packing plan of that era. But it demonstrates that, in spite of his strong opposition to the Court, the President accepted the Court's decisions as the law of the land, and sought only constitutional means to make his will prevail.

The duty of the President to obey the Supreme Court is supported by an unbroken line of the greatest pronouncements of our greatest Chief Justices:

As Chief Justice John Marshall stated in Marbury against Madison in 1803:

> The Constitution is the fundamental and paramount law of the nation. It is emphatically the province and duty of the judicial department to say what the law is.

And as Chief Justice Earl Warren stated in Cooper against Aaron, the Little Rock School Case, in 1958:

> Marbury v. Madison declared the basic principle that the federal judiciary is supreme in the exposition of the law of the constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system.

And Alexander Hamilton, writing in the Federalist Papers, No. 78, saw the issue equally clear at the time the Constitution was written and the tradition of our independent judiciary was established:

> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government. . . .

Against this clear and unbroken line of authority dating from the earliest days of our Republic, President Nixon's supporters set only a few thin reeds that are hardly persuasive:

President Jefferson apparently obeyed only portions of a subpena issued by John Marshall in the treason trial of Aaron Burr. Some historians maintain that Jefferson complied fully with the subpena. In any event, Marshall's ruling was issued as a circuit judge at the time, and was not an order with the force and authority of a Supreme Court decision.

President Andrew Jackson is reputed to have said, after a Supreme Court decision in 1832 ordering Georgia to act in a Cherokee Indian case, "John Marshall has made his decision. Now let him enforce it." But historians now agree that Jackson never said it, although the story was widely circulated in 19th century biographies of Jackson. The remark was first published 32 years after the case and was attributed to a Governor of Massachusetts, then dead, who had been a Member of Congress at the time. In any event, the Court's order was clearly directed against the State of Georgia, and not against the President. And, after an initial period of resistance, the Governor of Georgia eventually complied with the Court's order.

In ex parte Merryman in 1861, President Lincoln had authorized his commanding general to suspend the writ of habeas corpus in certain circumstances at the outset of the Civil War. Pursuant to this authority, a Union general near Baltimore seized John Merryman, a Maryland secessionist, and imprisoned him under military custody in Fort McHenry. Chief Justice Taney—also sitting as a circuit judge, so that this ruling was not a Supreme Court decision—issued a writ of habeas corpus for Merryman which the general at first refused to honor. Later, shortly after Taney's opinion was issued in the case and forwarded to President Lincoln. Merryman was actually released. So, in fact, the order was obeyed.

Moreover, so far as the present Watergate case is concerned, the views of President Lincoln are in no doubt at all. In his first inaugural address, delivered in March of 1861, a few weeks before Merryman was arrested, Lincoln had said:

> I do not forget the position . . . that constitutional questions are to be decided by the Supreme Court, nor do I deny that such decisions must be binding in any case upon the parties to a suit as to the object of that suit.

Certainly, the President's lawyers cannot rely on Lincoln for support. The President has no argument from history for such defiance. The only argument from law he has is the law of the jungle, the law of raw and naked power, which the country will never tolerate.

In two of the most dramatic confrontations between the Nixon administration and the Supreme Court, the Pentagon Papers case in 1971, involving the New York Times, and the Keith case in 1972, involving domestic security wiretapping without a court order, the administration has accepted the decisions of the Supreme Court in good grace, with no hint of defiance. Yesterday, for example, the Attorney General assured the Senate Foreign Relations Committee that the administration was in full compliance with the Court's decision in Keith, requiring warrants for electronic surveillance in domestic security cases.

Neither the President nor the Supreme Court, neither Congress nor the country are served well by the present talk of defiance of the Court over the tapes. The constitutional issues involved in the controversy over the tapes are difficult and the outcome is by no means clear. Perhaps the Court will rule for the President, perhaps not. But, in the meantime, I urge the President and the Department of Justice to recognize that talk of defiance tends to undermine all law and order and to promote disrespect for the Supreme Court. Surely, at a time when other institutions are being undermined by Watergate, the country cannot afford to have the Supreme Court challenged, too.

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## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Proxmire) laid before the Senate the following letters, which were referred as indicated:

### Reports on Final Determinations in Indian Claims Cases

A letter from the Chairman, Indian Claims Commission, reporting pursuant to law, on its final determination with respect to Docket No. 189, the Red Lake Band, et al., Plaintiffs, v. The United States of America, Defendant (with accompanying paper). Referred to the Committee on Appropriations.

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination with respect to Docket No. 300, the Stockbridge Munsee Community, the Stockbridge Tribe of Indians and the Munsee Tribe of Indians by Arvid E. Miller and Fred L. Robinson, Plaintiffs, v. the United States of America, Defendant (with an accompanying paper). Referred to the Committee on Appropriations.

### Proposed Transfer of Destroyer Ex-USS "Joseph P. Kennedy, Jr."

A letter from the Assistant Secretary of the Navy (Installations and Logistics) transmitting, pursuant to law, notice of proposed transfer of the destroyer ex-USS *Joseph P. Kennedy, Jr.* (DD–850) to the Massachusetts Memorial Committee, Fall River, Mass. Referred to the Committee on Armed Services.

### Report on Facts Relating to Navy Shore Establishment Realinement Action

A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting, pursuant to law, a report relating to a revised Department of the Navy Shore Establishment Realignment Action at the Naval Ammunition Depot, Oahu, Hawaii (with an accompanying report). Referred to the Committee on Armed Services.

### Reports of National Railroad Passenger Corp.

A letter from the Vice President, Public and Government Affairs, National Railroad Passenger Corp., transmiting, pursuant to law, its report on passenger and train operations for the month of July, 1973 (with an accompanying report). Referred to the Committee on Commerce.

A letter from the Vice President, Public and Government Affairs, National Railroad Passenger Corp., transmitting, pursuant to law, a report on revenues and expenses for the month of April, 1973 (with an accompanying report). Referred to the Committee on Commerce.

### Report on International Transfer of Conventional Arms

A letter from the Director, United States Arms Control and Disarmament Agency, transmitting, pursuant to law, a report on the international transfer of conventional arms, dated September 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

### Report on Disposal of Surplus Federal Real Property

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report covering the disposal of surplus Federal real property for park and recreation purposes, for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Government Operations.

### Proposed Legislation From Administrative Office of the U.S. Courts

A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to authorize the Judicial Conference of the United States to fix fees and costs in the U.S. district courts and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to permit payment of transcript costs for indigent litigants in certain civil proceedings before U.S. magistrates (with an accompanying paper). Referred to the Committee on the Judiciary.

### Proposed Legislation From Department of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to provide increased protection for consumers from shipment of unfit and adulterated food (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

### Alterations to Military Personnel Records Center, St. Louis, Mo.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which revises the previously approved prospectus for alterations to the Military Personnel Records Center, St. Louis, Mo. (with an accompanying paper). Referred to the Committee on Public Works.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Proxmire):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Banking, Housing and Urban Affairs:

### Assembly Joint Resolution No. 53—Relative to Urban Redevelopment

### legislative counsel's digest

AJR 53, Burton. Urban renewal: San Francisco.

Memorializes Congress to make sufficient funds available for the completion of the Hunters Point and India Basin Industrial Park Projects in San Francisco.

Whereas, The completion of four large and imaginative redevelopment projects in the City of San Francisco is threatened due to a termination of federal funding for urban renewal; and

Whereas, These projects include (1) the Hunters Point Project, a complete "new town" of 137 acres of housing, schools, churches, parks, and neighborhood shops, and (2) the Indian Basin Industrial Park, a companion 126-acre development designed to provide 4,000 new light industrial jobs; and

Whereas, The lack of funds for the Hunters Point Project alone will mean a loss of 1,250 more homes, parks, recreation areas, another school, and churches, and will prevent the demolition of 600 wartime shacks, which were condemned as unlivable as early as 1948; and

Whereas, There are insufficient funds available from "revenue sharing" to complete these projects, and, if the federal government abandons the projects, thousands of long-expected homes will not be built or rehabilitated, thousands of long-expected new jobs, particularly in construction, will be lost, and a multitude of neighborhood residents will feel betrayed; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to make available sufficient federal funds to complete the Hunters Point and India Basin Industrial Park Projects in the City of San Francisco and to reject proposed budget cuts affecting such projects; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H.J. Res. 695. Joint resolution designating the period of September 15, 1973, through October 15, 1973, as "Johnny Horizon '76 Clean Up America Month" (Rept. No. 93-392).

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. TOWER, from the Committee on Armed Services:

Joseph T. McCullen, Jr., of Maryland, to be an Assistant Secretary of the Navy;

Norman R. Augustine, of Texas, to be an Assistant Secretary of the Army;

Walter B. LaBerge, of California, to be an Assistant Secretary of the Air Force; and

David Samuel Potter, of Wisconsin, to be an Assistant Secretary of the Navy.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. THURMOND. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Lt. Gen. Earl C. Hedlund, USAF, to be placed on the retired list; Adm. Bernard A. Clarey, USN, for appointment to grade of admiral, when retired; Col. Charles J. West, Jr., to be brigadier general in the Army; Maj. Gen. John J. Hennessy to be lieutenant general as Chief, Office of Reserve Components, USA and ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, in addition, there are 44 majors in the Air National Guard of the Reserve of the Air Force to become lieutenant colonels. Since these names have already appeared in the Congressional Record and to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Harold C. L. Beardsley, and sundry other Air National Guard officers, for promotion in the Reserve of the Air Force.

By Mr. EASTLAND, from the Committee on the Judiciary:

William D. Ruckelshaus, of Indiana, to be Deputy Attorney General.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. MAGNUSON, from the Committee on Commerce:

R. David Pittle, of Pennsylvania, to be a Commissioner of the Consumer Product Safety Commission.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS

The following bill was read the first time on yesterday, September 12, 1973, and on today, September 13, 1973, the second time, and placed on the calendar:

By Mr. CRANSTON (for himself, Mr. Kennedy, Mr. Schweiker, Mr. Williams, Mr. Javits, Mr. Beall, Mr. Dominick, Mr. Eagleton, Mr. Hathaway, Mr. Hughes, Mr. Mondale, Mr. Nelson, Mr. Pell, Mr. Randolph, Mr. Magnuson, Mr. Taft, Mr. Stevenson and Mr. Dole):

S. 2410. A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

Subsequently, by unanimous consent, the above bill was taken from the calendar and referred to the Committee on Labor and Public Welfare.

The following bills were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself and Mr. Stevenson):

S. 2411. A bill to amend the Export Administration Act of 1969 to provide for the regulation of the export of agricultural commodities. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. TAFT:

S. 2412. A bill to amend the Housing and Urban Development Act of 1970 to provide assistance to localities for the purpose of expanding, on a demonstration basis, choice in housing location for lower income families. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JACKSON (for himself, Mr. Magnuson, and Mr. Symington):

S. 2413. A bill to authorize the disposal of aluminum from the national stockpile, and for other purposes. Referred to the Committee on Armed Services.

By Mr. MONDALE (for himself, Mr. Stevenson, Mr. Javits, Mr. Abourezk, Mr. Case, Mr. Gravel, Mr. Humphrey, Mr. Kennedy, Mr. McGee, Mr. Moss, Mr. Pastore, and Mr. Williams):

S. 2414. A bill entitled "Elementary and Secondary Education Assistance Act of 1973". Referred to the Committee on Labor and Public Welfare.

By Mr. CURTIS (for himself, Mr. Baker, Mr. Bellmon, Mr. Bentsen, Mr. Case, Mr. Cranston, Mr. Dole, Mr. Eastland, Mr. Ervin, Mr. Gurney, Mr. Hansen, Mr. Helms, Mr. Hruska, Mr. McClure, Mr. Randolph, Mr. Thurmond, Mr. Tower, Mr. Young, Mr. Domenici, Mr. Mathias, and Mr. Buckley):

S. 2415. A bill to amend section 203 of the Economic Stabilization Act of 1970 to permit the passthrough of certain cost increases.

Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS:

S. 2416. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide increased protection for consumers from shipment of unfit and adulterated food. Referred to the Committee on Labor and Public Welfare and if and when reported to the Committee on Commerce if they should so desire to examine that portion of the bill dealing with interstate commerce.

By Mr. CRANSTON:

S. 2417. A bill to amend the Federal Election Campaign Act of 1971 to provide public financing of campaign costs incurred in campaigns for election to Federal office, to repeal the Presidential Election Campaign Fund Act, and for other purposes. Referred jointly, by unanimous consent, to the Committees on Finance and Rules and Administration.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself and Mr. STEVENSON):

S. 2411. A bill to amend the Export Administration Act of 1969 to provide for the regulation of the export of agricultural commodities. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JAVITS. Mr. President, I have asked for this time this morning to introduce on behalf of myself and the Senator from Illinois (Mr. STEVENSON) the Export Priorities Act of 1973, which would amend the Export Administration Act of 1969. This bill is proposed as a new initiative in the fight against inflation in the cost of food and is based upon an economic analysis of the problem which makes this a key element in the solution.

The House of Representatives passed on September 6, H.R. 8547, a bill introduced by Representative ASHLEY of Ohio, which seeks to amend the Export Administration Act to achieve the same objectives the Senator from Illinois and I have in mind. However, our proposal proceeds with greater specificity as to the power of the President and will, I believe, prove more effective.

The President has urged Congress repeatedly to take action to curb inflation. In his message to Congress on Monday, he said:

> Americans want and deserve decisive action to fight rising prices. And they want every possible step taken now—not a year from now or in the next session of Congress.

But, the President's proposals for curbing rising food prices do not equal the promise. He already has power to impose price and wage controls under the Economic Stabilization Act of 1970, and yet this power has been used so inadequately that after two freezes and three phases, we have just witnessed the largest increase in the wholesale price index, 6.2 percent last month, since the end of World War II. Even Secretary of the Treasury Shultz found the price increases astounding, and George Meany, president of the AFL–CIO, found the figures beyond belief. Yet what is it the President proposes?

First and foremost, he proposes to limit budget increases by cutting out especially certain key social programs that, in my judgment, would have assisted those hardest hit by inflation, while at the same time rejecting any cut at all in the Defense budget.

The President also asks us to take action on a bill (S. 2053) to amend the Export Administration Act by granting still further discretion to the administration in determining when export controls should be applied to curtail serious inflation in domestic prices.

But the present legislation, the Economic Stabilization Act, already gives the President power to impose export controls, and he has exercised them with respect to soybeans and cottonseed, as well as a large number of other edible oils, animal fats, and livestock protein feeds. The difficulty is that the way in which those export controls have been applied has raised very serious problems. Unfortunately, the presidential request for additional discretion addresses none of these problems. Against these requested additions of authority is the administration's record in not applying export controls to wheat, corn, and cotton at a time of urgent need.

Indeed, one of our strongest voices in behalf of agriculture, the Senator from Georgia (Mr. TALMADGE) made a plea for export controls on cotton the other day.

The only difficulty with that approach has been the danger of export controls, and the danger of export controls is a very key element in what we will do. On the one hand, we have the danger of offending traditional trading partners or shaking their confidence in the United States as a source of agricultural supply. We have just run into that with Japan, in regard to soybeans. On the other hand, we have the very legitimate feeling on the part of the people of the United States that though we wish to share our agricultural power and productivity with the rest of the world for business as well as humanitarian reasons, we do not want our food prices skyrocketing because of the ability of the will of foreign customers to buy and the advantage which they get because of the very serious devaluation, running up to almost 40 percent, of the dollar, which makes everything, in their terms, much cheaper in the United States.

The bill which I am introducing with Senator Stevenson is an effort to present a balanced plan for meeting the international economic policy and foreign policy and foreign policy considerations inherent in export controls on food, and the urgent necessity for intelligence in the domestic availability of food. That is the purpose of the measure.

There is no question about the extent of the crisis. The magnitude of the food price increases that Secretary Shultz called astounding simply is astounding. We have a 6.2-percent increase in 1 month in the wholesale price index, and that is sparked by an increase of 19.3 percent in food prices alone for the month of August.

This is by far the largest increase in such figures since the Government began publishing adjusted figures in 1947, 26 years ago. The biggest price increases in the food and farm sector were exactly these items affected by exports, animal feed and animal products. Grains, for example, increased in price by almost 70 percent in 1 month, and were 167 percent higher than the year before, and so on down the line, with other comparable increases.

The administration's prescription is to raise agricultural production in this country. That is great, and I am for it. But I suggest that the problem is far more complex and longer term than the administration admits, especially if devaluation, plus foreign demand, plus the better financial condition of other countries, drains off even bumper U.S. crops.

There is considerable evidence that we have seen not just a temporary problem, but a basic, historic shift in the world food situation. Traditionally, increasing world population was seen as the main factor in increasing world demand for food. Now experts suggest that increasing affluence among the industrial countries may be an equally important and indeed a greater factor in world food demand. Since World War II the world has had two major food reserves: grain reserves in the major exporting countries, and cropland idled under farm programs, almost all of it in the United States. We are now witnessing both a drastic drop in grain reserves, and in the United States a commitment of our reserves, as we say in military terms, to a restoration of all idled land into production. The idled land may pull us out of a crisis this time, but it will not be there for the next crisis. Dr. Boerma, the head of the FAO, has recently pointed out that the world is now almost entirely dependent on a single season's weather for its basic food supplies.

I might say, parenthetically, I have just been to Africa, especially West Africa, where famine exists in six countries. Actually, I visited the Upper Volta. What we have seen there is the age-old famine problem, where millions of people have died because of food shortages, but no one did anything about it. It was simply accepted. That cannot be the situation today. We cannot rest as long as such a situation exists.

The other point is the effect of exports on prices. I shall not stop here to go into the Soviet grain deal, but the fact is that however anyone may look at it, it did take 25 percent of our wheat crop, and sparked an enormous rise in grain prices, quite apart from the $300 million in export subsidies which were paid out because we were fast asleep.

Moreover, Japanese demands have almost doubled their purchases over the previous year, plus other demands, including that from Mainland China, which have simply been a major, even the major, factor in the skyrocketing prices, and this especially in the face of an enormous demand in other countries so that they could not help us with this situation, which represents what I have analyzed a minute ago as the enormously increased aggregate demand throughout the world.

What would the bill which I am offering with Senator STEVENSON do? It would seek the following objectives:

First, it would seek to insure American consumers of reasonable amounts of raw agricultural commodities at relatively stable prices, unaffected by excessive, and inflationary foreign demand, and second, it would propose to institute a fair and open system for the allocation of America's export surplus, so that countries which have developed a reliance on the American farmer would be able to secure their fair share of American surpluses, and those developing countries which otherwise might lose out in the race for American exports will have an equal opportunity to have their needs met.

The bill requires the Secretary of Agriculture to estimate the crop production for raw agricultural commodities at the beginning of the crop year, and to determine those amounts necessary for domestic consumption in the United States including a reasonable amount for a carryover to build up U.S. stocks and the remainder is to be allocated for export to foreign countries. The Secretary of Commerce is to allocate such exports among countries on a quota system, based upon past exports and such other criteria as are necessary to produce a fair and equitable quota. The Secretary of Commerce may set aside up to 10 percent of the export amount in a reserve category to be used for emergency situations, such as famine, crop failure, unexpected increase in demand, and so on. This important provision recognizes our humanitarian obligations to the world.

The bill then directs the Secretary of Commerce, based on what is available for export, to set up a system for the sale of export licenses through an auction system. Licenses will be sold to the highest responsible bidders, except that in the case of exports to developing countries with balance-of-payments problems, the licenses will be issued without fee. The fees collected from this licensing system will be placed in a special trust fund to be used for agriculturally related purposes—the school lunch programs, child nutrition programs, food stamps, commodity distribution, and research to increase agricultural productivity. The Secretary will be able to lift this licensing system for any agricultural commodity that he determines is produced in sufficient quantities to meet both U.S. demand and normal world requirements from the United States without any quota system.

I wish to emphasize that my interest in this plan is based on my interest in the foreign policy and the foreign economic policy of the United States. I see this bill as an affirmation of our international obligations.

I have no illusions or pretensions of being an agricultural expert, but this question has now become a profound one in which the foreign policy and the foreign economic policy are critically important in relation to the inflationary situation in the United States, especially with respect to food.

It is for these reasons, Mr. President, that I am introducing this legislation.

I should like to say one word to the farmer, who is suddenly reaping the profits of rising prices in agricultural commodities. My aim is to secure an expanding and dependable market at home and abroad for the commodities that the farmer produces.

It is not too often recognized that my own State of New York is a major farm State. In that regard, it is No. 2 or 3 with respect to dairy and many other commodities.

The bill which I am introducing will limit speculation in agricultural products but will in no way prevent the farmer from receiving a fair return on his investment and labor.

The fight against inflation, however, is one that requires the cooperation of all the American people. It will be a pyrrhic victory to achieve a few high short-term gains in commodity prices at the cost of a recession for the United States, or the deep antipathy and hostility of the rest of the world, or a shaking of the confidence of the world in the United States as a major exporter.

Therefore, Mr. President, it is my hope that this bill will be found to deal equitably with all segments of the American agricultural economy and, at the same time, be healthy and essential to the foreign policy of the United States.

I have accepted the responsibility for introducing this legislation both because I believe it is international policy of intrinsic value and importance to the American consumer, and because I believe that if we must have export controls on raw agricultural products, they should be introduced with the maximum care for our international trading responsibilities and the least disruption of the movement toward freer world trade. It seems to me preferable to give our foreign customers advance notice of the amounts we intend to sell them, than to suddenly announce on a "moments notice" that existing contracts for exports will not be honored. The President suggested on June 13 that we would consult with other countries before applying export embargoes, but on June 23 the United States acted unilaterally to impose export controls.

This action understandably disturbed and frustrated our foreign customers, on whom we have been urging the increasing purchases of American commodities. Export controls applied in this manner are not only a severe irritant in our international relations; they invite retaliation by countries which feel that they can make their point to the United States in no other manner. Although the President has now lifted export controls prior to the Tokyo meeting, there is no assurance in either existing legislation or the proposals that have been made by the administration that export controls will not be applied in the future with the same disregard for the economic consequences to our trading partners. The continued use of such a policy can only cause foreign buyers to turn to other sources of supply on whom they can depend.

The system in the bill has the merit of permitting foreign customers advance knowledge of the amounts they will be allocated, so that they can make arrangements to secure additional supplies from other sources. It will in no way restrain exports since the amounts allocated for export can be expected to increase proportionately as production increases. Thus each country will receive a larger allocation as American production expands, providing an incentive rather than a restraint on exports. However, the windfall revenues derived from abnormal world demand will go into a fund that will benefit our own neediest ctizens and promote our own agricultural productivity, instead of lining the pockets of a few speculators and exporters.

Most importantly, our own citizens can be assured that there will be an assured supply of agricultral commodities for our own consumption, at reasonable prices relatively undisturbed by gyrations in the world price.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2411

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Export Priorities Act".

SEC. 2. The Export Administration Act of 1969 is amended—

(1) by inserting immediately before the caption of section 1 the following:

"TITLE I—GENERAL PROVISIONS"

(2) by redesignating sections 1 through 14, and all cross references thereto, as sections 101 through 114, respectively;

(3) by striking out "this Act" wherever it appears in sections 101 through 114, as redesignated, and inserting in lieu thereof "this title";

(4) by striking out "This Act" in section 113(a), as redesignated, and inserting in lieu thereof "This tiltle"; and

(5) by adding at the end thereof the following new title:

### "TITLE II—AGRICULTURAL EXPORT CONTROLS

### "DEFINITIONS

"SEC. 201. As used in this title—

"(1) the term 'Secretary' means the Secretary of Commerce unless otherwise indicated; and

"(2) the terms 'agricultural commodity' and 'commodity' mean any raw agricultural commodity produced in the United States, including flour, meal, and oil derived from any such commodity.

### "DETERMINATION OF QUALITY AVAILABLE FOR EXPORT

"SEC. 202. (a) Within 90 days after the beginning of the crop year for any agricultural commodity, the Secretary of Agriculture shall determine the quantity of the crop of such commodity, if any, that will be available for export and inform the Secretary of Commerce thereof, who shall thereupon publically announce such determination.

"(b) Such determination shall be made by estimating the total quantity of the commodity that will be produced in the crop year and subtracting from such quantity (1) the quantity of the commodity the Secretary of Agriculture estimates will be needed for domestic consumption, and (2) the quantity of the commodity the Secretary of Agriculture estimates will be needed for a reasonable carryover, including a reasonable quantity for disaster relief assistance and other emergency conditions. The quantity of the commodity remaining, if any, shall be the quantity available for export.

### "EXPORT LICENSING AND ALLOCATION OF EXPORT AUTHORITY

"SEC. 203. (a) No agricultural commodity may be exported to any foreign country in any year unless the person exporting such commodity has been issued an export license by the Secretary for the quantity of such commodity to be exported to such country or unless such commodity has been exempted under section 207(a)(3) of this Act.

"(b) The quantity of any commodity available for export in any crop year shall be allocated among foreign countries by the Secretary on the basis of the quantity of such commodity exported to such countries during a representative base period and on the basis of such other factors as the Secretary determines to be fair and equitable and sufficient to protect the interests of traditional customers of the United States. In carrying out his functions under this subsection, the Secretary shall consult with the Secretary of Agriculture, the Secretary of State, with other departments and agencies of the United States Government, and with other interested persons. The Secretary may from time to time make such adjustments in allocations under this subsection, including the reallocation of any unused foreign country allocation, as may be necessary to meet changes in international supply or demand or to avoid hardship.

"(c) The Secretary may, in his discretion, reserve not more than 10 per centum of the quantity of a commodity available for export in order to meet unexpected increases in foreign demand resulting from natural disaster, crop failure, changes in existing trading patterns in that commodity, or other similar causes.

### "ISSUANCE OF EXPORT LICENSES

"SEC. 204. (a) Each year, at such time as he determines appropriate, the Secretary shall announce, in the case of each foreign country, the quota determined for such country for each commodity. At the same time the Secretary shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodity to specified countries.

"(b) Licenses for the export of any commodity in any year shall be sold to the highest responsible bidders unless the Secretary determines that the bids are too low or that there has been collusion among the bidders.

### "ADMINISTRATIVE REVISION OF QUANTITY AVAILABLE FOR EXPORT

"SEC. 205. The Secretary may revise upward or downward the quantity of any commodity previously announced as available for export in any year if he determines on the basis of new information that the quantity originally announced was erroneous or that the quantity originally announced should be revised for other reasons.

### "EXPORTS TO DEVELOPING COUNTRIES

"SEC. 206. The Secretary may issue a license to any exporter without the payment of a license fee if, after consultation with the Secretary of Agriculture, Secretary of State and the Secretary of the Treasury, he determines that (1) the license is for the export of a commodity to a developing foreign country with a serious balance of payments deficit, and (2) such action would be in the best interests of the foreign relations of the United States and would not adversely affect the regulatory program provided for in this title.

### "ADMINISTRATION

"SEC. 207(a) The Secretary is authorized to issue such rules or regulations as may be necessary to carry out the provisions of this title, including rules and regulations—

"(1) providing for the reduction, suspension, or termination of the allocation of any agricultural commodity made under this title to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this title;

(2) limiting or prohibiting the sale or transfer after issuance of export licenses issued under this title if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this title; and

(3) exempting from the application of this Act any agricultural commodity the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

(b) The authority conferred on the Secretary by this title shall not be executed without the approval of the Secretary of Agriculture.

### "USE OF FUNDS RECEIVED

"SEC. 208. Fees collected by the Secretary on export licenses issued under this title shall be deposited in a special account in the Treasury and shall be available without fiscal year limitation to help carry out the National School Lunch Act, the Child Nutrition Act of 1966, the Food Stamp Act of 1964, and the commodity distribution program provided for under section 416 of the Agricultural Act of 1949, except that not less than 10 per centum of such fees shall be available only for carrying out agricultural research and conservation program to increase agricultural productivity.

### "APPLICABILITY

"SEC. 209. This title shall be applicable to agricultural commodities harvested in calendar year 1974 and subsequent years."

Mr. STEVENSON. Mr. President, today I am joining the Senator from New York, (Mr. JAVITS) to introduce a bill to amend the Export Administration Control Act of 1969 and provide for the licensing of agricultural exports. The bill attempts to insure that sufficient supplies of agricultural products are available at home while at the same time insuring that we continue to supply both our traditional customers abroad as well as the people of developing nations. While I deplore the need to impose any restraints on the free flow of goods among nations and am firmly committed to the principle of free trade, I believe that the times have forced us to take what is admittedly difficult action.

Our Nation's farmers are the most productive in the world. In agriculture, as in many other fields, we enjoy tremendous human and natural resources. Because we are so blessed, we have a moral obligation to help feed the world's hungry. I also believe that to improve agricultural productivity, our balance of payments, and relations with friendly nations, we should make every effort to develop and affirm the Nation's stature as a reliable and consistent supplier of agricultural commodities.

The United States has an obligation to help feed the rest of the world. It should maintain its role as a dependable supplier of food abroad. But its first obligation is to assure food at reasonable costs for its own people. While the United States is the most prosperous nation in the world, many of our people still go to bed hungry. Skyrocketing prices for food are forcing more and more people to do without essential nutritional needs, or to allocate so much of their budgets to food as to leave little, if anything, for other necessities. Therefore, some action to insure that we have adequate supplies of food at reasonable costs at home without damaging our international interests must be taken.

The need for such action is fast approaching. At least 20 percent of this year's corn crop will be sold abroad, 60 percent of the wheat crop, and approximately 40 percent of the soybean crop. The unhappy fact is that the United States now has insufficient grains and other agricultural commodities to supply its own and the world's needs.

The bill which Senator JAVITS and I have introduced attempts to strike a balance between our domestic needs and foreign interests. The bill also attempts to insure that our farmers derive the benefits from foreign sales and are thus stimulated to greater productivity. License fees will be invested in greater agricultural productivity to benefit farmers and consumers, too.

The bill would accomplish these objectives by requiring the Secretary of Agriculture to estimate domestic needs for agricultural products each year, including a reasonable amount for carryover to build up domestic stocks and provide for disaster relief and other emergencies. The remainder in excess of estimated crop yields would be available for export.

Exports would be allocated among foreign countries on a quota system based upon past purchases and other criteria to insure fair and equitable treatment and protect the interests of traditional U.S. customers.

Licenses for sales to foreign countries under the quotas would be issued to the highest responsible bidders, and the proceeds would be deposited in a special Treasury account to help carry out the school lunch, child nutrition, food stamp, and surplus food program. No less than 10 percent of the proceeds would be allocated to agricultural research and conservation programs to increase agricultural productivity. To insure that food exports are available to needy, developing countries, license fees could be waived for exports to such countries.

The bill will help prevent such wheat deals as recently took place with the Soviet Union at the expense of the American farmer, consumer and taxpayer. In the past, the American taxpayer has subsidized sales of agricultural commodities abroad.

In the future, under this bill, exporters will pay for the opportunity to sell abroad.

Attempts to satisfy domestic needs through embargoes on agricultural products tend to be self-defeating, unfair to our farmers, and, in the long run, harmful to the overall interests of the United States. This bill offers an alternative.

I believe that action along the lines proposed in this legislation is needed and am confident it will receive prompt consideration in the Committee on Banking, Housing and Urban Affairs.

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By Mr. TAFT:

S. 2412. A bill to amend the Housing and Urban Development Act of 1970 to provide assistance to localities for the purpose of expanding, on a demonstration basis, choice in housing location for lower income families. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TAFT. Mr. President, today I am introducing the Demonstration Housing Location Act of 1973. This bill authorizes the Secretary of Housing and Urban Development to provide incentive money to those metropolitan areas which undertake promising demonstration programs designed to increase housing locational opportunities for lower-income families. Such programs should be structured to enable these families to afford housing within reasonable proximity to the major sources of employment in the area. The programs would also recognize the financial and social desirability of preventing excessive concentration of lower-income families in any particular neighborhood. This would be done by providing for location of housing for these families, in a manner calculated to avoid such concentration and to spread the financial responsibility for supporting necessary services among local jurisdictions.

I am proud to point out that the most advanced and comprehensive program of this type which is already underway involves the five-county area encompassing Dayton, Ohio. The Dayton plan, as it has come to be known, has as its goal the immediate expansion of the low- and moderate-income housing stock by 14,000 units. The unique feature of the plan, however, is that each of 32 planning units in the area was assigned a number of units calculated roughly by formula. Many jurisdictions have voluntarily undertaken the commitment to accept these units—their fair share—and provide supporting services. Well over 4,000 of these units have been completed, with perhaps 50 percent located outside of Dayton's city limits. Another 2,500 of these units are now in the pipeline, with over 70 percent of that number located outside Dayton.

There are several reasons why efforts to provide an improved locational distribution of low- and moderate-income housing should be encouraged at this time.

First, as Americans have moved to the suburbs, job opportunities have gone with them. From the post-war period through the middle 1960's the most recent period for which I have found figures, jobs of all types—wholesaling, retailing, services, and even manufacturing—increased in the suburbs even faster than population. Many low- and moderate-income citizens cannot take advantge of these opportunities, however, because the only housing which they can afford is often in or near the urban core area, located miles away from these jobs, many may not be able to afford a car, and the mass transportation to outlying areas is quite likely to be inadequate. In addition, they may not even hear about the suburban jobs in the first place. The result, just in terms of income foregone and increased need for Federal assistance by these people, is obvious.

This situation is not limited to poor blacks. Americans with incomes below the poverty line, and 77.5 percent of those presently living in housing lacking some or all plumbing, are whites. In addition, the lack of affordable housing within reasonable proximity to suburban employment is not just a problem for citizens with very low incomes. For example, a teacher or policeman who works in Fairfax County, here in the Washington area, is lucky if he can afford housing within miles of the community where his job is located.

In addition to the need for a balanced distribution of low-income housing so that our needy citizens can take better advantage of the changing location of jobs, it has become obvious that serious problems are created when the poor are all concentrated in the same area. Lower income citizens, almost by definition, demand much greater government services relative to the tax base which they provide than their more wealthy counterparts. Many may need quite extensive individual assistance—for example, with respect to education. This concentrated need puts a great burden on the local jurisdiction and can result in a deterioration of local services, if enough help is not provided.

Perhaps the worries most often expressed by jurisdictions asked to provide low- and moderate-income housing relate to the additional services needed and how they are to be supplied. This is a realistic worry in many cases. However, the other side of the coin is that some jurisdictions have long supported a disproportionate share of the housing effort. Citizens of these communities sometimes feel, understandably, that they are being treated unfairly. That concern was expressed quite well by Mr. James Ragland of the East Toledo Citizens' Committee, when he suggested to the Senate Housing and Urban Affairs Subcommittee in recent hearings that Toledo consider some kind of "fair share" housing plan. I also believe that it is the financial responsibility of all our citizens, regardless of whether they live in the suburbs or the city, to bear their fair share of the costs and responsibility involved as we attempt to help our needy citizens.

In many cities, the realities of land economics put additional weight behind the case for improving the locational distribution of supply of low- and moderate-income housing. Sites for new construction in or near urban core areas, where Federal subsidized housing programs have usually been operating in by far the greatest volume, can often be used only after expenses relating to both relocation and demolition are incurred. With these factors taken into account, land costs are sometimes considerably higher in such areas than in the outlying areas.

It appears, therefore, that there are several reasons other than simply expanding housing choices for lower income families which make the promotion of a more geographically sound housing strategy important. This is also a good idea from the standpoint of increasing employment opportunities for low- and moderate-income citizens, minimizing social problems due to overconcentration of the poor, bringing about a more equitable distribution of financial responsibility for the support of low- and moderate-income housing and minimizing development costs. This legislation would not force any metropolitan area to undertake a "housing dispersal strategy." However, it would provide HUD with some money to assist areas which want to try it.

The bill authorizes HUD to spend $20 million during fiscal 1973 and 1974 in this manner. These funds would be used as supplements to local funding and other Federal assistance, and the funds for any given year could not be distributed to fewer than three localities. All demonstration programs would be required to supply as reasonable a mix of family and elderly housing as practicable, taking into consideration the needs of the locality in question. Preference in funding would be given to programs in which a relatively large portion of the expanded housing supply would be affordable by families with income within public housing limits. HUD would be directed to expedite assistance under its other programs to participating localities when such actions would benefit the demonstration programs. The programs would have to address areawide housing needs rationally and effectively, consistent with the housing element of any comprehensive land use plan developed with section 701 HUD planning funds. HUD would make an annual report and recommendations to Congress with respect to the demonstration programs.

Because the purpose of the demonstrations is to find the most feasible and desirable method of expanding the housing locational opportunities for lower income families, HUD should test various uses of the demonstration money to find the most effective ones. Some examples of the ways in which the funds could be used, however, are to offset the cost to local jurisdictions of expanding services to accommodate population growth and an increased supply of low- or moderate-income housing; to improve security and counseling facilities and other services designed to assist the new occupants of the housing, and indirectly the surrounding community; to help pay for management and supervision of the housing program at the project, local and regional levels; and portions of land acquisition, demolition relocation costs.

I believe that demonstrations of this type could help us gather the information and experience needed to evaluate more fully our present Federal housing and community development policies and perhaps envision and implement major improvements. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows

S. 2412

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Demonstration Housing Location Act of 1973."

SEC. 2. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following:

"DEMONSTRATIONS WITH RESPECT TO HOUSING LOCATION"

SEC. 506. (a) The Congress finds and declares that—

"(1) There is a continuing need to expand the supply of housing in standard condition which lower income families can afford.

"(2) Federally assisted efforts to expand the supply of such housing in the past have been concentrated to a great extent in a few neighborhoods located in or near urban core areas.

"(3) Such efforts, therefore, have not greatly expanded housing locational opportunities for lower income families, many of whom can afford housing only in such neighborhoods.

"(4) The concentration of lower income families in these neighborhoods, which has often been facilitated by governmental policies, has compounded social problems in the neighborhoods, hastened neighborhood deterioration, and overburdened public services.

"(5) Such concentration has also placed an enormous financial burden on cities and states by increasing greatly the need for social services in these neighborhoods.

"(6) In the case of new housing construction, suitable sites are difficult or impossible to find in many urban core areas and often can be utilized only after demolition and relocation expenses are incurred.

"(7) New employment opportunities in many metropolitan areas are being created more rapidly in the areas surrounding urban core areas than in the core areas themselves, and lower income families who can only afford to live in or near urban core areas often cannot take advantage of these opportunities, which would increase the income of such families and may result in less dependence upon Federal assistance. Many lower income families who do take advantage of these employment opportunities in the areas surrounding urban core areas are not able to afford housing within reasonable proximity to their palces of employment.

"(8) For all of these reasons, the Federal government should encourage and assist metropolitan areas in undertaking demonstration programs designed to increase housing locational opportunities for families of lower income by conserving and expanding the supply of housing in standard condition affordable by such families, within reasonable proximity to major employment opportunities and located in a manner calculated to avoid excessive concentration in any particular neighborhood and to spread the financial responsibility for supporting necessary services among local jurisdictions.

"(b) Programs undertaken by the Secretary under section 501 may include grants by the Secretary in accordance with the provisions of this section to general purpose local governments, or local public agencies designated by such governments or by regional combinations of such governments, to demonstrate the feasibility of providing assistance for the purpose of increasing housing locational opportunities for lower income families by conserving and expanding the supply of housing in standard condition affordable by such families, in areas which are located reasonably near major employment opportunities and which are dispersed to avoid excessive concentration and to spread the responsibility for supporting services among several localities. Such grants may be made for the planning and implementation of the following activities:

"(1) The maintenance, improvement, or expansion of public services furnished by localities in order to serve adequately the increased supply of housing for lower income families and the families themselves, as well as the other residents of the localities.

"(2) Providing, upgrading, or improving social services related to housing for lower income families, including security and counselling services.

"(3) Increasing the efficiency and improving the management and supervision at the project, local, and regional levels of programs and services designed to provide increased housing opportunities for lower income families.

"(4) The payment of such portions of reasonable and necessary land acquisition, demolition or relocation expenses as the Secretary deems appropriate.

"(5) Such other activities as the Secretary may approve, taking into account the purposes of this section.

"(c) The Secretary in making grants under this section, shall—

"(1) Give a preference to activities and demonstration programs designed to benefit substantially families whose incomes would make them eligible for housing assistance under the United States Housing Act of 1937;

"(2) Require localities to carry out demonstrations designed to expand housing opportunities in such a manner that the needs of both the elderly and lower income families are considered and accommodated to the extent practicable; and

"(3) Require that demonstration programs undertaken pursuant to this section address rationally and effectively the housing needs of lower income families on a regional or areawide basis, consistent with any housing element of a comprehensive land use plan which has been developed pursuant to the provisions of section 701 of the Housing Act of 1954.

"(d)(1) The amount of any grant under this section may not exceed the actual cost incurred by a locality in carrying out the activities referred to in subsection (b).

"(2) Not more than one-third of the aggregate amount of grants made under this section in any fiscal year may be made to any one locality.

"(3) None of the funds available under this section may be used to make expenditures for which other Federal funds are available.

"(e) To the maximum extent practicable the Secretary shall expedite the provision of such assistance authorized under other provisions of law administered by him as he deems necessary and appropriate to further the progress of demonstration programs undertaken pursuant to this section.

"(f) There are authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending June 30, 1974. Any amount so appropriated shall remain available until expended. Any amount authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1975.

"(g) The Secretary shall transmit annually to the Congress a report on demonstrations carried out with assistance under this section, and shall include in such report such recommendations as he deems appropriate to further the purposes of this section."

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By Mr. MONDALE (for himself, Mr. STEVENSON, Mr. JAVITS, Mr. ABOUREZK, Mr. CASE, Mr. GRAVEL, Mr. HUMPHREY, Mr. KENNEDY, Mr. McGEE, Mr. MOSS, Mr. PASTORE, and Mr. WILLIAMS):

S. 2414. A bill entitled "Elementary and Secondary Education Assistance Act of 1973." Referred to the Committee on Labor and Public Welfare.

ELEMENTARY AND SECONDARY EDUCATION ASSISTANCE ACT OF 1973

Mr. MONDALE. Mr. President, I am pleased—on behalf of myself and Senators STEVENSON, JAVITS, ABOUREZK, CASE, GRAVEL, HUMPHREY, KENNEDY, McGEE, MOSS, PASTORE, and WILLIAMS—to introduce the Elementary and Secondary Education Assistance Act of 1973.

Elementary and secondary education in this country is in desperate financial condition. In his state of the Union message to Congress 2 years ago, President Nixon put it this way:

> In recent years the growing scope and rising cost of education has so overburdened local revenues, that financial crisis has become a way of life for many school districts.

Over 50 million American school children and over 2 million teachers are condemned to the way of life the President has described.

This financial crunch has shut teachers out of work, increased class size, slowed new school construction and renovation of existing schools. It has stifled innovative approaches, and slammed the door in the face of parents and educators who are looking for solutions and who can make progress if they have the chance.

As Dr. Mark Shedd, then Philadelphia, Pa., school superintendent, testified to the Senate Select Committee on Equal Educational Opportunity:

> The simple fact is that at a time when we should be bolstering urban education with new expertise, new programs and new enthusiasm to meet the critical problems that face us, we are constantly cutting back, spending most of our time trying to stem the fiscal flow with bandaids and looking back over our shoulders at the specter of bankruptcy. Perhaps the worst part is the psychological impact on the school district staff as budget cut piles on budget cut, and firings and demotions are the order of the day.

Non-Federal contributions to public elementary and secondary education rose by 37 percent in the 4 fiscal years from 1970 through 1973—reaching a total of nearly $50 billion. And State and local expenditures for education are increasing more rapidly than State and local expenditures as a whole—placing a growing burden on overall public service budgets.

Yet during the same 4-year period the Federal share of education support has actually declined from 7.8 percent in 1970 to 6.2 percent in 1973. Annual Federal expenditures increased by only $294 million—less than 10 percent—over 4 years, to a total of $3.3 billion. Incredibly, education failed even to keep pace with the overall growth in the Federal budget, and Federal education expenditures actually declined last year.

The problems of education finance are not simply a matter of inadequate resources. They are compounded by the wide disparities in financial ability which exist among States, and among school districts within the same State. In 1970–71, per pupil expenditures in Alabama were only $489—far below the national average of $858, and still farther below the level of many States. And expenditures levels within States vary even more widely—in California, for example, school district expenditures in 1969 ranged from a low of $569 to a high of $2,414 per pupil.

In deciding the landmark case of San Antonio Independent School District against Rodriquez in March of this year, the Supreme Court ruled that States have wide discretion to permit continuation of the present inequitable system, or to take action for reform. In the words of Mr. Justice Powell's opinion for the Court:

> The ultimate solutions must come from the lawmakers and the democratic pressures of those who elect them.

Many States are responding to the challenge. A number of States—including Minnesota, Florida, Maine, California and Utah, have enacted comprehensive school finance reforms. The legislatures of other States are now at work. And surely the Federal Government should now meet its responsibilities as well.

The bill which we introduce today moves to meet those Federal obligations. The bill,—which closely follows the recommendations of the Select Committee on Equal Educational Opportunity—would:

Authorize over $4 billion annually in general education aid to States and school districts, with a matching 20 percent State contribution.

Require that these new funds be used by States to reduce disparities in per pupil expenditures among school districts, without lowering expenditures in any district;

Provide urban school districts with sufficient funds to meet the higher cost of education in central cities;

Leave States and local school districts free to determine use of funds.

And our proposal does not simply shift and relabel funds for categorical programs.

Existing programs—such as ESEA title III, for innovation and experimentation; title VI, bilingual education; title VIII, dropout prevention; and title II, libraries will be retained. ESEA title I for the education of the disadvantaged, not only will be retained, but will receive further protection. No funds will be available under this new bill until and unless title I receives at least the same level of funding as during fiscal year 1974.

With exception of only two existing categorical programs—ESEA title V, State department of education; and NDEA title III, science and math—which would be replaced only when this new program is fully funded or incorporated as an earmark in this new bill—our proposal supplements existing programs rather than replacing them.

Our bill recognizes that more money is necessary. It also recognizes that more money alone will not insure improvements in the quality of education.

Too many children are not now acquiring the basic skills necessary for full participation in American life—and too many others fall far short of reaching their intellectual potential. Additional resources for their schools will help. But more is needed than simply increased funding.

For that reason, our proposal includes an experimental voluntary bonus plan to encourage improvements in the quality of education. It will provide financial rewards to school districts that are successful in upgrading the reading and math achievements for disadvantaged children.

We do not pretend to have all the answers. I hope that our proposal will receive thorough review from the Congress, from organizations representing parents and educators, and from individual teachers, parents, administrators, and students; and I know that this review will lead to a stronger bill.

Passage of comprehensive school finance legislation is, I believe essential to the continued vitality of our public schools. As the report of the President's Commission on School Finance said:

> The system which has served our people so long and so well is, today, in serious trouble, and if we fail to recognize it, our country's chance to survive will all but disappear.

Mr. President, I ask unanimous consent that a summary and the text of the Elementary and Secondary Education Assistance Act be printed at this point in the RECORD.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

### S. 2414

A bill Elementary and Secondary Education Assistance Act of 1973

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Elementary and Secondary Education Assistance Act of 1973".

SEC. 2. It is the purpose of this Act: (1) to provide increased financial resources of elementary and secondary education; (2) to redress inequitable distribution of resources for elementary and secondary education among States and among local educational agencies within the States; and (3) to improve the educational achievement of educationally disadvantaged elementary and secondary school students and (4) to relieve the pressure for property tax increases to support rising education costs.

### TITLE I—GENERAL GRANTS FOR ELEMENTARY AND SECONDARY EDUCATION GRANTS AUTHORIZED

SEC. 101. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the federal share of the cost of grants to local educational agencies and for other elementary and secondary education programs and activities. There are authorized to be appropriated to the Commissioner, for the purpose of carrying out this title, $4,500,000,000 annually for the fiscal year ending June 30, 1974, and for each of the two succeeding fiscal years: *Provided,* That no funds are authorized to be appropriated to carry out the provisions of this title for any fiscal year in which the funds appropriated for title I of the Elementary and Secondary Education Act of 1965 are not at least equal to the funds appropriated for such program for the fiscal year ending on June 30, 1974.

(b) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act (with the exception of appropriations for the fiscal year ending June 30, 1974) are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(c) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Commissioner shall reserve:

(1) $50,000,000 plus an amount equal to 1 per centum of sums appropriated pursuant to subsection (a) for such year, for the purposes of section 106(c);

(2) 5 per centum for the purposes of section 106(b);

(3) 2 per centum for Office of Education expenses of administration and evaluation, of which not less than 1 per centum shall be expended for evaluation of activities under this title by qualified persons or institutions other than the Department of Health, Education, and Welfare or recipients of assistance under section 106.

### APPORTIONMENTS AMONG STATES

SEC. 102. (a) Of the sums appropriated under section 101(a) for any fiscal year which are not reserved under section 101(b), the Commissioner shall apportion not more than 3 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territories of the Pacific Islands, according to their respective needs for assistance under this title.

(b) From the remainder of such sums for any fiscal year, the Commissioner—

(1) shall apportion to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children, aged five to seventeen, inclusive, in such State bears to the number of such children in all States;

(2) shall apportion to each State an amount which bears the same ratio to 17⅓ per centum of such remainder as the need index for such State bears to the total of the need indexes of all States;

(3) shall apportion to each State an amount which bears the same ratio to 17⅓ per centum of such remainder as the resource index of such State bears to the total of the resource indexes of all States.

(4) Shall apportion to each State an amount which bears the same ratio to 17⅓ per centum of such remainder as the local property tax index of each State bears to the total of property tax indexes of all States.

(c) The apportionment of any State which declines to participate or fails to meet the qualifications set forth in sections 104 and 105 of this title for the period such apportionment is available, shall be reapportioned from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original apportionment to such States under subsection (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner determines such State needs and will be able to use for such period for carrying out such portion of its State application approved under this Act, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (b) for such year.

(d) For the purposes of this section—

(1) the term "need index of a State" for any fiscal year shall mean the product of the inverse of that State's personal income per child, adjusted, according to criteria developed by the Bureau of Labor Statistics of the Department of Labor, for regional differences in purchasing power, and the number of children, aged five to seventeen, inclusive, in such State;

(2) the term "resource index of a State" for any fiscal year shall mean the total expenditures from State and local sources for public elementary and secondary education and from Category A of Public Law 874 ending in the calendar year ending in the fiscal year preceding the fiscal year for which the computation is made in such State, divided by the total personal income, for such calendar year in that State, and multiplied by the number of children in that State aged five to seventeen, inclusive;

(3) the term "local property tax index of a State" for any fiscal year shall mean the amount of revenue raised from local taxes on real property for expenditure on public ele-

mentary and secondary education, divided by the total expenditure from State and local sources for public elementary and secondary education, and multiplied by the number of children in that State aged five to seventeen, inclusive;

(4) the term "personal income of a State" for any fiscal year shall mean the total personal income for such State in the calendar year ending in the fiscal year preceding the fiscal year for which the computation was made;

(5) the term "personal income per child of a State" for any fiscal year shall mean the total personal income for which State in the calendar year ending in the fiscal year preceding the fiscal year for which the computation was made, divided by the number of children, age five to seventeen, inclusive, in such State;

(6) for the purpose of subsections (a) and (b) of this section, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific Islands;

(7) In calculating the resource index for the District of Columbia, total expenditures from State and local sources for public education shall include expenditures from the Federal payment. The resource index for the District of Columbia shall be no smaller than the smallest resource index for any other State.

### DISTRIBUTION OF RESOURCES AMONG LOCAL EDUCATIONAL AGENCIES

Sec. 103. (a) Any State desiring to receive financial assistance under this title for any fiscal year shall submit a plan for use of its apportionment under section 102(b), in conjunction with State and local resources, to reduce disparities in per pupil expenditures among local educational agencies within such State so that in such fiscal year:

(1) each local educational agency within such State shall have a per pupil expenditure for elementary school students not less than 80 per centum of the target per pupil expenditure for elementary school children in such State, and each local educational agency serving an urban center shall have a per pupil expenditure for elementary school students not less than 100 per centum of the target per pupil expenditure for elementary school children in such State;

(2) each local educational agency within such State shall have a per pupil expenditure for secondary school students not less than 20 per centum of the target per pupil expenditure for secondary school students in such State, and each local educational agency serving an urban center shall have a per pupil expenditure for secondary school students not less than 100 per centum of target per pupil expenditures for secondary school students in such State.

(b)(1) For any State, the target per pupil expenditure for any fiscal year for elementary school children shall be the per pupil expenditure for elementary school children during the previous fiscal year of that local educational agency within such State with a per pupil expenditure for elementary schoolchildren exceeded by no more than 10 per centum of the local educational agencies in the State:

(2) For any State the target per pupil expenditure for any fiscal year for secondary school students shall be the per pupil expenditure for secondary school students during the previous fiscal year of that local educational agency within such State with a per pupil expenditure for secondary school students exceeded by no more than 10 per centum of the local educational agencies in the State;

(3) For purposes of this section, "urban center" shall mean the central city of standard metropolitan statistical area; and "local educational agency serving an urban center" shall mean a local educational agency serving not less than one-third of the children in an urban center, and serving no fewer than twenty-five thousand students; and

(4) The number of children, aged five to seventeen, inclusive of a State and of all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) Prior to receiving its apportionment under this title in the second year and each year thereafter, each State shall present data to the Commissioner demonstrating that, in the previous year, all local educational agencies in the State had per pupil expenditures above the required level for elementary and secondary school children respectively, as set forth in section 103(a). Any State unable to meet the requirement set forth in the preceding sentence and desiring to continue participating under this title shall, prior to receiving its apportionment, submit a new application as set forth in subsection (a), except that no State shall receive an apportionment if it fails for two consecutive years to meet the requirements set forth in the preceding sentence, until such year as the requirement shall have been met during the preceding year.

(d) Funds apportioned to a State under section 102(b) and not allocated to local educational agencies in order to meet the target levels set forth in subsection (a), shall be distributed by apportioning to each local educational agency:

(1) an amount which bears the same ratio to 50 per centum of such unallocated funds as the average daily membership of that local educational agency bears to the average daily membership of all local educational agencies in the State; and

(2) an amount which bears the same ratio to 50 per centum of such unallocated funds as the number of children in low-income families (as defined in sections 103 (c) and (d) of the Elementary and Secondary Education Act of 1965) residing in that local educational agency bears to the total of such famiiles in the State.

### STATE APPLICATIONS

Sec. 104. (a) The chief State officer of any State desiring to participate under this title shall submit annually to the Commissioner an application in such detail and containing or accompanied by such information as the Commissioner deems necessary, which provides satisfactory assurances—

(1) that the State will pay from nonfederal sources, a State share equal to 20 per centum of the costs of grants, programs, and activities undertaken by the State pursuant to this Act.

(2) that the State will make payments under this title only to local educational agencies which have satisfied the provisions of section 105(a) where applicable, and will in all respects comply with the provisions of this title, including the rejection of any application which does not meet the obligations imposed upon a local educational agency under section 105(a);

(3) that the State will, to the extent consistent with State law, meet the requirements of paragraph (2) of secion 105(a);

(4) that the State will distribute State and Federal financial assistance to local educational agencies within the State so as to insure that the requirements of section 103 are met; and

(5) that such fiscal control and fund accounting procedures, in accordance with criteria established by the Commissioner by regulation, will be adopted to assure (A) proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title and (B) that Federal funds received under this title are not commingled with State funds;

(6) that the State will make available to the Commissioner (A) annual reports, which shall include the results of objective measurements required of local educational agencies by paragraph (4) of subsection 105, annual reports of local educational agencies required to carry out paragraph (5) of subsection 105, descriptions of the purposes for which payments under this title were utilized, and evaluation of the effectiveness of payments under this title and of other Federal payments expended pursuant to the Elementary and Secondary Education Act of 1965, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title;

(7) that the State will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports; and

(8) that the State will make application, reports, and all documents pertaining thereto readily available to the public.

(b) Each State shall reserve a portion of its apportionment which bears the same ratio to such apportionment as the number of children, aged five to seventeen, enrolled in private nonprofit elementary and secondary schools bears to the number of children, aged five to seventeen, enrolled in private and public elementary and secondary schools. The funds set aside by this subsection shall be used only for the purposes set forth in section 105(a)(2)(A).

(c) If a State is not authorized by law to provide the programs and activities set forth in subsection (b) of this section, if a State does not pay out the full portion of the funds set aside under subsection (b) of this section, the unused funds shall revert to the Commissioner for use as set forth in section 105(c) without regard to the provisions of section 101 or 102.

(d) The Commissioner shall not approve an application unless it meets the requirements of this section and section 103, but he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

### LOCAL EDUCATIONAL AGENCY APPLICATIONS

Sec. 105. (a) A local educational agency may receive a grant from the appropriate State educational agency under this title for any fiscal year only upon an application approved by the appropriate State educational agency, upon its determination consistent with such basic criteria as the Commissioner may establish—

(1) that the programs and activities for which the assistance is sought will be administered by or under the supervision of the applicant;

(2)(A) that, to the extent consistent with the number of children in the school district of the local educational agency who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with appropriate private school officials, will make provisions for the benefit of such children in such schools of secular, neutral, and nonideological educational services, materials, and equipment, including such facilities as necessary for their provision, consistent with subparagraph (B) of this paragraph, or, if such are not feasible or necessary in one or more of such private schools as determined by the local educational agency after consultation with the appropriate private school officials, such other arrangements, as dual enrollments, which will assure adequate participation of such children; except that no provision shall be made for the benefit of children attending a private school operated on a racially segregated basis as an alternative to persons seeking to avoid attendance in desegregated public schools, or which otherwise practice discrimination on the basis of race, color, or national origin;

(B) that the control of funds provided under this section and title to property acquired therewith shall be in a public agency for the uses and purposes provided in this section, and that a public agency will administer such funds and property; and that the provision of services pursuant to subparagraph (A) shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services, is independent of such private school and any religious organization, and such employment or contract shall be under the control and supervision of such public agency;

(3) that local educational agencies receiving grants under this title shall maintain their previous year's per pupil expenditures from local sources; except that, with the approval of the appropriate chief State school officer, additional State funds for general education support may be used to replace an equal amount of locally raised funds;

(4) that effective procedures pursuant to criteria established by the Commissioner by regulations will be adopted for evaluating at least annually the effectiveness of the local educational agency's programs and activities in meeting educational needs of its students;

(5) that the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, which annual report shall include school-by-school information relating to educational achievement, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(6) that applications, reports, and all documents pertaining thereto shall be made available to parents and other members of the general public, and that all evaluations and reports required under paragraph (5) shall be public information, except that information relating to the performance of an individual student shall in no circumstances be made public; and

(7) that the local educational agency will cooperate with the appropriate State educational agency in carrying out the provisions of this title.

(b) The State shall not finally disapprove in whole or in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

(c) In the case of a local educational agency which is located in a State in which no State agency is authorized by law to provide, or in the case in which there is a substantial failure by a local educational agency approved for a program or activity under this section to provide the educational services and arrangements set forth in subparagraph (2)(A) of subsection (a) on an equitable basis to children enrolled in private nonprofit elementary or secondary schools located in the school district of such agency, the Commissioner shall arrange for the provision, on an equitable basis of such services and arrangements and shall pay the costs thereof for any fiscal year from funds which have reverted to him pursuant to section 104(c). The Commissioner may arrange for such programs through contracts with institutions of higher education or other competent nonprofit institutions or organizations.

(d) In the case of a local educational agency which has submitted no application for funds under this section, or whose application for funds is disapproved, the State, in consultation with appropriate private school officials, shall make arrangements for carrying out the provisions of subparagraph (2)(A) of subsection (a) in that district, except that if the circumstances set forth in subsection (c) of section 104 obtain, then the Commissioner shall make such arrangements as that subsection authorizes.

### PAYMENTS

SEC. 106. (a)(1) The Commissioner shall pay to each State which has established eligibility under sections 103 and 104, in advance or by way of reimbursement, the amount of such State's apportionment under section 102.

(b) From funds reserved pursuant to section 101(b)(2), the Commissioner shall pay an additional 5 per centum of its apportionment under section 102 to any State for any fiscal year in which such State conducts a comprehensive assessment, pursuant to criteria established by the Commissioner by regulation, of the quality and equality of public elementary and secondary educational programs and opportunities within its jurisdiction which shall include, but shall not be limited to, an analysis of educational achievement by school, and an evaluation of the effectiveness of school programs within the State in meeting the educational needs of children from varying social and economic backgrounds, including the special educational needs of minority groups, bilingual and educationally disadvantaged children. Such funds may be expended to support the costs of such assessment, including costs of administration and distribution; remaining funds shall be expended in accordance with subsection (c). Funds reserved for use under this subsection but not alloted shall revert for use as specified in section 102(b).

(c) From funds reserved pursuant to section 101(b)(1), the Commissioner is authorized to pay each State an amount equal to the amount expended by such State for the proper and efficient performance of its duties under this title, for provisions of technical assistance to local educational agencies within its jurisdiction, and for model innovative programs designed to increase academic achievement of educationally disadvantaged children.

(d) From funds paid pursuant to subsection (a), each State shall distribute to each local educational agency which has submitted an application approved under section 105(a) the amount for which such application shall have been approved.

(e)(1) No payments shall be made under this title to any State for any fiscal year in which per pupil expenditures for elementary and secondary education (as determined in accordance with criteria established by the Commissioner by regulation) for the preceding year from State sources (but excluding any funds received from the Federal Government) and also excluding the payment of the State share for grants, programs, and actiivties undertaken pursuant to this Act are less in such State than such expenditures for the second preceding fiscal year.

(2) No State shall make payments under this title to any local educational agency for any fiscal year in which current per pupil expenditures from local sources are less than such expenditures for the preceding fiscal years, except where, with the approval of the chief State school officer, additional State funds for general education support have been used to replace an equal amount of locally raised funds.

(f) Whenever the Commissioner, after reasonable notice and opportunity for hearing, finds that a recipient of financial assistance under this title—

(1) is in noncompliance with the provisions of this Act; or

(2) has knowingly given false assurances or has not made a good faith effort to establish the accuracy of such assurances, the Commissioner shall notify such recipient of his findings and no further payments shall be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this Act which are not involved in any noncompliance.

### JUDICIAL REVIEW

SEC. 107. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 103 or 104, or with his final action under section 106, such State or local educational agency may within sixty days after notice of such action file with the United States court of appeals for the circuit in which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of the proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### PROHIBITIONS AND LIMITATIONS

SEC. 108. (a) Nothing contained in this title shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(b) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for the construction of facilities as a place of worship.

### ADMINISTRATION

SEC. 109. (a) The Commissioner may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to use the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

### TERMINATION OF PROGRAMS

SEC. 110. (a) Effective July 1, 1973, title V of the Elementary and Secondary Education Act of 1965 is repealed.

(b) Title III of the National Defense Education Act of 1965 is repealed effective the first fiscal year following enactment of this Act in which funds appropriated under section 101(a) for that year equal funds authorized to be appropriated for that year.

### DEFINITION

SEC. 111. (a) "Per pupil expenditure" means, for any State or local educational agency, the aggregate current expenditure for elementary and/or secondary education during the fiscal year divided by the number of children in average daily membership to whom such agency has provided free public education. Except for purposes of section 102, such expenditure shall not include the cost of transportation, health, maintenance or construction of physical facilities, or activities related to compensatory education or education of the mentally retarded or physically handicapped, as defined pursuant to criteria established by the Commissioner, nor any financial assistance received by State or local educational agencies under title I of the Elementary and Secondary Education Act of 1965.

(b) for the purposes of this title, the term "State" shall include the District of Columbia.

(c) the Federal share for any fiscal year shall be equal to 80 per centum of the cost of grants, programs and activities undertaken pursuant to this title.

### TITLE II—EXPERIMENTAL ACHIEVEMENT PROGRESS TEST

SEC. 201. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"SEC. 812. (a) After consultation with the Director of the National Institute of Education, the Commissioner is authorized and directed, on an experimental basis, to conduct, either directly or by way of grant, contract or other arrangement, a program to demonstrate the feasibility of administering achievement progress tests in reading and mathematics to be given by local educational agencies within a State to the elementary and secondary school children in the schools of such agencies, in order to provide financial assistance to such agencies, in accordance with this Act, based upon the improvement reflected in such achievement progress tests.

"(b) The Commissioner may conduct or provide for the conduct of such achievement progress tests in not more than 15 local educational agencies upon application by such districts. The Commissioner shall select the local educational agencies in which to conduct the experimental programs authorized by this Act so as to assure a wide geographical representation throughout the United States, and an appropriate range of size and types of participating school districts.

"(c) The achievement progress tests in reading and mathematics shall be approved by the Commissioner and shall be administered to the elementary and secondary school children not later than June 1 in each year.

"(d) In carrying out the program authorized by this section, the Commissioner shall establish a minimum satisfactory performance score for elementary and secondary school children for each appropriate grade. In establishing the minimum satisfactory performance score, the Commissioner shall consider the objective to be the necessary progress to enable each such elementary or secondary school child to be able to read and calculate well enough to function as a self-sufficient individual in American society.

"(e) For each fiscal year beginning after June 30, 1974, the Commissioner is authorized to make a payment to the local educational agency in which an achievement progress test in reading and mathematics is being conducted as follows: The amount of such payment to a local educational agency participating in the program under this section shall be equal to an amount not to exceed $300 for each unit of improvement, by an elementary or secondary school child whose score on the achievement progress test in the year preceding the year for which the determination is made was below the minimum performance score set under subsection (d) of this section, the most recent achievement progress test as compared to the test given in the preceding year: *Provided, however*, That the average of payments for all participating local educational agencies not exceed $200 nor be less than $150 for each such unit of improvement. Payments made under this subsection may be used for any educational program or activity conducted by the schools of the local educational agencies participating in the program under this section.

"(f) No grant may be made and no contract may be entered into under this section unless an application is made to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

"(g) (1) Each fiscal year, the Commissioner shall be authorized to make whatever arrangements are appropriate for conducting achievement progress tests in reading and mathematics of children attending nonpublic elementary and secondary schools in areas under the jurisdiction of the local educational agencies participating in programs under this section.

"(2) For fiscal years beginning after June 30, 1974, a payment may be made to an appropriate local educational agency for additional special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile education services and equipment) for children attending private elementary and secondary schools who have participated in the program authorized by this subsection. No such payment shall exceed the amount payable under subsection (e) of this section per child for each eligible child participating in the program under this subsection.

"(h) In conducting the program under this section, the Commissioner shall not permit the disclosure of any individual achievement progress test score obtained under this section, except to the parents or guardians of any such child, but the Commissioner shall disclose aggregate achievement progress test scores in order to carry out the provisions of subsection (i).

"(i) Not later than June 30, 1975, and again not later than June 30, 1976, the Commissioner shall prepare and submit to the President and the Congress a detailed and complete report of the administration of the experimental program authorized by this section, together with such recommendations, including recommendations for additional legislation, as he deemes appropriate.

(j) There are authorized to be appropriated to carry out the provisions of this section such sums as may be necessary.

### TITLE III—AMENDMENT TO GENERAL EDUCATION PROVISIONS ACT

SEC. 301. Section 422 of the General Education Provisions Act. "Prohibition Against Federal Control of Education" is amended by striking out the word "or" and by adding immediately before the word "shall' a semicolon and the following: "or the Elementary and Secondary Education Assistance Act of 1973."

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## FACT SHEET ON ELEMENTARY AND SECONDARY EDUCATION ASSISTANCE ACT OF 1973

Sets forth four purposes: (1) provide increased financial resources for elementary and secondary education, (2) redress inequitable distribution of educational resources among school districts within a state, (3) improve educational achievement of educationally disadvantaged children, and (4) relieve the pressure for property tax increases to support rising education costs.

### TITLE I

Authorizes $4.5 billion annually for elementary and secondary general education grants to states (more than $4.25 billion of which is new money). Funds available to states on an 80–20 matching basis.

Apportions funds among states on the basis of school-aged population, need, tax effort for education, and reliance on sources other than the local property tax as a means of raising revenue for education.

Specifies that, in order to receive funds, a state must submit annually a plan showing how it will distribute the funds, in conjunction with state and local resources, to assure that every school district will spend at least 80% of a target per pupil expenditure. Big city school districts, where the cost of education is higher, will spend 100% of the target expenditure.

The target expenditure for each state is the per pupil expenditure the previous year of the school district in that state at the 90th percentile in per pupil expenditure.

The effect is to place a floor under the per pupil spending of all school districts in the state while still permitting any school district to spend as much as it wishes.

Federal general education grants above the amount necessary to meet above criteria will be allocated by the state to local school districts—50% on the basis of student enrollment and 50% on the basis of low-income population.

Local school districts receive funds, which may be used for any educational program or purpose, through state education agencies.

Funds must be provided for benefit of students attending private non-profit schools for secular, neutral, and non-ideological educational services, materials, and equipment (language from most recent Supreme Court decision relating to aid to children attending private schools).

Includes maintenance of effort requirements on both state and local education agency recipients—but provides state may assume all or part of LEA responsibility.

Requires that achievement program by school be made public, protecting individual test scores from disclosure, and provides state with 5% bonus if it adopts or has adopted a comprehensive assessment program including an analysis of academic achievement by school and other appropriate factors specified by the Commissioner of Education.

Terminates present ESEA Title V (Aid to improve state education offices) but sets aside greater amount of funds for similar purposes.

Terminates Title III (grants for equipment and minor remodeling) upon full funding of the Act.

Safeguards existing compensatory education programs under Title I, ESEA by requiring at least continued funding at FY 1974 levels.

### TITLE II

Sets up an education achievement grant experiment for no more than 15 school districts. Experiment will be carefully evaluated to determine whether the concept can be extended to a national program.

Districts selected to participate would give annual tests in reading and math to all Title I ESEA students in the State. A school district would receive a $150 Achievement Progress bonus for each Title I student whose test score showed achievement progress of at least one year. The achievement progress bonus could be used by the school district for general education aid. Receipt of funds under the present Title I program would not be affected by the new program.

Protects individual test scores from disclosure except to parents, but requires public disclosure of test scores aggregated by school, local education agency and State.

Authorizes for appropriation such sums as may be necessary.

**Mr. STEVENSON.** Mr. President, as a people we have always believed that every child should be provided with an equal opportunity to succeed in society. Everyone should start the race from the same starting line. The most fundamental manner of assuring that the race is fair has been through our public education system. The oft-stated goal of that system has been to provide every child with quality education in an environment which encourages learning.

The reality is otherwise. Too often the quality of a child's education is determined by nothing more than an accident of geography.

Children in wealthy communities attend small classes in modern, well-maintained schools. Their schools have special programs to suit the needs and interests of every child. They are stocked with the latest educational instructional equipment. And they are safe to attend.

Children in nonwealthy communities too often attend schools which are run down and deteriorated. There are not enough teachers to pay attention to the important needs of individual children. The equipment is old and sometimes there is not enough to go around. And too often the school and its surroundings inspire fear for the child's personal safety.

Such a situation cannot continue if we are serious about our commitment to equal education. There are those who would have us believe that the most important educational issue facing us is whether to bus children. The real issue is whether we are willing to assure a quality education for every American child regardless of where he lives or attends school.

The Supreme Court has now ruled that the Constitution does not forbid a system in which the quality of education is dependent upon the wealth of a community. But the Court also added that the need for reform in our system of financing education was apparent. In short the Court said:

> Our education system—and particularly its financing—must be reformed, but it is up to Congress and the state legislatures to accomplish that rather than the courts.

Reform is necessary because of the present overdependence on local property taxes to finance public education. As a result, educational disparities are perversely distributed: weathy communities are able to spend more to educate their children than are poorer, more needy communities. In my own State of Illinois, per pupil expenditures by school districts range from a high of $1,740 to a low of $580.

Simply increasing the amount of money spent per student, however, does not guarantee that students will receive a better education. More money, more equitably distributed, is necessary, but money in itself is not enough. Parents have become vocal in their dissatisfaction with the education in our schools. Too many children do not learn the basic skills necessary for meaningful participation in American life, and many children fall far short of reaching their intellectual potential.

I am today introducing with Senators MONDALE and JAVITS legislation to assure that the quality of a student's education is not an accident of geography. The legislation is similar to legislation we submitted during the last session of Congress.

Our bill does not provide all the answers—but it heads in the right direction. It consists of two parts. The first is a new program of general education assistance to States, while the second part provides for a small scale experiment to make title I of ESEA more effective.

The general assistance program would provide States with an additional $4 billion annually for elementary and secondary education—more than doubling the amount the Federal Government now spends for all elementary and secondary education programs. States would have to match Federal dollars on an 80–20 basis, so the program would actually increase total spending for education by more than $5 billion. The present programs with the exception of impact aid are all categorical. Federal funds are earmarked for specific purposes and cannot be used by school districts as they see fit to offset rising operating costs or meet locally determined priorities. Our proposal would terminate two categorical programs which together now account for $150 million in annual Federal expenditures.

States will be able to use the new general assistance funds for any educational purpose including, of course, purposes now served by categorical programs being eliminated—title V of ESEA—grants for State school superintendents' offices and title III of NDEA—grants for equipment and minor remodeling.

The general assistance funds would be distributed by formula to each of the State education agencies. The formula for distribution of Federal funds among the States would be based upon State effort, State capacity, the total number of school-aged students, and the reliance on the property tax in raising revenue for public education—those States which place less reliance on the property tax receiving relatively more Federal assistance. A portion of each State's allotment would be set aside to assure that nonideological, nonreligious educational services would be provided to students attending nondiscriminatory private schools. States with comprehensive educational assessment programs would receive an additional 5 percent above their formula allotment.

States would be prohibited from distributing any general grant-in-aid funds to school districts or private schools which discriminate. Federal funds could not be commingled with State or local funds.

A State would have to meet one basic condition before receiving any funds under this new general aid program. It must submit a plan showing how it will reduce the gross disparities in per pupil expenditures which exist among the various school districts within the State. The plan may utilize any financial system the State wishes, including the use of the Federal general assistance funds for this purpose.

The Federal Government would not mandate, review or even suggest the means by which a State should reduce these disparities. The Federal Government's role would be confined to determining annually whether disparities were within the range clearly set forth in the legislation. If in any year after the first year in which the State received general aid funds, disparities were not within the permissible range, a State would not be eligible for general assistance funds for the next year unless it resubmitted a plan showing how disparities would be reduced. If the disparities were still not reduced to within the permissible range after that year, the State would not be eligible for future general assistance funds until the disparities were within the permissible range.

Let me explain how the permissible range of disparities would be determined. In any year, a State would have to guarantee that the per pupil educational expenditure of every elementary and secondary school district within the State would be at least 80 percent of a target per pupil expenditure level. Large city school districts, because of the higher cost of purchasing educational services within large cities, would have to spend at the full target level. The target per pupil expenditure level would be defined as the per pupil expenditure level during the previous year of the school district whose per pupil education expenditures that year were exceeded by only 10 percent of the other school districts in the State.

This standard would set a reasonable floor, but not a ceiling, on a school district's per pupil expenditures. A district could spend as much per pupil as it wished. But the State would be responsible for assuring through allocation of the new Federal general aid and its own State finance program that no school district could spend less per pupil on education needs than 80 percent of what the target district spent per pupil in the previous year. Nearly all States would be able to meet this requirement easily during the first years of the program through intelligent allocation of their Federal general education assistance.

The bill very carefully defines per pupil expenditures to cover solely education needs. Often large cities have high costs due to maintenance problems and special programs for a limited number of students, which, while clearly necessary, do not contribute directly to providing better education for the vast majority of children in the district. Nonetheless, these costs are usually included in calculations in per pupil expenditures. The result of this method of calculation is to artificially inflate per pupil expenditures in central cities.

The criteria for reduction of educational expenditure disparities could be met in most cases by distributing about 60 percent of the new Federal funds on top of existing State finance patterns. This bill specifies that 50 percent of general-grant-to-education funds left over after a State has satisfied the equalization criteria, must be distributed to local school districts on the basis of total enrollment. Our bill recognizes the higher cost of educating lower income children by requiring the remaining 50 percent of "leftover" general-grant-to-education funds be distributed to school districts according to the number of children from low-income families enrolled.

The purpose of the legislation is to enable States and local school districts to improve the quality of education children receive without resorting to additional and onerous property tax increases. If States merely reduce their present educational expenditures from State and local sources, the goal of encouraging quality education will be thwarted.

Therefore, our bill includes a maintenance-of-effort provision requiring that, as a condition of receiving Federal general aid, States and localities must spend as much of their own funds per pupil for basic educational purposes in the year in which funding is applied for, as they spent in the previous fiscal year. Since we do not wish to foreclose from States the option of relieving local property tax burdens or of moving toward greater State assumption of education costs, a school district could meet the local maintenance-of-effort requirement by substituting additional new State funds for funds raised locally the previous year.

This legislation does not mandate a specific State education finance structure. It permits any structure, including new structures States may devise or be required to implement, so long as educational resources are not inequitably distributed.

The second part of the proposal addresses itself directly to quality education by focusing on the results of the educational process rather than solely on the availability of resources.

At present, title I of the Elementary and Secondary Education Act of 1965 provides funds for compensatory education to local school districts with a high concentration of children from low-income families. School districts must concentrate these funds on specific title I schools.

Unfortunately, title I does not contain strong incentives for assuring that students will actually receive the basic skills necessary for self-sufficiency. It is an input-oriented program focusing on improving the performance of children with educational deficiencies.

Our proposal would provide for an experiment with an achievement-oriented program. Beginning in fiscal year 1975 up to 15 school districts would be selected to participate in an education achievement grant experiment designed to test the effectiveness of providing monetary incentives for schools to provide quality education. If a district were chosen to participate, it would administer annually standardized tests in the two basic cognitive skills—reading and mathematics—to all students in title I schools throughout the district. The test would be selected by the district and certified by the U.S. Commissioner of Education. To receive certification, the test must be designed to measure a student's progress toward the objective of being able to read and calculate sufficiently well to function independently and to participate actively in American society. The overall results of the test scores by school must be made public, but there would be a strict prohibition against disclosure of an individual student's test score except to his parents.

Every participating school district would receive achievement progress bonuses varying from district to district, but averaging between $150 to $200 for each title I student in the district who made satisfactory progress in reading and mathematics over the course of the school year. The school district could use the achievement progress bonus as general education aid.

It is hoped that the education achievement grant program would provide schools with strong incentives to improve skill achievement and to demonstrate that our public school system can effectively teach educationally disadvantaged children. The experiment will be carefully structured and assessed to determine the impact of education achievement grants. The Commissioner of Education is charged with submitting an evaluation to the President and Congress by June 30, 1975 and again by June 30, 1976. The report will include recommendations for further legislation.

I must emphasize that this bill would not change the present mechanism for distributing title I funds to the 15 participating districts, nor would it restrict or change the uses to which the title I funds can be put. Title I funds would continue to flow to school districts regardless of whether they participated in the education achievement grant program. Nor would future title I funding be contingent upon satisfactory test scores of a school's title I students. The achievement progress bonus is a reward for school districts which do well; there is no penalty for failure because withholding title I funds would only penalize students who are most in need of extra educational resources.

Our proposal would not change the General Education Provisions Act prohibition against Federal involvement in determining either what is taught in American schools or how it is taught. The Federal Government would not mandate the structure or content of school curricula; it would only provide an incentive for schools to devise and utilize whatever methods they determine actually produce quality education.

The bill we are introducing today recognizes that we must provide sufficient resources and incentives to turn the promise of quality education to a reality.

It is not by any means perfect, but it is a start toward a new concept of Federal assistance for schools offering greater equality of educational opportunity and more discretion at the local level. Too often the debate has centered on the inflammatory issue of "busing." This bill offers a constructive answer to inequality in education. I would prefer to see more categorical programs folded into this concept of general aid to permit local school districts still more discretion in the determination of educational priorities. But the bill is a good beginning and a vehicle for serious congressional consideration of ways to improve both the quality and equality of education with a minimum of Federal involvement.

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By Mr. CURTIS (for himself, Mr. Baker, Mr. Bellmon, Mr. Bentsen, Mr. Case, Mr. Cranston, Mr. Dole, Mr. Eastland, Mr. Ervin, Mr. Gurney, Mr. Hansen, Mr. Helms, Mr. Hruska, Mr. McClure, Mr. Randolph, Mr. Thurmond, Mr. Tower, Mr. Young, Mr. Domenici, Mr. Mathias, and Mr. Buckley):

S. 2415. A bill to amend section 203 of the Economic Stabilization Act of 1970 to permit the passthrough of certain cost increases. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CURTIS. Mr. President, an injustice of major proportion has been heaped upon the retail gasoline stations and their operators across the United States by the Cost of Living Council.

Many of us in the Senate and also many Members of the House of Representatives have learned of this injustice through telephone calls, telegrams, and letters from our home States.

We have taken up the problem with the Cost of Living Council, requesting relief by the quickest possible method for the stations and their operators.

The Cost of Living Council has dawdled and delayed, and it is time for those of us who know and understand the economic "squeeze" which is besetting the retail gasoline and diesel industry to do something about it.

Consequently, I am offering herewith a bill which a number of Members of the Senate have joined me in sponsoring.

This bill would amend the Economic Stabilization Act of 1970 to authorize retailers to pass along to the ultimate consumers or buyers of their products any increase in costs of goods or services which retailers must pay for those products.

At the present time a number of service stations have been hit with wholesale price increases which, under the Cost of Living Council regulations, they cannot pass along to their customers.

These increases are the result of price hikes imposed by several oil companies of 1 to 2 cents a gallon. Under the price control regulations, most service stations are limited to a 7-cent-a-gallon markup above the prices they paid for gasoline and diesel fuel on August 1. That is not enough of a markup for most of the stations in Nebraska to stay in business. Reducing that markup by 1 or 2 or more cents because of a wholesale price increase which cannot be passed along to the consumer is unfair, unjust, and absurd. My bill would correct this by allowing a passthrough.

Mr. CRANSTON. Mr. President, I'm pleased to join my colleague from Nebraska in proposing this amendment to the economic stabilization program.

During the past several days representatives of service station dealerships throughout California have contacted me by telephone and in person to protest the unreasonable pricing formula which they must live under in phase IV.

When the freeze on gasoline was lifted last weekend, it meant a rollback for many California dealers of several pennies per gallon. This rolled back their already meager profits. Their prices which they pay the oil companies were not rolled back. Just their small profit margins.

Service station dealers are the only segment of the entire economy that has been subjected to this treatment under phase IV. With an average profit margin over the past year of about 5 percent, this is the industry that has been singled out for punishment.

They have come to Washington today—not just from California, but from all over the country—to show their representatives in Congress that they cannot do business under the new rules and make a profit. They say they were not consulted in the making of the new rules—that the Cost of Living Council would not listen to them. And from what I have heard of their plight, I believe it.

They proposed to me today a 30-day extension of the pre-phase IV freeze. A return of the freeze that was in effect until last Friday night. This would allow time to work out improved regulations. Regulations that would protect consumers against unreasonable gasoline prices, and at the same time allow gasoline dealers a modest profit from their businesses.

Other small businessmen are exempt entirely from phase IV controls. I fail to understand why these particular small businessmen are being treated so harshly.

A representative of the Cost of Living Council met today with some dealers from California. They proposed a 30-day extension of the freeze and he told them to put it in writing.

They will put it in writing. And so will I. I hope the Cost of Living Council will grant the request. It seems to me the only reasonable and fair thing to do. New regulations need to be worked out, with the cooperation of those most affected by them. This needs time.

I am joining my distinguished colleague from Nebraska in cosponsoring this legislation to draw attention to the seriousness of the plight of service station dealers. If the administration fails to reconsider its actions, I think Congress must act to bring fairness and reason to an important part of phase IV.

We should recognize that unless dealers can make a fair profit and stay in business, countless motorists will soon face the fact that it will be tough to find gas anywhere—at any price.

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By Mr. JAVITS:

S. 2416. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide increased protection for consumers from shipment of unfit and adulterated food. Referred to the Committee on Labor and Public Welfare and if and when reported, to the Committee on Commerce if they should so desire to examine that portion of the bill dealing with interstate commerce.

### FOOD PROCESSING ESTABLISHMENT REGISTRATION ACT

Mr. JAVITS. Mr. President, I introduce the administration's "Food Processing Establishment Registration Act," which would provide increased protection for consumers from the shipment of unfit and adulterated food.

The Health Subcommittee of the Committee on Labor and Public Welfare—on which I am the ranking minority member—has just concluded hearings on legislation to require the Food and Drug Administration to conduct surveillance programs to detect and prevent adulterated food from reaching the marketplace and to provide for the mandatory registration of food processing establishments.

At these hearings, the administration testified—Lloyd B. Tepper, M.D., Associate Commissioner for Science, Food, and Drug Administration, Public Health Service, Department of Health, Education and Welfare—in support of Senator KENNEDY's amendment to provide for the mandatory registration of food processing establishments. Also, there was unanimous support of all witnesses—industry and consumer groups—as to the need for the mandatory registration of food processing establishments. The bill I introduce today for the administration is intended to accomplish that objective and differs only in matters of perfecting technical detail from Senator KENNEDY's amendment.

A summary of the bill—designed to assist the Food and Drug Administration in protecting the public against adulterated and misbranded food—and the Department of Health, Education, and Welfare's views on how this bill would be implemented are set forth in detail in the letter of transmittal by Secretary Weinberger. I ask unanimous consent that a copy of the bill and Secretary Weinberger's letter of transmittal be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

### S. 2416

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Food Processing Establishment Registration Act".

SEC. 2. The Congress finds and declares that in order to make regulation of interstate commerce in food effective, it is necessary to provide for registration of all establishments in which foods are manufactured, processed, or packed; that the products of all such establishments are likely to enter the channels of interstate commerce and directly affect such commerce; and that the regulation of interstate commerce in food, without provision for registration of establishments that may be engaged only in intrastate commerce in such food, would discriminate against and depress interstate commerce in such food and adversely burden, obstruct, and affect such interstate commerce.

SEC. 3. Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Chapter 9, subchapter IV) is amended by adding after section 409 the following new section:

### "REGISTRATION OF FOOD PROCESSING ESTABLISHMENTS

#### "DEFINITIONS

"SEC. 410. (a) As used in this section, (1) the term 'name' includes in the case of a partnership the name of each partner and in the case of a corporation the name of each principal corporate officer and the State of incorporation and (2) the terms 'processing' and 'processed' include the manufacturing, processing, packing, labeling, storing, importing or otherwise handling food.

#### "BIENNIAL REGISTRATION

"(b) On or before December 31 of each even-numbered year, every person who owns or operates any establishment in any State engaged in processing food shall register with the Secretary his name, principal place of business, the location of each such establishment, and for each such establishment, a list, in such form as the Secretary's regulations shall prescribe, of all classes of food processed at that establishment that such regulations require to be so listed, and the type of processing being carried out at such establishment. To achieve uniformity in the registration of classes of food, the Secretary shall promulgate regulations defining food classes and types of processing for purposes of the registration required by this section.

#### "NEW PROCESSORS

"(c) Any person upon first engaging in the processing of food in any establishment which he owns or operates in any State shall immediately register with the Secretary as provided by subsection (b).

#### "ADDITIONAL ESTABLISHMENTS

"(d) Every person required to register in accordance with subsection (b) or (c) of this section shall immediately register with the Secretary, as provided by subsection (b), any additional establishment which he owns or operates in any State and in which he begins the processing of food.

#### "REGISTRATION NUMBER

"(e) The Secretary may assign a registration number to any person or any establishment registered in accordance with this section.

#### "AVAILABILITY OF REGISTRATIONS FOR INSPECTION

"(f) The Secretary shall make available for inspection to any person so requesting, any registration filed pursuant to this section.

#### "EXCLUSIONS FROM APPLICATION OF SECTION

"(g) The Secretary may by regulation exempt, in whole or in part, any class of persons or establishments from the application of this section upon a finding that registration by such class in accordance with this section is not necessary for the protection of the public health.

#### "FOREIGN ESTABLISHMENTS

"(h) The Secretary may by regulation provide for the registration of foreign establishments engaged in the processing of food intended to be offered for importation into the United States."

SEC. 4. Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding after paragraph (p) the following:

"(q) The failure to register as required by section 410."

SEC. 5. (a) Section 403 of such Act (21 U.S.C. 343) is amended by adding at the end thereof the following new subsection:

"(o) If it is a food and it was processed in an establishment in any State required to be registered under section 410 of this Act and not so registered."

(b) Section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof:

"(2) The Secretary may refuse entry of any food offered for importation into the United States which has been processed in any establishment other than an establishment registered pursuant to section 410."

SEC. 6. (a) The amendments made by sections 3 and 4 of this Act shall take effect on the first day of the seventh calendar month which begins after the month in which this Act is enacted.

(b) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State engaged in the processing of food, shall, if, prior to the first day of the seventh calendar month which begins after the month in which this Act is enacted, he registers with the Secretary his name, principal place of business, and location of each such establishment, be deemed to have complied with section 410 of the Federal Food, Drug, and Cosmetic Act for the calendar year 1973. Such registration, if made within such period and effected in 1974, shall be deemed to be in compliance with such section for that calendar year.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
*September 10, 1973.*

Hon. SPIRO T. AGNEW,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: We enclose for the consideration of the Congress a draft bill "To amend the Federal Food, Drug, and Cosmetic Act to provide increased protection for consumers from shipment of unfit and adulterated food." The bill bears the short title of the "Food Processing Establishment Registration Act".

Our proposal would require persons who own or operate food processing establishments, both in interstate and intrastate commerce, to register biennially with the Secretary, subject to exemptions that the Secretary may by regulation promulgate in cases in which registration is not necessary for the protection of the public health.

Registrants would be required, at the time of registration, to provide the Secretary with a list of those classes of food processed at such establishments that the Secretary, by regulation, may designate. The registration (including the food list) would be available to the public.

The draft bill would also authorize the Secretary to provide for the registration of foreign food processing establishments engaged in processing food intended for import into the United States, and to bar importation by unregistered foreign establishments.

The draft bill would take effect on the first day of the seventh calendar month which begins after the month in which it is enacted.

Our proposal is designed to assist the Food and Drug Administration in protecting the public against adulterated and misbranded food by providing the agency with an effective means of determining, and keeping current information on, the location and products of food processing establishments now subject to inspection and surveillance under the Federal Food, Drug, and Cosmetic Act. It would also enable us directly to advise foreign food processors who export their products to the United States of current regulatory requirements, rather than relying upon importers to be aware of those requirements and to advise such processors. In administering the enacted bill, we contemplate exempting from its registration provisions some categories of persons who literally fall within them but with respect to whom registration would serve no useful purpose. Among these would be catering establishments and sidewalk vendors. In addition, upon enactment of this draft legislation, we intend to exempt administratively from the registration requirement all food processors registered with the Department of Agriculture under such statutes as the Egg Products Inspection Act and Federal Meat Inspection Act with respect to those products subject to regulation by the Department of Agriculture.

The draft bill would not empower the Secretary to deny registration to any person that the bill requires to register. The bill's purpose is not one of licensing, but rather one of assuring the adequacy of the inspection and surveillance program that the law now mandates.

We ask that the draft bill receive the prompt and favorable consideration of the Congress.

We are advised by the Office of Management and Budget that enactment of this draft bill would be consistent with the program of the President.

Sincerely,
CASPAR WEINBERGER, *Secretary*.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the bill introduced today by the distinguished Senator from New York (Mr. JAVITS) on food processing establishment registration be referred to the Committee on Labor and Public Welfare and that, if and when reported by that committee, it be referred to the Committee on Commerce if that committee should desire to examine that portion of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. CRANSTON:

S. 2417. A bill to amend the Federal Election Campaign Act of 1971 to provide public financing of campaign costs incurred in campaigns for election to Federal office, to repeal the Presidential Election Campaign Fund Act, and for other purposes. Referred jointly, by unanimous consent, to the Committees on Finance and Rules and Administration.

### JOINT REFERRAL OF CLEAN ELECTIONS FINANCING ACT TO COMMITTEES ON FINANCE AND RULES AND ADMINISTRATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the bill at the desk entitled the "Clean Elections Financing Act" (S. 2417) be jointly referred to the Finance Committee and the Rules and Administration Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL COSPONSORS OF BILLS

### S. 838

At the request of Mr. TOWER, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 838, to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces.

### S. 1063

At the request of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1063, to establish a program of nutrition education for children as a part of the national school lunch and child nutrition programs and to amend the National School Lunch and Child Nutrition Acts for purposes related to strengthening the existing child nutrition programs.

### S. 1537

At the request of Mr. BURDICK, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1537, to amend the Internal Revenue of 1954 to exempt certain farm vehicles from the highway use tax, and to require that evidence of payment of such tax be shown on highway motor vehicles subject to tax.

### S. 1745

At the request of Mr. MONDALE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1745, to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes.

### S. 1844

At the request of Mr. ABOUREZK, the Senators from Pennsylvania (Mr. SCOTT and Mr. SCHWEIKER), the Senator from Alaska (Mr. STEVENS), the Senator from Maine (Mr. HATHAWAY), and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1844, the American Folklife Preservation Act.

### S. 1918

At the request of Mr. BURDICK, the Senator from Wyoming (Mr. MCGEE) and the Senator from Utah (Mr. MOSS) were added as cosponsors of S. 1918, to allow the States to designate agents to conduct audits on behalf of any designating State or group of States.

### S. 2190

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Mr. JAVITS, Mr. MONTOYA, and Mr. WILLIAMS be added as cosponsors of S. 2190, a bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I am grateful that Senators JAVITS, MONTOYA, and WILLIAMS have joined us in cosponsoring the Emergency Rural Housing Act.

This brings the number of Senators who have put their names on this bill up to 25.

This represents an emphatic statement by a quarter of the Senate that Federal housing policy must take into account the special needs and special problems of rural America.

In addition, I understand that a number of Governors already have, or are in the process, of communicating their support of this bill to us.

The problem to which this bill speaks is that Federal housing policy for rural America to date has been a fragmented and incomplete policy.

For instance, a study completed by the Rural Housing Alliance and the Housing Assistance Council recently showed that one-half of the Nation's counties, almost all of them rural, still have no public housing at all.

This is despite the fact that there are something like one million rural American families with an average rent-paying capacity of $14 a month who are in need of better housing.

The other HUD programs rely upon the presence of private mortgage lenders at the local level who must work in tandem with nonprofit sponsors or specialized local government groups, and these things, too, are missing in rural America.

In my own State of South Dakota, for instance, the two largest cities are at either end of the State—and they have taken 75 percent of the 235 units in the whole State and 98 percent of the 236 units.

The figures for the other programs, such as 221(d)(3), are comparable.

It costs a minimum of $20,000 to build a modest home anywhere in South Dakota, partly because we have to have furnaces and insulation to cope with Northern Plains winters and partly because so much of the material has to be shipped quite a distance.

This means that even at 1 percent interest, a family of four would have to have at least $6,750 annual income to buy a house.

Meanwhile, there are more than 36,000

South Dakota families—more than one-fifth of all our families—who have incomes under $4,000 a year.

And there are more than 30,000 South Dakota families who are in need of better housing right now.

And that situation is going to get worse before it gets better, because about 60 percent of our current housing stock was built before 1939.

To make it worse, when compared to the national figures South Dakota is disproportionately older and disproportionately poorer.

What we mean to say by this bill is that all of the existing agencies will be allowed—in fact, encouraged and expanded—to do all that they can in rural America. But beyond that, we recognize that there will still be literally millions of rural families whose need for housing will not be met even by the most aggressive expansion of our present efforts.

We recognize further, honestly and realistically, that the bulk of those families who cannot be served by an expansion of the existing approach will be old, or poor, or physically out of range of an existing agency, or victims of some kind of discrimination.

To reduce the matter to its ultimate simplicity, we have not yet designed a housing delivery system which can reach every corner and every person, no matter how remote, in a country which encompasses more than 3.6 million square miles.

That is what this bill would try to do.

It does not pretend to be perfect. All we propose to do in the Emergency Rural Housing Act is outline some new, innovative, and basic ideas about how a job like that can be done.

The bill has a number of promising concepts which we recommend become part of Federal housing policy, and I am very pleased on this day to take note that at least one-fourth of the Senate agrees.

### S. 2238

At the request of Mr. MONDALE, the Senator from Michigan (Mr. HART) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2238, a bill to amend the Internal Revenue Code of 1954 to increase the maximum credit and deduction allowable with respect to contributions to candidates for public office, to make certain changes in subtitle H of such Code with respect to the financing of Presidential election campaigns, and for other purposes.

## SENATE RESOLUTION 169—SUBMISSION OF A RESOLUTION RELATING TO APPEARANCE OF THE FINANCIAL CLERK OF THE SENATE

(Considered and agreed to.)

Mr. MANSFIELD submitted a resolution (S. Res. 169) relating to the appearance of the Financial Clerk or his designee, and the production of Senate records, with respect to a certain criminal proceeding.

(The resolution is printed in full when submitted by Mr. MANSFIELD, and appears under a separate heading at a later point in the RECORD.)

## MILITARY APPROPRIATIONS AUTHORIZATION, 1974—AMENDMENT

### AMENDMENT NO. 476

(October to be printed, and to lie on the table.)

Mr. GOLDWATER submitted an amendment, intended to be proposed by him, to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

## NOTICE OF MOTION TO SUSPEND PARAGRAPH 4 OF RULE XVI—AMENDMENT TO DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATION BILL, 1974

### AMENDMENT NO. 477

(Ordered to lie on the table, and to be printed.)

Mr. PASTORE. Mr. President, I hereby give notice in writing to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill, H.R. 8916, making appropriations for the Departments of State, Justice, and Commerce, the judiciary and related agencies for the fiscal year ending June 30, 1974, an amendment to be inserted in the bill at the proper place. I ask unanimous consent that this notice be considered as meeting the requirements of rule XL.

Mr. TOWER. Mr. President, reserving the right to object—and I do not intend to object—could the Senator explain his request?

Mr. PASTORE. Yes. This is the so-called amendment proposed by the Senator from North Carolina (Mr. ERVIN) with reference to releasing FBI information to non-Federal agencies and other private persons.

The PRESIDING OFFICER. The Chair announces that unanimous-consent request is not required. If 1 day's notice is given, that is all that is required.

Mr. PASTORE. Well, we have double-riveted it.

The motion to suspend is as follows:

### NOTICE OF MOTION TO SUSPEND THE RULE

Mr. PASTORE submitted the following notice in writing:

In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes, the following amendment, at the appropriate place, namely:

"The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation: *Provided, however,* That the Federal Bureau of Investigation is hereby forbidden to furnish officials of federally chartered or insured banking institutions or officials of any State or local government any identification or other records indicating that any person has been arrested on any criminal charge or charged with any criminal offense unless such record discloses that such person pleaded guilty or nolle contendere to or was convicted of such charge or offense in a court of justice."

Mr. PASTORE also submitted an amendment, intended to be proposed by him, to House bill 8916, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT—AMENDMENTS

### AMENDMENTS NOS. 478 AND 479

(Ordered to be printed, and to lie on the table.)

Mr. TAFT submitted two amendments, intended to be proposed by him, to the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

### AMENDMENT NO. 481

(Ordered to lie on the table, and to be printed.)

### PLAN TERMINATION INSURANCE

Mr. HARTKE. Mr. President, today I am submitting an amendment to S. 4, the Retirement Income Security for Employees Act.

In the first 7 months of 1972, 683 pension plans failed affecting 20,700 pension participants. My amendment would protect these workers by guaranteeing to them the payment of pension obligations if a plan should fail. It establishes a Federal insurance program which would be self-financing through premiums assessed on the unfunded liabilities of all eligible pension plans. A pension plan would be eligible for this Federal insurance protection only if it met the present qualifying requirements of section 401 of the Internal Revenue Code. These are the same requirements which determine the eligibility of pension funds for tax-exempt status.

The amendment provides that every eligible pension plan shall pay a uniform premium based upon the unfunded obligations of each insured fund, but in no case will this premium exceed one-half of 1 percent of each dollar of unfunded obligations. Vested benefits would be insured to a maximum of 80 percent of the highest average wage over a 5-year period or $500 monthly, whichever is less.

The Secretary of Labor, whose Department is given jurisdiction over the reinsurance program, is given general authority to set the premium rate. The program is specifically placed under the direction of the Secretary of Labor, since his Department is charged historically with the protection of workers' interests and already collects detailed annual information on assets, costs, and actuarial liabilities under the Pension and Welfare Plans Disclosure Act.

Mr. President, under the Finance Committee's proposal, the vested rights of participants would be insured up to a maximum of 50 percent of the average monthly wage over the past 5 years and not to exceed $750 a month. For the first 3 years, the termination insurance would be financed by a 50 cents per capita payment for each participant in the pension plan. After such time, premiums would be set at a level based on cost experience.

My objection to this approach is that, on the average, 20,000 workers a year are affected by pension failures. The participants hit hardest by these closeouts are those between the ages of 40 and 60. This group is usually paid little or nothing in pension benefits for many years of service.

I am gratified that the committee's proposal would establish an insurance program to protect these thousands of workers, but I am disappointed that the proposal would provide such inadequate benefits. Fifty percent of expected benefits is simply not an adequate means of support for the average worker. When a worker enrolls in a pension plan he has the right to expect adequate benefits regardless of whether the plan folds, whether his department is phased out, whether his company goes out of business or merges with a larger unit.

My plan, as set out in this amendment, would insure vested benefits to a maximum of 80 percent of the highest average wage over a 5-year period or $500 a month, whichever is less. The insurance premium rate would be no higher than 0.5 percent of unfunded liabilities.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT No. 481

Beginning on page 143, line 21, strike everything through and including page 152, line 19, and insert in lieu thereof the following:

### "TITLE IV—PLAN TERMINATION INSURANCE

#### INSURANCE PROGRAM

SEC. 401. There is hereby established in the Department of Labor a program to be known as the "private pension plan insurance program".

#### PLAN TERMINATION INSURANCE

SEC. 402. (a) The program shall insure (to the extent provided in subsection (b)) beneficiaries of covered pension funds against the loss of benefits to which they are entitled under such pension fund arising from failure of the amounts contributed to such fund to provide benefits anticipated at the time such fund was established, if such failure is attributable to cessation of one or more of the operations carried on by the contributing employer in one or more facilities of such employer.

(b) The rights of beneficiaries shall be insured under the program only to the extent that such rights do not exceed—

(1) in the case of a right to a monthly retirement or disability benefit for the employee himself, the lesser of 80 per centum of his average monthly wage in the five-year period for which his earnings were the greatest, or $500 per month;

(2) in the case of a right on the part of one or more dependents, or members of the family of the employee, or in the case of a right to a lump-sum survivor benefit on account of the death of any employee, an amount found by the Secretary to be reasonably related to the amount determined under clause (1).

(c) In no case shall the insurance program be liable under this section unless the pension fund has maintained insurance under the program for the three years immediately preceding the occurrence of the liability of the program.

#### PREMIUM FOR PARTICIPATION IN PROGRAM

SEC. 403. (a) Each eligible pension fund may, upon application therefor, obtain insurance under the program upon payment of such annual premium as may be established by the Secretary. Premium rates established under this section shall be uniform for all pension funds insured by the program and shall be applied to the amount of the unfunded liabilities of each insured pension fund. The premium rates may be changed from year to year by the Secretary, when the Secretary determines changes to be necessary or advisable to give effect to the purposes of this Act; but in no event shall the premium rate exceed one-half of 1 per centum of each dollar of unfunded vested obligations.

(b) The Secretary of Labor, in determining premium rates, and in establishing formulas and standards for determining unfunded liabilities and assets of pension funds, shall consult with, and be guided by the advice of, the Advisory Council established under section 406.

(c) If the Secretary of Labor (after consulting with the Advisory Council) determines that, because of the limitation on rate of premium, established under subsection (a) or for other reasons, it is not feasible to insure against loss of rights of beneficiaries of insured pension funds, then the Secretary shall insure the rights of beneficiaries in accordance with the following order of priorities—

First, individuals who, at the time when there occurs the contingency insured against, are receiving benefits under the pension fund, and individuals who have attained normal retirement age or if no normal retirement age is fixed have reached the age when an unreduced old-age benefit is payable under title II of the Social Security Act, as amended, and who are eligible upon retirement, for retirement benefits under the pension fund;

Second, individuals who, at such time have attained the age for early retirement and who are entitled, upon early retirement, to early retirement benefits under the pension fund; or, if the pension fund plan does not provide for early retirement, individuals who, at such time, have attained age sixty and who, under such pension fund, are eligible for benefits upon retirement;

Third, in addition to individuals described in the above priorities, such other individuals as the Secretary of Labor, after consulting with the Advisory Council, shall prescribe.

(d) Notwithstanding the provisions of this section, the Secretary of Labor may reduce the premium for those multiemployer plans whose ratio of assets to liabilities or whose experience justifies such a reduction.

(e) Participation in the program by a pension fund shall be terminated by the Secretary of Labor upon failure, after such reasonable period as the Secretary of Labor shall prescribe, of such pension fund to make payment of premiums due for participation in the program.

#### REVOLVING FUND

SEC. 404. (a) In carrying out his duties under this Act, the Secretary of the Treasury shall establish a revolving fund into which all amounts paid into the program as premiums shall be deposited and from which all liabilities incurred under the program shall be paid.

(b) Moneys borrowed from the Treasury shall bear a rate of interest determined by the Secretary of the Treasury to be equal to the average rate on outstanding marketable obligations of the United States as of the period such moneys are borrowed. Such moneys shall be repaid by the Secretary of the Treasury from premiums paid into the revolving fund.

(c) Moneys in the revolving fund not required for current operations shall be invested in obligations of, or guaranteed as to principal and interest by, the United States.

#### RECOVERY

SEC. 405. (a) Where the employer or employers contributing to the terminating plan or who terminated the plan are not insolvent (within the meaning of section 1(19) of the Bankruptcy Act), such employer or employers (or any successor in interest to such employer or employers) shall be liable to reimburse program for any insurance benefits paid by the program to the beneficiaries of such terminated plan to the extent provided in this section.

(b) An employer, determined by the Secretary of Labor to be liable for reimbursement under subsection (a), shall be liable to pay 100 per centum of the terminated plan's unfunded vested liabilities on the date of such termination. In no event however, shall the employer's liability exceed 50 per centum of the net worth of such employer.

(c) The Secretary of Labor is authorized to make arrangements with employers, liable under subsection (a), for reimbursement of insurance paid by the Secretary of Labor, including arrangements for deferred payment on such terms and for such periods as are deemed equitable and appropriate.

(d) (1) If any employer or employers liable for any amount due under subsection (a) of this section neglects or refused to pay the same demand, the amount (including interest) shall be a lien in favor of the United States upon all property and rights in property, whether real or personal, belonging to such employer or employers.

(2) The lien imposed by paragraph (1) of this subsection shall not be valid as against a lien created under section 6321 of the Internal Revenue Code of 1954.

(3) Notice to the lien imposed by paragraph (1) of this subsection shall be filed in a manner and form prescribed by the Secretary of Labor. Such notice shall be valid notwithstanding any other provision of law regarding the form and content of a notice of lien.

(4) The Secretary of Labor shall promulgate rules and regulations with regard to the release of any lien imposed by paragraph (1) of this subsection.

#### ADVISORY COUNCIL

SEC. 406. (a) There is hereby created a Federal Advisory Council for Insurance of Employee's Pension Funds (herein referred to as the "Advisory Council"), which shall consist of nine members, to be appointed by the President, by and with the advice and consent of the Senate, at least two of whom shall be representatives of labor and at least two of whom shall be representatives of employers. The President shall select, for appointment to the Council, individuals who are, by reason of training or experience, or both, familiar with and competent to deal with problems involving employees' pension funds and problems relating to the insurance of such funds. Members of the Council shall be appointed for a term of two years.

(b) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performances of their duties, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(c) It shall be the duty of the Advisory Council to consult with and advise the Secretary of Labor with respect to the administration of this title.

### AMENDMENT NO. 482

(Ordered to be printed, and to lie on the table.)

### TO PROTECT EMPLOYEES AGAINST IMPROPER EMPLOYER OR TRUSTEE ACTION

Mr. HARTKE. Mr. President, I submit an amendment to S. 4 to protect employees against improper employer or pension trustee action. They key to effective pension reform is early vesting, but a vesting provision is no better than the protection employees have against improper discharge—including layoff—discipline or other discrimination that puts an employee out of a job before vesting is achieved, thereby defeating his pension claim. In addition, substantive rights to promote pension eligibility, ample benefits or other pension reform objectives are no better than the procedure available for their enforcement.

My amendment builds upon section 610 of S. 4 by providing a ready and inexpensive form of administrative relief for employees, retirees, and survivors who claim the violation of section 610 or other improper action jeopardizing pension rights.

Especially in the absence of union assistance, employees' pension rights cannot be asserted effectively if their vindication requires resort to the courts. Employees need relatively informal administrative procedure—much like the grievance-arbitration procedures now so common in industry—if they are to have a chance of asserting such rights effectively. Employees in nonunion situations do not have such protection, and many grievance-arbitration procedures do not cover the kinds of improper conduct governed by the bill and section 610; commonly, questions relating to pensions and pension eligibility are specifically excluded from arbitration. Where the collective agreement does cover the dispute, and the National Labor Relations Board would defer to arbitration if the alleged improper action constituted an unfair labor practice, arbitration would take place rather than the procedures provided by the amendment. The hearings and appeals would be governed by the Administrative Procedure Act.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT NO. 482

On page 197, line 6, insert "(a)" after "SEC. 610." and on line 14 strike out "The provisions of sections 602 and 603 shall" and strike out all of line 15, and add the following:

"(b) The Secretary of Labor is authorized and directed to hear and decide disputes between employees, retirees or survivors and the employer union or trustee arising under or in connection with plans relating to (1) alleged violations of subsection (a) of this section and (2) questions pertaining to individual eligibilty, entitlement to benefits, computation of credits or benefits or any other employee, retiree or survivor claim or allegation of improper conduct by his employer or any plan trustee jeopardizing employee, retiree or survivor interests provided that such a proceeding shall not displace the grievance-arbitration proceedings provided by a collective bargaining agreement if its procedure and proceeding would satisfy the arbitration deferral principles of the National Labor Relations Board were the dispute to constitute an unfair labor practice.

"(c) Notice and Procedure—Upon the application of an employee, retiree or survivor for a proceeding under this section, the Secretary shall notify the employer, and/or union, and/or plan administrator concerned with respect to the matters complained of and the relief requested. The proceedings shall be held, on notice to the parties, at the time and place designated by the Secretary before hearing examiners appointed pursuant to the Administrative Procedure Act. The Secretary is empowered to promulgate rules and regulations for such hearings and proceedings pursuant to the Administrative Procedure Act. It shall be sufficient to record the formal hearing stage by tape recorder, provided that a transcript becomes available for use on appeal before the Secretary or appeals to the courts, which shall be governed by the Administrative Procedure Act.

"(d) Powers—The Secretary shall attempt to secure voluntary compliance with any decision made by him under this section, but he shall have the power to issue an order directing a person who is a party to the proceedings to comply with the terms of any such decision. For the purpose of any hearing conducted by the Secretary under this section, he shall have the authority conferred by the provisions of sections 9 and 10 of the Federal Trade Commission Act (relating to the attendance and examination of witnesses and the production of books, papers, and documents). Any district court of the United States within the jurisdiction of which any proceeding under this section is held, may, upon petition by the Secretary, in the case of a refusal to obey a subpena or order of the Secretary issued under this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(e) The provisions of this section shall take effect 90 days from the enactment of this Act."

### AMENDMENT NO. 483

(Ordered to be printed, and to lie on the table.)

### CREDIT FOR PART-TIME AND PART-YEAR EMPLOYMENT

Mr. HARTKE. Mr. President, I introduce an amendment to S. 4, to provide pension credit for part-time and part-year employment.

In many industries, employees typically work only a part of a year, either because business regularly is seasonal or workers are laid off for a substantial period because of occassional slumps in demand, or because—in the case of women—family obligations or work opportunities dictate part-time and part-year employment. Nonetheless, the earnings generated by part-year or part-time work contribute to the family standard of living and require replacement in retirement. In addition, lay offs, illness and withdrawal from the labor market all cause breaks in service that often are fatal to pension eligibility.

This amendment requires the Secretary to issue rules as to what amount of work will constitute a full year's pension credit and what amounts of part-time and part-year work will earn proportional part-year credits that can be accumulated toward eligibility for vesting.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT NO. 483

On page 125, line 9, strike out the word "maximum" and on line 11 after the word "year" insert: "or part of a year".

### AMENDMENT NO. 485

(Ordered to be printed, and to lie on the table.)

### VESTING

Mr. HARTKE. Mr. President, I submit an amendment to S. 4 regarding vesting.

I propose that 100 percent vesting be achieved after only 5 years of service. These more progressive rules on vesting will open the way for more frequent job changes, increases in work satisfaction, a more mobile and a more effective labor force. We owe this to the working men and women of this country. In order to demonstrate graphically the superiority of the Hartke approach, I submit a table and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

VESTING TABLE

| Age | Percent vested, committee | Percent vested, Hartke |
|---|---|---|
| 20 | 0 | 0 |
| 25 | 0 | 100 |
| 30 | 50 | 100 |
| 35 | 100 | 100 |
| 40 | 100 | 100 |
| 45 | 100 | 100 |

Mr. HARTKE. Mr. President, the table shows what would happen to a worker beginning his job at age 20. Under the Finance Committee proposal, this worker would not qualify for participation until the age of 30. After 10 years of work, he would be only 50 percent vested. This worker would be 35 before he was fully vested under the committee bill, but only 25 under the Hartke proposal.

It is assumed by many that the cost of these improved vesting standards will be prohibitive. This is just not true.

Citing the cost study of mandatory vesting provisions written by Donald Grubbs for the Senate Subcommittee on Labor, my more progressive vesting provision of 100 percent after 5 years and after age 25 would increase the cost to the employer of from .1 percent to .4 percent in the percentage of payroll. This is only two-tenths of 1 percent greater than the costs of the very weak vesting provisions in S. 4 or S. 1179.

It should also be pointed out that this cost would be shared equally among employers. No company or firm would be placed at a comparative disadvantage vis-a-vis another.

Mr. President, under the Finance Committee proposal, a qualified plan must provide at least 25 percent vesting after 5 years participation, 5 percent additional vesting for each of the next 5 years, and 10 percent each year for the next 5 years thereafter. This formula would provide for at least 25 percent vesting after 5 years participation, 50 percent after 10 years and 100 percent after 15 years.

Progressive vesting rights are the heart of pension reform. Weak vesting clauses make for ineffectual and superficial pension legislation. The committee's proposal gives the illusion of reform without the substance. The vesting provisions are extremely weak and inadequate. Such a scheme would discriminate against women, seasonal workers, and workers in mobile or faltering industries. A recent Senate Labor Subcommittee study found that, for plans requiring 10 years participation or less for vesting, 78 percent of those separated did not qualify for benefits. Under these same conditions, the committee proposal would provide 50 percent vesting after 10 years participation for only 22 percent of those who separate. I do not consider such an approach acceptable.

Achieving vested rights for women is also difficult under the committee's proposal. Most women work at a job for shorter periods than men, and often work part time or part year. The committee has made no provision for part-time or part-year work. While men in manufacturing have a median of 14.3 years of service, women in their later years, have only 8.3 years of service. And in retailing, women over 45 had an average of 4.9 years. As a result, a woman would achieve only 40 percent of her vested rights. This is not a decent retirement benefit.

A moderately good benefit will give $5 a month for each year of credited service. A normal retirement for a woman would be 8 years of credited service or $40 a month. But the committee's proposal would provide only 40 percent of this or $16 a month—less than $4 a week. And that benefit is subject to erosion by inflation between the time it vests and the time it becomes payable.

Aerospace is an example of a faltering industry in which many plants have shut down and many more will shut down in the future. A recent study found that 80 percent of the employees in this industry had completed fewer than 10 years of service. At the very best, the committee's proposal would provide 50 percent vesting for these workers—too minimal a standard.

With no provision for part-year work, it will be virtually impossible for the seasonal worker to attain vested rights. Many cumulative years of service will add up to nothing in retirement.

The committee vesting proposal would provide for little or no benefits for the majority of workers in this country. It ignores the overwhelming evidence which demonstrates that the weaker the vesting requirements, the less likely it is that the participant will ever receive his needed pension benefits.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT NO. 485

"SEC. 201. (a) A pension plan shall not be an eligible pension plan unless the Secretary of Labor certifies to the Secretary of Treasury that such plan provides that participants shall be vested 100 per centum of the accrued portion of the normal retirement benefit of such funds attributable to covered service both before and after the effective date of this title—

"(1) after 10 years service under the fund, during the first three years following the date of enactment of this title,

"(2) after 8 years service under the fund, during the fourth and fifth years following the date of enactment of this title, and

"(3) after 5 years service under the fund following the end of the fifth year after the date of enactment of this title.

"(b) A pension plan may require as a condition of eligibility to participate, a period of service no longer than two years or age 25, whichever occurs later.

"(c) Any participant covered under a plan, for the number of years required for a vested right under this section, shall be entitled to such vested right regardless of whether his years of covered service are continuous, except that a plan may provide that—

"(1) three of the years required to qualify for a vested right under subsection (a) shall be continuous under standards prescribed under subsection (d).

"(2) service by a participant prior to the age of twenty-five may be ignored in determining eligibility for a vested right under this section, unless such participant or an employer has contributed to the plan with respect to such service, and

"(3) in the event a participant has attained a vested right equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, and such participant has been separated permanently from coverage under the plan and subsequently returns to coverage under the same plan, such participant may be treated as a new participant for purposes of the vesting requirements without regard to his prior service.

"(d) The Secretary shall prescribe standards, consistent with the purposes of this Act, governing the maximum number of working hours, days, weeks, or months, which shall constitute a year of covered service, or a break in service for purposes of this Act. In no case shall a participant's time worked in any period in which he is credited for a period of service for the purposes of this section, be credited to any other period of time unless the plan so provides.

"(e) Notwithstanding any other provision of this Act, a pension plan may allow for vesting of pension benefits after a lesser period than is required by this section."

### "VARIANCES—DEFERRED APPLICABILITY OF VESTING STANDARDS

"SEC. 202. (a) Where, upon application to the Secretary of Labor by the plan administrator and notice to affected or interested parties, the Secretary of Labor may defer, in whole or in part, applicability of the requirements of section 201 of this title for a period not to exceed five years from the effective date of title II, upon a showing that compliance with the requirements of section 201 on the part of a plan in existence on the date of enactment of this Act would result in increasing the costs of the employer or employers contributing to the plan to such an extent that substantial economic injury would be caused to such employer or employers and to the interests of the participants or beneficiaries in the plan.

"(b) For purposes of subsection (a), the term 'substantial economic injury' includes, but is not limited to, a showing that (1) a substantial risk to the capability of voluntarily continuing the plan exists, (2) the plan will be unable to discharge its existing contractual obligations for benefits, (3) a substantial curtailment of pension or other benefit levels or the levels of employees' compensation would result, or (4) there will be an adverse effect on the levels of employment with respect to the work force employed by the employer or employers contributing to the plan.

"(c) (1) In the case of any plan established or maintained pursuant to a collective bargaining agreement, no application for the granting of the variance provided for under subsection (a) shall be considered by the Secretary of Labor unless it is submitted by the parties to the collective bargaining agreement or their fully authorized representatives.

"(2) As to any application for a variance under subsection (a) submitted by the parties to a collective bargaining agreement or their duly authorized representatives, the Secretary of Labor shall accord due weight to the experience, technical competence, and specialized knowledge of the parties with respect to the particular circumstances affecting the plan, industry, or other pertinent factors forming the basis for the application.

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## IMPROVEMENT OF THE PRIVATE RETIREMENT SYSTEM—AMENDMENTS

### AMENDMENT NO. 480

(Ordered to lie on the table, and to be printed.)

Mr. TAFT submitted amendments, intended to be proposed by him, to the bill (S. 1179) to strengthen and improve the private retirement system by establishing minimum standards for participation in and vesting of benefits under pension and profit-sharing retirement plans; by establishing minimum funding standards; by requiring termination of insurance; and by allowing Federal income tax credits to individuals for personal retirement savings.

### AMENDMENT NO. 484

(Ordered to be printed, and to lie on the table.)

### ADEQUATE SURVIVORS' BENEFITS

Mr. HARTKE. Mr. President, I submit an amendment to S. 1179 to provide adequate survivors' benefits.

Widows are the oldest and the poorest of the aged. Although social security benefits for widows have been improved, they—widow and widower benefits—still only average $155 a month—or $1,860 a year. That may exceed some bureaucrat's definition of poverty, but it surely fails to meet the actual needs of most widows.

Reportedly, only 2 percent of all widows now receive additional survivors' benefits from private pension plans. This amendment would marketdly increase private pension benefits for widows. S. 1179 requires a pension plan to provide for an option under which the employee provides a benefit for his survivors. However, such options already are common in plans. The difficulty is that they are hard to comprehend, often must be exercised substantial periods before retirement and require an affirmative act to make the election. Most employees do not make the election.

S. 4 provides that where an option exists it can only be waived in writing.

The purpose of this amendment is to combine the essence of the two provisions so as to require plans to contain the option and to prevent waiver of the option except by an affirmative writing.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 484

On page 95, strike out lines 5 through 12 and insert in lieu thereof the following:

"(11) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that a participant who is married will receive any benefit payable as an annuity under the plan in the form of a joint and survivor annuity unless he elects in writing not to receive the benefit in such form, and that the survivor annuity payable will not be less than one half of the amount of the annuity which would have been payable to that participant had he so elected.

## NOTICE OF HEARINGS ON LAW OF THE SEA

**Mr. METCALF.** Mr. President, I wish to remind all Senators and other interested persons that the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs will be receiving a status report on the current efforts to prepare for the Law of the Sea Conference scheduled to begin this fall. This is a continuation of the subcommittee's hearings on S. 1134, the Deep Seabed Hard Mineral Resources Act of 1973.

The principal witness at the hearing will be Ambassador John R. Stevenson, Chairman of the U.S. delegation to the Committee on Peaceful Uses of Seabed and Ocean Floor Beyond Limits of National Jurisdiction. Ambassador Stevenson will be accompanied by Prof. John Norton Moore, Vice Chairman of the U.S. delegation and other senior members of the delegation. We have asked them to report on progress at the meeting of the United Nations committee held from July 2 to August 24.

The hearing will be held on September 19, 2 p.m., room 3110, Dirksen Senate Office Building.

## NOTICE OF HEARINGS ON OIL AND GAS DEVELOPMENT IN SANTA BARBARA CHANNEL

**Mr. METCALF.** Mr. President. ever since the famous oil well blowout in the Santa Barbara Channel in January 1969 the future development of the oil and gas resources under the channel has been a matter of great concern throughout the United States, particularly in California. The Committee on Interior and Insular Affairs has held hearings on legislation concerning the Santa Barbara situation in both the 91st and 92d Congresses. No law was enacted.

The senior Senator from California (Mr. CRANSTON) has introduced a bill designed to resolve the many unanswered questions—the Santa Barbara Channel Federal Energy Reserve Act—S. 2339. President Nixon also has proposed legislation dealing with the Santa Barbara situation—S. 1951.

I wish to inform all Senators and other interested persons that the Subcommittee on Minerals, Materials and Fuels will hold hearings on S. 1951 and S. 2339 on October 8. At this hearing we will hear Government witnesses only. The hearing will begin at 10 a.m. in room 3110, Dirksen Senate Office Building.

## NOTICE OF INDIAN AFFAIRS SUBCOMMITTEE HEARINGS

**Mr. JACKSON.** Mr. President, I want to announce to the Members of Congress, the Indian people, and the general public two hearings before the Subcommittee on Indian Affairs.

On September 15, 1973, the subcommittee will meet in Denver, Colo., to continue its hearings on the proposed Bureau of Indian Affairs Central Office realinement. The hearing will commence at 9 a.m. and will be held in the Cosmopolitan Hotel in Denver, Colo.

On September 17 and 26, 1973, the subcommittee will consider S. 1687, the Menominee Restoration Act. I have recently joined as a cosponsor of this bill and am in earnest hope that corrective legislative action can be accomplished soon. Public and private witnesses have been invited to present testimony at the 2-day hearing.

The hearing on both days will commence at 9 a.m. in room 3110, Dirksen Senate Office Building.

## NOTICE OF HEARINGS RELATED TO SMALL BUSINESS PROCUREMENT

**Mr. HATHAWAY.** Mr. President, I wish to announce that on October 10 and 11, 1973, at 9:30 a.m. in room 1202 of the Dirksen Senate Office Building, the Subcommittee on Government Procurement of the Senate Select Committee on Small Business will conduct further hearings on the labor surplus area procurement program and small business subcontracting.

The purpose of these hearings is to continue the subcommittee's study of the labor surplus area program and its effect on small business contractors. Additionally, the subcommittee finds the need to examine the small business subcontracting program as provided for in section 8(d) of the Small Business Act.

Further information may be obtained from the Subcommittee on Government Procurement, room 424; telephone No. 225-5175.

## NOTICE OF HEARINGS ON ORGANIZED CRIME IN STOLEN SECURITIES

**Mr. JACKSON.** Mr. President, as chairman of the Senate Permanent Subcommittee on Investigations, I wish to announce that on Tuesday, September 18, 1973, the subcommittee will resume its hearings on the role of organized crime in the stolen securities racket.

Hearings will be held at 10 a.m. in room 3302 of the New Senate Office Building September 18, 19, and 20 next week and September 25 and 26 the following week.

The four major witnesses who will testify at these hearings were directly involved in the perpetration of frauds based on the use of stolen, counterfeit, and fraduluent securities.

These activities included the creation of foreign banks, insurance companies, mortgage loan companies, mutual funds, and other entities designed to exploit and victimize legitimate businesses.

The witnesses will testify as to their direct roles in multimillion-dollar frauds in the United States and overseas.

Because the witnesses will be giving testimony that reflects unfavorably on various elements of organized crime, they are currently being provided protective custody by the U.S. Marshal's Service.

The witnesses will be testifying under grants of use immunity provided under the Organized Crime Control Act of 1970.

### HEARINGS

Since June 8, 1971, when hearings were first held on the role of organized crime in stolen securities and related frauds, the subcommittee has met 21 days on this subject and heard 1,384 pages of testimony from 79 witnesses. The testimony and 73 exhibits have been reprinted in five volumes.

The staff of the subcommittee has gone to considerable effort to document in a responsible manner the involvement of organized crime in high finance. This effort has resulted in the most informative, accurate, and comprehensive portrayal of organized crime in America since the well known "Valachi hearings" conducted in 1963 by this subcommittee under the able leadership of its distinguished former Chairman, Senator JOHN MCCLELLAN of Arkansas.

Today we find that organized crime—what Joe Valachi called the Cosa Nostra—is much more sophisticated than it was in 1963. Organized criminals still rely on gambling, drugs, loan sharking, extortion, prostitution, and theft for profits, and murder and terrorism are still their ultimate disciplinary measures.

But there is something new in the operations of organized criminals. There is a white collar around organized crime today that was not apparent in Valachi's day. Organized criminals are influencing the operations of some of our most important institutions—from Wall Street brokerage houses to insurance companies to labor unions to the entertainment industry to sports, to name only a few.

This is not to say that the mob has gone straight. Just the opposite has happened. The gangsters are moving into legitimate fields and they are bringing with them the illegal methods they have always used. They are into real estate development. They are into commercial enterprises. And they are into stocks and bonds.

### INVADES WALL STREET

One witness before the subcommittee—an assistant district attorney in New York—testified about how the mob invaded Wall Street in the 1960's.

Referring to how easy it was for organized crime operatives to "breach the flimsy fortress of Wall Street security," the witness said:

> They came to Wall Street with their same "bag of tricks" and they found that they could use the traditional techniques that are so successful in other areas of criminality, extortion, robbery, intimidation, counterfeiting, embezzlement, simple theft and even arson . . .

Soon the agents of organized crime were stealing millions and millions of dollars in stocks and bonds and other securities from Wall Street houses of finance.

The underworld did not stop on Wall Street. Subcommittee investigation has demonstrated conclusively that wherever the financial community stores or ships its securities organized crime can be found. The mob has become involved in thefts from banks, brokerage houses and bank note companies throughout the Nation. They went into airport thievery and, specializing in stealing from U.S. Postal Service mail pouches, obtained millions of dollars in securities. Gangsters also began counterfeiting securities.

But all the stolen or bogus securities in the world have no value unless they can be negotiated for cash or used as a basis of credit or as legitimate assets. For too long, too many Americans have assumed that stolen securities could not be negotiated. In fact, one of the reasons organized crime is able to steal securities so easily has been the belief by many persons in financial circles that these certificates of themselves had no value to the criminal. This assumption was made by men and women who underestimated the ingenuity of the criminal mind. The result has been inadequate security procedures in financial institutions, at airports, and elsewhere.

### RENTS STOLEN SECURITIES

For the fact of the matter is that stolen and bogus securities have great value. Organized crime has been able to sell the securities or rent them or use them for collateral for loans from banks and finance companies. Organized crime has also used them in multimillion-dollar swindles on the international financial scene.

Subcommittee inquiry has shown that a criminal industry has grown up around stolen, counterfeit, and worthless securities, in the United States and in the big banking centers abroad. It is an industry with a billion dollar price tag. A 1973 study concluded that the value of stolen, missing, or lost securities could be as high as $50 billion.

This illicit industry could not exist without organized crime. There would be no practical channels for the conversion of stolen securities to cash without the mob and its vast nationwide and worldwide resources.

There is grave danger to the American economy in the existence of a thriving stolen securities racket. The economy can only be shaken by the continued success of organized crime to illegally exploit the securities markets in this country and overseas.

Confidence in the certificates of banking and commerce must not be allowed to be undercut by organized crime. One witness before the Investigations Subcommittee said that there were so many stolen securities being used throughout the world that if all such certificates were called back and authenticated there would be a serious economic setback in the Western nations.

As the Investigations Subcommittee begins a new round of hearings on the role of organized crime in the stolen securities racket, I would like to touch on the highlights of what has already been demonstrated by the subcommittee and what areas we will examine.

### USES ARE VARIED

The uses of stolen and counterfeit securities are varied. But the purposes are always the same. They are either to convert them to cash or to establish credit or the appearance of solvency and substantial assets.

In using stolen securities in applying for a loan or in simply selling them outright, the culprit sometimes assumes a false identity. Usually he establishes a relationship of legitimate dealings with a financial house and then, after gaining the confidence of the institution, he negotiates a sizable transaction and enjoys a big profit. In this manner, the criminals turn the time tested banker's rule of "know your customer" against the bank itself.

The organized crime operative would prefer to sell the security for its face value. But he must also weigh the risks involved in selling. Often it is safer for him to use securities as collateral in a loan and then take the cash to finance loan sharking and gambling and other organized crime pursuits.

In other situations organized crime may "rent" stolen securities to a legitimate businessman who needs cash and plans to use the securities as collateral himself for a loan. One witness cited an example of a businessman who "rented" $1.25 million in stolen securities from a gangster for $70,000. The criminal was not directly exposed and, while his return was nowhere near the face value of the bonds, the profit was still substantial and there was nothing to prevent him from "renting" the certificates again and again.

Another use of stolen securities has evolved, this one even safer than charging a legitimate businessman to use the securities as collateral. Organized crime provides stolen securities to businessmen to bolster a sagging financial institution.

In this procedure, a businessman calls in a reputable accounting firm and presents among his assets these "rented" securities. He obtains a certified statement of his apparently sound business and on the basis of this statement is able to win a fresh line of credit.

This method can also be used by financial institutions such as insurance companies and brokerage houses. Many brokerage houses are in financial difficulty today. In turn, they must maintain certain ratios of assets to liabilities. This is a perfect spot for stolen securities. They do not get negotiated. They just sit in the asset file of the brokerage house or the insurance company. It is anyone's guess as to just how many stolen or counterfeit securities are currently in insurance company or pension fund portfolios. Moreover, there are no regulatory bodies of either the financial community or of government to detect bogus or stolen securities used in this manner.

Not all thefts of securities are performed by thieves directly associated with organized crime. On Wall Street, in financial houses throughout the Nation, in big airports, so-called "amateurs" are stealing securities.

But they more often than not do not have the knowledge or the resources to translate the certificates into cash. So they—the small time crooks—must turn to organized crime for disposal.

The subcommittee found one example in which one such small time operator stole $2.2 million in securities. A "fence," who was backed by organized crime, knew the thief did not know what to do with the securities so he offered him a new Mustang for them. The offer was accepted.

Many of the stolen securities reach the highest levels of organized crime. From there, they are applied to business transactions—such as in sales and loans already mentioned—and some of them are used overseas in banking centers like Brussels and Zurich in stock manipulations and other questionable procedures.

The men the mob sends to high finance circles do not fit the image of the tough, streetwise, violent thug. Instead, they are often very articulate, engaging, and brilliant. Gerald Martin Zelmanowitz is such a man.

### ZELMANOWITZ TESTIMONY

Zelmanowitz, 36, testified before the Investigations Subcommittee July 13, 1973. He had given testimony that was used to convict Mafia leader Angelo "Gyp" DeCarlo in 1971. Zelmanowitz had then been "redocumented" by the Justice Department—that is, given a new identity and credentials to prove it—under the Department's witness protection program.

Zelmanowitz had very little formal education, had been in trouble with the law from a young age and had been dishonorably discharged by the Marine Corps. But at some point in his life, while not giving up crime, he had learned the accouterments of respectability as he showed himself to be not only intelligent and wise in the ways of business and finance, but also sophisticated and urbane. He purported himself with all the aplomb of a brilliant young banker with an annual income of $100,000, which was what he said his income was when he was with the mob.

Zelmanowitz said that he had personally dealt with banks and brokerage houses in Western Europe and in the United States in disposing of millions of dollars worth of stolen securities.

He said secret foreign accounts were frequently used in transactions with stolen securities which involved the buying of gold and gold certificates, arbitrage and the creation of conduits to move funds to foreign corporations and persons.

In European banking capitals, he set up accounts for such well-known crime figures as Joseph Colombo, Angelo DeCarlo, Daniel Cecere, and others. These accounts, Zelmanowitz said, were used to house profits from organized crime activities and in the converting of stolen securities to cash. Once the illicit profits were deposited in secret foreign accounts, he said, the money was invested in legitimate transactions and then funneled back to the United States.

Zelmanowitz said many bank officers did not examine these transactions close enough. If they had, they would have noted irregularities. Sometimes the bank officials seemed to be deliberately looking the other way to avoid detecting questionable procedures in order to gain sizable accounts or commissions.

Zelmanowitz said foreign and American bank officials could do more to keep organized crime money out of their banks. Zelmanowitz added:

> The organized crime elements could not function without the help of commercial bankers and stock brokers in the United States and their counterparts overseas.

### BRIBES ARE USED

Zelmanowitz said he often gave gratuities or bribes to bank officials to encourage them to bypass certain regulations for him. He also said he had bribed agents of the Internal Revenue Service in return for favors. Zelmanowitz gave the names of the IRS agents to subcommittee investigators who are looking into his charges. The names were not mentioned during the hearings, however.

Zelmanowitz gave several examples of how he used stolen securities in foreign financial transactions. He said on one occasion he took $100,000 in stolen Montreal Metro bearer bonds to DePosson de Cherisey, a brokerage firm in Brussels. He said that his broker at this house obtained a 90-percent loan on these securities.

Zelmanowitz said the broker did not investigate the origin of the bonds or seek to authenticate them in any other way. Zelmanowitz said the broker later sold the bonds, paid off the loan and kept the remainder of the proceeds for himself.

As for the original loan, that money was transferred to Swiss accounts and credited to the assets of organized crime, Zelmanowitz said.

He said that one reason brokerage houses did so little checking on the authenticity of stolen securities had to do with the commissions the houses and their brokers received. Zelmanowitz said these commissions were often quite large due to the worth of the stolen securities and that the brokers, anxious to earn the commissions, were not inclined to do anything that might stop the proposed transaction.

### INADEQUATE RECORDS

The question many people have asked when they first learned of the extent of the traffic in stolen securities is, why do not the financial houses keep better track of where their securities are? Why do not they report these thefts to the police just the way auto owners report car thefts?

The answer is that records are inadequate concerning where individual securities are at any given moment. Racketeers know this and exploit it. They know there is little likelihood that, first, the securities they hold will be promptly reported stolen, and second, that the banking or brokerage house will ever bother to check on the authenticity of securities which come to them.

Fortunately, the financial community is trying to improve itself in this regard. But progress has been slow. With some elements of the financial world, progress has also been reluctant.

The first important steps forward were in early 1969, in the midst of high-volume trading, shortage of trained back office personnel and the collapse and merger of several major brokerage houses. At that time, the financial community was faced with what is commonly known today as the back office crisis.

Within this period of confusion, a unique type of organization was created called the Joint Bank Securities Industry Committee on Securities Protection. The committee was formed to review and act upon the latest information related to organized crime and unorganized crime in securities thefts.

The committee was comprised of members of the major banking and securities firms, the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers and the Association of Stock Exchange Firms.

The Joint Bank Securities Industry Committee on Securities Protection developed the concept of a centralized data base structure of reported lost, stolen and missing securities information.

### DATA BANK CREATED

It was hoped that with an easily accessible centralized data base brokers and banks throughout the Nation would have a tool to enable them to frustrate securities thieves by quickly determining the authenticity of any given stock certificate.

After it was found that the National Crime Information Center—NCIC—maintained by the Federal Bureau of Investigation, could not provide the centralized data facilities required by the securities industry, proposals were sought from commercial institutions.

In August of 1970, a firm known as Sci-Tek, Inc., was selected to provide the service. Sci-Tek developed the Securities Validation System, a computerized system which was made available to all members of the financial community to report—and confirm the authenticity of—lost, stolen or missing securities.

Using WTZ, Telex, Dataphone, and other devices, banks, brokerage houses and other financial institutions could, for the first time, find out almost immediately the status of specific securities which had been reported missing to Sci-Tek.

By June 1, 1971, the data base of the Securities Validation System had some 11,000 individual securities listed with a total value of about $100 million. About 25 financial houses were participating in the system.

At that time, with an admittedly limited sampling, officials of the Securities Validation System came before the Investigations Subcommittee and estimated that the total worth of stolen, missing, or lost securities came to $1.2 billion.

A year went by. Now—in the summer of 1972—the Securities Validation System was formulating its projections on a data base of 169,000 individual securities with 120 financial houses taking part in the service. The total stolen, lost, or missing securities figure was now $1.8 billion.

### PROJECTIONS—$50 BILLION

Another year passed. Some 252 financial houses were contributing information to the Securities Validation System. Officials were now operating a data base that represented 10 percent of the total dollar value of stolen, lost, or missing securities. And, on that basis, Securities Validation System officials were projecting a total dollar value in 1973 of $50 billion in unaccounted for securities. This projection was based on $5.3 billion in missing securities which were specifically listed in the data bank.

This figure—massive by any measure—included the total dollar value of stolen, lost, or missing Federal, State, municipal, and corporate securities.

The chairman of the board of the Securities Validation System is W. Henry duPont. He testified before the Investigations Subcommittee June 29, 1973. Concerning the $50 billion estimate of stolen, lost, or missing securities, duPont said that Securities Validation System statisticians had arrived at that figure after careful assessment of reports and inquiries which were coming into the system center at a rate of about 5,000 a month.

Mr. duPont pointed out that while 5,000 a month may seem like a large number, the Securities Validation System could handle many more requests for information.

Many financial institutions do not use the system, duPont said, because their officers were apathetic or did not wish to disturb their holder in due course status. That attitude among brokers and bankers was reflected several times in the course of the subcommittee inquiry. In addition, witnesses asserted that the financial community in the United States—and worldwide, as well—is cautious by nature, often unwilling to adopt new techniques and face new problems.

### PROBLEM IS NEW

In turn, the problem of stolen and bogus securities is, by all counts, a very new problem. It is only in the last few months that anyone has even begun to estimate its true size. And it is only in the last several years that it has been having a major impact on the financial community. But that impact is strikingly apparent now and it will get worse before it gets better.

Financial houses are finding their insurance rates going up. Next, they are finding that their own housekeeping and bookkeeping procedures are so inept that they cannot properly account for what securities they are responsible for. This was evidenced by huge amounts of unaccounted for securities in such major firms as Goodbody & Co., Hayden, Stone, and McDonnell & Co. after they collapsed in 1971.

The long term effect of sloppy procedures, coupled with the growing numbers of stolen and lost securities, is that the fiscal strength of many financial houses is being undermined severely. One brokerage house—First Devonshire Corp.—is positively identified as having collapsed because of stolen or missing securities. Others have been crippled by stolen or missing securities but the causes of collapse are not so clear.

### HAACK'S TESTIMONY

Testifying on these points before the Investigations Subcommittee June 17, 1971 was Robert W. Haack, the president of the New York Stock Exchange.

On the subject of housecleaning and recordkeeping procedures of brokerage houses, Haack said:

> I would say that in the case of some of the firms in question the records were so disarrayed and so inadequate that it is difficult to tell whether or not the securities were stolen, lost, misplaced or whatnot.

As for citing examples of houses that went out of business because they could not account for their own securities, Haack said it was difficult to say whether bankruptcies were due to stolen stocks, to poor bookkeeping, inadequate records or all three. In any event, there were, he said, disciplinary actions the New York Stock Exchange could impose on sloppily managed brokerage houses but that these measures were not strong enough to bring about needed reform.

Haack said the burden of securities losses and thefts is borne by the financial house through its insurance—and that this protection is becoming more costly.

Haack said:

> I would admit that the matter of the insurance coverage of the securities is a problem. Premiums have tended to rise and some underwriters themselves have tended to veer away from the risk taking.

One of the most sweeping indictments of the financial community and of its inability to police itself in the matter of stolen securities came from Murray J. Gross, an assistant district attorney in New York.

### GROSS TESTIFIES

Gross, who testified June 9, 1971, had worked the previous 5 years as chief of investigations into the illicit traffic in stolen securities.

He said the financial houses of Wall Street, while they suffered the most because of securities thefts, also had to bear much of the blame for the rapid growth of this racket.

Gross said:

> If I were to describe the situation on Wall Street, I would call it a free-for-all, as far as the thefts of securities are concerned . . .
>
> We are faced with a situation . . . where everybody is stealing, be it the messenger, be it the clerk, or even supervisory personnel.
>
> It is less than 10 years since most of law enforcement and the financial community became aware of the mushrooming problem created by the illicit traffic in securities and during this period the dollar value of the thefts have increased enormously.

Gross said even by its own incomplete and conservative estimates Wall Street itself noted the increasing size of the problem, as it reported in 1966 some $9.1 million in thefts, some $37 million in 1967 and 1971 securities thefts of "upwards of $100 million."

Gross detailed the methods organized crime deploys to infiltrate financial houses along Wall Street and in other centers of high finance.

To begin with, he said, most thievery within the financial institutions is the work of employees. These "inside jobs" are not difficult to get away with since there "is an almost casual handling of securities" and security precautions, while improving, are insufficient.

Employees who steal securities, Gross said, are either simply greedy, are in the debt of loan sharks or gamblers or are actually representatives of organized crime.

Gross said:

> Organized crime operating through an employment agency places budding criminals with falsified references in stock houses in New York and other cities.
>
> It is of no great consequence the position in which they are employed because they will either have direct access to the securities or the opportunity to recruit other employees or as in one of our cases he was able to "finger" another employee, a messenger, and set him up for a robbery.

Most of the thefts, however, consist of simply taking the securities and hiding them on the person. Gross cited one employee of a brokerage house who successfully removed $2.5 million in securities by carrying them out in his brief case.

### ONE MILLION DOLLAR RECOVERY

While there have been efforts to tighten security measures in brokerage houses, thefts are still commonplace. Only last week, in fact, confidential information provided by the Investigations Subcommittee to the New York District Attorney's Office led to the recovery of $1 million in securities stolen from two firms, duPont, Walsten & Co., Inc., and Hornblower & Weeks-Hemphill Noyes.

In the Hornblower & Weeks case, $500,000 in bearer bonds were found to have been mailed out to an organized crime operative from the firm's mail room—and Hornblower & Weeks paid for the stamps.

Three suspects were arrested in this recent $1 million securities recovery and all three of them are connected with organized crime.

This was not the first time confidential information provided by subcommittee investigators resulted in the recovery of stolen securities. Since our own investigators have been working on this subject, they have exchanged information with Federal, State, and local police and have been responsible for the recovery of $5.5 million in stolen securities.

Previously, subcommittee investigators provided information to law enforcement agencies that led to these actions:

In Los Angeles on April 29, 1971, the Organized Crime Strike Force of the Department of Justice recovered $400,000 in stolen U.S. Treasury bills and arrested four persons for possession and interstate transportation of stolen securities.

On May 5, 1971, the New York District Attorney's Office recovered $2.6 million in stolen stock certificates and arrested seven persons who were charged with grand larceny.

In Las Vegas on May 26, 1971, the Clark County Sheriff's Department recovered a $1 million U.S. Treasury Note which had been stolen from the Chase Manhattan Bank. Three persons were charged with possession of interstate transportation of stolen securities.

On September 17, 1971, the Justice Department's Organized Crime Strike Force in New York recovered $500,000 in five stolen U.S. Treasury bills and arrested one person who was charged with their possession.

### AIRPORT THIEVERY

Thefts from brokerage houses and banks account for a major portion of stolen securities. Another principal source is the U.S. mails. Here a favorite target of the mob is the mail cargo operations in the Nation's big airports. Airport thievery has long been a serious problem in the large terminals such as the John F. Kennedy International Airport and it is not surprising to find agents of organized crime tapping this lucrative source.

But, in the past, thieves who stole from air cargo wanted only cash or resaleable items like jewelry. They did not want stocks or bonds or any other securities because they were not worth anything unless they could be converted into cash and, in most instances, thieves did not know how it was done. All that has changed now.

### CUDAK TESTIMONY

From all the information the subcommittee has gathered about airport thievery, investigators believe it is rapidly becoming one of the most financially rewarding crimes there is. Too many airports simply have inadequate security procedures. The illustration of the Cudak gang of airport bandits makes the point clearly.

In September of 1966, Robert F. Cudak, then 25, answered a newspaper advertisement of Northwest Orient Airlines for a job as a ramp man at JFK airport.

Cudak, who testified before the Investigations Subcommittee June 16, 1971, had convictions of grand larceny, auto theft and burglary, and had spent about 2 years in jail. But the airline hired him anyway. He told airline officials his identification papers had been stolen and his new employers took him at his word and put him to work.

For the next 4 years, Cudak, in league with about 10 other men, systematically looted freight terminals at JFK and other major airports. Cudak estimated that he and his men stole $100 million in stocks, bonds, jewelry, furs, and cash.

The $100 million figure seemed large. Before having him testify, subcommittee staff investigators, working with insurance inspectors and law enforcement authorities, compared Cudak's account of his activities with available records such as insurance claims and police records. Subcommittee investigators pressed Cudak on providing exact dates and specific information about individual financial certificates he stole.

### GANG'S TOTAL THEFTS

Subcommittee investigators then concluded that the Cudak group probably stole more than $100 million over the 4-year period. They speculated, in fact, that the Cudak gang may have carried out the biggest continuous string of thefts in criminal history.

Cudak told Senators that he found early in his airport thievery career that U.S. mail pouches were a rich and relatively easy target. He said that at first he ripped open mail bags and took promising looking envelopes. But then he decided it was simpler to take the whole bag so he did. He said that he and his partners took as many as eight mail bags in one haul. One time, he said, he stole an entire truckload of first-class mail and parcel post packages.

Cudak soon discovered that being an employee of an airport was not essential to being an airport thief. He said that by dressing like an employee—by wearing coveralls, a white helmet or ear mufflers—he and his associates had free rein at any big airport. They could come and go as they wished. Some airports required name tags. Cudak said he had counterfeit name tags printed up. Moving in and out of airport operations areas was easy.

Cudak said:

> The security at all of the airports we hit was very poor. In my view, there weren't many airports that had good security. If I had to grade them for security at the time I was operating, I would say that Kennedy and O'Hare were very bad generally and Atlanta Airport had no security at all. The airports in Florida were all poor in that regard. The only one I ever considered fairly well protected was Los Angeles. We thought they were pretty tough out there.

While the true value of the securities and jewels they stole was about $100 million or more, the Cudak gang members had to "fence" their loot and had to settle for a small percentage of the actual worth. Cudak recalled that in 4 years he probably was paid $1 million in cash for his efforts.

But his million did not last long. He lived high, gambled wildly and now claimed to be broke. Since his arrest and conviction in 1970, he said, he was penniless.

Independent inquiry by the subcommittee showed that there were two gangs operating at major airports in the late 1960's—the Cudak group, which had 11 men, and an organization headed up by Anthony Capucci which had 6 men.

Cudak said the Capucci gang was not as adept at thievery as his and did not appear to have stolen as effectively—or as much.

Airport thefts for that period were primarily securities taken from the mails. A subcommittee study estimated that together the two gangs—Cudak's and Capucci's—were responsible for about $300 milion in stolen securities and items such as jewelry.

The airports most frequently stolen from were JFK and LaGuardia in New York, and from airports in Newark, Miami, Tampa, Los Angeles, Atlanta, Cleveland, Pittsburgh, West Palm Beach, Fort Lauderdale, Chicago, Boston, and Philadelphia, and the Washington airports of Dulles and National.

Most, if not all, of the "fences" the Cudak and Capucci gangs used were connected with organized crime.

### FENCING THE LOOT

Cudak gave this account of how one fencing procedure was handled:

> On September 13, 1967, for the first time I stole entire bags of registered mail. I passed four of them to Jimmy Sanatar [a member of his gang], who took them to his house at Lake Ronkonkoma. I went there and we opened the bags and sorted the contents. We put all the securities in a large suitcase.
>
> By the time we finished the suitcase was completely filled with common stock, bearer bonds, and Treasury notes. We filled a teacup with diamonds ranging from half a carat to two or three carats each.
>
> One package held a 16-carat Marquise diamond. I managed to slip that diamond into my pocket before Jimmy Sanatar saw it. We also had about 50 watches and about 10 pounds of gold jewelry. We also found a small amount of cash in the bags.
>
> We telephoned Frank Mannarino to tell him that we wanted him to fence the loot. At his house, we asked for $40,000. He said he would call his partner, John, and soon thereafter the man known as John arrived, looked at the loot and said he would call an expert.
>
> We waited two hours for Albert DeAngelis, who examined the items and said he would take everything but the stock. He finally agreed to take both stock and jewelry and pay us $30,000.
>
> Separately, I showed DeAngelis the 16-carat diamond. He took the stone, said he would have it appraised and promised to pay me separately for it.
>
> I met him later in his car on Rockaway Boulevard in Queens, where he gave me a brown paper bag containing $30,000 for the loot, as we had agreed. He also gave me another bag holding $10,000 for the stone. I split the $30,000 with Sanatar and kept the $10,000 for myself.

Subcommittee investigators traced the September 13, 1967, registered mailbag thefts at JFK which Cudak was responsible for. Official records showed that some 46 claims had been made. They totalled $2,418,125.96, including $2,142,499 in securities and $141,667.12 in jewelry.

Subcommittee investigators established that the 16-carat Marquise diamond Cudak said he sold to DeAngelis for $10,000 was worth $100,000. In all, Cudak said he and Sanatar were paid $40,000 for what subcommittee investigators determined to be, according to insurance claims, $2.4 million in stocks and jewels.

Robert Cudak's work in stolen securities was one aspect of a career in crime in which he was mainly on his own. In airport thievery, he dealt with organized crime because it was to his advantage to do so. He needed organized crime to fence his stolen securities. But he was not a criminal who came out of the ranks of organized crime.

### TERESA TESTIMONY

By contrast, another dealer in stolen securities—Vincent "Vinnie" Teresa—was almost predestined to be part of the mob. Growing up in Massachusetts, Teresa was around many big time gangsters as his uncle was a bodyguard for Joseph Lombardi, a boss of the Boston underworld, and his grandfather had actually been a member of the Mafia in Italy before coming to the United States where he settled in Boston and assumed the exalted title of "Don."

As a boy, Teresa met well known gangsters like Joe Lombardi, Tony Santonello, Jimmy "Spats" Lombardi, Buttsy Morelli, Raymond Patriarca and Fat Tony Salerno.

By 1967, when he first got into the stolen securities racket, Vinnie Teresa was a member of and a well known operative for organized crime. In 28 years of criminal activity, Teresa had worked as a burglar, a holdup man, a bookmaker, a loan shark, a car thief, a hijacker, swindler, fence, arsonist, and counterfeiter.

Trafficking in stolen securities was a trade Teresa got into because, he said, "it seemed like a gentleman's business." Teresa talked about his activities in stolen securities in a July 28, 1971 appearance before the Investigations Subcommittee.

Teresa was active in the stolen securities field, dealing, he said, in some $30 million in certificates over 2 years. But in 1969 he was convicted in a stock swindle and was sent to prison. His sentence was reduced in 1971 in return for giving prosecutors information about organized crime. It was under this grant of immunity that Teresa testified before the Investigations Subcommittee.

### EVENTS OF 1968

Teresa was a most informative witness. If anyone doubted the heavy role of organized crime in the stolen securities racket, Teresa did his best to persuade them otherwise. In language that sounded as if it were from a Damon Runyon short story, Vinnie Teresa recounted episode after episode of how organized crime worked stolen securities. In this quote from his testimony, Teresa told of events that occurred in 1968.

Teresa said:

> Freddy Sarno and Bobby Cardillo had received $53,000 worth of stolen Jefferson County school bonds from Skinny Fred Guarino. They wanted to know if I would move them. Skinny Freddy has a big connection in two or three different joints in Wall Street where he gets his stocks and bonds. One place where he was well connected was Hayden Stone & Co. In fact, most of the stuff he gets he disposes of through customers in Montreal, Canada and the Bahamas and he makes frequent trips carrying shopping bags filled with stolen stocks and bonds . . .
>
> . . . [Guarino] had connections with guys that were working right in the brokerage firm. They would call him and say, 'Do you need some stock? I will take some out for you. What kind do you need?' He would give them orders for what he wanted like, 'I want IBM' or 'I want DuPont'.
>
> They would steal it out of the vault . . .

Teresa said he took possession of the school bonds and combined them with two $100,000 U.S. Treasury notes. Through an associate who dealt with a bank in Baltimore, Teresa sold the school bonds and borrowed on the Treasury notes, realizing a return of $161,000. Of that sum, he said, he gave himself $17,000, deposited another $38,000 in an account owned by an organized crime gambling enterprise he was involved in and distributed the rest of the money to six persons who had worked with him on the deal.

### JACK MACE HELPS

Teresa's colleague Jack Mace—a well known organized crime figure whose real name is Jacob Maislich—helped him get involved in another big transaction.

Teresa said:

> Through Jack Mace I had met the Cangiano brothers, Frankie and Gus, of Brooklyn, who were also dealers in stolen securities. It was common knowledge that the Cangianos were associated with the organized crime family of Joe Columbo in Brooklyn and had access to many millions of dollars in stolen securities. I received securities from the Cangianos on many occasions but had always turned them back to them as they were always too hot to handle.
>
> In the latter part of 1969 I went with Frank Cangiano to an empty apartment in a building in Brooklyn and spent approximately five hours going through a closet full of stolen securities. After going through these securities, I took $5 million worth of Gulf and Western Industries stock, which was a part of a multimillion dollar theft from JFK International Airport. Shortly after that I left New York City and returned to the Boston area.
>
> I turned over the $5 million in Gulf and Western stock to a man named Bernie who was in the air conditioning business in Somerville, Mass. He, in turn, turned them over to a man named Antonio from Venezuela with the intention of investing these securities in coffee futures.
>
> The deal was this: We gave him $5 million in securities. He, in turn, would negotiate a deal where we would get $4 million in coffee futures, and the $4 million would be whacked up between Bernie and myself. Shortly after this, I started serving my prison sentence and have no knowledge as to what happened to these securities.
>
> At this same time Bobby Cardillo, myself, Phil Wagenheim and Willie D, also known as Willie Dentamore, were going to open up a company under a phony name in Miami and then open an account in a brokerage house in Miami and play with some stock. We needed a lawyer to handle the corporation papers from this company.
>
> Willie D. said he had a lawyer on the shady side who would go along with this. We made an appointment to meet this guy, Bernard Berman, at the Thunderbird Motel in Miami. We told him what we wanted. Berman asked us how much we would get in securities and we told him $10–15 million worth. Berman suggested that instead of selling the stolen securities, we could put them up to buy an insurance company in Texas. Berman said that he knew of a way to do this.
>
> Berman started setting up a corporation in Miami and we turned over to him $10 million worth of stolen securities in the name of Milk and Co., Apple and Co., and Greely and Co. and others.
>
> When I was sentenced to prison I was unable to follow through on this insurance company deal and was informed that the whole thing had fallen through. However, I did find out that this was not so, that Berman had purchased an insurance company in Alaska and started to purchase another one in Florida using the stolen securities . . .

### NEW LAWS NEEDED

These have been some of the highlights of the Investigations Subcommittee's examination of the stolen securities racket and organized crime's key role in it.

Our inquiry has shown that the problem of stolen securities must be attacked on many levels. New criminal and procedural laws may be necessary to protect the banking, brokerage and insurance industries. Such laws, however, must be coupled with responsible action by financial institutions and a coordinated program of enforcing the law at the Federal level.

With regard to coordinated law enforcement, it should be pointed out that after our first set of hearings dealing with this type of criminal activity, my distingushed predecessor, Senator John McClellan, recommended to the Department of Justice that a separate, centralized prosecutive and investigative arm be established within either the Criminal Division or as a separate division of the Department of Justice to deal with the totality of securities crimes.

The implementation of this recommendation is apparently being considered, but to date Justice and a variety of Federal investigative bodies, including the FBI, the Postal Inspection Service, and SEC, and Secret Service of the Department of the Treasury and the various banking regulatory agencies continue to work with overlapping jurisdictions and functions.

In my view this tends to diminish the Government's ability to cope effectively with the overall problem. Accordingly, I have renewed this recommendation of my predecessor.

To make this prosecutive and investigative arm effective, it is necessary to establish a system which quickly identifies stolen securities so that investigative moves can be made while the trail is hot. This is not the case now.

In the new round of hearings which will begin Tuesday, September 18, we will examine what the staff has termed "the anatomy of an international stock swindle."

Each of the four key witnesses will testify about his own role in a multimillion dollar fraud that was perpetrated on the basis of stolen and counterfeit securities.

## ADDITIONAL STATEMENTS

## THE PHILADELPHIA ORCHESTRA TOURS CHINA

Mr. SCOTT of Pennsylvania. Mr. President, the Philadelphia Orchestra has embarked on perhaps the most exciting musical voyage of its career. Maestro Eugene Ormandy and the orchestra have arrived in the People's Republic of China to perform a concert tour, the first of America's great orchestras to play in that country. I am proud to have suggested to Premier Chou En-Lai, during my visit with Senator Mansfield to China last year, that the Philadelphia Orchestra be invited. As Eugene Ormandy said the other day, music is a marvelous export. It is my great hope that the Pittsburgh Symphony will follow.

Sandy Grady, in his column in the Philadelphia Evening Bulletin, September 10, described the excitement of the Philadelphia Orchestra over this "20,000-mile musical odyssey" that will bring America's greatest music to the people of mainland China. I ask unanimous consent that Mr. Grady's column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

### Our No. 1 Team Off to China

(By Sandy Grady)

Eugene Ormandy's dressing room is tucked down a short runway from the Academy of Music stage. Like the manager of a ball club, Ormandy sits there after a performance, unwinding, brooding over errors, musing about the future.

That's where the Philadelphia Orchestra trip to China began, in one of Ormandy's post-game ruminations. The orchestra leaves today on a 20,000-mile musical odyssey, the first American orchestra to penetrate the Bamboo Curtain.

But in April 1971, no Yankees had penetrated China except a ping-pong team. In his dressing cubicle, Ormandy was talking to Boris Sokoloff, the lanky, scholarly man who manages the orchestra road trips.

"If a ping-pong team can go, why can't we?" said Ormandy. "How would you get an invitation to China, Boris?"

"Let's write the White House," said Sokoloff. "Nixon's always liked the orchestra."

Ormandy sent a letter to President Nixon, suggesting an orchestra tour of China. A White House staffer—amazing they had time for such protocol on those pre-Watergate days—advised Ormandy to contact the Chinese ambassador in Ottawa.

"Nothing happened," said Sokoloff. "It was like dropping the idea down a well. But Ormandy didn't forget the idea."

### UNITED STATES-CHINA RELATIONS THAW

The thaw then hit U.S.-China relations at a blistering pace. Dr. Henry Kissinger, Sen. Hugh Scott, and Mr. Nixon's grandiose visit—Americans were turning the Pacific into an Interstate Highway. But it was probably Hugh Scott who turned on Chou En-lai to the orchestra trip.

Between toasts at a party, Scott told the Chinese premier his state had two great orchestras in Pittsburgh and Philadelphia. "I think your people would enjoy hearing one," said Scott.

Polite nods. For the Philadelphians, though, the break came when the Chinese noted they were playing at Nixon's inauguration. "We're just guessing," said Boris Sokoloff, but somebody at the top in China must have said, 'Gee, they're No. 1 in America.' The inauguration probably led to the China trip."

Nixon telephoned Ormandy at his Barclay apartment last spring and told him of the Chinese invitation. Dr. Kissinger also got on the phone to confirm it. But after that, the Chinese became very inscrutable—Ormandy still doesn't know where his orchestra will stay, what the schedule will be in Peking and Shanghai. ("All Maestro knows is that the Chinese don't want Debussy, Richard Strauss or any Russian music on the programs," said one orchestra official. "But they don't mind us playing John Philip Sousa.")

Joe Santarlasci doesn't play a horn, fiddle, or even a harmonica. But Joe, a stubby, grey-haired man, is the Most Valuable Player on a trip like the Chinese venture. He's the assistant manager who must move 10 tons of equipment, along with 106 musicians, into the Orient.

### "LIKE GOING TO THE MOON"

"This one's like going to the moon," said Santarlasci. "We don't know what to expect. South America was the toughest tour. Everything was manana. Russia in '58—there was some hostility. But China, well, I've been told they'll handle details when we get there. It's not good to arrive in the wrong town with 20,000 pounds of equipment."

Despite the mystery ahead, everyone from Ormandy down to the stagehands is psyched up for the Asian adventure. And it will be an expensive one. Orchestra brass consider talk of money to be uncouth, but the Chinese trip forced a rebate on one week of the Philadelphia concerts. The Chinese trip could cost $300,000, and the State Department is reportedly picking up only half the tab.

"You can't turn down an opportunity like this," said Sokoloff. "It's great publicity for the orchestra, expensive as it may prove. But Ormandy is right when he says this is, 'bigger than music'."

Oh, yes, Mayor Frank Rizzo agreed to bid the orchestra farewell at the airport, while Gov. Milton Shapp declined. And some people insist that politics behind the Bamboo Curtain is complicated.

## THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, there are some men who argue that American ratification of the Genocide Convention will bind our Government hand and foot to the treaty's articles. Their contention is that such an international agreement would subject American citizens to prosecution and perhaps persecution from foreign powers. In addition they fail to see any safeguard against such outside intervention.

However, once again the implementing legislation is clear on this point. It reserves great powers of discretion for the Secretary of State. It is he who serves as the ultimate check and safeguard. In the words of the implementing legislation:

> It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country . . . where the United States is competent to prosecute the person whose surrender is sought . . . or where the person whose surrender is sought has already been or is at the time of request being prosecuted for such offense.

As is prudent, the United States would never consent to any international agreement which would allow foreign states a free hand in American jurisprudence. The articles of the Convention and the subsequent legislation allow our Government to retain jurisdiction over our own affairs. American citizens have the full protection of their Government in all instances.

The argument of foreign intervention and unjust extradition treaties is unjustified in light of the provisions of S. 3182. Again I urge the Senate to ratify the Genocide Convention.

## CONSERVING CLEANER FUELS

Mr. McCLURE. Mr. President, the Director of the Energy Policy Office, Gov. John Love, has announced a proposed program to temporarily prohibit utilities, industry, and commercial firms from switching to cleaner fuels, except where such a shift is required for meeting air quality standards relating to human health—the primary standards. This proposal is designed to help alleviate the tight heating fuels situation facing us this winter.

The need for such a program is being dramatically illustrated by actual cases being received by the Office of Oil and Gas, under the voluntary petroleum allocation program. Across the country, local and Federal and environmental decisions are necessitating the replacement of coal and residual fuel oil with cleaner distillate oil, needed for home heating. In Maryland, Bethlehem Steel Corp. has been instructed to switch all boiler fuel from heavy industrial oil to home heating oil by November 1, 1973. In Pennsylvania, the Shenango China Co. has been ordered to convert from coal to home heating oil. In Ohio, Antioch College is being forced to convert from coal to home heating oil. In Wisconsin, the Baker Co. was forced to switch from coal to natural gas, which is not available, and is now urgently searching for fuel oil. These are a few examples of the fuel switching which is contributing to the critical heating oil situation facing homeowners this winter.

I commend the administration for proposing a program to conserve the scarce supplies of clean fuels needed for the coming winter. It is unfortunate that such a program could not have been implemented earlier, in order that its effectiveness during the coming months would have been greater. A rapid implementation at this time, however, could significantly improve the bleak situation facing many Americans during the season of high heating oil demand. There are four points which I would like to briefly present today, with the desire to insure an effective and equitable program. My first point is basically a warning and a reassurance.

I believe that the temporary nature of this program must be emphasized. This is not an approach which we should come to rely upon for future years. In that regard, I am pleased that the effective date has been set for 1 year. This provides necessary time for improving our supply-demand situation, without sacrificing our ultimate goals in the area of air quality.

Second, I believe that the American people must be better informed as to the difference between primary standards and secondary standards. Congressional intent, as spelled out in the Clean Air Act Amendments of 1970, was that the primary standards, required to protect human health, be met by 1975. Secondary standards, however, while important to the future of our environment, were not mandated for a specific time. In other words, the proposed program will not degrade our air quality as affects human health, nor violate the intent of Congress with regard to the secondary, or nonhuman effects.

My third point is that the administration should reconsider the baselines established in the proposed regulation. As presently set, there will still exist wasteful uses of cleaner fuels, in those areas where this practice presently exists. In other words, utilities which have been blending home heating oil with residual fuel in order to obtain 0.2 percent or 0.3 percent sulfur content may continue to do so, instead of accepting 0.5 percent or 0.7 percent sulfur levels. The primary air quality standards should be the criteria for use of lower-sulfur fuels, not some arbitrarily established level set in the past, during the 1-year period.

My fourth and final point is that consideration should be given to inclusion of low-sulfur crude oil, or "sweet" crude, in the program. I believe that we are all aware of the shortages which have been experienced by some refineries designed to use only sweet crude, while refineries designed for "sour" crude use the sweet oil because of local restrictions. Wherever a refinery can use sour crude oil without an adverse effect on primary air quality standards, it should do so, thereby increasing the availability of the scarcer sweet crude for those refineries which can use no other.

In summary, I believe that the proposed regulation contains the necessary safeguards for public health—namely the temporary effectiveness of 1-year and the automatic exclusion wherever health is threatened. With the two suggestions which I have made, I believe that the proposed program will be an effective and reasonable aide to the well-being of the American people during the approaching winter months.

We should remember, however, that this program is only a partial solution to the energy shortages which face us for at least 3 more years. A total solution will require a program to allow conversion of existing oil-fired boilers to coal, combined with a new foreign-economic policy to provide for increased oil imports from producing nations such as Saudi Arabia. Designing such a program—to allow conversion to coal without sacrificing clean air and to increase oil imports without sacrificing our economic well-being or compromising our foreign policy—is the major task that faces us. In addition, efforts to greatly increase domestic production of oil and natural gas, together with the necessary refining and transportation systems, must be strengthened and given more than lip-service. Implementation of the proposed regulation will be a beginning, but we must not stop there. The big job still lies ahead.

## AMERICAN FOLKLIFE PRESERVATION ACT

Mr. ABOUREZK. Mr. President, on May 17 I introduced S. 1844, the American Folklife Preservation Act. On that date I was joined by 13 cosponsors. Since then an additional 18 Members of the Senate indicated their support for this measure by becoming cosponsors. Today I am pleased to announce that Senators SCHWEIKER, SCOTT, STEVENS, HATHAWAY, and METCALF have also agreed to cosponsor this bill. This brings the total number of cosponsors in the Senate to 37.

In addition, a companion measure has been introduced in the House of Representatives. At this moment 126 Members of the House have cosponsored various equivalent bills to S. 1844. I understand that a number of other Members have indicated their interest and will be added by a further introduction in the near future.

This measure enjoys a very broad range of support, both geographically and politically. As evidence of this, I ask unanimous consent that a list of all cosponsors of this bill by State be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. ABOUREZK. Mr. President, many of these cosponsors have further developed their interest in this idea through comments in the CONGRESSIONAL RECORD. For example, on May 22 the Senator from California (Mr. CRANSTON) said:

> I believe we need a comprehensive program of Federal assistance for the folk arts—a vibrant web of experiences and expressions that are basic to who we are, what we do, and why.

And on August 3 the gentleman from Illinois (Mr. ANNUNZIO) stated:

> It is my belief that a better understanding of the contributions of various races and faiths and ethnic backgrounds to our cultural heritage would contribute immensely to lessening tensions, eliminating prejudices and bringing about a better understanding among people.

I would not want to suggest that the only support this bill has is on Capitol Hill. Nothing could be further from the truth. In fact, I have been very pleasantly surprised by the broad-ranging support throughout the Nation that the measure has engendered. For example, the National Folk Festival Association Newsletter for July, 1973, said:

> The National Folk Festival Association feels strongly that public support of this bill is needed if the work of NFFA and similar organizations is to continue.

As further evidence of this support, I ask unanimous consent that a sampling of the letters I have received on this bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. ABOUREZK. Mr. President, let me stress that these letters are a representative cross-section and by no means exhaust the voluminous file of correspondence that I have received in support of S. 1844.

Of the correspondence I have received, none has more accurately expressed the intention of this legislation than the letter I received from the distinguished Professor of English and Folklore, Dr. Francis Lee Utley. Dr. Utley teaches at Ohio State University but is at present on leave teaching at the University of Virginia.

His letter makes seven specific points in regard to the American Folklife Preservation Act. These are:

> (1) This great pluralistic nation (should I remind us of our motto E pluribus unum?) has many groups: occupational; rich and poor; well-educated and badly educated in the schools; well-educated and badly-educated in the arts and crafts of life; urban, rural and suburban; WASP, Chicano, Black, Indian (and that of great diversity); Asiatic, European, and Latin American.
>
> (2) Each of these groups has its own code of values, values which often clash if they are not understood by the other groups. Pride in such values aids men in appreciating other points of view, especially if those who have made a specialty of studying the dangers of ethnocentricity are able through publication, archiving, study, and museum demonstration to show all our citizens the rich variety of their respective cultures.
>
> (3) Such work, done by individual scholars and universities and museums, needs centralization, and the Washington locale, already well-provided with the Library of Congress and the Smithsonian, needs to be strengthened by specific mandate and by appropriation.
>
> (4) In a time like the present, when a hundred unpredictables have led to cynicism, vandalism, and insecurity, we must use all our resources, primarily those of a spiritual and an ethical nature, to strengthen the national ethics—not by a bland melting pot concept, but by the study of the varied elements which in the past and in the present strengthen rather than weaken culture and government.
>
> (5) The science of folklore has greatly extended itself in recent years, from a somewhat casual earlier study of casually collected folktales, ballads and "superstitions," to an extended contextual study of the functions of folk literature and belief, their historical context and meaning for a growing society, their social context and value to the human personality and to the interaction of men and women, their influence on group relationships and on the clashes and cooperation between groups of all kinds.
>
> (6) In a technocratic society, with all of its blessings and all of its tensions, there is much to be gained by the study of simpler life patterns, rural and urban—a study which appeals not only to scholars but to a broad public old and young. I cite as one simple example the extraordinary interest and popularity in FOXFIRE I and II, two books conceived in a university community but being sold and read widely as a way to better appreciate the simpler/technical crafts and their value in a society which sometimes thinks of itself on the road to catastrophe.
>
> (7) These arguments, which merely repeat in part so well expressed in S. 1844, and reinforced by the broad base of support which the bill is acquiring. It appears to have support from honorable men and women in all political parties and in all shades of political opinion—a point not surprising, because the bill is a modest one, a well-thought out one, one not demanding extensive or expensive further bureaucratic structure, one which can command the valuable help of many trained scholars who need financial support and cooperation but need these things only because they are willing to devote a good deal of their busy lives to work with the folk, to the study of the life of the folk and their creative arts, crafts, and letters, and to their meaning for a great nation which has the power of understanding the pride of its diverse parts in order that those parts may better cohere for the goals of the nation. We need peace throughout the world, without question, but the best way of achieving it is to seek in our own microcosm of ethnic units the ways which will lead to peace among them.

I would like to reemphasize Dr. Utley's seventh point. This bill is a modest one. It does not need an extensive or expensive bureaucratic structure. In fact, I have received an estimate from the Library of Congress that the costs of administering the work proposed for the Center would be $175,000 for the first year and would not exceed a total of $1,000,000 for the first 5 years added together. This is a modest amount indeed.

I would hope that both Senate and House can give this measure careful, but speedy consideration. The coordination that this bill would provide is desperately needed but it is not costly. I hope that more of my colleagues will see fit to join this effort, and that our effort will be successful.

EXHIBIT 1

SUPPORTERS OF THE AMERICAN FOLKLIFE PRESERVATION ACT BY STATE

*Senator; D.—Democrat; R.—Republican.

Alabama: Bevill—D., Buchanan—R.

Alaska: *Gravel—D., *Stevens—R., Young—R.

Arizona: *Goldwater—R., Rhodes—R.

Arkansas: *Fulbright—D., Alexander—D., Mills—D., Hammerschmidt—R., Thornton—D.

California: *Cranston—D., *Tunney—D., Moss—D., Burton—D., Dellums—D., Edwards—D., Sisk—D., Hawkins—D., Corman—D., Bell—R., Roybal—D., Wilson—D., Veysey—R.

Colorado: Schroeder—D.

Connecticut: Sarasin—R.

Florida: Young—R., Lehman—D.

Georgia: *Talmadge—D., Young—D., Davis—D., Landrum—D., Stephens—D.

Hawaii: *Fong—R., *Inouye—D., Matsunaga—D., Mink—D.

Idaho: *Church—D., Hansen—R.

Illinois: *Percy—R., *Stevenson—D., Derwinski—R., Collins—D., Young—R., Annunzio—D., Anderson—R., Railsback—R., Findley—R.

Indiana: *Bayh—D., Brademas—D.

Iowa: Mezvinsky—D.

Kansas: Sebelius—R., Winn—R.

Kentucky: *Cook—R., *Huddleston—D., Stubblefield—D., Mazzoli—D., Carter—R., Breckinridge—D., Perkins—D.

Louisiana: *Johnston—D., Boggs—D., Treen—R., Breaux—D., Long—D.

Maine: *Hathaway—D., Kyros—D., Cohen—R.

Maryland: *Mathias—R., Sarbanes—D., Mitchell—D., Gude—R.

Massachusetts: *Kennedy—D., Conte—R., Harrington—D., Moakley—Indep.

Michigan: Conyers—D., Esch—R., Riegle—R., Harvey—R., Vander Jagt—R., Diggs—D., Nedzi—D., Ford, W.—D., Dingell—D.

Minnesota: *Humphrey—D., *Mondale—D., Quie—R.,

Missouri: *Eagleton—D., Clay—D., Symington—D., Hungate—D.

Montana: *Metcalf—D., Melcher—D.

Nebraska: Thone—R.

Nevada: *Bible—D.

New Hampshire: Cleveland—R.

New Jersey: *Case—R., *Williams—D., Howard—D., Thompson—D., Widnall—R., Roe—D., Rodino—D., Daniels—D.

New Mexico: *Domenici—R.

New York: Rosenthal—D., Chisholm—D., Abzug—D., Gilman—R., Dulski—D., Kemp—R.

North Carolina: *Ervin—D., Jones—D., Preyer—D., Broyhill—R., Taylor—D.

Ohio: Ashley—D., Miller—R., Seiberling—D., Stokes—D., Vanik—D.

Oklahoma: McSpadden—D.

Oregon: *Hatfield—R.

Pennsylvania: *Schweiker—R., *Scott—R., Eilberg—D., Yatron—D., McDade—R., Moorhead—D., Heinz—R., Johnson—R.

Rhode Island: Tiernan—D.

South Carolina: Gettys—D.

South Dakota: *Abourezk—D., McGovern—D.

Tennessee: *Baker—R., *Brock—R., Quillen—R., Duncan—R., Baker—R., Evins—D., Fulton—D., Beard—R., Jones—D., Kuykendall—R.

Texas: Eckhardt—D., Pickle—D., Price—R., Fisher—D.

Utah: Owens—D.

Virginia: Wampler—R.

Washington: Meeds—D., Hansen—D.

West Virginia: *Randolph—D., Mollohan—D., Staggers—D.

Wisconsin: Reuss—D.

Wyoming: *McGee—D.

DELEGATES

Guam: Won Pat—D.
Puerto Rico: Benitez—D.
Virgin Islands: de Lugo—D.

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EXHIBIT 2

AUGUST 9, 1973.

DEAR MR. ABOUREZK: I've been reading about S. 1844, The American Folk Life Preservation Act which you have introduced, & I am very much in favor of it.

Many Americans are interested in preserving our country's rich heritage of folk traditions which are so varied because of our individual backgrounds.

It's very important that we preserve this, and I am most pleased that you are aware of the need for preservation.

Thanks much!

Sincerely,

ALICE B. NUGENT (Mrs. Carl G.).

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LINCOLN, NEBR.,
*September 1, 1973.*

Senator ABOUREZK,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR ABOUREZK: It is with great delight and satisfaction that I note your sponsorship of Senate Bill 1844, "American Folklife Preservation Act." I have spent the past fifteen years working in the area of Plains folklore and folklife—Sioux log construction in South Dakota, the songs and stories of the Plains, the soddy, round barns, horsetrading stories, the foods and tales of the Omaha Indians, the hammered dulcimer of the German-Russians; I have published four books (*Treasury of Nebraska Pioneer Folklore, Sod Walls, Folklore Methodology,* and *Shingling the Fog and Plains Lies*) and have four more at publishers and I can assure you that the great mother-lode of Plains folklore remains untouched and richer than we can imagine.

As a student of American folklife and as a plainsman I applaud your work and sincerely wish you the best in this effort.

Sincerely,

ROGER L. WELSCH,
*Centennial Fellow,*
*University of Nebraska.*

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THE UNIVERSITY OF TEXAS,
TEXAS MEDICAL CENTER,
*July 30, 1973.*

Senator JAMES ABOUREZK,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ABOUREZK: Senate Bill 1844 on the establishment of an American Folklife Center is one of the finest bills the Congress could pass.

As a social scientist whose personal work deals with mathematical and quantitative models, I have become quite aware of the vast work needed in the non-mathematical side of social science. Establishment of a Folklife Center has great potential for stimulating creative and significant work in vital areas of thought. Its long run importance to the nation for intellectual discovery should not be overshadowed by the obvious benefits in historic or folkloric activities.

I strongly encourage passage of the bill, and congratulate you on your foresight in sponsoring it.

Sincerely,

PAUL BALLONOFF,
*Adjunct Assistant Professor of Population Genetics.*

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THE UNIVERSITY OF ILLINOIS PRESS,
*Urbana, Ill., July 3, 1973.*

Senator JAMES ABOUREZK,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ABOUREZK: Since you introduced S. 1844, a bill to provide for the establishment of an American Folklife Center in the Library of Congress, I have followed reports of its growing list of sponsors with much interest. Let me offer you my support and encouragement.

As you point out, scattered governmental agencies have, from time to time, paid serious attention to American traditions. The Library of Congress Archive of Folk Song, for instance, has been extremely helpful to me in my own research. There is so much that could be done, though, and it is going to take more than the random efforts, however energetic, of governmental agencies and private scholars. Hence the need for just the kind of center you have proposed. Other countries recognized this need long ago; the Finnish Literature Society was founded in 1831, for instance, and the Irish Folklore Commission in 1935.

You are right to stress the diversity of cultures in this country. Our citizens, native and immigrant, have a rich variety of traditions, which can give them some sense of identity and worth. One fairly immediate and relatively inexpensive dividend of the American Folklife Center would be the rebuilding of positive values, which have suffered such an erosion of late.

My views are further spelled out in a letter I have sent to Senators Stevenson and Percy, a copy of which I enclose.

Sincerely,

(Mrs.) JUDITH MCCULLOH.

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CENTER FOR INTERCULTURAL STUDIES
IN FOLKLORE AND ORAL HISTORY,
*Austin, Tex., September 5, 1973.*

Senator JAMES ABOUREZK,
*Dirksen Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ABOUREZK: I am delighted to hear that you have reintroduced the Folklife Preservation Bill. Right now folklore and folklife studies are just beginning to demonstrate their public usefulness, and this bill is especially timely. The Smithsonian Institution, with whom I work, both as a Counselor to Secretary Ripley and as a member of the Folklife Advisory Committee, have made some preliminary moves in demonstrating the applied uses of folklore studies in the past few years, with more than modest success. But this type of thing can and must be carried on throughout the United States, and only an action such as that contemplated in your bill will enable this to be accomplished.

Let me give one example from your state. I have been working with the school system in Stephan, on the Crown Creek (Dakota) reservation. They are trying to put together an appropriate educational approach for Dakota Indians, and are finding it difficult because they have been taught for so many years that anything Indian is no good and must be forgotten. Much has remained, however, and myself and another folklorist, J. Barre Toelken of Oregon have been demonstrating to the staff how to observe these practices, and how to use them in their classrooms and curriculum development. But Sister Charles and Augustus and the other good people there need much more local help (we represent the National Humanities Faculty) and this could be accomplished through this bill.

We are delighted to see that you have been able to garner such broad and multi-partisan support from your fellow senators. Hoping for further successes, I remain

Respectfully yours,

ROGER D. ABRAHAMS.

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## THE NEED FOR BIPARTISAN COOPERATION WITH THE PRESIDENT

Mr. SCOTT of Pennsylvania. Mr. President, in his September 5 column for the Los Angeles Times Syndicate, Roscoe Drummond most effectively puts into perspective the great need for bipartisan cooperation with the President to get this Nation back on track on the business of the people. Mr. Drummond asks:

> Is it acceptable to the American people to see the nation so perilously divided when it is not necessary? Bear in mind that the biggest loser will not be Richard Nixon or his political opponents in Congress; it will be the United States of America.

Mr. President, I share this view very strongly. We must have cooperation from now on out as the only viable path to effective governance. I ask unanimous consent to have Mr. Drummond's column printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

### IMPEACH OR COOPERATE?

(By Roscoe Drummond)

WASHINGTON.—The gravest consequence of Watergate, which can do untold harm to the nation, is now upon us. It is starkly visible in these two circumstances.

1—It is evident that President Nixon's political opponents in Congress and the press have no intention of letting him off the mat to do his job effectively—if they can possibly help it.

2—It is also evident that Congress has no wish and no taste to remove him from office.

Hence the ominous prospect that we face many months of a nation half-governed and half-stalemated, a crippled President and a hostile, partisan Congress more intent upon punishing the President than upon his governing the country.

Is it acceptable to the American people to see the nation so perilously divided when it is not necessary? Bear in mind that the biggest loser will not be Richard Nixon or his political opponents in Congress; it will be the United States of America.

There is an answer and it does not rest on the assumption that the President is entirely in the right or that his congressional opponents are entirely in the wrong. But it does rest on the premise that the nation cannot safely continue for long half-governed and half-stalemated.

I believe we have reached the point where there is no other answer than this: Impeach or cooperate.

In other words, isn't it the clear duty of the Democratic majority in Congress to stop harassing the President over Watergate—so that together the President and Congress can begin to govern effectively—or take the only step open to them to get rid of him; namely to institute impeachment proceedings?

It seems to me that this is the clear, clean and constructive choice between alternative courses of action—impeach or cooperate.

The purpose is not to punish Richard Nixon nor to benefit him. The purpose is to stop punishing the nation. If the President's political opponents in Congress are not willing to move to impeach him, the overriding goal is not just to let the President up off the mat but to let governing the nation up off the mat.

I am not suggesting that if Congress is not going to impeach the President all the cooperation needed to deal with crucial decisions must come from the Congress. It must come from both. There must be give and take and some of the give must come from the White House. Watergate has strengthened Congress and fortunately it has alerted the President to a fuller awareness that he cannot govern alone.

The time is right for rebuilding a needed and workable partnership between Congress and the President in order to move forward on urgent matters which have been painfully neglected by both for months.

Congress needs the initiative of the President. The President needs the discriminating support of Congress. The diplomacy of peace and the welfare of the American people are at stake and new actions will be stunted and stalled if some degree of cooperation does not replace the kind of civil war between the two which has prevailed for months.

Much needs to be done.

We must re-create the will and mechanism for a nonpartisan foreign policy which can build on the improved relations between the United States and Russia and China.

New legislation is needed to enable the President to expand U.S. trade with the Communist countries and negotiate new commercial agreements to avert a worldwide trade war.

Crucial appropriation bills are backed up and require reasonable compromise.

New measures dealing with tax reform, defense, welfare and health ought not to be delayed.

The truth of the matter is that Congress cannot govern without the President and the President cannot govern without Congress.

If the Democrats in Congress want to move to impeach the President, so be it. But if they don't, then in the interest of the nation, they ought to co-operate with the President and demand co-operation in return.

## RESTORATION OF DIPLOMATIC RELATIONS WITH SWEDEN

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues an editorial entitled, "Sweden on the 'Enemies' List," which recently appeared in the Minneapolis Star. This editorial calls on the President to "move promptly to reestablish full diplomatic relations" with Sweden. The administration has not sent an Ambassador to Sweden since August 1972 because of criticism made by Prime Minister Palme of our Indochina policy.

The maintenance of this position toward a nation with whom the United States has always had the friendliest of relations was never justified in my view; it cannot possibly be justified now that the United States has completely removed its military forces from Indochina. Indeed, as the Star editorial states:

> And what of China and Russia, which conducted a vitriolic propaganda campaign against U.S. actions in Indochina? Should they be forgiven, while Sweden continues to be condemned?

I therefore wrote to Secretary of State-designate Henry Kissinger asking if he will recommend to the President a resumption of normal diplomatic relations with Sweden. As of yet, I have not received a reply to my letter of September 4.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### SWEDEN ON THE "ENEMIES" LIST

Sweden has been on the Nixon administration's "enemies list" for more than a year. Because its leaders openly expressed their displeasure at U.S. bombings of North Vietnam, the President did not replace the American ambassador to Stockholm when he retired in August 1972.

Later, when Sweden's Prime Minister Olof Palme criticized the renewed bombings last December, Nixon withdrew the No. 2 man in the U.S. mission in Stockholm, and further announced that a new Swedish ambassador, to replace the envoy who had retired, would not be welcomed in Washington.

This atttiude toward Sweden, as Sen. Hubert Humphrey has said, is "infantile petulance." Humphrey introduced, and the Senate Foreign Relations Committee approved, a resolution calling on the President to resume full diplomatic relations with Sweden. Rep. Donald Fraser, of Minnesota's 5th District, has introduced a similar resolution in the House. Still another Minnesotan, Sen. Walter Mondale, has written to Henry Kissinger, the secretary of state-designate, asking if he will recommend a resumption of relations with Sweden.

The administration's attitude is indeed "infantile." Sweden was not the only country to criticize the U.S. bombings. And what of China and Russia, which conducted a vitriolic propaganda campaign against U.S. actions in Indochina? Should they be forgiven, while Sweden continues to be condemned?

Palme, at least, was honest in his criticism. The same cannot be said of officials in Peking and Moscow, who offered friendship from one side of the mouth, and vitriol from the other. Nixon should respect Sweden's honesty and move promptly to reestablish full diplomatic relations.

## THE CONSUMER PRODUCTS WARRANTIES BILL

Mr. HANSEN. Mr. President, I would like to take a few minutes to comment on a bill that this Chamber passed by voice vote yesterday.

The consumer product warranties bill, S. 356, has some good concepts. I certainly support the clarification and enforcement of warranty language. It is essential that warranty terms are cogent, so as to avoid misunderstanding by either the producer or the consumer.

Conceptually, the bill has some sound proposals, which could provide effective consumer legislation. The troubling aspect of S. 356, as passed by the Senate, is that several provisions lack necessary specificity in terms of litigational procedures. It is my understanding that section 203 of title II authorizes the Federal Trade Commission to regulate the details of virtually all contract rights and, in this regard, to all intents and purposes is a class action provision. If the provision does in fact allow suits to be brought by the FTC on behalf of consumers in Federal courts, what provision is made to deal with the many problems inherent in class action litigation?

Imprecise and sometimes nebulous language in legislation opens the door for administrative confusion. It is somewhat ironic that the very bill designed to insure that warranty terms say what they mean and mean what they say is itself vague.

## OVERTHROW OF ALLENDE GOVERNMENT IN CHILE

Mr. McGEE. Mr. President, the overthrow of the Allende government in Chile by a military coup will most certainly be the subject of considerable discussion, speculation, and conjecture in the next few days.

There may even be the temptation on the part of some individuals to exploit the situation in an attempt to draw a correlation between the ITT revelations of a years ago and Allende's demise. However, I would urge that everyone exercise caution and not engage in hasty conjecture and simplistic analyses as to what led to Allende's fall from power. To do so would be to ignore the complex nature of the Chilean political system—a system which has had a strong constitutional tradition, making Chile particularly resistant to interference in its internal affairs by outside forces.

As chairman of the Subcommittee on Western Hemisphere Affairs of the Senate Foreign Relations Committee, I have had more than just a passing interest in Chile and the rest of Latin America. Therefore, it is my belief that in the absence of any drastic change in domestic policy on the part of the Allende government, the coup of 2 days ago was unalterably charted from the beginning of this year.

In light of this, I was particularly interested in two analyses of the Allende government—one by Lewis Diuguid of the Washington Post which appeared before the coup and the other by Jeremiah O'Leary of the Washington Star-News which appeared yesterday. Both Mr. Diuguid and Mr. O'Leary are recognized as journalists who have considerable expertise on Latin American affairs. I found both articles reflective of this expertise on Latin American affairs, and I believe both placed the situation in Chile in the proper perspective. Therefore, I would urge that my colleagues give particular attention to what their observations are.

Before concluding my remarks, I would like to make one additional observation. I do not believe anyone can take any satisfaction in the fact that the Allende government was overthrown. The issue of his government, in my estimation, was not based upon the ideology of Allende the politician. While Allende was a Marxist he never allowed his ideology to overcome his belief in Chile's constitution. Although his programs may have been the outgrowth of a Marxist ideology, he still resisted pressures from his own Socialist left to use force as a method of circumventing the constitution and, thus, consolidate his hold on power in Chile.

Allende's death was a tragedy, just as the series of events and incidents in Chile culminating in the coup was a tragedy. I do not believe that the Chilean opposition parties or the military take any great satisfaction that this was Chile's first coup in more than 40 years. Quite the contrary, for whatever other reasons, I believe this last drastic step was taken with great reluctance. Thus, it would behoove us all to reserve our judgments as to what this portends for the future of not only Chile, but the rest of Latin America as well. In this vein, I would urge my colleagues to also give particular attention to the editorial appearing in yesterday's Washington Star-News.

I ask unanimous consent that the O'Leary and Diuguid articles and the Washington Star-News editorial be printed in the RECORD.

There being no objection, the articles and editorial were ordered to be printed in the Record, as follows:

[From the Washington Post]

### ALLENDE'S FUTURE

(By Lewis H. Diuguid)

Chilean President Salvador Allende has served just about half of his 6-year term, but his chances of completing it look dimmer now than they did in 1970. Even then there were plenty of skeptics. They pointed out that Allende had won only 36 percent of the popular vote, that as a Marxist he would be unique in Chile's—and the world's—democratic history, and that his program for socialism was bound to antagonize such anti-Marxist powers abroad as the United States.

Still, there was the proven capacity and flexibility of the Chilean political system. It had, after all, permitted Allende to come to power. Moreover, military intervention did not seem to be a threat in a nation where the soldiers really did keep to barracks.

Santiago was agitated by the impending changes, to be sure. On the one hand, there was euphoria among the Marxists who had sought power so long. On the other, there was panic among the rightists. But a tolerant skepticism could be found among many between those poles who were willing to wait and see.

In Chile today, tolerance, flexibility and euphoria are as scarce as potatoes and cooking oil. And soldiers are in the streets.

Allende has presided over the polarization of an electorate that just three years ago was still highly diverse. Civil war is a real possibility, and this comes as a shock to Chileans who took pride in their nonviolence.

The basic cause for the crisis is Allende's determination to carry out his program of sweeping change without majority support. The Chilean multiparty system is founded on compromise. It accommodates a minority president, but the parliament is a check against his imposing a program unacceptable to the majority.

Allende, however maintains that to modify his socialism would be to defraud his supporters. And so there is an impasse.

But if Allende's refusal to compromise is the basic cause of the crisis, other factors contribute: the parallel intransigence of the opposition, incapacity in the ruling coalition, and the difficult-to-define foreign factor.

The Christian Democratic and National Party opposition has shown as little willingness to compromise as has Allende. It is just that the onus is on Allende as President. They seemed more willing at the outset, when Allende was stronger. They are less so now, when he seems weaker.

Christian Democrats have accommodated to the conservative National Party even as they have deepened the split with the Allende coalition—though their own ideology is much more akin to the Marxists'.

While both sides have contributed to the crisis through intransigence, Allende's government has itself been a major factor through its incompetence. Many of its leaders concede this freely.

Policies agreed upon at cabinet level and among leaders of the coalition's six parties are diluted or even discarded in the field. The government's chain of command frays into separate hierarchies layered through the ministries by the Communists, the Socialists, and the Christian Left. None trusts the others.

So far, the exigencies of power have not coalesced the Popular Unity coalition. Allende's election was possible because the disparate Marxists at last pulled together for that limited goal. As one of them said, "We had a program for election, but not for government."

While Allende proved to be an icy brinksman in conflict with the opposition and in cabinet crises, he has shown a curious inertia when purges of the government ranks were called for.

Incompetents are rarely relieved of responsibility, and almost never fired outright.

A couple years ago, when violence was on the rise in Santiago, a newly arrived reporter asked Allende's press secretary about the possibility of wide conflict. He replied by pulling a .38 caliber pistol from his desk drawer and snarling, "If it comes, we're ready." The Socialist Party stalwart was infamous for such gaffes, but he lost his post only after he left the country in hurried pursuit of his fleeing wife. It got pretty embarrassing for the Allende crowd. Yet the gun-toting secretary is now back on the President's personal staff.

Equivalent cases of old-boy relations among the new Marxists abound in the ministries charged with directing the economy and the critical mining sector. And the inflation and copper problems are the bane of the government's existence.

How big is the U.S. role in the crisis? The Nixon administration's antipathy for this socialist experiment has been clear enough. Allende expected it—his program called for taking over property of influential American corporations.

The U.S. ambassador was negotiating in behalf of the copper companies before any action was taken against them, and the cutoff of American credits began about the same time. ITT's anti-Allende activities received official sympathy if not connivance.

But the United States has made a major de facto contribution to Allende by failing to come to terms on rescheduling Chile's huge debts—on-and-off negotiations have provided a painless two-year moratorium. Minor aid efforts, such as Peace Corps and Food for Peace, continue.

By the public record, it would appear that the U.S. role in the Allende crisis actually is marginal. But it is real, and it rankles those who see no reason for any American involvement. Should he fall, many will wonder if Chile's experiment failed on its own terms.

Allende may weather the crisis. But while the question in 1970 was whether he would be able to carry out his program, it now seems to be whether he can just hold the government together. With the polarization extending now to the armed forces, his room for maneuvering is tight.

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[From the Washington Star-News, Sept. 12, 1973]

### ALLENDE

(By Jeremiah O'Leary)

Dr. Salvador Allende Gossens, who called himself a Marxist but lived the dolce vita of Santiago's upper class, survived as president of Chile for just less than half of his six-year term.

The 65-year-old Socialist Party leader apparently sealed his own doom by carrying out some of the most unorthodox economic policies in South America. One of his first acts after being elected by a margin of 1 percent over a divided opposition in 1970 was to announce a new economic order for Chile.

What he did simply did not work. He ordered pay raises of about 30 percent for everybody; he froze prices and he ordered all production doubled.

Many observers were astonished that he endured for three years. But Chileans are a democratic and law-abiding people who thought, in the main, that he ought to have his chance to try socialism so long as he had won fairly and squarely in the election.

Even the armed forces and the well-disciplined carabineros (national police) resignedly went along with Allende and his theorists. Chile had not had any semblance of a military coup since the early 1930's and the nation was proud of that record.

But Allende never really had much of a chance, given the incompatible rules for conduct that he set for himself. Many observers believe his pre-election promises were made because he never expected to be elected. But when he was elected he had to try to deliver.

One of his first acts was to burn most of the friendly bridges with the United States, source of millions of dollars of aid and investment in Chile. Allende nationalized the American copper companies without paying for them, no doubt a popular thing to do for the masses, but it cut him off from most world sources of credit.

Then, when youths of the leftist MIR organization began helping peasants seize farmland, a siege of food shortages began that persists to this day. No one would plant any crop of importance because it was never known when the government or the peasants would seize it. Allende looked the other way when the land seizures took place and production plummeted.

The anti-Marxist news papers went into shock when Allende won the election. But when they recovered their courage, Allende had a vocal and talented opposition press on his hands that often exceeded his own press coterie in bombast and rhetorical excess. By trying to be both a democrat and a Marxist, Allende was barred from seizing the opposition papers and he failed in an effort to control their access to newsprint through the efforts of the newspaper unions.

All along, Allende had a government in which the executive branch was Marxist, the legislature was dominated by centrists and conservatives and the armed forces were lukewarm. Few of the officer corps liked the prospect of serving a Marxist president but most of them determined to try so long as he did not violate the constitution.

In the end, it was the wave of strikes by Allende's own people, the miners, the teachers, the unions and the truck drivers that contributed most to his downfall. He staggered from crisis to crisis while Chile's currency—the escudo—depreciated to the point of worthlessness, while store shelves emptied, while the cost of living soared and street demonstrations became regular.

He staved off a coup by the armored troops in July, another by the navy in August. Only the inclusion of military officers in the cabinet saved him from those and other crises. In the end, the situation had gotten so bad that the unity of the armed forces was threatened. It was then that the officers made their decisive move.

It is significant that they were joined by the carabineros, perhaps the best national police force in the Western Hemisphere. These police take their oath to the president, not the constitution.

Allende, who was born in Valparaiso where the revolt started, spent most of his adult life as a politician and leader of the Socialist party. He was a three-time loser for the presidency when he won in 1970 when a third-party candidate drained off just enough anti-Marxist votes to permit his victory.

He took up immediately with Fidel Castro who came to Chile and stayed a month until even the Marxists were tired of him. He gave the Chilean people an unmanageable government and a creed nearly 60 percent of them did not favor and, worst of all, their lives grew miserable with shortages of nearly everything.

He himself never seemed to flag in the face of three years of adversity. He cut down on his drinking, which had been a problem to him over the years. He worked as hard as he could to put square pegs in round holes.

His wife Hortensia and his three daughters—one of them married to a Cuban intelligence agent—were an asset with his backers. His sense of humor rarely left him. His lifestyle remained high. His home in a Santiago suburb, his natty clothes and his liking for fine cars did not go well with the state of affairs for his deprived citizenry.

If he expected massive help from the Soviet Union, he never got it. As one diplomat said, "If we have to have a Marxist government freely elected, I can't imagine a better place than Chile. It's 8,000 miles from anywhere."

Despite the ITT-Chile "plot" of which Allende and the Senate Foreign Relations Committee made so much, the United States actually did no drastic intervening. Washington's orders to all concerned were to "sit on your hands." Apparently no CIA operations were run against Chile, no matter how often people discussed doing it.

It wasn't necessary. Allende was such a poor economist, the nation went bankrupt. He was a good politician but even that wasn't enough for a man who had the enmity of a majority of his legislature, his armed forces and his people.

The round-faced, voluble, smiling Allende tried as hard as he knew how to make a socialist state of Chile. But the Chileans seem too individualistic for any such structure of life. The pro-Allende miners, thus, were the most ardent and damaging strikers against him.

One anti-Allende Chilean said, "He might have made it if he had ignored the constitution and gone all out for Marxism when he was first elected. But a man who has been a congressman all his life is a natural-born compromiser. He compromised and finally he ran out of compromises."

The new regime could be cast in one of these forms:

A military junta that would retain power only until it can hold elections or present the presidential sash to the ranking member of the Senate, former President Eduardo Frei.

A Uruguayan-type solution by which the military would retain actual power by using a bland and neutral civilian figurehead.

A Brazilian-type solution under which the military would retain the appearance as well as the reality of power.

Chilean military officers here said they expected the military chiefs would want to hand power over to civilians as fast as possible. But that depends on whether the takeover leads to civil war or whether the national mood is one of acceptance of the change.

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[From the Washington Star-News, Sept. 12, 1973]

### Hands Off Chile

Chile suddenly presents the Nixon administration with its biggest test in this hemisphere. Throughout 1973 presidential spokesmen—most notably former Secretary of State William P. Rogers in Latin America this spring—have proclaimed American determination to let our southern neighbors determine their own destiny. The Chilean military assault on Marxist President Salvador Allende now becomes a dramatic case in point.

We think that the United States, true to its promises, should stay strictly on the sidelines. Neither by word nor deed should Washington fuel the slightest suspicion that it somehow is behind the upheaval overtaking this major Latin American country.

First signs are that the Nixon administration agrees. We applaud the immediate decision yesterday to divert a flotilla of four American warships from Chilean waters. The ships had just left Peru for routine maneuvers later in the week with the Chilean navy, but their presence now would certainly have proved an embarrassment in handling the crisis.

It is no state secret that Allende and the United States had been at loggerheads almost since the day he was elected in 1970. The Allende experiment in socialism meant the confiscation of large private American investments, including copper and telephone companies, with precious little compensation. The United States became the convenient "imperialist" whipping boy for everything wrong in Chile.

Nor have American hands been clean in fighting Allende. It is now part of the public record that the International Telephone and Telegraph Company approached a not-unsympathetic CIA with a bagful of dirty tricks to get rid of the elected Marxist president. The fact that the plans never got anywhere does not excuse underhanded intervention.

All the more reason now for the United States to take a scrupulously pure hands-off position. Voices from the left are bound to cry that Washington is at last trying to have its way in Chile, just as forces on the right will do their best to gain the mantle of respectability through support from Washington. But it is a Chilean battle and the solution must be a Chilean solution.

Fortunately the official American presence there is in the hands of Ambassador Nathaniel Davis, a thoroughly level-headed and professional foreign service officer. His first concern must be for the safety of the 2,500 American residents of Chile, and we trust that his superiors in Washington will not complicate that task by taking sides in whatever struggle may ensue.

## MEDORA, IN THE BADLANDS AREA OF NORTH DAKOTA

Mr. YOUNG. Mr. President, one of the most interesting and fascinating places in the whole world is the Badlands area in western North Dakota. The little town of Medora in the Badlands is the most picturesque and scenic western town that can be found anywhere in the United States. It is named Medora in honor of the lovely wife of one of the Badlands area's first pioneers, the Marquis de Mores, a fabulous young Frenchman of the last century.

It was to this area that Teddy Roosevelt came to ranch in that period of history. He often said that if it had not been for the time he spent in this area of North Dakota, he never would have been President of the United States.

Mr. President, while some of the old town of Medora still stood, it has now been restored to its original status of nearly 100 years ago by Harold Schafer, head of the Gold Seal Co. He has made this into a wonderful and fascinating spot for any vacationer to visit.

Mr. Schafer is one of the most successful businessmen of our State and has devoted much of his time, energy and resources into making this a most attractive spot. Among the many attractions he has brought to Medora is a great theater production in the natural setting of the Burning Hills Amphitheater. The professional talent on this tremendous program is among the best that can be found anywhere in the United States.

Mr. President, I ask unanimous consent to have printed as a part of my remarks an editorial appearing in the Bismarck Tribune of August 2, 1973, entitled "An Evening at Medora." I had the privilege of spending one of these evenings in Medora which the editorial speaks of. It was one of the most memorable and enjoyable evenings of my life.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### An Evening at Medora

Take a western North Dakota evening, with just a murmer of a cooling breeze, warm enough for shirtsleeves but cool enough to have a jacket ready.

Add the setting rays of the lowering sun against red-topped Badlands buttes.

Stir in a thousand or more chatting, laughing, expectant people.

And then add the 1973 Medora Musical, with its Burning Hills Singers, "old-timer" Bob Mantzke, Victor Julian and his canine stars, and a comedy team like Bob and Ginny Lewis for seasoning.

What you have is something so delightful that you're sorry when it's over. You want to see and hear more. And you want to come again.

That was the general reaction of more than 1,600 persons who saw the show in the butte-side amphitheater just southwest of Medora last Saturday evening, and, judging by reports, it's been the unanimous verdict of all who have seen it this summer.

One of the good things about it is the reaction it is producing from the many out-of-state tourists who always are included in the audiences.

They come in looking a bit hesitant and wary, as though in doubt that 'way out here in cow country there could be much that would impress and really entertain them.

Before it's over they're standing to applaud with the rest of the audience, and you know that when they get back home one of the things they're going to talk about is that wonderful evening they had in a place called, let's see, oh, yes, Medora, North Dakota, where Teddy Roosevelt once ranched.

Bob Mantzke asks out-of-staters at the show to stand, and at least a fourth of the 1,600 at last Saturday's performance stood at his request.

Medora always has been a fun place to visit, but this year there's more than ever to make it interesting.

For one thing, there's the big, new chuckwagon, a cool and airy building where hundreds can be served. For another, there's the Medora Gallery, with a fascinating collection of old guns. Just to mention one more, there's a place to fish for trout, and many do.

All this and the Roosevelt National Memorial Park with its visitors center, the Chateau de Mores, excellent camping facilities and all kinds of exciting Badlands scenery.

It's been said that North Dakota may have a hard time developing terminal vacation attractions—that is, a place to which people from Chicago and New York and Grundy Center, Ia., will drive to spend a week or two—but Medora with its Badlands and developed attractions could have the makings. So, for that matter, could the Metigoshe area and perhaps others like the Four Bears area, with proper development and promotion. Especially with the present threat of gasoline shortages curtailing mileages.

But for the moment, don't overlook Medora. It's great.

## A COMMUNICATIONS REVOLUTION?

Mr. HARTKE. Mr. President, it has been said that we live in an age of instant communications as audio and video signals bounce all over the world and from outer space itself. The effects of our commercial television are debated in academic circles as we recognize that any American born no more than 24 years ago has likely had his or her total consiousness influenced to an unknown degree by television. Mr. President, as a member of the Subcommittee on Communications of the Senate Commerce

Committee, I am concerned about the role of television in our daily lives. If we are not fully cognizant of what television has already done to our lives, we certainly cannot quite comprehend how television will affect us in the future.

Mr. President, Douglass Cater of the Aspen Program on Communications and Society has contributed a scholarly and intellectually stimulating article on this matter. For the perusal of my colleagues, I ask unanimous consent that Mr. Cater's article in the Wall Street Journal of August 6, 1973, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A COMMUNICATIONS REVOLUTION?

(By Douglass Cater)

The experts have been signalling a coming communications revolution. Satellite, cable, cassette and accompanying gadgetry promise what one foundation-sponsored commission has called "television of abundance." Wilbur Schramm, a leading communications authority, predicts that this will change American life styles as radically as the motorcar did in the 1920s.

Dr. Schramm's prediction is not far-fetched; as are only dimly beginning to perceive the extent to which our lives are shaped by the media that give us our images of the world. The revolution he sees may not come as suddenly as the prophets once predicted for huge economic and political problems still must be solved before the nation can be wired and the new channels filled with programming. But when and if the technology is implemented, it will affect society in powerful ways—for better or worse.

Consider the picture painted by the enthusiasts about the coming revolution. There will be more channels into the home: by coaxial cable 20, 40, 80 or, by the perfecting of fiber optics, hundreds and even thousands. You will have a Home Information Center (HIC), capable of printing out your daily newspaper even while you are watching the latest rerun of "I Love Lucy."

You will be watching not a picture tube but a wall-sized screen creating third dimensional illusion (and the possibility of X-rated movies in 3D). HIC can provide "narrowcasting" aimed especially at you and your neighbors or you and your interest group. HIC can also provide "interactive capacity," meaning that you will be able to talk back to your television set—or at least send back a signal of some sort.

With the video cassette recorder, you will be liberated from the tyranny of broadcast schedules. Connected to the computer, HIC can bring the town library or even the Library of Congress directly into the home. A dish on the American homeowner's roof can pick up telecasts direct from the People's Republic of China. There are few technological barriers, although there may be political ones.

But the major promise, according to the prophets is that telecommunications will no longer be an economy of scarcity. Minority audiences—ethnic, religious, cultural—will be freed from the dictates of Mr. Nielsen's ratings. In their enthusiasm, the prophets foresee a vast flowering of services:

Social—entire channels devoted to universities without walls and round-the-clock delivery of health services;

Civic—fire and police surveillance, meter reading, electronic mail delivery;

Political—town meetings by the fireside, instant plebiscites, the nation turned into a Greek marketplace of democracy;

Economic—shopping on the tube, business conferences by picturephone, relief for congested transportation systems.

Perhaps most dramatic of all, Dr. Peter Goldmark, the former President of CBS Laboratories, foresees demographic benefits. Pointing to present migratory trends which by century's end will place half of America's population in five areas of urban sprawl, Dr. Goldmark believes that efficacious use of the new communications can provide incentive for families and businesses to quit huddling together and to spread themselves more evenly throughout our vast land.

#### NOT ALL ARE OPTIMISTIC

Not all who contemplate the coming communications revolution are so sanguine, however. A gathering of professors concerned with public policy at Berkeley reacted with unabashed horror. Phrases like "unravelling of the social fabric," and "weakening of nationhood" were uttered. The slightly more optimistic view offered by one political scientist was that the new technology will create an information overload of such massive proportions that people will tune out. There will be no one at the end of the line.

The professors voiced more specific concerns:

Political—Can a nation govern itself by marathon plebiscite? Who will perform the role of leadership once the *demos* has the power to register its opinion instantaneously? How will government cope with problems that require anticipatory planning and sustained commitment?

Economic—Will he plethora of channels cause a further dilution of quality? Who will provide the money for high cost programming? The three networks, for example, currently spend an estimated $150 million to $250 million annually on news and public affairs. If they lose their present dominance of the marketplace, will they continue to provide this service indispensable to an informed citizenry?

Societal—Is the fractionation of audiences a net social gain? Many social scientists believe that the mass media have played a vital role in building the sense of national community. What happens when each minority group can tune in its own prophets? When there are no more Walter Cronkites each evening to reassure us that despite all its afflictions the nation still stands?

Libertarian—What happens to the individual in an era when technology invades and records and computerizes his deepest privacy?

The changes in communication technology also promise to upset delicate political and social balances that have grown up around present broadcasting.

No one has suggested a way of monitoring much less controlling excesses on the cable. FCC regulations are ambiguous about the cablecaster's responsibility for programming produced by access groups and others. Already, there have been a few hairy instances of sex and sordid language. If, as seems likely, program packagers test the outer limits of the permissible in their quest to capture attention, a political outcry against this invasion of the home is dead certain. Yet to devise restraints whose curse is not worse than the cure will be a far more difficult task for the open marketplace of cable than for over-the-air broadcasting.

Other demands on the new communications are being asserted in Washington. The copyright lobby insists on better terms for those who produce the programming; the unions are anxious to extend their tight hegemony over labor practices; consumer groups are stipulating conditions of access. Regulatory purists argue that the cable should be governed as a common carrier with strict separation between conduit and content. All these claims prompt some to speculate that technological progress may be stalled by excessive expectations. Unless there is opportunity for substantial profit, they argue, entrepreneurs are simply not going to invest in either conduit or content.

One economic fact seems quite clear: feeding the avaricious appetite of the new communications will be a great deal more costly than installing the hardware. How is it to be paid for? Traditionally, the commercial broadcast industry in America has relied exclusively on advertising revenue to sustain program production. Though this represents a sizable total—$4 billion a year for commercial radio and TV—it amounts to only two or three cents per viewer message and appears to be a fairly inelastic source of revenue. Manufacturers with something to sell are not likely to lay out greatly increased sums simply because more channels are available.

#### A BITTER BATTLEGROUND

This points toward what is likely to be a bitter battleground of the coming communications revolution: subscription programming. Those who favor selling directly to the subscriber programs on the cable foresee an opportunity not only to tap a new source of revenue but to free television from mass market commercialism. At long last, they argue, the consumer can get what he wants—i.e., what he is willing to pay for. Paul Visher, of Hughes Aircraft Corp., claims that surveys show potential profitability for comparatively limited audience programming. Dore Schary, who is developing a pay service called Theatrevision, is confident that serious discussion programs will be able to earn their way.

Such arguments arouse fury among broadcasters. They deride the notion that pay programming will release a vast outpouring of theater, opera, and the like. What the cablecaster really wants, charges a group station executive, Wrede Petersmeyer of Corinthian Broadcasting, is to siphon off the most popular and profitable programs from the "free" (i.e., advertiser-supported) air waves. Broadcasters would dearly love to find a regulatory sanction to prevent this.

How to pay for programs which can muster neither advertiser nor subscription revenues? In a fit of euphoria, the FCC has tentatively reserved cable channels for educational, municipal government, and public access use. But no one has the foggiest idea where the money to program them is coming from.

The dilemma is posed even more starkly by the effort to harness the new communications to the nation's needs for education beyond the classroom. Experts point to a vast and growing demand in an era when changing technology itself imposes a requirement for lifelong learning. In theory, the cable could become a valuable instrument of continuing education.

Again, how does a society long accustomed to tax-supported schooling finance this new departure The experience of public financing of educational television fails to provide hopeful answers. A public television system now embracing more than 230 stations in limping along on an operating budget less than one-fourth per capita of Britain's BBC–TV, just over one-fourth Japan's NHK, and one-seventeenth that of U.S. commercial television. Expert estimates are that a quantum jump of at least two and a half times present revenues will be needed to put the system on a viable basis.

What is to be the role of government in the coming era? In recent years, it has become starkly apparent that government has a varied capacity to meddle with the media. The frontal attacks by Vice President Agnew and others are the least of these meddlings. Less visible and therefore more sinister can be the subtle pressures of tax and antitrust policy, program rerun rulings, copyright revisions, etc. Government policy toward the new communications represents a bull whip over the old.

#### MR. WHITEHEAD'S PREDICTION

Clay T. Whitehead, who heads the Office of Telecommunications Policy, predicts a freeing up of controls as the new marketplace of competition develops. Yet, paradoxically, Mr. Whitehead has come to personify governmental intrusion into the most sensitive areas of broadcasting. There is a mounting outcry in and out of Congress to abolish Mr. Whitehead's office. But I doubt that the solution lies in prohibition. Government's capacity to manipulate could persist and grow more virulent even if exercised by officials without title.

A wiser course would be to bring policymaking out into the open and to create more effective checks and balances. The process by which government shapes economic policy offers a useful precedent. This would require an annual report by a Council of Communications Advisors to be reviewed in open hearing by a joint congressional committee created from the dozen or more subcommittees now holding partial jurisdiction. Both the Communications Council and the joint congressional committee would need to counter-balance the expert staff resources available to Mr. Whitehead.

Other advice should come from outside—from universities and institutes not beholden to government. There is presently a dearth of funding for study of the larger policy issues in the communications field. We need both public and private institutions through which we can learn more about how to shape the coming revolution.

A half century ago, Walter Lippmann defined the function of communications in society "to make a picture of reality on which men can act." As we contemplate the dizzying advance of technology, we should constantly question how well or badly the new communications will serve that function.

## THE SALE OF U.S. GRAIN TO RUSSIA

Mr. DOLE. Mr. President, the sale of U.S. grain to Russia continues to be an issue of national attention.

Rumors about this controversial issue can distort the actual situation, particularly when given national publicity by our news media.

That is apparently what happened last week when a story said to be based on Italian newspaper accounts was widely distributed by a major U.S. news wire service.

The account said a ship unloaded 22,000 metric tons of Soviet grain at a port near Rome. This transaction was apparently the result of American wheat sales to the U.S.S.R.

The story indicated that this could well be another indication that Soviet traders knew more about world conditions than we did and took advantage of our negotiators not only to supply their own needs but to reap huge profits on the world market—all subsidized by the American taxpayer and consumer.

The facts, ascertained by an inquiry to the U.S. Department of Agriculture, are:

First. The Russians were not involved in the sale in any way.

Second. The shipment consisted of 22,000 tons of wheat and 13,000 tons of corn.

Third. The wheat was sold on July 4 by a principal American exporter, through an agent in Milano, to a Swiss importer for shipment to an Italian port.

Fourth. The carrier was a ship of Indian registry. It was loaded at the Port of Galveston on July 11.

Fifth. The sale was made on commercial terms. There was no U.S. subsidy involved.

Mr. President, some questions about the Russian grain sales may be valid. A failure to clearly investigate the facts thoroughly could lead us in the wrong direction in remedial actions. I hope setting the record straight in this instance will preclude any harmful results.

## SENATOR ARTHUR V. WATKINS

Mr. MOSS. Mr. President, last week the State of Utah sustained a stunning loss in the death of Arthur V. Watkins, my predecessor in the U.S. Senate. "Viv" Watkins, as he was generally called, in his home State, was—at 86—one of our most distinguished elder statesmen—a man who unquestionably contributed to the strength of both Utah and the Nation.

Senator Watkins was perhaps best known in Utah for the leadership he gave to the Upper Colorado River Storage Act of 1956, which authorized the central Utah project. He was one of those who helped convince President Eisenhower to back the bill, and thus strengthened its chances of passage. The full implementation of this act is essential to the future of Utah, and those of us who have followed Senator Watkins have devoted much of our time and energy to building upon what he accomplished.

Nationally, Senator Watkins was celebrated as the chairman of the special seven-man Senate committee which recommended censure of Senator Joseph McCarthy. When he was named chairman, few felt that this mild-mannered man from Utah could handle the tough job given him. But handle it he did, presiding fairly and in a fully judicial manner, and the hearings became the turning point in the reign of terror which had become known as McCarthyism. They were Arthur Watkins' finest hours.

The St. Louis Post Dispatch said Senator Watkins' performance would place him among the "legendary giants of the Senate," President Eisenhower called it a "very splendid job." The Senate itself responded by voting censure by 67 to 22.

Senator Watkins wrote his own evaluation of the McCarthy censure hearings in his memoirs entitled appropriately "Enough Rope," published in 1969.

Arthur Watkins was Utah born and bred. His birthplace was Midway, a small town in Wasatch County, high in the Wasatch Mountains. He was one of six children.

He went to high school in Vernal, in the eastern part of the State, and was graduated from Brigham Young University, where he played on a basketball team which won the Utah State championship. He took his law degree from Columbia University in New York City in 1912, and was assistant Salt Lake county attorney for 2 years. He was elected district judge in 1928. In 1936, he ran unsuccessfully for Congress. However, in 1946 he was elected to the U.S. Senate.

A Member of the Senate for two terms, he served on the Senate Interior, Judiciary, and Joint Economic Committees. He was responsible for revising immigration law, and was the sponsor of legislation to admit refugees from countries torn by World War II.

Senator Watkins died at the home of his daughter in Orem, in Utah County, the town from which he began his political career, and where he had also managed a commercial orchard and turkey farm.

Although Arthur Watkins and I differed on some issues, and sometimes challenged one another on political philosophy, I admired him as a man of courage, and of principle. He was a kind, compassionate man, who faced life head on. He proved again and again what can be accomplished by resilience and a calm, unruffled spirit.

He was head of a fine family of 1 son, 4 daughters, 26 grandchildren, and 18 great-grandchildren.

I extend deepest sympathy to all of the family.

## HOWARD FLEIGER'S EDITORIAL ON DÉTENTE

Mr. THURMOND. Mr. President, I have been exceedingly pleased with the fine editorials expressed in U.S. News & World Report. Mr. Howard Fleiger, like his predecessor, David Lawrence, displays commonsense and wise counsel in his articles. Unfortunately, these traits cannot be claimed by all the news writers.

Mr. Fleiger's most recent editorial on détente and its possible ramifications is must reading for everyone. His observations, while not completely encouraging, are nonetheless valid.

Accordingly, Mr. President, I ask unanimous consent that Mr. Flieger's editorial entitled "New Play, Same Game," which appeared in U.S. News & World Report, September 17, 1973, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the U.S. News & World Report, Sept. 17, 1973]

### NEW PLAY, SAME GAME

(By Howard Flieger)

Now that Washington and the Kremlin have gone out of their way to dismantle the cold war, can Americans relax in the comfort of live-and-let-live?

Don't bank on it. See the remarks of Presidential Counselor Melvin Laird on page 39.

Two examples of the world of difference between the way Americans and the Soviets define "peaceful coexistence" come to mind.

"Pravda," official organ of Russia's Communist Party, says: "Coexistence does not mean a discontinuation of the class struggle but only the renunciation of military methods."

And Malcolm Mackintosh, consultant to the London-based International Institute for Strategic Studies, says:

'The Soviet Union is basically hostile to the United States. It would like to see a weakening of American power and influence all over the world. It would like to see America's alliances disintegrate and American resolution and determination to aid its friends fade and disappear."

In plain words: To most Americans "peaceful coexistence" signals an end to dangerous tensions and the start of a period when defense and arms spending can be downgraded. To the Communists, it means that rivalry with the U.S. will continue to be pushed—by all means short of actual war.

Their actions show this. For instance:

Soviet military power is being substantially increased, despite the end of the draft and other military cutbacks by the U.S.

Russia continues to maintain 31 divisions in Eastern Europe to keep its grip on Communist satellites when the U.S. is pulling back forces from most of the world and debating a cut in its troop strength in Western Europe.

In the nuclear field, Russia's development of a multi-targeted warhead—while not unexpected—is significant in direction.

At a time when U.S. is accepting—even encouraging—the development of Western Europe as an economic rival, Russia reserves the right to provide "fraternal assistance" to Eastern Europe. This political rhetoric means it will use military force, if that is deemed necessary, to squelch independence.

The Kremlin continues to probe for opportunities to expand its influence at America's expense—for example, by making a security treaty with India, promoting subversion in the Arabian Peninsula and encouraging the Arabs to use "oil blackmail" against us.

Police-state controls are being tightened against dissidents in Russia. Meaningful contacts with foreigners are discouraged.

In short, it is a needle in a haystack to find any evidence that Russia's masters have really changed their ways. Their determination to extend Communist rule worldwide is as firm as ever. So, if a facade of live-and-let-live helps for new, they'll use it.

The danger has been summed up this way by the British weekly, "The Economist":

"The uncomfortable truth is that democracies are bad at dealing with periods of low-tension confrontation . . . There is an almost universal human desire to believe that peace is the natural condition of man, that armies are temporary nuisances, that conflicts of interest can be dissolved by a policy of good will. None of these things is true, but people like to believe they are."

A leading European authority on Soviet affairs recently put the Russian strategy for ending the cold war in these words:

"Above all, in Russia there is the conviction that, in the long run, history is on the side of the Soviet Union. It is Brezhnev's and Kosygin's view that when opportunities present themselves and there is no danger to the security of the Soviet Union, history should be given a little nudge."

If the nudge becomes a shove, watch out.

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## THE NEED FOR PORTABILITY

Mr. HARTKE. Mr. President, I intend to introduce a portability amendment to S. 4.

Vesting and portability are not the same. Vesting without portability will often prove inadequate because first, employees will not feel the vested benefit alone is dependable and so may withdraw from the plan, thereby losing valuable credits and more importantly, second, without portability the value of vested credits can be eroded seriously by inflation, and third, a benefit that is vested but not portable is not available in the case of disablement.

### THE LIMITS OF VESTING

Vesting means a claim to a future benefit conditioned upon first, living to normal retirement age and second, adequate funds in the plan. The uncertainties introduced by these conditions may persuade an employee in a contributory plan to withdraw his contributions thereby losing the larger value of the employer's contribution—the cash in hand is worth two in the employer's plan syndrome.

More importantly, without portability the value of a vested benefit can be wiped out by inflation. When an employee separates from a job and is eligible for a vested benefit, the benefit is determined by the plan formula at the time of separation. This means that those years of credited service do not participate in the plan improvements that constantly take place in response to inflation, improved productivity, higher living standards and the difference between the usually conservative earnings rate on reserves assumed as compared with actual experience. As a result, exiting employees may be separated involuntarily and receive less for the very same years of service than do employees who stay with the company.

Assume an employee separated with a vested benefit at age 45 payable at age 65—20 years later. Assume a modest annual rate of inflation of 3 percent—modest indeed by current experience. After 20 years, the vested benefit would suffer a 60-percent reduction in value. Put another way, the plan would pay out in dollars worth 60 percent less than when the credits vested.

### THE FUNCTION OF PORTABILITY

However, with portability, the plan would pay out the discounted value of the benefit at or soon after the employee separated—the usual low-interest assumption used by actuaries would favor the exiting employee—the lower the interest rate assumption, the higher is the discounted sum necessary to produce any given level of benefits. When deposited to the employee's individual account in a clearinghouse, that sum would work to the employee's benefit. It would participate in the actual experience of the economy. Earnings rates would reflect inflation and help the benefit keep up with inflation. These better prospects, plus the account in the name of the employee, would encourage employees to opt for the several dollars of vesting versus the fewer dollars in hand at separation. Moreover, such benefits directly and currently credited to the employee would be available in the event of disability.

### HOW PORTABILITY WOULD WORK

Pension portability requires a national pension clearinghouse or regional clearinghouses which coordinate their activities—its structure is described below.

### EMPLOYEE CREDITS

When an employee separates from a job with a vested right, the plan would inform the clearinghouse of that fact and pay over to the clearinghouse the present value of the vested benefit under rules and regulation governing such valuation promulgated by the clearinghouse. The rules should provide that large amounts would be payable in installments over a period of 5 years. In this way, the funding of vested benefits would not be unduly favorable to separating employees as compared with continuing employees. In the case of an unfunded plan, the clearinghouse could compel immediate or phased funding of the vested benefit.

The funds thus provided would be deposited to the account of the employee with the vested right and would work for him. These would be trust funds invested in common with other such funds with all earnings and improvements in value creditable to the individual. The highly successful Teachers Insurance and Annuity Association does just this for tens of thousands of professors and employees in higher educational institutions.

The employee's credits would be payable to him should he become disabled—an advantage not available with conventional vested. Should the employee die, the credits would be payable as an annuity to his or her spouse or, if there is none, to his/her estate—an advantage not available with conventional vesting.

In most cases, the credits would provide annuity payments to the employee upon retirement and to the employee's survivor after his or her death. Unlike conventional vested benefits, the benefit would have increased in value and earnings by actively working as an investment for the employee. The erosion of benefits by inflation is becoming one of the most critical problems of pensions. And pensioners are the group in society hardest hit by inflation. Portability through the clearinghouse is the major means of offsetting the evaporation of value of vested benefits.

### THE CLEARINGHOUSE—PREFERABLY A PRIVATE UNDERTAKING

The proposed amendment would provide private groups the first opportunity to organize the clearinghouse contemplated. The amendment provides a 9-month period during which private groups would develop proposals. The Secretary of Labor is authorized to provide technical assistance in these efforts. The idea is to have a competition in which private enterprises, such as insurance companies, banks, pension, and investment consultants, unions, and consumer groups, would seek to develop proposals that best protect retiree and survivor interests, best protect against conflicts of interest between the clearinghouse and the other enterprises conducted by the other institutions in which the clearinghouse stockholders have interests and—of great importance—provide for the dispersal of investment and the avoidance of undue concentration of investment power.

On the one hand, the enormous potential profits of the clearinghouse would attract the ingenuity, skill and attention of the private sector. On the other hand, the need to persuade Congress that its proposal serves employee, retiree and survivor interests best would tend to stimulate protective elements in the plans. The final protection for such interests is that if no plan is acceptable to Congress, the Secretary would be authorized to institute a federally operated plan. The Federal clearinghouse would be a last resort to be used only if the private sector fails to come up with a fair and workable plan. S. 4 and S. 1179, however, provide no opportunity for a private clearinghouse and, instead, propose clearinghouses that would not do the job.

The S. 4 clearinghouse would not begin operation for 1 year. The amendment makes use of that 1 year to explore the feasibility of a private clearinghouse.

After the private proposals are submitted to Congress, with the assessments of the Secretary of Labor and the Secretary of the Treasury, the Senate Labor and Finance Committees and the House Labor and Ways and Means Committees would be required to hold hearings and to report a bill approving one of the proposals, or rejecting them all. As with the Reorganization Act, the reports would be required in 60 days and a floor vote would have to take place within 30 days thereafter. In this way, Congress would have to act. Of course, these periods might result in modifications of proposals provided some private group desired to make them, thus the competitive factor would continue to work. If no plan is affirmatively adopted the Federal clearinghouse would go into operation, but participation would be mandatory.

### THE ADVANTAGES OF A PRIVATE CLEARINGHOUSE

A private clearinghouse would mobilize much of the varied talent of the private sector to promote employee pension interests. A few years ago, a White House Task Force called upon private industry to devise an effective clearinghouse mechanism. This proposal not only echoes that sentiment, but provides the concrete occasion and incentive for that to be done.

It would permit flexible investment of reserves in all sectors of the economy—debt, equities, directly in new enterprises, and wherever sound investment policy and the interests of retirees lead. In contrast, the clearinghouses of S. 4 and S. 1179 are restricted to Government guaranteed obligations, savings bank, and savings and loan accounts. Such limitations hark back to the long-outmoded and long-discredited limitation upon trustee and insurance company investments. The sponsors apparently were so afraid of public body investment in the private sector that they hog-tied the clearinghouses in S. 4 and S. 1179. Such limitations upon investment would insure that the clearinghouse could not do its basic job—help the value of the vested credits keep pace with inflation and the growth of the economy.

### SPREADING PENSION PLAN COVERAGE

Spotty coverage constitutes the greatest weakness of the private pension system. According to the early 1973 "Interim Report—Study of Pension Plan Terminations, 1972," page 18, note 1, private pension plans—not including profit-sharing plans—cover only 23 million active employees rather than the 30 or 33 million so frequently talked of. Material from the Social Security Administration points in the same direction—"Employee Benefit Plans, 1971," 36 Social Security Bulletin, No. 1, 27, 28, April 1973.

This means that decidedly less than one-half the private workforce has pension coverage at any one time. It also means that when employees lose pension-covered jobs, as they constantly do, their chance of finding another pension-covered job are not good.

This is especially true of blue-collar workers who, studies show, frequently end up in poorly paid jobs which also tend to be nonpension covered jobs. The same thing has been happening to engineers, physicists, and executives in the recent past as shown by hearings I held in South Bend, Ind.

Given the limitations of social security, almost all employees need a private or government pension supplement when they retire. Hence, real pension reform means spreading coverage. Hearings held by the Special Committee on Aging indicate that the largest gap in coverage comes in the area of small business. That is understandable. Small company officials have their hands full. They have neither the time not the resources to deal with lawyers, accountants, pension consultants, banks or insurance company salesmen and officials—all of them now necessary to the "installation" of a private pension plan. Nor is he assured of a quality product and disinterested guidance. In addition, small companies tend to have short lives and so provide inadequate bases for private pension plans which assume corporate life of 30 or 40 years—as do the funding proposals of S. 4 and S. 1179.

If millions of employees working for thousands of small companies are to obtain dependable, low cost coverage, they must have available some simple choices that are designed for their purposes and problems, meet their limited time and money budgets, and are dependable because promulgated by an institution of unquestioned probity—the clearinghouse provided for in my amendment.

The proposal would apply to any employer with 300 or fewer employees—which is, in pension terms, a small company. The amendment provides that once covered, a company could remain covered with the national—or regional—plan, so that successful companies that grow would not have to disrupt the established relationship but could do so if that seemed desirable.

The employer, on its own or pursuant to a collective bargaining agreement, would be able to pay over to the plan whatever amounts were to be devoted to pension purposes. The plan would credit them to each individual employee's account. The plan would give credits in proportion to the amounts deposited—just as TIAA does for different salary range groups in higher education.

The plan—whether private or public—could provide for immediate, 100-percent vesting as TIAA does, or condition vesting upon specified service within the requirements of law applicable to all plans.

When an employee separates from a participating company, his credits would already be in the clearinghouse and remain to his account—thereby avoiding the costs and difficulties and possible abuses associated with transferring the values to another employer's plan—as provided in S. 4 and S. 1179.

Simplicity, low cost, dependability, and growth make this proposal a promising means of extending coverage on a voluntary basis.

## PRIME MINISTER BHUTTO'S FORTHCOMING VISIT

Mr. PERCY. Mr. President, all of us are looking forward to the visit to Washington next week of Prime Minister Zulfikar Ali Bhutto of Pakistan.

I was pleased to meet with Mr. Bhutto in Islamabad in mid-August, just a few hours before he relinquished the presidency of Pakistan and was sworn in as Prime Minister. At that time we discussed the obstacles to an accord with India and Bangladesh on the return of Pakistani prisoners and an exchange of populations, problems which were soon resolved.

Prime Minister Bhutto has had an impressive career, starting from his student days in Bombay when he participated in the movement for the creation of Pakistan. After Pakistan was established in 1947, he went abroad to study political science, jurisprudence and law. He graduated with honors in political science from the University of California at Berkeley in 1950. He also studied at Oxford University where, in 1952, he received the master's degree with honors in jurisprudence. He lectured on international law at the University of Southampton in 1952–53 and he taught law at Sind Muslim Law College in Karachi from 1953 to 1957.

In 1957 he was a member of the Pakistan delegation to the U.N. General Assembly, and the next year he headed the Pakistan delegation to the U.N. Law of the Sea Conference in Geneva. In 1958 he was also appointed Minister of Commerce of Pakistan, at 30 years of age the youngest cabinet member in South Asia. In January 1960 he was also given the portfolios of Minority Affairs and National Reconstruction and Information. The same year he also took up the portfolios of Minister of Fuel, Power, and Natural Resources and Minister of Kashmir Affairs.

In December 1960 he headed the Pakistan delegation to the Soviet Union to negotiate an oil agreement, the first official economic contact between the two countries.

Mr. Bhutto was elected without opposition to the National Assembly in 1962 and continued in the cabinet. He was Pakistan's chief delegate to the Indo-Pakistani talks on Kashmir in December 1962. In January 1963 he was appointed Minister of External Affairs. He headed Pakistan's delegation to many sessions of the U.N. General Assembly and Security Council.

Following policy disagreements with Ayub Khan in 1966, Mr. Bhutto resigned from the government and began to organize a new political party, the People's Party. He was imprisoned from November 1968 until February 1969.

In the general elections of December 1970, his People's Party emerged as the strongest political party in West Pakistan.

During the Indo-Pakistani war in December 1971, Mr. Bhutto headed Pakistan's delegation to the U.N. Security Council, returning to Pakistan to become President.

In June and July 1972, he visited India

and helped develop the Simla Agreement which laid the basis for resolving the problems created by the recent war. He promulgated the new Pakistan Constitution on April 12, 1973. He, together with Prime Minister Ghandi of India and Prime Minister Ramon of Bangladesh, made possible the historic agreement just recently signed with new Delhi.

Members of the Committee on Foreign Relations will meet next week with the Prime Minister, the Foreign Minister and Ambassador Sultan Kahn and will be interested in the Prime Minister's views both on how the recent agreements in South Asia are being implemented and how they can lead to further constructive action for an enduring peace in the subcontinent.

## COMMUNITY DEVELOPMENT REVENUE SHARING

Mr. GRAVEL. Mr. President, I strongly support the Housing Subcommittee's reevaluation of community development programs. These programs were developed to meet specific needs of communities that are faced with a myriad of problems. Some have been very effective, while others have wasted taxpayers' money. However, the problems still exist and justify continued Federal assistance.

One of the best ways to make community development funds more efficient and effective would be to increase local decisionmaking in deciding the use of such funds. I therefore support efforts to replace some of the categorical programs with a block grant or revenue sharing approach.

The Better Communities Act proposes replacing existing HUD categorical programs with special revenue sharing which enables local leaders to use Federal funds for community development in accordance with local objectives and priorities. Categorical programs that would be replaced include urban renewal—including neighborhood development programs, code enforcement, and demolition grants—model cities, neighborhood facilities, and water and sewer grants, open space and historic preservation, rehabilitation loans, and public facilities loans.

The special revenue sharing funds may be used for any community development activity permitted by the programs being replaced. This approach is sound. It allows localities, and citizens, a more effective voice in deciding the use of Federal funds.

While this method would improve the community development program by allowing localities to decide how to spend their money, it is very important that Congress be very careful in selecting the method used to allocate funds to the localities. The benefits of local decisionmaking are quickly consumed if the funds are not allocated to the local units properly. A town can better judge its own needs than the Federal Government, but that advantage is meaningless if its funds are cut off.

I am deeply concerned about methods that might be used to allocate funds under such programs, particularly the approach proposed by the administration in the "Better Communities Act." Under the Better Communities Act, the funds will go to the urban areas, but rural funds will be cut off. Federal assistance to community development would become an urban and not a rural program, and yet revenue sharing replaces programs that are vital to rural communities. As proposed by the administration, the program would allocate 78 percent of funds by the fifth year of operation to central cities in metropolitan areas, and cities with a population greater than 50,000, and urban counties with a population of over 200,000.

Community development programs funded by the Department of Housing and Urban Development should not be restricted to helping only large, urban metropolises. Many small urban centers and towns also need assistance. The funding allocation formula proposed in the "Better Communities Act," would result in our turning our backs on small towns until they become large urban metropolises with commensurate problems. We must help them now, before it is too late, and before we must solve major problems with a continued massive commitment of funds. Perhaps a better name for the "Better Communities Act" would be the "Bigger Communities Act."

One of the most important aspects of our economic system is that, exclusive of government where decisions are not determined by the market, funds flow to the most efficient use. The market "automatically" functions to insure the best use of capital determined by consumer preference. In allocating its funds, Congress must be careful in order to not subsidize inefficiency. However, setting up a permanent program which discriminates in favor of large cities over small does just that.

Let me explain this reasoning. Ideally, the cost of State and local government services and the cost of maintaining a viable, healthy community should be borne by that community. The costs of living there should equal the benefits or one should move to another community where the benefits should equal. This system of free choice is disrupted when part of the costs of living in a community are paid indirectly by a third party such as the Federal Government. Not only does this result in a misallocation of funds as one group of communities subsidizes another, but it also results in a weakening of the incentive to move out of the community where services and facilities cost more. Thus instead of solving a problem or lowering the costs of living in a community, which might be solved in part by migration, the problem is aggravated. I firmly believe that small communities should not subsidize the added costs of living in large urban centers.

Basic to the above reasoning is the assumption that subsidies are permanent. When this assumption is removed, there is another justification for Federal expenditures—to help eradicate problems that have arisen as a result of neglect. Many community development problems are a result of inadequate planning and deterioration over time. It is too late to collect from those that benefited from not paying the costs of adequate maintenance or for which it is unfair to make them pay the total amount of a social cost that was not recognized previously. Government must step in to assist in solving the problem, but there must be adequate planning and controls to insure that this situation does not again develop. I believe that this is the case in which many of the cities have found themselves today, and this is one of the major reasons that I support community development programs.

The problem, however, is not unique to large urban centers alone. Small towns have them also. While the problems may be larger in the larger cities because of their size, it is important to remember that the smaller towns must solve their "smaller" problems from a smaller tax base. Small towns need community development assistance. This is particularly important for small towns that are growing. Planning and building public facilities for future growth requires money, and a small town may not be able to finance facilities that are needed and will be needed to handle a larger population. They should build a water and sewer treatment plant that has enough capacity to handle population increases, but they may not be able to afford parks. A small town should plan ahead to provide adequate parks, but they may not be able to afford that either. Federal assistance is needed and justified if they are not to turn into the inner city slums of tomorrow.

Thus any community development program should not discriminate against any communities because of population size. The effects of such discrimination could be disastrous for many of our small towns. My own State, Alaska, serves as a good example of what can happen if there is discrimination. Alaska has many cities in need of community development assistance. In recognition of the problems in Alaska, the Department of Housing and Urban Development is spending over $4 million a year for community development assistance. This may not seem like a lot compared to other areas of the country where one city may be getting more than our entire State, but the funds are sorely needed.

The Department of Housing and Urban Development has finally responded to my request of 4 months ago and supplied me with their 5-year projection of how much funding would go to Alaska under the "Better Communities Act" based on a funding level of $2.3 billion per year. In the first year, with a full hold-harmless provision, Alaska would get $4.4 million. By the fifth year, when the hold-harmless provision has expired, Alaska would receive only $996,000. Seven cities which would be allocated $3.6 million in the first entitlement year would have no allocation in the fifth year, but would be competing with the rest of the cities in Alaska for only $187,000 of discretionary money allocated to the State for statewide use. Development funds will increase for only one city, Anchorage. In the first year it would receive $528,000, in the fifth year $622,000. In the first year, Cordova would receive $61,000; Fairbanks, $1,212,000; Juneau, $1,697,-

000; Kodiak, $436,000; Seldovia, $123,000; Sitka, $63,000; and Valdez, $53,000.

However, by the 5th year, not one of these seven cities would receive any direct entitlement. I am unalterably opposed to this approach to community development revenue sharing—which only provides assistance to the "better" communities.

I would also like to call attention to a provision in the State and Local Fiscal Assistance Act of 1972, which established the general revenue sharing program. In recognition of the higher cost of living in Alaska, it provided for a cost of living adjustment for the noncontiguous States. This should certainly be included in any block-grant or revenue sharing program for community development assistance. It is particularly important for financing the added costs of construction work in Alaska. The latest BLS urban family budget study shows that the cost of living in Anchorage, Alaska is 50 percent higher than the U.S. urban average for the lower budget. The cost of living in rural areas, for which data is not available, is even higher.

The concept of community development revenue sharing should be pursued, and I hope will be adopted. But it should not be pursued along the lines proposed in the Better Communities Act. I would rather have the Federal Government administer categorical programs with the full eligibility of all communities, than a revenue sharing approach contrived to help only the largest cities.

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## MISS SOUTH CAROLINA—FRAN JEAN RIGGINS

Mr. THURMOND. Mr. President, in the Miss America Pageant which was held last week at Atlantic City, N.J., the State of South Carolina was represented by a lovely and outstanding young lady, Miss Fran Jean Riggins.

As Miss South Carolina, she is an excellent ambassador for her State. Her talents and her character, as well as her attractiveness, make her a worthy holder of the title she bears. Our State can truly be proud of Miss Riggins in the performance of her duties during the coming year.

Her wholesome and vital outlook on life is described in a recent article published in the Baptist Courier of South Carolina. Accordingly, Mr. President, I ask unanimous consent that the article entitled, "The New Miss South Carolina Is Fran Jean Riggins," the Baptist Courier, September 6, 1973, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE NEW MISS SOUTH CAROLINA IS FRAN JEAN RIGGINS

(By Fletcher Allen)

Out in the audience there was tension and excitement, some joy and some despair. On the elaborately decorated stage which was hot under television lights, the mistress of ceremonies intoned the names.

"And now, the second runnerup," she said. An attractive lady in the audience nudged her husband, "I belive she's saying a prayer," she said, pointing to daughter on the stage. "I know," he answered, looking with pride at the stately brunette whose hands were pressed together, steeple fashioned, at her chin.

The mistress of ceremonies continued. "The new Miss South Carolina is . . ." The name was obscured almost by the thunderous applause from the audience. One veteran pageant-goer remarked, "She's got her head in the clouds now." His companion replied, "But her feet are on the ground!"

And that's the way it was for Fran Jean Riggins on the evening of July 7. It was the climactic moment that brought her the title of Miss South Carolina. And for the 21-year old Baptist, it brought a trip to Atlantic City, N.J. She's there this week in competiiton for the Miss America crown.

Has her life changed? Well, she still sings in the choir at First Church, Easley, when she's at home. "Our family has always been a church-going family," she says. She admits that winning the title, along with the aplomb and adulation that go with it, has strengthened her spiritually. "I really depend more on God," she says.

The Riggins family—which includes Gene the father, Jean the mother, Fran Jean and Reggie the daughters—is well-liked and very popular. So they are used to a busy telephone and the opening of the back door by friends. But the traffic has increased—and that's about the only difference they see in their lives. False pride and conceit are strangers on their street.

Fran Jean Riggins is a tall beauty who has lived in Easley with her family almost all her life. And they have lived in their present home, on a 10-acre plot complete with pond for fishing and swimming, for 11 years. It's just a couple of blocks from Easley Baptist Hospital.

Church means much to the Riggins family—as does the town of Easley. "I like Easley, and because it's a small town, there's a special closeness and friendliness among the people," says Fran. The new Miss South Carolina gave her life to Christ when she was six. Without any prompting, she walked down the aisle at Ariel Church, Easley. "My mother was the choir director—and she and Daddy didn't know I was going to do it."

By that time, Fran Jean already had her first pageant crown. At age 2 she had been named "Little Miss Easley." Other beauty and talent titles were to follow.

What does church mean to Fran? "Well, I feel the church is there for you," she says, "and you are a part of it. The church fellowship tries to give you what you need, if you'll just take it. I go to church for my spiritual needs. It's the place of God—his special house. It's a vital part of my life."

She can't remember when she wasn't in church. "Even in the primary choir, and earlier than that, there I was, little Fran Jean, singing louder than anyone," she says. And mother Jean will quickly remind daughter and any listeners—"She was great in Sword Drills too!"

At Easley First, Fran has been a faithful member of Sunday School, Training Union and choirs through the years. She has worked with children's choirs also.

Her girlhood is strongly saturated with memories of family life. She believes that "being a member of a Christian home and family is a great experience. We know love and want the best for each other—all through life. That's the way it is with my family."

What's her favorite Bible precept, what does she live by? "I like the plain old Golden Rule," she says, "I'm learning to ask myself—would I want such a thing done to me? 'Whatever you would have people do for you, do the same for them' is a great way to live."

All the Riggins are active in the church. Mother Jean sings in the choir and Gene (the father) has been an usher for many years. And he is active in community life too—as one who supports the Easley High School athletic programs through the local booster club. So it's easy to see why Fran Jean was an enthusiastic cheer leader at Easley High for three years with 15-year old sister Reggie following in the same path.

Reggie is also interested in music, studying violin and piano at Easley First Baptist.

When Fran Jean gets through reigning as Miss South Carolina and/or Miss America, she will be a senior at Clemson University. She admits to a lifelong interest in music. She began taking voice lessons when she was 14. She explains her choice of elementary education as a major at Clemson by saying she was just tired of music. "I had always enjoyed helping Reggie with her school work—and I just thought I would like some kind of teaching. Right now my plans are indefinite but I'm sure music will be in my future."

Fran resumed her avid interest in music about two and a half years ago when she was persuaded by the Easley Jaycees to enter the Miss Easley contest. She won that title for two years—which propelled her into the Miss South Carolina contest this summer.

The refreshing beauty was Homecoming Queen at Easley High her senior year. Now she holds several other titles—Miss South Carolina Rose Queen, Miss Southern 500, and Miss Magnolia.

There's a ready answer if you ask Fran who has influenced her life most. "My mother," she says. "She has given me strength and guidance." Fran doesn't have any heroes or heroines that are famous. "I just want to be myself," she says, adding that living a Christian life is the greatest testimony. "I try to live like a good Christian girl. I want to be genuine. I know I must work on myself from inside. I always need to improve as a Christian."

The beauty and talent queen has some feelings about Women's Lib, too. "I'm sort of in the middle," she says. "I think women should be given equal chances for employment without discrimination because of sex, but I always want women to be treated as women! Homelife is important and the mother is really important to the family, but if she needs to work—she should have equal opportunity. Marriage should be a mutual affair."

Fran discusses family life easily and her memories seem pleasant. An active person who enjoys swimming, tennis, volleyball, horseback riding, she remembers when she fished and swam in the family pond.

A real believer in prayer, Fran says God has answered her prayers consistently. "Not always what I wanted," she quickly adds, "but according to his will."

What advice can Fran Jean Riggins give to young people? "I used to be the laziest person in the world," she says. "But now I'm not happy if I'm not busy, doing something. I would say to young people—set your goals high; strive to do your best in everything you encounter. Try to be the best person you can. Pray. Ask God's advice. I pray all the time. I have faith in God. It's the only way. I think belief in God is becoming more important to young people. That's a great thing."

Fran left Sept. 2 for Atlantic City where she will represent South Carolina in the Miss America Contest. She realizes the importance of the event and has the same confidence that was evident as she sought the Miss South Carolina crown. For South Carolinians, especially South Carolina Baptists, watching her perform on national television this weekend will be a special treat—especially as she sings "All the Things You Are."

They'll know that being a Christian is one of the things Fran Jean is!

## SPECIAL NEGOTIATING MECHANISM DEMANDS FOR AGRICULTURAL TRADE

Mr. HUMPHREY. Mr. President, this fall the United States will enter a new round of trade negotiations. American agriculture has much at stake in these trade talks. Therefore, it is crucial that we must make every effort to insure that the American farmer gets a fair shake in the benefits accruing from any new trade agreements.

The major parties to the GATT expressed strong interest in making significant liberalization in agricultural trade on entering the last round of GATT talks. However, actual gains in the agricultural sector were few. I would hope that we can avoid the disappointed expectations which American agriculture had to accept in the Kennedy round.

What is becoming increasingly obvious is the fact that agricultural trade must be given special attention. The barriers to agricultural trade and the political and social obstacles against liberalization are in many ways unique.

The United States should seek general agreement among the negotiating parties that agricultural trade is fundamentally different than industrial trade and that agricultural trade deserves special consideration. We should make provisions for negotiation of agricultural trade issues over a longer period of time within a commitment on the part of each nation to adjust its agricultural policies and programs to permit an orderly expansion of international commerce. Only by a realization of the close link between domestic agricultural policies and agricultural trade policies, and the difficulties involved in reorienting domestic policies, can substantive mutual benefits be effected.

Prof. Martin E. Abel, one of our Nation's leading agricultural economists has proposed a mechanism to extend the perspective on agricultural trade into a continuous dialog between the major trading nations of the world. I think Professor Abel has an excellent idea and I would like to share his paper with my colleagues.

It is time we realize that agricultural trade is unique; that the forces and constraints on agricultural trade are much more complex and sensitive than for any other economic sector. At stake is the availability of adequate food supplies to our Nation and the world.

I ask unanimous consent that Mr. Abel's paper be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

### Agricultural Trade Negotiations Between the United States and the European Community: A Proposal for Constructive Action

(By Martin E. Abel)

This paper concerns itself with the historical failures in agricultural trade negotiations within the GATT and a way around these traditional impasses, with a particular focus on United States and European Community (E.C.) agriculture. The arguments presented can also apply to other countries (exporters and importers), but the U.S. and E.C. are chosen for discussion in this note because of the importance of agricultural protectionism as a trade issue and the politically abrasive nature of past agricultural discussions between these two.

Let us get directly at the heart of the problem. There are two key dimensions to it. First, the GATT was designed to deal principally with tariff barriers to trade, rather than with non-tariff barriers. However, most of the principal agricultural trade barriers—quotas, variable levies, sanitary regulations, etc.—are of the non-tariff type. Second, agricultural trade barriers are typically part and parcel of domestic agricultural policies and programs. It is not possible to change one without changing the other. Therefore, when we talk about negotiating agricultural trade barriers we are, in effect, talking about negotiating domestic agricultural policies and programs. For example, if the United States were to significantly expand or eliminate quotas on dairy imports, we would have to either devise different means for providing income support to domestic dairy producers or change our income support objectives The same can be said for changes in the EC's variable levy system for grains. To date, we have not found a workable way to negotiate agricultural policies and programs within the context of GATT negotiations!

All signs indicate that the Nixon Administration is intent on following a course of action for agriculture in the next round of trade negotiations which is predicated on the assumption that the U.S. and the E.C. (and other countries as well) will put their agricultural trade policies, and therefore domestics agricultural policies, on the table. And, that out of this will come a liberalization of agricultural trade. This was the same posture which the U.S. took in the Kennedy Round. It didn't work then and it is unlikely to work in the current round of negotiations.

The reasons why negotiations of agricultural trade barriers were unsuccessful in the Kennedy Round and will likely be unsuccessful in the upcoming negotiations are simple, but yet not widely understood. At the time of the Kennedy Round, the EC was in the process of formulating its Common Agricultural Policy (CAP). Its position then was that it could not negotiate a set of policies and programs which were not completely formulated and implemented. Regardless of motives, this is not an unreasonable view. But possibly more important was the fact that the CAP was the practical glue which held the EC together. To negotiate such an important solidifying force was untenable in the eyes of the EC, particularly when one bears in mind the great deal of political difficulty encountered in the evolution of the CAP.

Today the EC finds itself in a similarly difficult position with respect to agricultural trade negotiations. First, it is and will be for some time wrestling with all the problems involved in expansion from six to nine members. The EC will be confronted with a difficult and painful period of adjustment of country policies to the expanded community. This is not the time for the EC to talk about large-scale negotiations of agricultural policies and programs. Second, there is a new problem for the EC, i.e., the harmonization of internal monetary policies. The recent realignments of currency values among countries has put things out of kilter within the EC and these problems will have to be rectified in order to reestablish free trade within the EC for agricultural and nonagricultural products alike.

But beyond the problems of the EC, it is doubtful that the U.S., in spite of all the rhetoric, was willing to seriously negotiate its agricultural policies during the Kennedy Round or is now in a good position to do so. The early and mid-1960's represented a period of transition in American agricultural policies from those of the 1950's to a set of policies and programs geared more realistically to the domestic and international environments. It would appear that the process of adjustment in U.S. agricultural policies and programs is far from complete. The dynamics (difficulties?) confronting U.S. agricultural policies and programs would not make for a strong willingness on the part of the U.S. to subject its policies and programs to international negotiations.

All this does not mean that either the U.S. or the E.C. have not or will not continue to adjust their agricultural policies and programs to changing demand, supply, price and social conditions. Quite the contrary. They have been and will continue to be changed as the need arises. But what should be appreciated by anyone concerned with agricultural policies is that the process of change is complex and time consuming, having to take account of economic, social and political realities in each country.

The process of negotiating agricultural policies in the framework of a GATT negotiation, which is carried out according to some fixed time schedule, and then expecting to "sell" what has been negotiated to respective national governments does not accord well with the realities of agriculture. (The epitome of this approach is contained in the Flanigan Report.) It would only be by the remotest of coincidences that the constellation of economic, social and political forces acting on major segments of agriculture in a large number of countries would be so auspicious in a short period of a few years as to permit wide agreement on relevant agricultural trade issues. Witness the wide swings in informed opinion about world food and agricultural trade prospects during the past decade—from a preoccupation with surpluses in the early 1960's, to a concern about the world not being able to feed itself in the mid-1960's, to a return to concerns about the surplus problem in the late 1960's, to the present euphoria with prospects of Eastern Europe, the Soviet Union, and the Peoples Republic of of China becoming vast markets for farm products.

What is needed in the agricultural trade field is a *continuous* dialogue between a relatively small group of people knowledgeable about and involved in the formulation of agricultural policies in the U.S. and in the E.C. The objectives of such a dialogue would be:

1. To gain a better mutual understanding of the economic, political and social forces which are shaping agricultural policies in both the U.S. and the E.C.
2. To agree, in principle, on a set of long-term objectives in agricultural trade.
3. To develop a framework in which countries or groups of countries would work toward liberalization of agricultural trade policies either independently or in concert whenever economic, political and social forces permitted such changes. Among other things, such an approach would have the advantage of countries gaining "credit" for unilateral changes in agricultural policies and programs which tended to expand agricultural trade. Two recent changes in agricultural programs clearly illustrate how the approach suggested in this paper might work better than traditional style negotiations. The U.S. recently expanded its import quotas on dairy products. This was done because it was in the U.S. interest. Yet, it is consistent with what the E.C. has wanted us to do. Also, recently the E.C. approved higher livestock support prices for next year but held grain prices about constant because it was in the E.C.'s interest to do so. However, this move is also consistent with what the U.S. has been trying to get the E.C. to do—namely, hold constant, if not reduce, grain prices and make livestock feeding more attractive.

Progress made toward expansion of agricultural trade within the above framework could be (but does not have to be) formalized within appropriate international trade institutions such as the GATT. This could operate in just the reverse of the way in which we have approached trade liberalization in the past.

Such a continuous dialogue should be backed up by appropriate professional staff so as to gain an adequate factual and analytical basis for fruitful discussions. This is particularly important in the early stages when suspicions and misunderstandings about intent and operations of respective national agricultural policies and programs would probably be at a high level.

To start with, there is much that could be agreed upon by participants in the proposed effort.

1. It should be recognized that every country is committed to support farm income, improve the welfare of its rural people, and provide its citizenry with an adequate supply of food and fiber at "reasonable" prices. This will undoubtedly involve government interventions which will vary among countries and over time as general economic and social conditions change.

2. It should be recognized that because of different levels of national development, different levels of agricultural development or degree of modernization, differences in the importance of agriculture in the total economy, and different social objectives among countries, the systems for providing public support to agriculture and rural communities generally will vary from one country to another. Further, there is no one best system for providing public support to agriculture for all countries to use.

3. With due respect to different systems of support and different objectives, each country should, nonetheless, work toward meeting its agricultural policy objectives in ways which are consistent with the expansion of agircultural trade. The end result (trade expansion) is, after all, much more important than the means by which it is achieved!

What are some of the specific agricultural issues, beyond gaining a better understanding of respective agricultural policies and programs, to which the proposed effort should direct itself? A tentative, but by no means complete, list of possible topics is presented below.

1. Western Europe has historically been concerned with an adequate supply of food and fiber for its citizenry. There has been a strong policy orientation toward agricultural self-sufficiency. To what extent would a purposeful policy of maintaining "adequate" stocks of agricultural commodities, principally wheat, feed grains, and soybeans by the U.S., together with larger stocks for these commodities in the E.C., reduce pressures for further expansion of grain output in the E.C.?

2. The E.C. has a comparative advantage in livestock production, not grains. Yet E.C. pricing policies favor grain production relative to livestock production. To what extent is the E.C. willing to reorient its price policies more in favor of livestock production? To what extent would an assured supply of grain from the U.S. help facilitate such policy changes?

3. Proposals have been made within the E.C. to consider alternatives to high price support levels for agricultural commodities as the primary means of supporting farm income. High price supports, without production control, have contributed to substantial expansion of crop and livestock production in the E.C. while at the same time reducing consumption. To what extent would it be feasible in the E.C. to move toward systems of direct income support for farmers which are divorced from price guarantees? The U.S. has had considerable experience with such a transaction for a number of major commodities from the programs of the 1950's to those of the 1960's and 1970's. Also, to what extent is the E.C. willing to consider programs for facilitating movement of people out of agriculture into productive nonfarm employment and restructuring farms into more efficient sized units as a way to improve income of farmers and, at the same time, reduce dependence on high-priced domestic production?

4. To what extent does high-priced food and fiber contribute to inflationary pressures in the E.C.? Is inflation viewed as a serious, long-term problem? To what extent could a restructuring of farm programs and liberalization of agricultural imports by the E.C. help to dampen inflationay pressures?

5. To what extent do the highly protective agricultural policies of the E.C. endanger E.C. exports of nonagricultural products to the U.S.? It should be emphasized that U.S. farm interests were instrumental in achieving passage of the Trade Expansion Act of the 1960's. Their continued support for trade liberalization generally depends on what they perceive to be possible in agricultural trade liberalization. Furthermore, the E.C. must be made more aware of the seriousness of the protectionist mood generally in the U.S. and the importance of agricultural exports to the U.S. economy and to the total U.S. trade picture.

A better understanding on both sides of the Atlantic of these and other important issues might facilitate the liberalization of agricultural trade in ways that respect political processes and policy objectives of individual countries, build understanding with respect to national agricultural problems, and build upon actions which are divisive.

Those responsible for formulating agricultural policies and programs best know and appreciate the numerous practical difficulties involved. If we are to have meaningful liberalization of agricultural trade, the process by which it is achieved should be an integral part of the agricultural policy and program formulation process. This note suggests one way by which this integration could take place.

## PROFESSIONAL TRAINING OF POLICE FORCES OF FOREIGN GOVERNMENTS

Mr. BUCKLEY. Mr. President, in recent months a film entitled "State of Siege" has been shown in several cities in the United States. This film sympathetically portrays the behavior of a group of Communist oriented urban guerrillas in South America who murdered an American AID adviser, Don Mitrione. Mitrione was a former chief of police in Indiana who was working on contract for the Agency for International Development to upgrade the training of local police forces. The film was in part produced by the American Film Institute, which is to say, by U.S. taxpayers.

One need not dwell on the ethically obscene character of the film's theme—that has already been done by virtually every serious critic who has reviewed the film. We can only hope that the next filmmaker who seeks to produce a film which condones murder will not find the U.S. Government to be the willing financial partner that the producers of the "State of Siege" found them to be.

This sorry incident has served to remind us of an important, but little noticed portion of our foreign aid program, namely to provide professional training to the police forces of foreign governments. A most effective and articulate review of our efforts in the field of foreign police training and their importance has been prepared by Dr. Ernest Lefevre, a senior fellow at the Brookings Institution. I ask unanimous consent that Dr. Lefevre's study and recent newspaper coverage of the controversy over the "State of Siege" be printed in the RECORD.

There being no objection, the report and article were ordered to be printed in the RECORD, as follows:

### MURDER IN MONTEVIDEO: THE DAN MITRIONE STORY

(By Ernest W. Lefevre)

At 4:15 a.m. on Monday, August 10, 1970, the body of a stocky, unshaven, 50-year-old was found in the back seat of a stolen Buick convertible parked on Lucas Moreno Street in Montevideo, Uruguay. Blood was dripping through the floor board and running toward the curb. He was shot twice in the head and twice in the body. His eyes were bandaged. There were deep bruises at his left armpit close to a half healed gunshot wound. His inner arms bore 16 needle punctures.

This twelfth murder victim and fifth kidnap victim of the Tupamaro terrorists was Dan A. Mitrione, a former police chief from Richmond, Indiana, a father of nine children who was a U.S. public safety adviser in Uruguay. He had been "tried" by a Tupamaro "people's court" and accused of being a CIA agent, of teaching Uruguayan police advanced torture techniques, and of organizing a campaign of repression against "revolutionary" leaders. For these "crimes" he was condemned to death.

Mitrione's kidnapping and murder brought headline attention to one of AID's smallest and least known activities—the public safety program—then advising the civil police in 27 countries in Asia, Africa, and Latin America. Currently there are about 100 AID police advisers in 17 countries, including ten Latin American states. The program also provides police equipment and U.S. training for Third World police officers. It costs $7.5 million a year, less than one percent of grant AID funds.

The public safety program has always faced some criticism in Latin America from Communist and other left-wing groups, especially those seeking revolutionary change by violent or other illegal means. These critics usually castigate U.S. policy across the board for being "imperialistic" and "repressive."

The Tupamaro charges against Mitrione and the police assistance program he symbolized have been given currency in a new pro-Tupamaro film, "State of Siege," directed by Costa-Gavras, the "Hitchcock of the Left," and filmed in Chile with the active cooperation of its Marxist president, Salvador Allende. The film, which Costa-Gavras falsely claims to be a "factually exact" documentary on the work, kidnapping, and "execution" of Dan Mitrione, has been aptly labeled a "melodramatic left-wing restaging of recent history," by Paul D. Zimmerman in Newsweek.

The film aside, the charges of the Tupamaros and other Latin leftists against U.S. police assistance deserve an honest response. Public safety advisers have been accused of supporting repressive regimes, teaching or condoning police torture, and interfering in the internal affairs of other countries.

Mitrione's background and temperament hardly prepared him for the James Bond role his critics cast for him—a CIA agent directing the Uruguayan police in brutal and repressive activities. Discharged from the U.S. Navy in October 1945 as an Aviation Machinist's Mate, First Class, he joined the Richmond, Indiana, police force as a patrolman and by 1956 became its chief. In Richmond, he was deeply involved in youth and other community activities. Like more than 6,000 other American police executives, Mitrione took a 12-week course at the National FBI Academy, but he never worked for the FBI or the CIA.

In 1960 he joined AID as a professional

police adviser, spending seven years in Brazil, two years as an instructor in AID's International Police Academy in Washington, D.C., and a final year in Uruguay.

He arrived in Montevideo in mid-1969 to serve as chief of the public safety effort begun four years before. The four-man program focused on improving administration, training, investigation, radio communication, mobility, and human crowd control. He and his colleagues worked under an open contract between AID and the Uruguayan government and their activities were reported in the press. Mitrione was particularly interested in establishing a country-wide VHF–FM radio net and in improving police performance in the provinces through regional training courses.

"Dan was a staunch family man," recalls Cesar Bernal, a fellow police adviser in Uruguay, "and unusually compassionate. He earned the affection and respect of the Uruguayans. Brutality was foreign to his nature. He never carried a gun, convinced that no one—even the Tupamaros—would harm him." This is the typical picture of those who knew him.

Uruguay 1969 was not a reactionary police state as pictured by the Tupamaros. It was one of the most democratic and open societies in the world. Its president and parliament were popularly elected. Its two major parties and political groups to the right and left were free to debate, criticize, publish, and organize. The 37,000-member Communist Party had representatives in parliament and published a widely circulated daily newspaper.

Uruguay had no death penalty, the maximum sentence for any crime was 30 years, and the prisons were run by the Ministry of Culture and Education. Though the economy was stagnant, the per capita income was twice that of Brazil and more evenly distributed. The government operated one of the world's most comprehensive welfare systems.

With one of the most permissive governments of modern times, Uruguay was a marshmallow state. Liberty lapsed into license. The Communist Party and other radical groups took advantage of this vulnerable situation to press their self-serving demands through strikes and violent demonstrations.

The most notorious group was the Tupamaro Liberation Front, a small parliamentary terrorist organization similar to the Weathermen in America and the Black September fighters in the Middle East. In 1970 there were fewer than a thousand Tupamaros, with about 150 in prison or awaiting trial. Impatient with the present, the Tupamaros turned to terror to embarrass and overthrow the democratic regime. Their social goals were not clear, but they seemed to want a revolutionary order a la Castro or Mao.

Like the terrorist in Colombia, Venezuela, and Argentina, the Tupamaros were an odd mixture of idealists, romantics, nihilists, misfits, and common thugs. They pursued their immediate aim of social demolition through bank robberies, auto theft, arson, bombing, kidnapping, and murder. They killed their first policeman on December 16, 1966, shooting him in the back with a sub-machine gun. By last May their murder victims numbered 45. They intimidated witnesses to their crimes and officials by threats which were carried out often enough to make them credible.

In the early years the Tupamaros enjoyed a temporary Robin Hood image, but they never gained the support of even a significant minority of the Uruguayan people. At the zenith of their influence, the political faction nearest their view polled 4.3 percent of the popular vote.

The day after Mitrione's murder a Uruguayan Communist leader denounced the terrorists as "insane fanatics." In 1971, Moscow called them "petty bourgeois, pseudo-revolutionaries" and "rollicking, loud-mouthed thugs" using "gangster tactics."

The Tupamaro charge that Mitrione advocated and taught the use of police torture is without foundation. Increasing Tupamaro terror and police arrests were accompanied by increasing charges of police brutality in the left-wing press. It is difficult to get solid evidence on police abuse in any society, but competent foreign observers believe that there was relatively little police brutality in spite of a Uruguayan Senate committee that reported torture was frequent. A leading committee member said in private that the report's conclusions were exaggerated. Further, the police were painfully aware that they might share the fate of police inspector Moran Charqueo, who was accused of abusing Tupamaro prisoners and was found on April 13, 1970, with 29 machine gun holes in his body.

Whatever police abuse there may have been in Uruguay, neither Mitrione nor any other U.S. advisor had anything to do with it, except to advise tactfully but strongly against all inhumane or other illegal methods. Like advisers in other countries and instructors at the International Police Academy, Mitrione pointed out that the mistreatment of suspects was unprofessional and unethical, and that on the practical level a fingerprint or a chip of paint provided more reliable evidence than a worthless confession beat out of a man.

"No inheritors of the Iberian-Roman tradition," said Covey T. Oliver, Assistant Secretary of State for Inter-American Affairs, 1967–68, "seem to need [instruction in torture] from representatives of other cultures," adding that AID advice has doubtless had the effect of reducing these "cruel methods" in some countries.

The Tupamaros also alleged that Mitrione directed a secret Uruguayan police operation to repress "revolutionaries" by illegal and violent means. This, too, is without foundation. Public safety personnel are strictly advisory. All country AID agreements provide for technical assistance on any aspect of civilian police work requested by the host government, except political intelligence. Since the beginning of the program in 1954, no adviser in any of the 49 assisted countries has ever been accused by the government of interfering improperly in internal affairs and none has been declared persona non grata. No assisted government has ever requested the termination of a public safety effort. Few, if any, other U.S. programs abroad can match this record.

The program reached its peak in 1968 with an AID expenditure of $55.1 million and with 458 advisers in 34 countries, including some 200 advisers in South Vietnam, which took almost half the total resources. The January 27, 1973, ceasefire agreement ended the advisory effort in Vietnam. Usually a country has from two to four advisers. Thailand with 36 advisers has by far the largest current program.

To date public safety aid has provided training in a wide range of skills for more than 7,000 police officers and technicians from 73 countries, most of them at the International Police Academy, the only professional institution in the world devoted exclusively to training civil police from the developing world.

Supplementing training and advice, AID also provides police equipment. In 1972, for example, $7.2 million worth of commodities was provided worldwide, including Vietnam, as follows:

| Item: | *Percent* |
|---|---|
| Radio equipment | 37.5 |
| Cars, motorcycles | 29.4 |
| Police weapons | 22.4 |
| General supplies | 10.7 |

As of early 1973, the program had provided 43,000 low-cost radios, developed by AID-public safety technicians, to 30 countries. Supplies have also included police textbooks in English, Spanish, and French and the airlifting of several pedigreed German shepherd dogs, received gratis from the U.S. Army, to Guyana to upgrade the K–9 element in the police force there.

For political and humane reasons, certain commodities are not provided by AID. These include automatic rifles, electric shock police batons designed for crowd control, "sickening gas" which causes nausea and diarrhea, electronic recording equipment, and lie detectors.

The basic aim of police aid said Byron Engle, who was public safety director from the beginning to last April, is to help provide the assisted country with "an adequate measure of internal stability needed to facilitate economic, social, and political progress." To this end, said David E. Bell, AID administrator in 1964, the program seeks to "strengthen the capability of the civil police . . . to enforce the law and maintain public order with the minimum use of physical force, and to counter Communist-inspired or exploited subversion and insurgency" and to encourage and develop "responsible and humane police administration." The emphasis of the Kennedy Administration on assisting in counterinsurgency efforts has in the past five years largely given way to "institution building," the creation of self-sufficient police services that have some chance of carrying on effectively after U.S. aid is terminated.

The charge that police assistance has been used to uphold reactionary and repressive regimes has also been leveled against military and economic assistance, often by the same critics. This criticism, which is sometimes heard on Capitol Hill, is more difficult to deal with because one man's "repressive regime" is another man's viable government. Since 1947, Washington has provided aid to a broad spectrum of governments, from left-wing socialist to right-wing military, when it was deemed in its interest whether or not it approved of the regimes in question.

At the same time, public safety and military aid have been terminated, suspended, or turned down on a number of occasions when the State Department concluded that the behavior of the regime would nullify the objectives of the assistance. In Korea, Laos, and Indonesia, police aid was ended when the regime prevented its police service from operating as a reasonably nonpartisan and professional law enforcement instrument. In Venezuela, Bolivia, and Laos, requests for such aid were turned down when these countries were in the grip of what Washington regarded as a repressive regime.

The Eisenhower administration refused police aid to Perez Jimenez, the anti-Communist dictator of Venezuela, but such aid was given to Romulo Betancourt, his more democratic and liberal successor. Washington also provided such aid to the leftist regime of Goulart in Brazil and for several years to its military successor. Police assistance to Brazil was terminated in 1972.

Has this low-cost, low-profile program served U.S. interests at an acceptable cost? According to the testimony of those in the best position to know, the answer is a decisive yes. In interviews with some 200 persons, largely U.S. and local officials, in 15 program countries last year, the author received these responses to four questions. The answers apply to the country where the interview was held:

1. Has the program improved the efficiency of the police force? Significant improvement—70%, Some improvement—29%, No improvement—1%.

2. Has the program enhanced the professional attitudes and behavior of the civil police force? Significant improvement—40%, Some improvement—56%, No improvement—4%.

3. Has the program been criticized to the point where it has hurt the reputation of the United States? No negative effect on U.S. image—88%, Slight negative effect—6%, Potential negative effect—6%.

4. Should the public safety program be continued? If so, at what level of effort? Continue at present level—72%, Continue at increased level—19%, Continue at decreased level—6%, Terminate—3%.

By enhancing the capability of the police to maintain order and security more effectively, according to many interviewees, the program has contributed to constructive economic and political activity. This point was also made by six former Assistant Secretaries of State for Inter-American Affairs. One of them, Dr. Lincoln Gordon, said that the "modest and low-cost public safety assistance program made a positive contribution to economic and social development," especially in "view of the headlong pace of urbanization."

In several countries, increased order resulting from the program, has improved the climate for economic development. The neutralization of guerrillas (as in Guatemala) and the curbing of urban terrorists (as in Caracas and Montevideo) have created conditions favorable to agricultural reform, normal economic activity, and attracting foreign investment.

A half dozen U.S. Ambassadors credited the program with making the police more effective in humane methods of crowd control with the result that student demonstrations and election rallies were held without violence. They noted that effective law enforcement insures that political debate, organization, and elections can take place, thus encouraging peaceful adjustment and change.

A high AID official in Laos said he would be willing to sacrifice some development projects, such as agricultural research, in favor of police assistance, because the latter deals with the survival of the country without which there could be no peaceful development.

The public safety program has yielded two unexpected byproducts. By preparing police specialists in narcotics control and in counter-terror measures, local police in several countries have been able to work more effectively with U.S. Embassy personnel in supporting President Nixon's campaign against illicit narcotics and in the protection of American overseas personnel against terrorist attacks. In the early 1960s, AID-trained police in Ecuador aborted a terrorist plot to hijack a passenger plane in Quito. In 1973, an AID-trained specialist in Guatemala successfully identified and defused a letter bomb sent to the Israeli Embassy there.

From its beginning, the public safety effort has suffered from misunderstanding on Capitol Hill and among foreign policy-makers, especially those who have not seen the effects of the program in the field. This may reflect in part an undefined suspicion that many Americans have toward policemen and police work. Further, some AID officials find it difficult to see how police assistance fits into an agency devoted primarily to economic development. For these and other reasons, the public safety share of the AID budget has since 1968 declined more sharply than the budget as a whole and the future of the program is not assured.

Returning to Dan Mitrione who symbolizes the worldwide public safety program, the hard evidence establishes his innocence of the three charges made against him by the Tupamaro "people's court." He has also been vindicated by the Uruguayan people. The tragic murder of this man dedicated to justice and humane law enforcement seemed to turn the tide against the terrorists and and in the eyes of many Uruguayans he became a national hero. On the second anniversary of his death, the government issued a purple and gold postage stamp honoring Mitrione as a "Servant of Freedom."

[From the Sunday Star and Daily News, July 1, 1973]

## HYPNOTIC LIES ABOUT TERRORISTS

(By Ernest W. Lefever)

The American debut in April of the film "State of Siege," produced by Costa-Gavras, was conceived in silence and born in controversy. The producer's reputation for "Z" and "The Confession" led the American Film Institute to schedule, sight unseen, "State of Siege" as the first foreign offering in its new home at the Kennedy Center here. But when AFI Director George Stevens, Jr. saw it, he abruptly canceled the film because it "rationalizes an act of political assassination" and was thus inappropriate to show in a memorial to an assassinated President.

The "censorship" furor precipitated by the cancellation soon gave way to a more serious debate about the basic character of this political film produced by the "Hitchcock of the Left" and co-written by the author of "The Battle of Algiers," Franco Solinas, a member of the Italian Communist party.

Is "State of Siege" a factual documentary, as its writers repeatedly claim, or is it fiction, propaganda, or a mixture of all three? Whatever the answer, does the film rationalize assassination and other forms of terrorism?

In a score of American interviews, Costa-Gavras asserted that the film is a factually exact portrayal of the public life, work and death of Dan A. Mitrione, an American AID police adviser in Uruguay who was kidnaped and murdered by the Tupamaro terrorists in mid-1970.

In the film, the interviews with Costa-Gavras and Solinas, and the book, "State of Siege" (the film script and supporting "documents"), the Tupamaros are presented as the heroes of the people's revolution against a repressive and semi-fascist Uruguayan government. Dan Mitrione is cast as a willing tool of American imperialism and repression, a super CIA agent who under the guise of an AID adviser promotes and teaches police torture and organizes and supports "death squads" to murder "democratic leaders." He is portrayed as a calculating and ruthless man, without sentiment.

The cool facts contradict the torrid film at almost every significant point. The film says Mitrione was sent to the Dominican Republic for two years to install, with the help of the U.S. Marines and the CIA, a reactionary junta regime acceptable to the United Fruit Co. and Cardinal Spellman. Actually, Mitrione never set foot on Dominican soil.

The film says Mitrione was dispatched to Brazil to replace "Goulart's democratic regime" with a repressive military government. In fact, Mitrione was not an agent of any kind. He never worked for the CIA or FBI. He was an AID police adviser in Rio de Janeiro and Belo Horizonte helping to improve law enforcement by encouraging the civil police to become more professional through better training, communications equipment and organization. He and his fellow AID advisers were there at the request of the government and advised the police under both the Goulart and successor regimes.

Currently AID has a small number of police advisers in 17 different Third World countries and provides training for police officers from twice that many at its International Police Academy here. Like other forms of U.S. technical assistance, the public safety program is open and its activities are often covered by the press. Its aim is to upgrade all aspects of civilian law enforcement, except those related to political intelligence.

The film says that Mitrione taught new and sophisticated forms of torture to the police in Brazil and later in Uruguay. There is not a shred of truth in this allegation.

From its beginning under the Eisenhower administration, public safety advisers have stressed professional, legal and humane methods in interrogation, crowd control and all other aspects of police work. In a worldwide study of the program at the Brookings Institution, including field work in 15 countries, I found no evidence to support the torture charge which has appeared in Communist and other far-left publications that typically portray the United States as a semi-facist and repressive power.

The film says Mitrione organized and directed fascist "death squads" who physically eliminated revolutionary leaders in Uruguay. Neither he nor any other American official had anything to do with such vigilante groups, which, in any event, did not even exist in Uruguay in 1970, the period of the film. Several sporadic groups did appear in 1971 and 1972, and they accounted for at least two murders, to the embarrassment of the Uruguayan authorities.

The film depicts the Tupamaros as latter day Robin Hoods—clean shaven, young, virile, disciplined, intelligent, competent and possessed of a dream of compassion and justice—but because of government repression they were compelled to kidnap and later "execute" Mitrione.

In fact, the Tupamaros stand somewhere between the American Weathermen and the Black September fighters. The Tupamaro terrorists have no positive political or social program and they never gained significant popular support. (At the zenith of their power in 1971, their most closely allied political faction gained 4.3 percent of the popular vote.)

The film dramatically portrays manufactured violence by Uruguayan authorities (incidents drawn from the future and twisted almost beyond recognition) but shows almost no Tupamaro violence.

The Tupamaros initiated terror in Uruguay; Mitrione was their twelfth murder victim. The film acknowledges only the Mitrione murder, but this brutal and senseless act is not shown, presumably to make the Tupamaros had a long record of terror-recruit common criminals into their ranks, the Tupamaros had a long record of terroism, including assault, robbery, arson, kidnapping, and bombing. In 1969 alone they made violent assaults against 38 policemen; four policemen were murdered.

The film implies that a "state of siege" was put into effect in 1968. This was not true.

Uruguay in 1970 was one of the most open and democratic countries in the world. There was no death penalty and the maximum sentence for any crime was 30 years. The prisons were run by the Ministry of Culture. The wide spectrum of political groups were free to organize. The Communist party had 37,000 members with elected representatives in both houses of Parliament and published a daily newspaper. There were no "political prisoners," only persons held for committing ordinary crimes.

(Basic Democratic rights continued in Uruguay until April 15, 1972,—almost 20 months after Mitrione was murdered—when a form of martial law was declared by parliament in response to Tupamaro terror. Last Wednesday, the president in cooperation with the army closed parliament and created a Council of State, in its place, to deal with "left-wing subversion" and the economic crisis.)

"State of Siege" is a Marxist diatribe that omits, fabricates or twists facts to serve its propaganda purpose.

The reason for the film's existence, said Solinas, is American "imperialism, with its mechanisms of repression, its murders, its tortures. The occasion for the film was the capture and death of a person who symbolized this mechanism." Costa-Gavras added: We "also felt we had to make a movie" that would prompt the audience never again to regard "an American Embassy as just an embassy, but as a center of espionage, surveillence and political pressure."

Though some critics saw through it and said so, the documentary claim was accepted at near or face value by other American critics. Judith Crist in New York Magazine saw the film as an authentic document. Costa-Gavras, she said, has performed a "public duty that the American media has failed in." Noting that the co-authors "researched and documented their case," she is horrified at revelation "heaped upon revelation" portrayed by this "brilliant" expose of "American imperialism in Latin America."

To Penelope Gilliatt of the New Yorker, it was a "thoughtful new political film;" to Liz Smith in Cosmopolitan, "the most important political film of this decade;" to Donia Mills of The Star-News, "powerfully reasoned;" and to Archer Winsten of the New York Post it was of "inestimable value."

Costa-Gavras, despite protestations to the contrary, not only rationalizes but justifies and romanticizes political assassination and terrorism, though Solinas appears to have some misgivings about the political utility of assassination. As a loyal communist, Solinas may be aware that the Tupamaros were denounced in 1971 in Moscow as "petty bourgeois pseudo-revolutionaries" and "rollicking loud-mouthed thugs" using "gangster tactics."

But Costa-Gavras has no such reservations. He said the Tupamaros represent an intelligent and effective "liberation" movement, characterized by "perfect organization" and "held together by serious, passionate idealism."

In several interviews Costa-Gavras says that the murder of Mitrione was necessary, justified and efficacious, an example to be emulated. Even with his reservations, Solinas says the Tupamaros, like the "Black September fighters at Munich," did not want to kill their hostage, but they were "forced to execute him."

Costa-Gavras goes further in a rhetorical question: "Who killed him? The Tupamaros with three or four bullets, or the government, backed up by the American Embassy, which decided not to free the 150 political prisoners?"

How will different viewers be affected by the film? Perhaps the isolationist will be confirmed in his conviction that America has no business working for orderly development. The guilt-ridden American may find strange satisfaction in the lashes of two professional America-haters. To angry, idealistic and frustrated young people, the hypnotic simplicity of the virile and romantic Tupamaros may suggest a way out of their helplessness and alienation. To the Arthur Bremers and the Sirhan Sirhans with their twisted psyches, it may suggest one final act of political violence that will enshrine them in immortality.

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## THE EASTERN MARKET ON CAPITOL HILL

Mr. TAFT. Mr. President, I am pleased that Congress has now appropriated money for repairing the Eastern Market on Capitol Hill. Even though the total amount needed was not appropriated in the District of Columbia appropriations bill we recently passed, there is certainly enough money for substantial repair work to proceed.

I believe that the preservation of institutions such as the Eastern Market is vital to the future of our cities. At this point I ask unanimous consent that an editorial from the Washington Post concerning the Eastern Market be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Eastern Market

When the Eastern Market on Capitol Hill, at 7th and C Streets SE, was built more than 100 years ago, it was lit by pull-down oil lamps. The iceboxes, cooled with ice brought by ship from Canada, were in the cellar. The farmers hitched their horses to iron staples in the curb. Today the market has electric lights and refrigeration. Parking meters replace the iron staples and the farmers drive trucks. Little else has changed.

The potatoes and onions in winter, the strawberries in spring and the apples in fall are just as fresh and succulent as ever, to say nothing of the eggs that never saw a deep freeze, the live crabs from Chesapeake Bay, the thick slabs of Virginia bacon and all kinds of garden-grown herbs and greens. A smile and a chat come free with each purchase. A good many customers have become personal friends of the dozen or so farm families that sell their goods at the Eastern Market. They greet each other by name and customers and their children are often invited to "drop by and see the farm."

But Eastern Market, one of the few traditional farmers' markets left hereabouts, is more than a good place to buy good food. It is a historically important structure, listed on the National Register of Historic Buildings. It is also an important community center. Local artists use part of the hall to make and sell their artifacts. Friendship House uses the Market area for its annual fund-raising "Market Day." It has become the setting for art shows, lectures and theatrical productions. All this generates a unique atmosphere and a spirit of neighborliness and personal service that attracts people from all over the city, keeps nearby merchants in business and adds immeasurably to the livability of our town.

The Eastern Market needs substantial repairs. The brick work needs repainting. Cracked walls need patching. Doors and windows must be fixed. The slate roof, copper guttering, downspouts and flashing are in need of replacement. The air circulation system needs renovation. These repairs are estimated to cost $275,000 for the block-long building. It is a relatively small item in the city's capital improvement fund. But it is of great importance to the Capitol Hill community and the entire city. The new Metro station at the corner has been named "Eastern Market." It will draw thousands of additional visitors to this vital community center. They should see more than a dilapidated, historic relic. We urge the District Appropriations Committee to approve this small but important investment in an institution which is both a source of pleasure and a part of our past which deserves to be preserved.

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## DROUGHT-STRICKEN WEST AFRICAN STATES OUTLINE REGIONAL APPROACH TO RECOVERY

Mr. HUMPHREY. Mr. President, the New York Times and the Washington Post carried stories today about the long-term recovery plans that have been developed jointly by the six drought-stricken West African States.

The purpose of these plans was best expressed by the minister of industrial development in Mali, Mamdi Keita, whom David Ottaway quoted as saying:

> They give us 30 tons of sorghum, 10 tons of rice, but we eat that up and it's gone. What we need is aid to increase our production so we can feed ourselves.

Representatives of donor organizations and of the governments involved agree that the problems of the Sahel can only be solved through a regionwide approach. These countries have for years been losing pasture and farmland to the steadily encroaching Sahara Desert. Yet there are tremendous unused water resources in the Senegal and Niger Rivers which could irrigate thousands of acres. The five dam projects proposed in the recovery plan developed by the six-nation Committee To Combat the Drought are, therefore, essential to economic recovery in the region.

Other projects outlined in the $872 million plan include the stockpiling of food for the predicted food shortage next summer; roads, rail, and river transport projects; and the creation of research and communications programs aimed at halting the advance of the Sahara.

Both emergency relief assistance to these nations and the planning of long-term recovery projects have involved coordination of multilateral and bilateral efforts on an unprecedented scale. Under Secretary General of the U.N., Bradford Morse, has urged that this coordination be maintained as the emergency assistance efforts for next year and the long-term recovery projects get underway.

USAID is to be commended for its role in the relief efforts which have kept millions from starving and in encouraging a coordinated international approach to the problems of this area. But, as Maurice J. Williams, the President's special coordinator for drought relief, has said:

> If you bring this region back to where it was before the drought, it will not be good enough.

Having played a major role in providing food to those who were starving in the Sahel, the United States must now play a major role in seeing that this tragedy does not repeat itself year after year. This will surely be the case if donor nations are unwilling to provide assistance in these countries' efforts to develop their capacity to feed themselves.

The amendment I have introduced to the Foreign Assistance Authorization Act, S. 2241, would provide the funds necessary to help prevent starvation in the Sahel in the coming year, where every indication is that the food shortage will be even greater than it was this last year. It will also affirm congressional support of U.S. participation in the long-term recovery effort in the Sahel. The House has already passed this legislation, and the administration has given its support. It remains for the Senate to reaffirm the U.S. commitment to provide relief to those who are starving and assistance to those who want above all to help themselves.

Mr. President, I ask unanimous consent that David Ottaway's article from the Washington Post and Thomas Johnson's article from the New York Times be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post]

### Africans Seek More Lasting Aid

(By David B. Ottaway)

Bamako, Mali.—"We have been asking for help to build dams and increase our production for years. They give us 30 tons of sorghum, 10 tons of rice, but we eat that up and it's gone. What we need is aid to increase our production so we can feed ourselves."

Mamdi Keita, the minister of industrial development in Mali, spoke with a touch of bitterness in his voice about the $135 million international emergency relief program that is providing over 160,000 tons of grain to his country this year and a total 625,000 tons of food to the six drought-afflicted nations of West Africa.

Like many officials in the other drought-affected Western African countries, Keita has been somewhat astounded by the sudden world concern for the plight of people in this desert region after years of general indifference.

Western nations are now practically competing with each other to show their humanitarian concern for the several million Africans threatened with famine across the 2,600-mile-wide Sahel, or desert border strip, below the Sahara.

The United States has been talking about its "leading part" in the emergency relief effort—256,000 tons of grain worth $37 million, three C–130 transports for an airlift in Mali and various medical supplies.

But it has done less than most of the other Western nations in providing economic development aid to these countries, French-speaking West Africa being a low priority area for American aid programs.

Now, however, Congress has authorized $30 million in recovery assistance for the six Sahelian nations—Chad, Niger, Mali, Mauritania, Upper Volta and Senegal—and American aid experts are wondering how this windfall aid money can best be spent.

Keita has no problem answering this question.

"We have been asking for help for three or four years to get dams built and increase our production. We have lots of sites on the Niger River where dams could be built," he remarked. "But your country must understand that we need long-term aid to do this."

A visitor is immediately struck by the large number of small projects of marginal value various nations of the East and West have undertaken—often in competition with one another—and the small number of meaningful economic development projects such as major dams and irrigation schemes.

There are untold numbers of small, shallow wells, water-catching basins and small dams, stretches of hardtop road, and irrigated patches of land. There are projects to eradicate various diseases afflicting man and animal in the area and to increase herds and cash crops.

But there is no regional program to halt the encroachment of the Sahara on the lands of Mauritania, Mali, Senegal or Niger, even though this is by far the single most pressing problem all of them face. The desert has already consumed Mauritania, has long since jumped southeast over the Niger River in Mali, and is now at the gates of Niamey, the capital of Niger.

And there is still no dam on either of the two major rivers flowing through the Sahel, the Senegal and Niger, and precious little use of their waters to irrigate their banks and nearby arid lands. The only dam on the 2,600-mile length of the Niger is the Kainji Dam in oil-wealthy Nigeria.

The drought, however, has prodded both foreign aid experts and local officials into making a sweeping reappraisal of the kind of aid that has been going into the region.

Many of these experts have come to the conclusion that far too many economic development projects undertaken have been ill-conceived, misdirected, and a waste of time and effort.

[Heads of state of the six drought-affected African countries are scheduled to meet today and Wednesday in Ouagadougou, Upper Volta, to discuss projects costing some $2 billion to restore their shattered economies, AP reported. The conference will also be attended by representatives of the world's major donor nations, relief agencies and development organizations, which are expected to provide most of the funding for these projects.]

"It's first a problem of defining development," remarked one discouraged U.S. Agency for International Development official interviewed recently in Niamey. "I don't think it's clear in their minds, and it's certainly not clear in our minds, how to go about development in these countries. We've wasted a lot of our efforts and theirs on programs that don't have any priority for them."

The question now is whether foreign governments and international development agencies, which have the money and technical expertise, and these countries' leaders, who alone can mobilize their people and promote new ways of thinking and acting, can agree on what programs should be given priority.

Niger President Hamani Diori, who has called for a "Marshall Plan" of recovery for the six drought-stricken Sahelian nations, seems to think wells are the answer. He wants the international aid community to drill 2,500 wells, at an average depth of 900 feet, across his country, an enormously ambitious project that would irrigate 6 million acres and cost upwards of $250 million.

But even the mention of well-digging sends the eyes of AID officials rolling. AID made a major investment in well digging around the world in the late 1960s only to discover that many either went dry or fell into disrepair. And the Common Market Fund for Economic Development has spent around $45 million in drilling wells in these West African states, the result of which, along with the drought, has been to lower drastically the water table in parts of the Sahel.

Worse yet, in many instances wells have served to expand the desert rather than contain it, according to foreign aid officials in the region. This is because they attract nomads, and their herds overgraze the surrounding land and destroy the vegetation. Such destruction has been particularly widespread recently because of the drought.

"You can't just go all over the country drilling wells," remarked one United Nations diplomat interviewed in Nouakchott, Mauritania. "It has to be carefully planned and well thought out to prevent desertification."

Well-drilling schemes are thus likely to arouse less enthusiasm, and funds, within the international community than dams, whose time seems to have come.

There is a major dam-and-irrigation project on the Senegal River that would help three of the six affected countries—Mauritania, Senegal and Mali—and has finally caught the attention of Western governments.

It is a $1.1 billion multi-project scheme that has been under study now for 10 years and has reportedly generated 10,000 documents but no financial backers. The three states on the Senegal River have formed a regional organization whose raison d'etre is to promote the scheme.

One part involved the construction of a $30 million dam on the Senegal River delta to halt the flow of the ocean's salt waters upstream, raise the river's depth more than 6 feet, and restore vast stretches of land now lost to the desert.

Another part calls for building a $150 million earthen dam complex further up the river in southwestern Mali, controlling the flow of water, generating electric power and irrigating arid land. Together, the two dams would make much of the Senegal navigable and permit the irrigation of over 7 million acres, making it by far the most extensive and expensive—$900 million—land irrigation project in the region.

Western governments, including the United States, have heretofore been noncommittal toward the scheme pending the conclusion of one or another feasibility study. Even the Chinese were evasive when asked this year to finance the Manantali dam in Mali, promising only to make yet another study of the project.

But with growing pressure on all Western governments to do something on behalf of these six nations locked in a struggle to keep back the desert, there is now a good chance that at least the delta dam in Senegal will get built. The United Nations is undertaking a synthesis of all the studies done on the Senegal River, and this should be finished before a meeting of potential donor governments and agencies tentatively scheduled for June.

Regional AID officials seem to feel the delta dam-and-irrigation project is probably the best way the United States could spend the $30 million rehabilitation and recovery money Congress has authorized in a special amendment to the Foreign Assistance Act. They hope to get some support for the project now while this usually forgotten part of the world is still in the international limelight.

"Our strategy is to get some top flight guys working on the U.N. synthesis of the delta studies and speed it up," said one AID official in Dakar, Senegal. "In another few months, nobody will remember where the Sahel is."

But there are signs that even as the drought is galvanizing foreign nations to action, it is also pushing the three nations to turn inward and seek aid for their own separate national projects.

Mauritania, for example, seems as anxious to get more wells dug throughout the country as the Senegal River dam is built. This is because 80 per cent of its 1.2 million population is nomadic, and the drought has left hundreds of thousands of nomads in desperate straits.

Similarly, Malian officials now talk more about the Salingue dam closer to the capital than about the Manantali dam, which was their only interest in the joint Senegal River development scheme.

This is partly because the drought forced power cuts in the Bamako area affecting factories as well as homes and offices (electricity was rationed for nearly two months in the city), and the Salingue dam would lower the cost of electric power in the capital to one-tenth of what it is now and permit the expansion of industry here.

But it is partly, too, because neither the Chinese nor any Western nation, including the United States, has shown interest in financing the Manantali dam, while both the French government and the U.N. Development Fund have shown signs of willingness to invest in the Salingue dam.

There is thus the danger that each Africa state will pursue its own particular priority project and that regional development efforts will splinter even as foreign nations are gearing up to make a sizable joint investment in the first major regional dam-and-irrigation scheme.

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[From the New York Times, Sept. 11, 1973]

### AFRICAN NATIONS PUT DROUGHT NEEDS AT $827 MILLION

(By Thomas A. Johnson)

OUAGADOUGOU, UPPER VOLTA, September 10.—Six African nations just south of the Sahara estimated today that their immediate and long-range aid requirements as a result of five years of drought and famine would cost $827-million.

The estimate came in a report issued by their permanent Committee to Combat the Drought, made up of ministers of agriculture and rural development from Upper Volta, Mauritania, Senegal, Mali, Niger and Chad.

The report, presented to representatives of more than 20 nations and international and charitable organizations gathered here, said there was a need for emergency food assistance, regional dams and irrigation projects, roads, rail and river transport projects and the creation of research and communications programs aimed at halting the advance of the Sahara.

### REQUESTS SCALED DOWN

The report is a distillation of work by technicians, who had urged programs that would have cost more than $3-billion. But the requests were scaled down, according to reliable sources, after some would-be donors had suggested levels that "could be more seriously considered."

Several representatives of * * * they would consider the requests. The representatives, meeting in the National Assembly here, have already committed more than 470,000 tons of grain to the region to prevent threatened wide-scale starvation in an area as large as the United States and with a population of 25 million.

The presidents of the affected nations, with the exception of Chad, are scheduled to hold a meeting here tomorrow. It is expected that they will meet with representatives of the organizations, including the United Nations, the United States Agency for International Development, the European Economic Community, Caritas International, the International Bank for Reconstruction and Development, the African Development Bank and the Organization of African Unity.

### LONG-RANGE HELP URGED

Bradford Morse, an Assistant Secretary General of the United Nations, has urged that donors attempt to coordinate their efforts to avoid duplication.

Maurice J. Williams, President Nixon's special coordinator for drought relief, said the world community was interested in supporting emergencies in the region.

"If you bring this region back to where it was before the drought, it will not be good enough," he said.

Mr. Williams said he had asked a team of experts to make a month-long study beginning Sept. 21 to recommend programs that could be started before the first of the year.

The United States has been the major donor during the same 256,000 of the 470,000 tons of grain when it was feared that six million people might die for lack of food.

The region expects a harvest of summer millet, sorghum and peanuts in mid-October. But in the desert region to the north deliveries by rail, road, river and airlift are still necessary to keep herdsmen alive.

One proposal of the ministers calls for the stockpiling of food against shortage next summer. Another is vaccination of cattle.

Long-term projects include the building of five dams that along with hydroelectric power would open the rivers to year-round barge traffic and irrigate thousands of acres.

The dams have long been recommended by French, United Nations and American aid studies and are part of the plans of the Senegal River Basin Commission and other authorities in the region.

The requests mark the first major regional approach to problems of the six nations which receive little rain in the best of times.

## GRANTING CREDIT TO COMMUNIST COUNTRIES AT PREFERRED INTEREST RATES

Mr. THURMOND. Mr. President, the Aiken Standard of Aiken, S.C., recently published an editorial which I think should be brought to the attention of my colleagues. The editorial points out that consideration is now being given to extending long-term credit to Communist countries at an interest rate of 2 percent, while the prime rate in the United States is over 9 percent.

Mr. President, there has recently been an outcry in Congress and among the public against the Government subsidy involved in the Soviet wheat sale. Many Americans resent the use of the taxpayers' money for such a subsidy when we have so many unmet needs at home. I agree with them. Not only are many domestic needs unmet, but this sale also resulted in inflation in the price of bread and related items, to the detriment of the consumer.

I believe it is time this country recognized its fiscal plight. As one example, consider the carrying charges on the national debt already accumulated for this generation. Simple arithmetic discloses that it costs the taxpayers of America $40,000 a minute simply to pay the interest on money spent in excess of receipts by the Federal Government. Mr. President, this must stop. There is no reason satisfactory to me why we should subsidize other countries, and particularly communist countries, with a 2-percent interest rate, when the taxpayers of this country are being required to pay roughly 9 percent for the money which the Government borrows in their name.

Mr. President, I ask unanimous consent that the editorial in the Aiken Standard titled "Subsidizing Communism," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### SUBSIDIZING COMMUNISM

Not too many years ago Soviet leader Nikita Khrushchev forcefully told the United States of America that "we will bury you." He was speaking of ideology, of economics and very likely in the area of military strength.

Five-year plan after five-year plan have followed his words and the Soviet Union continues to fall farther and farther behind the industrial countries of the West in industrial and agricultural output.

Then came the great political thaw of 1972 and 1973—new East-West communications, new Communist efforts to woo bourgeois technology and even Soviet and Communist Chinese dependence upon U.S. funds. All of this was academic in many ways because the Communist failures also left them without the funds for the massive purchases that they require.

Now Senate and House members are discussing the granting of long-term credit to Communist countries at an interest rate of 2 per cent—while the prime interest rate in the United States is bumping 9 per cent.

The subsidy is interesting since nothing really has changed in the Communist attitudes. Red China has said so, Cuba has said so.

The Communist purity of ideology apparently is willing to compromise only to the extent of taking the fruit of capitalism—Western money.

## WHY PUNISH SWEDEN?

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of my colleagues a recent editorial in the New York Times entitled "Why Sweden?"

This editorial advocates changing the tenor of our relations with Sweden by sending an American Ambassador to Stockholm and ending Sweden's diplomatic isolation from the United States.

I am in total agreement with this position. I was pleased to see that the New York Times endorsed Senate Resolution 149 calling for normal and friendly diplomatic relations between the United States and Sweden.

Also Senators may be aware that Secretary of State designate Henry A. Kissinger, at his confirmation hearings, informed members of the Foreign Relations Committee that he would give this matter of Swedish-American relations his full attention as well as fill all vacant ambassadorial posts by November 12.

I plan to follow this matter closely and I indicated to Dr. Kissinger that I would be doing so. It is my hope that the Senate will consider Senate Resolution 149 in the very near future.

Mr. President, I ask unanimous consent that the editorial which appeared in the New York Times on September 5, 1973 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### WHY SWEDEN?

As one of Europe's traditional neutrals, Sweden has performed many mediatory and goodwill missions in the international community. More recently the Swedish Government has ventured at times to act as a moral spokesman. Thus, last December Prime Minister Olaf Palme was particularly forceful in expressing the outrage and dismay which many Europeans felt at the renewed United States bombing of North Vietnam only a few weeks after the Nixon Administration had announced that "peace is at hand."

The Administration has tried to punish the Swedes for their temerity by putting them in a diplomatic deep-freeze. When the last United States ambassador retired from his post in Stockholm in August 1972, he was not replaced. When Prime Minister Palme made his bombing criticism, Washington not only withdrew its deputy chief of mission but also took the unusual step of announcing publicly that a new Swedish ambassador would not be welcome here. As a result, Sweden has had no envoy in Washington since the last ambassador retired in January.

But why punish Sweden? The anti-bombing opinions officially expressed by Sweden last year were shared by many political leaders throughout Western Europe. Moreover, the United States has ignored much harsher comments by the controlled press of China and the Soviet Union. Senator Hubert Humphrey has accurately characterized the Administration's attitude toward Sweden as "infantile petulance." On his initiative, the Senate Foreign Relations Committee earlier this month approved a resolution calling upon President Nixon to restore full diplomatic relations with Sweden. A similar resolution introduced by Representative Fraser of Minnesota is pending in the House.

Experience has repeatedly demonstrated that the withdrawal of ambassadors is an ineffectual, self-defeating method of showing disapproval of a foreign country. That is true even if the other country is a bloodstained dictatorship or a totalitarian tyranny. But when the country is the peaceful democracy of Sweden, the position of the United States is not only inconsistent but ridiculous.

## CHANGES IN AMERICAN MOTIVES FOR SEEKING SUCCESS THROUGH WORK

Mr. PERCY. Mr. President, there are indications throughout the American work force that men and women are underutilized in their jobs. Contemporary American blue-collar—and white collar—workers are weary of authoritarian work environments and monotonous, mindless jobs. It has been demonstrated that worker frustrations can be alleviated through work quality efforts such as job redesign—elimination of piecemeal, assembly-line work; increased worker participation in company decisions and policies. To fully understand the reasons that make these industry changes necessary, however, we must be aware of the changes over recent decades in the U.S. attitude toward work. The dissatisfaction of the contemporary worker with a job which was welcomed and coveted 10 or 20 years ago can be traced to the changed U.S. attitude toward work and the different needs it is expected to fulfill today.

Dr. Frederick Herzberg of the University of Utah School of Business has addressed this situation in a thoughtful article, "Why Bother To Work?" published in the July 16 issue of "Industry Week." His point is that we now have to find fresh reasons for pursuing success. I call the attention of my distinguished colleagues to Dr. Herzberg's essay, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

## WHY BOTHER TO WORK?

(By Dr. Frederick Herzberg)

The traditional motives for achieving success no longer serve as forces that make people work. They linger on as half-hearted slogans, but we will have to search for new measures of "success."

We will have to search for new reasons for achieving success. The old answers to the question, "Why bother to work?" are no longer valid.

We have just come through one of the most ambitious periods in American life. For a quarter of a century since the end of World War II, we Americans have attempted five Herculean tasks:

The reconstruction of Europe and the defense of much of the world.

The generation of maximum economic growth.

The attempt to nation-build in Southeast Asia.

The attempt to people-build among our minorities in this country.

A beginning to earth-building in our new awareness of ecological problems.

Those of us who have lived through this quarter century were caught up in the challenge of these immense tasks and found in them justification for our strivings.

We now face the end of the Vietnam War with a feeling of dullness, fatigue, and disillusionment and with an inability to sort out our feelings. It seems the younger generation of students must face mostly a philosophy of negativism as the guideline for their own strivings.

Historically, there have been five justifications for the success of some and the failure of the rest.

### THE LIMIT OF POWER

First is the justification of power—power from whatever source it may arise. This justification is one of the earliest, most pervasive, and certainly the most continuous rationale for the success-failure difference among people.

Today, as we have seen illustrated so painfully in Vietnam, power has reached its limit of effectiveness. The escalation of all perimeters of life has stretched the use of power to counterproductive results or to the point of overkill. This limitation of power seen at the national level also is reflected in the limitation of power at the organizational and individual level.

What we have learned as a nation through profound tragedy, we will have to learn as individuals. Success will just as likely limit our power to influence others, to influence events, and most of all, to influence our own lives as it once was believed to enhance these influences.

### ALTERNATIVES TO CAREERISM

The second obvious reason for pursuing success is the desire for a better life. The consumer society has indeed become a worldwide phenomenon, extending, at least in terms of aspiration, to the remotest regions of the earth.

A primitive native in the thickest jungle of Africa once felt deprived if his neighbor had two elephant's teeth and he had only one. Now, with modern communication facilities, he has the whole consuming world to compare his lot with, and his deprivation level has soared to astronomical levels.

Psychological perimeters stretch vastly beyond geographical boundaries and yet, in the 1960's, we experienced the affluent child's disillusionment with the values and the costs of the so-called better life. His achieving parents also began to experience the seamier side of their "better life": hippy children, soaring divorce rates, alcoholism, and sheer boredom.

The quality of life became an issue in opposition to the post-World War II devotion to the quantities of life. The historic philosophical question of the good life has surfaced again, tempering the validity of increased consumption as a reason for striving for success. The children of post-World War II achieving parents began to wonder, "Is success worth it?" They began to explore alternatives to careerism and to reject their parents as models for their future lives.

### END OF AN ETHIC

The third historical reason for success has been a religious justification. The most famous of these was the Protestant Ethic which suggested that a sign of one's predestination was indicated by the earthly success of some people, particularly in economic areas, and God's design of damnation for the rest.

Religious purposes, too, are failing as a reason for success. Whatever our private beliefs are, from a psychological public health point of view of society, they are no longer such a potent force in justifying individual behavior related to the pursuit of success.

I suggest two obvious reasons for the dissipation of religion as a motive force and a rationale for individual behavior.

First, the explosion of knowledge and particularly its accompanying technology which—in addition to the intellectual conflict it has created between religious beliefs and "scientific beliefs"—made it impossible for religious convictions to permeate one's daily life. Religion, by necessity, has had to become a part-time activity of life whereas it once profoundly influenced all aspects of life. This isn't a matter of intellectual or moral conviction. It has become a practical necessity to disestablish religion in the practical affairs of coping with modern technology.

The other reason for the loss of religious values to justify success and failure has been, frankly, the idosyncratic nature of their morality, and often the immorality of religion in its translation from sermon to the realities of social responsibility. Again, not at the intellectual or faith level, but at the level of practicality. As a result, religion became too preoccupied defining its position and lagged nonreligious moral leaders and thought.

### THE MYTH OF ECONOMIC LAWS

The fourth reason for success that no longer sustains an achieving society is the 19th Century concept of social Darwinism in which it was believed that success or failure was dictated by inexorable laws in the social and economic spheres of life and that these laws paralleled the inexorable laws of biology. The economic and social jungle was equated with the biological jungle where biological fitness determined success or failure.

Modern awareness of economics, sociology, and psychology has pretty much debunked this self-service determinism. Children in the ghetto are there because of social and economic deprivation and are not inevitably the products of some universal intractable law of social science.

### BEATING OTHERS WON'T DO

The fifth reason for success that is becoming increasingly difficult to maintain as a rationale has been the 1950s and early 1960s belief in meritocracy: Those with better plans, better motivation, and better capability, and who successfully jumped the academic and social hurdles, supposedly had proved themselves worthy of their position.

The strange failure of meritocracy lay in its cheating the achiever of this sense of achievement. Achievement was not a measure of individual personal worth and growth; achievement became the sterile besting of others. No satisfaction ensued. It was only, "I am better than they." The richness of learning and personal growth was vitiated.

### DEAD MOTIVES LINGER ON

All of these reasons—power, consumerism, religion, social Darwinism, and meritocracy—no longer seem to psychologically justify the pursuit of personal success. They will obviously linger on, but only as half-hearted slogans, and they will continue to exert a force in our society because of a lack of alternatives, and especially because of the excesses of the objections made to these reasons.

Because of Vietnam, power has been denounced as totally evil and wrong; we hear demands for complete demilitarization and isolation as a national policy.

The reaction to this naivete will serve to sustain power as a motive force in our society.

An economic recession, continuing inflation, and rising taxes have all combined to stall the movement away from consumption. The older generation has become obsessed with holding on to what it has, and in just a few years, as a result of the realization that the gravy train of assured good jobs is not automatically forthcoming, the younger generation has climbed back onto the bandwagon of careerism and consumerism.

The reaction against the force of religion has led to the extremes of social disorganization, the end of obligation, and its most grotesque protest—the drug culture. To protect ourselves from these overreactions, religion can proclaim the negative value of being the shield against this sort of human debasement.

The manifest failure of much economic, sociological, and psychological theory, particularly as it was translated into social engineering, will sustain the social Darwinist's belief in the inherent inequality of man. The search will be greater for locating success-failure differences in the genes.

And finally, meritocratic beliefs will be sustained by the effort to bring about an equality of results as opposed to the equality of opportunity.

We will need a fresh reason for pursuing success. As I have indicated, the five traditional justifications have been found wanting and are surviving only as warmed-over motives and in the extreme reactions they have produced. As our society settles down, and can take time to sort out its feelings, the personal achievement motive may emerge as our justification.

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## CONSUMER PRODUCTS WARRANTIES BILL—S. 356

Mr. HUMPHREY. Mr. President, the consumer products warranties bill, S. 356, passed by the Senate yesterday, promises to vastly improve the ability of the consumer to obtain satisfactory compliance of product suppliers with their warranty and service contract obligations. It is one of the most important consumer bills before the Congress.

The consumer has too long been victim to the vague construction and almost nonexistent enforcement of written warranty and service contracts and the time has come for we in Congress to act on this problem.

There are presently no effective methods most consumers can employ to achieve compliance of manufacturers with their warranty obligations. Since there are no minimum standards for the writing of warranties, they are often vague and misleading, making it difficult for the consumer to hold a manufacturer responsible.

We can no longer tolerate an inadequate and deceiving system of warranties. Senator MAGNUSON's and Senator Moss' bill promises to alleviate this situation by delineating the obligations that manufacturers of consumer products assume when offering warranties and service contracts; and by assuring compliance with the conditions of the warranties through provisions for the effective enforcement of contract obligations.

By setting basic standards for the offering of a warranty, this legislation will make the consumer more aware of the conditions of the warranty and thus aid him in making more informed product choices.

The high costs of court action deter the average consumer from bringing suits against manufacturers. This bill will improve the ability of both the consumer and the Federal Trade Commission to take effective action in cases of breach of warranty or service contract agreements. Funds authorized in this legislation will provide for compensation to consumers who are successful in court proceedings, making it economically feasible, for the first time, for the average consumer to seek legal solutions to his warranty problems.

In addition, the Federal Trade Commission will be able to initiate action on its own in district courts where it is now represented by the Attorney General of the United States. This new authority will enable the Federal Trade Commission to effectively control practices which are unfair or harmful to the consumer.

This bill will, therefore, help the consumer by making the agency responsible for his protection more effective and at the same time improve the average consumer's own ability to protect himself. This is a badly needed piece of legislation and one I strongly support.

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## LESSONS FROM INDOCHINA CONFLICT

Mr. BUCKLEY. Mr. President, we have recently witnessed the end of active U.S. participation in the Indochina conflict but, as we all know, the conflict is by no means over. The United States has completed 98 percent of the task of assuring the people of Indochina that they will have the ability to maintain their own national independence. Two percent of the task remains, namely inhibiting the North Vietnamese from taking Cambodia by force for a base of operations to continue the conflict in Indochina despite the North Vietnamese signing of the Paris Accords last January.

A recent essay published in the London "Economist" has a very able review of the Indochina conflict since Spc. 4th Davis became America's first combat casualty in 1961. In this thoughtful essay, the author points to troubling lessons that we must learn from the Indochina conflict.

> The trouble is that there are no simple wars any longer. Even in Europe, if it came to a war there, the Americans would not be fighting for friends they unreservedly approved or against enemies they wholeheartedly rejected. The last third of the twentieth century is not painted in blacks and whites; but the confrontation between the differences of grey goes on, and countries still need allies they can count on. It is the apparent failure to understand this, the failure of maturity at the heart of American opinion, that is disturbing. That is what a lot of people in Europe may be thinking about on Wednesday.

Mr. President, I ask unanimous consent that this essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

### THE END OF AN ILL-TOLD TALE

It ends in Indochina on Tuesday midnight, and it leaves behind one lesson that is even more disturbing than the rest.

It has been a 12-year war, since Specialist 4th Class Davis became its first American combat casualty 10 miles outside Saigon in 1961, and for the people whose lives will most obviously be changed by its outcome the war is by no means over yet; but for the United States it is. From midnight on Tuesday it is hard to see a weapon that Mr. Nixon can legally use in Indochina without Congress's permission, or how he can get Congress to give its permission, or how in the present condition of his Administration he dare defy Congress. He can supply money and military equipment (see page 40), but that is that. The process of American government has reached its decision, and the Americans have switched off the war as if it were a television set: the reality will go on in Indochina, but they no longer want any part of it.

There are three things to be said in the week of the switching off. The first is that, having decided that they no longer wish to try to save their friends by their own exertions, the Americans now have to hope that their former enemies will do it for them. The preservation of something not wholly unlike the political structure of Indochina that John Kennedy set out to preserve a dozen years ago can still be achieved; but it depends on the hope that China, and to some extent North Vietnam, have changed their own minds since then about what they want to see happen on their southern borders.

It is possible that Chairman Mao and Mr. Chou En-lai are now sufficiently worried about the expansion of Russian influence in southern Asia to want to prevent a Russian-influenced North Vietnam from becoming the master of Indochina. If they are, they will try to persuade Prince Sihanouk not to let the Cambodia he seems to be in the process of recapturing become once again the North Vietnamese base it was before 1970. He owes the Chinese something for three years of hospitality in Peking, after all. A Sihanouk who tried to be genuinely neutral would limit the effect of the Cambodian collapse on what happens next door in South Vietnam; and South Vietnam remains the central issue of the war. It is also possible that North Vietnam has been badly enough damaged by the war, and by the quarrel between Russian and China, to have revised its own war aims. The North Vietnamese may conceivably mean what they said in the peace agreement they signed in January. They may tell the National Liberation Front that it will eventually have to settle for whatever its own strength inside South Vietnam entitles it to, and that it cannot count on North Vietnamese guns to do what it cannot do for itself.

Neither of these things—neither Chinese co-operation nor the sort of understanding between Mr. Kissinger and Mr. Le Duc Tho that would make the January agreement something more solid than a scrap of paper—is very probable in itself; and a combination of them is even harder to believe in. But that combination is what Mr. Nixon needs if the United States is to achieve even the minimum of what 50,000 Americans have died for in Indochina under three presidents. It is a measure of America's weakness that it should be relying on its adversaries' second thoughts to save it from the result of its own.

The second thing worth saying is that the reason why those three presidents sent American soldiers to Vietnam still seems a valid one. Leave aside the superstructure of the American argument for being in Indochina, the business of dominoes and the balance of power and the credibility of an American guarantee. There is something in all of those things, but the foundation they rested upon was a proposition about Vietnam itself. The underlying belief was that a non-communist South Vietnam would offer the people who lived in it the prospect of a better life than a communist one would; that North Vietnam was helping the people who wanted to make South Vietnam communist; and that it was right to resist that. Whatever else the war has done, it has not destroyed any part of that proposition.

#### WHAT IT WAS FOR

Since the Americans started to withdraw their troops in 1969, President Thieu's government has become more authoritarian than it was before: Mr. Thieu has taken more power to himself, and he has made even narrower the limits within which those who disagree with him are obliged to operate. The same sort of thing has happened in South Korea, in Thailand, in the Philippines, even in Singapore. It is one obvious result of the retraction of American influence from the periphery of eastern Asia. But it is still true that South Vietnam is a more open society than North Vietnam is, or that a communist régime in the south would be likely to be. It does have a parliament that can defy the president on an important issue, as it did in the election of the senate's leader last October. It does have newspapers in which a fairly wide range of dissent can make itself heard. It does not make it impossible for people to find out unpleasant things: Amnesty International could discover something about political prisoners in South Vietnam, but it could not in North Vietnam. It does offer the possibility of political choice, including, if the communists would agree to it, an election in which one choice would be to vote communist.

South Vietnam also has something more important than all this. It has, as North Vietnam does not, a basic structure of power out of which something more like an American or European democracy could emerge in the remainder of this century. The obstacle to liberalisation in any communist country is the communist party's monopoly of control over every aspect of political and intellectual life. Mr. Thieu does not command, and cannot expect to command, such a concentration of authority in South Vietnam. He has to deal with men who are to some extent independent of him in the army, in the provinces, even in South Vietnam's first beginnings of a modern economy. It is no help in fighting a war, but it could be a decisive advantage after the war: the competition generated by a pluralist society is better for both politics and economics than a centralised system is. Even now, if it could have peace, South Vietnam would be a rather better place than the north for most people to live in. It would permit rather more diversity; it would allow rather more people the means for an independent life; its economy would undoubtedly grow faster. The margin of difference is not huge, and it is not as big as John Kennedy and Lyndon Johnson hoped it would be, but it is there. And given a generation or two of peace the probability is that the difference would widen rapidly. This is the answer to the argument that South Vietnam is not different enough from North Vietnam ever to have been worth fighting for.

### THE HEART THAT BROKE

The third point is that no one yet knows whether this basic American objective is going to end in success or failure; but if it does end in failure it will be important to remember where the failure happened. This has been a hard war, hard to fight, hard to have to watch, and above all hard to understand. It was hard to understand because it required the ability to distinguish between friends and enemies whose politics were different shades of grey, and also because it was a policy war fought for balance-of-power reasons as well as for Vietnam itself.

The ideas the United States carried into the war have suffered a number of unmistakable defeats. The idea that American conscripts could fight a guerrilla war among an alien people, and fight it with understanding, has taken a beating. So has the idea that a rural Asian society could be democratised in half a dozen years by a crash course of American advice; it can be done, and it has been done in Japan, but it takes longer than that, and it needs peace to do it in. The old American faith in firepower, or some of the faith, has been broken too. When a B-52 spilled its bomb load over Neak Leung on Monday and killed up to 200 people it was a symbol of what has been worst about this war: it was a firepower machine trying to do what should be done more discriminatingly by men, and causing far more destruction than men would cause when it went wrong. These are all failures, and they will be recorded by history, but they are failures in the methods used to fight the war. If the purpose for which the war was fought at all also ends in failure, with South Vietnam getting the wrong government without even being asked whether it wants it, the reason will lie elsewhere. It will have happened because American opinion, and in particular the liberal community that claims to lead American opinion, failed to understand the war, and indeed let itself be rattled out of trying to understand it

Of course, it had reason to be rattled. The United States had other things apart from Vietnam working on its nerves in the 1960s, including a race rebellion and an apparent war of the generations. It had to watch the Vietnam fighting on television, and it is harder to measure the purpose of a war against its cost when you can see men dying in front of your eyes. It has also to be said that America's allies in Europe did very little to help it, and a lot to discourage it, in its difficulties. Those things are all part of the explanation, but the fact remains that the vital part of American opinion broke in the spring of 1968 and never really recovered. It never seriously tried to come to grips with the idea that a war can be fought on behalf of the rather better against the rather worse, or that it can be fought for the sake of the next couple of generations as much as for the present one. It never got down to the calculations that lie behind a balance-of-power war. It wanted a simple war, and when it found that it had not got one it either gave up, or swung right over to the opposite simplicity of supposing the other side were the heroes.

The trouble is that there are no simple wars any longer. Even in Europe, if it came to a war there, the Americans would not be fighting for friends they unreservedly approved of against enemies they wholeheartedly rejected. The last third of the twentieth century is not painted in blacks and whites; but the confrontation between the differences of grey goes on, and countries still need allies they can count on. It is the apparent failure to understand this, the failure of maturity at the heart of American opinion, that is disturbing. That is what a lot of people in Europe may be thinking about on Wednesday.

## A FLEXIBLE TREATMENT TAX CREDIT—THE REACTION OF BUSINESS

Mr. PERCY. Mr. President, earlier this year I met with Chairman Arthur Burns of the Federal Reserve Board to exchange ideas on fighting U.S. inflation and restoring stability to our economy. We discussed the pros and cons at that meeting of a flexible investment tax credit, which would provide a more responsive tool for fiscal policy, and which we felt might be a prompt means to cool excessive business investment spending when such spending is excessive.

In order to have the benefit of business thinking on such a proposal, I wrote 250 of the Nation's largest manufacturing, retail and utility corporations requesting that they fill out a brief questionnaire on the economy in general and our proposal in particular.

By the beginning of the August congressional recess, I had received 175 replies to my letter and questionnaire. In the meantime, the Illinois Manufacturers' Association had also circulated the questionnaire among its more broadly based and diverse membership, and the National Association of Manufacturers had asked to send the questionnaire to its 350 Taxation Committee members. On August 3, 1973, I wrote President Nixon to advise him of Chairman Burns' and my proposal and of the results I had received from the 175 U.S. corporations. Since I wrote the President, I received from Mr. Orville V. Bergren, executive vice president of the Illinois Manufacturers' Association, the tally of responses to the questionnaire from Illinois businesses.

These findings are very interesting. The majority of the business community contacted feels that the current 7-percent investment tax credit is a positive influence on their investment plans.

The opposition to removing that credit is overwhelming, and a strong majority opposes putting it on a flexible basis. More than two-thirds of the respondents also believe that even a reduction—as opposed to a removal—of the credit would exert a dampening effect on their present investment plans which would be harmful as stimulating supply is necessary in many areas of critical shortages to combat inflationary price rises.

Other interesting findings were, first, the strong belief that the economy is headed for a downturn, second, that the administration's trade bill, with the exception of its taxation provisions, is highly desirable, and third, that inflation is such as to call for a budget surplus in fiscal year 1974.

The need for new approaches to our economic problems is evident from the economic uncertainty we experience today. I call the attention of my colleagues to the thinking of the business community on some of these problems as illustrated in the survey I have described. Mr. President, I ask unanimous consent that my letter to the 250 corporations, my letter to President Nixon, the tally of responses from the initial questionnaire, and the results of the poll of the members of the Illinois Manufacturers' Association be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
*Washington, D.C., June 8, 1973.*

Dear Sir: I am writing to solicit your opinions about a highly important business investment issue.

There has been an increasing interest in proposals to change the nature of the investment tax credit in order to make it a more flexible instrument of Federal fiscal policy.

In part, such proposals are a response to growing concern that business investment is now running at too fast a pace, and that the tax credit should be removed or lowered. At other times, however, business investment lags, and needs the stimulus of a tax credit. There is a great need to create to the greatest extent practicable a sustained level of business investment and to prevent boom/bust investment patterns.

It has been suggested that Congress amend the law to provide a new and flexible investment tax credit. This could help to smooth variations in business investment and promote a more stable economy. In contrast to the current 7% investment tax credit, which certain elements of organized labor are demanding be removed entirely, I have discussed with Dr. Arthur Burns his proposal that the President be permitted to adjust the tax credit in a range of 3% to 15% unless either House of Congress disapproves within 60 days. I have suggested that Congress permit the President to adjust the tax credit with *approval* by *both* Houses within 60 days. The President's proposal would have privileged status so that it would not be killed by filibuster. Dr. Burns has reacted favorably to this suggestion.

This flexible approach to the investment tax credit could solve a problem with which Congress has been struggling for years. In general, Congress has responded sluggishly to Administration requests to impose or remove the tax credit. Creating a flexible tax credit adjustment that retains Congressional hold over the power to tax could meet the need for a much more flexible, responsive fiscal policy tool.

Attached is a brief questionnaire soliciting your views on this and related economic issues.

Your responses to these questions will be extremely helpful in guiding our thinking. Chairman Burns, too, is deeply interested in having your response. Replies will of course be confidential.

Sincerely,

CHARLES H. PERCY,
*U.S. Senator.*

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U.S. SENATE,
*Washington, D.C., August 3, 1973.*

THE PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: During the July 10 leadership meeting with you on economic policy, I promised to send you, for your staff's use, a report on the results of my June 12, 1973 poll of chief executive officers of the 250 largest manufacturing, retail and utility corporations in the United States.

As I said at our meeting, my main purpose was to obtain business response to a proposal of Chairman Burns and myself that the seven percent investment tax credit be put on a flexible basis. We proposed that you be permitted to adjust the tax credit within a range of three to fifteen percent with approval by both Houses of Congress. Special rules would require Congressional action within 60 days and would prevent filibuster. The reasons for proposing a flexible credit are to provide a more responsive fiscal policy tool that could be used to cool business investment spending when it is excessive, and stimulate it when it is lagging.

In addition to questions about the flexible investment tax credit I asked these leading businessmen (including members of the Business Council) for their views on fiscal policy and trade legislation. In all, I have received to date 175 complete or partial responses—many of these completed by hand by the individual corporate chiefs.

*With regard to Federal fiscal policy,* 63 percent of 140 respondents concluded that we should plan for an actual budget surplus in FY 1974, and 88 percent of 123 respondents opposed a general tax increase.

*On the near-term future of the economy,* 82 percent of 153 respondents anticipated a downturn.

*On the issue of trade legislation,* 91 percent of 137 respondents indicated support for your Administration's trade bill. A very large number of those who expressed support for the bill, however, commented that they did *not* favor its tax provisions. 98 percent of 108 respondents specifically opposed the Hartke-Burke bill.

*On the subject of the investment tax credit:*

Of 164 respondents, 50 percent indicated that the present seven percent credit is having a *significant* effect on business investment plans, and 48 percent said it has had a *margin* effect (two percent indicated no effect).

Of 162 respondents, 95 percent opposed removal of the credit.

Of 159 respondents, 66 percent opposed a flexible tax credit. Of those who favored it, a majority preferred a range of three to fifteen percent.

Of 158 respondents, 70 percent believed a reduction of the credit now would exert a dampening effect on their present investment plans.

From these responses, it is clear that the majority of these leading businessmen believe the current investment credit is a positive influence on their investment plans; an overwhelming number opposed removing it and a smaller but still very significant number opposed putting it on a flexible basis. And, more than two-thirds of the respondents believed that even a reduction (as opposed to removal) of the credit now would exert a dampening effect on their present investment plans.

I can only conclude that in spite of some strong expressions of opinion to the contrary, the investment credit is an important factor in business investment—that lowering it now would have a dampening effect on business investment plans.

With regard to the indication of support (one-third of 159 respondents) for the flexible tax credit, Dr. Burns and I are both somewhat surprised. Both of us expected a far smaller expression of support for this concept from the business community.

I think you should note with favor, as I do, that the majority of these leading businessmen supported your Administration's Trade Reform Act, and specifically opposed the major pending "protectionist" bill. I share the reservations so many of the respondents expressed about the adverse effects of the Trade Reform Act's tax provisions.

A copy of the questionnaire and a tally of the responses is attached for your staff's reference.

Sincerely,

CHARLES H. PERCY,
*U.S. Senator.*

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TALLY OF QUESTIONNAIRE RESULTS

175 TOTAL RESPONSES

1. Is the 7% investment tax credit enacted in 1971 having effect on your business investment plans? (164 responses to question one).

Significant, 50%.
Marginal, 48%.
No, 2%.

2. Would you oppose or favor removal of the 7% credit now? 5% favor, 95% oppose, (162 responses to No. 2).

3. Would you oppose or favor a flexible investment tax credit provision as suggested in the attached letter? 33⅓% favor, 66⅔% oppose (159 responses to No. 3).

4. If you favor a flexible tax credit, what should the range of the credit be?

0% to 10%, 24%.
1% to 15%, 6%.
3% to 15%, 59%.
Other, 11%.
(70 responses to question No. 4).

5. Would a reduction in the present investment tax credit exert a dampening effect on your present investment plans? 70% yes, 30% no (158 responses to No. 5).

6. Do you believe that the pace of demand-fueled inflation is now so intense that

(140 resp.) 1. We should plan for an actual budget surplus in FY 1974? 63% yes, 37% no.

(123 resp.) 2. We should raise corporate and personal income tax rates? 12% yes, 88% no.

7. Do you believe that there will be a downturn in the economy within the next 12 months? 82% yes, 18% no (153 responses to No. 7).

8. Do you favor:

(137 resp.) a. The Administration's trade reform bill 91% yes, 9% no.

(108 resp.) b. The Hartke-Burke bill 2% yes, 98% no.

(62 resp.) c. No trade legislation 32% yes, 68% no.

Comments (Please use reverse side if necessary):

Please address replies to: Senator Charles H. Percy, 1200 Dirksen Senate Office Building, Washington, D.C. 20510.

Signature ______________________________

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ILLINOIS MANUFACTURERS' ASSOCIATION TALLY OF QUESTIONNAIRE RESULTS

396 TOTAL RESPONSES

1. Is the 7% investment tax credit enacted in 1971 having effect on your business investment plans?

Significant, 49%.
Marginal, 37%.
No, 14%.
(393 responses to #1).

2. Would you oppose or favor removal of the 7% credit now? 9% favor, 91% oppose (386 responses to #2).

3. Would you oppose or favor a flexible investment tax credit provision as suggested in the attached letter? 42% favor, 58% oppose (384 responses to #3).

4. If you favor a flexible tax credit, what should the range of the credit be?

0% to 10%—9%.
1% to 15%—7%.
3% to 15%—71%.
Other—13%.
(150 responses to #4).

5. Would a reduction in the present investment tax credit exert a dampening effect on your present investment plans? 62% yes, 38% no (386 responses to #5).

6. Do you believe that the pace of demand-fueled inflation is now so intense that:

(317 resp.) 1. We should plan for an actual budget surplus in FY 1974? 70% yes, 30% no.

(268 resp.) 2. We should raise corporate and personal income tax rates? 19% yes, 81% no.

7. Do you believe that there will be a downturn in the economy within the next 12 months? 70% yes, 26% no (353 responses to #7).

8. Do you favor:

(207 resp.) a. The Administration's trade reform bill 74% yes, 26% no.

(135 resp.) b. The Harke-Burke bill 11% yes, 89% no.

(110 resp.) c. No trade legislation 38% yes, 62% no.

Comments (Please use reverse side if necessary):

Signature ______________________________

Please address replies to: Senator Charles H. Percy, 1200 Dirksen Senate Office Building, Washington, D.C. 20510.

## ZERO-GROWTH POLICY FOR FOOD

Mr. McCLURE. Mr. President, our Nation is faced with a disastrous clash of opposing Government policies. The administration, speaking through the Secretary of Agriculture, has explicitly announced the critical need for increased agricultural production. Simultaneously, the administration, speaking through the Director of the Energy Policy Office, has proposed a mandatory fuel allocation program which decrees that no increase in agricultural production will be possible. In more specific terms, the proposed regulations state that:

> Wholesale purchasers of petroleum products and LPG will be allocated 100% of the same quantities as purchases in calendar year 1972 or if those quantities are not available, a proportional share of the supplier's allocable supplies.

There is provision for petitioning the Department of the Interior for receiving additional supplies if "allocations equal to or proportional to base period supply levels would create exceptional economic hardships." Not being able to expand production would not create "exceptional economic hardships," so therefore, would not allow an increased fuel allocation. In other words, the proposed program dooms—by definition—the expressed intent of the administration to expand production of food.

Of course, there is another alternative—no mandatory program at all. In that case, the results would be even worse. Farmers, ranchers, and irrigators would not receive even the 100-percent level. This is proven by the present situation in Idaho, where farmers trying to harvest crops cannot get fuel. But, here in Washington, the gasoline shortage is over. Weekend vacationers are having no problems.

The damage from this conflict in national policies will be evident long before the next planting and harvest. I have already received one call from an irrigator who is attempting to increase acreage by 2,000. He has the land committed, he has the equipment committed, but no one can guarantee delivery of the additional gasoline and diesel fuel required to operate the pumps. If this man cannot get assurances, he will probably have to stop his expansion plans. And he cannot wait for months—or weeks—for assurance. He needs to know now.

And, he is not alone. Farmers planning increased acreage under cultivation—ranchers planning increased livestock herds—processors and transporters planning increased facilities for taking care of more produce—they cannot wait until spring to make final decisions. Increased food production will not come about overnight. If the administration's fuel policies are not changed—and changed now—it will not come about at all.

Under the present voluntary program, agriculture is receiving the lowest priority—not the highest. In order to prevent a decrease in food supplies, a mandatory allocation program must be instituted. I regret that this must happen. But, for too many years, the warnings of approaching energy shortages have been ignored. Now that the shortages are here, they are falling hardest on the areas least responsible—the agriculture and rural communities.

At the same time, areas of our society who helped create the shortages continue to have all the energy they want. Not only is this unfair, it is a threat to the economy of the Nation. Agriculture must be protected. I have stated before—and I repeat—any mandatory allocation program cannot increase supplies. It can only spread shortages around. In the long run, any mandatory program will, through inefficiencies and disincentives, decrease supplies. Mandatory allocations, though now necessary, must be temporary. Our major effort should be to increase supplies, while improving programs to conserve energy. But, until those efforts become significantly effective, we must insure that agricultural output and essential services are not diminished. That is the criteria for a mandatory allocation program.

I urge that the administration, using its existing authority, take two steps. First, change the proposed mandatory allocation program to provide for increased agricultural production. State explicitly that agriculture will have first priority on available supplies, regardless of the success of other attempts to alleviate shortages. Second, authorize the mandatory program immediately.

If the administration delays in either step, then the impact on our economy will be swift and drastic. Not only will domestic availability be hurt, but our foreign trade will suffer. Our efforts to improve the balance of trade and to strengthen the dollar will suffer. And, our domestic economy will suffer.

It will take time to improve the competitiveness of domestic manufacturing, not only abroad, but here at home. But, in food production capability, there is no serious competition. This is an area where the United States can show rapid improvements in a relatively short time. The American farmer will provide the basis for a healthier economy, but only if he has the fuel required for expanded production. I urge the administration to resolve this conflict in national policies, and to institute a mandatory fuel allocation program allowing increased production.

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## FOREIGN EXPERIMENTS IN JOB ENRICHMENT PROGRAMS

Mr. PERCY. Mr. President, the United States today is fighting a critical battle to maintain its competitive position in the world market. Vital to our success is an increase in the Nation's productivity growth rates. Improving the quality of work in America and ending the frustrations of authoritarian factory environments are goals we must achieve if our country is to maintain its prosperity.

The ills of fragmented jobs and monotonous work are evident in many countries. Absenteeism, wildcat strikes, and workers sabotage are problems in America as well as in other countries. Other nations have made great strides in productivity growth through various techniques of enhancing the workers' environment and involving him in the company decisionmaking process. If we are to improve U.S. efforts to combat these problems, we can learn from the programs initiated by other nations and perhaps deal more effectively with the problems at home.

I call the attention of my colleagues to an article on this subject published in the July 23, 1973, issue of U.S. News & World Report. The vast changes in labor management practices throughout the world are carefully reviewed in "What Foreign Firms Are Doing To Fight 'Blue-Collar Blues,'" and I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Labor:

### What Foreign Firms Are Doing To Fight "Blue-Collar Blues"

In one country after another there's upheaval in labor-management practices as companies try new ways to combat dissatisfaction among workers.

### REPORTED FROM WORLD CAPITALS

It's not only in the U.S. that industry is confronting the problem of the "blue-collar blues," trying to keep workers happy on the job and giving them a feeling of responsibility.

Similar efforts are in progress in most industrial countries of the world—and they are bringing far-reaching changes in worker-employer relationships.

A country-by-country check by members of the International Staff of "U.S. News & World Report" underlines the extent of these developments.

For example:

In Western Europe, one nation after another is involved in a movement to give workers a voice in company board rooms, as well as to make them more contented at jobs in the shop. Included are programs to promote worker ownership of company shares.

In South America, the trend is most marked in Peru, where the Government has ordered that employes be given representation on company boards of directors. Something of the sort is also done in Argentina and Chile, but only for state-owned enterprises.

In Canada, there's similar recognition of the idea that workers have a right to participate in the decisionmaking process. But, by and large, this is accomplished through the traditional give-and-take of management-union negotiations rather than through innovations in "industrial democracy."

In Japan, by contrast with conditions elsewhere, the partnership between labor and management has been so close for many years that there is little worker unrest. The typical industrial company is almost an extension of the family, where worker and boss are both on the same team.

### RESTIVE WORKERS

Managements of European businesses, particularly, are plagued with a weakening in worker morale, growing absenteeism, and rising discontent with monotonous factory work. Wildcat strikes are growing more frequent. The unrest appears in countries that formerly were considered models of trade-union discipline. Many young workers are especially reluctant to accept an employer's authority.

In various countries abroad, this "revolution" in labor's attitude is being resolved in three ways: The first is a growing move toward worker participation in management.

Both Sweden and the Netherlands have followed a pattern established by West Germany, in giving workers a legal claim to representation on the supervisory boards of their companies.

Similar legislation is in the works or under consideration in Denmark, Norway and Britain.

The second move involves a worker's ownership of company stock. Increased employee involvement in management through distribution of company shares is planned in at least three of the countries.

Sweden, through new legislation, allows the Government's social-security-pension fund to invest in private-enterprise stock.

### WORKERS' STOCK PLAN

In Britain, the Conservative Government is sponsoring a stock-option plan for workers. The opposition Labor Party proposes a program that could bring worker control through majority ownership of the firm's shares.

Denmark's Social Democratic Government supports a compulsory stock-distribution idea that also could lead to worker control. The proposal is being deferred, however, until 1975 due to inflationary difficulties.

The third broad move by managements in Europe centers on projects to combat "assembly-line blues." For instance, Sweden's major auto firms—Saab and Volvo—have introduced radical new production systems designed to increase job satisfaction.

Italy's Fiat is following suit. Norway's Nordsk-Hydro has begun a program in its fertilizer factories built around production teams—giving workers wide autonomy and responsibility. Great Britain is setting up an official steering committee of experts to study the problem of job dissatisfaction and sponsor experiments for change.

Giving new impetus to this whole movement toward "industrial democracy" and "job enrichment" are recommendations of the European Common Market Commission.

One of its proposals calls on all member countries of the European Economic Community to follow West Germany's example and make worker participation on compulsory boards mandatory.

A second recommendation suggests abolition of assembly-line operations, because of the "psychological harm" these inflict on the workers.

How to give workers a role in management and make life better at the workplace is shaping up as a big political issue in many foreign countries.

Detailed reports of what is happening in industry in major countries show the key developments—

### WORKERS ON THE BOARD

Moves to let employees have a say in how the company is run take various forms.

Under a new law in Sweden, all firms with more than 500 employes must appoint two union representatives to their boards of directors. One labor spokesman comes from blue-collar unions. The second is selected from white-collar units.

Swedish unions have been distinctly unenthusiastic about this reform, and only recently endorsed it under pressure from the Social Democratic Government.

Union leaders say they are more interested in increasing worker participation at the factory level—where conditions can be directly influenced—than in sitting on company boards where their effect will be questionable.

### GENESIS: WEST GERMANY

This "voice in management" idea got its real start in West Germany's steel industry in 1947. Later, in 1951, the West German Government confirmed the steel arrangements—originated during British military occupation—and extended them to the coal industry.

Some 700,000 workers in these two sectors of German industry have been under the system ever since. In practice, labor is given as many seats as management on the firm's board of directors. The two groups then select a neutral director.

Outside the steel and coal industries, West Germany has had a somewhat similar system in all industrial plants employing more than 500 workers. This plan, in effect for more than 20 years, allows labor to have one-third of the seats on company boards.

Organized labor and its allies, however, consider the one-third status to be unsatisfactory and trivial. They prefer the steel-coal setup.

In Britain, the future role of workers in management suddenly is emerging as an important political issue.

Prime Minister Edward Heath's Conservative Government almost overnight has embraced the idea of legislation requiring appointment of worker representatives to company boards along lines practiced in West Germany.

The Prime Minister sees the codetermination idea as a possible basis for an over-all deal with the British unions to get their co-operation in a long-term anti-inflation policy.

British unions, which in the past have been cool to schemes for worker participation in management, now are switching. The Trades Union Congress—the British equivalent of the AFL–CIO—recently announced a provisional decision accepting the idea in principle. But, labor is demanding half of the board seats and a veto over major management decisions involving mergers, takeovers or plant closings.

The Confederation of British Industries is not opposing the plan in principle but it is calling for a slow and cautious approach before moving to enact legislation.

Norway also is considering proposals to place union representatives on company boards, and an even more radical plan is under discussion in Denmark. The Danish scheme would place 50 per cent of the equity capital of companies under control of labor.

Business opposition forced the Danish government to postpone the plan until 1974. Public-opinion polls there show that only about one quarter of those surveyed solidly back the plan.

In Austria, organized labor suggested a program giving worker councils greater powers and assigning one third of each company's directors' seats to labor. Because of strong employer opposition, the outcome of this Austrian proposal remains uncertain.

Swiss unions also are seeking worker seats on the company boards. Labor is campaigning for a nationwide vote on the issue.

Employers in Switzerland generally reject any codetermination moves that would interfere with basic management decisions.

### NOT NEW TO JAPAN

Japanese workers already have a strong voice in company policies. The labor-management consultative councils now operate in 63 per cent of all Japanese enterprises. These company panels meet regularly 10 to 15 times yearly to discuss matters such as working conditions, employment and job-transfer policies, education and training programs, and the financial status of their company.

In France, business leaders and the powerful Communist Party—with its dominant union—are cool if not actively hostile to the idea of employes' helping decide management policies.

An offbeat form of worker participation did show up recently in a watch factory in Western France. The 1,300 employes took over operations of the factory after it went into bankruptcy and halted production.

Using stocks of materials on hand, the workers have been turning out watches—which they sell at 40 per cent off the former price.

Italian unions see no advantages at all in "comanagement" of industry. They feel that sharing responsibility for management decisions would limit their freedom to oppose the managers on behalf of worker interests.

Canada's labor movement goes along with the prevailing view of unions in the U.S., in opposing the concept of joining the directors' boards. A Canadian Government official says:

"We have the adversary system in Canada and will continue to have it for a long time. It is a fact of life in a system based on negotiations. Through collective bargaining, labor makes inroads into management rights."

South America's experiments in co-determination are concentrated largely in Peru. The military regime there in 1970 decreed that employes must be represented on the boards of directors of private companies in proportion to the workers' equity in each firm.

At the same time, Peru ordered all companies with six or more employes to see that their workers acquire company stock.

Fifteen per cent of the firm's profits must be set aside each year for shares of stock, to be held by a workers' co-operative. When the co-operative owns half of the firm's shares, the profit-sharing plan is ended. So far, the workers' stock-holdings remain small.

For state-owned firms in Peru, the employes are given bonds equal to 15 per cent of the annual profits, rather than shares of stock. The Government does not want workers to share in control of the state businesses.

### EMPLOYES AS SHAREHOLDERS

Sweden and Britain afford the principal examples of moves to broaden worker participation in industry by owning company stock.

In Sweden, the participation is indirect—using social-security pension funds to invest in company stocks. Politicians opposed to the idea denounce it as "back-door nationalization," Under the program, a new foundation is to handle social-security investments. The unions have five members on the 11-man control board.

In Britain, adoption of some type of plan for worker participation in stock ownership seems almost certain.

The Conservative Government already has submitted one proposal to Parliament. Workers would have an option to buy stock in their company, possibly for as little as 70 per cent of the market price. Payment would be linked to a save-as-you-earn program.

A more radical idea has come from the opposition Labor Party. This would open the door to eventual worker control through majority ownership of stock.

The Labor Party plan would require that companies contribute shares each year to a national workers' fund, to be owned collectively by employes. The fund would own voting shares in all of Britain's public companies and could influence management policies.

### FIGHTING JOB DISSATISFACTION

Efforts to give workers "job enrichment" and greater individual initiative are showing up in many European plants.

An example of Swedish industry's attack on "assembly-line blues" is offered by a new work system at the Saab auto-engine factory outside Stockholm.

The assembly line in this plant was eliminated, and production was built around teams of workers. Each team of three employees assembles an entire engine. The workers decide how the work is to be divided within the team.

All lifting and moving of heavy parts is handled by special equipment. Thus, Saab can use women in what formerly had been heavy work, reserved for men. Eighty per cent of the employes in the new plant are women.

A high rate of absenteeism prompted Italy's Fiat auto company to adopt a similar team plan for assembling engines.

A growing number of companies in various European countries are turning to "flexible working hours" for both blue and white-collar workers, to improve the working atmosphere. Workers' "blues" are described as "in no sense a burning issue" in West Germany. One reason: 10 per cent of those employed are foreigners, expecting to return home after only a few years on the job.

While in Germany, these imported workers are not anxious to stir up trouble. They tend to be docile, ready to go along with the system as they find it.

### TROUBLE IN FRANCE

By contrast, France has a major problem in worker discontent, growing absenteeism, wildcat strikes, a higher rate of turnover.

In France, experiments are under way to make factory work more attractive. Piecework pay is being abolished in some plants. Six hundred workers at Jaeger, an auto-instrument maker, are allowed to work at their own rhythm.

Japan's No. 1 auto maker, Toyota Motors, also is seeking ways to eliminate monotony on the assembly line. Experiments range from rotating shift work to providing background music on the line. However, the emphasis is on training each employe to handle two or three different jobs, moving from one task to another along the production line.

Workers are encouraged to participate in after-hours activities varying from baseball to amateur theatricals.

Thus, all around the world, employers, governments and workers are seeking new ways to make factory work more pleasant and to give employes a voice in running the total enterprise.

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## AUTO REPAIR

Mr. HARTKE. Mr. President, the automobile has come to play an important role in the transportation of our citizens. Every year the number of cars sold increases substantially. Coupled with this, more and more money is spent on the repair of these machines. Roughly, $25 to $30 billion is spent annually on auto repairs. Of this sum, my colleague from Michigan, Senator Philip A. Hart, has estimated that at least $8 to $10 billion is unnecessarily or fraudulently taken from the motoring public.

This situation is intensified because most motorists have little or no knowledge of the complex workings of the modern automotive engines. Accordingly, the consumer is placed at the mercy of auto mechanics.

Because of the magnitude and importance of this problem, several State legislatures are enacting laws to protect the public against unfair practices. Consumers feeling the need to act immediately, have organized groups to receive complaints from citizens about repair shops.

One such group was established by a college student in Cleveland named Tom Vacar. Called the Auto Safety Research Center, the facility acts as a car-owner's complaint bureau. It receives complaints from dissatisfied consumers, investigates their claims, and then works toward negotiating with the car repair dealer for a settlement.

Government at the State and Federal level must begin to fulfill its obligation to the public and enact and enforce strict laws to curtail fraudulent practices in the auto repair industry.

Earlier this year, I introduced the Motor Vehicle Repair Industry Licensing Act (S. 1950). This legislation calls for the Federal Government to assist the States in establishing their own systems of licensing those engaged in the practice of auto repairs and auto damage appraisal. This issue encompasses the whole country and it is essential that Congress acts. If we do not, consumer groups working on their own may be able to win a battle or two but will surely lose the war.

Mr. President, I ask unanimous consent that an article which appeared in the National Observer, explaining the Auto Safety Research Center, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### LEMONAID—A NADER DISCIPLE OPENS AUTO-COMPLAINT CENTER

(By James G. Driscoll)

Tom Vacar sweetens lemons. Lemons with eight cylinders—or six or four.

Mr. Vacar fixes no car except his own. Rather, he sweet-talks auto dealers and manufacturers on behalf of disgruntled car owners. Their cars have gone lame or halt, and the repair shop can't or won't make them healthy. Or there's a squabble over what repairs are covered by the car's warranty.

The owners complain to Mr. Vacar, a college senior who writes letters, makes phone calls, visits manufacturers' "zone" offices, and even quotes Benjamin Disraeli in trying to help consumers. Sometimes the talk turns tough. And the consumer wins surprisingly often, considering that Mr. Vacar, 22, and his even younger associates operate on a tattered shoestring. Mr. Vacar charges no fee; his volunteer spirit grew out of his own disheartening experience with auto repairs.

The results of this experimental complaint center have been so encouraging that Ralph Nader, for whom Mr. Vacar formerly worked, has called for 100 more complaint centers around the nation. One is being started by a consumer group in New York City, and the United Auto Workers union—whose members drive the cars they make—expects to open a complaint center here in a few weeks.

More centers are being planned elsewhere, but this is still a fledgling, struggling effort, and it may be years—if ever—before auto complaint centers are operating in significant numbers. Mr. Vacar's center is plagued with financial and personnel problems, and the soaring spirit of the volunteers who manned it at the start has given way to apathy as the money for token salaries ran out.

Nonetheless, this is a fascinating attempt to cope with the nagging problems of auto ownership that have worried man since the first Model T backfired. The need for complaint centers seems clear, and their popularity assured, if one can judge from the experience of Diana Bigelson and her 1969 Austin America.

Miss Bigelson needed dependable transportation to commute from her home in suburban University Heights to her teaching job in Bedford, about 10 miles away. Friends recommended the British-made Austin, and she bought one new from Jaguar-Cleveland Motors, Inc., a foreign-car dealer.

Dependable? This Austin wasn't. She recounts that the motor died repeatedly when she was driving 70 m.p.h. on a superhighway. The tail pipe banged against the bumper. The carpet was torn, the radio was full of static, the driver's seat wouldn't move backward or forward, and the brake warning light didn't work.

The Austin had been advertised as economical, getting 30 to 35 miles to the gallon. Miss Bigelson averaged 16 to 19, she says. The 1,000-mile checkup showed rust covering most of the engine. Later, a leaky carburetor caused the motor to catch fire. Miss Bigelson happened to be in front of a fire station at the time, so damage was limited to $232.

#### FALLING BOLTS

Another time, "the motor started racing really fast," Miss Bigelson says. She stopped, ran to the nearest house for help, and found that a Jaguar-Cleveland employe lived there. He examined the car and told her that a screw had not been tightened correctly, and a "bolt had fallen into something," she recalls.

Though the dealer repaired most of the defects, the car continued to stop on the highway. And Miss Bigelson was unhappy with the treatment she received at the dealer.

They told her she was using the wrong gasoline. She changed, and the gas mileage got worse. They "bawled her out," she said, for not driving the car correctly. And when the car wouldn't start in cold weather, a mechanic suggested jocularly that "you should keep a hair dryer in the car to defrost it if it freezes up again." She didn't think that was funny.

Frustrated and furious, Miss Bigelson planned to place an advertisement in the Cleveland newspapers, blasting the dealer. Her aunt, a lawyer, dissuaded her. Then Miss Bigelson heard of Tom Vacar and his new Auto Safety Research Center.

The center's name is somewhat misleading. Though Mr. Vacar is seriously concerned with car safety, his interests encompass all the relations between car owners, dealers, and manufacturers, and his organization could fairly be called a car-owners' complaint center. When Miss Bigelson called, he took down her complaint and asked her to provide the relevant documents—repair bills, warranty, owner's manual, and bill of sale. Then he began phoning, writing, and visiting Lee Seidman, president of Jaguar-Cleveland.

By this time, Miss Bigelson wanted to get rid of the car. Mr. Vacar proposed that Mr. Seidman buy it back for $2,175.49. That total included the list price, $1,899, plus the cost for the engine fire, $232.93, plus $43.55 for a "gasoline mileage adjustment." This was the "extra" money she had paid for gas, over what it would have cost if the car had given 30 miles to the gallon for the 6,700 miles she drove it.

Mr. Seidman declined to pay that price, but after lengthy negotiations, agreed to buy back the car for $1,000 and to obtain a $200 price reduction for Miss Bigelson on a Volkswagen she wanted to buy from another dealer, who owed Mr. Seidman $200.

Mr. Vacar was not completely satisfied with the agreement and wrote to Mr. Seidman: "English statesman Benjamin Disraeli said on Feb. 22, 1848, in the House of Commons, 'A precedent embalms a principle.' I was somewhat surprised when you stated that you did not want to set a precedent by refunding the full price for Diana Bigelson's car even though it is . . . substandard by anyone's standards. . . ."

Mr. Seidman, a man not without grace and humor, replied by quoting his sales manager: "Moe Berlin phrases it best. He doesn't like to win the battle and lose the war. . . . I now believe that we have lost both." Mr. Seidman contended that he had bought back a car he didn't want at a higher price than he would have paid for a similar car at an auction, had refunded gasoline money without examining the customer's driving habits, had helped a competitor sell a car, and had lost a customer.

Miss Bigelson had a different reaction. "I think the center is great. If it wasn't for them, I would not have gotten back as much as I did."

Mr. Vacar's interest in car complaints derives from a personal incident. In 1969 he took his 1963 Ford Galaxie to a large Ford dealer in Cleveland and was told he needed repairs that would cost $130. When he picked up the car, the bill was $260, and his outrage gained him no reduction.

#### HUNDREDS OF LETTERS

Later that year, he worked for the Center for Auto Safety in Washington, D.C., an organization associated with Mr. Nader, and was impressed and dismayed to find that hundreds of letters were received there each week from dissatisfied car owners who didn't know where to turn.

Mr. Vacar returned to Cleveland, where he is a political-science major at Case Western Reserve University and set up his experimental center last April. He complied with the rules for a student organization, and the university provided a small office in Case Main, a battered old building. The office contains two desks, a half dozen chairs, a couple of filing cabinets, and a telephone. Under an "undergraduate scholars" program, Mr. Vacar is receiving nine academic credits this semester for running the center.

Financing has been a severe problem from the start. Mr. Nader gave the center $800 that he received for a speech in Cleveland, and then wrote a $500 check. Consumers Union has given two grants, totaling $1,000. And the United Auto Workers gave $200.

At first, Mr. Vacar was able to pay volunteers "subsistence" salaries of $25 to $50 a week. Now he can pay nothing, and meets the telephone bill by working three or four nights a week in a dormitory cafeteria. He also works as a teaching assistant for one course.

His principal aide in the complaint center now is a 16-year-old high school student, Kevin Karp. Many of the 15 college students who formerly helped at the center have turned to other paying jobs. "They just couldn't hack without a little money for bus fare and meals," asserts Mr. Vacar.

"This center really works," he declares. "The consumer movement is powerless unless you get to the local level and solve complaints. And we have helped the consumer in 80 per cent of the 400 complaints that we've handled.

#### FREE-ENTERPRISE "STIMULUS"

Insisting that his center is not "antibusiness," Mr. Vacar asserts that it serves "as a stimulus to the free-enterprise system to make it work better."

Surprisingly, a fairly good relationship has developed between Mr. Vacar and many auto dealers in Cleveland. Mr. Vacar and Mr. Seidman of Jaguar-Cleveland, for instance, have grown to reluctantly respect each other.

"These are bright young people at the center, trying to act as a catalyst between the disgruntled consumer and the businessman," says Mr. Seidman. "Some customers are reasonable about their complaints; some are unreasonable. Car-buying can be a psychological, emotional thing. Sometimes the buyer magnifies problems and just doesn't want to see the car any more."

Mr. Seidman says that for most cars, defects can be corrected by the dealer. "But occasionally, someone builds a car with many flaws. My problem is expediency—there are so many things to do, and I want to settle problems right away." In fact, most new cars seem to have a good many flaws. Consumer Report magazine says that the 1969 cars that it tested had an average of 36 major or minor flaws, and 1970 models were no better.

Hugh Gibson, president of Birkett Williams Ford in Cleveland, concurs that Mr. Vacar and his associates are "a pretty fine group of people." Mr. Gibson, a director of the National Automobile Dealers Association, says the young people at first "set out to prove that dealers are the bad guys at the root of the problem. They found that many problems are the result of the dealer being squeezed between the customers and the manufacturer because of warranty problems."

Indeed, Mr. Vacar reports that he has more difficulty dealing with some "zero" representatives of the car manufacturers than with the auto dealers. The U.S. manufacturers usually have an "owner relations" office within a sales office in each zone; Chevrolet, for instance, has 48 such offices.

The Buick zone office, says Mr. Vacar, has been friendly and responsive, while the Chevrolet office—part of the same General Motors Corp.—has proved just the opposite.

George Bollman of the Buick office says he has no problems in dealing with Mr. Vacar. "If the complaint is justified and well documented, we'll make an adjustment," Mr. Bollman declares.

Officials at the Chevrolet zone office, where Mr. Vacar contends he has been told he is not welcome, declined to talk about him or the center. However, Richard Good of Detroit, manager of owner relations for the Chevrolet Motor Division, says that he "almost solicits" complaints from customers, and has "no objection" if they come from an organization such as Mr. Vacar's.

Despite the recalcitrance of some zone offices and dealers, the center has succeeded in helping many car owners. Victor Lehman of North Royalton, Ohio, bought a new Ford Ranchero pickup truck and found it lacked head rests, had the wrong grill and steering wheel, and the paint was chipped. Mr. Vacar interceded with the dealer, and Mr. Lehman was pleased with the results. "Without your help we feel Southwest Ford would not have answered our complaints. . . . They just stalled us off until we went to you for help," he wrote.

David Brewe of Rocky River, Ohio, complained about an unauthorized valve job on his 1967 Mercury, for which he was charged $100. With Mr. Vacar's help, the charge was reduced to $24.

Julian Steinberg of Shaker Heights received a $150 refund from the Buick zone office for unnecessary repair on his 1969 Opel.

Yet Mr. Steinberg was dissatisfied because someone from the center failed to keep an appointment with him to discuss his complaint. It took several calls before he got someone to go with him to the zone office.

Ernest Savary of Cleveland gave up this month on getting any real help from the center for a severe problem with his 1969 Mercury. A ball bearing somehow fell into a piston and broke it, and the dealer and manufacturer disclaimed responsibility. Mr. Savary finally went to a lawyer who, for $150, arranged a trade-in on a new car.

Over all, however, the center has proved successful enough to be copied by the United Auto Workers, Cleveland Council. The union, with 50,000 members in the Cleveland area, called in Mr. Vacar as a consultant and is setting up a center similar to his, but limited to UAW members. Bob Weissman, council president, argues that UAW members are "doubly victimized": they are forced to work so fast on assembly lines that high quality is impossible, and then they must buy the same "shoddy made" cars as everyone.

As the idea spreads, Mr. Vacar expects that those who run centers will concentrate, as he has, on the details of warranties and sales contracts, and on the way manufacturers handle complaints. He hopes others will follow his example of trying to leave both the buyer and dealer happy after setting a problem; a pleased consumer then may tell the dealer he plans to buy another car there.

Of course, that doesn't always happen. Often, there is a sour aftertaste after a lemon battle. Lee Seidman of Jaguar-Cleveland, for instance, has always insisted that Miss Bigelson's Austin was a fine car. Now he has sold it to a second owner who is "delighted" with its dependable performance.

Take *that*, Diana Bigelson.

But Miss Bigelson, still smarting from her Austin ordeal, has persuaded two of her friends not to buy a car from Mr. Seidman.

Take *that*, Lee Seidman.

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## CHANGING GOALS OF AMERICA'S YOUNG WORKERS

Mr. PERCY. Mr. President, one of the most effective weapons for fighting inflation is increased productivity in our Nation's industries. On numerous occasions in the past few years I have remarked on this fact and on the critical need to improve our national productivity growth rate if we are to remain competitive in the world market. The means to this end are complex, however, and it is imperative that those of us involved in the effort keep advised of the constant changes in the U.S. work environment.

Today I call the attention of my colleagues to an article about the young worker in America. The U.S. work force of the 1970's is far different from that of 10 and even 5 years ago. The beliefs of the contemporary college student on the importance of work to his life and on the benefits he seeks in his job are complex and thoughtful. A Daniel Yankelovich survey of college students conducted from 1968 to 1971 has revealed that while the younger worker has a strong commitment to work, he rejects the authoritarian system geared to an earlier stereotype: the uneducated, irresponsible worker. The old system of fractionalized tasks and competition with others does not attract today's youth. The sooner we understand the desires and motivation of the younger worker, the sooner we will be able to deal effectively with our productivity problems.

I urge my distinguished colleagues to take time to read more about this survey in "The Young Worker & the Work Ethic" from the April 1973 issue of Today's Education, the journal of the National Education Association. Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The Young Worker and the Work Ethic

(Note.—This article is adopted from *Work in America*, a report of a special task force to the U.S. Secretary of Health, Education, and Welfare. December 1972.)

It appears that young people, more than any other group, have taken the lead in demanding better working conditions. Out of a work force of more than 85 million, 22.5 million are under the age of 30. These young workers are more affluent and better educated than their parents were at their age. Factually, that is nearly all we can generalize about this group. But such authors as Kenneth Keniston, Theodore Roszak, Charles Reich, and others assert that great numbers of young people in this age group are members of a counterculture.

The President's Commission on Campus Unrest wrote that this subculture "found its identity in a rejection of the work ethic, materialism, and conventional social norms and pieties." Many writers have stressed the alleged revolt against work, but empirical findings do not always support the impressionistic commentaries.

It is commonly agreed that there is a difference between the behavior of youth and their real attitudes. Many young people do wear beads, listen to rock, and sometimes smoke pot; but few actually live in communes (and these few may be working very hard), and even fewer are so alienated that they are unwilling to play a productive role in society.

From 1968 to 1971, Daniel Yankelovich conducted national attitude studies of college students and found that two-thirds of them profess mainstream views in general particularly in their feelings about work (and private business):

Seventy-nine percent believe that a meaningful career is a very important part of a person's life.

Eighty-five percent feel business is entitled to make a profit.

Seventy-five percent believe it is morally wrong to collect welfare when you can work.

Only 30 percent would welcome less emphasis on working hard.

While student feelings about work itself are generally high, Yankelovich found that attitudes toward authority are changing rapidly. In 1968, 56 percent of all students indicated that they did not mind the prospect of being "bossed around" on the job. By 1971, only 36 percent see themselves willingly submitting to such authority. And, while 86 percent of these students still believe that society needs some legally based authority to prevent chaos, they nevertheless see a distinction between this necessity and an authoritarian work setting.

Yankelovich also found a shift in student opinion on the issue that "hard work will always pay off" from a 69 percent affirmation in 1968 to a 39 percent affirmation in 1971. This certainly was, in part, indicative of the conditions in the job market for college graduates in 1971. But more basically, we believe, it highlights a paradox inherent in a populace with increasing educational achievement. Along with the mass media, education and its credentials are raising expectations faster than the economic system can meet them.

The following case study of a young woman who is a recent college graduate illustrates the gap between expectations and reality:

> I didn't go to school for four years to type. I'm bored; continuously humiliated. They sent me to Xerox school for three hours. . . . I realize that I sound cocky, but after you've been in the academic world, after you've had your own class (as a student teacher) and made your own plans, and someone tries to

teach you to push a button—you get pretty mad. They even gave me a gold-plated plaque to show I've learned how to use the machine.

The problem is compounded by the number of students who are leaving school with advanced degrees, like the young Chicago lawyer in the following case:

You can't wait to get out and get a job that will let you do something that's really important. . . . You think you're one of the elite. Then you go to a place like the Loop and there are all these lawyers, accountants, et cetera, and you realize that you're just a lawyer. No, not even a lawyer—an employee; you have to check in at nine and leave at five. I had lots of those jobs—summers—where you punch in and punch out. You think it's going to be different but it isn't. You're in the rut like everybody else.

Today's youth are expecting a great deal of intrinsic reward from work. Yankelovich found that students rank the opportunity to "make a contribution," "job challenge," and the chance to find "self-expression" at the top of the list of influences on their career choices. A 1960 survey of more than 400,000 high school students was repeated for a representative sample in 1970, and the findings showed a marked shift from the students' valuing job security and opportunity for promotion to valuing "freedom to make my own decisions" and "work that seems important to me."

Many of these students findings were replicated in the sample of young workers included in the Survey of Working Conditions, a monumental study conducted by the University of Michigan's Survey Research Center. For example, it seems as true of young workers as it is of students that they expect a great deal of fulfillment from work. But the Survey findings show that young workers are not deriving a great deal of satisfaction from the work they are doing. Less than a quarter of young workers reply "very often" when asked the question, "How often do you feel you leave work with a good feeling that you have done something particularly well?"

Other findings document that young workers place more importance on the value of interesting work and their ability to grow on the job than do their elders. Also, they place less importance than do older workers on such extrinsic factors as security and whether or not they are asked to do excessive amounts of work. But the Survey found a significant gap between the expectations or values of the young workers and what they actually experience on the job. For example, they value challenging work highly but say that the work they are doing has a low level of challenge.

It has also been found that a much higher percentage of younger than older workers feel that management emphasizes the quantity more than the quality of their work. Furthermore, it is shown that this adversely affects the satisfaction of younger workers. Such findings contradict the viewpoint that there is a weakening of the "moral fiber" of youth.

Many young union members are challenging some basic assumptions about "a fair day's work for a fair day's pay." In the past, unions concerned themselves with establishing what a fair day's pay would be, while the employer's prerogative was to determine what constitutes a fair day's work. Young workers are now challenging both unions and management by demanding a voice in the setting of both standards, as the following case illustrates:

Three young workers, aged 20 and 21, were hired to clean offices at night. One evening the foreman caught one of the young janitors (who went to school during the day) doing his homework; another was reading the paper; and the third was asleep with his feet upon a desk. The foreman exploded and gave them a written warning. The workers filed a grievance protesting the warnings: "We cleaned all the offices in five hours by really hustling, and who the hell should get upset because we then did our own thing?" One young worker said, "At school during study period I get my studies done in less than the hour and no one bugs me when I do other things for the rest of the time. We cleaned all those offices in five hours instead of eight. What more do they want?"

The union steward said he tried hard to understand what they were saying: "But the company has the right to expect eight hours' work for eight hours' pay. I finally got the kids to understand by taking them outside and telling them that if they got the work finished in five hours, then the company would either give them more work or get rid of one of them. They're spacing it out nicely now and everyone's happy," he said, satisfied to have settled the grievance within the understood rules.

The author of this study writes that the young workers were far from satisfied. They wanted the union to establish what had to be done and how much they would be paid to do it, and then they wanted the same freedom that professionals have to decide how to operate within the time and work frame allotted.

In summary, we interpret these various findings not as demonstrating a shift away from valuing work per se among young people but as a shift away from their willingness to take on meaningless work in authoritarian settings.

It would be a mistake to believe that the new attitudes toward authority and the meaning of work are limited to hippies. Judson Gooding writes that young managers, both graduates of business schools and executive trainees, "reflect the passionate concerns of youth in the 1970's—for individuality, openness, humanism, concern, and change—and they are determined to be heard."

Some young people are rejecting the corporate or bureaucratic worlds while not rejecting work or the concept of work or profit. Gooding tells of one young former executive who quit his job with a major corporation because:

You felt like a small cog. Working there was dehumanizing and the struggle to get to the top didn't seem worth it. They made no effort to encourage your participation. The decisions were made in those rooms with closed doors. . . . The serious error they made with me was not giving me a glimpse of the big picture from time to time, so I could go back to my little detail, understanding how it related to the whole.

This young man has now organized his own small business and designed his own job. As the publisher of a counterculture newspaper, he might be considered a radical in his beliefs and life-style, yet he says, "Profit is not an evil." Of course, many young workers do question the use of profits, especially those profits they feel are made at the expense of society or the environment.

Perhaps it would be useful to analyze the views of today's youth in terms of their grandparents' beliefs. Today's youth believe in independence, freedom, and risk—in short, they may have the entrepreneurial spirit of early capitalism. Certainly they are more attracted to small and growing companies, to small businesses and to handicrafts, than to the bureaucracy (be it private or public).

On the other hand, their parents share a managerial ethic that reflects the need for security, order, and dependence that is born of hard times. Of course, this is being a bit unfair to the older generation and a bit overgenerous with our youth, but it serves to get us away from the simplistic thinking that "the Protestant ethic has been abandoned."

Who in America ever had the Protestant ethic and when? Did the poor people or even middle-class people ever have it? Sebastian de Grazia argues that the Protestant ethic was never more than a myth engendered by the owner and managerial classes to motivate the lower working class—a myth that the latter never fully accepted. Clearly, it is difficult to measure the past allegiance of a populace to an ideology.

We can, however, measure the impact of the present work environment on youth's motivation to work. For example, the Survey of Working Conditions found that youth seem to have a lower attachment to work than their elders on the same job. This might be so for several reasons other than a change in the work ethic.

First, as we have noted, young people have high expectations generated by their greater education.

Second, their greater affluence makes them less tolerant of unrewarding jobs.

Third many new workers, particularly women, don't have to work at permanent jobs and are, therefore, more demanding.

Fourth, all authority in our society is being challenged.

Fifth, many former students are demanding at their place of work what they achieved in part on their campuses a few years *ago*—a voice in setting goals. The lecture has been passé for several years on many campuses—in colloquia and in seminars students challenge teachers. Managers are now facing the products of this progressive education. (One wonders what will happen when the children of today's open classroom, who set their own goals and plan their own schedules, enter the work force.)

Sixth, young blue-collar workers, who have grown up in an environment in which equality is called for in all institutions, are demanding the same rights and expressing the same values as college graduates.

Seventh, the growing professionalism among young workers has caused them to feel loyal to their peer group, task, or discipline rather than to their work organization.

In sum, it does not appear that young workers have a lower commitment to work than do their elders. The problem lies in the interaction between work itself and the changing social character of today's generation and in the failure of decision makers in business, labor, and government to recognize this fact.

The young worker is not in revolt against work but against the authoritarian system developed by those who felt that the worker was both stupid and afraid of responsibility. This view is summed up in Frederick Taylor's classic dictum to the worker:

"For success, then, let me give one simple piece of advice beyond all others. Every day, year in and year out, each man should ask himself, over and over again, two questions. First, 'What is the name of the man I am now working for?' and having answered this definitely, then 'What does this man want me to do, right now?' "

The simplistic authoritarianism in this statement would appear ludicrous to the young worker who is not the uneducated and irresponsible person on whom Taylor's system was premised.

From our reading of what youth wants, it appears that under current policies, employers may not be able to motivate young workers at all. Instead, employers must create conditions in which the worker can motivate himself.

The most rewarding race is probably one that one runs against oneself. Young people seem to realize this. They talk less positively than do their elders about competition with others. But they do talk about self-actualization and other "private" values. Yankelovich found that 40 percent of students—an increasing percentage—do not believe that "competition encourages excellence," and 80 percent would welcome more emphasis on self-expression.

Compared to previous generations, the young person of today wants to measure his improvement against a standard he sets for himself. The problem with the way work is organized today is that it will not allow the worker to realize his own goals.

Because of the legacy of Taylorism, organizations set a fixed standard for the worker but often without telling him clearly why or how that standard was set. More often than not, the standard is inappropriate for the worker. And, in a strange contradiction to the philosophy of efficient management, the organization seldom gives the worker the wherewithal to achieve the standard. It is as if the runner did not know where the finish line was; the rules make it a race that no worker can win.

Whether or not young workers' intolerance of such poor management signals temporary or enduring changes in the work ethic is problematic. More important is how management and society will reckon with the new emphasis that the workplace should lose its authoritarian aura and become a setting for satisfying and self-actualizing activity.

## NO-FAULT INSURANCE

Mr. COOK. Mr. President, my good and distinguished friend, the senior Senator from Tennessee (Mr. BAKER) has recently made a typically intelligent and provocative speech concerning the issue of no-fault insurance. Since this issue is as complex and confusing as any with which this body has to deal, I believe Senator BAKER's comments can be instructive to anyone concerned with this subject. I, therefore, ask unanimous consent that Senator BAKER's statement of Friday, August 3, to the National Conference of Bar Presidents be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT OF SENATOR HOWARD BAKER

During the past several years the concept of "no-fault insurance' has come under considerable discussion and has been the subject of much debate and publicity. Unfortunately, many of the complexities of the issue have been ignored and much of the debate has been clouded by massive sales campaigns on both sides of the issue. I am happy to have this opportunity to set forth what I consider to be some of the fundamental considerations in the development of no-fault insurance programs.

Let me start by saying that I support no-fault insurance and feel that the concept is an important part of badly-needed reform of the automobile accident reparations system. Over the past two years, the Commerce Committee has received substantial testimony regarding the inefficiency of the present system. It is apparent that the fault concept is often a too cumbersome and costly procedure for the payment of claims—especially small claims. And the limits of liability insurance required by the states is woefully inadequate to pay any but those same small claims. If the automobile accident reparations system is, as has been said, a marriage of legal fault concepts to a system of liability insurance, it is, at best, an unhappy one.

It is past time for a critical reassessment of this system and for major revision. It remains my hope that the warring factions on no-fault insurance—those who oppose the concept totally or would advocate palliative programs and those who would rush headlong to put into effect untested, unproven pure no-fault programs based upon tenuous assumptions regarding costs and claims efficiency—can be overcome by those advocating reasoned and rational reform.

While the Senate Commerce Committee has received a wealth of critical comment regarding the present automobile reparations system, because the Committee has from the outset undertaken to consider only total or pure no-fault programs, hearings and debate have yielded little specific information regarding the inadequacies of the fault system. Nonetheless, I feel that some analysis is necessary to lay a foundation for understanding the need for no-fault insurance.

The fault concept obviously did not originate as a basis for providing compensation to injured persons, but rather as a means of assessing responsibility for having caused injury. At the time the concept was founded, the individual and not the societal consequences of the accident were paramount. A system of intricately calculated rules—the tort system—evolved to deal with the complex and sensitive task of assessing the guilt or innocence of the alleged tortfeasor. Indeed, in negligence actions even today, juries return verdicts of "guilty" or "not guilty."

It is inconceivable to me that men would have developed such a system had their primary objective been the compensation of injured persons. The intricate questions of liability may often appear to be important to the angry or vengeful plaintiff, but they are hardly very germane to the concerns of his doctor or the hospital or to the family which suffers if the injured victim is unable to provide for their needs during an extended period of disability.

Additionally, the tort system has failed to meet the needs of injured victims in many instances because anachronistic quirks of the system such as guest passenger statutes and contributory negligence rules have been tolerated by an apathetic Bar. It is incongruous and sad that it has taken a serious threat to disestablish the tort system to awaken the Bar to their responsibility to that system.

The failures of the fault system to perform the basic compensation function for injured victims of automobile accidents are exacerbated by an insurance system which is designed only to protect the net worth of the average tortfeasor. That the various state programs have retained limits of liability inadequate to compensate even the economic losses of the moderately severe injury case is evidence again that the system has not evolved in response to the need for compensation but has developed almost paradoxically to insulate the tortfeasor from the responsibility which the fault system so carefully places upon him.

I am sure that these sound like rather pessimistic observations to this group of lawyers. I hope their impact is to impress upon you my conviction that the tort system was not designed to and should not be expected to perform the basic compensation function in an automobile accident reparations system.

The real question in the current debate over no-fault insurance is not whether no-fault is necessary to provide basic compensation for automobile accidents—I think there can be no question that it is—but is whether the tort system can perform a valuable function in the evolving reparations system and, if so, what merging of fault and no-fault concepts will best meet the needs of society.

It is my opinion that there are two important functions which the tort system is best suited to perform as a part of automobile accident reparations. The first of these is conceded, I believe, by even the staunchest advocates of total no-fault insurance. That is the assessment of entitlement to intangible damages. Although the reason in S. 354 for assigning this function to the fault system is probably that assessment of the value of these damages is best accomplished through the judicial process, it is significant to observe that the important non-economic damages attributable to the impairment or loss of one's ability to enjoy life would be paid—even under this total no-fault concept—only to those who did not author their own injuries. Thus, for this potentially expensive category of loss, the allocation of benefits is made on the basis of fault. The fundamental fairness of the fault concept with its concern for the innocence or guilt of the victim establishes it as the only feasible method for such allocation.

Even so, I would note in passing that S. 354 retains in its present version a deduction of $2500 from any verdict awarding such damages. Since only the seriously injured may even sue for such loss, the purpose of such deduction is obviously to counter the expense of basic economic reparations provided in the bill. I am hopeful that further careful study will be given to this provision as evidence that the bill is asking the no-fault concept to do more than it is efficiently able to do.

It is my opinion that the no-fault concept is not able to provide for compensation of the catastrophic injury case within the framework of present system costs. We are confronted with three alternatives—two of which have been explored extensively in the Senate Commerce Committee. These two are to increase premium costs or to mandate certain reductions in recoverable damages by drastically limiting a claimant's access to general damages, or by imposing mandatory deductions from damages as S. 354 would do.

I do not believe that it is an acceptable alternative to increase the costs of automobile liability insurance. We must recognize the vital role of the automobile in the American lifestyle. To the workingman who has little or no access to public transportation, the family car is not a luxury but an absolute necessity. And the increasing burden of the cost of living leaves little reserve in the family budget for an increased insurance premium.

It is my belief that the second alternative of setting drastically high tort thresholds or mandating deductions from awards is unnecessary. Moderate no-fault programs can provide total economic compensation for almost all victims and, coupled with reasonable tort thresholds, can produce significant cost reductions without denying access to full general damages to any seriously injured victim.

The third, and I believe the best, alternative is to design a no-fault program which will compensate in full the economic loss of 98 to 99 percent of all injured victims, with payment of catastrophic damages on the basis of the fault concept. Several of the states have put into effect such programs, and I am sure that within a short span of time the claims and cost effectiveness of such programs will be known.

I am encouraged in spite of my continuing reservations regarding some provisions of S. 354 that significant progress has been made in recent weeks toward establishing this balance of no-fault and fault benefits. Although I voted against the reporting of the bill from the Senate Commerce Committee, with a few modifications which I shall urge during final consideration of the bill, I hope to be able to support it.

During the evolution of federal legislation, I have long been an advocate of state responsibility for the establishment of such programs. I felt that only in that way could such programs accurately reflect the accident and claims experience of the various regions of this country. And I felt that a great deal was unknown about the impact of no-fault programs, which state-by-state experimentation would develop with the least potential disruption.

However, I am deeply disturbed by the slowness of reform in the states and by the development of programs in many states which fall well short of establishing a realistic balance between fault and no-fault coverages. I am left with the unmistakable impression that these programs are evolving more in response to special interests than in sympathy for the needs of the victims of automobile accidents. Thus, as I have said, I intend to support federal legislation which will set minimum standards for state action leaving primary responsibility and wide latitude to the states to seek the most efficient and effective program of insurance, but foreclosing the option of enacting palliative programs which perpetuate the inefficiencies of the present system.

## MEXICAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, I would like to bring to the attention of the Senate the fact that the 16th of September will be a very special day for the Mexican-American community in Chicago and across the entire country. This date marks the 153d anniversary of Father Miguel Hidalgo's "Grito de Dolores," the famous cry for freedom, which in 1810 inspired the Mexican struggle for independence.

This year let us commemorate Mexican Independence Day by reaffirming our commitment to liberty and justice for all our citizens. Among other things, we should join the chicanos in their efforts to achieve full educational and employment opportunities. As they fight to raise their standard of living, I will continue to do everything I can to assist them in the legitimate struggle for equal opportunity.

## USED CARS

Mr. HARTKE. Mr. President, the passage of the Hartke used car amendment by the Senate yesterday was an important milestone in the battle to achieve a just measure of consumer protection. If it is approved by the House, it will mean that people who go to a used car lot will know about the condition of the car they buy and that they will have some legal recourse against the dealer if he does not live up to his representations about that car.

The distinguished Senator from Utah (Mr. Moss) ably explained the substance of my amendment in my absence, and I am most grateful to him.

It is important to understand that the used car amendment expands the protection offered by S. 356. That bill, as it was reported from committee, establishes warranty requirements for all consumer products—new and used. My used car amendment went a step beyond by requiring disclosure of certain basic information about the used car to prospective purchasers. It also established additional warranty requirements in the interest of protecting the consumer.

Mr. President, I have worked on my amendment for more than a year. In its behalf, I contacted State attorneys general throughout the Nation; I wrote to more than 300 lawyers who deal with consumer problems; I spoke with new car dealers, because most of these people also sell used cars; and I spoke with used car dealers. I did all this because I wanted to be sure that the measure I brought before the Senate was more than a superficial effort to protect the consumer.

The result of that year's effort was embodied in amendment No. 474, which was passed by the Senate yesterday. I would have preferred had it been ready before the Commerce Committee reported out S. 356, but that was not possible. I decided to offer it as an amendment to that bill simply because it is completely consistent with the objectives and substance of S. 356.

The average life of an automobile in this country is 9 years, but the first owner of a car keeps it for only 3 of those years. The result is that there are more than 100 million used cars now on the road. When these 100 million Americans buy their used cars, they deserve to know what they are getting, and they deserve to get a car which is safe. That is the goal of my amendment, and I thank my colleagues for their support.

## THE 3-DAY WORKWEEK

Mr. PERCY. Mr. President, there has been much discussion over the past few years of the pros and cons of a 4-day workweek. Today I would like to call the attention of my distinguished colleagues to current experimentation which goes one step further—a few industries across the country have instituted the 3-day workweek.

In the July 15 Chicago Tribune, James Strong reports that these experimental programs are underway at the Exxon Chemical Co. in Lake Zurich, Ill.; Motorola Corp.'s semiconductor production division in Phoenix, Ariz.; and Doctors Hospital in San Diego, Calif. The results are not in yet, and the success or failure of the projects is not certain, but I commend these innovative efforts to improve the quality of work in the U.S. factory and office. I ask unanimous consent that Mr. Strong's article, "And Now It Is the 3-Day Week on the Horizon," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### AND NOW IT IS THE 3-DAY WEEK ON THE HORIZON

(By James Strong)

Three-day workweek?

While most American workers can only idle away time meditating on the glories of a four-day week, for some the three-day week with four days to loaf is a way of life.

"I think it's great," said Wayne Parlberg, safety and training supervisor at Exxon Chemical Co. in Lake Zurich.

Exxon has been scheduling its 120 employes on a variation of the three-day week with an occasional four-day week to maintain an around-the-clock, seven-day rotation. The average workweek is 42 hours.

"It's relatively easy to adjust to, and like everything else, it has its advantages and disadvantages," Parlberg said.

A former shift supervisor, Parlberg admitted the three-day week was a bonanza for moonlighters and said he often picked up extra money doing local service work in the off hours.

"Of course it's great for travel and you have a chance to spend a lot of time with your children or painting the house." Parlberg lives in Lake Zurich with his wife and three children.

Exxon is one of three plants in the Chicago area on the shortened week. Others are Tower Products, Inc., in Mundelein, and Horning Wire Corp. in Lake Zurich.

Parlberg said the advantages of the three-day week are more free time, less commuting cost, and fewer shift changes.

"The turnover in jobs has been reduced so we have better trained workers and the accident rate is cut," Parlberg said.

"Of course, there are disadvantages," he added. "Working 12 hours obviously is fatiguing and it does take some time to get accustomed to."

Motorola Corp.'s semiconductor production division in Phoenix, Ariz., is one major company testing the three-day week. Of the plant's more than 10,000 workers, 225 employes are involved in the experiment.

"Our people are wildly happy about it," explained Robert Novascone, a Motorola spokesman. "We feel it will slice absenteeism in half and so far efficiency appears up altho we haven't a final reading on it yet."

Employes are divided into four groups. Each shift works a 12-hour day beginning at either 6 a.m. or 6 p.m. with a half-hour for lunch and two 10-minute rest breaks. Two groups work Monday, Tuesday, and Wednesday, and others Thursday, Friday, and Saturday. All employes are off Sunday.

One effect of the move by Motorola, a non-union company was to reduce the workweek from 40 to 36 hours without reducing wages.

Pay has increased because Motorola and other firms on the three-day schedule pay overtime for all time worked after 8-hours a day, thus guaranteeing workers nearly four hours a day of overtime.

Labor unions have opposed the four-day week unless overtime is paid after 8 hours, and schedules are basically 32-hours a week.

Motorola's move is not entirely altruistic. Novascane said costly equipment can be utilized around the clock with increased production.

"Our equipment represents a considerable investment and when a unit is idle for a half hour here or an hour there it all adds up to quite a bit."

Doctors Hospital in San Diego has experimented with the three-day, 32-hour, week with 26 workers in its dietary department.

Patricia Hagan, operations administrator, said the results have been encouraging. Turnover dropped from 48.2 per cent to a slim 3.2 per cent, while overtime fell from 38.5 hours to one hour over an 11-month period. Absences dropped from 152 to 47 during a six-month period.

"Age is no factor," she said. "The age range here is from 21 to 61 and they are all real boosters of the shorter workweek."

Those on the three-day week at Doctors Hospital receive the same pay for 32 hours as they did for 40 hours in 1971.

## THE NEED FOR A PRIVATE AMERICAN PRODUCTIVITY INSTITUTE

Mr. PERCY. Mr. President, the need to improve our national productivity growth rate is an acknowledged challenge to our country today. We are in the midst of a battle for the stability of our economy and the maintenance of our competitive position in the international marketplace. The key to our success is, I firmly believe, increased American productivity growth.

I am very pleased that among those who share my sense of urgency over U.S. productivity is C. Jackson Grayson, Jr., former dean of the school of business administration at Southern Methodist University and chairman of the Price Commission during phase II. Dean Grayson has proposed creation of a private, nonprofit organization to focus on the problem of American productivity. He has written of the proposal and his reasons for suggesting it in the "Ideas and Trends" column of the July 14, 1973, issue of Business Week. His arguments are sound and persuasive. For the benefit of my colleagues who may not have a chance to read the article before, I ask unanimous consent that "How To Make Productivity Grow Faster" by C. Jackson Grayson, Jr., be reprinted in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### How To Make Productivity Grow Faster

(By C. Jackson Grayson, Jr.)

Nowhere in the entire U.S., to my knowledge, is there a single organization, association, or instrumentality of any significance whose basic effort, objectives, and expertise are devoted specifically and solely to improving American productivity in the years ahead.

There is not one national clearing-house for productivity data collection. There is not one organization providing a place for American labor, business, and the public to turn for information, publications, or education about productivity. And there is not one nonprofit organization providing expert assistance to labor and business desiring to create programs to increase productivity.

Business Week last October devoted an entire issue to "our biggest undeveloped resource," our national productivity. It pointed out that while the U.S. economy is still the most productive in the world, it is not productive enough for what we ask of it.

Labor expects, and has been obtaining, annual wage increments above our 3% long-term productivity growth rate. Business seeks expanded profit margins but faces challengers in world markets with higher productivity growth rates than ours—and lower prices. Society wants ever-increasing social and economic benefits. There is no way to enlarge the pie for labor, business, and society without an increase in the key factor—productivity.

#### TIME FOR ACTION

I propose, therefore, that there be created a nonprofit organization, funded and operated by the private sector, to focus solely on increasing American productivity and to be called the American Productivity Institute.

Japan has developed such an organization, the privately run Japan Productivity Center, a 300-man educational, data-gathering, research, informational, and counseling organization for both labor and management. It has a $7.5-million annual budget, which was originally—and ironically—set up by foreign aid and U.S. experts. West Germany has a productivity center, the RFK, with a staff of 500. Even tiny Israel has developed a 400-man Israel Institute of Productivity.

But the U.S., which is still the most powerful and productive nation on earth, has only a 20-man National Commission on Productivity in Washington, whose annual working budget is about $2.5-million, an insignificant amount in a $250-billion national budget.

This almost total void in the U.S. on a matter so important as productivity is astonishing. And at this moment in our national history, I consider it particularly alarming.

Our productivity gain in the last decade has been the lowest in the modern industrial world. After Britain, our percentage of investment in fixed assets is the lowest in the modern world. Our investment in R&D has slid to the bottom.

Europe and Japan have far outstripped us in productivity gains in recent years. They've not only gained on us; they've passed us in some areas.

The adverse balance of payments, formal devaluations, continued dollar weaknesses in the float—all signal serious deterioration in our international economic leadership.

Phases I through IV generate the very real specter of permanent wage-price controls and a more centrally directed economic system, unless competition and productivity from the private sector can contain inflation.

#### BUSINESS IN THE DARK

It was as chairman of the Price Commission in Phase II that I learned firsthand how undeveloped our "biggest undeveloped resource" was.

We based part of our Phase II control regulations on the critical importance of productivity gains as an anti-inflationary force. Any company requesting a price increase was required to deduct its productivity gain from increased labor costs to arrive at an allowable price hike.

As the thousands of applications poured in, we began to find that about half of our analysts' time was being spent trying to obtain reasonably accurate productivity numbers. We found that the majority of American businesses either (1) had invalid productivity measurements that would not stand scrutiny, or (2) had no idea how to create reliable measurements, or both.

We decided to switch, midway through Phase II, from basing our approvals on individual firm figures to industry-by-industry figures, obtained from the Bureau of Labor Statistics and others. In midsummer, 1972, we published industry figures for 433 SIC codes at the 4-digit level in the manufacturing sector. Though the best available, they needed (and still need) improvement in accuracy, expansion to other SIC manufacturing codes, and updating. Furthermore, they did not include the service sector.

We also learned that many firms had no idea how to go about *improving* productivity. Repeatedly, we were asked: "How do we improve productivity? Where do we start? Who can help us?"

In searching for solutions, together with the firms, we found an extraordinary paucity of experts in government, in universities, and in the private institutions who could provide constructive help. Some analytical work, largely macroeconomic, has been done by a few individuals at Brookings, National Bureau of Economic Research, National Planning Assn., BLS, and the Conference Board. But outside of these few highly competent individuals we found nobody, no institution, no center to turn to. I can literally count on the fingers of one hand the productivity experts that constituted a real resource.

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## SCHOOL LUNCH LEGISLATION: S. 1063 URGENTLY NEEDED

Mr. HUMPHREY. Mr. President, the increased cost of school lunches is resulting in hundreds of thousands of children being denied a nutritious, well-balanced meal.

The runaway inflation in food prices has largely wiped out the school lunch improvements we have legislated in past years.

In rural areas the increase in the price of school lunches is as much as 15 cents per meal. And the cost of producing a meal in urban schools has risen as much as 30 cents in some areas.

The consequence is that many children are going to be forced out of the program, denied a lunch, because the administration's economic policies are a total, abject failure.

In my State of Minnesota, school administrators report that they are unable to get firm bids from wholesalers on future food deliveries and that the increased prices of commodities are causing serious difficulties.

This becomes a critical problem, when we consider the fact that for children of lower income families a good meal at school is crucial to their receiving adequate daily nourishment.

I do not believe the Nation's schoolchildren should be asked to accept malnutrition as the price for the inability of this administration to cope with the Nation's economic problems—and certainly not as long as the Congress can provide other more realistic and humane options.

I urged the subcommittee to report favorably my school lunch bill, S. 1063, along with additional amendments I have proposed. My bill would reach the immediate need to maintain a low-cost lunch program and in addition would address other essential problems.

S. 1063 would—

Increase the present rate of general school lunch reimbursement from 8 cents a meal to 12 cents—and for needy children, from 40 to 45 cents;

Increase the general school breakfast reimbursement from 5 to 8 cents—and for needy children, from 15 to 20 cents;

Extend the supplemental nutrition program for women, infants and children—WIC—through June 1975 at a $40 million level and include Indian reservations in the program.

In addition my bill would further strengthen the nation's child nutrition program by—

Authorizing an escalator clause to allow Federal support for school meals to rise as the cost of living increases;

Assigning responsibility for all food service to those in the school system who look after the nutritional needs of children;

Increasing administrative support for States and school districts;

Authorizing a nutrition education program;

Specifying that students and parents must be included in the USDA's National Advisory Council on school lunch programs;

Providing a number of technical amendments which clarify administrative procedures;

Providing day school or child care institutions applying for the special milk program to receive such assistance.

Mr. President, I ask unanimous consent that my testimony of this morning be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

### Statement of Senator Hubert H. Humphrey, Committee on Agriculture and Forestry, September 13, 1973—Concerning School Lunch Legislation

Mr. Chairman, members of the Subcommittee:

Each year for the past four years, the Senate Agriculture Committee has been called on for help by the nation's children, and the school food service workers who serve them.

One year the problem was to stop the Administration from cutting funds for lunches for poor children;

Another year the problem was to prevent the summer lunch program from being cut back;

Last March we learned that a pledge by the Administration to supply food commodities for lunch programs had not been kept. We had to get the Congress to order them to make good on their pledge, or distribute to schools the funds which had not been spent.

Each time we have responded to the call.

We have increased the level of federal support for school lunches by raising the reimbursement levels in the National School Lunch Program for all meals, including those served to children whose parents are poor.

We have directed that nutritional services for children in activities outside the school, such as summer recreation programs, be expanded.

We have initiated new programs to close the gaps in nutritional services, such as the special supplemental program for infants, mothers and young children.

And now, today, we are faced with the same kind of problem again.

The run-away inflation in food has largely wiped out the improvements we have legislated in past years. Lunch costs in schools are rising. In rural areas the increase is as much as 15 cents per meal, and the cost of producing a meal in urban schools has risen as much as 30 cents in some areas.

The lunch price of school lunch is going up. We can say that such a response is normal, but the consequence will be that many children are going to be forced out of the program, denied a lunch because the Administration's economic policies are a total, abject failure.

School administrators in Minnesota are telling me frankly that they are unable to get firm bids by wholesalers on future food deliveries, and that the increased prices of commodities are causing serious difficulties.

This becomes a critical problem when we consider the fact that for children of lower income families a good meal at school is crucial to their receiving adequate daily nourishment.

I don't believe the nation's school children should be asked to accept malnutrition as the price for the inability of the Administration to cope with the nation's economic problems, not as long as the Congress can provide other more realistic and humane options.

The legislation which I have introduced, S. 1063, and which I am further amending today, will reach the immediate need to maintain a low-cost lunch program and, in addition, will address other essential problems.

Foremost among these is the need to extend and enlarge the supplemental nutrition program for women, infants and children (WIC) which I introduced last year as a two-year pilot program. The Congress adopted this program, which the Administration opposed. This opposition, unfortunately, continued even after the policy issue had been resolved. Only a federal court order compelling the expenditure of funds mandated by Congress has prevented the Administration from strangling this program altogether.

The delay, however, has consumed more than half the projected life of the WIC program, and my legislation contains new authority to extend the program. Almost 200 communities have asked for a WIC program, and these requests alone would require about $80 million each year to fund. The need is evident.

Thus, I urge the Committee to act favorably and promptly on S.1036, as amended. The bill will make the following improvements.

It will increase the present rate of reimbursement for all lunches from the present 8 cents a meal to 12 cents. Meals for needy children would be reimbursed at 45 cents, or five cents more than at present.

School breakfast reimbursements would be increased from 15 cents to 20 cents for meals served free to needy children, and all breakfasts would be reimbursed at 8 cents, up from 5 cents.

Any USDA funds budgeted for purchase of commodities for school food service would be distributed to schools if they are not obligated for the purpose intended;

The WIC program would be extended through June, 1975, and would be funded at a $40 million level in fiscal year 1975, and would be clearly available on Indian reservations.

In addition to these actions to be immediately effective, my legislation would further strengthen the nation's child nutrition programs by:

Authorizing an escalator clause to allow federal support for school meals to rise as the cost of living increases;

Assigning responsibility for all food service to those in the school system who look after the nutritional needs of children;

Increasing administrative support for states and school districts;

Authorizing a nutrition education program;

Specifying that students and parents must be included in the USDA's National Advisory Council on school lunch programs;

Providing a number of technical amendments which clarify procedure administratively, such as specifying standards for certifying school eligibility for free and reduced price lunches.

My concern for procedure may seem misplaced, but let me illustrate its importance with a current problem. Much to my disappointment, the USDA recently came up with a new definition of schools. This definition did not add to public understanding, but it did allow the USDA to all but eliminate the school milk program. Administrative procedure, in this case, changed public policy. My legislation, which also addresses the milk issue, serves notice that Congress establishes policy, and efforts to change it or usurp the legislative function will not be tolerated.

It is reported that about 40 million children may not get milk under this program because the Agriculture Department's Child Nutrition Service, pleading lack of funds, is simply going to cut out the program in all schools with school lunch programs. Under this program, the federal government has paid an average of 3 cents for a half-pint of milk. Last year, these cartons of milk cost an average of 5 cents. But this year, they are expected to cost 10 cents, with the student currently being expected to pay the full amount. For children of poor and near-poor families, already having difficulty providing milk at home, this is simply out of the question.

The Nixon Administration requested only $25 million for the school milk program for the current fiscal year. The Senate action in July to raise this amount to $97 million would at least assure that funding is restored to last year's level. I have urged Senate and House conferees working on the Agriculture Appropriations bill to complete action as soon as possible and to accept the Senate funding level.

Unless the school milk policy is reversed, Congress will take action. In this case, I am hopeful that the matter can be settled in the Appropriations Committees, and not require the Congress to divert its attention from other issues the Administration wishes to resolve.

For these reasons, then, I urge the Committee to consider favorably my bill, as amended, and to act upon it promptly.

The school year has begun, and the effect of higher lunch prices is already apparent in the hundreds of thousands of children who are beginning to be denied a nutritious, well-balanced meal.

Congressional action now can minimize this deprivation of those who can least afford it and begin building a stronger, more adequate program for tomorrow.

Mr. HUMPHREY. Mr. President, Senator ALLEN, chairman of the Subcommittee on Agricultural Research and General Legislation of our Senate Committee on Agriculture and Forestry, held a hearing today on my school lunch bill, S. 1063, and other similar bills.

Among the witnesses appearing at that hearing were Assistant Secretary Clayton Yeutter of the U.S. Department of Agriculture, several Senators, including myself, and representatives from our Nation's school food service organizations.

Given the importance of Congress acting promptly on my legislation, I ask unanimous consent that my testimony and that of several of the other witnesses be printed in the RECORD following the completion of my statement.

I would like to call particular attention to the series of amendments that I proposed this morning to my own bill, S. 1063, which among other things calls for an increase to 12 cents per meal of the Federal contribution for general assistance under our basic school lunch program. While the Department of Agriculture is reluctant to support any increase in general assistance, they did indicate their support for the increases that my bill recommends relating to free and reduced price lunches, administrative costs and a number of other provisions. I am hopeful, Mr. President, that both our committee and the Senate will provide the increase to 12 cents for section 4 general assistance. Without such an increase general participation in our Nation's school lunch programs—both among paid participants and free and reduced price participants—can be expected to drop dramatically.

Also, in connection with my amendments to S. 1063 relating to the new Women, Infants, and Children—WIC—special feeding program authorized by Congress last year, I am asking Congress to extend the program into fiscal 1975—which USDA supports—and to increase the basic funding for fiscal 1975 to $40 million. Unless this action is taken the program will have to be cut in half during fiscal 1975, since the Courts have ordered USDA to operate at a $40 million level during fiscal 1974. USDA already has received over $80 million in applications under this program from over 200 communities.

Mr. President, I ask consent that a list of my amendments to S. 1063, the list of these applicants and amounts, and several statements submitted to the committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### AMENDMENTS PROPOSED TO S. 1063 BY SENATOR HUMPHREY

1. Increase the rate of reimbursement for section 4 lunches from 10 cents to 12 cents.
2. Conform the language regarding donated commodities to the language contained in H.R. 9639.
3. Extend the Special Supplemental Food Program through 1975, require that the Secretary use section 32 funds to fund the program at the authorized level if funds are not appropriated by August 1 of each year, and

increase the authorization to $40,000,000 for fiscal year 1975.

4. Permit the Secretary to make cash grants to Indian tribal groups under the Special Supplemental Food Program.

5. Provide any school or non-profit child care institution with Special Milk Program that requests it.

6. Various technical amendments designed to conform S. 1063 with House Committee bill H. R. 9639.

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### STATEMENT OF JOSEPHINE MARTIN

(Administrator, School Food Service program, Georgia Department of Education, and Chairman, Legislative Committee, American School Food Service Association, before the Subcommittee on Agricultural Research and General Legislation, Senate Agriculture and Forestry Committee, September 13, 1973)

Mr. Chairman and Members of the Committee:

My name is Josephine Martin. I am Administrator of the Georgia School Food Service Program and Chairman of the American School Food Service Association Legislative Committee. I am here today representing the 60,000 member American School Food Service Association whose primary purpose is the improvement of child nutrition. I welcome the opportunity to testify in support of S. 1063 and S. 1005.

First, Mr. Chairman, I wish to thank you and the members of the Agriculture and Forestry Committee for enactment of progressive and emergency legislation in the area of child nutrition. Under your leadership, school food service in the U.S. has been reformed. The Child Nutrition Act of 1966, which established the breakfast program; PL 91-248, the bill that assured every economically needy child the right to a lunch at school; PL 92-153, the bill that guaranteed funds to provide the economically needy child a lunch; PL 92-433, the bill that increased Section 4 funds from 6¢ to 8¢ and extended the breakfast program for all children, and PL 93-443, the bill which required USDA to provide cash to schools where donated foods were not available. Each of these laws has made a specific dynamic contribution toward the goal of "putting an end to hunger in America's classrooms" and to the broader goal of school nutrition programs as a right for all children.

As dramatic as the growth has been since 1970, the task is not finished. There are still 18,000 schools without food service, two million needy children are not being reached, and several million children for whom breakfast should be provided. Nutrition education hardly is being taught, while research is telling us more and more about the direct relationships between nutrition and physical, emotional, and mental health and development; the stability of the program is threatened by the annual financial crisis which evolves.

S. 1063, the Child Nutrition Education Act of 1973, fills many gaps in the current legislation; it provides a framework for program expansion, and simplifies administration of child nutrition programs. S. 1063 contains necessary legislative provisions and funding authorities essential to maintaining the dynamic growth experienced since 1970, and provisions which will make child nutrition programs more responsive to nutritional needs of children.

Enactment of S. 1063 would, in my judgment, preclude the "school lunch panic" which seems to have become an annual affair. We apologize for having to come each September to plead for pennies to continue the program which is so essential to the education of youth. But we have no choice. Each year, since 1970, we have been faced with an obstacle that could only be resolved by congressional action.

Mr. Chairman and Members of the Committee, ASFSA asks you for help. S. 1063 contains provisions for immediate relief, and provisions which are conducive to financial stability of the program, an ingredient essential to effective program management. S. 1063:

A. *Provides immediate financial assistance by:*

(1) Increasing level of Section 4 funds to 10¢ per meal and providing an escalator clause to relate reimbursement to food and labor costs.

(2) Increasing level of Section 11 funds to 45¢ per lunch with an escalator clause.

(3) Providing for cash payments in lieu of commodities when a commodity shortfall develops.

(4) Increasing breakfast reimbursement to 8¢ and 28¢ for paid and free meals.

(5) Providing for a new method of funding state administration expenses.

(6) Increasing authorization for nonfood assistance.

(7) Provides for all schools to participate.

B. *Establishes a program of nutrition education and provides for standards for foods served in schools.*

C. *Provides a framework for cooperative development of regulations.*

Although we fully support all provisions of the bill, the present crisis reflected in the following three issues, compels us to focus our attention on those provisions of S. 1063 which will provide immediate financial relief. These issues are:

(1) The cost of food is up 28%.

(2) The sale price of lunches to children is pricing moderate income families out of school lunch.

(3) Lack of funds for free meals will result in smaller servings and lowered meal quality.

Many local districts are waiting to see what action Congress takes before deciding the size of the sale price increase.

Today then, we come to you asking your help for legislation to meet the current financial crisis in school food service, which undoubtedly is the most severe yet to be encountered. As a minimum, schools need higher rates of Section 4 funds and Section 11 funds for lunch and higher rates for breakfast; assurance of 7¢ value either in donated foods or in cash in order to keep the sale price increase within limits. Food prices have skyrocketed; not only pork and beef (when available), but chicken which schools have so heavily relied on because of its price and popularity has doubled in price. The same price situation is true across the board—fruits and vegetables, potatoes and beans, as well as milk.

The following table shows how certain foods have increased in price since September, 1972, and the impact of the increase on a school lunch:

FOOD COST COMPARISONS

| | Ground beef | | Per serving | Chicken | | Per serving | Frankfurters | | Per serving | Fish squares | | Per serving |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1972 | 1973 | | 1972 | 1973 | | 1972 | 1973 | | 1972 | 1973 | |
| Savannah, Ga | $0.845 | $1.05 | $0.04 | $0.38 | $0.80 | $0.08 | $0.6975 | $0.989 | $0.04 | $0.42 | $0.539 | |
| Caswell County, N.C | .63 | .99 | .06 | .38 | .69 | .06 | .64 | .95 | .031 | | | |
| Albany, Ga | .615 | .945 | .067 | | | | | | | | | |
| St. Louis, Mo | .74 | 1.29 | .11 | | | | .65 | .9925 | .04 | | | |

Note: The cost of milk has increased from 1 cent to 3 cents per half pint—Caswell, N.C., 1⅓ cents; Jefferson County, Ala., $1\frac{7}{10}$ cents; Jonesboro, Ga., 1 cent. Brevard County, Fla. is paying 10.3 cents

On September 10 the Bureau of Labor Statistics reported that the consumer finished food index increased 28% from August, 1972 to August, 1973. Using this measure to project national increase costs in 1973-74, schools will spend approximately 9¢ more for food than last school year.

A glance at the average cost of producing a meal in Georgia in 1972-73, compared with the projected cost for 1973-74, based on the aforementioned increases explains the alarm and panic of school food service operators.

COST OF PRODUCING A SCHOOL LUNCH IN GEORGIA

| | 1972-73 (cents) | 1973-74 (projected) (cents) | Difference (cents) |
|---|---|---|---|
| Elementary schools: | | | |
| Food | 25.4 | 30.0 | 4.6 |
| Labor | 19.7 | 22.2 | 2.5 |
| Other | 2.4 | 3.0 | .6 |
| Total | 47.5 | 55.2 | 7.7 |
| High schools: | | | |
| Food | 30.5 | 36.6 | 6.1 |
| Labor | 19.7 | 22.2 | 2.5 |
| Other | 2.4 | 3.0 | .6 |
| Total | 52.6 | 61.8 | 9.1 |

On March 1, 1973, when Senator Humphrey introduced S. 1063, provision for a 2¢ increase in Section 4 funds appeared to be sufficient to meet the food cost increases; since March, however, food costs have skyrocketed. We appeal to you to provide a minimum of 12¢ per lunch from Section 4 funds.

Exorbitant food costs has made it necessary for many school districts to increase sale prices to pupils 5, 10, or even 15 cents. Other districts await congressional action before determining increase. Even with a 4¢ increase in Section 4 funds, most schools will need an additional nickel to meet costs. A USDA study of the impact of sale price increase on pupil participation revealed a direct relationship between sale price increase and decreased pupil participation. The study indicated that for each 1¢ increase in sale price, participation declined 1%. Nationally, a 5% decline would mean that 750,000 children who received lunches last year would no longer buy lunch.

While schools are only in the first weeks of the new term, and limited reports are available, participation is definitely reduced in those schools where the sale prices have been increased. In Cobb County, Georgia, home of Lockheed Aircraft, the sale price was increased a nickel, and a random sampling of schools indicates a 5% decrease in participation; DeKalb County Schools has an 11% decline with a 10¢ increase.

A practice which seems to be catching on with middle income families was prevalent for poor children a few years ago before legislation corrected it. The practice is for parents to permit children to buy lunches two or three days each week, and bring lunches on other days. Lunches from home which meet nutritional needs cost just as much as lunch at school. Most home packed lunches do not provide the nutrients needed. (Appendix A)

All children need lunch at school. The National School Lunch Act of 1946, envisioned a nutrition program for all children. The present economy may inundate that worthy goal unless schools receive financial assistance. Two years ago we asked for emergency help to make lunches available to economically needy children. Today that battle line for child nutrition is extended to help the child from moderate income homes. Schools need increased funds to keep the sale price within reach of children who do not qualify for free or reduced lunches.

We know that lunch at school is still the best nutritional and financial bargain available in food, however, many moderate families, hard-hit by every aspect of inflation, simply cannot afford the increased tariffs of 5 or 15 cents per lunch. Moderate income could mean a family of four with $6,500 annual income. Although a nickel sounds minute, when annualized it is $9.00 per child; multiply that by four children and apply it to the budget of a moderate income family. Or a 10c increase annualized is $18.00 per child.

An article in a recent issue of *U.S. News & World Report* entitled "An Official Look at Family Incomes" reported:

(1) The median family income in 1972 was $11,116; 60% of the income has been eroded by higher prices ($7,866).

(2) Only 22% of family incomes exceed $20,000.

(3) 56% of families have income of $12,000 or less.

(4) The number of poor non-whites actually increased in 1972.

This information supports the need for higher Section 4 reimbursement to allow schools to have reasonable sale prices. We hear, "Let the children from affluent homes pay another nickel." The report from U.S. News indicates that most of the children are not from "affluent income" but from moderate income families. Many of the children are from homes where the family income is just above the "eligibility level." During this year of severely increased costs, an increase in income eligibility level for reduced meals would provide immeasurable assistance to those families just above current eligibility level. The following table contains eligibility standards and indicates the income range which would benefit from an increase in eligibility for reduced lunches to 75% of the Secretary's guidelines.

INCOME POVERTY GUIDELINES, FISCAL YEAR 1974 (48 STATES, DISTRICT OF COLUMBIA, AND TERRITORIES)

| Family size | Secretary's guidelines fiscal year 1974 | Guideline levels when increased by— | | |
|---|---|---|---|---|
| | | 25 percent | 50 percent | 75 percent |
| 1 | 2,190 | 2,740 | 3,280 | 3,833 |
| 2 | 2,880 | 3,600 | 4,320 | 5,040 |
| 3 | 3,570 | 4,460 | 5,360 | 6,248 |
| 4 | 4,250 | 5,310 | 6,380 | 7,438 |
| 5 | 4,880 | 6,100 | 7,320 | 8,540 |
| 6 | 5,510 | 6,890 | 8,260 | 9,643 |
| 7 | 6,080 | 7,600 | 9,120 | 10,640 |
| 8 | 6,650 | 8,310 | 9,980 | 11,638 |
| 9 | 7,170 | 8,960 | 10,750 | 12,548 |
| 10 | 7,680 | 9,600 | 11,520 | 13,440 |
| 11 | 8,190 | 10,240 | 12,290 | 14,333 |
| 12 | 8,700 | 10,880 | 13,060 | 15,225 |
| Each additional family member | 510 | 640 | 770 | 900 |

I've spent considerable time presenting the need for increased Section 4 funds because Section 4 applies to all meals. It is essential that a stable base be provided for the program and that stable base is Section 4. The need for increased special assistance funds as provided in Section 10 of S. 1063 is equally as great. Both the present level of 40¢ for free meals and the ceiling of 60¢ are inadequate. Unless the special assistance rate is increased, schools will have to reduce the quantity of food or the quality of food, or in many instances both. Either alternative would be unfortunate. For many children, lunch is the best meal eaten during the day. To maintain the momentum of serving lunches to 8.9 million needy children, schools must have additional support. PL 91–248 requires that the school provide meals to children who qualify for a free or reduced price meal. The present economy and existing level of assistance places local administrators in an impossible position. Section 10 of S. 1063 combined with increased Section 4 funds will provide assistance to meet the mandate of PL 91–248.

Section 11 of S. 1063 will require USDA to make cash payments where there is a shortfall in donated foods. Without the emergency legislation (PL 93–13) enacted in March 1973, many schools could not have continued the food service program. Donated foods have long provided the staple items of school food service. Only 2 years ago Georgia schools averaged using 10¢ worth of donated foods per meal. Although the 1974 budget includes 7¢ worth of donated foods, the outlook for purchases is dismal. Even if there are purchases, they represent about 5¢ in value. To date, schools have received very few commodities. Local systems are encountering difficulties in purchasing foods; some districts have, of necessity, abandoned competitive bidding and are purchasing on the open market. If a vendor cannot supply the school district serving 30,000 children, it is not too realistic to suspect that the USDA can make purchases that are large enough to supply food for 23 million children.

We are aware that the new farm bill authorizes USDA to use Section 32 funds to purchase commodities which may not be in short supply. Considering the present food supply, we doubt that the USDA can purchase the basic foods that schools need for the lunch and breakfast program in accordance with amounts budgeted. Section 11 of S. 1063 provides insurance for local systems that they can count on receiving either the foods or equivalent cash.

The breakfast program has not escaped the crisis of shortages and costs. Valdosta Superintendent, Foster Goolsby's letter (Appendix B) summarizes the problem. With the price of eggs having increased as much as 40¢ a dozen, or 3¼¢ per egg, and the price of milk up at least one cent per half pint, the breakfast program cannot be continued on the 20¢ rate of reimbursement. Some schools are reluctant to start a breakfast program because first, the program primarily reaches needy children (about 80% of the breakfasts are free) and legislation limits federal assistance to food costs; secondly, the school has no money to pay the cost of labor or non-food supplies. Section 4 of S. 1063 will correct these inequities which will encourage schools to continue breakfast and in many instances to begin the program.

Mr. Chairman, we feel that the four provisions of S. 1063 contained in Section 4, Section 7, Section 10, and Section 11 will provide schools with financial relief necessary to continue the quality of food service to young people. These are the minimum essentials needed now.

The concept contained in the provision of S. 1063 for changing the method of funding for state administrative expenses has the approval of state school food service directors. However, the state school food service directors would recommend a slight change in the language to make the provision more relevant for all *states*. If not presumptuous, I would submit proposed language *for* Section 3.

The current crisis focuses attention on the need for nutrition and food education for all pupils. The growing body of research relating diet to health; the increasing cost of health care; the present shortage and high cost of food; the technology of synthetic foods; nutritional labelling are but a few reasons for finding ways to utilize school food service as a laboratory for supporting classroom teaching. Section 2 of S. 1063 would make resources available in those schools that elected to teach nutrition. In my judgment, there is a growing national awareness of the need for nutrition education. Schools need help to use the cafeteria to provide nutrition education. An educated citizenry is one that has basic knowledge to make decisions for effective living.

Finally, I wish to comment on the need for restoration of the Special Milk Program for all schools. This year, many more children are bringing lunches from home because of increased sale prices, and these children will have to pay 10¢ for ½ pint of milk simply because they attend a school which offers a meal. Children eligible for free milk can no longer be served. During 1972–73, Georgia schools served 24,000 half-pints of milk daily at no cost to poor children. Because of inadequate funds, labor problems, and scheduling considerations, not every school can have a breakfast program. Schools can make milk available with minimum logistical problems and costs.

Thank you for the privilege of appearing before the Sub-Committee on Agricultural Research and General Legislation. The ASFSA Emergency Declaration prepared at the 1973 Annual Convention states "The food crisis threatens the nutrition and health of the nation's children—in this period of reduced and higher priced food supplies, low and middle income families will have great difficulty in providing nutritionally adequate meals at home. Schools must be provided with the resources needed to continue making reasonably priced quality meals available to children who do not qualify for free or reduced meals, and quality meals available to those who qualify."

We urge your support and early passage of legislation to help schools meet current crisis and provide future stability of Child Nutrition Programs.

## APPENDIX A

### SAME NUTRITION—SCHOOLS HOLDING LINE ON PRICES

| Menu and amount | Cal. | Prot. (gm.) | Calc. (gm.) | Iron (gm.) | Vit. A (IU) | Vit. C (mg.) | Cost |
|---|---|---|---|---|---|---|---|
| **LUNCHBOX** | | | | | | | |
| Turkey (1sl.) | 60 | 9.3 | 9 | | | | $0.16 |
| Bread (2 sl.) | 124 | 4.0 | 32 | 1.2 | | T. | .04 |
| Mayonnaise (1 T.) | 101 | .15 | 3 | .01 | 39 | | .011 |
| Carrot and celery (3 stks.) | 13 | .4 | 12 | .2 | 3,600 | | .046 |
| Orange (1 med.) | 73 | 1.5 | 62 | .6 | 300 | (80) | .108 |
| Cupcake (1) | 184 | 2.1 | 32 | .1 | 89 | T. | .10 |
| Milk (½ pt.) | 161 | 9 | 298 | .1 | 359 | 2 | [1] .09 |
| Total | 716 | 26.45 | 448 | 2.21 | 4,387 | 82 | .565 |
| Bologna (1 sl.) | 66 | 4.4 | (3) | .7 | | | .11 |
| Bread (2 sl.) | 124 | 4.0 | 32 | 1.2 | | T. | .04 |
| Mayonnaise (1 T.) | 101 | .15 | 3 | .01 | 39 | | .011 |
| Potato chips (1 oz.) | 162 | 2.1 | (9) | (.6) | 15 | 3 | .10 |
| Apple (1 med.) | 83 | .4 | 8 | .4 | 136 | 8 | .17 |
| Sugswafer (2) | 53 | .5 | 4 | T. | 15 | T. | .054 |
| Milk (½ pt.) | 161 | 9 | 298 | .1 | 359 | 2 | [1] .09 |
| Total | 755 | 20.55 | 357 | 3.01 | 564 | 13 | .575 |
| **LUNCH AT SCHOOL—ACTUAL COST** | | | | | | | |
| Beef patty (2 oz) | 168 | 16.5 | 4.5 | | | | $0.15 |
| Bun | | | | | 468 | | |
| Butter (1 oz) | 191 | 2.58 | 4.9 | .6 | T. | T. | .03 |
| French fries (3½ oz) | 220 | 3.6 | 9 | 1.8 | T. | 21 | .035 |
| Carrot slaw (⅓ C.) | 41 | 1.4 | .32 | .4 | 1,900 | 12 | .025 |
| Apple (1 med.) | 88 | .4 | 8 | .4 | 136 | 8 | .13 |
| Milk (½ pt) | 161 | 9 | 298 | .1 | 359 | 2 | .0719 |
| Labor | | | | | | | .20 |
| Total | 869 | 34.2 | 356.4 | 3.3 | 2,863 | 43 | .6419 |
| Fish patty, tart. sauce (2 oz) | 176 | 16.6 | 11 | .4 | | | .086 |
| Bun (1) | 184 | 2.7 | 26 | .8 | 55 | ([1]) | .04 |
| But. corn (½ C.) | 172 | 2.28 | 3.1 | 4 | 758 | 4 | .04 |
| Tomato (2 sl.) | 11 | .5 | 7 | .3 | 450 | 11 | .03 |
| Lettuce (2 lvs.) | 7 | .5 | 10 | .3 | 165 | 3 | |
| Cake sq., choc., icng. (1) | 188 | 2.1 | 32 | .3 | 89 | T. | .03 |
| Milk (½ pt.) | 161 | 9 | 298 | .1 | 359 | 2 | .0719 |
| Labor | | | | | | | .20 |
| Total | 895 | 33.68 | 390.7 | 2.6 | 1,876 | 20 | .4979 |

[1] At school.

( ) denotes tentative value.

VALDOSTA PUBLIC SCHOOLS,
*Valdosta, Ga., August 6, 1973.*

Miss JOSEPHINE MARTIN,
*Administrator, School Food Service Program, State Department of Education, Atlanta, Ga.*

DEAR MISS MARTIN: In 1972–73 Valdosta City Schools served breakfasts in the following schools:

- Leila Ellis Elementary.
- West Gordon Elementary.
- Lomax Elementary.
- Sallas Mahone Elementary.
- Southeast Elementary.
- Valdosta Junior High.
- VHS-Pinevale Campus.

Costs of operation and income for these programs are shown here:

| | |
|---|---|
| Expenses: | |
| Food | $33,003.78 |
| Labor | 5,824.99 |
| Total | 38,828.77 |
| Income: | |
| Students | 278.00 |
| Reimbursement | 32,583.61 |
| Total | 32,861.61 |
| Total expenses | 38,828.77 |
| Total income | 32,861.61 |
| Loss for year | 5,967.16 |

The advantages of the breakfast program have been discussed at length with administrators and teachers in our system. All feel that the program should be continued because it does reduce absences and tardiness, and students participating appear to be more alert in the classroom.

However, due to the existing economic conditions in our lunch progam we feel that we cannot continue to operate the program at a deficit. What do you advise?

Sincerely,

JAMES F. GOOLSBY.

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EMERGENCY DECLARATION OF THE AMERICAN SCHOOL FOOD SERVICE ASSOCIATION ON FOOD SERVED IN CHILD NUTRITION PROGRAMS

When the school bell rings in September, thousands of schools may be faced with no food for school children or limited food for preparing meals unless immediate aid is mobilized.

This food crisis threatens the nutrition and health of the nation's children. American School Food Service Association members, meeting in New Orleans for the 27th Annula Convention, expressed concern about the school child's need for food during the school day.

Several factors are responsible for this crisis that has reached critical proportions:

1. Schools are unable to obtain supplies of foods, especially protein foods, with which to prepare lunches when schools open this fall. Food companies are refusing to accept orders to supply foods, regardless of price.

2. Government-donated foods, long a mainstay of the school lunch program, are expected to be close to $200 million short of the amount presently budgeted for school meals. Little or no pork or beef will be donated by USDA to schools in the months ahead. And basic foods such as cheese and dry milk are either scarce or not available as commodities.

3. The U.S. Department of Agriculture in a hearing on July 11, 1973, before the House Education and Labor Committee refused to support any increase in federal funding for the school lunch program this year in spite of sharply increasing costs of food and labor. USDA's refusal applied to those funds that had been requested in proposed legislation. This legislation called for an increase in the general support of the school lunch programs and also funds to finance increased costs of supplying free meals to needy children.

4. Prices of such foods as meats, poultry and milk have skyrocketed in recent months. The food costs alone in the noon meal, which meets a third of the child's daily nutritional requirements, is at least 10 cents more this year than last. Labor costs are 12 percent higher than last year.

5. USDA as of June 30, 1973, cancelled the Special Milk Program except in schools that do not have food service. This means that children bringing lunches from home will pay at least four cents more for a half-pint of milk this fall. In addition, free milk for needy children is discontinued in all program schools.

6. Under Phase IV of the price stabilization program schools will be unable to increase total lunch prices. However, if they increase the cost of hamburger by five cents (because that was the increase in the wholesale price to them) they will be able to charge an extra five cents that day. This means that prices could be changed day to day.

There are solutions to this crisis:

1. Legislation pending before Congress, HR 9639, should receive prompt Congressional action which will provide some measure of financial relief to the program.

2. USDA should instruct food suppliers to give school food service programs, as well as hospitals and similar vulnerable groups, first priority on available supplies of scarce items at prevailing prices.

3. The proposed cut in the appropriation for the Special Milk Program should be restored.

Finally, in this period of reduced and higher priced food supplies, low and middle income families will have great difficulty in providing nutritionally adequate meals at home. To counter this situation, schools must be provided with the resources needed to continue making reasonably priced meals available to children. Congress and the Administration can afford to do no less in this emergency than provide the help needed to continue the nutritious school meals for children.

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TESTIMONY ON S. 1063 BEFORE THE SENATE SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION, SEPTEMBER 14, 1973

Mr. Chairman and Members of the Committee: It is a pleasure for me to represent urban and rural areas, major city directors and the Board of Education of Independent School District #625, St. Paul, Minnesota before your committee today.

The attitude of the entire Congress toward school food service for children, particularly in the past several years, has been most supportive and greatly appreciated. The efforts of this Committee and its individual members have played a large role in bringing into focus the needs of our child feeding programs.

As we begin another school year, we, at the local level, have not only our normal concerns, but are faced with a battery of new problems as well. Some of the major areas are:

COST AND AVAILABILITY OF FOOD AND SUPPLIES

For the first time in our history, we, in St. Paul, opened our 92 lunch programs without one pound of either ground beef or frankfurters. We have been unable to purchase either of these items and they are, without question, because of their versatility, the backbone of the school lunch program. Our problems were two-fold. We could not secure the quantity we needed and the last quotation we heard before the ceiling was lifted, was $1.23 per pound for ground beef and $1.27 per pound for frankfurters. This would make a two ounce serving, which is the minimal requirement under Type A lunch standards, cost $.246 per serving for ground beef and each frankfurter $.16. Last year at this time we were paying $.835 per pound for ground beef and $.69 for frankfurters. This is an increase of 47.6% and 84% respectively.

We have purchased and substituted canned meats and convenience foods to meet protein requirements for September and October. Most of these items are now on allotment to our suppliers and we cannot at this time secure additional amounts in the quantities we need.

Now that the ceiling has been lifted on beef we can only hope that the meat situation will ease. If it does not, there are many of us who do not know how we will keep going.

There is almost no item used in either school lunch or school breakfast that has not advanced in price. Pasta products have doubled and quantities are limited. Dried eggs were $27.00 per case last year and are now $83.00 per case. Applesauce was $4.32 per case and is now $8.94. The list is endless. We have found that our bids which were let last May (and do not reflect today's prices) for the first half of this school year showed:

Canned fruits and vegetables, up 18 percent.
Staples, up 10.4 percent.
Paper products, up 7 percent.
Cleaning supplies, up 8.2 percent.
Labor, up 5 percent.

At that time we were unable to secure bids for sliced or diced beets, sliced or diced carrots, sliced apples, red tart cherries, peach halves or slices and pear halves. We rebid these items in August and were only able to buy pears. We have not had peach halves or slices in our program for a year.

In October we will bid again for the canned foods we will need for the last half of this school year. Needless to say, based upon our experiences in May and August, we have grave concerns not only about costs, but also about the availability of canned fruits and vegetables as well as a variety of staple products.

Another new problem, at least to our area, which many school districts have had to accept this year is contracts with escalation clauses to protect the supplier against rising costs. As a result, we do not know from day to day what our costs will be.

Paper and plastic items are normally bid on a firm price for a year with delivery as needed. In most instances this year prices were only guaranteed for 30–60 or 90 days. As an example—we ordered two and one-half million plastic packets (spoon, fork and napkin secured in pliofilm) for use in our satellite programs. The bid price was subject to change after 30 days and we were forced with either expending a large sum of cash and finding a way to store this item or taking the risk of paying more after 30 days.

Another example—we ordered one million plastic soup spoons for use on our breakfast programs. Five companies bid on this item and not one could give us a firm price of any kind, but each said the price would be the market price on the day the order was placed. We accepted this and placed our order in June at a market price of $3.30 per thousand. We were informed last Thursday that our supplier could only furnish fifty thousand of the million we needed. We must have this item and on Monday of this week were able to secure one hundred thousand at a cost of $8.05 per thousand. On Tuesday the supplier called back to say the price would be $8.45 per thousand. This is an increase in cost of 156% in less than four months and we have no assurance that we will be able to purchase the balance we will need for this school year.

### COMMODITIES

With the problems we are experiencing in trying to buy food in the quantities we need for our districts, it is very difficult to believe that the U.S.D.A. will be able to purchase commodities during 1973–74 that would even approach those provided in 1972–73. We checked last week with our State Office and they had no word of commodities we will receive. Since there is a three to four month time lag between purchasing by U.S.D.A. and delivery to our schools, it would appear that we can expect little before January, if then.

Many school districts have contracts with local bakeries to use government flour in the various bakery items and provide the items at a lesser cost to the schools. We have been told that there is a question on whether flour, which has been a commodity for many, many years, will be available for all of this school year.

We would urge you to make permanent the legislation that would provide cash payments to support the commodity shortfalls. P.L. 93–13 passed so speedily by the Congress last spring saved many of us from almost certain disaster and is certainly a must legislation for 1973–74 if we are to have any hope of survival.

### STUDENT PRICES

One of the major objectives of school feeding programs has always been to provide meals at a minimal cost so they would be available to all children. This is no longer true. We are forced to price ourselves out of the student market and we can document evidence to show there is a direct relationship between the price of the school lunch and participation. Two years ago, in St. Paul, we had twenty-six (26) schools in low income areas on totally reduced rates. The maximum charge to students was 20¢ per lunch. Regulations were changed the next year and we were no longer permitted to continue operating in this manner. Our records show that we fed 14.2% fewer children in these schools when the price of the lunch returned to normal.

Last year for economic reasons we were forced to raise our lunch prices 5¢ and our participation dropped 10%. We tried very hard throughout last year to gain this back. We were not very successful as we wound up the year with an 8% drop in participation.

Our surveys show the decrease to be in that group which we call the "forgotten child". He or she is the one from the large middle group of families whose parents do not qualify for assistance and who cannot really afford to pay. It seems to those of us who face these children every day that we are feeding children whose parents are in high income brackets and those who are economically deprived while the children of parents whose income is in the middle group are forced either to do without or carry a bag lunch which in a great many cases would not meet accepted nutrition standards.

We have raised prices 5¢ again this year and we may have to raise them still more if we do not get some relief soon in our costs. If we lose another 8% to 10% of our paying customers this year, it will be reflected immediately in our cost per meal. The programs must have the paying child participating in order to maintain volume and keep the per meal cost as low as possible. Each school food service director whom we have contacted has said that to survive last year they were forced to cut staff and labor to a bare minimum and in some instances below a good efficiency standard. There is just no place to go anymore to try to effect savings.

### REIMBURSEMENT

We asked three Midwestern state directors to tell us what their projected costs for providing a school lunch and breakfast in 1973–74 are:

Michigan: Lunch, 68.8¢; Breakfast, 28.7¢.
Iowa: Lunch, 72.14¢; Breakfast, 37.88¢.
Minnesota: Lunch, 70.1¢; Breakfast, 30.0¢.

These figures indicate our very real need for increased federal reimbursement and we do appreciate the increases shown in S. 1063. However, food supply and service costs have skyrocketed to such a degree over the summer months, the increases in reimbursement will not allow the food service programs to hope to reach a break-even point which is a requirement for our department in many school districts. They too are faced with higher costs for books, paper, supplies, salaries, etc.

At the end of the last school year St. Paul had 11,994 students on free lunch and 44% of all lunches served were free. We anticipate this figure will increase this year. Our projected costs for preparing a lunch at current prices is 71.5¢. If you add 45¢ plus 10¢ plus 7¢ for commodities, this totals 62¢ and we would lose 9.5¢ on every free lunch we serve. 12,000 free lunches per day times 9.5¢ times 170 days would mean a loss of $190,950 on free lunches alone.

We would urge you as a bare minimum to increase Section 4 to 12¢ and Section 11 to 55¢ and that breakfast reimbursement be raised from 8¢ to 10¢. We recognize that these are sizeable increases, but we would say to you that these are programs where the benefits are immediately apparent and where the funds spent are accruable to the intended purpose. We would hope, in the face of rapidly rising prices for everything and everyone, that we would not lose sight of the basic needs of children.

If these programs are allowed to fail now, we in school food service and the Congress will have lost twenty-eight years of progress toward the elimination of child hunger and malnutrition in this nation.

### NUTRITION EDUCATION

In conclusion, we would like to ask that every consideration be given to the passage of the section of this bill that deals with nutrition education. There is a very real need for this program in our schools today. Good food habits and diet must be taught from early childhood and reinforced by repetitive exposure if we are to guarantee stronger, healthier adults who will be better able to solve their own problems and those of the coming generations. The future of America will be greatly influenced by what is invested today and tomorrow in school food services and nutrition education programs.

### SUMMARY

Our concerns are:

1. Availability of food and supplies.
2. The fact that we are in a "sellers market."
3. Skyrocketing costs.
4. Use of escalation clauses in contracts.
5. A contract today does not insure delivery of merchandise.
6. Price changes from day to day.
7. Lack of U.S.D.A. commodities.
8. Pricing school lunch out of the student market.
9. Decreasing participation by the paying child.
10. Operating on a break-even level.
11. Lack of funding for the Special Milk Program.

We would urge support of S. 1063 with the following adjustments:

1. Provide permanent legislation for commodity shortfalls.
2. Increase Section 4 funds from 8c to 12c.
3. Increase Section 11 funds from 45c to 55c.
4. Increase breakfast reimbursement from 8c to 10c.
5. Continued funding of the Special Milk Program.
6. Adopt the provisions outlined in S. 1063 relative to nutrition education.

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## STATEMENT OF O. L. SEARING

(Director, School Food Service Department, The School Board of Broward County, Florida On behalf of The American School

Food Service Association Before the Subcommittee on Agricultural Research and General Legislation, September 13, 1973)

Mr. Chairman and members of the Committee, my name is Lee Searing, I am director of school food service in Broward County, Florida. I am grateful for the opportunity to testify before you on behalf of The American School Food Service Association. Broward County is second in the state in population and growing very rapidly, with a current student population of 133,238. We have 132 schools and we are serving about 85,000 meals a day. Last year our total income amounted to 8.3 million dollars.

Our major concern at the present time is that of the very serious financial crisis in which we find ourselves operating in a greatly inflationary economy. Earlier estimates this year reflected a projected total increase in cost of 1.4 million. Since that time, meat, poultry and dairy products have escalated in cost to the point that increased cost projections for the year now amount to 1.9 million dollars. This includes increases in food costs, supplies and services, labor and additional administrative costs. These increases are reflected in meat, poultry and dairy products of 63% over last year; milk 27%; bakery goods 20%; frozen foods 17%; and groceries 16%, with an overall projected food cost increase of 32%. Our most recent estimates which were calculated earlier this week, represent higher costs than were quoted a month ago! Some significant increases in food costs comparing September 1973 prices with September 1972, are ground beef from 66¢ per pound to $1.10 or a 67% increase; frankfurters 57¢ per pound compared to 95¢ currently; chicked 42¢ compared to 95¢ or a 126% increase; eggs 43½¢ compared to 87¢ or a 110% increase. This is consistent with other districts in the state as reflected by the attached State Department exhibits.

In light of early increased cost projections, The School Board of Broward County, Florida, on August 2, 1973, increased the elementary school price from 40¢ to 50¢ and the secondary sale price from 50¢ to 60¢; adults from 65¢ to 75¢. At the same time, ala carte entrees were increased from 35¢ to 50¢. Fruits and vegetables were increased from 10¢ to 15¢. With the continued escalation of operating costs, we are concerned as to whether or not the sale price increases are great enough to provide the necessary income to satisfactorily operate the program. Based on an estimated 14 million Type "A" lunches this year, at 10¢ a lunch increase in the sale price, we would anticipate increased revenue of about 1.3 million dollars. A current suvey reveals that participation for the first week of school is off over 4%. This is common with a sale price increase. Last time the sale price was increased there was a 7% decrease in average daily participation. However, with costs of 1.9 this would leave a serious deficit in excess of $600,000 in Broward County. With Section 4 funds increased only 2¢, it would not be adequate to make up the anticipated deficit. A minimum of a 4¢ increase in Section 4 funds would be needed provided there is no further escallation of cost and anticipated revenue remains at the same level.

### U.S. DEPARTMENT OF AGRICULTURE DONATED FOODS

The commodity program as of late has been most erratic in terms of both quantity and appropriateness of foods being made available to meet program requirements.

A minimum guaranteed level of commodities should be provided to prevent the feast or famine effect each year. Local operators need consistent minimum levels of commodities maintained for greater program stability operationally and financially. If these foods are not available, we must take our cash in hand and buy in an inflated market to meet program requirements.

If foods are not provided, cash should be to provide a consistent level of support.

### SPECIAL MILK PROGRAM

As a result of discontinuing this program in the National School Lunch Program, and increasing the sale price of milk to 10¢, consumption in Broward County for the first two weeks of school is down 8%. Projected through for the 1973–74 school year, this would be 1.3 one-half pints less consumption.

Last year due to the introduction of chocolate milk, consumption increased almost 4,000,000 one-half pints of milk. Therefore, without the Special Milk Program, a serious nutritional blow will be dealt to our school youth.

### FREE MEALS

The inflationary economy is also reflected in the repeated requests we have at the district level in appealing for free lunches when the family income is in excess of the income eligibility scale. Middle income America is having difficulty in meeting increased costs of living and still pay the recently increased sale price of the lunch. This is particularly true, of course, with larger families.

It would be my view that the United States Department of Agriculture family income guidelines should be increased $1500–$2000 across the board to accommodate inflation without forcing an increase in the practice of nutritionally inadequate "brown bagging."

In summary, it would be my recommendation that:

1. Section 4 funds be increased to 4¢ per lunch
2. That a minimum floor be established for United States Department of Agriculture commodities which would be maintained with cash when not met with red, lean meats and fruits and vegetables
3. That the Special Milk Program be reinstated and free milk be provided for needy students in all schools, and that
4. The Family Income Guidelines be increased by at least $1500.

Thank you. I shall be most happy to answer any questions you may have.

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## Exhibit A

### Florida State Department of Education

A statement by Floyd T. Christian, Florida Commissioner of Education, which was released September 11, 1973, provides:

1. That most of our school boards have raised their prices to the paying child 5¢ to 10¢. This represents the limit that Phase 4 will allow in many instances and the limit the traffic will allow in most instances.

2. The Florida Legislature has appropriated $3,525,795 this year to support free lunches.

3. In addition, we performed a survey in 10 districts representing all geographical areas of the State to include large urban areas, middle urban areas and rural areas. The results show the increase in cost for Child Feeding Programs here in Florida.*

Currently, the free lunches are being supported as follows:

| | Cents |
|---|---|
| Federal reimbursement | 48 |
| State reimbursement | 6 |
| Local support | 7 |
| Total | 61 |

Comparing this to the 77¢ anticipated average cost this year, you can see that we have an unmet need of approximately 16¢ per lunch.

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* See Exhibit "B"

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## EXHIBIT B

### FLORIDA STATE DEPARTMENT OF EDUCATION FOOD AND NUTRITION SERVICES PER LUNCH COST AND FOOD PRICE COMPARISONS

| | School year 1972–73 | Estimate for school Year 1973–74 | Cents increase or decrease | Percen increase or decrease |
|---|---|---|---|---|
| Food | 0.294 | 0.379 | +0.085 | +28 |
| Labor | .197 | .236 | +.039 | +19 |
| Other | .023 | .032 | +.009 | +03 |
| Total | .514 | .647 | +.133 | +26 |
| Country Contribution | .123 | .123 | | |
| Total | .637 | .770 | +.133 | +21 |

Note: State averages from 10 district samplings representing large urban, medium, urban and rural districts and all geographical areas of Florida. 10 districts out of 67 and 350 schools out of 1,850.

### SELECTED FOOD PRICE COMPARISONS

| Foods | September 1972 | September 1973 | Percent increase |
|---|---|---|---|
| Ground beef per pound | 0.612 | 1.013 | 65 |
| Franks per pound | .579 | .928 | 60 |
| ½ pt whole milk—white | .073 | .088 | 20 |
| Sliced white bread per pound | .225 | .270 | 20 |
| No. 10 green beans | 1.057 | 1.206 | 14 |
| No. 10 tomato paste | 1.569 | 1.879 | 19 |
| Spaghetti per pound | .167 | .221 | 32 |
| Processed American cheese | .669 | .823 | 23 |
| Grade A large eggs per dozen | .441 | .870 | 97 |
| No. 10 instant potatoes | 1.856 | 2.112 | 13 |
| No. 10 white kernel corn | .989 | 1.120 | 13 |
| No. 10 fruit cocktail | 1.553 | 1.760 | 13 |
| Plastic forks per dozen | .042 | .055 | 30 |

## EXHIBIT C

### THE SCHOOL BOARD OF BROWARD COUNTY, FLA., SCHOOL FOOD SERVICE DEPARTMENT—FOOD COST COMPARISONS 1972–73, 1973–74

| | Increase | Percent |
|---|---|---|
| Meats, poultry, dairy | $904,440 | +63 |
| Milk | 344,883 | +27 |
| Bakery items | 32,950 | +20 |
| Frozen foods | 63,900 | +17 |
| Groceries | 133,266 | +16 |
| Total estimated annual increase | 1,479,439 | 32 |

### EXAMPLES OF SOME MAJOR PRICE INCREASES

| | 1972 prices | 1973 prices | Percent |
|---|---|---|---|
| Ground beef | $0.66 | $1.10 | +67 |
| Frankfurters | .57 | .95 | +67 |
| Chicken | .42 | .95 | +126 |
| Turkeys | .45 | .81 | +80 |
| American cheese | .675 | .85 | +26 |
| Eggs | .435 | .87 | +100 |
| Fish squares (cod) | .565 | .705 | +25 |
| Tater tots | .17 | .23 | +35 |
| Corn, vacuum pack (case) | 6.05 | 6.75 | +12 |
| Peas (case) | 6.80 | 8.32 | +22 |
| Tomato paste (case) | 7.75 | 11.48 | +48 |
| Applesauce (case) | 5.65 | 8.50 | +50 |
| Raisins (case) | 8.45 | 18.41 | +118 |
| Potatoes, instant (case) | 10.85 | 12.79 | +18 |

## Exhibit D

### The School Board of Broward County, Fla., School Food Service Department

### PROJECTED INCREASED COSTS AND LOSS 1973–1974

| | |
|---|---|
| Food | $1,479,439 |
| Labor | 262,000 |
| Supplies and service | 30,004 |
| New administrative costs | 192,000 |
| Total | 1,963,443 |

EXHIBIT D—Continued

| | |
|---|---|
| New revenue from sale price increase | $1,330,000 |
| Loss | (663,443) |

SUMMARY OF APPLICATIONS

Special Supplemental Food Program for Women, Infants and Children.

Total number of applications received as September 7, 1973, 276; total estimated participation (Women, Infants and Children), 452,874; total requested grants for food, 71,466,171.

(NOTE.—Countywide unless otherwise indicated. Numbers in parentheses indicate number of months.)

| Project area: | Requested food budget |
|---|---|
| ALABAMA | |
| Bullock, Macon & Russell (9) | $94,437 |
| Coffee (12) | 205,748 |
| Jefferson (12) | 385,512 |
| Lawrence, Limestone, and Morgan (9) | 425,808 |
| Lowndes (9) | 140,175 |
| Mobile (12) | 673,742 |
| Totals (6 projects) | 1,925,422 |
| ALASKA | |
| Anchorage (9) | 40,812 |
| Barrow (9) | 37,800 |
| Totals (2 projects) (9) | 78,612 |
| ARIZONA | |
| Coconino (9) | $50,768 |
| Navajo (9) | 34,580 |
| Pima, Pima County Health Department (9) | 206,717 |
| Pima, Papago Nutrition Improvement Program (9) | 157,000 |
| Yuma (9) | 11,203 |
| Totals (5 Projects) (9) | $460,268 |
| ARKANSAS | |
| Ashely, Arkansas, Bradley, Calhoun, Christ, Cleaveland, Grass, Desha, Drew, Lincoln, Monroe, Phillips, Prairie, Woodruff (9) | $506,809 |
| Totals (1 Project) | $506,809 |
| CALIFORNIA | |
| Oakland, Alameda County Health Care Services Agency | $361,017 |
| Oakland, Children's Hospital Medical Center | 941,418 |
| Oakland, West Oakland Health Center, Inc | 82,305 |
| Contra Costa | 124,681 |
| Fresno, Fresno, E.O.C. Family Planning | 700,506 |
| Fresno, Orange Cove, Orange Cove Family Health Center, Inc. | 164,574 |
| Humboldt | 13,471 |
| Imperial | 59,319 |
| Kern | 118,422 |
| Pasadena, Department of Public Health | 336,825 |
| Los Angeles, Central Los Angeles Health Project | 1,021,140 |
| Huntington Park, The Indian Free Clinic, Inc | 58,329 |
| Long Beach, Long Beach WIC Nutritional Program | 182,655 |
| East & South Los Angeles, Los Angeles County Public Health Foundation | 304,558 |
| Los Angeles, Martin Luther King, Jr. General Hospital | 158,355 |
| East Los Angeles, Santa Marta Hospital Clinic | 85,932 |
| South Los Angeles, Westland Health Services, Inc | 492,345 |
| Mendocino | 46,233 |
| Merced | 30,771 |
| Monterey | $191,295 |
| Obispo | 20,637 |
| Riverside | 29,925 |
| San Diego, County of San Diego Public Health | 74,781 |
| La Jolla, Department of Neurosciences, UCSD School of Medicine (Note—Proposal for Evaluation | --------- |
| San Diego & Oceanside, American Red Cross Nursing Health Programs | 52,956 |
| San Marcos, North County Health Project | 88,704 |
| San Francisco, Maternal & Infant Care Project, St. Luke's Hospital | 161,667 |
| San Francisco, Northeast Medical Services | 82,584 |
| San Francisco, St. Luke's Hospital | 287,010 |
| San Francisco, Urban Indian Health Board, Inc | 173,556 |
| San Joaquin | 98,775 |
| San Mateo | 246,969 |
| Palo Alto, Charles R. Drew Health Clinic | 246,969 |
| San Jose, Santa Clara Valley Medical Center | 25,515 |
| Santa Cruz | 125,784 |
| Solano | 52,245 |
| Sonoma | 248,535 |
| Stanislaus | 178,560 |
| Ventura | 1,203,390 |
| Total (39 projects) | $8,872,713 |
| COLORADO | |
| Adams and Arapahoe (9) | $422,937 |
| Adams and 23 counties (9) | 70,875 |
| El Paso and Teller (9) | 133,794 |
| Huerfano and Las Animas (9) | 98,280 |
| Jefferson (9) | 111,744 |
| Otero (9) | 58,995 |
| Totals (6 projects) | $896,625 |
| CONNECTICUT | |
| Bridgeport (9) | 1,834,903 |
| Hartford (9) | 16,870 |
| Stamford (9) | 374,101 |
| Waterbury (9) | 1,019,334 |
| Totals (4 projects) | 3,234,208 |
| DELAWARE | |
| Statewide, Division of Public Health (9) | 328,627 |
| 1 project. | |
| FLORIDA | |
| Brevard (9) | 79,200 |
| Broward (9) | 329,760 |
| Collier (9) | 129,300 |
| Dade, Dade County Department of Public Health (9) | 432,000 |
| Dade, University of Miami School of Medicine (9) | 300,699 |
| Duvall (9) | 321,705 |
| Okaloosa (9) | 113,040 |
| Sarasota (9) | 43,200 |
| Volusia (9) | 72,000 |
| Totals (9 projects) | 1,820,904 |
| GEORGIA | |
| Fulton & DeKalb (9) | $314,000 |
| Atlanta Southside (9) | 785,853 |
| Totals (2 Projects) | $1,099,853 |
| IDAHO | |
| Ada (9) | $15,500 |
| Total (1 Project) | $15,500 |
| ILLINOIS | |
| Cook, Chicago Board of Health | $399,699 |
| Cook, Cook County OEO | ---------- |
| Cook, Cook County Department of Public Health | 779,152 |
| Cook, Illinois Family Planning Council | $4,000,000 |
| Cook, Illinois Migrant Council | 22,915 |
| Cook, Daniel Hale Williams Neighborhood Health Center | 46,800 |
| Cook, Miles Square Health Center | 381,313 |
| Cook, Woodlawn Child Health Center | 497,029 |
| Cook, Evanston-North Shore Health Department | 94,510 |
| Cairo (12) | 99,620 |
| East St. Louis | 1,369,827 |
| Fulton (12) | 150,000 |
| Logan (10) | 10,280 |
| Madison (12) | 21,140 |
| Oak Lawn | 21,936 |
| Pope (12) | 140,376 |
| Sangamon (10) | 67,422 |
| Tazewell | 23,638 |
| Will (10) | 183,240 |
| Winnebago (10) | 37,440 |
| Totals (20 Projects) | $8,346,337 |
| INDIANA | |
| Gary, Gary City Health Department | $13,500 |
| Hamond, Hammond Community School | 9,261 |
| Indianapolis, Health and Hospital Corporation Division of Public Health | 359,540 |
| St. Joseph | 99,000 |
| Total (4 Projects) | $481,301 |
| IOWA | |
| Blackhawk (9) | $162,067 |
| (7 Counties) Carroll, Community Opportunities (9) | 45,045 |
| Johnson, University of Hospitals and Clinics (9) | 26,933 |
| Linn (9) | 143,955 |
| Polk (9) | 369,023 |
| Scott (9) | 152,933 |
| Total (6 Projects) | $899,956 |
| KANSAS | |
| Reno (9) | $3,195 |
| Sedgwick (12) | 81,240 |
| Shawnee (6) | 191,136 |
| Total (3 Projects) | $275,571 |
| KENTUCKY | |
| Bell, Floyd, Harlan, & Letcher (9) | $192,582 |
| Bourbon (9) | 4,176 |
| Boyd, Carter, Elliott, & Lawrence (9) | 56,628 |
| Breathitt (9) | 11,961 |
| Breathitt, Knott, Leslie, Letcher, & Perry (9) | 297,414 |
| Campbell and Kenton | 45,792 |
| Clinton, Cumberland, McCreary, Pulaski and Wayne (9) | 268,344 |
| Fulton (9) | 38,601 |
| Jefferson: | |
| Louisville and Jefferson Company, Department of Health (9) | 491,148 |
| Park-DuValle (9) | 79,371 |
| University of Louisvile School of Medicine (9) | 415,773 |
| Muhlenberg (9) | 12,870 |
| Rowan (9) | 51,615 |
| Totals (11 projects) | 1,966,275 |
| LOUISIANA | |
| Acadia, East Caroll, Red River, De Soto, Quachita, and Tangipahoa (9) | $77,895 |
| Orleans Parish, New Orleans, Edna Pillsbury Health Center (9) | 204,855 |

| | |
|---|---|
| Orleans Parish, New Orleans, Model Cities Health Center (9) | 837,270 |
| Rapides (9) | 217,917 |
| St. Helena (9) | $38,406 |
| St. Landry (9) | 69,291 |
| West Feliciana (9) | 38,761 |
| Totals (7 projects) | 1,484,425 |
| MAINE | |
| Hancock and Washington (9) | $74,385 |
| Penobscot and Piscataquis ((9) | 121,804 |
| York (12) | 19,534 |
| Totals (3 Projects) | $215,723 |
| MARYLAND | |
| Anne Arundel (9) | $124,670 |
| Anne Arundel (Partial) South County Family Health Center (9) | 28,143 |
| Baltimore City, Comprehensive Child Care Program, Johns Hopkins Hospital (9) | 24,505 |
| Baltimore City, Johns Hopkins University (9) | 90,936 |
| Baltimore City, North Central Baltimore Health Corporation (9) | 101,400 |
| Baltimore City, Provident Comprehensive Neighborhood Health Center (9) | 27,885 |
| Baltimore City, Northwest Health Services (9) | 54,925 |
| Calvert (9) | 14,950 |
| Carroll (9) | 8,320 |
| Garrett (9) | 7,800 |
| Montgomery (9) | 56,875 |
| Prince Georges (9) | 162,500 |
| Totals (12 Projects) | $702,909 |
| MASSACHUSETTS | |
| Boston and seven other major cities (9) | $3,989,291 |
| 1 Project. | |
| MICHIGAN | |
| Wayne, Detroit City Health Department (9) | $948,139 |
| Delta (9) | 9,600 |
| Arenac, Clare, Gladwin, Isabella, Osceloa and Roscommon (9) | 21,200 |
| Kalmazoo (9) | 33,408 |
| Luce | 30,409 |
| Muskegon | 8,100 |
| Totals (6 projects) | $1,050,856 |
| MINNESOTA | |
| Minneapolis[1] (15) | $477,000 |
| Beltrami, Minnesota Department of Health, Mobile Health Unit (9) | 28,350 |
| Ramsey (9) | 107,523 |
| Totals, (3 projects) | $612,873 |
| MISSISSIPPI | |
| Hinds and Rankin (10) | $275,225 |
| Issaquena and Sharkey | 218,611 |
| Warren | 656,556 |
| Totals (3 Projects) | $1,150,392 |
| MISSOURI | |
| Joplin (9) | $15,120 |
| Kansas City (9) | 146,006 |
| Kirksville (9) | 10,800 |
| Phelps (9) | 38,250 |
| Portageville (9) | 79,200 |
| St. Louis (9) | 288,000 |
| Total (6 Projects) | $577,376 |
| MONTANA | |
| Fort Peck Reservation, Northern Cheyenne Reservation (12) | $168,000 |
| 1 Project. | |
| NEBRASKA | |
| Davies, Scotts Bluff, Sioux, and Sheridan (12) | $77,705 |
| 1 Project. | |
| NEVADA | |
| Clark (9) | $120,132 |
| 1 Project. | |
| NEW HAMPSHIRE | |
| Conway, 9 Towns (9) | $24,864 |
| Merrimack, 4 Towns (9) | 21,996 |
| Stafford, 8 Towns (9) | 27,121 |
| Totals (3 Projects) | 73,981 |
| NEW JERSEY | |
| Atlantic (9) | $20,360 |
| Camden (9) | 68,485 |
| Newark (9) | 1,134,000 |
| Hudson, Hudson Co. Family Planning, Inc. (9) | 18,081 |
| Hudson, Hoboken, Prenatal Satellite St. Mary Hospital (9) | 41,062 |
| Trenton (9) | 315,283 |
| New Brunswick (9) | 78,660 |
| Plainfield (partial), Comprehensive Neighborhood Health Services Center (9) | 109,764 |
| Totals (8 Projects) | 1,785,695 |
| NEW YORK | |
| Albany, Rensselaer and five other counties, greater Albany, Albany Medical Center Outpatient, Department (9) | $49,085 |
| Albany, Northside, Whitney M. Young, Jr., Community Health Center (9) | 129,600 |
| Allegany (6) | 11,100 |
| Erie (9) | 658,800 |
| Franklin and three other counties (12) | 46,032 |
| Livingston (9) | 79,606 |
| Monroe, Rochester (partial) (9) | 99,324 |
| Oneida (9) | 54,009 |
| Onondaga (9) | 1,539,360 |
| Schenectady (9) | 18,909 |
| Greater New York City, Brooklyn, Provident Health Center, Inc. (9) | 96,062 |
| Brooklyn, Charles Drew Neighborhood Health Center (9) | 445,500 |
| Brooklyn, Brownsville Ambulatory Pediatric Care Unit (9) | 136,099 |
| Brooklyn, Community Corp. of Bushwick, Bushwick Family Health Clinic (9) | 32,355 |
| Brooklyn, C & Y Project No. 628, Comprehensive Approach to Community Health (9) | 483,372 |
| Brooklyn, Sunset Park Family Health Center of the Lutheran Medical Center (9) | 89,359 |
| Bronx, Montefiore-Morrisania Hospital Comprehensive Health Care Center (9) | 66,240 |
| Long Island City, Qualicap Family Planning and Health (9) | 123,300 |
| Lower East Side, NENA Health Council, Inc. (9) | 26,523 |
| Lower East Side, New Gouverneur Hospital (9) | 439,200 |
| West Manhattan, Roosevelt Hospital (9) | 72,640 |
| New York City, City Department of Health (9) | 3,159,000 |
| Totals (22 Project areas) | 7,855,475 |
| NORTH CAROLINA | |
| Chatham (9) | 63,108 |
| 1 Project. | |
| OHIO | |
| Akron | 181,069 |
| Ashtabula | 100,628 |
| Bowling Green | 13,579 |
| Caldwell | 56,826 |
| Cincinnati, Cincinnati Health Department | 351,486 |
| Cleveland, Cuyahoga County—M&I Combined WIC Program | 1,053,000 |
| Cleveland, Hough - Norwood Family Health Care Center | 899,841 |
| Columbus, Bethune Center | 54,720 |
| Franklin, Columbus Community Health Care Service | 289,910 |
| Columbus, Children's Hospital, C&Y Project No. 607 | 67,905 |
| Columbus, ECCO Family Health Center | $554,400 |
| Columbus, Nutrition Clinic, Outpatient Department, OSU Hospital | 24,624 |
| Montgomery, Dayton | 29,812 |
| Dover | 346,442 |
| Ironton | 86,755 |
| Liberty Center | 6,120 |
| Lincoln Heights | 99,405 |
| Monroeville | 18,220 |
| Toledo | 534,326 |
| Uhrichsville | 99,784 |
| Xenia | 13,140 |
| Totals (21 Projects) | 4,881,992 |
| OKLAHOMA | |
| Cleveland (9) | 15,957 |
| Tulsa (9) | 120,447 |
| Totals (2 Projects) | 136,404 |
| OREGON | |
| Marion, Valley Migrant League (9) | 259,200 |
| Marion, Marion County Health | ------- |
| Multnomah, M & I Care Clinic (9) | 147,190 |
| Multnomah, Multnomah County Health Department | ------- |
| Nyssa (9) | 95,940 |
| Washington | ------- |
| Totals (6 Projects) (9) | 502,330 |
| PENNSYLVANIA | |
| Bedford, Fulton, and Huntington (9) | 126,000 |
| Berks (9) | 69,939 |
| Dauphin | ------- |
| Delaware | ------- |
| Lackawanna, Luzerne, Pike, Wayne, and Wyoming (9) | 107,532 |
| Philadelphia (9) | 39,724 |
| Philadelphia, Division of Maternal and Child Health, Community Health Services, Philadelphia Dept. of Public Health (9) | 2,935,350 |
| Philadelphia, Thomas Jefferson University Hospital (?) | 72,000 |
| York (9) | 214,312 |
| Totals (9 Projects) (9) | 3,564,857 |
| PUERTO RICO | |
| Island-wide (12) | 330,833 |
| 1 Project. | |
| RHODE ISLAND | |
| Providence (9) | 199,143 |
| 1 Project. | |
| SOUTH CAROLINA | |
| Clarendon and Kershaw (12) | 192,000 |
| Charleston (9) | 541,611 |
| Florence (9) | 48,031 |
| Greenville and Rickens (9) | 192,335 |
| Horry (9) | 58,707 |
| Lancaster (9) | 33,633 |
| McCormick (9) | 39,249 |
| Richland (9) | 227,970 |
| Totals (8 Projects) | 1,333,536 |
| SOUTH DAKOTA | |
| Gregory, Mellette, Tod, Tripp (Rosebud Sioux Reservation) (9) | 257,765 |
| Day, Marshall, Roberts (Lake Traverse Reservation) (9) | 85,797 |
| Totals (2 Projects) | 293,562 |
| TENNESSEE | |
| Cannon, Clay, Cumberland, Dekalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, Van Buren, Warren, and White (9) | 305,982 |
| Davidson (9) | 693,684 |
| Totals (2 Projects) | 999,666 |

TEXAS

| | |
|---|---|
| Bee (9) | $22, 500 |
| Bexar and San Antonio (9) | 41, 670 |
| Bowie (9) | 49, 140 |
| Cameron (9) | 516, 888 |
| Dallas, City of Dallas Public Health Dept. (9) | 499, 959 |
| Dallas, University of Texas Health Service Center (9) | 599, 013 |
| Galveston, La Margue (9) | 149, 958 |
| Grayson (9) | 11, 593 |
| Hildago (9) | 649, 062 |
| Montgomery and Walker (9) | 302, 472 |
| Nueces (9) | 637, 222 |
| Travis (9) | 331, 200 |
| Willacy (9) | 125, 523 |
| Totals (13 Projects) | 3, 980, 210 |

VERMONT

| | |
|---|---|
| Statewide, State of Vermont Department of Health (9) | 1, 460, 000 |
| 1 Project. | |

WASHINGTON

| | |
|---|---|
| King, Seattle, Harborview Medical Center (9) | 85, 500 |
| King, Seattle, King County Department of Public Health (9) | 401, 814 |
| King, Seattle, Odessa Brown Children's Clinic (9) | 26, 932 |
| King, Seattle, Special Counseling and Continuation School (9) | 25, 578 |
| Pierce (9) | 97, 308 |
| Snohomish (9) | 128, 808 |
| Yakima, Toppenish, Farmworkers Family Health Clinic (9) | 85, 167 |
| Yakima, Pregnancy Aid (9) | 8, 009 |
| Yakima, Southeast Yakima Community Medical Clinic (9) | 102, 466 |
| 18 Counties, (Plan for Rural Areas) (9) | 728, 180 |
| Totals (10 Projects) | 1, 689, 663 |

WEST VIRGINIA

| | |
|---|---|
| Fayette, McDowell, Mercer, Raleigh, and Summers (9) | 628, 100 |
| 1 Project. | |

WISCONSIN

| | |
|---|---|
| Brown and Neighboring Counties (9) | 50, 094 |
| Menominee (9) | 46, 109 |
| Vilas (9) | 194, 750 |
| Totals (3 Projects) | 290, 953 |

Mr. HUMPHREY. Mr. President, I should like to urge every Member of the Senate to support my bill S. 1063 as amended which I believe will not only be responsive to the current inflationary crisis that our Nation's schools are now faced with concerning their school lunch programs, but will also avoid our having to reopen this matter again later this year and in subsequent years. The provisions contained in S. 1063 as amended are both modest and urgently needed. I hope that every Member of the Senate will join with me in pressing for favorable consideration of S. 1063 both by the Committee on Agriculture and Forestry and the Senate.

## THE ELK HILLS NAVAL PETROLEUM RESERVE IN CALIFORNIA

Mr. CRANSTON. Mr. President, I was delighted with President Nixon's recent statement that he would be consulting with Congress to obtain the needed congressional approval for stepping up oil production from the Elk Hills Naval Petroleum Reserve in California. Proved reserves at Elk Hills total more than 1 billion barrels of oil, and development of the field is sufficient now so that production could begin within 10 days of an order to do so.

Californians will face a major domestic emergency in the coming months if additional oil supplies are not immediately made available. The California electric utilities have told me they are short some 185 million barrels of oil for the 3-year period of 1974, 1975, and 1976. Even worse is the situation in the city of Los Angeles, where the municipally owned Department of Water and Power reports it is short 40 percent of its power needs for this winter.

Without the Elk Hills oil, I am convinced that California will be faced with a grave domestic emergency. Substantial shortages of electrical energy could force the closing down of industrial plants and the limiting of hours for commercial enterprises. Such events would have a serious impact on the health, safety and welfare of communities all over my State.

Today, Senator TUNNEY and I sent a letter to President Nixon commending him for his support for opening Elk Hills and advising him of our desire to cooperate fully to obtain the necessary congressional approval for the sale of Elk Hills oil.

Mr. President, I ask unanimous consent that the text of our letter be printed in the RECORD, along with a fact sheet on the fuel supply situation faced by the four major electrical utility companies in California.

There being no objection, the letter and fact sheet were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., September 13, 1973.*

The Honorable RICHARD M. NIXON,
*The President of the United States,*
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: We wish to commend you for your recent statement advocating stepped-up oil production from the Elk Hills Naval Petroleum Reserve in Kern County, California. We believe such production should commence on the earliest possible time schedule, because of the urgency of the California oil supply situation and the deficiency of oil needed for electrical power generation.

Accordingly, we wish to advise you of our desire to cooperate fully with you in obtaining the necessary approval of the Congress for the sale of Elk Hills oil. We are now developing legislation to achieve this end.

Last July, the California Public Utilities Commission conducted a hearing to investigate reports of a serious oil supply shortage (California Public Utilities Commission, Case Number 9581). The testimony of the four major California utilities which supply 99 percent of the population with electricity confirmed our worst fears. The major utilities reported a deficiency of oil totaling some 185 million barrels of oil for the three-year period of 1974, 1975 and 1976. In general the utilities have not succeeded in securing supply through the voluntary allocation program and have not had significant responses to their invitations for additional supply, which were distributed to most of the potential domestic and foreign petroleum suppliers.

The proximity of the Elk Hills reserve to the most critically short areas of our state and the fact that production could be underway within 10 days of an order to do so, make Elk Hills the most reasonable available supply to meet this critical oil shortage.

We believe that appropriate limits on the amount of the reserve that can be utilized must be fixed in order to maintain the balance for use in a national emergency. With proven reserves at Elk Hills totaling more than one billion barrels of oil, we are convinced that using oil from the reserve for the next three to four years will not in any way endanger our ability to defend the nation.

Sincerely,

ALAN CRANSTON.
JOHN V. TUNNEY.

SOUTHERN CALIFORNIA EDISON CO., FUEL AVAILABILITY

[Millions of barrels]

| Description | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|
| Gas and oil requirement | 58. 1 | 63. 3 | 71. 0 | 75. 3 | 83. 2 |
| Gas supply | 34. 1 | 18. 2 | 9. 3 | 5. 0 | 4. 8 |
| Gas supply (percent) | 58. 7 | 28. 8 | 13. 1 | 6. 6 | 5. 8 |
| Oil requirements | 24. 0 | 45. 1 | 61. 7 | 70. 3 | 78. 4 |
| Oil contracted for | 26. 4 | 47. 4 | 47. 5 | 46. 8 | 61. 2 |
| Storage drawdown | (2. 4) | (2. 3) | . 2 | (. 5) | (. 8) |
| Additional oil required | 0 | 0 | 14. 0 | 24. 0 | 18. 0 |
| Required overall load curtailment [1] (percent) | 0 | 0 | 12. 0 | 15. 0 | N.A. |

[1] If Additional oil required is not available.

PACIFIC GAS AND ELECTRIC CO., FUEL AVAILABILITY

[Millions of barrels]

| Description | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|
| Gas and oil requirement | 45. 9 | 44. 9 | 54. 7 | 49. 8 | 41. 6 |
| Gas supply | 43. 3 | 35. 4 | 10. 5 | 3. 8 | 6. 2 |
| Gas supply (percent) | 94. 3 | 78. 8 | 19. 2 | 7. 6 | 14. 9 |
| Oil requirement | 2. 6 | 9. 5 | 44. 2 | 46. 0 | 35. 4 |
| Oil under contract | 3. 1 | 11. 6 | 14. 7 | 14. 8 | 4. 5 |
| Contracts under negotiation | | . 2 | 5. 7 | 2. 7 | 8. 2 |
| Probable supplies | | . 4 | 2. 5 | 2. 5 | 0 |
| Total expected oil supplies | 3. 1 | 12. 2 | 22. 9 | 20. 0 | 12. 7 |
| Storage drawdown (increase) | (. 5) | 2. 7 | 6. 1 | 0 | 0 |
| Unassigned oil (required) | 0 | 0 | 15. 2 | 26. 0 | 22. 7 |

LOS ANGELES DEPARTMENT OF WATER AND POWER AND CITIES OF GLENDALE, BURBANK, AND PASADENA

[In equivalent million barrels of fuel oil] [1]

| Description | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|
| Gas and oil requirement | 24.072 | 28.633 | 28.843 | 31.289 | 31.798 |
| Gas supply | 14.349 | 7.325 | 3.187 | 1.516 | 71 |
| Gas supply (percent) | 59.6 | 25.6 | 11 | 4.8 | .3 |
| Oil requirements | 9.723 | 21.308 | 26.656 | 28.070 | 28.378 |
| Oil storage drawdown | 1.759 | (1.780) | (14.046) | (25.410) | (28.378) |
| Oil contracted for | 0 | 19.528 | 11.610 | 2.660 | 0 |
| Unassigned oil | 0 | 0 | 11.802 | 25.410 | 28.378 |

[1] Based upon average water conditions and average gas supply conditions.

SAN DIEGO GAS & ELECTRIC CO.

[In equivalent million barrels of fuel oil] [1]

| Description | 1972 | 1973 January to June, actual | 1973 July to December, estimated | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|
| Gas and oil requirement | 12.330 | 6.704 | 7.403 | 15.659 | 17.855 | 19.883 |
| Gas supply | 7.199 | 2.736 | 2.194 | 2.499 | 1.958 | 1.509 |
| Gas supply (percent) | 58.4 | 40.8 | 29.6 | 16.0 | 14.0 | 7.6 |
| Oil requirements | 5.131 | 3.968 | 5.189 | 13.160 | 15.897 | 18.374 |
| Oil storage drawdown | (.417) | (.948) | (.109) | (.477) | (.959) | .318 |
| Oil under firm contract | 0 | 0 | 4.657 | 7.790 | 3.180 | 3.000 |
| Oil under firm negotiation | 0 | 0 | .608 | 4.324 | 12.254 | 13.064 |
| Unassigned oil | 0 | 0 | .053 | 1.368 | .792 | 1.992 |

[1] Based upon adverse hydor conditions and cold weather (minimum) gas supply conditions

## THE NATION'S RECLAMATION PROGRAMS

Mr. HANSEN. Mr. President, at the invitation of two of our western Congressmen, Bizz Johnson and Charlie Gubser, Members of this body and of the House of Representatives who represent Western States met with top officials of the Department of the Interior and OMB yesterday to discuss the future of the Bureau of Reclamation. The meaningful dialog underscored the need for maintaining a strong and viable reclamation program.

The meeting was prompted by the concern that our Nation's reclamation programs stand at the crossroads. Our society has shifted from rural to urban. The National Water Commission recommended that there be no further federally assisted agriculture water development. Environmentalists are challenging proposed and authorized projects. The backlog of projects which have been authorized, but are not completed has reached the astronomical figure of $6.2 billion and is steadily increasing.

Representatives of each State emphasized that now, more than ever, there is a need for effective reclamation projects. Many questioned the recommendations of the National Water Commission. The fact that the projects pay for themselves was strongly stressed. Greater demands will be placed upon water supplies for the production of food, fiber, and energy. There is no longer a surplus of foods. The energy crisis is real. The National Water Commission based most of its recommendations upon the assumption of continuing agricultural surpluses. Accordingly its recommendations must be entirely discounted.

Reclamation projects offer great promise in easing our balance of payments deficit. The creation of projects in the rural areas can stabilize these areas and stop the migration of people to urban areas.

Representing the Department of the Interior were: Secretary Morton, Assistant Secretary Horton, and Commissioner Stamm. Assistant Director Sawhill represented the Office of Management and Budget. Their response to the concerns expressed by Members of Congress was gratifying. They have a sincere desire to work with Congress in maintaining a viable reclamation program.

Secretary Morton assured us that the Department has no intention to liquidate the Bureau of Reclamation. He claimed that the overall funding showed true intent. He indicated that in the period between 1967 and 1974, there was an approximate doubling of funding. He said that 1973 was an abnormal year. $420 million has been recommended for fiscal year 1974.

Secretary Morton cautioned that it should be remembered that the administration supports the total works philosophy of Government; that the Bureau must compete with other Federal projects for funds; and that it is necessary to hold the line on expenditures.

Commenting on the backlog of authorized projects, Secretary Morton said that Congress should remember it is easier to authorize projects than it is to complete them. He urged that the line be held on new projects until existing projects are completed. He said it would be impossible to spread the butter much thinner.

Secretary Morton said money should be put into those projects which would guarantee a return. To resolve the priorities of authorized projects, Secretary Morton said the projects should be compared pursuant to the following criteria: The percentage of completion; percentage of allocation of power to Municipal and Industrial needs; percentage of direct repayment; benefit-cost ratio; and the environmental impact.

Mr. President, more than likely because of my agrarian background, I was impressed by Secretary Morton's reference to "spreading the butter thinner." The fact of the matter is that the butter cannot be spread any thinner. We need a new cow.

Congressman Bizz Johnson estimates that it would take at least one-half billion dollars to carry out the authorized projects. More would be needed for the other programs. However, a revitalized Bureau of Reclamation could be the source for that additional butter which could be easily spread to eliminate problems related to our energy crisis, balance of payments, food prices, and urban problems.

It is projected that the United States by 1976 will expend $19.5 billion for imported energy. The effect this will have on our balance of payments is staggering.

An adequate supply of water is necessary for development of many of our yet-untapped sources of energy. Its use will be required in developing commercial technologies for: coal gasification, coal liquefaction, and shale oil. Likewise power generation by nuclear energy consumes enormous amounts of water. Energy from these sources would decrease our dependence on foreign nations and reduce our deficit balance of payments.

There is a worldwide shortage of food. Our Nation no longer has a surplus of commodities. We are plagued by shortages and rising food prices. The logical way to eliminate the food shortage and curb prices is to increase the food supply. The food supply can be increased by reclaiming land. Agriculture holds the greatest promise in decreasing our foreign trade deficit.

In this day of urban problems, it is often overlooked that reclamation projects stimulate activity that can stop the mass migration from rural areas to our already congested urban center. Reclamation projects provide new and increased crop and livestock production, stimulate increased business activity in the area; increase gross and net incomes; provide new employment opportunities on the farms and in surrounding towns and cities; and, with an expanded tax base, provide for new and improved community facilities such as schools, roads, medical facilities, public utilities, recreational facilities, and other benefits.

Mr. President, I appreciate the comments of my colleagues and the officials of the administration; their participation in this dialog is a step toward better communication which will assure that the projects of the Bureau of Reclamation will continue to improve the quality of life in our Nation.

Special thanks should be extended to Congressman Johnson and Congressman Gubser for their efforts in arranging this meeting. Likewise, the participation of Messrs. Morton, Horton, Stamm, and Sawhill was very much appreciated.

I am hopeful that the significance of the Bureau of Reclamation will not be underestimated.

## WAYNE MORSE

Mr. ABOUREZK. Mr. President, people the world over can take a slight breath of relief from the news reported August 27 by the Eugene, Oreg., Register-Guard.

In that newspaper, a man who I think will be remembered as one of the guiding lights of our era announced that he has no plans to run for anything.

But that does not mean we have heard the last of Wayne Morse.

On the contrary, that truly valuable man is as vigorous as ever.

For those who may be interested in the whereabouts and activities of Wayne Morse, I ask unanimous consent to have printed in the RECORD an article published in the Register-Guard.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### "TIGER OF SENATE" HOME DIGS CLAWS INTO NIXON

(By Henry Willis)

The eyes still go alternately from humorous sparkle to deadly serious. The spring is still in the walk. The attire is still impeccably neat. The manners are still courtly.

In fact, one notices little change in Wayne Morse these days from those other days when he was stumping the state for votes or chastising his colleagues in the U.S. Senate.

Morse has, in his own words, "come home."

Belying the political adage that "they never go back to Pocatello," the 72-year-old Morse has sold his large cattle farm in Maryland and returned to his handsome old Crest Drive home in Eugene. He plans to sell the Eugene property soon—"I've got 27 acres here and it's just too much for Midge (Mrs. Morse) and me alone"—but he will make this his home base for whatever projects he has ahead.

Morse's plans are, as always, a conglomerate of activity.

He will continue doing labor arbitration work, legal consultation and lecturing at a large number of colleges and universities around the country. He also has some books he wants to write—one on U.S. foreign policy is first on the drafting board, to be followed by another on "the education fights we had in the Senate" and still another on his 24 years as a U.S. senator from Oregon.

Memoirs?

"No, a biography is not for me to write," he says. "That's for someone else."

Politics?

"I'll remain an active member of the Democratic Party in Oregon," he says with a sly grin. Will he run for office next year? "I've got no plans to run for anything." Again, the eyes twinkle and the grin creases the face. It's Morse at his coyest.

He appears to have become something of the senior sage in Oregon political circles—"Dutch uncle" is the way he describes it—and younger and more eager political types still troop to his doorstep to seek advice, curry favor or simply to listen.

"I'm making no commitments to anyone at this time," he says, referring to several ambitious Democrats who have asked him for an endorsement in one 1974 race or another. Three prospective candidates for Congress have already visited him, he said, and another four who might run for the U.S. Senate.

He was asked if he thought Sen. Bob Packwood, R-Ore., the man who put an end to Morse's Senate career in 1968, is vulnerable next year.

"He can be beaten—and he should be," Morse says. "He hasn't made the record in the Senate that Oregonians are entitled to." What would it take to beat Packwood? "Not much" is the Morse answer.

The conversation naturally flowed to Watergate. Would he like to be on the Senate Watergate Committee?

"Of course I would," he says, although he had kind words for the way the committee is handling its hearings.

"I think their format is very good," he says. "The questioning varies, but they're getting out the information. I think sometimes they don't follow through well enough on questions. I don't think I'd let a witness answer hang in the air like some of them do."

Morse said he hopes the committee won't yield to "political pressures" to close down the hearings or take them off national television.

"The American people are entitled to see what's going on," he says. "I think the hearings have opened the eyes of many people who didn't realize just how corrupt Nixon's government is."

Does he believe Nixon knew of the cover-up?

"Of course he knew," Morse says emphatically. "It's absurd to let that fella (Nixon) get away with saying he didn't know. He's lying through his teeth. The Oval Office isn't a vacuum. A President can't run the office without being in constant contact with his subordinates. For him to give the impression he didn't know what Ehrlichman and Haldeman were doing strains our credulity"

Morse says the country is in the gravest constitutional crisis since the Civil War.

"We're in a police state now," he says. "The issue before the people now is how far they're going to permit the government to go in that direction. One issue is the violation of the Constitution on war-making by a President. Only the Congress has that authority. A President can't make war. That's elementary.

"The other issue is that Nixon now says he is above the law. He's filed a brief with the court on the Watergate tapes saying he has the power to conceal criminal evidence. That's an argument for a dictatorship. It's unbelievable.

"He wants to put the courts subordinate to the Executive instead of keeping the courts a co-equal branch. So, you have the situation of Nixon saying on one hand that he's above the courts and on the other above Congress. That's executive supremacy and a dictatorship. It's not what the Founding Fathers had in mind. In fact, it's what they feared.

"It's difficult to get people to see these constitutional issues. They're too abstract. But, we now have Nixon asking to close down Watergate and let him run the country. That's what I'm afraid of—that they'll let him run the country."

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## LOWER CUMBERLAND COOPERATIVE IMPROVEMENT COUNCIL

Mr. COOK. Mr. President, it was my privilege, along with my colleagues, Senators HUDDLESTON and BROCK, to attend a recent meeting of the Lower Cumberland Cooperative Improvement Council. The attached report sets forth some remarkable statements made by Mayor George Atkins, of Hopkinsville, Ky., which are cognizant of the excellent spirit of cooperation existing between the military and civilian population of the area. I ask unanimous consent that Mayor Atkins' remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### REMARKS OF MAYOR GEORGE ATKINS, OF HOPKINSVILLE, KY.

We are all aware of how the existence of a military installation in a civilian context can create problems, both real and potential. Problems for both the military and the communities as well. It is the goal of the LCCIC to develop pro-active type programs that will promote harmonious and beneficial coexistence between the communities rather than reactive ones that assume an "after the fact" or remedial posture. Such programs upgrade the public image of the military throughout a large regional area and directly involve communities and their people in joint projects that are mutually beneficial.

The LCCIC is a unique example of the cooperation that can be achieved within a regional grouping of political entities that cross not only city and county lines, but State and Federal boundaries as well. The main purpose of the LCCIC is to work toward an improved quality of life for the military and civilian residents of the area. The Council has the enthusiastic support of the governing bodies of all the local units of governments involved, and because of this joint effort, we are making significant progress in all of our endeavors.

The LCCIC is a product that evolved directly from the close spirit and desire of cooperation and good community relations that has always existed between Fort Campbell and the surrounding communities.

Discussion on the formulation of the council began in the summer of 1972 when it became obvious that such programs and discussions of regional problems would be mutually beneficial to the residents of all of the community members. We also recognized that if our efforts were to be successful, they must include the military installation of Fort Campbell, Kentucky, which touches each one of the four counties in two states, and provides the cohesive connection between the two states. We were all elated to learn that the 101st Eagle was coming to rest at Fort Campbell, but at the same time, we were well aware of the impact that such a rapid buildup would have on our communities in the way of increased housing needs, increased traffic, the need for more public facilities, shopping areas, and increased law enforcement. On September 15, 1972, a joint declaration was signed establishing the Lower Cumberland Cooperative Improvement Council, and thus forming a regional body to find solutions to these problems.

The ten council members that make up the LCCIC are the four county judges of the surrounding counties, which in our area are the chief elected administrative officials of the county unit of government: the mayors of the five cities surrounding Fort Campbell: and the Commanding General of Fort Campbell. A secretariat was also established. It is made up of individuals that represent the technical aspect of planning and community development. Special sub-committees are formed to study specific long range programs at the discretion of the council. The purpose of the LCCIC as set out in the joint declaration of September, 1972, is simply to provide a means of establishing closer planning and working relationship among its members to the end that they may be able to provide and deliver services to their citizens through cooperative effort more efficiently and more economically than would otherwise be possible. Each member pledges to work as authorized under its own governing regulations and statutes toward an improved quality of life for its residents.

One aspect that makes our council beneficial, is its flexibility. No specific limitations have been placed on topics to be brought before the council members. Essentially any problems or programs that impact on more than one member, or which can be assisted by the council acting as a whole, can be brought before it for consideration.

The first and perhaps the most pressing problem in which the LCCIC became involved is a study on how best to establish and implement an effective solid waste system that would include the entire area. The LCCIC is attempting to eliminate the use of open dumps, open burning, and any poor solid waste disposal techniques that exist in our area.

With the direct help of Jack Ravan, regional director of EPA, a plan was developed whereby we could systematically approach an area wide solid waste disposal operation. Where individually we are unable to justify the latest in technical equipment in solid waste disposal, in the future, collectively, we can support such processes as recycling and practices of more sophisticated disposal techniques. Member communities will coordinate and implement compatible systems such that the potential exists for a long range regional solid waste disposal system. The plan, as it has developed, provides a program to participating governmental agencies with a concrete direction for solid waste control that operates within their recognizable physical, political, and financial constraints.

The first phase of the plan calls for the development of solid waste disposal systems in the two most populous areas of Christian County, Kentucky, and Montgomery County, Tennessee. Christian County, Kentucky, has just established wide solid waste pick-up system. One of the first problems encountered was by Montgomery County in the acquisition of an approved land fill site. Studies are now underway for the leasing of 200 acres of land on the southern boundary of the Fort Campbell reservation for use as a land fill. The land fill will be planned and operated in such a way that it will develop land into other types of training areas for Fort Campbell as the sections of it are filled. The next phase will be to develop solid waste pick-up systems for the adjoining counties and ultimately join in a unified solid waste disposal program utilizing recycling and modern, sophisticated techniques of solid waste disposal.

Perhaps the most visible contribution that has been made by our joint efforts is in the field of environmental programs. The greatest single impact has been the removal of abandoned junk automobiles from the landscape. When the LCCIC was organized, there were an estimated 12,000 such vehicles in the region. These automobiles were either abandoned along the roadside, or dumped in fields and wooded areas throughout the area.

The LCCIC has in operation a campaign to remove all junk vehicles. Local civilian leaders organize youth groups, such as the 4H, FFA, and Boy Scouts to spot the junk cars and obtain permission for their removal. Fort Campbell personnel and equipment then pick up these cars and bring them to a central collection point. When sufficient cars are collected, the youth groups contract with the regional automobile crushing operation for crushing and disposal to a steel mill for recycling. Any revenue generated goes to the youth group to help finance their other programs. The "Junk Car" sign can be seen at collection points indicating to local residents and tourists that a new junk yard is not being created, but that a problem condition is being remedied through a joint civilian-military program.

Current progress is obvious as a pile of scrap is all that remains of over 4,500 cars that have been removed to date. The project is still underway, and we anticipate that an additional 7,500 junk cars will be removed. The benefits of this project are obvious. The cars are removed at no cost to the landowner, Fort Campbell soldiers get experience in using their equipment under unusual conditions, the youth groups receive a little money for their treasury, and most important, a significant blight is being removed from the landscape.

We have been involved in numerous other endeavors to improve the environmental quality of our two-state area in programs other than the junk car removal. In April, the LCCIC joined with the Five Rivers Resource Conservation and Development Association in "Operation Concern." A clean-up program throughout the Five River Area of Western Kentucky and Tennessee. A week long clean-up program was conducted in the Stewart County, Tennessee approaches to, and inside the Land-Between the Lakes. High school students, 4H members, and Fort Campbell soldiers all participated in the program. Over 800 bags of trash and 111 junk cars were removed during that one week.

The April LCCIC meeting was held at the Land-Between-the-Lakes area to observe the program. The director of the Land-Between-the-Lakes was very enthusiastic about the program and its importance to the two-and-one-half million visitors to the Land-Between-the-Lakes area each year.

In August a platoon of soldiers from Fort Campbell assisted the Boy Scouts and 4H club in Clarksville in beautifying a two-mile stretch of the banks of the Cumberland River over a two week period. During this time, they cleared undergrowth, removed trash, and assisted in the river bank stabilization efforts.

The efforts of the LCCIC are evident in isolated clean-up campaigns conducted in virtually every community that lies within our four county area. On request handled through our organization, Fort Campbell has supplied vehicles, equipment to work with the local manpower in clean-up days and weeks that result in cleaner, more beautiful communities and in a closer eyeball to eyeball working relationship with our military installation.

In an area rich with recreational facilities and potential—where local residents are avid sportsmen, the LCCIC efforts in this area bring direct recognition to the benefits of the good working relationship we have. At the April LCCIC meeting in the LBL, Judge Cossey, Trigg County, Kentucky, brought to our attention a significant irritant to local residents and tourists.

The Twin Lake areas of Kentucky and Barkley Lakes represents a unique problem to sportsmen where an individual fishing in either of the lakes can very easily move into another State without really being aware of the imaginary State line. Kentucky and Tennessee have agreed to recognize fishing licenses from either State between the bridges of Highway 68 and 79. On Barkley, no such agreement exists, therefore, sportsmen are restricted to one portion of the lake unless they have licenses for both Kentucky and Tennessee. In an effort to alleviate this confusing and irritating situation, the LCCIC has been in contact and has been working with the fish and wildlife commissioners of both States identifying the problem and requesting their consideration that a reciprocal fishing agreement be established on Lake Barkley: one that is similar to the one existing on Kentucky Lake.

The Kentucky wildlife commission has adopted such a reciprocal agreement for sport fishing, and we anticipate the Tennessee Commission doing likewise at their next regularly scheduled meeting. Many of the recreational and sport facilities located on Fort Campbell, Kentucky, are open for civilian participation. However, such activities have not been publicized. Conversely, many of the recreational opportunities available in the LCCIC area have not been properly communicated to the military personnel. The LCCIC has embarked on a program to prepare recreational brochures to inform all residents of these available recreational activities. Fort Campbell is preparing the first of these brochures which will be used as a format for the preparation of future brochures from other member communities. Ultimately, a consolidated LCCIC recreational pamphlet will be published for use in the entire area.

In particular civilian sportsmen are permitted to hunt during the proper seasons on the military reservations. This not only provides recreational activities to civilian residents, but also assists the military in thinning out over-populated game numbers in the area. The LCCIC acts as an advisory group in the control and the operations of these activities.

Of particular benefit to local authorities in Kentucky and Tennessee is the working relationship between civilian and military law enforcement agencies. The LCCIC has addressed itself to this problem with particular emphasis on traffic and highway safety. We have worked with the Clarksville and Montgomery county chamber of commerce in both of their efforts to bring rapid completion of interstate highway systems now under construction and planned in the region. We have also worked with the Kentucky and Tennessee highway departments in developing plans to alleviate congested traffic conditions in the Fort Campbell area, and will work toward the implementation of these plans.

The problem of cattle rustling has become acute, with the cost of food continually rising. The LCCIC is working with the proper authorities at Fort Campbell to implement a program whereby Fort Campbell helicopter pilots on their routine maneuvers and training missions can report suspicious activities that they might spot. This will provide a tremendous assist to local authorities in their efforts to abate cattle rustling. Still another area of concern to both the LCCIC members and the surrounding communities are the problems of drugs and alcohol. Having a mixture of both civilian and military in an area provides unique problems for law enforcement agencies. The LCCIC provides the vehicle for constant communications and a forum for the solutions of these problems.

Another area that is critical to the residents of our entire area are those pertaining to medical assistance. The professional personnel assigned to the U.S. Army Hospital at Fort Campbell participates actively in the medical societies and associations of our area. Several of the local physicians in the area that are trained in a certain specialty are used as consultants by the U.S. Army Hospital, and, in return, the hospital may supply a consultant in a specific field to the local community. Coordination and communication with local communities is constantly being effected in reporting communicable diseases, and the potential for communicable disease problems.

Joint efforts are also underway in a tremendously large starling roost that annually exists at the Fort Campbell reservation (estimated at 10 million). The starlings represent a tremendous health hazard for the area in that the droppings from the birds and the relationship to human histoplasmosis is well established. There are currently approximately 40 to 50 new cases of histoplasmosis being diagnosed each month in the LCCIC area. In addition to the health hazard, these birds cause an annual economic loss well in excess of a million dollars to the farmers of our area through the spread of a disease called TGE through hog operations of the area, and through the loss to the small grain crops.

We are also watching with a great deal of interest the military assistance to safety and traffic program, or better known as "MAST". As you know, this program, which is now in legislation, would authorize the use of helicopters to assist in traffic accidents and other civilian emergency situations, a piece of legislation that would greatly assist communities of the LCCIC area.

The greatest product in the results of the LCCIC are, however, good community relations. If the military installation is to function to its maximum potential, and if the communities are to be able to exist and function harmoniously; the military-civilian community must have a good relationship. To this then the LCCIC is constantly working and sponsoring projects to promote this relationship. In June a program was sponsored for the commercial businessmen throughout the area. Its main thrust was the economic impact of Fort Campbell on the local areas. It was felt that this presentation would be very beneficial to local businessmen and bankers in their dealings with Fort Campbell and for the future planning of their business enterprises. Such information would also assist military personnel by increasing local services available to them. Meetings have been held with realtors and developers of the area to assist the housing needs both on and off the post, to apprise the local contractors of the plans for on-post housing, so that they would not overbuild in local communities. Also, the local contractors were able to express their plans so that military personnel could evaluate their programs for this housing. Personnel that are separating from service or retiring from the Army at Fort Campbell have a wealth of experience and a demonstrated ability of hard work and leadership, plus they are already members of our community. It is to the advantage of the LCCIC to retain these retirees and separatees in the local area; therefore, the LCCIC has endorsed and promotes the objectives of the job fair concept, in which local businessmen meet with imminent retirees or separatees to discuss employment opportunities that exist in our area. Job fair officials, local chambers of commerce, industrial development boards are all of assistance in this project. We anticipate that this job fair will not only continue, but will expand in its scope as time goes on.

Any time large numbers of people are concentrated in an area, problems arise between individuals and people. The LCCIC works with the human relations commission and works with the military officials to insure that harmonious relations exist between not only black and white, but military and civilian people as well. Programs and communications with shop owners, landlords, and local authorities are continual to insure this harmonious human relationship.

The 101st Airborne Division is now Air Mobile, the only air mobile division in the U.S. Army. Our division has over 400 helicopters and has acquired a greatly expanded capability to conduct operations on the battlefield. Therefore, large maneuvers must expand beyond the boundaries of Fort Campbell installation. The off-post helicopter flight creates the potential for problems for local residents because of noise and rotor wash, so LCCIC members are kept informed of upcoming maneuvers which could affect off-post residents. In this way, we may be able to make recommendations as to areas which should be avoided, and to point out potential problem areas such as the maturity of certain crops. In addition, we become better prepared to handle any complaints which might arise as a result of the training exercise.

Because of this good working relationship between the civilian and military communities, the 101st Airborne Division has been able to lease and obtain easements, at no cost to the military, large areas of privately held land for maneuvers of ground troops in the vicinity of Fort Campbell. The LCCIC members are prepared to assist in the leasing and obtainment of easement of this additional land. Not only do the residents of the areas give their land without cost, but they themselves become involved and add realism to the training exercises.

Tomorrow, September 13, the LCCIC members have been invited to a briefing and tour of the present field and training exercise of the 101st Airborne Division—Orbiting Eagle 1. We will be briefed on the scope of the operation and witness an airmobile assault on an objective such as would be conducted against hostile forces.

Some of the future topics of the LCCIC touch on a varied array of projects, (1) a joint study to evaluate the low-cost housing problems in the Fort Campbell area, and to disseminate this information to potential developers and builders; (2) a joint program to build a carcass removal truck and operate an economical system to remove animal carcasses from the LCCIC region, a problem that is acute to the farmers of our area; (3) we hope to progress on the briefings on Fort Campbell recycling program for possible implementation in civilian communities, with a particular reference to the card board bailing that Fort Campbell uses in its commissary operation. We have already discussed the efforts on reducing the large starling population and we also mentioned before of feasibility of military assistance to detect cattle rustling. We also will continue such things as our support of a consortium of universities and colleges in Eagle University at Fort Campbell, to provide educational facilities to military personnel.

Before the formation of the LCCIC, the Kentucky and Tennessee counties, which are adjacent to each other, were isolated because of the political boundary. But with the existence of Fort Campbell acting as the connecting link, and serving as the catalyst for the formation of the LCCIC, these political boundaries have been broken down. Our organization has been in existence for only one year now, but has been well received by both the civilian and military communities, and we feel that our efforts and our achievements in this short period have been significant to the people of our area, both military and civilian. And we feel that we are just now scratching the surface on the many joint projects that can be undertaken and that the LCCIC will continue to improve the close relationship that has already been established between Fort Campbell and the surrounding areas. This concept has worked for us; it fits our purpose; and it has proven to be a valid concept. It does not conflict with any other regional, governmental, or developmental organization that already exists, but works with them to accomplish their goals. The LCCIC speaks with one voice in saying "thank you" for your attendance this morning, for your support in the past of our activities, and that we are looking forward to working with the congressional delegation from Kentucky and Tennessee, and all the other parties interested in military-civilian activities of our country in the future.

## THE RECORD OF THE SENATE RELATED TO THE PRESIDENT'S MESSAGE

**Mr. ROBERT C. BYRD.** Mr. President, on September 10, the President sent to the Congress a second state of the Union message, in which he was reported to have asked for passage of 50 measures. A careful reading of his message will not reveal a clear identification of 50 bills. Some measures are clearly identified, while others must be determined by reading between the lines, so to speak, and must be extrapolated from an analysis of the subject matter of certain paragraphs in the President's message. In any event, as of September 10, the date on which the President sent up his message, the following record had been established by the Senate:

| | |
|---|---|
| Days in session | 121 |
| Hours in session | 685:41 |
| Total measures passed | 417 |
| Public laws | 106 |
| Treaties | 10 |
| Confirmations | 37, 638 |
| Record votes | 376 |

As to the 417 measures passed by the Senate, they are broken down as follows:

| | |
|---|---|
| Senate bills passed | 179 |
| House bills passed | 65 |
| Senate joint resolutions passed | 23 |
| House joint resolutions passed | 21 |
| Senate concurrent resolutions passed | 15 |
| House concurrent resolutions passed | 19 |
| Senate resolutions passed | 95 |

Of the 50 measures which can be identified by a careful reading of the President's message, the Senate as of September 10, had already passed 16 measures clearly identified as those enumerated by the President. Seven additional measures had been passed by the Senate in subject areas mentioned in the message. The Senate had passed 23 measures—or 46 percent—out of the list of 50 items contained in the President's message.

In addition to these 23 measures, one measure—pension reform—was on the Senate Calendar and will be taken up next Tuesday, September 18. Twelve other bills alluded to in the President's message were either undergoing markup in committee on September 10, or hearings had been completed or were in progress thereon.

In summary, 36 out of the 50 measures—72 percent—asked for by the President on September 10, had already been passed by the Senate or were on the Senate Calendar or hearings thereon had been either completed or were in progress.

Now, something ought to be said by way of putting this part of the legislative picture in its larger Senate context. I mentioned a little bit ago that, as of September 10, the Senate had passed 417 measures already this year. Twenty-three of those measures, as I have already indicated, can be identified in the President's message. To put it another way, the Senate, as of September 10, had passed 394 measures in addition to those 23 measures asked for by the President and already passed by the Senate. Of these 394 measures, I would like to mention just a few so as to further indicate the fine record the Senate has established during the first 8 months of this first session of the 93d Congress. Keep in mind that the following bills enacted by the Senate—not included in the President's request—do not comprise the whole record thus far:

1. Extension of Economic Stabilization Act (providing authority to the President to combat inflation).
2. Increase in Social Security Benefits.
3. Farm Bill.
4. Highway Bill.
5. Campaign Reform.
6. Emergency Medical Services.
7. Public Works and Economic Development.
8. Rivers and Harbors—Flood Control.
9. War Powers.
10. August 15 cutoff of Cambodian bombing.
11. Legislation dealing with Impoundments.
12. Confirmation of OMB Director.
13. Reconfirmation of Cabinet Officers.
14. 3 Supplemental Appropriation Bills.
15. 8 Regular Appropriation Bills.
16. Public Broadcasting.

17. Anti-hijacking of Aircraft.
18. Fuel Allocation.
19. Fair Credit Billing.
20. Lead Based Paint Poisoning.
21. Compensation for Victims of Crime.
22. Voter Registration.

Aside from the impressive Senate record of legislative enactments this year, Senate committees have done a commendable job in carrying out their oversight responsibilities under the Constitution.

For example, the Senate Judiciary Committee hearing in connection with the confirmation of L. Patrick Gray, and the Senate Judiciary Committee's insistence on the appointment of a special Watergate prosecutor and the laying down of investigative guidelines by the Judiciary Committee to be followed the special prosecutor in the conduct of the Watergate investigation. All other committees are to be equally commended on the high performance of their duties in carrying out oversight functions. The Select Committee on Presidential Campaign Activities, likewise, has acted notably in this regard.

I think every Member of the Senate should feel proud of the record of the Senate during the first 8 months of this session, and I want to compliment all Senators for the contributions they have made in this important service to the Nation. I think that this record should debunk any suggestion that the Senate has turned in a "disappointing performance," and such a record should also refute any suggestion that the Senate has been tied up in Watergate. Only 7 of the 100 Members of the Senate—and of the 535 Members of Congress—have been involved in carrying out their responsibilities under the Senate mandate, unanimously adopted by both Democrats and Republicans to investigate Watergate. The other 93 Members of the Senate—528 Members of Congress—have been busily engaged in meetings of other committees and subcommittees—numbering over 260 committees and subcommittees, in Senate and House—and have also been active in Senate and House floor debates. Additionally, we should remind ourselves that the seven Members—four Democrats and three Republicans—of the Select Committee on Presidential Campaign Activties have also been active in the other committees to which they are regularly assigned, and they have effectively and responsibly carried out their floor duties meanwhle.

In closing, I shall include a list of the 50 measures identified in the President's second State of the Union Message—the first 16 of which, as heretofore stated, have been passed by the Senate, and the next seven of which measures have been passed by the Senate in subject areas mentioned in the message:

1. Financial Institutions Restructuring Public Law 93-100.
2. Council on International Economic Policy—in conference.
3. Alaskan Pipeline—in conference.
4. Land Use Planning.
5. Toxic Substances Control—in conference.
6. Safe Drinking Water.
7. Manpower Revenue Sharing.
8. Vocational Rehabilitation—in conference.
9. Minimum Wage—Vetoed; House will reconsider 9-19-73.
10. Health Maintenance Organization.
11. Veterans Benefits—in conference.
12. ACTION.
13. FHA Mortgage Insurance Extension—contained in HUD Loan Insurance which is in conference.
14. D.C. Home Rule.
15. Federal Election Reform Commission.
16. National Foundation on Arts & Humanities—in conference.
17. Flood Insurance—Have passed S.J. Res. 26 and 112 and S. 1672 which all have become Public Law.
18. Heroin Trafficking—Have passed S. 800 containing tough provisions re: heroin trafficking.
19. Transportation Improvement—Have passed S. 2060, S. 1925, S. 2120, and S. 386 to improve rail service.
20. Disaster Preparedness & Assistance—Have passed S. 606, S. 1697, and H.R. 1975.
21-23. Indian bills—Have passed S. 1341, S. 1016 & S. 721.
24-26 Indian Bills—Pending in committee.
27. Trade Reform—House originates.
28. Export Administration Act, S. 2053 (Banking) hearings held.
29. Tax Reform (property tax relief for elderly)—House originates.
30. Stockpile Disposal, S. 1849 (Armed Services)—Pending in committee.
31. Deep Water Ports—(Commerce)—Hearings complete.
32. Gas Deregulation (Commerce)—Hearings scheduled.
33. Strip Mining (Interior)—Ordered reported on 9/10/73.
34. Department of Energy and Natural Resources (Govt. Op.)—Hearings in progress.
35. Power Plant Siting (Interior)—Pending in committee.
36. Santa Barbara Energy Reserve (Interior)—Pending in committee.
37. Housing (Banking)—Hearings held but no message yet from President.
38. Better Schools (Labor)—Hearings in progress.
39. School Busing (Labor)—Pending in committee.
40. Welfare Reform (Finance)—Pending in committee.
41. Job Security Assistance—(Finance)—House originates.
42. Pension Reform—Retirement Benefits (Labor and Finance)—On calendar.
43. Legal Services Corp. (Labor)—To be reported early October.
44. Consumer Protection Agency (Commerce and Govt. Ops.)—Hearings completed.
45. Better Communities (Banking)—Hearings in progress.
46. Criminal Code Reform (Judiciary)—Hearings in progress.
47. Capital Punishment (Judiciary)—Hearings held.
48. American Revolution Bicentennial Administration (Judiciary)—P/H; Pending in Senate Committee.
49. Metric Conversion (Commerce).
50. President's Reorganization Authority, S. 2003 (Govt. Ops.)—Pending in committee.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Morning business is closed.

## VOCATIONAL REHABILITATION—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of a conference report on H.R. 8070.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of the 40 minutes already agreed upon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I submit a report of the committee of conference on H.R. 8070, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

### CONFERENCE REPORT

### (S. REPT. No. 391)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":

### TABLE OF CONTENTS

Sec. 2. Declaration of purpose.
Sec. 3. Rehabilitation Services Administration.
Sec. 4. Advance funding.
Sec. 5. Joint funding.
Sec. 6. Consolidated rehabilitation plan.
Sec. 7. Definitions.
Sec. 8. Allotment percentage.
Sec. 9. Audit.
Sec. 10. Nonduplication.

### TITLE I—VOCATIONAL REHABILITATION SERVICES

### PART A—GENERAL PROVISIONS

Sec. 100. Declaration of purpose; Authorization of appropriations.

Sec. 101. State plans.
Sec. 102. Individualized written rehabilitation program.
Sec. 103. Scope of vocational rehabilitation services.
Sec. 104. Non-Federal share for construction.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

Sec. 110. State allotments.
Sec. 111. Payments to States.
Sec. 112. Client assistance.

PART C—INNOVATION AND EXPANSION GRANTS

Sec. 120. State allotments.
Sec. 121. Payments to States.

PART D—COMPREHENSIVE SERVICE NEEDS

Sec. 130. Special study.
Sec. 200. Declaration of purpose.
Sec. 201. Authorization of appropriations.
Sec. 202. Research.
Sec. 203. Training.
Sec. 204. Reports.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Sec. 300. Declaration of purpose.
Sec. 301. Grants for construction of rehabilitation facilities.
Sec. 302. Vocational training services for handicapped individuals.
Sec. 303. Mortgage insurance for rehabilitation facilities.
Sec. 304. Special projects and demonstrations.
Sec. 305. National Center for Deaf-Blind Youths and Adults.
Sec. 306. General grant and contract requirements.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Sec. 400. Administration.
Sec. 401. Program and project evaluation.
Sec. 402. Obtaining information from Federal agencies.
Sec. 403. Authorization of appropriations.
Sec. 404. Reports.
Sec. 405. Secretarial responsibility.
Sec. 406. Sheltered workshop study.
Sec. 407. State allocation study.

TITLE V—MISCELLANEOUS

Sec. 500. Effect on existing laws.
Sec. 501. Employment of handicapped individuals.
Sec. 502. Architectural and Transportation Barriers Compliance Board.
Sec. 503. Employment under Federal contracts.
Sec. 504. Nondiscrimination under Federal grants.

### DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs of providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals, serving first those with the most severe handicaps, so that they may prepare for and engage in gainful employment;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) conduct a study to develop methods of providing rehabilitation services to meet the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible so that they may improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including those who are homebound or institutionalized) who have been underserved in the past;

(7) conduct various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish client assistance pilot projects;

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training; and

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing architectural and transportation barriers impeding handicapped individuals.

### REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There is established in the Department of Health, Education, and Welfare a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the "Commissioner") appointed by the President. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency for carrying out this Act. The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner unless the Secretary shall first submit a plan for such delegation to the Congress. Such delegation is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan for such delegation is transmitted to it: *Provided, however,* That within thirty days of such transmittal, the Secretary shall consult with the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives respecting such proposed delegation. For the purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day and sixty-day periods.

(b) The Secretary, through the Commissioner in coordination with other appropriate programs in the Department of Health, Education, and Welfare, in carrying out research under this Act shall establish the expertise and technological competence to, and shall, in consultation with, the National Science Foundation and the National Academy of Sciences develop and support, and stimulate the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and be responsible for carrying out the activities described in section 202(b)(2).

(c) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

### ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

### JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

### CONSOLIDATED REHABILITATION PLAN

SEC. 6. (a) In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 101 (a) of this Act and its program for persons with developmental disabilities under the Developmental Disabilities Services and Facilities Construction Amendments of 1970: *Provided,* That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this Act and the Developmental Disabilities Services and Facilities Construction Amendments of 1970. If the Secretary finds that all such requirements are satisfied, he may approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or he may advise the State to submit separate plans for such programs.

(c) Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reductions, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsections (c) and (d) of section 101 of this Act.

### DEFINITIONS

SEC. 7. For the purpose of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or pos-

session was legally incapable of committing a crime.

(3) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(4) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G) (i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 102(c), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(5) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of title I of this Act and as specifically set forth in section 301(b)(3): *Provided*, That with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301(b)(3) applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.

(6) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.

(7) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(8) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(9) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the Secretary in regulations he shall prescribe.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

### ALLOTMENT PERCENTAGE

SEC. 8. (a)(1) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

### AUDIT

SEC. 9. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

### NONDUPLICATION

SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act.

## TITLE I—VOCATIONAL REHABILITATION SERVICES

### PART A—GENERAL PROVISIONS

### DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b) (1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1974, and $680,000,000 for the fiscal year ending June 30, 1975.

(2) For the purpose of carrying out part C of this title (relating to grants to States and public and nonprofit agencies to assist them in meeting the cost of projects to initiate or expand services to handicapped individuals, especially those with the most severe handicaps) and part D of this title (relating to the study of comprehensive service needs of individuals with the most severe handicaps), there is authorized to be appropriated $37,000,000 for the fiscal year ending June 30, 1974, and $39,000,000 for the fiscal year ending June 30, 1975, and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph for each such fiscal year, $1,000,000 in each such year shall be available only for the purpose of carrying out Part D of this title.

### STATE PLANS

Sec. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational rehabilitation services which shall—

(1) (A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of that State;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subclause (A) of this clause) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in clause (1) (B) (i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full-time on such work; and

(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1) (B) (ii), either that such unit shall be located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to clause (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency, and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Secretary may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) (A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Secretary; and

(B) provide satisfactory assurances to the Secretary that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps;

(6) provide for such methods of administration, other than methods relating to the establishment and maintenance of personal standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan;

(7) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provisions of vocational rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision;

(8) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(9) provide that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for vocational rehabilitation services under this Act, (B) such services will be provided under the plan in accordance with such program, and (C) records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this title and are determined not to be eligible therefore, the reasons for such determinations;

(10) provide that the State agency will make such reports in such form, containing such information (including the data described in subclause (C) of clause (9) of this subsection, periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this subsection, and the service costs for each such category), and at such time as the Secretary may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(11) provide for entering into cooperative

arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals, veterans programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State and local, public agencies providing services related to the rehabilitation of handicapped individuals;

(12) provide satisfactory assurances to the Secretary that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(13) (A) provide that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons, and

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(14) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(15) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to those individuals with the most severe handicaps;

(16) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(17) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 306 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Secretary shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provisions for construction;

(18) provide satisfactory assurances to the Secretary that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational rehabilitation services; and

(19) provide satisfactory assurances to the Secretary that the continuing studies required under clause (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, of appropriate amendments to the plan.

(b) The Secretary shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Secretary shall notify a State of his intention to disapprove its plan, and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any provision of such plan,

the Secretary shall notify such State agency that no further payment will be made to the State under this title (or, in his discretion, that such further payments will be reduced, in accordance with regulations the Secretary shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code.

### INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

Sec. 102. (a) The Secretary shall insure that the individualized written rehabilitation program required by section 101(a)(9) in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual.

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and jointly redevelop its terms. Such program shall include, but not be limited to (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and, (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 112.

(c) The Secretary shall also insure that (1) in developing and carrying out individualized written rehabilitation program required by section 101 in the case of each handicapped individual primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, that the evaluation of rehabilitation potential has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

### SCOPE OF VOCATIONAL REHABILITATION SERVICES

Sec. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;

(2) counseling, guidance, referral, and placement services for handicapped individuals, including followup, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided,* That no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorders by a physi-

cian or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) interpreter services for deaf individuals, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunications, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual.

NON-FEDERAL SHARE FOR CONSTRUCTION

SEC. 104. For the purpose of determining the amount of payments to States for carrying out part B of this title, the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Secretary, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

STATE ALLOTMENTS

SEC. 110. (a) For each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $2,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) If the payment to a State under section 111(a) for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payment under section 111(a) and the amount so received by it. Payments attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

(c) Whenever the Secretary determines, after reasonable opportunity for the submission to him of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

SEC. 111. (a) From each State's allotment under this part for any fiscal year (including any additional payment to it under section 110(b), the Secretary shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) (and its additional payment under subsection (b), if any) of section 110 for such a year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (17) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay, from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

CLIENT ASSISTANCE

SEC. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations from appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973, the Secretary shall set aside up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974, and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act.

(b) The Secretary shall prescribe regulations which shall include the following requirements:

(1) No employees of such projects shall be presently serving as staff or consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program, or facility receiving assistance under this Act in the project area.

(2) Each project shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and facilities.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Secretary on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by and with the concurrence of the State agency designated pursuant to section 101.

PART C—INNOVATION AND EXPANSION GRANTS

STATE ALLOTMENTS

SEC. 120. (a)(1) From the sums available pursuant to section 100(b)(2) for any fiscal year for grants to States to assist them in meeting the costs described in section 121, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to that amount, and for the fiscal year ending June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increase required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(b) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

### PAYMENTS TO STATES

SEC. 121. (a) From each State's allotment under this part for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101(a)(1), to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Secretary may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending June 30, 1976. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

## PART D—COMPREHENSIVE SERVICE NEEDS

### SPECIAL STUDY

SEC. 130. (a) The Secretary shall conduct a comprehensive study, including research and demonstration projects of the feasibility of methods designed (1) to prepare individuals with the most severe handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve their ability to live independently or function normally within their family and community. Such study shall encompass the extent to which other programs administered by the Secretary do or might contribute to the objectives set forth in clauses (1) and (2) of the preceding sentence and the methods by which all such programs can be coordinated at Federal, State, and local levels with those carried out under this Act to the end that individuals with the most severe handicaps are assured of receiving the kinds of assistance necessary for them to achieve such objectives.

(b) The Secretary shall report the findings of the study, research, and demonstrations directed by subsection (a) of this section to the Congress and to the President together with such recommendations for legislative or other action as he may find desirable, not later than February 1, 1975.

## TITLE II—RESEARCH AND TRAINING

### DECLARATION OF PURPOSE

SEC. 200. The purpose of this title is to authorize Federal assistance to State and public or nonprofit agencies and organizations to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 202 of this title, $25,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph, 20 per centum, and 25 per centum of the amounts appropriated in the first and second such fiscal years, respectively, shall be available only for the purpose of carrying out activities under section 202(b)(2).

(2) For the purpose of carrying out section 203 of this title, there is authorized to be appropriated $27,700,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

(b) Funds appropriated under this title shall remain available until expended.

### RESEARCH

SEC. 202. (a) The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to pay part or all of the costs of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research, to include support of spinal cord injuries projects and demonstrations established pursuant to section 303(b), which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individ-

uals suffering from such disease and which will (A) insure dissemination of research findings, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

(5) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(c) The provisions of section 306 shall apply to assistance provided under this section, unless the context indicates to the contrary.

### TRAINING

SEC. 203. (a) The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to blind and deaf individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited English-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

### REPORTS

SEC. 204. There shall be included in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational rehabilitation services to handicapped individuals and those with the most severe handicaps under this Act.

## TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

### DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to—

(1) authorize grants and contracts to assist in the construction and initial staffing of rehabilitation facilities;

(2) authorize grants and contracts to assist in the provision of vocational training services to handicapped individuals;

(3) authorize grants for special projects and demonstrations which hold promise of expending or otherwise improving rehabilitation services to handicapped individuals, including individuals with spinal cord injuries, older blind individuals, and deaf individuals whose maximum vocational potential has not been reached, which experiment with new types of patterns of services or devices for the rehabilitation of handicapped individuals (including opportunities for new careers for handicapped individuals, and for other individuals in programs serving handicapped individuals) and which provide vocational rehabilitation services to handicapped migratory agricultural workers or seasonal farmworkers;

(4) establish and operate a National Center for Deaf-Blind Youths and Adults; and

(5) establish uniform grant and contract requirements for programs assisted under this title and certain other provisions of this Act.

### GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, and June 30, 1975. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1977.

(b) (1) The Secretary is authorized to make grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Secretary under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 306.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to subparagraph (b) (2) of section 645 of such Act (42 U.S.C. 291o(b) (2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Secretary is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations the Secretary shall prescribe) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) The Secretary is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning rehabilitation facilities and the services to be provided by such facilities.

### VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, and June 30, 1975.

(b) (1) The Secretary is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational training services to handicapped individuals, especially those with the most severe handicaps, in public or nonprofit rehabilitation facilities.

(2) (A) Vocational training services for purposes of this subsection shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals, especially those with the most severe handicaps, for gainful and suitable employment; (B) the individuals to receive training services under such project will include only those who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 101(a) (1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c) (1) The Secretary is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the

Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

### MORTGAGE INSURANCE FOR REHABILITATION FACILITIES

SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for handicapped individuals.

(b) For the purpose of this section the terms "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(c) The Secretary, in consultation with the Secretary of Housing and Urban Development, and subject to the provisions of section 306, is authorized to insure up to 100 per centum of any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon, except that no mortgage of any public agency shall be insured under this section if the interest from such mortgage is exempt from Federal taxation.

(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers construction of a public or nonprofit rehabilitation facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for handicapped individuals. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts, with and acquire for not to exceed $100 such stock of interest in, such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section), and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the rehabilitation facility, when the proposed improvements are completed and the equipment is installed, but not including any cost covered by grants in aid under this Act of any other Federal Act.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

(e) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction, but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he shall by regulation prescribe.

(g) (1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgage under title II of the National Housing Act. The Secretary may, pursuant to a formal delegation agreement containing regulations prescribed by him, delegate to the Secretary of Housing and Urban Development authority to administer this section in accordance with such delegation agreement.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h) (1) There is hereby created a Rehabilitation Facilities Insurance Fund which shall be used by the Commissioner as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Rehabilitation Facilities Insurance Fund.

(2) The general expenses of the operations of the Rehabilitation Services Administration relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Rehabilitation Services Administration with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Commissioner may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisals and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets to the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments, and adjustments, and expense incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed $200,000,000.

### SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 304. (a) (1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, and $17,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 5 per centum in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such subsection an amount of $5,000,000 to be available for each such fiscal year.

(b) The Secretary, subject to the provisions of section 306, shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps) including individuals with spinal cord injuries, other blind individuals, and deaf individuals, whose maximum vocational potential has not been reached, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals for other individuals in programs servicing handicapped individuals). Projects and demonstrations providing services to individuals with spinal cord injuries shall include provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(D) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(c) The Secretary, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonable farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment.

(e) (1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, to provide technical assistance (A) to rehabilitation facilities, and (B) for the purpose of removal of architectural and transportation barriers, to any public or nonprofit agency, institution, organization or facility.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the pro rata pay rate for a person employed as a GS-18, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

### NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 305. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated such sums as may be necessary for construction, which shall remain available until expended, and such sums as may be necessary for operations for the fiscal years ending June 30, 1974, and June 30, 1975.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems or rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals; the Secretary, subject to the provisions of section 306, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults.

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of such Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

### GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 306. (a) The provisions of this section shall apply to all projects approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under section 302.

(b) To be approved, an application for assistance for a construction project under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Secretary, which he shall summarize and comment upon in the annual report to the Congress submitted under section 404;

(4) be accompanied or supplemented by plans and specifications in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Secretary related to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90-480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant or contract for a project under this title, the Secretary shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this title. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this title, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of assistance or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Secretary as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) When in any State, funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Secretary shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

## TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

### ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to the rehabilitation of handicapped individuals; and

(3) disseminate information relating to vocational rehabilitation services, and otherwise promote the cause of the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles I through III of this Act, and, except as otherwise provided in this Act, to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations shall be published in the Federal Register, on at least an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural, transportation, and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out his duties under this Act, the Secretary shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitation of disabled veterans carried out under title 38, United States Code.

### PROGRAM AND PROJECTION EVALUATION

SEC. 401. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related activities carried out under section 202, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of section 202, whether and on what basis such activities should be continued, revised, or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective July 1, 1974, before funds for the programs and projects covered by this Act are released, the Secretary shall develop and publish general standards for evaluation of the programs and project effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in subsection (b), (c), and (d) of section 101, whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 404 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

### OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 402. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated for the fiscal years ending June 30, 1974, and June 30, 1975, such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, and III of this Act or $1,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

### REPORTS

SEC. 404. Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail vocational rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of other services, and (3) include a detailed evaluation of services provided with assistance under title I of this Act, especially services to those with the most severe handicaps.

### SECRETARIAL RESPONSIBILITIES

SEC. 405. (a) It shall be the function of the Secretary, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, through the Office of the Secretary, to—

(1) prepare for submission to the Congress within eighteen months after the date of enactment of this Act, a long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze on a continuing basis and include in his report submitted under section 404, a report on the results of such analysis, program operation to determine consistency with applicable provisions of law, progress toward meeting the goals and priorities set forth in the projection required under clause (1), and the effectiveness of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) encourage coordinated and cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs;

(4) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education (including promotion of the development of curriculums stressing barrier free design and the adoption of such curriculums by schools of architecture, design, and engineering), health, employment, rehabilitation, architectural, housing, and transportation barriers, and other areas so as to bring about full integration of handicapped individuals into all aspects of society;

(5) provide a central clearinghouse for information and resource availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Secretary deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

(b) In selecting personnel to assist in the performance of the functions assigned in subsection (a) of this section, the Secretary shall give special emphasis to qualified handicapped individuals.

(c) The functions assigned to the Secretary by this section shall not be delegated to any persons not assigned to and operating in the Office of the Secretary, except that he may establish an Office for the Handicapped in the office of an appropriate

Assistant Secretary of the Department of Health, Education, and Welfare to carry out such functions.

(d) There are authorized to be appropriated for carrying out this section $500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975.

(e) Not later than thirty days after the appropriation Act containing sums for carrying out the provisions of this Act as enacted for each fiscal year, the Secretary shall set aside out of sums available to carry out this section or otherwise available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section and shall notify the appropriate committees of the Congress of the amount so set aside, the number of personnel necessary for such purpose, and the basis for his determination under this subsection and his reasons therefor.

### SHELTERED WORKSHOP STUDY

SEC. 406. (a) The Secretary shall conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within twenty-four months after the date of enactment of this Act.

### STATE ALLOCATION STUDY

SEC. 407. (a) The Secretary shall conduct a thorough study of the allotment of funds among the States for grants for basic vocational rehabilitation services authorized under part B of title I of this Act, including a consideration of—

(1) the needs of individuals requiring vocational rehabilitation services;

(2) the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

(3) the continuing demand upon the States to furnish vocational rehabilitation services, together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of this Act.

(b) Not later than June 30, 1974, the Secretary shall report to the Congress his findings and recommendations, including recommendations for additional legislation, with respect to the study required by this section, which report shall include recommendations with respect to allotment of Federal funds among the States and the Federal share of the cost of furnishing vocational rehabilitation services by the States.

## TITLE V—MISCELLANEOUS

### EFFECT ON EXISTING LAW

SEC. 500. (a) The Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) is repealed ninety days after the date of enactment of this Act and references to such Vocational Rehabilitation Act in any other provision of law shall, ninety days after such date, be deemed to be references to the Rehabilitation Act of 1973. Unexpended appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(b) The authorizations of appropriations in the Vocational Rehabilitation Act are hereby extended at the level specified for the fiscal year 1972 for the fiscal year 1973.

### EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 501. (a) There is established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission shall serve as co-chairmen of the Committee. The resources of the President's Committees on Employment of the Handicapped and on Mental Retardation shall be made full available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of handicapped individuals, and to review, on a periodic basis, in cooperation with the Civil Service Commission, the adequacy of hiring placement, and advancement practices with respect to handicapped individuals, by each department, agency, and instrumentality in the executive branch of Government, and to insure that the special needs of such individuals are being met; and (2) to consult with the Civil Service Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Civil Service Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Civil Service Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

(b) Each department, agency, and instrumentality (including the United States Postal Service and the Postal Rate Commission) in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Civil Service Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for handicapped individuals.

(c) The Civil Service Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Civil Service Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Civil Service Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the Civil Service Commission's activities under subsections (b) and (c) of this section.

(e) An individual who, as a part of his individualized written rehabilitation program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f)(1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals.

### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Health, Education, and Welfare;

(2) Department of Transportation;

(3) Department of Housing and Urban Development;

(4) Department of Labor;

(5) Department of the Interior;

(6) General Services Administration;

(7) United States Postal Service; and

(8) Veterans' Administration.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90-480), as amended by the Act of March 5, 1970 (Public Law 91-205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make to the President and to Congress reports which shall describe in detail the results to its investigations under clauses (2) and (3) of this subsection; and (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable, to eliminate the barriers described in clause (2) of this subsection.

(c) The Board shall also (1)(A) determine how and to what extent transportation barriers impede the mobility of handicapped individuals and aged handicapped individuals and consider ways in which travel expenses in connection with transportation to and from work for handicapped individuals can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of handicapped individuals; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems and (B) to make housing available and accessible to handicapped individuals or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for handicapped individuals, including proposals for bringing together in a cooperative effort, agences, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

(d) In carrying out its functions under this section, the Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). The provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review.

(e) The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(f) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this subsection shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily pay rate, for a person employed as a GS–18 under section 5332 of title 45, United States Code, including traveltime; and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(g) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (5) and (6) of subsection (b) of this section. The Board shall prepare two final reports of its activities under subsection (c). One such report shall be on its activities in the field of transportation barriers to handicapped individuals, and the other such report shall be on its activities in the field of the housing needs of handicapped individuals. The Board shall, prior to January 1, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after the date of enactment of this Act.

(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section $1,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975.

### EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 503. (a) Any contract in excess of $2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 7(6). The provisions of this section shall apply to any subcontract in excess of $2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereof as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which he shall prescribe, when he determines that special circumstances in the national interest so require and states in writing his reasons for such determination.

### NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, agrees to the same.

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
BILL HATHAWAY,
ROBT. STAFFORD,
ROBERT TAFT, JR.,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, JR.,
*Managers on the Part of the Senate.*

CARL D. PERKINS,
JOHN BRADEMAS,
PATSY T. MINK,
ALBERT H. QUIE,
EDWIN D. ESHLEMAN,
*Managers on the Part of the House.*

The ACTING PRESIDENT pro tempore. The time on the conference report is limited to 40 minutes, to be equally divided, with 20 minutes, equally divided, on any debatable motion or appeal.

Who yields time?

Mr. CRANSTON. Mr. President, I yield myself such time as I may require.

The ACTING PRESIDENT pro tempore. Does the Senator from West Virginia yield time to the Senator from California?

Mr. RANDOLPH. Mr. President, I desire that the Senator from California be in charge of the time on the conference report. It was he who acted as floor manager of the Rehabilitation Act when it was previously considered in the Senate, and he conducted the hearings on this measure.

The ACTING PRESIDENT pro tempore. How much time does the Senator from California yield himself?

Mr. CRANSTON. I yield myself such time as I may require.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I first ask unanimous consent that during the consideration and vote on the conference report on the Vocational Rehabilitation Act, the privilege of the floor be granted to Jon Steinberg, Lisa Walker, Bob Humphreys, and Roy Millenson, of the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, this is the seventh time in the last year we have brought to the Senate floor legislation to provide a new design for the Nation's Federal/State vocational rehabilitation programs. This time, with this conference report, I am belatedly pleased to say, to paraphrase Henry Higgins, "I think we have got it."

Last night I understand that HEW Secretary Weinberger issued a statement calling on the House and Senate to rapidly approve the conference report on H.R. 8070, and send it to the President for signature.

Mr. President, as the Senators will recall, the bill, S. 1875, which we brought from the Labor and Public Welfare Committee earlier this summer and the text of which the Senate approved on July 18, represented the results of an intensive negotiation with the administration to arrive at a mutually acceptable compromise. Thus, the conferees on the part of the Senate on this measure had a double responsibility—not only diligently and forcefully to represent the position of the Senate but to carry out our agreement with the administration.

Mr. President, I hope and believe that we have faithfully carried out these responsibilities. It can fairly be said that all of the Senate conferees had in the forefront in their thinking throughout the three conference sessions on this bill the importance of our fully and vigorously representing the position of the Senate, as supported by the administration. In fact, Mr. President, the RECORD will show that the Senate position in whole or in large measure prevailed on the overwhelming majority of the some 65 differences between the House and Senate versions of the bill.

The result is a bill which generally follows the Senate version, except that on a few major and some minor items, after careful examination and lengthy discussion, the House conferees persuaded us that certain provisions in the House measure were desirable, and, in some cases, preferable to a comparable provision in the Senate version. In those instances where we agreed to make modifications in the Senate provisions, the modifications made were generally clarifying and were not intended to be material. This was certainly the case with respect to the individualized written program and client assistance.

The authorizations of appropriations in the conference report total approximately $1.54 million over fiscal years 1974 and 1975. This is approximately $46.5 million above the amount authorized to be appropriated in the Senate version. With the exception of the authorizations of appropriations for the basic program—which were set at $650 million and $680 million, respectively, for these two years, as compared to the present $590 million level—the authorization figures agreed to were basically those in the Senate amendment.

Specifically, Mr. President, the amounts authorized to be appropriated for fiscal year 1974 total $756.3 million, which is about $56.2 million above the President's request for this year.

Mr. President, now that we all seem to be agreed on this particular version of the legislation, I would like to stress that, in my judgment, this is a very fine measure which in no way represents a major capitulation on the part of the Congress from the terms of the original bill, H.R. 8395, which was pocket-vetoed by the President last October. It is true that that bill as well as S. 7 this Congress which was again vetoed by the President this past March included valuable provisions which I would have preferred be enacted into law. In those respects, the two vetoed bills were superior to the conference report we are considering today.

However, Mr. President, I would like to briefly outline the vital provisions which remain in this conference report.

First, there has been absolutely no substantive change in the basic state grant program provisions as they were initially included in the pocket-vetoed bill a year ago. Thus, the conference report will redirect the provision of vocational rehabilitation services to focus upon handicapped individuals with the most severe handicaps. It will, for the first time, require that every handicapped individual participate as an equal partner in the development of an individualized written rehabilitation program specifically tailored to help that individual achieve his maximum vocational potential.

And it will impose new and important responsibilities upon the Rehabilitation Services Administration to establish priorities and goals for, and oversee, the implementation of the basic program by the State agencies.

Further, it will earmark funds to establish up to 20 demonstration client assistance projects throughout the Nation to give handicapped clients, for the first time, an ombudsman when they are unable to receive a satisfactory response or resolution of a difference from the regular system, itself.

Second, the conference report still contains several major new programs, including:

First. A new Federal Government affirmative action program requiring each Federal agency, under the overview of the Civil Service Commission, to develop and implement plans for the employment and advancement in employment of handicapped individuals;

Second. The establishment of an Architectural and Transportation Barriers Compliance Board to enforce existing Federal statutory requirements to make public buildings and transportation facilities accessible to handicapped individuals;

Third. A requirement that all Federal contractors and subcontractors take affirmative action to promote the employment and advancement in employment of handicapped individuals, with enforcement authority placed in the Department of Labor;

Fourth. A requirement that there be no discrimination against qualified handicapped individuals in any program or activity receiving Federal funds;

Fifth. A new Federal mortgage insurance program to facilitate the construction of necessary rehabilitation facilities;

Sixth. New responsibilities imposed upon the Secretary of Health, Eudcation, and Welfare to coordinate and evaluate, and disseminate information about all programs in the Department serving handicapped individuals, with a commitment from the administration to spend $500,000 for this purpose; and

Seventh. Dramatic redirection of the research and training programs to stress immediate relevance to solving the problems of handicapped persons and the maximum utilization of our Nation's science and technology toward this end, with the mandate that HEW must bring together personnel with outstanding scientific and technological competence to carry out this new mission.

Third, Mr. President, the amount of funds authorized to be appropriated in the conference report for the 2 fiscal years is $138 million more than the President wanted.

Fourth, Mr. President, the conference report provides that the Commissioner of the Rehabilitation Services Administration shall be appointed by the President, rather than by the Secretary, and mandates that the research, training, and services responsibilities under the act be carried out through the administration—RSA—which the Commissioner is charged to head and which is thus given a statutory mandate.

Fifth, the conference report contains the requirement that several important studies be conducted, including a sheltered workshop study and a new major study by HEW. Of the entire basic State grant allocation method and formula, as well as a special study, with demonstration projects, of means of providing comprehensive services to individuals for whom a vocational goal is not feasible. It also requires that numerous reports regarding the implementation of the many programs under the act be submitted to the Congress and the public.

Mr. President, I ask unanimous consent to have printed in the RECORD the joint explanatory statement of the conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment strikes all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the Senate amendment and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes.

#### SECTION 2. DECLARATION OF PURPOSE

Both the House bill and the Senate amendment contained declarations of purpose reflecting their respective provisions. The conference agreement contains a declaration of purpose reflecting the agreements reached in conference.

#### SECTION 3. REHABILITATION SERVICES ADMINISTRATION

The Senate amendment requires that the Commissioner of the Rehabilitation Services Administration be appointed by the President. The House bill contains no comparable provision. The House recedes.

The House bill provides that the Secretary shall establish, within the Rehabilitation Services Administration, a Center for Technological Assessment and Application. Such Center, in consultation with the National Science Foundation and the National Academy of Science, will be responsible for developing, supporting and stimulating the development and utilization and application of technical, medical and scientific achievement and psychological and social knowledge to solve rehabilitation problems.

The Senate amendment provides that the Secretary, through the Commissioner in coordination with other programs in HEW, in carrying out research under this Act, shall establish the expertise and technical competence, in consultation with the National Science Foundation and the National Academy of Science, to develop and support the development and utilization and application of advanced medical technology, etc., scientific achievement and psychological and social knowledge to solve rehabilitation provision.

The conference report adopts the Senate provision.

The Senate amendment provides that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the existing Vocational Rehabilitation Act, are to be expended only for programs, personnel, and the administration of programs, carried out under this Act. The House bill contains no comparable provision. The House recedes.

### SECTION 7. DEFINITIONS

In the definition of "establishment of a rehabilitation facility", the House bill provides that the Commissioner shall prescribe regulations with regard to rehabilitation facilities and the expenditure of funds. The Senate amendment provides that the Secretary shall prescribe these regulations. The House recedes.

In the definition of "Federal share", the House bill provides that the Commissioner shall prescribe regulations with respect to the expenditures of political subdivisions of States which may be treated as State expenditures. The Senate amendment provides that the Secretary shall prescribe these regulations. The House recedes.

The House bill defines the term "handicapped individual" to mean any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit from vocational rehabilitation services.

The Senate amendment provides that the term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.

The conference agreement includes the Senate provision, but the Conferees note that the phrase in terms of employability" is merely clarifying in nature and does not differ substantially from the House provision.

### SECTION 8. ALLOTMENT PERCENTAGE

The House bill provides that the Commissioner, while the Senate amendment provides that the Secretary, shall promulgate the allotment percentages. The House recedes.

### *Section 100. Authorization of Appropriations for Vocational Rehabilitation Services.—Basic Program*

[In millions]

| | House | Senate |
|---|---|---|
| Fiscal year 1973 | ---- | $590 |
| Fiscal year 1974 | $660 | $610 |
| Fiscal year 1975 | $690 | $640 |

The Senate amendment further provides that additional sums may be appropriated if Congress deems necessary. The House bill contains no comparable provision.

The Conference agreement adopts the House provision, but with an amendment reducing the amounts authorized to be appropriated to $650,000,000 for fiscal year 1974 and $680,000,000 for fiscal year 1975.

*The Authorization of Appropriations for Innovation and Expansion Grants*

| Fiscal year: | House | Senate |
|---|---|---|
| 1973 | ---------- | $35, 860, 000 |
| 1974 | Such sums | 37, 000, 000 |
| 1975 | Such sums | 39, 000, 000 |

The Senate amendment further provides that Congress may appropriate such additional sums for each such year as deemed necessary. Of the sums appropriated under this paragraph, $1,000,000 each year is to be available only for the purpose of carrying out part D of title I (relating to the study of services to severely handicapped individuals).

The House bill provides for Congress to appropriate such sums as necessary to carry out the study separate from the funds authorized to carry out the innovation and expansion grants under section 120.

The House recedes with respect to fiscal years 1974 and 1975. With respect to FY 1973, see the explanation of section 500(b).

### SECTION 101. STATE PLANS

Throughout section 101, the House invests authority in the Commissioner, whereas the Senate amendment invests authority in the Secretary. The House recedes.

The House bill requires that the State plan show the order of selection of individuals to insure that services are provided first to those individuals with the most severe handicaps.

The Senate amendment requires a method of selection insuring special emphasis to those individuals with the most severe handicaps.

The Senate recedes.

The Conferees retained the House language which declares that those individuals with the most severe handicaps shall be served first by State rehabilitation agencies. However, the Conferees wish to make clear that it is not their intention that the Rehabilitation Services Administration or any State rehabilitation agency discontinue or refuse services to any handicapped individual because of the *type* of disability the person has. Moreover, the Conferees stress that this provision and those provisions governing eligibility for services in the basic program are intended to emphasize services to those individuals who have severe physical or mental disabilities and that persons with social disadvantages or handicaps are not by virture thereof made eligible for services under this program.

### SECTION 102. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

The House bill provides that the written program shall set forth the terms and conditions under which goods and services will be provided to individuals.

The Senate amendment specifies that, in addition to the terms and conditions, the "rights and remedies" under which goods and services will be provided to individuals shall also be set forth.

The House recedes.

The House bill provides that each written program will be reviewed annually at which time each individual will be afforded an opportunity to review and reconsider its terms.

The Senate amendment provides that the individual may have an opportunity to review such program and renegotiate its terms annually.

The Conference agreement, in lieu of "reconsider" in the House bill and "renegotiate" in the Senate amendment, inserts the words "jointly redevelop".

In addition, the Senate amendment provides that the program shall include, where appropriate, a detailed explanation of the availability of a client assistant project.

The House bill has no comparable provision.

The House recedes.

### SECTION 104. NON-FEDERAL SHARE FOR CONSTRUCTION

The House bill provides that the non-Federal share is subject to such limitation as may be prescribed in regulations issued by the Commissioner. The Senate amendment provides this authority to the Secretary. The House recedes.

### SECTION 110. STATE ALLOTMENTS

Existing law provides that the allotment to the States be based on the amount authorized to be appropriated.

The House bill makes no change in this provision.

The Senate amendment would base the allotment on the amount of money appropriated.

The Senate recedes.

Existing law provides that the allotment to any State shall be at least $1,000,000. This minimum is provided by reducing each State's allotment proportionately.

The House bill provides that a State shall receive no less than $2,000,000 or ¼ of 1% of the amount appropriated, whichever is greater.

The Senate amendment provides that each State shall receive ¼ of 1% or the alternative minimum amount ($2,000,000 unless adequate funds are not appropriated in which event a $1,000,000 minimum would apply to assure that each State receive the same amount as received for the Basic Program under section 2 for FY 1973).

The Senate recedes.

The House bill, but not the Senate amendment, provides that in the event a state allotment is less than the total payments received under section 2 of the Vocational Rehabilitation Act for FY 1973, such State shall be entitled to such additional amounts as necessary to prevent such decrease in payments.

The Senate amendment provides that if adequate funds are not appropriated to permit payment of the $2 million minimum to each State entitled to such minimum without reducing any other State's allotment below its FY 1973 amount, the minimum shall remain at $1 million.

The Senate recedes, subject to technical changes in the House provision to clarify the meaning.

The House bill provides that whenever the Commissioner determines that a State will not utilize its allotment, he shall make such amount available to one or more States. The Senate amendment provides similar authority, after reasonable opportunity for the State agency involved to submit comments. The House recedes.

### SECTION 111. PAYMENTS TO STATES

The House bill provides that the Commissioner, whereas the Senate amendment provides that the Secretary, shall make the payment to the States. The House recedes.

### SECTION 112. CLIENT ASSISTANCE

The Senate amendment, but not the House bill, requires the Secretary to set aside a portion of the funds appropriated for special projects and demonstrations (section 304 in the Conference report) to carry out client assistance demonstration projects.

The amount set aside was up to $1.5 million, but not less than $500,000 for FY 1973; and up to $2.5 million but not less than $1 million for FY 1974 and FY 1975.

There were to be no less than 10 and no more than 20 geographically dispersed projects.

The purpose would be to provide counselors to inform and advise clients and client applicants in the project area of all available benefits and to assist them in their relationships with projects, programs and facilities.

The project staff was to be afforded reasonable access to policy-making and administrative personnel of State and local rehabilitation programs.

The project must submit an annual report, through the State agency, to the Secretary and the Congress.

A state agency must not discourage individuals from availing themselves of the project services.

The project shall be funded, administered and operated by the State agency.

The Conference agreement contains the Senate provision with the following modifications:

(1) The amount set aside is to be up to $1.5 million, but not less than $500,000 for FY 1974, and up to $2.5 million, but not less than $1 million, for FY 1975, but funds authorized to carry out this program will be made available only if new dollars are added to section 304 funding for special projects and demonstrations above the amount obligated for such projects from appropriations under the Vocational Rehabilitation Act in fiscal year 1973. It is the understanding of the Conferees that no funds will be taken from other sections to pay for client assistance projects and that the level of funding of existing programs under section 304 will not be reduced to provide funding for those projects.

(2) Assistance in relationships with projects, programs, and facilities would be provided clients and client applicants only upon request of a client or client applicant.

(3) The number of such projects and demonstrations would be not less than 7 nor more than 20.

(4) The employees of the projects may not be presently serving as staff or consultants or receiving benefits of any kind from a rehabilitation project, program, or facility funded under this Act in the project area.

(5) Each project is to be afforded reasonable access to policy-making and administration personnel in State and local rehabilitation programs, projects, and facilities.

(6) Projects may be carried on only with the concurrence of the appropriate State agency.

### SECTION 120. STATE ALLOTMENTS

The House bill establishes, for innovation and expansion grants, a minimum of $50,000 or such other amount specified as a minimum allotment in an appropriations Act.

The Senate amendment establishes the same minimum, but with no reference to an appropriations Act.

The House bill provides authority to the Commissioner under this part, whereas the Senate amendment provides authority to the Secretary.

In both instances, the conference report includes the language of the Senate amendment.

### SECTION 121. PAYMENTS TO STATES

The House bill provides that funds appropriated shall remain available through FY 1976. The Senate amendment provides that funds shall remain available through FY 1975. The Senate recedes.

### SECTION 130. SPECIAL STUDY

The House bill requires the Commissioner to conduct a special study of the needs of severely handicapped individuals, which would include research and demonstration projects, whereas the Senate amendment provides that the study may include such projects. The Senate recedes.

The House bill authorizes the appropriation of such sums as are necessary to carry out the purposes of the special study. The Senate amendment would earmark funds appropriated for innovation and expansion grants (section 100(b)(2)) to carry out the purposes of this provision. The House recedes.

The Senate amendment requires the report to be submitted no later than January 1, 1975. The House bill requires the report no later than June 30, 1975. The Conference agreement requires the report to be submitted no later than February 1, 1975.

### SECTION 200. DECLARATION OF PURPOSE

The Senate amendment, but not the House bill, contains a declaration of purpose for a research and training title. The House recedes.

### SECTION 201. AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING GRANTS

*Research*

| | House | Senate |
|---|---|---|
| Fiscal year 1973 | ---------- | [1] $20,346,000 |
| Fiscal year 1974 | Such sums | [1] 25,000,000 |
| Fiscal year 1975 | Such sums | [1] 25,000,000 |

[1] Plus for each such year such additional sums. Of the funds appropriated 15% in FY 1973, 20% in FY 1974, and 25% in FY 1975 are to be expended pursuant to section 202(b)(2) (Establishment and support of rehabilitation engineering research centers).

*Training*

| | House | Senate |
|---|---|---|
| Fiscal year 1973 | ---------- | [1] $27,700,000 |
| Fiscal year 1974 | Such sums | [1] 27,700,000 |
| Fiscal year 1975 | Such sums | [1] 27,700,000 |

[1] Plus for each such year such additional sums.

The Senate amendment, but not the House bill, provides that funds appropriated under this title shall remain available until expended.

The House recedes on both items with respect to fiscal years 1974 and 1975. With respect to fiscal year 1973, see explanation of section 500(b).

### SECTION 202. RESEARCH

The House bill provides that the Commissioner, whereas the Senate amendment authorizes the Secretary through the Commissioner in coordination with other appropriate HEW programs, to make research grants and contracts. The House recedes.

The House bill, but not the Senate amendment, includes a program for end-stage renal disease research. The Senate recedes.

### SECTION 203. TRAINING

The House bill provides that the Commissioner, whereas the Senate amendment provides that the Secretary through the Commissioner in coordination with other appropriate HEW programs, is authorized to make training grants and contracts. The House recedes.

### SECTION 204. REPORTS

The Senate amendment, but not the House bill, requires a full report on research and training activities. The House bill contains no comparable provision. The House recedes.

The Senate amendment creates a separate title (title II) for the research and training provisions. The comparable remainder provisions are contained in the House bill among those in title II. The House recedes.

### SECTION 300. DECLARATION OF PURPOSE

The Senate amendment contains a declaration of purpose for a title III—Special Federal Responsibilities. The comparable title in the House bill does not. The House recedes.

### SECTION 301. AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION OF REHABILITATION FACILITIES

| | House | Senate |
|---|---|---|
| Fiscal year 1973 | ---------- | $550,000 [1] |
| Fiscal year 1974 | Such sums | $500,000 [1] |
| Fiscal year 1975 | Such sums | $500,000 [1] |

[1] Plus for each such year such additional sums.

The Senate recedes.

### SECTION 302. AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES

| | House | Senate |
|---|---|---|
| Fiscal year 1973 | ---------- | $10,300,000 [1] |
| Fiscal year 1974 | Such sums | $10,300,000 [1] |
| Fiscal year 1975 | Such sums | $12,000,000 [1] |

[1] Plus for each such year such additional sums.

The Senate recedes.

The House bill authorizes the Commissioner, whereas the Senate amendment authorizes the Secretary, to make grants to pay up to 90% of the cost of projects for providing vocational training services to handicapped individuals. The House recedes.

### SECTION 303. MORTGAGE INSURANCE

The House bill authorizes a program to provide mortgage insurance for rehabilitation facilities to insure up to 100 percent of any mortgage which covers construction of a public or nonprofit private rehabilitation facility. Administration of the program may be delegated to HUD. Total outstanding mortgages insured may not exceed $250 million. The Senate amendment has no comparable provision. The Senate recedes, except that the $250 million limit is reduced to $200 million.

### SECTION 205 OF THE HOUSE BILL. ANNUAL INTEREST GRANTS

The House bill authorizes the payment of annual interest grants to States and public or nonprofit agencies to reduce the cost of borrowing for construction of rehabilitation facilities.

The interest grant will be sufficient to reduce by 4 percentage points the interest rate otherwise payable or by one-half of such rate, whichever is the lesser.

The section authorizes necessary appropriations for the grants and provides that the amount of grants payable will not exceed $1 million in FY 1974, and $4 million in FY 1975. It also provides that no more than 15 percent of the funds provided for interest grants may be used in any one State.

The Senate amendment contains no comparable provision.

The conference substitute does not include this provision.

### SECTION 304. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | ---------- | [1] $12,000,000 |
| Fiscal year 1974 | Such sums | [1] 15,000,000 |
| Fiscal year 1975 | Such sums | [1] 17,000,000 |

[1] Plus for each such year such additional sums.

The house recedes with respect to fiscal year 1974 and 1975. With respect to fiscal year 1973, see the explanation of section 500(b).

The Senate amendment, but not the House bill, would require a specific set-aside of 10% of the funds appropriated under this section for services for migratory agricultural workers and further authorizes additional appropriations specifically for such services if necessary to bring the amount available up to $5,000,000. The House recedes with an amendment reducing the set aside to 5%.

The House bill authorizes the Commissioner, whereas the Senate amendment authorizes the Secretary, to make grants for special projects for handicapped individuals with special problems (spinal cord injured, older blind, and deaf persons, migratory agricultural workers, etc.) The House recedes.

Under the House bill, special project grants for establishing programs and facilities are to be made only to individuals with spinal cord injuries, older blind individuals, and deaf individuals whose maximum potential has not been achieved.

Under the Senate amendment, such grants are to be made to all handicapped individuals for the provisions of services which hold promise of expanding or otherwise improving services to handicapped individuals and such grants shall include grants for services for the individuals mentioned above. The House recedes.

The Senate amendment includes in section 303(b)(2) in clauses (A), (B), (C), and (D) provisions which shall be included in project and demonstration grants for providing services to individuals with spinal cord injuries. The House bill contains no comparable provision. The House recedes.

Both the House bill and the Senate amendment provide that services are to be provided to the families of migratory workers; however, the House bill, but not the Senate amendment, specifies that this is to be the case whether or not such family members are themselves handicapped. The Senate recedes.

Both the House bill and the Senate amendment authorize agreements with employers to prepare handicapped persons for suitable and gainful employment and the provision of technical assistance to rehabilitation facilities and for the removal of architectural and transportation barriers. The House bill gives authority under this section to the Commissioner, while the Senate amendment gives the authority to the Secretary. The House recedes.

### SECTION 305. NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

The House bill authorizes the appropriation of such sums for each of fiscal year 1974 and fiscal year 1975. The Senate amendment authorizes the appropriation of $1,200,000 for the 3-year period fiscal year 1973, fiscal year 1974, and fiscal year 1975, plus such additional sums.

The Senate amendment further authorizes for each such years such additional sums as are necessary for the operation of such Center.

The House bill makes no such authorization for the operation of the Center. The Senate recedes.

The House bill authorizes the appropriation of such sums as may be necessary for each of FY 1974 and FY 1975 for construction and operation of the Center. The Senate amendment authorizes the appropriation of $1,200,000 for the 3-year period—FY 1973, FY 1974 and FY 1975—plus such additional sums for construction and such sums as may be necessary for operation of the Center. The Senate recedes.

### SECTION 306. GENERAL GRANT AND CONTRACT REQUIREMENTS

The House bill places authority for carrying out this section in the Commissioner, whereas the Senate amendment places authority in the Secretary. The House recedes.

### SECTION 400. ADMINISTRATION

The House bill authorizes the Secretary to make such rules and regulations governing the administration of title III, Administration and Program and Project Evaluation; title IV, Office for the Handicapped; and title V, Miscellaneous. The House bill further authorizes the Secretary to delegate this authority.

The Senate amendment authorizes the Secretary to make such rules and regulations as he finds necessary to carry out the provisions of title I, Vocational Rehabilitation Services; title II, Research and Training; title III, Special Federal Responsibilities; and title IV, Administration of Program and Project Evaluation. The Senate amendment authorizes only such delegations of authority as are otherwise provided for in the Act. The House recedes.

### SECTION 403. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION

The House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for program and project evaluation.

The Senate amendment limits the amount which may be appropriated to an amount equal to one-half of 1% of funds appropriated for titles I, II and III, or $1,000,000—whichever is greater. The House bill contains no comparable provision. The House recedes.

### SECTION 404. ANNUAL REPORT

The Senate amendment, but not the House bill, specifically requires the report on title I to include detailed evaluation of service to those with the most severe handicaps.

The House bill requires the report to include a detailed evaluation of all persons receiving assistance under title I.

The Senate recedes with an amendment requiring that the report on title I services stress evaluation of services to those persons with the most severe handicaps.

### SECTION 405. SECRETARIAL RESPONSIBILITIES

The House bill in a separate title IV would establish an Office for the Handicapped in the Office of the Secretary of HEW to perform a number of general coordinating functions such as long-range planning, program analysis and evaluation, and an information and resource clearinghouse.

The Senate amendment requires that the same functions be performed by the Office of the Secretary but permits, without specifically mandating, a structural component to carry them out.

The conference agreement includes the Senate provision.

The Senate amendment requires the Secretary to give special emphasis to qualified handicapped individuals in selecting personnel to assist in the performance of the functions assigned to the Secretary. The House bill contains no comparable provision. The House recedes.

*Authorizations of appropriations*

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973--- | ---------- | Such sums |
| Fiscal year 1974--- | Such sums | $500,000 |
| Fiscal year 1975--- | Such sums | 500,000 |

The House recedes with respect to FY 1974 and 1975. With respect to FY 1973, see the explanation of section 500(b).

The Senate amendment requires the Secretary to set aside out of sums available to carry out the Act or available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section. He is required also to notify the appropriate committees of Congress of the amounts so set aside. The House bill contains no comparable provision. The House recedes, with a clarifying amendment.

### SECTION 407. STATE ALLOCATION STUDY

The Senate amendment requires a thorough study of the allotment of funds among the States of grants for basic vocational rehabilitation services authorized under title I. The House bill has no comparable provision. The House recedes.

### SECTION 500. EFFECT ON EXISTING LAW

The House bill in subsection (a) repeals the Vocational Rehabilitation Act effective July 1, 1973, whereas the Senate amendment repeals it 90 days after the enactment of this Act. The House recedes.

The House bill in subsection (b) extends to FY 1973 the authorizations in the Vocational Rehabilitation Act at the level specified for FY 1972. The Senate amendment contains no comparable provision. The Senate recedes.

### SECTION 501. EMPLOYMENT OF HANDICAPPED INDIVIDUALS

The Senate amendment, but not the House bill, establishes an Interagency Committee on Handicapped Employees.

The purpose of the Committee is to provide a focus for Federal and other handicapped employment, provide for review and approval by the Civil Service Commission of the adequacy of hiring, placement, and advancement practices of Federal agencies with respect to handicapped persons, and for consultation by the Committee with the Civil Service Commission and the making of recommendations by the Committee.

Each Federal department and agency in the executive branch of government (and the Postal Service and Rate Commission) is required to submit to the Civil Service Commission within 180 days after enactment an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals.

The Civil Service Commission is required on June 30, 1974, and at the end of each subsequent fiscal year, to make a complete report to the appropriate committees of Congress on the hiring, placement, and advancement of handicapped individuals in the Federal government, including its recommendations as to legislation or other action to insure the adequacy of such practices, which report shall include the Interagency Committee's evaluation of the Commission's activities.

The House recedes.

### SECTION 502. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The House bill, but not the Senate amendment, directs the Board to undertake a study of transportation and housing needs and problems for handicapped individuals. The Senate recedes.

*Authorizations of appropriations for Architectural and Transportation Barriers Compliance Board*

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973--- | ---------- | Such sums |
| Fiscal year 1974--- | Such sums | $1,250,000 |
| Fiscal year 1975--- | Such sums | $1,500,000 |

The conference report authorizes the appropriation of $1,000,000 each for fiscal years 1974 and 1975.

### SECTION 503. EMPLOYMENT UNDER FEDERAL CONTRACTS

The House bill permits the President to waive the requirements of this section relative to affirmative action programs for employment of handicapped individuals by Government contractors, when he determines that special circumstances in the national interest so require. The Senate amendment contains no comparable provision. The Senate recedes.

*Title Amendment.* The Senate amendment, but not the House bill, contains a title amendment. The House recedes.

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
BILL HATHAWAY,
ROBERT T. STAFFORD,
ROBERT TAFT,
RICHARD S. SCHWEIKER,
GLENN BEALL,
*Managers on the Part of the Senate.*

CARL D. PERKINS,
JOHN BRADEMAS,
PATSY T. MINK,
ALBERT H. QUIE,
EDWIN D. ESHLEMAN,
*Managers on the Part of the House.*

Mr. CRANSTON. Mr. President, I believe that what I have said should make very clear the importance of the Senate approving the conference report, and I urge that we do so by an overwhelming vote.

I would be remiss if I did not acknowledge the enormous contributions to the legislative product before us today that has been made by so many of my colleagues in both Houses. We are all indebted to them for the dedication and vigor with which they have pursued the enactment of legislation to provide a program we can all be proud of to assist America's 9.8 million handicapped persons.

So, Mr. President, I want to thank the Senator from West Virginia (Mr. Randolph), the chairman of the Subcommittee on the Handicapped, for his wonderful help on this measure and for his permitting me to handle it. I am deeply grateful for that opportunity. I am delighted that we were able to work so closely together to come up with a bill that meets most of the objectives we have had in mind from the start, a bill I am now delighted to support in its present form.

I am also grateful to the Senator from Vermont (Mr. Stafford), the ranking minority member of the subcommittee, for his very, very hard work and his willingness to work with us as a team to get the best possible measure before the Congress and to the President for his signature. Also, I wish to express my appreciation for the hard work done by the chairman, Senator Williams and Senators Javits and Taft, as well as the members of the conference in the other body, Representatives Perkins, Brademas, and Quie, for their magnificent work.

I am delighted now to yield to the Senator from Vermont (Mr. Stafford).

Mr. STAFFORD. Mr. President, I yield myself so much time as I may consume.

I ask unanimous consent that Michael Francis, of my staff, may have privileges of the floor during the consideration of this conference report and the vote on it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, it has been a real pleasure to work with the distinguished Senator from California (Mr. Cranston) and with the very distinguished Senator from West Virginia (Mr. Randolph) and the other members of the subcommittee, the full committee, and the Senate conferees in the work that has gone forward in connection with H.R. 8070, the Rehabilitation Act of 1973.

Mr. President, as all my colleagues are aware, there is a long history of the Congress trying to enact H.R. 8070, the Rehabilitation Act of 1973, into law. The conference report before you reflects a compromise between the House-passed bill and S. 1875, a bill which passed the Senate with the administration's approval.

Of the items of difference between the House and the Senate that were of importance to the administration, I believe the Senate position was upheld on 90 percent of these items and, therefore, I feel the President will approve it.

Mr. President, I ask unanimous consent that a copy of a statement by Secretary of Health Education, and Welfare Caspar Weinberger asking the Congress to support the conference report of H.R. 8070 be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

[See exhibit 1.]

Mr. STAFFORD. Mr. President, this is a major piece of legislation introducing certain reforms to a program that has had a long and distinguished record of providing vocational training and rehabilitation for the handicapped of our Nation.

The Senate bill, S. 1875, introduced by myself and other members of the Labor and Public Welfare Committee, seeks to accommodate objections voiced by the administration in two previous vetoes of the Rehabilitation Act and also to maintain those very important initiatives to make the rehabilitation system more responsive to the needs of handicapped individuals, especially those whose handicaps are most severe.

There are no significant departures in this conference bill from the reforms which both the House and Senate felt were absolutely necessary to strengthen this Nation's rehabilitation effort.

Stated simply, the goal of this bill is to provide the necessary means of rehabilitation so that those individuals suffering from disabling handicaps can, through joint efforts with the rehabilitation program, become participants in our society and also have the Federal Government insure that the necessary opportunities exist for those handicapped individuals who have participated in the program.

I do not think it is necessary for me to reiterate all the significant changes that have been made in the program and that I have discussed in my previous statements. Suffice it to say that I feel this is a good bill which can receive the administration's support.

Mr. President, I ask that my colleagues unanimously support this conference report on the Rehabilitation Act of 1973.

Mr. President, I reserve the remainder of my time.

### Exhibit 1

### Statement by Caspar W. Weinberger, Secretary of Health, Education, and Welfare

I strongly urge the Congress to adopt the Conference Committee version of the Vocational Rehabilitation bill, H.R. 8070. The bill, which will be considered by both Houses today, is illustrative of the constructive legislation that results when the Congress and the Administration work together.

Earlier bills were vetoed because they set unrealistically high spending levels and endangered the basic vocational rehabilitation program, which has justifiably enjoyed bipartisan support for more than half a century, by diluting its orientation toward employment. H.R. 8070 has remedied these defects. It authorizes a generous level of funding and a solid program. It deserves the support of every Member of Congress.

Mr. CRANSTON. Mr. President, I thank the Senator very much for that statement and again for all the hard and effective work he has done on the conference report.

I yield five minutes to the distinguished Senator from West Virginia (Mr. Randolph), who has done so much over so many years in this field to help handicapped Americans, and most recently on this measure.

Mr. RANDOLPH. Mr. President, over the past year, nearly all has been said that could be emphasized in support of modernizing the Federal-State vocational rehabilitation program. In that time, the Rehabilitation Act has been reviewed by the Senate no fewer than six times—today marks the seventh.

The Subcommittee on the Handicapped began consideration of legislation to improve the vocational rehabilitation program in May of 1972. Much time and a prodigious amount of effort have been expended by Senators and staff to bring this conference report to the Senate.

On two previous occasions, more comprehensive Rehabilitation Acts have been vetoed by the President. This time I have sound reason to be very hopeful that H.R. 8070 will become law. The Senate-passed measure had the support of the administration. The measure before the Senate today differs in very few particulars, as has been said by the Senator from California (Mr. Cranston) and the Senator from Vermont (Mr. Stafford), from the Senate-passed bill.

Although the conference report on H.R. 8070 represents a compromise between the positions of the House and Senate, as is almost always the case, the Senate conferees were successful in holding the position of the Senate on 46 of the 65 differences in the two bills.

The pending legislation is not perfect, nor in my opinion, is it broad enough or ambitious enough. It is scaled down considerably from the previously vetoed measures, H.R. 8395 and S. 7. It is, nevertheless, an exciting and progressive bill which holds the promise of dramatically improving the Federal-State rehabilitation program.

As chairman of the Subcommittee on the Handicapped, I particularly thank the able floor manager of this legislation, Senator Cranston, for his capable leadership on the bill.

Our gratitude goes also to Senator Stafford, who has demonstrated his continuous and unflagging interest in rehabilitation legislation, as well as Senator Williams, Senator Javits, and Senator Taft, and other members of the Labor and Public Welfare Committee.

With dedication by the administration to actively implement the Rehabilitation Act of 1973, the handicapped citizens of America can look forward to a new and bright renaissance in vocational rehabilitation.

I urge my colleagues to give support to this worthwhile compromise measure, which I first introduced as S. 3987 on September 14, 1972.

Mr. CRANSTON. Mr. President, I thank the Senator from West Virginia once again for all he has done and for those very generous words.

Mr. STAFFORD. Mr. President, I also would like to thank the Senator from West Virginia for his words.

Mr. JAVITS. Mr. President, I am pleased that, as indicated by the statement of HEW Secretary Weinberger, the administration supports the adoption of the conference report on the Rehabilitation Act of 1973, H.R. 8070. As the Secretary points out, this is a most constructive and reasonable bill—I ask that the full text of his statement be included as a part of my remarks.

At the time of his confirmation hearings before the Senate Committee on

Labor and Public Welfare early this year, in a letter to the committee, Secretary Weinberger stated that—

> The Vocational Rehabilitation program is among the most successful in HEW.

He pointed out that—

> The benefits of the program are many times its cost. Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1.

The bill before us is consistent with that more than half century of tradition of Federal vocational rehabilitation programs.

When this measure was before the Senate last year there was particular discussion on the matter of allocations to the States. I am pleased that the bill now before us contains a provision I sponsored, section 407, which directs the Secretary of Health, Education, and Welfare, to "conduct a thorough study of the allotment of funds among the States for grants for basic vocational rehabilitation services authorized under part B of title I." The report is due by June 30 of next year and should serve as a guide and a resource to further congressional consideration of the basic services program formula which has for too long operated to the disadvantage of the handicapped in urbanized States.

In closing I should like to express my appreciation to the junior Senator from Vermont (Mr. STAFFORD), who as ranking minority member of the Subcommittee on the Handicapped did so much to hammer out the compromise which has resulted in congressional passage of this legislation and its support by the administration. He was ably supported by Senators TAFT, SCHWEIKER, and BEALL, the other minority members of the subcommittee. I should also like to express my appreciation to the chairman of the Subcommittee of the Handicapped, Senator RANDOLPH, and to his cofloor leader of this bill, Senator CRANSTON, who worked so long and so patiently to bring into being the measure now before us which, I am now quite sure, will soon be signed into law.

Mr. President, I urge acceptance of the conference report.

Mr. PACKWOOD. Mr. President, I would just like to add a personal note of appreciation to the House and Senate conferees for their efforts on this important vocational rehabilitation legislation. For too long the handicapped have been forced to suffer uncertainty and implicit lack of support, not because any of us opposed vocational rehabilitation programs, but because we couldn't agree on a bill. It seems to me that a great tragedy exists when the handicapped must bear the burden of our political struggles. This legislation is not just a game of words—it is literally the difference between dependency and self-sufficiency for over a million physically and mentally handicapped Americans. For example, in 1972 alone, our vocational rehabilitation programs provided assistance which enabled 326,138 disabled people to return to productive and meaningful lives.

Mr. President, I understand that the bill now before us for final approval is supported by virtually all parties, including the administration. Again, I want to commend my colleagues for seeking and obtaining this consensus, and for thereby avoiding further painful delays.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator CRANSTON, Senator STAFFORD, and Senator RANDOLPH in returning to the Senate floor today with the conference report to accompany H.R. 8070, the Rehabilitation Act of 1973. As all of my colleagues know, this is the third conference report we have brought to the Senate on this legislation; and I am pleased that the administration can finally join us in supporting this legislation.

This conference report is substantially similar to the Senate bill which was passed by this body on July 18. The major difference lies in the authorization of appropriations for the basic State-Federal vocational rehabilitation program under title I; under the conference agreement, this authorization is $650 million for fiscal year 1974 and $680 million for fiscal year 1975.

I point out for my colleagues that the conference report would authorize appropriations of $1.539 billion for the 2 fiscal years—1974 and 1975. This amount is $46.55 million more than the bill passed unanimously by the Senate on July 18, and only $138.55 million more than the President's budget request for these 2 years.

Mr. President, of an estimated minimum population of 9 million individuals who are eligible and could immediately utilize vocational rehabilitation services in fiscal year 1972, only 1.1 million individuals received any services throughout the 50 States. In my own State of New Jersey, despite a dramatic increase in the last few years of the total numbers of individuals served, the rehabilitation program continues to serve only 3.8 percent of the population. The approval and implementation, at long last, of this legislation will move this Nation toward serving these individuals through the important research and training provisions, through its procedural protections, and through the priority given to providing services to individuals with the most severe handicaps.

This conference report contains significant provisions which I believe will make important changes in the lives of many handicapped individuals. Among these provisions are the following:

A requirement that States provide individualized written rehabilitation programs for each individual receiving services;

Authorization of a program for client assistance to aid individuals seeking services under the rehabilitation program;

Direction to the State to give priority in services under the vocational rehabilitation program to those individuals with the most severe handicaps;

Direction to the Secretary of Health, Education, and Welfare to provide coordination and long-range planning for all programs which affect the handicapped within the Department;

The creation of an Architectural and Transportation Barriers Compliance Board to seek the elimination of barriers and compliance with Federal laws prohibiting architectural and other barriers;

The prohibition of discrimination in employment under Federal contracts and discrimination in Federal projects; and

A Federal Interagency Committee on the Employment of Handicapped Individuals.

Finally, Mr. President, I wish to thank my colleagues and their staff for the time and effort which they have spent in the last 15 months on this legislation. Through the continuing efforts of Senator CRANSTON and Senator STAFFORD, this legislation has maintained its integrity. The leadership of Senator RANDOLPH has insured that the Subcommittee on the Handicapped will continue its steadfast commitment to this program and the people it serves.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. Mr. President, I yield back the remainder of my time on behalf of the minority.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Colorado (Mr. DOMINICK), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 393 Leg.]

YEAS—88

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bennett
Bentsen
Bible
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits

Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—12

Bellmon
Biden
Brock
Church
Dominick
Fulbright
Gravel
Helms
Johnston
McIntyre
Saxbe
Tunney

So the conference report on H.R. 8070 was agreed to.

Mr. CRANSTON. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the Senate vote of agreement to the conference report H.R. 8070, the Vocational Rehabilitation Act of 1973 is evidence of the commitment the Congress has met in its responsibility in working out a program for the millions of Americans which the legislation will effect.

The legislation enacted today is much needed, and is the result of much hard work and rework. As we all are aware legislation in this area has been vetoed in both the 92d and 93d Congresses. The bill before us today will fulfill the goals set by Congress to expand and continue in a sound and responsible way the vocational rehabilitation work which the Congress and the country has been so dedicated to over the past 53 years.

Throughout my years in Congress, I have been a strong advocate of the vocational rehabilitation program. It is one of the oldest Federal grant-in-aid programs. It has demonstrated its effectiveness in returning over 3 million handicapped Americans to productive, working lives.

## MILITARY CONSTRUCTION AUTHORIZATION, 1974

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE). Under the previous order, the Senate will now proceed to the consideration of S. 2408, which the clerk will state.

The legislative clerk read as follows:

S. 2408, to authorize certain construction at military installations, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Michael J. Hemphill, on the staff of the Joint Committee on Defense Production, be allowed to be present on the floor during the consideration of S. 2408, the military construction authorization bill.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered. Who yields time on the bill?

Mr. TOWER. I yield myself such time as I may require.

Mr. President, I do not know that there is any controversy about the military construction bill before the Senate. It has been considered carefully. We went below the administration request by approximately $139 million, which includes an increase of $10.3 million over the prior years' authority

The principal features of the bill this year are that the military construction program reflects support of a base line military strength which is the lowest since the pre-Korean War period in early 1950; consolidation and realinement of the missions performed by the major installations; the shift from a draft dominated force to an all-volunteer force; and greater reliance on the mobilization readiness of the Reserve forces.

A large portion of the departmental request was directed at improving the attractiveness of military life in order to maintain an all-voluntary force.

Sixty percent of the total budget in this bill is devoted to housing needs. As every Member of this body knows, in our experiment with the all-volunteer force, we are finding that we have to make service life far more attractive and more comfortable.

Actually, 56 percent of our total defense dollar is going for personnel. This is a very high amount, when we consider that that leaves only 44 percent for the procurement of hardware, for day-to-day operations of the military, and for military construction. So we are paying a very high price for the experimentation with the all-volunteer force. I hope the experiment is successful. It is something that apparently the American people are demanding.

We must understand that most of the so-called peace dividend as a result of the conclusion of hostilities in Southeast Asia on our part has gone into additional personnel cost in the armed services, even though we have had force reductions in the Armed Forces. Our personnel costs have gone up, and that is reflected in the military construction authorization, in that we include 60 percent for housing. That is pretty much in the ballpark, with the normal percentage of the defense dollar now being spent for personnel.

I do not believe any items here are controversial. We have included $110 million for the Reserve forces, which seems to me to be almost inordinately small, considering the size of this authorization, which totals $2,835,444,000.

Mr. President, I yield to the Senator from South Carolina such time as he may require.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, this bill which provides for authorization in the amount of $2.8 billion in military construction during fiscal year 1974 has been carefully considered by both the Military Construction Subcommittee and the full Committee on Armed Services. The amounts requested are slightly greater than that approved by the committee. However, the distinguished chairman of the Military Construction Subcommittee, the senior Senator from Missouri (Mr. SYMINGTON), has thoroughly inquired into all of these projects in doing his usual outstanding job.

Mr. President, I would also like to commend the distinguished senior Senator from Texas (Mr. TOWER) who is the ranking minority member of the Military Construction Subcommittee. Both the chairman of the subcommittee and the ranking minority member did a fine job on this bill.

In my judgment, the bill is not everything that is desired, but we think it meets the requirements; we think it fulfills the main goals that the services have in mind in military construction; and we feel the bill is sound and that the bill should be passed by the Senate without delay. Since it accomplishes the main purposes, we hope it will receive prompt attention by the Senate.

The ACTING PRESIDENT pro tempore. Who yields time?

## RECESS UNTIL 11:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:45 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Accordingly, at 11:21 a.m., the Senate took a recess until 11:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

## EXECUTIVE SESSION

Mr. TOWER. Mr. President, I ask unanimous consent that the pending business, S. 2408, be temporarily laid aside and that the Senate go into executive session to consider four nominations reported favorably earlier today by the Armed Services Committee.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

There being no objection, the Senate

proceeded to the consideration of executive nominations.

### U.S. NAVY

The legislative clerk read the nomination of Mr. Joseph T. McCullen, Jr., of Maryland, to be an Assistant Secretary of the Navy.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the name of Mr. David Samuel Potter, of Wisconsin, to be an Assistant Secretary of the Navy.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the nomination is confirmed.

### U.S. AIR FORCE

The legislative clerk read the name of Mr. Walter B. LaBerge, of California, to be an Assistant Secretary of the Air Force.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the nomination is confirmed.

### U.S. ARMY

The legislative clerk read the nomination of Mr. Norman R. Augustine, of Texas, to be an Assistant Secretary of the Army.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. TOWER. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, the President will be immediately notified of the confirmation of these nominations.

## LEGISLATIVE SESSION

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1974

Mr. GOLDWATER. Mr. President, on H.R. 8916, the Departments of State, Justice, and Commerce and the judiciary appropriations bill, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. H.R. 8916 has been reported. I cannot find a report from the committee. I am told that there is one; that a dummy report has been submitted. I have never heard of this practice before. I should like to ask the Chair if it is proper to proceed in this way.

The PRESIDING OFFICER. This is a practice that is frequently followed. A so-called dummy report will be submitted at the desk with the understanding that the committee will have until midnight that same day or, by unanimous consent, a longer time, provided that the committee will have until such time to send the report to the Printing Office. In this instance, I am advised that the printed report should be available at this time.

The Chair will be happy to check to see if the printed report has come up from the Government Printing Office and the distinguished Senator from Arizona will then be so advised.

Mr. GOLDWATER. I appreciate the Chair's volunteering to act. The reason I was interested is that I understand that the bill is to come up on Monday. I am interested in it, but I have not been able to read anything about it, and I was wondering whether this practice had been raised before. It seems to me to be a little bit out of bounds but, with the Chair's assurance, I think I can live with it.

The PRESIDING OFFICER. The Senator from Arizona has expressed a legitimate concern and the Chair will attempt to ascertain if and when the report was printed and the Senator will be so advised.

Mr. GOLDWATER. I thank the Chair and suggest the absence of a quorum.

Mr. TOWER. Mr. President, I ask unanimous consent that the time consumed by the quorum not be charged to either side.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

## NORTH ATLANTIC ASSEMBLY—APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HASKELL). The Chair, on behalf of the Vice President, as a supplementary announcement, has appointed the following Senators to compose the complete group, as of now, to attend the North Atlantic Assembly, to be held in Ankara, Turkey, October 21–27, 1973: Senators SPARKMAN, Chairman, KENNEDY, TUNNEY, BENTSEN, HUMPHREY, JAVITS, PEARSON, COOK, STEVENS; and the following Senators to be alternate delegates to the same conference: Senators MANSFIELD, RANDOLPH, PELL, MCINTYRE, BAYH, EAGLETON, and BUCKLEY.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HALEY, Mr. MELCHER, Mr. JOHNSON of California, Mr. UDALL, Mr. SAYLOR, Mr. STEIGER of Arizona, and Mr. YOUNG of Alaska were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the bill (S. 1141) to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, immediately following the remarks of the distinguished Senator from Minnesota (Mr. HUMPHREY) and prior to the remarks of the equally distinguished Senator from Minnesota (Mr. MONDALE), I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT UNTIL MONDAY, SEPTEMBER 17, 1973

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later in the day this order was modified to provide for the Senate to convene at 11 a.m. on Monday.)

## RECESS UNTIL 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 12:30 p.m.

The motion was agreed to; and at 12:10 p.m., the Senate took a recess until 12:30 p.m.; whereupon, the Senate reassembled when called to order by Mr. HASKELL.

## QUORUM CALL

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO MONDAY NEXT AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATORS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders previously entered for the recognition of Senators on Monday next, the following Senators be recognized for not to exceed 15 minutes each and in the order stated: Senators CURTIS, BUCKLEY, and GRIFFIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 1:04 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes.

The motion was agreed to; and at 12:34 p.m., the Senate took a recess until 1:04 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

## QUORUM CALL

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MILITARY CONSTRUCTION AUTHORIZATION, 1974

The Senate continued with the consideration of the bill (S. 2408) to authorize certain construction at military installations, and for other purposes.

Mr. SYMINGTON. Mr. President, the bill before the Senate today provides construction and other related authority for the military departments and defense agencies within and outside the United States, including authority for all costs of military family housing and the construction of facilities for the Reserve components.

The total new authority granted by the bill is $2,813,033,000. In addition thereto, approval is granted for an increase in prior years authority of $10,361,000, for a total authorization of $2,835,444,000.

After careful consideration of some 680 individual projects at 287 named installations within the United States and overseas, the committee approved an amount totaling approximately $139 million below the budget request. This is a decrease of about 5 percent in new authority.

Considering the composition of the bill, the committee considers this to be a substantial reduction, but is of the opinion the amount granted is fully adequate to provide for the construction needs of the Department of Defense during fiscal year 1974.

Again this year, as has been the case for the past couple of years, a large portion of the departmental request was directed at improving the attractiveness of military life in order to maintain an all volunteer force.

For example, 60 percent of the total budget request is devoted to military housing needs for bachelor personnel and military families. We are increasingly having problems securing enlistees because of the volunteer program, and this certainly should help.

In the Army program, exclusive of $80 million provided for NATO infrastructure, 68 percent was earmarked for bachelor housing. This might be compared to 22 percent for the Navy and 13 percent for the Air Force. In total, $501 million was requested for bachelor housing for the three military services.

Over $91 million was requested for community support facilities such as gymnasiums, servicemen's clubs, and other morale related facilities.

Beginning this year, the Department has embarked on a program to update and modernize aging medical facilities in order to provide modern and efficient medical care. About $148 million was requested for this purpose.

For the most part, the committee has approved these requests.

A reduction was made, however, of about $50 million in the military family housing program. This was made possible by recouping certain authority granted last year for a number of housing units that were not constructed due to the base closure program, the deferral of some 657 units of new housing that is questionable, and an adjustment to an increase in the unit cost requested this year.

Nevertheless, a very adequate family housing program is provided for. In substance, it provides for the construction of 11,032 units of new housing during this fiscal year, and grants an increase in the average unit cost limitation from $24,000 to $27,000 in order to cover the increase in building costs and to provide a little additional living space primarily for noncommissioned officers.

Mr. President, I wanted to specifically call these matters to the attention of the Senate today in light of the difficulties the voluntary force concept seems to be facing.

The months of June, July, and August are supposed to be among the best for recruitment, but enlistments have fallen well behind quotas, primarily in the Army. For example, in June of this year, the Army got 90 percent of the number of personnel wanted; in July, the figure dropped to 76 percent, but climbed back to 81 percent in August.

Recruiting and training personnel is an expensive proposition. Special efforts must be made to retain trained personnel now in the service and to encourage others to enlist. If providing decent quarters, modern medical facilities, and other morale-related facilities will help retain personnel and encourage others to enlist, then it is believed the money will be well spent.

Another major request this year was for 98 air and water pollution projects. About $110 million is provided in the bill for this purpose. I am glad to note that this is a substantial decrease from last year's request. This indicates that the Department has turned the corner in their pollution abatement program.

Of particular interest to some, I am sure, will be the fact that the bill contains about $53 million for projects made necessary as a result of the base closures and realinements announced last April. These have been substantially approved. We know from past experience that it would serve little purpose to defer such projects in the hope that announced closures might be reversed or delayed.

Last year the committee denied the authorization requested for the beginning of the Trident submarine base. At that time the Navy was uncertain as to the location, or the cost, for that matter. It was then estimated the cost would be around $1 billion. It would seem a year's delay proved fruitful. In the interim a site was selected in Washington State, and the estimated cost is now about one-half of last year's estimate. The bill provides $118.3 million for the first increment of the Trident facilities.

For the Reserve Forces $109.7 million was provided, which is the largest program proposed to date. This is the third year in which the committee has approved a substantial increase in the program for construction of training facilities for the Reserve forces. These increases reflect the continuing concern of the committee, as well as the Department of Defense, that the Reserve components be recognized as a vital element on the first line of defense against external threats to the Nation. Department of Defense witnesses have indicated that current defense planning envisages the Reserve and the National Guard as a primary source of military manpower in future emergencies in lieu of increased draft calls.

Finally, Mr. President, I wish to call attention to section 204, on page 18, of the bill before you. This section pertains to the naval weapons range on the island of Culebra. The naval training activities on this small island off the eastern coast of Puerto Rico has been a political and an emotional issue for a number of years. After extensive studies were made, the Secretary of Defense, on May 24, 1973, ordered the weapons range activities removed from Culebra and relocated to certain uninhabited islands off the western coast of Puerto Rico. At the time hearings were held on this bill the Navy had not submitted to the committee any plans for this move, or estimates of cost. The longer this move, which is inevitable, is delayed, the more costly it will be. The provision in question will require the Navy to make this move by July 1, 1975, and authorizes the appropriation of $12 million for this purpose.

Mr. President, I believe that I have fairly outlined the salient features of the bill before you. As I have previously indicated, the committee in reporting the bill is confident that the construction needs of the Department of Defense will be adequately provided for.

Mr. TOWER. Mr. President, I yield myself such time as I may require. I already have made my opening remarks, and the Senator from South Carolina (Mr. THURMOND) has made his opening remarks. I do not know of anyone on this side who wants to comment on the military construction bill, and unless there are amendments, I would be prepared to yield back my time.

Mr. MANSFIELD. Mr. President, will the Senator yield to me for 2 minutes for the purpose of offering an amendment?

Mr. SYMINGTON. I yield.

Mr. MANSFIELD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 26, between lines 13 and 14, insert the following:

SEC. 304. (a) Section 301 of Public Law 92-145 is amended under the heading "Inside the United States" as follows: Under the subheading "Strategic Air Command" with respect to Malstrom Air Force Base, Great Falls, Montana, strike out "$522,000" and insert in place thereof "$735,000".

(b) Public Law 92-145 is further amended by striking out in clause (3) of section 702 "$226,484,000" and "$247,347,000" and inserting in place thereof "$226,697,000" and "$247,560,000", respectively.

On page 26, line 14, strike out "Sec. 304" and insert in lieu thereof "Sec. 305".

Mr. MANSFIELD. Mr. President, the fiscal year 1972 Military Construction Authorization Act which was enacted in 1971 included an important project at Malmstrom Air Force Base, Mont. This was for a dormitory to house single airwomen. Malmstrom Air Force Base is one of the bases designated to utilize WAF personnel in various essential fields. Appropriate facilities are needed at Malmstrom to properly accommodate these single women airmen residing on base. At present, they are housed in dormitories designed for male servicemen, and these barracks do not meet the desired standards for female ocupancy.

The project previously approved by Congress was for 120 persons at a cost of $522,000. This was the only project for Malmstrom during that fiscal year. Bids for the dormitory were received in April 1973. Due to rapidly escalating construction costs throughout the country, this project could not be legally awarded. The total cost, based on the lowest bid submitted, exceeds the base authorization. The current estimate, based on valid bids, is $735,000 which incorporates the cost escalation since the bids were submitted.

In order to construct this essential project, the authorization for Malmstrom AFB in the fiscal year 1972 authorization law must be increased by $213,000 to a total of $735,000.

Mr. President, this information came in too late for the committee to consider it. I would urge the committee and the Senate to give approval to the amendment.

Mr. SYMINGTON. Mr. President, the Senator from Texas (Mr. TOWER) has indicated he would accept the amendment, and I am prepared to accept the amendment.

Mr. TOWER. Mr. President, I accept the amendment.

Mr. MANSFIELD. I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SYMINGTON. Mr. President, I have a statement from the distinguished senior Senator from Massachusetts (Mr. KENNEDY) which I wish to read into the RECORD, inasmuch as he is unable to be in the Chamber at this time.

He writes that he would like to thank the Senator from Missouri, the chairman of the Military Construction Subcommittee and acting chairman of the full committee, for the decision to hold hearings in June on the Navy base closings. He states that he knows these decisions added to an already difficult economic situation in his State.

He asks if it is not correct that in this bill there is some $53 million requested by the services for additions at other bases made necessary by the closing of existing bases. The answer is yes.

He asked if we would agree that Congress was given very little opportunity to analyze effectively the reasons offered by the Defense Department for their specific actions until he scheduled hearings on that subject.

I regret that the answer to that question also was yes.

In that regard he asks whether I would agree that the detailed record finally provided that hearings should not have had to await formal action by the committee but should have been provided by the Department of Defense at the same time that it announced an intention to close bases.

My answer to that would also be yes.

He also asks whether I would agree that there appears to have been a somewhat less than thorough analysis of the economic effect of these decisions, as well as of the relative merits of individual bases prior to the decision to close was made and that in any case, this material was not originally offered to the committee and the Congress as part of DOD's seemingly clear responsibilities under section 613 of the Military Construction Authorization Act of 1967 and under section 125 of title 10.

We had hearings for several days for the people of the Commonwealth of Massachusetts and also the State of Rhode Island, and I would agree to that.

He asked if I would show his concern that the ultimate costs may be far more than what were originally estimated. He notes that on page 21 one element of the Navy's transfer of facilities already has been shown to be shortsighted.

I can only say that in general I agree with the observations of the senior Senator from Massachusetts. I think it is most unfortunate that with so many bases abroad, many of which I consider unnecessary to the security of the United States, we had to close the well known Navy base, the Boston Navy Yard, noted for its efficiency, and also the closing of so much in the State of Rhode Island.

I submit this for the RECORD for the Senator from Massachusetts along with my responses.

### AN IMPORTANT DAY FOR THE PEOPLE OF CULEBRA, PUERTO RICO

Mr. JAVITS. Mr. President, usually the bill presently under consideration, the military construction authorization bill (S. 2408) is not a controversial one. However, one section of this bill, section 204, signifies the end of one very controversial issue and a matter that has troubled me deeply: the use by the Navy of the inhabited island of Culebra, Puerto Rico as a weapons testing range. For many years the people of Culebra have been subjected to unnecessary harassment and, indeed danger to their personal safety by the use of this island as a weapons testing range. In the past I have supported legislation to bring the weapons testing there to an end, and now our efforts are brought to fruition. Commendably, on May 24, 1973 then Secretary of Defense Richardson announced his decision to move the weapons range from Culebra, effective July 1, 1975. This decision will now be given statutory effect by Section 204, when it becomes law, which reads as follows:

SEC. 204. In order to permit the execution of an order of the Secretary of Defense, dated May 24, 1973, that the Department of the Navy transfer all Atlantic Fleet weapons

> range activities now conducted on or near the island of Culebra to the islands of Desecheo and Monito, not later than July 1, 1975, there is hereby authorized to be appropriated the sum of $12,000,000 for construction and equipment for substitute facilities, such sums to remain available until expended.

Mr. President, I want to commend the Armed Services Committee for including this provision in the bill. Today is an important day for the people of Culebra and the people of the United States.

**Mr. BAKER.** Mr. President, I wish to commend the chairman and members of the Senate Armed Services Committee for providing $12 million in the military construction bill, presently pending before the Senate, to effect the transfer of the Atlantic Fleet Weapons Range from the inhabited island of Culebra to the two uninhabited islands of Desecheo and Monito.

This transfer was ordered by the Secretary of Defense on May 24, 1973, and it represents the fruition of efforts by many to end the Navy's use of this tiny island east of Puerto Rico as a target for naval weapons. For years, the Navy claimed that Culebra was essential to the national security as a target for ship-to-shore and aerial bombardment until 1972, when two studies conducted by DOD concluded that there were other islands in the general vicinity that were uninhabited and that would serve the same security purpose. Thus, Senator Humphrey and I introduced legislation, cosponsored by 38 Members of this body, to force the Navy to move elsewhere for their target practice; and I was very pleased to see Elliot Richardson, in his last action as Secretary of Defense, order the Navy to complete such a transfer by July 1, 1975.

The questions of how to effect the transfer and how to protect Culebra's unique environment from uncontrolled development remain to be answered. However, I am confident that the Department of Interior, the Navy, and the Government of the Commonwealth of Puerto Rico can work out these details in the near future and that the transfer can be brought about as quickly and smoothly as possible.

The funds included in section 204 of the military construction bill are essential to this purpose and I want to especially commend the junior Senator from Washington for bringing this important matter to the attention of the Armed Services Committee during the markup of the bill.

**Mr. ROBERT C. BYRD.** Mr. President, my distinguished colleague from California (Mr. Tunney) is necessarily absent from today's discussion of the military construction authorization bill. However, he has expressed considerable interest in this measure and has prepared a statement for the Record.

I ask unanimous consent that Senator Tunney's statement be included in the Record.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

### STATEMENT BY SENATOR JOHN TUNNEY

Mr. President, on August 3, 1973, I submitted the following statement for the Record to the Chairman of the Armed Services Military Construction Subcommittee. I ask unanimous consent that my statement be inserted in the Record at this point.

Mr. President, I was advised this item would not be included in Fiscal Year 1974 Military Construction Appropriation Authorization. However, I do not at this time have an amendment to the Military Construction Bill because I am assured funds for construction of a new 15th Air Force Headquarters at March Air Force Base in Riverside, California, will be a part of the FY '75 Milcon authorization request.

The 15th Air Force is an integral part of the Strategic Air Command. Although headquartered at March AFB, California, there are four divisions throughout the West Coast, including the 12th Strategic Missile Division at F.E. Warren AFB, Wyoming, and the 47th Division at Fairchild AFB, Washington.

During August 1972 I toured the present 15th Air Force Headquarters and became aware of certain deficiencies in the general structures housing of the headquarters which can best be described as 26 wood frame, World War II era buildings, in an advanced state of deterioration, which are widely separated.

Mr. President, this separation results in inefficiency and a significant loss in man-hours during consideration and discussion of classified matters and various staff actions. Further, the additional direct and indirect cost of maintenance to these substandard facilities.

Mr. President, the efficiency of an Armed Forces and their efforts to provide adequate defense necessitates certain considerations relative to adequate facilities. I would only restate my continued awareness of this need to construction of a new 15th Air Force Headquarters at March AFB, California.

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### STATEMENT OF SENATOR JOHN V. TUNNEY BEFORE THE ARMED SERVICES MILITARY CONSTRUCTION SUBCOMMITTEE OF FUNDING A NEW 15TH AIR FORCE HEADQUARTERS AT MARCH AIR FORCE BASE, AUGUST 3, 1973

Mr. Chairman: I wish to support the authorization of funds for construction of a new 15th Air Force Headquarters at March Air Force Base in Riverside, California.

The 15th Air Force (Commanded by Lt. Gen. William F. Pitts) is an integral part of the Strategic Air Command. Although headquartered at March AFB, California, there are four divisions throughout the West Coast, including, the 12th Strategic Missile Division at Davis-Monthan AFB, Arizona, the 14th Air Division at Beale AFB, California, the 4th Strategic Missile Division at F. E. Warren AFB, Wyoming and the 47th Air Division at Fairchild AFB, Washington.

In August 1972, I had the pleasure and honor of touring the 15th Air Force Headquarters and meeting the then new Commander, General Pitts. At that time, I became aware of certain deficiencies in the general structures housing the headquarters and for your viewing I have enclosed some pictures that graphically illustrate the deterioration of these World War II era buildings, as a part of this presentation.

Mr. Chairman, this construction project will combine into a single facility numerous command and staff activities of Fifteenth Air Force located at March Air Force Base. These activities are presently housed in twenty-six deteriorated World War II wood frame buildings which are widely separated. This separation results in inefficiency and a significant loss in man-hours during consideration and discussion of classified matter and various staff actions. The twenty-six existing substandard buildings will be disposed of upon completion of this project.

The estimated cost of the Department of the Air Force is set at $2,500,000. The quantitative data in square footage is as follows:

| | |
|---|---|
| Total requirements | 89, 205 SF |
| Existing—substandard | 107, 223 SF |
| Existing—adequate | 27, 055 SF |
| Deficiency | 62, 150 SF |

The efficiency of an Armed Forces and their efforts to provide adequate defenses necessitate consideration of this authorization during your current deliberations. Adequate facilities are essential to maintain satisfactory levels of performance at March Air Force Base.

Thank you, Mr. Chairman, for this opportunity to provide information on this matter for your consideration.

### COMING TO GRIPS WITH THE PROBLEM OF CULEBRA

**Mr. JACKSON.** Mr. President, on August 27, 1970, I observed that—

> We have delayed too long coming to grips with the problem of Culebra. As a result of the Senate's concern . . . there is some hope that the Navy is beginning to realize that the situation there is serious: that what is at stake is something more than the Navy's use of a training facility. In fact, what is at stake is the quality of life on Culebra and the Navy's right to decide how far it can go in affecting the lives and well-being of the people who live there.

Congress enacted legislation dealing with the Culebra issue later that year, as part of the Military Construction Act of 1971. The bill that emerged from conference directed the Secretary of Defense to complete a study of alternatives to Culebra by April 1, 1971, and to submit this study to the President as well as to the chairmen of the Senate and House Armed Services Committees. When I presented the conference report to the Senate in October 1970, I stated:

> In my view, the report will be the President's report and will reflect an appreciation of the political ramifications for Latin America which are involved in the long term settlement of this problem which has not been present in the Department of the Navy's previous public statements on Culebra. To insure that this is the case, I have written the President and asked that the White House staff and the State Department be directed to monitor the Secretary's study and to review the report and recommendations before a formal policy on Culebra is adopted by the Department of Defense.

In the course of debate on this conference report, I assured my fellow Senators that "I intend to follow through personally."

On Tuesday, September 11, 1973, I was obliged to honor that pledge by recommending to the Armed Services Committee during its markup session on the military construction authorization bill for 1974 that $12 million be added to the bill to fund the transfer of all Navy operations from the inhabited island of Culebra to the uninhabited islands of Desecheo and Monito by July 1, 1975. The committee unanimously adopted this provision. I think it important to set forth here in some detail why I found it necessary to take this initiative.

On November 16, 1970, Gov, Luis Ferre wrote to the President calling the issue of Culebra "and overriding question of momentous importance in the minds of Puerto Ricans here and on the mainland."

He added:

> The issue has taken on potentially explosive proportions and has accordingly become a reason for the gravest concern to me and to my administration. Puerto Ricans every-

> where are watching and waiting to see what the United States will do. Unless we can find a just and agreeable solution, our efforts to strengthen the ties between Puerto Rico and the mainland, to have Puerto Rico serve as a bridge of understanding to Latin America for the United States, will suffer a severe setback. Whether right or wrong, Puerto Ricans universally see in the Culebra question an issue of colonialism. So apparently do the citizens of Central and South American countries who are also watching and waiting to see what the Federal Government in Washington will ultimately do.
>
> It is my most earnest belief that the United States has at stake in the Culebra matter a great deal more than the simple question of a place for the Navy to engage in target practice. Most unfortunately, I think very little of this has been understood by nearly all the people who have concerned themselves with this matter in the Federal Government in Washington.

President Nixon responded to Governor Ferre's letter on December 15, 1970, acknowledging that "all of us in the Federal Government share your sense of urgency in this matter," and added that he would be personally represented on the Defense Department study by the Chairman of the Council on Environmental Quality who "will be in continuing touch with me on this matter." The President also informed Governor Ferre that he was requesting that—

> The Secretary of State be consulted throughout the study period with respect to all aspects of the Culebra question pertaining to our foreign relations, especially those with our Central and South American neighbors.

While the Department of Defense study was underway, the Navy negotiated a so-called peace treaty which was signed by Navy Secretary, John Chafee; Gov. Luis Ferre; Puerto Rican Senate president, Rafael Hernandez Colon; and Culebra's mayor, Ramon Feliciano, on January 11, 1971. In paragraph 11 of this agreement, the Navy promised—

> To continue to investigate both technological and geographical alternatives to the training done on Culebra. The purpose of these investigations will be to find feasible alternatives that will eventually permit the transfer away from Culebra of the training that will be conducted after January 1, 1972.

In a final paragraph, No. 12, added at the insistence of the Puerto Rican signatories, it was stated to be the position of the Puerto Rican Government and of the three Puerto Rican signatories:

> That the Navy should terminate all training operations on Culebra and its neighboring cays within a reasonable period.

It was stated to be the hope of the signatories:

> That the study that the Department of Defense is required by law to undertake will conclude that this is feasible.

On April 1, 1971, this hope was realized. Secretary of Defense Laird transmitted to Congress the report embodying his study of alternatives to Culebra. This report concluded that—

> Culebra can be "replaced" for at most $50 million.

The $50 million figure referred to the cost of constructing an artificial island as a substitute for Culebra. The study specifically noted that—

> There are alternative sites which have the potential for accommodating these [fleet readiness] activities and that alternatives are available which could accommodate the NGFS [Naval Gunfire Support] training now done at Culebra.

It also specifically noted that the uninhabited island of Desecheo "is of more than sufficient size to serve as an impact area for NGFS—naval gunfire support—training."

Premised on this study, costing more than $100,000 and bearing the imprimatur of President Nixon and his Secretary of State, Secretary of Defense Laird announced publicly on April 1, 1971, that he had directed the Navy—

> To initiate those land surveys, training maneuvers analyses and engineering studies required to provide the option of moving by June 1975 to a suitable alternative to the target areas on Culebra.

And stated further that he would—

> Reappraise the Culebra situation . . . by the end of 1972 in order to make a final decision *where* to relocate the Naval Training target areas now on Culebra. . . ." (Italics added.)

The clear implication of the Secretary's announcement was that he had concluded from his study and in consultation with the President and the Secretary of State that the Navy could and should transfer its training operations away from Culebra by June 1975, and that he was deferring until the end of 1972 only the decision on "where" these naval training operations would be transferred. This implicit meaning was publicly made explicit by Governor Ferre who announced to a relieved Puerto Rican public that the Secretary of Defense had assured him in private telephone conservations immediately preceding his April 1, 1971, public announcement that all Navy operations would, in fact, be transferred away from Culebra by June 1975.

A subsequent UPI story suggested that some military officials were placing a different construction on the Secretary's April 1, 1971, announcement. In an effort to remove any doubt as to the Secretary's intentions, then Puerto Rican Senate president, now Governor, Raphael Hernandez Colon wrote to the Office of the Secretary of Defense on April 21, 1971. Alluding to the UPI story, Senor Hernandez Colon wrote:

> There is sufficient confusion and concern in Puerto Rico about this that I feel it is most important to clarify the matter as quickly as possible, so that the people of Puerto Rico can have a clear understanding of the scope of the Defense Department's commitment on Culebra.

On April 23, 1971, Mr. Jerry W. Friedheim, Deputy Assistant Secretary of Defense and official spokesman for the Defense Department replied:

> We hope the Secretary's statement makes it clear that Navy operations on Culebra are to be transferred by June 1975 unless a reversal of the situation occurs because of (1) the collective wishes of the Culebrans themselves, (2) action by the Congress, or (3) the President's future assessment of national security demands.

In testimony before the Subcommittees on Military Construction of the Senate Committees on Armed Services and Appropriations in the summer of 1971, Mr. Joseph A. Grimes, Jr., Deputy Under Secretary of the Navy, affirmed that the Navy would comply with the directives of the Secretary of Defense as these were specifically clarified by the precise language contained in Mr. Friedheim's letter and quoted above.

On October 27, 1971, the President signed into law the Military Construction Authorization Act of 1972. Section 207 of this act directed the Secretary of Defense "to prepare a detailed feasibility study of the most advantageous alternative to the weapons training now being conducted in the Culebra complex of the Atlantic Fleet Weapons Range." The Secretary was directed to complete this study by December 31, 1972, and to transmit to the President of the United States and to the chairman of the House and Senate Armed Services Committees a report summarizing the study results together with the Secretary's recommendations. It already was established that there were adequate alternatives to Culebra. Congress was directing the Secretary of Defense to provide detailed information on the best alternative and assumed that the Secretary would comply with his own publicly announced commitment to transfer naval training operations away from Culebra by June 1975.

On November 4, 1972, with the results of the detailed feasibility study before him, Secretary of Defense Laird reaffirmed his commitment to announce by the end of 1972 a final decision "where to relocate the naval training target areas now on Culebra."

The Secretary must have been aware of the widely publicized explanation of his commitment contained in Mr. Friedheim's letter. His November 4 reaffirmation of the Defense Department commitment, contained in a telex message to Governor Ferre, was published in Puerto Rican newspapers on Sunday, November 5, 1972.

On December 18, 1972, Mayor Feliciano, of Culebra, dispatched identical telegrams to President Nixon and to Secretary of Defense Laird reaffirming Culebra's insistence upon an unqualified termination of all firing activities at Culebra by a date certain. Thus, the first of the three possible reversing factors set forth in Mr. Friedheim's letter had not come to pass. Likewise, neither Congress nor the President reversed Secretary Laird's decision to transfer all firing operations away from Culebra by June 1975.

Nonetheless, on December 27, 1972, Secretary Laird reversed his decision. A new dimension was added to the Culebra problem—the credibility of a commitment of the U.S. Government. Maintaining the credibility of our Government's commitments is just as essential to our national security as the training that takes place at Culebra.

In January of this year, Senator BAKER and Senator HUMPHREY introduced legislation to make good on the word given by our Federal Government to the Commonwealth of Puerto Rico by directing the transfer of all Navy operations away from Culebra by July 1, 1975.

In a move totally without precedent, all four elected Governors of Puerto Rico, past and present, representing three different political parties, joined in a letter to U.S. Senators, urging support of this bill and expressing the unified position of all Puerto Ricans that Navy training operations at Culebra must terminate by July 1, 1975.

In the course of his confirmation hearing, Secretary of Defense Richardson promised to review the Culebra policy of his Department. The detailed feasibility study produced by the Defense Department concluded that alternatives to Culebra are available and "suitable from an operational viewpoint." Indeed, this study documented the extent to which a shift of Navy operations from Culebra to an uninhabited site would both improve Navy training and contribute to the economy of the United States. Remaining at Culebra was the most expensive alternative considered in the study. Most significantly, shifting Navy operations from the inhabited island of Culebra to an uninhabited site would eliminate the risk to civilians of gross errors—a risk that an earlier Defense Department study concluded is "unduly high for training operations in an area where there are nonparticipants within the weapons delivery range."

After reviewing this study in detail and consulting with the Navy and Members of Congress and Gov. Rafael Hernandez Colon of Puerto Rico, Secretary Richardson decided on May 24, 1973, that it would be—

> In the long-range interest of the various parties to move the current training activities by July 1, 1975, from the Culebra complex east of Puerto Rico to the uninhabited islands of Desecheo and Monito off the western coast of Puerto Rico provided:
>
> "1. That the Congress authorizes and appropriates the funds required, and:
>
> "2. That a satisfactory overall arrangement can be worked out with the Government of Puerto Rico for carrying out the proposed move and for insuring the long-term continuation of the Atlantic Fleet Weapons Range and the Fleet Marine Force Training Area."

On May 24, 1973, Secretary Richardson also directed the Navy to submit to his office by July 1, 1973, a time-phased plan for implementing his decision. On June 19, 1973, Gov. Hernandez Colon wrote to the Defense Department expressing approval of the transfer and his desire that discussion begin immediately looking toward satisfaction of Richardson's decision.

On May 29 of this year, Senators Humprey, Baker, Kennedy, and I introduced S. 1897, a bill to fund the transfer of Navy training activities from Culebra to Desecheo and Monito by July 1, 1975. When the military construction authorization bill of 1974 was marked up in subcommittee last Thursday, however, no consideration was given to funding the transfer of Navy operations away from Culebra because, despite the July 1, 1973, deadline imposed in the directive from Defense Secretary Richardson to the Navy Department, the Defense Department has not yet submitted to the Armed Services Committees cost figures for the transfer. I understand that the Navy has submitted internally cost figures which indicate that the transfer can be effected for the $12 million the committee has provided.

Frankly, I am surprised that the Defense Department failed to come forward and implement Secretary Richardson's decision. During his confirmation hearing, Secretary Schlesinger adopted Richardson's decision on Culebra as his own and promised that—

> The Department will work with the Congress and the Commonwealth of Puerto Rico to jointly meet the conditions upon which Secretary Richardson's decision was predicated.

If the honor of the United States was not in issue as a result of Secretary Laird's commitment—and I think it was—there can be no question, but that the honor of the United States is at issue now in light of Secretary Richardson's announced decision and Secretary Schlesinger's public affirmation of that decision.

With the action of the full Armed Services Committee at my urging, I hope the Defense Department will act promptly to request the necessary funds from the House Armed Services Committee so that we finally can bring peace to Culebra without interrupting necessary Atlantic Fleet weapons range training.

Mr. President, I ask unanimous consent that several articles bearing on the Culebra issue be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Miami Herald, Dec. 29, 1972]

### Full Speed Astern on Culebra

Tiny Culebra Island, off the coast of Puerto Rico, by 1970 had tired of being used for target practice by the U.S. Navy.

For about 10 days each month, the Navy fired on part of the island during training exercises. For an average of 21 days a month, U.S. military aircraft did the same.

Angered Culebrans began agitating for an end to that one-way war. By 1971, most of Puerto Rico's politicians and civic leaders agreed.

Under pressure, the Defense Department announced it would phase out Culebra. Sen. Henry Jackson (D., Wash.), a major supporter of the military in Congress, suggested that the Navy's land in Culebra be turned into a national park so that the island's beauty could be forever preserved.

Three days before last November's Presidential election, Secretary of Defense Melvin Laird sent a telegram to Puerto Rican Gov. Luis Ferre reaffirming that pledge. Mr. Ferre, a representative of the New Progressive Party, was running for reelection as governor. His party is aligned with the stateside Republican Party. The telegram was published in the newspapers.

But Mr. Ferre lost that election in an upset to young (36) Rafael Hernandez Colon, a member of the Popular Democratic Party, which is aligned with stateside Democrats.

Pretty soon, White House and Pentagon statements began to talk about whether the base at Culebra would be relocated—not when, as had been stated previously.

And this week, Mr. Laird made his pirouette complete. He now says the Navy will not move. That, in a bullseye, could settle Culebra's future.

In 1971 the Navy undertook a $2.5-million study of the Culebra issue, and on its findings the decision had been made to pull out. The study said the base was not essential to the United States, but was important for "training effectiveness and efficiency."

On balance, the conclusion was to move. The study correctly pointed out that Culebra had become a symbol of U.S. policy. It spoke of "unfavorable after-shocks" in Latin America.

One paragraph of the study is worth repeating now: "The effect of the Culebra problem could range beyond the expectations of 'experts' if an unfavorable outcome turned Puerto Rican politics away from the United States and in an independent direction. There are forces throughout the Caribbean that stand ready to exploit such an estrangement. The radicalization of the political process in Puerto Rico could have even more far reaching effects."

The election is over, Mr. Laird, and the Republican-favored candidate lost. But the volatility of the Culebra issue remains. Nothing has changed except the governor.

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[From the Chicago Sun-Times, Dec. 30, 1972]

### Treating Puerto Rico as a Colony

There was a good deal of hooting last August at the ignorance of the United Nations Committee on Colonialism which, prompted by Cuba, accused the United States of treating Puerto Rico as a "colony" and denying the island its "inalienable right" to independence. Very few Puerto Ricans want independence from the United States. On Tuesday they will inaugurate a new governor, Rafael Hernandez Colon, who won election as a proponent of continuing Puerto Rico's status as a commonwealth. His Popular Democratic Party has ties with the mainland Democratic Party. He defeated the incumbent governor, Luis A. Ferre, who favors statehood and whose party is affiliated with the mainland Republican Party. No responsible Puerto Rican statesman favors independence.

Still there is some talk, particularly among extreme left-wingers on college campuses, that the United States does treat Puerto Rico as a "colony" and it is most unfortunate that such dissenters have just been given new ammunition by Defense Sec. Melvin Laird. He has reversed an agreement made two years ago to take the Navy's controversial naval and air-gunnery training range off the island of Culebra which is a Puerto Rican municipality of some 850 persons.

For years the Culebrans have sought to stop the use of their land for gunnery practice. They said it was dangerous, disturbed their peace of mind and interfered with their livelihood, mostly fishing. The Navy suggested resettling the islanders, but this merely provoked greater nationalist sentiment along the lines of "why should we move from our homes?" The issue came down to this: Was the Navy's need for the island so essential as to override the islander's basic rights to be left alone? The debate spilled into Congress. The late Sen. Ralph T. Smith (R-Ill.), a Navy veteran, said the Navy policy was "stupid," and in disregard of the welfare of the U.S. citizens who lived on Culebra.

Everyone thought the issue was resolved two years ago when the Navy agreed to move and a new site was to be announced at the end of this year. Puerto Ricans were reassured when Laird reiterated this position three days before the election for governor last Nov. 4; the issue had arisen again during the campaign. Last Wednesday Laird said that the Navy would keep the base at least until 1985 as a result of a new study that showed Culebra to be superior to any alternatives.

As we mentioned in an editorial on the subject Dec. 19, 1970, it may be hard for mainland residents to grasp the severity of the feelings of Puerto Ricans on the issue. It is a tumultuous one in San Juan. Gov.-

elect Hernandez Colon, former president of the Puerto Rican Senate, says his opposition to the site remains "unaltered." Jaime Benitez, former chancellor of the University of Puerto Rico and the island's newly elected resident commissioner in Washington, said the Laird announcement was "equivalent to an apple of discord" between the commonwealth and the United States.

This is no minor matter to be decided by the Pentagon brass on the basis of what the Navy thinks it needs. This is a matter involving not only the rights of individual Culebrans but the right of all Puerto Ricans to respect for their views in Washington. We wonder if the decision would have been different if Ferre had been elected.

Puerto Rico is not a colony and should not be treated in the manner of George V. It was just such an attitude as Laird has exhibited that caused Thomas Jefferson to put in the Bill of Rights the provision that no soldier shall in time of peace be quartered in any house without the consent of the owner. Let the Navy not quarter its gunners where they are not wanted. Elliot Richardson, who soon will succeed Laird as defense chief, should review the Culebra controversy.

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[From the New York Post, January 1973]

### TARGET PRACTICE

(By Jose Torres)

When Defense Secretary Melvin Laird said this week that the Navy would continue its shelling maneuvers on Puerto Rico's tiny island-municipality of Culebra at least until 1985, no one here seemed shocked. Those who are suffering the most, the 700 inhabitants of the offshore town, seem to be aware that as far as the U.S. Navy is concerned, they are the "gooks" of the Caribbean.

As they see it, to drop bombs on Asian children, women and old people is no different for the U.S. establishment than it is to make life miserable for the inhabitants of Culebra. It is clear that power and might are right and the weak are always wrong. The people of Puerto Rico have been consistently protesting the use of Culebra as a Navy target practice site and the Navy is paying no attention to those cries.

"What can you expect?" said a young man who lives in Culebra and works in San Juan. "The bombing of the U.S. in Vietnam is thought of in America as like taking a lollipop from a baby . . . What do you think the reaction will be when we begin to protest again about this news that the Navy will remain in my town until the Americans review the case again in 1985?"

Of course, those surprised by the Laird announcement are the ones who thought that America was a sensitive country that cared for the weak, for those countries which are much smaller than the most powerful country in history. For these there was hope when in 1971 the Navy and the Government of Puerto Rico agreed to have a private organization decide where to relocate the target areas.

During his campaign for reelection, Gov. Luis A. Ferre announced that the Culebra case was closed, implying that the Navy was going to be out of there soon. But when Laird's announcement reached Puerto Rico this week, the Governor simply said: "Well, that is no longer my problem. The one to deal with it is the new administration." Thus did the defeated incumbent wash his hands of the whole affair.

Governor-elect Rafael Hernandez Colon reacted this way: "So now it is up to the U.S. Congress to make a decision. My intention and that of the people of Puerto Rico is to stop the Navy from its arbitrary use of Culebra as a target practice range. We'll persist in that position."

Hernandez Colon said that there are many Senators and Congressmen in the U.S. who seem to sympathize with the position of the people of Puerto Rico. The future of the Culebrenese is in the hands of the U.S. Congress.

There are two things about the American mentality. It is basically military. And it is always engaged in inventing things. In the past decade the concentration of invention has been almost exclusively in apparatus that had to do with military power. Big powerful bombers, sophisticated weapons. The problem is that inventions have to be tested. Baltimore, Newark, Washington are not the appropriate places for tests. So, Indochina and Culebra become the places.

In the Nixon campaign we were told: Peace is at hand, the PWs will be home before Christmas, the Navy will get out of Culebra.

Then came the landslide victory and now we are looking at the results. More people have been murdered in Indochina, families of the PWs don't know if they will ever see their children again, and Culebra will have the Navy and its bombs probably forever.

People worried when at the end of the '60s a left-wing movement arose in the U.S. There were those who fled the country because, as one of them said, "America was on its way toward disappearance." I remember a friend of mine, Felipe Luciano, saying: "This is nothing. Wait for the right wing to arise. There is going to be a lot of trouble when we see Nixon and his gang doing their number."

I think we are seeing that now.

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[From the Washington Star-News, Jan. 6, 1973]

### CULEBRAN TURN-AROUND

The Defense Department's curious gyrations regarding the island of Culebra have not, thus far, aroused much concern in this country. But they are having a bad effect on United States-Puerto Rico relations, and they raise a question of credibility that Defense Secretary Laird should attempt to answer.

He announced the other day that the Navy won't stop using Culebra (which is just off Puerto Rico) as a gunnery target range, even though he earlier led its 850 residents to believe the bombardments would stop in 1975. Indeed he practically promised that as late as November 4, just before the Puerto Rican elections. This was seen by many as a friendly assist for Governor Luis Ferre, who was seeking re-election and trying to cope with strong public revulsion at the Culebran shelling. But Ferre was beaten by an opponent who demands an immediate halt, and Puerto Ricans elected a new commissioner to Washington who's of the same mind.

Now Laird says a new study reveals the necessity of continuing the cannonades at Culebra at least until 1985. This has caused a good deal of rage in Puerto Rico, not to speak of Culebra, where everyone's nerves are getting pretty ragged. The Culebrans long have pleaded for peace and quiet and safe beaches. They seemed to have won at last, then suddenly the deal was off.

None of us would feel very comfortable, though, if the Navy were unable to hit what it shoots at, and hence the Atlantic fleet must have a target range somewhere. The question is whether there's a satisfactory alternative to Culebra. The Navy and Laird say there isn't. But a Pentagon study released last April indicates there are several, including uninhabited islands and construction of an artificial island. That study was made public, but a later one upon which Laird says the new decision is based, is being kept classified and therefore cannot be analyzed.

Also, there is scant satisfaction in Laird's promise of still another study "not later than the early 1980s," conducted with a view to eliminating the Culebra operation "as soon after 1985 as possible." Why should the harried Culebrans be kept in suspense that long, when the Pentagon already has spent upwards of $3 million on recent studies? If there are good reasons for indefinite continuation of the bombarding (and there may be), Defense officials should be able to make a better case for it than they have so far.

They soon will feel congressional prodding to do that, for legislation was introduced just this week to abolish the Culebra range. The impression that Washington has played Puerto Rican politics with the issue, and reneged on a commitment, is sitting very badly with some members of Congress.

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[From the Washington Post, Jan. 8, 1973]

### STOP THE BOMBING—ON CULEBRA

(By Stephen S. Rosenfeld)

The Defense Secretary's recent decision to renege on his pledge to stop using Culebra as a Navy bombing range, and instead to continue to bomb the little island near Puerto Rico until 1985, must have struck many people as an outrage of virtually Orwellian dimensions. Until 1985? People *live* on Culebra. Surely Elliot Richardson will promptly reverse the decision when he takes over from Melvin Laird at the Pentagon a few weeks hence.

There is another smaller group of people, however, who while perhaps being no less outraged by Mr. Laird's decision, may take a more personal and somber view of it. I refer, of course, to those of us who over the last 37 years actually participated one way or another in the bombing of Culebra.

My own turn fell in the winter of 1954–55 while attached to a marine air control squadron which, because of the clear field needed for the communications equipment that it used to direct the bombing on Culebra, pitched its big floored pyramid tents atop the highest ridge of nearby Vieques. There the tangled green tumbled down to a gorgeous white beach on which, local legend had it, scenes of the movie "Exodus" had been filmed. What was described as the director's quarters became the officers' club. Tax-free Heineken's beer cost 12 cents a can at the PX.

A couple of times a week, we controllers climbed into air-conditioned radar vans, sat down at consoles and, while the sergeants did everything, watched a jumpy needle scratch an airplane's course across a map of an island shaped somewhat like a jellyfish, and called Culebra. By radio, we would talk the pilot so many degrees this way or that, so many thousand feet, up or down, until at a point designated as the target, we would tell the pilot to "release ordnance," if that is the proper phrase.

It was our common routine, practiced in between sunnings, siestas, jeep trips to eat langousta at Vieques' 400-year-old town of Isabel Segunda ("Izzy Segoo" or "Segoo"), plane hops for the day to San Juan or St. Thomas. I read copiously. A tentmate, an electronics major from Purdue, learned how to go through our little island ridge switchboard and telephone his girlfriend in Indiana—all this while lying in his cot: a fantastic feat in terms of both drama and technology, we thought.

I cannot recall once ever thinking that people lived on Culebra and might accidentally be hit by one of our bombs or rockets; or even thinking to inquire. Our maps identified topographical features only. It was a time of the century when young men in uniform griped about the specifics of military life but did not question its general purpose. Culebra was a bombing range, simply an island within easy range of Vieques. Our planes used it to "train" for a cause which we may not have been able to identify but which we certainly had no itch to challenge.

I do recall thinking that it was nice for the United States to have such pleasant islands so conveniently located for its military training purposes. It seemed not only proper but natural that the United States should have good bombing ranges. Anyway, we air controllers were inside vans on a beautiful hilltop, and Culebra was a jellyfish on a chart.

At one point, I was appointed something like community relations officer. In that capacity, and in considerable embarrassment, I had to pay a Vieques farmer a modest sum for a pig run over by one of our men. By happenstance, soon afterwards I read "Shooting an Elephant," whose title story concerned Orwell's consternation at having the only gun available to shoot a rampaging elephant in the village in India where he had been a British civil servant. The death of an animal in a foreign land, I remember thinking, complicates life for foreigners.

In the radar van, the needle jumped across the map and we told pilots whom we never met except on the radio to "release ordnance." I hope none of that "ordnance" ever hurt the people who lived on Culebra—we never met *them* on the radio or any other way. And now that I know that people actually live there, I hope Elliot Richardson finds another island for a bombing range.

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[From the San Juan Star, Mar. 2, 1973]

## Richardson To Review Culebra Case

(By Ed Konstant)

Washington.—Secretary of Defense Elliot Richardson told Gov. Hernandez Colon Thursday he would take a fresh look at the Navy-Culebra situation shortly after the Pentagon chief spoke on the phone with former Gov. Ferre.

Ferre, who paid a surprise visit to Washington, later in the day flew to Boston with Vice President Spiro Agnew. The vice president, who was due in that city, invited Ferre along on the Air Force Two flight.

Details of the talk Hernandez Colon had with Richardson were not disclosed.

However Ferre told Richardson he believes the Pentagon should honor its commitment to get the Navy off Culebra by 1975.

Ferre, who arrived here quietly Wednesday night, was to attend a meeting of the Massachusetts Institute of Technology board of directors. He is to return today to San Juan.

Hernandez Colon's talk with Richardson was described by Resident Commissioner Jaime Benitez as "preliminary conversations."

Richardson, he added, made no promises other than to review the case.

The secretary made a similar pledge during his Senate confirmation hearings last month.

Last Dec. 27, former Secretary of Defense Melvin Laird announced the Navy would remain on Culebra at least until 1985, reversing a public pledge he had made as late as a few days before the Puerto Rican elections that target practice there would end by 1975.

Hernandez Colon was accompanied to the Pentagon by Sen. Howard Baker, R.-Tenn., author of a bill calling for the Navy to end weapons range activities on Culebra by 1975.

Benitez said he has also asked to meet with Richardson to discuss the old controversy. He said this apparently will take place in a couple of weeks, after the secretary "finishes studying papers and documents relating to the issue."

Benitez has also introduced in the House proposed legislation similar to the Baker bill.

Hernandez Colon had been in Washington to attend the winter meeting of the National Governors Conference. Richardson was the only federal official with whom he had an appointment.

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[From the San Juan Star, Mar. 16, 1973]

## Study on Culebra Denies Navy Claim

(By Ed Konstant)

Washington.—A Pentagon study report denies a Navy claim that moving Navy target practice from Culebra to Mona Island could cause "international problems" in the Mona passage shipping lanes.

The report also exposes the failure of the study team that prepared it to properly assess Puerto Rico's political sentiment by claiming that neither the Popular Democratic nor New Progressive Parties oppose Navy target practice on Culebra.

This is the report on which former Secretary of Defense Melvin Laird based his Dec. 27 decision to keep the Navy on Culebra at least until 1985.

A declassified version of the six-volume report has finally been released by the Pentagon. Previously, the Navy held briefings on some of the material in the report.

But the actual report produced Wednesday by Culebra Atty. Richard Copaken differed considerably from what the Navy told newsmen here at one of these briefings last month. It also included much material the Navy never mentioned.

The decision to keep the Navy on Culebra was chosen over several alternatives, including one that said it was "militarily feasible" to transfer weapons range activities to Mona and Monito Islands between Puerto Rico and the Dominican Republic.

Mona and Monito were dismissed at last month's press briefing by a Navy spokesman for a variety of reasons. One that was stressed at the time was shopping in the Mona passage, an international shipping lane.

"There could be international problems . . . with the fact that Mona and Monito sit in an international passage," the spokesman told newsmen.

However, the actual declassified study paints a different picture. Referring to the Mona-Monito alternative, it says:

"Though the Mona passage is a major shipping lane, it is considered the range activities at Mona and Monito would not deter ships from using the passage nor cause any significant diversion of shipping."

Copaken called this evidence of the availability of an operational "alternative" to Culebra.

"There is no problem with the Mona passage, none," he said.

Copaken noted the report says the size of Mona would allow the Navy to use two air-to-ground and one ship-to-shore target capability, only one air-to-ground target can be used there at a time.

The attorney called the Mona-Monito alternative "clearly superior" to Culebra and less costly in the long run to the taxpayer. However, he again said he did not advocate a move to that specific alternative, adding the choice of options is the Navy's duty.

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[From the Armed Forces Journal, April 1973]

## Culebra—Go Away

(By Benjamin F. Schemmer)

Nothing gives us less pleasure than to raise again an issue called "Culebra." We thought the issue had been resolved two years ago when former Defense Secretary Melvin Laird stated publicly that the Navy would quit firing on the island by June of 1975 and told us he had directed the Navy to study "where" to relocate the Culebra targets.

There's no future for AFJ on Culebra. It's a losing proposition. We don't have one subscriber on the island. We wish Culebra would go away—but it won't. Every time we *mention* the issue, our motives are indicted, senior Navy officials (*some* but by *no* means all) ask if we've "sold out," and our usually constructive "dialogue" with top Navy officials cools noticeably.

But the *Navy*, not AFJ, has much of *its* future at stake over Culebra. What bothers us is how little the Navy seems to perceive, or address, the *real* issues.

Congress has a rare opportunity to help the Navy resolve this long-festering political issue that threatens its continued strategic presence at Roosevelt Roads, as well as Vieques, its primary training target in the Caribbean. But the chance is slipping away fast. We're counting on Otis Pike to save the day for the Navy.

The move—shifting operation from Culebra to an uninhabited island—would have the added values of improving Navy training and saving money.

A recently declassified Navy study concludes that such alternatives are available and "suitable from an operational viewpoint." In one important respect, such an alternative was found to be superior to Culebra, constrained as that tiny, inhabited target is by safety considerations. In periods of peak use, the Navy says, "two bombing/rocket targets should be available for simultaneous use." The proximity of the Culebra air-to-ground targets "to one another and the flight patterns necessary to provide safe firing bearings are such that only one of these targets may be used at any one time."

By contrast, the Navy study points out that "all of the [alternative]sites evaluated—including Mona together with Monito [both uninhabited] [and] Desecho [also uninhabited]—are suitable for conduct of all the required types of naval gunfire and aircraft weapons exercises." As the study points out, "The size of Mona permits the use of the *two* aircraft target areas *concurrently* with one another and with the naval gunfire target area" [emphasis added]. As for ships firing on islands so far removed from Roosevelt Roads, it could even add to their training: after all, sailors have to learn to navigate and maneuver as well as shoot. Moreover, the study notes that there are more varied angles and firing ranges than are possible at Culebra.

Obviously, a shift of operations from the inhabited island of Culebra to an uninhabited site would eliminate the present risk to civilians of gross errors: An earlier Defense Department study concluded that the gross error rate at Culebra is "unduly high for training operations in an area where there are non-participants within the weapons delivery range."

The cost of achieving these real training improvements is about $10 million less than what the Navy will spend this year at Atlantic Fleet Weapons Range. As the Navy study points out, however, much (possibly all) of this cost would be offset over time by gains to the total U.S. economy. The study indicates that *remaining at Culebra is the most costly alternative* on an annual basis.

In light of these findings and Secretary Laird's public commitment that the Navy would stop shelling Culebra by June 1975, why did he reverse his stand last December (Feb AFJ)? The *only* hint we can find in the Navy study (which led to his about-face) is a "political assessment" that we find incredible and disturbing. The study implies that the two major political parties in Puerto Rico do not oppose the Navy's continued use of Culebra. But documents made public by Sen. Howard Baker (R–Tenn.) and the repeated statements of political leaders in Puerto Rico leave little room to doubt that *all* political parties there are united in their determination to terminate Navy shelling of Culebra and in their sense of betrayal by Mr. Laird.

The Navy study says flatly that "neither" of the two major political parties "have any official platform advocating removal of the weapons range," thus implying that neither objects to keeping Culebra as a target within it. But the Popular Democratic Party *does* have, and had had, a platform plank to terminate the shelling on Culebra. And it carefully distinguishes between Culebra and Vieques, implicitly recognizing the Navy and Marine Corps needs to retain the latter (also inhabited, but with much better and larger safety buffers for its inhabitants).

What's at stake now, given Mr. Laird's about-face and reaction in Puerto Rico to it, is that Puerto Ricans conceivably could soon become so frustrated over the Culebra issue that they will in fact move to have the Navy give up Vieques as well.

But there are signs that Puerto Rico's new governor, Hernandez Colon, is anxious to work out a resolution of this dispute which takes full cognizance of the Navy's real training and strategic needs in Puerto Rico. Secretary of Defense Elliot Richardson committed, in his confirmation hearings, to reassess Mr. Laird's December surprise announcement that the bombing and shelling of Culebra, past commitments notwithstanding, would continue indefinitely.

Mr. Richardson and the Governor met here on 1 March to discuss the issue. Mr. Richardson, we understand, will announce his decision soon. But—without going into detail—we are not persuaded that he has been getting the *full* story or a *balanced* assessment weighing *both* sides of the issue. Nor are we persuaded that the Navy really understands how much its strategic interests in the Caribbean could be in jeopardy or how the Culebra target alternatives stack up.

So it may be up to Congress to assure that the Culebra issue is finally decided on its *merits*—and, we regret to say, to protect the Navy from itself. Specifically, it's probably up to Representative Otis G. Pike (D-NY), head of the new House Armed Services Subcommittee on Military Installations and Facilities (see page 11), which has clear jurisdiction over the Culebra issue. Mr. Pike has made it clear to AFJ that his committee will hold "substantial hearings" on the matter "independent of what Mr. Richardson may decide."

Mr. Pike is also a friend of the Navy, a man of insight and political savvy—he is not known for slicing onions only one peel deep.

Culebra is a sore spot; sunlight is a great disinfectant. What Puerto Rico and the Navy need to resolve this issue in a way that will serve the interest of *all* is just that, more sunlight. *We* don't want to prejudge the issues. Nor should the Navy, nor Mr. Richardson.

It's up to you, Otis.

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[From the San Juan Star, Apr. 10, 1973]

### SWITCH LINKED TO CULEBRA ISSUE: DESECHEO ISLAND TRANSFER IS BLOCKED

(By Ed Konstant)

WASHINGTON.—Desecheo Island's role as a possible alternative to Navy target practice on Culebra was in doubt Monday following a hasty series of events that nearly consigned it to a future as a bird refuge and recreation site.

As a result, President Nixon's Property Review Board plans to take another look at Desecheo to determine whether it can be turned over to the Commonwealth.

It all began when the White House announced early Monday that Desecheo Island was to be transferred to the Interior Department for development as a bird refuge and recreation area.

Reacting immediately, Culebra Atty. Richard Copaken moved to block the transfer. By late Monday, a Property Review Board official who talked with Copaken said the transfer would be temporarily halted.

"We will make sure that the property is held," the official said. "We plan to reopen the case. I am sure the General Services Administration (which approved the transfer) was acting in good faith."

The transfer, he added, still could occur, but now all the implications of it will be discussed at a high federal level. Apparently it had not been before.

The transfer was announced routinely by the White House along with that of 16 other sites across the nation being set aside for preservation as public recreation areas under the Legacy of Parks Program. There was no mention of the Culebra issue.

However, the implications of the White House decision were quite clear. Desecheo has been often cited by Gov. Hernandez Colon and Copaken as a possible alternative to Culebra.

By removing Desecheo as an alternative, the Nixon administration would have sharply restricted the number of options available to the Navy for relocating its Culebra weapons range. Copaken had viewed Desecheo, a former Air Force bombing range off Puerto Rico's west coast, in joint use with Monito Island.

Unless the transfer can somehow be thwarted, the only options to Culebra will be:

Vieques, now considered by even the Navy as politically improbable.

Mona and Monito islands, the former eyed by Fomento as a possible oil storage center and opposed by conservationists for any industrial or military use.

An artificial island, whose cost the Navy estimates could run up to $200 million, perhaps too expensive for Congress.

In its Legacy of Parks Program announcement, the White House also disclosed that five acres of land in Puerta de Tierra valued at $1 million were also being transferred to the Interior Department to become part of the San Juan National Historic Site.

To be administered by the National Park Service, those five acres comprise what was once the navy-owned La Princesa Housing area on Munoz Rivera Avenue. It is adjacent to Ft. San Cristobal.

The White House announcement caught not only Copaken by surprise but also the office of Resident Commissioner Jaime Benitez. One reason is that the Commonwealth apparently was never made aware of the transfer plan.

That in itself was not strange considering the formal mechanics of the transfer procedure. But Copaken and others close to the Navy-Culebra controversy questioned the nature of the action because of the prominence given to Desecheo as an alternative.

Though no dates were attached to the announcement, a White House spokesman said the Interior Department request for jurisdiction over Desecheo was made early this year. The Pentagon announced its decision to allow the Navy to remain on Culebra on Dec. 27, 1972.

The proposed transfer was not without its curious sidelights.

The White House spokesman said Legacy of Parks Program transfers are usually made to state and local governments. Only occasionally, he added, is surplus federal land for this purpose given to the Interior Department.

A spokesman said Legacy of Parks Program transfers are usually made to state and local governments. Only occasionally, he added, is surplus federal land for this purpose given to the Interior Department.

A spokesman for the Interior Department's Bureau of Outdoor Recreation, which processes formal transfers, was surprised to learn how remote Desecheo is from any population center. Legacy of Parks land, he added, is always accessible to the public for recreational use.

Once a formal transfer is made there is little, if anything, that can be done to overturn it. The law setting up the Legacy of Parks Program provides that such property be preserved "in perpetuity."

Lying 12 miles off western Puerto Rico, Desecheo comprises 360 acres and was mentioned prominently in the new Pentagon study report of the Navy-Culebra issue as being a feasible alternative.

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[From the Christian Science Monitor, Apr. 11, 1973]

### CULEBRANS ASK U.S. NAVY FOR A CEASE-FIRE

(By Richard D. Copaken)

CULEBRA, PUERTO RICO.—Some 726 Spanish-speaking, United States citizens reside on this tiny Puerto Rican island. For the most part, they fish or farm. Culebrans are poor, but they love their island home. Unfortunately, so does the U.S. Navy, which uses one-fourth of it as a convenient Caribbean training target.

Culebra has been bombed, shelled, and strafed continuously since 1936. Annually, the Navy invites navies from 20 nations to join in shelling the island.

Despite Defense Department promises that the Navy would find another training target, bombs and shells are still dropping on Culebra—and being opposed by Culebrans and Puerto Rican Government officials. The controversy may reach a climax in this Congress as the result of a bipartisan bill sponsored by 33 senators, including Majority Leader Mike Mansfield (D) of Montana and Minority Leader Hugh Scott (R) of Pennsylvania to terminate all Navy operations at Culebra by July 1, 1975.

Culebra is a magnificent volcanic outcropping in the Atlantic, halfway between the main island of Puerto Rico and the Virgin Islands. Less than three by seven miles, this municipality of Puerto is blessed with perfect weather, abundant wildlife, and pink and white sand. Over the last thousand years, currents and geography conspired to produce some of the finest coral formations in the entire world just off Culebra's coast.

Culebra's northwest peninsula serves as the target for offshore naval shelling; keys off Culebra's west coast are bombarded in air-to-ground operations. Two towns, Dewey and Clark, are within two to three miles of the targets. Some families live even closer.

The Navy asserts it protects Culebra's environment because its maneuvers keep man's despoilment to a minimum. Culebrans don't accept the premise that continuous bombing and shelling is a necessary price of preservation, and they challenge the Navy's record as protector.

Approaching Culebra by plane, one is struck by its beauty. Blue-green waters spread from shore. Dark swathes cut through a remarkably transparent sea, signaling enormous beds of coral below. Lagoons and lush green mountains, dotted with thousands of soaring birds, complete the picture of an idylic natural wonderland. But as the plane circles closer, the Navy's contribution comes into view. Amid nesting sooty terns and some rare and endangered species of birds, including the nearly extinct Bahamian pintail, lie target tanks and gaping craters—the pockmarked scars of naval shelling.

Culebrans experience constant anxiety. The Navy boasts of its safety record: Only one civilian killed, another child disfigured while playing with a dud, and nine Navy personnel killed when their observation post on Culebra was mistaken for the target. But, sporadically, shells have landed throughout the community. One hit a cistern less than 50 yards from the Town Hall in Dewey. A Defense Department report concluded that the gross error rate at Culebra is "unduly high . . . where there are nonparticipants within the weapons' delivery range." The Navy officer in charge of World War II training at Culebra observed: "It is a miracle that more Culebrans have not been killed."

Besides posing a continuing threat to an entire community, Navy shelling and bombing destroyed irreplaceable coral and fish, as well as birds in great numbers. Even though President Theodore Roosevelt set aside Culebra's keys as a National Fish and Wildlife Refuge in 1909, he authorized the use of these islands for "naval . . . purposes."

Surrounding Culebra are some of the oldest living corals in the world, still in a state of climactic growth. They are breathtaking, as is the rich marine life they nurture. Naval training has taken its toll on both.

Culebra suffered an ecological disaster in 1970. The Navy, carrying out orders to rid Culebran waters of more than 30 years of accumulated duds, stacked all shells it could find on one of the most magnificent coral reefs in the entire Caribbean and then began detonating this ordnance.

After several smaller explosions destroyed considerable coral and massacred thousands of fish, angry Culebrans complained to Rafael Hernandes Colon, then Senate President and now Governor of Puerto Rico. He secured local counsel who went to federal court in San Juan on behalf of the Culebrans, seeking a temporary restraining order pending completion of an environmental-impact statement by the Navy as required by the National Environmental Policy Act.

When the matter came before Federal Judge Hiram Cancio on Dec. 7, 1970, the U.S. attorney representing the Navy persuaded the judge that his client would not conduct further explosions pending full review by the court and, consequently, that there was no immediate threat of irreparable harm.

At the very moment the Navy's counsel was giving these assurances—and unknown to him—a Navy demolition team pulled the pin for another ordnance-removal operation on Culebra's coral. When the Judge learned of the explosions, he immediately issued a temporary restraining order. For Culebra it was unfortunately late. A Navy study conceded that this explosion "left a crater 15 feet deep and 100 feet in diameter."

### ALTERNATIVES STUDIED

In October, 1970, President Nixon signed a law directing the Secretary of Defense to study all possible training alternatives to Culebra. Three months later, Navy Secretary John Chafee signed a "peace treaty" agreeing to reduce activities on Culebra and to seek an alternative site.

When the congressional directed study was published in April 1971, showing that Culebra could be replaced, Secretary of Defense Melvin R. Laird promised the Puerto Ricans that he would transfer all Navy operations away from Culebra by no later than June, 1975. Pending release of a second congressionally mandated study that sought more detailed information on alternatives to Culebra, Secretary Laird reaffirmed his commitment in a Nov. 4, 1972, telegram to then Governor Luis Ferre. This was made public in Puerto Rico.

But on Dec. 27, 1971, Mr. Laird abruptly reversed himself and announced that Navy shelling at Culebra would continue indefinitely and at least until 1985. He claimed his reversal was based on a secret Navy study.

### SUITABLE SITES FOUND

At the time it was assumed that this study found no suitable alternative to Culebra and that this information came to the Secretary after his November telegram to the Governor. When this study was declassified last month, however, Culebrans learned it concluded that a number of uninhabited island alternatives were "suitable for conduct of all of the required types of naval gunfire and aircraft-weapon exercises," and that at least one uninhabited site was admittedly superior to Culebra for Navy training. The study was dated Oct. 16, 1972—several weeks before Mr. Laird reaffirmed his commitment to terminate Navy shelling at Culebra.

The Culebrans and Puerto Rico returned to Congress in their pursuit of the promised peace. Sen. Howard H. Baker Jr. (R) of Tennessee and Hubert H. Humphrey (D) of Minnesota introduced S. 156, a bill to terminate all Navy operations at Culebra by no later than July 1, 1975, by ending Navy funds for such operations beyond this date. Thirty-three Senators now cosponsor S. 156. And during his confirmation hearings, the new Secretary of Defense, Elliot L. Richardson, agreed to review Mr. Laird's reversal.

### DETERMINATION VOICED

All four men elected Governor of Puerto Rico throughout its history, representing three political parties, and the Mayor of Culebra, strongly endorsed S. 156. Shortly before taking office, Puerto Rico's newly elected Governor, Rafael Hernandez Colon, reacted to Secretary Laird's reversal with unbowed determination.

"So now it is up to the United States Congress to make a decision. My intention and that of the people of Puerto Rico is to stop the Navy from the arbitrary use of Culebra as a target-practice range. We'll persist in that position."

Culebra and all Puerto Rico continue to hope that Congress or Secretary Richardson or President Nixon will make good on the promise of the United States Government to end the shelling, but the legislative and political process is slow. In the meantime, shells and bombs continue to fall on Culebra.

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[From the San Juan Star, Apr. 29, 1973]

## COPAKEN PUTS BRAKES ON DESECHEO TRANSFER

(By Ed Konstant)

WASHINGTON.—The Navy released its "hold" on Desecheo Island just nine days after its new boss promised a Senate committee he would review a decision allowing target practice to continue on Culebra.

Desecheo, a 360-acre island off western Puerto Rico, was found by a recent Navy study to be a feasible alternative to the Culebra weapons range.

Earlier this month, the Interior Department's Bureau of Sport Fisheries and Wildlife nearly gained control of Desecheo for use as a bird refuge. That would have removed it from the small list of options to Culebra.

However, fast action by Culebra Atty. Richard Copaken thwarted the proposed transfer of Desecheo by the President's Property Review Board. The board, which did not know of Desecheo's role in the Culebra controversy, has frozen the transfer and reopened the case.

Desecheo, a former Department of Health, Education and Welfare experimental site, became surplus on May 1, 1972. Eight days later the Navy expressed its first interest in obtaining the island.

Following a series of memos and phone calls between the Navy and the General Services Administration, a formal request for a "hold" on the disposal of Desecheo was made by the Navy on June 1, 1972.

Presumably, the Navy wanted to keep Desecheo open as an option in the event it was ordered to move off Culebra. At that time, it had contracted to private consultants a study ordered several months before by Congress.

On July 27, 1972, A. R. Young, director of the Navy's real estate division, wrote to the GSA that the Navy exepected the study to be submitted to it by Nov. 9, 1972 for "review and forwarding to the Armed Services Committees of Congress by Dec. 31, 1972, for approval."

Copaken, who made copies of the Navy-GSA memos available, noted Tuesday that Nov. 9, 1972, was the day after Puerto Rico's elections. Copaken has consistently maintained that the Navy has always wanted a statehood administration at La Fortaleza because of its belief it would be more friendly to its demands.

On Dec. 27, 1972, former Secretary of Defense Melvin Laird announced the results of the study and ruled that the Navy would continue operating on Culebra at least until 1985.

Events moved quietly, but rapidly, after that.

On Jan. 9, the GSA told the Navy of a request by the Bureau of Sport Fisheries and Wildlife for jurisdiction over Desecheo. But, it added that the bureau's request was being held "in abeyance" because of the interest expressed in Desecheo by both agencies.

The next day, Elliot Richardson, President Nixon's nominee for Secretary of Defense, told the Senate Armed Services Committee he would "review" Laird's decision. Richardson was testifying at a confirmation hearing.

Just nine days later, the Navy made up its mind about Desecheo. It asked the GSA on Jan. 19 to release its hold on Desecheo, clearing the way for its quiet transfer to the Bureau of Sports Fisheries and Wildlife.

On Jan. 23, the Navy put it in formal writing. "We hereby cancel our requirement," the Navy wrote to the GSA.

Copaken said Tuesday he doubted that Richardson was aware of the entire situation when he promised the Senate Committee he would review the Culebra case. Such a review, he noted, could have been considerably weakened by the cancellation of Desecheo as an alternative.

Copaken said the Navy "knew" the loss of Desecheo as an alternative would strengthen its current position on Culebra.

Since late January, Copaken, who also represents the Commonwealth in the case, has consistently cited Desecheo as a logical alternative to Culebra. However, until the White House announced the planned transfer of the island two weeks ago, he and everyone else in the Commonwealth government, was unaware that Desecheo's future availability had been in jeopardy.

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[From the San Juan Star, May 2, 1973]

## FRAUD CHARGED OVER CULEBRA LETTER

Culebra Mayor Ramon Feliciano labeled "a fraud" Tuesday a letter sent recently to the Secretary of Defense, in which 231 Culebra residents urged the Navy to continue using the tiny island as a target range.

Speaking at a news conference, Mayor Feliciano charged that 73 of the letter signers were not Culebra residents, and that another 42 work for the U.S. Navy. The third group of 87 signers were relatives of the Navy employes.

Feliciano, and the Commonwealth, have been pressing the Pentagon to terminate all gunnery and bombing exercises no later than July 1, 1975. Late last year, the then outgoing Secretary of Defense, Melvin Laird, announced that a study made by an outside construction firm demonstrated no suitable substitute was available for Culebra. Laird recommended the Navy plan to continue using the area until the next decade.

Feliciano told reporters that if the disputed letter hurts his campaign to get the Navy out of Culebra by 1975, then he will take legal action on the grounds that fraud was perpetrated. The signatures were certified by a notary public.

In a related action, Feliciano said he has "no objection" to the holding of a referendum to determine if the Culebrans want the Navy to stay. The mayor said the big majority of the island's 750 residents want the navy to leave.

Feliciano met with the press at the San Juan office of Resident Commissioner Jaime Benitez.

Benitez was scheduled to meet Monday with U.S. Defense Secretary Elliot Richardson on the Culebra controversy, but before the meeting could take place President Nixon announced Richardson's appointment as Attorney General, an abrupt move arising out of the Watergate affair. Observers see Richardson's switch to the Justice Department as possibly delaying a Defense Department decision on Culebra.

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[From the Boston Globe, May 24, 1973]

### Richardson Says He Will Settle Culebra Dispute

Att. Gen. designate Elliot L. Richardson gave private assurances on Capitol Hill yesterday that he would not resign as Defense Secretary without resolving the knotty issue of whether the Navy should continue to use the small Puerto Rican Island of Culebra as a gunnery range.

The 3-by-7-mile island off the east coast of Puerto Rico is populated by 900 persons who have been protesting the Navy's longtime use of the island for air-to-ground and ship-to-shore target practice.

Richardson's predecessor, Melvin Laird, promised in 1971 that he would move the target range. But last December he reneged, saying that Culebra was indispensable to the Navy.

During confirmation hearings in January, Richardson assured the Senate he would reconsider Laird's decision.

Richardson's special assistant Johnathan Moore has been working fulltime, evaluating several options to Culebra, including construction of an artificial island in the Caribbean.

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[From the San Juan Star, May 24, 1973]

### Culebra—Again

Culebra is like a moving neon sign with changing messages—every time you look up it says something different.

Now the Navy is to move its shooting out of Culebra by July, 1975—again. Outgoing Secretary of Defense (incoming Attorney General) Richardson has told the congressional armed forces committees that the Defense Department is willing to transfer all target operations from Culebra to Monito and Desecheo Islands west of the Puerto Rican mainland.

Gov. Hernandez Colon, who had been pursuing just such a solution with Richardson, is taking the position that this is the final decision on Culebra, though the Navy, it if chose to do so, could still wage an uphill fight with the odds definitely against it.

We think the occasion was appropriately saluted by Hernandez Colon when he ordered champagne and shared it with the La Fortaleza press corps, topping it with this toast:

"Peace for Culebrans and all Puerto Rico."

We'll drink to that.

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[From the Washington Post, May 25, 1973]

### Richardson Acts To Yield on Culebra

(By Michael Getler)

Outgoing Defense Secretary Elliot L. Richardson moved yesterday to end a long and bitter dispute between the Navy and the 800 inhabitants of the tiny Caribbean island of Culebra, where the Navy has been carrying out target practice on a special firing range for almost 40 years.

Ending two years of Pentagon vacillation on the question of moving the target area, Richardson said the firing range would be moved by July 1, 1975, to the two uninhabited islands of Desecheo and Monito off the western coast of Puerto Rico.

Richardson said, however, that his action was contingent upon Congress providing the $10 million-plus required to build new facilities, and a satisfactory arrangement being worked out with the government of Puerto Rico for the transfer and for insuring long-term use of the two other islands for Navy and Marine Corps training.

Culebra, a 7,000-acre island just east of Puerto Rico, is part of the Atlantic Fleet weapons range, and its 328-acre target area has long been judged as vital to keep Navy shipboard gunners and fighter-bomber pilots trained in delivering their weapons accurately.

The Navy's use of the island, however, has been highly controversial both in Puerto Rico and in this country, especially in recent years when U.S. congressmen introduced bills to force the Navy out after the Pentagon, in 1972, reversed itself on a pledge to leave by 1975.

The roots of the recent controversy date back to January, 1971, when the Navy, in an attempt to reconcile its difference with the local inhabitants, announced it was taking various measures including reducing the amount of firing and greater use of nonexplosive shells. The Navy also promised to study alternative areas for its target practice.

In April, 1971, former Defense Secretary Melvin R. Laird announced the firing range would be moved from Culebra by June, 1975. On November, 1972, just a few days before the gubernatorial election in Puerto Rico, Laird also announced that by December, 1972, he would state "where" the firing range would be moved.

But on Dec. 27, 1972, in a move that precipitated sharp new protest, Laird said that the Navy studies showed Culebra was the best place for the range and that the Navy would retain its operations there until at least 1985.

In January of this year, Sen. Howard Baker (R.-Tenn.) introduced a bill that would have forced the Navy out of Culebra by July, 1975. It charged the service with "a breach of faith with the people of Puerto Rico."

In announcing his decision yesterday in a letter to Sen. John C. Stennis, chairman of the Senate Armed Services Committee, Richardson appeared to lend a different interpretation than did Laird to the studies carried out in 1972.

Richardson said, "The most recent study forwarded to the Secretary of Defense by the Navy in December 1972, concluded that although there were some operational and cost advantages to remaining on Culebra, several alternative sites using other islands off Puerto Rico were also suitable from an operational viewpoint and would meet military requirements."

During Richardson's confirmation hearing last January to become Secretary of Defense, he had promised the committee to conduct another review of the then still-simmering Culebra situation.

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[From the San Juan Star, May 25, 1973]

### Quit Culebra in 1975, Richardson Tells Navy

(By Ed Konstant, Betsy Lopez Abrams, and Connie Arena)

#### CELEBRATION

Culebra.—"I bring you tidings of peace," Gov. Hernandez Colon told the deliriously happy residents of this tiny island Thursday.

The Governor landed at the small, dusty airport with Mayor Ramon Feliciano shortly after announcing in San Juan the Defense Department commitment to terminate Navy target practice on the island.

The Governor alighted from the airplane flashing a victory sign and wearing a beaming smile.

Only a handful of residents had yet heard the news and waited at the airport but the group grew amebalike as the Governor toured the island in the mayor's jeep.

A celebration grew spontaneously around the Governor and the mayor as family feuds were forgotten and vows were honored.

Former public school principal John K. Vincent, who has long been involved in the fight against the Navy, for instance, had vowed to let his hair grow until the Navy finally capitulated.

Thursday he brought a pair of scissors and asked Hernandez Colon to cut off the first strands of hair. The Governor complied with an uneven cut.

Shortly after, a 60-year-old man introduced himself to Hernandez Colon saying he had "never had a drink in my life, but I promised myself that when this day came, I would. Forgive me, I'm drunk."

The man then turned and embraced a son to the glee of the surrounding crowd who knew the two had not spoken to each other for years.

The Governor's elation matched that of the Culebrenses.

"I have never seen him so happy," commented an aide who has long been close to Hernandez Colon.

The Governor had a reason:

"This was really difficult. It was really difficult," he said turning momentarily pensive.

But the hardships of obtaining the Defense Department commitment were soon forgotten.

Arriving at Dewey, the island's only town, the Governor jumped off the jeep and continued on foot. Drinks were brought out. Culebrenses embraced each other and the celebration began.

"I was shaving myself when I heard it and nearly cut my throat," said a young man rubbing his cut chin.

"I can't believe it," was heard repeatedly from broadly smiling and occasionally dazed faces.

"We want assurances," shouted a skeptic.

A microphone was produced and the Governor gave assurances to the skeptics in the crowd. He gave details on his conversation with outgoing Secretary of Defense Elliot Richardson that this case shows that problems between the U.S. and Puerto Rico can be solved "with reasonable arguments."

"This victory," he added, "also shows that whenever we are right, the people of Puerto Rico will prevail because reason and justice always prevail."

He assured the townspeople that the Commonwealth will take measures to guarantee that all the people employed by the Navy will find employment for equal pay.

"No Culebrense," he promised, "will be adversely affected by the Navy's pullout from Culebra."

Feliciano was as elated as the Governor. He had been in San Juan on business when the Governor's office located him. When informed of the decision he at first thought it was a joke.

"I'm speechless," he repeated over and over.

He was speechless, but not the Culebrenses—they were boisterous.

Cheering the Governor, the mayor and the people in the Governor's party, they demanded that today be declared a holiday. The mayor readily agreed and gave everyone the day off.

#### BACKGROUND

Washington.—House and Senate sources predicted Thursday that Congress will appropriate the funds the Navy will need to transfer target practice from Culebra to Desecheo and Monito islands.

At the same time Resident Commissioner Jaime Benitez said the Commonwealth is willing to pay half the cost of relocation, which could total between $10 million and $12 million.

As his last act as secretary of defense, Elliot Richardson decided Thursday that the Navy should move from Culebra to the other two islands by July 1, 1975, providing Congress appropriates the money for the transfer and the Commonwealth guarantees the permanence of the new weapons range.

"It's going to be awfully difficult for the Navy to fight it," said an aide to Sen. Howard Baker, R-Tenn., author of a bill that would have forced the Navy to end target practice on Culebra by mid-1975. Thirty-nine other senators had added their names to that bill as cosponsors in an effort to force an administrative decision on the old controversy.

"Right now," he added, "the appropriation is the only problem, but it doesn't seem like much of one."

He and others said the money would probably be appropriated in this year's Military Construction Authorization Bill. It's also possible the Navy might refuse to request an appropriation for the transfer.

"But if they don't ask for it in that bill, you can be sure an amendment providing the money would be offered on the Senate floor," Baker's aide said.

The "important thing now," he added, is for leading senators to get together immediately after the Memorial Day holiday congressional recess to smooth the way for the appropriation. "But I don't think anyone is going to fight a $10 million appropriation out of an overall $65 billion appropriation," he added.

"There should be no problem in obtaining congressional consent for the use of the two other uninhabited islands," said Sen. Jacob Javits, R-N.Y.

Javits said he was "gratified" by the Richardson decision and noted he had "joined with others in protesting the continued use" of Culebra for Navy target practice.

"We all welcome the decision," said Sen. Edward Kennedy, D-Mass. "For all too long, the Department of Defense has treated the Culebrans as second-class citizens."

Culebra Atty. Richard Copaken had expected Richardson's announcement. Some congressional sources praised Copaken as the "moving force" in obtaining the decision.

There was also comment from the other side of congress, all favorable.

Richardson made his decision—which was not a formal order to the Navy—in a letter to the chairmen of the House and Senate Armed Services Committees.

"Of course," the House committee aide added, "all appropriations bills are badly lagging in Congress at this point."

Normally, the Military Construction Authorization Bill is submitted to Congress at the end of summer and action follows in the fall. But even if there is a legislative lag on money measures, action on the annual Military Construction Funding Bill should certainly occur before the end of 1975.

The secretary made the decision to keep a commitment he had made to members of Congress dating back to his pledge to review the controversy early this year in testimony before the Senate Armed Services Committee.

Presumably, as successor-to-be, James Schlesinger, will be asked to adhere to Richardson's commitment when it becomes his turn to testify before that committee at confirmation hearings.

"That's great," said House Military Installations and Facilities subcommittee chairman Otis Pike, D-N.Y., when he learned of the decision.

Like Baker, Pike spent considerable time pressing the Pentagon in recent months "to do the right thing."

Benitez said he was "profoundly moved" by Richardson's decision to "fulfill the responsibilities of his office.

"From my first statement in Congress and through communications at all levels in the federal government, I have always reaffirmed my conviction that the word given by Secretary of Defense Laird publicly and repeatedly would be honored in spite of several signs to the contrary."

The resident commissioner's maiden speech in the House in February criticized a decision made last Dec. 27 by former Pentagon chief Laird to allow the Navy to continue using Culebra as a target range at least until 1985. Laird had publicly pledged as early as mid-1971 that a new study of the Culebra issue would lead to a Navy withdrawal by mid-1975.

Desecheo was fourth on the list of alternatives the Navy produced in its study report of last December. It was also known to be Hernandez Colon's personal choice.

### DECISION

The Navy will pull out of Culebra by July 1, 1975, if Congress follows the recommendation made Thursday by departing Secretary of Defense Elliot Richardson. It was Richardson's last official act as defense secretary before assuming his new duties as U.S. attorney general. Congressional acceptance is taken for granted in most quarters.

The announcement was made by Gov. Hernandez Colon at an emergency press conference called minutes after talking to Richardson.

Navy shelling practices are to move to the uninhabited islands of Monito and Desecheo off the west coast of Puerto Rico, the Governor said.

Richardson's action met the governor's expectations that the secretary of defense would make a favorable decision on the matter before leaving for his new post.

Richardson, the Governor said, is informing the congressional armed forces committees that the Defense Department is willing to transfer all target operations from Culebra to Monito and Desecheo.

The alternatives were suggested by the Governor himself "because they are uninhabited islands."

Desecheo is now under federal jurisdiction, but Monito is not, which implies that an agreement will have to be made with the Commonwealth for its use as a target range.

However, the Governor said he anticipates no problems on such an agreement.

Desecheo Island is 11.5 miles west of Punta Higuero, which is the westernmost tip of mainland Puerto Rico. Punta Higuero is just north of Rincon. Monito is 40.5 miles southwest of Punta Higuero and just several miles from Mona Island.

Also pending to make the transfer feasible are congressional appropriations for this purpose. Again, the Governor anticipates no problems "because not much funds are needed for this transfer."

An obviously elated Governor termed Richardson's decision "brave" and added that "as Governor I am deeply happy because a problem affecting the life of our fellow citizens of Culebra and, in a more ample sense the relations between Puerto Rico and the U.S., has been solved."

The Governor, bursting with satisfaction, had the press called into his office immediately after talking to Richardson.

In the meantime, he located Culebra's Washington Atty. Richard Copaken who was at the airport about to board a plane.

"Copaken is jumping up and down," the Governor reported after talking to the young lawyer who has conducted the fight to move the Navy out of Culebra for several years.

"This calls for champagne," the Governor said and drank a toast with the press to "peace for Culebrans and all Puerto Rico."

Reactions were varied. They ranged from full endorsement by former Gov. Ferre, Mayor Carlos Romero Barcelo, and Rep. Manuel Rivera Robledo, PDP-Culebra, to reservations by Sen. Severo Colberg, PDP, qualified approval by former Gov. Sanchez and outright opposition by Sen. Ruben Berrios, PIP-at-large.

Former Gov. Munoz said special congratulations were due to Hernandez Colon, Resident Commissioner Jaime Benitez, the people of Culebra, Culebra Mayor Ramon Feliciano and Secretary Richardson.

Richardson communicated directly Thursday with Ferre and Romero Barcelo to tell them of his decision. Ferre said the Richardson decision honored the promise made by former Defense Secretary Melvin Laird to the Ferre administration. He said it showed President Nixon's "great interest" in giving consideration to the welfare and tranquility of the Puerto Rican people.

Romero said the announcement "does justice to the fight that has been one of all Puerto Ricans."

Berrios said the announcement entailed nothing more than a recommendation to Congress. "No mention of Veques was made," he said, reminding the Senate of an earlier resolution approved asking the Navy to also abandon Vieques.

Colberg and Rep. Roberto Rexach Benitez, PDP-at large, said the announcement added a new dimension to a proposal to create a superport-refinery complex in the area.

"The Defense Department has just destroyed the superport," Colberg said. "This is one more in a lengthy list of negative factors against establishing a superport either on Mona Island or in Aguadilla."

The Senate passed a motion with a vote of 13 to 4, over the objections of minority members to congratulate the Governor, Richardson and the mayor of Culebra. Two PDP members Sens. Juan Rivera Ortiz and Edwin abstained from voting.

Bello raised the question of U.S. credibility in commenting on the announcement.

Former Gov. Sanchez Villella said the choice of Desecheo and Monito was a good one, "since no people live there," adding, "It seems we have come out on the winning side."

Sanchez questioned, however, whether the Commonwealth can "guarantee in perpetuity" that the Navy use the two islands. "I would be in favor of guaranteeing their operations for a reasonable time. But I hope we don't get ourselves into a situation like the Panama Canal," he said.

Secretary of Natural Resources Cruz Matos noted that a bird sanctuary exists on Monito. However, he said, "People are always more important than birds. We would probably create another area with a similar habitat. We will not oppose such a move on ecological grounds because we think the people of Culebra have priority."

A Navy spokesman on the island, reached last night by telephone, said naval authorities here had not heard anything from Richardson, and were not informed of the details of his announcement.

"We will do whatever Congress tells us to do," the spokesman said.

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[From the New York Times, May 25, 1973]

### RICHARDSON TELLS NAVY TO CLOSE CULEBRA GUNNERY RANGE IN 1975

WASHINGTON, May 24.—Elliot L. Richardson, as one of his final acts as Secretary of Defense, ordered today that the Navy end its controversial use of the small Puerto Rican island of Culebra as a practice gunnery range.

Starting in mid-1975, under the Richardson order, the Navy will shift its gunnery and air bombardment training to ranges on two small, uninhabited islands off the west coast of Puerto Rico—Desecheo and Monito.

In ordering a termination of practice firings on targets in Culebra, Mr. Richardson, in effect, reversed a decision made by his predecessor, Melvin R. Laird. In the process, Mr. Richardson, according to associates, was attempting to remove one of the principal irritants in relations between the Puerto Rican and United States Governments.

Since 1936 the Navy has been using a section of Culebra—a 7,000-acre island just off the east coast of Puerto Rico—for target practice by ships and naval aircraft. In recent years the Navy's operation has brought mounting protests by the 850 inhabitants of Culebra that in turn have made the Navy's use of the island a major political issue in Puerto Rico.

The protests have been met by a vacillating policy on the part of the United States, with the Navy reluctant to give up its use of the gunnery range.

In April, 1971, as the Puerto Rican protests increased, Secretary Laird announced that the Navy activities would be moved from Culebra by mid-1975—a policy that he reaffirmed in November, 1972, just before the Puerto Rican gubernatorial-election. But a month later Mr. Laird reversed himself and announced that shelling and bombing operations at Culebra would continue until at least 1985.

In reversing himself, Mr. Laird said that Navy-sponsored studies had shown that "the present Culebra complex is clearly superior in every regard to the alternatives considered—including the use of Desecheo and Monito."

In a letter to Senator John C. Stennis, Democrat of Mississippi, who is chairman of the Senate Armed Services Committee, Mr. Richardson said that while there were "some operational and cost advantages" in remaining on Culebra, the two islands off the west coast of Puerto Rico "were also suitable from an operational viewpoint and would meet military requirements."

Defense officials said that it was not possible to terminate use of Culebra until mid-1975 because of the time required to prepare new gunnery ranges on Desecheo and Monito. The cost of moving the range was estimated at $10 million.

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[From the Boston Globe, May 25, 1973]

### RICHARDSON TO SHIFT FIRING RANGE FROM CULEBRA

(By Jack Thomas)

Defense Secretary Elliot L. Richardson acted yesterday to end the long and rancorous dispute between the Navy and the 900 inhabitants of the tiny Caribbean island of Culebra, which has been used for military target practice for nearly 40 years.

Richardson's decision reversed a ruling last December by former Defense Secretary Melvin Laird, who said that Navy studies showed Culebra was the best place for the gunnery range and that the Navy would continue operations there at least through 1985.

Richardson's move, which climaxes two years of Pentagon vacillation, calls for the firing range to be moved by July, 1975 to the uninhabitated islands of Desecheo and Monito off the west coast of Puerto Rico.

Culebra, a three- by seven-mile volcanic outcropping halfway between Puerto Rico and the Virgin Islands, is part of the Atlantic Fleet Weapons Range. The Navy has used a 328-acre target area there for bombing, strafing and shelling, both air to ground and ship to shore. Each year the United States invites 20 foreign nations to fire on Culebra.

Richardson said his action was contingent upon two factors, congressional approval of the $10 million necessary to build the new facilities, and an agreement with the government of Puerto Rico to ensure long term use of both islands.

For many Spanish-Americans, both in Puerto Rico and in the United States, the Culebra issue has involved not only the irritating presence of the Navy and the shooting, but also the credibility of the United States.

Forty senators, including Edward M. Kennedy and Edward W. Brooke, have endorsed legislation that would have required the Navy to evacuate the island by July 1, 1975.

The departure of the Navy will have an astonishing impact on the social and economic fabric of the 900 people who live there.

More than 50 civilians are employed by the Navy, and of the Navy's $430,000 annual budget, $270,000 of it is for salaries.

In April 1971, Laird promised the firing range would be moved by July, 1975. Last November, a few days before the gubernatorial election in Puerto Rico, he said again that by December 1972 he would announce where the new facilities would be located.

But on Dec. 27, 1972, Laird reversed himself, saying studies showed that Culebra was indispensable to the Navy and not only would it remain there through 1985, but that air-to-ground activity would be increased by 50 percent and civilian employment cut by half.

The announcement set off a wave of protest in San Juan, and in Washington, Sen. Howard Baker (R-Tenn.) accused the Navy of a breach of faith and introduced legislation to force the Navy off Culebra.

Richardson said yesterday that "the most recent study . . . concludes that although there were some operational and cost advantages to remaining on Culebra, several optional sites using other islands were also suitable from an operational viewpoint and would meet all military requirements."

One Pentagon source said last night that the move represented an attempt to repair the explosive political differences between Washington and the Commonwealth of Puerto Rico, and to reduce the influence of the Independence Party in Puerto Rico.

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[From the San Juan Star, Puerto Rico, May 27, 1973]

### BILL TO SEEK FUNDS FOR NAVY TRANSFER

(By Doug Richards)

WASHINGTON.—Sen. Howard Baker will introduce legislation this week to finance the transfer of the Navy target range from Culebra to Desecheo and Monito islands, an aide said Saturday.

The bill will authorize expenditures of up to $10 million, which Baker believes will enable the Navy to meet the July 1, 1975, deadline set Thursday by outgoing Defense Secretary Elliot Richardson.

Baker will be joined by Sen. Hubert Humphrey in introducing the Culebra bill as soon as the Senate returns Tuesday from the holiday weekend.

Baker, a Republican from Tennessee, also is expected to introduce a second bill sometime this week authorizing the Interior Department to take over the Navy's holding on Culebra to ensure that the island will not become "commercially exploited."

The bill also would provide the inhabitants with assurances of future employment with the establishment of a small park and resort area.

Baker praised the efforts of Richardson and Gov. Hernandez Colon which resulted in a reversal of the decision of former Defense Secretary Melvin R. Laird to allow the Navy to continue operations on Culebra indefinitely.

He said credit also was due former Govs. Luis A. Ferre, Roberto Sanchez Vilella and Luis Munoz Marin.

He said, however, that Atty. Richard Copaken of the Covington and Burling law firm was responsible more than anyone else for the decision. Copaken has represented Culebra since 1969 and more recently assumed additional duties as the Commonwealth's attorney in Washington.

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[From the New York Times, May 28, 1973]

### CULEBRA OVER GOLIATH

Before ending his brief stint as Secretary of Defense to become Attorney General, Elliot Richardson came down decisively on the side of Culebra, the Caribbean mouse that roared at the United States Navy. Mr. Richardson ordered the Navy to terminate by mid-1975 the gunnery and air bombardment practice that for years has annoyed and harassed the 726 residents of the 7,000-acre island off Puerto Rico's east coast.

Former Defense Secretary Melvin Laird, who had promised in 1971 that the firing and bombing ranges would be removed from Culebra, reversed himself last December. He announced then that the Navy would remain at least until 1985—a reversal that may have owed more to Puerto Rico's election results than to the lack of alternative facilities. Forces aligned with the Nixon Administration were turned out by Rafael Hernandez Colon's Popular Democratic party, traditionally linked to the mainland Democrats.

Mr. Richardson's decision should settle the matter, once Congress provides $10 million to prepare new Navy ranges on the uninhabited islands of Desecheo and Monito on the other side of Puerto Rico. It will be a rare victory for human needs over military convenience.

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[From the Washington Post, May 29, 1973]

### ON CULEBRA, A PROMISE REDEEMED

In acting to halt the use of Culebra—a little island off Puerto Rico—as a Navy firing range, outgoing Defense Secretary Elliot Richardson has done one of those small and decent but difficult and important things which governments all too often fail to do. In brief, he perceived the wrong in bombing an inhabited island, a part of the American dependency of Puerto Rico, and he perceived the risk that continued bombing and shooting would further exacerbate Puerto Rico-U.S. relations, undercut Puerto Rico moderates and thereby jeopardize Navy access to *any* Puerto Rican firing range. Mr. Richardson then got a considerable number of bobbing ducks in a row and made his move.

Recall that his Pentagon predecessor, Melvin Laird, had defaulted under Navy pressure last December on an earlier pledge to close the Culebra range by 1975. Instead, said Mr Laird, the firing would go on until 1985. Understandably enough, the Puerto Ricans went up in smoke. The political atmosphere there had to be calmed before San Juan could take the necessary step of finding a satisfactory alternative range and offering assurances of its permanent use. This has evidently been done. The new range, to be opened in 1975, will be on the *uninhabited* islands of Desecheo and Monito at the opposite (western) end of Puerto Rico.

On its part, the Navy had to reach a better understanding that while custom and convenience dictated continued use of Culebra, the Navy's own interest in maintaining a Puerto Rican bombing range and the larger American interest in solidifying ties with San Juan made it necessary to stop pounding the island. To its credit, the Navy now does seem prepared to shift to Desecheo and Monito, where, its own studies show, its important operational requirements can adequately be met.

Some members of the House may not yet have seen the advantages of bending to the storm over Culebra. Sen. Howard Baker (R-Tenn.) set a powerful and useful example last January, however, by introducing a bill to compel the Navy to quit the island by 1975; a similar bill was entered in the House. Presumably, those legislators who wanted the Navy to stop bombing Culebra will support the modest appropriation needed to prepare Desecheo and Monito as replacements. We hope that Defense Secretary-designate James Schlesinger will want to start his Pentagon term right by speaking out clearly and promptly for the move.

The Baker bill charged the country with "a breach of faith with the people of Puerto Rico." For all that the Navy has done to make its bombing safer for the people of Culebra and to assist them with jobs, water and so on, this is the essence of the matter. The United States promised to stop bombing the island, and it broke its promise. One cannot help thinking that the United States would not so easily have ignored a similar promise to a group or nation considered to have more clout than Puerto Rico, of which Culebra is part. "The decision of Secretary Richardson is warmly welcomed by all Puerto Ricans," the commonwealth's resident commissioner, Jaime Benitez said. "It reinforces our faith in the basic integrity of the American system with its profound commitment to the fulfillment of understandings reached in good faith and in the pursuit of human values."

[From the San Juan Star, May 30, 1973]

### HHH Asks Funds To Shift Culebra Training Facility

Washington.—Sen. Hubert Humphrey Tuesday introduced legislation authorizing funds for the transfer of the Culebra training facility to the uninhabited Puerto Rican islands of Desecheo and Monito.

He was joined by Sen. Howard H. Baker, Jr., Henry M. Jackson and Edward Kennedy.

In a statement announcing the bill, Humphrey said, "I commend former Secretary of Defense Elliot Richardson's decision to cease using Culebra as a target for Navy bombs and shells, but it remains for the Congress to appropriate the funds necessary to shift training to an uninhabited island."

Humphrey noted that Department of Defense estimates indicate the cost of transferring at approximately $12 million. However, he said this estimate will be carefully reviewed by the Senate armed services and appropriations committees and that it is likely "much, if not all of the cost, will be offset over time by gains to the U.S. economy.

"Remaining at Culebra and providing the necessary protection for the residents of the island is the most costly alternative," he said.

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[From the Chicago Sun-Times, May 30, 1973]

### Deferring to Puerto Rico

We would like to believe that the change of Navy policy over Culebra is symptomatic of a new attitude in the executive branch as a result of the Watergate White House cleaning. If it isn't it should be.

Puerto Ricans have long been angered over the Navy's use of the inhabited island of Culebra for Navy gunnery practice. A Navy promise to move was rescinded last year by Defense Sec. Melvin Laird after Puerto Ricans voted against the administration-favored candidate for governor. The order smacked of spite and hurt Puerto Rican-mainland relations.

At the time, we said this was a matter involving not only the rights of Culebra's residents but the right of all Puerto Ricans to respect for their views in Washington. Last week, Defense Sec. Elliot L. Richardson ordered the Navy off Culebra to uninhabited islands long offered by Puerto Rico.

The order showed concern for human rights over politics and should help promote better relations between San Juan and Washington.

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[From the Cleveland Press, May 31, 1973]

### Culebra: Free at Last

The outgoing defense secretary, Elliot L. Richardson, took time from the hurly-burly of bouncing from one Cabinet post to another to settle one of the niggling little nasties that has plagued this country for many years.

He decided that the U.S. Navy shall cease using Puerto Rico's off-shore island of Culebra as target for a testing range for airborne bombs and surface guns.

The 900 inhabitants of Culebra and the government of Puerto Rico have been complaining about the noise of the explosions and the constant potential danger. At one time, the Navy agreed in principle to look elsewhere for a target, but then-defense secretary Melvin R. Laird changed signals. He said Culebra would be used until 1985. Naturally, Culebrans and Puerto Ricans in general exploded.

Now, Richardson's order has calmed them. The Navy will shift its installations to two uninhabitated islands on the other side of Puerto Rico.

And Puerto Rico can look forward to the day when Culebra will convert its white beaches rimmed by the summer seas to the uses of tourism. The 900 Culebrans, largely unemployed, can get jobs ministering to the needs of snorkelers, scuba divers and partakers of the delights of planter's punch beneath the golden tropical moon.

Well done, Mr. Richardson.

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[From the Washington Star-News, June 1, 1973]

### Culebran Cease-Fire

In his brief stint as secretary of Defense, Elliot Richardson may have succeeded in settling a dispute that had festered under years of Pentagon vacillation. In one of his last acts before shifting over to the attorney generalship, Richardson ordered the end, by mid-1975, of the Navy's target practice on Culebra, a small island off the east coast of Puerto Rico.

The Richardson decision is dependent on the working out of arrangements with San Juan to establish firing ranges on the uninhabitated islands of Desecheo and Monito west of Puerto Rico, and the appropriation of $10 million or so to carry out the switch. The cost is modest when put against the benefit to the United States of removing an irritant in our sensitive relations with Puerto Rico, which with its ambiguous status as a self-governing commonwealth in our federal union is subject to recurrent outbursts of anti-American nationalism. The picture of 800 helpless Culebrans menaced by U.S. Navy bombardment of their beaches also has been an embarrassment to us around the world, and especially in Latin America where the charge of Caribbean colonialism can be hurtful.

The handling of the Culebran question by Richardson's longer-tenured predecessor, Melvin Laird, was puzzling to say the least, even given the Navy's desire to continue its gunnery practice routine of the last four decades. Laird announced more than two years ago that the target area would be moved from Culebra in 1975. He reaffirmed this policy just before the Puerto Rican gubernatorial election last November. Then, in December, there was a sudden reversal. The Navy, Laird said, would have to keep bombarding Culebra at least until 1985. The announcement touched off congressional efforts to abolish the controversial firing range.

Now Richardson, evidently citing the same studies available to Laird, finds there are indeed satisfactory alternates to the Culebra target site. The mystery may be explained by a difference of vantage point. As a former undersecretary of State, Richardson may have been more conscious than Laird of the diplomatic costs of callous military attitudes. And with his new emergency assignment to lead the Justice Department through a cleanup of the Watergate mess, Richardson is more than routinely concerned about the general credibility of the Nixon administration. It is gratifying that the nerves and the eardrums of the Culebrans, and possibly our standing in Caribbean eyes, will benefit in the process.

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[From the San Juan Star, June 10, 1973]

### RHC Denies Deal on Vieques

(By Ed Konstant)

Washington.—Highly placed sources in the nation's capital reported Saturday that Gov. Hernandez Colon pledged to try to quell mounting pressure to end military training on Vieques in return for a Navy ceasefire on Culebra.

In San Juan, however, the Governor denied any such deal.

The commitment was reportedly made by the Governor to former Secretary of Defense Elliot Richardson during a meeting between the two March 1 at the Pentagon, the sources added.

Two weeks ago Richardson, in his last official act as secretary of defense, issued a decision that could lead to the transfer of the Navy's Atlantic fleet weapons range from Culebra to Desecheo and Monito Islands by mid-1975.

Richardson's decision was conditional. One of the conditions he cited in a letter to Senate Armed Services Committee chairman John Stennis, D-Miss., and in a memo to the Navy specifically provides:

"That a satisfactory overall arrangement can be worked out with the government of Puerto Rico for carrying out the proposed move and for ensuring the long-term continuation of the Atlantic fleet weapons range and the fleet Marine force training area."

Vieques was never mentioned in either Richardson's letter or memo. The fleet marine force training area, however, is located on Vieques.

Neither La Fortaleza nor the Pentagon ever made details of the Hernandez Colon-Richardson meeting public.

The day Hernandez Colon visited Richardson, former Gov. Ferre also spoke with the then Pentagon chief by telephone. Both the Governor and former Governor only said publicly that they reiterated to Richardson their feeling that Navy target practice should be moved off Culebra.

Although an official memo of the March 1 meeting could not be obtained, one reliable source said:

"The Governor told Richardson that as far as he was concerned, an *artificial island* probably would cost too much, the current situation on Culebra was intolerable and pressure on Vieques was building."

With all this considered, the source added, the Governor then said:

"If Richardson would order the Navy off Culebra, Hernandez Colon would do what he could to damper the Vieques ardor.

"It's entirely a different situation there (Vieques). Essentially, the Governor said, the problem is Culebra, not Vieques."

Hernandez Colon, he added, was also firm in maintaining that the Navy could not shift its Culebra target range to Vieques, which was cited by a 1972 study as the chief alternative to the current situation.

Hernandez Colon, in a written statement, said Saturday that "as was reported in the local press before and after the meeting. I did not meet March 1, 1973, with Secretary Elliot Richardson to discuss the Culebra issue. At the meeting I proposed moving the Navy's operations on Culebra to Desecheo and Monito, something the secretary finally accepted in his recent decision.

The Governor added that "I informed the Secretary at that meeting that my government's position on Vieques was as follows:

"Vieques is not an acceptable alternative for establishing the Navy's Culebra operations. Our position regarding the military operations now being carried on in Vieques are as follows: that all land being used by the Navy and not essential to national defense, should be returned to the Commonwealth. But we were not claiming a total stop to Navy operations on Vieques since those operations were of a different nature than the ones on Culebra.

"This position," the Governor added, "is not only the position of my government, but also of the Popular Democratic Party, as stated in the platform submitted to the people in the 1972 elections and which binds all candidates elected, and which we will sustain whenever and wherever it may be necessary."

Just six weeks before Hernandez Colon met with Richardson, Vieques Mayor Carlos Luis Castano launched a drive to bring an end to military training on his island. Castano said he had asked Hernandez Colon to include Vieques in all Commonwealth-Pentagon talks regarding Culebra.

Castano was later joined in his appeal by the Commonwealth Legislature, which passed resolutions calling on the U.S. military to end training activities on Vieques.

Some 26,000 of the 33,000 acres of land on Vieques are currently held by the military.

For several years, the Navy and the Commonwealth have been trying to arrange an exchange of land, including easement rights, on the island.

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[From the Winston-Salem (N.C.) Twin City Sentinel, June 18, 1973]

### BOMBS AWAY IN CULEBRA

Among President Nixon's recent attempts to shore up his administration, Melvin Laird's appointment as chief domestic advisor has been described as a conciliatory gesture toward Congress and the public. Laird, the former Pentagon boss, has a wealth of experience in both Congress and the executive branch. And most regard him as a distinct improvement over his secretive and deceptive predecessors on the White House staff.

But the 900 citizens of the island of Culebra, off the coast of Puerto Rico, probably wish that Mr. Nixon had let Laird stay for good in his home state of Wisconsin. For the Culebrans are not fond of Melvin Laird, and for that they can hardly be blamed.

Since 1936 the U.S. Navy has owned one-third of the island, and it uses it as a target for gunnery practice by the Atlantic Fleet. The shells rain down 9½ hours every weekday and 3½ hours on Sunday, exploding just a few miles from the town of Dewey.

Melvin Laird is the man who promised to bring a cease-fire to Culebra. But he left the Pentagon with the shells still coming down.

The Culebrans got scant attention until their cause was joined by the independence movement in Puerto Rico. The *Armed Forces Journal*, a military magazine, championed the issue, and the Culebrans won sympathy from many in Congress. But a House military affairs committee recommended that the Navy buy up the rest of the island and ship the Culebrans elsewhere.

That suggestion enraged the islanders, and they staged a protest march in Washington that finally got the Navy's attention. The Secretary of the Navy announced that the shelling would end within a "reasonable time." Later, Defense Secretary Laird set the date at 1972. That had the effect of defusing the Culebra issue during the gubernatorial election in Puerto Rico. But a month after the election Laird said the shelling would go on until 1985 or maybe longer.

Three weeks ago Elliot Richardson, Laird's successor, reversed the Pentagon's stand again and said the shelling would end by summer, 1975. Then the Navy will begin using two other islands, these uninhabited, said the Pentagon.

But the Culebrans may have cause to be skeptical, for Richardson is no longer at the Pentagon either, having been replaced by James Schlesinger. They may hope that he keeps Laird's original promise, and tells the Navy to find some other island to shell. The Culebrans' nerves have been at loose ends long enough.

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[From the San Juan Star, July 4, 1973]

### WEAPONS RANGE TRANSFER SET FOR DESECHEO, MONITO: NAVY CULEBRA PHASEOUT PLAN IS READY

(By Ed Konstant)

WASHINGTON.—The Navy has produced a formal plan for the transfer of the Atlantic Fleet weapons range from Culebra to Desecheo and Monito islands it was learned, Tuesday.

Details of the plan were not available. However it is believed to include a phaseout program culminating in a scheduled end to Navy target practice on Culebra by mid-1975.

The "time phased" plan was requested from the Navy more than a month ago by then Secretary of Defense Elliot Richardson shortly after he made his conditional decision to transfer target practice to the two tiny islands off western Puerto Rico.

Richardson had set July as a deadline for submission of the plan to the office of the new secretary of defense. It was not known Tuesday whether the plan has actually reached Richardson's successor, James Schlesinger.

Schlesinger has pledged to carry out Richardson's decision. He made this pledge in writing June 21 to the Senate Armed Services Committee in a letter that read. . . .

"Secretary Richardson informed me of his decision on Culebra before he announced it and I accepted it as a policy designed, in secretary Richardson's words . . . to facilitate the continued long-term operation of the Atlantic Fleet weapons range and the marine force training areas."

The department will work with the Congress and the Commonwealth of Puerto Rico to jointly meet the conditions upon which Secretary Richardson's decision was predicated."

Presumably copies of the Navy transfer plan are also scheduled to be submitted to the House and Senate Armed Services Committees . . . particularly if it includes a cost estimate of moving the weapons range to Desecheo and Monito.

Funds for the transfer, supported by leading members of both the House and Senate, would have to be appropriated by Congress. This would probably occur in the military construction authorization bill that will go before both chambers later this year. Some senators have estimated the transfer would cost $10 million to $13 million.

Meanwhile it was also learned that the Interior Department has formally surrendered its claim to Desecheo. The agency had sought Desecheo earlier this year for conversion into a bird sanctuary.

However, the Navy apparently has not yet formally asked that either Desecheo or part of Ramey AFB be set aside for it. Ramey is being closed as a military base and presumably the Navy might need part of it for support facilities for the proposed new weapons range complex.

Monito island is owned by the Commonwealth.

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[From the San Juan Star, July 6, 1973]

### INTERIOR AGENCY WOULD CARE FOR LAND: SENATORS SEEK TRUST FOR CULEBRA

(By Ed Konstant)

WASHINGTON.—Two influential senators have asked President Nixon to ensure the transfer of Navy land on Culebra to the Interior Department for protection until it can be turned over to the Commonwealth.

The request was made in a joint letter to the President from Sens. Henry Jackson, D-Wash., and Howard Baker, R-Tenn.

Both are among cosponsors of a bill authorizing funds for the transfer of Navy target practice from Culebra to Desecheo and Monito Islands. Jackson is chairman of the Senate Interior and Insular Affairs Committee and Baker is ranking minority member of the special Senate Watergate Committee.

The request of Jackson and Baker appears to assume that the Navy will indeed abandon its Culebra weapons range by mid-1975 as conditionally directed by former Secretary of Defense Elliot Richardson.

"The Culebra group is a unique national resource and every possible effort must be made to protect it from misuse and abuse now and after the Navy's departure," the senators wrote. "Although some development may be both necessary and desirable, it is essential that the beauty and ecological integrity of the Culebra group be preserved."

Noting that the Commonwealth and the Interior Department have nearly completed a joint land-use plan for Culebra, they urged any land freed by the Navy be immediately transferred to the federal agency.

Thet letter adds—

"Although it is essential that the Department of the Interior take title to all excessed federal lands, now and in the future, we would support, and we believe that Secretary Morton would support, transfer of title to part or all such lands to Puerto Rico as soon as the terms of such a transfer can be reasonably agreed to."

Richardson decided in late May to transfer Navy target practice to Desecheo and Monito Islands by mid-1975 providing Congress appropriated the funds for the move and an agreement could be reached with the Commonwealth to ensure "the continued long-term operation of the Atlantic Fleet Weapons Range and Marine Force Training Area."

The Marine force training area is located on Vieques.

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[From the San Juan Star, July 22, 1973]

### CULEBRA EXIT COSTS LISTED IN NAVY PLAN

(By Ed Konstant)

WASHINGTON.—The Navy estimates it will cost between $13 million and $16 million to transfer target practice from Culebra to Desecheo and Monito Islands.

This estimate is mapped out in a time phased plan for the transfer produced by the Navy on instructions of former Secretary of Defense Elliot Richardson.

The plan has been submitted to Secretary of Defense James Schlesinger, who has promised the Senate to stand by Richardson's conditional decision to end Navy weapons range training on Culebra by mid-1975.

However, the time-phased transfer plan has not been made public.

Though details of its contents were not available, it was learned that it includes two transfer proposals. One would cost $13 million, the other $16 million.

The estimates are slightly higher than had been calculated by members of the House and Senate who introduced measures last month to provide the Navy with the funds that would be needed for the transfer. Those call for authorization of the funds without setting specific amounts, but indicating the cost would be $10 million to $13 million.

Meanwhile, it was learned that House Military Installations and Facilities subcommittee chairman Otis Pike, D.-N.Y., has written Schlesinger offering to help expedite the transfer.

Richardson's decision to end Navy target practice on Culebra has two conditions. One is that Congress gives it the funds needed for the transfer. The other is that the Commonwealth provide some sort of guarantee for continued long-term Navy and Marine Corps training operations in Puerto Rico, including activities on Vieques.

Little difficulty is expected obtaining the necessary funds in the Senate. There is less certainty in the more conservative House.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. SYMINGTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 2408) was passed, as follows:

## S. 2408

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

### INSIDE THE UNITED STATES

#### UNITED STATES CONTINENTAL ARMY COMMAND

(First Army)

Fort Belvoir, Virginia, $2,525,000.

Fort Devens, Massachusetts, $2,749,000.

Camp Drum, New York, $1,099,000.

Fort Eustis, Virginia, $4,782,000.

Camp A. P. Hill, Virginia, $535,000.

Indiantown Gap Military Reservation, Pennsylvania, $1,657,000.

Fort Knox, Kentucky, $7,305,000.

Fort Lee, Virginia, $18,326,000.

Fort George G. Meade, Maryland, $5,924,000.

Camp Pickett, Virginia, $476,000.

(Third Army)

Fort Benning, Georgia, $12,404,000.

Fort Bragg, North Carolina, $33,471,000.

Fort Campbell, Kentucky, $51,881,000.

Eglin Air Force Base, Valparaiso, Florida, $2,950,000.

Fort Gordon, Georgia, $23,780,000.

Fort Jackson, South Carolina, $2,902,000.

Fort McClellan, Alabama, $14,063,000.

Fort Rucker, Alabama, $3,987,000.

Fort Stewart, Georgia, $264,000.

(Fifth Army)

Fort Bliss, Texas, $6,087,000.

Fort Benjamin Harrison, Indiana, $3,893,000.

Fort Hood, Texas, $15,094,000.

Fort Sam Houston, Texas, $11,738,000.

Fort Polk, Louisiana, $29,276,000.

Fort Riley, Kansas, $33,578,000.

Fort Sheridan, Illinois, $762,000.

Fort Sill, Oklahoma, $9,447,000.

Fort Leonard Wood, Missouri, $44,482,000.

(Sixth Army)

Fort Carson, Colorado, $5,651,000.

Hunter-Liggett Military Reservation, California, $7,776,000.

Fort Lewis, Washington, $8,327,000.

Fort Ord, California, $9,812,000.

Presidio of San Francisco, California, $3,074,000.

#### UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $8,972,000.

Aeronautical Maintenance Center, Texas, $6,284,000.

Anniston Army Depot, Alabama, $3,745,000.

Army Materials and Mechanics Research Center, Massachusetts, $325,000.

Atlanta Army Depot, Georgia, $119,000.

Frankford Arsenal, Pennsylvania, $73,000.

Fort Monmouth, New Jersey, $9,599,000.

Defense Depot, Memphis, Tennessee, $456,000.

Natick Laboratories, Massachusetts, $466,000.

Picatinny Arsenal, New Jersey, $2,915,000.

Pine Bluff Arsenal, Arkansas, $294,000.

Redstone Arsenal, Alabama, $4,971,000.

Sacramento Army Depot, California, $412,000.

Savanna Army Depot, Illinois, $1,887,000.

Sierra Army Depot, California, $380,000.

White Sands Missile Range, New Mexico, $4,432,000.

Yuma Proving Ground, Arizona, $6,472,000.

#### UNITED STATES ARMY SECURITY AGENCY

Vint Hill Farms Station, Virginia, $287,000.

#### UNITED STATES ARMY STRATEGIC COMMUNICATION COMMAND

Fort Huachuca, Arizona, $6,832,000.

Fort Ritchie, Maryland, $1,394,000.

#### UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $30,145,000.

#### ARMY MEDICAL DEPARTMENT

Walter Reed Army Medical Center, District of Columbia, $1,997,000.

#### CORPS OF ENGINEERS

Cold Regions Laboratories, New Hampshire, $597,000.

#### MILITARY TRAFFIC MANAGEMENT AND TERMINAL SERVICE

Oakland Army Terminal, California, $485,000.

Sunny Point Army Terminal, North Carolina, $1,628,000.

#### UNITED STATES ARMY, ALASKA

Fort Greely, Alaska, $3,489,000.

Fort Richardson, Alaska, $2,140,000.

Fort Wainwright, Alaska, $2,715,000.

#### UNITED STATES ARMY, HAWAII

Schofield Barracks, Hawaii, $9,592,000.

Fort Shafter, Hawaii, $1,233,000.

#### POLLUTION ABATEMENT

Various locations, Air Pollution Abatement, $7,295,000.

Various locations, Water Pollution Abatement, $6,799,000.

### OUTSIDE THE UNITED STATES

#### UNITED STATES ARMY FORCES, SOUTHERN COMMAND

Canal Zone, various locations, $8,095,000.

#### UNITED STATES ARMY, PACIFIC

Korea, various locations, $1,568,000.

#### PUERTO RICO

Fort Buchanan, Puerto Rico, $517,000.

#### KWAJALEIN MISSILE RANGE

National Missile Range, $2,353,000.

#### UNITED STATES ARMY SECURITY AGENCY

Various locations, $1,434,000.

#### UNITED STATES ARMY STRATEGIC COMMUNICATION COMMAND

Various locations, $2,097,000.

#### UNITED STATES ARMY, EUROPE

Germany, various locations, $12,517,000.

Various locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty Area, $80,000,000: *Provided*, That, within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

SEC. 102. The Secretary of the Army may establish or develop classified military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $3,000,000.

SEC. 103. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment; in the total amount of $10,000,000: *Provided*, That the Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire as of September 30, 1974, except for those public works projects concerning which the Committee on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 104. (a) Public Law 92–545, is amended under the heading "INSIDE THE UNITED STATES," in section 101 as follows:

With respect to "Military Ocean Terminal, Bayonne, New Jersey," strike out "*$3,245,000*" and insert in place thereof "$3,603,000."

With respect to "Walter Reed Army Medical Center, District of Columbia," strike out "$13,161,000" and insert in place thereof "$15,866,000."

(b) Public Law 92–545 is amended by striking out in clause (1) of section 702 "$441,704,000" and "$558,778,000" and inserting in place thereof "$444,767,000" and $561,841,000," respectively.

SEC. 105. (a) Public Law 91–511, as amended under the heading "INSIDE THE UNITED STATES", in section 101 as follows: With respect to "Fort Benning, Georgia", strike out "$2,855,000" and insert in place thereof "$3,383,000".

(b) Public Law 91–511, as amended, is amended by striking out in clause (1) of section 602 "$181,306,000" and "$266,503,000" and inserting in place thereof "$181,834,000" and "$267,031,000", respectively.

SEC. 106. (a) Public Law 90–110, as amended under the heading "UNITED STATES ARMY, ALASKA" in section 101 as follows: With respect to "Fort Richardson, Alaska," strike out "$1,8000,000" and insert in place thereof "$2,100,000".

(b) Public Law 90–110, as amended, is amended by striking out in clause (1) of section 802 "$288,055,000" and "$391,448,000" and inserting in place thereof "$288,355,000" and "$391,748,000", respectively.

## TITLE III

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment for the following acquisition and construction:

### INSIDE THE UNITED STATES

#### FIRST NAVAL DISTRICT

Naval Air Station, Brunswick, Maine, $135,000.

Naval Security Group Activity, Winter Harbor, Maine, $232,000.

Portsmouth Naval Shipyard, Portsmouth, Kittery, Maine, $3,552,000.

#### THIRD NAVAL DISTRICT

Naval Submarine Base, New London, Connecticut, $6,158,000.

Naval Underwater Systems Center, New London Laboratory, New London, Connecticut, $3,600,000.

Military Ocean Terminal, Bayonne, New Jersey, $1,806,000.

### FOURTH NAVAL DISTRICT

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $180,000.

Naval Air Development Center, Warminster, Pennsylvania, $215,000.

### NAVAL DISTRICT, WASHINGTON

Naval Research Laboratory, Washington, District of Columbia, $5,395,000.

Naval Academy, Annapolis, Maryland, $4,334,000.

Naval Medical Research Institute, Bethesda, Maryland, $6,372,000.

Naval Communication Station, Cheltenham, Maryland, $1,300,000.

Naval Ordnance Station, Indian Head, Maryland, $1,528,000.

Naval Air Test Center, Patuxent River, Maryland, $1,240,000.

Naval Hospital, Quantico, Virginia, $484,000.

### FIFTH NAVAL DISTRICT

Fleet Combat Direction Systems Training Center, Atlantic, Dam Neck, Virginia, $6,531,000.

Naval Amphibious Base, Little Creek, Virginia, $3,350,000.

Naval Air Station, Norfolk, Virginia, $2,525,000.

Naval Station, Norfolk, Virginia, $18,183,000.

Navy Public Works Center, Norfolk, Virginia, $567,000.

Nuclear Weapons Training Group, Atlantic Norfolk, Virginia, $2,470,000.

Naval Air Station, Oceana, Virginia, $3,962,000.

Norfolk Naval Shipyard, Portsmouth, Virgina, $11,133,000.

Naval Weapon Station, Yorktown, Virginia, $1,327,000.

### SIXTH NAVAL DISTRICT

Naval Air Station, Cecil Field, Florida, $3,743,000.

Naval Air Station, Ellyson Field, Florida, $75,000.

Naval Air Station, Jacksonville, Florida, $13,766,000.

Naval Hospital, Orlando, Florida, $20,981,000.

Naval Training Center, Orlando, Florida, $5,902,000.

Naval Coastal Systems Laboratory, Panama City, Florida, $3,463,000.

Naval Air Station, Pensacola, Florida, $2,400,000.

Naval Communications Training Center, Pensacola, Florida, $9,859,000.

Naval Air Station, Whiting Field, Florida, $3,586,000.

Naval Aerospace Regional Medical Center, Pensacola, Florida, $1,084,000.

Naval Home, Gulfport, Mississippi, $9,444,000.

Naval Air Station, Meridian, Mississippi, $4,532,000.

Charleston Naval Shipyard, Charleston, South Carolina, $252,000.

Naval Station, Charleston, South Carolina, $1,498,000.

Naval Air Station, Memphis, Tennessee, $4,478,000.

### EIGHTH NAVAL DISTRICT

Naval Hospital, New Orleans, Louisiana, $3,386,000.

Naval Support Activity, New Orleans, Louisiana, $11,557,000.

Naval Air Station, Chase Field, Texas, $2,875,000.

Naval Air Station, Kingsville, Texas $3,040,000.

### NINTH NAVAL DISTRICT

Naval Complex, Great Lakes, Illinois, $15,148,000.

### ELEVENTH NAVAL DISTRICT

Naval Weapons Center, China Lake, California, $3,163,000.

Long Beach Naval Shipyard, Long Beach, California, $6,808,000.

Naval Hospital, Long Beach, California, $878,000.

Naval Air Station, Miramar, California, $1,454,000.

Naval Air Station, North Island, California, $2,415,000.

Fleet Combat Direction Systems Training Center, Pacific, San Diego, California, $1,118,000.

Naval Electronics Laboratory Center, San Diego, California, $3,518,000.

Naval Station, San Diego, California, $11,996,000.

Naval Training Center, San Diego, California, $2,944,000.

Navy Public Works Center, San Diego, California, $2,471,000.

Navy Submarine Support Facility, San Diego, California, $3,920,000.

Naval Weapons Station, Seal Beach, California, $1,528,000.

### TWELFTH NAVAL DISTRICT

Naval Air Station, Alameda, California, $5,236,000.

Naval Air Station, Lemoore, California, $3,266,000.

Naval Air Station, Moffett Field, California, $3,150,000.

Naval Hospital, Oakland, California, $5,839,000.

Mare Island Naval Shipyard, Vallejo, California, $1,874,000.

### THIRTEENTH NAVAL DISTRICT

Naval complex, Adak, Alaska, $8,773,000.

Puget Sound Naval Shipyard, Bremerton, Washington, $2,300,000.

### FOURTEENTH NAVAL DISTRICT

Naval Air Station, Barbers Point, Hawaii, $4,306,000.

Naval Ammunition Depot, Oahu, Hawaii, $457,000.

Naval Station, Pearl Harbor, Hawaii, $4,060,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $2,562,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $1,985,000.

Naval Communication Station, Honolulu, Wahiawa, Hawaii, $2,324,000.

### MARINE CORPS

Marine Corps Air Station, Quantico, Virginia, $831,000.

Marine Corps Development and Education Command, Quantico, Virginia, $1,541,000.

Marine Corps Base, Camp Lejeune, North Carolina, $8,902,000.

Marine Corps Air Station, Cherry Point, North Carolina, $1,821,000.

Marine Corps Air Station, New River, North Carolina, $3,245,000.

Fleet Marine Force Atlantic, Norfolk, Virginia, $686,000.

Marine Corps Supply Center, Albany, Georgia, $5,204,000.

Marine Corps Air Station, Beaufort, South Carolina, $126,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $2,580,000.

Marine Corps Air Station, Yuma, Arizona, $1,634,000.

Marine Corps Supply Center, Barstow, California, $3,802,000.

Marine Corps Base, Camp Pendleton, California, $10,920,000.

Marine Corps Air Station, El Toro, California, $747,000.

Marine Corps Base, Twentynine Palms, California, $2,992,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $5,988,000.

### TRIDENT FACILITIES

Various locations, Trident facilities United States, $118,320,000.

### POLLUTION ABATEMENT

Various locations, air pollution abatement, $27,636,000.

Various locations, water pollution abatement, $54,812,000.

## OUTSIDE THE UNITED STATES

### TENTH NAVAL DISTRICT

Naval Complex, Puerto Rico, $1,707,000.

Naval Facility, Grand Turk, the West Indies, $1,145,000.

### ATLANTIC OCEAN AREA

Naval Air Station, Bermuda, $3,010,000.

Naval Complex, Guantanamo Bay, Cuba, $8,376,000.

### EUROPEAN AREA

Naval Support Office, Athens, Greece, $1,948,000.

Naval Detachment, Souda Bay, Crete, Greece, $4,153,000.

Naval Air Facility, Signsoella, Sicily, Italy, $3,086,000.

Naval Security Group Activity, Edzell, Scotland, $868,000.

Naval Station, Rota, Spain, $85,000.

### PACIFIC OCEAN AREA

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $1,192,000.

Naval Complex, Guam, Mariana Islands, $10,988,000.

Naval Complex, Subic Bay, Republic of the Philippines, $1,689,000.

### POLLUTION ABATEMENT

Various locations, water pollution abatement, $3,995,000.

SEC. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000: *Provided*, That the Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire as of September 30, 1974, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 203. The Secretary of the Navy is authorized to acquire, under such terms as he deems appropriate, lands or interests in land (including easements) in approximately fourteen thousand acres of privately owned property contiguous to the airfield and approach corridors of the Marine Corps Station at Yuma, Arizona, as he considers necessary for the safe and efficient operations at such station. Acquisition of such land or interests in land shall be effected by the exchange of such excess land or interests in land of approximately equal value, as the Secretary of Defense may determine to be available for the purpose. If the fair market value of the land or interests in land to be acquired is less than the fair market value of the Government property to be exchanged, the amount of such deficiency shall be paid to the Government.

SEC. 204. In order to permit the execution of an order of the Secretary of Defense, dated May 24, 1973, that the Department of the Navy transfer all Atlantic Fleet weapons range activities now conducted on or near the island of Culebra to the islands of Desecheo and Monito, not later than July 1, 1975, there is hereby authorized to be appropriated the sum of $12,000,000 for construction of and equipment for substitute facilities, such sum to remain available until expended.

SEC. 205. (a) Public Law 90–408, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows: With respect to Navy Mine Defense Laboratory, Panama City, Florida, strike out "$7,411,000" and insert in place thereof "$9,397,000".

(b) Public Law 90–408, as amended, is amended by striking out in clause (2) of section 802, "$239,682,000" and "$246,547,000" and inserting in place thereof "$241,668,000" and "$248,533,000", respectively.

SEC. 206. (a) Public Law 91–511, as amendded, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows: With respect to Naval Weapons Laboratory, Dahlgren, Virginia, strike out "$530,000" and insert in place thereof "$779,000".

(b) Public Law 91–511, as amended, is amended by striking out in clause (2) of section 602 "$246,955,000" and "$274,093,000" and inserting in place thereof "$247,204,000" and "$274,342,000", respectively.

SEC. 207. (a) Public Law 92–145 is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows: With respect to Naval Air Station, Meridian, Mississippi, strike out "$3,266,000" and insert in place thereof "$3,859,000".

(b) Public Law 92–145 is amended by striking out in clause (2) of section 702 "$266,068,000" and "$321,843,000" and inserting in place thereof "$266,661,000" and "$322,436,000", respectively.

SEC. 208. (a) Public Law 92–545 is amended under the heading "INSIDE THE UNITED STATES" in section 201 as follows: With respect to Naval Ammunition Depot, McAlester, Oklahoma, strike out "$6,336,000" and insert in place thereof "$8,778,000".

(b) Public Law 92–545 is amended by striking out in clause (2) of section 702 "$474,450,000" and "$515,667,000" and inserting in place thereof "$476,892,000" and "$518,109,000", respectively.

## TITLE III

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

### INSIDE THE UNITED STATES

#### AEROSPACE DEFENSE COMMAND

Peterson Field, Colorado Springs, Colorado, $7,843,000.

Tyndall Air Force Base, Panama City, Florida, $1,771,000.

#### AIR FORCE COMMUNICATIONS SERVICE

Richards-Gebaur Air Force Base, Grandview, Missouri $3,963,000.

#### AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Ogden, Utah, $8,968,000.

Kelly Air Force Base, San Antonio, Texas, $6,101,000.

McClellan Air Force Base, Sacramento, California, $3,171,000.

Robins Air Force Base, Warner Robins, Georgia, $4,868,000.

Tinker Air Force Base, Oklahoma City, Oklahoma, $13,605,000.

Wright-Patterson Air Force Base, Dayton, Ohio, $18,434,000.

#### AIR FORCE SYSTEMS COMMAND

Edwards Air Force Base, Muroc, California, $889,000.

Eglin Air Force Base, Valparaiso, Florida, $7,039,000.

Satellite Control Facilities, $654,000.

#### AIR TRAINING COMMAND

Keesler Air Force Base, Biloxi, Mississippi, $8,786,000.

Lackland Air Force Base, San Antonio, Texas, $6,509,000.

Laughlin Air Force Base, Del Rio, Texas, $4,635,000.

Lowry Air Force Base, Denver, Colorado, $21,610,000.

Mather Air Force Base, Sacramento, California, $310,000.

Randolph Air Force Base, San Antonio, Texas, $1,463,000.

Reese Air Force Base, Lubbock, Texas, $1,368,000.

Sheppard Air Force Base, Wichita Falls, Texas, $2,753,000.

Vance Air Force Base, Enid, Oklahoma, $371,000.

Webb Air Force Base, Big Spring, Texas, $3,154,000.

Williams Air Force Base, Chandler, Arizona, $797,000.

#### AIR UNIVERSITY

Maxwell Air Force Base, Montgomery, Alabama, $4,900,000.

#### ALASKAN AIR COMMAND

Eielson Air Force Base, Fairbanks, Alaska, $1,557,000.

Various locations, $7,101,000.

#### HEADQUARTERS COMMAND

Andrews Air Force Base, Camp Springs, Maryland, $16,935,000.

Bolling Air Force Base, Washington, District of Columbia, $1,500,000.

#### MILITARY AIRLIFT COMMAND

Altus Air Force Base, Altus, Oklahoma, $1,770,000.

Dover Air Force Base, Dover, Delaware, $3,387,000.

McGuire Air Force Base, Wrightstown, New Jersey, $1,860,000.

Norton Air Force Base, San Bernardino, California, $1,283,000.

Scott Air Force Base, Belleville, Illinois, $3,092,000.

Travis Air Force Base, Fairfield, California, $1,024,000.

#### PACIFIC AIR FORCES

Hickam Air Force Base, Honolulu, Hawaii, $7,331,000.

#### STRATEGIC AIR COMMAND

Barksdale Air Force Base, Shreveport, Louisiana, $1,743,000.

Blytheville Air Force Base, Blytheville, Arkansas, $140,000.

Davis-Monthan Air Force Base, Tucson, Arizona, $232,000.

Dyes Air Force Base, Abilene, Texas, $730,000.

Ellsworth Air Force Base, Rapid City, South Dakota, $514,000.

Francis E. Warren Air Force Base, Cheyenne, Wyoming, $5,834,000.

Grissom Air Force Base, Peru, Indiana, $3,100,000.

Kincheloe Air Force Base, Kinross, Michigan, $2,430,000.

Malmstrom Air Force Base, Great Falls, Montana, $1,507,000.

McConnell Air Force Base, Wichita, Kansas, $1,042,000.

Offutt Air Force Base, Omaha, Nebraska, $617,000.

Pease Air Force Base, Portsmouth, New Hampshire, $526,000.

Plattsburgh Air Force Base, Plattsburgh, New York, $286,000.

Vandenberg Air Force Base, Lompoc, California, $220,000.

Whiteman Air Force Base, Knob Noster, Missouri, $3,892,000.

Wurtsmith Air Force Base, Oscoda, Michigan, $616,000.

Various locations, $2,309,000.

#### TACTICAL AIR COMMAND

Cannon Air Force Base, Clovis, New Mexico, $162,000.

England Air Force Base, Alexandria, Louisiana, $183,000.

Holloman Air Force Base, Alamogordo, New Mexico, $2,432,000.

Langley Air Force Base, Hampton, Virginia, $503,000.

Little Rock Air Force Base, Little Rock, Arkansas, $1,165,000.

Luke Air Force Base, Glendale, Arizona, $2,986,000.

MacDill Air Force Base, Tampa, Florida, $2,657,000.

Mountain Home Air Force Base, Mountain Home, Idaho, $253,000.

Nellis Air Force Base, Las Vegas, Nevada, $2,588,000.

Shaw Air Force Base, Sumter, South Carolina, $2,501,000.

#### UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado Springs, Colorado, $645,000.

#### POLLUTION ABATEMENT

Various locations, air pollution abatement, $3,689,000.

Various locations, water pollution abatement, $5,381,000.

#### AIR INSTALLATION COMPATIBLE USE ZONES

Various locations, $18,000,000.

### OUTSIDE THE UNITED STATES

#### PACIFIC AIR FORCES

Various locations, $11,788,000.

#### UNITED STATES AIR FORCES IN EUROPE

Germany, $5,181,000.

United Kingdom, $3,954,000.

Various locations, $800,000.

#### UNITED STATES AIR FORCE SOUTHERN COMMAND

Howard Air Force Base, Canal Zone, $1,038,000.

#### UNITED STATES AIR FORCE SECURITY SERVICE

Various locations, $221,000.

#### POLLUTION ABATEMENT

Various locations, water pollution abatement, $750,000.

#### WORLDWIDE COMMUNICATIONS

Various locations, $330,000.

SEC. 302. The Secretary of the Air Force may establish or develop classified military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $1,000,000.

SEC. 303. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by: (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the amount of $10,000,000: *Provided,* That the Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire as of September 30, 1974, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

Sec. 304. (a) Section 301 of Public Law 92–145 is amended under the heading "Inside the United States" as follows: Under the subheading "Strategic Air Command" with respect to Malmstrom Air Force Base, Great Falls, Montana, strike out $522,000" and insert in place thereof "$735,000".

(b) Public Law 92–145 is further amended by striking out in clause (3) of section 702 "$226,484,000" and "247,347,000" and inserting in place thereof "$226,697,000" and "$247,560,000", respectively.

Sec. 305. (a) Public Law 92–545, is amended under the heading "Inside the United States" in section 301 as follows:

With respect to Keesler Air Force Base, Biloxi, Mississippi, strike out "$4,454,000" and insert in place thereof "$5,654,000".

(b) Public Law 92–545, is amended by striking out in clause 3 of section 702 "$232,925,000" and "$284,150,000" and inserting in place thereof "$234,125,000" and "$285,350,000", respectively.

## TITLE IV

Sec. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment, for defense agencies for the following acquisition and construction:

### DEFENSE NUCLEAR AGENCY

Kirtland Air Force Base, Albuquerque, New Mexico, $374,000.

Atomic Energy Commission Nevada Test Site, Las Vegas, Nevada, $200,000.

### DEFENSE SUPPLY AGENCY

Defense Construction Supply Center, Columbus, Ohio, $1,188,000.

Defense Depot, Mechanicsburg, Pennsylvania, $2,048,000.

Defense Depot, Memphis, Tennessee, $360,000.

Defense Depot, Ogden, Utah, $250,000.

Defense Depot, Tracy, California, $747,000.

Defense General Supply Center, Richmond, Virginia, $2,653,000.

Defense Logistics Services Center, Battle Creek, Michigan, $160,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $560,000.

Regional Office, Defense Contract Administration Services, Chicago, Illinois, $404,000.

### NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $8,156,000.

## TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

Sec. 501. The Secretary of Defense, or his designee, is authorized to construct, at the locations hereinafter named, family housing units and mobile home facilities in the numbers hereinafter listed, but no family housing construction shall be commenced at any such locations in the United States, until the Secretary shall have consulted with the Secretary of the Department of Housing and Urban Development, as to the availability of adequate private housing at such locations. If agreement cannot be reached with respect to the availability of adequate private housing at any location, the Secretary of Defense shall immediately notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(a) Family housing units:

(1) The Department of the Army, five thousand nine hundred thirty-five units, $170,240,000.

Fort Carson, Colorado, two hundred units.

Eglin Air Force Base, Florida, twenty-five units.

United States Army Installations, Oahu, Hawaii, one thousand units.

Fort Riley, Kansas, nine hundred one units.

Fort Campbell, Kentucky, one thousand units.

Fort Polk, Louisiana, five hundred units.

Aberdeen Proving Ground, Maryland, one hundred sixty-six units.

Fort Bragg/Pope Air Force Base, North Carolina, one hundred thirty-six units.

Tobyhanna Army Depot, Pennsylvania, eighty-six units.

Fort Hood, Texas, nine hundred units.

Red River Army Depot, Texas, twenty-one units.

Fort Belvoir, Virginia, seven hundred units.

Fort Eustis, Virginia, three hundred units.

(2) The Department of the Navy, three thousand two hundred eighty-five units, $102,351,000.

Marine Corps Base, Camp Pendleton, California, eight hundred units.

Naval Facility, Centerville Beach, California, sixty units.

Marine Corps Base, Twentynine Palms, California, two hundred units.

Naval Complex, Oahu, Hawaii, six hundred units.

Naval Complex, New Orleans, Louisiana, one hundred units.

Construction Battalion Center, Gulfport, Mississippi, one hundred units.

Naval Home, Gulfport, Mississippi, five units.

Naval Complex, South Philadelphia, Pennsylvania, three hundred fifty units.

Naval Complex, Charleston, South Carolina, two hundred seventy units.

Naval Complex, Guam, Marianas Islands, eight hundred units.

(3) The Department of the Air Force, one thousand eight hundred units, $54,951,000.

Blytheville Air Force Base, Arkansas, one hundred units.

Avon Park Weapons Range, Florida, fifty units.

Eglin Air Force Base, Florida, two hundred fifty units.

United States Air Force Installations, Oahu, Hawaii, four hundred units.

Andrews Air Force Base, Maryland, three hundred units.

Grand Forks Air Force Base, North Dakota, two hundred units.

Sheppard Air Force Base, Texas, two hundred units.

Andersen Air Force Base, Guam, Marianas Islands, three hundred units.

(b) Mobil home facilities:

(1) The Department of the Army, eight hundred twenty-five spaces, $3,300,000.

(2) The Department of the Navy, one hundred spaces, $400,000.

(3) The Department of the Air Force, four hundred fifteen spaces, $2,000,000.

Sec. 502. Authorization for the construction of family housing provided in this Act shall be subject, under such regulations as the Secretary of Defense may prescribe, to the following limitations on cost, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures.

(a) The average unit cost for each military department for all units of family housing constructed in the United States (other than Hawaii and Alaska) shall not exceed $27,000 including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

(b) No family housing unit in the area specified in subsection (a) shall be constructed at a total cost exceeding $44,000 including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

(c) When family housing units are constructed in areas other than that specified in subsection (a) the average cost of all such units shall not exceed $37,000 and in no event shall the cost of any unit exceed $44,000. The cost limitations of this subsection shall include the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

Sec. 503. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions or extensions not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $28,160,000.

(2) for the Department of the Navy, $10,600,000.

(3) for the Department of the Air Force, $23,750,000.

Sec. 504. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on cost of construction of family housing, the limitation on such cost contained in section 502 of this Act shall apply to all prior authorizations for construction of family housing not heretofore repealed and for which construction contracts have not been executed by the date of enactment of this Act.

Sec. 505. The Secretary of Defense, or his designee, is authorized to construct, or otherwise acquire, in foreign countries, twelve family housing units. This authority shall include the authority to acquire land and interests in land. The authorization contained in this section shall not be subject to the cost limitations set forth in section 502 of this Act: *Provided*, That the cost shall not exceed a total of $520,000 for all units nor $44,000 for any one unit, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

Sec. 506. (a) Subsection 610(a) of Public Law 90–110 (81 Stat. 279, 305), as amended, is amended to read as follows:

"Sec. 610(a). None of the funds authorized by this or any other Act may be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units when such units are to be converted into or used as a single family housing unit, the costs of which exceed $15,000 per unit including costs of repairs undertaken in connection therewith, and including any costs in connection with (1) the furnishing of electricity, gas, water and sewage disposal; (2) roads and walks; and (3) grading and drainage, unless such improvement in connection with such unit or units is specifically authorized by law. As used in this section the term 'improvement' includes alteration, expansion, extension, or rehabilitation of any housing unit or units, including that maintenance and repair which is to be accomplished concurrently with an improvement project. The provisions of this section shall not apply to projects authorized for restoration or replacement of housing units damaged or destroyed."

(b) The Secretary of Defense, or his designee, is authorized to accomplish repairs and improvements to existing public quarters in amounts in excess of the $15,000 limitation prescribed in subsection (a) of this section as follows:

Elmendorf Air Force Base, Alaska, one unit, $35,800.

Marine Corps Base, Twentynine Palms, California, one unit, $17,000.

Fort McNair, Washington, District of Columbia, five units, $165,000.

Naval Complex, New Orleans, Louisiana, four units, $119,600.

Ramstein Air Base, Federal Republic of Germany, one unit, $26,500.

Sec. 507. (a) Section 515 of Public Law 84–161 (69 Stat. 324, 352), as amended, is further amended to read as follows:

"Sec. 515. During fiscal years 1974 and 1975, the Secretaries of the Army, Navy, and Air Force, respectively, are authorized to lease housing facilities for assignment as public quarters to military personnel and their dependents, without rental charge, at or near any military installation in the United States, Puerto Rico, or Guam if the Secretary of Defense, or his designee, finds that there is a lack of adequate housing at or near such military installation and that (1) there has been a recent substantial increase in military strength and such increase is temporary, or (2) the permanent military strength is to be substantially reduced in the near future, or (3) the number of military personnel assigned is so small as to make the construction of family housing uneconomical, or (4) family housing is required for personnel attending service school academic courses on permanent change of station orders, or (5) family housing has been authorized but is not yet completed or a family housing authorization request is in a pending military construction authorization bill. Such housing facilities may be leased on an individual unit basis and not more than ten thousand such units may be so leased at any one time. Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation, may not exceed: For the United States (other than Hawaii), Puerto Rico, and Guam an average of $210 per month for each military department, or the amount of $290 per month for any one unit; and for Hawaii, an average of $255 per month for each military department, or the amount of $300 per month for any one unit."

(b) The average unit rental for Department of Defense family housing acquired by lease in foreign countries may not exceed $325 per month for the Department and in no event shall the rental for any one unit exceed $625 per month, including the costs of operation, maintenance, and utilities; and not more than seven thousand five hundred family housing units may be so leased at any one time. The Secretary of Defense, or his designee, may waive these cost limitations for not more than three hundred units leased for: incumbents of special positions, personnel assigned to Defense Attache Offices, or in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

Sec. 508. Section 507 of Public Law 88–174 (77 Stat. 307, 326), as amended, is further amended to read as follows:

"Sec. 507. For the purpose of providing military family housing in foreign countries, the Secretary of Defense is authorized to enter into agreements guaranteeing the builders or other sponsors of such housing a rental return equivalent to a specified portion of the annual rental income which the builders or other sponsors would receive from the tenants if the housing were fully occupied: *Provided*, That the aggregate amount guaranteed under such agreements entered into during the fiscal years 1974 and 1975 shall not exceed such amount as may be applicable to five thousand units: *Provided further*, That no such agreement shall guarantee the payment of more than 97 per centum of the anticipated rentals, nor shall any guarantee extend for a period of more than ten years, nor shall the average guaranteed rental on any project exceed $275 per unit per month, including the cost of maintenance and operation."

Sec. 509. (a) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2684. Construction of family quarters; limitations on space

"(a) In the construction of family quarters for members of the Armed Forces, the following are the maximum space limitations:

| "Pay grade | Number of bedrooms | Net floor area (square feet) |
|---|---|---|
| 0-7 and above | 4 | 2,100 |
| 0-6 | 4 | 1,700 |
| 0-4 and 0-5 | 4 | 1,559 |
| | 3 | 1,400 |
| 0-1 through 0-3; W-1 through W-4; and E-7 through E-9 | 5 | 1,550 |
| | 4 | 1,450 |
| | 3 | 1,350 |
| | 2 | 950 |
| E-1 through E-6 | 5 | 1,550 |
| | 4 | 1,350 |
| | 3 | 1,200 |
| | 2 | 950 |

As used in this section 'net floor area' means the space inside the exterior walls, excluding: basement; service space instead of basement; attic; garage; carport; porches; and stairwells.

"(b) The maximum limitations prescribed by subsection (a) are increased by 10 per centum for quarters of the commanding officer of any station, air base, or other installation based on the grade authorized for that position.

"(c) The maximum limitations for family quarters constructed for key and essential civilian personnel are the same as those for military personnel of comparable grade, as determined by the Secretary of Defense.

"(d) The maximum net floor area prescribed by subsection (a) may be increased up to 5 per centum if the Secretary of Defense, or his designee, determines that such increase is in the best interest of the Government to permit award of a turnkey construction project to the contractor offering the most satisfactory proposal. Any increase made under subsection (b) when combined with an increase under this subsection may not exceed an aggregate of 10 per centum."

(b) The analysis of such chapter 159 is amended by adding at the end thereof the following:

"2684. Construction of family quarters, limitations on space."

(c) Chapter 449 of title 10, United States Code, is amended by repealing section 4774, except for subsection (d) thereof, which subsection remains with the "(d)" deleted; and by revising the corresponding item in the catchline and analysis to read: "Construction: limitations".

(d) Chapter 649 of title 10, United States Code, is amended by repealing sections 7574 and 7575 and by stiking out the corresponding items in the analysis.

(e) Chapter 949 of title 10, United States Code, is amended by repealing section 9774, except subsection (d) thereof, which subsection remains with the "(d)" deleted; and by revising the corresponding item in the catchline and analysis to read: "Construction: limitations".

Sec. 510. Notwithstanding the provisions of any other law, the Secretary of the Air Force is authorized to settle claims regarding repairs and improvements to public quarters at F. E. Warren Air Force Base, Wyoming, in the amount of $41,22 .92.

Sec. 511. There is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for the following purposes:

(1) for construction and acquisition of family housing, including improvements to adequate quarters, improvements to inadequate quarters, minor construction, relocation of family housing, rental guarantee payments, construction and acquisition of mobile home facilities, and planning, an amount not to exceed $367,675,000; and

(2) for support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed $826,793,000.

Sec. 512. (a) Notwithstanding any other provision of law, the Secretary of the Army, or his designee, is hereby authorized to convey to the State of Hawaii, subject to the terms and conditions hereafter stated, and to such other terms and conditions as the Secretary of the Army, or his designee, shall deem to be in the public interest, all right, title, and interest of the United States in and to certain land, with improvements thereon, within the Fort Ruger Military Reservation, Hawaii, as described in subsection (c).

(b) In consideration for the conveyance by the United States of the aforesaid property, the State of Hawaii shall provide for, convey, or pay to the United States, either in facilities and services or money or a combination thereof, as determined by the Secretary of the Army, a sum equal to the appraised fair market value of the property to be conveyed. The facilities and services so provided shall be utilized, and money so paid shall be credited to applicable accounts which shall then be available, for site preparation and improvement of the Aliamanu Military Reservation, Oahu, Hawaii, including roads and streets, utilities, and other community facilities suitable for the support of a military family housing development. The site preparation and improvements shall be in accordance with plans and specifications to be approved by the Secretary of the Army or his designee.

(c) The lands authorized to be conveyed to the State of Hawaii as provided in subsection (a) comprise approximately fifty-seven acres with improvements thereon as generally depicted on maps on file in the Office of the United States Army Engineer, Pacific Ocean Division, Honolulu, Hawaii. The exact description and acreage of the land to be conveyed shall be determined by an accurate survey as mutually agreed upon between the State of Hawaii and the Secretary of the Army, or his designee.

(d) Notwithstanding any other provision of law, the cost of the site preparation, roads and streets, utilities, and other support facilities borne by the State of Hawaii, as provided herein shall not be considered in arriving at the average cost of any family housing units or the cost of any single family housing unit to be constructed on the property.

(e) Public Law 91–564, approved December 19, 1970, is hereby repealed.

Sec. 513. In accordance with subsection 1013(i) of Public Law 89–754 (80 Stat. 1255, 1290) there is authorized to be appropriated for use by the Secretary of Defense for the purposes of section 1013 of Public Law 89–754, including acquisition of properties, an amount not to exceed $7,000,000.

Sec. 514. Section 1013 of Public Law 89–754 (80 Stat. 1255, 1290), as amended, is further amended by adding the following new subsection:

"(m) In addition to the coverage provided above, the benefits of this section shall apply, as to closure actions in the several States and the District of Columbia announced after April 1, 1973, to otherwise eligible employees or personnel who are (1) employed or assigned either at or near the base or installation affected by the closure action, and (2) are required to relocate, due to transfer, reassignment or involuntary termination of employment, for reasons other than the closure action."

## TITLE VI

### GENERAL PROVISIONS

Sec. 601. The Secretary of each military department may proceed to establish or develop installation and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

Sec. 602. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V shall not exceed—

(1) for title I: Inside the United States, $508,507,000; outside the United States, $108,581,000; section 102, $3,000,000; or a total of $620,088,000,

(2) for title II: Inside the United States, $547,780,000; outside the United States, $54,242,000; or a total of $602,022,000.

(3) for title III: Inside the United States, $249,685,000; outside the United States, $24,062,000; section 302, $1,000,000; or a total of $274,747,000.

(4) for title IV: A total of $17,100,000.

(5) for title V: Military family housing and homeowners assistance, $1,201,468,000.

Sec. 603. (a) Except as provided in subsection (b), any of the amounts specified in titles I, II, III, and IV of this Act, may, in the discretion of the Secretary concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska), and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. However, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of Defense, or his designee, determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), the Secretary concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(c) Subject to the limitations contained in subsection (a), no individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation may be placed under contract if—

(1) the estimated cost of such project is $250,000 or more, and

(2) the current working estimate of the Department of Defense, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress, until after expiration of thirty days from the date on which a written report of the facts relating to the increased cost of such project, including a statement of the reasons for such increase has been submitted to the Committees on Armed Services of the House of Representatives and the Senate.

(d) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

Sec. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, or the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected, together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code: *Provided*, That such contracts under regulations established by the Secretary of Defense may be awarded on a competitive basis by turnkey one-step procedures. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder.

Sec. 605. As of October 1, 1974, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of military installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Act of October 25, 1972, Public Law 92-545 (86 Stat. 1135), and such authorizations contained in Acts approved before October 26, 1972, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions;

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part before October 1, 1974, and authorizations for appropriations therefor;

(3) notwithstanding the repeal provisions of section 705(b) of the Act of October 25, 1972, Public Law 92-545 (86 Stat. 1135, 1153), all authorizations for construction of family housing, including mobile home facilities, all authorizations to accomplish alterations, additions, expansion, or extensions to existing family housing, and all authorizations for related facilities projects under said act are hereby continued and shall remain in effect until October 1, 1974; and

(4) notwithstanding the repeal provisions of section 705(a), of the Act of October 25, 1972, Public Law 92-545 (86 Stat. 1135, 1153), authorizations for the following items which shall remain in effect until October 1, 1975:

(a) Airfield expansion in the amount of $882,000 for the United States Army Security Agency, that is contained in title I, section 101, under the heading "OUTSIDE THE UNITED STATES" of the Act of October 27, 1971 (85 Stat. 394, 395), as amended.

(b) Environmental Health Effects Laboratory in the amount of $4,500,000 for the Naval Medical Research Institute, Bethesda, Maryland, that is contained in title II, section 201, under the heading "INSIDE THE UNITED STATES" of the Act of October 27, 1971 (85 Stat. 394, 397).

Sec. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index 1.0:

(1) $28.50 per square foot per permanent barracks;

(2) $30.50 per square foot for bachelor officer quarters;

unless the Secretary of Defense or his designee determines that because of special circumstances, application to such project of the limitations on unit costs contained in this section is impracticable: *Provided*, That notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

Sec. 607. Section 709 of Public Law 92-145 (85 Stat. 394, 414), as amended, is amended to read as follows: "Notwithstanding any other provision of law, none of the lands constituting Camp Pendleton, California, may be sold, transferred, or otherwise disposed of by the Department of Defense unless hereafter authorized by law: *Provided, however*, That with respect to said lands the Secretary of the Navy, or his designee, may grant leases, licenses, or easements pursuant to his existing authority."

Sec. 608. Chapter 159 of title 10, United States Code, is amended as follows:

(1) Section 2674(f) is amended by striking out the phrase "every six months" in the second line and inserting "annually" in place thereof.

(2) Section 2676 is amended by changing the period at the end thereof to a semicolon and adding the following: "*Provided*, That this limitation shall not apply to the acceptance by a military department of real property acquired under the authority of the Administrator of General Services to acquire property by the exchange of Government property pursuant to the Federal

Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.)."

Sec. 609. The Secretary of Defense is authorized to use any unobligated funds, not in excess of $1,500,000, heretofore appropriated to carry out the provisions of section 610 of the Military Construction Authorization Act, 1971 (84 Stat. 1224) for the purpose of assisting communities near Malmstrom Air Force Base, Great Falls, Montana, to pay their respective shares of the cost under any Federal program providing assistance for the adoption, to the needs and uses of such communities, of the water system, and appurtenances thereto, installed to support the Safeguard Antiballistic Missile site near such air force base.

Sec. 610. Title I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1974".

TITLE VII

RESERVE FORCES FACILITIES

Sec. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

(1) For the Department of the Army:

(a) Army National Guard of the United States, $29,900,000.

(b) Army Reserve, $35,900,000.

(2) For the Development of the Navy: Naval and Marine Corps Reserves, $18,858,000.

(3) For the Department of the Air Force:

(a) Air National Guard of the United States, $16,000,000.

(b) Air Force Reserve, $9,000,000.

Sec. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

Sec. 703. This title may be cited as the "Reserve Forces Facilities Authorization Act, 1974".

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMINGTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## RECESS UNTIL 3 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 1:29 p.m. the Senate took a recess until 3 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. McClure).

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

## REPORT ON ADMINISTRATION OF THE NATIONAL COOLEY'S ANEMIA CONTROL ACT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. McClure) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

*To the Congress of the United States:*

I am pleased to send to the Congress the First Annual Report on the Administration of the National Cooley's Anemia Control Act in accordance with the requirements of section 1115 of the Public Health Service Act, as amended.

Richard Nixon.

The White House, *September 13, 1973.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. McClure) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8619) making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Whitten, Mr. Shipley, Mr. Evans of Colorado, Mr. Burlison of Missouri, Mr. Natcher, Mr. Smith of Iowa, Mr. Casey of Texas, Mr. Mahon, Mr. Andrews of North Dakota, Mr. Michel, Mr. Scherle, Mr. Robinson of Virginia, and Mr. Cederberg were appointed managers on the part of the House at the conference.

## RECESS TO 3:30 P.M.

Mr. MOSS. Mr. President, at the direction of the leadership, I move that the Senate stand in recess until the hour of 3:30 p.m. today.

The motion was agreed to, and at 3:01 p.m., the Senate took a recess until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Haskell).

## NOMINATION OF DR. HENRY KISSINGER

Mr. HASKELL. Mr. President, for his intellect and competence, Dr Henry Kissinger, whose name is before the Senate for confirmation as Secretary of State, stands at or near the top of his chosen profession.

Two major advances in American diplomacy can be in large part credited to him—the beginning of a détente with Russia embodied in the SALT I treaty and the opening of relations with China. These achievements seem to be the basis for much of Dr. Kissinger's support.

Whether he should share equally in the administration's foreign policy reverses is hard to say. But we must not overlook them. Concern for our allies and strengthening these ties should be a major concern of foreign policy. But this concern has been conspicuously absent in this administration.

There was no such concern when China was recognized without informing our Asian ally, Japan. We thus broke a solemn pledge.

There was no concern for India, the most populous democracy in the world, when our Government "tilted" toward Pakistan. India was driven toward the waiting Soviet arms.

That concern was conspicuously lacking in the precipitate decision to impose an import surtax with no warning. Suffering most from this action were Japan, our ally, and Canada, our best friend and ally.

Probably the blame falls upon the President. Certainly the shock effect of the China recognition without a hint to our allies bears the imprint of the Nixon style. So does the sudden imposition of the import surtax without consideration for or consultation with those whom it would harm most. I doubt American credibility among her allies can stand another of these "successes."

However, I raise the question, Mr. President, whether Dr. Kissinger does not fail in other and perhaps more important ways.

The revelations of the last few months have surely rubbed off on everyone connected with Government. In my opinion, the people of our country have never been as cynical about their officials. And they have good reason.

At every level of Government—and certainly at the highest levels—this country desperately needs men dedicated to openness and truth. We must find men untouched by the deceit which has characterized Mr. Nixon and his close associates. Dr. Kissinger certainly appears free of this deceit in the domestic arena. But I am forced to recall that it was he who, just days before last November's election, said "Peace is at hand" in Indochina. Now we know that this was not so, that any intelligent man with the information Dr. Kissinger possessed obviously knew it was not so.

Further, it was Dr. Kissinger who participated in keeping the bombing of Cambodia from the American people. He was silent while Mr. Nixon untruthfully assured the American people that Cambodian soil had not been violated.

Dr. Kissinger's apologists are sure to say that the orders came from the President. It has not been so very long ago that, as a nation, we rejected that defense as no defense at all. It is still inadequate.

I sincerely wish I could take a positive stand on Dr. Kissinger's nomination. That would be far and away my preference. However, the times cry out for a return to absolute integrity as the first requisite for all who hold high office. I wish I could point to the nominee for Secretary of State and say we have found a man who personifies that return.

But I cannot. It is because of his participation in the deception of the American people that I intend to vote against the nomination of Dr. Kissinger.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. ABOUREZK. I want to add my compliments and congratulations to the Senator from Colorado for a very courageous and forthright statement. He has demonstrated once again, in my opinion, the wisdom of the people of Colorado in sending him here to speak out in what he considers to be his best judgment, not the judgment of those few people who have attempted to run our foreign policy in an elitest fashion, who have tried to do it in secret, and as would Dr. Kissinger, who I suppose will eventually have his nomination confirmed, and who will certainly continue to conduct that foreign policy in secret. Senator HASKELL and his constituents understand that, I am sure, as do the people of South Dakota.

I want to commend the Senator once again.

Mr. HASKELL. I thank the Senator. Mr. President, I yield the floor.

## INFLATION RATE IN UNITED STATES SECOND LOWEST IN THE FREE WORLD

Mr. CURTIS. Mr. President, a few days ago an article appeared in a number of papers which showed that the inflation rate in the United States was the second lowest in the free world. This was a United Press International article and it bore a Paris dateline. This is important information for the Congress and for the American people generally. I ask unanimous consent to include that article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### STUDY: INFLATION RATE OF UNITED STATES SECOND LOWEST IN FREE WORLD

PARIS.—You think you have it rough?

Maybe so, but the Organization of Economic Cooperation and Development reported that things could be worse.

OECD experts reported that in the year ending in June, the United States had nearly the lowest rate of inflation in the non-Communist world.

The United States was second from the bottom on a list of 23 countries. Only Australia had a lower inflation, but spokesmen said that was based on the year ending in May. Australia did not submit statistics for June.

The group reports inflation on an annual basis, so the percentages apply to a whole year rather than a month.

The list was topped by Iceland which showed 18.2 per cent inflation rate, and Greece, which posted 13.2 per cent in June.

Austria, Belgium, Luxembourg and Finland were among the industrialized non-Communist nations that lowered their annual inflation rates during June, the OECD report said.

OECD gave the following annual rates of inflation for June, compared with May (figures are annual percentage rates):

| Country: | *June* | *May* |
|---|---|---|
| Iceland | 18.2 | 18.2 |
| Greece | 13.2 | 10 |
| Ireland | 11.7 | 11.7 |
| Portugal | 11.7 | 9.2 |
| Turkey | 11.3 | 11.3 |
| Italy | 11 | 5.1 |
| Japan | 11.1 | 10.9 |
| Spain | 10.8 | 10.8 |
| Finland | 9.9 | 10 |
| Britain | 9.5 | 9.5 |
| Denmark | 8.8 | 8.4 |
| Netherlands | 8.3 | 8.3 |
| Canada | 8.1 | 7.3 |
| Switzerland | 8.0 | 8.0 |
| Germany | 7.9 | 7.8 |
| Norway | 7.8 | 7.8 |
| France | 7.2 | 7.2 |
| Austria | 7.2 | 8.1 |
| Belgium | 6.9 | 7.5 |
| Sweden | 6.9 | 6.5 |
| Luxembourg | 6.7 | 7.8 |
| United States | 5.9 | 5.5 |
| Australia | 5.7 | 5.7 |

## WIRETAPPING

Mr. CURTIS. Mr. President, one of Nebraska's most outstanding lawyers is the Honorable Clarence A. Davis. Early in his career, he served as attorney general of Nebraska. He was the youngest man ever to so serve. During the Eisenhower administration, he served as Solicitor of the Department of Interior and later as Undersecretary.

Mr. Davis has written a true account of his experiences entitled, "I'm an Ex-Wire Tappee." I ask unanimous consent to have his account printed in the RECORD.

There being no objection, the account was ordered to be printed in the RECORD, as follows:

### I'M AN EX-WIRE TAPPEE

Wiretapping may be "dirty business" but it is far from new. It bloomed luxuriously 40 years ago in the early administration of Franklin D. Roosevelt and especially in the policy of his Secretary of the Interior, Harold L. Ickes. I ought to know. I was a tappee.

Wiretapping, mail opening and surveillance by Government detectives was an accepted policy of the early Roosevelt administration. Here's the story:

The time is the winter of 1935–36. President Roosevelt had been given some six or seven billion dollars by Congress to start a public works program all over the United States—highways, buildings, bridges, roads, water storage projects—anything that would employ a lot of labor and whether the project was sound or feasible, nobody really cared. Jobs had to be created.

Immediately there came to life in Nebraska two projects which had been condemned by private engineers for several years as not feasible but in the depression and with the "make work" conception, it was not hard to get other engineers to certify feasibility. I was counsel to a small private power company, a Stone and Webster subsidiary. Both projects depended upon a diversion of water from the Platte and Loup Rivers through canals and power plants and were widely hailed as "cheap hydro power." Naturally, the private companies were disturbed, particularly as Ickes as Secretary of the Interior had written a book entitled "Back to Work" in which he indicated he would use this money particularly for power plants and would destroy the "power trust." (He later testified under oath in a case in Georgia that he had not written the book; that it was entirely staff written; and he had not even read it and the footnotes were staff added).

In self-defense the power companies united in an attempt to stop Ickes from making these loans. All of the Nebraska companies joined in a suit in the District of Columbia (*Iowa-Nebraska* vs *Ickes*). Some Wendell Wilkies Southern Companies, the Alabama Power Company, Tennessee Power Company and others had similar litigation pending against similar prospective loans. Of course, sustaining the Government's position was really an important administration issue.

The attorneys for all of the Nebraska companies met in Washington to discuss who should argue the case and to my trepidation, the burden was put on me because I lived close to the proposed projects and knew the detailed facts. We had as co-counsel the Washington firm of Covington and Burling (Dean Atchison). The case was finally set for hearing and I undertook the opening argument. Under the scrutiny of perhaps 25 or 30 distinguished counsel of other electric companies, I entered that Court room with a great deal of apprehension. I had never appeared in the Courts of the District of Columbia and had no idea with what I was to be confronted.

I soon found out. As opposing counsel at the other table were Alexander Holtzoff representing the Justice Department, later to have a long and distinguished career as a Federal Judge, author and authority on the Federal Rules of Procedure and Jerome Frank of Chicago, Yale and New York, one of the brilliant young radicals of the day, author of "Law and the Modern Mind," a treatise which gave him wide acclaim as a forward-looking jurist and who later was to serve for many years on the Second Circuit United States Court of Appeals. Frank had been brought in by Ickes as Ickes' private counsel on the public works program after Roosevelt had decided he was too radical to be counsel for the Agriculture Department.

Against these two I felt pretty much of a country boy despite the fact that I had served four years as Attorney General of my state. I began the argument, talked about double the normal allotment of time with Frank interrupting me with snide remarks of which he was a master. Finally after a few whispered words with Holtzoff, he stood up, and said, "Your Honor, if these gentlemen will consent to postpone this matter for a little while, I think I can confer with them and we can work out an injunction to which they will agree." The Court, glad to be rid of the problem and I, knowing I was way over my allotted time, agreed to postpone the matter to another day.

I saw a good deal of Jerome Frank in the ensuing days and weeks of conferences. We soon got ourselves to a first-name basis and despite my aversion to Ickes, I liked Jerome Frank and I am sure he grew to like me but during those conferences I received my first real initiation into Washington.

I was staying at the Carlton Hotel. I first noticed one morning that one of my letters had been opened and resealed with glue. I couldn't help but notice for it was a crude job. So I watched and found that all my mail was being intercepted, read by somebody, resealed and delivered. Then I discovered that my telephone wires were tapped (funny noises on the wire) and that everything I said and every call I made was being transcribed. I finally said to the "wire" one morning after I had opened some tampered mail, "I would just like to tell you so and so's (language cleaned up) that if you think I am stupid enough to say anything over this telephone that will do you any good you are worse detectives than I thought you were. All I have to do is walk out of the room, walk down the street to another hotel, go into a booth and place my calls under "John Smith's" name and there is no way in the world you can check that unless you are spending enough money to have all the wires tapped in Nebraska to which you think I may be calling, and I don't think you will find that so simple. So why don't you just get off this wire and leave me alone. You are wasting your time and annoying me." Of course, no response.

It was probably early May when, sound asleep one night at 3:00 a.m., the phone rang. It was Jerome Frank. He said, "Clarence, I wonder if you could come up here to the Interior Department and tell me something about the actual proposed construction of these projects. I have a lot of people here and none of them actually know what they are talking about and I think you do." So I said, "Well, Jerry, if you think I am coming up to the Interior Department at three in the morning to sit in a conference with a bunch of bureaucrats, political highbinders and detectives, with microphones under the desk and concealed cameras, which there probably are, you are crazy. I am not going to do anything of the kind."

But he responded, "Clarence, if you will come up, I give you my personal word there will be no eavesdropping, no microphones, no transcripts. I just want to talk to you and get this thing straight in my head." I said, "Well, Jerry, your personal word is good. It's about all that is, but I will be up."

So I dressed, got a cab and still half asleep, stumbled into the old Interior Building and up to the secretary's office. Here was Jerome Frank, four or five officials of the Public Works Administration, two or three staff lawyers and a chap by the name of Clark Foreman, a Carolinian who was, I believe, deputy director of P.W.A. or at least in charge of these projects. They had a great big map of Nebraska on the side of the wall and I suppose I spent half an hour or more describing central Nebraska, the Loup and Platte Rivers, where these projects were to be located, what they were to do, where canals would be, what they were supposed to cost and many other things. I remember distinctly that Foreman several times interrupted me with what I thought were rather nasty questions and finally Frank said to him, "Foreman, I want you to go into the other office, shut the door and stay there until I call you. You don't know anything about this and you are simply delaying and breaking up the continuity." This to his theoretical boss! Foreman very meekly left the room and we went on and on with questions and explanations.

A perfectly frank and open discussion of the whole situation. The sun came up and finally all of us, more or less exhausted, broke up the meeting and Frank said, "Let's you and I go down and have some breakfast."

I am sure this long session marked by candor, frankness and fairness convinced both of us that neither was as bad as the other thought.

In the course of this long night of conference, I said to Frank and the others, "Now I have done you a favor by frankly telling you the facts of this lawsuit, my side and yours, and I want a courtesy in return. You are opening my mail, you have my telephone wires tapped, I detect that I am being followed about the city and you are probably as stupid people as I have ever met. In the first place, there is nothing wrong with what I am doing or propose to do, but I resent your thinking that I am so stupid as to receive any mail that would help you or that I would make or receive any incriminating phone calls or that I am going about the city leaving some kind of a trail behind me. I resent your treating me as though I were so dumb or some sort of a criminal and I want you to agree, all of you, to take off the wiretap of my hotel room, stop opening my mail and stop having me followed about town." Without any attempt to deny what was being done, Jerome Frank said, "I'll see that that is done." The others agreed and it was done.

A little later Joe Keig, another PWA lawyer from North Dakota whom I grew to admire and respect told me after a long friendly dinner at his invitation, "We have 30 or 40 detectives on the Interior payroll doing just what they have been doing to you. Now I don't mind hiring detectives but we get such poor detectives." Later when I became a little better acquainted, I had a talk with the room clerk at the Carlton Hotel and he told me that their switchboard was so arranged that they could instantly tap the wire of every room in the hotel by simply putting in a double plug, one side of which went to Ickes' detectives. He also told me that all of the big and better hotels downtown were similarly wired so that the Willard, the Mayflower, the Shoreham and other hotels where businessmen coming into Washington would be likely to stay could be tapped almost instantly:

And this was being done by liberals!
Their progeny still survives;
It simply makes a difference who's ox!

And we still get, as Joe Keig said, "such poor detectives."

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## QUORUM CALL

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## JOHNNY HORIZON '76 CLEAN UP AMERICA MONTH

Mr. HRUSKA. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 695.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

H.J. Res. 695. Joint resolution designating the period of September 15, 1973, through October 15, 1973, as "Johnny Horizon '76 Clean Up America Month."

Mr. HRUSKA. Mr. President, I have cleared the matter with both sides of the aisle at the leadership level.

It has been passed by the other body and unanimously approved by the Judiciary Committee, which recommended its passage without amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 695) was ordered to a third reading, was read the third time, and passed.

Mr. HRUSKA. Mr. President, the Senate in approving and agreeing to House Joint Resolution 695 participates in a very interesting and worthwhile program. Its objectives are to involve the Nation's citizenry in awareness and action for the "clean-up America for our 200th birthday program."

Johnny Horizon was initiated and created by the Department of the Interior. He appeals to all Americans to help prevent litter, minimize pollution, clean up air, water, and land, conserve energy, and utilize all natural resources wisely.

Secretary of the Interior Rogers C. B. Morton issued a statement of explanation and description. I ask unanimous consent that its text be printed at the conclusion of my remarks.

In his statement he makes reference to a long list of program supporters and participants, who have very active roles. It is a most fascinating and heartening recital.

In his concluding paragraph Secretary Morton observed:

> These "partners" with Johnny Horizon '76 have shown that every American can help improve and protect our environment. . . . If all citizens will begin a continuing effort to follow their examples and contribute to a better environment during Clean Up America Month, we will be a great deal closer to meeting one of our Nation's most pressing challenges.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

### SECRETARY OF THE INTERIOR MORTON ANNOUNCES CLEAN UP AMERICA MONTH

Secretary of the Interior Rogers C. B. Morton has announced that a nationwide Johnny Horizon '76 Clean Up America Month will be observed September 15–October 15, 1973.

All Americans can and should help meet the nation's environmental challenges, the Secretary said. During Clean Up America Month supporters of Johnny Horizon '76 will have an all-out drive to involve citizens in worthwhile environmental improvement and protection efforts.

Clean Up America Month will be an occasion to demonstrate that significant results can be realized when concerned citizens take on an "I'll help, too," spirit and contribute to a better environment, Secretary Morton said.

It will focus attention on and give momentum to the on-going Johnny Horizon '76 environmental awareness and action program to "Clean Up America For Our 200th Birthday."

Initiated by the Department of the Interior and recognized as an official national Bicentennial activity, Johnny Horizon '76 appeals to all Americans to help prevent litter, minimize pollution, clean up the air, water and land, conserve energy and utilize all natural resources wisely.

The program is supported by a growing list of Federal agencies and cosponsored by nearly 2,000 other organizations including major businesses, national associations, state groups, local chambers of commerce, clubs and schools.

Clean Up America Month will be kicked off at Constitution Hall in Washington, D.C., on September 18 with a Johnny Horizon '76 concert featuring "The New Seekers," the group that turned "I'd Like to Teach The World to Sing" into a million-copy seller.

Campaign supporters participating in the month-long drive include:

Department of the Interior bureaus and offices—to assist local groups with volunteer cleanups and beautifications.

U.S. Postal Service—to publicize the month with posters in 48,000 Post Offices throughout the nation.

My Weekly Reader—asking 12 million youngsters to clean up a measurable amount of America for a Johnny Horizon '76/Earth Patrol Clean Up Week, September 30–October 6.

A & P—to publicize the month with posters in 4,000 outlets.

U. S. Army Corps of Engineers—to sponsor cleanups in several of its districts.

Government of American Samoa—scheduled a Territorial-wide cleanup for the first week of October.

Actor/balladeer Burl Ives—to star in three Johnny Horizon '76 environmental concerts, including a benefit performance in Buffalo, N.Y.

Artists Cicely Tyson, Tennessee Ernie Ford, Ted Mack and Ferlin Huskey—featured in Clean Up America Month radio public service announcement series released to the nation's 4,600 leading stations.

Tennessee Valley Authority—coordinating a major cleanup of the Chattanooga area to be sponsored by the Chattanooga Council of Garden Clubs in cooperation with the Chattanooga Convention and Visitors Bureau and local organizations.

Civil Air Patrol, National Campers and Hikers Association, Bicentennial Commission of Florida and sponsors of National Hunting and Fishing Day (September 22)—Encouraging local groups to hold cleanups and other environmental projects.

Across the country local leaders and community-action groups are promoting the Johnny Horizon '76 "I'll help, too," spirit and stimulating citizen participation in environmental efforts for Clean Up America Month. In Portland, Oregon, a women's club and the Northwest Steelheaders Association are taking the lead. In the Ninth Congressional District of Texas Representative Jack Brooks has distributed 500 Johnny Horizon '76 environmental education kits to encourage schools to organize Clean Up America Month activities. In other areas Scout troops, 4-H clubs, youth and conservation groups will sponsor projects to get citizens involved in helping to improve and protect the environment.

The on-going activities of all Johnny Horizon '76 supporters will give momentum to and be recognized by Clean Up America Month. The 99s, for example, an international organization of licensed women pilots, delivered tree seedlings, to every state capital recently and has a continuing program to clean up and beautify airports throughout the nation as part of its Bicentennial observance. Ryder System, Inc., a new Johnny Horizon '76 sponsor, is encouraging employees to initiate cleanups. Burger King, also a new sponsor, has begun a major Johnny Horizon promotional campaign. The Exchange Clubs of America, which recently endorsed the objectives of Johnny Horizon '76, is encouraging its 1,600 local chapters to lead community environmental improvement projects.

Other organizations which have joined with Johnny Horizon '76 include: Welcome Wagon International, Sons of the American Revolution, Missouri River Basin Commission, Bicentennial Commission of Louisiana, American Association of Nurserymen, National Council of Senior Citizens, Society of American Florists, Tennessee Beautiful, Inc. and Ohio Nurserymen's Association.

Federal agencies cooperating in the Johnny Horizon '76 Program are: Army Corps of Engineers, Civil Service Commission, Department of Defense "Domestic Action Program," General Services Administration, Tennessee Valley Authority, The President's Council on Environmental Quality and U.S. Postal Service.

These "partners" with Johnny Horizon '76 have shown that every American can help improve and protect our environment, Secretary Morton said. If all citizens will begin a continuing effort to follow their examples and contribute to a better environment during Clean Up America Month, we will be a great deal closer to meeting one of our nation's most pressing challenges, he said.

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## NOMINATION OF MR. RUCKELSHAUS TO BE DEPUTY ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, the nomination of Mr. Ruckelshaus to be Deputy Attorney General has been reported unanimously from the Judiciary Committee of the Senate today. Some of the members of that committee, however, were not able to be present. I was not able to be present. I was involved in a party conference. I would like to have been present because I would like to have voted for the nomination.

I am not positive as to whether I understood correctly that the distinguished Senator from Kentucky (Mr. Cook) indicated that he also was not present at the time.

Mr. COOK. Mr. President, I was testifying before the National Academy of Sciences downtown. I was not able to attend. Under the circumstances, if we could establish a quorum for the purpose of a yea and nay vote, we could have a yea and nay vote on the nomination, if that is agreeable with the Senator from West Virginia.

Mr. GRIFFIN. Mr. President, if the Senator from West Virginia would yield, I wonder if we are going to have a yea-and-nay vote, if we might agree on a time and notice could be given to our membership on both sides of the aisle.

Mr. ROBERT C. BYRD. Mr. President, we could do that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly with the understanding that he not lose his right to the floor?

Mr. HUMPHREY. Mr. President, I yield to the Senator from West Virginia.

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## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider the nomination of Mr. William D. Ruckelshaus to be Deputy Attorney General, which was reported favorably earlier today from the Judiciary Committee.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

### DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of William D. Ruckelshaus, of Indiana, to be Deputy Attorney General.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 2 minutes on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I want to state my support for the nominee. I was not present at the executive session of the Judiciary Committee when his name was reported out unanimously. I am not complaining. I was notified well in advance of the meeting. However, I do want the Record to show that I do support the nomination.

Mr. COOK. Mr. President, if the Senator will yield, I find myself in the same position, having been downtown at the National Academy of Sciences, testifying this afternoon. I was not able to attend the executive session for the purpose of voting on the nominee. Had I been able to be present, I would have voted in favor of reporting the nomination favorably.

Mr. PERCY. Mr. President, I support the nomination. I think that Mr. Ruckelshaus has had a most distinguished career.

I have known him for a number of years as a near neighbor. I think that the various tasks he has undertaken at the request of the President and the manner in which he has carried out those tasks, as well as his lifetime record of service to country and community, his great integrity, his strength of character—and the infinite wisdom he showed in his office of his independently minded wife, who is charming and gracious and has herself made great contributions to equal rights for women and demonstrated and proved in every way that they can and should have equal rights, because they do have equal concerns and equal abilities—but in every respect Mr. Ruckelshaus has earned the support of this body, and I am pleased to see his name brought forward at this time, and hope his nomination will have unanimous support in the Senate.

The PRESIDING OFFICER. All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I, too, hope that the Senate's approval will be unanimous.

Mr. HUMPHREY. Mr. President, may I just say that I am very happy to support the nominations of Mr. Ruckelshaus. It is a splendid nomination.

Mr. THURMOND. Mr. President, today, I rise to speak in favor of the nomination of Mr. William D. Ruckelshaus, who has been nominated to be Deputy Attorney General. Mr. Ruckelshaus has performed admirably for our country in the past, and I am sure that he will be a most outstanding Deputy Attorney General.

Mr. Ruckelshaus was born July 24, 1932 in Indianapolis, Ind. He graduated from Princeton University with a BA degree in 1957. He graduated from Harvard University School of Law in 1960. In 1962 Mr. Ruckelshaus married the former Jill Elizabeth Strickland, and now they are proud parents of five children. After working at the State government level during the 1960's for the State of Indiana, Mr. Ruckelshaus had the honor of being appointed Assistant U.S. Attorney General, Civil Division, in January 1969. Mr. Ruckelshaus quickly gained a national reputation as a man of high moral standards and unquestioned integrity.

In December 1970, Mr. Ruckelshaus had the distinct honor of being named the first Administrator of the Environmental Protection Agency. Mr. Ruckelshaus served in this capacity until April of 1973. In April, 1973 Mr. Ruckelshaus assumed the position of Acting Director of the Federal Bureau of Investigation. He served in this capacity until July, 1973. On July 26, 1973, President Nixon nominated him as Acting Deputy Attorney General, U.S. Department of Justice. Mr. President, I believe that he will prove to be most capable in handling this newest presidential assignment, and fulfill its duties in a highly satisfactory manner.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William D. Ruckelshaus, to be Deputy Attorney General?

The nomination was confirmed.

The PRESIDING OFFICER. Without objection, the President will be immediately notified of the confirmation of this nomination.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ACTION TO ASSURE PROPANE FOR CROP DRYING STILL URGENTLY NEEDED

Mr. HUMPHREY. Mr. President, I am disappointed to see the announcement today that the White House has again postponed action on mandatory allocation of propane gas. Mandatory allocation of propane is urgently needed to assure that sufficient quantities are available for the drying of crops, certainly one of the highest priority uses of this fuel.

As Senators know, I have been urging a mandatory allocation system for propane, along with other Federal Government actions to assure adequate supplies of propane for crop drying, since June. When the evidence of a serious problem became even more clear, in early August, I again addressed the administration asking immediate action. When no assurance was received I again, on August 16, asked Governor Love, head of the White House Energy Office, and Secretary Butz to make immediate determinations of:

First, the demand for propane or other fuel for crop drying; and

Second, the amount and location of the supplies of this fuel available for crop drying.

Mr. President, I ask unanimous consent that my letters of August 16 again be inserted in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 16, 1973.

Hon. JOHN A. LOVE,
*Assistant to the President,*
*The White House,*
*Washington, D.C.*

DEAR GOVERNOR LOVE: On August 7th I wrote to you on an urgent basis requesting a survey of the needs for and supply available of propane gas used for the drying of crops, particularly newly harvested corn and soybeans.

I have received, under cover of a letter of transmittal signed by Mr. DiBona and dated August 15th, what purports to be an interim response to my request.

I respectfully suggest that this report does not at all meet the concerns I have expressed to you about the shortage of propane for the drying of crops. In fact, it contains neither any specific information about the availability or shortage in propane for the drying of crops, nor any indication that the study I requested is underway.

I recognize that the use of propane for the drying of crops constitutes a small percentage of the overall nation-wide use of propane, but I submit that this use is of the highest priority.

The situation is grave. Again today, I have been in touch with the Minnesota Director of Civil Defense. He reported that in Southwest Minnesota there is a definite shortage of at least 40% in the propane needed to dry crops. The production in these areas of soybeans and corn is up 30 percent over last year, but not even the supplies of propane available last year are available now.

My office is beginning to receive urgent calls from farmers who are being advised that they can have less than half the propane they need, or none at all.

I am sharing this letter with the Secretary of Agriculture along with a special request to him that he participate in immediate discussions with you to arrive at a firm decision on the priority and allocations of propane for crop drying.

Again, as I did in my letter to you of August 7, I request that your office make an immediate determination—by area and each weekly time period during the crop drying season of: (a) the demand for propane or other fuel for crop drying, and (b) the amount and location of the supplies of this fuel available for crop drying.

Moreover, I again urge your leadership in the establishment of a mandatory fuels allocation system, particularly for fuel oil, diesel oil and propane gas.

It is now clear that Administration delay in establishing a mandatory allocation system for fuels is going to result in severe damage to high priority needs of this country. The drying of crops is clearly one of these needs. In other words, the Administration's delay in establishing a mandatory allocation system will be directly responsible for the loss of millions of bushels of sorely needed corn and soybeans because the propane needed to dry them is not made available.

I have asked the Office of Oil and Gas to seek action by major oil companies under present programs to direct to these propane short areas some of the priority-uses reserve of propane. But there is very little hope this will meet our needs.

In summary, I appeal to you to recognize the seriousness of this problem for farmers and, ultimately, for consumers who will face higher prices if the propane is not there to dry the grain. We need immediate information and action. I look forward to receiving assurances from you that the request I have made for the survey of propane needs and supply is underway.

Sincerely,
HUBERT H. HUMPHREY.

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AUGUST 16, 1973.

Hon. EARL L. BUTZ,
*Secretary, Department of Agriculture,*
*Washington, D.C.*

DEAR MR. SECRETARY: I wish to share with you a copy of my letter of today to Governor Love concerning the shortage in propane gas for the drying of corn and soybeans.

I respectfully urge you to participate in immediate discussions with him to arrive at a firm decision on the priority and the allocations of propane for crop drying.

I know you share my concern, and I look forward to your response.

Sincerely,
HUBERT H. HUMPHREY.

Mr. HUMPHREY. Mr. President, not only has the White House again postponed action on the mandatory allocation, I believe they have also failed to make a concerted effort to determine the facts as I have suggested.

I have been in touch recently with representatives of Minnesota farmers and find no assurance that the responsible agencies, in this case the Agricultural Stabilization and Conservation Service offices in each State, are compiling the facts.

Mr. President, what concerns me and what concerns many farmers who are dependent on propane and natural gas for the drying of corn and soybeans is that, once the drying starts, any interruption in the supplies of fuel will result in the loss of crops. In order to avoid such an occurrence, we need both a mandatory allocation system and an identification of where the shortages are and where the closest available supplies are located.

Mr. President, representatives of farmers organizations came to Washington last week to testify on behalf of a proposed mandatory allocation system. As the statement of Mr. Cy Carpenter of St. Paul, Minn., a member of the executive committee of the National Farmers Union, makes clear, the administration's voluntary plan for the allocation of fuels for agricultural use is a failure. In other words we do need the mandatory plan and immediately.

Mr. Carpenter also makes it very clear that a crucial element of a successful program to assure the supply of propane for crop drying is assessing where the shortages are in advance. Mr. President, I repeat, "in advance."

There is no question that the use of propane for the drying of crops is one of the highest priorities. We are in a food shortage situation and, without the fuel to dry crops, some of the very satisfactory production this year may be lost. And may I point out, that, as reported by Mr. Carpenter, crop acreage in Minnesota is 12 to 14 percent above a year ago. So not only do we lack sufficient propane in the right places to meet the same demands as a year ago, we also are so far substantially unable to be sure that drying of the increased production can be handled.

Mr. President, I again urge immediate action by the administration to establish a mandatory allocation system and to identify where shortages are likely to occur in advance.

Mr. President, I ask unanimous consent to insert in the RECORD the statement of Mr. Cy Carpenter to which I have referred, presented on September 7 to the Office of Oil and Gas, along with messages in support of a mandatory allocation system received from Mr. Myron Schober, editor of the Rocky Mountain Farmers Union in Denver; Mr. Gilbert C. Rohde, president of the Wisconsin Farmers Union from Chippewa Falls, Wis.; and Mr. Ben H. Radcliffe, president of the South Dakota Farmers Union. These communications were addressed to Mr. Reuben Johnson, director of legislative services, National Farmers Union, Washington, D.C., and were included in the record of the hearings before the Office of Oil and Gas.

There being no objection, the statement and messages were ordered to be printed in the RECORD, as follows:

### STATEMENT OF CY CARPENTER, RELATIVE TO PROPOSED SYSTEM OF MANDATORY ALLOCATIONS ON PROPANE GAS

For almost four months, a voluntary fuel allocations system has been in operation. It has included LP gases such as propane.

This voluntary rationing plan has been a conspicuous failure. The best evidences of its failure are the inability of some farmers to get assurance of uninterrupted supplies and the fact that those able to get supplies are being asked to pay cash in advance for gas supplies at prices as high as 40 cents a gallon compared to conditions a year ago when they could get it delivered to the farm at somewhere in the range of 14 to 19 cents a gallon.

At recent hearings of a Minnesota legislative committee, some farm witnesses testified of their inability to get assurances of sufficient supplies of propane gas for crop-drying or poultry brooding; some indicated that gas would be available but could get no firm quotes on its cost; still others reported they had been contacted by handlers who could supply gas at 35 to 40 cents a gallon from as far distant points as Kansas City.

For farmers who are threatened by shortages or "gray market" prices, this deserves to be rated a "crisis" rather than just a "situation."

Action for a mandatory allocation system is already overdue—everyday of delay from here on, will make the crisis more serious for producers—and what impedes farm production now will surely be reflected later in higher food costs for the consumers of the nation.

It is important to understand that available supplies in many areas are well under the volume available last year—and that demand will be measurably higher than a year ago.

Crop-drying demand for gas will depend on several factors, including weather and moisture conditions at harvest time which we cannot foresee at the moment. But we do already know that crop acreages for harvest will be about 12 to 14% above a year ago—and that a larger proportion of the crop will need drying. Handling of the corn crop has dramatically changed and in major parts of the nation's corn belt, about 75 to 80% of the crop is handled by picker-sheller machinery, requiring the shelled corn to be dried to storable moisture levels.

Estimates for our state are that about 500 million bushels of corn will be dried artificially this year, compared to about 325 million bushels last year, a 50% increase.

Corn not properly dried will suffer spoilage in varying amounts, with total loss possible; last year some corn areas experienced heavy losses due to fuel shortages. If fuel is again short, it is easy to conceive losses of 10 to 20%. At current feed grain market values, the corn lost would be many times the value of the fuel needed.

In a period of urgent national need for abundant feed and food supplies, we can ill afford to take risks with a substantial part of our principal feed crop.

The price of propane gas will, if allowed to advance uncontrolled, add seriously to the cost of feed stocks. While the situation will vary according to the amount of moisture reduction needed in the corn, it is generally figured that a gallon of propane will dry about four bushels of corn.

At a price of 40 cents a gallon, it will cost 10 cents a bushel this year to dry the corn; compared to 4 cents last year when the propane was about 15c a gallon.

Propane supplies need to be dependable if losses are to be avoided. This is also true for livestock and poultry producers who use propane in pig or poultry brooding. They cannot afford even a brief interruption in supply.

Turkey poults or baby turkeys require a temperature of 95 degrees Fahrenheit for the first few days, and then the temperature is reduced about two degrees a week until a temperature of 60 degrees is reached and maintained until market weight has been reached, at an age of about 20 weeks.

Without heat for as little as a few hours during extreme cold, baby turkeys will get sick and die.

Turkey producers have been understandably reluctant to place orders with hatcheries for turkey poults without assurance they will have guaranteed supplies of gas.

Propane supplies are essential also to processors of farm commodities, such as milk and grain. These industries are fuel-intensive and sometimes not adaptable to alternate fuel uses.

Considering all the foregoing facts, it is clear that existing supplies of propane are being drained off by unusual demand from other users and that these remaining supplies will not be adequate for agricultural purposes unless a mandatory allocation system is established.

Because of the lateness of this date, the action must be taken at once to avoid serious repercussions for both farmers and consumers.

The proposed regulations which are up for consideration at this hearing today seem to be basically workable, however, we have several observations to make and clarifications to suggest:

The definitions are not clear whether all five priority customers have equal status under the proposal, or whether they have priority according to their A, B, C, D and E sequence.

A question also might arise whether a new user of propane for agricultural purposes would be recognized as a "priority customer." It could happen that a farmer who did not use propane for corn drying in the base period of Sept. 1, 1972 through April 30, 1973, might well need to do so in 1973. It should be made clear that all users who need propane for priority uses shall qualify as priority customers.

The section on priority allocation lacks mechanics for establishing the needs of priority customers with sufficient definition to locate the required amount of propane in the proper communities. This is necessary to avoid interruption of supply while stocks are being moved from a surplus to a shortage area. We would suggest that the County Agricultural Stabilization and Conservation Service committee in each county be used to serve as the collection point for farmer estimates of need for propane gas for crop-drying, livestock or poultry brooding purposes and for agricultural processing needs, as well as farm home heating.

Part of the propane shortage problem is that supplies are not all in the place in which they will be needed. By establishing a mandatory allocation plan, with a proper inventory of need, some of the gas supplies now stored for home-heating use could be made available for immediate needs with confidence that stocks will be available as needed during the heating season.

Last year some sections of the nation experienced the most mild winter they have had in many years. This cannot be expected again this year and adjustments in the allocation for these areas will have to be made accordingly.

To accommodate the fluctuations that are certain to result from variances in acreages, weather, crop conditions and new priority users, we suggest that after an inventory of need by priority customers has been completed the reseller supplying these customers be allowed to establish and maintain a reserve supply not to exceed 5% of the expected need for his customers. This reserve could be held either by the local reseller or his regional source of supply and could be subject to call for other demand at the end of the heating season or when it could be determined that it would not be needed for priority use in that area.

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DENVER, COLO.,
*September 6, 1973.*

Re propane situation report.

Mr. RUBEN JOHNSON,
*National Farmers Union,*
*Washington, D.C.:*

Farmland Denver Division, for Colo. and Wyo. is allocating 60% of propane requests, which are normal and not unusually high, to coop outlets in area. Propane, they say, "very short."

Paul Luckeroth, propane mgr. at Consumers Oil Coop at Greeley says "Going to be pretty bad in next few months," then he has hopes of reaching 100 percent of normal allocation. North central Colo. heavy user for "domestic" purposes, like farm home heating. Some other misc. uses—not too much grain drying in this area. Coop has taken no new customers for quite some time—except case like Gulf pulling out of the State and leaving farm customers stranded.

Luckeroth: "Going to have to come up with some fuel somewhere, there's going to be cold people here, but it's impossible to cut off turkeys and feedlots."

Manager of Greeley Coop, Buck Spaulding, says flat-out "We're going to be short, this thing's getting to be ridiculous . . . and the cost of the cotton-picking stuff is up to 20 cents right now, it went up 1.1 cent today." (Greeley selling about 25 percent above last year; early this summer already, Southwest Colo. reported 100 percent increase, from 11 cents to 23 and 24 cents.)

Spaulding: "The supply is from month to month, and the price and freight keeps changing, we don't know how to charge. We're going to try our level best. We're charging right around 20 cents—but just have to buy it and see what the government will allow us to do—we'll probably lose our fanny.

"I imagine it's available—if you can pay the price. Wouldn't you say? The big commercial outfits can go in and buy what they need, they seem to afford it." (Says Coors, nation's fourth largest brewery at Golden, contracted 500,000 gallons at 26 cents.)

Consumers Coop is encouraging customers to install larger propane tanks or add another. They say don't remodel the house—keep the old chimney so you could burn coal or wood. According to Spaulding, farmers are thinking about it."

Amos Fench at the Agland Coop, Eaton, Colo., says "if we have a winter as severe as last year, we're going to be in real trouble, it's going to be serious. I intend to take care of my oldest customers first, and somebody's going to be cold."

He says serious problems getting product out of Kansas and Texas—can't get transports, and even then, is paying at Kansas City what he used to pay delivered to Eaton. Says independents going out of business—can't afford the extra freight. Had minor shortages last winter.

Fench, like Greeley Coop, has some standby customers—when temp goes below zero, Public Service Co. of Colo. cuts them off natural gas and they have to go to propane.

"There's nothing these people on the farms can do if they have propane burners—and they can't switch to oil because heating oil will be short too. There surely is something the government can do to supply farm homes."

MYRON SCHOBER,
*Editor, Rocky Mountain Farmers Union.*

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Mr. REUBEN JOHNSON,
*National Farmers Union,*
*Washington, D.C.:*

Wisconsin Farmers Union in conjunction with the Farmers Union Central Exchange, a regional wholesale supply cooperative, serving Wisconsin and nine other States, strongly urges the implementation of a mandatory allocation plan for propane gas with priority given to its general agricultural uses, including crop drying, heating of rural homes, food processing (especially dairy plants), and heating for poultry and hog operations.

Supplies of propane, though tight, appear to be adequate and stable until Oct. 1. After that date, when extremely heavy utilization and disappearance sets in, the Farmers Union Central Exchange and other distributors of propane for rural use will be in a very difficult supply situation even if we experience normal to somewhat favorable weather conditions. If unfavorable weather conditions prevail as in 1972, we would be in an extremely short supply situation. This is especially true if we have another unfavorable corn drying season.

The Farmers Union Central Exchange is one of the major rural propane suppliers in Wisconsin through over 90 local, retail outlets in the farm supply business. The growth of propane gas sales in the Farmers Union Central Exchange Wisconsin trade area in the past decade has been phenomenal. Expansion has been at a rate of about 25 percent in volume per year.

The difficult propane procurement situation, which in the past 18 months has forced the Farmers Union Central Exchange to seek new propane suppliers, makes it very difficult to project potential wholesale volume for local cooperatives' needs. The current propane situation of tightened supplies and rising demand, coupled with unfavorable fall and winter weather conditions, could create a potentially disastrous situation.

The need for a mandatory allocation system for propane is imperative for Wisconsin agriculture

GILBERT C. ROHDE,
*President, Wisconsin Farmers Union.*

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HURON, S. DAK.,
*September 6, 1973.*

Mr. REUBEN JOHNSON,
*Director of Legislative Services, National Farmers Union, Washington, D.C.*

DEAR REUBEN: Considerable concern still prevails among farmers and commercial grain dryers as to the final availability of enough propane for crop drying.

Boxcar shortages remain critical. This adds to the uneasiness of farmers who must either find a way to dry their crop or move it into transit.

Below is a resolution adopted Wednesday, September 5 by the South Dakota Farmers Union board of directors.

Mandatory fuel allocation program—

We urge early enactment by Congress of S. 1570, the emergency petroleum allocation bill, which would require that the administration implement a mandatory fuel allocation program. This allocation program must include propane, as well as gasoline and other fuels, and farming must be given top priority among the uses for which fuels would be allocated.

BEN H. RADCLIFFE,
*President, South Dakota Farmers Union.*

Mr. HUMPHREY. Mr. President, let me just expand this for a moment to say that we are on the threshold of a fuel oil shortage as well as a propane gas shortage. I realize that you cannot stretch a barrel of crude oil any farther than one barrel, and all of the fuel oil comes from that barrel of crude. But we have to have some system to assure that home heating, for example, and heating of public places and critically important industries, receive their fuel oil and their diesel fuels. We even face a shortage of diesel fuels for our railroads and our trucks.

As to why this has all happened, there are many reasons, many of them in controversy. But the fact is that there is a shortage, a tight supply situation.

I am hopeful that the appropriate committees of Congress will investigate rumors and charges to the effect that fuel oil is being held back and that fuel oil is being shipped out of the country. I do not know whether that is true or not, and make no such allegation, but I do know this: that the fuel oil situation is critical here in the Northeast, according to testimony taken only a few days ago. The fuel oil situation in the Midwest, as fall and winter come on, can be and most likely will be critical.

That is why I have joined in sponsoring, under the leadership of the Senator from Washington (Mr. JACKSON), a bill to provide a mandatory fuel allocation program. I do not like mandatory allocations, but I dread shortages more. The food production of our agricultural States is critical for the Nation and for the world, and I want to forewarn Congress right now that unless action is taken and the delay comes to an end, we can be facing a situation of terrific food shortages which could approach the dimensions of a national catastrophe.

On top of this, Mr. President, the other day in the Senate we had testimony about the shortage of fertilizer, and fertilizer leaving this country, going abroad for exportation, due to the difference between the domestic price under price control and the export price, which is not controlled.

We have asked the Department of Agriculture to give us all of the facts as their study will reveal, and then to present us with a program that will assure domestic users of fertilizer for agricultural purposes an adequate supply.

The report before members of the Committee on Agriculture and Forestry—in a meeting, by the way, called by the Senator from Kansas (Mr. DOLE) and myself—indicated that unless we can remedy this fertilizer shortage, the Nation will be short 20 million tons of feed grains next year.

I do not believe that is sinking in around this town. Washington is very sensitive to the more dramatic things of politics—Watergate investigations, the military, somebody who is running away with the cookies at the PX, or something like that. But for some peculiar reason, when you start talking about food, the galleries are empty. When you start talking about the shortages which are going to plague the lives of the people of this country, there seems to be a dismal lack of interest.

At least I want to be right early, and I have not been wrong. I predicted earlier this year that the crop estimates on corn by the Department of Agriculture were excessive. My prediction was not wrong. I predicted that there would be a world shortage of wheat, and there is, of about 400 million bushels, which means that wheat prices will be high for a very long time, and in some places very high. I predicted a shortage of dairy products, and there will be and is. But more importantly, if we do not get the propane to dry the corn and soybeans, there will not only be a critical shortage of these valuable products, but the shortage will be so severe it will throw into total confusion all of the estimates made on food production.

Mr. AIKEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. AIKEN. I heard the Senator from Minnesota mention the use of propane for drying the large grain crop which we have this year. This large grain crop, for which we are grateful, may be partly responsible for the fuel shortage in the Northeast because, if the Senator wants to examine the situation closely, he will find that a good deal of the propane gas which would normally be used in the Northeast has been diverted to the grain-growing States for the purpose of drying out the crops. I can understand that. I am not complaining about it. Grain does have to be dried out before it can go to market or be used even domestically. But that is one reason why the Northeast is somewhat short of fuel. It is not the No. 2 fuel oil, so far as I know, that is going out there. The shortage of No. 2 fuel oil is probably due to the reluctance of the Northeast to permit the installation of refineries——

Mr. HUMPHREY. Yes.

Mr. AIKEN (continuing). Because I understand that three refineries would be needed to meet the needs of the northeastern part of the country. I am not complaining about the transfer of propane gas because it is essential that we dry out this enormous grain crop this year and, as I say, we are grateful for that, too, because it s necessary or we would have more trouble——

Mr. HUMPHREY. Indeed we would.

Mr. AIKEN (continuing). If we did not have soybeans, wheat, and corn. But, to make the picture complete, we should look at all these factors.

Mr. HUMPHREY. There is no doubt that what the Senator has just said is part of the reason for some of the distortions in the market supply of both fuel oil and propane. That is a fact. Of course, the large crop that had to be planted and harvested has used propane heavily.

The only point I seek to make is that I can think of no subject matter more critically important to this country today than an adequate supply of food. With that is the proper use of our limited energy resources. No matter how hard we try to conserve our energy resources of fuel oil and propane, or whatever it may be, we will have a tight supply. It will take at least 2 or 3 years to build the refineries needed for expanded production. We also face problems overseas and in other parts of the world as to the availability of crude oil, which I hope will not materialize, but that possibility is there.

My point in speaking today is not out of anger or even sadness, but out of alarm; namely, that the evidence mounts we have to have some kind of better system of allocation of scarce supplies in the fuel situation. I do not believe that the voluntary system will do the job—nor does anyone else. Therefore, we must come to some form of mandatory allocation.

I might add that, in my State, we are the largest producers of turkeys of any State in the Union. Turkey is a high-protein food. It is a good food. Turkey production could easily be seriously jeopardized by a lack of fuel oil or propane—primarily propane gas. It is a complicated business, turkey production; there has to be a constant temperature in the turkey houses, so to speak, in the turkey shelters, both at the time of the hatch and at the time the turkey chicks are in the early stages of their lives, and for a period of time during their growth. If we do not have it, they die. That could mean a wholesale loss of an essential poultry product here in the United States.

So far as fertilizer is concerned, we are hopeful that the Department will have a report for us to indicate some appropriate action within the next few days.

I want to say again that we have about a period of 4 or 5 months in which we will precipitate either some positive good results or some serious, damaging results.

What do I mean by that? I mean that if they do not get fertilizer for Texas, Oklahoma, Kansas, and Nebraska, where the winter wheat crop is planted, as the Senator from Kansas (Mr. DOLE) pointed out the other day, the difference between a field fertilized and one not fertilized would be the difference between 10 and 30 bushels per acre. In the cornbelt, the difference between a field that is fertilized and one that is not fertilized would be the difference between 30 or 40 bushels per acre and 90 bushels per acre.

The same thing is true in the soybean field.

So we are talking about absolute essentials here. I would hate to think of what would happen if our agricultural situation deteriorated to the point where crop estimates were no longer valid. Thank goodness for the fact that we have had one of the best crops in our history this year. It has been a Godsend. Truly, we should be reverently grateful. So that the crop next year will depend not only on the conditions of weather, which are always an uncertainty, but also on the availability of fuel and fertilizer—and, I might add, seed, but I think that the seed will be there.

Mr. President, again I appeal to the executive branch of the Government to take prompt action on mandatory allocations of these essential fuels, particularly as they relate to the agricultural economy.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider nominations in the armed services, now at the desk, which were reported earlier today from the Armed Services Committee. I have cleared this request with the able acting chairman of the committee.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. MCCLURE). The nominations will be stated.

The second assistant legislative clerk read the nomination of Lt. Gen. Earl C. Hedlund, USAF, to be placed on the retired list.

Adm. Bernard A. Clarey, USN, for appointment to the grade of admiral, when retired.

Col. Charles J. West, Jr., to be brigadier general in the Army.

Maj. Gen. John J. Hennessy, to be lieutenant general, as Chief, Office of Reserve Components, USA.

Forty-four majors in the Air National Guard of the Reserve of the Air Force, to become lieutenant colonels.

Harold C. L. Beardsley, and sundry other Air National Guard officers, for promotion in the Reserve of the Air Force.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate return to the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

## RECESS TO 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 5 p.m. today.

The motion was agreed to; and, at 4:08 p.m., the Senate took a recess until 5 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GRIFFIN).

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRIFFIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, have we got an order to come in at 11 a.m. on Monday next?

The PRESIDING OFFICER. We do.

## ORDER FOR RECOGNITION OF SENATORS ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the following Senators be recognized for not to exceed 15 minutes and in the order stated, on Monday, September 17, 1973: Senators PROXMIRE, CURTIS, BUCKLEY, GRIFFIN, MONDALE, HUMPHREY, and ROBERT C. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZATION FOR CERTAIN ACTION TO BE TAKEN DURING THE ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the adjournment of the Senate until Monday, September 17, 1973, the Secretary of the Senate be authorized to receive messages from the House of Representatives and the President of the United States, and that the President of the Senate, the President pro tempore or the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutioons, and that on Friday, September 14, 1973, committees of the Senate be permitted to file their reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZATION FOR APPEARANCE BY THE FINANCIAL CLERK IN A CRIMINAL PROCEEDING

Mr. MANSFIELD. Mr. President, I send a resolution to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. CLARK). The resolution will be stated.

The legislative clerk read as follows:

S. RES. 169

Whereas a notice of appearance issued on application of the United States Attorney's Office, District of Columbia, addressed to the Financial Clerk, Office of the Secretary of the United States Senate, and served upon the Financial Clerk, to appear in the city of the District of Columbia, in the United States Attorney's Office, on the fourteenth day of September, 1973, at 10:00 o'clock antemeridian, and to bring with him certain records, notes, memoranda, and other records in the possession and under the control of the Senate relating to the case of United States v. Marilyn Gross and Freddie Gross, Criminal Case No. 755–73, pending in the United States District Court for the District of Columbia; and

Whereas a subpena subsequently may be issued to the Financial Clerk with respect to pretrial and trial proceedings in such case: Now, therefore, be it

*Resolved,* That by the privileges of the Senate no evidence of a documentary character under the control and in the possession of the Senate can by the mandate of process of the ordinary courts of justice, or of any officer or employee of the United States Government, be taken from such control or possession but by permission of the Senate; be it further

*Resolved,* That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documentary evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate; be it further

*Resolved,* That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the Senate is needed for use in any court of justice, before any judge, legal officer, or grand jury, for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

*Resolved,* That William A. Ridgely, Financial Clerk of the Senate, or his designee, be authorized to appear at the place and before the United States Attorney, or his assistant, named in such notice of appearance and at any place and before the court named with respect to any subpena duces tecum that may be issued with respect to such case, but shall not take with him any documentary evidence on file in his office or under his control or in the possession of the Financial Clerk of the Senate; be it further

*Resolved,* That if said court should issue a subpena with respect to such case and determine the materiality and relevancy of the documentary evidence called for in any such subpena, the said court, through any of its officers or agents, shall have full permission to attend with all proper parties to the case at a place under the orders and control of the Senate, to take at such place copies of such documentary evidence in possession or control of said Financial Clerk as the court has found to be material and relevant, and to take at such place such evidence of witnesses in respect to such evidence as the court or other proper officer thereof shall desire, except that the possession of such evidence by the said Financial Clerk shall not be disturbed and such evidence shall not be removed from their file or custody under said Financial Clerk; be it further

*Resolved,* That subject to the limitations hereinbefore stated, said Financial Clerk, or his designee, is authorized (1) to supply certified copies of such documentary evidence as the court has found to be material and relevant to the proceeding before the court, and (2) to supply to the United States Attorney, or his assistant, such documentary evidence with respect to such case as the said Financial Clerk determines material and relevant; be it further

*Resolved,* That the said Financial Clerk, or his designee, in response to such notice to appear or any such subpena may testify to any matter determined by the court to be material and relevant for the purposes of identification of any such documentary evidence if such documentary evidence has previously been made available to the general public, or if its disclosure is authorized by this resolution, but the said Financial Clerk or his designee shall respectfully decline to testify concerning any and all other matters that may be based on his knowledge acquired by him in his official capacity; and be it further

*Resolved,* That a copy of these resolutions be transmitted to the said United States Attorney as a respectful answer to the notice of appearance, and to the said court as a respectful answer to any subpena it may issue with respect to such case.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MANSFIELD. Mr. President, the financial clerk of the Senate has received a notice of appearance from the office of the U.S. attorney to appear on September 14, 1973, as a witness to assist in the investigation or preparation for trial of the case of United States against Marilyn Gross and Freddie Gross—criminal case 755–73 pending in U.S. District Court in the District of Columbia. The notice of appearance also requires the production of "all records, notes, memorandums, and other writings concerning a U.S. Treasury check made payable to Joseph K. Doss in the amount of $53 for salary."

This resolution is being submitted in conformity with the custom of the Senate. The Senate has maintained inviolate the rule that no documents of the Senate can be removed from its possession except by its permission. The U.S. attorney has determined that this testimony is necessary in the conduct of the pretrial proceedings.

The resolution will permit the financial clerk or his designee to appear and testify on behalf of the Government at pretrial proceedings and in court if the case is brought to trial. It does not permit the removal of any original documents. However, it does permit the financial clerk, at his discretion, to furnish certified copies of the documents involved for the pretrial proceedings; and, if the case is brought to trial and the court determines that certain documents are material and relevant to the case, he may furnish certified copies of the documents involved to the court. The resolution which I have introduced will also permit the financial clerk or his designee to respond to a subpena duces tecum if subsequently issued in connection with this case.

Mr. President, I ask unanimous consent that a copy of the notice of appearance be printed in the RECORD.

There being no objection, the Notice of Appearance was ordered to be printed in the RECORD; as follows:

OFFICE OF THE U.S. ATTORNEY,
*Washington, D.C., September 11, 1973.*

NOTICE OF APPEARANCE

To William A. Ridgely, Office of the Secretary of the U.S. Senate, U.S. Capitol, Washington, D.C.:

This is a notice for your appearance as a witness at the United States Attorney's Office, on the third floor of the United States Court House, at Third Street and John Marshall Place, on Constitution Avenue, N. W., on September 14, 1973, 10:00 a..m., to assist in the investigation or preparation for trial of the case of *United States* v. *Marilyn Gross and Freddie* Gross. Please bring with you all records, notes, memoranda and other writings concerning United States Treasurer check 64,800, symbol 4840, dated December 29, 1972, and made payable to Joseph K. Doss in the amount of $53.00 for salary, by Ramonia Bañuelos, Treasurer of the United States.

You should contact and confer with the Assistant United States Attorney in charge of this case.

JOHN H. E. BAYLY, Jr.,
*Assistant U.S. Attorney.*

The resolution (S. Res. 169) was agreed to.

## RECESS TO 5: 30 P.M.

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until 5: 30 p.m. today.

The motion was agreed to; and, at 5: 06 p.m., the Senate took a recess until 5: 30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

## QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. GRIFFIN. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and, at 5:31 p.m., the Senate took a recess subject to the call of the Chair.

At 5:41 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1841) to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams, with amendments, in which it requested the concurrence of the Senate.

## QUORUM CALL

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BROADCASTING OF HOME GAMES OF CERTAIN PROFESSIONAL ATHLETIC TEAMS

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1841.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendments of the House of Representatives to the bill (S. 1841) to amend the Communications Act of 1934 for 1-year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams which were to strike out all after the enacting clause, and insert:

That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"BROADCAST OF GAMES OF PROFESSIONAL SPORTS CLUBS

"SEC. 331. (a) If any game of a professional sports club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public one hundred and twenty hours or more before the scheduled beginning time of such game have been purchased seventy-two hours or more before such time, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. The right to broadcast such game by means of television at such time and in such area shall be made available, by the person or persons having such right, to a television broadcast licensee on reasonable terms and conditions unless the broadcasting by means of television of such game at such time and in such area would be a telecasting which section 3 of Public Law 87-331, as amended (15 U.S.C. 1293) is intended to prevent.

"(b) If any person violates subsection (a) of this section, any interested person may commence a civil action for injunctive relief restraining such violation in any United States district court for a district in which the defendant resides or has an agent. In any such action, the court may award the costs of the suit including reasonable attorneys' fees.

"(c) For the purposes of this section:

"(1) The term 'professional sports club' includes any professional football, baseball, basketball, or hockey club.

"(2) The term 'league television contract' means any joint agreement by or among professional sports clubs by which any league of such clubs sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games engaged in or conducted by such clubs.

"(3) The term 'agreement' includes any contract, arrangement, or other understanding.

"(4) The term 'available for purchase by the general public', when used with respect to tickets of admission for seats at a game or games to be played by a professional sports club, means only those tickets on sale at the stadium where such game or games are to be played, or, if such tickets are not sold at such stadium, only those tickets on sale at the box office closest to such stadium.

"(d) The Commission shall conduct a continuing study of the effect of this section and shall, not later than April 15 of each year, submit a report to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with respect thereto. Such report shall include pertinent statistics and data and any recommendations for legislation relating to the broadcasting of professional football, baseball, basketball, and hockey games which the Commission determines would serve the public interest.".

SEC. 2. Section 331 of the Communications Act of 1934 (as added by the first section of this Act) is repealed effective December 31, 1975.

And amend the title so as to read: "An Act to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

Mr. PASTORE. Mr. President, before I move to concur in the House amendments, I feel that I should express my gratitude to the Members of the Senate who have been in attendance since 1 o'clock waiting for the House to send back this particular legislation.

We passed our bill some few weeks ago, which is slightly different from the bill passed by the House. The bill reported by the House Committee made this legislation permanent. We in the Senate had some qualms about making it permanent at this time because of many imponderables, involving complex questions, which were raised by the National Football League—namely, that where the blackout is lifted contracts with radio stations would be adversely affected; and second, whether enactment of this bill would in fact have an injurious effect on actual attendance.

We of the Committee on Commerce never believed that it would. However, we have always been compromising and understanding in our view that at least it ought to be given a trial. And for that reason we drew a bill that was satisfactory to the Senate. The effect of the bill was that this would be an experiment for 1 year. The House in turn made it permanent legislation.

Only the other day I heard from my counterpart, the chairman of the subcommittee in the House, who suggested to me that there was a likelihood that the bill as reported by the House Committee could be amended to make it a trial, but on the basis of a longer period of time. The time they adopted is December 31, 1975.

Personally, I believe it is a little bit too long. However, I do want to assure professional sports that in the meantime if it does turn up that some injury is being inflicted upon the sport itself, the Senate is always ready, of course, to hold hearings and take the matter under consideration.

However, under the circumstances, I think it would be ill-advised for us to challenge the position taken by the House in view of their compromise and their making this an experimental basis, although it is for a longer period of time than I had hoped it would be. However, be that as it may, my bill provided for one season. This bill provides for three seasons of football.

I would sincerely hope that we would all cooperate in this matter.

This afternoon I had another talk with Mr. Rozelle. I repeat that I have found him to be a fine gentleman. Naturally he has a private interest to protect.

I explained to him that we would go along with the House on this, and he went so far as to say that even before the President signs the bill, if the House passes the bill, since the Senate has already passed a bill, that he was ready to open up the screen on Sunday which means that people who have tried to buy a ticket to see a sellout football game may see it on this Sunday.

For that reason, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. COOK. Mr. President, I think that we ought to thank the House. I witnessed part of the debate this afternoon. It started at 4 and ended with a final vote of 336 to 37.

As the record shows, the Senate passed this legislation in a slightly different form by a vote of 77 to 6.

I would like to explain with respect to the problems that may exist throughout the Nation for many college and high school football teams that one of the other amendments passed by the House, which the Senator from Rhode Island, the chairman of the subcommittee, has already moved to adopt, imposes the provisions of section 3 of Public Law 87-331, which takes into consideration the impact within the given areas on the television professional.

Some football games and many college and high school football games do take place during the same period of time. However, I do not believe that really presents any serious problems because most of the games would be obviously on Monday or Sunday, and very few college games are placed on those specific days.

I would also say in attempting to allay some of the fears expressed by people who fear that there will be a deluge of people who will not seek to buy season tickets that one must remember that if any tickets are available, the game will not be available for television.

That is the distinction between what the established law will now be and the exemption given to the sport by the Congress.

Prior to that time, it was available for telecasting, regardless of the disposition of sales to the respective games. On that basis, there was a decided reduction in ticket sales as a result of those games being televised.

I might suggest that the difference between the law prior to that time and the law that will be in effect for the next three seasons will be that if there is not a valid sellout 72 hours prior to the telecast of a game, then obviously that game cannot be made available for local showing within the area involved.

So, Mr. President, I thank the Senator from Rhode Island, and I think we ought to extend the thanks of the Senate to Representative MACDONALD from Massachusetts, Representative STAGGERS from West Virginia, and Representative BROWN from Ohio, who very well managed this measure in the House of Representatives.

Mr. President, I think this action shows one other thing, and I say this to the members of the leadership who are here: Regardless of the issue involved—and this is not an extremely important national issue in our list of priorities among other national issues—I think it does show that Congress, regardless of what the issue may be, can in fact move expeditiously. It has proved it can move expeditiously on this. I think that gives us all a great deal of hope that in matters far more important than this may be, with the remainder of the time that is left, we can move expeditiously on matters other than this one.

Mr. President, I yield the floor.

Mr. MAGNUSON. Mr. President, I got here a little late. I do not know what has been said, although I have talked with my colleague the Senator from Rhode Island (Mr. PASTORE) about this earlier in the day.

I am somewhat disappointed that the House of Representatives made this a 3-year program by making the date December 31, 1975. It seems to me that we should have given these people—first we started out with a 1-year experiment, and then I thought we might have to compromise in view of the situation in the House of Representatives on 2 years, but now, by making the date December 31, 1975, it is 3 years.

It seems to me that we could have done this in a much more equitable way by having it 2 years. I understand it would be a little bit difficult to gauge in 1 year, because most of the tickets have already been sold and the attendance for this year is probably pretty well settled. But it seems to me that another year would have been sufficient to find this out. Instead of that, we have got 3 years.

I understand that the Senator from Rhode Island probably has already suggested here, in discussing this bill, that he would be the first one to stand up and acknowledge the fact, after the 2 years, if this did not work out, to see what we could do about the matter. The only practical problem is that once we get this started, I do not know that we could do anything about it, even though the second year it looked like the experiment was not going to work like we had hoped it would work.

Three years is a long time. I shall not object to this, but I am disappointed with the fact that we did, with the House of Representatives, make it 3 years.

When we talk about December 31, 1975, we are talking about three seasons. I suggested that they make it September and give them that time, which would be a practical experiment for 2 years. But apparently, as the Senator from Rhode Island told me earlier, the House of Representatives would not buy that at all. I understand the problems with the House when we go into conferences of this nature. But I really wanted to express my disappointment that this matter was not for 2 years. I hoped that it would be one, but then I felt, well, we might have to compromise on two. But now we are compromising on three.

Mr. PASTORE. Mr. President, if the Senator will yield, I agree with him explicitly. As a matter of fact, I liked it the way it was when we passed the bill for 1 year overwhelmingly, by a vote of 76 to 6 by the Members of the Senate. That action was applauded in many editorials. But the House of Representatives was adamant in going for permanent legislation. Therefore, in the spirit of compromise, in order to get something done, because we did have to get something done, we did agree. But I think in the long run, we can depend on the pledge made by the Members of the House of Representatives that if in the meantime, before three seasons expire, it becomes evident that the right thing has not been done, then we should reconsider the matter.

Mr. President, we are not out to hurt professional football. We love it. We enjoy it. We are grateful for the fact that they have brought so many good hours of entertainment to so many of our people, especially in these trying times.

What we are saying here is that if they have sold all the tickets 72 hours before game time, and other people who are real fans—and fans are the real substance of a team—cannot buy tickets because no tickets are to be had, goodness gracious, let them see it on television; and if this hurts their attendance, let them have their blackout, because then the law would not apply.

Mr. MAGNUSON. I am not trying to disagree with the basic premises of my friend from Rhode Island. I merely suggest it will be very difficult if it does not work out. I think it probably will work out, but if it does not, for 3 years we run into some problems; and to affirmatively pass a bill to stop it if it does not work out is a most difficult proposition.

Mr. COOK. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COOK. May I say I have listened to the debate this afternoon, and the point made by the House of Representatives, particularly when we had pretty well said to the members of the respective committees in the House that we would accept the 2-year period, showed that they honestly felt this year would really not count, and nothing subjective could come out of this year; and therefore they really felt, in essence, they were doing it for 2 years, because this year would not count, in an effort to implement the legislation.

Mr. MAGNUSON. I thought if this year did not count, they would have another year for the experiment.

Mr. COOK. I agree.

Mr. MAGNUSON. That is the way I feel about it. I said that when the bill was passed here.

I say I am disappointed they passed it for 3 years, and I still say that, because we want to keep these sports alive and healthy, regardless of what happens. I hope we will not have to change it.

Mr. PASTORE. As I said this afternoon, "Just pray you open the screens, because every time you do, you have sold out the game."

I move that the Senate concur in the amendments of the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

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## HEALTH MAINTENANCE ORGANIZATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 14.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendments of the House of Representatives to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, which were to strike out all after the enacting clause, and insert:

### SHORT TITLE

SECTION 1. This Act may be cited as the "Health Maintenance Organization Act of 1973".

### PUBLIC HEALTH SERVICE ACT AMENDMENTS

SEC. 2. The Public Health Service Act is amended by adding after title XI the following new title:

### "TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS

### "DEFINITIONS

"SEC. 1201. For purposes of this title:

"(1) The term 'health maintenance organization' means a public or private entity organized to provide, directly or indirectly, basic and supplemental health services to its members in the following manner:

"(A) Each member is to be provided basic health services for a basic health services payment which (i) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (ii) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (iii) is established under a community rating system, except that if the entity establishes to the Secretary's satisfaction that compliance with this clause would prevent it from competing effectively for the enrollment of new members or for the retention of current members, the Secretary may permit the entity to establish, for the first year of its operation, rates for its basic health services payment without regard to this clause; and (iv) may be supplemented by such additional nominal payments which may be required for the provision of specific services (within the basic health services) and which are to be fixed in accordance with the regulations of the Secretary.

"(B) For such payment or payments (hereinafter in this title referred to as 'supplemental health services payments') as the entity may require in addition to the basic health services payment, the entity shall provide to each of its members each health service (i) which is included in the definition of supplemental health services in paragraph (3), (ii) which can reasonably be made available to the members of the entity, and (iii) for the provisions of which the member has contracted with the entity.

"(C) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the entity or through a medical group (or groups) or individual practice association (or associations), except that this subparagraph shall not apply in the case of health professionals' services which are provided out of the area served by the entity or which the entity determines, in conformity with regulations of the Secretary, are infrequently used. For purposes of this subparagraph, the term 'health professionals' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health care as the Secretary may by regulation designate.

"(D) Basic health services (and supplemental health services in the case of the members who have contracted (therefor) shall, within the area served by the entity, be available and accessible to each of its members promptly, as appropriate, and in a manner which assures continuity; and such services shall be provided to any member when he is outside such area, or he shall be reimbursed for his expenses in securing such services outside such area, if it is medically necessary that the services be rendered before he can return to such area.

"(2) The term 'basic health services' means—

"(A) physican services (including consultant and referral services by a physician);

"(B) in-patient and out-patient hospital services;

"(C) diagnostic laboratory and diagnostic and therapeutic radiologic services;

"(D) home health services; and

"(E) preventive health services (including preventive dental care for children and children's eye examinations conducted to determine the need for vision correction).

If a physician service included in subparagraph (A) may under applicable State law be also provided by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through a dentist, optometrist, or podiatrist (as the case may be) licensed to provide such service. For purposes of this paragraph, the term 'hospital' has the same meaning as is prescribed for that term by section 645(c); and the term 'home health services' means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization.

"(3) The term 'supplemental health services' means—

"(A) services of facilities for long-term care (as such facilities are defined by section 645(h));

"(B) vision care not included under clause (A) or (E) of paragraph (2);

"(C) dental services not included under clause (A) or (E) of paragraph (2);

"(D) mental health services;

"(E) physical medicine and rehabilitative services (including physical therapy); and

"(F) prescription drugs.

"(4) The term 'member' when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

"(5) The term 'medical group' means a partnership, association, or other group of persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State and who (A) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession; (B) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (C) utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in the regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the members of the partnership, association, or other group; and (D) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the partnership, association, or other group.

"(6) The term 'individual practice association' means a partnership, corporation, association, or other legal entity which has entered into an arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State under which—

"(A) such persons will provide their professional services in accordance with a compensation arrangement established by the entity; and

"(B) to the extent feasible (i) such persons will utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, (ii) medical and other records, equipment, and professional, technical, and administrative staff are shared by such persons, and (iii) their continuing education is arranged for and encouraged.

"(7) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (hereinafter in this title referred to as a 'section 314(a) plan'); and the term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (hereinafter in this title referred to as a 'section 314(b) plan').

"(8) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, and (B) each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area.

"(9) The term 'community rating system' means a system of establishing rates of basic health service payments. Under such a system rates for basic health service payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but, except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of basic health service payments may be established under such system:

"(A) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting basic health service payments from the following categories of members:

"(i) Individuals (including families).

"(ii) Small groups of members (as determined under regulations of the Secretary).

"(iii) Large groups of members (as determined under regulations of the Secretary).

"(B) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program other than the health benefits program authorized by chapter 89 of title 5, United States Code, or any health benefits program for employees of States, political subdivisions of States, and other public entities.

### "GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

"SEC. 1202. (a) The Secretary may (1) make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations, and (2) enter into contracts with private entities for projects for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations which will serve residents of medically underserved areas.

"(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe, and shall contain—

"(1) assurances satisfactory to the Secretary that, in conducting surveys or other activities with assistance under a grant under this section, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) consult with the medical society serving such area; and

"(2) such other information as the Secretary may by regulation prescribe.

Each contract entered into under subsection (a)(2) of this section shall require the cooperation and consultation described in paragraph (1) of this subsection.

"(c) In considering applications for grants and contract proposals under this section, the Secretary shall give priority to applications and contract proposals for projects for health maintenance organizations which will serve residents of medically underserved areas.

"(d)(1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

"(A) If a project has been assisted with a grant or contract under subsection (a), the Secretary may not make any other grant or enter into any other contract for such project.

"(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

"(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(e) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed $50,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve residents of a medically underserved area, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

"(f) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(h) Payments under grants and contracts under this section shall be made from appropriations made under section 1205. The Secretary may not make any grant or enter into any contract under this section for a fiscal year beginning after June 30, 1976.

"GRANTS, CONTRACTS, LOANS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

"SEC. 1203. (a) The Secretary may—

"(1) make grants to and enter into contracts with public or nonprofit private entities, and make loans (from the loan fund established under section 1207(e)) to public entities, for planning projects for the establishment of health maintenance organizations or for significant expansion of the membership or for significant expansion of the membership of, or area served by, health maintenance organizations;

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of serving residents of medically underserved areas; and

"(3) enter into contracts with private entities for planning projects for the establishment or expansion of health maintenance organizations for the purpose of serving residents of medically underserved areas. The Secretary may not make any grant or enter into any contract under this subsection for a fiscal year beginning after June 30, 1976, and he may not make any loan or loan guarantee under this subsection in any fiscal year beginning after such date. Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization and such other plans as the Secretary may require for the purpose of making the determination required by subsection (c) (2) (B).

"(b) The Secretary may—

"(1) make grants to and enter into contracts with public or nonprofit private entities, and make loans (from the loan fund established under section 1207(e)) to public entities, for projects for the initial development of health maintenance organizations;

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which will serve residents of a medically underserved area; and

"(3) enter into contracts with private entities for projects for the initial development of health maintenance organizations which will serve residents of medically underserved areas.

The Secretary may not make any grant or enter into any contract under this subsection for a fiscal year beginning after June 30, 1977, and he may not make any loan or loan guarantee under this subsection in any fiscal year beginning after such date. For purposes of this section, the term 'initial development' when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization.

"(c) (1) No grant, loan, or loan guarantee may be made under subsection (a) or (b) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe, and shall contain such information as the Secretary may by regulation prescribe; except that an application for a grant, loan, or loan guarantee under subsection (a) for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, loan, or loan guarantee is sought, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) consult with the medical society serving such area. Each contract entered into under subsection (a) of this section shall require the cooperation and consultation described in the preceding sentence of this paragraph.

"(2) If the Secretary makes a grant, loan, or loan guarantee or enters into a contract under subsection (a) for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant, loan, or loan guarantee or enter into a contract under subsection (b) for the initial development of that health maintenance organization; but no grant, loan, or loan guarantee may be made or contract entered into under subsection (b) for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, loan, or loan guarantee, or by the person with whom such contract would be entered into, as the case may be, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant or such person, as the case may be.

"(d) In considering applications for grants and contract proposals under subsections (a) and (b), the Secretary shall give priority to applications and contract proposals for projects for health maintenance organizations which will serve residents of medically underserved areas.

"(e) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loans, loan guarantees, and contracts made under subsection (a) of this section:

"(A) If a planning project has been assisted with grant, loan, loan guarantee, or contract under subsection (a), the Secretary may not make any other grant, loan, or loan guarantee or enter into any other contract for such project.

"(B) Any project for which a grant, loan, or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant, loan, or loan guarantee is made or contract entered into.

"(2) The Secretary may not make more than one additional grant, loan, or loan guarantee or enter into not more than one additional contract for a planning project for which a grant, loan, or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

"(f) (1) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project made or guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan made or guaranteed under such subsection, may not exceed $125,000, and (B) the aggregate of the amounts to be paid for any project by the United States under any grants or contracts, or both, under such subsection when added to the amount of principal of any loans made or guaranteed under such subsection for such project may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve residents of a medically underserved area, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, loans, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

"(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial-development project made or guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project for a health maintenance organization under any grants or contracts, or both, under such subsection when added to the amount of principal of any loans made or guaranteed under such subsection for such project may not exceed the lesser of—

"(A) $1,000,000 or the product of $25 and the number of members that the health maintenance organization will have (as determined under regulations of the Secretary) when it first becomes operational after its establishment or expansion, whichever is the greater; or

"(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve residents of a medically underserved area, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, loans, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

"(3) The commulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under this section may not exceed such limitations as may be specified in appropriation Acts.

"(4) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(h) Payments under grants and contracts under this section shall be made from appropriations under section 1205; and loans under this section shall be made from the fund established under section 1207(e).

"LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

SEC. 1204. (a) The Secretary may during the period beginning July 1, 1973, and ending June 30, 1978—

"(1) make loans (from the loan fund established health maintenance organzations to assist them in meeting the costs of the first thirty-six months of their operation;

"(2) make loans (from the loan fund established under section 1207(e)) to public or nonprofit private health maintenance organizations to assist them in meeting the costs of their operation which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred during the first thirty-six months of operation after such expansion; and

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the costs referred to in paragraph (1) or (2), but only if such health maintenance organization will serve residents of a medically underserved area.

"(b) No loan or loan guarantee may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c)(1) Except as provided in paragraph (2), the principal amount of any loan made or guaranteed under this section in any fiscal year for the operation of a health maintenance organization may not exceed $1,000,000 and the aggregate amount of principal of loans made or guaranteed, or both, under this section for the operation of any health maintenance organization may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under this section may not exceed such limitations as may be specified in appropriation Acts.

"(d) Loans under this section shall be made from the fund established under section 1207(e).

### "AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1205. (a) For the purpose of making payments under grants and contracts under sections 1202, 1203(a), and 1203(b), there are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1974, $45,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976; and for the purpose of making payments under grants and contracts under section 1203(b) for the fiscal year ending June 30, 1977, there are authorized to be appropriated $55,000,000.

"(b) There are authorized to be appropriated to the loan fund established under section 1207(e), $20,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975.

### "GENERAL PROVISIONS RESPECTING APPLICATIONS FOR ASSISTANCE

"SEC. 1206. (a) The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless he determines that the applicant would not be able to complete the project or undertaking for which the application is made without such grant, contract, loan, or loan guarantee.

"(b)(1) The Secretary may not approve an application submitted under section 1203 or 1204 or enter into a contract under section 1203 unless he determines that when the health maintenance organization for which such application is submitted or contract proposed is first operational after its establishment or expansion it will—

"(A) have (i) a fiscally sound operation, and (ii) insurance which protects its members against the risk of its becoming insolvent and which is approved by the Secretary or such other provision against such risk as the Secretary determines is adequate;

"(B) be organized in such a manner (as prescribed by regulations of the Secretary) that assures its members a meaningful role in the making of policy for the health maintenance organization, and provide meaningful procedures for hearing and resolving grievances between the members and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services);

"(C) encourage and actively provide for its members (i) health education services, and (ii) education in the appropriate use of health services;

"(D) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program provides review by physicians and other health professionals of (i) the process followed in the delivery of health services, and (ii) the quality of the results obtained through the health services provided;

"(E)(i) provide in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on a periodic basis) relating to (I) the cost of its operations, (II) the patterns of utilization of its services, (III) the availability, accessibility, and acceptability of its services, (IV) to the extent practical, developments in the health status of its members, and (V) such other matters as the Secretary may require, and (ii) disclose, at least annually, such data to its members and to the general public;

"(F) assume full financial risk on a prospective basis for the provision of basic health services; and

"(G) enroll persons who are broadly representative of the various age, social, and income groups in the area it serves.

"(2) The requirement of subparagraph (F) of paragraph (1) does not prohibit a health maintenance organization from obtaining insurance or making other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) for the cost of providing basic health services to its members while they are outside the area served by the organization, or (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 10 per centum of its income for such fiscal year.

"(c)(1) The Secretary may not approve an application submitted under section 1203 or 1204 or enter into a contract under section 1203 unless the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted or contract proposed, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary, been provided an opportunity to review the application or contract proposal and to submit to the Secretary for his consideration its recommendations respecting approval of the application or contract proposal. If under applicable State law such an application may not be submitted or such a contract entered into without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the Secretary may not approve such an application or enter into such a contract unless the required approval has been obtained.

"(2) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for assistance and proposals for contracts for health maintenance organizations.

### "GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

"SEC. 1207. (a)(1) The Secretary may not approve an application for a loan guarantee under this title unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this title.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this title the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this title may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this title shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this title shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved, and, to the extent permitted by subparagraph (C), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(b)(1) The Secretary may not approve an application for a loan under this title unless—

"(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

"(2) Any loan made under this title shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing on the date the loan is made, with respect to loans guaranteed under this title, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this section, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(c)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this title.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or otherwise appropriate. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(3) Interest paid on any loan to a public agency guaranteed under this subsection shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purposes of chapter 1 of the Internal Revenue Code of 1954.

"(d) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary under this section and in connection with loan guarantees under sections 1203 and 1204 and other property or assets derived by him from his operations respecting loan guarantees under sections 1203 and 1204, including any money derived from the sale of assets. If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under sections 1203 and 1204. To the extent authorized by appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under sections 1203 and 1204 and other property or assets derived by him from his operations respecting loans under those sections and under subsection (c) of this section, including any money derived from the sale of assets.

### "CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1208. (a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this title as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 1209—

"(1) fails to provide basic and supplemental services to its members,

"(2) fails to provide such services in the manner specified in section 1201(1), or

"(3) is not organized or operated in the manner described in section 1206(b),

the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 1209 or when application was made under this title for a grant, loan, or loan guarantee or in connection with a contract under this title.

"(b) The Secretary shall administer this section through an identifiable unit within the Department of Health, Education, and Welfare.

### "EMPLOYEES' HEALTH BENEFITS PLAN

"SEC. 1209. Each employer—

"(1) who is required during any calendar quarter to pay his employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay his employees such wage but for section 13(a) of such Act), and

"(2) who during such calendar quarter employed an average number of employees not less than twenty-five, shall, in accordance with regulations which the Secretary shall prescribe, include in any health benefits plan offered, in the calendar year beginning after such calendar quarter, to his employees the option of membership in at least one health maintenance organization which provides basic health services through health professionals who are members of the staff of the entity or a medical group (or groups), and at least one health maintenance organization which provides basic health services through an individual practice association (or associations) but only if such a health maintenance organization is serving the area in which such employer's employees reside and the health maintenance organization provides assurances satisfactory to the Secretary that it will provide basic and supplemental health services to its members in the manner specified in section 1201(1) and that it is organized and operated in the manner described in section 1206(b). No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between an employer and his employees. Failure of any such employer to comply with the requirements of this section shall be considered a willful violation of section 15 of such Act.

### "LIMITATION OF SOURCE OF FUNDING FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1210. No funds appropriated under any provision of this Act other than this title may be used—

"(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health care to a defined population on a prepaid basis;

"(2) for grants, loans, or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

"(3) for grants, loans, or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities;

(4) for loans or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

### "PROGRAM EVALUATION

"SEC. 1211. The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 1202, 1203, or 1204. The period of operation of such health maintenance organizations which shall be evaluated under this subsection shall not be less than thirty-six months. The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months. Such report shall contain findings with respect to the ability of the organizations evaluated—

"(1) to operate on a fiscally sound basis without continued Federal financial assistance,

"(2) to meet the requirements of section 1206(b)(1) respecting their organization and operation,

"(3) to provide basic and supplemental health services in the manner prescribed by section 1201(1),

"(4) to include the indigent and high-risk individuals in their membership, and

"(5) to provide services in medically underserved areas.

The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 1209. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after the date of the enactment of his title.

### "ANNUAL REPORT

"SEC. 1212. The Secretary shall periodically review the programs of assistance authorized by this title and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

"(1) a summary of each grant, contract, loan, or loan guarantee made under this title in the period covered by the report,

"(2) the data reported in such period to the Secretary in accordance with section 1206(b)(1)(E), and

"(3) findings with respect to the ability of the health maintenance organizations assisted under this title—

"(A) to operate on a fiscally sound basis without continued Federal financial assistance,

"(B) to meet the requirements of section 1206(b)(1) respecting their organization and operation,

"(C) to provide basic and supplemental health services in the manner prescribed by section 1201(1),

"(D) to include the indigent and high-risk individuals in their membership, and

"(E) to provide services in medically underserved areas.".

### CONFORMING AMENDMENTS

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "Titles

I and XI" and inserting in lieu thereof "Titles I to XII".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XII (as in effect prior to the date of enactment of this Act) as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to such date), and references thereto, as sections 1301 through 1314, respectively.

(c) Section 306(g) of the Federal National Mortgage Association Act (12 U.S.C. 1721(g)) is amended by inserting ", or which are guaranteed under title XII of the Public Health Service Act" after "chapter 37 of title 38, United States Code".

(d) The first section of the Act of August 5, 1954 (42 U.S.C. 2001), is amended by inserting "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) In carrying out his functions, responsibilities, authorities, and duties under this Act, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.".

### REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS

Sec. 4. Within three months of the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall report to the Congress the criteria used by him in the designation of medically underserved areas for the purposes of title XII of the Public Health Service Act. Within one year of such date, the Secretary shall report to the Congress (1) the areas and population groups designated by him under section 1201 (8) of such title as medically underserved areas, and (2) the comments (if any) submitted by State and areawide comprehensive health planning agencies under such section with respect to any such designation.

And amend the title so as to read: "An Act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes."

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and agree to the House request for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on behalf of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Eagleton, Mr. Cranston, Mr. Hughes, Mr. Pell, Mr. Mondale, Mr. Schweiker, Mr. Javits, Mr. Dominick, Mr. Packwood, Mr. Beall, and Mr. Taft conferees on the part of the Senate.

## NO-FAULT INSURANCE—REFERRAL OF BILL

Mr. MAGNUSON. Mr. President, the Senate Committee on Commerce, after years of considering the very important issue of no-fault insurance Federal legislation, recenly reported S. 354. It is on the calendar. The vote in the committee, Senator Cook, was 14 to 2, or something like that.

Mr. COOK. I believe there were three abstaining votes.

Mr. MAGNUSON. Yes, three abstaining votes. This action was taken after years of study. I appreciate that this is a very controversial bill. I do not think it is controversial with the people affected—the public.

National no-fault insurance is an idea whose time has come. On the argument, of course, as to whether the States should take action, some of them have and many of them will not. The importance of this Federal legislation was therefore apparent, and that is why it is on the Calendar.

But I want to say to members of the Judiciary Committee, which the Senator from Kentucky (Mr. Cook) is on, and the Senator from Nebraska (Mr. Hruska), that there are some real, legal and complicated matters in any bill of this kind; therefore, I thought it would be well for the Judiciary Committee, with its expertise, to look at some of the legal aspects of the bill; they might even report back a bill better than the one we reported.

The bill as reported from the Commerce Committee is in very good shape. We worked on it such a long time, as I have told my friend from Nebraska. The Senator from Nebraska has spoken to me about the expertise of the Judiciary Committee on legal matters, and I have not denied that, but I must point out that all but one of the members of the Commerce Committee are lawyers. Some of us have not practiced very much lately, but we read a lot and keep up with it. There are some pretty good lawyers on the Commerce Committee. They have closely examined this legislation, and that includes the Senator from Kentucky (Mr. Cook).

But, be that as it may, I now ask unanimous consent that the bill, S. 354, on the calendar as reported, be referred to the Judiciary Committee for consideration of matters within the scope of their jurisdiction. I hope that the Senate will be able to vote on S. 354 this session. In any case, Senator Eastland has agreed to report on or discharge the bill by February 1, 1974. Last session we lost by a very small margin, with a 2 or 3 votes on the referral, as I remember it.

My colleagues on the Judiciary Committee have told me, including both the chairman and the ranking member, the Senator from Nebraska (Mr. Hruska), that they are unable to examine the bill in the next several months because of the pressure of other business.

I thoroughly agree with them that, for the next month, it would be difficult for the Judiciary Committee to go into hearings and look at this very complex bill which is so important to the people of the United States. The fact that House action is not anticipated during this session is another item involved, and I think it is reasonable that the Judiciary Committee should have until February 15, 1974, to consider and return S. 354 to the floor.

Senators Eastland and Hruska have assured me that the Judiciary Committee will report or discharge the bill on or before February 15, 1974.

I look forward to their views.

Mr. HRUSKA. Mr. President, the Senator states the proposition very well. I want to say that on the Judiciary Committee we are very appreciative of the fairness with which the chairman of the Commerce Committee has approached this matter. There are many major legalistic concepts involved, the impact on the courts, for example, on the Federal judiciary, in a brandnew field, and the effect on the jurisprudence of America on a matter of such severe and wide incursions on the law of negligence. This is not to be taken lightly. I would not want to detract one iota from the distinction of the membership of the Commerce Committee, because they are able people and the results that they secure are remarkable and, on occasion, phenomenal. But we believe it would be helpful to get the views of those who work in this field and who have some ideas as to the development of aspects which are probably in need of further attention.

It is true that for the next month, devoting our time, as we do, to the concluding work of this session, in an effort to adjourn sine die within the next 6 weeks or so, we want to be able to get it done. The chairman of the Commerce Committee is very appreciative of that fact.

I, for one, want to express my appreciation for his attitude of fairness and of equity in this matter.

Mr. COOK. Mr. President, I first want to commend the distinguished Senator from Washington (Mr. Magnuson). We know that the House has not even started hearings on the bill yet. I must say, in all fairness, with the cooperation and hard work of the committee, under the leadership of Senator Magnuson, I feel that this bill is in much better shape that it has ever been before.

Those many problems, for instance—the multitude of problems—that caused the motion for referral last year, have been totally and completely eliminated now. We find that there is a narrow scope of "oversee" relative to judicial matters that the Judiciary Committee will have to go into. I think, again, that we will be able to submit to the floor of the Senate on or before February 15, 1974, a bill that will not cause the degree of debate nor cause the degree of disagreement that the bill caused last year.

I honestly feel that by reason of the referral last year and that we are taking it up again this year, we have come a long way in the process of sharpening this to the extent that we can present to the American people, and present to the States, an effective program on first party coverage for the Nation's insured.

I wish to go on record and commend the Senator from Washington for the work he has put us through this year on this bill because it has been extensive but it has been worthwhile.

The PRESIDING OFFICER (Mr. Clark). Is there objection to the unanimous-consent request of the Senator from Washington (Mr. Magnuson)? The Chair hears none, and it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at the hour of 11 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators PROXMIRE, CURTIS, BUCKLEY, GRIFFIN, MONDALE, HUMPHREY, and ROBERT C. BYRD.

After the aforementioned Senators have completed their remarks under the orders which have been previously entered, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate will proceed with the bill H.R. 8916, a bill making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes. On this bill there will be a time limitation. There will be a yea-and-nay vote on Monday.

## ADJOURNMENT TO MONDAY, SEPTEMBER 17, 1973, AT 11 A.M.

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. on Monday next.

The motion was agreed to; and, at 6:08 p.m., the Senate adjourned until Monday, September 17, 1973, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 13, 1973:

### INTERNATIONAL ATOMIC ENERGY AGENCY

Dixy Lee Ray, of Washington, to be the representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency.

The following-named persons to be alternate representatives of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency:

William A. Anders, of Virginia.

Clarence E. Larson, of Maryland.

Dwight J. Porter, of Nebraska.

Gerald F. Tape, of Maryland.

### U.S. DISTRICT COURTS

Allen Sharp, of Indiana, to be a U.S. district judge for the northern district of Indiana vice Robert A. Grant, retired.

### PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

William R. Stratton, of the District of Columbia, to be a member of the Public Service Commission of the District of Columbia for a term of 3 years expiring June 30, 1976, vice Jeremiah Colwell Waterman, resigned.

### IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be lieutenant general*

Maj. Gen. John R. Murphy, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

## CONFIRMATIONS

Executive nominations confirmed by the Senate September 13, 1973:

### DEPARTMENT OF DEFENSE

Walter B. LaBerge, of California, to be an Assistant Secretary of the Air Force.

Norman R. Augustine, of Texas, to be an Assistant Secretary of the Army.

Joseph T. McCullen, Jr., of Maryland, to be an Assistant Secretary of the Navy.

David Samuel Potter, of Wisconsin, to be an Assistant Secretary of the Navy.

### DEPARTMENT OF JUSTICE

William D. Ruckelshaus, of Indiana, to be Deputy Attorney General.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

### IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

*To be lieutenant general*

Lt. Gen. Earl C. Hedlund [redacted] FR (major general, Regular Air Force) U.S. Air Force.

### IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be lieutenant general*

Maj. Gen. John J. Hennessey, [redacted], U.S. Army.

The U.S. Army Reserve officer named herein for promotion as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, section 593a and 3384.

*To be brigadier general*

Col. Charles J. West, Jr., SSN [redacted] Infantry.

### IN THE NAVY

Adm. Bernard A. Clarey, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

### IN THE AIR FORCE

Air Force nominations beginning Harold C. L. Beardsley, to be lieutenant colonel, and ending Robert T. Yoshizumi, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1973.

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# HOUSE OF REPRESENTATIVES—*Thursday, September 13, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*And above all put on love, which binds everything together in perfect harmony.*—Colossians 3: 14.

We thank Thee, our Father, for the dawn of a new day and pray that in the joy of renewed strength and with glad hearts we may enter its portals unashamed and unafraid. By Thy spirit may we face our tasks positively and do our work optimistically setting free our spirits to serve Thee and our country faithfully and hopefully.

Fill our hearts with love and there will be no place for hatred, fill our minds with truth and there will be no room for falsehood, fill our spirits with goodness and there will be no space for evil, fill our souls with peace and there will be no spot for spite.

Bring us to the shadows of the evening hours weary, but with the consciousness of work well done for our beloved America.

In Thy holy name we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## A MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 356. An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

## PERSONAL EXPLANATION

Mr. WILLIAMS. Mr. Speaker, on page H7785 of yesterday's CONGRESSIONAL RECORD, I was erroneously recorded as voting to sustain the President's veto of S. 504, Emergency Medical Service Systems Act of 1973. Actually, I voted to override the President's veto. I do not know if the electronic recording machine or I made the mistake, but I would like the record to show that I voted "yea" on the question of overriding the President's veto of S. 504. This change will not affect the outcome of the vote taken yesterday on the President's veto.

## CONCERNING MOTION TO INSTRUCT CONFEREES ON AGRICULTURAL APPROPRIATIONS BILL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, later today, the Committee on Appropriations is expected to ask for a conference with the Senate on the agriculture appropriations bill. I thank the distinguished chairman from Mississippi (Mr. WHITTEN) for giving me the courtesy of advance notice of this.

At that time, I intend to make a motion to instruct the House conferees. My motion directs the House conferees to insist on the House language that strictly limits farm subsidy payments and cuts off Federal funds for Cotton, Inc.

I anticipate that when my motion is offered, a motion will be made to table it. This would cut off debate and a vote on these important issues.

If a motion to table is offered, I urge

my colleagues to oppose, and vote against, the motion to table.

Then, after the motion to table is defeated, I urge my colleagues to suppport my motion to instruct conferees so we can end two great abuses of our farm program.

### NAVAL PETROLEUM RESERVES

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Illinois. Mr. Speaker, Congressman F. EDWARD HÉBERT, chairman, Committee on Armed Services, U.S. House of Representatives, today announced that his committee would initiate hearings into the implications of the President's recommendation to "draw upon the oil available in the Naval Petroleum Reserve No. 1, Elk Hills."

Congressman HÉBERT said:

> The hearings will be conducted by the Investigating Subcommittee. Preliminary staff work is now being done and we hope to begin our hearings in the very near future in open session.

Mr. HÉBERT emphasized that the House Armed Services Committee has traditionally expressed concern over preservation of the naval petroleum reserves for use in the national defense. In that regard, he pointed out that title 10, United States Code, requires passage of a joint resolution of the Congress before the President and the Secretary of the Navy may substantially increase the production of petroleum from the naval petroleum reserves, and only if the Secretary of the Navy finds that such production is "needed for national defense."

Under the rules of the House of Representatives, primary legislative jurisdiction over naval petroleum reserves is assigned to the Committee on Armed Services.

### RICHARD B. RUSSELL DAM AND LAKE

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, it was an honor for me to introduce a resolution providing for renaming of the Trotters Shoals project to the Richard B. Russell Dam and Lake. Hon. BOB STEPHENS and Hon. BO GINN joined me in introducing this resolution.

I am happy to report that this morning our resolution was approved by the Water Resources Subcommittee of our Public Works Committee. Mr. Speaker, we urge its adoption by the full Public Works Committee and by the House.

This resolution is approved by the people of Georgia, South Carolina, and the Russell family. This would be a fitting tribute to one of the greatest Americans of our time. The late Senator Richard B. Russell was a superior statesman and patriot and an unparalleled leader.

Senator Russell was particularly dedicated to improving the environment, preserving water, and providing power for our people, and for defense of the Nation. He was foremost in the development of the great Savannah River Valley for all people of both States.

Mr. Speaker, I know that this resolution will have the overwhelming approval of Congress as a tribute to our late and beloved colleague.

### APPOINTMENT OF CONFEREES ON H.R. 8619, FOR THE AGRICULTURE-ENVIRONMENTAL AND CONSUMER PROTECTION PROGRAMS APPROPRIATIONS, 1974

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8619) making appropriations for the agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

#### PREFERENTIAL MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. CONTE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 8619 be instructed to insist upon language contained in the House engrossed bill on page 3, lines 13 through 25 inclusive, which reads as follows:
>
> "None of the funds provided by this Act shall be used to pay the salaries of any personnel which carries out the provisions of section 610 of the Agriculture Act of 1970.
>
> "None of the funds provided by this Act shall be used to pay the salaries of personnel who formulate or carry out:
>
> (1) programs for the 1974 crop year under which the aggregate payments for the wheat, feed grains, and upland cotton programs for price support, set aside, diversion, and resource adjustment to one person exceed $20,000, or
>
> (2) a program effective after December 31, 1973, which sanctions the sale or lease of cotton acreage allotments."

The SPEAKER. The gentleman from Massachusetts (Mr. CONTE) is recognized for 1 hour.

Mr. CONTE. Mr. Speaker, again I reiterate that I want to make it abundantly clear to the House that the gentleman from Mississippi (Mr. WHITTEN) gave me plenty of advance notice that the gentleman was going to ask to send this bill to conference. The gentleman could very easily have brought the bill up when I was not present. So I want again to commend the gentleman. I have worked with the gentleman for a good many years, and we have been in opposition on this issue but, Mr. Speaker, I know of no finer man nor no finer Member of the House of Representatives than the gentleman from Mississippi (Mr. WHITTEN). We may differ on issues, but we both have a lot of respect for each other. I am really pleased and fortunate that I have had the friendship of the gentleman from Mississippi (Mr. WHITTEN) throughout the years.

Mr. Speaker, I offer this motion to instruct the House conferees so that two of the most outrageous and wasteful abuses of our farm program will be abolished.

This motion instructs the House conferees to insist on House language in the agriculture appropriations bill that would do two things:

First, it would limit the payment of Federal farm subsidies to a total of $20,000 per farm, and it would close loopholes that allow big corporate farmers to get around this payment limitation.

Second, it would bar the payment of the $10 million subsidy to Cotton, Inc.

These provisions were passed time and time again in June and July when the House voted on the agriculture appropriations and authorization bills. My amendment for a strict $20,000 payment limitation was passed by margins of 36 and 83 votes. And my amendment to bar the giveaway to Cotton, Inc., carried by margins of 109 and 79 votes.

It was only through a last-minute combination of political deals and clever parliamentary ploys that these provisions were taken out of the farm bill. Clearly, it is the will of the House to insist on these provisions.

Cotton, Inc., a glorified public relations mouthpiece for the cotton industry, has received $20 million from the Federal Treasury, and unless we do something today it will pick off another $10 million when this bill is signed. Since 1971, Cotton, Inc., has baled together a bank account of $12 to $15 million and set a dubious standard of waste and extravagance. Meanwhile, the domestic consumption of cotton has decreased.

The House previously passed a $20,000 payment limitation in 1968, 1969, and 1971. Each time it was knocked out in conference.

This year the House-passed limitation is stronger. It limits the total payments each farm can receive to $20,000, and it plugs the loopholes that allowed big farmers to subdivide their land or sublease their cotton allotments as a trick to get more subsidies.

I urge the House to instruct its conferees to insist on this House language.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I appreciate the kind comments about my congressional service by my colleague, the gentleman from Massachusetts. We have worked together through the years, and as he has said, we have had differences of opinion on many occasions regarding these two or three issues. In many other areas we have not. In a spirit of cooperation, common courtesy calls for us to at least advise our colleagues who may differ with us as to when these matters are to come up for consideration on the floor. It is not possible for a Member to be on the floor continually. It is not sound in the long run, nor is it expedient, to take advantage of his temporary absence.

In connection with the matter before us, and I hope my colleague, the gentleman from Massachusetts, will listen—I do not know of any instance where an individual has had his way more than the gentleman from Massachusetts has had in this particular section of this bill.

At the present time, as I understand, the shortage of cotton in the United States is such that recent prices quoted have reached about 85 cents per pound. Not only that, but according to yesterday's paper the chairman of the Legislative Committee on the Senate side has asked that we enact an embargo on the export of any of the cotton we have. It is apparent that under present conditions, for reasons I think should never have occurred, we do have a serious shortage of cotton. In this connection I recently received a letter from a consulting firm in one of the big cities that represents the Japanese Government indicating that the Japanese Government had some $20 billion in surplus American money that they wanted to buy these things with in the United States. We have found that we have had to devalue our currency abroad on two occasions, and now we are faced with another serious situation.

The only thing in the world I can think of that will enable us to get our money back and restore balance to our economy and to get away from the runaway inflation that we have—is the all out production of agricultural commodities and we must make them available in world trade. We have the capacity to do this, as we have pointed out in our report. We certainly need to guard against the situation that happened under Secretary Benson where our agricultural production was held off world markets. We must not let that happen again. We need to produce to our utmost and put the production on the world markets.

If I could have the attention of my colleague, the gentleman from Illinois, as well as my colleague, the gentleman from Massachusetts, I should like to read the stipulations on Cotton, Inc. we have included in our report on the bill:

During the past several months, the committee has received increasingly critical reports on the handling of research and promotional funds in the cotton industry. It would appear that the criticisms are of sufficient stature to warrant an immediate general review by the Department of all activities in this connection in order to make certain that the intent of the law for the use of these funds is being carried out without exception. Immediate corrective action should be taken where deficiencies are noted. The committee will expect periodic reports informing it of the progress being made in this connection.

The committee does not wish to pre-judge the merit of these programs at this time. However, in order to provide the maximum benefits from funds made available from the Treasury and from producers as a result of Federal law, the committee directs the Secretary to maintain annual supervision, including approval in advance, of the use of Federal funds, as well as producer funds which are collected as a result of Federal law; to maintain annual audits of Cotton, Inc., including surveillance of salaries paid and programs sponsored and funds spent; and to require full reports from Cotton Council International as a condition precedent to cooperation in either promotion or research, all in order to obtain maximum results and to promote the use of American cotton.

May I say that in the investigation in this area relating to the complaints that were spelled out by the gentleman from Massachusetts as well as the gentleman from Illinois, the committee took this action directing that the deficiencies which may have occurred in the past must not occur again. You will recall that some years ago Congress provided that the producers of cotton pay $1 per bale for the benefit of cotton promotion and cotton use.

That dollar per bale has been paid. In the bill here which the House has passed—and I certainly will as leader of the conferees in our discussion with the Senate insist on the language we have in our report—we say not only that Cotton Incorporated money but also the dollar a bale money shall be supervised and approved in advance by the Department of Agriculture, so these two programs will be coordinated.

In connection with the other provision I will say to my friend, the gentleman from Illinois, he did not have his way 100 percent, but the agricultural bill which was signed on August 10 this year provides a limitation of $20,000 on payments.

Let me quote the pertinent provisions of Public Law 93-86, enacted August 10, 1973:

"TITLE I—PAYMENT LIMITATION

"SEC. 101. Notwithstanding any other provision of law—

"(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the commodities shall not exceed $20,000.

"(2) The term 'payments' as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

"(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

"(4) The Secretary shall issue regulations defining the term 'person' and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970."

If we go beyond the provisions of that act signed on August 10 this year, as called for by Congressman CONTE, not only will we adversely affect supply but many small farmers will be put out of business. Thousands of small farmers now have to lease or rent their land to large operators who may not own any land of their own. The expensive equipment required to farm today makes it impossible for small cotton farms to operate. I am sure the same situation applies to other commodities.

As shown in volume 9 of our hearings, page 5, Secretary of Agriculture Benson in 1955 put 55,348 farm families out of business by refusing to sell U.S. Agricultural Commodities in world trade at competitive prices as authorized by law—then counted such commodities to reduce U.S. acreage. This is shown by the Department's own report.

Let me read you the Department's findings on pages 4 and 5.

I read:

EFFECT OF ACREAGE REDUCTION IN 1955

Mr. WHITTEN. Mr. Secretary, in connection with that, I would like to include in the record at this time the report of your own survey as to the effect of your acreage reduction in 1955 for cotton.

(The report is as follows:)

NUMBER OF COUNTIES WITH 1,000 OR MORE ACRES OF COTTON AND NUMBER OF COUNTIES REPORTING

| State | Number of counties having 1,000 or more acres of cotton | Number of counties reporting |
|---|---|---|
| Alabama | 67 | 67 |
| Arizona | 7 | 7 |
| Arkansas | 63 | 54 |
| California | 8 | 9 |
| Florida | 11 | 27 |
| Georgia | 138 | 139 |
| Illinois | 0 | 3 |
| Kentucky | 2 | 2 |
| Louisiana | 46 | 29 |
| Missouri | 8 | 8 |
| Mississippi | 77 | 80 |
| New Mexico | 11 | 10 |
| North Carolina | 55 | 64 |
| Oklahoma | 59 | 74 |
| South Carolina | 46 | 44 |
| Tennessee | 35 | 44 |
| Texas | 205 | 212 |
| Virginia | 6 | 14 |
| Total | 844 | 887 |

Summary of answers from 887 counties to the following question:

"How many renter families (tenants and sharecroppers) have been or will be forced off farms due to 1955 reduction in cotton allotments? The question is concerned only with the number of renters (as defined above) forced off farms due to the 1955 reduction in cotton acreage allotments and not for other causes such as mechanization, drought, etc."

| | *Renter families* |
|---|---|
| Alabama | 7,554 |
| Arizona | 127 |
| Arkansas | 4,246 |
| California | 0 |
| Florida | 279 |
| Georgia | 8,157 |
| Illinois | 40 |
| Kentucky | 60 |
| Louisiana | 3,395 |
| Missouri | 2,202 |
| Mississippi | 11,981 |
| New Mexico | 137 |
| North Carolina | 2,783 |
| Oklahoma | 1,477 |
| South Carolina | 4,147 |
| Tennessee | 3,075 |
| Texas | 5,580 |
| Virginia | 108 |
| Total | 55,348 |

Summary of answers from 887 counties to the following question:

"How many small cotton farmers (i.e. those with 5 acres or less of cotton allotted in 1954) will have net income for the farm reduced by $100 or more due to the 1955 cotton acreage reduction? Do not include in this estimate the number who may have income reduced due to not planting full allotments. The value of crops produced on acres diverted from cotton should be considered in arriving at the net income loss."

| | |
|---|---|
| Alabama | 17,595 |
| Arizona | 38 |
| Arkansas | 1,496 |
| California | 0 |
| Florida | 2,348 |
| Georgia | 14,888 |
| Illinois | 147 |
| Kentucky | 203 |
| Louisiana | 6,649 |
| Missouri | 1,881 |
| Mississippi | 34,414 |
| New Mexico | 64 |
| North Carolina | 17,397 |
| Oklahoma | 378 |
| South Carolina | 10,400 |
| Tennessee | 14,944 |
| Texas | 6,129 |
| Virginia | 1,632 |
| Total | 130,603 |

Mr. Benson. Of course, when you say our acreage reduction, Mr. Chairman, you must realize that the acreage reduction was caused by the formula in the law. We followed that. I know you maintain we ought to have been selling more cotton competitively.

Mr. Speaker, should the motion of the gentleman from Massachusetts prevail, and become law, it is my belief that he would put thousands of small farmers out of business by prohibiting the leasing and transferring of acreage with disastrous economic effects. I hope we can avoid any such situation.

It is unfortunate that we sometimes try to instruct the conferees who go to conference and who do the best they can. It is not always a good procedure to so instruct the conferees and it should be resorted to very seldom, although I will say my friends are within their rights in taking this action.

But not only does it reflect, without meaning to, on the willingness of the conferees to go along with the House position, but also in this instance what this motion to instruct the conferees would do, may I say to my friend, the gentleman from Massachusetts, would be to go in opposition to or violate the law that the President signed on August 10.

I say to both my colleagues, the gentleman from Massachusetts and the gentleman from Illinois, that they have had their way to a far greater degree than most of us are successful in this area. But now to instruct the conferees, with whom we have served for as long as we have, in the face of the fact that both the President and the Congress have approved this law, would be going too far afield from orderly procedure in the Congress.

I would urge my friends, the gentleman from Illinois and the gentleman from Massachusetts, and the Members to vote down this motion. They have made their point. Let us proceed and let agriculture produce in line with the law the Congress passed and which the President signed, and let agriculture get back some of these dollars so we can stop the runaway inflation and get back to the point where grocery stores have groceries and the meat counters are filled with meat. The law was passed by Congress and the President signed it on August 10. I ask my two friends, the gentleman from Massachusetts and the gentleman from Illinois, to let us go to conference and work it out without impediment. As leader of the conferees on our side I will do my best to see that the law is carried out as fully as I know how, and I believe I will have the support of my colleagues in the conference.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Price).

Mr. PRICE of Texas. Mr. Speaker, I associate myself with the remarks of the chairman.

Mr. Speaker, I rise today in opposition to the instruction to the House conferees on the agricultural appropriations bill.

It was only a month ago that the House passed a 4-year farm bill, and therefore it would be premature to change it so soon.

Of course, I realize the attractiveness that the argument to limit payments and remove a perfectly lawful option to cotton farmers may have to many Members, but I sincerely urge the House to consider the effect these amendments will have on future production.

Our Nation is now entering a period when we need more agricultural production and cotton is included in this need.

The instruction before us will restrict efficient growers from raising more cotton and will diminish the effort to bring research production into the agricultural picture.

For these reasons, Mr. Speaker, I urge a "no" vote on the instruction.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, first of all I would like to express my appreciation to the gentleman from Mississippi (Mr. Whitten) for his consideration in not offering, as he has on some previous occasions a motion to table which would preclude a discussion of this issue. I do appreciate that very much and I consider it a generous action on his part.

Secondly, I want to try to clear up the position of the House in regard to Cotton, Incorporated. On several occasions now the House by a very clear decision voted to exclude all funds from Cotton, Incorporated.

Anyone who was present during the very confused parliamentary situation that prevailed when the farm bill was passed recently will remember vividly that hardly anyone really knew what was in the bill that finally received the approval of the House, and most Members here felt they had written into the bill a provision which would exclude the $10 million annual authorization for Cotton, Incorporated, and they voted for the bill with that understanding. This did not prove to be the case. Later, in our desire to get on with the August recess there was not their interest in exploring further the details of the bill, and the general motion to accept the Senate amendment and get the issue out of the way was accepted.

But, the last time the House did face squarely the question of $10 million annually to Cotton, Incorporated, the vote was a resounding "No." by record vote. Right now, we have a chance to restate that position, and I think it is a very reasonable position and I do support the motion of the gentleman from Massachusetts.

Cotton, Incorporated, money is available for both advertising—Madison Avenue type advertising—as well as for research. I do not hear much complaint about money spent for research on cotton, but I do hear a lot of objection among my colleagues as well as from other points in the country against the use of the general tax revenue funds, and that is what we are talking about here, general revenue funds, to finance promotion, advertising, Madison Avenue type promotion of cotton. It is the only commodity for which the Congress to this date has provided general revenue funds for promotion.

I was heartened by a line that got in the tentative language of the conferees when there was a conference between the House and Senate over the farm bill. Mr. Sisk, one of the conferees, showed me the language. The effect of this language as he interpreted it was to exclude this $10 million annually from use as promotion and reserve it exclusively for research. I believe I am correct in that interpretation.

Unhappily, the conference did not agree on a bill and that language, that agreement, went by the boards. So what we are confronted with today is a question as to whether or not $10 million will be made available for fiscal 1974 for advertising as well as for research in cotton.

I say it is a very bad precedent. We have had 2 years in which $10 million a year has been provided to Cotton, Incorporated, with very—I would say—uncertain results, if not bad results. Therefore, I think the Department of Agriculture has taken the wise position in regard to the third annual increment of $10 million for Cotton, Incorporated, by delaying the provision of this third increment until the Congress settles the issue. The department is waiting for the Congress to settle the issue that is now before us in the form of this motion offered by the gentleman from Massachusetts.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I just arrived on the floor and I appreciate the gentleman from Illinois yielding to me.

Let me say in connection with the present expenditure of the $10 million, assuming that the department does approve it for this year, it of course is still under the 1970 act. The Board of Directors have already unanimously adopted by resolution a prohibition against any use of any part of that money for promotion and advertising. In other words, according to actions already taken by the Board of Directors of Cotton, Incorporated, it can only be used for research. That means, of course, for byssinosis—brown lung—and various other types.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. CONTE. Mr. Speaker, I yield 3 additional minutes to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I want to say in response to the statement of the gentleman from California that what the Board did yesterday, it can undo today or tomorrow. If this money is available and if they see an opportunity for advertising a project, there is nothing to stand in their way of reversing themselves. I think it would be much more prudent if Congress came forth with $10 million for research with no authority for promotional activities.

Mr. Speaker, in the time I have left, I would like to say a word about the other part of the motion to instruct dealing with limitation of payments. In all frankness, it is a somewhat moot issue for 1974 because it is unlikely that there will be any payments made under the new farm bill of 1974. If there are, they will be rather modest. The only payments that might occur would be in the field of cotton, and there, too, I doubt if any of the payments would reach the magnitude which would come then under the payment limitation.

However, it is important that Congress speak clearly on the question of limitation and do it now for several reasons. First of all, as a guide to the cotton industry, to let the planters know what to expect when the time does come, if it does, that substantial payments will once again be made. They will thus have ample notice to get their changes made if they want to make changes.

I think it is also important for the Congress to make its view clear that, under the payment limitation, it does want to include all dollars that are paid to farmers and not exclude those designated as payment for resource adjustment.

I believe it is a very reasonable and practical provision of law, and I congratulate the gentleman from Massachusetts on making this motion.

Mr. CONTE. Mr. Speaker, I yield to the minority leader (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, this morning the Secretary of Agriculture called me personally, he having heard the possibility of the motion being made by the gentleman from Massachusetts. I wish to indicate to the Members of the House, inasmuch as we have passed the basic farm legislation that he the Secretary of Agriculture is urging that this motion be defeated.

Mr. ECKHARDT. Mr. Speaker, when the agriculture-environmental appropriation bill, H.R. 8619, was considered by the House on June 15, I offered and subsequently withdrew an amendment to an energy investigative task force to study the energy crisis. I withdrew my amendment upon request from the able gentleman from Mississippi (Mr. WHITTEN). Mr. WHITTEN recommended that no additional money for an energy study be appropriated until the FTC came out with its study on the petroleum industry. He assured me that if this study indicated a need for further investigation, the House conferees would favorably consider the additional appropriations during conference.

The recent, very excellent, Federal Trade Commission report on the petroleum industry only emphasizes the need for the energy crisis study. The FTC report deals only with the petroleum industry, while my amendment called for a total energy study. The information included in the FTC study is precisely the type of information the legislative branch needs to adopt, an appropriate national energy policy. However, we need such information for the entire energy industry, not for the petroleum industry alone.

After the FTC report and just before this motion came up today, I asked the gentleman from Mississippi (Mr. WHITTEN) whether it was his understanding that my amendment, which was withdrawn at his behest, called for a total energy study. His reply was that such was his understanding. He said that he recalled that my amendment called for a "Federal energy investigation task force for the investigation of the energy crisis," and that my amendment did not limit the study to the petroleum industry. He recognized that, in fact, my amendment was very similar to a provision in the bill as passed by the Senate appropriating $2 million for a detailed investigation of the energy shortage.

He said that during our colloquy on June 15, he had indicated his feelings that the report is badly needed and he has permitted me to say that I have his assurance that the matter will receive the conferee's attention. I wish now to thank him for that assurance.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. CONTE).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 160, answered "present" 2, not voting 41, as follows:

[Roll No. 452]

YEAS—231

Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Bauman
Bennett
Biester
Bingham
Boland
Brademas
Brasco
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Butler
Carney, Ohio
Chamberlain
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Cohen
Collier
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellenback
Dellums
Dennis
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
Edwards, Calif.
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Gaydos
Giaimo
Gibbons
Gilman
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Hamilton
Hanley
Hanna
Harrington
Harsha
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Colo.
Karth
Kastenmeier
Keating
Kemp
King
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McKinney
Macdonald
Madden
Madigan
Mailliard
Mallary
Maraziti
Martin, N.C.
Mayne
Mazzoli
Mezvinsky
Milford
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Nedzi
Nix
Obey
O'Brien
Owens
Parris
Patten
Peyser
Pike
Podell
Powell, Ohio
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Regula
Reid
Reuss
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruppe
Ryan
Sarasin
Sarbanes
Saylor
Schroeder
Seiberling
Shriver
Smith, N.Y.
Snyder
Stanton, J. William
Stanton, James V.
Steele
Steelman
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Thompson, N.J.
Thomson, Wis.
Thone
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Walsh
Ware
Whalen
Whitehurst
Widnall
Williams
Wilson, Charles H., Calif.
Winn
Wolff
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ill.
Zablocki
Zion

NAYS—160

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Arends
Baker
Barrett
Beard
Bergland
Boggs
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Broyhill, N.C.
Burgener
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chappell
Cochran
Collins, Tex.
Conlan
Daniel, Dan
Danielson
de la Garza
Denholm
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Evans, Colo.
Evins, Tenn.
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Fountain
Fulton
Fuqua
Gettys
Ginn
Goldwater
Gonzalez
Haley
Hansen, Idaho
Hansen, Wash.
Hawkins
Hébert
Henderson
Hicks
Holifield
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Ketchum
Landgrebe
Litton
Long, La.
Lott
McFall
McKay
Mahon
Mann
Martin, Nebr.
Mathias, Calif.
Matsunaga
Meeds
Melcher
Michel
Mink
Mizell
Montgomery
Morgan
Murphy, N.Y.
Myers

Natcher
Nelsen
Nichols
O'Hara
O'Neill
Passman
Patman
Pepper
Perkins
Pettis
Pickle
Poage
Preyer
Price, Tex.
Quie
Quillen
Rarick
Rhodes
Roberts
Roncalio, Wyo.
Rose
Roybal
Ruth
Satterfield
Scherle
Sebelius
Shipley
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Spence
Staggers
Stark
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Symms
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thornton
Towell, Nev.
Treen
Udall
Veysey
Waggonner
Wampler
White
Whitten
Wilson, Bob
Wilson, Charles, Tex.
Wright
Wyatt
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zwach

ANSWERED "PRESENT"—2

Daniel, Robert W., Jr.
Rees

NOT VOTING—41

Anderson, Ill.
Bell
Bevill
Biaggi
Blackburn
Blatnik
Burke, Calif.
Carey, N.Y.
Clawson, Del
Collins, Ill.
Conyers
Crane
Davis, Ga.
Davis, S.C.
Gray
Gubser
Guyer
Hammerschmidt
Hanrahan
Harvey
Hays
Kuykendall
Landrum
Lujan
McEwen
McSpadden
Mathis, Ga.
Metcalfe
Mills, Ark.
Mollohan
Rooney, N.Y.
Runnels
St Germain
Sandman
Schneebeli
Shoup
Sikes
Stratton
Tiernan
Ullman
Wiggins

So the motion carried.

The Clerk announced the following pairs:

On this vote:

Mr. Carey of New York for, with Mr. Rooney of New York against.

Mrs. Burke of California for, with Mr. Bevill against.

Mr. St Germain for, with Mr. Davis of Georgia against.

Mr. Tiernan for, with Mr. Davis of South Carolina against.

Mr. Stratton for, with Mr. Gray against.

Mr. Blatnik for, with Mr. Sikes against.

Mr. Biaggi for, with Mr. Landrum against.

Mr. McSpadden for, with Mr. Mathis of Georgia against.

Mr. Metcalfe for, with Mr. Mollohan against.

Mr. Bell for, with Mr. Ullman against.

Mr. Conyers for, with Mr. Hammerschmidt against.

Mr. Del Clawson for, with Mr. Kuykendall against.

Mr. Gubser for, with Mr. Runnels against.

Mr. Harvey for, with Mr. Mills of Arkansas against.

Mrs. Collins of Illinois for, with Mr. Blackburn against.

Until further notice:

Mr. Hays with Mr. Anderson of Illinois.

Mr. Guyer with Mr. Hanrahan.

Mr. Crane with Mr. McEwen.

Mr. Sandman with Mr. Schneebeli.

Mr. Lujan with Mr. Wiggins.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. WHITTEN, SHIPLEY, EVANS of Colorado, BURLISON of Missouri, NATCHER, SMITH of Iowa, CASEY of Texas, MAHON, ANDREWS of North Dakota, MICHEL, SCHERLE, ROBINSON of Virginia, and CEDERBERG.

## WE NEED A NEW MINIMUM WAGE BILL

(Mr. ERLENBORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, proposed laws in regard to emergency medical services and on minimum wages do not have much in common, except a coincidence of timing. The emergency medical services bill was vetoed August 1 but, at the suggestion of the majority, the vote on a motion to override was postponed until September 12. The minimum wage bill was vetoed September 6. Again, at the request of the majority, the vote on the motion to override was held over until September 19.

Most of us recognized that yesterday's vote sustaining the President's veto of the emergency health services bill suggests strongly that this House will also sustain his veto of the minimum wage bill when the question comes before us next week.

I will vote to sustain this veto, and I urge you who are my colleagues to follow a similar course.

My vote will not mean, however, that I do not believe we ought to have a new minimum wage bill. It will mean only that I do not believe we ought to have that minimum wage bill.

The fact is, I believe enactment of a good minimum wage bill is a matter of some urgency.

To that end, I ask that the chairman of our General Labor Subcommittee (Mr. DENT) call meetings in order to start immediate consideration of a new bill. We do not need any more hearings. All of us know what the facts are. We can go directly to mark up and, if we act with wisdom and prudence, we can have a bill that is acceptable to this House in a matter of days.

## RACIAL DISCRIMINATION IN HOSPITALS AND REST HOMES

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the Civil Rights and Constitutional Rights Subcommittee which I chair of the House Committee on the Judiciary, met yesterday for the first of a series of hearings on the enforcement of title VI of the Civil Rights Act in medicare and medicaid programs.

For too long, minorities have been denied equal access to hospitals and other facilities in this country. These hearings are designed to examine whether or not blacks, Spanish-speaking Americans, and members of other racial and ethnic groups have achieved that equal access guaranteed by our civil rights laws.

At yesterday's hearings, the General Accounting Office presented its report on the enforcement of title VI. That report documents that a dual system of health care still exists for nonwhites, despite the enactment of civil rights legislation.

There can be no separate-but-equal health care system. Yet, in our cities today, we find that blacks continue to be clustered in predominantly black hospitals and whites in predominantly white institutions, despite the fact that those institutions receiving medicare and medicaid funds are required by law to abide by the antidiscrimination provisions of the Civil Rights Act.

The situation in our hospitals and nursing facilities is much like that in our schools. De facto segregation has replaced de jure segregation. The signs barring admittance to nonwhites which once hung above the doors of many of our hospitals have been taken down, but segregation remains.

The subcommittee plans to take a very serious look at this situation. We will be meeting on September 17, 24, and October 1 to have more testimony on enforcement of title VI in our medicare and medicaid programs. We will be hearing from the Leadership Conference on Civil Rights and the American Public Health Association, in addition to public witnesses who will recall their own encounters with discrimination in medicare and medicaid facilities. On our last day of hearings, we have asked the Office for Civil Rights at HEW to report on its compliance activities in this area.

## PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. YOUNG of Texas. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## WATER PROJECT INVESTIGATIONS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 540

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6576) to authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendments recommended by the Committee on Interior and Insular Affairs now printed in the bill notwithstanding the provisions of clause 7, rule XVI. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 6576, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 2075, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 6576 as passed by the House.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA), pending which time I yield myself such time as I may consume.

Mr. Speaker, House Resolution 540 provides for an open rule with 1 hour of general debate on H.R. 6756, a bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments.

House Resolution 540 provides that it shall be in order to consider the amendments recommended by the Committee on Interior and Insular Affairs now printed in the bill notwithstanding the provisions of clause 7, rule XVI of the Rules of the House of Representatives, germaneness provision. House Resolution 540 also provides that after the passage of H.R. 6576, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 2075, and it shall then be in order in the House to move to strike out all after the enacting clause of S. 2075 and insert in lieu thereof the provisions contained in H.R. 6576 as passed by the House.

H.R. 6576 authorizes the Secretary of the Interior to engage in feasibility investigations under reclamation law on four potential water resource development projects. The projects include the Hood-Clay unit, Central Valley project in California, the McGee project in Oklahoma, the Moorhead unit, Pick-Sloan Missouri Basin program in Montana and Wyoming, and the Geary project in Oklahoma.

Mr. Speaker, I urge adoption of House Resolution 450 in order that we may discuss and debate H.R. 6576.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 540 provides for the consideration of H.R. 6576, authorizing the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments, under an open rule with 1 hour of general debate. This rule also provides for a waiver of points of order against the committee amendments for failure to comply with clause 7 of rule XVI, which deals with germaneness. The three amendments are the McGee Creek Reservoir project, the Moorhead Unit project, and the Geary project. In addition, the rule makes it in order to insert the House-passed language in S. 2075.

The purpose of this bill is to authorize the Secretary of the Interior to conduct feasbility investigations under reclamation law on four potential water resource development projects. Since passage of the Federal Water Project Recreation Act in 1966, studies of this type need specific legislative authority. This is the sixth in a continuing series.

The bill contains four projects:

First. Hood-Clay Unit, American River division, Central Valley project, California, costing $125,000 for 2 years;

Second. McGee project, Oklahoma, costing $300,000 for 3 years;

Third. Moorhead Unit, Powder division, Pick-Sloan Missouri Basin program, Montana, Wyoming, costing $250,000 for 2 years; and

Fourth. Geary project, Oklahoma, costing $245,000 for 3 years.

Mr. Speaker, I urge the adoption of this rule in order that the House may begin debate on H.R. 6576.

Mr. Speaker, I have no requests for time and reserve the balance of my time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6576) to authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6576, with Mr. ROBERTS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from California (Mr. JOHNSON) will be recognized for 30 minutes and the gentleman from California (Mr. HOSMER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I yield myself such time as I may consume to speak on behalf of H.R. 6576, a bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development projects. This measure is similar in concept to other bills which the House has passed in prior years and is needed to provide data and information on which the Congress can base decisions as to whether projects should be authorized for construction.

The bill we are considering today is smaller in scope than any similar bill that has been brought to the floor since the present system of authorizing feasibility investigations was adopted 8 or 9 years ago. The measure provides for only four studies at an aggregate estimated cost of less than $1 million—to be spent over a time span of 2 to 4 years, depending on the rate of funding. The limiting of this bill to only four projects is indicative of the lack of enthusiasm being shown by the administration for facing up to its responsibilities for managing and conserving our Nation's land and water resources. Indeed, were it not for the initiative of our colleagues we would have no study bill this year and there would be no continuity of the Department's capability to address and solve our ongoing water problems. All of the programs included in H.R. 6576 were individually introduced by Members of the House and were combined into a single bill in committee. Additionally, the administration withheld endorsement of three of the four items on the grounds that authorization of study was either unnecessary or premature. After complete hearings and study the Committee on Interior and Insular Affairs determined that there was both a need and justification for early consideration of these programs and reported the bill accordingly.

The projects included in H.R. 6576 are not, however, irrigation oriented in their central thrust. Three of them are very strongly weighted to the provision of municipal and industrial water supply while the fourth, the Hood-Clay unit of the Central Valley project, in my State of California is uniquely an environmental program. This is the item about which I wish to speak today—although I endorse each study in the bill. Other Members will explain the other items.

The purpose of the Hood-Clay unit feasibility study is to find out whether there is a feasible and justifiable means of completing the authorized Auburn-Folsom south unit of the Central Valley project while at the same time realizing the environmental benefits that can be achieved by using water stored in Auburn and Folsom Reservoirs—for recreation and fish and wildlife purposes in the lower American River.

The American River enters the Sacramento River within the city of Sacramento, Calif. Upstream, on the American River, we have in being the Folsom Reservoir and the Nimbus Reservoir with the authorized Auburn Reservoir to be constructed upstream from Folsom Reservoir. The stored water from these reservoirs is earmarked by the authorizing legislation for diversion at Nimbus Dam into the Folsom South Canal—for irrigation and municipal and industrial use in Sacramento and San Joaquin Counties. Since the completion of Folsom Dam and powerplant, and pending construction of Folsom South Canal, there have been sustained releases of water from Nimbus Reservoir into the lower American River. These flows have been more stable than those that existed in the preproject condition and have contributed to the development of a fine, water-based recreational complex throughout the Metropolitan Sacramento area. Much investment has been made by public and private interests and the river has become a fine asset to the city and county.

The California Water Rights Control Board has decreed that a sustained level of releases, amounting to 1,500 cubic feet per second, must be made to sustain the environmental values that have developed along this stream. Releases of this magnitude will make it impossible to achieve the goals for which the Folsom South Canal was authorized. Litigation is pending in the Federal district courts to test the authority of the State board to direct the use and disposition of federally developed storage water.

The Hood-Clay unit suggest a solution to this conflict. It is simple in concept. Releases would be made from water stored in the Federal reservoirs and the water would be allowed to flow through the city of Sacramento to a pumping plant site on the Sacramento River near Hood, Calif. At this point, it would be pumped from the river into a conduit which would extend to, and connect with, the lower reaches of the Folsom South Canal. This plan would enable the water resource to be used for its originally authorized purpose, while at the same time preserving the byproduct environmental benefits that have developed during the interim period.

The study will assess the benefits and propose cost-sharing arrangements. Hopefully, it will result in a solution to a most perplexing problem of how to use this valuable resource. Frankly, Mr. Chairman, I can see no reason why anyone would oppose this study. Indeed, the Department does not oppose the study—yet it neglected to endorse the legislation. The apparent reason for its position is that authority already exists. If that is the case, one can only wonder why we have not yet seen the study completed and sent forward. It is my view, and the view of the committee, that the study should be specifically authorized and beyond that should be promptly completed and sent forward for consideration of authorization.

Before discussing the four projects, Mr. Chairman, I would like to point out to my colleagues why I feel that the Congress cannot sit idly by while the administration has its way with our water and related land resource programs. Within recent weeks there have been two independent actions taken by the executive branch in the water resources field. In one case, the report of the National Water Commission has been completed and released. In the second instance, the executive branch announced approval of new standards and principles to govern its analysis of water and related lands. These developments share a common characteristic—that is, they are each committed to the closing down of our ongoing water resource program apparently from the misguided notion that such programs no longer fulfill a public need. H.R. 6576 repudiates this idea and represents a minor step by Congress to reassert itself in the determination of policy in the natural resources field.

One of the principal targets of the Commission report and the standards and principles is the irrigation program of the Bureau of Reclamation which is being criticized as being the cause of an embarrassing surplus of agricultural commodities which the administration perceives. Oddly enough, we have no such surplus, as every Member of this body is well aware. In fact, the exact opposite is true. Mr. Chairman, instead of going out of our way to limit our capacity to examining every opportunity to maximize such production. The water resource development programs of the Bureau of Reclamation, the SCS, and the Corps of Engineers all have a major role to play in this regard. They are not the only weapons in our fight to feed a hungry world but they are, indisputably, effective and should be preserved.

If, as the Department suggests, the study is already authorized then the passage of Hood-Clay unit implies no additional expenditure of Federal funds. On the other hand, enactment should serve as a message to the executive that Congress wishes some action in this area and there can be no doubt that we are of the mind to entertain new and novel solutions to our current water problems.

For these reasons, I urge the House to act promptly and favorably on this legislation.

Mr. HOSMER. Mr. Chairman, I will be handling this bill for the minority rather than the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, those of us who live in the naturally arid sections of this country take the reclamation program seriously. Some of us even represent areas that would be still uninhabitable desert were it not for investment made in water resource development through the Bureau of Reclamation.

Accordingly, we take very seriously our legislative responsibility to investigate and authorize feasibility studies to determine how and where new water resource developments should be undertaken. In doing this, we are mindful that a few hundred thousand dollars spent in this fashion can affect the lives of many thousands of people and the economic health of entire regions.

The Water and Power Resources Subcommittee studied each of the four feasibility studies authorized in this bill. We questioned witnesses and had the committee staff research each proposal. After this, we favorably reported the four as one bill to save three extra trips to the Rules Committee and the floor.

No one can deny that these four studies are important to the orderly and timely development of vital water resources in the rapidly developing Western States.

On two cases, the Department felt that authority already existed to undertake the proposed study and in the third case the Department suggested that the necessary data might be developed in a regional study that is now underway. The Department endorsed the fourth study and never flatly opposed the first three.

I will not duplicate the efforts of others by giving a point-by-point analysis of H.R. 6576 except to tell you that it authorizes four vitally important water resource studies affecting four different western States. For a relatively small amount of money, these four studies will reveal options and alternatives that a future Congress may have to choose from. Thus, a vote for H.R. 6576 is a vote to assure that we will have the necessary information to make informed and enlightened decisions about water resources in the years ahead.

I urge favorable consideration of the bill.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I want to commend the Interior Committee, and particularly the Irrigation Subcommittee headed by my colleague from California (Mr. JOHNSON) for accelerating the authorization of these four feasibility studies.

I am not familiar with the needs of all the studies, but one study borders about four or five congressional districts in the State of California. The Hood-Clay project affects perhaps half of the State of California. I am familiar with that, and I think the expenditure of $125,000 for a true study of the feasibility of this particular project is critically needed for a balance of better agricultural, municipal, industrial, and ecological needs in our State.

Therefore, I would urge the enactment of this legislation.

Mr. Chairman, I am pleased today to speak in behalf of legislation to authorize the Bureau of Reclamation to conduct a study to determine the feasibility of building a connector to carry water from the Sacramento River at Hood to the Folsom-South Canal near Clay.

We all recognize the water needs of our neighbors to the South of Sacramento and are more than pleased to share in our overabundance of this great natural resource, but not at the expense of everything we hold dear. I am concerned that the presently authorized municipal, industrial, and agricultural uses from the Folsom South Canal would ultimately diminish the flow of the American River past the city of Sacramento where Sacramento County has made substantial investment in park facilities.

A specific study of the proposed Hood-Clay Connector would give an opportunity to examine the environmental benefits that could be achieved by this new facility to take full advantage of all water uses and water oriented benefits in Sacramento and San Joaquin Counties.

In recent years great flow fluctuations have occurred along the American River. As an example in 1950 a series of storms dumped enough water into the river to fill the Folsom Dam in 3 days, but in 1951, because of a drought, a mere trickle of water flowed through Sacramento.

We thought the problem of feast or famine for the river had been effectively eliminated with the completion of Folsom Dam and the new Auburn Dam which is now under construction, but this is not the case.

The view that many organizations and interested private citizens have expressed is that the river should be allowed to run unimpeded down the full length of the American River at a guaranteed minimum flow of 1,500 cubic feet per second where it would join with a diversity of water supplies from the Sacramento, Feather, and Consumnes Rivers to be recaptured at Hood.

It would be pumped across to Clay via the connector and then pumped south as well as north for delivery to the Folsom South service area. In order to provide sufficient water for the Sacramento Municipal Utility District—SMUD—nuclear plant, adequate flow could be diverted at the Nimbus Dam to supply generating power for the Rancho Seco facility.

As coauthor of this legislation, I suggest that a study is necessary to provide the final solution to our dilemma. To that end I urge your committee approval of this bill.

Mr. HOSMER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Saylor).

Mr. SAYLOR. Mr. Chairman, we hear many complaints these days from western States Congressmen about the low funding level of the reclamation program. It is charged that scarce water resources go undeveloped, because there simply are not enough dollars in recent budgets to develop these resources as they should be developed.

In a great many cases this is certainly true, but in some projects and bills we see scarce reclamation dollars squandered on extravagant and wasteful pursuits that add little if anything to the reclamation program while robbing good water programs of desperately needed funds.

The bill before us today is a particularly glaring example of this. H.R. 6576 would authorize the expenditure of nearly a million dollars on four Bureau of Reclamation studies. When the House Interior Subcommittee on Water and Power Resources held hearings on these four proposals, the Commissioner of Reclamation urged that three of these studies not be authorized, because they were either already authorized or simply unnecessary at this time. Yet, the subcommittee and full committee urges us to authorize three-quarters of a million dollars to carry out three ridiculous reclamation studies that even the Bureau of Reclamation itself opposes.

The first of these involves a study on the Hood-Clay unit, American River Division, of California's Central Valley project. One hundred and twenty-five thousand taxpayers' dollars would be spent to determine newer and better ways to squander Federal dollars on a dubious pumping plant and conveyance channel. Maybe this study is necessary. Maybe we need this water development. Maybe a reelection campaign or two will be helped by this expenditure. The only facet of this study that there are no "maybe's" about is the fact that it is already authorized under the Auburn-Folsom authorization and under the east side division of the Central Valley project.

Next, we are asked to authorize a feasibility study of the McGee Creek Reservoir in Oklahoma. The Army Corps of Engineers has a study underway now that will review all water needs in the Oklahoma City urban area. The 1974 budget for the corps includes some $200,000 for this study which will be completed in 3 to 5 years at a total cost of over $800,000. If we pass today's bill, we can spend another $300,000 to duplicate this study.

The final squandering involves a quarter of a million dollars to study the Moorhead unit on the Powder River in the Pick-Sloan Missouri Basin program. This is that wonderful porkbarrel that gave us the Garrison diversion—one of reclamation's great, mind-bending boondoggles. The "Federal-State Interagency Northern Great Plains Resources Program" is now conducting a study of all resources in this area, including water. The Department of Interior suggested that we await the results of this effort before undertaking other studies, but it is hard to dissuade a committee hellbent on wasting the taxpayers' hard-earned money.

The fourth study, in all fairness, is commendable and has no business being tied to the previously mentioned three flimflams. The authority to undertake a feasibility study for a dam and reservoir on the Canadian River in Oklahoma was sought by the Department. It is a good piece of legislation that was tacked on to this farce of a bill as a hostage for the other three.

Most of us have been in this business long enough to know how to carry a bad proposal or two by piggybacking them on to good proposals. We have also been at it long enough to know that this is how bad and expensive proposals become law. What some of us have not learned, apparently, is that our system cannot go on much longer spending a quarter of a million here and a half a million there like drunken sailors on a weekend pass. We owe the long-suffering taxpayers of this country a better sense of fiscal responsibility than to throw their money around like this.

Mr. JOHNSON of California. Mr. Chairman, I yield 5 minutes to the gentleman from Montana (Mr. Melcher).

Mr. MELCHER. Mr. Chairman, one of the feasibility studies which would be authorized by H.R. 6576 is the Moorhead unit which consists of a multiple purpose reservoir project on the Powder River, a tributary of the Yellowstone River in Powder River County, Mont., in my congressional district.

Originally, I introduced H.R. 7820 for myself and Mr. Roncalio of Wyoming, relating only to the proposed Moorhead study. The Subcommittee on Water and Power Resources, under the distinguished chairmanship of the gentleman from California (Mr. Johnson) then included the substance of H.R. 7820 in H.R. 6576.

The reservoir from this project is designed to extend upstream into Campbell County, Wyo. Its estimated capacity is 358,000 acre feet.

Mr. Chairman, both Montana and Wyoming badly need additional water storage. Rather than letting the spring runoffs of the Powder River flow downstream, we need the flood control and water storage that this dam would provide. We would benefit from the economic stimulus of putting this water resource to work for irrigation, recreation, or industrial uses. Irrigation water is badly needed in the summer for downstream ranches for hay and crop production. There is some irrigation now, but the water is so low in late June, and during July and August that this additional storage is necessary.

A reconnaissance report on Moorhead was prepared by the Bureau of Reclamation a few years ago. That report showed that a good benefit-cost ratio could be expected. Even though prices and interest rates have increased since the report was prepared, there still is a strong showing of justification.

Mr. Chairman, the cost of the Moorhead feasibility study is estimated at $250,000 over a 2-year period.

This project has been delayed long enough. It is time that we get started, even on this very initial stage. It will be an important study to help complete the interagency and regional States' cooperative effort now underway as the Northern Great Plains resource study. I commend the gentleman from California (Mr. Johnson) and other members of his Water and Power Resources Subcommittee for including the Moorhead feasibility study in H.R. 6576. I urge its passage by the House.

Mr. HOSMER. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. Camp).

Mr. CAMP. Mr. Chairman, I strongly support H.R. 6576, authorizing the Secretary of the Interior to undertake vital water resource studies at four different locations in the West. The importance of this legislation is underscored by the Bureau of Reclamation's successful work in the past in helping water-poor areas utilize their limited resources to provide adequate domestic and industrial water supplies for the people of our Western States.

I would like to address myself particularly to sections 2 and 4 of the bill before us today, which would significantly affect future water supplies for my State of Oklahoma.

Section 4 authorizes a feasibility study of a major potential water resource development program in western Oklahoma. Preliminary surveys indicate the likelihood of feasible reservoir projects being developed at the hydro site on the Canadian River in Blaine County and at the Weatherford site on Deer Creek in Custer County. Industrial water supply, fish and wildlife, recreation, flood control, and irrigation will be considered for development during the study.

Specifically, the proposed study would explore ways of regulating the flow of the Canadian River to avoid water shortages that could threaten economic growth in the study area within 10 years. The need to develop this water source becomes especially critical since industrial needs for water supplies are expected to increase sharply in the next 25 years.

According to Bureau of Reclamation studies, the annual need in the area for industrial uses will increase by an additional 35,000 acre-feet and the annual need for cooling water for powerplants in 25 years is expected to be about 80,000 acre-feet more than at present. In reference to this last figure, I would point out that the Oklahoma Gas & Electric Co. has already indicated a strong interest in this water for future power development sites. Also, the Canton Irrigation District, composed of landowners along the North Canadian River, is actively supporting storage on the Canadian River to serve the purpose of irrigation.

Mr. Chairman, the good people of Oklahoma, who are no strangers to the hardships caused by an inadequate water supply, are wholeheartedly behind this project. We have communications from the Oklahoma Water Resources Board, the State coordinating agency for water supplies, and from the cities in the area urging immediate congressional action on this project. Passage of this section has also been endorsed by the administration via the Bureau of Reclamation and the Army Corps of Engineers as a continuing complement to the Oklahoma State water plan.

Section 2 of H.R. 6576 authorizes a feasibility investigation in the southeastern portion of Oklahoma on McGee Creek in the district of my good friend and colleague, Speaker Carl Albert. McGee Creek offers the potential of being a major supplier of water not only for the Atoka County area where the reservoir would be built, but also for the metropolitan area of Oklahoma City, which is faced with a latent water supply problem.

As early as 1954, McGee Creek was recognized by officials of Oklahoma City as a potential reservoir for metropolitan water needs. Again, in 1967, the Oklahoma City Municipal Authority stated the importance of McGee Creek when, in a report prepared by an independent consultant, the municipal authority cited McGee Creek as part of its long-term water supply, planning for its use by 1975.

Then finally, in the summer of this year, the Oklahoma City officials again recognized the importance of McGee Creek. Mayor Patience Latting stated that Oklahoma City is actively working with the Southern Oklahoma Development Authority to construct this reservoir to its optimum capacity in order that future local needs, as well as Oklahoma City water needs, may be met. The Oklahoma City Chamber of Commerce also enthusiastically supports this total project.

Mr. Chairman, as we are all aware, water is a precious commodity in my State and there is widespread support among the people of Oklahoma for H.R. 6576. This legislation provides for the planning for future water resource development which is absolutely necessary for orderly and sustained growth of an area, and I urge my colleagues' support for this measure.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. Jones).

Mr. JONES of Oklahoma. Mr. Chairman, along with my colleague from Oklahoma, the distinguished Congressman Happy Camp, I, too, support the passage of H.R. 6576, a bill to authorize the Secretary of the Interior to engage in feasibility studies of certain potential water resource developments. With particular respect to McGee Creek, I would urge the adoption of this bill.

As my respected colleague has so succinctly stated, water is essential to the growth of an area. And this bill will do exactly that. The authorization of a feasibility study for McGee Creek in southeastern Oklahoma is the first step in providing for the economic as well as physical growth and well-being of Oklahoma.

Mr. Camp has told us of the support this bill has received from officials of Oklahoma City. Likewise, members of the southeastern community of Atoka, Okla., who would be so vitally affected by this project, have rallied to its support. Mayor Robert G. Cates, of Atoka, Okla., has stated the Atoka Municipal Authority's desire to join with Oklahoma City in supporting the McGee Creek feasibility study. In addition, the regional governmental unit, the Southern Development Association, of Ardmore, Okla., has stated its unequivocal support of this project.

Finally, Mr. Chairman, the Oklahoma Water Resources Board, the State agency of Oklahoma charged with coordinating State water resources, has laid out the mutual agreement between Atoka authorities and Oklahoma City authorities, and the mutual support for this bill.

Mr. Chairman, the primary importance of this project lies in its impact on the municipal water supply of both the communities of Atoka and Oklahoma City. The project has received the support of Atoka authorities as well as Oklahoma City authorities. I urge its passage by the House today.

At this time, Mr. Chairman, I include in the Record certain documents in support of this bill:

Atoka, Okla.,
*June 25, 1975.*

Gentlemen: At the suggestion of the S.O.D.A. Organization we are forwarding to you a copy of a resolution of the Atoka Municipal Authority regarding the study and development of McGee Creek Reservoir.

We are most anxious to expedite this project and solicit your suggestions for future action.

Sincerely,

Robert G. Cates, Jr.,
*Mayor.*

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RESOLUTION

Whereas, the Atoka Municipal Authority agreeing to the principal of creating a tri-party study group and,

Whereas, the group shall be composed of the Oklahoma City Municipal Authority, the Atoka County Water Distribution Authority and the Atoka Municipal Authority and,

Whereas, it being the purpose of the group to investigate the feasibility of developing the McGee Creek Reservoir,

Now, therefore, be it resolved by the Chairman and the Atoka Municipal Authority of the City of Atoka, Atoka, Oklahoma in legal session convened that approval is hereby granted for the participation into the investigation of the McGee Creek Reservoir.

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Oklahoma City, Okla.,
*June 4, 1973.*

Hon. Carl Albert,
*Capitol Hill, D.C.:*

The following telegram has just been sent to John N. (Happy) Camp on March 6, 1973 at the Mayo Hotel, Tulsa, Oklahoma, during the annual meeting of the Arkansas Basin Development Association. We held a conference with the Bureau of Reclamation and the Corps of Engineers relative to McGee Creek Reservoir on the Boggys in Atoka County. The Corp of Engineers agreed to release all of their information on the study of McGee Creek to the Bureau of Reclamation so that the bureau might complete the study. This was a mutual agreement between the Corp of Engineers and the Bureau of Reclamation to make this transfer because the corp was unable to justify flood control benefits in this project and did not feel they should complete a study of any reservoir without flood control being a part of the reservoir study. The water resources board agrees to this transfer and recommends that the Congress direct the Bureau of Reclamation to make this study for water supply, first for the area of origin in Atoka County and then to other interests outside the stream system interested in water supply from this reservoir. We have the concurrence of the local State legislatures of this area and have cleared with Senator Bob Trent and Representative Gary Payne. This was also cleared with Governor David Hall. You may rest assured that the Oklahoma Water Resources Board and the interested people of the State of Oklahoma concur in this transfer of study. The city of Oklahoma City, permit number 67707 for 75,000 acre feet, has estimated they will need water from this reservoir by 1979. Southern Oklahoma Development Association, permit number 68356 for 11,300 acre feet, state they need the water by 1974. And the city of Atoka, permit number 69133 for 15,000 acre feet, needs water for county water district.

Forrest Nelson,
*Executive Director, Oklahoma Water Resources Board.*

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Ardmore, Okla.,
*September 11, 1973.*

Representative Carl Albert,
*Capitol Hill, D.C.*

Dear Congressman Albert: It is our understanding that H.R. 6576 comes before the House on September 12, 1973. This telegram is to assure you of our extreme interest in the passage of this bill. As you are aware the McGee Creek feasibility study falling within the bill is the most important public works project we have in southcentral Oklahoma. After 3½ years of hard work by all concerned: Passage of H.R. 6576 will be the first successful step toward making McGee Creek Reservoir a reality.

We are anticipating your full support and assistance, as in the past, on this matter.

With warmest regards.

Your friend,

Buster Hight,
*President, Southern Oklahoma Develment Association.*

Mr. HOSMER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 6576.

As a member of both the House Interior Committee and the House Public Works Committee, I am deeply concerned about water resources development. As a lifelong resident of the beautiful north coastal area of California, I am especially aware of the need to harmonize water development with environmental considerations.

A section of H.R. 6576 stands as a commendable effort to fuse these two important values by authorizing a needed feasibility study of ways to preserve the wonderous beauty and recreation value of the American River as it flows through Sacramento, our State capital. The project that this feasibility study would investigate would, if constructed, maintain the flow of this river so that our capital city could continue to enjoy the environmental and recreational benefits of a freeflowing stream.

Other sections of this bill authorize studies of vital water resources in Oklahoma, Wyoming, and Montana. These studies are of great importance to the future development of these areas. They will serve to advise and inform future Congresses of the most economical and effective ways to meet future demands on scarce water resources.

Thus, H.R. 6576 offers each of us an opportunity to support environmental and development issues in the same piece of legislation.

Mr. JOHNSON of California. Mr. Chairman, I yield such time as he may use for the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I wish to extend my compliments to the committee and indicate my fullest support of this bill.

Mr. JOHNSON of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Chairman, I support the legislation and compliment the committee for bringing it out.

I wish to tell the House that this is good legislation and very necessary not only for the State of California but for the entire country.

I hope it is accepted by the House.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wyoming (Mr. Roncalio).

Mr. RONCALIO of Wyoming. Mr. Chairman, I encourage my colleagues' support of H.R. 6576 to authorize feasibility studies of certain potential water resource developments.

Of particular interest to me, to my State of Wyoming, and to our good neighbor to the north, Montana, are provisions in this bill for feasibility investigations of the Moorhead unit, Powder division, of the Pick-Sloan Missouri Basin program. The Moorhead unit is located on the Powder River in Montana with the proposed reservoir extending into Campbell County, Wyo. This project would be multipurpose for flood control, supplemental irrigation water supply, fish and wildlife, recreation, and industrial water supply. The estimated capacity of the reservoir would be 358,000 acre feet.

This bill by no means authorizes construction of this project or any of the others mentioned. It is, rather, only for purposes of evaluating the feasibility of the projects for consideration in future authorizations.

The Department of the Interior in opposing inclusion of the Moorhead unit in this bill has stated that a study of Moorhead at this time is premature; feasibility studies of the unit should wait until after further data and information has been assembled concerning the Northern Great Plains area by the Federal-State Interagency Northern Great Plains Resources Program. I submit that this is indeed a most appropriate time to initiate studies of Moorhead. The Northern Great Plains study is a preliminary survey of the natural resources in the area including water, land, and minerals. An evaluation of the Moorhead Unit should logically be a part of the input and information available for consideration in such a survey.

Impending development of coal and other resources in eastern Montana and northeastern Wyoming has become an area of extreme controversy in both States. Such development has become almost inevitable. It's not a question of stopping growth, but controlling it; insuring that it is dealt with in a reasonable manner to seek the most efficient use and environmentally correct development and use of these resources including the prudent use and distribution of the limited water available for all demands.

Montana and Wyoming contain an estimated 46 percent of the Nation's strippable reserves of bituminous coal and lignite. The Powder River Basin alone is estimated to be able to produce 16.9 billion tons of coal. The North Central Power Study has identified 42 potential power plant sitings with 10 of these, each for 10,000 megawatt plant, located in an area centered on Gillette, Wyo. It has been estimated that up to 20,440 acre feet of water per year could be required for each 1,000 megawatts. A similar large number of coal fueled steam generating plant sites have been determined for possible development in southeastern Montana.

The Reynolds Metals Co.'s proposed gaseous diffusion uranium enrichment plant near Buffalo, Wyo., 60 miles from the Moorhead site, could possibly begin construction in the next 2 or 3 years. Reynolds has acquired water rights in that area to provide 100,000 acre-feet of water per year.

A study has been made for an extensive and costly system of canals, diversions, and aqueducts to bring water into this area for power and industrial development. Water availability and its allocation to the various needs including municipal, agricultural, and industrial is one of the greatest problems we are facing and a feasibility study of the Moorhead Unit is timely. Approximately 2 years will be required for the study.

With impending increased mining activity, power plant construction, uranium enrichment facilities, growing demand of agricultural production, and a forecast dramatic population increase in the area, a feasibility study of the Moorhead unit is prudent and I ask your support and vote for this bill.

Mr. HOSMER. Mr. Chairman, I have no further requests for time.

Mr. JOHNSON of California. I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource development:

1. Hood-Clay unit, American River division, Central Valley project, in Sacramento County and San Joaquin County, California.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 1, line 5, strike out "development:" and insert "developments:".

Page 1, line 8, strike out "California." and insert "California;".

Page 1, following line 8, insert the following new language:

2. McGee Creek Reservoir in Atoka County in southeastern Oklahoma;

3. Moorhead Unit, Powder division, Pick-Sloan Missouri Basin program, on the Powder River in Powder River County, Montana, and Campbell County, Wyoming; and

4. Geary project on the Canadian River in Blaine and Custer Counties, Oklahoma.

The committee amendments were agreed to.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in reading the departmental report and listening to the gentleman from Pennsylvania (Mr. Saylor) I get the definite impression that only one of these projects is justified and is being used to carry objectionable and unapproved projects.

The gentleman from Pennsylvania (Mr. Saylor) says that with the defeat of this bill under those circumstances we can save $1 million.

Unless we in this Congress start saving a few million dollars where it is possible to do so as in this case, we will never save the billions of dollars necessary to restore fiscal sanity in this country. I cannot think of a better place to save a million dollars than under these circumstances.

I urge the defeat of this bill, Mr. Chairman.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Roberts, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 6576) to authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments, pursuant to House Resolution 540, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **GROSS**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 74, not voting 39, as follows:

[Roll No. 453]

YEAS—321

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Aspin
Badillo
Baker
Barrett
Bennett
Bergland
Bevill
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collier
Conlan
Conte
Conyers
Corman
Cotter
Cronin
Daniel, Dan
Daniels, Dominick V.
Danielson
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Haley
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hébert
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Huber
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Ketchum
King
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McCloskey
McCollister
McCormack
McFall
McKay
McKinney
Macdonald
Madden
Mahon
Mailliard
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Railsback
Randall
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ryan
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wyman
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NAYS—74

Archer
Ashbrook
Ashley
Bafalis
Bauman
Beard
Biester
Bray
Breckinridge
Brown, Ohio
Butler
Byron
Clancy
Collins, Tex.
Conable
Coughlin
Daniel, Robert W., Jr.
Davis, Wis.
Dennis
Devine
Dickinson
Duncan
Fish
Frenzel
Gilman
Goodling
Green, Oreg.
Gross
Gunter
Hechler, W. Va.
Heckler, Mass.
Heinz
Holt
Hudnut
Hutchinson
Johnson, Pa.
Jordan
Keating
Kemp
Landgrebe
McClory
McDade
Madigan
Maraziti
Mayne
Michel
Mosher
Nelsen
Parris
Patten
Powell, Ohio
Pritchard
Quie
Quillen
Rarick
Regula
Ruth
Saylor
Schneebeli
Shuster
Smith, N.Y.
Snyder
Spence
Steiger, Wis.
Thornton
Treen
Vanik
Waldie
Whalen
Wydler
Wylie
Yates
Young, Fla.
Zwach

NOT VOTING—39

Anderson, Ill.
Bell
Biaggi
Blackburn
Blatnik
Burke, Calif.
Carey, N.Y.
Chamberlain
Clawson, Del
Collins, Ill.
Crane
Culver
Davis, Ga.
Davis, S.C.
Flood
Fraser
Guyer
Hammerschmidt
Hanrahan
Harvey
Hays
Kuykendall
Landrum
Lujan
McEwen
McSpadden
Mathis, Ga.
Metcalfe
Mills, Ark.
Mollohan
Rooney, N.Y.
Runnels
St Germain
Sandman
Shoup
Sikes
Stratton
Tiernan
Wiggins

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hays with Mr. Anderson of Illinois.

Mr. Rooney of New York with Mr. Guyer.

Mrs. Burke of California with Mr. Sandman.

Mr. McSpadden with Mr. Wiggins.

Mr. Carey of New York with Mr. McEwen.

Mr. St Germain with Mr. Crane.

Mr. Stratton with Mr. Harvey.

Mr. Davis of South Carolina with Mr. Del Clawson.

Mr. Metcalfe with Mr. Shoup.

Mr. Landrum with Mr. Chamberlain.

Mr Mollohan with Mr. Blackburn.

Mr. Mathis of Georgia with Mr. Hammerschmidt.

Mr. Flood with Mr. Lujan.

Mr. Blatnik with Mr. Hanrahan.

Mr. Davis of Georgia with Mr. Bell.

Mr. Mills of Arkansas with Mr. Fraser.

Mr. Sikes with Mrs. Collins of Illinois.

Mr. Tiernan with Mr. Kuykendall.

Mr. Biaggi with Mr. Culver.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The **SPEAKER**. Pursuant to the provisions of House Resolution 540, the Committee on Interior and Insular Affairs is discharged from further consideration of the bill (S. 2075) to authorize the Secretary of the Interior to undertake a feasibility investigation of McGee Creek Reservoir, Okla.

The Clerk read the title of the Senate bill.

### MOTION OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. **JOHNSON** of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JOHNSON of California moves to strike out all after the enacting clause of S. 2075 and insert in lieu thereof the provisions contained in H.R. 6576, as passed, as follows:

H.R. 6576

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource developments:

1. Hood-Clay unit, American River division, Central Valley project, in Sacramento County and San Joaquin County, California;

2. McGee Creek Reservoir in Atoka County in southeastern Oklahoma;

3. Moorhead unit, Powder division, Pick-Sloan Missouri Basin program, on the Powder River in Powder River County, Montana, and Campbell County, Wyoming; and

4. Geary project on the Canadian River in Blaine and Custer Counties, Oklahoma.

The **SPEAKER**. The question is on the motion offered by the gentleman from California (Mr. JOHNSON).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6576) was laid on the table.

## GENERAL LEAVE

Mr. **JOHNSON** of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER**. Is there objecton to the request of the gentleman from California?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

## PROVIDING FOR THE CONSIDERATION OF H.R. 9639, SCHOOL LUNCH ACT AMENDMENT

Mr. **MADDEN**, from the Committee on Rules, reported the following privileged resolution (H. Res. 543, report No. 93–497) which was referred to the House Calendar and ordered to be printed:

### H. Res. 543

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of Rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against sections 5 and 6 of said substitute for failure to comply with the provisions of clause 4, Rule XXI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute. The previous question shall be considered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 543 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 543?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 543.

The SPEAKER. The gentleman from Louisiana is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the minority to the distinguished gentleman from Ohio (Mr. Latta) pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for an open rule with 1 hour of general debate on H.R. 9639, a bill to amend the National School Lunch and Child Nutrition Acts to provide additional Federal financial assistance to the school lunch and breakfast programs.

This resolution also provides for a waiver of clause 27 d(4), rule XI of the Rules of the House of Representatives, the 3-day rule. It provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purposes of amendment.

All points of order against sections 5 and 6 of said substitute for failure to comply with the provisions of clause 4, rule XXI are hereby waived.

H.R. 9639 increases the reimbursement rate for lunches 2 cents to 10 cents a meal and increases the reimbursement rate for free meals 5 cents to 45 cents a meal. The bill provides that reduced-price meals will be reimbursed at the rate of 35 cents a meal—the present rate is 30 cents—and breakfasts will be reimbursed at the rate of 8 cents a meal—presently the rate is 5 cents a meal.

H.R. 9639 also requires the Secretary of Agriculture to make cash payments to the States when he is unable to purchase required commodities which are distributed to participating school districts.

The cost of the basic reimbursement for school lunches will be $84 million and the cost of the increased additional reimbursements for the free and reduced-price lunches will be $29 million. There will be no increased cost for the provision requiring cash payments instead of commodity distributions.

Mr. Speaker, I urge adoption of this resolution in order that we may discuss and debate H.R. 9639.

Mr. LATTA. Mr. Speaker, I support this rule and the bill.

The primary purpose of H.R. 9639 is to increase funds for the school lunch program and the school breakfast program.

Section 2 increases the reimbursement for lunches from the present rate of 8 cents a meal to 10 cents a meal.

Section 3 increases the reimbursement for free meals from the present 40 cents a meal to 45 cents a meal and increases the reimbursement for reduced-price meals from the present 30 cents a meal to 35 cents a meal. This section also changes the method of allocating this assistance for free and reduced-price meals from an allocation based on the number of poor children within the State to an allocation based upon the number of free and reduced-price meals served in the State.

Section 4 provides that the rate of reimbursement for school breakfasts must be 8 cents a meal with an additional payment of 15 cents a meal for reduced-price meals and 20 cents a meal for free meals.

Section 5 makes permanent the requirement contained in present law that the Secretary of Agriculture must make cash payments to the States by a certain date when he has determined that he cannot purchase commodities for distribution to schools participating in the school lunch and school breakfast programs.

Section 6 extends the authorization for the special supplemental food program to June 30, 1975. This section also extends the date for the submission of evaluation reports on the program for 1 additional year.

The cost of the increased basic reimbursement for school lunches will be $84,000,000. The cost of the increased additional reimbursements for free and reduced-price lunches will be $29,000,000, and the cost of the increased reimbursements for the school breakfast program will be $16,500,000. The cost of the 1-year extension of the supplemental food program will be $20,000,000.

Supplemental views were filed by Members Quie, Bell, Erlenborn, Dellenback, Esch, Hansen, Kemp and Huber, opposing the provision which increases the basic support for all school lunches from 8 cents to 10 cents, at a cost of $84,000,000 annually. They note that this money goes to everybody, not just those in need. They maintain the funds could be better used elsewhere in the education system.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## FIRST ANNUAL REPORT ON ADMINISTRATION OF NATIONAL COOLEY'S ANEMIA CONTROL ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

*To the Congress of the United States:*

I am pleased to send to the Congress the First Annual Report on the Administration of the National Cooley's Anemia Control Act in accordance with the requirements of section 1115 of the Public Health Service Act, as amended.

Richard Nixon.

The White House, *September 13, 1973*

## SCHOOL LUNCH ACT AMENDMENT

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9639) with Mr. Zablocki in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Kentucky (Mr. Perkins) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. Quie) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the bill, H.R. 9639, which we are considering today, was ordered reported unanimously by the Committee on Education and Labor on September 6. This bill amends the National School Lunch and Child Nutrition Acts as follows:

First. Increases the general Federal support for all lunches served under the program from the 8 cents now authorized to 10 cents per lunch.

Second. Increases the reimbursement rate for free lunches to needy children from 40 cents to 45 cents.

Third. Provides for the establishment of a basic reimbursement rate for all breakfasts of 8 cents, with an additional payment of 20 cents for each breakfast served free, and 15 cents for each breakfast served at a reduced rate.

Fourth. Provides permanent authority for the Secretary of Agriculture to provide cash grants to the school lunch program in any fiscal year in which the Department of Agriculture is unable to deliver the volume of commodities programed in the budget for the school lunch program.

Fifth. Extends for 1 additional year the special supplemental food program for infants, and pregnant and lactating mothers, with an authorization of $20 million for fiscal 1975.

In recent weeks, school officials all over the country have communicated to members of the committee as well as to other Members of Congress a very high level of concern as to their ability to continue an effective school lunch program because of two adverse conditions of which we are all aware—first, the steeply rising cost of food, and second, the scarcity of commodities which in the past have been donated to the schools in large quantities by the Department of Agriculture, under several of its support and surplus programs.

The raises in reimbursement rates which are proposed in this legislation are meant to deal with the adverse effects of steeply rising costs of food, labor and transportation on school feeding programs. Of all Federal programs, the school lunch program has been most adversely affected by rising food costs, because, quite simply, the first purpose of the program is to provide nutritious meals at reasonable prices. By law, all of the schools in the lunch program must provide lunches that include specific quantities of certain types of foods. The type A lunch must include a half pint of milk, 2 ounces of protein such as meat, fish, eggs, and cheese, ¾ of a cup of vegetables and fruits, and bread with butter or margarine. All of these foods, in the specific quantities listed, must be included in the lunch, regardless of market price.

Now, let us take a close look at how increased food costs have affected the school lunch program. According to the Bureau of Labor Statistics, the best measure of the increase in food prices experienced by institutional buyers such as school lunch programs is called the "Consumer Finished Foods Index." From August of 1972 to August of 1973 this index has increased from 123.1 to 158.6. This means that the cost of food used in the lunch program has increased by 28 percent in the space of only 12 months. As a result, the total cost of food used in the type A lunch is now at least 10 cents more than a year ago.

Information has been provided to me from around the country on increased costs encountered by food service directors who have been seeking new bids on commodities for the present school year. The following comparative cost estimate from Chatham County, Ga., is typical:

| | 1972–73 price | 1973–74 price | Increase difference |
|---|---|---|---|
| Luncheon meat | 0.7287 | 0.9875 | 0.2588 |
| Beef stew | .9440 | 1.05 | .1060 |
| Ground beef | .8450 | 1.05 | .2050 |
| Eggs | .4271 | .8284 | .4013 |
| Frankfurters, 1½ oz | .6975 | .9889 | .2914 |
| Frankfurters, 2 oz | .6975 | .9889 | .2914 |
| Fish squares, 2 oz | .42 | .5395 | .1195 |
| Fish squares, 3 oz | .42 | .5395 | .1195 |
| Ham | .7090 | 1.0489 | .3399 |
| Chicken legs (about 1.4 oz. cooked meat) | .3789 | .8071 | [1].4282 |
| Cheese | .8079 | .93 | .1221 |
| Smoked sausage | .7290 | 1.1489 | .4199 |
| 2-oz beef patties | .6250 | .9975 | .3725 |
| 3-oz beef patties | .6250 | .9975 | .3725 |
| Bologna | .6888 | .94 | .2512 |

[1] Making each drumstick cost 17 cents.

And from the State of Iowa, I have received the following information: "The average total cost of preparing and serving a lunch during the 1971–72 school year was 65.08 cents, including commodities. During the 1972–73 school year it was 68.77—up slightly less than 4 cents. If we project an increase of 20 percent in food prices plus a projected 15 percent increase in labor costs for the school year 1973–74, this raises the total cost of preparing and serving the lunch to at least 72.14 cents including commodities—up another 4 cents.

As a result of the upward climb in costs, a number of school districts have announced their intention to increase lunch prices for the new school year. In the local Washington, D.C. area, for example, lunch prices have been adjusted as follows:

| | Current prices (in cents) | |
|---|---|---|
| | Elementary | Secondary |
| Arlington County (raised 10 cents) | 45 | 55 |
| Washington, D.C. (raised 10 cents) | 35 | 40 |
| Alexandria, Va. (raised 5 cents) | 40 | 50 |
| Prince Georges County (raised 5 cents) | 50 | 55 |
| Montgomery County (no raise) | 50 | 55 |
| Fairfax County (no raise) | 35 | 45 |

I am convinced that raising the price to paying children is the least desirable method of relieving the deficit, because of the drop in participation that results. A raise of 1 cent in the cost of lunch, according to a Department of Agriculture survey, causes a 1 percent drop in participation. Since most lunch programs raise their prices in 5 cent increments, we can look for a 5 percent decrease in participation with a nickel raise in price. We must not eliminate the marginal middle class children from the program by making it necessary for schools to price those children out of the program. It is for this reason that a small raise in the Federal support levels for lunches and breakfasts becomes essential at this time. Even with this added Federal help, States, local communities and parents will have to share in meeting inflationary food costs.

The scarcity of commodities is the second large problem area faced by school lunch programs. The surplus commodities, which the Department of Agriculture has previously made available to school districts—$313 million was programed last year—included such popular items as ground beef, pork, cheese, flour, canned fruits and vegetables, and skim milk. For the 1972–73 school year, although $313 million was budgeted by the Department, as the school year progressed it became apparent that the Department would fall short to the extent of $70 million in delivery of these commodities. To compensate for this short fall, we enacted Public Law 93–13 to enable the Department, just for 1 year, fiscal 1973, to shift from a commodity distribution to a cash distribution of the $70 million so that the schools could make substitute food purchases locally.

Now, in fiscal 1974, the administration has again budgeted $313 million in the form of donated commodities. No one at this time can clearly predict to what extent this commitment can be met.

If, however, the programed 7 cents per meal in donated commodities does not materialize due to unfavorable market conditions, the Secretary of Agriculture will have permanent authority to make cash payments to the States by March 15 of any fiscal year, of any funds which he has been unable to expand for the purchase of commodities. Accordingly, this provision does not call for any increase above the budget.

Finally, the bill provides for the extension of the special supplemental food program for infants and pregnant and lactating mothers for 1 additional year, with an authorization of $20 million. The Department of Agriculture failed to implement the program during 1973, the first year in which it was authorized, and following a court order to do so, the Department issued regulations to initiate the program in early July 1973. At least 1 additional year of experience beyond the startup year of 1974 is deemed essential, since the Congress expects to obtain sufficient data "to medically identify and define the benefits that are provided through this program in combating and abating any physical and mental damage that otherwise might be caused to infants due to malnutrition." The implications for education are abundantly clear.

In conclusion, let me state that the best public investment we can ever make in this country is in the well-being of our children to which good nutrition is one of the most important contributing factors. We certainly can do no less than to assure that nutritious meals are available for all children during the school day. I therefore urge the Members of this House to vote in favor of H.R. 9639.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. PERKINS. Yes. I yield to the distinguished gentleman from Kentucky, Dr. CARTER.

Mr. CARTER. I thank my colleague from Kentucky for yielding to me. Certainly I want to associate myself with his remarks.

I must agree that in some areas of Kentucky the free lunch some of our children get is the only good meal they perhaps have during the day. I am thankful that we have this program. I am told by teachers that before schooltime some children have a rather unhealthy appearance, but after they have received good lunches for a period of time they become healthier and their eyes become brighter. Certainly they are benefited greatly by it.

I want to thank the distinguished chairman for his outstanding work in this area.

Mr. PERKINS. I want to thank my distinguished colleague for his contribution.

Mr. QUIE. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I will be very brief in my remarks on this legislation. I just want to emphasize, as the chairman has pointed out, what I consider to be the desperate need for the passage of this legislation and the increased allotment the Government will be giving if we pass this bill for the lunch program and the breakfast program.

Certainly in the area that I represent in New York, that has been an active participant in these programs, there is a desperate need. All one has to do is look at the inflationary increase in the cost of food and the effect that this has had on the lunch program to recognize that if we do not go ahead at this time and grant this increase, the children are the ones who will directly suffer. This is one program aimed directly to help poor and lower middle income children.

The quality and the type of lunch that will be available without this additional money will not be adequate. I hope for this reason, if for no other reason, that this legislation will be enacted, and I should like to see, as the chairman has said, a broad area of support here so there is no question about the fact that the Congress fully stands behind this program, we are committed to it, and will continue to move forward if the situation calls for it in the future.

Mr. QUIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the bill before us came up under a special rule as the Committee on Rules heard the bill only today. In fact, we moved awfully fast in the Committee on Education and Labor as well to bring this bill out, because when many of the Members were home during the recess, they may have heard from their school people that the cost of school lunches has gone up, and some of them are wondering how it is going to be paid for. That is a difficulty with some schools.

Some years ago the Federal Government felt that it was not sufficient just to have a school lunch program, but a number of individuals ought to have either free or reduced-cost lunches. In the last Congress we made certain that in every school lunch program if a child came from a family with a poverty-level income—currently set at $4,250 income for a family of four—then either a free or reduced-cost lunch had to be made available. However, we gave an opportunity for the school to go to a higher-income figure for the free lunches. Today, they can go to a $5,312 income for a family of four. The level is higher, of course, for larger families.

As the cost-of-living increases, of course, these figures increase as well. For a reduced-cost lunch, they can include anyone up to an income of $6,374 for a family of four. The reason why these figures are cited is because for a reduced-cost lunch they can go to 150 percent for the poverty figure, and for a free lunch, they can go to 125 percent of the poverty figure. That is the income level we are talking about in this legislation.

I think there are some parts of it that are desperately needed; for instance, the increase for reduced-cost and free lunches, the increase of 20 to 25 cents for reduced-cost lunches, and 40 to 45 cents for free lunches, is fully justified.

I want to point out right here that the subsidy for reduced-cost lunches and for free lunches is not 20 cents and 40 cents presently or 25 cents and 45 cents if we pass this legislation. We have to add another 15.6 cents onto that, because the basic payment now of 8 cents that this bill proposes to increase to 10 cents, plus the commodities which, if the Department of Agriculture does not buy them and distribute them, will be replaced by a cash payment to the school, amount to 15.6 cents. So we add that to these figures in section 11 for reduced-cost lunches, and there is a substantial payment to the school which will be increased by this legislation for free and reduced-cost lunches, which I think we should do.

I think we should do it because the Federal Government has imposed this program on the schools, and I think we ought to follow it through with an increase in money when there is this increase in food costs.

The same thing is true on the breakfast program. I do not propose to make any amendments to the reduced cost and free lunches, or to the proposal in this legislation for the breakfast program, because the breakfast program I found out goes primarily to the low-income individuals, and is not a widespread program to the extent that the lunch program is.

The other feature in this bill is something we now make permanent that was made only temporary in the last Congress, and that is if the Department does not have the commodities which they budgeted for available for the schools, then they make the payment in cash, and they made some of the payments in cash in the last school year, as Members will recall. This will be an incentive for them to secure the commodities if they want to do that instead of pay cash. So that is I believe a good program.

What I want to emphasize however is the step that I do not believe is warranted or justified at this time, which is to increase the basic program from 8 to 10 cents. As I pointed out earlier the subsidy for those who can afford to pay for the lunches of kids is not 8 cents but is 15.6 cents because we add the commodities to that, or the value of the commodities.

Now look at this argument that is made that if the cost of lunch increases, the middle-income families and those above it will not then pay for the lunch of their child and they will send the lunch along with the child in a bag or else give him money to buy the lunch some place else. Let us look at that argument. Here is an opportunity in a school to buy a lunch subsidized at 15.6 cents and the school buys the food at wholesale costs in large lots in running its program, and it pays the workers mostly the minimum wage or it secures volunteers, and a number of mothers volunteer and help and therefore that involves no cost of labor. In some of the schools I have talked to children who also volunteered their help to work in the program, so that reduces costs. Here is a program that has everything going for it to encourage the children to utilize it.

If the parents send money from home, where is the child going to buy food? If not in the subsidized program where he can buy the food wholesale, he will have to go out and buy it at retail some place and that is going to cost considerably more because the establishment selling the food at retail, no matter what it is, has to pay higher than the minimum wage for its labor and it has to make a profit for itself. Therefore I do not think that is a very good or economic bargain for the parents.

The parents may choose to send a bag lunch. We have sent a bag lunch with our children many times because they do not like the food in the schools, I guess. We have tried to make certain our children learn to eat everything.

But Members ought to see the food that is dumped out in the schools after the school lunch. Anybody who has worked in the program as a volunteer can be approached and talked to so Members can know the amount of food that is dumped out.

I do not see then why we should keep subsidizing the program and increase the subsidy to encourage all children to take part in the lunch program. There ought to be some free decision. If the children or the parents do not wish to take part in it they ought to be free to do so. That is their free right in this country, because certainly they get a bargain on the cost in the school lunch program and that ought not to be a problem. The cost of this unnecessary added subsidy of 2 cents per lunch is $84 million annually.

The increase from free to reduced cost lunches is $29 million. I do not object to the increase for the breakfast program which is $16 million. I think we ought to do that. But the $84 million is going to be used to increase the subsidy for the children of parents who can afford to pay for it.

Let us look at our priorities. We talk in this country about readjusting our priorities. We are going to have before us the vocational rehabilitation bill we worked out in conference. We worked out an agreement where the authorizations are higher than the budget request and what the Appropriations Committee put in it. Compare now the opportunity of putting another $84 million into a $610 million program with helping the handicapped individuals get rehabilitated, as compared to increasing the payment for lunches of children whose parents can afford to pay for that. Where are our priorities?

I think we ought to help the unfortunate people. We are going to be bringing an education bill to the floor before long. It is going to have money in it for handicapped children, compensatory education for disadvantaged children, probably some other features that will be important for the future of the young people in the country. Again, look at the priorities. What is better, to help the disadvantaged and handicapped children with additional money, or pay some additional lunch subsidy for the children of parents who can afford to pay for it?

I think we have got our priorities all wrong if we increase this subsidy 8 to 10 cents. That is why I ask the Members to vote for the amendment which I will offer, which will keep the payment at 8 cents for section 4, which is the payment to all lunches of all children in the country.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I thank the gentleman for yielding to me, and I want to associate myself with his remarks and the thrust of what he said.

There is much in this bill other than the question of the increase from 8 to 10 cents which is very much needed, no question about that.

As I look around at the concern expressed in Wisconsin in August and early September, we do have another nutrition program, the school milk program. There is a disagreement between the two Houses on the level of the funding of the school milk program; $97 million is what is in last year's budget and in the bill in the other body. In effect, it seems to me that if we are not careful, what we begin to do is to make it even more difficult for the school milk program to get its needed funds, which are almost identical with the level that is proposed to be spent here, which is $84 million. Thus, I compliment the gentleman from Minnesota on the point he has made and the way he has made it.

We do need, it seems to me, both to provide an increase in the support level for the free and reduced-price lunches, particularly because we have mandated by the Federal Government that they must do that.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. QUIE. Mr. Chairman, I yield myself an additional 2 minutes.

Mr. STEIGER of Wisconsin. As long as we mandate it, it seems to me that we have an obligation to give that ample support, but I think also in terms of how one uses limited resources, I would argue that it is wrong at this point in time to see this increase of 2 cents for those who can afford the subsidy for school lunches at the very point in which we run the risk of seeing a loss in the school milk program. At least from my perspective, I want both to see the school lunch program operate effectively, but also the milk program operate effectively. I am afraid we may not be able to do that if we mandate too much of an additional expenditure.

I thank the gentleman for yielding to me.

Mr. QUIE. Mr. Chairman, I thank the gentleman from Wisconsin for his comments. Since he brings up the school milk program, it is available not only to the poor but to the nonpoor as well. Then, if one opposes the increase of 8 cents to 10 cents and the school lunch program, I imagine the same argument will be made. If we do not want to increase from 8 cents to 10 cents, why not offer an amendment to reduce the 8 cents because that is going to those who can afford to pay it anyway.

But the argument is this: I do not want to either change the milk program or reduce the 8 cents, because the schools have budgeted expecting that. The Federal Government has provided that money for them in the past. They depend on it and expect it to be forthcoming, and therefore we ought to continue it. I would not be in favor of reducing what the Federal Government has done in the past. We ought to look very carefully about where we are going in the future with this money; where the priorities for that additional amount of money, $84 million.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I am much impressed with the gentleman's argument. I would like to clarify one aspect. Suppose the child involved is from a low-income family. As the bill is now written, that child would have the benefit of a slightly larger subsidy in the school lunch program.

If the gentleman's amendment prevails, what then will be the position of that same child from the low-income family?

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. QUIE. Mr. Chairman, I yield myself an additional 2 minutes.

The child from a low-income family getting a free lunch will get an increased subsidy from 40 to 45 cents, plus the 8 cents available to all children, plus the 7.6 cents value of commodities. That is the amount that would be received.

Mr. FINDLEY. So the gentleman's amendment would not be adverse to the low-income student from a low-income family?

Mr. QUIE. My amendment would retain that increase of a nickel for the low-income family's child, whether they are receiving free or reduced-cost lunch; both of them get the increase.

Mr. FINDLEY. I thank the gentleman.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Iowa.

Mr. GROSS. Does the gentleman or any member of the committee on which he serves have any information with respect to the added cost due to the increase in the number of schoolchildren who are on the lunch program by virtue of forced busing for long distances, since they are unable to go to their homes as they once were to obtain noon lunches?

Mr. QUIE. The committee moved quite rapidly in bringing this bill out and did not have time to go into that subject, I say to the gentleman from Iowa.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to a distinguished ranking Democratic member of the committee, the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, the logic of the argument of the gentleman from Minnesota and the gentleman from Wisconsin completely escapes me. Indeed, it appears to me that the gentleman from Minnesota began to perceive the illogic of his own argument toward the end of his statement when he said, "Somebody is going to ask me why I am opposing this increase when I am not opposed to the basic cost of the lunch in the first instance."

Indeed, that is exactly the question I wanted to ask him. The fact is the basic 8 cents which this bill would raise to 10 cents has been the reason why we have had a good school lunch program in this Nation. Without that basic 8 cents, that good school lunch program, the program of free and reduced-price lunches which the gentleman from Minnesota supports would not be available.

It is just like bus service. We have seen this in the United States in many of the cities. We have seen bus service go down, so the price had to be increased, thus forcing more passengers off bus service.

That is precisely what would happen to the school lunch program if this basic 8 cents were not allowed to be increased to 10 cents.

Does the gentleman from Minnesota in any way indicate to us that that cost has not increased as much as other costs? He cannot do so, because it has increased, just like the cost of preparing a free or reduced-price lunch has increased. It is exactly the same.

The rationale ought to be that we are going to keep that basic lunch so we can have free and reduced-price lunches, and so that this does not become a poverty program.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I am happy to yield to the gentleman from Minnesota.

Mr. QUIE. I say to the gentleman, however, we are already taking care of that increase, because from 1972 on we increased the payment from 5 cents to 8 cents, and that was a 60-percent increase. That 60-percent increase is greater than the increased cost of food since 1972. So we have already done that. The question really is, why do we need a subsidy greater than 15.6 cents per lunch for food bought at wholesale to make it available to the children of the country?

Mr. MEEDS. The gentleman is generally accurate with his statements. I assume he did not have an opportunity to read this morning's paper to find out how much the price of food has increased.

The price of farm products, processed foods and feeds has increased 49 percent.

Farm products alone increased 66 percent.

Processed foods and feeds alone increased 37 percent.

That is in just the last year. Since the time we considered this bill last year, in August of 1972, those prices have increased precisely what I have said. If we go back to a year before that, or 2 years before that, the gentleman, I am afraid, is inaccurate.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I will yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, on those figures, concerning the gentleman's statement that farm prices have gone up, the gentleman knows that over the years that did not happen; the farmer's prices stayed the same during that time.

Mr. MEEDS. Mr. Chairman, they went up even more than that in the supermarkets.

Mr. QUIE. No, they did not.

Mr. MEEDS. To that price was added labor and packaging and a number of other things which would cause it to be even more.

Mr. QUIE. But the farm prices did not increase prior to this year.

Mr. MEEDS. Mr. Chairman, the farm price, the wholesale price index on farm commodities, has gone up, according to this morning's paper, exactly as I have stated.

Mr. Chairman, the purpose of this bill is really, first of all, to make permanent that authority which we gave the Secretary last year, the authority to provide funds instead of commodities. We made that available last year. It was used, and it saved many school lunch programs in a number of districts because there were shortages of foodstuffs. If the new farm bill is what we are told it is—and I have every reason to believe it will be—this is not going to be a surplus market. We must make that authority permanent, and this bill does that.

Mr. Chairman, the bill increases the basic reimbursement, that is to say, the reimbursement for all lunches, every lunch, as the gentleman from Minnesota has pointed out, from 8 to 10 cents.

These are the lunches which are available to all children, some 15 or 16 million who are receiving these lunches in our system today.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

Mr. PERKINS. Mr. Chairman, I yield 5 additional minutes to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, this represents a simple 20-percent increase in the cost of the basic cost of the lunch which is available to all children, and in the face of the extreme increases we have had, I would say, if anything, it is too little. On the free lunches, the reimbursement is increased, as we have heard, from 40 to 45 cents, and apparently there seems to be no contest on that.

On the question of reduced price lunches, the reimbursement is anywhere from 30 to 35 cents. The free breakfast program is increased from 15 to 20 cents, and the reduced breakfast program is increased, I believe, from 8 to 15 cents.

Mr. Chairman, this legislation also extends the authority for the essential supplemental food program which we passed last year and which, incidentally, has not been funded to the tune of some $20 million and which the Court has now ordered the administration to fund and to spend what they did not spend and to spend the additional $20 million for this fiscal year.

So all this bill does then, is to make this available in 1975, not at $40 million, but at $20 million. Again the rationale ought to be very clear in everything that is done in this legislation. It is absolutely necessary if we are going to retain a school lunch program, that we have increases at this time to provide sufficient funds to make up for the increases which I have indicated in the cost of foodstuffs.

Now, Mr. Chairman, the gentleman also read this morning in the New York Times a story about a Senate investigating committee which has looked into this problem.

Just in the last year some 800,000 young people have dropped out of the school lunch program because of increased prices which have taken place. Since we improved this bill about this time last year, in September of 1972 up to the present time, we have lost 800,000 young people, and over the period of about the last 4 years we have lost 1,600,000 young people.

I hate to use this illustration of bus service again, but it should be very obvious that as the number of young people participating in the school lunch program decreases, the cost of the individual meal is going to have to increase.

As that cost increases, whether it is free or reduced, whether it is the basic lunch for which the child and the parent pays, it makes no difference, because it is a loss to that program which is going to cause the rest of the program to bear an appreciably higher cost, and so we will work our way down in a period of years until we have no school lunch program; so without these increases this fine program, which the gentleman from Kentucky, from the other side of the aisle, pointed out, provides for some children the only good meal they get all day long, will be lost.

This fine program is going to lose, and the children of this Nation will not have available to them the school lunch program.

I yield back the balance of my time.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, the health, education, and welfare of our Nation's children is a subject on which Congress must not abdicate further responsibility. Great strides have been made in my district as well as throughout the country since the inception of the 1966 National School Lunch Act, but now the time has come to take longer strides toward our goal of nutritionally balanced meals for all our schoolchildren.

It is the responsibility of our Government to maintain high standards of education and to be continually dedicated to this goal. Hand in hand with this belief is clasped the idea of eliminating want and hunger so that the health of our future citizens may be safeguarded.

I am sure that my colleagues here today are well aware of the disorders and diseases that can ravage and retard a child's physical and mental growth, seriously handicapping these children for life because of a poor diet or a lack of nutrition.

The Federal Government has a moral responsibility to aid and protect those citizens unable to make ends meet for themselves. No child should be without his "daily bread" nor should he be unable to secure a half pint of milk because he could not afford to pay for it. Our colleagues on the Education and Labor Committee realized this when they reported the bill by a 33 to 0 vote.

I rise today on the floor because I strongly support Chairman PERKINS' bill to increase Federal aid to school nutrition programs and I would hope that with passage of this legislation, all districts would benefit to a significant degree. I want to see a school lunch program in every school district. With additional funds perhaps the few remaining school districts in Massachusetts that are presently unable to participate in the school lunch and breakfast programs will now institute this most important program. With the increased price of commodities, Federal assistance is necessary in this endeavor for no community can hope to carry on a nutritionally balanced food program without Federal aid.

It is for this reason that I stress so strongly the need to adopt the proposed reimbursement rates in H.R. 9639.

The rate increases are necessary for local school districts who are stymied by inflationary pressures on food and decreased food surpluses.

I urge you to adopt the proposed increased reimbursement rate of 2 cents for school lunches and the increased reimbursement rate of 5 cents for free lunches. I also urge the adoption of the increased reimbursement rate of 3 cents for all breakfasts and, finally, the increased reimbursement rate of 5 cents for free breakfasts.

I strongly urge my colleagues to act affirmatively on H.R. 9639.

Mr. PERKINS. Mr. Chairman, I yield the distinguished gentleman from Wisconsin (Mr. OBEY) such time as he may consume.

Mr. OBEY. Mr. Chairman, I am pleased to join my colleagues in supporting this legislation today to provide increased assistance for the school lunch and school breakfast programs.

I assume that many of them are receiving a great deal of mail right now, as I am, from parents, members of school boards and school administrators, asking that increased funds be made available for both the school lunch and special milk programs. This legislation would go far in providing more funds for only the school lunch program.

I want to point out to my colleagues, mainly because there seems to be a great deal of misunderstanding about this in the press and elsewhere, that this legislation will not help most school districts which were last year receiving millions of dollars to bring additional half pints of milk to youngsters in the mornings or at recess.

That problem resulted when the House passed the agriculture appropriations bill several months ago. It accepted a recommendation from the President for a $72 million cut in the school milk program for this year, from $97 million appropriated last year. Fortunately the Senate did not accept that cut, and we must wait for the result of the House-Senate conference committee, which will meet soon I hope, before we know just how much money will be available for the special milk program this year.

However, because that budget has not yet been passed, school districts are only receiving the $25 million that the continuing appropriations bill provided for the special milk program.

Mr. Chairman, it is true that the $25 million appropriation passed by the House will assure milk to children in schools without school lunch programs.

But what about the children who leave home with an inadequate breakfast or no breakfast at all, and go to schools that do not offer a school breakfast program? They will be out of luck because the morning carton of milk which they were getting last year will no longer be available to them.

The fact is, Mr. Chairman, that the special milk program is recognized by nutritionists, educators, and parents as making a significant contribution to a child's daily dietary needs. And that is not an insignificant point either.

There have been plenty of studies indicating that ours is a potato chip and dip society, with lousy eating habits.

Well, it seems to me that we can counter some of that—at least while kids are in school—by making sure that more than one carton of milk is made available to them daily.

In Wisconsin last year, when this program was funded at the $97 million level, 2,240 public schools and about 460,000 children participated in the program. With the cut this year, all but 194 Wisconsin public schools will be eliminated, and only about 40,000 children will continue to participate in it. In all, Wisconsin will lose about $2.6 million.

Mr. Chairman, the cut-back in the special milk program is dramatic and in my judgment unjustified.

Moreover, to insist that children will not be significantly affected because they will find milk available in the school lunch program simply misses the point.

The special milk program was established to increase the consumption of fluid milk by children in elementary and secondary schools, a sound program which recognized that milk is one of the most nutritious foods available. How could we accomplish that if we cut back funds which last year provided about 2.5 billion half pints of milk to schoolchildren?

Mr. Chairman, I hope that many of my colleagues agree. For those that do, I encourage them to contact the House conferees working out the details of the Agriculture Appropriations bill, and ask that the conferees look closely again at the importnace of funding this program at last year's level.

Mr. PERKINS. Mr. Chairman, I yield to the distinguished gentleman from Florida (Mr. LEHMAN) such time as he may consume.

Mr. LEHMAN. Thank you, Mr. Chairman.

During the 6 years I served on the Dade County School Board, the sixth largest school district in the country, I learned there was one part of our school system which had a self-destructive proess built into it; it was the school lunch program.

This is, as the distinguished gentleman from Washington stated, because the only place you can put the extra burden of rising food costs is on those who are already paying for their lunches. The higher the prices for those paying for their lunches, the more these people will drop out of the school lunch program, thereby steadily narrowing the lunches paid for to an even smaller group of young people.

In Florida, State or local school tax sources cannot be commingled with school lunch funds. There is no local or State assistance.

I would prefer that this bill called for an increase not to 10 cents, but to 12 cents. This is necessary now in order to sustain this school lunch program which provides, as we have said, sometimes the only basic nutritional meals that our schoolchildren get in their whole day or their whole week.

The United States is one of the few industrial Western countries that has a school lunch that is paid for by the schoolchildren who go to school. Other modern nations do not require the children to pay for their own lunches.

We should remove the stigma attached to those who get a free lunch. Too early and too often do we segregate the young people in our schools according to economic standards. A nutritious school lunch program is something that every child is entitled to equally in this country, whether they be rich, or poor.

Mr. PERKINS. Mr. Chairman, I yield such time as may be utilized by the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Chairman, I rise in support of H.R. 9639, an urgent bill aimed at helping schools meet higher food prices and hold down the price of school lunches and breakfasts.

Since the beginning of school last fall, food prices, as everyone knows, have skyrocketed. For example, wholesale food prices have gone up by more than 19 percent. One of the groups hit hardest by this rapid inflation has been the schools in this country trying to run decent, low-priced school lunch and school breakfast programs.

Faced by spiraling food costs and increased labor costs, schools have no prospect of any increased Federal assistance—without the remedies provided in H.R. 9639. Without more Federal assistance in the form of increased reimbursement rates for school lunches and school breakfasts, school districts in Louisiana and across the country will be forced to raise lunch and breakfast prices and squeeze already hard-pressed school budgets to meet their rising costs. For example, my State of Louisiana is faced with an 11-cent rise in the cost of producing a school lunch.

Mr. Chairman, the bill before us today—H.R. 9639—provides the needed measure of Federal relief. It will raise Federal reimbursement rates for all school lunches from 8 cents per lunch to 10 cents—a 25 percent increase. It will raise the reimbursement rates for free school lunches to the needy from a minimum of 40 cents per lunch to a new minimum of 45 cents—a 12.5 percent increase. It will increase the reimbursement for reduced-price lunches to a minimum of 35 cents. And, it will guarantee minimum school breakfast reimbursement rates of 8 cents for paid breakfasts, 23 cents for reduced price breakfasts, and 28 cents for free breakfasts.

In terms of the Federal budget for this fiscal year, these additional lunch and breakfast reimbursements will mean less than $150 million. For Louisiana, they could mean $3½ to $4 million in additional Federal assistance.

Mr. Chairman, Louisiana has one of the highest school lunch program participation rates in the country. Over 90 percent of the children in its participating schools receive lunches under the school lunch program and almost half of those receive free lunches. My State has responded admirably to the need to insure nutritious meals to over 800,000 of its schoolchildren. But this fine record could well be put in jeopardy if we do not pass H.R. 9639 today—before it is too late to help.

Mr. Chairman, in addition to the reimbursement rate aspects of this bill, we are called upon to consider two other provisions which affect problems in our feeding programs. First, there is a provision to guarantee that, if the Federal Government cannot supply promised commodities to schools as a supplement to their cash reimbursements, the USDA will distribute to States the cash it is unable to use in purchasing commodities.

This is necessary because it is possible that in the upcoming school year high food prices and increased demand will make it impossible for the USDA to purchase and distribute the $313 million in commodities it has promised to schools. Earlier this year we faced the same problem and Public Law 93–13 was enacted to do this very same thing for the previous school year. Louisiana alone was given about $2.2 million under that law. By passing H.R. 9639, we will put a "cash-instead-of-commodities" provision in the law permanently, schools will know what they will be getting in any given school year, and Congress will not be called upon to act every time a similar crisis arises.

Second, we are asked to authorize the special supplemental food program for women, infants, and children for an additional year—through June 30, 1975. This is necessary because of the long delay in getting this new program for expectant and new mothers and infants started. We are already near the end of this program's current authorization and very few, if any, projects have been initiated.

Mr. Chairman, I call upon the House to approve H.R. 9639 as a bill of obvious urgency and necessity. Without our action today, the noble experiment in providing meals to school children that we began 27 years ago and the new program for women, infants and children will fall victim to inflation and bureaucratic delay.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I am troubled by this legislation for three different reasons.

The first reason is represented by the very true cliche which we have heard so many times, "There is no such thing as a free lunch." I think we should face squarely the fact that this is going to cost $80 million, and if it is then we should emphasize it, and we should emphasize the fact that it is the working men and women of America, the taxpayers, who will pay this $80 million.

So, Mr. Chairman, that is the first reason this legislation troubles me.

The second reason the legislation troubles me is because of the abuses which exist in the system. I have many, many specific examples, and I think many of the other Members do also, of situations where parents have enough money for luxuries but not enough money for their children's nutrition. So that troubles me also.

But, Mr. Chairman, the third reason I am troubled is, I believe, much more significant than even a concern over the abuses or a concern over an expenditure of the taxpayers' dollars, because they both pale into insignificance in my view in relation to the third concern that I have, and that is the question of who should be responsible for the well-being of a child in this Nation? I believe that the answer to that clearly is the family, the parents, the mother and the father. I believe that when the Government tries to assume the responsibility for children it erodes the role of the family. It erodes the responsibility and it weakens the family.

To me this is a question of values. And if indeed I thought that the Federal Government could care properly for the well being of children, then I would certainly be all for it, but I believe it is a task which we cannot successfully accomplish. Government welfare cannot replace the family, but it can destroy the family if it weakens the role of the family by taking responsibilities for children and for children's nutrition away from the family.

I think the history of the world shows that the welfare state just does not work. I think that we should call this just what it is, another welfare program.

I tremble for the future of my country when I see the eroding of fundamental values such as the family, and the role of the family in relation to their responsibility for the raising of their children.

I urge that the Members support the amendment to be offered by the gentleman from Minnesota, and I urge that we go slow on welfare programs when we face them in the future.

Mr. WILLIAM D. FORD. Mr. Chairman, I rise in support of the National School Lunch and Child Nutrition Act Amendments of 1973. This legislation which is so vitally needed, was unanimously reported by the Committee on Education and Labor in order to permit the school lunch and school breakfast programs to continue to feed school children at a time when the costs of food and labor are increasing at unprecedented rates.

This bill would make permanent the requirement that the Secretary of Agriculture make cash payments to the States of any funds programed for the purchase of commodities which he has been unable to expend for such purchase. It would also extend the authorization for the special supplemental food program to June 30, 1975, and it would increase the Federal reimbursement rates for school lunches and breakfasts provided under the National School Lunch Act and the Child Nutrition Act.

Under the provisions of this bill, the basic reimbursement for lunches would be increased from 8 cents a lunch to 10 cents a lunch, and the additional reimbursement for free lunches would be increased from 40 cents a lunch to 45 cents a lunch. Reimbursement for reduced-price lunches would be increased from 30 cents to 35 cents a lunch.

The bill further provides that the basic reimbursement for school breakfasts would be set at 8 cents a breakfast, and at 20 cents for free breakfasts.

The additional reimbursement for reduced-price breakfasts would be set at 15 cents.

Finally, the bill would change the method of apportioning special assistance for free and reduced-price lunches from an apportionment based on the number of needy children in the State to a performance basis calculated upon the number of free and reduced-price lunches served in the State.

Mr. Chairman, as I have already stated, the enactment of this legislation is particularly crucial at this time because of the rapid rates at which the costs of food and labor have been and continue to be increasing. At this point, I would like to make a few observations with respect to the circumstances which now prevail in my own State of Michigan.

According to the people in the Michigan School Food Service Association, they are faced with price rises as high as 40 percent for fish and 40 to 70 percent for beef. They have experienced two price increases for milk since July 31 of this year, and their cost for poultry has doubled.

They are presently faced with a 16- to 20-percent price increase for canned goods and with extreme shortages on the local level for such commodities as cheese, apples, peaches, beans, and pineapples, and they are anticipating an increase in almost all baked goods. Furthermore, they anticipate a 5- to 6-percent increase in labor costs.

According to the U.S. Department of Agriculture, wholesale food prices have increased almost 20 percent since the 1971–72 school year. This alone costs the Michigan school lunch program an additional $12 to $14 million per year for the over 130 million meals it serves annually.

Mr. Chairman, unless we provide the increased reimbursements as provided in the National School Lunch and Child Nutrition Act Amendments we now have before us, it will be virtually impossible for Michigan and almost all other States to continue with their school lunch programs. I therefore urge my distinguished colleagues from both sides of the aisle to vote for final passage of this legislation.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 9639, the National School Lunch and Child Nutrition Act Amendments of 1973.

The bill assists school districts in meeting skyrocketing food prices by increasing Federal aid for individual lunches from 8 to 10 cents, and for each breakfast from 5 cents to 8 cents. The measure also modifies the more generous Federal allowances provided to needy school districts by increasing such allowances from 40 cents to 45 cents for free or reduced-cost lunches and from 15 cents to 20 cents for free or reduced-cost breakfasts. Finally, Mr. Chairman, the bill provides a 1-year extension of the Child Nutrition Act's supplemental food program for indigent expectant mothers and infants.

All these programs are directed at two groups of Americans for whom malnutrition is always a concrete possibility—adolescents in general, who frequently expose themselves to long-term harm by adhering to unhealthful and unnutritious diets, and poverty-level adolescents, infants, and expectant mothers in particular, for whom the dangers are more pronounced and immediate.

That individuals in this country are in fact poorly nourished was clearly demonstrated by the National Nutrition Survey conducted from 1968 to 1970. Among 83,000 persons surveyed in 10 States, one-fourth of those living below the poverty level were found to be anemic as a result of insufficient iron in their diets.

Moreover, the diets of 8 percent of poverty-level persons were found to be low or deficient in vitamin A. Seven percent were deficient in vitamin C and 17 percent were deficient in Vitamin $B_2$—riboflavin. Deficiencies of other nutrients were found in smaller percentages among the survey group.

Malnutrition does not stop at the poverty lines, Mr. Chairman. In general, adolescents of all income groups between the ages of 10 and 16 were found to have the highest prevalence of poor nutrition. And persons over 60 in all income groups were also found to be insufficiently nourished.

This bill is not the final step Congress needs to take to eliminate the American curse of hunger in the midst of affluence. But it is a vehicle reaching out to groups in the population that are undeniably in need of help.

The President, however, has informed Congress that he considers the funding levels in this bill "inflationary." Here we have an administration which tolerates millions of dollars in tax loopholes for the wealthy and views school lunch programs in this bill as expendable luxuries. This apparent order of priorities is one with which I disagree heartily, and I urge the House to approve this bill.

Mr. **EDWARDS** of California. Mr. Chairman, I would like to express my unqualified support for H.R. 9639 to increase Federal assistance for school lunch and breakfast programs.

In originally providing this aid, Congress was not merely seeking to rid the Government of surplus commodities, but was attempting to provide needy children with necessary nutritious meals. For many of the over 25 million children who benefit from this program, this is their one chance each day for a balanced hot meal.

This program of Federal assistance for school lunches and breakfasts is not only nutritionally sound, but is also educationally advisable, considering the many studies which have shown that physical hunger is a distraction which interferes with a child's ability to concentrate and learn.

Mr. Chairman, it baffles me that the administration opposes this increased Federal assistance for school breakfast and lunch programs as "inflationary." The truth is that this legislation is necessary in order to allow these nutrition programs to provide adequately for children's needs despite the enormous and dramatic increases in food prices created by the administration's economic and agricultural policies in the last year.

I urge my colleagues to vote in favor of H.R. 9639 and to reject the notion that sacrificing the nutrition of schoolchildren and expectant mothers is an acceptable technique for fighting inflation.

Mr. **PRICE** of Illinois. Mr. Chairman, as another school year begins and children across the Nation return to their classrooms, we are confronted with a pressing problem concerning the welfare of our country's youth. This is the question of the funding of school lunch and breakfast programs.

As my colleagues and I are well aware, currently the Federal Government reimburses the States 8 cents for each lunch and 5 cents for each breakfast served. Free and reduced lunches are reimbursed 40 cents, while breakfasts are funded 15 cents each. H.R. 9639, the school lunch amendments, currently under discussion, would raise these reimbursement rates substantially—20 percent for all lunches and 60 percent for breakfasts, while free lunch and breakfast reimbursements will be raised 5 cents each. In addition, the bill would extend for 1 year the supplemental food program for expectant mothers and infants.

In my district, the 23d Illinois, an average of 55,000 children participate in some type of school lunch program, and 13,000 of these children are receiving free meals daily. This expenditure is, naturally, putting quite a burden on the State budget—still, we in Illinois cannot and will not stand by and watch our children perform poorly in school because they are undernourished and I am sure that my colleagues here in the House are equally concerned about students in their States.

If we cannot put a price tag on the value of education to our children, can we deny these same young people the nourishment they need to lead active lives both inside the classroom and out?

Mr. Chairman, with each year that passes we see an increasing need for our Nation's children to be educated. We spend millions of dollars in public relations work to keep students from dropping out of school, which is a very worthwhile project in itself. However, I feel that the lunch subsidies are just as important to school-age children. Therefore, I would like to take this opportunity to give my support to the passage of H.R. 9639 and to urge my colleagues to join me in the passage of this important piece of legislation.

Mrs. **MINK**. Mr. Chairman, the need for legislative action to amend the national school lunch program has become critical because the financial picture for school feeding programs has worsened. The U.S. Department of Agriculture has predicted that grocery prices in 1973 would increase about 20 percent, the greatest increase in any year since 1947. Thus, school feeding programs are facing deficits due to the increased cost of food and in the shortfall of U.S. Department of Agriculture surplus commodities which are no longer available for donation to schools.

The legislation under consideration today attempts to deal with these two problems. H.R. 9639 would increase the rate of basic reimbursement for the lunch program from 8 cents to 10 cents a lunch and would increase the basic reimbursement for the school breakfast program from 5 cents to 8 cents per breakfast. It would also increase the reimbursement for free and reduced-price meals in the school lunch program and establish additional reimbursement rates for free and reduced-price meals in the school breakfast program. The bill also makes permanent the requirement that the Secretary of Agriculture make cash payments to States of any funds programed for the purchase of commodities which he is unable to expend. Additionally, the bill extends authorization for the special supplemental food program to June 30, 1975.

It has been estimated that there are about 1.6 million more children who will receive a school lunch each day in the present school year than the 22.7 million who participated on the average day last year. H.R. 9639 contains the necessary legislative provisions and funding authorities essential to maintaining the dynamic growth in our national school lunch program. Unless Congress approves this legislation, fewer children will be served by this vital program. I urge you to approve H.R. 9639.

Mr. **BADILLO**. Mr. Chairman, I rise in support of H.R. 9639, the National School Lunch and Child Nutrition Act Amendments of 1973.

This legislation, introduced by the distinguished chairman of the Committee on Education and Labor (Mr. PERKINS), makes permanent the requirement that the Secretary of Agriculture make cash payments to the States of any funds programed for the purchase of commodities which he has been unable to expend for such purpose. It further extends the authorization for the special supplemental food program to June 30, 1973, and increases the reimbursement rates for school lunches and breakfasts provided under the National School Lunch and Child Nutrition Acts.

We are all aware, from firsthand experience, of the soaring food prices that have, during the past few months, dramatically reduced the purchasing power of the dollar. Unfortunately, due in part to the dearth of detailed information and partly to confusing administration statements, not everybody is familiar with the catastrophic impact this rise in food prices has had on the budgets of the lower and middle-income families of America. My research indicates that instead of the much-publicized 17.6 percent of income, food prices account for approximately 39 to 27 percent of the budgets of a large percent of the American public. This does not take into account, incidentally, the unfortunates who have to rely on public assistance. They, according to a spot-check run in New York City, have to devote 48.9 percent of their entire income to food.

Under these circumstances, it is imperative that Congress do its utmost to assure continued balanced nutrition for the youngsters of this country. In New York City alone, approximately 500,000 children are participating in the school lunch program. Of these number, about 430,000 are eligible for free lunches.

As of this date, the city estimates that due to the increase in the cost of food, its procurement costs will rise by at least 20 percent. Should the increases in the bill before us not be voted there would be an expected deficit of $8 million for this program.

Prices for paying students range from a "low" of 50 cents in elementary schools to 55 to 60 cents in senior high schools. Even at these levels, only 70,000 youngsters in the city can afford to participate in the program. If the increased subsidy for paying youngsters does not go through, a majority of these children will drop out of the program—a situation which would impair its operation and negate the intent of Congress in enacting this legislation in the first place.

Approximately 65,000 children, or about a third of those who are eligible, are participating in the breakfast program. Because of high labor costs and present low levels of reimbursement, breakfast programs had to be limited primarily to title I schools. Without the proposed increased level of reimbursement not only would any expansion of this program be impossible, but its continuation would very much be in doubt.

I urge my colleagues to support this measure. Congress must take the lead in asserting what our country's real priorities are. To force those with the least resources to bear the major burden of the inept economic policies of this administration is an act unworthy of our country. If economize we must, let us reduce military spending and eliminate the tax loopholes which safeguard the wealth of the rich. Let us not, in the name of human decency, try to balance our budget at the expense of hungry kids and desperate old people.

Mr. DONOHUE. Mr. Chairman, I intend to support, as I have consistently done here, this pending bill, H.R. 9639, to provide additional Federal financial assistance to the school lunch and school breakfast programs and I earnestly hope it will be overwhelmingly approved by the House without extended delay.

In the original consideration of this legislation, the Congress approved and adopted it, "as a means of national security, to safeguard the health and well-being of the Nation's children." The measure now before us, Mr. Chairman, is designed simply to further fulfill that congressional policy by enabling the school lunch and school breakfast programs to continue to feed schoolchildren at a time when the costs of food and labor have advanced to unprecedented heights. The authoritative evidence revealed here makes statistically clear what all of us already full well know, that there has been a tremendous increase in the cost of food within the last year and the cost of labor has also increased substantially.

It is equally clear that these increased costs are nearly always handed on by local school districts as increased prices for students' lunches and breakfasts and that these increased prices inevitably result in fewer paying students participating in the program. For instance, the statistics show there have been 1,600,000 fewer paying students in the school lunch program within the last 4 years and that increasing numbers of students in low and marginal middle-income families simply cannot afford to pay the increased prices. It is quite obvious, therefore, that unless this Congress desires this trend of nonparticipation to expand, it is essential that the increased reimbursements proposed in this bill be provided.

Mr. Chairman, in summary, I am confident that all Members of this House would agree that there is no reason why any school child or indeed adult should go hungry in this country, and I am further certain that all of us would agree that a well-nourished child learns better, is healthier, has greater energy, is better dispositioned, has a more cooperative nature, and is bound to become a better citizen.

I am well aware that we have come to a point, in our economic history, where strict attention must be given to priorities in spending, for the wholesome and imperative objective of eliminating wasteful expenditures and suspending all others that may be worthy but of no immediate necessity. I fully agree with and support these objectives, but I earnestly feel that it would be extremely difficult, even practically impossible, to think of anything that would have any higher call upon priority spending than the healthful and wholesome nourishment and development of an American child.

Therefore, I firmly believe that this bill represents a most prudent priority investment in the future of the United States and I hope that it will be resoundingly accepted here in the national interest.

Mr. VANIK. Mr. Chairman, in this time of spiraling food prices, I am, of course, pleased to support this legislation which will provide increased support and reimbursement for school systems in furnishing lunches and breakfast. The food price increases of the past few months have forced many of the schools in my congressional district and throughout the Greater Cleveland, Ohio, area to raise the price of school lunches by as much as 20 percent. The result is likely to be diminished participation in the program and, in particular, increased hardship on those children who are eligible for reduced price and free lunches, breakfast, and snacks. Hopefully, the additional funds provided by the bill before the House today will help remove the pressure on school systems to increase lunch prices and hopefully, it will permit some schools to reduce prices and to continue to participate in the free and reduced price programs.

Mr. Chairman, in addition to supporting this legislation, I would like to take this opportunity to point out some of the problems involved in the administration of section 13 of the School Lunch Act. Section 13 is the special food service program which provides meals for needy children during the summer months and in preschool programs during the regular school year. This section of the School Lunch Act was enacted in 1968 and since then has gradually grown into an $80 million program; $50 million for the feeding of needy children during the summer months and approximately $32 million for programs during the regular school year.

As one of the original authors of the legislation to establish this program, I have tried to follow the progress, growth, and administration of the section 13 program.

This has been a difficult program to administer. It is particularly difficult to administer a feeding program during the summer at playground sites, storefront recreation centers and in nonschool situations. The difficulties in administering the program has been compounded by a lack of funds, refusal of the Department of Agriculture to release appropriated funds, and last minute changes in regulations governing the administration of the program.

In an effort to help determine the true dimensions of the difficulties in administering this important program and for the purpose of developing corrective legislation, I have asked the General Accounting Office to do a study of the administration of the summer feeding program. That study is now being done and will be given to the whole Congress next April or May. I am sure that the GAO's report will be critical. I hope that it will provide the impetus for change and necessary corrective legislation.

While there have been difficulties with the administration of this program in the past, I do feel that there has been a gradual improvement in its administration. Last month, for example, the Department of Agriculture released enough funds to provide that in fiscal year 1974, each State will receive 22 percent more than they spent for the year-round program in fiscal year 1973. This will permit new day care centers to enter the program in every State. This action is particularly important to the large, urban States which have traditionally failed to receive necessary funds under this program. Last year, for example, Ohio estimated that an additional $2 million could have been used in section 13 funds. While the new announcement—which for the first time bases State allocations on 1970 census figures rather than 1960 data—will result in increases for most States, there is still a great deal of unmet need in the large urban areas.

I would like to enter into the debate record at this point a recent article from the Community Nutrition Institute's Weekly Report. The article describes the new allocation formula and its meaning for the various States:

### Day Care Feeding Funds To Increase 22 Percent

The freeze on USDA funding levels for the day care feeding program was lifted last month when USDA disclosed that in fiscal 1974 all states would receive at least 22 percent more than they spent for the program in FY 1973.

The new USDA funding levels mean that a number of new day care centers should be able to enter the program in every state. In an August 1 letter to USDA regional administrators, William Boling, associate director of USDA's child nutrition provision, urged that states approve new sponsors as soon as possible.

Attached to Boling's letter were new USDA allocation figures that show dramatic increases in funding for the program in a number of the most populous states. California will received $750,000 more than it spent last year. New York and Florida will receive over $300,000 in additional day care feeding funds, while Illinois, Georgia, and Pennsylvania will get over $200,000 more.

The new USDA funding formula is somewhat complex. USDA has allowed each state a minimum 22 percent increase in funds over its "annualized peak month" expenditure figure for FY 1973. The "annualized peak month" figure is computed by multiplying a state's expenditure for day care operations during its peak FY 1973 month by 12.

Some states will receive substantially more than a 22-percent increase, however. Under the 1968 School Lunch Act, day care feeding funds are to be apportioned among the states according to the number of children in each state in households with under $3,000 annual income. USDA has divided up $20 million for FY 1974 day care funds in this manner.

Last year USDA apportioned a slightly larger amount ($20.8 million) in this manner, but used 1960 census data to make its state-by-state calculations. This year USDA used 1970 census data for the first time.

The result is that some states that have been gaining rapidly in population—such as California—will receive far larger apportionments than before, and consequently an increase in funds of more than 22 percent.

While many other states will receive smaller apportionments than before, USDA will bring these states up to 122 percent of their "annualized peak month" figure with about $9 million in additional funding carried over from FY 1972 and FY 1973. Basically, each state receives either its FY 1974 apportionment figure or 122 percent of its annualized peak month expenditures—whichever is larger.

### INCREASE MAY BE SUFFICIENT

Although new centers should be able to enter the program in all states, however, some states have so many centers waiting to get into the program that a 22 percent increase in funding may not be sufficient to accommodate them all. A nationwide survey conducted last February by Rep. Charles A. Vanik (D-Ohio) found a minimum of $12 million in additional funds necessary to cover new centers that had applied for the program but had been turned down because of the freeze (see CNI Vol. III:11). This is several million dollars more than the maximum made available under USDA's new allocation figures.

Vanik's survey found that even larger amounts of money were needed to cover additional centers that had not bothered to apply for the program because state directors in some areas had made it clear that no funds were available due to the freeze.

Finally, some states cut per meal reimbursement rates in the past year to make ends meet and to stay within USDA spending limits. In a time of soaring food costs, such states may now choose to channel a portion of their 22 percent increase to raising reimbursement payments for meals served at centers already in the program. Such action would limit the number of new centers that can be brought into the program in these states.

### LOW SPENDING STATES

While all states will receive a minimum of 22 percent more than they expended last year, 12 states that spent far below their apportionment level last year will actually have less federal money available in FY 1974. In such states, the new apportionment figure is lower than last year's because of census changes, and adding 22 percent to the annualized peak month expenditure still does not bring them up to last year's funding levels because they underspent by such large amounts.

Among the states falling into this category are Texas, which underspent by nearly $700,000 last year and Mississippi, which returned over $450,000 in unused funds.

DAY CARE FEEDING FUNDS, FISCAL YEAR 1974

| State | Reported peak month, fiscal year 1973 | Annualized peak month, col. (1) x 12 | Initial fiscal year 1974 apportionment of $20,000,000 | Additional allocation | Total funds to be made available |
|---|---|---|---|---|---|
| Alabama | $47, 915 | $574, 980 | $651, 502 | $49, 974 | $701, 476 |
| Alaska | 2, 360 | 28, 320 | 76, 933 | | 76, 933 |
| Arizona | 18, 672 | 224, 064 | 236, 262 | 37, 096 | 273, 358 |
| Arkansas | 18, 840 | 226, 080 | 390, 002 | | 390, 002 |
| California | 54, 531 | 654, 372 | 1, 414, 765 | | 1, 414, 765 |
| Colorado | 19, 312 | 231, 744 | 209, 564 | 73, 164 | 282, 728 |
| Connecticut | 26, 373 | 316, 476 | 188, 788 | 197, 314 | 386, 102 |
| Delaware | 10, 683 | 128, 196 | 86, 522 | 69, 877 | 156, 399 |
| District of Columbia | 17, 120 | 205, 440 | 133, 207 | 117, 430 | 250, 637 |
| Florida | 131, 917 | 1, 574, 364 | 702, 995 | 1, 217, 729 | 1, 920, 724 |
| Georgia | 80, 732 | 968, 784 | 675, 395 | 506, 521 | 1, 181, 916 |
| Guam | 186 | 2, 232 | 11, 571 | | 11, 571 |
| Hawaii | 8, 978 | 107, 736 | 93, 693 | 37, 745 | 131, 438 |
| Idaho | 7, 108 | 85, 296 | 98, 797 | 5, 264 | 104, 061 |
| Illinois | 84, 942 | 1, 019, 304 | 720, 040 | 523, 511 | 1, 243, 551 |
| Indiana | 45, 754 | 549, 048 | 321, 858 | 347, 981 | 669, 839 |
| Iowa | 19, 167 | 230, 004 | 203, 320 | 77, 285 | 280, 605 |
| Kansas | 15, 568 | 186, 816 | 191, 101 | 36, 815 | 227, 916 |
| Kentucky | 65, 450 | 785, 400 | 530, 177 | 428, 011 | 958, 188 |
| Louisiana | 47, 212 | 566, 544 | 766, 618 | | 766, 618 |
| Maine | 16, 513 | 198, 156 | 117, 179 | 124, 571 | 241, 750 |
| Maryland | 27, 213 | 326, 556 | 321, 577 | 76, 821 | 398, 398 |
| Massachusetts | 39, 807 | 477, 684 | 320, 229 | 262, 545 | 582, 774 |
| Michigan | 57, 857 | 694, 284 | 567, 253 | 279, 973 | 847, 026 |
| Minnesota | 44, 502 | 534, 024 | 257, 248 | 394, 261 | 651, 509 |
| Mississippi | 28, 053 | 336, 636 | 659, 119 | | 659, 119 |
| Missouri | 68, 189 | 818, 268 | 431, 165 | 567, 122 | 998, 287 |
| Montana | 8, 208 | 98, 496 | 105, 975 | 14, 190 | 120, 165 |
| Nebraska | 11, 607 | 139, 284 | 152, 827 | 17, 099 | 169, 926 |
| Nevada | $9, 700 | $116, 400 | $76, 540 | $65, 468 | $142, 008 |
| New Hampshire | 9, 640 | 115, 680 | 80, 657 | 60, 473 | 141, 130 |
| New Jersey | 55, 579 | 666, 948 | 404, 864 | 408, 813 | 813, 677 |
| New Mexico | 13, 633 | 163, 596 | 225, 384 | | 225, 384 |
| New York | 78, 484 | 941, 808 | 1, 262, 151 | | 1, 262, 151 |
| North Carolina | 72, 655 | 871, 860 | 710, 415 | 353, 254 | 1, 063, 669 |
| North Dakota | 3, 471 | 41, 652 | 101, 310 | | 101, 310 |
| Ohio | 69, 736 | 836, 832 | 712, 861 | 307, 525 | 1, 020, 386 |
| Oklahoma | 37, 378 | 448, 536 | 316, 175 | 231, 039 | 547, 214 |
| Oregon | 14, 202 | 170, 424 | 178, 875 | 29, 042 | 207, 917 |
| Pennsylvania | 89, 465 | 1, 073, 580 | 708, 965 | 600, 802 | 1, 309, 767 |
| Puerto Rico | | | 362, 486 | | 362, 486 |
| Rhode Island | 10, 400 | 124, 800 | 108, 593 | 43, 663 | 152, 256 |
| Samoa, American | | | 14, 056 | | 14, 056 |
| South Carolina | 41, 847 | 502, 164 | 491, 173 | 121, 467 | 612, 640 |
| South Dakota | 4, 307 | 51, 684 | 122, 005 | | 122, 005 |
| Tennessee | 53, 664 | 643, 968 | 578, 907 | 206, 734 | 785, 641 |
| Texas | 67, 804 | 813, 648 | 1, 328, 004 | | 1, 328, 004 |
| Trust Territory | 3, 290 | 39, 480 | 7, 492 | 40, 674 | 48, 166 |
| Utah | 5, 032 | 60, 384 | 118, 787 | | 118, 787 |
| Vermont | 12, 328 | 147, 936 | 72, 643 | 107, 839 | 180, 482 |
| Virgin Islands | 956 | 11, 472 | 4, 395 | 9, 601 | 13, 996 |
| Virginia | 44, 759 | 537, 108 | 496, 010 | 159, 262 | 655, 272 |
| Washington | 39, 691 | 476, 292 | 238, 403 | 342, 673 | 581, 076 |
| West Virginia | 29, 828 | 357, 936 | 291, 162 | 145, 520 | 436, 682 |
| Wisconsin | 51, 382 | 616, 584 | 280, 429 | 471, 803 | 752, 232 |
| Wyoming | 2, 916 | 34, 992 | 71, 576 | | 71, 576 |
| Total | 1, 846, 196 | 22, 154, 352 | 20, 000, 000 | 9, 167, 751 | 29, 167, 751 |

Finally, Mr. Chairman, the committee should be commended for its very fine statement in the House report on the original legislative intent on the availability of section 13 funds for use in Headstart centers. As the original sponsor of this legislation, I heartily concur in the committee's statement that the arbitary, administrative denial of section 13 funds to Headstart centers applying after November of 1969 is illegal and totally arbitrary. I join with the committee in urging that the regulations in this area be immediately revised. All Headstart centers must be considered eligible for participation in this important child feeding program.

Because of the importance of the committee's finding in this area I would like to enter in the RECORD the full text of the statement as it appears in House Report 93-458:

As regards the Special Food Service Program for Children, Section 13 of the National School Lunch Act, the Committee would like to make clear its intent on the question of the participation of Headstart programs. It has come to the Committee's attention that Headstart projects are being denied participation in that program by the U.S. Department of Agriculture. This policy was put into place at a time when the appropriation for Section 13 was only $9 million and when the Headstart budget appeared adequate to meet local projects' food needs. That situation is no longer the case. Headstart projects are under severe economic pressures, forced to meet higher operating costs, including food price increases, on existing or reduced budgets. On the other hand, Section 13 appropriations have increased to $80 million, and a large number of States are now returning part of their allotment to USDA, even though there are Headstart projects in those States eager to participate in the program.

This arbitrary denial of available funds to Headstart is a clear violation of Congressional intent. There can be no question that Headstart projects meet the definition of "service institution" contained in the Act (Section 13(a)). Furthermore, at the time of enactment of the Section 13 program in 1968, and in subsequent debates over the extension of the Act, the Congress has made specific and repeated reference to Headstart as a program eligible for funds.

The Committee wishes to point out to USDA the unquestionable legislative authority for Headstart participation in the Section 13 program. Moreover the Committee wishes to emphasize that coverage under Section 13 is designed to provide an added resource to local projects. It is not intended to result in a transfer of Headstart funds to USDA nor in a reduction of the Headstart budget. Availability of USDA funds for food programs in Headstart centers should free appropriated Headstart funds for other project uses—to supplement the USDA programs to institute new nutrition-related programs and to restore other program activities which have been cut in order to meet higher food costs.

Mr. STEIGER of Wisconsin. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman from Wisconsin (Mr. STEIGER) makes the point of order that a quorum is not present.

Does the gentleman from Wisconsin insist on his point of order?

Mr. STEIGER of Wisconsin. I do, Mr. Chairman.

The CHAIRMAN. The Chair will count.

Mr. STEIGER of Wisconsin. Mr. Chairman, I will not insist on my point of order at this moment.

The CHAIRMAN. The gentleman from Wisconsin withdraws his point of order.

Mr. QUIE. Mr. Chairman, I have no further requests for time.

Mr. PERKINS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National School Lunch and Child Nutrition Act Amendments of 1973".

### REIMBURSEMENT

SEC. 2. (a) Section 4 of the National School Lunch Act is amended to delete the phrase "8 cents per lunch" as it appears in said section and substitute the phrase "10 cents per lunch".

(b) Section 8 of the National School Lunch Act is amended by inserting before the last sentence thereof the following new sentence: "In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount."

### SPECIAL ASSISTANCE FUNDS

SEC. 3. (a) Section 11 of the National School Lunch Act is amended by redesignating subsections (g) and (h) as subsections (d) and (e), respectively, and by striking out subsections (a), (b), (c), (d), (e), and (f), and inserting in lieu thereof the following:

"(a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches.

"(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

"(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act."

(b) The proviso of section 10 of the National School Lunch Act is amended by inserting "and section 11" after "section 4".

### SCHOOL BREAKFAST PROGRAMS

SEC. 4. (a) The first sentence of section 4(c) of the Child Nutrition Act of 1966 is amended to read as follows: "Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d)."

(b) The second sentence of section 4(c) of the Child Nutrition Act of 1966 is deleted.

(c) Section 4(b) of the Child Nutrition Act of 1966 is amended by adding the following sentences at the end of such section: "The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast."

### CASH IN LIEU OF COMMODITIES

SEC. 5. (a) Section 6 of the National School Lunch Act is amended by striking the present subsections (b), (c), and (d) and by substituting in lieu thereof the following new subsections;

"(b) As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs under the provisions of this section, section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 percentum of the value of such deliveries initially programed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: Provided, That in any State in which the Secretary directly administers school food service programs in the nonprofit private schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in nonprofit private schools under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during that fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of nonprofit private schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this Act and the Child Nutrition Act of 1966 and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

"(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

"(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act."

### SPECIAL SUPPLEMENTAL FOOD PROGRAM EXTENSION

SEC. 6. (a) The first sentence of section 17(a) of the Child Nutrition Act of 1966 is amended by striking out "and June 30, 1974," and inserting in lieu thereof the following: "June 30, 1974, and June 30, 1975,". The second sentence of such section 17(a) is amended by striking out "two-year" and inserting in lieu thereof "three-year".

(b) The second sentence of section 17(b) of such Act is amended to read as follows: "In order to carry out such program during the fiscal year ending June 30, 1974, and during the fiscal year ending June 30, 1975, there is authorized to be appropriated for each such fiscal year the sum of $20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, for the fiscal year ending June 30, 1974, and by August 1, 1974, for the fiscal year ending June 30, 1975, the Secretary shall use $20,000,000, or, if any amount has been appropriated for such program for the fiscal year concerned, the difference, if any, between the amount directly appropriated for such purpose and $20,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c))."

(c) The second sentence of section 17(e) of such Act is amended by striking out "October 1, 1973" and "March 30, 1974" and inserting in lieu thereof "October 1, 1974" and "March 30, 1975", respectively.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. STEIGER of Wisconsin. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count; 69 Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 454]

Anderson, Ill.
Archer
Ashley
Barrett
Bell
Biaggi
Blackburn
Blatnik
Burke, Calif.
Carey, N.Y.
Clark
Clawson, Del
Cleveland
Collins, Ill.
Conyers
Crane
Davis, Ga.
Davis, S.C.
Eckhardt
Evins, Tenn.
Fish
Gettys
Guyer
Hammerschmidt
Hanrahan
Harvey
Hastings
Hays
Hébert
Kuykendall
Landrum
Lujan
McEwen
McSpadden
Mathis, Ga.
Metcalfe
Mills, Ark.
Mollohan
Passman
Patman
Pepper
Reid
Rooney, N.Y.
Runnels
St Germain
Sandman
Shoup
Sikes
Stratton
Teague, Tex.
Tiernan
Wilson, Charles H., Calif.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ZABLOCKI, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 9639, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 382 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the committee amendment in the nature of a substitute was considered as read and open to amendment at any point.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 8, line 6, strike out everything following "SEC. 2." through line 9, and in line 10 strike out "(b)".

Mr. QUIE. Mr. Chairman, I should like to review briefly the arguments I made in general debate for those Members who are present now.

What this amendment would do is to leave the section 4 payment, the subsidy that is made for the lunch for every child, at 8 cents, the way it is in the present law, rather than to go up to 10 cents. This would save $84 million. This money is a subsidy for the lunches of children of parents who can pay for them.

I propose to make no change in the nickel increase in the subsidy for free and reduced cost lunches.

If Members will look at the priorities of expenditures by the Federal Government—and the Federal revenue is not limitless—I ask whether we should use this $84 million to pay a subsidy for the lunches of children of parents who can afford to pay, or whether we should use it for some other purpose, as I mentioned before. I gave one suggestion, the vocational rehabilitation conference report is coming back. The $84 million spent for handicapped people to be rehabilitated would be certainly a much wiser expenditure than to pay an additional subsidy for those children whose parents can afford to pay.

Mr. Chairman, the subsidy for the lunches of all children is not put at 8 cents; it is at 8 cents as set in section 4, plus the commodities which are received. Under the language of this bill, if the Department of Agriculture does not make the commodities available, then cash will be made available amounting to 7.6 cents.

So the subsidy for every lunch will be 15.6 cents if we do not increase the payment from 8 to 10 cents.

As far as the young people participating in the program are concerned, when one looks at the cost of food today and the opportunity to buy food that is subsidized by the Federal Government to the tune of 15.6 cents per lunch and the school is able to buy its food at wholesale while the mothers and fathers buy their food at retail, one can see that there is a substantial saving.

Mr. Chairman, the question was raised as to whether the young people would buy lunches if the cost went up some. All during this summer the parents paid more money for their food in order to feed their children. Now, if they can afford to pay more during the summer, I imagine that they could pay some additional amount of money for food during the school year.

The analogy was used that the school lunch program is like the bus company which has fixed costs whether or not it has fewer passengers. It is not like the bus company. The schools do not buy the food if they do not have as many people participating and there is a variation in costs operating all the time. If there is less participation, then there is no proof that there will be higher prices because of less participation. That is just a guess somebody is making because the cost of school lunches is going up. But if there is a reduction in the number of participants it is more like the analogy of using a lower-priced car that does not use as much gasoline rather than using the bus company. The free lunch program and the bus company is not a good analogy.

I point out again that there is a saving to the parents of the children I have referred to which has already been made available through the subsidy for the school lunch program. Therefore, it does not seem to make sense to me that we should have increased this by $84 million when there are tremendous other areas of human concern, areas in which we should be able to make an additional expenditure from Federal funds in order to help people out.

Look at the need of some of our older people in this country who are poor and whose taxes are driving them from their homes. Look at their need to participate in "Meals on Wheels" and other programs of nutrition for the elderly and the poor. That money is much more wisely spent.

Then again, as I point out, we should not pay an additional subsidy for children's lunches when their parents can afford to pay for them.

Mr. Chairman, I do not propose to change the free and reduced cost lunches and breakfasts. I believe we ought to increase that. That is the Federal Government's responsibility, because we imposed it on the schools, and that will assist them by $16 million on the breakfast program and $29 million on the free and reduced cost lunches.

That is the increase in authorization which I do support in this legislation.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, as I understand the gentleman, there are three classes of school lunches which are subsidized?

Mr. QUIE. That is right.

Mr. SMITH of New York. One is providing for a reduced price for those parents of children who need some help, and another is providing for free lunches for those who need a lot of help?

Mr. QUIE. That is right.

Mr. SMITH of New York. And then there is some subsidy for children whose parents can afford to pay?

Mr. QUIE. The gentleman is correct.

Mr. SMITH of New York. Mr. Chairman, if I understand the gentleman's amendment, it would delete any increased subsidy for those who can afford to pay?

Mr. QUIE. The gentleman is correct.

Mr. SMITH of New York. Leaving it at 15.6 cents?

Mr. QUIE. That is what it totals. Leaving it at 8 cent, for the section 4 payment, which totals 15.6 cents, with the commodity figure.

Mr. SMITH of New York. The gentleman's amendment would leave alone the present requirement for increased subsidy for reduced price lunches and free lunches?

Mr. QUIE. That is right. On reduced price lunches the bill raises this from 20 to 25 cents, and this, I believe, we should do. And for free lunches we would raise it from 40 to 45 cents, and this, I believe, we should do also.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the argument made by the distinguished gentleman from Minnesota, to my way of thinking, was confusing. The amendment to strike the reimbursement rate from 8 to 10 cents applies to all the children, the disadvantaged as well as to the section 4 children.

In fact, according to the statistics of the Department of Agriculture we had 24,401,000 participants in May of this year, and the number of needy children reached with a free or reduced price lunch was 8.6 million children. So his amendment takes from the 8.6 million children the 2 cents.

Looking at the figures of the Bureau of Labor Statistics Consumer-Finished Food Index, we find in August 1972 the index was 123.1. In August 1973 the index was 158.6. The cost of food to institutional buyers in the last year has gone up 28 percent.

There is no earthly way we can justify the amendment of the gentleman from Minnesota unless we want to destroy to a great degree the school lunch program in this country.

Now, what has happened in the past year? A year ago we had 25,119,000 participants. In May this year we had 24,401,000 participants. The reasons have been inflation and the increase in the cost of school lunches at the local level. The parents have to pay those increased costs, and as a result we are pricing the marginal middle-class child out of the school lunchroom, and these paying children constitute the bulwark of the school lunch program in this country.

I say to you that we could easily argue for 12 cents instead of the 8-cent reimbursement rate.

The gentleman from Minnesota was correct when he stated that under section 4 we presently reimburse 8 cents in addition to 7 cents for commodities. But just compare that 15 cents with the cost of a lunch today. The cost of producing a lunch today is in the area of 60 to 70 cents. I have here a letter from the school food service director in Iowa stating the cost has even gone up to 73 cents during the past year.

We will be doing mighty little by increasing this reimbursement rate from 8 to 10 cents, but it will give the school lunchrooms in this country some stability and they will be able to endure and survive.

In my judgment, with all the effort that is being put into the school lunchrooms, what deserves greater priority than feeding these children?

I am not quarreling in the least because some middle-income families participate. That is the way it should be. It is really difficult for a middle-income breadwinner with five or six or seven children to pull out 50 cents for each child for school lunch. But what we are going to do here, if we do not give this reimbursement rate, is to send the lunch prices soaring to 70, 75, and maybe 80 cents in certain sections of the country.

And we in the Congress will be responsible for destroying the best school lunch program in the world.

I say to the Members in all candor that it is our duty and responsibility to increase this reimbursement rate from 8 cents to 10 cents, and let the school lunch programs fulfill their goal of providing nutritious lunches to all children.

Mr. ESCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman and members of the committee, I think it is very important to put this amendment in perspective because the real concern here is a policy of whether or not we are going to continue to support all school lunch programs at an ever-increasing level, or are we going to set a priority and target in the funds into those children who are the most needy?

That is really the issue at hand.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I will not yield to the gentleman at the present time.

The question, then, of this amendment, is if we believe that it is our responsibility as Members of Congress to set priorities in this country and to target limited funds which all of us voted for in terms of a total ceiling, then the Members will support this amendment.

Make no mistake, the bill with the amendment will provide increased subsidy for those children who need it most, who cannot afford the school lunch program, but to the children who are not eligible for subsidy it does not provide increased funds.

The real question is this: Should we at this time, when even today there is talk of a possible tax increase, be subsidizing the general school lunch program, that is, the taxpayer, to the tune of $84 million a year, and then at the same time be talking about taking it out of his other pocket with a tax increase?

I would suggest to the Members that that is the height of folly. If the Members support the amendment, those children who need subsidy funds, who are the most needy, who do need a hot breakfast and a good lunch, will receive that additional cost, but you will not be fooling your constituents and fooling your taxpayers by subsidizing our childrens' lunch program on the one hand and then debating whether or not we are going to take it away in terms of increased taxes on the other.

I would suggest to the Members this one point; if we are honest with ourselves and responsible, and there is a lot of talk about this Congress setting priorities, then we have to follow a hard line in setting priorities. My priority is to make sure that every child in this country who needs a good lunch will get one if they cannot afford it themselves. But this country should not be in the business of giving every child, regardless of need, a hot lunch in this country. So I urge the Members to vote for the amendment offered by the gentleman from Minnesota (Mr. QUIE).

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and members of the committee, the purpose of almost all of the amendments which are being considered today, the amendments to the basic bill, is to provide an increase in funding for the school lunch program, either the basic program or the free program, or the reduced program or the breakfast program, to keep up with the cost-of-living increase, and particularly the increased cost of food which has transpired since we last considered this legislation almost 1 year ago to the day in this Chamber.

If the Members read the Washington Post this morning, they read that farm products, processed foods, and feeds have increased at the wholesale level 49 percent; that farm products alone have increased 66.4 percent; and processed foods and feeds alone have increased 37.4 percent. The 2-cent increase that we are talking about in this amendment represents a modest 20-percent increase measured against the increases in food costs which I just iterated.

It is very strange that the gentleman from Minnesota and the gentleman from Michigan are not in any way concerned that there is an increase for free lunches for poverty children or reduced lunches for people who are not in quite a necessitous circumstance, but they are concerned about the 2 cents, the 20 percent increase, for all children in the United States. This ought to be amply clear. This is not a poverty program; this is a school lunch program that will provide a nutritional meal for somewhere in the area of 24 million American schoolchildren every day, a program which one of the gentlemen on the other side noted provides in some instances the only nutritional meal children will get all day long.

The gentleman from Michigan said that he wants to keep a program where it is necessary to provide food for children. That is why he is for the free and reduced-price increase. I say to him, and I say to all of the Members, that if we do not provide an increase in the basic lunch, in the basic program, then we will not have a program which ultimately can provide free and reduced-price lunches. Approximately 16 million of the children in this program are paying their own way. The balance are not. If we, as history indicates, increase the price of lunches, and more and more children get off the program because of the increase, the remaining children will have to bear—and consequently middle-income parents—a bigger and bigger share of the cost, and more and more will get off the program, and there is more and more cost for the remaining, and so on. That is precisely what is happening today. Again, if the Members read the New York Times this morning, they will have read that a study by a Senate investigating committee indicates 800,000 children, middle-income children, dropped off of the school lunch program this year alone because they could not afford this program.

Over the last 4 years we have lost 1,600,000 middle-income children, and if we lose more and more, the remaining parents are going to have to pay more for school lunches, and we will have fewer.

So I support the gentleman from Michigan who said he will vote for a program which makes lunches available only to those children who need it, because I say to the Members if we do not increase this basic 2 cents, the basic lunch, if we do not have for middle-America something, for the middle-income people, which will keep them involved in this lunch program, we not only will not have a program for them, we will not have a program for the poor, which the other side of the aisle is showing so much concern about.

I say we must keep this basic 2 cents increase.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. QUIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 127, noes 272, not voting 35, as follows:

[Roll No. 455]

AYES—127

Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Bennett
Bray
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Butler
Camp
Cederberg
Chamberlain
Clancy
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Edwards, Ala.
Erlenborn
Esch
Evans, Colo.
Findley
Fisher
Flynt
Ford, Gerald R.
Forsythe
Frelinghuysen
Goldwater
Goodling
Green, Oreg.
Gross
Gubser
Hansen, Idaho
Harsha
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Jones, Okla.
Keating
Kemp
Ketchum
King
Landgrebe
Long, La.
Lott
McCollister
McKay
Madigan
Mallary
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Michel
Miller
Minshall, Ohio
Montgomery
Moorhead, Calif.
Myers
Nelsen
O'Brien
Owens
Parris
Pickle
Pritchard
Quie
Railsback
Rarick
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Rousselot
Satterfield
Scherle
Schneebeli
Sebelius
Shuster
Skubitz
Smith, N.Y.
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Taylor, Mo.
Teague, Calif.
Towell, Nev.
Treen
Ware
Whitehurst
Wiggins
Williams
Wilson, Bob
Wyatt
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—272

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Beard
Bergland
Bevill
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Broyhill, N.C.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Carter
Casey, Tex.
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Collier
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Foley
Ford, William D.
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gude
Gunter
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hastings
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Holifield
Holtzman
Horton
Howard
Hungate
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, Md.
McClory
McCloskey
McCormack
McDade
McFall
McKinney
Macdonald
Madden
Mahon
Mailliard
Mann
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
Sarasin
Sarbanes
Saylor
Schroeder
Seiberling
Shipley
Shriver
Sisk
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitten
Widnall
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—35

Anderson, Ill.
Bell
Biaggi
Blackburn
Burke, Calif.
Carey, N.Y.
Clawson, Del
Collins, Ill.
Crane
Davis, Ga.
Davis, S.C.
Guyer
Hammerschmidt
Hanrahan
Harvey
Hays
Kuykendall
Landrum
Lujan
McEwen
McSpadden
Mathis, Ga.
Metcalfe
Mills, Ark.
Mollohan
Quillen
Rooney, N.Y.
Runnels
St Germain
Sandman
Shoup
Sikes
Stratton
Teague, Tex.
Tiernan

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair Mr. ZABLOCKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs, pursuant to House Resolution 543, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. QUIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 389, nays, 4, not voting 41, as follows:

[Roll No. 456]

YEAS—389

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Haley
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell

Moakley
Montgomery
Moorhead,
  Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton,
  J. William
Stanton,
  James V.
Stark
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson,
  Charles H.,
  Calif.
Wilson,
  Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—4

Landgrebe
Martin, Nebr.
Rousselot
Symms

NOT VOTING—41

Anderson, Ill.
Bell
Biaggi
Blackburn
Burke, Calif.
Carey, N.Y.
Clawson, Del
Collins, Ill.
Coughlin
Crane
Davis, Ga.
Davis, S.C.
Guyer
Hammer-
  schmidt
Hanrahan
Harvey
Hays
Hogan
Kuykendall
Landrum
Litton
Lujan
McEwen
McSpadden
Mathis, Ga.
Metcalfe
Mills, Ark.
Mollohan
Nix
Quillen
Rooney, N.Y.
Runnels
St Germain
Sandman
Shoup
Sikes
Steelman
Stephens
Stratton
Teague, Tex.
Tiernan

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hays with Mr. Anderson of Illinois.

Mr. Rooney of New York with Mr. Harvey.

Mrs. Burke of California with Mr. Litton.

Mr. McSpadden with Mr. Quillen.

Mr. Nix with Mr. Runnels.

Mr. Carey of New York with Mr. Lujan.

Mr. St Germain with Mr. Hogan.

Mr. Stratton with Mr. Sandman.

Mr. Davis of Georgia with Mr. Steelman.

Mr. Metcalfe with Mr. Kuykendall.

Mr. Landrum with Mr. Hanrahan.

Mr. Teague of Texas with Mr. Bell.

Mr. Mills of Arkansas with Mr. Shoup.

Mr. Sikes with Mr. Blackburn.

Mr. Biaggi with Mr. Del Clawson.

Mr. Tiernan with Mr. Coughlin.

Mr. Mathis of Georgia with Mr. Crane.

Mr. Mollohan with Mr. Hammerschmidt.

Mrs. Collins of Illinois with Mr. McEwen.

Mr. Davis of South Carolina with Mr. Stephens.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

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## CONFERENCE REPORT ON H.R. 8070, GRANTS FOR VOCATIONAL REHABILITATION SERVICES

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes:

### CONFERENCE REPORT (H. REPT. NO. 93–500)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":

### TABLE OF CONTENTS

Sec. 2. Declaration of purpose.
Sec. 3. Rehabilitation Services Administration.
Sec. 4. Advance funding.
Sec. 5. Joint funding.
Sec. 6. Consolidated rehabilitation plan.
Sec. 7. Definitions.
Sec. 8. Allotment percentage.
Sec. 9. Audit.
Sec. 10. Nonduplication.

### TITLE I—VOCATIONAL REHABILITATION SERVICES

#### PART A—GENERAL PROVISIONS

Sec. 100. Declaration of purpose; authorization of appropriations.
Sec. 101. State plans.
Sec. 102. Individualized written rehabilitation program.
Sec. 103. Scope of vocational rehabilitation services.
Sec. 104. Non-Federal share for construction.

#### PART B—BASIC VOCATIONAL REHABILITATION SERVICES

Sec. 110. State allotments.
Sec. 111. Payments to States.
Sec. 112. Client assistance.

#### PART C—INNOVATION AND EXPANSION GRANTS

Sec. 120. State allotments.
Sec. 121. Payments to States.

#### PART D—COMPREHENSIVE SERVICE NEEDS

Sec. 130. Special study.

### TITLE II—RESEARCH AND TRAINING

Sec. 200. Declaration of purpose.
Sec. 201. Authorization of appropriations.
Sec. 202. Research
Sec. 203. Training.
Sec. 204. Reports.

### TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Sec. 300. Declaration of purpose.
Sec. 301. Grants for construction of rehabilitation facilities.
Sec. 302. Vocational training services for handicapped individuals.
Sec. 303. Mortgage insurance for rehabilitation facilities.
Sec. 304. Special projects and demonstrations.
Sec. 305. National Center for Deaf-Blind Youths and Adults.
Sec. 306. General grant and contract requirements.

### TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Sec. 400. Administration.
Sec. 401. Program and project evaluation.
Sec. 402. Obtaining information from Federal agencies.
Sec. 403. Authorization of appropriations.
Sec. 404. Reports.
Sec. 405. Secretarial responsibility.
Sec. 406. Sheltered workshop study.
Sec. 407. State allocation study.

### TITLE V—MISCELLANEOUS

Sec. 500. Effect on existing laws.
Sec. 501. Employment of handicapped individuals.
Sec. 502. Architectural and Transportation Barriers Compliance Board.
Sec. 503. Employment under Federal contracts.
Sec. 504. Nondiscrimination under Federal grants.

#### DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals, serving first those with the most severe handicaps, so that they may prepare for and engage in gainful employment;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) conduct a study to develop methods of providing rehabilitation services to meet the current and future needs of handicapped individuals from whom a vocational goal is not possible or feasible so that they may improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including those who are homebound or institutionalized) who have been underserved in the past;

(7) conduct various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish client assistance pilot projects;

(10) provide assistance for the purpose of increasing the number of rehabilitation per-

sonnel and increasing their skills through training; and

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing architectural and transportation barriers impeding handicapped individuals.

### REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There is established in the Department of Health, Education, and Welfare a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the "Commissioner") appointed by the President. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency for carrying out this Act. The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner unless the Secretary shall first submit a plan for such delegation to the Congress. Such delegation is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan for such delegation is transmitted to it: *Provided, however,* That within thirty days of such transmittal, the Secretary shall consult with the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives respecting such proposed delegation. For the purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day and sixty-day periods.

(b) The Secretary, through the Commissioner in coordination with other appropriate programs in the Department of Health, Education, and Welfare, in carrying out research under this Act shall establish the expertise and technological competence to, and shall, in consultation with, the National Science Foundation and the National Academy of Sciences develop and support, and stimulate the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and be responsible for carrying out the activities described in section 202(b)(2).

(c) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

### ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

### JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

### CONSOLIDATED REHABILITATION PLAN

SEC. 6. (a) In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 101(a) of this Act and its program for persons with developmental disabilities under the Developmental Disabilities Services and Facilities Construction Amendments of 1970: *Provided,* That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this Act and the Developmental Disabilities Services and Facilities Construction Amendments of 1970. If the Secretary finds that all such requirements are satisfied, he may approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or he may advise the State to submit separate plans for such programs.

(c) Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reductions, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsections (c) and (d) of section 101 of this Act.

### DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of off site improvements.

(2) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(4) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G) (i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 102(c)), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(5) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of title I of this Act and as specifically set forth in section 301(b)(3): *Provided,* That with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301(b)(3) applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.

(6) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.

(7) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations)

which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided,* That such an arrangement is made part of the agreement specified in this paragraph.

(8) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(9) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the Secretary in regulations he shall prescribe.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

### ALLOTMENT PERCENTAGE

SEC. 8. (a)(1) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

### AUDIT

SEC. 9. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

### NONDUPLICATION

SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act.

## TITLE I—VOCATIONAL REHABILITATION SERVICES

### PART A—GENERAL PROVISIONS

### DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b)(1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1974, and $680,000,000 for the fiscal year ending June 30, 1975.

(2) For the purpose of carrying out part C of this title (relating to grants to States and public and nonprofit agencies to assist them in meeting the cost of projects to initiate or expand services to handicapped individuals, especially those with the most severe handicaps) and part D of this title (relating to the study of comprehensive service needs of individuals with the most severe handicaps), there is authorized to be appropriated $37,000,000 for the fiscal year ending June 30, 1974, and $39,000,000 for the fiscal year ending June 30, 1975, and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph for each such fiscal year, $1,000,000 in each such year shall be available only for the purpose of carrying out part D of this title.

### STATE PLANS

SEC. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational rehabilitation services which shall—

(1)(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of that State.

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subclause (A) of this clause) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in clause (1) (B) (i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1) (B) (ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to clause (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency, and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Secretary may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) (A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve service to handicapped individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Secretary; and

(B) provide satisfactory assurances to the Secretary that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps;

(6) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan;

(7) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision;

(8) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(9) provide that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for vocational rehabilitation services under this Act, (B) such services will be provided under the plan in accordance with such program, and (C) records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this title and are determined not to be eligible therefor, the reasons for such determinations;

(10) provide that the State agency will make such reports in such form, containing such information (including the data described in subclause (C) of clause (9) of this subsection, periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this subsection, and the service costs for each such category), and at such time as the Secretary may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(11) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals, veterans programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of handicapped individuals;

(12) provide satisfactory assurances to the Secretary that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(13) (A) provide that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons, and

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(14) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(15) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to those individuals with the most severe handicaps;

(16) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(17) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 306 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Secretary shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provisions for construction;

(18) provide satisfactory assurances to the Secretary that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational rehabilitation services; and

(19) provide satisfactory assurances to the Secretary that the continuing studies required under clause (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, of appropriate amendments to the plan.

(b) The Secretary shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Secretary shall notify a State of his intention to disapprove its plan, and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any provision of such plan.

the Secretary shall notify such State agency that no further payment will be made to the State under this title (or, in his discretion, that such further payments will be reduced, in accordance with regulations the Secretary shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code.

### INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a) The Secretary shall insure that the individualized written rehabilitation program required by section 101(a)(9) in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual.

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and jointly redevelop its terms. Such program shall include, but not be limited to, (1) a statement of long-range rehabilitation goals for the individuals and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and, (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 112.

(c) The Secretary shall also insure that (1) in developing and carrying out individualized written rehabilitation program required by section 101 in the case of each handicapped individual primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, that the evaluation of rehabilitation potential has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

### SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both.

(2) counseling, guidance, referral, and placement services for handicapped individuals, including followup, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided*, That no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) interpreter services for deaf individuals, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunications, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual.

### NON-FEDERAL SHARE FOR CONSTRUCTION

SEC. 104. For the purpose of determining the amount of payments to States for carrying out part B of this title, the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Secretary, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

## PART B—BASIC VOCATIONAL REHABILITATION SERVICES

### STATE ALLOTMENTS

SEC. 110. (a) For each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $2,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) If the payment to a State under section 111(a) for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payment under section 111(a) and the amount so received by it. Payments attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

(c) Whenever the Secretary determines, after reasonable opportunity for the submission to him of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

### PAYMENTS TO STATES

SEC. 111. (a) From each State's allotment under this part for any fiscal year (including any additional payment to it under section 110(b)), the Secretary shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) (and its additional payment under subsection (b), if any) of section 110 for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (17) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay, from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

### CLIENT ASSISTANCE

SEC. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations from appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973, the Secretary shall set aside up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974 and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act, and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act.

(b) The Secretary shall prescribe regulations which shall include the following requirements:

(1) No employees of such projects shall be presently serving as staff or consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program, or facility receiving assistance under this Act in the project area.

(2) Each project shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and facilities.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Secretary on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by and with the concurrence of the State agency designated pursuant to section 101.

## PART C—INNOVATION AND EXPANSION GRANTS

### STATE ALLOTMENTS

SEC. 120. (a)(1) From the sums available pursuant to section 100(b)(2) for any fiscal year for grants to States to assist them in meeting the costs described in section 121, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to that amount, and for the fiscal year ending June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increase required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(b) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

### PAYMENTS TO STATES

SEC. 121. (a) From each State's allotment under this part for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101(a)(1), to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Secretary may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending June 30, 1976. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

## PART D—COMPREHENSIVE SERVICE NEEDS

### SPECIAL STUDY

SEC. 130. (a) The Secretary shall conduct a comprehensive study, including research and demonstration projects of the feasibility of methods designed (1) to prepare individuals with the most severe handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve their ability to live independently or function normally within their family and community. Such study shall encompass the extent to which other programs administered by the Secretary do or might contribute to the objectives set forth in clauses (1) and (2) of the preceding sentence and the methods by which all such programs can be coordinated at Federal, State, and local levels with those carried out under this Act to the end that individuals with the most severe handicaps are assured of receiving the kinds of assistance necessary for them to achieve such objectives.

(b) The Secretary shall report the findings of the study, research, and demonstrations directed by subsection (a) of this section to the Congress and to the President together with such recommendations for legislative or other action as he may find desirable, not later than February 1, 1975.

## TITLE II—RESEARCH AND TRAINING

### DECLARATION OF PURPOSE

SEC. 200. The purpose of this title is to authorize Federal assistance to State and public or nonprofit agencies and organizations to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 202 of this title, $25,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph, 20 per centum, and 25 per centum of the amounts appropriated in the first and second such fiscal years, respectively, shall be available only for the purpose of carrying out activities under section 202(b)(2).

(2) For the purpose of carrying out section 203 of this title, there is authorized to be appropriated $27,700,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

(b) Funds appropriated under this title shall remain available until expended.

### RESEARCH

SEC. 202. (a) The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to sole rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving probems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research, to include support of spinal cord injuries projects and demonstrations established pursuant to section 303(b), which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals suffering from such disease and which will (A) insure dissemination of research findings, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of endstage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

(5) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(c) The provisions of section 306 shall apply to assistance provided under this section, unless the context indicates to the contrary.

### TRAINING

SEC. 203. (a) The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to blind and deaf individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited English-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

### REPORTS

SEC. 204. There shall be included in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational rehabilitation services to handicapped individuals and those with the most severe handicaps under this Act.

## TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

### DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to—

(1) authorize grants and contracts to assist in the construction and initial staffing of rehabilitation facilities;

(2) authorize grants and contracts to assist in the provision of vocational training services to handicapped individuals;

(3) authorize grants for special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, including individuals with spinal cord injuries, older blind individuals, and deaf individuals whose maximum vocational potential has not been reached, which experiment with new types of patterns of services

or devices for the rehabilitation of handicapped individuals (including opportunities for new careers for handicapped individuals, and for other individuals in programs serving handicapped individuals) and which provide vocational rehabilitation services to handicapped migratory agricultural workers or seasonal farmworkers;

(4) establish and operate a National Center for Deaf-Blind Youths and Adults; and

(5) establish uniform grant and contract requirements for programs assisted under this title and certain other provisions of this Act.

### GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, and June 30, 1975. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1977.

(b)(1) The Secretary is authorized to make grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Secretary under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 306.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to subparagraph (b)(2) of section 645 of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Secretary is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations the Secretary shall prescribe) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) The Secretary is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning rehabilitation facilities and the services to be provided by such facilities.

### VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, and June 30, 1975.

(b)(1) The Secretary is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational training services to handicapped individuals, especially those with the most severe handicaps, in public or nonprofit rehabilitation facilities.

(2)(A) Vocational training services for purposes of this subsection shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals, especially those with the most severe handicaps, for gainful and suitable employment; (B) the individuals to receive training services under such project will include only those who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 101(a)(1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c)(1) The Secretary is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

### MORTGAGE INSURANCE FOR REHABILITATION FACILITIES

SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for handicapped individuals.

(b) For the purpose of this section the terms "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(c) The Secretary, in consultation with the Secretary of Housing and Urban Development, and subject to the provisions of section 306, is authorized to insure up to 100 per centum of any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon, except that no mortgage of any public agency shall be insured under this section if the interest from such mortgage is exempt from Federal taxation.

(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers construction of a public or nonprofit rehabilitation facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for handicapped individuals. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts, with and acquire for not to exceed $100 such stock of interest in, such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section), and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the rehabilitation facility, when the proposed improvements are completed and the equipment is installed, but not including any cost covered by grants in aid under this Act or any other Federal Act.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

(e) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction, but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he shall by regulation prescribe.

(g)(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act. The Secretary may, pursuant to a formal delegation agreement containing regulations prescribed by him, delegate to the Secretary of Housing and Urban Development authority to administer this section in accordance with such delegation agreement.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h)(1) There is hereby created a Rehabilitation Facilities Insurance Fund which shall be used by the Commissioner as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Rehabilitation Facilities Insurance Fund.

(2) The general expenses of the operations of the Rehabilitation Services Administration relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Rehabilitation Services Administration with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Commissioner may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisals and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments, and adjustments, and expense incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed $200,000,000.

### SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 304. (a)(1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, and $17,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 5 per centum in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such subsection an amount of $5,000,000 to be available for each such fiscal year.

(b) The Secretary, subject to the provisions of section 306, shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps) including individuals with spinal cord injuries, older blind individuals, and deaf individuals, whose maximum vocational potential has not been reached, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals for other individuals in programs servicing handicapped individuals). Projects and demonstrations providing services to individuals with spinal cord injuries shall include provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(D) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(c) The Secretary, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment.

(e)(1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, to provide technical assistance (A) to rehabilitation facilities, and (B) for the purpose of removal of architectural and transportation barriers, to any public or nonprofit agency, institution, organization or facility.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the pro rata pay rate for a person employed as a GS–18, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

### NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 305. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated such sums as may be necessary for construction, which shall remain available until expended, and such sums as may be necessary for operations for the fiscal years ending June 30, 1974, and June 30, 1975.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 306, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults.

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of such Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

### GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 306. (a) The provisions of this section shall apply to all projects approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under section 302.

(b) To be approved, an application for assistance for a construction project under title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Secretary, which he shall summarize and comment upon in the annual report to the Congress submitted under section 404;

(4) be accompanied or supplemented by plans and specifications in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply wtih regulations prescribed by the Secretary related to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90–480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similiar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant or contract for a project under this title, the Secretary shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this title. In case an amendment to an approved application is approved or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this title, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of assistance or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Secretary as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) When in any State, funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Secretary shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

## TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

### ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to the rehabilitation of handicapped individuals; and

(3) disseminate information relating to vocational rehabilitation services, and otherwise promote the cause of the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles I through III of this Act, and, except as otherwise provided in this Act, to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations shall be published in the Federal Register, on at least an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural, transportation, and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out his duties under this Act, the Secretary shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitation of disabled veterans carried out under title 38, United States Code.

### PROGRAM AND PROJECT EVALUATION

SEC. 401. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related activities carried out under section 202, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of section 202, whether and on what basis such activities shall be continued, revised, or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective July 1, 1974, before funds for the programs and projects covered by this Act are released, the Secretary shall develop and publish general standards for evaluation of the programs and project effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in subsections (b), (c), and (d) of section 101, whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 404 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

### OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 402. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated for the fiscal years ending June 30, 1974, and June 30, 1975, such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, and III of this Act, or $1,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

### REPORTS

SEC. 404. Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail vocational rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of other services, and (3) include a detailed evaluation of services provided with assistance under title I of this Act, especially services to those with the most severe handicaps.

### SECRETARIAL RESPONSIBILITIES

SEC. 405. (a) It shall be the function of the Secretary, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, through the Office of the Secretary, to—

(1) prepare for submission to the Congress within eighteen months after the date of enactment of this Act, a long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze on a continuing basis and include in his report submitted under section 404, a report on the results of such analysis, program operation to determine consistency with applicable provisions of law, progress toward meeting the goals and priorities set forth in the projection required under clause (1), and the effectiveness of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) encourage coordinated and cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs;

(4) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education (including promotion of the development of curriculums stressing barrier free design and the adoption of such curriculums by schools of architecture, design, and engineering), health, employment, rehabilitation, architectural, housing, and transportation barriers, and other areas so as to bring about full integration of handicapped individuals into all aspects of society;

(5) provide a central clearinghouse for information and resource availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Secretary deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

(b) In selecting personnel to assist in the performance of the functions assigned in subsection (a) of this section, the Secretary shall give special emphasis to qualified handicapped individuals.

(c) The functions assigned to the Secretary by this section shall not be delegated to any persons not assigned to and operating in the Office of the Secretary, except that he may establish an Office for the Handicapped in the office of an appropriate Assistant Secretary of the Department of Health, Education, and Welfare to carry out such functions.

(d) There are authorized to be appropriated for carrying out this section $500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975.

(e) Not later than thirty days after the appropriation Act containing sums for carrying out the provisions of this Act is enacted for each fiscal year, the Secretary shall set aside out of sums available to carry out this section or otherwise available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section and shall notify the appropriate committees of the Congress of the amount so set aside, the number of personnel necessary for such purpose, and the basis for his determination under this subsection and his reasons therefor.

### SHELTERED WORKSHOP STUDY

SEC. 406. (a) The Secretary shall conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within twenty-four months after the date of enactment of this Act.

### STATE ALLOCATION STUDY

SEC. 407. (a) The Secretary shall conduct a thorough study of the allotment of funds among the States for grants for basic vocational rehabilitation services authorized under part B of title I of this Act, including a consideration of—

(1) the needs of individuals requiring vocational rehabilitation services;

(2) the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

(3) the continuing demand upon the States to furnish vocational rehabilitation services, together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of this Act.

(b) Not later than June 30, 1974, the Secretary shall report to the Congress his findings and recommendations, including recommendations for additional legislation, with respect to the study required by this section, which report shall include recommendations with respect to allotment of Federal funds among the States and the Federal share of the cost of furnishing vocational rehabilitation services by the States.

## TITLE V—MISCELLANEOUS

### EFFECT ON EXISTING LAW

SEC. 500. (a) The Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) is repealed ninety days after the date of enactment of this Act and references to such Vocational Rehabilitation Act in any other provision of law shall, ninety days after such date, be deemed to be references to the Rehabilitation Act of 1973. Unexpended appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(b) The authorizations of appropriations in the Vocational Rehabilitation Act are hereby extended at the level specified for the fiscal year 1972 for the fiscal year 1973.

### EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 501. (a) There is established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission shall serve as co-chairmen of the Committee. The resources of the President's Committee on Employment of the Handicapped and on Mental Retardation shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of handicapped individuals, and to review, on a periodic basis, in cooperation with the Civil Service Commission, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals, by each department, agency, and instrumentality in the executive branch of Government, and to insure that the special needs of such individuals are being met; and (2) to consult with the Civil Service Commission to assist the Commission to carry out its responsibilities under subsections (b) (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Civil Service Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Civil Service Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

(b) Each department, agency, and instrumentality (including the United States Postal Service and the Postal Rate Commission) in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Civil Service Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for handicapped individuals.

(c) The Civil Service Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Civil Service Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Civil Service Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the Civil Service Commission's activities under subsections (b) and (c) of this section.

(e) An individual who, as a part of his individualized written rehabilitation program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f) (1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals.

### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Health, Education, and Welfare;

(2) Department of Transportation;

(3) Department of Housing and Urban Development;

(4) Department of Labor;

(5) Department of the Interior;

(6) General Services Administration;

(7) United States Postal Service; and

(8) Veterans' Administration.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90–480), as amended by the Act of March 5, 1970 (Public Law 91–205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make to the President and to Congress reports which shall describe in detail the results to its investigations under clauses (2) and (3) of this subsection; and (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection.

(c) The Board shall also (1) (A) determine how and to what extent transportation barriers impede the mobility of handicapped individuals and aged handicapped individuals and consider ways in which travel expenses in connection with transportation to and from work for handicapped individuals can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of handicapped individuals; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems and (B) to make housing available and accessible to handicapped individuals or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for handicapped individuals, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

(d) In carrying out its functions under this section, the Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). The provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review.

(e) The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(f) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this subsection shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily pay rate, for a person employed as a GS–18 under section 5332 of title 45, United States Code, including traveltime; and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(g) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (5) and (6) of subsection (b) of this section. The Board shall prepare two final reports of its activities under subsection (c). One such report shall be on its activities in the field of transportation barriers to handicapped individuals, and the other such report shall be on its activities in the field of the housing needs of handicapped individuals. The Board shall, prior to January 1, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after the date of enactment of this Act.

(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section $1,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975.

### EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 503. (a) Any contract in excess of $2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction for the United States) shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 7(6). The provisions of this section shall apply to any subcontract in excess of $2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which he shall prescribe, when he determines that special circumstances in the national interest so require and states in writing his reasons for such determination.

### NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

CARL D. PERKINS,
JOHN BRADEMAS,
PATSY T. MINK,
ALBERT H. QUIE,
EDWIN D. ESHLEMAN,
*Managers on the Part of the House.*

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
BILL HATHAWAY,
ROBERT STAFFORD,
ROBERT TAFT, Jr.,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, Jr.,
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment strikes all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the Senate amendment and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes.

### SECTION 2. DECLARATION OF PURPOSE

Both the House bill and the Senate amendment contained declarations of purpose reflecting their respective provisions. The conference agreement contains a declaration of purpose reflecting the agreements reached in conference.

### SECTION 3. REHABILITATION SERVICES ADMINISTRATION

The Senate amendment requires that the Commissioner of the Rehabilitation Services Administration be appointed by the President. The House bill contains no comparable provision. The House recedes.

The House bill provides that the Secretary shall establish, within the Rehabilitation Services Administration, a Center for Technological Assessment and Application. Such Center, in consultation with the National Science Foundation and the National Academy of Science, will be responsible for developing, supporting and stimulating the development, utilization and application of technical, medical and scientific achievement and psychological and social knowledge to solve rehabilitation problems.

The Senate amendment provides that the Secretary, through the Commissioner in coordination with other programs in HEW, in carrying out research under this Act, shall establish the expertise and technical competence, in consultation with the National Science Foundation and the National Academy of Science, to develop and support the development and utilization and application of advanced medical technology, scientific achievement and psychological and social knowledge to solve rehabilitation problems.

The conference report adopts the Senate provision.

The Senate amendment provides that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the existing Vocational Rehabilitation Act, are to be expended only for programs, personnel, and the administration of programs carried out under this Act. The House bill contains no comparable provision. The House recedes.

### SECTION 7. DEFINITIONS

In the definition of "establishment of a rehabilitation facility", the House bill provides that the Commissioner shall prescribe regulations with regard to rehabilitation facilities and the expenditure of funds. The Senate amendment provides that the Secretary shall prescribe these regulations. The House recedes.

In the definition of "Federal share", the House bill provides that the Commissioner shall prescribe regulations with respect to the expenditures of political subdivisions of States which may be treated as State expenditures. The Senate amendment provides that the Secretary shall prescribe these regulations. The House recedes.

The House bill defines the term "handicapped individual" to mean any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit from vocational rehabilitation services.

The Senate amendment provides that the term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.

The conference agreement includes the Senate provision, but the Conferees note that the phrase "in terms of employability" is merely clarifying in nature and does not differ substantially from the House provision.

### SECTION 8. ALLOTMENT PERCENTAGE

The House bill provides that the Commissioner, while the Senate amendment provides that the Secretary, shall promulgate the allotment percentages. The House recedes.

### SECTION 100. AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES—BASIC PROGRAM

[In millions]

| | House | Senate |
|---|---|---|
| Fiscal year 1973 | ---- | $590 |
| Fiscal year 1974 | $600 | 610 |
| Fiscal year 1975 | 690 | 640 |

The Senate amendment further provides that additional sums may be appropriated if Congress deems necessary. The House bill contains no comparable provision.

The Conference agreement adopts the House provision, but with an amendment reducing the amounts authorized to be appropriated to $650,000,000 for fiscal year 1974 and $680,000,000 for fiscal year 1975.

*Authorization of Appropriations for Innovation and Expansion Grants.*

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | | $35,860,000 |
| Fiscal year 1974 | Such sums | 37,000,000 |
| Fiscal year 1975 | Such sums | 39,000,000 |

The Senate amendment further provides that Congress may appropriate such additional sums for each such year as deemed necessary. Of the sums appropriated under this paragraph, $1,000,000 each year is to be available only for the purpose of carrying out part D of title I (relating to the study of services to severely handicapped individuals).

The House bill provides for Congress to appropriate such sums as necessary to carry out the study separate from the funds authorized to carry out the innovation and expansion grants under section 120.

The House recedes with respect to fiscal years 1974 and 1975. With respect to FY 1973, see the explanation of section 500(b).

### SECTION 101. STATE PLANS

Throughout section 101, the House invests authority in the Commissioner, whereas the Senate amendment invests authority in the Secretary. The House recedes.

The House bill requires that the State plan show the order of selection of individuals to insure that services are provided first to those individuals with the most severe handicaps.

The Senate amendment requires a method of selection insuring special emphasis to those individuals with the most severe handicaps.

The Senate recedes. The Conferees retained the House language which declares that those individuals with the most severe handicaps shall be served first by State rehabilitation agencies. However, the Conferees wish to make clear that it is not their intention that the Rehabilitation Services Administration or any State rehabilitation agency discontinue or refuse services to any handicapped individual because of the type of disability the person has. Moreover, the Conferees stress that this provision and those provisions governing eligibility for services in the basic program are intended to emphasize services to those individuals who have severe physical or mental disabilities and that persons with social disadvantages or handicaps are not by virtue thereof made eligible for services under this program.

### SECTION 102. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

The House bill provides that the written program shall set forth the terms and conditions under which goods and services will be provided to individuals.

The Senate amendment specifies that, in addition to the terms and conditions, the "rights and remedies" under which goods and services will be provided to individuals shall also be set forth.

The House recedes.

The House bill provides that each written program will be reviewed annually at which time each individual will be afforded an opportunity to review and reconsider its terms.

The Senate amendment provides that the individual may have an opportunity to review such program and renegotiate its terms annually.

The conference agreement, in lieu of "reconsider" in the House bill and "renegotiate" in the Senate amendment, inserts the words "jointly redevelop".

In addition, the Senate amendment provides that the program shall include, where appropriate, a detailed explanation of the availability of a client assistant project.

The House bill has no comparable provision.

The House recedes.

### SECTION 104. NON-FEDERAL SHARE FOR CONSTRUCTION

The House bill provides that the non-Federal share is subject to such limitation as may be prescribed in regulations issued by the Commissioner. The Senate amendment provides this authority to the Secretary. The House recedes.

### SECTION 110. STATE ALLOTMENTS

Existing law provides that the allotment to the States be based on the amount authorized to be appropriated.

The House bill provides no change in this provision.

The Senate amendment would base the allotment on the amount of money appropriated.

The Senate recedes.

Existing law provides that the allotment to any State shall be at least $1,000,000. This minimum is provided by reducing each State's allotment proportionately.

The House bill provides that a State shall receive no less than $2,000,000 or ¼ of 1% of the amount appropriated, whichever is greater.

The Senate amendment provides that each State shall receive ¼ of 1% or the alternative minimum amount ($2,000,000 unless adequate funds are not appropriated in which event a $1,000,000 minimum would apply to assure that each State receive the same amount as received for the Basic Program under section 2 for FY 1973).

The Senate recedes.

The House bill, but not the Senate amendment, provides that in the event a state allotment is less than the total payments received under section 2 of the Vocational Rehabilitation Act for FY 1973, such State shall be entitled to such additional amounts as necessary to prevent such decrease in payments.

The Senate amendment provides that if adequate funds are not appropriated to permit payment of the $2 million minimum to each State entitled to such minimum without reducing any other State's allotment below its FY 1973 amount, the minimum shall remain at $1 million.

The Senate recedes, subject to technical changes in the House provision to clarify the meaning.

The House bill provides that whenever the Commissioner determines that a State will not utilize its allotment, he shall make such amount available to one or more States. The Senate amendment provides similar authority, after reasonable opportunity for the State agency involved to submit comments. The House recedes.

### SECTION 111. PAYMENTS TO STATES

The House bill provides that the Commissioner, whereas the Senate amendment provides that the Secretary, shall make the payment to the States. The House recedes.

### SECTION 112. CLIENT ASSISTANCE

The Senate amendment, but not the House bill, requires the Secretary to set aside a portion of the funds appropriated for special projects and demonstrations (section 304 in the Conference report) to carry out client assistance demonstration projects.

The amount set aside was up to $1.5 million, but not less than $500,000 for FY 1973; and up to $2.5 million but not less than $1 million for FY 1974 and FY 1975.

There were to be no less than 10 and no more than 20 geographically dispersed projects.

The purpose would be to provide counselors to inform and advise clients and client applicants in the project area of all available benefits and to assist them in their relationships with projects, programs and facilities.

The project staff was to be afforded reasonable access to policy-making and administrative personnel of State and local rehabilitation programs.

The project must submit an annual report, through the State agency, to the Secretary and the Congress.

A State agency must not discourage individuals from availing themselves of the project services.

The project shall be funded, administered and operated by the State agency.

The Conference agreement contains the Senate provision with the following modifications:

(1) The amount set aside is to be up to $1.5 million, but not less than $500,000 for FY 1974, and up to $2.5 million, but not less than $1 million, for FY 1975, but funds authorized to carry out this program will be made available only if new dollars are added to section 304 funding for special projects and demonstrations above the amount obligated for such projects from appropriations under the Vocational Rehabilitation Act in fiscal year 1973. It is the understanding of the Conferees that no funds will be taken from other sections to pay for client assistance projects and that the level of funding of existing programs under section 304 will not be reduced to provide funding for those projects.

(2) Assistance in relationships with projects, programs, and facilities would be provided clients and client applicants only upon request of a client or client applicant.

(3) The number of such projects and demonstrations would be not less than 7 nor more than 20.

(4) The employees of the projects may not be presently serving as staff or consultants or receiving benefits of any kind from a rehabilitation project, program, or facility funded under this Act in the project area.

(5) Each project is to be afforded reasonable access to policy-making and administration personnel in State and local rehabilitation programs, projects, and facilities.

(6) Projects may be carried on only with the concurrence of the appropriate State agency.

### SECTION 120. STATE ALLOTMENTS

The House bill establishes, for innovation and expansion grants, a minimum of $50,000 or such other amount specified as a minimum allotment in an appropriations Act.

The Senate amendment establishes the same minimum, but with no reference to an appropriations Act.

The House bill provides authority to the Commissioner under this part, whereas the Senate amendment provides authority to the Secretary.

In both instances, the conference report includes the language of the Senate amendment.

### SECTION 121 PAYMENTS TO STATES

The House bill provides that funds appropriated shall remain available through FY 1976. The Senate amendment provides that funds shall remain available through FY 1975. The Senate recedes.

### SECTION 130. SPECIAL STUDY

The House bill requires the Commissioner to conduct a special study of the needs of severely handicapped individuals which would include research and demonstration projects, whereas the Senate amendment provides that the study may include such projects. The Senate recedes.

The House bill authorizes the appropriation of such sums as are necessary to carry out the purposes of the special study. The Senate amendment would earmark funds appropriated for innovation and expansion grants (section 100(b)(2)) to carry out the purposes of this provision. The House recedes.

The Senate amendment requires the report to be submitted no later than January 1, 1975. The House bill requires the report no later than June 30, 1975. The conference agreement requires the report to be submitted no later than February 1, 1975.

### SECTION 200. DECLARATION OF PURPOSE

The Senate amendment, but not the House bill, contains a declaration of purpose for a research and training title. The House recedes.

### SECTION 201. AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING GRANTS

RESEARCH

| | House | Senate |
|---|---|---|
| Fiscal year 1973-- | -- | [1] $20,346,000 |
| Fiscal year 1974-- | Such sums | [1] 25,000,000 |
| Fiscal year 1975-- | Such sums | [1] 25,000,000 |

[1] Plus for each such year such additional sums. Of the funds appropriated 15% in FY 1973, 20% in FY 1974, and 25% in FY 1975 are to be expended pursuant to section 202(b)(2) (Establishment and support of Rehabilitation Engineering Research Centers).

TRAINING

| | House | Senate |
|---|---|---|
| Fiscal year 1973-- | -- | [2] $27,700,000 |
| Fiscal year 1974-- | Such sums | [2] 27,700,000 |
| Fiscal year 1975-- | Such sums | [2] 27,700,000 |

[2] Plus for each such year such additional sums.

The Senate amendment, but not the House bill, provides that funds appropriated under this title shall remain available until expended.

The House recedes on both items with respect to FY 1974 and 1975. With respect to FY 1973, see explanation of section 500(b).

### SECTION 202. RESEARCH

The House bill provides that the Commissioner, whereas the Senate amendment authorizes the Secretary through the Commissioner in coordination with other appropriate HEW programs, to make research grants and contracts. The House recedes.

The House bill, but not the Senate amendment, includes a program for end-stage renal disease research. The Senate recedes.

### SECTION 203. TRAINING

The House bill provides that the Commissioner, whereas the Senate amendment provides that the Secretary through the Commissioner in coordination with the other appropriate HEW program, is authorized to make training grants and contracts. The House recedes.

### SECTION 204. REPORTS

The Senate amendment, but not the House bill, requires a full report on research and training activities. The House bill contains no comparable provision. The House recedes.

The Senate amendment creates a separate title (title II) for the research and training provisions. The comparable provisions are contained in the House bill among those in title II. The House recedes.

### SECTION 300. DECLARATION OF PURPOSE

The Senate amendment contains a declaration of purpose for a title III—Special Federal Responsibilities. The comparable title in the House bill does not. The House recedes.

### SECTION 301. AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION OF REHABILITATION FACILITIES

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | ---------- | [1] $550,000 |
| Fiscal year 1974 | Such sums | [1] 500,000 |
| Fiscal year 1975 | Such sums | |

[1] Plus for each such year such additional sums.

The Senate recedes.

### SECTION 302. AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | ---------- | [1] $10,300,000 |
| Fiscal year 1974 | Such sums | [1] 10,300,000 |
| Fiscal year 1975 | Such sums | [1] 12,000,000 |

[1] Plus for each such year such additional sums.

The Senate recedes.

The House bill authorizes the Commissioner, whereas the Senate amendment authorizes the Secretary, to make grants to pay up to 90% of the cost of projects for providing vocational training services to handicapped individuals. The House recedes.

### SECTION 303. MORTGAGE INSURANCE

The House bill authorizes a program to provide mortgage insurance for rehabilitation facilities to insure up to 100 percent of any mortgage which covers construction of a public or nonprofit private rehabilitation facility. Administration of the program may be delegated to HUD. Total outstanding mortgages insured may not exceed $250 million. The Senate amendment has no comparable provision. The Senate recedes, except that the $250 million limit is reduced to $200 million.

### SECTION 205 OF THE HOUSE BILL. ANNUAL INTEREST GRANTS

The House bill authorizes the payment of annual interest grants to States and public or nonprofit agencies to reduce the cost of borrowing for construction of rehabilitation facilities.

The interest grant will be sufficient to reduce by 4 percentage points the interest rate otherwise payable or by one-half of such rate, whichever is the lesser.

The section authorizes necessary appropriations for the grants and provides that the amount of grants payable will not exceed $1 million in fiscal year 1974, and $4 million in fiscal year 1975. It also provides that no more than 15 percent of the funds provided for interest grants may be used in any one State.

The Senate amendment contains no comparable provision.

The Conference substitute does not include this provision.

### SECTION 304. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | | [1] $12,000,000 |
| Fiscal year 1974 | Such Sums | [1] 15,000,000 |
| Fiscal year 1975 | Such Sums | [1] 17,000,000 |

[1] Plus for each such year such additional sums.

The house recedes with respect to fiscal years 1974 and 1975. With respect to fiscal year 1973, see the explanation of section 500 (b).

The Senate amendment, but not the House bill, would require a specific set-aside of 10% of the funds appropriated under this section for services for migratory agricultural workers and further authorizes additional appropriations specifically for such services if necessary to bring the amount available up to $5,000,000. The House recedes with an amendment reducing the set-aside to 5%.

The House bill authorizes the Commissioner, whereas the Senate amendment authorizes the Secretary, to make grants for special projects for handicapped individuals with special problems (spinal cord injured, older blind, and deaf persons, migratory agricultural workers, etc.) The House recedes.

Under the House bill, special project grants for establishing programs and facilities are to be made only to individuals with spinal cord injuries, older blind individuals, and deaf individuals whose maximum potential has not been achieved.

Under the Senate amendment, such grants are to be made to all handicapped individuals for the provisions of services which hold promise of expanding or otherwise improving services to handicapped individuals on such grants shall include grants for services for the individuals mentioned above. The House recedes.

The Senate amendment includes in section 303(b)(2) in clauses (A), (B), (C), and (D) provisions which shall be included in project and demonstration grants for providing services to individuals with spinal cord injuries. The House bill contains no comparable provision. The House recedes.

Both the House bill and the Senate amendment provide that services are to be provided to the families of migratory workers; however, the House bill, but not the Senate amendment, specifies that this is to be the case whether or not such family members are themselves handicapped. The Senate recedes.

Both the House bill and the Senate amendment authorize agreements with employers to prepare handicapped persons for suitable and gainful employment and the provision of technical assistance to rehabilitation facilities and for the removal of architectural and transportation barriers. The House bill gives authority under this section to the Commissioner, while the Senate amendment gives the authority to the Secretary. The House recedes.

The House bill authorizes the appropriation of such sums as may be necessary for each of FY 1974 and FY 1975 for construction and operation of the Center. The Senate amendment authorizes the appropriation of $1,200,000 for the 3-year period—FY 1973, FY 1974 and FY 1975—plus such additional sums for construction and such sums as may be necessary for operation of the Center. The Senate recedes.

### SECTION 306. GENERAL GRANT AND CONTRACT REQUIREMENTS

The House bill places authority for carrying out this section in the Commissioner, whereas the Senate amendment places authority in the Secretary. The House recedes.

### SECTION 400. ADMINISTRATION

The House bill authorizes the Secretary to make such rules and regulations governing the administration of title III, Administration and Program and Project Evaluation; title IV, Office for the Handicapped; and title V, Miscellaneous. The House bill further authorizes the Secretary to delegate this authority.

The Senate amendment authorizes the Secretary to make such rules and regulations as he finds necessary to carry out the provisions of title I, Vocational Rehabilitation Services: title II, Research and Training; title III, Special Federal Responsibilities; and title IV, Administration of Program and Project Evaluation. The Senate amendment authorizes only such delegations of authority as are otherwise provided for in the Act.

The House recedes.

### SECTION 403. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION

The House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for program and project evaluation.

The Senate amendment limits the amount which may be appropriated to an amount equal to one-half of 1% of funds appropriated for titles I, II and III, or $1,000,000—whichever is greater. The House bill contains no comparable provision. The House recedes.

### SECTION 404. ANNUAL REPORT

The Senate amendment, but not the House bill, specifically requires the report on title I to include detailed evaluation of service to those with the most severe handicaps.

The House bill requires the report to include a detailed evaluation of all persons receiving assistance under title I.

The Senate recedes with an amendment requiring that the report on title I services stress evaluation of services to those persons with the most severe handicaps.

### SECTION 405. SECRETARIAL RESPONSIBILITIES

The House bill in a separate title IV would establish an Office for the Handicapped in the Office of the Secretary of HEW to perform a number of general coordinating functions such as long-range planning, program analysis and evaluation, and an information and resource clearinghouse.

The Senate amendment requires that the same functions be performed by the Office of the Secretary, but permits without specifically mandating a structural component to carry them out.

The Conference agreement includes the Senate provision.

The Senate amendment requires the Secretary to give special emphasis to qualified handicapped individuals in selecting personnel to assist in the performance of the function assigned to the Secretary. The House bill contains no comparable provision. The House recedes.

### AUTHORIZATIONS OF APPROPRIATIONS

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | ---- | Such sums |
| Fiscal year 1974 | Such sums | $500,000 |
| Fiscal year 1975 | Such sums | 500,000 |

The House recedes with respect to fiscal year 1974 and 1975. With respect to fiscal year 1973, see the explanation of section 500(b).

The Senate amendment requires the Secretary to set aside out of sums available to carry out the Act or available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section. He is required also to notify the appropriate committees of Congress of the amounts so set aside. The House bill contains no comparable provision. The House recedes, with a clarifying amendment.

SECTION 407. STATE ALLOCATION STUDY

The Senate amendment requires a thorough study of the allotment of funds among the States of grants for basic vocational rehabilitation services authorized under title I. The House bill has no comparable provision. The House recedes.

SECTION 500. EFFECT ON EXISTING LAW

The House bill in subsection (a) repeals the Vocational Rehabilitation Act effective July 1, 1973, whereas the Senate amendment repeals it 90 days after the enactment of this Act. The House recedes.

The House bill in subsection (b) extends to FY 1973 the authorizations in the Vocational Rehabilitation Act at the level specified for FY 1972. The Senate amendment contains no comparable provision. The Senate recedes.

The House bill in subsection (c) makes the Act effective July 1, 1973, except subsection (b) of this section, which it makes effective July 1, 1972. The Senate amendment contains no comparable provision. The House recedes.

SECTION 501. EMPLOYMENT OF HANDICAPPED INDIVIDUALS

The Senate amendment, but not the House bill, establishes an Interagency Committee on Handicapped Employees.

The purpose of the Committee is to provide a focus for Federal and other handicapped employment, provide for review and approval by the Civil Service Commission of the adequacy of hiring, placement, and advancement practices of Federal agencies with respect to handicapped persons, and for consultation by the Committee with the Civil Service Commission and the making of recommendations by the Committee.

Each Federal department and agency in the executive branch of government (and the Postal Service and Rate Commission) is required to submit to the Civil Service Commission within 180 days after enactment an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals.

The Civil Service Commission is required on June 30, 1974, and at the end of each subsequent fiscal year, to make a complete report to the appropriate committees of Congress on the hiring, placement, and advancement of handicapped individuals in the Federal government, including its recommendations as to legislation or other action to insure the adequacy of such practices, which report shall include the Interagency Committee's evaluation of the Commission's activities.

The House recedes.

SECTION 502. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The House bill, but not the Senate amendment, directs the Board to undertake a study of transportation and housing needs and problems for handicapped individuals. The Senate recedes.

AUTHORIZATIONS OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

| | *House* | *Senate* |
|---|---|---|
| Fiscal year 1973 | | Such sums. |
| Fiscal year 1974 | Such sums | $1,250,000 |
| Fiscal year 1975 | Such sums | $1,500,000 |

The conference report authorizes the appropriation of $1,000,000 each for fiscal years 1974 and 1975.

SECTION 503. EMPLOYMENT UNDER FEDERAL CONTRACTS

The House bill permits the President to waive the requirements of this section relative to affirmative action programs for employment of handicapped individuals by Government contractors, when he determines that special circumstances in the national interest so require. The Senate amendment contains no comparable provision. The Senate recedes.

*Title Amendment.*

The Senate amendment, but not the House bill, contains a title amendment. The House recedes.

CARL D. PERKINS,
JOHN BRADEMAS,
PATSY T. MINK,
ALBERT H. QUIE,
EDWIN D. ESHLEMAN,
*Managers on the Part of the House.*

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
BILL HATHAWAY,
ROBERT STAFFORD,
ROBERT TAFT, Jr.,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, Jr.,
*Managers on the Part of the Senate.*

## PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 9293

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until midnight tonight to file a report on H.R. 9293, to amend certain laws affecting the Coast Guard.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 9553, PROFESSIONAL SPORTS—TV BLACKOUTS

Mr. MADDEN from the Committee on Rules reported the following privileged resolution (H. Res. 544, Rept. No. 93–501), which was referred to the House Calendar and ordered to be printed:

H. RES. 544

*Resolved,* That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of Rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9553) to amend the Communications Act of 1934 for one year with regard to the broadcasting of certain professional home games. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 9553, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1841, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 9553 as passed by the House.

Mr. MADDEN. Mr. Speaker, I call up House Resolution 544 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 544?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 544.

The SPEAKER. The gentleman from Indiana (Mr. MADDEN) is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 544 provides for an open rule with 1 hour of general debate on the bill (H.R. 9553) to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games, that is home professional sporting events. The resolution (H. Res. 544) provides for a waiver of clause 27(d) of rule XI of the rules of the House of Representatives, the 3-day rule.

It also provides that after the passage of H.R. 9553, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1841 and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 9553 as passed by the House.

The bill H.R. 9553 provides that if any game of a professional sports club is to be televised pursuant to a league television contract and all tickets made available 5 days or more before the scheduled beginning time of the game have been purchased 3 days or more before such time, no agreement preventing the televising of such game at the same time and in the area in which the game is being played will be valid.

Mr. Speaker, at the hearings before the Rules Committee it was brought out that the promoters of professional football and possibly baseball, basketball, and hockey have developed into something possibly converging on or becoming a promoter's bonanza to unreasonably profiteer on the sports loving public.

I used to attend football regularly when one could see the best games for $3 possibly, or at the most $4. Testimony was brought out before the Rules Committee that tickets have gone up and in some locations in the major part of the stadium the cost for a seat is $15, $20, and in some stadium locations $25.

The airwaves belong, as far as ownership is concerned, to the people of this country. Besides these high prices that the promoters of professional athletics pertaining to football, basketball, and hockey are charging, they are probably taking advantage of and violating all the price freezes, regulations of price control, and they are profiteering beyond all degree of imagination.

In fact, it was brought out, Mr. Speaker, that some of our big corporations in the country are buying up blocks of football and basketball season tickets, and they are distributing them out to their customers, friends, and the public, and they are securing tax exemptions on the same. Unless something is done to curtail this profiteering on sporting events millions of our youth will be denied the viewing and participation of recreation and athletic events which was enjoyed in former years. I fear possibly when Watergate closes, we may have stadium gate.

Mr. Speaker, I want to compliment and thank the Interstate and Foreign Commerce Committee and thank the Senate for passing this legislation, as I think it is high time for the Congress to do something about profiteering in professional sport.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I do not know whether I have anything else to say because I think the gentleman from Indiana has covered everything except Chappaquidick and the Bobby Baker case. I do not think professional football is a racket.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Indiana.

Mr. MADDEN. Mr. Speaker, I did not say professional football was a racket, but some of the promoters are making a racket out of it.

Mr. LATTA. Mr. Speaker, I am glad the gentleman has clarified that.

I think it is a clean sport, and I think the man at the head of it, Pete Rozelle, plays a pretty clean game. I think the American public is pleased with what they are getting. If they were not, we would not have this bill here today and there would not be the demand on the part of the American people to see these games that produced this bill.

I do not think I have ever seen in my time on the Rules Committee a bill get such a quick hearing in my life as this bill. As I understand from the chairman of the committee, they are going to rush this right down to the President today so that come Sunday, the American public can see these football games.

I think, even though I might disagree with some of the language in the bill, I think it is a good bill, a good rule, and I intend to vote for it.

Mr. Speaker, I am going to have to yield 5 minutes to the gentleman from New York, a former football player, Mr. KEMP.

(Mr. KEMP asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. KEMP. Mr. Speaker, I appreciate the gentleman's yielding. I hope that I do not come before the House as a professional football player. I come before the House as a colleague.

I hope the Members will recognize that I am taking this time during debate on the rule to make some points which under general debate I may not have the time to make in detail.

I do not oppose the rule. I am glad it is an open rule and that the bill will be open to amendment. I will have something to say at appropriate moments during the general debate.

I join my distinguished colleague from Ohio (Mr. LATTA), a member of the Rules Committee, in amazement over the dispatch with which this legislation is moving through the Congress and the speed with which we are handling an issue of such great national import. I believe in retrospect that only the Gulf of Tonkin resolution moved equally fast.

I take the floor today to speak in opposition to the legislation. Lest anyone say at the outset, "Jack Kemp has a vested interest," I will say, "Yes, I do." I am a player. I played professional football for 13 years. I have a vested interest in the pension plan.

I am a fan, like all other Members. I discuss football. I watch it with my children. I want to see more of it.

I have friends playing the game. I have owners as friends. The commissioner is a friend of mine.

I could not have, I guess, a more vested interest in all sides of it. I own season tickets for which I paid. I go to all the games I can.

But I oppose the legislation because, very sincerely, I do not believe it is going to be in the interest of professional football fans. I do not believe it is right for Congress to radically alter the merchandising of NFL TV policy which, over the years, has led to such a tremendous growth of the game, in the interest not just of owners, but of the players and fans as well.

The growth of professional football in the past decade has led to unprecedented job opportunities. There are more people playing football. There are better salaries and better fringe benefits than ever before in the game. Television has helped to contribute to that.

Rather than being "promoters" or "racketeers," as they have been so intemperately called, NFL owners are businessmen interested in maximizing their profits. At the same time they have brought a product to the consumer today that is popular and popularly priced. I might add, more people are watching football today than ever before because of a TV policy that provides for nearly 75 games a year to be broadcast into each league city each season.

When I started out in pro football in 1957, in the National Football League, there were only 12 teams, with few jobs, and salaries that were ridiculously low. One did not get any football games in his hometown when the hometown team was playing, and when they went on the road fans did not get road games telecast back home.

The basic argument to be used today, in favor of this legislation is well-known. Because there have been limited antitrust concessions made to pro football in 1961 and 1965, pro football owes the public a guio pro quo.

I am suggesting that the TV policy of the National Football League is now and has been in the public interest. It has been bringing more football games to more people than ever before, and it has also been in the interest of the players for it maximizes stadia attendance which in the final analysis is the lifeblood of the game.

The limited exemption to the antitrust laws that Congress granted, in 1961, had nothing to do with the blackout issue. That was granted to professional football in 1961, so that the NFL could pool their TV rights and sell them as a package. That had already been done in baseball, hockey, and basketball it had been done in the American Football League.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. LATTA. Mr. Speaker, I am glad to yield the gentleman an additional 3 minutes.

Mr. KEMP. Mr. Speaker, the 1961 exemption was not any blanket exemption from antitrust. Pro football is not exempt from antitrust; it is very much under the antitrust laws.

This is a very limited exemption. Did it work out to the interest of the fans? Yes. I will tell you why it did. What that 1961 exemption did was to allow the clubs to pool their rights in the TV product and offer it as a package, as the owners in the AFL and the other pro sports were already doing at that time.

It allowed them to turn around and broadcast to small markets: For instance, Green Bay, Wis.; Buffalo, N.Y.; Denver, Colo., and other areas of the country that could not compete with Los Angeles or Chicago in the TV market area.

Mr. Speaker, this was the NFL policy. So our games were being broadcast; the away games were being broadcast back to the home town. There was no blackout.

It is unprecedented, I believe, for Congress to tell someone how to merchandise his product, and in such a way as perhaps to radically alter what one feels is in the best interest of the continued growth of the game. And the growth of the game, I would suggest, has been in the best interest, not just of the owner, but it has been in the best interest certainly of the player and of the fan.

Mr. Speaker, I can speak with great passion on this subject, having come from the American Football League of 1960, when people were not attending the games in numbers that would allow the AFL to operate solvently.

Now they are making money for the first time in a long time. Second, there are more jobs, unprecedented jobs, and more people are watching TV than ever before.

Mr. Speaker, I will have more to say on the subject, but I do hope that my colleagues will give due consideration to this legislation.

I realize, as the National Football League realizes, that we are faced with a fait accompli. The Committee on Rules recommends passage.

The passage of the bill in the other body was overwhelming, and we are going to be asked today, I hope, to look at this on an experimental basis. I hope that we can come back in a year and take a look objectively and fairly at what has happened to pro football by this unprecedented action.

I believe fan interest will be reduced. The legislation will increase no-shows—that is, people who would buy tickets will remain home on a rainy or cold day and they will say, "I think it is just too much trouble to go to the stadium and see a game today, I'll stay home."

Mr. Speaker, I talked to the Buffalo Stadium authorities and other stadium authorities, and they tell me their construction bonds are being amortized by the revenue from the concessions. Concession revenues and consequently construction bond amortization payments will be reduced or jeopardized by no-shows.

In my opinion, the intent of legislation under consideration, while quite sincere is misguided. As one who opposes congressional action forcing pro football to radically alter the merchandising of their TV package, I am distressed to hear my position narrowly interpreted as pro business, or antiplayer, or even antifan. I believe those labels to be ad hominem. I submit that the TV policy of the NFL is more progressive today than ever before and that it is now and has been in the past an integral part of the tremendous growth of the game. This growth, I am persuaded, is as much in the interest of the fans and the players as it is for NFL owners.

Professional football is a very special kind of business venture. It requires the existence of a sports league, comprised of individual teams of competitive and approximate strengths and skills. Each team's financial stability is inextricably bound to the economic success of the other teams in the league. So in that sense it is a cooperative business enterprise, while at the same time, teams must be competitive on the field. It is this understanding which prompted, I believe, the Congress to extend two selective exemptions to pro football during the past 15 years—in 1961 covering the joint sale of TV contracts so as to allow all teams equal access to TV revenues, and in 1966 allowing the AFL–NFL to merge.

The effect of the exemption of 1961 has been, I believe, misunderstood. The pooling arrangement was to further equalize the resources of the NFL member clubs by having each team share on an equal basis in the TV revenues and also to provide that each team's away games be televised back to the home city. These two things the AFL, of which I was a member at the time, had already been allowed to do legally.

This was particularly important to cities with small TV markets which otherwise would not have been able to see their team play games on the road. I mention this because I have heard much criticism of the TV policy of the NFL for not serving the public interest, particularly in light of the two selective antitrust exemptions they have been given.

In actuality, the television policy of the NFL has, to a large extent, helped create the amazing market which it presently enjoys, the phenomenal growth of the sport over the past 15 years is unquestionable. Accessability to more teams, visibility on television, coverage in the news media, instant analysis by Howard Cosell are just a few examples of the mushrooming interest in the NFL and pro football. Attendance has grown from 3 million in 1957 to more than 15 million in 1972. More than 74 telecasts of NFL games reach into each league city on each Sunday afternoon. Average attendance has risen from 39,000 to over 60,000 per game. It seems to me that for Congress to upset the TV policy which has made much of this growth possible, would be a mistake which could precipitate serious problems.

It is obvious from the mood of the Congress that some form of this legislation will surely pass in the near future. I would hope that it would be on a 1-year experimental basis and that we come back here in a year and look fairly and objectively at the results. Some recent experiences, I believe, portend trouble.

My wife and I attended the most recent Super Bowl game in Los Angeles. Commissioner Rozelle lifted the TV blackout in Los Angeles when the game became a sellout 10 days in advance. Then, as some anticipated, almost 9,000 of those who purchased tickets did not bother to come to the game. It was a beautiful day. Sunny, warm and comfortable. But 8,746 persons decided it was more convenient to watch the game on their TV sets.

Suppose they had played the game the following day when the rain drenched Los Angeles. Half the seats in the Coliseum might have been empty. What would happen in the winter to cities and teams who have vested interests in concession, parking and radio revenues?

Football stadia would be cold places without people in the seats. Take away the spectators and the game will deteriorate. As the commissioner has said:

> What is most important is that as many fans as possible attend the games. Their presence vitally affects the competitive atmosphere. Fan dedication once lost may never be regained. We would far prefer to be criticized by crowds than to be ignored by empty seats.

During the 1972 season, a total of 624,686 tickets were purchased but not used. And this occurred in areas where home games were blacked out. To an extent, pro football is at the mercy of the weather. On two cold but clear December days in Kansas City, where the Chiefs play in a new facility, Arrowhead Stadium, more than 50,000 ticket purchasers did not attend the games. A December game between the New York Jets and Cleveland Browns was technically a sellout but 17,530 persons owning tickets did not show up in Shea Stadium.

In opposing these bills, Commissioner Rozelle has made an interesting point:

> We hear this proposal continually referred to as a "blackout" issue. The fact is that it is not a blackout issue at all. NFL home territories are no longer blacked out on Sunday afternoon even when the home team is playing a game at home; two or three NFL games are telecast in each home territory each Sunday afternoon. This proposal therefore does not deal with blackouts—it is an effort to prescribe by statute which NFL games must be telecast in what area on what occasion.

Pro football TV policy has been continually upheld in the courts. The legal right of the home team to black out games in its territory was first upheld by Federal Judge Allan K. Grim as long ago as 1953.

In 1962, a Federal judge in the city of New York upheld the legality of the NFL's TV blackout within a 75-mile radius, denying an injunction to compel a live telecast of the championship game in the New York area.

A Federal district court in California dismissed a suit to compel the NFL to telecast the 1967 Super Bowl game live in the Los Angeles area.

A Federal court in Florida dismissed a suit to force a live local telecast of the 1971 Super Bowl game in the Miami area.

A Federal district court in Louisiana upheld a local blackout of the 1972 super bowl game in New Orleans.

A Federal judge in Washington, D.C., upheld the local blackout of a national conference divisional playoff game at Robert F. Kennedy Stadium. Then the U.S. Court of Appeals, the ninth court to consider the issue since 1962, refused to overturn the findings of the lower court.

Pro football is experiencing unprecedented prosperity precisely because it has exercised restraint in its television programing. It learned from the example of the Los Angeles Rams in 1950. That was the year the Rams televised home games locally under the sponsorship of Admiral TV. Admiral guaranteed an annual gate revenue based on attendance of the five previous seasons. The result: even though the Rams won a conference championship, attendance declined by 46 percent. Admiral got stuck with a big tab.

Yet the game is not so strong as to be invulnerable. It is a game that cannot be played very often, thus league competition is limited to just 14 weekends. The NFL must attract maximum attendance within a short period; capacity crowds for each of seven home games is a minimum and necessary objective.

The two teams competing in a local football contest are not obligated to make their entertainment event available on free home television in the area where the game is being played any more than the producers of any other form of entertainment.

The practice is wholly without antitrust implications, since it has nothing to do with competition among the member clubs of the league, testimony of the Justice Department in behalf of the administration to the contrary notwithstanding.

As we discuss this issue in which professional football and Congress become embroiled, it is incumbent upon us to understand those conditions which make possible the continued fan involvement and enjoyment of the game, consistent with the rights and best interests of the players but, at the same time, we must not forget the need for continued growth of the game.

There exists a good deal of empirical evidence to support the contention that pro football has been a resounding success with players and fans. Attendance has grown from 3 million in 1957, when I was a 17th round draftee of the Detroit Lions, to more than 15 million in 1972. Average attendance has risen from 39,000 to 58,000 per game. Since 1957, 13 stadiums have been constructed, 3 more are in construction. In addition, stadium plans are under consideration in both Baltimore and Detroit.

So, too, television football fans have enjoyed increasing TV coverage of pro football. On any given Sunday afternoon, at least three pro grames can be seen in major cities.

From the players' vantage point, the picture is of course debatable but in my view the picture is impressive. Average salaries have jumped from $9,500 in 1957 to more than $30,000 in 1972, not including fringe benefits, insurance, and medical coverage valued at about $8,000 annually. In 1957, players had no pension plan. In 1972, a rookie who plays for 5 years and who starts to collect his pension at age 55 will receive $500 a month. If he starts to collect at 65, he will receive $1,250 a month. My pension after 10 years in the AFL will be around $650 a month at age 55 and $1,700 a month at age 65 whereas in 1965 it was $50 a month at age 65.

The number of jobs available in the ranks of pro football has grown from 396 in 1957 to 1222 in 1972.

Let me explain the central issue which sets pro football and other pro team sports apart from traditional business. Competition in professional football is not naturally derived. A sports league itself is an artificial conception kept alive by elaborate rules designed to develop an economic potential and provide stable employment opportunities. Without such rules, professional football would rapidly deteriorate into mere casual exhibitions of athletic prowess without an economic base and without widespread employment potential.

In the second place, the relationship which exists between member clubs of a single football league is wholly unique. If a league is to be successful, it must take steps to insure substantial equalization of opportunity among all clubs of its league. Failure to do so jeopardizes the league itself. This follows because the economic relationship between member clubs of a league is like no other relationship found on the American scene. Every club plays one-half of its games on the roads. Thus almost one-half of each club's gate income is directly dependent on the successful operation of every other franchise of the league. The home-away TV split is 60–40 percent. Because of the limited number of games possible in pro football, near capacity crowds are important to all clubs. A "sick" franchise is almost as much a problem for the other clubs of its league as it is for the club itself. Indeed, it has on occasion been necessary for the remaining clubs of a league to contribute financially to, or take over the operations of, individual clubs simply to insure the league's continued operation. The rules and practices of the sport make it less likely that "sick" franchises will exist. The draft and the option clause—those practices which make possible a greater equalization of talent—have made the professional football industry much more stable and more attractive to the public.

The courts have considered the rightful relationship of professional sports to the law on numerous occasions. In 1953, the Supreme Court in *U.S.* v. *National Football League* (116 F. Supp. 319) (E.D. Pa. 1953), said:

> Professional football is a unique type of business. Like other professional sports which are organized on a league basis it has problems which no other business has. The ordinary business makes every effort to sell as much of its product or services as it can. In the course of doing this it may and often does put many of its competitors out of business.
>
> Professional teams in a league, however, must not compete too well with each other in a business way. On the playing field, of course, they must compete as hard as they can all the time. But it is not necessary and indeed it is unwise for all the teams to compete as hard as they can against each other in a business way. If all the teams should compete as hard as they can in a business way, the stronger teams would be likely to drive the weaker ones into financial failure. If this should happen not only would the weaker teams fail, but eventually the whole league, both the weaker and the stronger teams, would fail, because without a league no team can operate profitably.
>
> The winning teams usually are the wealthier ones and unless restricted by artificial rules the rich get richer and the poor get poorer (as Commissioner Bell put it). Winning teams draw larger numbers of spectators to their games than do losing teams and from the larger gate receipts they make greater profits than do losing teams. With this greater wealth they can spend more money to obtain new players, they can pay higher salaries, and they can have better spirit among their players than can the weaker teams. With these better and happier players they will continue to win most of their games while the weaker teams will continue to lose most of their games. The weaker teams share in the prosperity of the stronger teams to a certain extent, since as visiting teams they share in the gate receipts of the stronger teams. But in time, even the most enthusiastic fans of strong home teams will cease to be attracted to home games with increasingly weaker visiting teams. Thus, the net effects of allowing unrestricted business competition among the clubs are likely to be, first, the creation of greater and greater inequalities in the strength of the teams; second, the weaker teams being driven out of business; and third, the destruction of the entire league.—116 F. Supp. at 323–24.

What Congress must consider, and what I hope the league and the players and fans will recognize is that limited antitrust exemptions which I think are properly within the purview of congressional action, stem from a need to preserve the "nature of the sport, and not a need to preserve the nature of the business." In other words, the exemptions are required to maintain the high degree of competitiveness in pro football, and not to give the pro football business any particular business advantages over any other kind of business enterprise.

While I am on the subject, and for the record, proposals have been put forth in the Congress as early as 1958 to accomplish these goals. Senator Hart introduced legislation which sought the same objectives in 1965. What must be done is to clearly place all professional sports firmly within the antitrust laws and then proceed to define with particularity those areas where exemptions are necessary to allow team sports to operate effectively within leagues; to take actions aimed at balancing playing strength and to preserve the integrity of the sport.

As a player in the AFL and as the president of the AFL Player's Association at the time of the AFL–NFL merger, I supported that move because I could foresee the day when the continued competition for talent between the AFL and the NFL would lead to the destruction of several AFL–NFL teams. The AFL could have died as the All-American Conference did in the early 1950's. It seemed logical to me, and in the best interest of the players I represented, to encourage participation in a 26-team league—stable, financially solvent, with greater employment for more football players all over the country, increased TV gates and boosted player pension plans and salaries. In retrospect, that was a wise decision. The deleterious effects some warned of did not come about. In fact, I believe the NFL players benefited as well, but most of all, I think, the fans of pro football have benefited.

Mr. MADDEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, in answer to some of the statements which were just made, I do not think anybody is opposed to football or professional football, but I have said before that we are opposed, I say advisedly, to the unreasonable increase in the prices of tickets and also the multimillions of dollars which are being paid by the networks for just a few minutes of television time.

The question at issue here is: Why is it that these promoters are against people living within a short distance of cities and towns where the games are being played and when the stadium is sold out.

Mr. Speaker, the people living within a short radius of those stadiums certainly are entitled to tune in and witness the event.

That is all this bill does. It gives the people in these areas an opportunity to sit in their homes and watch the games, when the stadiums are sold out.

I hope this antiblackout bill is passed by a large majority.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9553) to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9553, with Mr. ZABLOCKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I start I would like to indulge in a little bit of levity. If the House will listen to this for just a moment, I would like to read something. I was just handed a release which came over the wire service here, which reads as follows:

> WASHINGTON.—The House passed legistion today to lift the local television blackouts on home pro football games if they are sold out 72 hours in advance of the opening kickoff.
>
> House action followed approval of the bill by its Rules Committee.

Mr. Chairman, that is pretty fast action. It really is. There are a lot of people who have faith that we will pass this legislation, and I hope their prediction is true.

The Senate passed a bill on this matter last Thursday by a vote of 76 to 6. The Subcommittee on Communications and Power brought the bill before the House (H.R. 9553) with one dissenting vote, a voice vote, and the full committee then debated it, and it came out of the full committee with one dissenting voice vote.

This affects pro football, baseball, basketball, and hockey.

Here is the big thing I want all of you to remember. They have to be sold out 72 hours in advance.

We want to be fair with all of the professional sports leagues. I cannot see where anybody can complain if they are sold out 72 hours in advance. I cannot see why anybody would kick against this at all.

We say the ticket offices must be open 5 days ahead of time so they cannot wait until a day or 2 beforehand and say, "We have not sold two or three tickets here." I do not see why the people who pay the taxes to build these stadiums should not have an opportunity to see what they paid for and the sold out games which are played inside the stadium.

That is all we are doing here. We are permitting the citizens who paid the taxes to build some of these stadiums and arenas to see the sold out professional football, baseball, basketball, and hockey games that are played inside and televised elsewhere under a league television contract.

I do not think anybody can disagree with that in any way.

The Senate is standing by right now, waiting for this legislation, and I hope that we can vote right away. I talked with Senator PASTORE, and he said to me that he was having a hard time keeping some of the Members of the Senate around there to vote on the bill this afternoon. They are waiting for us to send it over. I hope that we can get through with the bill shortly.

The committee has one amendment, and perhaps two. One of them is to agree with something that was discussed in talking with Senator PASTORE. This would terminate the legislation on December 31, 1975. The other is a technical amendment.

There are a lot of people who want to speak on this because I know it affects the constituents of most everyone in this House. I am going to ask unanimous consent for everyone to have the privilege of revising and extending their remarks on the legislation. I hope we will not have too much debate on it. I hope that within the next 15 to 20 minutes we can go into the amending stage.

The Justice Department is for the bill, and the President has stated publicly that he is in favor of the bill.

With those remarks, I will be glad to answer any questions. That is just how simple the bill is. It provides that if the stadiums are sold out 72 hours in advance then the people in the city which would otherwise be blacked out would have an opportunity to see that game. I do not see where anyone could disagree with that. It is just that simple a proposition.

Mr. Chairman, I will now yield such time as he may consume to the chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD). H.R. 9553 is his bill.

Mr. MACDONALD. Mr. Chairman, I appreciate the Chairman, the gentleman from West Virginia (Mr. STAGGERS) yielding to me. I intend to be just as brief as I possibly can.

I think we all understand the bill, more or less. I am sure everyone has their mind made up. But in order to comply with the rules of evidence, and have something in the record that can be shown, if anyone appeals to the Supreme Court, I think we ought to present just a little legislative history.

I would like to point out that those Members who have taken the time to read the bill find that we have bent over backward as far as our committee was concerned to be fair to everybody concerned.

I have no quarrel with the gentleman from Indiana, but I do not agree with the gentleman that this sport has in any way, shape or form been taken over by racketeers or that it is operated as a racket, or anything else. It is a good sport; it is a great sport. We are trying to help it, and to see it prosper.

As a matter of fact, we have helped it prosper. As the Members know, when we gave them the antitrust exemption in 1961, it went to network contracts, negotiated between the league and a network. That was a violation of the antitrust laws without our exemption. I believe we did so wisely, and that it was in the interest of the public as well as the interest of the owners of those teams in giving them this. And, believe it or not, the figures that are available show that the NFL's income received from TV has gone up 700 percent since that time. Now they rely very heavily on the revenue that comes from radio and TV.

I believe that we asked very politely for 2 years running if they would please take into consideration a lifting of the blackouts in a situation where all of the tickets had been sold out.

I personally thought that a 48-hour sellout was enough, but they made a case, and the committee—Mr. STAGGERS and the rest of us—went along with 72 hours. That is 3 days before the game. Everyone is saying that this is going to adversely affect football. It is not going to adversely affect football—if the Members listen to the people who are saying we are hurting football—because when the sale of these tickets drops off, this bill becomes inoperative. They have to have a sellout 3 days in advance before the sanctions this bill become operative.

Personally, I see nothing unfavorable to football in that.

People have talked about the no-shows. I think one reason that there were no-shows at the Super Bowl—where Mr. Rozelle and others had reference to straws in the wind and things that might come about—was the fact that, as we saw in this week's paper here in Washington, scalpers were trying to unload their tickets and scalpers would never show anyway, because they just went into it as a commercial venture. So even before the bill has taken effect we have done some good for the people of Washington in eliminating the scalpers' market.

But to go into details of how the bill operates, in addition to the blackout, we have provided for injunctive relief in the event that the league tries to get around the prohibitions that this bill contains. Any interested person can seek injunctive relief at the nearest court. I might say, parenthetically, that having listened to the owners of some of the clubs and to Pete Rozelle, the commissioner of football, I am personally convinced that they will not try to contravene either the spirit or the intent of the legislation that I hope will come out of this House and has already come out of the Senate.

As reported by the subcommittee and subsequently by the committee, H.R. 9553 is in the form of permanent legislation. It is my firm belief, and the belief of the overwhelming majority of the committee members, that permanent legislation is entirely justified. There was no indication in any of the testimony before the subcommittee that the conditions affecting the telecasing of professional sporting events were likely to change within the foreseeable future in light of the legislative action proposed by H.R. 9553. Thus, the subcommittee decided to approach the problem on a permanent basis.

The alternative suggested by National Football League commissioner, Pete Rozelle and that contained in the Senate bill is a 1-year experiment beginning this season. However, as Commissioner Rozelle testified, the validity of a 1-year approach is seriously compromised inasmuch as tickets have already been sold and policies already determined for the season which begins next Sunday; and obviously, therefore, the 1973 season would not be a fair trial.

Thus, in an effort to avoid a time-consuming conference with the Senate which would delay the final enactment of this important legislation beyond the opening of the new season, I have proposed to the sponsor of the Senate bill, Senator JOHN PASTORE, that we agree on a bill which would be in effect until December 31, 1975. Senator PASTORE has agreed to abandon his 1-year experimental legislation in favor of the approach embodied in H.R. 9553 with the amendment which I proposed to him. He has assured me that such a bill will be acceptable to the Senate, thereby avoiding the necessity of a conference on this legislation.

The legislation before us is a bill which truly serves the public interest and which merits the support of every Member of the House. I ask that we move with all possible speed to adopt H.R. 9553 with the amendment which will be offered by either Mr. STAGGERS or myself.

We have been fair, in my judgment, to the league. The league is well run; the league has prospered; the American people have supported football; they will continue to do so, in my judgment; and I feel that those fans who would like to purchase tickets to go see the games that are sold out should also be considered. This is no free ride. This is not telling the National Football League that they have to give away their product. They are selling a product; it is a good product. The American people buy it. Many of us here buy it.

I urge that we all get together about this. I do not personally share the remarks against football, as the gentleman from New York (Mr. KEMP) knows, having testified before our subcommittee.

I feel it is a great sport; it is a well-run sport; and I hope that the Members will have an opportunity to read the bill to see what it does and will see that this is a good idea. Let us pass this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, an overwhelming majority of my colleagues and I urge prompt and full support of H.R. 9553, the bill which lifts local television blackouts of home games of professional football, hockey, baseball, and basketball. Our rapid and virtually unanimous committee action on the bill was the result of widespread interest in the issue, full and thorough hearings and past congressional help for professional sports.

In 1961, Congress granted the four major leagues exemption from anitrust provisions so each league, acting on behalf of their member teams, could negotiate and collectively sell leaguewide broadcast rights to network media. Congressional intent at that time was to help professional sports attain financial stability and viability. Our goal was achieved, especially in professional football.

In 1961, primarily all of NFL revenues were derived from gate receipts, whereas presently about one-third of NFL revenue is derived from television contracts. In 1962, the first year under the exemptions, the television contract amounted to $4.6 million or $332,000 for each of the 14 existing NFL clubs. The eight AFL clubs received about $212,000 each. Presently, the television contract for the league is reported to amount to $46 million or $1.8 million for each club.

Furthermore, professional football also gained unprecedented popularity. Four additional club franchises have been granted. Additional games are being played by each team. Most clubs have obtained new or enlarged stadiums.

Attendance has more than doubled. In recent years, this increased attendance has resulted in a great many sold-out games. In 1972, a total of 12 clubs sold out all of their games prior to the beginning of the season; 124 of the 182 games played in 1972 were sold out; 95 percent of the games played had 95 percent or more capacity crowds.

The league and the teams have benefited.

The wealthy investors and owners have profited further.

The season ticketholder has benefited.

But, a tremendous number of local fans cannot even watch their home team play. About 35 percent of the Nation's population resides in blacked-out areas.

In view of these factors, and in view of the fact that the blackouts no longer seem necessary, the obviously appropriate action for league officials was to lift the blackouts. But the response of the NFL and the other power brokers was a not-too-subtle "Public be damned." Apparently the wealthy cannot appreciate the needs of those without season tickets and without the resources to buy them.

Their attitude left no choice for Congress. Your committee reported H.R. 9553 which lifts blackouts but also protects the teams affected. Under its provision, a home game has to be sold out 72 hours in advance, before the local blackout can be lifted. And, under its provisions, the FCC will study the effect of the legislation, reporting to Congress once annually. As the ranking Republican on the Communications and Power Subcommittee I know our committee will give the utmost annual scrutiny to the effect of our legislation.

The legislation, indeed, has adequate safeguards.

It is needed.

And the need for H.R. 9553, as the chairman of our subcommittee pointed out, is now.

I urge your suppport of this legislation.

Mr. Chairman, I would like to clarify one point with the chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD). I want to make clear in legislative history this point, that on games where it has been previously agreed that the blackout will be lifted and they would appear on free TV, all free TV would have the opportunity to bid on those games?

Mr. MACDONALD. Commercial TV, all commercial TV.

Mr. BROWN of Ohio. Ordinarily we do not, by arranging for that, bar the possibility of pay TV also having an opportunity to show those games although not with priority over free TV.

Mr. MACDONALD. That is correct. That is under the present setup of CATV.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the House is acting now on this legislation which is of an experimental nature over a period of 3 years.

One thing concerns me. While I do not expect it to happen, it is conceivable that in a few years the FCC, which is to study this issue, or the leagues could present Congress with convincing evidence demonstrating that the blackout is essential to the continued viability of pro sports. If after thorough reexamination we decide not to renew the legislation, I would hope today's legislation would have no precedential influence or effect on future league arrangements for the sale of game rights or FCC regulations dealing with such. Is this a correct interpretation?

Mr. BROWN of Ohio. I am not sure I got what the gentleman's effort to make legislative history is aimed at. What does he mean by not being a precedential?

Certainly, what we have established is precedent in the law.

Mr. MURPHY of New York. Would this be purely limited to free television, or if we repealed this at a future time, would the opportunity for cable or commercial systems have the ability to bid with the teams over the league?

Mr. BROWN of Ohio. I assume that decision would have to be made at the time of whatever decision the Congress would have to make when it failed to renew this legislation, or to repeal it.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the chairman of the subcommittee for his comment.

Mr. MACDONALD. Mr. Chairman, it is quite a way down the pike and sort of an iffy question. I can answer the gentleman directly by saying that this legislation is not aimed to affect the operating process or competitive open market. But this would not preclude anybody from entering into businesslike negotiations for the league with whomever they want to deal with. The league contract has another year to run. They have initialed a contract which will extend for a 4-year period, which is much longer than this bill has effect. They will be locked into that agreement and it has already been initialed and is just awaiting the regular procedure of signature. That will be done very quickly, and that contract covers commercial TV.

Mr. MURPHY of New York. Mr. Chairman, I am happy that the legislation will not be prejudicial in this instance.

Mr. HUDNUT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Indiana.

Mr. HUDNUT. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Ohio and in support of the legislation.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I do not think the gentleman in the well wants to leave the impression that football fans are not now able to see their own hometown team.

Mr. BROWN of Ohio. They are, where those games are blacked out, unless they want to travel to a location where it is on television.

Mr. KEMP. Could the gentleman tell me if he remembers when the telecasting of road games back to hometown territory became NFL policy?

Mr. BROWN of Ohio. In all professional sports there was a reluctance to accept television because nobody was quite sure what the impact was going to be. That reluctance apparently still exists by the resistance we have had to this legislation.

The point I have tried to make in my comments is that football—in particular football—has benefited. So has baseball and presumably basketball and hockey, because those professional teams are doing better since they have been televising games.

Mr. KEMP. Will the gentleman concede that fans in a hometown territory are, because of that 1961 limited exemption, now able to see their team on TV even when they are on the road?

Mr. BROWN of Ohio. Yes. We would like for them to see the home games too.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, for the benefit of the gentleman from New York (Mr. Kemp) I also did not get a chance to go into the second exemption in the antitrust exemption which we gave the league in 1966 when we permitted a merger tacked on by the Senate of a nongermane amendment to a tax bill coming over here. It was also in 1966 that away from home games were piped back on a continuous basis including for the first time other games when the home team was itself playing at home.

Mr. FREY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I am glad to yield to the gentleman from Florida.

Mr. FREY. I should like to point out that televising back of the away games of the NFL was not an altruistic thing. That was because the AFL was coming on. It was only the competition that moved them finally to do it.

Mr. BROWN of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Collins), a member of the subcommittee.

Mr. COLLINS of Texas. Mr. Chairman, this piece of legislation has been handled most fairly by our chairman.

I want to comment on one of the most important features of the legislation, and that is this addition of putting a date certain for termination of this transition type legislation. Under the bill now, we include 1973, 1974, and 1975 for the test period.

Mr. MACDONALD. That is correct.

Mr. COLLINS of Texas. During these years our committee plans to review it, for any possible problems that can arise because of this legislation on the TV blackout being lifted.

Mr. MACDONALD. That is correct. In the meantime, the FCC is directed to report to the Commerce Committee of the Senate and the Interstate and Foreign Commerce Committee of the House by April 15 of each year on the progress under this bill.

Mr. COLLINS of Texas. Our chairman is probably the best qualified and certainly the best informed man of any of those who are in the Chamber. He was the best halfback that Harvard ever had. As I watch the Boston Patriots play today, sometimes I feel he should take up that pursuit again.

I should like to point out that there are some three or four special matters I should like to see us keep an eye on.

In the first place, the number of people who show will definitely be off at these ballgames. That will affect the concessions. They make an average of 60 cents for every person at a game, as a net profit, so if they are off 20,000 fans that would be $12,000 less margin.

If they are off 20,000 fans, the parking will be off probably $20,000, also.

There are other phases of it that are going to be hurt, such as the season ticket sales. We cannot estimate the impact, as to what this is going to do with respect to season ticket sales. That is why it is so important that the chairman placed a termination date of 3 years. In 1975, we can review the results and fairly evaluate it.

This year the Washington Redskins are sold out. However, when the fans know that they can see the games at home next season, there will be a strong hesitancy to buy the season tickets, since the fans can stay at home and see the game at home, warm, and dry.

There is another thing that will have a strong impact on ticket sales. That is the fact that fans will wait until 3 days before the game. They will delay buying the ticket to see if the game is a sellout and they can see it free at home on television. When they have waited until the last 3 days—the chances are that they will wait those last 3 days—it will be hard to sell the remainder of the tickets. The net loss from ticket sales might be a great factor to the operating income of the team.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman yielding.

It is interesting to consider the effect of attendance being reduced to 10,000 to 12,000 per game over a season. We have to remember that pro football only has seven games at home and seven on the road. A diminution of net attendance of 10,000 to 12,000 per game over the season would almost reduce the club's income the same amount as the whole TV package for 1 year. That is what we are talking about. This is a very dangerous attempt, which will radically alter the TV package and may very well reduce radically the attendance at games. It could do considerable harm over a full year of the schedule.

Mr. COLLINS of Texas. That is certainly right.

All of us are interested in providing television for our hometown people. I know in my hometown we watch the Cowboys, and that is the highlight event every week. But, above that, we are interested in our team being a success, not only today but also tomorrow, and we are interested in seeing pro football be a success in the future. That is why we need to reevaluate this legislation on a year-to-year review.

Mr. MACDONALD. I should like to recommend to the gentleman that if Dallas wants to sell out they should remove the $300 bond one has to post in order to become eligible to buy a ticket.

Mr. COLLINS of Texas. I am sure in the future they will continue to have an aggressive ticket sales program, as the Cowboys look forward to every game being exciting.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. Frey) a member of the committee.

Mr. FREY. Mr. Chairman, I want to pay my respects to the chairman of the committee. I believe we had a tremendous range of testimony from witnesses representing all viewpoints.

I would also like to pay my respects to the gentleman from New York (Mr. Kemp) who, I believe, has most adequately presented one side of this issue. I wish to emphasize that there is more than one side of this issue.

For instance, Mr. Chairman, when the networks appeared in front of us, of course, they sounded very altruistic, but they wanted more advertising revenue. As in any business, they were interested in making every dollar they can out of their business, and rightly so.

After listening to the hearings for a number of days, I believe the one factor that swayed me in favor of this bill is the public interest. There is no question that there is some danger to the clubs. The effect of this bill has to be watched carefully. We do not want to turn football into a studio sport. We do not want the problems arising from a great loss of revenue.

Mr. Chairman, I do not think this is going to happen.

I might add, from a very personal standpoint, that there are potentially four new franchises in the league, and there are at least 24 cities around the Nation which are fighting to get these franchises. They are fighting to get those franchises today, with the knowledge that this bill is being considered here and will probably pass. These people do no want to lose money; they obviously think they are going to make money.

So I do not think that the future of pro football is in jeopardy at all, as do potential investors.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, I wish to say that I appreciate the gentleman's contribution. He is a very hard worker on the subcommittee.

I wish to point out that this is not directed toward the gentleman from Florida (Mr. FREY) but I have just been informed that the Senate is about to close up shop unless we get this bill completed.

Mr. STAGGERS. Mr. Chairman, I yield myself 1 minute here to give the Members some facts, and then I do want to get this thing finished up right away.

Mr. Chairman, I just wish to show the House a report that our Special Subcommittee on Investigations started on 1 year ago today, on this very day, and I wish to point out what the result of this was.

We made a survey of every professional football team in America and their season ticketholders. We went to the Bureau of Census for advice so the techniques we used would be entirely fair. They suggested how many names we should get from each football team, and we went to each team then and asked them to supply us with a specified number of names. In all, 8,200 season ticket holders were polled.

Mr. Chairman, we asked them about TV blackouts, whether they would be in favor of it or not. Sixty-nine percent of the ticketholders said they would be in favor of ending the blackout. The other 31 percent said they were not in favor of it and would surrender their tickets.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. STAGGERS) has expired.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wish to make this clear: That there has been a survey made of every pro football team in America and their season ticketholders.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, will the gentleman restate how many people there were in that poll who did say they would not buy a season ticket?

Mr. STAGGERS. Thirty-one percent.

Mr. KEMP. Thirty-one percent.

Mr. STAGGERS. That is 31 percent but the other 69 percent said——

Mr. KEMP. Mr. Chairman, I wish to thank the gentleman for making my point for me.

Mr. STAGGERS. No; that is not correct. I said that the other 69 percent said that they would buy the tickets of the 31 percent who would not buy.

Mr. KEMP. Mr. Chairman, it is not the 69 percent we are worried about; it is the 31 percent that bothers us. If we take 31 percent of the National Football League games into consideration, that is a serious decline in revenue.

Mr. STAGGERS. The gentleman did not understand me. Perhaps the gentleman cannot understand me.

I will repeat. Sixty-nine percent said they would buy the ones that were left, that if 31 percent said they would give them up, they would buy them.

Mr. Chairman, this is a copy of the report. The Members can see how large it is. We made a complete survey across America. I believe everyone in the House ought to be for this bill.

I just hope that we do not have any more debate on the bill and that we can get into the amendment stage so the legislation can be passed.

Mr. BROWN of Ohio. Mr. Chairman, I agree heartily with my distinguished colleague, the chairman of the committee, the gentleman from West Virginia, that we want to try to get this legislation over to the Senate this afternoon so that it can be acted on by them and hopefully passed today.

However, I do have a couple of other requests for time and one of them I feel I must absolutely recognize is the obligation to Mr. PARRIS, the gentleman from Virginia, who introduced this legislation on the 19th of July and who has been very persistent before the committee to get us to act on this and bring it before this body so that some of us in the Washington, D.C., area might have an opportunity to see some of the sold out games of the Redskins.

So at this time, Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Chairman, I would like to make a few brief comments at this time in connection with the so-called antiblackout legislation which comes before this body today. As you may recall, I was the chief sponsor of the original legislation under H.R. 9420 which was cosponsored by more than 60 Members of this House. The legislation is designed to prevent future television blackouts of the home games of professional sports teams when the games are sold out with no tickets remaining available for purchase by the general public. I would like to take just a brief moment to point out to my colleagues the merits of this measure.

This legislation is designed to assist the literally millions of Americans across this Nation who each fall are denied the right of viewing their favorite local National Football League team on television because of arbitrary action by the league which blacks out local television coverage of home football games even though those games may have been sold out months in advance.

The legislation would also cover any sold out and blacked out home games of the National Basketball Association, the American Basketball Association, the National and American Baseball Leagues, and professional hockey. However, since teams in those sports are not at this time flagrantly abusing their right to broadcast over the public air waves, the primary target of this legislation will admittedly be the National Football League, and the primary beneficiary of its passage will be the professional football fan.

The National Football League is the most prosperous professional sports organization in America today. It has obtained that status through the hard work and dedication of both athletes and owners because of the devotion of the American public and because Congress granted it an exemption from the antitrust laws!

Mr. Chairman, I do not question the hard work of the men who own and operate the individual teams which make up the National Football League. I do not doubt the dedication of the many gifted athletes who play in the NFL, but I do doubt and question the league's collective action to prohibit millions of devoted fans from seeing on television those games that are sold out, and I believe the league's action in this regard is a violation of the spirit if not the letter of the exemption agreement with Congress.

The National Football League's action in this matter is frankly, a slap in the face to the very people who helped make the league what it is today, and since officials of the league have repeatedly refused to voluntarily correct this situation, I believe we have no alternative but to correct it by the adoption of this legislation.

This measure would accomplish this purpose by amending the Communications Act of 1934 to prevent television broadcast stations, network broadcast organizations, or cable television systems from entering into or carrying out any agreement, express or implied, under which a station, network or system would be prevented from broadcasting the home games of any professional athletic team when tickets to the game have been sold out at least 72 hours in advance.

The 72-hour provision is an improvement to the original bill which I introduced—an improvement provided after hearings before the House Subcommittee on Communications and Power and a considerable amount of toil by our distinguished colleague from Massachusetts, Mr. MACDONALD, who is chairman of that subcommittee.

The subcommittee and the full Commerce Committee approved this legislation after making those changes which were necessary and I am confident the overall bill is one which is acceptable to the majority of my colleagues in both intent and substance.

A companion measure to this legislation, authored by the Honorable JOHN PASTORE of Rhode Island, has already passed the other body with only six dissenting votes and if passage is obtained here today, I have been assured by the White House that the President will quickly sign the enactment, so that relief may be provided as soon as possible for those fans who have been unable to obtain tickets for the regular season opening games to be held in the next few days.

In closing, Mr. Chairman, let me say

that the only argument which the NFL has presented against passage of this bill, other than a few self-serving declarations, has been the argument that the measure will result in financial disaster for league teams from coast to coast.

I do not happen to believe that is the case. Studies in the 26-team areas now covered by the league indicate that a great majority of those persons who purchased season tickets this year would have done so even if this bill had been enacted this time last year. What minimal losses might be actually realized in parking and concessions in the event of bad weather could, in my opinion, be more than made up by the addition of new television revenues which might be available if this legislation passes.

However, if I am mistaken, if the subcommittee was mistaken, and if a majority of my colleagues are mistaken, and as a result of this legislation there is any proven permanent significant financial damage to professional football, any of the other professional sports, or to the members of their teams, I will, next year be at the front of the fight to repeal this legislation—just as enthusiastically as I am now anxious to see it enacted, today.

Mr. LENT. Will the gentleman yield?

Mr. PARRIS. I yield to the gentleman.

Mr. LENT. Mr. Chairman, I rise in support of the measure. The situation in my native New York points up some of the inequities fostered by television blackouts.

One of the byproducts of the antitrust exemption tendered to the National Football League is that the New York Jets have been able to increase attendance at their regular season games by a whopping 300-plus percent in just 10 years. The present ratio of season ticket sales to paid attendance is better than 94 percent for the Jets while 90 percent of the Giants turnstile receipts are gobbled up by season ticket holders.

There are Jets and Giants fans who while away a decade on waiting lists for season tickets because individual game tickets are seldom available, save through scalpers.

Television has been a major factor in the skyrocketing popularity of football and rather than cut into attendance as some have contended a blackout lift would do—TV has increased gate receipts by increasing the number of fans who enjoy the game.

Claims by promoters that televising home games will hurt paid attendance are unproven and especially weak when, in fact, games are already sold out.

Mr. Chairman, I urge passage of this measure and am hopeful that it will further open major sporting events to public viewing. I know I speak for a vast majority of Long Islanders who will be grateful for the enactment of this legislation.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman.

Mr. McKINNEY. Mr. Chairman, I feel the present policy on sports blackout reflects a blatant disregard for the millions of avid fans in this country whose support keeps professional sports alive and profitable. It is an unnecessarily rigid, self-serving policy of arbitrary limitation of the use of public airwaves to insure large profits. It is in fact an arrogant mistreatment of the public.

As an example, let me describe to you the plight of the Connecticut football fan. Without a home team of his or her own, many Connecticut fans support the New York Giants, the New York Jets, or the New England Patriots.

Connecticut's Fourth Congressional District, which I represent, is in the southwestern part of the State, bordering on New York. For many years, the Giants held their training camp in my hometown.

Through their close association with many of my constituents and for a variety of other reasons, they gained a large number of loyal enthusiasts in the Fairfield County area. I would add that Joe Namath and the New York Jets are not without wide support in this area as well.

However, the vast majority of these people are prevented from seeing their heroes because of distance, the high number of season ticketholders and the obviously finite capacities of Yankee Stadium and Shea Stadium, the respective homes of the Giants and Jets. In all, the Connecticut fan suffers the same fate as the New York City dweller.

The only way a Connecticut fan can see the Giants or Jets is to drive outside the arbitrary 75-mile blackout area. This season, the Giants will play five home games in New Haven, Conn., at the Yale Bowl. It is my understanding that right now, just a few weeks before the opening of the season, an estimated 60,000 of the 70,000 seats at Yale Bowl have already been sold for the entire five-game series, mostly to season ticketholders. Therefore, the Connecticut fan will be further victimized by the blackout policy.

In assessing this deplorable situation, I keep asking, "Why the blackout?" The answers that come from league officials and club owners are a disgraceful affront to the public which, through the Congress, granted professional sports an anti-trust exemption in 1961. Do clubs really need the threat of a blackout to sell tickets? Are professional sports teams waiting for more lucrative paycable arrangements to broadcast contests to home fans?

These are questions which I believe can only be answered in good faith by the action of professional sports officials in supporting a program of no blackouts proposed in this legislation. If, after that time, ticket sales are down, then some other means to enlarge America's sports viewing audience can be investigated. I am confident, however, that this will not be the case.

I should add that a very important feature in this bill is that it does not apply to games which are not sold out. In other words, it only becomes operative and allows a local telecast if the game is a stadium sellout 72 hours before the kickoff.

There is no conclusive evidence that lifting the blackout will damage gate receipts. On the contrary, the telecast of sold-out home games will increase a team's local exposure and raise additional revenues through the sale of local television rights.

I hope my colleagues will also consider the fact that in many cities, sports arenas and stadiums are financed by local taxes and bonds. This fact, as well as professional sports' overall dependence upon the support of local fans for success, gives the fans a right to follow their favorite team.

Athletes of all kinds, from little league to olympic medalists, will testify to the enthusiasm of American sports fans.

It is the spirit of a competitive, winning people whose loyalty and fervor often provide the margin of victory in a close contest. These fans deserve much more than blackouts in return for their support. Therefore, I hope that this legislation will be passed.

Mr. BROWN of Ohio. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I am not going to take all of my time.

Much was made of the fact that this legislation is not aimed solely at pro football. Let us face it, this bill is aimed at pro football. Pro football has only seven home games in one season; that is the same number of games as there are in the World Series. Pro football has to do in its season of 7 games what baseball can do in 160 or 170 games. So it is pro football that we are talking about, and let us not kid ourselves about that.

We talked about the 1961 exemption. I tried to make the point earlier to my colleagues that the exemption also applied to every other sport, and the American Football League was under the exemption and the NFL only wanted to be treated like every other sport. It did not affect the blackout. The 1966 exemption which allowed a merger of the American and the National Football Leagues—and I speak from experience, because I was president of the players association at that time—I can say that it was in the interest of the fans and the players alike to merge the two leagues, because I guarantee you, that without that exemption that we in the Congress wisely granted to them—and I was not here at that time—there would not be any teams in pro football today. And perhaps the Buffalo Bills or the San Diego Chargers or Denver or Cincinnati or perhaps the Pittsburgh Steelers who were having trouble in the 1960s and in 1965 at the time of the merger.

The NFL TV policy is not arbitrary or a product of greed, as some charge. It is derived from a conviction shared by all of the member clubs that television is an adjunct to stadium attendance but should never become a substitute for stadium attendance.

I believe that the heart of professional football is to personally witness the games and to enjoy the excitement that is conveyed in a stadium. This excitement is engendered by millions and millions of people, and it cannot be done in any other way.

I would hope, as I am sure all of the Members do, and I know the sincerity of the gentleman whose legislation this is, that none of us ever want professional football to go the way of a studio sport, and that was boxing.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I am taking the floor at this time because I have long learned that in the world of sport your big trouble comes when you think the game is over, and you believe that you have won. Here is an opportunity to win one for sport fans all over the country.

I love sports, as I am sure every Member of this House does. I would never knowingly take any action that would hurt the world of sports, the participants or anybody involved in sports. I think it is of the utmost importance that we enact this legislation now so that we can give the public a real opportunity to share this world of sports without hurting the professional world of sports at all.

We have not yet touched upon a point in this discussion that I think is important we consider, and that is the young kids who are involved in the thickly urban areas such as my own city of New York, who will never have the price of a ticket to one of the Giant games or one of the Jet games, the way the cost of tickets is going these days. This legislation will make it possible for these kids to watch these games on television, which they would not have a chance otherwise to see. It may mean that they can watch all of the games. I think these kids should be entitled to do this.

I have been a season ticket holder of football tickets for over 15 years with the Giants. Now, with the Giants moving out of New York, I and many others who are in that city and on the so-called subway alumni, would just never get a chance to see those games. I think that this legislation gives the fans an opportunity to have a day in court; this is it, right now, and it is a chance for the Members of Congress to make a real touchdown for the public.

I hope we pass this legislation by an overwhelming majority.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, during my testimony last week to the House Subcommittee on Power and Communication, which handled this legislation, I suggested that the final bill include an enforcement mechanism to guarantee an accurate report on attendance at games.

Although the committee has taken a slightly different approach from the one I recommended, the bill we are considering here on the floor today satisfies my desires for safeguards against inaccurate reports on game attendance.

Under the provisions of this bill, each team is required to submit to the commissioner of the National Football League detailed reports on attendance at all games. The league commissioner must then file these reports with the Federal Communications Commission, which in turn will prepare annual reports for the Congress.

Because my desires to see fans protected have been satisfied by the provisions of the bill as reported, I shall refrain from introducing amendments I had planned to offer today.

I wholeheartedly favor adoption of this legislation, which restores to football fans the free access to the airwaves that they have been denied for so many years.

I do not believe that this bill will harm the National Football League. I do believe that it will add to the enjoyment of millions of fans who will now have the opportunity to see the games that have been blacked out on their home television screens for so many years.

I know that the football fans of the 12th Congressional District of New Jersey are wholeheartedly in favor of the adoption of this legislation. This point was made by Milt Farb, the distinguished sports editor of the Daily Journal of Elizabeth, N.J. In a column on this subject that appeared on Saturday, September 8, Farb observed that news of this pending legislation "came as gratifying news to the armchair rooters who in the past have been forced to listen to radio coverage of the Giants and Jets when they played at home." Farb also added a point that is just as valid in San Francisco, Miami, and many other NFL cities as it is in Elizabeth, N.J.:

> Thousands of Elizabeth area sports fans are unable to purchase tickets for the Giant and Jets home games because of the sellouts.

I cannot accept the National Football League's contention that home television will prompt fans to stay at home. Last year, only about 6 percent of the season tickets purchasers in the NFL were "no shows," and one-third of these stayed home during the last two games when the weather was bad.

Knowing the diehard New York Giants and New York Jets fans in New Jersey as I do, I cannot buy the NFL arguments that this legislation might prompt season ticket holders to stay at home.

I am not one of the fortunate few in my district to have season tickets to either the New York Giants or the Jets. But I know that when I have been offered a ticket to one of their games, I have jumped at the chance. And, home television or not, I would jump at the chance to see either of these teams play in person. I am certain the same can be said for the majority of fans in this country.

Therefore, I urge my colleagues to vote yea on final passage of this, the fans' bill.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 9553, a bill modifying television blackout rules for sold-out sporting events.

The legislation has three basic provisions. Most importantly, it prohibits local television blackouts of all professional baseball, basketball, football, and hockey events that sell out 72 hours prior to a scheduled national telecast involving a league contract. Further, it directs the Federal Communications Commission to conduct annual studies of the ramifications of the bill, with particular emphasis on stadium crowds, and to give its judgment as to whether Congress should renew the measure next year. Finally, Mr. Chairman, the bill permits any individual sports fan to file suit with a U.S. district court to enforce these blackout rules.

My reasons for favoring H.R. 9553 are quite simple. The public has given sports leagues a number of highly valuable special privileges: An exemption from the antitrust laws, so that all the teams in a given league can join together to sell television rights to the networks; access to a scarce public resource, the airwaves; and in many cases, sports complexes, paid for out of the pockets of taxpayers, which enable these teams to accrue healthy profits.

The results of the first privilege are easy to document. Before Congress enacted the antitrust exemption, each sports team had to bargain and sell its television rights individually, which is the way the marketplace is supposed to function in a system of free and competitive enterprise. As a result, in 1961, the last season before the exemption took effect, the median level of revenues from television rights was under $300,000 per team in the National Football League. A year later, each NFL team's revenues rose to an average of $332,000, and the contract recently signed for the 1974–76 seasons grants each team $2.1 million—a rise of 630 percent since 1962. This rise in profits as a consequence of noncompetition is the classic outcome for oligopolies, whether in petroleum, automobiles, or athletics.

The original antitrust exemption also granted teams the right to use the airways selectively—to blackout telecasts in areas where they desired to do so. This made some sense in 1961, when many teams were struggling to fill stadium seats and stay alive financially. It makes no sense in 1973, when over 95 percent of all stadium seats for all regular season NFL games get sold out, and, as the above figures demonstrate, teams are living high on the hog.

Finally, Mr. Chairman, let me point out that under this new law, blackouts will be automatically reimposed whenever a team genuinely needs them—the legislation lifts blackouts only when all tickets to a given game are sold 72 hours in advance of the event. This generous provision has reduced NFL Commissioner Pete Rozelle to invoking two questionable points in his opposition to the bill. First, in testimony before Congress, he offered a moving elegy for the hot dog and soda pop concessionaires—who may suffer if seats are sold out but their intended occupants opt for catching the game on their televisions instead. Second, he darkly suggested that lifting the blackout would signify the start of the "erosion" of financial stability for professional sports—which is the "creeping catastrophe" argument usually advanced for positions in whose favor nothing more concrete can be said.

Mr. Chairman, I do not buy the commissioner's reasoning, and I urge my colleagues to support this bill.

**Mr. MILLER.** Mr. Chairman, while my rural constituency in southeastern Ohio is not affected by professional sports blackouts, I nevertheless strongly support H.R. 9553 and urge its quick enactment.

To me it is patently unfair to deny millions of people from viewing a nationally televised football, baseball, basketball, or hockey game when the event is already a box office sellout simply because they reside in the club's hometown area.

Urban sports fans who in some areas actually subsidize the construction and maintenance of the stadiums in which professional teams play have been unjustly discriminated against. It is time we lift this antitrust exemption and allow the hometown fans to enjoy the game along with the rest of the country.

**Mr. LANDRUM.** Mr. Chairman, this resolution, in my judgment, is a most unwise proposal. Such action by the Congress places us dangerously near an act of taking private property without due process.

People have supplied massive sums of capital to establish professional football franchises, added additional millions to acquire and develop professional football players; hundreds of thousands of dollars are invested in equipment, management personnel and coaching personnel. Moreover, literally thousands of taxpayers have taken local actions to provide public funds for the construction of stadiums in which these football enterprises will appear. Many cities and county governments are bonded to pay for stadiums, and we move dangerously close, in my judgment, to removing a substantial part of the capacity of these local governments to pay off this public indebtedness.

It appears to me that the Congress may be riding a wave of mass hysteria toward the takeover of private property. One might say even that the chief difference between what we do here riding a wave of hysteria and what Jesse James did is only that Jesse rode a horse.

**Mr. DONOHUE.** Mr. Chairman, I urge and hope that this bill before us, designed to amend the Federal Communications Act, to provide that no agreement preventing the televising of any professional sports contest at the same time and in the same area in which the contest is taking place would be valid if all tickets for the scheduled contest were purchased 3 days before the date and time of such contest.

In other words, Mr. Chairman, television blackouts of certain professional sport contests could not be instituted in home contest areas where and when the event is a complete sellout 3 days before the contest. It is very clear that contrary to certain criticism the purpose of this proposal is not to offer home fans the option of paying to see professional sport contests in person or seeing them free through television, while tickets remain unsold, but rather to permit home game television when such sporting events are totally sold out 72 hours before the game time, and at no other time.

In effect, this proposal would grant untold numbers of nonseason ticketholders their only possible opportunity to watch their favorite teams and players in action. In substance, Mr. Chairman, this bill simply extends well-deserved and long-delayed reasonable consideration to millions of sport-minded citizens whose wholesome interest should be, by every reasonable standard, encouraged and not denied. It is rather ironic that the very people who oppose the extension of a limited measure of consideration to professional sport fans are themselves the ones who requested and obtained special legislation to exempt them, for additional profit, from the application of the Federal antitrust laws.

Let us emphasize that this proposed legislation would not apply at any time and in any event that contest seat tickets were available for purchase within 72 hours before scheduled game time; that this legislation would be enacted only for a limited period; and that this bill requires the Federal Communications Commission to conduct a continuing study of the effect of the bill upon professional sports and report the results of its study back to the appropriate committees of the Congress annually so that any revelation of unanticipated, inequitable treatment or unusual hardhip could be promptly corrected.

In view of all these circumstances, Mr. Chairman, there is no question at all that the proposal is in the health and wholesome national interest and merits the resounding approval of this House.

**Mr. BROOMFIELD.** Mr. Chairman, I rise in support of H.R. 9553, a bill to ban local television blackouts for professional sporting events that are sold out at least 3 days in advance.

Last year almost 70 percent of all pro football games were sold out. Eighty-two percent of the 182 regular season games had attendance of at least 95 percent seating capacity.

In most cities fortunate enough to have an NFL franchise, the chances of attending a regular season home game are almost nonexistent. Scalping of tickets, at greatly inflated prices, has become a lucrative and common practice.

When you consider that most stadiums in this country are financed and owned by the city and its taxpayers, it is ironic that these same taxpayers cannot even get into their own park and are denied the simple pleasure of viewing the game on television.

Due to the increased popularity of sports, the same trend of sold-out games and local blackouts is becoming more frequent in hockey and other sports.

It makes little sense for the owners to deny their hometown fans the opportunity of seeing their favorite teams once they have sold all of their tickets.

Why should my constituents in Oakland County who will soon be welcoming the Lions to a brandnew stadium in Pontiac have to watch a relatively meaningless game from the west coast; especially when the game is being broadcast nationally?

There was a time, to be sure, when local blackouts could be justified. In 1961, the financial status of the then separate National and American football leagues was uncertain. There was a fear that free television exposure would keep fans away from the park. Some feared that even televising distant games while the home team was playing might kill football the same way too much television exposure hurt professional boxing.

Today, nothing could be farther from the truth. Football has become, if not the new national pastime, one of the most popular sports in this country.

Some objection has been made to the bill on the grounds that once the games are broadcast, people will stay home reducing parking and concession revenues for the teams and the cities. I think the true fans will still want to go to the park and judging by the long waiting lists for season tickets in Washington and other cities for every fan who decides to stay home there will be two to take his place.

Mr. Chairman, with the opening of the regular season only 3 days away, this legislation comes not a bit too soon. As you know, it was almost exactly a year ago at this time that many of us in Congress sought to rescind this same blackout policy.

Twelve years ago Congress gave professional football a break by letting the teams blackout their home games. The shoe is on the other foot now and it is the average fan who deserves consideration. I urge the House to pass this bill and end unnecessary blackouts once and for all.

**Mr. VAN DEERLIN.** Mr. Chairman, I think it important that we spell out very clearly what constitutes a "sellout" under terms of this bill.

It was made abundantly clear during subcommittee hearings that the football club owners and their commissioner, Pete Rozelle, have no intent of evading the will of Congress in carrying out the bill's provisions. Mr. Rozelle went so far as to assure us that passage of the legislation by both houses would prompt him to trigger its provisions, even in advance of the President's signing it.

Though league officials opposed the new law, they are public spirited men who will not feel inclined to provoke public wrath by withholding tickets from advance sale or otherwise seeking loopholes.

The legislation before the House focuses very clearly on the problem of determining a sellout. It provides a narrow time frame beginning 5 days before each game and ending 3 days or 72 hours before game time. If all tickets for seats which were available for sale to the public 5 days before the game have been sold out 72 hours before the game, the blackout must be lifted.

By approaching the definition of a sellout in this manner, we will protect against the situation where a team, in good faith, seeks to reserve a certain number of tickets for sale on the day of the game, while at the same time, will protect against any likelihood that a team would reserve a large block of tickets which would be put on sale so close to the 72-hour deadline as to purposely frustrate the intent of the legislation.

In addition, the approach in this legislation will not affect the current practice in the NFL of allocating a block of tickets for sale in the city of the visiting team. These tickets, to the extent that they were not available in the home city 5 days before the game, would not be considered in determining a sellout for the purposes of lifting the blackout.

In the interest of local taxpayers who built most of those fine stadiums, let us pass this bill.

Mr. PEPPER. Mr. Chairman, I strongly support this legislation as I did earlier today in the Committee on Rules. I some months ago introduced a comparable bill and submitted a statement in support of my bill, H.R. 9620, before the Subcommittee on Communications and Power of the Committee on Interstate and Foreign Commerce. The people demand that they be able to see important football, baseball, basketball, and hockey games in their own area when others can see them outside the area of the game on television. This is an experimental bill for three seasons. It protects the sports organizations by taking effect only if the events to be televised are sold out 72 hours before the game. I believe that this will add popularity to the games to be televised in the home areas and that attendance at the events will not be diminished by the public broadcast of the game in the home area. If we do find it detrimental or unfair to the sports industries I am sure Congress will be ready to make appropriate adjustments in the law because, of course, Congress wants to be fair to those who make these great games possible as well as to the public which wishes to see them, most of whom cannot get tickets to see them now even in their own areas.

I want to commend the distinguished chairman, Mr. STAGGERS, of West Virginia, and his committee for the promptness with which they have brought this matter to the attention of the Rules Committee and the House.

I also wish to commend Pete Rozelle, NFL commissioner, who has announced the NFL would not wait for the House and Senate even to develop one bill in conference or for the President to sign the bill agreed upon by the Congress. He has said when the House acts on this matter, since Senate action previously taken reflects the sentiment of the Congress, the intent of the legislation will be put into effect immediately so as to permit the televising of games this Sunday in the home areas of the games. This is a splendid example of cooperation with the Congress and the public by Mr. Rozelle in the interest of the lovers of the sports in question.

Pursuant to permission obtained by Chairman STAGGERS, I submit with this statement copy of my statement of September 5 before the Subcommittee of the Committee on Interstate and Foreign Commerce of the House handling this measure.

### STATEMENT OF HON. CLAUDE PEPPER, OF FLORIDA, BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND POWER

I would like to thank the Subcommittee on Communications and Power for the opportunity to testify in favor of H.R. 9620 which would remove the right of a major sports league to impose a television blackout in the home territory of a team playing at home when its game is sold out. This bill would affect the major sports, including football, basketball, baseball and hockey. The teams comprising the leagues in these four major professional sports were granted an exemption by the enactment of Public Law 87–331 in 1961 from the applicability of the antitrust laws to the pooling of the rights to televise their games. The law provides that the exemption will not apply to any joint agreement which would place a limitation on where the games may be shown *except* within the home territory of a league member on a day when that team is playing at home.

The 1961 law was rushed through the Congress on the eve of the 1961 football season to counteract an adverse judgment which had been rendered against the National Football League by a Federal district court. In the haste to enact that law too great an exemption from the antitrust laws was given professional sports. Changing conditions certainly no longer justify all of the protection which that exemption confers. Indeed, the National Football League voluntarily suspended part of their blackout privilege in 1966 by allowing games of other teams to be shown in the home territories of teams on days when they were playing at home. The NFL made the concession because professional football had become so popular and attendance so strong that home attendance was no longer endangered by the same day telecasting of other games.

Since 1966 the sport of professional football has continued to prosper; many teams have been able to sell out their tickets for the entire season; and communities have been willing to go into great debt in order to build lavish stadiums to house their teams and paying customers. Despite that prosperity, the National Football League made no modification of its practice of blacking out home games even though the inequities and unfairness of unrestricted use of the blackout have become increasingly evident. In the last two years we have seen important championship games denied to fans in the home territory even though all tickets have been sold out. The Miami fan has suffered greatly in this regard. In addition, tickets to playoff games are not made available to the general fan until after the season ticket holder has been given first opportunity. The playoff games in Miami have been easily sold out, but even so, the games were still blacked out in the Miami area.

In several cities, all games are sold out months before the season begins, but even in those cities, the NFL has never allowed the blackout to be lifted. Many of these teams sell out all of their games to season ticket holders who are granted renewal rights year after year; in effect season ticket holders are granted rights-in-perpetuity to their seats. Furthermore, many of the teams in the NFL play in stadiums heavily subsidized by the taxpayer. As a result, the price the season ticket holder pays for his tickets does not cover the full cost of operation when the playing facilities are included; therefore, the taxpayer is actually subsidizing the season ticket holder who already enjoys rights-in-perpetuity to his seat. In a city where all seats are sold out as season tickets, the average taxpayer is unlikely ever to gain admission to a game since the holders of the rights-in-perpetuity will not relinquish their subsidized tickets. The fact that a limited black market exists for the transfer of season tickets at exorbitant prices is of no consolation to the taxpayer-fan.

One solution, which would make everyone happy when a game is sold out, would be to make the game available to all who wish to see it through the technology of television. Unfortunately, the lure of the pot of gold, which pay cable seems to hold out, has made sports' leagues unwilling to modify their blackout practices. Professional sports owe a great deal of their popularity and prosperity to television. Professional football alone will receive $46 million this year for the television rights to their games. Since Congress has made much of this wealth possible by granting an antitrust exemption to professional sports, it is our duty not to let the quest for gain in these sports to run rampant over that exemption. The American fan has given great support to professional sports and deserves something in return for that loyalty. Congress can reward the fan by modifying the antitrust exemption. Therefore, I support H.R. 9620 which would remove the blackout privilege for teams in the major sports whenever their home games are sold out 48 hours prior to game time.

Mr. ZWACH. Mr. Chairman, I rise to speak for H.R. 9553, an effort to lift the blackout on television broadcasts of sports events that are sold out.

As a cosponsor of H.R. 9621 with Congressman STAN PARRIS and others, I went on record in support of an amendment to the Communications Act of 1934.

This measure provides that *no television* broadcast licensee, network television broadcast organization, or cable television system shall contract or make an arrangement to prevent it from broadcasting or carrying the home games of any professional football, baseball, basketball, or hockey team when tickets are no longer available for purchase by the general public 48 hours or more before game time.

H.R. 9553 has been amended to give the owners, managers, and TV networks more time to prepare for TV coverage. The 72 hours that are now required before a TV ban can be lifted is plenty of time for TV stations to set up their equipment for game coverage. More importantly it enables the ban to be lifted even earlier, if games are sold out months in advance. The bill offers the best compromise possible.

There are millions of Americans across this Nation who have been denied the right of viewing their favorite local professional football games on television because of arbitrary action by the league which blacks out home games even though they are sold out months in advance. There is no need for this type of situation to exist.

Americans love sports. They always have. The ban in the stand is a big part of the game. Nothing is better for a city or metropolitan area than a good professional sports team. A good professional team provides an exciting afternoon or evening for thousands of fans.

The trouble is that there is not always room for all the fans. It has gotten to the point where games in most sports are sold out days, even months, in advance. But the owners and leagues have continued to impose a blackout on sold games. What more do they want? If all seats are sold, why punish the thousands of individuals who are unable to buy tickets?

This legislation would remedy this situation. I can see no possible justification for a blackout of sold out games. I wholeheartedly support the lifting of the blackout ban.

Mr. MIZELL. Mr. Speaker, I rise at this

time to ask my colleagues not to make a mistake they will regret sooner or later.

I want to ask my colleagues to think of their constituents' real best interests, and to think through a bit more carefully this proposal that is being railroaded through the House in time for the Sunday kickoff.

As my colleague JACK KEMP of New York said a few minutes ago, the only other bill this House ever considered so quickly was the Tonkin Gulf resolution.

There is an old adage that "haste makes waste," but haste in passing the Tonkin Gulf resolution invited tragedy, and haste in enacting this legislation before us today will serve us no better.

The issue before us today is whether or not we intend to let millions of American football fans see more football. The popular idea is that if we vote for this bill, we will accomplish that objective.

But if we would just take a moment or two to think, we would realize the exact opposite is true.

The way things are now, football fans throughout the country have the opportunity of seeing absolutely free—three and sometimes four football games a week. That is quite a bonanza—or quite an ordeal—depending on whether you ask a football fan or a football fan's wife.

To pass the legislation before us today is to jeopardize that opportunity in a most serious way.

If we say today to the NFL owners, "you have to sell your product," then those owners are quite rightly going to sell it to the highest bidder. We may well see the day, not too long from now, when the only way a professional football game is telecast is on a pay-as-you-see basis.

Then the fans who want this bill enacted so quickly today will want it repealed twice as quickly.

The argument that the law does not apply except where games are sold out 72 hours in advance is in the nature of a self-fulfilling prophecy. Enact this bill, and in little more time than it takes to say "Sonny Jurgenson" you are not going to find so many clubs capable of selling out their games 72 hours in advance. Perhaps not even the Redskins.

And between our situation now and the situation then, you will also find a great many more paid-for seats going empty at game time. And that development is not good for any sport.

My colleagues kid JACK KEMP and me quite a bit about our background in professional sports, and that is fine. But if there is one thing our background qualifies us to speak on, it is the issue before us today.

JACK KEMP sees this bill as unwise and self-defeating, and I see it the same way.

I urge my colleagues not to act in haste and in great error. This legislation is filled with good intentions, but it is destined for tragic results, both for football and the fans.

Mr. BROWN of Ohio. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 9553

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"BROADCAST OF SOLDOUT PROFESSIONAL HOME GAMES

"SEC. 31. (a) If (1) during the one-year period which begins on the date of enactment of this section, any professional football, baseball, basketball, or hockey game is broadcast under the authority of a league television contract, and (2) tickets of admission to such game are no longer available for purchase by the general public forty-eight hours or more before the scheduled beginning time of such game, then television broadcast rights shall be made available for television broadcasting of such game at the time at which and in the area in which such game is being played.

"(b) For the purposes of this section, the term 'league television contract' means any joint agreement by or among persons engaging in or conducting the organized professional team sports of football, baseball, basketball, or hockey, by which any league of clubs participating in professional football, baseball, basketball, or hockey contest sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games of football, baseball, basketball, or hockey, as the case may be, engaged in or conducted by such clubs.".

With the following committee amendment in the nature of a substitute:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"BROADCAST OF GAMES OF PROFESSIONAL SPORTS CLUBS

"SEC. 331. (a) If any game of a professional sports club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public one hundred and twenty hours or more before the scheduled beginning time of such game have been purchased seventy-two hours or more before such time, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. The right to broadcast such game by means of television at such time and in such area shall be made available, by the person or persons having such right, to a television broadcast license on reasonable terms and conditions.

"(b) If any person violates subsection (a) of this section, any interested person may commence a civil action for injunctive relief restraining such violation in any United States district court for a district in which the defendant resides or has an agent. In any such action, the court may award the costs of the suit including reasonable attorneys' fees.

"(c) For the purposes of this section:

"(1) The term 'professional sports club' includes any professional football, baseball, basketball, or hockey club.

"(2) The term 'league television contact' means any joint agreement by or among professional sports clubs by which any league of such clubs sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games engaged in or conducted by such clubs.

"(3) The term 'agreement' includes any contract, arrangement, or other understanding.

"(4) The term 'available for purchase by the general public', when used with respect to tickets of admission for seats at a game or games to be played by a professional sports club, means only those tickets on sale at the stadium where such game or games are to be played, or, if such tickets are not sold at such stadium, only those tickets on sale at the box office closest to such stadium.

"(d) The Commission shall conduct a continuing study of the effect of this section and shall, not later than April 15 of each year, submit a report to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with respect thereto. Such report shall include pertinent statistics and data and any recommendations for legislation relating to the broadcasting of professional football, baseball, basketball, and hockey games which the Commission determines would serve the public interest.".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. STAGGERS TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. STAGGERS. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS to the committee amendment in the nature of a substitute: Page 4, insert after line 22 the following:

SEC. 2. Section 331 of the Communications Act of 1934 (as added by the first section of this Act) is repealed effective December 31, 1975.

Mr. STAGGERS. Mr. Chairman, I will not take 1 minute, and probably less than 1 minute.

We have said that we are not going to make this permanent legislation; that we will go along with the Senate-passed bill and make it for a short period of time. And as the amendment reads, that it will be repealed on December 31, 1975. This gives us three football seasons in which to find out if the legislation is working properly. I hope the amendment is agreed to.

Mr. JAMES V. STANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the chairman of the subcommittee, Mr. MACDONALD, a question.

What constitutes a sellout under this proviso?

Mr. MACDONALD. Language regarding a sellout under this proviso of the bill is contained on page 2 starting with line 22, which I will read:

SEC. 331. (a) If any game of a professional sports club is to be broadcast by means of television pursuit to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public.

Mr. JAMES V. STANTON. Mr. Chairman, then it is my understanding that, for example, in the Cleveland stadium that has a capacity of 80,000 seats, if the 5,000 standing room tickets, up to 5,000 that are available in that stadium, are sold out, then these will not be counted as seats.

Mr. MACDONALD. It is true, not just in Cleveland but in every one of the 26 league cities that unless they are totally sold out, that is, totally sold out for paid admission for seats, the blackout is not lifted. In the Browns case Mr. Modell, who I know relies heavily on the selling of standing room, and who appeared before the committee voluntarily indicated that while this has been a continued source of revenue, as far as the sellout of Cleveland is concerned, the standing room will not be counted.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think the chairman of the subcommittee misspoke. If the seats are sold out, never mind whether the standing room is sold out, the blackout is lifted.

Mr. MACDONALD. If there is no sellout of all available seats, there is a blackout, and vice versa.

Mr. BROWN of Ohio. And the blackout is lifted whether or not the standing room is sold out?

Mr. MACDONALD. Yes. That we discussed for a period of about 2 weeks, and I might say this was no Gulf of Tonkin resolution. We had 2 weeks of hearings.

Mr. JAMES V. STANTON. Mr. Chairman, I appreciate the consideration given by the subcommittee and the Members, and I appreciate their thoughtfulness on the proposition. I should just like to point out that there are clubs that are not sold out, who will have some real difficulties with this legislation.

For example, there are 52,000 season tickets sold in Cleveland in an 80,000-seat stadium. We do not know 2 years from now or a year and a half from now the impact on season ticket sales this will have, whether they will go down or up. I want to advise the House—and I have the assurance of the chairmen of the committee and the subcommittee—that if it has an adverse effect economically on the club, this committee will reconsider the legislation before the time of expiration, as proposed by the subcommittee. Is that correct?

Mr. MACDONALD. That is correct. According to the legislation, the FCC reports to our committee on or before April 15 of each year.

Mr. JAMES V. STANTON. I thank the gentleman very much. I yield back the balance of my time.

Mr. FROEHLICH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I had intended to offer a 1-year limitation on this bill. But in view of the limitation being offered by the committee chairman, Mr. STAGGERS, I will withhold my amendment and support his limitation. I hope that the Senate compromises this down to 1 or 2 years in conference.

Mr. Chairman, I have the privilege of representing a district in northeastern Wisconsin that includes the city of Green Bay. Hardly a man is now alive who does not associate this community with its professional football team—the Green Bay Packers.

The Packers are very important to Green Bay, and this bill is important to the Packers. They are deeply concerned about the impact of this bill on their future operations.

I realize that this bill will be tremendously popular with millions of people. It will give them something they desparately want—and give it to them for nothing. I am not against sharing the wealth in this instance with nonticket-holding fans. But, I want an assurance that professional football will not be the loser, and thus in the end, that professional football fans will be the loser.

The committee report on this bill proudly states:

> Enactment of this legislation will not involve any costs to the Federal Government.

But we should not delude ourselves with the notion that this bill has no costs.

It is going to cost professional football big money, if not immediately, at least over a period of time. Will it also affect the quality of professional football directly or indirectly?

We cannot be certain today about all the interests that will be affected and perhaps hurt by this bill. That is why we should require ourselves to consider this bill 10 or 11 months from now. We should do more than simply commit ourselves to "study" the evidence.

We have some evidence now that has been virtually ignored.

Pete Rozelle contends that—

> If the public becomes accustomed to receiving without charge the same product which it is being asked to buy, there will inevitably be a steady erosion of ticket-buying interest. Ultimately, ticket-buying habits and actual game attendance will be significantly affected . . .

The committee has evidence to support this contention. It took a poll of present season ticketholders.

It asked the question: "If a law were enacted providing for televising your team's home games in your area, would you continue to purchase a season ticket?"

Sixty-eight percent of the respondents from Green Bay said "yes." Thirty-two percent said "no" or "undecided."

Of the respondents from Kansas City, 40 percent of the season ticketholders said "no" or "undecided."

The committee asked the question: "Was the fact that NFL home games are not televised locally an important reason in your original decision to purchase season tickets?"

Twenty-one percent of the respondents from Green Bay said "yes"—32 percent of the respondents from Kansas City said "yes"—49 percent of the respondents from Dallas said "yes."

Already some season ticketholders have called the Green Bay business office and asked to turn in their tickets.

Is it any wonder that pro football is concerned about the potential impact of this bill on game attendance.

Pete Rozelle contends that even if a game is completely sold out, "no shows" will constitute a problem—first, because attendance for home games is an essential ingredient in competitive sports, and, second, because the revenues from concessions depend upon attendance.

In Green Bay, the revenues from concessions go—not to the club—but to the city of Green Bay.

In Green Bay, the revenues from parking go—not to the club—but to the city of Green Bay.

When people do not show up at the stadium, the city of Green Bay loses money.

The House should know that the committee's study revealed that in Green Bay 65 percent of the respondents had to drive more than 30 minutes to get to the stadium—17 percent had to drive more than 90 minutes.

Forty-seven percent lived more than 25 miles from the stadium.

Obviously, in Green Bay, many patrons do not live a mile or two from the stadium.

In Green Bay, the weather is often cold—very cold. Many of you remember the game that was played at 13 below.

The conclusion is inescapable that when vast numbers of fans have to drive long distances to get to the stadium on days when the weather is inclement and perhaps bitterly cold—and people have the option of watching the action from the comfort of their own living rooms—the potential for massive "no shows" is very great. An empty stadium, itself, will affect the game quality to some extent.

"No shows" could cost the city of Green Bay a bundle of money—and the same thing could happen in many other communities.

The truth is that last January in Los Angeles—when the Miami Dolphins played the Washington Redskins in the Super Bowl—the game was sold out, the temperature was in the mid-80's, the weather was fine—but 10 percent of the seats were unoccupied.

A third concern relates to the radio revenues that come to the pro football clubs. When home games are not televised, many people listen to those home games on the radio. In Green Bay, radio contracts are an important part of the club's revenues. But the value of these radio contracts will plummet dramatically if the home games are broadcast on television. This year's contracts are signed and sealed. If home games are broadcast on television, the sponsors and advertisers of the radio games will take the loss. However, next year, when the contracts must be renegotiated, the Green Bay club will not be able to sign an $85,000 contract for radio rights. The contract will necessarily be much smaller. The club will lose income.

These are three reasons why I feel uneasy about the impact of this bill on the Green Bay Packers. The Packers are a nonprofit corporation. Their margin in the black last year was only $480,203.

I think the very least that a responsible Congress should do is to put a 1-year termination date on this bill so that we force ourselves to consider a new bill in light of the experience that develops.

A 1-year clause is in the Senate bill. A 1-year clause was in the Parris bill that had about 60 cosponsors. A 1-year clause will not hurt any football fan in this country.

I appeal to the House to incorporate a limitation in this bill so that we do not go too far too fast, to the detriment of professional sports. I hope there is a conference committee and that the 3-year limitation be reduced to 1 or 2 years.

Mr. Chairman, some of my fears are derived from articles as recently appeared in the Green Bay Press-Gazette and the Washington Post, which I include for the information of the Members:

[From the Green Bay Post-Gazette]

### OUT OF BOUNDS?

(By Len Wagner)

It's beginning to look as though all you people out there in Packerland who have been waiting five or 10 years for season tickets to Lambeau Field are not going to have to wait much longer.

In fact, you may have the best seat available for the Pack's Green Bay opener against the Detroit Lions Sept. 23. Your sitter will be comfortably passed. The sun won't be in your eyes. If it's raining, you'll be dry. And the beer will be both handy and relatively inexpensive. Your field of vision may be crowded a bit but instant replay more than offsets that.

Yup, you may very well be able to watch that game right on your own television, even if you live on Ridge Road, within punting distance of the stadium.

It appears that congress is about to zap through a bill which would lift the NFL-imposed blackout on home game television when the stadium is sold out 72 hours in advance. And President Nixon's pen is already drooling in anticipation of signing the measure.

There will be some NFL cities where the bill will be meaningless. Not all stadiums are sold out for every game, particularly 72 hours in advance. But in Green Bay, judging by the 12,000 people on the waiting list for season tickets, the stadium has been sold out for 72 years.

I suspect that once the bill is passed . . . and reports from Washington indicate there is little doubt that it will pass . . . there will be some devout thanks offered by many hometown fans. The politicians will be heroes.

But I also suspect that Pete Rozelle and the NFL will not give in very easily. Neither will the thousands of fans who purchased season tickets at exhorbitant prices with the understanding that there would be no home television available.

Might not there be some legal question about this type of action? Don't you think there will be a series of injunctions and rulings and appeals on this whole question?

If there isn't there darn well ought to be!

As a season ticket buyer, I would be up in arms . . . particularly considering the schedule the Packers have this year. Home games on Nov. 4, Nov. 11 and Dec. 8. It's going to be a lot warmer in front of my TV set than it will be in the stadium on those days. I would consider myself bilked . . . not by the NFL this time, but by my own elected representatives, my own government.

Government stepping into private business is hardly news. Price controls have sent the entire country into an uproar. But in this case, the government is stepping into the marketing procedures of a product. In effect, it is saying that after you sell so much of your product, you must give it away free. Imagine your local grocery store being ordered to sell only to the first 100 customers Monday and then to give away groceries to the rest of the people coming in that day. Let me ask a couple other questions . . .

After this first step, how long do you think it will take before the 72 hour sellout restriction is removed?

And then how long do you think it will be before the stadiums are turned into oversized TV studios and you are required to drop a quarter into a little box attached to your television set every half hour in order to see a football game? Or Basketball game? Or baseball game? or Miss America Pageant? Or All in the Family?

Before you slobber your thanks all over Pastore and Proxmire and the other blackout lifters, maybe you should consider the alternatives the future . . . even the near future . . . may offer.

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[From the Washington Post, Sept. 12, 1973]

### BLACKOUT BAN BIDS TO DARKEN NFL FUTURE

(By Bob Addie)

It perhaps is only coincidental that football, one of President Nixon's favorite sports, should provide the diversion from Watergate than he continually urges on Congress.

The House now is involved in a "two-minute drill" in trying to get the ban on television blackouts approved before opening of the National Football League season Sunday. The bill passed the Commerce Committee yesterday and is due full House consideration Thursday.

The first of the "ban-the-blackout" bills was introduced April 14, 1971, according to attorney Philip A. Hochberg who wrote a detailed study on "The Legislative Attack in the 92d Congress on Sports Broadcasting Practices," for the New York Law Review. Hochberg, a communications lawyer, doubles as Redskin press box announcer. Sen. William Proxmire (D-Wis.) was the one who opened the sluice gates on the sports bills.

Proxmire was trying to lift home blackouts by lifting the antitrust exemption of the league's pooling contract after the 1971 Super Bowl blackout in Miami was not lifted. Perhaps that's one decision NFL commissioner Pete Rozelle rules today.

Rozelle had plenty of precedent from baseball, which never has blacked out World Series or All-Star games. However, there is evidence baseball commissioner Bowie Kuhn, noting empty seats at playoff games, was about to institute his own home blackout.

Sen. John O. Pastore (D-R.I.) finally got Rozelle to lift the blackout for this year's Super Bowl in Los Angeles after the Miami Dolphins and Redskins sold out.

The results were interesting and could point to a problem for owners. Despite a fine day in Los Angeles, with the temperature in the mid-80s, some 10 per cent of the seats were unoccuped. Possibly more serious than lost concessions revenue, a Rozelle complaint is the fact that people preferred to give up paid seats to watch the game on television.

The blackout bill, which should sail through the House as it did in the Senate, undoubtedly is being watched closely by baseball and could affect the vote by the National League next Wednesday on the shift of the San Diego franchise to Washington.

Rep. B. F. Sisk (D-Calif.), who quarterbacked the baseball franchise shift, did not attempt subtlety at the baseball winter meetings in Phoenix in 1971. Armed with a "mandate" from his House colleagues, Sisk bluntly suggested that if Washington did not get another franchise, Congress would take a "closer look" at the antitrust exemption enjoyed by baseball.

The threat sufficiently worried Kuhn that he has worked quietly with Sisk in trying to get another franchise. Most baseball people feel Congress is bluffing. But the television blackout bill now speeding through the House should give baseball people pause.

Twelve of the 26 teams in the NFL have season-ticket sellouts. These include the Redskins and both New York teams. The House bill would prohibit local blackouts if the game is sold out 72 hours in advance. The Senate bill, passed by a 76–6 margin last week, would limit the blackout ban to one year as an experiment. The House bill has no limit.

Congress' absorption with sports is apparent in this remarkable statistic supplied by Hochberg: 47 bills were introduced in the 92d Congress which would have had repercussions on sports and telecasting policies.

Some complain the antiblackout bill is the result of personal pique by legislators who cannot get Redskin tickets. The lawmakers have plenty of support because few people will turn down anything free.

But it seems to be conveniently forgotten by Congress that pro football had a long struggle to get where it is and the owners have run their business with admirable efficiency. Are they really "greedy" or do they have the right, in a system of free enterprise (which doesn't mean giving away home games) to a profit?

Pro football, like everything else, has been hit by spiraling costs. Ticket prices have been raised, preseason schedules have been expanded, and other economy measures have been instituted. But nobody ain't fooling nobody. TV still is the golden crutch.

My personal feeling is that if the ban on local TV blackouts is enacted, more than half of all season ticket-holders will stay home and watch the tube.

Any eventually the government may find itself passing new legislation—to subsidize the sport.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

### AMENDMENT OFFERED BY MR. MACDONALD TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MACDONALD. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MACDONALD to the committee amendment in the nature of a substitute: Page 3, insert immediately before the period at the end of line 11 the following: "unless the broadcasting by means of television of such game at such time and in such area would be a telecasting which section 3 of Public Law 87–331, as amended (15 U.S.C. 1293), is intended to prevent".

Mr. MACDONALD. Mr. Chairman, this amendment is a very simple one. All it really does is clarify existing law already on the books to protect high school and college football from the leagues. So this has been contained in the reports, both in the Senate and the House reports, but it was felt in order to make this perfectly clear we had better make this technical change.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MACDONALD) to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CARNEY OF OHIO TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. CARNEY of Ohio. Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. CARNEY of Ohio in the nature of a substitute: Page 2, line 22, insert "(1)" immediately after "(a)". Page 3, insert after line 11 the following:

"(2) The right to broadcast any game of a professional sports club by means of television shall be made available, by the person or persons having such right and on reasonable terms and conditions, to television broadcast licensees the transmitters of which are located more than fifty miles from the main post office of the city in which such game is to be played.

Mr. CARNEY of Ohio. Mr. Chairman, I want to express my wholehearted support of legislation permitting local television stations to broadcast a professional sports event involving their home team whenever the event is sold out 72 hours before it is scheduled to begin. I believe that this is a fair and reasonable proposal which should be adopted. However, it is inadequate in its present form.

Mr. Chairman, I strongly recommend that this legislation be amended to prohibit television blackouts of professional sports events from extending for more than 50 miles of the main post office of the city in which the game is played. A 50-mile limit on television blackouts should be established for all professional sports events, regardless of whether they are sold out in advance or not.

The "home territory" of a professional team is not defined by law. The National Football League has defined "home territory" as "the surrounding territory to the extent of 75 miles in every direction from the exterior corporate limits of a home city." Consequently, a community, any part of which is within 75 miles of a professional football game, is subject to a television blackout. Some cities which are more than 75 miles away also are subject to a television blackout.

Mr. Chairman, the city of Youngstown, Ohio, which I represent, has no professional football, baseball, basketball, or hockey teams. Youngstown lies approximatey 65 miles southeast of Cleveland, Ohio and approximately 65 miles west of Pittsburgh, Pa. At the present time, professional games played by the Cleveland Browns in Cleveland, and by the Pittsburgh Steelers in Pittsburgh, are not televised in the Youngstown area even though Youngstown is not the home community of either of these teams. The Youngstown area is the only area in the country which is caught both ways. Television blackouts of the Youngstown area are imposed by both the Cleveland Browns and the Pittsburgh Steelers professional football teams.

Mr. Chairman, there are thousands of Cleveland Browns' fans and Pittsburgh Steelers' fans in the Youngstown area who are unable to purchase tickets for these games or to travel the approximately 125 to 150 miles roundtrip to attend these games. There is no practical way for these fans to see their team play.

The area blacked out for Baltimore and Washington games extends far beyond the respective neighboring city. The closest stations televising the Washington games are in Richmond, Va., and York, Pa.—129 and 75 air miles away. The stations in Hagerstown and Salisbury, Md., 64 and 84 miles from Washington, although not designated for blackout, are unable to televise the games.

Philadelphia games are blacked out in the Harrisburg-Lancaster-Lebanon area and the Scranton-Wilkes-Barre area. These areas are 98 and 107 air miles respectively from Philadelphia. An official from a Scranton television station testified that less than one busload of people from Scranton go to Philadelphia games.

The 75-mile limitation is not applied to the Denver area. Consequently, no resident in the State of Colorado can see any of the Denver home games. The NFL designated the stations in Colorado Springs, and Pueblo, Colo., for blackouts. These stations are 70 and 98 air miles respectively from Denver.

The survey of season ticket patrons disclosed that only 9 percent of the patrons responding came from distances exceeding 50 miles. Moreover, only 13 percent of these patrons—1 percent of the total patrons—indicate that if a law is enacted providing for televising home games in local areas, they would not continue to purchase season tickets. It is, therefore, obvious that blacking out stations outside the home city of the club is particularly unwarranted.

Mr. Chairman, I believe that a 50-mile limit for television blackouts of professional sports events is sufficient to protect the interests of professional sports and at the same time guarantee the rights of the viewing public.

The Federal Communications Commission would be required to study the effect of this provision and to report to the Congress by April of each year.

Mr. Chairman, I urge the House to agree to this amendment.

Mr. Chairman, yesterday I wrote a "Dear Colleague" letter to the 434 Members of the House of Representatives soliciting support for an amendment to H.R. 9553 which would limit television blackouts of professional games to not more than 50 miles from the main post office of the city in which the game is played. This amendment would prohibit television blackouts of professional sports events from extending beyond 50 miles even if a professional game is not sold out 72 hours before it is scheduled to begin.

A copy of my amendment together with a tentative list of the cities which would benefit from this amendment was attached to my letter. Mr. Chairman, I insert a copy of my letter and attachment in the RECORD at this time:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., September 12, 1973.*

DEAR COLLEAGUE: On Thursday, September 13, 1973, the House will consider H.R. 9553, a bill to prohibit television blackouts of professional games which are sold out more than 72 hours before such games are scheduled to begin.

I will offer an amendment to H.R. 9553 which would limit television blackouts of professional games to not more than 50 miles from the main post office of the city in which the game is played, regardless of whether the game is sold out in advance or not.

Presently, the "home territory" of a professional team is not defined by law. However, the National Football League has defined "home territory" to include a community any part of which is within 75 miles of the site of a game.

For example, Youngstown, Ohio, which lies 65 miles southeast of Cleveland, Ohio, and 65 miles west of Pittsburgh, Pennsylvania, is blacked-out by both the Cleveland Browns and the Pittsburgh Steelers.

Clearly, Youngstown is not the home community of either of these teams. Football fans in the Youngstown area often are unable to purchase tickets for the Browns' or Steelers' games, or to travel the approximately 125-to-150 miles roundtrip to see these games. Many other American cities are in a similar situation with respect to at least one professional football team.

A 50-mile limit on television blackouts of home professional football games is sufficient to protect the interests of the National Football League, and is necessary to guarantee the rights of the viewing public. Therefore, I respectfully request your support of this amendment.

With best wishes, I am
Sincerely yours,
CHARLES J. CARNEY,
*Member of Congress,*
*19th Ohio District.*

P.S.—A copy of the amendment together with a tentative list of the cities benefitting from this amendment is attached.

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AMENDMENT OFFERED BY MR. CARNEY

"The right to broadcast any game of a professional sports club by means of television shall be made available, by the person or persons having such right and on reasonable terms and conditions, to television broadcast licensees the transmitters of which are located more than fifty miles from the main post office of the city in which such game is to be played."

TENTATIVE LIST OF CITIES BENEFITING FROM 50-MILE TELEVISION BLACKOUT LIMIT*

*Team Home City and Cities Benefiting*

Baltimore—Hagerstown, Harrisburg, and Lancaster.
Boston—Providence and Manchester, N.H.
Buffalo—Rochester and Erie.
Cincinnati—Lexington.
Cleveland—Youngstown and Canton.
Denver—Pueblo.
Dallas—Waco, Tyler, and Sherman.
Detroit—Lansing, Toledo, and Flint.
Green Bay—Wausau and Milwaukee.
Houston—Lufkin, Bryan, and Beaumont.
Kansas City—Topeka and St. Joseph.
Los Angeles—San Diego.
Miami—West Palm Beach.
Minneapolis/St. Paul—Mankato, Mason City, Alexandria, Rochester, and Austin.
New Orleans—Baton Rouge.
Oakland—Sacramento and Salinas/Monterey.
Philadelphia—Harrisburg, Scranton, Lancaster, and Wilkes-Barre.
Pittsburgh—Altoona, Steubenville, Johnstown, Youngstown, Wheeling, and Clarksburg/Weston.
San Francisco—(Same as Oakland).
San Diego—Los Angeles.

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*Tentative List of Cities was hastily prepared and may not be complete or entirely accurate.

## SCHEDULE C-1

### TOTAL ATTENDANCE AT NFL REGULAR-SEASON GAMES, 1958-72

| Season | Games played | Total attendance | Average: Per game | Average: Per club |
|---|---|---|---|---|
| 1958 | 72 | 3, 006, 124 | 41, 752 | 250, 510 |
| 1959 | 72 | 3, 140, 409 | 43, 617 | 261, 700 |
| 1960 | 134 | 4, 047, 452 | 30, 204 | 192, 735 |
| 1961 | 154 | 4, 985, 756 | 32, 375 | 226, 625 |
| 1962 | 154 | 5, 150, 722 | 33, 446 | 234, 124 |
| 1963 | 154 | 5, 405, 384 | 35, 100 | 245, 699 |
| 1964 | 154 | 6, 010, 924 | 39, 032 | 273, 224 |
| 1965 | 154 | 6, 571, 156 | 42, 670 | 253, 234 |
| 1966 | 168 | 7, 497, 413 | 44, 627 | 312, 392 |
| 1967 | 175 | 8, 304, 784 | 47, 456 | 332, 191 |
| 1968 | 182 | 8, 516, 817 | 46, 796 | 327, 569 |
| 1969 | 182 | 8, 939, 577 | 49, 119 | 343, 829 |
| 1970 | 182 | 9, 533, 333 | 52, 381 | 366, 666 |
| 1971 | 182 | 10, 076, 035 | 55, 363 | 383, 693 |
| 1972 | 182 | 10, 445, 827 | 57, 395 | 401, 762 |

### ATTENDANCE AT NFL REGULAR-SEASON GAMES BY CLUB, 1970-72

| Club | Attendance 1970 | Attendance 1971 | Attendance 1972 | Difference 1970-71 | Difference 1971-72 |
|---|---|---|---|---|---|
| Atlanta | 396, 191 | 403, 289 | 403, 578 | 7, 098 | 289 |
| Baltimore | 408, 275 | 400, 782 | 392, 320 | (7, 493) | (8, 462) |
| Buffalo | 274, 498 | 270, 808 | 309, 814 | (3, 690) | 39, 006 |
| Chicago | 315, 288 | 381, 191 | 385, 906 | 65, 903 | 4, 715 |
| Cincinnati | 399, 813 | 408, 773 | 403, 616 | 8, 960 | (5, 157) |
| Cleveland | 543, 110 | 517, 147 | 505, 360 | (25, 963) | (11, 787) |
| Dallas | 387, 866 | 439, 428 | 431, 751 | 51, 562 | (7, 677) |
| Denver | 349, 802 | 353, 347 | 355, 693 | 3, 545 | 2, 346 |
| Detroit | 388, 503 | 375, 196 | 374, 053 | (13, 307) | (1, 143) |
| Green Bay | 361, 737 | 361, 473 | 361, 302 | (264) | (171) |
| Houston | 285, 441 | 283, 763 | 276, 291 | (1, 678) | (7, 472) |
| Kansas City | 334, 543 | 332, 683 | 546, 124 | (1, 860) | 213, 441 |
| Los Angeles | 473, 212 | 477, 184 | 473, 914 | 3, 972 | (3, 270) |
| Miami | 413, 422 | 464, 658 | 544, 162 | 51, 236 | 79, 504 |
| Minnesota | 320, 006 | 329, 220 | 329, 037 | 9, 214 | (183) |
| New England | 233, 800 | 396, 946 | 421, 243 | 163, 146 | 24, 297 |
| New Orleans | 456, 750 | 525, 586 | 444, 075 | 68, 836 | (81, 511) |
| New York Giants | 437, 977 | 438, 000 | 438, 669 | 23 | 669 |
| New York Jets | 428, 373 | 428, 916 | 430, 442 | 543 | 1, 526 |
| Oakland | 368, 946 | 369, 915 | 367, 078 | 969 | (2, 837) |
| Philadelphia | 381, 147 | 450, 100 | 455, 013 | 68, 953 | 4, 913 |
| Pittsburgh | 318, 698 | 318, 472 | 335, 335 | (226) | 16, 863 |
| St. Louis | 323, 406 | 341, 718 | 337, 545 | 18, 312 | (4, 173) |
| San Diego | 298, 646 | 326, 886 | 347, 349 | 28, 240 | 20, 463 |
| San Francisco | 287, 154 | 316, 560 | 410, 811 | 29, 406 | 94, 251 |
| Washington | 346, 729 | 363, 994 | 365, 346 | 17, 265 | 1, 352 |
| Total | 9, 533, 333 | 10, 076, 035 | 10, 445, 827 | 542, 702 | 369, 792 |
| Capacity | 10, 456, 331 | 10, 562, 397 | 10, 941, 447 | 106, 066 | 379, 050 |
| Percent of capacity in attendance | 91.0 | 95.0 | 95.0 | | |
| Percent of increase in attendance | | 5.7 | 3.7 | | |
| Percent of increase in capacity | | 1.0 | 3.6 | | |

## SCHEDULE C-3

### POPULATION GROWTH IN NFL HOME TERRITORIES

| Club[1] | Metropolitan area population 1970 | Metropolitan area population 1960 | Percent change |
|---|---|---|---|
| Baltimore | 2, 070, 670 | 1, 803, 745 | 14.8 |
| Buffalo | 1, 349, 211 | 1, 306, 927 | 3.2 |
| Chicago | 6, 978, 947 | 6, 220, 913 | 12.2 |
| Cleveland | 2, 064, 194 | 1, 909, 483 | 8.1 |
| Dallas | 1, 555, 950 | 1, 119, 410 | 39.0 |
| Denver | 1, 227, 529 | 929, 383 | 32.1 |
| Detroit | 4, 199, 931 | 3, 762, 360 | 11.6 |
| Green Bay | 158, 244 | 125, 082 | 26.5 |
| Milwaukee | 1, 403, 688 | 1, 278, 850 | 9.8 |
| Houston | 1, 985, 031 | 1, 418, 323 | 40.0 |
| Kansas City | 1, 253, 916 | 1, 092, 545 | 14.8 |
| Los Angeles | 7, 032, 075 | 6, 038, 771 | 16.4 |
| Boston (New England) | 2, 753, 700 | 2, 595, 481 | 6.1 |
| New York | 11, 571, 899 | 10, 694, 633 | 8.2 |
| Philadelphia | 4, 817, 914 | 4, 342, 897 | 10.9 |
| Pittsburgh | 2, 401, 245 | 2, 405, 435 | —.02 |
| St. Louis | 2, 363, 017 | 2, 104, 669 | 12.3 |
| San Diego | 1, 357, 854 | 1, 033, 011 | 31.4 |
| San Francisco/Oakland | 3, 109, 519 | 2, 648, 762 | 17.4 |
| Washington | 2, 861, 123 | 2, 076, 610 | 37.8 |
| Total | 62, 515, 657 | 54, 907, 350 | 12.2 |

[1] Considered only clubs in existence in 1960.

Source: Compiled from "Number of Inhabitants, U.S. Summary, U.S. Department of Commerce, Bureau of the Census, December 1971."

## SCHEDULE C-4

### INCREASE IN ATTENDANCE, 1960-70

| Club[1] | 1960 | 1970 | Percent change |
|---|---|---|---|
| Baltimore | 333, 031 | 408, 275 | 22.5 |
| Buffalo | 111, 800 | 274, 498 | 145.5 |
| Chicago | 257, 443 | 315, 288 | 22.5 |
| Cleveland | 316, 247 | 543, 110 | 71.7 |
| Dallas | 64, 302 | 387, 866 | 503.2 |
| Denver | 91, 333 | 349, 802 | 283.0 |
| Detroit | 288, 558 | 388, 503 | 34.7 |
| Green Bay/Milwaukee | 282, 892 | 361, 737 | 27.9 |
| Houston | 140, 137 | 283, 441 | 102.3 |
| Kansas City | 171, 500 | 334, 543 | 95.1 |
| Los Angeles | 331, 477 | 473, 212 | 42.8 |
| New England | 110, 260 | 233, 800 | 112.0 |
| New York Giants | 353, 035 | 437, 977 | 24.1 |
| New York Jets | 114, 628 | 428, 373 | 273.7 |
| Oakland | 69, 122 | 368, 946 | 433.8 |
| Philadelphia | 254, 017 | 381, 147 | 50.1 |
| Pittsburgh | 155, 677 | 318, 698 | 104.7 |
| St. Louis | 133, 627 | 323, 406 | 142.0 |
| San Diego | 110, 376 | 298, 646 | 170.6 |
| San Francisco | 297, 516 | 287, 154 | —3.5 |
| Washington | 144, 621 | 346, 729 | 139.8 |
| Total | 4, 131, 869 | 7, 545, 151 | 82.6 |

[1] Considered only clubs in existence in 1960.

SCHEDULE C-5

POPULATION GROWTH IN NATIONAL FOOTBALL LEAGUE HOME TERRITORIES

| Club | Metropolitan area population |  |  | Percent change |  |  |
|---|---|---|---|---|---|---|
|  | 1970 | 1960 | 1950 | 1960-70 | 1950-60 | 1950-70 |
| Atlanta | 1, 390, 164 | 1, 017, 188 | 726, 989 | 36. 7 | 39. 9 | 91. 2 |
| Baltimore | 2, 070, 670 | 1, 803, 745 | 1, 457, 181 | 14. 8 | 23. 8 | 42. 1 |
| Buffalo | 1, 349, 211 | 1, 306, 957 | 1, 089, 230 | 3. 2 | 20. 0 | 23. 9 |
| Chicago | 6, 978, 947 | 6, 220, 913 | 5, 177, 868 | 12. 2 | 20. 1 | 34. 8 |
| Cincinnati | 1, 384, 851 | 1, 268, 479 | 1, 023, 245 | 9. 2 | 24. 0 | 35. 3 |
| Cleveland | 2, 064, 194 | 1, 909, 483 | 1, 532, 574 | 8. 1 | 24. 6 | 34. 7 |
| Dallas | 1, 555, 950 | 1, 119, 410 | 780, 827 | 39. 0 | 43. 4 | 99. 3 |
| Denver | 1, 227, 529 | 929, 383 | 612, 128 | 32. 1 | 51. 8 | 100. 5 |
| Detroit | 4, 199, 931 | 3, 762, 360 | 3, 016, 197 | 11. 6 | 24. 7 | 39. 2 |
| Green Bay | 158, 244 | 125, 082 | 98, 314 | 26. 5 | 27. 2 | 61. 0 |
| Milwaukee | 1, 403, 688 | 1, 278, 850 | 1, 014, 211 | 9. 8 | 26. 1 | 38. 4 |
| Houston | 1, 985, 031 | 1, 418, 323 | 935, 539 | 40. 0 | 51. 6 | 112. 2 |
| Kansas City | 1, 253, 916 | 1, 092, 545 | 848, 655 | 14. 8 | 28. 7 | 47. 8 |
| Los Angeles | 7, 032, 075 | 6, 038, 771 | 4, 151, 687 | 16. 4 | 45. 5 | 69. 4 |
| Miami | 1, 267, 792 | 935, 047 | 495, 084 | 35. 6 | 88. 9 | 157. 0 |
| Minneapolis | 1, 813, 647 | 1, 482, 030 | 1, 151, 053 | 22. 4 | 28. 8 | 57. 6 |
| Boston (New England) | 2, 753, 700 | 2, 595, 481 | 2, 414, 368 | 6. 1 | 7. 5 | 14. 1 |
| New Orleans | 1, 045, 809 | 907, 123 | 712, 393 | 15. 3 | 27. 3 | 46. 8 |
| New York | 11, 571, 899 | 10, 694 633 | 9, 555, 943 | 8. 2 | 11. 9 | 21. 1 |
| Philadelphia | 4, 817, 914 | 4, 342, 897 | 3, 671, 048 | 10. 9 | 18. 3 | 31. 2 |
| Pittsburgh | 2, 401, 245 | 2, 405, 435 | 2, 213, 236 | —. 02 | 8. 7 | 8. 5 |
| St. Louis | 2, 363, 017 | 2, 104, 669 | 1, 755, 334 | 12. 3 | 19. 9 | 34. 6 |
| San Diego | 1, 357, 854 | 1, 033, 011 | 556, 808 | 31. 4 | 85. 5 | 143. 9 |
| San Francisco/Oakland | 3, 109, 519 | 2, 648, 762 | 2, 135, 934 | 17. 4 | 24. 0 | 45. 6 |
| Washington | 2, 861, 123 | 2, 076, 610 | 1, 507, 848 | 37. 8 | 37. 7 | 89. 7 |
| Total | 69, 417, 920 | 60, 517, 217 | 48, 633, 694 | 14. 7 | 24. 4 | 42. 7 |

Source: Compiled from "Number of Inhabitants, U.S. Summary", U.S. Department of Commerce, Bureau of the Census, December 1971.

SCHEDULE C-6

INCREASE IN ATTENDANCE AT NFL REGULAR-SEASON GAMES, 1961-72

[From enactment of antitrust exemption to date]

| Club [1] | 1961 | 1972 | Increase 1961-72 | Percent of increase 1961-72 |
|---|---|---|---|---|
| Baltimore | 381, 429 | 392, 320 | 10, 891 | 2. 9 |
| Buffalo | 133, 408 | 309, 814 | 176, 406 | 132. 2 |
| Chicago | 298, 063 | 385, 906 | 87, 843 | 29. 5 |
| Cleveland | 403, 961 | 505, 360 | 101, 399 | 25. 1 |
| Dallas | 95, 487 | 431, 751 | 336, 264 | 352. 2 |
| Denver | 74, 508 | 355, 693 | 281, 185 | 377. 4 |
| Detroit | 327, 698 | 374, 053 | 46, 355 | 14. 2 |
| Green Bay | 282, 892 | 361, 302 | 78, 410 | 27. 7 |
| Houston | 197, 016 | 276, 291 | 79, 275 | 40. 2 |
| Kansas City | 123, 000 | 546, 124 | 423, 124 | 344. 0 |
| Los Angeles | 306, 406 | 473, 914 | 167, 508 | 54. 7 |
| Minnesota | 239, 849 | 329, 037 | 89, 188 | 37. 2 |
| New England | 116, 510 | 421, 243 | 304, 733 | 261. 6 |
| New York Giants | 423, 819 | 438, 669 | 14, 850 | 3. 5 |
| New York Jets | 106, 619 | 430, 442 | 323, 823 | 303. 7 |
| Oakland | 53, 582 | 367, 078 | 313, 496 | 585. 1 |
| Philadelphia | 395, 246 | 455, 013 | 59, 767 | 15. 1 |
| Pittsburgh | 153, 010 | 335, 335 | 182, 325 | 119. 2 |
| St. Louis | 139, 242 | 337, 545 | 198, 303 | 142. 4 |
| San Diego | 195, 014 | 347, 349 | 152, 335 | 78. 1 |
| San Francisco | 340, 754 | 410, 811 | 70, 057 | 20. 6 |
| Washington | 198, 243 | 365, 346 | 167, 103 | 84. 3 |
| Total | 4, 985, 756 | 8, 650, 396 | 3, 664, 640 | 73. 5 |

[1] Considered only clubs in existence in 1961.

MISCELLANEOUS FACTS

(1) Today over 95 percent of all stadium seats for all NFL regular season games are sold, and in some cases the entire season is sold out.

(2) In 1971, over 10 million people attended the 364 regular season games of the 26 national football league teams. That attendance figure increased for the 1972 season.

(3) In 1972, the privilege of using the public airwaves to broadcast regular season NFL games meant an additional $1.5 million for each of the 26 member clubs or $39 million total.

(4) Total professional football game attendance increased from 4,153,000 in 1960, to 9,913,000 in 1970. This does not include the preseason games.

(5) This amendment would not be telling the NFL how to run its affairs. This amendment merely modifies a special exemption from the anti-trust laws which Congress granted professional football, baseball, basketball, and hockey sport leagues in 1961.

Mr. MACDONALD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do so reluctantly. This amendment was raised in the committee and we all understand the difficulty that the geographical situation of Youngstown presents. It is within the 75-mile limit, but there are two difficulties about changing that at this point in this bill.

No. 1, I could have made a point of order, I believe, against it as being nongermane inasmuch as we are amending the Communications Act and this limit of incursion by television is established in the National Football League constitution. The Congress has had nothing to do with its formation, unlike the antitrust exemption for the network negotiations.

Mr. CARNEY of Ohio is understandably upset, and we appreciate it. I think he would be better served by talking with the owners of the two clubs to which he referred, because they could by mutual agreement solve his problem. First of all, it is not our business, and secondly, we would be opening ourselves up to the charge—and I think a very valid one—that if this amendment were adopted, Youngstown stations which can be seen in Pittsburgh and Cleveland could advertise, "Do not buy Cleveland Browns' tickets; do not buy Pittsburgh Steelers' tickets, stay at home and watch it on your home TV over the Youngstown station even though your home stations are blacked out."

We want to be fair with the NFL. They have their rules and regulations. They have a lawful constitution. I think it would be a matter of the Congress inserting itself in the internal workings of the league.

I urge that the amendment, however helpful it might be on behalf of Mr. CARNEY, be defeated.

Mr. FLYNT. Mr. Chairman, I move to strike the last word. I ask unanimous consent to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. FLYNT. Mr. Chairman, I have some serious reservations about this bill. At the same time I have these reservations, I recognize the desire of people who live within the local area to see home games. Yet, I am concerned about this bill, because I feel that it may be an unwarranted intrusion of the powers of Government into an ongoing and viable section of private enterprise which, after many years of hard, lean times, is now doing a good job and is in a sound financial position.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. Of course, I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, would the gentleman agree that in his State the people of the State were taxed in order to build the stadium, and they certainly should enjoy some of the fruits of their taxation?

Mr. FLYNT. Mr. Chairman, I respond to that question, although I do not think it is germane to this bill that is under consideration. The people of Atlanta built the stadium, not the people of the State of Georgia. They did a good job of it and they attracted there a major league baseball team and a major league football team. Both of them, I might add, are doing a good job not only for themselves and their clubs locally, but for the entire city and State as well.

I know many of my colleagues join in resenting the statements made earlier by certain Members who stated or implied that professional football is owned and controlled by a bunch of racketeers. That is certainly not true with the Atlanta Falcons, who would be included in this categorical indictment.

The Falcons recently came into the National Football League. They came in, of course, with uncertainties, but they have made it work. Rankin Smith and his associates are as fine a group of people as there are in our State or in the country. I resent, on their behalf, the allegation that they and others in the industry are a bunch of racketeers and gangsters. It is simply not so.

I believe the same thing has been said and could well be said about club owners in other cities.

One secret of the success of professional football is that it has been able to attract sellout crowds. I do not know whether they will continue to be able to attract sellout crowds once this law is passed. What I am afraid of is that once the door is open, even though they may be able to sell out the tickets, they may find their teams playing to half-filled stadiums, which would not be in the best interests either of the team or of organized football.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. There are two points about that I would point out to the gentleman from Georgia.

In the first place, if the stadium is not sold out, the blackout will be in effect.

Mr. FLYNT. But I said that the tickets could be sold, but they might still have a half-empty stadium, which could happen and has happened. I will cite examples of that in just a minute. Football clubs in certain cold weather cities in the northern part of the country would suffer from this situation more than the club in Atlanta, but clubs in cold weather cities under this legislation if enacted would definitely suffer sharp drops in attendance, greatly magnify the "no show" problem and turn a well attended sports event into a studio show.

I believe that would be detrimental not only for the owners, but also for professional football.

I yield further to the gentleman from Massachusetts.

Mr. MACDONALD. I agree with the gentleman. I do not believe that will happen. Of course, it is a possibility.

As an example, here in Washington I believe there are many innercore city people who are great fans who cannot afford the $8, here in Washington. I do not know what is the cheapest ticket in Atlanta.

If the stadium were sold out, and if the people were not showing up, would it not be a great thing to distribute these tickets to the innercore city people, who cannot afford to go? I guarantee they would have the most enthusiastic crowd they had ever had.

Mr. FLYNT. At the same time, they might, as a result of that, say, "The sale of season tickets is the economic lifeblood of professional football." These tickets must be sold if a football club is to prosper. If the entire operation is to be the success that it presently is, they need well-attended games as well as good ticket sales.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman yielding and I appreciate his remarks.

I should like to make a point to my colleagues. What the gentleman in the well is saying is extremely important, because the economic lifeblood of professional football rests with maximum attendance in the stadium.

The point was made earlier in the colloquy on the floor that somehow or other, because the stadiums are built with public funds in many instances, it rests with the Congress to take the responsibility to bring these events to the public over free TV.

I would simply say that we built the Kennedy Center with public funds. No one is suggesting, I believe, that if they have sold out a performance at the Kennedy Center somehow it should be covered by TV in the same way this legislation treats professional football.

Mr. FLYNT. If I may interrupt the gentleman from New York, I shall yield back later gladly. I believe the gentleman has made a good point.

One might say that if some enterprising motion picture theater owner in his hometown had such attractions that simply because he sold out seats at every performance, somebody should introduce a bill to require that local motion picture theater owner to televise free the motion pictures he brings in. I believe the situation is analogous.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. FLYNT was allowed to proceed for 5 additional minutes.)

Mr. SAYLOR. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. I want to commend my colleague from Georgia, who has had the courage to stand up here and present a defense of the owners of these football teams.

It is true that today they are riding on a high plane of popularity, with the stadiums full, but many a day went by when they did not have the stadiums full, and they lost money, and the people who were interested in professional football kept on, because of their faith in the game.

Merely because they have done this, is no reason to persecute them now when things are going well.

I cite as a shining example the Pittsburgh Steelers, who for many years had a considerable amount of trouble making ends meet. Now they have a good team. They are run by a very fine family, Mr. Art Rooney and his sons. They are a tremendous credit to our community, and to the game of professional football.

Mr. FLYNT. I thank my friend from Pennsylvania.

Let me make one more point.

Mr. Chairman, most people seem to think that this proposal is an innovation. It is nothing new at all. In 1950—now, that might seem like ancient history, but I will come next to an example in December 1970—in 1950 the Los Angeles Rams permitted home game television, with the television sponsor agreeing to underwrite the club's home game attendance at previous levels. At that time, in that season, the Rams had a 9–3 record and held the Western Conference championship, and television was new.

Despite this, regular season home game attendance dropped by 46 percent, and the sponsors bore heavy financial penalties, and the attendance at professional football in the Los Angeles area suffered as a result of televising home games.

One might say that is 1950 and it is too far back to get the true perspective of it.

All right, let us go to December of 1970, when the Baltimore Colts' games were televised, a team which had had 51 consecutive sellouts and had had extremely successful seasons.

When the televising of the Baltimore Colts' games became available over a Washington television station, the Baltimore Colts fell 16,000 seats short of selling out division playoff and conference championship games in Baltimore.

Mr. Chairman, this could happen to an industry which has done an excellent job in coming through many, many hard years before it became the successful industry that it is today.

I do not know that the results of the passage of this legislation will be adverse to professional football. I simply do not know whether it will be or not. I hope it will not be. But the people who know a lot more about professional football than we do believe that it would be adverse to them, in spite of the short-range benefits which they would desire from television revenue as a result of broadcasting home games. I do not believe that the club owners and the Commissioner of professional football are being selfish about this in their opposition to this bill. I just believe that they are being realistic.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I believe the gentleman from Georgia has made some very fine points, and I concur in the position taken by the gentleman from Georgia.

It seems to me that we should oppose this.

This is interference at its worst by the Congress into private enterprise, it seems to me, and I hope that this measure is defeated.

Mr. FLYNT. Mr. Chairman, I believe that the committee amendment, which would change it to an experimental period of three football seasons, is far preferable to the original bill. I am concerned about what this could do to an industry which has proven itself to be operating in the public interest.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to my friend from Alabama.

Mr. FLOWERS. Mr. Chairman, I would like to identify myself with the remarks made by the gentleman from Georgia and I concur totally with them.

Mr. FLYNT. I thank my colleague from Alabama for his remarks.

Mr. DULSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in enthusiastic

support of H.R. 9553 to prohibit television blackouts of home National Football League games which are sold out 72 hours in advance of game time.

I have considered carefully the objections raised by the football commissioner, team owners, and players, present and former.

The public interest, in my view, falls squarely in support of a change in the law. The objections are at best flimsy, if indeed they hold any water at all.

The current hometown blackout provision represents a relatively rare exemption from the antitrust law which professional football was given in its early days as a struggling enterprise. It is no longer a commercial weakling.

We are not proposing to cancel the blackout exemption completely. All we do is to modify the exemption so that it does not apply to home games that are sellouts in advance.

I believe that this is a completely reasonable modification of the law at this time. I might add, however, that I believe that a periodic look should be taken at this basic exemption from the law. It could well be that it has served its purpose and can be eliminated entirely.

I have the honor of representing a community which is truly sports-minded. The people of Buffalo, Lackawanna, Erie County and the entire Niagara Frontier are solid sports fans.

Just last month, the Washington Redskins travelled to Erie County to help the Buffalo Bills baptize a $22 million football stadium that seats 88,000 persons. Yes, it was a sellout crowd.

The county placed its citizens under heavy financial responsibility in approving construction of this new stadium. It is a beautiful structure and layout of which the county can be proud.

There is an important risk which the county has assumed because it will take many years to pay off the building costs. Its success therefore requires not only the strong patronage of games, but also full faith of all our citizens.

Our people appreciate and support our Buffalo Bills football team, but there is reason to be frustrated too often by the actions of team ownership and management.

Professional football is a business as well as a sport. The business side of the Buffalo team sometimes seems to forget that the local citizens are having to fork up two ways for the financial success of the team, by patronage at the gate and by their annual taxes.

In this context it is difficult to understand the thinking of the Buffalo team's management in its recent adamant effort to prevent the county, which built it, from installing the name of the stadium on its wall.

To get the best deal is the name of any game, but it involves a limit on both sides. The Buffalo team ownership did neither itself nor the league any good with its refusal to acknowledge the county's rights and contribution to the new stadium.

Mr. Chairman, I urge passage of H.R. 9553 and I include a recent local editorial as part of my remarks:

[From the Buffalo Evening News, Sept. 8, 1973]

EASE TV FOOTBALL BLACKOUTS

The Buffalo Bills may not field a powerhouse able to fill Erie County's new 80,000-seat Rich Stadium to screaming, cheering capacity in every game this season. But that doesn't diminish the wisdom of congressional action to repeal, for a trial period, the special exemption now allowing team owners to black out local television coverage of even sold-out home games.

These blackouts result from an exemption to the nation's anti-trust laws won by pro football a dozen years ago when this now-prosperous commercial enterprise was still in its infancy.

The special privilege cements a system under which the owners can hardly lose but loyal hometown fans often can. Many of these same fans, as taxpayers, help pay for the stadium in which the blacked-out team plays and from which the owners profit, partly through the pooled sale of their games to television networks for lucrative fees.

NFL owners and Commissioner Pete Rozelle argue that requiring telecasts of local games will empty stadium seats and fill living rooms with stay-at-homes. This is a possibility, to be sure, and certainly Erie County, with a new stadium to pay for, doesn't want acres of vacant seats. But under a Senate-passed bill (which would apply not only to football but to other professional sports as well), the blackouts would be lifted only for games sold out 72 hours in advance, and the repeal plan would be carefully limited to a one-year experiment. If disaster follows, blackouts can always be restored.

In the meantime, pro-football is big business and its claims for special shelters from anti-trust laws are much less persuasive than they were years ago. More in need of this break right now are the deserving, loyal fans.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. CARNEY) to the committee amendment in the nature of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CARNEY of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment in the nature of a substitute was rejected.

Mr. RANDALL. Mr. Chairman, I rise in support of this bill.

Mr. Chairman, I enthusiastically support H.R. 9553, which will amend the Communications Act of 1934 to require the broadcast of games of certain professional sports when tickets of admission for seats at such games, available for purchase by the public 120 hours before the beginning of the game, have all been purchased 72 hours before game time. H.R. 9553 is best known as the antiblackout bill or "ban the blackout" bill.

Last Friday the Senate passed similar but not identical legislation by a vote of 76 to 6. On H.R. 9553 there was only one dissenting vote in subcommittee and only one dissenting vote in the full committee.

As we consider this bill a few questions should be asked: How can there be a justified complaint against this legislation? How can there be a logical disagreement with this bill?

The answer to both of these questions should be that no one has a really valid complaint and no one can make a very strong case in disagreement. The reason is that the bill very simply and quite plainly provides that 5 days or 120 hours before the beginning of the game all available and unsold tickets must be put on sale and then at the point of 72 hours before game time, if all seats have been sold, the game must be televised locally, provided it is to be televised anywhere else in the country.

The Congress does not attempt to say to the owners that it has any authority to make them or to force them to install TV cameras and send out pictures of the game while it is in progress. No, that cannot be done. But, because the public owns the airways Congress can say by this legislation that if they choose to telecast the game, they must telecast it locally when the conditions of this legislation apply.

The distinguished chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD), in my judgment, quite properly offered an amendment to change the bill as it came from the committee as open end or permanent legislation to make it effective for only 3 years and to terminate or repeal this amendment to the Communications Act of 1934. This means that the bill will cover parts of 3 calendar years and two full football seasons, and the remainder of this season.

Such an amendment is most meritorious, in my opinion, because had the House followed the Senate version of lifting the blackout as a sort of experiment for 1 year, then such a testing period could have been an implied invitation to the owners to fudge and finagle in an effort to prove the experiment was unworkable. With a 3-year period we may very well be saving the owners from themselves. We are saying the owners must give this thing ample time to be tested and if they attempt to fudge or evade the provisions of this bill, then, of course, there are means of enforcing it. For my part, I hope the several owners comply with the spirit of the law.

Mr. Chairman, it has been so expressed that I do not apologize for the repetition when I say that there is just no way for this legislation to hurt the game. There are those who argue that it will adversely affect professional football. It would seem that kind of result is almost impossible. I strongly dislike the use of the words "operative" and "inoperative" because they have been used so frequently in the Watergate hearings but in the context of this legislation, I will use one of these words to say that if the sale of seats fall off, this bill simply becomes inoperative. There is no way this legislation can hurt the game.

Mr. Chairman, the House has provided some built-in safeguards which will prevent any possible injury or damage to professional football from this legislation. Having reduced the status of this from permanent legislation to a 3-year period, we have gone further to provide that the Federal Communications Commission shall conduct a continuing study of the effect of this amendment to the Communications Act, and not later than April 15 of each and every year submit to the Commerce Committee on the Senate and at the House a report which contains pertinent statistics and data and any recommendations for amending this legislation which will serve the public interest.

How can we be any fairer than that? I get so impatient with men like Pete Rozelle who comes before the committee and cries great crocodile tears that this kind of bill will be the end of professional football. For that matter, I have been impatient for quite some time with a gentleman by the name of Robert N. Cochran who heads telecommunications under Mr. Rozelle, who back in July, said:

> In this society people are always wanting to get something that shouldn't be necessary for them to get—they are so spoiled.

It was this kind of arrogance that forced the Congress to act on legislation of this kind today.

Think what has happened since the 1961 amendment to the Communications Act. The eight clubs received less than $300,000 for their electronic media rights, that today the 26 clubs receive $46 million, or over $1.8 million apiece. About 95 percent of all teams, taken collectively, play before 95 percent capacity crowds and yet 35 percent of the people of this Nation reside in blacked out areas. With the prosperity that prevails throughout all of professional football, there is no more need for blackout. The owners who spoke through their commissioner, Mr. Rozelle, at the hearings have opposed this legislation at every turn and like the words of Mr. Cochran, head of telecommunications under Mr. Rozelle, have in effect said, "The public be damned," notwithstanding the fact these gentlemen do not own the airways which are the property of every citizen in the United States. That is why the Congress had no choice but to enact the legislation we are about to pass today.

In the mail received in our office from the franchise owner in our district, the worst complaint is directed against the alleged loss to concessionaires—those who sell hot dogs and beer and those who sell parking space. They say that lifting the blackout will result in an increase in the "no shows": That the loss to these concessionaires will be so great that they simply cannot make the payments on their revenue bonds that have built so many of the stadiums. The answer to this argument is contained in one word, "Hogwash." If the financial arrangements of the different stadiums are so thin that they must depend on the income from concessionaires, then they should have never been built in the first place.

When this legislation is enacted, and it will be, and signed by the President, a new day will dawn for the sporting fans of this country. It will be a far cry from the situation in Dallas where now you have to post a $300 bond even to get the right to buy a ticket and yet that area is blacked out to the local fans. But, I am not worried about Dallas. I mention this only as an example of just one of the high-handed arrangements that exist among the owners of professional football teams.

In my own area of Kansas City where a State line runs through part of the metropolitan area, for some reason more ticketholders live on the Kansas side than those who live in Jackson County, Mo. Although the Missourians are paying taxes to finance Arrowhead Stadium, they cannot buy any tickets. Now, with this legislation on the books, at least the people who pay the taxes will have a chance to see the game on TV. A privilege that they have been denied up until now.

This legislation has not been hurried or hastily considered. Exactly 1 year ago today the Interstate and Foreign Commerce Committee of the House sent out scores of investigators all across the land to determine the possible effect of this legislation. All franchised teams were contacted. They were all asked for the list of their season ticket holders.

From a sample poll which was fed into a computer to try to arrive at an accurate sampling of opinion, as a result, 69 percent of the season ticket holders said that if the blackout were lifted they would still attend the games in person. In today's evening edition of the Washington Star-News, released on the streets at about the very hour we were debating this bill, in the sports section there is a story which reveals the results of a local poll by one of the Star-News staff writers. He found that the consensus of the Redskin fans who were polled stated that there was just no way they will give up their season tickets. Those polls were of the Washington season ticket holders. They all said they prefer to see the real thing. Nearly everyone of those polled said that the lifting of the TV blackout will not keep them from attending in person as a cheering fan at all of the Redskin games.

The timing of this bill is most important. I have just learned that the other body on the north side of the Capitol are waiting for our action. It is my understanding that they are willing to accept the House amendment to this bill to extend it three years. If the Senate adopts the language of our bill and passes it as a Senate bill, there is no need for a conference on this legislation. It could be on the way to the White House tonight for the President to sign. He has promised to affix his signature immediately. This entire legislation can become law in plenty of time to become effective for the games on Sunday, September 16.

Mr. Chairman, this is the kind of legislation that should be passed without any opposition. It will give the public opportunities that they have never enjoyed before. There is simply no conceivable way that this can injure or damage the professional sports involved. The safeguards are built in. This bill should be passed forthwith and the word sent over to the other body as quickly as possible so they can act and the measure sent downtown for the signature of the President. Today, every Member of Congress can help score a touchdown for the public.

Mr. HOGAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 9553, the bill that is presently before us on the floor.

In 1953, in the case of the United States against the National Football League, Judge Allen K. Grim held that certain broadcasting practices of the National Football League were outside the scope of the antitrust laws. Judge Grim found that it was illegal for local teams to restrict telecasts of the games of other teams into the local home territories when the local team was on the road and it was televising its games back to its local area.

To reverse this decision, the NFL sought congressional relief and, in response, the Congress enacted what has commonly been called the "Sports Broadcasting Act." This act allows professional football, baseball, basketball, and hockey teams to jointly sell the rights of the member clubs in sponsored telecasts; it limits the antitrust exemption "except within the home territory of a member club of a league on a day when such club is playing a game at home"; and it provides protection for intercollegiate football games from the telecasts of professional football games.

I now feel that the time has come for Congress to reevaluate the financial necessity of sports blackouts. The 1961 legislative blackout was taken at a time when the financial position of major sports leagues, football in particular, was much more precarious than is the case today.

According to a recent survey taken by the Special Subcommittee on Investigations of the Interstate and Foreign Commerce Committee, 69 percent of those people who hold season tickets in all NFL cities would continue to purchase season tickets if legislation were enacted to televise home games. However, the NFL continues to support the practice of television blackouts on the grounds of financial necessity.

The original purpose of the legislative antitrust exemption has been achieved and there are no new or alternative justifications for its existence. The arrogant inflexibility of the NFL on the question of television blackouts should no longer be permitted by Congress. It is time the fans got a break as well as the owners of the clubs.

Mr. Chairman, the bill before us today would provide for live television broadcasting within the home territory of professional football, baseball, basketball and hockey clubs of the games played by such clubs at home, providing the games are sold out 72 hours before game time. This would give the professional teams the assurance that they will have a sellout crowd and it allows the hometown fans the opportunity to see their home team at home when no tickets are available.

The Washington Redskins is a prime example of how the hometown fans have been denied the privilege and right to see their club at home. Every seat in Kennedy Stadium is committed to season ticket holders long before the season ever begins.

In Baltimore, all but a few thousand seats are also held by season ticket purchasers, and these are also sold out long before game time. And I am sure that if the Colts decided to fill their entire stadium with season ticket holders, they could easily do so.

The same or similar situations exist in virtually every one of the home team cities. Professional football tickets have become prized possessions. According to some reports, it has even reached the point where they are among the most coveted assets in some decedents' estates.

Mr. Chairman, this bill would remedy a gross injustice now being perpetrated against thousands upon thousands of professional football fans in every National Football League city in the country. I urge my colleagues to take the initiative in the blackout problem by passing this bill so that hometown fans can watch home team football this season.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ZABLOCKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9553) to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games, pursuant to House Resolution 544, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. KEMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 336, nays 37, answered "present" 1, not voting 60, as follows:

[Roll No. 457]

YEAS—336

Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Wis.
de la Garza
Dellums
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Grover
Gubser
Gude
Gunter
Haley
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Ketchum
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
McCloskey
McCollister
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Powell, Ohio
Preyer
Price, Ill.
Quie
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stubblefield
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NAYS—37

Abdnor
Conlan
Dellenback
Dennis
Duncan
Edwards, Calif.
Eilberg
Flowers
Flynt
Fountain
Fulton
Harsha
Henderson
Hicks
Jordan
Kemp
Landgrebe
McClory
Mayne
Mizell
Poage
Pritchard
Rarick
Rhodes
Rousselot
Ruth
Satterfield
Saylor
Smith, N.Y.
Steiger, Ariz.
Stuckey
Symms
Teague, Tex.
Udall
Whalen
Wilson, Bob
Young, Alaska

ANSWERED "PRESENT"—1

Armstrong

NOT VOTING—60

Anderson, Calif.
Anderson, Ill.
Bell
Biaggi
Blackburn
Bray
Burke, Calif.
Carey, N.Y.
Chisholm
Clawson, Del
Clay
Collins, Ill.
Crane
Davis, Ga.
Davis, S.C.
Delaney
Denholm
Frenzel
Griffiths
Guyer
Hammerschmidt
Hanrahan
Harvey
Hays
Hillis
Hudnut
Hutchinson
King
Kuykendall
Landrum
Litton
Lujan
McCormack
McEwen
McSpadden
Mann
Mathis, Ga.
Metcalfe
Mills, Ark.
Mollohan
Moorhead, Calif.
O'Neill
Owens
Price, Tex.
Quillen
Roncalio, Wyo.
Rooney, N.Y.
Roybal
Runnels
Ruppe
Ryan
St Germain
Sandman
Shoup
Sikes
Stratton
Tiernan
Wilson, Charles H., Calif.
Wyatt
Zwach

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hays with Mr. Landrum.

Mr. Rooney of New York with Mr. Anderson of Illinois.

Mrs. Burke of California with Mr. Ruppe.

Mr. Carey of New York with Mr. Quillen.

Mr. Charles H. Wilson of California with Mr. Runnels.

Mr. McSpadden with Mr. Lujan.

Mr. St Germain with Mr. Sandman.

Mr. Stratton with Mr. Bray.

Mr. Davis of South Carolina with Mr. Kuykendall.

Mr. Metcalfe with Mr. Hanrahan.

Mr. Davis of Georgia with Mr. Bell.

Mr. Mills of Arkansas with Mr. Shoup.

Mr. Sikes with Mr. Blackburn.

Mr. Tiernan with Mr. Del Clawson.

Mr. Biagggi with Mr. Roncallo of New York.

Mr. Mathis of Georgia with Mr. Crane.

Mr. Mollohan with Mr. Hammerschmidt.

Mrs. Collins of Illinois with Mr. McEwen.

Mr. O'Neill with Mr. Frenzel.

Mr. Anderson of California with Mr. Guyer.

Mrs. Chisholm with Mr. Hillis.

Mr. Delaney with Mr. Wyatt.

Mr. Denholm with Mr. King.

Mrs. Griffiths with Mr. Hudnut.

Mr. Litton with Mr. Zwach.

Mr. Roybal with Mr. Hutchinson.

Mr. Clay with Mr. McCormack.

Mr. Mann with Mr. Owens.

Mr. Ryan with Mr. Moorhead of California.

Mr. Price of Texas with Mr. Harvey.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 544, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the Senate bill (S. 1841) to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams.

The Clerk read the title of the Senate bill.

### MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 1841 and insert in lieu thereof the provisions of H.R. 9553, as passed, as follows:

That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"BROADCAST OF GAMES OF PROFESSIONAL SPORTS CLUBS

"SEC. 331. (a) If any game of a professional sports club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public one hundred and twenty hours or more before the scheduled beginning time of such game have been purchased seventy-two hours or more before such time, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. The right to broadcast such game by means of television at such time and in such area shall be made available, by the person or persons having such right, to a television broadcast license on reasonable terms and conditions unless the broadcasting by means of television of such game at such time and in such area would be a telecasting which section 3 of Public Law 87-331, as amended, (15 U.S.C. 1293) is intended to prevent.

"(b) If any person violates subsection (a) of this section, any interested person may commence a civil action for injunctive relief restraining such violation in any United States district court for a district in which the defendant resides or has an agent. In any such action, the court may award the costs of the suit including reasonable attorneys' fees.

"(c) For the purposes of this section:

"(1) The term 'professional sports club' includes any professional football, baseball, basketball, or hockey club.

"(2) The term 'league television contract' means any joint agreement by or among professional sports clubs by which any league of such clubs sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games engaged in or conducted by such clubs.

"(3) The term 'agreement' includes any contract, arrangement, or other understanding.

"(4) The term 'available for purchase by the general public', when used with respect to tickets of admission for seats at a game or games to be played by a professional sports club, means only those tickets on sale at the stadium where such game or games are to be played, or, if such tickets are not sold at such stadium, only those tickets on sale at the box office closest to such stadium.

"(d) The Commission shall conduct a continuing study of the effect of this section and shall, not later than April 15 of each year, submit a report to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with respect thereto. Such report shall include pertinent statistics and data and any recommendations for legislation relating to the broadcasting of professional football, baseball, basketball, and hockey games which the Commission determines would serve the public interest.".

SEC. 2. Section 331 of the Communications Act of 1934 (as added by the first section of this Act) is repealed effective December 31, 1975.

Amend the title so as to read: "An Act to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9553) was laid on the table.

## GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## LEGISLATIVE PROGRAM

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority whip if there is any program remaining for this week and the schedule for next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond.

Mr. GERALD R. FORD. I yield to the distinguished gentleman from California.

Mr. McFALL. Mr. Speaker, there is no further legislative business for today, and upon announcement of the program for next week, I will ask unanimous consent that the House adjourn until Monday.

The program for the House of Representatives for next week is as follows:

Monday, Consent Calendar and suspensions, four bills:

H.R. 7265, Domestic Volunteer Service Act;

H.R. 7352, Federal prisoners furlough;

H.R. 5943, OAS diplomatic immunity; and

H.J. Res. 719, HUD loan insurance.

Tuesday, Private Calendar and Suspensions, eight bills:

H.R. 37, Endangered and Threatened Species Conservation Act;

H.R. 7395, merchant marine amendment;

H.R. 9293, Coast Guard omnibus bill;

H.R. 9575, women in Coast Guard Reserve;

H.R. 5384, vessel loadlines requirement;

H.R. 7730, San Carlos, Ariz., mineral strip purchase;

H.R. 7976, historical restoration of Fort Scott, Kans.; and

H. Res. 420, congressional intern program.

Wednesday and the balance of the week:

H.R. 7935, Fair Labor Standards Act amendments, vote on veto override;

H.R. 9715, USIA authorization, subject to a rule being granted;

S. 1914, Radio Free Europe, subject to a rule being granted;

H.R. 9281, law enforcement and firefighter personnel retirement, subject to a rule being granted; and

H.R. 9256, Federal employees health benefits, subject to a rule being granted.

Conference reports, of course, may be brought up at any time and any further program will be announced later.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Monday, September 17, 1973, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## ADJOURNMENT TO MONDAY, SEPTEMBER 17, 1973

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## THE PRESIDENT'S LEGISLATIVE PRIORITIES

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNGATE. Mr. Speaker, on Monday, the President focused the attention of the Congress and the Nation on some 50 legislative measures which he characterized as being "of the highest priority."

Of particular interest to me as chairman of the Subcommittee on Criminal Justice of the House Judiciary Committee, was the President's reference to legislation to reform the Federal Criminal Code.

The administration's bill, H.R. 6046, is pending with my subcommittee. This bill is a variation of recommendations proposed in 1971 by the National Commission on Reform of Federal Criminal Laws, popularly known as the Brown Commission, a bipartisan Commission of Members of Congress, judges, and lay persons, created by act of Congress in 1966. Another variation, reported to be the largest bill ever introduced in the Senate, is S. 1, introduced by Senators McCLELLAN, ERVIN, and HRUSKA. The Commission's recommendations were recently introduced as H.R. 10047 by Congressmen KASTENMEIER and EDWARDS of California, both of whom were members of the Commission and are members of the Subcommittee on Criminal Justice.

I would hope that the President includes this highly complex, controversial, voluminous legislation among the bills about which he said in his message:

> I realize that it will not be possible for the Congress to act this year on all of the legislation which I have submitted.

The Commission which developed the parent proposal labored for more than 3 years. The Senate Judiciary Subcommittee on Criminal Laws and Procedures printed 7 volumes of hearings, totaling over 4,000 pages, during the 92d Congress, and is continuing its hearings in the current Congress. As the President said in his message—

> A prudent Congress will still wish to study this matter carefully.

As you know, the able chairman of the Judiciary Committee, our colleague from New Jersey, the Honorable PETER W. RODINO, Jr., recognized the importance of this project at the outset of the Congress. In organizing the Judiciary Committee, he established our subcommittee with a mandate to direct its energies and attention to two major projects—reform of the Federal Criminal Code, and review of rules of evidence proposed by the Supreme Court for use in the Federal courts throughout the country.

The Senate having undertaken the initial study of the proposed code, our subcommittee has devoted its attention to the equally important proposed rules of evidence. Extensive hearings were followed by 17 mark-up sessions at which a tentative draft was developed. This draft was printed and circulated nationwide for comment. Since the reconvening of the Congress on September 5, the subcommittee has continued to meet to consider the draft in the light of the comments received. We are scheduled to meet each week until a final draft is ready for the full committee and then the House.

To date, the work of the subcommittee on the proposed rules of evidence—rules such as those pertaining to relationships between husbands and wives and doctors and patients, and rules calculated to improve the administration of justice in criminal and civil litigation in the Federal courts—has proceeded as free as possible of partisan consideration. I do not believe the American public would want the rules, or a Federal Criminal Code, shaped in any other way.

Although primarily moving forward with the development of the rules of evidence, we have been examining the code recommendations of the National Commission and the variations which have been proposed. Furthermore, the subcommittee has had three informal briefing sessions at which representatives of the Justice Department have begun the presentation of an overview of the administration bill. The quality of these briefings has been excellent, but the sheer enormity and complexity of this legislation H.R. 6046 consists of 336 pages—requires a substantial amount of time even to summarize if it is to receive the thorough consideration this important subject matter deserves. To perform this task adequately, the subcommittee must do a comparative analysis of the three major bills—H.R. 6046, H.R. 10047, and S. 1, which together total 1,200 pages—as a predicate to the conduct of such hearings as may be indicated.

Since the submission of the administration's legislation, a new Attorney General has taken office. It is my understanding that Attorney General Richardson is currently reexamining the administration's bill to determine what changes, if any, he may wish to make. We would certainly want the benefit of his views before recommending legislation to the floor.

To my way of thinking, the congressional approach to these two major projects has been most responsible—the Senate having taken the lead in inquiring into the code provisions, and the House having done the same with the rules of evidence. Hopefully, by the end of the session, the rules will be in the Senate, with the Judiciary Committee there having the benefit of our hearings, discussions, and comments. Also, by the end of the first session, whether or not the Senate has been able to act on the Criminal Code legislation, our subcommittee will have completed its informal briefings and have begun its hearings, having the benefit of those already held in the Senate.

In my six terms in Congress, I have never worked with a more diligent and more conscientious group of Members than those who serve with me on the Subcommittee on Criminal Justice.

Mr. Speaker, the reform of the entire Federal Criminal Code has been referred to by both legal scholars and Government officials as one of the most monumental tasks in the history of our Republic. The members of my subcommittee and I welcome the challenge before us and have already rolled up our sleeves and begun our work.

We are prepared to work as rapidly as possible and to devote our full energies to the task. If I felt that it would serve the national interest, we would accelerate our schedule and insist on completing our work in this Congress. However, I must advise my colleagues that in my judgment such rapid action would do our Nation a disservice. The events of recent months have demonstrated dramatically the need for a long and careful look at some of the more controversial questions raised in the various proposals. Many of these questions are now the subject of court cases which may affect the very heart of our democracy. Let me cite just a few examples:

The administration bill raises questions involving State secrets and the confidentiality of communications between Government officials. It also raises that question of just what our national policy ought to be concerning wiretapping, bugging, and other investigatory techniques which may impinge upon the right of privacy.

I am convinced that Congress will act with more wisdom with respect to these momentous questions after we know the outcome of a number of court decisions.

In addition, a completion of the entire code would also involve a complete reevaluation of the national policy involving such questions as: gun control, capital punishment, the insanity defense, and obscenity—just to name a few. These are questions which require the most balanced and the most carefully considered legislative judgments.

For all of these reasons, Mr. Speaker, it would be unwise for us to view the adjournment of this session of Congress as the time within which this project must, or should be completed. With the exception of Moses, no great legal code has been written that quickly. Nevertheless, we shall proceed diligently.

Knowing that Representatives KASTENMEIER, EDWARDS of California, MANN, HOLTZMAN, SMITH of New York, DENNIS, MAYNE, and HOGAN, are on the subcommittee should assure my colleagues that there will be no foot dragging in the future, just as there has been none in the past.

## THE LATE GEORGE THAYER

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it was with great sadness that I learned of the death of a member of my staff, George Thayer, on August 13.

George joined my staff in June, and worked chiefly as a researcher and speech writer on military affairs. He had a small desk in our office stacked high with books surrounding a typewriter. Those were his tools and he used them well. I enjoyed his company and his counsel in the months he was with us.

Prior to joining us, George was on the staff of Representative COUGHLIN of Pennsylvania. He had also worked for New York Governor Rockefeller and Rhode Island Senator CLAIBORNE PELL.

George was the author of three books: "The British Political Fringe" published in 1965, "The Farther Shores of Politics" published in 1967, and "The International Trade in Armaments," published in 1969.

A fourth book, "Who Shakes the Money Tree," will be published this November. It is an examination of political campaign financing.

In a review in the Washington Post

of "The International Trade in Armaments," George was described as a "political scientist by training and a journalist, in the best sense of the word, by inclination." In addition, George was a man of tremendous intellect, integrity, and humor who won the respect and affection of all who worked with him.

My family and staff join me in sending our heartfelt condolences to his wife, Carol, and his family.

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## THE HIGH COST OF PRODUCT LIABILITY

(Mr. MILFORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, I would like to take this opportunity to bring a very serious problem to the attention of this body. In recent years, due to some unfair court rulings, the cost of product liability has soared to astronomical levels. For a number of years before attaining this office, I operated a nationwide aviation consulting firm working in virtually every phase of research and investigation concerning air crashes—many of these having much involvement in the liability of the product. Some of the more recent and arbitrary court rulings have very nearly forced our aircraft manufacturers to be responsible for a product manufactured 20 to 30 years ago. This, gentlemen, is an intolerable situation. I have just read an excellent article outlining this unfortunate problem, "The High Cost of Product Liability," by David Smith, and would like to include it in the Record at this time:

### The High Cost of Product Liability—Products Liability Law Works In Curious Ways

(By David Smith)

The president of a general aviation company once told a story about a VFR pilot who, after an evening on the town, loaded his airplane over gross and, without checking weather, flew off into a raging snowstorm, iced up and crashed. His widow sued the manufacturer of the airplane, claiming that the craft was defective, and collected $1,000,000. This sum was paid by an insurance company as provided by the manufacturer's product liability insurance policy. After the trial, the president asked a juror why the jury had made the award when the fault was clearly the pilot's. The juror replied, "Well, someone was hurt, so we felt someone had to pay."

If you recently purchased a new single-engine airplane, you paid about $1,000 of that $1,000,000. And if the present trend in product liability law continues, in time there conceivably might not be a new single-engine retractable around for you to buy.

The $1,000 is roughly the amount an airplane manufacturer must pay in product liability insurance for each single-engine retractable aircraft sold. (The amount varies with the price of the airplane.) Because product liability insurance premiums are buried in the manufacturers' financial statements, the dramatic increase in these costs has gone largely unnoticed by the general aviation public. But what would the public's reaction be if, at the bottom of the bill of sale the following item were added "Product Liability Insurance: $1,000."

Insofar as $1,000 represents part of an autopilot, DME or IFR avionics, the answers to the following questions should be of more than passing interest: What does product liability law accomplish, and is it fair? Why is product liability insurance so costly, and how might the cost be lowered?

The primary goal of product liability law is to allocate costs between manufacturer and the consumer for injuries caused by defective products. Underlying the concept of products liability is the principle that injuries should be paid for by those legally responsible for the damage. Not surprisingly, the key issues in products liability law are the definition and determination of responsibility, discussed in further detail below.

Beyond providing inherent equity through the compensation of those injured by those responsible for the injury, the law serves a useful social function, providing an additional incentive for manufacturers to design and manufacture their products with due regard for the consumer's safety. The more the manufacturer spends on safety the fewer the accidents likely to result from defective products and the less he will have to pay to injured customers. So far so good. But is it working that way in general aviation? Looking into the causes of the recent rise in costs associated with aircraft product liability, we find evidence to suggest that airplane manufacturers, and therefore, aircraft users, are paying exceedingly high damage awards for injuries for which manufacturers were not, in an equitable sense, responsible.

Some fairly understandable reasons come readily to mind in accounting for the rising costs associated with product liability: inflation, the expanding number of aircraft users, their greater earning power (upon which the size of awards is based), the increasing average load carried by present-day private aircraft. All these factors tend to augment the size and frequency of damage awards arising out of aircraft accident litigation. Another factor, more controversial than those already mentioned, is the present judicial environment which makes it progressively easier for an injured party to pin the blame for an accident on a manufacturer, and, having done so, to receive outsized damage awards.

The evolution of U.S. product liability law—*caveat emptor* to "strict liability."

Over the past 80 years there has been a tremendous change, not so much in products liability law as legislated, but rather in the court interpretations of the law. Before the turn of the century, consumers struggled along in a world where *caveat emptor*, "let the buyer beware," was the prevailing doctrine. Gradually the courts imposed additional requirements on manufacturers: "reasonable care," "warranties—express or implied" are concepts which arose out of landmark cases establishing a reasonably equitable relationship between consumer and manufacturer. Included in that equitable relationship was the notion that a plaintiff could not collect if the manufacturer had not been negligent in producing the product or if the plaintiff had been negligent in using it.

The advent of the legal concept of "strict liability" removed negligence from products liability law in many states. Strict liability essentially holds the maker of a faulty product responsible for the damage it causes no matter how careful he may have been in making it. Courts now appear to be willing to go even further, holding that a manufacturer may sometimes be liable for injuries even though there is *no defect* in the product, no negligence on the part of the manufacturer. Underlying this interpretation of the law is the apparent assumption that a manufacturer is capable of producing a perfect product, one the customer can use under almost any circumstances without risk of injury.

Failing to produce the perfect product, the manufacturer should be penalized for any injuries stemming from its use. This unreasonable assumption unbalances the previously equitable relationship between manufacturer and consumer by unduly easing manufacturer legally responsible for injuries, and lessening the presumption that the user is required both to assume normal risks in using the product and to use the product intelligently.

The courts have been moved in this direction by understandable humanitarian impulses; they reason someone has been hurt and should therefore be helped. When the plaintiffs are a widow and fatherless children, and the defendant a prosperous corporation, it is easy for the courts to discern how they might be an instrument of such assistance. Helping the injured then takes precedence over fixing responsibility for the injury. Not surprisingly, juries are inclined to seek recovery from those best able to pay, the "deep pocket," rather than those responsible for causing the damage. Accordingly, the interpretation of the law is rewritten to accomplish this end.

California Chief Justice Roger Traynor, an instrumental figure in the rewriting of products liability law, summarized the "deep pocket" philosophy in 1965: "The cost of an injury and the loss of time or health may be an overwhelming misfortune to the person injured, and a needless one, for the risk of injury can be insured by the manufacturer and distributed among the public as a cost of doing business." (Sealy v. White Motor Co.) Evidently news of personal accident and health insurance had not reached the good judge.

This interpretation of the law penalizes manufacturers (and therefore the public) for the manufacturer's foresight in obtaining insurance, while rewarding the plaintiff for failing to do so. In sum while the intent of the "deep pocket" remedy is laudable, it fails to adhere to the principle of losses being incurred by those responsible for them, and thereby penalizes other aviation users for accidents caused by pilot error.

"Guest statutes" which in some states prohibit a guest passenger from suing his host pilot, often add to the inequity of the "deep pocket" mechanism in cases where the pilot is at fault. When a guest plaintiff is unable to collect from the pilot, a jury can often be persuaded to find some excuse to blame the manufacturer because his is the *only* pocket available.

In defending themselves in suits where product defect is alleged, general aviation manufacturers, in particular, face rather unique difficulties. Most judges and jurors do not fly, nor do they understand aerodynamics, electronics or many of the other scientific disciplines inherent in airplane design and construction. In many cases, then, the technical issues upon which the determination of fault hinge, are beyond the court's comprehension. Samuel Butler once observed "the public does not know enough to be experts, yet knows enough to decide between them."

Lacking a solid basis for fixing responsibility for an accident, jurors often fall back on their emotions and look for the "deep pocket." Furthermore, intentionally or not, courts tend to apply present-day standards in judging the safety of a product built many years ago. Given the progressive advances in the "state of the art" in aircraft design and the longevity inherent in airplanes, it is easy to envision the situation wherein a manufacturer is found liable for failing to meet state-of-the-art standards of safety not in existence when the aircraft was built. (An ironic twist of fate, when you consider that longevity was built into an airplane for safety.)

### DAMAGE AWARDS: REASONABLE OR UNREASONABLE?

The "deep pocket" has been getting deeper, largely as a result of the prevailing feeling among jurors that damages paid for by insurance companies somehow "don't count." Furthermore, the unique and spectacular nature of a general aviation accident tends to prod juries into making larger pain and suffering awards than they might be inclined to make in the more familiar case of, say, an auto accident.

More disturbing is the apparent willingness of jurors to award disproportionate punitive damages, which may well be uninsurable, and could, if allowed to stand, conceivably drive a manufacturer out of business. For example, a California jury recently awarded punitive damages of $17.5 million against Beech. This sum represented about 40 per cent of Beech's net worth at the time! Fortunately for Beech, the judge ordered a new trial on this award because he felt the award was excessive. Nevertheless, the populist distaste for big business has apparently reached the point where juries are willing to drive a company out of business without regard for the very real suffering they might impose on employees, creditors and stockholders.

As larger awards have become easier to secure, a very happy hunting ground has been created for plaintiffs' lawyers, whose remuneration frequently amounts to a third of the total award. For example, if the plaintiffs' attorney in the $108 million class action suit brought against Beech were to collect a one-third contingent fee of the full amount of the damages sought, he would receive over $35 million! At $50 an hour it would take seven lawyers, each working their entire 40-year careers, 10 hours a day, five days a week to earn that amount. Juries, recognizing that a substantial portion of the award will be paid to plaintiffs' lawyers, often simply tack on an extra third for good measure.

A lawyer who accepts a product liability suit on a contingent fee basis has nothing to lose but his effort involved in preparing the case, and stands to gain enormous sums, totally disproportionate to the time he invests. It is not difficult, therefore, to envision situations in which plaintiffs' lawyers might pursue shaky cases where a good possibility exists that the "deep pocket" might well fill his own. Even if he is unsuccessful, the sizeable legal defense costs insurance companies must incur eventually find their way into manufacturers' product liability insurance premiums. Either way, the consumer foots the bill in the legal "crapshoot" engaged in by plaintiffs' lawyers as a result of the contingent fee system.

Products liability law serves a socially useful function to the extent that those suffering injuries are fairly compensated for by those reasonably held responsible for those injuries. But should we allow products liability law to be transformed into a nationwide accident insurance system?

As the reasoning presented above suggests, there are serious flaws in the law as implemented which often unfairly shift the burden for injuries to manufacturers of private aircraft merely because they are the only ones capable of compensating those injured. Furthermore, the amounts of such compensation frequently tend to be excessive and unreasonable.

Unfortunately, the present inequities in the product liability system may well cost aircraft users more than the price of an autopilot or IFR avionics. Private aviation is running the very real risk of being put out of business by the excesses of the system through continuing increases in the cost of product liability insurance and for multimillion dollar (uninsurable) punitive damage awards. If a single manufacturer were to be lost in this highly concentrated industry, aircraft users would be deprived of significant alternatives in their choice of equipment. Owners of aircraft manufactured by the defunct company would be deprived of factory replacement parts and continuing factory product support essential to the safe operation of their aircraft.

Another perverse effect of the present product liability system is the stifling of progress in aircraft design and construction. For example, courts often interpret a product improvement or progression to a new model as evidence that something was wrong with the old one. A manufacturer, faced with pending or potential product liability lawsuits must weigh the benefits of product improvements against the possibility that the improvements might tip the scales against him in multimillion dollar lawsuits involving existing products. Given the present legal environment, it is not difficult to imagine manufacturers shying away from developing new products altogether. Recognizing that the possibility of error present in a new design might trigger a potentially ruinous lawsuit, manufacturers might justifiably decide to stick with the proven existing product line.

The inadequacies of the present product liability system are many, and the consequences of these inadequacies serious. What then, might be done to remedy the situation?

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## JUSTICE IN OUR JUDICIAL PROCESS

The SPEAKER. Under a previous order of the House, the gentleman from Arizona (Mr. STEIGER) is recognized for 15 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, I am today introducing legislation that, if enacted, would bring increased justice into our judicial process. One finds little argument with the view that justice is denied if an innocent person is convicted. Fortunately, that happens very, very infrequently. But justice is also denied if a person who commits an offense is allowed to go free. Regrettably, such occurrences routinely take place in every court in the country.

Mr. Speaker, I would like to cite as examples two cases where the perpetrators of heinous crimes escaped conviction.

In the first case, a man stuck a rifle barrel up to the window of a car, ordered the girl to get out and undress, indicating that if she did not she and her male companion would be shot. He forced the boy to lie on the floor of the car while he raped the girl. Later he forced them to drive to another spot and walk down a dirt road into some bushes. He told the couple he was going to kill them. They pleaded with him to tie them up and blindfold them so he would have no problem escaping. This he did, each to a separate tree, but he did not leave. He raped the girl again and then went over to the boy, felt his chest, asked him where his heart was, and calmly shot him. He also shot the girl in the left breast close to her heart. He then drove away believing he had killed the young couple.

The second case involved a 14-year-old schoolgirl who occasionally worked after school as a babysitter. She obtained jobs by posting her name and phone number on a bulletin board in a laundromat. She arrived home from school one day and was told that someone wanted her to babysit and would call back. After receiving the call and finishing her supper, the young girl left her house to babysit. Her family never saw her alive again. Eight days later, her frozen body was found by the side of a road a few miles from her home. Her throat had been slashed and she had been shot in the head.

The U.S. Supreme Court reversed the convictions of the persons who committed these acts because of the admission of evidence it held should have been excluded. These are but two examples of the numerous outrageous instances where a known criminal has been set free, because of a rule of evidence that has seriously marred the American criminal justice system—the Exclusionary Rule.

Mr. Speaker, this bill I am introducing would abolish this Exclusionary Rule which lets the guilty go free.

The fourth amendment of the Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . .

Nowhere does it provide how this right will be enforced nor does it provide that any evidence obtained by an unreasonable search or seizure must be excluded in a criminal proceeding.

In 1914, the Supreme Court set down a rule of law excluding from a Federal criminal trial evidence illegally obtained. Since that time, the rule has grown based on arguments by defense attorneys and philosophical opinions of judges. Now it is the law of the land and not only includes searches and seizures, but confessions, lineups, and identifications.

The rationale justifying the application of the Exclusionary Rule is based on three points: First, the courts should not engage in illegal activity by utilizing illegally obtained evidence; second, the Exclusionary Rule deters police misconduct; and, third, there is no other effective remedy to enforce the fourth amendment.

Although this rationale has generally been accepted as sufficient justification to support the Exclusionary Rule, a close examination of these three points raises some doubt as to the wisdom of retaining the rule in our judicial process.

Looking at point one, it is the courts' obligation as well as the juries' to seek the truth; that is, the guilt or innocence of the accused. By excluding relevant, sound and probative evidence, bias is created and real truth sacrificed. Therefore, abolishing the Exclusionary Rule would permit the courts and juries to consider all the real facts available and arrive at a conclusion—guilt or innocence. Permitting the courts to act in this manner cannot be construed as engaging in illegal activity.

As for the second point, a deterrent to police misconduct, the rule does nothing to reprimand or punish the police save refusal to allow evidence in a criminal proceeding. It does not provide a remedy for an innocent person who has been subjected to police misconduct, because if nothing incriminating is found, nothing can be excluded—and that is the only provision of the rule. There is, however, one person who benefits from the rule and that is the person against whom incriminating evidence is obtained—the criminal.

Since the adoption of the rule, there is no doubt that law enforcement officials have given much attention to constitutional rights and Supreme Court decisions in an effort to chart a course through a maze of legal contradictions, to arrive at the end result for which they exist—successful prosecutions. But, is it reasonable to require a police officer to render a decision and take action he believes to be proper on circumstances before him at the time, and then have the action declared illegal years later by a court whose members cannot agree? Also, the rule as it is applied is inflexible and does not take into consideration the nature of the crime involved nor the degree or circumstances of the police misconduct, be it an insignificant good faith mistake or flagrant violation. The end result is inevitable—suppression of evidence and freedom for the guilty.

The third point advanced for rationalizing the Exclusionary Rule is the lack of any other effective remedy to safeguard the provisions of the fourth amendment. There is no real basis for this position. The British and Canadian system of criminal justice provides some insight into a workable alternative to the Exclusionary Rule. In both systems, the question of illegally obtained evidence is divided into two parts—criminal and civil. The evidence obtained can and is used in a criminal proceeding to determine guilt or innocence. There are, however, provisions whereby an individual may sue civilly for damages resulting from an illegal search or seizure. This remedy is available not only to an innocent person subjected to misconduct but also to an individual implicated in a criminal act. The police officer is also subject to strict internal disciplinary action as well as criminal prosecution if the facts so warrant. In short, these systems provide deterrence and redress while at the same time do not sacrifice reliable evidence which leads to successful prosecutions.

In this regard, Mr. Speaker, I would like to call attention to some pertinent comments by Chief Justice Burger. He has suggested the following proposals be considered as an alternative to the Exclusionary Rule:

> (1) A waiver of sovereign immunity as to the illegal acts of law enforcement officials committed in the performance of assigned duties;
>
> (2) The creation of a cause of action for damages sustained by any person aggrieved by conduct of governmental agents in violation of the Fourth Amendment or statute regulating official conduct;
>
> (3) The creation of a tribunal, quasi-judicial in nature, or perhaps patterned after the United States Court of Claims, to adjudicate all claims under the statute;
>
> (4) A provision that this statutory remedy is in lieu of the exclusion of evidence secured for use in criminal cases in violation of the Fourth Amendment; and
>
> (5) A provision directing that no evidence, otherwise admissible, shall be excluded from any criminal proceeding because of violation of the Fourth Amendment.

In discussing these proposals, he stated:

> We would more surely preserve the important values of the doctrine of separation of powers—and perhaps get a better result—by recommending a solution to the Congress as the branch of government in which the Constitution has vested the legislative power. Legislation is the business of the Congress, and it has facilities and competence for that task—as we do not. . . . I can only hope now that the Congress will manifest a willingness to view *realistically* the hard evidence of the half-century history of the Suppression Doctrine revealing thousands of cases in which the criminal was set free because the constable blundered and virtually no evidence that innocent victims of police error . . . have been afforded meaningful redress.

As you know, Mr. Speaker, the Congress has failed to heed Chief Justice Burger's advice to legislatively abolish the Exclusionary Rule and enact a proper alternative. One reason for this lack of action might be attributed to the makeup of Congress. Historically, the legal profession has fought to not only retain but expand the rule. This is based in part on the fact that a legal education is defense oriented because most practicing attorneys eventually become defense attorneys—not prosecutors and, as such, employ every legal maneuver to secure one end—acquittal of the accused. Abolition of the Exclusionary Rule would strip the attorney of an invaluable tool. Based on this, it is fair to assume that attorneys, by the nature of their profession, have a natural interest in retaining that which furthers their goals. The fact then that over one-half of the 535 Members of the Senate and House of Representatives are lawyers provides a possible insight as to why Congress has failed to take aggressive and affirmative action concerning this problem.

Mr. Speaker, I note with some satisfaction that there is evidence that the attitude of the lawyers in this country is changing on this issue. The House of Delegates—the governing authority—of the American Bar Association, at a meeting earlier this year voted to retain the Exclusionary Rule by the narrow margin of 129 to 114. Interestingly, this action by the House followed a passionate plea by Mr. Samuel Dash, professor of law at Georgetown University, past chairman of the Criminal Law Section of the ABA, and presently Chief Counsel of the Senate Watergate Committee, not to abolish the rule. In asserting his point, Mr. Dash said:

> By your vote today, do not tell the people of America, private citizens and businessmen, that you don't care about the protection of the privacy of their homes, offices, personal records, papers. Rather, we urge that the message of the American Bar Association today be that crime in America cannot be solved by destroying constitutional safeguards and that we look to the Supreme Court to rule on what those safeguards are.

By my action today, I am, in effect, offering the Congress the opportunity to choose between the alternative presented by Chief Justice Burger and the status quo as suggested by Mr. Dash. I am convinced that the issue of the Exclusionary Rule belongs to Congress and not to the Supreme Court as Mr. Dash urged.

Mr. Speaker, this legislation is badly needed. There is a real requirement to abolish the inflexible Exclusionary Rule which protects the criminal and punishes society and the victim by excluding the evidence of the crime and freeing the criminal, because of some technical violations. Additionally, this bill would go a long way toward improving public confidence in our courts. This confidence has become so eroded because of the arbitrary application of the Exclusionary Rule which allows the obviously guilty man to go free. The Exclusionary Rule has not fulfilled its intended purpose and the cost to society has been unwarranted. I am hopeful that the alternative I am proposing will gain the approval of this body.

Mr. Speaker, I request that the text of the bill be included at this point in the RECORD:

A bill to amend title 18 of the United States Code to provide an alternative to the exclusionary rule in Federal criminal proceedings

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 223 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3505. Elimination of and alternative to exclusionary rule.

"(a) Evidence, otherwise admissible in a Federal criminal proceeding shall not be excluded on the grounds such evidence was obtained in violation of the fourth article of amendment to the Constitution of the United States, if there is an adequate legal remedy for any person aggrieved by reason of such violation.

"(b) For the purposes of subsection (a), the legal remedy provided under subsection (c) shall be considered an adequate legal remedy.

"(c) (1) The United States shall be liable for any damages caused by a violation of the fourth article of amendment to the Constitution of the United States, (A) if such violation was by any officer or employee of the United States while in the course of the official duty of such officer or employee to investigate any alleged offense against the United States, or to apprehend or hold in custody any alleged offender against the United States, or (B) if such violation was by any person acting under or at the request of such officer or employee in the course of such duty.

"(2) The liability under subsection (c) (1) shall be to any person aggrieved by such violation of the fourth article of amendment to the Constitution of the United States and such person may recover such actual damages as the jury shall determine, if there is a jury, or as the court may determine, if there is not a jury, and such punitive damages as may be awarded under subsection (c) (3).

"(3) Punitive damages may be awarded by the jury, or if there is no jury, by the court, upon consideration of all of the circumstances of the case, including—

"(A) the extent of deviation from permissible conduct;

"(B) the extent to which the violation was willful;

"(C) the extent to which privacy was invaded;

"(D) the extent of personal injury, both physical and mental;

"(E) the extent of property damage; and

"(F) the extent to which the award of such damages will tend to prevent violations of the fourth article of amendment to the Constitution of the United States.

"(4) The remedy against the United States provided under this section shall be the exclusive civil remedy against any person for such violation of the fourth article of amendment to the Constitution of the United States."

SEC. 2. The table of sections for chapter 223 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3505. Elimination of, and alternative to exclusionary rule."

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## CLEVELAND GIVES QUESTIONNAIRE RESULTS—ANSWERS IT HIMSELF

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 20 minutes.

Mr. CLEVELAND. Mr. Speaker, during each of the 11 years I have served in Congress I have sent questionnaires to all of the residents in my district. They are mailed out in June and the results are tabulated during the summer by my interns and placed in the RECORD in September. The results together with my own answers and comments are then sent to my constituents. Over the years I have found this an invaluable method of communicating with them.

This year only 8,000 constituents responded to my questionnaire, whereas last year more than 15,000 did. This may be explained by a change in format or perhaps it reflects the fact that many people have become somewhat disenchanted with Government.

Yet this year's responses again give ample proof they are indeed sensitive to the shifting focus of public concern. Perhaps most revealing is the section in which constituents were again invited to list their own priority concerns, without being limited by any checklist I might devise.

Residents of the Second District of New Hampshire responded as follows to 14 specific questions:

### THE ECONOMY

1. How would you rate President Nixon's overall handling of the economy?

Good, 11 percent; Fair, 37 percent; Bad, 51 percent.

High school seniors: Good, 10 percent; Fair, 47 percent; Bad, 33 percent.

In a free society, no President—or Government for that matter—is really able to manage the economy. This would require massive Government intrusion with curbs on economic freedom and staggering potential for bureaucratic mismanagement and corruption. Constituent opposition to permanent across-the-board controls—question 13—reflects this concern.

What the President can affect directly is Government spending, historically a prime factor in inflation, and he has generally done well in the face of congressional opposition. Yet I have been disappointed by the administration's approach to fuel problems, agricultural production, grain exports and beef price controls, to cite a few recent problems.

In fairness, however, the President did face severe economic problems while preoccupied with foreign affairs and the war. As I have pointed out in previous years, some of the unemployment for which he was blamed resulted from a shift from a wartime to a peacetime economy. The present worldwide scarcity of foodstuffs is unprecedented. The severe balance-of-trade problem had been growing worse for more than a decade. Inflation and energy shortages stem from policies of previous administrations and Congress.

So, on balance, I believe it is reasonable to rate the performance as fair.

### FOREIGN POLICY

2. How would you rate President Nixon's overall handling of foreign policy?

Good, 54 percent; Fair, 31 percent; Bad, 12 percent.

High school seniors: Good, 43 percent; Fair, 46 percent; Bad 12 percent.

I agree with the clear majority that the President's handling of foreign affairs has been good.

The initiatives toward China and the Soviet Union, a still-fragile peace in Vietnam, and the cease-fire in the Middle East—a good record certainly, though still only beginnings. This progress has been made possible, as has our ability to avoid global conflict since World War II, by our willingness to bear the burden of a strong defense.

### SPECIAL REVENUE SHARING

3. Special Revenue Sharing: As distinguished from General Revenue Sharing now operating, would you also favor combining many small single-purpose federal programs into block grants for the states and localities to use according to their needs, within general guidelines?

Yes, 57 percent; No, 21 percent; Undecided, 19 percent.

High school seniors: Yes, 36 percent; No, 17 percent; Undecided, 47 percent.

The solid majority sharing my support of special revenue sharing is encouraging. Progress in this area has been blocked by opposition from entrenched bureaucrats and congressional power brokers reluctant to release their grip on Government activities.

General revenue sharing, which I voted for last year and which is now in effect—but not without its imperfections—returns money to the States and communities with practically no strings attached. But there is legitimate concern that if this approach were greatly expanded to replace existing programs, some needs—particularly in the area of social programs—might be slighted. Special revenue sharing represents a middle ground, with funds required to be spent in broad priority areas, but with programs devised locally in response to local needs.

### THE ENVIRONMENT

4. In your opinion are efforts to reduce air, water, and other forms of pollution now receiving adequate attention and effort by various levels of government?

Yes, 41 percent; No, 50 percent; Undecided, 7 percent.

High school seniors: Yes, 19 percent; No, 73 percent; Undecided, 1 percent.

I agree with the majority. Our governments have not really faced up to the problem of noise pollution, or disposal of the enormous amount of waste we generate. We are not doing enough in the areas of recycling, and conservation of resources. Efforts to clean up the air, which are dependent on new technology, have too often missed the mark.

In the area of water pollution we are doing better, with the level of Federal expenditures more than 10 times what it was only a few years ago. In my work on the Public Works Committee, I successfully proposed an apportionment formula for Federal funds which greatly increases New Hampshire's share. Progress in this area is also more apparent as sewer systems are installed. This may account for the rather evenly divided opinion, together with New Hampshire's notable efforts.

While the question is keyed to Government effort, let us not forget that we will never have a clean environment as long as individuals persist in fouling the Earth and acting wastefully.

### DAYLIGHT SAVING TIME

5. Do you favor year-round daylight saving time?

Yes, 58 percent; No, 29 percent; Undecided, 7 percent.

High school seniors: Yes, 46 percent; No, 33 percent; Undecided, 21 percent.

I favor year-round daylight saving time and to stimulate discussion of the question I introduced legislation to this end. I have received some rather constructive letters from constituents expressing a contrary view, but I think it should be given a trial. Among the most persuasive arguments for the proposal are those of safety, crime prevention, some savings in energy, and increased recreational opportunities.

### SOCIAL SECURITY

6. Should the method of financing Social Security be altered so that the payroll tax would be at a higher rate for those who earn more (like graduated income tax)?

Yes, 51 percent; No, 27 percent; Undecided, 10 percent.

High school seniors: Yes, 45 percent; No, 33 percent; Undecided, 22 percent.

The social security financing system must be revised to produce more revenue if we are to assure recipients of an income above the poverty level, a goal which I support. Other social security reforms are needed to eliminate existing inequities; and they too will require additional funds.

I support the progressive feature to avoid placing a disproportionate burden on contributors at the lower end of the earnings scale.

### ENERGY

7. Should environmental restrictions be relaxed because of the energy crisis?

Yes, 35 percent; No, 52 percent; Undecided, 10 percent.

High school seniors: Yes, 17 percent; No, 65 percent; Undecided, 18 percent.

Now is not the time to sound retreat in the battle for a clean environment. But the energy shortage should give us added incentive to do what we should be doing anyway, which is to examine—selectively and in good faith—the need for certain emission standards. Research and technological innovation should also be increased. Individuals must be reminded constantly of how much energy can be conserved by such simple acts as turning off lights and driving a bit more slowly and safely.

Pending development of new energy sources and new ways to clean up older fuels, the emission standards should be tailored more closely to actual need. For automobiles, for example, it makes no sense to require the same degree of costly emission control in rural areas as in congested and highly polluted metropolitan areas.

### EDUCATIONAL TAX CREDIT

8. Do you favor a Federal tax credit to defray part of the cost of tuition paid by parents to send children to non-public elementary and secondary schools?

Yes, 41 percent; No, 53 percent; Undecided, 6 percent.

High school seniors; Yes, 39 percent; No, 42 percent; Undecided, 19 percent.

My questionnaires were mailed out in early June. On June 25, 1973, a Supreme Court decision barred tax credits for parochial school tuitions. Although my question did not specifically mention parochial schools, they are obviously involved, and their closings are proving a real problem.

Since coming to Congress I have felt that tax credits should be permitted to encourage tuition payments by parents not only at the elementary and secondary level but beyond. While the Constitution wisely prohibits Government support of religious activities, I think it is relevant to point out that contributions to churches are deductible.

But the question has broader implications. It is important to encourage innovation and heightened responsiveness in our primary and secondary schools, which can be stimulated by offering a choice between public and private education. Both would benefit. Public power companies have long been considered a yardstick to measure the performance of private utilities. Certainly expanded opportunities for private education should prove at least as useful a gauge of public school performance. This is why I support plans to test the voucher system in New Hampshire.

### VIETNAM

9. If substantial cease-fire violations by the North Vietnamese threaten South Vietnam with a military takeover by the North, and negotiations fail, should the United States respond with the use of air power?

Yes, 28 percent; No, 63 percent; Undecided, 8 percent.

High school seniors: Yes, 24 percent; No, 56 percent; Undecided, 20 percent.

A New Hampshire weekly newspaper devoted an editorial to this question, rephrasing it as: "Should the United States reenter the Vietnam war?" and then urged a "No" vote. If this were the meaning of the question, I would agree.

But, I emphasize that we and the South Vietnamese made significant concessions, not fully appreciated by the American public, in negotiating the cease-fire. For example North Vietnamese troops remained in the South, where their aggressive military buildup continues.

Although I am absolutely convinced we will never return with ground troops, I for one feel we cannot totally and unequivocally rule out air support for the South in the event of a major invasion. North Vietnam should have to at least weigh the possibility of such a response. To rule out the use of our air power might all too easily tempt aggression. It should be pointed out that besides having deterrent value, our air power is also flexible, including supply and close support of beleaguered cities, medical evacuations, and more sophisticated applications such as mining, interdiction of supply routes, and reconnaissance.

### TRADE

10. Should Congress establish procedures to deal with the nation's trade problems by raising tariff barriers selectively against those nations which substantially restrict imports of American goods?

Yes, 75 percent; No, 13 percent; Undecided, 10 percent.

High school seniors: Yes, 52 percent; No, 20 percent; Undecided, 28 percent.

The overwhelmingly favorable response to this question reflects an increasing awareness that in varying degrees many nations have been using nontariff barriers to discourage the imports of U.S. goods. Although we too have some nontariff restrictions, we have been allowing many of these nations to avail themselves of our market, which is perhaps the freest in the world, without giving us equal opportunities in their markets.

For a long time exponents of free trade have ignored this essential fact. This is why I have consistently called for fair trade which means that free trade should be a two-way street.

### NEWS MEDIA

11. Do you believe that the news you read, see, and hear is generally accurate and fair?

1973—Yes, 47 percent; No, 42 percent; Undecided, 10 percent.

High school seniors: Yes, 43 percent; No, 39 percent; Undecided, 18 percent.

1972—Yes, 34 percent; No, 49 percent; Undecided, 12 percent.

High school seniors: Yes, 42 percent; No, 43 percent; Undecided, 14 percent.

1971—Yes, 36 percent; No, 48 percent; Undecided, 11 percent.

High school seniors: Yes, 38 percent; No, 49 percent; Undecided, 11 percent.

I have asked this question 3 years in a row to provide continuity of expression on a subject of paramount concern. If the elected representatives of the people are to act in the public interest on complex and controversial matters, a vastly broader base of shared knowledge of the problems we face as a nation is imperative.

When the public officeholder cannot rely on the fairness of the media, and with public confidence at the halfway mark, we are in trouble. I say this less in criticism of the press than out of respect for its function.

Constituent sentiment has shifted somewhat on the question this year, so I find myself in disagreement.

The national media—the major offenders in my view—may have gotten a boost in public confidence from press disclosure of Watergate, though this was the work of comparatively few newsmen.

My own observation of media performance, including coverage of issues totally unrelated to Watergate, gives me no grounds to change my overall assessment. On one hand, the New York Times has opened its opinion columns to greater diversity. But television coverage of critical highway legislation, e.g., was distorted. CBS news gave me a brief ration of national air time to counter its misleading coverage, but only after extensive and vigorous protest on my part.

In past years I have been disturbed that this question has been taken to indicate a desire to "muzzle the media." Nothing could be farther from the truth. As evidence of my commitment to the free press, I cite legislation which I have cosponsored to protect reporters and the broadcast media from governmental harassment. But let us remember that like other institutions in our society, the news media function best when exposed to alert, informed criticisms of their own shortcomings.

### TAXES VERSUS GOVERNMENT PROGRAMS

12. Are you in favor of the President's proposals to hold the line on taxes even if it will result in eliminating or reducing some popular and useful federally assisted domestic programs?

Yes, 61 percent; No, 28 percent; Undecided, 8 percent.

High school seniors: Yes, 33 percent; No, 37 percent; Undecided, 30 percent.

The majority thinking here certainly squares with my position, which I have put into practice by voting to sustain vetoes of programs with admitted merit. This also reflects my concern for the plight of many who write me of their problems coping with taxes and increasing costs on limited or fixed incomes.

### ECONOMIC CONTROLS

13. Having observed the effects of temporary wage-price control efforts, do you favor a permanent system of controls over prices, wages, interest, rents and profits?

Yes, 34 percent; No, 52 percent; Undecided, 13 percent.

High school seniors: Yes, 46 percent; No, 29 percent; Undecided, 25 percent.

I agree with the majority on permanent controls, although I have voted on two occasions to give the President temporary authority to establish controls. My experience with Government, however, is that it is very difficult to stop a program once it is started. Price controls have already created many serious problems, have too often been administered unfairly and without sufficient concern for long-term consequences.

### ECONOMIC IMPACT

14. Major public projects of economic significance must undergo extensive assessment as to their environmental impact. Should major environmental measures be subjected to similar scrutiny as to their economic impact?

Yes, 76 percent; No, 14 percent; Undecided, 8 percent.

High school seniors: Yes, 45 percent; No, 18 percent; Undecided, 37 percent.

In 1969, Congress passed the National Environmental Policy Act—NEPA—requiring that Federal agencies stop to consider the environmental effects of proposed major Federal action. While common sense should have dictated this all along, it had not in fact been uniformly done.

This raises the serious question of whether we ought not systematically to do the same thing with proposed environmental actions; namely, stop and consider the economic impact of environmental actions. This is not to say that either should dominate. Rather, we should act with all of the facts before us.

### PRIORITIES

During the years I have frequently commented that although my constituent poll makes no pretense of being a scientific one, I believe it to be an extremely accurate one. Here in Washington there has recently been a great deal of comment that economic problems are far more important to the people than either the Watergate sensations, energy shortages or foreign affairs. The switch in priority concerns by my constituents from last year is dramatic and appears to reflect the national mood.

Open-ended sections were included to afford constituents an opportunity to state their own priority concerns. While some respondents complained that the questionnaire asked no specific question about Watergate, the response suggests that the format gave ample opportunity for comment on that score.

Following are the responses:

PRIORITIES—PROBLEMS AND NEEDS—1973

Question: Part 1—List in order of priority the three most important problems or needs facing the United States today.

Answers:

| | |
|---|---|
| 1. Economic problems and inflation | 6081 |
| 2. Watergate | 2738 |
| 3. Pollution | 2332 |
| 4. Energy, fuel shortages | 1579 |
| 5. Government spending, taxes, debt | 1174 |
| 6. Crime, law & order | 942 |
| 7. Southeast Asia | 596 |
| 8. Social Security, help for aged | 423 |
| 9. Welfare, welfare reform | 420 |
| 10. Government credibility | 408 |
| 11. Medical care | 384 |
| 12. Moral decay | 341 |
| 13. Mass transit, urban problems | 336 |
| 14. War, military spending | 315 |
| 15. Government bureaucracy, redtape | 300 |
| 16. Communism, defense | 293 |
| 17. Foreign affairs | 292 |
| 18. Tax reform, loopholes | 281 |
| 19. Drugs | 280 |
| 20. Poverty | 276 |
| 21. Discrimination, civil rights | 264 |
| 22. Unemployment | 233 |
| 23. Population | 218 |

PRIORITIES—PROBLEMS AND NEEDS—1972

Question: Part 1—List in order of priority the three most important problems or needs facing the United States today.

Answers:

| | |
|---|---|
| 1. Vietnam and Southeast Asia | 5881 |
| 2. Pollution | 4125 |
| 3. Inflation and the economy | 3830 |
| 4. Crime, law and order | 3402 |
| 5. Tax reform | 2896 |
| 6. Unemployment | 2008 |
| 7. Defense and communism | 1556 |
| 8. Welfare reform | 1493 |
| 9. Drugs | 1461 |
| 10. Poverty | 1285 |
| 11. Education | 1068 |
| 12. Social security help for the aged | 1002 |
| 13. Civil rights—women's movement | 898 |
| 14. Medical care | 789 |
| 15. Urban problems, mass transit | 756 |
| 16. Government spending | 753 |
| 17. Judiciary | 647 |
| 18. Government bureaucracy | 598 |
| 19. Credibility gap | 592 |
| 20. Population | 486 |
| 21. Moral decay, religion | 436 |

My own top priority concerns are: First, foreign affairs and the drift toward isolationism; second, the economy and inflation; and third, the environment.

As to the first, I am concerned that war-weariness over Vietnam and a strengthening of the traditional pacifist and isolationist tendency in our country will lead to a weakening of our defenses. It would be tragic if this proved the price of honoring our word in Vietnam. It would be doubly tragic if the President's initial successes with Russia and China led the public to oppose the defense policies which helped make possible the easing of tensions, and we turn our backs on the world and its problems.

In commenting on previous questions I have expressed some of my thoughts on the economy and inflation. Nor is my concern of recent vintage, as I have addressed myself to the problems almost every year in reports to my constituents. The economic problems facing this country are not only severe but they are also interrelated. I deplore those who fall into the demagogic trap of promising simplistic solutions, which all too often actually add to the problem.

My concern with the quality of our environment is longstanding. It evolves not only from committee assignments but from my life in New Hampshire. The number of questions I have asked in this area is a further reflection of my interest. In addition to my previous comments it is worth noting that the interest of my constituents in the environment continued strong this year despite the fact that many other issues occupied national attention.

PRIORITIES—PROGRAM REDUCTIONS—1973

Question: Part 2—What three Federal programs would you reduce?

Answers:

| | |
|---|---|
| 1. Defense, overseas spending | 3027 |
| 2. Foreign aid | 2633 |
| 3. Welfare | 2152 |
| 4. Farm subsidies | 1737 |
| 5. Space programs | 1414 |
| 6. Government spending, general | 660 |
| 7. Highways | 575 |
| 8. Business, other subsidies | 472 |
| 9. Watergate, allied concerns | 361 |
| 10. Improvements to President's retreat homes | 309 |
| 11. Antipoverty programs | 296 |
| 12. Soviet grain sale | 253 |
| 13. Taxes, tax loopholes | 203 |
| 14. Public works | 194 |
| 15. Oil depletion allowance | 187 |
| 16. Bureaucracy, red tape | 186 |
| 17. Environmental restrictions | 184 |
| 18. Education | 176 |
| 19. Health, Education, Welfare | 151 |

PRIORITIES—PROGRAM REDUCTIONS—1972

Question: Part 2—What three Federal programs would you reduce?

Answers:

| | |
|---|---|
| 1. Defense and military spending | 5023 |
| 2. Foreign aid and overseas spending | 4337 |
| 3. Welfare | 3952 |
| 4. Space | 3129 |
| 5. Farm subsidies | 1890 |
| 6. Corporate subsidies (e.g. Lockheed) | 879 |
| 7. Salaries and junkets of elected officials | 866 |
| 8. Highways | 791 |
| 9. Tax loopholes | 674 |
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Longstanding concern among my constituents over Government spending, reaffirmed this year, accounts for the section inviting nominations for programs to be reduced or eliminated.

My own include, first, farm subsidy programs; second, foreign aid; and third, public works.

Over the years I have consistently voted to reduce, eliminate, or defer programs in these areas.

I have voted on a number of occasions to limit the amount of subsidy to any one farm or farmer to $20,000, the so-called Conte amendment. I have also voted against the entire program, the thrust of which was to limit production by taking acreage out of cultivation. The folly of this approach and its impact on food prices has at last been recognized. An added absurdity is Government spending money to encourage the production of tobacco while warning the public of its dangers.

Although I supported foreign aid when I first came to Congress, I have voted against it for a number of years. With the increasing number of demands on the Federal dollar at home, I question sending it abroad. This has been particularly so while the balance-of-trade crisis has been intensifying. Many of the beneficiaries of our foreign aid programs have been less than cooperative and helpful. Examples include trade problems and support of our difficult commitment in Southeast Asia. There is also a real question as to whether our foreign aid dollar has really helped the intended beneficiary. My concern with our drift toward isolation may cause me to reconsider my position on foreign aid.

My vote against public works has taken the form of voting against the so-called pork barrel bill on a number of occasions. This is not to say that some of the projects are not worthwhile but during times which call for fiscal restraint, I feel that many public buildings, large dams, et cetera, are postponable.

I believe that I have previously made my position clear concerning defense. I did vote recently to reduce the military budget by $950 million. But I will oppose more drastic cuts. It should be pointed out that substantially more than half of the defense budget is now going for salary payments to build a voluntary Army. I supported this proposal and hope that it works.

It is ironic that some people who insisted on this are now closing their eyes to the fact that this very reform is largely responsible for the continued growth in our defense budget. Even so, on a relative basis, we are now spending less for defense than at any time since the pre-Korean period. Although I was against unilateral troop cuts in Europe, I did support a measure, to gear our support there to the level of European nations' financial contribution to their own defense.

### THANKS

In conclusion I wish to thank the more than 8,000 constituents who participated in this year's questionnaire. I would also like to thank the many of them who sent along constructive and informative additional views. The second New Hampshire district, which I represent, has a population of 400,000 people living in 148 cities and towns. The district is bordered by Vermont, Canada, Maine, and Massachusetts. It is diverse and in some areas sparsely settled. For these reasons it is enormously helpful to me as a Representative that constituents take the time and trouble to acquaint me with their views, concerns, and problems.

## ALLOCATION OF MATERNAL CHILD HEALTH FUNDS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska, (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing for myself and PATSY MINK and SPARK MATSUNAGA legislation to provide for the more equitable distribution of Federal maternal child health service funds to Alaska and Hawaii.

The allocation formula for these funds is set forth in title V of the Social Security Act. One of the criteria used to determine the amount of funds to a particular State is per capita income. Because this figure is used inversely, the higher a State's per capita income, the lower the relative allotment that State receives. Since Alaska's cost of living is unusually high—in fact, the largest city in my State, Anchorage, records the highest cost-of-living nationwide—we are penalized by the appearance of a high per capita income without the cost-of-living index taken into account.

The bill I am introducing today will modify the formula under title V in order to correct the present inequities. This formula reduces the per capita income by an amount equal to the cost-of-living allowance established by the Civil Service Commission for Alaska and Hawaii.

I include in the CONGRESSIONAL RECORD at this point the bill itself.

H.R. 10279

A bill to amend title V of the Social Security Act to provide that, in making certain allotments to States thereunder, there shall be taken into account the higher cost of living prevailing in Alaska and Hawaii

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 503 of the Social Security Act is amended by adding after paragraph (2) the following new sentence:

"If the adjusted per capita income of a State is taken into account in determining (for purposes of paragraph (2)) the financial need of such State, then, in the case of Alaska and Hawaii, the adjusted per capita income of such State shall be the remainder of the per capita income of such State (as determined without regard to this sentence) minus a number which shall be the product of the adjusted per capita income of such State (as so determined) and a per centum thereof equal to the per centum applicable, for the period in which any determination under the preceding sentence is being made in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State.".

(b) Section 504 of such Act is amended by adding after paragraph (2) the following new sentence:

"If the adjusted per capita income of a State is taken into account in determining (for purposes of paragraph (2)) the financial need of such State, then, in the case of Alaska and Hawaii, the adjusted per capita income of such State shall be the remainder of the per capita income of such State (as determined without regard to this sentence) minus a number which shall be the product of the adjusted per capita income of such State (as so determined) and a per centum thereof equal to the per centum applicable, for the period in which any determination under the preceding sentence is being made, in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State.".

(c) The amendments made by this Act shall be applicable to allotments made under sections 503 and 504 of the Social Security Act after the date of enactment of this Act.

## OFFICE OF MANAGEMENT AND BUDGET

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. STEELMAN) is recognized for 5 minutes.

Mr. STEELMAN. Mr. Speaker, today I am pleased to announce that 155 of our colleagues have joined in cosponsoring the bill for Senate confirmation of future Directors and Deputy Directors of the Office of Management and Budget.

By the broad-based support on both sides of the aisle for this new legislation, I believe that it is the overwhelming consensus of the Congress that the positions of Director and Deputy Director of the Office of Management and Budget have such powers that appointees to these posts should receive the scrutiny of the legislative branch. However, the June 13 defeat of the rule on the Brooks amendment to the public debt limit extension bill indicates many Members realize the difficulty in passing retroactive legislation on this vital issue.

Previously this issue led to a confrontation between the executive and legislative branches of Government when the incumbents were to be subject to confirmation. We have seen the result of this confrontation—a Presidential veto sustained by the House.

My colleagues and I see an urgent need for these two posts to come under the same close scrutiny of the Senate to make sure that the most qualified persons are nominated by the President.

## PROTECTION OF EMPLOYEES OF PRIVATE, NONPROFIT HOSPITALS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. YOUNG) is recognized for 3 minutes.

Mr. YOUNG of Illinois. Mr. Speaker, I have today introduced a bill to amend the National Labor Relations Act to extend its coverage and protection to employees of private, nonprofit hospitals under the act and the National Labor Relations Board.

Related legislation introduced earlier in this session of Congress simply provided for congressional action to remove the not-for-profit hospital exemption from the NLRA. Unfortunately, these proposals did not extend far enough to provide comprehensive protection against interruption of patient services in the event of labor disputes.

At a time when health care delivery systems are facing critical challenges, we must move to lessen the impact such dislocations might have on the life and death situations faced daily in our hospitals. Among others, special attention must be directed to questions of impasse resolution and proliferation of bargaining units.

Recognizing the unique public service performed by the Nation's health care institutions, the legislation I have introduced moves to counter threats to the continuity of health care service. The Congress must adequately consider appropriate provisions with regard to effective impasse resolution procedures, prohibition of strikes, picketing, work stoppages or lockouts in situations other than bargaining impasse, the number of bargaining units, sufficient notice of work stoppage, and expedited means of obtaining emergency injunctive relief.

Mr. Speaker, I am very hopeful that the House of Representatives will extend timely attention to this very important matter.

## STOPPING SEATBELT DICTATORSHIP

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. WYMAN) is recognized for 10 minutes.

Mr. WYMAN. Mr. Speaker, beginning with the 1974 model year, the Department of Transportation is requiring that all automobiles sold in the United States be equipped with a highly questionable safety device—the seatbelt ignition interlock system. This latest device will prevent any car from starting before all persons—and objects—in the front seat are tightly harnessed in lap and shoulder straps. Should any belt be released after the engine is running an alarm system of flashing lights and sounding buzzers is activated which is not turned off until the harness is rebuckled.

This is how the system works: When the driver sits down, his weight—or that of any other person or heavy object in the front seat—will trigger a sensor beneath the seat. This sensor in turn is connected to an electric control device that is tied in with the belt buckle and the ignition system. If the seat is occupied and the belt has not been fastened, then the ignition system gets what engineers call a "no start" command.

Loading and unloading of the sensor, due to particularly bumpy roads or even normal child squirm, should alternately activate and deactivate the sensor. If the sensor were deactivated for longer than 10 second and reactivated, the seatbelt must be released and rebuckled before the alarm system would shut off.

Further, if the sequence of sit down, fasten seat belt, start car is broken—as would happen when the driver leaves the car briefly at a gas station or buckles the seatbelt around a child before entering the car—it will be necessary for all belts to be released and rebuckled before the car can be started.

The ignition interlock system is manifestly impractical. As well as constituting a patently excessive extension of Federal authority, the system would add greatly to the complexity of automobile electrical systems and would become increasingly susceptible to malfunction as cars age. Even engineers anticipate a 3-percent failure rate in 1974. Assuming 10 million cars are produced in 1974, this means some 300,000 individual car owners will be subjected to ignition malfunction this next year alone besides being required to pay on the order of an additional $50 per car for the device.

Worse, in my view, is the preemption by the Federal Government of what should rightfully be an individual decision. A seat belt is not helpful in all situations: many people have survived serious accidents because they were thrown free by the force of impact. The individual driver not only should have the right to decide for himself whether or not he or she desires the protection of a fastened seatbelt but also that his car can be started without the driver harnessed into his seat.

Unlike drinking while operating a motor vehicle, seatbelt fastening has no effect on the safety of others. The need to protect the general public from wrongful or careless acts by an individual has no demonstrated connection with seatbelt fastening. It is highly improper for Government to require blanket individual conformance with an artificial and unnecessary standard to say nothing of the occasions when an individual might want to run his auto engine without being fastened into the driver's seat.

Accordingly, I am today introducing legislation to require the Secretary of Transportation to abolish the departmental requirement for ignition interlock systems. In light of many complaints I have received from constituents and my own convictions concerning the lack of reasonableness and even safety in this policy, I urge my colleagues to protect citizens against extreme Federal regulation of this type.

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## ELDERLY LIFE SAFETY ACT—ELSA

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. STEELE) is recognized for 10 minutes.

Mr. STEELE. Mr. Speaker, today I am introducing legislation which would upgrade the level of fire safety in nearly 23,000 nursing homes and many other types of housing designed for the elderly. This proposed legislation would amend the National Housing Act of 1959—NHA—the Public Health Service Act of 1945—PHSA—and the Social Security Act of 1965—SSA. The bill is titled the "Elderly Life Safety Act of 1973"—ELSA.

The need is evident. There are far too many buildings used as nursing homes that are not properly equipped for fire safety. The problem is not only a lack of uniformity in fire safety standards from State to State but uneven code enforcement by local officials. The best available records show that there were 34 multiple-death fires in nursing homes with a total of 283 deaths in the 10 years from 1961 to 1971. There are no reliable statistics on single-death fires, but the American Nursing Home Association—ANHA—estimates that there may have been as many as 500 single-death fires in nursing homes per year in recent years. The magnitude of the fire safety problem is evident in view of this appalling record of fire deaths. And the need is growing as longer life expectancies result in larger numbers of people in the older age categories.

Under the provisions of my bill, multiunit housing for the elderly, intermediate care facilities—IFC's—for the elderly, and nursing homes would be monitored for fire safety by the Department of Housing and Urban Development—HUD. The bill will require a uniform Federal standard for elderly housing. If existing buildings fail to meet the new requirements, the bill authorizes HUD to insure loans made by private institutions to the owners of these facilities to bring them into compliance.

The code my bill requires is modeled after the "Life Safety Code" formulated by the National Fire Protection Association—NFPA—a nonprofit organization representing all facets of fire safety interest, which serves as a clearinghouse for information on fire prevention and protection. Thirty-three States have thus far adopted its "Life Safety Code" standards for nursing homes.

The legislation I propose will require automatic sprinkler systems and automatic alarms linked directly to municipal fire departments. In new buildings constructed with Federal Housing Administration—FHA—insured mortgages, the sprinker installation and alarm installation would be mandated by law. In setting national standards, this legislation would control funds allocated under NHA and social security. The owners of existing buildings or buildings under construction which do not meet the requirements of ELSA would be ineligible for new NHA funds, or additional moneys from the medicare and medicaid programs. To qualify for funds the owners would be required to modify their buildings.

Although the NFPA's "Life Safety Code" is much stricter than present Federal minimum property standards under FHA, it provides relief clauses which allow a waiver of automatic sprinkler requirements by substitution of other construction improvements designed to control fire. My legislation would make automatic sprinklers and alarms the minimum required fire safety equipment, because they are the most effective method now known for controlling fire.

Although complete statistics are not available, a survey taken for the ANHA indicates that only 33 percent of the nearly 23,000 nursing homes in the country now have automatic sprinklers. In addition, another 22 percent have partial automatic sprinklers. In my own State, Connecticut, 73 percent of the nursing homes now have automatic sprinklers, and 12 percent now have partial automatic sprinklers. Thus, the owners of nursing homes in some States have made good progress toward complete automatic sprinkler protection, while the overall national level of fire safety is lagging behind.

Since the Federal Government now pays for over 60 percent of the cost of nursing home patient care, and in addition provides substantial funds for subsidized housing, we must recognize that Congress has a responsibility for assuring adequate standards for safe elderly housing. But merely establishing standards and requiring them to be met is not enough. The Federal Government also has an obligation to assure that adequate funds are available for improvements through loan guarantees. Failure to provide this help would close many nursing homes. Since many of the homes were financed by NHA section 202 direct loans or section 236 interest subsidies, our commitment to the elderly is clear. Because of the 20-year term loan guarantee, this bill would insure that sprinkler and alarm installation will not result in needless destruction of present homes. The elderly desperately need good low-cost housing, but it must also be safe housing.

Under present standards, disasters will continue to occur. The fire at the Baptist Towers home for the elderly in Atlanta, Ga., on November 30, 1972 claimed 10 lives. The building which had 11 stories and was fire resistive, conformed with the local building codes in every respect. But the consensus of fire officials is that 9 of the 10 lives could have been saved by automatic sprinklers. Experts throughout the Nation agree that fire protection is best achieved with sprinklers.

The most recent fire occurred at the Washington Hill Convalescent Home in West Philadelphia on September 12, 1973. The 3 alarm fire, which originated in a bathroom of the 3-story converted Victorian mansion, left 11 elderly men dead. Although the convalescent home's automatic fire alarm system was directly linked to the fire department, it was not working at the time of the fire and failed to immediately notify firemen of the fire. Tragically, the Washington Hill Convalescent Home did not have an overhead sprinkler system.

Automatic sprinklers and alarms are the best method of saving lives once a fire begins. The record of fire-resistive construction is by no means as good. The experience at the Baptist Towers is illustrative of this fact. The builders of the Baptist Towers estimate that sprinkler installation would have increased total construction costs by 5 to 7 percent. Therefore, in order to maximize safety and minimize cost, this bill relaxes some less effective fire-resistive construction requirements as *offsets* to sprinklers. It is usually materials burning within a building, such as a carpet, trash, or foam-stuffed furniture, or a bed in a nursing home, that causes death. Sprinklers put out fires and save lives once the fire starts. Fire-resistive construction can only serve a preventative role.

Mr. Speaker, we have been sifting through the ashes of fires for nearly 200 years in this country. For nearly 100 years, it has been said that sprinklers are the best protection against fires. We, the lawmakers, have not yet accepted this wisdom. Instead, piecemeal improvements are made by altering construction codes. I am presenting an alternative approach, which should be considered before we fund more firetraps for the elderly.

## THE GAS BUBBLE—V

The **SPEAKER**. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. **GONZALEZ**. Mr. Speaker, an intriguing thing about the San Antonio gas crisis is that hardly anybody is speaking for the public, and there is absolutely nobody in a position of official power to defend the rights and interests of customers who have depended on Coastal States Gas, or the consumers who must ultimately pay the hundreds of millions of dollars in losses that Coastal is responsible for.

Coastal can defend its own interests. It has hundreds of millons of dollars in annual sales, and a stable of lawyers that is evidently without end. It certainly has no problems in mounting a legal defense, then. And of course, Coastal has the ample political connections that go along with being a very large corporation. Coastal has contributed to all kinds of political campaigns, undoubtedly including those of one or more members of the Texas Railroad Commission that regulates its affairs; and in accordance with this beneficence, Coastal swings a large stick in Texas government. The utilities have their lawyers, too, but they lack anything like Coastal's influence. For instance, Coastal could readily agree to a receivership for its subsidiary Lo-Vaca, because the court-appointed directors included not a single representative of the utilities, let alone the consuming public. And the managing director appointed by the courts turned out to be an old gas man who appears to have only the interests of Coastal at heart.

There has been no effective State legislative committee to investigate the Coastal disaster, though it affects 400 municipal and industrial consumers of gas in Texas. Nobody has looked into why it all happened or how, and hardly anybody has even bothered to appear indignant. Everyone is concentrating on how to avoid making Coastal mad, either because too many public officials owe too much to Coastal, or they simply do not care. Meanwhile, the public is being bilked, squeezed and milked out of hundreds of millions of dollars, just in San Antonio. The total must run into the billions for the rest of the State.

Here is an example of what went wrong with the Coastal system. Lo-Vaca, which supplies gas to San Antonio and many others, is a subsidiary of Coastal. In 1972, Lo-Vaca happily gave away $15.4 million worth of its assets to Coastal, which cost it another $5.3 million revenues produced by these assets during the months following. It's no wonder the Lo-Vaca is losing money. But who is asking questions? Has the State railroad commission cast suspecting eyes on it? Not as far as I can tell. Has the State attorney general looked into it? No, because he says that you can't burn court papers for fuel. Has the legislature been worried about this corporate milking? Of course not. Even the mayor of San Antonio says that it is too bad that the SEC suspended trading in Coastal stocks, evidently because it is bad for business. Yet this transaction alone accounts for the total losses reported by Lo-Vaca currently. How in the face of this kind of crooked accounting could anyone stand by and say that Lo-Vaca is not being robbed, and the public with it? How in the face of just this single, $20 million theft could anyone support Coastal and Lo-Vaca's petition for a 50 percent rate increase, which would cost San Antonio alone $12 million a year. Yet that is being asked for, and no one seems to wonder too much about it, or question it.

To whom does the public look for its representation? It has no stable of lawyers. It has made no contributions to members of the legislature, to mayors, or to members of the railroad commission. It only pays the bills. The public does not demand very much—only that it get a fair deal. But the public has no voice on the Coastal board, none on the Lo-Vaca board, and as far as I can tell none at any other level of State or local government. But it is the public that will pay $200 million and more for capital investments that San Antonio is committed to make just in the next 7 years, because Coastal violated its contract. And that does not even count interest. It is the public that will have to pay far higher gas and electric bills, because of Coastal's failure, and this will amount to tens of millions of dollars every year. Who is defending their interests?

Certainly not the court-appointed manager of Lo-Vaca. This man, an old gas man, wants only one thing: an immediate 50-percent rate increase. He says that this is needed to allow Lo-Vaca to buy gas. But even as he makes this claim he shrugs aside suggestions that Lo-Vaca should cease diverting gas from its system to cover sales that Coastal has made, probably illegal sales at that. And even as he claims he has to have more money, Coastal is selling off gas that lies literally under the doorstep of San Antonio. The Lo-Vaca management is dedicated to just one thing and that is to make the company healthy again and turn it back over to Coastal, which certainly would like to have it back in good shape—that is the same Coastal that robbed, bled, and stole Lo-Vaca into complete incompetence. If you were to look at the present management of Lo-Vaca, you would have to say that there is no difference between what it wants and what Coastal wants. What Coastal wants is to steal as many people blind as it can.

There is much at stake in the gas crisis.

First, there is the survival of San Antonio and other cities that had contracts with Coastal.

Second, there is the problem of how to protect the public interest during the extrication of all hands from the general mess. The people are going to have to pay more for gas in the future—but somebody has to see that it is not too much and that it does not go to the same jackals who put them in this mess in the first place.

Third, there is the problem of how cities and utilities and the State can exercise effective regulation over a huge industry during a time of great crisis.

All of this will require an honest representation of the public interest. It will require effective actions in behalf of the public. But looking at the scene now, I can find nobody in a position of authority who seems to understand this, let alone care. The San Antonio mayor stands up for the victimizer, and tells the victims, his constituents, that everyone must be nice to Coastal, or they will do bad things to us. What could they do that they haven't done already? The court-appointed manager says he needs money, but cannot worry about what happened to the hundreds of millions already paid over. Does he think that Coastal would have delivered an inch of gas to San Antonio unless hard cash had been paid? The railroad commission proceeds with the lowest possible profile, as if this was a question of whether to allow a driller to use a thousand gallons of salt water in a well rather than just five hundred. The law enforcement officials investigate nothing. The legislature scatters to the winds, doing nothing, trying only to forget how many have received favors from Coastal, and how many have returned them in kind—like by sponsoring bills like the infamous Coastal States bills. The utilities try to hide their embarrassment, and somehow figure out a way to survive. But nobody seems to care much about the average guy, the one who will pay the bills for the whole sorry mess.

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## NECESSITY OF APPOINTING HIGH-LEVEL OIL AMBASSADOR

The **SPEAKER**. Under a previous order of the House, the gentleman from Iowa (Mr. CULVER) is recognized for 5 minutes.

Mr. **CULVER**. Mr. Speaker, it was with a great deal of interest that I read yesterday morning's account in the Washington Post, entitled "U.S. Urged to Press Libya; Oil Firms Seek Retaliation." I insert the text of this article, by Laurence Stern, at the close of my remarks.

The Foreign Economy Policy Subcommittee which I chair has been holding a series of hearings, in conjunction with Congressman HAMILTON's subcommittee on the Near East and South Asia, on the general subject of oil diplomacy in the midst of today's energy crisis. We have been looking at the positions of both the oil exporting and oil consuming countries, and the extent and manner in which these positions can be reconciled. I am sure our subcommittees will wish to familiarize themselves further with the matters discussed in this news report.

Briefly, the report states that the major U.S. international companies are bringing pressure to bear on the State Department and the White House to "get tough" with Libya, in the wake of that country's asserted expropriation of majority holdings in their companies' Libyan subsidiaries. While details of the conversations remain confidential, it is reported that a boycott of Libyan oil is among the measures being considered.

There may well be a connection between this development and President Nixon's press conference on September 5. At that time the President suggested that Libya would be vulnerable to an oil boycott, similar to that which helped to topple the Iranian regime of Mohammed Mossadegh in 1953. Conditions of course are by no means parallel today, and it is evident that the President was ill-informed. In 1953 the other Middle East countries were anxious to increase production to take over the Iranian share of exports, whereas they have gone to some lengths to notify us this time—in advance of the Libyan measures—that they are not anxious to do that today.

I am concerned that the President may be getting his bad advice from the major oil companies, whose interests are not necessarily identical with those of American energy consumers. In particular I am concerned about any U.S.-controlled boycott of Libyan exports. The principal effect of such a boycott would be felt by Germany and our other European allies, and could irreparably prejudice our chances of negotiating cooperative arrangements with those allies in the event of world-wide oil shortages. The worst thing the U.S. Government could do would be to touch off a destructive rivalry for scarce supplies among the Europeans, the Japanese, and ourselves. This must be kept steadily in mind during the current Libyan controversy.

Mr. Speaker, the news report mentions that the oil companies are represented in their dealings with the administration by John J. McCloy. It also suggests that Mr. McCloy has been instrumental on past occasions in obtaining two concessions for the oil companies that have profoundly affected our past and current conduct of oil diplomacy. In 1971, apparently, he obtained the antitrust exemption that allowed the companies to negotiate as a cartel on oil prices and supply arrangements with the producing countries. And in 1953, it was evidently Mr. McCloy that obtained the revenue ruling permitting a 100 percent U.S. tax credit for increased royalty payments by the U.S. international oil companies to foreign producer governments.

I would not wish to be taken as criticizing Mr. McCloy for his effective representation of his clients' interests on these occasions. But the fact remains that these two important concessions may very well have not been in the national interest.

Through antitrust exemptions and a general abnegation of governmental authority, the U.S. Government has forfeited to the major international oil companies substantially all responsibility for the negotiation and conclusion of vitally important oil agreements with the nations comprising OPEC—the Organization of Petroleum Exporting Countries.

These are essentially worldwide commodity agreements similar to those concluded by governments, rather than industry, in the textiles and agricultural sectors; yet in the OPEC talks no consumer interests whatever are represented and the U.S. Government takes a decidedly back seat. To be sure the oil companies are very knowledgeable, but their private interests in retaining monopolistic control over supply and price arrangements tend to dominate over other, more consumer-oriented considerations.

As for the royalty arrangements, the 100-percent U.S. tax credit—which is very different from the usual tax deduction for royalty payments—tends to leave the oil companies with no economic incentive to resist higher payment demands. The OPEC countries know this, and it very probably has emboldened them to levy ever-increasing price demands on the companies, which when met operate to reduce the incentive for those countries to expand production. The Saudis, for example, can only manage so much in the way of annual dollar returns on their production. If they can achieve that level of return through higher royalty payments at a lower volume of production, they will be inclined to keep production down. In this way the U.S. tax credit operates very much against our interests as consumers.

Ironically also, the U.S. tax credit may have contributed significantly to the Libyan expropriation demands. The available evidence suggests that Libyan production is higher cost than Persian Gulf production. As royalties—stimulated by the U.S. tax credit—rise, Libyan oil becomes less competitive than Persian Gulf oil on world markets. Either world prices must rise, or Libya must take over the companies so as to eliminate the royalty payments from its calculus of competitive costs. These are in fact the two fronts on which Libyan policy has been moving.

If this analysis is correct—and so well-versed an expert as Prof. Maurice Adelman of MIT believes that it is—it suggests that we as a Nation have less to fear from the Libyan actions than the oil companies believe they have. An expropriation stimulated by relatively higher production costs need not communicate itself into similar action by the lower-cost Persian Gulf states. And an expropriation fueled by competitive motives could result over time in much-needed incentives for increased production by at least some of the OPEC nations. Professor Adelman indeed argues that the United States for this reason should actively seek to get our oil companies out of the concession business. Without going this far, we can say it is at least not clear that our Government should ask for more than payment of adequate compensation to the oil companies.

Of course we should guard against genuinely intolerable ripple effects on the Persian Gulf states, to the extent that any of them might be misled into believing that our Government and the governments of other consuming countries can be pushed around at will. But that calls for active, effective and concerted oil diplomacy on the part of consuming-country governments, not for continued acquiescence in whatever the oil companies suggest should be done. It is time to dust off our Department of State and put it to work in the forefront of protecting our national interests.

No one is personally more aware of this than a man like John J. McCloy. I suggested earlier that he has been an effective and persuasive advocate for his clients, whoever they may be. Fortunately for us, his client on several occasions in the past has been the United States. Whether as U.S. High Commissioner for Germany or in other, more recent, ad hoc assignments, Mr. McCloy has been a supremely effective advocate for the national interest—particularly in dealing with our alliance relationships. If he were now charged with representation of the United States rather than the major international oil companies, I am sure all of us would feel we were well served.

Mr. Speaker, this leads me to my concluding point. It is high time for the President to appoint a Presidential-level Ambassador at Large for Oil Diplomacy, charged on the international scene with authority commensurate with that reposed domestically in Governor Love. This suggestion is not original with me. It was made privately to the White House in 1970 by the President's own Oil Import Task Force, and it has been repeated in recent days by former Secretary Peter Peterson at the conclusion of his fact-finding tour for the President. This move, more than any other, would galvanize our foreign policy machinery into effective action and signal to the world at large that the United States is prepared to assume and execute its official responsibilities in this vitally important field.

### OIL FIRMS SEEK RETALIATION—UNITED STATES URGED TO PRESS LIBYA

(By Laurence Stern)

A secret but intense lobbying campaign is being waged by a group of major American oil companies for strong U.S. counterpressures—including the possibiilty of boycott action—against the government of Libya.

The oil company offensive, which is being directed by elder statesmen and New York lawyer John J. McCloy, is intended to counteract Libyan President Muammar Quaddafi's nationalization of their holdings on Sept. 1.

McCloy's meetings with senior State Department officials and also National Security Adviser Henry A. Kissinger were highly confidential. Some of those familiar with the proceedings refused to acknowledge that they had taken place. Even within the government knowledge of the meetings was limited.

But others who took part in the sessions said the oil companies pressed the administration for tough retaliatory action against Libya. "All sorts of ideas came out of the companies, including the possibility of a boycott," said one participant.

McCloy, who has been an influential broker for the major oil companies in past international crises, denied in a telephone interview that any specific suggestion of a boycott had been made by the companies during the private sessions.

"We expressed our hope to the State Department that the adventure of the Libyans would not succeed. We told them, 'we would like to have you do anything you can'," McCloy said. "They (the State Department) indicated to us that they were communicating with other governments about this."

McCloy last came to Washington Sept. 5 at the time of President Nixon's press conference, which touched heavily on the Libyan oil squeeze.

As the President was addressing the press McCloy was meeting with Kissinger, as he put it, "to discuss the situation in the Middle East and the desirability of a solution to the controversy . . . We didn't talk terms."

In the course of the conference Mr. Nixon issued a direct warning to the Libyans. The United States, he said, might be in a position to influence "radical elements" in the Middle East "like Libya" by depriving them of their oil markets in the United States and Europe.

The President pointedly recalled the successful oil boycott against the late Iranian Premier Mohamed Mossadegh, who was deposed in 1953 with the resistance of the Central Intelligence Agency. The upheaval restored the Shah to power.

Immediate reactions of government oil specialists was that the President's remark was unfortunate. "No one in the government suggested boycotting Libya," said one official, "except the President."

Another official, with widely acknowledged expertise on the subject, observed: "Some jerk gave the President the wrong information, Iran couldn't sell its oil. That is not the case with Libya. Iran was hard-pressed for cash. That is not the case with Libya. The comparison is just not applicable."

The reason for the rising clamor for a tougher U.S. line from the oil companies transcends the Libyan case. The companies fear that other Persian Gulf states such as Kuwait, Abu Dhabi and perhaps even Saudi Arabia might tear up their existing contracts and demand immediate control of the companies as well as higher prices—if the Libyan move proves successful.

The companies with a direct stake in the Libyan nationalization include Exxon Corp., Texaco Inc., Standard Oil of California, Mobil Oil Corp., the Royal Dutch Shell Group, Atlantic Richfield Co., and W. R. Grace. They are members of the group represented by McCloy's law firm, Milbank, Tweed, Hadley and McCloy.

The first full scale meeting between McCloy, his clients and State Department officials took place Aug. 9, in attendance was a representative from the Justice Department's Anti-trust Division. "If there were any discussion of a boycott by the oil companies we would definitely be interested," said one antitrust source.

The 78-year-old McCloy is a reigning member of what has been popularly described as the American Establishment, with ready access to the highest councils of government. He was President Kennedy's chief disarmament adviser and U.S. High Commissioner for Germany and chairman of the board of Chase Manhattan Bank, and his counsel has been sought by Presidents through the years.

In 1971 McCloy was instrumental in obtaining written assurance from the Justice Department that joint negotiations between the major oil companies and oil producing countries did not violate antitrust laws.

Under the agreement, approved in January, 1971, by Attorney General John N. Mitchell, the oil companies were permitted to negotiate prices and carve up markets with the Organization of Petroleum Exporting Countries, chiefly the Middle East producers.

The practical effect of the agreements was to assure control of prices and markets by the major oil companies and protect them from undercutting by independent oil marketers.

In 1953 McCloy was attorney for Aramco when it obtained a special revenue ruling permitting it to treat its royalty payments to Saudi Arabia as taxes and thereby qualify for higher deductions on its U.S. taxes.

The tax practice was quickly adopted by other U.S. oil companies in the dealings with Middle East host countries.

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## DOCUMENTS ON SOUTH VIETNAM'S PRISONERS

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, today I had the privilege of testifying before the Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee, regarding my recent trip to Saigon. I would like to enter that testimony into the RECORD at this point:

### TESTIMONY OF CONGRESSWOMAN BELLA S. ABZUG BEFORE THE SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS, HOUSE FOREIGN AFFAIRS COMMITTEE, SEPTEMBER 13, 1973

Mr. Chairman, thank you for allowing me to testify on the issue of political prisoners in South Vietnam. I wish to commend you for your foresight in examining one of the least understood but most important issues of our time.

My recent trip to Saigon strengthened my conviction that:

(1) South Vietnamese political prisoners represent one of the most compelling human tragedies of our time—a spectacle of mass round-ups, torture and mistreatment of tens of thousands of men and women which must be ended.

(2) U.S. aid to South Vietnam has been outrageously misrepresented as humanitarian aid to rebuild South Vietnam. In fact, most of it is military and police aid which is enabling the Thieu government to avoid observing the Paris Agreement. Its refusal to release its political prisoners, as called for in the Paris Agreement, is the most dramatic illustration of this misuse of American aid.

(3) The ongoing conflict in South Vietnam can only come to a peaceful resolution through political means. This means, above all, that the Thieu government free its present political prisoners, stop arresting new ones, and allow its people their basic freedoms. By meeting present Administration aid requests, Congress is unwittingly ensuring more war in Indochina, and indefinite expenditure of billions, and perhaps future pressure to renew American bombing.

These convictions are based on conversations with American officials, Vietnamese leaders, and informed foreign observers, as well as documents obtained in Saigon. I will submit these documents for the record. What I would like to report this afternoon are but some of the major findings on political prisoners which have emerged from my recent trip to Saigon and subsequent investigations.

#### (1) NEW ARRESTS OF POLITICAL PRISONERS SINCE THE CEASEFIRE

The most shocking aspect of the political prisoner situation today is the continued arrests of people since the ceasefire. The Paris Agreement provides for the release of political prisoners and political freedoms for all Vietnamese. The idea that those arrested before the ceasefire would not only remain in jail, but that new political arrests would take place, is outrageous.

Concrete evidence of this is in one of the most startling documents I received in Saigon, an official telegram from the National Phoenix headquarters to police agents throughout the country. It is dated April 5, 1973, and forms Appendix A to my testimony. Although published in *Le Monde* of May 17, 1973, it has not yet been brought to the attention of the American peoples and Congress.

The Phoenix program, as you know, was an American-initiated policy which ordered mass arrests and assassinations of civilians deemed to be working for the NLF. This program was responsible for large-scale roundups among the peasant population. Many of the political prisoners arrested before the ceasefire were taken under Phoenix. William Colby, former Director of the Phoenix program, testified before the Government Operations Committee in July 1971 that from 1968 until May 1971, there had been 28,978 arrests and 20,587 assassinations. An official 1971 Saigon publication entitled "Vietnam: Toward Peace and Prosperity" states on page 52 that 40,994 assassinations and 19,257 convictions had taken place during the same period.

Now, incredibly, we find that this official telegram issued since the ceasefire orders that Phoenix operations continue. It directs local police to continue arrests, classify suspects as common-law criminals, and maintain "efforts to neutralize persons who disturb the peace." "Neutralize," as we know, is often a euphemism for assassination.

While in Saigon I saw lists of names of students and labor leaders arrested since the ceasefire. No independent observer I met denied that this was but the tip of the iceberg as mass arrests of thousands of unknown peasants out in the countryside continued.

#### (2) REFUSAL TO RELEASE THOSE ARRESTED BEFORE THE CEASEFIRE

Tens of thousands—perhaps as many as two hundred thousand—political prisoners have not been released who were in prison at the time of the ceasefire. This is in direct violation of the Paris Agreement. Article 8c calls for the release of all civilian detainees working for either side. Article 11 guarantees freedom of political belief and action for all Vietnamese.

The Thieu government has chosen to claim that it does not hold any political prisoners. It divides all its prisoners into 5,081 "Communist criminals" to be released, and some 30–35,000 "common-law criminals" it will not free.

1500 people, labeled "Communist criminals" by the Thieu government, have already been released since the ceasefire. This means that the Thieu government intends to release only *3500* more of the prisoners it now holds.

This 3500 figure is a tiny percentage of the actual number of political prisoners now held by the Thieu government. The distinguished Deputy Ho Ngoc Nhouan and Catholic Father Chan Tin, both of whom I talked with in Saigon, estimate that there are 200,000 political prisoners. In a news release dated July 1, 1973 the respected Amnesty International in London estimates at least 100,000. The lowest estimate by independent observers that I have seen anywhere is 40-60,000 in a *Newsweek* article of July 23, 1973.

The fact that the Thieu government openly says it will release only 3,500 civilian detainees is shocking proof that it does not intend to honor the Paris Agreement.

I would draw your attention to Appendix B, a letter from Danang prison signed by 120 political prisoners, at some risk to themselves. It is an eloquent and moving appeal from some of the tens of thousands of political prisoners whom the Thieu government refuses to release.

#### (3) MANY POLITICAL PRISONERS NOT MEMBERS OF PRG

The division of prisoners into "communist criminals" working for the PRG and "common-law criminals" is inaccurate and misleading. In fact, most of Saigon's political prisoners are either non-political workers and peasants swept up in indiscriminate raids or non-communist opponents of the Thieu government. The latter are elements of a potential "Third Force." Jailed for advocating peace and freedom, they are neither for Thieu nor the PRG.

President Thieu has openly stood for more war. He has suppressed freedom of speech, freedom of elections, and freedom of the press. Many people who have nothing to do with the PRG have been jailed for opposing these policies in the last several years. Now, the Thieu government is attempting to avoid releasing them to their families by two methods:

(1) Re-classifying political prisoners as "common-law" criminals so as to claim they are not covered by the Paris Agreement.

(2) Trying to force them to be turned over to the PRG in PRG-controlled zones. Madame Ngo Ba Thanh, a distinguished lawyer whose career I have long followed, is an outstanding example of this. Mrs. Thanh is a leader in the women's peace movement and

an outspoken advocate of civil rights. Her academic achievements are internationally acclaimed: she holds advanced degrees in international law from Columbia University and from the universities of Paris and Barcelona, and has written on legal questions in four languages. For several years she was a lecturer on law at Saigon University.

In September 1971 she was arrested while taking part in a demonstration against Thieu's one-man election campaign. After seven months in jail, Mrs. Thanh (who suffers from asthma) was brought out of her cell on a stretcher, and taken before a military field court—though charges had not been filed against her. Warned by a doctor that she "could die at any moment," the judges called off the trial but rejected her plea to be taken to a hospital. In jail once more, she was reclassified from "national security" status to "common criminal" status, making her ineligible for release under the exchange of political prisoners specified by the Paris Peace Agreement. This is a techniques used by Thieu in tens of thousands of cases.

Last spring, Columbia University Law School's Dean Michael I. Sovern invited Mrs. Thanh to join its faculty as a visiting scholar. The U.S. Embassy stated that it was prepared to grant her a visa, but she was not released. Meanwhile, Mrs. Thanh went on a hunger strike and was finally hospitalized.

In May 1973 the Saigon government classified her as a "Communist criminal" who would be turned over to the PRG. Mrs. Thanh rejects this status and demands to be released to her home in Saigon. (Again, this technique is being widely used: many non-Communist dissenters are refusing to accept such reclassification. They feel that their presence in Saigon constitutes a necessary Third Force between the PRG and the Thieu regime. It is precisely for this reason that Thieu will not release them.)

When I had the opportunity to visit Saigon last month I met with Mrs. Thanh's family in a lengthy private meeting. They fear for her health. I expressed my concern for Mrs. Thanh to Ambassador Graham Martin, who encouraged me to believe that she would soon be freed. In a subsequent conversation Ambassador Martin told me that Mrs. Thanh would be part of a general amnesty, if and when one occurs, but that is not a satisfactory answer. It strains my credulity that the U.S. is unable to secure the release of one woman. Columbia's offer has been renewed and there are new invitations from Harvard and Radcliffe. The academic community, the peace movement, and women throughout the world are waiting for her release and for some sign of compliance with the Paris Agreement.

The re-classification of non-communist political opponents as "common-law" criminals is quite widespread. It appears to be the main device by which the Thieu government intends to avoid its obligation to release the political prisoners.

This practice is described in the documents already cited, in a letter (Appendix C) * from Huynh Tan Mam, the imprisoned president of the National Student Association, and in statements to me by Assembly Deputy Ho Ngoc Nhouan and Vietnamese prelate Father Chan Tin.

The American Embassy has confirmed that re-classification is going on, although characteristically denying that it applies to those who shun both the GVN and the PRG. In a letter to Senator Kennedy's staff dated April 3, 1973 the U.S. Embassy has stated that "Before and since the ceasefire the GVN has been converting (Viet Cong civilian members) to common criminal status by the expedient of convicting them of ID card violations or draft-dodging."

The political prisoners have protested vigorously against re-classification, as can be seen from the documents I brought back with me. The attempt to turn those seeking a third solution over the PRG has also been resisted.

I have in my possession, for example, an official document (Appendix D) * sentencing the respected non-communist lawyer, Mr. Nguyen Long, to ten years hard labor for "weakening the spirit of the army and people." It is dated September 21, 1972. Mr. Long, it will be noted, is not accused of being a member of the PRG.

On July 23, 1973, however, the Saigon government announced that it was turning Mr. Long over to the PRG. Mr. Long, along with 12 other well known "Third Force" leaders, refused to identify themselves with the PRG in a statement issued the same day. This statement appears as Appendix E.* I might add that the Thieu government still has not attempted to turn these 12 leaders over to the PRG, despite its announcement that it would do so.

In another incident, 20 student prisoners who were brought to Loc Ninh on July 23 to be turned over to the PRG, refused to go. They also refused to sign papers "rallying" to the Thieu government. Their position, set forth in a letter of July 30 (Appendix F), was that they were "Third Force" members and demanded to the ICCS to be released in Saigon to their families. As of that date, they were still being detained at Loc Ninh airport by the Thieu government, where they wrote this petition to the ICCS.

A third such example is revealed in a letter (Appendix G) * written by Cao Dai religious leaders and the wife of Mr. Phan Duc Trong, requesting Mr. Trong's release and that of many other followers of the Cao Dai faith. The Cao Dai religion has made a determined effort to avoid identification with either side in the Vietnam conflict, and is a classic example of the so called "Third Force." The imprisonment of many of its followers who have spoken out only for peace is a dramatic example of the Thieu government's policy of detaining non-communists.

It is important to note that the non-committed are an essential element to a democratic end to the Vietnam conflict. Their existence is recognized in the Paris Agreement. Such imprisoned leaders represent many Vietnamese who are neither members of the PRG nor Thieu government. This attempt to re-classify them as common criminals or turn them over to the PRG must be ended. They must be released to their families in Saigon and be allowed to participate in the choosing of those who will lead South Vietnam.

### (4) COVER-UP OF MISTREATMENT IN SAIGON PRISONS

I will not dwell here on the toruture and inhuman prison system. The letters from National Student Association President Hunyh Tan Mam and from 120 Danang prisoners are but two examples of a flood of eyewitness reports of brutal torture, denial of food and medical care, and constant beatings which have come out of Saigon since the ceasefire.

Equally alarming is the fact that the Saigon government is making a systematic attempt to cover up this brutality.

There can be no excuse for the Saigon authorities to prevent outside observers from freely visiting prisons since the ceasefire.

On CBS's "Face the Nation" on April 8, 1973, President Thieu told a nationwide U.S. television audience that "anyone" could visit his prisons. Instead, Saigon authorities have cynically violated this pledge.

I hereby submit for the record (as Appendix H) a copy of a request to visit the prisons made by two Catholic Bishops, Bishop Gumbleton of Detroit and Bishop Belanger of Valleyfield, Canada. The two bishops made this request to the Minister of the Interior during a visit to Saigon *two weeks after* President Thieu's pledge. Their request was never even given the courtesy of an answer.

A second documented example, (Appendix I), is a refusal from the Ministry of the Interior to a request made by a Buddhist leader, Thich Phap Lan, to his request to visit the prisons.

The staff of the U.S. Senate Subcommittee on Refugees, the International Red Cross, and numerous journalists have also all been refused permission to visit the prisons freely and talk privately with political prisoners.

### (5) U.S. RESPONSIBILITY FOR POLITICAL PRISONERS

U.S. responsibility for the fate of Saigon's political prisoners is clear. It is not only that we signed an agreement on January 28, 1973, committing us to their release. It is that we are singlehandedly keeping in power the regime which refuses to release them and which continued to make new arrests of political opponents.

The Nixon Administration's attempt to mask its continuing aid to Saigon as "Postwar Reconstruction Assistance" is further evidence of the policy of deceiving Congress about Executive branch actions in Southeast Asia.

An August 19, 1973 *New York Times* article makes it clear that military aid comprises three quarters of our overall aid to the Thieu government this year. Much of the remaining quarter, some $600 million, is also military and paramilitary in nature. Receipts from the nearly $500 million allotted to the Food For Peace and Commodity Import Programs, for example, will mostly go to support the South Vietnamese Army, Airforce, Navy and Police. Less than one percent of our aid is allocated to Public Health, education and agriculture.

By what twisted logic can such an Aid request be termed "Postwar Reconstruction?" Is it not a shameless mockery of Congress to suggest allocating well over 80% of these funds to the maintenance of an army of 1.1 million, to a political police force of 122,000, and these prisons and claim that it is not devoted to war.

The implications of this attempted deception of Congress are vast. On the issue of political prisoners, it means that Congress is being asked to fund the continued incarceration of tens of thousands of men, women and children, and the arrests of many more.

Clearly, Congress must not do so. It is not only that continued funding of the police and prison system is a violation of the Paris Accords, and an outrage to human decency. It is that such funding is not in our national interest.

If there is any one thing on which all of us should be clear it is that the people of this country do not want any further involvement in war in Vietnam. They do not want to see us spending billions of dollars annually to keep a military dictatorship in Saigon. They want to see the struggle in Vietnam resolved peacefully.

The continued existence of massive numbers of political prisoners in South Vietnam makes a peaceful settlement impossible. If no political opposition is allowed, opponents of Thieu can turn only to military solutions. And if new fighting does break out, can any of us rest assured that an American President will not come and ask us to renew U.S. bombing? Is there anything to guarantee that we will not be forced to choose between refusing such bombing or accepting new U.S. POWs, further costs in the billions, and more death and devastation?

I do not know what will happen if there is pressure to renew the bombing. I do know, however, that it will be bad for the country and that the time to avoid it is *now*. We must not quietly acquiesce to funding more war in Vietnam, in the vague hope that it will not lead to a new flare-up a few years from now. We must act to avoid future war at the present moment.

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*Omitted because of space. On file in Abzug office.

## SOCIAL SECURITY COST OF LIVING INCREASE

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. Dominick V. Daniels) is recognized for 5 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, yesterday I was one of more than 80 House Members who introduced legislation to put into effect immediately the 5.9 percent social security cost of living increase originally scheduled for July 1, 1974.

Mr. Speaker, each weekend I meet elderly constituents at my three district offices—in Jersey City, Bayonne, and Kearny, N.J. I can report to you that many of these people are on the verge of real starvation and that almost without exception retired people in my district have had to abandon the basic amenities of life just to be able to afford food.

Food prices have soared as everyone knows, but the burden of this increase falls much heavier on old people because retirees on the average spend about 27 percent of their income on food as contrasted with about 17 percent for other Americans.

The U.S. Department of Agriculture has indicated that still sharper increases in food prices are ahead. In the name of humanity this small increase of 5.9 percent must be granted now. I know the retirees in my 14th district are no different than other social security recipients elsewhere. This is not a partisan issue. It is an issue of basic humanity. I urge every Member of this House to press as hard as he or she can. This is one problem that cannot wait for a solution.

## ON UNITED STATES POLICY TOWARD CHILE

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts, (Mr. Harrington) is recognized for 30 minutes.

Mr. HARRINGTON. Mr. Speaker, this is a corrected version of the statement on U.S. policy toward Chile which I delivered yesterday, which was misprinted in today's Congressional Record. The corrected text follows.

### On United States Policy Toward Chile

(Statement by the Honorable Michael J. Harrington)

Mr. Speaker, Yesterday, Salvador Allende's government was removed by a coup d'etat. Fighting has been reported in the streets of Santiago as the military moved to take over the reins of government, imposing martial law on the nation as their first act. While many factors contributed to Allende's downfall, I believe that it is important to recognize that part of what was and is ailing Chile is the United States policy toward the Allende government since its election in 1970. We have interfered in every way possible with the internal affairs of Chile, in an attempt to undermine, discredit, and ultimately topple the democratically elected government of that nation. We have maintained a hard line, rejecting out of hand the socialist government regardless of its legitimacy in the eyes of its own people, and we have acted solely to protect American business interests, without regard to the effects of such a policy on our relations with Latin America and the rest of the Third World. The establishment of a military regime in Chile is not in the best interests of the United States. While we did not directly encourage its establishment and are not entirely responsible for it, we must recognize that we have placed tremendous stress on Chilean society by our actions, and contributed to the disruption which climaxed in Allende's ouster.

It is worth noting, in addition, that while we shut Chile off from our economic resources, we continued to approve arms sales to that country, and provide them with about $10 million in military aid. We should not be surprised that with such a misallocation of resources, the army is stronger than the government proper. I intend to ask that the appropriate committees of both Houses of Congress investigate the abuses while I will document, and the role of the United States in the fall of Allende's government.

The highest councils of this Administration have directed diplomatic slights and rhetorical threats at the Chilean government. Even prior to the 1970 election, the Administration commented that Allende's election would lead to "some sort of communist regime and create massive problems for the United States and for democratic forces in the hemisphere." With this outmoded Cold War response, the United States government proceeded to systematically cut off Chile from the resources of more developed nations and to attempt to isolate it from its Latin American neighbors. This has indeed created "massive problems for the United States"—but ones which are a result of our shortsighted and destructive policy.

A recounting of the actions taken by the United States government with regard to Chile draws a clear picture of the abuses of power by this nation and demonstrates a total disregard for the sovereignty of other nations.

From the first, President Nixon made no particular secret of his disapproval of the government that the Chileans had chosen for themselves. He omitted sending the traditional congratulatory telegram to Mr. Allende on his election. The diplomatic slights continued when in 1971 the Administration rejected an invitation to send a carrier to pay a courtesy call at the port of Santiago, an invitation which had been accepted as a matter of course by Admiral Elmo Zumwalt. Our refusal was taken, as intended, as a slap in the face to Allende.

United States-Chilean tensions were increased when Director of Communications Herb Klein commented to the White House press corps that he had obtained the "feeling" that the Allende government "wouldn't last long." He made this comment following what might be ironically called a goodwill tour of Latin America with Robert Finch. The Chilean response to this gratuitous comment seemed apt—that it "implied grave foreign intervention" in Chilean affairs by a nation which had proclaimed its desire for friendship with the Chilean Government.

While we have indicated in various diplomatic ways that we are cool to the Allende goverment, it is our economic actions which tell the real story. Pressure of the sort that we have placed on Chile's already weak and endangered economy was intended to disrupt its society, and we can see in the present state of affairs how well it has succeeded.

Funds from the Agency for International Development have not been requested for Chile by the Admiinstration since Allende's election. In light of the fact that our diplomatic relations are technically normal, this is a highly unusual step. Although P.L. 480 and other government-to-government programs continue to operate, we have cut the heart from the foreign aid program in an attempt to starve the nation into submission.

The case of collusion between the CIA and the International Telephone and Telegraph Company in attempting to prevent Allende from assuming power is still under investigation. The New York Times' publication of an 18-point memorandum from ITT to U.S. government officials of strategy to bring about the fall of Allende within the first 6 months of his administration indicates how carefully such intervention was considered. It is important to realize that, while this case is extreme, economic intervention of a more subtle nature is quite consistent with U.S. policy.

The prime bone of contention has been Chile's decision to expropriate holdings of American companies. American corporations have long been involved in the development of Chile's resources for corporate benefit but have failed to pass those benefits along to the Chilean people. Since 1953, U.S. corporations have earned more than $1 billion through their development of Chile's resources, but have invested only $71 million. Foreign capital appropriates Chile's wealth and returns very little to the Chileans. Chile's nationalization of basic resources represents an attempt to increase its economic independence. Nationalization is legal under a Chilean constitutional amendment, and even American policy recognizes the right of a nation to nationalize industries concerned with basic resources. However, the U.S. responded to the Chilean expropriation in the narrowest possible way, by moving to protect business interests at the expense of all other foreign policy considerations.

Beginning with President Nixon's hardline expropriation statement in 1972, we have punished Chile for its actions in this area, without conceding that there are different interpretations of international law regarding expropriation and compensation. Nixon stated that in the absence of adequate compensation to U.S. private interests, the U.S. government would not extend bilateral aid and would oppose the granting of loans to the expropriating country. He said that "the U.S. respects the sovereign rights of others, but it will not ignore actions prejudicial to . . . legitimate U.S. interests." By this, the President must have meant U.S. business interests, since our actions toward Chile have not served American interests of any other sort. Clearly, Chile has been equally adamant in its refusal to consider our interpretation that compensation is owed American businesses; the wrongs are not all on the American side. But we have not adopted a policy which is conducive for settling the issue. We have clung to rhetorical insistence on our rights at the negotiating table, and simultaneously cut Chile off from economic resources in retaliation for her action.

The Overseas Private Investment Corporation has refused to extend insurance to the companies which decide to invest in Chile, assuring that no new foreign capital will come into Chile to help with payment of outstanding debts. The Export-Import Banks' Foreign Credit Insurance Association has refused to extend political risk insurance for Chilean investment. Further, other complaints against Chile by ExImBank regarding debts make reopening of insurance for Chile contingent on the settlement of debt renegotiation—which, according to an ExIm spokesman, is "not on the immediate agenda." Negotiations on both expropriation and debts are stalemated by the hard line taken by both sides. It would have been in the interest of American foreign policy objectives to reconsider the hard line and salvage our relations with one of the few democratically elected governments in the hemisphere, but we have held to our position and exerted economic pressure in an attempt to convince Chile of the error of its ways.

Reprisals against Chile took many forms. First, the Export-Import Bank of the United States refused Chile's request for financing for the purchase of commercial jets, preventing the modernization of Chile's commercial air service. The U.S. government shortly after declared Chile in default on debt payments to AID, ExImBank, and the Department of Agriculture when Chile suspended payments on its debt pending renegotiation. Although Chile clearly intended to keep its debt obligations, the temporary suspension was the excuse the U.S. was looking for to close Chile off financially and to push its economy further into disarray.

Although Chile had been deeply in debt under President Eduardo Frei, requests for rescheduling had been considered sympathetically. Cutting off all future loans in this way tightens the vicious circle in which Chile with U.S. help finds itself: foreign capital reserves are running out, making repayment impossible; foreign capital is not forthcoming because the possibility of investment is eliminated without insurance. The question of loans and development grants to Chile has become a touchy one in the international finance community. ExImBank, as I said, does not consider debt renegotiation a priority, letting Chile strangle in ropes of the United States' making. The World Bank has not extended any loans to Chile since 1970—hardly a coincidence—and the loans to be considered this year will have the opposition of the United States due to our tough expropriation policy. The executive directors of the International Monetary Fund and the Inter-American Development bank are directly responsible to the Secretary of the Treasury of the United States, effectively depriving Chile of any aid which might be forthcoming from the organizations. In fighting for U.S. business interests, we have used even international agencies, which were not intended to be tools of American decisions and mistakes—to punish Chile, and as a result have wrecked the economy of the nation.

Clearly, our policy is a coherent one. We have tried through the example of Chile to kill economic nationalism and socialism in Latin America. The Administration's ties to the business community do not justify intervention of this magnitude in Chile's internal affairs in an attempt to destroy its economy and government for the benefit of multinational corporations. We have let business interests and outworn ideology replace realism in our foreign policy toward Chile. Despite our ability to deal with the governments of Chile and the Soviet Union, despite our avowed policy of accepting governments as they are, we have found ourselves unable to deal with a domocratically elected socialist government in our hemisphere. We have helped to destroy its government, and our relations with all of Latin America.

I hope the Chile policy, one of intervention in internal affairs for the purpose of destroying a government which does not meet with our approval does not prove a harbinger of future policies toward nations which experiment with democratic socialism. If it does, the consequences to the prestige of the United States will be damaging, and we will find ourselves, rather than our opponents, isolated in this hemisphere.

## ANNOUNCEMENT OF HEARINGS TO REVIEW OPERATIONS OF IMMIGRATION AND NATURALIZATION SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG), is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary has scheduled 1 day of oversight hearings on September 20, 1973, to review the operations of the Immigration and Naturalization Service. The hearing will be held in room 2237, Rayburn House Office Building and will commence at 10 a.m.

Under section 118 of the Legislative Reorganization Act of 1970 each standing committee of the House of Representatives is required to review and study, on a continuing basis, the execution and administration of those laws which fall within the subject matter jurisdiction of that committee. In this regard, the Immigration Subcommittee has exclusive legislative jurisdiction over all immigration and nationality matters. Therefore, in an attempt to satisfy our oversight responsibilities we intend to hold a series of hearings to review the implementation of the Immigration and Nationality Act by both the Bureau of Security and Consular Affairs of the Department of State and the Immigration and Naturalization Service of the Department of Justice.

I also wish to advise the House that our oversight hearings with the Department of State which were commenced today will continue on Tuesday, September 18, 1973, at 2 p.m. and will be held in room 2237, Rayburn Building. At that time, Acting Deputy Under Secretary for Management of the Department of State, Dr. Curtis W. Tarr, will resume his testimony regarding the role of the Bureau of Security and Consular Affairs in administering the Immigration and Nationality Act.

## VETO OF THE MINIMUM WAGE BILL

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 10 minutes.

Mr. MCFALL. Mr. Speaker, next week the House is going to vote on the question of overriding the veto of the minimum wage bill.

In that connection, I think Members would be interested in reading two articles on the bill written by Sylvia Porter, the financial affairs columnist.

She makes some telling arguments. To the charge that the bill is inflationary, she replies:

> How dare we ask the very lowest paid workers among us to stand in the first line of defense against an inflation fueled by the borrowing and buying of the affluent?

And again:

> Nearly twenty-five million Americans live in poverty today, many because the work they do doesn't even command the minimum wage.

In a separate piece, devoted to the bill's benefits to domestic employees, Ms. Porter writes:

> It's hard to imagine capable domestic workers looking for jobs just because the law would insist they be paid $2 an hour—not in a market which is begging for this type of worker!

I ask unanimous consent that both columns be printed in the RECORD.

[From the Washington Star-News, Aug. 20, 1973]

### IMPACT OF THE WAGE BILL

(By Sylvia Porter)

If President Nixon vetoes the minimum wage income passed by Congress this month, it will be on the basis that the increase would throw more fuel on our fiery inflation and would lead to massive firing of marginal workers.

The bill would raise the minimum wage from $1.60 to $2.20 an hour within one to three years, depending on the occupational category and, among other things, also would expand our wage-hour laws to include 7 million to 8 million additional workers. It is indeed a liberal measure.

Would it, then, accelerate our wage-price spiral? Would it swell our jobless and welfare rolls?

The answer is not a simple yes or no, as Nixon almost surely will argue if he does veto the bill.

For instance, against a minimum wage increase now is the fact that summer '73 is hardly the right time to spur a new round of wage increases starting at the bottom and fanning out and up.

It is quite possible that against today's horrible economic background, a major minimum wage boost would set off a "ripple" effect, with increases at the bottom leading to increases at the next level and then on and up to the top of the line.

There is the danger that businessmen would try to offset the extra labor costs by firing their older, less productive workers—thereby shifting them from the working poor to the welfare rolls.

But supporting a minimum-wage increase are Labor Department studies of wage trends before and after past minimum wage raises showing only a short-term wage spurt right after the change in the minimum wage—but no wage "ripple" upward through the pay ranks.

The story is similar for prices. Said former Labor Secretary James Hodgson after the massive 1966 minimum wage boosts: "The wage increases granted to 1.6 million workers to meet the $1.60 minimum wage standard had no discernible adverse effect on over-all employment levels and on over-all wage or price levels."

But, to me, these statistical arguments miss the two central points.

The first overwhelmingly significant of these points is simply: How dare we ask the very lowest paid workers among us to stand in the first line of defense against an inflation fueled by the buying and borrowing of the affluent? How can we possible justify asking those already being pinched the hardest to accept an even stiffer pinch "for the national good?"

What sort of distorted economics translates price pressures resulting from a worldwide boom and its soaring demands for goods and services into a wage curb on those who don't even earn enough to have normal, much less "soaring," demands for anything?

The second point is implicit in the first: 1973's inflation is being caused by excessive demands for goods and services, not by excessive costs of labor.

And if we now leapfrog back into a cost-push inflation after this dreadful demand-pull inflation, the reason will be today's price spiral, not any increase in the pay of the lowest-rung workers.

Let's get some facts into perspective in these last days before Nixon gets the minimum wage bill and decides on a veto:

It would take an immediate raise to $2.16 an hour just to cover price rises since the last minimum wage boost. It would take an immediate raise to $2.12 an hour just to maintain the 1968 ratio of minimum wage earnings to the earnings of manufacturing workers (55 percent). At this moment, auto workers are getting an average of $5.12 an hour, plus extra for overtime and fringe benefits.

The average yearly wage of a migrant farm worker in 1972 was $1,830; of a hired farm worker, $3,170; of a full-time domestic worker, about $1,200.

Nearly 25 million Americans live in poverty today, many because the work they do doesn't even command the minimum wage. And those who do get the $1.60 hourly minimum wage are actually earning only $64 for a five-day, 40-hour week.

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[From the Washington Star-News, Aug. 26, 1973]

### DOMESTICS' PAY FLOOR

(By Sylvia Porter)

If President Nixon vetoes the minimum-wage raise—as is widely expected—among the hardest hit will be the nation's 1.4 million men and women who work in household jobs in the United States.

For under this minimum-wage legislation, these workers would be covered for the first time by our Fair Labor Standards Act. Their wage floor would raise from $0.00 an hour in the states which still have no minimum wage law to $1.80, then to $2.00 next July 1, then to $2.20 on July 1, 1975.

If Nixon does veto the measure, the basis will be that a minimum-wage increase to $2.20 an hour at this time would be dangerously inflationary and would lead to large-scale firing of marginal workers. And this is indisputably a liberal measure.

But it's hard to imagine capable domestic workers walking the streets looking for jobs just because the law would insist they be paid at least $2.00 an hour by July 1—not in a market which is begging for this type of worker!

It's difficult to argue that barring these workers from the protection of our wage-hour laws is essential for the economic health of our nation.

As for inflation, it's vicious reasoning which translates a price spiral resulting from skyrocketing worldwide demands for goods and services into the need to keep a lid on wages and benefits of workers at the very bottom of the financial-social scale.

Of course, not every domestic worker would be entitled to a raise if the minimum-wage bill did become law. Many are commanding much more than the minimum right now.

You may be stunned by some of the facts about these workers today:

The median (half above, half below) yearly earnings of year-round, full-time domestic workers is less than $1,800. However, only one in six domestic workers works year-round, full-time.

The typical domestic household worker receives almost no fringe benefits—no paid holidays or vacations, no premium pay for overtime, no health insurance, no year-end bonuses, no pension plan—all of which add, on average, at least 25 cents to each dollar earned by other workers.

In most states, domestic workers are completely unprotected. Only five states—Maryland, Massachusetts, Montana, New York, Wisconsin—have effective minimum-wage coverage for domestic workers.

Almost no states have compulsory unemployment insurance or workmen's compensation to cover domestic workers who are unable to find work or who are injured on the job and, even in some of the states where "partial coverage" is provided, many of these workers still are exempt from this coverage.

Transportation from home to employer can be defiantly difficult for the household workers—and also defiantly expensive at this time of soaring public transportation costs. A daily expense of 70 cents to $1 and even more is becoming commonplace throughout the United States.

It is impossible to defend the working conditions of this type of worker—who, ironically enough, is now among the most wanted in our country.

And if a Nixon veto effectively ends the efforts to bring domestic workers under our wage-hour laws for this congressional session, it will be impossible to explain the gap in protective laws in terms of the economic good of the nation.

What's more, coverage by our federal laws should be only a first step toward retrieving this category of workers from extinction.

Among the obvious moves we must make are:

A vast expansion and upgrading of the training programs for domestic workers so the workers can develop essential skills which will command a higher wage;

The development of "cleaning teams" of two or more, each with different specialties and degrees of training;

The establishment of "career" ladders, on which a worker can move up in responsibility, reward and status, adding more and broader marketable skills on the way;

And, most vital and urgent, providing household employes the sort of fringe benefits that other workers have been getting for years—benefits which make any job more rewarding and desirable, vacation pay, paid holidays, premium pay for overtime, sick leave, unemployment insurance, and some sort of protection against illness or injury for job-related reasons.

## HON. CHESTER WIGGIN

The SPEAKER. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 5 minutes.

Mr. ADAMS. Mr. Speaker, I would like to pay tribute to the memory of Chester Wiggin, a member of the Interstate Commerce Commission, who was so untimely killed in an airplane crash on July 31. I had the privilege of meeting with Commissioner Wiggin shortly before his death to discuss the crisis of the Northeast railroads. He was in charge of the Commission's study of this transportation crisis and supervised the helpful work the ICC has done in seeking a solution to this serious problem.

In my discussions with Commissioner Wiggin, I was greatly impressed by the vigor, commonsense, and good humor which he brought to this difficult task. He had a great love for New Hampshire and New England in whose behalf he had spent most of his career serving on the staff of Senator Bridges and Senator COTTON and as Federal Cochairman of the New England Regional Development Commission. His practical understanding of the transportation needs of New England were an asset of great value in his too short service on the Interstate Commerce Commission.

Although my acquaintanceship with Commissioner Wiggin was brief, I welcomed his advice and judgment. His death was a loss to the Nation, to the Commission, and to his many friends. I hope his family will take comfort in the knowledge that he lived a career of honorable public service and leaves behind him a legacy of service to his country and the affection of his friends.

## SUPPORT ON OLYMPICS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the outrageous treatment of Israeli athletes and Jewish supporters by Soviet-instigated "demonstrators" at the World University Games in Moscow elicited a wide expression of outrage at the thought that the 1980 Olympic games might be held in the Soviet capital. In the light of this performance, 43 colleagues and myself have sent a letter to Lord Killanin, president of the International Olympic Committee, as well as Douglas Roby and Avery Brundage, delegates from the IOC to the U.S. Olympic Committee urging that Moscow be declared ineligible for the 1980 games. (Text of the letter and signers may be found in the RECORD, Sept. 11, 1973, p. 29270.)

At the same time, I sent a letter to Mr. George E. Killian, Chief of Mission of the U.S. team at the World University Games, protesting his reported support for the Soviet Olympic bid, based on purely technical conditions. Thus, I was pleased to receive the following letter which concurs with my position, and, more importantly, that of decency and apolitical good sportsmanship.

THE NATIONAL JUNIOR
COLLEGE ATHLETIC ASSOCIATION,
*Hutchinson, Kans., September 7, 1973.*

Hon. EDWARD I. KOCH,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. KOCH: Thank you for your letter of August 28, 1973. The comments attributed to me in your letter were my answers to a question raised by the press on what I thought about the physical facilities in the Soviet Union as they related to the 1980 Soviet Olympic bid. At no time in the interview did we discuss anything but physical facilities.

I certainly agree with you that it would be inconceivable for the Soviet Union to be considered for the 1980 Games as long as it continues to interject its political views into the business of the Games. Certainly the treatment of the Israeli athletes is an example of this. The purpose of all international competition is to promote the spirit of brotherhood, sportsmanship and good will. When a nation cannot guarantee this, it should not be considered as a site for international competition.

Sincerely,

GEORGE E. KILLIAN,
*Executive Director.*

## LAND USE PLANNING ACT OF 1973

(Mr. UDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, I am introducing today for appropriate reference H.R. 10294, the "Land Use Planning Act of 1973," which represents the best judgment of a majority of the members of the Subcommittee on the Environment of the Committee on Interior and Insular Affairs with respect to establishment of a land use planning program covering all of our Nation's land. The bill is cosponsored by 15 of my colleagues who have taken part in the deveopment of the bill.

As ordered reported by the Subcommittee to the Full Committee, the bill, while similar to one that recently passed the Senate (S. 268), is an independently drafted measure based upon 5 days of hearings and 9 markup sessions, during which the Subcommittee had before it 6 versions of the legislation and over 150 specific amendments submitted for our consideration by members of the public, government spokesmen from the Federal, State, and local levels, and the many organizations keenly interested in the subject of the bill.

The bill would:

Authorize $100 million annually in grants in aid to encourage the States to undertake development of land use planning processes, including methods of control for certain critical areas such as those of environmental concern;

Establish a somewhat similar program covering Indian reservations; and

Provide land use planning directives for the public lands.

Although the bill specifically provides that it shall not prevent or delay any State agency from receiving any grant to which it would otherwise be entitled under the Coastal Zone Management Act of 1972, it looks toward eventual consolidation of all land use planning programs in coastal States under one agency.

The bill emphasizes strong concern for protection and enhancement of environmental quality, but it is, in the opinion of the subcommittee, a balanced measure, recognizing that our land must be used for growth and development as well as for open space and wilderness.

As it emerged from the subcommittee, the bill also has not only the substantial "carrot" of grants-in-aid but also what I believe to be an effective "stick" in the form of sanctions. Highway, airport development, and land and water conservation funds may be withheld if a State does not maintain eligibility after 3 years.

My colleagues on the subcommittee are to be commended for their conscientious consideration of this landmark legislation. Because of their sincere and painstaking effort, I have no qualification in recommending this legislation for final passage in substantially the form in which we present it to you today.

It is my hope that the bill introduced today may be studied by the Members so that when the full committee considers it within the next few weeks any obstacles to its passage may be called to our attention. It is then, in my opinion, probable that this significant piece of legislation, which has carried a high priority in the other body as well as here and in the executve branch, as only this week reiterated by the President, will be ready for favorable floor action next month.

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## CALL HIM DR. MATSUNAGA, IF YOU WILL

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, the next time you greet our most affable but distinguished colleague from Hawaii, you may properly address him as Dr. Matsunaga I presume. Sparky as we all affectionately call him, has recently had conferred on him the honorary degree of Doctor of Laws by Soochow University of China, located in Taipei, Taiwan.

Our most highly respected and popular colleague from Hawaii, Spark Matsunaga, was the first foreigner and only the third person to be so honored by the 70-year-old institution of higher learning, which boasts of its oldest law school in the Far East.

In conferring the LL.D degree on Sparky, who also holds a juris doctor degree from Harvard, Dr. Joseph Twanmoh, President of Soochow University, said the Hawaii lawmaker was being honored because of his "long service in the cause of world peace and his contributions to human welfare."

Sparky was also cited for his leadership in repealing the Emergency Detention Act, the so-called concentration camp law from the American statute books, his introduction and successful effort in obtaining passage in the House of his bill to repeal the Cooly Trade Laws, with its derogatory reference to those of Chinese and Japanese ancestry, his effort to establish a Department of Peace in the U.S. Government, his effort to create a Cabinet level commission on Asian-Americans, and his being the first of Asian ancestry to rise to a position of leadership as deputy majority whip of the U.S. House of Representatives.

Attending the ceremony to honor Sparky on August 25 were many distinguished guests, including Republic of China's Minister of Education and Minister of Communications. One of the first to congratulate Sparky was American Chargé d'Affaires to China, the Honorable William Gleysteen. Sparky was also presented with a flower lei in traditional Hawaiian fashion by Mrs. Abraham Heen, wife of U.S. Air Force M. Sgt. Abraham Heen of Hawaii who is serving in Taiwan.

In accepting the honorary degree, Dr. Matsunaga remarked:

> In the short time that I have been here in Taiwan, the thing that has pleased me most is the discovery that the leaders of your great but struggling nation are all scholars—scholarly leaders who have literally performed a miracle on this island known as Taiwan.
>
> Throughout mankind's long search for peace and individual happiness, men have resorted to plunder and warfare, in complete disregard of the teachings of early oriental scholars and sages who had long ago discovered the truth that "there is no road to happiness or sorrow; you find it in yourself."
>
> If all nations would heed the advice of their scholars, perhaps they could avoid the pitfalls and violence that have plagued them since time immemorial.
>
> I accept this honorary degree with great humility and full confidence and faith that Soochow University will continue to play a contributing role in mankind's never-ending search for world peace, brotherhood among men, and individual happiness.

I am sure I speak not only for myself, but also for all my colleagues, when I say we are proud of Sparky and his accomplishments, and extend hearty congratulations to him.

Mr. LONG of Louisiana. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Louisiana.

Mr. LONG of Louisiana. Mr. Speaker, I was pleased to learn of the recent award of the honorary degree of doctor of laws by Soochow University of China, located in Taipei, Taiwan, to our colleague, the gentleman from Hawaii (Mr. Matsunaga).

Certainly I join our other colleagues in the House and the gentleman from California (Mr. Leggett) in offering not only to the gentleman from Hawaii our congratulations but also to this very distinguished university, Soochow University in Taipei, our congratulations for their foresight in recognizing and honoring our distinguished colleague, the gentleman from Hawaii.

Mr. LEGGETT. Mr. Speaker, I thank the gentleman for his perceptive comment.

Mr. McCLORY. Mr. Speaker, I wish to join in extending warm congratulations to our distinguished colleague from Hawaii, and I subscribe to all that has been said about him this afternoon.

Mr. MATSUNAGA. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Speaker, I wish to thank the gentleman from California for his most generous words, and also the gentleman from Louisiana (Mr. Gillis Long) who paid me a most unexpected visit by telephone in Taipei during the August recess. I thank the gentleman from Illinois (Mr. McClory) too for his warm congratulatory remarks.

For a politician to be without words is a rarity. There is a saying that a politician without a voice is like a violin without strings. I must confess in all humility that I feel just like a violin without strings, in view of the most generous words of the gentleman from California and the gentleman from Louisiana and Illinois. Suffice it to say, therefore, that I am truly grateful for their taking note of the great honor which was bestowed upon me by Soochow University and for their congratulations.

Mr. LEGGETT. I will say to the gentleman from Hawaii (Dr. Matsunaga) that his record speaks for itself in this Congress and we need no further words from him today.

### UNITED STATES-REPUBLIC OF CHINA CONFERENCE GROUP FORMED IN THE PACIFIC AT TAIPEI

Mr. Speaker, I would like to move on to the second part of my special order for today which I entitle "The United States-Republic of China Conference Group Formed in the Pacific at Taipei."

### GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks on the subject of my special order.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEGGETT. Mr. Speaker, I take this time of the House today to discuss with other interested Members, American relations with the Republic of China and to formally announce to the House the formation during the recent legislative recess the creation of a new international organization.

We choose to call it the United States-Republic of China Conference Group. I want to expressly thank at the outset Colleague Bob McClory of Illinois and Floyd Spence of South Carolina for their invaluable assistance in participating at Taipei in the organizing conference.

The group formed essentially is multidisciplined and is composed of Members of Congress, members of the Chinese National Assembly, Control Yuan and Legislative Yuans, and in addition, distinguished educators, industrial and economic representatives and other professionals of both countries.

The organization took form at Taipei on August 7 through August 9 last month and will have as its purpose in semi-annual conferences in Taiwan and the United States the carrying out of objectives through all medias of communication and actions, the following goals:

To strengthen the traditional friendship between the Republic of China and the United States of America.

To encourage the maintenance and expansion of the Sino-American trade and business relationships.

To encourage the mutual exchange of educational ideas and of students and professors.

To promote the cultural exchange between the two peoples.

To encourage cooperation in the fields of medicine and general scientific research.

To promote better understanding in each country of the political democratic program of both nations.

To generally review the Defense posture of both nations.

The program of the Conference Group has generally been drafted in accord with official U.S. State Department policy which has recently been restated in part as follows:

### U.S. Relations With the Republic of China

The United States has long had a policy of friendship and cooperation with the Republic of China (ROC). Our two governments continue to cooperate in a wide range of endeavors. Our economic ties and trade with Taiwan, which have developed impressively over the past ten years, are expected to grow. The Mutual Defense Treaty of 1954 continues in force. Over the years the United States has developed a wide range of contacts and relationships with the ROC, from security and military relationships to cultural and academic exchanges, from political and diplomatic cooperation to trade and investment. The pattern of these relationships is, however, changing as a result of our decision to seek normalization of relations with the People's Republic of China and as a result of Taiwan's development and growing prosperity.

The Conference Group envisions the organization of two independent but reciprocal organizations independently funded in the two countries, each with a working Executive Secretary. The two Executive Secretaries would mutually maintain communication and in consultation with the infrastructure of each group, develop meeting agendas, publish compilations and work products, disseminate literature, operating not as a special interest group but as a broad-based organization to promote scholarly, technical, and political science exchange of the best magnitude that eventually would involve several hundred people in each country.

At the consummation of our first conference on August 9 the following were elected Chairman and Executive Secretaries of each group:

Sino-American Friendship Foundation: Dr. Robert C. T. Lee, Chairman, Joint Commission of Rural Reconstruction.

Mr. Edward Y. Kuan, Executive Secretary, Department of North American Affairs, Ministry of Foreign Affairs.

Council of United States-Republic of China Relations: Hon. Robert L. Leggett, Chairman, U.S. House of Representatives.

Dr. Edward W. Mill, Executive Secretary, Chevalier Program in Diplomacy and World Affairs, Occidental College, Los Angeles, Calif.

At this time I would like to include in the Record the Proposal on the Council on United States-Republic of China Relations as prepared by Prof. Edward W. Mill, Congressman Richard T. Hanna, and myself.

### The Council on United States-Republic of China (Taiwan) Relations—A Proposal

Plans are now being discussed by some Members of Congress, some educators, and others to hold a Conference in Taipei, Taiwan in August 1973 to explore the possibility of establishing a Council on United States-Republic of China Relations. In this statement, an attempt will be made to set forth the background, nature, goals, and possible organization of the projected Council.

### I. THE BACKGROUND

For almost a quarter of a century, the Republic of China on Taiwan, and its offshore islands of Kinmen (Quemoy) and Matsu, have maintained an independent existence. Despite the hostile relationship with nearby mainland China, the Republic has steadily gained in strength, particularly in the economic field. Today in Asia, it ranks only after Japan in its standard of living. In its fifteen million people, it has a resource rich in talent, experience, and determination.

In the world community, the Republic of China has had to learn to live with both defeat and triumph. In October 1971, the Republic was unseated from its place in the United Nations by mainland China. This was a severe blow, but in the months since that time Taipei has shown a remarkable resiliency. It has aggressively sought to strengthen its bi-lateral relationships with individual nations and to continue to participate in various regional organizations in Asia, such as the Asian Development Bank.

For the United States, the maintenance of the freedom and the development of the Republic of China have been important ingredients of its Asian policy. On February 9, 1955, the Senate of the United States approved a Mutual Security Treaty between the two countries. The economic relations of the two countries have also prospered. Most significant has been the determination of the Chinese to help themselves. In 1964, U.S. economic aid to the Republic ceased, making it a rather different case from that of many other countries still dependent on U.S. aid. In these and other ways, the relations of the two nations have become and are still close.

New relationships are obviously emerging in Asia these days, none of which is perhaps more spectacular than the efforts by the United States and the People's Republic of China to ameliorate old hostilities. In this situation, the exact nature of the future relationship between the PRC and Taiwan becomes unclear; Japan must also be considered in assessing future relationships in the region. But, acknowledging these important actual and potential developments, and, in general, supporting the President's approaches to mainland China, it is the considered judgment of the proponents of this idea that ways and means, particularly in the economic, educational, and cultural fields, should be sought to strengthen the independent Republic of China (Taiwan). In a special order in the U.S. House of Representatives on February 16, 1973, a number of Members of the House, including Congressman Robert L. Leggett, set forth their views on the changes taking place in our China relations.

Note should also be taken of the official policy position of the Government of the United States on Taiwan as expressed by the President of the United States in his recent (May 3, 1973) Report to the Congress (p. 108). In his statement, the President declared:

"Despite international political fluctuations, the skill and energy of the people of Taiwan have produced remarkable increases in per capita income (more than 13 per cent last year) and made Taiwan a leading trading nation. While simultaneously moving toward the goal of normal relations with Peking, the United States has maintained a policy of friendship for the 15 million people of Taiwan. We retain diplomatic ties, commitments under the Mutual Defense Treaty of 1954, and close economic contacts with them."

In furtherance of these thoughts, it is proposed that a Council on United States-Republic of China (Taiwan) Relations be created, to be composed equally of members from the United States and Taiwan. The nature, goals, means, financing, and administrative organization of the Council are dealt with below.

### II. NATURE OF THE COUNCIL

The Council would be composed of an equal number of members from each country, perhaps twenty from each. For the United States, it is suggested that the membership be constituted as follows: 5 members from the House of Representatives; 2 from the Senate; 7 business leaders; and 6 from the academic, legal, medical, and other professions. Presumably, the Chinese group would be formed in somewhat the same manner. Some members might be functional specialists, ie. educators, MD's, or lawyers; others might be specialists on Asia. A combination of generalists and specialists would appear to have advantages. All members would serve without compensation.

### III. GOALS

The main goals of the Council would be:

(1) To encourage the maintenance and expansion of trade and business relationships

(2) To encourage the educational progress of Taiwan and the exchange of educational ideas and of students and professors

(3) To stimulate a greater cultural awareness and appreciation between the two peoples, including the fostering of language ties

(4) To encourage cooperation in the fields of medicine and general scientific research

In indirect ways, the Council might also be of assistance in helping to encourage the development of new and more effective government institutions.

### IV. MEANS OF ACHIEVING THE GOALS

To achieve these goals, the following means are proposed:

(1) The convening at least twice a year, once in January and once in June, at one

time in Washington and the next time in Taipei, of the full Council, to deliberate on the goals and policies of the organization and to formulate statements for public distribution.

(2) The establishment of an Executive Committee, composed of five members in each of the two countries, to act as an interim decision-making unit, subject to the general policy-making guidelines of the Council.

(3) The calling of conferences and the holding of forums on subjects of interest in the Chinese-American relationship, the participants to include both members of the Council and professionals and businessmen not members of the Council. Consideration should be given to holding an ANNUAL CONFERENCE ON TAIWAN.

(4) The publication of statements on contemporary aspects of Chinese-American relations, designed to cultivate an intelligent and balanced public opinion, and to assist in the deliberations and activities of the appropriate Congressional committees and subcommittees and such executive agencies as the Department of State and the United States Information Agency (USIA).

(5) The publication of scholarly monographs on the RC by academicians and other writers.

(6) The publications of analyses and information digests of special interest to the business community.

### V. FINANCING THE COUNCIL AND ITS WORK

The primary financial support should come from foundations and other private groups. It is expected that the Council will be incorporated as a non-profit corporation.

### VI. ADMINISTRATIVE ORGANIZATION

In order for the Council to function, it will be essential to have an Executive Secretary in each country who will carry on his duties subject to the wishes of the Executive Committee. He should be assisted by a staff assistant and a secretary. A small office should be established, presumably in Washington. The Executive Secretary should be a person of high competence in the Asian field.

In sum, through the medium of an active Council on United States-Republic of China Relations, an important step can be taken to preserve and expand on our economic, cultural, and educational relations in East Asia. With malice toward none, we can, in our way, contribute to the expansion of the frontiers of freedom in a way mutually beneficial to both the Republic of China and the United States of America.

### THE FOUNDING CONFERENCE: AUGUST 1973

As mentioned at the outset of this paper, tentative plans are now under consideration to hold a meeting in Taipei in August to discuss this proposal and possibly to give it actual form. It is contemplated that 15 persons may be invited from each country. The Conference would last for 3–4 days. An agenda is now in the process of formulation, but basically it would cover the following headings:

I. The State of Relations Between the US and the RC Today

II. The Proposed Council as a Means of Strengthening These Relations

III. The Areas of Cooperation
A. Economics and Business
B. Education
C. Cultural Cooperation
D. Medical and Scientific Cooperation
(Subcommittees for each of these fields)
IV. Support for the Council

V. Approval of what may be called, THE CHARTER OF TAIPEI, bringing the Council into being

In the development of this August meeting, the sponsors plan to work closely with the U.S. Embassy in Taipei, the U.S. Information Service, business leaders, and with ranking officials of the Republic of China. It is expected that top leaders of the Republic will address participants in the Conference.

We invite your support for this project, believing, as we do, that it is a constructive and important means of contributing to the peace and progress of Asia.

ROBERT L. LEGGETT,
RICHARD T. HANNA,
*Members of Congress.*

June 1, 1973.

The meeting envisioned in fact occurred; present were the following:

### LIST OF PARTICIPANTS

### I. UNITED STATES OF AMERICA

1. Honorable Robert L. Leggett, Member of Congress, U.S. House of Representatives, Washington, D.C. Chairman of the Delegation.

2. Honorable Robert McClory, Member of Congress, U.S. House of Representatives, Washington, D.C.

3. Honorable Floyd D. Spence, Member of Congress, U.S. House of Representatives, Washington, D.C.

4. Dr. Edward W. Mill, Chairman, Chevalier Program in Diplomacy and World Affairs, Occidental College, Los Angeles, California.

5. Attorney S. Stanley Kreutzer, Chief Counsel to the New York City Board of Ethics, Former Counsel to the New York State Legislature and the New York City Council.

6. Owen R. Chaffee, Administrative Assistant to Congressman Robert Leggett, Washington, D.C.

7. William E. Beauchamp, formerly with the American Embassy in Taipei, 925 Van Dorn, Alexandria, Virginia.

8. Dr. Gustave M. Gilbert, Chairman, Department of Psychology, Long Island University, Brooklyn, New York. Consultant to the Peace Corps.

9. William Bergman, Bergman Associates, Suite 810, 500 12th Street, SW, Washington, D.C.

10. Dr. Arpad Kadarkay, Assistant Professor of Political Science, Occidental College, Los Angeles, California.

### II. REPUBLIC OF CHINA

1. Dr. Robert C. T. Lee, Chairman, Joint Commission of Rural Reconstruction, Chairman of the Delegation.

2. Honorable John Young, Member of Control Yuan.

3. Honorable Helen Yeh, Member of Legislative Yuan.

4. Honorable John K. C. Liu, Member of National Assembly.

5. Dr. Frederick F. Chien, Director-General, Government Information Office.

6. Mr. Ting-sheng Lin, Acting-Chairman, Chinese National Association of Industry and Commerce.

7. Mr. Richard C. Y. Wang, Secretary-General, Chinese National Association of Industry and Commerce.

8. Mr. George Y. L. Wu, Chairman, Central Reinsurance Corporation.

9. Mr. Tsung-To Way, President and Chief Executive, International Commercial Bank of China.

10. Professor Chien-min Chu, Dean, College of Law, National Chengchi University.

11. Mr. Edward Y. Kuan, Director, Department of North American Affairs, Ministry of Foreign Affairs.

12. Mr. Henry C. Y. Wang, Deputy-Director, Department of North American Affairs, Ministry of Foreign Affairs.

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Mr. Speaker, I opened the conference with these remarks and explanation:

Gentlemen and Ladies of the International Community:

It has been said that "Friendship is a strong and habitual inclination between two countries to promote the good and happiness of one another."

There is also an apocryphal mythical law of nature that the three things we crave most in life—happiness, freedom, and peace of mind—are always attained by giving them to someone else.

The Republic of China and the United States have been mutual friends since the creation of your young Republic and the purpose of this omnibus delegation being here is to see that friendship remains faithful, firm and mutual.

When I was in your country early last year, I discussed with your Vice Premier, now your Premier, Chiang Ching-Kuo, and your former Premier, C. K. Yen, the establishment of a mutual multi-disciplined inter-parliamentary, inter-economic, cultural and professional exchange program, having for its purpose the promotion of understanding between our two countries and the outside world—particularly in light of American changes in policy respecting the Red Chinese Peoples Republic on the Mainland. At the time I made my suggestion, the Mainland meeting had not yet occurred.

In a later formal exchange of correspondence with your former Premier, C. K. Yen, he wrote me in part as follows: (February 12, 1972):

"I am also delighted to learn that your excellent idea of a mutual inter-parliamentary economic exchange has found strong support among your colleagues and friends. It is my belief that your activities along this line will greatly contribute to strengthening the traditional relationship and cordial ties between our two countries. I look forward to hearing from you in the near future."

My own Ambassador, Walter P. McConaughy, wrote me likewise affirmatively on March 9, 1972, in part as follows:

"Thank you for your letter of February 18 with its enclosures. Your interest in promoting a bilateral inter-parliamentary conference or a broader based business professional and governmental council between the United States and the Republic of China serving the interests of both countries sounds very promising. I hope your initiative will bear fruit."

And on March 28, 1972, your Premier, C. K. Yen, wrote to me further in part:

"I fully share your view that our economic progress and prosperity under a democratic government can serve as the most effective weapon which can be used not only to offset the vicious propaganda against my country now prevailing abroad but also to present to the American people a sharp contrast between the life in Taiwan and that on the mainland of China."

I subsequently discussed the idea of an international council between our two countries with your Washington Ambassador, James C. H. Shen, your Deputy Chief of Mission, S. K. Hu, the U.S. State Department, and a large number of my colleagues in the Congress of the United States. In addition, my long time friend and friend of Asia, Professor Ed Mill of Occidental College, the Chairman of the Department of Diplomatic Relations, developed a keen interest in the project. He interested and associated a great number of other leading American-China scholars and educators. In addition, your miraculous economic achievements over the past few years have stimulated an interest in this project in virtually every national business leader and corporate executive that I have talked to.

Most organizations, I early learned, will meet a rapid demise or death if built on *friendship* alone—a well-defined purpose is as important to this organization as it is to the American Chamber of Commerce of Taipei.

I might explain as an aside my own motivations in developing this Council. I am known as a liberal in the United States. I am a member of the Armed Services Committee of the House of Representatives as is Mr. Spence. I have been a student of the Vietnam War for over a dozen years. I am neither "Dove" nor "Hawk" but more precisely a "Chicken Hawk."

As it has developed, after a hot war breaks out, it is almost impossible for any side to win the current checks and balances around the world. The time to stop wars is in the cool of negotiations and deliberations, long before bloodshed is even conceived.

It is inevitable that the United States is going to deposture some forces in Asia—some policies may change. I feel very strongly that the American people should have a more discriminating knowledge of the people of Asia. They now have a general understanding of the Vietnamese and the Thais. The Laotians and Cambodians continue to be an enigma to the United States.

Likewise the strong motivating factors that led the United States to consult more with the Soviets and Red Chinese should not confuse American friendship for the countries of Western Europe and the Asian countries of Japan and Free Korea and Free China. Our Council can help in this understanding.

Similarly, you Chinese might be confused over actions at the Watergate Hotel and Office Building overlooked by Howard Johnsons Motel, and our joint purpose in Republicans and Democrats coming out here is to tell you not to try to emulate every single thing we do in the United States as reported by your press and television.

We Americans have a fantastic number of things in common with you Chinese on Taiwan.

The fact that we can commence these proceedings in a common English language could only be accomplished in one other Asian country—the Philippines. While monolingualism is a barrier to understanding between diverse nations, a common language, be it English, Greek or Latin, can provide a formidable bridge of communication.

We have had a reciprocal affinity for emigration. It was the Chinese nationals from the old dynasties who migrated to California, my home State, in the last century to break their backs building the cross-continental railroad, who built by hand the greatest water canal and levy system of the country.

It was William Randolph Hearst Sr. who said at the turn of the century, "I do believe that it is because of the Asiatic extreme industry and ingenuity that I discriminate against him. In my heart I have a gut feeling its because I think him to be a greater man than I am."

Americans have, in turn, taken up residence on Taiwan Island over the past several decades and this blanket of security provided has been an important factor in the Chinese Republic's herculean gains.

When I read your economic statistical performance over the past several years recording a growth rate of 12 to 14 percent, there is no doubt about the greatness of the Chinese.

The Council members from the American side came here frankly with eyes and ears and senses acutely curious how this small island could be America's twelfth largest trading partner, how you could increase your electronic industry 79 percent in one year, mechanical production 44 percent, lathes, planners and presses 90 percent, wood industry 41 percent, chemical industry 31 percent, bicycles 92 percent, and crude oil 26 percent.

From California, the "bread basket" of the United States, I am pleased to note your food production and canned products reach a stabilized position where it might be possible for us to do more business.

In another economic area of inflation, both our countries have recorded unacceptable escalations—here we may not learn too much from each other.

Having suffered an international trade deficit for the past year and a half for the first time in American history, we Americans likewise come here also curious to find out how you Chinese can increase your foreign trade by 44 percent in a single year, keeping exports always well above imports. We can discuss the political problems we have in the United States under Burke-Hartke type legislation, the problem we have with a $450 million deficit trade balance to your country alone. You have the same problem with Japan, but the United States has also the same problem with Japan multiplied four times.

The United States is 30 percent of the Republic's foreign markets. We should explore in conference the effect on this market of future Mainland transactions.

The actions we are jointly taking in this subject area should be further explored including frank discussions of trade barriers, quotas and tariffs.

We have heard rumors in our country that you have had a surplus in your budget for at least three years; having exceeded our administrative budget in the United States over the past three years by nearly $75 billion, we would have to see your figures to believe them.

We are concerned with pollution, industrial and otherwise, with health and health care, with banking, with energy practices, and we do believe these subjects should be thoroughly explored.

We are concerned with the Republic's particular problems—your limited size geographically, your dependence on imported raw materials, the problems you have perhaps politically and those that follow from your reduced formal participation in international associations.

I am one who frankly believes that the future and prosperity of the Republic is not so much dependent on the number of American jets and the size of the 7th Fleet off your shores, but in showing to the world that the Chinese maturity in politics and political institutions is equal to your prowess in the international economic sphere.

The assets of you Chinese are self-evident. The quality of your economic leadership, your strong, well-disciplined, active energetic, resourceful labor force, your excellent cooperation and coordination of elements and sectors of your country, superb money management, excellent marketing capability including maintenance of quality and expansion, the modest incomes and living standards of your leaders, your favorable international trade route location, your excellent planning in energy management, transportation, education and health.

Your country, the size of Holland, but with one-third the people, had the largest growth rate in the world last year at 12 to 14 percent—Holland ebbed at 2.6 percent with the United States recorded 4.6 percent.

Your per capita gross national products exceeds every country in Asia and Africa excepting only Japan and a few diamond and oil rich countries. You exceed the average performance of Latin American and I am certain in but a few years you will exceed the average per capita product for all of South America.

We want to frankly explore with you the idea and ramification of the Shanghai communication metaphor that there is but one China—Mainland and Taiwan. Perhaps this truism should be refined.

Is it possible that you Chinese can solve your own problems in this hemisphere within the framework of regional autonomy and system but manifest national unity. What happens then to the 1954 agreement with us Americans?

Your country has been independent of the United States economically for three years; United States military assistance to your government now comprises about 3 percent of your defense effort. Militarily you are becoming more independent than you know.

In short, your defense also lies primarily in your economic success—six times the survival rate that prevails on the Mainland. I believe that when we can show the world the political success of this integrated Chinese island of Taiwan, your future will be further insured. The stark contrast of restrained monolithic economic survival on the Mainland versus successful economic democracy and competitive commerce on Taiwan will shout a message that the world and world associations will not be able to ignore.

Mr. Speaker, I ask unanimous consent that the entire message be included in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I wish to commend the gentleman on the very eloquent statement which he has just delivered and which I was present to hear when he delivered it firsthand to our counterparts from the Republic of China on Taiwan, when the gentleman from California (Mr. LEGGETT) and the gentleman from South Carolina (Mr. SPENCE) and other members of our delegation who have already been named by the gentleman met in Taiwan.

I wish to commend the gentleman further for his leadership and his foresight in helping to arrange this conference which was sponsored by the Foreign Office of the Republic of China on Taiwan, and from which we received such great and hospitable treatment and service.

Mr. Speaker, I also would like to remark at this stage, if the gentleman will yield and permit me, concerning how successful, it seems to me, this mission to Taiwan was. It reaffirmed the close relations which we have traditionally had with the people of the Republic of China.

It reaffirmed our determination to maintain close political, economic, cultural and other ties which would maintain the close relationships that we want to sustain.

I was particularly impressed by the arrangements which were made by the Republic of China, specifically by the Foreign Office of the Republic of China, in cooperation with the gentleman from California, not only with respect to the principal meetings which we held with our Chinese counterparts from the legislative Yuan and other associated bodies, but also because of opportunity which was provided to our delegation to meet with the principal leader of the Republic of China, the Premier, Chiang Ching-Kuo, and Mr. C. K. Yan, to whom the gentleman has already made reference.

Mr. LEGGETT. Mr. Speaker, I would like to state that the Chinese Ambassador in the United States certainly was particularly helpful, especially Gen. S. K. Hu, in making the preliminary arrangements which led to our successful mission. The gentleman's observations are well taken.

Mr. McCLORY. If the gentleman will yield further, we had an opportunity to meet with most of the members of the cabinet of the Republic of China on Taiwan, not only to speak firsthand but to learn firsthand about the great motivation of these people and of this country and of this Government and of the broad range of its activities and of its great aspirations, not only of its accomplishments but the challenges it faces and the ambitions or the goals in which we want to participate with them in order that they can achieve them.

Mr. McCLORY. Mr. Speaker, I ask this permission partly because I want to include in the RECORD at this point my formal statement as well as the remarks that I addressed at the conference with our Chinese counterparts immediately following the remarks that were addressed by my colleague in the well (Mr. LEGGETT) on this occasion.

Mr. Speaker, it was my privilege during the August recess to participate in the series of conferences in the Republic of China on Taiwan to which the gentleman (Mr. LEGGETT) has referred. At these meetings I was also accompanied by my colleague, Congressman FLOYD SPENCE of South Carolina as well as several other individuals from the academic community and several business and legal personalities. Our main conferences were with representatives of the Chinese National Assembly—or Legislative Yuan—as well as business leaders. Also, our group was privileged to meet with the Premier of the Republic of China, Chiang Ching-Kuo, as well as the country's Vice President C. K. Yen, and most members of the Cabinet of this great country.

Our mission to Taiwan, arranged entirely by the Republic of China Foreign Office, was designed to further cement the close political, cultural, social, and economic relations which have developed between the United States and the Republic of China on Taiwan. In these respects the meetings were eminently successful.

Mr. Speaker, I was particularly impressed by the warmth and intimacy of our reception. Both the political and business leaders, as well as the ordinary citizens of this country evidenced a quality of friendship almost unprecedented in the course of my experience with individuals of other lands.

Mr. Speaker, while our conferences in Taiwan were of an entirely informal and unofficial nature, it was the expressed hope of all who participated in these meetings that some type of arrangement might be formalized which would enable representatives from our two nations to meet on a regular basis either annually or semiannually alternating the place of meetings between the United States and the Republic of China. The hope also was expressed that the representatives of our respective groups might be expanded—particularly with respect to legislative representation from the U.S. House and Senate, as well as from the Republic of China National Assembly.

Mr. Speaker, I am taking the liberty of attaching hereto my own remarks which I addressed at the opening meeting of our conferences in Taipei. It is my expectation that my colleague, Congressman SPENCE, will insert his own remarks in the RECORD with respect to this important meeting in which we participated. In addition, I would hope that from time to time in the coming weeks, we might provide the Members of the House with further advice regarding the development of the proposed Council or other organizational format by which we may promote and further strengthen the relations between the Governments and peoples of the United States and the Republic of China on Taiwan.

The remarks follow:

### REMARKS OF ROBERT MCCLORY, U.S. REPRESENTATIVE AT THE FOUNDING CONFERENCE OF THE COUNCIL ON UNITED STATES REPUBLIC OF CHINA RELATIONS

My esteemed friends and colleagues representing the Republic of China on Taiwan at the Founding Conference of the Council on United States Republic of China Relations—let me express, first of all, my deep gratitude for the opportunity to join with you here at this historic and significant conference in Taipei.

For my own part, I regard my presence here as a service which ranks among the most important in my public career.

There is a very fundamental principle which underlies all political activity. It is simply this: In endeavoring to expand political support or to win over political enemies, one must never turn his back on his friends.

The people of China—and essentially those who now reside on Taiwan, including, of course, the native Taiwanese, are the traditional friends of the United States.

We have fought and labored side by side, our interests are bound together in various formal treaties, as well as in informal understandings and relationships. We have supported and marveled at your growth and development as one of the great industrial, economic and cultural nations of the world. Next to Japan, you have become our leading trading partner. In short, our ties are of long duration—they are deep and substantial.

I envision my role here as one to strengthen these relationships and our working partnership to the end that the brave and industrious people of the Republic of China on Taiwan may be sustained and that our alliances of every kind may be promoted.

I have had very little experience with the political representatives of your nation. However, I have served as one of the United States delegates to the Interparliamentary Union for almost ten years. As a result primarily of those experiences, I am convinced that person-to-person diplomacy, especially the individual contacts between the elected representatives of nations, can be of inestimable value in promoting human understanding.

As just one Representative in the United States Congress, elected by popular vote from a district of some 500,000 population, I am confident that I speak on behalf of the hopes and aspirations of all of them, as well as on behalf of all—or almost all of the 535 elected Members of the U.S. Congress, when I state that we want the destiny of the United States to go hand-in-hand with the destiny of the great and proud people of the Republic of China on Taiwan.

I have no other purpose and no greater ambition than to help in my own individual way to this goal. It is my hope that the fruits of this meeting will be of mutual benefit to our respective countries and to this world.

Mr. LEGGETT. I thank the gentleman from Illinois for his remarks today and also for his remarks in Taipei. Certainly they were quite appropriate and very helpful for the accomplishment of our mission.

Mr. LONG of Louisiana. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. To avoid duplication but to still make the point our distinguished colleague from Illinois made, and to join in his remarks, I think all of us who have had an opportunity to participate in this and to visit Taiwan were to a very marked degree very greatly impressed by not only the economic progress but the social and political progress that has been made. I know in my own instance, and in the cases of those I had an opportunity to visit with, it far exceeded anything that we thought they had been able to accomplish in, relatively speaking, so short a period of time.

I think further than that and having had an opportunity to visit other parts of the world, I was strikingly moved by the fact that the political freedom that we as individuals had and all of us had there at the time. There was absolutely no restraint at all.

I hope that the relationships are changing, and I appreciate the comments of the gentleman from California in this regard—the relationships that are now in the process of changing in the world political sphere. I hope we do not lose sight of the historical relationship and the performance that has been given by the Republic of China over all these years and the friendship that they have given to us.

While I did not have an opportunity to sit in on the hearings on Mr. Kissinger's nomination as Secretary of State yesterday, I did have an opportunity to read some of his comments in the paper and I also did have an opportunity to see some of them on television. I gather that he did not feel that it should directly hinder our relationship so that we could not in the long range continue a good relationship with Taiwan.

I wonder if the gentleman from California, who is recognized as an expert in this matter, would enlighten us with his views as to what might be done in this regard, so that we do continue to give the recognition, I think, that they so rightly deserve and to see that they continue to play a progressive and an important part in the political events of the world as they transpire.

Mr. LEGGETT. I thank the gentleman for his remarks. I think they are very appropriate, and while we were on different missions out there in the Far East, we had an opportunity, I think, to compare various countries in their economic performance.

I think that the economic success of Taiwan is as startling to the gentleman from Louisiana and his group as it is to the members of our group.

I think this is really a sign of the security of the area, the fact that they have passed into what we call the $100 curve per capita. We have poured money into so many countries around the world, and the attitude is that it has been a success in Western Europe, but we have fallen into quicksand in Asia and South America. I think that the story we are getting now from free Korea and particularly from Taiwan is that we have put in there approximately in excess of $5 billion, and this has been a real success story. And it is a success story for us, not because it gives us a military base in a rather strategic part of the world, but because it is a pillar of economic success for the needs and demands of some 15 million Chinese, which is not an insignificant number by any stretch of the imagination.

And if I were to draw a parallel, it would be that if we were to draw a map showing the size of a country in terms of its world trade, we would show the Republic of China on Taiwan as in fact being a larger country than mainland China because its trade now is burgeoning, and I think it is pretty close to $5 billion which is more than the mainland Communist China trade. I think the Communists, as friendly as we want to be with them, certainly have limitations in expanding their economy.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding, and I would like to associate myself with the remarks of the gentleman from California concerning the Republic of China on Taiwan. I would also like to point out that I also had the opportunity of visiting the country of Taiwan along with the distinguished gentleman from Hawaii (Mr. MATSUNAGA) and my colleague, the gentleman from Louisiana (Mr. LONG). I think that, having had the opportunity to visit that country, that I have learned a lot more about it, and the relationships of the people of that country. I think if we can point to any one outstanding success, as far as our program of foreign aid by the United States, it is indeed the country of the Republic of China on Taiwan. I think when we can point to so many countries and so many areas in the world where we have made available our foreign aid money, and where it has been very unwisely, I think, misspent, that the country of Taiwan stands as an outstanding example as one country that I can tell my constituents of back home, that there are some areas and some countries, notably the country of Taiwan, where our programs are working.

I had the opportunity to visit their farmlands, and see what they are doing in the field of agriculture, particularly the production of rice and the production of sugarcane, and the methods they are using which are putting them in the transitionary role of becoming a modern agricultural country.

However, I think we have made a very big mistake by not realizing the contributions of the country of Taiwan. I think we have made the mistake of only noticing the very noisy countries, the noisy movements, and noisy people. And that while we have had so much trouble in so many areas of the Far East that we have here an example of the Republic of China on Taiwan that has gone about, in their own way, very quietly, but doing something very profitable and beneficial to their people that has raised their per capita income throughout the country, to the standard where it is one of the finest countries in Southeastern Asia, and where their gross national product has doubled and tripled, and which they are increasing something like 10 or 12 percent a year.

I would also like to join my colleague, the gentleman from California (Mr. LEGGETT) in pointing out that the Republic of China on Taiwan in my opinion deserves far different treatment from the United States, and that we should recognize once again their friendship and their contributions.

Mr. LEGGETT. I think one of the real facts that does not appear too dramatic is the fact that, according to our State Department economists, the spread in the classes, the spread of wealth has materially compressed as the Republic of China on Taiwan has moved up.

Where some 15 years ago we found the top 20 percent of the people earned some 15 times what the bottom 20 percent earned, the figures today show that the top 20 percent earn 4 times what the bottom 20 percent earn. If we compare that with this marvelous progression of 10, 11, 12, 14 percent increase in per capita GNP per year, the fact that they are currently at $451, targeting to go to $550 by 1976, I think that it is readily recognizable that they have done something out there. They have got a rather miraculous achievement, and not only have they gotten off of the U.S. aid boat, but now we find that the Taiwan exports are down in the Republic of Panama, and they are in Indonesia, advising these people how to develop free trade ports so that these countries can gain a new appreciation of the work ethic which is very successful in Taiwan.

Mr. BREAUX. Mr. Speaker, will the gentleman yield further?

Mr. LEGGETT. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, I appreciate the comments of the gentleman, and I merely want to point out particularly that when they are compared with the facts and figures that we have on the mainland of China, the opposite system of development and the opposite way of doing things have not met with nearly the same outstanding results as have been brought about by the method of operations for the Republic of China on Taiwan.

Mr. Speaker, in the midst of a swiftly changing world—where former enemies come together to talk coexistence on unprecedented terms—little attention has been given the outstanding example of America's relations with the government of Taiwan.

Despite spectacular success in our foreign aid program with the Taiwan Government and its people, we have placed this small island nation in the background of our thoughts.

It deserves far more.

From 1949—when President Chiang Kai-shek assumed the leadership role in Taiwan after the Communists took over the Chinese mainland—until 1965, assistance from the United States totaled $1.5 billion. This was money spent for economic and technical assistance—and it had dramatic results.

Taiwan never has been a noisy government. Instead of prompting large headlines, protesting one thing or another, or screaming at the so-called unfairness of the United States, this tiny nation has devoted its energies to constructive pursuits. Perhaps that is why we have been content not to notice Taiwan, to place this nation in the back of our collective national mind instead, to know it existed, but not to notice its progress. We are notorious for noticing noisy things, noisy people, noisy movements, noisy governments. Now it will be good if we notice something that has been going on quietly, effectively, progressively, right before our eyes.

In the mid-1940's, Taiwan's people suffered under an annual per capita income of only $25 per year. That went to $52 per year by 1952—still nothing outstanding. But consider that the per capita income this year will reach more than $360 and the difference becomes significant.

It is the Cinderella story on a national scale.

Massive land reform has resulted in farms being owned by the people themselves, with fair compensation being given the former landlords. The gross national product has gone from only $431 million in 1952, to a whopping $6½ billion this year.

The diet in Taiwan is the highest in calories and the second highest in protein throughout Asia. The people eat meat and fish as well as rice and vegetables.

Nearly a half million people have their own motorized transportation—mostly motorcycles. But the ownership of automobiles is growing rapidly. And this signifies the movement from an agrarian to an industrial economy.

Consider, for example, that industrial exports amounted to only $93.6 million in 1961. By 1970 this figure had grown to $1.2 billion—more than 78 percent of the export total. The percentage of agriculture in net domestic product decreased from 32.5 percent in 1961, to 17.6 percent in 1971. However, the contribution of industry rose from slightly under 25 percent to more than 34 percent. The service industry remains steady, within a range of 47 to 49 percent in the last decade.

Take a look at education in Taiwan—possibly as much as 85 percent of the total population is literate. There is free elementary education through the ninth grade and it is compulsory. Expansion of the vocational school system is underway and the attendance rate within the entire school system is 95 percent.

No other Asian country has done a better job of solving its basic food problem than Taiwan. At a time when most Asian nations are having to import essential food supplies, Taiwan not only meets its own requirements, but exports food grain as well. The rice crop in Taiwan this year is expected to total 2½ million tons, leaving a surplus of up to 400,000 tons for stockpiling and sales abroad.

Television came to Taipei in 1962. Now there are three commercial networks broadcasting throughout the island nation. More than 75 percent of the programing is in color. Taiwan has 78 radio stations, 31 daily newspapers, and about 1,500 magazines. There is no censorship.

Let us compare some statistics between Taiwan and mainland China:

The diet on Taiwan is more than 2,600 calories, compared with about 1,800 on the mainland;

Per capita consumption of cotton fabrics is 7.8 pounds, 1.7 on the mainland; and

A total of 98.5 percent of the children from 6 to 12 years of age are in school: on the mainland, it is 78 percent.

There is a hospital or clinic for every 13,000 persons in Taiwan, there is one for every 110,000 persons on the mainland.

Foreign trade has been a main factor in the economic growth of this island nation. Two-way trade increased from $542 million in 1961 to nearly $2 billion last year.

Now, let us admit something—Taiwan is a success story. It is a success story where American aid is concerned, it is a success story where the Taiwanese people and their government are concerned, it is a success story that has not been fully told. Americans are sympathetic toward Taiwan. But they do not know exactly why, except that the government was forced to flee communism in 1949. That deserves our sympathy. But the real story of Taiwan since 1949 deserves our admiration and respect.

There are 15 million people on Taiwan. They have come from next to nothing to a status within the world's economic and social framework which cannot be denied as anything but strong.

But they have been quiet about it. They have gone about building a nation while the rest of us have been fighting, bickering, and trying to solve problems that are still with us. While war raged in Vietnam—as the Mideast failed to reach accord in any meaningful areas, as this Nation floundered economically on the world market, as our own people were torn by strife, dissension, and riots, the people of the little nation of Taiwan peacefully went about building something good.

A miracle happened on Taiwan. I say it is time we recognize the miracle and give thanks that it happened, and commend and praise the Taiwanese for their outstanding accomplishments.

They truly deserve it.

I thank the gentleman for yielding.

Mr. LEGGETT. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. I thank the gentleman for yielding.

First of all, I wish to congratulate the gentleman from California for being elected the Chairman of the newly created United States-Republic of China Conference Group. The gentleman is to be commended for the leadership which he has displayed in bringing about better relationship between the Republic of China and our country, the United States.

I, too, visited Taiwan during the recent August recess under the auspices of Soochow University, and I, too, was greatly impressed by the progress which has taken place on the little island of Taiwan, the great progress in economics, as the gentleman has already observed, and the progress in the relationship between the Government and the people of Taiwan, the so-called Taiwanese.

I believe the progress which has taken place is largely due to the caliber and renewed dedication of the leadership in the present government.

Confucius, the greatest of all Chinese scholars, once observed:

> The real wealth of a nation lies in its scholars.

The thing that impressed me most during my 5-day visit to Taiwan was my discovery that the leaders of the Republic of China today are all scholars. It has been further said that if the nations of the world today would only listen to and heed the advice of the scholars, perhaps we would not be in the turmoil in which we find ourselves today.

I paid my first visit to Taiwan in 1964. At that time I was rather pessimistic about the future of that country. In fact, I had spoken to some of the leaders at that time and talked to the people on the streets and in the shops, and they, too, were very pessimistic. I sought out those same individuals who expressed skepticism and pessimism at that time, and the amazing change in their attitudes reflected the truth of what I thought were my findings. They all said, at worst, that things could be better but have really improved. As a matter of fact, one of the best known dissenters, Mr. Chen Yu Sih, a graduate of the East-West Center at the University of Hawaii, who was jailed for publishing derogatory writings against the Republic of China, expressed a change of heart toward his country's present leaders. He thought that much improvement has been effected *in* recent years. His confidence in his country's future was best indicated by his taking a bride on the day that I departed from Taipei.

All in all, I think the people responsible for the Government of the Republic of China today can rightfully be proud of the progress which that country has made in the last decade. If they continue to pursue the same course, especially as demonstrated since their representatives were ejected from the United Nations, then in the not too distant future I would predict that they will establish a showcase of democracy on the little island of Taiwan.

Mr. Speaker, I thank the gentleman for yielding and again I congratulate him for the great leadership he has shown in this area.

Mr. LEGGETT. Mr. Speaker, I thank the gentleman for his very appropriate and well chosen remarks. Certainly his experience with the educational system over there is the experience of our group. We met with the educators at our conference and we talked to their director of education. The 5-year or 6-year total medical educational program they have over there is a unique method of health care delivery that, with our shortage of medical technicians and doctors in this country, we might well emulate at some future time.

Mr. SCHERLE. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding. I also thank him profusely for taking the time to explain the tremendous ovation and the feeling I share as to what we owe the people of the Republic of China. I would like to pay special tribute to James Shen, the ambassador here in Washington, and to Minister S. K. Hu, and to Edward Huan and Henry Wong and Alfred Chen and Tammy Chen, as well as to Bill Glysteen and Bob Wallace of the American Ministry.

Mr. LEGGETT. Mr. Speaker, I am sure the gentleman would not want to forget

Walter McConaughy for his excellent efforts there. He is our Ambassador there.

Mr. SCHERLE. I certainly do not. I did not get to see him while I was there and we did not have an opportunity to visit, but I do want to pay tribute to these people for the tremendous opportunity we had to visit that wonderful country, the Republic of China.

We can read papers and look at pictures but there is nothing like going to a particular place in person and seeing personally the tremendous progress that these people have made even with the great disadvantages of their political setbacks they have had in recent years.

It is an inspiration. I was there for 7 days and I visited the various phases of government and I visited personally the many farms in the Taitung area. We went down to Kaohsiung in the industrial area and visited those facilities which had become so competitive for industries the world over, but I think the one episode that stood out first and foremost is the tremendous love of freedom these people have expressed. I think that is one reason why we in America take these people to heart so generously and so easily, because we can see ourselves in them almost 200 years ago, as a nation emerging to be one of the leaders around the world in the future.

One cannot help but be inspired by these people, particularly by their great ability to work, their desire, their determination. They grow on one very easily. I could have spent a great deal more time there, and I hope I will have the opportunity of returning again and again.

I would want to say one thing, and this came out every place I went. It is a constant fear of theirs; "What will the United States do if a mandate or a directive ever surfaces as to the future of the Republic of China? Will the United States protect her interests? Will we be in a position to do something about her salvation?"

In all honesty, I can answer this as a Member of Congress: As far as the Congress of the United States is concerned, we will not forsake our friend and our ally.

Mr. Speaker, at this time I would like to enter into the record a speech that I made upon my arrival in the Republic of China, and also an article that I had written expressing their fears and my hopes as far as the Republic of China is concerned.

Mr. Speaker, I want to thank my colleague again for this wonderful opportunity to speak.

The speech and article follow:

Mr. Speaker, at the invitation of the people of Taiwan, I had an unusual opportunity to tour the Republic of China as a guest of the government. For almost two weeks during the August recess, I met with high-ranking officials and ordinary citizens to discuss their problems and opportunities and their future course as a nation. Everywhere I went, in rural communities as well as industrial centers, military installations and residential neighborhoods, two chief concerns were voiced repeatedly.

The question of future relations with the United States is paramount among foreign policy issues. This independent island republic has prospered and grown strong in the air of freedom and no longer needs direct economic assistance from the United States. The staunchly pro-Western, anti-Communist government does rely, however, on the American military presence in the Far East to prevent a takeover by the mainland regime. Perhaps even more than the loss of the troops, ships and planes physically stationed in the region, Taiwan fears the erosion of the American commitment to her sovereignty. Our new policy of detente with Peking is reason enough for the apprehension I found everywhere. But the free Chinese fear that even worse surprises are in store. Many are convinced that the United States has already decided to abandon them, repeated assurances from the administration notwithstanding. The bristling fortifications on the off-shore islands of Quemoy and Matu serve as reminders of the continuing threat from the west. While an immediate invasion is probably unlikely—the mainland has too much to gain in grain sales alone to make it worthwhile now—their fears for the future are undoubtedly justified.

The other principal preoccupation Taiwan shares with her enemy. Like the mainland Chinese, the island dwellers are constantly searching for new sources of food. Despite the relatively rapid industrialization of the country, almost half the population is still engaged in tilling the soil by primitive methods. With small yields from the 3,500 square miles of arable acres, they must import large quantities of food. American soybeans are an important dietary supplement and will gain even greater significance if the population continues to grow at its present rate.

Thus in two fundamental ways the survival of the Republic of China depends on American good will. The military power and agricultural abundance of the United States figure vitally in all Chinese calculations about the future on both sides of the Bamboo Curtain. But for tiny Taiwan the way these factors come out in the final equation could mean the difference between life and death.

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### AIRPORT RECEPTION—REPUBLIC OF CHINA

It is a great pleasure for me to be here and a great privilege as well. The Republic of China is deeply respected in the United States, and the American people are honored by the invitation of their representatives to this beautiful island. The courage, tenacity and industry of the Chinese people are well-known and much admired in my country. America's early history has taught us to value the qualities that insure survival on a dangerous frontier.

My trip here and those of my colleagues in Congress are symbols of the continuing friendship between the people of China and the United States. The traditions we hold in common and our long history of close association are not the only bonds of solidarity, however. Our people share a bright economic future and count on each other as trusted trading partners. In my own state of Iowa, which ranks second in the nation in agricultural exports, thousands of people depend on international commerce for their livelihood. So we value our relationship with the Republic of China for many reasons.

I am looking forward to learning in greater detail how your country has engineered the miracle of prosperity and security of which you are all so justly proud. The opportunity to tour Taiwan's industrial operations, to inspect her agricultural methods and to review her economic plans for the future, are especially welcome. Not least, of course, my wife Jane and I are eager to experience the charms of your island, famous throughout Asia for its cosmopolitan cities and beautiful countryside.

We are pleased to learn that President Chiang has recovered and will continue to exercise his steadfast leadership.

Free nations applaud his determination to keep the Republic of China free.

Mr. LEGGETT. Mr. Speaker, I thank the gentleman from Iowa for his very appropriate remarks. Certainly he has touched on a very critical issue which we have not talked too much about here today, and perhaps we should discuss it briefly. That is, the nature and effect of the President's Shanghai communique.

I noticed this communique has caused trepidation in the hearts of many people around the world when it was made well over a year ago indicating that there is but one China, and that Taiwan is part of China and that the United States would commence deposturing its forces on the Island of Taiwan in the foreseeable future when tensions are modified.

This particular document and statement has led many people to believe that the United States was assuming a new policy toward the Republic of China such that perhaps we would terminate diplomatic relations with that country; that we would translate diplomatic relations from the Republic of China on Taiwan to the Communist People's Republic on the mainland. I think that in retrospect, as we see the way the Republic of China has basked in adversity, a number of nations unfortunately have severed diplomatic relations with Taiwan, and today rather than 2 to 1, the countries around the world recognizing Taiwan as the Republic of China, we find the reverse is true. There are still some 40 or 50 nations, though, around the world, including the United States, which has about a third of the economic production in the free world, who still recognize the Republic of China on Taiwan. I would anticipate that this situation will continue.

I interpret the Shanghai communique on its face. It appears to me to be a document that says that when tensions relax, when these entities can become friends and integrate commercially and perhaps even politically, if they do it without bloodshed, then at that time certainly God bless them and we will have one China and Taiwan will be part of that one China.

But, I view really the statements made in the Shanghai communication a lot like President Kennedy's American University speech where he indicated he was for complete and true world disarmament.

They certainly opted for a very ideal world society, where balances of power were no longer required, where threats from both communism and dictatorship were no longer rearing their ugly head, and where we had brotherly love and other kinds of alternative forces in the world that were real and formidable and provided the balance required.

Likewise, President Nixon just a few months ago in his conference with Mr. Brezhnev of the Soviet Union indicated that he favored a great number of reductions in military forces, both in quality, which includes MIRV's, and intercontinental ballistic missile numbers, and a number of other strategic limitations. Again, the President was not offering any kind of unilateral action.

We motivate him somewhat at times.

I believe his phraseology and his statement should all be taken together and not taken out of context.

Likewise, in the Shanghai communique, when the President stated that hegemonic alliances of one group of nations against another group of nations are not in the world interest, what he meant was that NATO and SEATO and the Warsaw Pact Alliances are not in the interests of the world. Certainly they are not. But as a practical matter they are a part of the real world, and these balances are going to be required until alternative capability can be generated so that they will no longer be needed.

Mr. Speaker, I ask unanimous consent that a press release resulting from our conference be included in the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The press release is as follows:

[Press Release]

U.S. Congressman Robert L. Leggett expressed today, on behalf of his colleagues Congressman Robert McClory and Floyd D. Spence and members of his party, their sincere thanks to the Chinese friends for their courtesies and hospitalities rendered them while visiting in the Republic of China.

During their brief stay here, they have the opportunity to visit factories, institutions and public facilities. They have exchanged views with high ranking officials of the Chinese Government and distinguished persons of different professions on matters of common interest to both countries.

Congressman Leggett, McClory and Spence and party reached the conclusion that the peoples of the Republic of China and the United States have long cherished the existing friendly relations between them and that it is their desire to further strengthen these ties.

In order to promote such objectives, concrete planning is underway to establish a non-profit institution respectively in each country's capital. Such institution shall be invested with full capability to carry out the necessary projects and activities beneficial to both peoples.

It is their belief that with the establishment of the institutions under reference, the longstanding friendship between the Republic of China and the United States of America will be solidified.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I should like to observe that the gentleman's initiative as well as the participation by other Members of this House in their visits to the Republic of China on Taiwan, and their remarks about their contacts with various leaders and the people of the Republic of China, serve to remind the Congress of the United States of the long and cordial and friendly relationship between our two nations and the firm foundation upon which these relations are built.

I have the feeling, which is a personal feeling, that we were sort of taking the Republic of China for granted. We were perhaps neglecting it and not giving the kind of emphasis to this relationship which it deserved.

I am confident that our mission, coupled with the visits which were also carried out by other Members of the House, helped to revive and strengthen the contacts we have had over the years.

Mr. Speaker, I would like to observe further and concur in the remarks made by the gentleman from Iowa (Mr. SCHERLE) to the effect that there is no intention on the part of any of us to turn our backs upon our friends or to neglect or to forget our friends. Although this does not imply any sort of violent or military attitude, it does indicate that we want in all appropriate ways to continue the close relationships and arrangements we have discussed.

Mr. Speaker, if I may make just one more statement, it is my firm resolve, it is my firm belief that these problems which the Republic of China is experiencing and may experience in the future can and will be resolved amicably without the requirement of any military action.

Mr. Speaker, I thank the gentleman.

Mr. LEGGETT. Mr. Speaker, I thank the gentleman very much for his remarks.

I would like to join my colleagues in acknowledging the accomplishments of the Republic of China.

The recent formation of the Council on United States-Republic of China Relations has led to wider recognition of the strength and rapid growth of the Taiwan economy. Taiwan, the size of Holland, but with one-third the people, leads all nations with an annual growth rate of 12 to 14 percent in 1972. By comparison, the United States had an annual growth rate of 4.6 percent during the same year. In 1972, Taiwan's total foreign trade grew by a phenomenal 44 percent, with exports reaching a level of about 45 percent of the total GNP. Among the top 20 trading nations of the world, Taiwan has a total trade turnover approaching $6 billion annually. The per capita national product rate of $400 exceeds every country in Asia and Africa, excepting only Japan and a few diamond and oil rich nations. This per capita income exceeds the average performance of Latin American Nations and is predicted to exceed the average per capita production for all of Africa within a few years. In 1972, the electronic industry in Taiwan increased 79 percent; mechanical production, 44 percent; chemical industrial production, 31 percent; heavy machinery, 90 percent; wood production, 41 percent; and crude oil production, 26 percent. Two-way trade totals are expected to reach the $7.5 billion mark during this year with exports at nearly $3.9 billion and imports close to $3.6 billion.

Textiles are the No. 1 export item followed by electronics, footware, machinery, fishery products, and canned food. Textile exports reached a level of $860 million in 1972, and should pass the $1 billion figure this year. Exports of electronic products, including consumer items and components, registered a more dynamic increase, nearly doubling 1971 volume. Other major exports included: footware, $143 million; canned and preserved food, $189 million; plywood, $135 million; and fishery products, $114 million. Export of bicycles also became important in 1972. The 1972 volume of $23 million in this industry is expected to double by the end of 1973.

Although the United States continues to be Taiwan's major trading partner, the total trade level of $2 billion in 1972 represents only about one-third of Taiwan's total foreign market. Japan remains a close second in total trade with Taiwan. The $1.5 billion worth of Taiwan exports purchased by Japan in 1972 represents an annual increase of 52 percent. However, imports of electronic components and parts from Japan to meet the demand of Taiwan's booming economy resulted in an overall trade deficit with Japan of over $600 million. Efforts are being made on the part of the Chinese to close this gap by seeking other sources of supply. Taiwan's trade with the countries of the European Economic Community continued to show a strong uptrend with overall trade increasing 49 percent in 1972. Total trade with Indonesia increased a record 74 percent in 1972. Throughout the Pacific basin and Africa efforts to expand economic relations have begun to bear fruit.

It is not always realized that Taiwan is one of the major importers of U.S. products. In 1972, United States-Taiwan trade surpassed U.S. trade volume with Hong Kong and Australia. Taiwan is now the 11th ranking nation in terms of U.S. trade. Provided the present growth rate continues, Taiwan should move to the seventh or eighth rank by 1975. Total trade between the United States and Taiwan grew 42 percent in 1972. The U.S. trade deficit was approximately $450 million last year. This trade gap has become a source of concern among Chinese and American officials, and action is currently being taken to reverse this trend. Taiwan's economic growth, industrial diversification, and strong foreign currency exchange position should result in an increase in imports over the next few years. This provides an outstanding opportunity for U.S. exports, especially in capital goods, engineering products, and utility equipment, to increase substantially.

The miracle of Taiwan's development resulted from coordination and cooperation by all segments of the economy.

Thoughtful and farsighted governmental planning, a highly skilled and motivated labor force, superb management, and aggressive marketing have combined with dramatic results. Their accomplishments deserve the highest praise.

Internationally, as mainland China and Taiwan seek to solve their mutual problems, the strength and independence of Taiwan's economy insure this island nation a continued place in world affairs.

(Mr. LEGGETT asked and was given permission to revise and extend his remarks and include extraneous matter.)

The SPEAKER pro tempore. The Chair will advise the gentleman that if the extraneous matter exceeds two pages of the RECORD it will be returned for a cost estimate.

Mr. LEGGETT. None of it exceeds 2 pages.

The SPEAKER pro tempore. In total.

Mr. LEGGETT. If it exceeds 2 pages I will comply with the rules of the House and be here tomorrow explaining exactly how much it is going to cost the U.S. Government to define its policy with China.

Mr. Speaker, to spend a week in Taiwan is to reexperience a new appreciation for the work ethic. The hustling Oriental is not only commonplace in Japan but also all over Taiwan which we visited. The export processing zone at Kaohsiung on the southwest side of the Island looks to hire 155,000 rural Taiwanese by this time next year—the figure is now well over 100,000.

The $35 million invested in this free trade port now involves ocean commerce I am told of over 1,000 ships per month. Most of the business generated today in Taiwan, it appears, is competitively taken from Japan rather than the United States.

I would also emphasize the fact that Taiwan today is measurably helping the United States in our dollar struggles around the world because Taiwan as Korea has tied its currency to the U.S. dollar rather than the floating Japanese yen.

Taiwan is not satisfied with its performance to date. The Free China Review for July has the following interesting observations:

Premier Chiang Ching-kuo told conferees that the Sixth Four-Year Economic Development Plan will make Taiwan a "peaceful and prosperous society." Per capita income will rise to US$550 by 1976 and the GNP and trade to US$11 billion each, he said.

He stressed importance of the four-year plan and of his NT$3.8 billion (US$100 million) rural reconstruction program under which farmers will have greatly increased income after two years.

The gap in Sino-Japanese trade is slowly narrowing as the Republic of China buys more from countries other than Japan.

On the other hand, Sino-American trade is still running lopsidedly in free China's favor despite efforts to boost imports from the United States.

Two-way trade between the Republic of China and Japan amounted to more than US$602 million in the first four months of 1973.

Exports to Japan were worth US$227 million, up by 152.3 per cent compared with the like period last year, while imports from Japan amounted to US$375 million, a gain of 42.1 per cent. The deficit was US$147 million compared to US$173 million in the corresponding period of 1972.

Sino-American trade for the first four months of 1973 rose to US$658 million, with the Republic of China enjoying a favorable balance of US$213 million compared with last year's US$170 million.

Exports to the United States, worth US$435 million, accounted for 37.2 per cent of the total.

Imports from the United States, representing a rise of 35 per cent, constituted 23.8 per cent of the total.

Exports to European countries shot up 73.1 per cent to a total of US$151 million. Imports from Europe registered a rise of 32 per cent to US$89 million.

A plan to increase imports of U.S. products has been prepared to help narrow the trade gap favoring Taiwan.

Formulated by the China External Trade and Development Council, the plan will mainly involve U.S. visits by purchasing missions. CETDC will give all necessary administrative assistance, including itineraries, information and financial backing.

The government will provide NT$10 million to promote exports of agricultural produce in coordination with the rural development acceleration program.

Agreements have been reached between Chinese traders and their counterparts in the United States, Canada and the European Economic Community countries on textile exports.

A total of US$120 million worth of products was exported from the Kaohsiung Export Processing Zone in the first five months of this year.

This showed an increase of 60 per cent over the corresponding period of last year. Exports are expected to reach US$350 million this year. They totaled US$208,750,000 last year.

Established in 1966, the zone has accumulated an export total of US$730 million. Exports have been growing by 50 per cent annually.

Free China will help Panama establish cement plants. Under an agreement reached between Minister of Economic Affairs Y.S. Sun and Panamanian Minister of Industry and Commerce Fernado Manfredo, the Taiwan Cement Corporation will send specialists to the Central American nation to set up the plants.

Sun and Manfredo agreed to strengthen Sino-Panamanian cooperation in other fields. One such field is trade.

Trade with Panama totaled US$58 million in the first quarter of this year. Exports, reaching US$42 million, surpassed imports by US$26 million.

The Legislative Yuan raised the ceiling on foreign loans from US$1 billion to US$2 billion.

The U.S. Export-Import Bank issued preliminary approval of a US$8.8 million loan to the China Phosphorus Corporation for expansion.

The Executive Yuan approved a US$37 million loan from the U.S. Export-Import Bank to build a refinery in northern Taiwan and an acrylonitrile plant in southern Taiwan.

US$25 million was borrowed by the Chinese Petroleum Corporation for the refinery and US$12 million by the Chinese Petrochemical Development Corporation for the acrylonitrile plant.

The Export-Import Bank announced support of a US$7.3 million sale of U.S. equipment for a synthetic fiber plant.

Exports of agricultural products will reach US$600 million this year, the Joint Commission on Rural Reconstruction predicted. Volume was US$140 million in the year's first quarter.

Frozen pork showed the fastest increase with volume of US$12 million. The year's total is expected to reach US$50 million.

Fishery exports for the first quarter shot up to US$31 million, an increase of 72 per cent.

Other gainers were forestry products, general foods, frozen fruit and vegetables, and canned asparagus and mushrooms.

Assistance has been given in motorizing coastal fishing boats. Fishermen procured seining and line-fishing equipment for 80 boats.

The first phase of the Rural Development Acceleration Program included 73 projects and cost NT$528,773,000.

The second phase which statred July 1 has a budget of NT$1 billion.

JCRR has approved three major irrigation and engineering projects for the second phase.

An NT$500 million (US$13,210,000) four-year plan will get under way shortly to streamline the marketing system for farm produce and improve the quality of food.

An estimated 1,250,000 metric tons of rice was harvested in the year's first crop, an increase of 10,000 tons over last year.

The fish catch for 1973 is expected to reach 750,000 metric tons, a 20 per cent rise and 13,000 tons over the target.

The Republic of China will have a deep-sea fishing fleet of 854,000 tons in four years. A total of 65,000 tons of oceangoing fishing boats will be built in the period.

Taipei has invested NT$21,790 million (approximately US$574 million) in urban renewal projects since the city was elevated to the status of special municipality July 1, 1967.

Cost of educational and cultural facilities will rise to NT$1,507 million this year compared with NT$278 million in 1967.

Spending on social welfare and sanitation rose by more than 639 per cent during the seven-year period, climbing from NT$97 million to NT$620 million.

Taiwan is critically aware of the need to reasonably balance its trade with the United States. The April 30 edition of Industry Week carries the following item confirming this effort:

### TAIPEI'S "BUY AMERICA" PROGRAM PICKS UP STEAM

The Republic of China (Taiwan) will buy 5.5 million metric tons of grains—worth more than $800 million—from the U.S. during the next three years. Of that total, 1.8 million tons will be soybeans, 1.35 million tons will be corn, 1.65 million tons will be wheat, and 750,000 tons will be barley. Besides grain, Taiwan will also buy $230 million worth of cotton, plastics, steel products, construction materials, and telephone equipment this year—plus the same amount next year—after purchasing details have been worked out.

The State Department's recent analysis of Taiwan's economy is as follows:

### THE ECONOMIC SETTING

During the decade, 1962–71, the ROC has sustained one of the highest rates of economic growth of any country in the world, averaging, in real terms, approximately 10 percent over that period. In 1972 economic growth was 12 percent. This growth resulted in a number of significant changes in our relations. First, the ROC moved from the position of being an aid recipient to that of an aid donor. Grant U.S. economic assistance to the ROC was terminated in July, 1965. The U.S. had provided the ROC with approximately $1.5 billion in economic and technical assistance. Over the last ten years of that assistance program (1956–65) gross national product and per capita income increased at an average annual rate of 7.7 and 4.3 percent respectively. Similarly high rates have continued since grant economic assistance was ended.

In the past few years, foreign trade has been the main factor in the economic growth of the island. Two-way trade increased from $542 million in 1961 to nearly $2.0 billion in 1972. The composition of imports has remained about the same during this period, with capital goods amounting to about 30 percent, agricultural and industrial raw materials averaging about 60 percent and consumer goods remaining at about 8 percent. The composition of exports, however, has changed considerably. Industrial exports amounted to only $93.6 million in 1961 (42.8 percent of the total). By 1970 they amounted to $1.2 billion (78.2 percent of the total).

The United States and Japan are Taiwan's two principal trading partners, accounting in 1972 for 64 percent of the two-way trade. In fact, for the last four years the ROC has enjoyed a trade surplus with the United States, which amounted in 1972 to $663 million. This fact has been a matter of some concern to U.S. and ROC officials, and both sides have pledged their best efforts to correct this imbalance. Nevertheless, the phe-

> nomenon of a U.S. aid recipient of only ten years ago now running a trade surplus with the U.S. is indicative of the major change in the relationship. Another measure of this change is the growth in American investments on Taiwan, which now amounts to some $350 million. This high level of investment is a reflection both of continued business confidence and the favorable investment climate which American investors have found in Taiwan.

The United States according to a recent analysis has invested in the post World War II years a total of $8.5 billion in South Korea and $5.5 billion in Taiwan, including both military and economic aid. The investments made in both of these countries was slow to mature by Western Europe standards but today both countries are moving from lesser developed to developed status.

Taiwan has not only achieved economic aid independence from the United States but today is virtually free of military assistance other than military credit sales for hard dollars.

The military posture of Taiwan according to Maj. Gen. Richard C. Ciccolella, former Chief of the U.S. Military Assistance Advisory Group to the Republic of China, can briefly be described as follows:

> With respect to our provision of military assistance, I believe that there is a tendency in the United States today—understandable in the light of our Vietnam experience but nonetheless important—to be unduly apprehensive over the prospect of being drawn into a military involvement in the defense of Taiwan. Actually, the Republic of China is well able to take care of itself in combat in defense of Taiwan on its own, provided that its Armed Forces are furnished with the modest assistance it needs. The nature of its military capabilities today and the will of its people are such as to discourage military aggression against its territory. Any attempt to undertake a military conquest of Taiwan, including the off shore island groups of Kinmen (Quemoy) and Matsu, would be an enormous undertaking and a military adventure offering unacceptable odds to an aggressor. It appears to me to be highly improbable that Communist China would embark on such an undertaking so long as the Republic of China continues to field the kind of military forces it currently possesses.
>
> With the help of our military assistance programs, the Republic of China not only has developed a highly respectable capacity to defend itself, it also has developed a capability of providing essential support for other friendly Asian countries. Of particular importance is the capability for repairing military hardware which it is prepared to offer other Asian nations, proved through extensive ongoing programs for Vietnam and Thailand.

Mr. C. Martin Wilbur, George Sansom professor of Chinese history, Columbia University, recently analyzed before a House Subcommittee the Chinese Republic on Taiwan as follows:

> The Government of the Republic of China effectively controls Taiwan, a land the size of Holland with fifteen million people. There are at least eighty nations with smaller populations. The United States has recognized this government continuously since 1928. It was our wartime ally and a founding member of the United Nations. In December, 1954 the United States and the Republic of China entered into a mutual defence treaty which is still in effect.
>
> The people enjoy virtually universal education, excellent health services, freedom of religious practice, and considerable social freedom. There are many fully functioning colleges and universities, public and private, with intellectual freedom in most fields except ideological and political. The Republic of China is a going concern that is developing in a direction quite different from what is taking place on the continent.
>
> Americans would not describe Taiwan's government as democratic in our Western European tradition. Which of the two Chinese regimes is the more humane toward the population it controls is a highly subjective question. The administration on Taiwan does not glorify class struggle nor pit classes against each other in forcing social change.
>
> Nor has it so relentlessly used psychological and social pressures upon every individual to compel ideological conformity. Land reform was essentially bloodless in Taiwan, bringing about private small holdings, with most of the farm land owned by natives of the island.
>
> American and Chinese scientists and medical men conduct joint research, as do scholars in many fields. Many Americans live in Taiwan to develop trade and other business.
>
> In short, Americans and Chinese in the Republic of China already have achieved a degree of cultural interaction we have learned to expect in our relations with friendly countries.

The State Department views our current relationship in this regard as follows:

> ### THE SECURITY RELATIONSHIP
>
> As a direct result of its impressive economic growth, the ROC has been increasingly able to assume the economic burden of its own national defense. Grant military assistance to Taiwan, which had totaled approximately $2.6 billion since 1949, was ended in July of 1973, with the exception of a small sum which is planned for military training. Additional security assistance to the ROC is expected to be in the form of U.S. Foreign Military Sales credits and guarantees, subject, of course, to Congressional appropriation. Nevertheless, the ROC itself now pays for approximately 95 percent of its defense budget. Moreover, that budget has averaged some 10 percent of GNP, one of the highest such totals in the world.
>
> ### PROSPECTS AND PROBLEMS
>
> It would be unrealistic to say that the last two years were not difficult ones for the ROC, despite continued economic successes. The expulsion of the ROC from participation in the United Nations and the diplomatic advances which the People's Republic of China has made at the expense of the ROC have presented Taipei with difficult problems. We continue to advocate, however, the representation of the interests of the people of Taiwan in agencies associated with the United Nations and in other international institutions. We also support the continued participation of the ROC in international meetings and seminars to which it can contribute the knowledge and expertise of a successful developing economy.
>
> It is the position of the U.S. Government that the ultimate resolution of the problem of Taiwan is for the Chinese themselves to settle. As stated in the Shanghai Communique, the U.S. Government "acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The U.S. Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves."

Before détentes can be fulfilled, the vacuum of the existing balance of power must be filled by goodwill and meaningful treaties.

It would not be in the interest of the United States in withdrawing military forces from a part of Southeast Asia to give the mistaken impression that we were sacking the whole area. Asia and the United States need each other. Our relationship is not simple but very complex since nearly half the world is involved.

It will be the intent of the United States-Republic of China Conference Group to explore with other world organizations the interaction of our respective hemispheres looking toward peace and understanding between the peoples of the world during our time.

Mr. ADDABBO. Mr. Speaker, the economic boom in Taiwan and the corresponding rise in the standards of living for the people of the Republic of China is a clear and unmistakable example of what sound U.S foreign policy and American investment can help achieve. During the congressional recess, I accompanied several of my colleagues on a visit to that country. While my primary reason for touring Asian nations was to review the need for military bases, I was struck by the dynamic growth in Taiwan's economy and the construction boom which marks the redevelopment of that country.

Taiwan's 4-year plan calls for an average annual growth rate for Gross National Product of 9½ percent with an increase in per capita income from $372 to $550. The per capita income of Taiwan already is more than double that of Thailand even though Taiwan's population is only 15.2 million. Much of this economic expansion has been the result of commitments by the Export-Import Bank of the United States—about $900 million—and a huge increase in American trade is expected. In fact Taiwan will probably rank ninth on the list of U.S. trading partners this year.

The economic development of Taiwan is visible to a visitor. One sees the new factories, new roads, railways, ports, power stations, and one also sees the spirit of cooperation between management and labor which has produced higher wages, greater productivity, and a shift to more technologically advanced manufacturing.

Many nations are investing in Taiwan's future. Japanese and European investors are pouring hundreds of millions of dollars into electronics, manufacturing, and other ventures, but Americans remain the largest group of investors.

American loans are underwriting a number of public utility projects such as the development of nuclear generating plants and a petro-chemical complex. A sign of the stable government and boom climate is the act that six American banks now have commercial branches in Taipei.

Mr. Speaker, our visit to Taiwan was reassuring and that is why I am joining in this report on the progress and exciting economic climate in the Republic of China.

Mr. SPENCE. Mr. Speaker, I want to commend my colleague from California for having taken this time to discuss the amazing economic growth and potential of our good friends and allies, the people of the Republic of China, on Taiwan.

I only recently returned from a visit to Taiwan, and I had the opportunity to see firsthand again the tremendously impressive way in which the people of the Republic of China have made use of their limited land area and how highly they have developed their skills and technology. It is little wonder they are rapidly moving up the ladder to a place among the world's leading nations in terms of trade and per capita standard of living.

I know that many others will be discussing the scope and extent of that economic growth today. I would like to take this opportunity, therefore, to discuss a related but somewhat tangenital issue. I would like to call the attention of my colleagues to the outstanding work being done by the Republic of China in behalf of other peoples of the world besides themselves—of the fine work they are doing in behalf of world peace and human dignity.

In that connection, I ask unanimous consent to include in the RECORD at the conclusion of my remarks an article from the August 25 issue of To the Point, an outstanding magazine which covers world news in depth. The article is entitled "Taiwan Tutors" and discusses a program of technical cooperation in Africa which Republic of China officials call "Operation Vanguard."

The article notes that since 1961, the Chinese Nationalist Government has spent about $100 million on its technical cooperation program involving 31 African countries. The program is carried out in two ways: First, agricultural and technical missions are sent to Africa and, second, agricultural seminars are held in Taiwan for African agricultural advisors, So far, the Republic has sent 22 agricultural and 12 technical teams to 23 African countries and has held 14 agricultural seminars. They now have 15 teams in Africa comprising a total of 616 Chinese farming technicians.

The program in Africa is not the only technical assistance program in which the Republic is engaged—they have similar though more limited programs in other parts of the world including Asia and South America.

But the thing that I feel is most significant and the thing I want to point out especially today is that Taiwan has been quietly helping other people in this way for years. They no longer receive any economic aid from the United States and have turned to lending their own helping hand to others less fortunate or who can benefit from their expertise, the result of their very successful endeavors in transforming their own island economy into one of the leading trading nations of the world.

All this is very much in contrast with the publicity mileage their gigantic mainland antagonist, the Peoples Republic of China, has been getting especially in Africa, out of the construction of a 2,000-kilometer railroad between Tanzania and Zambia. With an economy as backward as that of the mainland, which, with its huge territory, untapped resources, and tremendous population, ranks well behind Taiwan among the world's trading nations and its own standard of living, such a project can be seen as the political gesture it is.

In a similar special order earlier this year, our colleague from Indiana (Mr. MYERS) made the very welcome suggestion that our Government should find ways and means of cooperating with Taiwan in order that the unique capacity they have for bringing vast technical expertise to bear on the array of problems facing underdeveloped nations could be made more widely available, noting that the Republic of China has the technicians and is willing and anxious to do more of this sort of work that its own government is able to finance.

I was intrigued by that idea, but am aware of the lack of any existing means of bringing U.S. capital to the support of such a project through any agency or mechanism of our Government. For that reason, it occurred to me that it might be best accomplished by encouraging U.S. business interests which have or make investments in underdeveloped nations to cooperate with the Government of Taiwan in extending their technical assistance on a wider scope. My staff and I have discussed this matter with Secretary of Commerce Frederick Dent, and I am pleased to be able to say that the Secretary was open to the idea and assured us that his Department would take every opportunity to encourage such cooperation between American business interests and the technical assistance program of the Government of Taiwan.

It is multilateral efforts of this sort, motivated by genuine concern for the welfare of other people and employing the varied skills and resources of many nations in joint problem solving which points out the way to a peaceful world. I am proud of the contribution my own country has made to the welfare of others throughout its history, and I am proud of the outstanding work that is being done in this same vein by the people of the Republic of China. May we continue to move forward together. And may we always retain the capacity to recognize who are our true allies and friends and to stand by them in their hours of need as well as depending upon them when they show uncommon strength and resilency.

The article follows:

### TAIWAN TUTORS

While China has been getting plenty of publicity mileage out of the construction of a 2000-km railroad between Tanzania and Zambia, Taiwan has been quietly helping Africans to promote agricultural and rural development. To avoid the connotation of benefactor and recipient, Taiwanese officials never speak of aid when referring to their "Operation Vanguard" programme in Africa. They speak only of technical co-operation.

Since 1961, the Chinese Nationalist Government in Taiwan has spent about $100 million on its technical co-operation programme involving 31 African countries. The programme is carried out in two ways: firstly, agricultural and technical missions are sent to Africa; and secondly, agricultural seminars are held in Taiwan for African agricultural advisers.

So far the Chinese Nationalists have sent 22 agricultural and 12 technical teams to 23 African countries—the first to Liberia in 1961 and the latest, a three-man handicraft team, to Swaziland in March this year. In Taiwan, 14 agricultural seminars have been held for a total of 683 African farm workers. The most recent seminar was completed last month.

The agricultural missions to Africa aim at showing local farmers the methods successfully employed in Taiwan.

There are 15 Taiwanese teams with a total of 616 Chinese farming techniques in Africa at present. The largest is a 160-man agricultural team in the Ivory Coast. One of its achievements has been the successful planting of upland rice with a yield of 2000 kg a hectare.

The missions in Africa carry out their task in five phases;

Reclamation, in which barren areas are converted into arable land.

Experiments to determine the crop varieties, cultivation methods and farming systems most suitable to local conditions.

Demonstrations of improved cultivation methods and techniques.

Practical training in the field.

Helping Africans to plan for extension work.

The size of the demonstration farms in Africa range from 2 ha to 60 ha. Sites are chosen that are easily accessible to local farmers and visitors. Two crops of paddy rice have been grown annually in areas where sufficient water for irrigation is available all year round.

As most African countries are only in an initial stage of development, the Taiwanese missions do not encourage the use of heavy farm equipment. They use only inexpensive farm equipment that is easy to operate, such as power tillers, pumps, spray systems, spacing markers, threshers, husking machines and rice polishers.

Since the agricutlural missions to Africa are mainly for on-the-spot training of local farmers, advanced courses are offered at the agricultural seminars conducted in Taiwan for veteran farm technicians. Seminar participants are recommended by their governments and receive fellowship grants from the Taiwan Government in Taipei, which pays for their travel and living expenses.

#### TRAINING CENTRES

There are two training centres: one at Taipei in the north, and another at Tainan in the south. The participants divide their time almost equally between the field and the classroom. Emphasis is laid on rice culture, and the growth of vegetables and special crops. Other courses include plant protection, studies on soil and fertilizers irrigation and drainage, farm machinery, farmers' organizations, marketing of agricultural products, and farm management.

The "Operation Vanguard" programme is directed by a special committee under the chairmanship of H. K. Yang, a foreign minister. Yang, whom the Taiwanese press calls "Mr. Africa", completed his 26th goodwill mission to the continent last month.

Taiwan maintains formal diplomatic relations with 12 African states: Botswana Central African Republic, Gambia, Ivory Coast, Lesotho, Liberia, Libya, Malawi, Niger, South Africa, Swaziland and Upper Volta. Despite the cutting of diplomatic ties with several other African countries, Taiwanese technical missions have remained there.

Mr. WOLFF. Mr. Speaker, I would like to add some remarks on another aspect of the development of the Republic of China. The perspective I would like to add is that of the chairman for the Special Subcommittee on International Narcotics Control of the Committee on Foreign Affairs. The purpose of my most recent trip was to investigate the international narcotics trafficking situation in Asia, and particularly the so-called "golden triangle" of Indochina. We know that hundreds of tons of opium are grown and transshipped in this area of the world, and that much of this opium finds its way, as heroin, into the streets of American cities and into the veins of American kids. The magnitude of the problem for our country and for many other nations requires the fullest cooperation of all nations of the world—and it requires the kind of cooperation that we have often found difficult to obtain.

Today I can report to my colleagues and to the American people that in my visit to Taiwan I met with Premier Chiang Ching Kao. I talked with him about the international trafficking of deadly opium. He assured me that Taiwan understands the grave problem that the United States faces. He indicated that it was a responsibility of the world community to share in the efforts expanded to eliminate this problem. He described to me in detail the steps that his nation is taking to fully support the United States in this most serious business of stopping the flow of narcotics at the source. I was impressed by his dedication to this task and I believe that we can add the Republic of China to the list of members of the world community that share with our own country a strong conviction that the flow of narcotics can be stopped.

Mr. PRICE of Texas. Mr. Speaker, I rise today to speak about an old and trusted friend, the Republic of China. For many years we have talked about the effects of untold amounts of wealth that the United States has loaned or given to underdeveloped nations of the world. This was done to aid them in securing a place in the family of nations, and bring them to the point where they would become independent and self-supporting. How many of these adventures, which many have referred to as folly, have finally paid dividends? Very few, I can assure you. The obvious success stories are West Germany, Japan, and the Republic of China.

Imagine a country of 15 million people who live in a land area roughly the size of the State of Delaware. This small yet talented nation has developed into one of the 10 largest trading nations in the world. This is one of the world's true success stories of a nation rising above adversity.

As of July of this year all requirements for U.S. foreign assistance to the Republic of China have ceased. The cost of American foreign aid in fiscal year 1974 to that nation will be $0.00. It is unfortunate that this is not the case with other nations which are slow to be weaned from U.S. aid. The Republic of China is now contributing its own dues to the free world in the form of foreign aid of its own. Incredible as it may seem, the Republic of China is now supporting in excess of 50 missions of its own in the areas of agriculture, medicine, industry, and business around the world.

Let us look for a minute at what has happened. In 1949, when the then recognized government was forced to flee the mainland of China, they took up bag and baggage and moved to the island province of Taiwan. They brought with them the sophistication, culture, and business acumen that had been accumulated over a period which exceeded 4,000 years of recorded civilization. As it turned out, the milieu was perfect.

My message today, Mr. Speaker, is to the Congress and the Nation. Let us not forget our true friends. Let us work to our limits to continue and to improve on our relationship with this great country. A little consideration and a great deal of understanding are required. I believe we are up to this challenge, and I believe with all my heart that the safe future of the world will depend on our continued warm support of our good friend and ally, the Republic of China.

### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hammerschmidt (at the request of Mr. Gerald R. Ford), for today, on account of personal reasons.

Mr. Carey of New York (at the request of Mr. O'Neill), for today, on account of illness.

### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Madigan) to revise and extend their remarks and include extraneous material:)

Mr. Cleveland, for 20 minutes, today.

Mr. Young of Alaska, for 5 minutes, today.

Mr. Steelman, for 5 minutes, today.

Mr. Young of Illinois, for 3 minutes, today.

Mr. Wyman, for 10 minutes, today.

Mr. Hogan, for 5 minutes, today.

Mr. Steele, for 10 minutes, today.

(The following Members (at the request of Mr. Studds), to revise and extend their remarks, and to include extraneous matter.)

Mr. Matsunaga, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Culver, for 5 minutes, today.

Ms. Abzug, for 10 minutes, today.

Mr. Wolff, for 5 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Dominick V. Daniels, for 5 minutes, today.

Mr. Harrington, for 30 minutes, today.

Mr. Eilberg, for 5 minutes, today.

Mr. McFall, for 10 minutes, today.

Mr. Adams, for 5 minutes, today.

### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Eckhardt, immediately before vote on Conte motion.

Mr. Landrum (at the request of Mr. Staggers) to extend his remarks on H.R. 9553.

Mr. Leggett, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,776.50.

Mr. Hechler of West Virginia to include an editorial.

(The following Members (at the request of Mr. Madigan) and to include extraneous material:)

Mr. O'Brien.

Mrs. Heckler of Massachusetts.

Mr. Gross.

Mr. Keating.

Mr. Hosmer in four instances.

Mr. Zwach.

Mr. Wyman in two instances.

Mr. Huber.

Mr. Esch.

Mr. Abdnor.

Mr. Crane in five instances.

Mr. McClory.

Mr. Ashbrook in four instances.

Mr. Price of Texas.

Mr. Hogan in two instances.

Mr. Beard.

Mr. Cohen.

(The following Members (at the request of Mr. Studds), and to include extraneous matter:)

Mr. Gaydos in five instances.

Mr. Mann in six instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Mahon in two instances.

Mr. Carney of Ohio in two instances.

Mr. Byron in 10 instances.

Mr. Harrington in six instances.

Ms. Holtzman in 10 instances.

Mr. Brasco in seven instances.

Mr. Patten.

Mr. Biaggi in 10 instances.

Mr. William D. Ford.

Mrs. Mink.

Mr. Edwards of California.

Mr. Andrews of North Carolina in two instances.

Mr. Eckhardt.

Mr. Waldie in two instances.

Mr. Brinkley.

Mr. Roncalio of Wyoming in eight instances.

Mr. Leggett.

Mr. Nichols.

Mr. Donohue.

### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 356. An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes; to the Committee on Interstate and Foreign Commerce.

### ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, September 17, 1973, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1345. A letter from the Assistant Secretary of Agriculture, transmitting a report on the orderly liquidation of stocks of agricultural commodities held by the Commodity Credit Corporation and the expansion of markets for surplus agricultural commodities, covering fiscal year 1972, pursuant to section 201(b) of Public Law 84–540; to the Committee on Agriculture.

1346. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated September 21, 1972, submitting a report, together with accompanying papers and illustrations, on the advisability of proceeding with additional remedial bank protection work in the Sacramento River, Calif., in response to the recommendation of the Chief of Engineers as contained in Pulbic Law 86–645. (H. Doc. No. 93–151); to the Committee on Public Works and ordered to be printed with illustrations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 5384. A bill to require loadlines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes. (Rept. No. 93–498). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 9575. A bill to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes; with amendment (Rept. No. 93–499). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10088. A bill to establish the Big Cypress National Preserve in the State of Florida, and for other purposes. (Rept. No. 93–502). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 9293. A bill to amend certain laws affecting the Coast Guard; with amendment (Rept. No. 93–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. MORGAN: Committee on Foreign Affairs. S. 1914. An act to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes (Rept. No. 93–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on H.R. 8070 (Rept. No. 93–500). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 543. Resolution providing for consideration of H.R. 9639. A bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs (Rept. No. 93–497). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 544. Resolution providing for the consideration of H.R. 9553. A bill to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games (Rept. No. 93–501). Referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RAILSBACK: Committee on the Judiciary. H.R. 1356. A bill for the relief of Ann E. Shepherd, with amendment (Rept. No. 93–503). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 1367. A bill for the relief of Bertha Alicia Sierra, with amendment (Rept. No. 93–504). Referred to the Committee of the Whole House.

Mr. WIGGINS: Committee on the Judiciary. H.R. 1696. A bill for the relief of Sun Hwa Koo Kim; with amendment (Rept. No. 93–505). Referred to the Committee of the Whole House.

Mr. KEATING: Committee on the Judiciary. H.R. 2513. A bill for the relief of Jose Carlos Recalde Martorella; with amendment (Rept. No. 93–506). Referred to the Committee of the Whole House.

Mr. SEIBERLING: Committee on the Judiciary. H.R. 3754. A bill for the relief of Mrs. Bruna Turni and Miss Graziella Turni; with amendment (Rept. No. 93–507). Referred to the Committee of the Whole House.

Mr. WIGGINS: Committee on the Judiciary. H.R. 3334. A bill for the relief of Maria Lourdes Rios; with amendment (Rept. No. 93–508). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO (for himself, Mr. Denholm, Mr. Evans of Colorado, Mr. Evins of Tennessee, Mr. Gunter, Mr. Jones of Alabama, Mr. Melcher, Mr. Moakley, Mr. Price of Illinois, Mrs. Schroeder, Mr. Steed, and Mr. Walsh):

H.R. 10244. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. BURLESON of Texas (for himself, Mr. Shuster, and Mr. Young of Georgia):

H.R. 10245. A bill to amend the Internal Revenue Code of 1954 and the Social Act to provide a comprehensive program of health care by strengthening the organization and delivery of health care nationwide and by making comprehensive health care insurance (including coverage for medical catastrophes) available to all Americans, and for other purposes; to the Committee on Ways and Means.

By Mr. BURLESON of Texas (for himself and Mr. Archer):

H.R. 10246. A bill to exclude from arbitrage bond classification obligations issued to finance student loans; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 10247. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home-lending institutions; to the Committee on Ways and Means.

By Mr. DONOHUE:

H.R. 10248. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. DULSKI (by request):

H.R. 10249. A bill to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration; to the Committee on Post Office and Civil Service.

By Mr. ECKHARDT (for himself, Ms. Abzug, Mr. Bingham, Ms. Chisholm, Mr. Conyers, Mr. Davis of Georgia, Mr. Drinan, Mr. Edwards of California, Mr. Gibbons, Mr. Gunter, Ms. Holtzman, Mr. Kyros, Mr. Mitchell of Maryland, Mr. Podell, Mr. Rangel, Mr. Riegle, Mr. Roe, Mr. Rose, Mr. Rosenthal, Mr. Sarbanes, Ms. Schroeder, Mr. Seiberling, Mr. Stark, Mr. Waldie, and Mr. Won Pat):

H.R. 10250. A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures; to the Committee on Government Operations.

By Mr. FRELINGHUYSEN (for himself, Mr. Maraziti, Mr. Dominick V. Daniels, Mr. Forsythe, Mr. Helstoski, Mr. Howard, Mr. Hunt, Mr. Minish, Mr. Patten, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Sandman, Mr. Thompson of New Jersey, Mr. Widnall, and Mr. Seiberling):

H.R. 10251. A bill to amend the act of September 18, 1964, authorizing the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GINN:

H.R. 10252. A bill to change the name of the Trotters Shoals Dam and Lake, Georgia and South Carolina, to the Richard B. Russell Dam and Lake; to the Committee on Public Works.

By Mr. HALEY (for himself, Mr. Ruppe, and Mr. Towell of Nevada):

H.R. 10253. A bill to establish the Big Cypress National Preserve in the State of Florida, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HANLEY:

H.R. 10254. A bill to amend title 38, United States Code, with respect to the effective date of reduction of certain awards; to the Committee on Veterans' Affairs.

By Mr. HICKS (for himself and Mr. McCormack):

H.R. 10255. A bill to authorize the disposal of aluminum for the national stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. HOLIFIELD (for himself and Mr. Horton):

H.R. 10256. A bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes; to the Committee on Government Operations.

By Mr. JOHNSON of Colorado:

H.R. 10257. A bill to designate the Mount Zirkel Wilderness Study Area, Colo., and to provide for review of its suitability for designation as wilderness in furtherance of the purposes of the Wilderness Act of 1964; to the Committee on Interior and Insular Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 10258. A bill to authorize the Administrator of the National Aeronautics and Space Administration to conduct research and development programs to increase knowledge of tornadoes, hurricanes, large thunderstorms, and other types of short-term weather phenomena, and to develop methods for predicting, detecting, and monitoring such atmospheric behavior; to the Committee on Science and Astronautics.

By Mr. KEMP:

H.R. 10259. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

H.R. 10260. A bill to provide standards of fair personal information practices; to the Committee on the Judiciary.

By Mr. KING:

H.R. 10261. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home-lending institutions; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 10262. A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems; to the Committee on Interstate and Foreign Commerce.

By Mr. McDADE:

H.R. 10263. A bill to amend title 38, United States Code, to provide veterans a 10-year delimiting period for completing educational programs; to the Committee on Veterans' Affairs.

By Mr. MOORHEAD of California:

H.R. 10264. A bill to reform the conduct and regulation of campaigns for election to Federal office; to the Committee on House Administration.

By Mr. PATMAN:

H.R. 10265. A bill to provide for an audit by the General Accounting Office of the Federal Reserve Board, banks, and branches, to extend section 14(b) of the Federal Reserve Act, and to provide an additional $60 million for the construction of Federal Reserve Bank branch buildings; to the Committee on Banking and Currency.

By Mr. RANGEL (for himself, Mr. Helstoski, Mr. Roe, and Mr. Moss):

H.R. 10266. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

By Mr. RODINO:

H.R. 10267. A bill to provide for improved labor-management relations in the Federal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROY:

H.R. 10268. A bill, Emergency Medical Services Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 10269. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 10270. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the surviving dependents of public safety officers; to the Committee on the Judiciary.

By Mr. STEELMAN (for himself, Mr. Wylie, Mr. Ullman, Ms. Abzug, Mr. Giaimo, Mr. Obey, Mr. Hawkins, Mr. Conte, Mr. Koch, Mr. Ketchum, Mr. Dickinson, Mr. Hechler of West Virginia, Mr. Hastings, Mr. Harvey, Mr. Nichols, Mr. Downing, Ms. Schroeder, Mr. Moakley, Mr. Addabbo, Mr. Fraser, Mr. Foley, Mr. Eilberg, Mr. Burke of Massachusetts, Mr. Gibbons, and Mr. Kemp):

H.R. 10271. A bill to provide that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. Wylie, Mr. Bowen, Mr. Satterfield, Mr. Butler, Mr. Preyer, Mr. Roe, Mr. Waldie, Mr. Pettis, Mr. Gaydos, Mr. Eckhardt, Mr. Edwards of California, Mr. Milford, Mr. Seiberling, Mr. Henderson, Ms. Chisholm, Mr. Keating, Mr. Steele, Mr. Rose, Mr. Charles Wilson of Texas, Mr. Murphy of New York, Mr. Blackburn, Mr. Crane, Ms. Collins of Illinois, and Mr. Litton):

H.R. 10272. A bill to provide that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. Wylie, Mr. Helstoski, Mr. Hanley, Mr. Whalen, Mr. Dominick V. Daniels, Mr. Esch, Mr. Conlan, Mr. Shoup, Ms. Holtzman, Mr. Mann, Mr. Fuqua, Mr. Bergland, Mr. Evins of Tennessee, Mr. Roncallo of New York, Mr. Towell of Nevada, Mr. Davis of Georgia, and Mr. Culver):

H.R. 10273. A bill to provide that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. Wylie, and Mr. Stark):

H.R. 10274. A bill to provide that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate; to the Committee on Government Operations.

By Mr. STEIGER of Arizona:

H.R. 10275. A bill to amend title 18 of the United States Code to provide an alternative to the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

By Mr. THOMPSON of New Jersey:

H.R. 10276. A bill to impose a 6-month embargo on the export of all nonferrous metals, including copper and zinc, from the United States; to the Committee on Banking and Currency.

By Mr. WYMAN:

H.R. 10277. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit the Secretary of Transportation from imposing certain seat belt standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 10278. A bill to exempt from the provisions of the Airport and Airways Revenue Act of 1970, helicopters which are not operated on an established line; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mrs. Mink, and Mr. Matsunaga):

H.R. 10279. A bill to amend title V of the Social Security Act to provide that, in making certain allotments to States thereunder, there shall be taken into account the higher cost of living prevailing in Alaska and Hawaii; to the Committee on Ways and Means.

By Mr. ANNUNZIO:

H.R. 10280. A bill to amend the Wild and Scenic Rivers Act; to the Committee on Interior and Insular Affairs.

By Mr. BLATNIK:

H.R. 10281. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities; to the Committee on Education and Labor.

By Mr. BOWEN:

H.R. 10282. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

By Mr. BUCHANAN (for himself, Mr. Nichols, Mr. Duncan, Mr. Podell, Mr. Lott, Mr. Won Pat, Mr. Charles H. Wilson of California, Mr. Alexander, Mr. Quillen, Mr. Roe, and Mr. Yatron):

H.R. 10283. A bill to supplement retirement benefits for State and local law enforcement officers; to the Committee on Post Office and Civil Service.

By Mr. CHAPPELL:

H.R. 10284. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; to the Committee on Interior and Insular Affairs.

By Mr. EDWARDS of Alabama (for himself, Mr. Bafalis, Mr. Buchanan, and Mr. Dickinson):

H.R. 10285. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. HANLEY:

H.R. 10286. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself, Mrs. Collins of Illinois, Mr. Flood, Mr. Gaydos, Mr. Gibbons, Ms. Holtzman, Mr. Johnson of Pennsylvania, Mr. Rosenthal, Mr. Seiberling, and Mr. Yatron):

H.R. 10287. A bill to establish within the Department of Labor a Railroad Reorganization Adjustment Assistance Administration, to transfer thereto certain functions and duties of other departments and agencies relating to railroad reorganization adjustment assistance, to establish a comprehensive program of railroad reorganization adjustment assistance, and for other purposes; to the Committee on Banking and Currency.

By Mr. HUNGATE:

H.R. 10288. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 10289. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. NELSEN (for himself, Mr. Beard, Mr. Buchanan, Mr. Froehlich, Mr. Lujan, Mr. Roncallo of New York, Mr. Young of South Carolina, Mr. Lent, Mr. Hosmer, Mr. Kemp, Mr. Veysey, and Mr. Broomfield):

H.R. 10290. A bill, Emergency Medical Services Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL (for himself, Miss Jordan, Mr. Conyers, and Mr. Mitchell of Maryland):

H.R. 10291. A bill to amend the Merchant Marine Act of 1936, as amended; to the Committee on Merchant Marines and Fisheries.

By Mr. ROSENTHAL (for himself, Mr. Alexander, Mr. Diggs, Mr. Eckhardt, Mr. Kyros, Mr. Steele, Mr. Waldie, and Mr. Pike):

H.R. 10292. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. STEELE:

H.R. 10293. A bill to amend the National Housing Act and related laws to provide for compliance with improved fire safety conditions in multifamily housing facilities designed for occupancy in whole or substantial part by senior citizens and to authorize Federal assistance in financing the provision of more adequate fire safety equipment for those facilities; to impose additional fire safety requirements upon nursing homes and similar facilities and assist them in meeting such requirements; and for other purposes; to the Committee on Banking and Currency.

By Mr. UDALL (for himself, Mr. Ruppe, Mr. Saylor, Mr. Kastenmeier, Mr. O'Hara, Mr. Meeds, Mr. Vigorito, Mr. Bingham, Mr. Seiberling, Mrs. Burke of California, Mr. Owens, Mr. Dellenback, Mr. Steelman, Mr. Martin of North Carolina, and Mr. Cronin):

H.R. 10294. A bill to establish land use policy; to authorize the Secretary of the Interior, pursuant to guidelines issued by the Council on Environmental Quality, to make grants to assist the States to develop and implement comprehensive land use planning processes; to coordinate Federal programs and policies which have a land use impact; to make grants to Indian tribes to assist them to develop and implement land use planning processes for reservation and other tribal lands; to provide land use planning directives for the public lands; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VANIK (for himself, Mr. Stark, Mr. Lehman, Ms. Abzug, and Mr. Yates):

H.R. 10295. A bill to provide for assistance in international drug control through the use of trade policy; to the Committee on Ways and Means.

By Mr. YOUNG of Illinois:

H.R. 10296. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes; to the Committee on Education and Labor.

By Mr. EDWARDS of Alabama:

H.J. Res. 722. Joint resolution authorizing the President to proclaim the week of May 26 through June 1, 1974, as "National Stamp Collecting Week," and to proclaim May 31, 1974, as "National Stamp Collectors' Day"; to the Committee on the Judiciary.

By Mr. SNYDER (for himself, Mr. Pettis, Mr. Hastings, Mr. Robert W. Daniel, Jr., Mr. Forsythe, Mr. Andrews of North Dakota, Mr. Wyatt, Mr. Saylor, Mr. Hillis, Mr. Butler, Mr. Davis of Wisconsin, Mr. Hunt, Mr. Steelman, Mr. Milford, Mr. Towell of Nevada, Mr. Breckinridge, Mr. Carter, Mr. Kemp, Mr. Ginn, Mr. Burleson of Texas, Mr. Casey of Texas, Mr. Dorn, Mr. Mayne, Mr. Mailliard, and Mr. Cederberg):

H. Con. Res. 297. Concurrent resolution providing for the date of sine die adjournment of the 93d Congress, 1st session; to the Committee on Rules.

## MEMORIALS

Under clause 4 of rule XXII,

296. The SPEAKER presented a memorial of the Legislature of the State of California, relative to urban redevelopment; to the Committee on Banking and Currency.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. REES:

H.R. 10297. A bill for the relief of Nicolas Gabriel Burger and Silvia Burger; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 10298. A bill for the relief of Frances Ham; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

279. By the SPEAKER: Petition of Hazel Arnold, Hotchkiss, Colo., and others, relative to the revocation of the license of radio station WXUR; to the Committee on Interstate and Foreign Commerce.

280. Also, petition of Robert C. Hemphill, Jr., Charleston, W. Va., relative to redress of grievances; to the Committee on the Judiciary.

281. By Mr. ANDREWS of North Dakota: Petition of Benjamin A. Ring, Joseph F. S. Small, and others, Grand Forks, N. Dak., relative to impeachment of the President of the United States; to the Committee on the Judiciary.

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# EXTENSIONS OF REMARKS

## GAO ELECTION CLEARINGHOUSE

### HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 12, 1973*

Mr. KEATING. Mr. Speaker when the House considered the Campaign Reform Act of 1972 I offered an amendment to establish a clearinghouse for election information within the General Accounting Office. This amendment was accepted by the House and became part of the law.

The clearinghouse has conducted an extensive study into election errors that occurred in seven cities across the country. The clearinghouse has worked with the Library of Congress in compiling all election laws and court decisions. This publication will come out monthly and review new State and Federal election proposals as well as court decisions. The first issue was printed in August.

The publications of the clearinghouse have been sent to election officials across the Nation. Recently at their annual meeting the secretaries of state passed a resolution expressing their thanks and appreciation to the clearinghouse.

The clearinghouse is in the process of conducting three new studies at the current time.

The first of these studies is a survey of the 6,914 election units across the country. This study will question election officials to see which areas they feel merit Federal assistance and where more research and information is needed.

The second study will look into various voter registration systems. At the present time there is a great deal of discussion on how to increase voter registration. Proposals range from the postcard registration bill to the giving of block grants to local officials. This study will examine what is currently being done around the Nation.

The third study will survey available voting machinery. At the current time many units of government across the country are thinking about purchasing new election machinery; but do not have the resources to study the effectiveness of machines that have been used in other cities. This study will give officials a central source of information on the past performances of existing voting machines.

Hopefully out of all these studies local officials will be in a better position to run elections and we in the Congress will have information to draft better legislation in the election field.

At this point in the Record I would insert the resolution that was approved by the secretaries of state and comments from letters that have been received by the GAO on the Survey of Election Law and Litigation.

The material follows:

#### RESOLUTION

Whereas, the Office of Federal Elections of the General Accounting Office has published its first issue of "Federal-State Election Law Survey" and has distributed copies thereof to all state elections officials and;

Whereas, this publication is an excellent reference to all current happenings in the field of elections affording to state elections officials an invaluable source reference which has long been needed and;

Whereas, the composition and content of said survey has been found to be precise, reliable and impartial, now therefore,

Be it resolved that the National Association of Secretaries of State, duly assembled at its 56th Annual Convention at Williamsburg, Virginia, this 27th day of August, 1973, does hereby express its thanks and appreciation to the Office of Federal Elections of the General Accounting Office for the excellent service which they are performing on behalf of the elections officials of the several states and to express its hope that this monthly publication will continue as a permanent program.

Be it further resolved that copies of this resolution be delivered to Mr. Philip S. Hughes, Director, Office of Federal Elections of the General Accounting Office, and to the members of the Congress.

This resolution initially proposed by Wade O. Martin, Jr., Secretary of State, Louisiana.

#### EXCERPTS FROM LETTERS

From the Honorable Stone D. Barefield, Chairman of the Committee on Apportionment and Elections of the Mississippi House of Representatives:

"I have received the initial comprehensive summary and have found it to be most informative. This service will be a tremendous asset to me as a member of the State Legislature in dealing with our own election laws here in Mississippi."

From the Honorable Elden H. Shute, Chairman of the Joint Committee on Elections of the Maine Legislature:

"I applaud your efforts to provide such a comprehensive summary and such material should be most valuable, not only to those of you in a Federal position, but to those of us who wrestle with our election laws at the State level."

From the Honorable Richard F. Kneip, Governor of South Dakota:

"This is a badly needed service and I congratulate the Office of Federal Elections on its initiative in publishing such a series."

From the Honorable John A. Burns, Governor of Hawaii:

"Thank you very much for sending me a

copy of your initial issue of the abstract of Federal and State election laws and litigation. I find that it is indeed a comprehensive summary of election laws and litigation which will be of extreme value to our Attorney General and election officials."

From the Honorable James C. Kirkpatrick, Secretary of State of Missouri:

"We think it is a very helpful tool for the administration of elections."

From Mr. L. M. Pellerzi, General Counsel of the American Federation of Government Employees:

"I am delighted to hear of the abstract of Federal and State election laws and litigation and think it will make a major contribution toward better compliance with election processes."

From Mr. Lee Slater, Secretary of the State Election Board of Oklahoma:

"I believe such a publication will prove to be an extremely valuable tool for my office."

## OPPOSITION TO THE BAN ON IMPORTATION OF CHROME FROM RHODESIA

### HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Thursday, September 13, 1973*

Mr. HARRY F. BYRD, JR. Mr. President, the American Legion, during its 55th Annual National Convention at Honolulu, held August 21–23, adopted a resolution opposing proposed legislation to reimpose the ban on importation of chrome from Rhodesia

A hearing has been held by the Subcommittee on African Affairs of the Senate Committee on Foreign Relations on S. 1868, which proposes to resume the prohibition against importation of Rhodesian chrome.

This prohibition, placed into effect by Executive order of President Johnson, was removed as a result of congressional action in 1971. An effort was made last year to resume the ban, but this was voted down in the Senate.

As the chief sponsor of the legislation permitting the United States to resume chrome imports from Rhodesia, I appreciate the support of the American Legion on this issue. I commend the resolution of the Legion to the attention of my colleagues.

I ask unanimous consent that the text of the resolution be printed in the Extensions of Remarks.

There being no objection, the text of the resolution was ordered to be printed in the RECORD, as follows:

FIFTY-FIFTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION, HONOLULU, HAWAII, AUGUST 21–23, 1973—RESOLUTION No. 26

Committee: Foreign Relations
Subject: Rhodesia

Whereas, Several members of the Congress have entered bills in the 93rd Congress, such as H.R. 8005, H.R. 8006, and H.R. 8007, the intent of which is to halt the importation by the United States of chrome from Rhodesia; and

Whereas, Such action would constitute undue interference in the domestic affairs of Rhodesia and deny the United States strategic chrome from a non-communist source; and

Whereas, Imports of chrome from Rhodesia also constitute an important economic benefit for American firms with assets in that country; now, therefore, be it

Resolved, By The American Legion in National Convention assembled in Honolulu, Hawaii, August 21, 22, 23, 1973, that the Legion oppose passage of Congressional bills designed to reimpose a boycott on Rhodesian chrome and urge individual Congressmen to support this position.

## MEXICAN AMERICAN CONTRIBUTIONS CELEBRATED ON SEPTEMBER 16

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. EDWARDS of California. Mr. Speaker, we are approaching the 163d anniversary of Mexican independence, and it is an occasion that should cause us to stop and to assess the meaning and the reality of freedom in our country. Not unlike the fight for independence for the States from colonial rule, the revolution for Mexican independence helped to bring important reforms in government and human freedoms and equality.

From the time in 1810 when Father Hidalgo gave the Grito de Dolores, calling for independence from Spain, the fight for a free country continued for more than a decade. In 1813 an act of independence was adopted by the Chilpancingo congress which included the revolutionary principles of abolition of slavery and of castes, with equal rights for all. Newly claimed freedoms began to be reflected in such areas as California through the establising of legislatures and local councils, and through the granting of complete legal equality and full citizenship to non-Mexicans. California's development benefited from these reforms during the Mexican Republic.

When Mexico signed the Treaty of Guadalupe Hidalgo, thereby ending the Mexican-American War, it was specified that all persons who chose to remain within the territory annexed to the United States were guaranteed the rights—property and political—given to all other American citizens. With the exception of native Americans, Mexicans are the only minority in the United States who have been annexed by conquest, and whose rights are specifically safeguarded by a written provision.

Our history, however, shows a pattern of exclusion and discrimination and failure to live up to these goals and assurances.

The United States, and particularly California, is indebted to the various and often unrecognized contributions of Mexican culture and life. Prior to 1900 Mexicans had brought the pack train to Texas and established the first transportation system throughout the Southwest. On trials they made from San Diego to Tucson, from Santa Fe to El Paso, Vera Cruz, and Mexico City, supplies were brought to mining camps and settlements. Mexican-Americans taught early American and European immigrant forty-niners much about how and where to pan and mill gold and they figured prominently in the work involved in mining.

The trails of the gold rush and pack trains were supplanted by railroads and today's turnpikes. Mexican labor laid the ties and drove the spikes of the rail lines, living with their families in the boxcars which were their homes on wheels as they built the railroads across the country.

As the American economy turned to agriculture Mexican labor followed the harvest. They worked long hours for low pay under miserable conditions of housing, sanitation, and education to provide cotton, sugar beets, various fruits and vegetables for our enjoyment. They raised livestock and developed irrigation and water laws.

These are just a few examples from the history of contributions to our Nation by Mexican-Americans that will be remembered this Sunday, September 16, by a community parade in San Jose, Calif. The occasion is the celebration of the 163d Anniversary of Mexican Independence.

The parade is sponsored by the Veteranos de la Revolucion Mexicana, the Organismo Mexicano Cicico Cultural, and the Confederation de la Raza Unida, a Chincano coalition. Ed Carranze is parade chairman and is organizing the activities.

Grand marshal for the event will be Mexican Gen. Raul Madero, the brother of former Mexican President Francisco I. Madero, who led the revolution against dictator Porfirio Diaz in 1910. General Madero comes as the personal envoy of Mexico's President Luis Echevarria, and we are pleased to welcome him to San Jose as our distinguished guest.

Many chicano groups and organizations will participate in the festive parade by entering floats or performing in musical or marching units.

Bicycle races will precede the parade, using the same route. There will be three categories for youths 7 years and older. Prizes will be given to bike race winners and to top entries in some 20 parade categories.

I want to congratulate everyone who has contributed to the fine program that is scheduled to celebrate this anniversary of Mexican Independence.

## MANDATORY FUEL ALLOCATION URGENTLY NEEDED

### HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mrs. HECKLER of Massachusetts. Mr. Speaker, with the specter of critical shortages of home heating oil facing New England residents this winter, I am appalled at the administration's continued refusal to implement a mandatory program for fuel allocation. Instead, the Government is clinging to its ineffective — and discredited — program of voluntary allocation.

A congressional survey of the major oil companies along the east coast released today showed that they have 14 percent more heating oil on hand than a year ago. However, at the same time figures show that the independents have 50 percent less than they had heading into last winter. This is shocking. Only a mandatory allocation program implemented now will solve this critical imbalance that could jeopardize the many homes, schools, and industries in New England this winter.

Today, in the House caucus room, more than 800 retail fuel oil dealers from 9 Northeastern States met with congressional delegates to make their case in the strongest terms that we need a mandatory allocation program now.

I also am pleased to note that Mr. Russell Train, Administrator of the Environmental Protection Agency, has said clean air standards should not be relaxed until the mandatory allocation program is implemented—"as a matter of equity."

Mr. Train is the third high administration official to call for mandatory allocation. Mr. William Simon, chairman of the Oil Policy Committee, and Mr. Duke Ligon, who administers the voluntary program in the Office of Oil and Gas, have testified in favor of mandatory allocation.

New Englanders can do without meat but not heat. This period of indecision could be disastrous—it may be already too late to move in the vast quantities of No. 2 fuel oil needed to meet the peak demands of the coming winter in New England.

A mandatory allocation program must be implemented to protect the public health, safety, and welfare, and to provide for equitable prices among all regions and areas of the United States.

To help keep the Congress informed of developments in this critical issue, I am including in the RECORD a copy of Mr. Train's remarks as they appeared in today's Washington Post and of the statement of position presented by the retail fuel oil dealers. The material follows:

## TRAIN DIFFERS WITH WHITE HOUSE ON MANDATORY FUEL OIL CONTROLS

(By George C. Wilson)

Clean air standards should not be relaxed unless a mandatory program for allocating fuel oil is implemented at the same time, the new head of the Environmental Protection Agency said yesterday.

EPA administrator Russell E. Train added in an interview that he hoped to keep exceptions to clean air objectives "to an absolute minimum."

His role, said Train, is to work out the mechanism for state governors to get "variances" from plans to clean up the air. But Train said he does not intend to force such variances upon the cities and states.

Train's views, set forth one day after the Senate confirmed his nomination to EPA's top job, conflict with the White House on the mandatory allocation question.

Former Colorado Gov. John Love and his deputy at the White House energy office, Charles J. DiBona, both oppose mandatory controls. President Nixon so far has taken their advice.

Conceding that he did not know what marketing problems might arise as the federal government tried to control how much and what kind of oil went to the various wholesalers, Train said it struck him as "a matter of equity" to link a mandatory program to exceptions to clean air rules. "I think those two things go together."

He added: "If there have to be some compromises on air quality this coming winter because of oil shortages, I would think a mandatory allocation system could help keep them to a minimum."

Such a mandatory program, he said, would help assure that clean-burning oil—that is, low in sulfur content—would go where it is needed most to keep the air safe to breathe.

Mr. Nixon's recent statements on how to avoid the threatened shortage of heating oil indicate he favors a wider relaxation of clean air rules than the "absolute minimum" Train advocates.

White House energy chief Love is expected to urge state governors and city officials to relax their clean air plans so more power plants can stick with coal while others burn a higher sulfur oil than envisioned by those plans. The White House argues that this will leave more oil for heating homes this winter.

Sen. Henry M. Jackson (D-Wash.), chairman of the Senate Interior Committee, has said that clean air plans would not have to be eased if the mandatory fuel allocation program he favors is enacted.

Sen. Edmund S. Muskie (D-Maine), an author of the Clean Air Act which is the basis for standards now in dispute, said in the Senate on Monday that President Nixon's plea for easing the rules "is apparently based more on politics than on fact."

Declaring that "the people who must breathe dirty air have a right to ask whether the President has considered other alternatives," Muskie said he has asked Love to explain the administration's rationale at a Senate Public Works subcommittee hearing next week.

Senate Majority Leader Mike Mansfield (D-Mont.) answered "I doubt it" when reporters asked him yesterday if Congress would weaken the Clean Air Act this session.

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## EMERGENCY FUEL OIL SUPPLY COMMITTEE OF THE RETAIL FUEL OIL DEALERS FROM NEW ENGLAND, NEW YORK, NEW JERSEY, AND PENNSYLVANIA; STATEMENT OF POSITION, SEPTEMBER 12, 1973

### 1. HOME HEATING OIL IS VITAL

No. 2 fuel oil is vital to the health and safety of the majority of the homeowners in our states.

HEATED BY OIL

| Area | Percent of homes | Number of homes |
|---|---|---|
| New England | 75 | 2,800,000 |
| New York State | 57 | 3,500,000 |
| Long Island, N.Y | 80 | 550,000 |
| New Jersey | 53 | 1,300,000 |
| Pennsylvania | 35 | 1,300,000 |

Nearly 60% of the nation's No. 2 fuel oil is consumed in the nine Northeastern states—the highest concentration of usage in the nation.

### 2. ROLE OF INDEPENDENT HEATING OIL RETAILER

The major portion of this oil is delivered to homes by independent retail dealers:

*Percent of oil-heated homes supplied by independent heating oil retailers*

| | |
|---|---|
| New England | 82 |
| New York State | 85 |
| Long Island, N.Y. | 90 |
| New Jersey | 85 |
| Pennsylvania | 90 |

If these retailers are not guaranteed the full quantity of fuel oil needed to serve their customers, many of these customers will simply go cold. There is no substitute for the delivery system—the storage facilities and trucks—owned and operated by independent retailers. If the independent has no fuel, the homes he supplies will have no fuel.

### 3. MASSIVE SHORTAGE OF HOME HEATING OIL

All projections, analyses and statistics demonstrate that—unless prompt action is taken by the Federal Government—there will be a massive shortage of No. 2 fuel oil in the Northeast this winter. Homes, schools, hospitals, factories and all other users of oil heat could well go cold; the result will be a severe threat to health, massive disruptions of public services and substantial loss of jobs.

Independent heating oil retailers in the Northeast have already been notified by their suppliers that deliveries in the coming winter will be far below last years levels. The projected shortage in some areas is already as high as 40%.

### 4. PLAN OF ACTION

Immediate action is needed to prevent cold homes, hospitals, and schools:

A. *Mandatory Allocation Program for No. 2 Fuel Oil:* We strongly support Congressional legislation to increase supplies by establishing a mandatory allocation program for distillate products. Such a program must provide:

That independent retailers and wholesalers are *guaranteed 100% of their base period supply of No. 2 fuel oil;*

That major oil companies must import the substantial additional quantities of No. 2 fuel oil needed to meet the demands of their own systems and total requirements of independent retailers. Cost of Living Council rules must be amended to require that foreign costs be averaged with domestic and to permit pass through—by both importers and retailers—of all costs of foreign product.

A mandatory allocation program will:

Increase supplies of home heating oil in the total U.S. market and in the independent market, thus preventing severe hardship for millions of homes served by independent retail dealers.

Prevent continued sharp escalation of prices in the Northeast, by assuring that a greater proportion of lower priced domestic No. 2 fuel oil is made available to consumers in the 9 state area.

End discrimination by the Federal Government against homeowners who use fuel oil. Federal policies now *guarantee* full supplies of natural gas, electricity and propane to homes that rely on these fuels for heat. Only in the case of No. 2 fuel oil has the Federal Government refused to guarantee supplies to the homeowners. The lack of clear policy discriminates against the Northeastern states, where fuel oil consumption is highest in the nation.

Prevent refiners from exploiting the current fuel shortage to drive independent retailers out of business by arbitrarily cutting off their supplies, thereby severing supply relationships that, in many cases, date back for decades.

Preserve and strengthen the independent sector of the petroleum market.

We are strongly opposed to any plan for *rationing* of fuel oil to the consumer. Such a plan would be unworkable and result in chaos in the retail heating oil market.

B. *Amendment of Phase IV Price Regulations:* The Phase IV Oil Regulations blatantly discriminate against independent retailers of heating oil and gasoline.

All segments of the petroleum industry can pass through all increased costs, up to retail level; the retailer is forced to absorb all increased costs, except increased costs resulting from imported product.

Retailers are forced to use a mark-up date of January 10, 1973; the producers, manufacturers, and major oil companies are allowed a May 15, 1973 mark-up date. Thus, the independent heating oil retailer is forced to absorb all costs since January 10th. Product and non-product costs have obviously increased markedly from January 10th to May 15th. The major oil companies have already passed these increased marketing costs on, but the independent retailer cannot.

The independent heating oil and gasoline retailers are the only segments of the economy and the only class of retailers who are not allowed under Phase IV to pass through increased costs on a dollar-for-dollar basis.

In brief, unless substantial changes are made in the Phase IV regulations, many independent dealers, within the next few weeks, will be faced with selling substantial volumes of product at a loss. In such cases, the retailer, a small independent businessman, will be forced out of business, and the homeowners who rely on the retailer for fuel will be without heat.

We, therefore strongly recommend *the following amendments to the Phase IV rules:*

The independent heating oil retailer must be permitted to adjust retail prices to reflect foreign and domestic product cost increases on a dollar-for-dollar basis, and to institute each retail adjustment on the date that the cost changes are experienced.

The independent heating oil retailer must be permitted to adjust prices to reflect all non-product cost changes such as labor, truck maintenance, and other related operating expenses, on a dollar-for-dollar basis.

The August 19, 1973 ceiling price should be calculated by using the average cost of inventory on August 1, 1973 plus the actual mark-up on June 1 to 8—the dates of the freeze. The mark-up presently permitted under the Phase IV petroleum program may be feasible for some gasoline retailers, but is completely inadequate for the heating oil retailer who must buy and maintain fleets of delivery and service trucks and bulk storage facilities, plus provide 24 hour service and deliveries and extend credit and face substantial delays in receiving payment.

The independent heating oil and gasoline retailer should be eligible for the small business exemption applicable to all other industries under the Phase IV regulations.

In addition, we urge prompt action by the Cost of Living Council to correct the gross inequities and discriminatory aspects of the Phase IV rules and regulations on the independent petroleum retailer.

C. *Temporary Amendment of Air Quality Standards:* We are pleased that the President and the Director of the Energy Policy Office recognize the need for a temporary relaxation of air quality standards in certain areas of the Northeast.

We recommend that, during the period October 1, 1973 through April 30, 1974, the state agencies permit—where it is currently prohibited—the burning of No. 2 fuel oil of ½ of 1% sulfur content and No. 6 (residual) fuel oil of 1% sulfur content.

This will result in increased supplies of oil to heat homes as imports of higher sulfur fuel oil from foreign refineries increase and the use of No. 2 fuel as a blend with No. 6 decreases.

D. *Summary:* In short, we need help from Congress in two major areas:

1. Immediate legislation to assure adequate supply and equitable distribution through a mandatory allocation program.

2. Support, assistance and, if necessary, legislation to correct the inequities of Phase IV as it applies to the independent retailer.

ORGANIZATIONS

New England Fuel Institute and Affiliated Associations.

Vermont Oil Heat Institute.

Better Home Heat Council of New Hampshire.

Better Home Heat Council of Massachusetts.

Independent Connecticut Petroleum Association.

Home Heating Council of Rhode Island.

Home Heating Council of Northern Rhode Island.

Maine Oil Dealers Association.

Oil Heat Institute of Long Island.

New York Oil Heating Association.

Empire State Petroleum Association.

Pennsylvania Petroleum Association and ten affiliated associations.

Delaware Valley Fuel Oil Dealers Association.

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## CONSTITUTION WEEK

## HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. PATTEN. Mr. Speaker, with Constitution Week fast approaching, many individuals and groups are finding ways to stress the importance of the Constitution during the week of September 17 to 23.

One of these individuals, Mrs. Arthur Johnson, of High Point, N.C., and a former constituent of mine, is working hard through her position as delegate for the Alexander Martin Chapter of the Daughters of the American Revolution, to see that Constitution Week receives the attention it so well deserves.

Mrs. Johnson's views are a lesson for us all. She believes that—

> There are a few things that mean more to me than life, and next to God, my precious native land is one of them.

I would like to insert Mrs. Johnson's favorite article on the Constitution at this time, so that everyone can share these thoughts:

### THE CONSTITUTION

(By Mary Barclay Erb)

Daniel Webster said—"It is the people's Constitution, the people's government; made for the people; made by the people; and answerable to the people."

It has been said, "To understand the Constitution of the United States is the clarion call of the hour, a call as dynamic as when Moses wrote the Ten Commandments."

There it stands—in all its majesty—the center of our nation. Simply by being, it defends and warns. It defends us from fallacies that the experience of 3,000 years condemns; from dictatorship which is abhorrent to every American concept; from the totalitarian state that regiments men, their minds and bodies. From these and like evils now so widespread on earth, our Constitution daily defends us. It stands between us and the great blasphemy that man is a creature of the state.

The peculiar glory of the Constitution of the United States is that it is not a charter of rights granted by government to a people, but a limit of powers to which a vigilant people restricts its government. It is not a government edict which the people must obey, but a people's law which government must obey. "We the people of the United States," these seven potent words were and remain, all subsequent world upheavals notwithstanding, the most revolutionary words on record.

The Fathers of the Constitution were not just a group of casual people who started a casual thing in a casual way. They had studied the ancient civilizations and the methods of government employed therein. They had studied the medieval systems and the various governments of their day. They were well acquainted with the great classical writings on the subject, therefore came to their tasks very thoroughly equipped. They knew the results of the experiments in government through the ages.

Above all, they knew, although perhaps in every case did not fully realize, that man is here on earth to become self-reliant, self-expressive, and self-determined, in order to glorify his Creator.

It is often asserted nowadays that this generation knows more than did the Constitution makers. So we do—but not about government. We could have known more, perhaps, had we been interested, but within this framework of freedom erected by the fathers, we have been busy building the country. Their special wisdom in the field of government left us free to do that. They made the blue print, laid the foundations, reared the scaffolding and started the building; and we have by no means filled in that framework of destiny and freedom.

Our Fathers knew better than we that the specific temptation of government in all times—any government—even an American government—is to seize more power than is allotted to it, or misuse the power it has. They foresaw the always possible use of dazzling personal leadership; they foresaw the displacement of law by temporary emotion; the tendency to unwise action under stress; and to prevent these evils, they erected certain barriers. The Presidency, the Congress and the Courts were made subordinate to the Constitution. These three powers of government, with officers' oath—bound to the Constitution are established in complete independence one of another, on the supposition that never would all three of them combine against the people or the law that gave them being.

The Constitution gives us the foundation for a free, prosperous and independent life for every citizen, but each generation, in time, must work for and claim it, otherwise, through carelessness, or indifference, the rights and liberties we have enjoyed may vanish.

Let us thoroughly acquaint ourselves with this magnificient document, which is ours to respect; ours to protect, and ours to use—Now.

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## CIGARETTE BAN

## HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. MIZELL. Mr. Speaker, as my colleagues will recall, I have recently called for the resignation of Mr. Richard O. Simpson, chairman of the Consumer Products Safety Commission, following his much-publicized pledge to ban cigarettes through clearly unlawful means.

The noted columnist, James J. Kilpatrick, recently wrote a column on the subject of Mr. Simpson in particular, and would-be bureaucratic big brothers in general.

The column makes for interesting reading, no matter what my colleagues' position on this particular example of bureaucratic excess may be, and I am inserting it in the RECORD for my colleagues' information and consideration:

### GOVERNMENTS AND BANS AND DESPOTIC ASSERTIONS

(By James J. Kilpatrick)

Today's topic is Richard O. Simpson, or more precisely, the state of mind symbolized so vividly by Simpson's statement of August 22. The gentleman is chairman of the new Federal Consumer Product Safety Commission. He proposes to ban some or all cigarettes by bureaucratic decree.

In a speech and interview in Newark three weeks ago, Simpson said he would welcome a petition from members of Congress, asking for his commission to take such action. He would then go through the motions of gathering evidence and hearing industry comments. His own mind is already closed: "We have a serious expectation of achieving a ban. We should and will be able to achieve it."

The chairman is not at all deterred by what would appear to be a threshold problem of the law. His commission was created by the Consumer Product Safety Act, which specifically excludes tobacco products from the commission's jurisdiction. However, the commission is charged with administering the Hazardous Substances Act, which does not exclude tobacco.

The bureaucratic rule as to jurisdiction—it is part of the Simpson syndrome—is that any field not excluded is included. The chairman is ready to declare that cigarette tobacco is a toxic substance, a cause of cancer and death; once his ban takes effect, he would invoke "criminal penalties" against the manufacture of forbidden cigarettes, and send the makers to prison.

At the bottom of the Simpson syndrome is the bureaucratic conviction that Papa Knows Best. But it is not merely the notion that government knows what is good for the people; this is coupled to the despotic assertion that government has power to make the people be good. If the people will not stop smoking by their own voluntary action, Simpson would effectively compel them to stop smoking by imposing his will upon their erring behavior.

Tocqueville foresaw this "new form of tyranny" a full century before George Orwell developed the theme in his novel "1984." Americans, he warned, one day would surrender their liberties to bureaucratic masters who desired only to do good for their subjects. In the end, the people would become timid sheep, obedient to government shepherds.

Such benevolent paternalism acts upon our body politic like a leech, draining the blood from traditions and institutions. The chief practitioner of this dreadful phlebotomy is Ralph Nader, who would strip our life of risk and variety, but Nader is not alone. The vitamin-mineral decrees recently imposed by the Food and Drug Administration are classic manifestations of the Simpson syndrome. Some of the idiot regulations of the Federal Trade Commission are products of the same stultifying despotism that increasingly is imposed on our society. Our Big Brothers do not come singly; they come in whole families, suffocating us with kindness, with love, and with power.

The Hazardous Substances Act applies to any substance "which has the capacity to produce personal injury or illness to man" through ingestion, inhalation, or absorption. The act thus applies to a whole universe of consumer products that can be eaten, drunk, touched, or breathed.

Do Americans truly desire a society that is perfectly safe, a society purged of every trace of smog, germs, rough places and sharp edges? Do we want to live in a beautiful cocoon, padded in styrofoam layers of bureaucratic protection? I deny it absolutely. But that is the kind of antiseptic society envisioned by our new masters. They lovingly would see our freedoms, like so many cigarettes, go up in smoke and be cast out in the trash with other hazardous things.

## A SUBSTITUTE FOR DDT

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## HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. NICHOLS. Mr. Speaker, as you may know the Agricultural Research Service of the USDA began to reorient its research program in 1955 long before the Rachel Carson era. It gradually shifted major emphasis from research on conventional insecticides to more selective chemical and nonchemical methods to control major insects, particularly those pests requiring heavy usage of insecticides year in and year out. Some of the general classes of alternative methods that the Agricultural Research Service investigated were resistant varieties of plants which inhibit attack by insects, diseases, and nematodes; attractants which lure insects to traps or other devices where they can be killed or sterilized; genetic controls which consist of releases of sexually sterile insects that mate with normal insects; bioenvironmental controls which are cultural and mechanical practices against insects, nematodes, weeds and diseases; hormone developments which disrupt an insect's life cycle and limit the number of insects that survive, and the development of parasites, predators, and pathogens that destroy insects and weeds by feeding on or infecting them.

An article written by Joseph Alsop entitled "A Substitute for DDT" which appeared in the Washington Post, September 10, 1973, indicates the progress which the Agricultural Research Service and industry have made in developing some of these new alternative methods to control insects, particularly the development of a virus to control the bollworm and tobacco budworm—Heliothis spp. These worms are distributed worldwide and are severely destructive to many different economic plants. Annual cost to control Heliothis on cotton in the United States is estimated at over $50 million. In many areas of the world it is difficult to get adequate control of Heliothis; field populations are reported resistant to organochlorine, organophosphorus, and carbamate compounds and resistance is increasing. About 80 million pounds of chemical insecticides were used on cotton in the United States with 60 percent used specifically for control of Heliothis. Based on estimates of current usage of chemical insecticides and probable market potential the Heliothis virus could conservatively account for 1 to 3 million-acre applications per season for control of bollworms on cotton. An extrapolation based on these values would indicate that the Heliothis virus could replace the use of more than 4 million pounds of chemical insecticides per year on cotton. The development of this viral insecticide by the Agricultural Research Service and industry is an outstanding achievement and I would like to insert in the Record the article by Mr. Alsop, because I think it points out a major breakthrough in getting this pathogen registered with the Environmental Protection Agency. It is a tribute to the Agricultural Research Service for pursuing the development of this microbe from its conception through registration and into the hands of the farmer. The article follows:

### A SUBSTITUTE FOR DDT

(By Joseph Alsop)

Whatever the environmentalists may say, one point cannot be doubted about DDT and the other great chemical insect killers. Their invention was one of the great events of the 1940s, historically quite on a par with any decisive battle of World War II. So it is worth reporting that another, quite comparable development appears to be on the way.

Teams of researchers, including a good many in the laboratories of the Agriculture Department, have long been at work on viral insect killers. It may seem odd, but noxious insects are quite as troubled by viruses as human beings are. They have their own bacterial diseases, too. Furthermore, insect diseases transferable to animals and men are immensely rare—although there are of course a few, like malaria.

All this is worth thinking about—a damnsight more worth thinking about than anything now happening in political Washington, in fact—because of the first viral insect-killer has just been quietly approved for commercial use by the Environmental Protection Agency. It is based on a virus fatal to the cotton bollworm, which attacks corn and tomatoes as well as cotton.

The developer of this wholly new way of attacking a major crop-killer is Dr. Carlo M. Ignoffo, now head of one of the Agricultural Research Service's laboratories at Columbia, Mo. Dr. Ignoffo isolated his virus as long ago as 1963. The long interval was partly needed for commercial development of the virus by the American firm now purchased by the big Swiss chemical company, Sandoz.

Above all, however, endless tests were needed to prove to everyone's satisfaction that the new virus would be harmless except to bollworms. On this point, the Agriculture Department's researchers can be just a mite touchy. They are fond of reciting the case of the cabbage looper virus, related to that of the cotton bollworm.

"You're an Easterner, eh, and you like coleslaw? Well if you live in the East and eat coleslaw, you take in millions of units of cabbage looper virus with every forkful throughout the autumn months. And nobody has ever been the worse for it, either."

Here the speaker was Dr. A. M. Heimpel, leader of another major laboratory of the Agricultural Research Service at Beltsville, Md. Dr. Heimpel has his own share in another insecticidal first, akin to Dr. Ignoffo's. This was the development of a major bacterial insect-killer based on a microbe called bacillus thuringiensis. It is fatal to a good many noxious insects having a caterpillar phase, and is already widely used by the intensive, semi-industrial farmers of the West Coast.

"It will kill gypsy moths, too," Dr. Heimpel says. "The question is not whether to lose whole forests or resume use of DDT. The question is whether to spend enough to save the forests. The bacterial and viral insecticides are always likely to be a bit more expensive than the chemicals."

Both Dr. Heimpel and Dr. Ignoffo agree, moreover, that only the very first breakthroughs have been made in their field. Dr. Heimpel says that "without counting bacteria, there are over 100 pesticide viruses coming along for different uses—most of them for very important uses. Some are absolutely specific—won't touch but a single insect pest. But there are others like the alfalfa looper virus, that can be used against several different pests now attacking food and fiber crops."

It is curious, then, to see the reaction of the rest of the scientific community to these fascinating breakthroughs of potentially great historical importance. An article in Science led this reporter to Dr. Heimpel, who then pointed the road to Dr. Ignoffo, the chief author of the first approved version of what Science called "a new class of pesticides."

The comparison with DDT is specifically made in the Science article. Science's sequence of developments produced by DDT began with: "Saved countless lives in World War II," but it ended approvingly: "Target of the bumper sticker people; banned by the Environmental Protection Agency." The implication in Science was that the new viral insecticides might well end by having to be banned in the same manner.

Maybe this is correct. Since homo sapiens began to flourish so mightily, probably exterminating Neanderthal man, no great change in the circumstances of life has failed to produce a mixture of good and bad consequences. Medical advance means overpopulation. Increased affluence means general over-eating. And so it goes.

No doubt, therefore, the development of a whole new class of enemies of the insect pests will end by proving to have drawbacks of some sort. But these particular enemies have been around, waiting to be mobilized against the pests, since long before man himself began to be around. So one may hope for a good result.

## MURDER BY HANDGUN: THE CASE FOR GUN CONTROL—NO. 19

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HARRINGTON. Mr. Speaker, the 18 previous inserts have dealt with the victims of handgun murders.

Today's article discusses the policeman who must spend time, energy, and the taxpayers' money to find the killer. I would like to insert at this time a September 4 article by Laura Kiernan of the Washington Post:

### UNRESOLVED MURDERS BOTHER DETECTIVE

(By Laura A. Kiernan)

Ever since Hugh Hefner Howard was found two years ago sprawled across his mother's bed with a small caliber bullet hole in either side of his head, he has been an irritation to Ernie Light.

Howard reputedly ran a sex-for-hire business with customers ranging from the man on the street to "high government sources," says Light, a homicide detective with the Arlington County police department.

"It was just no stranger who came down the line and killed Howard," Light says, as if Howards' killer was more than just a burglar he discovered in his parents house.

Despite long hours in pursuit of hundreds of suspects, the case remains open and thus a constant annoyance to Light.

The reminders come in the familiar face of a woman in a local restaurant, Light says, or in a piece of clothing or in the words of a casual conversation.

He can stare across the dinner table at his wife, Pauline, who is "talking about the neighbors and the birds and the bees and the pot roast that didn't turn out" and he says he won't even hear her and she knows it.

Afterwards he can, for the hundredth time, sift through the contents of the manila folder marked "Howard," rereading the old facts and looking between the lines for something new.

Hours later he can get out of bed, he says, and smoke a half pack of cigarettes thinking it all over again.

Of Howard, or of any murder victim, he says: "He may have been the worst gutter rat around, but he didn't deserve what I found. No way."

The Howard case is not the only unsolved murder in Arlington. It's the most recent of five killings that span a decade and remain unexplained:

Deanne Shangle, "a beautiful thing, what a waste" found strangled in her bathtub about 10 years ago.

Marcia Currier, a deafmute, raped and strangled four years ago in her Arlington Forest home.

Frank Shipley, 77, who in 1970 suffered a fatal heart attack in front of his elderly wife after a masked man forced him to open his basement safe.

Rene Karam, a waiter, tied to his bed and strangled with a belt in March, 1970.

"Until you walk into a home or apartment and see the results of a killing like I have, you don't know (about murder). This is the only way understanding comes," says Light.

"If you can't force yourself into having an understanding of these people (the killers), you're not going to cut it. You don't have to condone what they do, but you damn well better understand it."

Ernest G. Light, 42, grew up in Glassport, Pa., along the Monongahela River, the only son of a steel mill worker who also had four daughters. They used to call him "the sheriff" because, Light says, he was always pretending he was one.

He moved to Arlington with his father while he was in his early teens. They began a home repair business, and Light recalls that each time he'd see a police car go by from his perch on a painter's ladder "it would tear my guts out."

In 1957, he was accepted by the county police department, served four years in the patrol division and six years in juvenile. In 1966, he joined the homicide squad. The county averages about five homicides a year.

"I've always wanted to be where I am now," Light says, "it's where it's all at. The cases are very serious, for one thing, and they represent a greater challenge."

"It feeds my ego to be where I'm at."

Hugh Howard was arrested in December, 1969, with six women following a series of police raids on Northern Virginia motels. Howard was charged with five counts each of aiding prostitution, a misdemeanor, and procuring prostitutes, a felony.

In February, he was convicted of the lesser charge, and in October, the five felony counts were dropped when the chief prosecution witness—one of the six women arrested with Howard—failed to show up.

At the time of his death, Howard was appealing the misdemeanor convictions.

"With a case like this, you open the doors to hundreds of suspects," says Light. "I have talked to people involved in sex professionally and personally—you name it—hoping I would get some kind of lead.

"I've talked to many people in Virginia and other states, some in connection with other cases. I don't think there's a police officer around that doesn't know I'm actively involved in it.

"Most of my time is spent talking to people in the (sex) business," he says, anytime it's necessary, 24 hours a day, every day. He says he never stops being a detective.

Light never goes to a movie without his gun because he never knows who he is going to meet. And when he goes out to eat, he's very particular about where he sits.

"You'll never go to Ernie Light and pat him on the back and say 'how you doing Ern?'" he says, because he always sits in front of everybody else—facing the door and the cash register. "You never know what's going to happen."

He doesn't belong to any social clubs because, he says, he doesn't want to be compromised in any way. He goes everywhere with his wife. He says, "She's the only person in the world I trust."

"Ernie Light is a compassionate man," says his supervisor, Lt. Warren Siske. "He has a way of relating to problems. He has the gift of gab. And he's an artist when it comes to interrogation."

"Ernie would have made a terrific salesman," Siske said, "if he liked the product."

Light says in his business, a good interrogator has to be able to "talk to a prostitute like she's a virgin out of a convent."

When he questions the victim of a sex crime, usually women, he says he sets the ground for communication by observing the type of woman she is. Does she cross her legs, wear a wedding ring or have long finger nails? And the interviews are always conducted alone—the interference of a third party, he says, could break the threads of trust that otherwise would lead him to the information he needs.

"A gun is not a policeman's weapon," he says. "His mouth is."

He has never been shot and the only person who "ever got to me with a blade" was a woman who grabbed a kitchen knife as Light tried to calm her after a domestic quarrel. He got a little cut up, he says, but did not file charges against the woman.

"In the past seven years I have met about the meanest people to come down the line," he says, and shrugs off the notion that a life devoted to violent death and personal injury might not be the most pleasant of occupations.

"I love it," he said, "I feed on it."

But along with the challenges and excitments of the job, come the fears.

"Once I was hurt, and I was up in the hospital, and I said, 'For God's sake don't go over to my house and knock on the door (it was 7 a.m.) and scare Pauline half to death." So they (the police) went right over and knocked on the door, and when she answered, they handed her my gun and badge.

"Right away, she knew I was dead," he said.

That time Light was being treated for an accidental neck injury. He says he is convinced there will be a time when they'll give his wife his gun and badge for good. "You're not dealing with Boy Scouts, here," he says.

"I'll die on this job," he says, "I believe it to the tips of my toes.

"And knowing fate the way it is, it'll be some drunk or mental patient and he'll go back to the hospital. No, it doesn't scare me, it's too far away, I can't see it."

When two friends who were concerned about not hearing from him, discovered Howard's body in his parents fifth floor apartment on S. Eads Street, he had been dead for two days. At 32, Light remembers, Howard had been "a real nice-lookin' boy."

"There a possibility the men who killed Howard may have been killed in turn," says Light. "But if they are still alive, I'll get them.

## COST OF LIVING AFFECTS FEDERAL WORKERS, TOO

## HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. BRASCO. Mr. Speaker, one attitude and policy runs like a consistent thread through the life of this administration; utter lack of concern for the multimillion Federal work force, especially the civilian portion.

Again and again the Federal worker has been used as a symbol of a sloth, a parasite on the public payroll and a nonperforming exploiter of Federal civil service rules which supposedly offer complete employment security. It has been a long and cruel twilight for these relatively helpless people.

Such innuendo and accusation contains not a scintilla of truth. Consistently the organizations representing these workers have countered the statements. Yet response rarely if ever catches up with accusation, and the damage remains intact.

Not content with wiping the administration feet on the backs of these workers, a series of telling blows has been delivered against them in a more tangible sense. Drastic cuts have been made in their jobs. Openings are often not filled, leaving remaining workers with added burdens. Facilities are closed with dramatic consistency in certain areas of the Nation, while remaining intact in other parts, posing fascinating questions to many observers.

Meanwhile, the average Federal civilian worker has labored on, bowing his or her head to the storm, and continuing to function with remarkable effectiveness. In fact, when the final story is told, it will be revealed that America has been served by these people better than we knew or even thought possible. Quietly, they have been keeping many wheels turning, performing on behalf of all of us in spite of everything thrown at them.

The runaway inflation caused by disastrous economic policies has hurt these people and their families terribly. Caught in the merciless economic squeeze of today, they have had to pinch tightly in order to make ends meet. Knowing many of them as I do, I can testify that life is difficult in the extreme for them. To many such families, a few dollars here and there can make an enormous difference.

As prices skyrocketed and wages crept along, these people watched helplessly from their Federal security blanket which does not allow them to shop at lower prices. Their wages are frozen. However, a 4.7 percent pay raise was in order commencing October 1 of this year. Those few extra dollars, as indicated earlier, were eagerly awaited by hundreds of thousands of families, especially as school approached and inflation worsened when the freeze on retail prices ended.

Meanwhile, the White House, consecrated to the work ethic, ushered in the Labor Day weekend with a morale booster for these people— a 2-month delay in the implementation of their minuscule pay raise. Interestingly enough, the hike in salaries for these people was prescribed under a law intended to keep Federal salaries in line with those for comparable jobs in private business.

The move by the President came just 1 day after the Agriculture Department announced a 20-percent jump in the farm price of food in the single month of August.

The average Federal worker, prohibited by law from striking, can only watch helplessly. His bills, however, according to a rumor I have heard, keep on coming in like everybody else's.

Only Congress can undo this act. We must move to ensure that these people are granted some kind of a break. If this fails, then they can take the advice offered by some members of the administration—eat less. Do you people hear that out there? Eat less.

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## FAMINE IN THE UKRAINE

## HON. QUENTIN N. BURDICK

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

*Thursday, September 13, 1973*

Mr. BURDICK. Mr. President, within the boundaries of North Dakota, we are honored to have 25,000 Americans of Ukrainian descent. They have enriched our State not only with their cultural heritage, but also with their fine qualities of honesty, patriotism and hard work.

This summer they commemorate the 40th anniversary of the great famine of the Ukraine, which took place during the summer of 1933.

The North Dakota president of the Ukrainian Congress Committee of America, Dr. Anthony Zukowsky, advised me that during the summer of 1933, it is estimated that between 6 and 7 million Ukrainians died as a result of this devastating famine. Although the Ukraine has been known as the Bread Basket of Europe, there was no food for the peasants that summer.

I hope that other Senators will join me in registering profound sorrow for this tragic anniversary.

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## FEDERAL CIVILIAN EMPLOYMENT, JULY 1973

## HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. MAHON. Mr. Speaker, I include a release highlighting the July 1973 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures, together with a summary of fiscal year 1973 payroll costs and average employment:

FEDERAL CIVILIAN EMPLOYMENT, JULY 1973

SUMMARY OF PAYROLL COSTS AND AVERAGE FEDERAL CIVILIAN EMPLOYMENT—FISCAL YEAR 1973

This summary of annual payroll costs and average employment for fiscal year 1973, following practice of many years standing, is submitted along with the Joint Committee's regular monthly report for July 1973 which carries payroll figures for June, the last month of fiscal year 1973. Figures are from reports certified by the agencies as compiled and published monthly by the Joint Committee on Reduction of Federal Expenditures.

Annual payroll costs for all three branches of the Federal Government for fiscal year 1973, in comparison with fiscal year 1972, follow:

[In millions of dollars]

| | Fiscal year 1972 | Fiscal year 1973 | Change |
|---|---|---|---|
| Executive branch | 31, 193 | 32, 730 | +1, 537 |
| Legislative branch | 412 | 448 | +36 |
| Judicial branch | 112 | 121 | +9 |
| Total | 31, 717 | 33, 299 | +1, 582 |

Civilian payroll costs totaled $33.3 billion in fiscal year 1973—an all time high. This compared with $31.7 billion in pay costs last year and $22.3 billion 5 years ago in 1968.

Federal civilian employment in June 1973 totaled 2,824,557, a decrease of 40,746 from June a year ago, and a decrease of 231,294 over the 5 years since June 1968.

Comparability pay adjustments granted this year and in previous years have caused the rise in payroll costs in a situation where federal employment levels were substantially reduced in fiscal year 1973 and over the last 5 years.

EXECUTIVE BRANCH

The following tabulation show average employment and annual payrolls in the Executive Branch, broken between civilian and military agencies, for the past ten years:

| Fiscal year | Total | | Department of Defense (including civil functions) | | Civilian agencies (except Defense) | |
|---|---|---|---|---|---|---|
| | Average employment | Pay (in billions) | Average employment | Pay (in billions) | Average employment | Pay (in billions) |
| 1963 | 2, 481, 657 | $15. 3 | 1, 063, 720 | $6. 6 | 1, 417, 937 | $8. 7 |
| 1964 | 2, 476, 656 | 16. 1 | 1, 042, 552 | 6. 8 | 1, 434, 104 | 9. 3 |
| 1965 | 2, 467, 858 | 17. 1 | 1, 024, 482 | 7. 1 | 1, 443, 376 | 10. 0 |
| 1966 | 2, 574, 429 | 18. 6 | 1, 074, 080 | 7. 7 | 1, 500, 349 | 10. 9 |
| 1967 | 2, 840, 393 | 20. 4 | 1, 234, 474 | 8. 7 | 1, 605, 919 | 11. 7 |
| 1968 | 2, 935, 826 | 22. 3 | 1, 280, 853 | 9. 4 | 1, 654, 973 | 12. 9 |
| 1969 | 2, 961, 640 | $24. 0 | 1, 305, 664 | $10. 2 | 1, 655, 976 | $13. 8 |
| 1970 | 2, 958, 364 | 26. 8 | 1, 264, 207 | 11. 2 | 1, 694, 157 | 15. 6 |
| 1971 | 2, 857, 013 | 29. 1 | 1, 162, 117 | 11. 6 | 1, 694, 896 | 17. 5 |
| 1972 | 2, 839, 163 | 31. 2 | 1, 128, 172 | 12. 2 | 1, 710, 991 | 19. 0 |
| 1973 | 2, 777, 265 | 32. 7 | 1, 076, 039 | 12. 4 | 1, 701, 226 | 20. 3 |

In the executive branch payroll costs in fiscal year 1973 totaled $32.7 billion, and civilian employment during the 12 months of the fiscal year averaged 2,777,265. On this basis, the average annual pay per federal employee in fiscal year 1973 was approximately $11,800.

The executive branch payroll cost of $32.7 billion in 1973 included $12.4 billion in Defense, $7.6 billion for the Postal Service and $12.7 billion in other civilian departments and agencies. Significant increases in pay costs during the fiscal year were shown for the Postal Service, Defense, Veterans, Treasury and HEW.

The average executive branch employment total of 2,777,265 includes an average of 2,450,008 full-time employees in permanent positions.

The executive branch payroll cost of $33 billion excludes $683 million for foreign nationals not on regular rolls and includes $106 million for disadvantaged persons employed under federal opportunity programs. The average employment total of 2,777,265 excludes an average of 107,983 for foreign nationals and includes an average of 36,528 for disadvantaged persons.

### THE MONTH OF JULY 1973

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of July was 2,821,803, a decrease of 2,749 as compared with 2,824,557 in the preceding month of June.

### EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of July as compared with the preceding month of June, follows:

| | Full time in permanent positions | Change | Temporary, part time etc. | Change | Total employment | Change |
|---|---|---|---|---|---|---|
| June 1973 | 2,421,707 | | 359,182 | | 2,780,889 | |
| Civilian agencies | 1,434,426 | | 293,790 | | 1,728,216 | |
| Military agencies | 987,281 | | 65,392 | | 1,052,673 | |
| July 1973 | 2,395,000 | −26,707 | 383,299 | +24,117 | 2,778,299 | −2,590 |
| Civilian agencies | 1,418,376 | −16,050 | 312,664 | +18,874 | 1,731,040 | +2,824 |
| Military agencies | 976,624 | −10,657 | 70,635 | +5,243 | 1,047,259 | −5,414 |

Some highlights with respect to Executive Branch employment for the month of July, are:

*Full-time permanent employment* showed major decreases in military agencies of 10,657, Postal Service with 8,948, Agriculture with 2,290, Treasury with 1,489, Veterans with 1,076 and Interior with 1,039.

*Temporary and part-time employment* shows increases primarily in Agriculture with 6,048, military agencies with 5,243, Treasury with 3,913, Interior with 2,008, Postal Service with 1,917, HEW with 1,073 and Veterans with 1,067. These increases are largely due to the hiring of temporary summer aids.

*Civilian agencies* reporting the largest increases in total employment (including both full-time and part-time) in July were Agriculture with 3,758, Treasury with 2.424, HEW with 1,922 (due to the conversion of certain public assistance grant programs, previously operated by the states, to direct federal administration) and Justice with 1,150. The largest decrease was in Postal Service with 7,031.

Employment *inside* the United States decreased 3,432 from June and *outside* the United States there was an increase of 842 for the month.

### LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in July totaled 34,774, a decrease of 154 as compared with the preceding month of June. Employment in the Judicial Branch in July totaled 8,735, a decrease of 5 as compared with June.

### UNIFORMED MILITARY PERSONNEL

Uniformed military personnel in the Department of Defense has decreased 446,831 during the past ten years since 1963, while civilian employment has increased 2,649 during the same period. Annual military costs in fiscal year 1973 were $22 billion and civilian pay costs were $12 billion.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the joint committee report, on personnel employed full time in permanent positions by executive branch agencies during July 1973, showing comparisons with June 1973, June 1972, and the budget estimates for June 1974:

FULL-TIME PERMANENT EMPLOYMENT [1]

| Major agencies | June 1972 | June 1973 | July 1973 | Estimated June 30, 1974 [2] |
|---|---|---|---|---|
| Agriculture | 82,511 | 81,715 | 79,425 | 78,800 |
| Commerce | 28,412 | 28,300 | 27,931 | 28,400 |
| Defense: | | | | |
| Civil functions | 30,585 | 29,971 | 29,279 | 30,800 |
| Military functions | 1,009,548 | 957,310 | 947,345 | [3] 956,000 |
| Health, Education, and Welfare | 105,764 | 114,307 | 115,156 | [4] 101,800 |
| Housing and Urban Development | 15,200 | 15,820 | 15,600 | 13,900 |
| Interior | 56,892 | 56,771 | 55,732 | 56,900 |
| Justice | 45,446 | 45,496 | 46,226 | 47,100 |
| Labor | 12,339 | 12,468 | 12,219 | 12,400 |
| State | 22,699 | 22,578 | 22,550 | 23,400 |
| Agency for International Development | 11,719 | 10,108 | 9,903 | 9,900 |
| Transportation | 67,232 | 67,885 | 67,618 | 69,400 |
| Treasury | 95,728 | 98,087 | 96,598 | 104,000 |
| Atomic Energy Commission | 6,836 | 7,145 | 7,148 | 7,400 |
| Civil Service Commission | 5,260 | 5,911 | 5,936 | 6,000 |
| Environmental Protection Agency | 7,835 | 8,270 | 8,234 | 9,200 |
| General Services Administration | 36,002 | 35,721 | 35,694 | 37,800 |
| National Aeronautics and Space Administration | 27,428 | 25,955 | 25,843 | 25,000 |
| Panama Canal | 13,777 | 13,680 | 13,519 | 14,000 |
| Selective Service System | 5,791 | 4,607 | 4,059 | 3,900 |
| Small Business Administration | 3,916 | 4,050 | 4,003 | 4,100 |
| Tennessee Valley Authority | 14,001 | 13,995 | 13,873 | 14,000 |
| U.S. Information Agency | 9,255 | 9,048 | 9,045 | 9,100 |
| Veterans' Administration | 163,179 | 170,616 | 169,540 | 170,000 |
| All other agencies | 33,499 | 34,610 | 34,189 | 35,800 |
| Contingencies | | | | 5,000 |
| Subtotal | 1,910,854 | 1,874,424 | 1,856,665 | 1,874,100 |
| U.S. Postal Service | 594,834 | 547,283 | 538,335 | 564,500 |
| Total [5] | 2,505,688 | 2,421,707 | 2,395,000 | [3,4] 2,438,600 |

[1] Included in total employment shown on table 1, beginning on p. 2.

[2] Source: As projected in 1974 budget document as of Jan. 29, 1973; figures rounded to nearest hundred.

[3] Excludes increase of 31,000 for civilianization program.

[4] Excludes increase of approximately 15,000 in adult welfare categories to be transferred to the Federal Government under Public Law 92-603.

[5] July figure excludes, 1,439 disadvantaged persons in public service careers programs as compared with 1,859 in June.

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## BUZZER, SHOULDER HARNESS, SEATBELTS

## HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. COLLINS of Texas. Mr. Speaker, yesterday I read the bulletin as it came in on the UPI wire. This story is another example of what is going to happen with this Transportation Department requirement of buzzers. I asked for your support for my bill, H.R. 9600. I have advocated that the Transportation Department revoke its requirement that all future automobiles have a shoulder harness, seat belt, and a buzzer contraption to go with them. A person should have this as optional equipment and not as a mandatory requirement. Only 2 percent of the people use their shoulder harness, so why should a bureaucrat issue a mandatory governmental decree.

As this UPI bulletin quite plainly pointed out, this man's death was due to strangulation from his auto shoulder straps. At this time, the straps are voluntary, and he was wearing them because of his own optional choice; but if this death happened next year, he would have been wearing them because the bureaucrats in Washington issued the regulation that made him wear the harness that in this case served a fatal purpose. The UPI article follows:

UPI—PITTSBURGH, PA.

A psychiatrist's wife has asked Allegheny County Common Pleas Court for $350,000 in damages in a suit resulting from a traffic accident in which her husband apparently was strangled by his car's safety belt.

Mrs. Carmen Dechesaro and her three children named the Security-Connecticut Life Insurance Company and Mutual Life Insurance Company as defendants, claiming they refused to pay accidental death benefits because "accidental death was not proven."

Dechesaro of suburban Mount Lebanon, a psychiatrist at Woodville State Hospital, died last October 12 when his automobile plunged down a 100-foot embankment in nearby North Fayette Township.

A coroner ruled Dechesaro died of asphyxiation due to strangulation when his neck became tangled in the auto's shoulder safety straps.

## INDEPENDENT GASOLINE DEALERS

### HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. WALDIE. Mr. Speaker, the current crisis facing the Nation over supply and distribution of energy fuel touches sensitive areas throughout our economic structure. No group of businessmen is currently as adversely hurt as the Nation's independent gasoline dealers.

Because of misguided distribution and pricing policies set down by the executive branch, many of these dealers are being placed in the severest form of economic struggle. Many, if the current situation prevails, will literally vanish from the American business scene.

Independent gasoline dealers are truly representative of the American system. They are the classic small entrepreneurs, hard-working and community-minded individuals who often struggle with little capital relying on their day-to-day acumen and dedicated energy to survive in a vital service industry.

Through practices of the Nation's large oil distribution companies and the ill-conceived fuel pricing practices of the administration, many of these businessmen face extinction. The situation is deplorable and needs immediate reform.

Current administration pricing policies are placing a restricted, unfair burden on independent station operators who must rely on large petroleum producers for their principal sales product.

I think the evidence is overwhelming that these large distributors openly discriminate against the small independent operator to favor their own position with company-owned franchise stations. The first step needed to stabilize the independent operator's position is action by the Cost of Living Council to clarify rules dealing with the amounts refiners pay for gasoline. I have been told such rule changes are under consideration. They must be enacted as soon as possible.

It would be extremely helpful in this period of uncertainty to place a 30-day freeze to allow a negotiating period wherein, hopefully, the prices of gasoline would be reset at the June 1 to June 10 levels.

The present situation allows the refiners who produce the products and the jobbers who distribute them to pass along price increases because of extraordinary expenses. Unfortunately, the independent service station operator with equally as many day-to-day expenses, loan obligations, and overhead cannot do so. This is an extraordinary burden to place on any single segment of the American economy under any program intended to curb inflation.

Under present CLC regulations, exceptions from price ceilings are allowed to refiners who deal with initial crude petroleum products and to jobbers who provide gasoline and other products to retailers. The retailer, however, remains bound to holding a ceiling price set on August 1 unless he is granted an exception on an individual appeal to the Internal Revenue Service.

This is one of those many instances in attempts at price control where the smallest entity suffers the most. If increases are allowable for refiners on their May 15 base prices and subsequent pass through raises permitted for jobbers then some simplified and controllable allowance must be established for the retailer. This reform is needed since the independent operator must compete actively with the large oil company chain stations while enjoying few of the supply benefits they have.

Statistics tell a troubling story about the problems within the industry's segment. By the end of May this year, more than 1,400 gasoline stations had closed due to a lack of gasoline and oil. In most instances, the stations closed were owned by independents.

There is a need to bring sanity back to the petroleum industry through a sensible pricing policy which respects all phases of the market. When that goal is achieved, we will see the prospect for growth and development rather than the fear of potential bankruptcy.

It is also unfortunate but the dilemma of the independent gasoline dealer is a case in point of the total failure of the administration's phase IV program and a direct reflection of its lack of ability to manage the economy.

## A NIXONISM: "THE RICH MUST BE ALLOWED TO GET RICHER"

### HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. LEGGETT. Mr. Speaker, last Thursday, the President announced his decision to veto H.R. 7935. In so doing, he has succeeded in further delaying minimum wage reforms that are already long overdue. The reasons the President gave for this action are examples of the type of shortsightedness that has characterized most of his administration's economic policies.

The President claims that the minimum wage increases proposed by H.R. 7935 are inflationary. This remains to be seen.

The U.S. Chamber of Commerce has categorically stated that inflation is not caused by minimum wages. Former Secretary of Labor Hodgson, in 1971, said:

> It is doubtful that changes in the minimum have any substantial impact on wage, price, or employment trends.

The President claims that a minimum wage increase will cause workers presently earning more than the minimum to demand raises in order to maintain their places on the wage structure. This assumption fails to take into account the fact that in these inflationary times, most workers earning more than the minimum receive regular raises proportionate to increases in the cost of living, many through collective bargaining. Since 1966, the average hourly earnings in nonagricultural private economy have risen from $2.56 to $3.39—an overall increase of 48 percent. This has occurred despite the continued stability of the minimum wage during the same period.

The President contends that "there would probably be a significant decrease in employment opportunities for those affected" as a result of the minimum wage increase proposed by H.R. 7935. On the surface, this would appear to be a reasonable objection. However, statistics show that the disemployment effects of past minimum wage increases have been small, and adverse effects were brief as workers found new jobs. Furthermore, the increased purchasing power which will accrue to many workers as a result of a higher minimum wage would serve to increase consumer demand which in turn would create new jobs.

The President further argues that the extended coverage for domestic household workers provided for in H.R. 7935 would decrease the employment and hours of current household workers. Quite the opposite is true however, for figures universally show that even in periods of high unemployment, the demand for household workers exceeds the supply. Wage and overtime protection in this field of work would tend to make it a more attractive area of employment for many people.

Finally, the minimum wage legislation advocated by the President and to which he refers several times as an alternative to H.R. 7935 increases the minimum much more gradually over a much longer span of time. As such, it fails to meet one of the primary criteria for legislation increasing the minimum wage; that is, to restore the buying power that the wage had when it was last increased. In establishing a minimum of $2.20 over a period of less than 2 years, H.R. 7935 just barely manages to accomplish this, given the current inflationary rate. The legislation advocated by the President would never do this.

It is also ironic that the President's Cost of Living Council's 5.5 percent guidelines regularly allow 45 cents to 60 cents hourly increases to high-paid construction workers. The irony is that the minimum wage bill calling for a 40 cent increase for the poor folks is inflationary.

Another Nixonism is carried out with the minimum wage veto—"The rich must be allowed to get richer."

## NATIONAL ALLIANCE AGAINST RACIST AND POLITICAL REPRESSION: THE COMMUNIST PARTY'S NEW DEFENSE FUND

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### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ASHBROOK. Mr. Speaker, on May 9 and 10, 1973, I placed into the RECORD two items designed to demonstrate that the so-called Founding Conference for a National Defense Organization Against Racist and Political Repression, held in Chicago, Ill., on May 11 through 13, was in reality an operation of the Communist Party, U.S.A., conceived as a result of what the party viewed as the great success of its campaign in behalf of CPUSA Central Committee member Angela Yvonne Davis, as well as the related party-directed campaign in behalf of the so-called Soledad Brothers.

Other valuable information on this subject had already been put into the RECORD on May 3 by the Honorable RICHARD H. ICHORD, the distinguished chairman of the House Committee on Internal Security, on which I am privileged to serve as ranking minority member; and another item by the chairman on May 17 shed still more light on the completely Communist-run nature of this conference.

On July 25, 1973, the Committee on Internal Security received testimony in public session from minority investigator Richard Norusis. Mr. Norusis was able, on the basis of his own eyewitness observation and data supplied by other eyewitness sources, to supply the committee with invaluable firsthand information as to the makeup of the conference including an extensive list of attendees and the identities of numerous known members of the Communist Party who were present and who were also prominent in organizing and conducting the conference. This testimony, when printed, will demonstrate to even the most skeptical that the Founding Conference was entirely a creature of the Communist Party objectives under the guise of appearing to work in behalf of oppressed minorities, a classic pattern with Communist-front groups.

Now additional information has been received by the committee's minority staff which reinforces the above conclusions. This documentation is in the form of two mailings disseminated from the organization's national headquarters in New York City.

The first mailing was intended only for members of the organization's executive committee and includes a covering letter dated "29 June 1973" and signed by Charlene Mitchell as acting executive secretary. Mitchell has previously been identified as a high-ranking member of the Communist Party and currently serves as a member of the party's Central Committee, its highest governing body. Historically, one of the acid tests in determining that a group is a Communist front has been whether the key position—that of executive secretary—is held by a Communist Party member.

The key document in this mailing, however, is a copy of the minutes of the organization's executive committee meeting of June 11, 1973, held via telephone conference call. There are 24 people listed as participants. Of these 24, no fewer than 7 have been previously identified as members of the Communist Party: Carl Braden, Bert Corona, Angela Davis, Carolyn Black, Rose Chernin, Bob Klonsky, and Charlene Mitchell. It is important to note here that these Communists also tend to occupy leadership positions in other groups controlled by the Communist Party. Braden, for example, has long been a leader in the Southern Conference Educational Fund, cited by the Senate Internal Security Subcommittee as a Communist front in 1956, while Chernin has long been the guiding force in the Los Angeles Committee for the Defense of the Bill of Rights, cited as a CPUSA front in the 1970 annual report of the House Committee on Internal Security.

Other participants, as listed in the minutes, included Mike Honey and Judy Simmons of SCEF and Jose "Che" Velasquez and Alfredo Lopez of the Puerto Rican Socialist Party, a violence-oriented Communist organization that was significantly represented both in the organizing and in the actual conduct of the founding conference in Chicago.

It should also be noted that Braden, Corona, and Davis—all publicly identified or avowed members of the CPUSA—are the three "cochairpersons" designated for this new defense front—as shown on an official ballot distributed both during and subsequent to the conference; thus, the four key posts of cochairpersons and executive secretary are all firmly in the hands of the Communist Party.

The minutes reflect that a regular meeting of the executive committee would be held in Louisville, Ky., on July 28 and 29, 1973, at which time Charlene Mitchell's position as executive secretary would "be finalized." It is interesting to note that Louisville is where SCEF is headquartered. The minutes also reflect that "The temporary name" chosen for the organization was to be "National Organization Against Racist and Political Repression," which is the name appearing on Charlene Mitchell's covering letter; and the covering letter, which speaks of the usual "financial crisis" in which Communist fronts perennially find themselves, complains that—

> To date we have received contributions from Tennessee (Mike Honey) and South California (Bert Corona). We have received only two fifteen dollar contributions for the telephone conference call.

It is most significant, in terms of establishing the role of the Communist Party in this new defense apparatus, that the only two contributions forthcoming, according to party member Mitchell, were from identified Communist sources: Bert Corona, a long-time party member, and Mike Honey, a representative of the CPUSA-controlled Southern Conference Educational Fund.

Another indication is to be found in the fact that one of the cases of alleged "racist and antiradical prejudices" cited is that of Joseph "Mongo" Smith, identified in the Mitchell letter as "the southern California chairman of the Young Workers Liberation League" who "is active in the United Defense Organization in Los Angeles." The YWLL, as has been noted by the House Committee on Internal Security and the Subversive Activities Control Board, functions as the youth apparatus of the Communist Party, U.S.A.

The second mailing, sent with another covering letter dated August 20, 1973, and signed by Charlene Mitchell as executive secretary, includes an extremely important set of printed minutes of the Louisville meeting of the organization's executive committee on July 28–29. These minutes are replete with propaganda statements about numerous cases of alleged racist and political repression throughout the United States, cases often involving outright terrorism, but these outrageously self-serving statements are not where the real importance of this document rests.

Rather, this importance rests in the organizational structure established at this meeting, which, according to the minutes, finally agreed on a name for the new defense apparatus: National Alliance Against Racist and Political Repression.

The minutes list 23 people as present. Of these, the following are known members of the Communist Party: Carolyn Black, New York, N.Y.; Carl Braden, Louisville, Ky.; Rose Chernin, Los Angeles, Calif.; Bert Corona, Los Angeles; Dorothy Hayes, Chicago, Ill.; and Charlene Mitchell, New York, N.Y. Others present included Walter Collins and Mike Honey, both affiliated with the CPUSA-front Southern Conference Educational Fund, and Alfredo Lopez of New York, a member of the Communist Puerto Rican Socialist Party. Another participant, Hilton Hanna of Chicago, was listed as a substitute for Chicago labor leader Abe Feinglass, long ago identified in sworn testimony as a member of the Communist Party.

According to the second page of the minutes:

> Charlene Mitchell was unanimously voted Executive Secretary by the body.

It is most instructive to read how the organization itself defines this post, as described on the same page, because it points out again the fact that this position is really the key to exercising control of a Communist front:

> The following definition was accepted by the body as the definition of the post of Executive Secretary: The Executive Secretary is to be the chief administrative officer of the organization, empowered to implement policy decision by the organization, to appoint staff, including an administrative assistant; and to make public pronouncements consistent with the goals and objectives of the organization; and will be the chairperson of the administrative committee. * * *

What this means, in simple English, is that a high-ranking member of the Communist Party is empowered to decide on a day-to-day basis what the National Alliance will and will not do, to load the staff with other Communists, and to act as spokesman for the organization. In short, she is to run the show according to the dictates of the Communist Party and in full conformity with the Communist Party line, which at all times is consistent with the demands of the Soviet Communist Party.

On page 5 of the minutes, there appears a listing of "standing committees and members." These committees include "fund raising," "R.S.P. [research, strategy, priority]," "membership," "constitution and bylaws (temporary)," and "administrative." It is important to observe that there is one common denominator that unites all of these official groups within the National Alliance: each has at least one known member of the Communist Party.

For example, the membership committee includes Dorothy Hayes, a representative of the Women's International League for Peace and Freedom; the committee dealing with the constitution and bylaws includes Carl Braden; and the "R.S.P." committee includes Carolyn Black. Of the eight members of the committee on fund raising, there are four known Communist Party members: Carolyn Black, Carl Braden, Bert Corona, and Charlene Mitchell.

The choicest example, however, is the all-important administrative committee, comprised of five members, of whom four are party members: Braden, Mitchell, Corona, and Angela Davis. The fifth member of this committee, Rev. Ben Chavis, serves the National Alliance as "vice-chairperson/treasurer" and has shown himself to be a willing tool of the party.

Still another indication of the Communist-front character of this National Alliance is its pattern of cooperation with other Communist fronts. For example, the minutes announce on page 6 that—

> Regarding the setting up of a legal defense fund for legal fees and costs, it was pointed out that the National Legal Defense Fund (formerly the Angela Davis Legal Defense Fund) has agreed to continue its work in concert with the National Alliance. The Executive Secretary is to contact them for further discussion of working relationships. * * *

Again, on page 5, it was announced that the National Alliance will be working with, among other organizations, the American Committee for Protection of Foreign Born, the oldest functioning Communist Party front group, while page 11 reflects cooperation between the National Alliance and the National Committee Against Repressive Legislation, a Communist Party front group that conveniently uses as its southern regional office the headquarters of the Southern Conference Educational Fund.

That this new Communist front is ambitious in scope is indicated by Charlene Mitchell's letter of August 20, in which she stated that—

> * * * We have proposed September 13 as the date to launch a national and international petition campaign to dismiss the indictments against the Attica brothers. We hope that as many cities as possible will find someway [sic] to observe the anniversary of the massacre at Attica. We have to print a minimum of a million petitions and a million brochures to guarantee a successful petition campaign. * * *

This device is, of course, one of the oldest Communist tricks for trapping the unwary into supporting party objectives. It was used on a large scale as recently as 1970 by a Communist Party operation known as the Emergency Conference Committee, which, working in collaboration with the National Coalition Against War, Racism, and Repression, a party-dominated coalition that served as the immediate predecessor of the Peoples Coalition for Peace and Justice, in which the party has also played a predominant role, presented an alleged "genocide" petition to the United Nations as part of the CPUSA's campaign to discredit the United States in the eyes of so-called Third World nations.

Mr. Speaker, the evidence on the National Alliance Against Racist and Political Repression, especially that which has been diligently developed by the minority staff of the House Committee on Internal Security, proves beyond a scintilla of doubt that the National Alliance meets every known test for a Communist front, that the alliance is attempting to exploit prison and minority unrest to further the policies of the Communist Party, and that this grandiose "defense" apparatus is certainly one of the Communist Party's principal front organizations of the moment.

## TIME TO CLEAN IT UP

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ZWACH. Mr. Speaker, the Watergate hearings have been dragging on since mid-May. Since these hearings have no judicial authority, their findings are of little help in bringing the guilty to justice.

On the other hand, because of conflicting and unsubstantiated charges being made, the hearings probably are doing more harm than good, because the defense lawyers will be able to claim prejudice on almost any juror about to be selected.

Our people are concerned about the dragging on of these hearings.

Typical of that thinking is an editorial that appeared recently in the Princeton Union in our Minnesota Sixth Congressional District.

Editor John Walker points out that the Watergate has so dominated the news that the relative value of other news is drowned in what seems to be the meaningless morass of little-understood charges and countercharges in the Watergate.

Mr. Speaker, with your permission, I would like to insert Mr. Walker's editorial in the RECORD and commend its reading to my colleagues:

> TIME TO CLEAN IT UP
>
> As the Watergate hearings continue, we wonder if they haven't reached the point of over-exposure. The media has been so saturated with it from day to day that a lot of people must be reacting as we do—sick of it to the point of foregoing much interest in any of the news. The Watergate has so dominated the news that the relative value of other news is drowned in what seems to be the meaningless morass of little-understood charges and counter-charges in the Watergate.
>
> There is little doubt but that the affair was a scandalous adventure on the part of people whose judgment and misguided sense of loyalty borders on the idiotic. Yet elected officials haven't been shown to be involved at least up to this point. So we don't have anything resembling a power struggle, and there hasn't been any evidence that anyone was trying to get rich in spite of all the money involved. We think the "bugging", the theft of "papers", and such things are now being obviously over-played for political reasons, which in our opinion is scarcely more acceptable at this point than the so-called "crimes" of the "buggers."
>
> The media, over the years, has never been able to accept Republicans in government, which can hardly be in tune with what they seem to think is a "sense of fair play." It simply doesn't wash. When you consider the down-playing of such situations as the Bay of Pigs and Chappaquiddik, their credibility cannot be equated with anything resembling a "sense of fair play."
>
> What we are harping about and have been doing so recently, is getting news events in perspective and in the context of our times. There is rotten news and there is good news. Perhaps the United States so-called free press ought to reassess its role where it concerns the public, and place a more realistic value on news events, with a lot less intolerance for some political beliefs. And perhaps certain political activities in both parties could pause long enough to take a good hard look at its dirty linen. After nearly 200 years it doesn't seem unreasonable.

## AMENDING THE FAIR LABOR STANDARDS ACT

### HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. LANDGREBE. Mr. Speaker, I recently received a letter from Mr. B. A. Burgwald of Michigan City, Ind., regarding the bill to amend the Fair Labor Standards Act, which was recently vetoed by President Nixon.

Mr. Burgwald, a city councilman, points out some of the serious financial consequences of this bill, and challenges the right of the Federal Government to dictate to city governments how to manage their affairs.

As we will soon be voting on the question of sustaining or overriding the President's veto, I would like to bring Mr. Burgwald's very cogent arguments to the attention of my colleagues.

Following is the text of Mr. Burgwald's letter:

> SEPTEMBER 8, 1973.
>
> DEAR CONGRESSMAN: I hope you will vote to sustain President Nixon's veto of the bill to amend the Fair Labor Standards Act.
>
> The bill, I feel, is extremely unacceptable in a number of areas—including the coverage of domestics, the lack of a youth differential, and the overall excessive minimum wage increase itself which will materially add to, rather than stop, the inflationary pressures on the economy; *however*, as a City Councilman, I am particularly opposed to the provision that now extends minimum hour and overtime coverage to municipal employees, such as firemen. This provision, reducing firemen to a shorter 48-hour work week and then gradually reducing that to

time-and-a-half over 40 hours, would have serious financial effects on our local government.

Presumably, under the overtime provision, firemen who eat and sleep in a firehouse dorm would be paid overtime for the period of their slumber. Furthermore, would overtime also be required for all the hours worked in an emergency situation due to a great disaster in a certain area? Our City Controller estimated that a 40-hour work week would amount to at least a half-million dollar increase in the tax burden. That would certainly upset our budget and compound our already serious financial problems. In effect, this provision will be revenue sharing in reverse.

But quite apart from the budgetary consequences, I think there is also a serious constitutional question involved here as to whether Congress has the authority to set wage, hour, and work rule requirements for local governmental employees.

The argument may be advanced that the power of Congress to extend this coverage comes under the Commerce Clause of the Constitution: "The Congress shall have Power . . . To regulate Commerce . . . among the several States . . ." (Art. 1, Sec. 8, cl. 3). Nevertheless, there is no rational basis for such an expansive interpretation of the Commerce Clause, for if local government employees are considered to engage in or have a substantial impact on interstate commerce, then this magnified clause could include almost everything. Yet, that was not the intent of the Founding Fathers who drafted our Constitution.

As a matter of fact, in the case of U.S. v. Oregon State Medical Society, the court held that physicians who use in their practice medicine and equipment that comes across state lines cannot be said to affect interstate commerce, and, hence, are beyond the constitutional power of Congress under the Commerce Clause (95 F. Supp. 103 [D. Ore. 1950], at 118). It was affirmed by the Supreme Court in 1952 (343 U.S. 326). So, if the medical profession is beyond the sweep of the Commerce Clause, how can anyone arrive at the conclusion that municipal employees be covered under the FLSA.

In the event of a veto override, the Supreme Court may ultimately have to decide this legal question. In the *Katzenbach* case, which arose in the area of civil rights legislation, and, so, has absolutely no other relationship here, the Supreme Court did say that "the mere fact that Congress has said when particular activities shall be deemed to affect commerce, does not preclude further examination by this Court . . ." (379 U.S. 294).

I have always thought that local officials, who are responsible for the finances of their own units of government, can much better make those kinds of judgments as to how much to pay their employees with respect to overtime and the like than can the Congress. However, this overtime provision in question represents, to my mind, a massive intrusion by the Federal Government into the judgments of local officials by taking Federal power and imposing it on local governments.

I am certain that you agree with me on this matter and that you will vote to sustain the President's veto of a bill that would increase the cost of local government and increase Federal interference into local affairs.

Sincerely,

B. A. BURGWALD,
*Councilman, Fifth Ward.*
MICHIGAN CITY, IND.

## THE RUSSIANS WERE SHARPER

## HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. GAYDOS. Mr. Speaker, a year ago I reported after a checkup that the Soviet wheat deal appeared a bad one for the American people and could mean a marked increase in the price they paid for bread and other bakery products.

Today, of course, we know how the deal had impact on far more than the baked goods in our market baskets. Meat and most everything else have skyrocketed in price since that fateful sale was made and set off an explosion of cost boosts all along the food supply chain.

Now we are informed by the highest officials of the Nixon administration that the deal, indeed, was a Russian triumph and that we were badly burned by it. In discussing it the other day, Treasury Secretary George P. Shultz told the Associated Press:

> I think it is a fair statement to say that they (the Russians) were very sharp in their buying practices.

He could have gone on to say, but did not, that, while the Russians were sharp, our negotiators were reckless and even gullible and that this was the real reason we were burned. I doubt if history ever has recorded a more one-sided transaction between nations.

The effects of the Soviet bonanza are still taking place. Senator WALTER HUDDLESTON, Democrat of Kentucky, is asking the General Accounting Office to investigate his charges that the Soviet Union is reselling some of the wheat bought from us to the Italian Government for a profit of at least 100 percent. He bases his charges, the AP was informed, on Italian newspaper accounts that a ship had unloaded 22,000 metric tons of Soviet grain at a port near Rome and that two other ships may have discharged similar cargoes in that country previously. The present world wheat price is at least 100 percent more than the Russians have been paying us in the "locked-in" bargain we gave them in the summer of 1972.

All this is of extreme importance to the food-cost burdened American people as we have learned in visits home. They are faced with the irony of Russian negotiators, the agents of a supersocialistic system, having outsmarted, as Secretary Shultz admits, the administration negotiators who supposedly were acting in the interests of the most business-skilled nation the world ever has known. What happened? Has our Government become a haven for blunderers?

I rather believe we were burned by the Russians because of that America-last philosophy which has been evident throughout our Government since the end of World War II—the notion that, in dealing with others, we Americans always must make the big concessions on the premise that we have had the most to give. It is this idea which has robbed our country of billions in foreign aid grants. It is the identical thinking which still has us carrying global burdens far in excess of our share. And it was at the root of the wheat deal—the hope that, by coddling our former cold war enemy, we might win him over.

The result was that the sharp Russians made off with our wheat surplus at a price so low that they now can resell part of it at a profit while our housewives are compelled to stretch their food budgets in consequence of the deal to almost the breaking point. How much more of this America-last business can we stand? Certainly, it is high time to end it and get back to dealing in this world with our own interests uppermost.

## ANOTHER PEACE CORPS FAILURE

## HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. GROSS. Mr. Speaker, that unmitigated failure, the so-called Peace Corps, continues to bleed the American taxpayer into unconsciousness with the blessings and assistance of both the administration and spendthrift superliberals on Capitol Hill.

Increasingly, however, stories surface that give the lie to the do-gooders' theme that the Peace Corps represents salvation for the "undeveloped" nations.

The most recent of these to come to my attention is one told by former Peace Corps employee, Thomas Moore, in the September 9, 1973 issue of Parade magazine, and I include it for insertion in the RECORD at this point:

### A PEACE CORPSMAN REVISITS AN AFRICAN VILLAGE

(By Thomas Moore)

(EDITOR'S NOTE.—The Peace Corps came into being on March 1, 1961, by executive order of President John Kennedy. It has since sent more than 50,000 volunteers overseas at a loss of almost one billion dollars. The subject of much controversy over its 12 years, the Peace Corps has now become a part of ACTION, the recently created superagency.

(The writer, Thomas Moore, served for one year between 1968 and 1969 as the sole Peace Corps volunteer in the village of Cherif Lo (pop. 500) in Senegal, West Africa, an underdeveloped country of nearly 4 million people. This summer he returned to the village for a visit.)

"Assane N'Diaye?"

An old woman was sitting at the foot of a heavy baobab tree, sifting peanuts in a reed basket. The bad peanuts, dried up from lack of water, piled high on the sand. Life in the village had never been good, but the West African drought had now dragged into its fifth year.

"Assane N'Diaye. Nio n'ga legi? (You have come back.)"

She called out the name given to me in Wolof, the native language, like a question, but there was no doubt she remembered me. Few "tubabs" (whites) ever came to the village.

It had been four years since I had been a Peace Corps volunteer in Cherif Lo, a thatched-hut village about 80 kilometers inland from Dakar, the capital of Senegal. For a year I had worked with the villagers building an irrigation system for a small complex of vegetable gardens. The cement for a well, a motor pump, gasoline, a water reservoir and pipes and faucets for watering basins had been paid for with $1400 from the American Embassy Self Help Fund. It wasn't much. But it was the sort of project Peace Corps volunteers had been—and still are—carrying out around the world. I had come back to see if it had amounted to anything.

In the year of Watergate, the idea of the missionary Peace Corps seemed curiously dated, a youthful fad of the sixties—something no one talks about anymore. Yet 6900 volunteers were sent abroad last year, and another 7350 are going this year.

"IT'S BEEN A LONG TIME"

The old woman brushed the flies from her face and fanned herself a bit to relieve the stifling heat. We went through the traditional greetings: "Asalam alikoum. Malikoum salam. M'ba diam n'gam? (Do you have peace?) Diam arek anam. (Peace only.) Ana wa Amerique? (How's everybody in the States?) Nyunga fe rek. (Just fine.) Wai yo, Assane N'Diaye, git nalla gisse (Why, Assane, it's been a long time since I've seen you)."

It *had* been a long time, but surprisingly the Wolof came back to me, not only the sound of the language but the gentle kidding that had first struck me as a put down, the relaxed pace as though any pressing matters were not really that important (and they weren't). The heat of the village always made sitting down under the shade of a tree to talk awhile a genuine pleasure. The rest of the world may be in a hurry to get somewhere, to modernize, change, but not Cherif Lo. Things are all right just the way they are, as they have been for generations past, and no suggestion of progress (much less a village meeting to discuss problem-solving at precisely 3 o'clock) is going to interrupt a prayer class or an easy afternoon of drinking tea and holding a "wahtan" (palaver).

LURE OF ADVENTURE

Two weeks after graduating from college in the politically tumultuous spring of 1968, I was dropped off in Sherif Lo—part of the second wave of Peace Corps volunteers who came not so much out of idealism as a kind of escapist despair with the United States and hope for a little romantic adventure in an exotic land. And maybe there was an outside chance we really could do something.

I remember getting out of a bush taxi from Dakar on the paved road about a kilometer from the village. Two baobab trees marked the spot where a sand trail snaked its way leisurely through bramble bushes and anthills, under a merciless sun, to the village. But from the road, there was nothing, no visible destination for a white man. Only Africans ever got off taxis between the larger towns. As the taxi drove off, the occupants craned their necks to stare at me as though I were walking off into the bush to die.

ALONE IN AN ALIEN LAND

My first weeks had been hard. As the only Peace Corps volunteer in the village, I was alone among people whose language and culture were totally alien. Looked on as an object of curiosity, I had trouble doing the simplest tasks of survival such as boiling the water I drank and getting food. Worse and least expected was the absence of any kindred spirit to talk to, someone to whom I could confide the mix of emotions and observations of a stranger in a strange land.

I had busied myself with building a few fences for privacy, learning enough of the Wolof language to get by, and occasionally venturing around the village to make myself known. The hardest problem was to explain why I was there. The question was often asked. To tell the villagers I had come to help bring them progress seemed condescending. Secondly, it didn't make much sense to them. Come on, what's in it for you, they seemed to say. I soon took to making up more plausible reasons for why I was there, like saying I was paid a lot (volunteers receive about $135 a month for living expenses in Senegal, what some villagers earn in a year). Once that question was settled, I was accepted. As in the States, nobody does something for nothing.

Returning to the village this year was like going back to high school, wondering if the teachers would remember your name. This time I arrived in a rented car. Life had not changed appreciably in Cherif Lo. The incessant thump of women beating millet in large wooden urns resounded like a muffled heartbeat from inside the village. Smiling and shy, a crowd of barefoot kids ran up to shake hands with me. The soft focus of memory had blurred their blemishes, their eyes red, yellow or swollen from diseases like malaria or cholera, the scabs on their legs covered with flies, the runny noses.

POTATOES AND PHOTO

I trudged through the hot sand into the family compound of Moussa N'Dir, the treasurer of the Cherif Lo cooperative with whom I had lived. Word had already spread that I was back and Moussa came out to greet me in full dress, an Arabic kaftan and fez. I had brought a 100-kilo sack of potatoes in the car as a gift (rice, the usual staple, was almost impossible to come by in the country because of the drought) and some 8 x 10 glossy photographs of village life I had taken.

Local protocol dictated that lunch be taken at each of the homes of the four "*animateurs*," or local leaders, with whom I had worked. After that there was a long afternoon of drinking tea. Finally, the *animateurs* reluctantly agreed to go out to the well. As I had suspected, the pump had broken down three years earlier. The vegetable gardens had been abandoned. No one from the government's technical services took it upon himself to fix the pump. Instead, the sheetmetal water reservoir had been dismantled for no apparent reason and the pipes and faucets ripped up and taken into the prefecture, for "safekeeping." The odds were good, as is common in the country, that some low-level government *fonctionnaire* (official) either sold the material for his own profit or took it for his own use. It was out of line, certainly undiplomatic, to inquire further about such things.

I started at the 300 meters of one-foot-deep trenches we had dug for the pipes and thought how ridiculous they looked. They ran off in odd directions from the dismantled reservoir, cutting through age-old paths and bush lines demarcating the family fields. It looked as if the pipes had been removed in a hurry. It probably took a day to undo the work of a year.

TAKES IT IN STRIDE

I wasn't particularly angry, nor did I jump up and down, or slam the car door, or drive around in circles like I was a little crazy—my routine four years ago when I would show up for work to find that half the work team had decided to take the day off. Now it just seemed kind of pointless.

The village *animateurs* looked at me and I looked at them and there was nothing more to say. It was beyond either them or me. There had been no follow-up to that project, either by the Senegalese government or the Peace Corps.

For some time now the Peace Corps has pointed with curious pride to the fact it has phased most of its programs into host-country government bureaucracies. But the problem for the volunteer was that his work, well-intentioned, often naive, but sometimes practicable and even ingenious, always seemed to be sabotaged by *fonctionnaires*. Whether incompetent, corrupt or just hostile to Americans, these government officials, under whom the volunteers worked, were never really receptive to the Peace Corps. Certainly villagers and students—the people for whom and with whom volunteers worked—came to respect some of the things we did and the people we were. But many *fonctionnaires*, at least in Senegal, resented the volunteers. If we weren't spies, they thought we were arrogant or there to embarrass them.

There was almost no material, technical or even political cooperation in the government for Peace Corps work. Volunteers spent much of their time fighting red tape—it once took me two days in a prefecture to get seven authorizations for a sack of United Nations cement to repair a well in the village. Talking over the problems with Senegalese superiors was even more frustrating.

CONVENIENT MYTH

I don't think anyone pretends any longer that the Peace Corps has even the remotest connection to real social and economic development in the Third World. At most, as many volunteers still justify their experiences, the Peace Corps is a kind of experiment in international living. But the myth that the Peace Corps is a significant contribution to the problems of underdeveloped countries is maintained as the public diplomatic posture by both host countries and Peace Corps officials. It is my feeling that the Senegalese government requests Peace Corps volunteers only because to turn down the American offer would look unfriendly and make it more difficult to get crucial loans and aid from the World Bank and the U.S. government. For its part, the Peace Corps now seems to take the line that if a country requests volunteers, that's all the justification it needs to send them.

ANONYMITY AND PERSISTENCE

After 12 years of unremarkable results, the Peace Corps seems to have given up altogether the idea of changing anything. Instead, it is content to have achieved a certain comfortable anonymity, behind which it has settled into unquestioning bureaucratic ways. No longer does it ask why it should exist—the challenge of any vital new enterprise—but only how it might persist.

I call particular attention to Mr. Moore's statement that "I don't think anyone pretends any longer that the Peace Corps has even the remotest connection to real social and economic development in the Third World."

It never did, of course, and the American people are hundreds of millions of dollars poorer because of this ill-conceived scheme that so clearly illustrates yet another facet of the bankruptcy of liberalism.

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## SUPPORT FOR EXPORT CONTROL AMENDMENTS

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### HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Ms. HOLTZMAN. Mr. Speaker, at this time, I would like to offer the reasons I voted for H.R. 8547, the Export Administration Amendments of 1973, which passed the House last Thursday by a vote of 220 to 133.

This important piece of legislation was designed to protect the domestic economy from the excessive drain of scarce materials and commodities to foreign markets that has resulted in a serious inflationary impact on our domestic economy. In essence, this bill will give the President the authority to control such excessive exportation of products, particularly in the lumber and food supply areas.

The Nixon administration's failure to develop a coherent export policy has caused economic havoc here at home. For example, while total exports of agricultural goods increased only 4 percent from 1971 to 1972, such exports increased by a spectacular 60 percent in fiscal 1973. Exports of feed grain have increased 110 percent from fiscal 1971; wheat and wheat products 84 percent; oilseeds and oil products—especially soybeans—70 percent; and meat and meat products have jumped up to 66 percent. This increase in vital agricultural products has far surpassed our domestic production capacity.

The exportation of these commodities on such a huge scale has caused shortages here at home and has driven up food prices dramatically. For example, just last week we learned that the wholesale price index for agricultural products rose 23 percent in the month of August. Needless to say, the American consumer, especially those on fixed incomes such as our elderly, cannot even begin to afford the price increase.

With such a direct relationship between our trade policies and the rampant inflationary pressure in this country, it is absolutely incredible that this administration has taken a completely laissez-faire attitude toward this problem.

Not only has the Secretary of Agriculture refused to utilize any of the existing remedial legislation presently on the books, but the administration actively opposed this new export legislation until June of this year.

The administration has been guilty of malfeasance as well as nonfeasance in this area. The Soviet wheat deal, which was hailed in the middle of the 1972 Presidential election as one of the hallmarks of the Nixon administration's foreign policy accomplishments, has turned into a first-rate fiscal disaster for this country. Just last week, Secretary of the Treasury George Shultz conceded that this country was "burned" in that venture. He acknowledged that "the price of a loaf of bread in Moscow is cheaper than it is here—I think it is a fair statement that—the Soviet Union—was very sharp in its buying practices."

Despite such glaring errors, the President has recently had the gall to attempt to place the blame for our economic ills on a so-called failure on the part of Congress to provide him with needed legislation. We should not have to remind the President, and we do not have to remind the American people, that this Congress passed the Economic Stabilization Act of 1973 which gave the President carte-blanche authority to implement also any policy he desired to control inflation. Indeed, the failure of the Nixon economic game plan suggests that, if any error was committed by the Congress, we delegated too much, not too little, authority to the President.

And it is this Congress, which is giving the President new authority to cope with excessive exportation of critically needed commodities here at home. It is now up to the President to demonstrate that he is able to forge an effective policy out of the power he has been given.

Again, I am somewhat concerned about the broad delegation we have given the administration within this bill. However, the problem is an urgent one and the people in my district and throughout the country are deeply hurt by rampant inflation of food prices. Failure to pass the bill would only give the Nixon administration one more excuse for its failure to bring normalcy to prices. However, I would strongly urge that we carefully examine the action or lack of action taken by the administration in this area. We should be quick to step in if relief is not in sight.

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## PUERTO RICO AND THE UNITED NATIONS

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ASHBROOK. Mr. Speaker, the United Nations is frequently critized for its lack of effectiveness in dealing with international problems. Equally serious, however, is the distorted view of reality held by many member nations.

A case in point is a recent resolution adopted by the Committee on Colonialism regarding the status of Puerto Rico. By a vote of 12 to 2, the U.N. Committee affirmed Puerto Rico's right to independence. The resolution requests that the United States "refrain from taking any measures which might obstruct the full and free exercise by the people of Puerto Rico of their inalienable right to self-determination and independence." It also keeps the Puerto Rican question under the Colonialism Committee's "continuous review."

John Scali, our Ambassador to the United Nations, has rightfully labeled this resolution "ludicrous." In a free and open election held last year, 51 percent of the Puerto Rican people voted for the Popular Democratic Party, a party which advocates maintenance of the current Commonwealth status. Another 43 percent voted for the New Progressive Party, which is pressing for statehood in the United States. Only 5 percent of the electorate cast ballots in favor of the Independence Party.

The Committee on Colonialism is therefore pushing a plan that has been rejected by 95 percent of the voters. Perhaps, as Mr. Scali indicates:

> It may be some consolation to the people of Puerto Rico, who undoubtedly will be as outraged as I am by this blatant interference in their internal affairs, to realize that many of the nations which took the lead in supporting the resolution do not permit their citizens freely to express their views on who will govern them and for how long.

Rather than providing consolation, however, I find the hypocrisy demonstrated by these nations deeply troubling. The distorted views put forward by this committee raise serious doubts as to the ability of the United Nations to deal with international problems in a fair and objective manner.

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## THE DECLINE OF THE AMERICAN TEXTILE INDUSTRY

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HARRINGTON. Mr. Speaker, the decline of the American textile industry has laid off thousands of workers in New England and elsewhere in this country. It is a serious matter that has been debated at length, here in the Congress and elsewhere. It is a question I hope to address soon in more detail.

It is interesting to note that this decline has been arrested recently, apparently by the repeated devaluation of the dollar. Isadore Barmash wrote "The Eclipse of the Far Eastern Textile Advantage," which appeared in the September 9 issue of the New York Times. The article traced the causes of this reversal in textile advantage. It should be of interest to each of my colleagues disturbed by the condition of the American textile industry.

The text of the article follows:

### THE ECLIPSE OF THE FAR EASTERN TEXTILE ADVANTAGE

(By Isadore Barmash)

American manufacturers and retailers who rushed to the Far East to scoop up apparel produced by low-wage labor are rushing back to the United States these days.

In a rapidly developing shift from Far Eastern to American manufacturing, the Rising Sun is fading as far as American apparel men are concerned because of international money changes, inflation in Japan and worldwide textile shortages.

The price differential in favor of Japanese and other Oriental goods as compared with American products has all but disappeared in recent months, many marketers and makers of apparel have found.

As a result, a race is under way to revert to American manufacturing facilities as well as to tap still existing low-wage countries such as Brazil, Colombia and Argentina and such Eastern-bloc countries as Yugoslavia and Poland as sources for clothes manufacturing.

The Japanese, too, are vitally involved in the competition. They not only are seeking likely items for production in this country but also are buying United States apparel makers and opening production facilities as rapidly as possible in South America.

A variety of developments underscore the trend.

For the first time in many years, the Kayser-Roth Corporation, one of the largest American producers of clothing, is manufacturing apparel in "significant" quantities to be shipped to Japan, reported Norman M. Hinerfeld, executive vice president.

"The Japanese are unable, because of their labor shortage, to supply the demand in their country," he said, "and are unable to find sufficient production capacity in low-wage countries."

This country's largest retail chains, such as Sears, Roebuck & Co., the J. C. Penney Company, R. H. Macy & Co. and Montgomery Ward & Co., are diverting much of their buying of apparel from the Far East to the United States and to the low-wage countries of the Western Hemisphere.

The dollar devaluation and the upward revaluation of the yen have combined to raise prices of Japanese apparel shipped to the United States by about 36 per cent.

As a result, Japanese-made men's poplin walking shorts, for example, which cost $29.50 a dozen at wholesale last spring, will cost about $43 a dozen next spring. This means the retail price will rise from $5 each to $7 each, the new price being virtually at the level of American-made shorts.

Manhattan Industries, Inc., a major producer of men's furnishings and sportswear, will bring in fewer knit shirts from the Far East this year and produce more in this country, according to Robert L. Leeds, chairman.

"We also used to buy textiles in Japan but are now buying them here," he said. "International fabric shortages have led to generally higher prices. And that, combined with the need to commit yourself far in advance for foreign goods, is a risk we need no longer take."

The vast Japanese textile industry, which not so long ago was outproducing the United States in certain categories of fiber and fabric, is now buying a considerable yardage of American-made fabrics. In addition, a growing number of joint ventures have been arranged between Japanese and American textile companies for production in the United States.

Involved in the shift back to United States manufacturing are not only men's shirts, slacks, jackets and other sportwear but also children's wear and women's apparel.

While many of these items are what is commonly termed "budget" or "popular-priced," the so-called "fashion" items are also increasingly involved, Mr. Leeds of Manhattan Industries explained:

"As fashion becomes more and more important in men's wear, the need to come out with new fashions militates against buying imports because of the long lead time required. It often takes eight months before you can obtain the garments you ordered in the Far East."

Norman Seider, president of Kirby, Block Marketing Services, Inc., a leading resident buying office, said:

"The Far East, principally Japan, not long ago totally dominated the budget price-points in the retailer's inventory. Now, because of money changes and inflation, it's just another source of supply."

What will it all mean to the American consumer?

If the average American hopes for lower prices because of the revitalized importance of American manufacturing, he will probably be disappointed. The erosion of the price differential between Japanese and American goods will not remove the inflationary basic causes of the change.

"I'm afraid the United States shopper is in for two shocks in the next few months," said Mr. Hinerfeld of Kayser-Roth.

"One is that the price of such major domestic commodities as wool and cotton will reflect the international shortage of those textiles. Inventory building by producers all over the world and speculative buying have shot the cost way up. The result is that domestic goods must show the increasing costs of the raw material.

"The other shock is that there will still be lots of imports in the stores, representing commitments made earlier this year, but they will be priced higher than before. About 8 percent of United States clothing consumption consisted of imports. The ratio will be lower this year and next, but prices will be up at least 30 percent."

The trend of reverting to manufacturing in the United States was described as "diverting backwards" by Robert A. Belsky, chairman of Sweater Bee by Banff, a knit-goods importer and manufacturer.

"We are adding considerable additional domestic production in addition to our Far Eastern manufacturing commitments," he said. "The United States, while it can't compete on fashion embroidered items and full-fashion knits, can now compete on almost everything else, and that's a lot."

The current situation has developed not without a certain dash of irony for the American apparel and textile industries.

When new textile and textile-product quotas were legislated in 1972 by the Federal Government for goods produced in the Far East and imported by this country, many domestic producers were compelled to choose in what category of goods and at what prices they would assign their needs within the official quotas.

On a hypothetical quota for one million square yards, for example, a United States trade customer could have acquired children's garments or women's sportswear, using similar or different cloth, as long as his total yardage was not exceeded.

Many businessmen, with an eye on their profit goals, elected to bring in yardage of the highest-priced merchandise. The result was a lower total of import yardage but a higher total of dollar valuation for imports.

Then, unexpectedly, as the currency changes took effect and international inflation began to soar, importers found that the higher-priced goods cost as much as 40 per cent more, surrendering their competitive advantage in relation to domestic merchandise.

Most industry sources last week predicted a major reduction in the net trade deficit for textiles as the trend of fewer imports and more exports develops.

Meanwhile, a search is under way for lofts, plants and meadows where new factories can be erected to meet the increased demand for American manufacturing. But the consensus is that manufacturing sites are not as big a problem as the shortage of production workers. The apparel industry has traditionally paid less to production workers than other American manufacturing industries and has suffered a resulting erosion in its labor supply.

The South American countries, while looming as an eventual important source of manufacturing capacity, are not expected to fulfill this need for some years, owing to a lack of technology maturity. The Japanese are expected to help solve these problems by providing qualified training supervisors and engineers.

How far the "diverting backwards" movement will progress is not yet known, of course. But it is creating a widespread stir among businessmen in both hemispheres.

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## ARNOLD MILLER GOES WHERE THE ACTION IS

## HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HECHLER of West Virginia. Mr. Speaker, leadership on behalf of rank-and-file coal miners is being practiced by United Mine Workers of America President Arnold Miller, Vice President Mike Trbovich, and Secretary-Treasurer Harry Patrick.

I am pleased to call the attention of my colleagues to the following editorial from the heart of West Virginia's southern coalfields, which appeared in the Fayette Tribune, published and edited by my good friend, Robert K. Holliday. As the editorial so aptly points out, Arnold Miller can be found where the action is—"at the portal of almost any mine every day" to meet and talk with the rank-and-file members.

The editorial follows:

### One Sees Miller, Trbovich, and Patrick in John Lewis

Perhaps one of the most colorful personages who were among the greats of American industry and enterprise in the 20th century is none other than the late John L. Lewis, who earned the crown of "Mr. Labor" in his fight for labor's good life and brought hope for millions from depression misery.

Samuel Gompers earned a place in American History books, but Gompers died before many of us really knew what the meaning of labor, collective bargaining and contracts really referred to.

John L. Lewis, the uncrowned king of 20th century labor movement in American History, will fill many more chapters than Gompers ever did. Lewis will go down in the history's millenium of a man who defied presidents of this country, who brought captains of the coal industry to their knees but who also commanded more respect from both capital as well as labor.

In the past five years, three men also in labor, who fought for the rank and file miner, in a composite form, compare to Lewis. They are the late Joseph Yablonski, Arnold Miller and Mike Trbovich.

Remembering the past speeches of the late labor leader who sought to topple a UMWA leader's empire, one remembers the thunderous speaking ability of Lewis, as Yablonski was just as capable a speaker and was just as erudite as Lewis was.

Although Jock Yablonski did not want to die, and did not willingly give his life, he has become the martyr to all mining men, those who worked in the pits, those who worked "at the face," ran the motors, or moved mountains to get at the raw wealth that lies beneath the earth. He was a shining example of wrong that is trying and crying to be corrected.

Arnold Miller, whose efforts of getting an election overthrown and conducted anew, is now the new UMWA President, unseating an almost implacable king, W. A. (Tony) Boyle. Miller, who walks with the everyday miner, more so than Lewis ever did, can be found at the portal of almost any mine every day. Miller wants to put the UMWA at the rank and file level of every miner.

Miller relies and believes more in action than in words, feeling that his actions speak louder than any speech or press release.

Mike Trbovich, a quiet but urbane man of the mines, combines a little of all three, Lewis, Yablonski and Miller. Trbovich is personable and is a very capable speaker earning the interest of any audience. He is quiet as Miller is, but is the speaker in an unassuming manner, of course, such as Lewis and the late Yablonski.

Another of the foursome, not yet heard about much, is Harry Patrick, a native West Virginian, from Fairmont, cocky, sure of himself and apparently knows the mining industry and the union by heart.

Patrick, who is secretary of the UMWA's group, does not make the daily press, but is one who works behind the scenes, along with the president, Miller, and vice-president, Trbovich.

In first meeting him, he impresses one of having the self-assurance such as that exercised by Lewis, but he has the charm of the every-day mining man that Lewis didn't.

(Ed. Note—The above editorial was written last Tuesday before the indictment of W. A. (Tony) Boyle for the slayings of Joseph A. (Jock) Yablonski, his wife and daughter. We are proud to say that this newspaper editorially supported Mr. Yablonski when he ran against Boyle, and the editor of this paper has been a long-time friend of Arnold Miller.)

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## MINIMUM WAGES: THE CASE FOR OVERRIDING THE PRESIDENTIAL VETO

### HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. MATSUNAGA. Mr. Speaker, President Nixon has vetoed H.R. 7935, the Fair Labor Standards Act Amendments of 1973, legislation designed to bring the wages of the poorest working Americans more nearly into line with today's mushrooming prices. The ostensible reason given by the President was to fight inflation.

Even if increasing the wages of those earning the minimum were a major factor in fueling America's inflation, Mr. Nixon's veto would not have been justified. For as the Washington Post pointed out in an editorial last Saturday, prices have increased 33 percent since the present minimum wage of $1.60 an hour was established by Congress in 1966. The immediate increase proposed in H.R. 7935 amounts to only 25 percent.

The tragedy, however, is that the cause of fighting inflation was neither served nor disserved by this legislation. The administration itself has calculated that the country's total wages would be increased by only four-tenths of 1 percent if H.R. 7935 were enacted.

Mr. Speaker, when the House votes next Wednesday on the motion to override President Nixon's veto, I shall vote to override. Some of the most perceptive reasons for my colleagues to do the same are contained in the editorial from the Post to which I referred. I offer it for inclusion at this point:

[From the Washington Post, Sept. 8, 1973]

MINIMUM WAGES AND VETO

In political terms, President Nixon's veto of the minimum-wage bill is another shoddy attempt to blame inflation on an allegedly reckless Congress. When the President says that the bill "would give an enormous boost to inflation," he is factually incorrect. In economic terms, neither the bill nor its veto could have any significant effect on inflation one way or the other.

The bill would have raised the wages of 3.8 million workers. That is fewer than one out of every 20 employed Americans. Sen. Harrison Williams (D-N.J.) has observed, using the administration's own figures, that this bill in its first year would increase the nation's total wages only 0.4 per cent. In later years, the effects would be even smaller. The veto leaves the impression that Mr. Nixon is prepared to fight desperately over very small improvements in the income of the poor, while silently tolerating much larger increases in the politically sensitive matters of union contracts and business profits.

Mr. Nixon's denunciation of this bill as grossly inflationary is particularly unfortunate in view of his own proposal, which would have almost the same impact. The vetoed bill would raise the minimum wage from the present $1.60 an hour to $2 in November and $2.20 next July. Mr. Nixon's counter offer would bring the minimum up to $1.90 now and then up to $2.30 in steps over the next three years. The difference between these two scales, in their economic effect, is hardly measurable.

There are several ways to judge the fairness and adequacy of the present minimum wage. A person earning $1.60 an hour, working 40 hours a week and 52 weeks a year, would make an annual income of $3,320. The U.S. Department of Labor says that the current definition of poverty, for a family of four, is an income under $4,300. Even at a wage of $2.20 the worker would get only $4,576 a year, which will probably be less than the Labor Department's definition of poverty by next July when the minimum would have reached that level. Mr. Nixon's own Cost of Living Council exempts wages under $3.50 an hour from its wage controls, on grounds that such excessively low earnings ought not be subjected to any artificial restraint.

The present minimum of $1.60 began to come into force in 1967. The cost of living in this country rose 33 per cent from 1967 to last June. If the minimum wage were raised only enough to keep up with the cost of living, it would have to be taken up to $2.13 right now. To put it another way, the minimum wage in 1967 represented about 60 per cent of the average hourly earnings in this country. If Congress had wanted only to maintain the same relation of the minimum to the average, it would have had to raise the minimum to $2.32 by last July instead of $2.20 by next July. The bill that Congress passed did not even fully compensate for the inflation of past years. It does not even keep pace with the general rise of American wages, let alone incite future inflation.

Mr. Nixon keeps saying that he wants a stronger and warmer spirit of cooperation with Congress. But he keeps deliberately provoking fights. In this case he has turned his veto into a particularly unjustified attack on Congress, citing inflationary effects that do not exist. Congress and the President share the blame for the present level of inflation, and a certain amount of public recrimination is doubtless inevitable. But here the burden of Mr. Nixon's veto will fall upon 3.8 million American workers whose present meager wages leave them deep in poverty.

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## CARY MANAGER PUTS HIS LEARNING TO WORK

### HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ANDREWS of North Carolina. Mr. Speaker, I would like to share with my colleagues the story of a successful man: Harry A. Conte, the town manager of Cary, N.C.

Cary is the fastest-growing town in Wake County, and quite possibly the fastest-growing town in the entire State. Much of the credit for this orderly growth belongs to Harry Conte, a man who—as the following article points out—"practices what he preaches."

His unique talent for combining acquired knowledge, hard work, and workable techniques has evidenced a success formula from which I believe other towns on the move can profit.

My congratulations and thanks to Mr. Conte for his significant contribution to the town of Cary, the Fourth Congressional District, and to North Carolina.

I should also like to commend the Raleigh Times and Dudley Price, the author, for recognizing and publicizing these special accomplishments. The article follows:

[From the Raleigh (N.C.) Times, Sept. 11, 1973]

CARY MANAGER PUTS HIS LEARNING TO WORK

(By Dudley Price)

"If a man has knowledge and doesn't use it, it's just like taking a dollar bill and sticking it in a hole somewhere. It doesn't do anybody a damn bit of good."

Cary Town Manager Harry A. Conte practices what he preaches.

Using training he acquired on the job, Conte has in a year and a half modernized the municipal operations of Wake's fastest-growing town to keep pace with the town's spiraling growth.

DEPENDABLE

He is a man whom members of the Town Council have come to depend upon, whom they discuss problems and exchange opinions with.

And to Cary employes, Conte is a man who delegates authority, maintains good working relationships and who in the words of one department head, is able to compromise.

"I believe in watching others and trying to improve upon their work," Conte said in a recent interview. Since he became manager in March, 1972, Conte's list of town firsts includes polling residents by questionnaires, holding weekly staff meetings, rewriting personnel policy, drafting a modern pay plan and putting out an annual town report.

60-HOUR WEEK

Conte, 46, estimates he spends 60 hours a week working as chief town executive. The duties include preparing the yearly budget for council review, top-level town administration and attending all council and committee meetings.

Conte does not mind the time his job requires. "If it's a pleasure to come to work, a fellow's doing okay," he said.

That attitude may have had something to do with Conte's decision to come to Cary from his post as director of housing and development for Fairfax, Va., a decision that cost him a $6,500 per year cut in salary.

Building and sewer moratoriums had squelched Fairfax's growth, he explained. In addition, under Virginia law it is necessary to go to court to annex, he said.

FIRST PLANNER

When he was offered the job as Cary planner and engineer in September, 1971, he saw a chance to work in a town with real growth potential.

"It was a chance to put planning and experience into practice," he said of Cary, whose population has jumped from 1,446 in 1950 to more than 13,000 today.

Since he was Cary's first planner, it also was a chance to organize a department to cope with Cary's growth and begin planning for the future.

"Things were in a general state of chaos," he said. Conte set out to organize jumbled water and sewer plans and to enforce previously ignored ordinances.

QUESTIONNAIRES

When Town Manager Lexie L. Lane retired in March, 1972, the post was offered to Conte.

"My first order was to set weekly staff meetings," he recalled. And he started sampling residents' opinions with questionaries mailed with water bills.

The first dealt with basic questions about the town and its services. A second was more specific, dealing with budget-related questions. A third questionaire—dealing with subdivision problems is planned and probably will be mailed around the first of next year.

While the 25 per cent response to the first questionaire pleased Conte, the 12 per cent response to the second left him less than thrilled.

"I want to get the public more active in town government," Conte said. A Vermonter, Conte said he favors the town meeting style of government common in New England. "I'd like to see the public speak out on issues that do not directly affect them," he said.

Conte noted a council meeting when about 100 persons turned up to discuss the exterior of the new town hall. At another, the one in which Cary passed a $3.5 million budget, only a handful attended.

Conte said he feels one of Cary's strong points is that it is willing to plan for the future. "You can't stop growth," he said, "so you've got to provide for orderly growth."

### WILLING TO PLAN

Conte points to the success of the planned unit development ordinance in Cary as an example of the town's open-mindedness in planning. "As long as the town's open like that, it will have good residential areas and development," he said.

Conte feels his most important accomplishment as town manager is in administrative areas, particularly in giving department heads freedom to operate. "A town manager can't delegate responsibility, but he can delegate authority," he said.

### PERFORMANCE HIGH

Department heads seem to agree. "He delegates full authority to operate the department," soid Fire Chief Terry L. Edmondson. "He will listen to my opinions, and I'll listen to him," Edmondson said. "He's doing a heck of a good job," the chief added.

Public Works Director Norman Padget agreed, saying the delegation of authority to department heads was "one of the main things Conte's done."

### CONTE KNOWS ROLE

Recreation Director Mike Whitby said the only time Conte intervenes in department matters is "when he's asked." He said Conte is able to compromise but rated his main accomplishment as manager being able to cope with Cary's rapid growth. "Conte does a good job," he said.

### "HE LISTENS"

Conte seems to enjoy similar good relations with the town council. "If I have a problem, I go to the town manager," said Councilman Thomas H. Griffis. Griffis said there was free interaction between Conte and the council. "If we don't agree, then we say so," he said.

Mayor Fred G. Bond ranks Conte's performance at "a high level." Conte is familiar with water and sewer matters, Bond said, and he has done a good job coordinating town departments. Councilman Joe R. Veasey said, "Administratively, he's excellent."

Councilman E. Russell Secrest said Conte has probably the hardest town manager's job for a town of Cary's size because of its extremely rapid growth. "He's keeping the town running, and he's building an organization," he said. "As an administrator and an organizer he's doing a heck of a job." Secrest said the council's estimation of Conte's performance was indicated by a recent unanimous decision to increase the manager's annual salary from $13,000 to $20,000.

The high opinion is shared outside Cary's governmental structure. "Conte brought professional management the town needs because of its growth," said Joe Sanders, former Wake County intergovernmental coordinator who now works in Chapel Hill for the Frank Porter Graham trust.

"Conte knows sound principles of management and how to keep good relations with other boards in the county. He knows his role in Cary government," Sanders said.

Appearance Commission Chairman Harold D. Ritter said Conte "probably is doing a good job considering the town is growing by leaps and bounds."

### SERIES OF JOBS

Born in West Rutland, Vt. Conte graduated from high school and received his first training on-the-job as an electrician for Winchester Corp in New Haven, Conn. He attended the DeVries School in New Haven where he learned electronics and gained certification as a master electrician.

He then moved through a series of jobs in Richmond, Va., and Wilmington where he met his wife, Hilda, before moving to Arlington County, Va., as an electrical inspector.

In 1964, he began working as chief building inspector for Fairfax, Va., which was then only a town. By 1971, he was director of the Department of Housing and Development for Fairfax, which had grown into a city.

He was in charge of site plans and subdivision reviews, floodplain studies, zoning and housing inspections, was fire marshal and helped draft ordinances for the city.

### "I WAS FORTUNATE"

"I was really fortunate," Conte said. "When Fairfax went from a town to a city, I was able to get varied experience a lot of people don't get," he said.

Since coming to Cary, Conte has taken correspondence courses from the international city managers association in public relations, public works administration and supervision. He has taken a Dale Carnegie course in public speaking and attended seminars given by the Institute of Government in Chapel Hill.

Conte, his wife and son Michael, 12, live at 717 Brunswick Place.

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## IMMEDIATE SOCIAL SECURITY INCREASE NEEDED

## HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. YOUNG of Florida. Mr. Speaker, I have today sponsored legislation to put into effect immediately the social security cost-of-living increase originally scheduled for July 1, 1974. America's 21 million senior citizens need our help now, not next year.

In July the House approved a 5.9 percent increase in benefits to make up for the inflation of the past fiscal year. At that time, I favored making the increase effective right away—after all, a "catch-up" increase which doesn't catch up until a year later is not much good.

However, proponents of the delay argued that it was necessary to avoid a budgetary drain and also to give time for the social security tax to be increased to pay for the new outlays. A majority of the Members of Congress agreed and the effective date of the payment increase was thus delayed.

Such a delay is no longer supportable. The Department of Agriculture is now predicting that food prices alone will increase at least 20 percent this year. Medical costs and prescription drug prices continue to soar—and medicare does not come close to covering all these costs for our senior citizens. For some of my constituents, it has become a harrowing choice between food or medicine. This is a choice that no American should have to make.

Nearly three out of four Americans over the age of 65 have annual incomes below $3,000, including 2.5 million persons with no income at all. The 5.9 percent increase which is pending represents about $9 a month for the individual retired worker, raising his monthly benefits to $176. I see nothing inflationary about giving these persons an extra $9 a month, especially when it means they may be able to eat decent meals again.

Mr. Speaker, 85 of my colleagues have joined with me in calling for an immediate social security increase. Yesterday the Senate approved an amendment to make the increase effective now. In the name of humanity toward our senior citizens. I urge the House to take similar swift action.

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## A EUROPEAN VIEW OF NEGOTIATING WITH THE SOVIET UNION

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ASHBROOK. Mr. Speaker, realistic appraisals of the Soviet Union and negotiations with that power seem more prevalent in many parts of Europe than in the United States. Too many American officials and observers are viewing détente as a one-way deal with the United States doing all the giving and the Soviet Union doing all the taking. These people seem to completely neglect any idea of reciprocity in dealing with the Soviet Union.

A leading French statesman and grand old man of French politics Antoine Pinay suggests a different course in negotiating with the Soviet Union—a course different than that which the United States is presently following. I urge my colleagues to give consideration to the remarks of Mr. Pinay in the following interview published in the foreign publication To the Point:

### FIGHTING FOR A FREE EUROPE

Since President De Gaulle's Death in 1970, Antoine Pinay, 81, has been the grand old man of conservative French politics. He is the embodiment of the French "province" (France outside Paris), which has always finally determined the direction of French politics.

An industrialist, he has been mayor of Saint Chammond in the Loire district for 45 years. Before World War Two, he was a member of parliament and a senator. After the war, he returned to politics, becoming the *de facto* leader of the powerful conservative group of "independents and moderates" in 1952. This party, with 110 seats, then held the key to power in a parliament divided between Gaullists, the communists and the centre-left group. He was elected prime minister in 1952, and minister of foreign affairs in 1955–56. However he withdrew from active politics soon after the 1956 elections, leaving the French Parliament in a chaotic state.

In 1958, De Gaulle appointed him finance minister after the uprisings in Algeria. He left the government in 1960 after disagreeing with De Gaulle's tactics in Algeria. Since then, he has presided over several communal and economic boards. He is considered a close friend of the dynamic conservative leader, Valery Giscard d'Estaing, whose political career he once promoted. Well respected by President Pompidou, he was appointed France's first *Mediateur* (Ombudsman) in January of this year. Pinay's words carry a lot of weight in French politics—much more than he admits. It has always been the policy of France to have moral issues raised by respected political figures who are not in the forefront of daily politics, especially those issues which are causes of concern to the political leadership of the country.

At the moment, the French leaders fear that the European Security Conference, which takes place while the United States is preoccupied with Watergate and the Bonn government flirts with Moscow, could result in a covert Russian domination of Europe. It is perhaps Pinay's mission to voice these fears.

To THE POINT. Mr. Pinay, you are apparently very much concerned with the freedom of all Europe . . .

PINAY. You know, the most moving episode in my life was when, in Vienna in 1955, we—the foreign ministers of the Big Four—signed the treaty for the liberation of Austria. I remember that day as if it was today. We signed in that palace; what is its name? Yes, the Belvedere. The streets were full. I don't know whether there were 500,000 or 600,000 people in the streets. Everybody was crying. At the reception in the Imperial Palace of Schoenbrunn, one could see the Austrians had brought out their finest suits and dresses. It was so pathetic, one wanted to cry . . .

To THE POINT. And today you are concerned with the freedom of Europe at the European Security Conference which opens on September 18, you have signed a declaration . . .

PINAY. We must ask for full liberation; we must test whether Russia really has the sincere intention to achieve permanent peace. This will be apparent only if it accepts the necessary freedoms; for mankind and for ideas. We must demand that the countries of Eastern Europe grant the same freedom of movement that is present in Western countries. If we don't achieve this, the conference will be just a snare. The appeal has been signed not only by me. It has been signed by 600 prominent persons in Europe. In France it has been signed by politicians of all persuasions. Men like Max Lejeune, Monnerville (ex-president of the Senate), Lecanuet (the leader of the centre reformists). We have received a cable from Chancellor Brandt, who declares that he fully approves of our demands.

What we ask for is free travel without passports, or at least without visas, in the whole of Europe—as is the case now in Western Europe. People should travel with only an identity card and be able to circulate over the whole area made up of the countries attending the conference. There should be freedom of marriage, freedom to mix with all the inhabitants of the countries one visits, and student exchange programmes, and an exchange of young workers. These people should be able to live with families in the host countries. And books, newspapers and films should circulate freely. Naturally, we think that the West must not ask for anything which it is not willing to concede itself. But I think it must ask for it and make it an absolute condition. Without a firm stand the conference makes no sense.

To THE POINT. And security . . . ?

PINAY. We demand in the first stage that the military forces in Europe be balanced. It is the lack of balance that causes tension. Later, one can disarm.

To THE POINT. Do you really believe that these demands have any chance of being accepted by the Russians?

PINAY. Well, if you would ask me to bet, I would not bet a fortune on it. But I think the West should insist on these demands if one does not want Russia to use the conference as a smokescreen for propaganda and expansion. If Russia rejects these demands, it is difficult to believe that it really wants detente.

To THE POINT. But can you see Russia agreeing to free travel when people trying to cross the Berlin Wall are still shot?

PINAY. It is obvious that the Berlin Wall must fall; that the barrages on the borders must fall; that the oppression of Czechoslovakia must stop.

To THE POINT. Do you think that your country will support this attitude?

PINAY. I no longer have the authority to speak for France. But I saw the declarations of Jobert (French Foreign Minister) in Helsinki. They were very much in this direction and very realistic.

To THE POINT. But if Russia rejects those demands?

PINAY. Personally, I think that if Russia rejects these demands, the Western delegations should walk out.

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## SPEAKING FOR THE CONSTITUENCY OF SOUTH DAKOTA DISTRICT NO. 2

### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ABDNOR. Mr. Speaker, during the August congressional recess I personally visited 21 of the 46 counties in the Second District of South Dakota to listen firsthand to the views of my constituents. Members of my staff visited the remaining counties. In addition, I spent 4 days at the South Dakota State fair during which I had the opportunity to visit with citizens from every corner of South Dakota. During this period all of us made a special effort to obtain the reaction of constituents to the issues and problems of the day, and also to assist them were possible in individual problems they brought to our attention.

Among my findings were:

High prices and inflation generated more comment than any other single issue. Farmers and ranchers are very appreciative of the current high levels of prices, but are greatly concerned about price fluctuations, particularly those involving grain and livestock. They are finding it especially hard to make plans where the plans are contingent on prices. Most are hoping for at least some degree of price stabilization, but are uncertain about how it can be achieved.

Fluctuating prices are also affecting institutions and agencies which purchase goods and services under contract. Most suppliers are reluctant to make proposals for more than a few months in advance, particularly in the areas of food and fuel. Quotations for a year in advance are rare because most firms do not feel they can afford the financial risk. School districts, counties and cities now planning their 1974 budgets and in many cases required by law to contract in advance are caught in a bind.

Persons living on the fixed income of pensions and social security are also badly pinched by the high cost of living. Many commented on their personal situation in this regard, particularly where they have been affected by simultaneous adjustments in pensions and social security payments.

We noticed more comment on alleged abuses of welfare payments, especially in the area of food stamps. Many who said they had not paid much attention to such things before, are now more conscious of qualifying for benefits.

FUEL SHORTAGE

Shortages in gasoline have been compensated for in one way or another without as much hardship as had been expected at one time. Although there were problems, some of them fairly severe at harvest time, most of these were localized and handled adequately. While concern was evidenced about fuel oil supplies for the coming winter, those dependent upon propane gas are plainly worried.

There was evidence that some home builders and housing project developers are changing their plans for heating systems. Electrical heat is being substituted for fuel oil systems in the blueprints. Because of the fuel required to generate power, this "solution" may have long-range complications.

Both my staff and I are very grateful for the compliments paid our office for obtaining the 5,000 barrel gasoline allocation from Gulf Oil Co. Although we had requested 5,000 barrels of diesel fuel in addition, we were happy to get the gasoline and so were the suppliers in South Dakota. There was no question but what the allocation greatly eased the shortages that accompanied harvest.

INDIANS

Our visits indicated a great concern by Indians and whites alike over the militant tendencies of some groups in approaching Indian problems. The people are looking for positive solutions to the problems faced by the Indian people to counteract the threats and acts of violence.

WATERGATE

Although the press in Washington has been inundated by Watergate, it is not the No. 1 issue in South Dakota. Those who did talk about it were eager to have the matter turned over to the courts. Many expressed concern that the functions of government were being impaired, and also that those who may be guilty of criminal conduct may not be able to be brought to trial because of all the publicity that has been engendered.

My office also completed a mail survey on 20 issues of current interest. We received responses from nearly 10,000 constituents. Several issues generated more interest and comment than others.

Respondents were given the choice of five answers on each of the questions pertaining to issues before Congress. They could answer with a strong no or a mild no, uncertain, a mild yes or a strong yes.

On the subject of aid to North Vietnam, the question was asked, "Provide at least $2 billion in the next 5 years?"

The response was 84 percent no, 9 percent uncertain with only 7 percent yes. Of those answering no, a whopping 66 percent expressed strong negative feeling on the subject.

Asked if they favored outlawing food stamps for strikers, residents of the second District registered a vote of 79 percent yes, 5 percent uncertain and 16 percent no. Fifty-seven percent were strongly in favor of outlawing food stamps for strikers.

On the Abdnor amendment to exempt small businesses from OSHA control, 74 percent registered approval, 11 percent disapproved and 15 percent were uncertain. Of those in favor, 43 percent strongly approved.

Other issues opposed by constituents included the recent Supreme Court decision liberalizing abortion laws, amnesty for draft evaders, Federal aid to cities and year around daylight savings time.

Issues supported by Second District residents included limiting the Federal budget, price controls to half inflation and investigation of Indian complaints against the BIA.

Complete results of the survey in simplified form are as follows:

### Survey From South Dakota District No. 2

1. Abortion: Agree with the recent Supreme Court decision liberalizing abortion laws? No, 55 percent; uncertain, 5 percent; yes, 40 percent.

2. Amnesty: Favor amnesty for draft evaders if they perform 2–5 years of public service upon their return? No, 62 percent; uncertain, 7 percent; yes, 31 percent.

3. Budget Limit: Should Congress limit the Federal Budget to $250 billion? No, 12 percent; uncertain, 25 percent; yes, 63 percent.

4. Cities: Increase federal aid to them? No, 55 percent; uncertain, 19 percent; yes, 26 percent.

5. Daylight Saving Time: Use it the year around? No, 58 percent; uncertain, 7 percent; yes, 35 percent.

6. Economy: Favor wage and price controls to fight inflation? No, 20 percent; uncertain, 12 percent; yes, 68 percent.

7. Energy Crisis: Tax the excessive use of gas and electricity? No, 49 percent; uncertain, 18 percent; yes, 33 percent.

8. Environment: Agree that sufficient progress is being made to clean up the environment? No, 46 percent; uncertain, 13 percent; yes, 41 percent.

9. Food Stamps: Outlaw the issuing of food stamps to strikers? No, 16 percent; uncertain, 5 percent; yes, 79 percent.

10. Gun Control: Outlaw "Saturday Night Special" small hand gun? No, 36 percent; uncertain, 10 percent; yes, 54 percent.

11. Health Insurance: Is a national health insurance program needed? No, 38 percent; uncertain, 18 percent; yes, 44 percent.

12. Indians: Investigate their complaint against the Bureau of Indian Affairs? No, 19 percent; uncertain, 8 percent; yes, 73 percent.

13. Military Budget: Reduce the national defense budget: No, 40 percent; uncertain, 13 percent; yes, 47 percent.

14. Minimum wage: Increase it from the present $1.60 per hour? No, 44 percent; uncertain, 10 percent; yes, 46 percent.

15. Mount Rushmore: Favor the Park Service proposal for a transportation system at Mount Rushmore? No, 45 percent; uncertain, 22 percent; yes, 33 percent.

16. News: Guarantee reporters the right to confidential sources? No, 39 percent; uncertain, 11 percent; yes, 50 percent.

17. Occupational safety: Do you support the Abdnor Amendment to exempt small businesses from OSHA control? No, 11 percent; uncertain, 15 percent; yes, 74 percent.

18. OEO: Continue federal funding of community action programs? No, 47 percent; uncertain, 15 percent; yes, 38 percent.

19. Postal Service: Should the Postal Service "pay its own way" even though higher postal rates may force some small magazines and newspapers out of business? No, 34 percent; uncertain, 19 percent; yes, 47 percent.

20. North Vietnam: Provide at least $2 billion in the next five years? No, 84 percent; uncertain, 9 percent; yes, 7 percent.

"The remaining five questions were used to give me an idea of the demographic breakdown of the 2nd District," Abdnor said.

21. Age: 15–19, 5 percent; 20–29, 21 percent; 30–39, 17 percent; 40–49, 18 percent; 50–59, 20 percent; 60-up, 19 percent.

22. Sex: Male, 56 percent; female, 44 percent.

23. Party preference: Democrat, 30 percent; Republican, 54 percent; Independent, 16 percent.

24. Family income: 0–$9,999, 43 percent; $10–14,999, 30 percent; $15–19,999, 15 percent; $20–29,999, 7 percent; $30,000-up, 5 percent.

25. Education: Grade school, 11 percent; high school, 36 percent; trade school/junior college, 14 percent; college, 30 percent; advanced degree, 9 percent.

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## PRIVATE PENSION REFORM

## HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Ms. HOLTZMAN. Mr. Speaker, the issue of reform in the area of private pensions is a matter of great national concern.

In this regard, I would like to bring to the attention of my colleagues two very thoughtful and important articles by William V. Shannon, which recently appeared in the New York Times.

Mr. Shannon has, in a very penetrating manner, pointed out the deficiencies in legislation presently pending before the Senate. He has demonstrated that, even if these proposals are adopted, we will still be far behind many European countries in regulating private penison programs.

The development of sound pension reform legislation would insure that after retirement elderly persons could fairly reap the rewards of productive years in the labor force. It also would permit real economic security after retirement. We are all too well aware of the often desperate position elderly Americans find themselves in once they stop working.

This is especially true in this period of rampant inflation where food prices, for example, are rising at the astronomical rate of over 20 percent per month.

Because we have failed in the past to enact the needed reform legislation in this area, today we are confronted with the need to adjust constantly social security benefits. These increases barely allow senior citizens to meet the drastic rise in prices and continue to pose a serious drain on our Treasury. Looking to the future it would be so much sounder to insure that our elderly citizens get pensions to which they are entitled rather than constantly attempting to place a Band-Aid over their economic wounds with small increases in social security that come at a high cost.

It is my hope that this matter will receive the earnest attention of and expeditious treatment from the 93d Congress.

The articles follow:

### Pension Pretense

(By William V. Shannon)

Washington, Sept. 5.—Next week, the Senate begins debate on two rival bills to reform the private pension industry. One is S.4 sponsored by Senators Williams (Democrat, N.J.) and Javits (Republican, N.Y.) and endorsed by the Senate Labor Committee and practically the whole liberal establishment in the Senate. This other is S.1179 sponsored by Senator Bentsen (Democrat, Tex.) and cleared by the more conservative Senate Finance Committee.

There is only one thing wrong with these reform bills. Neither of them does much reforming. Regardless of which bill becomes law, the great majority of workers are not going to collect a dollar from whatever private pension plan currently pretends to "cover" them.

It is easy to see why these bills are more sham than reality. No economic base exists for reforms. There are 200,000 private pension plans with assets totaling more than $150 billion and fresh revenues pouring in at a rate of $15 billion a year. This money is a bonanza for the banks and pension consultants who manage it.

Businessmen do not want reform because it might increase their costs and would certainly reduce their control over their own pension plans. Most unions like the illusion of power that they now have when pensions are subject to collective bargaining and they share with management in control. As a result, they are indifferent to the reforms that would diminish the role of unions in the pension process but would genuinely protect the interests of their members, ex-members and retirees.

Since most workers contribute nothing or only small sums to a private pension plan, they regard it as an agreeable extra, a "fringe benefit." They do not realize that in economic terms a private pension is part of the wage package and the money diverted to the pension plan could otherwise have been used to pay them higher wages. A pension later in place of higher wages now makes sense—if you collect the pension. Most workers do not.

The ordinary employe works five, or eight or ten years and then quits to take a better job. He loses his rights in the old plan and starts all over again in his new employer's plan. Or he is laid off in a recession. Or his firm goes bankrupt and the pension plan goes under. Or his firm is merged and the new conglomerate abolishes the old plan and introduces a new one for which he is not immediately eligible. Or he changes jobs and moves from a company that has a plan to one that does not. Whatever he does, he is an unwitting participant in the Great Pension Lottery in which, like all lotteries, many lose and few win.

A true reform bill would have four essential provisions. It would provide immediate vesting—credits toward a pension at 65 even if separated from the job before retirement. The Williams-Javits bill would guarantee 30 per cent of one's pension credits if one worked for the same employer for eight years. It would add 10 per cent each year thereafter, thus reaching 100 per cent after fifteen years.

But most private pension plans already provide for vesting after ten or fifteen years. In other words, S. 4 just ratifies the status quo.

Secondly, a good bill would make pension rights portable, enabling a worker to keep his pension credits as he moved from job to job. Both bills set up a pension clearing house to be run by the Government. It would administer vested benefits that employers voluntarity put there. But employers know it is more profitable to hold this money and use it within their own fund, paying a pension—if ever—many years later. Only a compulsory system is likely to work.

Thirdly, each plan should be properly funded to make certain that it has enough assets to cover all present and future pensions. Both bills provide for funding but over a thirty-year period. Many companies merge or go out of business after less than a decade of existence.

Fourth is the need for reinsurance. This is the one glaring abuse that both bills do attempt to meet by setting up a system roughly comparable to the F.D.I.C. protection for bank deposits. That should reduce the number of horror stories of pensioners left bereft by plans that go bankrupt.

But one small improvement is not good enough. Where is the protection for older workers fired without cause so they cannot collect their pensions? Where is the vesting of proportional benefits for women who work part-time? Where is the guaranteed pension for the elderly widow?

Reform can be accomplished. Britain is about to enact a law requiring private plans to provide full vesting after five years and to pay a widow 50 per cent of her husband's pension. The Netherlands has immediate vesting. Why should Americans settle for pension plans that pay most participants no pensions? Why should the Senate settle for a reform bill with almost no reforms?

### WOMEN AND PENSIONS

(By William V. Shannon)

WASHINGTON, September 9.—As the Senate begins this week to consider bills to reform private pension plans, most people are only beginning to grasp that these plans work on the same principle as a lottery: many losers and few winners.

It was never intended by the banks and pension consultants who draw up these plans and develop the actuarial tables that all of the workers for whom an employer sets aside money in the pension fund would actually collect a pension. On the contrary, these plans assume that for one reason or another, most workers will quit or be laid off long before they are 65.

The only workers to whom an employer is reasonably certain he will have to pay a pension are those over 55 workers for whom retirement is in sight. Stated another way, it is the last employer who pays the pension, and it is based only on the time spent with that company, not on the individual's whole working life.

Without stopping to think carefully about it, many workers assume that a private plan works roughly like Social Security. That is, they assume they are accumulating credits toward a pension as soon as they begin working, that the credits accumulate even though they change jobs, and that the money to pay the pension is in a safe place.

In reality, they do not usually get a "vested" interest in a pension until they have worked for one company for many years. If they change jobs, they lose all their unvested rights in the previous plans because their rights are not "portable." And rather than being in a safe place, the money to pay their pension may be invested unwisely or be inadequate to meet the fund's total obligations.

If most male employes are short-changed by the Great Pension Lottery, women are the real losers. Because of childbearing, care of ill parents, and other causes, women have more of an in-and-out pattern in their working life. For working women over 45, their median tenure in manufacturing jobs is about eight years and in retail selling about five years. Yet private plans typically require fifteen years of service to qualify for benefits.

One-third of all working women work only part-time or part of each year. Yet the Internal Revenue Code permits pension funds to get favorable tax treatment even though they exclude "employes whose customary employment is for not more than 20 hours in any one week, and employes whose customary employment is for not more than five months in any calendar year."

The law should be changed to require that part-time and part-year work result in proportional pension credits.

Since women tend to outlive men, widowhood is a predictable event. Yet virtually all plans either make no provision for widows or require the husband to choose a lower pension in order to provide his survivors with any benefit, and that pitifully small. Significantly, only 2 per cent of widows collect a private pension. So-called joint-and-survivor options are no solution to this problem. A widow should be entitled to 50 per cent of her husband's full pension as a matter of law.

The two bills coming up in the Senate are both feeble measures. They are written to disturb the status quo as little as possible. And the main beneficiaries of the status quo are the banks and the pension consultants. Those who benefit least are the workers nominally "covered."

S. 1179 reported by the Finance Committee is marginally better than S. 4, which is sponsored by Senators Jacob K. Javits, Republican of New York, and Harrison A. Williams Jr., Democrat of New Jersey. The committee's measure would provide some vesting after five years instead of eight, would cover all plans rather than excluding those with 24 employes or less, and would forbid a pension plan from investing in the stock of its own company rather than limiting such investments to 10 per cent as the Williams-Javits bill does.

It is typical of the thinking behind the Finance Committee bill, however, that it writes in generous tax deductions for self-employed persons—lawyers, doctors, architects, writers—who have individual pension plans. These are the very workers who are least in need of special Congressional protection.

Senator Vance Hartke, Democrat of Indiana, is one of the few members of the Senate who has interested himself in pension reform, aside from the sponsors of the bills. He plans to offer important amendments that would require full vesting after 5 years and would make portability compulsory, instead of voluntary. If these amendments are adopted as well as others that may be offered dealing with the special problems of widows, part-time workers, and inflation-stricken pensioners, then the final measure would justify the honorable tag of "reform bill" that has been so loosely conferred upon these dim proposals.

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## JOSEPH J. SAMBOLT ENDS GOVERNMENT SERVICE

## HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. GAYDOS. Mr. Speaker, the U.S. Department of Labor has lost one of its most conscientious and valuable employees, Mr. Joseph J. Sambolt, who has retired as supervisor of the Department's field office in McKeesport, Pa.

Mr. Sambolt's career in public service spanned 37 years and the dedication and ability he demonstrated in the performance of his duties earned him the admiration and respect of the people he served, as well as that of his coworkers and superiors. The high caliber of his work is attested to by the numerous awards and tributes paid him over the years in recognition of his efforts.

Mr. Sambolt joined the Government in March 1936, as a medical claims examiner with the U.S. Employees Compensation Commission in Washington, D.C. In December 1940, he was transferred to the Labor Department's wage-hour division in Pittsburgh, as assistant payroll examiner-clerk. When World War II erupted, Mr. Sambolt interrupted his Government service to join the Navy, serving from November 1943, until February 1946. In 1959, he was promoted to senior investigator at the Pittsburgh office and 3 years later, in April 1962, he was named to the post he held at retirement.

During his tenure in McKeesport, Mr. Sambolt continuously displayed a genuine interest and concern for the well-being of the people he served. His training and experience was invaluable in solving the many problems they encountered. I know the residents of the McKeesport area join me in expressing to Mr. Sambolt our appreciation for all he has done in the past and in wishing him well for the years to come.

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## MINUTE QUESTIONNAIRES

## HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. BRINKLEY. Mr. Speaker, since the beginning of the 93d Congress I have mailed to the Third Congressional District of Georgia, which I am privileged to represent, two "Minute Questionnaires" included as part of our regular quarterly newsletters. The response to these two questionnaires, sent during March and August of this year, has been excellent and the results, in my estimation, provide an excellent indication of just how many rank-and-file Americans feel on issues of particular national significance.

Mr. Speaker, I submit herewith the tabulated results of these two questionnaires for the consideration of our colleagues:

### MINUTE QUESTIONNAIRE No. 1

1. The Vietnam war:

(a) With the cessation of hostilities, should financial aid be extended to North Vietnam?

| | *Percent* |
|---|---|
| Yes | 7.6 |
| No | 92.4 |

(b) Should a blanket amnesty be considered for those men who left this country to avoid the Draft?

| | *Percent* |
|---|---|
| Yes | 4.5 |
| No | 95.5 |

2. Should the death penalty be restored nationally for certain specified crimes?

| | *Percent* |
|---|---|
| Yes | 89.1 |
| No | 10.9 |

3. Do you agree with the President's recent action impounding funds appropriated for specific domestic programs—

| | *Percent* |
|---|---|
| In every instance | 13.6 |
| In most instances | 39.6 |
| In few instances | 46.8 |

MINUTE QUESTIONNAIRE No. 2

1. Should the U. S. Senate's Select Committee on Presidential Campaign Activities discontinue its inquiries into the Watergate Affair?

| | *Percent* |
|---|---|
| Yes | 53.6 |
| No | 46.4 |

2. Would you favor the construction of a trans-Alaska pipeline as a means of alleviating our present fuel shortage?

| | *Percent* |
|---|---|
| Yes | 85 |
| No | 15 |

3. Do you think the President's economic policies are working effectively?

| | *Percent* |
|---|---|
| Yes | 16.3 |
| No | 83.7 |

4. Should Congress place private pension plans under Federal regulation to guarantee that retirees get the cumulative benefits they have earned?

| | *Percent* |
|---|---|
| Yes | 71.7 |
| No | 28.3 |

5. Do you think Congress should give the President authority to continue the bombing in Cambodia after August 15th?

| | *Percent* |
|---|---|
| Yes | 35.8 |
| No | 64.2 |

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## A TOUCHDOWN FOR SPORT FANS ACROSS THE COUNTRY

### HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ESCH. Mr. Speaker, I introduced H.R. 9661, which amends the Communications Act of 1934 to prohibit the blackout of professional home football games in the event of a sellout. This would also include baseball, basketball, and hockey games which have been sold out at least 48 hours before the scheduled start of play and would be in effect for a 1-year trial period.

I believe that the time is ripe for this kind of legislation and although slightly different from my proposal, it represents a constructive approach for the problem. Attendance at sporting events, and particularly football, has skyrocketed. Last year, the National Football League experienced a 95-percent rate of attendance and the National Hockey League was a virtual sellout.

Professional teams have expressed a fear that the rates of attendance, which are essential to the financial viability of a sports organization, would suffer drastically if home games were televised. Some believe it would be their financial ruin.

I share some of this concern and we must be extremely careful not to pass legislation which would ruin the ability of teams to compete. However, I do believe that the complaint voiced by millions of fans that a blackout unjustly deprives them of watching their home teams when there is a sellout is a valid one. The legislation before the House would provide that if a game is sold out 72 hours in advance the ban would be lifted. This would allow teams ample time to fill the stadium if there is not a sellout 3 days prior.

I am happy to note that the Commissioner of the NFL, Pete Rozelle, has changed his tune on this subject and is willing to go along with a trial period. Up to now, the NFL has exhibited particular arrogance in this regard by refusing to even consider voluntary restrictions on blackouts at home.

I believe that this legislation would be in the interest of both the fans and professional sports. I urge my colleagues to pass this bill and lead a truly team-like effort to a touchdown for sports fans across the country.

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## KRA CANAL PLOWSHARE PROPOSAL

### HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HOSMER. Mr. Speaker, while the United States has shelved the idea of using nuclear explosives to excavate a new Panama Canal, excitement runs high on just such a concept halfway around the world. It is a proposal to use nuclear explosives to build stretches of a new canal across the Kra Isthmus, in southern Thailand, capable of handling 500,000-ton tankers.

The Kra Canal, connecting the Indian Ocean and the South China Sea, would be the world's third major waterway after the Suez Canal and the Panama Canal. The first formal recorded proposal to construct such a canal was made in 1973. Preliminary studies indicate that using nuclear explosives, where necessary, would reduce overall construction time from 12 to 8 years and the cost from $5.3 billion to $3.8 billion.

An article about using nuclear explosives to help build this canal which appeared in the August 23, 1973 issue of Engineering News Record is included below:

NUCLEAR EXCAVATION WOULD CUT COST OF KRA CANAL

The use of underground nuclear blasts is receiving serious consideration for the proposed construction of a sea level Canal across Thailand's Kra Isthmus, according to Japanese and Thai officials involved in the project.

The use of nuclear devices will reduce drastically the construction time and cost, according to Chow Chowkwanyun, managing director of the Thai Oil Refinery Co., a key figure in negotiations. Chow says that preliminary studies show that conventional construction methods would require 12 years and $5.8 billion to cut a canal 650 ft. wide and 110 ft. deep along the proposed 64 mile route. By using nuclear devices, the time could be slashed to eight years and the cost to $3.8 billion.

A canal 650 x 110 ft. would be large enough to permit one-way passage of 500,000 ton tankers. Another proposal calls for a wider, but shallower canal, 1,250 ft. wide and 75 ft. deep, large enough for a two-lane canal accommodating 50,000-ton liquid natural gas tankers and containerships. The Suez Canal has a minimum depth of 41.5 ft. and the Panama Canal 41 ft.

*Two nuclear options.* Preliminary plans offer two options for the use of nuclear devices. The more ambitious plan would cover 27.5 miles running from the middle of a mountain range to the Andaman Sea coast. The second plan would only require 14 miles of nuclear excavation, mostly in the mountain range.

"The devices would be put underground in a series," says Chowkwanyun, "like a necklace of Japanese pearls—all devices side by side. Our problem is education. People have a particular fear of this type of device because until now it has been used only for war."

If the 27.5-mile-long route is adopted, most nuclear devices would be planted in clusters of five or six and fired in salvo. "You would get a few miles of canal with each salvo," says Willard Libby, former advisor to President Eisenhower on the peaceful use of atomic energy. Libby added that there would be a delay of several days between the firing of each cluster, and the entire operation would take one or two weeks.

The total yield of the required 139 devices would be about 41 megatons. The largest salvo would have 53 devices and the smallest five. It would take 16 months for the devices to be installed and detonated. Libby said the radiation danger would be minimal. "You wouldn't get any more radiation (outside the blast area) than you got from the recent Chinese nuclear test in Western China on June 27."

But, cautions Libby, radiation would be fairly heavy along the canal route and persons living in this area will have to be evacuated. Prevailing winds would carry radiation in a westerly direction, and fallout could be expected up to 150 miles away. Secondary radiation could affect persons living on the Nicobar Islands and northern Sumatra, 600 miles west of the site.

Libby expects a problem from ground shock, but adds that it will not be an insurmountable problem since the Kra area is sparsely populated and there are not many buildings that would be likely to suffer damage. Singapore is 700 miles to the south and Bangkok lies 250 miles north.

From an engineering standpoint, says Libby, "we have every reason to believe it is feasible. The project is not primarily nuclear. It could be done without nuclear and perhaps it should. It's just cheaper and faster with nuclear."

*International interest.* At a recent three-day Tokyo conference called to review preliminary engineering and economic studies connected with the project, acute international interest was apparent. Officials who took part included Edward Teller of California's Lawrence Livermore Laboratories (LLL); Libby; representatives of the Thai Office of Atomic Energy for Peace; and representatives of LTV, Dallas, CITRA, Paris, and Nissho-Iwai Co., a Japanese trading company.

New York-based consulting engineers, Tibbetts-Abbett-McCarthy-Stratton and LLL will submit prefeasibility engineering studies September 1. Economic studies were handled by Robert R. Nathan Associates, Inc., Washington, D.C., and the Hudson Institute, Croton-on-Hudson, N.Y., was asked to participate because "we wanted an idea how this project would fit into the scheme of things in the year 2,000," said Chowkwanyun.

*Huge excavation project*. An estimated 34 billion cu. yd. of earth would have to be excavated for the canal. This compares with 327 million cu. yd. for the Suez Canal. In addition, 18 billion cu. yd. of material would have to be dredged to clear ocean approaches.

Preliminary plans also call for a $200-million port development which includes an 80,000-acre industrial area at the Gulf of Thailand end and a 42,000-acre area at the Andaman Sea end of the canal.

Financing is now the project's largest problem. Japan stands to reap the greatest benefits from the canal (ENR 2/25/71 p. 18) and is therefore looked to as a major source of capital. Oil tankers bound for Japan with Middle East crude would save 1,500 miles by using the proposed canal. Tankers bound for Japan now make up 80% of the traffic in the Strait of Malacca, the present route around the isthmus. The strait is limited to 200,000 ton tankers.

Thailand is also expected to tap most of the international monetary organizations, the Middle East and U.S. interests. In view of the heavy U.S. involvement in the prefeasibility study phase, it is expected that U.S. firms will be invited to take part in the bidding.

## TIME RUNS OUT FOR "THE CLOCK"

## HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. LANDGREBE. Mr. Speaker, I take this opportunity to call tribute to the Clock, lead horse of the Culver Military Academy's Black Horse Troop which has ridden in seven Presidential inaugural parades. I wish to call my colleagues' attention to the following article which appeared in the South Bend Tribune:

### THE CLOCK

The Clock, lead horse of Culver Military Academy's Black Horse Troop for nearly 20 years, died this summer following his fifth consecutive Presidential Inaugural Parade.

But in the spring of 1954, when the sleek, black gelding, stepped out of his trailer after a long trip from Oklahoma, he glanced quizzically at his new environment.

His new home, Culver Military Academy, was strange to the horse, who had grown accustomed to range life in Oklahoma.

### DEMANDS DIFFERENT

Culver's demands were different. Its show piece, the Black Horse Troop, was composed of larger horses that presented a stately appearance. The Clock had the physical attributes, but he had never paraded before.

The Clock had a friend also, Bob Feeley, his trainer and Culver's jumping instructor, was a big, physically powerful man with a gentle, free-flowing voice that could lull even the most nervous into a relaxed sense of security.

The Clock was placed under Feeley's charge because the horse was so large that a big man was required to train him. Feely was pleasantly surprised at the speed with which the animal learned and adapted to the marching maneuvers. Like a finely tuned metronome, The Clock kept perfect time with the cadence.

In fact, Feeley's son was learning to tell time, and he called the horse "quarter past 15 o'clock," which was eventually shortened to "The Clock."

### LED MOUNTS

By the end of the 1954 summer session, the gelding was leading the 130 mounts of the Black Horse Troop, a position he held until his retirement in 1970.

Marching was not the extent of the horse's talents. If he had to describe The Clock in one word, Feeley would probably choose "versatile." While instructing at Culver, Feeley used the horse in point-to-point hunts, jumping, polo, cross-country hikes and even high level dressage.

Crowds didn't bother The Clock. He was just as much at home during Presidential Inaugural Parades in Washington as he was leading a Culver parade or calmly munching grass in his pasture.

The gelding led the Black Horse Troop in five consecutive Presidential Inaugurals, beginning with Dwight D. Eisenhower's in 1957. He was brought out of retirement in January to prance down the 20-block route at the head of the protocol section leading the parade.

The oldest participant in the line of march, The Clock's age was equivalent to 140 human years, but he performed like a real trooper.

The Clock was returned to graze in his Black Horse Troop pasture, and he died July 15 at age 28, following an apparent hemorrhage. The horse is buried in the pasture he roamed for years, and the Black Horse Troop will place a suitable marker at his grave.

After nearly 20 years as the mount for squadron commanders of the Black Horse Troop, The Clock was more than a horse; he was a tradition. His proud, stately gait, which electrified the crowds on Pennsylvania Avenue on five chilly January afternoons, was a visual representation of the pride felt by Culver alumni everywhere.

Feeley, who continually describes The Clock in almost human terms, paints a picture of an animal that was not always happy with what he was called on to do but handled the job calmly and commandingly because he had a keen sense of responsibility.

Time has run out for The Clock, but the heritage he left behind has been recorded in the pages of Black Horse Troop history.

## ADMINISTRATION PLAYS POLITICS WITH HEALTH CARE

## HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. LEHMAN. Mr. Speaker, yesterday, by 273 to 144, the House failed to achieve the two-thirds vote required to override President Nixon's veto of the Emergency Medical Services Systems bill.

I voted in favor of overriding the veto because I believe first-class emergency health facilities should be available throughout our country.

Mr. Nixon had vetoed the bill because he believes "the Federal role should be limited" in providing emergency health care.

But what can be more important for our Nation than the health and the lives of our citizens?

Medical experts have testified that the passage of the Emergency Medical Services Systems Act would save between 60,000 and 100,000 lives each year.

The American Heart Association said that almost 30,000 people with heart disease could be saved if hospitals could improve their services with enough trained personnel to handle emergency situations.

Accidents are the fourth most common cause of death for all ages. Ten thousand auto accident deaths and thousands of home accident fatalities would be prevented by this bill.

We must improve our inadequate emergency medical services. There is no reason why we must continue to accept poorly trained attendants, insufficiently equipped ambulances, and improper emergency room practices as part of our health care system. It is an outrage that such practices will continue because the administration has chosen to play politics with health care.

## INFLATION—HIGH INTEREST RATE

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HARRINGTON. Mr. Speaker, after five game plans, two freezes, and four and a half phases, inflation is worse, not better. The recently released wholesale price index showed that grain prices rose 60 percent in August, poultry 42 percent, livestock 22 percent, and eggs 35 percent; farm products rose 26 percent; and the overall wholesale price index rose 6.2 percent, the largest increase in a single month since shortly after the Second World War.

Unfortunately for the consumer and the worker, the administration still has no basic, long-term program for stopping inflation. It relies instead on controls it refuses to enforce, and historically high interest rates, while trying to blame the Congress for continued price increases. The result will be a prolonged money squeeze, a drop in productivity, an increase in unemployment, and another slide into "stagflation" unless the Congress enacts the kind of mandatory controls the administration should but will not impose.

Hobart Rowen of the Washington Post wrote a column, "Mr. Nixon, the 'Fed' and High Interest Rates," which appeared in the September 9 issue of the Post. That article, better than any I have seen, outlined the dilemma of high interest rates, and the hazard they pose for the economic well-being of this country. It deserves the attention of each of my colleagues and, therefore, I insert it in the RECORD at this time:

### MR. NIXON, THE "FED" AND HIGH INTEREST RATES

(By Hobart Rowen)

Sitting in the White House East Room for President Nixon's press conference last Wednesday, one thing became perfectly clear: the administration has no new ideas for controlling inflation.

Sidestepping any blame for himself, the President took a dig at his economic advisers for the disastrous price spiral of 1973.

"I'm afraid I can't be any more perceptive than my economic advisers have been and their guesses with regard to, as you know, the numbers insofar as inflation have been, have not been very good."

He then tossed the advisers a crumb of comfort by saying he didn't blame them because of "factors . . . (they) did not foresee."

Mr. Nixon's advisers have been wrong on more than guessing the rate of inflation. At almost every turn, from the original "game plan" of 1969 which produced inflation and recession at the same time, to the ill-fated junking of Phase II of wage-price controls on Jan. 11, Mr. Nixon and his experts have botched the job of managing the economy.

This isn't to say that there were no problems beyond their control, notably a worldwide boom that contributed to rising prices here.

But lots of our present economic headaches could have been avoided or mitigated. There were plenty of warnings, for example, that [the Agriculture Department was following] policy of scarcity all during 1972, when food demand was booming. But the department had a monolothic concentration on boosting farm income rather than the national food supply.

And consistently, Federal Reserve Chairman Arthur Burns—whose name the President invoked twice at the Wednesday press conference—begged for a stronger tax policy that would ease the inflation-fighting burden imposed on monetary policy. Had that advice been heeded, interest rates wouldn't be so high today.

For all of the policy mistakes, only two notes of grace can be recalled. First, Treasury Secretary George P. Shultz has admitted that Phase III was a disaster, and Burns concedes that the Fed should have exerted greater monetary restraint last year.

Government expenditures should also have been reined in last year. A golden opportunity to trim back military spending coincident with the winding down of war in Vietnam was missed.

But now the monkey is on the back of Mr. Burns and his six fellow governors. Almost the entire fight against inflation depends on a high interest rate policy—and the Fed is the first to admit that there are serious limits to what should be expected from monetary measures. The Fed can establish a goal—and have no assurance that it can reach it. Moreover, it is uncertain what effect a given policy, even if achieved, will have on prices.

Former Fed Governor Sherman Maisel points out in a soon-to-be published book, "Managing the Dollar," that the present Fed policy of allowing unlimited credit to those who can pay the price must at some point price others out of the market.

Burns himself, in testimony Aug. 3 before the Joint Economic Committee, said that interest rates "could go so high that we would be laying the foundation for the breakdown of our economic and social order."

He cited, in that connection, the fact that the 180-day interest rate in Chile was 90 per cent, because the inflation rate had hit 200 per cent.

"If I accomplish nothing else this morning," Burns told that hearing, "I want to emphasize the simple truth that inflation and high interest rates go together, and that both the one and the other pose perils for economic and social stability in our country."

But in the month since then, interest rates have forged relentlessly upward. We may not yet be suffering from a Banana Republic style of inflation, but for the first time in recent history, interest rates, like other elements of price inflation, are being measured in double numbers—11 per cent or so for bank loans to small business, 10 or 11 per cent in the "overnight" rate at which banks borrow from each other—and 10 per cent is widely predicted for the banks' prime lending rate, the price of money to the best and biggest customers.

When asked Wednesday whether "the tax structure should be altered in any way to help strengthen the economy," Mr. Nixon responded:

". . . a number of my advisers, including, incidentally, Arthur Burns, have strongly recommended that the answer to this whole problem of inflation is the tax structure, you know. That there's this gimmick and that one. And by saying gimmick, I don't mean anything disrespectful to Arthur Burns, because he's very important to us at this moment . . . But there isn't a chance that a responsible tax bill would be passed by this Congress in time to deal with that problem."

That may be a correct political judgment. But if proposing higher taxes of some sort is the right policy, the President shouldn't shrink from it. Just his willingness to develop a more even-handed economic program might have a beneficial effect.

Right now, the burden of monetary restraint is very uneven. Housing gets clobbered. Smaller businessmen get hit hard when borrowing money. Local communities find it tough or impossible to get the money they need for community projects.

To those affected by high interest rates, it is little comfort to hear that with 6 per cent inflation, a 10 per cent interest rate works out to a "real" money cost of only 4 per cent.

That may be significant to the big businessman, to whom interest rates are but another operational cost, with the government picking up as much as 50 per cent of it on his tax return, anyway.

But to the homeowner or small borrower, a high interest rate is just another inflated price, along with the rest of them, which reduces the amount of money in his pocket. If it goes on long enough, a recession is a certainty—but it won't necessarily cure inflation.

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## FDA VITAMIN REGULATIONS

### HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. OWENS. Mr. Speaker, on September 6, I introduced H.R. 10115, a bill to prevent the Food and Drug Administration from putting into effect their proposed regulations on vitamins and other food supplements. Over 160 Members of the House have demonstrated their concern over this matter by cosponsoring other bills to overturn the regulations. I hope that my bill will attract further supporters to this cause.

The bill, in the form of an amendment to the Food, Drug, and Cosmetic Act, is simple and straightforward. First, it adopts the definition of food supplements long used by the FDA, and which is part of the Agency's rules as published in chapter 21 of the Code of Federal Regulations.

Second, the bill prohibits the FDA from limiting the potency, combination, amount, or variety of any vitamin or other food supplement if the amount recommended to be consumed "does not ordinarily render it injurious to health." The "not ordinarily injurious to health" standard is the same as that used in the section of the Food and Drug Act dealing with adulterated food.

The nature of the proposed FDA regulations clearly requires corrective legislation. The regulations would limit not just the availability of dosages shown to be harmful, but of all dosages exceeding 150 percent of the FDA's "recommended daily allowance." The sin of such food supplements, according to the FDA, is that they are "useless." This type of regulatory action represents a new height of arrogance, and is a clear abuse of governmental power.

My bill will not interfere with the FDA's proper authority to protect consumers from false advertising claims or from adulterated products. It simply prevents the FDA from interfering with consumers' freedom of choice in purchasing vitamins to supplement their diet, as long as they have not been found to constitute a health hazard.

The text of the bill is as follows:

A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Food Supplement Amendment of 1973."

Sec. 2(a) Paragraph (f) section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) is amended by (1) redesignating clause (1) and (2) as clauses "(A)" and "(B)", respectively, (2) inserting "(1)" immediately after "(f)", and (3) adding at the end thereof the following:

"(2) The term 'food supplement' means food for special dietary uses.

"(3) The term 'special dietary uses,' as applied to food for man, means particular (as distinguished from general) uses of food, as follows:

"(A) Uses of supplying particular dietary needs which exist by reason of a physical, physiological, pathological, or other condition, including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

"(B) Uses for supplying particular dietary needs which exist by reason of age, including but not limited to the ages of infancy and childhood.

"(C) Uses for supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property.

Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use."

"(c) No provision of any regulation under section 403(j) of the Act shall be construed as exempting any food from any other provision of the Act or regulations thereunder, including sections 403(a) and (g) and, when applicable, the provisions of Chapter V of the Act."

Sec. 3. Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341–348) is amended by adding at the end thereof the following new section:

"Sec. 410. In administering this Act the Secretary shall not limit the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, or other nutritional substance, or ingredient of any food for special dietary uses if the amount recommended to be consumed does not ordinarily render it injurious to health."

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## A REPUBLICAN ESTABLISHMENT MAYOR QUESTIONS TRADITIONAL APPROACHES TO SMOG PROBLEMS

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. BROWN of California. Mr. Speaker, as you know, I have spoken many times during the past few months of the critical health hazard to which the citizens of my 38th Congressional District are being subjected by the increasingly serious smog problem in southern California. One of the most dangerously affected areas is the city of Riverside, which, except for the smog problem, is one of the most attractive cities in our Nation. Just to remind you of the scope of this problem, during the entire summers of both 1970 and 1971 Riverside did not enjoy a single day in which the smog did not exceed the danger level of 0.1 parts of oxidant per million parts of air. This is the same danger level, Mr. Speaker, which we have set here in Washington, and which is subject to extensive news media coverage and a smog alert when reached here in the District of Columbia. You may recall from my remarks of July 26 that it is not rare in the 38th Congressional District to record levels five times as high as this danger level. Smog is literally killing people in southern California.

Mayor Ben Lewis of Riverside, a highly respected local officeholder and a personal friend of mine, is gaining increasingly wide recognition in the State of California as one of the foremost leaders in the battle against smog. Because of his unusually persistent and unyielding efforts in this fight he has been the subject of quite a bit of publicity this year. I would like to enter in the RECORD at this point an example of that news coverage, in the form of an article from the Long Beach, Calif. Independent.

During the course of his crusade Mayor Lewis has come to question some quite widely accepted concepts, such as the idea that all politicians oppose smog and would do something about it if they only knew what to do. The fact is that a strong coalition of financial interests stand in the way of a solution to the smog problem, and I am sorry to have to admit that these interests are well-represented here in the Congress.

There are many important points that can be drawn from the article, so, without further remarks on my part, I will enter it in the RECORD, adding only that if there were more Ben Lewises in this country the air pollution problem might have been licked long ago:

### A SMALL TOWN MAYOR BATTLES THE GIANTS WHO MAKE SMOG

(By Ehud Yonay)

Suppose you were the mayor of a sleepy Southern California town of 140,000, a community of tiled roofs, geraniums on the patio and orange groves all around, and one afternoon a woman called to tell you that a second smog alert had been called that day and what did you intend to do about it?

And suppose that, even though the smog was all coming from the Los Angeles-Orange County megalopolis 50 miles to the west—certainly outside your jurisdiction as mayor—you decided to do something about it. What would it be like?

"Take the hearings we had with the state Air Resources Board last August," says Mayor Ben Lewis of Riverside. "The governor ordered it so that we could present our plan to eliminate smog from the basin by converting all vehicles to natural gas instead of gasoline. We knew as soon as the thing started that we were doomed to defeat. The ARB stacked the meeting with representatives of the auto, gas, oil and hardware industries, all of whom came with a well prepared case showing that there was a gas shortage and that our plan wouldn't work.

"At the same time, they failed to invite representatives of the Government Service Administration, which does product research and purchasing for the federal government. The GSA has more than 150 cars fueled by natural gas in this area alone, so there must be some advantage to it. But when I asked the head of the ARB why the GSA was not invited, there was no answer."

That incident was typical of the quagmire Mayor Lewis stepped into when he decided that he should do more than just talk to his constituents about smog. At first, he could not conceive of anybody's being against clean air. It seemed to be the ideal issue, like motherhood and the American flag. But all along the line he has encountered formidable opposition which at first puzzled him, then angered him and finally led him to reevaluate some of the concepts and values of the American system which he accepted unquestioningly all his life.

"We were so sure we had a good plan, and then we were suddenly shot out of the saddle, I still don't quite know by whom," he said. "I guess you'd call it the Establishment, but who is the Establishment? I really cannot tell any more. If a person knew who his adversaries were, it would be so much easier to fight them."

What makes Mayor Lewis' puzzlement so unique is the fact that throughout his private and public life, the 70-year-old Republican mayor has been a loyal member of the very Establishment he now finds himself fighting.

A life-long advocate of working within the system, Lewis started out, not by protest, but by offering a concrete path of action. He wrote a letter to Gov. Ronald Reagan, in which he asked that the governor use his powers under the state Emergency Services Act and declare the entire Southcoast Basin a disaster area. He said that the smog problem was "putting the citizens of the basin in a position of extreme peril and disaster," adding that during the entire summers of 1970 and 1971, Riverside did not have a single day when the oxidant level in the air did not exceed the danger level set by the ARB (0.1 ppm).

He accompanied the letter with a detailed emergency plan to convert all vehicles in the basin to natural gas or propane, citing data which indicated that such action would reduce air pollution in the basin by close to 90 per cent.

The governor's response, in addition to calling a few meetings, was that he had no authority to declare the basin a disaster area because of smog. Mayor Lewis was hardly surprised. A few months earlier the governor had made a statement that "we have turned the corner" in the air pollution battle. When Lewis wrote to tell him how bad the situation was in Riverside, it took three months and four telephone calls to get the governor to reply. His answer was that he "was aware of the situation in Riverside County since I have property there."

This time, however, Lewis refused to let it go at that. His admission that Riverside's smog problem was bad earned his town the title of the "smog capital of the world," something civic boosters considered to be a "black eye" for their community, and the mayor was determined to see it through. He initiated a meeting with the state attorney general, the result of which was the admission that the governor did indeed have the authority to declare the basin a disaster area. With the exception of a few meetings, that's where the matter rested.

Since then, the tall, graying mayor has emerged as an outspoken crusader against smog. He helped form a coalition of mayors to press for action and has been vigorously pushing for:

A regionwide, pollution-free, mass transit system.

A unification of smog alert levels throughout the basin.

An emergency plan to restrict vehicular traffic during high-smog hours.

Using school buses for public transportation during school hours.

Government assistance that would pay people to junk their old, polluting cars or convert their engines to natural gas.

Last year Riverside joined Palm Springs, Indio and Desert Hot Springs in a suit, charging the Environmental Protection Agency with failing to come up with an emergency plan for the basin. As a result, the EPA issued its recent controversial plan to ration gasoline in the basin during the summer months, starting in 1975.

While his vigorous campaign has resulted in a rash of newspaper stories by the New York Times and Washington Post and others and some action by the ARB (such as adopting a mini-Riverside plan to convert state and local government vehicles in the basin to natural gas), Mayor Lewis appeared discouraged and unhappy as he sat in his office and attempted to review the long months of his smog crusade.

"I think our main accomplishment was drawing attention to the problem," he said slowly. "If it weren't for us, the EPA would not have come up with any plan, and the ARB would not be recommending catalytic converters for new cars now. But I am disappointed we haven't done more. We were so sure we had a good plan. I am still sure we have a good plan. But when you try to do something on behalf of the people, you come up against this formidable opposition of power and financial interests which is just staggering. It is certainly not something a small town mayor can handle on his own."

"I firmly believe that the governor of the state is responsible for the health and welfare of the people, but it is apparent that air pollution is definitely low on his order of priorities. I think that he, like many other people of power in the state, doesn't realize the gravity of the problem and don't even try to find out. Our legislators live most of the year up in Sacramento, where the oxidant level rarely reaches 0.1 ppm. Their worst days are still better than our best days. I'm sure that if the capitol were here in Riverside, we would have licked the smog problem a long time ago," he says wryly.

Mayor Lewis hardly fits the stereotype of the crusader, so familiar from TV and film episodes. If anything, he looks like the classic Establishment figure. Born and raised in Riverside, he still remembers it as a small community of orange growers. After he finished a local high school, he had a short stint in Hollywood as a bit player and cartoonist. He then returned to Riverside to become the president of the First American Title Insurance Co., which his father founded in 1891.

He was first elected mayor in 1965. He won his second term in 1969 with a majority of 89 percent, and last month started a third term with a 60 per cent majority. He is a popular mayor, supported by business and labor alike. He likes to appear before school children and amuse them by drawing cartoons of city council members. He defines himself as a pragmatist, who is willing to fight for what he believes in. One of those things is the right of the people to breathe fresh air and drink clean water. He has always been a Republican, a believer in the politics of cooperation and compromise. Now he is no longer so sure this system works the way it was meant to.

"I used to think that smog is a matter of economics and that, given time, private enterprise could take care of it on its own. I am no longer so sure. If you ask them, they'll probably prove to you that eliminating smog is too expensive and not feasible, that it costs too much to retool factories and refineries," he says, rapping the table with the palm of his hand to emphasize each measured sentence.

"But then you hear that General Motors just netted some $800 million during the first quarter, and you know that with only 10 per cent of that they could retool their factories to produce nonpolluting cars. The Japanese can do it, so why can't G.M.? I understand how business works, being a businessman myself, but I am afraid that G.M. and other big businesses no longer consider their obligation to the public when it comes to fighting smog. They have a sort of 'public be damned' attitude, and I don't think we can trust them to do the right thing for the people.

"Frankly, I think G.M. and the oil companies have too much power in this country. I am not convinced that the oil crisis they are talking about really exists. I think it is a man-made crisis, created by the oil companies to raise prices and force small producers out of business. Well, we thought that the government is the only body powerful enough to stand up to them, and we sued the EPA, hoping that perhaps they would force the auto companies to do something about pollution. Instead, they came up with a gas rationing plan that would be a hardship on the people only. Now, if the gasoline shortage is serious enough to ration gas for the people, how come it is not serious enough to do something at the other end? I am very disappointed," he says.

Does the great influence of big business on government mean that the system should be changed? Mayor Lewis is wary of such talk, but his actions, more than his words, indicate his realization that the system he supported all his life no longer works the way it should.

"I think we were naive when we thought that we could get action just by asking. We had such a good plan, but if you only represent people you find that your adversaries are always stronger and have more money and power than you, a small town mayor, can have. Next time we are going to do it differently," he says with determination.

Riverside now spends $12,000 a year for a lobbyist in Washington (who also represents three other cities) and is considering hiring a full-time Sacramento lobbyist to protect its interests at the legislative and executive branches of the state government. Mayor Lewis, who is a member of the board of directors of the U.S. Conference of Mayors, is trying to mobilize that group to press for government action on smog. "I hate to use that word, but our organization has clout, and I guess that's what it takes to make the government understand our point of view," he explains. He is also organizing a coalition of Southern California mayors and hopes to have the mayors lead their constituents in a well-organized, letter-writing campaign to impress upon Congress and the President the gravity of the smog problem and the need for immediate action. Recently, for the first time, he sent a $5 donation to Common Cause.

"We have a good system and we have to make it work," he says. "It's like the Watergate affair. They were denying everything, but these things have a way of surfacing. I am sure the same thing will eventually happen to the auto manufacturers and their foot-dragging on the smog-control issue."

What about the EPA's extension of the 1975 deadline for auto manufacturers, the President's energy message that gave the gas companies price increases and the Watergate—what do they all mean?

Mayor Lewis, who describes his political views as similar to those of Sen. Charles Percy, and supports legislation to control campaign spending and contributions, sees them as indications for the government's apparent insensitivity to the needs of the people. "I think you can safely say that the Republican Party has been traditionally more business-oriented. I think it is wrong, but it will all change if the proposed laws to regulate campaign spending are adopted. Some of the things the government does don't seem to be in our interest. The revenue sharing program, for example. The idea was that the government would collect the taxes, then give us some of the money to use as we see fit. What happens instead is that we have to use the money to make up for cuts in programs which the government was supposed to maintain."

The $1.2 million which Riverside received under this plan, for example, shrinks in significance before the $3 million cuts in on-going programs such as day care centers, Urban League, Office of Economic Opportunity and others. While in this case the concept is good, even though the execution is bad, Mayor Lewis does not accept President Nixon's philosophy of local responsibility in all areas. In some fields, it amounts to an attempt to throw away all responsibility.

"You take the environmental issue, and you know that those things cannot be done locally. It is the responsibility of the government to clean up the air in the cities. In 1970 we finally passed the Clean Air Act. Today it is already 1973 and nothing has been done. This is what we are fighting about. I think the President has been getting bad advice. I hope we could give him some that's better."

"Yes, I guess I am unhappy and dissatisfied. We were hoping to get so much done and we couldn't move it far enough. Sometimes I feel like a Don Quixote, tilting at windmills. It's not only the politicians and the businessmen. It is difficult to make the public aware that we are all in it together, that smog knows no manmade boundaries. There are so many bigger cities and governments involved in it. I really cannot understand why a small town mayor has to be the one to lead the fight by himself. It doesn't make any sense."

## BILL TO AMEND THE BUDGET AND ACCOUNTING ACT OF 1921

## HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ECKHARDT. Mr. Speaker, today, along with 23 cosponsors, I am introducing legislation designed to protect against a potential for abuse in the expenditure of taxpayers' funds. The bill proposes to amend the Budget and Accounting Act of 1921 to provide that the Comptroller General of the United States may audit funds which, because of their confidential or special nature, are expended solely upon the certificate of the head of the department or establishment for which the funds were appropriated.

Certain situations demand confidentiality in the expenditure of funds. Yet, while there is a presumption of honesty and good faith on the part of officials entrusted to do the public's business and make the decisions regarding those expenditures, recent experience illustrates the need to protect against abuses which may arise as a result of the ability of a single official to act solely according to personal whim, in the name of the public good, of course. The term, "expenditures of a confidential or special nature," may become no more than a code word for illegal, or, at the minimum, questionable activities.

Thus, I propose that the Comptroller General, who is subject to a security clearance, may examine confidential and special nature expenditures to determine if in fact they are of a confidential or special nature as was intended in the legislation appropriating the funds. If it appears to the Comptroller General that the expenditures do not meet such requirements, then, of course, he would report the apparent irregularity to the Congress.

The confidentiality and integrity of proper expenditures will be protected. The Comptroller General must act in accordance with the requirements of 31 U.S.C. 72, 74, and 75, the rules and regulations promulgated in accordance with the statutory requirements, and applicable executive orders. For example, in accordance with established procedures, an agent of the Comptroller General inspecting agency accounts must now meet the requirements of that particular agency regarding security clearances.

President Nixon's admonition that the Government exercise fiscal responsibility should be heeded. We should be fiscally responsible, not only in terms of frugality, but in insuring that every cent of taxpayers' money is wisely and legally spent. No civil servant, no bureaucrat, no public official should be given the opportunity to avoid accountability for his or her actions in spending public money.

During the 93d Congress, the House of Representatives has approved appropriations of $10,835,000 to be spent solely upon the certificate of a department or establishment head. Of this amount, $320,000 was approved for the expenditure for "objects" of a "confidential nature" upon the certificate of the agency head, and $35,000 for certain projects to be expended "upon the approval or authority of the Administrator and his determination shall be final and conclusive." The total amount of such appropriations would have amounted to $370,000 rather than $355,000 had I not succeeded in deleting from the Department of Transportation appropriations bill (H.R. 8760), on a point of order, a provision for "confidential expenditures." My efforts to delete the offending provisions from H.R. 8916 and H.R. 8947 as well were unsuccessful.

The remaining $10,480,000 consists of funds appropriated for the "Executive Office of the President": $9,110,000 for salary and official entertainment expenses of the President "to be accounted for solely on his certificate," and $1,370,000 for the Executive residence, traveling expenses and official entertainment expenses of the President "to be accounted for upon his certificate."

I urge my colleagues to remove temptation from the path of self-serving public servants.

A list of the cosponsors and the text of the bill follows:

### H.R. 10250

A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures

*Be it enacted by the Senate and House of Representatives of the United States of*

*America in Congress assembled,* That section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph of that section as paragraph "(a)" and adding thereto the following new paragraph:

"(b) Notwithstanding any provision of law heretofore or hereafter enacted permitting an expenditure to be accounted for solely on the certificate of the head of a department or establishment because of the confidential or other special nature of the expenditure, the Comptroller General shall be furnished such information relating to such expenditure as he may request and access to all necessary books, documents, papers and records, relating to such expenditure in order that he may determine whether the expenditure was, in fact, of such confidential or other special nature."

## WATERGATE INVESTIGATION

### HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. BEARD. Mr. Speaker, as the fate and future of the Watergate investigation rests in the hands of the other body, I have encountered a growing unanimity among Tennesseans that the country is ready to get on to better things.

Natives of America's heartland recognize the gravity of Watergate and its implications on our political system, but they also realize that self-flagellation over an issue which has been as thoroughly aired as this is pointless. Such a conclusion is supported by several reputable political "weather vanes" in my own district. Among them—the straight-shooting, straight-talking publisher of the Columbia Daily Herald, Sam Kennedy. Mr. Kennedy's wisdom was the subject of a fine article by Washington Post columnist, David Broder. I recommend this to my colleagues and that it be printed in the RECORD:

SMALL-TOWN EDITOR'S WISDOM

(By David S. Broder)

COLUMBIA, TENN.—Sam Kennedy, the publisher of The Daily Herald in this southwest Tennessee town of 21,000, looks so much like the stereotype of the small-town American editor that you suspect, at first, they must have hired him from Central Casting.

But he is the authentic item—straight-backed, gray-haired, his glance direct, his words slow and deliberate. Kennedy is a lawyer, a former prosecutor, a brass collar Democrat, who doles out his wisdom, eight or nine paragraphs at a time, in a column he calls "The Barrister's Bit."

I'd gotten to Columbia late one afternoon last week, after a long day's tour with the Sixth District congressman, Robin Beard. It was hot and I was tired. I had all the anecdotes I needed for my story about a freshman Republican congressman at home with his constituents, and the thought of getting back to the Nashville airport for a drink and a flight home was very appealing.

But Beard and his red-headed assistant, Al Ganier, urged me to meet Kennedy. I ought to talk to someone from the other side, they said, and Kennedy had backed Beard's Democratic opponent last November, and even endorsed George McGovern, though both men were a lot more liberal than Kennedy himself.

Any time a politician tells you that you really ought to meet someone of the opposite political faith, you're well-advised to do it. And the hour's visit with Kennedy proved to be, as they promised, even more refreshing than that drink I'd been day-dreaming about.

In a few well-chosen words, he did more to sum up that elusive commodity, the public mood, than anything I'd heard in ages.

I asked him if it were true, as one heard in the capital, that the voters were bored with the Watergate story and beginning to be angry with those who were prolonging it.

"People aren't as cynical as the national press thinks," he said. "They are upset about what has come out. I can tell you, as a lawyer, I'm damned upset. That was pretty close to a secret police operation they were running up there.

"But," Kennedy continued, "their attitude now is that they understand what happened and know what they think of it and now they want to get on to better things."

"But do they really understand the President's part in it?" I asked. "Don't they want him to make those tapes public. Aren't they anxious about what he's going to say in his speech?"

"There's no great expectation," Kennedy said. "The only thing that would jar them would be if he said he's resigning. That would upset 'em.

"But they think they know enough to know he should have done something to clear up this situation long before he did. They think it was wrong. But now they don't want to hear any more about somebody they think has done a pretty good job as President."

"What do they think about the committee?" I asked.

"Well," said Kennedy, "our main interest, of course, is in Howard Baker. You'll hear that the Republicans in Tennessee are mad at him, for being too hard on the President, but you've got to remember that Howard is the most popular political figure in this state—in either party."

"Most of us feel like Howard has done a fine, fair job. But we think he's like the others on that committee—they're all of them getting so they play their parts a little too well. It seems like they would be doing Howard a favor to get him off from in front of those cameras before his head gets turned."

"Will Watergate hurt the Republicans?" I asked.

"I think it's going to have absolutely no effect on the Republicans in Tennessee," Kennedy said. "People don't blame it on the Republicans. They blame it on some individuals and they blame it on that system of politics in Washington, which they haven't trusted for 10 or 15 years now, whichever party was in there."

"What about the high prices?" I asked. "Who's getting blamed for that?"

"That's funny," Kennedy said, "because there's no crystallization at all that I can see. It's not like a few years ago, when the labor unions were getting the blame, at least down here, among the farmers.

"I'd say people are confused now. They had high hopes for controls, but those didn't work, or they were taken off too soon. I'll say this, if nothing improves, somebody in the government's going to get blamed—maybe Congress. More likely, the President and his people.

"I'm not that mad myself. This is the first year since 1965 I'm going to make a little money on my cattle. But I think the housewives are going to take it out on somebody."

I thanked him for his wisdom—and for writing this column.

## PALMETTO BOYS STATE GOVERNOR MARTIN ELECTED PRESIDENT OF THE AMERICAN LEGION BOYS NATION

### HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. MANN. Mr. Speaker, it is my proud privilege to have as a constituent in my district, Thomas Edward Martin, president of the 1973 Boys Nation. This outstanding young man has a record of achievement that belies his 17 years. Some of his accomplishments are set forth in a front page story in the August 1973 issue of the S.C. Legionnaire, and I include the story in the RECORD at this point:

PALMETTO BOYS STATE GOVERNOR MARTIN ELECTED PRESIDENT OF THE AMERICAN LEGION BOYS NATION

When, on 24 July, 1973, His Excellency, Governor Thomas Edward Martin of Palmetto Boys State, was elected to the high office of President of the 1973 Boys Nation, he brought to South Carolina its first Boys Nation President and yet another top official in the American Legion Youth programs following 1972 National Oratorical Contest Winner, Thomas W. Joiner of Rock Hill.

Standard bearer for the Federalist Party, Martin defeated the Nationalist Party Candidate, J. Craig Crawford of Orlando, Florida. The vote was 53–47.

Our newly elected President is a rising senior at Spartanburg High School and is the son of Mr. and Mrs. Clarence T. Martin, Rt. 2, Box 116, Roebuck, S.C.

President Martin has compiled an impressive record of achievement at his high school, as a participator in the student government, as an instructor in archery and as advisor to the State Superintendent of Education in 1972. In 1973 he was the winner of the Voice of Democracy Speaking Contest and the Distinguished Youth Award. At Palmetto Boys State he was elected as Mayor of his city, a Member of the House of Representatives where he was then elected as Speaker pro tempore prior to being elected Governor. He also served as Parliamentarian of the House of Representatives. His present plans are to study law. In addition to the above, Thomas is President of the South Carolina High Schools Student Councils and an advisor to Governor John C. West on racial relations. He serves as Vice President of the student body of his high school.

The entire Department of South Carolina is proud of this accomplishment by our Palmetto Boys State Governor and grateful to him for his efforts in bringing this honor to himself, our Department and our State. The South Carolina Legionnaire takes this opportunity to extend its profound congratulations to President Martin and looks forward to his bringing even further credit and honor to the Department and State during his year in office.

That he became governor of South Carolina Boys State and president of Boys Nation is strong evidence that individual ability and achievement can overcome obstacles of race and heartening evidence that those obstacles are fading away.

I congratulate the American Legion, the people of South Carolina and the delegates to Boys Nation for this demonstration of true Americanism. I repeat this pride and admiration that I have for my constituent, Thomas Edward Martin.

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## MAKING A DENT IN OUR TRADE PROBLEMS

### HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. DORN. Mr. Speaker, may I commend to my colleagues and to the people of our country the following splendid article by Vernon Louviere which appeared in the September issue of Nation's Business. During these trying times, Secretary Fred Dent is a man who instills in all of us confidence in the future of our country. I am proud of Secretary Dent's devoted service to our country and I wish him every continued success.

Herein follows the article which is attached:

### THE SECRETARY OF COMMERCE: MAKING A DENT IN OUR TRADE PROBLEMS

A few weeks after Fred Dent took over as Secretary of Commerce last February he held a staff luncheon in the executive dining room on the fifth floor of the sprawling Commerce Department headquarters building.

"This is the team," he told the dozen or so people around the single large table. "We want to work as a team. I want everybody to get along."

These were not the heads of the Census Bureau, the Maritime Administration, the Patent Office or the various other major divisions under his new command.

Instead, they were his chauffeur, chef-steward, and members of his immediate office staff—down to file clerks.

The episode gives an insight into the warmth and considerateness in the character of Frederick Baily Dent, as does this one:

One Saturday, not long afterward, the Secretary was taking a plane to New Jersey. He instructed an aide:

"Tell Frank [long-time Department chauffeur Frank Simmons] not to bother. I'll take my own car and drive myself home when I get back tonight."

But chauffeur Simmons had other ideas and replied: "Tell the Secretary to forget it. I'll drive him and I'll be at the airport when he gets back."

The Secretary allowed himself to be taken and picked up.

Until a phone call from the White House last November offering him the Cabinet post, Fred Dent was comfortably settled into the life style of a successful business executive. He had been, since 1958, president of Mayfair Mills in Arcadia, S.C., the fourth-generation Dent in the textile industry.

Today, he heads a federal agency with 35,000 employees and a billion-dollar-plus budget. Among Cabinet members his is perhaps the most diverse job of all. Daily, he contends with such matters as tariffs, commodity crises, economic development, the fate of whales and seals, tornadoes, the metric system, census activity and shipbuilding, to name only a few.

"We run the Department by devoting an inordinate amount of time and attention," Mr. Dent says simply.

He sees as his most important mission the creation of a climate in which American business interests are competitive worldwide. And he has been confronted with an enormous challenge: To help reduce, if not reverse a balance of trade deficit which last year reached a staggering $6.3 billion.

"The United States must achieve a significant improvement in the export of American products abroad," the Secretary says. "If we are going to import goods and services with the voracious appetite we have recently experienced, and add to this imports of petroleum and other energy products, we are simply going to have to make a greater national commitment to export markets."

It's a theme he stresses in many of his talks around the country.

#### THINGS ARE LOOKING UP

As gloomy as the foreign trade situation has been, Mr. Dent sees some hopeful portents. Recent figures show the trade deficit was only $810 million in the first six months of this year—less than a fourth of what it was in the same period of 1972.

Secretary Dent also points to the fact that capital investment is now running about 19 per cent over last year, which he says not only will help meet American demand for goods and services but will pave the way for expanded exports.

Another encouraging sign is the brighter picture of our doing business with the Japanese. In the first six months of 1972 the trade deficit with Japan was $2.03 billion. In the same period of this year that figure had been slashed to $900 million.

The Secretary seems acutely aware that his is a job requiring global vision.

"Obviously, we have to give far more consideration and weight to our international economic policies," he told Nation's Business. "I think that heretofore military and political considerations have overshadowed commercial considerations with respect to our national policy and foreign policy."

On another occasion he has said: "I think that more and more foreign trade will lead to reduction of tensions throughout the world of a political nature and will create more understanding between the peoples of the world. . . . This is clearly evident in recent relations with the Soviet Union."

International trade is not a new field for Fred Dent to furrow. As a textile manufacturer, he played a leading role in getting some of the major textile exporting nations to voluntarily agree to stop flooding the American market.

Although Mayfair Mills is not among the textile giants, Secretary Dent won membership in the exclusive and prestigious Business Council, which is made up of titans of American business. In 1967, he rose to the presidency of the American Textile Manufacturers Institute, which speaks for the entire textile industry.

Despite a soft Southern accent and an affable demeanor which fits the popular image of a Southern gentleman, Secretary Dent was born in Cape May, N.J., and raised in Greenwich, Conn. He is Ivy League in dress.

When time permits, he and Mrs. Dent engage in favorite pastimes—swimming and tennis. He is not deterred in such pursuits by the loss of a leg to cancer a few years ago (he has an artificial leg).

Secretary Dent, six feet three inches tall, carries 195 pounds—as he did when he played on Yale University's varsity football team. A graduate of St. Paul's School in Concord, N.H., he earned a bachelor's degree from Yale in 1943, majoring in political institutions.

After service with the Navy in the Pacific during World War II, he decided to join the family-owned Mayfair Mills. But first, to learn the business, he spent about a year with Joshua L. Baily and Co., Inc., a New York textile sales firm founded by his maternal great-grandfather.

The Secretary accepts good naturedly the occasional reference to his being a transplanted Yankee in the Deep South. As he told the Senate Commerce Committee during his confirmation hearing last January:

"I well recall that we were the first postwar Yankees in town. Another couple came and we were always invited out together so there'd be someone to talk to us."

After seven months in office the 51-year-old Secretary has not fully accepted the accoutrements that go with that office. Not until his staff insisted that, if he wanted to get work done on a plane he would have to fly first-class, did he partially give up traveling economy class. He still flies in the back of the plane when he can.

Once, because of poor plane connections, he sat munching peanuts and reading for an hour and a half in the busy Atlanta air terminal. As a Cabinet officer, he could have requested an Air Force plane to transport him. As a matter of fact, he eschews the use of military planes, except in case of emergency.

On another occasion, in New York, he put a phone call through the White House switchboard to his Washington office. When he failed to identify himself, the operator told him to dial the number direct. The Secretary did.

According to his staff, Mr. Dent is unflappable and rarely loses his temper, certainly not publicly. But there has been at least one notable exception. A reporter at a news conference, baiting the Secretary, asked him if it were true that all American businessmen are dishonest.

Mr. Dent, not concealing his anger, shook his finger at the reporter and said: "Young man, you couldn't be further from the truth."

In his quarter century with Mayfair Mills, he introduced new technology, modernizing the aging firm, and expanded the one-mill operation to four plants. He is regarded in the textile industry as a pioneer in broadening minority employment.

Despite the shock waves moving through the American economy, Secretary Dent believes the business climate has never been better. He assesses the situation in these words:

"We seem to have achieved a high degree of prosperity. Take-home pay is at its peak. Unemployment is coming down. Last year, more jobs were created than in any year in history—2.7 million.

"Corporate profits appear to be trending in the right direction, although they are still below the 1966 average. And, if anything, it is the hyperactivity rather than a slowness that should be cause for concern at this time."

If he is a zealot on any subject it is the one he promotes at every opportunity—free enterprise. But he is concerned that some of the people who most share in its fruits—American businessmen—do not adequately defend it.

"Where in this land are voices being heard . . . calling for patience for us to work out of our difficulties without destroying the character of this magnificent system which has given us so much?" he asked one group of businessmen.

"Can we find in the business community staunch defenders of this system? Where are the businessmen who are counseling their friends and neighbors to have confidence that the resilience of this system can best restore economic order without the distortions which are inevitably brought upon us by government regulations?

"We have so much to lose and yet there are so few who are concerned with defending and broadening the appreciation of what we have.

"The genius of America has been our ability to accomplish through incentives all the things to which we ascribe proper priority. Yet, during the recent debate here in Washington as to how far back we would roll prices, who was speaking up to point out the danger of shortages, disincentives, rationing, black markets and all the rest of the economic evils that would have befallen our society?"

In the immediate problem areas where Fred Dent is involved his expressions of confidence in this "genius of America" come on strong, both in casual conversation and in serious discussion.

Mr. Dent concedes, of course, there are a number of rough spots in the American economy, notably inflation and the trade imbalance. But he insists the Nixon economic policies are sound and, given time and the forbearance of the American people, will return this country to a solid financial footing.

First and foremost, he believes, further major improvements in the trade picture will occur as the United States turns more and more to foreign markets to consume its goods. Until recent times this has not been necessary.

"As you know, we now export about 14 per cent of goods produced in this country," he says. "Japan exports 35 per cent of their production. The United Kingdom and Canada export well over 50 per cent of their production. We have lacked the tradition of being export-oriented because we have had the largest domestic market in the world available to us as a nation."

The Secretary notes that devaluation of the American dollar is helping open up markets abroad by making U.S. goods more competitive, and feels that devaluation will encourage American manufacturers to boost future export efforts.

### TALKING TRADE UP

Because of heightened interest in U.S. trade with the communist bloc nations of Europe and, more recently, with Mainland China, Secretary Dent spends considerably more time with Red embassy officials in Washington than probably any of his predecessors did.

To push the cause of East-West trade, Mr. Dent's efforts don't end at the conference table. On many evenings, he and Mrs. Dent attend social functions at Red embassies where conversation is frequently focused on trade matters.

Recently, he had several meetings with the Deputy Premier of Yugoslavia and at the conclusion attended a reception at the embassy.

"We were served caviar," Mr. Dent recalls. "The next morning I hosted a breakfast for the Yugoslav delegation and served them grits. Comparing the price per ounce of grits and caviar, even a Yankee trader would call this fair trade."

Although his Department seeks to develop new foreign markets wherever the prospects are favorable, the strongest thrust is by the year-old Bureau of East-West Trade. One of its major functions is to collect and analyze commercial information gathered in the communist countries and pass along the findings to American business. The hope is this will bolster trade relations and open up new markets.

Secretary Dent makes it clear that while trade with Peking may be negligible at the beginning, great opportunities for American business in China will unfold in the years ahead.

"We should do everything we can to see that American manufacturers participate in this insofar as is possible and practical," he says.

Efforts to generate more foreign trade could bear little fruit if Congress emasculates or refuses to pass President Nixon's trade bill in its present form, Mr. Dent believes. Purpose of the legislation, he says, is to open up all markets to freer trade while at the same time denying open access to U.S. markets to those countries which have thrown up barriers against American goods.

"This approach," the Secretary explains, "is premised upon the concept that the American economy can compete successfully throughout the world, and upon the belief that private enterprise in this country will not be content with dependence solely on the American consumer but will seek to take advantage of genuine opportunities for the sale of American products throughout the world."

Closer to home, Fred Dent is disturbed that this country is caught up in an energy crisis that he feels need not have come about. He says the problem is not with nature, since there are abundant supplies of energy resources, but rather was brought on by policies which have prevented their development and distribution.

He cites, for example, the case of natural gas in which, he says, unrealistic government policy has discouraged producers from seeking new sources.

Or how environmentalists have held up the construction of the Alaskan pipeline and forced lengthy court fights to prevent building nuclear power plants. (The French, he says, can build a nuclear plant in half the time because they don't tolerate such interference.)

And how these same forces have succeeded in discouraging coal production and consumption as well as halting construction of badly-needed new petroleum refineries.

### COWERING IN FEAR

"In the past, our country has always been willing to face up to technical problems in the confidence that they could be solved," he says. "Yet, today we cower in fear and as a result we may run out of gas or be faced with brownouts at home or see our factories put on short time to conserve energy."

Secretary Dent maintains an active schedule, at home and on the road. He talks to numerous audiences around the country, more often than not businessmen.

While his message is generally serious, there are light moments where a low-keyed sense of humor surfaces easily and naturally.

Not long ago, he appeared in New York before the Far East American Council of Commerce and Industry. At the last minute, its chairman could not be on hand. It was the redoubtable Jim Farley, former Postmaster General and long-time stalwart of the Democratic Party. Fred Dent hastily composed new opening remarks, and when he rose to speak said:

"I am convinced that had he [Mr. Farley] chosen to be a Republican, Herbert Hoover would have been reelected.

"*The Literary Digest* would have put the Harris and Gallup polls out of business.

"Barry Goldwater would have won by a landslide and the bugs in the Watergate would be a problem for exterminators instead of investigators. And without conceding anything to the opposition. I will admit that Jim Farley made the mail train move on time."

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## AN IMMEDIATE SOCIAL SECURITY INCREASE IS DESPERATELY NEEDED AND SHOULD BE GRANTED TO OUR ELDERLY CITIZENS

### HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. DONOHUE. Mr. Speaker, I have today introduced legislation to put into immediate effect the 5.9 percent social security cost-of-living increase presently scheduled to take place on July 1, 1974.

I am motivated, in submitting this bill and in advocating its immediate adoption, by the simple reasons that another several months' delay is completely unjustified and because our some 21 million senior citizens, whose numbers are daily growing, are in imperative need of this financial help right now, not the middle of next year.

In view of the almost daily accelerating costs, from unchecked inflation, of even the basic necessities of life, it is obviously unfair and discriminatory to require social security recipients to wait until next year for help to meet this year's persistently plaguing inflation, which has become the worst in all our history.

Any extended delay in providing this too limited measure of assistance to our economically besieged and desperate older citizens would be tantamount to the fruitless and meaningless gesture of throwing a 50-foot rope toward a struggling sinking swimmer 100 feet from shore.

Let us emphasize that the Agriculture Department itself predicts food prices alone will rise at least 20 percent this year and wholesale prices have already reached their highest level in history.

Medical costs and prescription drug prices are constantly increasing and everyone knows that the high costs of these essentials for our senior citizens are nowhere near covered by medicare.

Let us realize and emphasize that those who experience the most extreme hardships from these distressing economic developments are the elderly and others who must try to live through and survive this extraordinary inflationary period on fixed meager incomes and who must spend some 30 percent of such income on food.

Nearly three out of four Americans over the age of 65 have annual incomes below $3,000, including 2.5 million persons with no income at all. The 5.9 increase which is pending represents approximately $9 a month for the individual social security recipient, which means that the average individual recipient's monthly benefit will be raised from $167 to $176 and for an aged couple it will go up from $278 to $294. Since the authorities testify that practically every person who will receive the increase will spend, immediately, every cent of it for the purchase of fundamental living necessities, it is extremely difficult, if not impossible, to try to attach any vestige of inflationary criticism whatever to this very limited benefit increase to these too long and too greatly neglected American citizens and families.

Mr. Speaker, it would be a dramatic contradiction of our boasted American system and tradition of fair play to permit even the appearance of our poor and elderly people being used as scapegoats, for the economic turmoil afflicting this country today, and more especially so when cost increases and "pass-ons" are almost daily being granted to so many industries, like steel and auto manufacturing and while no effective actions or efforts are being supported, by those opposed to social security increases, to accomplish sensible reductions in the enormous defense budget, and our overextended foreign-aid program nor to achieve an equitable revision of our discriminatory tax system.

Before we withhold or postpone urgently needed financial assistance to the millions of Americans whose economic plight is indeed desperate, because of raging inflation, let us all first direct our concentration and our energies to reductions in those areas of Government spending that can best absorb them and to the establishment of a fair and simple tax system that will truly impose its burdens in strict accord with the ability to bear them. Meanwhile, let us swiftly attend to the priority needs of our social security recipients by approving my proposed bill or any similar measure that will immediately grant our social security recipients the 5.9 benefit increase to which they are justly entitled.

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## THE PARALYSIS IN DRUG DEVELOPMENT

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. CRANE. Mr. Speaker, there is increasing evidence that the Food and Drug Administration, rather than helping to improve the Nation's health, has hindered the development of new drugs and has kept many important new medications from the American market. Critics have argued that if penicillin were developed today, it would be 10 years before Americans would have the legal right to use it.

Part of the problem we are now encountering involves bureaucratic regulations demanding proof of the "safety" and "efficacy" not only of the drug, but of every ingredient in it. Dr. Henry Turkel declares that:

> Very few substances can be guaranteed to be safe for all human beings, because of our individual idiosyncrasies and allergies. Very few medicines can be guaranteed to be effective for all patients for the same reasons. Congress opened a Pandora's box when it permitted bureaucrats to determine "safety" and "efficacy" of substances for purposes of interstate shipment. Congress added to the possibility of abuses by not demanding guidelines for new drug applications—so that FDA could always respond with the word "incomplete" or "incorrect" regardless of the data.

In a recent volume, Prof. Stephen de Felice records his dismay over the paralysis in drug development caused largely by the Kefauver-Harris bill that was passed 10 years ago as a result of the thalidomide crisis.

Discussing this situation, columnist William F. Buckley, Jr., notes that:

> The intellectual basis of the laws that transformed the Food and Drug Administration into an agency for suppressing scientific discovery, is incoherent. Much more is known about the deleterious effects of alcohol, say, or tobacco, than was ever suspected about cyclamates.

Mr. Buckley quotes Dr. de Felice who states that:

> The effort now required to evaluate a new investigational drug in man would eliminate the Pasteurs, Jenners, Ehrlichs, and Domagks from our drug discovery system.

I wish to share with my colleagues the thoughtful column by Mr. Buckley concerning the Food and Drug Administration and its role in drug development, as it appeared in the Washington Star-News of July 19, 1973, and insert it into the RECORD at this time:

THE PARALYSIS IN DRUG DEVELOPMENT

(By William F. Buckley, Jr.)

A professor at the University of California charged last week almost parenthetically that 10,000 deaths from malaria in Ceylon in 1968 can be attributed to the late Rachel Carson, whose book "The Silent Spring" brought on the crisis of ecology, to be distinguished from the ecology crisis.

The latter is what we all know about. The former is what happens when one's concerns for the ecology become fanatical. When this happens, for instance, you find yourself saying that it is better to prohibit the use of DDT, because the chemical fallout may poison our grandchildren's clams, than to kill the mosquitoes who may give malaria to our grandchildren's grandparents like tomorrow. The need for balance in the ecological wars is very great.

As also in the related world of drugs. We are, one gathers, very soon to hear that the big scare of a few years ago about cyclamates was exaggerated. It isn't known—or, more accurately, I do not know—whether this means that further research has discredited the research that discredited cyclamates. Or whether a balanced application of the cost/benefit ratio, as the scientists call it, establishes that whereas for everyone who drinks 50 cyclamated Tabs per day and runs the risk of contracting cancer, there are 10,000 who take less than 50 cyclamated drinks per day who are scheduled to die from whatever it is that avoirdupois does to you, which might not have happened if you drank Tabs rather than Cokes.

Prof. Stephen de Felice wrote last year a book called "Drug Discovery—the Pending Crisis," in which he records his dismay over the paralysis in drug development caused largely by the Kefauver-Harris Bill that came in 10 years ago after the thalidomide crisis. It was then that a few deformed children were born, as the result of the use of that drug. What followed, Dr. de Felice says, in his writings and speeches, was something akin to hysteria.

Moreover, the intellectual basis of the laws that transformed the Federal Drug Administration into an agency for suppressing scientific discovery, is incoherent. Much more is known about the deleterious effects of alcohol, say, or tobacco, than was ever suspected about cyclamates. "The effort now required to evaluate a new investigational drug in man would eliminate the Pasteurs, Jenners, Ehrlichs, and Domagks from our drug discovery system," says Dr. de Felice, pointing out that for all the explosions in drug discovery during the 1940s and '50s, which should have resulted in exponential progress during the '60s, very little of radical therapeutic nature was in fact discovered during the '60s.

Prof. Milton Friedman recently called attention to a cost analysis of the FDA's program done by Prof. Sam Peltzman of UCLA, in which the professor attempted by ingenious means to put a dollar value on the net result of the harsh anti-innovative legislation. He began by conceding all over the place that the human tragedy of a deformed child cannot be measured in dollar terms. But it can be measured in terms of a child who was scheduled to die an awful death, but was cured by drugs.

It is his assumption—which by the way Dr. de Felice challenges as being too optimistic—that the FDA cannot stop progress for very long, that brilliant new drugs will flow in from other quarters of the world. But he insists that there is at least a two year time lag directly traceable to the FDA's fanaticism.

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## ABORTION

### HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HOGAN. Mr. Speaker, the issue of abortion has aroused a great deal of interest since the January 22 Supreme Court decision which legalizes abortion up to the moment of birth.

Judging from the mail received in my office and in other congressional offices as well, abortion has become a major issue in this country today. The grassroot support is gathering in support of legislation to overturn this unjust decision and I am gaining increasing confidence that this issue will be before Congress in the not too distant future.

I would like to include in the RECORD, at this point, an article from the News American which clearly states the effect the antiabortion movement may have during the coming election year:

SUPREME COURT ABORTION STAND FOES TEAM UP

(By Louis Cassels)

Slowly gathering force across the country is a movement to reverse by constitutional amendment the U.S. Supreme Court's permissive stand on abortion.

Contrary to widely-held belief, the antiabortion movement is not just a Catholic thing. Involved in it are many Protestants, Jews and secularists who believe that a fetus is a form of human life which deserves protection by the government.

It is a very long way at present from having sufficient strength to amend the Constitution, a very difficult thing to do. But it may build enough steam by next year to compel members of Congress to take cognizance of an issue most of them would much prefer to ignore—especially in an election year.

Since women's liberation groups are militant supporters of abortion-on-demand, a congressman will find himself in the middle however he votes. If he supports an antiabortion amendment, the feminists will go after his scalp. If he opposes it, the interfaith "Right to Life" forces will try to help him qualify for retirement pay.

Eleven proposed constitutional amendments dealing with abortion have been introduced to date in the House and Senate. Their sponsors and co-sponsors include 40 House members and 8 Senators.

Some of the proposed amendments would make it a federal crime to terminate the life of an unborn child except in the cases when it is medically necessary to preserve the mother's life.

Others propose to toss the whole issue back to the states, allowing each state to pass whatever regulatory legislation it wishes on abortion.

If any amendment gets through, it almost certainly will be of the latter type. A congressman who supported such an amendment could tell outraged feminists he wasn't voting against abortion—he was voting for state's rights.

So far, none of the amendments has even reached the stage of committee hearings. In the House, all of the pending proposals are bottled up in a judiciary subcommittee headed by Rep. Donald Edwards, D-Calif., who says he has not detected much "congressional pressure" for action on the subject.

"If hearings are held, they are well down the road," Edwards said.

In the Senate, Judiciary Committee chairman James Eastland, D-Miss., is one of the sponsors of an anti-abortion amendment. He plans to hold hearings on the proposals this fall or early next year.

The major group organizing support for a constitutional amendment is the National Right to Life Committee, which has headquarters in Washington.

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## SIXES BRIDGE DAM

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. BYRON. Mr. Speaker, today the Water Resources Subcommittee of the House Public Works Committee authorized additional funding for advanced design and engineering for the Sixes Bridge Dam project in Frederick County, Md. This project is located in the Sixth District of Maryland, and I want to indicate my opposition to the funding contained in H.R. 10203.

Sixes Bridge Dam is opposed by the Save the Monocacy Association, the Thurmont mayor and commissioners, the Carroll County Soil Conservation District, the Thurmont Area Civic Association, the Farm Bureau, and the majority of the citizens living in the area.

Recently, the Frederick Post published an editorial outlining the paper's reasons for opposing further funding of the dam. I would like to share the Post's editorial with my colleagues:

[From the Frederick Post, June 23, 1973]

Eighty-three farms will be affected by the Sixes Dam, the Corps of Engineers says. Another 80 or so will be affected by the dam's park and wildlife areas. . . . More land, particularly downstream, including Johnsville areas, will be developed because of the dam. . . .

Frederick County only has 800 dairy herds. The affected area represents 10–20 percent of the county's dairy farms. The first 70 farmers affected by the dam produce alone an estimated $800,000 in farm goods. . . . The area to be inundated and returned to wilderness is true farm land, unobstructed by development, owned and worked by beef and dairy farmrs who would like to continue as they are now.

The farmers have begun organizing to save their land although they have not yet considered reserving their land permanently for farming.

They need the help of all the water customers the Army Corps of Engineers has lined up, from Frederick to Arlington, Virginia. They need to know that in saving their land they benefit all of us and that we will work not only to help them save it but to obtain for them the same value in farming they would get eventually from development.

We have yet to see proof of so dire a water shortage or lack of water recreation to warrant cutting off this last fresh breath of air from open farm land.

It is elemental—this land is more precious than water.

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## AMERICAN NATIONAL METRIC COUNCIL CAN AID IN U.S. METRIC CONVERSION

### HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. McCLORY. Mr. Speaker, all of my colleagues in this House of Representatives who are supporting a program of orderly conversion to the metric system of weights and measures—as well as countless Americans who are awaiting implementation of a program of metric conversion consistent with the Bureau of Standards Study Report completed in July 1971—will welcome establishment of the American National Metric Council.

This voluntary nonprofit organization sponsored by the American National Standards Institute is intended to be representative of all segments of our society—and should be capable of assisting in a coordinating program of voluntary conversion to metric measurements throughout the United States.

The American National Metric Council, headed by an executive board of which Adrian G. Weaver of International Business Machines Corp. is chairman—has been organized in contemplation of a general conversion to the metric system in our businesses, industries, educational institutions, and elsewhere throughout our social system.

Mr. Speaker, I should point out that the American National Metric Council is not in any sense a substitute for a governmental mechanism such as a National Metric Conversion Board which could assist in an overall changeover to metric measurements in our Nation. Nor does the Metric Council propose to support or oppose any particular legislative measure pending in the Congress. On the other hand, consistent with its stated objectives the American National Metric Council can provide useful service as the principal agency for assisting in a voluntary metric conversion throughout the United States and can aid any government metric conversion board that the Congress may establish.

Mr. Speaker, in order to elaborate more fully on the structure as well as the aims and purposes of this newly established organization I am attaching the following excerpts from the American National Metric Council bulletin which describes and which announced its establishment:

#### AMERICAN NATIONAL METRIC COUNCIL

With metric legislation imminent and industry committing to metric conversion at an accelerating rate, there is urgent need for a private sector body to serve as a coordinating center for metric activities in the industrial and commercial segments of society. Recognizing this need, the American National Standards Institute, in consultation with industry, business, labor, and consumer leaders, has organized the American National Metric Council. The Council will operate under the auspices of ANSI and will be governed by an executive board broadly representative of all affected segments of society. The Council will be supported by various categories of subscriptons from organizations, companies, and individuals.

Metric coordination will be managed through a comprehensive voluntary committee structure representative of all affected sectors and operating under broad consensus principles. Sector committees will study impact of metric conversion on particular sectors of the industrial and commercial community. To provide as wide and as penetrating coverage as possible, members of these committees will be drawn, where appropriate, from associations, unions, societies, companies, and institutions. Work of the sector committees will be guided and coordinated by a group of major coordinating committees. The chairman and vice-chairman of each coordinating committee will be a member of the Executive Board of ANMC. The chairman of each sector committee will be a member of the corresponding coordinating committee.

Staff located in Washington, D.C., will support the work of the Council, and its committees. In addition to its coordination function, the Council will maintain a resource center and provide extensive metric information services to its subscribers.

#### PURPOSES OF THE METRIC COUNCIL

Serve as a national coordinating center for voluntary metric conversion activities in the United States, through which organizations concerned with such activities can cooperate in identifying needs and in developing coordinated plans and timetables for conversion.

Provide the means for identifying the requirements for metric standards, the recommended priority in which they should be developed, and the recommended timetable for their development.

Serve as a resource center for useful metric information including standards, reports, educational material, and general information dealing with S1 usage and all facets of metric conversion.

Publish and disseminate pertinent metric information.

Undertake detailed studies in selected areas of metric conversion.

Serve as a forum for the exchange of ideas and information relating to metric conversion, and for the airing of metric problems of a significant nature.

#### COUNCIL POLICIES

The Council will:

Operate under the principle of voluntary consensus and seek active and objective participation by all affected segments of society.

Work where possible through established consumer, labor, professional, technical, and trade organizations.

Maintain the closest possible liaison and coordination with agencies of government and with the National Metric Conversion Board when such a Board is established.

Leave actual policy determination, timing, and degree of metric usage to those involved with such usage.

Not be directly involved in the actual development of standards, such activity being the responsibility of existing standards-developing bodies.

Seek to avoid duplicating the work of other organizations.

Remain nonadvocate in nature.

#### BENEFITS OFFERED BY ANMC

ANMC will provide the coordinating mechanism that is so urgently needed now with companies already embarking on metric conversion programs.

ANMC will help ensure the proper and consistent application of metric units and practices, thereby preventing the costly proliferation of divergent practices.

The work of ANMC will greatly reduce individual company expense in coordinating metric conversion plans of suppliers and industry sectors.

Early development of national metric standards will facilitate conversion.

ANMC will provide the private sector with the means to plan metric conversion in a voluntary consensus manner.

The exercise of initiative in the private sector will reduce the need for government direction.

The early establishment of ANMC will allow the private sector to provide coordinated inputs to the Government Metric Conversion Board (when formed) and thereby greatly facilitate the work of the Board.

ANMC will operate in strict adherence to the antitrust laws and other legal requirements through periodic supervision of activities by qualified legal counsel and through procedures and practices which call for free access to information and activities, as well as opportunity for comment.

ANMC will cooperate with ANSI to strengthen the role and influence of the United States in international standards work.

Through its metric newsletter and special publications, ANMC will ensure that its subscribers are kept abreast of key metric developments.

Mr. Speaker, I am also taking the liberty of attaching the names of the executive board of the American National Metric Council, as well as the advisers to the council. In this connection, it should be noted particularly that Dr. Malcolm E. O'Hagan who has had long experience with metric activities and who acted as special assistant to the chairman of the National Metric Advisory Panel in connection with the U.S. Metric Study Report, has been named as the council's executive director. It should be noted further that our former colleague from California, the Honorable George P. Miller, who served as chairman of the House Committee on Science and Astronautics, and who was a principal sponsor of metric legislation, is among those who serve as advisers to the council.

The list follows:

AMERICAN NATIONAL METRIC COUNCIL
EXECUTIVE BOARD

Adrian G. Weaver, Chairman, Director of Standards Practices, International Business Machines Corporation.

Louis E. Barbrow, Coordinator of Metric Activities, National Bureau of Standards.

Hans Beibie, Manager, Design Management Systems, The Boeing Company.

Carl A. Beck, President, Charles Beck Machine Corporation.

John T. Benedict, Manager, Technical Information, Chrysler Corporation.

William K. Burton, Metric Consultant.

Walter F. Conlin, Jr., Chief Engineer, Turner Construction Company.

Albert S. Epstein, Director of Research, International Association of Machinists and Aerospace Workers.

Dr. John L. Feirer, Director, Center for Metric Education, Western Michigan University.

Gordon A. Goodrich, Director, Central Engineering Services, General Foods Corporation.

Melvin R. Green, Managing Director, Research, Codes, and Standards, The American Society of Mechanical Engineers.

George Greene, Metric Coordinator, Sears, Roebuck and Company.

Thomas A. Hannigan, Assistant to the International Secretary, International Brotherhood of Electrical Workers.

Dr. Doris E. Hanson, Executive Director, American Home Economics Association.

Russell Hastings, Manager, Advance Engineering, Clark Equipment Company.

H. B. Heilig, Jr., Director, Engineering Planning and Practices, Western Electric Company.

R. M. Hurd, Vice-President, Bethlehem Steel Corporation.

Allen F. Jones, Manager, Technical Assistance, E. I. du Pont de Nemours & Company, Inc.

Dr. Gordon H. Millar, Vice-President, Deere & Company.

John J. Motley, National Federation of Independent Business.

R. A. Pittman, Director, Metrication Planning, Ford Motor Company.

Louis Polk, President, Louis Polk, Incorporated.

Clyde Roberts, Vice-President, National Association of Manufacturers.

John Rutkus, Manager, Engineering and Technical Services, Xerox Corporation.

John G. Thodis, Director, Governmental Relations, Michigan Manufacturers Association.

G. M. Waeltz, Chief Standards Engineer, Caterpillar Tractor Company.

Dr. Malcolm E. O'Hagan, Executive Director, ANMC.

ADVISERS TO THE COUNCIL

Dr. Lee L. Davenport, President, General Telephone and Electronics Laboratories.

Frank J. Feely, Jr., Manager, Operations Coordination, Logistics Department, Exxon Corporation.

Dr. Seymour Herwald, Vice-President, Engineering and Development, Westinghouse Electric Corporation.

The Honorable George P. Miller, Congressman from California, 1945–1972.

Roger F. Ringham, Vice-President—Engineering International Harvester Company.

Dr. John A. Swartout, Vice-President, Union Carbide Corporation.

Mr. Speaker, let me conclude by stating that the American National Metric Council can provide vital information and invaluable assistance to us in connection with consideration of legislation to implement the Bureau of Standards Study Report. Relying on such information and assistance I am confident that we may act responsibly—and soon in behalf of an appropriate mechanism for coordinating the orderly conversion of our system to metric standards. Those who may be interested in communicating with the American National Metric Council should note that it has offices at 1625 Massachusetts Avenue NW., Washington, D.C. 20036.

## VOTES ON SEPTEMBER 10 AND 11

### HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ANDREWS of North Carolina. Mr. Speaker, on Monday, September 10, and Tuesday, September 11, I was in North Carolina on important matters affecting my constituents in the Fourth Congressional District, including the very pressing problem that many tobacco growers, especially those in the Fuquay-Varina area of Wake County, are having in being unable to sell their tobacco, even though it has been a month to 6 weeks since they finished priming.

Had I been present on those 2 days, I would have voted "aye" on rollcall No. 442, the contempt citation of G. Gordon Liddy; "aye" on rollcall No. 443, the Little Cigar Act; "nay" on rollcall No. 446, the act to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine; and "nay" on rollcall No. 447, the rule providing for consideration of the eucalyptus assistance bill. I might add, however, that my vote would not have affected the outcome of any of these bills.

I regret having missed these votes and the debate on them, especially the debate on rollcall No. 445, the State Department authorization. Having missed this debate and not knowing as much about this legislation as I would like to know, I am not sure how I would have voted, but am inclined to think I would have voted "nay."

## WEST BRANCH WEIR BUILT BY GUARDSMEN WORKS FINE

### HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mrs. GRASSO. Mr. Speaker, the weir now standing in the Naugatuck River, some 200 feet downstream from Memorial Bridge in Torrington, Conn., bears strong, convincing testimony to the value of cooperation between various and diverse segments of the community.

The actual physical labor involved in building the weir—which, by the way, is a damlike structure made of gabians, or rock filled cages and sand bags—was accomplished last weekend.

A good deal of the heavy work was taken care of by some 95 Connecticut Army National Guardsmen—from Company B, 2d Battalion, 102d Infantry—who did a fine job in tackling the various tasks required to build a weir. Most of these young men are area residents. This action is part of a community service program for the National Guard that deserves commendation.

With technical advice from Government officials and a weir expert, the guards constructed the wire cages, cleared the weir area, filled burlap bags with sand, and passed rocks to the river to anchor the cagelike gabians.

Community residents aided the Guardsmen in their weekend effort, often providing needed extra muscle. The city of Torrington and some of the businesses in town provided equipment which lightened the load, or various treats such as soft drinks for welcome breaks in the weekend labor.

The weir is a dream-come-true for officers and members of Pride, Inc., an environmental group with members from Torrington and the vicinity. Pride officials played an important role in convincing people that a weir would serve a useful purpose and could be built in the Naugatuck River. Pride representatives acted as catalysts for the weir, receiving commendable assistance from Torrington's Beautification Commission and from several city banks.

All in all, weir weekend in Torrington was an unparalleled success. Indeed, the pool resulting from construction of the weir will serve to enhance the river's appearance and improve the quality of the environment.

For the interest of my colleagues, I am inserting the following article which appeared in The Register of Torrington and accurately describes the community cooperation that went into the building of Torrington's weir:

### WEST BRANCH WEIR BUILT BY GUARDSMEN WORKS FINE

(By Mark Miller)

It's not the Grand Coulee Dam—it's not even called a dam—but a small weir is in place in the West Branch of the Naugatuck River. It comes after years of dreaming, talking and promoting, months of planning, ordering and cajoling, and hundreds of man-hours Saturday and Sunday lifting, shoveling, climbing, wading, sloshing and joshing.

About 3½ feet high, 3½ feet thick and 80 feet across, the weir is made of intertwined cages of galvanized and plastic coated wire mesh held down by 80 tons of granite rocks. A thousand burlap bags containing about 14 tons of sand are packed against its upstream side as a seal to hold the water.

The result of a community effort is a reflecting or wading pool from the weir nearly all the 200 feet to Memorial Bridge on South Main Street, covering the rocky riverbottom.

About 95 Army National Guardsmen—from Co. B, Second Battalion, 102nd Infantry—took care of most of the heavy work. Technical expertise was provided by Larry Brown, acting city engineer; Frank Satin, public works director; Vincent Viggiano, representative from Macchferri Gabians Inc.; and Bernard Manor, reservoir manager for the Army Corps of Engineers at the Thomaston Dam

Work started at about 8 a.m. Saturday, when the guardsmen marched to the river from the Armory. One group was assigned to make gabians, cages to hold the rock from the coated wire mesh by fastening the sides together with coated wire strands. Another group was assigned to fill the burlap bags with sand. A third group cleared all rocks from the site of weir.

A fourth group formed into a human chain—like a bucket brigade—and began passing rocks, one by one, from a rock pile to the first-gabians in the river some 30 feet away.

A city machine was requested to more efficiently transport the rock from the pile on the north bank to the gabians. Before long, a "traxcavator" (a bulldozer with a scoop) was seen coming upstream around the bend of the river near the former Torrington Manufacturing Co. Machine Division building.

The gabians were about half filled by the time it was decided to call it a day shortly after 3 p.m Saturday, and return Sunday. By about 2 p.m. Sunday, enough sandbags had been packed in against the weir to raise the water level to nearly three feet.

#### THE WATER'S FINE

Bob Weider of New Hartford, a guardsman, took off his boots and socks, stripped to his waist and made a surface dive into the water.

"Somebody had to be the first one," he said later, "and I just decided I'd do it." Another guardsman went in an hour or so later and pronounced the water warm and not too dirty.

The cleanest water near the weir was to be found downstream, well filtered through the sandbags. This led to speculation on a series of weirs, among them one near Torrington Towers, one under Memorial Bridge, one near the riverbend downstream from the new weir.

Before others could be considered, PRIDE spokesmen said this would have to prove itself. James Miller PRIDE president, refers to this weir as an experiment.

One possible problem showed itself this morning. Because the water goes through and under, rather than over the weir, stagnation may be causing silt to form on the surface of the pond created by the weir. This was pointed out by Dr. Isadore Temkin, a member of PRIDE who donated 12 of the 14 tons of sand used. This problem should solve itself, he said, as soon as enough sediment builds up in the weir to force the water over it.

#### SPIRIT IS GREAT

Among the visitors to the weir Saturday were U.S. Rep. Ella T. Grasso, D-Sixth District, and Eva M. Coty, chairman of the Beautification Committee.

"So that's a weir," said Mrs. Grasso upon first seeing the half-completed project Saturday evening. "This is a positive contribution to the city they can make and must give the guardsmen a great deal of satisfaction," she said. "The spirit here is just great. I hope it catches on in other cities and towns."

The Beautification Committee agreed to pay for the gabians which, according to the bill which arrived at PRIDE headquarters Saturday, came to $820.80. Miss Coty is chairman of the board of First Federal Savings & Loan Assn.

Another banker connected with the project, John H. Brooks, president of the Torrington Savings Bank, did not appear Saturday or Sunday. Mary Ann Fecteau, PRIDE executive director, credited Brooks with informing PRIDE about gabians in the first place. Brooks had seen gabians in use on the Hollenbeck River in Canaan or Cornwall and had obtained brochures about them, which he gave to PRIDE.

#### OTHER CONTRIBUTIONS

Other contributions made to the building of the weir included: coffee from the Torrington Grill and Dick's Restaurant, 10 cases of beer from Dawn & Co. (put away by the guardsmen after work Saturday afternoon), several cases of soft drinks from Canada Dry, sandwiches, brownies and cookies from the Torrington Junior Woman's Club, eight pairs of pliers from the Torrington Co., and a fork lift truck and other unloading services from Torin Corp.

The Army Corps of Engineers loaned shovels and pinch bars, and the Colonial Bank & Trust Co. gave up the use of its Franklin Street parking lot Friday to make room for piles of sand to be deposited there. HELCo donated heavy wire cutters and the state Civil Defense "loaned" the burlap bags to be filled with sand. Central Lumber Co. provided plywood to make a slide for sandbags to be lowered to the river.

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## A DEATH DUE TO BUSING

## HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HUBER. Mr. Speaker, I have often referred to the tragedy of forced cross-district busing, but today I must talk of a more immediate tragedy, a death that occurred as a direct result of forced busing. On Friday, September 7, 1973, the Washington Star-News carried an obituary of a 4-year-old girl, Crystal Jacobs, who was struck and killed by a schoolbus that had just transported her to her home from her kindergarten over 5 miles away. Unfortunately, there was no need for Crystal to be bused for another elementary school was nearby her house.

I certainly know of no reason why this particular "remedy" to overcome racial imbalance is needed. Far worse, it has been imposed by judges who have set themselves up as legislators. Every day, I hear people object to the erosion of the separation of powers, and yet I rarely hear anyone complain of the manner in which the courts have usurped from the Congress the right to make the laws. If we are to represent the people, as we were elected to do, then it is time that we be responsive to them. A recent Gallup poll showed that only 5 percent of the American public favored busing as a method by which to achieve racial integration in the public schools. Ninety-five percent of this country is opposed to it. The question is, Are we in the Congress going to allow the courts to run the country, regardless of what the public may think; or are we going to resume our role as an equal branch of the Federal Government? We can do the latter if we make an effort to pass antibusing legislation in this Congress. How many more polls must we see, and how many more deaths must we have before we wake up to the folly of this terrible method of achieving racial integration?

I am, therefore, enclosing for the serious consideration of my colleagues, two articles, the Washington Star-News obituary of Crystal Jacobs and the Richmond Times-Dispatch report on the latest Gallup poll. They speak for themselves:

[From the Washington Star-News,
Sept. 7, 1973]

### CHILD, 4, KILLED IN ACCIDENT

A 4-year-old Prince Georges County girl was struck and killed by a school bus at 80th Avenue and Barlow Road at 12:40 p.m. yesterday, police reported.

The child, Crystal Jacobs, who was returning to her home at 7604 Nalley Road after her second day at kindergarten at Lamont Elementary School in New Carrollton, was rushed to University Hospital's shock trauma center in Baltimore by police helicopter. She died less than an hour after the accident.

Police said the girl, who had just left the bus, was leaning against its front bumper as driver Margaret Overton, 31, of Riverdale was starting up when the accident occurred.

A police spokesman said no charges had been placed against Mrs. Overton and that the accident is still under investigation. Mrs. Overton has been a bus driver since 1968.

Crystal was the daughter of Alonza Jacobs, a District policeman, and his wife Dorothy, a practical nurse at Prince Georges General Hospital.

Crystal was one of some 133,000 Prince Georges students who began classes Wednesday and one of thousands bused to schools out of their neighborhoods to further racial integration in the county under a controversial court order.

"It bothers me that she had to be bused when that school (John Carroll Elementary) is so close," Jacobs said. Lamont is more than five miles from the child's home.

"If we're going to have this busing for integration," he said, "let's institute some sort of safety precautions for the safety of the kids." He suggested safety patrols on the buses, particularly those with young children, whose members could see youngsters safely to their doors.

[From the Richmond Times-Dispatch, Sept. 9, 1973]

### GALLUP POLL—ONLY 5 PERCENT SUPPORT USE OF BUSING

(By George Gallup)

PRINCETON, N.J.—A majority of Americans favor the integration of public schools, but only a very small proportion approve of busing as a means to reach this goal.

Only one person in 20 (5 per cent) in a recent nationwide Gallup Poll selects busing from a list of plans that have been suggested as ways to achieve economic and racial integration in public schools.

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## SLOVENIAN WOMEN'S UNION OF AMERICA RESOLUTION

### HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. O'BRIEN. Mr. Speaker, the Slovenian Women's Union of America recently held their convention in Chicago and passed a resolution with regard to abortion. I have proposed a constitutional amendment which would restore to States the power to enact laws on abortions. I am also a cosponsor of a constitutional amendment which would guarantee the right to life from the moment of conception.

I commend the women's union for their concern and invite my colleagues' attention to the resolution:

Whereas, as women we realize that from the moment of conception the life in the mother's womb is an independent, living human being,

And since, we do not condone the Supreme Court decision of January 22, which legalized abortion on demand everywhere in the United States, "which killing will pale Herod's slaughter of the innocents",

Be it known, therefore, that it is our most urgent demand that our representatives and legislators work toward an antiabortion constitutional amendment, which would serve to educate Americans that abortion is wrong and thus prevent the extension of the anti-life mentality,

Be it further resolved, that at the same time efforts must be made to counter the growing push for legalized euthanasia,

And because, our government guarantees in its constitution life to every individual,

Therefore, the Slovenian Women's Union on the occasion of its 16th triennial convention at the Bismarck Hotel in Chicago, May 20–24, 1973, urge the United States government and the supreme court to employ great consideration to this most serious resolution.

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## MARYLANDERS CITED FOR OUTSTANDING SERVICE IN FEDERAL GOVERNMENT

### HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. HOGAN. Mr. Speaker, I have received a list of those people from the State of Maryland employed in several agencies of the Federal Government who have been cited for their outstanding service during 1972 and 1973.

Mr. Speaker, in recognition of these employees I would like to have printed into the RECORD the names of the recipients of those awards.

FEDERAL TRADE COMMISSION,
*Washington, D.C., August 17, 1973.*

Hon. LAWRENCE J. HOGAN,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSIONMAN HOGAN: In response to your letter of July 31, 1973, I am listing those employees from Maryland who have received awards during 1972 and 1973:

#### SUPERIOR

Elbert R. Averill, Donald L. Bachman, Joan Z. Bernstein, R. John Bitting, Robert B. Black, Joy A. Cartwright, James A. Dalton, Thomas D. Duchesneau, Edward B. Finch, Steven B. Gold, Alice J. Harvey;

Owen M. Johnson, Jr., Betty D. Kurtz, John F. LeFevre, Leonard J. McEnnis, William E. McMahon, Daniel C. Main, Diane P. Matthews, Paul E. Parker, Joseph Rutberg, Charlotte B. Scraggs, Edward W. Underwood, Christian S. White.

#### COMMENDATION

Marie A. Bielonis, Clayrine Felder, Lillie M. Lane, Susan Painter, Paul C. Pross, and Linda G. Wolin.

#### MERITORIOUS

Donna A. Barton, Evelyn V. Blandin, Ronald A. Bloch, Edgar A. Bush, Marian B. Castro, Delorian J. Cecil, David L. Clancy, Jessie Fitzpatrick, Ruth R. Fitzpatrick, Carl E. Fuehrer, Jr.;

Jonathan E. Gaines, Glenwood S. Gaskins, Carol A. Gross, Marvin F. Hendershot, Patricia S. Hoffman, Monnie R. Hughes, Kenneth Hunter, Agnes M. Johnson, Joyce C. Johnson, Mattie E. Leinster;

Laura C. Lent, Ramona C. Luckel, Laura C. Lunsford, Vera R. McClain, Claude O. Merritt, Walter R. Myers, Sherman W. Pauley, James L. Perry, Jr., Shirley A. Perry, Ronald A. Rowe, Hazel M. Samel;

Bernard Snyder, Paul W. Sternberg, Sandra M. Sweeney, Grace M. Taylor, Margaret A. Varva, Bonnie B. Wan, Jack W. Wilburn, Eileen P. Wilkinson, Iva M. Woods.

#### DISTINGUISHED

Robert J. Beller, Howard W. Crumly, Marjorie C. McKee, H. Michael Mann, Lawrence G. Meyer, Basil J. Mezines, Charles A. Tobin, Alan S. Ward.

With kind personal regards,
Sincerely,

CHARLES A. TOBIN,
*Acting Executive Director.*

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DEPARTMENT OF THE NAVY,
*Washington, D.C. August 15, 1973.*

Hon. LAWRENCE J. HOGAN,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. HOGAN: This is in reply to your letter of July 30, 1973 requesting a list of employees from the state of Maryland who have received awards for their outstanding service to the Department of the Navy.

Only records pertaining to awards processed through the Navy Incentive Awards Board and approved by the Secretary of the Navy are maintained in this office. These are the Navy Distinguished Civilian Service Award, the Navy Distinguished Public Service Award and the Certificate of Merit. A list of the Maryland residents who have received these awards during 1972 and 1973 is enclosed.

I hope this information will satisfy your requirements.

With kindest regards,
Sincerely,

A. DI PASQUALE,
*Director, Labor and Employee Relations Division. (By direction of the Director.)*

#### NAVY AWARD WINNERS FROM THE STATE OF MARYLAND

#### DISTINGUISHED CIVILIAN SERVICE AWARD

1. Mr. William B. Anspacher, 1818 Sanford Road, Silver Spring, Md. 20902, award approved 14 Jul 1972.
2. Mr. Gilbert C. Bowen, 12321 Remington Drive, Silver Spring, Md. 20902, award approved 27 Dec. 1972.
3. Dr. Rou D. Gaul, 5901 Arbroath Drive, Clinton, Md. 20735, award approved 16 Apr 1973.
4. Mr. Harry Gold, 7012 Richard Drive, Bethesda, Md. 20034, award approved 10 Dec 1972.
5. Mr. Robert B. Knowles, 13505 Sherwood Forest Terrace Silver Spring, Md. 20902, award approved 14 Jul 1972.
6. Mr. John R. Wakefield, 1818 Mori Drive, Rockville, Md. 20853, award approved 3 Jul 1972.

#### DISTINGUISHED PUBLIC SERVICE AWARD

1. Mr. Charles L. Ill, 10830 Pleasant Hill Drive, Potomac, Md. 20854, award approved 15 May 1973.

#### CERTIFICATE OF MERIT

1. Rescue Fire Company, Incorporated of Cambridge, Md., award approved 23 Aug 1972.
2. Linkwood-Salem Volunteer Fire Company of Linkwood, Md., award approved 23 Aug 1972.
3. Vienna Volunteer Fire Company of Vienna, Md., award approved 23 Aug. 1972.

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DEPARTMENT OF THE ARMY,
*Washington, D.C., August 20, 1973.*

Hon. LAWRENCE J. HOGAN,
*House of Representatives.*

DEAR MR. HOGAN: The Secretary of the Army has asked that I reply to your request for a list of employees from Maryland who have received awards for outstanding services during 1972 and 1973.

The Department of the Army has several levels of honorary awards which it confers on its civilian employees for outstanding achievements or service. The highest of these awards is the Decoration for Exceptional Civilian Service which can be awarded only by the Secretary of the Army. This is the only award on which we maintain centralized records. I have attached a listing of employees residing in Maryland who received this award during 1972 and 1973.

Similarly, the Department has multiple levels of public service awards. Public service awards are granted to employees at the policy development level and private citizens who render outstanding service which makes a substantial contribution to the accomplishment of the Army's mission. The highest of these awards is the Decoration for Distinguished Civilian Service. As with the honorary awards, records are kept at Headquarters, Department of the Army only for this award. I have attached a listing of those employees and private citizens residing in Maryland who received the Distinguished Civilian Service Award in 1972 and 1973.

Your thoughtful interest in our oustanding civilian employees is very much appreciated.

Sincerely,

L. STEPHEN QUATANNENS,
*Lieutenant Colonel, GS Deputy,*
*Congressional Inquiry Division.*

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DEPARTMENT OF STATE,
*Washington, D.C., September 10, 1973.*

Hon. LAWRENCE J. HOGAN,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. HOGAN: The Acting Secretary has asked me to reply to your letter of July 30, 1973 requesting a list of employees from Maryland who have received honor awards during 1972 and 1973.

As recently reported to your office by telephone, the 1973 list of recipients is now being prepared. When it is completed the list of names will be forwarded.

The only 1972 recipient of an award from the State of Maryland is Thomas Polgar, who received the Award for Valor. His current address is: American Embassy, Saigon, Viet-Nam. For your information, the citation reads:

"For courageously risking your life to obtain the safe release of a hijacked aircraft crew at Buenos Aires, July 4, 1971."

I hope that this answers your question. Please let me know if I can be of further assistance.

Sincerely yours,

Marshall Wright,
*Assistant Secretary for Congressional Relations.*

DECORATION FOR EXCEPTIONAL CIVILIAN SERVICE

Mr. Eckhard Bennewitz, 13513 River Road, Potomac, Md. 20854.

Mr. William K. Cave, 1316 Woodside Parkway, Silver Spring, Md. 20910.

Mr. Mark S. Gurnee, 2108 Spenser Road, Silver Spring, Md. 20910.

Mr. Lewis W. McBride, 215 McKinsey Road, Severna Park, Md. 21146.

Mr. Arnold B. Taylor, 5109 39th Avenue, Hyattsville, Md. 20781.

Mr. John G. Connell, Jr., 11–N Laurel Hill Road, Greenbelt, Md. 20770.

Mr. Jacob B. Gilstein, 11712 Farmland Drive, Rockville, Md. 20852.

Mr. Vincent P. Huggard, 9100 Friars Road, Bethesda, Md. 20034.

Mr. Wilbur B. Payne, 13508 Glen Mill Road, Rockville, Md. 20850.

Mr. Charles L. Poor, 8708 Contee Road, Laurel, Md. 20810.

Dr. Maurice Apstein, 4611 Maple Avenue, Bethesda, Md. 20014.

Mr. Herman P. Gay, Route 1, Box 360, Aberdeen, Md. 21001.

Mr. Merl G. Ringenberg, 612 Rockspring Road, Bel Air, Md. 21014.

Dr. Kamal G. Ishak, 7109 Fulton Street, Chevy Chase, Md. 20015.

Mr. Charles V. Brandon, 13600 Aqua Lane, Rockville, Md. 20850.

Dr. Joseph Sperrazza, 325 Rogus Street, Aberdeen, Md. 21001.

DECORATION FOR DISTINGUISHED CIVILIAN SERVICE

Mr. Dudley C. Mecum, 10841 Stanmere Drive, Potomac, Md. 20854.

Dr. Ray Ehrensberger, Chancellor, University College, University of Maryland.

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U.S. Department of Justice,
*Washington, D.C., September 7, 1973.*

Hon. Lawrence J. Hogan,
*House of Representatives,*
*Washington, D.C.*

Dear Mr. Hogan: In response to your July 30, 1973 request, there follows a list of names of employees from Maryland who received major Department awards during 1972:

Jean F. Chipouras, James B. Colasanto, Clair A. Cripe, Carlene V. Jackson, James L. Kelley, Robert C. Kragh, Charles A. Lauer, William E. Nelson, James D. O'Brian, Margaret D. Pampley, Neil Roberts, Robert L. Saloschin, Howard E. Shapiro, Harold J. Tulley, and, James P. Turner.

The above list does not include recipients of awards presented by the Federal Bureau of Investigation. However, it is my understanding that the Bureau has responded to your request under separate cover.

If further information is required please let me know.

Sincerely

Ben Wiseman,
*Acting Director of Personnel and Training.*

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Department of Housing and Urban Development,
*Washington, D.C., August 10, 1973.*

Hon. Lawrence J. Hogan,
*House of Representatives,*
*Washington, D.C.*

Dear Mr. Hogan: This is in further reply to your letter of July 30, 1973, to Secretary Lynn concerning HUD employees from Maryland who received awards for outstanding service during 1972 and 1973.

Of the awards listed in your letter, HUD grants only the first two: the Distinguished Service Award and the Certificate of Merit. In 1972, the HUD Distinguished Service Award was presented to the following employees who reside in Maryland:

Irving P. Margulies, Associate General Counsel for Equal Opportunity Litigation and Administration; Residence: 9320 Judge Place, Gaithersburg, Maryland 20760.

John M. Gibson, Director Emergency Preparedness Staff; Residence: 5918 Bryn Mawr Road, College Park, Maryland 20740.

Vincent J. Hearing, Acting Assistant Secretary for Administration; Residence: 1378 Kersey Lane, Potomac, Maryland 20854.

No Maryland resident received the Certificate of Merit in 1972. The winners of HUD's 1973 awards have not as yet been selected.

If we can be of any further help to you, please let us know.

Sincerely,

T. F. Monihan,
*Director, Employee Relations Division.*

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## FIRE PREVENTION WEEK

## HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. EILBERG. Mr. Speaker, Philadelphia's Fire Department plans to observe Fire Prevention Week, October 7 to October 13, with various programs including float displays, TV and radio announcements, and the issuance of safety posters throughout the city.

At this time I enter into the Record a statement by the city of Philadelphia about plans to commemorate Fire Prevention Week:

Fire Commissioner Joseph R. Rizzo announced today that the Fire Department is distributing several hundred thousand pieces of fire prevention literature announcing the upcoming observance of Fire Prevention Week in Philadelphia, Oct. 7 to Oct. 13.

Posters, brochures, folders and mail stuffers will be given to businesses, industries and Philadelphia school children. The literature will show a fireman holding a child asking the question, "Yours?" and stating "Prevent Fires, Save Lives."

Commissioner Rizzo stated that numerous organizations, businesses, and industries will stuff pay envelopes with Fire Prevention Week stuffers, and the utility companies will include fire safety tips in their billings.

Fire prevention messages will also be found on menus, in laundry bundles, on clothes hangers, dry cleaning garment bags, milk cartons, shopping bags, newspapers and magazines.

Fire safety poster messages will also be seen on buses, trolleys, trucks, billboards, theatre marquees and move theatres, in addition to radio and television spot announcements.

Fire Prevention Week traditionally commemorates the great Chicago fire on Oct. 9, 1871, which caused over 200 million damage and claimed some 250 lives. Philadelphia will observe the week with a series of programs, float displays, and various educational activities aimed at promoting fire safety in the home, at school and in business and in industry.

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## COUP IN CHILE

## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. BINGHAM. Mr. Speaker, the recent coup in Chile raises serious questions about our foreign policy toward Latin America generally, and in particular the role the United States played, if any, in the events leading up to the replacement of the duly elected Government of Chile.

An editorial appearing in today's Washington Post ably defines the issues which the coup presents for resolution and I commend it to my colleagues and other reads of the Record. The editorial follows:

### COUP IN CHILE

Chile's coup is different. Its special tragedy is that it ends Latin America's longest democratic tradition and also its most serious effort to carry out rapid social change within a framework of representative government. Whether the coup will arrest the county's social and economic disintegration, or lead Chile into an intensified class war, cannot yet be known. The leaders of the armed forces, until now on the sidelines of politics, conducted their takeover in the name of "liberating Chile from the Marxist yoke," as they described the elected government of Salvador Allende. At the same time, in an evident low to the Allende constituency, the military leaders assured the workers that their economic and social benefits "will not suffer fundamental changes." Perhaps the Chilean military can return their country in a reasonable time to its democratic heritage. The experience of others is not encouraging. That is what is so regrettable about the failure of the Allende experiment. It is an outcome likely to harden both Latin left and Latin right in the view that social change in a democratic context doesn't work.

Mr. Allende's truly unfortunate death—by his own hand, according to the new junta—imparts an additional somber and ominous note. Many in Latin America will no doubt regard him as a martyr whose death, like that of Che Guevara, symbolizes the implacability of American "imperialism." His politics, perhaps also his myth, are bound to move to the center of Latin and inter-American politics, and to becloud objective judgment of him. It is impossible not to note, however, that his 30 earlier years in the political wilderness had ill prepared him to exercise power. He ignored the limitations of his minority support and attempted to govern as though he wielded a majority. He lost control of many of his own supporters. His admirers can argue that he was bequeathed a political and economic legacy that would have burdened any leader, but that is hardly a persuasive defense; the job was not forced upon him.

On the eve of Allende's election in 1970, Henry Kissinger, calling him "probably a Communist," said that an "Allende takeover" would pose "massive problems for us, and for democratic forces and for pro-U.S. forces in Latin America." The CIA and ITT discussed—apparently without further action—how to keep Mr. Allende from power. When Chilean moderates seemed to be looking for a satisfactory way to resolve the copper-nationalization disputes, the administration delivered a number of symbolic rebuffs to Mr. Allende and then proceeded to use its influence to deny him access to loans from the international development banks. The evident results were to stiffen the Chilean position on compensation for the copper firms, to work economic hardship on Chile, and to aggravate political tension there. Meanwhile, the U.S. kept up close links with the Chilean military. Military aid flowed; at the moment of the coup, four U.S. Navy ships were steaming toward Chile for joint maneuvers with Chile's navy. In denying CIA involvement in the coup yesterday, the State Department did not offer regrets either for the takeover or for Mr. Allende's death.

Sobering as it is to have to ask whether American ideological coolness and corporate influence played a role in the undoing of the Allende experiment, it is unavoidable. Indeed, the denouncement leaves hanging the whole question of what ought to be the American policy toward the forces of economic nationalism churning much of Latin America. The issue is unquestionably worthy of the recall of Secretary of State-designate Kissinger before the Senate Foreign Relations Committee for a closer look at our performance in Chile and its implications for future policy, or a separate congressional investigation, or both.

## HAVE SOVIETS CHANGED?

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. ASHBROOK. Mr. Speaker, one of champions of the cause of freedom has been Axel Springer, the widely known West German publisher. Dr. Springer has once again spoken with clarity and directness, this time in a letter to West German Chancellor Willy Brandt.

Dr. Springer laid the issue of détente with the Soviet Union and its relationship to the now famous Solzhenitsyn case on the doorstep of the Chancellor. Mr. Brandt, more than any other Western leader, has promoted the idea that the Soviets have changed and can be dealt with on a rational basis.

Because Dr. Springer's letter is of such great significance, I should like to share it with my colleagues and therefore I include it in the RECORD along with an article at this point:

### TRANSLATION OF A LETTER FROM AXEL SPRINGER TO CHANCELLOR WILLY BRANDT

BERLIN, *August 29, 1973*.

HERR WILLY BRANDT,
*Federal Chancellor,*
*Adenauerallee 141.*

DEAR CHANCELLOR: When at the beginning of the month I read that a member of the SPD national executive, while in East Berlin, had named you in the same breath with men like Brezhnev, Gierek and Honnecker, I knew how you must have felt. This passage in Wolfgang Roth's speech upset me much more than the fact that he could not resist joining in the anti-Springer chorus even when he was in the other part of our city (at the "International Youth Festival").

Today I am writing because I believe there is an imperative reason which should compel you to dissociate yourself from the rank of Communist leaders into which Herr Roth thought fit to push you.

What I mean is the heart-rending cry of Alexander Solzhenitsyn, who feels that his life is threatened by the Soviet secret police, which is directly subordinate to the Communist leaders of the Soviet Union. This comes at the time when Pyotr Yakir has, as he himself predicted, crawled to the cross; shortly after the warnings by the nuclear physicist Andrei Sakharov and the writer Vladimir Maximov's letter to Heinrich Böll.

"Fears are increasing", Fred Luchsinger, (Editor of the Neue Zürcher Zeitung) recently wrote, "that in the course of detente (in the Soviet Union) not freedom but oppression is growing."

I believe it is time that from our country particularly, where only a few decades ago the rulers committed unbelievable wrongs—though under the opposite political banner—the initiative should come for worldwide support for Solzhenitsyn and the others in his country who speak their minds, and for the thousands of others who hope for freedom but do not dare to say so.

You as the highest elected political representative of our people should march at the head of such an appeal. Thousands would follow you; I would be one of the first.

I remain, sincerely,

Yours

AXEL SPRINGER.

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### SOLZHENITSYN SPEAKS OF THREATS AGAINST HIS LIFE

MOSCOW, August 28.—The Nobel prize novelist Alexander Solzhenitsyn, in a rare and outspoken interview with two Western correspondents, says his life has been threatened. But if he is imprisoned or killed, "the main part of my works will be published", he said.

The world-celebrated author, whose works are banned in the Soviet Union, said he and his family have received warnings and "If I am declared killed or suddenly mysteriously dead", the world could conclude that "I have been killed with the approval of the KGB (Soviet security police organization) or by it".

Solzhenitsyn, who is 54, is the author of *The First Circle, Cancer Ward* and *August 1914*. He won the 1970 Nobel prize for literature, but the Soviet authorities prevented him from receiving it in his homeland.

The author was interviewed by the Associated Press and *Le Monde* of Paris. He accepted written questions and wrote out answers to those he chose to respond to in a Russian text of more than 7,000 words.

The bearded writer, dressed in an open-necked shirt and slacks, was friendly and animated as he discussed developments that have convinced him that the cause of individual freedom in the Soviet Union is at a low ebb.

Speaking of official threats, Solzhenitsyn said:

"I received letters with threats, rather than demands, threats to make short work of me and my family. This summer such letters have come to me through the mail. Not to mention psychological mistakes, the many technical mistakes, the many technical mistakes by the authors have convinced me these letters have been sent by KGB agents.

"For example, the incredible speed of delivery of these bandits' letters—less than 24 hours. Only letters from the most important government organs go that fast.

"Another example of technical mistakes they make is that the KGB officials were in such a hurry that the envelopes were sealed only after the post office had stamped them."

The author noted that normal delivery of mail takes three to five days and important mail is never delivered to him at all.

He added: "During the winter of 1971–72, I was warned through several channels—within the KGB's apparatus there are also people who are tormented by their fate—that they were preparing to kill me in a 'car accident'.

"But here we have a peculiarity. . . .

"If, for example, a letter that reaches me by post blows up, it will be impossible to explain why it didn't explode before in the hands of the censors.

"And since for a long time I have not suffered from serious diseases and since I don't drive a car and since because of my convictions, under no circumstances of life will I commit suicide, then if I am declared killed or suddenly mysteriously dead, you can infallibly conclude, with 100 per cent certainty, that I have been killed with the approval of the KGB or by it.

"But . . . my death will not make happy those people who count on it to stop my literary activities. Immediately after my death or immediately after I have disappeared or have been deprived of my liberty, my literary last will and testament will irrevocably come into force . . . and then the main part of my work will start being published, works I have refrained from publishing all these years.

"If the officers of the KGB track down and confiscate copies of the harmless *Cancer Ward* in all provincial cities—and dismiss holders of these copies from their work or drive them from higher educational institutions—what will they do when my principal and posthumous books stream out all over Russia?"

He declined to discuss further the unpublished "main part" of his works, especially in a flat which he believed was bugged. He turned instead to plans for publishing the remainder of the series that began with *August 1914*.

He said that probably "I won't let out *October 1916* before the third volume *March 1917* is ready." The two are too closely knit and only together could explain his view of the course of events, the writer said.

*August 1914* related in fictional form the catastrophic defeat of the Russians by the Germans in the early days of the First World War. The other two books are planned to carry the narrative through the Bolshevik Revolution.

Solzhenitsyn reported running into severe restraint and harassment in his research.

"Vaganov, head of the regional archives in Tambov, refused to let me have a look even at Newspapers 55 years old. In the central military historical archives, a rigorous search was recently carried out in order to find out who in 1963 turned over to me material about the First World War and how this happened."

A young literary specialist, Mr. Gabriel Superfin, who had helped him in searching historical archives, had been arrested on the basis of confessions of Mr. Pyotr Yakir and Mr. Viktor Krasin—at present on trial in Moscow for subversion—and accused under Article 72 of the criminal code dealing with "especially dangerous crimes against the state". It provides for a sentence up to 15 years.

Solzhenitsyn spoke also of reprisals against Mr. Aleksander Gorlov, a friend who in 1971 surprised KGB men burgling the author's country house, and persecutions of Mr. Mstislav Rostropovich, the cellist, who had publicly befriended the novelist.

In connection with the refusal of a permit to live in Moscow with his second wife and their two children, Solzhenitsyn said he is staying in a rented dacha for the summer but has no other permanent place of residence.

"I don't live anywhere any more. When winter comes I will have no other place to live than the apartment of my family, a natural place for any human being. And I'm going to live here irrespective of whether they give me the permit or not. Let the shameless come and evict me. That will be a deserved advertisement for our advanced social structure."

On surveillance of him and his family. Solzhenitsyn said: "Already for several years not one single telephone call or indoor conversation—involving me or members of my family—not even on matters of everyday life, is undertaken without being bugged. We have already got used to the situation that day and night we permanently talk in the presence of the KGB.

"When their tape runs out they break the telephone conversation unceremoniously in order to reload while we dial again."

On the trial of Mr. Yakir and Mr. Krasin, who have pleaded guilty to the charges against them. Solzhenitsyn said:

"With the right of an old prison inmate I tell them here and now: that they have conducted themselves faintheartedly, basely and even ludicrously, by repeating with a 40-year delay and in inappropriate conditions the infamous experience of the lost generation, of those who capitulated in the thirties . . ."

Asked about the intensified attacks on Dr. Andrei Sakharov in the state-controlled media, Solzhenitsyn noted: "He is declared 'a supplier of slander,' 'ignorant', a 'native purveyor of projects' . . . a 'malevolent critic who hates his own country and who is unconstructive.'

"It's not an accusation, it is a blunder. For those who have followed Sakharov's articles for some years . . . cannot help seeing his deep knowledge about the processes of Soviet life, his pain for his own country, his torments because of mistakes not made by him, his good-hearted conciliatory standpoint, acceptable to highly opposite groupings. . . .

"Sakharov, alas, is too well known and, therefore, he has to be crushed publicly. But unknown critics are crushed in great numbers in silence, in the countryside, in the hinterlands, and how many can they be, these people never mentioned to anybody, languishing and perishing in regional psychiatric clinics?"

The official Soviet answer to dissidents, Solzhenitsyn said, is never arguments, "because arguments don't exist, but always curses and slander . . . either administrative punishment in a court, a curse or silence.

"And now against Sakharov they pick up again the worn-out and beslobbered trump card of the thirties—help to foreign intelligence services. What savagery! Would a man who has armed them with the most terrible weapon, a weapon on which their power has rested for decades and still rests, give help to foreign intelligence services? That borders on utter shamelessness and utter ingratitude." (Dr. Sakharov was principal developer of the Soviet hydrogen bomb.)

Solzhenitsyn was asked about the recent expulsion of Mr. Vladimir Maksimov from the Writers' Union, the official body from which Solzhenitsyn was also barred.

"About the Writers Union I would not like to talk seriously", he replied. "What kind of Writers' Union is it if it is led by generals of the KGB like Viktor Ilin?

"But Vladimir Maksimov is an honest, courageous writer who in a disinterested and sacrificing manner is dedicated to truth and has already been very successful in the search for truth. Therefore his expulsion from the lying Writers' Union is completely normal."

On the Soviet practice of confiscating passports of prominent dissidents allowed to travel abroad—such as the recent case of Mr. Zhores Medvedev in London—he said: "Citizenship in our country is not an inalienable natural right for every human being born on its soil, but it is a kind of coupon which is kept by an executive clique of people who in no way and by nothing have proved that they have a greater right to the Russian soil.

"And this clique can, if it doesn't approve of some citizen's convictions, declare him deprived of his homeland. I leave it to you to find a word yourselves for such a social structure."

Solzhenitsyn mentioned Mr. Andrei Amalrik, just sentenced to a second three-year term, and General Pyotr Grigorenko who is in a psychiatric hospital for his dissident activities.

Amalrik, he said, had dared "to give an independent analysis of today's social structure and predict the future, that is, what in fact may happen to our country. Then instead of analysing his works and taking from them what is true and practically useful, they simply put him in jail.

"And when out of the ranks of our glittering and decorated generals turned up this lone Grigorenko who was bold enough to express his nonconformist view about the course of the last war and about today's Soviet society, a view which in fact was entirely Marxist-Leninist, then this view is declared a psychiatric insanity."

Solzhenitsyn listed a number of cases of political prisoners reported in the underground *Chronicle of Current Events* which has not appeared for months.

He noted: "In this striking country with its most advanced socialist structure, for a half century there hasn't been a single amnesty for political prisoners.

"When our prison terms were 25 years and 10 years, when eight years in our country, no joking, was considered a child's term, then we had this famous Stalinist amnesty (July 7, 1945) which released political prisoners with less than three-year sentences—that is, nobody.

"Those who had a bit more (up to five years) were released by the Voroshilov amnesty of March, 1953, which just flooded the country with criminals. In September, 1955, by releasing to Adenauer, Germans serving terms in the Soviet Union, Khrushchev also had to give amnesty to those who had collaborated with the Germans.

"But for the dissidents there has never been a single amnesty for half a century. Who would be able to give another example from our planet or a social structure or state system so convinced of its stability? Let the admirers compare this with Greece if they like.

"When at the end of the forties we were choked with 25-year terms, we only read in the papers about the unprecedented reprisals in Greece. Today in many of the statements from the Western press and Western personalities, even from those who are most sensitive to oppression and persecutions in the east, in order to create an artificial balance in the face of left-wing circles, there must always be the reservation: the same thing happens in Greece, Spain, Turkey. . . .

"I dare to declare that there is no such 'the same thing happens'. I dare make the observation that in all these countries violence does not reach the level of today's gas chambers, the prison psychiatric clinics.

"I dare observe that Greece is not surrounded by a concrete wall and with electronic murderers at the border, and young Greeks don't pass in hundreds over the lethal line with faint hope of ever reaching freedom. And nowhere east of Greece is it possible for an exiled minister (Karamanlis) to have his anti-government programme printed in the papers."

In comparing various levels of violence, Solzhenitsyn said: "The first unit on one scale may stand for 10, but the first unit on another scale may stand for 10 to the sixth point—that is one million. . . .

"I tried in vain a year ago in my Nobel prize lecture to draw attention in a reserved way to these two incomparable scales of evaluation of the volume and moral meaning of events.

"Also in vain I there pointed to the fact that jamming of Western radio broadcasts in the East creates a situation comparable to that on the eve of a common catastrophe, nullification of international agreements and guarantees, because they thus don't exist in the conscience of half of mankind—their superficial trace can easily be swept away in the course of a few days or a few hours.

"What jamming of radio broadcasts means is impossible to explain to those who haven't experienced it themselves, who haven't lived under it for years. It means daily spittle into your ears and eyes, it is an offence and degradation of man to a robot's level. . . . It means that grown persons are reduced to infants: swallow what your mother has already chewed for you.

"Even the most benevolent broadcasts during the most friendly visits are jammed as systematically: there must not be the slightest deviation in the evaluation of events, in the nuances, in the accents—everybody has to be informed about and remember an event 100 per cent the same way. And many world events must not be made known to our people at all.

"Moscow and Leningrad have paradoxically become the most uninformed big cities in the world. The inhabitants ask people who come in from the countryside about news. There, because of cost (our population has to pay very dearly for these jamming services) the jamming is weaker.

"But according to observations of people from various places, during the last month the jamming has been extended, has conquered new areas, has been intensified."

However, international information, the ideas, facts and human protests that slip through after all have an influence. It is important to understand that the East is not at all indifferent to protests from public opinion in the West. On the contrary—it has deadly fear of them—and only of them—but this is the case only with the united, mighty voice of hundreds of prominent personalities, with the opinions of a whole continent.

"Then the authority of the advanced structure may falter. But when timid, isolated protests are heard, without every belief in their success and with the compulsory reservations 'the same thing happens in Greece, Turkey, Spain', then this evokes only the laughter of the aggressors.

"When the racial composition of a basketball team becomes a bigger world event than the daily injections given to prisoners in psychiatric clinics, injections that destroy your brain, then what else can you feel but contempt towards an egotistic, short-sighted and defendless civilization?"

Solzhenitsyn said: "Our prisons retreat and hide from the light of world publicity. It was planned to give Amalrik a long, long sentence as early as 1970, but they were forced to give him an everyday charge and three years."

"And now because of renewed world publicity they have been forced to limit themselves to only three years additional. Otherwise it would have been more.

"But the Western world has drawn an incomplete lesson from this, has not shown enough feeling to realize that our persecuted are not only grateful for the protection, but also provide a lofty example of spiritual endurance and willingness to sacrifice at the very point of death and under the syringe of the murderer-psychiatrists.

"There is one psychological peculiarity in the human being that always strikes you: to shun even the slightest signs of trouble on the outer edge of your existence at time of wellbeing when you are free of care, to try not to know about the sufferings of others (and your own or one's own future sufferings), to yield in many situations, even important spiritual and central ones—as long as it prolongs one's wellbeing.

"And suddenly, reaching the last frontiers, when man is already stricken, with poverty and nakedness and deprived of everything that seemingly adorns his life—then he finds in himself enough firmness to support himself on the final step and give up his life, but not his principles.

"One cannot accept that the disastrous course of history is impossible to undo, that a soul with confidence in itself cannot influence the most powerful force in the world.

"From the experience of the last generations it seems to me that it is fully proved that only the inflexibility of the human soul which firmly puts itself on the front line against attacking violence and with readiness to sacrifice and death declares, 'Not one step further'—only this inflexibility of the soul is the real defence of personal peace, universal peace, and of all mankind."—AP.

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# SENATE—*Monday, September 17, 1973*

The Senate met at 11 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

### PRAYER

The Reverend Edgar J. Mundinger, pastor, Christ Lutheran Church of Washington, Washington, D.C., offered the following prayer:

O God, You made us for Yourself and You know our hearts are restless until, in You, they find rest. Give grace, we pray, to this august assembly that as the Members of this body confer together they may combine their positions of honor and power with awe and humility and deep dependence upon Your divine guidance. Help them to seek and promote the unity of the people of our land. Give to them the blessing of sound judgment, skill in making wise decisions, patience so that no one will be too hurried to act in due time, and to act to be mutually helpful.

Gracious God, increase in them and in all of our citizenry the virtues of faith, hope, and love. That we may do what is Your will, help us all to love what You command.

And so guide the affairs of state this day that may be full of achievements that will glorify the Holy Trinity, and bless the people of these United States of America, through Jesus Christ, Your Son, our Lord and our Redeemer. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., September 17, 1973.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. NUNN thereupon took the chair as Acting President pro tempore.

## NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, 1974

### AMENDMENT NO. 486

(Ordered to be printed, and to lie on the table.)

Under authority of the order of the Senate of January 29, 1973, Mr. PASTORE on September 13, 1973, submitted the following notice in writing:

In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, the following amendment, namely:

Page 14, after line 3, insert the following: "SEC. 105. None of the funds appropriated in this title shall be available for obligation, except upon the enactment into law of authorizing legislation."

Mr. PASTORE also submitted an amendment, intended to be proposed by him, to House bill 8916, making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

(The text of the amendment is printed above.)

## MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of September 13, 1973, the Secretary of the Senate, on September 13, 1973, received the following message from the House of Representatives:

That the Speaker of the House had affixed his signature to the enrolled bill (S. 1841) to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games.

Subsequently, under authority of the order of the Senate of September 13, 1973, the Acting President pro tempore (Mr. METCALF) signed the above enrolled bill.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 13, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2075) to authorize the Secretary of the Interior to undertake a feasibility investigation of McGee Creek Reservoir, Okla., with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs was read twice by its title and referred to the Committee on Agriculture and Forestry.

## WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination on the Executive Calendar, under new report.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under new report, will be stated.

## CONSUMER PRODUCT SAFETY COMMISSION

The second assistant legislative clerk read the nomination of R. David Pittle, of Pennsylvania, to be a Commissioner of the Consumer Product Safety Commission for a term of 5 years from October 27, 1972.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

## DEFENSE APPROPRIATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Missouri (Mr. Symington) before the Senate Defense Appropriations Subcommittee of the Armed Services Committee, on Defense appropriations, under date of September 13, 1973, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### Testimony by Senator Stuart Symington

Mr. Chairman, and Members of the Committee, thank you for inviting me to testify on this FY 1974 Defense Appropriations Bill.

In some ways this bill is as important as any to be considered by the Congress this year; and your decisions with respect to it can only be fundamental to the true national security of the United States.

I premise these remarks by assuring the Committee of what I believe they already know, namely, that I am as anxious as anyone to see America so strong no one will ever attack us.

With that premise, let me respectfully present what the term "national security" means to me.

As I see it, true national security has three component parts:

First, our ability to destroy any aggressor; and certainly on our part that he knows we can do so.

In this category we are in excellent shape; and it is vital we remain so.

Secondly, a sound economy, with a sound dollar. As everyone knows, in this category our position has deteriorated and continues to deteriorate.

Third, credibility, the faith of the people in their Government and the system. It is no secret that recently this faith has not improved.

Those who hold the view that national security can be gauged almost entirely by the amount expended for new weapons systems neglect those two other important integral parts of true national security; and I believe, when they do so, they undermine both the nation's economic position and the moral support of the people for defense measures that are really needed.

There can be no more dangerous assumption than a policy based on a conviction that this nation continues to have unlimited resources.

If we do not recognize, now, that our resources are becoming increasingly limited, and impose a sense of discipline on such institutions as our Armed Services, not only are we certain to damage our economy, but we will also further reduce the people's confidence in Government.

The people know taxes are high and can only go higher. They know of the steady increase in prices. They know the President is emphasizing that the wars are over. But they also know we are being asked, this year, to spend many billions of dollars more for defense.

There are many reasons why we now have a condition unprecedented in the economic history of our country—continued unemployment at the same time we face continuing inflation, high interest rates, and sharp devaluations of the dollar.

One reason is the subject in which we are interested today—defense expenditures; and all expenditures become more important as we note high interest rates preventing young families from buying a home, the dollar declining 55 percent against the German Mark in less than two years, and eggs selling in the supermarket at a dollar a dozen. When our citizens go to the supermarket, actually they could think they were going to the cleaners.

Careless and prodigal military spending has actually harmed our defense programs, wasted money on ships and planes and tanks. Billions upon billions of dollars of weapons programs have been scrapped because of drawing board theorists later proved to be wrong either before or shortly after said weapons were put into production.

On March 7, 1969 I placed a chart into the record which showed the total investment cost for abandoned missile systems alone, either before or just after they were deployed. This total came to $23.053 billion.

If this figure is updated to include later weapon systems subsequently cancelled or deployed in such small numbers as to be useless militarily—the Cheyenne helicopter, MBT–70 tank, Safeguard ABM system and others—the total would be many billions of dollars more. I plan to place the additional amount in the record as soon as it is compiled.

Those who are able to force violations of good industrial practice so as to rush into production new weapons—such as the TFX, Cheyenne and C–5A—later find it impossible to impose the shop requirements needed for efficiency and economy; in fact some would appear to welcome a lack of normal shop discipline. It covers mistakes, and in that way creates a justification for cost overruns.

In its extreme form, this frame of mind produces a curious kind of backward reasoning. Instead of beginning with an accurate view of potential enemy capabilities, and deriving from that a requirement for America's defense needs, then buying what is needed with maximum efficiency, these "rushers" start with a need to spend money in order to show resolve, work backward to the need for a new and even more expensive weapon system, then concoct the threat to justify the always expensive, and often unnecessary, program in question.

The Armed Services Committee, of which at the request of Chairman Stennis I have been serving as Acting Chairman, reported last Thursday the annual Defense Authorization Bill.

The Committee recommended a reduction of $1.511 billion in R&D and procurement and 156,100 in active duty military manpower slots.

These reductions would appear both prudent and justified; and I earnestly solicit your support for them.

After said reductions, the figure is less than $3 million above the bill that has already been passed by the House.

In additional areas the Committee, at times by a majority vote of one, failed to make certain reductions which to me are not only justifiable but necessary if we are to have: (1) a strong and disciplined defense program, (2) a strong economy, and (3) public support for what is necessary.

#### MANPOWER

The Committee recommended unanimously a reduction in the active armed forces of 156,100 below the original request of the Defense Department; a reduction of but 7 percent at the end of a long and expensive war.

As we know today, Defense manpower cost consumes about 56 percent of the total Defense budget; and if various indirect costs such as medical programs and housing construction are included, the figure approaches two-thirds. (Reports presented to the Committee estimate the Soviets spend from one-fourth to one-third of their defense budget on manpower.)

Primarily because of manpower cost increases, next year this country will be facing an overall Defense Department appropriation request of close to $90 billion; well over $100 billion before the end of this decade.

There are but two basic ways to reduce manpower costs. One is to reduce the number of people, the other to reduce the cost per man.

With respect to cost per man, the Armed Services Committee is currently reviewing much of its basic personnel, grade structure, and retirement legislation; and proposals from the Department of Defense have been promised with respect to the over 13 billion dollars of annual cost of the civilians currently in the Defense Department.

This basic and complex legislation must be restructured if there is to be any significant reduction in the cost per man; so let us hope that a number of fundamental reforms are approved before the end of this Congress. Unfortunately, however, the process of changing such legislation—affecting military force structure through changed retirement incentives, adjusted ratios of officers to enlisted men, etc.—takes time.

In the short run there is but one remedy: to reduce the number of bodies in the armed forces. This summer the Committee studied the issue carefully, and thereupon recommended this 7 percent overall reduction, to be apportioned between the various Services and defense functions as deemed best by the Secretary of Defense.

An issue that can only bear significantly on cost, which was considered by the Committee in recommending the above reduction, is the difficulty the Services are experiencing in reaching their recruiting goals for the all-volunteer force.

Last July 28 the Secretary of the Army announced that the Army was falling short of its recruiting goals by about 2,000 men per month; and the Army was already about 14,000 short of its planned strength as of the end of FY 1973. To a lesser extent, the Navy and Marine Corps are also falling short in their recruiting.

If the Army is not reduced from the level initially requested by the Department of Defense, it will need 41,000 more volunteers in FY 1974 than it received in FY 1973—a 27 percent increase. Statistics like these make it difficult to understand why a moderate 7 percent manpower reduction is called "folly" or "staggering and unacceptable".

As its report on the authorization bill makes clear, the Committee recommends that the Secretary take virtually all of the proposed 7 percent reduction from support forces rather than from combat forces. Areas such as headquarters, base operating support, communications and intelligence, certain enlisted aides, and other categories provide ample opportunity for reductions without cutting into necessary combat forces.

It is interesting to note that, immediately following the Committee's favorable recommendation on these reductions, we received a letter from the Navy which stated, in effect, that any reductions in the Navy would have to be taken from combat forces rather than from support forces; and that this relatively modest personnel reduction proposed by the Committee would "take the U.S. Navy effectively out of the competition with the Soviet Union for maritime power and make the interests of the U.S. hostage to Soviet good will."

This reaction would appear to be a perfect case study of what is basically wrong with the attitude toward manpower management that is presently characteristic of the thinking in the Department of Defense. Actually, the Navy is increasing its request for support manpower between the Fiscal Years 1973 and 1974, but at the same time reducing both its number of ships and its overall manpower.

Extraordinarily sharp manpower cost increases—the cost per man has doubled since 1967—and increasing recruiting difficulties as the result of the introduction of the all-volunteer force, both nail down the fact that military manpower management cannot protect fat at the expense of muscle.

For a more detailed discussion of manpower issues, we recommend reading pages 129–151 of the Armed Services Committee report of this year on the authorization bill.

It was the unanimous opinion of the Committee that its recommended manpower reductions were sound; and we earnestly hope for reductions in the appropriations bill that are commensurate with this unanimous recommendation.

### THE TRIDENT SUBMARINE

I turn now from a subject where we believe the Committee's decision was right to one where many Committee Members believe it was wrong; in fact, our position lost by the narrowest of margins, one vote.

The recent history of the Trident submarine program deserves some detailing, because it is an excellent case-study in unbusinesslike, extravagant, and wasteful military spending.

As late as September, 1971, the Defense Department had an orderly businesslike program for modernization of the Navy's underwater missile submarine fleet. As needed, the Trident I missile (formerly called Extended-Range Poseidon or EXPC) was to be developed and fitted into Poseidon submarines.

Because of its 1,500 mile greater range as compared to the Poseidon, it was estimated that the Trident would provide a significant increase in the ocean area within which United States' submarines could operate while on station. The unprecedentedly expensive Trident submarine—each costing a half billion dollars (not millions, billions) more than the previously most expensive ship in world history, the latest nuclear carrier—and the planned Trident II missile were to be delayed until the early 1980's.

Without commitment, they were to be considered as possible later replacements for the Polaris/Poseidon fleet.

Last year, however, for reasons we have never been able to fully understand, a lobbying effort, the most intense in my twenty-eight years in Government, was undertaken; and thereupon normal, businesslike, order in the Trident planned production program went out the window.

A sensible orderly Trident program was altered to combine procurement with development, apparently in order that this submarine could be operable in 1978 rather than 2 or 3 years later.

From the standpoint of good shop practice, consider the fact that under this accelerated product in program, *all 10* Trident submarines will be funded and under construction before the first one is completed.

This extraordinary shift in production planning is exactly opposite to the "fly before buy" program concept this Administration once consistently emphasized would be its policy as the result of the tragic multi-billion dollar waste they found was characteristic of various ship, plane, and tank programs.

Nevertheless an effort is now being made by the Defense Department to justify this accelerated Trident program on various grounds, including the following: Tridents would eventually replace the aging Polaris/Poseidon submarines; would provide for United States basing of ballistic missile submarines; would provide an increased submarine operating area as a hedge against possible Soviet breakthroughs in anti-submarine warfare; and would support future SALT negotiations.

Taking up these assertions in order, the Defense Department itself, as well as other witnesses before the Armed Services Committee, have established that the Polaris/Poseidon submarines, with a design life of 20 years, may be suitable for operation up to 25 years (outside experts have estimated 30 years). Since the oldest submarine will not reach even 20 years of age before 1979, there is no justification whatever to accelerate this program because of aging.

Because the Trident I missile can have a range of 4,500 miles by backfitting it into Polaris/Poseidon submarines, these Polaris/Poseidon submarines, with the missile in question, could also be based in the United States.

Backfitting the Trident missile into Polaris/Poseidon submarines would provide an increase in ocean operating area because the long-range Trident I missiles are what increase the operating area, not the unprecedentedly expensive new submarines. Furthermore, the Director of Defense Advanced Research Projects Agency has testified that the patrol area would increase sufficiently with Trident I missiles to pose immediate additional problems for any ASW sensor that can now be conceived.

The previous program would constitute practical and imposing evidence to the Soviets that the United States was developing an orderly replacement for the Polaris/Poseidon fleet. We do not add to our "bargaining chips" by pursuing a hurried and therefore premature schedule which ultimately could well bring damage to the entire submarine replacement program.

Purely technical considerations, such as objections to putting all our nuclear eggs in a relatively very few underwater baskets, would dictate the production of submarines designed more on the order of the latest Soviet submarines. The latter have 12 launchers, as against 16 for the Poseidon and 24 for the Trident.

For national security, which do we want: a few large submarines, each with many launchers, or more smaller submarines, each with fewer launchers?

A thorough study of this proposed acceleration was undertaken last year by the Research and Development Subcommittee of the Committee on Armed Services (the only detailed study made by any Committee of the Senate).

For the reasons given, the facts uncovered by their investigation supported the logic of an orderly program similar to the September, 1971, Defense Department position.

This orderly program, however, was rejected by the full Committee, as the result of a tie vote.

This year, the Research and Development Subcommittee recommended by a unanimous vote of the Senators present, going back to a program similar to the September, 1971, DoD Trident schedule, at a saving this year of $885.4 million; and on the first vote last August 1, the position of the Subcommittee was supported by the full Committee, 8 to 7.

Later I was informed a Senator had changed his mind; therefore the vote on Trident should not be considered final. Accordingly, still later, the Committee voted 8 to 7 against the Subcommittee recommendation, and approved both the acceleration and the total amount of money that had been requested by the Department of Defense.

The Subcommittee had recommended $642 million for this Trident program for FY 1974, but the full Committee voted the full request of the Defense Department, $1,527.4 million.

It is our understanding that the Chairman of the Subcommittee, Senator McIntyre, plans to introduce an amendment to reduce this $1,527.4 million to the Subcommittee's position of $642 million.

This amendment would delay the initial operating date for the lead submarine from 1978 to 1980. Such a revised funding level would also permit a speed-up in the program to fit Poseidon submarines with the Trident missile.

That valuable and relatively inexpensive badge against Soviet anti-submarine warfare improvements was deliberately slowed down by the Defense Department, at the same time the far more expensive new submarine, Trident, was accelerated.

I believe the position of the Research and Development Submarine—again, the only Senate Committee to study the matter in depth—is a sensible and prudent alternative to the wasteful, hurried, concurrent program successfully lobbied for by the Department of Defense after the Subcommittee had made its report.

In the interest of sound business management, I urge adoption of the McIntyre amendment.

### SAM–D

Another major program where the full Committee's recommendation involves unnecessary expenditures is the full-scale development of the SAM–D surface-to-air missile. The cost of that program this year will be $194.2 million, a further major step toward what ultimately will be another multi-billion dollar program.

As was true of the famous and now abandoned ABM system—abandoned at a cost already to the taxpayers of $5.1 billion dollars—SAM–D has been a system in search of a mission.

This system was conceived originally to be, in part, a limited type of ABM, particularly for defense against tactical nuclear weapons. That explains some of its technical features, features which are now less than desirable for its current mission, a field-deployed missile system designed to protect troops from attacking aircraft.

For several years SAM–D appeared to have been given a strategic air defense role, protecting the continental United States from bomber attack. Recently, however, this rationale has been fading into the shadows; and sensibly so.

Strategic bomber defense by means of a sophisticated surface-to-air missile is difficult to justify, especially in that we have decided not to deploy an ABM system in effort to defend the continental United States against strategic missiles. There is justification for maintaining limited air defenses to protect our air space from unauthorized intrusions, but modern manned fighter interceptors could handle such a need far more effectively.

The SAM–D program is one more illustration of the problems of concurrency and misdirected technical capabilities that have been characteristic of so many weapon system failures.

Two important technical features of this system, the guidance system and the fusing, are not scheduled for flight testing until late in its development program.

The capability to track and fire several missiles simultaneously, a hold-over from its early days as a partial ABM, is not as important in any air defense as a rapid-reload capability; and the reload capability of the SAM–D is considerably slower than that of the improved HAWK missile it is intended to replace.

Since the primary mission of the proposed SAM–D is to protect troops in the field in such high-threat areas as Europe, it would seem plausible, if such a system is desirable in Europe, that our allies would either (1) participate in the costly development, or (2) consider similar systems.

They are doing neither, because, we were told, they consider the system too complex and too expensive.

I recommend this funding for this program be terminated before we get so far into its development that, once again, we will hear the old familiar argument that we cannot afford to cancel because we have already spent so much.

### MILITARY AID TO SOUTHEAST ASIA

In 1966, as a result of heavy escalation of the Vietnam war, certain military aid to Southeast Asia began to be channeled through the Defense budget rather than through the normal Military Assistance Program; and this method of military aid still continues for two Southeast Asia countries, South Vietnam and Laos. That is true even though the original justification—an integral logistics system for America, South Vietnamese and Laotian forces—ended during the last fiscal year.

This year the Administration has requested an authorization of $1.6 billion, plus an appropriation of $1.185 billion, for military aid to South Vietnam and Laos. These funds should have been requested as part of the normal military aid appropriation that is reviewed by the Foreign Relations Committee.

The Foreign Military Sales and Assistance Act passed the Senate June 26th of this year. This Act stipulates that the funding of military aid for the two countries in question be returned to normal military aid channels; and after studying the matter, as a member of both committees, I agree with the approved legislation.

The view of the Armed Services Committee, however, was that, at least for FY 1974, military aid funds for Laos and Vietnam should remain in the Defense budget; and the Committee recommended a reduction in the $1.6 billion authorization request to $952 million.

As but one indication of the lack of any real control over these funds to Vietnam and Laos, it has never been possible for the Armed Services Committee to find out just what share of said funds are spent in each of these two countries for specific goods and services. Staff analysis indicates, however, that approximately $300 million of the $952 million would be used to pay South Vietnamese and Laotian soldiers, for rations and petroleum supplies.

Whatever arguments could be made about the need for ammunition and weapon modernization during wartime, how in the name of common sense can we rationalize continuing to pay the salaries of South Vietnamese and Laotian troops; or heavy cost for food and fuel, especially in face of the now all too well known shortages in this country?

Is not a country's national resolve demonstrated by its willingness to pay its own armed forces?

Perhaps some of the funds approved through other channels for the purchase of consumer goods in Laos and South Vietnam could be used, by them, to purchase military rations and gasoline.

### F–14

This year, the Committee approved a reduction of $505.4 million in the F–14 program, leaving $197.6 million of the $703 million requested by the Department of Defense. This recommendation appeared an important step in the effort of Congress to obtain some control over this aircraft program.

It is our understanding the Navy and contractor have now reached contract agreement. Apprehensive about this possible "bail out", we look forward to noting the details of any contract agreement, especially in that costs of the plane have been accelerating sharply and the contractor is both behind schedule and in financial difficulty.

When before the Committee last April 12, the Commandant of the Marine Corps testified "At the present time I prefer the F–4J with maneuvering slats . . . . I do not need the F–14 because the price has gone up to where in my opinion the Marine Corps cannot afford them". At this hearing, however, the Chief of Naval Operations emphasized the importance of the F–14 to joint Navy-Marine operations.

Subsequently, as F–14 difficulties mounted, and the Navy apparently realized the growing damage incident to the steadily mounting cost, every effort was made to increase the number of aircraft, so as to reduce, at least in theory, the unit cost.

Thereupon on June 19, the Secretary of the Navy testified that he, the Chief of Naval Operations and the Commandant of the Marine Corps had developed a "mutual opinion that a common fighter should be produced and procured at this time for both Services."

The Chief of Naval Operations developed a rather novel scenario to match this need. Aircraft carriers would leave the Marines at the beach to go fight at sea. This, they say, would require the Marines to have F–14s so as to protect the beachheads from sophisticated threats for which they also say only the F–14 would have the proper characteristics.

This again illustrates the backward reasoning discussed earlier; namely, Defense knows there is need for more money—in this case so as to keep a contractor in business; so a threat is developed which would justify putting up the additional money for the weapons in question.

As a result of this type of reasoning, we are now left with a supposedly lean and mean Marine Corps—the Service which prides itself on austerity—planning to hit the beach with the most complicated of all fighter planes, a plane it is now clear will cost somewhere between $20 million and $30 million apiece.

### STRATEGIC BOMBERS

This year the Department of Defense requested $473.5 million to continue the development of the B–1 strategic bomber; but, recognizing difficulties that have also developed in that new plane, the Committee recommended a reduction of $100 million in the program.

Last April the Committee received testimony from the Air Force that there were no difficulties in the B–1 program. Three months later, however, July 12th, the Committee was informed that serious problems had developed in the B–1 design, therefore, certain production decisions would have to be delayed at least a year.

The overall increase in the program was $344 million. This means the unit cost for this B–1 aircraft is already estimated to be $56 million per plane. Let the record show that ultimate costs are estimated to be far higher.

With bugs finally worked out on the FB–111 bomber, a bomber which, with the ever increasing efficiency of air refueling, has true strategic range, should we not be realistic about the difficulties involved in going ahead with yet another aircraft that already is costing in the neighborhood of a billion dollars per squadron?

We already have an advanced strategic bomber which can penetrate enemy air space both low and fast, with the most advanced avionics. To keep the production line open for this aircraft, and not foreclose the option of using any of its versions in the future, the Committee added funding to this year's bill for 12 F–111's, at a cost of $158.8 million.

The primary mission of any strategic aircraft carrying nuclear weapons is deterrence. That is now served by presenting the enemy with a variety of possible types of retaliation. In this way they could never be sure that some parts of a retaliatory strike would not penetrate.

We now have for consideration four major deterrent systems: (1) strategic bombers, (2) Intercontinental Ballistic Missiles (ICBMs), (3) Submarine Launched Ballistic Missiles (SLBMs) and (4) Forward Based Aircraft (FBAs).

Although the B–1 might be somewhat more effective than any other plane, in that the program has developed additional problems it would appear logical to watch the growing cost of what it is already clear will be the most expensive of all airplanes.

Let us recognize also the many other weapon systems that have been developed and are in use to destroy a possible enemy. Everyone, especially the already overburdened taxpayer, would agree it is only necessary to destroy an enemy once.

We plan now to discuss the SCAD (Subsonic Cruise Armed Decoy) program, which illustrates an issue referred to at the beginning of this testimony.

After the Deputy Secretary of Defense terminated the existing development program last July 6, and so notified Congress, on August 6 the Committee reminded the Department of Defense that $210 million was available in various Research and Development programs to explore the technology for long-range cruise missiles such as SCAD and the Navy SCM (Strategic Cruise Missile).

The reasons behind the decision of the Defense Department to cancel the SCAD development program were: (1) development costs had skyrocketed to $700 million and (2) the program unit costs for either the missile or the decoy had now increased to some $1 million apiece.

In spite of urging, if not actual directives, from the Congress, the Air Force continued to develop this program solely as a decoy, instead of developing the dual role of decoy and long-range standoff missile; and some believe this continued resistance was so as to avoid having a long-range air-to-surface missile which might justify a standoff bomber that would complete with the B–1.

The Committee Report states this is now "generally recognized." If true, it is but another example of a Service allowing a possibly desirable program to be sacrificed because of its potential competition with a even more expensive larger-scale development effort.

### CVN–70

In this year's authorization bill the Navy requested $3.9 billion for shipbuilding, about $1 billion more than appropriated last year. Much of this increased request is because of the CVN–70, the new nuclear aircraft carrier, that is being proposed.

Apparently the Navy desires a force of 15 carriers into the 1980's and beyond, this according to testimony last year before the Armed Services Committee; but it is also clear from that testimony that the Department of Defense plans for only 12.

If there are already 12 modern carriers available in the 1980's without building this additional CVN–70, surely the United States could delay beginning the construction of another carrier until the latter is needed as a replacement; and that would save $657 million in the Defense budget for this year. In addition, some portion of the $299 million authorized last year could be saved, because only about $10 million of this latter money had been expended as of last June 30th.

At this time there are in existence, or under construction, three nuclear carriers, as well as eight-post-war Forrestal class carriers.

In addition, there is a twelfth carrier, the Midway, which was commissioned shortly after World War II. This latter carrier was completely rebuilt in the late 1960's, and recommissioned in 1970.

The completeness of this rebuilding is demonstrated by the cost—$202 million, a figure which approaches the cost of construction of a new carrier during the same years (the carrier J F Kennedy, constructed during this period, cost $277 million).

Shortly after the Midway was commissioned three years ago, the Navy issued the following press release.

"Midway's conversion was the most comprehensive modernization ever made to a U.S. Navy ship. She will be capable of handling the largest and most complex carrier aircraft and weapons systems in the Navy's arsenal through the 1980's."

If this statement is true, then a force of 12 modern carriers, as required through the 1980's under present plans of the Department of Defense, would not require the construction of the CVN–70, or any other new carrier, for a number of years.

Last year the Chief of Naval Operations, faced with the implication of these facts, rejected this 1970 Navy statement. But if the Navy was even partially right at that time—if, for example, the Midway would be serviceable even half-way through the 1980's—the construction of this CVN–70, or any other follow-on carrier, could well be delayed until the late 1970's.

### CONCLUSION

The reductions recommended by the Armed Services Committee, including the reduction in manpower, total just under $2 billion.

Further reductions proposed by some Committee members, including myself, would total nearly another $2 billion.

The record will verify that over the years no Member of Congress has been more for our submarine program than I. My objection to the proposed Trident program is based on this policy of rushing the production program before one prototype has been completed; and this apprehension about what it could do to future submarine programs is increased by the recent public announcement of major trouble with the Poseidon missiles.

When submarines are talked of vis a vis Soviet developments, it is emphasized they have more submarines than this country. But when additional aircraft carriers are requested, no mention is made of the fact that in this field we outnumber the Soviets at least 15 to 1.

At this point, may I respectfully present to the Committee that the nearly $4 billion reduction proposed is much less than one-third of the $14 billion reduction recommended recently by responsible outside witnesses before our Committtee.

To date we have not discussed in any detail that new and all-important element of national defense—nuclear weapons.

A year ago last August, this Administration issued a pamphlet which showed that, whereas in 1972 the Soviets had 2,500 nuclear warheads to our 6,000, under present plans, by 1977—five years—the Soviet nuclear stockpile will increase to 4,000 warheads, and the United States' nuclear stockpile will have increased to 10,000.

No doubt this ratio in our favor could be reduced, or even changed, but then the logic of the basic theory of "overkill" comes into the picture. What difference does it make whether we can destroy the Soviet Union a thousand times over, and they us only five hundred times, or vice versa?

In this connection, the Hiroshima bomb, which destroyed that city and tens of thousands of lives in a matter of seconds, had a capacity 14 kilotons. Over 99 percent of this U.S. nuclear stockpile has a destructive capacity far greater than any 14 kilotons, running up into megatons.

The question naturally arises, how many times does an enemy or a city have to be destroyed in order to be destroyed?

The impact of this new major technological development in warfare is further emphasized by the fact the nuclear stockpile we have available today against a possible aggressor is many thousand times greater in TNT equivalent than all the tonnage we dropped over Europe, Japan and everywhere else during the some four years it took to win World War II.

As evidence of the importance of curtailing the current clearly extravagant mood in the Defense Department and imposing at least some sense of discipline, consider the fact that the production cost of a nuclear shell for an artillery piece is over seven thousand times greater than the production cost of a conventional shell for the same gun barrel.

Based on these facts and our growing problems at home, all of which require money as an essential part of solution, should we not insist that hard choices be made as we consider the various competing resource claims?

If nothing but that basic tenet is recognized in the budget we are now asked to approve for the Defense Department, as I see it, we will have lived up to the trust the people have placed in us with respect to the proper utilization of their taxes. In the interest of true national security, however, we have the right, the duty, to make a decision as to what is not needed, and to demand that what we agree is needed, in personnel and procurement, be achieved with maximum efficiency at minimum cost.

Thank you, Mr. Chairman and Members of the Committee, for your gracious courtesy in listening to this testimony.

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## CUTTING THE DEFENSE BUDGET

**Mr. MANSFIELD.** Mr. President, the Charlotte Observer, of Charlotte, N.C., under date of Sunday, September 9, 1973, published an editorial with the first title, "Civilian Employment Swells"; and a second title, the main one, "Defense Budget Can Be Cut."

In that editorial it is stated that the Pentagon employs one civilian for every two servicemen.

It states further:

> A Senate Armed Services proposal calls for an across-the-board cut of 7 percent in military manpower but would allow the generals and admirals to decide where to make the cuts. Such a reduction would reduce manpower by 156,000 and save another $1.6 billion.
>
> Statistics suggest the military establishment could stand such a reduction without "weakening" America's defensive posture. The Pentagon now has 1,000 more colonels, Navy captains, generals and admirals for a total force of 2.2 million than it did in 1945, when the military force numbered 14.7 million. The Pentagon is top-heavy in brass.
>
> It is also top-heavy in high-grade civil servants, G-15's who earn more than nuclear submarine commanders yet bear few of the responsibilities of such a rank. The number of GS–15's and GS–16's, who earn between $27,000 and $39,000 a year, has doubled since 1961.
>
> The Congress might find real budget-cutting gold if it asked the Pentagon to account for the necessity of such a force.
>
> In cutting the defense budget there, the Congress could be taking Mr. Nixon at his own word. Last November, in defending American troop commitments overseas, Mr. Nixon conceded the Pentagon's "masses of civilian employes who are getting in each other's way . . . are going to have to take a thinning down."
>
> Two weeks ago at San Clemente, the President spoke about his desire "to cut down the size of this government bureaucracy that burdens us so greatly." The Pentagon's civilian labor force is as large as that of the Agriculture, Treasury, HEW and the Postal Service combined.
>
> We hope that in the conciliatory mood of both the White House and the Congress as evidenced last week, the posturing over defense appropriations yields to a hard-eyed look at the possibilities for cutting the "fat" but not the muscle out of defense requests.

Mr. President, I ask unanimous consent to have the entire editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### CIVILIAN EMPLOYMENT SWELLS—DEFENSE BUDGET CAN BE CUT

In his press conference last week, President Nixon again chastised Congress for "busting the budget," but warned that his goal of reducing federal spending does not extend to the Defense Department. Any reduction in defense expenditures, he said, would weaken America's bargaining position in important negotiations coming up soon.

Fresh from a mid-session recess among their constituents, who expressed deep concern about inflation and the nation's economy, congressmen and senators probably share the President's concern about federal spending, but they are not likely to exclude military and defense expenditures.

Even before the recess, Congress showed signs that it wanted to whittle away at the $85-plus billion Mr. Nixon is seeking for military spending in fiscal 1974. Worries over spending generally should encourage that tendency.

For the first time in 12 years the House of Representatives overruled its Committee on Armed Services by cutting $1.5 billion from a defense-hardware authorization bill. That bill is now before the Senate Armed Services Committee, which is of a mood to make even deeper cuts.

But military hardware is not the most inviting target for the budget cutters. Military manpower is. Fifty-six per cent of the $85 billion requested for the Pentagon would go for personnel. And not all the personnel is in uniform. The Pentagon employs one civilian for every two servicemen.

Mr. Nixon has successfully turned back every effort to force a troop reduction on the Pentagon, but the Congress, particularly the Senate, seems more determined than ever to raise the question again.

A Senate Armed Services proposal calls for an across-the-board cut of 7 per cent in military manpower but would allow the generals and admirals to decide where to make the cuts. Such a reduction would reduce manpower by 156,000 and save another $1.6 billion.

Statistics suggest the military establishment could stand such a reduction without "weakening" America's defensive posture.

The Pentagon now has 1,000 more colonels, Navy captains, generals and admirals for a total force of 2.2 million than it did in 1945, when the military force numbered 14.7 million. The Pentagon is top-heavy in brass.

It is also top-heavy in high-grade civil servants, GS–15's who earn more than nuclear submarine commanders yet bear few of the responsibilities of such a rank. The number of GS–15's and GS–16's, who earn between $27,000 and $39,000 a year, has doubled since 1961.

The Congress might find real budget-cutting gold if it asked the Pentagon to account for the necessity of such a force.

In cutting the defense budget there, the Congress could be taking Mr. Nixon at his own word. Last November, in defending American troop commitments overseas, Mr. Nixon conceded the Pentagon's "masses of civilian employes who are getting in each other's way . . . are going to have to take a thinning down."

Two weeks ago at San Clemente, the President spoke about his desire "to cut down the size of this government bureaucracy that burdens us so greatly." The Pentagon's civilian labor force is as large as that of the Agriculture, Treasury, HEW and the Postal Service combined.

We hope that in the conciliatory mood of both the White House and the Congress, as evidenced last week, the posturing over defense appropriations yields to a hard-eyed look at the possibilities for cutting the "fat" but not the muscle out of defense requests.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire to be heard?

Mr. SCOTT of Pennsylvania. Mr. President, I think it important that we debate fully the defense needs of the country. I do not at this moment suggest any confrontation with the main issue that we must have a defense with muscle, that we must have a defense that avoids waste. I point out that we have reduced total employment in the Defense Department, when we add civilian and military together, by hundreds of thousands of people. Whether or not further reductions are necessary can be developed during the debate.

In an open society, a strong national defense is the means by which we retain it. National defense and national security to an open society are integral and interdependent. I would hope that we will not, by the specious argument of transferring—allegedly transferring—funds to so-called domestic needs cut so close to the bone with respect to defense expenditures as to encourage other nations to think of us as becoming rapidly a second-rate or, at least, a No. 2 power.

Therefore, when we consider new weaponry, it is necessary, when we consider a reduction of armament vis-a-vis the Soviet Union, that we retain our bargaining position with an appreciation of research and development. We should proceed to the development of new weapons in the proportion that we need them, but be prepared, as we were with the ABM, to reduce our expenditures.

Therefore, I hope that we will be responsible, that we will be carefull, and that we will not ground the case simply on the argument that we will transfer the funds to domestic needs. That has already happened. Some 5 or 6 years ago, we were spending 45 percent of our budget on defense and 35 percent on domestic needs. We are now spending 32 percent of the budget on defense and 47 percent on domestic needs. So we have already made substantial and massive transfers of our priorities.

Moreover, in constant dollars, the present budget is less than our budget in 1964. I am comparing a decade's budget. We are talking about fiscal 1974.

Therefore, I think we ought to be extremely careful that, in a period of peace, we do not do what we have twice done in this century—cut back our defense so far as to invite the capacity of opponents who would then realize that Congress, in its effort to provide more so-called domestic benefits, has risked the security of all those domestic benefits by drastically or dangerously weakening the national defense.

Let us have full debate, and let us then determine what is the right thing to do.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

## CUTTING THE DEFENSE BUDGET

Mr. PROXMIRE. Mr. President, I intended to speak on another matter, and I will do so. Before I do that, I want to indicate my strong support for the remarks made by the majority leader.

No. 1, all of us agree that we should have a strong national defense, and we all recognize that the national defense can be stronger than it is at the present time—should be stronger. We can afford it. We live in a tough, cruel world in which military strength is necessary so that we can negotiate for peace from a position of strength.

But I think we should be aware of the immense waste in our present Military Establishment and the great opportunity we have for saving money without weakening—in fact, strengthening—our Military Establishment.

Only a few days ago, one of the most distinguished military experts of our time, Admiral Rickover, was in my office on another matter. In the course of that visit, he argued that we would have a stronger military force if we literally cut the number of admirals and generals we had in two.

People say, "Well, that would not save a lot of money." Mr. President, they are wrong, it would save a lot of money in a number of ways. Admiral Rickover proposed not only that we cut by 50 percent the number of admirals and generals we have—or flag officers, which is the way he put it—but that we also eliminate the staff along with the admiral and general. The admirals and generals are not alone; they have very large staffs. Significant savings could be made in that area. And most important the example would be catching.

The majority leader was absolutely correct, also, when he pointed out that we have an enormously large number of civilians in the Pentagon in proportion to the number of people in the military; it is much larger than it was a few years ago. This is very hard to justify. The cost of this Pentagon bureaucracy is more than $13 billion. Our experience, and the experience of most of us who have been in Government, is that we can make substantial reductions under these circumstances without really reducing the strength or the performance of a bureaucracy.

The fact is that the war is over. Last year, we were spending $7 to $8 billion in Vietnam. We are not spending that $7 to $8 billion now. There is no question that it should be possible for us to use that savings, to get along roughly on the same amount of funds for our Defense Establishment this year as we did last year.

The President has proposed a $4 billion increase for this year. I hope that when Congress has that measure before it, it will consider very carefully making a reduction which would give us still a very powerful and strong military force—indeed, the strongest in the world, which we should have— but without the waste we permit when we provide whatever the military, in effect, has requested.

## PHASE IV—CAN IT BE RESUSCITATED?

Mr. PROXMIRE. Mr. President, in the last few days the Cost of Living Council seems to have done its best to destroy its own phase 4 inflation control program. Generous price increases have been approved for both steel and automobiles—two of our largest, most important, and most highly visible industries. Until the announcement of these increases, I had continued to hope that phase IV could restore the credibility that was lost during phase III and that progress could be made against the virulent inflation which is so damaging our economy.

On August 31, I testified before the Cost of Living Council on the question of steel prices. I stressed that, in view of the enormous increase in profits in the steel industry this year—increases of about 62 percent—a steel price increase was not essential at this time. I stressed that the public would be watching this decision because it was one of the first major tests of phase IV. Denial of a steel price increase would put the country on notice that a tough inflation control program was indeed in effect. By contrast, approval of a steel price increase would be interpreted as caving in to the steel industry. I said that—

> If the Cost of Living Council caves in to the steel industry at this critical moment, the Council might as well turn out the lights, lock the doors and go out of business, for phase IV will have been abandoned before it was begun.

As we now know, the Cost of Living Council did cave in to the steel industry. It did not cave in quite all the way—part of the price increase has been postponed until January. But once the landslide has begun it becomes almost impossible to arrest. The increased price of steel will be reflected in increased prices of automobiles, home appliances, new construction, and many other products. Even worse, other basic industries will now be encouraged to follow the example of the steel industry in demanding price increases. In just the next few days the Cost of Living Council must make decisions on price increases in the rubber, paper, and soap and detergent industries. Having said yes to steel, it will be all the harder to say no to these other important industries. The prospects for the success of phase IV are now grim, indeed.

This bleak situation is made even bleaker by the fact that generous price increases were approved for automobiles as well as steel. It may be that some increase in the price of automobiles is justified by the costs of required new safety equipment. However, I cannot believe that it was necessary to approve a package which increases the prices of small cars more than the prices of large cars and which further increases prices by making standard such previously optional equipment as larger and more powful engines in small cars. These additional price increases were approved so quietly that they almost slipped by unnoticed. How many people are aware, for example, that the price of a Ford Pinto will increase 13 percent, while the price of a giant Lincoln Mark IV will increase only 2 percent. The Cost of Living Council is showing itself not only ineffective in controlling inflation, but callous to the plight of lower income families; insensitive to the environmental concerns of the Nation; and still all too ready to operate in secret.

Where do we go from here? With phase IV rapidly becoming a landslide of disastrous decisions, where do we look for help in controlling inflation? Should we abandon the inept control effort and rely exclusively on fiscal and monetary policy to control inflation?

Both fiscal and monetary policy have crucial roles to play, but to totally abandon direct price-wage policy would be a counsel of utter despair. Fiscal and monetary policy cannot do the job alone. If the current inflation were exclusively the product of excess demand, then, yes, fiscal and monetary policy could perhaps not face a situation of generalized excess demand. The lowest the unemployment rate has fallen at any time in the last 3 years is 4.7 percent. It was 4.8 percent last month. Many private forecasts show the unemployment rate rising sharply over the next 18 months, and perhaps exceeding 6 percent by the end of next year. While it is true that we face shortages of particular commodities, we certainly have not been experiencing and are not going to be experiencing a situation of generalized excess demand. Indeed, we face the opposite danger of insufficient demand, and must stand ready to adopt the more expansionary monetary and fiscal policies which may be needed to head off a full-fledged recession.

When inflation does not stem from excess demand, it cannot be controlled through monetary and fiscal policy. We must, of course, have a responsible fiscal policy. Spending must be held within a ceiling. Congress and the President have agreed that this must be done. The total unwillingness of the President to accept congressional decisions on the allocation between civilian and defense uses of a given spending total will vastly increase the difficulty of controlling total spending, but I remain hopeful that the ceiling will be respected. We cannot afford to fail in such an important effort.

Beyond this, there is little more that fiscal policy can do. A tax increase, even if it were politically possible to achieve, would not be the right policy at this time. With spending held within the desired ceiling any significant tax increase would give us too restrictive a fiscal policy. It would further increase the chances of recession.

Mr. President, just this past weekend I had the opportunity to return to my State and I talked with a number of people. If there is one issue on which the people are united, it is that they do not want a tax increase. They cannot understand how it helps them as consumers to have their taxes go up, even if it would result in some reduction in the increase in prices. The instincts of the people are correct. With the kind of inflation we suffer now it is not a generalized situation in which we have an excess of money and a shortage of goods. It is a spot inflation, concentrated primarily in the food areas and other marketing areas where we have shortages. For that reason a tax increase is not the answer.

Furthermore, monetary policy is already too restrictive. The tight money policy presently being pursued is doing little to control inflation, but, especially through its effect on housing, tight money is daily bringing us closer to a recession.

There are some who would welcome a recession, although they do not like to say so publicly. They would welcome a recession out of the misguided belief that this is the way to stop inflation. How tragic it is that this delusion persists. The evidence of 1969 and 1970 show clearly not only that recession is a cruel policy which succeeds in throwing hundreds of thousands out of work, but that recession does not cure inflation.

We cannot rely on monetary and fiscal policy to take care of the present inflation. Policies to expand supply are urgently needed and must be vigorously pursued. But they cannot work quickly enough to adequately handle the immediate problem. For the present we must also have a tough program of direct price-wage controls. This is not a happy alternative, but at the present time it is the only alternative which offers even the slimest hope of success.

The landslide failure of phase IV must be arrested. It will not be easy. Each weak decision that has already been made has increased the difficulty. But we must not give in to the thought that it is too late.

The Cost of Living Council currently has pending decisions relating to prices of tires, paper, soap, and detergent. These are large industries. These are important decisions. I do not want to see these industries treated unfairly. Perhaps some price increases in these industries are necessary to cover cost increases. But these applications must be scrutinized with great care. The consumer must not be asked to pay the costs of continuous price escalation in industries that are already reaping rapidly growing profits. The paper industry, for example, had a profit gain of 70 percent in the first half of this year. Profit margins per dollar of sales also rose sharply. Just this one simple fact should be sufficient to cast doubt on the need for a price increase in this industry.

The Cost of Living Council must stiffen its backbone and begin to do the job of bringing inflation under control. The alternative is to cave in to an inflation of unimaginably disastrous proportions.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Nebraska is recognized for not to exceed 15 minutes.

## DISCONTINUANCE OF PRESIDENTIAL CAMPAIGN HEARINGS URGED

Mr. CURTIS. Mr. President, once more I rise to urge that the select committee investigating presidential campaigns discontinue its hearings. I believe the Watergate television programs should be discontinued.

The sole jurisdiction for a legislation investigation is to secure facts and information for the purpose of writing legislation. There is nothing more to be done in this area.

Months ago I stated that this investigation was being used as a means to "get Nixon." I still contend that this is true.

Not a single word of admissible evidence has been presented which would in any way involve President Nixon in the Watergate burglary. I am convinced that the full facts of what happened were withheld from the President far too long. I have nothing but contempt for those who were in any way involved in the Watergate burglary and who deceived the President and failed to give him the full facts. The courts should deal with them.

Mr. President, those who insist on going on with these hearings and the television programs must assume the consequences. The consequences are serious. The Government of the United States is being handicapped. The President of the United States is being thwarted in his efforts in behalf of our country. It is not only slowing down the functions of our Government but it is slowing down our economy. It is hampering the President in his conduct of foreign affairs and thus deprives the free world of the full benefits of the unquestioned leader for peace and stability throughout the entire free world.

Mr. President, a number of outstanding and well known Americans have spoken out on the Watergate hearings and I would like to read to the Senate a few of those statements.

Mr. Henry Cabot Lodge, former Member of the Senate and at one time a Vice Presidential nominee, said:

> The deplorable events of Watergate must not obscure the President's many achievements, such as ending the U.S. manpower involvement in Vietnam, negotiating a settlement there, bringing home our prisoners, opening far-reaching new relationships in

Moscow and Peking, curbing the drug traffic and controlling the arms race. For such remarkable strides toward peace (and his accomplishments at home) he deserves our thanks and our respect.

Charles A. Halleck, Member of Congress for a long time and leader of his party in the House of Representatives, said:

I first met Dick Nixon as Chairman of the National Republican Congressional Committee when, in 1946, I was in California to assist our candidates. I was tremendously impressed with him then and, subsequently, as Member of Congress, Senator, and Vice President my respect for him has constantly increased. I have complete confidence in his honesty and integrity. His greatness as President is established by his important and wonderful accomplishments.

Then, listen to what Charles Halleck says:

I have served on many Congressional investigating committees. None of them ever showed such terrible disrespect for rules of evidence applicable in law and equity as this committee. Hearsay evidence to destroy people has always been anathema to me.

Leonard W. Hall, who served as a Member of Congress from New York for many years, said:

I was pretty close with President Nixon from 1946 through 1960. During the 1952 campaign until the end of his term as Vice President I daresay that we either met or talked on the phone two or three times a week. As you know, Bob Finch and I were in charge of his campaign for President in 1960.

During the whole 1960 campaign the then Vice President would never be in the room while Cliff Folger was raising money at cocktail parties. At the beginning of the party he would come in and say hello and leave before any questions of donations came up. Knowing him as I do and having been associated with him in two campaigns for President by Dwight D. Eisenhower and his own campaign of 1960, I just can't believe that he is in any way involved in the shenanigans of the 1972 campaign. There is no evidence on which to condemn him, and I do not—nor should anyone else.

In 1960, when John F. Kennedy was elected by his narrow margin, Republicans had grave suspicions of the ballot counts in three states, especially Illinois who Mayor Richard Dalley was the boss of Chicago. Offers of money and lawyers to mount a challenge flowed in. Lewis Strauss, former head of the Atomic Energy Commission, said: "Len, you get the lawyers. Don't worry about the money for legal fees. We'll get that." I carried the offer to Nixon. But Nixon said that on his worldwide travels, he had gained an understanding of the image that the world has of the U.S. and the respect that the world has for this country. He was not going to do anything to damage that image. John Kennedy went into the presidency without a challenge. And I find it hard to reconcile the Nixon of 1960 with the alleged picture of Nixon in 1973.

The distinguished Katharine St. George, former Congresswoman from New York, writes:

In my opinion, the effort of a few petty, and ambitious politicians, to tear down the executive power of the President of the United States, is one of the most tragic episodes in our Country's history. To pin all this on the rather ridiculous, and stupid Watergate prank, which I am sure, the President never knew anything about, is completely ridiculous, and should end in a complete mistrial, as it is based on nothing but hearsay, venom, and no proof of any solid quality.

B. J. Kearney, former Congressman from New York, writes:

I still believe in Richard Nixon.

Alexander Pirnie, former Congressman from New York, writes:

Nixon's accomplishments of 1972 in international relations were so demanding and fruitful that it is not surprising that certain administrative procedural controls may have suffered.

The distinguished Florence P. Dwyer, of New Jersey, writes:

I was proud to serve under President Nixon and sincerely believe he will give us great leadership in the years ahead.

Former Congressman Edward J. Bonin, of Pennsylvania, writes:

I have watched the alleged impartial Watergate hearings from the beginning and it is quite obvious that this biased committee so far has failed to establish by a preponderance of the testimony that President Nixon was involved. Stop this Roman circus created for the benefit of the left-wing news media.

W. Sterling Cole, distinguished former Congressman from New York:

President Nixon's great contributions to peace and stability in the world (Vietnam, Soviets, Red China, POW's, etc.) together with his determination to cut expenditures and curtial inflation, expand foreign trade, control drug traffic, reduce crime and many other positive accomplishments, outweigh by far the slight harm which may have been done by the alleged illegal peccadillos of Watergate, even if true.

Those great men and women who made this nation a bastion for fairness and equity under the law would turn their faces in shame if they could see the TV comic opera.

Sadly, our world image is in tatters as result of the lacerations.

Frank C. Osmers, Jr., former Congress from New Jersey, who served for many years with distinction, says:

Richard Nixon is one of our greatest Presidents. Wrong doing by associates should be handled by the courts—not by endless TV programs.

Bob McCloskey, of Illinois, writes to his former colleagues:

It seems to me the Watergate hearings have fallen into a sorry spectacle, which if continued will far overshadow the Roman Circus. All sense of obtaining facts and conducting a fair and impartial hearing have long passed. It is quite apparent the forum is being used in a partisan manner to venally attempt to destroy the President and all he stands for. I for one still believe in my President.

Ivor D. Fenton, distinguished former Congressman from Pennsylvania, writes:

I still believe that Dick Nixon will emerge from this Circus in flying colors—because he is a great President. I believe in President Nixon. My span of 24 years as a Representative of Pa., 1939–1962, in the Congress of the United States gave me the opportunity to serve with Richard Nixon and to know him personally. He was always and still is a fine gentleman; a great President and history will so record him.

Ranulf Compton of Connecticut says:

This is purely political and the Watergate Committee was formed to get the truth. This of course drags out the witch hunt and continues to get plenty of publicity.

Walter Riehlman of New York says:

I have explicit confidence in President Nixon and in his ability to lead this nation. His accomplishments in peace, return of prisoners of war and his faith and love of country far outweigh all the political manipulations of the committee. God give him courage to stand for what is still right and just for our country.

Frank J. Becker of New York says:

It has been evident from the beginning that this Senate Committee has intended to "get" the President. It was evident from the "respect" given John Dean, and the hostility of the Senators towards other witnesses. Nixon has done more for the country and the world than any other President in the past 40 years, yet the Senate committee is concerned little about these accomplishments. They should be called the "Senate Inquisition to get the President".

These are serious charges. I hope they will be taken earnestly and considered.

Former Congressman Edwin B. Dooley, of New York, writes:

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Under the previous order, the Senator from New York (Mr. BUCKLEY) is recognized for not to exceed 15 minutes.

Mr. BUCKLEY. Mr. President, I yield my time to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished friend, the Senator from New York.

Edwin B. Dooley of New York writes:

I think President Nixon was justified with whatever action he had to take to defend himself against those who would destroy him. There is a conspiracy on the part of the Committee and the TV medium to destroy the greatest President we have had since Lincoln. I deplore the mess the Committee is making of its attempt and welcome the day when it is finished with this sorry business.

Even as provocative a man as the late Joe McCarthy would blush with shame at the arrogance, insolence and histrionics of the Committee in its efforts to dishonor the President.

Charles E. Potter, former Senator from Michigan, who served in this body, writes:

The President and his administration are victims of the most vulture type media activism that this country has ever witnessed. This so-called investigative reporting which is now so popular is really an anti-Nixon, anti-Republican effort. Fortunately I believe that the effort has been so blatantly unfair that the public is either bored or sickened by the whole ghastly headline-a-day barrage.

Former Representative from Pennsylvania Frederick A. Muhlenberg, writes:

We can be thankful that Nixon is President and in charge of affairs—he knows today's international scene better than any President in generations; he knows the full picture of his time and has tremendously improved our position in the world of Nations; he ended the Vietnam war and brought our soldiers home: he has curtailed that beast inflation and added funds to our daily earnings. We need him—he stands up and fights.

I loathe and despise those who would climb by pushing others down—particularly the common run of appointees, opinionated without reason, with limited knowledge and less perspective. I want people in power who have achieved humility in the fire of elections. I will follow and help Nixon's ideas on political government for he has personally studied the alternatives.

Charles K. Fletcher, of California, writes:

> Politics is a form of war, as the Watergate hearings are informing most of the people for the first time. President Nixon unwisely allowed others to fight his political war and a few over zealous fighters committed illegal acts unknown to the President. These acts are tame in comparison to the outrageous and illegal acts of many Democrats in politics over the past 30 years to my personal knowledge.

Former Representative Williams E. Miller of New York, a distinguished candidate for Vice President in 1964, writes:

> As a lawyer I do not believe the President has been even slightly implicated by all the evidence thus far produced. I support my President and I hope all Americans will.

Sam Coon, of California:

> President Nixon has stopped the Democratic War in Viet Nam, has practically stopped the cold war with Russia and China with his business like approaches, unparalleled in International Diplomacy, to bring peace and stability to the world, is bringing Government receipts and expenditures into balance for the first time in a decade. Yet the News Media talks only about Watergate, which is not that important. Why can they not give President Nixon a supporting hand, enabling him to continue with his outstanding accomplishments?

The distinguished former Representative from Indiana, Ralph Harvey, writes:

> It grieves me to see our President being pilloried by self-seeking politicians. When the whole Watergate affair has been completed, the American people will judge him fairly.

Hom V. Moorehead, of Pennsylvania, writes:

> I think Watergate will backfire against Congress. Nixon is doing a good job.

Listen to what former Representative Albert L. Vreeland, of New Jersey, says:

> As a lawyer, I am, indeed, amazed and shocked by the fact that by law we are witnessing an inquisition, which we condemned when back in history it was done by the Spanish. Further, people of prominence are treated in a manner less than a common criminal with no right of cross-examination or an impartial judge. It is certainly contrary to all our American principles; and I believe in the Constitution which considers a person innocent until proven guilty, and entitled to a trial by an impartial tribunal. To carry on for the benefit of TV cameras the way this has been handled for the purpose of bringing discredit, not only upon the President of the United States, but also taking away any regard for law and order, is bringing our country to the verge of complete lawlessness.
>
> President Nixon has done a large job in correcting the ills that have been perpetrated by his predecessors; and acts which are now being condemned by the very party that perpetrated them. I hope this farce will end, and we will get back to law and order and respect for the government, elected by the people.

The Honorable George M. Wallhauser, of New Jersey, writes:

> It is grossly unfair to attempt to implicate President Nixon in the Watergate affair after two very definite denials by him—and no evidence to the contrary. The function of the Senate Committee is to suggest legislation and not to "try" citizens in a televised forum. The Courts are the proper vehicle for this action.

Former Representative Carroll D. Kearns, of Pennsylvania, writes:

> The Senate Select Committee to investigate Watergate has disregarded the very provision for which it was authorized by the U.S. Senate—that of conducting a non-partisan hearing. Rather, it has engaged in an encompassing effort to persecute our greatest President since Abraham Lincoln, Richard M. Nixon.

Former Representative from Idaho, Abe McGregor, writes:

> The press, the news commentators, the partisan Senate Majority sit on their hunkers to yawp, to nit-pick, while our President leads the world to generations of peace and security.

The Honorable William J. Crow, of Pennsylvania, writes:

> I have the greatest confidence in the honesty and integrity of President Richard Nixon. I was sworn into Congress at the same time President Nixon first entered the Congress. After 2 years of service together, I learned to respect the honesty of Nixon. I am sure that he will be cleared of any complicity in the Watergate mess.

Former Representative William H. Ayres, of Ohio, says:

> At least two segments of our society have benefitted from Ervin committee: the haberdashers and the barbers judging from the fancy hairdos and snappy television suits of the principal actors.

Former Representative Page Belcher, of Oklahoma, writes:

> I have supported Richard Nixon for the last twenty years. I am still supporting him. History will record him as a great President.

The distinguished former Representative from Colorado, J. Edgar Chenoweth says:

> I stand with President Nixon in his determination to preserve constitutional Government in this country. He deserves the support of all Americans in this effort.

One of our former colleagues, a former Senator from Maryland, the distinguished John M. Butler, says:

> I have the greatest confidence in the President of the United States in spite of all the Watergate flak and am 100 percent behind him.

Former Representative August E. Johansen, of Michigan, says:

> If all good citizens will not rally around the President and support him in all the commendable goals of his administration, then the haters and destroyers will prevail—and we will toast our nation's 200th birthday with the cup of venom and bitter failure.

Former Representative Charles B. Hoeven, of Iowa, says:

> I certainly want to join in expressing my confidence in the honesty and integrity of President Nixon who today is being pilloried to death by a "Hate Nixon" press and the inquisition being carried on by the so-called non-partisan Committee of the Senate. Behind the scenes is the radical wing of the Democratic party which would have no qualms in liquidating the entire Republican party. This is the time for all loyal Republicans to come to the aid of their Party.
>
> I am disturbed by the attitude of all too many leading Republicans in Government who fail or refuse to do anything in speaking a good word for their President.

Former Representative Charles H. Elston, of Ohio, a distinguished lawyer from Ohio, says:

> While piously expressing an intent to impartially explore the facts, the Committee hearings have degenerated into a concerted effort to crucify President Nixon. Although the President remains unscathed by all reliable evidence, the performance of the Committee in slaughtering all rules of law and evidence, together with the frequent unjudicial and publicity inspired prejudgment outbursts of most of the Committee members, both in and out of the Committee room, has unfortunately succeeded in creating throughout the world a disservice to this nation unparalleled in our history.

Former Representative Harold C. Ostertag, of New York, says:

> I firmly believe that Richard Nixon will go down in history as one of our truly great Presidents and that the Watergate and other charges will somehow or other just fade away.

The distinguished former Representative from Ohio, Frances P. Bolton, says:

> I am delighted to join other loyal Americans in expressing my faith and confidence in our President. My thoughts and prayers are with him and Pat in this troubled hour.

From my State of Nebraska, former Representative Glenn Cunningham, writes:

> Richard Nixon will go down in history as a very great President. Senate hearings and hostile press will go down as a shame—a blot on our glorious history.

William E. Hess, former Congressman from Ohio, says:

> In my more than 50 years in politics, I have never seen a more flagrant partisanship investigation than the one now conducted by the committee. I am sick and tired hearing of Watergate. The Democrats are making the best of it. It's like a Roman circus. The TV and radio commentators and news media have been out to get Richard Nixon for years and are certainly making the best of this opportunity with Watergate. The investigation is onesided. The Democrats are surely not free of any fault.

Former Congressman Thomas Pelly, of Washington:

> As one who served in Congress for twenty years and knew and closely observed Richard M. Nixon when he was in the Legislative branch and since as Vice President and President of the United States, I have continued to have the highest regard for both his integrity and ability.
>
> I bitterly condemn those who are spreading throughout our Country and the World unproven, speculative gossip and deliberate misrepresentations designed to undermine the confidence of the Nation in the great leader who seeks World and lasting peace. Justice has not been served.

Then I would like to quote that eminent statesman, that distinguished missionary and distinguished former Congressman from Minnesota, the Honorable Walter H. Judd:

> Whoever was responsible for the inexcusable wrong-doing at Watergate and in the raising and handling of political funds should be tried in our courts on the basis of proper evidence and judicial procedures. But the Senate inquisition has become a travesty of justice. The painfully obvious efforts by powerful persons and forces to destroy President Nixon by smear and innuendo in flagrant violation of American principles of justice and decency are doing injustifiable damage to him and even more to our whole Goverment and to our position in the world—damage that the nation will be suffering from long after he is acquitted, as there is no present reason to believe he will not be.

Mr. Hadwen C. Fuller, of New York, says:

I admire Nixon's stand on Watergate. All real Americans are back of him 100%. He should not falter. Good Republicans will hold the line.

Former Congressman Ellsworth Bishop Foote, of Connecticut, said:

I have absolute confidence in the President and it would indeed be a shame if the many and exceptional accomplishments of his administration were to be overshadowed by the unfortunate cloud of Watergate.

The Honorable Edward H. Jenison, former Congressman from Illinois——

The ACTING PRESIDENT pro tempore. The time of the Senate from New York has expired.

Under the previous order the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. BUCKLEY. The Senator from Michigan spoke to me. He had to attend a hearing before the Foreign Relations Committee, and he asked that on his behalf I ask unanimous consent to yield his time to the distinguished Senator from Nebraska.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CURTIS. I thank the Senator from New York.

Former Congressman Edward H. Jenison of Illinois said:

It has been my rare privilege to know Richard Nixon, the man, ever since he entered Congress and public service in 1947. My admiration for him, and my confidence in him, have grown continuously. He was the President who got our troops out of Vietnam, brought our prisoners of war home and provided the brilliant leadership that won him the overwhelming support of the nation in re-election just last year. The millions of Americans who were for him then are for him now and they are becoming articulate again to defend him staunchly against the politically inspired attacks of willful foes more concerned with launching the 1976 campaign than in working to resolve present problems in cooperation with a President who refuses to be deflected from the service of all the people. All of us should stand up to voice our support of his efforts now.

Mr. President, former Congressman Gordon H. Scherer of Ohio, as his letter will show, served as chairman of the House Committee Investigating Un-American Activities. I wish to read his letter:

First of all, let me congratulate you for making this much needed effort to negate some of the unfair tactics of the Senate Watergate Committee.

I was the ranking Republican on the House Committee on Un-American Activities, which was comprised solely of lawyers. While I realize that an investigating committee of the Congress is not bound to follow the rules of evidence in conducting its hearings, nevertheless, the much criticised Committee on Un-American Activities scrupulously followed, with but rare exceptions, the rules of evidence.

In those days, the press and the liberal crowd applauded the Communist element, their cohorts and their lawyers, who loudly and contemptuously publicly berated the members of the Committee by calling them Birchers, witch-hunters, fascists, despoilers of the Constitution, etc.

We were charged with violating the First Amendment to the Constitution, the civil rights, and freedom of speech and association of these "innocents", many of whom advocated the overthrow of the government of the United States by force and violence.

Today this same liberal left-wing element applauds and joins with the Committee in violating the basic constitutional rights of those called before the Committee, whether they are innocent or eventually found guilty. In fact, the Senate Committee, before the eyes of the nation, without due process, has branded as guilty at least a half dozen persons. Whether they are guilty or not, they have deprived these people of a fair trial.

I predict that eventually the Supreme Court will set aside any guilty convictions because the Senate Committee, by its unfair tactics and publicity, has made it impossible for anyone involved in the Watergate scandal to obtain a fair trial anywhere in the United States.

The Committee supposedly is an impartial investigating committee. It is supposed to bring out all the facts, favorable and unfavorable, in connection with persons directly or indirectly involved. With few exceptions, the Committee has acted as prosecutors. Also with few exceptions the Committee passed up asking questions that would have pinpointed some of the issues and testimony of certain witnesses which would have reacted favorably instead of adversely against some of those involved.

Never in all my experiences during my ten years in the Congress as a member of the highly controversial investigating Committee on Un-American Activities and my earlier experience as a prosecutor and police official, have I ever seen such highly objectionable hearsay evidence permitted, such leading questions asked, such snide remarks and facial expressions approving or disapproving the testimony of witnesses. Furthermore, never before do I believe that an investigating committee so extensively permitted and asked witnesses for their beliefs, reactions and conclusions.

What appalled me even more was the fawning by some Senators over the participants in the scandal who were confessing their guilt, hoping for some form of immunity. You do not need to be an expert in this field to realize that the main objective of most members of the Committee is to "get the President".

If the President testified before the Senate Committee he would be raping the Separation of Powers which every President should fight to maintain. He would be participating with the Committee in usurping the function of the Judiciary and convicting persons without a trial.

Gale H. Stalker, New York:

I believe Richard Nixon is one of the best qualified Presidents that has ever occupied the White House and has accomplished more than most Presidents. No one drowned at Watergate.

Carl H. Hoffman, Pennsylvania:

I, and some of my friends, have followed the Watergate Hearings most attentively. It is our view that the way the hearings are being conducted, are a carbon copy of the Spanish Inquisition. All of us feel that the conduct of the Senate Select Committee, with a few exceptions, from time to time, is doing the Country a great disservice, and we only hope that the great works of President Nixon, accomplished and in progress, will result in repairing some of the damage that has been done. We are for Nixon wholeheartedly.

Albert H. Cole, Kansas:

The conspiracy of the dedicated character assassins and the wishy-washy attempt to get President Nixon has failed. His detractors are beginning to sound the distant retreat and soon he will have the field with honor.

Calvin D. Johnson, Illinois:

The greatest surplus we have in Washington politics today is weak knees. The greatest shortage we have is guts. I therefore thank God that we have a President who is a fighter. My confidence in him is complete, and altho he stands virtually alone in facing multitudinous charges which are made with intent to destroy him. I predict that "Wallow gate" will find no place to go. It will fold as quietly as a Birthday card, and our country will return to sanity.

John M. Robison, Jr., Kentucky:

This country is going through a perilous period when our long accepted concepts of fundamental morals and Government are being seriously questioned by many people. The news media and Democrat Congress are making the situation much more difficult by playing up the Watergate affair all out of proportion in their determination to destroy the Republican President. Fortunately, for the future of our country, President Nixon is a man of great ability and character and will lead us through this most difficult period in world history.

O. K. Armstrong, Missouri:

I was an elector in the Presidential election of 1972 and voted for Richard Nixon. In spite of all the spurious and vicious mouthings of Committee against Nixon, I am sure that if the electoral college was to convene today Nixon would be overwhelmingly re-elected. We have confidence in him.

Charles G. Oakman, Michigan:

During the brief years of 1953–1954, I became quite well acquainted with our then Vice President, Dick Nixon, and I have been a strong admirer and believer of his ever since and I am today. The venomous attacks emanating from the Committee, its hirelings and a poisonous press endeavoring to destroying Nixon as a man, as well as our Chief Executive reminds one of the conditions and times that prevailed through much of the Civil War.

Edwin H. May, Jr., Conn.:

Watergate implications have been blown out of all proportions. The whole U.S.A. position domestically and internationally is being affected adversely. The average John Q. is fed up! The President should not be affected.

Martin B. McKneally, N.Y.:

Because Richard M. Nixon always represented the traditional and successful ways of America, he has always been hated by the familiar scheming cabal of anarchists within the United States. These anarchists (Fr. John F.X. Sheehan, S.J., Chairman of the Theology Department at Marquette University puts them at an egregious 5% of the population) have the support of the ruthless and almost weird media (both large and small). The big media are either in league with the anarchists or they are too damned dumb to know what evil they do and how dark the future that lies ahead. This hatred of Dick Nixon has multiplied many times because of his striking success as President.

Lyndon Johnson was destroyed politically and assassinated physically because he would not knuckle under to this unrepresentative and unelected minority. He should be added to the dreadful list of Presidents killed in office.

Now the hound dogs are baying at President Nixon. They must not get him, and the good people must make certain of that.

Frank L. Sundstrom, N.J.:

I have recently written the President expressing my complete faith in him and the objectives he has already achieved. I am happy to reiterate my views and to pledge my complete support in his endeavors toward even greater goals.

Jackson E. Betts, Ohio:

Actually, a legislative committee is acting as a judicial tribunal contrary to the doctrine of separation of powers. The President is being tried in this new breed of Court with a new rule—Guilt by Recollection.

**George V. Hansen, Idaho:**

The Senate has never demonstrated more tellingly the prima donna roles so many of its members aspire to than in the conduct of the public hearings just recently recessed. This type of hearing where so many legal ramifications and implications are involved just doesn't lend itself to doing the necessary job of seeing justice done without undue delay and without unnecessary damage to the reputations of many people whose lives are touched by this incident.

Although I think that the involvement of a special prosecutor such as Mr. Cox was an unnecessary slap at the normal workings of the Justice Department, I find far more progress apparently being made in both the Watergate Investigation and in political improprieties in his sphere than that which is materializing before the Senate Select Committee.

While members of the U.S. Senate are conducting their modern version of an Inquisition to "purify" the Executive Department, I wonder if they shouldn't, in all fairness, give equal time to exposing "coverup activities" among Senators and Congressmen in areas of honest reporting of campaign receipts and expenditures.

**Harold H. Velde, Illinois:**

I am indeed happy to join with other Republican former Members of Congress in the battle to counter attempts by some merciless Democrats and members of the "Hate Nixon" media coupled with too many misguided or apathetic Republicans in the all-out effort to destroy not only the President but the presidency itself. In their terrible zeal to commit this carnage these individuals are apparently also willing to destroy the time honored constitutional division of powers. Our counter attack on behalf of our friend must be strong and courageous and we must instill in the present Republican Members of Congress the desire and courage to join with us in this necessary action on behalf of President Nixon.

We who have served in the Congress with Dick Nixon know him as a man of highest moral character, integrity and ability. We know him as a well disciplined and courageous American upon whom we can depend to carry out the constitutional principles of justice, freedom and individual enterprise which will continue this country in its rightful place as a leader of nations.

**Willard S. Curtin, Pennsylvania:**

In these troubled times we must all "keep our cool". So many people today find it easier to jump to conclusions on sensational statements rather than on facts. Let's wait until all the real evidence is in and not prejudge our President.

**E. Y. Berry, South Dakota:**

I feel strongly that the news media and the Senate wolves are destroying not only public confidence in the Nixon Administration but in the Presidency as an institution. Let the courts deal with any wrongdoers, let a Democrat Congress legislate rather than crucify and let an innocent President build on his fine record of bringing peace abroad and stability at home.

**Hammer H. Budge, Idaho:**

Richard Nixon has earned the confidence and respect not only of America but of the World. As the president he has my complete and enthusiastic support. At this time in history the *real* tragedy would be if he were *not* the President.

**Ed A. Mitchell, Indiana:**

Even the British refer to the Committee as "Senatorial Inquisition".

**Thor C. Tolleffson, Wash.:**

My opinion of Nixon has not changed one iota despite the efforts of the left wing press to ruin his reputation. They have never forgiven him for proving them wrong in the Hiss case.

The Senate committee hearings on the Watergate affairs are a travesty on justice. While I have witnessed some bad committee hearings in my day (and deplored them), the current hearings are far and away the worst in that they seem to be an effort to derogate the office of the President of the United States. They will do harm, not good, to our nation.

**S. Walter Stauffer, Penn.:**

I have hopefully been waiting for leadership in the defense of President Nixon in the Watergate fiasco. Instead of a Nixon cover-up, the Senate committee should be investigating the cover-up of the Bay of Pigs incident.

This is a new low in Senate Committee investigations.

**Ed Foreman, Texas:**

Never in recent history has there been an individual so well prepared, capable and experienced to lead our nation as Richard Nixon . . . and never in history has a President accomplished as many important goals for our people in so short a time as has Richard Nixon. He ended the war in Vietnam and brought the POW's home. He has ushered in a new era of Peace in the World as a result of his effective negotiations with Russia, China and others. He has maintained a strong security force to protect our country, yet we've moved from the draft to a voluntary service and the percentage of our overall budget spent for armaments has decreased, while the human resources part of the budget has doubled. Employment is at an all-time record high and personal income is at a new peak. The riots, unrest and disorder of the 1960's no longer plague us on the domestic front. The federal government is being decentralized to move the decision making to local elected officials. President Nixon has earned our respect . . . he deserves our encouragement and support.

**J. Ernest Wharton, New York:**

I hope that we may soon see Congress returning to the cause of legislation, leaving the Courts to their proper judicial duties, and an end to the harassment of our Chief Executive so that he may proceed with his program, which overall, has really been the best of our generation.

**Howard W. Pollock, Alaska:**

History will indeed record Richard Nixon as a great President, notwithstanding the star chamber proceedings of the Committee political inquisition, and the insidious efforts of the press to overplay the Watergate affair all out of proportion. This great leader has brought peace and stability to the world, reduced internal tension and crime, cut expenditures, curbed inflation, turned the machinery of government against drug traffic, and the list of his accomplishments is almost endless. He has asserted his innocence about Watergate, and I believe him. Those who maliciously crucify the President for political gain do a major disservice to their country.

**Robert Barry, New York:**

History will record the Nixon years as great advances for peace on earth! Let each of us participate by supporting our leader.

**Durward G. Hall, Missouri:**

Hope our President always know that "Doc" Hall would never sit on his hands or stand idly by while reporters who have forgotten their objectives become self fashioned "commentators" and perform evacuative surgery from the rear without benefit of anesthesia.

Partisan abuse of legislative authority by the Democrats simply adds to what the American people generally are trying to prove—namely, that we cannot govern ourselves as a limited republic of responsible people under a constitution. Only an unhampered and principled Chief Executive can save this form of government at this time and place. Irresponsible leadership of both parties in the Congress makes it necessary for all citizens to rally to his support in this time of greatest trial and need. I am for him one thousand percent and preaching it at every opportunity. We need fear not the Executive branch versus the Legislative or Judicial, but the complacency of the American people as we trip among the primrose path to deterioration and perdition.

**Elizabeth P. Farrington, (Hawaii):**

To compare anyone to Christ is sacrilege. But let me remind you that we do not blame Jesus Christ because he was betrayed by Judas Iscariot, an apostle in whom Christ had placed His faith.

Hindsight is always better than foresight. Now that the President knows he has been betrayed by some evil men, he will be even a better and more watchful President than he would have been otherwise.

Let him get on with the job he was elected to do and bring the culprits to immediate trial in the Courts.

I have known Richard M. Nixon ever since he first went to the Congress following the elections of 1946. He is not capable of doing evil. All of us can be mistaken in judgment at times. I would infinitely rather see a man make a mistake by putting too much faith in others than never to trust anyone.

Now that the cruel truth has been revealed, let us help the President by looking forward, not backward; looking up, not down; looking out, not in; and lend a hand.

**Walter L. McVey, Kansas:**

We are for him 100%, not only in believing the President to be innocent of any wrongdoing in the Watergate affair, but also in believing him to be right in defending the doctrine of separation of powers.

The actions of the Senate's Select Committee on Presidential Campaign Activities confirm the wisdom of the framers of our Constitution in fearing the tyranny of Congress. When it comes to unfairness the Committee's hearings rival the Spanish Inquisition and the English Star Chamber proceedings.

**Robert Withrop Kean, N.J.:**

It has been an American tradition for the people to accept the verdict of the voters every four years. Now for the first time, those whose philosophy was repudiated at the polls have refused to accept the verdict of the people, and have been trying to reverse their decision by attacks on the President in their newspaper, their television and by the highly partisan members of the Senate Committee.

**William Henry Harrison, Wyo.:**

I have known Dick Nixon for many years and I am sure that he had no knowledge of the Watergate affair. Had he known he would certainly not try to cover it up. In spite of the fact that to date no real evidence has been produced against him the press still tries and convicts him with the help of the committee.

I believe in him and hope that some attention will be paid to the fine things he has accomplished for our country. In my opinion he has been and is a fine President.

**DeWitt S. Hyde, Maryland:**

Excerpts of his personal letter to the President:

"May I express to you my confidence and support. It is a tragedy that the events of Watergate have been permitted to obscure and obstruct the great accomplishments of your administration. The worst part of the tragedy has been the conduct of the Senate, the press and even of the Court.

"While many people are disturbed and perplexed, it is my impression that if you continue your present course of open and discreet discussion the majority of the people will be with you."

John W. Bricker, Ohio; (Senator and Vice President nominee, 1948):

I certainly deplore the things that have happened that are illegal on the part of the people whom the President trusted. I have full confidence in the President and hope and pray that he comes out of this so that he may continue his constructive services. I think the reporting of it has been unconscionable on the part of a limited part of the Press and of the television and radio.

In my judgment the whole Watergate matter is for the Courts of Justice. I have not listened to a great deal of the testimony before the Senate Committee but when I have it gave me the impression of being something of a show put on for public consumption and a great deal of it beside the issue. A Senate Committee is not a court and such hearings ought to be limited to the presentation of legislation which would be in response to the absolute facts and not inadmissable evidence as much has been before the Committee. The whole matter has done much to disturb the public as well as to interfere with the orderly processes of government.

I expect I have talked to as many people as most of you in Washington and during this program and feel that a great majority of the people in the Midwest feel as I do about the matter.

There are many things I could say but I have confidence in the President and the Vice President as well and think that the leaks to the Press have been deplorable. We can't live as good citizens under that kind of procedure.

Patrick J. Hillings, California:

The great accomplishments of President Nixon and his Administration should not be deterred by the stupid actions of a few people in which he was not involved.

For the first time in more than a generation there is no major conflict in the world and the chance for a lasting peace for all people is greater than ever; our President has made this possible.

It is time for all of us to rally behind him in the great leadership he has provided and will continue to provide. He needs our help and we need his dedicated leadership.

Leverett B. Saltonstall, Massachusetts (Senator):

Let us remember the helpful things President Nixon has done. The troops that our Democratic Administration sent overseas are back again—our prisoners released—let us stop spending the millions of dollars of our taxpayers money to find trouble but to find our lost soldiers and to feed our hungry. Let us support the leader of our Country.—He cannot lead us without our support—*today—now*.

Mr. President, the burdens on the President of the United States are beyond description. We who serve in the legislative branch are busy, but compared with the Presidency, our constituency and our responsibilities are both small. All of us have to delegate duties and in the case of the President, the necessity for delegation of duties and responsibilities is many times greater.

The year 1972 was a momentous one. The Vietnam war was being wound down, leading to the return of our combat troops and the return of prisoners of war. The Middle East crisis constitutes a heavy load upon any President and could consume all of his time. There were the historic visits to China and Russia. In addition to these unusual happenings, the usual burdens of the Presidency are great. Congressmen and Senators, Governors, mayors, Cabinet officials, department heads, ambassadors, representatives and heads of foreign states, industrial leaders, financial leaders, educational, and religious leaders, organization heads and many others feel that they should have the ear of the President and oftentimes they do.

To continue these Watergate hearings, which obviously are viewed by many as a means to "get Nixon," are to say the least an unjustified harassment. Certain forces did "get President John F. Kennedy." Many of us believe that vicious attacks and harassments over the Vietnam war drove President Lyndon B. Johnson to the decision not to run for reelection. The Watergate hearings add fuel to the fire of these same destructive elements.

In my mind and heart I am convinced that President Richard M. Nixon had no part in the Watergate scandal and that the true facts were withheld from him far too long.

Legislative hearings should be for the purpose of securing information to write legislation. These hearings should, insofar as possible, follow the rules of evidence and maintain a judicial atmosphere. Such is not the case in reference to the Watergate hearings. There is an atmosphere of fanaticism accompanying these hearings. This is shown by the allegation that the Watergate scandal was a greater tragedy than the Civil War.

The Civil War lasted almost 5 years. The number of Union dead were 360,222 and the Confederate dead amounted to 258,000. I do not have a figure for the number of Confederate men who were injured, but the estimate for the Union side is 275,175. The great Civil War set brother against brother and kinsman against kinsman. It tore our country asunder not for the period of the war but for decades. It brought hatred and ill will. It divided our country in its efforts for progress and good government and it led to the assassination of one President. The era of Reconstruction was a great tragedy in itself.

The comparison of Watergate to the Civil War shows how far we have drifted from judicial moorings. These proceedings should stop.

## MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated by Mr. Marks, one of his secretaries, and he announced that, on September 14, 1973, the President had approved and signed the bill (S. 1841) to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games.

## REPORT OF COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Nunn) laid before the Senate a message from the President of the United States, which, pursuant to Public Law 91–224, section 204, with the accompanying report, was referred to the Committees on Agriculture and Forestry, Commerce, Interior and Insular Affairs, and Public Works. The message is as follows:

*To the Congress of the United States:*

I am pleased to transmit to the Congress this Fourth Annual Report of the Council on Environmental Quality.

The year 1970, when I transmitted the Council's First Annual Report, signaled a time of great environmental awakening in the United States. Much has been accomplished in the succeeding 3 years.

In place of organizational disorder and fragmentation, we have developed institutions capable of dealing with environmental problems in a systematic and effective way. At the Federal level, the Council on Environmental Quality and the Environmental Protection Agency weer established in 1970. Most States have created similar offices, giving preater prominence and coherence to their own environmental programs.

We have also enacted new and stronger environmental protection laws and have made substantial progress in defining problems, establishing goals, and designing strategies for abating pollution and preserving our natural heritage. The chapter in this report entitled "Perspectives on Environmental Quality," describes the important progress we have made. In some instances, such as air pollution, a national program is well advanced. In other areas, such as noise pollution, our work is just beginning. But in all areas, our knowledge about the environment and our capacity to protect and preserve it increase day by day.

Our energies have not been confined to domestic environmental problems. In the world community we have provided strong leadership in responding to environmental concerns and in fostering international efforts to solve problems which transcend national boundaries. The chapter "International Action to Protect the Environment" summarizes the progress made in recent years in protecting the oceans, controlling transboundary pollution, and preserving the fragile natural heritage of our planet.

Other chapters in this report further illustrate the gains that have been made. American initiative—our ability to solve problems rather than simply bemoaning them—has increasingly been turned to environmental improvement in recent years and the results are becoming evident in one area after another.

The chapter on "Cleaning up the Willamette," for example shows that a grossly polluted river can be restored to purity and health. Fifty years ago this Oregon river was offensive to the senses. Today the waters are clean and salmon migrate upstream in the fall. The people of Oregon, whose determination brought about the cleanup, are now taking action to preserve and assure public access to the shoreline of this restored river.

The chapter entitled "The Urban Environment: Toward Livable Cities" describes new signs of life and vigor in our cities and shows what private citizens can do to create urban environments that enhance the quality of life.

The chapter on "Environmental Status and Trends" indicates that the air quality in our cities is improving. Further progress will occur as the Clean Air Act continues to be carried out.

As in so many other areas of national concern, our progress should inspire us to get on with the job that still remains. In my National Resources and Environment Message in February, I resubmitted 19 bills for Congressional action and also submitted several new proposals. Some of the most important measures—including proposals for the regulations of land use and the control of toxic substances—have been before the Congress for 2½ years. Passage of these measures is crucial to the environmental well-being of America. The time for action is upon us.

Land use control is perhaps the most pressing environmental issue before the Nation. How we use our land is fundamental to all other environmental concerns. There is encouraging evidence that the American people have reached a new perception and appreciation for this challenge. In our past, we wrestled a nation out of wilderness. We cleared and developed the land. If we despoiled it, there was always fresh land over the horizon, or so it seemed. But now we know that there must be limits to our use of the land, not only limits imposed by nature on what the land can support, but also limits set by the human spirit—for we need beauty and order and diversity in our surroundings.

I believe that land use regulation should be primarily a responsibility of local governments, where responsive leaders are most likely to understand the choices that have to be made. Nevertheless. I am also convinced that Federal legislation is needed now both to stimulate and to support the range of controls that States must institute. I urge the Congress to enact my proposal for land use control, a proposal which would authorize Federal assistance to encourage the States—in cooperation with local governments—to protect lands of critical environmental concern and to control growth and development which has a regional impact.

I also urge the Congress to act quickly to prevent continued ravaging of our land and water through uncontrolled mining. My proposed Mined Area Protection Act would establish Federal requirements to regulate surface and underground mining. By requiring mining operators to post adequate performance bonds and satisfy stringent Federal reclamation standards, this legislation would require that mined lands be restored to their original condition or to a condition that is equally desirable. We need the fuels and minerals that are now in the earth, but we can—and must—secure them without despoiling and devastating our landscape.

There is other important land use legislation pending before the Congress which also deserves prompt enactment. The Powerplant Siting Act would assure that needed generating facilities are constructed on a timely basis with full consideration of environmental values. The Natural Resource Land Management Act would provide a management policy emphasizing strong environmental safeguards for one-fifth of our Nation's land area that is managed by the Bureau of Land Management.

Because a number of differing values and perspectives must be reconciled, the regulation of land use will never be a simple matter. The "Perspectives" chapter of this report describes the anti-growth sentiment emerging in some communities and points to the need to reconcile controls on unwanted growth with provision for essential regional development. The chapter on "The Law and Land Use Regulation" discusses the balance which must be struck between the need to protect private property and the need to preserve the environment. This is not a question to be dealt with from Washington, however, but one that State and local governments and courts must work out. The Council's chapter on this subject should be helpful to these groups, the legal profession and private citizens in developing a more complete understanding of this important issue.

In the final analysis, the struggle for environmental quality rests with the citizens of our Nation. The chapter on "The Citizens' Role in Environmental Improvement" shows that concern for the environment is not merely a passing fad but rather has become an integral part of American life.

The Fourth Annual Report of the Council on Environmental Quality demonstrates our considerable progress in arresting environmental decay. It also helps to chart the path we must follow if we are to continue this progress in the future. I commend the members and staff of the Council for their efforts in producing this valuable document, and I urge the Congress and the public to give this report their full and careful consideration.

RICHARD NIXON.

THE WHITE HOUSE, *September 17, 1973.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

## MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 695) authorizing the President to proclaim the period of September 15, 1973, through October 15, 1973, as "Johnny Horizon '76 Clean Up America Month."

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. NUNN).

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore (Mr. NUNN). Under the previous order, the distinguished Senator from Minnesota (Mr. MONDALE) is now recognized for not to exceed 15 minutes.

## THE PRESIDENCY AND WATERGATE: AN AGENDA FOR REFORM

Mr. MONDALE. Mr. President, for nearly a month now, President Nixon has "counterattacked" on Watergate. He has tried hard to convince the American people that Watergate is paralyzing both the Congress and the Nation.

The President believes that in order to tend to the Nation's business, we must move beyond Watergate—and perhaps forget it in the process.

I believe the President has misread the will of the people, and misrepresented the actions of the Congress.

The American people want to get on with the Nation's business, but they also want desperately to uncover the lessons of Watergate. To do that, we need a continuation of the factfinding process which has been underway in the Senate.

The Congress also wants to move beyound Watergate. But we have been tending to the Nation's business while Watergate has been investigated. And we will continue to act responsibly while this investigation continues.

What unites the Congress and the American people is a desire not to simply prolong Watergate ,but to learn from it; not to immobilize the country, but to spur it to action; not to devote less attention to the pressing issues facing the Nation, but to guarantee that never again will we have a wholesale violation of the liberties of American citizens resulting from a lawless abuse of power.

At the heart of this shared concern is a desire to turn our Government away from lawlessness, and back to freedom.

Almost 200 years ago, Thomas Jefferson foresaw the problem. He said:

> The natural progress of things is for liberty to yield and government to gain ground.

I strongly believe that Watergate has given the American people the will to reverse this trend, and the desire to recapture our liberty from a White House all too ready to suppress basic freedoms.

The American people want an end to illegal bombings carried out for over a year with no knowledge of the Congress or the people.

The American people want an end to illegal contributions exacted from corporation presidents, to financially overwhelm the political opposition.

The American people want an end to wiretapping without court orders, and burglarizing of the homes and offices of private citizens.

The American people want an end to spying and espionage which sacrifice our liberty to a conception of national security which bears no relationship to reality.

The American people want an end to the transformation of Government agencies into illegal arms of a few powerful men in the White House.

The American people want an end to Presidential campaign spying and sabotage which destroys the fair chance of the people to choose their leaders in free elections.

In short, Watergate has given us a new resolve both to meet the problems we face as a nation, and to realize that the greatest problem we face is protecting our liberty against a government which would erode, and in the end, destroy it.

The changes that are required will not come easily. For what we will need are reforms to insure that those who govern can never again, through their power, strip away the freedom which has made our Government unique.

This is the urgent business which we must attend to. These are the concerns that must take us beyond Watergate.

Central to maintaining our freedom, and returning accountability of government to the people, are changes in the institution of the Presidency.

Yet we must act carefully. If we do not, Watergate could mark the unfortunate beginning of a steep and disastrous decline in the prestige and power of that office.

While we need reform, we do not need retribution.

We need a strong Presidency. But we also need an open and legal Presidency, with strong safeguards to protect against the abuses of Presidential power.

For every abuse of Presidential power we have witnessed, there are easy solutions which would both cure the immediate problem, but emasculate the Presidency in the process.

This possibility is made more real by the bloated state in which we now find the Presidency.

In recent years, in both Democratic and Republican administrations, the American people seem to have gone beyond simple respect for the office of the Presidency. Instead, we have begun to create a monarchy out of an office intended to be the bulwark of a democracy.

Sensing this feeling, recent Presidents have found it hard to resist the temptation—often aided by a weak Congress—to accrue more and more power, and the perquisites which go along with that power.

Now, the Presidency has become larger than life, and larger than the law.

We have created an office whose only restraint is the collective consciences of the men who occupy positions of power.

We have created an office so seriously at variance with many of our democratic ideals and traditions that it marks itself as an easy target.

We have allowed modern-day Presidents to flee from reality, shielded by perquisites that may cost the American taxpayer $100 million per year.

No one knows the exact cost in dollars. The White House would not tell us.

But we do know this. Today, when the President wishes to travel, a fleet of 27 planes valued at more than $80 million awaits his command. Four more, costing between $5 and $8 million each are now being purchased.

When he wishes to talk with advisers from anywhere in the world, a communications network estimated to cost $35 million per year to operate is at his command.

When he travels on world diplomacy, the trips can cost $5 to $10 million each. And his travels to San Clemente this year alone have cost the American taxpayer over $1 million.

When he wishes his homes appointed in the style befitting a royal head of state, it is done, and we are only now learning how many millions it has all cost.

And when he wants to equip White House police in uniforms worthy of a Gilbert and Sullivan comic opera, it is done without question.

Obviously, the President must be able to communicate instantly, in case of emergency. He must have adequate security. He must be able to travel on important official business.

But the extravagance of the Presidential "establishment" breeds isolation. And, in the wake of Watergate, this isolation may in turn breed anger on the part of the American people, who may wish to eliminate not only the frills, but also much that is necessary.

We are in danger of public sentiment confusing travel that is essential with needless pleasure trips to "southern" or "western" White Houses, and reacting against both equally strongly.

And we are in danger of a public confused and disturbed with politics in general, seizing on the overblown sense of Presidential self-importance and condemning not only the excesses, but also the essence of the Presidential office.

There obviously are excesses which should and must be eliminated.

In particular, in Congress we must insure accountability in the expenditure of public funds, so that we will not suffer further erosion in public respect for the Presidency.

But there is a much more fundamental accountability which hangs in the balance today. It is nothing less than the mutual respect which makes our democracy possible.

This accountability thrives on an active, honest relationship between the President, the Congress, and the people. It needs the constant test of political reality—the clash of opinions, in full view of the American public, which should mark effective political give-and-take in a democracy.

This is the openness which creates strength for the office of the Presidency.

This is the candor which breeds respect for the head of our Government.

But this respect can only come from a sense of trust felt by the American people. And this trust can only exist when the people believe that the President is open in his dealings and accountable for his actions.

This openness has become more and more difficult with the passage of time. In recent years, the physical isolation of the President from the people has of necessity increased, because we still bear in our collective consciousness the tragic events of Dallas almost a decade ago.

Physical isolation has made it more difficult for any President to get the feel of the American people. Yet this contact is essential. As George Reedy has observed:

> The most important problem of the Presidency is that of maintaining contact with reality.

Maintaining this contact is a difficult, constant struggle, but a struggle richly worth the effort.

In recent years, Presidents have relied on the media and the Congress to provide them with a sense of reality.

Yet President Nixon has sought refuge in the comforting atmosphere of a White House where political expediency seemed to make reality a luxury.

He has shunned the news media and has had little but contempt for the Congress.

As John Gardner stated recently:

> President Nixon has created a curious and unprecedented one-way communication with the American people. He can reach us but we can't reach him. We can see him but he can't hear us. He is always with us but there is no dialogue.

And this is precisely why we now face the crisis of confidence produced by Watergate. For there has never existed the sense of mutual trust and respect between this President and the Congress, and between this President and the people, which makes effective Presidential leadership possible.

We need this leadership today.

We are living in an age of instant communication, with the threat of instant annihilation. No one wants to deny the President the right to respond in case of external attack, or the right to manage an ever-more unmanageable Government.

But we must insist with greater frequency than ever before that those who exercise this trust are accountable to the people through the Congress and through responsible executive branch officials.

This will not be easy. But, as Anthony Lewis recently remarked:

> The framers of the American Constitution did not design our system for the convenience of the governors. They were interested in the governed—in their right and duty to participate in the decisions of public life.

The need for accountability is particularly important as the White House staff continues to grow—and continues to take over functions previously exercised by the Cabinet agencies.

It may surprise many Americans to know that only since 1939 has there been a formal White House office. By statute, Presidents through Herbert Hoover were permitted only one administrative aide. And, only in 1937 did President Roosevelt seek to reorganize the White House staff. The President's Committee on Administrative Management, in recommending greater staff assistance, stated:

> These assistants probably not exceeding six in number would have no power to make decisions or issue instructions in their own right. They would not be interposed between

> the President and the heads of his departments. They would remain in the background, issue no orders, make no decisions . . . emit no public statements.

How far we have come in only 30 years. Take, for example, the Domestic Council. Created in 1970—not by statute, but by Executive order and reorganization plan—the Domestic Council was to provide policy advice to the President on a variety of domestic issues.

The President asked for and received funds to run the office with no oversight by Congress. John Ehrlichman was made Director of the Council, without requiring his confirmation. He proceeded to displace agency heads and Cabinet officers as the chief domestic policymaker to the President. And, we now learn, using the Domestic Council payroll, he hired Egil Krogh and Gordon Liddy to undertake illegal activity connected with Watergate, and the reprehensible break-in of Daniel Ellsberg's psychiatrist's office.

All of this was done without congressional scrutiny. It was a shocking example of *illegal* conduct initiated by the White House, and implicitly sanctioned by a docile Congress.

And the Domestic Council is merely one part of an ever-increasing White House staff.

From 1955 to 1970, the Executive Office of the President grew by about 24 percent. In just 3 years—from 1970 through 1972—it grew by 25 percent.

And we still really do not know how many hundreds of detailees from Cabinet agencies are working in the White House.

While the President was calling for economy in Government, the cost of running the Executive Office of the President was increasing from $47 million in 1971 to $64 million in 1973.

While the President was calling for greater accountability in Government, the number of special "ungraded" personnel not accountable under civil service regulations—increased from 113 in 1970 to 281 in 1973.

As a House subcommittee recently noted:

> Historically, these ungraded jobs have been restricted to, and used primarily in, the housekeeping functions of the executive residence . . . The current Administration has made a basic policy change in the use of this authority. Now many high level policy employees are being employed without regard to civil service regulation.

Since 1970, nine new offices within the Executive Office of the President have been created. They have usurped power from existing agencies and departments, and have done so with an arrogance that has often astounded longtime observers of the White House.

Most importantly, this has resulted in power flowing away from executive agencies and officers accountable to the Congress, and being exercised by White House aides not accountable either to the Congress or the people, shielded by so-called executive privilege, and not subject to confirmation.

Any President should be applauded for efforts to bring an essentially unmanageable Government under control.

But no attempt to improve management can be allowed to jeopardize our democracy.

No rationale of efficiency can be allowed to decrease the accountability of those to whom power is given.

This President, and any other President, needs a group of advisers who are his own people, who can exist outside the normal agency structure and provide advice directly from a White House staff.

But when those people cease giving advice, and begin to usurp power from the Secretary of State or the Secretary of Health, Education, and Welfare or the Attorney General, we have sacrificed accountability on the altar of expediency.

This is the type of "efficiency" which led to Watergate.

And this is the type of government which can never win the confidence of a free people.

For without the accountability of those who manage, freedom may be lost forever. Without the restraint which responsibility creates, "management" may succeed democracy as the ethic of our Government.

Two weeks ago, I offered a number of amendments to the White House budget appropriations bill which sought to foster this sense of accountability.

These amendments attempted to express in one tangible way a congressional desire to regain access to the decision-making apparatus in the executive branch. They were not vindictive, nor did they attempt to "punish" the President for Watergate.

Instead, they sought to advance a sense of responsibility to the American people, which has steadily declined in the White House for decades. As George Reedy recently put it:

> The trouble with the White House is that in the past few decades it has grown into an institution which felt it did not have to take other people into account.

We must regain this sense of accountability, and the Congress, while rejecting the amendments I offered, should realize that we must find other means of achieving this end.

First, we need a series of laws to end forever the abuses of power which Watergate has revealed. We need stiff legislation to prohibit law enforcement agencies from violating the civil rights of individuals, and to prohibit any spying or wiretapping or espionage for political ends.

And we need laws to prevent the corruption of agencies of the Federal Government by those in positions of power. We must insure that the most sensitive agencies in Government—the FBI, the CIA, the Internal Revenue Service, and the Justice Department—are never again used for political purposes. I will be introducing legislation to accomplish this purpose.

In short, we need legislation to reaffirm our Nation's commitment to the law, and to express our belief that this respect for the law must apply to even the most powerful.

Only if those in the highest positions of power must obey the law can we ever hope to raise our children with respect for our country and her laws. These are the principles which have made our Nation great, and we must use the lessons of Watergate to renew that commitment and restore that faith.

Second, we must require confirmation by the Senate of every important officer within the Executive Office of the President.

Legislation we have passed—but which is not yet law—will help to accomplish that end by requiring confirmation of the head of OMB and the Council on International Economic Policy.

However, we also need a systematic review of every other important policy-related position within the Presidential establishment to determine those for which Senate confirmation would be appropriate.

We must condition confirmation on the pledge that these officials will appear before Congress to testify and will produce appropriate documents which Congress requests.

And we should consistently stress the important difference between advice—which the President certainly needs from officials in the Executive Office of the President—and the type of illegal operational control which the Office of Management and Budget has exercised.

Third, we need legislation which I have already introduced to provide for a question and report period, during which the Senate would be able to question key executive branch officials—on radio and television—concerning vital matters of public policy.

At the present time, Cabinet officers and many agency heads have lost much of their authority to officials within the White House. Only if the Cabinet officials and agency heads are required to defend their actions on the floor of the Senate—in full view of the American people—will we be able to reassert these officials' rightful responsibility.

If a Cabinet officer must defend policy before the Nation, he will insist that he has a role in the formulation of that policy from the outset.

It is Congress, along with the Cabinet agencies, which must assert its power. Not to strip the President of his power to govern, but to insure the ultimate strength of that Presidential authority by increasing public respect for the equality and openness of both the legislative and the executive branches.

The American public cannot be deceived either by Presidential statements proclaiming his responsiveness to the Congress or congressional statements proclaiming our willingness to strengthen our own role in Government, unless real action is forthcoming from both branches.

Fourth, we must therefore reassert the constitutional responsiblities of the Congress over warmaking, the execution of treaties, and the budgetary process.

We must use many of the substantive powers which we have always possessed, but often failed to exercise.

This year, both Houses of Congress have moved to regain the warmaking power of Congress. Without depriving the President of the power to react in emergency situations, these bills seek to assure that never again will the President—without consultation with the Congress—commit American resources and American troops to extended combat. The 55,000 deaths of the Vietnam war have shown us vividly the results of a presidency unchecked in its power and a Congress unwilling to apply such a check.

We must reassert the power of the Senate to advise and consent in the making of treaties by the American Government. In recent years, executive agreements have been used by every President not only to dispose of routine diplomatic matters, but to bypass the constitutional provision requiring Senate ratification of all treaties. In 1930, our Government entered into 30 treaties and only 11 executive agreements. In 1972, we entered into only 20 treaties, but 287 executive agreements.

This dramatic shift toward the use of executive agreements to bypass the Senate must be stopped. Legislation we have passed would give us this powegr. This legislation must be approved and signed by the President.

We must also reassert congressional oversight in the entire budget process.

We need strong anti-impoundment legislation to insure that the will of Congress is not thwarted by arbitrary executive branch action.

And, we must open up the Office of Management and Budget to insure cooperation with the Congress.

The Office of Management and Budget was created as the successor of the old Bureau of the Budget. But while the Bureau of the Budget was responsive and accessible to Congress, OMB was created without formal statutory authorization. Its head has not been subject to confirmation by the Senate, and it has expanded its role constantly to include the type of management functions which the Bureau never undertook.

Any reassertion of congressional power will not be without struggle. In fact, Congress may often be forced to go to the courts, as we have done with increasing frequency in recent months, to insure that Presidential and executive branch actions are not above the law.

Fifth, to aid in this process, we need an Office of Congressional Counsel, similar to the GAO. This office would give Senators and Congressmen an in-house capability to bring suit against illegal executive branch actions. I will shortly introduce legislation to create such an office.

In recent months, just on the impoundment question alone, over 20 cases have been decided. These cases have dealt with housing funds, with OEO funds, with funds appropriated under the Water Pollution Control Act amendments, with Agriculture Department emergency loan funds, with veterans cost-of-instruction funds, with Indian education and mental health and Neighborhood Youth Corps and library services funds.

In virtually every instance the outcome has been the same—ruling after ruling has held that the impoundment of funds appropriated by the Congress was contrary to law.

Yet these lawsuits had to be brought using private lawyers. These lawyers have performed magnificently, but to fully use the court process to insure compliance with the law, we need an Office of Congressional Counsel.

We need this congressional counsel to insure that no officer required to be confirmed by the Congress can exercise authority until his name has been sent to the Senate and confirmed.

We need this counsel to put legal muscle behind congressional actions, when these actions are thwarted by a Presidency which has little respect for the law.

This congressional counsel is just one of the new tools needed to right an executive-legislative branch imbalance which has become so great that it endangers both the effectiveness of the Congress, and the trust of the people in the Presidency.

Unfortunately, we run the risk of having this reassertion of congressional power seen by the Nation as a challenge to strong Presidential leadership. This is a risk we must take.

We must accept the challenge of Executive illegality and act effectively to meet it. But over the long term, our efforts should be designed to increase executive-legislative branch cooperation, through a thoughtful study of the institution of the Presidency.

Therefore, we need a Commission on the Office of the Presidency, to reexamine the institution of the Presidency.

The commission's overriding purpose should be to examine what has happened to the office, why it has happened, and what can be done to insure that the Presidency remains open and accountable to the American people and Congress.

This investigation should attempt to bring about a permanent realinement of Government. Its central focus should be to increase the accountability of the executive branch and the Office of the Presidency, without hampering the strength of the Presidency or his ability to manage a complex government and an even more complex Nation.

This commission would be composed of members of the legislative and executive branches, and distinguished private citizens. I am introducing a resolution to create such a commission today.

Its charter should be broad, as broad as the needs of the Nation for responsible government dictate.

The commission should not be viewed as an excuse to delay the many important reforms which we need now, and which I have discussed earlier.

Rather, it would offer a longer term view, a chance for the executive and legislative branches to reason together on the basis of mutual respect, and arrive at a working concept of the Presidency which is strong, yet legal; capable of leading, but without dictating.

In short, we need a life-size Presidency—with its faults recognized, its virtues praised, and its interaction with Congress and the courts one of mutual respect. This should be the broad goal of this commission on the Office of the Presidency.

Hopefully, some of its recommendations may result in legislation.

But we cannot legislate an awareness of the importance of constitutional principles. We cannot legislate a fundamental regard for the intelligence of the American people. We cannot legislate greater Presidential involvement with the Congress or the public.

Yet we can use every resource at our command to make the American people aware of the dangers in an isolated Presidency. We can inform the people of the need for greater face-to-face dialog with the Congress, the press, and the people.

We can attempt to make the President aware that challenges to his authority and his wisdom can be made in good faith and need not tear down the Republic.

We must preserve the Presidency as the leader of a democracy, willing to observe the liberties of a free people, and eager to involve the Nation in the constant recreation of the American ideal.

But above all, we must heed Jefferson's warning, and insure that liberty for the American people is never again sacrificed to a government all too eager to destroy basic personal freedom in order to preserve its own political power.

For it is precisely the democratic ideal, and the freedom which it creates, that has kept the American experiment thriving for 200 years. As John Gardner has noted:

> When our nation was founded there was a holy Roman emperor, Venice was a republic, France was ruled by a King, China and Japan by an emperor, Russia by a czar and Great Britain had only the barest beginnings of a Democracy. All of these proud regimes and scores of others have long since passed into history and among the world's powers the only government that stands essentially unchanged is the federal union put together in the 1780's by 13 states of the east coast of North America.

Ours is a unique legacy. It has been created by a respect for the laws and institutions of this country which has insured our survival as a republic.

Together, we must safeguard this heritage, without which our democracy cannot stand.

Together, we can bring reform out of tragedy, and create a new respect for Government which will strengthen our Nation as we enter our third century of democracy.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, how much time did the senior Senator from Minnesota (Mr. MONDALE) have remaining?

The ACTING PRESIDENT pro tempore. The senior Senator from Minnesota had 4 minutes remaining. The order was read out of turn. It was the order recognizing the junior Senator from Minnesota (Mr. HUMPHREY) for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, how much time did the Senator from Nebraska (Mr. CURTIS) have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Nebraska had 3 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time remaining to the senior Senator from Minnesota (Mr. MONDALE) and to the Senator from Nebraska (Mr. CURTIS) be made available to me, for my use.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, the time for the quorum call to be charged against my time without prejudice to the distinguished Senator from Minnesota (Mr. HUMPHREY).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time did the Senator from Wisconsin (Mr. PROXMIRE) have remaining under his order earlier today?

The ACTING PRESIDENT pro tempore. Three minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be accorded that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time do I now have?

The ACTING PRESIDENT pro tempore. A total of 18 minutes.

Mr. ROBERT C. BYRD. I thank the Chair. I yield my time, all of it or as much time as he desires, to the able Senator from Minnesota (Mr. HUMPHREY).

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. HUMPHREY. Mr. President, I thank the distinguished majority whip.

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## THE DEPARTMENT OF DEFENSE FOR FISCAL 1974

Mr. HUMPHREY. Mr. President, the Senate's consideration of defense appropriations for fiscal 1974 presents unprecedented obligations and opportunities for congressional participation with the executive branch in the making of major national policy.

It is with an understanding of shared responsibility that I make an appeal to members of the Defense Appropriations Subcommittee of the Committee on Appropriations.

It is imperative that we exercise budgetary restraint and commonsense as we consider the administration's request for defense spending.

We must have a strong defense establishment that realistically insures our security in response to the military, economic, and political realities of the 1970's.

It is necessary and timely that we harvest a peace dividend which allows us to tackle the backlog of unmet human needs which have gone begging during more than a decade of war.

If we do not accept these responsibilities, if we simply endorse the President's request without a critical evaluation, it will be impossible for us to justify our vigorous demands for shared power. If we are, indeed, a coequal branch of government, then coequality means that we must play a constructive role in establishing national priorities. Indeed, the Congress has the final responsibility for establishing our national priorities.

After a careful examination of the administration's budget request, we could easily get the impression that the United States is still at war somewhere on this globe.

In fiscal 1974, the request for military appropriations has increased by $5.6 billion to $87.3 billion from fiscal 1973. This year's request is higher than any appropriation at any time during the Vietnam war. It is also the first military budget that has been increased substantially at the conclusion of a war. Immediately after World War II and after the Korean war, we achieved major cuts in military appropriations in the return to peacetime levels of forces and weaponry.

The administration's unprecedented demand for an increased military budget in a supposed time of peace requires the searching evaluation of the Senate and the Committee on Appropriations.

To make the situation even worse, vital domestic programs have been slashed or terminated by the administration. Enactment of major domestic appropriations have been blocked by vetoes and the threat of vetoes.

Concerning the President's threat to veto any reduction in the defense budget, I believe that the Congress will not be cowed into submission by threats of a veto. We have the responsibility under the Constitution to share with the President in establishing national priorities through the legislative and appropriations process. Last year the Congress cut the defense budget by $5.3 billion. It is my hope we can equal this amount or do better in 1973.

The highly regarded annual report of the Brookings Institution, Setting National Priorities, prepared by Charles Schultze, former Director of the Bureau of the Budget, and other budget experts, states the situation well:

> In any one year, presidents seldom propose major changes in the scopes and role of the federal government. Such changes do occur, but usually in small steps whose implications are realized only after several years have passed. The Federal budget for the fiscal year 1974, however, is a striking exception. Faced with the prospect of a substantial excess of spending over revenues in a period when large budget deficits would clearly be inflationary, the President decided not only to reduce the level of federal spending but to change national priorities. While leaving the structure of federal taxes and the current defense posture unchanged, he recommended a sweeping series of reductions in the domestic expenditures of the federal government, including elimination or sharp curtailment of many programs."

The administration's budget reflects changed priorities. Not the peacetime priorities we have long expected. Not the priorities restricted by reduced spending at a time of spiraling inflation. But a scheme of misplaced priorities which proposes to guarantee national security while ignoring the pressing domestic needs of this Nation.

I believe that national security depends on much more than merely providing for the physical security of the United States against attack.

The true security of our people requires constant attention to maintaining a functioning society in which all can share in the benefits of that society. To have a healthly society with great international strength, the Congress must direct adequate budgetary resources not for instruments of war or defense, but also to promote full employment, quality education and health care for all citizens, environmental protection, safe and improved living conditions in urban and rural areas and equal opportunity for all Americans.

America is the No. 1 military power in the world. But we sometimes forget that military power alone cannot make our country strong or secure.

The Pentagon maintains 1,963 bases and 600,000 troops overseas at an estimated cost of many billions a year. Yet according to recent Gallup polls, 41 percent of all Americans are afraid to walk alone at night near their homes.

We have created a nuclear strike force that could, if we chose, eliminate the greater part of the world's population in a matter of minutes. Yet, we have failed to provide for 27 million Americans now living in poverty.

America is No. 1 in military power, but we are only: Eighth in doctor-patient ratio; 14th in infant mortality; 25th in life expectancy; and 14th in literacy.

This is what the National Commission on the Causes and Prevention of Violence had in mind when they wrote:

> While serious external dangers remain, the graver threats today are internal . . . the greatness and durability of most civilizations has been finally determined by how they have responded to these challenges within. Ours will be no exception.

That is the best argument for reducing defense spending in a sensible way. By reducing the military budget we will free resources to provide for the true security of our country—to cure disease, to protect the environment, and to improve our lives in a hundred other ways.

Special and unique conditions exist at this time in our Nation's history which make necessary reductions in defense spending appropriate to the needs of a peacetime America.

1. The need for military expenditures has been reduced with the end of U.S. combat involvement in Indochina and the progress toward détente with both the Soviet Union and the People's Republic of China.

2. The unmet domestic needs of this Nation have been neglected by a long war.

3. The Congress is under tremendous pressure to enact a fiscally responsible and noninflationary budget within the mandated ceiling while preserving the constitutional powers of the legislative branch to determine spending priorities.

These conditions require that attention be focused on the Department of Defense's appropriation request in the same critical way that all appropriations are examined. As Chairman MCCLELLAN, of the Senate Appropriations Committee, stated earlier in the year:

> The President's budget request . . . is neither compulsory nor compelling. It is advisory only. . . . It remains the Constitutional responsibility of Congress to determine whether any requested appropriation shall be made and to fix the amount thereof.

I believe that careful consideration of the true security needs of our Nation and a close examination of the budget request will lead to the unavoidable conclusion that the DOD appropriation desired by the President can be safely reduced substantially without impairing our national security. Accordingly, I will present a recommendation with that end in mind. I am not an expert defense analyst, but I am a concerned Member of Congress charged with the responsibility of helping to establish national priorities.

I might add, Mr. President, I have had a long record of support for national defense appropriations and our national security. I think I am the only Member of this body who has had the privilege of serving on the National Security Council. I did so for 4 years. Under no circumstances would I take an action by my vote to jeopardize the security of this Nation. The remarks I am making have been carefully thought out. I am deeply concerned over the world in which we live. I know it is not a happy world, nor is it one that is a peaceful world; but I do believe the time has come for the Congress of the United States to take a very good, long, hard look at the incredible cost of the national defense structure of this country. There are things that can be done, and we must get busy to do such things as can reduce expenditures and at the same time maintain a viable, effective, strong defense program.

Military expenditures contemplated by the administration in fiscal 1974 are substantially extended in many areas. A measure of our vast worldwide role was revealed in hearings conducted this year by the Senate Armed Services Committee (part I, authorizations, p. 163). Secretary Richardson presented a chart detailing defense expenditures of the United States and U.S. allies as a percent of GNP and per capita (U.S. dollars)). In 1972, the United States spent 7.5 percent of GNP compared to 4.2 percent by NATO countries, 3.5 percent by SEATO nations and 0.9 percent by Japan. At $380 per person, or $1,520 for a family of four, the United States spends much more than twice the amount per capita for defense of any ally. The United States has been generous in the defense of our allies, but the time has come for a portion of our burden to be shifted.

The U.S. military role planned for Asia simply does not conform to reality. Since the termination of the U.S. combat role in Indochina on August 15, 1973, only token troop withdrawals have been announced. The significant improvement in our relations with the Peoples Republic of China has not been reflected in a change in U.S. forces assigned to Asian combat contingencies.

There are now more than 200,000 military personnel stationed in Asia. I concur with a recent statement by a group of experts familiar with Asian security affairs which recommends that at least 100,000 U.S. troops can be returned and deactivated with no harm either to our national security or our important interests in the area.

I ask unanimous consent that this statement be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON U.S. TROOP REDUCTIONS IN ASIA

JULY 31, 1973.

The United States is completing a significant reduction in our involvement in East Asia. We have withdrawn from direct participation in the conflict in Vietnam, and are soon to refrain from all direct combat operations in Indochina. We have also begun to establish mutually beneficial relationships with the Peoples Republic of China and the Soviet Union.

Because of these factors, we, the undersigned, believe that substantial reductions can be made in those military forces now deployed in East Asia and these areas, of whom 45,000 are in Thailand; 58,000 are in Japan; 15,000 are in the Philippines; 42,000 are in South Korea; 9,000 are in Taiwan; and 58,000 are afloat. We feel that at least 100,000 of these can be returned and deactivated with no harm either to our national security or our important interests in the area.

It is our sincere hope that Congress will take such firm and timely action as is necessary to bring our East Asian force level in line with present diplomatic realities.

Endorsed by:

Robert Barnett, Former Deputy Assistant Secretary of State for East Asia and Pacific Affairs;

Jerome A. Cohen, Professor, Harvard Law School (Chinese Law);

Chester L. Cooper, Special Assistant to Governor Harriman for the Paris Peace Conference on Vietnam;

Alvin Friedman, Former Deputy Assistant Secretary of Defense for International Security Affairs;

Morton Halperin, Former Deputy Assistant Secretary of Defense;

Roger Hilsman, Former Assistant Secretary of Defense for Far East Affairs;

Townsend Hoopes, Former Under Secretary of the Air Force;

Anthony Lake, Former Staff Member, National Security Council;

Dwight Perkins, Associate Director, East Asian Research Center, Harvard University;

Earl Ravenal, Former Director, Asian Division (System Analysis), Office of the Secretary of Defense;

Gaddis Smith, Professor of History: Yale University Specialty: 20th century diplomacy. Author of a recent biography, Dean Acheson.

Richard C. Steadman, Former Deputy Assistant Secretary of Defense for East Asia Affairs;

James Thomson, Former Staff Member, National Security Council.

Paul C. Warnke, Former Assistant Secretary of Defense for International Security Affairs.

Mr. HUMPHREY. Accordingly, Mr. President, substantial savings can be realized by reducing the administration request for procurement and operations related to direct U.S. combat activities. In addition, funds for military aid to South Vietnam and Laos should be cut as well.

With the signing of the Paris agreement and the end of American military involvement in Indochina—and beyond that, with the recent agreement arrived in Laos—that continuation of the $2.2 billion military assistance service funded program—MASF—is no longer in our national interest. The MASF program should be discontinued as such, and arms replenishment for South Vietnam supplied by the United States according to the provisions of the Paris agreement. The administration of this program should be returned to the Department of State under the military assistance program. There is absolutely no justification for providing the Defense Department with such a large fund when it cannot possibly use it for its stated purpose in light of the restrictions of the Paris accords.

The principal driving force behind U.S. foreign policy and, consequently, the size of the defense budget, is the perception of the East-West power balance in Europe by our military planners. Therefore, it is crucial for the Appropriations Committee to take a hard look at the threats to our interests in that area.

Since World War II, we have regarded the threat posed by Soviet and Warsaw Pact forces as the principal danger to our European allies. I believe this still to be the case. However, the commonly held view has been that Warsaw Pact forces in Central Europe have a marked advantage over NATO forces. Yet it seems that this assessment of the threat has been somewhat overstated and generally gets overstated at the time that we are marking up appropriation bills.

A June 7, 1973, article in the Washington Post reported on a major Pentagon study which found that NATO has sufficient strength to hold off the most likely threat posed by Warsaw Pact ground forces during an initial 90 days of combat. At a June 7 NATO ministerial meeting, Secretary Schlesinger reportedly downplayed Soviet military capabilities in Europe.

The Soviet naval buildup needs to be carefully evaluated. Studies by the center for Defense Information and the Brookings Institution indicate that the Soviet Navy is designed primary for defensive, not offensive purposes. Although it has been a greatly improved navy, it is handicapped by limited access to the seas and a lack of long-term supply and replenishment capability. On the other hand, the U.S. naval force is larger and has a significant advantage in the capability to project power in terms of ships and numbers of overseas bases.

These considerations should provide the necessary impetus for our Nation to move forward strongly with the mutual balanced force reduction negotiations with the Soviet Union in the coming weeks. I support that effort. At the same time, we must begin discussions with our allies in preparation for what I hope will be satisfactory negotiations for mutual force reductions. I do not favor any substantial unilateral American troop reduction in Europe at this time. But I am hopeful that a negotiated, mutual withdrawal of considerable magnitude could occur within the next 18 months.

Navy requests for ships and planes should be reviewed critically in terms of a realistic appraisal of actual threats. Substantial savings can be realized by limiting or stretching out many programs such as the F-14 aircraft and the SSN-688 nuclear attack submarine.

I want to make it clear that I know

that we need a strong navy, and we need one that can fulfill our role as a maritime power. However, again that I think it is all a matter of scheduling and a matter of how much of our resources we wish to put at any one time into that modernization program.

Procurement of strategic weapons systems should be undertaken with restraint. The SALT accords in 1972 and the recent Washington summit meeting with Secretary Brezhnev have established a hopeful climate for arms limitations. Success in future negotiations should not depend solely on building "bargaining chips" which seem to never be given up after successful negotiations.

Mr. President, I am not one who believes that we should take the Soviet Union at its word. I am not one who feels that the Soviet Union has become a sort of playful house kitten. I know that it has appetites. I know that it is concerned wtih the exercise of power. And I recognize the importance of our Nation having at least the adequate resource strength to balance off that power. However, again I want to say that this must be done within a time frame and within a scheduling of our resources that does not precipitate a tragedy in this country.

The Trident nuclear submarine is a good example. The procurement schedule for Trident was accelerated as a "bargaining chip" for future negotiations. But the rationale for Trident would not seem to support this approach.

I am not talking about whether the country ought to have the Trident. That has already been decided. It is a question of the scheduling.

The Department of Defense has placed great emphasis on accelerating the production and the deployment of the Trident submarine system. Although the original deployment date set under a schedule developed in 1971 was sometime before 1985, it now will be possible to deploy the lead Trident submarine by 1980 under the present plans.

However, the Defense Department is now anxious to speed the deployment of Trident to 1978, thus substantially increasing the cost of the program and running the risk of embarking on R. & D. and deployment concurrently.

I think it is important to note that the original schedule called for 1985. That was placed back to what was thought to be an accelerated schedule in 1980, which is the present situation. The Department of Defense is now asking that we have deployment of the Trident in 1978. I might add that in that area there is a great deal of possible danger that the deployment will come before all of the research and development has been completed.

Trident, at a cost of $1.3 billion per boat, is to be a replacement for the Polaris submarine and a hedge achieved through greater striking range against future Soviet developments in Soviet antisubmarine warfare capability. Both of the so-called requirements can be met without accelerating the production schedule.

First, Polaris is estimated to endure well into the 1980's, which is safety beyond the original completion date of Trident set for the ealy 1980's. Second, a long-range Trident I missile that can be retrofitted into the Polaris boats is scheduled for delivery in 1978; the accelerated Trident boat could not be available any sooner. An accelerated program all too often leads to accelerated costs. Putting Trident on a more reasonable schedule might keep it off the list of 45 major weapons programs showing cost overruns now totaling over $31 billion.

After careful consideration the Research and Development Subcommittee of the Armed Services Committee voted to retain the original schedule of Trident and produce a savings to the taxpayer this fiscal year of $885.4 million. The R. & D. Subcommittee's decision was later reversed in the full Armed Services Committee by a single vote.

I found the reasoning of the seven Senators supporting the subcommittee's position very convincing. They stated:

> A more orderly development of Trident enhances our bargaining position at SALT. The Soviets must be more concerned about a reliable and more thoroughly proven Trident that will result from our careful development of the system than they will be by the folly of massive monies spent helter skelter. The more deliberate pace also provides us greater flexibility at SALT in defining the terms of an agreement on sea-based offensive systems, because we would be locked into the design and construction of fewer boats than the accelerated program requires.
>
> The $642 million spent in FY 1974 includes the largest amount for a single weapons system in this year's R&D request and, therefore, must be convincing evidence to the Soviets of our seriousness about Trident and our national commitment to preserve the invulnerability of our sea-based deterrent. They (Soviets) must recognize that this amount would permit work to continue on the lead Trident submarine, would provide advance procurement of long-lead components on the three follow-on submarines, and would enable us to deploy Trident I missiles in Polaris boats by 1978.
>
> In sum, a more orderly development of Trident enhances our prospects for a secure agreement at SALT II. And if we fail at SALT, it insures that we will have a reliable successor to Poseidon and that our sea-based deterrent will be secure the rest of this Century.

These Senators went on to inventory the current stock of bargaining chips available for SALT II:

> This is an imposing, dynamic Trident program and it—plus our continued development of B-I, plus continued modernization and improvement of our Minutemen, plus our active retention of the option of MIRVing additional Minutemen, plus our R&D of Mobile ICBM's, plus our R&D of site defense, plus our continued MIRV conversion of our submarine fleet—will insure that our military position at SALT II will be a powerful incentive for the Soviets to come to a serious and secure agreement.

The Defense Appropriations Subcommittee should adopt the original view of Senator McINTYRE's subcommittee.

The B-1 bomber, envisioned as the eventual replacement for the present B-52, is already in trouble with cost overruns and delayed production. Many strategic arms experts have been very critical of the B-1. The high projected cost of the B-1 is not justified by the small margin of additional capability over the B-52. That is the argument that we would have made, and conveniently a substantial reduction of the administration's request for this program is in order.

The recent successful Soviet flight test of a MIRV system has brought forth cries of alarm from some quarters. This defense subcommittee should not be stampeded into any drastic response as a result. The Defense Department has been crying "MIRV" for several years to justify proceeding with further deployments of U.S. MIRV's. Consequently, the United States now has 7,042 nuclear weapons—4,457 in missiles—compared to 2,266—2,016 in missiles—for the Soviet Union. It is clear that one successful MIRV test by the Soviets will not result in any appreciable increase in deployed warheads in the very near future. Neither side can achieve a first strike regardless of the number of MIRV warheads. MIRV only poses a real threat to Minutemen; our subs and bombers will still remain invulnerable. In the absence of comprehensive ABM systems—given up in SALT I—the primary rationale for MIRV has been negated; both the United States and the U.S.S.R. have agreed to be vulnerable to nuclear attack as the best form of mutual deterrence.

Given our vast lead in deployment of nuclear warheads, recognizing, of course, that in terms of weight, we are inferior, and it would be feasible to reduce the appropriations request for Minuteman III in order to stretch out the MIRVing process.

According to former Secretary of Defense Richardson (Annual Defense Department Report, fiscal year 1974, pp. 55 and 57), $777 million has been requested for fiscal 1974 as the final buy to complete the Minuteman III force of 550 missiles. Quite likely, nearly 300 of the 414 missiles already authorized are completed. If funding were limited to completion of the full 414 missiles, experts estimate that savings on the order of $600 million or more should be possible.

There again, Mr. President, whether that is accomplished or not, at least the request for the completion of 550 missiles might well be stretched out.

The Senate should carefully review the issue of increasing efficiency of our Armed Forces by improving the ratio of support to combat troops. This all important "tail to teeth" ratio has doubled since 1945. It has now reached the point where nearly 85 percent of all military personnel serve in a support capacity, rather than a combat capacity. This does not connote a lean and mean force structure. Major efforts should be undertaken to reduce manpower costs by utilizing a lower support-combat troop ratio.

Cuts in combat troop levels resulting from the Vietnam withdrawals have not been carried out proportionately among support personnel. It is time to strike a better balance.

A similar problem exists in the officer corps; it is commonly referred to as "grade creep." There are now more field grade and flag officers—Lieutenant Colonel or Commander and above—in 1972 there were nearly 54,000—to command a present force of 2.2 million than there were in 1945 when the military numbered 12.1 million. A major budget cut could be achieved if the grade distribution were to be restored to the pattern of fiscal 1964—the last "peacetime year."

The number of bases we maintain overseas also deserves close attention from both the Defense Department and the Congress. In their latest count of two months ago, DOD said that we maintain 299 major bases in 21 foreign nations. These installations are considered "major" because they may contain over 100 acres or have 250 personnel or cost at least $5 million a year to maintain.

The number of bases we maintain overseas also deserves close attention from both the Defense Department and the Congress. In their latest count of 2 months ago, DOD said that we maintain 299 major bases in 21 foreign nations. At the same time the Department of Defense, while maintaining these overseas bases, has seen fit to cut many of the domestic bases, many times with very serious repercussions. These installations are considered "major" because they may contain over 100 acres or have 250 personnel or cost at least $5 million a year to maintain.

I believe we must make some tough decisions concerning the necessity of maintaining nearly 300 overseas installations at a time of soaring costs, severe balance of payments problems and the strategic realities of the 1970's. All these considerations suggest a needed reduction in the number of our overseas bases.

The Defense Department's civilian work force has received little scrutiny by Congress in past years. Consequently, the waste has reached massive proportions. There are now 1,013,000 civilians employed by DOD, nearly 1 civilian for every 2 in uniform. The Defense Department currently has roughly as many civilians as the combined rolls of the Departments of Agriculture, Treasury, Health, Education, and Welfare, and the Postal Service.

I think this demonstrates, Mr. President, that the Defense Department does have an insatiable appetite in some of these areas. At least, a civilian personnel figure of over 1 million does require careful scrutiny by Congress. One civilian for every two in uniform appears to me to be an unacceptable extravagance. The administration has portrayed HEW as a bloated bureaucracy, yet DOD has eight times as many civilians. Worse still, there is "grade creep" among DOD civilians. The Washington Post recently reported that "the number of high level GS–15 and GS–16 grade civil servants has almost doubled since 1961." The total number of civilians then and now is about the same. Even the President complained about this situation last November, when he said:

> But in terms of the masses of civilian employees who are getting in the way of each other over in the Pentagon and around the country, they are going to have to take a thinning down.

Since the Department of Defense has failed to heed the President's advice, the Congress should do the job.

I have attempted to highlight only the major areas of waste and inefficiency which, I believe, contribute nothing to our security. In fact, this waste diverts resources that are badly needed in areas of human need to meet problems that are undermining the strength of our society. No "national security" justification is broad enough to hide the deleterious effects of waste and fat on a multibillion-dollar scale observed so easily by the most casual observer.

The Senate, therefore, has the opportunity and the expertise to take a much more detailed look at the administration request. No doubt, we can probably identify many other areas where reductions can be made.

On the basis of the evidence I have seen, I believe that, on the grounds of real security needs as well as to achieve more efficient organization, a reduction of up to $7 billion from the administration request of $77,124,223,000, as reflected in the DOD appropriation bill, can easily, safely and prudently be made while fully preserving, even enhancing, our national security.

I would like to call your attention to two important defense studies which might be helpful to the committee. The Brookings Institution study, "Setting National Priorities," postulates alternative defense strategies which are similar in many ways to the recommendations I have set forth and would save $4.8 to $7.8 billion—including incremental Vietnam war costs—this fiscal year. A report to Congress entitled, "Military Policy and Budget Priorities" have been presented by a panel of distinguished national security experts headed by former Assistant Secretary of Defense Paul C. Warnke. That study, by the way, recommends substantially larger reductions in intelligence activities. They have recommended that fiscal 1974 military appropriations be reduced by $14 billion—about $12.5 billion would be cut from the Department of Defense Appropriation.

I ask unanimous consent that the paper entitled "Military Policy and Budget Priorities" be printed in the RECORD in the context of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### MILITARY POLICY AND BUDGET PRIORITIES

Our nation has been burdened in recent years with unprecedented military costs. The Vietnam War and the nuclear arms race have not only cost us dearly in lives and peace of mind; they have also distorted our national budget towards arms and war and away from those vital areas of our peoples' needs dependent on support from federal revenues. With the end of our Vietnam involvement and the negotiation of the Moscow arms agreements in 1972, we were entitled to expect a major reduction in the military budget for Fiscal Year 1974 similar to the massive reductions achieved upon termination of the Second World War and of the Korean War. But, instead of reductions, President Nixon has proposed a $5.6 billion increase in national defense budget authority for Fiscal 1974 and simultaneously a vast cut-back on a great variety of federal domestic programs essential to our genuine national security.

### A NEW INTERNATIONAL SITUATION

Now is the time when the defense budget should decline, not increase, to reflect a changing world. The President, in his cordial exchanges with Chinese and Soviet leaders, has repeatedly stressed the need for a relaxing of international tensions. The Nixon doctrine states that foreign allies are primarily responsible for their own security. The SALT negotiations should have begun to curb a dangerous nuclear arms race. The U.S. and Russia have begun to develop economic ties, with large-scale business exchanges, which imply the existence of long-term, stable relationships.

As the President has repeatedly stated, we are indeed moving from an era of confrontation to one of negotiation. We still need a defense fully adequate to ensure our physical safety, but a general reduction in military funding would be consistent with that purpose in this new era. The Administration's proposal for increased military spending would, at best, mean a diversion of U.S. resources from urgent domestic needs. At worst, it could re-ignite the arms race, bring about new international crises, and jeopardize our national security.

SUMMARY OF FEASIBLE REDUCTIONS IN NATIONAL DEFENSE BUDGET AUTHORITY FISCAL YEAR 1974[1]

| | *Billions* |
|---|---|
| Southeast Asia | $3.1 |
| Military aid to South Vietnam, Laos, Cambodia | 2.1 |
| U.S. combat operations | 1.0 |
| General Purpose Forces | 4.0 |
| Procurement reductions | 2.0 |
| Asia-committed forces | 2.0 |
| Manpower efficiency | 3.3 |
| Reduce support personnel | 1.2 |
| Grade levels: restore to 1964 pattern | .4 |
| Cut civilian manpower 10 percent | .8 |
| No recomputation | .4 |
| Other savings | .5 |
| Strategic Forces | 3.0 |
| Trident | 1.3 |
| Minuteman MIRVs | .7 |
| B–1 bomber | .4 |
| ABM | .4 |
| AWACS | .2 |
| Other (SLCM, ABRES, mobile ICBM, phased array warning) | .1 |
| Military Aid | .6 |
| Aid to foreign nations and U.S. military missions | .6 |
| Total feasible reductions | 14.0 |

[1] Detail may not add to totals due to rounding.

### THE NIXON MILITARY BUDGET COULD SAFELY BE REDUCED BY MORE THAN 15 PERCENT

We have analyzed the Nixon military budget proposal, which calls for the appropriation of $87.3 billion in Fiscal 1974 for Pentagon programs, nuclear arms, and foreign military assistance, $83.5 billion of which is requested for the Department of Defense. Even a conservative analysis shows that some $14 billion can be saved from the Nixon proposal while fully preserving our national security, and starting a return to a peacetime national budget. Even making a generous allowance for transition and other "shut-down" costs, and a substantial amount of the savings can be achieved in Fiscal 1974 budget authority, with the full saving in future years. Specifically, we project feasible savings of $3.1 billion in U.S. military operations in and aid to Southeast Asia, $4.0 billion in paring of our inflated general purpose forces and weapons systems, $3.3 billion in military manpower efficiency improvements, $3.0 billion in elimination or stretch-out of new strategic weapons procurements made unnecessary by the recent nuclear arms agreements with the Soviets, and $556 million in discontinuance of unproductive and even counter-productive foreign military assistance.

We start with some basics:

About half of the current defense budget is enough to provide a more than adequate nuclear deterrent, as well as the land, sea, and air capacity to repel attack on U.S. territory.

The other half is spent to continue our alliance commitments and to maintain our overseas bases and troop deployments.

Many of these latter expenses are well justified; our national security interests at this time are advanced by a strong, stable network of international relationships. But recognition of the proportion of defense spending attributable to these commitments highlights the need for a close link between our international policy and our military spending.

In this report, we focus on that relationship and on wasteful expenses—those deployments and programs that do nothing to further our interests, either to defend the U.S. or to support our alliances. And we point out some expenditures that actively threaten our national security by increasing the prospects of military confrontation.

### AN ISSUE OF PRIORITIES

We emphasize that savings from the Nixon military spending proposals must be made not merely because of the general desirability of eliminating wasteful spending. Making reductions on the military side has now become indispensable for adequate funding of many essential domestic programs. Programs now threatened by the Fiscal 1974 budget include: urban and rural housing assistance, water and sewer programs, various community development projects, health care and training programs, educational assistance for the disadvantaged. The cities, where many of these programs have been concentrated, are beginning to feel the effects of the Nixon reductions. The funds for manpower training and employment programs will be decreased nationwide by 13.5 per cent. Community development projects—those dealing with urban renewal, park construction, and sewer services—will be phased out abruptly. There is a promise in the budget of block grants to be available in 1975, but no new money is offered for 1974. Funds proposed for education special revenue sharing will decline by $515 million from comparable program appropriations in 1972.

For all practical purposes, a maximum has been set on the total federal budget. President Nixon has defied Congress to exceed his proposed $268.7 billion "fiscally responsible" federal outlay budget for 1974 and has threatened to impound domestic appropriations which would cause that limit to be exceeded. Congress has generally indicated its approval of such a spending ceiling, recognizing that the present inflation requires a limit on federal spending.

President Nixon, by increasing the military budget while announcing that we cannot afford to increase or even to maintain many of our vital domestic programs, has put before the Congress a fundamental issue of national priorities: It has become indispensable to the maintenance of our true national security that we find savings in the inflated defense budget to meet real human needs at home. We have concluded that at least $14 billion can easily be eliminated from President Nixon's proposed $87 billion military appropriations request.* Those billions saved can and should be applied to the needs of our people.

## SOUTHEAST ASIA MILITARY COSTS

### *(Recommended Savings: $3.1 billion)*

The new budget authority being requested by the Pentagon in Fiscal 1974 for Southeast Asia is $2.9 billion. This figure includes $1.9 billion for U.S. military aid to South Vietnam and Laos, about half of which is slated for ammunition and equipment procurement for those two countries, and half for support of "allied operations." The remaining $1 billion is for the support of U.S. naval and air forces in Southeast Asia. In addition, $180 million for military aid to Cambodia is sought in the military assistance request. All $3.1 billion in new authorizations should be cut out. The arms assistance previously authorized is more than adequate for purposes of self defense.

The Congress and the American people are now united in the conviction that it is time to disengage militarily from Indochina. The January 27, 1973 peace agreement provided for an end to U.S. bombing in North and South Vietnam and the withdrawal of our ground forces there. However, the Administration has continued its heavy military involvement throughout Southeast Asia by conducting extensive bombing raids over Cambodia, sending in new advisors to South Vietnam, flying oil and other supplies to Phnom Penh, conducting two days of bombing raids over Laos, sending reconnaissance planes over North Vietnam, and maintaining high levels of "replacement" of equipment and supplies to South Vietnam.

The U.S. is becoming enmeshed in one part of Indochina—without any constitutional authority—just after disengaging militarily from another area. This can only lead to new military involvement, to new U.S. combat deaths in Indochina, to new prisoners of war, and to further Indochinese deaths.

It is time for the U.S. to end our use of military force in the entire area. This means the cessation of all U.S. bombing, the withdrawal of support for Thai mercenaries in Laos, the suspension of the shipments of enormous amounts of military equipment to the area, and the removal of our air forces in Thailand and our naval forces off the shores. In short, a true U.S. withdrawal can be achieved only by completely ending U.S. military participation in this tragic area, where such participation only serves to keep the fighting going and to encourage new outbreaks.

The economic savings from the Fiscal 1974 military budget will be substantial; even more substantial will be the human savings resulting from an end to continued U.S. involvement in Southeast Asia. It is time to leave the resolution of power struggles in Indochina to the Indochinese people.

## GENERAL PURPOSE FORCES

### *(Recommended Savings: $4 billion)*

General purpose forces—Army divisions, tactical air wings, both land- and sea-based, and most naval units—are the most expensive item in our defense budget. General purpose forces absorb 75 per cent of the defense dollar and are the driving element in the increasingly expensive defense manpower bill. Moreover, although they lack the terrible potential for ultimate destruction of strategic forces, the level and deployment of our general purpose forces may have more day-to-day political and diplomatic significance.

For the forseeable future, the United States must maintain adequate conventional forces so that we do not have to rely entirely on strategic nuclear threats. However, in planning for these forces, we must keep two objectives in mind. First, we must achieve the most efficient possible use of funds spent for the manpower and equipment in our general purpose forces. Both because of budgetary considerations and because it is of profound importance to our national policy, we must clearly link the force levels and deployment patterns of our general purpose forces to our political and diplomatic objectives.

### PROCUREMENT OF NEW WEAPONS

We must call a halt to the administration's seemingly incurable preference for extravagantly expensive, overly complicated weapons systems and for unjustifiably high force levels, sustained more by tradition than by need. The potential savings in this area are very large at little or no cost in ability to meet genuine requirements. For example, by cancelling the fourth nuclear carrier and maintaining a reduced number of carriers in the future, we would save $700 million on the new carrier in Fiscal 1974 and very large amounts in annual operating costs for aircraft, missiles, and escort vessels in the future.

Examples of other general purpose weapons systems which can and should be eliminated or cut back include: (Fiscal 1974 authorization requests in parentheses).

Cancel SAM-D Army anti-aircraft missile ($193 million). This complicated system is of marginal utility, even for the NATO missions now chiefly proposed for it.

Eliminate F-14 program ($633 million). This plane is financially and technically troubled and represents little, if any, advance on the proven F-4.

Stretch out SSN-688 nuclear attack submarine program ($922 million), with two instead of five boats in Fiscal 1974 ($550 million savings).

Cuts such as these—and a much more critical look at other proposed new tanks, missiles, planes, and ships—will save large amounts now. More important, if we insist on simpler, more workable systems in the future, the effectiveness of our forces will actually be enhanced. The cuts outlined above, and similar cuts in other smaller programs, could readily save $2 billion in Fiscal 1974 authorization, even taking account of transition costs.

### MANPOWER

Of particular importance in the general purpose forces area is reversing the continuing trend toward an imbalance in the teeth-to-tail ratio. The possible increases in military efficiency, detailed in the following section of this report, have greatest impact on the general purpose forces. Specifically, the 10 per cent cut in support personnel advocated there can be made with no harm to the capability of these forces.

We must review in the light of current conditions the reasons that we maintain our general purpose forces, i.e., the political and diplomatic objectives and policies they are designed to support. We must make these policies determine force levels and deployments and not, as so often has been the case in the past, the other way around. Reduced international tensions and acceptance of the hard-learned lessons of the limits on the usefulness of U.S. military power in foreign policy must be reflected in reduced forces and deployments.

The key practical areas here are deciding what forces we must maintain for Asia and what for European contingencies.

In recent years the level of forces actually deployed in Europe has been the most controversial issue as to general purpose forces. Clearly, the support for the NATO alliance must, in the United States' own self-interest, remain our highest conventional defense priority. However, it is neither militarily or diplomatically necessary, nor is it practically feasible permanently to maintain the present structure of United States forces in Europe. We must begin now, in consultation with our NATO allies, to plan a gradual but significant reduction in the number of United States forces in Europe. The place to begin the cuts is certainly in the overgrown support forces for the United States forces in Europe, as would be done by including European forces and bases in a 10 per cent cut in support manpower, stressing greater efficiency and the preservation of combat capability. We cannot wait until the completion of negotiations on balanced force reductions to initiate this review, nor can we permanently delay actual reductions as "bargaining chips" in those negotiations.

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*The figures in this report, except as otherwise stated, refer to "budget authority," i.e., proposed new appropriations. Because actual spending ("outlays") includes amounts appropriated in prior years, reductions in appropriations, particularly for procurement, do not immediately produce equally large cuts in outlays. The full savings would be achieved in future years.

With respect to Asia, the case is much clearer that there must be cuts in committed forces to bring our defense policies in line with an updated view of our military role in Asia. If we now understand as a nation the folly of any political commitments which could entail engaging in a major land war in Asia, we have no continuing need for the ground divisions and tactical air wings which are now committed to Asian contingencies.

Independent estimates allocate at least three of our 16 ground divisions and 6–8 of our 38 tactical air wings to readiness for Asian interventions. These forces should be eliminated, with an estimated savings of at least $2 billion. Specifically, there is no longer any justification for continuing to maintain an American division deployed in Korea, as the South Korean ground forces enjoy about a two-to-one advantage over those of North Korea.

## Military Efficiency

*(Recommended Savings: $3.3 billion)*

In addition to the savings gained by a demobilization of combat units, other savings can be realized by cutting support personnel levels, improving military efficiency and reducing manpower-related waste. Total savings could amount to $3.3 billion.

### REDUCE SUPPORT PERSONNEL

At present only 15 per cent of military personnel are "combat" forces—the other 85 per cent provide engineering support, transport services, a logistic network, training facilities, and other non-hostile services. While the spending for combat troops has decreased, reflecting the reduction in troop levels following the end of U.S. ground combat in Vietnam, support spending has not decreased proportionately. We recommend a 10 per cent reduction in support personnel which could yield as much as $1.2 billion.

### REDUCE OFFICER LEVELS—"GRADE CREEP"

One significant source of increased costs is the steadily growing number of higher grade officers in a smaller total force. There are now more field grade and flag officers (lieutenant colonel or commander and above) to command a force of 2.2 million than there were in 1945 when the military numbered 12.1 million. Since 1970 total defense manpower has decreased by 15 per cent, while the number of general and flag rank officers and comparably paid civilians has remained the same. A similar problem exists with respect to non-commissioned officers.

If, by the end of Fiscal 1974, grade distribution were to be restored to the grade pattern of Fiscal 1964—the last "peacetime" year—an annual savings of over $2 billion could be realized from this factor alone. Due to the costs of separation pay and retirement benefits, the first year savings from restoring grade patterns would be an estimated $400 million.

### REDUCE CIVILIAN BUREAUCRACY

The Department of Defense employs one million civilians, or ten times the number employed by the Department of Health, Education, and Welfare. President Nixon recognized in a recent interview that the Pentagon civilians were in need of a "thinning down." Yet his proposed budget raises civilian employment by 31,000.

While DOD civilian personnel have been cut from their Vietnam War high, they have not been reduced in proportion to the cutback in military manpower. A 10 per cent reduction in the DOD civilian workforce would save at least $800 million.

### NO "RECOMPUTATION"

The Administration proposes to tie military retirement benefits for certain retirees to the salary increases for active duty personnel, in addition to normal cost of living increases. While purportedly giving a fair shake to retired servicemen, this proposal, exceptionally costly over time, is inequitable for the civilian pensioner, the recipient of Social Security, and the taxpayer. Elimination of "recomputation" would save $390 million in Fiscal 1974, and an estimated $17 billion over the lives of the retirees affected.

### OTHER SAVINGS

Vigorous implementation of simple operational efficiencies which even advocates of high levels of defense spending have repeatedly called for could easily achieve additional savings. Through a combination of increasing reliance on on-the-job training, reducing pilot training to operational needs, increasing average tours of duty, and improving maintenance procedures, at least $500 million could be saved.

## Procurement of Strategic Weapons

*(Recommended Savings: $3 billion)*

### STRATEGIC CONTEXT

Strategic weapons programs must be evaluated in 1973 in light of the Strategic Arms Limitations Agreement signed in Moscow in 1972. The ABM Treaty, by limiting defensive missile systems to low levels, ensures the viability of our deterrent force. New offensive strategic weapons thus can no longer be justified as necessary to overcome potential Soviet ABM deployments. Furthermore, the capability to respond at appropriate levels in the event of limited Soviet nuclear aggression—the flexible response advocated by the Nixon Administration—has been materially enhanced and requires no new weapons developments. Our present strategic forces may now strike some military targets, including command posts and ICBM silos, without having first to overwhelm an ABM. Finally, the Interim Offensive Agreement freezes the number of large (SS–9 type) Soviet ICBMs at 313, significantly fewer than the number which Secretary Laird posed as a possible future threat to the Minuteman portion of our deterrent.

Despite this improved strategic climate, the Nixon Administration is planning to spend $750 million (30 per cent) more on procuring offensive strategic weapons in 1973 than was spent in 1972 and an additional $670 million (20 per cent) in 1974 over 1973. The Fiscal 1974 program also includes a number of new projects which, although costing relatively small amounts now, provide a foot in the door for very large expenditures in future years.

In the present strategic situation, we recommend the following minimum specific reductions:

### TRIDENT

The budget calls for more than $1.8 billion (DOD and AEC combined) for the Trident submarine ballistic missile system. The missile part of this program, costing $532 million, is divided into two phases: Trident I missile with a range of 4,000 nautical miles, which can also be retrofitted into the present Polaris-Poseidon system, and the Trident II missile with a range of 6,000 nautical miles. The ship part, costing about $1.3 billion, would design and build huge new submarines to carry the Trident II missile.

Trident is rationalized in two ways: (1) as a replacement for the "aging" Polaris submarine, and (2) as a hedge against the future development by the USSR of an antisubmarine warfare (ASW) capability which could threaten Polaris-Poseidon. Neither rationale justifies the procurement of mammoth Trident submarines, more than twice the size of Polaris and each costing $1.3 billion. The Polaris submarines will remain seaworthy until well into the 1990s, and at the present time the nature of any ASW threat to Polaris cannot even be predicted. When and if it arises, the Trident fleet could be more vulnerable than the present Polaris one because its greater unit size and its smaller number of ships could make it easier to destroy in a surprise attack, using some now unknown technology. The decision to place the $500 million Trident base in Bangor, Washington, still further reduces the value of this new ship by initially foreclosing its operation in the Atlantic.

Virtually all the potential benefits of Trident, and none of its drawbacks, can be obtained by retrofitting the 4,000 nautical mile Trident I missile on Polaris; this would put our subs in range of Soviet targets, even while still in U.S. territorial waters. The Trident program should be cut back to the development of the Trident I missile and to research on alternative submarine configurations including smaller vessels, with a saving of $1.3 billion.

### PROCUREMENT OF MINUTEMAN III WITH MIRV'S

The Fiscal 1974 budget proposes $768 million as the final installment for the MIRVing of the first 550 Minuteman missiles. Since no MIRVs are needed to overwhelm any Soviet ABM, further improvements to the Minuteman force should be deferred and the program halted after completing only those missile modifications now in process. Total savings would be about $677 million.

### B–1 BOMBER

The 1974 budget calls for $474 million for the continued development of the new B–1 strategic bomber, a replacement for the present B–52s, which has less range and payload and is supersonic only at high altitudes. The envisaged eventual procurement of some 240 of these bombers could involve overall system expenditures of at least $30 to $40 billion. However, the later model B–52Gs and Hs, of which we have more than 200, are now estimated to remain operational well through the 1980s. The B–52 replacement, if ever needed, could be a slower, longer endurance aircraft equipped with long-range missiles to avoid having to penetrate hostile air space. The program should be cut back to exploratory R&D on a variety of bomber system designs and the procurement of aircraft should be deferred, with a saving of $374 million.

### ABM

The budget calls for new authorization of $672 million in Fiscal 1974 for AMBs, of which $172 million would be authorized for weapons outlawed by the SALT treaty. Total outlays of $1.74 billion in 1973 and 1974 are needed to complete the Safeguard deployment at the Grand Forks, North Dakota, site. The new program authority requested should be cut back to exploratory development on advanced ABM systems with no procurement of additional hardware, for a saving of $372 million.

### AWACS

The 1974 budget calls for $210 million for continued development and production of Airborne Warning and Control Systems designed to provide highly sophisticated and invulnerable control systems for defense against Soviet bomber attack and for tactical air defense. The tactical system is too expensive and vulnerable to airplane attack to be worthwhile; the strategic system is unnecessary, as Soviet strategic strength is in missiles, not bombers. Since, by the ABM Treaty, the U.S. and the Soviet Union have recognized their inability to defend against missile attack, the expenditure of large sums of money for new defenses against bombers is very wasteful. The AWACS should be cancelled with a saving of $200 million.

DEVELOPMENT PROJECTS LEADING TO LARGE FUTURE EXPENDITURES

The Fiscal 1974 budget calls for the initial development of a Strategic Cruise Missile ($15 million), a mobile ICBM ($6 million), and the deployment of a phased array radar for warning against submarine launched missiles ($31 million). None of these are justified. Cruise missiles are unnecessary when ballistic missiles have a free ride to targets in the Soviet Union; a mobile ICBM is unnecessary in view of the invulnerability of our submarine missile force with more than 5,000 warheads; and additional means of warning of submarine missiles is superfluous because of the recent successful deployment of a satellite-based missile warning system. In addition, the program calls for spending $95 million for the development of advanced ballistic re-entry systems and technology. The project could be destabilizing and erode the agreed mutual deterrent balance, spurring the arms race. These four programs should be eliminated or reduced to very low levels with a saving of $122 million.

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MILITARY ASSISTANCE PROGRAM

(*Recommended savings: $556 million*)

The United States must adjust the military assistance program to the new era which has opened in international affairs. The detente among the superpowers has downgraded the significance of political/military developments in regions which were formerly the chief arenas of Big Power confrontation. Moreover, U.S. experience in Indochina in the past decade has shown the limits of military power, direct and by proxy, even when applied in huge amounts, to complex economic, political, and social conflicts within developing nations.

The American people recognize that the United States has neither the resources nor the need to be the world's policeman. It is equally wrong to continue to seek to be the world's chief distributor of subsidized arms and ammunition. Our arms aid and sale policies have led us to arm both sides in local conflicts. They increase the danger that the United States will align itself against the hopes and aspirations of the majority of the world's people by arming authoritarian governments representing a narrow political-military-economic elite.

In the current fiscal year the Executive Branch estimates that military and related assistance and arms sales programs total more than $8.4 billion. Much of this assistance—some $4 billion—is made available through programs which require no Congressional appropriations, for example, Department of Defense foreign military cash sales, excess defense articles, and ship loans.

Some parts of our military assistance and sales programs are clearly in our national interest, and should be continued. But major cuts can be made.

FEASIBLE REDUCTIONS IN THE FOREIGN MILITARY ASSISTANCE PROGRAM

[In millions of dollars]

| Program | Fiscal year 1974 budget request | Proposed | Savings |
|---|---|---|---|
| Military grant assistance (request includes $180,000,000 for Cambodia) | 652 | 270 | [1] 202 |
| Military education and training | 33 | 25 | 8 |
| Military credit sales | 525 | 200 | 325 |
| Credit sales ceiling | (760) | (700) | (60) |
| Security supporting assistance | 100 | 95 | 5 |
| Total | 1,310 | 590 | 540 |

[1] Eliminating the $180,000,000 request for military aid to Cambodia is included in our recommended Southeast Asia cuts, and not here.

Additional savings can be made by reducing Military Assistance Advisory Groups, missions, and military groups attached to U.S. embassies around the world. These groups, which promote U.S. military sales and services, and even the military aid program, too often play a role independent of the U.S. ambassador who is nominally in control. The Administration estimates MAAG/Mission/Military Group costs for Fiscal 1974 as follows: $15.8 million from the Military Assistance Program and $50 million from Department of Defense Funds. We recommend a 25 per cent cut this year leading to a total phaseout of the program. Total savings for aid to foreign nations and U.S. military missions: $556 million.

(Published by Project on Budget Priorities, Washington, D.C.)

Mr. HUMPHREY. During recent years when funding for the Department of Defense and other military-related activities has rarely been questioned, the Departments of Health, Education, and Welfare and Labor have been under continuing resolutions for their appropriations while facing dwindling resources for many program areas. This, together with unprecedented appropriation impoundments in the domestic areas, have resulted in serious deterioration of the quality of many public services and the postponement of pressing domestic needs.

The adverse outcome for domestic programs compared to military programs is described in the recent Brookings budget report:

> Almost all the budget cuts were made in civilian programs, especially those whose expenditure levels are easiest for the executive branch to control. (Programs such as social security cannot be controlled through the budget process but require changes in the law.) Indeed, after account is taken of the inevitable rise in prices in the next year, the real value of expenditures for those civilian programs in which outlays are relatively controllable will fall by some $3.6 billion from 1973 to 1974.
>
> In contrast, cuts in defense programs were small. In fact, after allowance is made for pay and price increases and for the declining cost of Vietnam, military expenditures on peacetime forces will rise by about $2 billion between 1973 and 1974.

Reallocation of a cut in the military budget of up to $7 billion will be a significant shift in our resources. In simple terms we can easily redirect these billions from defense programs into domestic areas listed below, following actions which this Congress and previous Congresses have already taken:

Housing, community development and urban redevelopment;

Resource and environmental protection;

Education;

Health care and manpower;

Manpower and emergency employment;

Rural development; and

Poverty and social services.

In all of these areas, the administration has eliminated or cut back on programs which were providing valuable services to millions of Americans. Mental health services phased out, manpower and job training programs reduced, public employment programs terminated, housing subsidy programs eliminated, antipollution funds cut back, economic development programs halted—all this done in the name of "fiscal responsibility" while defense spending seems to receive immunity from the President's budget axe. The sick, the elderly, the poor, the handicapped, the urban dweller and rural Americans must wait at the end of the line while the administration is preoccupied with meeting the needs of an insatiable Department of Defense.

The time has come for a change in this practice. And this first year of peace after a decade of war should mark the beginning of a trend in reduced defense spending.

Finally, let us now reduce the Department of Defense appropriation for reasons of fiscal responsibility. The Congress must do this to succeed in enacting a noninflationary budget while preserving the constitutional powers of the legislative branch to determine spending priorities.

The inflation plaguing our Nation is taking a severe toll. The well-being of millions of Americans is being threatened more in the marketplace than by military force. The poor, the elderly and infirm on fixed incomes, home buyers, middle class consumers are burdened by high prices and soaring interest rates. The President has taken dramatic steps to hold down Federal outlays to $268.7 billion in fiscal 1974.

Our economic ills were further complicated by two official and one unofficial devaluations of the dollar in world markets. An adverse balance of payments has contributed to the decline of the dollar. According to the Economic Report of the President—January 1973; page 293—military transactions—excluding military grants—account for $3.563 billion or 41 percent of the balance-of-payments deficit.

Both houses of the Congress have responded to the economic crisis by enacting ceilings on Federal outlays in fiscal 1974. On May 10, the Senate voted a ceiling of $268 billion (S. 373) and on July 25, the House passed a limit of $267.1 billion (H.R. 8480). Because it is doubtful that the Congress will increase tax revenues during this session, it has become clear that we must confront the question of priorities head on, unlike previous years when we appropriated under the philosophy that we could have all the guns and all the butter we needed.

The limitations on outlays severely restrict legislative option. Congress does not legislate outlays, we legislate budget authority.

The total budget authority in fiscal 1974 requiring current action by Congress is $175.2 billion. However, only $126.4 billion is relatively controllable under existing law. The startling fact is that $72.4 billion or 57 percent of all controllable appropriations are contained in the Department of Defense appropriations bill before this subcommittee. To take it one step further, if all foreign and military controllable items are factored out, the controllable appropriations for domestic programs total about $33 billion or only 26 percent of all controllable appropriations. The Labor-HEW bill contains only $13 billion in controllables—10 percent of the total controllables.

Therefore, it is very clear that the Congress has an awesome responsibility to consider very carefully how 57 percent of all controllable appropriations are to be spent. The situation is slightly worse when we consider that enactments for fiscal 1974 have already exceeded the administration requests by $1.66 billion in budget authority—excluding construction authorization for highways, airports, and urban mass transit—and $1.44 billion in outlays. The ultimate priorities of our Federal Government are in the balance.

Therefore, I recommend that the Senate scrutinize individual programs and line items to make a total reduction of at least 10 percent from the administration request. If the full Appropriations Committee does not make such a cut, I will offer an amendment on the Senate floor to enact a cut in the DOD appropriations bill which will bring it to a level up to $7 billion below the original request. I intend to incorporate language into my amendment, if offered, to preserve adequate congressional oversight during implementation of the cut by requiring the Department of Defense to obtain approval from both the House and Senate Appropriations Committees before spending cuts can be put into effect.

We should complete our withdrawal from Indochina, we should cut the fat out of our bloated military budget, we should readjust our defense deployments to meet our real security needs, but most of all, we must not retreat from our responsibilities to provide for the needs of our people.

It is incumbent upon the Congress as it considers the 1974 Defense appropriations bill to act as an ad hoc national priorities committee. For, in fact, it is in this Defense appropriations bill and this bill alone that the major reductions will be made which will permit the Congress to proceed in a responsible manner within its self-imposed budget ceiling to reallocate funds, and provide for an overall noninflationary appropriations pattern when all actions are completed on the fiscal 1974 appropriations.

Finally, Mr. President, just to summarize what I have in mind, President Nixon said last week that he will veto any cuts in his $87 billion defense budget, or any increases in domestic spending. I want to tell the President most respectfully that Congress will not be bent or cowed into submission by veto threats. As I said earlier, last year Congress cut the defense budget by $5.2 billion. This year we ought to be able to do at least that, and possibly up to as high as $7 billion, and still retain our commanding lead in military strength and capability.

I will join with others here in support of such an effort, and I plan to propose such a cut when the military appropriation bill comes before the Senate. I will work with the coalition of mayors and Governors, trade unionists, health groups, and concerned citizens in an attempt to put a spending ceiling on the bill. At a time when President Nixon wants to make reductions in housing, community development and urban redevelopment, resource and environmental protection, education, health care and manpower, manpower and emergency employment, rural development, and poverty and social services, he wants Congress to increase the defense budget by about $5.6 billion, to a level higher than at any time during the Vietnam war.

The time has come to strengthen our national security by making America a better place in which to live, and I am hopeful that when the bill comes from the Appropriations Committee, many of these cuts will already have been provided for, or been voted upon by that committee.

Our Appropriations Committee is a very responsible body. I am sure that it will carefully scrutinize all of these areas of defense spending increases, and I know that there is not a Member of this entire body who would do anything willfully or intentionally to in any way impair or jeopardize the national security of this country. What we are basically talking about here is trying to take our defense needs and put them in a time frame that permits us to have a more orderly expenditure of funds, and not to go on one of these programs of accelerated defense spending at a time when there is no demonstrable evidence of necessity for it.

I believe that by some prudent work and careful planning, we can have the defense structure we need within reasonable limits and make appropriate reductions in the administration's defense request; and I also believe that it is mandatory that the manpower levels, both military and civilian, be critically examined by Congress. For the life of me, I cannot understand why the Defense Department needs over a million civilian employees for a defense establishment of slightly over 2 million. I cannot understand why we need twice as many officers in 1973, with a military establishment of slightly over 2 million, as we had in 1945, when we had manpower of over 12 million. On its face there is something wrong and it is imperative that we put a halt to this. If the Department of Defense is unwilling to do so by its own administrative action, then the Congress of the United States must take the action to do it by law.

I do not pose as an expert, as I said earlier, in weapons systems. I know we need modern technology. I know we need a modern, effective Army and Navy. I know we need a good Air Force, and I know we need missile protection. I believe in these things. But I also think that, like most things in our own private lives, you cannot have it all at once. Sometimes you have to stretch it out. Sometimes you have to take a look at what is possible, not only at what is desirable.

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## TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

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## THE END OF BLACKOUT

Mr. PASTORE. Mr. President, an article appeared on the front page of the Washington Star-News this afternoon with regard to the ban on the blackout that was voted by the Congress and signed by the President only last week.

The article says that there were more than 49,000 no-shows. It does observe that in the Robert F. Kennedy Stadium, there was a record turnout of 53,589 and 1,662 fans who bought tickets but failed to show up.

Mr. President, I do not question the figures stated in the article, but the one thing that I should like to discover, if we possibly can discover it at all, is the number of tickets in the hands of the scalpers. That would be a very interesting thing to know, when the proper time comes. As I understand it, there will be about 60,000 available seats at Kennedy Stadium, and there are about 53,000 now. The tickets are held by about 13,000 persons. I am wondering how many of those tickets get into the hands of scalpers. When the public finds out that there is a sellout—and there was one—then the scalpers would have bought their tickets at regular prices and—sometimes they sell such tickets for $25, $50, even $100—when people learn that they might be sold out—and in fact they were—and the public cannot buy a ticket but the scalpers are selling tickets a question is raised. How come?

So I should like to know how the "no shows" occur. Is it that someone falls sick, or they just buy the ticket and then stay home and look at it on television rather than go to the game?

A survey was made a short time ago which indicated pretty much that those who buy their tickets want to go to the live game, they want to be there and catch all the excitement. That is generally true of professional football.

If any case can be made out of the "no shows" before we make up our minds that we might have made a mistake in Congress by passing the ban on the blackout, I want to see the roster of the people who buy the tickets and then hold them up for sale.

Mr. HUMPHREY. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. HUMPHREY. The Senator is so right that to try, for one game, one weekend, to make it look like it is the final evidence, is ridiculous. More importantly, the legislation which the Senator sponsored provides that a sellout must occur 72 hours before the game.

Mr. PASTORE. Yes, but that is not the question. The question is this, that if people have the idea the game will show up on television, even though they may have purchased a ticket and there is a sellout, for some reason they might prefer to remain at home——

Mr. HUMPHREY. But the team still gets the money——

Mr. PASTORE. I know, but then there is the question of the frankfurters and the parking, and so forth, but we are not interested in hot dogs. The people pay to see the game.

Mr. HUMPHREY. Let me add, having attended games at both stadiums—which I prefer—as well as at home, I get more liberty in being able to eat hot dogs, beer, pop, peanuts, popcorn at the game than I do at home. At home I have a lady who advises me about my diet. At the football game it is a great day. A man is free. So I doubt that it will hurt the hot dog business——

Mr. PASTORE. The Senator must remember that, first of all, he happens to be a non-Catholic. I am a Catholic. Up until a short while ago, even if we went to a game on Friday we would not eat a hotdog. So, the Senator is lucky.

Mr. HUMPHREY. Senator, we have had that all changed. Now there is equal opportunity for all. [Laughter.]

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that, on September 13, 1973, he presented to the President of the United States the enrolled bill (S. 1841) to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate the following letters, which were referred as indicated:

### REPORT ON ORDERLY LIQUIDATION OF STOCKS OF AGRICULTURAL COMMODITIES HELD BY THE COMMODITY CORPORATION

A letter from the Assistant Secretary of Agriculture, transmitting, pursuant to law, a report on orderly liquidation of stocks of agricultural commodities held by the Commodity Credit Corporation and the expansion of markets for surplus agricultural commodities, dated July 1973 (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

### REPORT ON FINANCIAL CONDITION OF THE AMERICAN LEGION

A letter from the Director, National Legislative Commission, the American Legion, transmitting, pursuant to law, a report of the financial condition of that organization, as of December 31, 1972 (with an accompanying report). Referred to the Committee on Veterans' Affairs.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. NUNN):

A resolution adopted by the Reformed Church in America, New York, N.Y., relating to the military-industrial complex. Referred to the Committee on Armed Services.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 988. A bill to designate certain lands in the Shenandoah National Park, Va., as wilderness (Rept. No. 93-393).

By Mr. TALMADGE (for Mr. LONG), from the Committee on Finance, without amendment:

H.R. 4200. An act to amend section 122 of the Internal Revenue Code of 1954 (Rept. No. 93-394).

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. ROBERT C. BYRD (for Mr. SPARKMAN), from the Committee on Foreign Relations:

Bradford Mills of New Jersey, to be a member of the Board of Directors of the Overseas Private Investment Corporation; and

Allie C. Felder, Jr., of the District of Columbia, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. STENNIS, from the Committee on Armed Services:

Maj. John V. Brennan, U.S. Marine Corps, for permanent promotion to the grade of lieutenant colonel in the U.S. Marine Corps.

## REREFERRAL OF NOMINATION TO COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, on September 7, 1973, the Senate received the nomination of William W. Blunt, Jr., to be an Assistant Secretary of Commerce. Mr. Blunt is to be the Administrator of the Economic Development Administration, established under the Public Works and Economic Development Act of 1965, as amended. His nomination was inadvertantly referred to the Committee on Commerce.

I ask unanimous consent that the nomination of William W. Blunt, Jr., to be an Assistant Secretary of Commerce be re-referred to the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PASTORE:

S. 2418. A bill for the relief of Enrique Alfredo Ceballos. Referred to the Committee on the Judiciary.

By Mr. TALMADGE (for himself and Mr. CURTIS):

S. 2419. A bill to correct typographical and clerical errors in Public Law 93-86. Considered and passed.

By Mr. BAYH (for himself and Mr. EAGLETON):

S. 2420. A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to pass through increased costs. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GURNEY:

S. 2421. A bill to incorporate World War I Overseas Flyers, Inc. Referred to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 2422. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape. Referred to the Committee on Labor and Public Welfare.

By Mr. MONDALE:

S. 2423. A bill for the relief of Angela Garza. Referred to the Committee on the Judiciary.

By Mr. FANNIN (for himself and Mr. GOLDWATER):

S. 2424. A bill to authorize the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 2425. A bill for the relief of Dr. Abelardo B. Agüilar. Referred to the Committee on the Judiciary.

S. 2426. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualifications of airmen. Referred to the Committee on Commerce.

By Mr. MONDALE:

S.J. Res. 153. Joint resolution establishing an independent commission to conduct a study of the Executive Office of the President and to make recommendations for reforms to increase cooperation between that Office and the Congress, to restore a balance of power between the Executive and Legislative branches of the Government, and to increase the accountability of the Executive Office of the President to the Congress and the public. Referred to the Committee on Government Operations.

By Mr. PELL:

S.J. Res. 154. A joint resolution to designate October 23, 1973, as "National Film Day." Referred to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself and Mr. EAGLETON):

S. 2420. A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to pass through increased costs. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. BAYH. Mr. President, I introduce for myself and Senator EAGLETON legislation to amend the Economic Stabilization Act to correct gross inequities in the phase IV petroleum industry rules promulgated by the Cost of Living Council.

Under those rules gasoline retailers suffered the dual hardship of being forced to reduce prices and being denied the opportunity to regain added costs, even though all other sectors of the oil industry were permitted to raise prices. The effect of this injustice has been to force thousands of small businessmen into unprofitable positions and to raise the real spectre of large-scale bankruptcies among gasoline service station operators.

While I did note with some pleasure an announcement at the end of last week, following protests here in Washington by gasoline retailers from across the country, that the Cost of Living Council would revise its unfair regulations, I am not content to rely on the equity of that revision. Therefore, I am introducing this legislation which would do the following:

First, rescind a 1-cent per gallon wholesale gasoline price increase announced by a number of major oil companies in the past 10 days;

Second, require prenotification to the Cost of Living Council of any future wholesale price increase in oil products, in order to make certain such increases are tied to cost increases;

Third, permit retailers to return to the prices they were charging all summer while the price freeze was in effect; and

Fourth, allow retailers to charge consumers for any actual increase in the cost of their product, services or overhead.

This legislation is designed, Mr. President, to guarantee retailers fair treatment, and to keep the price of oil products to consumers as low as possible.

In the context of our fight against inflation, we cannot permit the major oil companies to take price increases except when costs rise. Certainly there otherwise would be significant upward price pressure stemming from fuel shortages. To allow these pressures to raise consumer prices exorbitantly would not only be inflationary, it would be tacit approval of exploitation of the fuel shortage.

I might say, Mr. President, that I remain puzzled and distressed as to why the Cost of Living Council promulgated regulations so clearly discriminatory toward gasoline and home heating oil retailers, and so considerate of major oil companies. During the first 6 months of 1973, the profits of major oil companies were up by an average of 39 percent, which would clearly indicate that their price increases have gone far beyond cost increases.

Rather than permitting the major oil companies to expand record profits, the Cost of Living Council would do better to protect a reasonable profit position for all sectors of the oil industry—including retailers—and, in the confines of such reasonable profits, keep prices to consumers as low as possible. Such a responsible course of action can be accomplished through the legislation I am introducing today, and I shall press for its passage if the revised regulations from the Cost of Living Council are not satisfactory.

Mr. President, at this time I ask unanimous consent to include in the Record a copy of my bill and, in a directly related approach, a copy of a letter being sent to the Cost of Living Council today by a large number of Senators concerned with this problem.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

### S. 2420

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k)(1) Not later than 30 days following the date of enactment of this subsection, the President or his delegate shall issue an order—

"(A) stabilizing the wholesale prices of petroleum fuels at the September 7, 1973, levels;

"(B) requiring wholesalers of such fuels to notify the President or his delegate of any increase in the wholesale price for any such fuel at least 15 days prior to the date on which increase is put into effect;

"(C) establishing base prices for retail sales of each such fuel at the freeze price levels; and

"(D) permitting a passthrough of any cost increase incurred by retailers of such fuels.

"(2) As used in paragraph (1)—

"(A) 'freeze price' means the highest lawful price charged by a retailer of a petroleum fuel for such fuel during the period June 1, 1973, to June 8, 1973, or in the case of a retailer who had no transactions during such period, during the nearest preceding 7-day period in which he had a transaction; and

"(B) 'petroleum fuel' means gasoline, diesel fuel grade number 2–D, and heating oil grade number 2."

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U.S. Senate,
*Washington, D.C., September 17, 1973.*

Dr. John T. Dunlop,
*Director, Cost of Living Council,*
*Washington, D.C.*

Dear Dr. Dunlop: We are persuaded that the Cost of Living Council's Phase Four regulations governing the oil industry have placed the nation's gasoline and home heating oil retailers in a totally unreasonable position. The combination of reduced mark-ups and curtailment in supplies will likely force many of these small businessmen out of business in a matter of weeks.

We did note that the Council has agreed to review these regulations. In this regard, we want to urge strongly that the Cost of Living Council immediaetly use its authority, granted by Congress in the Economic Stabilization Act, to revise those Phase Four regulations in a fashion that will ensure retailers of an adequate price mark-up. We recognize the desirability of holding down the price of fuel to consumers and will welcome anything that can be accomplished toward that goal within the framework of revised regulations protecting the legitimate interests of retailers.

Because of the urgency of this matter we request an immediate response.

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By Mr. GURNEY:

S. 2421. A bill to incorporate World War I Overseas Flyers, Inc. Referred to the Committee on the Judiciary.

Mr. GURNEY. Mr. President, I am introducing for appropriate reference a bill to provide a Federal charter for World War I overseas flyers. I have introduced this legislation for this organization, of which our late colleague Spessard Holland was a member, in the past, and I am hopeful that the Senate will act favorably upon the measure this Congress. In order that my colleagues can be provided with more extensive information about the bill, I ask unanimous consent that the bill and the remarks I made upon its introduction last Congress be printed at the conclusion of these remarks.

There being no objection, the bill and remarks were ordered to be printed in the Record, as follows:

### S. 2421

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Lawrence C. Ames of Oakland, California; Lucas V. Beau, of Washington District of Columbia; Lewis L. Carruthers of Memphis, Tennessee; John M. Davies of the Commonwealth of Virginia; Howard Eales of Washington, District of Columbia; Harold L. George of Los Angeles, California; Percival G. Hart, of Beverly Hills, California; Charles W. Kerwood of Washington, District of Columbia; Reed G. Landis of the State of Arkansas; John A. Logan of Washington, District of Columbia; John P. Morris of Washington, District of Columbia; Martin F. Scanlon of Washington, District of Columbia; Carl Spaatz of the State of Maryland; Leigh Wade of Washington, District of Columbia; and Ira Milton Jones of the State of Wisconsin and their successors are hereby created and declared to be a body corporate by the name of "World War I Overseas Flyers, Incorporated" (hereinafter in this Act referred to as the "corporation" and by such name shall be known and have perpetual succession. Such corporation shall have the powers and be subject to the limitations and restrictions contained in this Act.

#### COMPLETION OF ORGANIZATION

Sec. 2. A majority of the persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of bylaws, and the doing of such other acts as may be necessary to complete the organization of the corporation.

#### OBJECTS AND PURPOSES OF CORPORATION

Sec. 3. The objects and purposes of the corporation shall be—

(1) to promote peace and good will among the peoples of the United States and all the nations of the earth;

(2) to preserve the memories and incidents of the air service of the Great War 1917–1918;

(3) to cement the ties of love and comradeship born of service; and

(4) to consecrate the efforts of its members to mutual helpfulness and service to their country.

#### CORPORATE POWERS

Sec. 4. The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers and employees as its business may require and define their authority and duties;

(4) to adopt and amend bylaws, not inconsistent with this Act or any other law of the United States or any State in which it is to operate, for the management of its property and the regulation of its affairs;

(5) to make and carry out contracts;

(6) to receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to acquire by purchase, lease, or otherwise, such real or personal property, or any interest therein, wherever situated, necessary or appropriate for carrying out its objects and purposes and subject to the provisions of law of the State in which such

property is situated (A) governing the amount or kind of real or personal property which similar corporations chartered and operated in such State may hold, or (B) otherwise limiting or controlling the ownership of real or personal property by such corporations;

(8) to transfer, encumber, and convey real or personal property; and

(9) to do everything and anything reasonably necessary, proper, suitable, convenient, or incidental to the aforesaid purposes or which may properly be done in furtherance thereof.

### PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Milwaukee, Wisconsin, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the various States, territories, and possessions of the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent, shall be deemed notice to or service upon the corporation.

### MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as set forth in the bylaws of the corporation.

### BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon enactment of this Act, the membership of the initial board of directors of the corporation shall consist of the persons named in the first section of this Act.

(b) The initial board of directors shall hold office until the first election of a board of directors. The number, manner of selection (including filling of vacancies), term of office, and powers and duties of the directors shall be set forth in the bylaws of the corporation. The bylaws shall also provide for the selection of a chairman and his term of office.

(c) The board of directors shall be the governing board of the corporation, and a quorum thereof shall be responsible for the general policies and program of the corporation and for the control of all funds of the corporation. The board of directors may appoint committees to exercise such powers as may be prescribed in the bylaws or by resolution of the board of directors.

### OFFICERS; ELECTION OF OFFICERS

SEC. 8. The officers of the corporation shall be those provided in the bylaws. Such officers shall be elected in such manner, for such terms, and with such duties, as may be prescribed in the bylaws of the corporation.

### USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to a member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the corporation's board of directors.

(b) The corporation shall not make loans to its members, officers, directors, or employees. Any director who votes for or assents to the making of such a loan and any officer who participates in the making of such a loan, shall be jointly and severally liable to the corporation for the amount of such a loan until the repayment thereof.

### NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation and its officers and directors as such shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

### LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

### PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

### BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

### AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The provisions of sections 2 and 3 of the Act of August 30, 1964 (36 U.S.C. 1102, 1103), entitled "An Act to provide for audit of accounts of private corporations established under Federal law" shall apply with respect to the corporation.

### USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the bylaws of the corporation, and all other Federal and State laws applicable thereto.

### EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use the name "World War I Overseas Flyers, Incorporated". The corporation shall also have the exclusive and sole right to use, or to allow or refuse the use of, such emblems, seals, and badges as have theretofore been used by the World War I Overseas Flyers, Incorporated (a corporation incorporated under the laws of the State of Wisconsin), in carrying out its program and the right to which may be transferred to the corporation. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

### TRANSFER OF ASSETS

SEC. 17. The corporation may acquire the assets of the World War I Overseas Flyers, Incorporated, chartered in the State of Wisconsin, upon discharge of all of the liability of such corporation and upon complying with all laws of the State of Wisconsin applicable thereto.

### RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved.

Mr. GURNEY. Mr. President, I am pleased and proud today to introduce legislation which would grant a Federal charter to the World War I Overseas Flyers, one of our proudest and most patriotic veteran's organizations.

These men all saw action over the skies of Europe during the First World War. They fought bravely and gallantly, and their noble deeds are known to all. Now, they have joined together "to promote peace and goodwill among the peoples of the United States and all the nations of the Earth; to preserve the memories and incidents of the air service of the great war 1917–18; to cement the ties of love and comradeship born of the service."

These are indeed noble aims, Mr. President. They remember what they did and why they fought, with serious pride, and now they seek to preserve the friendship made and the warm spirit of camaraderie fostered by those brave days. More important, they hope to be able to help bring about peace in our troubled world, which is the noblest aim of all.

Mr. President, I feel a special bond of affection for these fine gentlemen, because my great and good friend and our late colleague Spessard L. Holland, was a member of this proud fraternity, having served as a member of the 24th Aero Squadron. I feel it would be a fitting tribute to Spessard Holland's memory, and to all his brave comrades if we grant the World War I Overseas Flyers a Federal charter.

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By Mr. MATHIAS:

S. 2422. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape. Referred to the Committee on Labor and Public Welfare.

### RAPE PREVENTION AND CONTROL ACT

Mr. MATHIAS. Mr. President, today I am privileged to introduce a bill to establish a National Center for the Prevention and Control of Rape, and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape.

According to the 1972 uniform crime reports released by the Federal Bureau of Investigation on August 8, 1973, 46,430 females were the victims of forcible rape in America last year. The FBI submits that this volume represents an 11-percent increase over 1971 and a shocking 70-percent rise over 1967 figures. Moreover, the victim risk rate has skyrocketed 62 percent from the 1967 level to a point where, in 1972, 43 out of every 100,000 females in America were reported rape victims. But the national risk rate distorts what may be really happening in this country. 58 core cities with populations in excess of 250,000, the FBI reports that the victim risk rate approached 92 per 100,000 females. While the rate of increased reports in large core cities in 1972 was 9 percent, in suburban areas surrounding these cities the increase was 18 percent. In my own State of Maryland, the Governor's Commission on Law Enforcement and the Administration of Justice has independently compiled statistics on the problem. According to the Maryland Commission, 1,059 forcible rapes were reported to the police in 1972. And the victim risk rate in individual jurisdictions is even more alarming.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the report from the Governor's

Commission on Law Enforcement and the Administration of Justice on the geographic distribution of forcible rapes in Maryland for the year 1972 be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. MATHIAS. Mr. President, I recognize that better reporting may account for part of the increase; however, these statistics only represent the tip of an ominous iceberg. The bulk of the account lies hidden below the surface, away from obvious view. As FBI Director Clarence M. Kelley has reported, forcible rape "is probably one of the most underreported crimes" in this country today. Helpful though they are, the annual police reports to the FBI may not even begin to measure the actual prevalence of this crime in the Nation. Yet, drawing upon the limited information that is now available, the 46,430 cases reported in 1972 means that forcible rape occurred in the United States during this period on the average of once every 11 minutes. And except for a brief interval after the end of the Second World War, the rape rate has steadily risen since the early 1930's.

Distressing though these statistics may be, recent studies indicate that the sordid rape picture is even worse yet. In March 1973, the Prince Georges County Task Force To Study the Treatment of the Victims of Sexual Assault issued a report which stated, in part, that—

> Educated guesses estimate that between 50 and 90 percent of rape cases go unreported.

If we were to accept as true these assertions, or the suggestion by the President's Commission on Law Enforcement and Administration of Justice that the true rate may be three to four times higher than police figures show, then it is possible to conclude that the actual number of forcible rapes in the Nation last year involved in the neighborhood of 92,000 to 186,000 victims. Without question, the limited evidence accumulated thus far is frightening as well as disgraceful, considering the incongruity between myth and reality as it exists in the United States.

For if there is one thing that American males have always prided themselves on, it is that more than any other group of men on earth we "care for our women." If we slave and we sacrifice and we struggle, it is not for ourselves but so that our women can enjoy advantages far greater than those we, ourselves, are able to enjoy. We fight no war, adopt no program, create no law that is not ultimately and unselfishly aimed at making life better for our women. We have, it would appear, every reason to believe what we have said of ourselves: that we are a woman-oriented society; that women are the center and circumference, the Alpha and Omega of our lives. Yet such a belief eventually must be confronted with stark reality.

Too many of us may lose sight of the countless ways in which a woman's life is shaped by the persistent threat of rape. Consider, for a moment, women who are afraid to live alone, to go out at night without an escort, to work late at the office when no one else is around. Consider too, the girl hitchhiker; the woman standing alone at the bus stop; the widow left by herself in an empty apartment; the teenage babysitter in a house alone except for the sleeping children; the female head of a household, trying to look out for herself and her daughters; the woman driving her car with no passenger—all of these women can, and often do, have their lives constantly influenced by the tension and fear, as well as the atmosphere of suspicion which are created by the threat of rape. Perhaps the only segment of the male population who best understands and experiences a fear comparable to that felt by all women is the group of men in prison who live daily with the threat of homosexual rape.

But if we find the cold statistics disturbing, and the pervasive threat of rape oppressive, then consider the plight of the rape victim. As the Prince Georges County Task Force report states—

> Rape is a serious crime of assault on the body but more grievously on the psyche of a woman. All too often, she is treated at best as an object, a piece of evidence, and made to relive the experience, must face the incredulity of the police, the impersonality of the hospital, and then must defend herself in court. Having been socialized to be passive, she is nevertheless expected to have put up a battle against her attacker. Her previous sexual experience can be used to impute her instability though the defendant's background often cannot be brought up against him. She does not have the benefit of a retained lawyer and sometimes the prosecutor does not have the time or perhaps the insight to prepare her beforehand for the ordeal of the trial. She suffers serious psychological stress afterward, largely due to the guilt and shame imposed by society. She may not recognize a need for professional help or she simply cannot afford it.

Sadly, this scenario is replicated throughout America. And no woman is immune.

The structuring of rape laws, and the treatment of offenders and victims by police, prosecutors, courts, and judges, reflect certain commonly held attitudes about the roles of men and women in our society. These notions may well be unfounded; however, they are frequently held with such tenacity that rational assessment of the facts in a given case is often very difficult. There is, for example, the notion that black men are more likely to attack white women than black women, or that the poor attack the rich. Yet, most studies show that both the rapist and the victim tend to be of the same race and socioeconomic class. As a matter of fact, studies conducted for the National Commission on the Causes and Prevention of Violence indicated that 90 percent of the rape cases were intra- rather than interracial, and both victim and rapist came from similar economic backgrounds. Moreover, just as we know that rape is no respecter of class or race, we also know that neither one race nor one socioeconomic class has cornered the market on rapists. There are a number of Americans, however, who may believe the contrary, despite the figures which show such beliefs to be untrue.

Rape, as I have said before, is no respecter of income, class, or race. It can happen to a preadolescent girl, a pregnant woman, or a senior citizen. The evidence, moreover, tells us that rape can and does take place at any time of the day, any day of the week, or any season of the year, in any part of the Nation. It seems, however, to occur most often in the spring or summer, on weekends, and at night. But, in effect, it happens wherever and whenever the opportunity presents itself.

And yet relatively few attacks are reported by the victims. The FBI attributes the underreporting of rape to "fear and/or embarrassment on the part of the victims." But perhaps it is more than this. In some instances the victim may fear reprisal by the rapist; but the victim's reluctance to report may well be the effect of other causes. Consider the fear she may have of being publicly accused by the rapist of provocation, or of having actively participated in the rape; that she had somehow acted irresponsibly. Consider, too, her fear of adverse reactions on the part of those close to her, be they husband, boyfriend, parents, or friends. In the case of a young victim, the parents may prefer to spare the child the legal ordeal or the sensational publicity; or possibly they may wish to prevent any possible emotional damage to the child. Likewise, consider the dilemma of the victim whose attacker is a close friend, a relative, a neighbor or an employer. But whatever the reason, when the rape is unreported, the rapist may be free to continue committing his crime.

Perhaps some women feel that the postrape ordeal simply is not worth it when there is little reason to believe that the attacker would be punished for his crime. In 1972 alone, nearly one out of every four men arrested for forcible rape was never prosecuted for this offense. And of the remaining 73 percent who were prosecuted, nearly half of them were either acquitted or had their cases dismissed due to "prosecutive problems." The fact is that only one-third of the adult men arrested for forcible rape in this Nation last year were found guilty of the actual crime; 19 percent of those arrested were convicted of lesser offenses while the remaining 23 percent were juvenile referrals.

Mr. President, the time has come for our society to consider the rape laws as they are now written. Rather than protecting a woman's interest in maintaining her physical integrity, peace of mind, or her ability to move about as freely as a man might without fear of sexual attack, the laws may possibly be having the opposite effect by hindering the prosecution of attackers. Clearly the laws as they stand today do not effectively deter rapists. Indeed, given the treatment that victims are subjected to by the police, hospitals, the prosecution, and the law itself in some jurisdictions, the rapist could not wish for any more unwitting allies to aid and abet him in his defense. We say our rape laws are constructed to protect women's interests. But is that the case? Let us examine the gauntlet that the victim is forced to run.

According to the FBI report, 15 percent of all forcible rapes reported to police were, upon investigation, determined to be unfounded or, in the words of the FBI, "the police established that no forcible rape offense or attempt occurred." It would be an unfortunate and rather naive mistake to conclude that these were merely false reports. In fact, this statistic points out one of the attitudinal deterrents of which a woman attempting to charge rape must be cognizant. For the police may decide to advise against prosecution for other reasons. The alleged rapist and the victim might be friends or dating partners. The victim may have been under the influence of intoxicants or drugs when the rape occurred. A significant period of time may have elapsed before she reported the offense. There may not exist any physical evidence to support the allegation. She may have refused to take a physical examination. Since they might serve to weaken the chances of obtaining a conviction in lower case court, all of these reasons can be cited as a basis for receiving the victim's allegation with skepticism. In some jurisdictions, these factors alone might serve as a basis for the decision that a rape report should be unfounded.

The victim may also encounter the suspicion that she is fabricating her story. A rape accusation can place a man in a precarious position, and police, prosecutors, judges, and juries should rightfully fear convicting an innocent man. Fabricated stories leading to false convictions have occurred. Yet it is because of this that the rape victim, unlike in other felonies, must carry a heavy burden of proof.

There is then the hospital route to contend with. Victims are seen at hospitals for two purposes: Treatment for injuries received at the time of the assault, and a medical examination to uncover evidence that a rape did, in fact, occur. This examination is strictly for the purpose of gathering evidence for the State's prosecution; yet the victim may find that the examination is not free of charge, and that she is expected to pay for the State's evidence. In Prince Georges County, Md., however, this examination is paid for out of funds allocated by the county government for such purposes. Also, in the State of Maryland, victims can be monetarily compensated by the Maryland Criminal Injuries Board.

There are reports which suggest that some doctors refuse to treat victims who do not wish to notify the police; and that there are doctors who will believe that a victim's refusal to do so indicates that she is not telling the truth. Some doctors are even reported to avoid giving examinations because they do not wish to appear in court. When, and if, the victim finally receives medical attention, it may be provided by someone untrained in sensitivity and understanding of the emotional trauma of the victim; by someone who fails to provide venereal disease and pregnancy protection and who does not refer her for follow-up treatment. She may later discover that her legal case was weakened at the hospital because the examiner failed to use available scientific investigative techniques in their entirety.

The victim must also contend with the societal assumption that she may have precipitated the attack. For if she had been hitchhiking when the attack occurred, or met the man at a bar, or had been walking alone in a tough neighborhood, or had invited the man to her apartment, or had visited his for a drink after a night out, then she may well be faced with the charge that her behavior could have encouraged a sexual attack which she was either expecting or even hoping for. In other words, she "asked for it," assumed the risk, and, therefore, is partly responsible for the crime. The fact that she entered the "vulnerable" situation unwittingly, or exercised her right as a "person" to change her mind, may not carry much weight. The operative perspective usually is that of the police, prosecuting attorneys, and the judges. Unfortunately, most of them are men.

A woman must also realize that once she makes a complaint, her reputation and character can become the subject of intense scrutiny. It is as if her guilt or her innocence is the most important issue to be decided upon. Pity the unchaste woman, or the victim who has a bad reputation. In some jurisdictions in the Nation, it has been noted that the moral character of the person alleging the offense actually can be used as a defense to the crime, under the notion that a female judged to be immoral by society had most likely consented to the act.

But let us assume that it is clear that the victim did not precipitate the rape; that her character and reputation hold up under scrutiny; and that she wasn't drinking, taking drugs, or anything of the kind at the time of the alleged attack; she still may have to convince the skeptics that she did not willingly comply with the aggression; that she did offer some resistance. The rape task force report for the public safety committee of the District of Columbia City Council succinctly describes this frustrating position.

> A "good" woman is chaste—for her, rape is a "fate worse than death" and so she would fight to the death to avoid it. In such a situation extrinsic evidence of the rape is plentiful—bruises, wounds and screams. If there is no such extrinsic evidence—if she would rather be raped than die—then society assumes she consented or at least enticed the man into raping her. Only in this crime does society demand that the victim choose between the risk of serious injury or death and being able to obtain the conviction of the criminal. Thus for generations, society had the death penalty for rape and stringent burdens of proof to prevent conviction unless the woman "really" rejected the rapist.

The District of Columbia task force report goes on to state that—

> Prosecutors and judges who acknowledge the problem, see the law of rape as a confluence of myth, reality, social taboos, anachronisms, and . . . as a patina of sexual psychology as interpreted by police, lawyers and judges . . .

The Prince Georges County task force similarly observes that—

> Procedures, attitudes, and laws need to be re-worded in order that the rape victim is treated as humanely as any victimized member of the community should be.

Mr. President, part of my concern is that the current method by which our system seems to respond to the victim, rather than helping her, actually works to her disadvantage and leaves her and others similarly situated very vulnerable. The net effect of what we are doing today throughout the country may well be to impede the prosecution of the rapist, discourage women from reporting the crime, and not unimportantly, lead to a further deepening of the sense of inequality between men and women.

Mr. President, as a first step, let us agree that the present system for dealing with rape is defective, and as a consequence, curtails the freedom of women. It becomes obvious that something must be done, and soon. The mental health subcommittee report to the Prince Georges County task force supports the brief for reform very well:

> Social change, technological and scientific advancement and intensive urbanization have partly disrupted our society, its standards and values, and the established life patterns of a previous era. In the wake of these rapid changes, we find that some laws and procedures have become obsolete. Such is the case with society's way of dealing with rape victims. Rarely do we find procedures in institutions assuring adequate follow-up and treatment. Yet the rapist will, in many instances be required to report to a Parole officer at some interval.
>
> We simply cannot measure the effects of the assault upon the victim. Some recover, some do not. There is no question as to whether or not the entire family is affected. They are.
>
> Several studies have clearly demonstrated the need for a complete overhauling of procedures in dealing with rape victims. Police will have to bear more responsibility in their approach to victims as people, instead of just cases. Lawyers and judges will have to bear more responsibility. But this is not nearly enough. We need responsible people to intervene quickly and efficiently at the proper time. We need this now. We need an adequate follow-up system.
>
> We need a change of attitude on the part of people working with rape victims. We need advocates for victims. We need money to assure proper treatment of the victims and we need it now.

This Nation is entitled to a full understanding of the nature and scope of rape, the impact of this crime on the victim, her family, and the rest of society, and the implications of the present method of treating victims for the status of women in general. It should be brought out that the present methods of treating victims and handling alleged offenders are associated with many difficult and unsolved problems that stem from rape laws themselves. The attainment of better methods of preventing rape, and the provision of better treatment, justice, and redress for victims deserves a higher priority.

The objective of the Rape Prevention and Control Act is to amend the National Mental Health Act and the Community Mental Health Centers Act in order to create the National Center on the Prevention and Control of Rape that will undertake a national effort against the crime of rape and in support of the victim.

Only very recently have a few States and local jurisdictions begun to identify and offer solutions to problems encountered in the treatment of rape victims and the administration of justice to my own State of Maryland where the related to rape. I can point with pride county of Prince Georges County, Md., adopted a resolution introduced by Councilor-at-Large Gladys Noon Spellman, which created the task force to study the victims of sexual assault.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, this resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Similarly, the Montgomery County Commission for Women is conducting a comprehensive survey of the treatment of the victims and alleged victims of rape now being provided by a broad range of institutions in Montgomery County.

Section 2 of this act would set up a National Center for Rape Prevention and Control within the National Institute of Mental Health. This Center would basically conduct research, provide training materials, and disseminate information related to rape to State and local governments, voluntary organizations, and professional associations which are engaged or intend to engage in efforts to address the problems encountered in the treatment of rape victims and the administration of justice related to rape and other criminal sexual assaults.

The studies and investigations undertaken by the Center would focus on the legal, social and medical aspects of rape. Additionally, the Center would expand and intensify research into the causes of the crime, the motivations of the offenders, and the effectiveness of existing laws in deterring rape and other sexual assaults. The Center would also examine the relationship, if any, between traditional legal and social attitudes toward sexual roles, rape, and other sexual assaults, and the influence of these attitudes on the formulation of rape laws, and the treatment of the victims of rape by law enforcement agencies, hospitals, or other medical institutions, prosecutors, and the courts. Information following from these studies, as well as the other study areas outlined in section 2(b)(2) of this bill, should be of material assistance to State and local governments in the development of more effective laws and treatment programs for victims and their families.

The establishment of an information clearinghouse within the center as section 2(c) provides, will correct what now is a glaring omission: The absence of a central repository of information on either rape research or prevention treatment and control programs in this country. It is my hope that all communities will have access to any information compiled by the center, which might assist them in dealing with rape. Clearly a clearinghouse to collect and disseminate information on rape prevention and control activities, whether of a research or program nature, will enhance the chances that the States and local communities will be successful in developing more efficient means of dealing with the problems.

The type of activities undertaken by Maryland and in the District of Columbia have provided a substantial contribution to a better understanding of the dimensions of the problem. As it stands, much of the current activity involving rape prevention, treatment and control is supported solely from State, local, and voluntary funding sources. This is as it should be; however, the Federal Government can and should encourage and support these activities by providing technical advice, and research and demonstrations to discover new and more effective means of carrying out State and local programs. Section 281 of the Rape Prevention and Control Act makes this possible. I contemplate funding under this section being used for projects which:

First. Demonstrate the need for immediate psychiatric or other supportive personnel available at the same time of the victim's hospital examination, and follow-up supportive counseling for victims and their families;

Second. Research the need for medical personnel training in the advanced scientific procedures in the examination of rape victims;

Third. Research the need for special training of police personnel dealing with rape victims;

Fourth. Determine the reason for the low rate of rape convictions;

Fifth. Develop a model rape law;

Sixth. Research and develop model rehabilitation programs for convicted offenders;

Seventh. Develop information and prevention programs to be incorporated in secondary school educational programs;

Eighth. Study the psychological impact of rape on victims and their families; and

Ninth. Research the relationship between alcohol and other drugs and rape and sexual assaults.

I would hope that promising new approaches to rape prevention, treatment, and control will be developed and put into effect as a result of the center's research and demonstration program as well as the other studies and investigations it will undertake.

This legislation will require the center to annually transmit to the Congress, through the Secretary, an appraisal of the center's activities and accomplishments; a summary of its significant research and development findings; and any recommendations for further action by the Congress deemed necessary by the Secretary.

Under this act, the center will have an advisory committee, which I hope will include persons who are recognized leaders in the area of rape prevention, treatment, and control. I further hope that this advisory committee will review the programs and priorities of the center assuring that significant research and development findings are disseminated throughout the field and to the public. I would also hope and expect that the Secretary will enlist the assistance of women experts in the field to secure the benefit of their views and perspective on the legal, social, and medical aspects of rape.

Mr. President, this bill represents an attempt to recognize that the system for responding to rape is not only defective, but also harmful to the victim. It further represents an attempt on the national level to get the Nation to consider some of the general attitudes which are held, and assumptions that are made, about rape, its victims, and its perpetrators: attitudes and assumptions which rest, in part, on traditional notions about the respective roles of men and women in our society. I recognize that the issue of rape can bring on a "gut level" response from men and women alike. But neither emotional demands for extreme actions nor active denial or rationalization of the issue takes us very far along the path toward arresting this problem.

Only by squarely facing the rape issue, in as objective and rational a manner as possible, can we hope to eventually bring about a downturn in the rape statistics. We have, thus far, accumulated certain quantifiable measurable facts about rape. These facts, coming to us largely in the form of police statistics, suggest certain truths; that the reporting of forcible rapes is on the increase and the victim risk rate is rising. But these facts do not reveal the truth of the victim's emotions when confronted by a less-than-perfect criminal justice system, nor do they reveal the impact of rape on the victim's family and community or the sense of fear, rejection, and perhaps anger experienced by women because their lives are shaped by the persistent threat of rape. We must search for the truth about rape; its personal consequences and social implications.

There was a time when the emotionally disturbed were hidden behind locked doors, not to be discussed by families and friends except on rare occasions. Fortunately, that time has passed. Likewise, rape must be brought out of the closet. It is my hope that the bill I am introducing today will have a synergistic effect on other States and communities; that it will stimulate them to study and reform, where necessary, their existing policies, procedures, and laws concerning rape and sexual assaults, and the treatment of victims.

Mr. President, I respectfully urge my Senate colleagues to join me in support of this proposal and I am hopeful that the Senate and the Congress will enact this legislation in this session.

Mr. President, at this time I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2422

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Rape Prevention and Control".

### NATIONAL CENTER FOR CONTROL AND PREVENTION OF RAPE

SEC. 2. Section 11 of the National Mental Health Act (63 Stat. 421) is amended by inserting the subsection designation "(a)" immediately before the first sentence and by adding at the end thereof the following new subsections:

"(b) (1) The Secretary of Health, Education, and Welfare (hereinafter referred to as the 'Secretary') shall establish within the National Institute of Mental Health a center to be known as the National Center for the Control and Prevention of Rape (hereinafter referred to as the 'Center').

"(2) The Secretary, acting through the Center, shall conduct a continuing study and investigation of—

"(A) the effectiveness of existing Federal, State, and local laws dealing with rape;

"(B) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

"(C) the treatment of the victims of rape by law enforcement agencies, hospitals, or other medical institutions, prosecutors, and the courts;

"(D) the causes of rape, identifying to the degree possible—

"(i) social conditions which encourage sexual attacks;

"(ii) motivations of offenders, and

"(iii) the impact of the offense on the victim and the families of the victim;

"(E) sexual assaults in correctional institutions;

"(F) the actual incidence of forcible rape as compared to the reported cases and the reasons therefor; and

"(G) the effectiveness of existing private, and local and State government, education and counseling programs designed to prevent and control rape.

"(c) It shall be the duty of the Center to—

"(1) compile, analyze and publish and annually submit, through the Secretary, to Congress a summary of the continuing study conducted under subsection (b) and the research and demonstration projects conducted under Sec. 3 with recommendations where appropriate;

"(2) develop and maintain an information clearinghouse with regard to—

"(A) the prevention and control of rape;

"(B) the treatment and counseling of the victims of rape and their families; and

"(C) the rehabilitation of offenders;

"(3) compile and publish training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

"(d) For the purposes of carrying out the provisions of subsections (b) and (c) of this section there are authorized to be appropriated such sums as may be necessary.

"(e) Funds available to any department or agency of the Government for research and development for the prevention and control of rape shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Center for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Center for the purposes for which the transfer was made.

"(f) For the purpose of this section and section 281 of the Community Mental Health Centers Act 'rape' shall include forcible, statutory and attempted rape, homosexual assaults, and other criminal sexual assaults."

### RESEARCH AND DEMONSTRATION PROJECTS

SEC. 3. The Community Mental Health Centers Act (42 U.S.C. 2681) is amended by adding at the end thereof the following new part:

### "Part G—Rape Prevention

"SEC. 281. (a) The Secretary, through the National Center for the Control and Prevention of Rape, shall make grants to community mental health centers, non-profit private organizations, and public agencies (determined by the Secretary to be qualified), for the purpose of conducting research and demonstration projects concerning the control and prevention of rape.

"(b) Projects funded under subsection (a) shall include but not be limited to—

"(1) alternative methods of planning, developing, implementing, and evaluating programs used in the prevention and control of rape, the treatment and counseling of victims of rape and their families, and the rehabilitation of offenders;

"(2) application of methods developed under paragraph (1).

"(c) There are authorized to be appropriated for carrying out the purposes of this part such sums as may be necessary.

### "ADVISORY COMMITTEE

"SEC. 282. (a) The Secretary shall establish an advisory committee to advise, consult with and make recommendations to him on matters relating to rape prevention and control.

"(b) The provisions relating to the composition, terms of office, and reappointment of members of the advisory councils under section 432 (a) of the Public Service Act shall be applicable to the committee established under this section, except that the Secretary may include on such committee such additional ex officio members as he deems necessary."

### EXHIBIT 1

### GEOGRAPHIC DISTRIBUTION OF CRIME IN MARYLAND—OFFENSES (FORCIBLE RAPE) KNOWN TO THE POLICE AND RATES PER 100,000 PERSONS, 1972

(Prepared by the Governor's Commission on Law Enforcement and the Administration of Justice, Cockeysville, Md.)

| Jurisdiction | Number of offenses | Rates per 100,000 |
|---|---|---|
| Caroline County | 3 | 15.2 |
| Cecil County | 5 | 9.4 |
| Dorchester County | 3 | 10.2 |
| Kent County | 0 | ---------- |
| Queen Annes County | 2 | 10.9 |
| Somerset County | 3 | 15.9 |
| Talbot County | 4 | 16.9 |
| Wicomico County | 7 | 12.9 |
| Worcester County | 11 | 45.0 |
| Ocean City | 7 | 468.9 |
| Calvert County | 0 | ---------- |
| Charles County | 11 | 23.1 |
| St. Mary's County | 3 | 6.3 |
| Allegany County | 3 | 3.6 |
| Westernport | 1 | 32.2 |
| Carroll County | 7 | 10.1 |
| Frederick County | 15 | 17.7 |
| Frederick | 4 | 16.9 |
| Garrett County | 4 | 18.6 |
| Washington County | 15 | 14.4 |
| Hagerstown | 11 | 30.7 |
| Montgomery County | 85 | 16.3 |
| Takoma Park | 8 | 43.3 |
| Prince Georges County | 215 | 32.5 |
| Fairmount Heights | 1 | 50.7 |
| Laurel | 2 | 19.0 |
| Riverdale | 2 | 34.9 |
| Seat Pleasant | 6 | 83.1 |
| University Park | 6 | 205.1 |
| Annapolis | 6 | 20.3 |
| Baltimore City | 465 | 51.3 |
| Baltimore County | 92 | 14.8 |
| Harford County | 28 | 24.3 |
| Aberdeen | 4 | 32.3 |
| Havre de Grace | 2 | 20.4 |
| Howard County | 25 | 40.1 |
| Total, State of Maryland | 1,059 | (27.0) |

### EXHIBIT 2

### COUNTY COUNCIL OF PRINCE GEORGES COUNTY, MD.—RESOLUTION

Whereas, the incidence of sexual assault on women and girls is increasing at an alarming rate with resulting physical and psychological damage lingering long after the commission of the crimes; and,

Whereas, it is estimated that only about 20% of the rapes are reported to police for the purpose of investigation because of the reluctance of the victims to subject themselves to candid recounting of the assaults; and,

Whereas, enormous psychological stress on the part of the victim is engendered by the need for police to ask searching direct questions in order to ascertain, to the extent required by law, all the facts in the case; and,

Whereas, under such times of stress, victims begin to feel they are being treated as the criminals rather than as those who have been sinned against; and,

Whereas, to obtain the necessary evidence for successful prosecution of the offender, numerous medical tests must be made immediately, although the rape victim is in a disturbed and traumatic state; and,

Whereas, those dealing with the victims of rape should possess great sensitivity and awareness of the tragic psychological impact such an experience can inflict; and,

Whereas, the legal processes required for trial and conviction are often quite lengthy; and,

Whereas, the combination of police questioning, medical examinations, and court action in the forms which are in existence today, require an inordinate amount of courage, stamina and fortitude,

Therefore, be it resolved by the County Council for Prince George's County, Maryland, that a Task Force be created to study and make recommendations concerning the treatment of victims of sexual assault, such Task Force to include representation from the following:

| | |
|---|---|
| Police department | 1 |
| Hospital staff | 1 |
| Hospital advisory board | 1 |
| Health department | 1 |
| Psychiatrist (private practice) | 1 |
| Gynecologist (private practice) | 1 |
| Psychologist (Board of Education) | 1 |
| Mental Health Association | 1 |
| State's attorney | 1 |
| Human Relations Commission | 1 |
| Former Ad Hoc Committee to Study the Status of Women | 1 |
| Citizens | 4 |

Be it further resolved, that this 15 member Task Force be given supportive clerical assistance from the Police Department personnel for the purpose of assisting the group with minute-taking, mailing and other clerical matters.

And be it finally resolved that the Task Force submit its finds and recommendations to the County Council no later than January 15, 1973.

COUNTY COUNCIL OF PRINCE GEORGES
COUNTY, MD.

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**By Mr. FANNIN (for himself and Mr. GOLDWATER):**

**S. 2424. A bill to authorize the partition of the surface rights in the joint-use area of the 1882 Executive order Hopi Reservation and the surface and subsurface rights in the 1943 Hopi Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes. Referred to the Committee on Interior and Insular Affairs.**

Mr. FANNIN. Mr. President, today, with Senator GOLDWATER, I am introducing legislation to resolve the tragic and costly land dispute between the Hopi and Navajo Indian tribes in northeastern Arizona.

This dispute began more than a century ago, and in recent times has become a serious conflict which has resulted in violence and degradation of the land.

Previous efforts by the Federal Government and courts to resolve this dispute have failed, because there has been a reluctance to clearly delineate the territorial boundaries of land belonging to the Hopi and that of the Navajo.

Before explaining my bill, it would be

well to review briefly the history of this dispute.

Under Executive order by President Chester Arthur in 1882, 2,500,000 acres of public domain land was set aside "for the use and occupancy of the Hopi, and such other Indians as the Secretary of the Interior may see fit to settle thereon." Because the Navajo Reservation adjoined this area, and members of that tribe were grazing and farming within its boundaries, conflict arose very early in the life of the joint-use area, as it is now known. In the late 1800's and early 1900's, unsuccessful attempts were made by the Department of Interior to resolve the conflict. In 1920—53 years ago—the U.S. Congress investigated this tribal dispute and held hearings on the reservation. Finally, Congress passed the act of July 22, 1958, to determine the rights and interests of both tribes by mandating the courts to entertain litigation concerning the respective tribal rights.

Pursuant to the 1958 act, the Hopi Tribe instituted action against the Navajo Tribe, resulting in the Healing against Jones decision of 1962, providing an exclusively Hopi segment and an area for joint use with an undivided one-half interest in both tribes.

The Court concluded, in this decision, that Congress had actually reserved to itself the jurisdiction to partition the jointly held land.

Mr. Chairman, the joint reservation concept has never worked. It has led to suffering for the residents of the joint-use area.

We not only have had violence between the Indians, but we have violence being done to their precious land. The joint-use area is dying. There is overgrazing, and neither tribe is willing to act to rehabilitate the land, because of legal uncertainties. Nor has the executive branch been able to enforce proper grazing practices. Unless action is taken soon, the area will become a desert and will be of no use to the Hopis or the Navajos. It is our responsibility to prevent the unnecessary and tragic loss of usefulness of this reservation land.

The last few years have seen continuing litigation and legislation to resolve the conflict, including a particularly significant proposal by Congressman SAM STEIGER, which narrowly missed passage last session of Congress. Recent resolution attempts between the two tribes themselves have failed.

Last March the Senate Interior Committee held hearings in Winslow, and some of us toured the area involved in this conflict.

These hearings pointed up the urgent need to resolve this controversy.

If Congress does not act, nature, through her harsh tools of starvation and drought, will solve this dispute at an enormous cost in human suffering.

For that reason, I am introducing today legislation to provide for the partitioning of the joint-use area in a specific and equitable manner between the Hopi and Navajo tribes.

Mr. President, this proposal, which Senator GOLDWATER and others have agreed to cosponsor, would provide for the equitable division of acreage; it would establish each tribe's portion contiguous to the existing reservations and it would minimize relocation of people.

One of its main objectives is thus to minimize the resettlement of either Navajos or Hopis. This bill does not draw any boundaries; it instructs the Secretary of Interior to partition the land equitably with the least possible disruption for those who are now living there.

Six months from the date of enactment, a description of the respective tribal areas is to be published in the Federal Register, after which time these lands will be held in trust by the United States. Only mineral rights will continue to be held jointly.

Finally, each tribal chairman, acting for his tribe, is authorized to commence or defend, in the U.S. District Court, action against the other tribe to resolve conflict and "to insure the quiet and peaceful enjoyment of the reservation land."

Once we get a definite boundary, the tribes will have the incentive to rehabilitate the land and use it in the wisest manner. We must act immediately to resolve this longstanding disagreement. I believe this legislation can bring a swift and comprehensive settlement and restore good will between the Navajo and Hopi people of Arizona.

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By Mr. HARTKE:

S. 2426. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualifications of airmen. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, the Federal Aviation Administration last year proposed a radical change in the medical certification procedures for airline pilots which deserves our attention, interest, and concern. The proposed rule would require that all airline pilots take their Government-required, semiannual, and annual physical examinations from physicians hired by or under contract to their respective companies. Currently, airline pilots obtain their medical certifications from more than 2,100 private physicians who have been carefully chosen by the FAA on the basis of background, interest, and experience in aerospace medicine. The pilot pays for these examinations.

To the average air traveler, it may seem unimportant who gives the airline pilot his physical examinations—as long as he gets them and passes them, but it is important to anyone who chooses to take advantage of our air transportation system. Because it is vital to the public interest that airline pilots are always in top physical condition, we all must be concerned when a change in the medical examination procedures might mean that a pilot may not be in a proper physical or mental condition to pilot a commercial airliner.

Strangely, the notice of proposed rulemaking did not give any rationale in the preamble which appeared in the Federal Register as is customary nor was a public hearing offered so that both sides—if there are two sides—could be provided a forum to express their views to the proposed change.

The reaction to the rule from the airlines, physicians, airline pilots, and the public was overwhelmingly in opposition to making any change. There are many good reasons for this opposition.

In the first place, the rule would be a blatant destruction of the time-honored doctor-patient relationship which we are privileged to have in this country. Since the doctors would be employed by the airlines, medical records would be company property and, therefore, available to anyone in authority. A doctor whose income depends on pleasing management could not very well refuse to produce records on pilots without jeopardizing his job.

Examine this arrangement from the airlines' point of view. The proposed rule would require them to set up or contract for physical examination facilities at great expense. Obviously, this new Government-directed cost would eventually be reflected in ticket prices. At this critical time in the history of air transportation when so many U.S. airlines are having financial difficulties, it is ludicrous to ask that they assume this added burden by Government dictum without any good reasons given them why they should.

The financial difficulties the airlines are experiencing could easily creep into this program. For example, I have been informed that it costs as much as $200,000 to train a pilot to qualify for the captain's seat of a modern, complex jet airliner. Picture what could happen if a company-paid doctor gives a physical examination and finds that a pilot should be disqualified. He reports this fact to management. Management officials, looking at their balance sheets, then ask the doctor if the pilot could not be allowed to fly for another 6 months or a year. The doctor, since he holds his job only if he pleases his superiors, reevaluates his conclusion, and gives the verdict that the pilot can continue flying. The pilot goes back to the cockpit thinking he is in good shape. The innocent passengers who fly with him assume he has no physical defects which might cause his incapacitation while in flight. What could happen as a result needs no elaboration.

Now look at this procedure from the pilot's point of view—especially a pilot who may have been active in representing his brother pilots in contract negotiations. If he has been particularly forceful in his efforts, it is not beyond the realm of possibility that management could pass the word to the medical examiner to find reasons why that man should not be certified as an airline pilot. Obviously, it is not in the public interest in either case to have passengers' lives or the career of a pilot rest on the whims of airline management.

There are other aspects to this plan to change the system of medical certification that must be considered. A proper question to ask is whether the Federal Aviation Administration has the legal authority to delegate to the airlines the mandatory requirement that the airlines conduct the Government-required physical examinations. The Air Transport Association, representing the Nation's scheduled airlines, has studied this question thoroughly and has concluded that the notice of proposed rulemaking is without statutory foundation or authority and could possibly be in violation of the fifth amendment of the Constitution. The basic legal question involved is whether the FAA Administrator can delegate a function which is clearly his under the law, to persons unwilling to accept that responsibility.

It is interesting to note that the Federal Air Surgeon seeks to effect a change in a long-standing medical examination policy which he clearly supported several years ago. On July 1, 1966, he issued a medical bulletin to all aviation medical examiners to remind them that—

> Physicians employed by or consultants to airline carriers and designated as Aviation Medical Examiners are not permitted to conduct FAA physical examinations on pilots or other flight crew members by their same company.

He added that—

> The purpose of the adoption of this policy was to avoid any dual affiliation, conflict of interest and/or any adverse public criticism.

It is perfectly obvious to all that there is a great need for objectivity in the medical certification of airline pilots. Travelers aboard an airliner have every right to believe that their pilots have been examined by a physician who is completely unbiased in his judgment about their ability to function properly on the job. No physician acting in the public interest should be asked to serve the Government on one hand, the airline on another, and the pilot on still another. No human being, even a physician, would be free of the potential for conflicting pressures which would inevitably cause medical judgments to be warped in some way.

In recent newspaper accounts, the Federal Air Surgeon, Dr. Peter V. Siegel, is quoted as saying that some airline pilots suffering from serious ailments are escaping detection during FAA examinations and that "to get rid of the bad apples, the Government revokes 10 to 12 medical examiner certificates a year, and lets about 100 others lapse." The inference is that a few doctors are not doing their jobs under the program he administers and that he must fire them.

There are more than 2,100 medical examiners who are authorized to give airline pilot physical exams. The Nation's 35,000 airline pilots can go to any of them. Presumably they are all qualified or they would not be given the privilege. The Federal air surgeon has the tools to get rid of them if they do not perform according to the regulations and, to his credit, he does just that. Undoubtedly, he is ill at ease about this, because it places him in the position of telling his medical colleagues that some of them do not measure up to his standards.

To solve his problem of management of the aviation medical examiners under his supervision, the Federal air surgeon now wishes to pass the problem to the airlines. Failing that, there is only one other direction that he can go and that is for Government-paid physicians to perform the medical certification task—physicians who would man expensive federally supported examination facilities. Thus, the entire burden of examining 35,000 airline pilots would be borne by the taxpayers.

Since the FAA seems intent upon changing the medical certification system despite the strong opposition to it by the airlines, their pilots, and the aerospace physicians, it is necessary that legislation be enacted that would prohibit the FAA from making such an arbitrary move which has no reasonable basis. Accordingly I am today proposing legislation in the public interest which will expressly prohibit the Federal Aviation Administration from requiring the airlines to conduct the Government's medical certification of airline pilots. Further, this legislation will prohibit the Government from setting up and operating medical examination facilities for this function. In short, I respectfully propose that the medical certification now in effect remain unchanged. This legislation will assure the air traveler that the pilots of his aircraft are in top physical condition.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2426

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*. That section 314(a) of the Federal Aviation Act of 1958 [49 U.S.A. 1355(a)] is amended by inserting immediately after the first sentence the following new sentence: "In exercising his authority under this Act to determine medical qualifications of airmen, the Secretary shall not delegate any part of his authority to an employee of any air carrier or to any person performing medical services on a contractual or regular consulting basis for any air carrier, but shall provide that such determination be made only by private physicians under appropriate arrangements.".

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By Mr. MONDALE:

S.J. Res. 153. Joint resolution establishing an independent commission to conduct a study of the Executive Office of the President and to make recommendations for reforms to increase cooperation between that Office and the Congress, to restore a balance of power between the executive and legislative branches of the Government, and to increase the accountability of the Executive Office of the President to the Congress and the public. Referred to the Committee on Government Operations.

Mr. MONDALE. Mr. President, today I am introducing a joint resolution to establish a Commission on the Executive Office of the President.

In remarks earlier today, I outlined the reasons why I believe this commission is essential to take a careful, long-range view at the institution of the Presidency and recommend reforms which will make the institution of the Presidency more responsive and responsible to the Congress and the people.

I ask unanimous consent that the text of this resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 153

Whereas, our Constitutional government relies on a balance of power between the various branches of government; and

Whereas, this balance fosters the accountability of both the Executive and Legislative branches to the American people; and

Whereas, in recent years substantial questions have been raised relating to the need for means to assure the preservation of the balance of power among the branches of government; and

Whereas, the Legislative and Executive branches must cooperate effectively to maintain this balance; and

Whereas, the growth in size and power of the Executive Office of the President has been a major factor in causing an imbalance of power between the Executive and Legislative branches; and

Whereas, participation from the Legislative and Executive branches, as well as from the general public, is advisable to assess the need for reforms to restore a balance of power between the Executive and Legislative branches and to insure the accountability of the Executive Office of the President to the public; Now, therefore, be it

*Resolved, by the Senate and the House of Representatives of the United States of America in Congress assembled,* That this joint resolution may be cited as the "Commission on the Executive Office of the President Act of 1973".

SEC. 2. There is hereby established an independent commission to be known as the Commission on the Executive Office of the President (hereinafter referred to as the "Commission").

SEC. 3. The Commission shall—

(1) examine the historical growth of the Executive Office of the President, the reasons for such growth, and the effects thereof on the relationship between the Executive and Legislative branches of government;

(2) analyze the current functioning of the Executive Office of the President as it relates to the Cabinet departments, the other components of the Executive branch, and the Congress;

(3) examine the historical and current extent of the use of the doctrine of executive privilege by members of the Executive Office of the President, in particular as it relates to refusals to testify before the Congress, and the effect of such usage on the relationship between the Executive and Legislative branches of government;

(4) evaluate those offices within the Executive Office of the President for which it would be advisable to seek, by legislation, the requirement of advice and consent of the Senate of the United States;

(5) evaluate the use by the Executive Office of the President of individuals detailed from Executive branch departments and agencies, and the impact of individuals so detailed on the growth in personnel and power of the Executive Office of the President; and

(6) inquire into such other matters relating to the structure and functioning of the Executive Office of the President as the Commission deems advisable.

SEC. 4. The Commission shall, in accordance with section 10(a), make recommendations for such legislation, constitutional amendments, or other reforms as its findings indicate, and in its judgment are desirable, to promote cooperation between the Executive Office of the President and the Congress, to restore a balance of power between the Executive and Legislative branches of the government, and to insure the accountability of the Executive Office of the President to the Congress and the American people.

Sec. 5. (a) The Commission shall consist of the following members:

(1) four Members of the Senate, two from each of the major political parties, appointed by the President of the Senate, as recommended by the majority and minority leaders;

(2) four Members of the House of Representatives, two from each of the major political parties, appointed by the Speaker of the House of Representatives; and

(3) eight individuals appointed by the President of the United States—

(A) two of whom shall be individuals currently serving in the Executive Office of the President, and two of whom shall be individuals who have served in that Office but are no longer serving as an officer or employee of the government; and

(B) four of whom shall be selected from the general public on the basis of their experience and expertise in public service or political science.

Not more than two of the four individuals appointed pursuant to paragraph (A) or (B) of paragraph (3) shall be members of the same political party.

(b) The Chairman and Vice Chairman, who shall not be affiliated with the same political party, shall be designated by the Commission from among the members of the Commission.

Sec. 6. (a) Members of the Commission who are Members of Congress or are officers or employees in the Executive Office of the President shall serve without compensation in addition to that received for their services as a Member of Congress or as such an officer or employee; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President (other than a member to whom subsection (a) applies) is entitled to pay at the daily equivalent of the annual rate of basic pay of level III of the Executive Schedule for each day he is engaged on the work of the Commission, and is entitled to travel expenses, including a per diem allowance in accordance with section 5703(b) of title 5, United States Code.

Sec. 7. The Commission shall adopt rules of procedure to govern its proceedings. Vacancies on the Commission shall not affect the authority of the remaining members to continue with the Commission's activities, and shall be filled in the same manner as the original appointments.

Sec. 8. (a) the Commission, or any members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinion pertinent to its study. In connection therewith the Commission is authorized to pay witnesses travel, lodging, and subsistence expenses.

(b) The Commission may acquire directly from the head of any Federal executive department or agency or from the Congress, available information which the Commission deems useful in the discharge of its duties. All Federal executive departments and agencies and the Congress shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law and the Constitution of the United States.

(c) The Commission may enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(d) The Commission may delegate any of its functions to individual members of the Commission or to designated individuals on its staff and make such rules and regulations as are necessary for the conduct of its business, except as otherwise provided in this joint resolution.

Sec. 9. (a) The Commission may, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service but otherwise in accordance with General Schedule pay rates, appoint and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission.

(b) The Commission may obtain services in accordance with section 3109 of title 5 of the United States Code, but at rates for individuals not to exceed the rate authorized for GS-18 under the General Schedule.

(c) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, on a reimbursable basis, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. The regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of that Administration for the administrative control of funds apply to appropriations of the Commission.

Sec. 10. (a) The Commission shall submit to the Congress and the President such interim reports and recommendations as it considers appropriate, and the Commission shall make a final report of the results of the study conducted by it pursuant to this joint resolution, together with its findings and such legislative proposals as it deems necessary or desirable, to the Congress and the President at the earliest practicable date, but no later than January 1, 1975.

(b) Ninety days after submission of its final report, as provided in subsection (a) above, the Commission shall cease to exist.

Sec. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution. Any money so appropriated shall remain available to the Commission until the date of its expiration, as fixed by section 10(b).

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By Mr. PELL:

S.J. Res. 154. A joint resolution to designate October 23, 1973, as "National Film Day." Referred to the Committee on the Judiciary.

Mr. PELL. Mr. President, I am pleased today to introduce a joint resolution calling upon the President to issue a proclamation in observance of October 23 as "National Film Day." An identical resolution is being introduced in the House of Representatives by Representative John Brademas.

Motion pictures have had a tremendous influence on our culture and for more than 50 years have entertained, enlightened, and amused us.

Motion pictures—or the movies—as we have often called them, have joined the legitimate theater as a true art form, and in so doing, have spread around the world to be seen in every country, on commercial aircraft, aboard ships at sea, and even on the ocean floor itself on submarines.

Truly, no visual medium with the exception of the written word has a longer and more profound impact on all of mankind than motion pictures.

So, I believe it is truly fitting and right to designate a day as "National Film Day."

The National Association of Theater Owners representing the vast majority of film houses in the country will participate in "National Film Day" and contribute 50 percent of their revenues of that day to the work of the American Film Institute.

The American Film Institute, which was created in 1967 as a nonprofit organization, is supported jointly by the National Endowment for the Arts and the motion picture industry. It has two major goals—developing new American film makers and enriching public appreciation for motion pictures.

As one who introduced legislation in the Senate which led to the establishment of Federal support for cultural endeavors through the creation of the National Endowment for the Arts, and as one who has chaired the Special Senate Subcommittee on Arts and Humanities since its inception, I am pleased and proud to introduce this legislation. I urge my colleagues to join in cosponsorship and support of it. And, I do hope that the President will in turn proclaim October 23 as "National Film Day" and that our country will give its wholehearted support to one of our Nation's most outstanding cultural assets—the film industry.

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## ADDITIONAL COSPONSORS OF BILLS

### S. 863

At the request of Mr. Eagleton, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 863, the Cosmetic Safety Act.

### S. 1283

At the request of Mr. Robert C. Byrd for Mr. Jackson, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 1283, the National Energy Research and Development Policy Act of 1973.

### S. 1737

Mr. ERVIN. Mr. President, I am pleased to announce that the following Senators have joined in cosponsoring S. 1737, a bill I introduced to put an end to the senseless forced busing of schoolchildren and to prohibit unwarranted Federal interference with the Nation's public school systems: Senator James Eastland, of Mississippi; Senator Herman Talmadge, of Georgia; Senator Sam Nunn, of Georgia; Senator John Tower, of Texas; Senator Ernest Hollings, of South Carolina; Senator John McClellan, of Arkansas; and Senator Strom Thurmond, of South Carolina. Senator Jim Allen, of Alabama, and Senator Jesse Helms, of North Carolina, have previously been added as cosponsors of this legislation.

### S. 1971

At the request of Mr. Schweiker, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 1971, a bill to increase certain penalties for offenses involving the unlawful distribution of certain narcotic drugs, and for other purposes.

### S. 2069

At the request of Mr. Eagleton, the Senator from Rhode Island (Mr. Pastore) and the Senator from Minnesota (Mr. Mondale) were added as cosponsors of S. 2069, the National Reading Improvement Act.

### S. 2393

At the request of Mr. Humphrey, the Senator from Washington (Mr. Jackson) was added as a cosponsor of S. 2393, a bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes.

### S. 2409

Mr. RIBICOFF. Mr. President, today, I am joining with a bipartisan group of Senators in cosponsoring legislation to increase Federal support for the school lunch program.

Rampant inflation in food and labor prices over the past year has affected us all. Most tragically, however, rising prices mean that hundreds of thousands of American schoolchildren will no longer be able to participate in the school lunch program.

Across the Nation, according to a Senate Nutrition Committee study, some 800,000 children will have to drop out of the program unless school lunch programs receive more help.

Connecticut is feeling this cost squeeze too. In the last year the average cost of preparing a school lunch in Connecticut has increased to 70.5 cents—an increase of almost 10 cents. This means that in Connecticut the difference between what the lunch costs and the amount paid for lunches by paying students and the Federal-State subsidy is 22.5 cents.

This extra cost must now be borne by the local communities. Many communities are doing their best to hold the line on lunch costs, but it is becoming increasingly difficult to do so. The local communities must either raise the cost of the school lunch to students or raise local taxes to pay for the program.

I do not think we should force the local communities of our State to raise taxes.

Our proposal, which is similar to legislation now pending in the House, would increase the Federal reimbursement rate for the lunch program from 8 to 12 cents.

Without this assistance, too many children, especially those in lower- and middle-income families, will be forced to forego the noon meal, which meets a third of the child's daily nutritional requirements.

The increase in school lunch costs could have a disastrous effect on Connecticut schoolchildren. The Senate study showed that for each 1 cent increase in meal costs to the students, 1 percent of the students would be forced to drop out. If this were the case in Connecticut, an increase of 10 cents would mean that as many as 20,000 children would be forced out of the program. These dropouts would include those least able to pay.

Frank Harris, president of the Connecticut School Food Service Association, has joined with many others in urging that we put the school lunch program back on a sound footing. I agree. We must do all we can to provide the help needed to continue the nutritious school meals program for children.

### S. 2415

At the request of Mr. Curtis, the Senator from Montana (Mr. Mansfield), the Senator from Maryland (Mr. Beall), the Senator from South Carolina (Mr. Hollings), and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of S. 2415, a bill to amend section 203 of the Economic Stabilization Act of 1970 to permit the passthrough of certain cost increases.

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## ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

### SENATE CONCURRENT RESOLUTION 41

At the request of Mr. Tower, the Senator from Florida (Mr. Gurney), the Senator from Nevada (Mr. Bible), the Senator from Georgia (Mr. Nunn), the Senator from South Carolina (Mr. Thurmond), the Senator from New Hampshire (Mr. McIntyre), the Senator from Oregon (Mr. Packwood), the Senator from Kansas (Mr. Dole), and the Senator from Rhode Island (Mr. Pastore) were added as cosponsors of Senate Concurrent Resolution 41, establishing the policy of the United States vis-a-vis the Democratic Republic of North Vietnam and the Provisional Revolutionary Government.

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## SENATE RESOLUTION 170—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

(Referred to the Committee on Rules and Administration.)

Mr. HARTKE, from the Committee on Veterans' Affairs, reported the following original resolution:

### S. Res. 170

*Resolved*, That Senate Resolution 47, 93d Congress, agreed to February 22, 1973, is amended as follows:

(1) In section 2, strike out the amounts "$100,000" and "$40,000" and insert in lieu thereof "$250,000" and "$50,000" respectively.

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## DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—AMENDMENTS

### AMENDMENT NO. 487

(Ordered to be printed, and to lie on the table.)

### THE SAM–D AND LOW ALTITUDE AIR DEFENSE

Mr. BAYH. Mr. President, in a few days the Senate will begin debate on H.R. 9286, the 1974 Defense Authorization Bill. Certainly this is one of the most important measures we will have before us in this session of the 93d Congress. The distinguished senior Senator from Ohio, Mr. Saxbe, and I have offered an amendment to that bill to delete continued funding of the Army's $4.4 billion SAM–D missile program. In that connection, I noted an article which appeared in last Friday's Washington Post revealing that Libya had recently purchased the French Crotale air defense missile and that this was being viewed by the Pentagon with concern since the missile is regarded as "highly effective and the U.S. Army is considering buying some." The article goes on to note that:

> The Crotale is seen as a complement to the Army's planned $4.4 billion SAM–D air defense missile system, which is still many years from deployment. Some officials believe SAM-D which will be large and not very mobile makes a good target and the Crotale may be necessary to defend SAM–D and to help in the problem of hitting planes flying at very low levels.

So now we have a highly questionable system, the SAM–D, in need of another missile system to protect it since it does not work very well at low altitudes which are, incidentally, exactly where the most damage can be done to the field Army by tactical aircraft. As will be brought out in more detail during the debate next week, it is this problem of defending against low-level air attacks which is the weak link in our air defense chain, and it is here that we should be concentrating our resources available for air defense and not putting all our eggs in the extremely costly and overly-sophisticated SAM–D basket. I ask unanimous consent that this article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Mideast Arms Escalation Seen—Libya Buys French Missile

(By Michael Getler)

In another stepup in the Middle East arms race, Libya has bought and begun deploying a new French-built antiaircraft missile system, according to U.S. officials.

The sale of the weapons by France was apparently carried out in considerable secrecy. Sources here indicate the first the United States knew about it was when the missile—normally transported on an armored car—showed up in a parade in Tripoli recently.

The purchase is viewed here as a further expression of the Arab regime's fear of some future Israeli air attack against Libyan airfields, which now contain sizable numbers of French-built Mirage jet fighter-bombers but which until recently had been largely unprotected from surprise air attack.

Continuing sales of new French arms to Libya have caused concern in some industry and government quarters here because the regime of Libyan President Muammar Quaddaffi is viewed as revolutionary and volatile, having already ordered control of U.S. oil interests in Libya and demanded a slackening of U.S. support for Israel as the price for future oil deliveries.

But the purchase of the French Crotale missile is also of concern in the Pentagon, mostly because the missile is viewed as highly effective and the U.S. Army is considering buying some.

Having the missile in Libyan hands, some officials believe would eventually mean that the Soviets would gather information on its performance and thus be able to counteract its effects in the hands of the U.S. Army.

On the other hand, other U.S. specialists say any American version of Crotale would be substantially modified to make it difficult for Soviet warplanes to evade.

In general, officials believe that the French sale to Libya could inject political considerations into what they consider to be an important military decision for the United States on whether to buy the missile.

Some Pentagon officials believe Crotale to be far superior to other existing missiles, claiming it is cheap, accurate and mobile enough to be used in the field against enemy planes attacking at low altitude under virtually all weather conditions.

The weapon is seen as a complement to the Army's planned $4.4 billion SAM-D air defense missile system, which is still many years from deployment.

Some officials believe SAM-D, which will be a large and not very mobile system, makes a good target and the Crotale may be necessary to defend SAM-D and to help in the tough problem of hitting planes flying at very low levels.

Most important, some specialists say, Crotale is available now and view it as probably better than the existing U.S. Hawk anti-aircraft missile.

The SAM-D has been the target of sharp attacks in Congress in recent days by some senators seeking to cut it from the Pentagon budget.

U.S. sources estimate that only a handful of four-missile batteries are operational now of Crotale units, comprising perhaps three in Libya.

They are expected to complement the Soviet-built SA-2 missiles supplied to Libya by Egypt earlier this year. The SA-2 is primarily designed to shoot down planes at high altitude. Most of the Libyan air defense missile build-up is said to be clustered around the old U.S. Wheelus Air Base.

The Libyans reportedly now have about 60 of the 110 French-built Mirage jets they ordered.

Earlier this year, Libya moved several of those jets to Egyptian bases, in a move U.S. officials generally regard as an attempt by Libya to get them off the then unprotected Libyan airfields.

The shift of the French-built jets, however, touched off a sensitive political situation for the United States at the time.

At one point, Deputy Secretary of Defense William P. Clements is known to have chastised the visting French air force chief of staff during a social luncheon in Clements' office over the alleged lack of French control over transfer of the planes.

The French military leader was reported to be highly annoyed over Clement's comments and questioned U.S. Middle East policy in the process.

### AMENDMENTS NOS. 490 THROUGH 493

(Ordered to be printed, and to lie on the table.)

Mr. HUGHES submitted four amendments, intended to be proposed by him, to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

### AMENDMENT NO. 494

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE. Mr. President, on behalf of myself and Senators Thurmond and Tower, I submit an amendment designed to alleviate an injustice that has been done by the Congress to the retired members of our uniformed services.

The amendment which I have offered will provide a one-time recomputation of military retirement benefits to the January 1, 1972, rates as compared to the January 1, 1971, rates as proposed by the administration bill. The 1972 rates will be effective immediately for persons who have retired for physical disability under the laws in effect before 1949, or a physical disability of at least 30 percent under later laws, and for nearly all those who have retired for years of service and are 60 or more years of age. Other retirees who are not yet 60 would have their retired pay recomputed at the time they reach that age.

I am in the unusual position of acting to redeem a campaign promise made by President Nixon in 1968. As part of his election drive, the President felt that the precipitous suspension of the recomputation system was, and I quote the President:

> A breach of faith for those hundreds of thousands of American patriots, who have devoted a career of service to their country and who, when they entered the service, relied upon the laws insuring equal retirement benefits.

The President pledged to remedy this inquiry as soon as possible—that was more than 4 years ago.

Senator HUMPHREY and Governor Wallace were equally strong in their endorsement of a restoration of recomputation rights to retired officers.

The Hartke approach is very similar to the course recommended by President Nixon last year in H.R. 14524. The cost estimate for the Hartke amendment matches the $360 million to the administration bill. That amount has already been included in the administration's budgetary request.

Mr. President, our retired military personnel have relied on a recomputation system that stood for almost 100 years. From 1861, when the President approved an act for the better organization of the military establishment, officers of the uniformed services were entitled to retire for length of service and to have their pay determined initially as a percentage of the rates in existence at the time, to be recomputed upon the new rates each time raises were granted in the future to the members of the active forces.

Similar provisions were made for enlisted members of the forces a few years later.

This system was in continuous operation until passage of the Joint Services Pay Act of 1922, which denied to those retired prior to the effective date of the act the right to recompute their retired pay on the basis of the new schedules.

In 1926, the 69th Congress corrected this injustice by restoring the right to recomputation for those on the retired rolls. The Senate committee report stated that:

> The 1922 legislation deprives all officers retired prior to that date of said benefits, thereby violating the basic law under which these officers gained their retirement rights. There is no justice in two pay schedules for equal merit and equal service. (Senate Report 364, 69th Congress.)

I submit, Mr. President, that the 1926 statement is equally valid today. and yet, Mr. President, today we have 11 different rates of retired pay for retirees of equal grade and service, with the oldest retirees, whose need is apt to be greatest, in each case receiving the smallest pay and the youngest receiving the largest. The disparity in many cases approaches 50 percent.

This situation exists because of the sudden suspension of the recomputation system in 1958 and its repeal in 1963, at which time a system of raises based upon increases in the cost of living was substituted with no savings clause to protect the previously earned benefit. This new provision has utterly failed to make up for the loss of the earned right to which the retirees had previously been entitled.

The reduction in the earned benefit was made in spite of the fact that the recomputation system had been reconfirmed by Congress in each pay act passed since it was restored in 1926, and in spite of the fact that the 1958 Pay Act was built upon the recommendations of the Cordiner Military Pay Study Committee. The Cordiner Committee concluded that:

> The incentive value of the existing military retirement system depends to a major degree upon its integral relationship with active duty compensation and the confidence which has been built up in the military body that no breach of faith or breach of retirement contract has ever been permitted by Congress and the American people.

As a consequence of the actions taken in 1958 and 1963, merit and length of service are no longer primary factors in determining the compensation a retiree will receive during the inactive phase of his career. On the contrary, it has now become a matter of when the individual was born and how successful he was in manipulating a favorable retirement date. For instance, a lieutenant colonel retiring today receives more retired pay than a major general who retired only 10 years ago.

In 1968, President Nixon pledged to submit legislation "to remedy ths injustice at the earliest possible time."

In keeping with that pledge, in 1971 he appointed an interagency committee to study the problem and on April 15 of this year he submitted a compromise proposal to Congress based upon the commttee's recommendation. The proposal is for a one-time recomputation to the 1971 pay scales for certain classes of physically disabled retirees and for those with less than 25 years of service who are over age 60 and those with 25 or more years' service at age 55. The 1974 budget contains funds in the amount of $360 million to cover the cost of the proposed compromise.

I think we have waited too long to remedy this injustice to those who have honorably and faithfully served their country during the two World Wars, Korea, and Vietnam.

A full restoration of the recomputation system, however, implies a cost of $1 billion in fiscal year 1973. I propose a simpler and I believe fairer solution than the one forwarded by the Department of Defense for the administration. At the same time, it is designed to keep the expenditure at approximately the level provided for in the budget.

Perhaps at a later time, the appropriate committee can take up a proposal for a continuing system of recomputation for those who entered the service in the expectation that the Government would carry out its obligation. I would support such a move. However, at the moment, I believe it important that we take this first step in making good on the ethical obligation which we owe to those who served their country so well.

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## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT—AMENDMENT

### AMENDMENTS NOS. 488 AND 489

(Ordered to be printed and to lie on the table.)

### PENSION REFORM LEGISLATION

Mr. JACKSON. Mr. President, the Senate is focusing its attention on private pension reform legislation and specifically on S. 4, the Retirement Income Security for Employees Act of 1973. I want first to express my complete support for S. 4. I would also like to take the opportunity to express my views on the tremendous need for reform of the existing private pension industry and to suggest two amendments to improve S. 4.

We have all read headlines telling us of the closure of company X and the consequent failure of its pension plan—or the mismanagement of company Y's pension trust fund and its failure to meet the obligations owed its participants. The Senate Labor Committee's 3-year pension study has also made us aware of such problems as the worker who is unable to receive a pension benefit because he fails to meet job tenure conditions of the pension plan for the vesting of accrued credits. We could discuss the details of the various specific failures and problems of the private pension industry for long hours. But more than such details we need also to remember the often tragic results of the private pension industry's shortcomings. These results are at the heart of the need for pension reform.

At the time of retirement a worker's main source of income—that is, his salary—is cut off. The worker finds himself on a sharply reduced and fixed income which must come from savings, if he is lucky enough to have any, social security, and a private pension. The costs of living continue after retirement, and as inflation eats into the retiree's limited and fixed income, he is less and less able to just make ends meet. Life under these all too typical circumstances is sparse and difficult enough for the retired person with social security and a good private pension. When a worker approaches his retirement and suddenly and unexpectedly finds that he has failed to qualify for his private pension and must rely solely on social security, it often means financial catastrophe for the retiree.

At present, there are 34 million workers participating in private pension plans. Undoubtedly, most of these workers are planning and relying on their pension plans to provide them with a substantial part of their retirement income. And yet, the facts are at present that only 22 percent of American workers receive all of the pension benefits which they have earned and which are rightfully theirs. I believe that these statistics are shocking and scandalous. It is just not right for the middle or low-income worker, who has made a productive contribution to his community all of his working life, to be cheated out of his pension and left out in the cold in his retirement.

Hundreds of people have written to me urging that I work for private pension reform legislation. Many tell personal stories of how difficult it is to become old faced with living at or near the poverty level. For these people, not getting their pension often means day-old hamburger, week old bread, powdered milk, few new clothes, no birthday, anniversary or other family celebrations out, and often no Christmas presents for their grandchildren. Even worse, in many cases retired persons must do without some basic necessities of food, rent, clothing, or fuel in order to make ends meet or to meet some unusual expense such as a large medical bill. The long awaited and hard earned retirement years should be pleasurable years of fulfillment. Too often they become truly sad and empty years dominated by financial distress and a declining human spirit.

Private pension reform legislation must be enacted out of a sense of elemental fairness to the millions of workers who earn but never receive pension benefits. It is also necessary to protect retired Americans from the suffering caused by financial distress. S. 4 is a modest but good beginning at reform. This legislation addresses in a positive way the most critical problems of the private pension system. This includes: first, the question of minimum vesting standards to prevent pension rights from lapsing because of unduly restrictive and unrealistic job tenure requirements; second, the question of minimum funding standards to better assure that pension plan managers will put sufficient assets into pension trust funds to meet obligations when they fall due; third, the question of insuring against plan failure by providing a Federal pension reinsurance program; Fourth, the question of portability by encouraging the development of complete portability of pension credits from job to job; and fifth, the question of fiduciary accountability by providing minimum fiduciary standards for pension fund managers.

These are important reforms and will do much to improve the equity and effectiveness of the private pension industry. I support these and other constructive provisions of S. 4. However, it is important that we recognize that these improvements are not the end goal of pension reform. They represent only the beginning. More legislation will be needed in the years ahead as more research is done and facts about the private pension industry are better known.

In the end it may be necessary to restructure the pension industry in a major way. This is the ultimate question to be considered. At the very least we must continue to consider reform measures in the years ahead. For example, it is well known that inflation can greatly diminish the financial security of retired persons on fixed incomes. And yet adjustments of private pension benefit levels to realistically reflect cost of living increases is largely nonexistent in the private pension industry. This particular problem opens up the whole area of minimum pension benefit levels which it will be necessary for the Congress to examine in the future.

There are other important issues which the Congress will face in the pension reform area. One is gradual improvement of S. 4's vesting schedule to eventually provide for 100 percent immediate vesting. I believe we must recognize this as a present objective and my first amendment to S. 4 would provide for 100 percent 1-year vesting of all pensions credits. An accelerated vesting schedule is more equitable, more realistic economically, and better for retired workers. If a worker earns a pension credit, it seems to me simple equity that he ought to be entitled to receive payment for it without complying with restrictive and technical vesting requirements. In an economic era in which mobility and adaptability are key ingredients of our economic success, long vesting periods for pensions must be eliminated. One hundred percent immediate vesting will also better assure financial security and independence for retired workers by protecting and preserving pension benefit rights.

I offer this amendment primarily as a statement of principle which I will work for in the years ahead. One hundred percent 1-year vesting is fair and right, and eventually it must come. One hundred percent 1-year vesting is the best single protection we can provide for workers' pension rights under the existing structure of the private pension industry. This is the direction in which pension reform is headed, and I intend to help lead the way. At the same time I must acknowledge that politically this objective may be unattainable as yet. For this reason I do not at present intend to bring this measure to a vote during consideration of S. 4.

My second amendment also deals with the problem of vesting but in a more modest and realistic way under present circumstances. Under this amendment, which I hope the Senate will adopt, a worker will receive 25 percent vesting for all pension plan participation of from 1 to 5 years. The graded vesting schedule of S. 4 which gradually increases vesting after 5 years is in no way altered. I would simply push back to an earlier point in time a worker's right to receive a minimum vested pension credit. This will better protect the millions of workers in our work force who change jobs with such frequency that they never qualify for the minimum protections of S. 4's vesting schedule. This amendment would broaden the number of workers who obtain the minimum 25 percent vesting under S. 4.

Perhaps an example of how my plan works will be the best explanation. Let us suppose a worker works 3 consecutive years for company A, 3 years for company B, 6 years for company C, and 4 years for company D. This worker has a total of 16 years of work. However, under S. 4's 5- to 15-year graded vesting schedule, he would be assured of 30 percent vested pension rights only for his

6 years employment with company C. The worker would have no vested credits at all for his work with employers A. B, and D, because he failed to meet the 5-year minimum work period of S. 4. Under my plan, the worker would retain the 30 percent vested credits with employer C and he would also be entitled to a 25 percent vested credit for his total of 10 years of credit earned but not vested with employers A, B, and D. In this example, the worker would get approximately double the vested credits he would have accrued under S. 4.

I believe that the need for this amendment is very great. As we are all well aware, it is most unusual in today's society for a person to work all his adult life for one company. Many workers are required by the nature of their work to change jobs frequently and do not stay in one job for a sufficient length of time to have their pension credits vest. Workers in this position are in professions which are of vital importance to the American economy. Perhaps the best example of this highly mobile employee is the engineer whose average job tenure is very short in the early years of his career. Engineers and other technical employees perform a vital role in our economy, and yet under S. 4, they will be largely unprotected through no fault of their own. Their position results simply from the unavoidable facts of how the industry in which they work is organized. Many other types of employment such as the teaching profession, medical, and other laboratory workers and clerical assistants are frequently or typically highly mobile job categories.

A perfect example of how the highly mobile worker is injured by frequent job turnovers occurred in my home State of Washington. The Boeing Co. in Seattle terminated over 66,000 workers between 1969 and 1971. Over 42,000 of the 66,000 employees terminated had been employed less than 5 years. Under the vesting schedule of S. 4, all of the accrued but unvested pension credits of these 42,000 workers would be permanently lost. I believe that a situation like this is just plain wrong and ought to be corrected. My amendment would correct this injustice by permitting a worker to preserve his earned but presently unvested credits. Without my amendment, mobile workers will continue to face the prospect of being left out in the cold in their retirement years.

Our country's economic success is dependent on changing technology and changing priorities. The mobility and adaptability of our work force has played a vital role in this economic success. I believe that it is unfair and economically detrimental to penalize the many workers who happen to fall into the category of mobile workers. We must abandon the obsolete requirement that a worker has to stay in one place at one job to accrue credits toward retirement benefits. As a minimum, we need adoption of my plan for the protection of highly mobile workers.

Again, I would like to make it very clear that I do not view my amendment as the ultimate solution in pension protection for mobile workers. S. 4 provides for a study of the mobile worker problem by the Department of Labor which will give us a great wealth of technical information on how legislation can be devised to better protect mobile workers. It also provides for a study of changes in Government procurement policies to result in greater job stability in the work force. Tax incentives are suggested to encourage industries to pool pension plans on an industrywide basis. In the future industrywide plans may be devised to provide greater vesting for mobile workers within a single industry. However, the results of this study and any subsequent legislation to better protect mobile workers is a matter to be considered in the somewhat distant future. I believe that it is important that the Congress specifically address the problem of the mobile worker in S. 4. My amendment provides a minimum protection for mobile workers which we can build on in the future as more information becomes available. I hope the Senate will adopt this measure.

### AMENDMENTS NOS. 496 AND 497

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted two amendments, intended to be proposed by him, to Senate bill 4, supra.

## IMPROVEMENT OF PRIVATE RETIREMENT SYSTEM—AMENDMENT

### AMENDMENT NO. 495

Ordered to be printed, and to lie on the table.

Mr. TUNNEY submitted an amendment, intended to be proposed by him, to the bill (S. 1179) to strengthen and improve the private retirement system by establishing minimum standards for participation in and vesting of benefits under pension and profit-sharing retirement plans; by establishing minimum standards; by requiring termination of insurance; and by allowing Federal income tax credits to individuals for personal retirement savings.

## NOTICE OF HEARING ON CRIB DEATH

Mr. MONDALE. Mr. President, Senator Kennedy and I would like to announce at this time that the Subcommittees on Children and Youth and on Health will hold a joint hearing on S. 1745, "to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes" next week. The hearing will take place at 9:30 a.m., Thursday, September 20, in room 4232 of the Dirksen Office Building. All interested parties are invited to attend.

## ADDITIONAL STATEMENTS

## FERTILIZER CRISIS PRESENTS LATEST THREAT TO FARM PRODUCTION

Mr. HUMPHREY. Mr. President, the American farmer has faced one obstacle after another hindering his production of a crop to meet record world demand.

First, he was told that he would not be able to get the fuel he needed for plowing, harvesting or drying. Through widespread attention by the Congress and the public, pressure was brought upon the administration to take emergency allocation measures. While we have been barely able to get through the planting and harvesting so far this year, the competing for and increased demands on fuel for plowing, harvesting, drying and heating will mean disaster for the American farmer and consumer unless drastic conservation and mandatory allocation measures begin right now.

Next we hit the farmer with a series of interest rate increases which last week reached 10 percent for the select customers of certain banks. Most farmers will have to pay much more than this "prime rate" for the credit he needs for buying his fuel, equipment, seed and other inputs he must have to earn his income. This is if he can even get the credit at all. Clearly, the American farm family cannot continue for long when all the profits are going to pay off the interest.

And if tight fuel and credit were not enough, now the farmer is being told that the fertilizer he needs for planting this winter and spring may not be available. I am sure I do not need to tell my colleagues of the importance of having adequate fertilizer. It is estimated that over 30 percent of our total farm production is credited to the use of modern fertilizers. World demand for grain is expected to exceed production by 10 to 15 million tons and we have essentially no reserves. We cannot afford less than our maximum production in this country.

The fertilizer situation is well expressed in an editorial in today's Washington Post. I would like to share this article with my colleagues.

Mr. President, I ask unanimous consent that it be printed in the Record, at the close of my remarks.

What we have been seeing over this past year is that we cannot take this country's food production for granted. The shortages we experienced over this past year are forebodings of a food crisis unprecedented in this country unless immediate attention is given to every aspect of agriculture including transportation, farm inputs, and the availability of credit. The challenges in each of these areas and the potential threat to the food availability to the American consumer make this our No. 1 public policy issue.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### A Letter From the Wheat Belt

Sept. 3, 1973.

Dear Sir: My husband and two sons farm approximately 2,000 acres of wheat land in Sumner County, Kansas. We are not big farmers, nor are we small.

There is now a widespread and critical shortage of fertilizer and planting time is near. If we do not get enough fertilizer, we will not be able to produce much wheat. Thousands of farmers are in the same boat. (Also we cannot get, at any price, tractors, tractor tires, rims, wheat drills, bailing wire, machinery parts, to mention a few, and we are rationed on gasoline—altho, as a housewife, I can fill up at any major station 20 miles away with no questions asked.)

Oil companies make fertilizer. We are told by our suppliers that they cannot get fertilizer (anhydrous ammonia) because: 1. There is a shortage on natural gas needed to make it. 2. Forty-five per cent of the fertilizer is being shipped overseas at much higher profits. (A dealer of some 30 years told us that when he sent his trucks to Houston, the supplier refused to fill them while his driver watched the fertilizer being loaded on ships for export.) 3. The railroads are weeks delivering carloads that should arrive in days.

Excuses will not grow crops.

Meanwhile, you city people had better get off your office chairs and start writing your congressmen too (or anyone else that you think might help) or next year there may not be *any* food.

Respectfully,

S. J. DIXON.

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A number of people here in Washington have begun to see the danger in the fertilizer shortage, but no one has put the case better than Mrs. Dixon. Her letter arrived the other day from southeastern Kansas, where the ground is now being prepared for planting the wheat. Fertilizer supplies this month will affect not only grain prices next summer, but beef prices next spring. Modern fertilizers enable farmers like the Dixons to graze beef cattle all winter on the growing wheat, sell the cattle in the spring, and a few weeks later harvest a normal wheat crop. But that takes a lot of nitrogen in the soil.

The Dixon family's troubles are a brilliantly clear illustration of the desperate dilemmas into which the country has fallen in its struggles with food and prices. The Nixon administration is trying to hold down the cost of food by expanding production. The Dixons' wheat acreage this October will be 30 per cent greater than last year's. Bigger crops require more fertilizer and the producers cannot meet the soaring demand. Nitrogen fertilizer is made from natural gas, already severely in shortage.

In the Dixons' area, one major supplier is W. R. Grace and Co., which operates a plant nearby in Joplin, Mo. The plant manager, D. E. Warren, says that his gas supply was cut off 46 days last winter and was reduced by 9 per cent last month. Since his gas suppliers have warned him to expect similar disruptions again this winter, Mr. Warren is installing propane tanks for supplementing the natural gas flow. But, he points out, propane is also in shortage and it is six times as expensive as natural gas.

The domestic price of nitrogen fertilizer is held down to $40 a ton by the federal price controls. But the export price is uncontrolled and it is now about $75. That is why manufacturers give preference to foreign buyers. Mrs. Dixon complained to her congressman, Joe Skubitz (R-Kans.), who talked to the Agriculture Department. Subsequently a large oil company made some unexpected deliveries in Mr. Skubitz's district, but that was only temporary relief. Mr. Skubitz favors decontrol of the price, on grounds that his constituents would rather pay more than be crippled by shortages in the crucial planting weeks.

The real crisis is coming next spring, when fertilizer demand will reach its annual peak. American farmers will need about 10.1 million tons of nitrogen fertilizer for the year ending next June, the Agriculture Department estimates, but supplies will be only about 9.1 million tons. This means a shortage of 1 million tons here in the United States. Meanwhile our exports are projected at 1.7 million tons.

Sens. Hubert Humphrey (D-Minn.) and Robert J. Dole (R-Kans.) called a meeting last Monday at which they pressed the administration and the industry for a solution. Senator Humphrey asserted that a million-ton shortfall of fertilizer would reduce American production of feed grains next year by 20 million tons: "If this occurs," he said, "the effects will be catastrophic. Retail prices will go into the stratosphere." The Agriculture Department is supposed to come up with an answer. But, in truth, the possibilities are neither numerous nor attractive. Decontrol would contribute to inflation immediately. Continued price control would mean shortages now, causing further inflation later. The only other choice would be export controls which, as the administration has learned, are fearfully destructive of our relations with other nations that count on us for vital supplies. Senator Humphrey took the issue into the hearings on the confirmation of Henry Kissinger as Secretary of State. Dr. Kissinger apparently had not anticipated questions on fertilizer. But he may discover that it has more to do with his work over the coming years than many of the more conventional preoccupations of diplomacy.

When the Nixon administration began to push for maximum farm production, no one gave much thought to fertilizer requirements. Now that the industry needs more gas, the government still is not prepared to say who should have less. Nobody in Washington worried much about rising fertilizer exports until the word of shortages began to trickle back from the farm states. City dwellers, bewildered and outraged by the cost of food, are demanding explanations. Those explanations might well start with the Dixon family, scouring southeastern Kansas for dealers able to sell them anhydrous ammonia for their fields before the winter wheat goes in.

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## THE MINIMUM WAGE BILL

Mr. FANNIN. Mr. President, the minimum wage bill passed this summer by the Congress is legislation which would hurt rather than help Americans who are struggling with low incomes. President Nixon was wise to veto it.

As passed by Congress, the legislation would add to the fires of inflation—and inflation injures the low income family much more severely than anyone else. It would cause the elimination of many jobs which are already marginal, meaning a boost in unemployment.

Mr. President, those of us who opposed this bill on the Senate floor tried to make these arguments. They still are valid, and have been forcefully presented in a column by James J. Kilpatrick in last Friday's Washington Star-News. I ask unanimous consent that this article be printed in the RECORD at this time so that Members of the Congress can reflect upon these points before reconsidering their position on the minimum wage issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A REASONED VIEW ON WAGES

(By James J. Kilpatrick)

President Nixon vetoed the minimum-wage bill on Sept. 6, and since then the welkin, as they say, has been ringing. He has been denounced at least 22 times a day chiefly by liberal Democrats whose odd notion of how best to care for the poor is to herd them into housing projects and to keep them on welfare forever.

The President's veto, in my own view, was soundly reasoned. It ought to be sustained.

The pending bill would raise the federal minimum wage for most non-farm workers, which has been fixed at $1.60 an hour since 1968, to $2 on November 1 and to $2.25 next July. The bill would extend coverage to domestic workers and to certain employees of state and local governments. Thousands of workers in small retail and service establishments also would be affected.

Nixon's position is that these several provisions, on balance, "would do far more harm than good." He is not opposed to a substantial increase: The administration's own bill would raise the minimum wage to $1.90 at once and to $2.30 three years hence. But he argues convincingly that the adverse effects of an increase can be minimized by a more gradual and less sweeping approach.

The purpose of any increase in the minimum wage is to benefit the low-wage worker. Such a prospective benefit would prove illusory, if it were swallowed up in higher prices; or it could prove disastrous, if it resulted in the loss of a job.

Manifestly, the pending bill would be some contribution toward higher prices. The employer who is compelled to meet a 37.5 percent increase for his minimum-wage workers over an eight-month period, and is further compelled to adjust other wages in order to maintain differentials, is bound to feel the impact in his labor costs. Yet proponents of the bill probably are correct in saying that the inflationary effect of the increases would be small. The best estimate is that the bill would add $1.7 billion next year, or only 0.4 percent, to total wages paid.

The more significant inquiry goes to the prospective effect of this bill in human terms: What about the marginal man or woman who "benefits" by being fired? This is not the sort of benefit that has great appeal. Yet Nixon is quite right in warning the well-intentioned sponsors of this legislation that this likely will be the consequence of their benevolence.

Consider the domestic household workers. The bill would fix their minimum at $1.80 an hour in November, $2 next July and $2.20 in July of 1975. An estimated 671,000 domestics now are paid less than $1.80, and 700,000 are paid less than $2. They are not mere tabulated figures in a statistical report. They are real live human beings, and it is idle oratory to complain that they are being "exploited" or that they are being paid "starvation wages." They are performing honest work at the very edges of the labor market and they earn something, at least, in self-respect.

Is it better for a domestic to earn, say, $12 a day at $1.50 an hour, or to earn zero dollars a day—because there is no job—at $2 an hour? To the 16-year-old cutting grass, or to the elderly black maid in a small Southern town, the question has fateful meaning. Such marginal workers have more to fear from their benefactors than from their oppressors.

The President also objects, on sound grounds, that it is unwise to extend federal wage controls to functions of state and local government not involved in federal aid. The number of such affected employees is small (only 74,000), but the principle is large. He also makes the realistic argument that the small retail and service establishments newly covered by the bill "are the very businesses least able to absorb sharp, sudden payroll increases." Such employers could meet the higher wage costs only by cutting back on jobs.

Most of the key proponents of the bill unceasingly proclaim themselves, in their political campaigns, as friends of the poor, the blacks, the young, and the working women of our society. It is a curious act of friendship, I submit, to hold out to these constituents the prospect of higher pay—but no work.

## STATEMENT BY SENATOR COOK BEFORE COUNCIL ON ENVIRONMENTAL QUALITY

Mr. ROBERT C. BYRD. Mr. President, on July 13, Senator COOK, Senator BAKER and I introduced S. 2167 to create a Federal energy research and development trust fcnd. The bill provides that specific programs would be funded from the revenue gained from the leasing of the Outer Continental Shelf. Expenditures would be made from the fund to meet requirements as they occur over a continuing period of time. The sum of $2 billion would be deposited into the fund annually from the more than ample bonuses paid for permission to explore for and produce oil and gas on the Outer Continental Shelf.

We have heard much discussion in this Chamber concerning the energy shortage which the people of this Nation are now experiencing. The President, the Congress, and industry all seem to share the view that the best solution to our problem lies in a dynamic research and development program designed to convert our domestic natural resources, particularly coal, into fuels which are commercially feasible and ecologically acceptable.

I do not think such an ambitious program can be supported entirely by annual appropriations of undetermined amounts. Rather we need assured financing over a continuing period. S. 2167 would provide the vehicle required.

On September 13, my good friend Senator COOK testified before the Council on Environmental Quality during hearings conducted to determine the future of the Outer Continental Shelf as it relates to the production of oil and gas. The Senator concludes and I concur that this activity must continue, not only because we need the energy fuel, but also because we need the funds to support energy related research and development programs. I also agree with his note of caution that we must insure that such activity be conducted in a manner which will best protect the environment.

I think the Senator has taken a very sound and realistic approach to a very difficult problem. I ask unanimous consent that a copy of his remarks be printed in the RECORD. In so doing I would also like to invite my colleagues to cosponsor S. 2167 and join us in this most worthwhile R. & D. effort.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT BY SENATOR MARLOW W. COOK

Mr. Chairman, I appreciate very much your invitation to testify at this public hearing concerning the future of the Outer Continental Shelf (OCS). I am particularly pleased to be identified with your efforts to address the role played by the OCS relative to the all important energy question as this problem has been of much concern to me over the past several years. It is encouraging to note that throughout all branches of the Government there seems to be an increased awareness to this problem, as well as sincere effort to seek solutions. For this reason I believe that the hearings you are conducting are timely and relevant.

For some years I have followed with interest the increased activity involving the Outer Continental Shelf. For many years we have held this public asset in trust. While we recognized that it had some value, few people considered it a bonanza. However, from figures available to me, it is noted that beginning in 1968 there has been a significant increase in its speculative value. In fact I understand that, depending on the bonus which will be paid for the some 800,000 acres scheduled for bid in December of this year, the Federal Government could realize a bonus approaching three billion dollars for 1973 alone.

Just what change in economics has caused this asset to become so valuable?

I realize that many factors have made a contribution. However, I submit that the over-riding factor has been the shortage of energy fuels. This shortage, coupled with an increased demand for petroleum products, as well as the disappearance of so-called cheap petroleum products from foreign markets, has certainly caused our industry and our government to examine more closely the totality of our domestic natural resources.

It's simple economics that as long as there was relatively inexpensive energy fuels in sufficient quantities to meet our needs, then the cost of exploration and production on the OCS was prohibitive. I believe that it is the energy shortage and the resulting increase in product cost to the consumer that has reversed this equation and made the exploration and production of these same Outer Continental Shelf areas commercially feasible.

I contend that this public land is a tangible asset of the people. This asset has gained in value because of the energy shortage. This value gain is reflected in the increased bonus that the energy industry is willing to pay for the right to explore for and produce oil and gas.

Conversely this energy storage, while increasing one of our assets, has in turn degradated other assets, created hardship, and has threatened the standard of living of some Americans in certain parts of the land. What better way, then, to use this increased asset than to find ways to satisfy the energy shortage itself.

How can this best be accomplished?

The President, the Congress, and industry all seem to share the conclusion that the key to our dilemma lies in a dynamic research and development program designed to convert our natural resources into fuels which are commercially feasible and ecologically acceptable. I believe that the research, development and demonstration programs necessary can be achieved only if there is assured financing over a continuing period.

On July 13 of this year for myself and several other Senators, I introduced a bill, S. 2167, to establish a Federal energy research and development trust fund. The bill provides that specific programs would be funded from the revenue gained from the leasing of the OCS. The fund would act as a repository for monies of a prescribed amount. Expenditure could be made from the funds to meet requirements as they occur over a continuing period of time. I suggest a sum of two billion dollars would be paid into the fund annually from the more than ample bonuses paid for the outer continental shelf leases. The administration of the fund could be placed in the hands of the Secretary of the Interior or other appropriate agency should the President's proposed reorganization be approved.

I am particularly concerned with additional coal research, both in increasing environmentally acceptable methods of extraction as well as utilization. It is vitally important that research be carried out at each level of the energy cycle: The mining or extraction, the conversion, transmission, and end use all could benefit from increased research funds.

In addition to coal, funds could be allocated to other energy sources such as oil shale, geothermal, solar, etc. The main point is that as the oil and gas resources from the OCS and onshore are depleted, we must have some assurance of the availability of future energy supplies.

Using R. & D. as the basic purpose of the fund we might even consider that if it is necessary to solve the crunch problems that the Federal Government use the fund to go into business as we did in the atomic energy crisis, as we did prior to World War II and during the course of World War II. If necessary it might even be considered to be prudent to establish refineries, pipelines or whatever else is necessary to solve and create a logical energy program for the United States with adequate provision for a predetermined disposition and divestiture back into the private sector.

I take no issue with what has transpired during the recent OCS leasings as I believe this action is in keeping with the economic pattern of supply and demand which is the basis of any sound economic system. I think that we should continue to explore and produce the energy fuels available to us on the Outer Continental Shelf within limits established by competent authority. However, I think it fair to question the prospects for future leases. We need the oil and gas and we also need the revenue for the necessary R. & D. programs.

I was pleased with that portion of the President's energy message of April 18 announcing a stepped up schedule on Outer Continental Shelf leasing. I spoke out in the Senate chamber in support of the subsequent announcement made on July 17 by the Department of the Interior concerning a proposed leasing schedule calling for fifteen possible oil and gas lease sales on the Outer Continental Shelf in the next five years. The more recent announcement of September 6 that a large lease sale will be made in March seems to confirm that we do have a positive program concerning the leasing of Outer Continental Shelf lands. In his message to the Congress this week the President has again opted for increased R. & D. funding for energy.

This is all most encouraging and we must see that this program continues—not only for the oil and gas which will be made available but for the funds to support our R. & D. efforts.

Mr. Chairman, I'm not an engineer, but the complexity of the sophisticated energy legislation we are considering today requires more than a cursory knowledge of certain practices if one is to vote intelligently on the various proposals. But as a lawyer looking at an engineering problem, it seems to me we have within our grasp the means to satisfy our energy problems.

However, in so doing we must be careful that we do not permit the unacceptable deterioration of our environment. Many factors contribute to the problem and its solution. Let me mention just a few of the more obvious ones.

To protect the environment and assure continued activity on OCS lands it would be logical for the proposed energy fund to assist in the search for answers to pressing public questions about environmental effects of OCS oil and gas development. Research should be conducted to increase our knowledge of background levels of hydrocarbons in physical and biological components surrounding the OCS. We must know more about the physiological effects that our activity will have on marine plants and animals. Armed with this information we will be in a much better position to enact legislation fostering intelligent pollution regulations.

In addition, I understand that in some instances the Department of the Interior has limited geological and geophysical data to use to develop and execute a viable policy for OCS land. Unless this information is available, capability to develop long range programs is severely limited. What we are seeing is the emergence of a program which is largely in response to industry's interest in specific OCS areas rather than planned orderly development. Directly related is the requirement for adequate information to permit the Federal Government to evaluate each parcel it considers for lease. Industry is understandably jealous of the information they have gathered at substantial cost. This proprietary data places industry in an excellent bargaining position as it bids for a specific lease. I do not propose that the Federal Government gather all its own geological and geophysical data. However, there should be some means of gathering data by contracts so that the Government can at least hold its own at the bargaining table and insure safe development. Information so produced would be available to the public and could be used in environmental impact statements. There is also an unfilled requirement for an expanded research, development, and testing program aimed at identifying gaps in technology related to OCS activity.

All of these requirements could be met by projects supported by the energy trust fund.

Mr. Chairman, one final thought, when S. 2167 was introduced one Senator made the point that one reason we have opposition to OCS drilling is that the States that are on the shore of such activity have no interests. It was suggested that such States might receive some consideration—similar to that now given in connection with the development of public lands or development of the forest in the counties in which they are located. This is a very interesting consideration. It would seem that once the energy trust fund was established that a formula could be developed by which a percentage of the trust could be utilized in connection with R.&D. projects in that State to offset the costs to that State which are attributable to the OCS activity. This is particularly necessary as it concerns environmental impact. I intend to pursue this question when hearings on the bill are scheduled.

In conclusion, I believe that the intelligent development of these revenue producing OCS assets is essential if we are to solve our energy problems. We need the oil and gas and we can certainly find use for the revenue produced through the leasing program. What is required and is lacking is an expressed policy which would earmark these funds to ensure that they are used to best serve the public's interest by funding energy related programs. I conclude that a trust fund is the answer.

## SUPPORT OBLIGATION OF PARENTS

Mr. DOMENICI. Mr. President, I would like to say a few words today in support of S. 2081, a bill recently sponsored by my colleague Senator SAM NUNN, which would amend title IV of the Social Security Act to provide a method of enforcing the support obligation of parents. I am an enthusiastic cosponsor of this measure.

In 1967, 3.5 million persons in this country were receiving Federal assistance through aid to families with dependent children—AFDC. This figure represents the number of persons affected by the absence of a father in the home, for whatever reason. By the end of 1971 that figure had grown to 8.1 million.

Furthermore, a 1971 AFDC study conducted by the Department of Health, Education, and Welfare revealed that only 13.4 percent of AFDC families received support payments from the absent father. This figure is abysmally low and I believe efforts must be made to revitalize and reform the current mechanisms for enforcing parental responsibility for the support of children. It is obvious this is a problem that simply will not go away by itself, and it is costing the taxpayer more and more each year.

S. 2081, introduced on June 27, would provide an opportunity for necessary reform. If this bill were passed, the Federal Government would undertake new measures for locating absent fathers, enforcing the collection of child-support payments, and ascertaining the paternity of deserted children.

These three initiatives represent an intensified effort intended to help reverse the trend of the last decade, wherein more and more public funds have been expended to support children whose fathers fail to acknowledge their family responsibilities. This is important not only with respect to AFDC caseload cost and size, but also with respect to the right of children to know who and where their fathers are, and to establish their rights to support and inheritance.

Each State and locality would be required to initiate effective systems of support collections against deserting parents. The abandoned parent will assign her support rights to the Government and will cooperate in the enforcement process as conditions of AFDC eligibility. Individual States will be responsible for the major compliance with the law, with backup support facilities and moneys from the Federal Government.

In order to add to the scope of the State's abilities to pursue support obligations, the bill would authorize the State, as an agent of the Federal Government, to utilize all the enforcement and collection mechanisms available, including the Internal Revenue Service. Financial incentives would be provided for cooperation in these efforts for establishing paternity and securing support such as increasing Federal matching funds for States expenses from 50 to 75 percent in those States having effective programs. In addition, 40 percent of the first $50 received in support payment by the mothers of deserted families would be retained by the family without causing any reduction in their AFDC grant.

Generally, the amount of the obligation to the Government would be defined as the amount specified in a court order for support, or in the absence of a court order, the total amount of the AFDC grant issued to the deserted family, or, if less, 50 percent of the deserting parent's income.

There are many, many parents, mostly mothers, who truly need the assistance of aid to families with dependent children. At the same time, there are parents who are earning good incomes who abdicate their responsibility for their children at the expense of the taxpayer.

I believe the savings incurred as a result of this legislation would well offset the initial expenses of setting the program in operation. I urge my colleagues to support the new and stronger measures contained in the Federal Child Support Security Act to return the responsibility for the support of deserted children to the parent, where it rightfully belongs.

## 163D ANNIVERSARY OF MEXICO

Mr. FANNIN. Mr. President, yesterday was the 163d anniversary of one of the most significant events in the history of our good neighbor, Mexico.

On September 16, 1810, Fr. Miguel Hidalgo y Costilla proclaimed Mexico's absolute independence from Spain. The Napoleonic invasions of Spain, resulting in the imprisonment of the Spanish king, had given the Mexican people the opportunity to grasp for the independence they sought.

Hidalgo's proclamation at Dolores, Guanajuato, was the spark that touched off an 11-year struggle for independence.

Although the spirit which moved the Mexican people to independence is similar to our own in the United States, Mexico has developed its own unique institutions and cultural traditions which are a fusion of Spanish, Catholic, and Indian influence.

Over the years the United States has been enriched not only by the art and culture of Mexico, but we as a Nation have benefited from the large number of citizens who are of Mexican descent.

Arizonans and others residing in the Southwest are deeply aware of the contributions that Mexico has made to our civilization. We are proud to share with the Mexican people a common devotion to democracy and universal freedom.

The people of Arizona, especially those of Mexican descent, join each year in marking this important anniversary in the history of Mexico and the Mexican people.

It is my privilege to salute Mexico and people of Mexican descent both in their native land and those who are now citizens of the United States.

Mr. President, I know that the people of the United States join with me in paying tribute to Mexico and wishing this good neighbor continued greatness and prosperity in years to come.

## A KEY RESPONSE BY DR. HENRY KISSINGER

Mr. MONDALE. Mr. President, the recent confirmation hearings of Secretary of State-designate Henry Kissinger gave the public an opportunity to hear many of the views of Dr. Kissinger. I wish to call to the attention of my colleagues a recent editorial in the New York Times which caught one of the key responses made by Dr. Kissinger to the questioning of the Foreign Relations Committee.

Dr. Kissinger, when asked the effect of Vietnam and Watergate on the fabric of this Nation, responded:

> These traumatic events have cast lengthening shadows on our traditional optimism and self-esteem. Where we once ran the risk of thinking we were too good for the world, we might now swing to believing we are not good enough. Where once a soaring optimism tempted us to dare too much, a shrinking spirit could lead us to attempt too little.

The New York Times correctly points out that the issue is not whether the American people believe themselves too good or not good enough for the world; but that:

> Successive administraations have imposed on the world Big Power policies which the American people never were allowed to approve or disapprove. In that process—Americans lost control over their destiny.

The editorial concludes:

> Until their Government's actions at home and abroad begin again to carry the imprint of the people's will, the question whether Americans believe themselves too good or not good enough for the world is irrelevant.

Mr. President, I request unanimous consent that the editorial be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### IRRELEVANT QUESTION

In trying to assess the impact of Vietnam and Watergate, Henry Kissinger told the Senate Foreign Relations Committee: "These traumatic events have cast lengthening shadows on our traditional optimism and self-esteem. . . . Where we once ran the risk of thinking we were too good for the world, we might now swing to believing we are not good enough. Where once a soaring optimism tempted us to dare too much, a shrinking spirit could lead us to attempt too little."

These dangers cannot be ignored. But Dr. Kissinger's attempt to define them is misleading. The choice before the United States as a major world power is not simply between daring too much and attempting too little. It is rather between what is right and what is wrong, between honesty and deception, between adherence to principle and pursuit of Realpolitik.

When the United States joined her European allies in the liberation of Europe from Nazi domination, this country dared a great deal—as it did again with its Marshall Plan strategy of rebuilding a prostrate continent. It was not that the United States subsequently dared too little or too much. It was rather that the nation deserted its principles. There would have been no honor in the Bay of Pigs even had the venture succeeded. From the ill-considered foray into the Dominican Republic to the undercover C.I.A. skirmishes in Southeast Asia, the American posture contradicted American ideals. The military and moral disaster of Vietnam and Cambodia was the bloody end of a long wrong road.

It is not a question now whether the American people believe themselves too good or not good enough for the world. Successive Administrations have imposed on the world Big Power policies which the American people never were allowed to approve or disapprove. In that process, which culminated in the secret war against Cambodia and the carpet-bombing of Hanoi, Americans lost control over their destiny.

Until their Government's actions at home and abroad begin again to carry the imprint of the people's will, the question whether Americans believe themselves too good or not good enough for the world is irrelevant.

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## PROFESSIONAL HEALTH MANPOWER FOR RURAL AREAS

Mr. TOWER. Mr. President, on April 12, I introduced S. 1550, a bill which would provide a tax incentive for physicians, dentists, and optometrists to establish their practices in areas which have a shortage of health professionals. I am extremely pleased that Senator BIBLE, Senator DOMINICK, Senator ERVIN, Senator HELMS, Senator MCGOVERN, Senator STEVENS, Senator TAFT, and Senator YOUNG have joined me as cosponsors of this measure.

We have received encouraging reports in recent months that our Nation's universities and colleges, with the assistance provided by the Comprehensive Health Manpower Training Act of 1971, are making significant advances toward correcting the general shortage of health manpower. However, we have been far less successful in our efforts to correct the maldistribution factor. The inequity in the distribution of professional health manpower is one of the most serious problems confronting the Nation's health care delivery system. The following facts are an indication of the general situation—the national average of non-Federal dentists per 100,000 population is 47, but New York State's ratio is 68 to 100,000 while in Texas the ratio is 37 to 100,0000. However, my greatest concern is for those communities, whether small towns or urban ghettos, which have few, if indeed any, physicians, dentists, or optometrists practicing.

Unfortunately, the situation seems as if it is going to worsen in the near future. Surveys of physicians in rural areas indicate that the average age in many areas is the late fifties and early sixties. The physicians who are now serving the rural populations are reaching the age when they want to retire and the communities have been unable to find replacements. Some physicians have contined to practice until the day of their death rather than leave their communities without a doctor.

In order to legislate programs to correct this situation, it is necessary to examine some of the criteria that a person considers when determining where to locate his practice. One of his primary concerns is the environmental and cultural factor. When he locates in a rural community, he often leaves the conveniences, the cultural events, and the life style of large metropolitan areas to which his family is asscustomed. He also will consider the quality of education that his children will be able to receive. I have been most pleased with pilot programs which give medical students the opportunity to work in rural areas during the summer so that they can become better acquainted with the nonurban way of life. When a person moves to a smaller community he also leaves behind the undesirable aspects of urban living such as air pollution and high crime rates.

A second criteria is the availability of adequate facilities and support personnel. Many communities have excellent facilities which are not being used. The lack of support personnel results in overworked professionals. I have been pleased with the efforts of the Government and the medical community to develop new types of health manpower, such as the physician assistant. The use of such personnel in a proper manner will mean better care for more people.

A third criteria is whether the area has a sufficient population to support a specialized practice. Often, in rural areas, the population base is not sufficient. Although an increasing number of medical school graduates elect to pursue specialization, and although specialization has produced a higher quality of medical practice in urban areas, we have not outgrown our need for primary care physicians, such as family practitioners and internists. I am most pleased with the Federal program to establish family residency programs in order to promote the training of more primary care practitioners.

Another criteria a health professional will consider is his expected earnings which can be obtained in a rural or urban ghetto practice. In an effort to enhance the practice of medicine in these health manpower shortage areas, I have introduced S. 1550. I would be most pleased to have my colleagues who have not done so to join me as a cosponsor of this measure, which has received the support of the American Medical Association and the American Optometric Association.

Mr. President, at this point I would like to ask unanimous consent to have printed in the RECORD a series of six articles written by Jon McConal for the Fort Worth Star Telegram. I feel that the articles are an excellent account of the impact and the implications of the health manpower shortage for small communities in Texas.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Fort Worth Star Telegram, July 16, 1972]

### MORE COMMUNITIES FIND DOCTORS HARD TO COME BY—SMALL TOWNS PRESSING SEARCHES FOR MEDICAL MEN

(The problem of finding more family physicians and getting them into rural areas is much like following a twisting mountain stream. It extends into many areas.

(In the first of his six-part series, Star-Telegram Contributing Editor Jon McConal pinpoints the need of small towns for doctors and the problem in getting them.

(The remaining five parts, which will continue in the Morning Star-Telegram, feature:

(Interviews with residents of small towns that have either no doctor or only one doctor.

(Questioning of top medical officials and a look at some of the proposed solutions, including the shortening of medical school and the new medical assistant program.

(A look at one of the training programs being conducted by the Air Force at Wichita Falls in which physician assistants are being trained.

(What it's like being the only doctor in a small West Texas community.

(The reasons why a young doctor would want to go to a small town to practice and what the town has to offer in order to interest a young doctor.)

(By Jon McConal)

On Feb. 18, Debbie Shackelford, 17, star forward on the Glen Rose girls' basketball team, was resting after her team's performance in a regional competition.

Suddenly, she was struck with a blinding pain in her side which doubled her up. The game had been played in Denton, where Debbie and the team were staying in a motel. Glen Rose is 100 miles away.

Efforts to get a doctor to go to the motel to check her condition failed. She was moved to a hospital in Denton. Again, efforts to get a doctor were fruitless.

Finally, in desperation, her coach, Paul Schuelke, called Dr. Roger Marks in Glen Rose. He told Schuelke to load the girl into a car and rush her to Glen Rose as soon as possible.

At 5 a.m., her illness was diagnosed as acute appendicitis. Debbie then was transported another 25 miles to Cleburne where she underwent surgery—nearly 12 hours after the initial pain.

Rob Ferrell is a large, strong, healthy, 21-year-old. Last winter, he and three buddies were at a ranch in Erath County. They were playing pass, and Ferrell, making a dash and turn, struck a barbed wire fence. It ripped open his thigh. Blood quickly saturated his pant leg.

He was loaded into a car. His friends took him to the nearest town. The nurses refused to treat him and refused to call a doctor. They said the doctor could not be bothered.

They went to the next small town. The same thing happened there. Fnally, they rushed to Stephenville, about 40 miles from the accident scene. And there, nearly three hours after the injury occurred, Ferrell's wound was sutured.

Though no lives were lost in those two cases, they dramatically emphasize the need in Texas and the nation for more doctors. And they pinpoint the need for more doctors in small towns.

In either instance, the doctors in the towns who did not choose to go and check the patient, can hardly be blamed, if you consider the workload any doctor in a small town is carrying. The wife of Dr. Arthur Mancille, the only doctor in Aspermont, spoke of that workload.

"My husband's patient load is about 50 persons per day and that's not counting the emergencies at night. And, believe me, we have emergencies every night. At least three, generally," she said. "He tries to take Saturday afternoon off and Sunday, but there is just not any way he can really get off. The phone always rings."

The phone is always ringing in the office of Dr. Winfrey W. Goldman Jr., medical director at Peter Smith Hospital. He helps formulate the program for interns who train there.

"We receive letters and phone calls each day. Some are desperate. All want the same: a family practitioner to come to their town," said Dr. Goldman.

He picked up a cigarette and lighted it.

He added: "I suspect that there are now more brand-new well-equipped hospitals—small but adequate—than there are doctors. Community after community has built a hospital, equipped it and staffed it, and then can't find a doctor to practice in it.

He tapped his cigarette. "The usual story is the doctor has died in the community or they have two doctors and one died and the other is leaving, and the community is desperate."

Desperate is a strong word. But it's not an exaggeration of the situation in many Texas communities regarding their search for a doctor. A glance at the want ads in the Texas Medical Association's monthly journal drives that point home. There are dozens of positions open to the young doctors considering a small-town practice. Many communities not only offer a promised income level, that reaches as high as $50,000, but also offer a hospital, home and many free services. Many of the advertisements have an almost pleading sound to them. Example:

"Office clinic would be built for physician with lease and option to buy, or whatever is suitable to physician."

The extreme some communities go to to attract a doctor can be seen at Iraan, a tiny West Texas town of 1,000 population in Pecos County. They already have one doctor. But they're desperate for another one.

"Look, a young man can come out here and I'll guarantee that he'll take at least $50,000 his first year. And, we have a new hospital that he can practice in, too," said Ralph Chalfant, administrator of the community's only hospital.

### MORE OSTEOPATHS IN RURAL AREAS

There is no accurate way of finding out exactly how many communities have no doctors. But in the state there are 18 counties with no practicing physician.

Combined population of these counties is 52,000.

Though many of the counties are in Far West Texas, some are located in the more heavily populated areas of East Texas.

And, even the communities with doctors are pressing hard to find more doctors to help augment their medical corps. Said George Purcell, manager of the Brady Chamber of Commerce:

"We're moving every rock we can to get two more doctors. The doctors we have are gradually just getting worn out. One of our doctors now won't take on any more patients. It takes you half a day to get to see a doctor here now. I mean if you just got up there to have an examination. Our doctors are really overworked."

One reason that doctors become overworked in a community like Brady was explained by Maurice B. Shaw, administrator of Brownwood Community Hospital.

"We built our hospital two years ago. We combined two older hospitals and made a 110-bed facility. Our occupancy rate has been running about 100 per cent ever since we opened. Know why? Well, our out-of-town and county patient rate is 31 per cent."

This 31 per cent is composed of people coming from towns that either have no hospital or doctor.

When you turn to statistics, Texas ranks 24th in the nation in doctor-per-patient ratio. That count stands at 781 persons per doctor. The national average is 665 patients per doctor.

In Texas in 1970 there were 123 physicians per 100,000 population. There were 12,977 medical doctors in practice and 840 doctors of osteopathy.

By 1975, it is predicted the ratio will increase to 137 physicians per 100,000 persons. In order to meet that figure, Texas will need 21,500 physicians, or about 3,000 more than it now has.

It is far West Texas regions and some areas in East Texas away from metropolitan areas where the physician population drops drastically. It is about one doctor for every 1,300 persons.

Many counties with only one physician are being served by doctors of osteopathy. Dr. Robert G. Haman of Irving, Texas Osteopathic Medical Association president, said that although his profession comprises only 10 per cent of medical practitioners in the state, they care for 18 per cent of the population's health needs.

"Our profession is built on the concept of dealing with the whole man . . . treating the body as a whole unit. That in itself prepares our men quite adequately to go out into the rural areas and get away from the mainstay of the big hospitals," said Dr. Haman.

But he agreed that osteopaths and medical doctors need to work together to solve the problem, which isn't restricted to Texas.

Nationally, there are 132 counties without a physician. This respresents a decrease of two counties from 1969 but an increase of 34 counties since 1963.

The vast majority of these counties are in the western portion of the country. These counties cover 140,699 square miles or about four per cent of the total U.S. land area.

Almost a half-million people live in these counties, or about two-tenths of 1 per cent of the total U.S. population.

Thirty-six of these counties are adjacent to standard metropolitan statistical areas. The most populous county without an active physician is Stafford County in Virginia which has 23,000 persons.

Owyhee County in Idaho with 6,300 inhabitants occupies the largest area with 7,641 square miles.

Many people say these figures reveal that there isn't a shortage of doctors, but a maldistribution of doctors.

Dr. Francis C. Coleman of Tampa, Fla., in a speech to the Texas Medical Association conference on medical practice and orientation, said:

"One seemingly obvious way to make better use of our present manpower resources is to alleviate maldistribution of available manpower in relation to health-service needs, particularly in rural areas and city slums. I think it's getting more and more apparent that we have to come up with some realistic alternatives to the traditional 'physician in residence' for many areas, because we are up against the basic human inclination to go where the action is."

Dr. Walter C. Bornemeir of Chicago, past American Medical Association president, in a report to the 120th AMA convention, said:

"The question never has been: Is there a good doctor in the house, is there a cheap doctor in the house? The question has always been? Is there a doctor in the house?"

Dr. Bornemeir said the public may not realize it but the physician recognizes that the evaluation of medical care has changed.

"Not long ago, the people sought the services of the doctor in the hope that they might be helped. Today they go to a doctor expecting to be cured," he said.

This demand has outstripped the ability of the medical profession to produce, he said.

"This has come about so rapidly that the increase in production of physicians has not kept pace with the needs even though the physician population has been increasing 25 per cent faster than the population growth for the past 20 years," said Dr. Bornemeir.

Dr. James H. Sammons, recently retired TMA president, who has a general practice in Baytown, agreed.

"When I entered this office (1971) I pointed to the continuing need for additional specialists around our state, but the key phrase is 'continuing need' as opposed to 'physician shortage.'" he said. "I think that a great part of the problem in Texas is maldistribution, and I do not foresee any change that would redistribute the physicians to accommodate needs without increasing the total supply."

Dr. Sammons said Texas is paying the price in the 1970s for the overproduction of specialists and super specialists that occurred in the 1950s and 1960s.

"Happily, medical schools are fortunately beginning to understand this problem and beginning to refocus some of their activities in this direction. They may not be moving fast enough, but they are moving as fast as their own individual problems allow them," he said.

Dr. Sammons said there was a tremendous difference today in general practice, or family practice, as it is now called, as compared to 20 years ago when he started practicing medicine.

### PROBLEM OF DISTRIBUTION

"This applies to all areas of medicine," he said. "Techniques, drugs, equipment . . . they've all changed. It's made medicine better, but it has made it more expensive to try and build a little community hospital and try to operate it."

He said that the work load for doctors is greater than it was 20 years ago.

"He (today's doctor) has to be better versed in more fields. There are more people. More illnesses. More preventive medicine. More routine physicals. All of these require more manpower . . . so yes any doctor in family practice is working harder than he did 20 years ago," he said.

Dr. Goldman believes the problem comes from two areas.

"They are total manpower . . . we just don't have enough doctors . . . and the other is distribution. But I think the major problem is distribution . . . getting the doctors distributed to the right area," he said.

Dr. Goldman picked up a sheet of statistics kept on interns at Peter Smith during the past three years.

Of 28 physicians who completed one or more years of family practice residency, 23 still are in that field. The other five are on active military duty or pursuing additional training.

Of the 23 in family practice, six are in communities of 5,000 or less. Six are in communities of 5,000 to 15,000. Eight are in communities of 15,000 to 50,000 and three are in cities with 50,000 or more population.

"You know, I get calls from people in small towns and they ask me to tell them what they can do to recruit a doctor for their community. They plead, 'What can we do?' Can they offer money? Can they offer facilities?" said Dr Goldman.

He paused and lighted another cigarette. He said:

"I don't really know the answer."

In the Monday Morning Star-Telegram: Some answers.

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[From the Fort Worth Star-Telegram, July 17, 1972]

### SOLUTION PROPOSED TO ALLEVIATE RURAL PHYSICIAN SHORTAGES

(By Jon McConal)

For practically every physical ailment, there are a number of medications available to the doctor for prescribing to the patient.

These medications have the same generic composition but certain a different trade name. But, all are built to solve the aches of a particular disease.

This is similar to the approaches to solving the shortages and maldistribution of doctors in this country.

The number of ways of solving the shortages may come under a bevy of different names, but all are aimed at solving these two crucial problems—increase the number of doctors and channel more doctors to the rural areas.

Among the many proposed solutions to the problems are:

Place more emphasis on group practice and establish medical groups in a central location that can serve the medical needs of many small communities.

Offers free education to young doctors who will agree to go to rural areas and practice for a number of years after they have received their medical degrees.

Shorten medical programs to three years by having medical students go 11 months each year.

Allow young doctors to fulfill their military obligations by practicing two or three years in a small community.

Turn out more physician's assistants, who will become the right hands of doctors and who can perform many of the minor tasks now being done by doctors, relieving them of these duties for the more complicated cases. These training programs for PAs are generally set at two years.

Dr. Francis C. Coleman, of Tampa, Fla., speaking to the Texas Medical Association's conference on medical practice and orientation, stressed the need for new approaches to the problem.

"It's doubtful that we can rely on conventional approaches to do the whole job. Loan forgiveness provisions, financial or other incentives to doctors in medically deprived areas, community development of medical facilities and guarantees to physicians, government sponsored community health center and increased exposures to primary care in the educational experience . . . all can help," said Dr. Coleman.

But, Dr. Coleman said more attention should be paid to the potentials of modern transportation, the use of more physicians on a part-time basis, to facilities for remote bio-health monitoring of patients and to more innovative use of allied health personnel to relieve the physician of some of his more routine duties.

"If you could mesh all of these possibilities into a comprehensive health planning program, emphasizing local, initiative, you could very likely provide quality of health care that's comparable to that of any medically privileged area," said Dr. Coleman.

Dr. Coleman stressed several times better utilization of current health manpower.

"Do a job analysis or a time and motion study of the health care delivery process . . . but we have to find out who shouldn't be doing what to whom," said the speaker.

One method to help in this area is automatic multiphasic health testing. In this, patients fill out questionnaires and undergo a battery of tests in assembly line fashion while a computer tabulates the individual findings for the physician.

Some contend this could further large scale preventive medicine. The machines and paramedical personnel that carry the brunt of the load could reduce the amount of time doctors spend on histories, physicals and tests.

"But, multiphasic screening can also have the immediate effect of uncovering more ailments for overworked physicians to treat," said a lengthly report on doctor shortages in the magazine "Medical Economics."

"And," added a hospital official, "computers and electronic gadgetry have yet to prove themselves as time savers in medicine. The computer is giving them (nurse and doctor) much more information about the patient than they had before and more decisions to make."

One way of getting more physicians and getting them faster is to shorten programs in medical schools to three years.

Dr. Mark S. Blumberg, corporate planning adviser in the central office of the Kaiser Foundational Health Plan., Inc., Oakland, Calif. said:

"Accelerating courses, or reducing the time of medical school from 3¾ years to three years, would mean adding .95 man years more of working life to physicians," he said.

Dr. Blumberg said that though accelerated programs will not solve all of the physician manpower problems, their benefits far outweigh their modest cost.

"One of the most attractive features in their compatibility with the continued evolutionary change is medical education now in full progress," he said.

In a medical manpower report put out by the TMA, it was noted that TMA worked closely with the government and the 61st Legislature in creating two new medical schools, the University of Texas at Houston and a medical school at Texas Tech in Lubbock.

Plans are to increase entering class enrollment from 164 to 200 by 1972 at the University of Texas medical branch at Galveston.

A $40 million expansion program is underway at the Southwest Medical School in Dallas to increase its freshman class by 50 per cent by 1979.

In San Antonio, the University of Texas medical school has a first-year class of 104; Baylor College of medicine will increase its freshman class from 92 to 166 by 1972.

These plans mean that the total first year enrollment of medical students in Texas will rise from 516 in 1970 to 1,044 by 1975, a 200 per cent increase.

Dr. Malcolm C. Todd, a Long Beach, Calif., physician engaged in private practice for over a quarter of century, told the TCM conference on legislation:

"Americans deserve and can afford better health care. If this is to be true, we have a monumental task to perform."

"Our medical schools are precious national resources, but they are indeed trapped between soaring costs of educating doctors and the scarcity of money to do it. Medical education has never been cheap and the nearly $5,000 annual cost—with scholarship and loan funds limited—many well qualified students simply can't make the grade financially," he said.

Dr. Todd urged that laboratories be put to work six days a week, medical students attend school 11 months out of 12 and the curriculum shortened to three years.

"This could be accomplished by adoption of accelerated programs by our medical schools. This is particularly promising as a means to increase the supply of graduate physicians," he said.

A two-pronged approach to the two-pronged program was suggested by the TMA during its recent annual meeting.

"Recognizing shortage of primary physicians in Texas, including family physicians, TMA calls upon medical schools in Texas to offer more opportunities for training family physicians," read a report put out by the TMA.

The members also proposed to introduce at the next session of the Texas legislature, legislation providing grants, loans, or scholarships to students who wish to study medicine and who agree to practice in a rural area in the state.

Dr. James H. Sammons of Baytown, outgoing TMA president, thinks the answer to getting doctors into rural areas is more group practice.

Nationally, practice of physicians in groups of three or more increased from 28,000 to 39,000 in the past five years.

"It's awfully difficult to get a solo individual to be on call, 24 hours a day, 365 days a year, said Dr. Sammons. "My personal opinion is that a far better approach than for every one of these small communities to try and get one man, would be for them to go together and get three men or two men, so they could provide some relief for each other."

He said a facility could be built that would be mutually accessible and acceptable to several towns.

Dr. Winfrey W. Goldman Jr., medical director at Peter Smith Hospital, thinks group practice is also the answer for smaller communities.

"I don't know where this should start—I mean the encouragement of group practice—maybe way back in medical school. But, I do think group practice is far more successful at getting physicians to small towns," he said.

Dr. Goldman said more people are seeking health care. And, health care is much more demanding.

"That's why for a community to build up a successful health care program, they have to seek more than one doctor," he said. "Look, a doctor gets awfully lonely. No colleague to discuss things with and to share ideas with . . . this is one of the big problems. If I were going to a small town, one thing that would influence my decision the most would be the physician that I'd be working with."

Some communities are attempting to get youngsters interested in small towns by bringing them in the summer and letting them spend from four to six weeks with the local doctor.

"We're trying that and it looks very promising to us," said Ralph Chalfant, hospital administrator at Iraan, a small town of 1,000 in Pecos County. It has only one doctor now.

The doctors of osteopathy have long practiced this technique in interesting young medical students in rural practice.

"We have what we call rural clinics. The students in their last two years of college are sent to these and practice under the supervision of an accredited doctor. They get a basic concept of the needs in this area and learn the rudiments of taking care of sick people. Then they don't have any reluctance about going to a rural practice," said Dr. R. G. Haman of Irving, Texas Osteopathic Medical Association president.

Apparently his profession has been quite successful as 70 per cent of its graduates go into general practice.

Still another way to get young doctors to go to small communities has been suggested by the federal government. A proposed bill would offer many years practice in an urban slum or rural area as an alternative to military service.

One program which is well under way in many states, including Texas, is the physician's assistant program.

The THA house of delgates' approved definition of a PA reads:

". . . a skilled person, qualified by academic training in an accredited program and by practical training to provide patient services under the supervision and direction of a licensed physician who is responsible for the performance of that assistant."

It is estimated that nationally there are about 125 programs in 35 states organized to train some type of assistant to the physician.

Physician's assistants trained at Duke University have been estimated to enable family practitioners to see from 30 to 50 per cent more patients per day.

Pediatric nurse practitioners from a University of Colorado program are said to increase pediatricians' productivity by at least one third.

The magazine Medical Economics, in a report on physicians' assistants, called the program an innovation with definite long-term potentialities. But over the short run, the magazine said, it's unlikely to have any significant impact before the end of the decade.

Though the number of students enrolled in physician's assistant programs is relatively low, some doctors think this could be swelled considerably by interesting discharged medical corpsmen.

"Of the 32,000 discharged medical corpsmen, possibly 2,500 or 3,000 might be considered for this program and some 1,500 to 2,000 might be interested," said an American Medical Association report.

Dr. Goldman mentioned the big problem with the PAs.

"There are a lot of legal aspects involved," he said. "How much can a physician delegate to someone else without placing himself in jeopardy. That may well be the main obstacle to the program."

Tuesday: A look at one of the physician's assistant training programs.

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[From the Fort Worth Star-Telegram, July 18, 1972]

### NEW PROGRAMS MAY EASE PHYSICIAN'S BURDEN

(By Jon McConal)

WICHITA FALLS.—Tech. Sgt. Robert Burroway, after 12½ years in the Air Force, is suddenly seeing the skies filled with a squadron of new opportunity.

The opportunity is coming from a new program, launched here at Sheppard Air Force Base in July. It's the physician's assistant program and it will train men like Burroway to perform a variety of medical treatment roles, which were once handled solely by physicians.

If the program is successful—you have a hard time convincing those connected with it that it will be anything else—men like Burroway will free the doctors of many minor duties and enable physicians to see as many as 50 per cent more patients.

"I liked the prospects from the very first time I heard about it," Burroway of Falls Church, Va., said during a break. "It'll help me in the service and when I get out and it will give me something to do besides working as an orderly some place."

Many feel that the physician's assistant program holds promise for alleviating some of the shortages of doctors in rural areas.

The Air Force is realistic about losing some of its physician assistants to civilian life. In order to be accepted for the program, one stipulation is that the student must sign a four-year enlistment paper. The training lasts two years. This means that he has two years to serve the Air Force.

"Where training these guys for the Air Force. But, we want to make sure this guy can go out and qualify to work in any state in the union if he decides to get out of the Air Force and go into civilian work," said Dr. William Behrens Jr., chairman of the department of medicine at Sheppard.

Of course, the Air Force doesn't want to lose this new man who is sometimes described as an extra pair of hands for AF physicians. Incentives, which are hoped to keep the PA in the service, have been established.

"When he completes his two-year program, he will automatically be given a $100 month raise," said Dr. Behrens. "And promotions should come easier for him."

But, said Dr. Behrens, though the men are trained for the Air Force duty, civilians could profit from his presence.

"If we turn out a man who cannot work anywhere, then the taxpayer is not getting the full value of his dollar," he said.

Nationally, there are something like 125 programs in 35 states organized to train some type of physician's assistant. Length of training varies from two months to five years.

The Air Force, in order to ensure the success of its program academically, has taken the best of these programs, said Dr. Mary E. Hawthorne, a former Navy commander and head of the curriculum at Sheppard.

"There were two primary things to take into consideration," said Dr. Hawthorne. "What is the man going to have to be able to do, and in the case of the PA, what does he have to know in order to do these things. Our whole program is geared around these things. Everything else is extra."

She said she was convinced that the Air Force had a good program. So convinced that she said:

"If I were sick, I'd rather have a PA check me than a brand new intern."

You get the idea of the intensity of the programs by stepping into one of the classrooms and listening to a lecture. In one, a cardiologist was talking about various heart problems. He said:

"What causes aortic regurgitation?"

"Volume," boomed back the class in unison.

"And aortic stenosis?" he asked.

"Pressure," replied the class in unison.

This class was in the first of the two-phase program which is devoted to classroom training. The curriculum includes anatomy, chemistry, pathology and pharmacology.

There are film cartridge lectures of autopsies, during which various functions and make-up of organs are discussed.

Dr. Behrens said films were used instead of cadavers because of a time-savings and because more ground can be covered.

Burroway mentioned the ruggedness of the program. He said:

"It's eight hours a day and seven days a week and after hours if you want to keep up. I didn't think they could squeeze so much into a course in such a short period of time."

After 12 months of Phase I, the students move into 12 months of Phase II. In the second phase, the student works in a clinical setting as an assistant to a physician. His duties include rotation through various hospital services to learn methods used by specialists in caring for routine medical problems.

"The Air Force PA will not be trained to work in one specialty. He will work in general therapy or family practice," said Lt. Lynn Porter, head of public relations for the PA program. "He's going to be a friend of the family and work with the family. He will fill the roll of the old-time family doctor and that is what makes it exciting because this is something we all knew about and knew it was good but now it is gone."

Dr. Behrens talked of the PA's role:

"He will be an extra pair of hands, eyes and ears for the physician. He will be able to handle many of the common problems that come to the family practitioner. But he will not be a super specialist," he said.

Dr. Behrens said that he did not foresee any legal problems arising from PAs.

"The things that a PA will be doing are not the things that a doctor is sued for," he said.

Dr. Behrens said there were some healthy reservations on the part of some of the Air Force physicians when the program was first mentioned.

"We brought in two physicians from each of the 14 Air Force hospitals where the PAs will be sent for the second phase of their training," he said.

The program was explained in detail to the physicians. Textbooks, classrooms and cartridge tapes of lectures were shown. The physicians also met and talked with the students.

They learned that in order to qualify for the program, trainees had to be sergeants with a high school or equivalent education. They had to have at least three years of active military service and no more than 16. Their experience had to include one year in direct patient care.

"Over-all, the screening process is the most stringent ever to be used for student selection in the 20-year history of the School of Health Care Sciences at Sheppard," said Porter.

Dr. Behrens said the physicians were sold on the program. They went back to their bases and began to evangelize about it.

He said it was similar to what happened at Duke University where a physician's assistant program is being taught.

"There was one physician on the medical staff there who said he didn't want anything to do with the program. But, other staff members began to take the PAs as their assistants as they finished training. Very few PAs were getting back to the community. This one doctor who had had reservations went in and began pounding the desk of the administrator the beginning of the second year and wanted to know when he was getting his PA," said Dr. Behrens.

He quoted other studies at Duke which showed that 80 per cent of the patients treated by PAs had no qualms about seeing them.

Dr. Behrens cited many advantages of having PAs.

"Taking some of the load off of a doctor will give him more breathing room and time off. He can do more studying and stay more current, which is very important since there is so much happening in the medical field," he said.

A big advantage of PAs, said Dr. Behrens, is the possibility of them locating in small towns which have no doctor.

"You take a kid, who's from a small town, who goes to medical school. By the time he completes eight years of study he's no longer a small town boy. He doesn't want to go back because of a variety of reasons, including hating to leave all of the new fancy equipment to which he's grown accustomed," he said. "But, a PA . . . well he will be more unspoiled. He won't get too much of a taste of this and he won't mind leaving it."

Dr. Behrens picked up a map of Texas. He folded it until only a region of West Texas was showing. He picked up a pencil and made a rough circle of about 800 square miles.

"I can see where a group of physicians in this town (he touched a fairly large city) could, if each one of them had a PA, easily serve the medical needs of this entire area," he said.

It seemed ironic. But Dr. Behrens, without realizing it, had pointed to an area that contained portions of two Texas counties that had no doctors.

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[From the Fort Worth Star-Telegram, July 19, 1972]

### Towns Without Physicians Fear Emergencies

(By Jon McConal)

Mrs. Arthur Mancile of Aspermont was recently working the night shift in that small town's only hospital. A nurse came in to relieve her.

Moments after checking in, the relief nurse suddenly grabbed her chest and fell to the hospital floor. An hour later she was dead. She had suffered a heart attack.

Mrs. Mancile had witnessed one of the things that people who live in a small town with no doctor dread the most . . . a heart attack. But, Mrs. Mancile is very personally acquainted with another small town health problem . . . having only one doctor.

She's the wife of the only doctor in Aspermont.

"He had back surgery last year. He goes 24 hours a day. It's killing him. It's just too much for him. And there's a guilt complex because he can't do even more. Like the nurse who died . . ." she said.

Coping with not having a doctor in town is a fate dozens of small towns in Texas face. There are 22 counties in the state with no practicing physician.

People in these communities admit that there is a subconscious fear that something may happen that will require immediate medical attention that is not available.

"It's really hard on the older people . . . and 70 per cent of our community is in that category. But, everyone feels it, though they don't like to talk about it. Even hospital people, like me, always have in their mind that something may happen and that you're going to need a doctor immediately and there isn't one there," said Mrs. Doris Harris of Baird, a town of 1,600.

She's administrator of the town's 27-bed hospital, that has a new coronary care unit.

"We've been without a doctor for over a year now. In the last five years, we have had a doctor for about two months. We've advertized and put out a brochure. We write every doctor we hear about who might be interested. But so far, we've had no luck finding one," she said.

Baird is served by a doctor who comes in from Clyde, which is six miles away. If he can't respond, then patients are sent to Abilene.

"Of course, we worry about that too, because Abilene is short of doctors too," said Mrs. Harris.

Claude, which is in Armstrong County, has a population of 1,240. It has had no doctor, since a young woman, who practiced there for a year, died in August, 1971.

"I guess you get used to it, but I really had a much more comfortable feeling when we had our doctor," said Mrs. Sam Stewart, mother of two children, ages seven and three.

"Say I needed a doctor this afternoon, I'd either have to go to Amarillo which is 30 miles away, or to Groom which is 20 miles away, or to Pampa which is 40 miles away. It's a very difficult situation," she said.

Claude's ambulance system is manned by the volunteer fire department. Two men, who drive the ambulance, have taken emergency medical training.

"We have a man who answers the fire phone. Any time that phone rings, he calls the ambulance drivers," said Mrs. Stewart.

She's taken fire aid courses in order to help if an emergency should develop in her family.

"We've advertised for doctors. But, we really don't have anything in the way of entertainment to push in our city. We don't have a movie," said Mrs. Stewart.

But she said it was comfortable living in Claude.

"We have four churches. I spend a lot of time working with church groups. We also have several different women's clubs and some bridge groups. We have a library. Our boys' football team was district champion. And, our girls' basketball team won the state championship," said Mrs. Stewart.

A lot of small towns, like Aspermont, still have a doctor. But, because of age or overwork, they are looking for another. One such town is Matador.

"We have one medical doctor right now, but he's 74. My uncle was a doctor, but he passed away. We get the list each month from the Texas Medical Association and contact anyone who might be interested," said James Stanley, who owns a drug store in Matador.

He said there are about five people who help with the ambulance service.

"Our doctor comes when he can. But, if he's under the weather or something happens and he can't make a call, then we take the patient to a hospital. It's 32 miles to Paducah. Sixty miles to Plainview. Seventy-five miles to Quanah. Eighty-five miles to Lubbock," said Stanley.

He said the 14-bed hospital in Matador was recently remodeled with a $196,000 grant from a Housing and Urban Development grant.

"But, we had to close the hospital because there wasn't anyone to operate it. And, it's a nice hospital, with obstetrics and delivery room and about anything a doctor would want," said Stanley.

He said a young doctor could make from $60,000 to $75,000 a year in the town.

"Attractions for a young man here . . . well, yes sir, that's a problem. We don't have any industry, but we have farming and ranching and it's a solid economy. We have a young active Lions club. There are several bridge clubs for the wives and we have a small golf course with sand greens. We don't have a movie, but people can go to Plainview or Floydada. They also have country clubs there," said Stanley.

Lack of doctor, he said, is a big concern for a lot of young people with children. It's also a concern for the elderly.

"You have a heart attack and go to figuring 35 minutes to an hour's time before you get medical attention . . . that makes a lot of difference," said Stanley.

There is a difference in living in a town without a doctor. Mrs. Mary Ann Sarchet, 37, and mother of a 14-year-old son, mentioned this.

"If anyone would have told me that I would raise a child in a town without a doctor, I would have scoffed at them. But, when we moved here to Silverton, my eyes were open. I knew that there wasn't a doctor," she said.

"You talk about how scary it is to live in a place without a doctor . . . it could be. But, our people don't suffer as much as you think. You think about heart attacks and real serious illnesses. But, we don't lose many people. I really think that maybe we're as well off as towns that have doctors."

Silverton has one doctor, who has been in practice since 1971.

"We had another doctor from 1960 to 1965, but then he went away to specialize in muscle therapy. We have a clinic. It's for two doctors. But, it's been some time since we've had two doctors. But, we have some local citizens who are ready to put up a bundle of money for a new clinic, if we could find another doctor," said Mrs. Sarchet.

She said that a volunteer ambulance service is operated in Silverton.

"They take turns about manning the ambulance at night. When it's their night, they stay at home beside the telephone. About 35 of the men here have taken an emergency first aid course. In case of a real bad wreck, our doctor tries to respond and give emergency first aid before we take the patient to a hospital in Tulia. The road is straight between here and there so we can make real good time," said Mrs. Sarchet.

She said that it was hard to sell a little town like Silverton.

"There is so little to do here that you wouldn't believe it. No movie . . . so we just manufacture our own entertainment. We have a real nice swimming pool. And, if you like horses this is a good place to live," said Mrs. Sarchet.

She said she felt that in order to get a doctor to come to Silverton, you would need another doctor to put in a good word for you.

"This is what happened to us. We went so long without a doctor that we didn't have anyone to recommend us," said Mrs. Sarchet.

Thursday: What it's like to be the only doctor in a small town.

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[From the Fort Worth Star-Telegram, July 20, 1972]

### Day Busy for Rural Physician

(By Jon McConal)

Bangs—Dr. J. B. Stephens is a strong-looking man. He has a square stern jaw that looks like it was hewn from one of the large boulders common to this countryside.

He has a flattop haircut with gray in his hair that looks like it was poured from a pitcher to suggest here's a head of wisdom.

His eyes are dark and come at you from thick glasses with looks of understanding.

Dr. Stephens needs all three qualities of strength, understanding and wisdom. He's the only doctor in this small West Texas town of 1,214 persons.

He's been the only doctor for more than two decades. His phone has been the link to the community and it's liable to ring with a request at any hour. When it does, the caller expects Dr. Stephens to forge the chain with advice about how to cope with a medical pain.

His patients range in age from tiny infants, still red faced and watery eyed from having just popped into the world to the tired and worn elderly, whose faces have a saddle-worn maturity on them from riding many miles of time.

He'll tell you that this job has been good to him.

"I've been able to provide for my family. Comfortably. And, I've been able to buy me a ranch and raise cattle, which was really my first love anyway. This is what being a doctor in a small town has given me," he said.

He'll also tell you that his job has been hard on him at times and has certain disadvantages. He said:

"The patients are more demanding of you. They don't hesitate to be a little inconsiderate. You don't really have any time of your own. I'll be used up before say a radiologist would be. But, my philsophy is that you can only do so much, whether you spread it out over 30 or 40 years and I like what I'm doing and have done."

He worries about the time he will retire and if the community will find someone to replace him. He said:

"It's so hard to find someone to come to the small towns to practice medicine. When I first built this office, I built it large enough for a partner. I tried and tried to find one. But, it just didn't work out. I'd get someone who was retired and wanted to work part time or somebody else who just didn't fit. So I gave up several years ago and resigned myself to the fact that I was going to have to go it alone."

It was Sunday afternoon and Dr. Stephens was alone in his one-story, long brick office building in Bangs as he talked. The office was clean and the pungent small of alcohol and medicine abounded.

"I have three employees and my daughter, Lisa, who's 16, works a half day during the summer. We don't do much lab work . . . just simple procedures. I also do minor surgery and fractures here," he said.

He pulled a list of patients he had seen on one day the week before. He said:

"This will give you some idea of the variety, which is one thing I love. I may see a 10-day old infant and the next patient will be a 90-year-old person. Let's see, on this day I saw a diabetic with a gangrene toe, a widow with arthritis and high blood pressure, post-op on a gall bladder operation—I've cared for her since her early childhood—, a breast disorder, a woman with menopause sumptoms."

The phone rang. It was about 5:30 p.m. It was from a patient who had been in a car wreck the week before. Dr. Stephens said:

"Okay, you won't be able to do anything until after Wednesday. Don't read anything. I will need to see you Tuesday. It sounds like you're doing okay."

He mentioned the demands of the patients. He said:

"Every now and then I have to remind them that I'm a public servant but not a public slave."

He turned back to his list. He said:

"Here's a skin cancer, a 7-year-old with an upper respiratory infection . . ."

When he completed the list, it numbered 35 patients.

"That's a pretty good average for me in my office. Of course we have two nursing homes here that I check on and then there's my hospital calls in Brownwood and the calls I get at night and the two or three times each month that I'm on call at the emergency room at Brownwood," said Dr. Stephens.

He put up his list and said, "Let's go to the ranch."

The ranch, which is 1,300 acres, is about five miles east of Bangs. It has a low, rambling brick, ranch style home with an abundance of space. As he drove home, Dr. Stephens said:

"There are a lot of rewards to small town practice. I know my patients' background, as far as family, occupation, financial situation and their philosophies. That helps a lot with the patients' general welfare. You get to see the results of your treatment because of the day to day contact here. That's good."

Lisa was frying hamburgers when the doctor arrived. He decided there was time to check some of his registered Polled Hereford cattle before dinner. Several cows were expected to calve.

"You know, I'm able to walk out my back door and go to the barn and check my livestock, which is my recreation. I really love my cattle," he said.

The sun was low and caught the red and white coats of the white-faced animals in a rich glow as Dr. Stephens moved around the herd, talking softly to the animals and looking at them. He had a pleased look on his face.

After supper, he changed from his coveralls to a suit and tie.

He said, "Come on. Let's go to Brownwood and check on my hospital patients. I guess it's really too much work. But, I like to make calls twice a day at the hospital."

As he drove the 13 miles from his home to the Brownwood hospital, Dr. Stephens said the fact that Bangs was close to a larger town made things easier for him.

"It helps to have someone you can talk and consult with. I feel for those guys who are way out in West Texas and are isolated," he said.

He mentioned why he became a doctor.

"I guess I was born turned on to being a doctor. My father was a farmer and times were rough. I hauled butter and eggs and sold them to Howard Payne to help pay my schooling there. I also worked in the lab at a hospital," he said.

He taught school for three years and saved his money until he could finally attend UCLA to study pre-med.

"I sold a horse and saddle and a car to get my money to enter school," he said.

He eventually completed medical school and did his internship in the Navy.

He came back to Bangs in June 1947 to open his practice. It was good timing. The town's only doctor died a week before Dr. Stephens arrived.

"I went to work and sometimes my wife says I've never stopped," said Dr. Stephens.

He didn't stop as he moved through the hospital that night. He arrived at 8:50 p.m. One elderly woman, her face painted heavily with makeup, was complaining of pain in her chest.

"I got your gall bladder 14 months ago, didn't I?" asked Dr. Stephens. He laughed softly. "You should be feeling better before too long."

He visited another man who was going to have a colostomy on Tuesday. He told him:

"You may get a little thirsty tomorrow afternoon because we've got to get you all skinnied up. But, you'll be all right."

"I'm ready, doctor," the man said. He laughed. He was tall and had greying hairs on his chest.

Out in the hallway, a man with a pencil-moustache stopped Dr. Stephens and asked about his mother-in-law.

"I don't think there's much hope," Dr. Stephens said quietly. He reassured the man. He left.

Later he told a reporter, "She's in a comatose condition and I don't expect she'll last too much longer. She's old."

He turned into the nurse's station. He said: "You never get used to death or losing a patient. I know I'm going to lose her."

After completing his rounds, he stepped into the doctors' lounge and dictated some information about the patients. It was 10:30 p.m. when he finished and headed for home.

The moon was up, playing beautiful tricks with the dry, West Texas landscape. As he drove, Dr. Stephens said:

"You bet there's more work for a doctor today. When I was a kid, it was a rare occasion that you visited a doctor. People are going in with things today that a couple of decades ago, they just toughed out."

The next morning, Dr. Stephens was up at 6 a.m. He left the house at 6:30 a.m., headed for Brownwood.

"I guess I drive about 30,000 miles a year," he said.

At the hospital, he ate a breakfast of eggs and bacon and orange juice. Two relatives of one of his patients kept talking to him as he ate. They were thanking him for his care of their mother.

He checked his patients in the hospital and picked up a woman patient of another doctor in Brownwood who was out of town. The woman had aborted and Dr. Stephens scheduled some tests to determine if she should have minor surgery.

Then he drove to Bangs. When he arrived at the office, the parking lot was already crowded.

—"I work on an appointment basis. But, people try to get here early so they can get early appointments. If there's an emergency, I'll see it. But, I like to stay pretty close to the appointment schedule. If I didn't do this, I wouldn't get away from my office until 7 or 8 at night," he said.

He began working through his Monday's schedule that included an aged female with arthritis and hypertension, a 25-year-old woman with menstrual problems and depression, a boy with a bed-wetting problem and a 10-year-old girl with warts.

Lisa, dressed sharply in white, was filling patients' histories. She has long dark hair, dark eyes and a wholesome All-American look.

"How is it being the daughter of the only doctor in town . . . well, it's okay now, since I'm going to Brownwood high school. But, I don't know. The kids before treated me differently. I don't know how to put it," she said.

She closed her eyes and pulled her lips together.

"Like being the little rich kid?" she was asked.

"Yeah, that's it exactly," she said.

Later at 1 p.m. when Dr. Stephens took his lunch break and went home to eat, his wife, Louisa, a black-haired woman with a deep drawl to her voice, continued on the subject:

"We've been married 25 years. It's (life) a whole lot different from what most people have. People call all of the time. At first it bothered me. But, I'm used to it. When we're in church, they always look to see where he's sitting in case he gets a call. But, there's advantages of a small town. One thing that struck me was how quick I could go to the store and come back home. And the teachers in the school . . . they're so much closer to your kids."

There are disadvantages. She said:

"Well, we take our vacations, seems like we always have to plan them around a medical convention so Steve can stay abreast of what's going on in the field."

Dr. Stephens defended his attendance at the conventions. He said:

"I could sit out here and practice country medicine. But, before you know it, I'd be a country doctor."

After lunch, Dr. Stephens took a five-minute nap. He said:

"You'd be surprised at how 'unlaxed' I can become in those five minutes. They really refresh me."

That afternoon was busy. Ben Carnes, 30, who runs a drug store beside Dr. Stephens' office, was drinking coffee. He said:

"I'd hate to keep up with Dr. Stephens. He really works. I don't know what we'll do when he retires. It's going to be hard to find anyone else."

Dr. Stephens closed his office at 5 p.m. He had seen 35 patients. He rushed to Brownwood where he did the surgery on the young woman, after tests showed that she needed it.

He grabbed a quick dinner at the hospital and then sat in on a board meeting that lasted two hours. He's on the staff and the board of directors. After the meeting, he made his patient rounds in the hospital.

He got home about 10:30 p.m. He changed his clothes and went to the barn to check on the cows expecting to calve.

The moon was a yellow marshmallow in the sky. It illuminated Dr. Stephens' face which had a satisfied look on it as he watched the cattle nibble on some grass. It was the end of a long day.

Friday: Some young doctors who are considering practice in a small town.

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[From the Fort Worth Star-Telegram, July 21, 1972]

## Right Circumstances Draw GPs to Small Town

(By Jon McConal)

If someone asked you to paint an ideal small town that appealed to young doctors, the task would be as difficult as ordering a student who made an F in art to paint a Mona Lisa.

But from interviews with young medical students doing internships at Peter Smith Hospital and considering locating in a small town, the painted town would need to:

Be about an hour's drive away from a large city.

Be in an area with sporting and recreational facilities, for such activities as golf, tennis, hunting and fishing and water sports.

Have an established group of general practitioners with whom the young doctor could associate so he would not be on call every weekend and 24 hours a day.

But, a lot of towns are saying, "Okay we've got that but we still don't have a doctor."

This is evidenced by advertisements in the Texas Medical Journal. Examples include:

Opportunity for GP in East Texas community of 1,680. County seat of 5,218 population, 10 minute drive away. Recently remodeled clinic available at minimum cost. Center for lumbering, truck crops, Texas Forest Service Nursery. Many recreational activities with fine fishing, hunting and golf.

Opportunity for GP with surgery. One physician in town in poor health. He knows of request for another doctor. Twenty-five bed hospital in town. Office space provided in clinic adjoining hospital. Recreation: fishing, hunting, golf course, skeet range.

GP sought by this Central Texas community of 1,400 with a population of 6,000 within four-mile radius. Present doctor is retiring. New houses are under construction and local building contractor will give preference to construction of house for physician with a price break in house. New clinic will be built to physician's specifications. Country club with 18-hole gold course and pool. Two lakes near by. Good deer hunting.

All of these small towns have been hunting frantically for a doctor but even with the right elements going for them, there have been no prospects. Dozens of similar towns are in Texas.

In interviews with young medical students at Peter Smith Hospital, it's hard to pinpoint exactly what draws or turns them away from a small town.

One common trait of Homer Gold and Rick Davis, who are planning to go back to a small town after they complete their residency, is that both were reared in small towns.

"I just like growing up in a small town. I like the atmosphere. The people in the town where I was raised—they had nothing but profound respect and a lot of faith in our doctors. The attitude was there, that if the physician did his best, even if he made a mistake—the people were usually thankful to have had him. They have a forgiving attitude. You know if you've done your best, they'll accept you."

That statement was made by Gold. He was reared at Sinton, which has a population of about 6,000 and is about 28 miles north of Corpus Christi.

A small town to Davis, reared in Pocahantas, Ark., which has 4,000 population and is in the northeast corner of Ark., is appealing because of the variety of practice.

"To be a GP in the true sense of the word, you really have to practice in a small town. In larger cities, you GPS are really pediatricians and internists. But, in a small town, you can do anything that you're capable of doing up to a point," he said.

Neither man voiced apprehensions over the long hours expected and required of a GP.

"It doesn't frighten me," said Gold. "If I can do my internship at JPS, I feel like I'm certainly capable of handling a GP's workload. But, I want to find a town where there are two or three GPs in practice so I can have some freedom from night calls. I don't think I'd like it solo."

"I agree. You need to have some time off. It's not a selfish motivation. You can do a better job for the community when you have time off instead of working all of the time," said Davis.

Gold said a small town would have to be in a geographic location that he liked.

"It would have to have a good school system and good churches. It would have to have good hospital facilities and people interested in attracting new doctors to the community. And, I'd prefer it to be within an hour's drive of a larger city," he said.

David agreed about the town being near a large city.

"I want to be close to a larger city with medical facilities that you could refer your patients and to where you could go for advice and counsel," he said.

Gold, 26, is married and has a daughter. He said his wife has indicated she would also like to live in a small town. Davis said his wife hadn't expressed any hesitations about living in a small town, either.

But both said their wives had said something about them being away every night.

"That's why I lean to group practice," said Davis. "I don't know many guys who would go it solo."

Neither had any regret about choosing general practice instead of one of the new super specialities.

"You have to know, within yourself, that you're doing a worthwhile job," said Gold. "That's not hard to realize when you're in a setting in which you know you're needed. And, you feel needed in a small town."

Yeah, and there's drama in general practice. Take the emergency room at 3 a.m. in Sticks, Ark. That's drama," said Davis.

Dr. Richard Pearce, a native of Jacksonville, Fla., has already signed a contract to locate in Georgetown, a small town in Central Texas.

"I enjoy all parts of medicine. I like young people, old people, pregnant women, children . . . all age groups. If you went into a specialty, you would see only one group," he said.

Dr. Pearce said he and his wife got their first taste of a small town when he was in the Air Force and stationed in Altus, Okla.

"We both liked it. It was nice to go into some store and they'd call you by your first name," he said.

He said he got inquiries and offers from about 25 different places before he completed his residency at Peter Smith.

"So my wife and I sat down and made a list of what we really wanted. I wanted a town of between 6,000 to 15,000 with plenty of fishing and hunting. My wife wanted good schools. Social activities are not so important, because we found that social life in a small town is just as rich if not richer than it is in a large town," he said.

He said he will begin practicing in a group of four GPs at Georgetown. That means he will have to work every fifth night and every fifth weekend.

"I see the only solution to getting doctors to go the small towns is to get youngsters from the small town to medical school," said Dr. Pearce. "That's the only way you will solve some of the shortages."

He should know. He looked at an offer in far West Texas which was much more lucrative than the one he accepted. But, he declined.

"There was no way I would go to that town. They had no hunting or fishing and it was so barren," he said.

Maybe, said Dr. Pearce, a person reared there wouldn't miss those things too much.

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## ECONOMIC DEVELOPMENT PROGRAMS

Mr. HUMPHREY. Mr. President, I have been gratified to note favorable action by the Senate Committee on Appropriations toward maintaining funding for Economic Development Administration programs and Regional Action Planning Commissions, in reportig H.R. 8916, providing appropriations in fiscal 1974 for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies.

Basically, the bill before the Senate provides $245 million for these programs and for administrative expenses. This is $20 million more than requested by the administration in a revised estimate—House Document 93–124—not considered in the House due to its having been submitted after the enactment of authorizing legislation. This increase would improve support for the activities of the Regional Action Planning Commissions.

While these appropriations compare with an overall authorization level of $430 million under Public Law 93–46, signed into law on June 18, 1973, they do reflect a fundamental decision that these vitally important programs should be continued, contrary to administration intentions to phase out these programs. This decision is sharply emphasized in language added to this bill by the Senate committee, prohibiting the use of administrative funds to discontinue or phase out the economic development assistance programs, including Regional Action Planning Commissions, undertaken under the Public Works and Economic Development Act of 1965, as amended.

In a recent letter to Senator PASTORE, chairman of the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, I strongly urged that these programs be fully funded in accord with the minimal authorization level. Such programs have achieved dramatic improvements in depressed areas, offering a potential for substantial new employment, through accelerated public works improvement, industrial development, planning, technical assistance and research, and regional development.

I urge the Senate to take favorable action on appropriations to maintain assistance to meet these crucial needs.

Mr. President, I ask unanimous consent that my letter to the chairman of the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, be included in the RECORD. I also ask unanimous consent that a letter to the chairman, from Representative JOHN A. BLATNIK, chairman of the House Committee on Public Works, and whose views on this important matter I have been privileged to support, also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 12, 1973.

Hon. JOHN O. PASTORE,
*Chairman, Subcommittee on State, Justice, Commerce, the Judiciary, Committee on Appropriations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: As the Subcommittee completes its consideration of H.R. 8916, providing for appropriations in Fiscal 1974 for the Departments of State, Justice, and Commerce, and the Judiciary, I wish to take this opportunity to urge that adequate funds be provided for the Economic Development Administration and Regional Action Planning Commissions.

My good friend and Minnesota colleague, Representative John A. Blatnik, has written to you in some detail about these highly important matters, in his capacity as chairman of the House Committee on Public Works. The economic development programs, authorized at a level of $430 million in Fiscal 1974, are of crucial importance, and I am totally opposed to Administration proposals to phase out EDA.

I am aware that the Administration has tied a recent budget request of $225 million—for development facility grants, business development loans, planning, technical assistance, and research, and the Title V regional commissions—to a request for explicit legislative authority for the phaseout of EDA, and I find this dual request highly objectionable.

Moreover, it is my understanding that the Administration is already operating the economic development programs substantially below the level of funding enacted by Congress for the last fiscal year, and further sustained under the recent continuing resolution.

Finally, it is clear that the Administration's proposals for a transition of these programs are unrealistic, in that the alternative programs are either behind schedule, have not been enacted, or are not yet even before Congress.

I believe it is essential that the economic development programs be funded at the full authorization level—which already constitutes a substantial reduction from original authorizations—to enable such orderly and effective program transitions as Congress may determine after careful deliberation.

Sincerely,

HUBERT H. HUMPHREY.

COMMITTEE ON PUBLIC WORKS,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 30, 1973.*
Senator JOHN O. PASTORE,
*Senate Appropriations Committee,*
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: As Chairman of the Senate Appropriations Subcommittee on State, Justice, Commerce and the Judiciary, you are concerned, I know, about the Administration's appropriations request for the Economic Development Administration (EDA) and Regional Acting Planning Commissions and by the steps that the Administration has been taking to dismantle the economic development programs.

My colleagues and I on the House Public Works Committee share your concern and are therefore writing to ask your Committee to take the necessary actions during consideration of the Appropriations Act to provide adequate funds for EDA and the Regional Commissions, and to forestall further unwarranted actions by the Administration to phase out the economic development programs during this fiscal year.

Continuation of our economic development efforts has received the strongest possible support in the House. The authorizing legislation was reported by Committee with unanimous, bipartisan support, and the Conference Report passed the House by a vote of 276 to 2. There can be no question but that the Congress strongly supports these economic development programs and that the Administration's plans are counter to the intent of Congress in continuing these programs.

In an effort to accommodate the Administration, the Congress has already reduced authorizations to a bare-bones level of $430 million for fiscal 1974, from the $1.2 billion level originally authorized. This reduction was made, however, with the clear understanding (as indicated by Senator Bellmon's amendment) that the economic development programs would be evaluated and that new legislation would be proposed to build on the strengths and successes of our economic development efforts which have been so clearly demonstrated ever since 1961.

When the President signed the bill extending the economic development programs through FY 1974, he agreed that this would be a year used to develop new legislative proposals and to provide an "orderly transition" to more effective programs. Since then, however, the Administration's actions have made clear that their only commitment is to the "disorderly termination" of existing programs long before there is any adequate replacement.

None of the proposals that the Administration has suggested might substitute for the successful Economic Development Administration and Regional Commission programs are yet in operation. The new Rural Development Loan program is well behind schedule; Community Development Revenue Sharing (the Better Communities Act) may well never be passed by the Congress; and the Responsive Governments Act that was proposed as the source of planning funds for Regional Commissions and Economic Development Districts has apparently not yet even been written.

In addition, the Floor debate on the Conference Report on the authorization bill made it clear that both Houses seriously question whether the Administration's proposals could ever effectively replace the existing EDA programs.

It is particularly disturbing to see how the Administration is operating the economic development programs under the Continuing Resolution for the current fiscal year. The programs are not being continued at last year's levels. The apportionment of funds so far has been only a small fraction of last year's appropriations.

For example, the Administration is proposing to cut Public Works Impact Program funds virtually in half at a time when many communities need these funds desperately to overcome the effects of defense installation closings announced earlier this year, and the Pentagon is reportedly considering more base closing next spring.

Another example of Administration action contrary to the will of Congress is to be found in the Business Loan program. Funds for the Business Loan program under Title II have been cut off at a time when the need for low cost loans to create new jobs in high unemployment areas is at a peak because of high interest rates and unavailability of loan funds in the private sector.

Even the study required by Senator Bellmon's amendment is apparently being carried out under the policy guideline that "Congress is not primarily concerned with balanced national economic development" even though this is the clear intent of Congress stated in the amendment.

Under the circumstances, I believe it is essential that the FY 1974 Appropriations Act clearly express Congressional intent to continue these economic development programs and not inadvertently endorse the Administration's budget request which signifies so clearly their intention to phase out the economic development programs within the next few months.

The attached memorandum outlines the most critical issues raised by the language of the Budget request. I hope it will be useful to your Subcommittee. If I can be of any additional assistance, I will of course be pleased to meet with you and your staff to discuss this further.

With warmest personal regards.

Sincerely,

JOHN A. BLATNIK,
*Chairman.*

## THE 163D ANNIVERSARY OF MEXICAN INDEPENDENCE

Mr. TOWER. Mr. President, on September 16, 1973, our longtime friend and sister country, Mexico, with whom we share a common border and on whom we depend so heavily in our alliance of nations of the Western Hemisphere, celebrated her 163d anniversary of Mexican independence. On this date in 1810, Father Miguel Hidalgo Y Costilla delivered from his pulpit in the village of Dolores, Mexico, his famous "Grito de Dolores." This shout, the cry of Dolores, gave voice to the revolution which ended 350 years of Spanish rule in Mexico and also brought new freedom and dignity to its people.

In conjunction with Mexico's celebration of her declaration of independence—an occasion which we honor in similar fashion on July 4, I believe it is both timely and fitting to note that President Nixon proclaimed the week beginning September 10, 1973, and ending September 16, 1973, as National Hispanic Heritage Week. In fine tradition, therefore, Americans of Mexican ancestry again commemorate a day that is symbolic to free men everywhere of the sacrifices that have been and always will be borne by freedom-loving nations.

As we pause to salute our neighbors in Mexico, however, I want to take this opportunity to recognize also the many achievements and contributions that have been made to our culture and proud American heritage by our country's citizens of Mexican ancestry. Every aspect of our lives—political, religious, literary, and cultural—has felt the influence of our Nation's Spanish-speaking people; and it has been a positive and enriching influence on our entire Nation. Certainly, this very blending of people with different languages, ideas, and beliefs has produced in America that cloth from which freedom is cut. With the deepest understanding and appreciation, therefore, we all delight in this special observance.

## RESOLUTIONS OF THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

Mr. ALLEN. Mr. President, the National Society, Sons of the American Revolution is a patriotic society committed to the preservation of constitutional government, maintaining a strong national defense, and preserving the liberties and freedoms that our citizens enjoy as free Americans.

At the 83d annual Congress of the National Society, Sons of the American Revolution, a number of resolutions were passed which I feel will be of interest to the Members of the U.S. Senate.

I ask unanimous consent that the resolutions from 1 to 10, both inclusive, of the 83d Annual Congress of the National Society, Sons of the American Revolution be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

## Resolutions of the National Society of the Sons of the American Revolution

### Resolution No. 1

Whereas, in seeming disregard of the provisions of the Tenth Amendment to the Constitution of the United States, there appears in recent years to have been an increasing tendency to centralize in the federal government certain powers over subjects and matters not properly within the scope of federal authority or jurisdiction, and

Whereas, one area of vital and significant importance to the continued progress and well being of our great nation upon which such encroachment of federal power has seriously intruded is in the field of education of our young people upon whom will devolve the responsibility for the conduct and preservation of our country, its institutions, and its form of government as we have known them,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83d Annual Congress Assembled, that the design, structure, and administration of publicly supported educational systems is, and ought to be, the exclusive duty and responsibility of the individual and separate States of the Union in such manner and by such means as each of said States shall independently determine, and

Be it further resolved, that all federal agencies, including the Congress, the executive branch, and the courts should refrain from any interference, whether by coercion, force, persuasion, or otherwise, with the orderly performance by the several States of their responsibilities in the field of education.

### RESOLUTION NO. 2

Whereas, on the ill-founded premise that access to biographical data as contained in federal census records constitutes an invasion of privacy, and

Whereas, there is presently pending in the House of Representatives a Bill (H.R. 7762), some of the provisions of which will permanently restrict accessibility to the 1900 and later census records, thereby detrimentally affecting historians, researchers, genealogists and applicants for admission to memberships in many worthy organizations wherein lineage is among the factors determining eligibility, of the valuable information and data available in such records, and by so doing, seriously endangering the future growth of such organizations, including our own.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that is opposes any efforts to restrict accessibility to the 1900 and later census records, whether by legislation, executive or administrative fiat, or by any other means.

### RESOLUTION NO. 3

Whereas, Pollution of the nation's air, water, and land and the misuse of our natural resources are a threat to our health and to our very existence, and

Whereas, widespread public concern has expressed itself to establish curbs on litter and pollution, and to encourage conservation of natural resources through the development and utilization of our technology and scientific research, and

Whereas, in response to the critical need for environmental education and action to combat and overcome pollution, and to expedite acceptance of resource recovery to conserve our natural resources, the nationwide, action-oriented environmental awareness program—Johnny Horizon '76—"Lets Clean Up America For Our 200th Birthday"—was developed by the United States Department of the Interior, with the support and cooperation of the Department of Defense, General Services Administration, the U.S. Postal Service, the President's Council on Environmental Quality, the Civil Service Commission, the Federal Highway Administration and the Tennessee Valley Authority, among others, along with more than 1,500 business, industry and citizens' groups and organizations, and

Whereas, the Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Program has widely demonstrated its ability to translate citizen concern into positive action such as community and country-wide cleanups, inner city beautification and conservation programs; in consequence whereby the American Revolution Bicentennial Commission in Washington, D.C. has officially recognized the Johnny Horizon '76 Program as an activity in furtherance of, and as a part of, the National Bicentennial Program and that it has been awarded the use of the Official Symbol.

Now, therefore, be it resolved:

1. That the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, acknowledges the overwhelming importance of the emerging environmental ethic in America based on the public demand that our air, water and land be cleaned up, and that our natural resources be conserved through resource recovery, all to the end that the quality of life might be improved for all our citizens.

2. That the said National Society agrees that the objective of cleaning up America, visually and ecologically, represents an important and highly desirable Bicentennial goal, as well as an ultimate objective for the well-being of all of us.

3. That the said National Society itself, and through its State Societies and local Chapter Program Committees—working in harmony with local civic and community organizations—do actively and consistently seek to help plan, develop and implement local Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Action Programs as a vital and significant part of our Nation's Bicentennial celebration effort.

### RESOLUTION NO. 4

Whereas, the United Nations membership has grown in number to 132 nations and

Whereas, each of the Nations has a vote in the United Nations, equal to the vote of the United States, and

Whereas, a two-thirds voting majority in the general assembly can be formed by nations with less than ten percent (10%) of the world's population and which contribute approximately five percent (5%) of the United Nations' assessed budget.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, that, pending the withdrawal of the United States from the United Nations entirely, we recommend to the consideration of our representatives and senators in Congress that the United States' financial support of the United Nations be re-adjusted to a more reasonable proportion, based upon a consideration of equal responsibility of all members.

### RESOLUTION NO. 5

Whereas, we deplore the abandonment of the actual dates of George Washington's Birthday and Veterans Day for random weekend dates, unassociated with the patriotic and reverent purpose of their inception, and

Whereas, our Society has as one of its purposes the preservation and reverence for such patriotic occasions.

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, urges the observance of the actual dates of February 22nd and November 11th as the proper dates for honoring and commemorating George Washington's Birthday and Veterans Day respectively.

### RESOLUTION NO. 6

Whereas, the South Carolina Society has developed a project for the purchase and restoration of the home of Edward Rutledge, one of the signers of the Declaration of Independence;

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it endorses the action of the aforesaid South Carolina Society and urges the establishment and maintenance of the Edward Rutledge home as a permanent memorial to his memory.

### RESOLUTION NO. 7

Whereas, reliable reports indicate that the United States is rapidly eroding its international position of strength in regard to its military, air and naval capabilities, and

Whereas, George Washington admonished us, in the time of peace, to prepare for war,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that the preservation and security of American liberty and our Republican form of government make it imperative that the military capabilities of this country be continually maintained in such strength and posture as to enable the United States to successfully repulse all threats to its existence from within and without the territorial boundaries of this nation.

### RESOLUTION NO. 8

Whereas, the American people have paid tender tributes to the sacrifices of their sons who gave their lives in battle in World War I, World War II and the Korean Conflict by selecting unknown soldiers for special honors and respect to the tombs of the unknown soldiers in Arlington National Cemetery,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the United States Congress to honor in like manner the unknown soldiers, unidentified in death, who were victims of the Vietnam War, for their supreme sacrifice in the service and uniform of the United States of America.

### RESOLUTION NO. 9

Whereas, our armed services have traditionally constituted the shield and sword of the Republic against aggression by a foe, and

Whereas, such mission has been executed in the past in a brave and honorable manner by officers and men dedicated to the rigors and hazards of the armed forces, and

Whereas, during the past decade, there has developed a permissiveness, laxity in discipline, disrespect for authority, lowering of standards of personal appearance, and lowering of mental and physical standards, and

Whereas, such ideas have resulted in near-mutinies on fighting ships and at land bases, and have further resulted in a widespread decline in standards of morale and discipline as well as fighting capability,

Now, therefore, be it resolved, that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the President of the United States, as commander-in-chief of the armed services, to correct this troublesome situation by restoring a policy of traditional high military standards of conduct and discipline.

### RESOLUTION NO. 10

Whereas, it is reiterated and re-affirmed that all previous resolutions submitted at prior Congresses be re-affirmed.

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## CIVIL RIGHTS FOR SPANISH-SPEAKING GROUPS

Mr. TUNNEY. Mr. President, I would like to bring to the attention of my colleagues a recent eloquent address delivered by the distinguished Senator from New Mexico (Mr. MONTOYA). The event was the 25th anniversary of the GI Forum, a veterans' organization which has become quite active in prompting civil rights for Spanish-speaking groups.

After my August trip to California, it is evident that the socioeconomic conditions of the Spanish-speaking have not been ameliorated. Senator MONTOYA'S speech highlights many of my basic concerns with regard to the Spanish surname population.

I ask unanimous consent that Senator MONTOYA'S speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### A SECOND FRONT IN THE WAR ON INEQUALITY

I am especially happy to be here tonight to honor Dr. Hector Garcia, the founder of the G.I. Forum—and you, the members, who in twenty-five years have brought this organization to its present excellence and recognition.

It is hard to realize in 1973 that twenty-five years ago only a tiny handful of men and women recognized Spanish-origin Americans as a minority. For that matter, twenty-five years ago very few Americans thought that this or any minority had problems which were of any real importance to the Nation or the future.

There was no civil rights bill. No one had ever heard of Cesar Chavez. No equal opportunity legislation had been written. No bilingual education program had been planned. No manpower program was in existence, for the Spanish-surnamed or for anyone else. There was no Civil Rights Commission.

In those twenty-five years a great many things have happened, and some of them are very good things. But for the Spanish-speaking minority there are things which have not happened.

We were finally counted in a Census in 1970. That's progress. But we were not counted correctly. The Mexican-American Population Commission of California forced the correction of the count in that state, and has now published a report on the California Spanish-American population showing 3.7 million in 1973, instead of the 2 million the Bureau originally reported.

Last year I said that we Spanish-speaking Americans were an "invisible minority." Well, the Census Bureau proved it—you're pretty invisible if they can't see you to count you in a national census! And not seeing us is just the beginning. A lot of other things have not happened yet.

We have not achieved economic equality, of course. Estimates of our per capita income compared to that of Anglos show that on the average they earn two and one-half times as much as we do, man for man.

We have not yet achieved educational equality. Our children still have the highest dropout rates, and the least number of years of school completed. The reason for those awful figures is easy to find: we do not provide the bilingual and bicultural schools which would give our children equal education opportunity. Of the seven million American children who speak a language other than English, 80 percent are Spanish speaking. Our federal bilingual education programs only provide help for one out of every fifty of those children. So many of them are made to feel unequal and unwelcome in a school system which promises education and and only delivers frustration.

We have not achieved health care equality. The death rate of our babies is too high and the life span of our adults is too low. Poverty is not good medicine for the Spanish-speaking American, any more than it is for any other group.

We have not yet convinced the rest of America that our image should be something other than in the Frito Bandito or the sleepy "sombrero-man". Nowhere in the schools of this nation is the history of the contributions of Spanish speaking peoples told as it should be told. We will have to rewrite the books for that.

Most serious of all, we have not taken our proper place in government or in government jobs. The second largest single minority—more than seven percent of the total population—holds only three percent of the federal jobs, and only one-half of one percent of the top level civil service jobs.

During the four years I have been on the Appropriations Committee, I have been able to call on the Agencies which come under my jurisdiction to provide meaningful compliance with regulations and guidelines in hiring more Spanish-speaking. This has been particularly successful in Treasury, where as a result of my prodding the Commercial bank program has doubled Spanish-surnamed employees in four years, and in the last year, increased the number from 24,000 to 28,971. As Chairman of the Committee which deals with the Civil Service Commission, I recommended, and the Congress established, an Equal Opportunities Division for the Spanish-speaking. The Division has been in operation for over a year. I will continue to insist on better performance by the Civil Service, but we have made a start there.

But in the supergrades—appointed by the President—there has been a reduction this year in the number of Spanish-surnamed—from 44 to 33.

No, we have not yet won the war against inequality in income, in employment, in education, in health, in job security. or in government.

Is it time to give up? Or is it time to say we have just begun to fight?

I think it in time for us to open up a "second front" in that war against unequal opportunity. I think the chances to win that fight are greater now than they have ever been, and I think the Spanish-surnamed people are ready.

You may think that is a strange thing to say in the America of 1973. This is a time of serious problems: of inflation, of food shortages, of budget cuts, of conflict over solutions and priorities, a time of distrust in government.

Everywhere in America there is debate about the kind of government we want and about the way in which government will work. Who should make the decisions about priorities in spending? Who will speak for the Spanish-surnamed minority, if we do not?

Today the basic concept of government which has been a part of the last twenty-five years of American history is being challenged. It has been a matter of great pride to me that my Party was making, in my lifetime, a fight against man's ancient enemies: poverty, ignorance, and disease. During the 1960's we saw the beginning of a real federal attack on those problems, and upon the inequality of opportunity which they represent.

It was a time of awakening for the minorities in this country—including ours—and it was a time of new hope and new challenges for those of us who saw our service to the nation in terms of creating a more equal and thus a stronger America here at home. The quality of life itself was what we wanted to improve, and we began our fight with all the enthusiasm that men bring to great and challenging ideas.

It was a time when the Spanish-speaking Americans began to move ahead, to organize, to participate, to demand their rights.

We were looking at America with open eyes, and we saw hungry children, educational neglect, old people living lives of quiet desperation after a lifetime of work, minorities who were captive in barrios and ghettos. We saw cities with run-down housing and poverty stricken city-centers. We saw rural families who could no longer provide for themselves and who had no medical care or libraries or schools. We saw disease which struck at the future and hunger which destroyed the present.

We believed that it was possible to correct those inequities.

We went into action.

Two Democratic presidents led the way in creating Federal programs to find answers and to organize people at the local level. The Civil Rights Commission, the Office of Economic Opportunity, Model Cities, Urban Renewal, plans for hospital building, medical research, a plan for mental health centers within reach of every family, a plan for national library resources so that every child and every school had books, educational loans and grants—all these and many other programs began in those years.

But . . .

You all know the tragedy which struck down our dream. The other war—a wasted war in a country thousands of miles away, a war which slowly grew and grew in size and cost so that, like a giant octopus, it destroyed our purpose at home and polluted our national will.

We saw our treasure in both money and the lives of our sons drained away. We heard dissent and anger and frustration explode in our streets.

In the final analysis the greatest tragedy may have been that the great programs begun in a war on poverty were put aside. They were not able to fight against inflation or to compete with a military-industrial complex grown fat on that other war.

With the first years of the Nixon Administration we had more immediate conflicts and problems. The war in Indochina went on and on—and we also had inflation, rising taxes, unemployment, recession. Gradually it became clear that the President did not intend to continue the fight for equality, the fight for a decent life for every American family, the fight for an end to disease and hunger and illiteracy.

We had "peace with honor" abroad—but we were asked to settled for "peace with dishonor" at home. We were asked to accept "a little unemployment" in order to end inflation, and "a little hardship" for the poor and the aged and the weak.

We were asked to accept "a little" educational neglect for Spanish speaking children, "a little delay" in progress for those who had no political base, "a little defeat" in the war against inequality.

They promoted a lot of generals—but they decided on a "little" postponement in promoting the general welfare.

They called this retreat "The New Federalism" and Administration spokesmen talked about it with glowing rhetoric, but the reality was neglect for the old, the poor, the sick, the children, the small farmer, the unemployed, the poor white in Appalachia, the Chicano in the Southwest, the Puerto Rican in Boston or New York, the Cuban refugee in Florida.

Last year, in 1972, we saw the creation of General Revenue Sharing in an attempt to return tax dollars to the states and local governments where money was desperately needed to fight tax increases. It was said this money would provide the additional federal funds which would make it possible for cities to stay alive and perhaps catch up without increasing the tax load. I was dubious about the wisdom of this plan then, and now that the first reports are in I am even more dubious about how revenue sharing will work.

Clearly, it is doing one thing: it is being used to avoid tax increases. Graham Watt, of the Office of Federal Revenue Sharing, revealed to the Conference of Mayors the results of a survey taken in April showing that expenditures go first for capital improvements, and last for social needs. More than eighty percent of cities cite construction of buildings or purchase of equipment for public safety—police and fire departments—as their first choice for revenue sharing money. Helping provide social services is mentioned by only sixteen percent. None plan new educational programs or new vocational training or manpower programs as a first choice.

Why? Because the Governors and Mayors think there is no need? Of course not. They know about the need. But they thought that the existing federal programs for health, education, welfare, housing, urban renewal and other social programs, would be continued either in their present form or in better and improved forms.

So we came into 1973 facing a new crisis, and a new set of conflicts. In spite of the beginning of the end of the war in Vietnam, we had a military budget increase—and Mr. Nixon announced in January the disastrous budget cuts in federal social services.

The Administration claimed three things in explaining cuts:

First, "the urban crisis is over."

Second, "the programs have failed."

Third, "revenue sharing will take care of things at the local level."

Was the crisis over? For the Spanish-surnamed minority it was not. For others it was not. In fact, the list of non-victories for the entire nation was pretty long. These were the things we had NOT accomplished:

We had not conquered poverty.

We had not conquered ignorance.

We had not conquered disease.

We had not provided a decent life for the elderly.

We had not achieved equality of opportunity in employment or education or housing—not for the Spanish speaking, and not for others as well.

We had not solved the welfare mess, or even built the day care centers to care for the six million American children whose mothers work.

So the crisis is not over. It is clear that revenue sharing at the local level will not take care of any those non-victories.

Mayor Sheehan of New Brunswick said recently "We went down the garden path with the Administration on General Revenue Sharing, with the understanding that it was new additional money for us. Now we find we have to use it to make up for the impoundments, moratoriums, and cuts in old programs." Revenue sharing turned out to be a "Trojan horse" which looked good at first but contained frightening surprises.

The programs which had begun the great war on poverty were going to be destroyed. Nothing was offered to replace most of them. Through budget cuts, through impoundments through simply not spending the money authorized by Congress, programs which served people directly began to disappear. Libraries, vocational education, bilingual education, bilingual teacher training, health, low-income housing, school lunch programs, the milk fund—the list of cuts seemed endless.

Money for these people-serving programs would now have to come from the local level, from local tax money, or through special revenue sharing programs which had not yet passed Congress and probably would not. Senator Muskie said, "The money will go to the most powerful—and that means, by and large, the most privileged—in every local power structure."

It began to be clear that revenue sharing would mean not so much tax cutting, as tax shifting.

So that is where we are in the middle of 1973. We have a long list of non-victories in our old war on inequality—and a clear confrontation in deciding what our priorities are and what they should be.

What can be done? What can the Spanish-surnamed citizen organizations do? What should we do?

Well, last year when we met we talked about our invisibility.

This year we are not so invisible.

This year we represent a minority which is becoming more vocal, more active, more involved, and more organized than ever before.

This year we have more recognition among our own people of the problems we face. We have more response from groups like the G.I. Forum and LULAC and RASSA and IMAGE—a response to demands for political action.

This year a Mexican American Population Commission corrected the United States Census in California—and they plan to recount Arizona, New Mexico, Texas, and Colorado next.

This year we are telling the government that the Sixteen Point Program is a failure, and we are demanding that more attention be paid.

No, we're not so invisible anymore.

Our cultural heritage and our history in helping to create this country are not so invisible anymore either. Some colleges and universities are recognizing the need for bicultural and bilingual teaching programs in order to preserve the rich heritage of America's minorities—and the Spanish speaking minority led the way in creating the recognition of that need.

I see a changing spirit in America and in the Spanish speaking minority. The concept of Americans as a mythical, homogenized and plastic people, all with one culture and one history, is fading. In its place I see a recognition of the value of variety as each group is encouraged to develop its own cultural heritage. Spanish Americans are already a clearly defined part of that variety, with our goals and ambitons.

It is no longer possible to shut us out of government or politics. We are ready to work with others in order to create the kinds of reform which will bring real change. We are ready to open up a second front in the war on inequality.

We can begin by getting involved in the setting of priorities, the spending of government money, the changing of ideas about how government should work.

For the G.I. Forum, which has led the fight for equal employment and equal education opportunity and equal representation in government, it is important what happens in the fight for revenue sharing money and in the fight to preserve federal grant programs and block grants.

Two reasons make it important to us: first, because the programs at stake are those which serve our least advantaged members, and second, because this battle gives the Spanish-speaking minority an opportunity to lead in what may be the last great war against poverty and inequality.

It is important to learn how revenue sharing funds are allocated to states. Find out about how much your city, your county, your state receives.

Make sure the population count in your area is correct, that the economic statistics given for the Spanish-speaking are accurate. Census statistics are important when money depends upon them—and federal money does, either in revenue sharing or in grant funds.

Find out what the impact of budget cuts will be on your city and your state. Libraries, schools, student aid, health services, lunch programs—find out what they received last year and what they will get this year. Document and publish your results.

Make sure that decisions about revenue sharing in your city are published—are that you and other members of the Spanish-speaking public are in on the planning. So far only six percent of the public has participated in planning for any revenue sharing spending. Most cities say they would welcome more community interest. Challenge them on that.

Make sure that the political power of the Spanish-speaking minority in your city is felt, and counted, and organized.

Know what is needed in your locality, and concentrate on that problem first.

Check to be sure that federal civil rights provisions are being obeyed: federal money must be spent without denying benefits to any group because of discrimination.

It is true these are difficult times. A crisis. But I heard the other day that the Chinese symbol for a "crisis" is really two symbols—two words put together. Those two words are disaster and opportunity.

This crisis can be our opportunity.

I think the Spanish-surnamed population of America is ready to turn the cirsis of 1973 into an opportunity to solve some of the problems which exist for all of us.

By fighting on this new front in the war against inequality, we are working toward the future when every Spanish speaking child will have a decent home, a healthy body, a good education, and promising future.

That's a fight worth winning.

The President has said we should think about what we can do for ourselves. That's the "every man for himself" theory.

I would rather that we think of how we can work together for our own group and for the nation: one people made up of many peoples.

This is the year we can prove that government of the people, by the people and for the people works—and that Spanish-origin Americans are a vital part of that system.

## THE AMERICAN-SUPPORTED ECONOMY OF SAIGON

Mr. KENNEDY. Mr. President, there is a growing consensus among many Americans and many in the Congress that America's foreign assistance programs and economic relations with South Vietnam must change—that we have reached a watershed point when we can and must end the master-client relationship between Washington and Saigon and embark on a new road in our relations with the peoples of Indochina.

This new opportunity to support peace instead of fueling war—and to help heal the wounds of war—has come with the ceasefire agreements and the congressional mandate which ended, once and for all, America's direct military involvement in the area.

But to hear administration spokesmen and to read the administration's foreign assistance request for Indochina suggests that administration policymakers have yet to seize these new opportunities. Apparently they have not yet learned the painful lessons of the past, nor have they discarded the bankrupt aid programs which have so long characterized our ties with Saigon.

For the first time in many years our Government has a real opportunity to change the character of our involvement, as well as the nature and substance of our aid, and to reorder our priorities in Indochina. But it appears that the administration has failed to grasp these new opportunities.

As a result, I believe the Congress, in considering the foreign assistance authorization for Indochina for 1974, must end Saigon's client dependency upon the United States and begin the necessary transition in our economic relations with South Vietnam. For us to fail to terminate the present relationships borne of war, will only serve to prolong our inordinate involvement in the affairs of this area and invite the danger of renewed military commitment.

Mr. President, recent articles in the Washington Post and the New York Times underscore the problems associated with the continuing heavy U.S. support of the South Vietnamese economy. They review in some detail what this support has entailed in the past and what it means at the present time. I believe they will contribute to the coming debate over the foreign assistance authorization bill, and I commend them to the attention of all Senators.

Mr. President, I ask unanimous consent that an article by Mr. D. Gareth Porter of Cornell University as well as a dispatch by Mr. Thomas Lippmann of the Washington Post, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 2, 1973]

### SAIGON MUST NOT CONTINUE TO RELY ON HEAVY U.S. AID

(By D. Gareth Porter)

Porter is a research associate in Cornell University's International Relations of East Asia project.

Congress is now considering an economic aid program for South Vietnam which would continue to maintain for an indefinite time what one high U.S. official has called the "client relationship" with the Saigon government of Nguyen Van Thieu.

The main purpose of the proposed aid program, which the administration has called a "reconstruction and development" program, is neither reconstruction nor development but the subsidization of Thieu's military-police apparatus. By not only arming and equipping that apparatus but also by paying for most of South Vietnam's budget and artificially maintaining levels of consumption, the United States still refuses to allow the Saigon government to stand or fall on the strength of its support among the Vietnamese people themselves.

The Thieu government remains today essentially a creation of American military intervention in Vietnam. For it is kept in power by a military and a paramilitary control apparatus which the South Vietnamese people never desired and would have been unwilling to finance themselves.

It was in fact the U.S. mission which imposed this political and economic monstrosity on South Vietnam. As the economic counselor to the U.S. embassy, Charles Cooper—the man credited with masterminding economic policy in Vietnam during the war—told me in a 1971 interview, "We've always been in the position here of pushing their expenditures up. We pushed them on pacification, on increasing the army, etc. . . . We were actually satisfying our own ideas. . . ."

As a result the South Vietnamese ground and air forces increased from 216,000 men in 1964 to 1.1 million in 1972; the police force increased from 20,000 men in 1964 to 120,000 in 1972. The official government budget increased from $219 million in 1964 to $856 million in 1972.

#### INFLATION OR TAXES

In order to finance such a swollen apparatus of control, any independent state would have had to resort to runaway inflation or heavy taxes on the entire population, rich and poor. The taxes required to support this level of military spending only could be raised successfully if the government in question had had reasonably solid support for its anti-Communist war effort—something which the Saigon government has manifestly lacked.

But the Saigon government had an alternative to uncontrolled inflation or burdensome taxation—which was to rely on the U.S. to pay for most of its budget and to prevent any significant drop in living standards by providing massive quantities of imported goods.

The main instrument for preserving the Thieu government's military and paramilitary apparatus while minimizing economic hardship is still the Commodity Import Program, under which the government receives letters of credit which it then sells to the Vietnamese importers for piasters. It uses these aid-generated piasters to pay its budgetary expenditures, and when the goods arrive in Vietnam, the customs taxes collected on them add additional resources for the budget. Meanwhile, Vietnamese are able to purchase imported goods which South Vietnam could not possibly afford with its own minimal foreign exchange reserves: gasoline and parts for motor bikes, fertilizer, cement, sugar and other foodstuffs.

In fiscal year 1974, the Nixon administration has requested $275 million dollars for the Commodity Import Program and is adding a $50 million "development loan" for imports which Thieu can also use to help pay for his military budget. This assistance is estimated by the Agency for International Development to represent roughly one-fourth the living standard of the average Vietnamese.

If the artificially maintained standard of living has neither made the Thieu regime popular nor silenced opposition to the war in the cities, it has nevertheless helped to keep urban discontent at a level which can be controlled through the massive use of police surveillance and terror. Millions of Vietnamese thus have been dissuaded from taking to the streets or to the jungles to overthrow the Saigon regime. There is no doubt in the minds of U.S. officials that Thieu's regime could not have survived the political turmoil which would have occurred without the U.S. subsidization of Saigon's state apparatus and economy.

#### GRADUAL REDUCTION

Despite administration statements paying lip service to the objective of Saigon's economic independence, the official rationale accompanying the 1974 aid program for Indochina makes clear its intention to continue the client relationship with Saigon indefinitely. Instead of offering a plan for the rapid elimination of American subsidization of the Thieu government the rationale suggests that the import subsidy can only be reduced "gradually" and that Saigon will "continue to require foreign assistance for the next few years to maintain the flow of goods needed for production, investment and consumption." It does not mention that this flow of goods is also necessary for Thieu to pay for his army and police force.

The army lives off foreign aid rather than relying on the support of its own people, and any attempt to reorient it economically, socially and politically away from the present American style of organization and operation would almost certainly end in disaster. Moreover, for Thieu to demobilize most of his 1.1 million-man army would mean relinquishing a convenient means of political control over them and, indirectly, over their families.

Equally important, the Saigon regime has shown little interest in making domestic taxation its main financial basis. For nearly 20 years, American largesse has encouraged Saigon to avoid the taxation of domestic wealth in order to gain more fully the support of those comprising the taxable population. As a result, taxation in Vietnam has been feeble on the one hand and regressive on the other.

The Saigon government has shown an aversion to direct taxation, which must constitute the backbone of any healthy fiscal system, and has focused its efforts, instead on the taxation of soft drinks, beer and tobacco products, which fall more heavily on the poor than on the rich and which do not draw on the primary sources of wealth in the country. For many years, well over half the domestic taxes collected by the government came from only nine foreign-owned companies in Saigon which produced beer, soft drinks and tobacco. In 1972, direct taxes brought in only $37 million—4 percent of total income, including U.S. aid.

There are two simple reasons for Saigon's persistent refusal to tax the real wealth available to it. On the one hand, officials have always feared that such taxation would increase its unpopularity or lose the cooperation of those whose acceptance or support was crucial for pacification and political stability. On the other hand, the readiness of the United States to provide whatever revenues were not obtained through taxation provides a lack of incentive for maximizing tax collections and an incentive for officials to exploit the most lucrative sources of wealth for their own benefit.

#### TAXING ISN'T POPULAR

The Government, unable to appeal either to patriotic sentiment or a commonly shared vision of society, has implicitly admitted its own doubts about the legitimacy of the war effort in the eyes of the Vietnamese people in avoiding direct domestic taxation. When he was prime minister in 1969, Tran Van Huong declared, "If we levy more taxes, the government will be unpopular and the political situation here more unstable."

Willard Sharpe, chief of the economic analysis branch of AID in Saigon, explained fears of reduction in American Commodity Import funds in 1971 by saying, "I don't think the government feels it is strong enough to ask the people to pull in their belts. It's just not popular enough."

Between one-third and one-half of the private wealth of South Vietnam still lies in its agricultural production, primarily in the country's rice bowl, the Mekong Delta. American officials have been pointing to the new prosperity of commercialized farmers in the Delta, thanks to large inputs of fertilizer, new rice strains, and favorable rice prices. But Thieu's pacification strategy in the Delta has been based more or less implicitly on the idea that the government can give the farmers something for nothnig, with the help of American generosity.

One of Saigon's bright young American-trained economists, who was then vice minister of agriculture, proudly asserted to me in 1971 that his government collected only a "very nominal tax" on land—less than 200 piasters (or 50 cents), on a hectare of land which brought an average of $180 a year in income, or about one-third of 1 per cent of gross income.

"With our system," he pointed out, "the farmers themselves benefit from land reform. With the Vietcong program, the result is more revenue for the Vietcong." This was precisely the difference between a regime dependent on popular support for its military operations and one dependent on foreign support. As the American tax adviser in Saigon, Paul Maginnis, explained two years ago, "The national government is subsidizing villages and hamlets in order to purchase their loyalty instead of demanding money from them to finance the war effort."

### SUBSIDIES INCREASE

While the Government collected a token 54 million piasters ($242,000) in agricultural taxes in 1969, it was subsidizing the village budgets in the amount of 2.2 billion piasters ($9.8 million), for both local government operations and village development projects. And while agricultural taxes rose to 3 billion piasters in 1972 ($6.9 million), the subsidy increased even more, to 10.4 billion piasters ($24 million). Whether or not the rural sector of the society will ever contribute more to the budget than it receives in subsidies is thus still open to question.

Political considerations also have kept Saigon from taxing fairly the unsalaried urban middle class which constitutes the most active segment of the U.S.-sponsored political system. The traditional policy toward this stratum has been summed up by one Vietnamese expert on taxation as, "Leave it alone as long as the circumstances permitted." The American budgetary subsidies thus far have provided just such circumstances: In February, 1971, President Thieu abruptly called off the work of special tax teams, which were trying to assess fairly the income of the professional and business class in Saigon, after it complained loudly through the press and its representatives in the national assembly. Later in 1971 the building containing Saigon's tax records was blown up. The teams were never revived.

The most important untapped source of wealth in Vietnam, however, are the profits which were generated by the war itself, which long has been the biggest industry by far in the country. Again, the U.S. subsidization of the budget not only encouraged Saigon to avoid taxing the war profiteers but gave officials an incentive to enter into collusion with them at the expense of the government's fiscal health. And more important than the bars, nightclubs, brothels, laundries and other enterprises, which were officially untaxed but generated large incomes for district and province chiefs, was the import business.

From 1965 to 1971, Vietnamese importers were making enormous profits because of the officially overvalued piaster in exchange for the dollar and the rationing of import licenses. In 1970 a secret government report which was obtained by the House Subcommittee on Foreign Operations estimated that these "windfall profits" were running as high as $150 million per year. (An even more detailed study of windfall profits done in 1970 by Dr. Douglas Dacey of the Institute for Defense Analyses on a contract with AID, which carefully estimated the amount of windfall profits each year on the basis of official economic data, was suppressed by the agency before it could be published. Congressional efforts to obtain a copy have been systematically refused.)

### REVENUES AFFECTED

Those unearned profits were all at the expense of revenues, since they would have remained in Saigon's treasury had the exchange rate kept up with the rate of inflation. Yet according to the Ministry of Finance, the government collected only 100 million piasters ($250,000) in taxes on the 1969 incomes of those importers—an infinitesimal fraction of their illegitimate profits.

The failure of the government to get more tax revenues from war profiteers was caused by the same situation which produced the windfall profits in the first place. Relieved of the necessity to squeeze every bit of revenue possible from the South Vietnamese economy, powerful officials turned the rigged import licensing and foreign exchange system to their own advantage instead of reforming it.

The officials who had power over the distribution of import licenses used it to extract from the recipients a private "tax" in return for the favor. According to business and financial sources in Saigon, including a former high Economics Ministry official who now is in the import business and a Japanese businessman with 7 years' experience in Vietnam as of 1971, importers had to pay 3 per cent of the total value of the license, or 10 piasters on every dollar of goods imported, to the minister of economics, Pham Kim Ngoc, who became known in Saigon circles as "Mister 3 Per Cent." Ngoc was assumed to have divided "taxes" with other top officials of the Thieu regime. The 3 per cent rakeoff, if applied to the total volume of imports, would have netted $23 million in 1970, or 92 times the amount collected from them in the form of income taxes.

Although the threat of drastic reductions in U.S. subsidies to Vietnam finally moved the U.S. mission to insist on an end to the system of overvalued currency and tight controls over licenses, the system had already allowed importers to accumulate hundreds of millions of dollars, virtually none of which ever was used for the budget. The increased but still modest amounts of income tax collection in 1972 from nonsalaried individuals ($7.5 million) and corporations ($19 million) do not begin to scratch the surface of this wealth.

Ending the Commodity Import Program would have the effect of making the government dependent on the support of the South Vietnamese people for the first time in its history. It would then be up to the Vietnamese people themselves (as it should have been all along) to decide whether or how much they are willing to sacrifice in order to maintain the present military and paramilitary apparatus.

To the extent that the population, wealthy or poor, wishes to see the Saigon government survive, they can contribute their share through direct taxes, which Saigon unquestionably has the physical capability to collect. If the government cannot obtain the resources to support the present level of military spending through this means, it will have to reduce its expenditures to the level that it can support.

In any case, the United States no longer should be in the position of artificially maintaining a political and military structure through its assumption of the bulk of its budgetary expenditures and the subsidization of consumption levels.

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[From the Washington Post, Sept. 10, 1973]

### SOUTH VIETNAM ECONOMY SLUMPS: PROSPECTS HOPEFUL FOR FUTURE RECOVERY

(By Thomas W. Lippmann)

SAIGON, Sept. 9.—Caught between rising world prices for most of the things it needs and its own inevitable postwar slump, South Vietnam is struggling to keep its economy afloat and public discontent under control.

About 300,000 are estimated to be unemployed and untold thousands more are trapped in marginal jobs such as driving pedicabs and running sidewalk soup stands. Foreign currency reserves are dropping by $10 million a month. The prices of cooking oil, sugar and gasoline have more than doubled in the past year, and the cost of living has gone up 41 per cent since January.

A man-made rice shortage, caused not by inadequate production but by hoarding, speculation and mismanagement has almost doubled the price, forcing the government to impose a ceiling that has been only partly effective and to grant its poorly paid soldiers and civil servants a pay increase it can ill afford.

Behind Saigon's bustling facade are empty restaurants, declining newspaper advertising, dismantled Black Market stalls, long lines of applicants for every job, an anti-government demonstration among hungry refugees in Longkhanh Province and the inflationary printing of bank notes in higher denominations than ever before.

President Nguyen Van Thieu, who intervened personally in the rice shortage during a recent table-pounding trip to the Mekong Delta, met yesterday with his top military commanders to discuss the first major step that most observers agree is needed to turn the economy around—demobilization of part of the army.

A small country where the Gross National Product dropped almost 15 per cent in one year with the departure of the American soldiers simply cannot afford an army of 1.1 million men, economic analysts agree. But Thieu has been reluctant to reduce the armed forces, for the obvious reason that the war is still going on.

Informed Vietnamese say it is now likely that at least 100,000 men will be released from the army by the end of the year. Economic analysts are warning that the process must be controlled to make sure the men go back into farming or some other productive activity instead of gravitating to the crowded cities to join the unemployed.

Despite the governmental concern and public grumbling, the picture is by no means all bleak. Vast stretches of the country are physically undamaged, much of the good road network is intact, deep-water harbors are operational, nobody is starving and there is plenty of vacant land for development.

But there are too many people on the public payroll and in service industries and too few in agriculture and manufacturing, too many people in the cities and not enough on the land for the country to sustain itself in the way it got used to during the free-spending days of the American war.

"Things are going to get worse before they get better," a Cabinet official said recently. "Our problem is to make the people understand that this is an inevitable phase, that we're going to have a difficult time in the immediate future but will be all right in a couple of years."

Part of South Vietnam's current problem was predictable. American troops and civilian workers spent about $400 million here in 1971. Aside from the jobs they made for cooks, laundresses, truck drivers, bar girls, tailors and laborers, they provided the chief source of the foreign exchange for South Vietnam's import-dependent economy. This year, American spending here is down to $100 million, and it will be only $50 million next year, American economic officials say. Most of the jobs have gone too.

But everyone knew that was coming. What was not predictable was a twofold buffeting from worldwide economic conditions: the decline in the value of the dollar, which makes Vietnam's dwindling foreign exchange reserves worth even less, and rising costs of commodities and essentials.

To illustrate what this means, an official of the Economics Ministry noted a one-third reduction in the country's petroleum imports this year, but no decline in the oil-import bill of about $90 million a year.

Vietnam is dependent on imports for the stuff of daily life—fertilizer, sugar, pharmaceuticals, cement, machinery. Because it is relatively advanced, motorized and developed by Southeast Asian standards, it can reduce its consumption of such products only marginally. The costs of all are increasing while there has been no replacement for the GI dollars and only a minimal response to Saigon's plea for more foreign investment.

Last year, according to figures compiled by the Ministry of Finance, South Vietnam exported only $23 million worth of locally produced products such as rubber and timber. That was only 3 per cent of its import expenditures. Exports are rising this year, but most of the balance still is coming from U.S. aid funds.

Those are also in question as Congress debates the Nixon administration's current foreign aid request. Even the most optimistic Vietnamese and American officials here say that a significant reduction in American aid would force the government to scrap its long-range economic recovery program and concentrate on survival, a course the government believes to be politically unacceptable because of the continuing presence of an opportunistic enemy.

Discussions with government officials, businessmen and foreign analysts are based on the assumption that foreign aid will continue to approach current levels for at least the next few years if the country is to make progress toward self-sufficiency. The alternative is to abandon development and return to a subsistence economy, financial sources say.

South Vietnam's economic liabilities are many. Hundreds of thousands of refugees from last year's offensive are still on the public dole, although they are rapidly being resettled. Some of the most promising resources, especially pine and rubber trees, are in enemy-held areas. Corruption and inefficiency compound every problem. Knowledgeable Vietnamese say that public confidence is declining, which in turn leads to further corruption, hoarding and shirking of responsibilities.

The Vietnamese were spoiled during the 10 years of the American-financed Honda economy. The country lived far beyond its means, snapping up motor vehicles, electric appliances, fancy clothes and concrete houses on a scale unknown in many Asian countries where there was no war.

"Austerity is coming," one official said. "The problem is to make it politically acceptable. The people won't buy it if the generals and politicians go on with their parties and champagne and air-conditioned cars."

Assuming peace, most sources are optimistic about the long run outlook, with the government officially projecting self-sufficiency in eight years. Some believe the worst has already passed.

An influential Western banker said, "A less resilient economy might have collapsed under the blows this one has taken in the past two years. This is basically a rich country . . . if there was a real crunch, people would be leaving the cities and going back to the farms. There's been no sign of that."

"This country has one of the highest per capita rich consumption levels in Asia," another Western analyst said, "and it's not going down. It would be if the squeeze were really on."

"The key to South Vietnam's progress," said a recent report by analysts of Morgan Guaranty Trust Co. of New York, "clearly lies in a resolution of the political and military unknowns which now cloud the country's future. Obviously, the situation is still open-ended. However, to a greater extent than is commonly appreciated, a constructive start has been made in creating a framework for economic development. South Vietnam may yet surprise the doubters."

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[From the New York Times, Sept. 14, 1973]

### South Vietnam's Inflation-Ridden Economy Continues To Decline

(By Joseph B. Treaster)

Saigon, South Vietnam, Sept. 13.—Two things concern the South Vietnamese these days, a prominent political figure said recently: the unending war and the cost of living.

"But the most important thing," he went on, "is the cost of living."

The war is in one of its quiet stages right now, and to many people, especially city dwellers, it often seems remote. The reeling economy is as close to everyone as his morning soup and his midday rice. As prices have gone through the ceiling, some have foregone their soup and begun cutting down on rice.

The warnings voiced by economists months ago are becoming a reality, increasingly threatening the nation's political stability.

The problems are staggering. Rice, beef and pork—staples of the Vietnamese diet—are selling for about 50 per cent more than at the start of the year. Cooking oil and gasoline have doubled in price and sugar has tripled.

#### FAILURES, BRIBES, ROBBERIES

Hundreds of businesses have folded and unemployment has continued to mount. Civil servants are demanding stiffer bribes for services that are supposed to be free. Robberies and thefts in the cities have multiplied.

"It's the worst since 1945," commented a barber who fled from Hanoi after World War II and eventually settled in Saigon. "People are saying that at least with the Communists there would be order."

Such talk in the barber shops and soup stalls may be open to challenge, but it is alarming to President Nguyen Van Thieu and his aides nonetheless.

Economists say that a large part of South Vietnam's situation is a result of forces beyond its control—a sudden dip in national income as American troops went home, ever-intensified worldwide inflation, the devaluation of the dollar and, not least, the continuing war.

#### FOREIGN INVESTORS DEPART

As long as the war persists much of the farmland will continue to be unusable and industry is likely to stay frozen at a primitive level.

The foreign investors who flocked to look over South Vietnam last fall during the peace talks have quietly slipped away. "It's hard enough trying to set up a business in a place like Singapore," a banker said. "Nobody in his right mind is going to come here while the risk is so high."

Watergate, too, is regarded as among the evils being visited upon South Vietnam. The worry is that Congress, already displaying signs of isolationism, may react to the scandal by slashing the foreign-aid program, which is known to be dear to President Nixon and which is South Vietnam's lifeline.

Not all of the blame can be laid elsewhere, however. There is general agreement that President Thieu has exacerbated the situation by committing a series of blunders that his economists foresaw and advised against.

The Communist offensive last year stalled business and touched off a recession, and the cease-fire, instead of triggering a revival, brought disappointment.

#### DEFENSE OUTLAYS LARGE

At the same time the United States was rapidly pulling out its troops. Tens of thousands of Vietnamese who had served the soldiers lost their jobs, and spending by the Americans dropped from a peak of more than $400-million annually to about $100-million this year.

Expenditures for defense and imports have remained high nevertheless, and hard-currency reserves have plunged.

The economists have advised President Thieu to demobilize some of his 1.1 million troops, but at the moment, he does not feel that it would be prudent.

Some economists maintain that imports, which are expected to reach a new zenith of $750-million this year, could be trimmed considerably, perhaps by more than $100-million. But the United States mission and the Saigon Government maintain that little is being brought into the country that is not essential.

Another serious problem, according to American economists, is that worldwide price rises and devaluation of the dollar have reduced South Vietnam's buying power by more than a third, so that it will spend more than ever this year on imports but will receive the smallest quantity since 1965.

The Government has tried to discourage consumption of fuel and sugar—two principal imports—by removing subsidies. The most significant result has been an inflationary spurt in a number of related items and services.

#### EFFORTS TO SAVE FUEL

In an effort to conserve fuel over the long haul, the Government is working to revive and expand its mass-transportation facilities and is restoring a hydroelectric system that limped through most of the war, enduring numerous attacks and never operating at capacity. It has also been urging people to return to the bicycle, but only a few have taken the cue.

Perhaps President Thieu's most spectacular error was his decision to levy a 10 per cent tax that affected nearly every aspect of the marketplace. His intent was to fill the Government purse and to show the world that South Vietnam was trying to solve its problems. As economists had advised, the result was that prices and public discontent skyrocketed. Furthermore, the income from the tax was immediately offset by a pay raise for servicemen and civil servants that Mr. Thieu was reported to feel was politically unavoidable.

In another move the economists opposed, the President imposed Government controls on rice production and marketing. Most economists believe that this may lead to a black market and even higher prices.

Hoping to get the stagnant economy moving again, the economists have recommended that the President loosen credit, but he has been unwilling.

There are some hopeful signs. Refugees are being resettled in droves, cutting Government expenses and increasing national production. Exports are expected to double this year to about $45-million. Four major petroleum companies have signed contracts for the right to drill offshore.

In addition, a small amount of foreign aid has begun to come in from countries other than the United States, and the World Bank and the Asian Development Bank have begun to show interest in South Vietnam.

The keystone of its future remains United States aid. The House of Representatives has approved a bill giving South Vietnam roughly the $300-million that economists think is the workable minimum. But there are grave fears among the Vietnamese and their American colleagues that the Senate may drastically cut the bill. If so, what then?

"I don't even want to think about it," a high-ranking South Vietnamese economist said shaking his head and walking away. "I don't even want to think about it."

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## AN INTERNATIONAL FOOD POLICY

Mr. MONDALE. Mr. President, yesterday an outstanding editorial appeared in the Washington Post. Entitled "Wanted: An International Food Policy," this editorial exposes the failure of the U.S. Government to develop a policy to deal with world shortages of food.

A major debate is currently underway over the question of whether the world is entering a new condition of persistent food scarcities or whether temporary shortages will correct themselves as soon as weather conditions improve.

At the present time, our Government is taking the position that food shortages are merely short-term, and therefore, we are carrying out a policy of selling as much food as possible commercially while relying on leftovers for relief of hunger among the world's poor. However, leftovers are practically nonexistent and the administration has virtually abandoned the Food for Peace program.

Regardless of how lasting we perceive present shortages to be, I believe that the United States has an obligation to cooperate with other countries in an effort to alleviate human suffering in less-developed nations as a result of food scarcities. In view of the damage to our world credibility as a reliable supplier of agricultural products caused by the recent drastic imposition of an export embargo, I believe we also have a strong economic and political interest in working with other countries to deal with world food supply and distribution problems. Furthermore, I believe consumers in the United States would benefit from the adoption of international mechanisms to bring stability to agricultural supplies and prices.

Next Thursday the United Nations Food and Agricultural Organization is sponsoring a meeting in Rome to bring major world food exporters together for a discussion of the concept of a world food reserve. Such a reserve—like that which Senator Humphrey and I have proposed for the United States—would be built up in time of surplus and used to meet emergency needs when scarcities occur. Coupled with international commodities agreements, the reserve could provide a long-term assurance to farmers that expanded production would not result in disastrous surpluses; and it would provide a critically needed mechanism to help alleviate hunger among the world's poor.

Incredibly, the United States has not yet decided whether it will attend the FAO meeting in Rome. As the Post so accurately states:

> It is shameful that the United States hesitates to show up in an international forum, such as the F.A.O. meeting in Rome, to discuss an immense and urgent international problem. Our absence would bespeak not only a political shortfall but a moral shortfall as well.

Mr. President, I would like to encourage my colleagues to read the Post's editorial, and I ask unanimous consent that its full text be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Wanted: An International Food Policy

In this time of record American harvests, tens of millions of people around the world are malnourished and near starvation, particularly in the three nations of the South Asian subcontinent and in the six West African countries hit by drought. This grim paradox results from the vagaries of weather, from the constant growth in world population (by 75 million a year), from the failure of poor countries to tend adequately to their own agriculture and from the rising affluence of the world's haves. Affluence has sucked food into those countries able to pay and put food beyond the economic reach of the poor. The single most important contribution recently to the world poor's hunger was the immense Soviet grain purchases of 1972—about 30 million tons, enough for a subsistence diet for a year for perhaps 120–150 million people.

A kind of great debate is going on among the experts on the world food situation on the issue of whether the current shortfall represents simply a down in a continuing series of ups and downs, or a fundamentally new condition of indefinite global scarcity. We will not presume today to offer a judgment on that question but we will observe that it is a good deal more than academic. For if you believe the shortfall is temporary, you will do relatively little more than wait for the weather to improve, while if you believe the shortfall is more serious, far more difficult steps are mandated, both among the food-short and food-surplus nations.

The United States government currently takes the view that the scarcity is short-term. From this view flows its policy of selling as much food as possible commercially and providing only the leftovers for relief. Actually, there are almost no leftovers; Food for Peace, the old surplus-disposal program, is all but dead. The administration is not even sure it wants to discuss the matter in public. It has been invited by the United Nations Food and Agriculture Organization to a meeting of food exporters next Thursday in Rome. The FAO is eager to build support for the idea of a world food bank that would build up "deposits" in times of surplus and lend or give them out in times of scarcity. The United States, reluctant to enter a forum where it could expect to be pressed on this idea, may boycott the Rome meeting. A boycott will lead many people in the world to regard the United States as indifferent to world hunger.

In fact, the United States has no comprehensive policy to guide it in this area. It is no better prepared in food than in oil. The condition of world food scarcity is too new and tentative. Everyone understands that such a condition requires a much higher measure of international cooperation, but it has not even begun. Henry Kissinger noted the other day that Americans, oriented to a free market, have traditionally resisted the idea of world commodity agreements, recent suggestions to that end have found little favor. He is right. The Treasury Department's eyes pop at the payments returned by farm sales abroad. The Agriculture Department focuses on opening export markets. The State Department grimaces at the foreign policy fallout—the image of indifference and the risk that hunger will produce chaos—but at least until now it has been unable to draw attention to its concern.

The United States has a large vital interest in agricultural trade. But it also has a large vital interest in seeing that millions do not starve. Moral as well as political considerations thus require us to acknowledge those new conditions which compel the shaping of a national food policy that takes into account our proper role in world affairs. To make such a policy would demand coordination—that is, conflict and presidential resolution—of the different concerned interest groups and branches of government. It would also demand extensive cooperation with other nations on matters of emergency supplies, on assistance to local agricultural development, and on trade. It is shameful that the United States hesitates to show up in an international forum, such as the FAO meeting in Rome, to discuss an immense and urgent international problem. Our absence would bespeak not only a political shortfall but a moral shortfall as well.

## THE SMUGGLING BUSINESS IN VIETNAM

Mr. TUNNEY. Mr. President, George McArthur, an outstanding reporter for the Los Angeles Times in South Vietnam, has written a detailed account of the involvement of an American merchant ship in the multimillion-dollar smuggling business in Vietnam.

His account raises serious questions about the propriety of the ship's action and of the American Embassy's reported failure to heed a South Vietnamese request to prevent the ship from carrying out the smuggling.

Accordingly, I have asked the State Department for a full report of the incident or of other possible involvement by American interests in smuggling from South Vietnam.

I ask unanimous consent that Mr. McArthur's article from the Los Angeles Times of September 14, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### U.S. Ship Involved in Brass-Smuggling Trip

(By George McArthur)

Saigon.—United States officials have now admitted, after embarrassed hemming and hawing, that an American merchant ship was involved in a scrap-brass smuggling operation last June that cost the South Vietnamese treasury at least $360,000 and possibly much more.

In addition, the hulking container ship Beauregard brushed disdainfully past a Saigon navy patrol boat sent to intercept it while it was still in South Vietnamese waters. The naval attache at the U.S. Embassy equally ignored a radioed appeal to intercede and turn the ship back to Da Nang.

At the time of the incident in June the embassy had "no comment." Word was passed down that officials should, if questioned by newsmen, treat the incident as one involving only a commercial vessel on commercial business not involving the U.S. embassy.

Despite the fact that the Beauregard most certainly transported contraband, there is no direct evidence that any member of the ship's company did anything wrong. On the other hand the voyage listed simply on the manifest as number 684 was hardly routine. The Beauregard's sailing was preceded by a Keystone Cops drama involving Vietnamese customs. The attempted interception at sea suggests Hogan's navy more than Hornblower's. And there is a faint whiff of Fu Manchu lurking around the Da Nang port.

The fact that smuggling is a multi-million-dollar business in South Vietnam should surprise few people by now. The Beauregard caper, however, gives some idea of how much can be made. The same cargo of brass which netted someone $360,000 three months ago would bring about $570,000 today.

That kind of money can be made from scrap brass such as shell casings—now going for about $1,600 per ton. It is most conservatively estimated that there are 40,000 tons of brass of this kind cached away in South Vietnam. A local shipping official claims that up to 200,000 tons of the stuff is hidden away—mostly in military compounds. At present market prices that means at least $64 million worth and maybe $320 million.

The problem is, of course to get the brass out of South Vietnam and to markets in Hong Kong, Singapore, Taiwan and Japan. And, of course, to avoid paying the South Vietnamese government which now holds legal title to the brass—a gift of the U.S. government. The trade is so lucrative that a large number of ships leaving South Vietnam have illegal brass shell cases stowed away—almost always with the acquiescence of a porous South Vietnamese customs service.

That was the case when the gray, ungainly Beauregard, wallowing too heavily from her 226 freight-car-sized cargo containers, pulled away from Da Nang's deep water pier late in the afternoon of June 15, 1973.

She had picked up 48 of those containers in Da Nang. Cargo manifests submitted by seven shipping firms listed 1,013 tons of scrap aluminum, batteries and other oddments in those containers—but no brass. It is now known that the cargo included at least 360 tons of brass unloaded in Hong Kong. The rest of the cargo could also have included contraband brass. The trade is so lucrative shippers will frequently dip brass ingots in molten aluminum and falsify manifests.

The owners of the Beauregard, Sea-Land Services, Inc., now tacitly acknowledge that smuggled brass was aboard the ship. It denies, however, any collusion on the part of the ship's officers. Sea-Land, which has multi-million dollar contracts with the residual Pentagon operations in South Vietnam, is a subsidiary of McLean Industries, Inc., of Elizabeth, N.J., which, in turn, is part of R. J. Reynolds Industries, Inc. Sea-Land has annual revenues of about $360 million.

While Sea-Land officials disclaim knowledge of the smuggling, a paid informer had pointed the finger at the Beauregard, on June 3. The South Vietnamese customs received a tip that a cargo listed as "mixed scraps" and bound for Singapore was actually brass.

### UNDERCOVER TEAM

A special undercover team was flown from Saigon to Da Nang to investigate the Beauregard and stop her if necessary. The acting director of customs at Da Nang blew up when he learned of the presence of the special team. Using language he had perhaps learned from an earlier U.S. adviser, he told the leader of the special team, "You are a bunch of mother . . . you are really bad guys and just trying to . . . me up."

On the morning of June 5 the acting director asked Sea-Land to delay the sailing. The local Sea-Land manager refused to do so without a written order. The acting director of customs said he could not give a written order because his boss was off in Saigon.

Meanwhile, however, the acting director assured the special investigators that the sailing had been delayed and took everyone out to a long and evidently convivial lunch. When they returned the Beauregard was steaming out of Da Nang.

Meanwhile, there had been messages going back and forth to customs in Saigon but evidently no one gave hard orders. Sea-Land officials claim they were unaware anything unusual was going on in Da Nang. The U.S. embassy said it did not intervene.

At any rate, nothing was done until dusk when the Da Nang customs chief flew back from Saigon. In a flurry of belated activity he asked the Vietnamese navy commander in the area to have patrol vessels intercept the Beauregard.

### SAILED SOUTH

At about 9 p.m., with the Beauregard five hours out of Da Nang but sailing south toward Singapore and still within South Vietnamese territorial waters, the ship was intercepted by Headquarters Patrol Ship 10 (a former U.S. Navy patrol craft).

By flashing light, the Vietnamese vessel, according to its captain, messaged the Beauregard that he had orders to escort her back to Da Nang. He said that the Beauregard's reply was to increase speed and send back messages which were evidently less than complimentary.

The captain of the Beauregard, a man with much experience in Asian waters and a low regard for the professionalism of the Vietnamese navy, later reported to his company that he saw the flashing message of the Vietnamese patrol craft but chose to ignore it. He did take the precaution, however, of messaging a U.S. Navy radio station in the Philippines that he was being followed by an "unidentified gunboat."

At about this time, someone in the South Vietnamese hierarchy in DaNang was sending off a message to the U.S. defense attache's office in Saigon—the former Pentagon-East now skeleton-staffed by about 50 military attaches plus several hundred civilians. The message asked help in getting the Beauregard to turn back. The message was delivered to the naval duty officer. There is no evidence it went any further.

### GAVE UP CHASE

At any rate, the South Vietnamese navy gave up the game at midnight. The admiral in charge later reported he had received some kind of assurances from the U.S. Embassy that the ship would be searched when it reached Singapore. The U.S. Embassy denies any such message was sent.

In a report on the whole matter later drawn up by the Vietnamese and seen by some Americans, the Beauregard's skipper was accused of having no respect for the law of the sea. A similar report also accused the South Vietnamese customs officers in Da Nang of criminal activity and said they should be punished if the activity was "confirmed." As of now, the Da Nang customs office appears unruffled.

The Beauregard sailed undisturbed to Singapore, discharging 105 tons of "mixed scrap" in sealed containers (the subject of the informer's tip) and thence to Hong Kong. In Hong Kong it discharged, among other cargo, 15 containers which had been manifested aboard as "battery lead acid scraps." However, in Hong Kong the import license for the same cargo (license no. 310845 of June 15) somehow became "brass scraps, empty brass shell cases and cartridge cases, part crushed/uncrushed." In addition a cargo removal permit is required in Hong Kong and this, too, listed brass (permit number 40552).

The brass was consigned to the Chen Hing Company of Hong Kong but was immediately transferred, according to Hong Kong informants, to the Chiaphus-Shinko Copper Alloy Company, Ltd., one of half a dozen Hong Kong firms authorized to import military material.

### NO KNOWLEDGE

Sea-Land officials say they have no knowledge that the documents furnished Hong Kong authorities differed from the ship's manifest made up in Da Nang.

(In the United States, E. B. Hall, treasurer of Sea-Land Services, Inc., in Elizabeth, N.J., said, "There appears to have been a suggestion of possible malfeasance on the part of the master of the Beauregard. As a result we did conduct an investigation in house. We satisfied ourselves that there was no wrongdoing on his part.")

In the maze of embassy paperwork stirred by the Beauregard affair, one official had written that it was impossible for the Beauregard's officers not to have known that an illicit cargo had been carried from Da Nang to Hong Kong.

Sea-Land officials in Saigon dispute this. They put the accusation down to a lack of understanding by American officialdom about container ships.

"We are in the hands of the customs people," said the Saigon manager of Sea-Land. "Our loading is on a container basis. At Da Nang it is done at the shipper's site. Customs has people there. Sometimes we do and sometimes we do not. This time we did not. But the responsibility for customs clearance is the shipper's."

He conceded that on old bulk-cargo freighters the ships officers would have known what the cargo was. On container ships, however, the shipper's manifest is accepted once the customs has put an official seal on the freight car-sized container.

Speaking privately, other shipping officials in Saigon view the case of the Beauregard as the bad luck of one vessel that got trapped in an unusual chain of circumstances.

"Somebody did not get paid off," said one shipper who naturally asked that his name be concealed.

Another explained his own operation in these terms:

"I used to think that the anti-corruption squad (which supposedly polices the customs service) was pretty good. Now I think they are just one more layer to get paid off. When I have a scrap cargo now, I advertise it everywhere. That way all the customs people involved know in advance and they get their cut in time and the ship sails on time."

### URGE PROBE

Although American officials in Saigon insist they are continuing to urge the South Vietnamese government to pursue the investigation, it appears the Sea-Land case, relatively minor, is headed under the rug with many others. (Within the past year the Saigon underworld has twice buzzed with stories of big scrap deals—one involving $17 million and another involving $24 million. A well known French wheeler-dealer in Saigon was evidently involved in one of them—and he has vanished.)

Meanwhile, some shippers have heard from contacts within the South Vietnamese government that a new policy toward brass scrap is now being formulated and will "soon" be announced. It evidently hinges on a more liberal—or blind-eye—approach to flush the scrap from hiding places so the government might * * * foreign exchange. While it is hardly a secret that scrap brass has been steadily leaving South Vietnamese ports official government export figures for this year list not one pound (although exports of "discarded" electrical wire, "military gear" and "miscellaneous" accounted for about $18 million of the $53 million in exports for the first eight months of the year).

It was evidently a hope on the part of the U.S. Embassy last December, when it signed over the brass to the South Vietnamese government, that the proceeds from the known amount in the country would ease a foreign currency pinch already being severely felt. Until that date, the scrap technically belonged to the United States and in fact during the war many millions of dollars worth was reclaimed. At the end, however, the precipitate U.S. withdrawal left the Americans with no way to reclaim the scrap and signing it over to the South Vietnamese was the best, though questionable, policy available.

The U.S. Embassy claims there was nothing hidden or clandestine about the scrap agreement—although it was done so quietly that it was not publicly acknowledged until two months ago in response to a reporter's query.

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## CLEAN AIR—THE NEED FOR BETTER AUTO REPAIR

**Mr. HARTKE.** Mr. President, in 1975, when the new controls of the Clean Air Act become effective, we will be facing many grave problems in administering this law. In order to achieve the reductions in automotive emissions required, it is apparent that new methods and incentives must be provided for ensuring the proper and competent maintenance of the 1975 and 1976 emission control systems.

Although there is no data available at this time on the deterioration of the projected 1975–76 control systems during customer use, it is apparent that the dual catalyst emission control system prepared by most manufacturers for the 1976 model year vehicles is a far more complex system than that used on current vehicles and that it requires more maintenance. Involved are a multitude of control valves, quick warmup systems, control circuits, and so forth. Of all these components, the catalysts themselves appear to be the least durable items. Spark plug misfire, sustained operation at high engine power, and descent down long hills are examples of situations that would result in catalyst overheating and possible failure.

The importance of adequate maintenance is recognized in section 207(b)(2)(a) of the Clean Air Act, which requires manufacturers to warrant their emission control systems to the purchaser if the vehicle or engine is maintained and operated in accordance with the manufacturers instructions, and, in the recall provisions of section 207(c)(1), which empowers the Administrator of the Environmental Protection Agency to recall a class of vehicles or engines if a substantial number of vehicles in each class, although properly maintained and used, do not conform with the standards.

Responding to the question of maintenance, the National Academy of Science, Committee on Motor Vehicle Emissions, offered in their recent report, three primary methods of insuring the required maintenance. These include:

First. Requiring the service industry to adjust each car to manufacturers' specifications when performing any maintenance.

Second. Periodically testing all cars and designating for adjustment or repair those not meeting preselected standards.

Third. Periodically subjecting all cars to adjustment or repair.

Other methods for insuring the maintenance of cars in use are feasible only if engineering changes, which do not seem likely to occur by 1976, are made. They are:

Fourth. Repair at the time of failure of any important emission control device based on the presence of devices that signal the failure not only to the driver but also to the traffic officer.

Fifth. Repair at the time of failure of any important emission control device based on the manufacture of control systems that noticeably degrade the vehicle performance when an important component fails.

Sixth. Prescribed maintenance at predetermined intervals.

To make use of any one of these alternatives, it is necessary for the Federal Government, in partnership with the States, to assure to the extent possible that the mechanics who are performing the required maintenance and service possess at least minimum competency to accomplish the tasks. We must now work to establish a relationship between the Federal Government and the States to insure that the training, diagnostic equipment, and number of mechanics are adequate to handle the new workload.

One step in this direction is my motor vehicle repair industry licensing bill, S. 1950. This legislation requires each State to license any business entity which is engaged in business for profit in the repair of motor vehicles, including repair as the result of collision or accident; major overhaul; repairs to brakes, steering and suspension systems; straightening frames; and similar work which is related to either safety or to the proper functioning of the engine and its exhaust systems.

Thus the bill would require the licensing of all body repair shops, general garages, and many specialty shops, including paint shops, transmission shops, exhaust and muffler shops, and brake shops. Auto service stations which engage in such work as brake linings, front-end alinements, and similar safety related activities would also be licensed under this bill.

The importance of the passage of this legislation in relation to the requirements of the Clean Air Act are threefold. First, it would fix legal responsibility on the repair shops for the competency of the work provided by their employees. This in turn would act as an incentive for the establishment of more and better mechanic-training programs. Second, it would provide for a working relationship between the Federal Government and the States in this particular area which may be utilized in the enforcement of the 1975–76 clean air standards. Third, it would provide the consumer with the knowledge that the correction of the pollution device mechanisms can be made in shops that are licensed by the States.

Mr. President, proper auto maintenance is important both for safety and environmental reasons. If we do not enact auto repair legislation such as the Motor Vehicle Repair Industry Licensing Act, S. 1950, we will pay a price in human life and well-being.

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## ENDING U.S. SANCTIONS VIOLATIONS

Mr. HUMPHREY. Mr. President, the New York Times today carries an editorial entitled "To Remove a Stain," calling on President Nixon to support the repeal of legislation which has put the United States in violation of international sanctions against Rhodesia.

The New York Times editorial calls violations of sanctions "an immoral and indefensible position vis-a-vis the United Nations."

It points out that the United States voted for the mandatory sanctions in the Security Council in 1966 and in 1968. The United States adopted this policy to deal with the illegal attempts made by the 5-percent minority white population in Rhodesia to perpetuate their white minority rule.

The editorial argues, as I have, that the claims our national security requires the United States to import chrome from Rhodesia is a spurious one. It points out that we have a tremendous surplus of chrome stockpiled—"far in excess of any imaginable defense need."

The editorial urges Presidential support of the effort in Congress to restore sanctions. It states:

> Few actions he could take in foreign policy at this time would do as much to refurbish the standing of the United States as a country committed not only to the United Nations but to self-determination and majority rule for peoples everywhere.

I point out that Dr. Kissinger has already expressed administration support for a return to full compliance with sanctions. S. 1868, which I have introduced with 30 cosponsors, would restore our policy of cooperation with economic sanctions against Rhodesia. It would return the United States to full support of international law, human rights, and self-determination.

Mr. President, I ask unanimous consent that the Times editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### TO REMOVE A STAIN

With impressive support, Senator Hubert Humphrey has launched one more attempt to move the United States out of an immoral and indefensible position vis-à-vis the United Nations. He has introduced a bill to repeal the so-called Byrd Amendment of 1971, which forced this country to breach the mandatory sanctions against the Rhodesian regime for which the United States had voted in the United Nations Security Council.

The Council had invoked sanctions after Rhodesia had unilaterally declared independence from Britain—an attempt to perpetuate white minority rule in a country where blacks outnumber whites, 20 to 1. Senator Harry F. Byrd of Virginia argued that by enforcing sanctions, and thus cutting off imports of Rhodesian chrome, this country was leaving itself dependent on the Soviet Union for "a vital defense material."

The argument was spurious. While Mr. Byrd was pushing his drive to lift the sanctions on so-called strategic materials, the Government stockpile of chrome was so far in excess of any imaginable defense need that the Administration was asking Congress for permission to sell off 1.3 million tons. But a combination of factors, including pique at the U.N. for ousting Nationalist China, produced enough votes to enact the amendment.

The United Nations is far from the effective world security body Americans and others had hoped it would become. But the United States, dedicated to strengthening the U.N. and to advancing the rule of law, cannot afford to flout the international law invoked by the Security Council. Nor can this country give even the impression of supporting white racist rule in Rhodesia in lonely company with South Africa and Portugal.

President Nixon might easily have blocked the Byrd amendment in 1971 or effected its repeal in a drive mounted last year by Senator McGee of Wyoming. His support is critical now for success of Senator Humphrey's repealer. Few actions he could take in foreign policy at this time would do as much to refurbish the standing of the United States as a country committed not only to the United Nations but to self-determination and majority rule for peoples everywhere.

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## ALFRED BAKER LEWIS—A CONSTRUCTIVE LEADER

Mr. RIBICOFF. Mr. President, in the near future Congress will be taking a closer look at the various national health insurance proposals which have been introduced.

While there are many differing opinions in the scope of this legislation, Mr. Alfred Baker Lewis of Riverside, Conn., who is a former president of the NAACP, has written a thoughtful and perceptive article on national health insurance. Mr. Lewis has for many years been a constructive leader in advancing the cause of worthwhile social legislation. I commend his article to the attention of my colleagues.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

## WHY WE NEED GOVERNMENT HEALTH INSURANCE

(By Alfred Baker Lewis)

Among the various causes for the increase in the cost of living the cost of medical and hospital care stands out next to the increase in the cost of meat. One reason for the increase in hospital costs is a desirable and socially sound one. The pay for non professional hospital workers has been abysmally low until a short time ago and still is very low in some places. But in recent years the State County and Municipal Workers Union has raised the pay of hospital workers substantially in many places in the publicly owned hospitals, and Local 1199 of the Drug Stores and Hospital Workers Union has done the same for the non professional workers in many of the private hospitals.

We should do something about these substantial increases in medical and hospital care. We should adopt a system of government health insurance, so that we would pay by some form of taxation for health and medical care, and then get such care free when it was needed.

It is only reasonable to round out our social security program by government health insurance. We recognize that there are various causes which prevent a person or family from earning a living. Old age is one and we have provided old age benefits for those who cannot work because of age. Unemployment is another, and we have provided unemployment compensation, in a limited degree and for a limited number of weeks, for those who cannot work because they cannot find jobs. Where a mother is left with children by the premature death of the male wage earner, or if the father is absent for other reasons, we provide aid to dependent children so that the mother can stay home and care for her children instead of being driven out into the labor market, almost certainly at very low pay, leaving her children neglected.

Historically the first provision made for those who could not work was by workmen's compensation, adopted state by state, so that those who were injured in industrial accidents got part of their pay plus hospital and medical care until they could get back to work. Surely it is the height of absurdity to provide the necessary care and part of their pay for those who cannot work because they were hurt while at work, yet make no similar provision for those who cannot work because of non industrial accidents or illness. That is basically the argument for government health insurance.

We should have in the U.S. the best medical care in the world but we don't. We are the richest country in the world. We have potentially the best medical care in the world because we can afford it. We can and do spend more on medical research than any other country. But we break down in delivering good medical care to those who need it. The reason is that we rely mainly on an ineffective fee-for-service system that the American Medical Association strongly, and wrongly, supports.

The best test of good medical care is infant mortality. If we had the best medical care we would have the lowest infant mortality. We don't. We are 16th from the lowest. The facts are as follows: The infant mortality rate for the United States is 19.2 per 1000 live births. The rates for other countries having lower infant mortality rates than ours are:

| | |
|---|---|
| Japan | 12.4 |
| Denmark | 14.2 |
| Finland | 11.8 |
| France | 14.4 |
| E. Germany | 18.8 |
| Iceland | 13.3 |
| Ireland | 19.2 |
| Netherlands | 11.1 |
| Norway | 13.8 |
| Sweden | 11.7 |
| Switzerland | 15.1 |
| Great Britain | 18.0 |
| Canada | 18.8 |
| Australia | 17.9 |
| New Zealand | 16.7 |

In addition, countries having a somewhat higher infant mortality rate than ours but a lower overall death rate include Israel, Puerto Rico, Bulgaria, and the U.S.S.R. (Soviet Republic).*

*The figures are from the 1973 Encyclopedia Britannica.

All of these countries have some form or other of government health insurance.

When I was arguing before Congressman Mills' Committee about a year and a half ago on behalf of the NAACP for Senator Kennedy's bill to provide a comprehensive system of government health insurance, the argument was made by one of the opponents of the bill that we should not change our system because we have made substantial progress in reducing infant mortality. The argument is true in fact but fallacious in its conclusion. We have reduced infant mortality considerably. But so have the countries which have government health insurance, and they have done so even more in proportion than we have. Twelve years ago we were ninth from the lowest regarding infant mortality. According to the latest available figures quoted above we are 16th from the best. This is a fact which cannot be argued away. We can ignore it, as the opponents of government health insurance do. But they do so at the expense of the nation's health.

It is undeniable and inexcusable that we don't deliver medical care to those who need it.

It has been argued that the reason for our too high infant mortality rate is the high rate among Negroes. It is true that the general life expectancy for Negroes is between 10% and 11% lower than that for whites and their infant mortality rates are higher by that much or more. But this is added proof of our lack of proper and reasonable delivery of medical care. For Negroes are basically as healthy and hardy as whites if not more so. If you doubt that, you have only to look at the figures for the Olympic Games. In the 1964 Olympics, one college, Tennessee A&M in Nashville, with 5,000 Negro students, had 7 gold medalists. No other college had more than one gold medalist except the University of California, which has some 90,000 students, over 90% of them whites; and it had two gold medalists. When 5,000 Negro students turned out 7 gold medalists and nearly 90,000 white students won 2 gold medals, no one can say that Negroes are not healthy and hardy. They are. If they don't live quite so long—and they don't—and have a higher infant mortality rate than whites—which they do—it is because of the harder economic conditions under which on an average they have to live, and part of these harsher economic conditions is poorer medical care.

The 1968 and 1972 Olympics told the same story. The proportion of Negro to white gold medal winners on the American team was higher than the proportion of blacks to the general population.

### GOVERNMENT HEALTH INSURANCE MAY REDUCE THE SOCIAL COST OF MEDICAL CARE

The cost of government health insurance is used as the big argument against it but the argument is fallacious. There is nothing in government health insurance that will increase the social and financial costs of medical care, though it will add to the Federal budget. All of the cost of ill health is already borne by the members of the community. If a man becomes ill or injured in a non-industrial accident, the cost is borne by him if he can afford it. His family often pays part of the cost because he has to use up his savings for old age or the education of his children to pay very high hospital bills. His employer suffers the loss of his work, and in a sense the whole community loses from the loss of his productive labor.

Some of the financial cost may be borne by an insurance company, which means in the long run by the premiums of the other policy holders. If he is indigent and on relief or the illness forces him to become so, the state and local taxpayers, who pay for public welfare relief, carry the load. The cost is there. Someone in the community pays it. All that government health insurance does is to distribute the cost around in a more just and equitable manner.

Part of the trouble with health care is that the availability of it is very unevenly distributed. If you live in a poor community the chances are that there is not good medical care readily available even if you can afford it. Most physicians, like others, want to live and practice where the money is. So poor communities have far fewer doctors or dentists in proportion to the population than the richer ones.

We recognized this fact by trying to stimulate the building of hospital and health centers in places which lack them through the Hill-Burton Act. This has reduced somewhat but not eliminated the present maldistribution of medical care.

The cost of medical care for those on relief is already borne by the state and local taxpayers. Government health insurance would and should shift the burden of medical care for relief recipients from the state and localities to the Federal government, paid for by Federal taxes. This is desirable because the Federal government's tax system is far more nearly in accord with ability to pay than are the tax systems of the cities, counties and states.

The cities, towns, and counties raise most of their money by levies on real estate. Aside from inequities in assessments, which do exist, such levies have no direct relation to ability to pay, because a higher proportion of the wealth of rich persons is held in the form of intangible personal property such as stock and bonds than is true for those in lower income brackets.

The states raise most of their money by state sales taxes. Sales taxes bear much more heavily on the poor than on the rich. Nearly every dollar spent by a person is hit with a state sales tax. But many expenditures typical of rich people totally escape a state sales tax, such as expenditures for domestic service, for trips abroad, or for investments, and these may be half or more than half of the expenditures of a wealthy family.

The Federal Government, on the other hand, raises most of its money by the corporation profits tax and the graduated personal income tax. There are loopholes favoring the rich in the graduated personal income tax. But roughly speaking the Federal tax system is much more nearly in accord with ability to pay than the tax systems of the states or local governmental bodies. Thus a shift in the burden of caring for ill persons on relief to the Federal government from the states and localities would be a gain in equitable taxation.

For those at work the payment for government health insurance would be simply by a deduction from their pay, in addition to the deduction already made for old age benefits. The cost of collection, therefore would be negligible. You would pay while well for hospital and medical care when you were sick or injured, and then would get it free.

Not merely would government health insurance add nothing to the social cost of ill health. It would reduce the financial cost of ill health considerably. Too many people, when they begin to get sick, put off going to the doctor because of the expense. Inevitably, when they finally do have to go, the disease is apt to have a stronger hold and the cure is likely to take longer than would have been the case had he or she sought medical care earlier. If they could get medical care by government health insurance without personally paying for it at the time of illness through the fee-for-service system, they would be less likely to put off going to the doctor until too late.

### PRESENT ACCIDENT AND HEALTH INSURANCE COSTS ARE TOO HIGH

A good deal of accident and health insurance costs are now carried by private insurance companies. Most of the policies are not sufficiently comprehensive. Some are only for disaster insurance, paying the cost of hospitalization if it goes above a certain fairly high level. Nearly all the group insurance policies that I know exclude mental illness and dental care. Nearly all individual policies exclude the cost of care for illness growing out of a pre-existing physical condition. The cost of maternity coverage is very high for those in the marital and age bracket that need it most. Thus there is expense in determining whether a particular claim for reimbursement is or is not for an excluded cost.

Above all, *all* the policies are unnecessarily expensive because of the high acquisition costs, that is, the competitive costs of getting the business. These acquisition costs are mainly broker's fees and advertising expense. They run from about 20% to 30% of the premium. They are totally unnecessary from a social point of view, and would be eliminated entirely by government health insurance. And we must add the profits of the private insurance companies.

It is clear that government health insurance would be a good deal less expensive than private health insurance and would be far more comprehensive in covering all medical costs. That is why we need it.

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## TRIAL FOR GENOCIDE

**Mr. PROXMIRE.** Mr. President, one of the criticisms against the Genocide Convention is that it would subject American citizens to trial in foreign courts without any of their constitutional rights.

There is no factual basis for this concern. The International Court of Justice was established after World War II to arbitrate international disputes. If two countries have a disagreement which they cannot settle by negotiation, they can submit the matter to the International Court. After hearing both sides of the dispute, the Court renders an opinion. The Court has absolutely no power to enforce its judgment. Only mutual good will by the involved parties serves as the enforcement power.

Article IX of the Genocide Convention says that any disputes over the treaty's meaning will be decided by the International Court. Nowhere does the treaty state that the Court has the power to try individuals. Rather, the Court is to issue an opinion as to what the treaty says. If either party to a dispute disagrees with that opinion, the Court still has no power to force adherence to its decision.

Article VI of the Convention does speak of an international tribunal to try individuals, but in the 22 years that the treaty has been in force, such a tribunal has never been established. The reason is because neither article VI nor any other part of the Convention establishes such a tribunal. There is no movement to attempt to establish an international tribunal.

Mr. President, the fear that the Genocide Convention would negate constitutional guarantees to Americans accused of genocide is groundless. Any trial must occur in a competent tribunal of the country where the crime of genocide allegedly occurred. I urge the Senate to act swiftly to ratify the Genocide Convention.

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## TRAGEDY IN CHILE

**Mr. KENNEDY.** Mr. President, I expressed my deep regret and concern yesterday at the tragedy unfolding in Chile where the overthrow of a democratically elected government is taking place. Whatever our personal views of the policies being undertaken by the government of President Allende, the overriding fact is that he was elected by a vote of the people of Chile. To see Chile take its place alongside other nations whose political course has been determined by military action is particularly tragic since this nation had rightly prided itself on its democratic ideals and on the adherence of its military to constitutional principles.

Now we learn of the death of President Allende. I can only express my deep condolences to the family, friends, and supporters of this man. At this moment, whether he was a Marxist or not makes little difference. He believed passionately in his own philosophy and he worked within the democratic system to try to effect programs to carry out that philosophy.

His death during this violence cannot be seen with anything but sorrow by any man who treasures the principle that political decisions should be made through the use of ballots rather than bullets.

We can only hope that in Chile there will be the most rapid return to the rule of law.

We also hope that the new government will protect the rights of thousands of political refugees who have fled to Chile from other countries. Because of disturbing reports that have reached us about their safety, yesterday I cabled the High Commissioner for Refugees to solicit his attention and concern.

Already in the press, there is speculation about the role of the U.S. Government in this incident as a result of past actions of this administration. The State Department has acknowledged it was aware of such reports. However, the White House has denied that information was communicated to the President. There is no reason to doubt those statements.

However, to dispel any doubts, I would hope that the Senate Foreign Relations Committee would resolve any suspicions by requesting the nominee for Secretary of State, Mr. Kissinger, to testify directly on this matter in public session.

I expressed my own concern about our policy toward Chile in October 1971, a year after President Allende took office.

In a speech to the Chicago Council on Foreign Relations, I stated:

> The election of a Marxist president in Chile ushered in a period of great delicacy as thoughtful men of both nations groped to find the path of accommodation.
>
> A wise Administration policy would have recognized that the Chilean experiment in socialism had been decided by the people of Chile in an election far more democratic than the charade we saw last week in Vietnam.
>
> But the Administration response was brusque and frigid, colored by its attachment to the ideology of the cold war. We can never know whether a more sensitive policy toward Chile might have helped to avoid the expropriation decision, which we learned of today.
>
> President Nixon decided not to send the traditional note of congratulations to the Chilean President on his election.
>
> The White House snubbed a personal invitation from President Allende for the U.S. Carrier Enterprise to dock in Santiago, after Admiral Zumwalt's acceptance had been widely and favorably publicized in Chilean newspapers.
>
> The Administration blocked Export-Import Bank financing of jets for Chile's national airlines as a way of publicly pressuring Chile to reach a satisfactory solution of the copper controversy. Now we find the government of Chile negotiating with the Soviet Union for those jets.
>
> Similar heavy-handed policies have been used by this country in the Inter-American Development Bank and other multilateral lending organizations. The multilateral aim is to depoliticize development assistance and it is a perversion to twist those institutions into being exponents of U.S. foreign policies.

The revelations of the ITT affair, so ably described by the Senate Subcommittee on Multinational Corporations, also lays out the history of our actions. Those actions inevitably contributed—in however marginal a way—to the economic difficulties experienced by the Allende government.

I would hope that a thorough reexamination of this policy would be part of any review into the current tragedy.

Mr. President, I ask unanimous consent that recent commentary on these events be printed in the Record.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

### Coup in Chile

Chile's coup is different. Its special tragedy is that it ends Latin America's longest democratic tradition and also its most serious effort to carry out rapid social change within a framework of representative government. Whether the coup will arrest the country's social and economic disintegration, or lead Chile into an intensified class war, cannot yet be known. The leaders of the armed forces, until now on the sidelines of politics, conducted their takeover in the name of "liberating Chile from the Marxist yoke," as they described the elected government of Salvador Allende. At the same time, in an evident bow to the Allende constituency, the military leaders assured the workers that their economic and social benefits "will not suffer fundamental changes." Perhaps the Chilean military can return their country in a reasonable time to its democratic heritage. The experience of others is not encouraging. That is what is so regrettable about the failure of the Allende experiment. It is an outcome likely to harden both Latin left and Latin right in the view that social change in a democratic context doesn't work.

Mr. Allende's truly unfortunate death—by his own hand, according to the new junta—imparts an additional somber and ominous note. Many in Latin America will no doubt regard him as a martyr whose death, like that of Che Guevara, symbolizes the implacability of American "imperialism." He politics, perhaps also his myth, are bound to move to the center of Latin and inter-American politics, and to becloud objective judgment of him. It is impossible not to note, however, that his 30 earlier years in the political wilderness had ill prepared him to exercise power. He ignored the limitations of his minority support and attempted to govern as though he wielded a majority. He lost control of many of his own supporters. His admirers can argue that he was bequeathed a political and economic legacy that would have burdened any leader, but that is hardly a persuasive defense; the job was not forced upon him.

On the eve of Allende's election in 1970, Henry Kissinger, calling him "probably a Communist," said that an "Allende takeover" would pose "massive problems for us, and for democratic forces and for pro-U.S. forces in Latin America." The CIA and ITT discussed—apparently without further action—how to keep Mr. Allende from power. When Chilean moderates seemed to be looking for a satisfactory way to resolve the copper-nationalization disputes, the administration delivered a number of symbolic rebuffs to Mr. Allende and then proceeded to use its influence to deny him access to loans from the international development banks. The evident results were to stiffen the Chilean position on compensation for the copper firms, to work economic hardship on Chile, and to aggravate political tension there. Meanwhile, the U.S. kept up close links with the Chilean military. Military aid flowed; at the moment of the coup, four U.S. Navy ships were steaming toward Chile for joint maneuvers with Chile's navy. In denying CIA involvement in the coup yesterday, the State Department did not offer regrets either for the takeover or for Mr. Allende's death.

Sobering as it is to have to ask whether American ideological coolness and corporate influence played a role in the undoing of the Allende experiment, it is unavoidable. Indeed, the denouement leaves hanging the whole question of what ought to be the American policy toward the forces of economic nationalism churning much of Latin America. The issue is unquestionably worthy of the recall of Secretary of State-designate Kissinger before the Senate Foreign Relations Committee for a closer look at our performance in Chile and its implications for future policy, or a separate congressional investigation, or both.

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### AID USED AS CHOKE ON ALLENDE

(By Laurence Stern)

The swift toppling of the Allende government in a military coup last week has inevitably touched off speculation about American involvement in the upheaval in Chile.

From the White House, from the State Department and even from the Central Intelligence Agency there have been stolid denials of U.S. intervention in the Chilean crisis.

"Involvement," in the popular imagination, suggests Marine landings, cloak-and-dagger operatives, gunboats and paramilitary espionage teams. There has been no evidence, as yet, that any such operations were carried out under U.S. auspices in Chile.

Nonetheless since its inauguration in 1970, the Marxist government of the late Salvador Allende has been the target of economic policies that have squeezed the fragile Chilean economy to the choking point.

These policies were conceived in an atmosphere of economic strife between the Allende government and a group of large U.S. corporation whose Chilean holdings were nationalized under the terms of Allende's socialist platform.

The instruments for carrying out the sustained program of economic pressure against Allende were the U.S. foreign aid program, the Inter-American Development Bank, the U.S. Export-Import Bank, the World Bank and also private U.S. banking institutions.

Allende himself, in a speech to the U.N. General Assembly last Dec. 4, complained that from the day of his election, "we have felt the effects of a large-scale external pressure against us, which tried to prevent the inauguration of a government freely elected by the people and has tried to bring it down ever since."

The effect, he said has been "to cut us off from the world, to strangle our economy and paralyze trade in our principal export, copper, and to deprive us of access to sources of international financing."

The U.S. economic hard line against Chile was adopted in mid-1971 when the question of compensation for expropriated American properties was still in doubt.

The expropriation of the major U.S. copper companies was voted unanimously by the Chilean legislature—right, left and center—in July, 1971. It was not until the following October that the decision on terms of compensation was made. During this period of uncertainty the hard economic line was already being applied against the Chilean government.

One of the first actions under the new policy was the denial by the Export-Import Bank of a request for $21 million in credit to finance purchase of three Boeing passenger jets by the Chilean government airlines, LAN-Chile. The credit position of the airline, according to a U.S. official familiar with the negotiations, was excellent at the time.

In August, 1971, the Ex-Im Bank notified Chile that it would no longer be eligible for loans and that loan guarantees would be terminated to U.S. commercial banks and exporters doing business with Chile. The bank also cut off disbursements of direct loans that had been previously negotiated by the Frei government, which preceded Allende's.

Meanwhile, in the Inter-American Development Bank a $30 million loan application for development of a petrochemical center was stalled after the U.S. director protested plans to send a technical mission to Chile to evaluate the request. The mission never left.

IADB financing for Chile came to a virtual standstill in 1971 and thereafter, with the exception of two loans of $7 million and $4.6 million to the Catholic and Austral universities.

Because the United States contributes the lion's share of the Inter-American Bank's development fund kitty, it exercises a virtual veto over loan requests.

The World Bank pattern was much the same. In August, 1971, the World Bank was scheduled to send a project appraisal mission to Chile to evaluate prospects for a fruit-processing facility as part of the agrarian reform program. The mission, according to an authoritative government source, was canceled in response to State Department objections.

Early in 1972 the private banks followed the lead of the international lending organizations. Chile's short-term credit float plummeted from $220 million in 1971 to $35 million in 1972.

There were allegations that Chile, under the Allende administration, had become too grave a credit risk for development lending.

Nonetheless, in 1971 the United States granted a $5 million line of credit to the Chilean military for purchase of C–130 four-engine transports and in December, 1972, extended an additional $10 million in credit for military activities in 1973.

Chile, one of the heaviest beneficiaries of U.S. aid programs in the world during the 1960s, was reduced to $15 million in loans from the Agency for International Development in 1970 and has been granted nothing since. The cut-off in AID credit further darkened the prospects for the Allende government to pay off obligations incurred under prior governments.

Credit standards have been variably applied to Latin American countries seeking U.S. and international financing. Bolivia was granted $30 million in AID financing after the coup of conservative Hugo Banzer in August, 1971, even though the economy was a shambles.

Brazil qualified for a $50 million development loan program within six weeks after a military junta ousted the Goulart government in 1964—also at a time when the country's economy was in severe disarray.

U.S. government credibility, in professing its non-involvement in the Chilean change of government, may tend to be undermined by the disclosures of the ITT case. In Senate testimony last March and in prior press revelations, representatives of the International Telephone and Telegraph Corp. and the Central Intelligence Agency acknowledged that they sought to promote economic chaos in Chile, first to block Allende's election and then to bring about his downfall.

ITT at the time was in the midst of negotiating expropriation terms for its Chilean telephone company (Chiltelco). While the Chiltelco case was being negotiated, ITT officials were counseling Nixon administration officials to take a hard line of economic reprisal against Chile, particularly through international lending organizations and commercial banks.

Whatever might have been the administration's motives, its turning of the economic tourniquet against the Allende government figured importantly in its downfall. There was no need for direct American involvement in the military coup.

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### CHILE'S ALLENDE: A PROPHETIC INTERVIEW

"If a revolt or civil war were successful in Chile, we would end up with a despotic government—a Fascist dictatorship!

Why? Because there already is an awareness among the workers, and there would have to be bloodshed and violence to keep them down!" After months of mounting turmoil, Chile's armed forces last week overthrew the government of Marxist President Salvador Allende Gossens, whose death in the presidential palace was called a suicide. In June, as strikes and sabotage polarized his country, Dr. Allende was interviewed in his home outside Santiago by John P. Wallach, Washington-based diplomatic correspondent for the Hearst newspapers. This is an edited version of that interview.

Q. U.S.-Chilean relations since your election three years ago have been marked by a cutoff of economic aid and continued American freezing of Chile's international credit applications in retaliation for the seizure of U.S. copper companies. This has caused a sharp escalation in the anti-American rhetoric in Chile. Secretary of State William Rogers recently called for a lowering of voices on both sides so that a constructive dialogue could begin. Do you agree?

A. First of all, I believe it is necessary to eliminate all artificial factors that make normal relations more difficult. Chile, of course, has points of view that are different from those of the United States government. But nobody can say that our relationship has deteriorated to the point where it is impossible to have a dialogue, or to the point where the dialogue has to be interrupted.

On the other hand, I think that the United States should listen more—not only to what Chile has to say but to what other Latin American countries have to say and to what other nonaligned nations have said and continue to say. For example, the foreign ministers of Latin America through their organization known as CECLA more than 2½ years ago let Mr. Nixon know those American policies with which we disagreed. And, do you know, there has still been no response from Mr. Nixon to these points.

Q. It has been charged that you are turning Chile into a traditional Marxist-Leninist state . . .

A. I want to insist that Chile is not a socialist country. This is a capitalist country, and my government is not a socialist government. Neither, as the press likes to say, is it a Marxist government. I am a Marxist. That's something else. But the government is made up of Marxists, laymen and Christians.

This is a popular, democratic, national revolutionary government—anti-imperialist. There is genuine democracy here. There is incredible freedom here, particularly freedom of the press and freedom of speech. I don't think there is any other country in the world where the president of the republic submits himself to the kind of verbal and written assaults that take place here.

Q. There have been charges that you are deliberately provoking class warfare in Chile . . .

A. Class warfare? Why should I provoke this? Of course there has been warfare, if we stick to your words. Those who had no food, those who had no roof over their heads or right to education, to health or to culture—those are people who were completely squashed.

Now, sociologically speaking, if you want to ask me whether what is happening is or is not class warfare, then I would have to say yes. I interpret this by the method I use to analyze history. It is class warfare, obviously.

But in our country what we have achieved through the efforts of the working classes has not been achieved until now at the expense of enormous sacrifices by the small or middle-class bourgeoisie. The professionals—doctors, lawyers, businessmen—continue living pretty well, pretty well, I say. Their organizations have defended their economic conquests. None of them have gone hungry!

I struggled with the doctors 20 years ago when I introduced a draft law to create socialized medicine and a national health service. The doctors charged they were going to have fewer patients, that spreading health care free of charge would ruin us, that they would all become subservient to one boss in the health service. We had to overcome tremendous resistance and appeal to the conscience of the doctors.

You know, today many people still cannot afford to buy decent health in Chile. It's a vicious cycle: The more poverty there is, the more sickness there will be, and the more sickness there is, the more poverty!

Q. The middle class opposition believes that you are trying to subvert their political freedom by taking over the means of production and that you need to preserve the facade of democracy in order to insure their cooperation in their own downfall.

A. There are people who want to drag us toward civil war. I will do everything possible, and impossible, to avoid this. Only the future will tell whether I will succeed.

I'm sure we would probably win. But that isn't the problem. The problem is the country: The country would be destroyed, its economy would be ruined for many, many years. It would destroy the entire social fabric: Passions in every family would be set on fire; there would be fathers on one side and sons against us, or sons with us and their fathers against us.

Even worse, and this is something I honestly say we have to avoid, if a revolt or civil war were successful in Chile we would end up with a despotic government—a Fascist dictatorship!

Why? Because there already is a awareness, a political consciousness here, particularly among the workers, and there would have to be bloodshed and violence to keep them down!

Q. Has the opposition become desperate as a result of their unexpected defeat in the March congressional elections? If so, is this more dangerous than their previous belief in their ability to defeat you through peaceful means?

A. Obviously. First of all, they wanted to defeat us by staging hundreds of strikes throughout the country. Then they thought they would be successful in the March elections. Their goal was to win two-thirds of the seats in the House and Senate so that they could impeach me. I told them they were crazy. I predicted we were going to get many more votes than I got in 1970, and the facts have proved me right.

Now listen to these phony democrats who hailed the virtues of democracy! They have no confidence in the measures of democracy itself, and they are afraid of 1976 (the next scheduled presidential election). They say if the government survives until then the Popular Unity (Allende's coalition) will fix the elections. What kind of democrats are they? I have always said that as long as I am president, there will be freedom of speech and there will be elections.

Q. What would happen if the Popular Unity were defeated in 1976 by a Christian Democratic-Nationalist party coalition?

A. They would take over the government, and the country would live in hell. Then, yes I would believe in hell!

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## USE OF FILIPINOS AS NAVY STEWARDS

Mr. PROXMIRE. Mr. President, according to information provided by the Navy in response to my request, 53 stewards have been assigned to the personal service of President Nixon and two stewards have been assigned to Vice President Agnew.

In addition, 570 stewards have been assigned to the personal service of high ranking Navy officers. A list of the names of the officers and the number of stewards detailed to the personal service of each follows my remarks.

A total of 11,407 stewards, are now serving on active duty in officers' dining rooms, mess halls, clubs, kitchens, and other places as well as in the personal service of the President, the Vice President and the Navy brass.

Nearly all of the stewards were recruited from the Philippines to do the Navy's menial tasks. The stewards wash dishes, scrub floors, make beds, clean rooms, pick up after officers, and perform other kinds of service duties.

I am informed that a number of stewards, including those who are assigned as personal servants, serve drinks and cater cocktail parties in addition to their other jobs.

I am also informed that many stewards who are not technically assigned to individual admirals actually do servants' work for them at their offices in the Pentagon and elsewhere.

### A BAD EXAMPLE OF MILITARY FAT

I cannot imagine a worse example of the flabbiness and fat that has been allowed to build up in the military than the Navy's use of stewards.

The pay and allowance, travel, and training costs of this program total $92.2 million annually. The costs of the stewards assigned to the personal service of the White House and high ranking brass amounts to $5.8 million annually.

Some limited use of military personnel to do kitchen and restaurant type chores is understandable.

What cannot be justified is the use of taxpayer's money to support a servant class for the military.

Each of 60 admirals have from 3 to 6 Filipino stewards working as personal servants in their homes and Admiral Moorer, the Chief of the Joint Chiefs of Staff, has 7. Two hundred thirty-six other officers get either one or two servants in their homes free of charge, thanks to the taxpayer.

Why cannot the officers make up their own beds and keep their rooms clean themselves?

The hiring of foreign nationals classified officially as "Malaysian" is particularly offensive and smacks of old-fashioned colonialism.

### GAO ASKED TO INVESTIGATE

I have asked the GAO to look into the legality of Navy stewards being assigned to the personal service of the President and Vice President, to determine their activities while so employed and whether they work in San Clemente, Key Biscayne, or other Presidential retreats.

I have also asked GAO to investigate whether stewards ostensibly assigned to other stations are in fact required to do personal servants' work for the Navy brass or high civilian officials at their homes or offices.

I ask unanimous consent to have printed in the RECORD the list of Navy officers and the number of stewards assigned to each.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FLAG OFFICER PQ SD ALLOCATIONS, CURRENT DATA BASE, JULY 20, 1973

| Position | Incumbent | Location | Public quarters steward (enlisted aides) Authorized/ONBD |
|---|---|---|---|
| ADMIRALS | | | |
| CJCS | Adm. Moorer | District of Columbia | 5/7 |
| CNO | Adm. Zumwalt | do | 5 |
| CINCSOUTH | Adm. Colbert | Naples, Italy | 5 |
| VCNO | Adm. Weisner | District of Columbia | 5 |
| CNM | Adm. Kidd | do | 4 |
| CINCUSNAVEUR | Adm. Bringle | London, England | 4 |
| CINCPAC | Adm. Gayler | Pearl Harbor | 5 |
| CINCLANTFLT | Adm. Cousins | Norfolk, Va | 5 |
| CINCPACFLT | Adm. Clarey | Pearl Harbor | 4 |
| VICE ADMIRALS | | | |
| COMDT ICAF | Vice Adm. Smith | District of Columbia | 3 |
| SUPT NAVACAD ANNA | Vice Adm. Mack | Maryland | 6 |
| DIR DIA | Vice Adm. de Poix | District of Columbia | 3 |
| DCNO (SUB WAR) | Vice Adm. Wilkinson | do | 3 |
| DIR OF OPS, J-3, JCS | Vice Adm. King | do | 3 |
| ASST TO CJCS | Vice Adm. Weinel | do | 3 |
| DEPASST SECDEF (SA) | Vice Adm. Peet | do | 3 |
| DEPCHAIR, NATO MILCOM | Vice Adm. Minter | Brussels, Belguim | 3 |
| DIRASW PROG OPNAV | Vice Adm. Shear | District of Columbia | 3 |
| DCNO (Plans and Policy) | Vice Adm. Vannoy | do | 3 |
| NAV MBR MILSTAFF COM UN | Vice Adm. Harty | New York | 3 |
| DIRCOMDSUPPGMS OPNAV | Vice Adm. Harlfinger | District of Columbia | 3 |
| DIR JSTPS, OPPUTT AFB | Vice Adm. Lee | Nebraska | 3 |
| PRES NAVWARCOL | Vice Adm. Turner | Newport, R.I | 6 |
| DCNO (AIR WAR) | Vice Adm. Houser | District of Columbia | 3 |
| CNAVRES | Vice Adm. Cooper | New Orleans, La | 3 |
| DIR SHIPACQ & IMPROV, OPNAV | Vice Adm. Price | District of Columbia | 3 |
| DIR RDT & E, OPNAV | Vice Adm. Moran | do | 3 |
| COMDT, NATLWARCOL | Vice Adm. Bayne | do | 3 |

| Position | Incumbent | Location | Public quarters steward (enlisted aides) Authorized/ONBD |
|---|---|---|---|
| DNPP, OPNAV | Vice Adm. Hayward | do | 3 |
| VCNM | Vice Adm. Wheeler | do | 3 |
| COMUSTDC | Vice Adm. Beshany | Taipei | 3 |
| COMSIXTHFLT | Vice Adm. Murphy | Gaeta, Italy | 3 |
| COMPHIBLANT | Vice Adm. Bell | Norfolk, Va | 3 |
| COMNAVAIRLANT | Vice Adm. Michaelis | do | 3 |
| COS SACLANT | Vice Adm. Le Bourgeois. | do | 3 |
| COMSUBLANT | Vice Adm. Long | do | 3 |
| DEPCOS CINCLANTFLT | Vice Adm. Plate | do | 3 |
| COMSECONDFLT | Vice Adm. Finneran | do | 3 |
| CNT | Vice Adm. Cagle | Pensacola, Fla | 3 |
| CHBUMED | Vice Adm. Custis | Bethesda, Md | 3 |
| COMSEVENTHFLT | Vice Adm. Holloway | Yokosuka, Japan | 3 |
| COMNAVAIRPAC | Vice Adm. Baldwin | San Diego, Calif | 3 |
| DEPCOS CINCPACFLT | Vice Adm. Talley | Pearl Harbor | 3 |
| COMPHIBPAC | Vice Adm. Salzer | San Diego, Calif | 3 |
| COMTHIRDFLT | Vice Adm. Rapp | Pearl Harbor | 3 |
| REAR ADMIRALS | | | |
| (Pay grade 0-8) | | | |
| GOV NAVHOME | Rear Adm. Speck | Philadelphia, Pa | 2 |
| COMELEVEN | Rear Adm. Williams | San Diego, Calif | 3 |
| COMTWELVE | Rear Adm. Guest (ADDU). | San Francisco, Calif | 3 |
| COMNAVBASE, K WEST | Rear Adm. Maurer | Key West, Fla | 2 |
| COMEIGHT | Rear Adm. Riera | New Orleans, La | 3 |
| COMTEN | Rear Adm. Ward | San Juan, P.R | 3 |
| COMSCPAC | Rear Adm. Guest | San Francisco, Calif | 2 |
| PRES NAVBDINSP & SURV | Rear Adm. Bulkeley | District of Columbia | 2 |
| COMNAVBASE LOSA/LBEACH | Rear Adm. Lambert | Long Beach, Calif | 2 |
| ADCNO (Plans and Policy) | | District of Columbia | 2 |
| COMFLDCOM, DNA | Rear Adm. Swanson | Albuquerque, N. Mex | 2 |
| COMFIVE | Rear Adm. Anderson | Norfolk, Va | 3 |
| COMNAR | Rear Adm. Ramage | Glenview, Ill | 2 |
| COMNAVSURFRES | Rear Adm. Guest | Omaha, Nebr | 3 |
| COMDEFCONSTSUPPCEN | Rear Adm. Heffner | Columbus, Ohio | 2 |
| CH, NSAPAC | Rear Adm. Cook | Pearl Harbor | 2 |
| COMNAVDIST WASHDC | Rear Adm. Esch | District of Columbia | 3 |
| DIR, STRATSYSPROJ OFF, CNM | Rear Adm. Smith | do | 2 |
| CO, NAVSUPPCEN, NORVA | Rear Adm. Sutherling | Norfolk, Va | 2 |
| DIR, TACTDIGSYS OFF, CNM | Rear Adm. Rice | District of Columbia | 2 |
| HD, SHIPBUILD COUNCIL, CNM | Rear Adm. Sonenshein | do | 2 |
| COMNATC, PAX RIV | Rear Adm. Isaman | Pax Riv, Md | 2 |
| COMPAC MISSRAN | Rear Adm. Harnish | Point Mugu, Calif | 2 |
| CO, NAVSUPPCEN, SDIEGO | | San Diego, Calif | 2 |
| COMNAVWEAPCEN | Rear Adm. Pugh | China Lake, Calif | 2 |
| DEPCOS EUCOM | Rear Adm. Crawford | Germany | 2 |
| DEPCOS LOGS/MGMT, CINCUSNAVEUR. | Rear Adm. Grantham | London, England | 2 |
| DATT/ALUSNA UK | Rear Adm. Gilkeson | do | 2 |
| COMFAIRMED | Rear Adm. Charbonnet | Naples, Italy | 2 |
| DEPCOS, CINCUSNAVEUR | Rear Adm. Rosenberg | London, England | 2 |
| DEP DIR J-2, EUCOM | Rear Adm. Bergin | Germany | 2 |
| COMCARDIV TWO | Rear Adm. Turner | Athens, Greece | 2 |
| DEPACOS PLANS/POL, SACEUR | Rear Adm. Steele | Belgium | 2 |
| DEPCOS MIL ASST LOGS, ADMIN, CINCPAC. | Rear Adm. Heyworth | Pearl Harbor | 2 |
| DEPCOMNAVAIRLANT TACAIR | Rear Adm. Geis | Jacksonville, Fla | 2 |
| COMIBERLANT | Rear Adm. Erly | Portugal | 2 |
| DEPCOS PERS, ADMIN & LOG, CINCLANTFLT. | Rear Adm. Lemos | Norfolk, Va | 2 |
| COMCRUDESLANT | Rear Adm. Weschler | Newport, R.I | 2 |
| COMSERVLANT | Rear Adm. Burke | Norfolk, Va | 2 |
| COMOPTEVFOR | Rear Adm. Carmody | do | 2 |
| COMNAVBASE GTMO | Rear Adm. McCuddin | Cuba | 2 |
| DEPCOS PLANS & OPS CINCLANTFLT. | Rear Adm. Cox | Norfolk, Va | 2 |
| COMFAIRWINGSLANT | Rear Adm. Hadden | Brunswick, Maine | 2 |
| DEPCOMNAVAIRLANT SEA BASED AIR ASW. | Rear Adm. Cassell | Quonset Point, R.I | 2 |
| COMPHIBGRU TWO | Rear Adm. McManus | Norfolk, Va | 2 |
| SUPT NAVPGSCOL | Rear Adm. Freeman | Monterey, Calif | 4 |
| DIRNAVEDDEVEL, CNT | Rear Adm. Abbot | Pensacola, Fla | 2 |
| CNATRA | Rear Adm. Ferris | Corpus Christi, Tex | 2 |
| CO, NNMC | Rear Adm. Ballinger | Bethesda, Md | 2 |
| CO, NAVHOSP | Rear Adm. Faucett | Oakland, Calif | 2 |
| DIR/CO, NAVREGMEDCEN | Rear Adm. Stoecklein | San Diego, Calif | 2 |
| COMNAVMARIANAS | Rear Adm. Morrison | Guam | 2 |
| COMCRUDESPAC | Rear Adm. Woods | San Diego, Calif | 2 |
| FORMATTOFF, COMNAVAIRPAC | Rear Adm. Clancy | do | 2 |
| FORSUPPOFF, COMSERVPAC | Rear Adm. Rieve | Pearl Harbor | 2 |
| COMSERVPAC | Rear Adm. Armstrong | do | 2 |
| COMCARDIV FIVE | Rear Adm. McClendon | Subic Bay P.I | 2 |
| COMSERVGRU THREE | Rear Adm. Cole | Sasebo, Japan | 2 |
| COMFAIRWESTPAC | Rear Adm. Donaldson | Atsugi, Japan | 2 |
| DEPCOS PLANS & OPS CINCPACFLT. | Rear Adm. Greer | Pearl Harbor | 2 |
| COMCARDIV ONE | Rear Adm. Davis | do | 2 |
| (Pay grade 0-7/6) | | | |
| COMFOURTEEN | Rear Adm. Butts | Pearl Harbor | 3 |
| COS, CSS, FORT MEADE | Rear Adm. Marocchi | Maryland | 2 |
| COMTHREE | Rear Adm. Pugh | New York | 3 |
| NADEPTCOMDT NATO DEF. COL | Rear Adm. Miller | Rome, Italy | 2 |
| CH, NAVSECMILGP | Rear Adm. Perry | Brazil | 2 |
| COLA | Rear Adm. Snyder | District of Columbia | 2 |
| COMDEFELESUPPCEN | Rear Adm. Scott | Dayton, Ohio | 2 |
| DEPUSREP, NATO | Rear Adm. Kane | Brussels, Belgium | 2 |
| COMTHIRTEEN | Rear Adm. Bass | Seattle, Wash | 3 |
| COMNAVSAFECEN | Rear Adm. Nelson | Norfolk, Va | 2 |
| COMFIFTEEN | Rear Adm. Blount | Canal Zone | 3 |
| DNI | Rear Adm. Rectanus | District of Columbia | 2 |
| COMFOUR | Rear Adm. Coleman | Philadelphia, Pa | 3 |
| DEPDEFADVIS, NATO/DEF | Rear Adm. Ellis | Brussels, Belgium | 2 |
| COMONE | Rear Adm. Rumble | Boston, Mass | 3 |
| CH, NSTLD, JSTPS, OFFUTT, AFB. | Rear Adm. Russell | Nebraska | 2 |
| DEP TO PRES, NAVWARCOL | Rear Adm. Harris | Newport, R.I | 2 |
| COMSIX | Rear Adm. Tahler | Charleston, S.C | 3 |
| COMNINE | Rear Adm. Kane (PROS). | Glakes, Ill | 3 |
| CO, SPCC | Rear Adm. McMorries | Mechanicsburg, Pa | 2 |
| CO, NAVAVIA SUPPOFF | Rear Adm. Crosby | Philadelphia, Pa | 2 |
| CO, NAVRESALESYSOFF | Rear Adm. Schoggen | Brooklyn, N.Y | 2 |
| NAVAIRSYSCOMREPLANT | Rear Adm. Andrews | Norfolk, Va | 2 |
| COMNORVANASHIPYD | Rear Adm. King | do | 2 |
| COMPACDIVNAVFACENG COM | Rear Adm. Iselin | Pearl Harbor | 2 |
| COMLANTDIVNAVFAC ENGCOM. | Rear Adm. Walton | Norfolk, Va | 2 |
| CO, WESTDIV, NAVFACENGCOM | | San Bruno, Calif | 2 |
| CO, NAVSUPPCEN OAKLAND | Rear Adm. Allshouse (PROS). | Oakland, Calif | 2 |
| COMSUBFLOT EIGHT | Rear Adm. Hannifin | Naples, Italy | 2 |
| DEPCOMNAVSTRIKFOR SOUTH | Rear Adm. Freeman | Naples, Italy | 2 |
| COMIDEASTFOR | Rear Adm. Hanks | Bahrein | 2 |
| DIR COMM-ELEC, EUCOM | Rear Adm. Farrell | Germany | 2 |
| ACOS PLANS, CINCPAC | Rear Adm. Yates | Pearl Harbor | 2 |
| COMCARDIV FOUR | Rear Adm. Engine | Norfolk, Va | 2 |
| DEPCOS & ACOS POL PLNS & OPS, SACLANT. | Rear Adm. Nace | do | 2 |
| FLT DENT OFF & ACOS DENTISTRY, CINCLANTFLT. | Rear Adm. Anderson | do | 2 |
| COMINWARFOR | Rear Adm. McCauley | Charleston, S.C | 2 |
| COMCRUDESFLOT TWO | Rear Adm. Wentworth | Newport, R.I | 2 |
| COMNAVINSWARLANT | Rear Adm. Greene | Norfolk, Va | 2 |
| COMCARDIV SIX | Rear Adm. Moorer | Mayport, Fla | 2 |
| COMCRUDESFLOT TWELVE | Rear Adm. Welander | do | 2 |
| COMSOLANTFOR | Rear Adm. Shanahan | San Juan, P.R | 2 |
| FLT SURGEON & ACOS MEDICINE, CINCLANTFLT. | Rear Adm. Nauman | Norfolk, Va | 2 |
| FLT CHAPLAIN, CINCLANTFLT | Rear Adm. Hutcheson | do | 2 |
| COMCRUDESFLOT EIGHT | Rear Adm. Downey | do | 2 |
| COMSUBFLOT SIX | Rear Adm. Whittle | Charleston, S.C | 2 |
| FMO & ACOS MAINT, CINCLANFLT. | Rear Adm. Barnes | Norfolk, Va | 2 |
| DEPCOMSECONDFLT | Rear Adm. McLaughlin | do | 2 |
| COMTRALANT | Rear Adm. Mitchell | do | 2 |
| COMSUBFLOT TWO | Rear Adm. Earley | New London, Conn | 2 |
| IG, CINCLANTFLT | Rear Adm. Gormley | Norfolk, Va | 1 |
| ACOS SUPP & FSO COMSERVLANT. | Rear Adm. Shepard | do | 2 |
| COMFAIRKEFLAVIK | Rear Adm. Cooley | Iceland | 2 |
| DEP CNT | Rear Adm. Axene | Pensacola, Fla | 2 |
| CNTECHTRA | Rear Adm. Sackett | Memphis, Tenn | 2 |
| DIR/CO, NAVREGMEDCEN | Rear Adm. Turville | Glakes, Ill | 2 |
| CO, NAVAEROMEDCEN | Rear Adm. Gray | Pensacola, Fla | 2 |
| DIR/CO, NAVREGMEDCEN | Rear Adm. Arentzen | Portsmouth, Va | 2 |
| DIR DENTAL, ELEVEN ND | Rear Adm. Karies | San Diego, Calif | 2 |
| CH DEPT OF MED NAVHOSP, NNMC. | Rear Adm. Jacoby | Bethesda, Md | 2 |
| COMFAIRWINGSPAC | Rear Adm. Ainsworth | Moffett, Calif | 2 |
| FLT SURGEON, CINCPACFLT | Rear Adm. Waite | Pearl Harbor | 2 |
| COMPATFORSEVENTHFLT | Rear Adm. Fowler | Japan | 2 |
| COMCRUDESFLOT THREE | Rear Adm. St. George | Long Beach, Calif | 2 |
| FLTMAINTOFF, CINCPACGLT | Rear Adm. Mills | Pearl Harbor | 2 |
| COMNAVPHIL | Rear Adm. Shelton | Subic Bay, P.I | 3 |
| COMNAVFORKOREA | Rear Adm. Morgan | Korea | 2 |
| COMPHIBOPSUPPAC | Rear Adm. Rogerson | San Diego, Calif | 2 |
| COMFAIRWHIDBEY | Rear Adm. Tierney | Washington | 2 |
| COMSUBPAC | Rear Adm. McMullen | Pearl Harbor | 2 |
| COMNAVFORJAPAN | Rear Adm. Rogers | Yokosuka, Japan | 3 |
| COMCARDIV THREE | Rear Adm. McDonald | Alameda, Calif | 2 |
| DEPCOS (LOGS/PERS/ADMIN) CINCPACFLT. | Rear Adm. Delargy | Pearl Harbor | 2 |
| COMTRAPAC | Rear Adm. Foss | San Diego, Calif | 2 |
| COMSUBFLOT ONE | Rear Adm. Trost | do | 2 |
| COMCRUDESFLOT NINE | Rear Adm. Kern | do | 2 |
| COMPHIBGRU ONE | Rear Adm. Toole | Japan | 2 |
| COMCRUDESFOT ELEVEN | Rear Adm. Kern (Addu) | San Diego, Cal | 2 |
| COMCARDIV SEVEN | Rear Adm. Oberg (Pros) | Alameda, Calif | 2 |
| COMDTMIDSHIPMN NAVACAD | Rear Adm. Morris | Maryland | 2 |
| ACOS LOG, CINCAFSOUTH | Rear Adm. Hilton | Naples, Italy | 2 |
| CAPTAIN | | | |
| CO, NAS AGANA | Capt. Bowers | Guam | 1 |
| CO, NAS ALAMEDA | Capt. Sells | Alameda, Calif | 1 |
| CO, NAS ALBANY | Capt. Webster | Albany, Ga | 1 |
| CO, NAS BARBERS POINT | Capt. Ames | Hawaii | 1 |
| CO, NAS BERMUDA | Capt. Geitz | Bermuda | 1 |
| CO, NAS CUBI POINT | Capt. Wissler | Philippines | 1 |
| CO, NAS FALLON | Capt. Muncie | Fallon, Nev | 1 |
| CO, NAS GUANTANAMO | Capt. Cadenas | Cuba | 1 |
| CO, NAS JACKSONVILLE | Capt. Sizemore | Florida | 1 |
| CO, NAS LEMOORE | Capt. Alvis | California | 1 |
| CO, NAS MIRAMAR | Capt. Foxgrover | do | 1 |
| CO, NAS MOFFETT | Capt. Gambrill | do | 1 |
| CO, NAS NORFOLK | Capt. Swanson | Virginia | 1 |
| CO, NAS NORTH ISLAND | Capt. McKenzie | California | 1 |
| CO, NAS OCEANA | Capt. Mandeville | Virginia | 1 |
| CO, NAS WHIDBEY | Capt. Arnold | Washington | 1 |
| CO, NAS WILLOW GROVE | Capt. Gore | Pennsylvania | 1 |
| CO, NAF SIGONELLA | Capt. Vonschrader | Sicily | 1 |
| CO, NATTC GLYNCO | Capt. Miller | Georgia | 1 |
| CO, NATTC MEMPNIS | Capt. O'Callaghan | Tennessee | 1 |
| COMFAIR CARIBBEAN | Capt. Robinson | Roosevelt Roads, P.R | 1 |
| COMFAIR ALAMEDA | Capt. O'Rourke | California | 1 |

FLAG OFFICER PQ SD ALLOCATIONS, CURRENT DATA BASE, JULY 20, 1973—Continued

| Position | Incumbent | Location | Public quarters steward (enlisted aides) Authorized/ONBD |
|---|---|---|---|
| COMFAIR LEMOORE | Capt. Homyak | do | 1 |
| COMFAIR MIRAMAR | Capt. Lamoreaux | do | 1 |
| COMNAVAIRDEVCEN | Capt. McCauley | Warminster, Pa | 1 |
| COMTRAWING ONE | Capt. Gooding | Meridian, Miss | 1 |
| COMTRAWING FOUR | Capt. Wynn | Corpus Christi, Tex | 1 |
| COMTRAWING SIX | Capt. Miller | Pensacola, Fla | 1 |
| COMTRAWING EIGHT | Capt. Emmey | Glynco, Ga | 1 |
| COMTRAWING TWO | Capt. Oconnor | Kingsville, Tex | 1 |
| CONTRAWING THREE | Capt. Smith | Beeville, Tex | 1 |
| COMTRAWING FIVE | Capt. Rezzarday | Whiting Field, Fla | 1 |
| COMTRAWING SEVEN | Capt. Engle | Saufley Field, Fla | 1 |
| CO, NAVSTA ADAK | Capt. Thummel | Alaska | 1 |
| CO, NAVSTA ANNAPOLIS | Capt. Lindgren | Maryland | 1 |
| CO, NAVSTA ARGENTIA | Capt. Jarvis | Newfoundland | 1 |
| CO, NAVSTA CHARLESTON | Capt. Mooney | South Carolina | 1 |
| CO, NAVSTA GUANTANAMO | Capt. Alford | Cuba | 1 |
| CO, NAVSTA KEFLAVIK | Capt. McDonald | Iceland | 1 |
| CO, NAVSTA LONG BEACH | Capt. Smith | California | 1 |
| CO, NAVSTA MIDWAY | Capt. Roemer | Midway Island | 1 |
| CO, NAVSTA MAYPORT | Capt. Anderson | Mayport, Fla | 1 |
| CO, NAVSTA NEWPORT | Capt. Drake | Rhode Island | 1 |
| CO, NAVSTA NORFOLK | Capt. Anders | Norfolk, Va | 1 |
| CO, NAVSTA PEARL HARBOR | Capt. Benson | Hawaii | 1 |
| CO, NAVSTA ROOSEVELT ROADS. | Capt. Cramblet | Puerto Rico | 1 |
| CO, NAVSTA ROTA | Capt. Corrigan | Spain | 1 |
| CO, NAVSTA SAN DIEGO | Capt. Mawhiney | California | 1 |
| CO, NAVSTA SUBIC BAY | Capt. Weidman | Philippines | 1 |
| CO, NAVSTA SAN FRANCISCO | Capt. Setzer | California | 1 |
| CO, NAVCOMMSTA SIDI YAHIA | Capt. Galloway | Morocco | 1 |
| CO, NAVDESCOL | Capt. McCabe | Newport, R.I | 1 |
| COMNTC GREAT LAKES | Capt. Gorsline | Illinois | 1 |
| CO, NAVCRUITRACOM GREAT LAKES. | Capt. Hallet | do | 1 |
| COMNTC ORLANDO | Capt. Gillooly | Florida | 1 |
| CO, NAVCRUITRACOM ORLANDO. | Capt. Nugent | do | 1 |
| COMNTC SAN DIEGO | Capt. Franch | California | 1 |
| CO, NAVCRUITRACOM SAN DIEGO | Capt. Bivin | do | 1 |
| CO, FLTASWSCOL | Capt. Hayes | San Diego, Calif | 1 |
| CO, FLTCOMBATDIRSSACT PACIFIC. | Capt. Murphy | do | 1 |
| CO, FLTCOMBATDIRSSACT DAM NECK | Capt. Vermilya | Virginia | 1 |
| COMNAVTRACOM MOROCCO | Capt. Lasseter | Kenitra, Morocco | 1 |
| CO, NAVOFFTRACEN | Capt. Kay | Newport, R.I | 1 |
| CO, NAVAVSCOLSCOM | Capt. Loux | Pensacola, Fla | 1 |
| CO, NAVSCSCOL | Capt Gaetz | Athens, Ga | 1 |
| CO, NAD CRANE | Capt McAnthy | Indiana | 1 |
| CO, NAD HAWTHORNE | Capt. Kirsche | Nevada | 1 |
| CO, WPNSTA CONCORD | Capt. Denham | California | 1 |
| CO, NAVORDSTA INDIAN HEAD | Capt Moody | Maryland | 1 |
| CO, NWL DAHLGREN | Capt. Schniedwind | Virginia | 1 |
| CO, NAVSPNSCEN YORKTOWN | Capt. Young | do | 1 |
| CO, NOL WHITE OAK | Capt. Williamson III | Maryland | 1 |
| CO, ESO GREAT LAKES | Capt. Smith | Illinois | 1 |
| CO, NSC PEARL HARBOR | Capt. Hapman | Hawaii | 1 |
| CO, NSC CHARLESTON | Capt Nichols | South Carolina | 1 |
| CO, NAVHOSP BETHESDA | Capt. Brown | Maryland | 1 |
| DIR/CO NAVREGMEDCEN CAMP LEJEUNE | Capt. Peters | North Carolina | 1 |
| DIR/CO, NAVREGMEDCEN CHARLESTON. | Capt. Lonercan | South Carolina | 1 |
| CO, NAVHOSP CHELSEA | Capt. Kramer | Massachusetts | 1 |
| DIR/CO, NAVREGMEDCEN JACKSONVILLE. | Capt. Kaufman | Florida | 1 |
| DIR/CO, NAVREGMEDCEN NEWPORT. | Capt. Williams | Newport, R.I | 1 |
| CO, NAVHOSP PHILADELPHIA | Capt. Gruft | Pennsylvania | 1 |
| CO, NAVHOSP ST ALBANS | Capt. Tarr | New York | 1 |
| COMNAVSHIPYD BOSTON | Capt. Arthur | Massachusetts | 1 |
| COMNAVSHIPYD CHARLESTON | Capt. Woolston | South Carolina | 1 |
| COMNAVSHIPYD LONG BEACH | Capt. Fay | California | 1 |
| COMNAVSHIPYD PEARL HARBOR. | Capt. Swanson | Hawaii | 1 |
| COMNAVSHIPYD PORTSMOUTH | Capt. Westfall | New Hampshire | 1 |
| COMNAVSHIPYD PUGET SOUND | Capt. Manganard | Bremerton, Wash | 1 |
| COMNAVSHIPYD MARE ISLAND | Capt. Webber | Vallejo, Calif | 1 |
| CO, CBC DAVISVILLE | Capt. Clements | Rhode Island | 1 |
| CO, CBC GULFPORT | Capt. DeGroot III | Mississippi | 1 |
| CO, CBC PORT HUENEME | Capt. Jones | California | 1 |
| EXEC ASST & SR AIDE TO CHAIRMAN JCS. | Capt. Knoizen | Washington, D.C | 1 |
| EXEC ASST & SR AIDE TO CNO | Capt. Pringle | do | 1 |
| EXEC ASST & SR AIDE TO CINCPAC. | Capt. Dwyer | do | 1 |
| COMNELC SAN DIEGO | Capt. Harding | California | 1 |
| COMDESFLOT FIVE | Capt. Altoff | Pearl Harbor, Hawaii | 1 |
| CO, NAVPHIBASE CORONADO | Capt. Perez | California | 1 |
| CO, NAVPHIBASE LITTLE CREEK. | Capt. Bihr | Little Creek, Va | 1 |
| CO, SUBASE NEW LONDON | Capt. Hawkins | Connecticut | 1 |
| CO, SUBASE PEARL HARBOR | Capt. Tomb | Hawaii | 1 |
| CO, FLFACT SASEBO | Capt. Mayes | Japan | 1 |
| CO, FLFACT YOKOSUKA | Capt. Collier | do | 1 |
| CO, NAVSUPPACT NAPLES | Capt. Elfelt | Italy | 1 |
| COMSCELM BREMERHAVEN | Capt. Fritzke | Germany | 1 |
| COMSCFE YOKOHAMA | Capt. Ruebsamgn | Japan | 1 |
| CO, NAVSHIPMISSENGSTA PT HUENEME. | Capt. Christofferson | California | 1 |
| CHMAAG DENMARK | Capt. Wilder | Denmark | 1 |
| CHMAAG NETHERLANDS | Capt. Saroch | Netherlands | 1 |
| CO, NORTHNAVFACENGCOM | Capt. Williams | Philadelphia, Pa | 1 |
| DEPCOM NAVBASE NEWPORT | Capt. Moul | Newport, R.I | 1 |
| Total |  |  | 570/572 |

## POSTAL RATE INCREASES

Mr. NELSON. Mr. President, in defending Americans' first amendment right to communicate freely with each other, Oliver Wendell Holmes once observed that—

> Every idea is an incitement. It offers itself for belief, and if believed, it is acted on unless some other belief outweighs it, or some failure of energy stifles the movement at its birth.

Justice Holmes' observation is just as true today as it was when he made it several decades ago.

Nonetheless, the Cost of Living Council has very recently sanctioned an action of the Postal Service which would arbitrarily stifle the movement of ideas proffered by America's 10,000 magazines and more than 9,000 daily and weekly newspapers. In a decision announced on August 31, 1973, the Cost of Living Council agreed to exempt postal rate increases for second-class mail from the administration's price freeze. These postal rate increases constitute another step in the Postal Service's announced policy to saddle America's newspapers and magazines with an average 127-percent increase in mailing costs over the next 5 years.

I believe this policy will have serious consequences for many of America's publications. The rate increases will impose a burden that few periodicals will be able to bear without limiting the flow of information and opinion to American citizens. The burden will weigh most heavily on smaller journals of opinion which rely almost exclusively on distribution through the mails. For most of these small periodicals, the postal rate increases will necessitate considerable reductions in the scope and quality of their work. In many cases, the decision to implement the announced postal rate increases will prove fatal.

An editorial from the Wisconsin Rapids Tribune aptly described the far-reaching costs which the postal rate increases will have for America's small publications:

> Many smaller publications such as independent opinion periodicals and weekly newspapers who rely heavily on mail circulation to rural areas would not be able to continue operations if they had to meet the financial burdens that would occur with proposed [postal] rate hikes. . . .
>
> Knowledge of government is vital to a living democracy and the information carried through publications is an indispensible part of that knowledge. Forcing publications out of business or causing cutbacks in quality because of exhorbitant costs will severely damage this important function in our society.

The mark of death will not be confined to small publications, however. Even the larger publications may succumb to the announced postal rate increases. In explaining the demise of Life magazine, for instance, its officers cited postal rate increases of 170 percent over the next 5 years.

In my view, the inevitable decrease in information distributed to the American people through the mails, and especially the possible demise of many publications, are costs which far outweigh any benefits secured by increasing the Postal Service's revenues. The venerable Judge Learned Hand observed in *United States* v. *Associated Press*, 52 F. Supp. 362 (D.C.S.D.N.Y. 1943), that the first amendment—

> Presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all.

The Supreme Court endorsed Judge Hand's observation, stating that the first amendment is designed to secure—

> The widest possible dissemination of information from diverse and antagonistic

sources. *Association Press* v. *United States,* 326 U.S. 1, 20 (1945).

There can be no question that America's publications, and especially the small specialized periodicals, perform a vital function in serving this first amendment purpose. In recognition of that vital function, Congress has, since 1792, maintained low postal rates for second class publications. There is no reason to believe that Congress intended to abandon that policy when it enacted the Postal Reorganization Act of 1970, the law which established the Postal Service. Indeed, quite the contrary. Section 101(a) of that law states that—

> The Postal Service shall have as its basic function the obligation to bind the Nation together through the personal, educational, literary and business correspondence of the people.

All of us are rightly concerned about the need to cut the costs of Government. But in our zeal to economize, we should not carelessly adopt actions which will compromise the quality or suppress the distribution of the innumerable magazines and newspapers which are in many ways the life-blood of our first amendment freedoms. President Nixon himself, in announcing phase IV of his new economic policy, cautioned the public to join in—

> Sensible policies to meet our temporary problems without sacrificing our lasting strengths.

Certainly any action which would reduce the flow of information among Americans—and thereby undermine the strength of our first amendment freedoms—cannot qualify as a "sensible policy."

On January 31, 1973, I introduced S. 630, a bill which would limit the postal rate increases that could be imposed on small publications and, to some extent, on the larger publications. My bill embodies three principal features.

First, this legislation would amend the policy section of the Postal Reorganization Act of 1970 to make it abundantly clear that the Postal Service has an obligation to provide postal services at rates which will encourage and assist the wide publishing of information and differing points of view on all issues of interest to the country.

Second, this bill would set the second class postal rates at the level of June 1, 1972, for the first 250,000 issues of newspapers and magazines sent through the mails. These rates include the approximately 33⅓ percent increase in second-class charges that were put into effect on a temporary basis in May 1972. This provision would be of particular support to the smaller, almost nonprofit independent journals of opinion that already exist. It would encourage the entry of new publications of this type and provide continuing outlets for divergent views and fresh ideas.

Any future increase in second-class rates for issues over the 250,000 copy ceiling would be phased in during a 10-year period under this bill. This 10-year period would apply only to increases on editorial content, and any increases for advertising material would be implemented during 5 years as is presently the law for both categories.

Finally, and perhaps most important for many small publications, this legislation would expressly write into law longstanding congressional policy against per piece surcharges on individual issues of second-class publications.

The Post Office and Civil Service Committee, under the judicious leadership of the Senator from Wyoming, held hearings on my bill and related proposals last April. The testimony presented to the committee offers abundant evidence of the need to enact a bill which will protect America's publications, and especially the smaller periodicals, from unbearable postal rate increases. It is my hope that the committee will favorably report out a bill in the very near future.

## OLDER AMERICANS ACT

Mr. PELL. Mr. President, we are all well aware that solving the nutritional problems of senior citizens is a keystone in our efforts to help senior citizens help themselves to regain their rightful and active place in our society.

Inflation, malnutrition, illness, isolation, and attendant psychological and social problems; all these form a vicious circle which prevents many elderly persons from enjoying a decent and well-deserved retirement.

I was very pleased to serve on the committee which wrote the Older Americans Act, and this week I am proud to see the fruits of a title of that act begin to ripen in Rhode Island. The inauguration of well-planned nutrition projects in Rhode Island, supported by transportation services and educational and recreational opportunities for senior citizens, will mean a great deal to many senior citizens. An article by John Ward about this excellent program appeared in the Providence Evening Bulletin, of September 10, 1973, and, because I believe the article would be helpful to others who might be interested in starting such programs, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### U.S. FUNDED NUTRITION WILL BEGIN TOMORROW

Rhode Island introduces its Nutrition Program for the Elderly tomorrow, serving the first meals in Providence at noon at the URI Extension Building, 364 Prairie Ave., and at Sheldon House, Fox Point.

Frank J. Centazzo, assistant coordinator of the R.I. Division on Aging, which is sponsoring the program, said that eventually the entire state, divided into six areas, will be served. Rhode Island, he said, is the first state in New England and one of the first in the nation to get such a program underway. It is funded by $493,000 from the U.S. Department of Health, Education and Welfare under Title 7. Contributions from state and local governments in services, personnel and added in-kind funds will boost the overall total to three quarters of a million dollars, Mr. Cantazzo said.

The program is to subsidize group meals for the elderly with supportive services, including health and transportation.

"But this is not just feeding people," Miss Eileen Kennedy of the division said. "This is a comprehensive approach to the nutritional problems that many of the elderly have. We are using meals as the core of the program to attract people, get them out of their houses and use this as a vehicle to provide all services of the program. This includes nutrition education, coded in an entertaining way; problems of finance, social services, including food stamps, public assistance and legal services.

"There will be an Outreach component for shopping services someone trained in home economics to teach how to stretch food dollars and a health component," Miss Kennedy said. Miss Kennedy, division nutritionist, and Andrew Clary, resource specialist, will be directing the program. The first area director, for Province, to be named, is Mrs. Betty Newsom. She is a director in SECAP, the Model Cities Program agency and a member of the division's advisory commission, Mrs. Newsom, as will other area directors, will have meal site managers on her staff.

Mr. Centazzo said, "the important ingredient for the success of this nutrition program is accessibility of transportation to bring the elderly to the meal sites. We are also required by law to see that each person is provided a variety of backup services, including home health and maintenance, counselling, information referral to proper agencies and Outreach, to find the elderly in need of nutritional help.

"Nutrition grants could not possibly fund all of these additional services, so we have to find additional resources in other state departments, local agencies and, to some extent, Title 3 funds, under the Older American Act."

To answer the transportation problem mentioned by Mr. Centazzo, the program is awaiting delivery of 10 new mini-buses, expected later this month. Mr. Centazzo said that eight of the 15-passenger, van-style vehicles, are costing $5,389 each and are to be delivered by Paul Goodman Dodge. Two others, to be equipped with forklift type apparatus to aid in transporting handicapped elderly, will cost $8,740 each and will come from educational products, the division official said.

The mini-buses will be radio-equipped and will be tied into the AST dispatch network. The network is already operational although Miss Kennedy said that radios for the nutrition programs' vehicles have yet to be obtained. Ten drivers are to be hired through the Senior Citizens Transportation Corp. at 1 Mendon Rd., Cumberland Preferences are being given in hiring elderly persons for these jobs and at meal sites in the six areas covering the state, Miss Kennedy said.

The Division anticipates that once the full program is operational, 1,000 meals a day will be served weekdays. The clients will be located through Outreach, and referrals by the R.I. Council of Community Services, local visiting nurses and other agencies that serve the elderly. Those taking the meals may make a daily contribution of 75 cents or less, or, if unable to donate, may eat free.

## USED CARS

Mr. HARTKE. Mr. President, in introducing the Used Car Warranty Act—S. 1881—I have sought to protect the public from the practices of some used car dealers who are more concerned about making a profit than about selling roadworthy automobiles.

One of the objectives of S. 1881 is to require that every automobile be sold with a written warranty, the terms of which are spelled out in nontechnical language and made a part of the sales contract. An exception is made to allow cars to be sold wiithout a written warranty, but the sales contract for such cars must make it clear that the buyer will be responsible for any and all repairs which may be necessary.

S. 1881 requires the dealer to tell the purchaser exactly where he can get his repairs performed under the warranty. It also requires that vehicles sold by a dealer meet presale State inspection requirements.

These are basic provisions to achieve an equity in the marketplace between the used car dealer and the purchaser. A recent series of articles by reporter Howard S. Marks of Chicago Today illustrates just how much these basic provisions are needed.

Mr. President, I ask unanimous consent that parts three and four of the newspaper series be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### DAY 2: REPORTER MAKES A SALE

(By Howard S. Marks)

(Unscrupulous used car dealers are highly skilled in the art of prying the last dollar from those who can least afford it—the unwary and the bad credit risk. To get a first-hand look at how these dealers operate, reporter Howard S. Marks worked as an undercover used car salesman for 11 days at one of these lots and kept a diary of each day's events. In this third article of a series, Marks tells how he was "talked into" making his first sale—by a shrewd grandmother.)

Monday, July 9—I sold my first car today—so miracles do happen after all.

I think I closed the deal only because I was outsmarted by the customer. I never even received a "thank you" from Frank the assistant manager.

About 30 minutes before the lot closed, a 77-year-old black grandmother came in saying she wanted to buy a car for her 24-year-old grandson. She really wanted a late model $1,595 Ford, but I couldn't get the damned thing started.

A porter finally got it going and off we went. The air-conditioning wouldn't work and when grandma rolled down the front window, it jumped off the tracks and stuck half way down.

She still wanted the car, but the price was too high. She looked me straight in the eye and said: "No more than a thousand, do you understand?"

I understood and I told Frank about it, knowing that only he could arrange for the superdeal that grandma demanded.

This woman really impressed me. She no doubt was a skillful buyer and businesswoman who probably had more money stuffed in brown envelopes in her purse than most people have in their bank accounts. And all in new $100 bills.

She particularly liked it when I called her "grandmother."

We next got into a '68 Olds four-door hardtop and again the car wouldn't start. A porter had to jump the ignition from cables hooked to another car.

The grandson then took a careful look at the beat-up engine, remarking that it needed a new mount and that a hose was missing. Apparently, he wasn't overly concerned because he told me "that's not too important."

I showed them a Dodge Polara that Frank was trying to push, but the grandson didn't like the sound of the engine.

[Sometimes a bad engine can help. One salesman told me a customer bought a car because the engine "sounded like a sewing machine!" Another car was known as the "mosquito abatement special" because the exhaust fumes were so thick.]

I panicked when grandma started to head for Western Avenue and I called Frank out of the office. He allowed me to sell a '68 Pontiac Catalina for $1,000 or $100 less than the normal cash price.

We went for a test ride. The headlights weren't aligned and the brakes needed tightening, but the grandson didn't notice the problems.

After we got back to the lot, grandson opened the hood and noticed fluid coming from the motor. Frank promised to get it fixed.

This apparently satisfied grandma and she paid for the car in $100 bills. She signed a statement saying there was no promise to correct any faults on the car—which, of course, was more binding than the oral promise received from Frank.

Because business was so lousy, I went down to the firm's small lot at 5670 S. Western Av., not far from Gage Park.

The small office on the lot had been burned out in a fire that police thought was arson. A former salesman was suspected.

The lot's sign proclaimed six different low priced values; none of which was there. Only two of the nine bulls [ugly looking specials] were present as advertised.

A gigantic sign quoting "Art Alan" told potential buyers that "all cars are guaranteed in writing." But it failed to mention that the guarantee costs $75, is severely limited, and requires the customer to pay half the costs of the repairs.

Tuesday, July 10—I had a heart-to-heart talk with Jerry today about my slow start.

"You're just too polite with the customers," said Jerry [not his real name] "Just call them sir, not 'gentlemen'." You just can't let these people lead you around the lot."

Jerry, one of the friendlier salesmen, told me to show them a cheap car and tell them it's good transportation. "Only after they get home will they find out it's crap and then it's too late."

Jerry told me at the company's other lot customers were signing blank contracts, a practice not followed at the main lot. He said, though, that the customers were being ordered back to increase their downpayments by Overland Bond after they signed their contracts.

"That's illegal, but the customer doesn't know that," Jerry said.

I made my second sale, also for cash, to a South Side black, who wanted to buy for cash. It was a '69 Chrysler Newport which I sold for $1,300 plus sales tax. I drove him home and then to Talman Federal Savings & Loan Assn. of Chicago where he withdrew the money.

All he could talk about was getting to his 3 p.m. job. We got him to work on time.

Jack E., one of the billers, then pulled me aside and said I was off to a "bad start" because of my two cash deals. He said cash deals occur quite infrequently and that I shouldn't get into the habit of seeking them out.

A Gary man drove in around 9 p.m. to see the '66 Riviera advertised for $295. It was supposed to be silver with air-conditioning but the only one left was gold.

The radio didn't work, the red overheating light shone, the headlights were out of line, and the front was smashed.

He still would have bought the car, but I told him in all honesty that there was no guarantee that the car would even reach Gary.

When he walked off the lot, I knew that my days as a used car salesman were numbered.

I remembered what Ralph, the honest salesman, told me: "If you're too honest, you can starve. And never sell one of our cars to a friend, if you want them to remain your friend."

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### HOW SHADY USED CAR DEALERS WORK—REPORTER WATCHES A "REPAIR" JOB

(By Howard S. Marks)

(Unscrupulous used car dealers are highly skilled in the art of prying the last dollar from those who can least afford it—the unwary and the bad credit risk. To get a first-hand look at how these dealers operate, reporter Howard S. Marks worked as an undercover used car salesman for 11 days and kept a diary of each day's events. In this fourth article of a series. Marks has to pay for gas out of his own pocket, then discovers the shocking truth about Car Credit "repairs.")

Wednesday, July 11—This business sure has its share of embarrassing moments. Today, for instance, I ran out of gas on a test drive at the corner of 74th Street and Western Avenue.

I was showing two black youths a '67 repossessed Chevy that was selling for $500 cash.

The car originally sold for $1,095, but the owner blew town and missed his payments.

We had to get a battery charge and some air for an underinflated tire before we got the car going. We were headed west on 74th Street, when we had to stop for the light at Western Avenue—and stayed there. No gas.

I ran across Western Avenue to a gas station and got 70 cents worth of regular in a can. We were off again—this time like speed demons.

I let one of the young men take the wheel and we raced down Western Avenue at 50 m.p.h. I prayed that the car had good brakes.

[One salesman told me that the brakes had gone in one of his "drivers"—used cars that salesmen can take home. "If that ever happens," he cautioned me, "use the emergency brake."]

The two then told me they only had $400, but would return the next day with the extra $100 if I got them a tuneup for the car.

I asked them to put down a $10 deposit, in order to "hold" the car. The only reason for the deposit, was to get the customer to return to the lot.

I asked one of the assistant managers if I could get a tuneup for the car. I was told they were lucky getting the car for almost half-price, because it included power steering and air-conditioning.

The customers returned the next day and refused to buy the car, because it had not been tuned-up as promised.

Those cars that won't turn over on the lot were becoming an increasing problem.

The 77-year-old grandmother who bought my first car the other day, returned to buy another car, with more $100 bills in her purse. She wanted a '67 Buick, but the car wouldn't start and she stomped off the lot.

I must have blown three other deals because the cars wouldn't turn over. When they did start, some of them sounded like steam locomotives.

One customer who bought a Chevy SS complained that the Car Credit mechanics really didn't fix his fan belt or give him new points, as promised. A common complaint or "beef" was the slipshod work done by Car Credit mechanics.

As I gained the confidence of some of the employes at the lot, I found I could wander down to the Enco station where the repairs were being made.

I walked into the station to see one of the mechanics using a Coke can, cement, and clamps to patch a hole in an exhaust pipe.

"We are told to put in the minimum at the lowest cost. Our job is to save money," the mechanic said as he tightened the clamps around the pop can.

Thursday, July 12—I made my first credit sale. I sold a '67 Buick Electra for $1,195. The customer put down $503.

I got an O. K. to sell the car to the customer altho he owed creditors in Gary close to $2,000.

On the test ride everything worked except the directional signals, the air-conditioning, and the steering—which seemed awfully unstable.

Frank thought I was selling the car for less than I should, but Ted [one of the managers] said to sell it. They never told me why the car was reduced.

I persuaded the customer to buy the car, but his brother kept telling me the car "was a real ripoff and that Car Credit should be reported to the Better Business Bureau."

I hustled the customer into my office to get him away from his trouble-making brother.

Even tho the car wasn't guaranteed, Jack K., one of the most honest billers at Car Credit, permitted the customer to get—at no cost—faulty rear lights repaired, a missing air hose replaced, and Freon placed in the air conditioning system.

Meanwhile, the discovery of the Coke can used to fix the leaking tail pipe intrigued me so much that I decided to take a chance and poke around the Car Credit garage.

I asked myself, "What kind of cars am I selling these people, are they dangerous or just plain patched-up lemons?"

I found one mechanic, Sylvester, who was willing to talk—after work—in a Southwest Side bar.

"Some of these cars are death traps," Sylvester said. "They [Car Credit] like to pick salesmen who don't know a lot about cars because they might be reluctant to sell a car to someone, if they know the car is defective."

Brakes were a touchy point with Sylvester. "They just put in new shoes, but not new drums. In one case, I saw just one-sixteenth of an inch of material left on the brake drum, which is barely within the minimum permitted by law. To stop the car you have to push the brake pedal to the floor."

In the T-Bird with the bad brakes, it was fixed by adjusting the height of the pedal to give the illusion of safety, Sylvester said, adding:

"In two months, the person who buys that car will be lucky if he can stop safely at all."

Sylvester said the use of pop cans was quite common in fixing tail pipes. Sometimes, coat hangers will be used to fasten mufflers to the underside of cars and it's not uncommon to see electrical and masking tape used to hold parts together.

Wrong jacks are regularly placed in T-Birds and Mustangs, Sylvester said. "Sweet [Bob Sweet, Car Credit's garage boss] orders a regular jack and if the driver of the car used the jack, the car would come down on him."

Sylvester said the used engines Car Credit buys will last 6 to 18 months and the used transmissions may fall apart after 30 days.

"The mechanics are told to make the cars run for 30 days because then the warranty won't apply. They hope the car will hold together for at least one month.

"Even so, they regularly charge customers 70 to 100 per cent of the bill for repairs, altho, according to the guarantee, it's supposed to be split 50-50." One customer paid $175 for a $200 transmission, Sylvester said.

He also told me that most of the parts are used, just like the cars, and are taken from junks or rebuilt.

"We use rebuilt batteries, engines, hoses, and transmissions; everything but spark plugs," he said. "Some spare tires are taken off of cars at junk yards."

Sylvester described most repair work as "shoddy."

"One tuneup I saw took two minutes and consisted of the mechanic lifting the hood, putting in two new plugs and a set of reconditioned points."

The whole tuneup cost Car Credit 90 cents and two minutes of labor.

## PROBLEMS WITH THE VOLUNTEER ARMY

Mr. KENNEDY. Mr. President, I am particularly concerned by the increasing evidence of basic flaws in the Volunteer Army program.

Contrary to the original assurances given to the Senate, assurances which I questioned at the time, the Volunteer Army is experiencing grave difficulties in producing sufficient manpower to meet the current military manpower requirements. The shortfall reported in the article, which I ask unanimous consent to have printed in the RECORD, would even prevent the military from meeting the lower force requirements spelled out in the military procurement bill now before the Senate.

Beyond the 19 percent shortfall reported in August and the overall failure of the Army to meet its quota every month since February, there is perhaps a more basic question that the Volunteer Army is not answering satisfactorily.

No one would deny the opportunity of any individual to enlist in the Army. Therefore, the mere fact that there has been an increase in the percentage of blacks in the military apparently should not immediately justify concern. However, if we see the current rate of enlistment continue, where blacks are nearly 30 percent of the total number of new enlistees, then there are other questions which must be addressed. Does this mean that the only opportunity this society is able to offer to minority group members is through joining military service?

When we place the responsibility of protecting the society on those who have been denied an adequate opportunity for careers in the civilian society, are we multiplying the burdens on them? When we offer $2,500 bonuses for combat arms enlistees, are we not insuring that the poor will serve in the front lines?

The Defense Department originally assured us that there would be no increase in the proportion of minorities or the proportion of the poor in the military or in the combat arms. Now we are finding out that the predictions are being challenged by actual experience.

At the same time, we are witnessing proposed changes in standards of quality and requests for new powers to permit the Department of Defense to discharge individuals with little procedural guarantees after they have been permitted to enlist under eased entrance requirements.

All of these matters deserve serious inquiry by the Congress. I intend to inquire into the procedures undertaken by the Department as part of the continuing work of the Administrative Practice and Procedure Subcommittee of the Judiciary Committee and I am pleased to see the leadership shown by Senator NUNN and other members of the Armed Forces Committee in requiring detailed reporting by the Department of Defense on the current status, costs, and progress of the Volunteer Army.

I ask unanimous consent to have printed in the RECORD an article appearing in the Washington Post by Michael Getler as well as a recent statement by former Army Chief of Staff Gen. William Westmoreland.

There being no objection, the article and statement were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 12, 1973]

### ARMY AGAIN SHORT OF VOLUNTEER GOAL; RECRUITS 29 PERCENT BLACK

(By Michael Getler)

August enlistment figures released by the Pentagon yesterday show that the Army is still unable to meet its recruitment goals for an all-volunteer force and that blacks continue to represent a high percentage of those young men who are signing up for Army service.

Overall, the Army fell short of its goal of 17,000 new recruits for August by 19 per cent, or approximately 3,300 men. The percentage was even higher in the so-called "combat arms" of infantry, artillery and armor, where the Army pays bonuses as high as $2,500 for a four-year enlistment.

The combat arms attracted 2,836 men, some 1,364 fewer than the 4,200-man August goal—a shortage of roughly 30 per cent.

The percentage of blacks among August recruits was below the record high figure, reached in July, of 34.6 per cent. But the 4,200 blacks who did sign up in August still represented 29.7 per cent of all recruits and that figure is the second highest monthly percentage thus far. It is also far above the proportion of the U.S. male population between 18 and 35 years of age represented by blacks, which is about 13.5 per cent.

In 1964, black enlisted men made up about 13.4 per cent of the Army's ranks. Currently, the percentage is 18.6 per cent. But in March, April, May and June of this year the average of blacks entering the Army was slightly above 25 per cent of all recruits. July's 34.6 per cent was called an "aberration" by Army officials. But the August figure is still well above any other month except July.

Since February, a month after draft calls ended and the all-volunteer Army concept began to be put to the test, the Army has failed to meet its overall enlistment quotas in any month.

June, July and August are supposed to be among the best for recruitment. But in June the Army got 91 per cent of the number it wanted. In July the figure dropped to 76 per cent and climbed to 81 per cent in August.

When all four services are lumped together, the percentage of volunteers looks much better—89 per cent for August—mostly because the Air Force and Navy met 100 per cent of their goals. But the army has the biggest demand for manpower and it is that service that will determine whether or not the experiment with volunteerism will work.

The Marine Corps is also experiencing some troubles, recruiting only 83 per cent of its 5,665-man August goal.

Lt. Gen. Robert C. Tabor, a deputy assistant secretary of defense for manpower and reserve affairs, told newsmen yesterday that the shortage in the Army's combat arms enlistment will be made up by assigning men who volunteered for service with no specific guarantee of assignment.

Despite the shortages, Taber said that in context of a project which has only had six months to grow since the end of the draft, he was "not discouraged" and that it would be at least another six months before more definitive trends could be determined.

Taber reiterated the official Army position that it will not impose any quota system to hold the percentage of blacks to a level not far out of balance with the general population. But he did say the Army is considering reducing the very high percentage of blacks in some units by spreading them over other units.

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[From the New York Times, Aug. 17, 1973]

### If Not a Volunteer Army, What Then?

(By William C. Westmoreland)

Charleston, S.C.—Although the United States had a basic conscription law as early as 1797, for 180 years of our history there was no compulsory military service. The military policy of the United States has been to maintain the smallest possible professional army in times of peace. However, cold war developments after World War II and threats on the international scene outdated many old concepts of readiness and national strategy. The responsibilities of world leadership resulted in the maintenance of active forces of sufficient size to provide for defense of our nation and to permit action in support of our national interests.

The termination of the Selective Service Act in 1947 was short-lived since it soon became clear that large peacetime manpower requirements could not be met solely by volunteers. Thus, Congress passed the Selective Service Act of 1948 on March 17 of that year, and conscription to provide military manpower has been with us until now. Clearly, continuous peacetime conscription was a necessity if we were to maintain our armed forces at required force levels, provide for reserves, and ensure a quick, flexible response to threats to world peace and security.

In the troubled atmosphere gripping the country during the long war in Vietnam, some national leaders began to question that necessity. Based on a campaign promise, President Nixon decided to abandon Selective Service and rely entirely on a volunteer military establishment. Congress has supported that decision.

There are military advantages to a volunteer force. It would mean less turnover in personnel, a reduced training base, more professional and better trained leaders and enhanced motivation. Freedom of choice would be restored and the threat of compulsion to serve would be removed.

Based on the President's decision, the Army is fully committed to achieving the national objective of a zero-draft volunteer force, both active and reserve. But, despite its best efforts, the Army cannot go it alone. Incentives to attract the quantity and quality of personnel needed will require sizable funds and those who serve must have the support of the American people. I am not confident that this support will be forthcoming in time because of these factors:

Less than one-third of the high schools across the nation have permitted access by Army recruiters to students.

A nationwide survey revealed that only one-half of fathers of young men looked favorably on having their sons serve in the armed forces.

A number of similar nationwide surveys indicate that less than one-quarter of young men of military age are favorably inclined toward entering military service.

Market surveys show that awareness of Army opportunities is low among the 17-to-21-year-old target group from which most new volunteers are drawn.

I have other concerns. We will have to pay a premium price to attract the last increment of men of the quality required to man the present level of forces—both active and reserves—forces equipped with highly technical equipment. In the final analysis, the size of our forces will be determined by the number of men that can be recruited—not by the security requirement. There is also a danger that the high personnel costs will affect the balance in the defense budget between manpower and modernization of equipment. With the manpower price tag so high, there will be a tendency to cut other programs within a given defense ceiling in an effort to maintain an established force level. Looking to the future, if mobilization is dictated by the international situation, the cost of manpower expansion would be tremendous and such realization could serve as a deterrent to improving our defense posture, perhaps to the disinterest of our national security.

The social and quality composition of our security forces in a truly volunteer environment also bothers me. As we kill the draft, we set aside the traditional concept that a citizen has an obligation to serve his country. I deplore the prospect of our military forces not representing a cross section of our society. Without the draft, few representatives of the affluent families will serve. This prospect is undesirable.

I have searched for a concept that might satisfy in a practical way the advantages of a volunteer force without abandoning the draft entirely and the contributions it provides. By continuing Selective Service using the lottery system, an inducement will be provided for enlistment in the regular services and the vital reserves. Draft quotas would be issued if and when required with selection by lottery to make up for the short fall in enlistment in both the regular and reserve forces. It should be recognized that the organized reserves and the National Guard have maintained their volunteer strength in the past only because of the draft.

Under such a concept, draft calls would be low and for periods unnecessary. Current pay scales, efforts to improve service attractiveness, and dynamic recruiting programs will attract all but a small increment of the manpower needed. Only young men preparing themselves to become officers would be exempt from the draft; this would stimulate greater interest in R.O.T.C. and the service academies. The inducement of the draft would, at a lower cost, bring men into uniform from a cross section of the economic strata of our society. In addition, the bonus effect of registration, physical examinations, aptitude tests, and the continuation of the principle of service to country would be healthy contributions to the society. Our forces would be fully manned.

Under this concept, we would have, in my opinion, a volunteer force of 90 per cent or more. It would approach a zero-draft. It would be a force that would meet our military requirements at a comparatively lower cost, manned by representatives of all segments of our society, and capable of rapid expansion when the situation demanded. It would be a citizen's force primarily of volunteers.

As a nation, we have moved too fast in eliminating the draft. There are uncertainties as to the wisdom of the program.

## ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER (Mr. Johnston). Without objection, it is so ordered.

## ORDER FOR CONSIDERATION OF S. 4 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, immediately after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of S. 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is concluded.

## S. 2419—TO CORRECT TYPOGRAPHICAL AND CLERICAL ERRORS IN PUBLIC LAW 93–86

Mr. TALMADGE. Mr. President, on behalf of myself as chairman of the committee, and the ranking minority member, the distinguished Senator from Nebraska (Mr. Curtis), I send to the desk a bill to correct typographical and clerical errors in Public Law 93–86. It has been cleared by the minority. It makes no changes in substantive law, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to first and second reading?

There being no objection, the bill was read the first time by title and the second time at length, as follows:

S. 2419

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Public Law 93–86 is amended as follows:

(a) Paragraph (6) of section 1 is amended by—

(i) striking "diary" and inserting "dairy",

(ii) striking the quotation marks following "articles.", and

(iii) striking "Agriculture Act of 1973" and inserting "Agriculture and Consumer Protection Act of 1973".

(b) Paragraphs (8) and (20) of section 1 are each amended by striking the comma from that part reading: "If the Secretary determines that the producers are prevented from planting, any portion".

(c) Paragraph (12) of section 1 is amended by striking "(12)(a)" and inserting "(12)".

(d) Paragraph (18) of section 1 is amended by—

(i) revising the first paragraph (C) appearing therein so that the quoted sentence contained therein is placed immediately after "follows:" and does not constitute a separate paragraph,

(ii) redesignating the second paragraph (C) appearing therein and paragraph (D), (E), and (F) as (D), (E), (F), and (G), respectively,

(iii) inserting a comma at the end of the first paragraph (C) and at the end of paragraph (D) as so redesignated, and

(iv) striking the period at the end of paragraph (F) as so redesignated and inserting a comma and the word "and".

(e) The second paragraph of paragraph (26) of section 1 is amended by—

(i) inserting double quotation marks and "Sec. 703." at the beginning thereof,

(ii) striking the double quotation marks which precede the word "and" and inserting a single quotation mark, and

(iii) striking the period and double quotation marks at the end thereof and inserting a single quotation mark followed by a period.

(f) Quoted section 812 contained in paragraph (27)(B) of section 1 is amended by striking out the quotation marks at the end thereof.

(g) Paragraph (28) of section 1 is amended by—

(i) striking out paragraphs (1) through (4) appearing in quoted section 1001 and inserting said paragraphs in quoted section 1003(a) immediately before paragraph (5), and

(ii) changing the colon at the end of quoted section 1007(a) to a period.

(h) Section 3(b) is amended by striking "foregoing" and inserting "foregoing".

(i) Section 3(i) is amended by inserting "(1)" after the word "amended".

(j) The final sentence of section 3(k) is amended by inserting "members of" after "permit".

(k) Section 3(m) is amended by striking "for value" and inserting "for households of a given size unless the increase in the face value".

The PRESIDING OFFICER. Is there objection to the consideration of the bill at this time?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed.

## STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1974

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, the Senate will now proceed to the consideration of H.R. 8916 which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. What is the pending business?

The PRESIDING OFFICER. H.R. 8916, which is the appropriation bill on State, Justice, and Commerce.

Mr. HRUSKA. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PASTORE. I yield.

Mr. HRUSKA. Mr. President, I ask unanimous consent that two members of my staff, Mr. Kenneth Lazarus and Mr. Charles Bruse, be permitted the privilege of the floor during the debate and the vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent that, apart from the members of the staff of the Appropriations Committee, Mr. Martin Donovan of my office be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

How much time does the Senator yield?

Mr. PASTORE. As much time as I may require.

Mr. President, the pending measure contains recommendations for new obligational authority totaling $4,470,532,500. This sum is $52,368,500 under the fiscal 1974 amended budget request of $4,522,901,000. It is also $2,308,561,350 under the appropriations approved for fiscal 1973. The committee recommendation is $317,586,500 over the total approved by the House. However, of this increase, $267,821,000 was contained in budget amendments not considered by the House, of which the committee approved $259,954,000, a reduction of $7,867,000 in the total of the budget amendments requested.

With respect to the sum added to the House bill, I wish to point out some of the major items of increase.

For the Department of State, the committee recommends a total of $623,412,000, an increase of $27,841,000 over the House allowance, but a reduction of $9,638,000 under the amended budget estimate of $633,050,000. Of the $27,841,000 increase over the House allowance, $20 million was contained in a budget amendment not considered by the House, and will provide increased protection of U.S. Government personnel and facilities from threats or acts of terrorism abroad, as well as provide for increased domestic security for foreign dignitaries and official delegations visiting the United States. The second major item of increase will provide $4 million for the mutual educational and cultural exchange program. The third major item of increase is $2,200,000 not considered by the House for a new appropriation account entitled "Payment to International Center, Washington, D.C." This appropriation will be used to clear the site of the former National Bureau of Standards installation in the District for sale or lease to foreign governments or international delegations. Proceeds from sale of the sites will be used in part to repay this appropriation to the U.S. Treasury.

For the Department of Justice, the committee recommends a total of $1,844,262,000, a reduction of $16,562,000 in the amended budget estimates and a net increase of $36,150,000 over the House allowance. Pursuant to Reorganization Plan No. 2, 1973, which established a new Drug Enforcement Administration and a new narcotics division, the committee has provided a total of $107,230,000 for the Drug Enforcement Administration and a total of $2,911,000 for the narcotics division. These amounts are made up in part by transfers within the Department, a transfer from the Bureau of Customs to the new drug agency and new obligational authority. The details of these transactions are set forth in the report. For the Antitrust Division, the committee recommends a $1 million increase over the budget to enable the division to cope with its increased workload. For the Community Relations Service, the committee has also provided an additional $1 million over the budget estimate. This increase is considered essential for the agency's field operations and its ability to meet crisis situations. For the Law Enforcement Assistance Administration, the recommendation provides a total of $870,675,000, an increase over the House and requested by the Attorney General of $4,675,000 to permit the agency to maintain matching grants and aid for correctional institutions at the 1973 level. The distribution of the amount recommended is also set forth in the report. The committee has also approved the sum of $2,800,000 to fund the activities of the Watergate Special Prosecution Force. This item was not considered by the House.

For the Department of Commerce, a total of $1,227,852,000 is recommended. This sum is $16,860,000 over the amended budget estimates and is $266,048,000 over the House. However, of this total increase over the House, $211,379,000 was contained in budget amendments not considered by the House; $20 million contained in the January budget, but passed over by the House; $32,548,000 not considered by the House or contained in budget amendments; and $2,121,000 in agency appeal items approved by the committee. To initiate the 1974 Census of Agriculture, the committee has provided the sum of $1,200,000 which together with $1,360,000 in unobligated funds carried over from fiscal 1973 will provide $2,360,000, the amount necessary to initiate this census in 1974. The committee also recommends $1,800,000 to make a survey of population requested by the Treasury Department for purposes of distributing general revenue sharing funds. For the Economic Development Administration, the committee recommends the full budget estimate of $203 million. Of this sum, $19 million for administering these programs is contained in the General Administration account and $184 million is contained in the EDA appropriation. For Regional Action Planning Commissions, the committee recommends a total of $42 million, an increase of $20 million over the budget estimate. The distribution of the amount recommended by commissions is contained in the report at page 23. The committee has included language in the bill which prohibits the use of funds in this bill or otherwise available to the Department of Commerce to be used to phase-out or discontinue the EDA programs or the Regional Commissions. For Minority Business Enterprise, the committee recommends the budget estimate of $35,231,000. The committee was advised that in addition, approximately $25 million will be available from unobligated funds appropriated in 1973. For the National Oceanic and Atmospheric Administration, the committee recommends a total of $361,090,000. This sum is $9,827,000 over the amended budget estimate and is $17,548,000 over the House allowance. However, this figure includes a $5 million budget amendment not considered by the House. Of the increase over the House, $15 million is to provide initial funding for Coastal Zone Management. For the Maritime Administration, the committee recommends the House allowance of $329,027,000, a reduction of $1 million in the budget estimate.

For the judiciary, the committee recommends a total of $203,639,000, which sum is $1,890,000 below the budget estimate and is $1,275,000 over the House allowance. Included in the committee increase is the sum of $1,125,000 for court-appointed counsel appointed by judges of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. The sum recommended will cover necessary expenses for approximately 6 months or longer. In recommending the $1,125,000, the committee believes that the appropriation for this activity should be contained in the District of Columbia budget. In accordance with this belief, the committee has stated in its report that a supplemental estimate requesting funding out of monies available to the District to the District of Columbia should be submitted to cover funding until June 30, 1974.

For the 15 related agencies funded in this bill, the committee recommends a total of $571,367,500, which sum is $41,138,500 under the amended budget estimates and is $13,727,500 under the House allowance. For the Arms Control and Disarmament Agency, the committee has allowed a total of $7,935,000, which sum is $200,000 over the budget and $1 million over the House. Of the latter sum $800,000 was contained in a budget amendment not considered by the House. The increase is considered necessary to intensify high-priority research. For the Civil Rights Commission the full budget estimate of $5,814,000 is recommended. This sum is $248,000 over the House. The committee has allowed the full budget estimate of $1,100,000 for the Commission on the Organization of the Government for the Conduct of Foreign Policy, which sum was contained in a budget amendment not considered by the House. For the Equal Employment Opportunity Commission, the committee recommends the full budget estimate of $46,934,000, an increase of $6,934,000 over the House allowance. The committee has allowed a total of $40,000,000 for International Radio Broadcasting Activities. This sum is $9,934,000 under the budget and $5 million below the House allowance. The committee is of the opinion that our European allies should contribute to the operating expenses of Radio Free Europe and Radio Liberty. For the new Marine Mammal Commission, the committee recommends the full budget estimate of $825,000. This sum is $413,000 over the House. The committee believes that because of the multiplicity of duties assigned to this Commission by statute, the full budget estimate is necessary. For the Small Business Administration, the committee recommends a total appropriation of $248,123,000, which sum is the same as the House and $150,000 under the budget estimate. In addition, the committee has approved the transfer of $69,700,000 from the several revolving funds to salaries and expenses. The committee recommends a total of $200,699,500 for the U.S. Information Agency. This sum is $31,154,500 under the budget estimate and is $18,722,500 under the House allowance. The reduction below the House allowance will provide the same total appropriation as contained in S. 1317, the authorization bill approved by the Senate on May 30, 1973.

Mr. President, I am perfectly willing to answer any questions that might arise at any time during the course of this debate.

I wish to point out that the subcommittee and the full committee spent long and hard hours in scrutinizing every estimate that was sent up by the administration, every request that was made by the administration, and every request that was made by Senators and others interested in either cuts or increases. When we finished, we were $52,368,500 under the estimates.

I sincerely hope that the Senate, which has acted time and time again in placing a ceiling on spending, will maintain this cut of more than $52 million, in order to prove to the administration, in order to prove to the people, and in order to prove to Congress that Congress is assuming full responsibility in fiscal affairs.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. McCLELLAN. And prove to the country that we are doing the best thing and the essential thing for the solvency of our Government in trying to hold down expenditures.

Mr. PASTORE. That is correct.

Mr. McCLELLAN. I congratulate the distinguished chairman and the members of his committee for the very fine work they have done in reporting this bill in the amounts that are provided therein. I know it would be easy to increase some of the items. We could always establish a need for them. But in this period of the critical fiscal situation that is upon us, I believe it behooves us to make some concessions even to needs and undertake to be frugal in our expenditures, with the idea of trying to maintain a sound fiscal policy. I congratulate the Senator.

Mr. PASTORE. I thank the distinguished chairman.

Mr. President, I want to pay an accolade to the members of the committee, particularly to the Senator from Nebraska (Mr. HRUSKA), who was at my side and played a very important part in the consideration of all these items. We did not make everyone happy. Perhaps that is the success of the bill we have reported.

At this time, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, line 4, after the word "appropriated", insert a comma and "and shall be made available for expenditure except as specifically provided by law,".

On page 3, line 6, after the word "aids", strike out "$282,500,000" and insert "$302,800,000".

On page 3, line 24, after "(22 U.S.C. 1131)", strike out "$1,125,000" and insert "$1,263,000".

On page 4, line 24, strike out "$5,038,000" and insert "$5,138,000".

On page 6, line 6, after "(22 U.S.C. 2669)", strike out "$5,525,000" and insert "$5,725,000".

On page 6, at the beginning of line 22, strike out "$4,500,000" and insert "$4,800,000".

On page 7, line 6, after the word "entertainment", strike out "$1,500,000" and insert "$1,743,000".

On page 12, line 2, after "(31 U.S.C. 529)", strike out "$47,800,000" and insert "$51,800,000"; and, in the same line, after the amendment just stated, strike out "of which not less than $2,500,000 shall be used for payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States".

On page 12, line 14, after the word "Hawaii", strike out "$6,500,000" and insert "$6,860,000".

On page 12, after line 19, insert:

"OTHER

"PAYMENT TO INTERNATIONAL CENTER WASHINGTON, DISTRICT OF COLUMBIA

"For payment to the special account authorized by section 6 of Public Law 90–553, as amended, $2,200,000, to remain available until expended."

On page 13, line 7, after $2,328,200", strike out the colon and *"Provided*, That this appropriation shall be available only upon the enactment into law of S. 929 or similar legislation".

On page 14, at the beginning of line 15, strike out "$19,100,000" and insert "$15,834,000, of which $2,800,000 is for the Watergate Special Prosecution Force".

On page 15, line 1, after "(31 U.S.C. 529)", strike out "$47,200,000" and insert "$50,111,000".

On page 15, line 9, after the word "laws", strike out "$13,019,000" and insert "$14,019,000".

On page 16, line 10, after "(42 U.S.C. 2000g–2000g–2)", strike out "$2,818,000" and insert "$3,818,000".

On page 17, after line 13, insert:

"The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation: *Provided, however*, That the Federal Bureau of Investigation is hereby forbidden to furnish officials of federally chartered or insured banking institutions or officials of any State or local government any identification or other record indicating that any person has been arrested on any criminal charge or charged with any criminal offense unless such record discloses that such person pleaded guilty or nolo contendere to or was convicted of such charge or offense in a court of justice."

On page 19, line 11, after the word "files", strike out "and maintenance, care, detention, surveillance, parole, and transportation of alien enemies and their wives and dependent children including return of such persons to place of bona fide residence or to such other place as may be authorized by the Attorney General;".

On page 21, at the beginning of line 11, strike out "$866,000,000" and insert $87,675,000".

On page 21, after line 12, insert:

"DRUG ENFORCEMENT ADMINISTRATION

"SALARIES AND EXPENSES

"For necessary expenses of the Drug Enforcement Administration, including hire of passenger motor vehicles; payment in advance for special tests and studies by contract; not to exceed $70,000 to meet unforseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 344 passenger motor vehicles (of which 210 are for replacement only) for police-type use without regard to the general purchase price limitation for the current fiscal year; payment of rewards; payment for publication of technical and informational material in professional and trade journals; purchase of chemicals, apparatus, and scientific equipment; payment for necessary accommodations in the District of Columbia for conferences and training activities; lease, maintenance, and operation of aircraft; employment of aliens by contract for services abroad; research related to enforcement and drug control; $107,230,000, of which not to exceed $4,500,000 for such research shall remain available until expended."

On page 22, after line 9, strike out:

"BUREAU OF NARCOTICS AND DANGEROUS DRUGS

"SALARIES AND EXPENSES

"For necessary expenses of the Bureau of Narcotics and Dangerous Drugs, including hire of passenger motor vehicles; payment in advance for special tests and studies by contract; not to exceed $70,000 for miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Attorney General and to be accounted for solely on his certificate; purchase of not to exceed one hundred fifty one (for replacement only) passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; payment of rewards; payment for publication of technical and informational materials in professional and trade journals; purchase of chemicals, apparatus, and scientific equipment; and not to exceed $135,000 for payment for accommodations in the District of Columbia in connection with training activities; $77,400,000."

On page 23, line 15, after "District of Columbia", insert a colon and "*Provided*, That notwithstanding the provisions of this section, not to exceed $7,821,000 from any funds in the Treasury of the United States to the credit of the District of Columbia shall be available for reimbursement to the United States pursuant to this section."

On page 24, after line 21, insert:

"ADMINISTRATION OF ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

"For necessary expenses of administering the economic development assistance programs, not otherwise provided for, $19,000,000, of which not to exceed $800,000 may be advanced to the Small Business Administration for processing of loan applications: *Provided*, That none of the funds appropriated in this Act or otherwise available for expenditure by the Department of Commerce shall be used to discontinue or phase out the economic development assistance programs (including Regional Action Planning Commissions) undertaken under the Public Works and Economic Development Act of 1965, as amended."

On page 26, at the beginning of line 7, strike out "$14,800,000" and insert "$17,800,000".

On page 26, after line 12, insert:

"ECONOMIC DEVELOPMENT ADMINISTRATION

"DEVELOPMENT FACILITIES

"For grants and loans for development facilities as authorized by titles I, II, and IV of the Public Works and Economic Development Act of 1965, as amended (79 Stat. 552; 81 Stat. 266; 83 Stat. 219; 84 Stat. 375; 85 Stat. 166), $159,000,000 of which not more than $25,000,000 shall be for grants and loans to Indian tribes, as authorized by title I, section 101(a) and title II, section 201(a) of such Act: *Provided*, That upon the enactment of the Indian Tribal Government Grant Act the unobligated balances of the amounts appropriated for Indian tribes under title I, section 101(a) and title II, section 201(a) shall be transferred to carry out such purposes of the Indian Tribal Government Grant Act: *Provided further*, That none of the above amounts shall be subject to the restrictions of the last sentence of section 105 of the Public Works and Economic Development Act of 1965, as amended."

On page 27, after line 6, insert:

"INDUSTRIAL DEVELOPMENT LOANS AND GUARANTEES

"For loans and guarantees of working capital loans for industrial development, pursuant to titles II and IV of the Public Works and Economic Development Act of 1965, as amended (79 Stat. 552; 81 Stat. 690; 83 Stat. 219; 84 Stat. 375; 85 Stat. 166), $5,000,000."

On page 27, after line 12, insert:

"PLANNING, TECHNICAL ASSISTANCE, AND RESEARCH

"For payments for technical assistance, research, and planning grants, as authorized by title III of the Public Works and Economic Development Act of 1965, as amended (79 Stat. 558; 81 Stat. 266; 83 Stat. 219; 84 Stat. 375; 85 Stat. 166), $20,000,000."

On page 27, after line 18, insert:

"REGIONAL ACTION PLANNING COMMISSIONS

"REGIONAL DEVELOPMENT PROGRAMS

"For expenses necessary to carry out the programs authorized by title V of the Public Works and Economic Development Act of 1965, as amended, $42,000,000."

On page 28, line 22, after "22 U.S.C. 401 (b)", strike out "$48,500,000" and insert "$49,000,000"; and, on page 29, line 1, after the word "which", strike out "$15,033,000" and insert "$15,212,000".

On page 30, line 24, after the word "facilities", strike out "$340,368,000" and insert "$342,916,000".

On page 31, after line 13, insert:

"COASTAL ZONE MANAGEMENT

"For carrying out the provisions of Public Law 92–583, approved October 27, 1972, $15,000,000, to remain available until expended. This appropriation shall be in addition to the appropriations otherwise made to the National Oceanic Atmospheric Administration by this Act and expenditures of such other appropriations shall not be reduced on account of expenditures of this appropriation: *Provided*, That States eligible for grants under the requirements of section 305 or 306 of Public Law 92–583 shall be entitled to receive a pro rata share of the amounts appropriated for uses according to the provisions of such sections of such Act. No finding of invalidity or absence of rule or regulation promulgated pursuant to such Act shall be construed to prevent obligation or expenditure of funds appropriated under this Act to such eligible States: *Provided further*, That this appropriation shall not be used by a recipient coastal State for areas outside its coastal zone which it has included in an application for Federal financial assistance under a national land use policy and planning assistance Act which may hereafter be enacted."

On page 33, line 9, after the word "appropriation", insert a colon and "*Provided further*, That not to exceed $3,000,000 from funds available to the Department of Commerce shall be expended for direct support of the Office of Telecommunications Policy in the Executive Office of the President.".

On page 39, line 1, after "$1,100,000", insert a colon and "*Provided*, That not to exceed $75,000 of the unobligated balance of the appropriation under this head for the fiscal year 1973 is hereby continued available until June 30, 1974.".

On page 40, line 15, after the word "for", strike out "$83,372,000" and insert "$83,522,000".

On page 41, line 17, after "October 14, 1970", strike out "$15,500,000" and insert $16,625,000: *Provided*, That not to exceed $1,125,000 of the funds contained in this title shall be available for compensation and reimbursement of expenses of attorneys appointed by judges of the District of Columbia Court of Appeals or by Judges of the Superior Court of the District of Columbia".

On page 45, line 12, after "(22 U.S.C. 2551 et seq.)", strike out "$6,935,000" and insert "$7,935,000".

On page 45, line 23, strike out "$5,566,000" and insert "$5,814,000".

At the top of page 46, insert:

"COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

"SALARIES AND EXPENSES

"For necessary expenses of the Commission on the Organization of the Government for the Conduct of Foreign Policy, authorized by title VI of the Foreign Relations Authorization Act of 1972, $1,100,000 to remain available until June 30, 1975, and of which not to exceed $6,000 may be expended for official reception and representation expenses."

On page 46, line 17, after the word "exceed", strike out "$1,700,000" and insert "$4,600,000"; and, in line 19, after the word "Act", strike out "$40,000,000" and insert "$46,934,000".

On page 47, line 24, after the word "law", strike out "$45,000,000" and insert "$40,000,000".

On page 48, line 6, after the word "Commission", strike out "$412,000" and insert "$825,000, of which not to exceed $1,725, shall be available for expenses incurred in fiscal year 1973".

On page 51, at the beginning of line 10, strike out "$7,000,000" and insert "$7,300,000".

On page 52, line 23, after the word "organizations", strike out "$202,000,000" and insert "$190,077,500".

On page 53, at the beginning of line 25, strike out "$7,008,000" and insert "$5,208,000".

On page 54, line 26, after the word "otherwise", strike out "$6,000,000" and insert $1,000,000".

Mr. HRUSKA. Mr. President, as the ranking minority member of the subcommittee which considered H.R. 8916, the apppropriation bill for the Departments of State, Justice, Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, I want to associate myself generally with the remarks of the chairman of the subcommittee, the distinguished Senator from Rhode Island (Mr. PASTORE) and to applaud his leadership in reporting this bill.

This measure now before the Senate represents a responsible attempt at fashioning a fair and equitable bill which is supported by virtually all of the members of the subcommittee with only relatively minor points of disagreement.

Of course, this bill does not, and could not, fully fund every program which was considered. But, it is the product of many days of hearings and persevering effort and represents a very healthy spirit of bipartisan compromise. It is, of course, necessary that mutual concessions be made in order to report to the Senate a bill worthy of general support and endorsement.

The chairman has already analyzed the money items in the bill so I shall not belabor the time of the Senate to expand on the remarks of my distinguished friend from Rhode Island. However, let no one fail to notice that the appropriation bill before us totals $4,470,532,500, which is $52,368,500 under the budget request. Had all of the Senate requests and amendments for additional funding been approved this bill would have exceeded the budget by $82,887,500. Hearty congratulations are due not only our chairman, but all the members of the committee who let restraint and discretion be the order of the day in order to hold the line, and avoid fueling the fires of inflation.

Naturally, there are areas in the bill where additional increases might be justified. However, it reflects our best collective judgment as to the needs of the departments and agencies, and the priorities that should be accorded the programs covered.

I am pleased to have played a role in the development of this bill along with our chairman and encourage my colleagues to support the measure.

Before yielding the floor, Mr. President, I would also like to take this opportunity to note the retirement of a most valued member of the professional staff of the Appropriations Committee, who is present in the Chamber today. Mr. William Kennedy has devoted a very substantial period of his life to our work. He has distinguished himself in all respects. His skill and expertise have been of great benefit to the members of the Appropriations Committee and the Senate as a whole. I am sure that all of my colleagues join me in this expression of sincere appreciation and best wishes for Mr. Kennedy's continued success.

I also take this opportunity to pay tribute to Mr. Harold Merrick, whose long years of service have been of unmeasurable help to our committee. I wish him many years of good health in retirement.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. PASTORE. Mr. President, I wish to join my colleague in this fine accolade he has paid to Mr. Kennedy. He represents the minority side of our committee but he has been fair. Frankly I do not think there is a majority and a minority side when it comes to the staff of the Committee on Appropriations.

At this time I wish to pay tribute to Mr. Harold Merrick, who is retiring and is on hand only to see the completion of this bill, because he was present at the beginning of its consideration. The first man I met on the Committee on Appropriations when I came to the committee was Harold Merrick. Later on he and I worked together on the District of Columbia bill and other bills, and finally on this bill that has to do with the Departments of State, Justice, and Commerce.

I wish for William Kennedy and Harold Merrick many happy years of retirement and may their years in the future be as fruitful as the years in the past.

Mr. President, I have an amendment to offer, but I shall defer to other Senators.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. ERVIN. Mr. President, I have an amendment I would like to offer but I am waiting for the cosponsors to come to the Chamber.

Mr. PASTORE. Fine. I have an amendment to propose.

Mr. President, I call up my amendment No. 486 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 14, after line 3, insert the following:

SEC. 105. None of the funds appropriated in this title shall be available for obligation, except upon the enactment into law of authorizing legislation.

Mr. PASTORE. Mr. President, this is a very simple amendment. I understand the conference report on the authorization bill was rejected. The question was whether or not that vitiated the fact that the Senate and the House had already passed an authorization that would come within the rules. To overcome the ambiguity, we are providing that "none of the funds appropriated in this title shall be available for obligation, except upon the enactment into law of authorizing legislation."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, the amendment offered by the Senator from Rhode Island and adopted by the Senate appears to be a small matter. But it represents a far-reaching principle which the Senate has voted to uphold many times in recent years—that funds for major activities and programs should not be appropriated except pursuant to a valid authorization.

There is no current authorization for the Department of State and the conference report on the State Department authorization bill was rejected by the House on September 11 after deletion of two Senate initiated provisions relative to congressional access to information and congressional approval of foreign military base agreements. As a consequence the outlook for passage of an authorization bill for the Department is uncertain. If the appropriation bill had gone through as a matter of course, it would have seriously undercut the position of the Senate in trying to find a solution to the problem on the authorization bill.

The Senate's approval of the amendment making the appropriation for the Department of State conditional on the passage of authorizing legislation upholds the traditional legislative process. It is also consistent with similar provisions in the fiscal year 1971 appropriations bill for foreign aid and a fiscal year 1971 supplemental appropriation bill, excerpts from which I ask to have printed in the RECORD following my remarks.

The amendment is also consistent with, and adds emphasis to, section 15 of Public Law 855 of the 84th Congress, as amended by Congress in 1971, which states:

> Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.

The action on the appropriation bill makes it doubly clear that there must first be a valid authorization for the State Department before any appropriations that may be passed can be used.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

### CHAPTER IV: FOREIGN OPERATIONS

#### FUNDS APPROPRIATED TO THE PRESIDENT

#### MILITARY ASSISTANCE

#### MILITARY CREDIT SALES TO ISRAEL

For expenses, not otherwise provided for, necessary to enable the President to finance sales of defense articles and defense services to Israel, as authorized by law, $500,000,000.

#### MILITARY ASSISTANCE

For an additional amount for "Military assistance", $340,000,000; *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation: *Provided further*, That obligations incurred from funds appropriated herein shall not exceed the total amount authorized in H.R. 19911, or similar legislation.

#### ECONOMIC ASSISTANCE

#### SUPPORTING ASSISTANCE

For an additional amount for "Supporting assistance", $155,000,000: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation: *Provided further*, That obligations incurred from funds appropriated herein shall not exceed the total amount authorized in H.R. 19911, or similar legislation.

#### CONTINGENCY FUND

For the additional amount for "Contingency funds", $7,500,000: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

### TITLE II—FOREIGN MILITARY CREDIT SALES

#### FOREIGN MILITARY CREDIT SALES

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of the Foreign Military Sales Act, $200,000,000: *Provided, however*, That none of these funds may be obligated or expended until an authorization shall have been enacted into law.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** On whose time?

**Mr. PASTORE.** To be equally divided.

**The PRESIDING OFFICER.** Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. HARRY F. BYRD, JR.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. HARRY F. BYRD, JR.** Mr. President, I send to the desk an amendment and ask that it be read.

**The PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 18, it is proposed to delete "$202,287,000." and insert in lieu thereof "$185,357,750."

**Mr. HARRY F. BYRD, JR.** Mr. President, I yield myself 5 minutes.

First, I commend the committee and its chairman, the distinguished senior Senator from Rhode Island (Mr. PASTORE), for the report directing that continued and increased efforts be made to hold down the overall budgets for international organizations and conferences. I think it is important to do that in this period of high inflation and of increased budget deficits.

The proposal that I make through the amendment that has just been stated is that the appropriation for contributions to international organizations be kept at the same figure as the 1973 appropriation; namely, $185,357,750. The committee recommendation is $202,287,000. That is an increase of very close to 10 percent.

It occurs to me that this would be a good time to tighten up on what one might call not completely essential items in the budget. The way to achieve control of the continually rising cost of this part of the State Department budget is to hold the line, and I submit that there is no time like the present to begin.

The overall State Department budget has been increased about $36 million over last year, if the Senate adopts the committee's recommendation. If the Senate should adopt the amendment just sent to the desk by the senior Senator from Virginia, one-half of that increase in the State Department budget would be eliminated. As I have said, what the amendment does is to hold the line on funds appropriated for contributions to international organizations.

I wonder whether the able chairman, the distinguished Senator from Rhode Island (Mr. PASTORE), would accept the amendment and taking it to conference, to see what might be worked out.

**Mr. PASTORE.** Mr. President, will the Senator from Virginia yield?

**Mr. HARRY F. BYRD, JR.** I yield.

**Mr. PASTORE.** I say to the distinguished Senator from Virginia, who keeps a very watchful and scrutinizing eye over the amounts that must be paid by U.S. taxpayers—and I applaud him for it—that one of the most vexing and disturbing things that have confronted our committee is that we had to add more American dollars, because of the devaluation of the American dollar.

One reason why our money was devalued is our involvement and commitments all over the world. We went into these items quite thoroughly, and that is what was told to us by the Department. We were told that these amounts are for commitments made by these agencies, and they are assessments against the United States. The assessments in many instances, of course, have to be paid in foreign currency that we have to buy with good, solid American dollars.

Apparently our dollar no longer carries the same prestige in Europe today as it did when Europe was prostrate and needed our help and we extended that help. Now, because we have extended it, because we are so much involved, they are telling us that our dollars are not worth as much as they once were, and we have to put up more of them, which is just another imposition.

The Senator from Virginia makes an attractive proposition to me. I do not know how the Senator from Nebraska (Mr. HRUSKA) feels about it, but I am willing to take the amendment to conference and see how they feel about it.

**Mr. HRUSKA.** Mr. President, will the Senator yield?

**Mr. HARRY F. BYRD, JR.** I yield.

**Mr. HRUSKA.** I do not know how we should view the suggestion for taking this amendment. There are two major categories in the budgetary increase over last year. One has to do with the devaluation of the dollar. That is a heavy factor. The other has to do with our contribution to the United Nations. We had an extensive discussion on that subject in the Senate last year. As a result of that discussion, the proviso recited on page 7 of the report of the committee was adopted.

The trouble lies in the fact that the fiscal year for the United Nations is a calendar year. The budget is calculated in a 3-year cycle, and a year's time is taken in the processing of the next 3 years' budget 1973, was the third year of the 3-year budget for the United Nations.

There are those who are of a like mind with the Senator from Virginia on the limitation of our contribution to the United Nations. The committee felt, however, that we had committed ourselves to a 3-year budget and, therefore, were honorbound and legally bound, to make that payment whole. The bill finally passed in that form.

Thus, I emphasize that the money contained in this bill, while in the 1974 budget, is for the United Nations year 1973.

To that extent, I just question the feasibility of the Senate's saying. "Well, we will take this amendment and go to conference." I wonder how heavily this action would be counted against us; that we, as a nation, having made a formal agreement, and having paid it for 2 years now, decide not pay it in the third and final year. This would not lie well with Senate Members who feel that such a course perhaps should not be followed.

Therefore, I would rather defer my expression on the proposed amendment of the Senator from Virginia for the present.

**Mr. PASTORE.** Mr. President, if the Senator will yield, the Senator from Nebraska makes a fine argument. There is no question about it. That is the reason why we were motivated to come out with the amount proposed, which is really the administration's estimate. Many nations in these organizations are not paying their dues.

I repeat, it might be a good thing to discuss this in conference. At least, it alerts them to the fact that we watch those figures very closely.

All the Senator is saying is that this amount should be what it was last year. The reason why it is not what it was last year is devaluation. It might not be a bad idea to point out the fact that we do not like devaluation as much as some people think we should.

**Mr. HARRY F. BYRD, JR.** Mr. President, I think the Senator from Rhode Island makes an excellent point.

Also, with regard to the points made by the distinguished Senator from Nebraska, I point out that for the international organizations, of which the United Nations is the largest, there is an increase of almost 10 percent for which the taxpayers are being called upon to finance its operations. Can we justify for these international organizations a 10-percent increase?

The Senate passed legislation, as the able Senator from Nebraska has pointed out, to reduce the share of the U.S. contribution to the United Nations from 31 to 25 percent, and that will take effect in a little over 3 months from now.

So, instead of increasing, it seems to me we should be decreasing.

I am not advocating a decrease over last year. I am suggesting in this amendment that we keep the total the same as last year; namely, $185 million as compared to the committee recommendation of $202 million, or a reduction of approximately $17 million.

**Mr. PASTORE.** Mr. President, we are ready to vote.

**The PRESIDING OFFICER.** Is time on the amendment yielded back

**Mr. PASTORE.** I yield back my time.

**Mr. HARRY F. BYRD, JR.** Mr. President, I yield back my time.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Virginia (putting the question).

The amendment was agreed to.

**The PRESIDING OFFICER.** The bill is open to further amendment.

**Mr. MATHIAS.** Mr. President, the Senate is today considering H.R. 8916, the appropriation bill for the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies. I think it is a good bill, providing much-needed funds for a number of crucial Federal programs and operations while also representing a serious and responsible effort to stay within the President's budget requests.

There are, however, two issues in the bill as reported by the Appropriations Committee which I raised in committee and which I hope will be the focus of further consideration here on the floor today.

The first is the matter of funds for the expenses of attorneys appointed by judges of the District of Columbia for indigent defendants. I know there has been considerable discussion in recent months as to whether these funds should be provided in the bill or as part of the District of Columbia budget. The bill, as passed by the House, reflected the latter view and included no funds for this purpose. Since the District of Columbia appropriation bill has already been passed, however—also without funds for this purpose—the committee correctly recognized that some funds had to be provided in this bill, and has recommended $1,125,000, an amount equal to about half of what was needed for the District of Columbia indigent defender program last year.

I have been and remain firmly committed to full funding for this program. The question as to where the funds should come from is a difficult and complex one, and should be resolved based on a full airing of the competing views on the subject. The position of the House appears to be that the funds should be provided as part of the District of Columbia budget rather than under the Federal Judiciary. This may not be possible, however, without a corresponding change in the authorizing legislation since under the Criminal Justice Act, the program is a Federal one, and not a local one.

In order to allow all these issues to be fully and fairly considered by the appropriate committees—Judiciary, District of Columbia, and Appropriations—I hope that sufficient funding will be approved today to allow this program to continue throughout the current fiscal year. As a member of all three of the affected committees, I can assure my colleagues that the issues involved here are servious and worthy of such careful deliberation. Therefore, if an amendment is offered and adopted here today to provide for a full year's funding of this program, I would strongly urge the members of the conference committee to remain as firm as possible in the conference with the House to secure adequate funding for this program. We can do no less if we are to fulfill our responsibilities to the indigent defendants in the District of Columbia, the Criminal Justice Act, and the Constitution of the United States.

The second matter, Mr. President, involves appropriations for Radio Free Europe. The House reduced the President's budget request for this purpose by almost $5 million, to $45 million, and the committee has recommended a further reduction, to $40 million. This lower figure would place Radio Free Europe in an almost unresolvable fiscal crisis, Mr. President, and I intend to join Senator HUMPHREY and others in recommending an increase at least back up to the level recommended by the House. This is necessary at the very least to maintain current levels of operation, due to the extra costs incurred as a result of the devaluation of the dollar.

**Mr. ERVIN.** Mr. President, I send to the desk an amendment and ask that it be stated.

The **PRESIDING OFFICER.** The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

On page 41, line 17, strike "$16,625,000" and insert "$17,700,000". On page 41, line 18, strike "$1,125,000" and insert "$2,200,000".

The **PRESIDING OFFICER:** Does the Senator want these amendments considered en bloc?

**Mr. ERVIN.** Yes. Mr. President, I ask unanimous consent that they be considered en bloc, because they relate to the same matter.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. ERVIN.** Mr. President, in 1970 the Senate enacted several significant amendments to the Criminal Justice Act of 1964, which sought to improve the quality of criminal justice in America by improving and expanding the system of public support of defense legal assistance for individuals who are financially unable to obtain counsel in criminal cases. The 1970 amendments to the Criminal Justice Act resulted in expansion of the scope of defense services available to the indigent defendant, an increase in the rate of compensation paid to attorneys representing indigent defendants, and the establishment of Federal public defender organizations within certain Federal judicial districts.

At the same time Congress was focusing attention on the local courts of the District of Columbia. The Court Reform and Criminal Procedure Act was enacted in the same year. This legislation transformed the local trial court from a municipal court of very limited jurisdiction to the court of full general jurisdiction for the District of Columbia. One of the reasons for the enactment of this legislation was to eliminate the severe criminal case backlogs which were then in effect in the Federal District Court for the District of Columbia, which prior to court reorganization handled serious local criminal cases.

Congress addressed both pieces of legislation at the same time and both the Senate and House Judiciary Committees were fully aware of the need to conform the Criminal Justice Act to the reorganization plan. Therefore, when a question was raised as to whether the Criminal Justice Act would continue to apply in the reorganized District of Columbia courts, Congress decided that question in the affirmative, because it was understood that the Federal Government would continue to have a very real impact and an interest in the operations of the revised court system. Indeed, the U.S. Attorney for the District of Columbia continues to prosecute serious crimes in the District of Columbia courts. Furthermore, the Congress felt that all Criminal Justice Act payments should be administered by one agency, the Administrative Office of the U.S. Courts so that the standards set out in the act would be applied uniformly nationwide. For these reasons the Criminal Justice Act was amended contemporaneous with court reform in the District to provide expressly that the act was to continue to apply to the local courts in Washington. Indeed, it was the Justice Department that urged both in the Constitutional Rights Subcommittee and in the House Judiciary Committee carefully drawn amendments specifically designed to insure that court reform would not impair the continued application of the federally administered Criminal Justice Act program in the District's new courts.

Despite the clear legislative intent expressed by the Congress in both the 1970 amendments to the Criminal Justice Act and the 1970 District of Columbia Court Reorganization Act, there has been considerable controversy involving the means of financing and administering defense services for indigents in the District of Columbia under the provisions of the Criminal Justice Act. The Administrative Office of the U.S. Courts has expressed its reluctance with having to administer Criminal Justice Act funds for the District of Columbia and with the inclusion of these funds in the Federal judiciary budget. Last year, in response to a decision by the Administrative Office of the U.S. Courts not to accept vouchers from attorneys providing services under the Criminal Justice Act of the District of Columbia, the Comptroller General of the United States issued a formal decision on May 26, 1972. In this decision, the Comptroller General ruled that the legislative intent of Congress in both of these acts was that Criminal Justice Act funds for the District of Columbia should be administered and budgeted for by the Administrative Office of the U.S. Courts, as is the case with Criminal Justice Act defender funds for the other Federal judicial districts. However, despite this ruling, which is an authoritative interpretation of the law binding on the Administrative Office no less than on other agencies of the Federal Government, on October 26, 1972, the Judicial Conference of the United States voted not to include the budget estimates of needed District of Columbia Criminal Justice Act funds in their fiscal year 1974 appropriation request. The House followed the Conference's recommendation and included no appropriation for expenditure of Criminal Justice Act funds in the District of Columbia. Because the District Government accepted the Comptroller General's decision as authoritative, it did not ask for funds for the Criminal Justice Act in its budget. We were then faced with the very real danger that the Criminal Justice Act would come to an end in the District of Columbia. Indeed, the appropriation bill enacted earlier this year for the District contains no funds and the only way to save the program is to include the appropriation in this bill.

H.R. 8916 as it appears before the Senate today contains an appropriation for $1.125 million for funding of legal counsel for indigent defendants in the District of Columbia as part of the total $16.623 million appropriation for Criminal Justice Act payments nationwide. This appropriation is less than one-half of the $2.250 million estimated to be necessary for the funding of indigent defendant counseling for the full fiscal year in the District of Columbia.

Presumably, the Appropriations Committee intends to resolve this question in the supplemental appropriation for the Federal Judiciary. This would simply postpone the crisis from this month to March or April of 1974. There is no possible way in which the District of Columbia court system, with its well over 12,500 indigent defendants annually can operate for the remainder of the fiscal year with the sum provided for by H.R. 8916. It seems to make little sense to me to build into this appropriation a crisis to be faced next spring.

This method of handling the District of Columbia Criminal Justice Act funds adds yet another element of confusion to the already disputed issue of which agency of the Federal Government is charged with the administration and budgeting of funds administered under this program.

I find this to be a most inefficient way to appropriate funds for this very important program, and I can see no reason why the funding for defense services in the District of Columbia should be accomplished in a different manner than the funding for the same services in the other judicial districts is accomplished. The intent of the Congress to administer these funds through the Federal judiciary has been voiced by the Congress and affirmed by the Comptroller General.

It may well be that at some future date the Congress will decide that the funds for legal services for indigent criminal defendants in the District of Columbia should be administered by some Federal agency other than the Administrative Office of the U.S. Courts. If the Judicial Conference will come before the committees and subcommittees of the Congress with jurisdiction over the Criminal Justice Act and convince them of the wisdom of its position then the intent of the Congress in this area will be expressed via an amendment to the Criminal Justice Act. That is the way laws should be changed. I am firmly opposed to the use of the appropriation process to remove this administrative power from that agency which has been legally designated as the wielder of that power.

The Members of this body should understand that the compensation awarded to attorneys in the District of Columbia courts is far lower than that in the Federal courts generally. In the Federal district courts throughout the Nation the average payment for the representation of indigents during fiscal year 1972 was $271 per case. By comparison the average attorney payment in the Superior Court of the District of Columbia was $126. The total number of persons prosecuted by the U.S. Government anywhere in the United States who were represented by attorneys appointed under the Criminal Justice Act last year was 51,435; 12,405 of these individuals were prosecuted by the U.S. Attorney for the District of Columbia courts. Thus, the District of Columbia courts handled 24 percent of all criminal defendants falling within the ambit of the Criminal Justice Act yet only approximately 9 percent of the Criminal Justice Act funds for fiscal year 1973 went to pay for Criminal Justice Act activities in the local courts—$1.5 million out of $14.5 million. Thus the suggestion which has been made from time to time that Criminal Justice Act compensation in the District of Columbia has somehow been extravagant or exorbitant is totally false. If anything, the opposite is true.

Therefore, I strongly believe that H.R. 8916 should be amended to provide for an appropriation for the full fiscal year. The amendment that I propose is both administratively advisable and legally required. Only by providing a full fiscal year appropriation, administered by the Administrative Office of the U.S. Courts, can the provisions of the Criminal Justice Act be faithfully fulfilled.

As chairman of the Constitutional Rights Subcommittee, which was responsible for the Criminal Justice Act, I am prepared to introduce the necessary amendments which would accomplish the change desired by the Administrative Office. I believe I have the support of the chairman of the Senate District Committee to hold joint hearings on the issue at an early date. I propose, therefore, that the Senate continue the full financing of the program through the normal means of the judiciary budget until these hearings are held and the issue resolved by the legislative process before the two committees.

I am informed that the added amount necessary for full year funding is $2,200,000 and that is the figure proposed by my amendment.

I ask unanimous consent that a statement given by Chief Judge Harold H. Greene before the House District Committee, a chronology of the events relating to funding of defense services in the District of Columbia under the Criminal Justice Act, the May 26, 1972, ruling of the Comptroller General, and a letter from the American Bar Association be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### STATEMENT OF CHIEF JUDGE HAROLD H. GREENE

JUNE 28, 1973.

Mr. Chairman and members of the Committee: I am delighted to be here to testify before the Committee concerning the threatened crisis in the continued availability of counsel under the Criminal Justice Act for indigent criminal defendants in the local court system of the District of Columbia. Since 1966, pursuant to an order in the case of U.S. v. Walker and a subsequent ruling of the Comptroller General of the United States, the Criminal Justice Act has applied in the District of Columbia courts. Criminal Justice Act payments have been made routinely for appointed attorneys in the District of Columbia courts in the same manner as in federal courts throughout the country and funds needed for this program have been included routinely in the Criminal Justice Act appropriation requests of the Federal Judiciary and have been so approved.

During the time when the Court Reform and Criminal Procedure Act of 1970 was pending before the Congress, the question of the applicability of the Criminal Justice Act to the reorganized D.C. Court System was explicitly raised. At that time the Criminal Justice Act was amended (18 U.S.C. 3006A(1)) in several respects, including an amendment of Section (1) of the Act to provide that "the provisions of this Act, other than Subsection (h) of Section (1), shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals.' The legislative history of this amendment fully supports the conclusion that it was the intent of Congress that the Criminal Justice Act continue to be applicable in the reorganized local court system for the purpose of providing compensation to counsel who are appointed to represent indigent defendants. Moreover, unless it had been intended that the Act would be applicable within the local court system there would be no reason whatsoever for requiring that the CJA plan for the District of Columbia be approved by the District of Columbia Court of Appeals, since that court is a local rather than a federal court.

Notwithstanding this statutory language the Administrative Office of the United States Courts asked the Comptroller General of the United States for an opinion concerning the continued applicability of the Criminal Justice Act in the local court system in view of court reorganization. In a formal opinion, issued on May 26, 1972, the Comptroller General ruled that "the Administrative Office of the U.S. Courts should handle the administration of, and budgeting for, the Criminal Justice Act program in the District of Columbia's local courts generally in the same manner as it has in the past and to the extent possible as it administers and budgets for programs of the Federal District courts."

In early 1972 there was publicity concerning the fact that some attorneys practicing in the local courts had received what were considered to be inordinately large amounts of CJA funds during previous fiscal years. Although the local courts began an immediate review of this problem and quickly took action to remedy any abuses, the Subcommittee on the Federal Judiciary of the House Appropriations Committee inserted a rider in the 1973 appropriation eliminating the District of Columbia courts from any further participation in CJA funding. This rider was subsequently modified and a $1 million ceiling for CJA expenditures for the District was substituted. It should be noted, however, that during FY 1972 $1,570,000 in CJA funds were expended in the local courts and that thereafter the jurisdiction of the D.C. Court System was greatly increased and the rates payable under the Criminal Justice Act were doubled. All estimates of the funding needed for operation of the Criminal Justice Act in the local court system during FY 1973 had indicated that the cost would probably exceed $2 million and it was clear at the time the $1 million ceiling was imposed that this amount would not be adequate to finance CJA operations in the local court system throughout FY 1973.

At roughly the same time, during the Spring of 1972, the Judicial Conference of the United States, apparently acting at the request of the Administrative Office of the U.S. Courts, directed that the Administrative Office thereafter discontinue including funds for the operation of the CJA program in the District of Columbia in the budget submitted on behalf of the Federal Judiciary.

The imposition of the $1 million ceiling for FY 1973 and the refusal of the Administrative Office, acting pursuant to the direction of the U.S. Judicial Conference, to include funds for the D.C. Courts in its appropriation request for FY 1974 gave rise to both immediate and long-term problems. The local courts immediately set in motion the machinery to request a supplemental appropriation for FY 1973 and the Administrative Office cooperated in submitting a supplemental appropriation request in the amount of $543,000. Additionally, the courts began immediately to attempt to avert the crisis which it was clear would occur unless a means were found to finance the operation of the Criminal Justice Act in the District of Columbia in FY 74 and thereafter. A detailed chronology of efforts to find a solution to this problem is attached, but these efforts included meetings with representatives of the Administrative Office, the Chief Justice, Congressional staff members, Mayor Washintgon and local budget officials, representatives of the Department of Justice, and leaders of the local Bar. Although many of these persons have made outstanding efforts to help find a permanent solution to this problem, and all have voiced their concern about the problem and their desire to cooperate in reaching a solution, the problem is, as yet, unsolved.

As indicated, the local courts took immediate action to investigate and curb any abuses which had occurred in the operation of the CJA program in the District of Columbia. Among the steps taken by the Board of Judges of the Superior Court were: the appointment of a committee of judges to investigate the operation of the Criminal Justice Act in the Superior Court; the adoption of a resolution limiting individual attorney payments in the Superior Court under the Criminal Justice Act to $18,000 and calling for increased utilization of the Public Defender Service in the defense of indigent defendants in juvenile and criminal cases; the imposition of a requirement that CJA vouchers submitted in the Superior Court include detailed time records; an amendment of the Superior Court rules to provide for increased use of law students in the representation of indigent defendants, including the assignment of all pretrial diversion cases to third year law students; the development of procedures for obtaining increased contributions from CJA defendants; and the establishment of a new system whereby a single judge examines and passes upon CJA vouchers in all nontrial cases. Moreover, a procedure was developed to provide for disciplinary action against any attorneys who falsify CJA vouchers.

I have made this relatively detailed account of the history of the Criminal Justice Act crisis to underline how seriously the Court tighten CJA procedures and to avert this crisis to underline how seriously the Court regards this problem. Indeed, it is clear that a failure to find a permanent solution to the dispute over the question of funding for this program will result in a serious crisis in the administration of justice in the District of Columbia. In the event funds are not forthcoming the Court can seek to conscript, on an unpaid basis, private attorneys to provide legal counsel to indigent defendants. As you may be aware, a few days ago I directed the Public Defender Service and the Unified Bar of the District of Columbia to seek to implement such a system, beginning on July 1, 1973. The Board of Governors of the Unified Bar responded to me that they felt such a system would raise severe constitutional problems both from the point of view of the defendants represented and from the point of view of the lawyers conscripted, particularly if such conscription were limited to the relatively small number of local attorneys with previous criminal trial experience. I am quite sympathetic to the position taken by the Bar, indeed, I myself have questioned in the past whether such a system could constitutionally be developed. Moreover, I am in wholehearted accord with their view that any effort to provide free-attorneys from among the private Bar for more than 300 defendants per week would be administratively impossible.

Conceivably the Court could return to the system which existed before 1966 when criminal representation was handled by a few attorneys who entered guilty please or not, depending solely upon the ability of a defendant or his family to pay. Such a system, of course, promotes practices which are sordid in the extreme and are intolerable in a system which seeks to provide justice, in appearance and in fact, to the defendants coming before it.

It has been suggested that this problem could be resolved by requiring that the Public Defender Service represent a larger proportion of the indigents coming before the Court. The Public Defender Service presently handles approximately 25% of the Superior Court's criminal and juvenile cases involving indigent defendants, and handled a total of 1,971 cases in the Court last year; it cannot handle a larger percentage of the cases without additional attorneys. In any event, the Public Defender Service is limited, by statute, to providing representation in 60% of the local cases involving indigent defendants. This statutory limitation, included in the Court Reorganization Act, reflects the apparent feeling of the Congress, with which I agree, that a mixed system of providing representation to indigent defendants is preferable to relying solely upon Defender services.

In 1972 51,435 defendants in federal trial courts throughout the United States were represented by attorneys appointed pursuant to the Criminal Justice Act, including 12,405 defendants so represented in the Superior Court. This means that in 1972 local CJA appointments constituted 24% of the total appointments in the United States, whereas only approximately 9% ($1,536,000) of the entire Criminal Justice Act appropriation for FY 1973 went to pay for CJA activities in the local courts. Moreover, during FY 1972 the average CJA payment to attorneys in U.S. District courts was $271, whereas the average payment in the Superior Court of the District of Columbia was $126. I am advised that the average per case cost of representation has always been and continues to be lower in the Superior Court than in U.S. District Courts. Further, it should be noted that well over 25% of the total prosecutions brought in the name of the United States each year are brought in the Superior Court of the District of Columbia. Thus the cost of defense services in the local courts is not disproportionate in view of the number of federal prosecutions in that court.

The Constitution, as interpreted by the Supreme Court, requires that every defendant in a criminal or juvenile delinquency proceeding be represented by counsel. If counsel is not available, as appears likely unless this impasse is resolved, the Court will ultimately have to discontinue the conduct of criminal and juvenile delinquency proceedings. Whether this action would mean that all individuals affected would be held in confinement until counsel were found or, as appears more likely, that they would be released pending solution of this problem, both alternatives are highly unpalatable.

The Superior Court is in a position, perhaps unique among urban court systems, of having little or no backlog and of trying juvenile and criminal cases in a matter of weeks after they are filed, despite the fact that a very substantial number of the cases in the Court are disposed of by trial rather than by enforced plea bargaining. It is clear that the present system of paid counsel for indigent defendants has contributed significantly to the success of the operation of D.C.'s criminal justice system and its present status as a model for the nation. I am deeply concerned that what appears to be basically a jurisdictional dispute over the source of funding for a necessary program should threaten to wipe out the progress which has been made over the last several years toward the goal of fair and efficient operations in the local court system, and I sincerely hope that steps will be taken to permit the Court to continue to be a model of how criminal justice should be administered.

### STATEMENT

D.C. Court of Appeals—Chambers of Chief Judge Gerard D. Reilly.

Superior Court—Chambers of Chief Judge Harold H. Greene.

On June 30, 1973, the end of the fiscal year, current Criminal Justice Act funding for legal representation for indigents ends with respect to the District of Columbia courts. While efforts still being made to provide specific congressional appropriations for fiscal year 1974 may yet prove to be successful, and without prejudice to such legal arguments as may be made that the Constitution or substantive statutory law form a basis for a continuation of Criminal Justice Act payments in the District of Columbia, arrangements have been announced today for an alternate method of providing representation for indigents in our courts. We believe this to be an appropriate time for summarizing for the record the efforts we have made, in conjunction with others, to provide continued Criminal Justice Act appropriations for the District of Columbia.

1. On March 7, 1972 the Administrative Office of the United States Courts requested the opinion of the Comptroller General of the United States as to whether, in view of the reorganization of the local courts in the District of Columbia, funds appropriated under the Criminal Justice Act would continue to be available to pay attorneys appointed to represent indigent defendants in the D.C. Court System. On May 26, 1972 the Comptroller General issued a written opinion (B–175429) holding that ". . . subsection (1) of the CJA, as added by Public Law 91–447, clearly and unequivocally makes the CJA applicable to prosecutions brought in the D.C. Superior Court and the D.C. Court of Appeals with regard to those prosecutions brought in the name of the United States . . ." Moreover, the opinion stated that "the Administrative Office of the United States Courts should handle the administration of, and budgeting for, the CJA program in the District of Columbia's local courts generally in the same manner as it has in the past and to the extent possible as it administers and budgets for programs of the Federal district courts . . ."

2. On October 25, 1972 we were informed by Mr. Rowland Kirks, Director of the Administrative Office of the U.S. Courts, that the Judicial Conference of the United States had decided that its budget submission for fiscal year 1974 would not include a request for Criminal Justice Act payments to counsel in the local courts of the District of Columbia, and that this item should, instead, be included in the D.C. budget submission. The District of Columbia courts were given no opportunity to explain to the Judicial Conference, either orally or in writing, the difficulties that this action would create for the administration of justice in the District, nor were they given an opportunity to present to the Conference whatever factual or legal basis there might have been in opposition to the Judicial Conference action.

3. On November 15, 1972 we arranged for a meeting with Mr. Kirks. That meeting was also attended by representatives of the Department of Justice. After considerable discussion, Mr. Kirks suggested that, should the District of Columbia agree to asume Criminal Justice Act financing for the period beginning on July 1, 1973, his Office would seek to obtain from the Congress, by way of a supplemental appropriation, the funds necessary to carry CJA operations in the District of Columbia courts to June 30, 1973. The participants at the conference concluded that before this proposal could be agreed to, it was subject to approval by, among others, Mayor Washington, the D.C. Court of Appeals, the Superior Court, and

the committees of the Congress having jurisdiction, but they agreed that the proposal was a reasonable effort to resolve the matter and they stated they would seek to implement the proposal.

4. On December 5, 1972 a meeting was held attended by the undersigned, Mr. Barrett Prettyman, President of the Unified Bar of the District of Columbia, representatives of other bar associations in the District of Columbia, Mr. Norman Lefstein and Mr. J. Patrick Hickey of the Public Defender Service, Mr. Charles Work of the Office of the U.S. Attorney, and others to discuss the feasibility of implementing the Kirks proposal. It was the unanimous conclusion of those present that this proposal did not represent a basis upon which agreement could be reached. A principal obstacle, which was extensively discussed, was the fact that the enabling legislation, both on its face also as construed by the Comptroller General, placed responsibility for local CJA funding on the Federal Judiciary, and that therefore any effort to fund the program through the District of Columbia budget might require new substantive legislation as well as appropriations, and, hence approval by four separate congressional committees. The group also considered the fact that the District of Columbia courts had no authority to give up a statutory right granted to criminal defendants in the District simply in order to assure emergency funding for the remainder of the fiscal year, and the fact that, in view of the congressional requirement that the District of Columbia budget be balanced, a condition which is not true of funding through the Federal Judiciary, Criminal Justice Act payments would henceforth, under the Kirks proposal, constitute a constant and permanent drain on District resources, and a threat to other important District programs.

5. Numerous meetings were held thereafter between the undersigned leaders of the organized Bar, Congressional staff members, Mayor Washington, and others in an effort to resolve the problem. Despite repeated expressions of concern, no dispositive action was taken.

6. On February 7, 1973, Mr. Rowland Kirks submitted to the Executive Office of Management and Budget a supplemental appropriation request for fiscal year 1973 in the amount of $543,000, to be used for the payment of counsel appointed under the Criminal Justice Act in the District of Columbia court system. This amount was to take care of those CJA payments in excess of the $1 million ceiling which had been placed by the Congress on CJA expenditures in the local court for FY 73. In his transmittal letter to Mr. Roy Ash, the Director of the Office of Management and Budget, Mr. Kirks noted that no funds were included in the budget estimates of the Judiciary for fiscal year 1974 for use in connection with the operation of the Criminal Justice Act in the local court system.

7. On March 5, 1973 the undersigned secured a meeting with the Chief Justice of the United States to explain the situation to him. The Chief Justice gave the matter thorough consideration, he was sympathetic and expressed his desire to be helpful, but he indicated that, insofar as funding through the budget of the Federal Judiciary was concerned, he was bound by the Judicial Conference resolution and that accordingly he could not help in that regard.

8. Subsequent to these developments a committee of distinguished attorneys with congressional experience was appointed by Mr. E. Barrett Prettyman on behalf of the District of Columbia Bar, to attempt to persuade the Congress to take appropriate action to solve the local CJA crisis. This committee was headed by former Maryland Senator Joseph Tydings. Parallel efforts were made by Mr. Bernard Nordlinger and members of the D.C. Bar Association.

9. On March 13, 1973 Chief Judge Reilly wrote to Mr. Roy Ash, Director of the federal Office of Management and Budget requesting that the budget estimate of the Federal Judiciary for FY 74 be amended to include an additional sum of $2,259,000 for CJA expenditures for services performed in the Superior Court and the Court of Appeals of the District of Columbia.

10. On April 10, 1973 the Judicial Conference of the District of Columbia Circuit was apprised of the current status of efforts to obtain continued Criminal Justice Act funding for the local courts. The Conference unanimously adopted a resolution urging continued funding for this purpose and calling attention to the critical nature of the problem which would face the District of Columbia in the event no source of funding was found.

11. On April 12, 1973 the undersigned and Mr. E. Barrett Prettyman and Mr. Charles Duncan, the President and President-Elect of the District of Columbia Bar, held a press conference to apprise the public of the current status of efforts to obtain continued Criminal Justice Act funding and the potential crisis confronting the city in the event these efforts were not successful.

12. On April 13, 1973 the Judicial Conference of the United States again voted not to request funds for the payment of CJA expenses in the D.C. Court System in its FY 74 budget.

13. On April 18, 1973 the undersigned wrote to the Chairmen of the House and Senate Appropriations Committee as well as the Subcommittee on the District of Columbia and on the Federal Judiciary outlining the history of the applicability of the Criminal Justice Act to the District of Columbia Court System and requesting their assistance in resolving the jurisdictional conduct, and in averting the threatened crisis in CJA funding and therefore in court operations in the District of Columbia.

14. On April 25, 1973 Mr. Ash advised the court system that, because of the separation of powers, the Office of Management and Budget was unable to propose any amendment to the budget submission of the Judicial Branch.

15. On May 3, 1973 the House Appropriations Subcommittee, chaired by Congressman John Rooney, stated its agreement with the position taken by the Judicial Conference of the United States and announced its opposition to any effort to fund local CJA activities in fiscal year 1974 through any source other than the budget of the District of Columbia.

16. On May 3, 1973 Chief Judge Reilly, in the course of his testimony on the appropriation request of the D.C. Court of Appeals, brought the District of Columbia Subcommittee of the House Appropriations Committee up to date on the courts' efforts and emphasized the need for urgent action.

17. On May 16, 1973 Chief Judge Reilly reiterated his concern to the District of Columbia Subcommittee of the Senate Appropriations Committee, and Chief Judge Greene, in response to questions, underlined Judge Reilly's position. During the same hearings, while the Director of the Public Defender Agency was testifying, Chairman Birch Bayh and Senator Mathias expressed their support for the judicial system's needs in this regard, and expressed the opinion that funds for this purpose should come from the budget of the Federal Judiciary.

18. On May 30, 1973 Mayor Walter Washington informed Chief Judge Greene that insofar as he was concerned, the District would be prepared to include a request for compensation for the defense of indigents in its budget, beginning with fiscal year 1975, but that the inclusion of this program was not possible with respect to fiscal year 1974. He suggested that efforts should be made once more to induce the Federal Judiciary to continue its funding through fiscal year 1974.

19. On June 5, 1973 Senator Joseph Tydings and Mr. E. Barrett Prettyman, Jr., urged this course of action upon the Chief Justice of the United States, but they were again informed that the Chief Justice would not support this position, in view of the two Judicial Conference resolutions opposing continued federal funding for local CJA matters.

20. On June 4, 1973 Deputy Attorney General Sneed directed the Law Enforcement Assistance Administration to explore the possibility of funding the indigent defense program for the District for fiscal year 1974. At a meeting held on June 6, 1973, which was attended by representatives from the Office of the Deputy Attorney General, representatives from LEAA, Senator Tydings, Mr. Charles Duncan, representatives of the Mayor's Office, and by the undersigned, it was agreed that Chief Judge Greene's Office would prepare and submit an application for an LEAA grant for this purpose. Such an application has been prepared. However, thereafter the undersigned were advised that the grant would not be approved, apparently because of Subcommittee representations that such a grant was not favored.

21. On June 8, 1973 Senator Tydings and Chief Judge Greene discussed the desirability of holding one more meeting of principals to determine whether a legislative or executive solution could be found prior to the June 30 deadline. Accordingly, a meeting was held on June 13, 1973 in Senator Mathias' Office which was attended by Senator Tydings, Deputy Attorney General Sneed, representatives of the Mayor, Mr. Charles Duncan, members of the Bar Committee working on this matter, and the undersigned. It was the consensus of this meeting that legal and practical problems precluded fiscal year 1974 funding through the District of Columbia budget, and that in view of the action of the Department of Justice on the LEAA request, the most feasible avenue was 1974 funding through the Federal Judiciary appropriation. Those present concluded that this course could reasonably be urged in view of the cooperative attitude of the Mayor with respect to funding beginning in 1975. A number of those present, including the Deputy Attorney General, undertook to persuade key congressional leaders that the minimal step on one-year funding by way of the Federal Judiciary budget should be undertaken.

22. On June 14, 1973, the Deputy Attorney General advised that the Attorney General could not successfully carry out the assignment undertaken at the previous day's meeting. Subsequently, Deputy Attorney General Sneed advised the undersigned that the question of funding local CJA operation through the Federal Judiciary appropriation for fiscal year 1974 had been further explored and that it was impossible for the Department of Justice to be of further assistance to the local court system in this matter.

23. The undersigned met on June 20, 1973 with Mr. Prettyman, Mr. Duncan, Mr. Lefstein and Mr. Copple and formally requested that the District of Columbia Bar and the Public Defender Service undertake the necessary arrangements to provide, from among the members of the local Bar, adequate numbers of attorneys to service all indigent defendants beginning on July 1, 1973.

24. It should be made very clear that the local court system has received the highest level of cooperation, throughout several months of attempts to find a solution to the problem of criminal justice operation, from the District of Columbia Bar, the Public Defender Service, the Mayor and numerous private individuals. Moreover, throughout this period of uncertainty private attorneys have continued to faithfully appear in the local

courts and accept assignments to represent indigent criminal defendants even during those periods when it appeared unlikely that they would be appropriately compensated for their efforts. Every possible effort has been made both by the court and by other concerned parties to find a solution to what initially appeared to be a relatively simple problem. As the months have passed it has become clear, however, that—despite widespread verbal commitments to the necessity of continued funding for the Criminal Justice Act in the local courts—no one is willing to undertake the responsibility for budgeting the amount necessary to continue this program. It is indeed regrettable that an extremely well functioning criminal justice system, perhaps the only urban system in the United States with no backlog despite a high level of trials as opposed to guilty pleas, is being threatened by this administrative imbroglio. Clearly it is central to the continued efficient functioning of the local court system that the elements of the adversary process be maintained and that trial counsel and appellate counsel and transcripts be provided for both indigent and non-indigent defendants. The Superior Court has sought the assistance of the Bar Association and the Public Defender Service in an effort to provide attorneys for each defendant and it has been assured of the continued cooperation of these agencies in seeking to meet this goal. The courts will do everything within their power to continue to operate an efficient criminal justice system and to guarantee justice to all participants in the system.

Gerard D. Reilly, Chief Judge, D.C. Court of Appeals.

Harold H. Greene, Chief Judge, D.C. Superior Court.

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### History of Developments in the District of Columbia Court System Criminal Justice Act Crisis

*May 15, 1972:* House Report recommending elimination of local court system from CJA coverage. Report attached as Exhibit A.

*May 16, 1972:* Memorandum from Chief Judge Harold Greene to Bess Dick, Counsel, House Judiciary Committee, outlining alternatives available in the event of a cut-off of CJA funds for the District of Columbia courts. Memorandum attached as Exhibit B.

*May 19, 1972:* Resolution adopted by Board of Judges of the Superior Court limiting individual attorney payments under the Criminal Justice Act to $18,000 and increasing ultilization of the Public Defender Service in the defense of indigent defendants in criminal and juvenile cases. A copy of this resolution is attached as Exhibit C.

*May 26, 1972:* Letter from the Comptroller General of the United States to the Director of the Administrative Office of the U.S. Courts ruling that CIA is applicable in the District of Columbia Courts and that "the Administrative Office of the U.S. Courts should handle the administration of, and budgeting for, the Criminal Justice Act program in the District of Columbia's local courts generally in the same manner as it has in the past and to the extent possible as it administers and budgets for programs of the Federal District courts." A copy of this decision was furnished to Chief Judge Greene, by the Comptroller General's Office, on May 26. A copy of the Comptroller General's letter is attached as Exhibit D.

*May 31, 1972:* Report #92–821 from the Senate Committee on Appropriations recommending deletion of the House provision eliminating the availability of CJA funds for the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. A copy of the relevant portion of this report is attached as Exhibit E.

*June 13, 1972:* The Supreme Court decided in the case of Argersinger v. Hamlin that no person may be imprisoned for any offense unless that person is represented by counsel at his trial. A copy of the decision is attached as Exhibit F.

*June 30, 1972:* The Criminal Justice Committee of the Superior Court issued guidelines concerning the limitation of earnings under the CJA to $18,000 to all counsel appointed pursuant to the Act. A copy of that memorandum is attached as Exhibit G.

*July 18, 1972:* Effective on this date all CJA attorneys, when assigned cases, were supplied with detailed time sheets to be maintained by them as the case progressed and to be submitted to the appropriate judge with the final voucher form seeking approval of the fee. A copy of this form and of a memorandum to the judges explaining its use is attached as Exhibit H.

*August 2, 1972:* Letter was written by the CJA Advisory Board to House and Senate conferees on H.R. 14989, urging that the conferees support appropriations adequate for the operation of the Criminal Justice Act in the local courts. A copy of this letter is attached as Exhibit I.

*August 30, 1972:* A letter from Chief Judge Greene to the Chairman of the CJA Advisory Board thanking him for his efforts. A copy of this letter is attached as Exhibit J.

*October 10, 1972:* Conference report placing a ceiling of $1.5 million on the money available for use in the local courts for payment of counsel appointed to defend indigent defendants pursuant to the Criminal Justice Act. A copy of the report is attached as Exhibit K.

*October 25, 1972:* Letter from Roland Kirks to Chief Judge Reilly advising him that the Judicial Conference had taken the position that a request for appropriations for payment of counsel under the Criminal Justice Act in the local courts should not be included in the budget request of the Administrative Office for FY 1974. A copy of this letter is attached as Exhibit L.

*November 1, 1972:* Superior Court rules amended to provide for increased use of law students to represent indigent defendants. A copy of the new student practice rule is attached as Exhibit M.

*November 2, 1972:* The Board of Judges of the Superior Court asked its CJA Committee to develop procedures for dealing with attorneys who abuse CJA appointments, for tightening CJA eligibility standards. A copy of the Order implementing the Board of Judges action is attached as Exhibit N.

*November 15, 1972:* Meeting between Roland Kirks, Chief Judge Reilly, Chief Judge Greene and representatives of the Justice Department to discuss methods of dealing with the problem.

*December 5, 1972:* Meeting called by Chief Judge Greene and attended by representatives from Public Defender Service, U.S. Attorney's Office, court system, and the local Bar Associations. At this meeting a history of use of the Criminal Justice Act in the District of Columbia courts was circulated (a copy of this history is attached as Exhibit O) and those present at the meeting agreed that all possible efforts should be made to insure that funding for CJA appointments in the local courts be maintained in the federal budget during FY 1974. At this meeting Public Defender Service was asked to report on the number of lawyers available with prior trial experience.

*December 7, 1972:* Letter from J. Patrick Hickey concerning the number of available lawyers with trial experience. A copy of this letter is attached as Exhibit P.

*December 11, 1972:* The CJA Committee recommended to Chief Judge Greene that all pretrial diversion cases be assigned to third year law students, that defendant contributions for payment of attorneys be increased and that a new system for approval of vouchers be established in an effort to decrease the total cost of CJA representation. A copy of the memorandum of the CJA Committee to Chief Judge Greene is attached as Exhibit Q.

*January 3, 1973:* Memorandum to the judges was circulated adopting the recommendations of the CJA Committee. A copy of this memorandum is attached as Exhibit R.

*January 15, 1973:* Letter from Chief Judge Greene to Congressman Rooney apprising him the fact that despite severe economy measures taken in the court it then appeared that the $1,000,000 limit set for CJA spending in the local court system would be reached in early February, and seeking authorization for additional funds for use during the remainder of FY 1973. A copy of this letter is attached as Exhibit S. (Letter from Attorney General Kleindienst to Chief Justice Burger outlining the applicability of the Criminal Justice Act in the District of Columbia Court System and urging the support of the Chief Justice in maintaining the funding of the local CJA program as part of the federal budget. A copy of this letter is attached as Exhibit ---.)

*January 19, 1973:* A letter from Roland Kirks to Chief Judge Reilly requesting a detailed estimate of expenditures for use in preparation of a supplemental CJA appropriation for FY 1973. A copy of this letter is attached as Exhibit T.

*January 24, 1973:* Letter to Chief Judge Greene from Public Defender Service giving estimates of the total cost of CJA representation for FY 1973. A copy of this letter is attached as Exhibit U.

*January 24, 1973:* Memorandum from Nancy A. Wynstra to Chief Judge Greene detailing the additional cost of CJA representation for the Superior Court for the period from February 1–June 30. A copy of this memorandum is attached as Exhibit V.

*January 26, 1973:* Memorandum from Chief Judge Greene to Chief Judge Reilly concerning the needs of the Superior Court for CJA representation from February 1–June 30. A copy of this memorandum is attached as Exhibit W.

*January , 1973:* Response of Chief Judge Reilly to letter from Roland Kirks.

*February 6, 1973:* Development of procedures for implementing increased contributions from CJA defendants. A copy of the memorandums to Judge Braman from Tom Hammond and Alan Schuman is attached as Exhibit X.

*February 6, 1973:* Memorandum from Tom Hammond to Judge Braman concerning implementation of the December 11 recommendations of the Braman Committee for the conservation of CJA funds. A copy of this memorandum is attached as Exhibit Y.

*February 7, 1973:* Letter from Roland Kirks to Roy Ash, Director of the Office of Management and Budget, submitting a supplemental appropriation request in the amount of $543,000 to permit operation of the Criminal Justice Act in the D.C. Court System throughout FY 973. A copy of this letter is attached as Exhibit Z.

*February 7, 1973:* Letter from William Sweeney, Administrative Office of the U.S. Courts, to Chief Judge Reilly noting an increase in the number of appointments but a reduction in the cost per case for services rendered in the Superior Court of the District of Columbia for the first half of FY 1973. A copy of this letter is attached as Exhibit AA.

*February 15, 1973:* Memorandum from Judge Braman to Chief Judge Greene transmitting the Hammond-Schuman memorandum of February 6. A copy of this memorandum is attached as Exhibit BB.

*February 16, 1973:* Memorandum from Judge Braman to Chief Judge Greene concerning disciplinary measures to be taken against CJA attorneys who falsify vouchers, including a recommendation for reinstatement of a court rule allowing suspension from the appointment panel for such behavior. A copy of this memorandum is attached as Exhibit CC.

*February 22, 1973:* Request from the House Appropriations Committee for the District of Columbia that monies paid to attorneys for indigent criminal defendants pursuant to the Criminal Justice Act be noted in the court budget as if it were a federal grant. A copy of a memorandum from Arnold Malech concerning this request is attached as Exhibit DD.

*March 6, 1973:* A letter from Chief Justice Burger to Chief Judge Reilly concerning continuing operation of the Criminal Justice Act in the local court system.

On April 10, 1973 the D.C. Judicial Conference went on record in support of the need for continued CJA payments to the District of Columbia. Later that same week the Judicial Conference of the United States again voted not to seek funds in the budget of the Administrative Office of the U.S. Courts to support the operation of the Criminal Justice Act in the District of Columbia. Subsequent to these two meetings Chief Judge Greene wrote letters to all appropriate Congressional committee chairmen outlining the Criminal Justice Act problem and seeking their assistance in solving it. When the Superior Court appeared before the District of Columbia Appropriations Subcommittee last week Senator Bayh and Senator Mathias indicated their feeling that local CJA funding should continue as part of the budget of the federal judiciary and suggested that they would introduce approximate legislation to this effect. Earlier in the month when the Court was before the House Appropriations Subcommittee, Congressman Natcher announced that the full House Appropriations Committee had voted against continuing to fund local operation of the Criminal Justice Act through the federal judiciary budget, and said that he felt sure that money could be found in the District of Columbia budget to pay for this program.

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Comptroller General of
the United States,
*Washington, D.C., May 26, 1972.*

Hon. Rowland F. Kirks,
*Director, Administrative Office of the United States Courts.*

Dear Mr. Kirks: Your letter of March 7, 1972, requests our opinion as to whether, in light of the reorganization of the local courts in the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970. Public Law 91–358, 84 Stat. 473, the funds appropriated to the Federal Judiciary for the implementation of the Criminal Justice Act (CJA), 18 U.S.C. 3006A, are available to pay attorneys and experts appointed in the District of Columbia Superior Court as well as pay for other services, in cases where exclusive jurisdiction over the criminal offense charged is vested in that court; and if it is our decision that such funds may be so applied in what categories of cases could such attorneys and experts be compensated. You also ask what responsibilities the Judicial Conference of the United States and your office would have over the administration of, and budgeting for, the CJA program in the District of Columbia (D.C.) Superior Court and the District of Columbia (D.C.) Court of Appeals if we determine that CJA applies to cases peculiar to the local jurisdiction of those courts. We wrote to the Executive Officer of the D.C. Courts for his views on these matters, and in response thereto, the Honorable Harold Greene, Chief Judge of the Superior Court of the District of Columbia, furnished us the views of the District of Columbia courts.

In 45 Comp. Gen. 785 (1966)—referred to in your letter—we stated that the Criminal Justice Act is intended to provide adequate representation at all stages for persons charged with the commission of felonies or misdemeanors, other than petty offenses as defined in section 1 of title 18, United States Code, who are financially unable to obtain an adequate defense. We noted that in making such provision, the act was framed in terms of the Federal Court System of which the District of Columbia Court of General Sessions has traditionally not been considered a part. However, we pointed out that with respect to the purposes of the Criminal Justice Act of 1964, the United States District Court for the District of Columbia had concurrent jurisdiction over all criminal cases which could properly be heard in the "United States Branch" of the D.C. Court of General Sessions, and that all criminal cases heard in the Court of General Sessions—other than those involving violations of police or municipal ordinances or regulations—were prosecuted by a United States attorney in the name of the United States. We stated that since the United States determined whether a defendant in a criminal case was to be tried in the United States District Court or in the Court of General Sessions, it was difficult to reach the conclusion that the Congress intended a defendant's entitlement under the Criminal Justice Act to be dependent upon whether the United States should choose to prosecute him in one court rather than another. Thus, we concluded that the Criminal Justice Act of 1964 should be construed as covering the United States Branch of the D.C. Court of General Sessions and that any plan covering application of the act in the District of Columbia should include that Branch. See also our decisions of September 24, 1970, B–153485 and 48 Comp. Gen. 569 (1969).

On July 29, 1970, the District of Columbia Court Reform and Criminal Procedure Act of 1970, Public Law 91–358, 84 Stat. 473 (henceforth referred to as the D.C. Court Reform Act) was enacted into law. Among other things, that act merged the three local courts—the Court of General Sessions, the Juvenile Court, and the D.C. Tax Court—into a new Superior Court. The Superior Court is given exclusive jurisdiction "of any criminal case under any law applicable exclusively to the District of Columbia" except for those already commenced in the United States District Court or those filed there during an 18-month transition period. The D.C. Court Reform Act also established the District of Columbia Public Defender Service and phased out over a 30-month period the former pro rata contributions made from District of Columbia appropriations for the maintenance of the United States District Court and the United States Court of Appeals.

You state that the D.C. Superior Court, having been invested with both misdemeanor and felony criminal jurisdiction of local application, has assumed much of the character of a State court. You further state that it appears that two of the major premises of our original opinions finding the Criminal Justice Act of 1964 applicable to the D.C. General Sessions Court are now eliminated: first, there is no longer concurrent jurisdiction shared by the local court and the United States Court and second, the trial jurisdiction is no longer dependent upon whether the United States should choose to prosecute a defendant in one court rather than another.

On October 14, 1970, shortly after the enactment of the D.C. Court Reform Act, there was enacted Public Law 91–447, 84 Stat. 916, amending 18 U.S.C. 3006A (the CJA), which amendment you describe as a "virtual rewriting of the Criminal Act." While in this act the Congress did not disturb the section (18 U.S.C. 3006A(k)) defining the United State "Districts Courts" to which CJA is applicable, it added a new subsection (1) to the CJA, which subsection provides:

"(1) *Applicability in the District of Columbia.*—The provisions of this Act, other than subsection (h) of section 1, shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

This language (except for the phrase "other than subsection (h) of section 1") was initially introduced on April 30, 1970, on the floor of the Senate, by Senator Hruska as an amendment to the bill which amended the CJA. At the time the amendment was introduced, Senator Hruska made the following statement:

"Mr. President, the amendment that I have offered would make the provisions of the Criminal Justice Act, as amended by S. 1461, fully applicable to the District of Columbia.

"This amendment is needed to clarify the application of the act to appointed counsel appearing before the court of general sessions or any other courts of general jurisdiction, now or in the future, in the District of Columbia. The Criminal Justice Act of 1964, as originally enacted, omitted any reference to the District of Columbia Court of General Sessions, although the Comptroller General ruled in 1966 that the act does extend to certain classes of cases prosecuted in that court. As I recall, that was also the intent of the 1964 act.

"Since the Constitutional Rights Subcommittee began consideration of S. 1461, and other proposed amendments to the 1964 act, legislation has been proceeding through the Senate and House District Committees that would significantly reorganize the Federal courts of the District. That legislation is now before a conference committee.

"The concurrent jurisdiction of the District of Columbia District Court and the District Court of General Sessions over certain offenses against the United States would end under that legislation, and the court systems would be greatly changed. It is the concurrent jurisdiction, however, upon which the Comptroller General based his opinion of coverage under the 1964 act.

"Therefore, to insure coverage of the Criminal Justice Act in the District, whether or not the court reorganization bill is enacted, for those classes specified in the 1964 act as amended by S. 1461 as reported by the full Judicial Committee, this amendment is offered." (Congressional Record—Senate, April 30, 1970, S6500, Temp. Ed.)

Senator Hruska's amendment making the CJA applicable in the local courts of the District of Columbia was agreed to by the Senate. It was subsequently accepted by the House, with additional amendments after the Department of Justice noted that the language of the Senate amendment left unclear the applicability of the public defender organization provisions of the act within the District of Columbia and the question of compensation of counsel appointed to represent juveniles. (See the Hearings before Subcommittee No. 3 of the House Judiciary Committee, June 18 and 25, 1970, pages 96 to 99.) While the Department of Justice proposed specific language to deal with these problems, the House Committee merely amended the bill to exempt the District of Columbia from the public defender organization provisions of the CJA within the District of Columbia courts. Thus, House Report No. 91–1546, 91st Congress, explains:

"Amendment No. 11 provides that except for subsection (h) involving defender organizations, the provisions of the Criminal Justice Act apply in the District of Columbia. The District already [sic] a Public Defender Service (title III, Public Law 91–358)."

The House and the Senate both accepted this further amendment of Senator Hruska's amendment.

Further, we note that section 210(a) of the D.C. Court Reform Act revises, codifies, and enacts the general and permanent laws of the

District of Columbia relating to criminal procedure. That section revises title 23, D.C. Code, and provides, in effect, that all criminal prosecutions—except (in most cases) for prosecutions for violations of all police or municipal ordinances or regulations and for violation of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only or imprisonment not exceeding one year, or prosecutions for violations of section 6 of the act of July 29, 1892 (D.C. Code, section 22-1107), relating to disorderly conduct, and for violations of section 9 of that act (D.C. Code, section 22-1112), relating to lewd, indecent, or obscene acts—shall be conducted in the name of the United States by the United States attorney for the District of Columbia, or his assistants. In other words, most, if not all, criminal prosecutions formerly brought by the United States attorney in the name of the United States in the "United States Branch" of the Court of General Sessions or in the United States District Court for the District of Columbia will now be brought by the United States attorney in the name of the United States in the D.C. Superior Court. Application of the CJA to these cases in the Superior Court would accomplish the stated purpose of the sponsor of subsection (1) of the CJA that CJA coverage in the District under the 1970 amendments should include those classes of cases which were covered by the 1964 act prior to the reorganization of the D.C. Court System.

Moreover, the intent to make applicable the CJA to the District of Columbia courts is obvious from the wording of subsection (1) of the CJA. As noted above, the last sentence of that subsection provides:

"The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

We agree with Judge Greene's interpretation of this sentence that:

"* * * Had it not been the clear congressional intent for the Criminal Justice Act to apply to the D.C. Court system, there would, of course, have been no reason whatever for requiring that the Criminal Justice Act plan for the District of Columbia be approved by the District of Columbia Court of Appeals, a local court without strictly 'federal' responsibilities."

We agree that the rationale of our former decisions making the CJA—prior to the 1970 amendments thereto—applicable to the D.C. Court of General Sessions (i.e., the concurrent jurisdiction shared by the local court and the United States District Court for the District of Columbia and the fact that the choice of forum was up to the United States) no longer applies to the D.C. courts as reorganized by the D.C. Court Reform Act. However, it is our opinion that except as to subsection (h) of the CJA relating to public defender systems, subsection (1) of the CJA, as added by Public Law 91-447, clearly and unequivocally makes the CJA applicable to prosecutions brought in the D.C. Superior Court and the D.C. Court of Appeals with regard to those prosecutions brought in the name of the United States, and we so hold.

As to the application of the CJA to juvenile proceedings, section 3006A(a) of title 18, United States Code, provides, in effect, that the CJA will cover:

"* * * any person financially unable to obtain adequate representation (1) who is charged with * * * juvenile delinquency by the commission of an act, which if committed by an adult, would be such a felony or misdemeanor * * * or, (4) for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which he faces loss of liberty, any Federal law requires the appointment of counsel. * * *"

House Report 91-1546, dated September 30, 1970, states on page 3 that the purpose of 18 U.S.C. 3006A is to:

"* * * render explicit the coverage [under section 3006A(a)(1)] of persons charged with juvenile delinquency. Within the District of Columbia, children would also be covered by section [3006A(a)(4)], insofar as the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91-358, approved July 29, 1970) requires the appointment of counsel for them in cases in which they face loss of liberty * * *"

In other words, the provisions of 18 U.S.C. 3006A(a)(1) are applicable in the District of Columbia, as in all the other CJA covered jurisdictions, to persons charged with juvenile delinquency by the commission of an act which, if it had been committed by an adult, would be a felony or misdemeanor (other than a petty offense as defined by 18 U.S.C. 1) or with violation of probation covered by the provisions of the CJA, and the provisions of 18 U.S.C. 3006A(a)(4) cover persons charged in juvenile proceedings in the District of Columbia for whom the Sixth Amendment of the Constitution requires the appointment of counsel, or for whom, in a case in which the juvenile faces loss of liberty, any Federal law—including, in particular, the D.C. Court Reform Act—requires the appointment of counsel.

As to your final question, the Administrative Office of the United States Courts should handle the administration of, and budgeting for, the CJA program in the District of Columbia's local courts generally in the same manner as it has in the past and to the extent possible as it administers and budgets for programs of the Federal district courts, except, of course, that the administration of, budgeting for, and financing of, the District of Columbia Public Defender Service should be in accordance with sections 306 and 307 of the D.C. Court Reform Act. Except for the aforementioned, this decision should not be construed to increase or decrease the responsibilities of the Judicial Conference of the United States or the Administrative Office of the United States Courts under sections 604, 605, and 610 of title 28, United States Code with respect to the D.C. Superior Court and the D.C. Court of Appeals.

Copies of this decision are being sent to the Executive Director of the District of Columbia Courts and to the Chief Judge of the Superior Court of the District of Columbia.

Sincerely yours,

R. F. KELLER,
*Deputy Comptroller General of the United States.*

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AMERICAN BAR ASSOCIATION,
*Washington, D. C., September 15, 1973.*

Hon. SAM J. ERVIN, Jr.,
*Chairman, Subcommittee on Constitutional Rights, U.S. Senate, Washington, D.C.*

DEAR SENATOR ERVIN: Your letter of September 13 requests Association support for efforts to continue Criminal Justice Act funding for the courts of the District of Columbia for the current fiscal year. You also suggest that such funding should be included in the Judiciary budget rather than in the District of Columbia budget as has apparently been proposed by others.

This matter was discussed today by the Administration Committee of the Association at its meeting here in Washington. As mentioned in your letter, the Association has long supported the concept embodied in the Criminal Justice Act. You will recall our cooperation with you and other congressional leaders who secured the enactment of the Act in 1964 and the adoption of desirable amendments in 1970. On behalf of the Association, therefore, I am pleased to inform you that we support full funding of the District of Columbia program as authorized by the Act for the current fiscal year and that the Association urges that you and your colleagues make every effort to assure the necessary funding.

With regard to the question of the appropriate budget for the funds, it appears to me that the Association is not in a position to make that determination. In any event, however, we have concluded that this question should not be considered by the Administration Committee without the benefit of advice from concerned groups within the Association structure. We, therefore, propose to refer your letter to appropriate entities within the Association with a request for their early advice.

We appreciate very much your continued interest in the Association's position on issues before the Congress.

Sincerely,

CHESTERFIELD SMITH.

Mr. PASTORE. Mr. President, if the Senator would yield at that point, I think I should also state for the benefit of my colleague that the House did not allow any money for representation under the act for people appearing before the district courts of the District of Columbia. The argument that was made that this actually belongs in the District of Columbia budget. We were told that Mayor Washington for the 1975 fiscal year would suggest money and recommend money in the District of Columbia budget.

Realizing the fact that there was no money in our bill and no money in the District of Columbia bill and that we would have had a complete hiatus, the Senate committee took the $2,250,000 and divided it in two in order to have money in there at least up until December 31, 1973, with the understanding—and we wrote it in the report—that the committee expected that a supplemental budget estimate request for funding with the moneys available to the District of Columbia for the period January 1, 1974, through June 30, 1974, will be made.

That is why we did that. We recognized that we had to have the money. We did this to initiate action on the part of the Senate and the House and on the part of the District of Columbia officials. We thought that we should allow it up to December 31, so that we would have that money. They would then send up the budget.

Mr. President, I hope that the Senate will go along with it, because if they do not put it in the budget, I propose to put it back in.

Mr. ERVIN. Mr. President, I appreciate the position of the Senator and the position of the committee. I think that we should have the funds needed for the first half of the fiscal year. However, unfortunately Congress may be in adjournment by the time any supplemental request could be made, and we would have a situation in which no funds would be left with which to provide for the representation to indigent defendants of the District of Columbia.

Mr. PASTORE. Mr. President, we realize that. However, there will be a supplemental appropriations bill just before adjournment sine die. I make a pledge to the Senator that if they have not acted to put the funds in the District of Columbia budget, I will put in the balance that the Senator specified, under the judiciary budget. I am perfectly willing to do that.

We will have a supplemental bill before we go home. We will know then how much of the $1.225 million was funded. If there is enough money to carry it over until next year, that will be fine. Otherwise, we will appropriate the amount needed.

**Mr. ERVIN.** Mr. President, I appreciate the Senator's position. However, I wonder if the Senator would be willing to take it to conference and see what he could work out with the House, because the funds are needed if the act is to be effective in the District of Columbia.

**Mr. PASTORE.** Mr. President, I do not have any objection to it. If the Senator would make it $2 million instead of $2,225,000, I will take it to conference if the Senator from Nebraska is agreeable.

**Mr. ERVIN.** That would be satisfactory. I would ask that my amendment be modified accordingly.

**Mr. HRUSKA.** Mr. President, the effect of the amendment as modified would be to raise the figure to $17,500,000 for this item?

**Mr. PASTORE.** It is just a matter of correcting the figure. We will have to correct the figure because it will have to correspond. The $2,250,000 will become $2,000,000.

**Mr. HRUSKA.** It simply adds $875,000 without any language change. It is just in the amount.

**Mr. PASTORE.** The Senator is correct. However, this will vitiate the language "December 31" in the report.

**Mr. ERVIN.** This would raise it to $2 million in the first instance.

**Mr. PASTORE.** We would have to increase the figure by adding $875,000 to the committee figure of $1,125,000.

**Mr. ERVIN.** The Senator is correct.

Mr. President, I modify the amendments to conform to the suggestion of the Senator from Rhode Island.

**The PRESIDING OFFICER.** The amendments are so modified.

The modification of the amendment is as follows:

On page 41, line 17, strike "$16,625,000" and insert $17,500,000".

On page 41, line 18, strike $1,125,000" and insert "$2,000,000".

**Mr. ERVIN.** Mr. President, I thank the Senator from Rhode Island and the Senator from Nebraska for the position they have taken on this matter. This will mean that there will be no hiatus in any event in the funding.

**Mr. HRUSKA.** Mr. President, I yield myself 3 minutes.

Mr. President, since the passage of the Criminal Justice Act, this matter has been the subject of some controversy. The difficulty stems from the question of who should administer and disburse these funds.

Frankly, I was in agreement with the thoughts expressed earlier this afternoon on the floor by the Senator from North Carolina. The Comptroller General of the United States agreed. However, the House disagreed.

The committee sought a temporary solution and was hopeful that it would be permanent starting in fiscal year 1975. It was understood that the Mayor of the District of Columbia would come here and support it. However, that involves a good deal of difficulty, for we will very likely be in adjournment at that time and it would not be practicable to get it done.

For that reason, I am glad that the amendments as modified have been agreed to. I express agreement with the fashion in which the Senator from North Carolina expressed the matter.

**Mr. ERVIN.** Mr. President, I thank the Senator from Nebraska. He and I were sponsors of the Criminal Justice Act which was a step forward in the administration of criminal justice in the United States. This would expedite a final solution of the matter.

I would be glad to have the Constitution Rights Subcommittee, of which the Senator from Nebraska and I are members, hold joint hearings, if necessary, with the Criminal Justice Subcommittee to bring about a final solution to this problem.

**Mr. HRUSKA.** Mr. President, I think it would be a good idea. I agree with that.

**The PRESIDING OFFICER.** Is all time yielded back?

Is all remaining time yielded back?

**Mr. ERVIN.** I yield back any time I have remaining.

**Mr. PASTORE.** I yield back my time.

**Mr. GRIFFIN.** Mr. President, is any time left?

**Mr. PASTORE.** Oh, yes. Mr. President, how much time do I have?

**The PRESIDING OFFICER.** The Senator has 54 minutes on the bill.

**Mr. PASTORE.** What about on the amendment?

**The PRESIDING OFFICER.** Time was yielded back on the amendment.

**Mr. PASTORE.** I ask unanimous consent that my request be vitiated.

**The PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

**Mr. PASTORE.** I yield whatever time I have to the Senator from Michigan.

**Mr. GRIFFIN.** Mr. President, if the floor manager will permit me, I had not intended to speak on this amendment, but another feature of the bill.

**Mr. PASTORE.** I do not care what the Senator speaks on.

**Mr. GRIFFIN.** I yield to my senior colleague; we have a common interest.

**Mr. HART.** Mr. President, we do have a common interest, one really shared by the people of the entire Great Lakes Basin; most particularly by Michigan, I suppose, because of the geography.

We rise to express appreciation to the Senator from Rhode Island, the Senator from Nebraska, and others on the committee for increasing, actually, the sum available to the Great Lakes fisheries in the effort to continue the effective attack on the lamprey eel.

In August, I attended the Great Lakes Fisheries Commission annual meeting. All of the members of that commission expressed concern lest we lessen our effort in the drive to eliminate the lamprey. The committee has responded, and I as one of the two Senators from Michigan rise to express appreciation.

**Mr. GRIFFIN.** Mr. President, I associate myself with the remarks of my distinguished senior colleague. I wish to add that during the forties and the fifties, in particular, the whitefish, the lake trout, and the steelhead in the Great Lakes had almost become extinct because of the menace of the lamprey eel. The program to which we are referring was instituted and, I think, has been carefully and wisely administered by the Great Lakes Fishery Commission in conjunction with Canada.

Last year in particular, when the lake trout were coming back into Lake Michigan and the other lakes of the Great Lakes, there was considerable concern because the funding for this program had been cut back. Many people in our State were particularly concerned that just as we were about to get the problem under control, it looked as though there would be some effort to cut the program back.

Now the administration has requested an increase over the funding for last year, and the House of Representatives and this committee have concurred in that request. I join my colleague in commending the distinguished chairman of the subcommittee, the ranking Republican member of the subcommittee, and other members of the Appropriations Committee for seeing the wisdom of following this program and making sure that this menace is totally eradicated.

I ask unanimous consent that some material from the hearings on this particular item be extracted and printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GREAT LAKES FISHERY COMMISSION

Actual 1972: $1,827,000.
Actual 1973: $1,884,100.
Estimate 1974: $1,914,100.
Increase: $30,000.

The net increase requested of $30,000 is for the cost of research to determine the effects on the environment of the use of lampricides. Previously the U.S. contribution for this research was $232,810 in FY 1972 and $129,100 in FY 1973. With the requested increase it would be $159,100 in FY 1974.

The registration-oriented research on the lampricides TFM and Bayer 73 is required to satisfy more stringent regulations established for re-registration by the United States Environmental Protection Agency. The special investigations on TFM begun in fiscal year 1971 and continued in fiscal year 1972 will be substantially completed in fiscal year 1973. The research proposed in fiscal year 1974 is designed to investigate the safety of the lampricidal mixture of TFM and Bayer 73 which is deemed necessary to keep the costs of sea lamprey control at an economical justifiable level.

The value of powdered Bayer 73 is essentially economic. The addition of a small amount of Bayer 73 (one to two percent by weight) greatly enhances the action of TFM. In streams where Bayer 73 can be used, it can reduce the required amount of TFM by approximately one-half. It is estimated that the use of TFM-Bayer 73 mixtures in treatments of United States and Canadian streams has provided savings of about $200,000 per year in chemical costs.

Currently the Bayer 73 registration is tenuous. EPA could at any time advise agencies of its intention to cancel the registration within 30 days. Its current status is illustrated by an excerpt taken from a Notice issued March 12, 1971 by the Pesticides Regulation Division of EPA as follows:

"Registration for many of the pesticide use patterns accepted on a "zero tolerance" or "no residue" basis are being continued based on pending petitions for finite tolerances or upon request of a Federal agency. A published listing of these extended uses will not be issued. Those uses not cancelled will be considered extended until further notice. Additional cancellations will be issued in the event that some pending petitions are withdrawn or the requested clearances are denied."

Failure to conduct this research to provide the information required by EPA to determine the safety of TFM and Bayer 73 lampricidal mixture in the environment could result in cancellation of its registration. Based on stream treatments scheduled, the loss of Bayer 73 in the lamprey control program would increase TFM requirements by 180,000 pounds at a cost of $630,000 (3.50/pound) between fiscal years 1974 and 1976.

This Commission has reported encouraging results in fulfillment of one of its major responsibilities—controlling the parasitic sea lamprey in the Great Lakes. A substantial degree of control has been achieved in Lakes Superior and Michigan where it has been possible to introduce successfully the valuable Pacific salmon and to rehabilitate the highly desirable native stocks of lake trout, steelhead, and whitefish—species virtually destroyed by the sea lamprey during the 1940's and 1950's. The Commission has reduced and is holding the lamprey in these lakes to about 10-15 percent of their former abundance. Similar trends are also evident in Lake Huron and are expected to occur soon in Lake Ontario where first round lampricide treatments were completed in fiscal year 1972.

The presence of significant populations of desirable species in the Upper Lakes has generated a rapidly growing sport fishery. Prior to lamprey control and the introduction of valuable salmonid species, Great Lakes sport fishing was severely limited. By 1969, however, the fishery in Michigan waters alone produced 1 million salmonids in about 2 million angler-days, and by 1971 this had risen to 2.3 million salmonids caught in 3.9 million angler days. An economic study of the sport fishery in Michigan waters indicated the net value of the trout and salmon resource in 1969 to be between $5 and $7 million.

As the sea lamprey have yielded to control in Lakes Superior and Michigan, planted lake trout (the most susceptible to lamprey attack of all Great Lakes fish), salmon, and other trout species have experienced excellent growth and high rates of survival. Stocks of immature (17 to 24 inches in length) lake trout have been restored to pre-lamprey abundance; the total annual mortality of such trout in recent years has been less than 10 percent. Older mature trout are becoming more abundant and spawning has resumed, although survival to sexual maturity has not been sufficient yet for natural reproduction to make significant contributions to the stocks. Indeed, larger trout nearing first spawning continue to suffer 30 to 80 percent annual mortality rates depending on lamprey abundance. In Lake Michigan, total returns from annual plantings of coho salmon have ranged from 19 to 32 percent—spectacular by any standards. Substantial increases have also been noted in the abundance of whitefish and rainbow (steelhead) trout. Other examples include: commercial production of whitefish in northern Lake Michigan which fell to an all-time low of 25,000 pounds in 1957 has increased to 2.0 million pounds in 1971; and the number of mature steelhead trout counted at the Little Manistee River weir during their spawning run has shown an increase from 17 fish in 1957 to 7,300 fish in 1971. There are, however, areas in the lakes where lamprey wounds on larger lake trout continue to be very high indicating that the residual lamprey population is still capable of inflicting heavy losses on such trout.

### LAKE SUPERIOR

In fiscal year 1974 the Commission plans to retreat 20 streams (14 in United States and 6 in Canada); examine deep water areas to locate and destroy lamprey larvae; routinely examine other streams to determine time for retreatment; operate assessment barriers on 8 lamprey spawning sreams; and construct simple lamprey barriers on selected lamprey streams.

### LAKE MICHIGAN

Routinely survey streams to determine time for retreatment; retreat reinfested streams; and examine, locate, and destroy larvae populations in difficult-to-treat deep water areas such as estuaries at the mouths of lamprey-producing streams.

### LAKE HURON

Retreat 18 streams (12 in the United States and 6 in Canada); routinely survey other streams to determine time for retreatment; examine, locate, and destroy larvae populations in difficult-to-treat deep water areas as estuaries at the mouths of lamprey-producing streams; and operate assessment barriers on 8 lamprey spawning streams.

### LAKE ONTARIO

Construct a lamprey barrier dam on Graham Creek (a Canadian tributary), and routinely survey lamprey streams to determine time of retreatment.

COMPARATIVE FUNDS, FISCAL YEAR 1972 THROUGH FISCAL YEAR 1974

| Projects | Actual, 1972 | Estimate, 1973 | Estimate, 1974 | Increase or decrease |
|---|---|---|---|---|
| A. Sea lamprey control and research: | | | | |
| Lake Superior: | | | | |
| Chemical operations | $416,100 | $724,180 | $701,690 | −$22,490 |
| Barrier operations | 110,000 | 111,200 | 141,720 | +30,520 |
| Subtotal | 526,100 | 835,380 | 843,410 | +8,030 |
| Lake Michigan: | | | | |
| Chemical operations | 421,350 | 576,350 | 617,645 | +41,295 |
| Barrier operations | | | | |
| Subtotal | 421,350 | 576,350 | 617,645 | +41,295 |
| Lake Huron: | | | | |
| Chemical operations | 565,900 | 779,220 | 579,905 | −199,315 |
| Barrier operations | 35,500 | 36,900 | 37,945 | +1,045 |
| Subtotal | 601,400 | 816,120 | 617,850 | −198,270 |
| Lake Ontario: Chemical operations | $472,550 | | $148,945 | +$148,945 |
| Research: | | | | |
| Registration oriented lampricide | 337,400 | $187,100 | 230,580 | +43,480 |
| Other research | 227,000 | 254,250 | 254,250 | |
| Subtotal | 564,400 | 441,350 | 484,830 | +43,480 |
| Total operations | 2,585,800 | 2,669,200 | 2,712,680 | +43,480 |
| B. Administration and general research | 76,900 | 84,700 | 84,700 | |
| Grand total | 2,662,700 | 2,753,900 | 2,797,380 | +43,480 |
| C. Distribution by governments: | | | | |
| United States | [1]1,827,000 | [2]1,884,100 | [3]1,914,100 | +30,000 |
| Canada | 835,700 | 869,800 | 883,280 | +13,480 |

[1] Lamprey control and research at 69 percent=1,788,550/administration and general research at 50 percent=38,450.

[2] Lamprey control and research at 69 percent=1,841,750/administration and general research at 50 percent=42,350.

[3] Lamprey control and research at 60 percent=1,871,750/administration and general research at 50 percent=42,350.

Mr. KENNEDY. Mr. President, H. R. 8916—the State, Justice, Commerce, the judiciary and related agencies appropriations bill—contains a most puzzling inconsistency. Under H.R. 8916, funding to finance legal counsel for indigent criminal defendants in the District of Columbia, provided for under the Criminal Justice Act, will be continued through the Administrative Office of the U.S. Courts for only part of the current fiscal year. Presumably, this means that the Congress will be asked at a later date to provide for further funding of this program in a supplemental appropriation. Identical programs created under the Criminal Justice Act in the other Federal districts, however, have not been dealt with in this manner.

It appears that this inconsistency arises from a long-standing controversy over which Federal agency should administer and budget funds for Criminal Justice Act defense services in the District of Columbia. Historically, these funds were included in the budget of the Administrative Office of the U.S. Courts. However, the Judicial Conference of the United States voted on October 26, 1972, not to include these specific defense services funds in its fiscal 1974 budget. The action by the judicial conference was taken despite the clear legislative intent of the Congress that the Federal judiciary administer all funds provided under the Criminal Justice Act. This legislative intent was specifically affirmed by the Comptroller General in his decision of May 26, 1972.

It is clear that any curtailment in Criminal Justice Act defense services funds for the District of Columbia would be disastrous. The D.C. Public Defender Service can handle no more than approximately 20 percent of the prosecutions brought by the United States in the District of Columbia. Without Criminal Justice Act financed attorneys, the remaining 80 percent of criminal cases would be difficult to prosecute, since the Constitution guarantees every criminal defendant the right to be represented by counsel. It is doubtful that uncompensated practicing attorneys pressed into service by mandatory decrees of the courts would be able to fill the gap, so we would be faced with the probability of dismissal of prosecutions for want of defense counsel.

In light of the disruptive consequences, should funding for this program in the District of Columbia be terminated by an appropriation that does not cover the entire fiscal year, I have joined with the distinguished Senator from North Carolina, Senator Ervin, in proposing that H.R. 8916 be amended to insure that legal counsel for indigent defendants will be continued for the full fiscal year. The appropriations process is not the proper mechanism for determining whether another Federal agency will administer a program which Congress has specifically indicated is the responsibility of the Federal judiciary. Any such change should be accomplished by affirmative legislative action, and I join Senator Ervin in the call for hearings on this subject to be held jointly by the Subcommittee on Constitutional Rights and the Senate District Committee for the purpose of determining which Federal agency should administer these funds.

I am firmly convinced for now, however, that full financing of the D.C. criminal justice program through the normal means of the Federal judiciary budget should be continued until this controversy is resolved by the legislative process.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield back the remainder of his time?

Mr. PASTORE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina, as modified.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PASTORE. Mr. President, I have an amendment to the text of the language dealing with the American Battle Monuments Commission. It is technical in nature.

I ask unanimous consent that on page 44, line 15, the word "countries" be changed to the word "counties" as contained in the act as passed by the House and sent to the Senate. The correct word is "countries", but in order for the Senate to insert the correct word I now send to the desk an amendment to change the word "counties" to "countries".

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 44, line 15, change the word "counties" to "countries".

The PRESIDING OFFICER. Is time on the amendment yielded back?

Mr. PASTORE. I yield back my time.

Mr. HRUSKA. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PASTORE. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Helms). Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

## A LETTER FROM DR. SAKHAROV—ON DÉTENTE AND FREEDOM OF EMIGRATION

Mr. JACKSON. Mr. President, every year the Congress receives, from individuals and organizations, hundreds of open letters on every conceivable sort of issue. But never in the more than 30 years that I have served in the House and Senate have I seen an open letter that so deeply challenges the conscience of the Congress, or so profoundly appeals to the spirit of the American people, as the brave letter released in Moscow Saturday by Andrei Sakharov.

Sakharov, who is known throughout the world for his great achievements as a scientist, including his central role in the development of the Soviet hydrogen bomb, has, at great personal risk, established himself as the principal spokesman both for civil rights in the Soviet Union, and an international détente based upon the development of human rights. For his courage, his eloquence, and his wisdom, he has earned the admiration and respect of men throughout the world who are dedicated both to individual liberty and to the sort of stable international society that can only result from a lowering of the barriers to the free movement of men and ideas. For his heroic refusal to be silent in the face of threats and intimidation, Sakharov has earned the bitter wrath and coercion of the Soviet state that once conferred upon him its highest awards—and that now seeks to isolate him from his own people and to silence his call for peace based on a vision of human rights.

I know I speak for millions of Americans in deploring the failure of the highest officials of this administration to speak out on behalf of Sakharov and Alexander Solzhenitsyn, in support of the view of these distinguished Russian citizens that any genuine détente must be based on human rights. Health, Education and Welfare Secretary Caspar Weinberger's outrageous criticism of the President of the National Academy of Sciences for his defense of Sakharov disgraces the American tradition of speaking out on behalf of individual liberty. To Weinberger, who condones Soviet repression on the grounds that scientific exchange with the Soviets benefits mankind, I say this: mankind will never truly benefit from scientific exchange that takes place in the shadow of official persecution of great men of science. Instead of condemning the American scientific community Secretary Weinberger should condemn the Soviets' 20th century inquisition directed against free thought and expression.

It is a sorry indication of how easily the highest officials of the administration would betray the principles on which this great Nation is founded when the Secretary of State-designate has indicated his practical indifference to the appeals of Soviet intellectuals who know that progress in the area of human rights must be a condition of economic and political concessions to the Soviet Union. A failure to insist upon progress in the area of human rights in the context of the developing détente is a betrayal of our own highest values. It also ignores the requirements for a more peaceful world. The confidence which we can have in the commitment of the Soviet Union to a genuine era of peaceful East-West relations can best be measured by the willingness of the Soviet authorities to accept an increasing measure of individual freedom in the East. Therefore, until we see signs of genuine change in Soviet policy on human rights, we will never know whether the "relaxation of tensions" is tactical and ephemeral, or whether it is basic and likely to endure. Now, at the beginning of the road to détente, is the time to test the direction we are asked to travel. For as Sakharov has said—and this is the man who is the father of the hydrogen bomb, I remind my colleagues, the Soviet Union's foremost man of science, giving some advice to the Congress of the United States:

> For decades the Soviet Union has been developing under conditions of an intolerable isolation, bringing with it the ugliest consequences. Even a partial preservation of those conditions would be highly perilous for all mankind, for international confidence and detente.
>
> In view of the foregoing, I am appealing to the Congress of the United States to give its support to the Jackson Amendment, which represents in my view and in the view of its sponsors an attempt to protect the right of emigration of citizens in countries that are entering into new and friendlier relations with the United States.
>
> The Jackson Amendment is made even more significant by the fact that the world is only just entering on a new course of detente and it is therefore essential that the proper direction be followed from the outset. This is a fundamental issue, extending far beyond the question of emigration.

Mr. President, I ask unanimous consent that the entire text of Dr. Sakharov's letter, issued in Moscow last Saturday, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

OPEN LETTER TO THE CONGRESS OF THE UNITED STATES FROM ANDREI SAKHAROV, MOSCOW, SEPTEMBER 14, 1973

> At a time when the Congress is debating fundamental issues of foreign policy, I consider it my duty to express my view on one such issue—protection of the right to freedom of residence within the country of one's choice. That right was proclaimed by the United Nations in 1948 in the Universal Declaration of Human Rights.
>
> If every nation is entitled to choose the political system under which it wishes to live, this is true all the more of every individual person. A country whose citizens are deprived of this minimal right is not free even if there were not a single citizen who would want to exercise that right.
>
> But, as you know, there are tens of thousands of citizens in the Soviet Union—Jews, Germans, Russians, Ukrainians, Lithuanians, Armenians, Estonians, Latvians, Turks and members of other ethnic groups—who want

to leave the country and who have been seeking to exercise that right for years and for decades at the cost of endless difficulty and humiliation.

You know that prisons, labor camps and mental hospitals are full of people who have sought to exercise this legitimate right.

You surely know the name of the Lithuanian, Simas A. Kudirka, who was handed over to the Soviet authorities by an American vessel, as well as the names of the defendants in the tragic 1970 hijacking trial in Leningrad. You know about the victims of the Berlin Wall.

There are many more lesser known victims. Remember them, too!

For decades the Soviet Union has been developing under conditions of an intolerable isolation, bringing with it the ugliest consequences. Even a partial preservation of those conditions would be highly perilous for all mankind, for international confidence and detente.

In view of the foregoing, I am appealing to the Congress of the United States to give its support to the Jackson Amendment, which represents in my view and in the view of its sponsors an attempt to protect the right of emigration of citizens in countries that are entering into new and friendlier relations with the United States.

The Jackson Amendment is made even more significant by the fact that the world is only just entering on a new course of detente and it is therefore essential that the proper direction be followed from the outset. This is a fundamental issue, extending far beyond the question of emigration.

Those who believe that the Jackson Amendment is likely to undermine anyone's personal or governmental prestige are wrong. Its provisions are minimal and not demeaning.

It should be no surprise that the democratic process can add its corrective to the actions of public figures who negotiate without admitting the possibility of such an amendment. The amendment does not represent interference in the internal affairs of socialist countries, but simply a defense of international law, without which there can be no mutual trust.

Adoption of the amendment therefore cannot be a threat to Soviet-American relations. All the more, it would not imperil international detente.

There is a particular silliness in objections to the amendment that are founded on the alleged fear that its adoption would lead to outbursts of anti-semitism in the U.S.S.R. and hinder the emigration of Jews.

Here you have total confusion, either deliberate or based on ignorance about the U.S.S.R. It is as if the emigration issue affected only Jews. As if the situation of those Jews who have vainly sought to emigrate to Israel was not already tragic enough and would become even more hopeless if it were to depend on the democratic attitudes and on the humanity of OVIR [the Soviet visa agency]. As if the techniques of "quiet diplomacy" could help anyone, beyond a few individuals in Moscow and some other cities.

The abandonment of a policy of principle would be a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall.

Such a denial would lead to stronger repressions on ideological grounds. It would be tantamount to total capitulation of democratic principles in face of blackmail, deceit and violence. The consequences of such a capitulation for international confidence, detente and the entire future of mankind are difficult to predict.

I express the hope that the Congress of the United States, reflecting the will and the traditional love of freedom of the American people, will realize its historical responsibility before mankind and will find the strength to rise above temporary partisan considerations of commercialism and prestige.

I hope that the Congress will support the Jackson Amendment.

(signed) A. SAKHAROV.

September 14, 1973.

Mr. JACKSON. Mr. President, let me quote from another part of the letter because there has been such misunderstanding of the Jackson amendment—one paragraph from Dr. Sakharov's letter—and he is referring here to the right of Jews to leave:

> But, as you know, there are tens of thousands of citizens in the Soviet Union—Jews, Germans, Russians, Ukrainians, Lithuanians, Armenians, Estonians, Latvians, Turks and members of other ethnic groups—who want to leave the country and who have been seeking to exercise that right for years and for decades at the cost of endless difficulty and humiliation.

Mr. President, I mention that, only in the context of our understanding here, that we are talking about something very fundamental which is now international law. In 1948 the United Nations adopted a Universal Declaration of Human Rights, under article XIII, which provided for the right of any citizen to leave the country and to return to that country; 25 years later we are talking about the very same point, not really having done anything about it, unless and until the Jackson amendment is adopted.

Mr. President, I have been dismayed to learn that a high American official, the Deputy Assistant Secretary of Commerce for East-West trade, recently sent an intermediary to meet with a group of Russian Jews—brave men who have been waging a heroic struggle for the right to emigrate freely—to advise them to lobby American citizens against my amendment to the trade bill that would make trade concessions to the Soviet Union contingent on free emigration. But what is perhaps most shameful is the indication, in a statement by 12 Jewish scientists in Moscow, that this American official warned that the Soviet Government would "wreak vengeance" on its Jewish citizens and that "no one would be able to come to [their] aid" if the Jackson amendment were to be approved by the Congress.

In contrast to the ugly spectacle of a high administration official conveying a Soviet warning of reprisals, there is this response from the brave Jews of the Soviet Union:

> Apprehension for our future fate must not become a . . . pretext to abandon the fight for our human rights.

And, of course, as Sakharov well understands, the Jackson amendment and the struggle for free emigration extend to citizens in the Soviet Union, Jews and non-Jews alike, who, in Sakharov's words:

> Want to leave the country and who have been seeking to exercise that right for years and for decades at the cost of endless difficulty and humiliation.

Mr. President, Andrei Sakharov, in his open letter to us, has courageously and eloquently urged that the Congress agree to my amendment to the trade bill and to its companion measure, the Mills-Vanik provision in the House. It is ironic that Sakharov's forceful argument should come to us at a moment when the trade bill is before the House Committee on Ways and Means and when there is a move underway—which I am certain will not succeed—to kill the Mills-Vanik measure by a hastily drafted administration-backed Corman-Pettis alternative that would disappoint the hopes of thousands of people to whom we are trying to help bring just a little bit of freedom. I am confident that the House of Representatives, and the 18 cosponsors of the Mills-Vanik amendment on the Ways and Means Committee, will reject this or any such maneuver and keep their promise to those innocent men and women who desire only to emigrate to the free world.

Withholding most-favored-nation treatment and subsidized credits from nonmarket countries until they implement the right to emigrate is the most effective action the Congress can take in the area of human rights. The Mills-Vanik amendment in the House and the Jackson amendment in the Senate do just that. As a nation of immigrants, we can do no less.

Mr. President, Andrei Sakharov, by speaking out at this moment when both he himself and the movement for human rights in the Soviet Union are gravely threatened by the full power of the Soviet state, has challenged each of us to higher levels of conscience and responsibility. Let me conclude with his words—and with my affirmation that we shall meet our responsibilities before history:

> The abandonment of a policy of principle would be a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall.
>
> Such a denial would lead to stronger repressions on ideological grounds. It would be tantamount to total capitulation of democratic principles in face of blackmail, deceit and violence. The consequences of such a capitulation for international confidence, detente and the entire future of mankind are difficult to predict.
>
> I express the hope that the Congress of the United States, reflecting the will and the traditional love of freedom of the American people, will realize its historical responsibility before mankind and will find the strength to rise above temporary partisan considerations of commercialism and prestige.
>
> I hope that the Congress will support the Jackson Amendment.

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## STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

Mr. MONDALE. Mr. President, I send to the desk an amendment and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and reading of the amendment will be dispensed with. It will be printed in the RECORD at this point.

The text of the amendment is as follows:

On page 14, between lines 3 and 4, insert the following new section:

SEC. 105. (a) The Senate finds that—

(1) physicist Andrei Sakharov, novelist Alexander Solzhenitsyn, historian Pyotr Yakir, economist Viktor Krasin, and other citizens of the Soviet Union have demonstrated enormous courage and intellectual honesty in advocating and defending the importance of fundamental civil and political liberty, the necessity for the free and unrepressed dissemination of ideas, and the meaning of basic human decency although faced with increasing harassment and imminent danger of criminal sanction;

(2) the intensive and thorough campaign of the Soviet Government to intimidate and deter those who have spoken out against repression of political and intellectual dissent profoundly offends the conscience of a free people; and

(3) recent incidents of Soviet Government-sanctioned anti-Semitism violate internationally agreed-upon principles of human rights, including free emigration and free expression of ideas.

(b) It is, therefore, the sense of the Senate that the President should take immediate and determined steps to—

(1) impress upon the Soviet Government the grave concern of the American people with the intimidation of those within the Soviet Union who do not adhere to prevailing ideology;

(2) call upon the Soviet Government to permit the free expression of ideas and free emigration by all its citizens in accordance with the Universal Declaration of Human Rights; and

(3) use the medium of current negotiations with the Soviet Union as well as informal contacts with Soviet officials in an effort to secure an end to repression of dissent.

Mr. MONDALE. Mr. President, this is a sense of the Senate resolution in the form of an amendment, and follows the comments of the distinguished Senator from Washington (Mr. JACKSON) concerning the outrageous and repressive treatment by the Soviet Government of many distinguished critics in the Soviet Union, led by such great world citizens as Mr. Alexander Solzhenitsyn, the Nobel laureate, and Dr. Sakharov, the father of the Soviet hydrogen bomb, and many other men of letters and science, as well as literally millions of minorities and others in the Soviet Union who have been intimidated and repressed, as the Senator from Washington (Mr. JACKSON) so clearly and eloquently just described earlier.

Mr. President, I was offended, astounded, and shocked the other day when, following a most moving resolution by the National Academy of Sciences, under the direction of Dr. Handler, condemning the harassment and detention of Sakharov and the other repressive acts to which we have made reference, our own Secretary of Health, Education and Welfare, Mr. Weinberger, upon his return from a tour of health facilities in the Soviet Union—I wish he would visit some of our own—incredibly criticized the National Academy of Sciences for taking this position on behalf of humanity and condemned it as being contrary to the policy of the United States.

Mr. President, on many occasions our country has made clear its support of article 5 of the United Nations, which calls for an international convention on the elimination of all forms of racial discrimination—which, incidentally, was ratified by the Soviet Union in 1969—and article 19, the so-called Universal Declaration of Human Rights, which says:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of subject.

It is not only these articles, but also such things as the recent public humiliation of Mr. Yakir and Mr. Krasin, who, in an appearance that was remindful of the sham trials described by Arthur Koestler in "Darkness at Noon," were forced to appear in front of western journalists and plead guilty to phony charges which had been placed against them by the Soviet Government.

These practices, it seems to me, require at least an expression of outrage by the Senate and some of the other steps to which Senator JACKSON and others have made reference. That is what this sense of the Senate resolution is designed to do, and I hope the distinguished floor manager will accept it.

Mr. President, I ask unanimous consent that the name of the Senator from Massachusetts (Mr. KENNEDY) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, there is a relevancy between this amendment and the State Department, although it is not binding. It is merely a sense of the Senate resolution. We all feel as strongly about this as does the Senator from Minnesota, and I do not think anybody in the Chamber is opposed to it—at least, so far as I know. I am going to accept it.

Mr. HRUSKA. I have no objection.

Mr. PASTORE. I yield back the remainder of my time.

Mr. MONDALE. I wish to make one modification, so that the amendment will read "section 106." It is a technical change.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, as modified.

The amendment, as modified, was agreed to.

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 47, line 24, strike out "$40,000,000" and insert in lieu thereof "$45,934,000".

Mr. HUMPHREY. Mr. President, the amendment merely adds $5 million to the Radio Free Europe appropriation. This still would be below the authorization. It would make the sum of $45,934,000 instead of $40 million.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HUMPHREY, I yield.

Mr. PASTORE. The House cut the estimate by $5 million. We cut it further $5 million. I understand that this amendment brings it back to the House figure.

Mr. HUMPHREY. That is correct.

Mr. PASTORE. If that is the case, I am perfectly willing to accept it, if the Senator from Nebraska is.

Mr. HRUSKA. Mr. President, the suggestion is agreeable to this Senator.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUMPHREY. I yield back the remainder of my time.

Mr. PASTORE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Mr. MATHIAS, Mr. PERCY, Mr. MCGEE, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. COOK, Mr. BUCKLEY, and Mr. BROCK.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of the Senate amendments to H.R. 8916, to correct any technical or clerical errors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I shall be brief but I do wish to express my concern at the continuing low level of support we are giving to the Antitrust Division of the U.S. Department of Justice. I am aware that our distinguished committee did see fit to raise the Division's appropriation from $13 million in the budget request to $14 million, and I commend the committee on this action. Unfortunately, however, this is not enough.

I am becoming more and more convinced, as our economic troubles pile up, that a renewed emphasis on antitrust—both new legislation and enforcement—is critical if the traditional American economic system is to survive. Since 1950, our GNP has grown from $285 billion to well over a trillion dollars, an increase in the "size" of the economy of 312 percent. During this same period, the professional staff of the Antitrust Division grew from 314 to 354, an increase of only 12 percent. Meanwhile, the country's 200 largest industrial corporations increased their share of manufacturing assets from 46 to 66 percent, the bulk of the increase attributable to mergers, not internal corporate growth. Those 354 staffers at the Justice Department, plus a somewhat smaller contingent at the Federal Trade Commission, are being asked to police the activities of 1.5 million corporations, 245 of which have assets of more than a billion dollars and more than 85,000 of which have assets of over a million dollars.

I submit that in a free enterprise economy, where the basic decisions on resource allocation, prices, and production are supposedly made by the market mechanism through the force of competition, this paltry amount to keep competition alive is scandalous. As the Nader report on antitrust enforcement pointed out, this amount represents one-twentieth of Procter & Gamble's advertising budget, one-tenth of the cost of a C–5A transport plane, and one-fifth of the appropriation of the Bureau of Commercial Fisheries. To put it in another perspective, it has been estimated that IBM will spend in the neighborhood of $20 million in defense of the antitrust charges presently pending against it—an amount equal to the total antitrust enforcement expenditures of the entire U.S. Government.

Still another way to assess this problem is to consider that we spend over $30 billion a year—local, State, and Federal—on the prevention of ordinary "street crime" while the threat of "business crime" merits only a few million dollars. And lest anyone think that business crime is not significant, I would point out that the electrical conspiracy of 1961 stole more from the consumers that year than the total of all the conventional robberies in the Nation that year. I could go on and on with examples to dramatize the inadequacy of our antitrust effort; suffice it to say that if we are serious about preserving competition, we are going to have to start paying some attention to—and spending some money on—antitrust.

I realize that even if we give them an extra $1 million the administration is not likely to spend it. This is not like other types of appropriations. One of the reasons we do not have better enforcement of our antitrust laws is that the Antitrust Division of the Department of Justice is grossly understaffed. About 80 percent of the cases coming before the Antitrust Division are settled; they do not have the manpower to take them all to court. Many large corporations in this country spend more money defending themselves in antitrust cases than we are spending in the Antitrust Division. If we are going to restore competition in our society which will go a long way toward bringing down higher prices that we are suffering from today we should beef up the Antitrust Division.

Mr. PASTORE. Mr. President, I assure my distinguished colleague from Maine that the committee gave very serious consideration to this matter of antitrust. The request was made that we increase the amount over and above the budget estimate by $3 million. We talked on that matter hard and long for a long time and we finally decided to make it $1 million. I think it will be sufficient. It will allow them to engage 56 additional employees on a 9-month basis during this fiscal year.

By the time this gets to the President, it will be the end of September or October before it is signed. Practically one-half of the fiscal year has passed. Let us give it a trial with the $1 million additional. I do not know how we are going to make out in the House, but we will do the best we can.

Mr. HATHAWAY. I thank the Senator from Rhode Island.

Mr. HATFIELD. Mr. President, I wish to call attention to some budget additions made by our committee that I believe to be wise investments. They are all ocean or coastal related items, and are of great interest in my State of Oregon.

The important aspect of this also can be seen when we see that even with these budget additions of $14.9 million, our overall bill as we sent it to the floor is some $52 million under the administration budget request. I think we have beefed up programs with obvious benefits, while cutting needless expenses elsewhere in the budget. The Oregon programs that will be increased all are people-centered ones I support strongly.

I refer specifically to the budget additions of $1 million for the sea-grant college program, $348,000 for the monitoring of foreign fishing activities off our coasts, and $10 million for funding of the Coastal Zone Management Act.

The sea-grant program at Oregon State University has been one of the real leaders in the country, and I am advised that the million-dollar increase nationwide should provide funds for some beneficial programs at OSU that have been shelved, because of budgetary restraints.

While I was a member of the Senate Commerce Committee, we considered the coastal zone bill, and it is one I support. I need not point out that without funds, however, it is only ink in the books—doing no good. I believe Congress must provide the funding for the laws we enact, for it is not being candid with people to enact legislation and then fail to follow it up with funding. There were no funds at all requested when the bill was considered by the House. Then, on August 15, 1973, the administration did request $5 million to implement the act. In my opinion, and I know I speak for others on the Appropriations Committee, more funds are needed if the Coastal Zone Act is to bear fruit and help save our coastal resources. Therefore, we are in the debt of Senators Magnuson and Hollings, who led efforts to step up this funding.

I certainly support this higher level, and I would point out that the estuarine sanctuary program would receive funding if this higher funding level is retained. Yaquina Bay, in my hometown of Newport, is one of the bays under consideration in this aspect of the program, and I believe it would be a wise expenditure of funds.

Also, I need not repeat the concerns we have in the Northwest about the depletion of our fishery resources by foreign fishing fleets that vacuum up fish off Oregon and Washington. The $348,000 budget addition here will help provide better monitoring.

Mr. TUNNEY. Mr. President, I rise to congratulate the chairman of the Appropriations Subcommittee on State-Justice-Commerce Appropriations, Mr. Pastore, for increasing funds for two important items: the budget of the Antitrust Division and the budget of the Community Relations Service of the Justice Department. The subcommittee has recommended an increase of $1 million for each item over the administration requests, and over the amounts appropriated by the House.

Both issues have concerned me for some time. Last year, I offered a floor amendment to increase the Antitrust Division budget by $2 million. Unfortunately, a point of order against the floor amendment was sustained. This year, Senator Hart, myself, and other members of the Judiciary Committee sent a letter to subcommittee Chairman Pastore requesting a budget increase of $3 million. Fortunately, the subcommittee has partially acceded to our request, and increased the budget request by *$1* million.

With respect to the Community Relations Service, I wrote to the subcommittee chairman on July 17 requesting that the $4 million in funds slashed from this division's request by the administration be restored. Again, the subcommittee has attempted to meet this request by adding back $1 million.

Both issues are extremely important.

I ask unanimous consent to print in the Record the letters to which I have referred.

There being no objection, the letters were ordered to be printed in the Record, as follows:

July 17, 1973.

Hon. John O. Pastore,
*Chairman, Senate Appropriations Subcommittee on State, Justice, Commerce, the Judiciary, Washington, D.C.*

Dear John: It is my understanding that your subcommittee currently is marking-up appropriations that include funding for the Community Relations Service of the Justice Department. The service was set up under the Civil Rights Act of 1964 to help reduce racial tensions and conflicts, but it will all but be dismantled under the administration's 1974 budget, which slashes funds for the service from $6.8 to $2.8 million. This goes beyond cutting to the bone. It cuts through the bone in a meat-axe amputation of the one federal agency charged with conciliating racial disputes. The service, which has shunned publicity, has been spectacularly successful in behind-the-scenes negotiations in preventing violence and settling conflicts. It has worked in major cities in California and in troubled farm lands in the Central Valley. My state would be particularly hard hit by the drastic cut-back, and its two-man Los Angeles office would be closed. I'm sure other areas throughout the United States would be similarly affected and I would urge you and your subcommittee to restore funding to this vital service. Thank you for your consideration.

Sincerely,

John V. Tunney,
*U.S. Senator.*

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U.S. Senate,
*Washington, D.C., June 28, 1973.*

Hon. John O. Pastore,
*Chairman, Subcommittee for the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: This letter is to request an increase of $3 million in the budget for the Antitrust Division of the Department of Justice.

We make this request mindful of widespread concern about inflation and the effect of government spending on the economy.

Economists of various persuasions, including Dr. Arthur Burns, Chairman of the Federal Reserve Board, and Dr. Pierre Rinfret, formerly Special Economic Advisor to President Nixon, have stated that the most effective way to control prices is to increase competition in the marketplace.

The antitrust laws are designed to do just that, and effective enforcement of those laws remain the nation's best defense against unhealthy economic concentration. Certainly, we do not suggest that an additional $3 million for the Antitrust Division will solve the problem of inflation, but we do believe it could help. Equally important, potential savings to consumers from successful antitrust actions could more than offset the increase.

For example, antitrust action against five drug companies has directly reduced prices of the important antibiotic tetracycline to consumers by 95 percent. The antitrust action against a number of electrical equipment manufacturers led to treble damage settlements which resulted in more than $500 million being returned to consumers through reduced utility rates. The electrical equipment conspiracy settlements alone would meet the division's current budget for more than 40 years.

Surprisingly enough, despite such success, the budget for the division—when measured in 1958 dollars—has decreased since 1950, while the size of the economy has more than doubled. So in the face of a well-documented trend toward economic concentration, the division employs fewer persons to enforce the antitrust laws than it did 23 years ago.

As a result, cases which are brought drag on longer; and many actions are not filed because the division is reluctant to take on "big cases" which would tie up a large percentage of its resources. About ten percent of the division's manpower is now working full time on the IBM case. That case was filed over four years ago and has yet to come to trial. Even more striking, Control Data Corporation's private suit against IBM was settled in a pretrial stage with a $15 million payment from IBM to cover Control Data's legal expenses alone. This sum exceeds the division's entire budget.

Unhappily, the hard fact is that to a great extent the cases brought today must be made against giant defendants whose resources swamp those of the Antitrust Division. In 1950, there were only a dozen manufacturing corporations with assets in excess of $1 billion; as a group, they held 18 percent of all manufacturing assets. By 1972, 52 percent of all manufacturing assets were held by 115 "billion dollar" firms.

The Administration has requested about $13 million for the division for fiscal year 1974, a small and clearly inadequate increase over last year's total. An increase of $3 million would allow the division to hire 50 more lawyers and support personnel, including economists. It is our understanding that the division could usefully absorb such an increase.

It seems to us then that our request is consistent with congressional concern about inflation and federal spending. Further, our request should enjoy the support of all of us who believe competition in the marketplace is the best way to control prices and of those who recognize that successful antitrust actions can save consumers many times over the cost to the Federal Government.

With best wishes,

Sincerely,

Edward M. Kennedy,
Birch Bayh,
Edward J. Gurney,
Philip A. Hart,
John V. Tunney.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PASTORE. I yield back my time.

Mr. HRUSKA. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Texas (Mr. Bentsen), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Hawaii (Mr. Inouye), and the Senator from Louisiana (Mr. Long) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Kansas (Mr. Pearson) are absent because of illness.

The Senator from Utah (Mr. Bennett) and the Senator from New York (Mr. Javits) are absent on official business.

The Senator from Oklahoma (Mr. Bartlett) and the Senator from Vermont (Mr. Stafford) are detained on official business.

The Senator from Illinois (Mr. Percy) is necessarily absent, and, if present and voting, would vote "yea."

The result was announced—yeas 85, nays 0, as follows:

[No. 394 Leg.]

YEAS—85

Aiken
Allen
Baker
Bayh
Beall
Bible
Biden
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Fong
Fulbright
Goldwater

Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Jackson
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya

Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—15

Abourezk
Bartlett
Bellmon
Bennett
Bentsen

Burdick
Church
Cranston
Eastland
Inouye

Javits
Long
Pearson
Percy
Stafford

So the bill (H.R. 8916) was passed.

Mr. PASTORE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Pastore, Mr. McClellan, Mr. Mansfield, Mr. Hollings, Mr. Magnuson, Mr. Eagleton, Mr. Fulbright, Mr. Hruska, Mr. Fong, Mr. Brooke, Mr. Cotton, and Mr. Young conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, before the distinguished Senator from Rhode Island leaves the floor, I want to commend him for the outstanding job which he has done today in having passed the appropriations bill dealing with State, Commerce, the Judiciary, and related agencies.

I think it is worthy of note that the bill which has just been passed unanimously by the Senate is $63,522,750 under the budget request of the President. This is only another indication of the attitude of economy of the distinguished Senator from Rhode Island not only in this particular instance, but I also point out that very few people know of the part he has played over the past 4 years in making possible an overall reduction below the President's budget requests during that period of time of something over $20 billion.

Too often, the people who are the workhorses and not the show horses do not get the credit which is their due. But I want the Record to show that Senator John Pastore has once again done a great job in the field of economy for the people of this country, and done it in a way which was able to achieve a unanimous vote of approval from the Senate as a whole.

Mr. GRIFFIN. Mr. President, I rise to join the distinguished majority leader in paying tribute to the chairman of the subcommittee, the distinguished Senator from Rhode Island (Mr. Pastore), and also to the distinguished ranking minority member of the subcommittee, the Senator from Nebraska (Mr. Hruska) and others who worked so hard to hold the line on spending in this appropriation bill.

In the light of remarks made by the distinguished majority leader, and others from time to time that Congress appropriates less than the President requests, it needs to be emphasized that what really counts is how much is actually spent under all the bills that Congress passes.

Over and over again, back door spending legislation is ignored in the assessment of what Congress does. The fact is as members of the Appropriations Committee know very well that because of more and more backdoor spending bills which require expenditure of funds without the approval of the Appropriations Committee, we are finding that less and less of the money spent is actually under the control of the committee. The fact that the Appropriations Committee is able to hold appropriation bills down below the budget requests does not mean that this Nation is not going into debt.

As the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.) has pointed out over and over again, the debt of this Nation is getting out of control. So every time a speaker seeks to impress this body or the Nation about how Congress is saving money, I hope they will not only add up the appropriation bills but will also add up how much money is being spent through the backdoor spending process. That is where the trouble is really getting out of hand.

I yield to the distinguished Senator from Virginia, if he seeks the floor.

**Mr. HARRY F. BYRD, JR.** I thank the distinguished Senator from Michigan.

Mr. President, I just wanted to point out that there are two large appropriation bills yet to be acted on—the two largest, incidentally—the defense appropriation and the appropriation for HEW. Each of those will be in the tens of billions of dollars, and I rise now only to express the hope that before either of those bills is called up for consideration, adequate time will be given for individual Senators to study the committee reports.

I happen to be reasonably familiar with the Defense bill, and I am not concerned about that. But many others who are not on the Armed Services Committee should be concerned about the size of the Defense bill. I am not on the committee handling the HEW appropriation, so that will require a great deal of study for me to know how much is in that appropriation when it comes to the floor, the justifications for it, and so forth.

My only purpose in commenting today is to say that the Senate will have before it, before it adjourns, two tremendous appropriation bills. The Defense bill will total, when it is all added together, somewhere around $80 billion, and the HEW bill will be even more than that, when you add to it all of the component parts. So I do not think we want to be in the position of having to act too hastily on either of those gigantic appropriation bills, and I would hope that the Appropriations Committee, when it reports out each of those bills, will make available to the Senate the legislation from the committee and the committee report at the earliest possible time, so that each Senator will have an opportunity to examine it with some care before it comes to the floor.

**Mr. PASTORE.** Mr. President, first of all, I want to thank the majority leader for his complimentary remarks, and also the minority whip (Mr. GRIFFIN).

I think I should observe at this time that over the years I have been an antagonist of backdoor spending, and one thing that has surprised me more than anything else was the part the administration played 2 years ago, because it was election year, in advocating a revenue-sharing bill that submitted the taxpayers of this country to a cost of $30 billion, and when some of us here in the Senate tried to subject that bill to the scrutiny of the Appropriations Committee, we were told that was not the way the administration wanted it done. That, to me, was the biggest travesty in my recollection upon the appropriations process that was adopted by this Congress, because all we tried to do at that time was say, "Put it before the Appropriations Committee and let them determine, year in and year out, as to whether or not the money is being wasted or well spent."

When we tried to do that, Mr. President, we were told that the White House—wanted to eliminate the appropriations process, and that the money had to go forthwith—forthwith—and all we had to be satisfied with was that some department downtown was going to audit the books—not the Congress of the United States, but someone downtown in the administration was going to audit the books. And that is where we started.

Yes, it is all wrong. There should not be any backdoor financing, because that is where your big money goes. I agree with the minority whip. But I am telling you that when we were allowed to vote for $30 billion—and that is no trifling amount—$30 billion, in order to give it to every State and every community, without the scrutiny of the Appropriations Committee, that was a grievous mistake, in my opinion, because the Appropriations Committee, over the years, has been very, very careful, and the best example we have is before us today.

We fought hard. Yes, we increased some few items where we thought they should be increased, and we cut other items where it should have been cut, but we came back to the Senate with a bill that was $52,368,500 under the request of the President, and I think that was a hard feat to accomplish.

**Mr. GRIFFIN.** Mr. President, will the distinguished Senator yield?

**Mr. PASTORE.** I yield.

**Mr. GRIFFIN.** I want to say that the Senator from Rhode Island has made an excellent point—a point which is not in conflict, as he well understands, with the point that I made.

When you talk about how much money Congress has approved, you do not just add up the appropriation bills, but the backdoor spending bills as well.

**Mr. PASTORE.** I know.

**Mr. GRIFFIN.** We agree on that.

**Mr. PASTORE.** But, if the Senator will yield, all those bills were signed by the President.

**Mr. GRIFFIN.** Oh, yes.

**Mr. PASTORE.** Not one of those was vetoed; not one of them. And he advocated some backdoor spending, too; and that is the complaint I am making. We should have done without it all, and we would have been a lot better off. Rely on the Appropriations Committee, and we will keep this budget in order.

Since Mr. Nixon has been President of the United States, and we are talking about the debt, we have added more than $100 billion to the national debt of this country. That is much more than three Democratic administrations before him ever did.

**Mr. GRIFFIN.** Mr. President, I think the Senator from Rhode Island knows very well that the division on that question was not along party lines. He had some allies on this side of the aisle on the question of whether they should go through the Appropriations Committee. In the final analysis, it seems to me we both agree on that. When someone wants to get up and tell the country about what Congress has done or has not done in terms of spending, let us add it all up and not just talk about appropriations bills.

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## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 119, S. 4, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. HELMS). The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Retirement Income Security for Employees Act".

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SEC. 2. (a) The Congress finds that private pension and other employee benefit plans and programs in the United States are intrinsically woven into the working and retirement lives of American men and women; that such plans and programs have become firmly rooted into our economic and social structure; that their operational scope and economic impact is interstate and increasingly affecting more than thirty million worker participants throughout the United States; that the pension assets of approximately $150,000,000,000 accelerating at more than $10,000,000,000 annually, represent the largest fund of virtually unregulated assets in the United States; that the growth in size, scope, and numbers of employee benefit plans is continuing rapidly and substantially; that Federal authority over the establishment, administration, and operations of these plans is fragmented and ineffective to secure adequate protection of retirement and welfare benefits due to the workers covered and affected; that deficient and inadequate provisions contained in a number of such plans are directly responsible for hardships upon working men and women who are not realizing their expectations of pension benefits upon retirement; that there have been found to be serious consequences to such workers covered by these plans directly attributable to inadequate or nonexistent vesting provisions, lack of portability to permit the transfer of earned credits by employees from one employment to another; that terminations of plans beyond the control of employees, without necessary and adequate funding for benefit payments, has deprived employees and their dependents of earned benefits; that employee participants have not had sufficient information concerning their rights and responsibilities under the plans, resulting in loss of benefits without knowledge of same; that the lack of uniform minimum standards of conduct required of fiduciaries, administrators, and trustees has jeopardized the security of employee benefits; and that it is therefore desirable, in the interests of employees and their beneficiaries, and in the interest of the free flow of commerce, that minimum standards be prescribed to assure that private pension and employee benefit plans be equitable in character and financially sound and properly administered.

(b) It is the declared policy of this Act to protect interstate commerce, and the equitable interests of participants in private pension plans and their beneficiaries, by improving the scope, administration, and operation of such plans, by requiring pension plans to vest benefits in employees after equitable periods of service; to meet adequate minimum standards of funding; to promote greater transferability of employees' earned credits resulting from change of, or separation from employment; to protect vested benefits of employees against loss due to plan termination; to require more adequate disclosure and reports to participants and beneficiaries of plan administration and operations, including financial information by the plan to the participant, as may be necessary for the employees to have a comprehensive and better understanding of their rights and obligations to receive benefits from the plans in which they are participants; to establish minimum standards of fiduciary conduct; and to provide for more appropriate and adequate remedies, sanctions, and ready access to the courts.

### DEFINITIONS

SEC. 3. As used in this Act—

(1) "Secretary" means the Secretary of Labor.

(2) "Office" means the Office of Pension and Welfare Plans Administration.

(3) "Assistant Secretary" means the Assistant Secretary of Labor in charge of the Office of Pension and Welfare Plans Administration.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

(5) "Commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

(6) "Industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry affecting commerce within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(7) "Employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to a pension or profit-sharing-retirement plan, and includes a group or association of employers acting for an employer in such capacity.

(8) "Employee" means any individual employed by an employer.

(9) "Participant" means any employee or former employee of an employer or any member or former member of an employee organization who is or may become eligible to receive a benefit of any type from a pension or profit-sharing-retirement plan, or whose beneficiaries may be eligible to receive any such benefit.

(10) "Beneficiary" means a person designated by a participant or by the terms of a pension or profit-sharing retirement plan who is or may become entitled to a benefit thereunder.

(11) "Person" means an individual, partnership, corporation, mutual company, joint stock company, trust, unincorporated organization, association, or employee organization.

(12) "Employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or program, in which employees participate and which exists for the purpose in whole or in part, of dealing with employers concerning a pension or profit-sharing-retirement plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing or maintaining such a plan.

(13) The term "fund" means a fund of money or other assets maintained pursuant to or in connection with a pension or profit-sharing-retirement plan, and includes employee contributions withheld but not yet paid to the plan by the employer, or a contractual agreement with an insurance carrier. The term does not include any assets of an investment company subject to regulation under the Investment Company Act of 1940.

(14) "Pension plan" means any plan, fund, or program, other than a profit-sharing-retirement plan, which is communicated or its benefits described in writing to employees and which is established or maintained for the purpose of providing for its participants, or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits.

(15) "Profit-sharing-retirement plan" means a plan established or maintained by an employer to provide for the participation by the employees in the current or accumulated profits, or both the current and accumulated profits of the employer in accordance with a definite predetermined formula for allocating the contributions made to the plan among the participants and for distributing the funds accumulated under the plan upon retirement or death. Such plan may include provisions permitting the withdrawal or distribution of the funds accumulated upon contingencies other than, and in addition to, retirement and death.

(16) "Registered plan" means a pension plan or profit-sharing-retirement plan registered and certified by the Secretary as a plan established and operated in accordance with title I of this Act.

(17) "Money purchase plan" refers to a pension plan in which contributions of the employer and employee (if any) are accumulated, with interest, or other income, to provide at retirement whatever pension benefits the resulting sum will buy.

(18) The term "administrator" means—

(A) the person specifically so designated by the terms of the pension or profit-sharing-retirement plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is established or operated; or

(B) in the absence of such designation, (i) the employer in the case of a pension or profit-sharing-retirement plan established or maintained by a single employer, (ii) the employee organization in the case of such plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who have established or maintain such plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

(19) "Initial unfunded liability" means the amount (on the effective date of title II, or the effective date of the establishment of a pension plan or any amendment thereto, whichever is later), by which the assets of the plan are required to be augmented to insure that the plan is and will remain fully funded.

(20) "Unfunded liability" means the amount on the date when such liability is actuarially computed, by which the assets of the plan are required to be augmented to insure that the plan is and will remain fully funded.

(21) "Fully funded" with respect to any pension plan means that such plan at any particular time has assets determined, by a person authorized under section 101(b)(1), to be sufficient to provide for the payment of all pension and other benefits to participants then entitled or who may become entitled under the terms of the plan to an immediate or deferred benefit in respect to service rendered by such participants.

(22) "Experience deficiency" with respect to a pension plan means any actuarial deficit, determined at the time of a review of the plan, that is attributable to factors other than the existence of an initial unfunded liability or the failure of any employer to make any contribution required by the terms of the plan or by section 210, except insofar as such failure to make a required contribution is treated as an experience deficiency under section 217(a)(1).

(23) "Funding" shall mean payment or transfer of assets into a fund, and shall also include payment to an insurance carrier to secure a contractual right pursuant to an agreement with such carrier.

(24) "Normal service cost" means the annual cost assigned to a pension plan, under the actuarial cost method in use (as of the effective date of title II or the date of establishment of a pension plan after such date), exclusive of any element representing any initial unfunded liability or interest thereon.

(25) "Special payment" means a payment made to a pension plan for the purpose of liquidating an initial unfunded liability or experience deficiency.

(26) "Nonforfeitable right" or "vested right" means a legal claim obtained to that part of an immediate or deferred life annuity which notwithstanding any conditions subsequent which could affect receipt of any benefit flowing from such right, arises from

the participant's covered service under the plan, and is no longer contingent on the participant remaining covered by the plan.

(27) "Covered service" means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective bargaining agreement (subject to the requirements of part A of title II) for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

(28) "Normal retirement benefit" means that benefit payable under a pension or profit-sharing-retirement plan in the event of retirement at the normal retirement age.

(29) "Normal retirement age" means the normal retirement age, specified under the plan but not later than age 65 or, in the absence of plan provisions specifying the normal retirement age, age 65.

(30) "Pension benefit" means the aggregate, annual, monthly, or other amounts to which a participant will become or has become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

(31) "Accrued portion of normal retirement benefit" means that amount of benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount (including all interest held in the plan) credited to the account of a participant;

(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant, which under rule or regulation of the Secretary is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

(32) "Multi-employer plan" means a collectively bargained pension plan to which a substantial number of unaffiliated employers are required to contribute and which covers a substantial portion of the industry in terms of employees or a substantial number of employees in the industry in a particular geographic area.

(33) "Unaffiliated employers" means employers other than those under common ownership or control, or having the relationship of parent-subsidiary, or directly or indirectly controlling or controlled by another employer.

(34) "Qualified insurance carrier" means an insurance carrier subject to regulation and examination by the government of any State, which is determined by rule or regulation of the Secretary to be suitable for the purchase of the single premium life annuity or the annuity with survivorship operations authorized under section 305(2).

(35) "Vested liabilities" means the present value of the immediate or deferred pension benefits for participants and their beneficiaries which are nonforfeitable and for which all conditions of eligibility have been fulfilled under the provisions of the plan prior to its termination.

(36) "Unfunded vested liabilities" means that amount of vested liabilities that cannot be satisfied by the assets of the plan, at fair market value, as determined by rule or regulation of the Secretary.

## TITLE I—ORGANIZATION

### PART A—ORGANIZATIONAL STRUCTURE

### POWERS AND DUTIES OF THE SECRETARY

SEC. 101. (a) It shall be the duty of the Secretary—

(1) to promote programs and plans for the establishment, administration, and operations of pension, profit-sharing-retirement, and other employee benefit plans in furtherance of the findings and policies set forth in this Act;

(2) to determine, upon application by a pension or profit-sharing-retirement plan, such plan's eligibility for registration with the Secretary under section 105 and, upon qualification, to register such plan and issue appropriate certificates of registration;

(3) To cancel certificates of registration of pension and profit-sharing-retirement plans registered under section 105, upon determination by the Secretary that such plans are not qualified for such registration;

(4)(A) to direct, administer, and enforce the provisions and requirements of this Act and the Welfare and Pension Plans Disclosure Act, except where such provisions are only enforceable by a private party;

(B) to make appropriate and necessary inquires to determine violations of the provisions of this Act, or the Welfare and Pension Plans Disclosure Act, or any rule or regulation issued thereunder: *Provided, however*, That no periodic examination of the books and records of any plan or fund shall be conducted more than once annually unless the Secretary has reasonable cause to believe there may exist a violation of this Act, or the Welfare and Pension Plans Disclosure Act or any rule or regulation thereunder;

(C) for the purpose of any inquiry provided for in subpargaraph (B), the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 1, 1914, are hereby made applicable to the jurisdiction, powers, and duties of the Secretary;

(5) to bring civil actions authorized by this Act and the Welfare and Pension Plan Disclosure Act and in all such proceedings attorneys appointed by the Secretary shall represent the Secretary except for proceedings in the Supreme Court.

(6) to appoint and fix the compensation of such employees as may be necessary for the conduct of his business under this Act in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and to obtain the services of experts and consultants as necessary in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem equivalent for GS–18;

(7) to perform such other functions as may be necessary to carry out the purposes of this Act.

(b) The Secretary is authorized to prescribe rules and regulations—

(1) establishing standards and qualifications for persons responsible for performing services under this Act as actuaries and upon application of any such person, to certify whether such person meets the standards and qualifications prescribed;

(2) establishing reasonable fees for the registration of pension and profit-sharing-retirement plans and other services to be performed by him in implementing the provisions of this Act, and all fees collected by the Secretary shall be paid into the general fund of the Treasury;

(3) establishing and maintaining reasonable limitations on actuarial assumptions, including, but not limited to, interest rates, mortality, and turnover rates, which reflect relevant experience;

(4) such as may be necessary or appropriate to carry out the purposes of this Act, including but not limited to definitions of actuarial, accounting, technical, and other trade terms in common use in the subject matter of this Act and the Welfare and Pension Plans Disclosure Act; and

(5) governing the form, detail, and inspection of all required records, reports, and documents, the maintenance of books and records, and the inspection of such books and records, as may be required under this Act.

(c)(1)(A) The Secretary is authorized and directed to undertake appropriate studies relating to pension and profit-sharing-retirement plans including but not limited to the effects of this Act upon the provisions and costs of pension and profit-sharing-retirement plans, the role of private pensions in meeting retirement security needs of the Nation, the administration and operation of pension plans, including types and levels of benefits, degree of reciprocity or portability, financial characteristics and practices, methods of encouraging the growth of the private pension system, and advisability of additional coverage under this Act, including but not limited to plans of State and local governments exempt under section 104(b)(1).

(B) Without limiting the generality of subsection (c)(1)(A), the Secretary shall undertake a study of the sufficiency of the vesting provisions of this Act as applied to high-mobility employees, and shall recommend such changes in existing law and regulations as may be appropriate to afford to such employees adequate protection against unreasonable forfeiture of pension credits as a result of frequent job changes inherent in the conduct of their professions. In developing such recommendations, the Secretary shall consult with professional societies, industry representatives, and other interested groups with specialized knowledge of the problems of high-mobility workers. The study required by this subsection (c)(1)(B) shall be completed and submitted to the Congress within a year after the enactment of this Act.

(2) The Secretary shall submit annually a report to the Congress covering his activities under this Act during the preceding fiscal year, together with the results of such studies as are conducted pursuant to this Act, or, from time to time, pursuant to other Acts of Congress, and recommendations for such further legislation as may be advisable.

(d) Prior to promulgating rules or regulations, the Secretary shall consult with appropriate departments or agencies of the Federal Government to avoid unnecessary conflicts, duplications, or inconsistency with rules and regulations which may be applicable to such plans under other laws of the United States.

(e) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any agency, Federal or State, as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable basis the facilities or services of any department, agency, or establishment of the United States, or of any State, including services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary, and to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

### APPROPRIATIONS

SEC. 102. There are authorized to be appropriated such sums as may be necessary to enable the Secretary to carry out his functions and duties.

### OFFICE OF ADMINISTRATION

SEC. 103. (a) There is hereby established within the Department of Labor an office to be known as the Office of Pension and Welfare Plan Administration. Such Office shall be headed by an Assistant Secretary of Labor who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty of the Assistant Secretary of Labor under the supervision of the Secretary to exercise such power and authority as may be delegated to him by the Secretary for the administration and enforcement of this Act.

(c) Paragraph 20, of section 5315, title 5, United States Code, is amended by striking "(5)" and inserting in lieu thereof "(6)".

(d) Such functions, books, records, and personnel of the Labor Management Services Administration as the Secretary determines are related to the administration of the Welfare and Pension Plans Disclosure Act are hereby transferred to the Office of Pension and Welfare Plan Administration.

### PART B—COVERAGE, EXEMPTIONS, AND REGISTRATION

#### COVERAGE AND EXEMPTIONS

SEC. 104. (a) Except as provided in subsections (b) and (c), titles II, III, and IV of this Act shall apply to any pension plan and any profit-sharing-retirement plan established or maintained by any employer engaged in interstate commerce or any industry or activity affecting interstate commerce or by any employer together with any employee organization representing employees engaged in commerce or in any industry or activity affecting such commerce or by any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce.

(b) Titles II, III, and IV of this Act shall not apply to any pension plan or any profit-sharing-retirement plan if—

(1) such plan is established or maintained by the Federal Government or by the government of a State or by a political subdivision of the same or by any agency or instrumentality thereof;

(2) such plan is established or maintained by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;

(3) such plan is established or maintained for the benefit of self-employed individuals or owner-employees (as defined in section 401(c)(3) of the Internal Revenue Code of 1954);

(4) such plan covers not more than twenty-five participants;

(5) such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States;

(6) such plan is unfunded and is established or maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management employees and is declared by the employer as not intended to meet the requirements of section 401(a) of the Internal Revenue Code; or

(7) such plan is established or maintained by an employee organization and financed solely by contributions from its members.

(c) Title IV and part B of title II shall not apply to profit-sharing-retirement plans or money purchase plans.

(d) Titles V and VI shall apply to any plan covered by the Welfare and Pension Plans Disclosure Act and any pension plan or profit-sharing-retirement plan covered by this Act.

#### REGISTRATION OF PLANS

SEC. 105. (a) Every administrator of a pension or profit-sharing-retirement plan to which title II, III, or IV apply shall file with the Secretary an application for registration of such plan. Such application shall be in such form and shall be accompanied by such documents as shall be prescribed by regulation of the Secretary. After qualification under subsection (c), the administrator of such plan shall comply with such requirements as may be prescribed by the Secretary to maintain the plan's qualification under this title.

(b) In the case of plans established on or after the effective date of this title, the filing required by subsection (a) shall be made within six months after such plan is established. In the case of plans established prior to the effective date of this title, such filing shall be made within six months after the effective date of regulations promulgated by the Secretary to implement this section but in no event later than twelve months after the date of enactment of this Act.

(c) Upon the filing required by subsection (a), the Secretary shall determine whether such plan is qualified for registration under this title, and if the Secretary finds it qualified, he shall issue a certificate of registration with respect to such plan.

(d) If at any time the Secretary determines that a plan required to qualify under this title is not qualified or is no longer qualified for registration under this title, he shall notify the administrator, setting forth the deficiency or deficiencies in the plan or in its administration or operations which is the basis for the notification given, and he shall further provide the administrator, the employer of the employees covered by the plan (if not the administrator), and the employee organization representing such employees, if any, a reasonable time within which to remove such deficiency or deficiencies. If the Secretary thereafter determines that the deficiency or deficiencies have been removed, he shall issue or continue in effect the certificate, as the case may be. If he determines that the deficiency or deficiencies have not been removed, he shall enter an order denying or canceling the certificate of registration, and take such further action as may be appropriate under title VI.

(e) A pension or profit-sharing-retirement plan shall be qualified for registration under this section if it conforms to, and is administered in accordance with this Act, the Welfare and Pension Plans Disclosure Act, and in the case of a pension plan subject to title IV of this Act, applies for and maintains plan termination insurance and pays the required assessments and premiums.

#### REPORTS ON REGISTERED PLANS

SEC. 106. The Secretary may, by regulations, provide for the filing of a single report satisfying the reporting requirements of this Act, and the Welfare and Pension Plans Disclosure Act.

#### AMENDMENTS OF REGISTERED PLANS

SEC. 107. Where a pension or profit-sharing-retirement plan filed for registration under this title is amended subsequent to such filing, the administrator shall (pursuant to regulations promulgated by the Secretary) file with the Secretary a copy of the amendment and such additional information and reports as the Secretary by regulation may require, to determine the amount of any initial unfunded liability created by the amendment, if any, and the special payments required to remove such liability.

#### CERTIFICATE OF RIGHTS

SEC. 108. The Secrtary shall, by regulation, require each pension and profit-sharing-retirement plan to furnish or make available, whichever is the most practicable, to each participant, upon termination of service with a vested right to an immediate or a deferred pension benefit or other vested interest, with a certificate setting forth the benefits to which he is entitled, including, but not limited to, the name and location of the entity responsible for payment, the amount of benefits, and the date when payment shall begin. A copy of each such certificate shall be filed with the Secretary. Such certificate shall be deemed prima facie evidence of the facts and rights set forth in such certificate.

## TITLE II—VESTING AND FUNDING REQUIREMENTS

### PART A—VESTING REQUIREMENTS

#### ELIGIBILITY

SEC. 201. No pension or profit-sharing-retirement plan filed for registration under this Act shall require as a condition for eligibility to participate in such a plan a period of service longer than one year or an age greater than twenty-five, whichever occurs later: *Provided, however*, That in the case of any plan which provides for immediate vesting of 100 per centum of earned benefits of participants, such plan may require as a condition for eligibility to participate in the plan, a period of service no longer than three years or an age greater than thirty, whichever occurs later.

#### VESTING SCHEDULE

SEC. 202. (a) All pension or profit-sharing-retirement plans filed for registration under this Act, except as provided for in paragraphs (2) and (3) herein, shall provide under the terms of the plan with respect to the accrued portion of the normal retirement benefit attributable to covered service both before and after the effective date of the title, that:

(1) a plan participant who has been in covered service under the plan for a period of eight years is entitled upon termination of service prior to attaining normal retirement age—

(A) in the case of a pension plan, to a deferred pension benefit commencing at his normal retirement age; or

(B) in the case of a profit-sharing-retirement plan, to a nonforfeitable right to his interest in such plan.

equal to 30 per centum of the accrued portion of the normal retirement benefit as provided by the plan in respect of such service, or of such interest, respectively, and such entitlement shall increase by 10 per centum per year thereafter of covered service until the completion of fifteen years of covered service after which such participants shall be entitled upon termination of service prior to attaining normal retirement age to a deferred pension benefit commencing at his normal retirement age equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, or to the full amount of such interest in the profit-sharing-retirement plan;

(2) in the event a plan is established or amended after the effective date of this title, the requirements of paragraph (1) of this subsection need only apply to service rendered after the date of the plan's establishment or the date of such plan amendment with respect to any improvement in benefits made by such amendment.

(3) if the plan is a class year plan, then such plan shall provide that the participant shall acquire a nonforfeitable right to 100 per centum of the employer's contribution on his behalf with respect to any given year, not later than the end of the fifth year following the year for which such contribution was made. For the purposes of this paragraph, the term "class year plan" means a profit-sharing-retirement plan which provides for the separate vesting of each annual contribution made by the employer on behalf of a participant.

(4) the pension benefits provided under terms of a pension plan, and the interest in a profit-sharing-retirement plan referred to in subparagraph (B) of paragraph (1) shall not be capable of assignment or alienation

and shall not confer upon an employee, personal representative, or dependent, or any other person, any right or interest in such pension benefits or profit-sharing-retirement plan, capable of being assigned or otherwise alienated; except that where a plan fails to make appropriate provisions therefor, the Secretary shall, by regulation, provide for the final disposition of plan benefits or interests when beneficiaries cannot be located or ascertained within a reasonable time.

(b) Any participant covered under a plan, for the number of years required for a vested right under this section, shall be entitled to such vested right regardless of whether his years of covered service are continuous, except that a plan may provide that—

(1) three of the eight years required to qualify for the 30 per centum vested right under subsection (a) shall be continuous under standards prescribed under subsection (c),

(2) service by a participant prior to the age of twenty-five may be ignored in determining eligibility for a vested right under this section, unless such participant or an employer has contributed to the plan with respect to such service, and

(3) in the event a participant has attained a vested right equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, or to the full amount of such interest in a profit-sharing-retirement plan, and such participant has been separated permanently from coverage under the plan and subsequently returns to coverage under the same plan, such participant may be treated as a new participant for purposes of the vesting requirements set forth in section 202(a)(1) without regard to his prior service.

(c) The Secretary shall prescribe standards, consistent with the purposes of this Act, governing the maximum number of working hours, days, weeks, or months, which shall constitute a year of covered service, or a break in service for purposes of this Act. In no case shall a participant's time worked in any period in which he is credited for a period of service for the purposes of this section, be credited to any other period of time unless the plan so provides.

(d) Notwithstanding any other provision of this Act, a pension or profit-sharing-retirement plan may allow for vesting of pension benefits after a lesser period than is required by this section.

(e) Notwithstanding any other provision of this Act, the Secretary may grant a waiver of the requirements of section 202(a)(1) where he determines, upon application for such waiver by the plan administrator, that such plan contains vesting provisions which assure a degree of vesting protection as equitable as the vesting schedules set forth in section 202(a)(1). The Secretary shall prescribe the manner in which affected or interested parties shall be notified of such pending application.

### PART B—FUNDING

#### FUNDING REQUIREMENTS

SEC. 210. (a) Unless a waiver is granted pursuant to part C of this title, every pension plan filed for registration under this Act shall provide for funding, in accordance with the provisions of this part, which is adequate to provide for payment of all pension benefits which may be payable under the terms of the plan.

(b) Provisions in the plan for funding shall set forth the obligation of the employer or employers to contribute both in respect of the normal service cost of the plan and in respect of any initial unfunded liability and experience deficiency. The contribution of the employer, including any contributions made by employees, shall consist of the payment into the plan or fund of—

(1) all normal service costs; and

(2) where the plan has an initial unfunded liability, special payments consisting of no less than equal amounts sufficient to amortize such unfunded liabilities over a term not exceeding:

(A) in the case of an initial unfunded liability existing on the effective date of this title, in any plan established before that date, thirty years from such date;

(B) in the case of an initial unfunded liability resulting from the establishment of a pension plan, or an amendment thereto, on or after the effective date of this title, thirty years from the date of such establishment or amendment, except that in the event that any such amendment after the effective date of this title results in a substantial increase to any unfunded liability of the plan, as determined by the Secretary, such increase shall be regarded as a new plan for purposes of the funding schedule imposed by this subsection and the plan termination insurance requirements imposed by title IV.

(3) special payments, where the plan has an experience deficiency, consisting of no less than equal annual amounts sufficient to remove such experience deficiency over a term not exceeding five years from the date on which the experience deficiency was determined, except where the experience deficiency cannot be removed over a five-year period without the amounts required to remove such deficiency exceeding the allowable limits for a tax deduction under the Internal Revenue Code of 1954 for any particular year during which such payments must be made, the Secretary shall, consistent with the purposes of this subsection, prescribe such additional time as may be necessary to remove such deficiency within allowable tax deduction limitations.

(c) Within six months after the effective date of rules promulgated by the Secretary to implement this title (but in no event more than 12 months after the effective date of this title) or within six months after the date of plan establishment, whichever is later, the plan administrator shall submit a report of an actuary (certified under section 101(b)) stating—

(1) the estimated cost of benefits in respect of service for the first plan year for which such plan is required to register and the formula for computing such cost in subsequent years up to the date of the following report;

(2) the initial unfunded liability, if any, for benefits under the pension plan as of the date on which the plan is required to be registered;

(3) the special payments required to remove such unfunded liability and experience deficiencies in accordance with subsection (b);

(4) the actuarial assumptions used and the basis for using such actuarial assumptions; and

(5) such other pertinent actuarial information required by the Secretary.

(d) The administrator of a registered pension plan shall cause the plan to be reviewed not less than once every five years by a certified actuary and shall submit a report of such actuary stating—

(1) the estimated cost of benefits in respect of service in the next succeeding five-year period and the formula for computing such cost for such subsequent five-year period;

(2) the surplus or the experience deficiency in the pension plan after making allowance for the present value of all special payments required to be made in the future by the employer as determined by previous reports;

(3) the special payments which will remove any such experience deficiency over a term not exceeding five years;

(4) the actuarial assumptions used and the basis for using such actuarial assumptions; and

(5) such other pertinent actuarial information required by the Secretary.

If any such report discloses a surplus in a pension plan, the amount of any future payments required to be made to the funds or plan may be reduced or the amount of benefits may be increased by the amount of such surplus, subject to the provisions of the Internal Revenue Code of 1954 and regulations promulgated thereunder. The reports under this subsection shall be filed with the Secretary by the administrator as part of the annual report required by section 7 of the Welfare and Pension Plans Disclosure Act, at such time that the report under such section 7 is due with respect to the last year of such five-year period.

(e) Where an insured pension plan is funded exclusively by the purchase of individual insurance contracts which—

(1) require level annual premium payments to be paid extending not beyond the retirement age for each individual participant in the plan, and commencing with the participant's entry into the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective), and

(2) benefits provided by the plan are equal to the benefits provided under each contract, and are guaranteed by the insurance carrier to the extent premiums have been paid.

such plan shall be exempt from the requirements imposed by subsections (b) (2) and (3), (c), and (d) of this section.

(f) The Secretary may exempt any plan, in whole or in part, from the requirement that such reports be filed where the Secretary finds such filing to be unnecessary.

#### DISCONTINUANCE OF PLANS

SEC. 211. (a) Subject to the authority of the Secretary to provide exemptions or variances where necessary to avoid substantial hardship to participants or beneficiaries, upon complete termination or substantial termination (as determined by the Secretary), of a pension plan, and subject to the provisions of the Internal Revenue Code and regulations promulgated thereunder, relating to limitations applicable to the twenty-five highest paid employees of an employer, all assets of the plan shall be applied under the terms of the plan, as follows—

(1) first, to refund to nonretired participants in the plan the amount of contributions made by them;

(2) second, to participants in the plan who have retired prior to the date of such termination and have been receiving benefits under the plan;

(3) third, to those participants in the plan who, on the date of such termination had the right to retire and receive benefits under the plan;

(4) fourth, to those participants in the plan who had acquired vested rights under the plan prior to termination of the plan but had not reached normal retirement age on the date of such termination; and

(5) fifth, to any other participants in the plan who are entitled to benefits under the plan pursuant to the requirements of section 401(a)(7) of the Internal Revenue Code of 1954.

(b) Upon complete termination, or substantial termination (as determined by the Secretary), any party obligated to contribute to the plan pursuant to section 210(b), or to contribute on behalf of employees pursuant to a withholding or similar arrangement shall be liable to pay all amounts that would otherwise have been required to be paid to meet the funding requirements prescribed by section 210 up to the date of such termination to the insurer, trustee, or administrator of the plan or the Pension Benefit Insurance Fund in the circumstances described by section 404(c).

(c) Upon complete termination, or substantial termination (as determined by the Secretary), of a profit-sharing-retirement plan, the interests of all participants in such plan shall fully vest.

(d) In any case, the Secretary may approve payment of survivor benefits with priorities equal to those of the employees or former employees on whose service such benefits are based.

### PART C—VARIANCES

#### DEFERRED APPLICABILITY OF VESTING STANDARDS

SEC. 216. (a) Where, upon application to the Secretary by the plan administrator and notice to affected or interested parties, the Secretary may defer, in whole or in part, applicability of the requirements of part A of this title for a period not to exceed five years from the effective date of title II, upon a showing that compliance with the requirements of part A on the part of a plan in existence on the date of enactment of this Act would result in increasing the costs of the employer or employers contributing to the plan to such an extent that substantial economic injury would be caused to such employer or employers and to the interests of the participants or beneficiaries in the plan.

(b) For purposes of subsection (a), the term "substantial economic injury" includes, but is not limited to, a showing that (1) a substantial risk to the capability of voluntarily continuing the plan exists, (2) the plan will be unable to discharge its existing contractual obligations for benefits, (3) a substantial curtailment of pension or other benefit levels or the levels of employees' compensation would result, or (4) there will be an adverse effect on the levels of employment with respect to the work force employed by the employer or employers contributing to the plan.

(c) (1) In the case of any plan established or maintained pursuant to a collective bargaining agreement, no application for the granting of the variance provided for under subsection (a) shall be considered by the Secretary unless it is submitted by the parties to the collective bargaining agreement or their duly authorized representatives.

(2) As to any application for a variance under subsection (a) submitted by the parties to a collective bargaining agreement or their duly authorized representatives, the Secretary shall accord due weight to the experience, technical competence, and specialized knowledge of the parties with respect to the particular circumstances affecting the plan, industry, or other pertinent factors forming the basis for the application.

#### VARIANCES FROM FUNDING REQUIREMENTS

SEC. 217. (a) Where, upon application to the Secretary by the plan administrator and notice to affected or interested parties, the Secretary determines that—

(1) any employer or employers are unable to make annual contributions to the plan in compliance with the funding requirements of section 210(b) (2) or (3), and he has reason to believe that such required payment for that annual period cannot be made by such employer or employers, the Secretary may waive the annual contribution otherwise required to be paid, and prescribe an additional period of not more than five years for the amortization of such annual funding deficiency, during which period the funding deficiency shall be removed by no less than equal annual payments. Any funding deficiency permitted under this section shall be treated for the purposes of any actuarial report required under this Act as an experience deficiency under section 210;

(2) no waiver shall be granted unless the Secretary is satisfied after a review of the financial conditions of the plan and other related matters that—

(A) such waiver will not adversely affect the interests of participants or beneficiaries of such plan; or

(B) will not impair the capability of the Pension Benefit Insurance Fund to equitably underwrite vested benefit losses in accordance with title IV; and

(3) waivers granted pursuant to this provision shall not exceed five consecutive annual waivers.

(b) Where a plan has been granted five consecutive waivers pursuant to subsection (a), the Secretary may—

(1) order the merger or consolidation of the deficiently funded plan with such other plan or plans or the contributing employer or employers in a manner that will result in future compliance with the funding requirements of part B of title II of this Act without adversely affecting the interests of participants and beneficaries in all plans which may be involved;

(2) where necessary to protect the interests of participants or beneficiaries, or to safeguard the capability of the Pension Benefit Insurance Fund to equitably underwrite vested benefit losses, under title IV, order plan termination in accordance with such conditions as the Secretary may prescribe; or

(3) take such other action as may be necessary to fulfill the purposes of this Act.

(c) No amendments increasing plan benefits shall be permitted during any period in which a funding waiver is in effect.

(d) (1) Notwithstanding the requirements of part B of title II of this Act the Secretary shall by rule or regulation prescribe alternative funding requirements for multiemployer plans which will give reasonable assurances that the plan's benefit commitments will be met.

(2) The period of time provided to fund such multiemployer plans shall be a period which will give reasonable assurances that the plan's benefit commitments will be met and which reflects the particular circumstances affecting the plan, industry, or other pertinent factors, except that no period prescribed by the Secretary shall be less than thirty years.

(3) No multiemployer plan shall increase benefits beyond a level for which the contributions made to the plan would be determined to be adequate unless the contribution rate is commensurately increased.

(e) Upon a showing by the plan administrator of a multiemployer plan that the withdrawal from the plan by any employer or employers has or will result in a significant reduction in the amount of aggregate contributions to the plan, the Secretary may take the following steps:

(1) require the plan fund to be equitably allocated between those participants no longer working in covered service under the plan as a result of their employer's withdrawal, and those participants who remain in covered service under the plan;

(2) treat that portion of the plan fund allocable under (1) to participants no longer in covered service, as a terminated plan for the purposes of the plan termination insurance provisions of title IV; and

(3) treat that portion of the plan fund allocable to participants remaining in covered service as a new plan for purposes of the funding standards imposed by part B of title II of this Act, any variance granted by this section, and the plan termination insurance provisions of title IV.

(f) In considering the experience of multiemployer plans for purposes of establishing new premium rates under section 403(b) (3) (A) the Secretary shall take into account for purposes of prescribing lower premium rates, the withdrawal of employers from such plans for which the variance provided in subsection (e) was not available.

### PART D—PROTECTION OF PENSION RIGHTS UNDER GOVERNMENT CONTRACTS

#### FINDINGS

SEC. 220. The Congress finds that because of rapid and frequent changes in Federal procurement objectives and policies, professional, scientific, and technical personnel suffer a uniquely high rate of forfeiture of pension benefits under private pension plans, as such employees tend to change employment more freqently than other workers. The Congress declares that it is the policy of the United States to seek to protect professional, scientific, and technical personnel from such forfeitures by making protection against forfeiture of pension credits, otherwise provided, a condition of compliance with Federal procurement regulations.

#### DEVELOPMENT OF REGULATIONS

SEC. 221. The Secretary shall develop, in consultation with appropriate professional societies, business organizations, and heads of interested Federal departments and procurement agencies, recommendations for modifications of Federal procurement regulations to insure that professional, scientific, and technical personnel and others working in associated occupations employed under Federal procurement, construction, or research contracts or grants shall, to the extent feasible, be protected against forfeitures of pension or retirement rights or benefits, otherwise provided, as a consequence of job transfers or loss of employment resulting from terminations or modifications of Federal contracts, grants, or procurement policies.

#### PUBLICATION

SEC. 222. Recommend changes in regulations governing Federal contracts, grants, or procurement policies shall be developed by the Secretary, as required by section 221, within six months after enactment of this Act, and shall be published in the Federal Register within fifteen days thereafter as proposed regulations subject to comment by interested parties.

#### RECOMMENDATIONS

SEC. 223. After publication under section 222, receipt of comments, and such modification of the published proposals as the Secretary deems appropriate, the recommended changes in procurement regulations developed under this title shall be adopted by each Federal department and procurement agency within sixty days thereafter unless the head of such department or agency determines that such changes would not be in the national interest or would not be consistent with the primary objectives of such department or agency.

## TITLE III—VOLUNTARY PORTABILITY PROGRAM FOR VESTED PENSIONS

#### PROGRAM ESTABLISHED

SEC. 301. (a) There is hereby established a program to be known as the Voluntary Portability Program for Vested Pensions (hereinafter referred to as the "Portability Program"), which shall be administered by and under the direction of the Secretary. The Portability Program shall facilitate the voluntary transfer of vested credits between registered pension or profit-sharing-retirements plans. Nothing in this title or in the regulations issued by the Secretary hereunder shall be construed to require participation in such Portability Program by a plan as a condition of registration under this Act.

(b) Pursuant to regulations issued by the Secretary, plans registered under this Act may apply for membership in the Portability Program, and, upon approval of such application by the Secretary, shall be issued a certificate of membership in the Portability Program (plans so accepted shall be hereinafter referred to as "member plans").

#### ACCEPTANCE OF DEPOSITS

SEC. 302. A member plan shall, pursuant to regulations prescribed by the Secretary, pay, upon request of the participant, to the fund established by section 303, a sum of money equal to the current discounted value of the participant's vested rights under the plan, which are in settlement of such vested rights, when such participant is separated from employment covered by the plan before the time prescribed for payments to be made to him or to his beneficiaries under the plan. The fund is authorized to receive such payments, on such terms as the Secretary may prescribe.

### SPECIAL FUND

SEC. 303. (a) There is hereby created a fund to be known as the Voluntary Portability Program Fund (hereinafter referred to as the "Fund"). The Secretary shall be the trustee of the Fund. Payments made into the Fund in accordance with regulations prescribed by the Secretary under section 302 shall be held and administered in accordance with this title.

(b) With respect to such Fund, it shall be the duty of the Secretary to—

(1) administer the Fund;

(2) report to the Congress not later than the first day of April of each year on the operation and the status of the Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years and review the general policies followed in managing the Fund and recommend changes in such policies, including the necessary changes in the provisions of law which govern the way in which the Fund is to be managed; and

(3) after amounts needed to meet current and anticipated withdrawals are set aside, deposit the surplus in interest-bearing accounts in any bank the deposits of which are insured by the Federal Deposit Insurance Corporation or savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation. In no case shall such deposits exceed 10 per centum of the total of such surplus, in any one bank, or savings and loan association.

### INDIVIDUAL ACCOUNTS

SEC. 304. The Secretary shall establish and maintain an account in the Fund for each participant for whom the Secretary receives payment under section 302. The amount credited to each account shall be adjusted periodically, as provided by the Secretary pursuant to regulations to reflect changes in the financial condition of the Fund.

### PAYMENTS FROM INDIVIDUAL ACCOUNTS

SEC. 305. Amounts credited to the account of any participant under this title shall be paid by the Secretary to—

(1) a member plan, for the purchase of credits having at least an equivalent actuarial value under such plan, on the request of such participant when he becomes a participant in such member plans;

(2) a qualified insurance carrier selected by a participant who has attained the age of sixty-five, for the purchase of a single premium life annuity in an amount having a present value equivalent to the amount credited to such participant's account, or in the event the participant selects an annuity with survivorship options, an amount determined by the Secretary to be fair and reasonable based on the amount in such participant's account; or

(3) to the designated beneficiary of a participant in accordance with regulations promulgated by the Secretary.

### TECHNICAL ASSISTANCE

SEC. 306. The Secretary shall provide technical assistance to employers, employee organizations, trustees, and administrators of pension and profit-sharing-retirement plans in their efforts to provide greater retirement protection for individuals who are separated from employment covered under such plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

## TITLE IV—PLAN TERMINATION INSURANCE

### ESTABLISHMENT AND APPLICABILITY OF PROGRAM

SEC. 401. (a) There is hereby established a program to be known as the Private Pension Plan Termination Isurance Program (hereinafter referred to as the "Insurance Program"), which shall be administered by and under the direction of the Secretary.

(b) Every plan subject to this title shall obtain and maintain plan termination insurance to cover unfunded vested liabilities incurred prior to enactment of the Act as well as after enactment of the Act.

(c) Upon application by an administrator and the payment of required fees and premiums, the Secretary may provide insurance to cover the unfunded vested liabilities of a plan not otherwise covered by this Act where he determines that such plan conforms with the vesting, funding and all other standards, rules, or regulations required by this Act.

### CONDITIONS OF INSURANCE

SEC. 402. (a) The insurance program shall insure participants and beneficiaries of those plans registered under this Act against loss of benefits derived from vested rights which arise from the complete or the substantial termination of such plans, as determined by the Secretary.

(b) The rights of participants and beneficiaries of a registered pension plan shall be insured under the insurance program only to the extent that—

(1) such rights as provided for in the plan do not exceed: (A) in the case of a right to a monthly retirement or disability benefit for the employee himself, the lesser of 50 per centum of the average monthly wage he received from the contributing employer in the five-year period after the registration date of the plan for which his earnings were its greatest, or $500 a month; (B) in the case of a right of one or more dependents or members of the participant's family, or in the case of a right to a lump-sum survivor benefit on account of the death of a participant, an amount no greater than the amount determined under clause (A);

(2) the plan is terminated more than three years after the date of its establishment or its initial registration with the Secretary, except that the Secretary may in his discretion authorize insurance payments in such amounts as may be reasonable to any plan terminated in less than three years after the date of its initial registration with the Secretary where (A) such plan has been established and maintained for more than three years prior to its termination, (B) the Secretary is satisfied that during the period the plan was unregistered, it was in substantial compliance with the provisions of this Act, and (C) such payments will not prevent equitable underwriting of losses of vested benefits arising from plan terminations otherwise covered by this title;

(3) such rights were created by a plan amendment which took effect more than three years immediately preceding termination of such plan; and

(4) such rights do not accrue to the interest of a participant who is the owner of 10 per centum or more of the voting stock of the employer contributing to the plan, or of the same percentage interest in a partnership contributing to the plan.

### ASSESSMENTS AND PREMIUMS

SEC. 403. (a) Upon registration with the Secretary, each plan shall pay a uniform assessment to the insurance program as prescribed by the Secretary to cover the administrative costs of the insurance program.

(b)(1) Each registered pension plan shall pay an annual premium for insurance at uniform rates established by the Secretary based upon the amount of unfunded vested liabilities subject to insurance under section 402.

(2) For the three-year period immediately following the effective date of this title such premium shall—

(A) not exceed 0.2 per centum of a plan's unfunded vested liabilities with respect to such unfunded vested liabilities incurred after the date of enactment of this Act;

(B) not exceed 0.2 per centum of a plan's unfunded vested liabilities incurred prior to the date of enactment of this Act, where such plan's median ratio of plan assets to unfunded vested liabilities was 75 per centum during the five-year period immediately preceding the enactment of this Act, or in the event of a plan established within the five-year period immediately preceding the date of enactment of this Act, where the plan has reduced the amount of such unfunded vested liabilities at the rate of at least 5 per centum each year since the plan's date of establishment;

(C) not exceed 0.4 per centum or be less than 0.2 per centum of a plan's unfunded vested liabilities incurred prior to the date of enactment of this Act where such plan does not meet the standards set forth in subparagraph (B);

(D) not exceed 0.2 per centum of a plan's unfunded vested liabilities regardless of whether such liabilities were incurred prior to or subsequent to the date of enactment of this Act with respect to multiemployer plans.

(3)(A) The Secretary is authorized to prescribe different uniform premium rates after the initial three-year period based upon experience and other relevant factors.

(B) Any new rates proposed by the Secretary shall be effective at the end of the first period of ninety calendar days of continuous session of the Congress after the date on which the proposed rates are published in the Federal Register.

(C) For the purpose of subparagraph (B)—

(i) continuity of a session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(c) Assessments and premiums referred to in this section shall be prescribed by the Secretary only after consultation with appropriate Government agencies and private persons with expertise on matters relating to assessment and premium structures in insurance and related matters, and after notice to all interested persons and parties.

### PAYMENT OF INSURANCE

SEC. 404. (a) Every plan insured under this title shall provide adequate prior notice to the Secretary of intent to terminate the plan, and in the event such notice is not provided and the plan is terminated, the person or persons responsible for failing to give such notice shall be personally liable for any losses incurred by the Pension Benefit Insurance Fund in connection with any plan termination.

(b) As determined by the Secretary, subject to the conditions specified in section 402, the amount of insurance payable under the insurance program shall be the difference between the realized value of the plan's assets and the amount of vested liabilities under the plan.

(c) The Secretary shall, by regulation, prescribe the procedures under which the funds of terminated plans shall be wound up and liquidated and the proceeds therefrom applied to payment of the vested benefits of participants and beneficiaries. In implementing this paragraph, the Secretary shall have authority to:

(1) transfer the terminated fund to the Pension Benefit Insurance Fund for purposes of liquidation and payment of benefits to participants and beneficiaries;

(2) purchase single-premium life annuities from qualified insurance carriers from the proceeds of the terminated plan on terms

determined by the Secretary to be fair and reasonable; or

(3) take such other action as may be appropriate to assure equitable arrangements for the payment of vested benefits to participants and beneficiaries under the plan.

(d) Any person or persons who terminate a plan insured under this title, with intent to avoid or circumvent the purposes of this Act or in violation of the requirements of this Act or those of the Welfare and Pension Plan Disclosure Act shall be personally liable for any losses incurred by the Pension Benefit Insurance Fund in connection with such plan termination.

### RECOVERY

SEC. 405. (a) Where the employer or employers contributing to the terminating plan or who terminated the plan are not insolvent (within the meaning of section 1(19) of the Bankruptcy Act), such employer or employers (or any successor in interest to such employer or employers) shall be liable to reimburse the insurance program for any insurance benefits paid by the program to the beneficiaries of such terminated plan to the extent provided in this section.

(b) An employer, determined by the Secretary to be liable for reimbursement under subsection (a), shall be liable to pay 100 per centum of the terminated plan's unfunded vested liabilities on the date of such termination. In no event however, shall the employer's liability exceed 50 per centum of the net worth of such employer.

(c) The Secretary is authorized to make arrangements with employers, liable under subsection (a), for reimbursement of insurance paid by the Secretary, including arrangements for deferred payment on such terms and for such periods as are deemed equitable and appropriate.

(d) (1) If any employer or employers liable for any amount due under subsection (a) of this section neglects or refuses to pay the same after demand, the amount (including interest) shall be a lien in favor of the United States upon all property and rights in property, whether real or personal, belonging to such employer or employers.

(2) The lien imposed by paragraph (1) of this subsection shall not be valid as against a lien created under section 6321 of the Internal Revenue Code of 1954.

(3) Notice to the lien imposed by paragraph (1) of this subsection shall be filed in a manner and form prescribed by the Secretary. Such notice shall be valid notwithstanding any other provision of law regarding the form and content of a notice of lien.

(4) The Secretary shall promulgate rules and regulations with regard to the release of any lien imposed by paragraph (1) of this subsection.

### PENSION BENEFIT INSURANCE FUND

SEC. 406. (a) There is hereby created a separate fund for pension benefit insurance to be known as the Pension Benefit Insurance Fund (hereafter in this section called the insurance fund) which shall be available to the Secretary without fiscal year limitation for the purposes of this title. The Secretary shall be the trustee of the insurance fund.

(b) All amounts received as premiums, assessments, or fees, and any other moneys, property, or assets derived from operations in connection with this title shall be deposited in the insurance fund.

(c) All claims, expenses, and payments pursuant to operation of the program under this title shall be paid from the insurance fund.

(d) All moneys of the insurance fund may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(e) With respect to such insurance fund, it shall be the duty of the Secretary to—

(1) administer the insurance fund; and

(2) report to the Congress not later than the first day of April of each year on the operation and the status of the insurance fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years and review the general policies followed in managing the insurance fund and recommend changes in such policies, including the necessary charges in the provisions of law which govern the way in which the insurance fund is to be managed.

## TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

SEC. 501. In addition to the filing requirements of the Welfare and Pension Plans Disclosure Act, it shall be a condition of compliance with section 7 of such Act that each annual report hereinafter filed under that section shall be accompanied by a certificate or certificates in the name of and on behalf of the plan, the administrator, and any employer or employee organization participating in the establishment of the plan, designating the Secretary as agent for service of process on the persons and entities executing such certificate or certificates in any action arising under the Welfare and Pension Plans Disclosure Act or this Act.

SEC. 502. (a) Section 3 of the Welfare and Pension Plans Disclosure Act (72 Stat. 997) is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'relative' means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(15) the term 'administrator' means—

"(A) the person specifically so designated by the terms of the plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(B) in the absence of such designation (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by a employee organization, or (iii) the association, committee, joint board of trustees or other similar group of representatives of the parties who established or maintained the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(16) The term 'employee benefit plan' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(17) The term 'employee benefit fund' or 'fund' means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (A) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (B) premium, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(18) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

"(19) The term 'adequate consideration' when used in section 15 means either (A) at no more than the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer, or (C) if the price of the security is not quoted by persons independent of the issuer, a price determined to be the fair value of the security.

"(20) The term 'nonforfeitable pension benefit' means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit which, notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan and is no longer contingent on the participant remaining covered by the plan.

"(21) The term 'covered service' means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective-bargaining agreement (subject to the requirements of the Retirement Income Security for Employees Act), for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

"(22) The term 'pension benefit' means the aggregate, annual, monthly, or other amounts to which a participant has or will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

"(23) The term "accrued portion of normal retirement benefit" means that amount of such benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

"(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

"(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

"(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant that, pursuant to rule or regulation under the Retirement Income Security for Employees Act, is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

"(24) The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"(25) The term 'fiduciary' means any person who exercises any power of control, management, or disposition with respect to any moneys or other property of any employee benefit fund, or has authority or responsibility to do so.

"(26) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined pursuant to rule or regulation under this Act."

(b) Paragraph (1) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established", by inserting a comma after the word "unemployment", and by adding the following: "or benefits of the type described or permitted by section 302(c) of the Labor-Management Relations Act".

(c) Paragraph (2) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(d) Paragraph (3) of section 3 of such Act is amended by striking out the word "plan" the first time it appears and inserting in lieu thereof the word "program".

(e) Paragraphs (3), (4), (6), and (7) of section 3 of such Act are amended by striking out the words "welfare or pension" wherever they appear.

(f) Paragraph (13) of section 3 of such Act is amended to read as follows:

"(13) The term 'party in interest' means as to an employee benefit plan or fund, any administrator, officer, fiduciary, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer, any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner, or joint venturer or any of the above-described persons. Whenever the term 'party in interest' is used in this Act, it shall mean a person known to be a party in interest. If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, such investment shall not cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a 'fiduciary' or a 'party in interest' as those terms are defined in this Act, except insofar as such investment company or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, the investment adviser, or its principal underwriter. Nothing contained herein shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other provision of law."

SEC. 503. (a) Section 4(a) of the Welfare and Pension Plans Disclosure Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations" wherever they appear.

(b) Paragraph (3) of section 4(b) of such Act is amended to read as follows:

"(3) Such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;"

(c) Paragraph (4) of section 4(b) of such Act is amended by inserting before the period the following: ", except that participants and beneficiaries of such plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in section 604 of the Retirement Income Security for Employees Act".

(d) Section 4(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) Such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States."

SEC. 504. (a) Section 5(b) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs, so long as moneys or other assets remain in the plan. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be in such form and filed in such manner as the Secretary may prescribe."

(b) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary may by regulation provide for the exemption from all or part of the reporting and disclosure requirements of this Act of any class or type of employee benefit plans if the Secretary finds that the application of such requirements to such plans is not required in order to implement the purposes of this Act."

SEC. 505. Section 6 of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"SEC. 6. (a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) The description of the plan shall be comprehensive and shall include the name and type of administration of the plan; the name and address of the administrator; the names and addresses of any person or persons responsible for the management or investment of plan funds, the schedule of benefits; a description of the provisions providing for vested benefits written in a manner calculated to be understood by the average participant; the source of the financing of the plan and identity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary."

SEC. 506. (a) Subsection (a) of section 7 of the Welfare and Pension Plans Disclosure Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 15 of this Act or".

(b) Section 7(a)(1) of such Act is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year (or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept".

(c) Section 7(a) of such Act is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to; the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such information as determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with generally accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by any agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report."

(d) Section 7 (b) and (c) of such Act are amended to read as follows:

"(b) A report under this section shall include—

"(1) the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest;

"(2) a schedule of all investments of the fund showing as of the end of the fiscal year:

"(A) the aggregate cost and aggregate value of each security, by issuer,

"(B) The aggregate cost and aggregate value, by type or category, of all other investments and separately identifying (i) each investment, the value of which exceed 3 per centum of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest;

"(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition, a schedule showing, as to each separate transaction with or without respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss, except that such schedule shall not include distribution of stock or other distributions in kind from profitsharing or similar plans to participants separated from the plan;

"(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over 3 per centum of the fund, and indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization;

"(5) a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition, a separate schedule showing as to each loan which—

"(A) was made to a party in interest, or

"(B) was in default, or

"(C) was written off during the year as uncollectable, or

"(D) exceeded 3 per centum of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the loan obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and the material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectable an explanation thereof;

"(6) a list of all leases with—

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leaseholds, and so forth, the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, the expenses paid for the leased property during the reporting period, the net receipt from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges, or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;

"(8) subject to rules of the Secretary designed to preclude the filing of duplicate or unnecessary statements if, some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under paragraphs (2), (3), (4), (5), (6), and (7) of section 7(b) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act; and

"(9) in addition to reporting the information called for by this subsection, the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation."

(e) Section 7(d) of such Act is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and (2) and inserting in lieu thereof a lowercase "t".

(f) Section 7(e) of such Act is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan,

"(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

"(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

"(6) a copy of the most recent actuarial report, and

"(A) (i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this subsection, insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same; and

"(7) such other reasonable information pertinent to disclosure under this subsection as the Secretary may by regulation prescribe."

(g) Section 7 of such Act is further amended by striking out in their entirety subsections (f), (g), and (h).

SEC. 507. (a) Section 8 of the Welfare and Pension Plans Disclosure Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a). The subsection redesignated as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual" and adding the word "plan" before the word "descriptions".

(b) Such section is further amended by adding subsections (b), (c), and (d), to read as follows:

"(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The administrator shall also furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated, and any document so furnished shall be available for public inspection. The Secretary shall make copies of such descriptions and annual reports for public inspection.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established or is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish or make available, whichever is most practicable: (1) to every participant upon his enrollment in the plan and within one hundred and twenty days after each major amendment to the plan, a summary of the plan's important provisions, including the names and addresses of any person or persons responsible for the management or investment of plan funds, and requirements of the amendment, whichever is applicable, written in a manner calculated to be understood by the average participant; such explanation shall include a description of the benefits available to the participant under the plan and circumstances which may result in disqualification or ineligibility, and the requirements of the Welfare and Pension Plans Disclosure Act with respect to the availability of copies of the plan bargaining agreement, trust agreement, contract or other instrument under which the plan is established or operated; and (ii) to every participant every three years (commencing January 1, 1975), a revised up-to-date summary of the plan's important provisions and major amendments thereto, written in a manner calculated to be understood by the average participant; and (iii) to each plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of any bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) In the event a plan is provided a variance with respect to standards of vesting, funding, or both, pursuant to title II of the Retirement Income Security for Employees Act, the administrator shall furnish or make available, whichever is most practicable, notice of such action to each participant in a manner calculated to be understood by the average participant, and in such form and detail and for such periods as may be prescribed by the Secretary."

SEC. 508. (a) Section 9(d) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(d) The Secretary may make appropriate and necessary inquiries to determine violations of the provisions of this Act, or any rule or regulation issued thereunder: *Provided, however,* That no periodic examination of the books and records of any plan or fund shall be conducted more than once annually unless the Secretary has reasonable cause to believe there may exist a violation of this Act or any rule or regulation issued thereunder."

(b) Subsection (h) of section 9 of such Act is repealed and subsection (i) of such section is redesignated as subsection (h).

SEC. 509. Section 14 of such Act is amended to read as follows:

"SEC. 14. (a) (1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') consisting of twenty-one members appointed by the Secretary. Not more than eleven members of the Council shall be members of the same political party.

"(2) Members shall be appointed from among persons recommended by groups or and shall be persons qualified to appraise the programs instituted under this Act and the Retirement Income Security for Employees Act.

"(3) Of the members appointed, five shall be representatives of labor organizations; five shall be representatives of management; one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, and the accountting field; and six representatives shall be appointed from the general public.

"(4) Members shall serve for terms of three years, except that of those first appointed, six shall be appointed for terms of one year, seven shall be appointed for terms of two years, and eight shall be appointed for terms of three years. A member may be reappointed, and a member appointed to fill a vacancy shall be appointed only for the remainder of such term. A majority of members shall constitute a quorum and action shall be taken only by a majority vote of those present.

"(5) Members shall be paid compensation at the rate of $150 per day when engaged in the actual performance of their duties except that any such member who holds another office or position under the Federal Government shall serve without additional compensation. Any member shall receive travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and the Retirement Income Security for Employees Act and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least four times each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act and the Retirement Income Security for Employees Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the operation of this Act and the Retirement Income Security for Employees Act and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties."

SEC. 510. The Welfare and Pension Plans Disclosure Act is further amended by renumbering sections 15, 16, 17, and 18 as sections 16, 17, 18, and 19, respectively, and by inserting the following new section immediately after section 14:

### "FIDUCIARY STANDARDS

"SEC. 15. (a) Every employee benefit fund established to provide for the payment of benefits under an employee's benefit plan shall be established or maintained pursuant to a duly executed written document which shall set forth the purpose or purposes for which such fund is established and the detailed basis on which payments are to be made into and out of such fund. Such fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b)(1) A fiduciary shall discharge his duties with respect to the fund—

"(A) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(B) subject to the standards in subsection (a) and in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, except that (i) any assets of the fund remaining upon dissolution or termination of the fund shall, after complete satisfaction of the rights of all beneficiaries to benefits accrued to the date of dissolution or termination, be distributed ratably to the beneficiaries thereof or, if the trust agreement so provides, to the contributors thereto; (ii) that in the case of a registered pension or profit-sharing-retirement plan, such distribution shall be subject to the requirements of the Retirement Income Security for Employees Act and (iii) any assets of the fund attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination shall be equitably distributed to the employee contributors according to their rate of contribution.

"(2) Except as permitted hereunder, a fiduciary shall not—

"(A) rent or sell property of the fund to any person known to be a party in interest of the fund;

"(B) rent or purchase on behalf of the fund any property known to be owned by a party in interest of the fund;

"(C) deal with such fund in his own interest or for his own account;

"(D) represent any other party with such fund, or in any way act on behalf of a party adverse to the fund or adverse to the interests of its participants or beneficiaries;

"(E) receive any consideration from any party dealing with such fund in connection with a transaction involving the fund;

"(F) loan money or other assets of the fund to any party in interest of the fund;

"(G) furnish goods, services, or facilities of the fund to any party in interest of the fund;

"(H) permit the transfer of any assets or property of the fund to, or its use by or for the benefit of, any party in interest of the fund; or

"(I) permit any of the assets of the fund to be held, deposited, or invested outside the United States unless the indicia of ownership remain within the jurisdiction of a United States District Court, except as authorized by the Secretary by rule or regulation.

"(3) The Secretary, by rules or regulations or upon application of any fiduciary or party in interest, by order, shall provide for the exemption conditionally or unconditionally of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the proscriptions contained in this subsection 15(b)(2) when the Secretary finds that to do so is consistent with the purposes of this Act and is in the interest of the fund or class of funds and the participants and beneficiaries: *Provided, however,* That any such exemption shall not relieve a fiduciary from any other applicable provisions of this Act.

"(c) Nothing in this section shall be construed to prohibit the fiduciary from—

"(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;

"(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds, except that no person so serving who already receives full-time pay from an employer or an association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(3) serving in such position in addition to being an officer, employee, agent, or other representative of a party in interest;

"(4) engaging in the following transactions:

"(A) holding or purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, except that (i) the purchase of any security is for no more than adequate consideration in money or money's worth, and (ii) that if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employee's compensation, an employee's period of service, or a combination of both, or money purchase type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be held or made by a fiduciary of such a fund in securities of such employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, when added to such securities already held, exceeds 10 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 10 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to plan funds which may be invested in such securities. Profit-sharing, stock bonus, thrift, or other similar plans, which are in existence on the date of enactment and which allow investment in such securities without explicit provision in the plan, shall remain exempt from the 10 per centum limitation until the expiration of one year from the date of enactment of the Retirement Income Security for Employees Act. Nothing contained in this subparagraph shall be construed to relieve profit-taking, stock bonus, thrift and savings or other similar plans from any other applicable requirements of this section;

"(B) purchasing on behalf of the fund any security or selling on behalf of the fund any security which is acquired or held by the fund, to or from a party in interest, if (i) at the time of such purchase or sale the security is of a class of securities which is listed on a national securities exchange registered under the Securities Exchange Act of 1934 or which has been listed for more than one month (at the time of such sale or purchase) on an electronic quotation system administered by a national securities association registered under the Securities Exchange Act of 1934 (ii) no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transaction, (iii) adequate consideration is paid, and (iv) that in the event the security is one described in subparagraph (A), the transaction has received the prior approval of the Secretary;

"(5) making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a nondiscriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan and are not otherwise inconsistent with the purposes of this Act;

"(6) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(7) following the specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection (b)(2);

"(8) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection (b).

"(d) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to such fund for any losses to the fund resulting from such breach, and to pay to such fund any profits which have inured to such fiduciary through use of assets of the fund.

"(e) When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power, or where two or more fiduciaries are required by an instrument governing the fund to undertake jointly the performance of a duty or the exercise of power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary from committing a breach of responsibility, obligation, or duty of a fiduciary or to compel such other cofiduciary to redress such a breach, except that no fiduciary shall be liable for any consequence of any act or failure to act as a cofiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(f) No fiduciary may be relieved from any responsibility, obligation, or duty imposed by law, agreement, or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries, unless specifically disapproved by the Secretary.

"(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

"(h) No individual who has been convicted of, or has been imprisoned as a result of his conviction of: robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, kidnaping, perjury, assault with intent to kill, assault which inflicts grevious bodily injury, any crime described in section 9(a)(1) of the Investment Company Act of 1940, or a violation of any provision of the Welfare and Pension Plans Disclosure Act, or a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended), or a violation of chapter 63 of title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519, as amended), or conspiracy to commit any such crimes or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusive clerical or janitorial duties) or other fiduciary position of any employee benefit plan; or

"(2) as a consultant to any employee benefit plan, during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights having been revoked as a result of such conviction, have been fully restored, or (B) the Secretary determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection. Any person who willfully violates this subsection shall be fined not more than $10,000 or imprisoned for not more than one year, or both. For the purposes of this subsection, any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section. For the purposes of this subsection, the term 'consultant' means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(i) All investments and deposits of the funds of an employee benefit fund and all loans made out of any such fund shall be made in the name of the fund or its nominee, and no employer or officer or employee thereof, and no labor organization, or officer or employee thereof, shall either directly or indirectly accept or be the beneficiary of any fee, brokerage, commission, gift, or other consideration for or on account of any loan, deposit, purchase, sale, payment, or exchange made by or on behalf of the fund.

"(j) In order to provide for an orderly disposition of any investment, or termination of any service, the retention or continuation of which would be deemed to be prohibited by this Act, and in order to protect the interest of the fund and its participants and its beneficiaries, the fiduciary may in his discretion effect the disposition of such investment or termination of such service within three years after the date of enactment of this Act, or within such additional time as the Secretary may by rule or regulation allow, and such action shall be deemed to be in compliance with this Act.

"(k) In accordance with regulations of the Secretary, every employee benefit plan subject to this Act shall—

"(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits from the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant, and

"(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the plan administrator of the decision denying the claim.

"(l) An employee benefit plan subject to this Act or the Retirement Income Security for Employees Act, which provides an optional death benefit of any kind, or in any form, shall not provide that such option may be waived by default or in any manner other than in a writing signed by the participant, after such participant receives a written explanation of the terms and conditions of the option and the effect of such waiver."

## TITLE VI—ENFORCEMENT

SEC. 601. Whenever the Secretary—

(1) determines, in the case of a pension or profit-sharing-retirement plan required to be registered under this Act, that no application for registration has been filed in accordance with section 102, or

(2) issues an order under section 107 denying or canceling the certificate of registration of a pension or profit-sharing-retirement plan, or

(3) determines, in the case of a pension plan subject to title II, that there has been a failure to make required contributions to the plan in accordance with the provisions of this Act or to pay required assessments or to pay such other fees or moneys as may be required under this Act,

the Secretary may petition any district court of the United States having jurisdiction of the parties, or the United States District Court for the District of Columbia, for an order requiring the employer or other person responsible for the administration of such plan to comply with the requirements of this Act as will qualify such plan for registration or compel or recover the payment of required contributions, assessments, premiums, fees, or other moneys.

SEC. 602. Whenever the Secretary has reasonable cause to believe that an employees' benefit fund is being or has been administered in violation of the requirements of the Welfare and Pension Plans Disclosure Act or the documents governing the establishment or operation of the fund, the Secretary may petition any district court of the United States having jurisdiction of the parties or the United States District Court for the District of Columbia for an order (1) requiring return to such fund of assets transferred from such fund in violation of the requirements of such Act, (2) requiring payment of benefits denied to any participant or beneficiary due to violation of the requirements of such Act, and (3) restraining any conduct in violation of the fiduciary requirements of such Act, and granting such other relief as may be appropriate to effectuate the purposes of this Act, including, but not limited to, removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act.

SEC. 603. Civil actions for appropriate relief, legal or equitable, to redress or restrain a breach of any responsibility, obligation or duty of a fiduciary, including but not limited to, the removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act or against any person who has transferred or received any of the assets of a plan or fund in violation of the fiduciary requirements of the Welfare and Pension Plans Disclosure Act or in violation of the document or documents governing the establishment or operation of the fund, may be brought by any participant or beneficiary of any employee benefit plan or fund subject to the Welfare and Pension Plans Disclosure Act in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated.

Sec. 604. Suits by a participant or beneficiary for benefits from an employee benefit plan or fund, subject to the Welfare and Pension Plans Disclosure Act, may be brought in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties, against any such plan or fund to recover benefits due him required to be paid from such plan or fund pursuant to the document or documents governing the establishment or operation of the plan or fund, or to clarify his rights to future benefits under the terms of the plan. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated.

Sec. 605. (a) In any action brought under section 603 or 604, the court in its discretion may—

(1) allow a reasonable attorney's fee and costs of the action to any party;

(2) require the plaintiff to post security for payment of costs of the action and reasonable attorney's fees.

(b) A copy of the complaint in any action brought under section 603 or 604 shall be served upon the Secretary by certified mail, who shall have the right, in his discretion, to intervene in the action.

(c) Notwithstanding any other law, the Secretary shall have the right to remove an action brought under section 603 or 604 from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for under this Act. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated the action.

Sec. 606. The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932, shall not be applicable with respect to suits brought under this title.

Sec. 607. Suits by an administrator or fiduciary of a pension plan, a profit-sharing-retirement plan, or an employees' benefit fund subject to the Welfare and Pension Plans Disclosure Act, to review a final order of the Secretary, to restrain the Secretary from taking any action contrary to the provisions of this Act, or to compel action required under this Act, may be brought in the name of the plan or fund in the district court of the United States for the district where the fund has its principal office, or in the United States District Court for the District of Columbia.

Sec. 608. Any action, suit, or proceeding based upon a violation of this Act or the Welfare and Pension Plans Disclosure Act shall be commenced within five years after the violation occurs. In the case of fraud or concealment, such action, suit, or proceeding shall be commenced within five years of the date of discovery of such violation.

Sec. 609. (a) It is hereby declared to be the express intent of Congress that, except for actions authorized by section 604 of this title, the provisions of this Act or the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the subject matters regulated by this Act or the Welfare and Pension Plans Disclosure Act, except that nothing herein shall be construed—

(1) to exempt or relieve any employee benefit plan not subject to this Act or the Welfare and Pension Plans Disclosure Act from any law of any State;

(2) to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary; or

(3) to alter, amend, modify, invalidate, impair, or supersede any law of the United States other than the Welfare and Pension Plans Disclosure Act or any rule or regulation issued under any law except as specifically provided in this Act.

(b) Subsection (a) of this section shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring or permitting an accounting by a fiduciary during the operation of an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act or upon the termination thereof or from asserting jurisdiction in any action by a fiduciary requesting instructions from the court or seeking an interpretation of the trust instrument or other document governing the fund. In any such action—

(1) the provisions of this Act and the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the State and of political subdivisions thereof, insofar as they may now or hereafter relate to the fiduciary, reporting, and disclosure responsibilities of persons acting for or on behalf of employee benefit plans or on behalf of employee benefit funds subject to the Welfare and Pension Plans Disclosure Act except insofar as they may relate to the amount of benefits due beneficiaries under the terms of the plan;

(2) notwithstanding any other law, the Secretary or, in the absence of action by the Secretary, a participant or beneficiary of the employee benefit plan or fun affected by this subsection, shall have the right to remove such action from a State court to a district court of the United States if the action involves an interpretation of the fiduciary, or reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans subject to the Welfare and Pension Plans Disclosure Act;

(3) the jurisdiction of the State court shall be conditioned upon—

(A) written notification, sent to the Secretary by registered mail at the time such action is filed, identifying the parties to the action, the nature of the action, and the plan involved; and satisfactory evidence presented to the court that the participants and beneficiaries have been adequately notified with respect to the action; and

(B) the right of the Secretary or of a participant or beneficiary to intervene in the action as an interested party.

Sec. 610. It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of the plan, this Act, or the Welfare and Pension Plans Disclosure Act, or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. The provisions of sections 602 and 603 shall be applicable in the enforcement of this section.

Sec. 611. It shall be unlawful for any person through the use of fraud, force, or violence, or threat of the use of force or violence, to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he is or may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. Any person who willfully violates this section shall be fined $10,000 or imprisoned for not more than one year, or both.

### TITLE VII—EFFECTIVE DATES

Sec. 701. (a) Sections 101, 102, 103, and 104, part D of title II, title V, and title VI of this Act shall become effective upon the date of enactment of this Act.

(b) Title II (except part D thereof) of this Act shall become effective three years after the date of enactment of this Act, and titles III and IV of this Act shall become effective one year after the date of enactment of this Act.

Mr. MANSFIELD. Mr. President, the unanimous-consent agreement on the pending business will not start running until tomorrow. There will be no votes on this legislation or amendments thereto this afternoon, but if any Member wants to speak for or against the pending legislation, he should feel free to do so, with the assurance that it will not be under a time limitation, and with the further assurance that the time limitation will start running tomorrow immediately after the majority and minority leaders have been recognized.

The PRESIDING OFFICER. Has the Senator made that request?

Mr. MANSFIELD. Yes; Mr. President that request has already been agreed to.

The PRESIDING OFFICER. I thank the distinguished majority leader.

## NEW COINAGE DESIGN

Mr. HATHAWAY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1141.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate the amendments of the House of Representatives to the bill (S. 1141) to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes which were to strike out all after the enacting clause, and insert:

That the reverse side of all dollars, half-dollars, and quarters minted for issuance on or after July 4, 1975, and until such time as the Secretary of the Treasury may determine shall bear a design determined by the Secretary to be emblematic of the bicentennial of the American Revolution.

Sec. 2. All dollars, half-dollars, and quarters minted for issuance between July 4, 1975, and January 1, 1977, shall bear "1776–1976" in lieu of the date of coinage; and all dollars, half-dollars, and quarters minted thereafter until such time as the Secretary of the Treasury may determine shall bear a date emblematic of the bicentennial in addition to the date of coinage.

Sec. 3. Until the Secretary of the Treasury determines that the mints of the United States are adequate for the production of ample supplies of coins and medals, any facility of the Bureau of the Mint may be used for the manufacture and storage of medals and coins.

And amend the title so as to read: "An Act to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes."

Mr. HATHAWAY. Mr. President, I move that the Senate disagree to the House amendments and ask for a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HELMS) appointed Mr. SPARKMAN, Mr. WILLIAMS, Mr. HATHAWAY, Mr. TOWER, and Mr. TAFT conferees on the part of the Senate.

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## SOVIET REPRESSION

Mr. THURMOND. Mr. President, not too many years ago, distaste for and mistrust of the Communist countries constituted an established—and respected—democratic doctrine. The free nations of the world were united by three principles: First, communism must be contained; second, developing nations have a right to self-determination; and third, a strong military and economic deterrent had to be maintained against Communist aggression.

These principles were based on experience. The Lenin and Stalin purges, in which untold numbers were killed and imprisoned, left no doubt as to their veracity. Communism was—and still is—alien to our fundamental values. It is implemented by revolt, tyranny, persecution, and humiliation. It disdains the individual human elements of life, preferring instead collective amalgamation. It numbs the senses, severs intellectual and moral impulses and chokes creative minds.

No better portrait of communism can be painted than that of Lenin, its cold blooded architect. He said:

> For the Communist, morality consists entirely of compact united discipline and conscious mass struggle against exploiters. We do not believe in eternal morality.

There was a time when the anti-Communist posture could not be shaken. But no more. Some now consider such discourse as coming from militarists who viewed the world from the eyesight of an M-16.

Recent developments in the Soviet Union indicate that such viewpoints are not confined to the American shores. A few Russian citizens, at the risk of losing their lives, have spoken out. Their warnings cry out for attention.

Alexander Solzhenitsyn is a Nobel Prize winner and is considered to be the greatest Russian writer in years. In 1945, he was jailed for describing Stalin as the "whiskered one" as he protested the murders of thousands during the Stalin purges. His literary works are bestsellers everywhere in the world except those places dominated by Communists, where their publishing is forbidden.

He has been quoted as saying:

> In our country, any person who once loudly voices an opinion contrary to the official one is considered guilty without a trial.

Such a man, he states, can be deprived of his homeland, sentenced to a mental institution or killed. Critics of the Soviet system, Mr. Solzhenitsyn says:

> Are crushed in great numbers in silence.

His claims are repeated by another Soviet intellectual, Dr. Andrei Sakharov, a nuclear physicist who is referred to as the "father of the Soviet hydrogen bomb." Because of his candor, Dr. Sakharov is harassed and threatened. He is literally a prisoner in the world he helped to build.

Dr. Sakharov was recently quoted as saying:

> I would be very glad to have my writings published in the Soviet press but that is obviously out of the question.

Sakharov's plight is partly the result of a press conference with western journalists recently in which he warned that detente on Soviet terms can be "dangerous." He has urged Americans to be cautious in negotiating with Russia because of its longstanding commitment to world domination.

The main newspaper of the Soviet military machine, the Red Star, unwittingly supported his contention in a recent article, as reported by the Associated Press. The AP story reported:

> It (Red Star) commented that "changes in the international situation under the influence of the active peace offensive of the Socialist countries is setting the bourgeois ideologists and specialists problems which are unprecedented in history.

The story goes on to say that the storm of protest over the Vietnam war has shattered the morale of the armed forces of this country. In essence, the Red Star claims that the peace offensive of the Soviet Union has led to a relaxation of international tensions which, in turn, aids the Soviet cause.

One could dismiss this article as unfounded propaganda on the basis that fact is not the mainstay of Soviet journalism. I do not find it, unfortunately, to be completely untruthful.

The Soviet peace offensive is causing us problems. The Russian wheat deal, for example, was partially responsible for rising costs of some foods. It is no secret that Russia desperately needs our agricultural products, since its farm program is a failure. What is a secret is what tangible results we received in return.

Another result of the peace offensive seems to be a shifting in the military balance of power. The authoritative International Institute for Strategic Studies in London recently reported that the Soviets are making great leaps in military preparedness while United States' steps are faltering.

According to the Institute, Russia increased its nuclear submarine-launched missiles to 628 during 1973. We have 656. Just 3 years ago, our advantage was 2 to 1. The survey also said Russia has launched a 40,000 ton conventional aircraft carrier, and is deploying new cruisers, destroyers, and attack submarines.

Mr. President, if détente is to be based solely on pragmatic national needs without any consideration of ideology, then we should continue to deal with the Soviet Union.

If, on the other hand, we accept the premise that international détente cannot precede human détente, then we must seriously reevaluate our posture. The plight of Sakharov and Solzhenitsyn is by no means unique.

Untold numbers have been silenced in prison camps.

Officially sanctioned anti-Semitism at the World University Games in Moscow was rampant.

Soviet Jews are denied the right to emigrate.

The list is endless.

Soviet denials of fundamental rights have outraged people in every corner of the world. I believe the American Academy of Sciences showed courage in threatening a moratorium on further cooperation with Russian scientists until intimidation of Russian intellectuals ceases.

European intellectuals, in great numbers, are tearing up their Communist cards in symbolic protest.

In short, the same doubts which have plagued conservatives for years are now overtaking liberals—an event which is not without its poignancy.

Andrei Sakharov has said:

> Detente has to take place with simultaneous liquidation of isolation. Detente without democratization, would be very dangerous . . . that would be cultivation and encouragement of closed countries, where everything that happens goes unseen by foreign eyes behind a mask that hides its real face. No one should dream of having such a neighbor, and especially if this neighbor is armed to the teeth.

Mr. President, these bold men are literally betting their lives that their warnings will not go unheeded. We owe it to them—and indeed the human race—to listen.

The defense bill will be coming before the Senate this week. If we want to encourage people behind the Iron Curtain, if we want to encourage countries that are uncommitted and neutral and waiting to see which country is going to remain a dominant power—whether it is going to be the United States or the Communist countries, such as the Soviet Union and Red China—then the type of defense bill we pass this year is vitally important for it may determine the decisions that these countries make.

We must pass a strong military defense bill if we expect our President to be successful in negotiations with the Communists. There is only one thing the Communists recognize, and that is strength. If we are going to put in the President's hands the power to bring about reductions of Armed Forces in the future, which we all hope will take place, the best and only way to do it is to put in his hands the strength with which to bring it about. That means that Congress must pass a strong military defense bill so that he then will have the strength that the Communists can see and feel. Then and only then will they be inclined to bring about a bilateral reduction, a mutual reduction. Otherwise, if we unilaterally reduce, we will have destroyed the possibility the President may have to bring about reductions of great magnitude in the future.

As we begin the debate on the military bill this year, I hope Members of Congress will think about this, because it is not just the defense bill we will be passing. We are going to take action here that will have more to do with peace, not only this year but also in years to come, than any other action we could take.

It is my sincere hope that Congress will pass a strong defense bill, back up the President, and give him the strength and the power to go into the negotiations on the 30th of next month in such a way that he can be successful in bringing about mutual reductions and thereby bring about great reductions of Armed Forces on both sides—on the side of the free world and on the side of the Communist world. This is the answer, in my judgment.

## THE RECORD OF THE SENATE AND THE PRESIDENT'S SECOND STATE OF THE UNION MESSAGE

Mr. MANSFIELD. Mr. President, on Wednesday, September 6, 1973, the joint majority leadership of the Congress met to discuss the business for the remainder of the session. On Thursday, September 7, I met with the President at breakfast to discuss, in general, the legislative schedule confronting the Congress at that time. On Sunday, September 9, the President made a radio address to the Nation which formed the basis for the second state of the Union message which he sent up to the Congress on Monday, September 10. On the afternoon of that day, I met with the Senate Democratic committee chairmen to discuss the President's message. On Tuesday, September 11, there was a meeting of the Democratic Policy Committee, at which time there was further discussion of the President's message, and that afternoon, a second meeting was held with the Senate committee chairmen, covering the same subject. On Wednesday, September 12, there was a second meeting of the joint congressional Democratic leadership and, on Thursday, September 13, there was a Democratic caucus called for the purpose of reporting to the Members of the majority on developments since the reconvening of Congress and to lay before the conference tentative plans for the remaining weeks of the session.

Mr. President, I ask unanimous consent that a joint statement of the majority leadership of the Congress dated September 6, a joint statement of the majority leadership of the Congress dated September 12, the remarks of the Senate majority leader before the Senate Democratic conference on September 13, and the record of the Senate relating to the President's message, as compiled by the distinguished assistant majority leader, Senator ROBERT C. BYRD, all be incorporated at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### JOINT STATEMENT OF THE MAJORITY LEADERSHIP OF THE CONGRESS

(MIKE MANSFIELD, majority leader of the Senate, ROBERT C. BYRD, majority whip of the Senate, CARL ALBERT, Speaker of the House, THOMAS P. O'NEILL, majority leader of the House, JOHN J. MCFALL, majority whip of the House)

The President on yesterday chose to pass judgment on the 93d Congress. He described its work as "a very disappointing performance." The Joint Leadership notes that the Congress does not "perform" at the behest of this President or any President. The Congress acts in accord with its independent judgment of what is best for the nation and the people.

There are no apologies to make for this Congress. It has done, it is doing and it will continue to do the people's business.

A vigorous Congress has already addressed itself to a wide range of legislative activity and has a full schedule in the weeks ahead.

We are looking ahead to action on such important legislation as pension reform, manpower, including a public employment program to relieve areas of high unemployment—elementary and secondary education, health maintenance organizations, campaign reform ad other equally important measures.

A real spirit of cooperation will give us the Republican votes essential to put these programs into law.

Both Houses of Congress have demonstrated their commitment to fiscal responsibility by passing 1974 spending ceilings that are *below* the President's requests.

So far as appropriations are concerned, the final figures cannot be determined until all the bills are passed. The remaining bills, including the big defense and foreign aid bills, are still in the legislative mill. The Congress intends to carry out its commitment to fiscal responsibility in the development of these bills; if the President has suggestions for ways to cut these more costly appropriations measures, we would be glad to hear them.

The 93rd Congress has already enacted one hundred and six public laws for this year. Included is an act giving the President full authority for wage-price controls and other economic stabilization measures to combat inflation. Other important new laws passed by this Congress are an increase in social security benefits, an expansion of services for the elderly, an extension of twelve health care programs the Administration wanted to terminate, a four-year farm bill, a pace-setting highway bill which for the first time makes trust funds available for urban mass transit and an extension of the Law Enforcement Assistance programs.

Congress has also passed a far-reaching minimum wage bill which would grant coverage to seven million additional workers and which would bring farm workers up to their industrial counterparts and the Emergency Medical Service System Act.

In the final stages of the legislative process are important bills to set a fiscal 1974 spending ceiling and to restrict the President's practice of impounding appropriated funds, to limit the President's war making powers and to authorize the Trans-Alaska oil pipeline.

The Congress is working hard. We want to get the job done. But we cannot do it alone. We welcome help from any source, including specifically the White House. As the elected representatives of the people, we will continue to pursue the legislative needs of the people and the nation.

### JOINT CONGRESSIONAL DEMOCRATIC LEADERSHIP STATEMENT OF SPEAKER CARL ALBERT AND MAJORITY LEADER MIKE MANSFIELD

We expect to pass about fifty significant bills before adjournment. Some are on the President's list, some are not.

The principal legislative complication for the remainder of this session as we see it involves Foreign Aid and Defense.

The tentative adjournment target for the first session remains October.

### REMARKS OF SENATOR MIKE MANSFIELD BEFORE THE SENATE DEMOCRATIC CONFERENCE

This Conference has been called for two principal purposes: (1) to report to the Members of the Majority Conference on developments since the reconvening of Congress; and (2) to lay before you tentative plans for the remaining weeks of the session.

The record, to date, speaks well of the Senators of both parties—Democrats and Republicans. It is exceptional. I refer to the legislative output of the initial months of the session no less than to the results of the Senate's oversight and investigative functions. In the latter connection, I wish to note, in particular, the work of the Watergate and the Armed Services Committees and of Members of the Appropriations Committee who have been trying to come to grips with the problems of waste and excess in the Pentagon and elsewhere in the Executive Branch.

On the legislative front, the Senate has passed all but nine of the 30 or so items which were pocket-vetoed by the President or which had come close to enactment last year. These are the measures to which this Conference gave priority last January. One hundred and six measures have become public law since the first of the year. Included in these new laws are acts to increase Social Security Benefits, an expansion of services for the elderly, an extension of twelve health care programs the Administration wanted to terminate, an innovative farm program, a highway bill which for the first time makes trust funds available for urban mass transit and an extension of the Law Enforcement Assistance programs. I mention only a few.

We have also disposed of a great many of the items which the President included in his most recent State of the Union message. Indeed, many were acted on by the Senate on its own initiative before making an appearance on any list. By any reasonable yardstick, there is no basis for disappointment in the Senate's "performance." To be sure, the Administration's program has not been accepted wholesale and without question. It has not been signed, sealed and delivered intact to the White House. If that was the expectation, then the Administration has grounds for disappointment.

But the President never asked for a rubber stamp. On the contrary, he has spoken out for a strong Congress. He has stressed his support for the exercise of independent Constitutional responsibilities at this end of the avenue.

The President is to be commended for that position. The nation needs a functioning Congress no less than a functioning Presidency in an era when too many Congresses throughout the world are falling beneath the heel of Executive absolutism. Insofar as the Leadership is concerned, the nation will have a functioning Congress worthy of the trust of the people of the nation.

At the same time, a decent respect will be shown at all times for the office and prerogatives of the Presidency. In that vein, the Leadership has given careful consideration to the President's State of the Union messages to date, including the most recent. We will pay the same respectful attention to any others which he may dispatch in the future. I want to stress to this Conference that the Senate Majority Leadership seeks not confrontation with the Presidency but cooperation and mutual consideration. We have pursued that course in the past because it is essential to the nation's well-being; we will continue to pursue that course in the future.

During the past ten days, the substance of the latest Presidential message has been explored at great length, in a personal meeting with the President, in meetings with the Majority Policy Committee, with the Senate Committee Chairmen and with the House Leaders. On the basis of these meetings and our understanding of the legislative situation in the Congress, a tentative listing of bills which have reasonable expectation of enactment during this session has been prepared. Some adjustment of House and Senate concepts must still be made so I shall not enumerate the specific items. I will say, however, that the list contains at this point, many but not all of the measures suggested by the President and some which were not. It includes the remaining general authorizations and appropriations bills. It includes bills involving the gathering energy crisis and environmental problems, certain consumer bills, crime bills, the school lunch program, vocational rehabilitation and health measures, the War Powers Act, and an antihijacking bill.

In all, about 50 pieces of significant legislation should be enacted before adjournment, assuming, of course, restraint by the Administration in the use of the veto. Most of these measures have already passed the Senate; a number of them are in Conference with the House. On still others, notably appropriations bills, prior action by the House is awaited.

While the Leadership believes it is reasonable to seek an adjournment in October, I am frank to state that we may well encounter protracted difficulties with regard to Foreign Aid as well as with Defense authorizations and appropriations. The Foreign Aid program has been operating under this Administration for two years on a frail and dubious legislative base which consists largely of "continuing resolutions." Proper authorizing and appropriating acts have all but disappeared. As a result, Congress is voting billions of dollars, at the behest of the Administration, for programs and policies abroad which are at best only vaguely understood.

It may well be that the Congress should blow the whistle on these inexcusable practices. That may take time but this slovenly legislating which has been encouraged by the Executive Branch has forestalled year after year the kind of thorough-going revision of what has become, in part, a worse than useless program. Nevertheless, the Administration insists, year after year, on its unchanged continuance, notwithstanding billions in annual cost to the people of the nation and the dissipating effect of these expenditures on the international value of the dollar. In my judgment, we are reaching the point where the Congress may find that the nation's interests are better served by no foreign aid at all rather than by the mish-mash which is now served up in this program.

With regard to Defense legislation, I can only suggest that the Senate and its Committee of responsibility—the Armed Services and Appropriations Committees, proceed as rapidly as possible with their responsibilities. Hopefully, the House and its Committees will do the same. Together, the two Houses of Congress can then send to the President for his disposition, a combination of their best judgment of the defense needs of the nation. I must say in all candor, however, that this process may well involve delays between the two Houses and the possibility of vetoes on the part of an Administration which apparently is concerned with excessive government expenditures everywhere except in the Pentagon.

In any event, we are delighted to have the Senator from Mississippi (John Stennis), back with us. His return will help us to find a judicious route through the labyrinth of what is by far the largest source of Federal expenditures and, as such, a primary source of the nation's inflation, high prices and depreciating currency—the Defense Department budget.

The Senate Leadership, of course, will do whatever can be done to expedite the disposition of Foreign Aid legislation and Defense expenditures, once the legislation comes out of Committee. In this connection, I want to express my thanks to the Senator from West Virginia (Mr. Byrd), the Majority Whip, for what he has done already in moving the Senate's program. His work in floor scheduling throughout the session has been eminently fair, considerate and highly effective. I also want to reiterate that the "performance" of all Senators—Republicans and Democrats alike—has not been disappointing but exceptional. In all my years here, I have never seen the Senate more attentive to the needs of the people and more perceptive of the totality of the requirements of the nation's security and well-being.

The Senate has made, it is making, and will continue to make, a difference in this government. It is a constructive difference—a margin of security and stability as the nation moves through a period of grave uncertainty and difficulty.

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### THE RECORD OF THE SENATE RELATED TO THE PRESIDENT'S MESSAGE

Mr. ROBERT C. BYRD. Mr. President, on September 10, the President sent to the Congress a second state of the Union message, in which he was reported to have asked for passage of 50 measures. A careful reading of his message will not reveal a clear identification of 50 bills. Some measures are clearly identified, while others must be determined by reading between the lines, so to speak, and must be extrapolated from an analysis of the subject matter of certain paragraphs in the President's message. In any event, as of September 10, the date on which the President sent up his message, the following record had been established by the Senate:

| | |
|---|---|
| Days in session | 121 |
| Hours in session | 685:41 |
| Total measures passed | 417 |
| Public laws | 106 |
| Treaties | 10 |
| Confirmations | 37, 638 |
| Record votes | 376 |

As to the 417 measures passed by the Senate, they are broken down as follows:

| | |
|---|---|
| Senate bills passed | 179 |
| House bills passed | 65 |
| Senate joint resolutions passed | 23 |
| House joint resolutions passed | 21 |
| Senate concurrent resolutions passed | 15 |
| House concurrent resolutions passed | 19 |
| Senate resolutions passed | 95 |

Of the 50 measures which can be identified by a careful reading of the President's message, the Senate as of September 10, had already passed 16 measures clearly identified as those enumerated by the President. Seven additional measures had been passed by the Senate in subject areas mentioned in the message. The Senate had passed 23 measures—or 46 percent—out of the list of 50 items contained in the President's message.

In addition to these 23 measures, one measure—pension reform—was on the Senate Calendar and will be taken up next Tuesday, September 18. Twelve other bills alluded to in the President's message were either undergoing markup in committee on September 10, or hearings had been completed or were in progress thereon.

In summary, 36 out of the 50 measures—72 percent—asked for by the President on September 10, had already been passed by the Senate or were on the Senate Calendar or hearings thereon had been either completed or were in progress.

Now, something ought to be said by way of putting this part of the legislative picture in its larger Senate context. I mentioned a little bit ago that, as of September 10, the Senate had passed 417 measures already this year. Twenty-three of those measures, as I have already indicated, can be identified in the President's message. To put it another way, the Senate, as of September 10, had passed 394 measures in addition to those 23 measures asked for by the President and already passed by the Senate. Of these 394 measures, I would like to mention just a few so as to further indicate the fine record the Senate has established during the first 8 months of this first session of the 93d Congress. Keep in mind that the following bills enacted by the Senate—not included in the President's request—do not comprise the whole record thus far:

1. Extension of Economic Stabilization Act (providing authority to the President to combat inflation).
2. Increase in Social Security Benefits.
3. Farm Bill.
4. Highway Bill.
5. Campaign Reform.
6. Emergency Medical Services.
7. Public Works and Economic Development.
8. Rivers and Harbors—Flood Control.
9. War Powers.
10. August 15 cutoff of Cambodian bombing.
11. Legislation dealing with Impoundments.
12. Confirmation of OMB Director.
13. Reconfirmation of Cabinet Officers.
14. 3 Supplemental Appropriation Bills.
15. 8 Regular Appropriation Bills.
16. Public Broadcasting.
17. Anti-hijacking of Aircraft.
18. Fuel Allocation.
19. Fair Credit Billing.
20. Lead Based Paint Poisoning.
21. Compensation for Victims of Crime.
22. Voter Registration.

Aside from the impressive Senate record of legislative enactments this year, Senate committees have done a commendable job in carrying out their oversight responsibilities under the Constitution.

For example, the Senate Judiciary Committee hearing in connection with the confirmation of L. Patrick Gray, and the Senate Judiciary Committee's insistence on the appointment of a special Watergate prosecutor and the laying down of investigative guidelines by the Judiciary Committee to be followed by the special prosecutor in the conduct of the Watergate investigation. All other committees are to be equally commended on the high performance of their duties in carrying out oversight functions. The Select Committee on Presidential Campaign Activities, likewise, has acted notably in this regard.

I think every Member of the Senate should feel proud of the record of the Senate during the first 8 months of this session, and I want to compliment all Senators for the contributions they have made in this important service to the Nation. I think that this record should debunk any suggestion that the Senate has turned in a "disappointing performance," and such a record should also refute any suggestion that the Senate has been tied up in Watergate. Only 7 of the 100 Members of the Senate—and of the 535 Members of Congress—have been involved in carrying out their responsibilities under the Senate mandate, unanimously adopted by both Democrats and Republicans to investigate Watergate. The other 93 Members of the Senate—528 Members of Congress—have been busily engaged in meetings of other committees and subcommittees—numbering over 260 committees and subcommittees, in Senate and House—and have also been active in Senate and House floor debates. Additionally, we should remind ourselves that the seven Members—four Democrats and three Republicans—of the Select Committee on Presidential Campaign Activities have also been active in the other committees to which they are regularly assigned, and they have effectively and responsibly carried out their floor duties meanwhile.

In closing, I shall include a list of the 50 measures identified in the President's second State of the Union Message—the first 16 of which, as heretofore stated, have been passed by the Senate, and the next seven of which measures have been passed by the Senate in subject areas mentioned in the message:

1. Financial Institutions Restructuring Public Law 93–100.

2. Council on International Economic Policy—in conference.
3. Alaskan Pipeline—in conference.
4. Land Use Planning.
5. Toxic Substances Control—in conference.
6. Safe Drinking Water.
7. Manpower Revenue Sharing.
8. Vocational Rehabilitation—in conference.
9. Minimum Wage—Vetoed; House will reconsider 9-19-73.
10. Health Maintenance Organization.
11. Veterans Benefits—in conference.
12. ACTION.
13. FHA Mortgage Insurance Extension—contained in HUD Loan Insurance which is in conference.
14. D.C. Home Rule.
15. Federal Election Reform Commission.
16. National Foundation on Arts & Humanities—in conference.
17. Flood Insurance—Have passed S.J. Res. 26 and 112 and S. 1672 which all have become Public Law.
18. Heroin Trafficking—Have passed S. 800 containing tough provisions re: heroin trafficking.
19. Transportation Improvement—Have passed S. 2060, S. 1925, S. 2120, and S. 386 to improve rail service.
20. Disaster Preparedness & Assistance—Have passed S. 606, S. 1697, and H.R. 1975.
21–23. Indian bills—Have passed S. 1341, S. 1616 & S. 721.
24–26. Indian Bills—Pending in committee.
27. Trade Reform—House originates.
28. Export Administration Act. S. 2053 (Banking) hearings held.
29. Tax Reform (property tax relief for elderly)—House originates.
30. Stockpile Disposal, S. 1849 (Armed Services)—Pending in committee.
31. Deep Water Ports—(Commerce)—Hearings complete.
32. Gas Deregulation (Commerce)—Hearings scheduled.
33. Strip Mining (Interior)—Ordered reported on 9/10/73.
34. Department of Energy and Natural Resources (Govt. Op.)—Hearings in progress.
35. Power Plant Siting (Interior)—Pending in committee.
36. Santa Barbara Energy Reserve (Interior)—Pending in committee.
37. Housing (Banking)—Hearings held but no message yet from President.
38. Better Schools (Labor)—Hearings in progress.
39. School Busing (Labor)—Pending in committee.
40. Welfare Reform (Finance)—Pending in committee.
41. Job Security Assistance—(Finance)—House originates.
42. Pension Reform—Retirement Benefits (Labor and Finance)—On calendar.
43. Legal Services Corp. (Labor)—To be reported early October.
44. Consumer Protection Agency (Commerce and Govt. Ops.)—Hearings completed.
45. Better Communities (Banking)—Hearings in progress.
46. Criminal Code Reform (Judiciary)—Hearings in progress.
47. Capital Punishment (Judiciary)—Hearings held.
48. American Revolution Bicentennial Administration (Judiciary)—P/H; Pending in Senate Committee.
49. Metric Conversion (Commerce).
50. President's Reorganization Authority, S. 2003 (Govt. Ops.)—Pending in committee.

## ORDER FOR ADJOURNMENT TO 10 A.M. EACH DAY THROUGH SATURDAY OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business daily, through Friday of this week, it stand in adjournment until 10 a.m. daily, through Saturday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR JOHNSTON ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, immediately after the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Louisiana (Mr. JOHNSTON) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZATION FOR SUBMISSION AND PRINTING OF AMENDMENTS TO S. 4, RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT, UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Wisconsin (Mr. NELSON), I ask unanimous consent that it be in order to submit for printing until midnight tonight amendments to S. 4, the Retirement Income Security for Employees Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of S. 4, the Retirement Income Security for Employees Act, under a time limitation. Yea-and-nay votes will occur on amendments thereto, and hopefully we may be able to complete the bill tomorrow.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 3:19 p.m. the Senate adjourned until tomorrow, Tuesday, September 18, 1973, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 17, 1973:

### NATIONAL ENDOWMENT FOR THE ARTS

Nancy Hanks, of New York, to be Chairman of the National Endowment for the Arts for a term of 4 years. (Reappointment.)

### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be members of the National Commission on Libraries and Information Science for terms expiring July 19, 1978:

Bessie Boehm Moore, of Arkansas. (Reappointment.)

Julia Li Wu, of California, vice Alfred R. Zipf, term expired.

Daniel William Casey, Sr., of New York, vice John G. Kemeny, term expired.

### IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be general*

Lt. Gen. Richard H. Ellis [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

*To be general*

Gen. Horace M. Wade [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be lieutenant general*

Maj. Gen. John W. Roberts, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

## CONFIRMATION

Executive nomination confirmed by the Senate September 17, 1973:

### CONSUMER PRODUCT SAFETY COMMISSION

R. David Pittle, of Pennsylvania, to be a Commissioner of the Consumer Product Safety Commission for a term of 5 years from October 27, 1972.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

# HOUSE OF REPRESENTATIVES—*Friday, September 17, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, offered the following prayer:

*Let us remain firm in the profession of our faith without wavering.*—Hebrews 10: 23.

Eternal God, our Father, as we enter another week of disturbing demands and perplexing problems keep us mindful of Thy presence and eager to do that which will be in the best interest of our country.

We humbly acknowledge that at times we are tempted to lose heart and to give up wondering if the struggle is worth while. In times like these grant unto us—

"A faith that will not shrink,
 Though pressed by every foe,
That will not tremble on the brink,
 Of any earthly woe!"

We pray for our President, our Speaker, and our Members of Congress. Grant unto them wisdom to make wise decisions, strength to stand firm in faith, and courage to do what is right as they strive for justice in our land and good will among the nations of the world.

In the spirit of Him who went about doing good we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8070) entitled "An act to authorize grants for vocational rehabilitation services, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 14) entitled "An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Eagleton, Mr. Cranston, Mr. Hughes, Mr. Pell, Mr. Mondale, Mr. Schweiker, Mr. Javits, Mr. Dominick, Mr. Packwood, Mr. Beall, and Mr. Taft to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile; and

S. 2408. An act to authorize certain construction at military installations, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84–689, as a supplementary announcement, has appointed the following Members to compose the complete group of delegates, on the part of the Senate, to attend the North Atlantic Assembly to be held in Ankara, Turkey, October 21 to 27, 1973: Mr. Sparkman (Chairman), Mr. Kennedy, Mr. Tunney, Mr. Bentsen, Mr. Humphrey, Mr. Javits, Mr. Pearson, Mr. Cook, and Mr. Stevens; and the following Members to be alternate delegates to the same conference: Mr. Mansfield, Mr. Randolph, Mr. Pell, Mr. McIntyre, Mr. Bayh, Mr. Eagleton, and Mr. Buckley.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

The Chair has been advised that the electronic voting system is at the present time not operating. Until further notice, therefore, all votes and quorum calls will be taken by the standby procedures which are provided in the rules.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C., *September, 13, 1973.*
The Honorable the Speaker,
*House of Representatives.*

Dear Mr. Speaker: Pursuant to the permission granted today, the Clerk has received from the Secretary of the Senate the following message: That the Senate agreed to the House amendments to S. 1841 and that the Senate passed without amendment H.J. Res. 695.

With kind regards, I am,
Sincerely,
W. Pat Jennings,
*Clerk, House of Representatives.*
By W. Raymond Colley.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, September 13, 1973, he did on that day sign the following enrolled bill of the Senate:

S. 1841. An act to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games.

## NUCLEAR STIMULATION: NO HELP IN SOLVING GAS SHORTAGE

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. RONCALIO of Wyoming. Mr. Speaker, I direct the attention of my colleagues to a Shell Oil Co. report on "Natural Gas," published in August as part of a series on "The National Energy Problem."

To resolve this problem, Congress must rely on the best efforts of research, not only by the Government and institutions of higher education, but by the industry itself.

So at a time when a host of energy policy questions are before us, including whether or not to pursue the Atomic Energy Commission's Plowshare program to free natural gas in tight rock formations through nuclear stimulation, the considered opinion of the industry is imperative.

Having labored for some 2 years, on the basis of Government and private studies, to effect a reexamination of nuclear stimulation, I was especially gratified to have Shell Oil Co. render its verdict—a rejection.

To those of us who will be asked to vote next year to continue funding Plowshare, the Shell report is required reading. I am therefore inserting for the Record the pertinent section from the study:

### NUCLEAR STIMULATION

Several government tests, including the 1969 Rulison Project in Colorado, have proved the technological feasibility of underground nuclear explosions to extract gas from tight formations beneath the Rocky Mountains and other areas. The Rulison blast shattered rock formations and formed an underground cavity where gas collected. University of Colorado researchers, however, claimed the gas was substandard and that the volume was less than expected. Overall, nuclear stimulation has not been proved economical and, environmentalists have objected because of potential surface damage and the possibility of both radiation release and the tainting of underground rivers. In addition, it is unlikely that significant gas reservoirs with the needed characteristics are available. Given published reports by the government and private researchers, we feel nuclear stimulation will not contribute significantly to either the short or long term gas supply situation.

## ALL-VOLUNTEER ARMY

(Mr. MONTGOMERY asked and was given permission to address the House for

1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, to continue my series of 1 minute, five members of our Subcommittee on Manpower of the Armed Services Committee spent a full day Friday at Pensacola Naval Station. Pensacola is the training and educational headquarters for the Navy.

Our committee was especially interested in what effect the all-volunteer program was having on the caliber of new recruits as compared to those under the Selective Service.

Admiral Cagle told our subcommittee that it is too soon to make judgment on the quality of the new recruits under the volunteer program. He thought at a later date the Navy could get a better fix on the students in the volunteer era.

Admiral Cagle did say one of the big problems is retaining those men that the Navy gives specialist training. If we can keep these skilled young people in the service, there would be a great saving in training cost by not having to recruit and train new personnel.

It is still too soon to tell what effect the volunteer program will have on the Navy.

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## FOURTH ANNUAL REPORT OF COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries:

*To the Congress of the United States:*

I am pleased to transmit to the Congress this Fourth Annual Report of the Council on Environmental Quality.

The year 1970, when I transmitted the Council's First Annual Report, signaled a time of great environmental awakening in the United States. Much has been accomplished in the succeeding three years.

In place of organizational disorder and fragmentation, we have developed institutions capable of dealing with environmental problems in a systematic and effective way. At the Federal level, the Council on Environmental Quality and the Environmental Protection Agency were established in 1970. Most States have created similar offices, giving greater prominence and coherence to their own environmental programs.

We have also enacted new and stronger environmental protection laws and have made substantial progress in defining problems, establishing goals, and designing strategies for abating pollution and preserving our natural heritage. The chapter in this report entitled "Perspectives on Environmental Quality" describes the important progress we have made. In some instances, such as air pollution, a national program is well advanced. In other areas, such as noise pollution, our work is just beginning. But in all areas, our knowledge about the environment and our capacity to protect and preserve it increase day by day.

Our energies have not been confined to domestic environmental problems. In the world community we have provided strong leadership in responding to environmental concerns and in fostering international efforts to solve problems which transcend national boundaries. The chapter "International Action to Protect the Environment" summarizes the progress made in recent years in protecting the oceans, controlling transboundary pollution, and preserving the fragile natural heritage of our planet.

Other chapters in this report further illustrate the gains that have been made. American initiative—our ability to solve problems rather than simply bemoaning them—has increasingly been turned to environmental improvement in recent years and the results are becoming evident in one area after another.

The chapter on "Cleaning up the Willamette," for example shows that a grossly polluted river can be restored to purity and health. Fifty years ago this Oregon river was offensive to the senses. Today the waters are clean and salmon migrate upstream in the fall. The people of Oregon, whose determination brought about the cleanup, are now taking action to preserve and assure public access to the shoreline of this restored river.

The chapter entitled "The Urban Environment: Toward Livable Cities" describes new signs of life and vigor in our cities and shows what private citizens can do to create urban environments that enhance the quality of life.

The chapter on "Environmental Status and Trends" indicates that the air quality in our cities is improving. Further progress will occur as the Clean Air Act continues to be carried out.

As in so many other areas of national concern, our progress should inspire us to get on with the job that still remains. In my National Resources and Environment Message in February, I resubmitted 19 bills for Congressional action and also submitted several new proposals. Some of the most important measures—including proposals for the regulation of land use and the control of toxic substances—have been before the Congress for 2½ years. Passage of these measures is crucial to the environmental well-being of America. The time for action is upon us.

Land use control is perhaps the most pressing environmental issue before the Nation. How we use our land is fundamental to all other environmental concerns. There is encouraging evidence that the American people have reached a new perception and appreciation for this challenge. In our past, we wrestled a nation out of wilderness. We cleared and developed the land. If we despoiled it, there was always fresh land over the horizon, or so it seemed. But now we know that there must be limits to our use of the land, not only limits imposed by nature on what the land can support, but also limits set by the human spirit—for we need beauty and order and diversity in our surroundings.

I believe that land use regulation should be primarily a responsibility of local governments, where responsive leaders are most likely to understand the choices that have to be made. Nevertheless, I am also convinced that Federal legislation is needed now both to stimulate and to support the range of controls that States must institute. I urge the Congress to enact my proposal for land use control, a proposal which would authorize Federal assistance to encourage the States—in cooperation with local governments—to protect lands of critical environmental concern and to control growth and development which has a regional impact.

I also urge the Congress to act quickly to prevent continued ravaging of our land and water through uncontrolled mining. My proposed Mined Area Protection Act would establish Federal requirements to regulate surface and underground mining. By requiring mining operators to post adequate performance bonds and satisfy stringent Federal reclamation standards, this legislation would require that mined lands be restored to their original condition or to a condition that is equally desirable. We need the fuels and minerals that are now in the earth, but we can—and must—secure them without despoiling and devastating our landscape.

There is other important land use legislation pending before the Congress which also deserves prompt enactment. The Powerplant Siting Act would assure that needed generating facilities are constructed on a timely basis with full consideration of environmental values. The Natural Resource Land Management Act would provide a management policy emphasizing strong environmental safeguards for one-fifth of our Nation's land area that is managed by the Bureau of Land Management.

Because a number of differing values and perspectives must be reconciled, the regulation of land use will never be a simple matter. The "Perspectives" chapter of this report describes the anti-growth sentiment emerging in some communities and points to the need to reconcile controls on unwanted growth with provision for essential regional development. The chapter on "The Law and Land Use Regulation" discusses the balance which must be struck between the need to protect private property and the need to preserve the environment. This is not a question to be dealt with from Washington, however, but one that State and local governments and courts must work out. The Council's chapter on this subject should be helpful to these groups, the legal profession and private citizens in developing a more complete understanding of this important issue.

In the final analysis, the struggle for environmental quality rests with the citizens of our Nation. The chapter on "The Citizens' Role in Environmental Improvement" shows that concern for the environment is not merely a passing fad but rather has become an integral part of American life.

The Fourth Annual Report of the Council on Environmental Quality demonstrates our considerable progress in arresting environmental decay. It also helps to chart the path we must follow if we are to continue this progress in the future. I commend the members and staff of the Council for their efforts in producing this valuable document, and I urge the Congress and the public to give this report their full and careful consideration.

RICHARD NIXON.

THE WHITE HOUSE, *September 17, 1973.*

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## PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT TO FILE CONFERENCE REPORT ON H.R. 8917, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1974

Mrs. HANSEN of Washington. Mr. Speaker, I ask unanimous consent that the managers may have until midnight to file a conference report on H.R. 8917, the Department of Interior and related agencies appropriation bill for fiscal year 1974.

The SPEAKER. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

### CONFERENCE REPORT (H. REPT. NO. 93-512)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8917) "making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 22, 26, 27, 28, 31, 33, and 45.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 10, 11, 20, 23, 24b, and 49, and agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$76,223,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$159,536,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,695,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$94,300,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,126,500"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$3,500,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$183,052,000"; and the Senate agree to the same.

Amendment numbered 24a: That the House recede from its disagreement to the amendment of the Senate numbered 24a, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,378,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$49,927,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,627,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"OFFICE OF EDUCATION

"INDIAN EDUCATION

"For carrying out, to the extent not otherwise provided, part A ($25,000,000), part B ($12,000,000), and part C ($3,000,000) of the Indian Education Act, $40,000,000."

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,790,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$200,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$350,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 5, 6, 7, 8, 12, 15, 17, 29, 30, 32, 34, 35, 36, 39, 40, 41, 42, 47, and 48.

JULIA BUTLER HANSEN,
SIDNEY R. YATES (except amendment No. 49),
GUNN MCKAY,
CLARENCE D. LONG (except amendment No. 49),
FRANK E. EVANS (except amendment No. 49),
GEORGE H. MAHON,
JOSEPH M. MCDADE,
WENDELL WYATT,
VICTOR V. VEYSEY,
ELFORD A. CEDERBERG,
*Managers on the Part of the House.*

ALAN BIBLE
J. L. MCCLELLAN,
ROBERT C. BYRD,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
DANIEL K. INOUYE,
LAWTON CHILES,
TED STEVENS,
MILTON R. YOUNG,
ROMAN HRUSKA,
MARK O. HATFIELD,
HENRY BELLMON,
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8917), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending June 30, 1974, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

#### TITLE I—DEPARTMENT OF THE INTERIOR

#### *Bureau of Land Management*

Amendment No. 1: Appropriates $83,932,000 for management of lands and resources as proposed by the Senate instead of $83,872,000 as proposed by the House.

Amendment No. 2: Provides for the acquisition of two surplus aircraft as proposed by the Senate instead of three as proposed by the House.

Amendment No. 3: Provides for the acquisition of one new aircraft as proposed by the Senate.

#### *Bureau of Indian Affairs*

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $303,204,000 for education and welfare services instead of $299,976,000 as proposed by the House and $302,050,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes additions of $3,528,000 for expenses related to the disturbance on the Pine Ridge Indian Reservation, Wounded Knee, South Dakota; $200,000 for operation of the Ramah Navajo School, New Mexico; $100,000 for operating costs and facilities, United Tribes Employment Training Center, Bismarck, North Dakota; and reductions of $150,000 for demonstration program in college counseling; $400,000 for assistance to tribal governments; and $50,000 for law enforcement, Navajo Tribe, Arizona.

The managers on the part of the House and Senate are in agreement that until such time as the new Commissioner of Indian Affairs has had an opportunity to review the status of the National Indian Training Center and the Intermountain School, Brigham City, Utah, no action shall be taken to transfer personnel and equipment or close or transfer this facility without the consent of the Appropriations Subcommittees of the House and the Senate.

The managers are concerned that $275,000 in additional funds appropriated in fiscal year 1973 for referral services to urban Indians was not utilized. This amount is included in the Bureau's fiscal year 1974 budget, and the managers direct that the funds be fully applied to carry out the urban Indian program.

Amendment No. 5: Reported in technical

disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language which would authorize $3,528,000 to reimburse other agencies for obligations incurred on or after February 1, 1973, at Wounded Knee, South Dakota.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $86,208,000 for resources management instead of $86,022,000 as proposed by the House and $86,108,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes an addition of $200,000 for assistance to tribal governments, including funds for Papago Tribal roll, Quinault Tribal government, and the Sioux Tribal Government Development program, Minnesota; and a reduction of $14,000 for management and administration of the McQuinn Strip, Oregon.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $53,703,000 for construction instead of $53,343,000 as proposed by the House and $48,287,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes additions of $75,000 for design of replacement classroom building, Jemez Day School, New Mexico; $500,000 for design of Phase II and III of educational complex construction, Fort Yates, North Dakota; $285,000 for land development on the Fallon and Washoe Reservations, Nevada; and a reduction of $500,000 for the Navajo Irrigation project.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds advanced from the Alaska Native Fund to Regional Corporations of Alaska Natives and the Secretary of Interior shall be in addition to the funds heretofore advanced. It is the understanding of the managers that under this language no Regional Corporation will receive more than one $500,000 advance from the Alaska Native Fund, but it is the intention of the managers that the Secretary shall have an additional $1,000,000 to make available to such corporations at their request, to be advanced at his discretion.

### *Bureau of Outdoor Recreation*

Amendment No. 9: Appropriates $76,223,000 for the Land and Water Conservation Fund instead of $71,223,000 as proposed by the House and $87,223,000 as proposed by the Senate. The total amount provided is distributed as follows: (1) not to exceed $66,000,000 shall be available to the States; (2) not to exceed $1,000,000 shall be available to the National Park Service for inholding acquisitions; (3) not to exceed $4,000,000 shall be available to the Forest Service for Lake Tahoe Basin lands (California); (4) and $5,223,000 shall be available for administrative expenses of the Bureau of Outdoor Recreation. In addition, the managers are in agreement that $10,000,000 shall be made available to the Golden Gate National Recreation Area and $10,000,000 to the Delaware Water Gap National Recreation Area by reprogramming of funds not planned for use until fiscal year 1975. The managers expect the Department to submit formal reprogramming requests to the House and Senate Appropriations Committees to implement these actions.

The managers direct that the Secretary make available $18,000,000 of the $66,000,000 appropriated herein to those states that have or are expected to exhaust all prior allocations during F.Y. 1974. This $18,000,000 would be made available in accordance with the authority granted in Section 6(b)(2) of the Land and Water Conservation Fund Act, as amended, to apportion three-fifths of the appropriation ($39,600,000) on the basis of "need" of the various states. The Secretary will develop guidelines for the apportionment on a project-by-project basis of the $18,000,000. The development of these "need" considerations to apportion and utilize the $18,000,000 for F.Y. 1974 shall have no effect on future Fund apportionments to the various states which benefit from the $18,000,000.

Amendment No. 10: Provides language as proposed by the Senate which would provide that States may provide more than 50 percent in matching funds in accordance with section 6(c) of the Land and Water Conservation Fund Act of 1965 as amended.

### *Territorial affairs*

Amendment No. 11: Appropriates $14,500,000 for administration of territories as proposed by the Senate instead of $15,000,000 as proposed by the House.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $47,776,000 for Trust Territory of the Pacific Islands.

### *Geological Survey*

Amendment No. 13: Appropriates $159,536,000 for surveys, investigations, and research instead of $155,974,000 as proposed by the House and $162,190,000 as proposed by the Senate. The reduction below the amount proposed by the Senate includes decreases of $300,000 for Earth Resources Observation System; and $2,354,000 for the Federal-State Cooperative Water Resources program.

Amendment No. 14: Provides $23,695,000 for cooperation with States or municipalities for water resources investigations instead of $20,695,000 as proposed by the House and $26,049,000 as proposed by the Senate.

### *Bureau of Mines*

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $152,224,000 for mines and minerals instead of $145,424,000 as proposed by the House and $151,324,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes additions of $1,000,000 for design and construction of a pilot plant for converting wood wastes to oil, Albany, Oregon; $800,000 for research on non-nuclear stimulation of oil and gas; $500,000 for research and development of alumina, Boulder City, Nevada; $7,000,000 for improved coal mining technology; and reductions of $400,000 for research on conversion of organic wastes to oil; $300,000 for research on extraction technology and explosives; and $1,800,000 for coal mine health and safety research.

### *Office of Coal Research*

Amendment No. 16: Appropriates $94,300,000 for salaries and expenses instead of $61,500,000 as proposed by the House and $95,000,000 as proposed by the Senate. The decrease below the amount proposed by the Senate includes an addition of $3,000,000 for the Solvent Refined Coal process; and reductions of $2,000,000 to reactivate the coal liquifaction pilot plant, Cresap, West Virginia; $700,000 for project COED, New Jersey; and $1,000,000 for magnetohydrodynamics research.

The managers expect the Department to submit proposals for allocation of the increased funds for energy research provided in the bill to the Appropriations Committees for approval.

### *Bureau of Sport Fisheries and Wildlife*

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $80,437,000 for resource management instead of $80,137,000 as proposed by the House and $80,377,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes $200,000 for increased animal damage control; and $100,000 for general wildlife refuge management.

Amendment No. 18: Appropriates $8,126,500 for construction and anadromous fish instead of $12,846,500 as proposed by the House and $5,933,000 as proposed by the Senate. The decrease below the amount proposed by the House includes additions of $300,000 for planning and design, Fish Disease Laboratory, Leetown National Fish Hatchery, West Virginia; $80,000 for facility design, Sherburne National Wildlife Refuge, Minnesota; and reductions of $5,000,000 for pollution abatement facilities; and $100,000 for fishing ponds and reservoir, Fishery Research Laboratory, La Crosse, Wisconsin.

Amendment No. 19: Appropriates $3,500,000 for migratory bird conservation account instead of $7,100,000 as proposed by the Senate.

Amendment No. 20: Provides for the acquisition of 160 passenger motor vehicles as proposed by the Senate instead of 169 passenger motor vehicles as proposed by the House.

### *National Park Service*

Amendment No. 21: Appropriates $183,052,000 for operation of the national park system instead of $176,720,000 as proposed by the House and $187,577,000 as proposed by the Senate. The increase over the amount proposed by the House includes $332,000 for communication facilities, Lake Mead National Recreation Area, Nevada-Arizona; and $6,000,000 for improved management of the national park system, to be distributed as follows: $487,000, National Capital Parks; $850,000, Northeast; $1,000,000, Southeast; $988,000, Midwest; $1,181,000, Western; $752,000, Pacific Northwest; $742,000, Southwest.

Amendment No. 22: Appropriates $20,000,000 for planning and construction as proposed by the House instead of $19,744,000 as proposed by the Senate. The managers direct that the following projects be funded from unobligated fiscal year 1973 balances: $900,000 for stabilization and project planning, Gulf Islands National Seashore, Florida ($700,000), and Mississippi ($200,000); $100,000 for development of Pictured Rocks National Lakeshore, Michigan; $145,000 for development of Bighorn Canyon National Recreation Area, Wyoming; $50,000 to initiate planning and development of Sitka National Historical Park, Alaska; $250,000 for irrigation system reconstruction, Capitol Reef National Park, Utah; $500,000 for park development, Indiana Dunes National Lakeshore, Indiana; $100,000 for visitors center planning and fencing, Alibates Flint Quarries and Texas Panhandle Pueblo Cultural National Monument, Texas; and $110,000 for project planning, Arkansas Post National Memorial, Arkansas. The managers direct that the Department submit formal reprogramming requests to the Appropriations Committees for approval of these reprogramming actions.

The managers direct that the total road construction obligation program, for which $35,000,000 is provided in the bill for road construction (liquidation of contract authority), include the following projects: $560,000 for planning and $2,000,000 for construction of section 3–C of the Natchez Trace Parkway, Mississippi; $60,000 for planning the Big Spring Canyon Bridge, Canylonlands National Park, Utah; $70,000 for road relocation, Lake Mead National Recreation Area, Nevada-Arizona; and $885,000 for road reconstruction, Theodore Roosevelt National Memorial Park, North Dakota. The managers are in agreement that the obligation program for fiscal year 1974 shall be reduced to conform with conference action on the planning, development, and operation of recreation facilities appropriation.

Amendment No. 23: Appropriates $15,559,000 for preservation of historic properties as proposed by the Senate instead of $4,054,000 as proposed by the House. The managers are in agreement that of the total amount provided, $11,505,000 shall be available for the regular grants-in-aid program and no funds are provided for the special bicentennial grant program.

Amendment No. 24a: Appropriates $30,378,000 for planning, development and operation of recreation facilities instead of $31,531,000 as proposed by the House and $29,145,000 as proposed by the Senate. The decrease below the amount proposed by the House includes an addition of $150,000 for Gunboat Cairo; and reductions of $973,000 for reflecting pool reconstruction, National Capital Parks; and $330,000 for facility improvements and archeology excavation, Independence Hall National Historical Park.

Amendment No. 24b: Provides language as proposed by the Senate which provides that funds included for the Redwoods National Park shall be used within the boundaries as described in the Federal Register.

### *Office of Saline Water*

Amendment No. 25: Appropriates $3,627,000 for saline water conversion instead of $3,727,000 as proposed by the Senate. The increase in the amount above the budget request includes: $600,000 for operations of the Roswell, New Mexico, pilot plant; and $500,000 for operations at the Wrightsville Beach test facility, North Carolina.

### *Office of the Solicitor*

Amendment No. 26: Appropriates $7,500,000 for salaries and expenses as proposed by the House instead of $7,800,000 as proposed by the Senate.

### *Office of the Secretary*

Amendment No. 27: Appropriates $15,495,000 for salaries and expenses as proposed by the House instead of $16,026,000 as proposed by the Senate.

Amendment No. 28: Appropriates $670,000 for salaries and expenses (special foreign currency program) as proposed by the House instead of $1,000,000 as proposed by the Senate.

## TITLE II—RELATED AGENCIES

### *Department of Agriculture*

### Forest Service

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $257,461,000 for forest land management instead of $259,701,000 as proposed by the House and $257,961,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The decrease in the amount proposed by the Senate includes an addition of $500,000 for reforestation and timber stand improvement (providing a total budget increase of $3,000,000 for reforestation and $6,500,000 for timber stand improvement); and a reduction of $1,000,000 for project FALCON (Forest Advanced Logging and Conservation).

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $60,160,000 for forest research instead of $59,145,000 as proposed by the House and $59,880,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes: $300,000 for intensive forest culture research, Moscow, Idaho; $100,000 for watershed management research, Fairbanks, Alaska; $150,000 for research at Orono, Maine, on timber management ($100,000) and wildlife habitat ($50,000); $315,000 for Pinyon-Juniper research, Reno, Nevada; $100,000 for forest recreation research, Juneau, Alaska; and $50,000 for wildlife habitat research, Fresno, California.

Amendment No. 31: Appropriates $27,760,000 for State and private forestry cooperation as proposed by the House instead of $26,760,000 as proposed by the Senate.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $26,443,000 for construction and land acquisition instead of $26,353,000 as proposed by the House and $24,357,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase above the amount proposed by the House includes an addition of $90,000 for Little Cottonwood Canyon Sewage Project, Utah.

In addition, the managers on the part of the House and Senate deny $2,704,000 of proposed reprogramming and direct that the funds be obligated for the projects for which they were originally appropriated. The projects and amounts follow: $525,000 for Mt. Charleston Recreation Area, Nevada; $150,000 for Angel Lake, Nevada; $815,000 for Eagle Lake Dam, West Virginia; $25,000 for Lake of the Clouds, West Virginia; $404,000 for Flaming Gorge National Recreation Area, Wyoming; $660,000 for Princeton, West Virginia; and $125,000 for Charleston, South Carolina.

Amendment No. 33: Deletes language providing $500,000 for scientific activities overseas (special foreign currency program) as proposed by the Senate.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate of a technical nature.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language which prohibits moving or closing any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the Committee on Appropriations and Committee on Agriculture and Forestry in the U.S. Senate and U.S. House of Representatives.

The managers are deeply disturbed over the arbitrary manner in which the Agriculture Department and OMB have impounded all Congressional additions to the Forest Service budget. They direct that this practice of rejecting Congressional priorities without regard to merit or need be discontinued immediately.

### *Department of Health, Education, and Welfare*

### Health Services and Mental Health Administration

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $184,283,000 for Indian health services instead of $184,118,000 as proposed by the House and $182,803,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes additions of $165,000 to continue leasing of health clinics in Alaskan villages; $2,000,000 for ambulatory care, including $1,200,000 for patient care and $800,000 for field health; $500,000 for tribal health program development; and reductions of $1,500,000 for California Rural Indian Health Board; $250,000 for mental health care; $500,000 for pilot urban Indian health projects using the model of the Minneapolis Indian Health Board; and $250,000 for an additional 150 community health representatives.

Amendment No. 37: Appropriates $49,927,000 for Indian health facilities instead of $46,027,000 as proposed by the House and $50,107,000 as proposed by the Senate. The increase over the amount proposed by the House includes $3,200,000 for construction of the Owyhee Indian Hospital, Nevada; $600,000 for planning a new health facility, Bethel, Alaska; and $100,000 for designing an Indian health clinic, Chemawa Indian School, Oregon.

### Office of Education

Amendment No. 38: Appropriates $40,000,000 for Indian education instead of $65,000,000 as proposed by the Senate. The managers on the part of the House and the Senate agree to provide $25,000,000 for Part A of this Act; $12,000,000 for Part B of the Act; and $3,000,000 for Part C of the Act.

The managers are in agreement that the Department of Health, Education, and Welfare shall supply necessary funds for the operation of the National Advisory Council on Indian Education.

### National Foundation on the Arts and the Humanities

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $105,275,000 for salaries and expenses instead of $98,675,000 as proposed by the House and $114,750,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $46,025,000 to the National Endowment for the Arts for support of projects and productions in the arts through assistance to groups and individuals pursuant to Section 5(c) of the Act instead of $41,425,000 as proposed by the House and $50,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $44,500,000 to the National Endowment for the Humanities for support of activities in the humanities pursuant to section 7(c) of the Act instead of $42,500,000 as proposed by the House and $50,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $13,000,000 for matching grants instead of $8,000,000 as proposed by the House and $15,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Smithsonian Institution

Amendment No. 43: Appropriates $3,790,000 for construction and improvements, National Zoological Park instead of $3,650,000 as proposed by the House and $3,850,000 as proposed by the Senate. The increase over the amount proposed by the House includes $140,000 for planning for the visitors parking and operations and maintenance structure.

The managers agree that the total of $55,438,000 in the salaries and expenses appropriation shall include $19,502,000 for science and $3,199,000 for special programs as proposed by the Senate.

National Council on Indian Opportunity

Amendment No. 44: Appropriates $200,000 for salaries and expenses instead of $100,000 as proposed by the House and $300,000 as proposed by the Senate.

Federal Metal and Nonmetallic Mine Safety Board of Review

Amendment No. 45: Appropriates $60,000 for salaries and expenses as proposed by the House instead of $150,000 as proposed by the Senate.

Pennsylvania Avenue Development Corporation

Amendment No. 46: Appropriates $350,000 for salaries and expenses instead of $200,000 as proposed by the House and $500,000 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language which limits the log export prohibition to the contiguous 48 states. The managers are in agreement that the prohibition against log export shall apply to any sale hereafter made of unprocessed timber suitable for domestic manufacture of lumber or plywood from Federal lands west of the 100th meridian.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making certain exceptions to the log export limitation, with an amendment as follows:

"*Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 49: Deletes language as proposed by the House prohibiting strip mining in the National Park System, National Wildlife Refuge System, the National Wilderness System, or the Wild and Scenic Rivers System, including "study rivers" designated under section 5(a) of the Wild and Scenic Rivers Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for fiscal year 1974 recommended by the Committee of Conference, with comparisons to the fiscal year 1973 total amount, the 1974 budget estimate, and the House and the Senate bills for 1974 follows:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1973 | $2,649,406,300 |
| Budget estimates of new (obligational) authority, fiscal year 1974 (as amended) | [1] 2,370,367,300 |
| House bill, fiscal year 1974 | 2,269,554,200 |
| Senate bill, fiscal year 1974 | 2,488,773,700 |
| Conference agreement | 2,443,137,200 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1973 | −206,269,100 |
| Budget estimates of new (obligational) authority, fiscal year 1974 (as amended) | +72,769,900 |
| House bill, fiscal year 1974 | +173,583,000 |
| Senate bill, fiscal year 1974 | −45,636,500 |

[1] Excludes $7,100,000 for American Revolution Bicentennial Commission not considered by either the House or the Senate.

JULIA BUTLER HANSEN,
SIDNEY R. YATES
(except amendment No. 49),
GUNN MCKAY,
CLARENCE D. LONG
(except amendment No. 49),
FRANK E. EVANS
(except amendment No. 49),
GEORGE H. MAHON,
JOSEPH M. MCDADE,
WENDELL WYATT,
VICTOR V. VEYSEY,
ELFORD A. CEDERBERG,
*Managers on the Part of the House.*

ALAN BIBLE,
J. L. MCCLELLAN,
ROBERT C. BYRD,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
DANIEL K. INOUYE,
LAWTON CHILES,
TED STEVENS,
MILTON R. YOUNG,
ROMAN L. HRUSKA,
MARK O. HATFIELD,
HENRY BELLMON,
*Managers on the Part of the Senate.*

## CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

## DETERMINING RIGHTS AND INTERESTS OF CHOCTAW NATION, CHICKASAW NATION, AND CHEROKEE NATION IN AND TO BED OF ARKANSAS RIVER BELOW CANADIAN FORK AND TO EASTERN BOUNDARY OF OKLAHOMA

The Clerk called the bill (H.R. 5089) to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma.

There being no objection, the Clerk read the bill as follows:

H.R. 5089

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Choctaw-Chickasaw-Cherokee Boundary Dispute Act".

SEC. 2. The consent of the United States is hereby given to the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation to bring suit against each other, and against any other persons, or entities to quiet the title in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma.

SEC. 3. Any action commenced pursuant to section 2 of this Act shall be heard and determined by a Federal court of three judges selected in the manner provided by law, sitting in the United States District Court for the Eastern District of Oklahoma, in accordance with the provisions of section 4 of this Act, any party may appeal as of right directly to the Supreme Court of the United States from the final determination by such three-judge district court.

SEC. 4. It is hereby declared to be the intent and the objective of the Congress that the relative rights and interests of said tribes making claims against each other in and to the surface and the subsurface of the lands identified in section 2 of this Act shall be judicially determined in accordance with principles of law and equity, including a consistent award or awards or release or releases to the Choctaw Nation and Chickasaw Nation or the Cherokee Nation of such bonus sums, rentals, and royalties, or other moneys paid or received on account of leasing of any portion of such lands. In furtherance of the accomplishment of this intent and the attainment of this objective, the parties are hereby authorized to enter into a settlement agreement in which provision may be made for a recognition in perpetuity of their relative rights to use and to enjoy the surface and the subsurface of the lands identified in section 2 of this Act, including the division of any and all of such bonus sums, rentals, and royalties, or other moneys paid or received on account of the leasing of any portion of said lands for any purpose or purposes. Such settlement agreement may be embodied in and be made a part of any decree of the court, which thereupon shall be final and conclusive with respect to the rights and interests of the parties.

SEC. 5. Nothing in this Act shall be deemed to be a congressional determination of the merits of the conflicting tribal claims with respect to the lands that are the subject of this Act.

With the following committee amendments:

Page 1, lines 7 and 8, strike out the words "other, and against any other persons, or entities," and insert in lieu thereof "other".

Page 2, line 8, strike out "Act, any party may appeal as of right" and insert in lieu thereof "Act. Any party may appeal".

Page 2, line 17, strike out "Nation" and insert "Nation,".

Page 2, line 18, strike out "and Chickasaw Nation or" and insert "the Chickasaw Nation, and".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## AUTHORIZING THE EXCHANGE OF CERTAIN LANDS BETWEEN THE PUEBLO OF ACOMA AND THE FOREST SERVICE

The Clerk called the bill (H.R. 6925) to authorize the exchange of certain lands between the Pueblo of Acoma and the Forest Service.

There being no objection, the Clerk read the bill as follows:

H.R. 6925

*Be it enacted by the Senate and House of Representatives of the United States of*

*America in Congress assembled,* That the Secretary of the Interior shall transfer lands and minerals therein, within section 17, township 11 north, range 8 west, and section 13, township 11 north, range 9 west, New Mexico Principal Meridian, now held in trust for the Pueblo of Acoma Tribe, to the Secretary of Agriculture for administration as a part of the Mount Taylor Division, Cibola National Forest, and subject to the laws, rules, and regulations applicable to the National Forest System.

Sec. 2. The lands and minerals therein, within section 20, township 11 north, range 8 west, and section 24, township 11 north, range 9 west, New Mexico Principal Meridian, now a part of the Cibola National Forest, are hereby declared to be held in trust by the Secretary of the Interior for the Pueblo of Acoma Tribe: *Provided,* That rights-of-way sixty-six feet in width, being thirty-three feet on either side of the centerline, for Forest Service Development System roads now in place across said lands, shall be retained by the Secretary of Agriculture.

Sec. 3. Any transfer effected by this Act shall be subject to valid claims as long as they are maintained.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## PROVIDING FOR CONVEYANCE OF CERTAIN MINERAL RIGHTS IN AND UNDER LANDS IN ONSLOW COUNTY, N.C.

The Clerk called the bill (H.R. 3436) to provide for conveyance of certain mineral rights in and under lands in Onslow County, N.C.

There being no objection, the Clerk read the bill as follows:

H.R. 3436

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all mineral interests which are now owned by the United States in the following described lands are hereby quitclaimed to the owner or owners of the surface of the land:

All that tract or parcel of land situated, lying and being in Jacksonville Township, Onslow County, North Carolina, within an area formerly owned and developed by the North Carolina Defense Relocation Corporation, known as a part of the Cavenaugh tract, and described more particularly as follows:

Lot 3: Beginning at the southwest corner of the above described tract, said corner being at the insersection of farm roads at gate, and (located south 66 degrees 00 minutes east 11.80 feet from a 7-inch pipe and north 44 degrees 00 minutes east 32.50 feet from an 18-inch gum);

thence along the farm road, south 16 degrees 20 minutes west 219.10 feet to a point 12 feet from the center of road;

thence south 37 degrees 09 minutes west 370.85 feet to a point 4 feet east from center of road;

thence south 46 degrees 28 minutes west 572.15 feet to the middle of said road;

thence south 56 degrees 22 minutes west 869.00 feet to the beginning of the tract hereinafter described;

thence continuing along the said road, south 56 degrees 22 minutes west 700 feet to a point 2 feet southeast from center of road (located north 50 degrees 00 minutes west 10.2 feet from a 3-inch pine and south 37 degrees 00 minutes east 10.00 feet from a 2-inch pine); south 58 degrees 35 minutes west 535.40 feet to an iron pipe at edge of woods and field (located south 27 degrees 00 minutes west 21.3 feet from a 12-inch double live oak; south 7 degrees 00 minutes east 22.8 feet from a 22-inch white oak and south 67 degrees 30 minutes east 24.9 feet from the east corner of a tobacco barn); south 58 degrees 38 minutes west 1181.34 feet to a point in middle of old abandoned road (located south 50 degrees 30 minutes west 18.5 feet from a 10-inch pine and north 30 degrees 00 minutes west 12.4 feet from a 12-inch pine); south 59 degrees 05 minutes west 493.5 feet to the intersection of said abandoned road with woods road (located south 31 degrees 00 minutes east 19.8 feet from a 15-inch pine and south 51 degrees 30 minutes west 9 feet from a 7-inch pine), north 83 degrees 11 minutes west 411.20 feet to a point in road (located south 35 degrees 00 minutes east 25.5 feet from a 7-inch pine) south 86 degrees 03 minutes west 179.20 feet to a cluster of small willows and maples on the east edge of New River at wire landing, corner of said Cavenaugh across the river from the Cox estate;

thence the eight following lines with the southeast side of New River; north 9 degrees 59 minutes west 160.78 feet to an 8-inch gum; north 1 degree 22 minutes east 397.05 feet to a 54-inch cypress; north 34 degrees 04 minutes west 202.34 feet to a 48 inch cypress; north 22 degrees 11 minutes west 154.64 feet to a 12 inch gum; north 6 degrees 43 minutes east 117.44 feet to a 28 inch cypress; north 0 degrees 32 minutes west 260.85 feet to a 17 inch gum; north 24 degrees 30 minutes west 67.90 feet to a 16 inch gum; north 34 degrees 53 minutes west 315.40 feet to a double 10 inch birch on the southeast side of intersection of Half Moon Creek with New River, a corner to O. R. Cowell, and being located across the river from the Cox estate;

thence the 17 following lines with Half Moon Creek and the O.R. Cowell tract; north 11 degrees 23 minutes east 214.95 feet; north 6 degrees 31 minutes west 206.78 feet to a 10-inch cypress near head of island; north 35 degrees 54 minutes east 156.49 feet; north 0 degrees 27 minutes west 146.08 feet; north 24 degrees 42 minutes east 265.39 feet to center of Half Moon Creek at Shingle Landing; north 26 degrees 37 minutes west 150.85 feet to a point in creek at head of island (located north 75 degrees 30 minutes west 14 feet from a 12-inch ash); north 8 degrees 27 minutes east 385.83 feet; north 14 degrees 09 minutes east 152.49 feet; north 49 degrees 52 minutes east 174.83 feet; north 23 degrees 26 minutes east 211.20 feet to a 10-inch willow on the east side of Half Moon Creek at the site of the old dam; north 27 degrees 07 minutes east 301.79 feet; north 27 degrees 03 minutes east 186.64 feet; north 5 degrees 57 minutes east 104.33 feet; north 45 degrees 15 minutes west 81.68 feet; north 15 degrees 40 minutes west 127.77 feet; north 10 degrees 34 minutes east 205.69 feet to a point in creek (located south 20 degrees 29 minutes east 40.1 feet from a 48-inch cypress); north 37 degrees 30 minutes west 75.82 feet to the center line of the intersection of the fork of Half Moon Creek, corner of said Cowell, and E. L. Greer (located south 72 degrees 00 minute west 20 feet from a black gum);

thence the forty-eight following lines with the east branch of the Half Moon Creek and the E. L. Greer tract; north 48 degrees 39 minutes east 115.64 feet; north 60 degrees 57 minutes east 114.14 feet; north 83 degrees 49 minutes east 66.04 feet to a 10-inch black gum; north 22 degrees 15 minutes east 116.33 feet; north 76 degrees 37 minutes east 114.03 feet; north 26 degrees 30 minutes east 63.21 feet to a 6-inch ash; north 71 degrees 14 minutes east 76.22 feet; south 81 degrees 12 minutes east 67.76 feet; north 71 degrees 19 minutes east 127.66 feet; north 54 degrees 51 minutes east 183.22 feet; north 54 degrees 57 minutes east 120.67 feet; north 0 degrees 24 minutes west 50.67 feet; south 88 degrees 23 minutes east 160.04 feet; south 73 degrees 04 minutes east 171.08 feet to the middle of Half Moon Creek (located north 10 degrees 00 minutes east 20 feet from a double ash); north 87 degrees 47 minutes east 187.07 feet; north 53 degrees 03 minutes east 75.12 feet; north 77 degrees 04 minutes east 235.25 feet to a 10-inch ash on north edge of creek; south 24 degrees 45 minutes east 67.62 feet; north 60 degrees 15 minutes east 127.87 feet; north 23 degrees 04 minutes east 104.23 feet; north 54 degrees 05 minutes east 135.71 feet; south 65 degrees 41 minutes east 79.85 feet to a 10-inch gum on south bank of creek; north 67 degrees 53 minutes east 149.41 feet; north 73 degrees 42 minutes east 54.85 feet; south 22 degrees 42 minutes east 63.98 feet; south 78 degrees 13 minutes east 92.74 feet; north 60 degrees 05 minutes east 54.65 feet; south 42 degrees 34 minutes east 54.84 feet; south 10 degrees 27 minutes west 50.26 feet; south 89 degrees 43 minutes east 50 feet to a small Holly on said creek;

thence south 10 degrees 50 minutes east 712.00 feet to a small oak on a branch;

thence with the branch due south 357.00 feet;

thence south 48 degrees 30 minutes west 550.00 feet;

thence south 13 degrees 50 minutes east 300.00 feet;

thence south 8 degrees 55 minutes west 550.00 feet, crossing a farm road to a dead white oak near head of the branch;

thence south 24 degrees 45 minutes east 1528.00 feet to the beginning, containing 285.53 acres, more or less.

Being a part of the same lands conveyed to the North Carolina Defense Relocation Corporation by deed from G. E. Cavenaugh, widower, dated October 15, 1941, of record in book 194, page 440.

Sec. 2. The provisions of section 4 of this Act shall become effective upon payment by the grantee of $200 to reimburse the United States for the administrative costs of the conveyance, plus payment of the estimated fair market value of the minerals in such lands, if any.

With the following committee amendments:

Page 1, strike out lines 3 through 6 and insert in lieu thereof:

"That the Secretary of the Interior is authorized and directed in accordance with Section 3 of this Act to convey by quitclaim deed to the present owner or owners of record all mineral interest of the United States in the following described lands:"

Page 7, strike out all of lines 14 through 18 and insert in lieu thereof the following:

"Sec. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

"Sec. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

"Sec 4. The term 'administrative costs' as used in this Act, includes, but is not limited to, all costs of (1) conducting such exploratory programs as the Secretary of the Interior deems necessary to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory programs to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

"Sec 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GRANTING CONSENT OF THE UNITED STATES TO THE ARKANSAS RIVER BASIN COMPACT

The Clerk called the bill (H.R. 8056) to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that a similar Senate bill (S. 11) to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma be considered in lieu of H.R. 8056.

The SPEAKER. Is there objection to the request of the gentleman from California?

There being no objection, the Clerk read the Senate bill as follows:

S. 11

An act to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the consent of Congress is hereby given to the Arkansas River Basin compact, Arkansas-Oklahoma, 1970, as ratified by the States of Arkansas and Oklahoma as follows:

"ARTICLE I

"The major purposes of this Compact are:

"A. To promote interstate comity between the States of Arkansas and Oklahoma;

"B. To provide for an equitable apportionment of the waters of the Arkansas River between the States of Arkansas and Oklahoma and to promote the orderly development thereof;

"C. To provide an agency for administering the water apportionment agreed to herein;

"D. To encourage the maintenance of an active pollution abatement program in each of the two States and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas River Basin; and

"E. To facilitate the cooperation of the water administration agencies of the States of Arkansas and Oklahoma in the total development and management of the water resources of the Arkansas River Basin.

"ARTICLE II

"As used in this Compact:

"A. The term 'State' means either State signatory hereto and shall be construed to include any person or persons, entity or agency of either State who, by reasons of official responsibility or by designation of the Governor of that State, is acting as an official representative of that State.

"B. The term 'Arkansas-Oklahoma Arkansas River Compact Commission,' or the term 'Commission' means the agency created by this Compact for the administration thereof.

"C. The term 'Arkansas River Basin' means all of the drainage basin of the Arkansas River and its tributaries from a point immediately below the confluence of the Grand-Neosho River with the Arkansas River near Muskogee, Oklahoma, to a point immediately below the confluence of Lee Creek with the Arkansas River near Van Buren, Arkansas, together with the drainage basin of Spavinaw Creek in Arkansas, but excluding that portion of the drainage basin of the Canada River above Eufaula Dam.

"D. The term 'Spavinaw Creek Sub-basin' means the drainage area of Spavinaw Creek in the State of Arkansas.

"E. The term 'Illinois River Sub-basin' means the drainage area of Illinois River in the State of Arkansas.

"F. The term 'Lee Creek Sub-basin' means the drainage area of Lee Creek in the State of Arkansas and the State of Oklahoma.

"G. The term "Poteau River Sub-basin' means the drainage area of Poteau River in the State of Arkansas.

"H. The term 'Arkansas River Sub-basin' means all areas of the Arkansas River Basin except the four sub-basins described above.

"I. The term 'water-year' means a twelve-month period beginning on October 1, and ending September 30.

"J. The term 'annual yield' means the computed annual gross runoff from any specified sub-basin which would have passed any certain point on a stream and would have originated within any specified area under natural conditions, without any man-made depletion or accretion during the water year.

"K. The term 'pollution' means contamination or other alterations of the physical, chemical, biological or radiological properties of water or the discharge of any liquid, gaseous, or solid substances into any waters which creates, or is likely to result in a nuisance, or which renders or is likely to render the waters into which it is discharged harmful, detrimental or injurious to public health, safety, or welfare, or which is harmful, detrimental or injurious to beneficial uses of the water.

"ARTICLE III

"A. The physical and other conditions peculiar to the Arkansas River Basin constitute the basis of this Compact, and neither of the States hereby, nor the Congress of the United States by its consent hereto, concedes that this Compact established any general principle with respect to any other interstate stream.

"B. By this Compact, neither State signatory hereto is relinquishing any interest or right it may have with respect to any waters flowing between them which do not originate in the Arkansas River Basin as defined by this Compact.

"ARTICLE IV

"The States of Arkansas and Oklahoma hereby agree upon the following apportionment of the waters of the Arkansas River Basin;

"A. The State of Arkansas shall have the right to develop and use the waters of the Spavinaw Creek Sub-basin subject to the limitation that the annual yield shall not be depleted by more than fifty percent (50%).

"B. The State of Akransas shall have the right to develop and use the waters of the Illinois River Sub-basin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

"C. The State of Arkansas shall have the right to develop and use all waters originating within the Lee Creek Sub-basin in the State of Arkansas, or the equivalent thereof.

"D. The State of Oklahoma shall have the right to develop and use all waters originating within the Lee Creek Sub-basin in the State of Oklahoma, or the equivalent thereof.

"E. The State of Arkansas shall have the right to develop and use the waters of the Poteau River Sub-basin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

"F. The State of Oklahoma shall have the right to develop and use the waters of the Arkansas River Sub-basin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

"ARTICLE V

"A. On or before December 31 of each year, following the effective date of this Compact, the Commission shall determine the stateline yields of the Arkansas River Basin for the previous water year.

"B. Any repletion of annual yield in excess of that allowed by the provisions of this Compact shall, subject to the control of the Commission, be delivered to the downstream State, and said delivery shall consist of not less than sixty percent (60%) of the current runoff of the basin.

"C. Methods for determining the annual yield of each of the sub-basins shall be those developed and approved by the Commission

"ARTICLE VI

"A. Each State may construct, own and operate for its needs water storage reservoirs in the other State: *Provided, however,* That nothing contained in this Compact or its ratification by Arkansas or Oklahoma shall be interpreted as granting either State or the parties hereto the right or power of eminent domain in any manner whatsoever outside the borders of its own State.

"B. Depletion in annual yield of any sub-basin of the Arkansas River Basin caused by the operation of any water storage reservoir either heretofore or hereafter constructed by the United States or any of its agencies, instrumentalities or wards, or by a State, political sub-division thereof, or any person or persons shall be charged against the State in which the yield therefrom is utilized.

"C. Each State shall have the free and unrestricted right to utilize the natural channel of any stream within the Arkansas River Basin for conveyance through the other State of waters released from any water storage reservoir for an intended downstream point of diversion or use without loss of ownership of such waters: *Provided, however,* That a reduction shall be made in the amount of water which can be withdrawn at point of removal, equal to the transmission losses.

"ARTICLE VII

"The States of Arkansas and Oklahoma mutually agree to:

"A. The principle of individual State effort to abate man-made pollution within each State's respective borders, and the continuing support of both States in an active pollution abatement program;

"B. The cooperation of the appropriate State agencies in the States of Arkansas and Oklahoma to investigate and abate sources of alleged interstate pollution within the Arkansas River Basin;

"C. Enter into joint programs for the identification and control of sources of pollution of the waters of the Arkansas River and its tributaries which are of interstate significance;

"D. The principle that neither State may require the other to provide water for the purpose of water quality control as a substitute for adequate waste treatment;

"E. Utilize the provisions of all Federal and State water pollution laws and to recognize such water quality standards as may be now or hereafter established under the Federal Water Pollution Control Act in the resolution of any pollution problems affecting the waters of the Arkansas River Basin.

### ARTICLE VIII

"A. There is hereby created an interstate administrative agency to be known as the 'Arkansas-Oklahoma Arkansas River Compact Commission.' The Commission shall be composed of three Commissioners representing the State of Arkansas and three Commissioners representing the State of Oklahoma, selected as provided below; and, if designated by the President or an authorized Federal agency, one Commissioner representing the United States. The President, or the Federal agency authorized to make such appointments, is hereby requested to designate a Commissioner and an alternate representing the United States. The Federal Commissioner, if one be designated, shall be the Chairman and presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission.

"B. One Arkansas Commissioner shall be the Director of the Arkansas Soil and Water Conservation Commission, or such other agency as may be hereafter responsible for administering water law in the State. The other two Commissioners shall reside in the Arkansas River drainage area in the State of Arkansas and shall be appointed by the Governor, by and with the advice and consent of the Senate, to four-year staggered terms with the first two Commissioners being appointed simultaneously to terms of two (2) and four (4) years, respectively.

"C. One Oklahoma Commissioner shall be the Director of the Oklahoma Water Resources Board, or such other agency as may be hereafter responsible for administering water law in the State. The other two Commissioners shall reside within the Arkansas River drainage area in the State of Oklahoma and shall be appointed by the Governor, by and with the advice and consent of the Senate, to four-year staggered terms, with the first two Commissioners being appointed simultaneously to terms of two (2) and four (4) years, respectively.

"D. A majority of the Commissioners of each State and the Commissioner or his alternate representing the United States, if they are so designated, must be present to constitute a quorum. In taking any Commission action, each signatory State shall have a single vote representing the majority opinion of the Commissioners of that State.

"E. In the case of a tie vote on any of the Commission's determinations, order, or other actions, a majority of the Commissioners of either State may, upon written request to the Chairman, submit the question to arbitration. Arbitration shall not be compulsory, but on the event of arbitration, there shall be three arbitrators:

"(1) One named by resolution duly adopted by the Arkansas Soil and Water Conservation Commission, or such other State agency as may be hereafter responsible for administering water law in the State of Arkansas; and

"(2) One named by resolution duly adopted by the Oklahoma Water Resources Board, or such other State agency as may be hereafter responsible for administering water law in the State of Oklahoma; and

"(3) The third chosen by the two arbitrators who are selected as provided above.

If the arbitrators fail to select a third within sixty (60) days following their selection, then he shall be chosen by the Chairman of the Commission.

"F. The salaries and personal expenses of each Commissioner shall be paid by the Government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact shall be borne equally by the two States and shall be paid by the Commission out of the 'Arkansas-Oklahoma Arkansas River Compact Fund,' initiated and maintained as provided in Article IX(B)(5) below. The States hereby mutually agree to appropriate sums sufficient to cover its share of the expenses incurred in the administration of this Compact, to be paid into said fund. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Such funds shall not be subject to the audit and accounting procedures of the States; however, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audit shall be included in and become a part of the annual report of the Commission, provided by Article IX(B)(6) below. The Commission shall not pledge the credit of either State and shall not incur any obligations prior to the availability of funds adequate to meet the same.

### "ARTICLE IX

"A. The Commission shall have the power to:

"(1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

"(2) Enter into contracts with appropriate State or Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records and for the preparation of reports;

"(3) Establish and maintain an office for the conduct of its affairs;

"(4) Adopt and procure a seal for its official use;

"(5) Adopt rules and regulations governing its operations. The procedures employed for the administration of this Compact shall not be subject to any Administrative Procedures Act of either State, but shall be subject to the provisions hereof and to the rules and regulations of the Commission: *Provided, however,* All rules and regulations of the Commission shall be filed with the Secretary of State of the signatory States.

"(6) Cooperate with Federal and State agencies and political subdivisions of the signatory States in developing principles, consistent with the provisions of this Compact and with Federal and State policy, for the storage and release of water from reservoirs, both existing and future within the Arkansas River Basin, for the purpose of assuring their operation in the best interests of the States and the United States;

"(7) Hold hearings and compel the attendance of witnesses for the purpose of taking testimony and receiving other appropriate and proper evidence and issuing such appropriate orders as it deems necessary for the proper administration of this Compact, which orders shall be enforceable upon the request by the Commission or any other interested party in any court of competent jurisdiction within the county wherein the subject matter to which the order relates is in existence, subject to the right of review through the appellate courts of the State of situs. Any hearing held for the promulgation and issuance of orders shall be in the county and State of the subject matter of said hearing;

"(8) Make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of either State, or the United States as may have any interest in or jurisdiction over the subject matter. Findings of fact made by the Commission shall be admissible in evidence and shall constitute prima facie evidence of such fact in any court or before any agency of competent jurisdiction. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to instituting or maintaining any action or proceeding of any kind by a signatory State in any court, or before any tribunal agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions;

"(9) Secure from the head of any department or agency of the Federal or State government such information, suggestions, estimates and statistics as it may need or believe to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed;

"(10) Print or otherwise reproduce and distribute all of its proceedings and reports; and

"(11) Accept, for the purposes of this Compact, any and all private donations and gifts and Federal grants of money.

"B. The Commission shall:

"(1) Cause to be established, maintained and operated such stream, reservoir or other gaging stations as may be necessary for the proper administration of this Compact;

"(2) Collect, analyze and report on data as to stream flows, water quality, annual yields and such other information as is necessary for the proper administration of this Compact;

"(3) Continue research for developing methods of determining total basin yields;

"(4) Perform all other functions required of it by the Compact and do all things necessary, proper or convenient in the performance of its duties thereunder;

"(5) Establish and maintain the 'Arkansas-Oklahoma Arkansas River Compact Fund, consisting of any and all funds received by the Commission under the authority of this Compact and deposited in one or more banks qualifying for the deposit of public funds of the signatory States;

"(6) Prepare and submit an annual report to the Governor of each signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

"(7) Prepare and submit to the Governor of each of the States of Arkansas and Oklahoma an annual budget covering the anticipated expenses of the Commission for the following fiscal year; and

"(8) Make available to the Governor or any State agency of either State or to any authorized representative of the United States, upon request, any information within its possession.

### "ARTICLE X

"A. The provisions hereof shall remain in full force and effect until changed or amended by unanimous action of the States acting through their Commissioners and until such changes are ratified by the legislatures of the respective States and consented to by the Congress of the United States in the same manner as this Compact is required to be ratified to become effective.

"B. This Compact may be terminated at any time by the appropriate action of the legislature of both signatory States.

"C. In the event of amendment or termination of the Compact, all rights established under the Compact shall continue unimpaired.

### "ARTICLE XI

"Nothing in this Compact shall be deemed:

"A. To impair or affect the powers, rights or obligations of the United States, or those claiming under its authority in, over, and to the waters of the Arkansas River Basin;

"B. To interfere with or impair the right or power of either signatory State to regulate within its boundaries of appropriation, use and control of waters within that State not inconsistent with its obligations under this Compact.

### "ARTICLE XII

"If any part of application of this Compact should be declared invalid by a court of competent jurisdiction, all other provisions and application of this Compact shall remain in full force and effect.

### "ARTICLE XIII

"A. This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and consented to by the Congress of the United States, and when the Congressional Act consenting to this Compact includes the consent of Congress to name and join the United States as a party in any litigation in the United States Supreme Court, if the United States is an indispensable party, and if the litigation arises out of this Compact or its application, and if a signatory State is a party thereto.

"B. The States of Arkansas and Oklahoma mutually agree and consent to be sued in the United States District Court under the provisions of Public Law 87-830 as enacted October 15, 1962, or as may be thereafter amended.

"C. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State, and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of consent by the Congress of the United States.

"IN WITNESS WHEREOF, the authorized representatives have executed three counterparts hereof such of which shall be and constitute an original, one of which will be deposited with the Administrator of General Services of the United States, and one of which shall be forwarded to the Governor of each State.

"Done at the City of Little Rock, State of Arkansas, this 16th day of March A.D., 1970.

"FOR ARKANSAS:

"S. KEITH JACKSON,
"Committee Member.
"JOHN LUCE,
"Committee Member.

"FOR OKLAHOMA:

"GLADE R. KIRKPATRICK,
"Committee Member.
"MILTON CRAIG,
"Committee Member.

"Approved: TRIGG TWICHELL, Representative, United States of America.

"Attest: WILLARD B. MILLS, Secretary."

SEC. 2. In order to carry out the purposes of this Act, and the purposes of article XII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party litigant in any litigation in the United States Supreme Court, if the United States of America is an indispensable party to such litigation, and if the litigation arises out of this compact, or its application, and if a signatory State to this compact is a party litigant, in the litigation.

SEC. 3. The right to alter, amend, or repeal this Act, is expressly reserved.

### AMENDMENTS OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Speaker, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. JOHNSON of California: Page 6, line 9, strike out the word "repletion" and insert in lieu thereof the word "depletion".

Page 18, line 14, strike out "article XII" and insert in lieu thereof "article XIII".

The amendments were agreed to.

Mr. JOHNSON of California. Mr. Speaker, I am pleased to rise in explanation of S. 11 to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma. The bill contains the full text of the compact which was negotiated by representatives of the two States and a Federal representative appointed by the President of the United States.

Authority to negotiate the compact was granted by the Congress in the act of June 28, 1955. The negotiators worked on this document for a period of many years, commencing in March of 1956 and extending to March of 1970. The document has been ratified by acts of the legislatures of both States and approved by the Governors.

The compact is comprised of 13 articles, the most important of which apportions the waters of the basin between the States. The compact also provides for the creation of an administrative entity with appropriate participation by a representative of the United States to be designated by the President.

The document also disclaims any intent to impair the rights of the United States or to interfere with the rights of either signatory. One of the more significant provisions of this compact is the article which commits both States to an active pollution control program in the basin. It is important to recognize that the pollution control provisions of the compact are to be interpreted to require that the public interest in fish and wildlife and recreation must be fully protected.

The legislation also grants the consent of Congress for the United States to be joined as a party to any litigation in the Supreme Court of the United States arising from the compact—and to which either signatory is a party. This is a progressive provision which we have seen with increasing frequency in more recent compacts and is one which is essential to timely and effective judicial interpretation of the compact if the need for such action should arise.

In conclusion, Mr. Speaker, let me say that the Committee on Interior and Insular Affairs has determined to its complete satisfaction that the rights of the United States and the rights of Indian tribes and individual Indians are not intended to be impaired in any way by this compact and by the enactment of this legislation.

I, therefore, strongly urge that there be no objection to its passage on the Consent Calendar.

Mr. HAMMERSCHMIDT. Mr. Speaker, as cosponsor of H.R. 8056, I welcome the opportunity to give a statement on behalf of this legislation which would give the U.S. consent to the Arkansas River Basin compact.

In 1955, Congress granted its consent for the States of Arkansas and Oklahoma to negotiate a compact to apportion and protect from pollution the waters of the Arkansas River flowing between them. This bill is evidence of the careful planning and thorough research of the intervening years and is a document worthy of the task of initiating yet another stage in the development of the Arkansas River Basin.

The Arkansas River Basin is an area of vital importance to both States, and one which provides almost unlimited potential for progress and achievement. This potential is being explored through the expansion of the McClellan-Kerr navigation system which has already given the area a substantial economic boost.

The Arkansas River has always provided sites of unparalleled beauty, but its usefulness has been handicapped in many ways. In its natural state, the river was unpredictable at best, dangerous and impassable at worst. It carried a heavy sediment load, and, at the whim of nature, changed from a sluggish flow to a raging torrent. It altered the banks, created treacherous sandbars, and wreaked havoc at flood time on the surrounding countryside. Courageous steamboat captains transported freight up and down the river, often at the expense of heavy damage or total loss of both vessel and cargo. When the railroad lines began to cross-hatch the country, these riverboats disappeared and the waters were left to those more interested in adventure than profit.

When it opened up the river, the McClellan-Kerr navigation system also numbered among its accomplishments the stabilization of the river banks, construction of dams for hydroelectric plants and flood control, creation of a channel for barges carrying tons of freight, and stabilization of the sediment level—all of this while enhancing the recreational values of the waters and preserving a sympathetic environment for wildlife in the basin.

This project has resulted in immense benefits to both Arkansas and Oklahoma, and one effect of the Arkansas River compact will be to insure that these benefits continue. The compact represents a concept of interstate husbandry which will undoubtedly become more prevalent in the future as states become more aware of the necessity of protecting and developing shared resources through mutual cooperation and consideration.

By this means, a clean, healthy Arkansas River will remain one of the greatest assets of both States while becoming an example of pollution prevention for the entire Nation. It will insure that a benefit to one State is not washed up as a detriment on the banks of the other.

The goals behind the compact are an equitable apportionment of the waters between the two States, an agency to administer the apportionment, an active pollution abatement program, and a cooperation between State agencies that will result in the optimum development and management of the resources of the basin.

This bill succeeds in providing an ideal environment for the realization of these goals while prohibiting an exercise of eminent domain by either State in the other, without impairing the rights of any Indians living in the area, and without alienating the Office of Management and Budget.

A bill which exhibits such careful research and planning and which provides such benefits is worthy of the approval of my colleagues, and I urge that H.R. 8056 receive no objections.

The amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 8056) was laid on the table.

## RELIEF FOR PAYEES AND SPECIAL ENDORSEES OF FRAUDULENTLY NEGOTIATED CHECKS DRAWN ON DESIGNATED DEPOSITARIES OF THE UNITED STATES

The Clerk called the bill (H.R. 6274) to grant relief of payees and special endorsees of fraudulently negotiated checks drawn on designated depositaries of the United States by extending the availability of the check forgery insurance fund, and for other purposes.

There being no objection, the Clerk read the bill as follows:

### H.R. 6274

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of November 21, 1941 (55 Stat. 777; 31 U.S.C. 561–564), is amended as follows:

(a) Section 2 is amended by striking out the words "and directed" from the concluding clause.

(b) Sections 4 and 5 are redesignated as sections 5 and 6.

(c) A new section 4 is added to read as follows:

"SEC. 4. The Secretary of the Treasury is authorized to make available to accountable officers of the United States sums in the fund to pay to a payee or special indorsee of a check drawn on and paid by a designated depositary of the United States the amount of the check, without interest, where it is established, in accordance with regulations promulgated under section 5, that the conditions specified in section 2 of this Act, except as they pertain to the Treasurer of the United States, have been fulfilled. Notwithstanding the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (66 Stat. 662; 31 U.S.C. 724), where such check was payable in a foreign currency the accountable officer may be authorized to make payment in that foreign currency. The liability and restoration provisions of section 3 of this Act shall apply with respect to checks drawn on designated depositaries, except that recoveries of foreign currency shall be used, as required, to reimburse either the foreign currency fund or account or the check forgery insurance fund, whichever account or fund is charged when settlement is made with the payee or indorsee."

With the following committee amendments:

Page 1, lines 5 and 6; Strike the language of lines 5 and 6. Page 1, line 7: Strike "(b)" and insert "(a)". Page 1, line 9: Strike "(c)" and insert "(b)".

The committee amendments were agreed to.

Mr. DONOHUE. Mr. Speaker, for more than 30 years the statutes of the United States have provided authority for payments from the check forgery insurance fund to payees or to special indorsees whose names are forged on U.S. checks which were negotiated and paid on the forged indorsement. H.R. 6274, as amended, would add a new section to permit similar payments to payees and special indorsees on forged checks drawn by Government disbursing officers in U.S. dollars or foreign currencies on depositories designated by the Secretary of the Treasury in the United States or abroad. This bill was introduced in accordance with the recommendations of an executive communication from the Treasury Department which recommends its enactment.

The check forgery insurance fund was established in 1941 to provide a means of payment to entitled payees and special indorsees of checks drawn on the Treasurer of the United States that have been lost or stolen and paid by the Treasurer on forged indorsements. The act of November 21, 1941, established this fund as a revolving fund and authorized and directed the Treasurer to use it, under four stated conditions, to pay the rightful payees or indorsees in these cases. The fund thus provides for the expeditious settlement of claims by making funds available in advance of reclamation actions by the Treasury against forgers or subsequent transferees. The four conditions which must be satisfied before a payment is made from the fund are:

First, the check was lost or stolen without fault of the payee or such holder;

Second, it was thereafter negotiated and paid by the Treasurer on a forged indorsement of the payee's or special indorsee's name;

Third, the payee or special indorsee did not participate in the proceeds of the negotiation or payment; and

Fourth, reclamation on the check subsequent to the forgery has been or may be delayed or unsuccessful.

Of course, the use of the fund by the Treasurer does not relieve a forger, or transferee subsequent to the forgery, from any liability on the check, and all amounts recovered by the Treasurer as a result of such liability are credited to the fund as necessary to reimburse it.

Since 1963, U.S. disbursing officers, in 10 countries where balances of foreign currencies are excess to the Government's regular operating needs, have been converting checks drawn on the Treasurer to foreign currency checks drawn on depositaries designated by the Secretary of the Treasury, as a means to use the excess currencies. The checks generally represent monthly payments of benefits of various kinds, which cannot all be personally delivered or made in cash. For the month of January 1972, for example, 12,059 such conversions in a dollar amount of $1,653,419 occurred. In addition, U.S. disbursing officers of the Department of State, Treasury disbursing officers, and certain other Government disbursing officers draw checks in foreign countries on foreign depositaries directly.

The problem is that the Government does not now have the means to make settlement with payees or special indorsees of forged checks drawn in U.S. dollars or foreign currencies on these depositaries designated by the Secretary of the Treasury in the United States or abroad. As I have stated, these checks are drawn by Government disbursing officers who maintain checking accounts with such depositaries. The increased use of such checks and therefore the proportionately increased incidence of forged indorsements on such checks necessitate the establishment of a fiscal recourse by which prompt and certain relief payments may be made to innocent payees or special indorsees on forged depositary checks, to settle their claims against the Government. This bill would provide that recourse by broadening the authorized use of the check forgery insurance fund, and in certain circumstances by authorizing the use of foreign currencies, to make such settlements.

This legislation was prompted by the recognition by the Treasury Department that it is unfair to payees of checks drawn on U.S. depositories to have to wait for long periods for settlement on forged items when payees of checks drawn on the Treasurer can receive settlement checks in a much shorter time. The checks drawn on such depositories are legal obligations of the United States just as are checks drawn on the Treasurer. This bill provides a logical and proven remedy in this situation. The new section 4 which would be added to the basic statute would make the check forgery insurance fund available for settlement payments to payees or special indorsees of checks drawn on and paid by designated depositaries, under the same constraints as now exist for Treasurer's checks and under regulations issued by the Secretary of the Treasury in the Code of Federal Regulations.

The procedures authorized by the bill will protect the Treasury against losses in the same manner as under the present law since the new language incorporates the provision in section 3 of the 1941 act which makes a forger, or a transferee subsequent to the forgery, liable for the amount of the fraudulently cashed check, and by a provision for reclamation of such amounts and ultimate credit to the check forgery insurance fund or the foreign currency account which withstood the settlement charge, as the case may be.

### COMMITTEE AMENDMENT

As originally proposed by the Treasury the bill would have stricken the words "and directed" from section 2 of the existing law. It now provides that after a payee has satisfied the requirements set forth in the section the Treasurer "is authorized and directed" to draw on the fund prior to reclamation to pay the payee or special indorsee. The committee decided not to make this change in existing law. Therefore the committee amendment is to strike the language of subsection (a) of the bill with a further amendment changing the lettering on the remaining two subsections to "(a)" and "(b)".

### COST

In testimony before the committee, the Treasury representative stated that the fund was established in 1941 with an appropriation of $50,000. This was utilized as a revolving fund until 1963 when an additional $50,000 was authorized. In 1970 this was increased to $200,000, and in 1972 an additional $1,800,000 was authorized. The revolving fund has now been funded at the full amount of $2 million.

The Treasury Department has furnished the committee with a summary of the numbers of checks and amounts in connection with the operation of the revolving fund in the years 1962 through 1973, which showed that the losses which were not recovered throughout the history of the fund were $68,148.90. The experience has been that recovery is made in the overwhelming majority of the cases and the amounts so recovered are deposited in the fund. While it is not possible to predict what loss may occur in specific cases in the future, it appears that there should be a similar result in effecting ultimate collection under the provisions of this bill as has been the cases under the existing provisions of the law.

The bill provides for the utilization of a time tested means for the payment of the amounts due to payees on these checks in these situations. It is recommended that the amended bill be considered favorably.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## APPLICATION OF GENERAL SCHEDULE PAY AND POSITION CLASSIFICATION PROVISIONS TO SELECTIVE SERVICE SYSTEM EMPLOYEES

The Clerk called the bill (H.R. 6334) to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System.

There being no objection, the Clerk read the bill as follows:

H.R. 6334

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5102(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof ", including positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.".

SEC. 2. The rate of basic pay of each employee in a position under a local board or appeal board of the Selective Service System on and immediately prior to the effective date of this Act shall be adjusted, as of such effective date, under the provisions of section 5334(d) of title 5, United States Code.

SEC. 3. Section 10(b)(4) of the Military Selective Service Act (50 App. U.S.C. 460 (b)(4)) is amended by—

(1) striking out "the Classification Act of 1949, as amended, the compensation" and inserting in lieu thereof "the provisions of chapter 51 and subchapter III of chapter 53 United States Code, relating to classification and General Schedule pay rates, the basic pay";

(2) striking out ": *Provided,* That the compensation of employees of local boards and appeals boards may be fixed without regard to the Classification Act of 1949, as amended: *Provided further,* That" and inserting in lieu thereof ", however,"; and

(3) striking out ": *Provided further,* That an employee of a local board having supervisory duties with respect to other employees of one or more local boards shall be designated as the 'executive secretary' of the local board or boards: *And provided further,* That the term of employment of such 'executive secretary' in such position shall in no case exceed ten years except when reappointed:" and inserting in lieu thereof a semicolon.

SEC. 4. This Act shall take effect not later than the beginning of the first pay period which begins on or after the ninetieth day following the date of the enactment of this Act.

With the following committee amendments:

(1) On page 2, line 9, strike out "as amended,".

(2) On page 2, line 11, insert the words "of title 5" immediately after the number "53".

(3) On page 2, line 17, strike out ", as amended".

(4) On page 3, strike out lines 1 and 2 and insert in lieu thereof "years except when reappointed'."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## IMPROVING ADMINISTRATION OF LEAVE SYSTEM FOR FEDERAL EMPLOYEES

The Clerk called the bill (H.R. 1284) to amend title 5, United States Code, to improve the administration of the leave system for Federal employees.

There being no objection, the Clerk read the bill as follows:

H.R. 1284

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the second sentence of section 5551(a) of title 5, United States Code, is amended by striking out ", except that it may not exceed pay for a period of annual or vacation leave in excess of 30 days or the number of days carried over to his credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater".

(b) Section 5551(b) of title 5, United States Code, is amended to read as follows:

"(b) The accumulated and current accrued annual leave to which an officer excepted from subchapter 1 of chapter 63 to this title by section 6301(2)(x)–(xii) of this title, is entitled immediately before the date he is excepted under that section shall be liquidated by a lump-sum payment in accordance with subsection (a) of this section or subchapter VIII of this chapter, except that the payment is based on the rate of pay which he was receiving immediately before the date on which section 6301 (2(x)–(xii) of this title became applicable to him.".

SEC. 2. The first sentence of section 6303 (b) of title 5, United States Code, is amended to read as follows: "Notwithstanding subsection (a) of this section, an employee whose current employment is limited to less than 90 days is entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under successive appointments without a break in service.".

SEC. 3. Section 6304 of title 5, United States Code, is amended—

(1) by striking out of subsection (a) the phrase "subsection (b) of this section" and inserting in lieu thereof "subsections (b) and (d) of this section"; and

(2) by adding at the end thereof the following new subsection:

"(d)(1) Annual leave which is lost by operation of this section because of—

"(A) administrative error when such error causes a loss of annual leave otherwise accruable after June 30, 1960;

"(B) exigencies of the public business when such annual leave was scheduled in advance; or

"(C) sickness of the employee when such annual leave was scheduled in advance;

shall be restored to the employee.

"(2) Annual leave restored under paragraph (1) of this subsection which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Civil Service Commission. Leave credited under this paragraph but unused and still available to the employee under the regulations prescribed by the Commission shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.".

SEC. 4. Section 6302 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(f) An employee who uses excess annual leave credited because of administrative error may elect to refund the amount received for the days of excess leave by lump-sum or installment payments or to have the excess leave carried forward as a charge against later-accruing annual leave, unless repayment is waived under section 5584 of this title.".

SEC. 5. With respect to former employees who are not on the rolls on the date of enactment of this Act, except former employees under section 6 of this Act, annual leave which accrued after June 30, 1960, *but,* because of administrative error, was lost by operation of section *6304 of* title 5, United States Code, is subject to credit and liquidation by lump sum payment only if a claim therefore is filed by or for the former employee, with the agency by which he was employed at the time the loss of leave occurred, within three years immediately following the date of enactment of this Act. Payment shall be at the salary rate in effect on the date of separation from the employment during which the loss of annual leave occurred.

SEC. 6. (a) With respect to an employee of the United States Postal Service or former employee of the former Post Office Department or of the United States Postal Service, annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error, was lost before July 1, 1971, by operation of section 6304 of title 5, United States Code, shall be liquidated by a lump sum payment only if a claim thereof is filed by or for such employee or former employee with—

(1) the Postal Service, if such leave was lost while such employee or former employee was an employee of the Post Office Department; or

(2) the agency (other than the Post Office Department) by which such employee was employed at the time the loss of leave occurred;

within three years immediately following the date of enactment of this Act.

(b) The lump sum payment authorized under subsection (a) of this section shall be made at the salary rate in effect on—

(1) June 30, 1971, or the date of separation or transfer from the Post Office Department, as applicable, in the case of a claim filed under subsection (a)(1) of this section; or

(2) the date of separation or transfer from the agency (other than the Post Office Department) in the case of a claim filed under subsection (a)(2) of this section.

With the following committee amendments:

(1) On page 2, line 1, strike out "subchapter 1" and insert in lieu thereof "subchapter I".

(2) On page 2, line 2, strike out "to this title" and insert in lieu thereof "of this title".

(3) Beginning on page 4, strike out line 6 and all that follows down through line 21 on page 5, and insert in lieu thereof the following:

SEC. 5. With respect to a former employee (except a former employee under section 6 of this Act) who is not on the rolls on the date of enactment of *this* Act, annual leave which accrued after June 30, 1960, but, because of administrative error, was lost by operation of section 6304 of title 5, United States Code, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act, with the agency by which he was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to him. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable.

SEC. 6. (a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of enactment of this Act, annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error was lost by operation of section 6304 of title 5, United States Code, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service as appropriate, last became applicable to the former employee.

(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error was lost by operation of section 6304 of title 5, United States Code, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date of enactment of this Act.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## LIBERALIZATION OF ELIGIBILITY FOR CIVIL SERVICE RETIREMENT COST-OF-LIVING ANNUITY INCREASES

The Clerk called the bill (H.R. 3799) to liberalize eligibility for cost-of-living increases in civil service retirement annuities.

There being no objection, the Clerk read the bill as follows:

H.R. 3799

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8340(c) of title 5, United States Code, is amended—

(1) by renumbering paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively; and

(2) by inserting immediately above paragraph (2) (renumbered as such by paragraph (1) of this section), the following new paragraph:

"(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

"(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

"(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(n) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.".

SEC. 2. The amendments made by this Act shall apply only with respect to annuities which have a commencing date after the effective date of the first annuity increase under section 8340(b) of title 5, United States Code, which occurs on or after the date of enactment of this Act.

With the following committee amendment:

On page 2, strike out lines 21 through 23, and lines 1 and 2 on page 3 and insert the following:

SEC. 2. The amendments made by this Act shall apply only with respect to annuities which commence on or after July 2, 1973.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GRANTING ALIEN CHILD ADOPTED BY AN UNMARRIED U.S. CITIZEN SAME IMMIGRANT STATUS

The Clerk called the bill (H.R. 7555) to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse.

There being no objection, the Clerk read the bill as follows:

H.R. 7555

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)) is amended—

(1) by inserting before "by a United States citizen" both times it occurs in such subparagraph the following: "by an unmarried United States citizen or", and

(2) by striking out "who have complied" in such subparagraph and inserting in lieu thereof "who has or have complied".

Mr. KOCH. Mr. Speaker, I rise in support of H.R. 7555, a bill I introduced to grant a child adopted by a single U.S. citizen the same immediate relative status for immigration purposes as a child adopted by a U.S. citizen and spouse.

Under existing law, section 101(b)(1)(F) of the Immigration and Nationality Act allows only married U.S. citizens, and not an unmarried U.S. citizen, the right to petition for immediate relative status for an alien orphan intended to be or already adopted. The administrative rulings on this matter have prohibited an unmarried person from petitioning for immediate relative status for an otherwise eligible alien orphan.

This distinction in the law has caused much suffering. For example, the American unmarried aunt or uncle, either single, widowed, or divorced, of an alien orphan cannot now obtain immediate relative status for her or his orphaned niece or nephew. Furthermore, today there are many unmarried persons who would like to adopt Vietnam orphans, fathered by American soldiers. Although many States now allow adoption by an unmarried person, this adoption is thwarted by an antiquated immigration policy.

I originally introduced this legislation in September 1972 after the injustice of the present law was brought to my attention by a constituent. This particular young woman had adopted a Korean child. However, to her dismay and sorrow, she found that she could not bring the adopted alien orphan to the United States as an immediate relative solely because she was a single, unmarried parent.

Most single parents in this situation have had to register the child for a nonpreference visa number. The child is then placed on the waiting list since this category is often oversubscribed and visas are unavailable for years. During this time the child may not permanently enter the United States.

The report on H.R. 7555 filed by the House Judiciary Committee, urging that the bill be passed, states that—

> The Committee recognizes that there has been a continuing trend in state legislatures to enact legislation authorizing single persons to adopt children. In this regard, it should be emphasized that the impact of this legislation is properly limited to the extent that the laws of the United States or the applicable law in foreign jurisdictions permit a single person to adopt children.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## PROVIDING FOR THE FILLING OF VACANCIES IN LEGISLATURE OF THE VIRGIN ISLANDS

The Clerk called the bill (H.R. 7699) to provide for the filling of vacancies in the Legislature of the Virgin Islands.

There being no objection, the Clerk read the bill as follows:

H.R. 7699

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 6(h) of the Revised Organic Act of the Virgin Islands (48 U.S.C 1572(h)) is amended to read as follows:

"(h) The Legislature of the Virgin Islands shall by law provide the procedure for filling any vacancy in the office of member of the legislature."

SEC. 2. The amendment made by the first section of this Act shall apply with respect to vacancies occurring on or after the date of enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## PROVIDING FOR STRIKING OF MEDALS IN COMMEMORATION OF JIM THORPE

The Clerk called the bill (H.R. 4507) to provide for the striking of medals in commemoration of Jim Thorpe.

There being no objection, the Clerk read the bill as follows:

H.R. 4507

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in recognition of the outstanding achievements of Jim Thorpe as an athlete and as a great American, the Secretary of the Treasury is authorized and directed to strike and furnish to the Jim Thorpe Memorial-Oklahoma Athletic Hall of Fame Commission not more than one hundred thousand medals with suitable emblems, devices, and inscriptions to be determined by the Secretary, after consultation with the commission. The medals, which may be disposed of by the commission at a premium, shall be delivered at such times as may be required by the commission in quantities of not less than two thousand. The medals are national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and furnished at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

SEC. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metals as shall be determined by the Secretary of the Treasury in consultation with the commission.

SEC. 4. No medals shall be made under the authority of this Act after December 31, 1974.

With the following committee amendments:

On page 1, line 5, strike out "and directed".

On page 2, line 3 through five, strike out "The medals are national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368)."

On page 2, immediately following line 18, insert the following:

SEC. 5. At the option of the commission, the Secretary may release the dies to a private manufacturer for production of some or all of the medals authorized under this Act.

SEC. 6. The medals, whether produced by the Secretary or by a private manufacturer from dies prepared by the Department of the Treasury, shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

The committee amendments were agreed to.

Mrs. SULLIVAN. Mr. Speaker, this bill, and the three which follow it on the Consent Calendar, provide for the striking of national medals at no cost to the Treasury. All of the costs of manufacture, including labor, materials, dies, use of machinery and overhead expenses, would have to be paid by the sponsoring organization.

We have approved numerous such bills in the past after making sure the sponsoring organization was a legitimate and responsible one and that the Secretary of the Treasury maintained control over the designs, composition, and other aspects of these national medals.

In H.R. 4507, the Jim Thorpe Medal bill, and H.R. 5760, to strike national medals commemorating the international exposition on environment at Spokane, Wash., next year, we are making it possible for the first time for private enterprise to have the opportunity to bid for participation in the work of making these two national medals, under the strict supervision and control of the Secretary of the Treasury. In other words, if the sponsoring organization wants to have these medals manufactured by a private firm which conceivably might do the work at less cost than the mint, or on a faster schedule, the Secretary is authorized to turn over the dies for the actual stamping of the medals by a private concern. But since these are national medals, the Secretary would exercise control over the quality and integrity of any work done on them outside the mint.

We think this is a good compromise of the desire of the sponsoring organizations to have national medals for these commemorations, and the feeling of the private manufacturers of medals that the mint is in competition with them.

The committee has been convinced that the events commemorated by these medals are of true national significance, justifying the issuance of national medals. We went into this issue quite deeply in our hearings.

Mr. Speaker, the gentleman from Oklahoma (Mr. CAMP) was truly eloquent in our hearing in describing the athletic prowess of Jim Thorpe and there was no question in our mind, in approving the bill in subcommittee and in the full committee, that the athletic achievements of Jim Thorpe qualified for this kind of recognition. Earlier this year, the House by unanimous consent authorized the striking of a national medal honoring the late Roberto Clemente. The people of Oklahoma, including, I am sure, the Speaker, regard Jim Thorpe as one of the greatest athletes of all history—the only man to win both the pentathlon and decathlon in the Olympic Games and a great star also of college and professional baseball and football.

Mr. CAMP. Mr. Speaker, I am proud to rise in support of H.R. 4507, a bill providing for the striking of medals in commemoration of Jim Thorpe, a great Oklahoman considered by many to be the foremost athlete of all time.

Surely every American and all of us in this Chamber today are familiar with the Jim Thorpe story—the rise of the poor, young Indian to athletic eminence under the guidance of Coach "Pop" Warner, culminating with 1912 Olympic victories in both the decathlon and the pentathlon; then, the tragic rebuke by the Amateur Athletic Union and deletion of Thorpe's name and accomplishments from Olympic records on the much-disputed ground of professionalism.

I might add here that Oklahomans and others are still trying to win redress of this injustice so that Thorpe's medals can be returned and his accomplishments restored to Olympic records. Great strides have recently been made toward this goal and I am hopeful it will be met soon.

I introduced H.R. 4507 at the request of the State-sanctioned Jim Thorpe Memorial–Oklahoma Athletic Hall of Fame Commission, and the bill is also supported by the administration via the Director of the Bureau of the Mint, Coin World newspaper, and by Andy Robustelli, former football great and president of National Professional Athletes, Inc.

This bill would cost the Federal Government nothing. But it could mean much to Oklahoma by providing one source of funds for the planned Jim Thorpe Memorial Building in Yale, which will house the Oklahoma Athletic Hall of Fame.

Mr. Speaker, I do not believe there is any question that Jim Thorpe rightfully deserves the recognition which I and other members of the Oklahoma delegation seek to give him through passage of this legislation. Named by the Associated Press in 1950 as the greatest athlete of the first half of the 20th century as well as the greatest football player ever, Thorpe was and is an inspiration to the American people. I urge your favorable consideration of H.R. 4507.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## PROVIDING FOR THE STRIKING OF MEDALS IN COMMEMORATION OF THE 100TH ANNIVERSARY OF THE STATEHOOD OF COLORADO

The Clerk called the bill (H.R. 4738) to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado.

There being no objection, the Clerk read the bill as follows:

H.R. 4738

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. In commemoration of the one hundredth anniversary of the statehood of Colorado, which will be celebrated on August 1, 1976, the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall furnish medals in accordance with this Act of the Colorado Centennial-Bicentennial Commission (hereafter referred to in this Act as the "commission").

SEC. 2. The medals authorized under this Act are national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368), except that, for the purposes of this Act, said medals shall be struck by the superintendent of the coining department of the mint at Denver, under such regulations as the superintendent, with the approval of the Director of the Mint, may prescribe.

SEC. 3. The medals shall bear such emblems, devices, and inscriptions, shall be of such size or sizes, and shall be made of such materials as the Commission may determine with the approval of the Secretary.

SEC. 4. Except for such quantities, if any, of gold or silver medals as may be requested by the Commission and approved by the Secretary, the medals may not be made in quantities of less than two thousand nor in an aggregate quantity greater than two hundred and fifty thousand. They shall be made and delivered at such times as may be required by the Commission, but no medals may be made after December 31, 1976.

SEC. 5. The medals shall be furnished at a price or prices equal to the costs of manufacture as estimated by the Secretary, including labor, materials, dies, use of machinery, and overhead expenses. The medals may not be made unless security satisfactory to the Secretary is furnished to indemnify the United States for full payment of these costs.

With the following committee amendment:

On page 2, line four, strike out "said medals shall" and insert in lieu thereof "some or all of such medals may".

The committee amendment was agreed to.

Mrs. SULLIVAN. Mr. Speaker, this legislation is similar to bills we have approved in the past to strike national medals commemorating major anniversaries of statehood, such as the centennials of Kansas, Nevada, and West Virginia, the sesquicentennials of Mississippi and Alabama, and the commemoration of the 120th anniversary of Texas independence, the Centennial of the Idaho Territory and the Alaska Purchase, and the 300th anniversary of the founding of South Carolina.

Because of the special significance of the Denver Mint to the history of Colorado, the bill provides that some or all of the medals commemorating Colorado's centennial may be struck at the Denver Mint. Usually, national medals are made at the Philadelphia Mint.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### PROVIDING FOR STRIKING OF MEDALS COMMEMORATING INTERNATIONAL EXPOSITION ON ENVIRONMENT

The Clerk called the bill (H.R. 5760) to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974.

There being no objection, the Clerk read the bill as follows:

H.R. 5760

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in commemoration of the International Exposition on Environment to be held at Spokane, Washington, in 1974, the Secretary of the Treasury shall strike and deliver to Spokane World Exposition, Incorporated, a nonprofit corporation, not more than seven hundred and fifty thousand medals, with suitable emblems, devices, and inscriptions to be determined by the Secretary in cooperation with the Exposition Corporation. The medals, which may be disposed of by the corporation at a premium, shall be delivered at such times as may be required by the corporation in quantities of not less than two thousand, but no medals shall be struck after December 31, 1974. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

SEC. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metals as shall be determined by the Secretary of the Treasury in consultation with the corporation.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That in commemoration of the International Exposition on Environment to be held at Spokane, Washington, in 1974, the Secretary of the Treasury (hereinafter referred to as the "Secretary") is authorized to strike and deliver to Spokane World Exposition, Incorporated, a nonprofit corporation, not more than seven hundred and fifty thousand medals, with suitable emblems, devices, and inscriptions to be determined by the Secretary in cooperation with the Exposition corporation. The medals, which may be disposed of by the corporation at a premium, may be delivered at such times as may be required by the corporation in quantities of not less than two thousand, but no medals shall be struck by the Secretary after December 31, 1974.

SEC. 2. The Secretary shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

SEC. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metal as shall be determined by the Secretary in consultation with the corporation.

SEC. 4. At the option of the corporation, the Secretary may release the dies to a private manufacturer for production of any or all of the medals authorized under this Act.

SEC. 5. The medals, whether produced by the Secretary or by a private manufacturer from dies prepared by the Treasury, shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

The committee amendment was agreed to.

Mrs. SULLIVAN. Mr. Speaker, the gentleman from Washington (Mr. FOLEY) made a very good case in our hearing for the national significance of this event and the subcommittee and full committee were fully convinced this event was of sufficient national importance to warrant the issuance of a national medal.

As amended in committee, the bill provides that some or all of the medals authorized under the bill may be manufactured by private concerns from dies prepared in the mint. This gives private enterprise a chance to bid on some of the work connected with national medals, but all control over the design, composition, and sizes of the medals would be in the hands of the Secretary of the Treasury, and he would be required to oversee the quality and integrity of any work done on these medals outside the mint.

It will be up to the sponsoring organization—in this case, Expo '74—to decide whether it wants any of these medals made by outside firms. For instance, if the mint cannot produce as many as desired on schedule—since medals may be made by the mint only when this operation does not interfere with regular coinage operations—or if a responsible outside firm makes a bid substantially below the cost of having the work done by the mint, I can foresee some of this work going to a private concern. But the bill does not require that—it only authorizes the use of private facilities. We think this is a good approach toward meeting some of the complaints of private manufacturers that medals struck by the mint compete unfairly with private enterprise. The medals struck by the mint are national medals, carrying the added prestige of having been authorized by Congress, but this bill makes it possible for private concerns to bid for the chance to make some of the medals under Treasury supervision.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### AUTHORIZING STRIKING OF MEDALS IN COMMEMORATION OF 100TH ANNIVERSARY OF THE CABLE CAR

The Clerk called the bill (H.R. 8709) to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco.

There being no objection, the Clerk read as follows:

H.R. 8709

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in commemoration of the one hundredth anniversary of the invention of the cable car, the Secretary of the Treasury shall strike and deliver to the San Francisco Cable Car Centennial Committee not more than one hundred and fifty thousand medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury after consultation with the committee. The medals, which may be disposed of by the committee at a premium, shall be delivered at such times as may be required by the committee in quantities of not less than two thousand, but no medals shall be struck after December 31, 1974. The medals shall be considered to be national medals within the meaning of section 3551 of the revised Statutes (31 U.S.C. 368) except that for the purposes of this Act some or all of such medals may be struck by the superintendent of the coining department of the assay office at San Francisco, under such regulations as the superintendent, with the approval of the Director of the Mint, may prescribe. Medals struck at the assay office may bear the legend "Struck at the San Francisco Mint".

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

SEC. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metals as shall be determined by the Secretary of the Treasury in consultation with the committee.

Mrs. SULLIVAN. Mr. Speaker, I do not know of any commemorative medal bill we have ever had before us in the Banking and Currency Committee which stirrred up so much sentimental interest as the bill to commemorate the centennial of the San Francisco cable cars. Apparently, everyone who has ever visited San Francisco fell in love with those little cars. And the people of San Francisco, of course, refused to let them go out of existence.

The Treasury felt that the cable cars were not of sufficient national significance to warrant national medals. After hearing the testimony of Congressmen Mailliard, Burton, and Stark, however, and witnesses from San Francisco, we were convinced that the medals should be struck.

The committee amendment permits the use of the San Francisco Assay Office to make some or all of the medals, in keeping with the request of the people of San Francisco.

Mr. STARK. Mr. Speaker, the House will shortly be considering on the Consent Calendar the bill H.R. 8709, to authorize the striking of commemorative medals of the San Francisco cable car.

This bill, introduced in the Senate by Senators Cranston and Tunney, passed that body on March 14, 1973. In early May, Congresswoman Lenore Sullivan, chairman of the Consumer Affairs Subcommittee, held hearings on an identical bill introduced by Congressmen Mailliard, Burton, and myself. Under Mrs. Sullivan's direction, the subcommittee heard testimony from a varied group of witnesses who all hold the cable car as a much-cherished relic of a great age in our history. The subcommittee members and the Director of the Mint were impressed by the testimony to the extent that an exception was made in established policy for the cable cars. This occasion, it was agreed upon, was indeed of "national significance" in conformance with Treasury guidelines.

I would, therefore, like to take this opportunity to thank both Mrs. Sullivan and Chairman Wright Patman for reporting this bill out of the Banking Committee so that medals can be struck during this centennial year. And, of course, I am most appreciative of the support and assistance offered by Congressmen Mailliard and Burton, as well as Senators Cranston and Tunney. It is only because of the cooperation of this distinguished group that this most important centennial will be duly heralded.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Currency be discharged from further consideration of the bill S. 776, to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco, and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

The Clerk read the Senate bill as follows:

S. 776

An act to authorize the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in commemoration of the one hundredth anniversary of the invention of the cable car, the Secretary of the Treasury shall strike and deliver to the San Francisco Cable Car Centennial Committee not more than one hundred and fifty thousand medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury after consultation with the committee. The medals, which may be disposed of by the committee at a premium, shall be delivered at such times as may be required by the committee in quantities of not less than two thousand, but no medals shall be struck after December 31, 1974. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

Sec. 2. The Secretary of the Treasury shall cause such medals to be struck and delivered at not less than the estimated cost of manuture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.

Sec. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metals as shall be determined by the Secretary of the Treasury in consultation with the committee.

MOTION OFFERED BY MRS. SULLIVAN

Mrs. SULLIVAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mrs. Sullivan moves to strike out all after the enacting clause of the Senate bill S. 776 and insert in lieu thereof the provisions of H.R. 8709, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 8709) was laid on the table.

The SPEAKER. That concludes the call of the eligible bills on the Consent Calendar.

## PAY COMPARABILITY ADJUSTMENTS FOR CERTAIN HOUSE EMPLOYEES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Report No. 93–1511) on the resolution (H. Res. 492) providing pay comparability adjustments for certain House employees whose pay rates are specifically fixed by House resolutions, and ask for immediate consideration of the resolution.

The Clerk read the resolution as follows:

H. Res. 492

*Resolved,* That until otherwise provided by law, the per annum gross rate of pay of each employee (except an employee who is an elected officer of the House or who is an Official Reporter of Debates or an Official Reporter to Committees) whose pay is disbursed by the Clerk of the House and is fixed at a specific rate by House resolution is increased by an amount equal to 5.14 per centum of his per annum gross rate of pay. No rate of pay shall be increased by reason of the adoption of this resolution to an amount in excess of the rate of basic pay of level V of the Executive Schedule contained in section 5316 of title 5, United States Code. The contingent fund of the House is made available to carry out the purposes of this resolution.

With the following committee amendments:

On page 1, lines 1 and 2, strike out "effective as of January 1, 1973," and insert in lieu thereof the following: "effective as of the effective date of each comparability adjustment, which becomes effective on or after January 1, 1973, in the rates of pay of the Federal statutory pay systems under section 5305 of title 5, United States Code, or under such section 5305 as modified or otherwise changed by any other provision of law,".

On page 1, lines 7 and 8, strike out "equal to 5.14 per centum of his per annum gross rate of pay" and insert in lieu thereof the following: "equal to that per centum of his per annum gross rate of pay which is equal to the average per centum increase made in the pay rates of such statutory pay systems to achieve such pay comparability adjustment in the pay rates of such pay systems".

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution has a very simple purpose. Thirty-four House employees, the Pair Clerks and others, were not included in the 5.6 statutory pay raise virtually all other House employees enjoyed beginning last January. Historically, it has taken a separate resolution in the past in each instance in order for these employees to receive the statutory or automatic pay raises.

This legislation bears a total cost for the 34 employees retroactive to the 1st of January of $28,692.17.

Further, Mr. Speaker, it will make it unnecessary in the future for special resolution on behalf of the employees, since the committee amendment would lock them in with the other House employees. In other words, they would receive the automatic, statutory increases without the need for the Subcommittee on Accounts or the Committee on House Administration to come to the floor in each instance.

I understand there is no objection, Mr. Speaker, and I move the previous question on the resolution.

The previous question was ordered.

The committee amendments were agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the four commemorative medal bills just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

## DOMESTIC VOLUNTEER SERVICE ACT OF 1973

Mr. HAWKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7265) to provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes, as amended.

The Clerk read as follows:

### H.R. 7265

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973":

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## TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

### PART A—VOLUNTEERS IN SERVICE TO AMERICA

#### STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

#### AUTHORITY TO OPERATE VISTA

SEC. 102. The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purposes of this part.

#### ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act and the Economic Opportunity Act of 1964, as amended.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d) the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

#### TERMS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their term of service, except for authorized periods of leave.

(b) Volunteers serving under this part may be enrolled for periods not exceeding two years. Volunteers may reenroll for such periods, not exceeding two years, as the Director may determine. No volunteers shall serve for more than five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504(j)); *Provided,* That persons legally residing within a State but who are not citizens or nationals of the United States may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

#### SUPPORT SERVICES

SEC. 105. (a) (1) The Director may provide a stipend to volunteers under this part while they are in training and during their assignment. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon

completion of a term of service; except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

### PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title, shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

### PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

## PART B—SERVICE-LEARNING PROGRAMS

### STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for Action (UYA) program of full-time volunteer service by students enrolled in institutions of higher learning, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and related human, social and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their term of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service learning by secondary and postsecondary school students to strengthen and supplement efforts to eliminate poverty and related human, social, and environmental problems.

### AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION

SEC. 112. Except as otherwise provided in this part, the Director may conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of subsections (d) of sections 103 and 104, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

### SPECIAL CONDITIONS

SEC. 113. (a) Volunteers serving under this program shall be enrolled for one-year periods of service and may receive academic credit for such service in accordance with the regulations of the sponsoring institution.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institution in order to assist in meeting the needs of such poor persons.

(c) (1) In making grants or contracts for the administration of this program, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director in consultation with the institution may determine for no more than four additional years. Each such grant or contract shall stipulate that the institution will make every effort to assume an increasing proportion of the cost of continuing a program carrying out the purposes of this part while the institution receives support under this part or title VIII of the Economic Opportunity Act of 1964, as amended or both.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health, Education, and Welfare of the extent of each such institution's compliance.

### SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 114. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provision of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignment of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Persons serving as volunteers under this section may receive a living allowance or stipend and such other support or allowances as the Director determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

## PART C—SPECIAL VOLUNTEER PROGRAMS

### STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of projects such as but not limited to—

(1) a program to provide alternatives to the incarceration of youthful offenders;

(2) a program to promote educational opportunities for veterans;

(3) a program to provide community-based peer group outreach and counseling for drug abusers.

The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and *construc*tive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

### AUTHORITY TO ESTABLISH PROGRAMS

SEC. 122. (a) The Director is authorized to conduct or make grants or contracts for special volunteer programs or demonstration programs designed to stimulate and initiate improved methods of providing volunteer services and to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part or to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts.

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

## TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

## PART A—RETIRED SENIOR VOLUNTEER PROGRAM

### GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with such regulations as he may prescribe, that—

(1) volunteers shall not be compensated for other than transportation, meals, and other out-of-pocket expenses incident to their services;

(2) only individuals aged sixty or over will provide services in the program (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place of religious worship;

(3) the program includes such short-term training as may be necessary to make the

most effective use of the skills and talents of those individuals who are participating; and provides for the payment of the reasonable expenses of trainees; and

(4) the program is being established and will be carried out with the advice of persons competent in the field of service being staffed, and of persons with interest in and knowledge of the needs of older persons.

(b) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(c) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended, such agency itself is the recipient of the award or such agency has been afforded not less than sixty days in which to review the project application and make recommendations thereon.

(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever.

### PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

#### GRANTS AND CONTRACTS FOR VOLUNTEER PROJECTS

SEC. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects designed to provide opportunities for low-income persons aged sixty or over to render supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

(b) The Director is also authorized to make grants or contracts to carry out the purposes described in subsection (a) in the case of persons (other than children) having exceptional needs, including services as "senior health aides" to work with persons receiving home health care and nursing care, and as "senior companions" to persons having developmental disabilities.

(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Director may determine.

(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever.

#### CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a)(1) In administering this part, the Director shall assure that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a)(1) of the Older Americans Act of 1965, as amended, is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which subparagraph (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended, such agency has had not less than 45 days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency established under title II of the Economic Opportunity Act of 1964, as amended.

### PART C—GENERAL PROVISIONS

#### COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In administering this title, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.

#### MINORITY GROUP PARTICIPATION

SEC. 222. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

## TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY BUSINESS PROPRIETORS

#### STATEMENT OF PURPOSE

SEC. 301. This title provides for programs in which businessmen volunteer to assist persons, especially the economically disadvantaged, who are engaged in, or seek to engage in, small business enterprises, and make available their expertise, as volunteers to agencies carrying out programs authorized by, or of a character eligible for assistance under, this Act or the Economic Opportunity Act of 1964 (particularly title VIII thereof).

#### AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

SEC. 302. (a) The Director is authorized to establish and conduct, and to make grants or enter into contracts for the conduct of volunteer programs to carry out the purposes of this title, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE): *Provided, however*, That the services of volunteers who are assisting persons or enterprises seeking to obtain, or receiving financial assistance from the Small Business Administration shall be performed under the supervision of the Administrator of the Small Business Administration (hereinafter referred to in this title as the "Administrator").

(b) The assignment of volunteers enrolled in programs under this title shall be on such terms and conditions as the Director may determine. The Director shall consult with the Administrator before establishing the terms and conditions of service of volunteers who assist persons or enterprises seeking to obtain, or receiving financial assistance from the Small Business Administration.

(c) Volunteers under this title, while engaged in authorized activities shall be considered Federal employees for the purpose of the Federal tort claims provisions of title 28, United States Code.

(d) The Director is authorized to reimburse volunteers under this title only for such necessary out-of-pocket expenses incident to their provision of services under this Act as he shall by regulation determine, and while they are away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for individuals serving without pay.

(e) Volunteers authorized by this title shall in no event provide services to a client of the Small Business Administration with a delinquent loan outstanding, except upon the written request for such assistance signed by the client.

#### AUTHORITY TO USE SMALL BUSINESS ADMINISTRATION FACILITIES

SEC. 303. The Small Business Administration shall permit volunteers under this title, or volunteer groups, such use of the office facilities and related materials and services of the Small Business Administration as he, after consultation with the Director, deems appropriate to carry out their tasks, including authorized meetings of groups of volunteers.

#### RELATIONSHIP TO SMALL BUSINESS ACT

SEC. 304. To the extent that programs authorized by this title are also authorized by section 8(b) of the Small Business Act (15 U.S.C. 637(b)(1)), they shall be carried out under this title.

## TITLE IV—ADMINISTRATION AND COORDINATION

#### ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such Agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such Agency four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Associate Director shall perform such functions as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director primarily responsible for programs carried out under parts A and B of title I of this Act and one Deputy Associate Director primarily responsible for programs carried out under title II of this Act, who shall be appointed by the Director.

### AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the civil service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and except as otherwise provided herein, fix the compensation of such personnel in accordance with the provisions of title 5, United States Code;

(2)(A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently while so employed; and (D) contracts for such employment under this clause may be renewed annually;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 4154 of title 39, United States Code, data and information, in such forms as he shall deem appropriate, to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection;

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulation; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein, of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

### POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity, as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92-225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than 30 days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

### SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operations of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this Act only to persons appointed or employed pursuant to clause (1) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons who he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act.

(g) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any other governmental program.

### NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

Sec. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than 25 members appointed by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after establishment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council, shall be entitled to receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than the date of enactment of this Act of each calendar year beginning with the calendar year 1974, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President of the Congress together with his comments and recommendations.

### LABOR STANDARDS

Sec. 406 All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276c).

### REPORTS

Sec. 407 Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities of the ACTION Agency during such year.

### JOINT FUNDING

Sec. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

### PROHIBITION OF FEDERAL CONTROL

Sec. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

### COORDINATION WITH OTHER PROGRAMS

Sec. 410. The director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act.

### PROHIBITION

Sec. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

### APPEALS, NOTICE, AND HEARING PROCEDURES

Sec. 412. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditons unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

### DURATION OF PROGRAM

Sec. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

### DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

Sec. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of this Act will be distributed equitably between residents of rural and urban areas.

### APPLICATION OF FEDERAL LAW

Sec. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal offices and employees and Federal employment.

(b) Individuals serving in programs authorized by parts A and B of title I of this Act, and individuals enrolled for a period of at least one year and serving as full-time volunteers in programs authorized by part C of title I of this Act shall, with respect to such service, including training, (1) be deemed, for the purposes of subchapter III of chapter 73 of title 5, United States Code, persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be considered employees of the United States, and (4) for purposes of subchapter I of chapter 81 of title 5 of the United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS–7 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(c) Any period of service of a volunteer under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program of at least one year's duration established under parts B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided,* That service of a volun-

teer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving pursuant to part A of title I of this Act, and volunteers serving pursuant to title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their term of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Numbered 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

EVALUATION

SEC. 416. (a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) The Director shall develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

NONDISCRIMINATION

SEC. 417. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, age, physical disability, or political affiliation.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subject to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

LEGAL EXPENSES

SEC. 418. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers serving under this Act have been made parties.

GUIDELINES

SEC. 419. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date.

DEFINITIONS

SEC. 420. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION Agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. ———): *Provided*, That in determining who is "poor" or "low-income" the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out title I of this Act: *Provided*, That not less than $22,300,000 be expended on programs authorized under part A of title I in each such fiscal year.

Any sums authorized to be appropriated for title I of this Act in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for part A of that title.

NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated, for grants or contracts under section 201 of this Act, $17,500,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively.

(b)(1) There are authorized to be appropriated for grants or contracts under subsections (a) and (b) of section 211, $32,500,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, of which—

(A) $26,500,000 for the fiscal year ending June 30, 1974, and $32,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211, and

(B) $6,000,000 for the fiscal year ending June 30, 1974, and $8,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection for fiscal years beginning after June 30, 1974, are not appropriated and made available in full for each such fiscal year, then such sums as are so appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 for the fiscal years ending June 30, 1975 and 1976, respectively, shall be used for grants or contracts for such fiscal years under subsection (a) of such section.

NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY BUSINESS PROPRIETORS

SEC. 503. There are authorized to be appropriated $208,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for the fiscal years ending June 30, 1975 and June 30, 1976, respectively, for the purpose of carrying out programs under title III of this Act.

ADMINISTRATION

SEC. 504. (a) There are authorized to be appropriated such sums as shall be necessary for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for the administration of this Act as authorized in title IV of such Act.

AVAILABILITY OF APPROPRIATIONS

SEC. 505. (a) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

## TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPPRESSION OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of on-going activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

#### CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (— U.S.C. —)" after "Economic Opportunity Act of 1964."

#### REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

#### REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

The SPEAKER. Is a second demanded?

Mr. STEIGER of Wisconsin. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HAWKINS. Mr. Speaker, today we are considering H.R. 7265, the Domestic Volunteer Service Act of 1973. This bill, I am pleased to report, has the unanimous bipartisan support of the Education and Labor Committee, as well as the support of the administration.

Mr. Speaker, allow me to give a little background information on this bill. The ACTION Agency was created through an executive reorganization plan in July of 1971, bringing together the Peace Corps and all the domestic volunteer programs sponsored by the Federal Government. These domestic programs include VISTA, the university year for action, the foster grandparent program, the retired senior volunteer program, the service corps of retired executives, and the active corps of executives. ACTION has been operating for the 2 years it has been in existence without legislative authorization. H.R. 7265 would provide that authorization, and, in addition, would consolidate all the domestic volunteer service programs under one act, repealing title VIII of the Economic Opportunity Act, and title VI of the Older Americans Act.

H.R. 7265 was introduced on April 19, 1973 by Congresswoman PATSY MINK, Congressman WILLIAM STEIGER and myself. The bill as introduced was almost identical to an earlier version of S. 1148, which, in amended form, passed the Senate on July 18. Hearings were held on June 13 and July 11, at which cogent and thoughtful testimony was presented by the new Director of the ACTION agency, Michael P. Balzano, Jr., and other concerned persons. The subcommittee, in its consideration of H.R. 7265, took into account Mr. Balzano's testimony, as well as the testimony of program directors and volunteers. The bill was then amended by the subcommittee to respond to some of their concerns.

Early in the progress of the bill through subcommittee to full committee, a three-way process of cooperation was initiated. Democratic members, Republican members, and top-level representatives of the administration worked together to come up with a bill that would meet the needs of the Agency and the volunteers, and, most importantly, that would best serve the recipients of the services offered by ACTION volunteer programs.

The bill that is before us today is the product of that cooperation. I would especially like to mention the supportive efforts of the gentlewomen from Hawaii and New York, respectively, Mrs. MINK and Mrs. CHISHOLM, and the gentlemen from Wisconsin and Minnesota, Mr. WILLIAM STEIGER and Mr. QUIE, who, together, illustrate the kind of cooperation that prevailed in our consideration of this bill.

It is my hope that the same spirit of cooperation will help to speed this bill through unanimous passage by the House.

H.R. 7265, Mr. Speaker, provides the legislative framework for all federally funded volunteer efforts within the United States.

Title I emphasizes the antipoverty mission of ACTION, particularly through the well-established VISTA program, and university year for action, a new program similar to VISTA, but enrolling college students as volunteers. Persons serving in each of these programs are full-time volunteers, committed to helping to eliminate problems of poverty.

The bill provides for a 2-year term of service for VISTA volunteers rather than the 1-year term they now serve. The reported bill also requires that a university provide only 10 percent of the total cost of its university year for action program, rather than the 20 percent required in H.R. 7265 as introduced. Federal support for UYA is available to a sponsoring university for as many as 5 years.

In addition to these two programs, both currently authorized in title VIII of the Economic Opportunity Act, title I, part C, of H.R. 7265 provides for new voluntary activities and programs designed to place special emphasis on problems of poverty, and other human, social, and environmental problems. This part provides the ACTION Agency with flexibility in the operation of some of its programs, to widen the impact and focus of those programs, while at the same time maintaining its current level of antipoverty efforts through VISTA, university year for action, and the foster grandparent program. The bill provides for programs such as but not limited to:

Providing alternatives to the incarceration of youthful offenders;

Promoting educational opportunities for veterans;

Promoting educational opportunities for veterans; and

Providing community-based peer group outreach and counseling for drug abusers.

Title II is virtually identical to title VI of the Older Americans Act, authorizing the foster grandparent program and the retired senior volunteer program, that were originally authorized in the 1969 amendments to the Older Americans Act. The Select Subcommittee on Education, chaired by Congressman BRADEMAS of Indiana, will retain its jurisdiction over the programs under this title, along with the remaining titles of the Older Americans Act, for it is in the interest of older Americans that their problems be addressed in a comprehensive manner.

Title III restates the division of authority between ACTION and the Small Business Administration concerning the Service Corps of Retired Executives—SCORE—and the Active Corps of Executives—ACE.

Title IV contains a unified set of provisions for administering the ACTION Agency. The authorities are drawn from both the Economic Opportunity Act and the Older Americans Act, and reflect recommendations from the Agency.

Title V contains authorizations of appropriations for each previous title of H.R. 7265. Authorization levels are as follows: For title I, $37.6 million in fiscal year 1974, with such sums as may be necessary in fiscal years 1975 and 1976; for title II, $50 million for fiscal year 1974, and $60 million for 1975 and 1976; for title III, $208 thousand in fiscal year 1974, and such sums as may be necessary in 1975 and 1976; for title IV, such sums as shall be necessary for each of the three fiscal years.

Title VI contains provisions to repeal title VIII of the Economic Opportunity Act, and title VI of the Older Americans Act as well as provisions to supersede appropriate sections of Reorganization Plan No. 1 of 1971, and provision for Civil Service retirement credit for VISTA, UYA, and other title I volunteers serving for at least 1-year terms.

Mr. Speaker, at this time I yield 5 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Speaker, I am very proud today to rise and join the chairman of the Subcommittee on Equal Opportunities of the Committee on Education and Labor to urge the passage of H.R. 7265, the Domestic Volunteer Service Act of 1973.

I am sure that many of the Members,

upon examination of the title of this bill, assumed that we were embarking upon an entirely new concept. Quite to the contrary, the committee's efforts have been almost totally confined to an effort to consolidate various existing volunteer efforts in the field of poverty and other social concerns.

Mr. Speaker, this bill attempts to carry forward the decision of the Congress which created the ACTION Agency under the Reorganization Plan and to provide administrative guidelines and requirements for the strengthening of the purposes of these programs.

We all know that VISTA, for instance, has been a highly successful program, one which was inaugurated under the Office of Economic Opportunity, whose authority will expire on June 30, 1974.

So in a sense the passage of this bill is urgent with respect to the continuation of this program.

One of the points which was raised at our hearings on the VISTA program by many of the volunteers and those who served in various capacities in the past with VISTA brought out the tremendous job that they performed in various kinds of services, particularly in rural America.

Mr. Speaker, I wish to stress one of the provisions in the bill which requires the Director of ACTION to make sure that all of the types of supportive services such as transportation, reimbursements, and so forth, are made available to the VISTA volunteers and not simply left up to the whim of the administering sponsor in a local community.

Mr. Speaker, I would like to emphasize the importance of section 105(b) in the pending legislation. This section defines the support services provided to VISTA volunteers. Specifically, I would like to comment on the requirement for transportation support as stated in the section.

The necessity for adequate transportation cannot be overemphasized. To define what adequate actually means we must consider the two distinct areas where a VISTA volunteer is assigned. These are rural and urban areas.

In a rural area communities may be spread out over a large area. Sometimes people are as far apart as 30 or 40 miles. Yet, they consider themselves part of the same community. One of the first jobs of a VISTA volunteer in the field is to meet the people he/she will serve. This, of course, requires home visits.

Depending on the community, the volunteer may find it necessary to make regular visits to establish trust-relationships necessary to begin adequately working in the community. The volunteer will also do a limited amount of service-type work such as transporting people to doctors, social agencies, et cetera. Again, this type of service-oriented work has a purpose in building a trusting, workable relationship between the VISTA volunteer and the community person. Once relationships are established, the volunteer may then proceed in working with the community people on the problems they feel are the most essential to be solved. Without adequate transportation, this necessary process will not happen and the VISTA volunteer will be ineffective in his/her role.

The VISTA volunteer in an urban area will have the same process of getting to know his/her community as in a rural area. Ideally, the volunteer will live in the community in which he/she will work, but many times the housing will not be available and he/she will be forced to live outside the community. The volunteer will then have to rely on public transportation, if this is available. Many times this will not be sufficient for the volunteer to have easy access to the community. Also, it will cut down on his/her efficiency as time will be wasted.

In urban areas the governmental agencies, social service agencies, and sponsoring organization will be spread throughout the city. The VISTA volunteer will need easy access to these agencies to insure his/her effectiveness in the community.

Therefore, I would like to stress the need for transportation support as embodied in section 105(b) and to emphasize the responsibility of the Director to insure such support.

One other section of this bill with which I very closely identified is the university year for action. It is a program which has been extremely successful and which was the initiative of the current administration. We all acknowledge it as a very successful effort to enlist college students to go out into the community to strengthen the various kinds of services being provided by public and private agencies in the field of poverty.

We have also adopted an entirely new provision in this bill which would encourage not only the full-time concept of the university year of action or VISTA but part-time efforts on the part of many citizens in middle America to get involved in the spirit of volunteerism so that they can also make a contribution toward the alleviation of many kinds of social ills, not only in rural America but in the suburbs as well. So for a wide variety of reasons which have been underscored by the chairman of our committee, Mr. Speaker, I urge this House to give unanimous approval to this bill today and allow us to continue the marvelous work that has been going on in the past.

Title I of H.R. 7265 extends VISTA, provides authority for university year for ACTION and similar service-learning programs on the secondary, the secondary vocational, or postsecondary school levels, and provides the ACTION Agency with demonstration authority to develop special emphasis programs designed to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty. It also establishes special emphasis programs to provide alternatives to the incarceration of youthful law offenders, promote educational opportunities for veterans, and provide community-based peer group outreach and counseling and outpatient services for drug users.

Title II provides for the RSVP program, the foster grandparent program, and for new older American community service programs.

It also authorizes the Director of the agency to carry out programs similar to foster grandparents, but under the category of older American volunteer programs. In the latter new programs, low-income retired Americans aged 55 and over would work with underprivileged older persons in the same manner as foster grandparents work with children.

Title III continues the national volunteer programs to assist small businesses and promote voluntary service by small business proprietors. These are the Score/Ace programs under which retired businessmen use their knowledge and experience to assist small businessmen in carrying out successful business activities.

Title IV is the statutory authority for ACTION while title V authorizes program authorizations of $87.808 million for fiscal year 1974. For fiscal years 1975 and 1976, the national volunteer antipoverty programs are authorized to spend such sums as may be necessary, the older American volunteer programs $40 million, and Score/Ace, such sums as may be necessary for fiscal years 1974–76 may be expended. The authorizations are earmarked by program. Title VI contains miscellaneous provisions to repeal any existing statutory authority for the programs extended and make technical amendments.

I believe this legislation deserves the overwhelming support of my colleagues and I hope it is adopted today.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I urge my colleagues to support passage of this bill, H.R. 7265, the Domestic Volunteer Service Act of 1973. The bill would remove much of the legislative confusion that now exists with regard to domestic volunteers and provide, for the first time, a firm legislative basis for the several volunteer programs of ACTION.

This bill is the product of many hours of work and negotiation; in subcommittee, with many Members of this body, and with the administration. The gentleman from California (Mr. HAWKINS) has been exemplary as chairman of the subcommittee in insuring that all points of view were heard and that the resulting legislation was balanced, flexible, and reasonable.

The chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS) has given leadership to this bill and his help has been very valuable.

Among other things, Mr. Speaker, the bill would provide for:

An expanded service concept for Vista volunteers;

A firm legislative base and a clarification of the university year for ACTION program;

Broader authority for pilot programs to expand the use of volunteers in our society. In that connection, I would like to introduce for the record at this point a letter from Dr. Balzano, the Director of ACTION, that discusses one of the possible new approaches.

Further, the bill would provide for:

The consolidation of Older American Volunteer programs in ACTION;

A strengthening of the Score/Ace programs; and finally,

A unified administrative system that will do much to make ACTION a more effective agency and insure the volunteer resource is fairly and wisely used.

For the sake of legislative history, I am inserting into the RECORD background information on a section which was not included in the compromise bill worked out between the two Houses of the Congress and the administration.

This section would have specifically provided for contract and grant audits by ACTION, and for access to contractor and grant recipient records by the Comptroller General of the United States for the purpose of audit.

The compromise version of the Domestic Volunteer Service Act of 1973 did not include the section referred to because of assurances by ACTION that provisions are being and would continue to be fully complied with. I want to emphasize the legislative intent that recipients of ACTION assistance be required to keep records necessary for effective audits by both ACTION and by the Comptroller General. The records which the Director and the Comptroller General or their representatives shall have access to should disclose the amount and disposition by such recipient of the proceeds of assistance, the total cost of the project, and the portion of the cost of the project or undertaking supplied by other sources.

Mr. Speaker, I thank my many colleagues who have contributed so much to this legislation and I urge its speedy adoption.

ACTION,
*Washington, D.C., June 7, 1973.*

Hon. WILLIAM STEIGER,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR MR. STEIGER: I would likr to apologize for not getting back to you sooner after our meeting.

As you will recall, I promised to review personally your "Community Services Fellowship" proposal which I have done. The idea appears to me to make great sense and is something which is worthy of study and which I will have staffed-out early in FY 1974 following enactment of H.R. 7265. I am certain that there are many important implications which will come from the study which are not now known by either of us, and I look forward to reviewing personally our study results with you.

When Eric Silberstein talked with you on Tuesday, he indicated that we were prepared to initiate the study and perform tests on probably two or three models which, I trust will highlight the recommendations in your legislation. To this end, as I am sure Eric indicated, we do not need specific authority if H.R. 7265 is enacted. However, if you think some form of public recognition of the proposal is desirable, as I think it may be, then we will give you all the help you need to draft specific and appropriate report language.

Before closing, I would like to express my sincerest appreciation for your support of ACTION and your efforts and willingness to seek the elimination of the categorical programs as well as the funding formula which we have discussed. I believe that your action will do much to streamline H.R. 7265 and provide the Agency with excellent, forward looking legislation.

With warmest personal regards,

Sincerely,

MICHAEL P. BALZANO, Jr.,
*Director.*

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THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973

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THE WHITE HOUSE,
*Washington, D.C., June 21, 1973.*

Congressman WILLIAM A. STEIGER,
*Banking Minority Member, Subcommittee on Equal Opportunity, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.*

DEAR BILL: We have reviewed the compromise version of HR 7265 developed by members of Congress working cooperatively with the Administration. We support this version of the Bill.

Our view is that, as a result of your commendable efforts, this compromise measure is a substantial improvement over existing legislation that authorizes ACTION's domestic programs. HR 7265, as modified, offers a strong foundation for ACTION's present and future programs and volunteers who will assist people in helping themselves solve the serious human and social problems related to poverty.

As you know, there is an urgent need to go forward with authorizing legislation for ACTION. Accordingly, the Administration will not propose additional amendments when HR 7265 comes up for a vote.

With best wishes,

Sincerely,

MELVIN R. LAIRD,
*Counsellor to the President.*

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I would be delighted to yield to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. I thank the gentleman for yielding. This is called the Domestic Volunteer Service Act. Is that not euphonious in that you are apparently going to spend $92.5 million in 1974, $104 million plus in 1975, and $115 million plus in fiscal year 1976? Why is it called a vounteer program under the circumstances?

Mr. STEIGER of Wisconsin. I thank the gentleman for his question. The reason why it is called the domestic volunteer action program is because while the costs, in my judgment at least, are not great, it is necessary to support through stipends those who serve as volunteers, particularly in the Vista agency of Action. Much of what is done by the Action agencies, as the gentleman from Iowa knows, being on the domestic side or on the foreign service side, which is not included in this bill, stems from those who serve at a very modest rate in terms of assisting activities and programs across the United States.

And they are not, may I say to the gentleman from Iowa (Mr. GROSS) true "volunteers," because they are in fact paid a very, very modest wage.

Mr. GROSS. And the top level is well paid, is it not?

Mr. STEIGER of Wisconsin. Yes, the top level of the ACTION agency obviously has a number of people in the GS–15——

The SPEAKER. The time of the gentleman has expired.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, as I started to say, the top level of the ACTION agency has a number of people at the GS–15, GS–16, GS–17, and GS–18 range. We do not count them as volunteers, may I say to the gentleman from Iowa.

Mr. GROSS. But the title gives the impression that this is a voluntary program. It is going to cost a lot of money over the next 3 years, and I note especially that the administrative costs are going up. So I must ask the question of whether this committee has some kind of a crystal ball by which they can read the future and determine the financial situation of this country over the next 3 years.

This Government is in serious financial straits now, and I wonder how the committee can project for another 3 years with any degree of certainty the ability of the people of this country to support these programs.

The SPEAKER. The time of the gentleman from Wisconsin has again expired.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, may I say to the gentleman from Iowa (Mr. GROSS) that we, of course, do not have a crystal ball in terms of how much we can look ahead and see with certainty what the affairs of this country will be at that time. But I will say very honestly to my friend, the gentleman from Iowa, that what happens in terms of the carrying out of the volunteer program in VISTA, RSVP, and the Score/Ace program of the Small Business Administration, that we get back far more than we ever expend in terms of the kind of voluntary assistance that is granted at the State and local levels for which no pay is granted through the kind of work done by these young men and women, and by older men and women who have given of themselves to serve and help others, to encourage the use of volunteers to expand the basis of the voluntary agency across the United States. I think the cost to the taxpayers are infinitely less than they would be were we to abandon these kinds of programs, and therefore, lose the kind of work carried on through these programs across the United States.

Mr. GROSS. It is going to go up $17 million for administrative expenses at the end of fiscal 1976, which is not an insignificant amount of money.

The SPEAKER. The time of the gentleman from Wisconsin has again expired.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself an additional 30 seconds.

I would agree with the gentleman from Iowa that it is not an insignificant amount of money, and the subcommittee and the full committee looked hard, and will continue to look very closely at the administrative costs of the ACTION Agency.

Mr. GROSS. What about the Peace Corps, why is it not listed, and its expenditures for this year?

Mr. STEIGER of Wisconsin. Because that is not included in the authority of the Committee on Education and Labor, but rather is handled by the Committee on Foreign Affairs of the House.

Mr. GROSS. But it is a part of the ACTION setup, is it not?

Mr. STEIGER of Wisconsin. Yes, it is, but not on the domestic side.

Mr. GROSS. And the Peace Corps is being handed about $80 million this year.

Mr. STEIGER of Wisconsin. Yes. I believe the gentleman from Iowa is correct in his figure.

Mr. GROSS. Which is a very substantial addition to the total appropriation called for in this bill.

Mr. STEIGER of Wisconsin. Yes, it is, but it is not included within our jurisdiction.

Mr. GROSS. I thank the gentleman.

Mr. ESHLEMAN. Mr. Speaker, I support the legislation before the House today. As other Members of this body know, I have often opposed social programs because I had the feeling that they generally produce little and often do more harm than good. Starting in 1966 I was appalled at some of the horror stories I heard about volunteer "efforts" to "help" the poor while they were promoting their own personal ideological interests.

But today I stand here supporting the very legislation designed to continue some of these programs and you might ask why. Well, the answer is quite simple. I have watched the ACTION Agency evolve over the past 2 years and the attempt to bring some order and control to its programs by recruiting more mature, skilled, and professional volunteers. Today I feel there is at least a possibility that much good results from ACTION's efforts. This change, to my way of thinking, can only be of benefit to the entire Nation.

The bill, of course, represents our words and intentions but these words and desires must be carried out by people. I think that ACTION now has some individuals on board and is attracting other competent persons who will be able to implement our goals and directives.

But let me tell you a more personal reason why I feel ACTION and its programs have a chance for success in the future. Many of you, I am sure, have read the summer 1973 edition of the Ripon Forum in which I was extremely critical of the executive branch's general inability to communicate and work with the legislative branch of Government. As the ranking member of the Select Education Subcommittee, I have complained repeatedly that I have not been consulted nor had any part in the development of administration proposals that come before our committee. More importantly, I have not even been able to find out the Administration's position on particular bills until the night before they were either going to testify or we were ready for final markup.

With the ACTION legislation it was different, much to my pleasure and surprise. First, ACTION's new Director, Mike Balzano, who by his own admission did not know much about the Hill when he first took the job, came up and spoke to me and every other member of the subcommittee. He related what the President wanted to do with the ACTION Agency, what he intended to do, and what he wanted to achieve in the legislation. He came up with a position that he had thought through and worked out but, more importantly, he took the time to ask us what we thought was necessary for the program and what we thought could be done to improve it. This is the way it should be with all of the agencies in the executive branch.

Building on this relationship, Balzano then sent Eric Silberstein, the director of congressional relations. His efforts should be singled out as the purest example of what can and should be done to accomplish good and meaningful legislation. Mr. Silberstein was given the task of getting the administration's amendments accepted as part of the legislation, and I must say there were many changes that had to be worked through before it was acceptable. He made himself available at all times. When we had a request he made an attempt to fill it immediately. He never told us that it would take 3 or 4 weeks to get even the simplest response. He was tough, but the mere fact that every administration request has been accommodated in the bill is a testament to his and Mike Balzano's superb work. I think it can be said that this bill before us today is truly the President's.

But the point of all this is that both men and many others at the Agency attempted to work with us and I think the fact that we come to the floor today with a bill that has support from the White House and both the Republican and Democratic leadership is a testament to the way they worked with us. Eric Silberstein was tough, fair, and honest, and when all is said and done, we do not ask any more from any bureaucrat than that.

One final thought, when Mike Balzano testified before our committee he talked about the "six great goals" he has for the ACTION Agency. I would only ask Mike Balzano to follow one goal, which by the way was not even on his list, that is, to make all of the programs authorized in this legislation workable, valuable and of significant benefit to the poor of this Nation so that the investment that the taxpayers are making in it will be justified.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I thank the gentleman from Wisconsin for yielding to me. I want to commend the gentleman from Wisconsin and the other members of the subcommittee on the work they have done in bringing out this bill, and especially in working out the bill so that there is no difference between the desires of the administration and the committee. I think the whole operation will work extremely well with the passage of this legislation.

Mr. Speaker, the bill before us today represents the culmination of an idea developed by President Nixon over 3 years ago bringing all Government volunteer programs into one agency. As we give official statutory authority to that idea—ACTION—we are also extending an official mandate to the concepts of volunteerism and service to others.

The fact that the bill comes before this body today with complete bipartisan support illustrates the concern that we as legislators have of presenting opportunities to Americans, both young and old, to help solve human problems wherever they exist. It reflects not only our commitment to these ideals but those of the President as well. This bill is a compromise which has been developed by Members of Congress working cooperatively with the administration and is supported fully by all sides. Unlike most compromises which generally settle on a middle position in an effort to reach agreement, it is my feeling that the one worked out on this bill actually strengthens the original proposals set before us.

This bill reflects the efforts of many parties. In this regard I must pay personal tribute to Congressman BILL STEIGER—the ranking minority member of the subcommittee—and Congressman GUS HAWKINS—the subcommittee chairman—who along with ED ESHLEMAN, PATSY MINK, and SHIRLEY CHISHOLM developed this bill. Because of their hard work it is my belief that H.R. 7265 represents significant and positive legislation that will insure domestic programs under ACTION will continue to develop and grow.

Mr. Speaker, I must also recognize the invaluable assistance extended by Mike Balzano, the Director of the ACTION Agency, and Eric Silberstein, the Agency's director of congressional relations. These two men worked untiringly with members to bring about the final resolution of this bill. Cooperation came from many quarters and the Office of Management and Budget, of which Members of Congress are often critical, extended assistance to us which I believe greatly expedited the development of the final compromise.

Finally, I would like to extend tribute to our former colleague, Melvin Laird, who is now a counselor to the President, who provided support, guidance, and insight to us and became the catalyst in helping us to forge the final compromise agreement. As everyone can see by the people that I have listed there were many parties involved in developing this truly significant bill. I am sure that with this statutory legislative base the Agency will go forward and reflect by deeds and great work the faith that we are placing in it today.

Mr. HAWKINS. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Speaker, I thank the distinguished chairman of the subcommittee, the gentleman from California (Mr. HAWKINS) for yielding to me.

Mr. Speaker, I am concerned about the language in section 404(f) which begins in line 19 on page 93 of the reported bill.

This language authorizes certain employees who, on the effective date of the act, are not receiving compensation in accordance with the classification and pay provisions of title 5 of the United States Code to be assigned grade levels pursuant to such provisions of title 5 which will permit them to receive rates of compensation which are not less than their existing rates of compensation.

It occurred to me that this language might result in assigning an employee to a grade level under the classification and general schedule pay provisions of title 5 which would be higher than the grade level justified for his position under such provisions.

In view of this possibility, I asked the chief counsel of the Post Office and Civil Service Committee for his opinion as to the legal effect of the language appearing in section 404(f) of the bill.

The chief counsel advised me that in his opinion such language authorizes the conversion of certain employees and their positions to the general schedule pay system. But the conversion could result in a position being placed in a grade higher than the grade justified for the duties of the position in order to save the existing rate of pay of the employee being converted.

Under existing law—5 United States Code 5334(d)—and regulations of the Civil Service Commission, an employee who together with his position is brought under the classification and general schedule pay provisions of title 5, is required to be assigned to the proper grade level in accordance with the position classification standards, but the employee is entitled to retain his existing rate of compensation if such rate exceeds the maximum rate of the grade in which his position is placed.

In view of the existing law and the regulations of the Civil Service Commission, there would appear to be no necessity for the language now contained in section 404(f).

I would hope that the Director of the ACTION Agency would not convert these positions to an improper grade just to save the employee's pay when such action is not justified or necessary.

I wonder if the gentleman can tell me whether these provisions are intended only to save the employee's rate of pay? If they are, then the Agency can do just that under existing law and regulations and classify his position at the proper level.

Mr. Speaker, I yield to the distinguished chairman, the gentleman from California.

Mr. HAWKINS. Mr. Speaker, I can assure the gentleman from North Carolina that the provisions of section 404(f) are not intended to authorize the conversion of employees and their positions to improper grade levels under the classification and general schedule pay provisions of title 5, United States Code.

Rather, the primary intent of section 404(f) is to insure that the converted employees will not suffer a reduction in pay upon their conversions to the general schedule.

Since the existing law does permit converted employees to retain their existing rates of pay, I would see no reason why such employees should not be assigned to the grade levels that are justified for their positions.

I certainly agree with the position taken by the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, I thank the distinguished gentleman for his response and for his cooperation in this matter.

Mr. PERKINS. First, Mr. Speaker, let me take this opportunity to congratulate the distinguished gentlemen from California and the Subcommittee on Equal Opportunities for the job they have done in bringing this legislation before the House. The chairman has worked long and hard on this bill and in my judgment has brought to the House the best bill possible.

Mr. Speaker, I support the Domestic Volunteer Service Act.

The bill before us today is basically a consolidation of the several different legislative authorities that were reorganized back in 1971 into what is known as ACTION.

The bill authorizes for fiscal year 1974 the precise amount that was requested in the President's budget for domestic volunteer programs.

These programs are well known to all of us in this body. The foster grandparent program has provided many elderly citizens with opportunities to make their retirement years useful and productive. The programs that have been administered by the Small Business Administration, SCORE and ACE, have likewise provided people who have special talents in the business field with an opportunity to use their experience and talents for the benefit of those less fortunate. The university year for ACTION program, while of recent vintage, has proved to be a valuable addition in the collection of programs operated by the ACTION Agency. The bill also provides for a continuation of the authority to operate the VISTA program.

The bill provides for several new voluntary activities designed to place special emphasis on the problems of poverty and other human social and environmental problems. Among these are the senior companions program and a program for senior health aides.

Throughout the ACTION Agency there is emphasis placed upon encouraging minority group participation in all of these programs.

Finally, Mr. Speaker, the bill consolidates into one title the administrative and coordination directions necessary to make the ACTION Agency function independently.

The bill we have before us represents a bipartisan effort to enact the best legislation possible to insure that the Federal Government continues its responsibility toward the multiude of people served by ACTION.

Mr. BELL. Mr. Speaker, the measure before the House today, H.R. 7265, provides for the operation of all domestic volunteer service programs by the Government agency, ACTION.

ACTION has served as the source of numerous antipoverty programs throughout the world. Many of us are aware of ACTION's role in relation to the worldwide responsibilities of the Peace Corps. We should also acquaint ourselves with the important role that ACTION plays in our own country.

ACTION concentrates on fighting poverty in the United States with programs such as VISTA and University Year in Action—UYA. In addition to these programs, the bill provides for many new volunteer activities, placing special emphasis on the poor.

The ACTION bill provides for the authorization and continuation of the Foster Grandparent program and the Retired Senior Volunteer Program originally authorized under the Older Americans Act amendments of 1969. These programs, together with the SCORE and ACE programs for retired executives, have grown substantially in recent years and have helped the senior citizens of the country become, once again, functioning and useful members of society.

Mr. Speaker, I believe that this bill deserves the unanimous support of my colleagues. The many programs authorized by the bill have become necessary tools in the Government's fight against poverty. This bill represents people helping others less fortunate than themselves. These programs and the persons involved now need and deserve our assistance. I sincerely hope that my colleagues join me in giving this agency, ACTION, the proper legislative framework from which it will be able to work properly and effectively.

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 7265, the Domestic Volunteer Service Act. This bill provides new and comprehensive authorization for the domestic volunteer programs administered by the agency, ACTION. For me, this bill represents the completion of the reorganization of the volunteer programs started by Reorganization Plan No. 1 of 1971. The Government Operations Committee, which has responsibility for reviewing reorganization plans submitted by the President, worked long and hard to shape ACTION into an innovative and responsible organization. The volunteer programs involved in the reorganization were highly controversial, and it was with the utmost care that we molded them into this new Agency. At the time we presented the reorganization plan to the House, we were confronted by those who had felt we were destroying the existing programs as well as those who thought we should be destroying the existing programs. Of course, we were trying to do neither. Our objective was to strengthen the programs mandated by the Congress through the means of reorganization.

I think the success of ACTION is now a matter of record and one of which we can all be proud. Several new programs have been developed by ACTION to provide more and better volunteer opportunities. A university year for ACTION program has been started involving 1,800 students in 44 universities. Another innovative program is the so-called program for local service, under which volunteers are recruited and placed by mail.

In the first mailing under this program, 1,200 people responded seeking the 350 volunteer positions available. I understand ACTION is also exploring the development of several new concepts for volunteer programs, which today's legislation will enable them to develop. All of this is possible, I think, because we created in 1971 an agency with a mandate to develop as fully as possible volunteer opportunities.

Also possible through the reorganization was the centralization of management and support services, and the efficiencies that resulted therefrom. For instance, the new programs are being developed by an Office of Policy and Program Development. An Office of Citizen Placement serves all of the domestic volunteer programs. And there is now in place a Management Information System to give a more comprehensive and thorough view of what is happening in Federal volunteer programs.

The Agency has been ably served by the two Directors it has known since its founding. Joe Blatchford, the first Director, was able to impart a spirit of vigor and innovation to the new Agency. Dr. Balzano, the present Director, has taken a number of steps to strengthen its operations; the most important, I think, being the decentralization funding decisions so that there is a closer contact between those Federal officials who make funding decisions and the people in the community who would receive the funding.

This bill marks the final rite of passage of the ACTION Agency. I wish the Agency great success in the future.

Mr. **HAWKINS**. Mr. Speaker, I have no further requests for time.

The **SPEAKER**. The question is on the motion offered by the gentleman from California (Mr. HAWKINS) that the House suspend the rules and pass the bill H.R. 7265, as amended.

The question was taken.

Mr. **HUNT**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The Clerk called the roll, and there were—yeas 339, nays 14, not voting 81, as follows:

[Roll No. 458]

YEAS—339

Abdnor
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Aspin
Bafalis
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Corman
Cotter
Coughlin
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Donohue
Drinan
Dulski
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Metcalfe
Mezvinsky
Milford
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—14

Ashbrook
Bauman
Crane
Duncan
Flynt
Gross
Landgrebe
Montgomery
Rousselot
Runnels
Snyder
Symms
Taylor, Mo.
Young, Fla.

NOT VOTING—81

Abzug
Adams
Anderson, Ill.
Ashley
Badillo
Baker
Beard
Bell
Blackburn
Blatnik
Boland
Brooks
Broomfield
Brotzman
Broyhill, Va.
Burke, Calif.
Camp
Clausen, Don H.
Conte
Conyers
Culver
Danielson
Davis, Ga.
Delaney
Dingell
Dorn
Downing
du Pont
Eckhardt
Eshleman
Evans, Colo.
Fish
Fountain
Fraser
Fulton
Gettys
Gray
Griffiths
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hébert
Howard
Jones, Tenn.
Kyros
Landrum
Litton
Lujan
McEwen
Mann
Maraziti
Meeds
Melcher
Michel
Mills, Ark.
Minshall, Ohio
Moorhead, Pa.
Mosher
Nix
O'Neill
Patman
Railsback
Rarick
Rees
Reid
Roberts
Robison, N.Y.
Rooney, N.Y.
Sandman
Symington
Teague, Tex.
Tiernan
Vander Jagt
Waldie
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wydler
Yatron
Young, S.C.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Anderson of Illinois.

Mr. Hébert with Mr. Railsback.

Mr. Rooney of New York with Mr. Conte.

Mr. Delaney with Mr. McEwen.

Ms. Abzug with Mr. Broomfield.

Mr. Kyros with Mr. Sandman.

Mr. Blatnik with Mr. Bob Wilson.

Mrs. Burke of California with Mr. Fish.

Mr. Culver with Mr. Bell.

Mr. Moorhead of Pennsylvania with Mr. Maraziti.

Mr. Charles H. Wilson of California with Mr. Lujan.

Mr. Teague of Texas with Mr. Michel.

Mr. Tiernan with Mr. Baker.

Mr. Fulton with Mr. Broyhill of Virginia.

Mr. Gray with Mr. Robison of New York.

Mrs. Hansen of Washington with Mr. Don H. Clausen.

Mr. Reid with Mr. Eshleman.

Mr. Waldie with Mr. Wydler.

Mr. Adams with Mr. Hansen of Idaho.

Mr. Brooks with Mr. Vander Jagt.

Mr. Boland with Mr. Minshall of Ohio.

Mr. Nix with Mr. Wiggins.

Mr. Dingell with Mr. Brotzman.

Mr. Fountain with Mr. Mosher.

Mr. Hanna with Mr. Beard.

Mrs. Griffiths with Mr. Young of South Carolina.

Mr. Yatron with Mr. Blackburn.

Mr. Mann with Mr. Camp.

Mr. Ashley with Mr. du Pont.

Mr. Jones of Tennessee with Mr. Landrum.

Mr. Danielson with Mr. Davis of Georgia.

Mr. Rees with Mr. Downing.

Mr. Evans of Colorado with Mr. Eckhardt.

Mr. Dorn with Mr. Rarick.

Mr. Gettys with Mr. Harrington.

Mr. Howard with Mr. Mills of Arkansas.

Mr. Conyers with Mr. Symington.
Mr. Badillo with Mr. Melcher.
Mr. Meeds with Mr. Roberts.
Mr. Litton with Mr. Fraser.

Mr. RUNNELS and Mr. LANDGREBE changed their vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of a similar Senate bill (S. 1148) to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1148

*Be it enacted by the Senate and House of Representatives of the United States of America assembled,* That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973";

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Sec. 101. Statement of purpose.
Sec. 102. Authority to operate VISTA.
Sec. 103. Assignment of volunteers.
Sec. 104. Terms of service.
Sec. 105. Support services.
Sec. 106. Participation of beneficiaries.
Sec. 107. Participation of older persons.

PART B—SERVICE-LEARNING PROGRAMS

Sec. 111. Statement of purpose.
Sec. 112. Authority to operate University year for Action.
Sec. 113. Priorities.
Sec. 114. Special conditions.
Sec. 115. Special service-learning programs.

PART C—SPECIAL VOLUNTEER PROGRAMS

Sec. 121. Statement of purpose.
Sec. 122. Authority to establish programs.
Sec. 123. Special emphasis program to provide alternatives to the incarceration of youthful offenders.
Sec. 124. Special emphasis program to promote educational opportunities for veterans.
Sec. 125. Special emphasis program to provide community-based peer group counseling and outreach for drug abusers.

TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

PART A—RETIRED SENIOR VOLUNTEER PROGRAM

Sec. 201. Grants and contracts for volunteer service projects.

PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY PROGRAMS

Sec. 211. Grants and contracts for volunteer service projects.
Sec. 212. Conditions of grants and contracts.

PART C—GENERAL PROVISIONS

Sec. 221. Coordination with other Federal programs.
Sec. 222. Payments.
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Sec. 302. Authority to establish terms and conditions of assignments.

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Sec. 402. Authority of the Director.
Sec. 403. Political activities.
Sec. 404. Special limitations.
Sec. 405. National Voluntary Service Advisory Council.
Sec. 406. Labor standards.
Sec. 407. Reports.
Sec. 408. Joint funding.
Sec. 409. Prohibition of Federal control.
Sec. 410. Coordination with other programs.
Sec. 411. Prohibition.
Sec. 412. Appeals, notice, and hearing procedures.
Sec. 413. Duration of program.
Sec. 414. Distribution of benefits between rural and urban areas.
Sec. 415. Advance funding.
Sec. 416. Application of Federal law.
Sec. 417. Evaluation.
Sec. 418. Nondiscrimination.
Sec. 419. Eligibility for other benefits.
Sec. 420. Legal expenses.
Sec. 421. Guidelines.
Sec. 422. Definitions.
Sec. 423. Audit of the Comptroller General.

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Sec. 502. National older American volunteer programs.
Sec. 503. National volunteer programs to assist small businesses and promote volunteer service by small proprietors.
Sec. 504. Administration and coordination.
Sec. 505. Availability of appropriations.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

Sec. 601. Supersedence of Reorganization Plan No. 1 of July 1, 1971.
Sec. 602. Creditable service for civil service retirement.
Sec. 603. Repeal of title VIII of the Economic Opportunity Act.
Sec. 604. Repeal of title VI of the Older Americans Act.

## TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

### PART A—VOLUNTEERS IN SERVICE TO AMERICA

### STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

### AUTHORITY TO OPERATE VISTA

SEC. 102. The Director shall recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purposes of this part.

### ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, shall assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory or seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under the Economic Opportunity Act of 1964, as amended.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

### TERMS OF SERVICE

SEC. 104 (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Volunteers serving under this part shall be enrolled for two-year periods of service, including or excluding periods of time devoted to training as the Director may determine, except that volunteers serving under this part may be enrolled for periods of service of no less than one year when the Director determines, on an individual basis, that a period of service of less than two years is necessary to meet a critical scare-skill need. Volunteers serving under this part may reenroll for no more than one two-year period of service. No volunteer shall serve for more than five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504(j)): *Provided,* That persons legally residing within a State but who are not citizens of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter information regarding such procedure and the terms and conditions of their service.

SUPPORT SERVICES

SEC. 105. (a) (1) The Director shall provide a stipend to volunteers under this part while they are in training and during their assignments. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service; except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the poor of the communities to be served by volunteers under this part, under part B, and under any other provision of this title in programs serving the poor, shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the poor served by such agencies shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty population, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

PART B—SERVICE-LEARNING PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for Action (UYA) program of full-time volunteer service by students enrolled in institutions of higher learning, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty.

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION

SEC. 112. Except as otherwise provided in this part, the Director shall conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of subsections (b) and (d) of sections 103 and subsection (d) of section 104, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

PRIORITIES

SEC. 113. In carrying out programs under this part, the Director shall insure that priority shall be given—

(1) to the enrollment of persons who have successfully completed their service as low-income community volunteers under part A of this title or under part A of title VIII of the Economic Opportunity Act of 1964, as amended, to military veterans (as defined in section 101 of title 38, United States Code), and to low-income persons;

(2) to arrangements with institutions agreeing to waive tuition for participants in such program, where such waiver is not prohibited by law; and

(3) to arrangements with institutions at which students and faculty, on a self-supporting basis, have carried out necessary and appropriate planning for such programs.

SPECIAL CONDITIONS

SEC. 114. (a) Volunteers serving under this part shall be enrolled for one-year periods of service and may receive academic credit for such service in accordance with the regulations of the sponsoring institution.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c) (1) In making grants or contracts for the administration of programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 80 per centum of the total direct cost (including planning costs) of such program. Each such grant or contract shall require a commitment from the institution to assume the full cost of continuing a program (including the provision of any stipends, allowances, or other support to participating students), of at least the same size for at least one year, carrying out the purposes of this part after such institution has received support for three years, except that the Director may provide assistance for up to an additional two years in exceptional circumstances, under this part or title VIII of the Economic Opportunity Act of 1964, as amended, or both.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of the Department of Health, Education, and Welfare of the extent of each such institution's compliance.

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 115. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provision of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Persons serving as volunteers under this section shall receive no living allowance or stipend and only such other support or allowances as the Director determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

AUTHORITY TO ESTABLISH PROGRAMS

SEC. 122. (a) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs or demonstration programs designed to stimulate and initiate improved methods of providing volunteer services, to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts, and to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part.

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

### SPECIAL EMPHASIS PROGRAM TO PROVIDE ALTERNATIVES TO THE INCARCERATION OF YOUTHFUL OFFENDERS

SEC. 123. (a) The Congress finds that the incarceration of youthful offenders under sentence and awaiting trial is often not successful in rehabilitating juvenile delinquents, generally fails to prevent juvenile crime, and is more costly than alternative approaches to corrections, and that a large proportion of adults arrested for serious crimes are individuals who society failed to rehabilitate as young offenders. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen efforts to prevent delinquency through pretrial, community-based, and other alternatives to the incarceration of youthful offenders under sentence and awaiting trial.

(b) The Director, utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year and in consultation with the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, and appropriate State officials, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers serving under part A, B, or C, of this title, with special emphasis on the recruitment, selection, training, and assignment as volunteers to such program under this section of persons who are themselves rehabilitated criminal offenders, are assigned to a department of corrections or a parole, probation, or other social services agency in a State, county, city, or school district to support and expand existing pretrial, community-based, and other alternatives to incarceration for delinquency prevention, and to foster the creation of such alternatives to incarceration where they do not yet exist; and

(2) such volunteers, wherever possible, work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section.

### SPECIAL EMPHASIS PROGRAM TO PROMOTE EDUCATIONAL OPPORTUNITIES FOR VETERANS

SEC. 124. (a) The Congress finds that fewer than one-half of the Vietnam-era veterans eligible for educational assistance benefits under the GI Bill of Rights (chapter 31 and 34 of title 38, United States Code) are taking advantage of such benefits, that only 25 per centum of such eligible veterans who have not received a high school diploma or the equivalent are taking advantage of such benefits, and that many of such veterans are unemployed or underemployed and are unaware of the economic and social opportunities available to them under such law and other laws and programs. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen efforts to provide outreach, counselling and other assistance to such veterans, particularly those who are educationally disadvantaged, in enrolling such veterans in academic or vocational institutions, on-job training programs, or farm cooperative programs, and in securing gainful employment for such veterans.

(b) The Director, in consultation with the Administrator of Veterans' Affairs, the Commissioner of Education in the Office of Education, Department of Health, Education, and Welfare, and the Secretary of Labor and utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers enrolled under part A, B, or C of this title are assigned, with special emphasis on the recruitment, selection, training, and assignment to programs under this section as volunteers of persons who themselves are military veterans of the Vietnam era (as defined in section 101 of title 38, United States Code); and

(2) such volunteers work in cooperation with existing Veterans' Administration (including veterans carrying out student services pursuant to section 1685 of title 38, United States Code), institution of higher education, veterans' organization, or other personnel engaged in programs similar to those authorized by this section.

### SPECIAL EMPHASIS PROGRAM TO PROVIDE COMMUNITY BASED PEER GROUP COUNSELLING AND OUTREACH FOR DRUG ABUSERS

SEC. 125. (a) The Congress finds that one of the most successful methods of helping persons, especially younger persons, suffering from all forms of drug addiction and abuse (including alcoholism) is to provide concerned, sympathetic peer-group members to conduct outreach, counselling and related activities in community-based drug treatment and rehabilitation programs. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen drug treatment and rehabilitation efforts in communities by providing outreach, counselling, followup, and related services for persons (especially younger persons and military veterans of the Vietnam era (as defined in section 101 of title 38, United States Code)) suffering from drug addiction or drug abuse (including alcoholism).

(b) The Director, utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year and in consultation with the Director of the Special Action Office on Drug Abuse Prevention in the Executive Office of the President (or his successor as Federal Government program coordinator), the Director of the National Institute of Mental Health in the Department of Health, Education, and Welfare, and the Administrator of Veterans' Affairs, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers enrolled under part A, B, or C of this title are assigned, with special emphasis on the recruitment, selection, training, and assignment as volunteers to such program under this section of persons (particularly such military veterans of the Vietnam era) who are themselves considered by competent medical authority as recovered addicts or abusers; and

(2) such volunteers, whenever possible, work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section.

## TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

### PART A—RETIRED SENIOR VOLUNTEER PROGRAM

### GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Director shall make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provides for the payment of the reasonable expenses of such volunteers while undergoing such training;

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons; and

(5) the program is coordinated with other related Federal and State programs.

(b) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon.

### PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

### GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 211. (a) The Director shall make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to volunteers serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to serve as volunteers to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as Foster Grandparents to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the deveolpment and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611(a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the

Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by volunteers serving as Senior Health Aides to work with persons receiving home health care, nursing care, or meals on wheels or other nutritional services, and as Senior Companions to persons having developmental disabilities or other special needs for companionship.

### CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a) (1) In carrying out this part, the Director shall insure that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a) (1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a) (1)) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted, in consultation with or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304 (a) (1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a) (1)), such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837).

## PART C—GENERAL PROVISIONS

### COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In carrying out this title, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view a achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized under this title.

### PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

### MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

## TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

### AUTHORITY TO COOPERATE IN THE OPERATION OF SCORE/ACE

SEC. 301. In order to assist persons engaged or seeking to engage in small business enterprises, especially economically disadvantaged persons, the Director, pursuant to agreements with the Administrator of the Small Business Administration (hereinafter referred to as the "Administrator") which shall be published in the Federal Register, shall cooperate with the Administrator in carrying out the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) program pursuant to section 8(b) (1) of the Small Business Act, as amended (15 U.S.C. 637(b) (1)), by—

(1) conducting a national publicity and recruitment effort to encourage eligible businessmen to serve as volunteers in the SCORE/ACE program and to form SCORE chapters;

(2) providing general budgetary planning for the SCORE/ACE program and such logistical support (including office space and clerical services, and supplies when not available from the Small Business Administration), subject to the provisions of subsection (c) of section 302 of this title, to SCORE/ACE volunteers serving Small Business Administration clients as the Administrator, with the concurrence of the Director, determines are necessary and appropriate to carry out such section 8(b) (1); and

(3) expanding the application of the expertise of such SCORE/ACE volunteer business proprietors to other projects and agencies to carry out other programs authorized in this Act and the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837) (particularly title VII thereof), and budgeting and planning for and carrying out such expanded projects.

### AUTHORITY TO ESTABLISH TERMS AND CONDITIONS OF ASSIGNMENTS

SEC. 302. (a) Except as provided in subsection (c) of this section, the assignment of volunteers enrolled in programs carried out pursuant to clause (3) of section 301 shall be on such terms and conditions as the Director, in consultation with the Administrator, shall determine.

(b) Such volunteers, while engaged in programs under this title or under section 8 (b) (1) of the Small Business Act (15 U.S.C. 637(b) (1)), shall be considered employees of the Federal Government for the purposes of the provisions relating to compensation to Federal employees for work injuries in subchapter I of chapter 81 of title 5, United States Code.

(c) The Director is authorized to reimburse SCORE/ACE volunteers serving pursuant to agreements entered into under section 301 only for transportation, meals, telephone calls, and other out-of-pocket expenses incident to their provision of services or coordination of programs under this Act or the Small Business Act (15 U.S.C. 637(b) (1)).

(d) Notwithstanding any other provision of law, in order to exercise the authority to reimburse expenses of volunteers serving pursuant to section 8(b) (1) of the Small Business Act, as amended (15 U.S.C. 637(b) (1)), the Administrator shall delegate payment responsibility to the Director, making reimbursement to the ACTION Agency in connection with subsequent expenditures by such Agency.

(e) Volunteers serving pursuant to agreements entered into under section 301 shall in no event (1) participate on behalf of the Small Business Administration (rather than on behalf of their clients) in any screening or evaluation activities in connection with applications for loans from such Administration, or (2) provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

## TITLE IV—ADMINISTRATION AND COORDINATION

### ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency two Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code. One such Associate Director shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this Act and the other such Associate Director shall be designated "Associate Director for International Operations" and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.). There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of title I of this Act and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under title II of this Act, who shall be appointed by the Director.

AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5, United States Code;

(2) (A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, device, bequest, or otherwise;

(6) accept voluntary and uncompensated services;

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with Federal Claims Collection Act of 1966 (31 U.S.C. 951–53);

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulation; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is requred in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the items, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such athority;

(12) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, and activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activty. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than 30 days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second and third sentences of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out functions under this Act only to persons appointed or employed pursuant to clauses (1) and (2) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such debate, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. Notwithstanding any other provisions of law, in order to achieve the appointment of personnel pursuant to clause (1) of section 402 and title 5, United States Code, as directed by the first sentence of this subsection, the number of positions authorized by section 5108(a) of title 5, United States Code, and assigned to the ACTION Agency, is increased by a number equal to the number of persons whose level of compensation on the day prior to the effective date of this Act requires their assignment to such positions. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act. This subsection shall not apply in the case of persons carrying out administrative functions in support of other than program-related activities described in section 504.

(g) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any other governmental program.

### NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

SEC. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of 25 members appointed, not later than sixty days after the date of the enactment of this Act, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.), including, in approximately equal numbers, representatives of beneficiaries of programs established under this Act, nations hosting Peace Corps volunteers, present and former volunteers, and national coalitions representing such groups. The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council, shall be entitled to receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Acts as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than March 31 of each calendar year beginning with the calendar year 1974, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President, within thirty days of the receipt thereof, to the Congress together with his comments and recommendations.

### LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors and subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 482, as amended; 40 U.S.C. 276c).

### REPORTS

SEC. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President, within thirty days of the receipt thereof, a full and complete report to the Congress on the activities of the ACTION Agency during such year.

### JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

### PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

### COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act.

### PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

### APPEALS, NOTICE, AND HEARING PROCEDURES

SEC. 412. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause publicly why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

### DURATION OF PROGRAM

SEC. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

### DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414 The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

### ADVANCE FUNDING

SEC. 415. For the purpose of affording adequate notice of funding available under this Act, appropriations for grants, contracts, or other payments under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

### APPLICATION OF FEDERAL LAW

SEC. 416. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Individuals serving in programs authorized by parts A and B of title I of this Act, and individuals serving in programs authorized by part B or C of title I of this Act who are enrolled as full-time volunteers in a program established as a program of at least one year's duration, shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, and (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.,) be deemed employees of the United States, and any service performed by an individual as a volunteer, trainee, or volunteer leader shall be deemed to be performed in the employ of the United States, and (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, except that for the purposes of computation, the monthly pay of a volunteer serving for one year or less shall be deemed to be that received under the entrance salary for GS–7 under section 5332 of such title.

(c) Any period of service of a volunteer under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program of at least one year's duration established under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foregin Service Act of 1946, as amended (22 U.S.C. 1092(a)(1), and every other Act establishing a retirement system for employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purpose of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided,* That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving pursuant to part A of title I of this Act, and volunteers serving pursuant to title VIII of the Economic Opportunity Act of 1964, as amended (42

U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

### EVALUATION

SEC. 417. (a) The Director shall periodically measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) Before funds are released or assistance is provided for the programs and projects covered by this Act after January 1, 1974, the Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluation carried out under this section.

(c) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

### NONDISCRIMINATION

SEC. 418. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, age, physical or mental disability, political affiliation, or belief.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

### ELIGIBILITY FOR OTHER BENEFITS

SEC. 419. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to titles II and III of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

### LEGAL EXPENSES

SEC. 420. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act or section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1)) serving under this Act have been made parties.

### GUIDELINES

SEC. 421. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register and submitted to the appropriate committees of the Congress at least thirty days prior to their effective date.

### DEFINITIONS

SEC. 422. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, territories of the United States, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d).

### AUDIT OF THE COMPTROLLER GENERAL

SEC. 423. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, loans or other arrangements referred to in subsection (a).

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

### NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. (a) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, $61,000,000 for the fiscal year ending June 30, 1975, and $76,000,000 for the fiscal year ending June 30, 1976, respectively to be used for the purpose of carrying out title I of this Act of which (1) the amount of $30,000,000 for the fiscal year ending June 30, 1974, $35,000,000 for the fiscal year ending June 30, 1975, and $45,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for carrying out full-time volunteer programs designed to strengthen and supplement efforts to eliminate poverty under part A of such title; (2) the amount of $12,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part B of such title; and (3) the amount of $8,000,000 for the fiscal year ending June 30, 1974, and the amount of $11,000,000 for the two succeeding fiscal years shall be available for carrying out programs under part C of such title: *Provided*, That not less than 12 per centum of the sums appropriated for carrying out programs under such part C shall be used for carrying out programs, on a cost-reimbursable basis, authorized by part A of such title.

(b) If the sums authorized to be appropriated under subsection (a) of this section are not appropriated and made available in full, then such sums as are so appropriated and made available for such fiscal year shall be allocated so that (1) any amounts appropriated not in excess of $22,300,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $26,000,000 for the fiscal year ending June 30, 1976, respectively, shall be used for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part A of such title; (2) any amounts appropriated in excess of $22,300,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $26,000,000 for the fiscal year ending June 30, 1976, respectively, but not in excess of $29,600,000, $33,500,000, and $34,500,000 for each such fiscal year, respectively, shall be used for programs designed to strengthen and supplement efforts to eliminate poverty under part B of such title; (3) any amounts appropriated in excess of $29,600,000 for the fiscal year ending June 30, 1974, $33,500,000 for the fiscal year ending June 30, 1975, and $34,500,000 for the fiscal year ending June 30, 1976, respectively, but not in excess of $37,600,000, $44,500,000 and $45,500,000 for each such fiscal year, respectively, shall be used for carrying out programs under part C of such title; and (4) any amounts appropriated in excess of $37,600,000 for the fiscal year ending June 30, 1974, $43,500,000 for the fiscal year ending June 30, 1975, and $44,500,000 for the fiscal year ending June 30, 1976, respectively, shall be apportioned for use for carrying out parts A and B, respectively, of this title for each such fiscal year in an amount for each such part bearing the same ratio to the total of such excess amount made available for each such year as the amount set aside for use for each such year under each such part in clauses (1), (2), and (3), respectively, of this subsection bears to the total of such amounts set aside for use for each such fiscal year under each such parts.

### NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, $40,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, respectively, to be used for the purpose of carrying out programs under part A of title II of this Act.

(b) (1) There are authorized to be appropriated $52,000,000 for the fiscal year ending June 30, 1974, $63,000,000 for the fiscal year ending June 30, 1975, and $74,000,000 for the fiscal year ending June 30, 1976, respectively, for the purpose of carrying out programs under part B of such title of which (A) $45,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $65,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211 of part B of such title and (B) $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $32,000,000 for the fiscal year ending June 30, 1974, $33,000,000 for the fiscal year ending June 30, 1975, and $34,000,000 for the fiscal year ending June 30, 1976, respectively, shall be used for grants or contracts for such fiscal years under such subsection.

### NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

SEC. 503. There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, $1,500,000 for the fiscal year ending June 30, 1975, and $2,000,000 for the fiscal year ending June 30, 1976, for the purpose of carrying out programs under title III of this Act.

### ADMINISTRATION AND COOPERATION

SEC. 504. (a) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, $16,000,000 for the fiscal year ending June 30, 1975, and $17,000,000 for the fiscal year ending June 30, 1976, for the administration of this Act as authorized in title IV of such Act: *Provided*, That amounts expended for such purpose in any such fiscal year shall be used for salaries and expenses of persons carrying out functions under this Act only if the Director determines, in accordance with regulations he shall prescribe, that such persons are engaged in carrying out such functions for a substantial portion of their time and that such functions constitute a substantial portion of their responsibilities.

(b) The total administrative expenditures in support of other than program-related activities, including the compensation of Federal employees, incurred under the authority of this Act for any fiscal year shall not exceed the lesser of (1) 10 per centum of the total amount appropriated and made available pursuant to this title for such year, or (2) an amount which bears the same proportion to the total amount appropriated and made available for such expenditures in such year from (A) amounts appropriated and made available pursuant to this Act, (B) amounts appropriated and made available pursuant to the Peace Corps Act (22 U.S.C. 2501 et seq.), and (C) amounts appropriated and made available pursuant to any other law for which implementing responsibility is delegated or transferred to the Director in such year as the total amount appropriated and made available pursuant to this title bears to the total amount appropriated and made available pursuant to the authorizations specified in subclauses (A), (B), and (C) of this clause: *Provided*, That grants, subsidies, and contributions, and payments to individuals, other than Federal employees, shall not be counted as an administrative expenditure.

### AVAILABILITY OF APPROPRIATIONS

SEC. 505. (a) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

(b) There shall be no limitation on the use of funds appropriated to carry out any program under this Act other than limitations imposed by or pursuant to the provisions of this Act; nor shall any funds appropriated to carry out any program under this Act be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified or provided in this Act.

## TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

### SUPERSEDENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), and 3 of Reorganization Plan Numbered 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of on-going activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

### CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one's year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (— U.S.C. —)" after "Economic Opportunity Act of 1964."

### REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

### REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. (a) Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out "1973," and "1974," and inserting in lieu thereof "1974," and "1975," respectively.

### MOTION OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAWKINS moves to strike out all after the enacting clause of S. 1148 and insert in lieu thereof the provisions of H.R. 7265, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7265, was laid on the table.

## GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7265, just passed by the House.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## FEDERAL PRISONERS FURLOUGH

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7352) to amend section 2082 (c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners, as amended.

The Clerk read as follows:

H.R. 7352

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That paragraph (1) of section 4082(c), title 18, United States Code, is amended to read as follows:

"(1) visit a specifically designated place or places for a period not to exceed thirty days and return to the same or another institution or facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services not otherwise available, the contacting of prospective employers, the establishment or reestablishment of family and community ties or for any other significant correctional reason consistent with the public interest; or".

The SPEAKER. Is a second demanded?

Mr. SMITH of New York. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7352 was introduced at the request of the administration in a letter to the Speaker from the Attorney General of the United States. The sponsorship of the bill is bipartisan. It was introduced jointly by the distinguished chairman of the Committee on the Judiciary, Mr. RODINO, and the ranking minority member, Mr. HUTCHINSON.

At the hearing before a Judiciary Subcommittee in July, the bill had the full support of the Director of the U.S. Bureau of Prisons who urged its enactment.

H.R. 7352 would amend existing law which provides for extensions of limits of confinement—also called furloughs—available to inmates at Federal prisons. The legislation would expand these provisions so as to enable fuller utilization of furloughs as a means of assisting prisoners to adjust from institution to community life.

Under present law (18 U.S.C. 4082), Federal prison inmates are eligible for furloughs, not to exceed 30 days in duration, but for limited purposes only. These purposes are largely of an emergency character or for work or training. There is no provision for visits to establish or reestablish family or community ties. H.R. 7352, as amended, would retain the 30-day limitation on the length of furloughs but would expand the provisions of existing law to permit release for these purposes or for any other significant reasons consistent with the public interest.

The committee amendments are of a clarifying character. They permit furloughs for the purpose of initial establishment as well as reestablishment of family and community ties and they avoid the necessity of defining a reason as "correctional."

The Attorney General advises us that even within the present narrow confines of authorized furloughs, furlough utilization is one of the best means of helping a prisoner to make this adjustment.

He has assured the committee that release on furlough would continue to be allowed only in carefully selected cases for individuals who can be trusted and that furoughs pursuant to the amended section will be granted only for nondangerous inmates.

The Honorable Norman Carlson, Director of the Bureau of Prisons, testified as to the number of furloughs granted and the number of furloughed inmates who failed to return. He indicated that in fiscal year 1971, the Bureau granted 2,103 furloughs and had 25 escapes; and in fiscal year 1972 there were 4,126 furloughs granted and 32 escapes. In other words, the escape rate for the most recent period for which figures exist was less than 1 percent.

Mr. Carlson also advised us that no additional funds will be required or sought for the implementation of this bill.

I cannot close without a word of appreciation and commendation of our colleague from New York (Mr. KOCH), who is the author of similar legislation and who was a tireless worker in developing the concept of family visitation furloughs.

I urge prompt and favorable consideration of the legislation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Is it indicated by how much this bill will increase the number of furloughs as compared with the present time?

Mr. KASTENMEIER. This legislation will grant wider discretion in the issuance of furloughs. There is no firm evidence that there will be any particular number of furloughs above the present level. In the fiscal year ending 1973 there were 5,522 furloughs. The bill would enable the Director of the prison system and the superintendents of institutions to have somewhat wider discretion in the use of this as a tool for rehabilitation.

Granted that the total number of prisoners within the U.S. prison system is not large, I would not expect that the number of furloughs would be increased radically.

Mr. GROSS. Who is to be the final arbiter as to whether a prisoner gets a furlough—the Attorney General, or who?

Mr. KASTENMEIER. The Attorney General, yes, but in effect in practice, a furlough determination is made by the Director of the Bureau of Prisons, Mr. Carlson, or his immediate subordinate, or by the superintendent, director, or warden of an institution, or his immediate subordinate officer.

Mr. GROSS. Does he not now have that power to furlough or to liberate, and specify the period of time?

Mr. KASTENMEIER. He does under certain circumstances under law. Those circumstances are in the case of a dying member of his family, in the case of a funeral of a member of his family, in the case where medical attention is required that is not available at the institution where he is incarcerated, or for purposes of training, or for seeking work, or for other compelling purposes consistent with the public interest.

This is regarded by the Bureau of Prisons and by the Attorney General to be somewhat restrictive in terms of the full use of the program which has been so successful as a rehabilitative tool, so this bill merely changes the language to grant the Director of the Bureau of Prisons wider discretion in terms of employment of the program.

Mr. GROSS. The words "establishment or reestablishment of family and community ties" just about cover the waterfront, do they not?

Mr. KASTENMEIER. One of the purposes of course in rehabilitative work, as I am sure the gentleman from Iowa well understands, is to permit an individual who has been separated from society to reestablish a relationship with his community or in some cases with a new community, a community in which he has not lived before. Perhaps he has a job offer from that community. This program will aid the man in establishment of that sort of tie.

Mr. GROSS. Obviously it will require money to support a prisoner who is furloughed for 30 days. Who is going to underwrite the cost of this accelerated or liberalized program?

Mr. KASTENMEIER. The prisoner or any outside sources that may assist the prisoner in this respect. The Bureau of Prisons or the U.S. Government or the U.S. taxpayers do not assist the inmate in this respect. Once he is let outside the institution he pays his own transportation and he is responsible for his own maintenance.

We are, practically speaking, talking not about 30 days but about 3 days for furloughs, which is the most common furlough period utilized presently, and this is what is contemplated. These are not long or extended periods of time even though for purposes of discretion they are permitted. But the prisoner must support himself for that 3-day furlough or whatever the time of the furlough is.

Mr. GROSS. In the gentleman's opinion this is not the forerunner for another bill to tap the Federal Treasury for funds to take care of this liberalized program for the furloughing of prisoners?

Mr. KASTENMEIER. Indeed it is not. I say to the gentleman from Iowa as a matter of fact we are told and advised that no additional funds will be required nor sought.

Mr. GROSS. I will say to the gentleman from Wisconsin that we have been told in many other instances and on other bills that the door would not be opened for further Federal expenditure, but all too often we have found we were misled. I simply want to make a record here and now as to how it will work.

Mr. KASTENMEIER. I appreciate the apprehension of the gentleman from Iowa, but in this program we do have experience. This program has been in operation since 1965. For 8 years the Bureau of Prisons has not sought any public money for this purpose and I believe they will not do so. That is the assurance we have.

Mr. SMITH of New York. Mr. Speaker, I rise in support of H.R. 7352. This bill would give the Bureau of Prisons greater flexibility in the use of furloughs for Federal prisoners. This legislation is not likely to change the course of correctional history or eliminate recidivism completely, but to that inmate with a wife and child or that inmate having other family responsibilities or to that inmate seeking to establish for the first time meaningful community ties, this bill is very important.

In a letter to our Subcommittee on Courts, Civil Liberties, and the Administration of Justice, dated April 17, 1973, the Attorney General stated that even within the present narrow confines of existing law, the use of furloughs is one of the best means of helping a person in the adjustment from the institution to the community. In this regard, as the Ramseyer points out on page 4 of the House report (No. 93–425), the only substantive change in existing law is the addition of the words "the establishment or reestablishment of family and community ties" and the deletion of the word "only."

Mr. Speaker, furlough programs are not new. In March of this year, Mr. Carson Markley, who is associate warden at the Federal Reformatory for Women in Alderson, W. Va., published in the Federal Probation magazine his findings from a survey and analysis of furlough programs in adult correctional institutions in each of the 50 States, the District of Columbia, and the Federal Bureau of Prisons. He found that better than one-half of the States—29 States or 57 percent—have furlough programs, with 16 States planning to implement programs and only 6 States without programs or plans for such programs. Fifty percent of the States anticipate some minor changes in their furlough programs. Correctional administrators in 82 percent of the States—23—currently conducting furlough programs stated that they have experienced no serious problems since introducing furloughs in their institutions.

An offender's problems in a community are what caused him to be incarcerated and, in my opinion, a prime objective of any meaningful correction program should be to help the offender become a responsible and productive member of society upon returning to the community. I urge the Members to vote favorably for the passage of the bill, H.R. 7352.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I rise in support of the bill introduced by the distinguished chairman of the Judiciary Committee (Mr. RODINO) and the distinguished ranking minority member (Mr. HUTCHINSON).

H.R. 7352, which was proposed by the Attorney General, would allow the Bureau of the Prisons greater flexibility in the use of furloughs for Federal prisoners. There is no doubt in my mind that the furlough, when applied appropriately, can serve as an important correctional device by helping offenders to maintain and strengthen ties with communities and with their families.

As Norman Carson, the distinguished Director of the Federal Bureau of Prisons, pointed out in testimony, we must never forget that the offender's difficulties in the community are what caused him to be incarcerated in the first place. Certainly, a major purpose of any correctional program should be to help the offender become a responsible and productive citizen upon returning to the community. I therefore support the enactment of legislation which aids in fostering community relationships.

Under the Prisoner Rehabilitation Act of 1965 (section 4082 of title 18, United States Code) the Bureau of Prisons was authorized to implement for the first time a work and study release program. Authority was also granted to place adult offenders in halfway houses or community treatment centers which previously had been utilized only for youthful and juvenile offenders. In addition, the 1965 act made it possible to begin a furlough program for limited purposes only. Prisoners may be granted leave from their place of confinement primarily for the purpose of visiting a dying relative, attending a funeral of a relative, obtaining medical services not otherwise available, contacting a prospective employer, or for other compelling reasons. The legal language and legislative history clearly indicate that furloughs were to be granted essentially for emergencies specifically spelled out in the act. Certainly, the term "compelling reasons" was written to account for situations similar to the specific reasons.

The legislation we are considering today would expand the provisions of the 1965 law to allow furloughs for the purpose of establishing or reestablishing family and community ties and for any other significant reason consistent with the public interest. The reasons for reforming our furlough policy are numerous. One particular advantage was well articulated by the Director of the Bureau of Prisons in his recent testimony before the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice:

> I think we all recognize the important role that constructive family relationships can play in the overall favorable adjustment of offenders. There are times when periodic home visits can be justified for reasons other than emergencies. The opportunity to participate in special religious holidays and many other important family functions that mean so much to all of us can be a critical step in changing attitudes and developing positive behavior.

Furloughs also serve to reinforce the self-esteem of the inmate since he finds that he is dealt with as someone who is responsible for himself and can be trusted on leave. My home State of Maine, in a policy statement on the "granting of furloughs," concluded in 1969 that furloughs provide the offender with the opportunity to do things for himself, rather than having them done for him by institution officers or parole officers, and this tends to lessen his dependence on others and preserves his ability to make decisions concerning his own actions and conduct—an ability often atrophied through institutionalization.

Furloughs can also be effectively used in assisting prisoners in bridging the gap from the institution to the community. This transition has proven extremely difficult for many inmates because they frequently lack self-confidence and need help in finding those job opportunities which will allow them to operate as responsible and productive members of society. It is significant to point out that even within the present narrow confines of authorized furloughs, the Attorney General has advised us that their utilization is one of the best means of helping a person in this regard. A more flexible furlough policy would allow prisoners to gradually assume some of their responsibilities, search for the opportunities they will need, reestablish family and community relationships, and establish a degree of confidence and direction before their actual release.

Expanded furlough legislation would also enhance the flexibility of existing community programs. To cite one example, an offender on work or study release is permitted to leave the prison each day for his job or school assignment but if his wife or family comes to the prison he is not permitted to visit with them outside the institution. This bill will allow those individuals who are doing well and meeting their responsibilities in such community programs the added opportunity of an occasional home visit or weekend with their families.

Greater flexibility also relates to community treatment centers and halfway houses. While offenders in these programs already have considerably more freedom than is allowed in institution-centered work and release programs, furloughs can only be granted in accordance with the narrowly authorized provisions of existing law. The Bureau of Prisons believes, and I concur, that it would be beneficial for some inmates to be able to spend the last few days of their sentence with their families. Even those who lack immediate family ties are faced with problems of finding a place to live and of settling themselves.

Mr. Speaker, I cannot overemphasize the importance of the community in our consideration of Federal prisoner furloughs. Only last week, the Judiciary Subcommittee on Crime, of which I am a member, began hearings on the Community Anticrime Assistance Act of 1973. In hearing our first two witnesses, one point came through again and again—the police cannot function without the support of the community. As an attorney, as a former county prosecutor, and as one who is interested in all the components of our criminal justice system, I submit that in a likewise manner the prisoner cannot be rehabilitated without the support of the community.

The acceleration of furlough programs is not a new idea. In 1967, the President's Commission on Law Enforcement and Administration of Justice issued a report, "The Challenge of Crime in a Free Society," in which it urged that—

> Graduated release and furlough programs should be expanded. They should be accompanied by guidance and coordinated with community treatment services.

Furlough programs have been implemented in many States. In March of this year, Carson Markley, associate warden at the Federal Reformatory for Women in Alderson, W. Va., published a report he wrote as a Harvard fellow at the Center for the Advancement of Criminal Justice which summarizes the features of existing furlough programs. This well-developed article appears in the March 1973 edition of Federal Probation, and I believe it would be of considerable interest to my colleagues in the House.

Mr. Markley found that of the 50 States, plus the District of Columbia, 29 departments of correction indicated they now have furlough programs. Others plan to institute programs, and only six States indicated they had no such plans.

I am pleased to report that in my home State of Maine a furlough program has been underway since 1969 with numerous participants who occasionally leave the institution for the purposes of home visits, job or school interviews, and illness and funeral trips. According to Mr. Markley's study, Maine has not encountered any problems and does not anticipate any program changes.

The Attorney General has assured the Judiciary Committee that, as under the present act, release would be permitted only in carefully selected cases and for individuals who can be trusted. He has emphasized that release pursuant to the expanded legislation will be utilized only for nondangerous inmates. Normally, prisoners are not approved for furloughs until they have served substantial portions of their sentences.

In this connection, the Bureau of Prisons has made considerable use of furloughs since 1965 and has found the results to be most encouraging. In fiscal year 1971, the Bureau granted 2,103 furloughs and had 25 escapes; in fiscal year 1972, there were 4,126 furloughs granted and 32 escapes. In short, for the most recent period for which figures exist, less than 1 percent failed to return to their institutions. In such cases, a report is made immediately to the FBI. The offender is subject to prosecution as an escapee for which he can receive up to 5 years in prison.

No additional costs will be required to implement this program. It is estimated that the savings in operating a prison some of whose inmates are absent on furloughs would be just about offset by clerical costs involved in screening, analyzing, and providing probation officer contacts. Under any circumstances, the Director of the Bureau of Prisons has assured the House that he will not be requesting additional funds because of this program.

Before closing, I cannot help but refer to the severe problem of recidivism. As I indicated in my floor statement when introducing the Offender Employment and Training Act, the startling fact is that 80 percent of all crimes in this country are committed by people who have previously been convicted of another crime. If we are truly serious about dealing with the alarming recidivistic trend, then we should act favorably on this small but significant expansion of the furlough program.

A reformed furlough program could also serve as a check on prisoners to meet their motivational needs. This point was well argued by Eddie Harrison, director of a juvenile diversion program in Baltimore, who once spent 8 years in prison as a result of convictions. In testimony before the Judiciary Subcommittee, Mr. Harrison stated:

> In terms of the application of the program or its potential to be an extremely positive motivational factor and having a large impact on criminal justice in general, I think it offers a tremendous amount of motivation to maintain good conduct but also, to create within the inmate a chance for correctional treatment programs to be implemented. That is just one of the aspects of the inmates' knowing that a program is available to them, it does make them maintain their conduct.

Certainly, the furlough could provide a key element in motivating the offender by giving him something to look forward to. In the same way that each individual looks forward to his vacation, the prisoner in good conduct could look forward to his furlough. The Director of the Bureau of Prisons put it this way:

> I think the furlough is a correctional tool which serves as a positive reinforcer to the offender, motivating him to maintain a conduct record which is appropriate and to avail himself, of the various programs in the institution.

Mr. Speaker, to sum up, I could not agree more with the Attorney General that "from a correctional standpoint, emergencies are not the only times when a home visit can be justified." I urge favorable consideration of this bill.

Mr. SMITH of New York. Mr. Speaker, I yield such time as he may require to the gentleman from Michigan (Mr. Hutchinson).

Mr. HUTCHINSON. Mr. Speaker, I rise in support of H.R. 7352. The effect of this legislation is to expand the provisions of title 18, United States Code, section 4082(c), by permitting prisoner release for the establishment or reestablishment of family and community ties or for any other significant reason consistent with the public interest. We have been assured by the Attorney General in a letter to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, dated April 17, 1973, and the Director of the Bureau of Prisons in testimony before the subcommittee (page 22 of the hearings, serial No. 11, July 1973), that release on furlough would be allowed only in carefully selected cases and for individuals who can be trusted. We have been assured, as in the present law, release pursuant to this legislation will be utilized only for nondangerous prisoners.

Mr. Speaker, during the last 2 years over 9,000 furloughs have been granted by the Director of the U.S. Bureau of Prisons and from this number less than 1 percent escaped. An escape is rigidly defined to also include those who are only late in returning. I believe this record compiled by the Federal Bureau of Prisons has demonstrated that they can administer community programs without creating additional risks to community safety.

I urge the Members to vote favorably for the enactment of this legislation.

Mr. SMITH of New York. Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may may require to the gentleman from Massachusetts (Mr. Drinan).

Mr. DRINAN. Mr. Speaker, I support H.R. 7352, the prisoners' furlough bill. I support it now, on the floor of the House, I supported it in my Judiciary Committee Subcommittee. The bill will give the Bureau of Prisons greater flexibility in the use of furloughs for Federal offenders.

The use of furlough is an effective tool in easing the transition from confinement in Federal correctional institution to a life in the community. The bill expands the existing provisions of the law (18 U.S.C. 4082) by permitting the release of Federal prisoners on furloughs for the purpose of establishing or reestablishing family and community ties or for any other significant reason consistent with the public interest.

The Honorable Norman Carlson, Director of the U.S. Bureau of Prisons, testified before the subcommittee in favor of this legislation. He stated:

> The Bureau of Prisons has made substantial use of work and study release, community centers and furloughs since 1965 and [has] found the results to be most encouraging.

In 1972, 4,126 furloughs were approved by the Bureau of Prisons. Of that number, less than one percent failed to return to their institutions. In the same fiscal year, only about 5 percent of some 2,800 individuals placed into community treatment centers were reported as missing; and only 2.2 percent of about 1,500 work and study releases failed to return from their community activities.

Under existing law, prison inmates are eligible for furloughs for limited purposes, such as family emergencies, school and employment interviews. This bill will liberalize the purposes for which an inmate can obtain a release. I am hopeful that the Bureau of Prisons will utilize the greater authority and flexibility which this legislation grants to them in a manner which will be beneficial to both the institutions and the prison inmates.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may require to the gentleman from New York (Mr. Koch).

Mr. KOCH. Mr. Speaker, I rise in support of H.R. 7352. This bill amends the Prisoner Rehabilitation Act of 1965, and would permit the release of Federal prisoners on furloughs for the purpose of establishing or re-establishing family and community ties. While Federal law presently provides for a limited furlough program of not more than 30 days, leave is only granted on an emergency basis primarily to visit a dying relative, attend a funeral, obtain medical care not available at the institution, or to contact prospective employers.

This bill would expand the current law to assist prisoners in readjusting to the family and community by permitting them up to 30 days furlough.

The administration had requested this legislation. The Attorney General specified that release would only be granted in carefully selected cases of nondangerous inmates. In February 1972 I introduced the initial legislation, H.R. 12923, which would afford prisoners in Federal institutions a minimum of 13 and up to 30 days of furlough during each year of his or her incarceration. The administration subsequently introduced its bill, the one before us which covers the same subject. I support the bill as a long-awaited step in fostering constructive family relationships of offenders.

We all know that the prison system leaves much to be desired and recidivism is rampant. A recent report from the House Select Committee on Crime, which recommends that work release, education and home furlough programs be expanded, states that two-thirds of all offenders released from prison are rearrested within 4 years—a nationwide recidivism rate of 66⅔ percent.

The recidivism rate is very high and something has got to change. With a growing awareness of the importance of the family to the rehabilitation of an offender, our correctional institutions can and must use this very valuable resource to help the inmate, the family and the community.

Studies conducted in California and Oregon, the only States to do followup evaluations of their furlough programs, showed that offenders having contact with the community before their release recidivate at lower rates than those not having such contact.

Since 1965, the Federal Bureau of Prisons furlough program has granted hundreds of inmates leave each year. In fiscal year 1972, less than 1 percent of the 4,126 furloughed failed to return to the institution.

What better restraint is there on a prisoner to keep himself in check than if he knows that if he does not he would not be entitled to visit his family for up to 30 days during the year.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill H.R. 7352, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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## OAS DIPLOMATIC IMMUNITY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5943) to amend the law authorizing the President to extend certain privileges to representatives of member states on the Council of the Organization of American States.

The Clerk read as follows:

### H.R. 5943

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of July 10, 1952 (66 Stat. 516, 22 U.S.C. 288g), is amended as follows:

(a) The title of the Act is amended to read as follows:

"An Act to extend certain privileges to the representatives of member states and permanent observers to the Organization of American States."

(b) The body of the Act is amended to read as follows:

"That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staffs of said representatives and permanent observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States."

The SPEAKER. Is a second demanded?

Mr. STEELE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the bill is to give the President authority to extend diplomatic privileges and immunities to Permanent Observers to the Organization of American States and their staffs.

In 1971 the OAS created a new status at that organization, that of Permanent Observer. Two categories of countries are eligible for such status: Hemisphere countries which are not members of the OAS and countries which participate in OAS activities. A total of sixteen countries now qualify for Permanent Observer status.

The problem that this bill seeks to remedy is that, under existing law, the President does not have authority to extend diplomatic privileges and immunities to Permanent Observers and their staffs.

The legislation is needed at this time basically to accommodate two countries, Canada and Spain, which have decided to establish Permanent Observer missions to the OAS separate and apart from their missions to the United States. The other seven countries which have been granted Permanent Observer status have designated as observers members of their missions to the United States who already have diplomatic privileges.

The United States supported creation of Permanent Observer status because it is believed in our national interest to encourage the active involvement of nonmember countries in the activities of the organization—and especially in helping pay for OAS programs. Now we find that the two countries which have most fully responded to the OAS' initiative find themselves unable to have the benefits of diplomatic privileges. This bill would resolve their dilemma and help insure that the United States accords similar privileges to all OAS Permanent Observers.

Mr. STEELE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support passage of H.R. 5943, which would extend diplomatic privileges to Permanent Observers to the Organization of American States.

In my opinion it is important that Permanent Observers participate actively in the OAS. The extension of diplomatic privileges authorized by this bill will help encourage such participation.

As the committee report noted, most countries that have been approved for Permanent Observer status have designated their Ambassadors to the United States as their Permanent Observer. These Ambassadors already receive diplomatic privileges because of their accreditation to the United States. However, there are a few permanent observers who are not part of their country's diplomatic mission to the United States and, as a result, are not entitled to diplomatic privileges under existing authority. It is to this small group that this legislation would authorize the President to extend the same privileges and immunities enjoyed by Permanent Observers who are accredited to both the United States and the OAS.

I believe it is in the national interest of the United States that this legislation be approved so that the OAS may benefit from the active participation of all of its Permanent Observers.

Mr. FASCELL. Mr. Speaker, I have no further requests for time .

Mr. WYLIE. Mr. Speaker, will the gentleman yield for a question?

Mr. FASCELL. I yield to the gentleman from Ohio.

Mr. WYLIE. What is the reason for granting diplomatic immunity to these observers to the OAS?

Mr. FASCELL. It is just as we explained.

Mr. WYLIE. Why do we need to extend diplomatic immunity to these four?

Mr. FASCELL. Because these are separate missions by the countries of Canada and Spain, not a part of the regular diplomatic missions which have under other law the immunities and privileges we are talking about here. In order to treat all of the countries the same and because we feel it is important to upgrade the status of the Permanent Observers of those countries either in the Western Hemisphere and not members or outside the Western Hemisphere, the administration felt this was the right thing to do, to put them all on the same level in terms of the Diplomatic Corps.

Mr. WYLIE. Did the gentleman say Canada is one of the countries involved?

Mr. FASCELL. Canada is one of the two countries affected.

Mr. WYLIE. Canada is in the Western Hemisphere, and other nations in the Western Hemisphere have observers to the OAS.

Mr. FASCELL. Yes.

Mr. WYLIE. Do all other observers to the OAS qualify for diplomatic immunity.

Mr. FASCELL. Under other law, yes.

Mr. WYLIE. I do not understand why these four men are not included under the existing law pertaining to diplomatic immunity.

Mr. FASCELL. Because these missions to the OAS on a Permanent Observer status are not a part of the regular country mission to the United States.

Mr. WYLIE. Is one country likely to have more people who qualify for diplomatic immunity than another country?

Mr. FASCELL. No, sir; because if they do not want to have somebody designated with two hats they would just name another person under the regular law. This only affects four people, two from Canada and two from Spain. They are trying to put them on the same basis as every other diplomat.

Mr. WYLIE. What benefits would be bestowed upon them that they do not get now?

Mr. FASCELL. There is immunity from arrest, and other privileges as set forth in present law.

Mr. WYLIE. Parking violations?

Mr. FASCELL. Excise taxes.

Mr. WYLIE. Parking violations?

Mr. FASCELL. Only if they claim immunity. Neither one of these countries has abused the privilege.

Mr. WYLIE. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. GROSS. As a cold matter of fact, this is a "keep up with the Joneses" bill, is it not?

Mr. FASCELL. I think the gentleman could put it that way.

Mr. DERWINSKI. Mr. Speaker, the bill before us, H.R. 5943, is important to the national interest of the United States.

It will contribute to the effective operation of the Organization of American States, which in turn, will contribute to more harmonious relations with our neighbors in Latin America. In my opinion, such a development is very much in our national interest.

The bill we are considering today would grant the President authority to extend diplomatic privileges and immunity to OAS permanent observers and their staffs. Most of the permanent observers already have diplomatic status since they are also Ambassadors serving in Washington, who have been designated by their governments for the additional assignment as a permanent observer to the OAS. However, permanent observers who are not part of their country's regular diplomatic mission do not have diplomatic privileges and immunities. For example, Canada and Spain have appointed separate permanent observers and alternates.

In order that all OAS permanent observers may have the same diplomatic privileges and immunity, I urge passage of this legislation.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL), that the House suspend the rules and pass the bill H.R. 5943.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

### GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

### HUD LOAN INSURANCE

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 719) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes.

The Clerk read as follows:

H.J. RES. 719

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### EXTENSION OF FHA INSURANCE PROGRAMS

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1973" in the first sentence and inserting in lieu thereof "October 1, 1974".

(b) Section 217 of such Act is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

(c) Section 221(f) of such Act is amended by striking out "October 1, 1973" in the fifth sentence and inserting in lieu thereof "October 1, 1974".

(d) Section 235(m) of such Act is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

(e) Section 236(n) of such Act is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

(f) Section 809(f) of such Act is amended by striking out "October 1, 1973" in the second sentence and inserting in lieu thereof "October 1, 1974".

(g) Section 810(k) of such Act is amended by striking out "October 1, 1973" in the second sentence and inserting in lieu thereof "October 1, 1974".

(h) Section 1002(a) of such Act is amended by striking out "October 1, 1973" in the second sentence and inserting in lieu thereof "October 1, 1974".

(i) Section 1101(a) of such Act is amended by striking out "October 1, 1973" in the second sentence and inserting in lieu thereof "October 1, 1974".

#### PUBLIC HOUSING AUTHORIZATION

SEC. 2. Section 10(e) of the United States Housing Act of 1937 is amended by striking out "and $150,000,000 on July 1, 1972" and inserting in lieu thereof "$150,000,000 on July 1, 1972, and $140,000,000 on July 1, 1973".

#### FLEXIBLE INTEREST RATE AUTHORITY

SEC. 3. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

#### TEMPORARY WAIVER OF CERTAIN LIMITATIONS APPLICABLE TO GNMA

SEC. 4. Section 3 of the joint resolution entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes", approved December 22, 1971, as amended, is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

#### URBAN RENEWAL AUTHORIZATION

SEC. 5. The first sentence of section 103(b) of the Housing Act of 1949 is amended by striking out "and by $250,000,000 on July 1, 1972" and inserting in lieu thereof "by $250,000,000 on July 1, 1972, and $664,000,000 on July 1, 1973".

#### MODEL CITIES AUTHORIZATION

SEC. 6. Section 111(c) of such Act is amended by striking out "September 30, 1972" and inserting in lieu thereof "July 1, 1974."

#### OPEN SPACE LAND AUTHORIZATION

SEC. 7. The first sentence of section 703 of the Housing Act of 1961 is amended by inserting before the period at the end thereof the following: ", plus not to exceed $63,000,000 for the fiscal year beginning July 1, 1973".

#### NEIGHBORHOOD FACILITY GRANT AUTHORIZATION

SEC. 8. (a) Section 708(a) of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following new sentence: "In addition, there are authorized to be appropriated for the fiscal year commencing July 1, 1973, not to exceed $40,000,000 for grants under section 703.".

(b) Section 708(b) of such Act is amended by striking out "September 30, 1972" and inserting in lieu thereof "July 1, 1974".

#### WAIVER OF CERTAIN REQUIREMENTS APPLICARLE TO GRANTS FOR BASIC WATER AND SEWER FACILITIES

SEC. 9. Section 702(c) of the Housing and Urban Development Act of 1965 is amended by striking out "September 30, 1972" and inserting in lieu thereof "June 30, 1974".

#### REHABILITATION LOAN AUTHORIZATION

SEC. 10. Section 312(h) of the Housing Act of 1964 is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

#### COMPREHENSIVE PLANNING AUTHORIZATION

SEC. 11. Section 701(b) of the Housing Act of 1954 is amended by inserting after the fifth sentence the following new sentence: "In addition, there is authorized to be appropriated for such purposes not to exceed $110,000,000 for the fiscal year commencing July 1, 1973."

#### NEW COMMUNITY DEVELOPMENT

SEC. 12. Section 713(e) of the Housing and Urban Development Act of 1970 is amended by inserting before the period at the end thereof the following: ", which amount shall be increased by $195,500,000 on July 1, 1973".

#### RURAL HOUSING AUTHORIZATIONS

SEC. 13. (a) Section 513 of the Housing Act of 1949 is amended by striking out "October 1, 1973" each place it appears and inserting in lieu thereof "October 1, 1974".

(b) Section 515(b)(5) of such Act is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

(c) Section 517(a)(1) of such Act is amended by striking out "October 1, 1973" and inserting in lieu thereof "October 1, 1974".

(d) Section 523(f) of such Act is amended by striking out "1973" each place it appears and inserting in lieu thereof "1974".

### ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

SEC. 14. The Secretary of Housing and Urban Development, in processing applications for assistance under section 103 of the Housing Act of 1949, section 111 of the Demonstration Cities and Metropolitan Development Act of 1966, section 708(a) (1) and (2) of the Housing and Urban Development Act of 1965 (for grants authorized under sections 702 and 703 of such Act), section 312 of the Housing Act of 1964, section 701(b) of the Housing Act of 1954, and section 708 of the Housing Act of 1961, shall give a priority to any State or unit of local government or agency thereof which is severely and adversely affected by a reduction in the level of expenditure or employment at any Department of Defense installation located in or near such State or unit of local government.

The SPEAKER. Is a second demanded?

Mr. WIDNALL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

### GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the joint resolution which we are now presenting.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is similar to House Joint Resolution 512 which the House on September 5, 1973, voted to recommit to conference. Our conferees went back to conference with the Senate over two issues in disagreement, the so-called Proxmire antimoratorium provision and the so-called Stevenson provision to direct the Secretary of HUD to compensate those people who purchased defective homes under the various FHA insurance programs. Senate conferees refused to modify or drop these two provisions. The House conferees, following the directions received by a vote on the House floor, insisted that these two provisions be dropped. Since the Senate refused to drop these provisions, conferees broke up in disagreement.

Mr. Speaker, this resolution is similar to House Joint Resolution 512 except that it does not contain the Proxmire antimoratorium provision and the Stevenson compensation provision. House Joint Resolution 719 would extend the authority of the Secretary of HUD with respect to a number of expiring authorities and authorizations in the field of housing and urban development. The resolution would extend to October 1, 1974, the authority of the Secretary of HUD to insure mortgage loans on various FHA programs, and would also extend to October 1, 1974, the authority of the Secretary to set the maximum interest rates on FHA insured mortgages.

House Joint Resolution 719 also provides specific new authorizations for fiscal year 1974 for the following programs:

First, $140 million for annual contributions for the low-rent public housing program;

Second, $664 million for the urban renewal program;

Third, $63 million for the open space program; and

Fourth, $40 million for the neighborhood facilities program.

House Joint Resolution 719 has bipartisan support and I would urge that the House quickly act on this resolution so that these authorities might be extended before their expiring date on October 1.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I will be glad to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, the language found on page 6, line 19, of the joint resolution reads as follows:

> Shall give a priority to any State or unit of local government or agency thereof which is severely and adversely affected by a reduction in the level of expenditure or employment at any Department of Defense installation located in or near such State or unit of local government.

Mr. Speaker, I will ask the gentleman, is that new language and, if so, what is the purpose of the language?

Mr. PATMAN. Mr. Speaker, I apologize to the gentleman. I did not understand his entire question.

Mr. GROSS. Mr. Speaker, I am referring to the language which is found on page 6, line 19, of the joint resolution. I would rather not read it again, but I will ask the gentleman this:

Is that language new? And, if so, what is the purpose of it?

Mr. PATMAN. Mr. Speaker, I will state to the gentleman that I do not know of any substantive new language in this joint resolution.

We are trying to get one down to bare bones that both Houses will approve. I am quite sure there is nothing in this bill that is objectionable for that reason.

We went over there with the Senate conferees. Although they only lacked one vote on agreement in the conference, they just could not get that one vote.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield to me?

Mr. PATMAN. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding.

To answer our colleague from Iowa, this is new language. It was basically recommended by Senator PELL to cover those areas where there have been substantial military base closings. It does not put a mandate on the Secretary, but it does require him to give a high priority in those areas where there have been base closings.

My understanding is this is the only new language in this particular bill before the House today. It excludes the Proxmire and Stevenson concepts which we had voted down.

So the gentleman from Iowa is correct that this language to which he refers on page 6 of the bill is new language; but to the best of our knowledge it will not require any substantial funding, because it is totally within the discretion of the Secretary as it would relate to any housing programs.

Mr. GROSS. Will the gentleman yield so that I might ask the gentleman from California a question?

Mr. PATMAN. Certainly.

Mr. GROSS. Does this mandate the location of housing? In any way does it mandate the location of housing?

Mr. ROUSSELOT. If the gentleman will yield, no, it does not. At least our understanding of the language is it does not mandate housing. It is left to the discretion of the Secretary.

Mr. PATMAN. May I say to the gentleman from Iowa I appreciate his concern; I am glad he brought up the question. But we worked on this pretty hard, because we wanted to stay 100 percent with what the House voted. In doing that we had an awfully hard time with the Senate conferees. I am sure there is nothing in here that we have not approved in one way or another in the past, and the Senate did the same thing. I know if we were to pass this, it would be new to the Senate, and if there is anything bad about it, they would be also concerned about it. This is the question. It is really must legislation. The law expired. They cannot do anything; they cannot make loans. It is really a bad and difficult situation which is existing over the entire Nation. This will open up the housing business and put people to work and houses will be constructed. However, without this bill, until we do it we will still be on dead center.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. PATMAN. Yes. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding.

I would like to assure my colleague from Iowa and other Members of the House that I was especially pleased that our conferees from the House stood very firm to support the position that the House was taking on the original legislation to extend certain housing programs including FHA—especially in excluding from the original bill the Stevenson and Proxmire concepts. So the bill before us is, with the one exception that is brought out by the gentleman from Iowa, which costs no additional money—this legislation is exactly what the House asked us to do in the extension of the FHA authority.

So I wish to compliment the conferees who were so willing, especially my colleagues on the Democratic side, some of whom did not agree but stood firm for the House position. I think the gentleman from Iowa can join me in saying or in expressing thanks, for a change, for the fact that we took a tough stand in the conference. This legislation represents that position.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman.

Mr. WYLIE. I wonder if the gentleman from California would like to have a colloquy among the three of us so that we can establish legislative history?

On page 4, line 14, the wordage used is—plus not to exceed $63,000,000 for the fiscal year beginning July 1, 1973.

At other places in the bill the word "plus" is not used to extend the authorizing authority. By using the word "plus" does that mandate a level of spending?

Mr. PATMAN. This was reported between the House and the Senate conferees unofficially because we had to get a bill ready, because it is so pressing that we just must get the housing industry back on the track, and to put people to work in building homes, and I am sure it would work out as well. But the main thing was to stand for the House position on its enormous vote here, and we stood by that position 100 percent.

**Mr. ROUSSELOT.** Mr. Speaker, will the gentleman yield?

**Mr. PATMAN.** I yield to the gentleman from California.

**Mr. ROUSSELOT.** Since we are amending section 708 of the Housing Act of 1961, in the first sentence as stated on line 12, I believe that the "plus" is merely an add-on to section 708. And so I do not believe as my colleague, the gentleman from Ohio does, who has raised the point that this is confusing language. It is merely an add-on to section 708 as described.

**Mr. WYLIE.** Mr. Speaker, will the gentleman yield further?

**Mr. PATMAN.** I yield to the gentleman from Ohio.

**Mr. WYLIE.** Mr. Speaker, I think the gentleman is correct that no spending level is mandated, but I thought since we are making legislative history here—and I would add that I am for the housing bill before us today. But, I believe, the distinguished chairman of the Banking and Currency Committee made the statement that there is no mandatory spending language in this bill, if the word "plus" were not there. The point I am trying to make here is that the language on page 4, lines 12 to 15, does allow the Secretary of Housing and Urban Development some degree of latitude in the use of the money. This bill merely authorizes an amount over which the Secretary of Housing and Urban Development, plus $63 million, has some discretion.

**Mr. ROUSSELOT.** If the gentleman will yield still further, but not to exceed $63 million. I do not really believe that any Secretary, and certainly not the present one, could construe that to be additional amounts, or confusing language.

**Mr. WYLIE.** Which would mandate him to spend the whole amount.

**Mr. ROUSSELOT.** And that certainly, I do not believe, is our intent.

**Mr. PATMAN.** That is correct. That is the legislative history.

**Mr. WYLIE.** I thank the gentleman.

**Mr. WIDNALL.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee has correctly reported the results of our conference with the Senate. The Senate remained adamant on two amendments as sponsored in the bill by Senator Stevenson and by Senator Proxmire. We felt that we could not reach an agreement and came back with this bill that is before us now, with just one piece of added material which has been described by the gentleman from California (Mr. Rousselot), and clearly stated to the Members as to its application.

Mr. Speaker, I believe that this is the best we can get under the circumstances for the authority for FHA to continue, and which is so urgently needed at this time, so as to help to break the logjam that has taken place with regard to mortgage money throughout the United States.

I urge the adoption of the joint resolution.

**Mr. BARRETT.** Mr. Speaker, this resolution was introduced last week to avoid another crisis in the FHA insurance programs. It has the strong support of Members on both sides.

After the recommittal of the conference report on House Joint Resolution 512, we met promptly with the Senate conferees and urged them to agree to an extension bill that could be supported by the House. The Senate conferees, however, remained adamant in support of the two provisions in disagreement—the Proxmire antimoratorium provision and the Stevenson compensation for defects provision.

Mr. Speaker, a resolution identical to House Joint Resolution 719 has been introduced in the Senate by Senators Tower and Sparkman. We are hoping that we can get this resolution accepted in the Senate and avoid an impasse which could put FHA out of business again; at a time when FHA is especially needed to help provide financing in a tight money market.

I urge that the House act on House Joint Resolution 719 now so that we may have a better chance of getting a resolution enacted before the expiration date of the FHA program on October 1.

**Mr. ROSTENKOWSKI.** Mr. Speaker, the fact that the House of Representatives is today considering a new version of the legislation to extend the insuring authority of the FHA, rather than attempt to come to an acceptable compromise on the original resolution (H.J. Res. 512) is indeed a disappointment to me.

The rejection of the conference report to the earlier version of the legislation, which included a provision designed to aid homeowners who had been victimized both by negligent FHA investigations as well as fraudulent practices by local real estate dealers, was in my mind, a refusal by the Congress to recognize our responsibility to take appropriate steps to rectify grave injustices that have arisen in certain of our Federal housing programs.

I hope that this passage of a simple extension of the FHA's insuring authority will not be taken by the Department of Housing and Urban Development as a mere ratification of the status quo in this area. Passage of the FHA reimbursement provisions by the Senate and their subsequent acceptance by the House conferees, demonstrated that there is much concern in the Congress for rectifying the inequities which have developed in many of the FHA's programs.

Many of us in the Congress have worked very hard in an effort to convince a majority of our colleagues in the House of Representatives of the need for and the fairness of, the reimbursement provisions. I would like to assure my colleagues that we shall continue to work for legislation designed to promote more equity in Federal housing programs in an effort to stabilize changing urban communities.

The **SPEAKER.** The question is on the motion offered by the gentleman from Texas (Mr. Patman) that the House suspend the rules and pass the joint resolution (H.J. Res. 719).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

## ECONOMIC PRIORITIES IN VOTE SUSTAINING PRESIDENTIAL VETO

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

**Mr. ICHORD.** Mr. Speaker, last Wednesday I cast my vote against overriding the veto of the President of the United States of S. 504, a bill prohibiting the closing of certain Public Health Service hospitals and establishing a new emergency medical service program. S. 504 sowed the seeds of a very worthwhile program which is likely to result eventually in the expenditure of billions of dollars. I was one of six Democrats to so vote and have been criticized for not following most of the members of my party. On the other hand, I have been praised for following President Nixon. At the risk of offending both sides, may I state that I voted to sustain the veto in keeping with a commitment that I made to my constituents on April 17 this year which was broadcast on most of Missouri's television stations. I made the commitment and voted to sustain the veto because I have no doubt that irresponsible deficit spending is the principal cause of inflation and our serious monetary problems.

I strongly believe that the paramount concern of this Congress should be to take the steps toward putting our fiscal house in order by adopting effective budgetary and appropriation procedures along the line contained in the Whitten-Ullman proposal. That commitment was kept and I reiterate today that until something similar to the Whitten-Ullman proposal is adopted I will not vote to override any spending vetoes. A text of my April 17 statement will follow my remarks.

Let me remind my colleagues that history is strewn with the remains of civilizations which failed to manage their fiscal affairs responsibly. Many democracies of the past have perished because of the failure of their elected representatives to resist spending pressures, and at the risk of being called a doomsayer, let me say that unless we change our ways, we are certain to meet the same fate.

Our appropriations and budgetary procedures which we used quite well in the past are not only unworkable today, they are virtually inane. They worked satisfactorily in the days before the Federal Government undertook to solve so many of the problems of people, but they are unworkable today in an era where the traditional jurisdictional lines of responsibilities of the Federal, State, and local governments are no longer maintained. We have survived this long only because we emerged from World War II with a high tax structure that was instituted to finance the war. With the end of the war we had an abundance of tax revenues to play around with and we used that money to finance a multitude of meritorious projects and to meet the financial burdens of the new responsibilities we assumed. But we have long since scratched the bottom of the barrel. During and after World War II we spent all of our revenues and $480 billion more. The sum of $480 billion is now our national debt—one-fourth of which has been accumulated in the last 5 years. We now pay in excess of $26 billion in interest alone on the national debt and it has been estimated that the interest cost will rise to $31 billion a year because of the recent astronomical increase in interest rates. It was not very many years ago that the sum of $31 billion was less than all Federal expenditures. This is fiscal insanity, and we have paid the price with two devaluations of the dollar and runaway inflation. Our appropriation and budgetary procedures are so inadequate that every Member is left to write his own record of fiscal responsibility. I imagine that most of the Members of this body have compiled a voting record of balancing expenditures with revenues, but the final result is more and more deficits.

Every Member can balance his own budget by voting for defense and against foreign aid and social services or vice-versa thus having a record of balancing expenditures with revenues. No wonder we hear the jestful statement that a fiscal conservative is one who votes against spending in someone else's district.

Let no one construe my remarks as praise for the fiscal policies of the Nixon administration. Exactly the opposite is intended. The two Nixon administrations have been the wildest spending administrations in history. The hands of the President are just as dirty as ours. The facts are these: The President has proposed deficit budgets which the Congress adopted with some changes. It cut approximately $30 billion in certain areas, but it added back some $30 billion in other areas. The Congress continued to adopt new programs and the President continued to submit deficit budgets each year just as he did this year. Both branches of Government have thus been irresponsible. Adding more than $120 billion to the national debt in the last 5 years can be described in no other terms than irresponsible. If my computations are correct, this administration created a larger deficit in the first 4 years than the combined deficits after World War II of the Truman, Eisenhower, Kennedy, and Johnson administrations.

Mr. Speaker, it is not my intention by the words I have spoken today to be critical of any Member's vote. Because of the complexity of the underlying issues, the inadequacies of our budgetary and appropriation procedures, the meritorious services proposed to be extended to our people, and the parliamentary maneuvering so accurately explained by the gentleman from North Carolina (Mr. Fountain) principles became submerged in political emotions. I am content to leave every Member to explain his vote, but my vote was cast following the commitment I made to my constituents on April 17 and in recognition that the day has come that we must put our fiscal house in order. The emergency is so great, I believe, that the day is long past that either branch can afford to blame the other. There is enough fault for both branches to share. My fervent hope is that we will do our job by adopting effective appropriation procedures such as contained in the Whitten-Ullman proposal regardless of how painful the procedures may be and that the executive will take the steps to correct its past mistakes. To put our fiscal house in order, all of us will have to make sacrifices. Deficit spending cannot be continued. We must either vote against programs we would like to vote for or close the gap between expenditures and revenues by an increase in taxes. There are no other alternatives available.

The text of the April 17 statement follows:

### TEXT OF APRIL 17, 1973, STATEMENT

> The vote tomorrow to override the Presidential veto involves two questions: (1) the need to balance the budget and (2) who shall determine the priority of spending.
>
> In my opinion, there has been an excess of posturing, politicking and demagoging on both sides of the issue and as is often the case, the truth lies somewhere between the two extremes, as both the Congress and the President have dirty hands. There is a need to balance the budget. Deficit spending is the major cause of inflation and other financial problems. On the other hand, the Congress should establish spending priorities.
>
> But to exercise the right to determine priorities, Congress should first set expenditure limitations. As yet this has not been done. It is not my intention to vote to override any Presidential spending vetoes until a spending limitation has been established.

## ECONOMY

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I am delighted that the gentleman from Missouri (Mr. Ichord) is so concerned about fiscal and monetary policies, as we all should be. There are too many committees in this House who are special and select committees and who are spending altogether too much money. After listening to his speech I want to assure all the Members of this House that I am never going to vote for another dime for a select or a special committee of this House, because we have enough committees of this House now to do the regular work of the House. If we are going to restore fiscal and monetary sanity, let us start right here in the House of Representatives.

## ECONOMY

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I generally concur with what the gentleman from Chicago said.

I would like to point out to the gentleman from Missouri that one of the biggest spending committees in the House is the so-called committee that used to be the House Un-American Activities Committee and now is called something else, which keeps or did keep and still has dossiers on every Congressman.

I think after his speech we will try to cut down on the amount of money that committee gets next year as one way to save money. As chairman of the Committee on House Administration, I pledge to do the best I can to cut down.

Mr. ICHORD. Will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Missouri.

Mr. ICHORD. It is immaterial to me as long as the gentleman votes his conscience and keeps his commitment to the people that he represents; I have no complaint about the vote of the gentleman from Ohio.

Mr. THOMPSON of New Jersey. Will the gentleman yield to me?

Mr. HAYS. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I have never known the gentleman from Ohio to vote any way except that dictated by his conscience and the best interests of his constituency.

As the chairman of the Subcommittee on Accounts of the Committee on House Administration, I note with great interest the absolute and total lack of legislative activity in the form of legislation or any other constructive activity by the House Committee on Internal Security. In years they may have produced one or two bills, but I think it is a good place to start paring, and I am going to continue it. As a matter of fact I would abolish the committee or turn its functions over the Committee on the Judiciary. At the very least the Internal Security Committee should have little or no operating funds.

## THE NEED FOR CARRYING OUT DEMOCRATIC PARTY POLICIES

(Mr. KOCH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, I would like to add a comment to the colloquy that has just taken place between the gentleman from Ohio (Mr. Hays) and the gentleman from Missouri (Mr. Ichord).

I think there is something wrong with chairmen and subcommittee chairmen voting against bills representing the legislative program of the Democratic Party. In the case of the attempts to override the President's Emergency Medical Services Act, the Speaker's Steering Committee and the Democratic leadership had requested party unity in support of the bill. I think there is something wrong with our failing to override the veto by five votes because seven Democrats, including committee chairmen, voted with the opposition. Those chairmen and subcommittee chairmen hold their positions of power as a result of the Democratic majority in the House and at the behest of the Democratic Caucus. They are sent to Congress by their constituents, but it is the Democratic Caucus that gives them their committee chairmanships. It is time that the Democratic Caucus give its positions of leadership to Members who reflect and support Democratic Party policy.

If Members cannot in good conscience support the Democratic Party's legislative program, then they should not accept a position of party leadership in the House—and the Democratic Caucus should not offer it to them.

## COMMENDING WASHINGTON POST FOR ITS EDITORIAL ON AN AGRICULTURAL PROBLEM AFFECTING FOOD PRODUCTION

(Mr. POAGE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. POAGE. Mr. Speaker, I want to commend the Washington Post for its editorial today on an agricultural problem that bears directly on food production and, of course, on prices the consumer pays.

It deals with shortages of fertilizer, and while no solution is readily apparent, the editorial quite properly alerts the urban readers to the fact that modern farming is an expensive business.

If it is not run in a modern, efficient manner, a lot of retail grocery shelves will be bare. In today's issue of the Wall Street Journal there is also a news article on the fertilizer shortage situation, which I might note has been the subject of a study just completed by the staff of the House Agriculture Committee on my instruction. If we are to get the full production necessary to meet consumer demand and keep prices reasonable, farmers will simply have to have the materials to get the job done.

I ask that the Washington Post editorial, with its accompanying letter from a Kansas housewife, be printed in the Record. I commend its reading to my colleagues. The editorial and letter follow:

### A Letter From the Wheat Belt

A number of people here in Washington have begun to see the danger in the fertilizer shortage, but no one has put the case better than Mrs. Dixon. Her letter arrived the other day from southeastern Kansas, where the ground is now being prepared for planting the wheat. Fertilizer supplies this month will affect not only grain prices next summer, but beef prices next spring. Modern fertilizers enable farmers like the Dixons to graze beef cattle all winter on the growing wheat, sell the cattle in the spring, and a few weeks later harvest a normal wheat crop. But that takes a lot of nitrogen in the soil.

The Dixon family's troubles are a brilliantly clear illustration of the desperate dilemmas into which the country has fallen in its struggles with food and prices. The Nixon administration is trying to hold down the cost of food by expanding production. The Dixons' wheat acreage this October will be 30 per cent greater than last year's. Bigger crops require more fertilizer and the producers cannot meet the soaring demand. Nitrogen fertilizer is made fom natural gas, already severely in shortage.

In the Dixons' area, one major supplier is W. R. Grace and Co., which operates a plant nearby in Joplin, Mo. The plant manager, D. E. Warren, says that his gas supply was cut off 46 days last winter and was reduced by 9 per cent last month. Since his gas suppliers have warned him to expect similar disruptions again this winter, Mr. Warren is installing propane tanks for supplementing the natural gas flow. But, he points out, propane is also in shortage and it is six times as expensive as natural gas.

The domestic price of nitrogen fertilizer is held down to $40 a ton by the federal price controls. But the export price is uncontrolled and it is now about $75. That is why manufacturers give preference to foreign buyers. Mrs. Dixon complained to her congressman, Joe Skubitz (R. Kans.), who talked to the Agriculture Department. Subsequently a large oil company made some unexpected deliveries in Mr. Skubitz's district, but that was only temporary relief. Mr. Skubitz favors decontrol of the price, on grounds that his constituents would rather pay more than be crippled by shortages in the crucial planting weeks.

The real crisis is coming next spring, when fertilizer demand will reach its annual peak. American farmers will need about 10.1 million tons of nitrogen fertilizer for the year ending next June, the Agriculture Department estimates, but supplies will be only about 9.1 million tons. This means a shortage of 1 million tons here in the United States. Meanwhile our exports are projected at 1.7 million tons.

Sens. Hubert Humphrey (D-Minn.) and Robert J. Dole (R-Kans.) called a meeting last Monday at which they pressed the administration and the industry for a solution. Senator Humphrey asserted that a million-ton shortfall of fertilizer would reduce American production of feed grains next year by 20 million tons: "If this occurs," he said, "the effects will be catastrophic. Retail prices will go into the stratosphere." The Agriculture Department is supposed to come up with an answer. But, in truth, the possibilities are neither numerous nor attractive. Decontrol would contribute to inflation immediately. Continued price control would mean shortages now, causing further inflation later. The only other choice would be export controls which, as the administration has learned, are fearfully destructive of our relations with other nations that count on us for vital supplies. Senator Humphrey took the issue into the hearings on the confirmation of Henry Kissinger as Secretary of State. Dr. Kissinger apparently had not anticipated questions on fertilizer. But he may discover that it has more to do with his work over the coming years than many of the more conventional preoccupations of diplomacy.

When the Nixon administration began to push for maximum farm production, no one gave much thought to fertilizer requirements. Now that the industry needs more gas, the government still is not prepared to say who should have less. Nobody in Washington worried much about rising fertilizer exports until the word of shortages began to trickle back from the farm states. City dwellers, bewildered and outraged by the cost of food, are demanding explanations. Those explanations might well start with the Dixon family, scouring southeastern Kansas for dealers able to sell them anhydrous ammonia for their fields before the winter wheat goes in.

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September 3, 1973.

Dear Sir: My husband and two sons farm approximately 2,000 acres of wheat land in Sumner County, Kansas. We are not big farmers, nor are we small.

There is now a widespread and critical shortage of fertilizer and planting time is near. If we do not get enough fertilizer, we will not be able to produce much wheat. Thousands of farmers are in the same boat. (Also we cannot get, at any price, tractors, tractor tires, rims, wheat drills, baling wire, machinery parts, to mention a few, and we are rationed on gasoline—altho, as a housewife, I can fill up at any major station 20 miles away with no questions asked.)

Oil companies make fertilizer. We are told by our suppliers that they cannot get fertilizer (anhydrous ammonia) because: 1. There is a shortage of natural gas needed to make it. 2. Forty-five per cent of the fertilizer is being shipped overseas at much higher profits. (A dealer of some 30 years told us that when he sent his trucks to Houston, the supplier refused to fill them while his driver watched the fertilizer being loaded on ships for export.) 3. The railroads are weeks delivering carloads that should arrive in days.

Excuses will not grow crops.

Meanwhile, you city people had better get off your office chairs and start writing your congressmen too (or anyone else that you think might help) or next year there may not be *any* food.

Respectfully,

S. J. Dixon.

## THE NEED FOR RESPONSIBLE ACTION TO FIGHT INFLATION

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, last spring I joined with the great majority of my colleagues in both political parties to extend the President's authority to impose wage and price controls under the Economic Stabilization Act until April 30, 1974. I supported this extension reluctantly. I have always been skeptical of the effectiveness of economic controls to accomplish their intended purposes.

The experience of the past few months has proved to me that my long-standing fear of wage-price controls was justified. The present fiasco over the cost of living council's imposition of rigid price controls on gasoline retailers is only the latest example of the injustices involved in such policy.

The price freeze initiated on June 13 postponed, but did not prevent, price rises. The rapid jump in the price of such staples as pork, bacon and eggs, following the end of the freeze, underscores the inability of controls to contain inflation in the long-run. The freeze did result in widespread economic dislocation, in food shortages, in the closing of numerous businesses, and in the consequent unemployment of thousands of American workers.

The Cost of Living Council's singling out gas and diesel oil for rigid price controls has threatened the existence of many independent service stations. It does nothing to discourage the use of fuel at a time when we need to do everything possible to conserve petroleum products.

The time has come to end controls and return to a free market. Neither wishful thinking nor bureaucratic regulations will solve our economic ills. The only solution is fiscal responsibility. A responsibility that must be shared by all citizens as consumers as well as by officials and legislators at all levels of Government.

We in Congress must attack inflation at one of its most important sources—excessive Federal spending. This means some hard choices. We cannot afford all the good ideas, all the good programs, that we would like to support under more favorable conditons.

It is also time for Congress to act responsibly in its own operation. I am concerned by the delay in establishing appropriate mechanisms in the House and Senate for setting an annual ceiling on Federal spending and for budgeting expenditures within that limit.

Discipline and responsible voting by the people's representatives in Congress and in the State legislatures—not economic controls—are needed to fight inflation.

## FERTILIZER SHORTAGE

(Mr. ARENDS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ARENDS. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial from today's edition of the Washington Post.

This editorial so pointedly warns of a food crisis which could face the American people in the year ahead if immediate steps are not taken to assure an adequate supply of fertilizer for the Nation's farmers.

Those who complain about the price of food today may see something even worse if the lack of fertilizer forces what could be a very substantial cutback in production in the coming crop year. It is time we in the Congress become realistic about this possibility.

### A LETTER FROM THE WHEAT BELT

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The real crisis is coming next spring, when fertilizer demand will reach its annual peak. American farmers will need about 10.1 million tons of nitrogen fertilizer for the year ending next June, the Agriculture Department estimates, but supplies will be only about 9.1 million tons. This means a shortage of 1 million tons here in the United States. Meanwhile our exports are projected at 1.7 million tons.

Sens. Hubert Humphrey (D-Minn.) and Robert J. Dole (R-Kans.) called a meeting last Monday at which they pressed the administration and the industry for a solution. Senator Humphrey asserted that a million-ton shortfall of fertilizer would reduce American production of feed grains next year by 20 million tons. "If this occurs," he said, "the effects will be catastrophic. Retail prices will go into the stratosphere." The Agriculture Department is supposed to come up with an answer. But, in truth, the possibilities are neither numerous nor attractive. Decontrol would contribute to inflation immediately. Continued price control would mean shortages now, causing further inflation later. The only other choice would be export controls which, as the administration has learned, are fearfully destructive of our relations with other nations that count on us for vital supplies. Senator Humphrey took the issue into the hearings on the confirmation of Henry Kissinger as Secretary of State. Dr. Kissinger apparently had not anticipated questions on fertilizer. But he may discover that it has more to do with his work over the coming years than many of the more conventional preoccupations of diplomacy.

When the Nixon administration began to push for maximum farm production, no one gave much thought to fertilizer requirements. Now that the industry needs more gas, the government still is not prepared to say who should have less. Nobody in Washington worried much about rising fertilizer exports until the word of shortages began to trickle back from the farm states. City dwellers, bewildered and outraged by the cost of food, are demanding explanations. Those explanations might well start with the Dixon family, scouring southeastern Kansas for dealers able to sell them anhydrous ammonia for their fields before the winter wheat goes in.

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SEPTEMBER 3, 1973.

DEAR SIR: My husband and two sons farm approximately 2,000 acres of wheat land in Sumner County, Kansas. We are not big farmers, nor are we small.

There is now a widespread and critical shortage of fertilizer and planting time is near. If we do not get enough fertilizer, we will not be able to produce much wheat. Thousands of farmers are in the same boat. (Also we cannot get, at any price, tractors, tractor tires, rims, wheat drills, baling wire, machinery parts, to mention a few, and we are rationed on gasoline—altho, as a housewife, I can fill up at any major station 20 miles away with no questions asked.)

Oil companies make fertilizer. We are told by our suppliers that they cannot get fertilizer (anhydrous ammonia) because: 1. There is a shortage of natural gas needed to make it. 2. Forty-five percent of the fertilizer is being shipped overseas at much higher profits. (A dealer of some 30 years told us that when he sent his trucks to Houston, the supplier refused to fill them while his driver watched the fertilizer being loaded on ships for export.) 3. The railroads are weeks delivering carloads that should arrive in days.

[illegible] will not grow crops.

[illegible] city people had better get off your office chairs and start writing your congressmen too (or anyone else that you think might help) or next year there may not be any food.

Respectfully,

S. J. DIXON.

## A QUESTION OF ECOLOGY

(Mr. MILFORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, this great nation faces many problems today—real problems that call for immediate solutions.

If each Member of this House spent every moment of the day, either in committee or on the floor, we would be unable to solve even the vital problems that face us today.

Therefore, it is imperative that we carefully evaluate every issue that comes before us and evaluate it to determine whether or not the problem is real, emotional, false, or not properly identified.

Many of our committees are spending hours of time considering ecological problems. My training as a scientist has revealed that much of the work we are doing is unnecessary, some is actually counterproductive, and a little is actually damaging the very people we are trying to help.

In this light, I would like to read into the RECORD the speech by Dr. A. L. Jones, entitled "A Question of Ecology," that he recently made before a scientific seminar.

If each Member will read this, I think it will help in identifying some of the problems we face in the ecology field.

The article follows:

### A QUESTION OF ECOLOGY

(By Dr. A. L. Jones)

For several years I have been deeply concerned about reports of the destruction of our environment as a result of technological recklessness, overpopulation and a religious and philosophical outlook that gives little consideration to the preservation of nature. My studies in this area of concern have turned up evidence that I feel compelled to share with you.

Three years ago I started to evaluate the premises upon which some of our major environmental concerns are based. The evidence that I have been able to find has proved to be quite encouraging to me. My findings have changed my attitude from one of pessimism for the future of mankind to one of confidence that we can solve our major environmental problems if we are willing to use rational approaches and pay the cost. This is what I want to talk to you about.

I wish to make it quite clear that I am speaking to you as a scientist and not as an emotional supporter of any particular "side" of ecology. I would like to remind you that useful science is based on reproducible evidence or principles that can be repeated and verified by others. As scientists we must work in terms of what we know rather than what we do not know. Unless the pronouncements we make are verifiable by others, they are worthless. Our job is to seek the truth. Our success as scientists depends on finding the truth and relating it to the needs and interests of man.

Some of the facts I present today may surprise many of you. I can assure you my conclusions are supported by evidence that is difficult to interpret in any other way. They can be verified by anyone who wishes to do so.

My first surprise concerns the air we

breathe. Throughout my formal education I have been taught that the oxygen in our atmosphere is supplied by green plants using the process of photosynthesis. It is known that plants take in carbon dioxide and, through activation by sunlight, combine it with water to make starches and cellulose and give off oxygen. In this way the whole chain of plant and animal life is sustained by energy from the sun. When the vegetable or animal materials thus produced are eaten, burned, or allowed to decay they combine with oxygen and return to the carbon dioxide and water from which they came. We all know this. What is the surprise?

The surprise is that most of the oxygen in the atmosphere doesn't come from photosynthesis. The evidence is now overwhelming that photosynthesis is quite inadequate to have produced the amount of oxygen that is present in our atmosphere. The reason is that the amount of oxygen produced by photosynthesis is just exactly enough to convert the plant tissue back to the carbon dioxide and water from which it came. In other words, the net gain in oxygen due to photosynthesis is extremely small. The oxygen of the atmosphere had to come from another source. A most likely possibility involves the photodissociation of water vapor in the upper atmosphere by high energy rays from the sun and by cosmic rays. This process alone could have produced, over the history of the earth (4.5 x $10^9$), about seven times the present mass of oxygen in the atmosphere.

Two important articles on this subject have been published in *Science* within the last 18 months by Professors Leigh Van Valen of the University of Chicago and W. S. Broecker of Columbia University.

I have been searching for data regarding samples of air from ancient atmospheres that might have been trapped in some geological formation. I recently learned that Dr. R. C. Robbins of the Stanford Research Institute was analyzing trapped air in ice cores from the ice caps of Greenland and Antarctica. His samples date back to 500 B.C. Dr. Robbins has made available to me his oxygen analyses. It is identical with that in the air today. This is direct evidence that the industrial activities of man have produced no measurable change in the percentage of oxygen in the atmosphere.

The significance of this information is that the supply of oxygen in the atmosphere is virtually unlimited. It is not threatened by man's activities in any significant way. If all of the organic material on earth were oxidized it would reduce the atmospheric concentration of oxygen by less than 1 percent. We can forget the depletion of oxygen of the atmosphere and get on with the solution of more serious problems.

We have heard much in recent years about the death of Lake Erie. It is true that the beaches are no longer swimmable in the Cleveland area and that the oxygen content of the bottom of the lake is decreasing. This is called eutrophication. Heavy blame has been placed on phosphates as the cause of this situation. Housewives have been urged to curb their use of phosphate detergents. The State of New York has signed into law a measure to forbid the sale of detergents containing phosphates by 1973. Many other areas of the country have similar regulations.

The scientific evidence I have been able to acquire on this subject shows that the cause of the eutrophication of Lake Erie has not been properly defined. This evidence suggests that if we totally stopped using phosphate detergents it would have no effect whatever on the eutrophication of Lake Erie. Many experiments have now been carried out which show that it is the organic carbon content from sewage that is using up the oxygen in the lake and not the phosphates in detergents. The reason the Cleveland area beaches are not swimmable is that the coliform bacterial count, from feces, is too high, not that there is too much detergent in the water. Enlarged and improved sewage treatment facilities by Detroit, Toledo, and Cleveland will be required to correct this situation. Our garbage disposal units do far more to pollute Lake Erie than do the phosphate detergents. If we put in the proper sewage treatment facilities, the lake will sparkle blue again in a very few years.

As many of you know, the most toxic component of automobile exhaust is carbon monoxide. Each year mankind adds over two hundred millions tons of carbon monoxide to the atmosphere. Most of this comes from automobiles. Until recently I had been concerned about the accumulation of this toxic material because I use it daily in my research and know that it has a life in dry air of about 3 years in the laboratory. For the past several years, monitoring stations on land and sea have been measuring the carbon monoxide content of the atmosphere. Since the ratio of automobiles in the northern and southern hemispheres is 9:1 respectively, it was expected that the northern hemisphere would have a much higher concenration of atmospheric CO. Measurements show that there is no difference in CO amounts between the hemispheres and that the overall concentration in the air is not increasing at all.

Early in 1971, scientists at the Stanford Research Institute in Palo Alto disclosed that they had run some experiments in smog chambers containing soil. They reported that carbon monoxide rapidly disappeared from the chamber. They next sterilized the soil and found that now the carbon monoxide did not disappear. They quickly identified the organisms responsible for CO removal to be fungi of the aspergillus (bread mold) and penicillium types. These organisms, on a world wide basis, are using all of the 200 million tons of CO made by man for their own metabolism, thus enriching the soils of the forests and the fields. More recently, scientists at Queens University in Canada have found that green plants, such as beans, use CO in their metabolism and that they consume as much atmospheric CO as do the fungi in the soils.

This does not say that carbon monoxide is any less toxic to man. It does say that, in spite of man's activities, this material will never build up in the atmosphere to dangerous levels except on a localized basis. To put things in perspective, let me point out that the average concentration of carbon monoxide in the open air is less than 1 part per million. In downtown Cleveland, in heavy traffic, it sometimes builds up to 15 to 20 ppm. In Los Angeles it gets to be 35 ppm. In parking garages and tunnels it is sometimes 50 parts per million. These are the worst conditions.

Here is another surprise for many of you. Do you know that the carbon monoxide content of cigarette smoke is 42,000 parts per million? The CO concentration in practically any smoke filled room grossly exceeds the safety standards we permit in our laboratories (10 ppm). I do not mean to say that many of us subject ourselves to CO concentrations voluntarily (and involuntarily) that are greater than those of our worst polluted cities, including those in the Holland Tunnel in New York, without any catastrophic effects. It is not at all unusual for CO concentrations to reach the 100–200 ppm range in poorly ventilated smoke filled rooms. If a heavy smoker spends several hours without smoking in polluted city air containing 35 ppm of CO, the concentration of CO in his blood will actually decrease! In the broad expanse of our natural air, CO levels are totally safe for human beings.

No one in his right mind would condone air pollution. But we must think of things in their proper perspective. We need to ask the question about whether the air in our living rooms presents a greater hazard to health than does the outside city air. I think we should strive to clean up both of them.

One of the problems of considerable national interest concerns the use of the pesticide DDT. I find that DDT has had a miraculous impact on arresting insect borne diseases and increasing grain production from fields once ravaged by insects. According to the World Health Organization, malaria fatalities alone dropped from 4 million a year in the 1930's to less than 1 million per year in 1968. Other insect borne diseases such as encephalitis, yellow fever and typhus fever showed similar declines. It has been estimated that 100 million human beings who would have died of these afflictions are alive today because of DDT.

DDT and other chlorinated compounds are supposedly endangering bird species by thinning of the egg shells. I am not sure this is true. The experiments I found concerning this were not conducted in such a manner that positive conclusions could be drawn from them. (The evidence is that Dieldrin, PCB, and other pesticides are more likely responsible for it, not DDT). Even if it is true, I believe that the desirable properties of DDT so greatly outnumber the undesirable ones that it might prove to be a serious mistake to ban entirely this remarkable chemical.

The United States has banned the use of DDT as of the beginning of 1973. This is a clear-cut example of modern day decision based more on fear than it is on knowledge. We know that DDT has saved the lives of 100 million people. We know that food production is increased in both quantity and quality through use of DDT. We know that there is not a single fatality of man that can be attributed to DDT in the food chain. We know that no effective substitute has been discovered for DDT.

DDT was banned because we fear that, in spite of not having done so after 28 years of use, we may find that "man may be exposing himself to a substance that may ultimately have a serious influence on his health". Can a modern society afford to use fear and speculation rather than knowledge as a sound basis for decision making on matters that will affect the lives and welfare of millions?

Many people feel that mankind is responsible for the disappearance of animal species. I find that in some instances man may hasten the disappearance of certain species. However, the abundance of evidence indicates that he has little to do with it. About 50 species are expected to disappear during this century. But it is also true that 50 species became extinct last century and the century before that. Dr. T. H. Jukes of the University of California points out that about 100 million species of animal life have become extinct since life began on this planet about 3 billion years ago. Animals come and animals disappear. This is the essence of evolution as Mr. Darwin pointed out many years ago. Mankind is a relatively recent visitor here. He has had nothing to do with the disappearance of millions of species that preceded him.

It is of interest to note that man has not been successful in eliminating a single insect species, in spite of this all-out war on certain undesirable ones in recent years. He also has not felt kindly towards snakes and rats, but no species of them have disappeared to my knowledge.

For those who wish to return to the "good old days" when we didn't have dirty industries and automobiles to pollute the air, let's consider what life was really like in America before the Civil War. For one thing, life was very brief. The life expectancy for males was less than 40 years. Those 40 years were exhaustive, back-breaking years. The work week was 72 hours. The average pay was $300 per year. The life of a woman was far from "women's lib". They worked 98 hours a week, scrubbing floors, making and washing clothes by hand, bringing in firewood, cooking in heavy iron pots and fighting off insects without screens or pesticides. Most of the clothes were very inferior by present day standards. There were no fresh vegetables in winter. Vitamin deficiency diseases were prevalent. Homes were cold in winter and sweltering in summer.

Every year an epidemic could be expected and chances were high that it would carry off someone in your immediate family. If you think that water pollution is bad now, it was more deadly then. In 1793, one person in every five in the city of Philadelphia died in a single epidemic of typhoid fever as a result of polluted water. I wonder how many informed people want to return to the "paradise" of the good old ante-bellum days. Perhaps the simple life is not so simple.

Many of us are alarmed by the dire announcements made by technically untrained people and by scientists who have not bothered to check their assumptions against the evidence. These alarms have made us go off half-cocked with expensive measures in some cases to solve problems that are sometimes more imaginary than real. For example, the constructon of some nuclear power plants have been held up because of the fear of thermal pollution by the effluent cooling water. In some cases, multimillion dollar cooling towers have been required before construction could proceed. The evidence I can find is that when the plants are located on large bodies of water, such as Lake Erie, cooling towers represent expensive monuments to misinformation. The public will have to pay for these and will receive no measurable benefit from the expenditure.

My investigation of the thermal pollution problem reveals that, beyond any question of doubt, the sun is by far the greatest thermal polluter of Lake Erie. Governor Gilligan of Ohio announced that he would "back legislation making it unlawful to increase the temperature of the (effluent) water by more than one degree over the natural temperature." As we all know, the natural temperature of the lake is changed by the sun more than 40°F every year between winter (33°) and summer (75+°). The natural life in the lake accommodates this drastic change in great fashion, as it has for many thousands of years.

I have determined that if we could store up all of the electricity produced in Ohio in a whole year and use it exclusively for heating Lake Erie all at one time, it would heat the entire lake less than three tenths of one degree (0.3°F).

In terms of localizing heating, we must remember that we already have many hundreds of power plants pouring warm water into streams and lakes. Twenty-five of these are nuclear power plants. Evaluation of the effect of these from an ecological point of view is that "thermal pollution" is a less descriptive and less appropriate term than is "thermal enrichment". There are no species disappearing. No ecological catastrophes or problems have appeared. Some of the best fishing locations in the country are near the warm water outlets of power plants. An excellent scientific report on this subject may be found in the March 1972 issue of Environmental Science and Technology.

In every age we have people practicing witchcraft in one form of another. I used to think that the people of New England were particularly irrational in accusing certain women of being witches without evidence to prove it. Suppose someone accused you of being a witch. How could you prove you were not? It is impossible to prove negative evidence. Yet this very tactic is being used to deter the construction of nuclear power plants. The opponents are saying, in effect, that these plants are witches and it is up to the builders to prove that they are not.

The positive scientific evidence is that the nuclear power plants, constructed to this date, are the cleanest and least polluting devices for generating electricity so far developed by man. Lightning and snakebite have proven to be greater hazards to the health and safety of the public than nuclear power plants. The amount of radiation escaping from a well designed nuclear plant is less than that from the cosmic rays to which I was exposed on the jet aircraft flight to this conference.

Carelessness and irresponsibility are inexcusable in potentially hazardous operations. I can find no evidence of any such behavior in our industrial nuclear operations.

The energy crisis in the United States is quite real. If we are to maintain our standard of living and avoid a rapidly increasing deficit in our balance of payments, because of greater oil imports, we must construct nuclear power plants with the greatest of urgency. They are the only demonstrated and economically feasible alternative we have for electric power generation. We cannot afford to let fear and superstition impede the attainment of the improved quality of living which we can achieve.

For what we read and hear it would seem that we are on the edge of impending doom. A scientific evaluation of the evidence does not support this conclusion. We clearly have some undesirable problems attributed to technological activities. The solution of these problems will require a technical understanding of their nature. The problems cannot be solved unless they are properly identified. This will require more technically trained people not less. These problems cannot be solved by legislation unless the legislators understand the technical nature of the problem. In my estimation, the most serious problem we face is the rapidly increasing human population on a world-wide basis. The pollution of our natural waters with sewage and chemicals is perhaps the second most serious one. Nothing good has been found for either sulfur oxides or particulate matter in our air. Hydrocarbon emissions from our automobiles can be hazardous, especially in poorly ventilated locations. I have not been able to identify any problems that we do not already know how to solve. It is strictly a question of economics. The back to nature approach of withdrawing from reality will accomplish nothing.

I believe, as Thomas Jefferson did, that if the public is properly informed, the people will make wise decisions. I know that the public has not been getting all of the scientific facts on many matters relating to ecology. That is why I am speaking out on this subject today as a scientist and as a citizen. Some of the information I have given you may be contrary to the things you are being led to believe but I am willing to support my conclusions on evidence good enough for me to urge any of you to evaluate it for yourselves. I have no fear of staking my reputation on what I have presented to you.

We are all familiar with the Aesop fable about the shepherd boy and the wolf. The moral for the fable is: those who are found to misrepresent facts are not believed even when they speak the truth.

In recent months, we have heard cries of wolf with respect to our oxygen supply, the build-up of carbon monoxide, the disappearance of species, DDT, phosphates in the lake, thermal pollution, radiation effects on health from nuclear power plants, the Amchitka nuclear tests, lead in gasoline, and mercury in fish, to name a few. For the most part, these cries have not been malicious but have been based largely on fear, ignorance, or misinformation. The people have listened to these cries and have come running to the rescue but they are not finding many wolves.

Let us not cry wolf until we are reasonably certain that we have done enough homework to know what a wolf looks like. Otherwise we may undermine our credibility and not be believed by the people when we warn them of the real wolves that do exist.

In summary let me remind you that my studies suggest that we are not on the brink of disaster. The world's oxygen supply is secure. There will be no build-up of poisonous carbon monoxide. Our waters can be made pure again by adequate treatment plants. The disappearance of species is natural. We cannot solve our recognized problems unless we attack them on the basis of what we know rather than what we don't know. We must use our knowledge and not our fears to solve the real problems of our environment. Our future can be better than most of our past if we choose it so.

### BIOGRAPHICAL SKETCH OF DR. A. L. JONES

Dr. A. L. Jones is a native Virginian. He earned a B.S. degree at Hampden-Sydney College and received his Ph.D. at the University of Virginia. He served as a faculty member of Hampden-Sydney College and Cornell University.

In 1946, Dr. Jones joined the Standard Oil Company (Ohio). His responsibilities have included research section supervisor, coordinator of long-range planning for research and development, and organizer of Sohio's satellite tracking station prior to its relocation at Ohio University. He serves presently as senior research associate.

Dr. Jones is the author of published papers on organic analytical reagents, magnetic susceptibility, hydrocarbon separations, liquid thermal diffusion, physical techniques in petroleum research, fuel cells, and radio satellite tracking. He has invented and co-invented several types of thermal diffusion apparatus. He was recipient of the Aerospace award in 1963. He is listed in World Who's Who in Science.

Currently Dr. Jones is President of the Tuberculosis and Respiratory Disease Association of Cleveland; member and past president of the Cleveland Astronomical Society; member of the Ministerial Relations Committee, Cleveland Presbytery, and a recent trustee of the Church of Covenant.

Dr. Jones and his wife, Ellen, have four daughters. The family lives at 32340 Woodsdale Lane, Solon, Ohio 44139.

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## FORTHCOMING DECLARATION OF INDEPENDENCE IN GUINEA-BISSAU

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 10 minutes.

Mr. DIGGS. Mr. Speaker, the PAIGC, liberation movement in Portuguese-occuplied Gunea-Bissau, on the West Coast of Africa, has made enormous advances in the last few months, not only on the military front, but also politically. A United Nations delegation has confirmed that they have established a basic administration over most of the territory outside the larger towns, and that they have introduced medical, educational, agricultural, and other services which the people had never received from Portuguese colonial administration—paragraph 78 of the Report A/AC.109/L.804 of July 3, 1972—in spite of the overwhelming difficulties, including complicated organizations, the constant threat of air bombardment and the lack of any means of transportation, the PAIGC has held its second Congress with elected representatives, in the liberated area of western Guinea-Bissau.

The second Congress states, among other things, that the convocation of the Popular National Assembly will meet in the course of this year to proclaim the independent State of Guinea-Bissau, the creation of an executive for this state, and the adoption of the first Constitution in the nation's history. The parallel with the Declaraton of Independence of our own country is striking. I therefore include the PAIGC communique on its second Congress in the RECORD at this point:

### Communique on the Second Congress of the African Party for the Independence of Guinea and Cape Verde (PAIGC), July 18-22, 1973

From the 18th to the 22nd of July 1973, the Second Congress of the PAIGC was held in the liberated zones of western Guinea-Bissau. Comrade Aristides Pereira, one of the founders of the Party and assistant of Amilcar Cabral, our beloved leader, assassinated by the criminal hand of the Portuguese colonialists, was unanimously elected Secretary General of the PAIGC. Proceeding with a review of the Party statutes, the Congress decided to create a Permanent Secretariat composed of four members, replacing the Permanent Commission of the Executive Committee of the Struggle (CEL). In addition to Secretary General Aristides Pereira, the Permanent Secretariat is composed of Luiz Cabral, Assistant Secretary General, and two Secretaries: Francisco Mendes (Chico Te) and Joao Bernando Vieira (Nino). The Congress also enlarged the Superior Council for the Struggle (CSL) from 81 to 85 members. The Executive Council for the Struggle, elected from within the Superior Council for the Struggle, maintains its former composition of 24 members.

The Congress was held with the participation of 138 delegates and 60 representative observers, representing all the regions, zones and sections of the organization of the Party, the National Armed Forces (Popular Army and Navy) as well as the National Reconstruction Workers. Among the Delegates and Observers were Regional Counsellors and Deputees elected by the Popular National Assembly.

After having appraised reports on political military activities, national reconstruction of the liberated regions, as well as the other departments of the Party, the Congress adopted resolutions with a view to the strengthening of our operations in Guinea-Bissau and the acceleration of the struggle in the Cape Verde Islands. Proclaiming the loyalty of the Party to the principles inscribed in the Charters of the Organization of African Unity and the United Nations, the Second Congress:

Expressed the determination of the PAIGC to contribute by all means to the strengthening of the bonds of friendship and fighting solidarity uniting our people and our Party with the fraternal peoples of the other Portuguese colonies and their liberation movements within CONCP (Conference of Organizations of the Portuguese Colonies).

Emphasized the value of the support, political and military, of the Organization of African Unity, as well as the bilateral aid given to our Party by numerous independent states of Africa, particularly by the Republic of Guinea and the Republic of Senegal, neighboring countries whose aid and fraternal support has been and remains the decisive factor for the victorious development of our national liberation struggle.

Expressed the recognition of our people and our Party of the multifaceted aid of the socialist countries, particularly the Soviet Union, and for the important humanitarian aid that the Swedish Government gives our Party. It equally expressed thanks to all the governments and anti-colonialist organizations of Europe, Asia, and America; to the humanitarian institutions; and to the national committees of support created throughout the world from which political, moral, and material aid has continually grown, gaining an increasingly important place in the ranks of international support for our struggle.

Proclaimed the solidarity in combat of our Party towards the anti-colonialist and anti-facist forces of Portugal, whose concrete action against the criminal war, contributing to the acceleration of the liquidation of Portuguese colonialism in Africa, is a factor in preserving the ties of friendship between the Portuguese people and our people.

Having proceeded with an analysis of the circumstances surrounding the cowardly assassination of our mourned comrade Amilcar Cabral, the Congress condemned vigorously and with indignation this monstrous crime. The Congress further proclaimed that none of the activities of our Party, particularly those of its Secretary General, could justify such an ignoble crime, whose responsibility rests entirely on the colonialist Portuguese government. The Congress unanimously approved the exemplary punishment inflicted by our popular justice on the traitors and criminals who executed the crime at the service of the enemy of our people and of Africa.

In homage to the immortal work of Amilcar Cabral, hero of our people, artisan of our national liberation, the Second Congress decided to give him the title of Militant Number One of the PAIGC. His portrait will be placed in all the work places of our Party. The Congress also decided to create an Amilcar Cabral medal for the decoration of the heros of our armed struggle for national liberation.

The Congress set the convocation of the Popular National Assembly, which will meet in the course of this year to accomplish its primary historic mission: the proclamation of the independent State of Guinea-Bissau, the creation of an Executive for this State, and the adoption of the first Constitution in our history.

The Second Congress, taking place under the triple motto of Unity, Struggle, and Vigilance, took place in an atmosphere of high responsibility, criticism and self-criticism, of patriotic ardor, and partisan spirit.

Done the 24th of July, 1973. The Executive Committee for the Struggle of PAIGC.

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## DIEZ Y SEIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, occasionally an event takes place that stirs the hearts of men and sets loose forces of enormous importance. Those who are present might not realize the magnitude of it, and it may be so isolated that it seems unimportant. But the judgment of history may find that the witnesses were wrong, and did not know the importance of what they saw.

Who could have ever known that a simple priest in the Spanish empire could utter the words that sounded the beginning of the end of New Spain, and unleashed the revolution that gave independence to Mexico? Yet that is precisely what happened when Father Hidalgo denounced the oppression of his people and called for independence from Spain. It must have seemed a forlorn hope, because Father Hidalgo's call for independence has always been known as "el grito de Dolores"—the cry of Dolores—named for the place, which itself means "sorrows." But however forlorn it might have seemed, the words of Father Hidalgo gave birth to forces of revolution that proved inexorable, and ended the Spanish Empire in the new world.

Father Hidalgo never lived to see his country free and independent. That did not take place until the Republic was declared in 1824—some 14 years after Father Hidalgo's brave and seemingly futile act.

Ever since Mexico achieved independence, the date of Father Hidalgo's cry for freedom has been celebrated as independence day—September 16, or Diez y Seis.

All over the Southwest, and indeed anywhere there are significant numbers of people of Mexican descent, Diez y Seis is celebrated. It is a day to remember, a day for the dignity of man, a day for humility and pride. In San Antonio this week and in every other town and city where you find people of Mexican heritage, Diez y Seis is celebrated with parades, speeches, and every other kind of holiday festivity, and this is appropriate, because it marks the celebration of a date when the human dream of liberty found expression.

Diez y Seis reminds everyone of Mexican descent from whence they came, and is a reminder that human freedom never came easily, and especially not for their ancestors.

There are unfortunately many who do not understand the true meaning of Diez y Seis. These are people who think that the United States opposed independence for Mexico, which is untrue. They do not know that the flame of independence burned as brightly in San Antonio as it did anywhere else. Nor do they remember, or perhaps ever know, that gaining independence in Mexico was as much a matter of a civil war over the aims of the revolution as it was a contest against European powers. In that sense, they should recall that the first Republic was declared in 1824, but was riven by all manner of struggles, so that when the battle of the Alamo was fought, the defenders there flew the Mexican flag with the legend "1824" meaning that they were for the Constitution of 1824, not the government of Santa Ana. Whatever the motives of the Texans may have been, the truth is that the Revolution had yet to come to Mexico, and that even as late as 1836 the Republic had not found its identity and meaning.

And the struggle continued after the Mexican War. Modern Mexico did not emerge until the country was literally destroyed by civil war extending into the 20th century. Today the Republic of Mexico is vital and its Government stable, but it is not without troubles.

Celebrating Mexican independence is really celebrating the human drive for liberty—that is what "el grito de Dolores" sprang from—one person's fervent cry for freedom and human dignity. It did not give rise to a coherent revolution, nor did a democratic republic spring from it overnight. It did set forth the momentum that led to the emergence of a modern and proud country, but that took generations of conflict and civil war that too many romanticists would like to ignore or forget.

Those of us whose parents came from Mexico, or who are from Mexico, are not likely to go back. We are proud of our ancestry, and proud of that determined spirit that Father Hidalgo called from us—but we are prouder still that we are citizens of this country, the United States. Diez y Seis makes us doubly lucky, because it gives us the unique opportunity to celebrate not once, but twice every year, our liberty and renew in ourselves the determination to live and be free people.

Diez y Seis calls upon all of us to say "Viva Mexico," and we do that proudly. But even deeper in our hearts, we say "Viva Libertad" and for us, that means we are brothers in the spirit of freedom. We are not claiming to be citizens of another land, but celebrants of a joint spirit that unites all mankind.

Those of us who are of Mexican descent are proud of our heritage. We have much to cherish in the literature and history of Mexico. But we have come a long way here in the United States. We have enhanced our lives, and every day shows us greater promise. And where our fathers might have dreamed of returning to Mexico, we do not, for we know that this is our country, and this is our home.

## ANNOUNCEMENT OF HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of California. Mr. Speaker, the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will commence hearings on House Joint Resolution 703 (268), to protect U.S. domestic and foreign policy interests by making fair employment practices in the South African enterprises of U.S. firms a criteria for eligibility for Government contracts, on September 20. Witnesses on that date will be Congressman CHARLES C. DIGGS, JR., chairman of the Subcommittee on Africa, House Foreign Affairs Committee, and Thulani W. Gcabashe, Esq., of Spaulding, LaSonde and Associates, Atlanta, Ga. On September 21, Mr. Paul Neuhauser, professor of law at the Iowa University College of Law and chairman of the Committee on Social Criteria in Investments, Executive Council of the Protestant Episcopal Church of the United States of America, will testify.

For subsequent hearings, the dates of which are to be announced, representatives from the Department of State, the business community, and the labor movement will be called.

Persons interested in submitting statements for the record may address their inquiries to the House Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

## CARL ROWAN ON THE MINIMUM WAGE VETO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. MCFALL. Mr. Speaker, last week the syndicated columnist Carl T. Rowan attacked the veto of the minimum wage bill as an "atrocity."

He says that the wage contained in the bill was "Scrooge-level to begin with" and that the veto—

> Further oppresses and disheartens the nation's poor.

Mr. Rowan condemns the $68-a-week subminimum for youth as a danger to society at large. It is, he says, one more reason for crime by young persons who would rather "rob or steal" than work for such disgracefully low pay.

Mr. Speaker, this Wednesday the House will vote on the question of overriding the veto of H.R. 7935, the minimum wage bill. The points made by Mr. Rowan are well worth considering, and I am asking unanimous consent that the entire column be printed in the RECORD.

### MINIMUM-WAGE VETO ATROCITY

(By Carl T. Rowan)

There is no polite or respectful way to discuss President Nixon's notions of how to fight inflation. So I make no pretense at politeness in reacting to his veto of the congressional measure to lift the minimum wage from $1.60 to $2.20 an hour after a year.

It is a mean, contemptible act which further oppresses and disheartens the nation's poor and it is inimical to the well-being of all of us. To describe it any other way would be cowardly.

How in the name of heaven does the President of the rich United States, himself raking in 200,000 bucks a year, with plush pads in California, Florida and elsewhere, tell the Congress that it may not guarantee the grimiest, sweatingest workers in this land a piddling $88 a week?

There is no place in this blessed land that any family can live a decent life, with even the minimum opportunity for the children, on $88 a week.

And to veto even this Scrooge-level minimum with the argument that it is inflationary bespeaks the worst kind of White House contempt for those millions of Americans who need desperately to have friends in the highest councils of government.

It might be understandable if Nixon could argue that the employers of America are in a bind, and that to make them pay higher wages would push the nation into economic disaster. But American corporations made a record $52.6 billion in profits last year. Second-quarter after-tax earnings suggest a new record for 1973 in the neighborhood of $70 billion.

It's surely not the farmer that Nixon is protecting. Farming has become more and more a corporation matter in this country, and profits have soared there, too.

Maybe what bothers the President is the proposal to increase the minimum wages of 935,000 maids in private homes. Well, anyone who can't pay a maid $88 a week damn well ought to scrub his own floor, wash her own dishes. Especially when 275,000 of these maids are heads of household, trying to bring up children as healthy good citizens on less than $2,000 a year.

In typical Nixonian flim-flammery, the President wants us to believe that he is blocking this increase in minimum wages as a favor to "unskilled and younger workers." He points out, correctly, that they are the predominant groups on the nation's unemployment rolls.

The thrust of Mr. Nixon's argument is that if American employers can't hire the young and unskilled at $64 a week, then they'll say "to hell with them" and let unemployment rolls swell even larger.

Every employer in the country ought to consider that a gross libel. But the truth probably is that many of them *would* rather see ghetto kids or less skilled older workers go jobless than to pay them a half-decent wage.

As long as employers who reap record profits feel that way they deserve the fright and the burden of crime made more rampant by people who would rather rob and steal than be someone's boot-licker at slave wages.

So Nixon wants Congress to write a new bill and send one down that will "not be inflationary."

How long can the country accept or survive this kind of shameful nonsense?

## REVISING OUR COMMITTEE STRUCTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, last Friday, September 14, I submitted testimony to the Select Committee on Committees in which I proposed a new system for handling and authorizing appropriations bills. It was prompted by my thoughts on what might happen to the legislative process if the budgetary committees recommended by the Joint Study Committee on Budget Control are indeed created.

I would like to bring this testimony to the prompt attention of my colleagues, and would appreciate hearing any comments on it that they might have.

The testimoney follows:

### TESTIMONY FOR SELECT COMMITTEE ON COMMITTEES

Mr. Chairman and Members of the Committee, Henry Adams said, "You can't use tact with a Congressman. You must take a stick and hit him on the snout." With that sage advice in mind, which most of us in Congress would acknowledge contains much truth, I would like to hit you with several simple, but far-reaching, thoughts on how restructuring of committee jurisdictions can streamline Congressional consideration of the national budget.

I make one key assumption—that within the next few months Congress will approve legislation creating new budget committees along lines proposed by the Joint Study Committee on Budget Control.

If such action occurs, I suggest that the Congressional committee structure be revised to combine the authorizing and appropriating functions within the authorizing committees.

#### THE PRESENT SYSTEM

The heart of Congressional reform lies in restructuring the process by which Congress deals with the budget. I share the view of many congressmen and observers of the Congress that current budgetary procedures are inefficient, outmoded and generally inadequate.

No procedure presently exists which allows the Congress to review the President's entire budgetary program. No one committee reviews both revenue and expenditure proposals. By fragmenting its decisions on the budget, the Congress is prevented from considering the impact of spending on the national economy. •

Under the present system, the overall impact of the budget is established by the cumulative result of a series of separate actions. The Appropriations Committees of the House and Senate do not, as a matter of regular procedure, review the budget as a whole and determine what its impact is or should be.

As a result of the present fragmented system, Congress has no adequate method for dealing with the critical questions of priorities. Only with great difficulty does it alter the President's priorites.

Should housing programs receive more funds and national defense less? Could day care programs take up the slack from reduced farm payments? Under current procedures, such questions go largely unanswered.

Under present procedures the long-term implications of funding decisions are neglected by Congress. We in Congress do not know what the budget might—or should—look like two or three years from now.

THE PROPOSED BUDGETARY COMMITTEES

The proposed budgetary committees would help alleviate these problems. As proposed by the Joint Study Committee these budget committees would:

Review the President's budget in its totality;

Determine a total expenditure ceiling and sub-ceilings;

Recommend major allocations within functional categories, and

Reconcile spending legislation with fiscal goals.

Although the proposed budget committees, if thoughtfully structured, can eliminate many of the ills of the present Congressional budgetary system, they threaten to create other problems which may be just as troublesome—unless other reforms are undertaken by the Congress.

If the budget committees are placed atop the present system, the result will be three layers: budget committee, authorizing committee and appropriations committee. The present two-layer system is cumbersome; three layers would be almost unworkable.

In my judgment, the budget committees' work will duplicate much of what the appropriations committees are doing or are supposed to do.

The budget committees will establish overall Congressional control of revenues and outlays, and also will establish spending ceilings for the authorizing committees—ceilings which the Appropriations Committees now, in effect, apply to the amounts authorized.

I would suggest, therefore, that, if budget committees are created, the authorizing and appropriating functions should be united in the authorizing committees. Those committees would both authorize and appropriate funds for the range of programs within their jurisdiction.

REASONS FOR THE PROPOSAL

Several reasons prompt this suggestion:

1. An unnecessary layer in the budget process would be eliminated. The new budget committees would take over fiscal management decisions now made by the appropriations committees and would set the financial parameters within which the new program committees would operate. These committees could then concentrate on the allocation of funds within their jurisdictions. Under the present system, with both authorizing and appropriating committees participating, much duplication of effort and unclear jurisdictional lines exist. If another layer is added the duplication and confusion would be compounded.

2. The procedure I propose would eliminate confusion in the public mind about the way Congress funds programs. Congressmen often have to explain that a news article on authorization levels for a particular program does not mean that that amount will be available, and that the appropriations bill must still be enacted. We would eliminate the unreal atmosphere in which Congressmen work, bandying around authorization figures like so much *Monopoly* money when what really counts is the appropriation.

3. Eliminating the appropriations committees would also improve the credibility of government by avoiding the misleading appearance of a large authorization figure which prompts rising expectations, only to have a stingy appropriation dash those expectations.

4. The proposal would help make a useful distinction between budgetary allocations for broad functional categories and program allocations within those categories. That distinction is now blurred since authorizing and appropriating committees enter both of these areas.

Under the new system, the budget committees would deal with broad *budgetary* considerations, such as how much should be spent in each functional category.

The new program committees would act on *program* allocations within their respective ceilings: how the money should be spent and through which programs. Their actions would not be second-guessed by the budget committees.

Mr. Chairman, I realize this proposal is far-reaching. But I view it to be the responsibility of this committee to consider unusual proposals to improve this Congress, which we all view with respect and affection. The chairman and members of this committee were selected with care, and you have the confidence of your colleagues in the difficult task before you. I have appreciated the opportunity to appear.

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## AMERICUS JAYCEES BLOOD DONOR PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 10 minutes.

Mr. BRINKLEY. Mr. Speaker, I am so impressed with the Americus Jaycees and their meaningful demonstration of the last line of the Jaycee creed: "We Believe That Service to Humanity Is the Best Work of Life."

Through Jaycee Bloodmobile Chairman Len Hicks, these young men of action have translated words into deeds in a way that is special to me.

For the past few years my interest in donor blood has been intensified by the need for clean blood in this country. We have survived the surgeon's knife only to sometimes die of contaminated blood. All of us know the problems which plague our system ranging from serum hepatitis to severe shortages.

The within demonstrated project shows how it can be put together if motivated people really care. I highly commend the pattern employed to the consideration of my colleagues and to all of those who believe in the full measure of the right to live.

A special hats-off also to the Americus media without whom it would not have been possible and to the individuals in the Americus area who responded so generously.

The material follows:

AMERICUS JAYCEES,
*Americus, Ga., September 7, 1973.*

Congressman JACK BRINKLEY,
*U.S. Capitol Building,*
*Washington, D.C.*

DEAR CONGRESSMAN: I am writing this letter pertaining to our conversation about the blood donation program that you are striving for. The conversation was held on August 23 at the Americus Jaycees Wife Appreciation Banquet.

First of all, I would like to say how much I enjoyed having both you and Mrs. Brinkley as our special guest that night. Both Lana and I appreciate the representation and hard work by you in Washington. You have our constant support.

During our conversation you asked about the recent sponsorship of the American Red Cross Bloodmobile in this area. To start with, I would like to explain how the Americus Jaycees came to sponsor the project. Mrs. Margaret Pond, local Red Cross representative, approached the Jaycees about sponsoring the project and it was decided that we would. After being appointed chairman of the project, I did a little research into the past bloodmobiles. It was found that when the quota was met, it was just barely met and it seemed that lately it was beginning to get harder to even meet the quota. At that time Sumter County, Schley County, and the Smithville area were on probation status with the American Red Cross. It was also found that the bloodmobile was being supported mainly by the students from Georgia Southwestern College and South Georgia Technical and Vocational School. After obtaining posters and literature from the Red Cross, I worked out a plan of action. This plan of action was based on my personal experience as a donor, research done, possible areas of publicity, and manpower available. I have attached a copy of the schedule of events which has little variation from the plan of action.

The publicity was aimed at everyone eligible to give in the following order: White collar working class (non-student), housewives (an area of donors that has been virtually dorment), 1st time donors, and all others. In deciding the time and amount of publicity and advertising, it was kept in mind that too much and too soon can be just as bad as too little and too late. The radio publicity and advertising was varied and staggered so the public would not get tired of the "same ole announcements". Different types of publicity were used that had not been utilized for bloodmobiles in the past. A list of announcements and publicity used are attached.

On the day of the bloodmobile, both Lana and I stayed throughout the entire collection period. I felt that the personal contact of someone other then the Red Cross personnel might make the donors feel a little more welcomed. While there we also conducted a survey of all donors. The purpose of the survey was two fold: first, to determine the effectiveness of the plan of action and second, to provide information to be used in future plans of action on projects of this type. A copy of the survey is attached.

As a result of the Americus Jaycees sponsoring the American Red Cross Bloodmobile a total of 287 individuals came to give, but because of medical reasons 42 were unable to donate. This gave a total of 245 pints collected, 80 pints over the quota set by the Atlanta Red Cross Blood Center. This is felt to be a record for this area but has not been confirmed as of yet. Follow-up publicity and letters of appreciation were part of the plan of action, the purpose being to thank those who contributed to the success of the bloodmobile.

The bloodmobile was termed a success by myself and the rest of the Americus Jaycees. It was felt that the reason for sponsoring the bloodmobile was achieved. The purpose was more than showing that the Jaycees could get more people to come than other sponsors or more than just trying to get more publicity for the Americus Jaycees. The Americus Jaycees accepted the sponsorship for the same reason that every Jaycee participates in community, state, and national projects. This reason is stated in the last line of the Jaycee Creed, that being; "We Believe that Service to Humanity is the Best Work of Life".

I appreciate your concern in this project which we sponsored, we all felt that it was a very worth while project. I truly feel that the donor program that you are striving for is very worth while and should be persued relentlessly.

Once again I would like to thank you for visiting our club and hope that you will come again. If at any time you and Mrs. Brinkley are in Americus, both Lana and I would consider it a distinct honor if you would come to see us or give us a call.

Sincerely Yours,

LEN HICKS,
*Americus Jaycees.*

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### SCHEDULE OF EVENTS

July 5: Informed that I was chairman of Bloodmobile on Aug. 14.

July 6: Met with Mrs. Pond, local Red Cross representative. Picked up posters and literature.

July 7: Requested $25.00 for expenses of project.

July 8: Contacted Sara Vogel, President of local Jaycettes, about helping in the project. Asked that they make sandwiches.

July 19: Stressed importance and gave information to club. Held meeting of recent new members to form a committee. Len Hicks, Ronnie Knox, Jimmy Pond, Winston Oxford, Gregg Drexler, Jimmy Skipper. Informed them of the project, asked for volunteers. Asked for suggestions and then gave my plan of action.

July 26: Passed out donor pledge slips to Jaycees to obtain an estimation of total Jaycees able to come on Aug. 14. 39 were returned out of 50 passed out. A committee meeting was held: Len Hicks, Ronnie Knox, Winston Oxford, and Jimmy Skipper. Discussed meeting up town for the purpose of putting up posters in the stores. After the regular meeting, I made spots at WDEC to start on July 30. Consisted of a formal announcement and one liners.

July 28: Meet up town to put out posters. Len Hicks, Ronnie Knox, Winston Oxford, and Jimmy Skipper.

Aug. 2: Contacted Mike Sudduth about sign at DQ and his portable flashing sign. Stressed the importance of the bloodmobile to club.

Aug. 6: Jimmy Fergerson, Red Cross member in charge of local bloodmobile, was contacted. He wanted a progress report and to give some suggestions. All suggestions had already been taken into consideration. Asked if some elders could possibly speak up in behalf of the bloodmobile.

Contacted Rick Duncan, Times-Recorder, about having an ad put in the paper, informed him a story would follow.

Contacted Joel Mauk, WISK, about spots and news cast.

Contacted Sara Vogel, Pres. Jaycettes, about a telephone committee.

Aug. 7: Gave speech at the Civitans about the bloodmobile. Gave speech to the Lions about the bloodmobile.

Aug. 8: Cut radio spots for WISK, skits and announcements.

Aug. 9: Gave Jimmy Skipper and Winston Oxford some more posters to put up in the store in out laying areas. Stressed importance of bloodmobile to the club.

Aug. 12: Placed announcement on the DQ board on Tripp St.

Aug. 13: Had announcement placed on Grant's board. Had flashing sign placed in front of the SEMCO building. Had announcement placed on the front page of the paper. Contacted Mrs. Pond to give her an up to date report on the Bloodmobile and asked if there was anything else that needed to be taken care of. Requested to Bob Suber, Pres. Jaycees, that the telephone chain be used to remind members about the bloodmobile, times, place and importance. Called local individuals to request that announcements be made over PA systems or at group meetings. Ga. Power, Telephone, Redmen, Metelux, Marlette, Champion, Manhatten. Police Department and radio stations. Contacted Buddy Reid to show him how the area needed to be set up.

Aug. 14: Arrived at the bloodmobile at 11:00. Checked on all areas that were our responsibility. The bloodmobile was opened at 11:45, I was first to give. I conducted a survey of all males giving and Lana Hicks, Jaycette, conducted one on the females. Took pictures throughout collection time. Made one announcement to the radio station to urge people to come. At approximately 3:00 the quota of 165 was met. Two individuals fainted but otherwise no problems. The bloodmobile was closed at 5:45. A committee for clean up: Len Hicks, Buddy Reid, Tom Cahall, Jonnie Heath, helped load material back onto the bloodmobile van. Pictures were taken of the nurses and worker. A picture was taken for the newspaper. Spots were made at the radio station to thank individuals for making the bloodmobile a great success.

Aug. 15: Winston Oxford and Len Hicks took down posters in the stores where they were placed. Had article placed in the paper on the front page.

Aug. 16: Gave wrap up report to the club and thanked the club for co-operation in the project.

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### RADIO ANNOUNCEMENTS

The following are two radio announcements aired over both stations. The first was aired continuously starting July 30 and the second August 12.

(1) This is Len Hicks, speaking on behalf of the American Red Cross and the Americus Jaycees. This August 14, there will be a bloodmobile at the Sumter Electric Corporation Building in Americus, Georgia, from 12 until 5:30. The Americus Jaycees want to encourage everyone to roll up their sleeves and give. Keep in mind that the blood you give on Aug. 14th, hopefully won't, but might be needed by a loved one on another day. It is such a little amount to contribute to such a great cause. So remember the Bloodmobile on August 14th, from 12:00 until 5:30, at the Sumter Electric Corporation Building in Americus, Georgia. The Americus Jaycees will deeply appreciate your help in making this bloodmobile a great success.

(2) This is Len Hicks, speaking on behalf of the American Red Cross and the Americus Jaycees. The American Red Cross Bloodmobile will be here in Americus at the Sumter Electric Corporation Building. The time of collection will be from 12:00 until 5:30, with hopes that donors will come in as soon as possible after 12:00 so that individuals who can give only after work can be processed quickly. The Americus Jaycees are sponsoring this bloodmobile with great hopes that the quota of 165 will be easily surpassed. The last bloodmobile to collect in the Americus area failed to meet the quota set by the Atlanta Blood Center and this put the Sumter county, Schley county, and the Smithville area on warning status. If the quota is not met this time then the residents of these areas will be on probation with the Atlanta Blood Center.

One of the two reasons the quota was not met last time was due to a change in the collection times, but tomorrow the times will be as they were normally in the past, 12:00 until 5:30. The other reason and the main one is that the bloodmobile was not fully supported by the citizens of this area. The Atlanta Blood Center needs approximately 350 pints each day so as to replenish that used by participating hospitals. In doing this an individual covered by the Red Cross Blood Donor program is not charged for the blood itself when needed. Here are several statements that have been found to be used as excuses, each has an answer: "I already gave this year." Many donors give three or four times a year. The 4 bloodmobiles scheduled in this area are so that a donor may give each time. "I don't have any blood to give."

The average adult has about 10 to 12 pints of blood in his body. Doctors say that healthy persons may give regularly. "My blood isn't the right type." Every blood is the right type. Rare types are needed all the time. "They wouldn't want my blood because of an illness I've had." The medical staff on duty at the bloodmobile will review your medical history before you can make a donation. "I feel weak after giving." The volume you give will be replaced within a few hours. After donating, most people go about their usual activities. The following is the most frequently used excuse. It is the one that is the biggest cause for bloodmobiles failing to meet their quotas. "I'm too busy." If you stop to think of all the good your donating blood can do you will surely decide that you aren't too busy after all.

It is hoped by the Americus Jaycees that if for some good reason a citizen is unable to give that he will encourage others to come. Jimmy Fergerson, Red Cross chairman of local bloodmobiles and myself have tried extensively to make the public aware of the importance of the bloodmobile, but just having the public aware is not enough—they have to give. One area that has been very hard to reach and made aware of the importance that they could play is that of the housewife. It is hoped that the wives will come out and support tomorrow's bloodmobile. The Americus Jaycees will appreciate your support tomorrow, Tuesday, Aug. 14th, 12:00 until 5:30, at the Sumter Electric Corporation Building.

The following announcement was aired over both stations on their daily "Wanted" program. The announcement started on Aug. 8th and continued until the morning on the 14th:

"Wanted: People, Civic Minded Individuals, to be donors at the Red Cross Bloodmobile, Aug. 14th, Sumter Electric Corporation Building, 12:00 until 5:30.

Both stations were given a Red Cross Pamphlet entitled "20 Excuses for not Giving". I asked that the stations use these 20 excuses as one liners to be aired at any time possible. They started airing them on Aug. 7th and continued until the 14th.

On the 14th, I made a phone announcement to one of the stations asking people to please come and give. Gave time, place, and importance.

On the 15th, I made an impromptu announcement over both stations. I informed the public that 287 people showed up to support the bloodmobile, and that 245 people were able to give. I expressed sincere appreciation to all people who made the blood mobile a great success. I also reminded them that another bloodmobile would be in Americus on the 14th of Nov., and urged their support.

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### SKITS WRITTEN FOR RADIO STATIONS

The following are skits written for the radio stations. They were aired starting Aug. 6 until Aug. 14th. I.—Interviewer, F.—Female, and M.—Male.

#### HOUSEWIFE

I.—This is Len Hicks, of the Americus Jaycees, and I am in downtown Americus interviewing and reminding people about the bloodmobile coming to Americus on August 14, from 12:00 until 5:30, at the Sumter Electric Corporation Building.

Here comes someone now.

Excuse me.

F. Yes?

I. I am conducting a survey concerning the Red Cross Bloodmobile coming to Americus on Aug. 14th, from 12:00 until 5:30, at the Sumter Electric Corporation Building. May I have your name please?

F. Mrs. Average Housewife.

I. Mrs. Housewife, do you feel that the Red Cross Bloodmobile is a worthwhile means of collecting blood for hospitals?

F. Yes, I do.

I. Are you going to give on Aug. 14th, between 12:00 and 5:30 at the Sumter Electric Corporation Building?

F. Well, -ah-, I sure would like to, but you see I have a small child and with all my housework and things I just won't be able to.

I. Yes, I do see. Have you ever needed blood?

F. Well yes and I needed quite a bit.

I. I bet that you were thankful that someone found time to give that blood you needed.

F. Yes, very thankful. Maybe, maybe my next door neighbor can keep my child while I go and give and I'll keep hers while she goes. Thank you.

I. Thank you, thank you for what?

F. For making me realize that I should take time to give, that it is just as much my responsibility to give as it is anyone else's.

I. Thank you Mrs. Housewife. The American Red Cross and the Americus Jaycees will appreciate your donation on Aug. 14th, between 12:00 and 5:30 at the Sumter Electric Corporation Building. Well, that is it for now. Stay tuned for more interviews.

### THE DREAMER

I. Introduction is the same as No. 1 down to the place of collection.

F. Excuse me sir.

I. Yes.

F. Didn't you interview me yesterday about the bloodmobile coming to Americus on Aug. 14th?

I. Yes I did, but you told me that there was no way you were going to give your blood away.

F. Yes, I remember, but I have changed my mind. What is the time and place again?

I. Aug. 14th, 12:00 until 5:30, at the Sumter Electric Corporation Building. If I may ask, what made you change your mind?

F. Well, last night I had a dream. I was on the operating table at a hospital and I heard the nurse tell the doctor that she couldn't get any more blood for me cause nobody else would give. I awoke in a hard sweat and that is when I decided to give, at 3:00 in the morning.

I. I'm sorry you didn't get much sleep last night but I am glad that you decided to give. The American Red Cross and the Americus Jaycees will deeply appreciate you giving on Aug. 14, between 12:00 and 5:30, at the Sumter Electric Corporation Building. Well that is it for now, stay tuned for more interviews.

### THE OUTSIDER

I. Introduction is the same as No. 1.

Excuse me Miss. I am conducting an interview concerning the Red Cross Bloodmobile, Aug. 14th, from 12:00-5:30, at the Sumter Electric Corporation Building, here in Americus.

F. Well, I guess I can't help you cause I am not from Sumter County.

I. That doesn't matter Miss. This bloodmobile is collecting from anyone not just Sumter County residents. But if the quotas are met at each of the regular scheduled bloodmobiles, the residents of Sumter County, Schley County, and the Smithville area are covered by the Red Cross Donor Program. Right now we are on warning because we didn't meet our last quota and if we don't meet our quotas then we will finally have to go to the Donor Credit Card Program, which only allows actual donors and their immediate family to have the blood they needed replaced by the Red Cross. So see you can help by giving on Aug. 14.

F. But I am not from anywhere around here.

I. Miss. if you give then you will receive a Red Cross Credit Card entitling you to receive blood as needed in participating Red Cross hospitals.

F. That sounds like a pretty good deal. I just might drop in and give.

I. Thank you Miss. The Americus Jaycees and the American Red Cross will really appreciate your giving on August 14th, between 12:00 and 5:30, at the Sumter Corporation Building. Well, that is it for now. Stay tuned for more interviews.

### MR. IMPORTANT CITIZEN

I. Introduction is the same as No. 1.

Excuse me sir.

M. Not now, I'm in a hurry.

I. But sir, I just want to ask you a question.

M. Okay, okay, but hurry up.

I. Sir, are you aware that the Red Cross Bloodmobile will be here in Americus, Aug. 14th, from 12:00 until 5:30, at the Sumter Electric Corporation Building?

M. Yeah, I saw a poster with a hippie on it, must be a bloodmobile for hippies or something.

I. Sir, are you going to give?

M. Well, let me look at my schedule. I don't think I'll be able to. I've got a meeting at 12:00, a conference at 2:00, and I am interviewing from 3:00 until 5:00. Sorry, I guess I won't be able to make it. Maybe some other time.

I. But sir, there might not be another time and besides the bloodmobile will be open until 5:30.

M. Well maybe I can work it into my busy schedule. It has been a long time since I have done something really civic minded. What's that date, time, and place again?

I. Aug. 14th, Sumter Electric Corporation Building, 12:00 until 5:30. Sir, the American Red Cross and the Americus Jaycees will be grateful for your donation.

M. By the way, is that donation tax deductible?

I. I am afraid not sir. The only thing you receive besides the normal Red Cross benefits is a warm feeling of satisfaction in that you contributed to a very worth while cause. That is it for now stay tuned for more interviews.

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### SURVEY

The following survey was conducted on the day of the bloodmobile.

| | Male | Female |
|---|---|---|
| Under 25 | 116 | 52 |
| Over 25 | 44 | 33 |
| Employed | 143 | 56 |
| Housewife | 0 | 17 |
| Student | 16 | 12 |
| Retired | 1 | 0 |
| Below is listed means by which made most aware: | | |
| WISK radio | 19 | 11 |
| WDEC radio | 33 | 21 |
| Times-Recorder | 15 | 16 |
| Marquie boards | 8 | 0 |
| Posters | 4 | 5 |
| Another individual | 71 | 27 |
| Church announcements | 6 | 3 |
| Red Cross statements | 4 | 2 |
| 1st-time giving | 47 | 37 |
| 2d-time giving | 15 | 6 |
| Regular donor | 98 | 42 |
| Member of civic club | 46 | 7 |

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

[Mr. BURKE of Massachusetts addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

[Mr. HARRINGTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

## LEGISLATION TO PROVIDE TAX RELIEF FOR SENIOR CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, today I am introducing legislation to provide tax relief for our senior citizens. This measure would permit a tax exemption of the first $5,000 of retirement income. The bill would apply first of all to any civil service pensioner upon retirement with respect to the public retirement payments; this provision is similar to many laws already in effect on the State level. In addition, the bill applies to all other retirees 65 or over. Retirement income from all sources would be considered in computing the exemption.

Mr. Speaker, today over 25 percent of Americans over 65 live in poverty. Many of those who have managed to avoid the ravages of hunger and substandard housing are struggling on pensions so inadequate in the fact of today's inflation and high cost of living that the basic necessities of life have become a luxury. Older Americans living on fixed incomes in particular are facing tremendous economic hardship as our inflation continues to deplete all of the little they have. Millions of social security recipients, for example, receive benefits which do not even allow them to live above the Governments' own poverty level. While Congress has enacted a 5.9 percent increase in social security, it has at the same time delayed the effective date of the increase to July of next year. As one senior citizen in my district wrote me—

> I may not even be around next year to collect the increase; my trouble is now.

I will continue to press for the increase to be pushed up to January or sooner.

The bill I am introducing today would, if enacted, provide quick and needed relief to senior citizens by making sure retirement income would be left intact. These men and women have contributed to our tax system virtually all of their lives, helping to make this country what it is today. There is no reason why, in his retirement years, one should have to continue to funnel what little income he has back into the Federal Treasury. Certainly, after working and struggling all of his life paying taxes, one should have the opportunity to live in dignity and security. My bill would help to create that opportunity; it is a step in the right direction for providing relief to older Americans.

At this point in the RECORD, I would like to share with my colleagues an article by Jack Anderson that appeared in the Long Island Press in my district which addresses itself to the "sad plight of many senior citizens." It is a shocking and all too true account of the hardships facing many of our elderly; it should also be an admonition to us in the Congress that we cannot, in good conscience, continue to allow the senior citizen to be the "forgotten American."

The text of the article follows:

### SAD PLIGHT OF MANY SENIOR CITIZENS

(By Jack Anderson)

WASHINGTON.—In a society enamored with youth, an estimated five million senior citizens have been overtaken by poverty. Most collect pitiful pensions, which have dwindled in purchasing power as the cost of living has soared out of sight. For many, the economic crunch has become truly a life-or-death matter.

Their pathetic stories are told in letters that have been made available to us from the private files of the National Council of Senior Citizens.

"These people that keep bragging about how much they are giving the senior citizen should have to live on it themselves," wrote a man from Gouverneur, N.Y. "It has been eight months since I have had a piece of meat."

He is lucky. Some live on rolls, coffee and dog food. Food fit for a dog at least provides protein at low cost. Some old folks have turned in desperation into common thieves, rifling meat counters and grocery shelves. But most suffer with quiet dignity.

A staff memo, prepared for the Senate Special Committee on Aging, notes grimly: "Rising food costs have been especially oppressive for the elderly because about 27 per cent of their budgets is spent on food, in contrast to 16 per cent for the total population. The net impact is that this upward spiral can have the effect of obliterating the 20 per cent Social Security increase."

For those on fixed incomes, the situation is so desperate that committee chairman Frank Church, D-Idaho, will try to move up the effective date of a forthcoming 5.9 per cent Social Security increase from July to January.

The unpublished memo stresses the importance of Social Security to the elderly. "For most older Americans," states the memo, "Social Security represents their economic mainstay."

"For millions of older Americans, however, Social Security benefits still fall below the government's own poverty benchmark."

Nevertheless, the Nixon administration not only is fighting against more Social Security increases but has also recommended higher Medicare payments.

Some of the aging and ailing can't even get Medicare. One woman from Linden, N.J., wrote of her plight: "I receive Social Security which is very small, $132.50, that just about keeps me alive. I have a cataract and a heart condition and on that amount I can't afford a doctor. I have no hospital insurance. I can't get Medicare until I'm 65. I'm 64 now. I may not see 65."

Others are victims of even worse neglect. A medical team in New York City recently found a wasted octogenarian dying unnoticed from lack of food and medical care in a dingy hotel.

Still others are forced to choose between decent food and decent housing. The housing problem is most acute in urban areas, where the elderly are crowded together in "welfare hotels" and dilapidated apartment buildings. The alternative is living in those human warehouses called boarding homes. A respectable nursing home is out of the economic reach of those without family support.

Meanwhile, members of Congress are drifting back into Washington, suntanned and rested, after their summer vacation. Shortly, they will decide what to do about the senior citizens who can't afford edible food or medical care, let alone a month in the sun.

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## IN MEMORY OF WILLIAM FITTS RYAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL), is recognized for 10 minutes.

Mr. RANGEL. Mr. Speaker, 1 year ago today we lost a dear friend and colleague, a man who was rightfully called the conscience of the Congress.

My dear friend, William Fitts Ryan, tragically died of cancer last year on September 17 in the midst of his energetic, productive career. Even after the passage of a full year, he is missed as strongly by those of us who knew him well as he was in those bleak days after his death when we knew we would no longer have Bill with us.

It is said of Bill Ryan that his prophetic positions, which led him to be far ahead of his colleagues in the Congress and in the Democratic Party, cost him the influence which can be exercised by those who make less waves and thus gain entry to the inner corriders of power. But whatever Bill lost in influence in these Halls, he gained a thousandfold in respect and admiration from those who knew him and admired his courage and commitment to the causes in which he believed.

I am proud to say that the foremost cause in Bill Ryan's life was the commitment he made to fight for human liberties. He was committed to the national recognition of racial equality and to making the pretty words of the Constitution a reality in American life. Bill was at the forefront of the civil rights movement in the 1950's and throughout the 1960's. When many of our liberal friends deserted the movement or found it inexpedient to stick their necks out too far, Bill was there with us fighting and struggling till the end.

As I think back on his career, the wisdom of his positions is as clear as was his courage in taking them. Bill was the first Congressman to vote against funds for the War in Vietnam—a position which Bill took in the early 1960's and which a majority of us did not catch up with until this year.

Bill was attacked for his advocacy of admission of China into the United Nations, but he lived to see President Nixon move toward normalizing relations between the two countries as he had always urged.

Bill Ryan was close to the people of the West Side of Manhattan. After a brief period of legal practice and service as an assistant district attorney, he entered the political arena and won every election in which he ever ran, except for his efforts in the 1965 New York City mayoral primary to win the Democratic nomination for mayor. Bill established the Reform movement as a viable force in New York City politics and brought many young people into political involvement with the resulting reinvigoration of the politics of our city.

It is the people of his home community, the West Side of New York, which I now have the honor of representing in part, who remember Bill Ryan best and miss him the most. Bill was a man of the people and through the years he became a vital part of community life in Manhattan's West Side. Much of the strength provided by the many community groups actively involved in the life of this community stems from the early support and guidance provided by Bill Ryan.

Bill Ryan devoted countless hours and energy to community affairs, organizing action groups and helping write and press for needed legislation affecting the 20th Congressional District.

The Congressman played a key role in keeping the West Side urban renewal area a project for middle- and low-income residents from its inception and in helping establish neighborhood services groups such as the Stryckers Bay Neighborhood Council to assist relocatees with their housing problems. He also helped the Goddard Riverside Community Center obtain funds for community action programs for residents of the West Side urban renewal. Throughout the years, Congressman Ryan was particularly responsive to the needs of the residents of the urban renewal area.

The health services available to Congressman Ryan's constituents were considerably bolstered by the Congressman's efforts to obtain funds for the West Side neighborhood health services program, which now provides medical services to thousands of poor residents of the district.

William Ryan's work with local tenants groups is a well known fact in New York. He strongly opposed the elimination of strong rent controls and his district office was heavily involved in helping tenants groups and individual tenants with their housing probems.

The Annual West Side Community Conference was an innovation of William Ryan. It brought to the people of the West Side some of the foremost experts in the Nation speaking on a variety of pertinent topics, free of charge.

Bill Ryan is well remembered for his annual spring bus tour of the 20th Congressional District, in which he talked to people up and down the district and distributed helpful Government pamphlets and other information which brought the Federal Government into the community in a way that people could see, hear, and feel.

He also helped to set up a free summer concert series in the district's parks. To quote Joseph Papp, now the director of the Lincoln Center Repertory Co., "the emergency grant for support of the New York Shakespeare Festival in 1966 was directly traceable to the efforts you have so vigorously made on our behalf."

Without the efforts of Bill Ryan, the schoolchildren of New York would not have had the benefits of the school breakfast program. Congressman Ryan had discovered that the funds available for this program had not even been applied for by the New York City Board of Education and as a result of his activities the program was put into effect in the city of New York. His other achievements in providing educational opportunity for the children of the city of New York included a new high school for the West Side of Manhattan, Brandeis High School, a new school building at 145th Street east of Broadway to replace a sadly deteriorated school, and the establishment of bilingual education for school districts 3, 5, and 6 in New York City.

Such community organizations as the Save Our Subways Committee, the 20th Congressional District Committee Against Lead Poisoning, the Coordinating Committee of West Side Antipoverty programs, the Coordinating Committee of Upper West Side Drug Treatment programs and many more were all created and held together by Bill Ryan.

Congress William F. Ryan was the first Congressman to establish a full time congressional office employing a trained social worker to deal with constituent problems. In all of these efforts and many, many more he made clear his concern with the living conditions, problems and needs of the community he represented for some many years in the U.S. Congress.

Bill once said:

> Many who disagree with me seem to respect the fact that when I speak I speak out of conviction and sincerity.

I can think of no better words to say in tribute to my friend. He was in every way a concerned, moral, and an extraordinary man. We all miss his presence in the Halls of Congress.

## WYOMING EDUCATOR: GEORGE DUKE HUMPHREY

(Mr. RONCALIO of Wyoming asked and was given permission to extend his remarks at this point in the Record).

Mr. RONCALIO of Wyoming. Mr. Speaker, the State of Wyoming and the many alumni of the University of Wyoming, living in every State of the Union, will regret the passing of a great educator and outstanding university president, George Duke Humphrey.

Dr. Humphrey, who guided the university through its period of greatest growth, died September 10 in Laramie, Wyo. To his many personal friends throughout the State, his loss means the passing of an era in the development of a great State university and the end of an exceptional career.

Born in Tippah County, Miss., on August 30, 1897, George Duke Humphrey rose from a teaching position in a one-room schoolhouse in Tishomingo County to the presidency of Mississippi State College in 1934, where he remained until coming to the University of Wyoming in 1945.

When he arrived at the Laramie campus on the verge of the influx of World War II veterans, the university enrollment was less than 1,000. To solve a housing shortage, he traveled from coast to coast lining up surplus property.

Army temporary housing units scheduled for destruction found their way to Laramie to house returning veterans, a single dramatic example of the kind of effective problem solving which characterized his presidency.

While constantly striving to improve the quality of education, he directed the construction of 13 major campus structures or additions valued at more than $17 million. At the time of his retirement in 1963, enrollment had risen to 5,400.

Many honors came to him in his career. He graduated from Tippah County Agricultural High School in 1915; received a B.A. degree from Blue Mountain College in Mississippi in 1929; a master's degree from the University of Chicago in 1931 and a doctorate in land-grant college and university administration from Ohio State University in 1939.

He served as secretary of the president's council, 1955–56, and chairman, 1956–57, of the American Association of Land-Grant Colleges and State Universities. He was vice president, 1959–60, and president, 1960–61, of the National Association of State Universities. He was a board member, 1954–61, vice president, 1958, and president, 1959, of the Association of American Colleges. He also served on the Western Interstate Commission on Higher Education and on the National Science Foundation Board, 1950–62.

He authored some 20 studies published in various professional journals and received a host of honors, including Wyoming's "Man of the Year" in 1951.

It was my privilege to have known Dr. Humphrey personally, having met him when I returned from World War II to the University's College of Law. I knew him to be tireless in his devotion to the University and to be a man of great charm and wit. I also count among my friends his son Julius and his family, who now reside in Tucson, Ariz.

To his family, I express my heartfelt condolences. I know I am joined in this sentiment by his many good friends in Wyoming and the West and by University of Wyoming alumni throughout the Nation whose education was better for his dynamic leadership.

He was an exceptional man and Wyoming is proud to have enjoyed him and his abilities for so many years.

## HEARINGS ON COMMUNIST PARTY ACTIVITIES

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the Record.)

Mr. ICHORD. Mr. Speaker, in August of this year, while the Congress was in recess, the Associated Press distributed an article on the growing confidence of the Communist Party, U.S.A. and alleged Government disinterest in its activities. The article made reference to the House Committee on Internal Security with the factually inaccurate statement that this committee, which I chair, has not held a hearing on communism in more than 2 years.

Both the New York Times and Washington Post carried the Associated Press dispatch and U.S. News & World Report did an apparent rewrite which repeated the inaccuracy.

I have written to the editors of the Times, the Post, and U.S. News & World Report and have sent copies of my letter to the Associated Press Washington Bureau chief and to the author of the original article.

However, since I have to assume the Associated Press account was carried in newspapers and magazines throughout the Nation, I want to make the record very clear that no such statement could be further from the truth and I would like to recite for the benefit of my colleagues why such an assertion is completely in error.

In 1971, the committee conducted hearings in March, April, May, and October on the Communist Party, U.S.A.—CPUSA—the Young Workers Liberation League, the youth arm of CPUSA, and conditions under Communist governments in Red China, the Soviet Union, Eastern Europe, and Cuba.

In addition, hearings were held in April and November on the Progressive Labor Party, a Marxist-Leninist organization then devoted to Mao Tse-tung. In October, witnesses exposed the violence-oriented Revolutionary Union and Venceremos organization, which also subscribe to Maoist communism.

In May, June, and July of 1971, extensive hearings were held on Communist Party and Trotskyite Communist Socialist Workers Party exploitation of the antiwar movement.

In 1972, hearings were held in May, July, and October with respect to conditions under communism in Southeast Asia and Cuba and the committee conducted the second year of its wide-ranging probe of the Federal civilian employee loyalty-security program with an eye on the extent to which Communists, along with others hostile to our Government, might have penetrated the Federal bureaucracy.

The hearings mentioned, of course, are in addition to legislative inquiries by the committee which account for many additional days of hearings.

So far in 1973, we have held hearings in March, May, June, and July on efforts of revolutionary groups and organizations, including the Communist Party, to exploit problems connected with the administration of penal systems.

This fall we will be continuing our examination of the Communist Party and pro-Maoist Communist groups in the United States.

That covers the past 2 years during which the Congress is alleged not to have held hearings on communism.

The Committee on Internal Security, after its formation in February 1969, conducted extensive investigations of the Students for a Democratic Society and, in 1970, the Black Panther Party, exposing the extent of Communist involvement with both organizations. Lengthy hearings were also held to determine the extent of Communist and other subversive influences in the antiwar movement. And in June of 1970, the committee examined conditions under communism in the Soviet Union, Czechoslovakia, and Cuba.

The mandate of the committee from the House of Representatives authorizes investigation of any group or organization dedicated to the alteration or overthrow of the system and institutions of our Government by unlawful means. Since most of the organizations openly advocating such a program are Communist in nature, it is obvious that much of the committee's time and effort is directed at Communists and communism.

All of the completed hearings have been published and circulated widely and were thus available to any researcher or reporter.

## TRIBUTE TO LT. COL. DONALD L. RISSI, USAF

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, I call to my colleagues' attention to the posthumous awarding of the Distinguished Flying Cross, Bronze Star Medal and Purple Heart to Lt. Col. Donald L. Rissi, U.S. Air Force.

Colonel Rissi, formerly of Collinsville, Ill., has been accorded these honors because of his selfless devotion to duty which resulted in his death December 18, 1972, during raids over Hanoi.

A 1955 graduate of the U.S. Naval Academy, whom I had the honor of appointing, Colonel Rissi had a distinguished career in the U.S. Air Force. Colonel Rissi's death is a special loss to me. His family and I have been acquainted for over 20 years.

At this point in the RECORD, I include the September 4 article in the Collinsville Herald on Colonel Rissi's career and the awards ceremony.

### TEXT OF RELEASE ABOUT AWARDS TO LIEUTENANT COLONEL RISSI

BLYTHEVILLE AFB, ARK., August 29—Lieutenant Colonel Donald L. Rissi has been posthumously awarded the Distinguished Flying Cross, Bronze Star Medal and Purple Heart.

Mrs. Joan Rissi, wife of Colonel Rissi, and two of the Rissi children, Mark and Patrick, received the posthumous awards for Colonel Rissi in ceremonies here.

The 41-year-old Colonel's B-52 bomber was shot down over North Vietnam on December 18, 1972. While stationed at Blytheville, Colonel Rissi was assigned to the 340th Bomb Squadron.

The Distinguished Flying Cross was awarded for "heroism while participating in aerial flight as a B-52G Aircraft Commander near Hanoi, North Vietnam on Dec. 18, 1972. On that date while engaged in one of the largest conventional bombing raids ever amassed in the recent history of aerial warfare, Colonel Rissi received severe battle damage to his aircraft as a result of extremely heavy hostile fire. He and his crew were in quest of massed supplies, communications equipment and transportation lines in order to eliminate the enemy's capacity to initiate an offensive. The outstanding heroism and selfless devotion to duty displayed by Colonel Rissi in the dedication of his service to his country reflects great credit upon himself and the United States Air Force."

The Brone Star Medal was presented for "meritorious service as an Offense Duty Officer, Tactical Air Control Center, Headquarters Seventh Air Force, Republic of Vietnam while engaged in ground operations against an opposing armed force from Sept. 22, 1971 to Feb. 15, 1972."

Colonel Rissi enlisted in the Navy in October 1950, after graduating from Collinsville High School in Illinois the year before. In July 1951, he tested as an alternate and was accepted to the U.S. Naval Academy at Annapolis, Md.

Upon graduation from the Naval Academy in June 1955, Colonel Rissi was commissioned in the Air Force and received pilot training at Reese Air Force Base, Texas. His next assignment was to the 360th Bomb Squadron at Davis-Monthan Air Force Base, Ariz., where he flew the B-47 from November 1956 until May 1964.

In 1961 Colonel Rissi attended Squadron Officers School. In 1964 he was assigned with the 364th Bomb Squadron at Bunker Hill Air Force Base (now Grissom), Ind., flying B-58s. His next assignment was to the Command and Staff College at Maxwell Air Force Base, Ala.

Upon graduation from the Staff College in July 1967, Colonel Rissi received F-4 training at George Air Force Base, Calif. The following January he was assigned to the 67th Tactical Fighter Squadron at Misawa Air Base in Japan.

He was then transferred to the 389th Tactical Fighter Squadron at Phu Cat, Republic of Vietnam and the Seventh Air Force Headquarters in February 1971.

Assigned to Blytheville in March of 1972, Colonel Rissi was ordered to Southeast Asia in November of that year as a replacement pilot on temporary duty, which was scheduled to be completed on Dec. 17, 1972.

Mrs. Rissi, also a native of Collinsville, Ill., resides at Blytheville Air Force Base, Ark., with their five children, Patrick, age 16; Mark, 15; Donna, 13; Stephen, 10; and Tom, age eight.

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## THE DEATH OF A DEMOCRACY: THE FALL OF ALLENDE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, while walking through my district over the weekend, a number of constituents expressed their concern to me over what is occurring in Chile. Overwhelmingly they believe that the coup d'etat came about as a result of the CIA's intervention. I replied that was no evidence to support that allegation, yet in all candor, Mr. Speaker, there is also no evidence to the contrary.

These constituents, in pursuing their discussion with me said, "Remember Dita Beard and ITT?" I said to them—

> I can't believe that the CIA would be so foolish having been so criticized recently for its alleged involvement in Chilean government affairs to undertake subversive activities against that government, or any other government, particularly at a time of intense Congressional opposition to such activities.

But I do not believe that the American people will accept at face value either the CIA's statement or indeed, a statement by the White House, that the United States did not in some way take a role in the coup d'etat.

Such assurances acceptable to the American public could only come after hearings have been held by a congressional committee taking testimony under oath, of representatives of the State Department and the CIA. In pursuit of that endeavor and because I believe it is in the interest of the United States to remove any cloud in this matter, I have requested the distinguished chairman of the Foreign Affairs Committee to immediately hold hearings on this subject.

In the interim, and without regard to that aspect, I believe that our President should, in the interest of humanitarianism, immediately request the Chilean military junta to make certain that its forces, military and otherwise, not use this revolution as the pretext for assaulting or murdering its political enemies.

But there is a further, more profound ramification of this coup. The overthrow of the democratic, though allegedly Marxist government of Chile is a tragedy of the first order, not only for Chile but for the concept of the democratic process.

There have been arguments to the effect that because Allende was a Marxist, the government could not possibly be a democracy. However, news reports indicate that while Allende made clear that he was a Marxist, the government was composed of various ideological elements, and most importantly, functions under the established constitution of Chile. When he was thwarted in some of his policies, Allende attempted to change certain constitutional provisions through accepted legal routes. When the courts or Congress defeated such attempted changes, he accepted their will, as befitted a lifelong democrat.

It is not my intention to judge or weigh the successes and failures of the Allende government. He was undoubtedly guilty of egregious economic planning, and yet he was successful at making the poorest third of Chile's population feel they had a government which responded to their needs. What is most to be kept in mind, Mr. Speaker, is the fact that a legally constituted democratic government was overthrown by violent means. Such an action is to be categorically and in the clearest terms, condemned and denounced.

Those of us who believe in the overwhelming value of democracy cannot look with equanimity when a fellow functioning democracy falls. If the opposition to Allende had adequate grounds, they should have attempted an impeachment proceeding, peaceful protest, or any other legal means they possessed to obtain redress. But there was no excuse for the destruction of the democratic system.

Those who claimed that Allende because of his supposed ideology would never maintain civil liberties or hold another election were wrong. Those who said an allegedly Marxist government could not maintain democracy were correct. But it was not Allende's government who destroyed the system, it was the military and the right. As in Czechoslovakia, an incipient democracy was crushed by those who could not bear to abandon privilege and power.

The great virtue of Allende, like other social reformers, was that he offered a path to "the wretched of the earth" that was nonviolent, that offered hope, and that was faithful to the democratic process and tradition. Now the Chilean military has shown those millions who have become a part of the "revolution of rising expectations", the apparent futility in placing their hopes for better lives in constitutional democracy. If democracy is perceived as a mere facade to protect the power and privileges of the oligarchs, to be swept away when the results do not please the elite, then the only other response that can be taken by people who seek social justice is violent revolution, such as Fidel Castro preached. Most relevant to ourselves, as a pragmatic fact, it is the United States and its interests which may reap the whirlwind of such crushed hopes. It would be the greatest tragedy of the coup if its final legacy was that democracy itself was to be characterized as a fraud.

I am distressed at the unconscionable delay that the administration took in expressing condolences over Allende's death. And it has still not condemned the coup as a blow against democracy. We may well come to miss Allende's moderating influence in the coming years in exactly the same way as belated regrets are now expressed over the ouster of Cambodia's Sihanouk. Democracy is dead now in Chile. Will it ever return?

## TOURISM AND DEVELOPMENT IN THE CARIBBEAN

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, the Caribbean is an area of vital importance to the United States. Increasingly tourism is assuming a major role in the area as a catalyst to economic growth. Because of its obvious and tremendous impact on the societies of the islands, tourism has also become a much debated matter of concern throughout the region. Saturday evening I was privileged to address the 22d annual meeting of the Caribbean Travel Association on the subject of "Tourism and Development in the Caribbean." Because of the importance of this subject and its implications for U.S. foreign policy, I want to take this opportunity to call the speech to the attention of the House:

### TOURISM AND DEVELOPMENT IN THE CARIBBEAN

When Herb Hiller, your exceptionally able outgoing Executive Director, very kindly extended to me an invitation to speak to the annual meeting of the Caribbean Travel Association, I eagerly accepted. I did so for three reasons: First, as Chairman of the Subcommittee on Inter-American Affairs, I am convinced that a dynamic Caribbean area is of great importance to the United States and an area to which the United States should give much more serious attention. Second, as a Floridian I know that we share many concerns about the impact of tourism on our communities. And, third, as a Miamian I feel that I, too, am a part of the Caribbean world, if not of the Caribbean experience.

There was, of course, a fourth reason why I accepted your invitation: it is always a delight to be able to visit, however briefly, any part of the Caribbean and especially Aruba. I might also say that if Aruba is the example, and I am sure it is, of the Caribbean's traditional hospitality, the entire world could learn from Aruba. People simply could not have been any friendlier or more gracious than they have been.

The area which I represent in the United States Congress includes the southern ⅓ of the Miami metropolitan area and extends south through the Florida Keys to the island city of Key West. It is an area which has, for the most part, been populated for the first time in this century. In this sense it is vastly different from the islands of the Caribbean whose long histories have indelibly affected your social and economic structures. It is, of course, a part of the world's most successful common market, the United States. But despite these important differences there are some striking similarities with the Carribbean—similarities which I hope will be given serious consideration by those in the Caribbean responsible for shaping the future growth of tourism.

Both Miami and the Keys, despite conscious efforts to diversify their economies, are still dependent on tourism to maintain economic growth. Both areas, and especially Miami, have benefited greatly from the prosperity tourism brought but both have also had to pay a price. Increasingly residents of communities throughout the state are asking themselves whether the rewards are worth the price. They, too, know that tourism can be a mixed blessing, that the problems it brings, environmentally, economically and socially, can so change the nature of their communities that they wonder what ever happened to the lovely beaches, the stands of palm trees, and the easy pace of life that brought them to the area in the first place.

There is another way in which south Florida must face up to problems familiar to the Caribbean. The Keys are islands, too, with all the familiar problems. Their small size implies a fragile ecology; their land area is limited; transportation, despite a two lane road to the mainland, is difficult; and their relative remoteness increases the problems of attracting the tourists the area requires. The rest of south Florida, too, shares to a certain extent the problems each of you face throughout the Caribbean. Even after World War II Miami was a hard place to get to. It was a long and arduous drive. The airline industry was still in its infancy. These problems have disappeared but now others have appeared. They are problems which result from a lack of planning: overcrowding, environmental damage, and a threat to what we now call the quality of life. One mistake which we have made, and which hopefully it is not too late to resolve, is that we have failed to view south Florida as the long island or series of islands it really is, bordered on one side by the Atlantic and on the other by the Everglades. The simple fact is that while south Florida looms large on a map, the useable land is really only a narrow strip along the east coast.

Before turning to a discussion of the role which I believe tourism can and must play in Caribbean development and which the United States can play in support of that role, I want to say a few words about economic development in general, the Caribbean region in particular, and United States policy toward the area.

I have served in the United States Congress for eighteen years. For most of that time I have served on the Committee on Foreign Affairs and have been actively concerned with the developing countries. During these years I have reached three basic conclusions toward development which I believe must serve as a basis for any U.S. policy toward the developing nations including those of the Caribbean. These are:

1. Classical theories of economic development have thus far failed, for the most part, in substantially improving the lot of the peoples of the developing world and consequently new solutions must be given high priority;

2. The high consumption economy of the developed countries is not a realistic model, or perhaps a desirable one, for most of the developing countries; and

3. The United States must not rely on U.S. business to be the flag carrier of U.S. foreign policy.

For the United States to have a coherent policy toward the Caribbean many other factors must, of course, be taken into account for the region as a whole is unique while at the same time its component parts make it as diverse an area as there is anywhere in the world.

Elsewhere I have frequently voiced criticism of the absence of a meaningful U.S. policy toward the Hemisphere as a whole. In particular, because I believe the area is so important, I have decried the absence of any special policy toward the Caribbean—a policy grounded in the present realities of the area. Some of these realities are:

1. The changing, strategic importance of the area—in which our primary international rival already has one expensive base of operations in an era where geographic proximity is militarily less significant—and from which other major powers are withdrawing.

2. The severe economic, political, and social consequences of the area's staggering unemployment and underemployment.

3. The increasing unacceptability of the area's legacy of economic servitude to other nations and desire to make economic activity in the Caribbean serve the interests of the people of the region.

4. The increasing sensitivity of the area's people to U.S. private and public actions.

5. An emerging spirit of regional cooperation.

The reason why the United States is and must remain interested in the area go far beyond security considerations. We are, afterall, in part a Caribbean nation. Our personal, economic and social ties are many. There is simply no way in which we can avoid having relationships and it is clearly in our national interest to make that relationship as mutually productive as possible. It is unfortunate that we, for our part, have not at a national level directed our efforts to formulating a coherent policy toward the area. There are many reasons why we have not, chief among them our national preoccupation with Southeast Asia. I am more hopeful that now, with the war behind us, we will respond to the new Caribbean which emerged from its colonial past during the 1960's. The reasons for my optimism are first and foremost that the Caribbean people and their leaders are increasingly making themselves felt, forcefully and eloquently, in the councils of government and business in the United States. The Caribbean is telling us of its concerns and, believe me, we are listening. Secondly, a new team of diplomats is turning its attention to long neglected areas of foreign policy. Secretary-designate Henry Kissinger does, I am sure, recognize the importance of the Caribbean and the need to be responsive to its aspirations and concerns. The new Assistant Secretary of State for Inter-American Affairs, Jack Kubisch, has voiced his recognition of the need for greater attention to the Caribbean and appointed an able Caribbean specialist, Harry Schlaudeman, as a principal Deputy Assistant Secretary. All of these developments give me hope that the Caribbean will soon be given the high level of attention in U.S. policy which it merits.

The overriding problem confronting the Caribbean area is the imbalance between its high population density and the relative scarcity of traditional natural resources. Even where there is bauxite, oil, or good soil, the resources simply are too scarce to offer much hope for a better standard of living for most of the people. While manufacturing is providing new jobs for many, the Caribbean is hampered by the fortunate fact that many islands, while poor, are much better off than other regions of the world. This means that industries with high labor inputs—just what the Caribbean needs—frequently go elsewhere. The outlook would be almost totally bleak except that the Caribbean does have some relatively scarce natural resources that are more precious to many than gold—a fabulous climate and unparalleled natural beauty.

The blunt fact is that for many of the people of the Caribbean their best hope for a better future lies in tourism. Tourism, as members of the CTA know, perhaps better than any other group in the world, is a subject much more complex than even well informed people realize. It is not a phenomenon unrelated to the rest of society, either in the host country or in the country of the visitor. The depth of these interrelationships is only now being explored and nowhere more actively than here in the Caribbean.

Tourism in the Caribbean has been growing by leaps and bounds in recent years. It is only natural that in the initial years it proceeded with little thought to its overall consequences and that as it evolved it became to be dominated by foreigners who knew how to deal with the affluent U.S. and Canadian markets. This inevitably meant that the structure of the tourist industry, without conscious effort, came to reflect the wants, or the perceived wants of the tourist rather than the needs of the Caribbean people.

As the momentum of the new tourist industry increased, U.S. management techniques dictated the increasing efficiency of the entire system and tended to force tourism into the now familiar mode of large hotels fed with tourists by a steady stream of aircraft loaded to capacity. Spurred by rapid initial growth rates the industry began to develop an internal dynamic, familiar in other industries, which required constant growth in order to prosper. But this ignored the reality of the area: that there are limits to how much tourism a particular society can successfully absorb. These limits are not only the traditional economic ones of infrastructure, depth of managerial expertise, etc., but include the simply ability of one group of people's values to survive a sudden inundation of thousands of strangers.

This problem is not one completely unique to the Caribbean. Many communities in Florida are now considering limits on their growth. Throughout the rest of the United States areas near to major metropolitan areas are increasingly concerned that their traditional way of life is being threatened by urban sprawl or the intrusion of hordes of summer residents. I do not say to suggest that the Carribbean's problems in this regard are not more serious than our own but they are problems with which many in the United States can identify.

Concern over the affect of tourism on Caribbean societies is deep and growing. There is a growing consensus that tourism in its present mode is contributing to social unrest. There is also a growing body of academic research which appears to back up this consensus by pointing to the real shortfalls in the economic return to the average Caribbean citizen as a result of tourism and to the destructive impact tourism may have both directly in personal terms and indirectly as it affects overall societal values.

If a continued unrestrained growth of tourism is no longer acceptable to the Caribbean then some way must be found to more effectively utilize the potential of tourism to serve the interests of the islands' people. The primary thrust for the development of such alternative modes of tourism must come from the Caribbean itself. The decisions involved are of too great a consequence to be left to others. The Caribbean as a region, and each island as a separate entity, must decide on their own course of development. We in the United States can and should, in my judgment, support initiatives designed to explore various tourism options open to the Carribbean. In this regard, the Caribbean Travel Association has been in the vanguard of those seeking to create the tools necessary to explore these options. The Caribbean Tourism Center, scheduled to open next year, is most noteworthy step in this direction. It promises to become a prime focus for information and research on every aspect of tourism and I commend your organization for the major role you have played in making it a reality.

Tourism, in whatever form, will remain a vital force, perhaps the major force, in promoting the economic improvement of the area. As such it must not be a centrifugal force tearing at the fabric of Caribbean societies but must be made to serve the broad development interests of each island and the entire region. This will be a formidable task, demanding political courage, imagination, and a large financial commitment, as well as understanding cooperation from abroad. In the meantime, while the process goes on of trying to redefine the ways in which tourism can better serve the Caribbean while furnishing relaxation and enjoyment to the visitor, it is vital that a spirit of confrontation be avoided, lest irreparable damage be done to the whole concept of Caribbean travel. Perhaps widespread knowledge of a serious commitment to reforming the tourist industry to the benefit of the Caribbean people can be translated into a lessening of the tensions so worrisome to the prospective tourist. Likewise it should be incumbent on the United States—public and private sectors—to not attempt to press the Caribbean to develop its tourism in ways which make the primary cocern of tourism the convenience of our own travel industry.

There are many ways in which the United States directly and indirectly might be of assistance to the fuller development of tourism as a more effective engine for economic growth but for the present we should, in my judgment, continue our support to helping the Caribbean decide what kind of engine or engines will best fit its needs. It is hoped, for example, that sufficient financial assistance will be forthcoming for the Caribbean Tourism Center to effectively carrying out its functions. Both the United States private and public sectors have an interest in helping the Caribbean to make rapid progress toward new and better modes of tourism. In this regard I hope that public or private funds will be made available to further study among other things:

The feasibility of the small hotel concept.

Methods of financing increased local participation in ownership and management of tourist facilities and the feasibility of a special financial institution for this purpose.

Whether a market exists to support any form of tourism different from the present mode.

How the benefits of tourism can be more effectively dispersed to other sectors and areas of the region.

How feeder airlines might be more effectively utilized to cut the financial and environmental costs of ever more jetports.

Of all of these and the many other tourism related projects which deserve attention none is more critical than whether or not there is a market to support a mode of tourism development other than the current one. This critical question should be a high priority item for everyone concerned with the future of the Caribbean. The answer to that question should be a fundamental determinate in how the Caribbean decides to develop its primary resources.

While the Caribbean struggles with the question of what to do about tourism in the future, it is my hope that the Untied States government will itself be considering this question. If tourism in all its complexity is so important to the Caribbean it must be of fundamental concern to the U.S. government. It is my hope that the State Department will initiate a high level study of tourism and its relationship to U.S. foreign relations generally and the Caribbean in particular. Consideration might also be given to the appointment of a special tourism policy coordinator within the department to deal, government-wide, with the numerous governmental decisions which impinge on U.S. tourism and hence on foreign relations.

Together we will thus study our mutual problems and together we shall solve them because it is in our best interests to learn from each other and to live together in Caribbean harmony.

## A FORMER AIDE TALKS ABOUT THE PRESIDENT

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, for the information of my colleagues, I am inserting in the RECORD at this point an illuminating letter to the San Francisco Chronicle, printed August 28, 1973, by Mr. Robert L. King of Hillsborough, Calif., who served as administrative assistant to Vice President Richard Nixon nearly 20 years ago:

### A FORMER AIDE TALKS ABOUT THE PRESIDENT

(EDITOR'S NOTE.—As one of many Americans who are deeply concerned over Watergate, may I offer some observations that may be helpful to others of like mind.)

First, let me admit to a personal friendship with Mr. Nixon, dating back to the prepolitical days of 1944 when he was a Navy Lieutenant. Also, to a close association with him during 1955, 1956 and 1957 as his assistant during those particular days of his Vice Presidency. It is, of course, primarily based on this friendship, plus employment, that I hold to my beliefs in the Nixon integrity and ultimate vindication. While some detractors would allege a lack of objective because of these facts, I think it likely represents a more valid basis for judgement than many of the present "judges." My own personal frame of reference, built on long friendship and what I feel my association has given me in the way of insight into, and understanding, of Mr. Nixon's basic character and motivations, are therefore, the platform from which I speak.

Perhaps there is at least a partial key to an understanding of the current trauma and to the question, "How could Mr. Nixon not have known?" in his instructions to me when I first entered into an employer-employee relationship in January 1955. Mr. Nixon told me that one of my prime duties would be to "protect" him so that he would have sufficient time to study, read, think and otherwise concentrate on the problems with which he was dealing. You will recall that President Eisenhower, even then, thrust him into the center of his first and abiding interest of foreign policy and world politics. Much time was taken up in preparation for these trips and, in addition, much time was absorbed in meetings of the Cabinet, National Security Council, Government Contracts Committee and other duties. Indeed he needed protection, and I, as the only male member of his immediate staff in those days, was the chief "buffer." But Mr. Nixon's instructions embraced one other point. He said that in addition to protecting him, I had to "protect" myself, as otherwise I couldn't do the necessary job for him. Whether I did my protection job well, or not, I'll have to leave to Mr. Nixon's judgment. My own weariness at the end of three years leads me to believe that perhaps I tried too hard to have my cake and eat it too.

However, too literal an interpretation on the part of top staff people in a highly political situation (and politics is really people) can lead to a type of blindness and insensitivity on the part of both master and servant which can, in turn, lead to real problems. Such phrases as "the Berlin Wall," and rumors that the top staffers were harder to see than the President himself, could have arisen only because of too strict a conformance with the admonition of "protect yourself," and with the consequent result of almost forming a double moat around the oval office.

Such a system breeds an inordinate delegation of power. This, in turn, carries with it the seeds of its own destruction when it reposes in individuals whose experience, capacity (which is built on experience) and political instincts are limited. Other times, other places and other people, such a modus operandi might well have worked. The tragedy is that in this instance, sincere, hard-working, intelligent, dedicated, and patriotic young men were victims of a power-bred myopia which made them vulnerable to their own inexperiece, particularly political inexperience.

These thoughts are offered by way of explanation, not absolution, as both the delegator and receiver of presidential power share in the responsibility for what happened. But the daily inferences and outright charges that Richard Nixon has lied to the American people is a cruel lie itself. . . . In my own 30 years of friendship and intermittent association I have known a man who I think is constitutionally unable to lie, particularly about such an overriding question of morality and integrity. Frankly, this characteristic is an indicator of that which has so frustrated and antagonized that part of the media which has been so long critical. Mr. Nixon gives the impression of a straight, Fourth of July, God-fearing, apple-pie patriot. Some areas of the press-TV simply don't believe he is for real. His strength, and their frustrations, lie in the fact that his character is indeed grounded on these "square" principles. His concept of his own mission in life, and of the Presidency itself, would make it impossible for him to present a false front. The complementary character of Pat Nixon herself would, I think, be a deterrent if he were even tempted.

In addition, the man is simply too intelligent to even consider the risk of a "second-story job" on Democratic headquarters to obtain the knowledge of what went on in Larry O'Brien's office. It is completely out of character for a man who would voluntarily deny himself the Presidency when it was probably within his grasp. Here, of course, I refer to 1960 when it is reported that J. Edgar Hoover and many friends urged him to contest the election because of known and provable vote frauds in Illinois, Missouri and Texas. Incidentally, I can imagine no more venal assault on the American system than that of the actual theft of ballots and perversion of the citizens' basic voting right at the ballot box itself.

Yes, I think I know "how" Watergate happened. Mr. Nixon's remoteness and that of his top staff people made the later vulnerable to an excess of power. The tragic irony is that equal excesses of zeal and dedication to a great President (which normally are admirable qualities) were short-circuited by this fatal juxtaposition which gradually eroded the judgment of otherwise good men.

I think most Americans will applaud President Nixon for the action he did take in initiating efforts to discover the source of leaks from the innermost proceedings of the National Security Council and other high policy bodies. The Nation's security demanded such action. At what point would continuing leaks undermine the delicate balances even then being achieved between Russia and China by the Nixon-Kissinger plan? Any way you cut the Ellsberg cake, this man violated the law too, and the usual double standard under which the far-left operates is painfully evident. Ellsberg is a hero—but the Nixon staff men are characterized as lawbreakers. However, this final element of a properly motivated inquiry which of necessity employed justifiable and available investigation techniques of microphones and-or telephone taps, even surreptitious entry, made easy the transition to their improper use and the excesses of Watergate and the so-call "plumbers unit."

John Mitchell's testimony (whatever might be said of his inaction) towers above that of Magruder and Dean. In Magruder we have an already self-confessed perjurer. In Dean we have a man who "couldn't tell enough." He brought in bales of isolated, extraneous matter in an obvious effort to lose his sins in the greater sin of presidential involvement. How much fantasy, misunderstanding or outright distortions were involved in his testimony we, perhaps will never know. It is known, however, that other Administration officials—Moore, Kleindienst and Peterson (with nothing in the way of a comparable axe to grind) contradicted Dean's testimony at important points. But it is comprehensible, as this sad scenario unwinds, that the actors did everything possible to keep the facts from the President while they indulged themselves in the vain hope that it would all eventually just go away. It is just as comprehensible that the system of "protect me—protect yourself" produced a fertile breeding ground for excessive delegated authority. Overzealousness of an idealistic nature then combined and nourished the misguided concepts and actions which so characterized Watergate.

I have no doubt as to the ultimate outcome. It will be proved to the satisfaction of the American people that President Nixon did not participate in either the planning or cover-up of Watergate. The scars he must inevitably bear for a staff system and personnel selection that made such a thing possible are only a part of the punishment for him. I'm sure he can accept this burden much more easily than the knowledge of what has happened to close personal friends and loyal supporters. Mr. Nixon's "remoteness" is well catalogued. But perhaps this remoteness, with the time it has given him to think and plan the grand strategy of the international chess game, vis-a-vis Russia and China, has been a key ingredient in the fact of today's peace and hope for the future. If so, and I personally believe this, perhaps Watergate, painful though it is, is part of the purchase price . . .

Robert L. King.

Hillsborough.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. McEwen (at the request of Mr. Gerald R. Ford), for today and the balance of the week, on account of illness in the family.

Mr. Fountain (at the request of Mr. O'Neill), for today, on account of attending a funeral.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Yates on Tuesday, September 18, for 30 minutes, to revise and extend his remarks and include extraneous material.

(The following Member (at the request of Mr. O'Brien) to revise and extend his remarks and include extraneous material:)

Mr. Wyman, for 10 minutes, today.

(The following Members (at the request of Mr. Ginn) to revise and extend their remarks and include extraneous material:)

Mr. Diggs, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Edwards of California, for 5 minutes, today.

Mr. McFall, for 5 minutes, today.

Mr. Hamilton, for 5 minutes, today.

Mr. Brinkley, for 10 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

Mr. Harrington, for 5 minutes, today.

Mr. Wolff, for 5 minutes, today.

Mr. Rangel, for 10 minutes, today.

Mr. Barrett, for 10 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Eshleman (at the request of Mr. Steiger of Wisconsin) to extend his remarks in the Record following those of Mr. Steiger of Wisconsin.

Mr. Evins of Tennessee in three instances.

Mr. Donohue to extend his remarks on H.R. 6274, today.

Mr. Burton to extend his remarks prior to passage of the four commemorative medal bills on the Consent Calendar, today.

Mr. Koch to extend his remarks on H.R. 7555 during the Consent Calendar, today.

(The following Members (at the request of Mr. O'Brien) and to include extraneous material:)

Mr. Conte.

Mr. Esch.

Mrs. Holt.

Mr. Hosmer in three instances.

Mr. Wyman in two instances.

Mr. Collins of Texas in two instances.

Mr. Powell of Ohio.

Mr. Huber in two instances.

Mr. Archer.

(The following Members (at the request of Mr. Ginn) and to include extraneous material:)

Mr. Rangel in 10 instances.

Mr. Hamilton.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Rogers in five instances.

Mr. Burke of Massachusetts in two instances.

Mr. Bingham in 10 instances.

Mr. McSpadden.

Mr. Harrington in three instances.

Mr. Jones of Oklahoma.

Mr. Edwards of California.

Mr. Johnson of California.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile; to the Committee on Armed Services; and

S. 2408. An act to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

## ENROLLED JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly an enrolled joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 695. Joint resolution authorizing the President to proclaim the period of September 15, 1973 through October 15, 1973, as "Johnny Horizon '76 Clean Up America Month."

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1841. An act to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games.

## ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 18, 1973, at 12 o'clock noon.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 492. Resolution providing pay comparability adjustments for certain House employees whose pay rates are specifically fixed by House resolutions; with amendment (Rept. No. 93-511). Ordered to be printed.

Mrs. HANSEN of Washington: Committee of conference. Conference report on H.R. 8917. (Rept. No. 93-512). Ordered to be printed.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1347. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on assistance-related funds obligated for Cambodia during the fourth quarter of fiscal year 1973 and during the entire fiscal year, pursuant to section 655(f) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1348. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on deliveries of excess defense articles during the fourth quarter of fiscal year 1973 and a summary of the four quarterly reports during the fiscal year, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended; to the Committee on Foreign Affairs.

1349. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Hydroelectric Plant Construction Cost and Annual Production Expenses, 1971"; to the Committee on Interstate and Foreign Commerce.

1350. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to permit payment of transcript costs for indigent litigants in certain civil proceedings before U.S. magistrates; to the Committee on the Judiciary.

1351. A letter from the Chief Commissioner, U.S. Court of Claims, transmitting copies of the court's opinion and findings of fact in Cong. Ref. Case No. 2-71, *John T. Knight v. The United States*, pursuant to 28 U.S.C. 2509 and House Resolution 240 of the 92d Congress; to the Committee on the Judiciary.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY (for himself, Mr. Bevill, Mr. Brown of California, Mrs. Collins of Illinois, Mr. Cotter, Mr. Dellums, Mr. Edwards of California, Mr. Hanna, Mr. Koch, Mr. Leggett, Mr. Rees, Mr. Rosenthal, Mr. Stark, and Mr. Wright):

H.R. 10299. A bill to regulate commerce and conserve gasoline by improving motor vehicles fuel economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BARRETT:

H.R. 10300. A bill to promote progress toward the goal of a decent home in a suitable living environment for every American by consolidating existing housing programs and community development programs into a new program combining the financial resources of the Federal Government and the resources of the States, municipalities, and other units of government in evaluating problems and in designing plans and carrying them out; to the Committee on Banking and Currency.

By Mr. BIESTER (for himself and Mr. Fraser):

H.R. 10301. A bill to amend the Presidential Election Campaign Fund Act, and for other purposes; to the Committee on Ways and Means.

By Mr. ERLENBORN (for himself and Mr. Zwach):

H.R. 10302. A bill to revise the Welfare and Pension Plans Disclosure Act, and to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, and for other purposes; to the Committee on Education and Labor.

By Mrs. HOLT:

H.R. 10303. A bill to amend the State and Local Fiscal Assistance Act of 1972 to provide for certain adjustment payments to compensate for amounts required to be repaid by units of local governments by reason of administrative error; to the Committee on Ways and Means.

By Mr. KARTH:

H.R. 10304. A bill to amend the Internal Revenue Code of 1954 to clarify and confirm the application of section 72 and the nonapplication of section 1232 to face-amount certificates; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 10305. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. RODINO:

H.R. 10306. A bill to permit certain loans by a federally insured bank to a bank examiner; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 10307. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44; 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 10308. A bill to amend the Merchant Marine Act of 1936, as amended; to the Committee on Merchant Marine and Fisheries.

By Mrs. SULLIVAN:

H.R. 10309. A bill to amend the act of June 13, 1933 (Public Law 73-40), concerning safety standards for boilers and pressure vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. THOMPSON of New Jersey:

H.R. 10310. A bill to amend the National Labor Relations Act to improve its administration; to the Committee on Education and Labor.

By Mr. THONE:

H.R. 10311. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

H.R. 10312. A bill to exclude from gross income the first $750 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and means.

By Mr. VAN DEERLIN:

H.R. 10313. A bill to amend title II of the Social Security Act to provide that the marriage of a disabled child who has attained age 18 may reduce but shall not terminate his or her entitlement to child's insurance benefits; to the Committee on Ways and Means.

By Mr. ZWACH:

H.R. 10314. A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit of certain Federal agencies by the Comptroller General; to the Committee on Government Operations.

By Mr. BRADEMAS:

H.J. Res. 723. Joint resolution to designate October 23, 1973, as "National Film Day"; to the Committee on the Judiciary.

By Mr. THONE:

H.J. Res. 724. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress; to the Committee on the Judiciary.

By Mr. HUBER:

H. Con. Res. 298. Concurrent resolution offering honorary citizenship of the United States to Alexander Solzhenitsyn and Andrey Sakharov; to the Committee on the Judiciary.

By Mr. HUBER (for himself, Mr. Gerald R. Ford, Mr. Lent, Mr. Miller, Mr. Robison of New York, and Mr. Steele):

H. Con. Res. 299. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII,

297. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the special milk program; to the Committee on Education and Labor.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

282. The SPEAKER presented a petition of the city council, New Rochelle, N.Y., relative to the bill (H.R. 1998) to amend the Internal Revenue Code of 1954; to the Committee on Ways and Means.

# EXTENSIONS OF REMARKS

## CHAIRMAN SAM PHILOSOPHIZES

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### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, the Knoxville News-Sentinel in a recent editorial comments on the wise philosophical observations of Senator Sam Ervin, chairman of the Senate Select Committee on Presidential Campaign Activities.

Certainly the comments of "Chairman Sam" reflect much wisdom and the conscience of America. Many of Senator Ervin's sage remarks will be recorded in history, because his perceptive insight puts the Watergate scandals in perspective—Senator Ervin has a deep sense of history and morality.

Because of the interest of my colleagues and the American people in this most important matter, I place the editorial from the Knoxville News-Sentinel in the Record:

#### Be Not Deceived

Sen. Sam J. Ervin, Jr. (D-N.C.)—who has been described variously as a crusty old constitutionalist and an "old school" gentleman fond of illustrative quotes and anecdotes—has chaired his Watergate investigation committee with poise and dignity.

Now he has added to that distinction by delivering what may stand as the most succinct and searing judgment of the entire mess that we will ever hear.

At the close of testimony Thursday by Frederick C. LaRue, the Mississippi millionaire who has pleaded guilty to conspiracy to obstruct justice in the Watergate cover-up, Ervin quietly and thoughtfully said:

"I can't resist the temptation to philosophize just a little bit about the Watergate. The evidence thus far indicates—tends to show—that men upon whom fortune has smiled beneficently and who possessed great financial power, great political power and great governmental power, undertook to nullify the laws of man and the laws of God for the purpose of gaining what history will call a very temporary political advantage.

"The evidence also indicates that just possibly the efforts to nullify the laws of man might have succeeded, if it had not been for a courageous Federal judge, Judge (John J.) Sirica, and a very untiring set of investigative reporters. But I come from a state like the state of Mississippi where they have great faith in the fact that the laws of God are imparted in the King James Version of the Bible. And I think that those who participated in this effort to nullify the laws of man and the laws of God overlooked one of the laws of God which is set forth in the Seventh Verse of the Sixth Chapter of Galatians: 'Be not deceived. God is not mocked. For whatsoever a man soweth, that shall he also reap'."

Nobody knows how many—if any—of "those who participated" in the appalling Watergate scandal will be required to pay a penalty under the laws of man. But the gentleman from North Carolina is surely right in his belief that they will pay in the long run—in the public disgrace that they have earned, if nothing more.

## THE GROWING CRIME STATISTIC: YOUTHS PREYING ON ELDERLY

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### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BIAGGI. Mr. Speaker, a report recently released by a private research institute indicates that growing numbers of our elderly citizens are falling victim to crime in our cities. This report contains some shocking statistics: In a study of over 1,000 crimes in Kansas City committed against elderly persons, almost 25 percent of these crimes resulted in physical harm to the victim.

However, a more unnerving statistic is that more than half of these crimes are committed by youths under 18, and of these criminals, most of them lived in the same neighborhood as the victim.

These statistics should indicate that we, as a nation, must begin to take strong action to protect our senior citizens. Some of the recommendations of the report would serve as a beginning step in this needed commitment.

Some of the more important recommendations include a massive public relations effort aimed at informing the senior citizen of measures which should be taken to prevent the occurrence of crime.

Mr. Speaker, I would like to include at this point in the Record the full account of this report as published in the Long Island Press:

#### Growing Crime Statistic: Youths Preying on Elderly

(By Constance E. Slough)

Kansas City, Mo.—Increasingly, America's elderly people are crime victims. And more often than not it is a case of the young preying on the old.

These are the findings of a year-old study by the Midwest Research Institute. Says Carl L. Cunningham, an MRI social analyst who is directing the study:

"The ferocity and intensity of crimes being committed against the elderly reflect virtually the full range of crimes against persons of any age.

"The elderly are being victimized in proportion to their numbers in the population at large."

Funded by the Administration of the Aging under the Department of Health, Education, and Welfare, Cunningham and his staff have studied more than 1,000 Kansas City police reports on serious crimes against elderly victims.

Advanced age certainly is no protector: One death, five rapes and 22 assaults were recorded in the reports. Of the total 1,000 cases, 58 per cent involved burglary, 23 per cent robbery and 14 per cent larceny.

Cunningham believes the pattern in Kansas City holds true across the United States, varying as area crime rates dip or rise.

"It is important to consider the relative effect of crime on the victim," Cunningham said. "The evidence is overwhelming that the aging crime victims, as a group, suffer most."

Victimization has increased with urbanization. The elderly are more likely to live alone in the older sections of the cities—where crime rates are likely to be highest.

The effect is to thrust the elderly up against their most frequent attacker—the idle urban youth.

Statistics show, according to Cunningham, that crimes against persons are committed predominantly by persons 18 to 24 years old, and about half of all crimes against property are by youths under 18.

MRI researchers found that even higher percentages of youths were involved in the crimes they studied.

"The overwhelming motivation is money," said Cunningham, "but it is also obvious that crime offers tremendous stimulation. Otherwise, why risk your future for a couple of dollars?"

Cunningham noted a preliminary high level of violence in the police reports. One youth pistol-whipped an elderly man and said he did it "to let him know I wasn't joking."

Burglary victims often told interviewers they were sure the burglaries were committed by youthful offenders living in their own neighborhoods. In many burglaries it appeared more an act of malicious destruction than the theft of valuables.

"It is important to note the changes some victims reported in their living habits soon after the crime was committed," Cunningham said.

One woman abandoned her home after she was assaulted there in a burglary. Others abandon their lifestyles, fearing the bus stop, the walk to the store, the park they used to frequent.

"It is plain that in the minds of the victims who have been contacted thus far, the losses they have suffered are relatively inconsequential to the anxiety and fear of repeated invasion the crime generated," Cunningham said. "These people are unable, unwilling to retaliate."

The analyst believes crime is at a level "totally unacceptable to the general good" and that the elderly are "locked into an environment inimical to their security."

A solution, he says, is relocation, but that is impossible for the majority.

The MRI study suggests possible methods to alleviate the vulnerability of the elderly, including:

Improved security of residences, either by better planning in new housing or by public assistance in securing existing structures.

Reappraisal of "the intergenerational neighborhood" housing arrangement.

Increased vigilance.

A public information program. The MRI group plans to publish a handbook on security and probably will suggest films and public television announcements aimed at the elderly.

A foster homes program, Cunningham believes that such relocation would provide stimulation and some companionship as well as a higher level of safety.

Special security patrols.

Escorted shopping trips, mobile check cashing services and issuance of electronic distress devices.

"No single solution will work," Cunningham said. He stressed the need for short-term action aimed at alleviating the problem while long-range solutions are sought.

"It is no exaggeration," Cunningham said, "that the quality of life of hundreds of thousands of elderly persons is today being drastically degraded by virtue of crime and the threat of it."

## MURDER BY HANDGUN: THE CASE FOR GUN CONTROL—20

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. HARRINGTON. Mr. Speaker, Mr. Samuel Moore has done a great thing; he has helped save a life. His heart has been transplanted to give someone a better chance for living. But the enormity of the heart transplant almost obscures the fact that Sam Moore died from a .22 caliber bullet in the brain. His friend who had been charged with assault has now been charged with murder. Moore's cause of death will be disputed in the courts. But no question would have arisen if a handgun had not been used to kill Sam Moore. I would like at this time to include the September 14 article from the Washington Post:

Murder Victim's Heart Transplanted

San Francisco, Sept. 13.—The heart of a murdered 29-year-old man was rushed by helicopter 40 miles Wednesday for a heart transplant operation—after two days of arguments over whether or not he was dead.

The recipient, a 52-year-old retired construction engineer who wished to remain anonymous, was reported to be in satisfactory condition after four hours of surgery at Stanford Medical Center.

It was the first time that famed Stanford heart surgeon Dr. Norman Shumway had operated without having the donor body in his operating room. Of the 62 persons who have received new hearts at Stanford, 24 are still living.

The helicopter transfer from Oakland's Highland Hospital took about 20 to 25 minutes, according to a Stanford spokesman.

"The heart can remain viable outside the body in a cold saline solution for up to two hours," the spokesman said.

Shumway flew to Highland Hospital to end the legal and medical dispute and to remove the heart from Samuel Moore, who had been in a coma since Monday with a .22 caliber bullet in his brain.

A friend of Moore's, A. D. Lyons, 43, had been charged with assaulting him with a deadly weapon. That charge will now be changed to murder.

Although Moore's mother, Mrs. Dolores Moore, gave permission for the heart transplant, his body had remained at Highland Hospital—his brain dead but his heart still beating with the help of a heart machine.

Roland Prahl, Alameda County chief deputy coroner, had two problems. He wanted to do an autopsy, and cutting off the power supply and thus stopping the heart might mean Moore's death was not murder.

A Texas court recently threw out a murder indictment because hospital authorities had disconnected the life-support apparatus in a similarly hopeless case. The cause of death was held to be in dispute.

Finally, with the agreement of District Attorney Lowell Jensen, Prahl agreed to the heart being removed.

"As long as Dr. Shumway has a patient ready to receive the heart of this man," Prahl said, "we will make an exception."

There was one more hurdle, Santa Clara County coroner John Hauser, who has jurisdiction over the Stanford Center, refused to sign a death certificate if the operation was performed on a homicide victim.

That was overcome by pronouncing Moore dead at Highland Hospital in Alameda County, removing the heart there and flying it to Stanford.

It was also later revealed that, as well as the heart, Moore's kidneys were removed as potential transplant organs. One kidney was flown to Vancouver, British Columbia, while the other went to a San Francisco Hospital.

## THE BARRONS OF OX-SHOE RANCH

### HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. JOHNSON of California. Mr. Speaker, I would like to take this opportunity to acquaint my colleagues with a fine example of individual achievement in the field of resource conservation and recreation development. This particular project is the Lassen Ox-Shoe Ranch that was developed in cooperation with the Soil Conservation Service of the Department of Agriculture.

Bruce and Elna Barron, owners of the ranch, purchased what was formerly the Manton Frontier Days Rodeo, a piece of land located on the eastern side of Lassen Volcanic Peak in the California Cascades. The Barrons had originally intended to use the land for cattle raising, but later decided to transform it into a recreation ranch.

In developing the ranch, the Barrons have cooperated fully with the Soil Conservation Service. The conservation plan for the ranch included development and expansion of springs, reservoirs and irrigation systems, and improvement of brush-covered pastures for grazing. The Soil Conservation Service also provided the Barrons with information on land capability and alternate land-use studies.

The efforts of the Barrons illustrate the constructive role played by the Soil Conservation Service in their work with individual farmers and ranchers to constructively conserve our land and water resources. I would like to commend the Barrons for their fine efforts in responsibly developing their ranch in cooperation with the Department of Agriculture.

At this time I would like to include the following article entitled "The Barrons of Ox-Shoe Ranch" that was written by Mr. Warren W. Brown, the district conservationist of the Soil Conservation Service in Red Bluff, Calif.:

The Barrons of Ox-Shoe Ranch

The Lassen Ox-Shoe Ranch, in the Morning shadow of towering Lassen Volcanic Peak in the California Cascades, was built by beef, beans, and bronc busters, its owners like to point out.

The Barrons, Bruce and Elna, bought the ranch in 1960, meaning to go into the cattle raising business.

The ranch was already the home of the Manton Frontier Days Rodeo. Conceivably it was the presence of the rodeo arena that soon had the Barrons thinking about turning the place into a recreation ranch.

Even before he made his down payment, Barron called at the office of the Lassen View Resource Conservation District in Red Bluff. The previous owners of the ranch had been cooperators with the district, and Barron promptly signed up to continue the conservation work.

The conservation plan for the ranch included development and expansion of springs, reservoirs, and irrigation systems and improvement of brush-covered pastures for grazing. This work fitted well into the plans taking form in the minds of Bruce and Elna Barron.

After getting advice from the Soil Conservation Service about land capability and alternate land uses, the Barrons plunged themselves into the work of improving the rodeo arena and other recreation facilities on the ranch.

It had been a fitting gesture of western hospitality to provide—for a fee, of course—a beef-bean barbecue for the rodeo participants and spectators. But dust and flies from the rodeo grounds made the original barbecue pit and serving grounds highly unsuitable. The Barrons found an ideal spot just below the rodeo arena where a small crooked stream made its way through a brushy valley.

There were drawbacks, however—dense vegetation, downed logs, and rotting tree stumps.

Barron manned an ancient bulldozer for his task. He carefully avoided damage to the stream and the clumps of alders along its banks. When he finished, he had a shady 2-acre island, with the stream tumbling on either side, as the place for serving the barbecue.

At the lower end of the island, Barron deepened the stream to obtain fill for a small dam. He thereby created a fish pond, which he now stocks regularly with trout.

Where he cleared brush, shaped the streambank, and built the dam, Barron planted perennial grasses to keep the soil in place and to add to the beauty of the setting.

Barron ran across a big waterwheel one day while pursuing runaway cows. He salvaged the wheel, which had been used in years past to power a home hydroelectric plant, and fitted it to a shaft to turn his barbecue spit. Now hundreds of pounds of beef can be roasted at a time with little effort.

The Barrons, seeing the growing popularity of their new venture, decided to sell part of the ranch and concentrate on their recreation park.

They added a combination nature trail and bridle path along a large stream, which flows parallel to their 3,500-foot airstrip. They constructed a pond at the west end of the airstrip where the nature trail terminates.

Aside from their annual rodeo, which is affiliated with Western Approved Rodeos and has received full championship status, the Barrons now restrict use of the park and its facilities to organized groups for weekend outings. This allows time for watering and grooming the park and lets the grass recover from trampling feet.

The Barrons believe that anyone having a feeling for the environment can create an outdoor recreation facility that blends into the natural surroundings.

Little capital outlay is needed, they claim, provided you spread the work out over a long period and do a great deal of the work yourself—beef, beans, and bronc busters help too.

It is a venture the Barrons recommend, if you have a dream like theirs.

## MISMANAGEMENT OF THE REVENUE SHARING PROGRAM

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mrs. HOLT. Mr. Speaker, today I am introducing legislation which is designed to provide some relief to local governments which have recently suffered from bureaucratic mismanagement of the revenue sharing program.

While I fully support the concept of revenue sharing, I think changes in the management of this program are necessary. In early July 1973, the Office of Revenue Sharing completed a data verification process which revealed widespread use of inaccurate data during the first, second, and third entitlement periods. This has resulted in substantial revisions in allocations to counties and municipalities throughout the country. The State of Maryland was extremely hard hit with over 120 units of local government being forced to pay the price of administrative errors within the Treasury Department.

The city of Annapolis, which is the capital of Maryland and located in my district, was devastated by this action. In early July, they were informed that due to the use of incorrect data by the Office of Revenue Sharing they were overpaid by $242,315. The city's fiscal year began on July 1 and the $242,000 was included in the approved fiscal year 1974 budget. In addition, this represents 50 percent of Annapolis' total revenue sharing allocation.

The effect of this "give and take" approach by the Federal Government is obvious. It has created havoc in local planning operations and has increased the distrust of local officials in revenue sharing as an alternative to categorical grant programs.

The bill that I am introducing today is designed to mitigate the adverse effects of large scale readjustments of revenue sharing funds. This bill will limit readjustments to a maximum of 10 percent of the total allocation to a specific governmental entity. The 10 percent ceiling on readjustments is retroactively applied to July 1, 1972. This will apply only to jurisdictions which have been overpaid; underpaid governments will still be entitled to their full payment.

I would like at this time to insert a copy of the text of this bill:

A bill to amend the State and Local Fiscal Assistance Act of 1972 to provide for certain adjustment payments to compensate for amounts required to be repaid by units of local governments by reason of administrative error

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subtitle A of title I of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following new section:

"SEC. 110. ADMINISTRATIVE ERROR ADJUSTMENT PAYMENTS

"(a) Authorization of Payments.—In addition to any amounts authorized to be paid to a unit of local government under section 102, the Secretary shall, for each entitlement period, pay out of the Trust Fund to each unit of local government an amount equal to the administrative error adjustment amount for such entitlement period.

"(b) Definition of Administrative Error Adjustment Amount.—For purposes of this section, the term 'administrative error adjustment amount means, with respect to any unit of local government for any entitlement period, the excess of—

"(1) the amount required for such entitlement period to be repaid to the Trust Fund by such unit by reason of administrative error (including error in the computation of population statistics), over

"(2) 10 percent of the total amount paid under section 102 to such unit for such entitlement period (computed without regard to such amount required to be repaid)."

SEC. 2. The amendment made by the first section of this Act shall apply with respect to entitlement periods beginning on or after July 1, 1972.

## CORNWALL LIBRARY ASSOCIATION—106 YEARS OLD

### HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mrs. GRASSO. Mr. Speaker, in August, the Cornwall Library Association, which operates the oldest and most widely used library in the town—the Cornwall Free Library on Pine Street—celebrated its 106th anniversary.

Throughout its distinguished history, the association through the benevolence of its membership has provided Cornwall and its residents with an ever improving source of valuable information, wholesome enjoyment, and deep fulfillment.

The people of Cornwall have always had a very great appreciation for the new worlds that books can open, especially for children. In this realization, they have followed a tradition in Connecticut which recognizes the need in each town for a large collection of books and other printed material within easy access to the people. Dating from colonial times, this tradition is founded on the belief that enrichment of the mind is a noble pursuit.

The library of the Cornwall Library Association has served as a center of learning, culture and enjoyment ever since it began operation in the late 1860's. When first organized in 1867, the library was housed in a private home, but was moved in 1874 to the office of Frederick Kellogg, Esq. Finally, in 1908 the building in which the library is now located was erected by J. E. Calhoun as a memorial to his father and brother.

Growing in most years at the rate of 100 volumes a year, the library boasted 5,000 volumes in 1926, and now has approximately 10,446 with 6,861 adult books and 3,585 books for children.

Some of the past presidents of the library association have been Dr. B. B. North, the Reverend S. J. White, George L. Minor, Miss Charlotte E. Clarke, and the Reverend E. C. Starr. The current president is J. C. Hemingway. Librarians were Mrs. Harriet C. Munson, Miss Mary J. Whitney, Miss Emily E. Marsh, and Mrs. Charlotte Wentworth. Cornwall's present librarian, Mrs. Hildreth Daniel, has been with the association since 1964.

At the present time, the library serves as a display area for monthly exhibits of artists, photographers, and sculptors, adding still another dimension to the service provided to Cornwall by the library association.

I would like to take this opportunity to wish the association a very happy 106th birthday.

## COLORADO RIVER SALINITY CONTROL BILL ENDORSED

### HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. HOSMER. Mr. Speaker, there is reproduced below the resolution of the California Water Resources Association endorsing bills before this body introduced by myself and others to control salt discharges into the Colorado River and thereby improve the quality of its waters as they proceed downstream. The objective of these bills is not to be confused with that of the proposal found in the recent United States/Mexico Colorado River Salinity Agreement which is specially designed to improve the quality of waters of the Colorado River as they pass the International Boundary into Mexico from California. Both propositions need to be carried forward and they should be carried forward together in an integrated fashion.

The resolution follows:

RESOLUTION OF THE CALIFORNIA WATER RESOURCES ASSOCIATION

Proposed Federal legislation (Bills Nos. H.R. 7774, H.R. 7775 and S. 1807), designed to help alleviate the Colorado River salinity problem by controlling natural salt discharges into the river and implementing farm management practices to reduce saline return flows, are pending in Congress.

These bills would:

Provide for maintenance of Colorado River salinity at or below levels set forth in "Conclusions and Recommendations" of the Seventh Session of the Conference in the Matter of the Interstate Waters of the Colorado River and Its Tributaries;

Authorize construction of control units at La Verkin Springs, Paradox Valley and Grand Valley as the initial stage of the Colorado River Basin Salinity Control Program;

Expedite completion of planning reports on those salinity control projects described in Secretary of Interior's Report "Colorado River Water Quality Improvement Program, February 1972," and the saline water collection system of Las Vegas, Wash;

Direct cooperation between the Secretaries of Interior and Agriculture in carrying out research and demonstration projects and in implementing farm management practices furthering the salinity control program.

It was agreed that implementation of the recommended program would arrest a deteriorating water quality trend on the Colorado River in which the average salinity at Parker Dam can be expected to rise to 1100 ppm by the year 2000 (1300 ppm at Imperial) unless salinity control measures are undertaken, and help remedy relations with Mexico occasioned by the high salinity of water entering Mexico.

Now therefore be it resolved by the Board of Directors of the California Water Resources Association that Congress be urged to support H.R. 774, H.R. 775 and S. 1807 for passage at this session.

But it further resolved that copies of this resolution be sent to California's Congressional delegation, to the Secretaries of Interior and Agriculture, and to the Commissioner of the Bureau of Reclamation.

## RED CHINA TO TAKE FOOD FROM THE MOUTHS OF BABIES

### HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. HUBER. Mr. Speaker, every day one can read in various newspapers and magazines that Communist China has solved all the problems that normally beset people. When a problem arises everyone just gathers around, reads out of Chairman Mao's good book, and the problem just goes away. However, just a few writers are still keeping a critical eye on Red China. Mr. Henry Bradsher, of the Washington Star-News, is one of such men. He reported on September 12, the astounding news that Mao's government plans not to supply food rations for children in excess of two per family under a new plan in order to hold down China's population. This has got to equal any of Hitler's greatest crimes. The article follows:

#### CHINA'S SWEET TALK YIELDS TO TOUGH ANTI-BABY POLICY

(By Henry S. Bradsher)

HONG KONG.—Evidence is accumulating that the Chinese government is gravely worried over population growth. Draconian measures are being taken to try to check it.

These include strong pressure for women with two children to have abortions and restrictions or denials of food rations to extra children.

The new measures began last January or February. This followed reports that a sample census, or possibly a full census, had been conducted secretly. Special efforts were made to keep foreigners from knowing about it.

According to United Nation's estimates, China's population is now about 816 million. This is, however, based on the assumption of a slower rate of growth than Premier Chou En-lai has reported.

Other estimates run to more than 850 million at present and increasing at about 17 million a year. Some Western experts on the Chinese economy say such high estimates are inconsistent with known food production, but that is exactly the point of the worry in Peking.

A steady growth of grain output for a decade ended last year with a decline in harvests. This year crops look poor to moderate. As a result of the need to continue increasing food availability to match the population growth, China has resumed large-scale grain imports.

This means that less money can be spent on importing industrial goods for the economic development of China. So better birth control measures are needed for the sake of economic progress.

It might be even worse than that. Some reports tell of efforts to suppress talk about the danger of famine.

Chinese officials have tried to keep the tough new measures secret. Unexpected visitors to one village were denied an opportunity to study a poster telling of the steps to force a reduction in the number of babies, and such signs apparently are removed from places where foreigners normally go.

China has had birth control campaigns off and on during 24 years of Communist rule. Now, however, health workers no longer appeal to people to have fewer children for their own sake as well as the country's interests. Now people are being told that they will have fewer children or must face consequences.

This use of administrative force rather than political persuasion has stirred controversy. One of the opening blasts of the recent attack by Maoist radicals upon policies of Chou's government criticized impatient officials who thought ideological work was slow and time would be saved by "laying down a few hard and fast regulations."

The same issue of People's Daily, the Communist party newspaper, which carried that article had another by a youth who wanted to marry at age 20, but decided to wait and "devote my energies to the cause of socialist revolution and construction." Now 25, he and his fiancee had decided to wait some more so they could work harder in their commune.

Such exhortations to delay marriage and have fewer children have failed to have enough effect. Mao Tse-tung told Edgar Snow in 1970 that in the countryside—where 80 percent of China's people live—the old attitudes still prevail.

Chou said in April 1972 that the population was "over 700 million, but not yet approaching 800 million." In rural areas, he said, the rate of increase is around 2 percent. At that rate, working from the last published census which was in 1953, the total should now be well over 800 million.

Chou and other senior officials have been more gloomy lately, presumably on the basis of the secret census and the bad crop reports.

China has met the population problem head on by coming as close as a government can to prohibiting people from having too many babies. But the radical criticism suggests that Mao considers this the wrong approach, so it might be changed.

## TRIBUTE TO HALE BOGGS

### HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. OWENS. Mr. Speaker, in the summer of 1968, as an inexperienced member of the platform committee of the Democratic National Convention, I met Hale Boggs, its newly named chairman. It was a hot summer for platform writers. President Johnson's hold on the party, on the issues of the war and defense and domestic spending, was tenuous at best. Each of the 110 delegates on the committee had his own strongly held views as to what the platform should be. Hale Boggs stepped into that situation and performed the extremely difficult task of fashioning a platform upon which the Democratic Party could stand. A great amount of support, astonishing under the circumstances, was obtained for that platform through the great sensitivity and superb negotiating skill of Hale Boggs.

Since that convention, while working as administrative assistant to Senator EDWARD KENNEDY when he and Hale Boggs were majority whips in their respective Houses, I worked regularly with Hale and his staff. They were extremely helpful to us in setting up the Senate majority whip's office and in establishing methods and procedures for carrying out the whip's duties. Hale Boggs was a true leader of great competence and ability.

Hale Boggs treated all equally, colleague, staff, ally, and opponent. Each year when I was working on Capitol Hill I was flattered to receive an invitation to attend the spring garden party which Hale and Lindy hosted annually at their lovely home. He was a good friend.

When Senator KENNEDY hosted a fundraising party at his home in Washington last summer, it was Hale Boggs who became the informal master of ceremonies to speak and regale the guests awaiting the arrival of their host after a late night Senate session. He was possessed of a superb sense of humor in addition to a superb sense of history.

Hale was extremely helpful in many ways, and I deeply regret his untimely departure. His record of accomplishments is very great, indeed. It was an honor and a pleasure to have known him, and to have counted him a friend, long before I became a Member of this body.

## THE BEATEN CHILD

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BIAGGI. Mr. Speaker, I would like to bring to my colleagues attention the first of a series of articles by Ronald E. Keeney appearing in the Non-Commissioned Officers Monthly News.

Dr. Keeney was one of the first men in America to expose severe cases of child abuse. His insight into the area, as well as his compassion for the young who are brutalized, are illuminated by the following:

#### THE BEATEN CHILD

(By Dr. Ronald E. Keeney, pediatrician)

"You can't do enough bad things to a person who would intentionally beat a defenseless baby like that. She ought to be locked up and the key thrown away." Such is often the reaction of individuals confronted with a child who has been severely beaten by a parent; for example, a beautiful 8 month old girl with 24 bruises all over her body, a burned bottom from being set on a gas heater, a fractured skull, all sustained in the course of disciplining her for infractions against the parents' feelings about what is "being bad".

However, the problem of maltreatment of children by parents or parent substitutes in our society is of such magnitude and increasing at such rate as to make such an emotional, aimless reaction not only futile, but in fact, contributory to the perpetuation of the problem. The American Academy of Pediatrics calls child abuse "a national epidemic."

The severely beaten child is almost always under 4 years of age with as many as 2/3 being under 9 months of age. A study at one university hospital revealed that 10% of all patients less than 6 years old who presented with an injury had that injury as the result of a beating. A nationwide survey conducted in 1965 indicated that as many as 4 million children may have been abused that year in the U.S., and remember, the problem has been increasing rampantly in more recent years. Of children beaten for the first time, 25–30% have permanent damage and 5% die as a direct result of their initial injuries. Of beaten children who are returned home without adequate treatment of their sick parent(s), 1 out of 4 are within the year returned to the hospital dead on arrival from recurrent beating. Of this latter group, as many as 90% of the survivors suffer permanent damage.

Dealing with parents who abuse their children has never been a popular area of endeavor. The first case to come to the attention of authorities in the U.S. occurred in 1874. The case was not admitted into court because there were no laws to protect children from abuse by their parents. The case was then brought to the attention of the Society for the Prevention of Cruelty to Animals and returned to court where the child was defined as a member of the animal kingdom. Laws against cruelty to animals were then invoked and the child was removed from her family for her protection. Public outrage soon led to the formation of Societies for the Prevention of Cruelty to Children and many laws concerning children's rights were subsequently passed. It has only been during the past decade, however, that professional concern about the problem became widespread enough to stimulate state legislatures to pass laws requiring reporting of incidents of child abuse to appropriate authorities. Now each state has its own law to deal with the problem. It would seem that the problem is on its way to control, however, the failure of most state legislatures to appropriate sufficient funds to carry out their laws' provisions has severely limited the availability of adequate personnel and facilities to provide optimal treatment of this illness that afflicts the family and produces the beaten child as its most obvious symptom.

With reference to the opening anecdote of this article, it is important to emphasize one of the most basic points in dealing with child abuse. Many parents who abuse their children were themselves abused during childhood. If, when these parents bring a battered child to us for help, our reaction is a punitive one, we will have reinforced the pattern of abnormal behavior; i.e., when the parent in question was a child he was punished (beaten) when he did something "bad". He has learned that beating is an appropriate response to a person who has done something bad. As a person who also lacks impulse control, this concept has led him to beat his defenseless child mercilessly when the child did something "bad". He brings the child seeking help and the authority reacts punitively to the parent. This reaction reinforces a life-long, learned pattern of behavior, and perpetuates the tendency of this parent to beat his child for being "bad".

In future articles other aspects of child abuse will be explored. Next month the characteristics of parents who abuse their offspring will be further explored, and ways of helping these parents will be discussed.

## TRIBUTE TO THE LATE GEN. ROBERT W. SMART

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to the memory of retired Gen. Robert W. Smart who served for many years as chief counsel of the House Armed Services Committee with distinction and dedication.

I was saddened to learn that General Smart had passed away recently in West Palm Beach, Fla., where he had moved following his retirement from his position with the House Armed Services Committee and later as vice president of North American Rockwell Co. Bob Smart had previously served in the U.S. Air Force where he attained the rank of brigadier general.

Following General Smart's retirement from the Armed Services Committee staff, we maintained our contact and friendship—and I knew him to be a grand gentleman, capable, competent, knowledgeable, informed, and always helpful. He served his country well and faithfully.

Certainly General Smart will be missed and I want to extend this expression of my deepest and most sincere sympathy to Mrs. Smart and other members of the family in their loss and bereavement.

## ABORTION OPINIONNAIRE FROM THE EIGHTH CONGRESSIONAL DISTRICT OF OHIO

### HON. WALTER E. POWELL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. POWELL of Ohio. Mr. Speaker, as I have done many times in the past, I recently distributed a questionnaire regarding matters of public interest to every home in Ohio's Eighth Congressional District. This particular opinionnaire dealt exclusively with the subject of abortion, and the views of Eighth District citizens with regard to the January 2, 1973, decision of the U.S. Supreme Court permitting abortions during the early stages of pregnancy.

I solicited the viewpoints of two of my colleagues in the House of Representatives to present opposing arguments on the abortion question. Congressman LAWRENCE J. HOGAN of Maryland presented an argument against the Supreme Court decision, while Congressman RONALD V. DELLUMS of California spoke in favor of the Court's decision. I am grateful to both Congressman HOGAN and Congressman DELLUMS for their cooperation and interest in offering their viewpoints so that Eighth District residents could compare and analyze the opposing considerations of this vital public question.

Although a few of these questionnaires still trickle into our office every day, my staff has tabulated the results of nearly 8,000 responses. I think these results may be of interest to other Members of the House of Representatives.

Overall, 7,996 opinionnaires were returned. Of this number, 5,383, or 67.3 percent, supported Mr. HOGAN and his position of opposition to the Supreme Court decision permitting abortions during the early stages of pregnancy. The viewpoint of Mr. DELLUMS was favored by 2,613 persons, or 32.7 percent of those who returned the opinionnaires.

The opinions of the majority of Eighth District residents who returned the opinionnaires coincide with my own. Since the date the Supreme Court decision was announced, I have been actively engaged in efforts to insure that the effect of the Court's ruling is either reversed or modified. The proposed constitutional amendment, House Joint Resolution 261, the so-called right to life amendment, which has been introduced into the House of Representatives to afford full human rights to unborn individuals from their moment of conception, is currently pending in the Judiciary Committee. I have signed the discharge petition on this amendment so that the full merits of this proposed constitutional amendment can be analyzed and discussed by the earliest possible date.

In addition I have sponsored three bills dealing with this subject, one of which requires medical institutions to provide their employees with the right and the opportunity to sign a statement of conscientious objection to participation in the conduct of an abortion. This bill is H.R. 5709.

Another bill that I have sponsored, H.R. 9459, makes it a Federal crime to carry out any research activity on a live human fetus, or to intentionally take any action to kill or hasten the death of a live human fetus in any federally supported facility or activity. This bill is currently pending in the Judiciary Committee. In addition, I have sponsored H.R. 9488, a bill that prohibits the use of appropriated funds to carry out or assist research on living human fetuses. This bill is currently pending in the Committee on Interstate and Foreign Commerce.

Mr. Speaker, it is my hope that each of these bills will be considered at the earliest possible date. It is my belief that the views of the Eighth District citizens reflect the opinions of citizens all across the United States that the Supreme Court decision on January 22 of this year was wrong. I trust that Congress will take legislative steps to insure that the precious right to life is returned as a guiding principle of our Nation's moral framework.

## SOLIDARITY WITH SAKHAROV AND SOLZHENITSYN

### HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. HUBER. Mr. Speaker, I am today introducing a House concurrent resolution calling upon the Congress to offer honorary U.S. citizenship to the distinguished Soviet scientist, Andrey Sakharov, and Soviet Russia's outstanding author, Alexander Solzhenitsyn.

These are two giant personalities, who by their steadfast faith in the right of man to intellectual freedom have recently gained the admiration of their compatriots as well as an ever-increasing number of formerly indifferent people in other countries as well. As everyone well knows, it is not easy to stand up and be counted in the U.S.S.R. for the cause of human freedom. The risks involved run all the way from merely losing your job, to compulsory incarceration and treatment in a mental institution, exile, and a long term in a forced labor camp.

Solzhenitsyn, of course, is a well known writer and Nobel prize winner, whose books have been read by millions throughout the world. In spite of being a former inmate of the Soviet forced labor camps, Solzhenitsyn has engaged, almost single-handedly, in a titanic struggle with the legalized evils of the Soviet state in order to encourage his own people and indirectly the people of the world to resist tyranny.

Sakharov, also a Nobel prize winner, is no ordinary dissenter. He owes his stature to his contributions in the field of nuclear physics and the development of the Soviet H-bomb. In order to help the victims of the increasing persecution of dissidents in the U.S.S.R., he participated in the organizing of the Committee for the Protection of Human Rights in the U.S.S.R.

Détente will not be meaningful, in my view, unless it is accompanied by a change in attitude toward human freedom and dignity in the U.S.S.R. Therefore, I view this resolution as promoting that end and will work strongly for its passage.

## NATIONAL FILM DAY

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BRADEMAS. Mr. Speaker, I am introducing today a concurrent resolution urging the President to proclaim October 23, 1973 as National Film Day.

Mr. Speaker, many of the Nation's motion picture companies and theater owners have agreed to donate one-half of their box office receipts on that day to the American Film Institute for the support of its many worthwhile programs.

Mr. Speaker, Charlton Heston, the distinguished 1958 Academy Award winner, earlier this year, in testifying before the Select Education Subcommittee of the Committee on Education and Labor, made an eloquent statement on the importance, both at home and abroad, of American films.

Said Mr. Heston:

> Film is the art form of the 20th century. If it is the art of our time, it is also the art of our country. American artists have contributed more significantly to world cinema than they have to any other art form. . . . In a very real sense, American films speak for our Nation more clearly, communicate more tellingly than any ambassador we can send to the rest of the world.

Noting the extraordinary public appeal of film, Mr. Heston added:

> Unlike other equally worthy artistic endeavors which inevitably appeal to somewhat narrower constituencies, the work of the American Film Institute is rooted in a mass medium appealing to all Americans.

Mr. Heston told the subcommittee that the American film industry had begun to respond "in a most heartening way to its responsibility to make significant financial contributions to the American Film Institute."

Evidence of that response, Mr. Speaker, is the fact that a significant number of motion picture distributors and theater owners will voluntarily donate one-half of their receipts to the American Film Institute on October 23.

The Institute, Mr. Speaker, a creation of the National Endowment for the Arts, was founded as a result of the wish of the late President Lyndon Baines Johnson that Federal funding for the arts help preserve and stimulate motion pictures in our land.

Earlier this year, in a scene viewed on national television by over 20 million people, President Nixon presented the first annual "Life Achievement Award," for lifetime contributions to film, to John Ford. Next year's award will go to the distinguished actor, James Cagney.

Mr. Speaker, the American Film Institute, by means of such efforts as its film preservation program, and its Center for Advanced Film Studies for young film-makers, is both a repository of the great American film tradition as well as a fountainhead of new talent.

Funded partially by the National Endowment for the Arts, the Institute, ably led by Director George Stevens, Jr., preserves the best of the American film past, trains promising young film-makers, and enriches public appreciation of motion pictures.

Mr. Speaker, the American motion picture industry is to be commended for the general support it plans to extend to the American Film Institute on October 23. This support will help the Institute continue and expand its important programs.

Mr. Speaker, I urge my colleagues to join me in approving this resolution to designate officially October 23 as "National Film Day" and to commend the participating motion picture distribution and theater owners for their unselfish support of the American Film Institute.

The resolution follows:

H.J. Res. 723

Whereas, motion pictures are a vital and integral part of American life and have enriched the lives of the American people, and people throughout the world, for more than half a century; and

Whereas, the Nation's motion picture companies and theater owners will be celebrating the first annual National Film Day on October 23, 1973; and

Whereas, the American Film Institute was created by the National Endowment for the Arts as our country's national organization dedicated to preserving our heritage of film, and it serves as the point of focus and coordination for the national effort to train the filmmakers of the future; and

Whereas, participating motion picture companies and theater owners have agreed to donate one-half of their box office receipts on National Film Day to the American Film Institute for the support of its many worthwhile programs; and

Whereas, recognition should be given to the participating motion picture companies and theater owners for their generous and unselfish support of the American Film Institute: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That October 23, 1973, is designated as "National Film Day"; and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

## MINIMUM WAGES AND THE VETO

## HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. OBEY. Mr. Speaker, I am inserting in the RECORD today a copy of the editorial on President Nixon's veto of the minimum wage bill which appeared in the September 8 edition of the Washington Post. I believe that the editorial makes it clear that the bill the President vetoed was nothing more than a cost of living increase.

I am inserting it for the benefit of my colleagues who may have missed it.

MINIMUM WAGES AND THE VETO

In political terms, President Nixon's veto of the minimum-wage bill is another shoddy attempt to blame inflation on an allegedly reckless Congress. When the President says that the bill "would give an enormous boost to inflation," he is factually incorrect. In economic terms, neither the bill nor its veto could have any significant effect on inflation one way or the other.

The bill would have raised the wages of 3.8 million workers. That is fewer than one out of every 20 employed Americans. Sen. Harrison Williams (D-N.J.) has observed, using the administration's own figures, that this bill in its first year would increase the nation's total wages only 0.4 per cent. In later years, the effects would be even smaller. The veto leaves the impression that Mr. Nixon is prepared to fight desperately over very small improvements in the income of the poor, while silently tolerating much larger increases in the politically sensitive matters of union contracts and business profits.

Mr. Nixon's denunciation of this bill as grossly inflationary is particularly unfortunate in view of his own proposal, which would have almost the same impact. The vetoed bill would raise the minimum wage from the present $1.60 an hour to $2 in November and $2.20 next July. Mr. Nixon's counter offer would bring the minimum up to $1.90 now and then up to $2.30 in steps over the next three years. The difference between these two scales, in their economic effect, is hardly measurable.

There are several ways to judge the fairness and adequacy of the present minimum wage. A person earning $1.60 an hour, working 40 hours a week and 52 weeks a year, would make an annual income of $3,320. The U.S. Department of Labor says that the current definition of poverty, for a family of four, is an income under $4,300. Even at a wage of $2.20 the worker would get only $4,576 a year, which will probably be less than the Labor Department's definition of poverty by next July when the minimum would have reached that level. Mr. Nixon's own Cost of Living Council exempts wages under $3.50 an hour from its wage controls, on grounds that such excessively low earnings ought not be subjected to any artificial restraint.

The present minimum of $1.60 began to come into force in 1967. The cost of living in this country rose 33 per cent from 1967 to last June. If the minimum wage were raised only enough to keep up with the cost of living, it would have to be taken up to $2.13 right now. To put it another way, the minimum wage in 1967 represented about 60 per cent of the average hourly earnings in this country. If Congress had wanted only to maintain the same relation of the minimum to the average, it would have had to raise the minimum to $2.32 by last July instead of $2.20 by next July. The bill that Congress passed did not even fully compensate for the inflation of past years. It does not even keep pace with the general rise of American wages, let alone incite future inflation.

Mr. Nixon keeps saying that he wants a stronger and warmer spirit of cooperation with Congress. But he keeps deliberately provoking fights. In this case he has turned his veto into a particularly unjustified attack on Congress, citing inflationary effects that do not exist. Congress and the President share the blame for the present level of inflation, and a certain amount of public recrimination is doubtless inevitable. But here the burden of Mr. Nixon's veto will fall upon 3.8 million American workers whose present meager wages leave them deep in poverty.

## PHILADELPHIA DRINKING WATER

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. EILBERG. Mr. Speaker, Philadelphians are observing this week as "Better Water for Philadelphia Week." A mobile laboratory, the largest of its kind, will test Philadelphia's drinking water for its purity and palatability.

At this time I enter into the RECORD a statement by the city of Philadelphia describing its method for testing water electronically:

PHILADELPHIA DRINKING WATER

Philadelphians can watch an all-electronic laboratory test their drinking water this week.

The mobile laboratory, the biggest of its type on wheels in the nation, has been officially opened to the public on the north side of City Hall.

A proclamation signed by Mayor Frank L. Rizzo designating the week of Sept. 16 through 22 as "Better Water for Philadelphia Week" has been issued.

Water Commissioner, Carmen F. Guarino, who accepted the proclamation, said that the laboratory is being demonstrated in Philadelphia by the National Sanitation Foundation and the Federal Environmental Protection Agency. The $210,000 laboratory was developed by NSF with EPA funds.

The Commissioner said the laboratory is a "fitting focus" for the city's annual observance of Better Water Week. This is because it houses a wide variety of electronic equipment which monitors the quality of drinking water flowing to consumers.

The laboratory can be connected to a water main, or it can be rolled up to a home, business, or public building (like City Hall) and tied into the latter's plumbing, for the purpose of testing the water going through the pipes.

"EPA and NSF envision the laboratory as a prototype for future roving laboratories that communities could use to determine whether their water remains pure and palatable after it leaves treatment plants," said Guarino.

He noted that the mobile lab contains electro-analytical sensors and a minicomputer, which will analyze and measure the water in distribution pipes for 19 "parameters", or characteristics, that affect water quality. The parameters include chlorine content, dissolved oxygen, alkalinity, hardness, corrosiveness, chlorides, temperature, turbidity, conductivity, "pH", fluoride, sodium, calcium carbonate deposition, nitrate, cadmium, lead and copper, among other things.

Guarino said the electronic laboratory is an example of present day "progressive trends" in the water works field. These trends emphasize the use of electronic sensing devices, computers, and other instrumentation to control the quality of water.

"The Philadelphia Water Department is already moving in that direction", said the Commissioner. "We plan to introduce automation into all our water plants in the next few years, allowing the entire water treatment and delivery process to be controlled by computer. Our water system will be the first in the world to be completely computerized."

Guarino added that his department is also studying the mobile EPA–NSF laboratory "as a possible tool to supplement the automation scheme for the city's water system. This laboratory is an exciting development. It could help us ensure even better water for our customers".

"Better water is our constant goal, even though Philadelphia has invested over $200 miliion of capital funds in the water system in the past 20 years and the city's water now meets or surpasses the quality standards of the U.S. Public Health Service," he said.

The mobile laboratory was previously stationed at the Oak Lane Reservoir and International Airport for field testing.

Two water quality experts from Michigan head the Philadephia testing. One is Dr. Nina I. McClelland, director of water research for the National Sanitation Foundation. Dr. McClelland is project engineer, in charge of developing and demonstrating the laboratory. The other expert is Dr. K. H. Mancy, professor of environmental chemistry at the University of Michigan. Dr. Mancy is an internationally recognized specialist, who has written several books on water quality and related instrumentation.

Coordinating the study for the Philadelphia Water Department is Joseph V. Radziul, chief of research and development.

## VON STEUBEN DAY

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BIAGGI. Mr. Speaker, today, thousands of German-Americans will celebrate Von Steuben Day in cities and localities throughout the United States. This festive day marks the birthday of Friedrich August von Steuben, a German born patriot, who served with distinction in the American Revolution as the Inspector General of the American Army.

In the course of American history, the immense contributions of the German people in both the Revolutionary and the Civil Wars have gone largely unnoticed. Yet, in addition to these early contributions to the American Nation, the German population continues to have a strong influence on our present society. Their particular contributions to such fields as science and technology have earned them the respect and gratitude of their fellow Americans.

As we celebrate Von Steuben Day, let us salute a particular member of the German-American community, Dr. Henry Kissinger, whose influence in the field of international relations has shaped what we all hope is a generation of peace. Dr. Kissinger is currently the President's nominee to become the Secretary of State.

Von Steuben Day is marked with a number of traditional parades in major cities across the United States. The largest and most famous will be held in my home city of New York City.

Mr. Speaker, I am pleased at the opportunity to take note of this important day, and to salute the German-American people.

## IN SUPPORT OF H.R. 8056

### HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. McSPADDEN. Mr. Speaker, it has rightfully been said that the history of America is the history of her rivers. From the founding of the Jamestown Colony to the start of the Central Arizona project, Americans have looked upon their rivers as among their most valuable and important natural resources.

To the people of Oklahoma, the Arkansas River is a source of both pride and economic strength. Accordingly, the Oklahoma Legislature voted in March of 1956 to create the Oklahoma-Arkansas River Compact Committee. This was done in accordance with an act of the 84th Congress which granted Federal consent to Oklahoma and Arkansas so that these sister States could begin the long and difficult task of creating a compact to insure the future of this river.

During the next decade, extensive engineering and legal studies were made to ascertain the best methods of setting up and operating an interstate compact that would ultimately affect the lives of thousands and the economic development of two rapidly growing States.

In March of 1970, the Compact Committee released a formal draft. In January of 1971, the Arkansas General Assembly ratified this draft. Three months later, in April of 1971, the Oklahoma Legislature ratified the draft compact with an amendment, which was agreed to by Arkansas during the next legislative session, in 1972.

The central importance of this compact is that it apportions waters of this great river between the two States so that these waters can be utilized in a timely and orderly fashion. It provides for the sound management of Arkansas River Basin waters by encouraging and coordinating the kind of pollution control program that will protect this valuable resource for future generations of Oklahomans and Arkansans.

The Water and Power Resources Subcommittee of the House Interior Committee held hearings during June on H.R. 8056, a bill which I sponsored with Congressmen CAMP, JONES, JARMAN, STEED, HAMMERSCHMIDT, and THORNTON. This bill grants Federal consent to the compact. There was no opposition to it in subcommittee; it has been agreed to by the affected States and by the appropriate Federal agencies. It was reported from the full committee without a dissenting vote on July 18.

Mr. Speaker, the passage of H.R. 8056 is of vital importance to the people of Arkansas and Oklahoma as well as to the entire Nation. It represents the fruition of enormous efforts by the citizens of both States and by their respective governments. All of those who took part in the creation of this compact can be justly proud of it and all that it promises.

I urge each of my colleagues to support this important legislation.

## TRIBUTE TO DR. IRVING D. LITWACK

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. ANDERSON of California. Mr. Speaker, on October 1, the people of Long Beach, Calif., will lose the services of a truly dedicated public servant, Dr. Irving David Litwack. On that date, Dr. Litwack will retire from the position of city health officer after some 37 years of service.

A native of Illinois and graduate of the University of Illinois School of Medicine, Dr. Litwack came to Long Beach in 1936 following service in the Navy. When World War II broke out, he was recalled to active duty. During this period, Dr. Litwack received special training in public health administration at the Johns Hopkins University School of Public Health.

After the war, Dr. Litwack returned to Long Beach as the assistant health officer. One year later—1947—he was named health officer, the position in which he has served untiringly ever since.

Throughout his career, Dr Litwack has received the greatest respect and admiration from both the Long Beach community and his professional colleagues. His awards include the "Good Government Award" presented by the Long Beach Chamber of Commerce for Outstanding Service to the City of Long Beach; and the "1964 Man of the Year Award" from the Bernard and Milton Saul Post No. 593, Jewish War Veterans. In 1968, Dr. Litwack received the "Outstanding Merit Award" presented by the Southern California Public Health Association during his term of office as president of that organization.

In addition to a long list of national and State professional affiliations, Dr. Litwack has found time to be involved with and contribute to numerous nonprofit and voluntary agencies. Currently he serves on the board of directors of three major Long Beach hospitals and on the boards of many other medically related organizations.

Certainly all of these accomplishments could not have been achieved without the strong support and inspiration of Edith, his lovely wife of 40 years. Their son, Kenneth, is also a medical doctor and lives in Corona del Mar with his wife and three children.

Mr. Speaker, government agencies are established to serve the people. One man who has never forgotten this and can truly be called a "public servant" is Dr. Irving D. Litwack. He chose a career in which he felt he could make life better for his fellow man, and the people of Long Beach will long remember and honor him for his unselfish service.

I want to extend to Dr. and Mrs. Litwack my sincere best wishes for happiness and fulfillment in the years ahead.

## SHORTAGE OF PROPANE GAS

## HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. DRINAN. Mr. Speaker, I attach herewith a letter which I have sent to Governor John Love with respect to the possibility of a shortage of propane gas in my congressional district and in New England.

The Fitchburg Gas & Electric Co., one of the major suppliers of natural gas in my congressional district, uses about one-third propane in the gas which it distributes to its consumers. Any substantial diminution in the availability of propane gas could bring about heating shortages that could close schools, cause widespread suffering among homeowners and conceivably could lead to a cutback in industrial production.

My letter to Governor Love follows:

SEPTEMBER 13, 1973.

Hon. JOHN A. LOVE,
*Director, Energy Policy Office, the White House, Washington, D.C.*

DEAR GOVERNOR LOVE: The proposed regulations of the Energy Policy Office with respect to the mandatory allocation of propane as set forth in the Federal Register of September 5, 1973 have been brought to my attention.

Gas utilities in the State of Massachusetts have expressed concern to me as to whether or not they are included within the definition of "reseller" contained in Section 2 of the proposed regulations. As you may be aware, gas utilities in Massachusetts have for many years relied upon the use of propane as a supplement to supplies of natural gas during the winter months. These utilities had planned to continue such reliance during this coming winter.

I understand that gas utilities in Massachusetts, unlike in many other sections of the country, have a low industrial load, and accordingly a high percentage of their end-users (in the neighborhood of 80 to 90 percent) are residential or other customers which use the fuel to satisfy human needs. As such, the bulk of the customers of gas utilities in Massachusetts should come within the definition of "priority customer" contained in Section 2 of the proposed regulations. The concern of the gas utilities arises in connection with the definition of "reseller" since in the supply of propane for heating and cooking purposes by gas utilities certain chemical characteristics are subject to change.

Because of the severe shortage of energy anticipated in Massachusetts this winter, it is of great importance that its gas utilities be entitled to priority status in the supply of propane for resale to priority customers. Any restriction in this supply can only serve to threaten the residents of Massachusetts with a loss of heating and cooking facilities.

I urgently request confirmation that these gas utilities will be viewed as "resellers" within definition contained in Section 2 of the proposed regulations and would suggest that the definition be amended to make clear this reading.

The Fitchburg Gas and Electric Company uses about one-third propane for the fuel it sells. Needless to say the large region within my Congressional District served by this company will suffer severely if these regulations are adopted.

Cordially yours,

ROBERT F. DRINAN,
*Member of Congress.*

## H.R. 7395—NONCONTIGUOUS TRADE

## HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. PRITCHARD. Mr. Speaker, tomorrow the House will consider H.R. 7395 on the suspension calendar. I cosponsored this bill because I believe it would correct an oversight in the definition of "noncontiguous trade" as presently defined in section 607(k) (8) of the Merchant Marine Act of 1936, as amended.

While the bill itself is relatively short and straightforward, it deals with a very complicated subject: merchant marine capital construction funds.

Section 607 of the act provides for the establishment of tax-deferred capital construction funds by American vessel operators pursuant to agreements entered into with the Secretary of Commerce. The purpose of the tax deferment is twofold: First, to facilitate interstate, intrastate, and foreign trade between those U.S. possessions and states which must, to a large extent, depend on the shipping industry; and second, to serve that nation's interest in the revitalization of the U.S. foreign and domestic shipping industry, as well as the U.S. shipbuilding industry.

In order to make withdrawals from the capital construction fund the vessel operator must agree that the vessel to be built will be operated in United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States. Currently the definition of "noncontiguous trade" in section 607 (k) (8) explicitly allows intrastate trade between the islands of Hawaii, but overlooks intrastate trade within Alaska and between islands in Alaska.

H.R. 7395 would provide similar treatment for Alaska as is presently provided for Hawaii. The bill would allow vessels built under the capital construction fund provision of the Merchant Marine Act of 1936 to operate in intra-Alaska trade.

The current definition of "noncontiguous trade" works an undue hardship on those vessel operators who operate vessels between Seattle and Alaska, and yet wish to pick up and deliver small amounts of cargo between Alaskan ports. Substantial penalties could result from the use of vessels constructed with capital construction funds in intra-Alaska trade. The definition contained in section 607(k)(8) forces diseconomies on the operators of vessels constructed with such funds. H.R. 7395 would cure such diseconomies and allow vessel operators to carry intrastate Alaskan cargoes incidentally to the carriage of interstate cargoes.

## HONOR OUR CONSTITUTION

### HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mrs. GRASSO. Mr. Speaker, during the week of September 16–22, we honor our Constitution.

Serving as the framework of our democracy, the Constitution was written nearly 200 years ago. It is a tribute to the genius of our Founding Fathers that they were able to frame a document, the keystone of our governmental system, that has required little change in the years since it was drafted, though our Nation has grown from 13 disunited former colonies, into a world power including 50 diverse yet commonly committed States.

James Wilson, one of Pennsylvania's representatives to the Constitutional Convention held in Philadelphia in 1787, demonstrated the prophetic attitude of the Founding Fathers when he stated:

> We should consider that we are providing a constitution for future generations and not merely for the circumstance of the moment.

I am proud to say that two gentlemen from Connecticut were among the 39 men who affixed their signatures to this enduring document. William S. Johnson and Roger Sherman held dear the same timeless ideals of freedom, justice, and equality of opportunity that were professed by their contemporaries, Jefferson, Franklin, and Washington. Indeed, Connecticut is known as the Constitution State, for it was in Connecticut that the "Fundamental Orders"—in essence a constitution—were adopted in 1638. The historian John Fiske called the orders, which took their spirit from Thomas Hooker, Connecticut's founder:

> The first written constitution known to history that created a government.

Yes, Mr. Speaker, we in Connecticut have a firm understanding of the great value of our country's Constitution, and the esteem in which it is held throughout the world. The fact that it has served us for almost two centuries is testimony to the timelessness of its ideals and the foresight of our Founding Fathers.

Men like Franklin, Jefferson, Washington, Johnson, and Sherman could not have anticipated the far reaching changes we have undergone since the framing of the Constitution. Yet, the document they drafted has truly lived up to Jefferson's requirement that laws and institutions "must go hand in hand with the progress of the human mind."

Thus, it is fitting that we designate a specific week during the year to honor our Constitution, the document which continues to endure as the foundation of our democratic system.

## LIBYAN GOVERNMENT ACTION EMPHASIZES NEED FOR DEVELOPMENT OF DOMESTIC ENERGY SUPPLIES

### HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. ARCHER. Mr. Speaker, although not entirely unanticipated, the sudden action of the Libyan Government raising the price of crude oil to $6 a barrel and refusing to accept U.S. dollars for payment is intolerable. This action will not be the last of its kind by a foreign government and should serve to dramatically awaken any person in this country who believes that the United States can exist on a dependency of imported oil.

How many more countries are going to escalate their price, refuse to accept American dollars, and in some instances nationalize American companies, before we realize that we must immediately turn our attention to the development of domestic resources?

The Nation is now consuming the equivalent of about 36 million barrels of oil per day. At the present growth rate we will require at least 95 million barrels per day of oil equivalent by the year 2000.

It is imperative that we have new policies and restructure existing ones to spur domestic activity, for it is clear that we cannot rely on energy from abroad. The possibility of such dependence is a threat to our national security as well as to our economic stability. Our balance-of-payments situation is critical even now.

I do not believe the American people should have to accept reduced economic development, fewer jobs, less gasoline, fuel oil for their homes because action is not taken to guarantee a continuing supply of oil. Certainly, we must do what we can to lessen demand and increase conservation, but we must also be aggressive in making sure that our requirements for the future are met. It is imperative that as a first step we take the following actions:

First, tax incentives are needed to encourage investment of the large amount of risk capital that is necessary for exploration for new reserves. I first introduced a bill in 1971 to establish a 12½-percent investment credit for that purpose. These tax incentives should be applicable to both onshore and offshore drilling.

Second, Federal lands should be opened for leasing and future development.

Third, closely examine any restrictions on suppliers of oil, particularly those restrictions which are unnecessarily impeding the progress of exploration and development.

Accelerated development of domestic energy supplies would benefit all segments of society: Employment would increase, individual incomes would rise, profit opportunities would improve, Government revenues would grow, and the Nation would be more secure.

Without remedial action, energy imports will inevitably increase and we will see the day that the United States will have no recourse for an action such as that taken by the Libyan Government. It is not a pleasant prospect.

A number of years ago I predicted, as did several knowledgeable officials in the oil industry, that the United States was heading toward a serious energy crisis. I think it is appropriate today to point out to all those who would listen that dependency on oil from abroad has dangerous political, military, and economic effects. We must respond while we still have a choice.

## MRS. DOROTHY BUSSARD, PRESIDENT, NATIONAL AMVETS AUXILIARY

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BYRON. Mr. Speaker, on August 26 of this year, Mrs. Dorothy Bussard of Middletown, Md., was installed as 1973–74 president of the Amvets National Auxiliary in St. Louis, Mo. I want to congratulate Mrs. Bussard on her election to this important post. It is the culmination of her many years of dedicated service to the auxiliary.

I would like to share with my colleagues an article from the Frederick Post concerning Mrs. Bussard and her installation as president of the National Amvets Auxiliary:

MIDDLETOWN WOMAN ELECTED NATIONAL AMVETS AUXILIARY PRESIDENT

(By Linda Gregory)

A National Testimonial dinner to be held Oct. 20 at the Francis Scott Key Hotel will honor Middletown resident Mrs. Dorothy Bussard on being elected 1973–74 President of the Amvets National Auxiliary.

Mrs. Bussard was officially installed in her new position at the 30th Annual National Convention of Amvets and Amvets Auxiliary held at the Chase Park Plaza, St. Louis, Mo., on Aug. 26. Describing it as a "dream come true," "Dottie" was fortunate to have her husband, Mr. A. Lee Bussard, daughters Karyl and Lori, and her parents, Mr. and Mrs. Roger Lenhart, of Mountaindale, share in her moment of glory. Her entire family was presented to the hundreds of delegates attending.

At the installation services she was given her official National President's pin, gavel, and hat. Her husband presented her with a dozen yellow roses.

Although the year ahead will mean a great deal of travel, Dottie views it as "a challenging experience" and has already begun an itinerary which will take her into community service programs in 35 states. She has chosen the theme of "Love" for her tours and hopes to "help promote patriotism, love of country, and service to fellow man."

Rather than feeling like a "working wife's widow," Dottie's husband Lee is thrilled with his wife's success and supports her wholeheartedly. Her daughters, too, are excited and very proud of their mother's position.

Dottie has been a member of the auxiliary of Middletown Post No. 9 for the past 15 years and has served in every office and every chairmanship on the local and state level. Both the local and state Amvets Auxiliaries have supported her during her candidacy.

Being allowed only one local appointment, Dottie has chosen Mrs. Selvia Gouker, of Middletown, as her corresponding secretary. The new president's first visitation is already scheduled to begin Sept. 21 when she will visit the national headquarters in Old Orchard Beach, Me.

## WE MUST CORRECT THE CENSUS UNDERCOUNT

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. RANGEL. Mr. Speaker, the undercount of minorities in the 1970 census has been a cause of increasing concern for me and those of us who know the importance of an accurate census count for the increasing number of Federal programs tied to formulas based upon an accurate count of the population.

Although the Bureau of the Census has admitted that minorities were undercounted in the 1970 census and although Secretary of the Treasury George Schultz admitted this undercount would mean a loss in revenue-sharing dollars to communities with large minority populations, no action has been taken by the Federal Government to correct the undercount.

The National Urban League, who along with the Joint Center for Political Studies, has performed the basic research which has forced the Federal bureaucracy to admit and face up to the undercount, has come up with a formula which can be applied to correct the undercount. To date, however, the Federal Government has failed to respond to the request of the Urban League to use their formula and has failed to come up with a corrective formula of their own.

It is important that we, in the Congress, insist upon a fair and accurate basis for the distribution of Federal funds. I urge my colleagues to share my concern over the unfairness of the census undercount of minorities. I place in the Record, for your information, a column written by the executive director of the Urban League for the New York Voice entitled "Census Undercount Means Lost Dollars" at this point:

### Census Undercount Means Lost Dollars

(By Vernon E. Jordan, Jr.)

You might be one of the 5.3 million people the U.S. Census Bureau admits it did not count in the 1970 Census. If so, that means that your neighborhood loses federal aid apportioned on a per-capita basis, including revenue sharing money, and shares less than it ought to in other federal and state programs.

Over five million people not counted may not seem much on a national basis in a total population of over 200 million, but its impact on localities, especially on hard-pressed cities and towns with substantial minority populations, is important.

The bulk of the "missing persons" are minorities; almost eight percent are black, as against less than a two percent undercount for whites. Spanish-speaking people were probably undercounted more than any other group, since the Census forms were in English only.

#### AMOUNTS LOST

How much have key cities lost because of the undercount? It's hard to say exactly, but a good estimate, based on the Census Bureau's own figures of the undercount, indicates that New York State lost about $15.1 million in revenue sharing funds alone, while California lost almost as much.

Major cities lost large amounts that could be used to help relieve the crushing problems they face. New York City lost about $6.7 million; Chicago, $2.5 million; Washington, D.C., $1.5 million, and other cities similar amounts depending on their size and their minority populations.

What ought to be done to rectify a mistake the Census Bureau admits occurred? After all, the census is no academic head-counting exercise; it is the basis not only for allocation of federal and state funds, but also for political representation and the drawing of political districts at all levels of government.

The Census Bureau itself wants another census in 1975, instead of waiting until 1980 as mandated by the Constitution. There is a lot to be said for cutting the census interval from ten to five years in our highly mobile nation. There is an agriculture census every five years counting every farm animal and tractor in rural America. If we can count chickens every five years why not people?

But Congress refused a mid-decade Census so we must deal with these figures for the next ten years. I have already suggested an across-the-board increase in official population figures to account for the estimated undercount, but such suggestions have met with a defeatist response that simply says that the national figures can't be adjusted on a local basis.

#### NEW FORMULA

Now the National Urban League's Research Department has come up with a formula it says can be applied to correct the undercount. The researchers went to the Census Bureau's own estimated national undercounts of different subgroups of the population and devised a system of adjusting local figures.

They make clear that this is an interim device to be used in the current emergency. Eventually, population researchers and the Bureau may come up with a fool-proof method of compensating for national undercounts, but until then, it makes sense to put the League's method to immediate use in all population based formulas on federal and state aid.

After all, this wouldn't be the first time the government used nation-wide figures to deal with localities. The famous poverty index, for example, applies a national definition of poverty regardless of the significant cost of living variations in different regions. The national poverty index is used as a national standard for allocating funds to localities; so too, the suggested revisions in population figures would be used as a standard for disbursement of funds until the next census.

## KTUL-TV PRAISED FOR MUSCULAR DYSTROPHY EFFORT

### HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. JONES of Oklahoma. Mr. Speaker, the 1973 Jerry Lewis Muscular Dystrophy Telethon has once again been a tremendous success in northeastern Oklahoma. A great deal of the success of this year's telethon can be directly attributed to the outstanding effort put forth by the staff and management of television station KTUL, which provided coverage for the telethon.

Viewers of KTUL-TV contributed a final total of $94,447 to the telethon over the Labor Day weekend. Speaker of the House Carl Albert, Congressman Clem McSpadden, and myself all made televised appearances during the telethon, and I believe we all shared the same high regard for the dedicated service of KTUL-TV personnel in conjunction with this very worthwhile charitable cause.

Mr. Speaker, I want to personally commend the staff of KTUL-TV for the important role they played in the great success of this year's Muscular Dystrophy Telethon, and to offer them our sincere thanks for their exceptional service in this important project.

## IRISH ROLE IN REVOLUTION UNFULFILLED DEBT FOR AMERICA

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BIAGGI. Mr. Speaker, every American schoolboy is aware of the role played by the Marquis de Lafayette in our fight against the tyranny of King George III of England to win independence for the United States. Not only France, but many other nations contributed to the winning of our Revolution.

In 1917 when the American Expeditionary Force landed in France the word was, "Lafayette, nous sommes ici"; Lafayette, we are here. For many Americans our involvement on the Allied side in the First World War was easily justified as a proper expression of the gratitude owed by the United States as a result of the invaluable assistance of France during the American Revolution. Such sentiments are indeed noble and deserved.

After the successful achievement of American Independence the British Parliament launched an inquiry into the reasons behind their loss. They blamed it on the Irish. Gen. James Robertson testified:

> It is believed half of the Rebel Army was from Ireland.

An examination of the muster rolls of the regular Continental Army corroborates this.

Gen. Sir Henry Clinton wrote:

> The Emigrants from Ireland were in general looked upon as our most serious antagonists.

Even the French aid to the cause of American freedom included the famous "Irish Brigade"—under Dillon and Walsh—men who had fled Ireland—"the Wild Geese"—na Geana Fiadhaine—to fight against England overseas. On April 2, 1784, Lord Mountjoy publicly concluded in Parliament, "America was lost by [the action of] Irish emigrants."

Let us not forget that Irish—Gaelic—

was often spoken in the ranks of the Continental Army, and that George Washington was made a member of the Friendly Sons of St. Patrick during the war. Gen. Stephen Moylan, Col. Dan Moore—Bunker Hill—and Rifleman Timothy Murphy are just a few of the many Irish names familiar to those who know the lists of Revolutionary War heroes. Nor should we ever forget Commodore John Barry of the County Wexford, who organized and led the infant American Navy in its now legendary exploits against the mighty British Royal Navy. Among the famous American Marines recruited on and after November 10, 1775, at Tun Tavern in Philadelphia were Thomas Murphy, Mark Sullivan, Michael Kelly, Lt. William Gilmore and Capt. Robert Mullen. Indeed, when we gratefully celebrate our independence we should remember that America's debt to the Irish is no less than the debt we redeemed in France.

## SKIING THE UNCROWDED SNOW FIELDS OF HAWAII

## HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. MATSUNAGA. Mr. Speaker, most Americans are aware of the stunning beaches and agreeable climate which make Hawaii the world's favorite year-round vacation spot. But few know of or have enjoyed snow skiing atop the snow covered peaks of our 50th State. With the blossoming of this healthful winter activity, Hawaii has become one of very few regions to host such a range of recreational facilities. Just southeast of Honolulu, on the Island of Hawaii, one can enjoy the sunny slopes of some of America's loftiest peaks.

Hawaii's ski areas are unique in that their development has proceeded at a rational pace. Fresh virgin snow awaits all. I warmly welcome vacationers to bring their snow skis as well as swim suits and water skis this winter.

The following article which appeared in the Star last year, but which is current in substance, should be of particular interest to my colleagues who would like to try skiing next winter in a tropical climate, and would like to lay their plans now:

### SLOPES OF MAUNA KEA—THAT'S NO HOOMALIMALI

(By Earl A. Selle)

HILO, HAWAII.—After years of celestial hocus-pocus the Hawaiian snow goddess Poliahu has finally scored and subtropical Hawaii—incredible as it may sound—is building a ski tow at the summit of snowy 13,796-foot Mauna Kea. As the mynah bird might fly, it is just 180 miles southeast of summery Honolulu.

Mauna Kea is one of two twin peaks on the 4,000-square mile island of Hawaii, commonly known as the Big Island.

The 1200-foot long tow over eight-foot deep snows which often remain from October till May, is expected to be completed by early 1972. The work is being done privately by members of the Ski Association of Hawaii who have been a flurry of activity behind this tourist attraction for many years.

They hope ultimately to secure state funds and park department cooperation for additional recreational facilities.

A year ago citizens believed at first they were being subjected to hoomalimali, as the being kidded saying goes, when "Ski Hawaii" bumper stickers appeared throughout the 50th state.

Failing initially to gain legislative support, it had a big job before it. Fund-raising took the form of screening ski firms wherever members could produce an audience, banquets in the park and a variety of forms of subscriptions.

Gov. John A. Burns proclaimed an official "Ski Hawaii Week."

Richard Tillson, of Honolulu, is an example of the hard core of ski enthusiasts, many of whom are also water skiers. Tillson, an aeronautics engineer turned candy salesman in order that he might have more free time to promote mountain skiing along with Engineer Wolfgang Buss and Wally Johnston, is regarded as the father of skiing in Hawaii.

He has carried its burden, say association members. Alone, he camped for three months in sub-freezing temperatures atop Mauna Kea testing the weather and measuring snowfalls.

He has bombarded media with literature on skiing and hounded legislators about developing Mauna Kea's snowy summit, where the mercury can fall to 20 degrees above zero, as a tourist attraction.

To stimulate the idea of skiing he has opened his own "moonlighting" shop for ski togs atop the candy-making plant in Honolulu.

Both of the terminal points are up and the long handrail is in place. The first of the ski tows is manually operated. The second quarter-mile tow is to be motor-driven. Primitive, says ski-father Richard, but that's the way we like it. The day of the chair lift will come only when the price tag of $150,000 is at hand.

Hawaii skiers have been using these slopes for years, struggling back up over a difficult trail. The new tow will allow them to enjoy 10 to 12 runs a day.

It will terminate at the very summit adjacent to the University of Hawaii's $5,000,000 observatory whose giant NASA-financed 84-inch telescope is the world's highest stellar observer.

Ski runs will vary from a half to a full mile with sharp drops. Overnight cabins are available at a lower level.

Funds for a warming hut with snack bar and restroom facilities along with a snowmobile may yet come from the state.

## TAX REFORM

## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. CRANE. Mr. Speaker, just before the August recess, there appeared in NAM Reports, the journal of the National Association of Manufacturers, an article by our colleague from Louisiana, the Honorable J. D. WAGGONNER, Jr., entitled "Tax Reform—an Overall View."

In my opinion, this is one of the most clear, concise, and reasoned discussions of the question of tax reform and what to do about it that I have encountered anywhere. As a member of the Committee on Ways and Means which reviews all taxation legislation, JOE WAGGONNER has had the opportunity of familiarizing himself with the subject in detail and this article says to me that he has done his homework well. Our tax law is presently so complicated that when one ventures into it, it is often difficult to see the forest for the trees. In his article, the gentleman from Louisiana has demonstrated that he, at least, is not lost in the woods. He is able both to recognize and to discuss the many specific problems and put them into their true context. It is no easy task to bring both lucidity and common sense to bear upon so complex and controversial a subject as taxation, and I commend my friend from Louisiana for the skill with which he has done just that.

I recommend his article as "must" reading for every Member of the House of Representatives and insert it in the RECORD at this time:

### TAX REFORM—AN OVERALL VIEW

(By JOE D. WAGGONNER, JR.)

Those who are students of history know that the level, equity, and even morality of taxes have been topics of debate throughout recorded history. The Bible has many references to taxes. Wars have been fought over taxes. Everyone has his or her own strongly held and emotional view of taxes. Views here in the United States are expressed in a rhythmic fashion. Around April 15 of each year, when 77 million Americans fill out their returns, there is usually widespread discussion—often heated—of taxes. The subject of taxes causes emotional responses because nobody likes to pay them. But, as Justice Oliver Wendell Holmes so aptly stated. "Taxes are what we pay for a civilized society."

To begin at the beginning, what do we, the people, want our federal tax system to do? The primary purpose, of course, is to raise the revenues to pay the cost of governing this great nation. This fundamental purpose raises the first series of debates.

How big should the public sector of our economy be? Obviously, the more government spends, the more it will have to raise in revenues to pay the bill. As people demand more government services and programs, they should at the same time know they are also increasing the pressure to raise revenues. In other words, the power to spend is in reality the power to tax.

Debate on this particular aspect of taxes was in full swing during the election campaign last November. Now the people have spoken. In my view, they said in no uncertain terms that the federal sector is too big—that Uncle Sam has grown too big for his britches. And this implies, and rightly so, that the people have concluded that Washington is not capable of solving every last problem that arises in the states and localities. In fact, it has come time to admit that some of our problems are not solvable although there may be better answers or approaches.

But the function of raising revenues is not the only consideration involved in the determination of tax policy. We want our tax system to be efficient, simple, and equitable. And we want it to work in such a way that it furthers, rather than impedes, the achievement of our social and economic goals. Here is where the arguments start to heat up. Take the matter of simplicity. It would be very simple to have everyone pay the same percentage on all income across the board. Just pick a figure and apply it to all people and all income. This might meet the test of simplicity, but it would have to ignore many other considerations. The loudest cries would come from those who insist on equity. The

American people, time after time, have supported what they consider to be fair deductions on federal income taxes. For example, the vast majority of Americans think it is only fair that a family that is unlucky enough to experience a major medical expense be allowed to deduct that expense from federal income taxes.

Support for this provision was so strong that it was never seriously questioned in the Tax Reform Act of 1969.

But the more efforts that are made to meet the test of fairness, the more complex the tax laws become. For example, there are provisions to deduct for non-insured casualty losses. These seem very complicated—and they are—but those unfortunate people hit by tropical storm Agnes would rather put up with some of the complexity than suffer the complete loss of home and property. The retirement income credit, also enacted as a matter of equity, also complicates things for the taxpayer.

As deductions and credits have expanded to cover more specific situations, individuals form definite opinions. Just ask any taxpayer. A deduction is something that he is legally entitled to—a provision that was established to take care of his particular situation. A so-called "loophole" is a deduction that applies to someone else.

The tax system has also been used to meet social goals. A good example was the 1969 provision allowing a faster write-off on anti-pollution equipment for business. Another encourages the rehabilitation of slum housing. Still another example of the use of the tax system to further social objectives is the provision for education, religion, and charity.

The melding of our tax system with our economic goals is proper. The economic growth of the nation requires a continuous flow of investment in productive machinery. When we talk about employment, for example, it is fundamental to understand that it takes on the average an investment of $30,000 to support one job in manufacturing.

It is necessary, I think, to understand that the only money that is actually available for investment purposes is "saved" money. That is so whether the money is your own or borrowed.

In terms of economic growth, it is also imperative to consider the impact of tax policy on our international competitive position. In short, our tax policies must take into account simplicity and equity and should be consistent with our social and economic objectives. It is very easy to base arguments on any one of the four factors and make statements that seem to be very convincing. Practically speaking, each factor is and must be a trade-off for the others.

With these basic goals in mind, let me now give you my thoughts on how tax legislation should develop in the months and years ahead. The Nixon Administration, I believe, shares this general thinking. The "limousine liberals" who cry for the closing of so-called "loopholes," of course, disagree. The reform these people seek is intended to simply shift the burden to others.

*First*, we should avoid radical changes in the tax system purportedly designed to redistribute income, or put more bluntly, "soak the rich." This idea that the federal tax system should somehow confiscate a large portion of anyone's earnings is just about as un-American as anything I can think of. If earnings are illegitimate a person should not be entitled to them in the first place. But if legitimate, high earnings indicate to me that a fellow has built a better mousetrap, or worked harder, or in one way or another been successful in carrying out his chosen work. Under existing federal tax laws, individuals pay up to 70 percent on extra dollars of income from investments and similar sources and up to 50 percent on those from salary and fee income. I think that is high enough—in fact, *too* high. We cannot afford to use the tax system in this, a free society, to destroy the competitive nature of the free enterprise system or to destroy private wealth. To do so is to destroy our free society.

*Second*, we should avoid the temptation to lighten the tax burden on individuals by raising it on business. Indeed, it is a myth to believe that we can do so. This is not to say that the business system should not be used to generate a fair portion of the taxes paid to the federal government.

But appearances can easily be deceiving. *Businesses do not pay taxes—people do.* Those people are either the customers of the business, if the taxes are passed on (as they frequently are) in the form of higher prices, or the stockholders of the company, if they are taken out of dividends, or the workers, if the tax burden becomes so heavy that the enterprise ceases to exist and jobs are wiped out.

There is another aspect of business taxation. Today, we in the United States tax business more heavily than any other major industrial nation in the world. And as you know, we are locked in a competitive battle with those nations. Millions of jobs and our standard of living are at stake. If we continue to insist on this type of foolish taxation, then we shall find it increasingly difficult to compete in world markets. And as U.S. products become less competitive, jobs will disappear.

Moreover, if we turn inward, trying to protect ourselves with a wall of tariffs and restrictions on trade, we shall all suffer—just as we did in the 1930s when we tried to isolate ourselves from other economies. American agriculture would lose more from this foolish policy than any other sector simply because agriculture is our most productive and, therefore, most competitive activity. We must, therefore, concentrate on becoming more, not less, productive. And a tax system that encourages saving, investment, and productivity is a major weapon in the battle for international markets.

*Third*, Congress should not, in my judgment, spend a great deal of time this year in an effort to just simply close the so-called "tax loopholes." The demagogues that tell you there are some $40 to $50 billion of these preferences are not telling it like it is, for they couch their criticisms in such terms as to hide what the preferences are all about.

Any such list would have to include all of these items: $5.1 billion in deductions for interest on mortgages and property taxes on owner-occupied homes; $1.9 billion for deductions on charitable contributions; $3.6 billion resulting from the net exclusion of employer pension contributions plus earnings; and so on. These figures are estimates for calendar year 1971.

The point I want to make is that each and every preference that has found its way into the Internal Revenue Code serves a purpose. The task of Congress, therefore, is not to enact a blanket elimination of the so-called loopholes, but to examine each and every one of them carefully, as was done in 1969, to make certain they serve a useful purpose and do so efficiently.

The other side of the tax question coin and of equal importance to the individual taxpayer is the question of controlling federal spending. Too much federal spending for too long has resulted in too high taxes for too many people. Generally speaking, one-fourth of our total national debt which has been incurred in all our history has been incurred in the last four years. Such deficit spending *cannot* be tolerated and must be stopped here and now.

In the coming weeks and months of this Congress, we are going to see the implementation of President Nixon's promise to tighten federal expenditures. I share this desire, and I know its necessity.

Hearings have been held this year on tax reform, and the Ways and Means Committee expects to write a bill sometime after Labor Day. The areas to be covered are numerous and include, but are by no means limited to:

Capital gains and losses; tax treatment of capital recovery; tax treatment of real estate; minimum tax and tax shelter devices; farm operations; pensions, profit sharing, and deferred compensation; tax-exempt state and local bonds; taxation of foreign income; estate and gift taxation; and natural resources.

Some changes *are* needed, but I also know that we must protect—and indeed, further enhance—the competitiveness of American industry if we are to provide jobs for *our* people.

Despite complaints, we do have the most successful tax system in the world. It raises the money to support government, and does so in a very efficient manner. Undoubtedly, the system can be improved, for nothing is perfect, I hope it will be improved.

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## SENATE INVESTIGATION IS A 5-YEAR BOONDOGGLE

### HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. LANDGREBE. Mr. Speaker, the prolonged continuation of the Watergate hearings has drawn attention away from another Senate investigation—one which has cost taxpayers over a million dollars during its nonproductive 5 years' existence. I wish to bring to the attention of my colleagues an article written by Robert S. Allen for Hall Syndicate. The column follows:

> Watergate is getting all the limelight, but here are other kinds of Senate investigations.
>
> This is a report on one of them—that, in effect, is actually a boondoggle.
>
> Maestro of this "investigation" is Senator George McGovern, and although virtually unknown to the general public it has cost taxpayers more than $1.250 million in its nearly 5 years' existence.
>
> Official designation of this expensive boondoggle is most imposing—Select Committee on Nutrition and Human Needs.
>
> But its results are far less impressive—as this column ascertained after an investigation of this "investigation." On the basis of this inquiry, this affair appears to be nothing more than a boondoggle to promote McGovern's publicity and electioneering for the Presidency last year and another Senate term next year.
>
> This column decided to look into this matter because last February the South Dakota radical managed to wangle another $255,000 to continue this lofty-sounding boondoggle.
>
> Actually, he asked for $291,000—after fenagling $283,000 last year when he was running for President. But the Senate Rules and Administration Committee determined $255,000 would be enough—with a sharply pointed admonition that this "investigation" had been going on long enough and it was time to wind it up. Said Senate Republican Whip Robert Griffin, Mich.:
>
> "In the deliberations of the Rules and Administration Committee there was concern about how long this temporary committee would continue. A number of senators be-

lieve this committee is not to go on forever. In fact, there was an inclination on the part of some committeemen to cut the budget much further expressly to make it evident that this temporary committee is to be phased out."

McGovern blandly disregarded this warning. Airly he announced:

"The $255,000 will simply not be sufficient to fund all activities. I wish to make clear that I fully expect it will be necessary to request supplemental funds later in the year."

Recently there have been backstage hints that the ultra-liberal South Dakotan is getting ready to do just that—seek another $50,000.

### THE FINDINGS

To learn just what justification there might be for such a handout, this column dug into this sonorously-titled "investigation" to ascertain exactly what it has done —if anything.

The answer is short and simple—nothing of any consequence or moment.

A few desultory hearings have been held, at which some handpicked "authorities" and "experts" have expounded their opinions and views—and that's all. There has been no published report, and no present indication when or if one is contemplated.

Kenneth Schlossberg, staff director of the committee, says other hearings are likely, but is vague and hazy as to when and what about. There is no prospectus, no schedule, no list of witnesses—nothing.

One committee member frankly admitted he had no idea what was going on or being planned. Another committeeman, professing equal ignorance, added disparagingly, "I doubt if the staff knows what it's going to do from month to month. As far as I can tell, there is no organization or planning or anything else. McGovern runs the show, and from all appearances, he doesn't seem to be paying much attention to it."

This column's inquiry confirmed that judgment to the hilt.

The Select Senate Committee on Nutrition and Human Needs is a high-flown boondoggle pure and simple. It's a gross waste of taxpayers' money, and should be ended forthwith.

Instead of getting more funds, it should be required to turn in what is still unspent—if anything, and McGovern compelled to finance his own promotion and electioneering.

If the cocky boasting of his henchmen is to be believed, he doesn't lack campaign funds. To hear him tell it, he has already amassed some $250,000 from supporters throughout the country responding to a solicitation from a select list of devotees.

According to these inside sources, McGovern's aim is a campaign fund of $1 million.

That's quite an electioneering chest for a state that last year cast 300,000 votes in the Presidential election—in which the McGovern-Shriver slate spent a record $25 million, a highly significant fact the Democrats carefully never mention.

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## ECONOMICS OF THE DOLLAR

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. HARRINGTON. Mr. Speaker, an Op Ed piece appeared in the August 31 issue of the New York Times entitled "The Dollar Overhang," by Fred Bergsten. Dr. Bergsten analyzes the current impasse in international monetary negotiations, and concludes that what the world needs is a Marshall Plan in reverse. He feels that this could eliminate the economic imbalance created by America's cold war support of Europe and Japan and could contribute significantly to the prospects for peace and stability in the world.

Dr. Bergsten is a wise man. He has served on the National Security Council under Dr. Kissinger, and is now a senior fellow at the Brookings Institution. Dr. Bergsten's advise and counsel has been invaluable to many members of the Foreign Affairs Committee considering such pressing questions, and his words should be heeded on this question as well. I would like, therefore, to insert his article in the RECORD at this time.

The article follows:

[From the New York Times, Aug. 31, 1973]

### THE DOLLAR OVERHANG

(By C. Fred Bergsten)

WASHINGTON.—America and Europe stand at an impasse on international economics. Despite the welcome improvement in atmospherics, the Committee of Twenty has bogged down completely in its effort to develop new monetary rules. The long-awaited trade negotiations have already been much delayed, and numerous obstacles threaten to abort them entirely. There is no progress toward a common front on energy.

The Atlantic economic stalemate greatly deepens the threat to the prosperity of both America and Europe already posed by rampant inflation and potential recession. Monetary instability appears chronic. Flexible exchange rates could easily deteriorate into vicious "dirty floats," especially with the onset of recession. Trade protectionism could break loose if not contained by new cooperative ventures. A competitive scramble for oil has already begun, and looms for other raw materials. The confidence of private sectors around the world in the ability and will of America and Europe to cooperate has virtually collapsed. Open economic conflict would obviously jeopardize Atlantic security relations, especially with growing European suspicion that the U.S. cares only for bilateral deals with the Soviet Union and China—perhaps at European expense—in any event.

Both sides are to blame for the impasse. America shows little real interest in monetary reform, and some Americans apparently first want nonreciprocal trade concessions from Europe. Europe immobilized by internal differences, and some Europeans insist on monetary reform before moving on trade. Neither seems willing or able to break the economic Gordian knot. Japan is in fact now pursuing the most constructive foreign economic policy of any major country, but cannot be expected to resolve the Atlantic stalemate.

The root of the problem is the breakdown of the international economic order which effectively governed the postwar generation of economic peace. That order was based on fixed exchange rates, the dollar and steady liberalization of trade and international capital flows. It was largely managed by the United States, through the rules of the International Monetary Fund and the GATT. It provided an environment of stability and predictability for international economic relations which, in turn, inspired universal confidence in the cooperative resolution of problems as they arose.

But the rules and practices of the past are no longer viable. A replacement must be found for U.S. stewardship. No one knows how these issues will be resolved. Instability and unpredictability now govern international economic relations, with little confidence around the world in what the future may bring.

It will obviously take time to construct a new international economic order. But the construction need not be complete to dispel uncertainty and restore confidence. The urgent need is for a bold new initiative to break the current impasse, start the process of reform, and—most of all—provide convincing evidence that the major countries want to work together meaningfully once more. Elimination of the dollar overhang is an ideal candidate.

The overhang is the $100 billion or so now floating around the world, held largely by central banks, the legacy of the U.S. balance-of-payment deficits of the past. Its continued existence virtually guarantees monetary instability, for it can move rapidly across the exchanges and trigger wild currency gyrations. Its existence was probably the source of the excessive depreciation of the dollar in the early summer, far below levels suggested by the strong current outlook for the U.S. balance of payments. It precludes a restoration of convertibility for the dollar into U.S. reserves because it could wipe out those reserves in a day. It symbolizes the dollar hegemony of the past. Its elimination is essential to restore short-run stability and permit long-run reform, which would *inter alia* preclude the creation of new overhangs in the future.

The overhang could be eliminated through I.M.F. creation of a special issue of Special Drawing Rights, the international money of which over $11 billion has been issued since 1970 to provide the needed basis for multilateral control over world reserves. Central banks could then exchange their dollars for these S.D.R.'s receiving an asset of guaranteed value and stabilizing the system. Dollars now held by private foreigners could also be converted if they moved into central banks.

The main barrier to such a step is its terms. Would the U.S. have to pay off the dollars converted into S.D.R.'s? Over what period of time? At what interest rate? With what value guarantee? These issues run into many billions of dollars for the U.S. Disagreements over them could thwart the whole effort.

Europe (and Japan) should offer to cancel completely the American debt embodied in the overhang. At a stroke, it could thus restore international monetary stability and start the process of basic reform. It would do so at no cost to itself, since it would receive S.D.R.'s in return for all dollars returned to the United States. Europe's access to real resources would remain unchanged, but the United States would no longer have to give up real resources to pay off its debt.

Similar steps have been carried out twice before, in comparable circumstances. The Hoover Moratorium effectively canceled the debt overhang from World War I. Marshall Plan grants enabled Europe to recover from World War II. Both lifted from Europe the need to give up real resources for years to come, which would in turn have forced it to internal squeeze, external controls, and ever more vigorous international competition. Both thus contributed mightly to the economic well-being of all countries and to world peace.

A. Marshall Plan in reverse could now erase the financial legacy of the cold war, and contribute mightily to contemporary peace and prosperity. Such an offer from Europe would dramatically break the economic impasse. It would completely transform both the substance and atmosphere of overall Atlantic relations. It could provide the basis for another generation of economic peace.

## INCREASING EDUCATIONAL OPPORTUNITIES FOR VIETNAM-ERA VETERANS

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mrs. SCHROEDER. Mr. Speaker, shortly before the August recess, I presented testimony to the Subcommittee on Education and Training of the House Veterans' Affairs Committee on H.R. 8495. This bill, being considered by the subcommittee in conjunction with other education bills, would grant Vietnam-era veterans who are attending institutions of higher learning an additional $1,000 per year for tuition and books.

We are all aware that the cost of living has increased significantly since the end of World War II. We are also aware that the cost of higher education—the cost of tuition, books, and other fees—has mushroomed. Yet, the over 6 million individuals who have served in the military during the Vietnam era not only pay for their living expenses, but their tuition, books, and other school fees on as little as $220 per month, if they wish to obtain higher education.

The result is that the comparable percentage of Vietnam-era veterans attending institutions of higher learning under the current GI bill is lower than the percentage attending after World War II. As of April 1972, only 37.3 percent of the Vietnam-era veterans had taken advantage of their benefits. The participation rate of the World War II GI bill was 44.9 percent, and after the Korean GI bill, 39.8 percent for the same time period.

The unmarried Vietnam veteran is expected to manage somehow to pay for his tuition, books, school fees, rent, food, and any other living expenses on $220 per month. Perhaps this explains why the Harris poll on problems facing the Vietnam-era veteran—October 1971—found that of the Vietnam veterans who had not made use of the current GI bill, 53 percent said they would use the bill if the benefits were increased.

Not only are fewer Vietnam veterans attending institutions of higher learning, but their choice among institutions has been severely limited. The number of veterans attending private schools has declined considerably. They simply cannot afford the expense on the current allotment.

In hearings before the House Subcommittee on Education and Training of the Veterans Affairs Committee in 1971, testimony was presented which attested to this fact. Five thousand six hundred students attended Harvard between 1947 and 1948 of whom 3,326 were veterans. In 1971–72, Harvard had 6,073 students, 89 of whom were veterans. Even considering that there were twice as many World War II veterans than veterans of Vietnam, relatively fewer Vietnam veterans are attending private schools under the GI bill.

Certainly, a good deal of this trend is due to differences in the benefit structure under the GI bill then and now.

I believe that H.R. 8495 can do much to alleviate the disparity between the two bills. By providing up to $1,000 per school year for tuition, books and other fees, the Vietnam-era veteran can then use the $220 per month stipend for the basic necessities of life. He can afford the privilege of becoming a full-time student.

I also believe that this bill will increase the number of veterans seeking higher education and thus reduce the number on the unemployment rolls. It would provide, as it did after World War II, for the elevation of the general level of education in our society. Also, it will provide the opportunity for the veteran to raise his occupational capacity which will eventually result in his repaying the costs of his benefits to the Federal Government through higher taxes.

I have received the attached correspondence which strongly endorses this bill. Both Mr. Dean Phillips, Colorado State Coordinator for the National Association of Concerned Veterans, and Mr. John Aaron, President of the Colorado Association of Collegiate Veterans, have corroborated the urgency of this matter. I think Mr. Phillips aptly places this bill in perspective:

> It seems a bit warped when a society will encourage a veteran not to work or attend school by offering him almost twice as much money if he chooses to collect unemployment insurance.

I ask each of you to consider the future of the many young men and women who served during the Vietnam period and urge you to insure passage of H.R. 8495.

The correspondence follows:

COLORADO ASSOCIATION OF COLLEGIATE VETERANS,
*Denver, Colo., July 24, 1973.*

Congresswoman PATRICIA SCHROEDER,
*Federal Building,*
*Denver, Colo.*

DEAR MS. SCHROEDER: As President of the Colorado Association of Collegiate Veterans, I would like to thank you on behalf of the Vietnam-Era veterans in Colorado for cosponsoring HR 8495. Such an effort is commendable in light of the problems facing many Vietnam-Era veterans in their attempts to receive an education in a time when inflationary pressures are restricting the veterans' desires to do so.

As you are aware, the cost of living has more than doubled since 1946, yet changes made in the GI Bill have not been an effective deterrent in reducing the cost of education for the veterans. World War II veterans received educational benefits which had many provisions the Vietnam-Era veterans do not enjoy. Such is the case with the allowance of $500 per year for tuition and fees afforded to veterans after World War II. With the doubling of the cost of living, not to speak of the spiraling cost of tuition, the amount on an equity basis today would allow the veteran a credit of over $1125 per year. However, the Vietnam-Era veteran does not receive any such benefit.

To the aforementioned point, I should like to point out that in the activities which I have performed throughout the State of Colorado, the point has been continually pressed that payment of tuition, books and fees constitute a very major economical affect on the individual. At these particular points in the academic year, many individuals are so economically depleted they cannot afford the luxuries of rent, food, and other living expenses.

When the individual suffers this economic disaster, he or she must turn to alternative sources. In the past, this source has usually been the institution he or she attends. Over the past few years this problem has been compounded by the reduction in student grants, work study monies and the inability to secure guaranteed student loans. The practice of counting GI Bill benefits as earned income while establishing the veteran's need has also complicated the situation for many veterans.

Along with these problems, an additional factor must be considered and that is the availability of a position of employment for the veteran which coincides with his or her academic schedule. In March of 1973, the Colorado Division of Employment, in cooperation with the Governor's Task Force, Jobs for Veterans, released their findings for the upcoming Phase IV job program. Their findings revealed that over 72% of those veterans actively seeking employment served during the Vietnam war. The opinion of the Division of Employment was that of those seeking employment, three categories were steadily increasing: Minority veterans, Disadvantaged veterans, and undereducated veterans (less than H.S. or GED).

A supplemental amount in the GI Bill would remove much of the disparity faced by the Vietnam-Era veteran in his or her attempt to seek an education. Such action as proposed by HR 8495 would also provide a stimulus for additional veterans to take advantage of the educational system. In Colorado, our statistics from the Veterans Administration, show that only one out of every six eligible Vietnam-Era veterans take advantage of their educational benefits by attending either a two- or four-year institution. This fact is discouraging and all attempts should be made to make higher education for veterans a reality not merely an imaginary dream.

I again thank you on behalf of the Colorado Association of Collegiate Veterans for your concern for their well-being and that of the Vietnam-Era veteran in general.

Sincerely,

JOHN R. AARON,
*President.*

NATIONAL ASSOCIATION OF CONCERNED VETERANS,
*Denver, Colo., July 19, 1973.*

Hon. PATRICIA SCHROEDER,
*House of Representatives,*
*Washington, D.C.*

DEAR MS. SCHROEDER: As a Vietnam Veteran and as State Coordinator for NACV, I want to thank you for co-sponsoring HR 8495 which is a significant step in the effort to see that the Vietnam Era GI Bill is raised to a level equal to the GI Bill that World War II veterans received.

As you are aware, the cost of living has more than doubled since the end of World War II and the cost of education has increased from 200% to as much as 600% at the various institutions of higher learning across the state of Colorado and the United States.

World War II veterans received GI Bill payments for up to 48 months while Vietnam Era Veterans receive them for up to 36 months. World War II Veterans received: (1) free tuition and fees (up to $500.00 per year which was a great deal of money in 1944–1950), (2) free books, and (3) a living stipend for a single Veteran of $75.00 monthly which is equal to more than $165.00 in 1973.

After years of concentrated effort on the part of legislators and Veterans' groups such as the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and more recently NACV, the Vietnam Era GI Bill was recently raised to $220.00 monthly for a single Veteran attending school full time.

When the increase in the cost of living and education are considered, the GI Bill of today does not come close to parity with the WW II GI Bill. This is clearly documented in a study done for NACV by individuals at Canisius College earlier this year. I hope you will examine the enclosed copy. I have also enclosed a copy of the NACV legislative committee report.

While the Veterans Administration was a serious advocate for the World War II Veteran, it has in more recent years become a parrot of the executive branch of the federal government. In 1969, when the GI Bill was only $130.00 per month, the President and the VA went on record as favoring an increase to only $147.00. This was in contrast to the US Senate which wanted an increase to $190.00 and the US House which suggested an increase to $170.00

More recently, the US Senate wanted an increase to $250.00 and the House to $200.00 per month. The President and the VA went on record as wanting a raise to only $190.00. As you know the raise to $220.00 was finally signed into law by the President less than two weeks before the 1972 election.

In my research on veterans' problems as co-chairman of the legislative committee for the Colorado Governor's Jobs For Veterans Task Force, I was alarmed to discover that a Vietnam Era Veteran returning to Colorado could draw up to $377.00 monthly for six months if he did not work or attend school under the GI Bill. The same individual could only draw $220.00 monthly if he went to school full time under the GI Bill. It seems a bit warped when a society will encourage a veteran not to work or attend school by offering him almost twice as much money if he chooses to collect unemployment insurance.

Again, I thank you for the interest and action you are taking for the Vietnam Era Veteran.

Sincerely,

Dean K. Phillips,
*Colorado State Coordinator, NACV.*

## SATELLITE KEEPS TABS ON OHIO POLLUTION

## HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. TEAGUE of Texas. Mr. Speaker, Mr. William D. McCann, staff writer for the Plain Dealer, in a recent article discussed the contribution of the NASA Earth technology satellite in monitoring pollution in Lake Erie. This activity, along with many of the other space-related practical benefits being derived from our national space program, is contributing in an ever-increasing way to a better standard of living for every American.

I am including this interesting article in the Record and commend its reading to my colleagues and the general public:

Satellite Keeps Tabs on Ohio Pollution

(By William D. McCann)

Columbus.—Pollution in Lake Erie near Cleveland, a nuclear power plant being built on the western lake shore and strip mining in southern Ohio are being closely watched by a NASA satellite 570 miles in space.

Seven state agencies are cooperating with Ohio State University and Battelle Memorial Institute to study Ohio's natural resources and environment using satellite pictures.

The study, directed by the Ohio Department of Economic and Community Development, is funded through a $215,000 NASA grant.

The Earth Resources Technology Satellite (ERTS–I) was launched a year ago. It has been hailed as a huge success by scientists and engineers throughout the world.

In Ohio, ERTS–I pictures have helped researchers monitor water and air pollutants. The pictures show precisely the extent of strip mining and reclamation. They are helping to survey forest lands and crops. They are monitoring subtle environmental changes caused by large construction projects, such as a nuclear power plant. The pictures are also used to make precise maps for long-term land-use planning.

Aboard the 10-foot-tall craft is a multispectral scanner which makes photo-like images in four bands of the light spectrum, two visible and two invisible to the human eye. The different bands bring out features such as dirty water or diseased crops that may not be easily detected by the naked eye.

Images are transmitted to Earth by radio signal. Films are made by NASA technicians and sent to researchers around the world. Films of Ohio are forwarded to Terry Wells, senior planner with the development department and project coordinator.

Wells and Battelle researchers then analyze the film with various viewing instruments. One has a TV-like monitor to show on a screen. Researchers can zoom in on part of the picture. By pushing a button, a specific area, such as strip-mined land, shows up in color. When other buttons are pressed, vegetation shows up brightly in one color and water in another to make photo interpretation easier.

Photographs made from the film are compared with those taken from aircraft and the ground and correlated with measurements from ground instruments.

The researchers also will be using pictures taken by the Skylab astronauts, Wells said.

Wells believes that the biggest benefits from the satellite pictures of Ohio will be to map land and study land use and urban sprawl. Federal legislation now being considered would require states to make an inventory of land use, he said. Satellite pictures would make such work quick and cheap, he said.

While researchers will be looking at the entire state, much of the project will concentrate on six test sites, Wells said.

Pictures of Zaleski State Forest will be used to help survey the forest lands and study nearby strip-mine areas.

Researchers will study land-use changes using pictures of the Ohio Transportation Research Center being built on an 8,100-acre site in Logan and Union counties near East Liberty.

Crop studies will use pictures of the Ohio Agricultural Research Center near Wooster. Researchers want to find out if they can differentiate among crops using satellite pictures.

Researchers will study satellite pictures of marshlands in Ottawa County along the lake shore. One thing they will be looking for is possible environmental effects of the Davis-Besse nuclear power station being built in the area.

Studies also will be made of the effects of urban sprawl and pollution of Lake Erie in the Cleveland area.

Land-use studies also will be made of the Columbus area as a backup to Cleveland, which often has cloudy weather. The satellite scanner cannot take pictures through clouds.

The project has already proved useful in several fields, Wells said.

An inventory of strip-mined land in Harrison County was made in a few hours using satellite pictures.

Pollution control officials have been monitoring a smoke plume from a power plant on the Muskingum River. In one photo, the plume was 16 miles long.

The strangest thing the satellite pictures have turned up so far has been the sighting of a black area at the mouth of the Cuyahoga River. It showed up in only one picture in April, according to Joachim Stephan, who heads the remote sensing laboratory at Battelle. In other pictures the area showed up as a light color.

"Normally we can expect pollution to be light in color and cleaner water dark," Stephan said. "Since we hardly expect the Cuyahoga to discharge clean water into the lake right now we are mystified."

## SHOE IMPORTS DOUBLE IN 2½-YEAR PERIOD

## HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BURKE of Massachusetts. Mr. Speaker, although we are aware that the situation in the shoe industry has been steadily deteriorating due to the flood of foreign imports, I was shocked to receive the latest statistics from the American Footwear Industries Association showing an approximate 40-percent import penetration of the domestic shoe market, or almost double the penetration rate in January 1971, when the Tariff Commission sent to the President a decision which would allow him to provide relief to the industry. It should be noted that the President has seen conditions worsen in the industry during this 2½-year period while imports have almost doubled and he has still failed to act affirmatively on the Tariff Commission's findings. I find this situation incredible, and yet my committee, Ways and Means has been asked, and soon, this very body will be asked to grant the President unprecedented authority to conduct this Nation's trade policies. In view of the experience of this one industry, I think it would be well for each Member to carefully consider granting the President virtually unlimited authority to lower what trade barriers presently exist and further erode conditions in the shoe, chemical, textile, steel, and electronics industries.

I have asked that the statistics reflecting this astronomical increase in foreign-made shoes be printed in the Record for the Members' attention.

The material follows:

AMERICAN FOOTWEAR
INDUSTRIES ASSOCIATION,
*Arlington, Va., September 10, 1973.*

To: All Members of Congress:

In January of this year, I indicated to each of you that we would be sending you, on a regular basis, updated information with respect to the shoe industry, and I even ventured as to suggest that you might want to establish a special file, regarding the facts in connection with the condition of the shoe industry, for your consideration at the time of any review or discussion on trade matters.

Subsequent to that time, we have been in touch with you not less than once every two weeks . . . and in many cases, far more frequently than that. Nothing, however, which we have submitted to you is more telling or more significant than the enclosure I am sending you with this letter. It is our Statistical Summary for the first half of calendar year 1973 and is based upon the statistics we have received from the Departments of Commerce and Labor.

The shoe industry today has an import peneration of approximately 40%, an increase from the 21% penetration which existed at the time the Tariff Commission in January of 1971 sent to the President a decision which empowered him to give relief to our industry. Instead, imports have almost doubled in that 2½ year period and production for our industry is the lowest in more than a score years. The need for relief is, hence, doubly urgent.

I respectfully urge that each of you review this information, and the backup detail attached thereto, and keep it in mind in connection with your considerations on our national trade policies.

Very truly yours,

MARK E. RICHARDSON.

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## FOOTWEAR AND THE ECONOMY STATISTICAL SUMMARY, JUNE 1973

With the first half year data in for 1973, as reported by the Departments of Commerce—Census and Labor—BLS, the following highlights were observed when comparing the first six months of 1973 with that of 1972.

*Retail sales.* Retail dealer sales for all goods showed a health gain of 14%. Department stores sales increased 15% with "chains" gaining 16% and "independents" showing an increase of 6%. Apparel stores sales were up 12% with "chains" and "independents" registering increases at 16% and 10%, respectively.

*Total shoe stores sales* showed an increase of 18%. Census recently revised the "chains" sales figures downward, but these revised figures were still ahead of last year by 22%. With the total footwear supply data revealing no gain at all this year and the Volume Footwear Retailers of America study of about 4,000 volume stores showing only a 6% gain over last year, the validity of Census figures is very much in question. This problem was discussed with the Bureau of the Census during a recent meeting and the Bureau did assure us that they would re-examine the reliability of the sales figures, especially with respect to possible reporting error by shoe chain operators.

*Supply.* Nonrubber footwear supply was down by almost three million pairs for a decline of 1%. The domestic production was down 6%, while the imports were up 9%. Rubber/canvas footwear supply increased 2% with domestic production showing a 5% decline and imports gaining 25%. As a result total footwear supply in 1973 was almost holding on to the 1972 level with no apparent percent change.

*Value.* The total value of domestic shipments lost 1% while the f.o.b. dollar value of imports gained 21%. The domestic shipments averaged $6.02 per pair for a 9% increase and the imports averaged $2.82 per pair for an 11% gain.

*Wholesale and consumer price indexes.* The Wholesale Price Index of nonrubber footwear index showed the sharpest increase at 12%. The Consumer Price Index for all commodities increased 5% while that for all footwear rose 4%.

*Cost of materials.* The Wholesale Price Index for hides and skins and leather declined in June. However, the first six months WPI averaged 48% increase for all hides and skins and 44% for cattlehides. The leather WPI rose 24% with cattlehide leather also indicating an increase at 24%.

*Labor.* The total number of employees in the nonrubber footwear industry declined by 3%. Average weekly earnings increased 2% coupled with 3% increase in hourly earnings and 1% decline in weekly hours.

FOOTWEAR AND THE ECONOMY—STATISTICAL SUMMARY

1. DEMAND

[Millions of dollars]

| | June 1973[1] | May 1973[2] | June 1972 | 6 months 1973 | 6 months 1972 | Percent change, 6 months, 1973/1972 |
|---|---|---|---|---|---|---|
| Retail sales: Total all goods | $43, 641 | $43, 190 | $38, 730 | $239, 571 | $210, 094 | +14 |
| Department stores | 4, 290 | 4, 209 | 3, 739 | 22, 419 | 19, 468 | +15 |
| Apparel stores | 1, 989 | 1, 920 | 1, 739 | 10, 813 | 9, 693 | +12 |
| Shoe stores | 345 | 324 | 298 | 1, 949 | 1, 658 | +18 |
| Independent store sales: Total all goods | 30, 635 | 30, 525 | 27, 300 | 168, 760 | 148, 008 | +14 |
| Department stores | 487 | 484 | 432 | 2, 529 | 2, 395 | +6 |
| Apparel stores | 1, 434 | 1, 384 | 1, 267 | 7, 804 | 7, 066 | +10 |
| Shoe stores | 186 | 180 | [2] 173 | 1, 073 | 942 | +14 |
| Chain store sales:[4] Total all goods | 13, 006 | 12, 665 | 11, 430 | 70, 811 | 62, 086 | +14 |
| Department chain sales | 3, 803 | 3, 725 | 3, 307 | 19, 890 | 17, 073 | +16 |
| Apparel chain sales | 555 | 536 | 472 | 3, 009 | 2, 587 | +16 |
| Shoe chain sales | 159 | 144 | [2] 125 | 876 | 716 | +22 |

II. SUPPLY

[Thousands of pairs]

| | | | | | | |
|---|---|---|---|---|---|---|
| Total footwear supply | 84, 988 | 86, 382 | 88, 290 | 549, 494 | 549, 571 | n/c |
| Nonrubber, total | 66, 716 | 66, 911 | 69, 809 | 433, 176 | 436, 025 | −1 |
| Domestic | 41, 513 | 41, 669 | 46, 224 | 255, 484 | 273, 076 | −6 |
| Imports | 25, 203 | 25, 242 | 23, 585 | 177, 692 | 162, 949 | +9 |
| Rubber/canvas, total | 18, 272 | 19, 471 | 18, 481 | 116, 318 | 113, 546 | +2 |
| Domestic | 12, 663 | 13, 964 | 14, 314 | 82, 118 | 86, 167 | −5 |
| Imports | 5, 609 | 5, 507 | 4, 167 | 34, 200 | 27, 379 | +25 |

III. VALUE OF ALL NONRUBBER FOOTWEAR

[Dollar amounts in millions]

| | | | | | | |
|---|---|---|---|---|---|---|
| Domestic shipments | $243. 3 | $228. 6 | $256. 9 | $1, 499. 7 | $1, 512. 1 | −1 |
| Imports, f.o.b. | 73. 6 | 74. 9 | 71. 8 | 500. 4 | 413. 7 | +21 |

Footnotes at end of table.

### IV. PRICES

| | June 1973[1] | May 1973[2] | June 1972 | 6 months 1973 | 6 months 1972 | Percent change, 6 months, 1973/1972 |
|---|---|---|---|---|---|---|
| Nonrubber footwear average value per pair: | | | | | | |
| Domestic shipments | $5.93 | $5.92 | $5.52 | $6.02 | $5.52 | +9 |
| Imports | 2.92 | 2.97 | 3.05 | 2.82 | 2.54 | +11 |
| Wholesale Price Index, all commodities [5] | 136.7 | 133.5 | 118.8 | 130.3 | 117.6 | +11 |
| Nonrubber footwear | 129.3 | 129.3 | 125.8 | 130.2 | 121.6 | +7 |
| Men's and boys' | 137.2 | 137.2 | 126.8 | 136.7 | 121.8 | +12 |
| Women's and misses' | 123.7 | 123.8 | 125.0 | 125.8 | 121.3 | +4 |
| Children's and infants' | 129.6 | 129.6 | 127.3 | 129.5 | 123.6 | +5 |
| Consumer Price Index, all items [5] | 132.4 | 131.5 | 125.0 | 130.1 | 124.2 | +5 |
| Apparel and upkeep | 126.8 | 126.7 | 122.1 | 125.1 | 121.6 | +3 |
| Footwear | 130.0 | 130.3 | 124.7 | 128.8 | 123.8 | +4 |

### V. LABOR

| | June 1973[1] | May 1973[2] | June 1972 | 6 months 1973 | 6 months 1972 | Percent change, 6 months, 1973/1972 |
|---|---|---|---|---|---|---|
| Employment and earnings, nonrubber footwear manufacturing industry: | | | | | | |
| All employees (thousands) | 202.1 | 197.7 | 209.3 | 196.6 | 203.5 | −3 |
| Production workers (thousands) | 176.5 | 172.1 | 182.8 | 170.9 | 177.0 | −3 |
| Average weekly earnings | $105.84 | $103.79 | $102.97 | $102.32 | $100.75 | +2 |
| Average hourly earnings | $2.70 | $2.71 | $2.62 | $2.70 | $2.62 | +3 |
| Average weekly hours | 39.2 | 38.3 | 39.3 | 38.0 | 38.5 | −1 |

### VI. COST OF MATERIALS

| | June 1973[1] | May 1973[2] | June 1972 | 6 months 1973 | 6 months 1972 | Percent change, 6 months, 1973/1972 |
|---|---|---|---|---|---|---|
| Wholesale Price Index, all commodities [5] | 136.7 | 133.5 | 118.8 | 130.3 | 117.6 | +11 |
| Hides and skins | 241.6 | 253.5 | 204.1 | 259.7 | 175.3 | +48 |
| Cattle hides | 249.9 | 270.6 | 235.8 | 276.0 | 192.3 | +44 |
| Calfskins | 131.4 | 131.4 | 122.2 | 136.7 | 106.7 | +28 |
| All leathers | 156.4 | 159.7 | 138.1 | 161.2 | 130.5 | +24 |
| Cattle hides | 153.4 | 157.8 | 141.1 | 162.8 | 130.9 | +24 |
| Calfskins | 124.2 | 124.2 | 106.4 | 121.1 | 98.5 | +23 |

[1] Preliminary.

[2] Revised.

[3] Independents are defined as stores of firms operating less than 11 retail stores.

[4] Chains are defined as stores of firms operating 11 or more retail stores.

[5] Index base, 1967=100.

Source: AFIA, U.S. Departments of Commerce, Labor and Agriculture.

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## H.R. 14—CONSUMER PROTECTION AGENCY

## HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. ROSENTHAL. Mr. Speaker, hearings began today on legislation to create a new Federal Consumer Protection Agency. The proposed agency would represent the consumer interest before Federal departments and agencies on issues affecting the health, safety, and economic well-being of the buying public. Presently, there is a dramatic imbalance between the ability of consumer groups to get represented and the ability of industry to make known its views before and within the Federal Government.

I testified in favor of my bill, H.R. 14, which is cosponsored by 92 other House Members. The testimony sets forth some of the reasons why such an agency must be established immediately. My testimony follows:

STATEMENT OF CONGRESSMAN BENJAMIN S. ROSENTHAL

SEPTEMBER 17, 1973.

I appreciate the opportunity to testify in support of H.R. 14. This bill, which has been co-sponsored by 92 of our colleagues, would establish an independent Consumer Protection Agency (CPA) and an Office of Consumer Affairs in the Executive Office of the President.

The task we are pursuing here today—the creation of a new agency to represent consumers before the federal establishment—is no less urgent because we have failed in its accomplishment on two previous occasions. To the contrary, today's climate of shocking inflation and skyrocketing food prices; of energy shortages and product quality deterioration; of high interest rates and even higher corporate profits—and the governmental processes and programs that have led to these conditions—make the establishment of a Consumer Protection Agency more imperative than ever.

The need for a Consumer Protection Agency, to advocate the consumer interest before federal agencies whose decisions affect the health, safety and economic well-being of millions of Americans, was well-established long ago. Almost no one finds credible any longer the argument that consumer sovereignty reigns supreme in the marketplace and that the normal checks and balances between competing economic forces in society are adequate for the American consumers' protection. That consumers lack adequate representation both before and within the federal government was the motivating factor behind Senator Kefauver's introduction of a Department of Consumer Affairs Bill early in the 1960s. In the 88th Congress, I introduced H.R. 7879, to establish a Department of Consumer Affairs. That bill had no co-sponsors. In the 89th Congress, 24 House members co-sponsored Department of Consumer Affairs legislation. That figure rose to 61 in the 90th Congress and 88 in the 91st Congress. A bipartisan effort to create a Consumer Protection Agency during the 92d Congress enjoyed the co-sponsorship of 142 Congressmen.

In order to set the framework for my testimony here today, I would like to restate part of my testimony before this Subcommittee in April of 1971:

In evaluating the testimony of witnesses, I hope that extraordinary weight is given to the views of expert consumer spokesmen. I also suggest that the views of the business community be treated with some caution. The sincerity of those views is not in doubt. But neither is the historical antagonism of producer groups to legislation designed to aid the consumer. Behind the testimony of business interests at these proceedings is their fervent desire to minimize the ability of any independent Consumer Protection Agency to contest industry objectives at the federal level. Let us be mindful that this bill does not attempt to regulate business practices; it does not attempt to legislate corporate policy or behavior. What it seeks is to give consumers an effective representative in Washington. In the case of consumer representation at the federal level, there now exists a startling imbalance which favors producers. Only the creation of an independent Consumer Agency with a strong Congressional mandate can bring about the proper balance. Because their interests are so broad and desperate, consumers will never have the kind of organized representation—trade associations, lawyers, lobbyists—that has been so effective for producer groups. Only government can fill that void.

This Subcommittee cannot hope to approve a bill that will satisfy both the business and consumer communities. I hope it does not try. It must choose either to create a Consumer Protection Agency and a White House office that consumers can look to with pride and confidence; or, it can approve a bill about which the trade associations will boast in newsletters to their members, as they did last year, "We have won again."

The economic distress now being experienced by consumers makes quick and favorable action on the Consumer Protection Agency legislation imperative. Although it is not possible for me to prove to this Subcommittee, beyond a reasonable doubt, that the prior existence of a Consumer Protection Agency would have altered significantly Administration decisions regarding the cost of living and other issues of importance to the buying public, consumers would at least have been represented on the governmental field of battle. And the doubts of millions of American consumers that the government is willing and able to protect their interests, would have been largely removed.

This year there are competing for approval three separate approaches toward the establishment of a Consumer Protection Agency: H.R. 14 et al, H.R. 21 et al and H.R. 564. There are, of course, significant differences between these three approaches; but, at least as between H.R. 14 and H.R. 21, there are also great similarities. It is my hope that the differences can be satisfactorily resolved by the members of this Committee so that a meaningful bill can be reported to the House.

Although I think we all understand the need for a consumer advocate at the federal level, I would like to spend a few minutes examining how the existence of a Consumer Protection Agency might operate in the context of some of today's most pressing consumer problems.

### FOOD PRICES AND AVAILABILITY

It is clear to me from constituent mail and from national opinion polls, that the cost of living in general and the cost of food in particular are the major problems facing consumers today. Because the CPA is designed to assure that government decisions are responsive to consumer needs, it might be useful to examine the process by which those decisions influence the cost and availability of food and to determine the role, if any, that consumers play in the making of these decisions. I am not speaking now about decisions of the Cost of Living Council which are generally responsive to more basic economic decisions already made; but rather, to the decisions of the Department of Agriculture and a handful of other agencies that largely pre-determine the supply and cost of food in the first instance.

Department of Agriculture decisions relating to acreage production restrictions, import controls and export policies are all central to the availability and price of food to the public; and the Agricultural Stabilization and Conservation Service (ASCS), together with the Export Marketing Service, exercise enormous influence over those decisions. While grain sales, import restrictions, set asides and the like are approved at the highest levels of government and often involve foreign policy considerations, the USDA bureaucracy does influence those decisions by the information and data it provides on land-use programs designed for voluntary production adjustment, resource protection, and price, market and farm income stabilization.

How does this intricate system develop the data that the policy-makers need to make their agriculture policy decisions and what role does the consumer play? It operates through a system of state and local agricultural committees, supervised by appointees of the Secretary of Agriculture. In each of the approximately 2900 agricultural counties across America, a County Committee of three farmer members is responsible for local administration. In communities within a county, a community committee is elected annually by farmers to assist the county chairman. About 65,000 farmers throughout the country regularly serve as county or community committeemen.

The point here is that these committees are comprised entirely of farmers and that they influence and administer important programs vital to consumers such as feed grain programs, acreage allotments, marketing quotas and long-term land retirement programs. There are no consumers and no consumer representation involved in this process.

In Washington, administration decisions relating to export controls, acreage production, farm prices and the like are based on reports and studies from the Department of Agriculture's Inter-agency Commodity Estimates Committee, chaired by the Administrator of the Agricultural Stabilization and Conservation Service. The various food commodity committees which comprise the Inter-agency Estimates Committee have members from USDA's Export Marketing Service, Economic Research Service and the Foreign Agricultural Service. The function of this group is to make official estimates to the Secretary of Agriculture on agricultural stocks, production, price evaluations, import needs, and domestic consumption requirements.

The point I wish to make here is that this intricate apparatus—the ASCS state and local Committees and the Commodity Estimates group in Washintgon—provides important data input to the Secretary of Agriculture out of which emerges official policy on exports, imports, acreage production restrictions, marketing orders and the like. Most importantly, this apparatus is closed to consumers and even unknown to the public at large.

A closely related example of how consumers are shut out of the Department of Agriculture's decision-making process is that the Foreign Agricultural Service at this very moment, is actively engaged in spending tax dollars to promote the sale abroad of agricultural commodities, like soybeans and wheat, that are in short supply here.

Let us hope that there won't always be a food price emergency. But so long as meaningful consumer representation is absent from the process by which agricultural policy is established, food prices will continue to rise and food quality will continue to deteriorate.

### MILK PRICE INCREASES

On September 4, 1973, the Department of Agriculture announced a major increase in the minimum price that must be paid to farmers for milk, from $5.78 to $6.38 per hundred weight. This 13% increase followed three days of milk marketing hearings in Clayton, Missouri. As a consequence of this ordered increase, milk prices are expected to rise 2¢ a quart at retail in many places across the country. It is not my purpose to argue the merits of the increase. I would like to point out, however, that of the 45 witnesses at the Department of Agriculture hearings, *none* were appearing as consumers or as representatives of consumer organizations. Milk producer associations, dairy cooperatives, state departments of agriculture, dairymen, milk processors and food manufacturers were all represented—but not consumers.

### LOWERING THE QUALITY GRADE REQUIREMENTS FOR VEAL AND CALF MEAT

On November 24, 1971, in an action that can only be characterized as being akin to putting a Dior label on a ready-to-wear dress, the Department of Agriculture lowered the quality grade standard for veal and calf meat. Under the revision, meat formerly graded "choice" was upgraded to "prime," "good" was upgraded to "choice," "standard" to "good," "utility" to "standard." According to the Department's Livestock Standarization Section, the change was initiated by the Western State Meatpackers Association as a result of increases in the cost of milk, which is fed to calves.

Of the many comments received by the Department of Agriculture, prior to the proposal becoming final, only three were in opposition to a lowering of the standards—all from individual consumers. The rest were from agri-business interests. The head of USDA's Standardization Section characterized these comments, as follows: "All we can go by is what we hear from the public. And we would give more weight to someone like a meat scientist or a trade association than an individual consumer who obviously knows nothing very much about the problem."

A similar kind of disdain for the views of consumers was reflected in a September 12, 1972 decision of the Department of Agriculture to permit the use of sodium acid pyrophosphate in sausage products to speed curing. Althoug most of the 447 comments submitted to the Department on its proposal were from individual consumers in opposition to the plan, the Department approved use of the additive by noting that "most of the comments consisted of opinions *without* supportive data or information."

Mr. Chairman, there are endless other examples of why a Consumer Protection Agency is so desperately needed. As recently as March of 1973 the Federal Trade Commission denied the appeal of three major consumer groups to intervene in the ITT-Wonder Bread false advertising case before the Commission. In dissenting from that decision, Commissioner Mary Gardner Jons stated that the Commission's refusal was "simply an arbitarary refusal to hear these particular intervenors for reasons which the Commission refuses to disclose." In November of 1972, the Interstate Commerce Commission rejected an individual consumer's request to be allowed to file only one copy of comments, as opposed to the customary 15, to an ICC proposal dealing with household moving companies.

What I have described briefly above are instances of important governmental decision-making where consumers were either not represented at all or were represented by individual citizens whose views were quickly dismissed as lacking expertise or professionalism. In short, many important governmental decisions are made in the consumer's name—but hardly any are made in the consumer's presence. It is this imbalance which does harm to the integrity of government and the quality of its decisions, that the Consumer Protection Agency bill seeks to correct.

I would like to spend a few minutes discussing the major provisions of H.R. 14 and H.R. 21.

While there is no reason to minimize the differences between the two bills, neither is there reason to exaggerate them:

H.R. 14 does authorize, in Section 208(b), a process by which the Consumer Agency can obtain information from industry outside the context of a formal intervention and purely in an investigatory capacity. This authority to secure specific answers to specific questions, is enforceable in U.S. district courts. H.R. 21 contains no such authority. If we are to require the Consumer Protection Agency to carry out investigations and surveys, as both bills do; and, more importantly, if the right to petition other federal agencies to initiate proceedings is to have any meaning, then we must invest the Administrator with power to compel information directly from industry. It is self evident, that the success or failure of the CPA's petitions to other agencies for the initiation of proceedings will depend in large measure on the quality of the evidence it presents to an agency in support of its petition. Without the ability to get informtation to support its petitions, the CPA's efforts will surely fail.

It is my hope that the bill reported by this Committee to the House will give the Administrator authority to compel information and data from reluctant business enterprises outside the scope of a formal intervention. Otherwise, the Agency's status and its ability to function as a collector of consumer complaints and a petitioner to other agencies for relief from those complainants, will be rendered meaningless. Its ability to investigate and make recommendations to Congress will similarly be hampered.

It is, of course, in the area of intervention that the differences between H.R. 14 and H.R. 21 are seemingly the greatest. I deliberately use the word "seemingly" because a review of the hearings and floor debate on last year's consumer agency bill reveals that the differences may be more apparent than real. With respect to the ability of the Consumer Advocate to intervene in informal matters, for example, Chairman Holifield stated the following on the House floor:

"Bear in mind that the Administrative Procedure Act does not distinguish between formal and informal proceedings as such. The Consumer Protection Agency will be able to intervene in agency proceedings as a party, whether the proceedings are formal or informal, and whether or not they are attended by hearings. A hearing is not indespensible to a proceeding under the Administrative Procedure Act. Thus, the alleged exclusion of the Agency from informal proceedings is a pseudo issue . . ."

The Chairman also quoted from a letter by Rober Cramton, then Chairman of the Administrative Conference of the United States which said that "Under the provisions of H.R. 10835 [last year's House bill], the Agency will have broad powers to participate in and influence the informal administrative process." During his testimony before the Senate Government Operations Committee, Chairman Holifield also stated:

"The second argument is that the bill would exclude the Consumer Protection Agency from informal agency actions, which presumably constitute the bulk of administrative effort. To this I rejoin that the bill makes participation in agency proceedings a matter of right. It makes no difference whether these proceedings are formal or informal. The Administrative Procedure Act makes no distinction on that point."

It seems clear then that it has been Chairman Holifield's position all along to have the Consumer Protection Agency intervene as a matter of right in most, although certainly not all, informal administrative proceedings and processes. If that is the case, then the sponsors of H.R. 14 and the sponsors of H.R. 21, would seem to be on the same side of this important issue.

I do want to add, however, that it is my view and I believe the view of most administrative law experts, that the language of the intervention section of H.R. 21, raises the most serious questions as to the ability of the Consumer Advocate to do what Mr. Holifield intended—permit him to intervene in informal proceedings. These serious questions concern not only the designation of the Administrative Procedure Act as the framework for all party interventions but also the limitations on intervention imposed by the "fine, penalty, or forfeiture" language contained in Section 204 (a) (2). I think the sponsors of H.R. 21 will agree that the "seeking primarily to impose a fine, penalty, or forfeiture" language does impose indefinite limitations on the ability of the Consumer Advocate to intervene as a party in adjudicatory proceedings.

Because there undoubtedly will be some testimony to the effect that informal proceedings should be beyond the reach of the Consumer Advocate as a party, I would like to point out that these proceedings constitute the bulk of consumer law enforcement activities by the various federal agencies and are therefore incredibly important to consumers.

In the June 12, 1973 Congressional Record, Senator Ribicoff inserted the views of Professor Ernest Gellhorn of the University of Virginia Law School on the Consumer Protection Agency legislation. Professor Gellhorn is widely regarded as one of the leading administrative law experts in the nation and his comments on the Senate Consumer Agency bills are applicable to many of the questions we face in this Committee. I would like to quote some of Professor Gellhorn's observations to you at this time:

On the subject of Consumer Agency intervention as a "party" as opposed to an "Amicus," Professor Gellhorn had this to say:

"The [Senator] Allen bill allows the CPA to 'present' its views 'as a right' orally or in writing after a timely filing of the CPA's determination and reasons for its participation. The Ribicoff bill is more generous to the CPA, authorizing its intervention in formal proceedings as a party. The Ribicoff bill's approach seems clearly preferable in this instance. If the consumer's interests are to be presented adequately, they deserve full representation. Party representation means a full opportunity to participate in the proceeding including the shaping of the issues, the presenting and testing of evidence, the opportunity to argue the significance of the evidence and the meaning of precedents, etc. Without such authority, the CPA could become a supplicant without power to make its voice . . . heeded. No reason supports the Allen bill's second-class status for the CPA."

Like the Allen Bill, H.R. 564 (Mr. Fuqua's bill) does not permit the Consumer Agency to intervene as a party.

On the subject of judicial review, Gellhorn had this to say:

"Effective participation in agency proceedings, whether formal or informal, often depends ultimately on access to the courts. The availability and scope of judicial review of administrative action has a direct bearing not only on the matter under review, but also on agency procedures and substantive policies. Judicial review not only legitimates administrative action, it is a procedure for public accountability of the administrative process. And what is most important is not necessarily the actual judicial order. Rather it is the availability of review—the ability to challenge an erroneous or unjustified decision—which may be most effective in assuring that consumer comments are considered and CPA objections are taken into account. This does not mean, of course, that such review will always be (or even frequently) sought. The proper analogy here is to the policeman who walks his beat. His presence is not justified by the number of arrests he makes or crimes he observes being committed. Rather it is his presence which is considered important. Again, a comparison of the Ribicoff and Allen bills suggests the soundness of the former's provisions. It recognizes the CPA standing to appeal from the decision of another agency. If only a regulated business can appeal or question an agency decision, it seems obvious that the agency decision will be most concerned with business objections."

Again, like the Allen bill, H.R. 564 does not permit the consumer agency to seek judicial review, but merely to join in a court proceeding already underway and initiated by others.

On the subject of CPA participation in the informal administrative process, Gellhorn makes the following observations:

"But many, and perhaps most, agency decisions are not made in the formal administrative process. As a landmark study of administrative agencies concluded a generation ago (Attorney Generals Committee on Administrative Procedure, Senate Document Number 8, 77th Congress, First Session, 35 (1941), 'Even where formal procedures are fully available, informal procedures constitute the vast bulk of administrative adjudication and are truly the lifeblood of the administrative process.' More recent studies not only reach similar conclusions but they go even farther suggesting that it is in the informal administrative processes that many governmental decisions important to the consumer's interest are made. They also conclude that it is in the informal process where unchecked abuses most readily occur. By their very nature they tend to be unseen; their procedures are unstructured; access is limited to those familiar with the process; and judicial review to assure regularity and fairness is generally unavailable. The informal administrative process not governed by Section 553–57 of Title 5 of the United States Code (The Administrative Procedure Act) or not involving a hearing conducted on the record includes such diverse agency activities as: interpretive rule making; much substantive rule making (e.g., when it is within one of the exceptions enumerated in 5 USC Section 553); tests and inspections (e.g., FDA or Department of Agriculture drug and food testing); agency surveillance of business activity by supervision (e.g., bank regulation); application and claims (e.g., tax return audits, immigration visas, social security claims); investigation, negotiation and settlement (the unseen work which limits agency need to rely on formal processes).

"This bare-bones outline makes clear that it is in the informal administrative process that effective consumer advocacy could make its most significant contribution. It seems obvious beyond question that the CPA should be authorized to participate in the informal administrative process. To fail to do so would ultimately frustrate the Congressional will since it is in the informal administrative process that many significant consumer decisions are made and that the consumers viewpoint is most sorely missing. Professor Pitofsky's statement to the Senate Subcommittee that over 90% of Federal Trade Commission activities affecting the consumers' interests falls into the area of informal regulation is most persuasive."

The necessity for giving the Consumer advocate the ability to intervene in informal processes is thus clearly established. It is of course Chairman Holifield's view, expressed in his floor statement on the consumer agency bill in the 92nd Congress, that the Consumer Protection Agency should not "attend every informal action, sit in on every conference of the commissioners or examiners of the agency, read every office memorandum that passes back and forth from one agency to another, and be around, day and night, to look over the shoulders and breathe down necks of agency officials." Mr. Holifield then quotes Roger Cramton to the effect that "if the bill were to require consultation with the Consumer Protection Agency before every informal decision is made . . . the results 'would guarantee administrative chaos' ".

I believe that there is a way to strike a balance between the need for the consumer agency to participate fully in informal as well as formal agency proceedings and the need to permit the administrative processes of government to function efficiently. If the Consumer Protection Agency is to enjoy the confidence of consumers and have authority sufficient to accomplish its intended purpose, then it is to this important task that we must all dedicate ourselves in the weeks ahead.

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## SOCIAL SECURITY: MYTHS AND INEQUITIES

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. FRASER. Mr. Speaker, I commend the following article to the attention of my colleagues. Carolyn Shaw Bell has written about the social security system and points out the many fictions which inhibit clear thinking about needed changes.

This article provides a framework for discussion on how to correct the inequities which abound and what goals we are trying to achieve. "Social Security: Myths and Inequities" from the September 2, 1973, Washington Post, poses difficult questions that the Congress must consider:

### Social Security: Myths and Inequities

(By Caroyln Shaw Bell)

Since the beginning of social security in 1935, the myths surrounding it have hardened into dogma. Yet it is time to acknowledge that it is not insurance but a massive income-transfer program containing many elements of welfare, and that it contains a number of serious inequities that need correcting.

Most of use believe, of course, that we pay social security into insurance funds and get it back later; that we all earn our social security benefits—the more we pay in, the more we're entitled to get back; and that social securtiy is something we work for and are entitled to, unlike welfare which is a government handout.

Actually, the monthly social security checks currently received by, among others, widows, retired workers and the dependent children of disabled workers come from only one source: the payroll taxes collected by the Social Security Administration on the current earnings of some 93 million workers. It is a flow of funds—about $4.6 billion a month—from earners to non-earners.

Once the system is correctly identified, controversial issues of equity arise:

Financing the system by a payroll tax calculated at a flat percentage makes it highly regressive, posing more of a burden for those earning low wages than for those receiving high salaries. For most Americans, the sums withheld in social security contributions exceed those withheld for federal income taxes. Yet most of those receiving social security benefits need not have (and probably have not) remitted any such contributions.

The Social Security Administration calculates benefits partly on the basis of income maintenance, and Congress has approved the notion that the system should provide a family with an income adequate to meet its basic needs for food and shelter and clothing. Yet such welfare considerations do not exclusively determine the amount of benefits, for they also reflect past earnings and hence contributions.

The system taxes individuals as workers, and for families with more than one worker, the tax burden rises accordingly. Yet the system benefits individuals not only as retired or disabled workers but as dependents in a family. Hence the relation between taxes paid and benefits received is far less generous for a family with two or more earners than for a single- earner family.

People with incomes below the poverty level are exempt from the federal income tax, but must pay social security taxes. Yet social security benefits are themselves exempt from income tax.

These and other inequities surely require extensive public discussion, rather than being confined to congressional committee hearings and to disputes among experts.

#### THE TRUE FLOW OF FUNDS

From the beginning, the terms "contribution" and "social insurance" have been used to describe social security, although it was never seriously contemplated that payments to trust funds would in any sense be saved intact or invested to provide future benefits to the workers taxed. The notion that people have "rights" to social securtiy, based on their contribution, has also persuaded many to envision a flow of funds from some kind of accumulation, and are therefore entitled to benefits.

Little effort has been made to get people to appreciate the true flow of funds, from taxpayers this year to beneficiaries this year. The revision in the 1972 legislation which put the entire system on a pay-as-you-go basis has not been particularly publicized. It may well be that public faith in the system, and to some extent in the federal government which administers it might be severely shaken if people suddenly discovered that no vast pile of funds existed. ("What did they do with all the money?") But changing the system to meet the true needs and wants of the people who support it will never occur without more widespread understanding of what now exists.

Because of the emphasis on retirement provisions, the income transfers brought about by social security is frequently described as one between generations—that is, between workers and retired workers. Yet over half the people on social security obtain allowances as dependents; they may or may not be of a different generation than the working population which furnishes their income. They include over 4 million children and an equal number of widows (including widowers), mostly elderly. Another 3 million wives (and a few thousand husbands and parents) of disabled or retired former workers (who are themselves drawing social security benefits) also receive allowances. These people may or may not have contributed social security taxes themselves, but they receive their benefits as dependents of some other person. Benefits also go to those who have left the labor force because of disability rather than age: almost 2 million of them today. In other words, today's workers help support millions of people their own age, or younger, who for various reasons do not earn income from employment. Only $2.4 billion of the $4.6 billion in monthly benefits goes to retired workers.

#### REDISTRIBUTION OF INCOME

Because the system emphasizes a link between contributions and benefits, the impact of its transfer payments on the distribution of the nation's income has been overlooked. To most people, perhaps, the phrase "redistribution of income" conjures up some vision of equalizing income, of taking from the rich to give to the poor, but such is not necessarily the case.

Social security beneficiaries receive their payments as a matter of eligibility defined by law, and a "means test" or other income definition does not determine this eligibility. As far as the dependents are concerned, their eligibility status turns on their family relationship to someone working in so-called "covered" employment. (Most workers who do not pay social security taxes are enrolled in some government pension plan.) The amounts received depend on the contributions of the "covered" worker and, for dependents, on the nature of the family relationship.

The sums contributed by any worker reflect, of course, both length of employment and the earnings derived. In general, people who have earned higher wages over a given number of years are entitled to higher benefits than those who earned less.

Because the level of benefits has depended on the level of earnings in this way, the system has been stoutly defended as one of "social insurance" and its payments as "contributory." One can also argue that it reflects the American belief that people have unequal incomes at least partly because people work with different skills and degrees of effort. There is no clear majority, or even plurality, in this country in favor of a completely equal distribution of income. And if it is equitable for those with special skills to earn more than the untrained or less ambitious, it seems equally appropriate for such people to enjoy higher retirement income, "paid for" out of their earnings. But this argument does not apply to social security as a whole, because the complex formula used to determine benefits does not consistently provide more to those who pay more.

First, those with low incomes receive more generous benefits, compared to what they have contributed in taxes, than do those with higher incomes. For example, a worker whose monthly earnings averaged $300 would be entitled to a retirement benefit of $193, which is 64 per cent of what he had earned. Someone employed at a wage level twice as high, with years of work at a salary of $600 a month, would of course be entitled to higher benefits. But they are not twice as great. The retirement pay for such a worker amounts to $309, or only 51 per cent of the average earnings.

Secondly, those coming under the system in recent years will benefit, in proportion to what they pay in, far more than those who have worked in "covered employment" for many years, or who have paid taxes since the system began in 1935. And, to cap it all, each time that Congress adjusts the conditions of eligibility or the benefits paid (and this has occurred 10 times so far) the relation between taxes paid and benefits available changes, generally toward more generous treatment of the newly eligible.

Together with the graduated scale of benefits, these policies reflect the goal of providing adequate family income. Thus the surviving widow of a covered worker who leaves four children receives a higher total benefit than does the widow with a single child. The system must insure sufficient income for families and individuals to purchase the primary necessities of life, whether or not the covered worker's contributions would generate this amount of income. Such provisions justify describing the system as one of income maintenance; a system of income insurance would calculate benefits in a consistent relation to contributions.

#### BENEFITS VERSUS HANDOUTS

This ambiguity about the goals of the system—whether it should provide income insurance or income maintenance—has assumed threatening proportions with recent efforts to alleviate poverty in this country.

Next January a new supplementary security income program (SSI) will replace old age assistance (OAA), the welfare program for older people now administered by the several states. Under SSI all elderly people in need will be guaranteed a minimum level of income, uniform throughout the country. The payments scheduled, however, will exceed many benefits now being paid to retired workers under social security—some of whom may have been receiving additional funds from OAA.

Accordingly, the two programs will be integrated so that the elderly who were formerly covered workers, or retired people who have contributed to social security, will receive higher payments than those paid with SSI alone. For example, the basic SSI payment for an elderly individual will provide $130 monthly. A single person now receiving a retirement social security benefit of $84.50 will be entitled to the new minimum, $130, but will also be allowed to receive part of the social security payment as well. The total monthly income will be $150.

The retired worker thus does get more—$20 a month more—than the person receiving only the basic security income. But this difference, $20, can also be regarded as the sum total of the retirement benefits "earned" by all the social security taxes paid in previous years. To many retired workers, the income thus yielded by their contributions will look very small indeed.

It is true, of course, that retired workers get substantial psychic income in addition to their social security checks. These returns can be described in terms of self-respect, of pride at having "earned" the benefit, of a moral righteousness or satisfaction with the fulfillment of a contract. Obviously, for some, these feelings are enhanced by invidious comparison to those on welfare who receive "government handouts." (The hardworking couple who've paid social security taxes all their lives claim they deserve more income, when they retire, than the indigent welfare types who never paid a dime to the government but now expect to be taken care of for the rest of their lives. And who is to deny their claim?)

In fact, of course, because benefits have not been calculated in a consistent relation to contributions, strong welfare elements exist in the present system of social security. A large part of the benefits paid have not been "earned" by the recipients any more than the sums paid to dependent children have been earned by the youngsters involved. Nevertheless, the public, and especially that portion of the public receiving social security benefits, differentiates sharply between the two programs.

Although SSI clearly takes the first step towards an overall income maintenance program, the strong feelings about social security, and the widespread ignorance of its welfare content, will probably prevent any easy substitution of such a program, financed from general revenues, for social security. Precisely because the system has been described for so many years in terms of insurance and of contributions, the public may be unwilling to relinquish the myth of self-support in favor of income maintenance.

### OUTDATED ASSUMPTIONS

This brings up the other basic conflict in the social security system as a whole: that among the differing economic roles played by an individual during his or her lifetime. The system receives its funds from workers as individuals: all wage-earners pay the same rate of tax without regard to their family situation; no provisions exist for joint filing or for figuring total family income. Benefits, however, go to individuals and their dependents who are identified in terms of a family. The amount of income received, therefore, reflects the family situation rather than that of the individuals in the family. Major inequities arise when more than one individual in a family has contributed to social security, for the system does not yet provide that benefits can be calculated on the basis of two sets of earnings.

An example may help: This year the social security base, (the maximum earnings to which the tax is applied) amounts to $10,800, which means about $590 in taxes for a man earning this amount. If this man marries a woman earning $6,000 who pays social security taxes of $351, their combined "contributions" amount to $941. But a man whose salary equals that joint income—that is, someone earning $16,000—would not pay that amount of tax. His total social security contribution is the $590 payable on the first $10,800 of earnings.

The problem can also be revealed by comparing benefits. If both men are married, and each have the same years of earnings, their social security disability or retirement benefits will be equal. Each will be entitled to the same monthly payment, plus one-half the dollar amount for his wife. The fact that one wife has, herself, worked at covered employment and contributed to social security may or may not provide the family with additional income. If the benefits she is entitled to, in her own capacity as a retired (or disabled) worker, exceed her allowance as a dependent wife, then she may, of course, collect the higher sum. But in over one million cases the return is negative; that is, the elderly woman who has worked receives more as her husband's dependent wife or widow than she would from her own retirement benefit. In millions of other cases the difference is very small and in many cases falls short of the annual social security taxes paid before retirement.

There are other anomalies in the system's treatment of two or more earners in the same family. They can nearly all be traced to the simplistic notion of dependence used to define family relationships.

The basic assumption pervading the system (and probably American society as well) is that a family is dependent upon the husband and father, a woman is a dependent wife or widow, and children depend on their father for economic support and on their mother for care.

In economic terms, these statements have been meaningless for a good many years. Over 6 million families have no husband or father to support the woman and children. Only 1 out of 3 married couples depends on the husband as the sole earner; the majority of married women earn income from their employment. That these women have entered the labor market by the millions over the past decade has done more to reduce the number of families below the poverty income level than any other single occurrence. The contributions of women earners to their families' income cannot be easily measured, in terms of their human significance, by simply quantitative statements about average dollar sums or median wages. But clearly economic dependence for the family can no longer be defined in terms of the male breadwinner as the means of support.

Aside from defining economic dependency, the family has also been accepted as the basic unit of analysis for many social phenomena. Social security benefits, welfare programs and the whole concept of income maintenance merely symbolize or reflect this fairly widely accepted construct. Yet the notion that children require the mother's care and attention may itself be questioned since young mothers with small children are joining the labor force more rapidly than older women or than men.

From 1960 to 1971, the number of families headed by men increased from 40 to 47 million, or about 16 percent, while the number headed by women rose from 4 to 6 million, or about 38 per cent. Only a few among these latter families receive any support for the children from their fathers.

### UNFAIR TO WOMEN

These changes in the economics of the family pose special problems for women. Social security benefits they earn tend to be much smaller than those for men, chiefly because working women are confined to low-wage occupations. A woman who works full-time, year-round, earns 57 per cent of what her male counterpart does—a substantial decline from the 65 per cent fraction of a decade ago. It follows that the regressive nature of the payroll tax also bears more heavily on women; for the increasing number working to support their children, the protection offered by social security may not seem worth the cost.

On the other hand, the economic work women perform at home does not count as "covered" employment under the Social Security Act so there is no way for women outside the labor force to earn rights to disability or retirement income. Hardship results for the divorced woman, whose years spent in caring for husband and children may have precluded her taking a paid job, and for the widower with young children, who has to pay for domestic services.

This problem points up the conflict in the system between taxing individuals as earners but paying benefits to family member and dependents. If benefits should be calculated on the basis of family needs, then why not tax wage earners on the basis of total family income, rather than regarding them as separate individuals? If, on the other hand, the present system of allowances for wives and widows recognizes their economic contribution of household care, then why not vest their rights to social security benefits in themselves as people, rather than requiring a state of dependency? In the more advanced social security systems of some European countries, this approach has been explored, with, for example, tax credits granted to women on maternity leave, and pensions provided elderly women in their own right as retired wives and mothers.

Another special problem under the present social security program concerns older people who continue to work after age 65. Their retirement benefits are reduced by $1 for every $2 they earn over a sum of $2,100 annually.

For example, assume that most of the 3 million workers over 65 are entitled to the average social security retirement benefit of $163.70 monthly. To supplement this income, the older worker cannot expect to earn equal wages to those paid younger people, but take the case of someone earning half the median wage, or $4,500. For an elderly person, the net yield from employment paid at this rate is $3,300 and the loss in income of $1,200 represents an effective tax rate of over 36 per cent. In the schedule of federal personal income taxes, such a rate applies to incomes over 20 times as great. Of course, the elderly worker also pays social security tax on the earnings, and has occupational expenses as well to reduce take-home pay.

This provision clearly exposes the conflict between income maintenance and income insurance. If retirement benefits are designed to replace earnings (i.e., income insurance), then clearly they should not be paid at all when earnings exist. But since retirement benefits provide very low income to many people, the goal of income adequacy results in their being allowed to supplement their social security payments with earnings, albeit earnings taxed at extremely high rates.

### THE IMPACT ON POVERTY

Another conflict over the goal of maintaining adequate incomes is seen in the impact of the social security system on those with low incomes. The average payments for retired workers amount to less than the poverty level income for elderly single people, although the benefit to retired couples averages slightly above the poverty level. This means that many beneficiaries have not "earned" from their "contributions" sufficient income to keep them out of poverty. With significant increases in social security benefits last year and this year, the number of poor people over 65 has, however, dropped from almost 5 million in 1969 to about 3 million today.

Among poor people who are not 65, the system works hardship because of the impact of taxes. Families and individuals with incomes below the poverty level pay no federal income tax: in 1972 a family of four with about $4,500 of income or a single person with an income of $2,163 would have been so exempted. Of the 5 million families classified thus as "poor" in 1972, about half contained at least one person who was employed, and in over a million families two workers brought home wages and salaries. Despite the fact that their earnings were insufficient to raise the family out of poverty, these people paid social security taxes at the same rate as the highest salaried executive in the country. Especially for the two-earner family, total income might well have exceeded the poverty level had it not been for social security.

These controversial issues cannot be easily solved. They pose hard questions about goals: Do we want income insurance or income maintenance? What are the demands of equity and of ethics? But they cannot honestly be dealt with until the additional question about people as earners and as family members can be squarely faced. If the system taxes each worker as an individual, it should pay the beneficiary as an individual; if it pays benefits in terms of family status, it should tax the worker on the basis of family status.

### GANNETT REPORTER CHRONICLES CHANGING HOUSE SENTIMENT TOWARD VIETNAM WAR

## HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. WON PAT. Mr. Speaker, with the end of the Vietnam War and the rapidly approaching cessation of hostilities elsewhere in Southeast Asia, America's role in these matters during the past decade will increasingly come under the scrutiny of historians.

History's judgment, of course, can be no more accurate than its source material. I believe that it behooves all of us, then, to do our part to assure that the information available to future biographers of this era reflects the actual events—especially where the Congress is concerned.

Mr. John Simonds, a reporter for the Gannett Newspaper chain, has made an excellent contribution to posterity with his story chronicling the history of appropriations within the House of Representatives for the Vietnam conflict. His story carries us from the early days of the Tonkin Gulf Resolution, which enjoyed overwhelming support in the House, to the August 15, 1973, House measure calling for a prompt end to American involvement in Southeast Asia conflicts.

Whatever one's personal views on this critical issue, I feel that Mr. Simond's article merits searching attention for its historical significance. Accordingly, I now submit for inclusion in the RECORD at this time Mr. Simonds' story, which appeared in the San Bernardino, Calif., Sun-Telegram, Sunday, July 22, 1973.

The article follows:

### ONLY SEVEN OPPOSED WAR IN 1965; TODAY IT'S DIFFERENT

(By John E. Simonds)

WASHINGTON.—On May 5, 1965, in a vote that was to become a decision for war only seven members of the House of Representatives opposed a $700 million defense appropriation for fighting in Southeast Asia.

"This is not a routine appropriation," President Johnson had said the day before. "For each member of Congress who supports this request is also voting to persist in our effort to halt Communist aggression in South Vietnam."

Rep. Carl Albert, D-Okla., then majority leader, urged overwhelming support as an "act of confidence in our President . . . to tell the entire world that we are not going to bow to Communist aggression."

It passed, 408 to 7. Unlike the Tonkin Gulf Resolution of 1964 that passed nine months before, 416-0, this money bill spelled out the purpose of the vote, and for those in doubt the President and his leaders made it blunt. "History has shown that appeasement means weakness," warned then Speaker John W. McCormack, D-Mass., in a rare floor speech.

"If South Vietnam goes, then all of Southeast Asia goes. That means Australia. That means the Philippines will be threatened. Formosa, South Korea, even Okinawa—all of the Far East defenses will be threatened," McCormack said, reciting the domino theory.

Now, eight years later, there are at least 240 votes in the House to stop fighting and bombing in Southeast Asia. It is more than half, enough to block an appropriation of the kind that whistled through in 1965. And if not quite enough to override the President's desire to keep bombing Cambodia, it was sufficient to force last week's compromise ending it on Aug. 15.

It has been a long process, marked by violence, anger, public demonstrations, weary rhetoric, bad judgment, and disappointments along the way.

The House now has the votes to shut off the war.

The public was ready to cut it off long ago, judging by public opinion polls, and President Nixon has already done most of the work. The House is getting into the act somewhat late, taking a tough position with the President after years of trying to court the White House into stopping an undeclared war that dragged on.

The seven who voted against the Vietnam money in 1965 did so at great political risk and endured the ostracism of the herd, of an administration that took this opposition personally. Five of the seven remain in Congress—California Democrats George E. Brown Jr., Philip Burton, and Don Edwards; Rep. Edith Green, D-Ore., and Rep. John Conyers, D-Mich. The others were the late Rep. William Fitts Ryan, D-N.Y., and former Rep. John G. Dow, D-N.Y., who was defeated last year.

"This appropriation, Mr. Speaker, may prove to be among the most fatal decisions in American history," said Dow in 1965. "This bill is equivalent to a declaration of war with little warning to show it does mean that. This bill commits us to endless violence."

"What we are being asked to do is to approve the policy and actions of the administration in waging war in Vietnam, in the name of the American people," said George Brown. "This I cannot do."

The 408 who voted for the Vietnam money included an interesting political array, many no longer in the House—Mayor John V. Lindsay of New York, Melvin Laird of Wisconsin, the Pentagon, and the White House, Sen. John V. Tunney and Lt. Gov. Ed Reinecke of California, Sen. Richard S. Schweiker, R-Pa., former Sen. Charles E. Goodell of New York, Gov. John J. Gilligan of Ohio, for example.

It also included many less well known who have stayed in the House and quietly changed their minds. One of these, Rep. John Flynt, D-Ga., who is 58, emerged this year as a leader of the fight against further appropriations for the bombing. Flynt's conversion from hawk to dove was so absolute that he led the fight last week against accepting the Aug. 15 halt that the President has since signed into law.

"I voted for the Gulf of Tonkin Resolution, and I have regretted it almost since the very day that I voted for it," Flynt confessed to his House colleagues recently. "When I face the Supreme Judge of the Universe, I shall ask Him for mercy and to forgive me for voting for the Tonkin Gulf Resolution. I hope that the spirits of the 50,000 Americans who have been killed in Southeast Asia will not serve on the jury which tries that case."

Others among the 408 who have since been converted include Joseph Addabbo, D-N.Y., and Clarence Long, D-Md., who have been, with Flynt and Rep. Robert Giaimo, D-Conn., engineers of plans within the House Appropriations Committee to close off the pursestrings on the war.

"Remember how many times we have heard: "The light at the end of the tunnel. Don't disturb the situation—and so forth." Giaimo recalled in recent House debate ". . . . You do not have an old dove talking in the well right now. I supported the war in Vietnam. I have supported it for years, to my sorrow, because I at long last realized it was a mistake. I at long last finally realized the utter futility of it."

The House hasn't had the stars the Senate has produced on the war issue. For years it operated under Sam Rayburn's tight rules. With the changes in rules under Speaker Albert and the arrival of the new "mediagenic" House members, new stars are rising, but it is a long way to go and too late for the war issue.

As the minority party in both Houses throughout the war years, the Republicans played a mixed role. Under Rep. Gerald R. Ford, R-Mich., they often complained to President Johnson that he could not have his guns and butter, too, but they always found it easier to cut the butter. Once during a debate on domestic issues in 1967, Republicans began shouting, "War! War! War!" to the Democrats' boasts of their full employment and prosperity. But Johnson could count on the Republicans' votes.

Two Republican critics of the war policy under Defense Secretary Robert S. McNamara turned out to be an unlikely pair in later political life, but close workers and leaders in the House—Charles C. Goodell, who veered off into full time liberalism as a senator, and Melvin Laird, who later was to become Defense Secretary.

Rep. Howard W. Robison, R-N.Y., typified a small group of middle-road Republicans who phased from hawk to dove somewhere between Johnson and Nixon. Robison, sensitive to anti-war feelings among his university constituents, offered amendments and wrote letters to the White House urging an end to bombing and a gradual withdrawal of troops, but like many he preferred to operate quietly and in the shadows of others.

Rep. John Anderson, R-Ill., the leader of the House Republican Conference, provided the unusual spectacle of a leader voting against the President of his own party on the war issue, Anderson urging an end to bombing Cambodia and even voting to override the President, a decision that already threatens his leadership position.

Many events changed the House's attitude toward the war. One was the basic fact of personalities, today's 435 House members include only 217 who were on hand for the key 408-7 pro-war vote in 1965.

The turnover got a big boost last year when 67 new members were elected, partly because 40 elder members retired, some to take advantage of improved pension benefits.

The coalition of votes against the war also includes a rare group which believes the U.S. didn't try hard enough to win, and anything less than total victory was not worth the effort. Freshman Rep. Steven D. Symms, R-Idaho, an ex-Marine and ultraconservative, is one of these.

In the late 1960s and 1970, individual House races were often billed as the latest referendum on the war. They sent to Congress people like Abner Mikva of Illinois, Ron Dellums of Oakland, Michael Harrington and Robert Drinan of Masschusetts, Bella Abzug and Allard Lowenstein of New York. They have been interesting but limited in their impact, and Mikva and Lowenstein are already gone.

The band of seven opponents in 1965 grew very slowly in numbers for five years. Most anti-war members were liberal Democrats unaccustomed to cultivating people who could not side with them on only major issues.

In 1966, the anti-war group couldn't get five people to vote against a defense appropriation, but 78 House members signed a statement saying their vote for the war money did not constitute an endorsement for the war. It was a typical gesture of that time, the intent of their votes not mattering much to Lyndon Johnson who referred to the 89th as "my Congress" with some justification for the boast.

But concern was mounting, and in 1967, the grand total of 18 members voted against spending money for bombing North Vietnam from a $4.5 billion defense bill. The group by that time had attracted people who have been its stalwarts right up until today—Robert Kastenmeier, D-Wis.; Patsy Mink, D-Hawaii; Henry Helstoski, D-N.J.; Charles Diggs, D-Mich.; Sidney Yates, D-Ill., Thomas Rees, D-Calif., Benjamin Rosenthal, D-N.Y., and Don Fraser, D-Minn. They, plus the original seven, gave the anti-war faction its hard core.

In 1968, the year of the Tet offensive, the McCarthy and Kennedy campaigns, of President Johnson stepping down because of the war, and the bloody Democratic Convention in Chicago, the House was busy with domestic problems and cleared its big military bills with little trouble from anti-war members. Their high for the year was 29 votes against the Foreign Military Sales Act.

In 1969, President Nixon's pledge to end the war captured the imagination of such middleroad Democrats as Rep. Jim Wright, D-Tex., and Wayne Hays, D-Ohio, who offered a conciliatory "Peace with Justice in Vietnam" resolution. Its language aroused the suspicions of the antiwar members who warned that it was another Tonkin Gulf scheme hatched by the Republicans. It passed 334–55, after an attempt to open it for amendments failed, 252–100.

The year of Cambodia, Kent State, and the Con Son tiger cages, 1970, raised the House's anti-war population to formidable size. Rep. Donald Riegle, D-Mich., then a Republican, emerged as a vocal critic of his party. Riegle's move to have the House accept the Senate's (Cooper-Church) amendment against any more fighting in Cambodia lost, 237–153. Late in the year, the House did agree to the amendment, and it became law months after the President had withdrawn U.S. troops after their incursion.

Riegle led other efforts to turn back defense money bills unless they would cut off Vietnam spending, but these lost with no more than 46 votes. Rep. William Anderson, D-Tenn., and Rep. Paul McCloskey, R-Calif., joined Riegle as angry leaders of the peace cause in the House. By then its rank and file had already attracted Rep. Ken Hechler, D-W. Va., Ogden Reid, D-N.Y. (then a Republican), Jerome Waldie, and John Tunney, both D-Calif.

In 1971, Rep. Charles Whalen, R-Ohio and Lucien Nedzi, D-Mich., took the lead in trying to set cut-off dates for ending the war. Both members then of the Armed Services Committee, they sought a measure similar to the Hatfield-McGovern deadline of the Senate side. Their proposed year-end money cut-off lost, 258–155, and a series of substitutes with different deadlines suffered worse defeats.

Rep. Edward Boland, D-Mass., later tried a similar approach with a July 1, 1972, deadline, and like Nedzi and Whalen, tied to the release of American prisoners of war. It was defeated, 238–163. The movement seemed to be gaining a few votes each time.

In the big election year of 1972, Rep. Michael Harrington, D-Mass., offered an amendment cutting off Vietnam funds by Sept. 1 as conditional on the release of U.S. prisoners. It lost 244–152.

In a dramatic effort, the House Foreign Affairs Committee voted, 18–17, last year to approve a foreign military aid bill with an Oct. 1 cut-off of funds for Indochina. Two efforts were made to change it on the floor. Representative Whalen sought to move the cut-off back to Dec. 31, and lost, 304–109, in a maneuver that set anti-war members in disarray. Then Rep. Richard Bolling, D-Mo., moved to knock out the money cut-off entirely and won, 229–177. The bill passed, 221–172.

The aid measure split the Democrats from their leaders. The Democratic caucus endorsed the cut-off date, but Speaker Albert stuck with the President.

This year, the situation was different. For the first time, Albert was ready to vote against the war, and the Democrats had a majority behind him, outnumbering those on the Armed Services Committee and key military appropriations chairman like Rep. Bob Sikes, D-Fla., who led the battle against blocking the Cambodian bombing funds.

This year there also was no attempt at harmonizing with the President in the language of the amendments and no need to make them carefully conditional on the release of the POWs. In May the Addabbo amendment passed, followed by the Long amendment, both to halt the Cambodian bombing. Then in June, the House adopted Giaimo's amendment agreeing to the Senate amendment against spending money for bombing anywhere in Southeast Asia.

Appropriations Chairman George Mahon, D-Tex., tried to delay it until Sept. 1, but lost in a spectacular 204–204 tie. After President Nixon vetoed the bill, the House sustained him, then pushed through the measure agreeing to the Aug. 15 compromise on ending the bombing.

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## BELLA ABZUG URGES GO SLOW POLICY ON NEW YORK CITY CONVENTION CENTER

## HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Ms. ABZUG. Mr. Speaker, the Water Resources Subcommittee of the Public Works Committee has, at my request, deleted from the Water Resources Development Act of 1973 a provision that would have provided final clearance for the waterfront construction of a massive convention center in Manhattan.

The deleted provision would have waived navigational servitude requirements in New York Harbor for the construction of the convention center which was slated to extend into the Hudson River from 44th to 47th Streets in my district. As a matter of public policy, all such construction should be subservient to the needs of harbor navigation.

Because of a number of still unresolved issues which threaten the existence of the Clinton community, where the proposed New York City Convention Center would be located, I could not support an amendment that would provide a waiver eliminating the need for the center to meet navigational servitude requirements in New York harbor.

As the Representative of the people of Clinton, I have for many months been involved in negotiations and conversations with city and convention center officials about questions of deep concern to Clinton. Throughout this period, I repeatedly stated that I could not support a navigational servitude waiver unless adequate progress was achieved on these issues. While there has been some progress, it has not been nearly adequate enough to assure the continued existence of Clinton as a stable, thriving community on to guarantee full protection of the environment.

The creation of a special district, covering much of Clinton and designed to protect its current residential and small business character from inroads by real estate interests, has been approved by the city planning commission. As I have testified, this is a necessary first step. However, the district as outlined has important omissions. Furthermore, it is a temporary or interim district, and there has been no concrete assurance that a permanent district will contain adequate safeguards for the community. Indeed, there have been informal indications that the permanent district will be of a weaker nature than the interim one.

In addition, there are a number of other serious problems on which there has been little or no progress. Still unresolved are the issues of convention center-connected job opportunities for Clinton area residents, the prospect of extreme traffic congestion, and the overall environmental impact of the center. Concerning the latter issue, for instance, I believe strongly, that without a subway to service the area, a system of electrically powered minibuses should be employed to hold down air pollution.

Also unresolved and a matter of great concern is the validity of funding this center out of the city's capital budget when New Yorkers have so many pressing needs.

I do not have a closed mind about locating the proposed convention center in the Clinton area. However, these outstanding problems which I have just discussed must be satisfactorily resolved before we rush ahead with momentous decisions and irreversible commitments concerning the convention center. The stakes are too high for precipitous action.

Mr. Speaker, recent editorials in each of New York's three major dailies support my arguments. The New York Times, the New York Daily News, and the New York Post believe that consideration of the convention center should be delayed until all of the unanswered questions are resolved.

The texts of the editorials follow:

[From the New York Times, Sept. 12, 1973]

### CONVENTION CENTER

The questions raised by the New York City Convention Center are as big as the proposed facility and there are no easy answers. Its proponents, the Convention Center Corporation and the city, claim that it will meet a pressing need for new trade show and commercial exhibition space of a size to compete with other cities with new centers, and that it will be a generator of jobs, taxes and income for New York on a grand scale. They have an impressive set of studies and figures to prove it. Those who oppose the scheme have an equally impressive set of figures to disprove the Convention Center's claims. The fact is that no one has really proved anything.

If one assumes that all the projections of the Civic Center Corporation are true, it could well be the boon to the city's economy and vitality that its supports say. Certainly there are few who love the Coliseum, the defects of which are legion and legendary. But even accepting the desirability of the mammoth project, solutions to the mammoth problems that it poses are not in sight.

That the structure will have a major environmental impact is beyond argument. The city and the Convention Center Corporation have worked diligently with the neighboring Clinton community to bulwark it against the shock waves of megadevelopment and rising land prices and all the dislocation this brings, but the process has the air of a futile, formal pavane on the way to the exit of the Lindsay administration. Although the Clinton area has just been declared a special district eligible for protective measures, large chunks have been excluded from the designation, and it is anyone's guess how the next administration will carry out these plans and promises. This small, stable community is still fighting for its life.

Circulation and transportation remain critical issues in spite of carefully designed ramps and entrances and sanguine talk about special bus routes. During shows, 45,000 people a day are expected to make their way across Manhattan. There would be more cause for optimism if a projected east-west subway link had not been dropped, and if there were any visible signs that midtown chaos is to be less than a permanent condition.

The city is surprisingly untroubled about the air and noise pollution that can only be increased by the immense truck, bus and automobile-serviced installation envisaged. The Convention Center Corporation's environmental impact study now being prepared in accordance with Federal law can only show the degree to which the pollution levels will be raised. Everything seems to rest on the hope that the city's recommended procedures will lower those levels enough to bring the increase under the line.

All of which suggests a go-slow on the $50-million appropriation before the Board of Estimate this week, which will advance the planning and design stage further into the unretractable before any of these essential questions are answered. Admittedly, there is a gamble for large commercial benefits. For New York, the gamble is the even larger one of community and quality of life.

[From the New York Daily News, Sept. 13, 1973]

LAST CHANCE TO FIND OUT

The Board of Estimate will get a final opportunity soon to look closely at the proposed West Side Convention Center before it leaps into committing $200 million of city money to the controversial project.

So far, sponsors have failed to come up with a detailed environmental impact study. Plans for shuttling thousands of peoples to and from the facility are sketchy.

Those matters pale, however, before the financial angles. Once sold as a self-supporting venture, the center now is to be built entirely with public funds. Taxpayers may even be stuck for operating subsidies unless the optimistic, unspecific projections of utilization offered by supporters hold up.

The board owes it to New Yorkers to get firm answers. Let's not get saddled with a white elephant.

[From the New York Post, Sept. 13, 1973]

NO STAMPEDE, PLEASE

As anyone familiar with the mammoth project is fully aware, the proposed West Side convention center has been given an equally sizable publicity buildup. But there is no reason to rush ahead with more substantial construction.

Specifically, it will be an unwarranted and potentially very expensive action if the Board of Estimate proceeds today to authorize initial financing for the center's development without waiting for more data.

Little effort has been spared by the center's enthusiasts in promoting the plan; to them, it is apparently axiomatic that the center will be a veritable cornucopia of revenue. But persuasive figures are lacking, there are serious concerns about costs, the predictions of occupancy are speculative, the impact on the West Side Clinton community stands to be severe—notwithstanding the concessions they have been able to obtain—and the pending "impact statement" projecting the effect on the city's environment is still to be received.

If the center project is really the indispensable civic and commercial masterwork that its supporters claim, they should be able to reveal its virtues more convincingly. They deserve time to try. In the meantime, the New Yorkers most endangered by the project are entitled to real protection, not promises.

## VON STEUBEN DAY

### HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. ANNUNZIO. Mr. Speaker, September 17 is the anniversary of the birth of Gen. Friedrich Wilhelm von Steuben, one of the leading patriots of the Revolutionary War.

General von Steuben received a great estate from New York State and a large award from Congress for his outstanding contributions to the winning of American independence. Along with General Lafayette he was second only to General Washington as a shaper of the Continental Army.

Indeed, it was George Washington himself who, in his final act as general of our Revolutionary Army, wrote:

> I wish to make use of this last moment of my public life to signify, in the strongest terms, my entire approbation of your conduct, and to express my sense of the obligations the public is under to you, for your faithful and meritorious services.

That letter was addressed by George Washington to Gen. Friedrich Wilhelm von Steuben.

Von Steuben came to America in 1777 to offer his talents to that great cause then being born on this continent. In so doing he set an example for all time for millions of other Americans of German origin, who have contributed untold wealth to their adopted Nation.

During the bitter days at Valley Forge, General von Steuben sustained the courage of his men and contributed his private funds for their well-being. He drilled and taught them so that when winter subsided the American troops emerged more prepared than ever to engage the best army of the day in equal combat.

During that winter he also wrote the "Regulations for the Order and Discipline of the Troops of the United States." In 1781 von Steuben served with Lafayette in the batttle against Cornwallis' invasion of Virginia, and at the battle of Yorktown he commanded one of the three divisions of the Continental Army.

The U.S. Senate passed a joint resolution in 1961 authorizing the President to proclaim September 17 of each year as General von Steuben Memorial Day. A copy of that resolution follows:

RESOLUTION

Whereas the successful conclusion of the struggle of American colonists for liberty was immeasurably aided by sacrifices and services of freedom-loving nationals of many countries; and

Whereas General Friedrich Wilhelm von Steuben, following a brilliant military career in his native Germany, responded to the appeal for assistance from the beleaguered Colonies; and

Whereas General von Steuben, drawing upon his experience and his vision, instructed forces mobilized by the Continental Congress, directed training at Valley Forge, and established discipline and morale which enabled disordered, retreating forces to rally and reorganize following the Battle of Monmouth; and

Whereas General von Steuben served with distinction as inspector general of the colonial forces, in command of the district of Virginia, and during the siege of Yorktown; and

Whereas the drill regulations and rules of order and discipline for troops of the Colonies conceived and promulgated by General von Steuben were formally adopted by the Continental Congress as the governing code for forces of the Revolution; and

Whereas the ideas and methods advocated and perfected by General von Steuben were reflected in the establishment of the United States Military Academy; and

Whereas the United States regularly shows appreciation to heroes of other nationalities who were conspicuous in the fight for independence; and

Whereas the anniversary of the birth of General von Steuben and the anniversary of the completion of labors of the Constitutional Convention coincidentally fall on September 17: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is authorized annually to issue a proclamation calling upon officials of the Government to display the flag of the United States on all governmental buildings each September 17 and urging the people of the United States to observe the day with appropriate ceremonies commemorating the birth and the services of General Friedrich Wilhelm von Steuben.

I am pleased and honored to join with German-Americans in the 11th Congressional District of Illinois, which I am proud to represent, in the city of Chicago, and all over the Nation who are celebrating German-American friendship and the brilliant accomplishments of this German-American patriot, Gen. Friedrich Wilhelm von Steuben, and extend to them my best wishes and congratulations. America is a nation of emigrants, and Americans of German descent have contributed mightily to the greatness of our country.

## PEACE AND VIOLENCE

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. ASHBROOK. Mr. Speaker, to those who have for years stressed the oppressive nature of Communist governments over their peoples, the recent statements of Nobel Prize winning novelist Aleksandr I. Solzhenitsyn and physicist Andrei D. Sakharov, both captives of the Soviet regime, have come as a very welcome endorsement of our concern. No further comment is necessary on the letter of Mr. Solzhenitsyn proposing Mr. Sakharov for the 1973 Nobel Peace Prize which appeared in the New York Times of September 15, 1973.

The letter is an eloquent exposé of the

decadent double standard of pragmatism as contrasted to the vitality of basic moral values. The Solzhenitsyn letter follows:

### PEACE AND VIOLENCE

(By Aleksandr I. Solzhenitsyn)

I

The last few generations, having been shaken by two successive great world wars, committed an emotional error, a shift in their thinking: They began to view wars almost exclusively as the threat to a peaceful, just and benevolent existence of man, and this gave rise to the basic opposition of "Peace and War."

Widely touted congresses were convened, World Peace Councils were elected, and the label of "peace partisans" was attached to public figures who devoted their efforts (some sincerely, others demagogically) to the prevention of new wars (sometimes meaning a particular category of wars, while favoring wars of another category).

Yet the label of "peace partisan" sounded much better than the deeds for which it was awarded. A movement "against war" is still far from being a movement "for peace."

The opposition of "peace and war" contains a logical error in the sense that the entire thesis (peace) is opposed to only part of the antithesis (war). War is a massive, dense, loud and vivid phenomenon, but it is far from being the only manifestation of a never-ceasing, all-encompassing worldwide violence. The only opposition that is logically equivalent and morally true is: Peace and Violence.

The existence of man is being destroyed and corroded not only by stormy outbursts of war, but also by the constant inexorable processes of violence, sometimes also stormy, and sometimes sluggish and concealed.

And if we often say (and it is true) that peace is indivisible and that the slightest violation (not necessarily military!) disturbs the whole peace, it is equally true that violence is indivisible. The seizure of just one hostage and the hijacking of just one plane is just as much a threat to world peace as a shot fired on a national frontier or a bomb dropped into the territory of another country.

And here, just as in the dubious classification of wars into "just" and "unjust," we are confronted with a sordid challenge to the truth: Certain groups of violent ones insist that the particular form of violence that they display does not represent a threat to the peace (and in fact promotes peace).

Take, for example, the terrorism of the last few years. Tensed and on the alert against wars, man has proved to be unprepared and weak in face of other forms of violence, and has been thrown into total disarray by the terrorism of tiny individuals.

Most striking of all, the great world organization of man was unable to bring forth even a moral condemnation of terrorism. A selfish majority in the United Nations countered such a condemnation with yet another effort at dubious distinction by asking whether any form of terrorism was in fact harmful. And what is the definition of terrorism, anyway?

They might well have suggested in jest: "When we are attacked, it's terrorism, but when we do the attacking, it's a guerrilla movement of liberation."

But let's be serious. They refuse to regard as terrorism a treacherous attack in a peaceful setting, on peaceful people, by military men carrying concealed weapons and often dressed in plain clothes. They demand instead that we study the aims of terrorist groups, their bases of support and their ideology, and then perhaps acknowledge them to be scared "guerrillas." (The term "urban guerrillas" in South America almost approaches the humoristic level.)

It goes without saying that, with quantitative growth and continuous territorial spread, terrorism at some point becomes a guerrila movement (either for gaining control over one's own territory or for carrying war and revolution to someone else's territory), and a guerrilla movement, in turn, may grow into a regular war, conducted national frontiers by military staffs.

For all the indivisibility of violence, such smooth transitions do exist, yes, and they may pose some problems of distinction, especially for those emotionally interested in not getting at the truth and in justifying some forms of violence.

I can encourage these drawers of fine distinctions with an example out of the history of the U.S.S.R. The massive peasant movements of 1920–21 in Siberia, the Tambov region and in Uzbekitsan, involving tens of thousands of people and spreading over areas the size of entire countries (on a European scale), were labeled banditry without the slightest terminological inhibition, and this term has become so firmly implanted in the consciousness of the surviving descendants of the rebels (and not many survived) that they now refer to their fathers and grandfathers as "bandits" without the slightest hint of irony.

By the same token, any spontaneous mass guerrilla movement that is genuine, in the sense of not being directed from abroad, may be caused by constant, forcible and unlawful decisions of a government, by systematic violence of the state.

It is this form of established, permament violence of the state, which has managed to assume all the "juridical" forms through decades of rule, to codify thick compilations of violence-ridden "laws" and to throw the mantle over the shoulders of its "judges," it is this violence that represents the most frightening danger to the peace, although few realize it.

Such violence does not require the planting of explosives or the throwing of bombs. It operates in total silence, rarely broken by the last outcries of those it suffocates. Such violence manages to appear saintly, kind and very peaceful, almost drowsy.

But the scope of such violence can be appreciated roughly from calculations made by the statistician, Prof. I. A. Kurganov (they were published in the West and can be easily checked). He has put the number of victims at 66 millions of dead, or more than all the belligerent countries lost in the two World Wars taken together.

Those are useful figures for those who tend to belittle the significance of "sluggish," "peaceful" forms of violence compared with "hot" wars.

II

The error committed by man in his understanding of the meaning of "peace" is nothing but emotional. I meant what I said. This is nothing unusual. We often err not because we find it hard to perceive the truth (it is often right there, at the surface), but because it is easier and more pleasant to be guided by our feelings, especially if self-centered.

The truth has long been demonstrated and proved and explained, and yet it has remained without attention or sympathy, like Orwell's "1984," because of a "universal conspiracy of adulation" (in the author's own words).

The bestial mass killings in Hue, though reliably proved, were only lightly noticed and almost immediately forgiven because the sympathy of society was on the other side, and the inertia could not be disturbed.

It was just too bad that the information did seep into the free press and for a time (very briefly) cause embarrassment (just a tiny bit) to the passionate defenders of that other social system.

How can anyone believe that this fluttering butterfly of a Ramsey Clark, after all a former Attorney General, simply had no idea, simply could not have guessed that the prisoner of war who handed over a piece of paper, needed by Clark for his political purposes, had just been subjected to torture? (The only thing that Clark might not have known was the form of the deception, namely a broken arm being raised and lowered by a string drawn through a pulley in the ceiling.) Quite understandably, no one in the United States reproached Clark for it. After all, that was not Watergate.

Only such a lopsided moral outlook could have induced the leader of the British Labor party to visit a foreign country (of course, not in Africa—that he would never have been forgiven!) and to grant self-appointed forgiveness to the Government without once consulting the local population. [An allusion to Harold Wilson's visit to Czechoslovakia in 1972.]

And when in 1968, with the memories of August still fresh, only the Norwegians suggested that not all nations be admitted to the Olympic Games [in Mexico City], the majority of Olympic officials became uneasy, frowned and muttered something about the supreme interests of sports and business.

And yet, how they would close ranks if it were a matter of protesting the other way. Could, say, the Republic of South Africa, without being penalized, ever be expected to detain and torture a black leader for four years as General Grigorenko [Soviet dissident] has been? The storm of worldwide rage would have long ago swept the roof from that prison!

In 1966, a British magazine, operating in the broad scope of its unlimited freedom, found nothing tactless in labeling as "ambitious" a plan by Mihajlo Mihajlov [Yugoslav dissident] to produce an equally free magazine in Yugoslavia and a [West] German magazine, in its serenity, commented that Mihajlov's plan was "premature and would ill serve liberalization"! Since Mihajlov's imprisonment we have seen how liberalization, no longer hampered by any ill service, has spread widely through Yugoslavia.

Or take the recent desperate boldness of Australian and New Zealand protests against the French nuclear tests. Why were no protests directed against the far more serious Chinese tests? Was it only because of the great cost of keeping an observation vessel indefinitely on station? I can tell you why. Aside from a lopsided way of looking at the world, it was simply cowardice, because no one would have come back from an expedition into the Chinese desert or toward China's shores, and they knew it.

There we have the whole hypocrisy of many Western protests. It is perfectly proper to protest if there is no danger to life, if the opponent is likely to back down and if you don't risk being denounced by the left (in fact, it is always better to protest together with the left).

The same applies to the various forms of "neutrality" and "nonalignment" that have become so widespread. They require you always to bow and scrape toward one side, and always to kick the other side (which happens to be the one that feeds you!).

Before the onset of the fast-paced, shifty twentieth century, the existence of two moral standards in man, in a social movement or even in a government agency, was called hypocrisy. And what is it called today?

Could it possibly be that this massive, hypocritical lopsideness of the West is visible only from afar, but not from closer up?

A similarly dense hypocrisy emanates from today's political life in the United States, from the distorted vision of the Senate leaders and the discordant Watergate affair. Without in any way defending Nixon or the Republican party, how can one not be amazed at the hypocritical, clamorous rage displayed by the Democrats?

What did they expect from a democracy

that has no built-in ethical foundation, a democracy that constitutes a clash of interests, a clash regulated only by the Constitution, without any all-embracing ethical edifice?

Wasn't that democracy full of mutual deception and cases of misconduct during previous election campaigns, except, perhaps, that they were not on such a high level of electronic technology and remained happily undiscovered?

Having been personally engaged all these years in research on Russian life before its collapse, I am impressed by the seemingly impossible similarity between the Russian monarchy in it final years and, say, the Republic of the United States in what, I dare predict, are also its final years before the great breakdown.

The similarity does not lie in the material and economic sphere or in the social structure. It lies in the psychological lack of restraint and in the emotional recknessness displayed by politicians. The vehement uproar of the Democrats around the Watergate affair seems like a parody of the vehement and precipitate onslaught of the C.P.S. Cadets in 1915–18 against Goremykin and Stümer. [The reference is to efforts by the former Constitutional Democratic party to oust the last two Czarist premiers, Ivan L. Goremykin and Eoris V. Stürmer, in a vain move to save the monarchy.]

This is one of the mysteries of an irrational history. How could the Russia of the late 19th century, still industrially undeveloped, still dormant in its slow-pased existence, be propelled into such a dynamic leap forward that a Russian reearcher now looks on public affairs in the West as something long ago, as something in the past? It is both funny and sad to see how social currents, public figures and the young people of the West, with a time lag of fifty and seventy years, now reenact "our" ideas, mistakes and deeds.

There seems to be little doubt, as many now realize, that what is going on in the U.S.S.R. is not simply something happening in one country, but a foreboding of the future of man, and therefore deserving the fullest attention of Western observers.

No, it is not any difficulties of perception that the West is suffering, but a desire not to know, an emotional preference for the pleasant over the unpleasant. Such an attitude is governed by the spirit of Munich, the spirit of complaisance and concession, and by the cowardly self-deception of comfortable societies and people who have lost the will to live a life of deprivation, sacrifice and firmness.

Although this approach has never helped preserve peace and justice and those who have followed it have always been crushed and abused, human emotions have proved stronger than the most obvious lessons, and again and again an enfeebled world draws sentimental pictures of how violence will deign to assume a gentler nature and will readily abandon its superior strength, so that meanwhile everyone can continue to live a carefree existence.

Both hijackings and all other forms of terrorism have been spreading tenfold precisely because everyone is ready to capitulate before them. But as soon as some firmness is shown, terrorism can be smashed forever. Just remember that.

Because of the great scope and complexity of what peace represents, the decisive struggle for peace in the world of today is not being waged only at conferences of diplomats or at congresses of professional orators addressing millions of well-wishers.

The most awesome forms of nonpeace evolve without atomic rockets and without navies and warplanes and so peacefully that they seem almost like a "traditional national custom."

Therefore co-existence on this tightly knit earth should be viewed as an existence not only without wars—that is not enough!—but also without violence, or telling us how to live, what to say, what to think, what to know and what not to know. . . .

I don't know about Europe, but in my country railroad embankments along the right-of-way are decorated with stone mosaics reading "Peace to the world!" and "Let there be peace in the world!" That propaganda might be very useful if it meant not only that there be no wars in the world, but also that all internal violence cease as well.

If we want to achieve not just a brief respite from the threat of war, but a real peace, a peace in essence, with a healthy foundation, we will have to struggle no less intensely against the quiet, concealed forms of violence than we struggle against the loud forms. We will have to set ourselves the aim not just of silencing rockets and guns, but of pushing back the frontiers of state violence to the point where members of society will no longer feel the need for protection. We will have to erase from human consciousness the very idea that anyone has the right to use force against justice, law and mutual consent.

Then peace will be served not only by the one who counts on the magnanimity of the doers of violence, but also by the one who incorruptibly, unbendingly and indefatigably stands up for the rights of the oppressed, the vanguished and the victimized.

Such fighters for peace, so far as I can judge from afar, also exist in the West. They must also have an audience, and that alone helps keep our hopes from total eclipse.

I am not competent to list the names of such people. But for the sake of clarity I will name one. René Cassin, the distinguished Nobel Peace laureate, who combines a deep understanding of the problem, moral rectitude and spiritual strength.

In the Soviet Union, the name that comes naturally to mind is that of Andrei Dmitriyevich Sakharov.

### III

The widespread mistake of defining peace as the absence of war rather than as the absence of violence has naturally led to faulty estimates of the merits of individual public figures in the fight for peace.

The most highly praised fighters for peace, gathering laurels in airport lounge and parliaments are usually those who, at any price, are able to banish the breath of war, whether "hot" or "cold" (known more precisely as a "war of words," which the West always seems to lose because its statements are subject to critical analysis, or better yet as a "war of nerves," or a contest in persistence, which, all the more, the West is always doomed to lose). Such fighters for peace are willing to make every kind of concession to put a halt to polemics in the press and create a breathing spell for trade and other fancied benefits.

On the other hand, people who steadfastly stand in the way of global threats to the peace from all forms of violence risk being counted even among "warmongers" and sometimes are deliberately slandered as such. This shift in our understanding of what is in fact opposed to peace is bound to affect the activities of the Nobel Peace Committee. Its judgments and decisions, on the one hand, are naturally determined by the attitudes of the world community, but, conversely, they just as naturally shape those attitudes and establish criteria.

That is why the Nobel Peace committee bears such an extraordinarily great responsibility in the choice of laureates. Even the committee's failure to award the prize to anyone becomes significant in the sense that the merits and utility of the activities of the preceding laureate were so great that they are beyond comparison with others.

There is also the danger of a wrong estimate. To take a distant example, suppose the Nobel Peace Prize had been awarded to Neville Chamberlain in 1939 (actually the outbreak of war prevented the award of 1939 peace prizes, and a nomination would have been late for the awards in October 1938). [Prime Minister Chamberlain of Britain became a symbol of appeasement of the Nazis after having signed the Munich Pact with Hitler in September, 1938.]

Today, too, great bewilderment and a wide difference of views would be produced by the award of the prize to a public figure who may have partly fostered a relaxation of international tension by the method of "nonalignment," but is known at home as a suppressor of freedom and of ethnic movements.

If the Nobel prizes are supposed to crown the long efforts of particular persons and strengthen the authority of such persons in their future work, the worthy or unworthy choice of candidates no less tends to raise or to undermine the authority of the very institution of Nobel prizes.

Since I want to make use of my right as a Nobel laureate to nominate candidates for Nobel prizes and have no other way of addressing the Nobel committee except through this article, I am asking that these lines be considered a formal nomination of Andrei Dmitriyevich Sakharov for the 1973 Nobel Peace Prize. [Solzhenitsyn apparently did not know that Nobel laureates can make formal nominations only in their own fields, in his case in literature.]

I stated the basis for my nomination in my recent interview [with The Associated Press and the French newspaper Le Monde] by pointing out A. D. Sakarov's indefatigable activities of long standing at the cost of great sacrifice (and even personal danger), in opposing the persistent violence of the state against individuals and groups.

Such activity, in the sense described in the present article, must be viewed as a supreme contribution to the cause of universal peace, not an ostentatious or illusory contribution, but a contribution of the most fundamental kind, in which a mighty violence is being contained heroically by one's own little individual strength, thus bolstering universal peace.

And let there be no doubts within the Nobel committee about Sakharov's past and perhaps too conspicuous an achievement in the armaments field. There is actually no paradox. It is in the realization of one's past errors, in purification and atonement that we find the supreme meaning of the existence of man on earth.

## PRESS ON THE PROWL

## HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. RHODES. Mr. Speaker, I am pleased to insert in the RECORD the lead editorial "Press on the Prowl," which appeared in the Tucson Daily Citizen of August 29. It is an excellent editorial which clearly sets forth the philosophy of its writer—Mr. Paul A. McKalip. Mr. McKalip, a longtime friend, is the very fine editor of the Citizen who has been dedicated to the principle freedom of the press ever since he has been a member of the press. He always stressed and practiced the "balance, fairness and responsibility" of which he speaks in his last paragraph. For this reason, I believe Mr. McKalip's editorial should have particular meaning for all those who read it:

### PRESS ON THE PROWL

(By Paul A. McKalip)

I do not claim that the Tucson Daily Citizen is "the press" any more than I accept the misconception that the Washington Post and the New York Times are "the press."

Nevertheless, I concede that the Post-Times axis comes close to being "the press" on the Washington scene where their reporters are in full cry in a fox-and-hounds chase with President Nixon as their quarry.

There is another force on the Washington news front, however, a force that should be providing a balanced report of the news. It is made up of the professional journalists who comprise the capital staffs of the two national wire services, Associated Press and United Press International.

Every segment of "the press," virtually all of the daily newspapers in all the 50 states, relies on either or both AP and UPI for complete on-the-scene news coverage. The Citizen, desiring to have the fullest possible national reporting, takes both AP and UPI services. The double cost is reflected in added value for Citizen readers.

Regretfully to say, both AP and UPI have seemed on occasion to forget their larger responsibility for full and fair coverage. I refer, as you might surmise, to Watergate news coverage.

One glaring error of omission on the part of both wire services has been explored thoroughly by us in recent weeks.

On June 14, Sen. Carl Curtis, R-Neb., in a speech in the Senate, made a strong indictment of Democratic majorities on Senate investigating committees. He was speaking from personal experience earlier as a member of the Senate Committee on Rules and Administration when it investigated the Bobby Baker scandal during the Johnson administration.

That committee was charged with probing the machinations of Bobby Baker's rise from fair-haired page boy to multimillionaire while operating under the Capitol dome (and under Johnson's patronage).

Sen. Curtis declared in his June speech that every effort to tear the lid off the Baker case had been blocked "by a straight (Democratic) party vote."

For anyone interested in honesty in politics and government, which is what the current Watergate committee investigation is supposed to be about, Sen. Curtis' speech was timely and pertinent.

The Citizen and hundreds of other newspapers did not carry a word about the Curtis speech—because they did not receive the stories they should have received from either of their responsible Washington news sources AP or UPI.

We learned about the speech much later and indirectly. Finally, the Citizen developed its own complete story and published it July 20.

Then we wrote stern letters to top executives in New York of both AP and UPI.

H. L. Stevenson, editor of UPI, responded with a renewed pledge of "dedication to the fairness doctrine."

Conrad Fink, assistant general manager of AP, gave us a two-page report and admitted: "Simply stated, we booted it." He added: "We have reviewed this (mishandling) with our staff to make certain there is no repetition."

The explanation of how AP "booted it" came more clearly into focus when we received a special article from our Newsday service on the subject of Watergate news reporting.

The Newsday article, which is published today on the Perspective page opposite this page, stands as a credit to "the press" in the full sense of that term. The article exposes clearly the way in which those who are "the press" in Washington have taken unto themselves a "proprietary interest" in Watergate.

In so conducting themselves, professional journalists have breached their trust as members of the separate and independent Fourth Estate. Newsday analyst Thomas Collins goes so far as to compose this indictment:

"Besides being a physical presence on the scene, the press is playing an active role in the proceedings and may shape the outcome in ways that have not yet been measured."

That kind of involvement, whether born of bloodlust for a hounded Nixon or spurred by individual dreams of journalistic glory, is not just unbecoming of those who represent newspapers and their readers all over the country. It is downright unacceptable conduct in the eyes of many of us who also claim a share of being "the press."

We in Tucson, together with many others in newspapers elsewhere, will hope that our wire service forces in Washington will return to the Watergate story, when the hearings resume, with a regained sense of balance, fairness and responsibility.

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## FAT AND WASTE SHOULD BE CUT FROM AN INFLATED DEFENSE BUDGET

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, the Tennessean of Nashville in a recent editorial made the point that there have been many indications of waste and inefficiency in the Department of Defense—and, therefore, Congress should carefully examine the budget requests for DOD with a view of making cuts and reductions wherever possible without endangering national security.

The attitude of this administration at times appears to be that the defense budget is sacred and that all domestic programs are expendable.

Certainly the editorial is correct—the defense budget should be cut and reduced, especially in view of the fact that Congress has terminated U.S. participation in hostilities in Cambodia.

Current defense budget requests reflects a $5½ billion increase over last year, and many are asking this question: Why cannot the inflated defense budget be cut?

Because of the interest of my colleagues and the American people in this most important subject, I place the editorial from the Tennessean in the RECORD:

### CONGRESS WOULD BE WRONG TO IGNORE DEFENSE WASTE

This has been a year of "classic confrontation," between the President and Congress, but perhaps none will be more important than the one now shaping up over the issue of defense spending.

In his latest press conference, Mr. Nixon struck out at Congress for its domestic spending proposals that would "bust the budget to the tune of $6 billion." But he went on to warn that attempts to trim that much or more out of his $80-billion defense requests would be a "fatal mistake."

No sensible person could disagree with the President's assertion that the United States must maintain a strong national defense. But Mr. Nixon seems to be trying to leave the public with the impression that much domestic spending is wasteful while all defense spending is vital. The truth is that waste is rampant throughout the bureaucracy and with at least 30 cents of every tax dollar going to defense, Congress would be foolish to ignore that part of the budget in its efforts to restore some efficiency in government.

It is a well-documented fact that defense contracts are among the most wasteful and uncontrollable ways the government allocates public money. Entire books have been written and reams of testimony have confirmed that overruns, delays, silly contracting procedures and mistaken priorities have created spending nightmares. In fact, the recent record of defense contracting extravagance makes Mr. Nixon's fears of a $6-billion budget bust seem almost insignificant.

Last year the General Accounting Office released an audit of 77 weapons systems being developed. The report showed that overruns would amount to $28.7 billion, or 31% above the original cost estimates. These were not all the defense contracts by any means and the total has swelled significantly since the report, but the GAO figures demonstrate that defense spending offers a prime target for trimming government waste.

Two examples of how defense spending has bred inflation are the cases of Litton Industries and the Northrop Corp. When the government handed Litton two multimillion dollar ship building contracts for the Navy, the company had no experience in producing military vessels and plannned to construct the ships in a new shipyard using untested procedures. Litton mistakes will cost the taxpayers dearly and have already guaranteed that the ships will be produced much later than expected.

The Northrop Corp. contract is even more incredible. Last year the government paid Northrop $369.5 million to produce the F5E aircraft—a plane that is obsolete for use by this country and is given away to Asian allies.

And while the administration accuses the Democrats in Congress of wanting to slash defense spending irresponsibly, the most likely course is a sensible pruning of excessive programs. The Democratic Study Group reports that counter-budget proposals would slice between $4 and $10 billion from the 1973 fiscal budget. This hardly seems irresponsible when the costs of maintaining a combat force in Vietnam dropped from $21.5 billion in fiscal 1969 to about $2.9 billion in the current fiscal year. The Nixon budget would not reflect the savings of withdrawing from Vietnam, but rather would add $4.7 billion.

Since Pearl Harbor, every administration has been committed to more than just an adequate national defense. But to continue to insist that the country must overspend on defense to the extent that Mr. Nixon demands while cutting the heart out of vital domestic programs does not make sense.

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## WATERGATE HEARINGS

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. HARRINGTON. Mr. Speaker, among other things, the Senate Watergate hearings have revealed the high art to which former administration officials have brought the techniques of loss of memory and obfuscation. The former trait seems to contradict what we have been told about the "bright, alert minds" that had dwelled in the executive. The latter is an example of the standard method used to deceive and mislead the American people.

Mr. Speaker, I would like to insert an amusing article, by Mr. Ted Trombla, on this subject that appeared in the North Shore Weeklies, August 1 issue. Mr. Trombla has captured the spirit of these times with great accuracy:

### THE WATERGATE EFFECT

(By Ted Trombla)

Senator Sam Ervin's committee hearings on Watergate make the greatest summer replacement television has ever seen and if nothing more have at least mercifully blacked out a third of the idiotic game shows and soap operas that polluted the airwaves.

They have also proved that acute loss of memory is an occupational hazard among high government officials and have provided free lessons in the arts of deceit and evasion.

It seems to me there is great danger in the nation-wide public demonstrations of these arts and I already see evidence that the members of my own family have been corrupted by exposure to these practices.

Last week I bought six large raspberry and maple Danish pastries at a Baker in Lowell.

When I got home I didn't feel like eating any because I had had lunch in a Greek restaurant and the reason I still wasn't hungry eight hours later is that if you order lamb in a Greek restaurant you can expect to be served at least one half of the animal and so although I had eaten only one third of the order, I couldn't stand the thought of more food until the next day.

The following morning I still felt the Danish were a bit heavy for breakfast so I left them for lunch but at lunch time when I decided to have some I opened the box and discovered that it was empty. All the Danish were gone. Every one. Only a few crumbs left. Not even enough for the ants.

I thought, this is a fine thing. A man works hard all his life, obeys the laws, votes Republican and is kind to dogs and when he goes to get a Danish pastry he finds they have all been eaten. But by whom?

Only three people could have done this. My granddaughter, her husband, or their child.

Recalling Senator Ervin's skill in ferreting out the dark secrets of the Watergate conspirators, I thought to launch an inquiry in similar fashion.

I asked my granddaughter to take the stand.

Q. When did you first learn of the presence in this house of the raspberry Danish pastries?

A. I think it was sometime late Wednesday afternoon that I saw a brown pasteboard bakery box on the kitchen table, but I can't be sure.

Q. Did you open the box?

A. To the best of my recollection, yes.

Q. What was in the box?

A. I can't be sure, perhaps some sort of pastry.

Q. Did you then or at some later time take one or more of the pastries?

A. I think not but I may have done so. There were people in and out of the house and telephone calls and I am not quite clear on this point but I may have done so.

Q. In other words, you cannot be sure whether or not you did in fact eat one or more of the contents of that box on Wednesday last?

A. That is correct.

Thus it was established that this witness might or might not have eaten one or more Danish pastries. Her husband testified next.

Q. Were you aware of the Danish and do you recall a conversation with the previous witness regarding them?

A. I recall seeing a box on the kitchen table and asking whom they were for.

Q. Asking whom what were for?

A. I asked whom what was in the box were for.

Q. Did you know what was in the box?

A. I cannot tell precisely. I may have known but I cannot say for certain.

Q. Did the previous witness say whom what was in the box were for?

A. I think she said for anyone but I may be mistaken.

Q. And did you then or at some later time remove any of the contents of the box?

A. I cannot recall having done so, but it is possible. I remember that the gas man came to read the meter.

Q. So to the best of your recollection you may or may not have removed and eaten some Danish pastries?

A. That is true.

I thought now we are getting somewhere and with only one left to be questioned the incident will soon be explained.

The child was in her sand box making pies and I interviewed her there.

Q. Did you see the Danish pastries on the kitchen table?

A. Yes.

Q. How many were left in the box when you opened it?

A. Two.

Q. Then what did you do?

A. I ate them.

That child has a lot to learn.

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## LITTLE TAXPAYER LOSES HIS RIGHTS

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BIAGGI. Mr. Speaker, the Internal Revenue Service seems unable to take "no" for an answer, even if the speaker is the U.S. Tax Court.

Over and over again, the Tax Court has slapped down IRS's claim on a particular intepretation of congressional intent, only to find them harassing another taxpayer at a later date.

Some reins must be put on this broad authority that the IRS assumes in the exercise of its functions as the tax collector of the Nation. Americans as a whole are among the most honest taxpayers in the world. Everyone tries to pay his fair share. When a taxpayer does win a judgment in court against the IRS, they should be made to accept that ruling and not continue to harass other taxpayers on the same issue.

Enclosed is a column on one such case which appeared in the New York Daily News and other newspapers around the country on September 12, 1973. I hope my colleagues on the Ways and Means Committee will consider the unfairness of IRS's actions in this area:

### LITTLE TAXPAYER LOSES HIS RIGHTS

(By Edward Stephens)

Q. Internal Revenue Service officials say they always interpret tax laws with fairness to taxpayers. Is this true?

No. IRS lawyers often pore over the Internal Revenue Code looking for opportunities to construe the law so that taxpayers will lose deductions, credits or other benefits that Congress has given them. This forces taxpayers into expensive court battles to maintain their rights. Those who can't afford to fight simply lose their rights.

A striking example is the IRS interpretation of code section 172(b). This law says that, if you have a "net operating loss" in any year instead of net income, you may deduct with loss (with some adjustments) in other years. It's a relief provision designed to help people who have suffered financial setbacks.

This relief is aimed at millions of taxpayers. You can have a net operating loss any year if you're in business for yourself. And you can have a net operating loss any year even though you're not running your own business, if you suffer a theft or casualty loss that exceeds your salary or other income. This can happen if somebody robs your home while you're on vacation, for example, or if your house burns down, or if any other casualty befalls you.

#### GROSSLY UNFAIR

IRS has construed section 172(b) in an amazing manner. The interpretation is so strained, so grossly unfair, that IRS has lost five straight court tilts over it, without a single win. Still, IRS sticks to its guns.

The Service's fifth defeat occurred Aug. 28, when Tax Court Judge C. Moxley Featherston spanked IRS and plumped for the taxpayer, Sidney Axelrod of Columbus, Ohio.

Axelrod had a 1967 net operating loss of $114,628. Following the code and prior court decisions, he "carried back" his $114,628 loss, used it to wipe out his $5,000 ordinary taxable income for 1964, and got a refund of the tax he had paid on his 1964 ordinary income. He then carried the remaining part of his loss, $109,628, and deducted part of it in years subsequent to 1964.

IRS officials balked. They said Axelrod had nothing to carry over from 1964. Reason: He had a "net long-term capital gain" of $2,075,066, in '64 in addition to his $5,000 ordinary income. IRS said this capital gain absorbed the remainder of Axelrod's 1967 loss, $109,628, even though he couldn't deduct one penny of the loss against the '64 capital gain!

Judge Featherston turned thumbs down. He said the Tax Court will stick with its 1969 decision, Chartier Real Estate Co., in which Judge Arnold Raum flatly rejected the IRS interpretation of code section 172(b). Raum's decision was affirmed in 1970 by the First Circuit U.S. Court of Appeals in Boston.

IRS was flying in the face of two other decisions rejecting its section 172(b) construction. On Aug. 8, Tax Court Judge William H. Quealy sided with the Mutual Assurance Society of Virginia Corporation. And last year, the U.S. District Court, at Seattle decided in favor of the Olympic Foundry Co. IRS appealed to the Ninth Circuit U.S. Court of Appeals in San Francisco, where this latter case now is pending.

IRS very likely will appeal the decisions of Judge Featherston and Judge Quealy. If so, Featherston's will go to the Sixth Circuit in Cincinnati, and Quealy's will go to the Fourth Circuit in Richmond.

IRS very likely will appeal victory in one of the circuits, thus creating a conflict with the adverse First Circuit decision in the Chartier case. Such a conflict probably would throw the issue into the U.S. Supreme Court.

Such legal battles are mighty rough on harried taxpayers who get caught in the IRS meat grinder. In flagrant cases like these, the government should be required to pay the taxpayer's expenses, including the usual big one, his attorney's fee. Unfortunately, Tax Court judges now have no power to make IRS pick up the tab.

# SENATE—*Tuesday, September 18, 1973*

The Senate met at 10 a.m. and was called to order by Hon. GAYLORD NELSON, a Senator from the State of Wisconsin.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Holy God, before whom nations rise and fall, be with our Nation in its time of trouble and testing. Rule over us, guide us to the truth, and show us Thy will. Work with those who work for peace and justice at home and abroad. Make every statesman an agent of reconciliation and hope. As servants of the people, help us in this place by Thy grace to contribute to the world's good, our own lives, clean, strong, and trustworthy.

We pray in the name of One who is the Truth and the Way. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., September 18, 1973.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. GAYLORD NELSON, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. NELSON thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 17, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

## OVERSEAS PRIVATE INVESTMENT CORPORATION

The second assistant legislative clerk read the nominations in the Overseas Private Investment Corporation as follows:

Bradford Mills, of New Jersey, to be a member.

Allie C. Felder, Jr., of the District of Columbia, to be a member.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

## U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of Maj. John V. Brennan, U.S. Marine Corps, to be a lieutenant colonel.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

## THE RECORD OF THE SENATE AND THE PRESIDENT'S SECOND STATE OF THE UNION MESSAGE—II

Mr. MANSFIELD. Mr. President, in addition to the report made to the Senate on Monday, September 17, 1973, I wish to add also a letter received from the Honorable Roy L. Ash, Director of the Office of Management and Budget, which was taken up with the Democratic committee chairmen and which they unanimously approved. The same letter was sent to the distinguished Republican leader, Senator HUGH SCOTT, and he took it up at the Republican Policy Committee where it was also approved.

I ask unanimous consent to place in the RECORD at this point a letter addressed to me by Mr. Ash, a similar one was sent to Senator SCOTT, and Senator SCOTT's and my reply.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
*Washington, D.C., September 10, 1973.*

Hon. MIKE MANSFIELD,
*Majority Leader of the Senate, S 308 Capitol, Washington, D.C.*

DEAR SENATOR MANSFIELD: Following up our discussion Thursday afternoon, we in the Office of Management and Budget propose a series of meetings over the next six weeks with key members of the substantive Senate committees to discuss in broad terms next year's budget outlook and the implications this will have in developing legislation.

Our thought is that in the process of formulating the budget it would be mutually advantageous to obtain the Congressional sense of priorities for next year. We recognize that your chairmen look to the Cabinet secretaries as their primary contact on development of legislation; these meetings would hopefully supplement, not supplant, this process.

To make the discussions as fruitful as possible, it would seem that each chairman should limit his participants to his ranking Republican (and perhaps several other members) plus key staff aides. OMB would be represented by me and/or my Deputy Director, Mr. Fred Malek, and the Assistant Director(s) relevant to the legislative area of the committee concerned.

I would appreciate your bringing this proposal to the attention of your chairmen and letting me know if you and they approve. If so, we would contact them shortly thereafter to begin scheduling meetings.

With highest regards,

Sincerely yours,

ROY L. ASH, *Director.*

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SEPTEMBER 12, 1973.

Hon. ROY L. ASH,
*Director, Office of Management and Budget, Executive Office of the President, Washington, D.C.*

DEAR ROY: Your proposal to meet with the Chairman and Ranking member of appropriate committees to discuss the fiscal '75 budget has been conveyed to the Chairmen at their meeting and presented at the Republican Policy Committee meeting of Tuesday.

It is the opinion of those contacted that this is extremely desirable and will be most helpful. Therefore, we, as the joint leaders in the Senate, approve wholeheartedly your proposal and hope that the meetings can begin shortly.

Sincerely,

MIKE MANSFIELD,
*Majority Leader.*
HUGH SCOTT,
*Republican Leader.*

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senate will now proceed to the consideration of the unfinished business, S. 4, which the clerk will state.

The assistant legislative clerk read as follows:

S. 4, to strengthen and improve the pro-

**tections and interests of participants and beneficiaries of employee pension and welfare benefit plans.**

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McIntyre). Without objection, it is so ordered.

Debate on the bill is limited to 6 hours to be equally divided by the majority and minority leaders or their designees; with 1 hour on any amendment in the first degree, except an amendment to be offered by the Senator from South Carolina (Mr. Thurmond), on which there shall be 2 hours; and that debate shall be limited to one-half hour on any amendment in the second degree, debatable motion, or appeal, to be equally divided and controlled by the mover of such and the manager of the bill.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following staff members from the Committee on Labor and Public Welfare be accorded the privilege of the floor during the consideration of the bill.

Laurence N. Woodworth, Arthur S. Fefferman, Herbert L. Chabot, Robert A. Warden, Robert A. Blum, Howard J. Silverstone, James Billinger, and Richard Fay.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. CURTIS. Mr. President, reserving the right to object—and I shall not object—I wonder if it was the plan to proceed with the proposed legislation until the chairman of the Committee on Finance (Mr. Long) was here to participate in the debate. It was my understanding, when I agreed to the limitation, that I was agreeing to a limitation on the bill reported by the Committee on Finance. I did not know that the agreement related to any other bill until that fact appeared in print in the Record.

I think a jurisdictional question is involved. I anticipate that everything will be ironed out properly and that we will end up with a good bill. I do not wish to imply any irregularities or anything irregular about the Committee on Labor and Public Welfare. I simply believe that this is a matter of great import to the Committee on Finance. I had assumed that we would wait until the chairman was here.

Mr. GRIFFIN. Mr. President, would the distinguished Senator from New Jersey (Mr. Williams), the manager of the bill, agree to a reasonable delay?

Mr. WILLIAMS. Let me say, first of all, that I think the procedure we are about to pursue now has certainly been cleared with the distinguished chairman of the Committee on Finance. He was a part of the procedure that we shall describe in a moment. I think it appropriate, however, that the chairman of the subcommittee which gave special consideration to pension legislation comment.

Mr. NELSON. I do not believe the chairman of the Finance Committee would have any objection to our proceeding. But if the distinguished Senator from Nebraska desires to have a quorum call, I have no objection.

Mr. CURTIS. Further reserving the right to object, it is my understanding that there was a conference and that certain compromises were entered into. I have had a report on that. However, I was not present and have not seen the language. It is my understanding that the language of the amendment, which is really a series of amendments that incorporates the compromise that was entered into, will be here in a few moments; it is not here now.

I take this occasion to express the hope that the leadership will work out an arrangement or an understanding that we will not have a final vote today, even though the 6 hours may be fully used—or it may be that some time will be yielded back—and that amendments may be offered tomorrow. I know of no amendments to be offered.

I have every reason to believe that the greater part, or perhaps all, of the compromise language will be accepted, even though it may not be to my liking, and will be enacted and not vigorously opposed.

We have some very far-reaching legislation before us, so I do think that we ought to have at least one day to examine the newly drafted language.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, my name is on the bill. I have had a great deal to do with it for a long period of years. I see nothing whatever unreasonable in the suggestion of the Senator from Nebraska.

One thing that does trouble me is the feeling that he gave unanimous consent to the bill coming out of the Finance Committee. I was extremely clear on that, and I think the leadership was, too. I hope very much that he will examine the record because I think he will find that all along it was the plan to bring up S. 4.

Finally, just before I left for Europe, we had a very fine meeting with the Senator from Texas (Mr. Bentsen), the Senator from Utah (Mr. Bennett), and the Senator from Louisiana (Mr. Long). I think matters have come into agreement, and I think the Senator will find—and I certainly will join in giving him that assurance—that as we go along, it is very likely—in fact, it is quite possible—that the matter will not be closed out today. We will have 1 day to study what has been added since last Friday, and amendments can be offered tomorrow as conveniently and as efficiently as they can be today.

Mr. CURTIS. Mr. President, further reserving the right to object, may I inquire what the procedure will be, what bill will be before the Senate, and in what manner the Finance Committee's bill will be brought before the Senate?

Mr. WILLIAMS. Mr. President, the procedure that has been worked out by the Committee on Labor and Public Welfare and the Finance Committee, and brought to the Senate, is that the pending business, S. 4, will be discussed. I will discuss it, and I am sure Senator Javits will do so.

Following that, it is the intention of the Senator from Wisconsin (Mr. Nelson) to discuss the Finance Committee's reported bill and at that point offer the amendment, which embodies the compromises that have been arrived at between the two committees, and offer that compromise as a substitute for S. 4.

Mr. CURTIS. Is it the plan to offer the Finance Committee's revised language as a substitute bill? It would still be under the title of S. 4. Would that be offered in a manner that it would be considered as a complete bill and subject to amendment?

Mr. WILLIAMS. That is correct.

Mr. CURTIS. As original text?

Mr. WILLIAMS. As original text and subject to amendment.

Mr. CURTIS. So that any amendment to the Finance Committee bill will be in order and will not have the handicap of being an amendment in the second or third degree?

Mr. WILLIAMS. That is exactly the way it will be.

Mr. CURTIS. And is it the understanding that part of the compromise is that the Committee on Labor and Public Welfare will not be resisting the amendment?

Mr. WILLIAMS. The amendment that Senator Nelson will offer is the compromise that was worked out with the two committees. That amendment includes the bulk of the substance of S. 4. All this will be explained as we proceed.

I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I only wanted to say to the distinguished Senator that any substitute, whether offered by the committee or offered by any Senator from the floor, is considered as original text and open to amendment in two degrees.

I ask the Chair whether I am correct.

The PRESIDING OFFICER. Any substitute for the bill is considered as original text; that is correct.

Mr. CURTIS. Do we have assurance that when this new amendment is considered as original language, there will be a right to offer amendments to it tomorrow, should the occasion arise? I do not know that such an occasion will arise, but I just believe that is the better way to legislate, inasmuch as this bill contains 227 pages. While the various Members are familiar with the substance of it, this is the first time we have seen it put together as an individual bill.

I anticipate no specific objection to it, but I just believe that the reputation and credibility of the Senate will be maintained if we at least have 1 day before the curtain is drawn on all amendments, in case we use all the time today or yield it back.

Mr. HANSEN. Mr. President, will the Senator from New Jersey yield to me?

Mr. CURTIS. Mr. President, could I have an understanding on this?

The PRESIDING OFFICER. The Chair states that a unanimous consent request is pending as to whether certain staff members can have the privilege of the floor, and the Chair would like to rule on that.

Mr. NELSON. I have a request, Mr. President.

Mr. WILLIAMS. Mr. President, could that be incorporated with another request of the Senator from Wisconsin for the Finance Committee staff members?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Laurence N. Woodworth, Arthur Fefferman, Herbert L. Chabot, Robert A. Warden, Robert A. Blum, Howard J. Silverstone, James Billinger, of the Joint Committee on Taxation, and Mr. Richard Fay, of my staff, Mr. David Allen, of Senator BENTSEN's staff, and Mrs. Marilyn Kester, of Senator HANSEN's staff, be permitted the privilege of the floor during the course of the consideration of this measure.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I ask that the name of David Clinton, of my staff, also be added.

Mr. THURMOND. Mr. President, I ask unanimous consent that the names of Mr. Stanley Hackett and Mr. Raymond Sifly be added to the list.

Mr. HANSEN. Mr. President, reserving the right to object—and I shall not object—I want to point out that, as the Senator from Nebraska has already said, many Members have not had an opportunity to read the measure we are now considering. It is a very important bill. It deserves our studied attention.

I hope the leadership will be mindful of the fact that it will take a little while for Members to understand the issues involved, to raise questions that deserve answers. With that in mind, it is my hope that there might at least be no votes until after, say, 2 o'clock this afternoon.

Senator ROTH called this morning. He regrets very much that a funeral prevents his presence on the floor this morning. He will be here at 2 p.m.

I ask the leadership whether it might be understood that there will be no votes until, say, after 2 p.m.

Mr. WILLIAMS. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. May we have a ruling from the Chair?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. CURTIS. Mr. President, reserving the right to object, I would like to know whether or not we have an understanding that amendments may be offered tomorrow, with full opportunity to debate them.

Mr. ROBERT C. BYRD. Would the Senator allow the minor requests to be acted on? Then there will be a response. The request is just for attachés to be on the floor. Would the Senator allow that?

Mr. CURTIS. All right.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, reserving the right to object, I expect to offer an amendment unless the compromise amendment goes further and covers the points I have in my amendment. I simply want the small businessmen to be on an equal basis with big businessmen. As I understand, the compromise amendment does not do that.

I am going to object to anything unless it is clear that we have the right to offer this amendment to the compromise amendment or, if that is considered the original bill, to the original bill, at the proper tme; and I would like it understood that I will be notified to be here if any other agreements are to be entered into that might affect my position.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. WILLIAMS. Mr. President, I yield to the Senator from West Virginia.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the time now being consumed and having been consumed up to now not be charged against the 6 hours under the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. WILLIAMS. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I say that, of course, if any Senator wishes to offer an amendment to this bill on tomorrow, I am confident that arrangements can and will be made to accommodate that Senator. There is a limitation of time on the bill of 6 hours, which is ample, we think. If there were a disposition on the part of the Senate to complete the bill today I think that could be done, depending on how many amendments would be offered. There is a time limitation on amendments.

An amendment by the Senator from South Carolina (Mr. THURMOND) has been provided for and 2 hours have been allowed for debate on the amendment.

I think at the close of today we will be in a much better position to ascertain the needs of tomorrow. I am confident that there is a disposition on both sides of the aisle to work as long as we can to accomplish as much as we can and then to put over until tomorrow any final votes, giving Senators an opportunity to look over the bill overnight and to look over the actions of the Senate today and then to decide if they want to offer amendments tomorrow.

It also is the hope of the leadership that we can dispose of this bill as early tomorrow as possible so the Senate can take up the military procurement bill.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. GRIFFIN. Mr. President, I would like to add that the time of 6 hours under the bill is under the control of the majority leader and the minority leader. Speaking for the minority leader and myself, we will be sure that in the allocation of that 3 hours the wishes of the Senator from Nebraska and others will be carefully observed. We will not yield all of that time today as long as the Senator from Nebraska is of the opinion that amendments should go over until tomorrow. Of course, that can easily be taken care of by the fact that any amendment that is offered will take an hour to debate, and if there is a vote it will take additional time. So I do not think there will be any difficulty in assuring that the bill will not be completed today.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. WILLIAMS. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, there will be no desire on my part to slow the bill; we are ready to vote today; we are ready to vote now if the Senate wishes to vote. I wanted the procedure to be clearly understood so we could have a clear-cut debate on the points embodied in the amendment I shall offer to the bill.

Mr. WILLIAMS. I yield to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I do not believe we can complete this bill today under any circumstances. The amendment that the Senator from Nebraska referred to is only the first amendment of two major amendments to be offered. The first amendment is 227 pages long. There is no way for any Member who has not had his staff working on this legislation to know where to offer appropriate amendments without having it available for some time. The second amendment responds to the issue raised by the Senator from Nebraska. The second amendment embodies all of the tax provisions dealt with in the Committee on Finance bill S. 1179 which are not in S. 4. The second amendment will be over 70 pages long.

This is a complicated bill. Members will have to have these amendments in their hands so they can review the provisions and find the place for amendment if they desire to amend the bill.

I have two amendments. I will be offering two major amendments on behalf of the Senate Finance Committee, but I have two amendments of my own because I disagree with the decision of the Committee on Finance.

My two amendments are critically important and they deal with the question raised by the Senator from South Carolina (Mr. THURMOND). Those two amendments should be voted on tomorrow. There is no way for Members to familiarize themselves with the issues involved during the course of this day.

The Senator from South Carolina has an amendment involving a very important principle in which he argues that closely held corporations and professional corporations, should be dealt on an equal tax basis for pensions, compared with General Motors, ITT, et cetera. I intend to offer an amendment which would require that large corporations, small corporations, professional corporations, be treated precisely alike; however, my amendment will place a limitation that there be a limit. In the present law and in this bill there is no practical limit on major corporations. I think there must be some limit on the tax-deductible pensions provided to high-paid corporate executives.

My proposal would provide that there shall be a limit on tax-deductible dollars that can be set aside for pensions not to exceed 75 percent of the last highest 3 years of earnings based on a $60,000 maximum income; that is to say, no one in a large corporation, or a small corporation—could receive a pension in excess of $45,000 a year.

The Committee on Finance provision provides for a limit on contribution determined as 75 percent of the highest last 3 years of earnings based on a maximum base of $100,000, thus allowing a maximum pension, paid for by tax-deductible dollars, of $75,000 a year. I think that is a major loophole in the tax laws. I do not think it is defendable. It is an issue that should be debated on the floor of the Senate.

The principles raised by my amendments need to be debated. If Congress is going to allow wealthy people to retire on pensions of $75,000 a year paid for by tax deductible dollars, I think it is an unconscionable act and the entire country should know what we have done. Members of the Senate should not be voting on this unless they really understand what we have done in this bill. So my two amendments will come up tomorrow.

Mr. CURTIS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. WILLIAMS. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. My parliamentary inquiry is this. When the amendment in the nature of a substitute to be proposed by Mr. NELSON for Mr. LONG, Mr. BENTSEN, and Mr. BENNETT is offered under the unanimous-consent agreement, how much time will be allotted on this amendment?

The PRESIDING OFFICER. One hour.

Mr. JAVITS addressed the Chair.

Mr. CURTIS. Mr. President, I again point out that that is not a proper way to proceed. There would be no reason why the leadership would consult with the junior Senator from Nebraska about handling a bill that came from the Committee on Labor and Public Welfare.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CURTIS. I was clearly under the impression that the work of the Committee on Finance would have 6 hours' general debate and that was what I agreed to when I left the floor. But the agreement was in reference to a bill coming from the Committee on Labor and Public Welfare. I do not think the Senate should tie its hands to a debate for 1 hour on an amendment of 227 pages.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, if a unanimous consent is made when the substitute is submitted that the substitute be considered as original text, and that unanimous consent is agreed to, what will then be the time situation?

The PRESIDING OFFICER. Any substitute to the bill will be considered as original text without any unanimous-consent agreement. Under the unanimous-consent agreement which we entered into an original amendment would be limited to 1 hour of debate.

Mr. JAVITS. Mr. President, if the substitute, once submitted, is accompanied by a unanimous-consent request that the substitute shall be considered as if it were original text of the bill, will that change the situation? It seems to this Senator it certainly would. Incidentally, it is our intention that the unanimous-consent request shall apply—6 hours, 1 hour, 2 hours, et cetera—to the original text of the bill as incorporated in the substitute. That is why we intend to ask unanimous consent—at least, I am sure that Senators NELSON, BENTSEN, and LONG would agree; we have all agreed—that the substitute should be submitted as original text, and therefore the unanimous-consent agreement would apply.

The Senator from Nebraska (Mr. CURTIS) is entirely right. We had no intention or desire that there was to be 1 hour's debate on the compromise. We would have to make a new unanimous-consent agreement which would be in effect. We will submit the substitute with the unanimous-consent request that it stand as the original text of the bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. ROBERT C. BYRD. What the Senator is suggesting—and I am not at present raising any objection—is that we enter into a new unanimous-consent request with regard to time on the substitute. As I understand the rules, any substitute for the bill, such as the Senator contemplates, is automatically considered as original text without unanimous consent, and open to amendments in the first and second degrees.

If the Senator wishes to ask unanimous consent that at such time as the substitute is offered there be a certain amount of time on that, that is all right, but I do not think we ought to get into the situation of asking unanimous consent that the substitute be considered as original text merely for the purpose of getting additional time. If that is what the Senator desires to accomplish, I think we should go right ahead and ask for additional time on the substitute, because it would, in any event, be considered as original text.

Mr. GRIFFIN. Mr. President, if the Senator will yield, I wanted to say that any portion of the 6 hours provided for in the unanimous-consent agreement that had not been consumed at that point could be used in the discussion of the substitute.

Mr. ROBERT C. BYRD. Yes. The Senator is correct.

Mr. GRIFFIN. In addition to that, 1 hour is provided for.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. Would it not also be true, I should like to ask the Chair, if an amendment to the substitute is offered, it would have to be in the first degree, and would there not be an additional hour on any amendment to the substitute?

The PRESIDING OFFICER. The Senator from Michigan is correct.

Mr. GRIFFIN. So I can see that there is plenty of time available.

Mr. BENTSEN. Mr. President, let me discuss the practicalities of this——

THE PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. WILLIAMS. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, we have had a remarkable degree of cooperation between the two committees; namely, the Senate Labor and Public Welfare Committee and the Finance Committee. In the spirit of that type of cooperation, it seems to me that we ought to have an equal allocation of time on the bill between the Finance Committee and the Labor and Public Welfare Committee. We have some 6 hours on the bill. It seems to me there have been almost equal contributions by those committees. Could not the allocation of those 6 hours be divided between the contributions of the Finance Committee and those of the Labor and Public Welfare Committee?

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, we have arrived at this point: 6 hours on the bill extends to the substitute. There is 1 hour on the substitute itself. Any amendment to the substitute has 1 hour of its own. That is exactly where we are on the bill, with one exception: 2 hours for the Senator from South Carolina (Mr. THURMOND).

Therefore, as I understand it, we can let the matter stand exactly as it is, with the understanding that any amendment the Senator from Nebraska (Mr. CURTIS) has—indeed, I think any amendment to the self-employed part of the bill—should be acted on tomorrow. I understand that is the main focus of the interest of the Senators who have spoken. So that would be done tomorrow rather than today, and on getting the unanimous consent, when the substitute is offered, the Senator from South Carolina (Mr. THURMOND) may have 2 hours on his amendment to the substitute. Then we will be exactly where we are today on the unanimous consent agreement to the bill, and no one will be prejudiced or discriminated against.

With the division of time as to the Finance Committee, both the Senator from New Jersey (Mr. WILLIAMS) and I, and the Senator from Michigan (Mr. GRIFFIN), representing the minority leadership, have 3 hours. I think we are in complete agreement that half of all the time we have should go to the Finance Committee. So there is no problem, provided we get—and I hope Senators will be accommodating—2 hours on the amendment the Senator from South Carolina (Mr. THURMOND) had contemplated offering to the original bill. Would that not settle it?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum——

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that request?

Mr. BENTSEN. Yes, I withhold it.

The PRESIDING OFFICER. Does the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I suggest that we proceed. I do not think this will be a difficult problem. To say at this point that there will be an equal amount of time given to the committee substitute is something we ought not to get into at this point. For example, I do not know how much time will be used on the committee bill before we get to the substitute. We may spend only 5 minutes on the bill. Or, we may spend 5 hours.

Does not the Senator agree that we ought not to get into that problem until it arises?

Mr. JAVITS. With one other understanding: no matter what we do, the Senator from South Carolina (Mr. THURMOND) retains, as a sort of gentlemen's understanding here, his basic 2 hours on his amendment as it goes to the substitute. Other than that, I think we are exactly where we were. As far as I am concerned, I think we have done exactly what we intended to do.

Mr. ROBERT C. BYRD. I assume the Senator from South Carolina intends to offer his amendment to the substitute.

Mr. THURMOND. That is correct, Mr. President. I understood the substitute probably would be offered and probably would be adopted, and that I would offer my amendment to the substitute.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by the Senator from South Carolina—which will be offered to the substitute—there be an allocation of 2 hours, as it was previously agreed to when it was anticipated that he would offer his amendment to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, may it be understood that none of the time up until now has been charged against the 6 hours allocated to the bill?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, on behalf of the minority leader, I should like to indicate that half of the time on this side will be allocated to the distinguished ranking member of the Labor and Public Welfare Committee and half to the ranking member of the Finance Committee or his designee.

Mr. JAVITS. I think that is very fair.

Mr. WILLIAMS. Mr. President, today the Senate takes up the consideration of S. 4, the Retirement Income Security for Employees Act.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. WILLIAMS. Mr. President, I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, the time on passage of the bill is under the control of the distinguished majority leader and the distinguished minority leader. Acting on behalf of the majority leader, may I ask the Senator from New Jersey and the Senator from Wisconsin how they would like to have the time allocated. How would the Senators like the 3 hours to be allocated?

Mr. CURTIS. Mr. President, may we be informed what arrangement is being made?

Mr. ROBERT C. BYRD. I had hoped that the Senator heard what I said.

Mr. CURTIS. No; I did not hear it.

Mr. ROBERT C. BYRD. Mr. President, under the agreement, the time on this side for debate on the passage of the bill was to be under the control of the distinguished majority leader. I am asking the distinguished Senator from New Jersey and the distinguished Senator from Wisconsin how they would like to have those 3 hours allocated between them.

Mr. WILLIAMS. Mr. President, I would hope that the Senator from Wisconsin and I could jointly manage the time as the proponents of the bill. Then there will be a substitute offered. I wondered if we could jointly manage the allocation of the time.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield half the time on the bill to the Senator from Wisconsin and half to the Senator from New Jersey.

Mr. NELSON. Mr. President, may I inquire whether it has been agreed that the two major amendments will be offered as original text?

Mr. ROBERT C. BYRD. If they are in the form of a substitute for the bill, they would be considered thusly.

Mr. NELSON. The first one we will offer as original text, and the second as an amendment.

Mr. ROBERT C. BYRD. Mr. President, is the first one to be considered as a complete substitute?

Mr. NELSON. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, then that would automatically qualify as original text.

Mr. NELSON. Mr. President, I will offer the second one as an amendment and ask unanimous consent that it be treated as original text.

Mr. ROBERT C. BYRD. Then that would be a matter for the Senate to decide, as to whether or not it wished to object. Does the Senator wish to make that request at this time or later?

Mr. NELSON. Mr. President, I ask unanimous consent that amendment No. 497, which would be the amendments from the Finance Committee, be treated as original text at the time I offer it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin?

Mr. CURTIS. Mr. President, reserving the right to object, what does that amendment contain?

Mr. NELSON. It contains all of the provisions that the Finance Committee put into the legislation which are not related to subjects in S. 4.

Mr. CURTIS. Are not those provisions in the amendment that I hold in my hand?

Mr. NELSON. No; the provisions in the Labor Committee bill and in the Finance Committee bill which were dealt with by both committees—vesting, funding, fiduciary responsibility, and so forth—have been worked out and are in the amendment that the Senator from Nebraska is holding in his hand.

The other amendment would contain all the provisions that the Finance Committee dealt with and that the Labor Committee did not deal with at all.

Mr. CURTIS. Mr. President, why are they not in this amendment in the nature of a substitute?

Mr. NELSON. The amendment before you is the material agreed to with members of the Labor Committee. The next amendment is exactly as agreed to by the Finance Committee and relates only to tax matters.

On page 3 of the amendment the Senator has in his hand, if the Senator looks at title VII, he will see the provisions included in the second amendment are all from the Finance Committee. None of those provisions was dealt with in the Labor Committee bill.

Mr. THURMOND. And they are not incorporated in this document which I have this morning?

Mr. NELSON. The Senator is correct. They are not. The first amendment which will be offered contains only the items that were dealt with by both the Finance Committee and the Labor Committee as far as vesting and so forth are concerned.

The second amendment contains only the tax provisions that the Finance Committee dealt with alone.

Mr. CURTIS. Those are some of the more important parts of this legislation.

It includes the amendments to the Keogh bill, H.R. 10, which involves the question of limitations that the distinguished Senator from South Carolina wished to discuss.

It will also include a new provision giving to individuals not covered by any plan an opportunity to provide for retirement and tax benefits.

Mr. NELSON. The Senator is correct.

Mr. CURTIS. It also provides for lump sum distributions.

Mr. NELSON. The Senator is correct.

Mr. CURTIS. Now, if that is offered as another bill, I expect that those three things would be subject to an hour's limitation.

Mr. NELSON. The proposal is that half of the time be managed by the Senator from New Jersey, and that time, if it is all used, will be used on Amendment No. 496. The other half of the 6 hours will be used on the second amendment which involved the issues the Senator discussed. And that will have 3 hours.

Mr. CURTIS. Then, does the Senator mean that the minority members of the Committee on Finance will have 45 minutes in which to discuss this matter?

Mr. NELSON. I do not understand. There will be 3 hours.

Mr. CURTIS. That is an hour and a half to the side.

Mr. NELSON. Then there is 1 hour on any amendment that any Senator wishes to offer. As far as to the Finance Committee amendments, I am perfectly willing to give any Senator on the minority side that wants half of it, 1½ hours of the 3 hours. It is perfectly satisfactory.

No one is limited, because all that any Senator has to do is to offer an amendment and have ½ hour on his side of the amendment in any event.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Is the Senator reserving the right to object?

Mr. THURMOND. Mr. President, reserving the right to object, will the Senator yield?

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. Mr. President, is there a unanimous-consent request pending before the Chair?

The PRESIDING OFFICER. There is a unanimous-consent request by the Senator from Wisconsin that amendment No. 497 be considered as original text when offered. And the Senator from South Carolina, as I understand it, has reserved the right to object.

Mr. NELSON. Mr. President, I asked unanimous consent that amendment No. 497 when offered be considered as original text.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Mr. President, as I understood it, the plan was for the Finance Committee amendment, which is S. 1179, which was a compromise amendment, so I was informed, be offered as a substitute for the bill. I understood that everyone had agreed on that more or less. Is that the case or not?

Mr. WILLIAMS. Mr. President, that is close, but not quite correct. The essence of S. 1179, as I understand it, is the bill introduced by the Senator from Texas. That was the bill considered in the Finance Committee.

The substitute is designated as a substitute for S. 4, and that carries the number 496. That is the compromise position that was worked out between and by members of the two committees involved here.

Mr. THURMOND. That is what I understood. In effect, then, S. 1179 would become the basic bill if that amendment is accepted?

Mr. WILLIAMS. The original S. 4 and the original S. 1179 were put together after long, long discussions, and the resulting compromise amendments. That now bears the number 496. It will be offered as a substitute to S. 4.

Mr. THURMOND. Mr. President, Amendment No. 496 will be a compromise bill. It represents the work of the Finance Committee and the Labor Committee. That would be adopted as the basic bill. Is that correct?

Mr. WILLIAMS. Precisely.

Mr. THURMOND. Mr. President, I withdraw my amendment No. 496, with respect to page references and so forth.

Mr. NELSON. Mr. President, the next amendment will be amendment No. 497. The Senator's amendment would be applicable to that one, and the staff will assist in showing the correct line and page numbers.

Mr. THURMOND. Is Amendment No. 497 the result of the Finance Committee bill and the Labor Committee bill? Is that the compromise? I have drawn my amendment to that compromise.

Mr. WILLIAMS. Amendment No. 497 is a Finance Committee product purely. The Labor Committee certainly has no jurisdiction. It has interest, but has no jurisdiction. This is purely the tax aspects as the Senator from Wisconsin described earlier.

Mr. NELSON. Mr. President, that amendment is not here yet. So, if the Senator's staff would check with the Joint Taxation Committee staff, they will see to it that the Senator's amendment will fit in the correct place in that amendment. However, I asked unanimous consent that the amendment that contains the provisions from the Finance Committee bill be offered to this substitute, and when offered, it will be treated as a simple amendment and be treated as original text. If that unanimous-consent agreement is agreed to, the Senator from South Carolina will be offering his amendment to that amendment.

Mr. THURMOND. In other words, as I understand it, the amendment that I intend to offer would be offered to the compromise of the Finance Committee and of the Labor Committee?

Mr. NELSON. Designated amendment No. 497, not 496.

Several Senators addressed the Chair.

### ORDER OF BUSINESS

Mr. WILLIAMS. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I understand that the distinguished Senator from Texas (Mr. TOWER) has some very distinguished guests in the Chamber, and he wishes to present them to the Senate. May we at this time postpone the propounding of the request by the distinguished Senator from Wisconsin by unanimous consent, and meanwhile, permit the distinguished Senator from Rhode Island (Mr. PASTORE) to propose a unanimous-consent request, and then let the Senator from Texas present his guests, recess for 3 minutes to allow Senators to meet the guests personally, and then have a decision on the request of the Senator from Wisconsin?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent that Gerald Stalisis of the Appropriations Committee be allowed the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

### STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1974

Mr. PASTORE. Mr. President, yesterday during the consideration of H.R. 8916, a committee amendment was adopted to change the figure on page 47, line 24, to $40 million for international radio broadcasting, with a unanimous-consent agreement that the bill as amended by the committee amendment would be open to further amendment. The Senator from Minnesota (Mr. HUMPHREY) offered an amendment, which he modified at the request of the Senator from Rhode Island, which would restore the sum passed by the House, namely $45 million, which in effect would eliminate the committee amendment, but the figures at the desk were inadvertently not corrected to accomplish that purpose. I therefore ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of the bill to delete the incorrect figure and restore the sum passed by the House.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

### VISIT TO THE SENATE OF MEMBERS OF PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

Mr. TOWER. Mr. President, we are privileged today to have as distinguished visitors members of the Parliament of the Republic of South Africa, four members from the Government party and two from the Opposition party. I should like to introduce them to the Senate: Mr. P. Z. J. van Vuuren, Dr. J. C. Jurgens, Mr. J. D. du P. Basson, Mr. J. J. Engelbrecht, Mr. G. F. Malan, and Mr. E. G. Malan.

[Applause, Senators rising.]

### RECESS

Mr. TOWER. Mr. President, I move that the Senate stand in recess for 3 minutes so that we may greet our visitors.

The motion was agreed to; and at 10:52 a.m. the Senate took a recess for 3 minutes:

At 10:55 a.m., the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

### RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Wisconsin?

Mr. THURMOND. Mr. President, reserving the right to object, we are conferring now.

Mr. ROBERT C. BYRD. Mr. President, may I reserve the right to object also, while Senators are discussing the matter?

Mr. CURTIS. Mr. President, may I be recognized? I have a suggestion that I think will help solve the problem.

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Nebraska for that purpose?

Mr. WILLIAMS. I yield to the Senator from Nebraska.

Mr. CURTIS. Again, while there is no

neglect on anyone's part, we find ourselves in quite a tangle over this limitation of debate. We could end up with some very important matters here with just a few minutes of debate, and the time on the bill all exhausted.

This matter has taken a decided turn since the unanimous-consent request on time limitation was agreed to. As I stated earlier, when I agreed to the unanimous-consent request. I thought I was talking about legislation coming from the Committee on which I served, the Finance Committee.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is talking?

The PRESIDING OFFICER. The Senator from Nebraska will suspend. The Senate will be in order.

Mr. CURTIS. Now we find a further turn. I thought that the entire work of the Senate Finance Committee would be offered as a substitute, including the compromise language, but that is not going to be true.

I not only did not see this language, I did not know there was a compromise underway. I am the ranking minority member on the Subcommittee on Private Pensions, and I knew of no compromise underway. Now, it is true that those subcommittees held the hearings and the full committee wrote the legislation for the Finance Committee, but at the same time I had no knowledge of it.

I think we will actually save time if the distinguished acting majority leader would ask unanimous consent that the limitation on time previously agreed to be set aside.

Mr. ROBERT C. BYRD. Mr. President, I could not agree to that request. I feel that as we proceed things will work out, as they always do. The Senator has been here longer than I have, and he knows very well that we oftentimes run into these problems that are seemingly impossible of resolution, but they work themselves out. I do not think we will have an insurmountable problem in this instance. We have 6 hours on the bill, 1 hour on any amendment, 2 hours on the amendment by Mr. THURMOND, and one-half hour on any amendment to an amendment. I think if we just get started, it will work out all right, I am confident that it will. I understand the bill's complexity, and I am not on either of the committees which have jurisdiction, but I would hope that the Senator would simply let us proceed. I would want to debunk any suggestion, at the moment, that the unanimous-consent agreement should be vitiated. As we reach the problems, we will find the answers to them, procedurally, may I say.

Mr. CURTIS. I think that we would save time and have a much more orderly procedure if we abandoned the unanimous-consent agreement made under entirely different circumstances.

The PRESIDING OFFICER (Mr. HATHAWAY). Is there objection to the request of the Senator from Wisconsin?

Mr. HARTKE. Mr. President, I ask unanimous consent that a member of my staff, Craig Hudson, may have the privilege of the floor during the considerations of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, reserving the right to object, the Senator from Nebraska (Mr. CURTIS) has put his finger on the problem. I raised this point at the Democratic caucus, that they would not be prepared to proceed on this bill at this time. The bill was not available last night. There is no report of it on the floor, although there were reports on two separate bills, one by the Committee on Labor and Public Welfare, and one by the Finance Committee. We have a summary here on the agreements worked out by the two committees.

The Senator from Nebraska (Mr. CURTIS) has correctly stated the situation, that while this was done last Friday, there is no way for Members of the Senate to understand what is in this very complicated piece of legislation, which I think is as complicated a bill ever to come to this floor in a very long time. It gives promise of performance without much reality. It freezes in the status quo.

I would want to raise this question with the Chair: If there is an amendment presented, is it subject to a point of order immediately before failure to comply with the bill which no one at this moment has even seen?

Mr. ROBERT C. BYRD. Mr. President, may I say in response, while the Parliamentarian is discussing other matters, that any Senator may require that an amendment be in writing——

Mr. HARTKE. I understand that. I have some amendments in writing to the bill to be reported to the floor of the Senate. That bill will now be replaced by one which no one has yet seen. No Member of the Senate has had the opportunity to read it except a few choice people selected without any statements to the committee.

The Senator from Nebraska (Mr. CURTIS) would agree with that. What was worked out by one part of the committee, and I got this from the press release—this is probably, in my opinion, the sloppiest piece of legislation ever presented to the floor of the Senate. It is a bad way to do business. We are dealing with the futures of 30 million Americans here. I say to you, Mr. President, that to do this in this fashion without having a chance to understand what is in the bill—the original legislation was bad enough—I do not know what this does—I tried until 6 o'clock last night to get a copy of the bill. It was not drafted. There is no report. There is nothing on which we can proceed now. What is being attempted by the Senator from Wisconsin is to substitute one bill for two other bills. In other words, what is being attempted at the present time is to legislate on a piece of legislation, and what they are trying to do is to divide the authority of the committee. There is no one piece of legislation which is being presented to the floor of the Senate. I seriously doubt whether this conforms to any Senate rules, unless we want to do it by unanimous consent. So, to me, to all intents and purposes, we have abrogated the committee system.

Mr. ROBERT C. BYRD. Will the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield.

Mr. ROBERT C. BYRD. May I say that I see nothing untoward, procedurally, in the situation here. We are often confronted with complex measures on the floor of the Senate, to which any Senator may offer a substitute. This does not rule out of order any amendments to the substitute, really, on that basis alone.

Mr. HARTKE. I quite understand what the Senator is saying. We can do anything by unanimous consent, except abolish the Senate on the floor of the Senate, possibly. But this has absolutely eroded the committee structure system. There has not been an effort made here to deal with this legislation in terms of the committee system of the Senate. The Senator from West Virginia (Mr. ROBERT C. BYRD) is correct, we can substitute a whole new bill in writing on the floor of the Senate. That is not what is being attempted to be done here. A small group of people have gotten together and presented, on the day of debate, a compromise measure, agreed to by a few of them. That is what it is. That is perfectly legitimate. It is perfectly legal. There is no question about it. But, it is not good legislative practice. That is how we get bad bills.

Mr. ROBERT C. BYRD. I would agree with the Senator from Indiana, to that extent, it is often done—often done——

Mr. HARTKE. It is not done in this fashion. What we have here are two bills from the two committees which have been reported and we take them in tandem and put one on top of it to handle—well, what we have are three bills. The Senator from New Jersey will agree with that, that we are trying to divide the time up in accordance with three bills, one from the Committee on Labor and Public Welfare, one from the Finance Committee, and one from the Senator from Wisconsin (Mr. NELSON). Is that not true?

Mr. WILLIAMS. Yes. And we all know that for a long time we have had joint jurisdiction of the broad subject matter of pension legislation. The Committee on Labor and Public Welfare has been working on this pension legislation for 3 years, very intensely. The Finance Committee historically has had, of course, a tax interest in pension legislation. When the Labor and Public Welfare Committee reported the bill, and it came to the calendar, it was held for a while—so that the Finance Committee—could consider pension legislation as it had every legislative jurisdictional right to do.

It was discovered in the Finance Committee, of which the distinguished Senator from Indiana (Mr. HARTKE) is a member, that there was much in the Labor and Public Welfare Committee bill that members of the Finance Committee felt had a great deal of merit in terms of substance. Then the question came on how to report the bill from the Finance Committee that incorporated the substantive ideas that both committees had agreed on, together with the weaving in of tax enforcement.

I thought that we have brought forth a legislative product that is a model of adjustment of committee jurisdictions.

Rather than finding it the sloppiest way to do business, in my judgment, I believe it is one of the most civilized and promising developments in the Senate where two committees do not get at loggerheads and fight each other over jurisdiction of legislation but come together on substance and agreement.

Mr. BENTSEN. Mr. President, will the Senator from New Jersey yield to me?

Mr. HARTKE. Mr. President—Mr. President—I have the floor—Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. ALLEN). The Senator from New Jersey has the floor.

Mr. HARTKE. Mr. President——

Mr. WILLIAMS. Mr. President, at this point, I yield to the Senator from Texas——

Mr. HARTKE. Mr. President, the Senator from New Jersey cannot yield on my time——

The PRESIDING OFFICER. The Senator from New Jersey has control of the time and he is yielding to the Senator from Texas.

Mr. HARTKE. All right.

The PRESIDING OFFICER. The Senator from Indiana reserved the right to interpose an interjection. This unanimous-consent request is not debatable. At a very early moment, the Chair will cut off this discussion and ask if there is objection to the unanimous-consent request.

Mr. WILLIAMS. Mr. President, I yield to the Senator from Texas (Mr. BENTSEN) who, I am sure, can clarify and tell the Senator from Indiana where we stand.

The PRESIDING OFFICER (Mr. ALLEN). Is there objection to the request——

Mr. HARTKE. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, what request are we talking about?

The PRESIDING OFFICER. The request of the Senator from Wisconsin (Mr. NELSON) that when amendment No. 497 is offered, it will be considered original text.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and if the Senator from New Jersey will yield to me——

Mr. WILLIAMS. I do.

Mr. ROBERT C. BYRD. May I say that the distinguished majority leader, prior to the August recess, requested and secured unanimous consent to lay down S. 4 for consideration by the Senate as of September 11, 1973, which was last Tuesday. Various members of the Finance Committee, including the distinguished Senator from Texas (Mr. BENTSEN) and members of the Committee on Labor and Public Welfare, including the distinguished chairman thereof, Mr. WILLIAMS, approached the leadership urging that there be a week's delay in consideration of the bill so as to accommodate the resolution of the various differences between the two committees, both of which have jurisdiction over this matter. The leadership, reluctantly, but I think wisely, agreed to a delay of 1 week to allow those two committees to attempt to work out the differences between them. As I understand it, a goodly number of those differences have now been resolved by virtue of that week's delay.

Mr. President, now, getting to the request of the Senator from Wisconsin, may I have a restatement of his request?

Mr. NELSON. I asked unanimous consent that at the time amendment No. 497 is offered to amendment No. 496, that amendment be treated as original text.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, may I have an understanding of just what the request involves? As I understand the request, it would merely mean that the amendment so numbered would be open to amendment in two degrees.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. It would also mean that an amendment offered to the amendment would have 1 hour allotted to it, rather than 30 minutes.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Except that my amendment would have 2 hours.

Mr. ROBERT C. BYRD. The Senator has 2 hours on his amendment.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HARTKE. Mr. President, reserving the right to object, I should like to ask this question: What happens to the original S. 4?

The PRESIDING OFFICER. S. 4 remains pending until some action is taken. It will be up to the Senate as to whether amendment No. 496 is adopted and whether amendment No. 497 is adopted as amendments to S. 4.

Mr. HARTKE. Reserving the right to object, does the Senator from New Jersey agree with the Chair that the amendment of the Senator from Wisconsin will then be a substitute for S. 4 and for S. 1179?

Mr. WILLIAMS. The amendment to be offered by the Senator from Wisconsin, No. 496, procedurally will be offered as a substitute. This is the compromise labor-finance amendment. It will then be original text.

Mr. HARTKE. Then, S. 4 and S. 1179 no longer will be considered on the floor. Is that correct? I am not talking about the language.

Mr. WILLIAMS. The substance of each is contained in amendment No. 496, the amendment to be offered by the Senator from Wisconsin.

Mr. HARTKE. Let me ask this of the Chair: Then, are not amendments which are drawn at the present time as amendments to S. 4 or S. 1179 subject to a point of order because they will not be addressed to the substitute amendment?

The PRESIDING OFFICER. They can be made to conform.

Mr. HARTKE. Can we have in the unanimous-consent agreement the provision that no objection will be raised on the ground of a point of order, which was done on a previous measure on the floor of the Senate, when the Senator from Indiana was raising a question, for the very same reason?

Mr. ROBERT C. BYRD. I do not think the Senator has any need for concern. Any Senator is allowed, under the unanimous-consent request, to offer an amendment. The Senator can offer an amendment which does conform with the text.

The PRESIDING OFFICER. The Chair states to the Senator from Indiana that there will be no problem with respect to that. It will just be a question of changing the section.

Mr. HARTKE. I want to tie that down. In the Cambodia resolution, that is exactly what was done to the Senator from Indiana. A point of order was raised on that technicality, and the Chair sustained the objection. Once having been bitten by the cobra and saved my life, I do not want to go back into that pen again.

Mr. ROBERT C. BYRD. In that instance, there might have been some question of germaneness. As I understand the amendments which the Senator is going to offer to the substitute, there would be no question of germaneness.

Mr. HARTKE. If that is true, why can we not have a ruling from the Chair that no point of order will be raised to these amendments? The amendments I have relate to pension reform. I believe I have been involved in pension reform longer than any Member involved in the compromise. My proposal predates anything in the Committee on Labor and Public Welfare or the Committee on Finance. As the Finance Committee members know, I did participate fully in the modification of the original bill.

The PRESIDING OFFICER. The Chair states that if the amendment would be germane to S. 4, it also would be germane to amendment No. 496 or amendment No. 497.

Mr. BENTSEN. Mr. President, reserving the right to object, I suppose that if anyone has the right to object, it ought to be me because I am the original sponsor of S. 1179. If I thought for a moment that we were considering irresponsible legislation or legislation that had been hastily thought through, I would be objecting at this time. But I have seen that we have been able to profit from the work of the Labor Committee, which has had long and extensive experience in handling such legislation. In my opinion, we have benefited from the experience of the Finance Committee. The way these two committees have cooperated is something which is a highlight in the Senate.

What I am interested in seeing is an effective piece of reform legislation passed. I think that is what we are proposing to the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin?

Mr. ROBERT C. BYRD. Mr. President, I want to make certain that I understand what the request involves. It would merely mean that the amendment by the Senator from Wisconsin (Mr. NELSON) would be open to amendment in two degrees; and that an amendment to an amendment which, under the unanimous-consent agreement, would be allowed only 30 minutes, would in this case, be allocated 1 hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Is it further understood that time on the amendment by the Senator from Wisconsin (Mr. NELSON) would be only 1 hour?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Perhaps we are laboring under a misunderstanding. This is something that ought to be clarified now. I thought the distinguished Senator from Wisconsin—and perhaps because of some failure on my part to speak clearly—I thought the Senator was under the impression that once his amendment was called up, there would be 6 hours on the amendment. I think the only measure on which there is 6 hours, under the agreement, is S. 4; and when the Senator from Wisconsin offers his amendment, it will come under the unanimous consent agreement allowing 1 hour on any amendment. By virtue of his request, which is pending, there will be no change in the time on his amendment. The amendment would merely be opened up in two degrees and would allow the offerer of the amendment in the first degree 1 hour.

Mr. CURTIS. The Senator's statement is incomplete.

Mr. ROBERT C. BYRD. Let me see if my understanding is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. CURTIS. Is it not true that if it is original text, it can be amended after it has been adopted?

Mr. ROBERT C. BYRD. Yes.

Mr. BENTSEN. Is it not also true that the distinguished Senator from Wisconsin would have an hour?

Mr. ROBERT C. BYRD. No; it could not be amended after it had been adopted, except by unanimous consent. Am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. Is it not also true that the distinguished Senator from Wisconsin will also have 1 hour and a half on the bill itself?

Mr. ROBERT C. BYRD. I think that is where the confusion has arisen. The Senator from Texas is correct. A little earlier, I asked that the majority leader's time on the bill be allocated to the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Wisconsin (Mr. NELSON), but that is on S. 4. The two Senators are in control of time on the bill and may yield therefrom. Mr. NELSON would control 1 hour and a half on the bill, and he would control 30 minutes of the hour allotted to his amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. We have been talking about procedure all this time. I ask unanimous consent that none of the time consumed thus far be charged to any Senator in charge of time on the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Now is there objection to the request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

Mr. WILLIAMS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 10 minutes.

Mr. WILLIAMS. Mr. President, today the Senate begins consideration of S. 4, the Retirement Income Security for Employees Act of 1973, a bill designed to protect the private pensions of American working men and women.

I think its position on the calendar makes it the longest standing piece of legislation on the calendar, second only to legislation from the Committee on Agriculture. It is a subject that has been before the Senate for study for a long, long time.

It is my fervent hope that such long overdue and vital legislation will be passed, and soon take its place among other historic labor protections enacted by the Congress.

If we are to insure that retirement benefits earned by and promised to our workers will really be given to them, then passage of such a measure is essential.

This legislation, cosponsored by 53 Members of the Senate is the product of the most comprehensive study of the private pension system ever undertaken by the Congress.

This 3-year study was conducted by the Subcommittee on Labor pursuant to three successive resolutions of the Senate, and was undertaken to ascertain the need for statutory protections for workers' pension programs and to formulate appropriate corrective legislation.

The provisions of S. 4 are designed to eliminate the deficiencies which our study identified in the existing private pension system.

Its basic goal is to assure workers that they will receive the promised pension benefits earned for their retirement during their working lives.

This bill responds to the proven need for a comprehensive and meaningful reform of our private pension system.

It proposes fair, feasible, and effective regulatory measures which will fulfill the fundamental purpose of a pension.

For too long and for too many workers, the promise of pension benefits upon retirement has been an illusion and indeed, a hoax.

While there can be no doubt that our private pension system has well served the needs of many workers, our study found that for countless others, the expectation of retirement benefits has proven to be built on sand.

This was the experience, for example, of Stephen Duane, who worked for 32 years at an A. & P. warehouse in Jersey City.

Because his warehouse was shut down when Mr. Duane was 4 years short of the company's minimum pension age, he received no retirement benefits whatever, despite his long years of service.

A similar experience was recounted by Murray Finkelstein, a New York shoe salesman.

After 20 years in his retirement plan, he lost all his pension rights at age 60 when the Andrew Geller shoe store, at which he worked, went out of business.

The system also failed for Iris Kweck whose employment by Anaconda was terminated after 30 years of service because of a shutdown of its Detroit billing office.

At age 48, she lost all future pension rights.

These are but a few of the numerous examples brought to the attention of our committee.

They are in no sense isolated instances, but indeed are all too typical.

They reflect the fact that 23 percent of all workers covered by private pension plans receive no rights whatever until the day they are eligible to retire, and many others must work 16 years or more for the same employer before earning any vested rights.

Indeed, two-thirds of all pension plan participants at this moment have no vested right in their plan.

As a result, losses of pension expectations can befall employees in wholesale fashion.

Last year, for example, when a Raybestos Corp. plant in New Jersey closed, up to 900 employees lost not only their jobs but were foreclosed from any future pension benefits, since their plan afforded no vested rights until retirement.

Another reason why so many employees have found their pension expectations to be illusory is that the employer may shut down, and if there are insufficient funds to meet the vested claims of the participants, they have no recourse.

A classic case, of course, is the shutdown of Studebaker operations in South Bend, Ind., in 1963, with the result that 4,500 workers lost 85 percent of their vested benefits because the plan had insufficient assets to pay its liabilities.

While this was a spectacularly tragic instance, it was by no means unique. Last year, for example, Ballantine Brewery Co., a substantial contributor to a multiemployer plan, sold its operations and withdrew from the plan.

Because the plan did not have sufficient assets to cover vested liabilities, several hundred employees, with as many as 30 years service, will lose a substantial portion of their vested benefits.

These, of course, are by no means isolated cases. According to a recently-issued study by the Department of Labor and Treasury, over 19,000 workers lost vested benefits last year because of the termination of insufficiently funded plans.

Our private pension system is a potent force intrinsically woven into our national economic and social structure.

Having existed in our society for nearly 100 years, pensions have now become a symbol of old-age security for nearly 36 million workers—and their dependent families.

The combined resources of existing pension programs are in excess of $150 billion and are increasing at a rate well over $10 billion annually.

These assets are the largest single source of virtually unregulated capital in our country.

This reservoir of such a staggering sum contains the hopes and dreams of retirement security for the participants who have worked for and are covered by such plans.

S. 4 not only recognizes this, but acknowledges the need for some regulation of these resources.

The simple fact is that at the present time, there is no law which guarantees that the pension promised in past years, for which a worker has devoted a lifetime of loyal service, will be paid.

It is true that in 1959, following congressional inquiry into mismanagement of funds, the Welfare and Pension Plans Disclosure Act was enacted.

This legislation was intended to assure the honest and reasonable administration of private employee benefits in the pension system by requiring plans to file annual reports of their administration, operations, and financial activities.

Regrettably, however, despite the filing of such reports, the legislation proved largely ineffective even in its limited objectives, because of the absence of enforcement authority.

While reporting requirements did aid the Government in assessing the scope of pension plans, they clearly did not assure workers that their benefits would be protected and provided.

Subsequent amendments to the act, in 1962, which provided penalties for crimes such as embezzlement and bribery involving pension funds, also fell far short of protecting workers in their pension expectations.

S. 4 embodies solutions to the problems documented by the Senate Labor Subcommittee during its study.

The methods utilized by the subcommittee in its study and findings are all matters of public record.

They have been published in reports and disclosed in public hearings conducted here in Washington, and in a number of cities across the country.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. WILLIAMS. I yield myself 10 additional minutes.

Mr. President, the documented evidence produced by the subcommittee served to highlight the inequities and deficiencies existing in the system which individually or collectively contribute to the denial of workers' pensions.

Our bill was structured to deal with those deficiencies and to safeguard and guarantee the fulfillment of pension promises.

This comprehensive legislation achieves an appropriate balance between two competing schools of thought which emerged during our study.

One advocated stringent Government controls which would substantially divest the private sector of discretion in design and development of pension programs.

The other strongly resisted legislative attempts to impose even minimum measures, claiming these would destroy flexibility and initiative in the formulation of pension plans and deter their development.

This bill secures a promise of retirement security, and yet creates no impediments to the continued growth and expansion of private pensions.

Its objectives and minimum standards are all compatible with flexibility in development.

Its provisions are only minimum standards, and no employer is impeded from building upon or improving these minimum requirements.

Improvement upon the design, coverage, and benefits is a matter of free choice by employers.

During its study, the Senate Labor Subcommittee identified specific areas of private pensions which warrant legislative attention.

These relate to the issues of vesting, funding portability, insurance, fiduciary standards, reporting, and disclosure—issues which cover the entire spectrum of the pension system.

Strengthened by an abundance of evidence and documentation, the Senate study established that essential pension reform can be achieved by:

First. A Federal law establishing minimum standards of vesting to assure that workers receive guaranteed vested benefits after a specified period of work.

Second. A Federal law establishing funding requirements, accompanied by a program of plan termination insurance, to assure that funds are available to pay the vested benefits earned and due to workers.

Third. A program to develop a system of portability and reciprocity among private pension plans permitting the transfer of earned credits from one plan to another.

Fourth. Improved requirements for disclosure of data reflecting administration and operation of pension funds, and comprehensible communication of plan provisions, rights, and obligations to participants.

Fifth. Uniform Federal standards of fiduciary responsibility, providing a more stringent code of conduct for trustees and administrators.

Sixth. Appropriate Federal administrative and enforcement authority to assure implementation and observance of the protective requirements.

The first area I cited is that of vesting of benefits. The need for remedial legislation in this area can no longer be a matter of dispute.

Vesting is the right of a plan participant to receive benefits which have been earned by and have accrued to him, even though his employment is terminated before he is eligible to retire.

These vested benefit credits will usually accrue to an employee after he has reached a stipulated age or completed a period of service or a combination of both.

When a worker has vested benefits, even if employment terminates before he is eligible for retirement, the employee will still be entitled to receive those earned benefits upon reaching the normal retirement age.

Without vested rights, should employment terminate prior to the time when he is eligible for retirement, a worker would be entitled to no benefits whatsoever despite many long and loyal years of service.

Notwithstanding claims by opponents that the current trend in pension plans indicate improved and increased vesting provisions, plans with inadequate or nonexistent vesting provisions are not uncommon.

In one phase of the Senate Labor Subcommittee study, examination of 1,493 pension plans demonstrated that approximately 23 percent failed to contain any vesting provisions and, as I have previously pointed out, two-thirds of all plan participants now have no vested benefits.

When faced with these findings, I believe that even the most ardent opponents to pension reform must concede that mandatory vesting in pension plans is essential. The files of the Senate Subcommittee on Labor overflow with examples of men and women who, after devoting a lifetime of work in anticipation of a pension, learned only too late that they would receive nothing because they lacked vested rights to any benefits.

S. 4 provides that pension plans must contain a deferred graded vesting schedule for minimum benefits.

It would require that after 8 years of service a worker will be entitled to vested rights equal to 30 percent of accrued pension benefits, and thereafter an additional 10 percent annually, so that after 15 years of service, a worker would have a vested right to 100 percent of his accrued benefits.

Most significantly, such vesting requirements would be retrospective in application.

The additional cost from this retrospective vesting is greatly outweighed and minimal when one considers the invaluable assurances which it will provide to our older generation of workers.

While minimum vesting standards represent a promise to pay earned benefits, such promises, of course, are meaningless and empty unless the pension plan has sufficient assets necessary to pay the committed benefits.

Accordingly, our bill would establish a general requirement that all unfunded pension liabilities will be completed over a period of 30 years.

However, the Secretary of Labor is authorized to permit variances from the statutory funding schedule when it can be satisfactorily established that such is necessary to prevent substantial economic injury to the employer.

A necessary adjunct to funding requirements is a program of insurance.

Until a plan has become fully funded, the danger is ever present that should the plan terminate, plan assets may not be sufficient to meet the benefits owed to the workers.

S. 4, therefore, provides for a mandatory Federal insurance program.

Insurance premiums would be paid by the employer according to the amount of unfunded, vested liabilities.

And the fund formed by these premiums would protect workers against termination of a plan with insufficient assets.

Mr. President, the concept of this type of insurance is not new.

It has long been established and proved effective by such programs as Federal Deposit Insurance Corporation, which protects bank savings.

And just a few years ago, Congress

enacted the Security Investor Protection Corporation, which is a Government-chartered entity to guarantee investors in the stock market against losses experienced by brokerage houses.

These Government insurance programs have been successful and, contrary to predictions by their opponents, have stimulated and contributed to the growth of the institutions they protect.

I might add that at the present time, no private insurance company offers protection against the risk of pension plan termination, and our bill, therefore, provides for a governmental insurance program.

However, it is entirely possible that at some future time, a role could be found for private insurance in this area.

Another aspect of the Senate study demonstrated that when workers transferred from one job to another, in most instances, the earned pension credits are not transferred from one employment to another.

Outside of multiemployer plans, there is no mechanism today for transferring earned vested pension credits from one job to the next.

A centralized control or clearinghouse system which can provide for transfer of these credits would clearly serve a most desirable function.

S. 4 provides for the establishment of such a program by the Secretary of Labor.

It would be a voluntary system, with administrative advantages which should appeal to employees and employers alike and offer sufficient inducement to encourage participation by both.

New reporting and disclosures of pertinent data of the administration and operations of pension plans are also provided by S. 4.

Even more important are provisions prescribing the degree of conduct and responsibility which should be required of a fiduciary who exercises a measure of control over plan assets.

These new requirements are accomplished by amendment to the Welfare and Pension Plans Disclosure Act.

The Senate study concluded there is a need for more detailed knowledge of the sizes of plans, their assets, and transactions and their internal administration and operations.

Increased regulatory control over plans to ascertain such data is certain to serve the best interests of the parties affected.

Financial reports of plans are to include opinions by independent accountants of the plans' financial condition which must be based upon annual audit.

Plans must include in their reports detailed financial information, relating to business transactions and the funding and financial standing of the plan.

Administrators are required to furnish to employees or make available to them reports of the plans' details in a manner calculated to be easily understood.

Employers would also be required to inform workers of their rights and obligations under the pension plan which covers them.

As to fiduciaries, the degree of accountability will be increased to that required of a prudent man acting in like circumstances and fiduciaries are specifically prohibited from engaging in various types of transactions which present conflict of interest situations.

One of the first situations we saw in our studies was the United Mine Workers pension plan. The funds were deposited in the union-owned bank and gathered no interest at all. This was the first grievous abuse that the committee discovered.

As a deterrent to mismanagement or irresponsible acts or judgments affecting pension assets, a fiduciary breaching such trust would become personally liable for losses sustained.

S. 4 would empower the Secretary of Labor to seek redress in the Federal courts to compel compliance with the provisions of the act.

For the first time, plan participants would also be given the right to seek appropriate relief in both Federal and State courts against fiduciaries for violations committeed by them with respect to a pension plan.

Opponents to pension reform have argued and will continue to argue that enactment of such legislation will permit excessive governmental interference with the private pension system.

This is just plain not so.

Upon close analysis, as shown in detail by the Senate study, many plans have already extended their benefits and provisions beyond those prescribed by S. 4.

The provisions I have described would achieve an equitable balance between the interest of employers and the need to protect employees covered by pension plans.

Before closing, I should point out that, as is quite well known, there has been a substantial controversy over the most appropriate approach to the administration of pension reform legislation and, consequently, over which committees of Congress should have jurisdiction respecting the formulation of such legislation.

Many of us have believed that since the whole point of this legislation is to protect the deferred compensation rights earned by workers, the program should be administered by the Department of Labor and that the Labor committees of Congress should have jurisdiction over the legislation.

Others have felt since what little law presently exists concerning vesting and funding is found in the Internal Revenue Code, the tax writing committees should have jurisdiction over further legislation, and that the Internal Revenue Service would be the appropriate administering agency.

It is clear that opponents of reform legislation have hoped, and its supporters have feared, that this jurisdictional controversy would result in an impasse which would prevent any legislation from being passed.

I am happy to report that this has not happened.

Shortly after S. 4 was reported to the Senate, the Finance Committee undertook to fashion reform legislation of its own, and its measure, S. 1179, was reported to the Senate last month.

The bill reported by the Finance Committee, which reflects all of the basic principles embodied in S. 4, is a most worthy measure and contains some features which I am pleased to recognize as improvements over our own.

This deliberative time certainly gave us an opportunity to see improvements in the bill as originally reported.

I believe the fullest recognition for this excellent effort should be given to Senator LONG, the chairman of the committee, and Senator BENNETT, its ranking minority member, as well as Senator NELSON, the chairman of the subcommittee, which conducted the Finance Committee's hearings on this subject, and Senator BENTSEN, who introduced and helped shape the bill, the Finance Committee has reported.

Since S. 1179 was reported, our two committees have made extensive efforts to resolve and accommodate those differences of concern and approach which are reflected in the two bills.

This undertaking has been successful, and in the process I believe we have managed to build upon the strengths of each bill and incorporate the best of both.

The resulting product will be offered as a substitute amendment to S. 4, and I shall join in urging its adoption by the Senate.

In closing, I would stress that pensions are not gratuities, like a gold watch bestowed as a gift by the employer on retirement.

They represent savings which the worker has earned in the form of deferred payment for his labors.

Passage of this legislation will demonstrate that Congress is determined to protect these earnings, and restore credibility to the private pension system.

The pension hopes of over 35 million of our workers depend upon this legislation; they are looking to us to restore their faith, trust, and belief in their pension system.

They are entitled to help from Congress, and we can no longer deny, doubt, or delay the need for this reform.

Our studies have brought to light a sorrowful segment of our working population whose expectations of pension benefits have been proven illusory.

The span of a working life does not provide them with a second time around; nor should we in Congress condemn others to a similar fate by failure to act favorably on this legislation its first time around.

Mr. President, the distinguished Senator from New York (Mr. JAVITS), the ranking minority member of the Labor and Public Welfare Committee, and I have been concerned about this matter and have been working at it over the last several years. Our studies have brought out some of the gaps in the present pension plans.

The bill is a product of an effort that I think most workers of this country will consider to be historic.

Certainly, my colleague, the Senator from New York, has been a tower of strength and his understanding of the problems of working people and their pension plans has been so significant in the development of this legislation.

Mr. President, I am happy to yield the floor or yield to the Senator from New York as much time as he requires within the time available.

Mr. JAVITS. Mr. President, having been granted time by the minority side, I yield myself 15 minutes.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Who is in charge of the time on the bill on the minority side?

The PRESIDING OFFICER. The Senator from Nebraska and the Senator from New York jointly.

Mr. JAVITS. Mr. President, the minority whip (Mr. GRIFFIN), as I understood, yielded an hour and a half to me and an hour and a half to the Senator from Nebraska.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Mr. President, this is a most auspicious day for the working people of our country. At a minimum, there are some 30 million workers affected by private pension plans, and in my judgment that number will be expanded by the provisions of this bill to at least 10 to 20 million more, which would represent a very large majority of the work force of the United States.

It has taken many years to bring this bill to fruition, but it was worth waiting for, for it will, as its title says, at long last give assurance of retirement income security for the workers of America.

Also, Mr. President, like my colleague from New Jersey, I wish to signal the fact that this bill is of critical importance to employers and to the health of our country in dealing with a problem which has been so basic to America: the erosion of morale in the American worker, because we think, he has not felt an adequate interest in a system which symbolizes the well-being that typifies our country as far as workers are concerned.

This bill will go far. We do not claim for a minute that it does everything, but it will go far toward rectifying serious deficiencies in terms of the retirement income which we have made available to our workers.

That said, Mr. President, I join the Senator from New Jersey in a tribute to the Finance Committee, its chairman (Mr. LONG), its ranking Republican member (Mr. BENNETT), the chairman of the subcommittee who held the hearings (Mr. NELSON), and the author of the Senate Finance Committee bill, the Senator from Texas (Mr. BENTSEN). I have never seen in all my time here—almost 18 years—a more effective effort to coordinate probably as complex a piece of legislation as we have had to consider in years.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. A singular dedication to the public weal was manifested, of a most extraordinary kind. As everyone knows, we do not do these things ourselves; it is our staffs who are the heroes in the case. I wish to pay especial tribute to Mike Gordon, who is sitting beside me and is the minority counsel of the Committee on Labor and Public Welfare in respect to pension and welfare matters; to Larry Woodworth, from the Joint Committee on Taxation, as well as the staff of that committee and the Finance Committee; and to Mario Noto, special counsel to the Labor Committee, who for a very long time, until his health prevented him from active participation, was most active. His replacement, Bob Nagle, general counsel to the Labor Committee has provided great service as well. These, I think, were the major hands who did the job and put this together, and I think the American workers will be eternally grateful to them for such selfless and self-effacing work.

As to the collaboration of Senator WILLIAMS and myself, it goes beyond just being colleagues. It represented a deep commitment of friendship and understanding of the sort which makes being here and working so hard one of the most exciting experiences in my life, and I believe in the life of every Senator.

In addition, I would like to express my appreciation to each and every member of the Committee on Labor and Public Welfare. They all have participated constructively and vigorously in the bipartisan formulation of a comprehensive legislative approach to the deficiencies in private welfare and pension plans. The American people owe these Senators a great debt of national gratitude for their contributions in bringing this historic bill to the floor. I would like to take this opportunity to identify the members of the Committee on Labor and Public Welfare—all of whom have assisted in this pension reform effort. The other members of the Committee of Labor and Publif Welfare are: JENNINGS RANDOLPH of West Virginia, CLAIBORNE PELL of Rhode Island, EDWARD M. KENNEDY of Massachusetts, GAYLORD NELSON of Wisconsin, WALTER F. MONDALE of Minnesota, THOMAS F. EAGLETON of Missouri, ALAN CRANSTON of California, HAROLD E. HUGHES of Iowa, WILLIAM D. HATHAWAY of Maine, PETER DOMINICK of Colorado RICHARD S. SCHWEIKER of Pennsylvania, ROBERT TAFT, JR. of Ohio, J. GLENN BEALL, JR. of Maryland, and ROBERT T. STAFFORD of Vermont.

So, Mr. President, this bill, whatever may be its state in the amendment stage or passage stage, is really a triumph of the legislative art, to say nothing of its being a measure of epochal significance to the American working people and I think to the American system.

Also, Mr. President, let me say that we are dealing here with the beginning, I think, of a true understanding of what is meant by the people's capitalism. The fact is that all of us—worker, employer, investor, and citizen—participate in this economy in such a way as to give us the deepest possible investment in a system which makes all this possible and we make it possible with "freedom," using that word with full understanding of all the problems which we have, and yet with pride that this is by all odds still, to this moment, the greatest nation of full individual rights and opportunity mankind has ever seen on Earth in all of its history.

One last word about the Finance Committee's role as it broadened this bill: Perhaps I should not say that, for fear of incurring many more amendments, but it is true that it has broadened this bill in a way in which we on the Labor Committee could not—because it has broadened the opportunities for workers who are not under pension plans to establish their own plans, and it has also broadened the opportunity of the self-employed and those who are high up in the corporate hierarchy to improve their condition. And, though it is very well known that I have strong views, generally described as liberal, respecting the rights of workers and their recompense, I will yield to no one with respect to my understanding of the problems of management, Mr. President, and the necessity of getting top-flight corporate managers.

Their benefits and perquisites are greater than that of the rank and file, and if I know the people of my country, they want it that way. They want to reward skill, intelligence, and ability, and do not begrudge it at all. That may not be true everywhere in the world, but it is certainly true in the United States of America.

So when we come to those parts of the Finance Committee bill, we will also have to exercise statesmanship and not discriminate against people of skill and talent, who are also entitled to retirement security on the standard of living which they are entitled to, because of their merit, hard work, and ability—all to the benefit of our country.

Mr. President, in "the end is my beginning," 6 years ago—when I introduced the original bill (S. 1103, 90th Congress) on this subject—I stated that:

> . . . all of these problems are so interrelated that they cannot be solved without a comprehensive legislative program dealing not only with malfeasance of administrators, and not only with the consequences of plant shutdowns and plan terminations, but also with the broad spectrum of questions such as adequacy of funding, reasonable minimum standards of vesting, transferability of credits under some circumstances, and, in short, the establishment of certain general minimum standards to which all private pension plans must conform.

That was 6 years ago. I still believe it to be true and I believe the Members of this body believe it to be true. And now we have the opportunity to act on that belief and American working people have the opportunity to witness that action.

I would like Senators to recall, Mr. President, that I am by no means to be considered the originator or the inventor of this idea. The Senator from Indiana (Mr. HARTKE), who is in the Chamber, some years ago and I remember it very distinctly, sought to extend the principle of termination insurance to pension plans. I took a hand in saying it was premature because we did not know what we were insuring. He was sympathetic although he felt deeply about what he was doing. I am gratified that now he, too, is like the rest of us, and he should take great pride and credit from this joint product of our two committees.

The dreams that he had in mind, and his very well-intentioned desire to give minimum protection to workers in a very bad situation were instrumental in bringing us today to our appointment with pension reform legislation.

So, Mr. President, I emphasize that, because many people have worked very hard to try to bring us to the happy circumstances we face today—where the fundamental premises of this measure—vesting, funding, insurance, portability, fiduciary and disclosure standards, and adequate remedies, are no longer challenged. We may differ on details but we differ no more on the approach to solving these problems.

Mr. President, I close as follows:

The fact of the matter is that the private pension plan is a means for transferring earnings during the working years into income for a decent living in the older years. The worker "works" for that pension the same way he "works" for his wages or salary and when he does not get it or some reasonable portion of it, he is angry, frustrated, and ultimately convinced that he has been robbed of a material recognition that was due him.

For over the last half-century, public policy has been concerned with relieving oppressive work conditions and enhancing work opportunities. It is but a natural extension of that policy to obtain protection for workers against deprivations of their private pensions. Moreover, the connection between erosion of the work ethic and inequity in private pension plans is quite real and is shown by the overwhelming weight of the testimony to be direct and material. As long as workers remain convinced that the private pension promise is too often unreliable, and that the plans themselves are often arbitrary in their design, they will suspect the employer's sincerity as to their recompense or welfare, and this not only undermines the employer's purpose for maintaining a pension program based on duration of employment but also affects the worker's attitude toward his job.

Private pension and welfare reform legislation is not a panacea for dealing with the more subtle undercurrents of worker unrest; but the enactment of such legislation—if sufficiently broad to encompass the problems which have resulted in undue private pension losses—will clearly establish a more positive climate of respect for, and affirmation of, the worker's contribution to our economic progress.

The establishment of this kind of climate is essential if we are going to go forward to solve the tremendous problems we have had and maintain during the remainder of the 20th century, our economic growth and build basic confidence in our Nation's ability to compete successfully in the area of international economic rivalry which looms ahead.

Mr. President, it has been a long and difficult struggle, but at hand is the opportunity to humanize the private pension welfare system and to expand its scope. With the attainment of that objective, everything we have done will be worthwhile.

I hope that every Member of the Senate when, tomorrow night, we come to vote on what I hope will be essentially this bill, will feel great gratification that by this legislation we will have accomplished a tremendous step forward, a tremendous benefit for millions and millions of hard-working Americans, and for their generations to come.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the distinguished Senator from Alabama (Mr. Allen) may be included as a cosponsor of S. 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, the time for meaningful pension reform is long overdue. The bill now before the Senate is a critical first step toward assuring millions of Americans of adequate retirement security.

The private pension industry is one of the fastest growing enterprises in America. It has grown from assets of $2.4 billion and coverage of 4 million employees to assets of over $130 billion and coverage of 40 million workers in 1970. Today there are some 34,000 private pension plans in existence.

What, then, is the problem if the pension industry is growing in assets and more people are covered every year?

The problem is that in too many cases for too many people the promise of an adequate retirement pension is illusory.

A 3-year study of the functioning of private pension plans conducted by the Senate Subcommittee on Labor disclosed these shortcomings:

Too many workers with substantial service with their employers are well along in years have failed, through lack of reasonable vesting, to acquire nonforfeitable benefit rights prior to termination from their jobs.

In too many plans—even if a minority—funding practices in relation to benefit liabilities have been inadequate.

In too many plans—even if a still smaller minority—trust funds, supposedly consecrated to the securing of worker benefits, have been manipulated for alien purposes.

In too many instances the abrupt termination of a going plan, even if well designed and administered, leaves in its wake a trail of bruised or broken pension promises.

The UAW also made a study of plans terminating in the period of 1958–69. That study's basic conclusions were:

Significant numbers of private pension plans terminate and can be expected to continue to do so.

No matter how carefully plans may be negotiated, no matter how soundly conceived and financed, large numbers of persons covered will not receive all—in some instances, any—of their expected benefits.

Frequently, workers with long service who have not reached retirement age will receive less than the full amount of their accrued benefits.

It is nonsense to argue, as some critics do, that plant termination insurance is unnecessary because relatively few plans terminate. It is equally true that relatively few airliners are hijacked and relatively few banks fail.

As recently as this week I have received letters from constitutents telling their stories of how they lost their pensions when their company went out of business. A major transportation company, C.R. & L. Bus Lines recently went out of business in Connecticut. As a result the employees, many of whom had worked a lifetime for the company, found themselves without a pension. It is clearly unfair to deprive these employees of a pension.

These then are the problems. What can be done about them?

The bill we have before us successfully faces these problems in large measure.

In essence the bill would establish minimum vesting standards to assure that an employee's rights to his pension were fully established after 15 years of service.

The legislation sets up a plan of termination insurance to assure an employee of his pension if the company goes out of business.

It establishes a mechanism so that an employee can carry his accrued pension rights with him from job to job rather than losing all rights when he switches employment as is the case today.

And it sets up standards of funding and fiduciary responsibility to assure that there are adequate moneys in the pension fund and that they are invested and administered wisely.

These basic elements of pension reform will help to assure millions of workers of their rights to pension security. At the same time the legislation will do nothing to discourage the development of a health pension industry.

I hope my colleagues will approve this legislation without delay.

Because of the complex nature of the legislation I would like to explain the basic provisions at some length.

### ELIGIBILITY AND MINIMUM VESTING STANDARDS

The bill we approved stated that no qualified pension plan would be permitted to require, as a condition of eligibility to participate in the plan, a period of employment longer than 1 year, or attainment of an age greater than 30, whichever occurs later.

The committee approved a minimum vesting standard, establishing the minimum period of employment within which a pension plan must grant a participant in the plan a specific vested right to pension benefits—a vested right to a pension benefit here refers to an employee's right to draw a specified pension benefit beginning at the normal retirement age, which right may not be taken from the employee for any reason other than the employee's failure to live to such retirement age. Under the committee-approved minimum vesting standard, the plan must provide a plan participant who has been employed for 5 years with a vested right to 25 percent of the pension benefits that he has accumulated. For this purpose, employment both before and after the employee became a plan participant is counted in determining the time at which the employee has met the 5-year requirement and become entitled to 25 percent vesting. The required vesting level of 25 percent is increased by 5 percent for each additional year of plan participation until the employee becomes entitled to 50 percent vesting, for example, after 10 years of employment and 5 years of plan participation. The required vesting level of 50 percent is then increased 10 percent a year for each additional year of plan participation, so that 100 percent vesting is required after 15 years of employment and 10 years of plan participation.

For example, an employee who begins work for an employer at the age of 24 must, when he attains the age of 30, become eligible for participation in such employer's pension plan, and be given a 25 percent vested right in any pension benefits he earns during his first year of participation. Assuming the employee continues in employment until shortly after his 35th birthday and terminates his employment at that time, the plan must provide such employee with a vested right to 50 percent of the pension benefits he has earned while a participant from his 30th birthday until after his 35th birthday.

The general effective date of the minimum vesting standard is January 1, 1976, and the minimum standard is to apply to employment service prior to the effective date as well as to future service. In the case of plans adopted after enactment, the effective date is 1 year after date of enactment. In cases where existing pension plans were the subject of collective bargaining, the new rule would not become applicable until the present collective bargaining agreement terminates—provided such agreement is due to terminate within 5 years after date of enactment. Plans which provide for full 100-percent vesting at the end of 10 years of coverage will be exempted from compliance with the new standard for a period of 5 years.

The committee reviewed the present law eligibility and vesting rules applicable to employees covered by the H.R. 10 type plans—that is the requirement of eligibility after 3 years of service with immediate 100-percent vesting—and determined the present rules were adequate.

The committee also agreed to an amendment which would permit, under certain circumstances, the disregard of employees covered under a collective bargaining agreement in determining whether a proposed pension plan covers the necessary percentage of employees. The circumstance permitting such disregard is that there is some specific evidence that the union representatives rejected pension benefits in the course of collective bargaining.

### MINIMUM FUNDING STANDARDS

The committee agreed to a minimum funding standard which requires the payment of current or normal pension costs and the level payment, or amortization, over a 30-year period of unfunded accrued liabilities, without regard to whether such past service liabilities are vested or unvested. A plan amendment resulting in a 5-percent increase in unfunded past service cost existing at the time of the amendment is to be regarded as a "substantial" increase in unfunded past service costs which may be treated as a new plan and funded over 30 years.

The committee agreed that an "experience deficiency," which is a loss due to actual experience under a pension plan that varies from the actuarial assumptions entering into the determination of the plan cost, must be funded, or made up, over a period of 15 years or the average remaining working life of the covered employees, whichever is the shorter period. Experience or actuarial gains, attributable to a favorable variation in actual experience compared to the actuarial assumptions entering into determination of plan costs, are to be taken into account over the same period, that is the shorter of 15 years or average remaining working life of the employee group. In this connection, the committee agreed that assets of pension funds should be valued on the basis of a 5-year moving average.

The committee agreed to grant the Secretary of the Treasury authority to establish qualifying standards for actuaries and to certify actuaries for practice before the Internal Revenue Service. It further provided for the creation of an Advisory Board of Actuaries to assist the Secretary in evaluating actuarial problems. Certification of pension plans by actuaries every 3 years, or more frequently if the Secretary deems it desirable, and notification of change of actuaries by plans and reasons therefor, are additional provisions to which the committee agreed.

In the case of multi-employer plans, the committee agreed that where the new minimum standards result in an increase in annual costs of 10 percent or more, the Secretary could allow past service costs existing on the effective date to be funded over a specified longer period.

The committee agreed to continue present law funding requirements—that is contribution of normal costs plus interest on past service costs—in the case of Federal, State, and local government pension plans. However, the committee directed the Treasury to make a study of the funding of Government pension plans.

The committee agreed that plans funded exclusively by the purchase of level annual premium insurance contracts would be deemed to comply with funding requirements if the insurance company is licensed to do business in the State where the employer is located.

The committee agreed that the Secretary should be permitted to waive the minimum funding requirement in cases involving financial hardship to the employer, with a proviso that the waived contribution must be made up in level payments over the next 10 years. However, not more than five such waivers may be made in a 10-year period. And, upon termination of a plan due to circumstances such as inability of employer to make contributions, the plan would continue to be treated as tax-exempt.

If the employer fails to meet the funding requirements, and does not obtain a hardship waiver, the committee agreed to impose an excise tax of 5 percent of the amount by which the employer failed to meet the minimum funding contribution. An additional excise tax of 100 percent is imposed to the extent the employer fails to make the required contribution within 1 year of the due date. A similar excise tax is imposed where an employer fails to make the contribution required by the formula to a profit-sharing or money-purchase plan.

The effective date of the minimum funding provision is January 1, 1976.

### PORTABILITY

The committee agreed to provide a mechanism for a voluntary portability program for vested pensions. Under this program, a central portability fund would be established to receive deposits of moneys representing an employee's vested rights when he is separated from an employer prior to reaching retirement age. The employee's interest in the portability fund could then be transferred to his next employer's pension fund. In each case the transfers are dependent upon the voluntary agreement of the first employer, the employee, and the subsequent employer to participate in the portablity provisions. The committee agreed that the central portability fund should be a private corporation under the trusteeship of the Secretaries of Labor, Commerce and Treasury, with the Secretary of Treasury being the managing trustee.

The committee also agreed to require employers to notify the Social Security Administration upon termination of employment by an employee with a vested pension right, so the Social Security Administration can maintain a lifetime record of an employee's vested pension rights and the current address of the pension fund liable to pay such pension.

### PLAN TERMINATION INSURANCE

The committee agreed to a program of plan termination insurance. The program would be administered in the same fashion as the central portability fund described above. It was agreed that the pension benefit insured would be the vested benefit provided for under the plan, up to 50 percent of the average monthly wage in the last 5 years, but not more than $750 a month. The $750 figure would be adjusted in accordance with changes in wages taxable under social security.

The premium would be 50 cents per pension plan participant, payable by the employer. This premium would apply for a 3-year period, and at the end of this period the manager of the fund could change the premium based upon experience.

The insurance protection would not apply until a plan had been in operation for 3 years and would not apply to increases in benefits under amendments which had not been in effect for years prior to termination. The insurance would apply, however, to vested benefits earned prior to, as well as subsequent to, the effective date of the act.

Under the proposed insurance plan, the employer would generally be liable for 10 percent of the losses due to inadequate funding upon termination of his plan, with a limitation that such liability could not exceed 50 percent of the net worth of the employer at such time. Such liability would be subordinated to other creditors. The employer would be given the option of avoiding any personal liability by agreeing to pay a higher premium, the amount being 20 cents more per plan participant—making 70 cents per plan participant in total rather than 50 cents. In this case, the insurance would apply only after the plan had been in effect 5 years and, in case of any plan amendment liberalizing benefits, only after 5 years. The managing trustees are given the authority to make a separate charge for and keep a separate account for multi-employer plans, if deemed desirable.

To avoid abuse, pension plans are required to first repay employee contributions, and then to pay out insured benefits. The insurance fund would be liable only if the pension funds were inadequate to meet such obligations. Other technical amendments are provided.

The effective date of this provision is to be January 1, 1975, as to the organization of the program and payment of premiums. Losses due to terminations occurring 3 years after registration of a plan in the insurance program are insured.

### FIDUCIARY STANDARDS

The committee agreed to the establishment of fiduciary standards which are essentially the same as the definitions of "prohibited transactions" set forth in S. 4 and S. 1557. "Prohibited transactions" refers generally to transactions which fiduciaries should not engage in. However, the committee believed that enforcement of compliance with these standards could better be achieved by the imposition of excise taxes in cases where there is a violation of the rules prohibiting such transactions. The excise tax is 5 percent initially and upon failure of the party involved to make corrections within a stated period, the tax may go as high as 100 percent. Essentially, the sanctions imposed upon "fiduciaries" and "parties in interest" in relation to pension funds are similar to the sanctions imposed by the Tax Reform Act of 1969 upon foundation managers and disqualified persons in the case of transactions involving private foundations.

The committee agreed to prohibit the investment of pension funds in employer securities, but provided that this rule would not apply to present holdings of employer securities by pension funds. The committee also agreed to limit investment in employer securities by profit-sharing trusts to 10 percent of trust assets in those cases where the employer securities are not readily tradable on an established securities market, but provided this rule would not apply to present holdings of employer securities. For this purpose, employer securities sold in an over-the-counter market are regarded as readily tradable on an established securities market. The committee agreed it was inappropriate to place any limitation on investment in employer securities in the case of stock bonus plans.

### ENFORCEMENT PROCEDURES

The committee agreed to provide for the establishment with the Internal Revenue Service of a separate office, headed by an Assistant Commissioner of Internal Revenue, to deal primarily with organizations that are or claim to be exempt from income tax under section 501(a) of the Internal Revenue Code—including pension and other trusts; religious, charitable, educational, et cetera, organizations; and others described in section 501(c) of the Code. The committee agreed to impose on employers an excise tax, essentially an audit tax, equal to the number of his employees covered by qualified plans times $1. The revenue raised by this tax and one-half of the revenue raised by the 4-percent excise tax on private foundations should reimburse the Government for the cost of regulating these organizations.

Since under present law the employer can appeal an adverse pension plan determination by the Internal Revenue Service to the Tax Court only after a plan contribution has been made and the contribution deduction disallowed, the committee agreed to provide a procedure for obtaining declaratory judgments. Under this procedure both the employer and the employees may appeal to the Tax Court for a review of an Internal Revenue Service determination letter and request a declaratory judgment as to the status of the plan or amendment. In addition, provision is made for appeals to the Tax Court and other Federal courts in the case of proposed excise taxes based on alleged violations of the fiduciary standards, and on other questions involving plan qualification.

The committee agreed to provide for the availability of arbitration services by the National Mediation Service in cases involving class actions affecting the qualification, administration or operation of qualified pension plans. The committee further agreed that Commissioners of the Tax Court of the United States should provide low-cost arbitration services in the case of disputes involving claims of individual participants in pension plans.

### INDIVIDUAL RETIREMENT PLANS

The committee approved a new deduction for contributions to individual retirement plans to be available only to those persons not covered by qualified pension plans established by corporations, self-employed persons, or Federal, State, and local governmental units. The deduction would be limited to $1,000 a year and, while there is no percentage-of-earned-income limitation on the deduction, the taxpayer must have earned income. The individual retirement plan would be similar in many respects to a self-employed plan where there are no employees. However, it is contemplated that the Federal Government will offer retirement savings bonds designed to meet the needs of persons saving for retirement under these plans.

### SELF-EMPLOYED (H.R. 10) PLANS—LIMITS ON CONTRIBUTIONS

The committee agreed to raise the limit on contributions to self-employed (H.R. 10) pension plans, while at the same time making such increased limitations applicable to corporate pension plans in which the owner-managers have a significant interest.

### LIMITATION ON CONTRIBUTIONS FOR OWNER-MANAGERS

S. 1179 provides that retirement plan contributions on behalf of such owner-managers, referred to in the bill as proprietary employees, are to be subject to the same limitations as apply to the self-employed plans. Under S. 1179, deductible contributions to a self-employed plan are permitted equal to 15 percent of earned income up to $100,000, but not in excess of $7,500. The committee agreed to an amendment which would delete the contribution limitations on proprietary employees in S. 1179 and substitute therefor a rule expressed as a limitation on the stated pension benefit which may be provided a proprietary employee. The limitation is that the pension of a proprietary employee under a plan shall not exceed 75 percent of the average of the employee's highest 3 years of compensation, with a limitation that average compensation in excess of $100,000 will be disregarded.

Hence, the maximum pension benefit permitted a proprietary employee is $75,000. This maximum benefit is to be funded over the remaining working life of the employee, but may not be funded over a period of less than 10 years. In the case of a profit-sharing or money-purchase plan, the amount contributed on behalf of a proprietary employee would be subject to limitations corresponding in substance to the limitations on contributions on behalf of proprietary employees under a stated benefit plan.

### JOINT AND SURVIVOR OPTION

The committee agreed that a qualified pension plan must include a provision allowing an employee-participant a choice between having his pension benefit paid out as a single life annuity over his lifetime or having a reduced annuity for his lifetime with a survivor's annuity being provided his spouse, if she should survive him.

### MONEY PURCHASE PLAN LIMITATION

The committee agreed that contributions to a money purchase pension plan on behalf of an employee should be included in such employee's gross income to the extent that such contribution is in excess of 20 percent of the employee's compensation.

### LUMP-SUM DISTRIBUTIONS

The committee agreed to a new tax treatment of lump-sum distributions received by an employee from a qualified retirement plan on termination of employment. Under the new provision that portion of the distribution representing pre-1974 value would receive capital gain treatment. The balance of the distribution, in excess of basis, would be subject to tax as though it were equal to the taxable income of a separate taxpayer, but with 15-year averaging; that is, compute tax on one-fifteenth of the balance of the distribution as if the taxpayer had no other income and no deductions, multiply the result by 15, and add this to the employee's tax liability computed without taking into account such portion of the distribution. A special lower income allowance adjustment is provided to insure that the tax of lower income taxpayers on their lump-sum distributions will generally not be more than it would be under present law. The lower income allowance for this purpose will be about $10,000 and will phase out gradually in the case of lump-sum distributions in excess of $100,000.

Mr. MOSS. Mr. President, one of the most significant developments in the recent postwar era in the United States has been the tremendous growth of the private pension plan system. There are now 34 million Americans participating in such plans—which is seven times the number enrolled in 1940.

The concentration of wealth represented by these plans has grown even more rapidly—from $12 billion in assets in 1940 to more than $150 billion today.

The private pension plan system has become an essential feature of our social and economic order. In fact, when you consider that social security has always been intended to provide only supplemental retirement income, it is clear that private pensions remain the primary means by which our society provides economic security in old age.

Given the immense importance of the private pension program, I believe it is also apparent that up until now we have not provided sufficient regulation to make certain that the program does, in fact, provide the security that it promises. Senator JAVITS, who has performed a great service on the Labor and Public Welfare Committee in the area of pension reform, has stated that private pension funds represent "the largest concentration of wealth with the least regulation in the country."

The lack of regulation for the current system has led to one glaring abuse: many people who pay money into pension funds, on the expectation of retirement income, end up receiving no benefits whatsoever.

There are a number of reasons for this inequitable—and often tragic—situation. In our highly mobile society, many people change jobs before accruing the time required to be eligible for retirement benefits. Others become disabled before they reach the necessary age. Others are laid off, and still others lose out when their employers go out of business. In addition, there are many instances where pension funds have been mismanaged, resulting in an insufficient amount of funds to cover all the claims.

Quite simply, those Americans covered by private pension plans do not have the assurance that they will, in fact, receive a pension when they retire.

I believe that the legislation we are considering here today will go a long way toward providing that assurance. In fact, I believe that it will be considered landmark legislation. The members of the Finance Committee and the Labor and Public Welfare Committee who have worked long and hard on the bill are certainly to be commended.

I know that several provisions in the bill have stirred considerable controversy—particularly the one concerning the limitation on the deductible contribution for owner-managers. Some limitation is obviously necessary—for otherwise we would permit an enormous tax loophole. But I hope we can agree on a limitation that is fair and equitable—one that would permit owner-managers to set aside adequate pension contributions in their high income years.

The bill also sets forth a minimum vesting standard for pension funds, and I believe the arguments for these particular provisions are overwhelming. This portion of the bill gets to the heart of the problem with the current system. Under the proposed minimum vesting who has 5 years of employment will be entitled to at least 25 percent of his benefits upon retirement, and the amount of vesting will increase with every subsequent year. It no longer will be possible for a person to pay into a plan for many years and then receive no retirement benefits because he must leave his job before he has reached the required age or before he has accumulated the required years of service.

I also believe there are compelling arguments for the minimum funding standards and enforceable fiduciary standards found in the bill. In the past, pension funds often have come up short because they have not been established according to reasonable actuarial standards. The funding provisions in this bill will make it far more certain that pension funds will have enough money to pay off, over a period of time, all claims earned under the plan. The fiduciary standards set out in the bill are equally important as a guard against mismanagement. Pension managers have not been above investing funds in their trust for their own gain rather than the gain of the beneficiaries.

In addition, the bill provides for a new deduction for persons who are not covered by qualified pension plans. This provision, together with the raising of the limitation on the contribution to self-employed plans, will create welcome new incentives. These provisions almost certainly will have the result of extending pension coverage to those who previously have not been covered.

Mr. President, let me state my strong support for this bill to reform the Nation's private pension plan system. In the course of our discussion we undoubtedly will want to make some amendments, but I believe that, in sum, this is a very good piece of legislation.

It should be emphasized that the bill does not represent a case of Congress meddling in the private sector, or thrusting the Federal Government into a new area of economic activity. For despite the lack of adequate regulation, the Federal Government is already heavily involved in the private pension system. The tremendous growth of the priavte programs has been possible only through the use of Federal tax incentives. Private pension plans are subsidized through tax deductions to the tune of some $3 billion annually. In reality, the private pension system represents a joint effort by employers, employees, and the Federal Government to provide retirement security for a large number of Americans.

The true cost of this legislation is minimal. In fact, it will result in a great savings for the Federal Government. If the private pension system can be made responsive to the needs of its beneficiaries, and if its coverage can be extended, there will be far less pressure on social security and the various types of public welfare. In recent years, many retirees have come to depend almost entirely on social security, even though the program was originally intended to provide only supplementary retirement income. This dependence on social security has been due in large part to the failure of the private means of providing retirement security.

Mr. President, there is no question as to whether this Nation is able to afford this legislation. In my view, we can ill afford not to pass it.

Mr. **BEALL**. Mr. President, as a cosponsor of S. 4, the Retirement Income Security for Employees Act of 1973, I rise in support of pension reform legislation. For the working men and women of this country, this may be the most important measure in the Congress. This measure may determine whether individuals who have labored a lifetime will realize a retirement with independence, dignity and reasonable comfort, which they have earned.

We as a nation can and should be proud of the remarkable growth in the private pension system. Today over 30 million workers participate in private pension programs. A little over 30 years ago, over 4 million employees were covered. This number more than doubled to 9.8 million by 1950 and increased to 21 million in 1960. However, while the total number has increased rather rapidly, the total, as a percentage of the country's industrial labor force, has increased only modestly since 1960, from 42.4 percent to 48.3 percent. This contrasts with the percentage growth during the 1950's, which saw the percentage increase from 22.5 percent to 42.4 percent.

It is estimated that this growth will continue and that by 1980, 42.3 million employees will be covered. Total assets of the pension plans which have grown from $2.4 billion in 1940 to $150 billion today, are expected to exceed $250 billion by 1980.

While this progress has been impressive, there remain serious problems. This legislation seeks to remedy some of these deficiencies. In order to do this, the bill establishes reasonable rules and standards. I am convinced that this legislation is in the best of American industry, labor, and most importantly, in the interest of our people.

The legislation would attempt to correct present abuses as follows:

First, the bill provides reasonable rules for vesting. Vesting refers to a nonforfeitable right which an employee acquires in a pension fund. This means that an employee will have the right to receive benefits, after a reasonable number of years, if he leaves or loses his job, before retirement. This provision, in addition to protecting employees, provides employees with greater freedom to move from employer to employer to improve his status, without fearing loss of retirement benefits.

Equally important, reasonable vesting rules will give employees the needed mobility for the effective operations of our labor market. It is estimated that 13 percent of private pension plans do not contain provisions requiring vesting of benefits to employees prior to retirement.

Second, the legislation would require adequate funding of pension plans. When we speak of funding, we mean the accumulation of assets to pay benefits in the future to covered employees. Standards for adequate funding will help to assure that funds will be available to pay employees the funds owed to him. Without adequate funding, a vested pension may prove to be "illusory and empty."

Third, the bill would provide for a reinsurance program to take care of those cases whereby a plan is terminated as a result of a business going bankrupt, moving, or for other reasons. The Studebaker case in 1964 was the most dramatic evidence of a deficiency in this regard.

Fourth, the measure would encourage portability. While this feature would be purely voluntary, it would, if utilized, enable employees to transfer earned vested pension rights from job to job and perhaps at the close of his career, to convert all such credits into one retirement check.

Fifth, the legislation elevates fiduciary standards and improves disclosure. There have been some cases of extreme misuse of pension funds. In addition to establishing higher standards for the administering and for those who administer pension funds, the measure would improve the watchdog role of the Federal Government and strengthen its enforcement powers to prevent and correct abuses.

Sixth, the pension legislation would also encourage, through our tax laws, individuals who are not covered by private pension plans to set aside a portion of their income for their retirement years and also increase incentives for the self-employed. I believe these provisions are of utmost importance.

Mr. President, during my work on this legislation, I became acquainted with the unique pension problems of certain highly mobile individuals. This would include engineers, scientists, and other technical personnel, architects, and teachers. They are often victims of a very high pension forfeiture rate.

I had the pleasure of participating during the last Congress, in a mass rally held by the area engineers at the Goddard Space Center at nearby Greenbelt, Md. Both S. 4 and S. 1179 contain creative provisions in response to the unique problems of these highly trained and highly mobile men and women. Specifically, they provide for a technical amendment permitting tax qualification of a multi-employer pension plan with immediate vesting. This provision is patterned after the highly successful TIAA/CREF plan that has afforded full pension portability to college professors for over 70 years. An amendment requiring a change in Federal procurement regulations to protect pension forfeitures when Government procurement objectives change. An amendment requiring the Labor Department to undertake a study to see what additional protection might be needed for highly mobile employees.

I strongly support these provisions and hope that they will be included in the final enacted by Congress.

Mr. President, I am impressed that private industry, labor unions, and other parties involved in the private pension system have for the most part recognized the need and equity for this legislation. They recognized this notwithstanding the fact that additional costs will be involved. However, the costs to American workers, when earned pension are denied are unbearable.

This legislation is important for another reason. There is considerable concern in the country with respect to the rising social security taxes. Social security was designed to be a floor for retirement. Yet, when individuals have inadequate retirement, as many in our country do today, there is considerable pressure, and understandably so, for increasing social security benefits. The bill today will be to make the private pension system work and to make certain that the social security system will continue to supplement and not supplant the private pension system. I personally believe in the long run that this is both good for the country and for our citizens.

Mr. President, I would not want to see this bill pass without calling to the Senate's attention the most serious problem facing pensions in this country, both public and private.

I am speaking of inflation. If we do not make progress in our battle again inflation, our efforts today in improving our private pension system will be undermined. Until we bring inflation under control, today and tomorrow retired citizens will continue to be threatened and suffer difficulties. This point also serves to stress the need for congressional action on budgetary reform. This also, in my judgment, is a must measure.

I urge the Senate to approve this measure overwhelmingly and hope that early agreement will be reached with the House.

AMENDMENT NO. 496

Mr. NELSON. Mr. President, on behalf of myself and Senators LONG, BENTSEN and BENNETT, I offer amendment No. 496 and ask unanimous consent that the amendment be agreed to at this point, and, as agreed to, be considered original text for the purpose of amendment; and that the 1 hour for debate on the amendment remain available; and that the text of the amendment be printed in the RECORD.

The PRESIDING OFFICER (Mr. CHILES). Is there objection to the unanimous-consent request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

The text of amendment No. 496 in the nature of a substitute, as agreed to, is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) this Act may be cited as the "Retirement Income Security for Employees Act".

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Sec. 701. Deduction for retirement savings.
Sec. 702. Certain plans.
Sec. 703. Taxation of certain lump-sum distributions.
Sec. 704. Contributions on behalf of self-employed individuals and proprietary employees.
Sec. 705. Collectively bargained plans.
Sec. 706. Miscellaneous provisions.

(c) AMENDMENTS OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provisions, the reference is to a section or other provision of the Internal Revenue Code of 1954.

## TITLE I—ADMINISTRATION

### PART A—INTERNAL REVENUE SERVICE

### SEC. 101. ESTABLISHMENT OF OFFICE

(a) IN GENERAL.—Section 7802 (relating to Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONER

"(a) COMMISSIONER OF INTERNAL REVENUE.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

"(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations'. The Office shall be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary or his delegate may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies).".

(b) SALARIES.—

(1) ASSISTANT COMMISSIONER.—Section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1954 is classified at GS–18, and is in addition to the number of positions authorized by section 5108(a) of this title.".

(2) CLASSIFICATION OF POSITIONS AT GS–16 AND 17.—Section 5108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In addition to the number of positions authorized by subsection (a), the Commissioner of Internal Revenue is authorized, without regard to any other provision of this section, to place a total of 20 positions in the Internal Revenue Service in GS–16 and 17.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by striking out the item relating to section 7802 and inserting in lieu thereof the following:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioner.".

### SEC. 102. AUTHORIZATION OF APPROPRIATIONS

(a) INITIAL AUTHORIZATION.—There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, an amount equal to the sum of $35,000,000 and one-half of the collections from the taxes imposed under section 4940 of the Internal Revenue Code of 1954 (relating to excise tax based on investment income) during the second preceding fiscal year.

(b) PERMANENT AUTHORIZATION.—There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations for each fiscal year beginning after June 30, 1976, an amount equal to the sum of—

(1) the amount of the collection from the taxes imposed under section 4975 of the Internal Revenue Code of 1954 (relating to annual tax on plan participation) during the second preceding fiscal year, and

(2) one-half of the collections from the taxes imposed under section 4940 of such Code (relating to excise tax based on investment income) during the second preceding fiscal year.

### PART B—REGISTRATION

### SEC. 151. DUTIES OF PLANS

(a) ANNUAL REGISTRATION.—Within such period after the end of a plan year as the Secretary of the Treasury may prescribe, the administrator of each plan to which part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 applied at any time during such plan year, and each pension plan operated by the Government of the United States, or by the government of any State (including the District of Columbia) or political subdivision thereof or by an agency or instrumentality thereof, shall file a registration statement with the Secretary of the Treasury. The registration statement shall set forth—

(1) the name and address of the plan,

(2) the name and taxpayer identification number of each individual who has a right to a deferred vested benefit in that plan as of the end of such plan year (other than those individuals who were paid retirement benefits under that plan during such plan year) and who has terminated his employment with the employer, who established and maintained that plan, within that year,

(3) the nature, amount, and form of any such deferred vested benefit, and

(4) such additional or other information as the Secretary may require.

(b) CHANGES IN STATUS.—The administrator of any plan required to be registered under section (a) shall also notify the Secretary, at such time as the Secretary may prescribe, of—

(1) any change of address of the plan,

(2) any change of name of the plan,

(3) the termination of the plan, or

(4) the merger or consolidation of the plan with any other plan.

(c) VOLUNTARY REPORTS.—The Secretary is authorized and directed to receive such additional reports relating to plan years ending before January 1, 1974, as the administrator of any such plan may wish to file with him relating to the deferred vested benefit rights of any person terminating his employment during any such plan year with the employer who established and maintained the plan.

(d) TRANSMISSION OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE; REGULATIONS.—The Secretary of the Treasury shall transmit any statements, reports, or other information obtained by him under this section to the Secretary of Health, Education, and Welfare at such times and in such form as the Secretary of Health, Education, and Welfare may require in order to carry out his responsibilities under section 1131 of the Social Security Act. The Secretary of the Treasury, after consultation with the Secretary of Health, Education, and Welfare, is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) DEFINITION OF ADMINISTRATOR.—For purposes of this section, the term "administrator" means the person or persons described in section 501(g)(11) of this Act.

(f) CERTIFICATE OF RIGHTS.—Each plan administrator filing a registration statement under subsection (a) shall also furnish to each individual described in paragraph (2) of that subsection, within the time prescribed for the filing of the registration statement, a statement setting forth the information with respect to that individual required in the registration statement. At the time he files the registration statement with the Secretary, the administrator of a plan shall furnish evidence satisfactory to the Secretary that he has complied with the requirements of this subsection.

### SEC. 152. DUTIES OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Title XI of the Social Security Act (relating to general provisions) is amended by adding at the end of part A thereof the following new section:

"NOTIFICATION OF SOCIAL SECURITY CLAIMANT WITH RESPECT TO VESTED PENSION BENEFITS

"SEC. 1131. (a) Whenever the Secretary makes a finding of fact and a decision as to—

"(1) the entitlement of any individual to monthly insurance benefits under section 202, 223, or 228,

"(2) the entitlement of any individual to a lump-sum death payment payable under section 202(i) on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or

"(3) the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII,

or upon request made by any individual with respect to whom the Secretary holds information obtained under section 151 of the Retirement Income Security for Employees Act, he shall furnish to such individual any information regarding any vested right to a pension benefit acquired by the Secretary pursuant to such section with respect to the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

"(b)(1) For purposes of section 201(g)(1), expenses incurred in the administration of subsection (a) shall be deemed to be expenses incurred for the administration of the Federal old-age and survivors insurance program.

"(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Secretary deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a).".

### SEC. 153. EFFECTIVE DATE

This part shall take effect upon the date of enactment of this Act, but the requirements of section 151 (a) and (b) shall apply only with respect to plan years ending after December 31, 1973.

### SEC. 171. OFFICE OF ADMINISTRATION

(a) IN GENERAL.—There is hereby established within the Department of Labor an office to be known as the Office of Pension and Welfare Plan Administration. Such Office shall be headed by an Assistant Secretary of Labor who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTY OF SECRETARY OF LABOR.—It shall be the duty of the Assistant Secretary of Labor under the supervision of the Secretary of Labor to *exercise such* power and authority as may be delegated to him by the Secretary for the administration and enforcement of this Act.

(c) Salary of Assistant Secretary.—Paragraph 20 of section 5315, title 5, United States Code, is amended by striking "(5)" and inserting in lieu thereof "(6)".

(d) Transfer of Functions.—Such functions, books, records, and personnel of the Labor Management Services Administration as the Secretary determines are related to the administration of the Welfare and Pension Plans Disclosure Act are hereby transferred to the Office of Pension and Welfare Plan Administration.

(e) Cooperative Enforcement.—In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any agency, Federal or State, as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable basis the facilities or services of any department, agency, or establishment of the United States, or of any State, including services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary, and to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

### Sec. 172. Authorization of Appropriations

There are authorized to be appropriated such sums as may be necessary to enable the Secretary of Labor to carry out his functions and duties under this Act.

## TITLE II—PARTICIPATION; VESTING; FUNDING; CERTAIN BENEFITS

### Part A—Participation

### Sec. 201. Minimum Standards Relating to Participation

(a) In General.—Part I of subchapter D of chapter 1 (relating to pension, etc., plans) is amended by inserting at the end thereof the following new subpart:

### "Subpart B—Special Rules

"Sec. 410. Minimum standards relating to participation.

### "Sec. 410. Minimum Standards Relating to Participation

"(1) Maximum condition.—A trust shall not constitute a qualified trust under section 401(a) if the plan of which it is a part requires, as a condition of participation in the plan, that an employee have a period of service with the employer (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor of the employer) extending beyond the later of—

"(A) one year of service, or

"(B) the date on which the employee attains the age of 30 years.

"(2) Definitions.—For purposes of this subsection—

"(A) Year of service.—The term 'year of service' means a calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan) during which the employee is employed by the employer for more than 5 months.

"(B) Month.—The term 'month' means any calendar month during which the employee is employed for at least 80 hours of employment.

"(b) Eligibility.—

"(1) In general.—A trust shall not constitute a qualified trust under section 401(a) unless the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under section 401(a) which benefits either—

"(A) 70 percent or more of all the employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all the employees are eligible to benefit under the plan, excluding in each case employees who have not satisfied the minimum age and service requirements, if any, prescribed by the plan as a condition of participation, employees whose customary employment is for not more than 80 hours in any one month, and employees whose customary employment is for not more than 5 months in any calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan), or

"(B) such employees as qualify under a classification set up by the employer and found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, or highly compensated employees.

"(2) Exclusion of certain employees.—For the purpose of determining whether a trust constitutes a qualified trust under paragraph (1), there shall be excluded from consideration—

"(A) employees who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective bargaining agreement between employee representatives and one or more employees, if such agreement does not provide that such employees are to be included in the plan, and if there is evidence that retirement benefits have been the subject of good faith bargaining between such employee representatives and such employer or employers, and

"(B) employees who are nonresident aliens who have no earned income (within the meaning of section 911(b)) from sources within the United States (within the meaning of section 861(a)(3)).

"(3) Affiliated groups of employees.—For purposes of this subsection, section 401(a)(4), and section 411, all employees of all corporations that are members of a controlled group of corporations (within the meaning of section 1563(a)) shall be deemed to be employed by a single employer."

(b) Conforming Amendments.—

(1) Section 401(a) (relating to requirements for qualification) is amended by—

(A) striking out paragraph (3) and inserting in lieu thereof:

"(3) if the plan of which such trust is a part meets the requirements of section 410 (relating to minimum standards relating to participation); and", and

(B) striking out "paragraph (3)(B) or (4)" in paragraph (5) and inserting in lieu thereof "paragraph (4) or section 410(b) (without regard to paragraph (1)(A) thereof)".

(2) Section 406(b)(1) (relating to certain employees of foreign subsidiaries) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "paragraph (4) of section 401(a) and subsection (b) of section 410 (without regard to paragraph (1)(A) thereof)".

(3) Section 407(b)(1) (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "paragraph (4) of section 401(a) and subsection (b) of section 410 (without regard to paragraph (1)(A) thereof)".

(c) Clerical Amendment.—Part I of subchapter D of chapter 1 is amended by inserting after the heading and before the table of sections the following:

"Subpart A. General Rule.
"Subpart B. Special Rules.

### "Subpart A—General Rule"

(d) Effective Date.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan in existence on the date of enactment of this Act, the amendments made by this section shall apply—

(A) to plan years beginning after December 31, 1975, or

(B) if later (in the case of a plan maintained pursuant to an agreement which the Secretary of the Treasury finds to be a collective-bargaining agreement between employee representatives and one or more employers), to plan years beginning after the earlier of—

(i) the date on which the agreement terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) December 31, 1980.

### Part B—Vesting

### Sec. 221. Minimum Standards Relating To Vesting

(a) In General.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 201 of this Act, is amended by inserting after section 410 the following new section:

### "Sec. 441. Minimum Standards Relating To Vesting

"(a) General Rule.—Except as provided in subsection (c), a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part satisfies the requirements of paragraphs (1) and (2).

"(1) Employee contributions.—A plan satisfies the requirements of this paragraph if, under the plan, an employee's rights in his accrued benefit derived from his own contributions are nonforfeitable.

"(2) Employer contributions.—

"(A) Nonforfeitable percentage.—A plan satisfies the requirements of this paragraph if, under the plan, after 5 years of service (3 of which are consecutive) with an employer, an employee has a right to a percentage of his accrued benefit derived from employer contributions which is nonforfeitable other than by reason of death. The percentage shall not be less than the percentage determined under the following table:

| "Years of service | Nonforfeitable percentage |
|---|---|
| 5 | 25 |
| 6 | 30 |
| 7 | 35 |
| 8 | 40 |
| 9 | 45 |
| 10 | 50 |
| 11 | 60 |
| 12 | 70 |
| 13 | 80 |
| 14 | 90 |
| 15 or more | 100 |

"(B) Year of service.—For purposes of this paragraph, the term 'year of service with the employer' means—

"(i) with respect to plan years ending before January 1, 1982, a year in which an employee is employed more than a number of months (for not less than a number of hours in each such month) prescribed in regulations promulgated by the Secretary or his delegate after consultation with the Secretary of Labor, and shall include service with a predecessor of the employer to the extent provided in regulations prescribed by the Secretary or his delegate; and

"(ii) with respect to plan years ending after December 31, 1981, any calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan) in which an employee is employed for more than 5 months (if he is employed at least 80 hours in each of such 5 months) in such year with the employer who adopted the plan (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor of the employer).

"(C) Tenth year vesting for certain plans.—Paragraph (A) shall not apply to a trust which meets the requirements of section 401(a) and is exempt from tax under section 501(a) or a plan which meets the requirements of section 404(b)(2), if such trust or plan was in existence and met such requirements on the date of enactment of the Retirement Income Security for Employees Act if the plan of which such trust is a part, or such plan, provides on and after such date that each employee's rights to or derived from employer contributions become completely nonforfeitable (other than by reason of death) no later than the end of the tenth year of service of the employee with the employer who maintains the plan.

"(D) Special rules.—For purposes of determining the nonforfeiture percentage—

"(i) no year of service which begins more than 5 years prior to the beginning of the year in which an employee is first eligible to participate in the plan shall be considered, unless with respect to such year, the employee makes contributions under the plan or the employer makes contributions under the plan on behalf of such employee,

"(ii) years of service shall include any years beginning on or after the date the plan was first effective, and

"(iii) years of service beginning prior to the enactment of the Retirement Income Security for Employees Act and on or after the date on which the plan was first effective (or any amendment thereto was first effective) shall be considered.

"(b) Definitions and Rules Relating to Accrued Benefits.—

"(1) Employee's accrued benefit.—

"(A) In general.—For purposes of this section, an employee's accrued benefit as of any applicable date is—

"(i) in the case of a defined benefit plan, except as provided under paragraph (3), the annual benefit commencing at normal retirement age to which he would be entitled under the plan as in effect on such date if he continued to earn annually until normal retirement age the same rate of compensation upon which his benefits would be computed under the plan, determined as if he had attained normal retirement age on the applicable date, multiplied by a fraction, the numerator of which is the total number of his years of active participation in the plan (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor plan) as of such date, and the denominator of which is the total number of years he would have actively participated in such plan as of normal retirement age if he had continued to be an active participant in the plan until attaining such age, or

"(ii) in the case of a plan other than a defined benefit plan, the balance of the account or accounts for such employee as of that date.

"(B) Limitation.—The numerator of the fraction referred to in subparagraph (A)(i) shall not exceed the denominator.

"(C) Defined benefit plans generally.—In the case of a defined benefit plan which permits voluntary employee contributions, the portion of an employee's accrued benefit derived from such contributions shall be treated as an accrued benefit derived from employee contributions under a plan other than a defined benefit plan.

"(D) Certain insured defined benefit plans.—In the case of a defined benefit plan which is funded exclusively by the purchase of individual insurance contracts, an employee's accrued benefit at any date shall be equal to the benefit which might be purchased by the cash surrender value of the policy on the applicable date. An employee's accrued benefit under such a plan shall not be determined under this subparagraph unless the plan satisfies the requirements of paragraphs (1) through (6) of section 4971 (e) (relating to certain insured plans).

"(E) Variable annuity plans.—In the case of a variable annuity plan, an employee's accrued benefit at any date shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

"(2) Allocation of accrued benefit between employer and employee contributions.—For purposes of this section, an employee's accrued benefit derived from employer contributions as of any applicable date is the excess of the accrued benefit determined under paragraph (1) for such employee as of such applicable date over the amount of the accrued benefit derived from contributions made by such employee as of such date. In the case of a plan other than a defined benefit plan, the amount of accrued benefit derived from contributions made by an employee is the balance of the employee's separate account consisting only of his contributions and the income, expenses, gains, and losses attributable thereto or, if a separate account is not maintained with respect to an employee's contributions under such a plan, is an amount which bears the same ratio to his total accrued benefits as the total amount of the employee's contributions (less withdrawals) bears to the sum of such contributions (less withdrawals) and the contributions made on his behalf by the employer (less withdrawals). In the case of a defined benefit plan providing an annual benefit in the form of a single life annuity commencing at normal retirement age without ancillary benefits, the amount of the accrued benefit derived from contributions made by an employee as of any applicable date is the annual benefit equal to the employee's accumulated contributions multipled by the appropriate conversion factor. For purposes of the preceding sentence, the term 'appropriate conversion factor' means the factor necessary to convert an amount equal to the accumulated contributions to a single life annuity commencing at normal retirement age and shall be 10 percent for a normal retirement age of 65 years. For other normal retirement ages the conversion factor shall be determined in accordance with regulations prescribed by the Secretary or his delegate. For purposes of this paragraph, the term 'accumulated contributions' means the total of—

"(A) all mandatory contributions made by the employee,

"(B) interest (if any) under the plan to the end of the last plan year to which subsection (a) (2) does not apply (by reason of the applicable effective date), and

"(C) interest on the sum of the amounts determined under subparagraphs (A) and (B) compounded annually at the rate of 5 percent per annum from the beginning of the first plan year to which subsection (a) (2) applies (by reason of the applicable effective date) to the date upon which the employee would attain normal retirement age.

The accrued benefits derived from contributions made by an employee shall not exceed the accrued benefits determined under paragraph (1). The Secretary or his delegate is authorized to adjust by regulation the conversion factor, the rate of interest described in subparagraph (C), or both, from time to time as he may deem necessary. The rate of interest shall bear the relationship to 5 percent which the Secretary or his delegate determines to be comparable to the relationship which the long-term money rates and investment yields for the last 10 calendar year period ending at least 12 months prior to the beginning of the plan year bear to the long-term money rates and investment yields for the 10 calendar year period 1964 through 1973. No such adjustment shall be effective for a plan year beginning before the expiration of 1 year after such adjustment is determined and published. For purposes of this paragraph, the term 'mandatory contributions' means amounts actually contributed to the plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

"(3) For purposes of this section, in the case of any defined benefit plan, if an employee's accrued benefit is to be determined as an amount other than an annual benefit commencing at normal retirement age, or if the amount of accrued benefit derived from contributions made by an employee is to be determined with respect to a benefit other than an annual benefit in the form of a single life annuity commencing at normal retirement age without ancillary benefits, the employee's accrued benefit, or the amount of accrued benefit derived from contributions made by an employee, as the case may be, shall be the actuarial equivalent of such benefit or amount determined under paragraph (1) or (2).

"(c) Special Rules.—

"(1) Prohibited discrimination.—Subsection (a) shall not apply to benefits which may not be provided for designated employees in the event of early termination of the plan under provisions adopted to preclude discrimination prohibited by section 401(a)(4).

"(2) Class year plans.—The requirements of subsection (a)(2) shall be deemed to be satisfied in the case of a class year plan if such plan provides that 10 percent of each employee's rights to or derived from the contributions of the employer on his behalf with respect to any plan year are nonforfeitable not later than the end of the fifth plan year following the plan year for which such contributions were made (within the meaning of section 404(a)(6)) For purposes of this section, the term 'class year plan' means a profit-sharing or stock bonus plan which provides for the separate nonforfeitability of employees rights to or derived from the contributions of each plan year.

"(3) Voluntary withdrawals from certain plans.—A trust which is a part of a plan to which employees make mandatory contributions (within the meaning of subsection (b)(2) shall not be disqualified under this section merely because an employee's rights to his accrued benefit derived from employer contributions under the plan (or employer contributions for a particular plan year, in the case of a class year plan) are forfeitable, if, by reason of his separation from the service or termination of his active participation in the plan, he voluntarily withdraws all or part of the mandatory contributions made by him (or all or a part of the mandatory contributions made by him for that particular plan year, in the case of a class year plan).

"(4) Termination or partial termination.—Nothwithstanding the provisions of subsection (a), a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part provides that, upon its termination or partial termination, the rights of all employees to benefits accrued to the date of such termination or partial termination, to the extent then funded, or the amounts credited to the employees' accounts, are nonforeitable. This paragraph shall not apply to benefits or contributions which, under provisions of the plan adopted to preclude the discrimination prohibited by section 401(a) (4), may not be used for designated employees in the event of early termination of the plan.

"(5) Discrimination.—A plan shall not be deemed to have satisfied the requirements of section 401(a)(4) merely because it satisfies the requirements of this section.

"(d) Recordkeeping Requirements.—

"(1) Single employer plan.—Except as provided by paragraph (2) every employer shall, in accordance with regulations prescribed by the Secretary or his delegate, maintain records with respect to each of his employees sufficient to determine the benefits due or which may become due to such employees.

"(2) More than one employer.—If more than one employer adopts a plan, each such employer shall, in accordance with regulations prescribed by the Secretary or his delegate furnish to the plan administrator (within the meaning of section 501(g)(11) of the Retirement Income Security for Employees Act) the information necessary for the administrator to maintain the records required by paragraph (1). Such administrator shall maintain the records required by paragraph (1).

"(e) Cross Reference.—

"For penalty for failure to meet requirements of subsection (a)(2)(A), see section 4973.

"For penalty for failure to furnish the information or maintain the records required under this section, see section 6690.".

(b) Penalty for Failure To Furnish Information.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6690. Failure To Furnish Information or Maintain Records.

"(a) Civil Penalty.—If any person who is required, under section 411, to furnish information or maintain records for an employee fails to comply with such requirement he shall pay a penalty of $10 for each employee with respect to whom such failure occurs, unless it is shown that such failure is due to reasonable cause.

"(b) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply to the assessment or collection of any penalty imposed by subsection (a).".

(c) Comparability of Plans.—Section 401 (a) (relating to qualified pension, etc., plans) is amended by adding at the end of paragraph (5) the following: "For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary or his delegate to take account of the differences in such rates, the plans shall not be considered not to satisfy the requirements of paragraph (4) merely because of the differences in such rates.".

(d) Conforming Amendment.—Paragraph (7) of section 401(a) (relating to requirements for qualification) is amended to read as follows:

"(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part meets the requirements of section 411 (relating to vesting).".

(e) Clerical Amendments.—

(1) The table of sections for subpart B of part I of subchapter D of chapter 1, as added by section 201, is amended by inserting at the end thereof the following new item:

"Sec. 411. Minimum standards relating to vesting.".

(2) The table of sections for subchapter B of chapter 68 is amended—

(A) by striking out the item relating to the section captioned "Assessable penalties with respect to information required to be furnished under section 7654" and inserting in lieu thereof:

"Sec. 6688. Assessable penalties with respect to information required to be furnished under section 7654.",

and

(B) by inserting at the end thereof the following new item:

"Sec. 6690. Failure to furnish information or maintain records.".

(3) Subchapter B of chapter 68 is amended by striking out the heading of the section immediately preceding section 6689 and inserting in lieu thereof:

"Sec. 6688. Assessable Penalties With Respect to Information Required to be Furnished Under Section 7654.".

(f) Effective Dates.—

(1) Except as provided in paragraphs (2), (3), and (4), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan (other than a plan described in paragraph (3)) in existence on the date of enactment of this Act, the amendments made by this section shall apply to plan years beginning after December 31, 1975; however, if the Secretary of Labor determines that the application of any or all of such amendments to a plan for those plan years would create substantial economic hardship for that plan and certifies his determination to the Secretary of the Treasury before that date, the amendments made by this section with respect to which the Secretary of Labor makes such determination shall apply only to plan years of that plan beginning after December 31 of a year not later than 1981 determined by the Secretary of Labor and certified to the administrator of the plan and to the Secretary of the Treasury. For purposes of this paragraph the term "substantial economic hardship" includes, but is not limited to, a finding by the Secretary that—

(A) there is a substantial risk that, if such amendment or amendments apply to the plan without any extension, the voluntary continuation of the plan will be unlikely;

(B) the plan will be unable to discharge its contractual obligations for the payment of benefits; or

(C) application of the amendments to the plan without an extension is likely to cause a substantial reduction in the number of plan participants or persons employed by the employer or employers contributing to or under the plan.

Benefits under a plan may not be increased by amendment if an extension under this paragraph is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

(3) The amendments made by this section shall apply to plan years beginning after December 31, 1980, in the case of a plan established and maintained by the United States or a State or political subdivision thereof, the District of Columbia, or an agency or instrumentality of the United States or of a State or a political subdivision thereof, or of the District of Columbia.

Sec. 222. Certain Nonqualified Plans.

(a) General Rule.—Section 404 (relating to deduction for contributions to an employee's trust, etc.) is amended—

(1) by inserting in subsection (a)(5) "or subsection (g)," after "or 3,", and

(2) by inserting at the end thereof the following new subsection:

"(g) Certain Plans.—No deduction shall be allowed under this section for a contribution by an employer to a trust created or organized in the United States which is not a trust described in section 401(a) (or a contribution to or under a plan which does not satisfy the requirements of subsection (a) (2)) if the plan of which such trust is a part (or such plan)—

"(1) is established under a written governing instrument,

"(2) provides a determinable retirement benefit for an employee or his beneficiaries which is not required under the plan, to be paid in full to the employee or his beneficiaries within 5 years after such benefit accrues, and

"(3) in the case of a plan of an employer which is a corporation, provides for the deferral of compensation of any employee who—

"(A) is not an officer of such corporation, and

"(B) owns (or is considered as owning (within the meaning of section 1563(e))) stock possessing less than 5 percent of the total combined voting power.".

(b) Effective Date.—The amendments made by this section shall apply for taxable years beginning after December 31, 1975.

### Part C—Funding

Sec. 241. Minimum Standards Relating to Funding.

(a) Excise Tax on Failure To Meet Minimum Funding Standard.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 44—QUALIFIED PENSION, ETC., PLANS

"Sec. 4971. Minimum standards relating to funding.

"Sec. 4972. Taxes on failure to meet minimum funding standard.

"Sec. 4973. Taxes on failure to meet minimum vesting standard.

"Sec. 4971. Minimum Standards Relating To Funding.

"(a) General Rule.—This section applies to a plan to which part I of subchapter D of chapter 1 applies, which—

"(1) has satisfied (or has been determined by the Secretary or his delegate to have satisfied) the requirements of section 404(a) (2), or

"(2) includes a trust which has qualified (or has been determined by the Secretary or his delegate to have qualified) under section 401(a).

A plan to which this section applies shall have satisfied the minimum funding standard provided by this subsection for a plan year at the end of which the plan does not have an accumulated funding deficiency. For purposes of this section and section 4972, the term 'accumulated funding deficiency' means (except in the case of a plan described in subsection (g))) the excess of the total charges to the funding standard account for all plan years over the total credits to such account for such years.

"(b) Funding Standard Account.—

"(1) Account required.—Each plan to which this section applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) Charges to account.—For a plan year, the funding standard account shall be charged with the amount described in subsection (e) (if applicable), or the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in not less than equal annual installments (computed on the basis of plan years)—

"(i) the initial unfunded past service liability under the plan, over a period of 30 plan years (or the period determined under subsection (d) (2)) until fully amortized.

"(ii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (if as a result of such plan amendments the net unfunded past service liability under the plan for such year increases by 5 percent or more), over a period of 30 plan years, until fully amortized,

"(iii) the net experience loss (if any) for each plan year, over the lesser of a period of 15 plan years or of a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized, and

"(iv) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (other than net increases required to be amortized under clause (ii)) over the lesser of a period of 15 plan years or of a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized, and

"(C) the amount necessary to amortize in equal payments each waived funding deficiency (within the meaning of subsection (d)) for each prior plan year over a period of 10 plan years, until fully amortized.

For purposes of subparagraph (B), in the case of a plan in existence on the effective date of this section, the initial unfunded past service liability under the plan shall be an amount equal to the unfunded past service liability on such date.

"(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account of a plan shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan (within the meaning of section 404(a) (6)) for the plan year,

"(B) the amount necessary to amortize in equal payments—

"(i) the net experience gain (if any) for each plan year over the lesser of a period of 15 plan years or a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized,

"(ii) separately, with respect to each plan year, the next decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (other than net decreases required to be amortized under clause (iii) over the lesser of a period of 15 plan years or a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized,

"(iii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in each plan year (if as a result of such plan amendments the net unfunded liability under the plan for such year decreases by more than 5 percent) over a period of 30 plan years, until fully amortized, and

"(C) the amount of the waived funding deficiency (within the meaning of subsection (d)) for the plan year.

"(4) INTEREST.—The funding standard account shall be charged or credited with interest (at the rate of interest used under the plan to determine costs) with respect to the balance of such account.

For purposes of this section, normal costs, past service liabilities, and experience gains and losses, shall be determined under the funding method used to determine costs under the plan, and the actuarial assumptions used to determine costs and liabilities under the plan must in the aggregate be reasonable.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) FULL FUNDING.—If, as of the end of a plan year, a plan would have an accumulated funding deficiency (but for the application of this paragraph) in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) All amounts described in paragraphs (2) (B) and (C) and (3) (A) and (B) of subsection (b) which are required to be amortized shall be considered fully amortized for purposes of such paragraphs.

For purposes of this paragraph, a plan shall be considered fully funded if the accrued liability (including normal cost) under the plan (determined under the funding method used by the plan to determine normal cost for such year if such liability can be directly calculated under such funding method, or determined under the entry age normal funding method if such liability cannot be so calculated under the funding method so used by the plan) is not greater than the value of the assets of the plan (determined, in accordance with regulations prescribed by the Secretary or his delegate, on the basis of average value for 5 or fewer years) on the valuation date of the plan for such year.

"(2) COMPUTATION OF NET EXPERIENCE GAINS AND LOSSES.—In computing net experience gains and losses for a plan year, the value of the assets held under a plan shall be determined (in accordance with regulations prescribed by the Secretary or his delegate) on the basis of average values for 5 or fewer years.

"(3) CHANGE IN ACTUARIAL ASSUMPTIONS, SOCIAL SECURITY, ETC., BENEFITS.—For purposes of this section, all costs, liabilities, interest rates, valuations of assets, and other factors under the plan shall be determined on the basis of actuarial assumptions which in the aggregate, are reasonable, and, if a change in the funding method or actuarial assumptions used under the plan, a change in benefits under the Social Security Act or other retirement benefits created under State or Federal law, or a change in the definition of the term 'wages' under section 3121, results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an expeirence loss or gain. If a plan changes its funding method, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the Secretary or his delegate. The plan year of a plan may be changed only if the change is approved by the Secretary or his delegate.

"(d) WAIVER OF MINIMUM FUNDING STANDARDS.—

"(1) IN GENERAL.—If an employer is unable to satisfy the minimum funding standard for a plan year without substantial business hardship, the Secretary or his delegate is authorized to waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard except the portion thereof determined under subsection (b) (2) (C). The Secretary or his delegate shall not waive the minimum funding standard with respect to a plan for more than 5 of any 10 consecutive plan years. For purposes of this section, the term 'waived funding deficiency' means the portion of the minimum funding standard (determined without regard to subsection (b) (3) (C)) for a plan year waived by the Secretary or his delegate and not satisfied by employer contributions.

"(2) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan (as defined in section 401 (a) (3) of the Retirement Income Security for Employees Act—

"(A) the term '40 plan years' shall be substituted for the term '30 plan years' wherever it appears in subsection (b); and

"(B) if 10 percent or more of the number of employers contributing to or under the plan demonstrate to the satisfaction of the Secretary of Labor that they would experience substantial economic hardship if required to contribute the amount necessary to amortize in equal payments any unfunded liability (described in clause (i) or (ii) of subsection (b) (2) (B)) of such plan over a period of 40 years until fully amortized, then the 40-year period described in such clause shall be extended for the period of time (not in excess of 10 years) that is certified for this purpose by the Secretary of Labor to the Secretary of the Treasury.

"(3) LIMIT ON INCREASES IN BENEFITS WHILE WAIVER OR EXTENSION APPLIES.—Benefits under a plan may not be increased by amendment if a waiver under paragraph (1) or an extension under paragraph (2) is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such waiver or extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

"(e) CERTAIN INSURED PLANS.—If—

"(1) a plan is funded exclusively by the purchase of individual insurance contracts,

"(2) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participation in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(3) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(4) premiums payable for the plan year, and all prior plan years under such contracts have been paid before lapse or there is reinstatement of the policy,

"(5) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(6) no policy loans are outstanding during the plan year,

the amount charged to the funding standard account shall be equal to the net premiums paid under the plan.

"(f) PLANS OTHER THAN DEFINED BENEFIT PLANS.—In the case of a profit-sharing, stock bonus, or money purchase plan—

"(1) 'normal cost' shall be the amount required under the plan to be contributed for a plan year to fund the current service liability, and

"(2) the amounts required to be charged under subsection (b) (2) (B) (i), (ii), and (iv) shall be the amount required under the plan to be contributed on account of past service liability.

"(g) EXCEPTIONAL.—Subsection (a) shall not apply to—

"(1) a plan established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States if the fund for such plan is maintained outside the United States,

"(2) a plan established and maintained solely for the purpose of complying with applicable workmen's compensation or unemployment compensation or disability insurance laws,

"(3) a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954,

"(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954 if no part of the contributions to or under such plan are made by employers of participants in such plan,

"(5) a plan established or maintained by the Government of the United States or the government of any State or political subdivision thereof, or by an agency or instrumentality thereof, or

"(6) a plan described in section 404(a) (5).

"(h) Regulations.—The Secretary or his delegate is authorized to prescribe such regulations as are necessary to carry out the provisions of this section.

### "Sec. 4972. Taxes on Failure To Meet Minimum Funding Standard.

"(a) Initial Tax.—For each taxable year of an employer who maintains a plan to which section 4971 applies, there is hereby imposed a tax of 5 percent on the amount of the accumulated funding deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer responsible for contributing to or under the plan the amount described in section 4971(b) (3) (A).

"(b) Additional Tax.—In any case in which an initial tax is imposed by subsection (a) on an accumulated funding deficiency and such accumulated funding deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated funding deficiency. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

"(c) Special Rule.—In the case of a multiemployer plan, see section 413(b) (6).

"(d) Definitions.—For purposes of this section—

"(1) Correct.—The term 'correct' means, with respect to an accumulated funding deficiency, the contribution, to or under the plan, of the amount necessary to reduce such accumulated funding deficiency as of the end of a plan year in which such deficiency arose to zero.

"(2) Correction period.—The term 'correction period' means, with respect to an accumulated funding deficiency, the period beginning with the end of a plan year in which there is an accumulated funding deficiency and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated funding deficiency to zero under this section.

"(e) Regulations.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) Cross Reference.—

"For disallowance of deduction for taxes paid under this section, see section 275.".

(b) Amendment of Section 404.—Section 404 (relating to deductions for contributions to an employees' trust, etc.) is amended by—

(1) inserting immediately after subsection (a) (1) (D) the following new sentences: "The limitations under subparagraphs (B) and (C) shall not apply with respect to the amount of a contribution made to or under a pension plan to the extent such contribution does not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 4971(a) for the taxable year. For purposes of determining the amount deductible under section 162 or 212 with respect to a contribution to a pension plan and for purposes of determining the limitations under subparagraphs (B) and (C), assets held under the plan shall be valued (in accordance with regulations prescribed by the Secretary or his delegate) on the basis of average values for 5 or fewer years."; and

(2) by striking out subsection (a) (7), and inserting in lieu thereof:

"(7) Limit of deductions.—If amounts are deductible under paragraphs (1) and (3), or (2) and (3), or (1), (2), and (3), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed the greater of 25 percent of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans, or the amount of contributions made to or under the trusts or plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 4971 for the plan year which ends with or within such taxable year. In addition, any amount paid into such trust or under such annuity plans in any taxable year in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed the greater of 30 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries to or under the trusts or plans to the extent such contributions do not exceed the minimum funding standard provided by section 4971 for the plan year which ends with or within such taxable year. This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than one trust or a trust and an annuity plan.

### "Sec. 4973. Taxes on Failure To Meet Minimum Vesting Standard.

"(a) Initial Tax.—For each taxable year of an employer who maintains a plan to which section 411 applies there is hereby imposed a tax of 5 percent on the amount of the accumulated vesting deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer who maintains the plan.

"(b) Additional Tax.—In any case in which a tax is imposed by subsection (a) on an accumulated vesting deficiency and such accumulated vesting deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated vesting deficiency. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

"(c) Definitions.—For purposes of this section—

"(1) Accumulated vesting deficiency.—The term 'accumulated vesting deficiency' means an amount equal to the actuarially equivalent value of all benefits under a plan derived from employer contributions which are required by section 411(a) (2) (A) to be nonforfeitable as of the end of a plan year, reduced by an amount equal to the actuarially equivalent value of all such benefits which are, in fact, nonforfeitable under that plan as of the close of that plan year.

"(2) Correct.—The term 'correct' means, with respect to an accumulated vesting deficiency, the crediting under the plan of the amount necessary to reduce such accumulated vesting deficiency to zero as of the end of a plan year in which such deficiency arose.

"(3) Correction period.—The term 'correction period' means, with respect to an accumulated vesting deficiency, the period beginning with the end of a plan year in which there is an accumulated vesting deficiency and ending 9 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated vesting deficiency to zero under this section.

"(d) Regulations.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(e) Cross Reference.—

"For disallowance of deduction for taxes paid under this section, see section 275.".

(c) Conforming, Clerical, Etc., Amendments.—

(1) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 44. Qualified pension plans.".

(2) Section 6161 (relating to extensions of time for paying tax) is amended by striking out "or 42" each place it appears in subsection (b) and inserting in lieu thereof ", 42 or 44".

(3) Section 6201(a) (relating to assessment authority) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(4) Section 6211 (relating to definition of a deficiency) is amended by—

(A) striking out so much of subsection (a) as precedes "(1) the sum of" and inserting in lieu thereof the following:

"(a) In General.—For purposes of this title in the case of income, estate, and gift taxes imposed by substitles A and B and excise taxes imposed by chapters 42 and 44 the term 'deficiency' means the amount by which the tax imposed by subtitle A or B, or chapter 42 or 44, exceeds the excess of—"; and

(B) striking out "chapter 42" in subsection (b) (2) and inserting in lieu thereof "chapter 42 or 44".

(5) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "or chapter 42" in subsections (a) and (b) and inserting in lieu thereof "chapter 42, or chapter 44",

(B) by striking out "chapter 42, and this chapter" in subsection (b), and inserting in lieu thereof "chapter 42, chapter 44, and this chapter", and

(C) by striking out "chapter 42 tax" in subsection (c) and inserting in lieu thereof "chapter 42 or 44 tax".

(6) Section 6213 (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended—

(A) by striking out "or chapter 42" in subsection (a) and inserting in lieu thereof ", chapter 42 or chapter 44".

(B) by striking out the heading in subsection (e) and inserting in lieu thereof "Suspension of Filing Period for Certain Chapter 42 or 44 Taxes.—"; by striking out "or 4945 (relating to taxes on taxable expenditures)" in subsection (e) and inserting in lieu thereof "4945 (relating to taxes on taxable expenditures), 4972 (relating to taxes on failure to meet maximum funding standard), section 4974 (relating to excise tax on prohibited transactions)"; and by striking out "or 4945(h) (2)" in subsection (e) and inserting in lieu thereof ", 4945(h) (2), 4972 (d) (2), or 4974(f) (4)".

(7) Section 6214(c) (relating to determinations by Tax Court) is amended—

(A) by striking out the heading and inserting in lieu thereof "Taxes Imposed by Section 507, Chapter 42, or Chapter 44.—",

(B) by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 44"; and

(C) by striking out "chapter 42" in subsection (d) and inserting in lieu thereof "chapter 42, chapter 44".

(8) Section 6344(a) (1) (relating to cross references) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(9) Section 6501(e)(3) (relating to limitations on assessment and collection) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(10) Section 6503 (relating to suspension of running of period of limitations) is amended—

(A) by striking out "and chapter 42 taxes)" in subsection (a)(1) and inserting in lieu thereof "chapter 42 or 44 taxes)", and

(B) by striking out "or section 507" in subsection (h) and inserting in lieu thereof ", section 507, or chapter 44", and by striking out "or 4945(h)(2)" in subsection (h) and inserting in lieu thereof "4945(i)(2), 4972(d)(2), or 4974(f)(4)".

(11) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 44".

(12) Section 6601(d) (relating to interest on underpayment, nonpayment, or extensions of time for payment of tax) is amended by—

(A) striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44", and

(B) striking out in the heading thereof "Chapter 42" and inserting in lieu thereof "Chapter 42 or 44".

(13) Section 6653(c)(1) (relating to income, estate, gift, and chapter 42 taxes) is amended by striking out "chapter 42" each place it appears therein (including the caption) and inserting in lieu thereof "chapter 42 or 44".

(14) Section 6659(b) (relating to applicable rules) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(15) Section 6676(b) (relating to failure to supply identifying numbers) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(16) Section 6677(b) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(17) Section 6679(b) (relating to failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(18) Section 6682(b) (relating to false information with respect to withholding allowances based on itemized deduction) is amended by striking out "and chapter 42" and inserting in lieu thereof "chapter 42, and chapter 44".

(19) Section 6861 (relating to jeopardy assessments of income, estate, and gift taxes) is amended by striking out "AND GIFT TAXES.", and inserting in lieu thereof "GIFT AND CERTAIN EXCISE TAXES."

(20) Section 6862 (relating to jeopardy assessment of taxes other than income, estate, and gift taxes) is amended—

(A) by striking out "AND GIFT TAXES.", and inserting in lieu thereof "GIFT, AND CERTAIN EXCISE TAXES.",

(B) by striking out "and gift tax)" and inserting in lieu thereof "gift tax, chapter 42 tax, and chapter 44 tax)".

(21) Section 7422 (relating to civil actions for refund) is amended—

(A) by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44" in subsection (e), and

(B) by striking out "chapter 42" in the heading of subsection (g) and inserting in lieu thereof "chapter 42 or 44", and

(C) by striking out "or 4945" in subsection (g)(1) and inserting in lieu thereof "4945, 4972, 4973, or 4974", and

(D) by striking out "section 4945(a) (relating to initial taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(a) (relating to initial taxes on taxable expenditures), 4972(a) (relating to initial tax on failure to meet minimum funding standard), 4973(a) (relating to initial tax on failure to meet minimum vesting standard), 4974(a) (relating to initial tax on prohibited transactions)", and

(E) by striking out "or 4945" in paragraphs (2) and (3) and inserting in lieu thereof "4945, 4972, 4973, 4974, or 4975".

(F) by striking out "or section 4945(b) (relating to additional taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), section 4972(b) (relating to additional tax on failure to meet minimum funding standard), section 4973(b) (relating to additional taxes on failure to meet minimum vesting standard), or section 4974(b) (relating to additional tax on prohibited transactions)", and

(G) by striking out "or 4945" in subsections (g)(2) and (3) and inserting in lieu thereof "4945, 4972, 4973, or 4974".

(22) Section 275(a) (relating to certain taxes) is amended by inserting immediately following paragraph (5) the following new paragraph:

"(6) Taxes imposed by chapter 42 and chapter 44 (except section 4975 thereof)."

(d) Effective Date.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan in existence on the date of enactment of this Act, the amendments made by this section shall apply to plan years beginning after December 31, 1975; however, if the Secretary of Labor determines that the application of any or all of such amendments to a plan for those plan years would create substantial economic hardship for that plan and certifies his determination to the Secretary of the Treasury before that date, the amendments made by this section with respect to which the Secretary of Labor makes such determination shall apply only to plan years of that plan beginning after December 31 of a year not later than 1981 determined by the Secretary of Labor and certified to the administrator of the plan and to the Secretary of the Treasury. For purposes of this paragraph the term "substantial economic hardship" includes, but is not limited to, a finding by the Secretary that—

(A) there is a substantial risk that, if such amendment or amendments apply to the plan without any extension, the voluntary continuation of the plan will be unlikely;

(B) the plan will be unable to discharge its contractual obligations for the payment of benefits; or

(C) application of the amendments to the plan without an extension is likely to cause a substantial reduction in the number of plan participants or persons employed by the employer or employers contributing to or under the plan.

Benefits under a plan may not be increased by amendment if an extension under this paragraph is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

### PART D—OPTIONAL FORM OF BENEFIT; SPECIAL RULES

### SEC. 261. AMENDMENT OF SECTION 401.

(a) In General.—Section 401(a) (relating to requirements for qualification) is amended by—

(1) striking out paragraph (4) and inserting in lieu thereof the following:

"(4) if the contributions or benefits provided under the plan do not discriminate in favor of employees who are—

"(A) officers,

"(B) shareholders, or

"(C) highly compensated,

excluding for this purpose employees who are nonresident aliens whose compensation from the employer (for the taxable year of the employer) does not include any earned income (within the meaning of section 911(b)) from sources within the United States (within the meaning of section 861(a)(3)).", and

(2) by inserting at the end thereof the following new paragraphs:

"(11) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity for the life of a participant unless such plan provides for the payment of such benefit in the form of a joint and survivor annuity (with a survivor annuity of not less than one half of the amount of the annuity payable to the participant during the joint lives of the participant and his spouse), unless the participant elects in writing, within 2 years of normal retirement age (or, if earlier, within 2 years of the first payment of regular retirement benefits), not to have the benefit paid in such form.

"(12) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated unless the beneficiary thereof cannot be located or ascertained within such reasonable period of time as the Secretary or his delegate may prescribe by regulation.".

(b) Plans Benefiting Owner-Employees.—Section 401(d)(3) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by striking out "calendar year." and inserting in lieu thereof: "calendar, fiscal, or plan year, or any employees who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective-bargaining agreement between employee representatives and one or more employers, if such agreement does not provide that such employees are to be included in the plan, and if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers during the most recently concluded contract negotiations which were the subject of bargaining between such representatives and the employer or employers.".

(c) Conforming Amendments.—

(1) Section 404(a)(2) (relating to deduction for contributions of an employer to employees' annuity plan) is amended by striking out "and (8)," and inserting in lieu thereof "(8), (11), (12), (13), (14), and (15),".

(2) Section 805 (d)(1)(C) (relating to definition of pension plan reserves) is amended by striking out "and (8)" and inserting in lieu thereof "(8), (11), (12), (13), (14), and (15)".

(d) Effective Dates.—

(1) General Rule.—Except as provided by paragraph (2), the amendments made by this section shall apply with respect to plan years and taxable years beginning after the date of enactment of this Act.

(2) Exception.—In the case of a trust which is part of a plan which was in existence on December 31, 1972, the amendments made by this section shall not apply with respect to plan years beginning before January 1, 1976.

### SEC. 262. PROHIBITION AGAINST MAINTAINING NON-QUALIFIED PLANS.

(a) In General.—Except as otherwise provided in this section, no person shall establish or maintain a retirement plan in commerce *which does not* meet the requirements of section 401 of the Internal Revenue

Code of 1954 other than a plan described in section 404(a)(5) of such Code to which section 404(g) of such Code does not apply).

(b) Enforcement.—The Secretary of the Treasury is authorized to bring an action in any district court of the United States having jurisdiction over a person who establishes or maintains a retirement plan in violation of the provisions of subsection (a) against such person for equitable relief to restrain that person from maintaining such a plan.

(c) Exceptions.—Subsection (a) shall not apply to—

(1) a plan established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States if the fund for such plan is maintained outside the United States,

(2) a plan established and maintained solely for the purpose of complying with applicable workmen's compensation or unemployment compensation or disability insurance laws,

(3) a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954.

(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c)(8) or (9) of the Internal Revenue Code of 1954 if no part of the contributions to or under such plan are made by employers of participants in such plan,

(5) a plan established or maintained by the Government of the United States or the government of any State or political subdivision thereof, or by an agency or instrumentality thereof, or

(6) a plan described in section 404(a) (5) of such Code to which section 404(g) of such Code does not apply.

(d) Definitions.—For purposes of this section, the term—

(1) "retirement plan" means any plan, fund, or program other than a profit-sharing plan, which is established under a written governing instrument and provides a determinable retirement benefit for a participant in the plan or his beneficiaries;

(2) "profit-sharing plan" means a retirement plan established or maintained by an employer to provide for the participation by his employees in the current or accumulated profits of the employer in accordance with a formula for allocating contributions made to the plan by participants in the plan and for distributing benefits under the plan upon retirement or death of any participant; and

(3) "commerce" means in or affecting interstate commerce.

(e) Regulations.—The Secretary of the Treasury shall prescribe regulations as may be necessary to carry out the provisions of this section.

### Part E—Protection of Pension Rights Under Government Plans and Contracts

Sec. 281. Duties of the Secretary of the Treasury.

The Secretary of the Treasury or his delegate shall study the extent to which pension plans established and maintained by the Government of the United States, or by any State (including the District of Columbia) or political subdivision thereof, are adequately funded. In determining whether any such plan is adequately funded, the Secretary or his delegate shall consider the minimum funding standards applicable to private pension plans under the Internal Revenue Code of 1954, the taxing power of the government maintaining the plan, and whether it would be advisable or appropriate to require such plans to comply with the same minimum funding standards applicable to private pension plans or with other minimum funding standards. The Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of such study not later than December 31, 1976, together with such recommendations, including recommendations for legislation, as he may deem appropriate.

Sec. 282. Duties of Secretary of Labor.

(a) Development of Regulations.—The Secretary of Labor shall develop, in consultation with appropriate professional societies, business organizations, and heads of interested Federal departments and procurement agencies, recommendations for modifications of Federal procurement regulations to insure that professional, scientific, and technical personnel and others working in associated occupations employed under Federal proceurement, construction, or research contracts or grants shall, to the extent feasible, be protected against forfeitures of pension or retirement rights or benefits, otherwise provided, as a consequence of job transfers or loss of employment resulting from terminations or modifications of Federal contracts, grants, or procurement policies.

(b) Publication.—Recommended changes in regulations governing Federal contracts, grants, or procurement policies shall be developed by the Secretary, as required by subsection (a), within six months after enactment of this Act, and shall be published in the Federal Register within fifteen days thereafter as proposed regulations subject to comment by interested parties.

(c) Recommendations.—After publication under subsection (b), receipt of comments, and such modification of the published proposals as the Secretary deems appropriate, the recommended changes in procurement regulations developed under this title shall be adopted by each Federal department and procurement agency within sixty days thereafter unless the head of such department or agency determines that such changes would not be in the national interest or would not be consistent with the primary objectives of such department or agency.

### TITLE III—PORTABILITY

Sec. 301. Definitions.

For purposes of this title—

(1) "fund" means the Pension Benefit Portability Fund established under section 303;

(2) "corporation" means the Pension Benefit Guaranty Corporation established under title IV of this Act;

(3) "qualified plan" means—

(A) a pension, profit-sharing, or stock bonus plan described in section 401(a) of the Internal Revenue Code of 1954,

(B) an annuity plan described in section 403(a) or (b) of such Code, and

(C) a bond purchase plan described in section 405(a) of such Code;

(4) "qualified insurance carrier" means an insurance carrier subject to regulation and examination by the government of the State in which an annuitant resides, which is determined by the corporation to be suitable as the issuer of annuity contracts authorized to be purchased under section 307(b)(3);

(5) "participant" means an employee who is covered under a qualified plan other than an employee who, at any time, has been an employee within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 or a proprietary employee within the meaning of section 412(c)(1) of such Code;

(6) "administrator" means the person or persons described in section 501(g)(11) of this Act; and

(7) "State" means any of the States of the United States or the District of Columbia.

Sec. 302. Program Established.

The corporation shall establish a voluntary pension benefit portability program in accordance with the provisions of this title.

Sec. 303. Establishment of Fund.

(a) In General.—The corporation shall establish a Pension Benefit Portability Fund. Any payments received by the corporation under this section or under section 305 shall be deposited in the fund, and all expenditures made by the corporation under, or in connection with, this title shall be made out of the fund.

(b) Investment of Fund Moneys.—The corporation is authorized to invest any amounts in the fund during any fiscal year which it determines not to be needed for use in the program for the payment of liabilities during that year, and any amounts in the fund not needed for the payment of current operating and administrative expenses, in obligations of the United States, and to deposit any such amounts in interest-bearing accounts in, or purchase certificates of deposit from, any bank the deposits of which are insured by the Federal Deposit Insurance Corportaion, and to deposit any such amounts in interest-bearing accounts in any savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation or in any credit union insured under title II of the Federal Credit Union Act. In no case shall more than 10 percent of the amount invested under this subsection be invested in or with any particular bank, savings and loan association, or credit union.

(c) Reports on Status of Fund.—The corporation shall report to the Congress not later than the first day of the fourth month beginning after the end of the fiscal year of the corporation on the operations and status of the fund during that fiscal year, and on its expected operations and status during the fiscal year of the corporation during which such report is made and the two succeeding fiscal years. The report shall also contain a review of the general policies followed by the corporation in managing the fund and may contain recommendations, including recommendations for additional legislation, with respect to the operations of the fund and of the portability program established by this title, which the corporation chooses to make.

Sec. 304. Registration.

(a) In General.—If an employer who maintains a qualified plan wishes to be able to make payments from his qualified plan assets on behalf of former employees to the corporation for deposit in the fund, or to be able to receive payments from the corporation for the purchase of benefits under his qualified plan for his employees, he shall register the plan with the corporation. The registration shall be in such form and contain such information as the corporation may require. The corporation may not accept any registration application which does not contain the employer's agreement, the breach of which is subject to such charge as the corporation may by law impose, to pay to the corporation, within 180 days after the date on which it is requested, the amount payable under section 305 with respect to a participant in the registered qualified plan who is covered by such registration who requests such payment if that participant was employed by the employer at any time within a period of not less than 12 months preceding the date of the request.

(b) Termination of Registration; Reregistration.—An employer may terminate the registration of his plan under this section and reregister from time to time; however, if the corporation determines that a requested termination of registration and a subsequent registration by an employer were for the purpose of discriminating against an employee or group of employees in an unlawful manner or in a manner prohibited to qualified plans under section 401(a) (3) or (4) of the Internal Revenue Code of 1954 or for the purpose of frustration the purpose of this title, that termination of registration will be treated as not having been effective.

(c) Limited Registration.—An employer may register a qualified plan under this section with respect to less than all of his employees who are participants in that qualified plan if the group of employees with respect to whom he registers the plan is reasonably defined and the employer demonstrates to the satisfaction of the corporation that the group has a particular need for access to the voluntary pension benefit portability program which is not shared by his other employees who are excluded from the registration but who are participants in the same qualified plan.

### SEC. 305. ACCEPTANCE OF DEPOSITS.

(a) PAYMENTS BY ADMINISTRATORS.—The corporation shall accept for deposit into the fund any payment made from the assets of a registered qualified plan by the administrator of that plan at the request of a participant if the payment represents a full discharge of liability by that plan to the participant and is made upon his separation from the service of the employer or employers who maintain the plan.

(b) PAYMENTS BY PARTICIPANTS.—The corporation shall accept for deposit into the fund any payment made by a participant (or former participant) in a qualified plan if—

(1) the payment is all or not less than the taxable portion of a distribution made to the participant by the plan representing a full discharge of liability of the plan to the participant, or a partial discharge of liability which will become a full discharge after being adjusted to reflect the participant's interest in the plan at the close of the plan year, or an installment portion of such a full discharge of liability with any remainder to be paid within 12 months after the date on which the first portion of such distribution is made; and

(2) the payment is made to the corporation for deposit into the fund within 60 days after the date on which the participant (or former participant) received the distribution to which the payment relates.

For purposes of this subsection, the term "taxable portion" means that part of any distribution to which this subsection applies which is attributable to amounts other than employee contributions made by the participant.

(c) OTHER CONDITIONS.—The corporation shall not accept any payment described in subsection (a) unless the payment is made directly to the corporation by the administrator of the plan, nor shall it accept any payment described in subsection (a) or (b) unless it is made in cash or its equivalent and it is accompanied by such information with respect to the plan and with respect to the payment and the participant on behalf of whom the payment is made, or who is making the payment, as the corporation may require for the efficient administration of the voluntary pension benefit portability program.

### SEC. 306. INDIVIDUAL ACCOUNTS.

(a) ACCOUNT ESTABLISHED.—The corporation shall establish and maintain a separate account for each separate payment received by the corporation under section 305 of this title on behalf of each participant.

(b) ITEMS SHOWN IN ACCOUNT.—An account established under subsection (a) shall identify the participant for whom it is established and shall show—

(1) the name and address of each qualified plan which makes a payment under section 305 of this title on behalf of the participant in whose name such account is established.

(2) the portion of each such payment which constitutes the amount treated under section 72, 402(a), and 403 of the Internal Revenue Code of 1954 as the net amount contributed by the participant;

(3) any remaining portion of each such payment; and

(4) the amount which constitutes the income attributable to such account while in the custody of the fund.

### SEC. 307. PAYMENTS FROM INDIVIDUAL ACCOUNTS.

(a) GENERAL RULE.—Except as provided in subsection (b), an amount credited to the account of any participant under this title may be paid by the corporation to—

(1) such participant,

(2) his beneficiary,

(3) a qualified insurance carrier selected by such participant, or

(4) a qualified plan.

(b) LIMITATIONS.—

(1) In the case of a payment by the corporation to a participant, such payment shall be made upon the written request of such participant and in an amount—

(A) of $100 or more, or

(B) which constitutes the total amount credited to the account of such participant. The corporation shall, upon the date a participant attains the age of 70½ years, pay to such participant the amount which constitutes the total amount credited to the account of such participant. No payment may be made to a participant who has not attained the age of 59½ years unless that participant is disabled (within the meaning of section 72(m) (7) of the Internal Revenue Code of 1954).

(2) A payment shall be made by the corporation to the beneficiary of a participant only if—

(A) the participant dies before the total amount credited to his account has been paid or distributed in accordance with paragraphs (1), (3), and (4), and

(B) the payment is made to the beneficiary upon his written request and—

(i) is in an amount of $100 or more,

(ii) constitutes the total amount credited to the account of the participant (if less than $100), or

(iii) is used to purchase an immediate annuity for such beneficiary which is payable for his life (or for a term certain not extending beyond the life expectancy of the beneficiary) and which is distributed immediately to the beneficiary.

For purposes of this paragraph, the total amount credited to the account of a participant must be paid or distributed to his beneficiary not later than 10 years after the death of the participant.

(3) In the case of a payment by the corporation to a qualified insurance carrier selected by a participant who has attained the age of 59½ years, such payment shall only be made if such payment is used for the purchase of—

(A) a single premium life annuity contract payable during the life of such participant commencing not earlier than the date on which such participant attains the age of 59½ years and not later than the date on which he attains the age of 70½ years, or

(B) a single premium joint and survivor annuity contract payable during the lifetimes of such participant and his spouse commencing not earlier than the date on which such participant attains (or would have attained) the age of 59½ years and not later than the date on which such participant attains (or would have attained) the age of 70½ years, which will be distributed to such participant on the date on which payments are to commence.

(4) The corporation shall make a payment to a qualified plan only if—

(A) the plan is registered under section 304,

(B) the payment is made pursuant to a request made by the participant within 12 months after he becomes a participant in such plan, or, if later, within 12 months after the plan is registered under section 304, and

(C) the administrator of the plan agrees to accept the payment and to apply it to the purchase of benefits under the plan which have a value equivalent to the value of the payment if it were left in the fund.

(c) MANDATORY WITHDRAWALS.—The balance of any account of a participant shall be paid by the corporation to such participant within 30 days after notification to the corporation by the Secretary of the Treasury or his delegate that the trust or plan (which made a payment credited to such account) has been determined not to be a qualified trust under section 401(a) of the Internal Revenue Code of 1954 or not to be a plan which satisfied the requirements of section 404(a)(2) of such Code at the time such trust or plan made such payment.

### SEC. 308. ASSISTANCE TO PLAN ADMINISTRATORS.

The corporation shall provide assistance to employers, employee organizations, trustees, and administrators of pension plans in their efforts to provide greater retirement protection for individuals who are separated from employment covered under such plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

### SEC. 309. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.

(a) AMENDMENT OF SECTION 402.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by—

(1) striking out "and (4)" in the first sentence of paragraph (1) of subsection (a) and inserting in lieu thereof ", (4) and (6)",

(2) inserting after paragraph (5) of subsection (a) (as amended by section 703(b) of this Act) the following new paragraph:

"(6) CERTAIN TRANSFERS.—For purposes of this section, a transfer of the full amount representing an employee's interest in an employee's trust described in section 401(a) which is exempt from tax under section 501 (a) shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer not later than the 60th day after its receipt by the employee, and within 12 months after such change of employment, to—

"(A) a trust of his new employer which is described in section 401(a) and exempt from tax under section 501(a), or

"(B) an annuity plan of his new employer which meets the requirements of section 404 (a)(2).

This paragraph shall not apply to a transfer made in connection with a change of employment by an individual who was, at any time, under the former employer's plan an employee within the meaning of section 401 (c)(1) or a proprietary employee within the meaning of section 412(c)(1). This paragraph shall also apply in the case of a transfer to such a trust or annuity plan of not less than that portion of an employee's interest in his former employer's plan which does not represent the employee's own contributions if the full amount of his interest in such plan was distributed to him. For purposes of this title, the contribution made to the new employer's plan by such a transfer shall be treated as an employer contribution made on the date contributed, except that for purposes of sections 219(b)(2), 404, 411, 414(a), and 1379(b) it shall be treated as an employee contribution made on such date.", and

(3) adding at the end thereof the following new subsections:

"(f) TAXABILITY OF PAYMENTS TO THE PENSION BENEFIT PORTABILITY FUND.—A payment to the Pension Benefit Portability Fund (established under section 303 of the Retirement Income Security for Employees Act) by a qualified plan of an amount described in section 305 of that Act on behalf of a participant shall not be includible in the gross income of such participant for the taxable year of such participant in which such payment is made.

"(g) Taxability of Payments From the Pension Benefit Portability Fund.—Any amount paid on behalf of a participant from the Pension Benefit Portability Fund—

"(1) to a member plan, shall not be includible in the gross income of such participant for the taxable year of such participant in which such payment is made;

"(2) to or with respect to such participant, shall be includible in gross income to the extent that such amount (when added to amounts previously received) exceeds the aggregate amount of each payment to the Pension Benefit Portability Fund credited to the account of such participant which is treated as contributed by such participant under subsection (a), or section 72 or 403;

"(3) to a qualified insurance carrier (within the meaning of section 301(4) of the Retirement Income Security for Employees Act) for the purchase of an annuity contract described in section 307(b) (2) or (3) of that Act shall not be includible in the gross income of such participant for the taxable year in which such annuity contract is purchased.

"(h) Taxability of Mandatory Withdrawals From the Pension Benefit Portability Fund.—Any amount paid to a participant under the provisions of section 307(c) of the Retirement Income Security for Employees Act shall be includible in the gross income of such participant to the extent such amount constitutes the amount described in section 306(b) (4) of such Act."

(b) Amendment of Section 403.—Section 403(a) (relating to taxability of beneficiary under annuity plan) is amended by—

(1) striking out "pargarph (2)" in the first sentence of paragraph (1) and inserting in lieu thereof "paragraphs (2) and (4)", and

(2) inserting after paragraph (3) (as added by section 703(b) of this Act) the following new paragraph.

"(4) Certain transfers.—For purposes of this section, a transfer of the full amount representing an employee's interest in an annuity plan described in section 404(a) (2) shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer not later than the 60th day after its receipt by the employee, and within 12 months after such change of employment, to—

"(A) a trust of his new employer which is described in section 401(a) and exempt from tax under section 501(a), or

"(B) an annuity plan of his new employer which meets the requirements of section 404(a) (2).

This paragraph shall not apply to a transfer made in connection with a change of employment by an individual who was, at any time, under the former employer's plan an employee within the meaning of section 401 (c) (1) or a proprietary employee within the meaning of section 412(c) (1). This paragraph shall also apply in the case of a transfer to such a trust or annuity plan of not less than that portion of an employee's interest in his former employer's plan which does not represent the employee's own contributions if the full amount of his interest in such plan was distributed to him. For purposes of this title, the contribution made to the new employer's plan by such a transfer shall be treated as an employer contribution made on the date contributed, except that for purposes of sections 219(b) (2), 404, 411, 414(a), and 1379(b) it shall be treated as an employee contribution made on such date."

(c) Effective Date.—The amendments made by this section shall be effective on and after the date of enactment of this Act.

### Sec. 310. Authorization of Appropriations.

There are authorized to be appropriated to the corporation (which shall be treated solely for purposes of this section as an instrumentality of the United States) such sums as may be necessary to carry out the provisions of this title.

## TITLE IV—PLAN TERMINATION INSURANCE

## Part A—Pension Benefit Guaranty Corporation

### Sec. 401. Definitions: Special Rules.

(a) Definitions.—For purposes of this title, the term—

(1) "administrator" means the person or persons described in section 501(g) (11) of this Act;

(2) "substantial employer" means any employer (treating employers which are members of the same affiliated group, within the meaning of section 1504(a) of the Internal Revenue Code of 1954, as one employer) who—

(A) has made contributions to or under a multiemployer plan for each of any 2 consecutive plan years equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year, and

(B) who has received notice from the plan administrator under section 466 and has not withdrawn from the plan within 24 months after receiving such notice;

(3) "multiemployer plan" means a plan which the corporation determines is a plan to which more than one employer (treating employers who are members of the same affiliated group within the meaning of section 1504(a) of the Internal Revenue Code of 1954 as one employer) is required to contribute and which is a plan established or maintained pursuant to a collective bargaining agreement between employee representatives and one or more employers, but a plan shall not be considered to be a multiemployer plan within the meaning of this section unless the corporation determines that—

(A) under the plan benefits are payable with respect to each participant without regard to the cessation of contributions by the employer who employed that participant, and

(B) the amount of contributions made to or under the plan for a plan year by any employer making such contributions is less than 50 percent of the aggregate amount of contributions made to or under the plan for that plan year by all employers making such contributions;

(4) "corporation" means the Pension Benefit Guaranty Corporation established under section 402; and

(5) "fund" means the Pension Benefit Guaranty Fund established under section 403.

(b) Special Rules.—

(1) Non-multiemployer plans.—A plan which is not a multiemployer plan shall be treated as the separate plan of each employer (with predecessor and successor employers treated as one employer) who contributed to or under the plan.

(2) Employer.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer, and a partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401 (c) (1) of the Internal Revenue Code of 1954.

### Sec. 402. Pension Benefit Guaranty Corporation.

(a) Establishment.—There is established within the Department of Labor a body corporate to be known as the Pension Benefit Guaranty Corporation (hereinafter referred to as the "Corporation"). In carrying out its functions under this Act the Corporation shall be administered by a Board of Directors (as provided in subsection (c)), under the general supervision and direction of the Secretary of Labor.

(b) General Powers.—In addition to any specific power granted to the Corporation elsewhere in this Act, the Corporation shall have the power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any court, State or Federal;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal, by its Board of Directors, bylaws and rules relating to the conduct of its business and the exercise of all other rights and powers granted to it by this Act;

(4) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this Act in any State or other jurisdiction without regard to qualification, licensing, or other statute in such State or other jurisdiction;

(5) to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) subject to the provisions of subsection (c), to elect or appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and, to the extent desired, require bonds for them and fix the penalty thereof;

(7) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this Act.

(c) Board of Directors.—The Board of Directors of the Corporation shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce. Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties of members of the Board. The Secretary of Labor shall be the Chairman of the Board of Directors.

(d) Meetings of Board.—The Board of Directors shall meet at the call of its Chairman, or as otherwise provided by the bylaws of the Corporation.

(e) Bylaws.—As soon as practicable but not later than 180 days after the date of enactment of this Act, the board of directors shall adopt initial bylaws and rules relating to the conduct of the business of the corporation. Thereafter, the board of directors may alter, supplement, or repeal any existing bylaw or rule, and may adopt additional bylaws and rules, from time to time as may be necessary. The Secretary of Labor shall cause a copy of the bylaws of the corporation to be published in the Federal Register not less than annually.

(f) Exemption From Tax.—The Pension Benefit Guaranty Corporation, its property, its franchise, capital, reserves, surplus, and its income (including, but not limited to, any income of the Pension Benefit Guaranty Fund and the Pension Benefit Portability Fund), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

### Sec. 403. Establishment of Pension Benefit Guaranty Fund.

(a) Trust Fund.—

(1) IN GENERAL.—There is established on the books of the Treasury of the United States a trust fund to be known as the "Pension Benefit Guaranty Fund" (hereinafter in this title referred to as the "fund"). The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b). Upon request made by the Corporation, the Secretary of the Treasury shall transfer such amounts from the fund to the Corporation as the Corporation deems necessary to pay benefits guaranteed under section 422 and to pay the operational and administrative expenses of the Corporation.

(2) TRUSTEE.—The Secretary of the Treasury is the trustee of the fund and shall report to the Congress not later than the first day of March of each year on the operation and status of the fund during the preceding fiscal year of the corporation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the fund for each fiscal year an amount equal to the amount of the collections of tax under section 4972 of the Internal Revenue Code of 1954 (relating to taxes on failure to meet minimum funding standard) and chapter 45 of such Code.

(c) PREMIUM RATES; COVERAGE SCHEDULES.—

(1) IN GENERAL.—The corporation shall prescribe such insurance premium rates and such coverage schedules for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title.

(2) COVERAGE SCHEDULES.—The corporation shall maintain separate coverage schedules for—

(A) plans which are multiemployer plans,

(B) plans which are not multiemployer plans, and

(C) employers who wish to be insured against liability under part D of this title.

Except as provided in paragraph (3), the corporation may revise such schedules whenever it determines that revised rates are necessary, but a revised schedule described in subparagraph (A) or (B) shall apply only to taxable years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution originating in the House of Representatives.

(3) INITIAL COVERAGE SCHEDULES FOR PLANS.—The rate for all plans with respect to plan years ending with or within taxable years ending before January 1, 1977, shall be—

(A) in the case of each employer who maintains one or more plans other than a multiemployer plan, with respect to each such plan, an amount equal to $1 for each individual employed by him at any time during each plan year who is a participant in such plan at any time during such plan year; or

(B) in the case of a multiemployer plan, an amount equal to $1 for each individual who is employed by any of the employers in such plan at any time during each plan year and who is a participant in such plan at any time during such plan year.

(d) REVISED COVERAGE SCHEDULE PROCEDURE.—

(1) IN GENERAL.—In order to place a revised coverage schedule (other than a schedule described in subsection (c)(2)(C) of this section) in effect, the corporation shall transmit the proposed schedule, its proposed effective date, and the reasons for its proposal to the Committee on Ways and Means of the House of Representatives.

(2) EXERCISE OF RULEMAKING POWER OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—The succeeding paragraphs of this subsection are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (3); and they shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(3) RESOLUTION.—For the purpose of the succeeding paragraphs of this subsection, "resolution" means only a concurrent resolution originating in the House of Representatives, the matter after the resolving clause of which is as follows: "The that Congress favors the proposed revised coverage schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on ———.", the blank space therein being filled with the date on which the corporation's message proposing the rate was delivered.

(4) REFERRAL OF RESOLUTION.—A resolution shall be referred to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives or the Committee on Finance and the Committee on Labor and Public Welfare of the Senate.

(5) DISCHARGE OF COMMITTEE.—If the committee to which has been referred a resolution has not reported it before the expiration of 10 calendar days after its introduction, it shall then (but not before) be in order to move to discharge the committee from further consideration of that resolution, or to discharge the committee from further consideration of any other resolution with respect to the proposed adjustment which has been referred to the committee. The motion to discharge may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same proposed rate), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposed rate.

(6) CONSIDERATION OF RESOLUTION.—When the committee has reported, or has been discharged from further consideration of a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(7) DEBATABILITY OF MOTIONS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution and motions to proceed to the consideration of other business shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(e) BORROWING AUTHORITY.—The corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $100,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations of the corporation. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued by the corporation under this subsection, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes of other obligations shall be treated as public debt transactions of the United States.

### PART B—COVERAGE

### SEC. 421. PLANS COVERED.

(a) GENERAL RULE.—Except as provided by subsection (c), this section applies to any plan which, for a plan year, is, or has been determined by the Secretary of the Treasury to be, a plan described in section 401(a) of the Internal Revenue Code of 1954, or which meets the requirements of section 404(a)(2) of such Code. For purposes of this section, a successor plan is deemed to be a continuation of a predecessor plan. For this purpose, a successor plan is a plan which covers a group of employees which includes substantially the same employees as a previously established plan, and provides substantially the same benefits as that plan provided.

(b) CONSENT BY PLANS TO BE COVERED BY TITLE.—The filing of a return under section 6040 of the Internal Revenue Code of 1952 for a plan claiming treatment as a plan to which part I of subchapter D of chapter 1 of such Code applies shall constitute the consent of that plan and its administrator to be bound by the provision of this title.

(c) LIMITATIONS.—This section shall not apply to any plan—

(1) which is a pension plan of the money purchase type, a profit-sharing plan, or a stock bonus plan,

(2) established and maintained by the United States, a State or political subdivision thereof, or a corporation which is an instrumentality of the United States, a State or political subdivision thereof,

(3) established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless—

(A) such plan has notified the corporation, in accordance with procedures prescribed by the corporation, that it wishes to have the provisions of this title apply to it,

(B) the plan is established and maintained for the exclusive benefit of employees of such church or convention or association of churches who are employed exclusively in connection with one or more unrelated trades or businesses (within the meaning of section 513 of such Code), or

(C) the plan is a multiemployer plan, and one or more of the employers in the plan is not a church (or a convention or association of churches) which is exempt from tax under section 501(a) of such Code, or

(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of such Code under which no part of the contributions to or under the plan are made by employers of participants in the plan.

For purposes of paragraph (1) of this subsection, the term "money purchase type" does not include a plan under which a fixed benefit is promised if the employer or his representative participated in the determination of that benefit.

### Sec. 422. Benefits Covered.

(a) General Rule.—Subject to the limitations contained in subsection (b), the corporation shall guarantee the payment of all nonforfeitable benefits and of all ancillary benefits under the terms of a plan which terminates at a time when section 421 applies to it. For purposes of this subsection, the term "ancillary benefit" means any nonforfeitable benefit other than a nonforfeitable retirement benefit which is determined by the corporation to be insurable as an ancillary benefit.

(b) Limitations.—

(1) New benefits.—No benefits provided by a plan in effect for less than 36 months at the time the plan terminates shall be guaranteed under this section. For purposes of this paragraph, the time a successor plan (within the meaning of section 421(a)) has been in effect includes the time a previously established plan (within the meaning of section 421(a)) was in effect.

(2) Benefit increases.—The amount of benefits described in subsection (a) shall be determined without regard to any amendment of the plan which increases the value of benefits payable with respect to a participant, if such amendment was made within the 36-month period preceding the date on which the plan terminates.

(3) Maximum guaranteed benefit under single plan.—Except as provided in paragraphs (8) and (9), the amount of monthly benefits described in subsection (a) provided by a plan, which are guaranteed under this section with respect to a participant, shall not have an actuarial value which exceeds the actuarial value of a monthly benefit with no ancillary benefits in the form of a life annuity commencing at age 65 equal to the lesser of—

(A) 50 percent of his average monthly gross income from his employer during the 5 calendar year period (or, if less, during the number of calendar years in such period in which he actively participates in the plan) preceding the calendar year in which the plan terminates (or the calendar year in which he is no longer an active participant) determined by dividing 1/12th of the sum of all such gross income by the number of such calendar years in which he had such gross income, or

(B) $750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974.

The actuarial value of a benefit (including ancillary benefits) shall be determined in accordance with bylaws of the corporation. For purposes of subparagraph (A), gross income within the meaning of section 911(b) of the Internal Revenue Code of 1954 from the employer; and the 5 calendar year period taken into account shall be the 5 consecutive calendar years period which yields the largest average annual gross income from an employer.

(4) Maximum amount payable under more than one plan.—Notwithstanding paragraph (3), no person shall receive from the corporation with respect to a participant an amount, or amounts, that has an actuarial value which exceeds a monthly benefit with no ancillary benefits in the form of a life annuity commencing at age 65 equal to the amount determined under paragraph (3)(B) at the time of the last plan termination.

(5) Certain participants.—

(A) This paragraph shall apply only to a participant who is covered by a plan as a proprietary employee (within the meaning of section 412(c)(1) of the Internal Revenue Code of 1954) or an owner-employee (within the meaning of section 401(c)(3) of such Code) on any day during the plan year in which the plan terminates or any of the 3 consecutive plan years immediately preceding such year.

(B) The amount of monthly benefits otherwise payable from the corporation with respect to each participant described in subparagraph (A) shall be reduced to take account of such participant's individual pro rata share of the accumulated funding deficiency (as defined in section 4971(a) of the Internal Revenue Code of 1954) at the time the plan terminates. The individual pro rata share shall be equal to such accumulated unfunded deficiency multiplied by a fraction, the numerator of which is the amount of benefits otherwise payable from the corporation with respect to such participant and the denominator of which is the value of benefits payable from the corporation with respect to all such participants on the date of termination.

(6) Disqualification.—

(A) Disqualification by secretary.—No benefits accrued under a plan after the date on which the Secretary of the Treasury or his delegate issues notice that he has determined that any trust which is a part of a plan does not meet the requirements of section 401(a) of the Internal Revenue Code of 1954, or that the plan does not meet the requirements of section 404(a)(2) of such Code, are guaranteed under this section unless such determination is erroneous. This subparagraph shall not apply if the Secretary or his delegate subsequently issues a notice that such trust meets the requirements of section 401(a) of such Code or that the plan meets the requirements of section 404(a)(2) of such Code.

(B) Other disqualifications.—No benefits accrued under a plan after the date on which an amendment of the plan is adopted which causes the Secretary of the Treasury or his delegate to determine that any trust under the plan has ceased to meet the requirements of section 401(a) of the Internal Revenue Code of 1954 or that the plan has ceased to meet the requirements of section 404(a)(2) of such Code, are guaranteed under this section unless such determination is erroneous. This subparagraph shall not apply if the amendment is revoked as of the date it was first effective or amended to comply with such requirements.

### Sec. 423. Contingent Liability Coverage.

(a) In General.—The corporation is authorized to insure any employer who maintains or contributes to or under a plan to which section 421 applies against the payment of any liability which would be imposed on him under part D of this title in the event of a termination of that plan.

(b) Premiums.—The corporation is authorized to prescribe and collect, in such manner as it deems to be appropriate, premiums for insurance offered under subsection (a). Such premiums shall be determined by the corporation and revised by it from time to time as may be necessary, without regard to the provisions of section 403(d), and shall be chargeable at a rate sufficient to fund any payments by the corporation which become necessary under any such contract of insurance.

(c) Contingent Liability Coverage.—No payment shall be made by the corporation under any contract of insurance entered into under this section with an employer for contingent liability arising with respect to any benefit unless the premiums under such contract have been paid by the employer and such contract has been in effect (with respect to any such benefit) for more than 60 months.

(d) No Payment if Employer Remains in Business.—No payment shall be made by the corporation under any contract of insurance entered into by it under this section with respect to the contingent liability of any employer who, within the meaning of section 462(f), remains in business after the termination of the plan with respect to which the contingent liability arose.

(e) Other Insurance.—Nothing in this section shall be considered to preclude the purchase by an employer of insurance from any other person, or to limit the circumstance under which that insurance is payable, or in any way to limit the terms and conditions of such insurance.

### Sec. 424. Other Risks.

The corporation is authorized to insure (subject to the limitations of section 442(b)(4)) the payment of other classes of benefits under a plan wherever feasible, to prescribe the terms and conditions of such insurance, and to establish and collect such premiums as may be necessary.

## Part C—Terminations

### Sec. 441. Termination by Plan Administrator.

(a) General Rule.—Before the effective date of the termination of a plan, the plan administrator shall file a notice with the corporation that the plan is to be terminated and for a period of 90 days thereafter the plan administrator shall pay no amount pursuant to the termination procedure of the plan unless, before the expiration of such period, he receives a notice of sufficiency under subsection (b). Thereafter, the plan administrator shall proceed with the termination of the plan in a manner consistent with section 444.

(b) Notice of Sufficiency.—If the corporation determines that, after application of section 444, the assets held under the plan are sufficient to discharge when due all obligations of the plan with respect to benefits guaranteed under section 422 (without regard to section 422(b)(5)), it shall notify the plan administrator of such determination as soon as practicable.

(c) Notice of Insufficiency.—If, within a period of 90 days after a notice of termination is filed by a plan administrator pursuant to subsection (a), the corporation finds that it is unable to determine that, after application of section 444, the assets held under the plan are sufficient to discharge when due all obligations of the plan with respect to benefits guaranteed under section 422 (without regard to section 422(b)(5)), it shall notify the plan administrator within such 90-day period of such finding. Upon issuance of such notice, the plan shall be treated as if it had been terminated by the corporation under section 442 on the date such notice is issued.

(d) Extension of Time.—The corporation and the plan administrator may agree to extend the 90-day period provided by this section by a written agreement signed by the corporation and the plan administrator before the expiration of the 90-day period. Such agreement shall extend the 90-day period in accordance with the agreement. The 90-day period may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 90-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

(e) Subsequent Insufficiency.—If in terminating the plan as authorized by this section, the plan administrator finds that the plan is unable, or will be unable, to pay when due, benefits guaranteed under section 422 (without regard to section 422(b)(5)) the plan administrator shall notify the corporation of such findings as soon as practicable thereafter. If the corporation concurs with the finding of the plan administrator, it shall terminate the plan under section 442.

(f) Certain Amendments of Plan.—For purposes of subsection (a), a plan with respect to which benefits are guaranteed under section 422 shall be treated as terminated upon the adoption of an amendment to such plan, if, after giving effect to such amendment, the plan is a plan described in section 421(c)(1).

### Sec. 442. Termination by Pension Benefit Guaranty Corporation.

(a) Preliminary Determination.—The corporation may institute proceedings under this section to terminate a plan whenever it determines that—

(1) the plan has not met the minimum funding standard required under section 4971 of the Internal Revenue Code of 1954, or has been notified by the Secretary of the Treasury that a notice of deficiency under section 6212 of such Code has been mailed with respect to the tax imposed under section 4972(a) of such Code,

(2) the plan is unable to pay benefits when due to the extent guaranteed under section 422 (without regard to section 422(b)(5)),

(3) the reportable event described in section 443(b)(8) has occurred, or

(4) the liability of the corporation may reasonably be expected to increase substantially if the plan is not terminated.

(b) Notice to Plan.—Whenever the corporation makes a determination under subsection (a) with respect to a plan it may, upon notice to the plan, apply to the appropriate United States district court for the appointment of a trustee to administer the plan with respect to which the determination is made pending the issuance of a decree under subsection (c) ordering the termination of the plan. If within 3 business days after the filing of an application under this subsection, or such other period as the court may order, the administrator of the plan shall consent to the appointment of a trustee, or fail to show why a trustee should not be appointed, the court may grant the application and appoint a trustee to administer the plan in accordance with its terms until the corporation determines that the plan should be terminated or that termination is unnecessary.

(c) Application for Decree.—If the corporation has issued a notice under this section to a plan administrator and (whether or not a trustee has been appointed under subsection (b)) has determined that the plan should be terminated, it may, upon notice to the plan administrator, apply to the appropriate United States district court for a decree adjudicating that the plan must be terminated in order to protect the interests of the participants and to avoid any further deterioration of the financial condition of the plan or any further increase in the liability of the fund. Upon granting a decree for which the corporation has applied under this subsection the court shall authorize the trustee appointed under subsection (b) (or appoint a trustee if one has not been appointed under such subsection and authorize him) to terminate the plan in accordance with the provisions of section 444.

(d) Powers and Duties of the Trustee.—

(1) Powers.—

(A) Powers before issuance of decree.—A trustee appointed under subsection (b) shall, until the issuance of a decree under subsection (c), have the power—

(i) to do any act authorized by the plan or this title to be done by the plan administrator or any trustee of the plan;

(ii) to require the transfer of all (or any part) of the assets and records of the plan to himself as trustee.

(iii) to invest any assets of the plan which he holds in accordance with the provisions of the plan and applicable rules of law;

(iv) to limit payment of benefits under the plan to amounts guaranteed by section 422 (without regard to section 422(b)(5)) or to continue payment of some or all of the benefits which were being paid prior to his appointment; and

(v) to do such other acts as he deems necessary to continue operation of the plan without increasing the political liability of the corporation, if such acts may be done under the provisions of the plan.

If the court which application is made under subsection (c) dismisses the application with prejudice, or if the corporation fails to apply for a decree under subsection (c) within 30 days after the date on which the trustee is appointed, the trustee shall transfer all assets and records of the plan held by him to the plan administrator within 3 business days after such dismissal or the expiration of such 30-day period, and shall not be liable to the plan or any other person for his acts as trustee except for willful misconduct.

(B) Powers upon issuance of decree.—If the court to which an application is made under subsection (c) issues the decree requested in such application, the trustee shall have the power—

(i) to pay benefits under the plan in accordance with the provisions of section 444,

(ii) to collect for the plan any amounts due the plan,

(iii) to receive any payment made by the corporation to the plan under this title,

(iv) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan, other than a suit or proceeding in which the corporation is an adverse party,

(v) to issue, publish, or file such notices, statements, and reports as may be required by the corporation or any order of the court,

(vi) to liquidate the plan assets, and

(vii) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries.

(2) Notice to interested parties.—As soon as practicable after his appointment, the trustee shall give notice to interested parties of the institution of proceedings under this title to determine whether the plan should be terminated or to terminate the plan, whichever is applicable. For purposes of this paragraph, the term "interested party" means—

(A) the plan administrator,

(B) each participant in the plan and each beneficiary of a deceased participant, and

(C) each employer who may be subject to liability under section 462.

(3) Duties.—Except to the extent inconsistent with the provisions of this Act, or as may be otherwise ordered by the court, a trustee appointed under this section shall be subject to the same duties as a trustee appointed under section 47 of the Bankruptcy Act.

(e) Effect of Other Pending Actions.—An application by the corporation under this section may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

(f) Executive Jurisdiction Over Plan.—Upon the filing of an application for the appointment of a trustee or the issuance of a decree under this section, the court to which an application is made shall have exclusive jurisdiction of the plan involved and its property wherever located, with the powers, to the extent consistent with the purposes of this section, of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act. Pending an adjudication under subsection (c) such court shall stay, and upon appointment by it of a trustee as provided in this section such court shall continue the stay of, any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan or its property and any other suit against any receiver, conservator, or trustee of the plan or its property. Pending such adjudication and upon the appointment by it of such trustee, the court may stay any proceeding to enforce a lien against property of the plan or any other suit against the plan.

(g) Appropriate Court.—An action under this subsection may be brought in the judicial district where the plan administrator resides or is doing business or where any property of the trust forming a part of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

### Sec. 443. Reportable Events.

(a) Report of Event.—Within 30 days after the occurrence of a reportable event, the plan administrator shall notify the corporation that such event has occurred.

(b) Occurrence of Reportable Event.—For purposes of this section a reportable event occurs—

(1) Loss of qualified or exempt status by trust.—At the time the Secretary of the Treasury issues notice that he has determined that any trust which is a part of the plan and which has previously qualified under section 401(a) of the Internal Revenue Code of 1954, or which the Secretary of the Treasury has previously determined has so qualified, has ceased to so qualify, or ceased to be exempt from tax under section 501(a) of such Code;

(2) Loss of qualified status by plan.—At the time the Secretary of the Treasury issues notice that he has determined that a plan which has previously satisfied the requirements of section 404(a)(2) of the Internal Revenue Code of 1954 or which the Secretary of the Treasury has previously determined has satisfied such requirements, has ceased to satisfy such requirements;

(3) Benefit decreased.—At the time an amendment of the plan is adopted if, under the amendment, the benefit payable with respect to any participant may be decreased;

(4) Decrease in participants.—At the time the number of active participants is less than 80 percent of the number of such participants at the beginning of the plan year or less than 75 percent of the number of such participants at the beginning of the previous plan year;

(5) Termination under internal revenue code.—At the time the Secretary of the Treasury determines that there has been a termination or partial termination of the plan or a complete discontinuance of contributions thereunder, within the meaning of section 401(a)(7) of the Internal Revenue Code of 1954;

(6) Failure to meet minimum funding standard.—At the time the plan fails to meet the minimum funding standard under section 4971 of the Internal Revenue Code of 1954;

(7) Plan unable to pay benefits.—At the time a plan is unable to pay benefits thereunder when due; or

(8) Certain distributions.—At the time there is a distribution under a plan to a participant who is an owner-employee (within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954) or a proprietary employee (within the meaning of section 412(c)(1) of such Code) if such distribution is made other than on account of death or disability, exceeds $10,000, and results in the creation of, or an increase in, unfunded vested liabilities under the plan.

(c) **Notification by Secretary of the Treasury.**—The Secretary of the Treasury shall notify the corporation whenever he makes a determination described in paragraph (1) or (5) of subsection (b), issues the notice described in paragraph (2) of such subsection, mails a notice of deficiency under section 6212 of the Internal Revenue Code of 1954 to a plan with respect to the tax imposed under section 4972(a) of such Code, or obtains any other information with respect to a plan which constitutes a reportable event.

### Sec. 444. Allocation of Assets

As soon as practicable after the termination of a plan to which section 421 applies, the plan administrator shall allocate the assets of the plan as follows:

(1) **Certain employee contributions.**—In the case of a plan which provides for employee contributions other than mandatory contributions, the portion of an employee's accrued benefit derived from such employee contributions shall be treated as an accrued benefit derived from contributions under a plan other than a plan to which section 421 applies, and, before applying paragraph (2), assets shall first be allocated to such other plan in accordance with the account balances of the participants in such other plan.

(2) **Mandatory contributions.**—Assets shall first be allocated to each participant to the extent of his total mandatory contributions. In the event that the assets are insufficient for this purpose, the assets shall be so allocated pro rata.

(3) **Benefits in pay status for at least 3 full years.**—If the assets of the plan exceed the total amount allocated under paragraphs (1) and (2), the remaining assets shall be allocated to each participant who began to receive payment of benefits not less than 3 years prior to the time the plan terminates to the extent not included in paragraphs (1) and (2) and to the extent of the excess of the present value (as of the date on which the plan terminated) of his benefits (at the level in effect 36 months prior to the date of termination) over his total mandatory contributions under the plan. If the assets of the plan are insufficient for this purpose, the assets remaining after the allocation described in paragraphs (1) and (2) shall be so allocated pro rata.

(4) **Other guaranteed benefits.**—If the assets of the plan exceed the total amounts allocated under paragraphs (1), (2), and (3), the remaining assets shall be allocated to each participant to the extent of the present value of all other benefits guaranteed under section 422 (without regard to section 422(b)(5)). If the assets of the plan are insufficient for this purpose, the assets remaining after the allocations described in paragraphs (1) and (2) shall be so allocated pro rata with respect to all such other benefits of each participant.

For purposes of this section, "mandatory contributions" are amounts contributed to the plan by the participant which are required as a condition of employment, as a condition of participation in such plan, or in order to obtain benefits under the plan attributable to employer contributions. For this purpose the total amount of mandatory contributions of a participant is the amount of such contributions reduced (but not below zero) by the sum of the amounts paid or distributed to him under the plan prior to such termination.

### Sec. 445. Recapture of Certain Payments.

(a) **Authority.**—To the extent the Corporation would not otherwise have the power under this title to undertake the action described in this section with respect to a plan, the Corporation shall have such power with respect to any plan which affects interstate commerce. For purposes of this section, a plan affects commerce if a labor dispute concerning the plan would hinder or obstruct commerce or the free flow of commerce.

(b) **Recapture.**—Except as provided in subsection (c), the Corporation is authorized to recover from a participant the recoverable amount of all payments from the plan to him which commenced within the 3-year period immediately preceding the time the plan is terminated. The recoverable amount is the sum of all payments actually received by the participant reduced by (1) the amounts such participant would have received during such 3-year period if he had elected at the time of the first such payment to receive his interest in the plan as a monthly benefit equivalent to a monthly benefit with no ancillary benefit in the form of a life annuity commencing at age 65 and (2) the present value at the time of termination of the benefits guaranteed under this title to the extent such benefits exceed his pro rata share of the corporation liability (determined under section 461). Such pro rata share shall be determined in accordance with bylaws or rules of the corporation.

(c) **Special rules.**

(1) **Certain distributions.**—In the event of a distribution described in section 443(b)(8) the 3-year period referred to in subsection (b) shall not commence until the date on which the corporation is notified of the distribution.

(2) **No recovery for death or disability distributions.**—The corporation shall not recover any payment made from a plan after or on account of the death of a participant, or on account of his disability (if he is receiving disability benefits under the Social Security Act with respect to that disability).

(3) **Waiver.**—The corporation is authorized to waive, in whole or in part, the recovery of any amount which it is authorized to recover under this part in any case in which it determines that substantial economic hardship would result to the participant or his beneficiaries from whom such amount is recoverable.

### Sec. 446. Report by Corporation.

The corporation shall furnish to the trustee and file with the court a report setting forth—

(1) the amount of benefits payable with respect to each participant under a plan to be terminated,

(2) the amount of benefits guaranteed under section 422 which are payable with respect to each participant in the plan,

(3) the present value, as of the time of termination, of the aggregate amount of benefits payable under section 422 (determined without regard to section 422(b)(5)),

(4) the fair market value of the assets of the plan at the time of termination,

(5) the computations under section 444, and all actuarial assumptions under which the items described in paragraphs (1) through (4) were computed, and

(6) such other information with respect to the plan as the trustee may require in order to terminate the plan.

## Part D—Liability

### Sec. 461. Corporation Liability.

The liability of the corporation with respect to a plan which is terminated under this title shall be equal to the present value, as of the time of termination, of the aggregate amount of benefits guaranteed under section 422 (determined without regard to section 422(b)(5)), to the extent not provided for by the fair market value of the assets of the plan, at such time, allocated in a manner consistent with the requirements of section 444. This amount shall be payable from the fund described in section 403.

### Sec. 462. Liability of Employer.

(a) **Employers Liable.**—This section applies to any employer who maintained a plan (other than a multiemployer plan) at the time it was terminated by the corporation, but does not apply—

(1) to an employer who maintained a plan with respect to which he paid the annual optional premium described in paragraphs (2)(C) and (3)(B) of section 403(b) for each of the plan years immediately preceding the plan year during which the plan terminated unless the employer remains in business (as defined in subsection (f)), or

(2) to the extent of any liability arising out of the insolvency of a qualified insurance carrier (as defined in section 301(4) of this Act).

(b) **Amount of Liability.**—Any employer to which this section applies shall be liable to the Corporation, in an amount equal to the lesser of—

(1) the amount finally determined under section 461, or

(2) 30 percent of the net worth of such employer determined as of the day 120 days prior to the date of termination, without regard to any liability under this section.

(c) **Net Worth.**—For purposes of subsection (b)(2) the net worth of an employer means—

(1) in the case of a corporation whose stock is traded on a national exchange, the aggregate value of such corporation's stock, and

(2) in the case of any other employer, the fair market value of its assets less its liabilities determined in a manner consistent with section 2031 of the Internal Revenue Code of 1954.

(d) **Subordination of Debt.**—If any employer or employers liable to the corporation under this section or section 464 neglects or refuses to repay, after demand, the amount of such liability (including the interest) there shall be a lien in favor of the United States upon all property and rights of property, whether real or personal, belonging to such employer or employers, against the interest of any other creditor of such employer or employers, other than a lien under section 6321 or 6324 of the Internal Revenue Code of 1954 (relating to lien for taxes), or a lien or other security interest perfecting not later than 30 days after termination securing an obligation incurred by such employer or employers prior to termination. Notwithstanding the provisions of the preceding sentence, if the corporation determines, with the consent of the board of directors, that subordination of the lien to any other creditor of the employer or employers would not adversely affect the collection of such liability, or that the amount realizable by the corporation from the property to which the lein attaches will ultimately be increased by such subordination, and that the ultimate collection of the liability will be facilitated by such subordination, and the corporation issues a certificate of subordination of the lien with respect to such property, or any part thereof.

(e) **Successor Liability.**—For purposes of this section the following rules apply in the case of certain corporation reorganizations—

(1) **Change in identity, etc.**—If an employer ceases to exist by reason of a reorganization which involves a mere change in identify, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the employer to whom this section applies.

(2) **Liquidation into parent.**—If an employer ceases to exist by reason of a liquidation into a parent corporation, the parent corporation shall be treated as the employer to whom this section applies.

(3) **Reorganization.**—If an employer ceases to exist by reason of a merger or consolidation, the successor corporation shall be treated as the employer to whom this section applies.

(f) **Remaining in Business.**—For purposes of subsection (a), an employer shall be considered to remain in business if, during the plan year within which the plan terminates or the 36-month period following the date of termination, the employer—

(1) is a party to a reorganization described in subsection (e), or

(2) continues to carry on the same busi-

ness as, or a business similar to, the business in connection with which he maintained the plan which was terminated, without regard to whether he continues to carry on such business at the same location or at a different location.

For purposes of paragraph (2), in the case of a business in which sales are the primary income producing factor if an employer's gross sales during the year of plan termination or during the 12-month period following the date of termination in such business are less than 25 percent of his average gross sales in such business for the 3 years immediately preceding that year, the employer shall not be considered to have remained in business.

(g) Termination of Substantial Facility.—If an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20 percent of the total number of his employees who are participants under a plan established and maintained by him are separated from employment the employer shall be treated with respect to that plan as if he were a substantial employer under a multiemployer plan and the provisions of sections 463 and 464 shall apply.

### Sec. 463. Liability of Substantial Employer for Withdrawal.

(a) General Rule.—Except as provided in subsection (d), the plan administrator of a multiemployer plan—

(1) shall notify the corporation of the withdrawal of a substantial employer from the plan, within 60 days after such withdrawal, and

(2) request that the corporation determine the liability of such employer under this title with respect to such withdrawal.

The corporation shall, as soon as practical thereafter, determine whether such employer is liable for any amount under this title with respect to the withdrawal and notify such employer of such liability.

(b) Liability of Employer.—Except as provided in subsection (c) an employer who withdraws from a plan to which section 421 applies, during a plan year for which he was a substantial employer, and who is notified by the corporation as provided by subsection (a), shall be liable to the corporation in accordance with the provisions of section 461 (without regard to the provisions of paragraphs (1) and (2) of section 462(a)) and this section. The amount of such employer's liability shall be computed on the basis of an amount determined by the corporation to be the amount described in section 461 for the entire plan, as if the plan had been terminated by the corporation on the date of the employer's withdrawal, multiplied by a fraction—

(1) the numerator of which is the total amount contributed to the plan by such employer for the last 5 years ending prior to the withdrawal, and

(2) the denominator of which is the total amount contributed to the plan by all employers for such last 5 years.

Any amount collected by the corporation under this subsection shall be held in escrow subject to disposition in accordance with the provisions (2) and (3) of subsection (c).

(c) Special Rule.—

(1) Furnishing of bond.—In lieu of payment of his liability under this section the employer may be required to furnish a bond to the corporation in an amount not exceeding 150 percent of his liability to insure payment of his liability under this section. Such bond shall be in such form and with such surety or sureties and upon such conditions as the corporation may require.

(2) No termination within 5-year period.—If the plan is not terminated within the 5-year period commencing on the day of withdrawal, the liability of such employer shall be abated and any payment held in escrow shall be refunded without interest to the employer (or his bond canceled) in accordance with bylaws or rules prescribed by the corporation.

(3) Termination within 5-year period.—If the plan terminates within the 5-year period commencing on the day of withdrawal, the corporation shall—

(A) demand payment or realize on the bond and hold such amount in escrow for the benefit of the plan;

(B) treat any escrowed payments under this section as if they were plan assets and apply them in a manner consistent with this title; and

(C) refund any amount to the employer which is not required to meet any obligation of the corporation with respect to the law.

(d) Alternative Procedure.—The provisions of this subsection shall apply in the case of a withdrawal described in subsection (a), and the provisions of subsections (b) and (c) shall not apply, if the corporation determines that the procedure provided for under this subsection is consistent with the purpose of this section and section 464 and is more appropriate in the particular case. Upon a showing by the plan administrator of a multiemployer plan that the withdrawal from the plan by any employer or employers has resulted, or will result, in a significant reduction in the amount of aggregate contributions to or under the plan by employers, the corporation may—

(1) require the plan fund to be equitably allocated between those participants no longer working in covered service under the plan as a result of their employer's withdrawal, and those participants who remain in covered service under the plan;

(2) treat that portion of the plan fund allocable under paragraph (1) to participants no longer in covered service as a termination; and

(3) treat that portion of the plan fund allocable to participants remaining in covered service as a new plan.

(e) No Withdrawal Liability Under Alternative Procedure.—The corporation is authorized to waive the application of the provisions of subsection (b), (c), and (d) of this section to any employer or plan administrator whenever it determines that there is an indemnity agreement in effect among all other employers under the plan which is adequate to satisfy the purposes of this section and of section 464.

(f) Rules.—The corporation is authorized to prescribe rules as it deems necessary in order to implement the purposes of this section.

### Sec. 464. Liability of Employers on Termination of Multiemployer Plan.

(a) Application of Section.—This section shall apply to all employers who maintain a multiemployer plan at the time such plan is terminated.

(b) Liability of Such Employer.—The corporation shall determine the liability of each such employer in a manner consistent with section 462 except that the amount of the liability determined under section 462 (b)(1) with respect to the entire plan shall be allocated to each employer by multiplying such amount by a fraction—

(1) the numerator of which is the amount contributed to the plan by each employer for the last 5 plan years ending prior to the termination, and

(2) the denominator of which is the total amount contributed to the plan by all such employers for such last 5 years,

and the limitation described in section 462 (b)(2) shall be applied separately to each employer.

### Sec 465. Annual Report of Plan Administrator.

For each plan year for which section 421 applies to a plan, the plan administrator shall file with the corporation, on a form prescribed by the corporation, an annual report which identifies the plan and plan administrator and which includes—

(1) a copy of each notification, required under section 463 with respect to such year, and

(2) a statement disclosing whether any reportable event (described in section 443 (b)) occurred during the plan year.

The report shall be filed within 6 months after the close of the plan year to which it relatees.

### Sec. 466. Annual Notification to Substantial Employers.

The plan administrator of each multiemployer plan shall notify, within 6 months after the close of each plan year, any employer making contributions under that plan who is described in section 401(a) (2) (A) that he is a substantial employer for that year.

### Sec. 467. Recovery of Employer Liability for Plan Termination.

(a) Collection.—The corporation is authorized to make arrangements with employers, liable under section 462, 463, or 464 for payment of their liability, including arrangements for deferred payment on such terms and for such periods as the corporation deems equitable and appropriate.

(b) Disposition of Employer Liability Payments.—Any amounts received by the corporation as payments of employer liability under this part may be retained by it and used to defray operating and administrative expenses.

## Part E—Amendments to Internal Revenue Code of 1954; Effective Dates

### Sec. 481. Amendments to Internal Revenue Code of 1954.

(a) Section 401(a).—Section 401(a) (relating to requirements for qualification) is amended by inserting at the end thereof the following new paragraphs:

"(14) In the case of a plan which is required to register with the Secretary or his delegate under the provisions of section 151 of the Retirement Income Security for Employees Act, a trust forming part of such plan shall not constitute a qualified trust under this section unless the plan is so registered.

"(15) In the case of a plan which is required to provide for determination of disputes under the provisions of part A of title VI of the Retirement Income Security for Employees Act, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan so provides.

"(16) In the case of a plan to which section 421 of the Retirement Income Security for Employees Act, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan provides for the maintenance of insurance under title IV of such Act.

"(17) A trust shall not constitute a qualified trust under this section unless the plan of which it is a part provides that, unless the participant and his employer agree otherwise in writing, the payment of benefits under the plan to which section 411 applies will commence not later than the later of the thirtieth day after—

"(A) the date on which the participant attains the age of 65 years, or

"(B) the date on which the participant completes 10 years of participation in the plan.".

(b) Section 162.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (h) as (i) and inserting after subsection (g) the following new subsection:

"(h) Insured Pension Losses.—No deductions shall be allowed under subsection (a) for any payment to the Pension Benefit Guaranty Corporation with respect to liability for a plan termination.".

(c) Section 4891.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 45—CERTAIN GUARANTEED BENEFIT PLANS

"Sec. 4981. Excise tax on privilege of maintaining insured plan.

"Sec. 4981. Excise Tax on Privilege of Maintaining Insured Plan.

"(a) Imposition of Tax.—There is hereby imposed on the privilege of maintaining a plan insured under the provisions of title IV of the Retirement Income Security for Employees Act a tax determined under subsection (b) for any plan year during which section 421 of such Act applies at any time.

"(b) Rate of Tax.—

"(1) In general.—Except as provided in paragraph (2), the rate of tax for a plan year shall be equal to the rate contained in the coverage schedule in effect for that plan year under subparagraph (A) (in the case of a plan which is not a multiemployer plan) or subparagraph (B) (in the case of a multiemployer plan) of section 403(c)(2) of the Retirement Income Security for Employees Act.

"(2) Alternate tax.—In the case of a taxpayer to which subparagraph (C) (in the case of a plan which is not a multiemployer plan) or subparagraph (D) (in the case of a multiemployer plan) of section 403(c)(2) of the Retirement Income Security for Employees Act applies, the rate of tax for a plan year shall be equal to the rate contained in the coverage schedule in effect for that plan year under such subparagraph.

"(c) By Whom Payable.—The tax imposed under subsection (a) shall be paid by the administrator (as defined in section 501(g) (11) of the Retirement Income Security for Employees Act) of a plan.

"(d) Exception.—This section shall not apply with respect to a plan year in which the plan terminates under section 441 or 442 of the Retirement Income Security for Employees Act.

"(e) Definition of Multiemployer Plan.—The term 'multiemployer plan' means a plan described in section 401(3) of the Retirement Income Security for Employees Act.

"(f) Cross Reference.—

"For penalties and other general and administrative provisions applicable to this section, see subtitle F.".

(d) Amendment of Section 6511.—Section 6511(d) (relating to special rules applicable to income taxes) is amended by adding at the end thereof the following new paragraph:

"(8) Special period of limitation with respect to amounts included in income subsequently recaptured under qualified plan termination.—If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of the recapture, under section 445 of the Retirement Income Security for Employees Act, of amounts included in income for a prior taxable year, the 3-year period of limitation prescribed in subsection (a) shall be extended until the date which occurs one year after the date on which such recaptured amount is paid by the taxpayer.".

(e) Conforming Amendments.—

(1) Section 404(a)(2) (relating to deduction for contributions of an employer to employees' annuity plan) is amended by striking out "and (8), and, if applicable, the requirements of section 401(a) (9) and (10) and of section 401(d) (other than paragraph (1))," and inserting in lieu thereof "(8), (11), (12), (13), (14), (15), and (16), and, if applicable, the requirements of section 401 (a) (9) and (10), of section 401(c)(6), and of section 401(d) (other than paragraph (1)),".

(2) Section 805(d)(1)(C) relating to definition of pension plan reserves) is amended by striking out "and (8)" and inserting in lieu thereof "(8), (11), (12), (13), (14), (15), and (16)".

(f) Clerical Amendment.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Certain guaranteed benefit plans.".

Sec. 482. Effective Dates.

(a) In General.—Except as provided in subsections (b) and (c), this title shall take effect on the date of enactment of this Act.

(b) Privilege Tax.—The amendments made by section 481 shall apply with respect to plan years and taxable years beginning after December 31, 1973.

(c) Terminations; Liability.—Part C and part D shall apply with respect to plan years beginning after December 31, 1973, unless the corporation determines that moneys in the fund are sufficient to enable it to meet its liability under section 461 with respect to terminations occurring before that date.

### Part F—Allocation of Assets Where Section 444 Does Not Apply

Sec. 491. Allocation of Assets for Plan Terminations Not Covered.

(a) In General.—If a plan to which this title applies is terminated and the provisions of section 444 do not apply to that termination, the administrator of that plan shall allocate the assets of the plan in accordance with the provisions of that section (without regard to the 3-year pay status for benefits rule of paragraph (3)).

(b) Application of Section.—The provisions of subsection (a) shall apply with respect to the termination of any plan other than a plan which is in existence on the date of enactment of this Act and with respect to which there is in effect on such date a written provision governing allocation of assets under the plan upon termination.

## TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

### Part A—Disclosure

### AMENDMENT TO WELFARE AND PENSION PLANS DISCLOSURE ACT

Sec. 501. (a) Section 3 of the Welfare and Pension Plans Disclosure Act (72 Stat. 997) is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'relative' means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(15) The term 'administrator' means—

"(A) the person specifically so designated by the terms of the plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(B) in the absence of such designation (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintained the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(16) The term 'employee benefit plan' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(17) The term 'employee benefit fund' or 'fund' means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (A) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (B) premium, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(18) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

"(19) The term 'adequate consideration' when used in section 15 means either (A) at no more than the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer, or (C) if the price of the security is not quoted by persons independent of the issuer, a price determined to be the fair value of the security.

"(20) The term 'nonforfeitable pension benefit' means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit which, notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan and is no longer contingent on the participant remaining covered by the plan.

"(21) The term 'covered service' means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective-bargaining agreement (subject to the requirements of the Retirement Income Security for Employees Act), for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

"(22) The term 'pension benefit' means the aggregate, annual, monthly, or other amounts to which a participant has or will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

"(23) The term 'accrued portion of normal retirement benefit' means that amount of such benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

"(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

"(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

"(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant that, pursuant to rule or regulation under the Retirement Income Security for Employees Act, is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

"(24) The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"(25) The term 'fiduciary' means any person who exercises any power of control, management, or disposition with respect to any moneys or other property of any employee benefit fund, or has authority or responsibility to do so.

"(26) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined pursuant to rule or regulation under this Act.".

(b) Paragraph (1) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established", by inserting a comma after the word "unemployment", and by adding the following: or benefits of the type described or permitted by section 302(c) of the Labor-Management Relations Act".

(c) Paragraph (2) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(d) Paragraph (3) of section 3 of such Act is amended by striking out the word "plan" the first time it appears and inserting in lieu thereof the word "program".

(e) Paragraphs (3), (4), (6), and (7) of section 3 of such Act are amended by striking out the words "welfare or pension" wherever they appear.

(f) Paragraph (13) of section 3 of such Act is amended to read as follows:

"(13) The term 'party in interest' means as to an employee benefit plan or fund, any administrator, officer, fiduciary, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer, any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner, or joint venturer or any of the above-described persons. Whenever the term 'party in interest' is used in this Act, it shall mean a person known or should have been known to be a party in interest. If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, such investment shall not cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a 'fiduciary' or a 'party in interest' as those terms are defined in this Act, except insofar as such investment company or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, the investment adviser, or its principal underwriter. Nothing contained herein shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other provision of law.".

(g) Section 4(a) of the Welfare and Pension Plans Disclosure Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations" wherever they appear.

(h) Paragraph (3) of section 4(b) of such Act is amended to read as follows:

"(3) Such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;"

(i) Paragraph (4) of section 4(b) of such Act is amended by inserting before the period the following: ", except that participants and beneficiaries of such plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in the Retirement Income Security for Employees Act".

(j) Section 4(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) Such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States."

(k) Section 5(b) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs (whether or not the plan has terminated), including any period during which the plan has moneys or other assets remaining and for one hundred and fifty days thereafter. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be in such form and filed in such manner as the Secretary may prescribe."

(l) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary may by regulation, as to any class or type of employee benefit plans—

"(1) grant an exemption from all or part of the reporting, disclosure, and publication requirements of this Act; or

"(2) provide a variance in the form or manner of reporting, disclosure and publication required by this Act; or both,

if he finds that the exemption or variance is necessary or appropriate and consistent with the purposes of this Act. Any such exemption or variance may be granted on such conditions as the Secretary may deem appropriate.".

(m) Section 6 of the Welfare and Pension Plan Disclosure Act is amended to read as follows:

"SEC. 6. (a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) The description of the plan shall be comprehensive, written in a manner calculated to be understood by the average participant, and shall include the name and type of administration of the plan; the name and address of the administrator; the names and addresses of any person or persons responsible for the management or investment of plan funds; the schedule of benefits; a description of the provisions providing for vested benefits; the source of the financing of the plan and identity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary.".

(n) Subsection (a) of section 7 of the Welfare and Pension Plans Disclosure Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 15 of this Act or".

(o) Section 7(a)(1) of such Act is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept".

(p) Section 7(a) of such Act is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such information as determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with generally accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by any agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report.".

(q) Sections 7(b) and (c) of such Act are amended to read as follows:

"(b) A report under this section shall include—

"(1) the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest;

"(2) a schedule of all investments of the fund showing as of the end of the fiscal year:

"(A) the aggregate cost and aggregate value of each security, by issuer,

"(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (i) each investment, the value of which exceeds 3 per centum of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest;

"(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition, a schedule showing, as to each separate transaction with or without respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss, except that such schedule shall not include distribution of stock or other distributions in kind from profit-sharing or similar plans to participants separated from the plan;

"(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over 3 per centum of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization;

"(5) a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition, a separate schedule showing as to each loan which—

"(A) was made to a party in interest, or

"(B) was in default, or

"(C) was written off during the year as uncollectable, or

"(D) exceeded 3 per centum of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the loan obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and the material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectable an explanation thereof;

"(6) a list of all leases with—

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leascholds, and so forth, the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, the expenses paid for the leased property during the reporting period, the net receipt from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges, or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;

"(8) subject to rules of the Secretary designed to preclude the filing of duplicate or unnecessary statements, if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under paragraphs (2), (3), (4), (5), (6), and (7) of section 7(b) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act; and

"(9) in addition to reporting the information called for by this subsection, the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation."

(r) Section 7(d) of such Act is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and (2) and inserting in lieu thereof a lowercase "t".

(s) Section 7(e) of such Act is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan,

"(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

"(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

"(6) a copy of the most recent actuarial report, and

"(A) (i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this subsection, insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same; and

"(7) such other reasonable information pertinent to disclosure under this subsection as the Secretary may by regulation prescribe."

(t) Section 7 of such Act is further amended by striking out in their entirety subsections (f) (g), and (h).

### ANNUAL REPORTS

SEC. 503. (a) Section 8 of the Welfare and Pension Plans Disclosure Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a). The subsection redesigned as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual" and adding the word "plan" before the word "descriptions".

(b) Such section is further amended by adding subsections (b), (c), (d), and (e), to read as follows:

"(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The administrator shall also furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated, and any document so furnished shall be available for public inspection by the Secretary.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established or is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administration shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish or make available, whichever is most practicable: (1) to every participant upon his enrollment in the plan and within one hundred and twenty days after each major amendment to the plan, a summary of the plan's important provisions, including the names and addresses of any person or persons responsible for the management or investment of plan funds, and requirements of the amendment, whichever is applicable, written in a manner calculated to be understood by the average participant; such explanation shall include a description of the benefits available to the participant under the plan and circumstances which may result in disqualification or ineligibility, and the requirements of the Welfare and Pension Plans Disclosure Act with respect to the availability of copies of the plan bargaining agreement, trust agreement, contract or other instrument under which the plan is established or operated; and (ii) to every participant every three years (commencing January 1, 1975), a revised up-to-date summary of the plan's important provisions and major amendments thereto, written in a manner calculated to be understood by the average participant; and (iii) to each plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of any bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) The administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary so requesting in writing a statement indicating, on the basis of the latest information available, (1) whether or not such person has a nonforfeitable right to a pension benefit, (2) the nonforfeitable pension benefits, if any, which have accrued or the earliest date on which benefits will become nonforfeitable, and (3) the total pension benefits accrued.

"(e) In the event a plan is provided a variance with respect to standards of vesting, funding, or both, pursuant to title II of the Retirement Income Security for Employees Act, the administrator shall furnish or make available, whichever is most practicable, notice of such action to each participant in a manner calculated to be understood by the average participant, and in such form and detail and for such periods as may be prescribed by the Secretary.".

### INVESTIGATIONS

Sec. 504. (a) Section 9(d) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(d) The Secretary may make appropriate investigations when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act or the Welfare and Pension Plans Disclosure Act and in connection therewith he may require the filing of (1) any instruments under which the plan is and has been operated, and (2) supporting schedules of the financial information required to be furnished under either Act and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation, except that no periodic examination of the books and records of any plan or fund shall be conducted more than once annually unless the Secretary has reasonable cause to believe there may exist a violation of this Act or any rule or regulation issued thereunder. The Secretary shall make such arrangements as are necessary with the Secretary of the Treasury to preclude a duplication of effort with regard to investigation of violations relating to fiduciaries.

(b) Subsection (h) of section 9 of such Act is repealed and subsection (i) of such section is redesignated as subsection (h).

Sec. 505. Section 10 of the Welfare and Pension Plan Disclosure Act is amended to read as follows:

### "REPORTS MADE PUBLIC INFORMATION: RESEARCH AND STATISTICS

"Sec. 10. (a) The contents of plan descriptions and annual reports filed with the Secretary pursuant to this Act shall be public information and the Secretary may publish any such information and data as he may deem appropriate.

"(b) The Secretary shall develop and maintain a comprehensive and effective program of collection, compilation, and analysis of employee benefit plan information and data. Such program shall relate to information and data whether or not required to be furnished by this Act or the Retirement Income Security for Employees Act and to employee benefit plans whether or not subject to these Acts. Moreover the Secretary is authorized and directed to undertake appropriate studies relating to employee benefit plans including, but not limited to, the effects of the Retirement Income Security for Employees Act upon the provisions and costs of pension and profit-sharing retirement plans, the role of private pensions in meeting requirement security needs of the Nation, as well as alternative methods of providing additional retirement security, the administration and operations of pension plans including types and levels of benefits, degree of reciprocity or portability, financial characteristics and practices, methods of encouraging the growth of private pension and profit-sharing retirement plans, and the adequacy of coverage under this Act and the Retirement Income Security for Employees Act. Without limiting the generality of the foregoing, the Secretary shall also undertake a special study of the sufficiency of the provisions of the Retirement Income Security for Employees Act as applied to high mobility employees and shall recommend such changes in existing law and regulations as may be appropriate to afford to such employees adequate protection against unreasonable forfeiture of pension credits as a result of frequent job changes inherent in the conduct of their occupations or professions, and such other changes as may be appropriate to provide more adequate protection of such employees. In developing such recommendations, the Secretary shall consult with appropriate Federal and State agencies, professional societies, industry and labor representatives, and other professional societies, industry and labor representatives, and other interested groups with specialized knowledge of the problems of high mobility workers. This special study shall be completed and submitted to the Congress within three years after enactment of the amendments to this Act.

"(c) To carry out his duties under this subsection the Secretary may—

"(1) promote, encourage, or directly engage in programs of studies, information, and communication concerning employee benefit plans;

"(2) compile and publish such studies, analyses, reports, and surveys as he may deem appropriate;

"(3) arrange, through grants or contracts for the conduct of such research and investigations as he may deem appropriate;

"(4) make such agreements as are necessary to maintain the confidentiality of the source of any information furnished pursuant to a request by the Secretary for use in connection with the collection, compilation, and analysis of employee benefit plan information and data.".

### ESTABLISHMENT OF ADVISORY COUNCIL

Sec. 506. Section 14 of such Act is amended to read as follows:

### "ADVISORY COUNCIL

"Sec. 14. (a)(1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') consisting of twenty-one members appointed by the Secretary. Not more than eleven members of the Council shall be members of the same political party.

"(2) Members shall be appointed from among persons recommended by groups or organizations which they shall represent and shall be persons qualified to appraise the programs instituted under this Act and the Retirement Income Security for Employees Act.

"(3) Of the members appointed, five shall be representatives of labor organizations; five shall be representaives of management; one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, and the accounting field; and six representatives shall be appointed from the general public.

"(4) Members shall serve for terms of three years, except that of those first appointed, six shall be appointed for terms of one year, seven shall be appointed for terms of two years, and eight shall be appointed for terms of three years. A member may be reappointed, and a member appointed to fill a vacancy shall be appointed only for the remainder of such term. A majority of members shall constitute a quorum and action shall be taken only by a majority vote of those present.

"(5) Members shall be paid compensation at the rate of $150 per day when engaged in the actual performance of their duties except that any such member who holds another office or position under the Federal Government shall serve without additional compensation. Any member shall receive travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and the Retirement Income Security for Employees Act and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least four times each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act and the Retirement Income Security for Employees Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the operation of this Act and the Retirement Income Security for Employees Act and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties.".

## PART B—FIDUCIARY STANDARDS

### Subpart I—Fiduciary Standards Under the Welfare and Pension Plans Disclosure Act

### AMENDMENT TO THE WELFARE AND PENSION PLANS DISCLOSURE ACT

Sec. 511. The Welfare and Pension Plans Disclosure Act is amended by redesignating sections 15, 16, 17, and 18 as sections 17, 18, 19, and 20, respectively and by inserting immediately after section 14 the following new sections:

### "FIDUCIARY STANDARDS

"Sec. 15. (a) Every employee benefit fund established to provide for the payment of benefits under an employee's benefit plan shall be established or maintained pursuant to a duly executed written document which shall set forth the purpose or purposes for which such fund is established and the detailed basis on which payments are to be made into and out of such fund. Such fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b)(1) A fiduciary shall discharge his duties with respect to the fund—

"(A) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(B) subject to the standards in subsection (a) and in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, except that (i) any assets of the fund remaining upon dissolution or termination of the fund shall, after complete satisfaction of the rights of all beneficiaries to benefits accrued to the date of dissolution or termination, be distributed ratably to the beneficiaries thereof or, if the trust agreement so provides, to the contributors thereto; (ii) that in the case of a registered pension or profit-sharing-retirement plan, such distribution shall be subject to the requirements of the Retirement Income Security for Employees Act; and (iii) any assets of the fund, attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination shall be equitably distributed to the employee contributors according to their rate of contribution.

"(2) Except as provided in subsection (c), a fiduciary shall not engage in a transaction with respect to a trust which constitutes a direct or indirect—

"(A) sale or exchange, or leasing of any property between the trust and a party in interest;

"(B) lending of money or other extension of credit between the trust and a party in interest;

"(C) furnishing of goods, services, or facilities between the trust and a party in interest;

"(D) transfer to, or use by or for the benefit of a party in interest of any assets of the trust;

"(E) act by a fiduciary whereby he deals in his own interest for his own account; or

"(F) receipt by a party in interest from any party dealing with the trust in a transaction involving the trust.

"(3) The Secretary, in conjunction with the Secretary of the Treasury, shall by rule or regulation provide for the conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the restrictions imposed by paragraph (2) of this subsection.

An exemption granted under this section shall not relieve a fiduciary from any other applicable provisions of this Act. In granting an exemption under this paragraph the Secretaries shall assure that such exemption is (A) administratively feasible, (B) in the interests of the fund, and (C) protective of the rights, both contingent and vested, of participants and beneficiaries of such plan.

"(c) The prohibitions provided in subsection (b) (2) shall not apply to—

"(1) any loan made by the trust to parties in interest who are participants or beneficiaries (other than an owner within the meaning of section 401(c) (3) of the Internal Revenue Code of 1954 or a proprietary employee within the meaning of section 412(c) (1) of such Code) of the plan if such loans are (i) available to all such participants on a nondiscriminatory basis, (ii) are not made available to highly compensated employees in an amount greater than that amount made available to other employees, (iii) are made in accordance with specific provisions regarding such loans set forth in the plan, (iv) bear a reasonable rate of interest, and (v) are adequately secured;

"(2) a transaction between a trust and a party in interest, pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, if all of the securities of the same class as that held by the trust are subject to the same terms, and such terms were determined in an arm's-length transaction, or provide for receipt by the trust of no less than fair market value;

"(3) a fiduciary receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds, except that no person so serving who is actually receiving full-time compensation from an employer or association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(4) the receipt by a fiduciary or other party in interest of any benefit to which he may be entitled as a participant or beneficiary in the plan;

"(5) the dealing, by a fiduciary who is a participant in a plan, with the income or assets of the trust in a manner which affects his own interest therein or his own account if his interest or account is not treated differently from the interests or accounts of all participants;

"(6) engaging in the following transactions:

"(A) holding or purchasing on behalf of the fund any security which has been issued by an employer or employer-group whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, where (i) the purchase of any security is for no more than adequate consideration in money or money's worth, and (ii) the employee benefit fund is one which provides primarily for benefits of a stated amount, of an amount determined by an employee's compensation, an employee's period of service, or a combination of both, or money purchase-type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be held or made by a fiduciary of such a fund in securities of such employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, which when added to such securities already held, exceeds 5 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 5 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to plan funds which may be invested in such securities. Profit sharing, stock bonus, thrift, or other similar plans, which are in existence on the date of enactment and which allow investment in such securities without explicit provision in the plan, shall remain exempt from the 5 per centum limitation until the expiration of one year from the date of enactment of the Retirement Income Security for Employees Act. Nothing contained in this subparagraph shall be construed to relieve profit sharing, stock bonus thrift and savings or other similar plans from any other applicable requirements of this section. For the purposes of this subparagraph the leasing of real property and personal property related to such real property to an employer or employer-group by a plan shall be deemed to be a security of such employer or employer-group with regard to the computation of the 5 per centum limitation;

"(B) purchasing on behalf of the fund any security or selling on behalf of the fund any security which is acquired or held by the fund, to or from a party in interest, if (i) at the time of such purchase or sale the security is of a class of securities which is listed on a national securities exchange registered under the Securities Exchange Act of 1934 or which has been listed for more than one month (at the time of such sale or purchase) on an electronic quotation system administered by a national securities association registered under the Securities Exchange Act of 1934, (ii) no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transaction, (iii) adequate consideration is paid, and (iv) that in the event the security is one described in subparagraph (A), the transaction has received the prior approval of the Secretary;

"(C) any fund holding securities of an employer or employer group which employs participants in such plan, in excess of 5 percent of the fair market value of such fund on the effective date of this section shall, within 5 years after the effective date of this section, divest not less than 50 per centum of such excess and shall, not later than 10 years after the effective date of this section divest not less than 100 per centum of such excess.

"(7) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(8) following the specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection (b) (2);

"(9) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection (b).

"(d) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to such fund for any losses to the fund resulting from such breach, and to pay to such fund any profits which have inured to such fiduciary through use of assets of the fund.

"(e) When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power, or where two or more fiduciaries are required by an instrument governing the fund to undertake jointly the performance of a duty or the exercise of power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary from committing a breach of responsibility, obligation, or duty of a fiduciary or to compel such other cofiduciary to redress such a breach, except that no fiduciary shall be liable for any consequence of any act or failure to act as a cofiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(f) No fiduciary may be relieved from any responsibility, obligation, or duty imposed by law, agreement, or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries unless specifically disapproved by the Secretary.

"(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

"(h) Any party in interest who participates in a transaction prohibited by this Act knowingly, or with reason to know that the transaction was a transaction to which this Act applies, shall be personally liable to make good to the fund any losses sustained by the fund resulting from such transaction, and to pay to the fund any profits realized by him from such transaction.

"(i) For the purpose of this section a transfer of real or personal property by a party in interest to a trust to which this section applies shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the trust assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the 10-year period ending on the date of transfer.

"(j) For the purposes of this section the term 'employer-group' means any controlled group of corporations (as defined in section 1563(a) of the Internal Revenue Code of 1954) of which the employer who maintains the plan is a member.

"(k) This section shall not apply to—

"(1) funds held by an insurance carrier unless that carrier holds funds in a separate account,

"(2) funds held by an investment company subject to regulation under the Investment Company Act of 1940,

"(3) a plan administered by the Government of the United States, or by the government of a State or political subdivision thereof, or by an agency or instrumentality of such a government, or

"(4) a plan established or maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless that plan is taxable under chapter 45 of such Code.

### "PROHIBITION OF FIDUCIARY SERVICES

"SEC. 16. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnaping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended; 29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519, as amended; 29 U.S.C. 401), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties), or fiduciary of any employee benefit plan, or

"(2) as a consultant to any employee benefit plan, during or for five years after a conviction or after the end of an imprisonment for any crime listed in this paragraph, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in subparagraph (A) or (B) would not be contrary to the purpose of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceedings by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final.

"(b) Any person who willfully violates this section, or knowingly permits another person to violate this section, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) For purposes of this section—

"(1) any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is later, regardless of when such conviction occurred;

"(2) the term 'imprisonment' shall not include any period of parole; and

"(3) 'consultant' means any person who, for pecuniary benefit, direct or indirect, advises or represents an employer benefit plan, concerning the establishment or operation of such plan.".

### EFFECTIVE DATES

SEC. 512. The amendments made by part A and subpart I of part B of this title shall be effective January 1, 1974, except for those amendments dealing with prohibited transactions which shall be effective January 1, 1975.

### Subpart II—Fiduciary Standards Under the Internal Revenue Code of 1954

### SEC. 521. QUALIFICATIONS AND RESPONSIBILITIES OF INDIVIDUALS.

(a) APPLICATION OF SECTION.—

(1) PLANS COVERED.—Except as provided in paragraph (2) this section applies to any employee benefit plan if it is established or maintained by any employer engaged in commerce or in any industry or activity affecting commerce or by any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce or by both.

(2) PLANS NOT COVERED.—This section does not apply to a plan if—

(A) such plan is administered by the Federal Government or by the government of a State, by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

(B) such plan was established and is maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws; or

(C) such plan is established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless the provisions of title IV of this Act are applicable to such plan.

(3) PURPOSE OF PLANS.—Every employee benefit fund to which this section applies shall be deemed to be a trust and shall be held, until all liabilities with respect to participants and their beneficiaries have been satisfied, for the exclusive purpose of—

(A) providing benefits to participants in the plan and their beneficiaries, and

(B) defraying reasonable expenses of administering the plan.

(b) FIDUCIARY RESPONSIBILITIES.—With respect to any fund established under an employee benefit plan to which this section applies, any person serving as a fiduciary—

(1) shall discharge his duties with respect to such fund—

(A) solely in the interest of the participants and their beneficiaries,

(B) in such a manner as not to jeopardize any income or assets of the fund, and

(C) in accordance with the documents and instruments governing the fund insofar as is consistent with this Act;

(2) shall not represent any other party dealing with the fund or in any way act on behalf of a party adverse to such fund or to the interests of its participants or beneficiaries; and

(3) shall not participate in any transaction which is or would be a prohibited transaction under section 4974 of the Internal Revenue Code of 1954 if such section applied to the fund.

(c) DUPLICATION OF EFFORT.—In order to avoid unnecessary expense and duplication of functions among Government agencies the Secretary of Labor and the Secretary of the Treasury shall make such arrangements or agreements for the cooperation and mutual assistance in the performance of the functions of the Secretary of the Treasury under this section. Any information coming to the attention of the Secretary of the Treasury in the course of his administration of this section which may warrant consideration for criminal prosecution under the provisions of this section or other criminal law shall be forwarded to the Secretary of Labor for immediate transmittal to the Attorney General.

(d) INVESTIGATION.—

(1) The Secretary shall have authority, when he deems it necessary in order to determine whether any person has violated or is about to violate any provision of this section, to make an investigation. In connection with such investigation he may require the filing of any instruments under which the plan is and has been operated, and any supporting schedules of the financial information required to be furnished to the Secretary, and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation. The Secretary may report to persons or officials concerning the facts required to be shown in any report required to be furnished to the Secretary, and concerning the reasons for failure or refusal to furnish such a report to him or any other matter which he deems to be appropriate as a result of such an investigation. To the extent he considers appropriate, the Secretary shall delegate his auditing and investigative functions under this section with respect to insured banks acting as fiduciaries of employee benefit plans to the "appropriate Federal banking agency" as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(2) For the purposes of any investigation described under paragraph (1), the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officer designated by him.

(3) The Secretary of the Treasury shall make such arrangements as are necessary with the Secretary of Labor to preclude a duplication of efforts with regard to investigations of violations relating to fiduciaries.

(e) ADMINISTRATION.—

(1) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to this section.

(2) The Secretary of Labor, in conjunction with the Secretary of the Treasury, shall promulgate rules and regulations for the administration and enforcement of this section with regard to prohibited transactions.

### SEC. 522. PROHIBITED TRANSACTIONS.

(a) AMENDMENTS OF SECTION 503.—Section 503 (relating to requirements for exemption) is amended—

(1) by striking out "or (18)" in subsection (a)(1)(A),

(2) by striking out subsection (a)(1) (B) and be redesignating subsection (a)(1) (C) as (a)(1)(B),

(3) by striking out "or section 401(a)" in subsections (a)(2) and (c),

(4) by striking out subsections (d), (f), and (g) and redesignating subsection (e) as (d).

(b) EXCISE TAX ON PROHIBITED TRANSACTIONS.—Chapter 44 of subtitle D (relating to miscellaneous excise taxes) (as added by section 241 of this Act) is amended by adding at the end thereof the following new section:

### "SEC. 4974. EXCISE TAX ON PROHIBITED TRANSACTIONS.

"(a) INITIAL TAXES ON PARTY IN INTEREST.—There is hereby imposed a tax on each prohibited transaction at the rate of 5 percent of the amount involved with respect to the prohibited transaction for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any party in interest who participates in the prohibited transaction.

"(b) ADDITIONAL TAXES ON PARTY IN INTEREST.—In any case in which an initial tax is imposed by subsection (a) on a prohibited transaction and the transaction is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount involved. The tax imposed by this paragraph shall be paid by any party in interest who participated in the prohibited transaction.

"(c) Special Rule.—For purposes of subsections (a) and (b) if more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one prohibited transaction, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(d) Prohibited Transaction.—

"(1) General rule.—For purpose of this section, the term 'prohibited transaction' means a transaction between a party in interest and an employee's trust described in section 401(a), a plan described in section 404(a)(2), or a qualified individual retirement account described in section 408(a), which is exempt from tax under section 501 (a) (or which, at any time, has been determined by the Secretary or his delegate to be such a trust, plan, or account) and which constitutes a direct or indirect—

"(A) sale or exchange, or leasing of any property between the trust and a party in interest;

"(B) lending of money or other extension of credit between the trust and a party in interest;

"(C) furnishing of goods, services, or facilities between the trust and a party in interest;

"(D) transfer to, or use by or for the benefit of a party in interest of any assets of the trust;

"(E) act by a fiduciary whereby he deals with the income or assets of the trust in his own interest or for his own account;

"(F) receipt of consideration from any party in interest from any party dealing with the trust in a transaction involving the trust.

"(2) Special rules.—For the purposes of paragraph (1)—

"(A) Encumbered property.—A transfer of real or personal property by a party in interest to a trust to which this section applies shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the trust assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the 10-year period ending on the date of the transfer;

"(B) Loans to participants.—Any loan made by the trust to parties in interest who are participants or beneficiaries (other than an owner employee within the meaning of section 401(c)(3) or a proprietary employee within the meaning of section 412(c)(1)) of the qualified plan is not a prohibited transaction if such loans are (i) available to all such participants or beneficiaries on a nondiscriminatory basis, (ii) are not made available to highly compensated employees in an amount greater than that amount made available to other employees, (iii) are made in accordance with specific provisions regarding such loans set forth in the plan, (iv) bear a reasonable rate of interest, and (v) are adequately secured.

"(C) Reorganizations, etc.—A transaction between a trust and a party in interest, pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, is not a prohibited transaction if all of the securities of the same class as that held by the trust or subject to the same terms and such terms were determined in an arm's-length transaction, or provide for receipt by the trust of no less than fair market value.

"(D) Compensation to fiduciary.—Receiving any reasonable compensation for service rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds is not a prohibited transaction except that no person so serving who is actually receiving full-time compensation from an employer or association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan, shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed.

"(E) Lease arrangements between plans and employers of participants.—The leasing of real property and personal property related to such real property to an employer or employer-group by a pension plan shall not be a prohibited transaction if such agreements do not exceed the limitations imposed by section 15(c)(6)(A) of the Welfare and Pension Plans Disclosure Act. For the purposes of this paragraph the term 'employer-group' means any controlled group or corporation (as defined in section 1563 (a)) of which the employer who maintains the plan is a member.

"(F) Actions in accordance with governing document.—It is not a prohibited transaction to—

"(i) contract or make reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and to pay reasonable compensation therefor;

"(ii) follow specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in this section; or

"(iii) take action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the prohibitions of this section.

"(G) Fiduciary or party in interest as participants.—The receipt by a fiduciary or other party in interest of any benefit to which he may be entitled as a participant or beneficiary in the qualified plan is not a prohibited transaction. It is not a prohibited transaction for a fiduciary of a trust who is a participant in the plan to deal with the income or assets of the trust in a manner which affects his own interest therein or his own account if his interest or account is not treated differently from the interests or accounts of all other participants.

"(H) Other offices.—It is not a prohibited transaction for a fiduciary to serve as an officer, employee, agent, or other representative of a party in interest.

"(I) Exclusions.—A qualified plan or part thereof does not include—

"(i) funds held by an insurance carrier unless that carrier holds the funds in a separate account,

"(ii) funds held by an investment company subject to regulation under the Investment Company Act of 1940,

"(iii) a plan administered by the Government of the United States, or by the government of a State or political subdivision thereof, or by an agency or instrumentality of such a government, or

"(iv) a plan established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a), unless that plan is taxable under chapter 45 (relating to certain guaranteed benefit plans).

For purposes of this subparagraph, the term 'separate account' means an account established or maintained by an insurance company under which income expenses, gains, and losses (whether or not realized) from assets allocated to such account are credited or charged against the account in accordance with the applicable contract without regard to other income expenses, gains, or losses of the insurance company.

"(J) Distribution to employer.—It is not a prohibited transaction for a fiduciary to make a distribution of the residual assets of the trust in accordance with the terms of the plan, and not in contravention of existing law, to the employer who maintains the plan after all liabilities of the plan with respect to participants and their beneficiaries have been satisfied, except that any assets of the fund attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination, shall be equitably distributed to the employee contributors according to their rate of contribution.

"(e) Fiduciary and Party in Interest.—

"(1) Party in interest.—For purposes of this section, the term 'party in interest' means, with respect to a qualified plan, a person who is—

"(A) with respect to a particular prohibited transaction, a fiduciary who benefits from the particular prohibited transaction;

"(B) an administrator, officer, trustee, custodian, counsel of, or person providing benefit plan services to, a qualified plan;

"(C) an employer any of whose employees are covered by such a plan;

"(D) an employee organization any of whose numbers are covered by such a plan;

"(E) an owner, direct or indirect, of 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation,

"(ii) the capital interest or the profits interest of a partnership, or

"(iii) the beneficial interest of a trust or unincorporated enterprise,

which is an employer or an employee organization described in subparagraph (C), (D);

"(F) a member of the family (as defined in paragraph (5)) of any individual described in subparagraph (A), (C), or (E);

"(G) a corporation, partnership, or trust or estate of which (or in which) 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

"(ii) the capital interest or profit-interest of such partnership, or

"(iii) the beneficial interest of such trust or estate,

is owned directly or indirectly, or held by persons described in subparagraph (A), (C), (D), or (E);

"(H) a corporation which is owned in the manner described in subparagraph (G) by a person who is a person described in subparagraph (E);

"(I) an officer, director (or an individual having powers or responsibilities similar to those of officers or directors), a 10 percent or more shareholder, or a highly compensated employee (earning 10 percent or more of the yearly wages of an employer) of a person described in subparagraph (C), (D), (E), (G), or (H); or

"(J) a 10 percent or more (in capital or profits) partner of a person described in subparagraph (C), (D), (E), (G), or (H).

"(2) Fiduciary.—For purposes of this section, the term 'fiduciary' with respect to a qualified plan means—

"(A) any person who—

"(i) exercises any power of control, management or disposition with respect to any moneys or other property of a qualified plan, or

"(ii) has authority or responsibility to exercise such powers,

If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, the investment shall not cause that investment company or that investment company's investment adviser or principal underwriter to be treated as a fiduciary or a party in interest for purposes of this section, except when an investment company or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, its investment adviser, or its principal underwriter.

"(3) Stockholdings.—For purposes of paragraphs (1)(E)(i), (G)(i), and (H), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of paragraph (5).

"(4) Partnerships; trusts.—For purposes of paragraphs (1)(E)(ii) and (iii), (G)(ii) and (iii) and (J), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of paragraph (5).

"(5) Member of family.—For purposes of paragraph (1)(F), the family of any individual shall include his spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(f) Other Definitions.—For purposes of this section—

"(1) Taxable period.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency pursuant to section 6212, with respect to the tax imposed by subsection (a), or

"(B) the date on which correction of the prohibited transaction is completed.

"(2) Amount involved.—The term 'amount involved' means with respect to a prohibited transaction, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subparagraph (d)(2)(C) or (D) the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

"(A) in the case of the tax imposed by subsection (a), shall be determined as of the date on which the prohibited transaction occurs; and

"(B) in the case of the tax imposed by subsection (b), shall be the highest fair market value during the correction period.

"(3) Correction.—The terms 'correction' and 'correct' mean, with respect to a prohibited transaction, undoing the transaction to the extent possible, but in any case placing the plan in a financial position not worse than that in which it would be if the prohibited transaction had not occurred.

"(4) Correction period.—The term 'correction period' means, with respect to a prohibited transaction the period beginning with the date on which the prohibited transaction occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(i) under section 6212 extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to bring about the correction of the prohibited transaction.".

(c) Clerical Amendments.—

(1) The table of sections for chapter 44 (relating to qualified pension plans), which was added by section 241 of this Act, is amended by adding at the end thereof the following new item:

"Sec. 4974. Excise tax on prohibited transactions.".

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1975.

(e) Savings Provision.—Section 4974 of the Internal Revenue Code of 1954 (relating to excise tax on prohibited transactions) shall not apply to—

(1) a loan of money or other extension of credit between a trust and a party in interest under a binding contract in effect on August 21, 1973 (or pursuant to renewals of such a contract) until August 22, 1983, if such loan or other extension of credit remains at least as favorable to the trust as an arm's-length transaction with an unrelated party would be, and if the execution of the contract, the making of the loan, or the extension of credit was not, at the time of such execution, making, or extension, a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law);

(2) the holding and maintenance (but not the acquisition) by the trust of a bond described in section 165(g)(2)(C) of the Internal Revenue Code of 1954 issued by a member of the employer group (within the meaning of section 4974(d)(2)(E) of such Code) if the trust acquired the bond before August 22, 1973;

(3) a lease or joint use of property involving the trust and a party in interest pursuant to a binding contract in effect on August 21, 1973 (or pursuant to renewals of such a contract), until August 22, 1983, if such lease or joint use remains at least as favorable to the trust as an arm's-length transaction with an unrelated party would be and if the execution of the contract was not, at the time of such execution, a prohibited transaction (within the meaning of section 503(b)) or the corresponding provisions of prior law;

(4) the sale, exchange, or other disposition of property described in paragraph (3) between a trust and a party in interest before August 22, 1983, if—

(A) in the case of a sale, exchange, or other disposition of the property by the trust to the party in interest, the trust receives an amount which equals or exceeds the fair market value of the property at the time of such disposition; and

(B) in the case of the acquisition of the property by the trust, the trust pays an amount which is not in excess of the fair market value of the property at the time of acquisition.

## TITLE VI—ENFORCEMENT

### Part A—Disputes Relating to the Qualification of Certain Employee Plans

### Sec. 601. Tax Court Procedure.

(a) In General.—Subchapter C of chapter 76 of the Internal Revenue Code of 1954 (relating to the tax court) is amended by adding at the end thereof the following new part:

### "Part IV—Declaratory Judgments Relating to Qualification of Certain Employee Plans

"Sec. 7476. Declaratory judgments.

"Sec. 7477. Procedure.

### "Sec. 7476. Declaratory Judgments.

"(a) Jurisdiction.—The United States Tax Court shall have jurisdiction under this part to hear controversies and to enter judgments declaring whether a plan established by an employer for his employees is a qualified plan as defined in subsection (b). Any such judgment by the Court constitutes its decision in the proceeding and shall be reviewable in the same manner as any other decisions of the Court.

"(b) Qualified Plan Defined.—As used in this part, the term 'qualified plan' means—

"(1) a pension, profit sharing, or stock bonus plan described in section 401(a),

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a).

"(c) Exhaustion of Administrative Remedies, etc.—The Tax Court shall not issue a declaratory judgment under this part in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service and that the plan with respect to which the judgment is sought has been put into effect prior to the commencement of the proceeding before the Tax Court. A plan shall be treated as in effect even though it includes a provision that the funds contributed to it may be refunded in the event the plan is found by the Secretary or his delegate or by the Tax Court not to be a qualified plan.

"(d) Commissioners.—The chief judge of the Tax Court may assign proceedings under this part to be heard by the commissioners of the court, and the court may authorize a commissioner to enter the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.

### "Sec. 7477. Procedure.

"(a) Right To Bring Action.—

"(1) Actions brought by employer or trustee; intervention by employee.—An action for a declaratory judgment under this part may be brought by an employer who has established a pension, profit sharing, stock bonus, annuity, or bond purchase plan and who has submitted to the Secretary or his delegate a request for a determination that the plan is a qualified plan, that, if amended in accordance with a proposed amendment, it will continue to be a qualified plan, or that termination of the plan in accordance with a proposed plan of termination will not result in the plan being treated as not a qualified plan for the plan year during which the termination occurs. If such a request was submitted by the trustee of the plan, the action for a declaratory judgment may be brought by the trustee. If the action is brought by the employer or the trustee, an employee of that employer may intervene in the proceeding if—

"(A) he intervened in the proceeding before the Internal Revenue Service relating to the requested determination, or

"(B) the employer or trustee failed to provide notice to employees of the submission of the request for determination at, or prior to, the time at which the request was submitted to the Secretary or his delegate.

"(2) Actions brought by employees; intervention by employer.—An action for a declaratory judgment with respect to a determination obtained by an employer or by a trustee may also be brought by an individual who was an employee of the employer during the period with respect to which the judgment is sought. In any such action brought by an employee, the employer may intervene.

"(b) Time for Bringing Action.—

"(1) 90-day period.—Except as provided in paragraph (2), an action for declaratory judgment under this part must be commenced within 90 days after the date on which the Secretary or his delegate sends by certified or registered mail his determination with respect to the qualification of the plan to the person requesting such determination.

"(2) Failure to issue determinations; Extensions of time.—If the Secretary or his delegate fails to issue a determination, an action for a declaratory judgment, a requested determination with respect to the qualification of a pension, profit sharing, stock bonus, annuity, or bond purchase plan, or with respect to a proposed amendment or termination of a qualified plan, within 270 days after the filing with him of the request for such determination, an action for a declaratory judgment under this part may be commenced within 90 days after the expiration of such 270-day period. If, prior to the expiration of such 270-day period, the Secretary or his delegate and the person requesting the determination consent in writing to an extension of such period, the 90-day period for commencing an action shall not begin to run until the expiration of the extended period agreed to by the parties.

"(c) Burden of Proof.—The person bringing an action for declaratory judgment under this part shall have the burden of proof with respect to any ground which was set forth in the determination by the Secretary or his delegate in such manner as to inform the person adequately of the reasons for the determination. The Secretary or his delegate shall have the burden of proof with respect to any ground on which he relies in the proceeding for a declaratory judgment and which was not set forth in his determination in such manner. If the Secretary or his delegate did not issue a determination, he shall have the burden of proof with respect to any ground on which he relies in a proceeding under this part.".

(b) Technical Amendments.—

(1) Fee for filing petition.—Section 7451 (relating to fee for filing petition) is amended by striking out "deficiency" and inserting in lieu thereof "deficiency or for a declaratory judgment under part IV of this subchapter".

(2) Date of decision.—Section 7459(c) (relating to date of decision) is amended by inserting before the period at the end of the first sentence the following: "or, in the case of a declaratory judgment proceeding under part IV of this subchapter, the date specified by the Tax Court in its decision".

(3) Venue for appeal of decision.—Section 7482(b)(1) (relating to venue) is amended by adding at the end thereof the following new sentence: "In the case of a declaratory judgment of the Tax Court, the rules of this paragraph shall be applied with respect to the employer.".

(c) Clerical Amendment.—The table of parts for subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Part IV. Declaratory judgments relating to qualification of certain employee plans.".

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1975.

### Sec. 602. Determination of Pension Rights.

(a) In General.—The Secretary of Labor is authorized to hear and decide disputes arising under qualified plans (as determined by the Secretary of the Treasury or his delegate under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954) between participants or their beneficiaries in such plans and administrators of such plans with respect to the present or future benefits of such participants or their beneficiaries, upon application made by any such participant or beneficiary.

(b) Notice and Procedure.—Upon the application of a participant or beneficiary for a proceeding under this section, the Secretary shall notify the plan administrator of the plan under which the dispute arises with respect to the matters complained of and the relief requested. The proceeding shall be held at such time and in such place and manner as the Secretary may require.

(c) Powers.—The Secretary shall attempt to secure voluntary compliance with any decision made by him under this section, but he shall have the power to issue an order directing a person who is a party to the proceeding to comply with the terms of any such decision. For the purpose of any hearing conducted by the Secretary under this section, he shall have the authority conferred by the provisions of sections 9 and 10 of the Federal Trade Commission Act (relating to the attendance and examination of witnesses and the production of books, papers, and documents). Any district court of the United States within the jurisdiction of which any proceeding under this section is held, may, upon petition by the Secretary, in the case of a refusal to obey a subpena or order of the Secretary issued under this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) Appeal.—Any decision made by the Secretary under this section may be appealed to any district court of the United States within the jurisdiction of which the proceeding was held. The provisions of chapter 7 of title 5, United States Code, shall apply to any such appeal, and on appeal the facts upon which the award is based are subject to trial de novo by the reviewing court.

(e) Effective Date.—The provisions of this section shall take effect on January 1, 1975.

## PART B—AUDITING; ETC.

### Sec. 641. Excise Tax for Auditing; Etc.

(a) Annual Tax on Plan Participation.—Chapter 44 (relating to qualified pension plans) which was added by section 241 of this Act is amended by adding at the end thereof the following new section:

"Sec. 4975. Annual Tax on Plan Participation.

"(a) General Rule.—For the calendar year beginning on January 1, 1974, and each calendar year thereafter, there is hereby imposed a tax equal to $1 per participant under a plan established by the employer which is—

"(1) a pension, profit sharing, or stock bonus plan described in section 401(a),

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a).

"(b) By Whom Paid.—The tax imposed by this section shall be paid by the employer of such participant under such plan.

"(c) Special Rules.—

"(1) The tax imposed by subsection (a) shall not apply to participants under a plan established and maintained by the United States; a State or political subdivision thereof; or a corporation which is an instrumentality of the United States, a State or political subdivision thereof.

"(2) In the case of a plan which is established pursuant to an agreement which the Secretary or his delegate determines to be a collective-bargaining agreement, see section 413.

"(3) For purposes of this section, a plan established

"(2) entitled to make contributions to or to have by the employer includes a plan established by a predecessor of the employer.

"(d) Definition of Participation.—For purposes of this section, the term 'participant' means an individual who is—

"(1) actively employed by the employer at any time during the calendar year,

"(2) entitled to make contributions to or to have amounts contributed to or under the plan on his behalf by the employer, and

"(3) not currently receiving benefits under the plan.

"(e) Regulations.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) Cross Reference.—

"For disallowance of taxes paid under this section as a deduction, see section 275.".

(b) Clerical Amendment.—The table of sections of chapter 44 (relating to qualified pension plans) which was added by section 241 of this Act is amended by adding at the end thereof the following new item:

"Sec. 4974. Annual tax on plan participation.".

(c) Effective Date.—The amendments made by this section shall apply to calendar years beginning after December 31, 1973.

## PART C—ACTUARIES

### Sec. 671. Enrollment and Reports of Actuaries.

(a) Reports, Statements, and Notices by Actuaries.—Part III of chapter 61 (relating to information and returns) is amended by inserting at the end thereof the following new subpart:

"Subpart E—Reports, Statements, and Notices by Actuaries

"Sec. 6058. Periodic report and statement of actuary.

"Sec. 6058. Periodic Report and Statement of Actuary.

"(a) General Rule.—The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 501(g)(11) of the Retirement Income Security for Employees Act) with respect to each defined benefit plan to which section 4971(e) does not apply, for the first plan year for which this section applies to the plan and each third plan year thereafter (or more frequently if the Secretary or his delegate determines that more frequent reports or statements are necessary).

"(b) Actuarial Report.—The actuarial report of a plan required by subsection (a) shall be prepared by an enrolled actuary within the meaning of section 7517) and shall contain—

"(1) a description of the plan,

"(2) a description of the funding method and actuarial assumptions used to determine costs under the plan,

"(3) a certification that the funding standard account required under section 4971(b)(1) has been maintained during the period to which the report relates,

"(4) such other information regarding the plan as the Secretary or his delegate may by regulations require, and

"(5) a statement—

"(A) that to the best of his knowledge the report is complete and accurate, and

"(B) of his opinion regarding the reasonableness of the funding method and actuarial assumptions used to determine the normal costs of the plan.

"(c) Time and Manner of Filing.—The actuarial report and statement required by subsection (a) shall be filed at the time and in the manner provided by regulations prescribed by the Secretary or his delegate."

(b) Assessable Penalties.—Subchapter B of chapter 69 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6692. Failure To File Actuarial Notice, Report, or Statement.

"The plan administrator (as defined in section 501(g)(11) of the Retirement Income Security for Employees Act) of a defined benefit plan to which section 6058 applies who fails to file the report or statement required by that section at the time and in the manner required by that section, shall pay a penalty of not to exceed $1,000 for each such failure unless it is shown that such failure is due to reasonable cause.".

(c) Enrollment of Actuaries.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting at the end thereof the following new section:

"Sec. 7517. Enrollment of Actuaries.

"The Secretary or his delegate shall, by regulations, establish reasonable standards and qualifications for persons performing actuarial services described in section 6058 and shall enroll persons found by the Secretary or his delegate to satisfy such standards and qualifications. The Secretary or his delegate may, after notice and an opportunity for a hearing, suspend or terminate the enrollment of an actuary under this section if the Secretary or his delegate finds that the actuary has not satisfied requirements for enrollment. For purposes of this title, the term 'enrolled actuary' means a person who is enrolled by the Secretary or his delegate pursuant to this section."

(d) CLERICAL AMENDMENTS.—

(1) The table of subparts for part III of chapter 61 is amended by inserting at the end thereof the following new item:

"Subpart E—Reports, statements, and notices by actuaries.".

(2) The table of sections for subchapter B of chapter 68 is amended by inserting at the end thereof the following new item:

"Sec. 6692. Failure to file actuarial notice, report, or statement.".

(3) The table of sections for chapter 77 is amended by inserting at the end thereof the following new item.

"Sec. 7517. Enrollment of actuaries.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply for plan years beginning on or after January 1, 1976.

(2) The amendments made by subsection (c) and (d) shall take effect on the date of enactment of this Act.

PART D—RESOLUTION OF DISPUTES GENERALLY

SEC. 691. (a) Each employee benefit plan subject to this part shall provide—

(1) a procedure for the fair and just review under the plan of any dispute between the administrator of the plan and any participant or beneficiary of the plan, and

(2) an opportunity, after such review and a decision by the administrator (or a failure to make a decision within a reasonable period of time by the administrator), for the arbitration of such disputes.

(b) A participant or beneficiary of such a plan may bring a civil action in accordance with the provisions of section 693 of this Act in lieu of submitting the dispute to arbitration under the plan.

(c) If a dispute under a plan is subject to procedures established by collective bargaining for the resolution of such dispute, the Secretary of Labor, upon written request by a plan administrator, may waive the application of subsections (a), (b), and (e) to such dispute if he determines that the procedures provided for are reasonably fair and effective.

(d) The arbitration of disputes in accordance with the requirements of this section, and judicial proceedings relating thereto, shall be governed by the laws, decisions, and rules applicable to the arbitration of disputes under section 301 of the Labor Management Relations Act, 1947.

(e) The cost of any arbitration proceedings required under this section (including arbitrators' fees) shall be paid by the plan under which the dispute arises, unless the arbitrator determines that a participant's or beneficiary's allegations are frivolous and assesses all or a portion of such cost to that party.

(f) The Secretary shall inform participants and their beneficiaries under plans to which this part applies of their rights under this part. The Secretary is authorized to furnish assistance to such participants and their beneficiaries in obtaining such rights.

SEC. 692. Whenever the Secretary believes that an employee's benefit fund is being or has been administered in violation of the requirements of the Welfare and Pension Plans Disclosure Act or the documents governing the establishment or operation of the fund, the Secretary may petition any district court of the United States having jurisdiction of the parties or the United States District Court for the District of Columbia for an order (1) requiring return to such fund of assets transferred from such fund in violation of the requirements of such Act, (2) requiring payment of benefits denied to any participant or beneficiary due to violation of the requirements of such Act, or of the requirements of this Act, and (3) restraining any conduct in violation of the fiduciary requirements of such Act, or of this Act, and granting such other relief as may be appropriate to effectuate the purposes of this Act, including but not limited to, removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act.

SEC. 693. Civil actions for appropriate relief, legal or equitable, to redress or restrain a breach of any responsibility, obligation, or duty of a fiduciary, including but not limited to, the removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act or against any person who has transferred or received any of the assets of a plan or fund in violation of the fiduciary requirements of the Welfare and Pension Plans Disclosure Act or in violation of the document or documents governing the establishment or operation of the fund, may be brought by any participant or beneficiary of any employee benefit plan or fund subject to the Welfare and Pension Plans Disclosure Act in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated. In all civil actions authorized by this Act or the Welfare and Pension Plans Disclosure Act, attorneys appointed by the Secretary shall represent the Secretary except as provided in section 518(a) of title 28, United States Code (relating to litigation before the Supreme Court of the United States).

SEC. 694. Suits by a participant or beneficiary for benefits from an employee benefit plan or fund, subject to the Welfare and Pension Plans Disclosure Act, may be brought in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties, against any such plan or fund to recover benefits due him required to be paid from such plan or fund pursuant to the document or documents governing the establishment or operation of the plan or fund, or to clarify his rights to future benefits under the terms of the plan. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated.

SEC. 695. (a) A copy of the complaint in any action brought under section 693 or 694 shall be served upon the Secretary by certified mail, who shall have the right, in his discretion, to intervene in the action.

(b) Notwithstanding any other law, the Secretary shall have the right to remove an action brought under section 693 or 694 from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for under this Act. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated the action.

SEC. 696. The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932, shall not be applicable with respect to suits brought under this title.

SEC. 697. Suits by an administrator or fiduciary of an employee benefit plan subject to this Act or the Welfare and Pension Plans Disclosure Act, to review a final order of the Secretary, to restrain the Secretary from taking any action contrary to the provisions of such Acts, or to compel action required under this Act, may be brought in the name of the plan or fund in the district court of the United States for the district where the fund has its principal office, or in the United States District Court for the District of Columbia.

SEC. 698. Any action, suit, or proceeding based upon a violation of this Act or the Welfare and Pension Plans Disclosure Act shall be commenced within five years after the violation occurs. In the case of fraud or concealment, such action, suit, or proceeding shall be commenced within five years of the date of discovery of such violation.

SEC. 699. (a) It is hereby declared to be the express intent of Congress that, except for actions authorized by section 694 of this title, the provisions of this Act or the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the subject matters regulated by this Act or the Welfare and Pension Plans Disclosure Act, except that nothing herein shall be construed—

(1) to exempt or relieve any employee benefit plan not subject to this Act or the Welfare and Pension Plans Disclosure Act from any law of any State;

(2) to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary; or

(3) to alter, amend, modify, invalidate, impair, or supersede any law of the United States other than the Welfare and Pension Plans Disclosure Act or any rule or regulation issued under any law except as specifically provided in this Act.

(b) Subsection (a) of this section shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring or permitting an accounting by a fiduciary during the operation of an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act or upon the termination thereof or from asserting jurisdiction in any action by a fiduciary requesting instructions from the court or seeking an interpretation of the trust instrument or other document governing the fund, In any such action—

(1) the provisions of this Act and the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the State and of political subdivisions thereof, insofar as they may now or hereafter relate to the fiduciary, reporting, and disclosure responsibilities of persons acting for or on behalf of employee benefit plans or on behalf of employee benefit funds subject to the Welfare and Pension Plans Disclosure Act except insofar as they may relate to the amount of benefits due beneficiaries under the terms of the plan;

(2) notwithstanding any other law, the Secretary or, in the absence of action by the Secretary, a participant or beneficiary of the

employee benefit plan or funds affected by this subsection, shall have the right to remove such action from a State court to a district court of the United States if the action involves an interpretation of the fiduciary, or reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans subject to the Welfare and Pension Plans Disclosure Act;

(3) the jurisdiction of the State court shall be conditioned upon—

(A) written notification, sent to the Secretary by registered mail at the time such action is filed, identifying the parties to the action, the nature of the action, and the plan involved; and satisfactory evidence presented to the court that the participants and beneficiaries have been adequately notified with respect to the action; and

(B) the right of the Secretary or of a participant or beneficiary to intervene in the action as an interested party.

SEC. 699A. It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of the plan, this Act, or the Welfare and Pension Plans Disclosure Act, or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. It shall be unlawful for any person to discharge, fine, suspend, expel, or discriminate against any person because he has given information or has testified or is about to testify in any inquiry or proceeding relating to this Act or the Welfare and Pension Plans Disclosure Act. The provisions of sections 692 and 693 shall be applicable in the enforcement of this section.

SEC. 699B. It shall be unlawful for any person through the use of fraud, force, or violence, or threat of the use of force or violence, to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he is or may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. Any person who willfully violates this section shall be fined $10,000 or imprisoned for not more than one year, or both.

**Mr. NELSON.** Mr. President, the need for private pension legislation has been driven home for many of us by specific cases we know about where clearly what was right did not prevail. One example of this type which has been called to my attention is that of a Mr. Robert Pratt of Hudson, N.Y., who in 1971 was laid off by his employer, the Gifford-Wood Co. Mr. Pratt had worked 47 years for this company and was to retire within 1 year at the age of 65.

In June 1972, Gifford-Wood was sold to another firm, and its pension plan was terminated—3 months before Mr. Pratt's 65th birthday. When he applied for retirement benefits, it is my understanding that Mr. Pratt was told he would receive nothing although he had 47 years of service.

Perhaps the most famous failure of all in the private pension system occurred in 1964, when Studebaker closed its plant in South Bend, Ind. In this case, 4,500 employees lost 85 percent of their earned pension benefits. This was an economic catastrophe to the individuals involved and to the entire community of South Bend.

Each of us has specific cases in mind where some aspect of the private pension system has not worked the way it should. Despite this, we all know that the private pension system has done a world of good for hundreds of thousands of retired employees. Our job, therefore, is not to castigate the private pension system but to provide legislation improving it.

That is our purpose here today. In this case, we have two committees who have worked long and diligently in providing badly needed reforms for the private pension system. I am referring to the Labor and Public Welfare Committee and to the Finance Committee. The Labor and Public Welfare Committee has worked in this area for a considerably longer period of time than has the Finance Committee and has clearly done the pioneering in this regard. Chairman WILLIAMS and ranking Minority Member JAVITS, especially deserve praise for their diligent work in this regard. Nevertheless, the Senate Finance Committee also has worked intensively in this area, particularly in the legislation it has reported this year.

The Finance Committee bill, which from the standpoint of our committee was developed first by the junior Senator from Texas (Mr. BENTSEN), took full advantage of the intensive study and research carried on by the Senate Labor and Public Welfare Committee. In fact, in many cases, our legislation is built on and in many respects is similar to the bill, S. 4, reported by the other committee.

We believe, however, that in a number of respects there are certain advantages in the Finance Committee bill. I say this because we were able to take advantage of tax provisions in providing for the administration of the pension standards.

There already are a substantial number of professional persons in the Internal Revenue Service who devote virtually full time to the administration of existing law relating to pensions—this is a group of over 400 experts. Present law already requires the Internal Revenue Service to administer antidiscrimination rules with respect to pensions and also funding requirements—although they are much too limited. In addition, it is necessary in some cases to enforce vesting rules in order to give assurances that the plans are not discriminatory in favor of highly compensated employees. Limited rules relating to fiduciary responsibility, although of too restricted application, are also enforced through the Internal Revenue laws.

Because we believe that the administration of many of these provisions—although as I will point out in a moment not necessarily all—can best be handled by the Internal Revenue Service, we have developed a bill, S. 1179, as amended by the committee, which takes a quite different approach from S. 4 insofar as the administration of the pension provisions are concerned.

Despite the difference in the administrative procedures followed by the two bills, the basic minimum requirements which the two bills provide for private pension plans are very similar. In some cases, they are the same. On occasion, the Finance Committee bill provides a higher level of requirements than S. 4 and sometimes S. 4 provides the higher level.

Many of us on both committees felt that it would be a shame when we have two such good bills, for the possible competition of one with the other to result in the killing of pension legislation this year when it is so badly needed.

Mr. President, because of this, Chairman LONG, Senator BENNETT, Senator BENTSEN, and myself have met with the Chairman of the Labor and Public Welfare Committee, Senator WILLIAMS, and the ranking minority member, Senator JAVITS, to see whether it would be possible to work out the differences in the two bills.

I am glad to say that this has been a successful effort. The staffs of the two committees, working under our direction, have developed a compromise position which I shall offer as an amendment to S. 4 as reported by the Senate Labor and Public Welfare Committee.

This amendment deals with all of the subject matter presently in S. 4 except that it makes no changes in the S. 4 provisions relating to reporting and disclosure. In addition, the Finance Committee bill, S. 1179 contains a series of tax provisions relating to self-employed individuals, proprietary employees, the tax treatment of lump-sum distributions, and provision for a $1,000 setaside for those not covered by any present retirement plans. These provisions relate to matters which are not in S. 4 and will not be presented in the amendment I plan to offer. A version of these provisions will, however, be offered subsequently. I might say, however, that what the Finance Committee considers to be the controversial aspect of these tax provisions was removed by the Finance Committee when it reconsidered these provisions this last Friday. But, in any event, these tax provisions are not in the amendment which I am offering at this time.

I shall ask that the amendments I am offering, because they are extensive in nature, be considered as original text so the Members will have full opportunity to offer amendments to them. It is my understanding that the debate on the bill will not be finished today so that there will be an opportunity for the Members to consider possible modifications in these provisions tomorrow if they would like to do so.

In very broad terms, the amendment that I shall offer in the areas of enforcement, vesting, funding, and portability follow the general format of the Senate Finance Committee bill, S. 1179 as amended. However, in a number of respects, these provisions have been modified to take into account specific problems dealt with in S. 4. In any event, these provisions although technically using the language of S. 1179 do not differ greatly—outside of the difference in the enforcement provisions—from the provisions of S. 4.

Let me turn first to certain overall administrative aspects with respect to pension systems provided in the amendment which I am offering at this time. One of the problems with the present administration of the pension provisions, it has been suggested, is the fact that the work tends to be spread throughout the entire Internal Revenue Service in the different branches without concentration of the many specialists in a single unit. The advantage of a single unit lies in the fact that more experts in this particular field can be developed in this manner and more attention can be paid to being sure that plans meet the standards specified, rather than in devoting attention largely to the tax collection problems involved. As a result, the amendment follows the provisions of S. 1179 and would create within the Internal Revenue Service a new office of Assistant Commissioner for Employee Plans and Exempt Organizations.

This office will have the responsibility within the Service for enforcing requirements with respect to pension plans and also with respect to charitable foundations and other exempt organizations. This new office should improve the administration of tax laws on pensions by in effect putting all of the pension specialists under a single roof. To finance the cost of administering the retirement plans as well as exempt organizations, the amendment, like S. 1179, imposes a $1 audit fee excise tax and authorizes the appropriation of receipts from this tax—as well as one-half of the 4 percent excise tax on investment income of private foundations—to be devoted to the administrative costs of this new office.

Also, like S. 1179, the amendment requires administrators of qualified plans to file an annual statement which will be turned over to the Social Security Administration, indicating the pension rights of those who are leaving employment with an employer. Under the amendment a further modification is made—a copy of this certificate will also be given to the departing employee. This information will be used eventually to notify the former employees as to their pension rights when they reach retirement age. It should be noted that this is a time when, in any event, they will be contacting the social security offices in order to find out the size of their social security benefits. This will be a convenient reminder to them of their private pension benefits.

The provisions I have described up to this point are in S. 1179 but not in S. 4.

Let me turn now to the participation or coverage provisions and the vesting provisions which do appear in both bills and which are quite similar.

Both bills agree that the standards for coverage and particularly for vesting—that is, when an individual's rights to a pension become nonforfeitable must be raised. At the present time, except where vesting rules are necessary to prevent discrimination, there are no requirements that an individual's rights to a pension vest before retirement. In fact, many pension plans do not provide for vesting until retirement age is reached with the result that when an individual's employment is terminated before retirement age, he may lose all of his rights to a pension plan.

Insofar as coverage under a pension plan is concerned, S. 4 requires coverage by offering to an employee who has had 1 year of service and is 25 years of age or older. S. 1179 also provides for coverage after 1 year of service but only if the individual is age 30 or over. However, S. 1179 has a "look-back" rule which brings the two plans much closer together. Under this provision, once an individual reaches age 30, if he has been working from age 25, he can take this 5 years into account for purposes of the vesting rule. For those who continue to work until age 30, this means that in practical application, the effect of the two bills is substantially the same.

This amendment follows the basic coverage rule in S. 1179.

The basic vesting rules of the two bills also are quite similar. S. 4 provides for 30 percent vesting after the end of 8 years and full vesting at the end of 15 years. S. 1179 provides for full vesting at the same time, namely at the end of 15 years. However, it provides that vesting must begin somewhat sooner than under S. 4. The vesting under S. 1179 must be at the 25 percent level by the fifth year. The amendment which I am offering follows the basic S. 1179 rules in this respect. It is my understanding that this is wholly satisfactory to the sponsors of S. 4.

At the same time, the amendment incorporates certain aspects of the S. 4 rules. For example, S. 4 provides that as an alternative to its basic vesting rule, a plan will qualify if it provides 100 percent vesting at the end of 10 years, rather than gradual vesting beginning earlier and being completed at the end of 15 years. S. 1179 also permitted this rule as an alternative but only through 1981. The amendment which I am offering follows the S. 4 rule more closely in that plans that already have such a 10-year full vesting provision can continue these vesting rules indefinitely in the future. However, new plans set up from now on must meet the general vesting rule provided in the amendment, namely 25 percent vesting at the end of 5 years and 100 percent vesting at the end of 15 years.

The amendment also follows the S. 4 vesting rules in that it provides that where an individual is covered for payments into the plan at any earlier date than generally provided under the minimum rules this period must be taken into account for purposes of applying the vesting rules.

Generally, the effective date for the vesting rules to apply is under S. 1179 plan years beginning after December 31, 1975. This rule is adopted in this amendment. However, an exception in S. 4 is also added. It is provided in the amendment that if the Secretary of Labor finds that the implementation of the vesting requirements will impose "substantial economic hardship" he may certify this fact to the Secretary of the Treasury and provide for the postponement of the new vesting rules in such cases for periods up to 5 years. This determination of hardship and the extent of the postponement is to be determined by the Secretary of Labor.

A number of other vesting and participation modifications are also included in the amendment but they represent relatively minor modifications which are described in the technical memorandum which I shall submit for the record.

Mr. President, let me turn now to the subject of the funding of retirement plans. Retirement plans cannot provide financial security to workers unless sufficient amounts of money have been contributed to them to pay the benefits promised. At present, it is clear that a significant portion of retirement plans are not adequately financed.

Both S. 4 and S. 1179 have similar provisions to correct this serious problem. Both bills recognize that for the financial safety of the workers contributions must be made each year so that the plans will accumulate sufficient funds to pay the benefits when due. At the same time, they recognize that retirement benefits involve substantial cost and, therefore, allow the employers to gradually fund the retirement benefits as the funds are needed.

The funding provisions of S. 4 and S. 1179 are in most respects quite similar and sometimes almost identical. This amendment follows the general format of S. 1179 in the area of funding but incorporates the S. 4 rules where it appears that they give a better result.

Both bills and this amendment provide that "current service costs" should be contributed on a current yearly basis by the employer.

Additionally, many plans give a worker credit for his service that took place before a plan went into effect, or where improvements are made in a plan, apply these improvements with respect to his past service. In these cases a plan has what is called a past service cost liability in addition to the current service cost. S. 4, S. 1179, and this amendment require that initial past service cost generally be amortized by the employer over a period of not more than 30 years. In addition, S. 4 recognizes that multi-employer plans may be more financially secure than single-employer plans and, therefore, allows a longer funding period in these cases. The amendment I am offering follows the S. 4 route and allows a 40-year period to amortize initial past service costs of multi-employer plans. Plan improvements follow the same rules that I have indicated above where they are "substantial;" that is, where they represent 5 percent or more of the past service costs existing on the date of the amendment of the plan.

Because the costs of defined benefit plans essentially are estimates, many future events affect the pensions that eventually are to be paid out and also affect the value of the assets of a pension plan. Where it develops that the estimates of funding requirements are too low, there are said to be experience deficiencies, and where they are too high, there are experience gains. S. 4, S. 1179, and this amendment require experience losses to be amortized over a specified period. S. 1179, which this amendment follows in this respect, requires the amortization to be over the shorter of 15 years or the average remaining service life of covered workers. S. 4 would have required these deficiencies to be written off over a 5-year period. Experience gains are to be written off over the same 15-year period. Plan changes which are not classified as substantial generally also are to be written off over 15 years.

In the case of experience losses and for other purposes, S. 1179 and this amendment also provide the option to use up to a 5-year moving average in determining plan asset values in order to smooth out short-run market fluctuations.

Both S. 4 and S. 1179 recognize that at times an employer will not be able financially to meet the minimum funding requirements and that relief must be offered. This amendment also deals with this problem by providing that the minimum funding requirements in the case of a single employer plan may be waived upon a showing of substantial business hardship. These waived amounts may be amortized over no more than 10 years. This particular feature is drawn from S. 1179 as also is the requirement in the bill that no more than five waivers may be granted in any 10-year period. The amendment follows the lead of S. 4, however, by providing a special rule in the case of multi-employer plans. If at least 10 percent of the employers contributing to the plan demonstrate to the Secretary of Labor that they would experience economic hardship under the standard funding rules, he may extend the 40-year amortization period for past service costs for a period of up to 50 years.

As I have already mentioned, pension plan costs in no small part must be determined on the basis of estimated costs. These estimates may vary depending on the actuarial assumptions and methods used in calculating them. The rules in this respect in both S. 4 and S. 1179 as well as in this amendment are substantially the same. Standards of competence are set for actuaries who practice with respect to pension plans. They also must meet a standard of reasonableness in choosing the methods and assumptions used in determining plan costs. Certifications must also be made by these actuaries on a recurring basis as to the soundness of the plans under their direction.

Under S. 1179 and also under this amendment, the minimum funding standards are to be enforced through the tax laws. Tax qualified retirement plans will be required to meet the minimum funding standards. As under S. 4, this amendment requires nonqualified plans to meet the minimum funding standards for tax purposes. If an employer fails to contribute the minimum amounts required, he is to be subject to an initial 5-percent excise tax on the funding deficiencies. In addition, if the funding deficiencies are not corrected within the period allowed, the employer is to be subject to a tax of 100 percent of the funding deficiency. We believe that this will give assurance that the funding requirements are adequately met.

The amendments relating to funding standards are to have the same effective date as the vesting provisions. They will generally go into effect 2 years after the date of enactment for plans now in existence.

Mr. President, let me turn now to a fourth subject dealt with by both S. 4 and S. 1179 as well as this amendment. I am referring to the subject of portability of retirement plans.

Although the mobility of workers within the United States has been increasing steadily, employees who move from job to job have difficulty in earning pension benefits and in collecting the benefits which they have earned. In part this is a question of better vesting rules, which, as I have indicated, are provided by this amendment. In addition, however, both bills and this amendment include amendments to set up a purely voluntary portability provision.

Both bills and this amendment provide that workers who change jobs may have their vested retirement credits transferred to a central Government fund which under this amendment would be operated by the Pension Benefit Guaranty Corporation. The fund is to establish an account for each worker on whose behalf it receives money, invest its assets and pay benefits upon the retirement of the worker. Alternatively, the worker may have the amount transferred to a retirement plan of his new employer. These transfers to new employers can be used to buy actuarially equivalent benefits in the new employer's retirement plan. Under S. 1179 and under this amendment, transfers to the central fund and transfers from the fund to the plan of a new employer are to be on a tax-free basis. Also, income earned by the central fund is tax free until such time that it is paid out to the beneficiaries.

Let me emphasize again that this portability program is wholly voluntary for both employers and employees.

This amendment also includes some other tax features of S. 1179. Under this amendment, if an employee receives a complete distribution of his interest in a qualified retirement plan, he generally will not be taxed on the distribution if he contributes it to the central portability fund or to another qualified plan within 60 days after receipt.

Mr. President, let me turn now to a fifth subject which is in both S. 4 and S. 1179. I am referring to plan termination insurance.

Despite the accelerated funding of pension plans required under the amendment, workers may still be deprived of benefits to which they had vested rights where the plan terminates before all of the funds necessary for these benefits have been added to the fund. This termination can occur either where an employer sells his business or merely stops his business. A recent study indicates that 19,400 workers lost benefits in 1972 because of plan terminations in that year. While this is substantially less than 1 percent of retired workers receiving pension payments, nevertheless, for those to whom it occurs, it is a real catastrophe. In addition, there is always the threat hanging over the head of all covered workers that their plan may at some unknown time in the future terminate.

I am glad to say that both S. 4 and S. 1179 provide systems of plan termination insurance. In most respects, these plans are substantially similar. Both bills provide that pension plans are to be funded with insurance premiums paid by the employer. Both bills limit the amount of insurance payable to each plan participant in order to prevent the use of the insurance fund for excessive payments to highly paid employees. Both bills require that plans are to remain in operation for certain periods of time before insurance coverage is provided. Also, under both bills employers are required when they are solvent to reimburse the insurance fund for its losses up to certain limits as a precaution to prevent employers from terminating plans in order to take advantage of the insurance. In most respects, the provisions in the two bills on insurance are quite similar.

Let me turn first to the question of how the insurance program is organized. S. 4 provides that the insurance program is to be administered as an agency under the Secretary of Labor. S. 1179 provides for a separate corporation to be administered by three directors—the Secretaries of the Treasury, Labor, and Commerce—with the Secretary of the Treasury being the chairman unless the directors select another chairman. Under this amendment, we have reached a compromise on the organization of the insurance program. The program is to be handled by a Government corporation, the Pension Benefit Guaranty Corporation, but the Secretary of Labor is to be the chief administrative officer and the Corporation will be a part of the Department of Labor.

The insurance program would be paid for under S. 4 by premiums based on unfunded vested liabilities. S. 1179, on the other hand, imposes a tax of 50 cents per year per plan participant. The amendment I am offering follows the basic rule in S. 1179; that is, in the first 3 years, at least, a tax is to be imposed based upon the number of participants covered. However, in view of more recent loss experience made available after the conclusion of the committee consideration, this amendment provides that the tax is to be at the rate of $1 per participant instead of 50 cents. This is to be the rate only for the first 3 years, however, and if the trustees of the Corporation find that a lesser tax rate is needed after that time, this can be proposed to the Congress at the end of the 3-year period.

S. 4 would provide that the insurable benefits would under certain conditions be available in the year following the effective date of the bill. S. 1179, on the other hand, delays the coverage for 3 years after the collection of the premium begins—1 year after the date of enactment—to enable the insurance fund to build up enough to cover insured losses. Under this amendment, all plans are to be covered after 2 years of premium collections in any event and the insurance corporation can provide coverage earlier if it estimates that it has enough funds at that time to cover the insurance losses. Under the amendment, generally, premium taxes are to be payable by employers beginning in 1975 and coverage would begin no later than 1977.

The two bills differ to some extent as to the employer's liability to the insurance corporation to reimburse it for losses caused by the employer's terminated plan. Under S. 4 the liability is limited to 50 percent of the employer's net worth. Under S. 1179, it is limited to the lesser of 50 percent of the net worth or 10 percent of the loss. This amendment in this respect more closely approximates the S. 4 rule. Like S. 4, it has no limitation based upon the percentage of the loss. On the other hand, it provides that the liability is not to be greater than 30 percent—instead of 50 percent—of net worth. This would be a sufficient liability to prevent employers from terminating plans only to take advantage of the insurance for themselves and the employees. This permits the elimination of a phasing-in schedule such as is in S. 1179 which would permit only gradual coverage of newly created plans and benefits.

The two bills also differ somewhat in that under S. 1179 employers are given the option of avoiding the liability for the insurance corporation's losses by paying an extra tax of 20 cents per participant per year. No such option to avoid liability is available under S. 4. Under the amendment there is to be the option of avoiding this additional liability by paying a premium to the insurance corporation to, in effect, insure the employers against this liability. This extra charge since it is to be voluntary will not be collected as a tax. Also, employers if they so desire may elect instead to obtain protection against liability from the private insurance sector.

In the case of multi-employer plans, this amendment incorporates both a provision from S. 4 and a provision from S. 1179. S. 1179 provides that when a large employer withdraws from the plan he must post a bond to cover possible costs arising from his withdrawal from the plan. If the plan should terminate within a 3-year period from the time either the large employer withdraws or any other employer withdraws, they are to be liable for any underfunding attributable to their employment. This will be true only, however, if the plan terminates within 5 years from the time of their withdrawal. In addition, the amendment incorporates a rule in S. 4 which permits the insurance corporation to separate a multi-employer plan into two or more plans whenever it determines that an employer withdrawal has endangered the rights of employee-participants who were employees of employers who have not withdrawn from the plan.

Other relatively technical changes have also been made compromising differences between the provisions in S. 4 and S. 1179. These will be set forth in the technical memorandums at the end of my statement.

Mr. President, a sixth subject dealt with by S. 4 and S. 1179 is the topic of fiduciary standards.

In this area, the two bills provide in most respects the same fiduciary standards. Under S. 4, these standards are administered by civil action taken by the Secretary of Labor. Under S. 1179, some of these standards were administered by the Secretary of Labor and also involved civil actions. However, under S. 1179, a substantial list of prohibited transactions are also administered by the Internal Revenue Service with enforcement occurring through the imposition of excise taxes for noncompliance.

While the objectives of the two bills in the area of fiduciary responsibility were much the same, the different enforcement procedures made it difficult to reconcile these provisions of the bill. This difficulty was particularly important because those of us sponsoring this amendment do not favor duplication of enforcement efforts.

For the most part, we have obtained what we believe to be a rational division of enforcement of the fiduciary responsibilities between the Labor Department and the Internal Revenue Service. Both the Labor Department and the Internal Revenue Service will have responsibilities with respect to the prohibited transaction provisions. The Internal Revenue Service will have prime responsibility to enforce these rules with respect to parties-in-interest. On the other hand, prohibited transactions concerning fiduciaries are to be primarily administered through the Department of Labor through civil actions. The listing of prohibited transactions in the two cases, however, will be the same and to insure a common interpretation of these provisions, joint regulations and a joint ruling procedure in this respect is to be followed.

In addition, the Secretaries of Labor and Treasury are to be authorized jointly to provide variances or exceptions to the prohibited transactions. These exceptions can either be by broad classes or can deal with individual cases. The variances, however, must not impair the plans involved, must not present serious administrative problems, and must provide adequate safeguards for the participants. Any information as to variances in these cases is to be made available to the public.

Apart from the prohibited transactions, essentially all of the remaining rules relating to fiduciary responsibilities are to be administered by the Secretary of Labor through civil actions.

The amendment provides that the Secretary of Labor is to have as one enforcement tool a so-called "prudent man rule." Under this rule, fiduciaries are required to discharge their duties with respect to investments and other matters by acting with the same care that would be exercised by a prudent man acting in a similar capacity and familiar with the matter in question. This is presently a provision in S. 4 and is a substitute for a provision relating to "jeopardizing income or assets" which presently is in S. 1179. A second enforcement tool provided for the Secretary of Labor is the provision of S. 4 regarding the prohibition against certain persons convicted of certain crimes holding positions with retirement plans.

I have already referred to the duties of the Secretary of Labor with respect to the prohibited transactions in the case of fiduciaries. He presumably will also find examples of breaches of responsibility in these areas in the case of parties in interest. Presumably, these will be referred by him to the Internal Revenue Service for enforcement through the excise tax procedure.

A fourth tool for enforcing fiduciary responsibility made available under the amendment to the Secretary of Labor relates to rules on investments in employer securities. Under the rules provided, pension funds to the extent of 5 percent may be invested in employer securities, and profit sharing and stock bonus plans generally can be invested in employer securities without limitation. Certain real estate may also be held by the pension, profit sharing, or stock bonus plan where it is leased back to the employer. In the case of pension funds, this is subject to the overall 5-percent limit.

There, of course, may be some situations where the holdings of employer securities already exceed the 5-percent limit provided by the amendment. To provide for situations of this type, relatively easy and long-term transition rules are provided. Fifty percent of the excess holdings must be disposed of within 5 years and the remaining 50 percent in the next 5 years.

The Secretary of Labor will also have the duty to take civil actions against pension, profit sharing, or stock bonus plans whenever he finds that the funds are held or administered other than for the exclusive purpose of providing benefits for participants or defraying reasonable administrative expenses. Provision is made to limit the extent to which retirement funds may be held outside the United States.

As I think you can see from my description of the fiduciary responsibility provision, most of the authority in this area will be under the Secretary of Labor. An exception is made in the case of prohibited transactions involving parties in interest because it is believed that this can be administered more readily through this use of the excise taxes by the Internal Revenue Service. Even in this area, however, there will be commonly defined terms as indicated by the use of joint rulings and regulations.

Mr. President, the seventh category are the reporting and disclosure requirements. The provisions in my amendment relating to reporting and disclosure are identical to those in S. 4 with the exception of some technical changes.

Finally, Mr. President, let me turn to the enforcement provisions. Actually, I have discussed many of the enforcement provisions as I have taken up the discussion of the various provisions in the bills. The enforcement provisions I want to refer to now are additional enforcement procedures which for the most part are set forth in the enforcement title in S. 1179. The first of these relates to the provisions of S. 1179 which provide additional opportunities for redress in the case of disagreement with the decisions of the Internal Revenue Service on pension, profit sharing or stock bonus matters. Under both S. 1179 and this amendment, both employees and employers will be allowed in certain situations to appeal determination letters issued by the Internal Revenue Service to the U.S. Tax Court. In practice, most employers are bound by the Internal Revenue Service determination letters since they are generally unwilling to put into effect provisions in their plans which the Internal Revenue Service says are not allowable even though they may disagree with the Internal Revenue Service's interpretation. The problem arises from the fact that the only way at present they can obtain a judicial determination on an issue of this type is to make the change and run the risk of forgoing tax deductions and disqualifying their plan if the Internal

Revenue Service should prove to be correct. The declaratory judgment procedure provided here is an innovation which we believe is desirable because it will permit all interested parties to the controversy to have an opportunity to participate in a realistic manner in the administrative determination and to have an opportunity to contest the Internal Revenue Service's determination of the matter in the courts.

A second enforcement procedure under the amendment provides that with respect to claims under pension plans a procedure for arbitration must be provided in the plans themselves. The Department of Labor will provide by regulation for the type of arbitration service provisions which are to be incorporated in the pension and various other plans.

Finally, the bill makes provision for a $1 audit fee, excise tax on the employer for each plan participant in a qualified employee plan. As I indicated earlier, this tax is to be used to provide for the administrative costs for the Internal Revenue Service with respect to pension plans.

Mr. President, I think from what I have told you it should be clear that it is a comprehensive amendment that I am presenting to you which will in my opinion coordinate the provisions of S. 4 and S. 1179. I believe that through the careful work of the Members and the staff we have been able to pick and choose the best provisions in each bill and I believe we, in this amendment, have come up with a set of provisions which are better than those in either of the two bills. I urge your support for this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. NELSON. The time not to be charged against the bill or the time on either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I yield to the distinguished Senator from Texas whatever time he may require.

Mr. TAFT. Mr. President, will the Senator from Texas yield for a unanimous-consent request?

Mr. BENTSEN. I yield for a unanimous-consent request.

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. Richard King of the minority staff of the Committee on Labor and Public Welfare have the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

### 1973—THE YEAR FOR ENACTMENT OF STRONG PENSION REFORM LEGISLATION

Mr. BENTSEN. Mr. President, the U.S. Senate will soon enact an historic and landmark piece of social legislation which will assure that all American working men and women actually receive the pension benefits that they have earned through years of long, hard labor.

Mr. President, final Senate approval of strong pension legislation will mark the very successful conclusion of the dedicated efforts of many of my colleagues on both the Senate Finance and Labor Committees who have devoted so much of their personal time and energy toward reform of our private retirement system. In particular, I would like to pay special tribute to the distinguished chairman of the Senate Labor Committee, Senator WILLIAMS, the distinguished ranking minority member of the Labor Committee, Senator JAVITS, and the distinguished chairman of the Subcommittee on Private Pensions, Senator NELSON, whose efforts have been so instrumental in achieving bipartisan Senate support for meaningful pension legislation. All pension plan participants owe a debt of gratitude to these fine Senators.

Both the Senate Finance and Labor Committees have agreed to support a single bill which combines the major provisions of S. 1179, the Bentsen bill, which was approved by the Senate Finance Committee earlier this year, as well as S. 4, the Williams-Javits bill, which has been approved by the Senate Labor Committee. I am happy to add my full support behind the joint efforts of the Finance and Labor Committees to enact legislation to protect the pension benefits of the American worker.

Over the past several decades, tens of millions of American working men and women have confidently approached their retirement age expecting to receive a sizable monthly pension.

The expectations of most of these workers have been fulfilled. Generally, America's private retirement system has performed very well for the millions of retired Americans presently receiving their expected retirement benefits.

But, unfortunately, there are thousands of other workers who have not received pension benefits that they have earned. Their dreams of financial security after retirement have been shattered. Promises have been broken. So far as they are concerned, America's private retirement system has failed.

The objectives of the pension legislation we are considering today are twofold: first, to eliminate inequitable aberrations in our private pension system; and second, to prevent an unprincipled employer from taking advantage of his workers.

The purpose of this pension legislation is not to establish an ideal pension plan, but rather, to set up certain minimum standards to assure that all workers receive the pension benefits that they have earned. Congress will be careful to avoid making these standards so tough that they will actually discourage the creation of new pension plans and thereby deny additional workers the opportunity to participate in private retirement plans.

Strong and comprehensive pension legislation must be directed toward two general goals. First, we must safeguard the pension rights which millions of American working men and women have earned. Second, efforts must be made to encourage the tens of millions of workers who do not now participate in the private retirement system to independently save for their retirement.

Let us examine some of the problems with the private retirement system which necessitate congressional action now.

One of the fundamental problems involves the loss of pensions by workers who leave their jobs after long periods of employment but before their earned pensions become vested because of unreasonable vesting requirements. Vesting occurs when an employee receives a nonforfeitable right to the money contributed to a pension plan on his behalf. Vesting may occur after an employee works for a company a specified number of years or after an employee reaches a certain age and years of service. Different pension plans contain different vesting formulas, but once an employee's pension rights are vested, the employee is entitled to receive his benefits at the normal retirement age even if he leaves the company before that time. Wherever an employee goes, he retains an absolute right to any vested benefits he may have earned.

Unfortunately, the system does not always work. There are too many examples in which employees, with many years of service with a company, have been denied absolutely all of their earned pensions because they separated from their jobs just prior to fulfilling unreasonably stringent vesting requirements. They are left without a retirement income which they had confidently anticipated receiving and on which they are dependent for decent survival.

For example, consider the case of Stephen Duane who worked at a New Jersey warehouse for 32 years during which time he was accumulating a pension. The warehouse closed down in 1970, and Stephen Duane lost his job. He was 51 years old at the time, just 4 years short of his company's minimum pension age. As a result, he lost all of his pension rights. Despite 32 years of service, during which time he was earning a pension, Stephen Duane received absolutely nothing.

The experience of Thomas Litchko, a father of five, is equally tragic. Mr. Litchko had been employed by the same Pennsylvania corporation for 20 years, during which time he was earning a pension. In the spring of 1972—when Mr. Litchko was 39 years old—his company closed, and he was informed that he had no vested rights, that he was not entitled to any pension whatsoever. Under the provisions of his pension plan, an employee had to reach the age of 40 before he would receive any vested rights. Thomas Litchko was only 1 year short of vesting and consequently lost 20 years' worth of accumulated pensions.

Another example of unreasonable vesting requirements involves the participants of a union-administered pension plan in Chicago. Each local within this union administers its own pension plan. Under the terms of these plans, a worker must remain within the same local for 20 years in order to acquire any vested rights. Sometimes a slight shift in jobs—perhaps from the loading docks to the weighing station—involves a shift in union locals and a complete loss of all pension rights for an employee with less than 20 years on the first job.

These are only a few examples of the way countless numbers of American working men and women have been tragically victimized by unreasonable vesting provisions in their pension plans.

The need is clear. Congress must establish minimum vesting standards to protect the American worker.

However, a minimum vesting standard by itself will most certainly not provide a complete solution to the problems of the private retirement system. We are aware of many tragic examples in which employees have been denied pension benefits—benefits that had actually vested—simply because the pension plan's assets were insufficient to meet all of its obligations.

This poses two related but very important problems—funding and termination insurance.

I believe that there is a clear need to legislate minimum funding standards so that pension plans are accumulating sufficient assets to meet their obligations. I also believe that it is essential for all pension plans to acquire termination insurance to guarantee payment of all vested benefits in the event that a plan happens to terminate with insufficient assets to meet its obligations.

There have been countless examples of pension plan failures that demonstrate this need. A classic example involves the closing of the Studebaker plant in South Bend, Ind., in 1964 and the accompanying termination of its pension plan. Even though this was a liberal plan which called for the systematic funding of liabilities, there were not enough assets available to pay all claims when the plan terminated. After the assets were distributed, 4,000 vested employees between the ages of 40 and 60 had received only 15 percent of their anticipated benefits. In fact, some 2,900 employees under the age of 40, some of whom were vested, were left with absolutely nothing.

Unfortunately, this is far from an isolated example.

Just last month, the Departments of Treasury and Labor released a joint study which indicated that during 1972 alone more than 15,000 pension plan participants lost retirement benefits because their pension plans terminated with insufficient assets to meet all plan obligations. These losses amounted to more than $40 million in anticipated retirement incomes. Several thousand of these victims of pension plan terminations actually lost their entire earned pension, every single cent of it. For these individuals, the collapse of their retirement plan resulted in the loss of 100 percent of their hard-earned pension.

On the basis of this study, we can anticipate that over a 10-year period more than 150,000 American working men and women will see promised pension benefits vanish.

We must not forget that the termination of a retirement plan is much more than a statistic compiled for Government charts. It is much more than a list of numbers or a series of percentages. As the victims of pension plan terminations can easily attest, a termination represents a great personal tragedy.

It was certainly a real tragedy for the retired worker in Minnesota who learned that he might lose his vested pension because his former employer was about to discontinue the retirement plan. This retired worker said:

> If I get a cut in my pension, I don't know what I will do. My wife has been mentally ill for 14 years and had 45 shock treatments and I am doctoring for cancer since 1954. So you can see my health and my wife's are not too good. Her medicine for a year runs over $500 not including mine, so we need all the pension fund we can get.

The experience of Olaf Anderson of Philadelphia provides another illustration. After working for the same company for 48 years, Mr. Anderson retired in 1970 and began to receive a pension of $100 a month. However, the company pension plan was terminated in 1971, and Mr. Anderson now receives no pension at all. It is interesting to note that this company provided its employees with a booklet describing the pension plan. The booklet informed the employees:

> You can look forward to retirement with peace of mind knowing that under the plan there will be a pension check in the mail to you from the company every month for life.

In light of such occurrences, it is not difficult to understand why so many Americans look at the private retirement system as a series of broken promises.

These examples clearly illustrate that minimum vesting standards alone provide no protection to employees when a plan terminates with insufficient assets to cover all liabilities.

Further protection is absolutely necessary. Congress must establish minimum funding standards so that all employers make sufficient contributions to back up all vested benefits over a reasonable period of time. In addition, termination insurance is essential to insure that employees will be protected in the event that their plan does terminate before becoming fully funded.

The concept of termination insurance is certainly nothing new. In fact, it is well established and has proven to be very effective in protecting millions of Americans from substantial economic losses due to such financial mishaps as the failure of a bank or a savings and loan association or the financial difficulties of a brokerage house.

We have long had the protection of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Just 2 years ago, Congress added a new system of termination insurance with the creation of the Securities Investor Protection Corporation.

The Federal Deposit Insurance Corporation, which was created under the Banking Act of 1933 to protect depositors against bank failures, has worked very effectively for 40 years. A depositor is presently insured up to $20,000 in each insured bank. Depositors do not pay for deposit insurance. Rather, each bank pays for the cost of the insurance through semiannual assessments equal to a fraction of 1 percent of the bank's volume of deposits.

Similarly, the Federal Savings and Loan Insurance Corporation was created by the National Housing Act of 1934 to insure savings accounts in insured savings and loan associations. Each savings institution bears the cost of the insurance by premiums paid to the FSLIC. The basic insured amount for each saver is $20,000.

The Securities Investor Protection Corporation—SIPC—was established 2 years ago to guarantee stock market investors against losses stemming from financial difficulties of brokerage houses. SIPC is not a government agency. It is a nonprofit membership corporation whose members include all broker-dealers registered with the Securities and Exchange Commission and all members of securities exchanges. The securities industry is responsible for financing SIPC through assessments by SIPC on its member firms. SIPC members are assessed a percentage of their gross revenues from the securities business.

The existence of the FDIC and the FSLIC for close to 40 years and the recent creation of SIPC provide substantial precedent for a program of pension plan termination insurance and demonstrates its feasibility.

Some will argue that enactment of this legislation would result in excessive Federal interference with the private retirement system. I strongly disagree. A very large number of pension plans already comply with these minimum vesting and funding standards. These plans must serve as a model for others to follow.

I strongly oppose efforts toward a Federal takeover of the private pension system. I believe that the free enterprise system can work effectively in this area but only if a proper balance is reached between the interests of employers and employees. The Federal Government has a long standing policy of encouraging retirement plans by means of the tax laws. It is only fair that this government policy be administered equitably so that employees benefit to the same extent as the employers who establish the plans.

Under the legislation before us, employers and employees will remain free to work out pension plan arrangements best suited to their own particular needs and requirements. This legislation will help our free enterprise system operate more effectively and equitably.

There is no question that any comprehensive program to alleviate the problems of the private retirement system must also focus on the areas of fiduciary responsibility and disclosure. The assets in private pension plans currently exceed $150 billion. It is essential that legislation be enacted to insure that pension plan administrators who handle these vast sums of money discharge their duties solely in the interests of the plan participants and their beneficiaries. Instances of misuse and poor management of pension plan assets demonstrate the need for stricter controls.

For example, the executives of one corporation reportedly used pension plan assets to purchase real estate from the corporation at an inflated price. There have been other examples of companies routinely dipping into pension funds to make corporate acquisitions. These conflicts of interest in the handling of pension funds must be prohibited.

In addition, pension plans must be required to disclose more detailed information to plan participants and the Federal Government. This will facilitate government discovery of illegal uses of pension plan assets.

It is especially important that all communications to employees be presented in a manner that an average participant can easily understand. It is clearly unfair to hold an employee accountable for acts which disqualify him from benefits, if he had no knowledge of these acts, or if these conditions were stated in a misleading or incomprehensible manner in plan booklets.

While legislation is essential to safeguard the pension rights of those Americans who currently participate in private retirement plans, Congress must give equal attention to the tens of millions of workers who do not now have the opportunity to participate in any retirement plan. It is discriminatory to provide special tax benefits for participants of private retirement plans while totally denying any tax benefits to those who presently do not participate.

When I first introduced S. 1179, this bill included provisions for a tax incentive to encourage individuals who do not now participate in retirement plans to set aside a portion of their current income for retirement savings. This concept has been approved by the Senate Finance Committee. Under S. 1179, any individual who is not an active participant in a qualified retirement plan will be permitted to make tax deductible contributions of up to $1,000 a year to his own qualified retirement plan. The aim of this provision is to encourage Americans to save for their own retirement security.

Mr. President, the members of both the Senate Labor and Finance Committees have made an exhaustive study of all aspects of pension reform. The two committees have reached agreement on a single, strong pension bill which will adequately safeguard the pension rights of all American workers without imposing an unreasonable burden on employers. The two committees have carefully selected the provisions in this joint bill to provide adequate treatment to all parties.

I urge my colleagues in the Senate to join me in supporting this landmark legislation.

I have heard a number of Senators speak today of their concern and their long-term interest in pension reform. I congratulate all of them for that. I say that this bill will have many authors. I think it is a major contribution to the improvement of pension plans in this country and to the insurance of retirement benefits.

I urge Senators to support this landmark piece of legislation.

Mr. WILLIAMS. Mr. President, will the Senator yield to permit me to make an observation?

Mr. BENTSEN. I yield.

Mr. WILLIAMS. Mr. President, when out committee began its study—its intensive study—of pension legislation, it did not take long to see where the gaping hole was. It was relatively easy to establish the first principles of national standards for pensions—the need for pensions, for disclosure, for fiduciary, for portability provisions and standards.

The principles, while easily and clearly state, required a complex understanding of how the new rights to be established could be insured and be real.

We can be more than grateful, indeed, that the Senator from Texas (Mr. BENTSEN) brought to reality the need and the understanding of insuring the benefits, this background of knowledge and experience that has become a part of the legislation. It is an absolutely indispensable contribution.

Mr. BENTSEN. I thank the Senator from New Jersey for his kind remarks.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. HARTKE. What is there in the substitute or in any one of the bills which changes the status quo? Are we not still dealing with the status quo?

Mr. BENTSEN. I think there is a major change in the status quo. We have cited some tragic cases in which workers have lost retirement benefits such as the Studebaker case. The committee has provided for stricter funding and vesting standards than are required under present law. We have been told of situations where employees have lost every cent of their earned pension because their plan had inadequate vesting and funding standards.

We are saying now that when he has worked for a company for 5 years, he has 25-percent vesting. That helps provide a degree of portability. When he has worked for a company 15 years, he is entitled to 100-percent vesting. That is a major change.

Mr. HARTKE. The Senator from Texas referred to the Studebaker case, with which I am extremely familiar. Can the Senator tell me one thing in the bill that would enable an employee to get 1 cent more than he could have got under the Studebaker plan? It is my understanding that Studebaker employees would have got no more under the bill than they got under the Studebaker plan.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. JAVITS. Employees who had been retired or who had been vested under the Studebaker plan, who as it turned out got a percentage of their entitlement, would have got their full entitlement because of their insurance. That is exactly what we have worked for, and that is what I have paid tribute to the Senator from Indiana (Mr. HARTKE) for having called to our attention some years ago.

The PRESIDING OFFICER. The Senator from Texas has the floor. Has he yielded?

Mr. BENTSEN. I yielded for a question.

Mr. HARTKE. I am asking about funding. Is there anything in the bill on funding that would have applied in the Studebaker case? I am asking whether or not there is anything in the bill.

Mr. BENTSEN. I indicated that this bill would require substantial improvements in many pension plans compared to current law and these comments have been further buttressed by what the distinguished Senator from New York (Mr. JAVITS) has said concerning the proposal for pension plan termination insurance in the bill. I think that is a major step forward.

Mr. HARTKE. Will the Senator yield further?

Mr. BENTSEN. I do not want to use all of my time.

Mr. HARTKE. Will the Senator not yield for a question?

Mr. BENTSEN. I yield for another question.

Mr. HARTKE. The Senator said there would have been a major change in the Studebaker case on funding. Is that a correct statement on the bill as introduced by the Senator from Wisconsin? Does the Senator from Wisconsin agree to that?

Mr. BENTSEN. A correction on that. I was referring to termination insurance. Termination insurance would have protected many Studebaker employees as well as employees in a great number of pension plans throughout the country.

Mr. HARTKE. Would it have made any difference on portability or vesting?

Mr. BENTSEN. It would have made a difference on termination insurance.

Mr. HARTKE. I assure the Senator that even on termination insurance there would have been practically no benefits, if any at all. My information is that the Studebaker case would have been helped not one iota, even on the termination benefits.

I want to ask a very simple question: Does this bill provide, in fact, any benefits for a worker under 30 years of age?

Mr. BENTSEN. Of course, it provides some benefits for a man under 30 years of age.

Mr. HARTKE. Like what?

Mr. BENTSEN. If he had been working for a company 5 years, he would have received five years of credit toward vesting.

Mr. HARTKE. Will the Senator from Wisconsin agree with the Senator from Texas on that?

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. HARTKE. I understand that. I am asking the Senator from Texas whether he will check with the Senator from Wisconsin to find out whether what he just said is true.

Mr. JAVITS. Mr. President, will the Senator yield? We can answer these questions.

Mr. HARTKE. I think they can be answered, too, and I want the record to be correct on it.

Mr. BENTSEN. I said it would help in vesting and eligibility even if he is 30 years of age.

Mr. HARTKE. Talking about a person under 30 years of age, is there any vesting or other benefit under this bill whatsoever before he reaches 30?

Mr. BENTSEN. I am talking about the fact that it works toward his eligibility and vesting rights before he reaches 30 years of age.

Mr. HARTKE. Is there not a direct, positive incentive for every employer to fire a person when he reaches 29 years and 364 days of age?

Mr. BENTSEN. At that point the accrued benefit does not become a material factor, when we are talking about benefits to persons of that age. I am sure the Senator will agree that funding for that man is not at all as important as it is for the older man. Where there cases have arisen is where the employer had more burdensome financial costs for an older person, and he wanted to get rid of that man.

Mr. HARTKE. Is the Senator aware of the fact that the average working time of a woman is about 8 years? Most of these people——

Mr. BENTSEN. Is this part of the Senator's question?

Mr. HARTKE. I wanted to ask the question as to whether or not there are any benefits for men and women under this bill if they are below the age of 30.

Mr. BENTSEN. As I have repeatedly told the Senator from Indiana, there are certain very definite benefits for those under 30, because those years are credited toward their eligibility and vesting and, in addition, the plan is being adequately funded.

Mr. HARTKE. Let me ask this question——

Mr. JAVITS. Mr. President, on that point, I do not think we should let it go——

The PRESIDING OFFICER. The Senator from Texas has the floor. Does he yield?

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. BENTSEN. I yield my time to the Senator.

Mr. JAVITS. Mr. President, I will yield 5 minutes to the Senator from Texas.

Mr. BENTSEN. I will yield the remainder of my time to the distinguished Senator.

Mr. NELSON. Mr. President, how much time does this side have?

The PRESIDING OFFICER. The time of the proponents of the amendment has expired.

Mr. JAVITS. Mr. President, I yield the Senator from Texas 5 minutes on the bill. I control 1 hour and a half. I yield him 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. BENTSEN. I will be delighted to yield to the Senator.

Mr. JAVITS. The Senator has quite accurately answered the question of 30 years and one's years of service and his qualification to come under the plan to vest, but, as he properly said—and that is a very important point—the prior service of every employee counts in respect of vesting. That is point one.

Point two has reference to the Studebaker case. The fact is that in the Studebaker case they had increased benefits as a result of collective bargaining, but those increased benefits had not been adequately funded. That is the reason why they got into trouble. Under this bill they would be required to fund those increased benefits.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. JAVITS. Not yet, no. I will answer all the Senator's questions.

Finally, the Senator raised a question about a youth who would be fired just before his 30th birthday. The Senator from New Jersey (Mr. WILLIAMS) and I have included an express amendment on that score which would provide a remedy for any person fired such as is provided for a person discriminated against because of race or sex, for example. That is section 699A, which states:

> It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of the plan.

And so on.

So it seems to me we have made extraordinary reforms in precisely the areas to which the Senator refers.

Mr. HARTKE. Let me ask the Senator from New York whether the Senator from Wisconsin will agree——

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. BENTSEN. Mr. President, I yield to the Senator from New York the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. In the previous——

The PRESIDING OFFICER. Who yields time? The Senate is under controlled time, all time having expired to the proponent of the amendment, and the opponents having 30 minutes under the control of the Senator from New York.

Mr. HARTKE. Will the Senator from New York yield for a question?

Mr. JAVITS. Mr. President, I yield myself 1 minute under the bill and yield for a question.

Mr. HARTKE. The problem with this bill is that somebody is going to have to ask questions about it. If all the time is going to be taken up by those who are for the bill—and the time is allocated on that basis, apparently—it is going to be hard to get questions out.

Let me ask what administrative procedures are available to the employee. Does he not have to go to court?

Mr. JAVITS. Yes; but heretofore he had no remedy at all. I know the Senator was one of the most forceful advocates of this right to go to court on the basis of race or sex discrimination. This gives the employee the same right.

Mr. HARTKE. It does not give him any real relief. If he wants help, he should go to the administrative office——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

Mr. HARTKE. Can I ask the question——

Mr. JAVITS. I assure the Senator from Indiana that I will yield enough time to myself under the bill so as to answer his questions.

Mr. HARTKE. With that understanding, I will be glad to defer.

Mr. JAVITS. Mr. President, I ask unanimous consent that Mr. Mittelman of the staff of the Committee on Labor and Public Welfare, may have the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I yield myself such time as I may use under the amendment.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I wish to commend the distinguished Senator from Texas, who has just spoken, for his part and leadership in this pending legislation. I also wish to commend the distinguished chairman of the Finance Committee (Mr. LONG), the chairman of the subcommitee (Mr. NELSON), and my colleague (Mr. BENNETT), ranking minority member.

The basis of all private pensions is the tax law. We have private pensions because a payment or contribution to the pension fund is tax-free. Those pension funds grow so they can do the job because the earnings are tax-free.

Under the compromise, these provisions will give protection in reference to vesting, funding, and other matters, which are largely enforceable by excise taxes.

The members of the Committee on Labor and Public Welfare have carried on some worthwhile discussions. They have made great contributions to the consideration of public issues involved here. However, we must keep in mind that the basic premise upon which all of this rests is the tax law. Private pension legislation heretofore, both in the House and the Senate, has been handled by the tax-writing committees.

Mr. President, the private pension legislation, which is before us is important to most Americans. It deals with some of the problems in the private pension field, and it is needed legislation. There are features of the bill before us which are not to my liking. I would rather have seen the enactment of the bill I introduced, S. 1631, which has been referred to as the administration's plan. The Finance Committee had before it several bills. They have worked them over and have reported out for passage S. 1179.

This legislation deals with participation requirements, vesting, funding, portability, plan termination insurance, and fiduciary responsibility as they relate to company plans. It makes certain changes with reference to retirement plans for the self-employed. I will discuss these matters later on.

This bill has a new feature in it of great importance and benefit to tens of millions of Americans. Up to now about one-half of the gainfully employed in the United States are covered by pension plans which receive very generous tax treatment. I favor that generous tax treatment. The other half of the gainfully employed people of the United States are not benefited by any existing plan. If an individual works for a company that has a retirement plan the payments, or contributions, made to the retirement fund are tax-free. The earnings of the retirement fund such as interest, dividends, capital gains, and the like are also free of tax. This makes it possible for a rapid growth of the retirement fund.

The individual who is not covered by a company plan or a self-employed plan suffers a marked discrimination. If he wishes to set aside from his earnings for his retirement years he pays tax on all his earnings and then saves afterwards. If such an individual is able to save for his retirement, the earnings on his savings are again taxed at the regular rates. It is very easy to see the discrimination that one half of our people are subject to as contrasted to the other half. The bill before us goes a long way in eliminating that discrimination. It is far-reaching and it is beneficial. It is very urgent that this provision be enacted into law in this Congress.

I have some figures which illustrate the unequal treatment received by our citizens. Let us take the case of two individuals, both of whom have $10,000 taxable income and both of whom earn sufficient money so they can save $50 a month. The individual outside of our established pension plans would have to pay tax on his $50 which would reduce it to $40.50. We will assume earnings on his savings at 5 percent figured on the $40.50 instead of the $50. These earnings, of course, are subject to tax. If such an individual starts this plan at age 35 and continues it until he is 65, he would have accumulated a savings of $27,498 which would pay him a life annuity of $221 a month.

Now if the other individual earns $50 to be saved and he has the benefit of our tax laws for pension plans, the $50 is not taxable so the full amount goes into his retirement fund. We will assume that the earnings are 5 percent a year and that they are tax free. So he has $50 plus 5 percent on the full $50 instead of the lesser amount that the first man has. At the end of 30 years, the latter-mentioned individual would have accumulated savings amounting to $39,864, or enough to pay him a lifetime annuity of $319 per month.

This, compared with the individual outside such plans, who would have $27,498, or $221 a month, is quite a disparity. The legislation reported out by the Finance Committee carries my proposal to correct this. It would permit any individual not covered by a pension plan to save from his earnings for retirement an amount not in excess of $1,000 a year. The savings would be tax deductible, and the earnings on the savings would be tax free. After my plan is in operation both of these men would reap the same amount of retirement benefits, to wit, the $39,864 lump sum or $319 per month lifetime annuity.

Let us consider the case of two other men. We will assume that they each had taxable income of $25,000 a year, which puts them in a higher tax bracket and that each of them can earn for savings $100 a month.

If the one individual earns $100 to be saved and has to pay taxes on the $100 his net savings will be $72 a month. Assuming a 5-percent rate on earnings this man only draws his 5 percent on the $72 instead of the $100 and his earnings are likewise taxed.

If this man starts such a savings plan at age 35 and continues it to age 65, he will have accumulated savings of $45,360 or enough to provide him with a lifetime annuity of $364 a month.

If another man in the same taxbracket who is under a pension program saves $100 a month, his retirement fund is credited with the full $100. Likewise the 5 percent earnings are figures on the full $100 and these earnings are free of tax. If this last-mentioned man starts such a program at age 35 and continues it to age 65, he will have accumulated a saving of $79,728 or enough to pay a lifetime annuity of $597 per month.

This situation must be corrected. It is grossly unfair for one man to receive a lifetime annuity of $221 while someone else gets a lifetime annuity of $319 per month if they both have worked to earn and set aside the same amount for their retirement. We cannot tolerate a situation where one individual with a given amount of earnings and in a given tax bracket earns an annuity of $364 a month while someone else with similar earnings gets the benefit of an annuity that provides him with $597 a month.

The answer to this situation is to amend the tax laws to provide all individuals who are not covered by the tax benefits of organized pension plans will receive the same treatment. So such an individual can have his retirement savings tax-free and have them earn without the earings being subject to tax. This is what my proposal does. It was approved by the Senate Finance Committee and it is incorporated in the Senate Finance bill now before the Senate.

The report of the Senate Finance Committee has this to say about this provision of the bill:

> Any individual who is not an active participant in a qualified retirement plan will be permitted under the bill to make tax deductible contributions of up to $1,000 a year of earned income toward his own qualified retirement plan. Both employees not covered by qualified employer-financed plans and self-employed individuals who have not established qualified retirement plans (H.R. 10 plans) will be eligible to establish such individual retirement plans. In addition, the employer of any individual who establishes such a personal retirement plan will be allowed to make tax deductible contributions to that individual retirement account on behalf of the employee which will not be currently taxable to the employee so long as the sum of the employee's own contribution and the employer's contribution do not exceed $1,000.
>
> In order to encourage the widespread use of such individual retirement plans, the committee has provided that the contributions to such plans can be invested in a wide range of investments, including special government retirement bonds which would be issued for this purpose, annuity contracts sold by insurance companies, mutual funds, corporate securities and savings institutions.
>
> The committee further anticipates that by encouraging employers to make modest contributions initially for the retirement needs of their employees, such individual retirement plans will lead eventually to the establishment of a significant number of new qualified retirement plans by employers. An employer who believes he cannot afford the entire cost of a retirement plan can start by contributing small amounts for employee individual retirement accounts, can increase his contributions over the years (but still less than $1,000 per participant), and then can subsequently convert to an employer-financed qualified plan.

The enactment of this proposal will be the greatest forward step ever undertaken in the field of private pensions. It will benefit many millions of people who are not now covered by pensions.

Mr. President, in other words, by the enactment of this part which will be incorporated as a part of amendment No. 497, we will have extended the possibility of retirement savings to one-half of the population. One-half of the population does not have the benefit of a company plan or a self-employed plan.

The provisions of this proposal permit any individual not covered by another plan to save up to $1,000 a year, and that saving will be a tax deduction. The earnings will be tax free.

The question might be asked, "Why are such individuals limited to $1,000 a year?"

Here is the reason: if a self-employed person wishes to avail himself of the Keogh plan or H.R. 10, as we are to amend it by this legislation, he must extend that pension plan to his own employees. Therefore, he can save, not up to $1,000 a year, but up to $7,500 if the amendments proposed by the Finance Committee are enacted, as I believe they will be.

This new level of protection is extended for individuals. Some of them might be self-employed. Some of them will be employees that work for an employer who does not have a pension plan. And some of them, even though they may be classified as self-employed, are not in a position where they can set up a plan for their employees.

It may be that a man in a small business has no idea who his employees will be 2 years from now, or whether he will be in business. The enactment of this proposal will extend to those individuals a broad range of avenues for them to invest their savings—government savings bonds, insurance plans, trustee plans, and all the rest. It will mean that an individual who is not covered by a company or self-employed plan can, in any calendar year—maybe he will have to miss a few years—save this amount and get the tax incentives for it.

Mr. President, important as the other features are, this particular proposal is the one that is going to do something for the other half of the population that has been long overdue.

Mr. President, two committees, the Senate Finance Committee and the Senate Committee on Labor and Public Welfare have both carried on extensive research and developed comprehensive bills in the area of private pension reform. As would be expected, these two bills take a somewhat different approach to the problem. The bill from the Labor Committee provides for the administration of the new pension provisions primarily through the Department of Labor. The bill from the Committee on Finance provides for the administration of these provisions largely through the Internal Revenue Service.

Despite this difference, however, the bills fundamentally take much the same approach to the basic pension problems involved. They both recognize that in setting minimum standards for pension plans account must be taken of the fact that whether the pension plan is set up in the first place or not is a voluntary action on the part of the employer. Because of this, the standards must not be set so high as to discourage the formation of private pension plans. To do so would be self-defeating.

The two bills have vesting rules which provide for 100 percent vesting after 15 years and provide for gradual vesting for a period of years up to that time. Both bills provide for funding of pension plans on a current basis insofar as current liabilities are concerned but over a long period of years insofar as past service is concerned in order not to overburden employers in this regard. Both bills also provide for a voluntary portability program and for insurance for plans which terminate to be sure the employees who have earned pensions are not deprived of them through the termination of their plans.

Both bills also provide that the plans involved must meet higher fiduciary standards than is true under present law. Here I must admit the two bills perhaps differ more than in the case of some other provisions.

The bill from the Committee on Finance also deals with a number of other tax matters related to pensions. These, of course, are not in the Senate Labor Committee bill. Similarly, the provisions on reporting and disclosure which are in the Senate Labor Committee bill are not in the Finance Committee bill.

It is my understanding that since the committee completed its work certain compromises have been made by the Finance Committee with the Committee on Labor. I was not a party to the conferences and I have not seen the language agreed upon except here in the chamber. I will discuss these features on the basis of the reports given me by those who were present when these compromises were entered into.

In general, the Labor Department is to administer such matters as welfare and pension plan disclosure as well as much of the fiduciary requirements in the bill. In addition, the Secretary of Labor will be the managing trustee of the pension insurance plan. On the other hand, the Internal Revenue Service in large part will administer the new requirements relating to coverage, participation, vesting, and funding. This conforms closely to the historic division of responsibility between the two departments and I believe strongly that we will get the best results if we adopt this procedure. As a practical matter, it is essential for the Internal Revenue Service to administer the provisions I have just enumerated since in any event, the Service would have to continue to examine the coverage, vesting, and funding provisions and practices of particular plans in order to determine whether they qualify under the Internal Revenue Code and to determine whether the employer is entitled to take deductions for his pension contributions.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has about 13 minutes remaining.

Mr. CURTIS. I would remind the Chair that I believe I only have 15 minutes at my disposal.

The PRESIDING OFFICER. No, the Senator had 30 minutes on the amendment. It was 30 minutes to the side on the amendment.

Mr. CURTIS. But does not the distinguished Senator from New York have 15 minutes of that?

The PRESIDING OFFICER. The time was to be divided between the proponents of the amendment and the opponents of the amendment, and the Senator from Nebraska, I understood, had control of the opposition time.

Mr. CURTIS. Mr. President, I support the amendment. I think that I have jurisdiction of the time by reason of the fact that in that case, the minority leader is in charge of the opposition time and he has stated that one-half of his time shall be controlled by the distinguished Senator from New York and the other half controlled by the junior Senator from Nebraska.

The PRESIDING OFFICER. The Chair was not aware of that agreement. If that is true, the Senator from Nebraska's half of the time has expired.

Who yields time?

Mr. WILLIAMS. Mr. President, it is my understanding that we all support this amendment. But there is an hour to be divided between the majority and the minority, and it is my understanding that the Senator from New York, in charge of part of the time, wanted the Senator from Nebraska to have as much time as possible within the half hour.

The PRESIDING OFFICER. That was the understanding of the Chair. There remains 10 minutes.

Mr. CURTIS. All right. I shall proceed, then.

In addition, experience has shown that properly designed tax provisions administered by the Internal Revenue Service can play an important role in stimulating the development of desirable pension plans. This is evidenced by the outstanding growth and development of nondiscriminatory pension plans over the past three decades as a result of legislation granting favorable tax treatment where plans qualify as nondiscriminatory in favor of executives and highly paid employees as compared to the rank and file of employees. This legislation continues this historic approach by continuing to grant the favorable tax treatment to plans which comply with the new requirements and by imposing tax penalties in certain cases where there is failure to comply.

I also believe this legislation is significant because it takes major steps to provide fairer treatment for the retirement savings of different taxpaying groups. There has long been a crying need to allow individuals not covered by pension plans to establish their own retirement plans with some of the tax advantages now accorded to those covered by pension plans. I am glad to note that this legislation meets this need. As I will indicate in greater detail in just a little while, it also provides fairer treatment for the self-employed as compared with corporate executives under pension plans by substantially increasing the deductible contributions that self-employed people may make for themselves under qualified pension plans.

Still another provision is designed to limit the advantages of proprietary employees under pension plans. In my opinion, as we first reported this provision out of the Finance Committee, it was much too restrictive. There was no such restriction in the administration bill. For that reason I was happy when we reconsidered this problem this last Friday and substituted what I consider more reasonable restrictions.

I think the best way to explain why I think this is good legislation which deserves support is to go into the details of some of the major provisions.

The minimum vesting provisions, for example, have been carefully structured to accord very real protection to employees and yet at the same time to avoid increasing the costs of financing pension plans to the point where the development of pension plans would be impeded. More specifically, qualified plans are required to grant participants vested rights amounting to at least 25 percent of accrued benefits after 5 years of service. The percentage of accrued benefits required to be vested is increased by 5 percentage points in each of the next 5 years and by 10 percentage points in each of the following 5 years after that. This produces 50 percent vesting after 10 years of participation and 100 percent complete vesting after 15 years of participation.

We have also taken considerable pains to provide a reasonable participation requirement, which together with the minimum vesting standard will offer effective protection for employees. As a result, a qualified plan cannot require an employee to serve longer than 1 year or attain an age greater than 30 as a condition of eligibility to participate. As a practical matter, any possible hardship that might otherwise result from the exclusion of employees under the age of 30 is eliminated by the fact that the legislation permits participants in a qualified plan to count up to 5 years of preparticipation service for purposes of determining his minimum vesting percentage. As a result, an individual who starts work with an employer at age 25 could benefit from the vesting provisions when he reached age 30.

I want to add that the vesting provisions in this legislation are structured to do justice to older employees who have accumulated substantial accrued benefits prior to the effective date of this legislation. This is done by making the new minimum vesting requirements apply to all accrued benefits regardless of when such accruals took place. This has the advantage of giving the older employees who have spent most of their working career with the firm the protection of the vesting provision.

Despite the very substantial protection

offered to employees, the additional cost involved in the new vesting provision is quite moderate. Overall, these cost increases range from zero to 1½ percent of payroll depending to a large extent on the degree of vesting that the plan already provides.

We realize that existing plans will naturally require some time to adjust to the new requirements. For this reason, the legislation defers the application of the new vesting standards to existing plans until January 1, 1976. Plans adopted after the effective date will be subject to the new minimum vesting standards immediately since in this case there will be an awareness of the provision.

The legislation also provides for transitional procedures to ease the adjustment to the new minimum vesting standards. Existing plans which provide for 100-percent vesting after 10 years of service, for example, will be deemed to satisfy the vesting standard.

We also have provided a reasonable minimum funding standard which will work hand in hand with the vesting standard in protecting pension rights. Under the new funding standard, contributions to qualified plans which provide defined benefits must generally be sufficiently large to pay normal costs—that is, the costs attributable to the current operations of the plan—and also to amortize the initial unfunded, past service liabilities in level payments over a period of 30 years or less. This constitutes a substantial improvement over present law inasmuch as it requires provision to be made for amortizing past service costs fully instead of merely providing that the contributions be sufficient to meet the interest payments on these unfunded liabilities.

To avoid hardships where plan amendments result in substantially increasing funding costs for past service, the bill provides that past service costs arising as a result of plan amendments which increase unfunded past service costs by at least 5 percent are also to be funded in level amounts over a period of 30 years or less.

We have also made provision for the equitable funding of experience deficiencies that are encountered under pension plans when the actual costs of the plan exceed the costs estimated on the basis of the actuarial assumptions. Under the revised legislation, these experience deficiencies are to be funded over a period of 15 years or the average working lives of those involved whichever is shorter.

In recognition of their special situation, multiemployer plans are allowed to fund past service costs over 40 years. In addition, under certain specified circumstances where it is demonstrated that such a 40-year funding period would create substantial economic hardship, the Secretary of Labor is authorized to extend the period for funding of past service costs to 50 years. However, plans which secure such an extension of time to fund past service costs are not permitted to increase benefits during this period.

The effective dates of the new minimum funding standards are generally similar to those applying to the new minimum vesting standards. As in the case of vesting, we have deferred the application of the new funding standards to existing plans until January 1, 1976, in order to give such plans time to adjust. In addition, the application of the new funding standards may be deferred until 1981 where the Secretary of Labor finds that these standards would impose a hardship.

I am sure that by this time we are all familiar with the unfortunate loss of pension benefits which occurred when Studebaker closed its Indiana plant and terminated its pension plan. A recent Treasury-Labor Department study indicates that the losses of pension benefits due to such plan terminations are small in the aggregate relative to the total pension rights accumulated by employees covered by pension plans. Nonetheless, in view of the disastrous effect that the loss of pension benefits has upon the particular individual concerned, the committee decided that it was desirable to provide for a system of plan termination insurance to protect the rights of covered employees. For this reason, the legislation establishes a Pension Benefit Guaranty Corporation with the Secretaries of Labor, Treasury, and Commerce as directors to insure such benefits. All qualified pension plans which provide defined benefits are required to participate in this insurance arrangement.

The insurance covers vested benefits up to 50 percent of the average monthly wage in the highest 5-year period up to $750 a month. The latter figure is to be adjusted upward as the social security wage base is increased.

The PRESIDING OFFICER (Mr. BIDEN). All time on the amendment has now expired. Who yields time on the bill?

Mr. CURTIS. I yield myself 10 minutes on the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. CURTIS. Mr. President, a notable aspect of the plan termination insurance is that the employer is made responsible for losses up to 30 percent of his net worth. We believe that this is necessary to encourage responsibility in the establishment of benefit levels and to give an added inducement for the proper funding of plan liabilities. However, the legislation permits employers to eliminate employer liability under certain circumstances through the payment of higher annual premiums to finance the insurance program.

I also want to bring to your attention the fact that the legislation authorizes the Pension Benefit Guaranty Corporation to establish a portability fund to hold sums of money representing the present value of the employee's vested rights when he is separated from his employment. The employee can then either keep such sums of money in the portability fund or can arrange for them to be transferred to his next employer's retirement fund. In addition, the legislation makes it possible under certain circumstances for sums representing the employee's pension rights to be transferred directly from one pension plan to another without payment of tax when the employee changes jobs. In view of the fact that it frequently is difficult to place a value on employee's rights under different pension plans which have different features, the legislation does not require the portability arrangements to be utilized, but rather authorizes such utilization on a voluntary basis where it is agreeable to both the employees and employers involved.

Mr. President, the junior Senator from Nebraska does not feel that portability is of such magnitude that it should be in this measure. Nevertheless, it is part of the so-called compromise between the two committees, and for that reason I have discussed details.

I also believe that broad decisions were made in reference to the termination insurance, both as to increasing the premium over what was originally planned by the Finance Committee and the entire issue of employer liability. These decisions, made in compromising conferences, are rather far reaching. It is my hope that they will have further attention before the proposal becomes law and that the Ways and Means Committee of the House will go into these matters very thoroughly.

Turning to discussing the bill, I point out that, moreover, further protection is offered employees against the loss of pension benefits as a result of failure to claim them by providing that the Social Security Administration is to keep records regarding the vested rights of employees and to furnish this information to employees. It is my understading that this can be computerized and that the Social Security Administration can render this service without any great amount of expense or complications.

Another major objective of this legislation is to encourage better administration of pension plans in the interests of covered employees. This objective is to be achieved through the cooperative effort of both the Labor Department and the Treasury Department. More effective fiduciary standards are established which the Secretary of Labor will administer. This includes provision for a Federal prudent man rule which is to apply to fiduciaries.

This procedure for Labor Department administration of the fiduciary requirements generally follows that outlined in S. 4.

At the same time, the Internal Revenue Service is also given important responsibilities in the prevention of abuse in the management of pension funds. The present prohibited transaction rules in the Internal Revenue Code are to be replaced by the more stringent prohibited transaction rules outlined in S. 4. Parties in interest who engage in these specified prohibited transactions, which are detrimental to the interests of covered employees, are made subject to nondeductible excise taxes. These taxes, which are designed to operate as a deterrent to actions which are against the interests of the covered employees, start at modest levels and go to higher levels where the transactions are not corrected.

Another issue that we faced in this legislation concerns the investment of pension funds in the employer's securities. There undoubtedly have been many instances in which such investments has worked out well and to the advantage of the employees covered by the pension plan. However, as a general rule, we believe that it is not wise for pension plans to invest in the securities of the employer since if the firm does not prosper, the employees are placed in double jeopardy—they may lose their pension benefits as well as their businesses and their jobs. For this reason, pension plans are prohibited from investing more than 5 percent of their funds in the securities of the employer. There are no such limitations, however, in the case of profit sharing and stock bonus plans. The compromise amendment provides that where employer stock holdings are above the 5-percent level on the effective date of the bill, there is to be up to 5 years to dispose of half the excess and another 5 years before the other half needs to be disposed of.

I would like to turn again now to the tax provisions of this legislation, which appeared in S. 1179 but not S. 4. These provisions, which are designed to provide fairer treatment for retirement savings, are essential to this legislation.

We believe, for example, that it is absolutely essential to provide individuals who are not covered by pension plans with an opportunity to save for retirement under treatment which gives them some of the favorable tax treatment accorded to those who are fortunate enough to be covered by qualified pension plans. The legislation takes what I regard as an historic step in this regard by allowing any individual—including an employee or a self-employed individual—who is not a participant in a qualified retirement plan or Government plan to take tax deductions of up to $1,000 a year for amounts of earned income set aside for his own retirement.

This is the individual retirement plan that I discussed earlier in my remarks.

Where an individual establishes such a personal retirement plan for himself, his employer can make tax deductible contributions to the retirement account of that individual which will not be currently taxable to him so long as the sum of the employee's contribution and the employer's contribution do not exceed the $1,000 limit.

This provision, of course, does not secure complete equality of treatment for individuals not covered by regular pension plans in view of the limitations placed on the deductible amount that may be contributed to such plans. However, it will provide very real assistance to those with modest incomes in helping them save for retirement purposes. In addition, the fact that employers are allowed to make deductible contributions to the individual retirement accounts will encourage them to start regular pension plans for their employees.

Another important change is designed to secure greater equality of treatment for self-employed people under pension plans compared with corporate executives. Present law discriminates markedly against self-employed people by limiting their deductible contributions to pension plans on their own behalf to 10 percent of earned income up to $2,500 a year. The legislation increases these presently inadequate limits by increasing the allowable deductible pension contributions of self-employed people to 15 percent of earned income up to $7,500 a year—or to the equivalent in benefit levels in the case of fixed benefit plans. This provision is specifically structured to aid the employees of the self-employed, as well as the self-employed individuals themselves in that it limits to no more than $100,000 the amount of a self-employed person's earned income which may be taken into account for purposes of pension contributions. This provides assurance that a self-employed individual generally will have to set aside in the pension plan an amount equal to 7½ percent of the income of his employees, if he is to take the maximum deduction of $7,500 for himself.

A third change to which the Finance Committee has given very considerable attention concerns the treatment of proprietary employees in closely held corporations. In general, our objective has been to prevent abuse situations in which such proprietary employees secured unduly large advantages as a result of unduly large deductible pension contributions for themselves to pension plans established by corporations which they themselves control. I must confess that we have had considerable difficulty arriving at a provision which will eliminate such abuses and yet at the same time will not place onerous restrictions on bona fide cases.

S. 1179, as reported by the Finance Committee, attempted to do this by applying exactly the same limitations that are to apply to self-employed people to corporate proprietary employees who own at least 2 percent of the stock, and together account for at least 25 percent of the accrued benefits of all employees under the plan. However, I am glad to say that after further consideration, the Finance Committee concluded that this provision is too restrictive. As a result the committee provided two exceptions to this 15 percent—$7,500 limitation insofar as proprietary corporate employees are concerned. One of these exceptions provides that in the case of fixed benefit plans the limitation is not to apply in the case of a proprietary employee whose pension benefit does not exceed 75 percent of his wage in his highest 3 years, but with the limitation that the wage taken into account for this purpose may not exceed $100,000. The committee also provided a limitation with respect to fixed contribution plans. This has the effect of limiting the contributions set aside for a pension benefit so that they are not likely to result in buildup of a fund which will exceed the maximum limitation I have just outlined in the case of the fixed benefit plans. Furthermore, the committee decided that the rules for integrating social security payments with pensions in determining nondiscrimination requirements for employees should, in the case of these proprietary corporate employee plans, be the regular corporate integration rules rather than the more restrictive rules presently applicable in the case of the self-employed H.R. 10 plans.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. CURTIS. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CURTIS. Mr. President, even after the Finance Committee revised its work there is still a limitation on the amount set aside for pension requirements in the case of smaller corporations, where we refer to proprietary employees. I understand from discussion around the Chamber that the distinguished Senator from South Carolina may move to strike this provision. I am further informed it is very likely that someone will offer an amendment to place the limitation on all corporate pension plans. I am not here to say whether that should be done. I do say it will be difficult to do on the floor, that hearings should be held and the matter should be gone into in depth. It may well be that if events should so turn on the floor it might be desirable to strike this provision that the Committee on Finance has placed in the bill. I believe that if the idea of limitations generally is to be considered that we should not do that by floor action, but hearings should be held in depth so that we do not write a formula to do things we do not desire to do.

Finally, the legislation provides a new procedure for taxing lump-sum distributions from pension plans. This new procedure is required, because the present provision which was adopted in 1969, has involved such great complexities as to be unworkable. The new provision is both equitable and relatively simple, and I am sure it will be welcomed by all taxpayers with lump-sum pension distribution as a significant contribution to the improvement of the tax structure.

Mr. President, I hope you can see from what I have told you that the compromise bill the two committees have worked out is with main a good bill. It is legislation which I urge you to adopt without delay.

Mr. President, again I repeat that the two amendments to be offered by representatives of the Committee on Finance, amendment No. 496 and amendment No. 497, are absolutely necessary if we are to have just, fair, and workable pension legislation and if we are to equalize the tax burden among our many citizens and to give the tax advantages now enjoyed by one-half to the other half.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 1 minute to make this observation. I wish to commend the Senator from Nebraska for the contribution he has made to the development of the legislation in the adjustment of the labor bill with the Finance Committee provisions. This bringing together the substance from both committees in this form is usual here and it is more constructive.

Certainly, the Senator's part, particularly with his illuminating discussion of the bill before us, is most helpful for all members of the committee.

Mr. CURTIS. Mr. President, I thank the distinguished Senator from New Jersey for his kind remarks. I hope he will see fit to support the Committee on Finance in their improvements in the pension plans for the self-employed as well as the bringing of some similar tax benefits to that great army of people outside of those plans.

Mr. WILLIAMS. I know the Senator feels this should be done. The amendment that deals with the self-employed is to be offered shortly by the Senator from Wisconsin, as I understand it. I shall support it at that time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the time used on the quorum call just rescinded and also the one immediately preceding it not be charged to the time of the proponents of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that whatever time is used on the next quorum call come within the same provision.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Jeff Peterson, of the staff of the Senator from Connecticut (Mr. RIBICOFF), have the privileges of the floor during the debate and votes on the pension reform measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 776) to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

S. 11. An act to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma; and

S. 1148. An act to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1284. An act to amend title 5, United States Code, to improve the administration of the leave system for Federal employees;

H.R. 3436. An act to provide for the conveyance of certain mineral rights in and under lands in Onslow County, N.C.;

H.R. 3799. An act to liberalize eligibility for cost-of-living increases in civil service retirement annuities;

H.R. 4507. An act to provide for the striking of medals in commemoration of Jim Thorpe;

H.R. 4738. An act to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado;

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma;

H.R. 5760. An act to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974;

H.R. 5943. An act to amend the law authorizing the President to extend certain privileges to representatives of member States on the Council of the Organization of American States;

H.R. 6274. An act to grant relief to payees and special indorsees of fraudulently negotiated checks drawn or designated depositaries of the United States by extending the availability of the check forgery insurance fund, and for other purposes;

H.R. 6334. An act to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System;

H.R. 6925. An act to authorize the exchange of certain lands between the Pueblo of Acoma and the Forest Service;

H.R. 7352. An act to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners;

H.R. 7555. An act to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse;

H.R. 7699. An act to provide for the filling of vacancies in the Legislature of the Virgin Islands; and

H.J. Res. 719. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes.

## HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 1284. An act to amend title 5, United States Code, to improve the administration of the leave system for Federal employees;

H.R. 3799. An act to liberalize eligibility for cost-of-living increases in civil service retirement annuities; and

H.R. 6334. An act to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System. Referred to the Committee on Post Office and Civil Service.

H.R. 3436. An act to provide for the conveyance of certain mineral rights in and under lands in Onslow County, N.C.;

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma;

H.R. 6925. An act to authorize the exchange of certain lands between the Pueblo of Acoma and the Forest Service; and

H.R. 7699. An act to provide for the filling of vacancies in the Legislature of the Virgin Islands. Referred to the Committee on Interior and Insular Affairs.

H.R. 4507. An act to provide for the striking of medals in commemoration of Jim Thorpe;

H.R. 4738. An act to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado; and

H.R. 5760. An act to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974. Referred to the Committee on Banking, Housing and Urban Affairs.

H.R. 5943. An act to amend the law authorizing the President to extend certain privileges to representatives of member States on the Council of the Organization of American States. Referred to the Committee on Foreign Relations.

H.R. 6274. An act to grant relief to payees and special endorsees of fraudulently negotiated checks drawn or designated depositaries of the United States by extending the availability of the check forgery insurance fund, and for other purposes;

H.R. 7352. An act to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners; and

H.R. 7555. An act to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse. Referred to the Committee on the Judiciary.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. NELSON. Mr. President, I call up amendment No. 497.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill insert the following new title:

TITLE VII — RETIREMENT SAVINGS LIMITATION ON PROPRIETARY EMPLOYEE CONTRIBUTIONS; TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS

SEC. 701. DEDUCTION FOR RETIREMENT SAVINGS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220 and inserting after section 218 the following new section:

"SEC. 219. RETIREMENT SAVINGS.

"(a) DEDUCTION ALLOWED.—Subject to the limitations imposed by subsections (b) and (c), in the case of an individual, there shall be allowed as a deduction amounts paid in money during the taxable year by such individual for his benefit—

"(1) to or under a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501 (a), or

"(2) for a qualified individual retirement bond purchase described in section 409, unless the bond is redeemed within 12 months after its issuance and no interest is payable on account of the application of section 409 (b) (1) (D) (iii).

"(b) Limitations.—

"(1) General rule.—Except as provided in paragraphs (2) and (3), the amount allowable as a deduction under subsection (a) to an individual for any taxable year shall not exceed an amount equal to the lesser of $1,000 or his earned income paid or accrued for such taxable year.

"(2) Participation in certain other plans—No deduction shall be allowed under this section for the individual's taxable year if, at any time during such taxable year, he is an active participant in—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) a plan which meets the requirements of section 404(a) (2),

"(C) a qualified bond purchase plan described in section 405(a),

"(D) an annuity plan described in section 403(b), or

"(E) a plan established and maintained by the United States, a State or political subdivision thereof, or a corporation which is an instrumentality of the United States, a State, or a political subdivision of a State.

"(3) Reduction for certain employer accounts.—If an individual is a participant in an account described in section 408(a) (8) for the taxable year, the amount of the limitation otherwise determined under paragraph (1) of this subsection for such year shall be reduced by an amount equal to the employer contributions to such account for such year. If an individual is a participant in such an account for less than his entire taxable year, the amount of the deduction allowable under this section to him for such year shall be reduced by the sum of any amounts allowed as a deduction to the individual for his contributions to such account, and the amount of the reduction determined under this paragraph.

"(4) Contributions made after age 70½ years.—No deduction shall be allowed under this section with respect to any payment described in subsection (a) which is made by an individual who attains the age of 70½ years before the end of the taxable year of such payment.

"(c) Recontributed Amounts.—No deduction shall be allowed under this section with respect to a contribution to which section 72(p) (2) (C) applies.

"(d) Married Individuals.—In the case of a married individual (as defined in section 153), the amount determined under subsection (b) (1) shall be determined without regard to the earned income of his spouse. For purposes of this section, the earned income of, and payments by, a married individual shall be determined without regard to the community property laws of a State.

"(e) Earned Income Defined.—For purposes of this section, the term 'earned income' means any income which is earned income within the meaning of section 401(c) (2) or 911(b)."

(b) Individual Retirement Accounts.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) is amended by adding at the end thereof the following new section:

"Sec. 408. Individual Retirement Accounts.

"(a) Requirements for Qualification.—A trust created or organized in the United States shall constitute a qualified individual retirement account under this section provided that under a written governing instrument—

"(1) it is maintained for the purpose of distributing the contributions thereto and the income therefrom to a specific individual or his beneficiaries;

"(c) except in the case of a contribution to which section 72(p) (2) (C) applies, contributions thereto during any taxable year may not exceed the excess of—

"(A) the limitation provided by section 219 (b) (plus any amounts contributed by an employer to an account described in paragraph (8) for such taxable year), over

"(B) the sum of the amounts paid by such individual during such year—

"(i) for a qualified individual retirement bond purchase described in section 409, for his benefit, or

"(ii) under another qualified individual retirement account,

and, except as provided in subsection (b) (3), may be made only by the individual for whose benefit the account is maintained;

"(3) the assets thereof may not be commingled with other property except in a common trust fund or in the case of accounts maintained by an employer for his employees;

"(4) the assets thereof are required to be held by a bank (as defined in section 401 (d) (1)) or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which such other person will hold such assets will be consistent with the requirements of this section;

"(5) the entire interest of the individual for whose benefit the account is maintained will be distributed to him not later than his taxable year in which he attains the age 70½ years, or will be distributed, commencing not later than such taxable year, in accordance with regulations prescribed by the Secretary or his delegate, over—

"(A) the life of such individual or the lives of such individual and his spouse, or

"(B) a period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse;

"(6) if the individual for whose benefit the account is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced in accordance with paragraph (5) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such surviving spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after his death (or the death of his surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which will be immediately distributed to such beneficiary or beneficiaries;

"(7) if contributions thereto may be used for the purchase of an annuity or similar contract issued by a life insurance company, any refunds of premiums are applied within the current taxable year or next succeeding taxable year toward the payment of future premiums or the purchase of additional benefits; and

"(8) in the case of an account to which an employer contributes the additional requirements of subsection (b) (3) are met.

For purposes of this title, a custodial account, annuity contract, or other similar arrangement shall be treated as a trust constituting a qualified individual retirement account if such arrangement would, except for the fact that it is not a trust, constitute a qualified individual retirement account under this subsection. Paragraph (6) shall not apply if distribution of the interest of such individuals have commenced and such distribution is for a term certain over a period permitted under paragraph (5).

"(b) Special Rules.—

"(1) Excess contributions.—If all or a portion of the contributions paid by an individual during any taxable year to a qualified individual retirement account are not deductible under section 219 (other than by reason of section 219(c)), such contributions or portions thereof shall be treated in the same manner as an excess contribution within the meaning of section 401(e) (1), and, for this purpose, section 401(e) (2) and (3) shall apply as if such individual were an owner-employee.

"(2) Community property laws.—This section shall be applied without regard to the community property laws of any State.

"(3) Employer contributions.—An employer may maintain and may contribute to qualified individual retirement accounts for his employees if, with respect to each employee's account for such employee's taxable year—

"(A) the employee is not an active participant in another trust or plan of such employer which is qualified under section 401(a), 404(a) (2), or 405(a),

"(B) the aggregate employer and employee contributions with respect to such account do not exceed $1,000,

"(C) the interest of such employee in such account is nonforfeitable, and

"(D) separate records are maintained for employer and employee contributions.

An account described in this paragraph shall satisfy the requirements of subsection (a) with respect to each individual who participates and shall be treated as such individual's separate account, except that the employer may pay reasonable administrative expenses. In determining the deductibility of employer contributions satisfying the requirements of this paragraph, the limitations under section 404 shall not apply; however, any amount contributed by an employer to such an account during the employee's taxable year for whom the account is maintained in excess of the limitation contained in subparagraph (C) shall not be deductible, but shall be withdrawn from the account by the employer before the end of the taxable year of the employer during which it was made, or carried over to the succeeding taxable year of the employer, during which year it shall be deductible to the extent that a contribution during that year of such excess amount is deductible. Contributions made by an employer to such an account shall be taxable to the participant only as provided by this section.

"(4) Transfer of account incident to divorce.—The transfer of an individual's interest in a qualified individual retirement account to his former spouse under a divorce decree or under a written instrument incident to such divorce shall be deemed not to be a taxable transfer by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer shall be deemed to be a qualified individual retirement account of such spouse, and not of such individual. The basis of such account to such spouse at such time shall be deemed to be the same as the individual's basis at such time. Thereafter such account for purposes of this subtitle shall be treated as maintained for the benefit of such spouse.

"(c) Treatment as Qualified Trust Benefiting Owner-Employee.—Solely for purposes of subchapter F, chapter 44, and subtitle F, a qualified individual retirement account shall be treated as a trust described in section 401(a) which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees (as defined in section 401(c) (3)), the individual for whose benefit such account is maintained shall be treated as an owner-employee for whom such contributions or benefits are provided, and the person holding the assets of such qualified individual retirement account shall be treated as the trustee of such trust. If section 72(p) (2) (C) applies to a contribution to a qualified individual retirement account, chapter 44 shall not be applied to such contribution.

"(d) Taxability of Beneficiary of Qualified Individual Retirement Account.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount actually paid, distributed, or made available to any payee or distributee by a qualified individual retirement account shall be taxable to him in the year in which actually paid or distributed under section 72 (relating to annuities).

"(2) Recontributed amounts.—Amounts paid or distributed by a qualified individual retirement account (except amounts distributed pursuant to provisions of the governing instrument) and meeting the requirements of subsection (a) (5)) shall not be includable in gross income in the year paid or distributed to the extent that such amounts are not subject to the tax imposed by section 72(p) (3) by reason of the application of section 72(p) (2) (C).

"(3) Applicability of section 72(m).—Under regulations prescribed by the Secretary or his delegate, an individual who establishes a qualified individual retirement account shall be treated as an employee who is an owner-employee for purposes of applying paragraphs (2) and (4) of section 72(m) (relating to special rules applicable to employee annuities and distributions under employee plans).

"(e) Treatment of Nonqualified or Nonexempt Account.—If for the preceding taxable year of a trust it was described in subsection (a) and was exempt from tax under section 501(a) and if for the taxable year such trust is not exempt from tax under section 501(a), the fair market value of the account at the beginning of the taxable year, reduced by any contributions of the individual who established such account which were not deductible under section 219 (other than by reason of section 219(c)), shall be included in the gross income of the individual who established such account or his beneficiary as if the assets of the trust had been distributed to him on the first day of the taxable year.

"(f) Special Rule.—Solely for the purpose of determining whether section 72(p) (2) (C) applies to a contribution under subsection (a) (2) or to an amount paid or distributed under subsection (d) (2), the requirement of section 72(p) (1) that the amount paid or distributed be received before age 59½ shall not apply.

"(g) Cross References.—

"(1) For excise tax on a qualified individual retirement account, see section 4960.

"(2) For additional tax on certain distributions from a qualified individual retirement account, see section 72(p)."

(c) Treatment of Distributions From Individual Retirement Accounts.—Section 72 relating to annuities) is amended—

(1) by striking out subsection (m) (1),

(2) by inserting after "section 401 (c) (1)" in subsection (m) (2) ", or under section 219",

(3) by striking out at the end of subsection (m) (3) (A) (i) "or",

(4) by striking out at the end of subsection (m) (3) (A) (ii) "participant," and inserting in lieu thereof "participant, or",

(5) by inserting after subsection (m) (3) (A) (ii) the following new clause—

"(iii) purchased by a trust described in section 408(a) which is exempt from tax under section 501(a).",

(6) by striking out subsection (m) (3) (B) and inserting in lieu thereof:

"(B) Any contribution to a plan described in subparagraph (A) (i) or a trust described in subparagraph (A) (ii) or (iii), which is allowed as a deduction under section 404 or section 219, and any income of a trust described in subparagraph (A) (ii) or (iii), which is determined in accordance with regulations prescribed by the Secretary or his delegate to have been applied to purchase the life insurance protection under a contract described in subparagraph (A), is includable in the gross income of the participant for the taxable year when so applied.",

(7) by inserting after "501(a)" in subsection (m) (4) (A) ", a trust described in section 408(a) which is exempt from tax under section 501(a),",

(8) by inserting after "501(a)" in subsection (m) (4) (B) ", a trust described in section 408(a) which is exempt from tax under section 501(a),", and

(9) by redesignating subsection (p) as (q) and inserting after subsection (o) the following new subsection:

"(p) Treatment of Certain Premature Distributions.—

"(1) Application of subsection.—This subsection shall apply to amounts paid or distributed by a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501 (a), which are includible in the gross income of the distributee or payee and which are received by him before the individual for whose benefit such account is maintained attains the age of 59½ years.

"(2) Limitations.—This subsection shall not apply to an amount described in paragraph (1)—

"(A) paid or distributed to such individual on account of his becoming disabled within the meaning of subsection (m) (7),

"(B) includible in gross income under section 72(m) (3) (B), or

"(C) paid or distributed by a qualified individual retirement account to the individual for whose benefit such account is maintained if, within 60 days after receipt, such amount is contributed in full to another qualified individual retirement account for such individual's benefit.

Subparagraph (C) shall not apply to an amount described in paragraph (1) which is paid or distributed to an individual with respect to whom such subparagraph applied at any time during the preceding 36-month period, nor shall it apply unless the same property (other than money) received in such payment or distribution is contributed to such other qualified individual retirement account for such individual's benefit.

"(3) Amount of penalty.—If an individual is required to include in gross income for the taxable year an amount to which this subsection applies, there shall be imposed, in addition to any other tax imposed by this chapter, a tax for such taxable year equal to 30 percent of such amount. The tax imposed under this paragraph shall not be reduced by any credit under part IV of subchapter A and shall not be treated as a tax imposed by this chapter for purposes of section 56.".

(d) Excise Tax on Excessive Accumulations.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 43.—Retirement Plans

"Sec. 4960. Excise Tax on Individual Retirement Accounts.

"(a) Imposition of Tax.—There is hereby imposed for each taxable year on the assets of a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a) a tax equal to 10 percent of an amount which bears the same ratio to the fair market value of the total assets in such account at the beginning of the taxable year as—

"(1) the minimum amount required to be distributed during such year under section 408(a) (5) or (6) (whichever applies), reduced (but not below zero) by the total amount actually distributed during such year by the account to the individual for whose benefit such account is maintained or his beneficiary, bears to—

"(2) the minimum amount required to be distributed during such year under section 408(a) (5) or (6) (whichever applies).

"(b) When Applicable.—The tax imposed by this section shall apply only for taxable years beginning after the taxable year in which the individual who established such account attains the age of 70½ years.

"(c) Rules.—For purposes of this section, the minimum amount required to be distributed during a year under section 408(a) (5) or (6) shall be determined under regulations prescribed by the Secretary or his delegate. In the case of an account described in section 408(a) (8) the tax shall be computed only with respect to each individual in such account. A bond described in section 409, with respect to which a deduction was claimed under section 219, shall be treated for purposes of this section, as a qualified individual retirement account."

(e) Limitation of Application of Sections 402(a) and 403(a) in the Case of Certain Contributions.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) is amended as follows:

(1) Amendment of Section 402.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended—

(A) by striking out in the first sentence of paragraph (1) "and (4)" and inserting in lieu thereof ", (4), and (6)", and

(B) by inserting after paragraph (5) the following new paragraph—

"(6) Individual retirement accounts.—In the case of an employees' trust described in section 401(a), which is exempt from tax under section 501(a), if the total distributions payable with respect to any employee are paid to him within 1 taxable year of the employee (during which he is not at any time 59½ years of age or older) on account of his separation from the service other than by reason of his death, the amount of such distribution, to the extent such distribution would be includible in gross income but for the provisions of this paragraph, shall not be includible in gross income in the year paid if, no later than the 60th day after the close of the taxable year in which such amount was paid to him, such otherwise includible amount is contributed by him in full to one or more qualified individual retirement accounts described in section 408(a). This paragraph shall not apply unless the same property (other than money) received in the total distribution is contributed.

(2) Amendment of section 403.—Section 403(a) is amended—

(A) by striking out in the first sentence of paragraph (1) "paragraph (2)" and inserting in lieu thereof "paragraphs (2), and (4)", and

(B) by inserting after paragraph (3) the following new paragraph—

"(4) Individual retirement accounts.—If—

"(A) an annuity contract is purchased by an employer for an employee under a plan described in paragraph (1);

"(B) such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan; and

"(C) the total amounts payable by reason of an employee's separation from the service other than by reason of death are paid to the employee within one taxable year of the employee (during which he is not at any time 59½ years of age or older),

then the amount of such payments, to the extent such amounts would be includible in gross income but for the provisions of this paragraph, shall not be includible in gross income in the year paid if, no later than the 60th day after the close of the taxable year in which such amounts are paid to him, such otherwise includible amounts are contributed by him in full to one or more qualified individual retirement accounts described in section 408(a). This paragraph shall not apply unless the same property (other than money) received in such payments is contributed. The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the purposes of this paragraph."

(f) Individual Retirement Bond Purchase.—Subpart A of Part I of subchapter D of chapter 1 (relating to general rules) is amended by adding at the end thereof the following new section:

"Sec. 409. Individual Retirement Bond Purchases.

"(a) Requirement for Qualification.—An individual's purchase of United States bonds described in subsection (b) shall constitute a qualified individual retirement bond purchase under this section if contributions (not in excess of an amount determined under section 219) are used solely to purchase for the individual or his beneficiaries United States bonds described in subsection (b).

"(b) Bonds to Which Applicable.—

(1) Characteristics of bonds.—This section shall apply to a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary under such Act—

"(A) provides for payment of interest, or investment yield, only upon redemption;

"(B) provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after its issuance;

"(C) provides that it ceases to bear interest, or provide investment yield, on the earlier of—

"(i) the date on which the individual in whose name it is purchased attains the age of 70½ years; or

"(ii) five years after the date on which such individual dies, but not later than the date on which he would have attained age 70½ had he lived;

"(D) may be purchased only in the name of an individual described in subsection (a);

"(E) may be redeemed before the death of the individual in whose name it is purchased only if such individual—

"(i) have attained the age of 59½ years,

"(ii) has become disabled (within the meaning of section 72(m)(7)), or

"(iii) redeems the bond within 12 months after its issuance; and

"(F) is not transferable.

"(d) Taxability of Holder of Qualified Individual Retirement Bonds.—

"(1) Gross income not to include bonds at time of distribution.—For puposes of this chapter, in the case of an individual purchasing a bond described in subsection (b), gross income does not include any amount attributable to the receipt of such bond. Upon redemption of such bond, the proceeds shall be subject to taxation under this chapter, but the provisions of section 72 (relating to annuities, etc.), section 402 (relating to taxability of beneficiary of employee's trust), and section 1232 (relating to bonds and other evidences of indebtedness) shall not apply.

"(2) Basis.—The basis of any bond received by an individual under a qualified individual retirement bond purchase shall be zero.

"(3) Bonds deemed redeemed.—For purposes of paragraph (1), the proceeds of a bond described in subsection (b) shall be includible in gross income no later than the taxable year in which the individual attains the age of 70½ years.".

(g) Conforming Amendments.—

(1) Retirement income.—Section 37(c)(1) (defining retirement income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) pensions and annuities including—

"(i) in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), a distribution by a trust described in section 401(a) which is exempt from tax under section 501(a) to the extent such distribution was not subject to the tax imposed by section 72(p)(3), and

"(ii) a distribution from a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a) to the extent such distribution was not subject to the tax imposed by section 72 (p) (3),".

(B) by striking out subparagraph (E) and inserting in lieu thereof the following new subparagraphs:

"(E) bonds described in section 405(b) which are received—

"(i) under a qualified bond purchase plan described in section 405(a),

"(ii) in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(iii) from a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501 (a), or

"(F) bonds described in section 409(a), or".

(2) Adjusted gross income.—Section 62 (relating to definition of adjusted gross income) (as amended by section 702(d)(2) of this Act) is amended by inserting after paragraph (8) the following new paragraph:

"(9) Individual retirement savings.—The deduction allowed by section 219."

(3) Basis for assets held for qualified pension plan contracts.—Section 801(g) (7) (relating to basis of assets held for qualified pension plan contracts) is amended by striking out "or (D)" and inserting in lieu thereof "(D), or (E)".

(4) Pension plan reserves.—Section 805 (d) (1) (relating to definition of pension plan reserves) is amended by striking out "or" at the end of subparagraph (C), by striking out "foregoing." at the end of subparagraph (D) and inserting in lieu thereof "foregoing; or", and by adding at the end thereof the following new subparagraph:

"(E) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be qualified individual retirement accounts described in section 408(a) which are exempt from tax under section 501(a)."

(5) Averagable income.—Paragraph (2) (A) of section 1302(a) (relating to definition of averagable income) is amended by inserting "or 72(p)(3)" after "section 72(m)(5)".

(6) Earned income.—Section 1348(b)(1) (relating to definition of earned income) is amended by inserting ", 72(p)(3)" after "72 (n)".

(h) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 219 and inserting in lieu thereof the following:

"Sec. 219. Retirement savings.
"Sec. 220. Cross references."

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 408. Individual retirement accounts."

(3) The table of sections for subpart A (designated as such by section 201(c) of this Act) of part I of subchapter D is amended by adding at the end thereof the following new item:

"Sec. 409. Qualified individual bond purchases.".

(4) The table of chapters of subtitle D is amended by adding at the end thereof the following new item:

"Chapter 43. Retirement plans.".

(i) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

Sec. 702. Certain Plans.

(a) Certain Defined Benefit Plans.—Section 401 (relating to qualified pension, etc. plans) is amended—

(1) by inserting at the end cf subsection (a) the following new paragraphs:

"(12) In the case of a trust which is a part of a defined benefit plan, the plan of which such trust is a part satisfies the requirements of subsections (j) and (k).

"(13) A trust forming part of a plan which provides contributions or benefits for employees, some or all of whom are proprietary employees, shall constitute a qualified trust under this section only if the *requirements* of section 412 are satisfied.",

(2) by striking out the first sentence of subsection (d)(1) and inserting in lieu thereof the following:

"In the case of a trust which is created on or after the date of the enactment of this subsection, or which was created before such date but is not exempt from tax under section 501(a) as an organization described in subsection (a) on the day before such date, the assets thereof are held by a bank or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which he will hold such assets will be consistent with the requirements of this section. Notwithstanding the requirements of the preceding sentence, a person (including the employer) other than the trustee or custodian so holding plan assets may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, or exchanges).", and

(3) by redesignating subsection (j) as (1) and inserting after subsection (i) the following new subsections:

"(j) Certain Defined Benefit Plans.—

"(1) General rules.—A trust which is a part of a defined benefit plan which provides benefits for employees, some or all of whom are employees within the meaning of subsection (c)(1) or proprietary employees within the meaning of section 412(b)(1), shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that the basic benefit accruing for each separate plan year of participation by such an employee shall not exceed the product of the compensation of such employee under the plan for such year (not in excess of $50,000) and the percentage shown on the following table corresponding to his age at the time his current period of participation began:

"Age attained at participation—

| | |
|---|---|
| 30 or less | 6.5 |
| 35 | 5.4 |
| 40 | 4.4 |
| 45 | 3.6 |
| 50 | 3.0 |
| 55 | 2.5 |
| 60 or over | 2.0 |

For purposes of this subsection, the term 'basic benefit' means a benefit in the form of a straight life annuity commencing at the later of age 65, or 5 years from the time the participant's current period of participation began, under a plan which provides no ancillary benefits and to which employees do not contribute. The Secretary or his delegate shall prescribe regulations under which the percentages shown on such table shall be adjusted for plans which do not meet the conditions described in the preceding sentence and under which percentages for ages between those shown on the table shall be determined. After December 31, 1977, the Secretary or his delegate may, by regulations, prescribe revised percentages to be used in lieu of the percentages shown in the table provided by this subsection. Such percentages shall be revised by the Secretary or his delegate on the basis of changes in prevailing interest and mortality rates occurring after 1973.

"(2) Alternative limitation for proprietary employees.—Notwithstanding the provisions of paragraph (1), a qualified plan (other than a plan which provides benefits for an employee of an electing small business corporation as defined in section 1371) may provide for a basic benefit on behalf of an individual who is a proprietary employee (within the meaning of section 412(b)(1)) which does not exceed 75 percent of the participant's average high 3-year compensation from the employer. This amount shall be amortized in equal payments over the remaining future service of each such proprietary employee or over 10 years whichever is the longer. Average high 3-year compensation from the employer is the amount includible in the gross income of the participant (determined without regard to section 911) for the period of 3 actual consecutive taxable years (or if he has been an employee for less than 3 years, the number of years he has been an employee) of the participant for which his compensation from the employer is the greatest but not in excess of the first $100,000 per year. Where contributions are made under a plan for a proprietary employee who was a participant for a period of less than 10 years, the basic benefit which may be provided under the plan (under this paragraph) shall be reduced ratably.

"(3) Aggregation of plans.—For purposes of this subsection—

"(A) Defined benefit plans.—If a defined benefit plan provides benefits for an owner-employee of a trade or business who controls, or for two or more owner-employees who together control, one or more other trades or businesses, that defined benefit plan and all defined plans established with respect to such other trades or businesses shall be considered as a single plan.

"(B) Defined contribution plans.—If a defined contribution plan provides for contributions from an owner-employee of a trade or business who controls, or for two or more owner-employees who together control, one or more other trades or businesses, that defined contribution plan and all defined contribution plans established with respect to such other trades or businesses shall be considered as a single plan.

"(C) Rules.—For purposes of this paragraph, the term 'owner-employee' also includes an individual who is a proprietary employee (as defined in section 412(b)(1)), and the terms 'control' and 'controls' have the same meaning as they have in subsection (d)(9). An owner-employee who is a participant in both types of plans (described in subparagraphs (A) and (B)) shall be treated, under regulations prescribed by the Secretary or his delegate, as if he were a participant in only one such type of plan.

"(4) Reduction of benefits.—In the case of an owner-employee or proprietary employee who is covered by a defined benefit plan to which this subsection applies, as well as a defined contribution plan, if for a taxable year a deduction is allowable under section 404(a)(9) for a contribution with respect to such owner-employee, then for the plan year of a defined benefit plan ending with or within such taxable year, in applying this subsection the percentage determined under paragraph (1) shall be the percentage determined under such paragraph (without regard to this paragraph) multiplied by the excess of 1 over a fraction—

"(A) the numerator of which is the amount so allowable under section 404(a)(9), and

"(B) the denominator of which is the limitation determined under section 404(a)(9) with respect to such individual.

"(5) Special rules.—Section 404(e) (relating to special limitations for self-employed individuals) shall not apply to a trust to which this subsection applies.

"(k) Limitation on Benefits Under Defined Benefit Plan.—A trust which is a part of a defined benefit plan shall not constitute a qualified trust under this section if, under the plan of which such trust is a part, the benefit under the plan, together with the benefits under all other defined benefit plans (whether or not terminated) of the employer, exceeds 100 percent of the participants' average compensation from the employer which is includible in the gross income of the participant (determined without regard to section 911) for the period of 3 consecutive taxable years of the participant for which his compensation from the employer is the greatest. For purposes of this subsection, if the benefits provided under a pension plan are not in the form of a straight life annuity commencing at age 65 adjusted for fluctuations in the cost of living under a plan to which employees do not contribute, which provides no ancillary benefits, the 100 percent limit provided by the preceding sentence shall be adjusted, in accordance with regulations prescribed by the Secretary or his delegate to reflect such other form. In the case of a participant in a defined benefit plan who is also a participant in a money purchase pension plan with respect to the same employment, the limitation determined under this subsection shall be the 100 percent limitation (as adjusted pursuant to the preceding sentence), multiplied by the excess of one over a fraction—

(1) the numerator of which is the percentage of compensation contributed under the money purchase pension plan (but not greater than 20), and

"(2) the denominator of which is 20.

The percentage limitation applicable to an employee who has been an active participant in the plan for fewer than 10 full plan years shall be the percentage limitation otherwise determined under this subsection, multiplied by a fraction, the numerator of which is the number of such full years and the denominator of which is 10."

(3) by striking out, at the end of subsection (d)(9)(B)(i) "or", by striking out at the end of subsection (d)(9)(B)(ii) "partnership." and inserting in lieu thereof "partnership, or", and by inserting after subsection (d) (9) (B) (ii) the following new clause:

"(iii) in the case of a corporation, own, or are considered as owning, within the meaning of section 1563(e), stock possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of stock of the corporation."

(b) Plans of Proprietary Employees.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 201 and amended by section 221, is amended by inserting at the end thereof the following new section:

"SEC. 412. PLAN OF PROPRIETARY EMPLOYEE

(a) General Rule.—In the case of a plan which provides contributions or benefits for employees some or all of whom are proprietary employees (as defined by subsection (c))—

"(1) a trust which is a part of such plan shall not constitute a qualified trust under section 401(a) unless the plan satisfies the requirements of section 401(a)(9),

"(2) the provisions of sections 72(m)(4), 72(n), 101(b)(3), and 404(e) shall apply, and

"(3) paragraph (5) of section 401(d) (without regard to subparagraph (c)) and section 401(e) (without regard to paragraph (2)(E)) shall apply if such plan is not a defined benefit plan but excess contributions shall be repaid to the proprietary employee on whose behalf they were made.

For purposes of paragraph (1), the compensation of a proprietary employee taken into account shall not exceed $100,000 per year, and the basic or regular rate of compensation of such an employee taken into account shall not exceed the rate equivalent to compensation at a rate of $100,000 per year paid in equal installments over the year. The provisions referred to in paragraphs (1), (2), and (3) shall be applied as if each proprietary employee were an employee within the meaning of section 401(c)(1).

"(b) Definitions.—For purposes of this section and section 401—

"(1) Proprietary employee.—The term 'proprietary employee' means an individual who owns, or is considered as owning, within the meaning of section 1563(e), stock possessing 2 percent or more of the total combined voting power of all classes of stock entitled to vote or 2 percent or more of the total value of shares of stock of the corporation if the total of the present value of the accrued benefits, of all such employees who are active participants in the plan, derived from employed contributions (within the meaning of section 411(b)(2)) exceeds 25 percent of the present value of such accrued benefits for all active participants in the plan. For purposes of this paragraph, in the case of a profit-sharing or stock bonus plan, the rules of section 1563(e) shall be applied without respect to paragraph (3)(C) thereof. To the extent provided in regulations prescribed by the Secretary or his delegate, such term also means an individual who has been a proprietary employee within the meaning of the preceding sentence. The Secretary or his delegate is authorized to prescribe by regulations the actuarial assumptions to be applied in computing accrued benefits for purposes of this paragraph and the time at which the present value of such benefits is determined.

"(2) Aggregation of plans.—For purposes of this subsection—

"(A) Defined benefit plans.—If a defined benefit plan provides benefits for a proprietary employee of a trade or business who controls, or for two or more proprietary employees who together control, one or more other trades or businesses, that defined benefit plan and all defined benefit plans established with respect to such other trades or businesses shall be considered as a single plan.

"(B) Defined contribution plans.—If a defined contribution plan provides for contributions from a proprietary employee of a trade or business who controls, or for two or more proprietary employees of a trade or business who together control, one or more other trades or businesses, that defined contribution plan and all defined contribution plans established with respect to such other trades or businesses shall be considered as a single plan.

"(C) Rules.—If any such proprietary employee is an owner-employee (within the meaning of section 401(c)(3)) of a trade or business and is a participant in a defined benefit or a defined contribution plan established with respect to that trade or business, such plan shall be taken into account under subparagraph (A) or (B), whichever is applicable, or purposes of this paragraph. A proprietary employee who is a participant in both types of plans (described in subparagraphs (A) and (B)) shall be treated, under regulations prescribed by the Secretary or his delegate, as if he were a participant in only one such type of plan.

"(D) Control.—For purposes of subparagraph (A), a proprietary employee, or two or more proprietary employees, shall be considered to control a trade or business if such proprietary employee, or such two or more proprietary employees together—

"(i) own the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, own more than 50 percent of either the capital interest or the profit interest in such partnership, or

"(iii) in the case of a corporation, own (or are considered as owning, within the meaning of section 1563(e)) more than 50 percent of the total combined voting power of stock entitled to vote or more than 50 percent of the total value of shares of stock of the corporation.

For purposes of subparagraph (B), a proprietary employee, or two or more proprietary employees, shall be treated as owning any interest in a partnership which is owned, directly or indirectly, by a partnership which such proprietary employee, or such two or more proprietary employees, are considered to control within the meaning of the preceding sentence.".

(c) Repeal of Section 1379.—Subchapter S of chapter 1 is amended by striking out section 1379.

(d) Conforming Amendments.—

(1) The table of sections for subchapter S of chapter 1 is amended by striking out the last item in the table.

(2) Section 62 (relating to adjusted gross income) is amended by striking out paragraph (9).

(e) Clerical Amendment.—The table of sections for subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 221 and amended by section 231, is amended by adding at the end thereof the following new item:

"Sec. 412. Plan of a proprietary employee.".

(f) Effective Date.—

(1) General rule.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1973.

(2) In the case of a plan in existence on July 24, 1973, the amendments made by this section shall apply—

(A) to plan years beginning after December 31, 1975, or,

(B) if later, the earlier of plan years beginning after—

(i) the termination of the agreement pursuant to which the plan is maintained, which the Secreatry of the Treasury or his delegate finds to be a collective-bargaining agreement, between employee representatives and one or more employers, in effect on July 24, 1973, or

(ii) December 31, 1980.

For purposes of clause (i), the date on which an agreement terminates shall be determined without regard to any extension thereof agreed to after July 24, 1973.

(3) In the case of a plan in existence on July 24, 1973, the second sentence of section 401(j)(4) (as added by this section) shall apply only with respect to plan years beginning after December 31, 1979.

### Sec. 703. Taxation of Certain Lump-Sum Distributions.

(a) Amendment of Section 72(n).—Section 72(n) (relating to total distributions) is amended by—

(1) striking out the portion of paragraph (2) preceding "applies" the first time it appears and inserting in lieu thereof the following:

"(2) Certain employees.—In any case to which this paragraph",

(2) inserting after paragraph (B) of such paragraph the following: "This paragraph applies to amounts to which this subsection applies which are distributed or paid with respect to an individual who is an employee (within the meaning of section 401(c)(1)) or a proprietary employee (within the meaning of section 412(b)(1)) if the number of plan years such individual was such an employee under the plan under which such amounts are distributed or paid exceeds 50 percent of the number of plan years for which he was a participant in such plan.",

(3) striking out "this subsection" in paragraph (3) and inserting in lieu thereof "paragraph (2)", and

(4) striking out paragraph (4) and inserting in lieu thereof the following:

"(4) Determination of tax on certain total distributions.—Notwithstanding any other provisions of this chapter, except as provided in paragraph (5), the tax on amounts to which this subsection (other than paragraph (2)) applies is 15 times the product of—

"(A) the tax (determined by applying the rates contained in the table in section 1(c)) that would result if the taxable income of the recipient were one-fifteenth of the excess of

"(i) the sum of the amount to which this paragraph applies and the portion of the distribution or payment which receives capital gains treatment under section 402(a)(2) or 403(a)(2)(A), over

"(ii) the minimum distribution allowance, multiplied by

"(B) a fraction, the numerator of which is the number of calendar years after 1973 the recipient was an active participant in the plan and the denominator of which is the total number of calendar years the recipient was an active participant in the plan.

For purposes of this paragraph, the minimum distribution allowance is one-half of the first $20,000 of the sum referred to in clause (i), reduced (but not below zero) by 20 percent of the excess of such sum over $20,000.

"(5) Multiple distributions.—If an individual receives more than one distribution to which paragraph (4) applies during a period of 6 consecutive taxable years of that individual, the tax payable on the second or subsequent such distribution shall be determined, under regulations prescribed by the Secretary or his delegate, by applying the provision of paragraph (4) to the aggregate amount of all such distributions within such period and reducing the amount of the tax so determined by the amount of tax paid with respect to prior distributions within the period. For purposes of this paragraph, such distributions shall be aggregated without regard to the source of such distributions.

"(6) Community property laws.—The provisions of paragraphs (4) and (5) shall be applied without regard to the community property laws of any State.

"(7) Annuities.—For purposes of paragraphs (4) and (5), the distribution of an annuity shall be treated as a distribution in an amount equal to the cash surrender value of such annuity on the date of distribution.".

(b) Amendment of Section 402.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) Phase out of capital gains treatment.—The first sentence of paragraph (2) shall apply to a distribution paid after December 31, 1973, only to the extent that it does not exceed such distribution (reduced in accordance with such sentence) multiplied by a fraction, the numerator of which is the number of full years of active participation by the employee in such plan for plan years beginning before January 1, 1974, and the denominator of which is the number of full years of active participation by the employee in such plan."

(c) Amendment of Section 403.—Section 403(a) (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraph (2)(C) and inserting in lieu thereof the following:

"(C) Phase out of capital gains treatment.—Subparagraph (A) shall apply to a payment paid after December 31, 1973, only to the extent that it does not exceed such payment (reduced in accordance with such subparagraph) multiplied by a fraction, the numerator of which is the number of full years of active participation by the employee in such plan for plan years beginning before January 1, 1974, and the denominator of which is the number of full years of active participation by the employee in such plan."

(d) Conforming Amendments.—

(1) Prohibition of double income averaging.—Subsection 1304(b) (relating to special rules) is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively, and inserting after paragraph (2) the following new paragraph:

"(3) section 72(n)(4) (relating to determination of tax on certain total distributions) and section 72(n)(5) (relating to multiple distributions),".

(2) Limitation on the application of subsection 1304(b).—Section 1304 (relating to special rules on income averaging) is amended by adding at the end thereof the following new subsection:

"(g) Limitation on the Application of Subsection (b).—Recipients of distributions to which section 72(n)(2) or 72(n)(4) apply may choose the benefit of this part except with respect to such distributions.".

(e) Effective Dates.—The amendments made by this section shall take effect on January 1, 1974.

### Sec. 704. Contributions On Behalf of Self-Employed Individuals and Proprietary Employees.

(a) Revision of Limitations.—

(1) Limit on deductions.—Section 404(e) (relating to deduction limitations) is amended by—

(A) striking out "$2,500, or 10 percent" in paragraphs (1) and (2)(A) and inserting in lieu thereof "$7,500, or 15 percent",

(B) striking out "whichever is the lesser." in paragraphs (1) and (2)(A) and inserting in lieu thereof "whichever is the lesser, or the minimum deductible amount described in paragraph (4).", and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) Alternative limitation for proprietary employees.—

"(A) Notwithstanding the limitations of paragraph (1) (but subject to the provisions of section 414), in the case of a plan (other than a plan which provides benefits for an employee of an electing small business corporation as defined in section 1371) which provides contributions for employees, some or all of whom are proprietary employees (within the meaning of section 412(b)(1)), the amounts deductible under subsection (a) in any taxable year with respect to contributions on behalf of any proprietary employee may equal the present value (based on a 6 percent interest rate) of the 'unfunded limitation balance'.

"(B) The term 'unfunded limitation balance' means in the case of a plan which provides no ancillary benefits any excess of—

"(i) 75 percent of the 'contribution base' divided by the appropriate conversion factor (within the meaning of section 411(b)(2)), over

"(ii) what the balance of the employee's account under the plan, as of the close of the preceding plan year, would be if it earned interest at the rate of 6 percent per annum, compounded annually until 'normal retirement age'.

The Secretary or his delegate shall prescribe regulations defining the term 'unfunded limitation balance' for plans providing for ancillary benefits.

"(C) The term 'contribution base' means the average high 3 year compensation includible in the gross income of the participant (determined without regard to section 911) for any 3 consecutive (current or past) taxable years (or if he has been an employee for less than 3 years, the number of years he has been an employee) of the participant for which his compensation from the employer is the greatest, but not in excess of the first $100,000 of *compensation* for any year.

"(D) For purposes of this paragraph, the term 'normal retirement age' means the older of age 65 or if older the age of the employee on the last day of the tenth year for which he will be a participant under the plan.

"(E) In making the computation provided under this paragraph the provisions of paragraph (2) shall be applicable.

"(F) Notwithstanding the limits of subsections (a) (3) and (7) (whichever is applicable), if the amount determined under subparagraph (A) for any taxable year is less than the amount allowable as a deduction under such subsections then, the excess of the amount allowable under such subsections over the amount determined in subparagraph (A) shall be carried forward and allowable as a deductible contribution when paid in succeeding taxable years to the extent that the total contributions do not exceed the amount determined under subparagraph (A) in such taxable year.

"(G) The Secretary or his delegate may prescribe separate conversion factors under subparagraph (B)(i) for whose normal retirement age is other than age 65 and may adjust this factor to reflect changes in mortality or interest rates."

(2) Limit on contributions.—Section 401(e)(3) (relating to contributions for premiums on annuity, etc., contracts) is amended by striking out "$2,500" and inserting in lieu thereof "$7,500".

(3) Limit on amount received.—Section 72(m)(5)(B)(i) (relating to penalties applicable to certain amounts received by owner-employees) is amended by striking out "$2,500" and inserting in lieu thereof "$7,500".

(b) Discrimination.—Section 401(a) (relating to requirements for qualification) is amended by adding at the end thereof the following new paragraph:

"(12) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees (as defined in subsection (c) (1)), the compensation of such an employee taken into account for purposes of paragraph (4) shall not exceed $100,000 per year, and the basic or regular rate of compensation of such an employee taken into account for such purposes shall not exceed the rate equivalent to compensation at a rate of $100,000 per year paid in equal installments over the year.".

(c) Effective Date.—The amendments made by this section shall apply for taxable years beginning after 1973.

Sec. 705. Collectively Bargained Plans.

(a) General Rule.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) as added by section 201 and amended by sections 221 and 702 is amended by inserting at the end thereof the following new section:

"Sec. 413. Collectively Bargained Plans.

"(a) Application of Section.—This section applies to a—

"(1) plan created and maintained pursuant to an agreement which the Secretary or his delegate finds to be a collective bargaining agreement between employee representatives and one or more employers, and

"(2) to each trust which is a part of such plan.

"(b) General Rule.—If this section applies to a plan, notwithstanding any other provision of this title—

"(1) Section 410 shall be applied as if all employees of each of the employers who are parties to the collective bargaining agreement and who contribute to or under the plan on the same basis were employed by a single employer.

"(2) Section 401(a)(4) and 411(c)(4) shall be applied as if all participants who are employed by employers who contribute to or under the plan on the same basis were employed by a single employer.

"(3) For purposes of section 401(a), in determining whether the plan of an employer is for the exclusive benefit of his employees and their beneficiaries, all plan participants shall be considered to be his employees.

"(4) Section 411 shall be applied as if all employers who have been parties to the collective bargaining agreement constituted a single employer.

"(5) The minimum funding standard provided by section 4971 shall be determined as if all participants in the plan were employed by a single employer. For purposes of section 4971 (other than for purposes of determining the portion of a liability required to be amortized for a plan year), a plan year shall be considered to begin on the date the collective bargaining agreement is first effective (treating an agreement to extend a prior agreement as a new agreement, and to end on the expiration date of the agreement determined under such agreement).

"(6) For a plan year (determined without regard to paragraph (5), the liability under section 4972 of each employer who is a party to the collective bargaining agreement shall be determined, in accordance with regulations prescribed by the Secretary or his delegate, on the basis of his contributions under the plan and his liability for contributions under the plan. The liability for tax under such section in the case of such a plan shall apply first to the extent of any delinquency in meeting required contributions on the part of an employer under such plan.

"(7) For a calendar year the liability under section 4974 of each employer who is a party to the collective bargaining agreement during the calendar year shall be determined by reference to the number of plan participants employed by the employer at any time during the calendar year.

"(8) Each applicable limitation provided by section 404(a) shall be determined for a plan year (within the meaning of paragraph (5)) as if all participants in the plan were employed by a single employer. The amounts contributed to or under the plan by each employer who is a party to the contract, for the portion of his taxable year which is included within such a plan year, shall be considered not to exceed such a limitation if the anticipated employer contributions for such plan year (determined in a manner consistent with the manner in which actual employer contributions for such plan year are determined) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary or his delegate."

(b) Effective Date.—The amendment made by this section shall apply for taxable years and plan years beginning on or after January 1, 1976.

Sec. 706. Miscellaneous Provisions.

(a) Employee Contributions of Owner-Employees.—Section 401(d)(4)(B) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by inserting "in excess of contributions made by an owner-employee as an employee" after "benefits".

(b) Certain Custodial Accounts.—Section 401 (relating to pension, profit-sharing, and stock bonus plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Certain Custodial Accounts or Other Arrangements.—For purposes of this title, a custodial account or an arrangement similar to a custodial account or similar to an annuity contract shall be treated as a qualified trust under this section if—

"(1) the custodial account or arrangement would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary or his delegate, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or arrangement treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or arrangement shall be treated as the trustee thereof.".

(c) Custodial Accounts for Regulated Investment Company Stock.—Section 403(b) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(7) Custodial accounts for regulated investment company stock.—

"(A) Amounts paid treated as contributions.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfies the requirements of section 401(f) shall be treated as amounts contributed by him for an annuity contract for his employee if the amounts are paid to provide a retirement annuity for that employee and are to be invested in regulated investment company stock to be held in that custodial account.

"(B) Account treated as plan.—For purposes of this title, a custodial account which satisfies the requirements of section 401(f) shall be treated as an organization described in section 401(a) with respect to amounts received by it (and income from investment thereof) which are excluded under this subsection from the gross income of the employees on whose behalf such amounts are paid.

"(C) Regulated investment company.—For purposes of this paragraph, the term 'regulated investment company' means a domestic corporation which is a regulated investment company within the meaning of section 851(a), and which issues only redeemable stock.".

(d) Amendments to Section 404.—

(1) Section 404(a) (relating to deduction for contributions of an employer to an employee's trust, etc.) is amended by—

(A) striking out paragraph (1)(A);

(B) striking out paragraph (1) (B) and (C) and inserting in lieu thereof the following:

"(B) the amount necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the Secretary or his delegate, but if such remaining unfunded cost with respect to any three individuals is more than 50 percent of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least 5 taxable years, or

"(C) in lieu of the amount allowable under subparagraph (B), an amount equal to the normal cost of the plan, as determined under regulations prescribed by the Secretary or his delegate, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 percent of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan as determined under regulations prescribed by the Secretary or his delegate, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased."; and

(c) adding immediately after paragraph

(1)(D) the following new sentence: "The limitations under subparagraphs (B) and (C) shall not apply with respect to the amount of a contribution made to or under a pension plan to the extent such contribution does not exceed the minimum funding standard described in section 4971.".

(2) Section 404(a) (relating to deduction for contributions of an employer to an employee's trust, etc.) is amended by striking out paragraph (6) and inserting in lieu thereof:

"(6) Time when contributions deemed made.—For purposes of paragraphs (1), (2), and (3), a taxpayer shall be deemed to have made a payment on the last day of the preceding taxable year if the payment is on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)."

(e) Inclusion of Certain Employee Contributions in Gross Income.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) as added by section 201 and as amended by sections 701 (b) and (e) of this Act is further amended by adding at the end thereof the following new section:

"Sec. 414. Inclusion of Certain Employer Contributions In Gross Income.

"(a) Inclusion of Contributions in Gross Income.—Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), an individual shall include in gross income, for his taxable year in which or with which the taxable year of his employer ends, the amount equal to the excess of—

"(1) the amount of the contributions made on his behalf by the employer during the taxable year of the employer (including amounts deemed to be paid during such year under section 404(a)(6)) to or under a money purchase pension plan which satisfies the requirements of section 401(a), 404(a)(2), or 405(a) during such taxable year of the employer, over

"(2) 20 percent of such individual's compensation otherwise paid or accrued by him from such employer during the employer's taxable year.

In any taxable year of an individual in which he is covered under two or more money purchase pension plans maintained by an employer, the amount includable in gross income shall be the amount by which the total of such contributions exceeds 20 percent of the compensation received or accrued by such individual during the taxable year of his employer.

"(b) Treatment of Amounts Included in Gross Income.—Any amount included in the gross income of an individual under subsection (a) shall be treated as consideration for the contract contributed by the individual for purposes of section 72 (relating to annuities).

"(c) Deduction for Amounts Not Received as Benefits.—If—

"(1) Amounts are included in the gross income of an individual under subsection (a), and

"(2) the rights of such individual (or his beneficiaries) under the plan terminate before payments under the plan which are excluded from gross income equal the amounts included in gross income under subsection (a),

then there shall be allowed as a deduction, for the taxable year in which such rights terminate, an amount equal to the excess of the amounts included in gross income under subsection (a) over such payments.

"(d) Limitations.—(1) Subsection (a) shall not apply for a taxable year of an employee if, at all times during the employer's taxable year referred to in subsection (a), under the money purchase pension plans maintained by the employer (considering all such plans as a single plan) the rate at which employer contributions are to be made with respect to employee compensation does not exceed 20 percent.

"(2) Subsection (a) shall not apply to contributions made to or under a money purchase pension plan on behalf of an individual who is an employee within the meaning of section 401(c)(1).

"(e) Regulations.—The Secretary or his delegate is authorized to prescribe such forms and regulations as may be necessary to carry out the purposes of this section, including forms on which employers may be required to furnish needful information to employees. Such forms shall be furnished to employees at such time as the Secretary or his delegate may by regulations prescribe."

(f) Penalty for Failure To Furnish Information.—Subchapter B of chapter 68 (relating to assessable penalties) as amended by section 221 of this Act is further amended by inserting at the end thereof the following new section:

"Sec. 6691. Reports by Employers.

"(a) Civil Penalty.—If any person who is required, by regulations prescribed under section 409(e), or by regulations prescribed under section 151 of the Retirement Income Security for Employees Act, to furnish information to an employee fails to comply with requirement at the time prescribed by such regulations, such person shall pay a penalty of $10 for each such failure, unless it is shown that such failure is due to reasonable cause.

"(b) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(g) Net Operating Loss.—Section 172(d)(4) (relating to net operating loss modifications) is amended by—

(1) striking out "and" at the end of subparagraph (C),

(2) striking out "such individual." in subparagraph (D) and inserting in lieu thereof "such individual; and", and

(3) by adding immediately after subparagraph (D) the following new subparagraph (E):

"(E) any deductions allowed under section 219 shall not be treated as attributable to the trade or business of an individual."

(b) Retroactive Changes in Plan.—Section 401 (relating to qualified pension, etc., plans) is amended by striking out subsection (b) and inserting in lieu thereof:

"(b) Certain Retroactive Changes in Plan.—A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of subsection (a) for the period beginning with the date on which it was put into effect, or for the period beginning with the date on which there was put into effect any amendment which caused the plan to fail to satisfy such requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which such plan or amendment was put into effect (including extensions thereof) or such later time as the Secretary or his delegate may designate, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes for the whole of such period.".

(i) When Contributions Are Includible in Income.—

(1) Beneficiary of employee's trust.—Section 402(a)(1) (relating to taxability of beneficiary of exempt trust) is amended by striking out "(1) General rule.—and inserting in lieu thereof the following:

"(1) General rules.—A contribution by an employer to an employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall not be includible in the gross income of the employee in the year in which so contributed or accrued. For purposes of the preceding sentence, a contribution shall not be treated as having been made by an employer if it is designated as an employee contribution or if the contribution is made as a consequence of the employee's individual choice in return for a reduction in his compensation for foregoing an increase in compensation.".

(2) Employee annuities.—Section 403(a)(1) (relating to taxability of beneficiary under a qualified annuity plan) is amended to read as follows:

"(1) General rules.—If an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) (whether or not the employer deducts the amounts paid for the contract under such section)—

"(A) the payment of the purchase price by the employer shall not be includible in the gross income of the employee in the year in which paid or accrued; and

"(B) except as provided in paragraph (2), the employee shall include in his gross income the amounts received under such contract for the year received as provided in section 72 (relating to annuities).

For purposes of subparagraph (A), an amount paid for the purchase of an annuity contract shall not be treated as being paid by an employer if such amount is designated as an amount paid by the employee or if the amount is paid as a consequence of the employee's individual choice in return for a reduction in his compensation or for foregoing an increase in compensation.".

(3) Effective date.—The amendments made by this subsection shall apply with respect to taxable years beginning after December 31, 1973.

(j) Technical Amendments.—

(I) Information with respect to pension, profit sharing and stock bonus plans.—Subpart A of part III of subchapter A of chapter 61 (relating to information returns) is amended by redesignating section 6040 as section 6040A and inserting after section 6039 the following section:

"Sec. 6040. Information Required in Connection With Certain Plans of Deferred Compensation.

"(a) In General.—Every employer who establishes or maintains a plan of deferred compensation described in part I of subchapter D of chapter 1, or the administrator of the plan, shall file an annual return stating such information as the Secretary or his delegate may by forms or regulations prescribe with respect to the qualification, financial condition and operations of the pension, annuity, profit-sharing, stock bonus, or bond purchase plan established or maintained by such employer; except that, in the discretion of the Secretary or his delegate, the employer may be relieved from stating in its return any information which is reported in returns filed by an organization forming a part of such plan.

"(b) Employer.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement account described in section 408. The term 'administrator' means the person or persons described in section 501(g)(11) of the Retirement Income Security for Employees Act.

"(c) Cross Reference.—For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).".

(2) Publicity of returns.—

(A) Section 6103 (relating to publicity of returns and disclosure of information as to persons filing income tax returns) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) Information With Respect to Pension, Profit-Sharing and Stock Bonus Plans.—Any return filed under section 6033 or 6040 with respect to a plan of deferred compensation (or copy thereof) or under 6051(d) with respect to wages paid to an employee shall be open to inspection by the proper officers of the Pension Benefit Guaranty Corporation.".

(B) Section 6104 (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by—

"(i) striking out "(A) In general.—" in subsection (a) (1) and inserting in lieu thereof "(i) Exempt organizations generally.—",

(ii) inserting "(A) In general.—" in subsection (a) immediately after "(1) Public inspection.—",

(iii) inserting the following clause immediately before subparagraph (B) of subsection (a) (1):

"(ii) Pension, profit-sharing, and stock bonus plans.—An application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a), 404(a) (2), or 405(a), covering more than 25 persons or with respect to the exemption from taxation under section 501(a) of an organization forming a part of such a plan, together with any papers submitted in support of such application, shall be open to public inspection at such times and in such places as the Secretary or his delegate may prescribe.", and

(iv) striking out "and 6056" in subsection (b) and inserting in lieu thereof "6040, and 6056".

(3) Penalties.—Section 6652 (relating to failure to file certain information returns) is amended by adding at the end thereof the following new subsection:

"(f) Information Required in Connection With Certain Plans of Deferred Compensation.—In the case of failure to file a return required under section 6040 (relating to information required in connection with certain plans of deferred compensation) or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $10 for each day during which such failure continues, but the total amount imposed hereunder on any person for failure to file any return shall not exceed $5,000.".

(k) Excess Contributions.—Section 401 (e) (1) (B) is amended by striking out clause (ii) and inserting in lieu thereof:

"(ii) with respect to any plan other than a defined benefit plan, the amount of any contribution made by any owner-employee (as an employee) at a rate which exceeds the rate of contributions permitted to be made by employees other than owner-employees;"

(l) Plans Benefiting Self-Employed Individuals.—Section 401(c) (relating to definitions and rules relating to self-employed individuals and owner-employees) is amended by adding at the end thereof the following new paragraph:

"(6) Additional requirements for qualification of trusts and plans benefiting self-employed individuals.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of paragraph (1) shall constitute a qualified trust only if—

"(A) under the plan, forfeitures attributable to contributions made on behalf of an employee other than an employee within the meaning of paragraph (1) may not inure to the benefit of any individual who, at any time during the period beginning with the taxable year for which the contribution is made and ending with the taxable year during which the forfeiture occurs, is an employee within the meaning of paragraph (1), and

"(B) in the case of a defined benefit pension plan, a separate account is maintained with respect to all participants under the plan who are not employees within the meaning of paragraph (1) and another separate account is maintained with respect to all participants under the plan who are employees within the meaning of paragraph (1)."

(m) Conforming and Clerical Amendments.—

(1) Section 6033(c) (relating to cross-references) is amended by adding at the end thereof the following:

"For provisions relating to information required in connection with certain plans of deferred compensation, see section 6040.".

(2) Section 6047 (relating to information with respect to certain trusts and annuity and bond purchase plans) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Cross References.—

"(1) For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).

"(2) For criminal penalty for furnishing fraudulent information, see section 7207.".

(3) Section 6051 (relating to receipts for employees) is amended by inserting after "exemption," in subsection (a) the following: "or who pays wages as defined in section 3121(a), 3306(b), or 3041(a) to an individual who is an active participant in a plan described in section 219(b) (2),".

(4) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6040. Information required in connection with certain plans of deferred compensation.

"Sec. 6040A. Cross-references.".

(5) Section 62 (relating to definition of adjusted gross income) is amended by adding after paragraph (9) the following new paragraph:

"(10) Money purchase pension plans.—The deduction allowed by section 410(c).".

(6) Clerical amendments.—

(A) The table of sections for part I of subchapter D of chapter 1 as amended by sections 701 (b) and (e) of this Act is further amended by inserting at the end thereof the following new item:

"Sec. 410. Inclusion of certain employer contributions in gross income.".

(B) The table of sections for subchapter B of chapter 68 as amended by section 221(b) of this Act is further amended by inserting at the end thereof the following new item:

"Sec. 6691. Reports by employers.".

(n) Effective Dates.—Except as otherwise provided in this section, the amendments made by this section shall take effect on January 1, 1974.

Mr. NELSON. Mr. President, I ask unanimous consent that the pending amendment, amendment No. 497, if agreed to, be considered as original text for the purpose of amendment, with the time on the amendment to continue running.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I do not believe I shall object, the ranking minority member of the Committee on Labor and Public Welfare is not on the floor. Neither is the ranking minority member of the Finance Committee present on the floor.

I would like to inquire as to whether this matter has been cleared with them and whether they agreed to it.

Mr. NELSON. The Senator is correct. They have agreed to it.

Mr. GRIFFIN. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, was the unanimous-consent request agreed to?

The PRESIDING OFFICER. The unanimous-consent request was agreed to.

Who yields time on the amendment?

Mr. NELSON. Mr. President, earlier today I offered an amendment to S. 4 which dealt with the pension matters where the subject matter was much the same in S. 4 and in S. 1179. The amendment I offered was in effect a compromise working out the differences between the two bills.

We will recall that in addition S. 1179 also deals with some tax matters concerned with pensions which were not in S. 4. Those provisions are the subject matter of the amendment which I am offering.

Basically, this amendment deals with four tax subjects. One provides that those who are not covered by any pension plan may set aside up to $1,000 a year in a retirement account. The second provision provides that self-employed individuals may set aside for retirement purposes 15 percent of their earnings up to a maximum of $7,500. Under present law, the amount which they can set aside is 10 percent of their earnings up to a maximum of $2,500. The third change initially would have imposed the same ceiling on proprietary employees of corporations as I have just indicated in the case of self-employed persons. However, having made this decision initially, the Finance Committee soon found that this provision gave rise to a very considerable controversy.

As a result, the Finance Committee reconsidered this provision and provided exceptions to the 15 percent—$7,500 ceiling in the case of these proprietary employees. First, it provided that if they are under what is known as a defined benefit plan, the amount which can be set aside in a tax-free retirement account for them may not exceed 75 percent of their salary in their high 3 years of compensation, but based upon a salary in any of these years of not over $100,000. A comparable exception was added for those who have fixed contribution plans instead of fixed benefit plans. In addition, the committee decided to keep the corporate integration rules for purposes of social security in the case of these proprietary employee plans.

This provision has caused a great deal of controversy, but I believe that the solution the committee has worked out will be satisfactory to those who complained about the earlier decision. There has been some misunderstanding as to what the Finance Committee decision was, but I hope that this has now been cleared up.

I should at this point say that as to the committee decision, I am not personally satisfied with the decision on quite different grounds. I believe that whatever limitation we have should go across the board to all corporate plans. I also believe that a maximum wage base of $100,000 is too high. I will be offering for debate today and vote tomorrow two amendments of my own. One of these will set a lower limitation on the total amount of pension benefits that can be paid in any single year. The maximum limitation would be $45,000. This is 75 percent of $60,000 or a maximum of $45,000.

The second amendment will require that the same pension benefits apply to all corporations, rich corporations, small corporations, closely held corporations, and proprietary corporations.

The fourth change relates to a simplified method for taxing lump sum distributions. Other lesser changes are included, but these represent the principal ones.

I should make it clear that this group of provisions represents Finance Committee decisions, and this is not an attempt to be a compromise with the Senate Labor and Public Welfare Committee in this area since these are strictly tax provisions although relating to pensions and are not matters that were included in S. 4.

Let me turn now to the various provisions to which I referred.

### INDIVIDUAL RETIREMENT ACCOUNTS

The first change permits any individual who is not a participant in a qualified retirement plan or governmental plan to take tax deductions of up to $1,000 a year for amounts of earned income set aside for his own retirement. The employer of any individual who establishes such a personal retirement plan is allowed to make tax deductible contributions to the individual retirement account on behalf of the employee which will not be currently taxable to the employee so long as the sum of the employee's own contribution and the employer's contribution do not exceed $1,000 a year. I might add parenthetically that I think that limitation is far too low.

In order to encourage the utilization of such individual retirement plans, this amendment provides that the income set aside by individuals in such plans will be deductible from gross income. As a result, deductions for such investments can be taken even by those taxpayers who do not itemize the rest of their deductions. The earnings on the contributions set aside in such individual retirement accounts will also be tax free until actually distributed to the employee as benefits.

All contributions made to the individual retirement plans are to be immediately vested in the employee covered by the account. This treatment is, of course, proper since the contributions in effect either represent compensation to the employee or come from his own funds.

The funds in the individual retirement account can be invested in a wide variety of assets including insurance annuity contracts, common trust funds maintained by banks, savings accounts, and stock of a mutual fund. In addition, such funds can also be invested in special Government retirement bonds issued for this purpose which would provide for the accumulation of interest until the time of redemption.

Since the objective of the individual retirement account is to encourage retirement savings, the written instrument establishing the retirement account is required to provide that no distributions can be made to the individual prior to age 59½ except in the event of death or disability. Where this requirement is violated, the premature distribution is subjected to a penalty tax of 30 percent. On the other hand, to prevent postponement of tax, the individual retirement plans are required to begin distribution when the individual reaches the age of 70½ and the distributions must then be made at least on a ratable basis over the life expectancy of the individual or of the individual and his spouse.

In general, the proceeds of an individual retirement account are to be taxable to the individual when distributed. Since the contributions to the account will be made with tax free dollars, the individual's basis in the account will be zero so that he will be taxed in full on all receipts. The amounts distributed to the individual are not to be eligible for capital gains treatment or the special averaging rules applicable to lump sum distributions.

This will encourage the individual to withdraw the amounts ratably over the period of his retirement.

In addition, the distribution from the retirement income accounts and the proceeds of qualified retirement bonds are to be treated as retirement income for purposes of the retirement income credit.

I believe that the individual retirement accounts will prove most helpful to individuals who are not covered by qualified pension plans. I do not, of course, make any claim that this provision will secure complete equality of treatment for individuals not covered by regular pension plans in view of the limitations placed on the deductible amounts that can be contributed to the individual retirement accounts. As I said previously, I think the amount agreed upon is too low. However, the provision will provide substantial help to those with modest incomes in regard to their retirement savings. Moreover, the fact that employers are allowed to make deductible contributions to the individual retirement accounts will encourage them to start regular plans for their employees.

### HIGHER DEDUCTIBLE CONTRIBUTIONS FOR SELF-EMPLOYED PEOPLE UNDER PENSION PLANS (H.R. 10 PLANS)

The second change increases the maximum deductible contributions that a self-employed individual is allowed to make on his own behalf to a qualified plan. At present, the maximum allowable deductions for such contributions are limited to 10 percent of earned income up to $2,500 a year. This amendment increases the maximum limit on such deductible contributions to 15 percent of earned income up to $7,500 a year. Where the plan provides defined benefits, generally equivalent limitations are imposed in terms of the benefit levels that can be financed.

The amendment also limits to no more than $100,000 the portion of a self-employed person's income which may be taken into account in determining the pension contributions on his behalf. This means that under a qualified nondiscriminatory plan, the employees of the self-employed person will have to receive the benefit of a contribution of 7.5 percent of compensation—including for this purpose any credit for integration with social security benefits—if the self-employed person is to deduct the maximum contribution of $7,500 a year for himself.

After reporting out S. 1179, the Finance Committee provided an additional change which is intended to permit partners who are covered by an H.R. 10 pension plan greater flexibility in adjusting the contributions to such plans on their behalf in order to meet their individual needs and circumstances. At present, the limitations on the allowable deductible contributions—or benefits—under such plans apply to each partner individually. The amendment allows the deductible contributions made to the pension plan on behalf of any individual partner to exceed the 15 percent, $7,500 annual limits, when there were forfeitures under the plan by other partners provided that the total amounts contributed on behalf of all partners do not exceed the sum of the allowable deductible contributions under these limits for all partners taken as a group. This will, for example, permit a pension plan to finance nondiscriminatory pension benefits upon retirement for individual partners who became covered by the plan at a relatively mature age and whose benefits are relatively expensive to finance because the funds necessary to pay for the pension must be accumulated in the relatively short period before retirement.

The amendment also contains a number of provisions to improve the operation of plans covering self-employed people. At present, if a custodial account is used under a plan covering self-employed people, the custodian must be a bank and the investments must be made solely in the stock of regulated investment companies or solely in annuity endowment or life insurance contracts. Because this requirement is too restrictive, the amendment allows the custodian of the account to be someone other than a bank providing that the custodian establishes to the satisfaction of the Internal Revenue Service that it would manage the assets of the account in a manner consistent with the tax law.

### EQUALIZING LIMITATIONS FOR PROPRIETARY CORPORATE EMPLOYEES

A third remedial change made by the amendment concerns certain proprietary employees of closely held corporations. The objective is to prevent abuse situations in which such proprietary employees secure unduly large tax advantages as a result of extremely large deductible pension contributions on their behalf to pension plans established by corporations which they themselves control.

The Finance Committee has exercised particular care to structure this provision so that it will achieve its objective without placing onerous restrictions on bona fide cases and disrupting plans under which proprietary employees receive reasonable pension benefits. In fact, after reporting out a bill which contained such a provision, the Finance Committee provided additional changes to assure a fair and effective provision. I think that with the modifications we have made those who opposed our first action should now support the amendment. As I indicated earlier this provision now is in a form which I believe is so generous that it now needs amendment. I plan on my own behalf to offer one or more amendments on this point.

In general, the proprietary employees covered by the provision are individuals owning either directly or through attribution rules at least 2 percent of the total combined voting stock of the corporation or of the total value of the stock of the corporation. However, the provision does not apply unless all proprietary employees who are active participants have more than 25 percent of the total account balances for active participants under a defined contribution plan or more than 25 percent of the present value of all accrued benefits under the plan for active participants under a defined benefit plan. As a result, the limitations imposed by this provision apply only where a substantial portion of the plan benefits are for proprietary employees.

In general, deductible contributions to pension plans on behalf of proprietary employees are made subject to a basic annual limitation of 15 percent of earned income or $7,500. This is the same limitation that applies to deductible contributions for self-employed people under my amendment. In addition, as in the case of self-employed individuals, only the first $100,000 of compensation of the proprietary employee will be taken into consideration in determining the pension contributions for him.

However, two exceptions to this general rule are provided for proprietary employees of corporations other than Subchapter S corporations. The first provides that in the case of defined benefit plans, deductions may be taken for contributions on behalf of proprietary employees sufficient to fund a pension amounting to 75 percent of the average salary for the high 3 earnings years. In other words, the amendment permits nondiscriminatory plans to provide proprietary corporate employees with pensions up to $75,000 a year. However, the contributions to fund such pensions will have to be made over a period of at least 10 years prior to retirement.

The second exception to the 15 percent, $7,500 limitation relates to fixed contribution plans. In this case, the committee decided that the fund which an individual could build up by his tax-free contributions cannot exceed an amount which would provide a pension equal to 75 percent of the amount the individual received in his highest 3 years based on a wage of no more than $100,000. The procedures followed in this case take into account the contributions accumulated in prior years at a standard 6-percent interest rate and provide that contributions made in the current and subsequent years can provide any additional amounts necessary to bring the pension benefits up to the level I have referred to. The contributions, however, are in effect spread evenly up to the period of retirement.

The committee also decided that the integration rules in the case of social security which presently apply to corporations will continue to apply in the case of proprietary corporate employee plans.

To bring the pension treatment of self-employed people and proprietary corporate employees closer together, the amendment extends to plans covering proprietary employees a number of provisions which now apply exclusively to plans of self-employed people. For example, payments under a qualified pension plan to a proprietary employee will have to begin by the time he attains age 70½, and the employee's account will have to be paid out at least ratably over the life of the employee or the lives of the employee and his spouse. Also, if a proprietary employee should die before his entire interest in the plan had been distributed to him, the plan will generally be required to distribute that interest, or purchase an annuity for his beneficiaries, within 5 years after his death.

I think that if you consider the proposed treatment which I have just outlined, you will agree with me that it in no way places unreasonable restrictions on the pension contributions on behalf of individuals. Instead, it constitutes a necessary provision to eliminate abuse situations in which unreasonably large amounts have been contributed to corporate pension plans on behalf of proprietary employees, conferring on them undue tax advantages. In fact, as I have said, I do not consider the provision restrictive enough.

### EFFECTIVE DATE

The provisions allowing individuals to establish their own individual retirement accounts and increasing the maximum allowable deductible contributions for self-employed people under qualified plans take effect in plan years beginning after December 31, 1973. The new requirements and limitations under qualified corporate plans covering proprietary employees also are effective for plan years beginning after December 31, 1973, except that proprietary plans in existence on July 24, 1973, will generally be subject to the new contribution limits for plan years beginning after December 31, 1974.

### REVENUE EFFECTS OF PROVISIONS DESIGNED TO EQUALIZE TAX TREATMENT UNDER PENSION PLANS

Mr. President, I ask permission to include in the RECORD a table showing the revenue effects of the provisions that equalize tax treatment under different groups of pension plans, that I have just described. The table shows that the provision increasing the allowable deductible contributions by self-employed people under H.R. 10 plans to 15 percent of earned income up to $7,500 a year involves an estimated revenue loss of about $175 million a year in the long run. Allowing individuals not covered by pension plans to establish individual retirement accounts reduces revenue by an additional $270 million a year. The proposed limitations on contributions and benefits for proprietary employees under qualified corporate plans will result in a moderate increase in revenue. Altogether, these equalizing changes involve an estimated revenue loss of $435 million a year when fully effective.

*Estimated annual revenue effects of provisions designed to equalize tax treatment under pension plans*

| | *Millions* |
|---|---|
| Increase in maximum allowable deductible contributions by the self-employed under H.R. 10 plans to 15 percent of earned income up to $7,500 a year [1] | −$175 |
| Allowing individuals not covered by pension plans to deduct up to $1,000 a year for contributions to personal retirement plans (long-run effect) [1] | −270 |
| Applying limitations to contributions and/or benefits for proprietary employees under corporate pension plans [2] | +10 |
| Total, provisions designed to equalize tax treatments under pension plans | −435 |

[1] Takes effect Jan. 1, 1974.

[2] Takes effect Jan. 1, 1974, for proprietary plans adopted after July 24, 1973, and Jan. 1, 1975, for proprietary plans in existence on July 24, 1973.

### GENERAL LIMITATIONS ON BENEFITS AND CONTRIBUTIONS UNDER PENSION PLANS

The amendment contains a provision which applies to all defined benefit plans—including corporate plans without proprietary employees—generally limiting the annual benefits which can be paid out under these plans—as of age 65—to 100 percent of the participant's average compensation from the employer during his highest 3 consecutive years of earnings. A pension is essentially a substitute for earning power during the retirement years and no qualified pension plan should pay defined benefits which are higher than an employee's average earnings during his highest 3 years. It is our understanding that this provision is consistent with present law (Rev. Rul. 72-3, 1972-1 C.B. 105) and this provision is only intended to clarify and make more explicit present law.

In addition, as a corollary to this 100-percent-of-salary limitation for defined benefit plans, the amendment provides that tax excludable contributions to a money purchase plan cannot exceed 20 percent of the employee's compensation.

### SIX-PERCENT SALARY REDUCTION PLANS

The amendment also clarifies the law with respect to the tax treatment of 6-percent salary reduction plans. Until recently, the Internal Revenue Service took the position that amounts contributed to a qualified retirement plan on a salary-reduction basis could, under certain conditions, be considered as tax excludable employer contributions to the plan.

Under the committee bill, this treatment is continued with respect to contributions to a qualified pension or profit-sharing plan made prior to January 1, 1974. Thereafter, as is already true under present law in the case of employee contributions under the Federal civil service plan, or similar Government plans, contributions which are really employee contributions—whether required to be made or made at the individual option of the employee in return for a reduction in compensation—are to be treated as such and will no longer be excludable from income by the employee. This treatment is to apply to contributions financed out of a reduction in bonus payments as well as out of a reduction in other forms of compensation. The only modification in this rule is that where an individual is not covered by a qualified plan, a Government plan, or a section 403(b) annuity plan, employer contributions of up to $1,000 per annum can be made to an individual retirement savings account under a salary reduction arrangement. Income earned on amounts contributed under a salary reduction plan prior to 1974 will for the future remain tax exempt as also will the earnings on these amounts.

### SECTION 403(b) ANNUITY PLANS

Under present law, the proceeds of a section 403(b) annuity plan, for the benefit of teachers or employees of tax-exempt organizations, may be invested only in insurance contracts. Because it would be desirable to provide more flexibility in this area, the amendment provides that the assets of these accounts may also be invested in mutual funds, under appropriate custodial restrictions.

### LUMP-SUM DISTRIBUTIONS UNDER QUALIFIED RETIREMENT PLANS

The amendment also provides a new improved method of taxing benefits which are distributed or paid in a lump sum from a qualified plan within 1 year on account of death or separation from service. It is widely acknowledged that the present treatment of lump sum distributions which was adopted under the 1969 Tax Reform Act has not proven effective. The present treatment, which taxes the part of the lump sum distribution that represents employer contributions accrued in plan years beginning after 1969 as ordinary income under a special, 7-year-averaging procedure, was designed to provide more equitable treatment than the prior capital gains treatment which provided undue tax advantages to high income people. However, the 1969 change has proven to be so complex as to be unworkable. For example, the Treasury has had great difficulty in providing regulations to carry out this provision. Problems have arisen both in determining the amount of the ordinary income element of a distribution and in determining the precise amount of tax imposed on account of the "ordinary income" element. Moreover, in practice the new proposed regulations have proved to be very complex and it is frequently maintained that individuals receiving lump sum distributions have been unable to compute their taxes and that accountants and tax lawyers have been refusing to attempt the computations.

This situation cannot be permitted to continue. For this reason, the amendment provides a new method of taxing lump-sum pension distributions which is relatively simple and yet at the same time equitable. Under the new provision, that portion of the distribution representing the pre-1974 value receives capital gains treatment. The balance of the lump sum distribution is to be taxed as ordinary income under a separate tax schedule—the tax schedule applicable to single people—generally without reductions, exclusions, or consideration of the taxpayer's other income. However, to insure that the tax paid by lower income individuals on their lump sum distributions will generally not be more than under present law, a special minimum distribution allowance is provided under the separate tax rate schedule. In addition, averaging relief is provided for the portion of the lump sum distribution which is taxed as ordinary income under the separate tax rate schedule by providing 15-year averaging for such income. This, in effect, provides a tax payable at the time of the distribution, but no greater in amount than the taxpayer could expect to pay were the income to be spread over his remaining life expectancy.

This new improved treatment of lump sum distribution from retirement plans is effective January 1, 1974. It is expected to result in relatively small increases in revenue over the next few years since the bulk of the lump sum distributions in these years will be attributable to pre-1974 years. However, after a transition period, this provision is expected to result in annual revenue gains amounting to $35 million a year based on 1973 levels of income.

### MISCELLANEOUS PROVISIONS

The amendment also contains a number of miscellaneous provisions which are designed to improve the operation of qualified plans. These include the following changes.

First. Removal of the 5-percent deduction limitation on contributions to qualified pension plans. At present contributions to a pension plan are deductible under three alternative provisions, the "5-percent" method which allows deductions to be taken for contributions not in excess of 5 percent of the annual compensation of the covered employees, the "level cost" method, and the "normal cost" method.

Unlike the "level cost" method and the "normal cost" method, the 5-percent limitation on contributions is often unrelated to the funding needs of the pension plan, for it frequently is not determined by the level of benefits provided by the plan. Consequently, the 5-percent method has allowed employers to contribute and deduct more than is reasonably needed to fund a pension plan.

The amendment repeals the 5-percent deduction limitation. Thus, deductible contributions under a qualified pension plan are to be limited under either the "level cost" or the "normal cost" methods.

Second, retroactive remedial changes to qualified plans. Employers may now retroactively cure defects in employee benefit plans—which do not meet the requirements for tax qualification—by making remedial amendments by the 15th day of the 3d month after the end of the taxable year of the employer in which a plan is newly established. Retroactive remedial changes, however, may not be made with respect to plan amendments.

An additional problem is that even in the case of new plans, the time allowed for remedial changes may be too short for a plan to be cured to qualify as of the year in which it is established.

The amendment provides that retroactive remedial amendments may be adopted to cure a plan regardless of whether failure occurs on establishing a new plan or because of an amendment of an existing plan. The amendment also extends the time to adopt a retroactive remedial amendment to the time—including extensions—for filing the employer's return for the taxable year for which the plan or amendment was put into effect, or to a later time designated by the service. It is expected that the regulations will provide for extension for reasonable cause, such as the filing of a bona fide request for a determination by the service that a plan or plan amendment is qualified.

Third. Reporting and publication of returns. In order that many of the new rules governing qualified plans may be enforced, new reporting and publication requirements are needed.

The amendment restates present law by requiring employers—or plan administrators—who establish or maintain deferred compensation plans to file annual information returns. In addition, the amendment extends this requirement to individuals who establish individual retirement accounts and individual bond purchase plans. Also, to enable the Internal Revenue Service to enforce the limits on contributions to individual retirement accounts, the amendment requires additional information from persons who pay wages to individuals covered under qualified plans.

The amendment makes certain information returns open to inspection by proper officers of the Pension Benefit Guaranty Corporation, in order that the corporation can properly administer the insurance program. In addition, the amendment opens to public inspection applications for a determination that a plan is qualified and that the trust under the plan is exempt, except for plans where the employer has less than 26 employees; annual returns with respect to qualified plans are also open to public inspection. These rules enable plan participants and beneficiaries to easily obtain the full information needed to enforce their plan rights, pursuant to the new rules established in the amendment. With respect to plans of smaller employers, this information will be available only to participants and beneficiaries from the employer and the service; this limitation is established because of the more confidential nature of small business.

The amendment establishes a penalty for failure to file annual returns; the penalty will be $10 for each day that a return is late, up to a maximum penalty of $5,000 for any one failure to file. However, this penalty will not be owed if failure to file is shown to be due to reasonable cause.

Mr. President, I call attention to the absence of a quorum.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield 5 minutes out of my time to the distinguished Senator from Ohio (Mr. TAFT).

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I was pleased to see the distinguished majority leader, Senator MANSFIELD, lay down S. 4 for consideration by the Senate. My colleagues and I on the Labor and Public Welfare Committee have worked over 3 years on this legislation. I would especially single out the distinguished chairman of the committee, Senator WILLIAMS, and the distinguished ranking minority member of the committee, Senator JAVITS, for their leadership on this legislation. I have been privileged to work with both Senators WILLIAMS and JAVITS, and other members of the committee on this issue and am a cosponsor of the measure before us, the Retirement Income Security Act, S. 4.

Enactment of this legislation, I believe, is vital to all American workingmen and women, executives as well as blue collar employees. Private pension plans have become an integral and important part of the future financial security of millions of Americans. Today there are 33,000 private pension plans in this country which affect approximately 35 million participants. These pension programs currently represent an investment of $150 billion and this figure is expected to reach $240 billion by 1980. Unfortunately, during the first 6 months of 1972, 8,400 participants in pension plans lost $20 million in pension benefits due to plant terminations alone. This fact, I think, underlines the necessity for constructive guidelines in this area.

The major points, I believe, that are necessary for sound pension reform are contained in S.4, but I would like to emphasize a few areas which I feel are very important as we proceed with consideration of this legislation as now amended by the amendment of the Senator from Wisconsin (Mr. NELSON) embodying the various compromise provisions.

The first area is that of fiduciary standards. I believe that this point is very crucial for constructive legislation and that S. 4 takes a very sound approach to establish proper fiduciary standards for managers of pension plan assets. There are, however, two points where I feel slight adjustments must be made with regard to fiduciary standards.

The first is that of investment in employer securities by a pension plan. S. 4 as reported, would permit investment up to 10% of the assets of a pension plan in employer securities. I believe this is a sound and sensible approach and have offered an amendment, No. 480, to S. 1179, to permit such transactions. As I understand it, the amendment of the Senator from Wisconsin (Mr. NELSON) arrives at a compromise position on this issue which seems to be reasonably satisfactory.

Second, I believe that an adjustment is necessary in S. 4 with respect to lease transactions by managers of pension plans. Lease transactions between pension plans and employers should not be strictly prohibited if proper safeguards are met. I earlier offered Amendment No. 479 to S. 4 to make the necessary adjustments on this point and will discuss this issue at length later in the consideration of this substantive legislation when we have had a chance to study this particular point.

The next major area necessary for constructive pension reforms is plan termination insurance. Both S. 4 and S. 1179 contain sections—and I believe the substitute contains sections—that would establish a termination insurance plan similar to the FDIC system currently being employed for financial institutions. I believe this concept is necessary and favor the provisions in S. 4 with respect to this point, as was brought out by the Senator from Indiana (Mr. HARTKE) in his questioning earlier today about the Studebaker case that particularly stands out as a very unfortunate situation. There are many other similar cases where plants have been terminated and those on pensions have received less than they were getting or expected to get, and those who had vested rights found that those vested rights were equally cut to a large degree.

Third, I believe adequate provisions must be made for funding of pension plans. I believe S. 4 adequately covers this question, with the exception of the section for absorbtion of experienced actuarial deficiencies. S. 4 would only provide 5 years to correct such actuarial deficiencies as opposed to a 15-year period provided in S. 1179.

I understand also that this has been worked out in a compromise form and the 15-year figure in the substitute now before us as offered by the Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TAFT. Mr. President, I yield myself an additional 2 minutes.

Mr. NELSON. Mr. President, may I interrupt the Senator for one moment? How much time is left on this side?

The PRESIDING OFFICER. Eighteen minutes.

Mr. NELSON. I thank the Chair.

Mr. TAFT. Mr. President, fourth, it is extremely important to provide adequate provisions for vesting. I believe S. 4 provides such a procedure and is superior to the companion provisions in S. 1179. We are still examining the substitute in this regard and I believe it is satisfactory.

Earlier I referred to statistics for the first 6 months of 1972 regarding loss of pension benefits. These statistics, however, really do not reflect the personal tragedies that many Americans have experienced with regard to termination or reduction of their pension benefits. My office has received hundreds of letters over the last 3 years portraying personal tragedies. I would like to share one of them with the Senate this morning—a letter from Mrs. Dale Andreas of Dover, Ohio. Mrs. Andreas states in referring to the necessity of an adequate pension reform legislation:

> My husband began his employment with the former Marsh Wall Products, now a division of a national corporation. In 1933, two years after the plant started in business. He had just graduated from Dover High School and began working the next day. He helped build this plant into a multi-millionaire corporation with many years of employment as a reliable, dedicated and loyal employee. He became a salaried employee and a production foreman about 25 years ago. He has been with the company 39 years. He is now 58 years old.
>
> Last February 4, 1972, he was abruptly terminated by a newly-hired production manager.
>
> Terminated, along with my husband, were other salaried employees who also had been employed for thirty-three down to fifteen years with this company. All were in the 50-plus age group. They were terminated, without cause, given no reason.
>
> These men have lost their jobs, insurance, and pension benefits which they could have collected at 65, had they continued to work.
>
> My husband, the *only* older employee, had a vested interest in his pension, so he accepted (forced to) early retirement. Instead of the $400.00 he would have been entitled to at age 65, he had to accept $150.00.
>
> Now at age 58, at a time my husband should be looking forward to a comfortable retirement at age 65, he has had to accept a laboring job at $2.85 an hour, just to buy food and pay the utilities and insurances. We still have a mortgage on our home and a son in high school (a senior next year). We had hoped to send him to college.

Unfortunately, I had to reply to Mrs. Andreas that there was no Federal legislation that would protect her husband, but I am hopeful that the replies I send to similar letters in the future will be positive. I ask unanimous consent that Mrs. Andreas' letter be printed in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DOVER, OHIO, *June 1, 1972.*

Senator ROBERT A. TAFT, Jr.,
*Cincinnati, Ohio.*

DEAR SIR: I just read with great interest in the morning Plaindealer that you are holding hearings about private pension programs in Cleveland on Monday, June 5, 1972.

I would like to relate to you what happened to my husband and many other employees of Marlite Division of Masonite Corporation in Dover, Ohio, and in other branches of this Division.

My husband began his employment with the former Marsh Wall Products, now the Marlite Division of Masonite, in 1933, two years after the plant started in business He had just graduated from Dover High School and began working the next day.

He helped build this plant into a multimillionaire Corporation with many years of employment as a reliable, dedicated and loyal employee. He became a salaried employee and a production foreman about twenty-five years ago. He has been with the Company thirty-nine years. He is now fifty-eight years old.

Last February 4, 1972, he was abruptly

terminated by a newly-hired production manager. Terminated, along with my husband, were other salaried employees who also had been employed for thirty-three down to fifteen years with this company. All were in the fifty-plus age group. They were terminated without cause—given no reason.

My husband and I feel sure it was done to remove these men, who would soon be eligible for pensions, from the pension and insurance programs. They lost their group life, hospitalization, and extended medical insurance, and were given the "generous" option of leaving their contributions in the pension fund until they were sixty-five and receiving a much reduced pension; or withdrawing now what they had contributed.

These men have lost their jobs, insurance, and pension benefits which they could have collected at sixty-five, had they continued to work.

At the same time (within about six to nine months period that these older men were terminated, they were hiring younger men. Of course, it will be many years before they will be eligible for pensions. No doubt, this action by the Company, increases the pension benefits for the Corporate Executives while denying them to the rightful lower echelon employees.

My husband, the only older employee, had a vested interest in his pension, so he accepted (forced to) early retirement. Instead of the $400.00 he would have been entitled to at age 65, he had to accept $150.00.

I understand there is a law passed by Congress in 1968, "The Age Discrimination in Employment Act," which should prohibit this Company from terminating this group of men.

Mr. Samuel Gruly, the immediate President of Masonite Corporation (became Pres.) 1971 was the former Pension Administrator. That suggests to me that he was the mastermind behind this scheme to remove these men from the pension program.

Now at age fifty-eight, at a time my husband should be looking forward to a comfortable retirement at age sixty-five, he has had to accept a laboring job at $2.85 an hour, just to buy food and pay the utilities and insurances. We still have a mortgage on our home and a son in High School—(a senior next year). We had hoped to send him to college. He is a member of the National Honor Society, a good boy of whom we are proud. My husband has always been a hard-working man, good to his family and greatly respected in this community where he has lived all his life. He and a sister have taken care of his widowed mother since 1937. They have kept up her home for her and contributed to her comfort and well being. She gets a minimum Social Security, her only income. She has never had public assistance. She is now 80 years old. Her husband was killed in an accident on a dangerous saw at the Marsh Lumber Company in Dover, which was owned by or affilitated with the former Marsh Wall Products.

Please excuse this hurriedly written letter. I wanted to get it in the mail immediately so it may reach you before the hearings.

I am sure if Masonite's records were checked, you would find a very large percentage of men in the fifty-plus age group have been terminated in the past year. Some were demoted and there was a general mistreatment of the men prior to termination.

I am sure the company will try to present plausible excuses for their actions. But, being a victim, I know the reason for this immoral, irresponsible and despicable treatment, of long term, hard working employees. My husband donated many, many hours of time for the good and continued progress of that Company.

Respectfully yours,
MRS. DALE I. ANDREAS.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield myself 10 minutes.

Mr. President, in a press release I issued jointly with Senator WILLIAMS last night, we stated that we had agreed to unite behind a good, strong bill that will achieve the goal we all seek—protection of retirement benefits for those nearly 36-million American workers covered by private pension plans.

I believe that the Senate will also achieve the same goal if it accepts the compromise that we have worked out from the Senate Labor and Public Welfare and Senate Finance Committee pension bills.

I think it is a great thing that we have been able to arrive at common objectives with respect to a pension bill, because much needs to be done to improve private pension systems in the United States. Let me cite some examples.

Despite the rapid growth in retirement plan coverage in recent years, one-half of all employees in private nonagricultural employment are still not covered by retirement plans.

Although over two-thirds of the private pension plans presently provide some vested rights to benefits before retirement, as a general rule employees do not acquire vested rights until they have accumulated a long period of service. At present, only one out of every three employees covered under pension plans has a 50 percent or greater vested right to his accrued benefits. Moreover, even among those between age 50 and 60, 58 percent do not have a vested right to 50 percent of their accrued benefits.

In still another area, that of funding, much remains to be done. A 1970 study of 469 plans indicated that one-third of the plans in the study reported a ratio of assets to accrued liabilities of 50 percent or less and 7 percent of the plans actually had a ratio of assets to accrued liabilities of 25 percent or less.

The need for termination insurance is shown by the fact that in 1972 there were over 1,200 plan terminations, resulting in a loss of $49 million of benefits by nearly 20,000 pension participants. The average loss of benefits for the participants amounted to $2,500. It is, of course, true that this represents a small percentage of the workers covered by pension plans, but it still shows that a significant number suffered losses and that there is a need to provide protection against these losses.

We also have heard of examples of the misuse or self-dealing in pension assets. This, too, is something that we certainly must stop.

It seems to me that all of these factors suggest that we must find ways of improving the private pension system.

Both of the bills, the Senate Labor and Public Welfare Committee bill and our bill from the Finance Committee, deal with the problems that I have talked about. Actually, in many respects, the treatment that we provide, in most of the areas I have discussed, is similar.

We were convinced in our committee, however, that the administration of many of these provisions could better be handled through the Internal Revenue Service, which already has substantial administrative duties to perform in examining pension plans. The Senate Labor and Public Welfare Committee, in the interest of finding a common solution to this problem, graciously yielded to us in the administration of the vesting and funding provisions. At the same time, in examining their proposals in the area of fiduciary responsibility, we, too, found that there was much to be said for the Labor Committee position which gave the Department of Labor the primary role in this respect.

In many other areas we also compromised our differences. This has been indicated both in the statement presented to the Senate by Senator NELSON and in the press release on the desk of each Senator, prepared by Senator WILLIAMS and myself. In reaching these agreements, we have tried to do so on a basis that will bring the best possible results for everyone in the pension system.

In the development of this compromise position, I would like to acknowledge the truly constructive attitude of the Senator from New Jersey (Mr. WILLIAMS), the Chairman of the Senate Labor and Public Welfare Committee, and the Senator from New York (Mr. JAVITS), the ranking minority member. I believe that they have taken a really objective attitude in helping develop a common position on this pension legislation. At the same time, Senator WILLIAMS and Senator JAVITS also have been pioneers in this area, and they deserve a major portion of the credit for the fact that the pension legislation is before the Senate today. It will be recalled that this is not the first bill which they have developed in this area and their research on pension legislation has been a major factor in providing all of us with a store of knowledge which has enabled us to arrive at the point where we are today.

At the sime time, I also want to acknowledge the very substantial efforts of three members of the Senate Finance Committee who also have taken leadership roles in the development of this pension program. One of these is the junior Senator from Texas (Mr. BENTSEN), who developed the first approach toward adapting many of the concepts in the S. 4 legislation to procedures administered by the Internal Revenue Service. It was his bill that the committee elected to report with the committee amendments.

I also want to acknowledge the very substantial leadership provided by the Senator from Wisconsin (Mr. NELSON), who is chairman of the Finance Committee Subcommittee on Private Pension Plans. Senator NELSON's subcommittee held extensive hearings both in and out of town on the tax treatment of pensions. Included in his hearing was an excellent set of panel discussions. These hearings enabled the Finance Committee members to focus their attention on the real issues in the pension bill reported by the Finance Committee. Because of his leadership in this regard I asked Senator NELSON to manage the bill on the Senate floor, in so far as the Finance Committee was concerned.

The Senator from Nebraska (Mr. CURTIS) also deserves substantial credit for the development of this legislation.

He served as the ranking minority member of the Subcommittee on Private Pension Plans, and he introduced a bill on this subject which had an important influence on the direction the Finance Committee took in this regard. His bill, for example, showed us ways of enforcing provisions against self-dealing by means of the imposition of excise taxes. Senator CURTIS also took the leadership in the committee in developing the provision which makes up to $1,000 available as a retirement set-aside for persons not covered under any pension system. I am pleased that I was able to help develop this provision into a practicable form.

As I hope Senators can see from what I have said, the efforts on this legislation have been monumental on the part of many Members, and I believe that the spirit of cooperation and compromise which has been shown in the development of this legislation has been outstanding.

I believe the bill agreed upon by the committee members in the compromises is a very good one, and it is one on which I recommend favorable action by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LONG. On the time of the Senator from Wisconsin.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## DEATH OF CHARLTON H. LYONS, SR.

Mr. LONG. Mr. President, last month Louisiana's "Mr. Republican" passed away at age 78. Charlton H. Lyons was one of my State's most influential citizens, a dedicated American who believed in those things that have made this country great. We all are deeply indebted to him for his leadership throughout the years. Although he was a member of one party and I a member of another, I was privileged to work with him on many measures for the good of this Nation.

Although Charlton Lyons will be most frequently remembered as Louisiana's "Mr. Republican," he was a strong advocate of the two-party system in our State. He will also be remembered as a "statesman," a word that is often misused; but, in his case, it is not. Charlton Lyons was a statesman of the highest order. He never compromised principle, earning the respect and admiration of all who knew him.

Another overused term is "civic leader;" but, again, in the case of Charlton Lyons, it is not. A few of his many contributions to his community include the establishment of the Marjorie Lyons Playhouse, dedicated to his beloved wife, on the campus of Centenary College; his successful fundraising efforts to achieve a higher standard of education; his leadership as a vestryman at St. Mark's Episcopal Church; and his organization of the committee of the public affairs research council. And, Mr. President, these are but a few of many. His was a life dedicated to public service. In the words of my colleague, Congressman JOE D. WAGGONNER:

> His contributions to his fellow man and his country were legion. He not only believed in that which was right, he practiced and lived it as well.

Charlton Lyons will be greatly missed, not just by his family and many friends—those of us who were privileged to know him personally throughout the years—but by many in our State and throughout the country. His achievements will become a part of the history of Louisiana.

Mr. President, I ask unanimous consent to place in the RECORD, at this point, two editorials from his hometown newspapers, the Shreveport Times and the Shreveport Journal:

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

### CHARLTON H. LYONS, SR.

SHREVEPORT.—Indeed Louisiana and the nation—has lost a patriarch of the first order.

Charlton H. Lyons Sr., at the time of his death Wednesday, had authored a personal history of achievement and integrity of rare degree.

He was the personification of the American success ethic.

Mr. Lyons, 78, will be most frequently remembered as Louisiana's "Mr. Republican" because it was his personal efforts that breathed new life into the party in the early 1960s, but his larger role was that of a statesman.

"Statesman" is an often overused, often misused, word in describing men. The term should be reserved for only the very few who distinguish themselves in every phase of life without the compromise of principle at any point.

#### HAD STATESMANLIKE QUALITIES

Charlton Havard Lyons Sr. met that definition head-on. His qualifications as a true statesman are impeccable.

The personal respect which he earned wherever he went, in whatever he did, was legendary within his lifetime.

A native of Abbeville, he earned undergraduate and law degrees from Tulane University while working part-time as a shipping clerk, telephone lineman, dragline operator and laborer overhauling cypress oil tanks.

He practiced law in Winnfield and Shreveport prior to entering the petroleum business in about 1930.

His was a remarkable story of success in that area as one of North Louisiana's pioneering giants in the oil business. He became a wealthy man through his enterprises, and he was generous with his community in sharing that wealth.

#### BUILT MARJORIE LYONS PLAYHOUSE

His wife, the late Marjorie Hall Lyons, was a major joy of his life. The Marjorie Lyons Playhouse on the Centenary College campus, built with a $378,000 gift from Mr. Lyons, is a continuing monument to that love.

Throughout the years Charlton Lyons was one of the area's top civic leaders, but his chief contributions to the state came at the point in life when most men retire from the rigors of centerstage involvement.

On Sept. 25, 1960, just past his 65th birthday, Mr. Lyons announced that he was leaving the Democratic party after 45 years of membership in that party, and was becoming a Republican.

It was his sincere view that the party of his forefathers had deserted both him and the nation.

"I have been a member of the Democratic party since 1915, when first eligible to vote. Recent events, however, make it impossible for me to march another step under the banner of the Democratic party," he said in a statement to The Shreveport Times.

The Lyons party change marked the genesis of new progress for the Republican party in Louisiana, a march which culminated in last year's election of Republican David Treen to Congress.

#### PROVIDED PARTY LEADERSHIP

Charlton Lyons provided the leadership toward two-party parity in the state for many years, and in 1964, he was the Republican candidate for governor against John McKeithen. In that election he won 39 per cent of the statewide vote—a previously unheard of showing for a Republican in Louisiana in this century.

His home district heaped great honor upon him in that election and Caddo Parish gave him a 71 per cent majority in that election.

The loss of that election, however, was the impetus for future growth in the party.

Mr. Lyons served as GOP national committeeman from Louisiana and was also state party chairman for many years.

He was frequently honored by his fellowmen with high office in civic and business organizations, and he was a vestryman at St. Mark's Episcopal Church.

#### IN MAINSTREAM OF HUMAN EVENTS

Charlton Lyons poured his life into the mainstream of human events.

He was a partisan, but his partisanship was not so much expended for party as it was for Americanism.

He was one of the great conservative spokesmen this state has produced. During his almost fourscore years he spoke up with conviction for those things in which he believed and in that respect he spoke very eloquently for this area and its philosophy.

Charlton Lyons was a very large and impressive man but his stature was enhanced by a kind and gentle spirit which showed through in compassion for his fellowmen.

He will be long remembered for the many kindnesses and achievements of his life, and he will be missed by the many thousands of friends who survive him.

The Times extends its sympathies to his two sons, Charlton Lyons Jr. and Hall McCord Lyons; his sister, Mrs. M. Logan, and their families.

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### CHARLTON H. LYONS SR.

The death of Charlton H. Lyons Sr. takes from our midst a man whose outward appearance was that of a kindly senior citizen, but whose inner energies, convictions and determination made him an influential figure at very high levels.

Mr. Lyons first achieved success in the competitive field of the law, next in the steely world of business and finally in the hurly-burly of politics. Few men can make such a record and remain a man loved by the multitude. But, Charlton Lyons had the patience, the understanding and the regard for his fellow man that enabled him to be one who succeeded in all these areas where many failed or never tried.

As Congressman Joe D. Waggonner Jr. commented when informed of Mr. Lyons' passing: "Everyone called him 'friend' as I did. We sought the same political office in 1961 and although we were opponents we were not foes, we were friends. No man ever had a more honorable opponent. It was perhaps the cleanest political race ever run in the Fourth District of Louisiana and it was a tribute to Mr. Lyons. It was the kind of race which only men of Mr. Lyons' stature and character can make."

Born in Abbeville in 1895, Mr. Lyons was 78 when he passed away. He obtained a B.A. degree from LSU and later a law degree from Tulane University, often working as a shipping clerk, drag line operator or telephone linesman to help pay his expenses for college.

He was married to the late Marjorie Hall in August, 1917, and after being discharged from the Army in 1918 he set up law practice in Winnfield. He moved to Shreveport that same year, and practiced law here until he decided to devote full time to the oil business in 1930.

Mr. Lyons succeeded in the petroleum business and was a wealthy man for many years before his death. His influence in the oil business was nation-wide. He served as president of the Mid-Continent Oil and Gas Association and as president of the Independent Petroleum Association of America.

Fearing that the direction of American political philosophy was tending toward socialism and totalitarianism, Mr. Lyons began to take an interest in politics. After having been a member of the Democratic Party for 45 years he joined the Republican Party in 1960. He remarked that the Democratic platform of 1960 was a "veritable blueprint for a complete socialist state, if not, indeed, a totalitarian state."

From that day on he set about awakening the energies of conservative elements in the state and nation and also lent his time, money and energy to building a two-party system in the state. Mr. Lyons was a candidate for governor and for Congress and piled up vote totals for the Republicans unmatched by anything in Louisiana in this century.

Although he did not win public office himself, he succeeded in helping other Republicans into office and undoubtedly was the leading force in establishing the GOP on a firm basis in this state. In 1964 he became the Republican National Committeeman for Louisiana and was admitted to the highest national councils of the GOP.

In his statement following Mr. Lyons' death, Congressman Waggonner said "His contributions to his fellow-man and his country were legion. He not only believed in that which was right, he practiced and lived it as well." We have no words to better express our feeling about Charlton Lyons.

He is a man who will be missed. To his family and host of friends, The Journal wishes to express its deepest sympathy.

## ROUTINE MORNING BUSINESS

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements limited therein to 3 minutes, the period not to extend beyond 6 minutes.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO 9:30 A.M.

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. tomorrow.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATORS BENTSEN AND BAKER TOMORROW

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized under the standing order on tomorrow, the following Senators be recognized, each for 15 minutes and in the order stated: The Senator from Texas (Mr. BENTSEN) and the Senator from Tennessee (Mr. BAKER).

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## CONSIDERATION OF S. 4 TOMORROW

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that upon the completion of the aforementioned orders tomorrow, the Senate return to the consideration of the unfinished business, S. 4.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

**The ACTING PRESIDENT pro tempore** (Mr. NELSON) laid before the Senate the following letters, which were referred as indicated:

### PUBLICATION OF FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Hydroelectric Plant Construction Cost and Annual Production Expenses, 1971" (with an accompanying document). Referred to the Committee on Commerce.

### REPORT ON EXCESS DEFENSE ARTICLES DELIVERIES

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on deliveries of excess defense articles, during the fourth quarter of fiscal year 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

### REPORT ON ASSISTANCE-RELATED FUNDS OBLIGATED FOR CAMBODIA

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on the assistance-related funds obligated for Cambodia during the fourth quarter of fiscal year 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

### REPORT ON ADJUSTMENT OF STATUS OF AN ALIEN

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the adjustment of status of Vincenzo Zolfo, All 643 315. Referred to the Committee on the Judiciary.

### PROPOSED LEGISLATION FROM THE ATTORNEY GENERAL

A letter from the Attorney General, transmitting a draft of proposed legislation to amend Title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. NELSON):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION NO. 56

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 56, Vasconcellos. Roseville explosion.

"Memorializes the President and Congress to require that the reports of investigations concerning the Roseville disaster of April 28, 1973, include findings concerning the safety of munitions and explosives shipments through populated areas; that such reports be made available to the public; that a copy of each such report be transmitted to the Speaker of the Assembly and the Rules Committee of the Senate; and that the Interstate Commerce Commission, Federal Department of Transportation, Federal Hazardous Materials Regulation Board, and Federal Railroad Administration act to ensure that adequate safeguards are taken in the shipment of munitions and explosives through populated areas by rail pending the results of the investigations.

"Whereas, On Saturday, April 28, 1973, a train carrying United States Navy munitions exploded in the Roseville, California, railroad yard of the Southern Pacific Transportation Company resulting in personal injuries and extensive damage to property; and

"Whereas, The Federal Bureau of Investigation, several different branches of the Department of Defense, the Federal Bureau of Explosives, the Department of Transportation, the Federal Railroad Administration, and the Alcohol, Tobacco and Firearms Division of the Treasury Department are all conducting investigations; and

"Whereas, It is in the interest of all the people, as well as the public and private agencies directly involved, that the transportation of such munitions proceed in the future with safety and expediency; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to require that the reports of the investigations concerning the Roseville, California, disaster of April 28, 1973, include findings concerning the safety of munitions and explosives shipments through populated areas and recommendations whether such shipments should be prohibited; that all such reports be made available to the public; and that copies of the report of each such investigation be transmitted to the Speaker of the Assembly and the Rules Committee of the Senate, of the State of California; and be it further

"*Resolved*. That pending the results of such investigations, the Interstate Commerce Commission, the Federal Department of Transportation, the Federal Hazardous Materials Regulation Board, and the Federal Railroad Administration act to ensure that adequate safeguards are taken in the shipment of munitions and explosives by rail through heavily populated areas; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Chairman of the Interstate Commerce Commission, the Secretary of Transportation, the Chairman of the Hazardous Materials Regulation Board, and the Administration of the Federal Railroad Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the Twelfth Guam Legislature. Referred to the Committee on the Judiciary:

"RESOLUTION NO. 67

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the unique geographical situation of Guam, which is physically isolated and separated by thousands of miles of water from both the noncontiguous States of Alaska and Hawaii and the forty-eight coterminous States of the Mainland United

States, generates unique transportation needs for the people of Guam; and

"Whereas, surface water transportation, particularly from the major West Coast seaports, is the equivalent of Guam's life line for the supply of food and other essentials of life necessary to the people; and

Whereas, Hawaii, Alaska and other coastal states of the Union are also affected by the interruption of coastal and interstate commerce, and also those states surrounded on all sides by land when there is an interruption of surface commerce; and

"Whereas, during such interruptions of interstate surface transportation, air transportation is insufficient due to the lack of planes and is overly expensive in terms of cost to the people forced to rely on such air transportation during times of commercial emergency; and

"Whereas, the evident solution of this crisis is the enactment by the United States Congress of legislation which would help those regions affected by the interruption of commerce; and

"Whereas, the United States Congress, despite the immediate and imperative need therefor evidenced by long shipping strikes during the year of 1972, has failed to enact legislation to help landlocked and coastal states and Guam in times of commercial interruption; and

"Whereas, in the event of such congressional inaction, Article V of the Constitution of the United States grants to the states the right to initiate constitutional changes by applications from the Legislatures of two-thirds of the several states to the Congress, calling for a constitutional convention; and

"Whereas, the Congress of the United States is required by the Constitution to call such a convention upon receipt of applications from the Legislatures of two-thirds of the several states; now therefore be it

"Resolved, by the Twelfth Guam Legislature that, pursuant to Article V of the United States Constitution, the Twelfth Guam Legislature does hereby urge the Legislatures of each of the several states to call a convention for the sole and exclusive purpose of proposing a constitutional amendment which shall provide that those regions of the United States which are affected by an interruption of commerce may act by interrupting interstate commerce or by other means to alleviate the hardships created by such interruption of commerce and that states and territories affected by the interruption of commerce may come to the aid of each other; and be it further

"Resolved, that the Speaker shall certify and the Legislative Secretary attest the adoption hereof and that thereafter copies shall be transmitted to the Governor of each state and the presiding officer of each state Legislature and to every member of the Congress of the United States."

A resolution adopted by the State Council of West Virginia of the Junior Order United American Mechanics of the United States of North America, Martinsburg, W. Va., commending the President of the United States. Ordered to lie on the table.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 2174. A bill to amend the civil service retirement system with respect to the definitions of widow and widower (Rept. No. 93-395).

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

S. 2436. An original bill to authorize appropriations for the Department of State, and for other purposes (Rept. No. 93-396).

By Mr. CRANSTON (for Mr. KENNEDY), from the Committee on Labor and Public Welfare, with amendments:

S. 2410. A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems (Rept. No. 93-397).

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

Dixy Lee Ray, of Washington, to be the Representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency;

William A. Anders, of Virginia, to be alternate representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency;

Clarence E. Larsen, of Maryland, to be alternate representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency;

Dwight J. Porter, of Nebraska, to be alternate representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency; and

Gerald F. Tape, of Maryland, to be alternate representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Robert N. C. Nix, U.S. Representative from the State of Pennsylvania; and

John H. Buchanan, Jr., U.S. Representative from the State of Alabama, to be representative of the United States of America to the 28th session of the General Assembly of the United Nations.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

John A. Scali, of the District of Columbia, to be a representative of the United States of America to the 28th session of the General Asesmbly of the United Nations;

W. Tapley Bennett, Jr., of Georgia, to be a representative of the United States of America to the 28th session of the General Assembly of the United Nations;

William F. Buckley, Jr., of Connecticut, to be a representative of the United States of America to the 28th session of the General Assembly of the United Nations;

Margaret B. Young, of New York, Mark Evans, of the District of Columbia, William E. Schnaufele, Jr., of Ohio, Clarence Clyde Ferguson, Jr., of New Jersey, and Richard M. Scammon, of Maryland, to be alternate representatives of the United States of America to the 28th session of the General Assembly of the United Nations;

Marshall Trammell Mays, of South Carolina, to be President of the Overseas Private Investment Corporation;

Roger Kirk, of Michigan, a Foreign Service Officer of class two, to be Ambassador Extraordinary and Plenipotentiary to the Somali Democratic Republic;

Herbert Salzman, of New York, to be a member of the Board of Directors of the Overseas Private Investment Corporation;

Theodore L. Eliot, Jr. of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Afghanistan;

Ellsworth Bunker, of Vermont, to be Ambassador at Large;

Carol C. Laise, of Vermont, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State;

James E. Akins, of Ohio, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Saudi Arabia;

Anthony J. Jurich, of Virginia, U.S. Negotiator on Textile Matters, for the rank of Minister;

Arthur F. Burns, of the District of Columbia, to be U.S. Alternate Governor of the International Monetary Fund;

William J. Casey, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development; U.S. Alternate Governor of the Inter-American Development Bank; and U.S. Alternate Governor of the Asian Development Bank;

Robert G. Neumann, of California, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Morocco;

W. Tapley Bennett, Jr., of Georgia, a Foreign Service Officer of the class of Career Minister, to be the Deputy Representative of the United States of America to the United Nations;

William E. Schaufele, Jr., of Ohio, a Foreign Service Officer of class 1, to be Deputy Representative of the United States of America in the Security Council of the United Nations;

Clarence Clyde Ferguson, Jr., of New Jersey, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador; and

Barbara M. White, of Massachusetts, a Foreign Service Information Officer of the class of Career Minister for Information, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar, as indicated:

By Mr. HATFIELD:

S. 2427. A bill to provide for civil suits against the United States on tort claims arising out of the loss, miscarriage, or negligent transmission of letters or postal matter. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 2428. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, to provide for public disclosure of the fuel consumption rate of every new automobile, and for other purposes. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 2429. A bill to authorize the conveyance of certain lands to the New Mexico State University, Las Cruces, N. Mex. Referred to the Committee on Interior and Insular Affairs.

By Mr. BROCK:

S. 2430. A bill to protect the consumer against worthless money orders, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 2431. A bill to provide for the licensing by the District of Columbia of the business of selling, issuing, or delivering checks, drafts, and money orders as a service or for a fee or other consideration in the District of Columbia, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. ERVIN (for himself, Mr. Muskie, Mr. Metcalf, Mr. Chiles, Mr. Mathias, Mr. Fulbright, and Mr. Mansfield):

S. 2432. A bill to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees. Referred to the Committee on Government Operations.

By Mr. CRANSTON (for himself and Mr. Williams):

S. 2433. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program. Referred to the Committee on Labor and Public Welfare.

By Mr. BENTSEN:

S. 2434. A bill to require the Department of Transportation, the Interstate Commerce Commission and Department of Agriculture jointly investigate certain interstate freight rates. Referred to the Committee on Commerce.

By Mr. PACKWOOD (for himself and Mr. Bennett):

S. 2435. A bill to authorize and direct the Administrator of the Environmental Protection Agency to accept certain applications for the registration of DDT as an insecticide to be used to control the tussock moth as a threat to forest lands. Referred to the Committee on Agriculture and Forestry.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

S. 2436. An original bill to authorize appropriations for the Department of State, and for other purposes. Placed on the calendar.

By Mr. CANNON:

S.J. Res. 155. Joint resolution authorizing the securing of storage space for the U.S. Senate, the U.S. House of Representatives, and the Office of the Architect of the Capitol. Referred to the Committee on Rules and Administration.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2427. A bill to provide for civil suits against the United States on tort claims arising out of the loss, miscarriage, or negligent transmission of letters or postal matter. Referred to the Committee on the Judiciary.

Mr. HATFIELD. Mr. President, a frequent complaint voiced against the U.S. Postal Service regards the damage, miscarriage, or loss of mail while under its control. Sometimes these problems can be attributed to the negligence of Postal Service employees, but unless the affected mail is insured beforehand, individuals who suffer damage have no recourse to make claims against the Government.

Mr. President, the Congress has recognized the need to make Federal agencies liable for the acts of their employees during the performance of duty. Under the Federal Tort Claims Act, individuals may claim damages against an agency for the negligence of agency employees, and if those claims are adjudged to be proper, recovery in some form can be made. Prior to the Postal Reorganization Act, such claims could also be made against the Post Office Department. Presently, however, the Postal Service has no liability of this type.

Mr. President, the bill which I am introducing today will once again subject the U.S. Government to civil suits flowing from the loss, miscarriage, or negligent handling of letters and other postal matter.

Many persons share the view that, in recent times, the Postal Service has not been sufficiently accountable to its customers. The legislation which I propose represents one means by which this accountability can be increased and strengthened.

I ask unanimous consent that the text of my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2427

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 2680(b) of title 28, United States Code, is repealed.

(b) The repeal made by subsection (a) shall not apply to any civil action on a tort claim arising prior to the date of enactment of this Act.

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By Mr. PERCY:

S. 2428. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, to provide for public disclosure of the fuel consumption rate of every new automobile, and for other purposes. Referred to the Committee on Finance.

Mr. PERCY. Mr. President, I introduce for appropriate reference a bill to impose a sliding scale tax on new automobiles based on their fuel consumption rates.

The purposes of the bill are to encourage the development, manufacture, and importation of automobiles which efficiently consume fuel, to increase revenues which could be devoted to energy research or other vital national needs, and to stimulate the conservation of energy.

The bill would require the Department of Transportation to test new cars for fuel economy beginning in 1976, and to publish a fuel consumption schedule for each make, model, and engine configuration. The tests would be conducted under normal city and highway driving conditions, using ordinary auto fuel.

Beginning in 1976, a tax would be imposed on the manufacturers or importers of all new cars with fuel consumption rates of less than 20 miles per gallon, as determined by the Department of Transportation. The tax would be on a sliding scale with a maximum of $381 for a car with a fuel consumption rate of 5 miles per gallon or less.

In 1981, the tax would be extended to cover all new cars with fuel consumption rates of less than 25 miles per gallon and the rates would increase sharply. This would be a strong incentive for the development of more efficient engines and the manufacture of smaller, lighter, more energy-efficient automobiles. Beginning in 1981, the maximum tax on a new car would be $1,090.

The bill would also require new car labels to state the fuel consumption rate, as determined by the Department of Transportation, and the tax paid on the car.

Mr. President, this bill would benefit consumers by providing an incentive for the production of cars with better gas mileage, and by providing consumers with information on the gas mileage they can expect before they buy a new car.

At the same time, the bill would serve the national interest by stimulating the conservation of our scarce petroleum resources. In view of the enormous projected increase in demand for oil and other forms of energy, it is imperative that we as a Nation begin to live by the "energy conservation ethic." This bill would be a step in that direction.

Mr. President, I am hopeful that this bill will receive early consideration by the Senate, as I feel that this specific proposal can help focus attention on a growing national problem and the range of solutions that are available to us. I would obviously prefer voluntary action by the American automobile industry to achieve this goal and make such legislation unnecessary, but we must do something, because to continue on our present course without change would be unconscionable and stupid.

Mr. President, I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2428

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the purposes of this Act are to encourage the development, manufacture, and importation of automobiles which efficiently consume fuel, to increase revenues which could be devoted to energy research or other vital National needs, and to stimulate the conservation of energy.

Sec. 2. (a) Part I of subchapter A of chapter 36 of the Internal Revenue Code of 1954 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"Sec. 4064. Automobile Fuel Consumption Tax.

"(a) Imposition of Tax.—There is hereby imposed upon every new automobile manufactured, produced, or imported a tax at whichever of the following rates is applicable with respect to the fuel consumption rate (as determined under subsection (b)) of such automobile:

"(1) for the period beginning July 1, 1976, and ending June 30, 1981:

| If the consumption rate, mpg, is: | The tax is: |
|---|---|
| Over 20 | $0 |
| Over 19 but not over 20 | 6 |
| Over 18 but not over 19 | 12 |
| Over 17 but not over 18 | 21 |
| Over 16 but not over 17 | 30 |
| Over 15 but not over 16 | 39 |
| Over 14 but not over 15 | 48 |
| Over 13 but not over 14 | 60 |
| Over 12 but not over 13 | 72 |
| Over 11 but not over 12 | 87 |
| Over 10 but not over 11 | 105 |
| Over 9 but not over 10 | 126 |
| Over 8 but not over 9 | 153 |
| Over 7 but not over 8 | 186 |
| Over 6 but not over 7 | 228 |
| Over 5 but not over 6 | 288 |
| Not over 5 | 381 |

"(2) for the period beginning July 1, 1981:

| If the consumption rate, mpg, is: | The tax is: |
|---|---|
| Over 25 | $0 |
| Over 24 but not over 25 | 10 |
| Over 23 but not over 24 | 20 |
| Over 22 but not over 23 | 30 |
| Over 21 but not over 22 | 40 |
| Over 20 but not over 21 | 50 |
| Over 19 but not over 20 | 65 |
| Over 18 but not over 19 | 80 |
| Over 17 but not over 18 | 100 |
| Over 16 but not over 17 | 125 |
| Over 15 but not over 16 | 155 |
| Over 14 but not over 15 | 190 |
| Over 13 but not over 14 | 230 |
| Over 12 but not over 13 | 275 |
| Over 11 but not over 12 | 325 |
| Over 10 but not over 11 | 380 |
| Over 9 but not over 10 | 440 |
| Over 8 but not over 9 | 515 |
| Over 7 but not over 8 | 605 |
| Over 6 but not over 7 | 720 |
| Over 5 but not over 6 | 875 |
| Not over 5 | 1090 |

"(b) Determination of Fuel Consumption Rate.—The fuel consumption rate of new automobiles taxable under subsection (a) shall be determined solely on the basis of the Automobile Fuel Consumption Schedule prepared by the Secretary of Transportation.

"(c) Liability for Payment.—The tax imposed by this section shall be paid by the manufacturer, producer, or importer at such time and in such manner as the Secretary shall prescribe.

"(d) Definitions.—For the purposes of this section—

"(1) the term 'new automobile' means every internal combustion engine powered vehicle designed for use on the highway which has never been transferred to the ultimate purchaser, and

"(2) the term 'ultimate purchaser' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale."

(b) The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 4064. Automobile fuel consumption tax.".

(c) The amendments made by this section shall take effect on July 1, 1976.

Sec. 3. (a) The Secretary of Transportation (hereinafter, "Secretary") shall, from time to time, study and investigate the fuel consumption rates of automobiles which are subject, or may be subject, to the tax imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel consumption taxes).

(b) The studies and investigations conducted under subsection (a) shall include tests—

(1) of each automobile model subject to such tax equipped—

(A) with each available engine size (measured by horsepower); and

(B) with each, and combinations of each, type of optional accessory available which is determined by the Secretary to have a significant effect on fuel consumption economy; and (2) which shall be conducted—

(A) under driving conditions representative of an average composite of urban and nonurban driving speeds and circumstances,

(B) with the fuel used being of the quality normally recommended for use in such automobile, and

(C) with such automobile carrying the average weight load for which it was designed.

(c) Based upon the studies and investigations under subsection (b), the Secretary shall determine the fuel consumption rate of each such automobile model with and without fuel consumption effective accessories and with each available engine size. The Secretary shall, not later than June 1, 1976, and each year thereafter, prepare and transmit to the Secretary of the Treasury a schedule of all such rates to be known as the Automobile Fuel Consumption Schedule (interim revisions of which are to be made by the Secretary as he deems appropriate). The Automobile Fuel Consumption Schedule shall be made available for sale as a public document.

Sec. 4. Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by inserting "(a)" after "Sec. 3." and by adding at the end thereof the following:

"(b) Every label required to be affixed under subsection (a) shall include, in the case of any automobile on which a tax was imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel economy taxes)—

"(1) the fuel consumption rate determined to be applicable for such automobile, and

"(2) the tax paid under such section 4064."

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By Mr. MONTOYA:

S. 2429. A bill to authorize the conveyance of certain lands to the New Mexico State University, Las Cruces, N. Mex. Referred to the Committee on Interior and Insular Affairs.

Mr. MONTOYA. Mr. President, the bill I introduce authorizes the New Mexico State University at Las Cruces, N. Mex., to purchase approximately 4,182 acres of Bureau of Land Management land adjacent to the present New Mexico State campus.

The land is part of some 10,500 acres of BLM land which New Mexico State has been using for some time as the site for various experiments in antenna research and development being done for NASA, for research contracted by the Air Force Cambridge Research Laboratories and the Naval Research Laboratories, and for research in astronomy, seismology, and wildlife management.

The university has entered into a cooperative use and research agreement with the Bureau of Land Management on 6,400 of the 10,500 acres involved, and wishes to purchase outright the remaining land.

The university is interested in buying the remaining acres in order to create a buffer zone around its telescope which sits atop a mountain near the main campus. Were development to take place on these lands at some future date, lights from the development would ruin the astronomical research now going on.

I understand that the Department of the Interior has no real objection to the bill, and I ask unanimous consent that a letter containing its report be printed at this point in the Record along with a copy of the bill itself.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2429

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in the administration of the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (44 Stat. 741), the Secretary of the Interior is authorized, notwithstanding the acreage limitations contained therein, to convey to the New Mexico State University at Las Cruces, New Mexico, all right, title, and interest of the United States in and to the following described lands:

(1) Those lands described in Public Land Order Numbered 2051, containing 1,393.19 acres; and

(2) Those lands described in Public Land Order Numbered 3685, containing 2,789.07 acres;

all such lands lying in sections 13, 14, 15, 22, 23, 24, 25, 26, and 35, township 23 south, range 2 east, New Mexico principal meridian.

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U.S. Department
of the Interior,
*Washington, D.C., June 13, 1973.*

Hon. James A. Haley,
*Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.*

Dear Mr. Chairman: This responds to your request for this Department's views on H.R. 5641, a bill "To authorize the conveyance of certain lands to the New Mexico State University, Las Cruces, New Mexico."

We have no objection to enactment of the bill if it is amended as recommended below.

H.R. 5641 would authorize the Secretary of the Interior to convey all right, title and interest of the United States in 4,182.26 acres of land to the New Mexico State University at Las Cruces, New Mexico in administering the Recreation and Public Purposes Act, 44 Stat. 741 as amended, 43 U.S.C. § 869 to 869–4 (1970), notwithstanding the acreage limitation of 640 acres per year designated in that Act.

The lands are adjacent to the eastern boundary of the University campus and have been withdrawn from the public domain by two public land orders (PLO). PLO 2051 withdrew 1,393 acres for the use of the University for educational purposes and PLO 3685 withdrew 2,789.07 acres for the use of the National Aeronautics and Space Administration (NASA) for research being conducted at the University.

These lands lie on a rolling alluvial plain extending westward from the Organ Mountains. The Geological Survey records indicate that 20,000 tons of fluorspar had been mined from part of the lands until 1950 and that the lands are valuable for sand, gravel, other minerals and geothermal resources. If ultimately we issue a patent for all or part of these lands, we intend to reserve to the United States all mineral deposits in the lands including sand and gravel, as required by the Recreation and Public Purposes Act. Under the Geothermal Steam Act of 1970, 84 Stat. 1573, 30 U.S.C. § 1024 (1970), these mineral reservations are now construed to include geothermal resources.

There are no streams on the lands and wildlife populations are low. The lands are not leased for grazing purposes and the soils have no potential for agricultural development.

The estimated value of the lands is $300 per acre. The price for land conveyed under the Recreation and Public Purposes Act depends on the purpose for which the land will be used.

NASA is willing to relinquish its withdrawal upon the condition that the land and NASA's improvements thereon continue to be used for research activities conducted by the University for NASA and others, that NASA retain ownership of the improvements, and that the government (NASA) reserve the right to transfer, abandon or otherwise dispose of the NASA-owned improvements with no obligation to restore the land.

Some of the subject lands are encumbered by unpatented mining claims, rights-of-way, and one Recreation and Public Purposes lease. To date, three unpatented mining claims have been determined by contest to be valid. Determination of the validity of the other claims would be desirable before issuance of a patent pursuant to the Recreation and Public Purposes Act. Land within all valid claims would be omitted from the patent unless the University first arranged with the claimants to reimburse them for relinquishing their claims. The patent would be subject to the rights-of-way on the land and would either omit or be subject to the existing Recreation and Public Purposes lease.

The main campus of the University is approximately 2,068 acres and with the proposed conveyance, it would be 6,250 acres. The present enrollment is slightly over 9,000 and the anticipated enrollment for 1980 is 13,500 to 15,000.

Because the University does not yet have a plan showing definite proposed projects, it is not possible at this time to evaluate the need for and the intended use of the lands, nor have we made a study to determine whether the lands have values which would prevent conveyance under the Recreation and Public Purposes Act. However, we would have no objection to enactment of the legislation provided that it merely waives the acreage limitation and that any patent would be issued in accordance with the other standards and guidelines of the Recreation and Public Purposes Act. Accordingly, we recommend that in order to eliminate any inference that the lands might be conveyed without a mineral reservation or without conditions for use of the land, lines 3 through 11 on page one be amended to read as follows:

"That notwithstanding the acreage limitation in the Act of June 14, 1926 as amended, 43 U.S.C. § 869–4, the Secretary of the Interior may convey to the New Mexico State University at Las Cruces, New Mexico in accordance with the provisions of that Act, all or any part of the following described lands:"

Exceptions to the acreage limitations of the Recreation and Public Purposes Act have recently been made in a few other instances, the Act of December 24, 1969, 83 Stat. 445, and the Act of October 15, 1970, 84 Stat. 978. In these cases, as in the instant case, the Department determined that it was desirable to have the authority to consider applications without regard to acreage limitations.

Within the exterior boundary of the lands described in the bill, there are 160 acres of public lands which the bill would not authorize to be conveyed. For the purpose of continuity, we recommend that the authorization include the 160 acres. This can be accomplished by amending H.R. 5641 on page 2 as follows: delete the word "and" on line 2; insert the word "and" at the end of line 4; and insert the following between lines 4 and 5:

"(3) Southwest ¼, section 14, township 23 south, range 2 east, New Mexico principal meridian, consisting of 160 acres;"

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JACK O. HORTON,
*Assistant Secretary of the Interior.*

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By Mr. BROCK:

S. 2430. A bill to protect the consumer against worthless money orders, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 2431. A bill to provide for the licensing by the District of Columbia of the business of selling, issuing, or delivering checks, drafts, and money orders as a service or for a fee or other consideration in the District of Columbia, and for other purposes. Referred to the Committee on the District of Columbia.

Mr. BROCK. Mr. President, I am introducing today two bills to provide protection for consumers who purchase private money orders.

These measures will assure that people who purchase these money orders to pay their bills are not cheated out of their money due to fraud or the financial insolvency of the money order company.

In order to appreciate the need for legislation in this area, it is necessary to understand the nature of the private money order business. In this regard, it is of primary importance to realize that the great majority of money order users are poor people, people who can least afford to find that their rent or utility payment has bounced, and they must pay again.

In a typical situation, the person, receiving his paycheck or welfare check, goes to a local store and cashes it. He then purchases, probably from that same store, money orders with which to pay his monthly installment payments, which he mails to the landlord, utility company or whomever.

The store sells these money orders under an agreement with a money order company, and collects a small commission for serving as the outlet.

But what if the money order company is fraudulent? Or, as is more often the case, what if the company becomes insolvent? Then, when the creditor negotiates the money order he has received as payment, it bounces, and he notifies the consumer that the bill is still owed.

The key to protecting the consumer then, is to assure the value of the money order, once he has put up his hard-earned cash for it. That is precisely what my bills would do.

They establish a requirement that any person issuing money orders be required to post a bond of $100,000 for each State in which he does business, with additional amounts required depending upon the number of sales outlets he maintains.

In addition, he must file an information statement with the Federal Reserve District Office for the States in which he is operating. The contents of this statement would be a matter of public record.

Based upon the satisfactory performance of these procedures, the issuer would then be granted a certificate of compliance by the Board of Governors of the Federal Reserve System. No one could engage in the issuance of money orders without such a certificate.

My bill further provides for the Board of Governors to promulgate regulations to carry out the bill's intent, and provides criminal penalties for supplying false information or in other ways failing to comply with its provisions.

I would like to point out at this time that a number of States have already passed laws regulating the money order business, and my bill permits the Federal Reserve Board to exempt from the operation of the Federal law those jurisdictions whose laws in this area are as strong or stronger than those provided in my bill.

Thus, any State could choose to undertake the regulation itself merely by passing a strong law.

A special need for legislation of this type has been demonstrated in the District of Columbia, which has no law whatsoever in this field. For that reason, I am introducing a companion bill to cover the District, with identical operative provisions.

An excellent article, documenting the need for this legislation here in Washington was written by Miriam Ottenberg, and appeared in the Washington Star-News on July 15, 1973. I ask unanimous consent that this article appear as part of my remarks at this point in the RECORD. I would also like to commend Radio Station WMAL for its useful editorializing on this issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### NEED SEEN TO CONTROL MONEY ORDERS

(By Miriam Ottenberg)

In Washington, anybody can sell money orders.

Money order companies here are not regulated and no law requires them to show how much they're worth or makes them carry a bond to protect customers if, by any chance, they can't pay.

All a dealer needs are some forms and a stamping machine. He can put some eagles on the form and perhaps a shield to make it look official, and he's in business.

If there are no funds to back up the money orders, those who suffer are the people who buy them to pay their bills.

It's a different story in Puerto Rico and 37 states—including Maryland.

Money order companies there must be licensed and bonded, and often they must have a minimum net worth of $100,000 or more.

Fly-by-night operators and others whose money orders bounce don't operate in those states. But they do operate in Washington and Virginia, which also has no law regulating the companies.

In the past few weeks, Washington residents have been hit hard by bouncing money orders. A Reno, Nev., company known as American Money Order Service Co. had four outlets here—three liquor stores and a market.

All of them did a thriving business. However, none of them realized how unprotected their customers were until the money orders they'd bought to pay their bills were returned marked "account closed."

The company has gone into receivership, and a company spokesman has promised to pay the bouncing money orders if the agents who sold the orders sent in the cash their customers had paid them when they bought the orders.

Nevertheless, the Postal Inspection Service, the Federal Bureau of Investigation and the United States Attorney's office here are all investigating to see what, if any, federal laws have been broken by the company.

And the District government is beginning to move to get a law of its own to regulate the money order business. Corporation Counsel C. Francis Murphy said he will recommend that action be taken to get legislation to protect against bouncing money orders in the future.

"When people are reliable, there's no need for regulation," Murphy said, "but what's happened here provides a good demonstration that other companies can move in. It points up the need for regulation of the entire field."

Underlining the need for money order legislation, Murphy noted, is the fact that the Reno company operated only in states which do not require licensing and bonding of companies.

Since Virginia has no law controlling the money order business, the Reno company also operated there. But the owner of one of the District stores writing the company's money orders said the company president told him two months ago that he got out of Virginia because the state wouldn't let him expand.

This was news to Virginia state officials, who pointed out that since money orders aren't regulated by Virginia law, the company could have expanded as much as it liked. Nevertheless Virginia residents were spared the flood of bouncing money orders that hit Washington.

And the flood hasn't abated yet. Although three of the the four local outlets stopped writing the company's money orders in mid-June, they each reported that the orders are still bouncing back at the rate of half a dozen a day. (Some of the orders go back so far as the customers have forgotten they ever bought them.)

The fourth dealer kept on writing orders for a week after the others because he had not been notified to stop when the company alerted most of its dealers. He stopped when a woman customer walked in with a money order that had bounced.

Along with the telephone, gas and electric companies, local stores and doctors, the District's Superior Court accumulated a dozen bouncing money orders ranging up to $100 as husbands and fathers made their regular support payments in June.

After the money orders bounced, the Reno company instructed the dealers to prepare a final report and send in the rest of the money they had collected for the orders. The money was to go to the company's headquarters in Reno rather than the bank in California where the company had been doing business until the bank closed the account.

Only one of the four dealers followed these instructions to the letter. The others, figuring they didn't want to send any more of their customers' money into limbo, not only held the last of the money but also tried to stop payment on the last checks they had sent. Thousands of dollars were involved for each dealer.

The only trouble is that these dealers have no record of who purchased money orders or when. They have to wait until each customer comes back to them with his bounced money order. Then, depending on whether the money for that order has gone to the company, the dealer may reimburse the customer or advise him to write to the Reno company.

The dealers are nearly as unhappy as their bilked customers. Said one: "I got a box of 600 money orders to sell during the week of June 11, the very week the money orders were bouncing, as I found out later. But at the time, how could I imagine they were going out of business?"

Said another: "I don't see how this company could come into town and do this. I thought some city authority checked on money order companies. This should be enough to scare the city into doing something."

That sentiment is shared by everybody interviewed by The Star-News, from the stores selling money orders to the utilities receiving customers' payments in the form of money orders.

Among those endorsing legislation to license and bond companies selling money orders here was a Pepco spokesman. He pointed out that protection of the consumer and the company is a principal consideration in the licensing of banks and financial institutions. He said it is essential that the people who buy money orders at the corner store should also be safeguarded against fraud and deceit.

A Washington Gas Light Co. spokesman said a licensing law might increase the cost of the money order but that generally the advantages of such a law outweigh that one disadvantage.

A telephone company spokesman said the company would favor a law to give some protection to customers paying their telephone bills with money orders.

Arnold M. Malech, executive officer of D.C. courts, pointed out that the court requires support payments to be paid in money orders or cashiers' checks. A licensing and bonding law for money order companies, he said, "would certainly protect the interest of those receiving support pursuant to court order." He said it might also protect innocent people from financial harm.

Vincent Burke, president of Riggs Bank, said he also endorses legislation to protect the consumer from money order abuses and would call the question to the attention of the D.C. Bankers Association.

A spokesman for the Postal Service, which sells about 30 percent of the money orders sold in this country, also said that there should be some kind of control.

Michael J. Fennimore, assistant general counsel of the American Express Co., which sells about 13 percent of the money orders, said the company always has supported legislation which requires issuers of money orders to meet minimum bonding and net worth requirements.

And Stanford H. Cohan, president and board chairman of Nation-Wide Check Corp. of Glen Burnie, Md., one of the multitude of smaller companies making up the remaining 57 percent of money order companies, commented: "We thought that Maryland and every state where we do business would have a law to protect the public. We think there's a need for it. What happened in Washington should never have happened."

Mr. BROCK. The legislation I am proposing would insure the protection of the users of money orders from fly-by-night operators, insufficiently capitalized companies and outright fraud. For thousands of people, especially the poor, it would be a new measure of security, and a long-needed protection of their financial resources.

Heretofore, their only recourse has been in the courts, and the complexities and unfamiliarity of the judicial system to these people has all but eliminated that avenue. Moreover, even should a consumer win a judgment in court, the victory would generally be a hollow one, for the typical defendant got into the problem in the first place because of a lack of funds, and is normally bankrupt.

In place of that cumbersome and ineffective process, my legislation would substitute a simple, workable, fair and inexpensive bonding and licensing arrangement, one that poor people, and all users of private money orders could rely on to protect them in this important area.

Mr. President, I ask unanimous consent that the bills I have referred to be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

### S. 2430

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the purpose of this Act to protect the consumer against worthless checks, drafts, money orders, personal money orders, or other instruments for the transmission or payment of money by establishing Federal standards to assure the financial responsibility and integrity of persons engaged in the business of selling such instruments for any consideration.

#### DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1) "person" means any person other than a bank;

(2) "bank" means any bank, trust company, building and loan association, savings and loan association, or credit union organized under the laws of any State or of the United States, and includes any office or agency of an incorporated telegraph company;

(3) "money order" means any check, draft, money order, personal money order, or other similar instrument for the transmission or payment of money;

(4) "Board" means the Board of Governors of the Federal Reserve System; and

(5) "State" means the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### CERTIFICATE OF COMPLIANCE REQUIRED

SEC. 3. A person may not sell or issue money orders for any consideration unless that person has been issued a certificate of compliance by the Board.

#### ISSUANCE OF CERTIFICATE OF COMPLIANCE

SEC. 4. (a) The Board shall issue a certificate of compliance to any person who files with the Board an information statement, in such form as the Board may by regulation prescribe, and who—

(1) has a net worth in excess of $50,000, as determined by the Board; and

(2) has filed with the Board a surety bond in a principal amount equal to $50,000 multiplied by the number of States in which the person proposes to sell or issue money orders or an equivalent amount of cash or bonds, notes, or other obligations of the United States.

(b) For the purpose of subsection (a), an information statement shall be a public record and shall contain—

(1) the name and business address of the proprietor of, or of each partner, officer, director, or trustee of, the person, as appropriate;

(2) the name of each State in which the person proposes to do business; and

(3) such other information, including financial statements, as the Board may require.

(c) The Board is authorized to prescribe and collect such fees and charges as may be appropriate, except that no person may be required to pay such fees and charges in an aggregate amount which exceeds $250 per annum.

#### MAINTENANCE OF BOND AND REPORTING REQUIREMENTS

SEC. 5. Any person to whom a certificate is issued under section 4 shall comply with such regulations as the Board may prescribe with respect to the maintenance of the surety bond and the making of periodic reports in order to maintain a current information statement.

#### RESPONSIBILITIES OF PERSONS HOLDING CERTIFICATES

SEC. 6. Any person who holds a certificate of compliance shall—

(1) be liable for payment on all money orders sold or issued by such person, in accordance with the applicable State law relating to such money orders; and

(2) cause all money orders to be sold or issued by such person to bear the name of such person.

#### DENIAL AND SUSPENSION PROCEDURES

SEC. 7. (a) If the Board determines, after notice and an opportunity for hearing, that any person seeking a certificate of compliance has failed to meet the requirements of section 4, it shall refuse to issue the certificate of compliance.

(b) If the Board determines, after notice and an opportunity for a hearing, that any person to whom a certificate of compliance has been issued has failed to meet the requirements imposed under section 5 or section 6, it shall suspend that person's certificate of compliance for not less than 3 months nor more than 3 years.

#### USE OF SURETY

SEC. 8. The surety bond or cash or other obligations filed with the Board by a person holding a certificate of compliance shall be available, in accordance with regulations of the Board, for the protection and benefit of claimants against that person to secure the faithful performance by that person of obligations with respect to the receipt, handling, transmission, and payment of money in connection with the sale of money orders in any State covered by the surety bond or part thereof or equivalent amount of cash or other obligations.

### PENALTIES

SEC. 9. Any person who willfully violates any provision of this Act or any requirement imposed under this Act shall be fined not more than $1,000 or imprisoned not more than one year, or both.

### AUTHORITY OF THE BOARD

SEC. 10. The Board is authorized—

(1) to issue such rules or regulations as may be necessary to carry out its functions under this Act; and

(2) to conduct such investigations of persons seeking or holding certificates of compliance as may be necessary to carry out the purposes of this Act.

### EXEMPTIONS

SEC. 11. (a) The provisions of this Act do not apply to any person who sells or issues money orders only in any State in which the Board determines that requirements are imposed which afford similar or greater protection than this Act affords if such person has complied with such requirements.

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## S. 2431

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "District of Columbia Sale of Checks Act".

### DEFINITIONS

SEC. 2. For the purpose of this Act—

(1) "person" means any individual, partnership, association, joint stock association, trust, or corporation, but does not include the United States Government or the government of the District of Columbia;

(2) "licensee" means a person duly licensed by the Superintendent under this Act;

(3) "check" means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money;

(4) "personal money order" means any instrument for the transmission or payment of money which is signed by the purchaser or remitter, whether or not he thereby appoints the seller of the money order as his agent for the receipt, transmission, or handling of money, and whether or not such instrument is also signed by some other person in addition to the purchaser or remitter;

(5) "sell" means to sell, to issue, or to deliver a check;

(6) "deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliveror also charges a fee in addition to the face amount, and whether or not the deliveror signs the check; and

(7) "Superintendent" means the Superintendent of Insurance of the District of Columbia.

### LICENSE REQUIRED

SEC. 3. No person, except those specified in section 4 or agents of a licensee as provided in section 11, shall engage in the business of selling checks, as a service or for a fee or other consideration in the District of Columbia without having first obtained a license under the provisions of this Act. Any person engaged in such business on the effective date of this Act may continue to engage therein without a license until the Superintendent has acted upon his application for a license, except that such an application must be filed within 60 days after the effective date of this Act.

### EXEMPTIONS

SEC. 4. This Act does not apply to any of the following:

(1) Banks, trust companies, building and loan associations, and savings and loan associations, organized under the laws of the United States or of the District of Columbia or authorized to do business in the District of Columbia.

(2) Incorporated telegraph companies insofar as they receive money at any of their respective offices or agencies for immediate transmission by telegraph.

### QUALIFICATIONS

SEC. 5. To qualify for a license under this Act an applicant must meet the following requirements:

(1) The applicant must have a net worth of at least $100,000 computed according to generally accepted accounting principles.

(2) The financial responsibility, financial condition, and business experience, and character and general fitness of the applicant must be such as reasonably to warrant the belief that applicant's business will be conducted honestly, carefully, and efficiently. To the extent deemed advisable by the Superintendent, the Superintendent may investigate and consider the qualifications of the applicant including officers and directors of an applicant in determining whether this qualification has been met.

### APPLICATIONS

SEC. 6. (a) Each application for a license under this Act shall be made in writing and under oath to the Superintendent in such form as he may prescribe. The application shall state the full name and business address of—

(1) the proprietor, if the applicant is an individual;

(2) each member, if the applicant is a partnership or association;

(3) each trustee or other officer if the applicant is a trust; or

(4) the corporation and each officer and director thereof, if the applicant is a corporation.

### ACCOMPANYING FEE, STATEMENTS AND BOND

SEC. 7.(a) Each application for a license shall be accompanied by—

(1) an investigation fee of $250 which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof;

(2) financial statements satisfactory to the Superintendent; and

(3) a surety bond issued by a bonding company or insurance company authorized to do business in the District of Columbia, in the principal sum of $50,000 and in an additional principal sum of $5,000 for each location, in excess of one, at which the applicant proposes to sell checks in the District of Columbia, but in no event shall the bond be required to be in excess of $250,000. If the bond accompanying the application be in a principal sum of less than $250,000, the application shall also be accompanied by a list of the locations at which the business is to be conducted. The bond shall be in form satisfactory to the Superintendent and shall run to the District of Columbia for the benefit of any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks in the District of Columbia. Such claimants against the applicant or his agents my themselves bring suit directly on the bond, or the Corporation Counsel may bring suit thereon in behalf of such claimants, either in one action or successive actions. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. The bond shall be without expiration date except that the surety shall have the right to cancel such bond upon giving not less than 30 days' written notice to the Superintendent, but such cancellation shall not release the surety from any liability that may arise with respect to obligations of the applicant outstanding on or prior to the day that such bond is cancelled.

(b) In lieu of a corporate surety bond or bonds, or of any portion of the principal thereof as required by subsection (a)(3) of this section, the applicant may deposit with the Superintendent or with such banks or trust companies or national banks in the District of Columbia as such applicant may designate and the Superintendent may approve interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of the District of Columbia in an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon and shall have the right, with the approval of the Superintendent, to substitute other securities for those deposited.

### INVESTIGATION; GRANTING OF LICENSE

SEC. 8. Upon the filing of an application in due form, accompanied by the fee and documents referred to in section 7, the Superintendent shall investigate to ascertain whether the qualifications prescribed by section 5 have been met. If the Superintendent finds that such qualifications have been met, and if he approves the documents and finds that bond or the deposit of securities is in the prescribed amount, he shall issue to the applicant a license to engage in the business of selling checks in the District of Columbia.

### MAINTENANCE OF BOND OR SECURITIES

SEC. 9. After a license has been granted, the licensee shall maintain said bond or securities in the amount prescribed by section 7, as follows:

(1) Each licensee who does not have on file or deposit a bond or securities in the undiminished principal sum of $250,000 or more shall file quarterly reports with the Superintendent setting forth the locations at which he sells checks in the District of Columbia as of January 1, April 1, July 1, and October 1 of each year, the report for each such date being due on or before the 15th day thereafter. Within 10 days following the filing of such a report, the principal sum of the bond or securities shall be increased to reflect any increase in the number of locations, and may be decreased to reflect any decrease in the number of locations.

(2) If the Superintendent shall at any time determine that the bond or securities aforesaid are insecure, deficient in amount, or exhausted in whole or in part, or if the surety on the bond shall have notified the Superintendent of its intention to cancel the bond, he shall by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this Act, such order to be complied with within thirty days following service thereof upon the licensee.

### ANNUAL LICENSE FEE

SEC. 10. Each licensee shall pay to the Superintendent annually before April 15 of each year a license fee of $250.

### AGENTS

SEC. 11. A licensee may conduct his business at one or more locations within the District of Columbia and through or by means of such agents as the licensee may from time to time designate or appoint. No license under this Act shall be required of any agent of a licensee.

### LIABILITY OF LICENSEES

SEC. 12. Each licensee shall be liable for the payment of all checks which he sells in the District of Columbia, in whatever form and whether directly or through an agent, as the drawer thereof according to the negotiable instrument laws of the District of Columbia. A licensee who sells a check, whether directly or through an agent, upon which he is not designated as drawer shall nevertheless have the same liabilities with respect thereto as if he had signed the same as the drawer thereof.

### DISCLOSURE OF RESPONSIBILITY

SEC. 13. Every check sold by a licensee, directly or through an agent, shall bear the name of the licensee clearly imprinted thereon.

### REVOCATION OF LICENSE; INVESTIGATIONS

SEC. 14. The Superintendent may revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of this Act. In furtherance of the foregoing, the Superintendent, if he has reasonable cause to believe that the grounds for revocation exist, may investigate the business, books, and records of the licensee.

### HEARINGS

SEC. 15. No license shall be denied or revoked except after a hearing thereon. The Superintendent shall give the applicant or licensee at least 20 days' written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such applicant or licensee. Any order of the Superintendent denying or revoking such license shall state the grounds upon which it is based, shall not be effective until twenty days after written notice thereof has been sent by registered or certified mail to the applicant or licensee at such principal place of business.

### PENALTIES

SEC. 16. Any person who violates any provision of this Act shall be guilty of a misdemeanor, and shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

### EFFECTIVE DATE

SEC. 17. This Act shall become effective upon the expiration of one hundred and twenty days following the date of its enactment.

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By Mr. ERVIN (for himself, Mr. MUSKIE, Mr. METCALF, Mr. CHILES, Mr. MATHIAS, Mr. FULBRIGHT, and Mr. MANSFIELD):

S. 2432. A bill to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees. Referred to the Committee on Government Operations.

### CONGRESSIONAL RIGHT TO INFORMATION ACT

Mr. ERVIN. Mr. President, on behalf of Senators MUSKIE, METCALF, CHILES, MATHIAS, FULBRIGHT, MANSFIELD and myself, I introduce for appropriate reference the Congressional Right to Information Act.

This bill already has been ordered to be reported favorably by the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, of which Senator MUSKIE is chairman.

It contains a combination of approaches to the problem of congressional access to information that have been put forth in other bills by Senators MATHIAS, FULBRIGHT, MUSKIE and myself, and I am indebted to these other Senators for their significant contributions.

In addition, former Senator John Sherman Cooper worked on legislation similar to sections of this bill during his distinguished career in the Senate.

I believe this measure will afford a reasonable and workable solution to a problem that has plagued the Congress for years: access to information which is in the possession of the executive branch and the independent regulatory agencies.

The bill would amend the Legislative Reorganization Act of 1970 to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees.

Every Federal agency will be instructed to keep each joint committee and standing committee fully and currently informed with respect to all matters relating to that agency which are within the jurisdiction of such committee.

A joint or standing committee, or two-fifths of the members thereof, will be able to request any information relating to any matter within the committee's jurisdiction, and it will be the duty of a Federal agency to provide that information.

The bill provides that when an officer or employee of the United States is summoned to testify or to produce information, he shall do so unless instructed otherwise by the President in writing.

The joint or standing committee requesting the information or testimony will be able to determine whether the Presidential instruction is without foundation in law, and if it so determines, the officer or employee may be ordered by the committee to appear and produce the information requested of him.

If the committee then determines that the officer or employee has failed to comply with that order, it shall introduce a resolution in its respective House citing the failure to comply. Such a resolution would be privileged business for immediate consideration.

Adoption of the resolution would bring about immediate suspension of the salary of the officer or employee and his supervisors until he complies with the order to produce the information.

In drafting this bill, members of the Subcommittee on Intergovernmental Relations went to great pains to protect the rights of the individual officer or employee and to insure that the innocent are not punished along with the guilty. Protection of the individual and his family was of special concern to Senator ROTH, and he suggested that the bill contain a provision which would insure judicial review of each salary suspension.

Accordingly, the aggrieved officer or employee would be authorized to bring a civil action in the U.S. District Court for the District of Columbia requesting such relief as may be appropriate on the grounds that the determination made by the joint or standing committee was invalid because: first, there was no failure to comply with the provisions of the bill or a committee order to produce information, or second, that failure to comply with the provisions of the bill or the committee order was proper and justified.

Each House of Congress and the joint and standing committees would be instructed to take appropriate measures to insure the confidentiality of any information made available.

Nothing in the bill would be construed to require the production of information if such production is prohibited by an Act of Congress.

This bill represents a very sensible, moderate solution to the problem of congressional access to information, and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the Congressional Right to Information Act be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed at an appropriate point in the RECORD.

[See exhibit 1.]

Mr. President, I also ask unanimous consent that a statement prepared by Senator MUSKIE, a cosponsor of the bill, who has done magnificent work in this area of concern, be printed in the RECORD immediately following the text of the bill.

There being no objection, the statement was ordered to be printed immediately following the text of the bill:

### EXHIBIT 1

### S. 2432

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Congressional Right to Information Act".

SEC. 2.(a) Title III of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new part:

### "PART 4—KEEPING THE CONGRESS INFORMED

### "INFORMING CONGRESSIONAL COMMITTEES

"SEC. 341. (a) Every Federal agency shall keep each joint committee of the Congress or standing committee of either House of Congress fully and currently informed with respect to all matters relating to that agency which are within the jurisdiction of such joint committee or standing committee.

"(b) A Federal agency, on request of a joint committee of the Congress or of a standing committee of either House of Congress, or two-fifths of its Members, shall submit any information requested of it relating to any matter within the jurisdiction of the joint committee or standing committee.

### "PRODUCTION OF INFORMATION

"SEC. 342. (a) When an officer or employee of the United States is summoned to testify or to produce information, records, documents, or other material before either House of Congress, or a joint committee of Congress, or a standing committee of either House, that officer or employee shall appear at the time and place specified and shall answer all questions propounded to him, or produce all information, including records, documents, and other material sought, unless, in the case of an officer or employee of a Federal agency in the Executive Branch, either between the date of the summons and the date of the appearance or, in the case of any such information which was first requested at an appearance, within five days after that appearance, the President formally and expressly instructs the officer or employee in writing to withhold the information requested, including answers to specific questions, or specific records, documents, or other material, in which event such Presidential instruction shall set forth the grounds on which it is based.

"(b) Each written Presidential instruction pursuant to subsection (a) shall be transmitted to the House of Congress, joint committee, or standing committee requesting the information, proposing the questions or seeking the records, documents, or other material, which shall determine whether the Presidential instruction is without foundation in law.

"(c) If it is determined that the Presidential instruction is without foundation in law, the officer or employee shall be ordered to appear at a time specified before the House of Congress, joint committee, or standing committee and to provide there the information requested by answering the question or questions propounded and producing any information, including records, documents, or other material requested.

### "SUSPENSION OF SALARY

"SEC. 343. (a) If a House of Congress, a joint committee, or a standing committee determines that an officer or employee of the United States has failed to comply with the provisions of section 342(a) within 30 days after being summoned to testify or to produce information, records, documents, or other material, or, in the case of an officer or employee who has received a Presidential instruction described in section 342(a), has failed to comply with an order issued pursuant to section 342(c) within 30 days after the order is received by that officer or employee—

"(1) in the case of determination by a House of Congress, the majority leader of that House shall introduce a resolution citing such failure to comply;

"(2) in the case of determination by a joint committee, such joint committee shall report a concurrent resolution to both Houses of Congress citing such failure to comply; and

"(3) in the case of determination by a standing committee, such committee shall report a resolution to its House citing such failure to comply.

"(b) (1) A resolution or concurrent resolution introduced or reported pursuant to subsection (a) shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution or concurrent resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) If the motion to proceed to the consideration of the resolution or concurrent resolution is agreed to, debate thereon shall be limited to two hours, which shall be divided equally between those favoring and those opposing the resolution or concurrent resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution or concurrent resolution shall be in order, and it shall not be in order to move or reconsider the vote by which the resolution or concurrent resolution is agreed to or disagreed to.

"(3) Motions to postpone, made with respect to the consideration of the resolution or concurrent resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution or concurrent resolution shall be decided without debate.

"(5) In the case of concurrent resolution, if, prior to the adoption by one House of a concurrent resolution of that House, that House receives from the other House a concurrent resolution of such other House, then—

"(A) the procedure with respect to the concurrent resolution of the first House shall be the same as if no concurrent resolution from the other House had been received; but

"(B) on any vote on final adoption of the concurrent resolution of the first House the concurrent resolution from the other House shall be automatically substituted.

"(c) If a House of Congress adopts a resolution, or if the two Houses adopt a concurrent resolution, citing an officer or employee of the United States for failure to comply with the provisions of section 342(a) or with an order issued under section 342(c), no payment shall be made from the Treasury of the United States to such officer or employee, or to any other officer or employee of the Federal agency employing such officer or employee who has supervision or control of the official conduct of such officer or employee, for services rendered after the tenth day after the date on which such resolution or concurrent resolution is adopted, unless or until such officer or employee complies with the provisions of such section or with such order, as the case may be.

"(d) The provisions of subsections (a) and (b) of this section are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

### "JUDICIAL REVIEW

"SEC. 344. (a) Any officer or employee of the United States aggrieved by the application of section 343(c) may bring an action in the United States District Court for the District of Columbia requesting such relief, including a permanent or temporary injunction, restraining order, or other order, as may be appropriate, on the grounds that the determination made by the House of Congress, the joint committee, or the standing committee under section 343(a) was invalid because—

"(1) there was no failure to comply with the provisions of section 342(a), or with an order issued under section 342(c), on the basis of which a resolution or concurrent resolution was adopted under section 343 resulting in the application of section 343(c), or

"(2) failure to comply with such provisions or such order was proper and justified.

"(b) An action under subsection (a) shall be brought against the presiding officer of the House of Congress which adopted the resolution pursuant to section 343 which resulted in the application of section 343(c), or, in the case of a concurrent resolution, against the presiding officers of both Houses, and against such other parties as may be appropriate.

"(c) The United States District Court for the District of Columbia shall have jurisdiction of actions brought under this section. Appeal of the judgment and orders of the court in such actions shall be had in the same manner as actions brought against the United States under section 1346 of title 28, United States Code.

"(d) The courts shall give precedence over all other civil actions to actions brought under this section.

### "PROTECTION OF INFORMATION

"SEC. 345. Each House of Congress and the standing committees thereof and the joint committees of Congress shall take appropriate measures to insure the confidentiality of any information made available under this part which, in the judgment of the Federal agency providing it and the House of Congress or joint or standing committee receiving it, requires protection against disclosure which would endanger personal privacy or the conduct of the national defense, foreign policy, or law enforcement activities.

### "DEFINITION

"SEC. 346. For purposes of this part, 'Federal agency' has the same meaning given that term under section 207 of this Act, and includes the Executive Office of the President.

### "SAVINGS PROVISION

"SEC. 347. Nothing in this part shall be construed to require to the furnishing or production of any information, records, documents, or other material to either House of Congress, a joint committee of Congress, or a standing committee of either House if such furnishing or production is prohibited by an Act of Congress."

(b) Title III of the table of contents of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following:

"PART 4—KEEPING THE CONGRESS INFORMED

"Sec. 341. Informing Congressional committees.
"Sec. 342. Production of information.
"Sec. 343. Suspension of Salary.
"Sec. 344. Judicial Review.
"Sec. 345. Protection of Information.
"Sec. 346. Definition.
"Sec. 347. Savings Provision."

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## STATEMENT BY SENATOR MUSKIE

Mr. MUSKIE. Mr. President, the legislation we introduce today marks a decisive step toward resolving a very practical problem: the access of Congress and its committees to the information which is essential to our job as legislators. Enactment of this Congressional Right to Information Act will restore in fact the authority Congress has always had in theory: to compel production of information from the Executive Branch, to punish arbitrary withholding of such information and to provide a mechanism for judicial arbitration of disputes over information sought by the Congress and withheld by executive officials.

The bill accepts the standard laid down by James Madison in the Federalist, No. 49, for those areas of Constitutional practice where the rights of Congress come into conflict with the asserted prerogatives of the Executive Branch:

"Neither the executive nor the legislative can pretend to an exclusive or superior right of settling the boundaries between their respective powers."

But by reconfirming that guiding principle, we also reconfirm in this legislation the inherent power of Congress to instruct itself and the public fully on the conduct of the public business, even when the President claims unlimited discretion to control the flow of information to us and to the people.

In recent years—particularly since the end of the Second World War—a vigorous executive has largely succeeded in tailoring the facts it makes available to Congress to fit its objectives and to restrict our role in shaping policy. With few exceptions, Congress has acquiesced in this erosion of its right to knowledge and, by such acquiescence, has contributed to upsetting the balance of power between the branches.

Our bill goes far to restore that balance. In the routine area of legislative oversight, it obliges Federal agencies to provide Congressional committees with appropriate jurisdictional interest, thorough ongoing reports of agency activities, and to fulfill special requests for information made either by the full commitee or a substantial minority of its members. This mandate is based on specific statutory precedents.

The Act of 1789, for instance, required the Secretary of the Treasury to report to Congress regularly as well as at its request on "all matters . . . which shall appertain to his office." In 1928 we enacted a law which establishes beyond question the right of the Committees on Government Operations of both Houses of Congress to obtain information from executive officials on request. And in 1946, in establishing the Atomic Energy Commission, we required the Commission, the Defense Department and other Federal agencies to keep the Joint Committee on Atomic Energy "fully and currently informed" of activities and developments in the field of atomic energy.

Our legislation extends to all the standing committees of Congress—those with substantive and established jurisdiction over specific agencies and programs—the explicit authority they already exercise. Section 341 of our bill, drawing on the thoughtful proposals of the distinguished former Senator from Kentucky (Mr. COOPER) in the last Congress and those of our co-sponsor, the able Senator from Maryland (Mr. MATHIAS), establish in law the practice which now enables our committees to function effectively.

In the area which has come to be known—and hotly debated—as "executive privilege," our legislation answers the fundamental question of who is to decide the propriety of a claim of confidentiality. In April of this year, the then Attorney General of the United States shocked me and many other Members of Congress when he testified, "Your power to get what the President knows is in the President's hands."

That assertion of naked power is unacceptable in a system of checks and balances. Our legislation provides that a President may instruct an executive official not to testify or provide specific information requested by Congress. But it makes it clear that no such instruction is automatically final. In each case where confidentiality or privilege is claimed, the House of Congress or committee to which the claim is made is instructed to weigh its legal validity.

Arbitrary and unjustified claims of secrecy acquire no added validity from the circumstance of their invocation by the Chief Executive. But when an official under the President's control wishes to withhold information formally requested by the Congress, he must present a Presidential explanation of his stand. We cannot legislate effectively if we permit subordinate officials, on their own, to deny us information on the grounds, so often cited in recent years, that supplying it would be "inappropriate" or "inconvenient" or "historically unprecedented."

To enforce our authority, moreover, we must have what this bill provides: a precise sanction against those officials who, in the view of a committee and its House of Congress, have improperly withheld information. Suspending payment of salaries to those who would defy Congress creates a punishment that fits the crime. It also provides a tangible sanction whose imposition can be weighed in the courts and thus gives us, in each instance, a determination by the Judiciary of the conflict between Executive and Legislature.

Our bill does not reduce the power of any of the other weapons in the Congress' arsenal: the power to withhold confirmation of a Presidential appointee or the power to withhold appropriations sought or the power to cite an official for contempt. But it does give us another, less obstructive procedure for enforcing our basic authority to obtain information from the Executive Branch.

The premises of this legislation have been exhaustively explored in five days of hearings before Senator Ervin's Subcommittee on Separation of Powers in 1971, in three days of hearings before the Foreign Relations Committee in 1972, and in nine days of hearings in 1973 conducted jointly and separately by the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, which I have the honor of chairing, and the Subcommittee on Separation of Powers and on Administrative Practice of the Committee on the Judiciary. The legislation has now been ordered favorably reported by the Subcommittee on Intergovernmental Relations, and I urge on my colleagues its prompt consideration and speedy approval.

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By Mr. CRANSTON (for himself and Mr. WILLIAMS):

S. 2433. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program. Referred to the Committee on Labor and Public Welfare.

## MOBILE TEACHERS' RETIREMENT ASSISTANCE ACT

Mr. CRANSTON. Mr. President, I am today introducing the Mobile Teachers' Retirement Assistance Act of 1973.

Joining me as cosponsor is the distinguished chairman of the Senate Committee on Labor and Public Welfare, Senator HARRISON A. WILLIAMS, JR.

The bill is to protect the retirement benefits of teachers who move across State lines to teach. It is similar to legislation I cosponsored with Senator WILLIAMS in the 92d Congress.

Mr. President, the Federal interest in quality education is not limited to materials and programs. The Congress has made a definite and continuing commitment to the development and maintenance of a skilled national teaching force to serve every level of American education.

The Education Professions Development Act—EPDA—first passed in 1967, clearly indicated our national attention to improving American education by further development of quality educational personnel. In fact, the passage of EPDA clearly set in motion a Federal policy of educational manpower development.

The congressional mandate of EPDA in 1967 was not the first piece of Federal legislation concerning educational personnel development.

In 1917, Congress passed the Smith-Hughes Act, calling in part for the training of vocational educators.

In 1958, the National Defense Education Act—NDEA—became law, and it contained two provisions for training institutes for educational personnel. In later years, these provisions were extended.

And in 1965, the Congress created a National Teacher Corps to train both experienced and inexperienced teachers to deal with the very special situations in schools where the children are mainly from low-income families, or are otherwise disadvantaged.

Mr. President, I believe these actions by the Congress of the United States are a firm statement of Federal interest in the State of the profession of teaching. And I further believe that places upon each of us, as Senators, the responsibility for helping—wherever we can—ease the problems of one of the most vital public professions in our Nation, which teaching clearly is.

There are some serious problems in the teaching profession right now. There are problems of equitable pay, of class size, and of working conditions, particularly in our inner cities.

And one of the most serious problems, Mr. President, is the long-standing difficulty of mobility within the profession itself.

The average American family moves once every 5 years. That means that a great many American children change schools every year and often more than once within a single year. And more and more, as we address the problem of equality of educational opportunity, we have to think in terms of a national supply and demand in the education professions, with all the problems of the labor marketplace.

I believe it is both unrealistic and costly, Mr. President, to recognize—and in many ways, promote—a national mobility, without making sure that the teachers of the Nation's children have the ability to move, unimpeded, where the demand for their skills is greatest or where their professional interests direct them.

That is not possible now. And that is why I am introducing this bill.

Right now, teachers who become mobile do so at the price of sacrificing hard-earned retirement rights—and, with them, benefits and financial security for their retirement years.

The loss of these retirement credits comes about for two reasons: The "outgoing" State may not allow for early vesting of retirement rights, and the "incoming" State may not grant retirement credit for years of teaching service performed outside its jurisdiction.

A good example of the effect of this is the college teacher in a public college who wishes to cross State lines to accept a special research function in another State college. Without the provisions just outlined, he is forced to reject the offer or lose his retirement rights in accepting it. His counterpart in the private college is generally free to move as he is needed and not sacrifice retirement rights. Another drastic example is the need for specialized teachers or administrators in our deprived urban and rural areas.

Even social security is denied many American teachers with participation denied them in 14 States, because of their participation in a State retirement program that lacks the portability of a Federal pension program.

Several effects of this misguided policy are immediate and clear:

Teachers may choose not to cross State lines to teach, even though their skills and interests beckon elsewhere.

Teachers may choose not to retire when they would like, but keep teaching, to accumulate more years of credit—particularly if they have lost years of credit by making a move. Teachers are penalized, then, for advancement within their own profession, and younger teachers are kept unemployed by colleagues who would rather retire.

The dilemma is no better expressed than by teachers themselves. Listen to these comments from letters written me by California teachers.

From San Diego:

> I have been teaching for eighteen years and find myself with only four years credited to my eventual retirement . . . My previous teaching was done in Iowa and in American Samoa, and when I accepted a teaching position in the San Diego Unified system I lost the contributions made toward retirement made by those systems.

From Fresno:

> My Washington teaching was during the low wages era ($750–$2000 annually) with big classes, poor equipment, long hours . . . Our married years in Los Angeles, I did classroom volunteer work among several handicapped children, daily until my husband's death . . . Now I am penalized with few retirement years' credit, thus an inadequate pension. . . .

Or from Long Beach:

> When I had been out of Missouri 5 years, I was contacted and asked to draw my accumulated retirement out . . . the amount was of no concern to me then, or now, but the 9 years of teaching experience means a great deal.

Mr. President, I believe this situation is not only unfair, but unwise. By failing to act on this problem, now we deny our active public teachers the ability to provide equitably for their retirement. At the same time, I believe we are storing up for the future a massive national problem, as increasing numbers of mobile teachers, denied the benefits of social security because of their participation in a State retirement program, come to retirement with inadequate resources to meet the basic needs of everyday living.

The bill I am introducing today is of enormous importance to teachers across the Nation. Teacher constituents of every Senator and Congressmen would be profoundly affected by passage of my bill. In my State of California alone, over 100,000 teachers have taught in other States, but cannot obtain credit under the California State Teachers Retirement System. Though no State corrective legislation has been passed, the California Assembly last year adopted a resolution supporting the bill I am introducing today.

The bill would establish a Federal-State program to assist in the funding of these benefits for public school teachers. It would enable teachers who have taught in two or more States to retire at the end of their careers with benefits substantially the same as they would have received by teaching in a single State for their entire careers.

The bill would extend Federal funds to aid in the financing of recognized out-of-State service credit for those States who wish to participate. In order to qualify for Federal funds, participating States must by law: first, permit teachers to purchase at least 10 years of out-of-State public school teachings not vested elsewhere, whereby the teacher and the employer share in the cost; and second, provide for vesting of retirement rights after not more than 5 years of service in the retirement system.

The stranglehold on the natural mobility of the teaching profession will be greatly alleviated by this sharing of cost in purchasing out-of-State credit and the security of early vesting for deferred benefits.

Many of our fine State retirement systems have made attempts toward alleviating this problem, but the State based nature of American education and the limited funds available have not permitted the States to make any great strides in this direction. Some States utilize the basic concept of out-of-State credit; however, in nearly all cases, the teacher must pay the employer's share, his own share, and an interest fee, which taken together are usually financially beyond the limits of the teacher's income. It should be noted that in any State where an attempt is made to preserve the retirement credits for mobile teachers the methods used are the methods used in this bill. The teacher retirement administrators throughout the country have supported these concepts for nearly a quarter of a century. However, the States, and rightly so, realize that their primary commitment is to utilize their financial resources for improving education within their own boundaries. Therefore, it seems both fitting and proper that the Federal Government assist the States in solving this important interstate problem.

As pointed out by James R. Kirkpatrick, associate secretary of the American Association of School Administrators—an organization supporting the bill—mobility is very much a part of the American way of life. This freedom of movement has often been employed to solve imbalance of labor shortages and needs in various parts of the country. Until now, however, retirement considerations have hindered the staffing problems in many school districts, which mobility might solve. These considerations have been a significant deterrent for many school districts in achieving the staff skills and qualities that are critical to our educational system.

As one witness observed when hearings were held in the House, the bill is sensitive to State prerogatives and the value of State retirement systems. It is not compulsory. It is an incentive bill, which I believe to be most appropriate for Federal legislation in this and other areas of education.

The bill is a result of long and hard work by education organizations, Members and committees of Congress, and representative teacher groups. It carries the full support of the National Education Association's Representative Assembly, the National Council on Teacher Retirement, and other groups.

I feel this bill, if enacted, could be the most significant piece of legislation directly affecting teachers yet to emerge from the Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD, following my remarks, the text of the bill, a statement comparing the bill as introduced in the 92d Congress and the bill I introduce today, a statement of purpose and provisions, and a table showing the current status of vesting and out-of-State credit provisions in the State retirement systems to which teachers belong.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 2433

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*. That this Act may be cited as the "Mobile Teachers' Retirement Assistance Act".

#### FINDINGS AND STATEMENT OF PURPOSE

SEC. 2. The Congress finds that the transfer of qualified teaching personnel between schools operated by public educational agencies in one State and schools operated by public educational agencies in another State is seriously impeded because of the possibility of forfeiture of retirement benefits in the system from which a teacher transfers and that the resulting immobility of teachers impedes the mobility of the Nation's work force by hindering the growth and development of new communities. It is therefore the purpose of this Act to protect commerce by facilitating the interchange of teaching personnel from a public educational agency in one State to a public educational agency in another State by providing Federal financial assistance in the transfer of credits from one State to another State.

#### DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "State retirement system" means a State retirement system established under State law, or local public retirement system recognized or established by State law, in which teachers participate.

(2) The term "teacher" means an individual who is employed in a professional educational capacity by a board of education.

(3) The term "covered teacher" means a teacher who is a member of a State retirement system.

(4) The term "board of education" means any board, committee, commission, or agency authorized by State law to direct a public educational system, school, or institution of higher education.

(5) The term "State" includes the District of Columbia and Puerto Rico, and any other territory of the United States which has a public retirement system which includes teachers.

(6) The term "Commissioner" means the United States Commissioner of Education.

(7) The term "out-of-State service" means public teaching service performed in another State or in elementary or secondary schools operated by the United States Department of Interior and United States Department of Defense and recognized by the system in which the teacher is a member for the purpose of service credit under the terms and conditions of the law governing the operation of such system.

(8) The term "vesting" means a right of a teacher who separates from covered employment after having at least the minimum years of credited service required under the State retirement system, and has left his contributions in the retirement fund of such system, to a retirement benefit upon reaching an age specified in the law governing the terms and conditions of the system, which benefit is based at least in part on public contributions.

SEC. 4. (a) In order to participate in the program provided for in this Act, a State retirement system must—

(1) provide for payment of retirement benefits on account of out-of-State service by a covered teacher as required in section 5(c),

(2) allow covered teachers at least ten years of out-of-State credit for public teaching service not covered by the system which is not vested under another State retirement system, upon payment by the covered teacher by the date of retirement of a portion of the cost involved and payment from public funds of the remainder.

(3) require no more than one year of in-State service for each year of out-of-State service credit granted,

(4) provide that the teacher's payment for out-of-State service credit shall not exceed 25 per centum of the total cost of the out-of-State service credit,

(5) provide for vesting after not more than five years of creditable service in the State retirement system,

(6) provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this Act, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such report.

(b) If the Commissioner determines a State retirement system meets the requirements of subsection (a), he shall approve it for participation in the benefits of this Act.

### OUT-OF-STATE CREDIT PROVISIONS

SEC. 5. (a) The Commissioner shall, as soon as practical after the end of each calendar year, make a Federal contribution to each State retirement system which he has approved under section 4(b) on account of each covered teacher who is a member of the system who retired during the fiscal year (or other twelve-month period designated by the system) which ended in such calendar year with credited out-of-State service as a teacher. The Federal contribution on account of each year of each such teacher's credited out-of-State service as a teacher shall be an amount equal to 50 per centum of the total cost as determined by the retirement system at such teacher's age on date of retirement: Provided, That if the teacher has not reached age sixty, the cost shall be determined as if the teacher were age sixty.

(b) The Federal contribution under this section to a State retirement system shall be limited to the reserve required to provide not more than ten years of out-of-State service credit: Provided, That the Commissioner may determine maximum reserve factors at each age, beginning at age sixty, for purposes of the Federal contribution.

(c) The Federal contribution under this section to a State retirement system shall be used for the same purposes, and subject to the same terms and conditions, as are funds of the system derived from other sources. Retirement benefits under such system attributable to service credited under this section shall not be paid on a basis less favorable to the retired teacher than the payments made under such system which are attributable to service other than that so credited.

### COST OF ADMINISTRATION

SEC. 6. The Commissioner shall each fiscal year make a grant to each State retirement system which is approved to participate in this Act. Each grant shall be an amount equal to 2 per centum of the Federal contribution made under section 5.

### EFFECTIVE DATE

SEC. 7. This Act shall become effective July 1, 1974, with respect to teachers who retire on or after such date.

### APPROPRIATIONS AUTHORIZED

SEC. 8. For the purpose of making such Federal payments, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1975, and for each succeeding fiscal year the amount necessary to effectuate the provisions of this Act.

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## DIFFERENCES IN MOBILITY BILLS

The Mobile Teachers' Retirement Assistance Act as introduced in the 92nd Congress contained two programs to preserve retirement credits for teachers who move interstate. The first program, dealing with supplemental vested deferred benefits, has been eliminated from the current version of the bill. However, in order for states to participate in the bill they must still provide vesting after no more than five (5) years. The first provision of the previous bill, the out-of-state credit provision, now becomes the single program of the bill. In order to clarify the formula utilized in the old bill and to guarantee equity in the distribution of funds to the states, a new method for sharing in the cost has been derived. The current bill provides that the Federal Government pay to each participating state an amount equal to fifty percent (50%) of the cost to purchase up to ten (10) years of lost retirement credits less an interest rate. The state and the teacher will share the remaining fifty (50%) of the cost under arrangements made in each state; but, in no case shall the teacher pay more than twenty-five percent (25%) of the cost in excess of the amount paid by the Federal Government. Other provisions of the bill are identical to the old bill.

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## MOBILE TEACHERS' RETIREMENT ASSISTANCE ACT

### PURPOSE

To permit teachers to change employment across State lines without substantial loss of retirement benefits.

To participate in the program provided for in this act, a State retirement system must:

(1) Provide for payment of retirement benefits on account of out-of-State service by a covered teacher;

(2) allow covered teachers at least 10 years of out-of-State credit for public teaching service not covered by the system which is not vested under another State retirement system, upon payment by the covered teacher by the date of retirement of a portion of the cost involved and payment from public funds of the remainder;

(3) require no more than 1 year of in-State service for each year of out-of-State service credit granted;

(4) provide that the teacher's payment for out-of-State service credit shall not exceed 25 percent of the total cost of the out-of-State service credit;

(5) provide for vesting after not more than 5 years of creditable service in the State retirement system;

(6) provide for making such reports, in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this act.

### OUT-OF-STATE CREDIT PROVISIONS

(a) The Commissioner will make an annual Federal contribution to each qualified State retirement system on account of each covered member teacher with credited out-of-State service who has retired during any 12-month period as designated by the system. For each year of credited out-of-State service, the Federal payment will be an amount equal to 50 percent of the total cost as determined by the retirement system at such teacher's age on date of retirement, provided that if the teacher has not reached age 60, the cost shall be determined as if the teacher were age 60.

(b) The Federal contribution to a State retirement system shall be limited to the reserve required to provide not more than 10 years of out-of-State service credit; provided that the Commissioner may determine maximum reserve factors at each age, beginning at age 60, for the purpose of the Federal contribution.

(c) Federal contributions to a State retirement system must be used for the same purposes and be subject to the same terms and conditions as funds derived from other sources and may not be paid on a basis less favorable to the retired teacher.

TABLE 1.—VESTING PROVISIONS AND MAXIMUM OUT-OF-STATE SERVICE IN STATE AND LOCAL RETIREMENT SYSTEMS TO WHICH TEACHERS BELONG

| Retirement system (1) | Type of membership [1] (2) | Years of service and/or age requirements for vesting [2] (3) | Maximum years of out-of-State service creditable (4) |
|---|---|---|---|
| 1. STATEWIDE RETIREMENT SYSTEMS | | | |
| Alabama | T | (a) 15 years at any age; (b) 10 years if in service at age 55. | None. |
| Alaska [3] | T | 10 years | 10 years. |
| Arizona | P | 5 years | None. |
| Arkansas | T | (a) 20 years at any age; (b) 10 years, age 60. | 10 years. |
| California [3] | T | 5 years | None. |
| Colorado [3] | P | do | Do. |
| Connecticut [3] | T | 10 years | 10 years (reciprocal). |
| Delaware | P | 20 years | None (4 years may be counted toward 30 years' service retirement requirement). |
| Florida [4] | P | 10 years | None. |
| Georgia | T | 20 years | 10 years (reciprocal). |
| Hawaii | P | 5 years | None. |
| Idaho | P | 10 years | Do. |
| Illinois [3] | T | 5 years | 10 years. |
| Indiana | T | (a) 15 years' service and age 50; (b) 10 years at age 65. | 8 years (limit may be exceeded under certain circumstances.) |
| Iowa | P | (a) 8 years; (b) age 55 regardless of years of service. | None. |
| Kansas | P | 10 years | Do. |
| Kentucky [3] | T | 5 years | 8 years. |
| Louisiana [3] | T | (a) 20 years; (b) 10 years if teacher withdraws to enter public-school teaching in another State. | None. |
| Maine [3] | P | 10 years | 10 years. |
| Maryland | T | 15 years | 5 years. |
| Massachusetts [3] | T | (a) 20 years; (b) 6 years if position is abolished or the teacher not reemployed. | 10 years. |
| Michigan | S | (a) 25 years; (b) 10 years and age 50. | 15 years. |
| Minnesota | T | 10 years | None. |
| Mississippi | P | (a) 20 years for full vesting; (b) 16 years for partial vesting. | Do. |
| Missouri | T | 20 years | 10 years. |
| Montana | T | 5 years | 5 years. |
| Nebraska | S | 5 years | 10 years. |
| Nevada | P | (a) 20 years for full vesting; (b) 15 years with partial benefit. | None. |
| New Hampshire | P | 15 years | Do. |
| New Jersey | T | do | 10 years. |
| New Mexico | S | 5 years | 5 years. |
| New York | T | 10 years | 10 years. |
| North Carolina | P | 12 years | None. |
| North Dakota | T | No vesting | Unlimited |
| Ohio | T | 5 years | None (unlimited credit allowed to meet the eligibility requirements for retirement in Ohio). |
| Oklahoma | S | 20 years | 5 years. |
| Oregon | P | 5 years | None. |
| Pennsylvania | S | 10 years | 12 years. |
| Rhode Island | P | do | 5 years. |
| South Carolina | P | 15 years | Unlimited. |
| South Dakota | T | 10 years | None. |
| Tennessee | T | (a) 10 years; (b) 4 years for college and university faculty members. | Do. |

Footnotes at end of table.

TABLE 1.—VESTING PROVISIONS AND MAXIMUM OUT-OF-STATE SERVICE IN STATE AND LOCAL RETIREMENT SYSTEMS TO WHICH TEACHERS BELONG—Continued

| Retirement system (1) | Type of membership [1] (2) | Years of service and/or age requirements for vesting [2] (3) | Maximum years of out-of-State service creditable (4) |
|---|---|---|---|
| 1. STATEWIDE RETIREMENT SYSTEMS—Continued | | | |
| Texas | S | 10 years | 10 years. |
| Utah | P | No vesting | None. |
| Vermont | T | 15 years | None (10 years toward 15-year eligibility for disability retirement). |
| Virginia | P | 5 years | None. |
| Washington | T | do | Do. |
| West Virginia | S | 20 years | Varies; on same terms as other States provide credit for West Virginia public school service. |
| Wisconsin | T | Immediate | None for members of combined group (with social security); out-of-State credit available to some separate group members under certain circumstances. |
| Wyoming | P | 4 years | None. |
| Puerto Rico | T | 10 years | Do. |
| 2. LOCAL RETIREMENT SYSTEMS | | | |
| California: | | | |
| Los Angeles | T | 5 years | Do. |
| San Francisco | P | (a) 10 years; (b) if accumulated contributions exceed $1,000. | Do. |
| Colorado: Denver | S | 10 years | None |
| District of Columbia: Washington. | T | 5 years | 10 years. |
| Illinois: Chicago | T | (a) 20 years; (b) 10 years and age 55. | Do. |
| Iowa: Des Moines | T | 20 years and age 45 | None. |
| Maryland: Baltimore | P | No vesting | Do. |
| Michigan: Detroit | S | (a) 15 years' continuous service and age 50; (b) 25 years, with last 10 years continuous; (c) 15 years' continuous service and subsequent retirement from another public agency. | 10 years; 15 years if service is in Michigan. |
| Minnesota: | | | |
| Duluth | T | No vesting | None. |
| Minneapolis | T | 7 years | Do. |
| St. Paul | T | 10 years | 5 years. |
| Missouri: | | | |
| Kansas City | S | 5 years and age 40 | None. |
| St. Louis | S | 5 years | Do. |
| Nebraska: Omaha | S | 20 years | 5 years. |
| New York: New York City. | T | 15 years | 15 years. |
| Oregon: Portland | T | 5 years | None. |
| Tennessee: Knoxville | P | 15 years | Do. |
| Wisconsin: Milwaukee | T | Immediate | Do. |

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[1] In this column, T=teachers and professional school employees only; S=all school employees; P=teachers and other public employees.

[2] The requirements listed are other than those needed for early retirement.

[3] No social security coverage.

[4] In December 1970, Florida consolidated its retirement systems. All new teachers will become members of this system and will automatically be covered by social security. Teachers under the old system had the opportunity to elect coverage in the new system and with it social security coverage.

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By Mr. BENTSEN:

S. 2434. A bill to require the Department of Transportation, the Interstate Commerce Commission, and Department of Agriculture jointly investigate certain interstate freight rates. Referred to the Committee on Commerce.

### SOUTH TEXAS TRANSPORTATION STUDY

Mr. BENTSEN. Mr. President, I am introducing a bill today which will provide for a careful study of the transportation opportunities available to the citizens of south Texas.

The area of south Texas has a great economic potential. Its fertile soil generates outstanding agricultural production. The soil and excellent climate join together to enable over 40 crops to generate year-round production. The area has plentiful water and good energy supplies. It is home to a good, hardworking people.

South Texas is an area with much to offer the United States, yet its economic and population growths are increasing at a far slower rate than the national average. The citizens of the area are in strong pursuit of reasons for this slow growth and the people who are involved in economic development in the area report to me that south Texas transportation rates and opportunities are a major part of the problem.

The citizens who are attempting to bring new economic development to the area report that many times when they begin to interest outside investment in the area, often raised are the facts of unsatisfactory transportation services, expensive rates, and the poor routings available to shippers in the area. Many times this is a factor in the outside interest choosing not to build in south Texas. One interesting example of this is in the lettuce industry. Shippers and producers of lettuce in south Texas are at an economic disadvantage to other producing areas in the United States due to fewer reconsignment and diversion points being available to them as compared to the growers and shippers in California and Florida. Reconsignment and diversion points are those points in a transportation route where a shipper may change the destination of a shipment without an additional shipping charge being levied. This procedure is very valuable to lettuce and other vegetable shippers, because of the highly perishable nature of the product. A choice of several reconsignment and diversion points allows a shipper to begin shipment of his product at the peak of its maturity and then begin to seek and bargain for markets along the transportation route of the products. This procedure is not only a great benefit to the shipper, but serves to keep the prices of lettuce and other vegetables competitively equal throughout the United States.

Certainly a procedure of this importance should be of equal availability to all producing areas of this country. A study, such as I propose, would judge the importance of these reconsignment and diversion points and bring to light whether they are equally available to the major vegetable producing areas in the southern part of the United States.

Another aspect of the transportation picture which has bothered the citizens and investors in the South Texas area is that factor commonly known as the Robstown Differential. The Robstown Differential is a transportation complaint of many years and has come about, because rail rates almost double for many commodities once they enter the South Texas area. Many explanations have been given for the Robstown Differential, but the fact remains—the rates do increase dramatically for the last 200 miles or so for entry into the South Texas area. This fact alone prevented the major grain companies from using the port of Brownsville in south Texas at a time when every other port on the Texas coast was hopelessly backlogged with the shipments of the Russian wheat sale. The question of whether the Robstown Differential is an example of transportation rate discrimination or merely a justifiable transportation disadvantage must be answered. South Texas needs to know if the Robstown Differential is discrimination or disadvantage so that the area can properly seek alternative means of transportation to overcome the problem.

Only a careful and unbiased study can fully explain the Robstown Differential, and that is the type of study that I am calling for.

For many years, the Interstate Commerce Commission has maintained an insistance that common carriers not move commodities carrying an ICC status of exempt. ICC also insists that exempt carriers not transport common carrier types of freight. Common carriers are those carriers who may carry all types of freight, but only under established rate and route regulations of the Interstate Commerce Commission. Exempt carriers may only deal in the transportation of agricultural commodities, but are not subject to ICC rates or routings. These two facts are causing an inordinate amount of what is known as deadheading into and out of the south Texas area. Deadheading is a term used to describe the situation of empty exempt carriers going into the south Texas area to loan agricultural commodities and common carriers leaving the area simply because the ICC insists that the two types of carriers cannot transport each other's traditional shipments.

This procedure has proven valuable to

some areas of the United States, but in light of the national energy crisis, the enforced deadheading of transportation is a waste of valuable energy and adds to the increased transportation difficulties which is relegating the south Texas area into second-class citizenship.

The study that I am calling for would take a hard look at the procedure of enforced deadheading and is an action we can hardly overlook in our search for methods of conserving this country's valuable energy supplies.

Mr. President, in these inflationary times which are troubled even more by the worry over food supplies, this country can profit by the economic possibilities of south Texas. Yet transportation difficulties are frustrating the potential of the area and these difficulties are quite possibly the result of discrimination. The questions of availability of reconsignment and diversion points, the higher rates associated with the Robstown Differential and wasteful policies of deadheading must be answered.

South Texas can go a long way in solving its growth problems with the benefit of the transportation study this bill calls for, and I ask my colleagues' strong support of the measure.

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By Mr. CANNON:

S.J. Res. 155. Joint resolution authorizing the securing of storage space for the U.S. Senate, the U.S. House of Representatives, and the Office of the Architect of the Capitol. Referred to the Committee on Rules and Administration.

Mr. CANNON. Mr. President, the Architect of the Capitol has requested that he be authorized to contract for warehouse storage space at a convenient location within the District of Columbia or its environs, as a part of his effort to maximize efficient use of the Capitol and Senate and House Office Buildings space assigned to his jurisdiction.

Any such lease contract would be subject to the approval of the Senate Committee on Rules and Administration and the House Office Building Commission.

My experience as chairman of the Rules Committee has made me acutely aware of the problems arising out of our general shortage of space, and I hope the joint resolution to give him this authority which I am introducing today will be speedily considered and approved.

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## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 4

At the request of Mr. Williams, the Senator from Alabama (Mr. Allen) was added as a cosponsor of S. 4, to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

### S. 181

At the request of Mr. Moss, the Senator from Alaska (Mr. Gravel), and the Senator from Florida (Mr. Gurney), the Senator from Idaho (Mr. Church), the Senator from Illinois (Mr. Percy), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from New Mexico (Mr. Montoya), and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 181, a bill to authorize reduced fares on the airlines on a space-available basis for individuals 21 years of age or younger or 65 years of age or older.

### S. 650

At the request of Mr. Packwood, the Senator from New Mexico (Mr. Montoya) was added as a cosponsor of S. 650, to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns.

### S. 1148

At the request of Mr. Cranston, the Senator from Delaware (Mr. Biden), was added as a cosponsor of S. 1148, a bill to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

### S. 1769

At the the request of Mr. Magnuson, the Senator from Pennsylvania (Mr. Schweiker) was added as a cosponsor of S. 1769, to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of Government and for other purposes.

### S. 1825 AND S. 1826

At the request of Mr. Moss, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor to S. 1825, a bill to amend title XVIII of the Social Security Act to authorize the provision of intermediate care services under medicare, and for other purposes, and to S. 1826, a bill to authorize an experimental program to provide for care for elderly individuals in their own homes.

### S. 2068

At the request of Mr. Javits, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 2068, the National Tay-Sachs Disease Screening and Counseling Act.

### S. 2304

At the request of Mr. Dole, the Senator from New Mexico (Mr. Domenici), the Senator from New York (Mr. Buckley), and the Senator from Delaware (Mr. Biden) were added as cosponsors of S. 2304, to provide for mobile home-State offices for Senators.

### S. 2354

At the request of Mr. Humphrey, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 2354, authorizing U.S. participation in the African Development Fund of the African Development Bank.

### S. 2364

At the request of Mr. Cranston, the Senator from Delaware (Mr. Biden), was added as a cosponsor of S. 2364, a bill to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

### S. 2393

At the request of Mr. Humphrey, the Senator from South Carolina (Mr. Hollings) and the Senator from Oregon (Mr. Hatfield) was added as cosponsors of S. 2393, a bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93-66 shall become effective immediately, and for other purposes.

### S. 2410

At the request of Mr. Cranston, the Senator from Vermont (Mr. Stafford) was added as a cosponsor of S. 2410, a bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive emergency medical services systems.

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## SENATE CONCURRENT RESOLUTION 45—SUBMISSION OF A CONCURRENT RESOLUTION TO ESTABLISH NATIONAL SPACE WEEK

(Referred to the Committee on the Judiciary.)

Mr. MOSS submitted the following concurrent resolution:

### S. Con. Res. 45

Whereas the National Aeronautics and Space Administration has so ably borne the responsibility of moving America rapidly into the space age, and at the same time kept our country in the forefront of aeronautical research; and

Whereas the National Aeronautics and Space Administration will observe its 15th anniversary on October 1; and

Whereas this anniversary comes at a time when the National Aeronautics and Space Administration has successfully completed the Apollo program; and

Whereas the National Aeronautics and Space Administration, with strong bipartisan support from the Congress in authorizations and appropriations for Fiscal Years 1973 and 1974, is now engaged in important new programs for exploring the planets and making more intensive and more economical use of Near Earth Space; and

Whereas missions of great significance for the future, such as the Skylab space station and the first Earth Resources Technology Satellite, are now in orbit, and the Pioneer 10 spacecraft is now approaching the giant planet Jupiter; and

Whereas communications satellites in synchronous orbit have proven their great worth as relay points between the continents, and private industry is now able to foresee and fulfill many new uses for them, including domestic as well as international uses; and

Whereas the high potential value of Earth observation satellites has been widely recognized, not only for weather studies, but also to monitor and protect the world's environment, help solve water and air pollution problems of a global nature, and facilitate better management of Earth's resources and better land use planning; and

Whereas the United States has succeeded in greatly increasing international cooperation in space activities, including the Apollo-Soyuz Test Project being carried out jointly with the Soviet Union and the proposal by a number of West European countries to develop the Space Laboratory module for use with the Space Shuttle; and

Whereas it is important that the American people be fully informed of the efforts being made, and the opportunities opening up, to make the next 15 years in space productive and rewarding; now therefore be it

Resolved by the Senate (the House of Representatives concurring), that the President is requested to issue a proclamation designating the first week of October 1973 as National Space Week and re-affirming the decision of recent years that the United States, having successfully completed the Apollo program, is in space to stay, and is proceeding with new programs to use space and space technology for the benefit of the American people and all mankind.

### DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—AMENDMENTS

#### AMENDMENT NO. 498

(Ordered to be printed, and to lie on the table.)

Mr. McGOVERN submitted amendments, intended to be proposed by him, to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

#### AMENDMENT NO. 501

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE. Mr. President, I submit an amendment to H.R. 9286, the military procurement authorization bill.

Mr. President, the Congress is taking an initial step which should receive laudatory congratulations from all Americans. A provision of the defense authorization bill reduces the size of our military strength by 156,100 by June 30, 1974. I congratulate the Committee on Armed Services for their work in this area.

Such a reduction in the overall strength of the Armed Forces will not hinder or impede a strong defense policy for the United States. The military forces should be strong in this time of peace, but strength should not be synonymous with numbers of men and women in uniform.

Mr. President, the amendment I introduce calls upon the armed services to give priority in the reduction of their ranks to those individuals who were involuntarily conscripted. This Nation has seen fit to innovate in the area of military manpower by organizing an all-voluntary army. Although opposing arguments for a voluntary armed force still ring in the halls of the Pentagon, the armed services must take every initiative to generate its continued success.

The Armed Forces have involuntarily inducted 144,242 individuals since January of 1971. These individuals fill the least desirable positions within the services. The Armed Forces of the 1970's must become a streamlined efficient organization if the people of this country are to regain respect for the services.

Let us continue to have a strong defensive posture, but let us achieve that posture with efficiency and management in the utilization of military personnel. Although this amendment is directed to personnel management at the lower echelons of the service, a word of caution should be directed to the higher echelons. The alarming quantity of higher grade officers must be closely examined by the Committee on Armed Forces during the 93d Congress to determine whether an airplane will only fly under the control of a colonel, and a tank can only be directed by a general.

I implore my colleagues to support this amendment, and remove draftees from the military services at the earliest possible date. This is a first step in personnel management.

My amendment pertains to those members who were involuntarily conscripted into the Armed Forces against their free choice. It does not include those initially drafted, but who then volunteered for active service in order to receive special privileges.

Under my amendment, the reduction of the 156,000 men will be apportioned among the four major services as H.R. 9286 was amended by the Senate Committee on Armed Services. If, for example, the Secretary of Defense apportions to the Army an 80,000 personnel reduction, the first individuals that should be released are those in the service against their will by conscription. As figures are not available from the Department of Defense on the number of draftees presently on active duty, an arbitrary figure of 50,000 may reflect present Army draftee manpower personnel. This reflects the 49,514 drafted during 1972, 646 drafted in 1973, minus a percentage of those who volunteered after being inducted, plus a limited amount who may still be on active duty who were drafted in 1971. Of the 80,000 personnel apportioned to the Army in my example, the first 50,000 to be reduced from Army manpower would be those involuntarily conscripted.

The return to civilian life of the 50,000 draftees does not relieve us of our responsibility for their future. They were taken from their jobs, professions, schooling, and loved ones, placed into a foreign environment against their wills, and will now be veterans, having served their country, some in time of international conflict. We must do all that we can to assure their successful reintegration into civilian life, but our first duty is to assure their earliest release from the military service. We owe these people so much for their service to their country.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

#### AMENDMENT NO. 501

On page 20, line 9, immediately after "shall be" insert the following: "(1) made first from members of such department who were involuntarily inducted into the armed forces under the Military Selective Service Act (or prior comparable legislation) and have not subsequently reenlisted, and (2)".

### READJUSTMENT OF SCHEDULE OF RATINGS FOR DISABILITIES OF VETERANS—AMENDMENT

#### AMENDMENT NO. 499

(Ordered to be printed, and referred to the Committee on Veterans' Affairs.)

#### PRESIDENTIAL APPOINTMENT OF VA OFFICIALS

Mr. CRANSTON. Mr. President, I am resubmitting for printing, today, an amendment to S. 1076, the proposed "VA Accountability Act of 1973", of which I am a cosponsor with Senator HARTKE, chairman of the Senate Veterans' Affairs Committee, in order to correct a drafting error included in the original version of the amendment, which I submitted on August 3, 1973.

I am delighted to be joined again by Senator HARTKE and Senator RANDOLPH in sponsorship of this amendment to require that future appointments to the post of VA Deputy Administrator, Chief Medical Director, and Chief Benefits Director be made by the President subject to Senate approval.

Mr. President, there are currently 542 statutory positions required to be filled by Presidential appointment, by and with the advice and consent of the Senate. In determining why certain positions are subject to Senate confirmation, it seems pertinent to examine the size of the particular agency's budget, the number of employees under its jurisdiction, and the number of potential beneficiaries that the agency serves. Presumably, an agency with a large budget and a large number of employees, as well as a large population for which it is responsible, will have more positions requiring Senate approval than a smaller agency.

In view of this, Mr. President, let us look at the situation of the Veterans' Administration. Right now, in an agency spending more than $12.5 billion, employing almost 200,000 people, and potentially providing benefits to 29 million veterans, only one official, the Administrator of Veterans' Affairs, is so appointed and so accountable. By comparison, the Department of Housing and Urban Development employs approximately 16,000 people and spends a little over $5 billion, but has seven statutory positions subject to Senate approval. And the ACTION Agency, with less than 2,000 employees, and a budget of approximately $165 million, has six positions requiring confirmation by the Senate.

The General Services Administration, which employs slightly more than 4,000 people and spends approximately $826 million has, like the VA, only one Presidentially appointed position requiring Senate approval. While I recognize the valuable services that this agency provides—largely to other Federal agencies—it does not have 29 million potential beneficiaries, as is the case with the Veterans' Administration.

Mr. President, these examples indicate a serious discrepancy regarding the accountability of the principal VA officials, which the amendment we are submitting would rectify. I wish to make it very clear, however, that this amendment explicitly would not apply to the incumbents in these positions. Retroactive confirmation by the Senate of the persons presently in the positions of VA Deputy Administrator, Chief Medical Director, and Chief Benefits Director is not required by this amendment.

Mr. President, I ask unanimous consent that the full text of this amendment be set forth in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 499

At the end of the bill add a new section as follows:

SEC. 6. (a) The first sentence of section 210(d) of title 38, United States Code, is amended to read as follows: "There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the President by and with the advice and consent of the Senate.".

(b) Section 210 of title 38, United States Code, is further amended by adding at the end thereof a new subsection as follows:

"(e) There shall be in the Veterans' Administration a Chief Benefits Director who shall be appointed by the President by and with the advice and consent of the Senate. The Chief Benefits Director shall administer, under the supervision and control of the Administrator, the programs provided for under chapters 11, 13, 15, 19, 21, 23, 31, 34, 35, 37, and 39 of this title, and shall perform such other functions as the Administrator shall designate.".

(c) The second sentence of section 4103 (a)(1) of title 38, United States Code, is amended by striking out "Administrator" and inserting in lieu thereof "President by and with the advice and consent of the Senate".

(d) The provisions of sections 210(d) and 4103(a)(1) of title 38, United States Code (as amended by this section), insofar as such provisions require the advice and consent of the Senate to the appointment of individuals to the offices of Deputy Administrator of Veterans' Affairs of the Veterans' Administration and Chief Medical Director of the Department of Medicine and Surgery, Veterans' Administration, shall not apply in the case of individuals holding those offices, respectively, on the date of enactment of this Act for so long as such individuals continue to hold such offices. The provisions of section 210(e) of such title (as added by this section), insofar as such provisions require the advice and consent of the Senate to the appointment of any individual to the office of Chief Benefits Director of the Veterans' Administration, shall not apply with respect to the first appointment to such office, if the individual so appointed is the individual holding the administratively created office of Chief Benefits Director of the Veterans' Administration on the date of the enactment of this Act.

## CREATION OF AN OFFICE OF FEDERAL PROCUREMENT POLICY—AMENDMENTS

### AMENDMENT NO. 500

(Ordered to be printed, and referred to the Committee on Government Operations.)

**Mr. BROCK** submitted amendments, intended to be proposed by him, to the bill (S. 2198) to create an Office of Federal Procurement Policy within the Executive Office of the President, and for other purposes.

## AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961—AMENDMENT

### AMENDMENT NO. 502

(Ordered to be printed, and to lie on the table.)

**Mr. HARTKE.** Mr. President, I submit an amendment to S. 2335, the Foreign Assistance Act of 1973, and ask that it be printed and ordered to lie on the table.

Mr. President, as my colleagues are aware, I have long encouraged the legislation of stronger international narcotics control. There is no need to remind the addicts in the world of the mental destruction cognizant with opium and its derivatives.

My amendment to chapter 8 of the Foreign Assistance Act of 1961, 22 U.S.C. 2291, will not terminate assistance to any particular country. It will only clarify the law as written, setting forth a clear mandate to those countries where illicit opium and its derivatives are transported, produced, distributed, and manufactured that adequate steps are being taken in coordination with the Department of State.

My proposal clarifies the intent of Congress by calling upon the President to make an affirmative finding that each country is taking adequate steps to control illicit opium. The Secretary of State shall set forth the measures which constitute a good faith effort to control illicit opium and its derivatives.

Such measures may reflect the individuality of any country, but must reflect: the enactment of criminal laws controlling illicit opium; a viable enforcement agency; the vigorous enforcement of the criminal laws; the full cooperation of the country with the Department of State; the establishment of border interdiction procedures; the destruction of seized illicit opium; and the establishment of controls for legal opium.

Mr. President, my proposal does not engage in foreign policy, but merely sets forth the intent of Congress to the President that unless countries are as concerned about the illicit flow of narcotics as the United States, this country should not support them while they bankrupt the fabric of America.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 502

At the end of the bill, add the following new section:

INTERNATIONAL NARCOTICS CONTROL

SEC. 23. Chapter 8 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291), as amended, relating to international narcotics control, is further amended

(1) by inserting in Section 481 "(a)" immediately after "INTERNATIONAL NARCOTICS CONTROL—"

(2) by inserting in Section 481 "(b)" immediately after the first sentence and before the beginning of the second sentence which reads, "In order to promote . . .".

(3) by striking out of Section 481 the fourth sentence to the end which begins with "The President shall suspend" and inserting in lieu thereof

"(c) The President (or his delegate) shall cause to be suspended all foreign assistance, tangible or intangible, including but not limited to gifts, loans, credit sales, or guarantees to every country, except as provided in (b) of this section and section 482 of this Chapter."

(4) by striking "Sec. 482", and inserting in lieu thereof "Sec. 483."

(5) by inserting the following:

"SEC. 482. (a) The President shall make an affirmative finding that a country is taking adequate steps, as set forth in (c) of this section, to control the production, distribution, transportation and manufacture of opium and its derivatives within 90 days of the enactment of this section and each year thereafter, which finding shall be submitted to the Congress the first day of June of each year.

"(b) Within 90 days following the submission of such affirmative findings, the Congress may adopt a concurrent resolution rejecting such finding as to any or all countries, whereupon the President shall immediately suspend all foreign assistance to such country in accordance with Section 481 of this Chapter.

"(c) The Secretary of State, after coordination and consultation with all other departments or agencies involved with the control of the production, distribution, transportation and manufacture of opium and its derivatives, shall set forth those measures which constitute a good faith effort to control illicit opium and its derivatives. Such measures may reflect the individuality of a country, but shall include the following:

"(1) the enactment of criminal laws controlling the production, distribution, transportation and manufacture of opium and its derivatives;

"(2) the establishment of a viable agency to enforce criminal laws controlling the production, distribution, transportation and manufacture of opium and its derivatives;

"(3) the vigorous enforcement of criminal laws controlling the production, distribution, transportation and manufacture of opium and its derivatives;

"(4) the full cooperation of such country with all United States departments or agencies involved in the interdiction of the supply of illicit opium, and its derivatives, into the United States;

"(5) the establishment of border procedures for the interdiction of opium and its derivatives, out of or into such country;

"(6) the destruction of all illicit opium and its derivatives after its evidentiary use has expired; and

"(7) the establishment of detailed procedures for the control of all legal production, transportation, distribution or manufacture of opium and its derivatives.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT—AMENDMENT

### AMENDMENT NO. 503

(Ordered to be printed, and to lie on the table.)

**Mr. CURTIS** submitted an amendment, intended to be proposed by him, to the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

### AMENDMENT NO. 504

(Ordered to be printed, and to lie on the table.)

**Mr. BUCKLEY** submitted an amendment, intended to be proposed by him, to the amendment (No. 497) proposed by Mr. NELSON to Senate bill 4, supra.

### AMENDMENTS NOS. 505 AND 506

(Ordered to be printed, and to lie on the table.)

**Mr. NELSON** submitted two amendments, intended to be proposed by him, to the amendment (No. 497) to Senate bill 4, supra.

### AMENDMENT NO. 507

(Ordered to be printed, and to lie on the table.)

**Mr. TUNNEY.** Mr. President, I am today submitting an amendment to the compromise version of S. 4. This amendment restores a provision in the bill reported by the Senate Labor and Public Welfare Committee. It directs the Secretary of Labor to study and report to Congress, within 1 year from the date of enactment, on changes in existing law and regulations needed to protect high-mobility employees against unreasonable forfeiture of pension credits as a result of the frequent job changes which are inherent in the conduct of their professions.

Thousands of aerospace and defense workers in California and around the Nation change jobs with above average frequency to meet the changing needs of our space and defense establishments. They need and merit the special attention this amendment would provide.

At this point, I ask unanimous consent to have my amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT NO. 507

On page 37, after line 2, insert the following:

"SEC. 223. The Secretary shall undertake a study of the sufficiency of the vesting provisions of this Act as applied to high-mobility employees, and shall recommend such changes in existing law and regulations as may be appropriate to afford to such employees adequate protection against unreasonable forfeiture of pension credits as a result of frequent job changes inherent in the conduct of their professions. In developing such recommendations, the Secretary shall consult with professional societies, industry representatives, and other interested groups with specialized knowledge of the problems of high-mobility workers. The study required by this section shall be completed and submitted to the Congress within a year after the enactment of this Act."

### AMENDMENT NO. 508

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE submitted an amendment, intended to be proposed by him, to the amendment (No. 496) proposed by Mr. NELSON to Senate bill 4, supra.

## ANNOUNCEMENT OF HEARINGS ON NOMINATION OF DONALD R. COTTER TO BE CHAIRMAN OF THE MILITARY LIAISON COMMITTEE TO THE AEC

Mr. PASTORE. Mr. President, the Senate section of the Joint Committee on Atomic Energy will hold a public hearing on Wednesday, September 26, 1973, at 1:30 p.m., in room S-407, of the U.S. Capitol, on the nomination of Donald R. Cotter of New Mexico to be chairman of the Military Liaison Committee to the Atomic Energy Commission. This position was previously held by Dr. Carl Walske who has resigned.

I ask unanimous consent to have printed in the RECORD the biography of Mr. Cotter, which was provided to the Joint Committee by the Department of Defense.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

### BIOGRAPHICAL INFORMATION: DONALD R. COTTER

From 1948 to 1966 and 1968 to 1970, Mr. Cotter held a number of positions at Sandia Laboratories in Albuquerque, New Mexico, including Systems Planning Director, Advanced Systems Research Director, and Manager of the Systems Engineering Department.

From 1966 to 1968, he was first Special Assistant for Counterinsurgency and then Special Assistant for South East Asia Matters in the Office of the Director of Defense Research and Engineering, Department of Defense. In July 1968, he received the Secretary of Defense Civilian Meritorious Service Medal for contributions to military technology in South East Asia.

Mr. Cotter became Director of Overseas Defense Research Office of the Advanced Research Projects Agency in February 1970, and was named Deputy Director of the Agency in August 1971. He held that position until July 1972, when he was appointed Director of the Atomic Energy Commission's Division of International Security Affairs. In this position he was a member of the United States Intelligence Board.

On leaving ARPA, he received a second award of the Secretary of Defense Civilian Meritorious Service Medal for technical contributions to ARPA's strategic and tactical technology programs.

In February 1973, Mr. Cotter was named Special Assistant to the Director of Central Intelligence.

He studied industrial and electrical engineering at Lehigh University and mathematics and physics at the University of New Mexico. He has three children residing and attending school in Albuquerque, New Mexico.

## ADDITIONAL STATEMENTS

## GEORGETOWN POST OFFICE BUILDING DESIGNATED HISTORIC CUSTOMHOUSE

Mr. MATHIAS. Mr. President, on August 1, U.S. Commissioner of Customs Vernon D. Acree designated the 115-year-old Georgetown Post Office building in Washington, D.C., as a historic customhouse. I commend the speech that Commissioner Acree gave on that occasion to my colleagues, and ask unanimous consent to have it printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### REMARKS BY U.S. COMMISSIONER OF CUSTOMS VERNON D. ACREE

This is indeed a most happy occasion and we are absolutely delighted to have you all with us.

Mrs. Nixon, Secretary Shultz, Postmaster General Klassen, Deputy Secretary Simon, Assistant Secretary Morgan, Director Brooks, Mr. Beall, fellow employees and friends. . . .

This is truly a most auspicious day. First it is Customs' birthday which I will tell you more about in a moment. Secondly, our name officially changes today from Bureau of Customs to the United States Customs Service, and in addition, we are going to proclaim this distinguished old building an Historic Customhouse as part of Customs' contribution to the Bicentennial Era culminating in 1976 when we celebrate the 200th anniversary of the birth of our country.

We are particularly honored that the Nation's First Lady is with us today. Her interest in preserving our Nation's cultural heritage is well-known and her presence here makes the events even more memorable.

Now, if you will permit me just a brief excursion through the pages of history: one hundred eighty-four years ago our struggling young Nation was on the brink of bankruptcy. In July of that year Congress passed and President George Washington signed acts establishing a tariff and the machinery for collecting tariff duties. On August 1, 1789 the Customs Service came into being; hence today, August 1, 1973, we are celebrating our 184th birthday as the oldest Federal agency—one month older than our parent agency the Department of the Treasury.

For the next 70 years Customs produced over 90 percent of all the Treasury's receipts. These dollars made possible a period of unprecedented growth; the opening of the west; the purchase of the Louisiana Territory, Florida, the Oregon Territory, Alaska; the building of the National Road from Cumberland to Wheeling; and the Transcontinental Railroad. All of these projects were paid for largely by Customs receipts.

In 1835 Customs revenue actually made it possible to reduce the national debt to zero. Early Customs officers didn't just raise revenue. As the Nation's first Federal agents they paid military pensions, collected hospital dues from sailors to provide for their medical care and collected statistics on immigration as well as on imports and exports.

At this ceremony, we are surrounded by symbols of those early years. With us today are members of the first seagoing branch of our Nation's armed forces: the Coast Guard. They, too, have an anniversary this month, for it was on August 14, 1790, at the urging of Alexander Hamilton, that an act was passed authorizing the President to use revenue cutters to halt smuggling. The Revenue Marine, as they were called, were placed originally under the direction of the Collectors of Customs. We share the same flag—with the exception of their special insignia.

The revenue ensign—as that flag is called—has 16 red and white stripes, signifying the number of States in the Union in 1799 when the flag was adopted. Its 13 stars, 13 leaves in the olive branch and 13 arrows and bars on the shield correspond to the original colonies.

Our responsibilities as a Federal agency have grown phenomenally since 1789. Today we enforce an unprecedented number of statutes—many on behalf of some 40 different Federal agencies. We produce approximately $4.5 billion in revenue. We cleared over $55 billion in importations and processed 247 million travelers entering our country, some 40 million more than our entire population. We are involved nationally with the entire world trade community—the importers, the customs brokers, the freight forwarders, the air, sea, rail and truck carriers and their insurers, just to name a few. Internationally, as a member of the 70-member nation Customs Cooperation Council we are in touch on a regular basis with our counterparts on a continuing variety of matters.

It was in this context, and to better illustrate the wide range of services we perform for the public, that we are officially resuming our historic name the United States Customs Service. I think it is most appropriate that in our audience we have our Headquarters executive staff and many of our principal field officers. I am pleased, Mr. Secretary Shultz, that we can collectively tell you on this historic occasion that we view our role as truly one of service to all our customers. And, that we intend to facilitate the movement of people and goods in all aspects of world trade and commerce coming within our jurisdiction.

To celebrate our anniversary and our new-old name in a special way, we decided to hold this ceremony, which is the 14th in our continuing Historic Customhouse program. Our intent is to recognize worthy old customhouses of architectural or historic merit as part of our contribution to the Bicentennial Era. Architecturally, I understand that this building is an excellent example of the Italianate style of Treasury Architect Ammi B. Young.

For those of you who may not be aware of it, the Treasury Department once was responsible for the design and construction of all public buildings—everything from courthouses and customhouses to post offices and hospitals!

In our research we have discovered that many famous persons and unusual items have passed through this building. The list is literally a roll call of the famous in government, politics, sports and the performing arts—everyone from Senators and Ambassadors, to news commentators, baseball players and even former First Ladies. The merchandise here surpassed the port of New York in variety. Everything from the steel skeletons for most of the famous monuments in the city to art treasures for the National Gallery and gifts for Presidents of the United States have cleared Customs here.

During World War II, strategic war materials, such as rubber and metal, were imported through Washington for reserve storage. Quartz crystal, mined in Brazil, and needed for the manufacture of military airplanes and vessels, was imported here under heavy guard.

So was raw opium, for producing the morphine needed in the war effort. It came in from Turkey and Yugoslavia under cloak-and-dagger circumstances and was stored in the Main Treasury building before being forwarded to pharmaceutical companies for processing into medicinals.

I have been Commissioner of Customs for just over one year and have found the work colorful, exciting and challenging. But most of all it was a special pleasure for me to discover the esprit de corps and the tradition of performance among the employees of this venerable old agency with a modern outlook.

While we have the challenge in Customs to cope with change and progress in today's society and world trade, nonetheless we will seek to preserve those timeless qualities and traditions of our Service.

In commemorating this Customhouse, symbol of authority on our borders and at our ports of entry for nearly two centuries, we hope to insure an opportunity for future generations to appreciate the contributions that our agency has made to the Nation's growth.

On behalf of myself and my associates in the United States Customs Service, let me express our deepest appreciation to you, and especially to our First Lady, to Secretary Shultz, and to Postmaster General Klassen for being here with us today.

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## TAX INCREASE PROPOSALS ARE A TRANSPARENT POLITICAL PLOY—TAX HIKE WOULD ADD TO COST OF LIVING

Mr. PROXMIRE. Mr. President, last week there were a series of tax increasing trial balloons floated by the White House. The first was by Chairman Arthur Burns, of the Federal Reserve Board, who told Congress that the President was looking favorably on Mr. Burns' proposals and that he would not be surprised if the administration proposed a tax hike.

As Mr. Burns mentioned that he had just talked with the President and purported to say what the President's reactions were, this was obviously done with the approval of the President. Mr. Burns is too responsible and a too experienced Washington political hand ever to say what the President said to him or he to the President in a private conversation without Presidential approval.

Obviously, this trial balloon was floated with Presidential approval.

### LAIRD PROPOSALS COME NEXT

We next heard from Presidential Advisor Laird who said that the President was considering two very specific tax proposals, including a proposal to raise taxes now and refund them later during a recession period.

Again, no specific proposal came to the Congress. There was no formal or official White House message. This was another trial balloon obviously floated with administration approval.

And all of this occurred within hours of the President's second so-called State of the Union message where the 1972 election commitment to no tax increase was repeated in the most positive terms.

### TRANSPARENT POLITICAL PLOY

I think the time to call a spade a spade has arrived. By floating tax increase rumors without making any formal proposal, the President is involved in a transparent political ploy designed to put the monkey of inflation on the back of Congress.

By giving the aura of being willing to take any step to stop inflation, without actually doing so, the administration is trying to set up a situation where Congress can be blamed for all the country's economic ills.

### REASONS WHY TAX INCREASE SHOULD BE OPPOSED

In addition to the fact that the proposal was obviously not put forward in good faith, there are two major reasons why a tax increase at this time and under present circumstances should be opposed.

First, a tax increase now would be a cruel and heartless act. It would pile yet another price increase on top of the unprecedented price increases consumers have suffered already.

As the victim of a series of unprecedented price increases, a tax rise on top of all the other price increases would merely add insult to injury.

### WOULD NOT WORK

But, in addition to that, there is an equally valid objection; namely, that it would not work. Here is why.

Food prices are the major culprit in the inflation today accounting for at least half the recent price rises. There is no way that taking money away from consumers by raising taxes will significantly cut the demand for food, or lower food prices. The American housewife will merely have less money to pay for food which costs more. That is no way to fight inflation.

### NOT EXCESSIVE AGGREGATE DEMAND

The present inflation is not basically a problem of excessive aggregate demand or what the economists call "too much money chasing too few goods."

Unemployment is still far too high at 4.8 percent. There is no shortage of labor, and wage increases are the one area, and almost the only one, where the wage-prices program has been successful. The average working American family has had to bear the burden of the wage-price control program. Prices have gone through the roof while his wages have been controlled.

With projections by the Wharton School that unemployment may rise to 6 percent next year and with the Data Resources projection at about 5.5 percent, raising taxes could make matters even worse by increasing unemployment without affecting food and other prices.

A tax increase now is a formula for disaster.

### POSITIVE PROPOSALS

There are several actions the administration could take to stop inflation.

First, the export of food and feed grains must be placed under more comprehensive and effective controls.

By exporting our food reserves and selling off our surpluses the administration induced skyrocketing food prices. With high grain prices farmers sell the grain and feed fewer cattle, hogs, and chickens. Meat prices skyrocket. In the old days this phenomenon was clearly understood by every agricultural expert by the phrase the "corn-hog ratio." Only a program of vastly increasing supplies and restricting the present virtually unlimited exports can even hold the line on food prices.

### TOUGH ACTION CALLED FOR

Second, the Cost of Living Council must change its ways and begin to act in the tough, decisive way the situation cries out for. For a beginning, the increases in steel and auto prices should be rescinded to show the public that the administration really means business.

Why the Cost of Living Council should be paralyzed in a situation where there are unprecedented price rises, is a condition which boggles the minds of intelligent and experienced economists.

### CUT SPENDING

Third, to the degree that aggregate demand is a problem at all, we should cut Government spending. Both military and foreign aid spending are inflationary and ripe for cuts. We should hold the Pentagon to last year's budget and slash the fat and waste from foreign aid, especially the $5 to $6 billion in U.S. military foreign aid now going to almost half the countries in the world.

### INVESTMENT CREDIT

Fourth, we should keep the investment credit, and not vary it, in order to make industry more efficient and more productive.

Far from adding to inflationary pressures, the investment credit promotes productivity by encouraging the replacement of old and inefficient equipment with new machinery. Ultimately that is the way to overcome industrial price inflation.

Proposals to cut it or end it or to use it as a counter-cyclical weapon merely reduce its effectiveness. Ending it will bring price rises. Keeping it should reduce costs.

### CONCLUSION

For all of these reasons, a tax increase should be killed and positive action taken by the administration where it can work.

## BROKERAGE COMMISSION RATE INCREASE

**Mr. TAFT.** Mr. President, I note with great interest the Securities and Exchange Commission's decision to grant the New York Stock Exchange's commission rate increases and require the elimination of all fixed brokerage commission rates by April 30, 1975.

The rate increases were the logical immediate response to the very serious financial problems presently affecting the securities industry. In addition, the concept of a differential between the increases for large and small investors, which was incorporated in the package of increases, is beneficial because it will lessen the impact of the increases on the small individual investors.

Nevertheless, the increases are certainly not going to solve the securities industry's problems in the long run. To a small extent, they may even aggravate the industry's low volume situation by discouraging investors further.

Without question, the most important determinants of the future health of our equity capital markets are not commission rates, but items over which the SEC can exercise no control. These determinants include the "great issues" such as war and peace, the total economic picture—especially interest rates—and the level of citizen confidence in our Government. However, the SEC does expect, rightly, that the abolition of fixed minimum commissions will have a major effect.

Such a policy could certainly encourage a somewhat greater volume of trading in large blocks, for which commission rates are likely to be lowered. In other words, the institutions will certainly benefit from it.

I am troubled, however, about the small individual investors, who contribute essential depth and liquidity to the market. The decrease of 800,000 in the number of individual shareholders last year, the first such decrease in 20 years, is ample evidence that it is time for actions which would encourage a broader based capital market system.

I am not confident that the total elimination of fixed commission rates is a step in that direction. Individual investors who do not need all of the services routinely covered by fixed commission rates may pay reduced rates as a result, but many individuals are likely to pay more as commission rates on small trades are raised to cover costs. Furthermore, the opportunity will be present for cutrate pricing which may drive small brokerage houses, which have traditionally thrived on small trades, out of business.

In view of these problems, it is possible that public utility-type regulation by the SEC would be more in consumers' interest for small transactions than the limitations imposed on commission rates by competition. Under such a system I feel that it might have been desirable to continue to subsidize small traders, to some extent.

Regardless of my concerns about negotiated rates, however, the Senate has clearly expressed its desire to see all fixed commission rates eliminated. Of course, I hope, therefore, that the events I am concerned about cause minimal distortions or do not materialize. To some extent, the Government can help prevent abuses by keeping a close watch to insure that illegal pricing arrangements do not develop. It is the Government's responsibility to do so.

There are other steps we could take that would be more definitely beneficial to small investors. These include passage of legislation to give the SEC a role in reducing back office paperwork costs and measures to broaden competition among all marketplaces in the industry by creating a comprehensive market network.

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## THE CASE FOR THE FAMILY FARMERS

**Mr. ABOUREZK.** Mr. President, on August 6 of this year, I praised the launching of a new consumer action group. At that time I said that the effort of the food action campaign to direct public attention toward the increasing degree of concentration of corporate power within the food industry was long overdue.

I am pleased to report that this launching was a highly successful one. The food action campaign has been gaining more and more support throughout the country. Those of us who represent the food producing areas of our Nation can take heart that our urban brothers are becoming increasingly aware that what happens on the farms and ranches of America is important to the city as well.

All Americans—whether rural, urban, or suburban—must come to recognize that the growth of conglomerate gigantism in the food industry is not only a threat to a rural way of life but also threatens the consumers' pocketbook. But higher prices is not the only threat to consumers posed by increasing corporate power in the food field.

The increasing substitution of technology for labor continues to drive thousands of farmers off the land and into the cities. Good, hard-working people with dignity developed from years of self-sufficiency suddenly find themselves lost in big cities. They add to the burden on municipal services. They find that their preferred way of life has changed.

Standardization of the food supply is also a price paid when conglomerates take over. The consumer is offered less and less choice in the marketplace. Frequently, the quality of foodstuffs plummets.

Finally, there is increasing introduction of synthetic foods. The public is introduced to the taste of additives and the taste of wholesome, genuine foods is lost.

The irony in all this is that with all of these threats, there is no evidence whatsoever that these giant corporations offer any productive advantages. Instead of offering economic efficiencies that lower costs, large corporate enterprises will make farming less efficient. It is the highly efficient family farmer who remains the secret behind the vast productive capacity of American agriculture.

Yet, the very existence of the family farmer is placed in jeopardy by the growth of conglomerate power. It is for that reason that I helped author the Family Farm Antitrust Act to protect small family farmers from unfair competition. When this bill was introduced, I warned against the threat of increasing corporate feudalism. That threat remains real.

This whole story is told very eloquently in an article by James Hightower, one of the leaders in the food action campaign. This article, "The Case for the Family Farmer," appeared in the September, 1973 issue of the Washington Monthly. Mr. President, because of the value of this article, I would commend it to the attention of my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Monthly, September 1973]

### The Case for the Family Farmer

(By James Hightower)

Congresswoman Shirley Chisholm first arrived in Washington in January, 1969, promising to defend the interests of the big-city constituency. The Congresswoman's first act was an indignant and highly publicized protest about her assignment to the House Agriculture Committee. Her successful protest reveals a great deal about urban America's myopia about farm policy.

Four years later, the relevance of the Agriculture Committee might be clearer to urban legislators. The sharp pinch of the highest food prices in memory has caused an urban-oriented Congress to finally realize that what happens down on the farm affects the city as well. Traditionally, farm policy has been left to Corn Belt senators, cotton congressmen, and the slick lobbyists of the agribusiness interests. The result has been a steady industrialization of the American food supply.

The Nixon Administration is now proposing to press industrialization to its logical conclusion: an assembly-line food system controlled by the likes of Del Monte, Tenneco, and Ralston Purina. Anyone who admires what Detroit's Big Three have done for automobiles will be pleased with the new agriculture, for the same quality, cost competition, and reliability will soon be built into the food we eat.

The new agriculture can properly be labeled "Butzculture," after Agriculture Secretary Earl Butz, whose vision of corporate farming has been bought by the President and is being sold to rural America. "We are at a hinge year in farm policy and farm legislation," Butz declared last April. "We have an unequaled opportunity to step boldly into the future and break with the past."

Ironically, public outrage over inflated food costs is just the fuel that the Secretary is counting on to propel his new farm program through Congress. Uninformed about agriculture, disgruntled about the cost of farm programs, and stunned by high food prices, urban congressmen are grateful to hear a call to "step boldly" out of the past. Even though Earl Butz is the piper, many of them are scrambling to get in line, never wondering about what they will be marching toward.

The past that Butz deplores is the era of multi-goal farm programs, in which adequate food production was balanced against the need to maintain farmers' incomes at a decent level. Admittedly, the balancing act has been difficult. Since World War II, corporate power and government programs have combined to eliminate three million small farms and accelerate big-business domination of farming. But until now the family farmers have persisted, hunkered down, and become more efficient. Butzculture promises to finally drive them to the suburbs and the factories.

The loss will be more than sentimental, for by replacing small entrepreneurs with large corporate enterprises, Butzculture will make farming less efficient. If this sounds odd, it is because Americans have a fatalistic assumption that bigness is the only course toward efficiency and modernization. Even those who lament the rise of conglomerates in other spheres often reason that there is simply no other way to produce the food we need. It is no surprise that Butzculture is being marketed on the promise that larger, corporate farms will produce cheaper food than family-size units.

It's just not so. The family farm in 1973 is no anachronism, no nostalgic remnant of American Gothic. In size, family farms can range from a five-acre tobacco allotment in North Carolina to a 5,000-acre wheat spread in Nebraska. These are not the simple yeomen of Jefferson's ideal. The family farm is defined not in terms of acreage or sales, but in terms of independent entrepreneurship. It is small-scale capitalism, alive and performing well—if not flourishing—throughout the countryside.

### CONVENIENT FAMILY-SIZE PACKAGE

For all his rhetoric about traditional American verities, the message that Earl Butz carries across the country is that farming is no longer a way of life—it is a business. That may have a nice ring on the banquet circuit, but it doesn't mean much on the farm. Farming really involves more art than science or business. Producing an abundant, high-quality crop—whether a field of tomatoes or a brood of chickens—simply cannot be reduced to impersonal factory techniques. Farming requires a degree of personal involvement that can't be found either in the corporate board room of General Electric or on a Ford assembly line. As two economists from the Agriculture Department's Extension Service, Harold Breimyer and Wallace Barr, put it:

> Farmers have a genuine love of the land, a respect for it, and a desire to protect and preserve it. This attitude is not mercenary; it has roots that are almost religious.

Despite its embarrassingly sentimental tones, this is a real factor of production and an essential element of agricultural efficiency. The price, taste, and nutritional value of our food supply depends on the farm family's willingness to plow a bit of themselves into the land. Confucius said it centuries ago: "The best fertilizer is the footsteps of the landowner." No amount of chemical spray can replace it.

Since 1952 agricultural efficiency (output per man hour) on farms has increased by 330 per cent, compared with a 20-year increase of 160 per cent in manufacturing industries. That record is unmatched in the rest of the economy. More importantly, the record has been set on average-size farms, not on the ponderous landholdings of the conglomerates.

Apologists for agricultural gigantism are fond of trotting out the phrase "economies of scale," used by academics to express the relationship between size and efficiency. In agriculture the phrase expresses a very simple economic concept—for every crop there is an optimum size for efficient production. Obviously there are inefficiencies if acreage is too small, but it is often forgotten that there are also inefficiencies if acreage is too large.

"Farming offers no great operating efficiency from large-size units," Breimyer and Barr concluded. "Scale economy in crop production is handicapped by space and distance—there are cost disadvantages in farming acreages located far from headquarters." Any gains in scale of operation or in integration of economic functions are offset by such cumbersome and inefficient factors as absentee decisionmaking, added levels of management, employment of administrative staff, increased labor bills, and heavier capital investments. An official of the Ralston Purina Company—one of the largest corporate farmers—admitted recently that "the individual farmer or family corporation can meet, and many times surpass, the efficiency of the large units that operate with hired management."

The family farm turns out to be the optimum size for most crops. In the only official report issued on the subject, the U.S. Department of Agriculture (USDA) found that maximum efficiency generally is achieved "at a relatively small size of operation and remains more or less constant through the very large size range." The 1968 study concluded that the highly touted economies of scale already exist on today's "modern and fully mechanized one-man or two-man operation."

The surprising implication is that today's inefficiencies are more often a product of agricultural bigness than of smallness. For example, in materials submitted to the U.S. Senate migratory labor subcommittee in 1972, the USD reported that the optimum size for a California vegetable farm was 440 acres. Yet, the average size of the corporate farms that dominate vegetable production in California is 3,206 acres—eight times larger than efficiency warrants. Seventy-three per cent of California vegetables are produced on farms that are much larger than optimum size.

And so the first tenet of Butzculture—that bigger farms will mean cheaper food—is certainly suspect. Consequently, if corporations completely take over the food supply there will be no great leaps in efficiency. Rather, as we shall see, corporate farming will bring with it a host of other disadvantages.

### PLENTY OF PEACHES

But if the family farmer is so efficient, why isn't he rich? His financial problems stem from finding himself squeezed from either side by big business. From one side the pinch comes from "input" suppliers, the companies that sell such necessities as land, seed, fertilizers, pesticides, feed, and machinery. While the price farmers receive for their products has increased only six per cent since 1952, overhead has risen by a whopping 122 per cent.

From the other side the farmer feels the pinch from the "output" corporations that process, market, and retail his products. This is a highly concentrated, oligopolistic industry, involving such familiar names as Del Monte, General Mills, Ralston Purina, Minute Maid, Kraft, United Brands, Dole, A&P, and Holly Farms. These are the middlemen, separating the farmer from the consumer and taking two thirds of the food dollar along the way. A 1966 study by the Federal Trade Commission (FTC) showed that the 100 largest food manufacturers (three tenths of one per cent of the total industry) accounted for 46 per cent of the industry's total "value added," 60 per cent of the food manufacturing assets, and 71 per cent of all profits.

This concentrated power can come down hard on family farmers, who are numerous, over-productive, and unorganized. The farmer has no choice but to sell his vegetables, hogs, feed grains, fruits, and other commodities to these corporate processors, marketers, and retailers. In effect, output corporations are thus able to control the farmer's access to market. This means that a relatively small number of firms are able to dictate what will be produced—as well as how much, what quality, and at what price.

For example, fruit and vegetable farmers technically could bargain with any of 1,200 U.S. canners. In fact they must deal with just the four canners that control a quarter of the market and set industry prices. Just one of those corporations—Del Monte—boasts of controlling "roughly 16 per cent of total U.S. sales" of all canned fruits and vegetables. Within selected commodities, market control is frequently much tighter. A Tenneco subsidiary controls 70 per cent of the date industry, while Del Monte accounts for nearly half of all canned peaches. A farmer who does not want to produce peaches on Del Monte's terms can look forward to a long winter of peach eating.

Agribusiness corporations have put even greater pressure on the farmer through the trend toward "vertical integration." In simple terms, this means that a corporation which previously had sold to or bought from a farmer decides to become a farmer itself. In most cases, vertical integration is accomplished through contracts with farmers; the corporation does not become a farmer, it rents one.

Chronic low prices for their product, unavailability of credit, and the sheer market power of the corporate integrator all combine to force farmers into signing contracts that promise a corporate middleman a certain amount at a given price. Corporations can lock up an entire market, forcing farmers either to sign contracts or to go under.

Despite the farmers' resistance, vertical and contractual integration is increasing, affecting nearly a fourth of total farm output. Integration of certain food commodities has gone much further than the norm. Integrated farming now accounts for the production of:

51 per cent of fresh vegetables.  
95 per cent of processing vegetables.  
70 per cent of potatoes.  
85 per cent of citrus fruits.  
40 per cent of other fruits and nuts.  
100 per cent of sugar cane and sugar beets.  
80 per cent of seed crops.  
98 per cent of fluid-grade milk.  
40 per cent of eggs.  
97 per cent of broilers.  
54 per cent of turkeys.

Pressed from one side by rising input costs and from the other by output corporations that pay too low a price, and from top and bottom by corporations offering vertical integration contracts, many family farmers are now also confronted with the crushing weight of another corporate force—the conglomerate.

To gauge its impact, take a look at Sunday dinner. It just isn't what it used to be. The turkey is from Greyhound, and the ham is from ITT; the fresh vegetable salad is from Tenneco, with lettuce from Dow Chemical; potatoes by Boeing are placed alongside a roast from John Hancock Mutual Life; the strawberries are by Purex; and there are after-dinner almonds from Getty Oil.

### STACKING THE DECK

It is raw economic power and favorable government treatment rather than increased efficiency which has given agricultural conglomerates their competitive advantage. The family farmer receives only a small share of the billions of dollars the government spends annually in his name. Income and price-support payments are based on volume and acreage, thus putting a premium on bigness and awarding the largest payments to those least in need. Tax-supported research and extension programs have developed a technological arsenal that is rarely adaptable to the family farmer's scale of operation. Tax laws have attracted the non-economic competition of rich, urban investors looking for a rural tax shelter.

Take irrigation. Water from federal reclamation projects is supposed to go only to farm units of less than 160 acres, but this limitation has never been enforced, allowing some of the largest landholders in the country to prosper from subsidized water. The massive Russian wheat deal was made in the name of farmers, but it was kept secret until the producers had sold their crop cheaply to grain-exporting middlemen.

While tirelessly praising the family farmer over the past 30 years and basking in his productivity and efficiency, the government has been selling him out to corporate America. There has been a lot of hand-wringing over the elimination of three million farms in three decades, but agricultural economists and other corporate apologists have rushed forward to assure us that it was all "inevitable." Butz has underlined the point:

"When I said we were going to have upwards of a million fewer farmers by 1980, that didn't mean necessarily that I approved of that. I simply was reporting what is going to happen. I think it is inevitable."

This is the inevitability of a stacked deck. The reason agribusiness corporations are increasingly dominating agriculture is that Earl Butz and his colleagues have spent their lifetimes making it so. With the farm bloc on the wane in Congress and with food prices at an all-time high, Secretary Butz is at last in a position to implement his vision of a highly capitalized, highly integrated, highly industrialized and highly concentrated agricultural economy.

Out on the hustings, the Secretary of Agriculture gets folksy, calling farm people "the salt of the earth," branding himself their "cowhand on the Potomac," and exhorting them during the 1972 presidential campaign to vote for Nixon or "lose your Butz." Back in Washington, however, the Secretary is moving with cold determination to restructure agriculture and leave these fine folks with little more than the salt in their sweatbands.

"The promised land for agriculture," he gushed in a May speech, "is near at hand." Butz was not just gaffing a bunch of farmers. He was addressing the National Agricultural Advertising and Marketing Association. The audience was significant, for these food executives are the chosen few of Butzculture—the policy that would shift power away from efficient family farmers and put it squarely in the hands of processing, marketing, and exporting corporations.

In a 1967 paper written for the President's National Advisory Commission on Food and Fiber, three economists predicted that "many farming operations will become 'on-line production factories.'" The authors offered this view of how American agriculture will look in 1980:

> The farm of the future will be a carefully integrated complex; it will extend from genetic research outputs to end products tailored to consumer preferences. Coordination will be accomplished through numerous types of decision structure systems. Farm managers, corporations, financial institutions, and governmental units will work together as teams or units.

This structure is the goal of the Butz administration. Food manufacturing firms will integrate and direct farm production, and will control the flow of food to consumers. Of course, some "farms" will still exist under the new order, but these 500,000 or so large-scale enterprises that survive will be controlled by the managements of integrated corporations.

Butzculture is the final enforcement of Butz's 1955 admonition to farmers: "Adapt" to the new agriculture "or die, resist, and perish."

Butzculture is not a manifesto. It does proclaimed and widely disseminated. In fact, not exist as a government document, loudly the Secretary of Agriculture has even refused to submit an Administration farm bill to Congress. "There won't be a Butz plan," the Secretary has declared. "If you get your name on something, they'll just shoot you out of the saddle."

"Yet a plan does exist," *The Wall Street Journal* reported last January, claiming that a Butz speech the previous month "offered a peak at it." From such glimpses must Butzculture be pieced together—little clues are found in speeches, in administrative actions, and in legislative recommendations. When assembled, there are three basic elements:

1. Government will get out of agriculture, leaving that mythical favorite, the "free market," to work its will.
2. The stress will be on "full productivity," with the idea that any surplus will be sold abroad.
3. The small farmer will be dismissed entirely, and the rhetorical and programmatic support will be for well-capitalized, integrated farming.

### GET THE FARMERS OUT OF FARMING

The "return to the free market" aspect of the plan would be the drollest, were it not also the most serious threat to efficient farming. It has, of course, been accompanied by President Nixon's exhortations to "keep the government off the farm." In contrast, Georgia Senator Herman Talmadge, chairman of the Senate Agriculture Committee and no fan of big government, is not nearly as eager to cast family farmers out into a "free market": "I am a conservative man. The idea of getting government out of agriculture is basically very appealing to me. But I would be a traitor to the people of my state and nation if I were a participant in such a scheme."

There is no "free market" elsewhere in today's economy. It does not exist for GM, for cab drivers, for AFL–CIO members, or for anyone else, nor should it. A "free market" is a market out of control and open to domination by concentrated power. If any product should be spared the rigors of such a marketplace, it's food. A steady food supply is the public's most basic need, as governments since that of Louis XVI have ignored at their peril. That supply is not something to be turned over to the whim of uncertain market forces.

American farm policy since the New Deal days has consciously avoided the social disaster that a "free market" would bring. Farm programs exist today because agricultural America is potentially too productive—if all the available land were farmed, we would face enormous gluts.

To avoid such overproduction the government long ago devised two main programs. One is the "price support" approach, under which the government guarantees the farmer a minimum price for certain of his products. The other is limiting the acreage planted in, say, corn or soybeans, with the government paying the farmer to keep the land out of production.

Butzculture would dismantle both systems. Land retirement is the easier target since it has always been an enormously unpopular program. Some of this unpopularity is well deserved, for most of the benefits go to the largest landholders. But for the wrong reasons—to further weaken public management of the farm supply—Butz has joined the attack. As for price supports, Butz recently recommended that they "be phased out over a three-year period."

The easily obscured essence of Butzculture is that, by getting the government out of farming, it will get the small farmers out of farming too. The removal of price supports and land retirement will, for a time, cause farm prices to drop. Conglomerates and integrated producers have the outside resources to see them through such lean times, but family farmers do not. As the Agriculture Department's director of agricultural economics, Don Paarlberg, wrote Senator Talmadge last February:

> Complete removal of all production restraints and all price support activities in 1974 might cause substantial increases in production, sharp drops in farm product prices, and even greater drops in net farm incomes in the immediate years after removal of controls. The result would be an increased economic squeeze on most farmers, with possible failure or withdrawal of many marginal farms.

In the short run, consumers would be eating cheaply, but not for long. "If we drive the family farmer off the farm," Talmadge warned last April, "and leave the production of the nation's food supplies to a few large corporations that can command any price they want, then the consumer will, indeed, pay through the nose."

Before the family farmer is discarded—while still efficient, productive, and competitive—we ought to take a hard look at where we are being led. It is not just the family farm that is threatened by corporate agribusiness and the new agricultural policy, it is the price and quality of the American food supply.

The Butz plan for an integrated, concentrated agriculture is not put forward in the name of corporations, which will profit, but in the name of consumers, who will pay. The Secretary said last May that "a market-oriented agriculture lets production shift and adjust as consumer preferences change and as foreign demand grows." The bait there is the suggestion that sovereign consumers will have this concentrated economy firmly in hand. Consumer to processor-marketer to farmer is the play that Secretary Butz diagrams for the public. He knows better. It is in that middle sector of producer-marketers that power really will be concentrated, and both supply and demand will flow from there.

In the new agriculture, what is produced, how much of it, what quality, and what price will be the decisions of these integrated corporations. In a word, oligopoly.

Assistant Agriculture Secretary Robert Long, who was a vice president of Bank of America before moving into USDA this year, wrote happily about corporate prospects in a concentrated agriculture: "As agriculture progresses to fewer and fewer units, those remaining will find it easier to work together in the search for a new formula for a more profitable return."

In contrast, Breimyer and Barr warned, "If farming were to become so highly concentrated that production and marketing of some farm commodities would be confined to a few firms, any economies of size in production would be partly or wholly denied to the consumer." And that's exactly where Earl Butz has us headed.

### WHAT GOES UP NEVER COMES DOWN

In a highly concentrated, non-competitive food system, prices go up, not down. Last year the Federal Trade Commission found that consumers are being overcharged more than $2 billion a year for food because of monopolies within just 13 food lines. Things promise to get much worse.

Even less likely is the prospect that any savings from a concentrated food system will be passed along to the consumer. Del Monte, for example, recently abandoned its asparagus operations in California, Oregon, and Washington and moved them to Mexico, where cheap labor has reduced the corporation's production costs by 45.1 per cent. But of course the price of Del Monte asparagus has not gone down. The savings have stayed with the corporation.

Advertising and shelf space have a greater impact on prices than do factors of supply, efficiency, or product quality. The food industry model might well be ready-to-eat breakfast cereals, where four corporations—Kellogg, General Mills, General Foods, and

Quaker Oats—control 91 per cent of the market. There is no competition in price or quality. The cereals are essentially the same, differentiated only by color and shape. The only "competition" is in merchandising techniques—animated television commercials, radio jingles, package designs, contests, and other promotional gimmicks we have come to know on supermarket shelves.

Del Monte, with an advertising budget in excess of $15 million a year, has succeeded in creating the impression that its canned goods are of superior quality. But any shipment of Del Monte peaches, for example, contains the same USDA grade that often sells for less under other labels. A 1969 Department of Agriculture study found that in half the cans sampled, Del Monte products contained less fruit and more liquid than any competitive brands. But like Bayer aspirin, because of its advertising, Del Monte can still sell its products at higher prices than its competitors.

It gets down to this: packaging and merchandising are becoming more important pricing factors than the food itself. It's one thing for gasoline to be priced and sold by such artificial gimmicks—but food? Already, food corporations have become the biggest investors in television advertising. As the food economy becomes more concentrated—and under the Butz plan it will—shoppers will have as much control over the price and quality of a tomato as they do over a new Chevrolet.

Higher prices may not be the greatest cost that consumers pay for concentration in agriculture. There is also the danger posed primarily by three corporate objectives in agriculture: 1) substitution of technology for labor; 2) standardization of the food supply; and 3) introduction of synthetic foods.

The saddest comment to make on these "changes" is that the direction in which they will lead us is already familiar. Butzculture will mean more of the same—hard tomatoes, such as the "Red Rock" variety Rutgers University has just developed; rubbery chickens; hamburgers without meat; and meat filled with additives; pesticides in our food and in our land. Given a laboratory and an adequate advertising budget, the food manufacturers are willing to reshape the American diet. Given a concentrated food industry, they will be in a position to do just that.

### HELPING THE LITTLE GUY OUT

Butzculture has no room for smallness. Nowhere has that been made clearer than in the USDA's effort to alter the official definition of a farm. Under proposals made to the Census Bureau in 1972 and 1973, families grossing less than $5,000 a year in sales of agricultural products would not be considered farmers—even if their sole occupation and sole source of income was farming. The $5,000 cut-off level would rule out 56 per cent of the farms in the country. This is likely to mean that these families will be overlooked in future farm programs as well. It is an effort by USDA to put the small producer out of sight and out of mind. The collection of demographic data is a kind of Washington magic—there is no farm income problem if there are no statistics to show it.

Under Butzculture, the small farmer is no longer an agricultural problem—he is a welfare problem. Having failed millions of small-scale operators during the past 30 years, USDA now washes its hands of them. Out of the Department come recommendations that at least half the farmers in the country must abandon agriculture. Where shall they go? Well, they could apply for benefits under the Family Assistance Plan, if it were enacted, or they could enroll for vocational education, if Nixon hadn't vetoed the bill, or OEO could help them, if it were not being dismantled—or, better yet, industries could be given a tax bonus to locate their plants in the rural areas and put all these little guys on the assembly line.

Rural development is USDA's answer to their small-farmer "problem." The Department even has a new post that it can point to as evidence of concern—assistant secretary for rural development. But the effort here is not to help the little guy in farming, it's to help him out of farming. The 1972 Rural Development Act could help small farmers shift to crops in which they could be more competitive, it could provide better marketing information, it could help them maximize their efficiency through cooperative practices—it could do as much for the small farmer as it does for the biggest farmer and for corporate agribusiness. But it does not. The Act authorized a special $10-million research and extension program for small farmers. The Administration, has sought no funding for that provision in its new budget.

While USDA ignores the needs of small farmers, it gives rapt attention to the wishes of corporate agribusiness. From genetic research programs to Russian wheat deals, USDA is present to promote agricultural bigness, integration, and industrialization. There is a reason for that: USDA officials are themselves products of agribusiness. Prior to becoming Secretary of Agriculture, Earl Butz, for example, served as a paid board member of Ralston Purina, Stokely Van Camp, and International Minerals and Chemical Corporation.

The greatest tragedy of Butzculture is that it squanders one of our rare opportunities to make progress a friend of human beings. We've grown so accustomed to thinking of any small enterprises as debris in the path of efficiency that we've assumed that sentiment is the small farmer's only defense. In fact, the family farmers can feed us better than the corporations can, unless Butzculture drives them off the land.

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## SWEET ADELINES, INC.

Mr. MATHIAS. Mr. President, I am proud that the Dundalk Chapter of Sweet Adelines, Inc., Baltimore, Md., will hostess the 27th annual international Sweet Adeline convention and quartet and chorus competition, October 24 through October 27, 1973.

Sweet Adelines, Inc., is an international nonprofit, independent, educational, and service organization with approximately 23,575 women dedicated to the promotion, instruction and enjoyment of four-part barbershop-style harmony for women. Their theme is "Harmonize the World."

At least 567 chapters exist throughout the United States, Canada, and the Panama Canal Zone. Chapter members attend regularly scheduled chorus rehearsals. Quartets are formed within each chapter.

A community service organzation, Sweet Adelines offer their specialized chorus and quartet talent for entertainment at civic events and charitable functions. In addition, the group strives to promote harmony—both vocally and spiritually—among all people.

The members maintain and support a staffed international headquarters at Tulsa, Okla., where the organization was formed in 1947. The international president is Miss Norma Moore, of Baltimore, Md., and a member of Dundalk Chapter.

Sweet Adelines, Inc., publishes its own magazine, musical arrangements, and instructional items. International conventions, competitions, music schools, and region meetings are held on a regularly scheduled basis.

Convention activities will begin on Sunday, October 21, when the 13-women international board of directors begins its 3 days of meetings held for conducting the business of the organization.

The regents of each of the 15 geographical regions of Sweet Adelines will meet concurrently for the purpose of exchanging ideas in regard to governing the individual regions.

One of the highlights of the convention will be the First Sweet Adeline International Chorus Competition on Saturday, October 27, 1973. Dundalk Chapter is not only hostessing the convention, but is competing in the first international chorus competition. In order to be able to compete in the international chorus competition, each chrous must have placed first in regional chorus competition the year before.

The other highlight of the convention will be the quartet competition for the selection of the 1973 "Queens of Harmony" on Saturday evening, October 27, 1973. The chorus and quartet competitions will be held at the beautiful Washington Hilton Hotel in Washington, D.C.

In order to be eligible to compete in the international quartet competition, each quartet must have placed first in quartet competitions on the regional level. Each of the 15 geographic regions has quartet and chorus competition in the spring of each year, producing its representatives for the international chorus and quartet competition.

Choruses and quartets are judged in the categories of music, sound, expression, and showmanship by a panel of organizationally trained judges. There are two judges per category.

"Queens of Harmony" is the quartet accumulating the most points during the competition session. All quartets sing in quartet quarter-finals, Thursday, October 25. The 20 placing highest, compete on Friday, October 26 in the semifinals, and the 10 with the highest scores compete in Saturday's finals. The "Queens of Harmony," during their year's reign will sing on shows throughout the country, and many of these quartets have entertained our servicemen overseas.

This is the first time a Sweet Adeline International Convention has been held in Washington, D.C. For many of the 4,500 Sweet Adelines who are registered for the convention, it will be their first look at the Nation's Capital. These women, from all walks of life—teachers, homemakers, secretaries, professionals, all have a common bond of love of music and harmony.

The Dundalk chapter has a membership of approximately 89 active women, whose president is Dotty Myers of Baltimore. The chorus is directed by Fred King of Baltimore.

The Dundalk chapter has worked hard to insure a successful convention and have arranged tours for their sister Sweet Adelines to Annapolis and to other points of interest around Washington, D.C. I am confident that the Sweet Adelines will leave this convention with dreams of a return visit.

## TIME FOR ACTION ON GENOCIDE

Mr. PROXMIRE. Mr. President, we now have a golden opportunity to act on the Genocide Convention. The Foreign Relations Committee has reported the convention to the floor—by an overwhelming vote—with recommendations that the Senate ratify it. The administration has strongly supported ratification—this includes the President, the Attorney General, and the Secretary of State. And even in the American Bar Association, where there has long been reluctance to support ratification, sentiment has shifted.

Mr. President, the Genocide Convention was originally submitted to the Senate by President Truman in 1950. President Truman strongly recommended ratification, and hearings were held shortly thereafter in the Foreign Relations Committee. But no committee action was taken at that time, and the convention languished in committee for more than 20 years. During this period, the list of nations that had ratified the convention grew to more than 75. But the United States was not among them.

Mr. President, we now have an opportunity to rectify our failure to act. This session of Congress has another 6 weeks or so to run. Let us take advantage of this opportunity, and act on the Genocide Convention now.

## THE PROBLEM OF THE GASOLINE SERVICE STATIONS

Mr. TAFT. Mr. President, last Thursday, gas station operators from all over the country were demonstrating in front of the Capitol Building. If Members think that this is an unusual group of demonstrators, a glance at the phase IV rules for petroleum should eliminate any element of surprise.

The most noticeable aspect of these rules is that the petroleum industry is the only industry in the country whose wholesalers and retailers cannot pass through any increased product costs. To make matters worse in terms of equity, the rules are such that integrated "refiner-retailers"—in other words, company-owned stations—are likely to have higher ceilings than other retailers. It is not difficult to understand why gasoline dealers, particularly the "independents" who are not company-owned, feel they are being discriminated against.

The margins of independents have generally been limited to the 7-cent minimum that the Cost of Living Council allowed until August 1. That allowance is no longer made and since that time, several major oil companies have either increased product prices by 1 cent per gallon or are discussing such increases. This is quite a small amount from the consumer's standpoint, but according to several Ohio gas station operators, it could cost a large gas station as much as $2,000 per month. This cost could mean the difference between a viable business and an endangered one.

The present arrangement is patently unfair. It may also be damaging to consumers in the long run if competition in the petroleum industry is lessened because of the demise of gas stations, particularly if most of the ones which fail are owned by other than the major oil companies.

I urge the Cost of Living Council, as I have done in writing, to address this problem immediately. If it fails to act, Congress should not hesitate to pass remedial legislation—now.

## CONTINUING INVOLVEMENT IN SOUTH VIETNAM

Mr. ABOUREZK. Mr. President, last week two men of great expertise in the fields of Southeast Asian foreign affairs testified before the House Asia and Pacific Affairs Subcommittee. Their statements provided a very moving and enlightening account of events since the signing of the Paris cease-fire agreement in South Vietnam and our continuing involvement and responsibility in those events.

Don Luce, currently the director of the Indochina Mobile Education Project, spent 12 years in Vietnam and is the author of three books on the country. Fred Branfman, presently the codirector of the Indochina Resource Center, has just returned from a 7-week tour of South Vietnam and has condensed thousands of pages of notes from this trip into his statement.

Both statements attest to the whole realm of American involvement in foreign national police activity and the effect which this activity has on the Vietnamese population.

That the South Vietnamese penal system is advised and maintained by the United States cannot be argued. Our support for this system and similar penal organizations throughout the world urgently needs to be reviewed if it is allowed to be continued at all. Our involvement in foreign operations of torture, surveillance, internment and assassination does not contribute in the slightest way to the spirit of humanitarianism in which foreign economic assistance was intended.

Mr. President, I ask unanimous consent that the statements of these two gentlemen be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

### STATEMENT OF DON LUCE

### AMERICAN RESPONSIBILITY FOR THE VIETNAMESE POLICE AND PRISON SYSTEM

The south Vietnamese penal system has been largely created, advised and maintained by the United States.

During the past 6 years the U.S. has spent at least $131,700,000 on the south Vietnamese police and prison systems. Repression has increased steadily since 1967, the year General Nguyen Van Thieu won the presidential election and promptly jailed the runner-up for five years.

In 1964, there were only 10,000 National Police in south Viet Nam; by 1973, American funding had allowed that force to grow to over 120,000. These police interrogate, torture and spy on the entire population of south Viet Nam. They extort bribes from those whose identification papers have not been stamped by election officials. Whole families must make payments to escape arrest during nightly house searches. Even shoe shine boys caught sleeping on the streets in violation of curfew must pay off the National Police.

Demonstrations by Buddhist monks, students and war veterans have been broken up by police who use tear gas by Federal Laboratories in Saltsburg, Pennsylvania.

The shackles which are used to immobilize prisoners are manufactured by Smith and Wesson of Springfield, Massachusetts.

Provincial interrogation centers, where the worst torture takes place, have been built by American contractors. The U.S. Department of the Navy awarded a $400,000 contract for the construction of the "New Tiger Cages" to the American firm Raymond, Morrison, Knudson-Brown, Root and Jones (RMK-BRJ).

The U.S. AID budget for 1974 set as a goal the establishment of a "central records system containing 12 million individual bio-data documents and 11.5 million dossiers." To attain this level of surveillance a vast amount of police and computer work is required. Without United States funds, the Saigon government cannot carry out such a program.

Continued American involvement in such programs and policies is in violation of the January 1973 Agreement on Ending the War and Restoring Peace which states:

"Immediately after the ceasefire, the two south Vietnamese parties will:

"Achieve national reconciliation and concord, end hatred and enmity, prohibit all acts of reprisals and discrimination against individuals or organizations that have collaborated with one side or the other;

"Ensure the democratic liberties of the people, personal freedom, freedom of speech, freedom of the press, freedom of meeting, freedom of organization, freedom of political activities, freedom of belief, freedom of movement, freedom of residence, freedom of work, right to property ownership, and right to free enterprise." (Article 11)

"Foreign countries shall not impose any political tendency or personality on the south Vietnamese people." (Article 9)

"The United States will not continue its military involvement or intervene in the internal affairs of south Vietnam." (Article 4)

"All Vietnamese civilian personnel captured and detained in south Viet Nam shall be treated humanely at all times, and in accordance with international practice.

"They shall be protected against all violence to life and person, in particular against murder in any form, mutilation, torture and cruel punishment, and outrages against personal dignity. The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced." (Protocal on Prisoners, Article 8)

In apparent compliance with these articles, President Nixon's 1974 Budget Presentation states:

"In keeping with the articles of the cease-fire agreement, AID has terminated its assistance to the National Police and to the Vietnamese Corrections System."

But a close inspection of the facts shows that contrary to the Paris Agreement, the U.S. is pumping very substantial amounts of money into the police and prison system.

Public Safety was abolished—but its programs and funding continue. Public Safety is now called Public Works, Public Administration and Technical support.

| Item charged to, amount: | |
|---|---|
| Police computer training, technical support | $869,000 |
| Direct police training, public administration | 256,000 |
| Police telecommunications, public works | 1,505,000 |
| Public safety, unliquidated obligation | 1,285,000 |
| National police support, unliquidated *obligation* | 2,472,000 |

| | |
|---|---|
| Corrections system support, unliquidated obligation | 30,000 |
| Public safety supplies, budget request, Dept. of Defense | 8,880,000 |
| | 15,217,000 |

Another 3.3 million dollars of U.S. tax money is being spent on prisons, police and police telecommunictaions, under the American AID programs (Title 34). This is money that comes from the sale of U.S. commodities donated to the Saigon government. The piasters generated are then put into a special account. The use of these funds requires the joint approval of the U.S. government and the Saigon government. I am submitting to the Committee a xerox copy of the American AID Program section on police and prisons and a copy of the joint letter of agreement on expenditures. The expenditure of the above mentioned 3.3 million dollars for activities in violation of the Paris Agreements was approved on February 23, 1973 between John R. Mossler, Director of AID/Viet Nam and Luu Van Tinh, Director General of the Bureau of south Vietnamese budget.

The preliminary 1974 Budget Presentation, made before the signing of the Paris Agreement, allocated funds to "establish, by the end of FY '75, a central records system containing 12 million individual bio-date documents and 11.5 million dossiers." Upon completion, this program would put two-thirds of the south Vietnamese population under political surveillance. What has happened since the ceasefire? The goal is no longer listed, but:

Surveillance methods are being taught to police trainees in the U.S.

The Computer Science Corporation of El Segundo, California, has reportedly received a contract from the U.S. Agency for International Development to provide computer services to the police agencies in south Viet Nam.

The U.S. contributions to the piaster budget of Public Safety Telecommunications has doubled in the last year.

### IMPACT OF REPRESSION ON THE VIETNAMESE

"There are political prisoners in south Vietnamese jails and incidents of abuse and mistreatment do occur," Marshall Wright of the U.S. State Department writes to Senator Edward Kennedy on August 2, 1973. Marshall Wright does go on to assure the senator that "in general, cases of abuse appear to have occurred in the process of, or just after, arrest while detainees are still under police control or interrogation."

Thus, the U.S. government admits that there are political prisoners in south Vietnamese jails and that some abuse takes place. But while the State Department claims there are between 500 and 1,000 non-communist political prisoners, Amnesty International claims the figure is closer to 100,000 and the Committee to improve the Prison System in Viet Nam provides the location of 200,000 prisoners. (Documentation for this estimate is included as an appendix). One Vietnamese legislator has revealed that the prison allocations for the 1973 budget allow for 400,000 prisoners (*Le Monde*, March 16, 1973).

This committee has received pictures of the people paralyzed from shackling and malnutrition. You have seen photos of people blinded from the caustic lime thrown into the tiger cages. The cases of Nguyen Ngoc Phuong, Venerable Hanh Tue and others who have died as a result of mistreatment in the jails have been heard. I can only add: we pay for it all and therefore must accept responsibility.

### THE FUTURE

The fate of the 200,000 persons imprisoned in Saigon's jails is a central issue in determining the future of Viet Nam and American involvement there.

I would like to briefly review the impact which the war has had on the majority of the population of south Viet Nam to illustrate the significance of the political prisoner issue and the policies of repression currently being pursued by the Thieu government.

Beginning in 1965, when United States ground and air forces became massively involved in the prosecution of the war, ten million farmers, fishermen, craftsmen and small merchants were driven from their homelands. In less than a decade, a country which was 85% rural became 65% urban. More than 50% of the people were forcibly relocated.

The Saigon government and some American strategists did not necessarily consider this flow of refugees to the cities a political drawback, since the National Liberation Front was strongest in the countryside, while an ever-growing Saigon police force patrolled the cities.

Initially, Vietnamese cities were able to absorb economically (though not ecologically) the massive influx of refugees—thanks chiefly to the free-spending military, on and off duty. Many refugees were able to make a living working on or near U.S. military installations. Some became construction workers, translators or cooks. Others had to resort to prostitution, black market operations, shining shoes, or dealing drugs. However menial or degrading the tasks, the presence of American troops, 500,000 of them, did create an artificial economy capable of sustaining the teeming cities.

But the half million are now gone, and with them the millions of dollars they spent annually. A rampant and perverse prosperity has been replaced by pervasive economic stagnation and unemployment. Inflation continues. The government prints more money to pay its bills. And monetary reserves are rapidly diminishing.

The prerequisite for reversing these economic ills is to return people to their homes and get on with the business of agricultural production. But the same political considerations which caused the Saigon government to welcome people driven out of NLF territory in years past are still in effect today. President Thieu is not anxious to have people returning unsupervised to their homes. Thus Article 6 of new Decree-Laws issued on January 2, 1973 states:

"Arrest and detain those persons who incite people to create disorder and confusion or to leave those areas controlled by the government in order to go into communist-controlled zones or vice-versa. If they protest, they will be shot."

In effect, the millions of refugees created in the last decade are now imprisoned in refugee camps and squalid city slums, doomed to futile and desperate lives by a government too fearful of its own people to allow them to go home. Inevitably, the Vietnamese economic situation grows worse and worse.

But the course chosen by the Saigon government—confining its population to secure areas—has not been without political dangers of its own. The faltering economy, corruption, and preoccupation with military spending at the expense of social services has led to wide-spread discontent.* Disabled war veterans have demonstrated for higher pensions and better medical care, students have called for an end to corruption and workers have demanded higher wages and an end to inflation. The response of the Thieu government to these and other demands has been massive and indiscriminate repression. The veterans have been savagely beaten, the students have been imprisoned and tortured, and the union leaders have been arrested and, in one case, tortured to death.

The national police thus play the same role in the cities as the army does in the countryside. Wherever people are forced to live, they are considered a potential enemy.

The consequences of such attitudes are now obvious. Saigon's suspicions prevent the return of refugees to their ancestral homes. Agricultural production suffers. The inadequacies and depravation of urban living lead to protests and demonstrations. More police are required. A vicious circle of increasing repression and decreasing prosperity is the result.

The AID Fiscal Year 1974 Program Presentation, "Indochina Postwar Reconstruction Assistance," acknowledges the importance of resettlement and reconciliation, at least verbally. But a careful examination of the various programs presented reveals the same war-oriented priorities as in previous years. And the emphasis continues to be the funding and training of the national police and the maintaining and equipping of the army. Military aid is still three times greater than economic aid. And a substantial portion of the "economic" aid is actually devoted to military programs. $90 million, or one-third of the Commercial Import Program, and $120 million, or 80% of the Food For Peace funds, support Saigon's army, navy and air force.

### A POLICY OF CONTINUED AND INDEFINITE U.S. AID

The present policy of the United States means an indefinite commitment of money and materiel, at a rate of at least $2 billion a year, to an unpopular dictator in Saigon. Much of the non-communist leadership in south Viet Nam—Buddhist monks, rural community leaders, labor union officials, students, lawyers, and newspaper editors—are in jail. These people represent the broad spectrum of political opinion which lies between that of the Saigon government and the National Liberation Front. They alone can effect the reconciliation and accommodation necessary to restore peace to Viet Nam. But, they remain in jail.

Thousands of skilled Vietnamese live in exile, opposed to the present Saigon government. (More Vietnamese doctors live in France than in south Viet Nam.) These people, whether they are economists, artists, surgeons, engineers, or architects will not return while their families and friends are being arrested and tortured and their children being drafted. South Viet Nam will have to do without their skills and rely on foreign advisors.

As long as the moderate, non-communist opposition in south Viet Nam is thoroughly repressed, National Liberation Front members will not dare seek accommodation with the Saigon government. President Thieu's policy aims at the eradication of the NLF but condemns south Viet Nam to endless war and the American taxpayer to endless expenditure.

The decision to prohibit refugees from returning to their homelands severely limits the ability of individual farmers, and of south Viet Nam itself, to recover from the effects of war. Those made homeless by the war can either be encouraged to become productive members of their communities again, or to remain displaced burdens on the economy. Saigon has chosen the latter option and the accelerating rate of inflation and dwindling foreign reserves testify to the disastrous effects of that choice.

The Saigon government maintains an army of 1.1 million men (the fourth largest in the world) and one of the largest per capita police forces of any country. At the same time its expenditure for health, education and social services is pitiably small. With deepening social unrest and dissatisfaction with unending war, no change in priorities

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*Less than 1% of American aid to south Viet Nam is budgeted for health, education, and agriculture in Fiscal Year 1974. *NYT*, August 19, 1973.)

can be expected. A police state creates a vicious cycle which requires even greater repression.

The United States has nearly completed the process of making south Viet Nam a permanent client state, requiring $2 billion annually to sustain it.

Any money sent to the Thieu administration will be used to protect that administration from its own people. Continued U.S. aid to the Saigon government will be primarily used for repression—it is the only way that Thieu can stay in power.

Four basic reforms are needed if the south Vietnamese are to achieve a self-sufficient economy and the basic freedoms which the U.S. claimed it was fighting to provide.

1. All of the political prisoners must be released.

2. Non-violent freedom of expression must be allowed.

3. There must be freedom of movement to allow the farm people to return home.

4. The Saigon government must begin the demobilization of the armed forces.

Only then will the phrase "peace with honor" have any meaning for the long-suffering people of south Viet Nam.

### APPENDIX

*Political prisoners detained by the Government of the Republic of Vietnam* June 1, 1973*

| | |
|---|---|
| 4 special prisons: | |
| Con Son | 8, 200 |
| Thu Duc | 1, 500 |
| Tan Hiep | 2 500 |
| Da Lat (for political youths) | 1, 000 |
| Total | 13, 200 |
| Military prisons: | |
| Go Vap | 2, 000 |
| Da Nang, Nha Trang, Can Tho, Pleiku | 4, 000 |
| Other military prisons | 6, 000 |
| Total | 12, 000 |
| 9 main prisons: | |
| Chi Hoa | 2, 000 |
| Gia Dinh | 3, 000 |
| Can Tho | 3, 000 |
| My Tho | 2, 000 |
| Thua Phu (Hue) | 2, 000 |
| Danang | 3, 000 |
| Quang Nam | 3, 000 |
| Quang Ngai | 4, 000 |
| Qui Nhon | 3, 000 |
| Total | 25, 000 |
| 37 other provincial prisons | 50, 000 |
| District and village prisons | 68, 000 |
| Interrogation centers | 33, 800 |
| Grand total | 202, 000 |

* Source: The Committee to Reform the Prison System, Saigon.

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### STATEMENT OF FRED BRANFMAN

My name is Fred Branfman. I am presently Co-Director of the Indochina Resource Center, in Washington, D.C. I have been directly involved with Indochina for the last 6 years, as a U.S. government-funded educational adviser and freelance writer in Laos 1967–71 and doing non-profit research in Washington, D.C. from 1971 until now.

I have been researching South Vietnamese political prisoners for the past 6 months, studying the available literature and interviewing informed sources in Paris, Bangkok, Singapore, Washington and at Amnesty International in London.

The bulk of my testimony today, however, will be based on a 7 week visit to South Vietnam from June 8 to July 28 of this year. During this period I interviewed over 80 people, including 4 current and 16 former political prisoners, 16 relatives of political prisoners, 7 deputies, Senators, lawyers and judges, and many Vietnamese and foreign students of the political prisoner question.

I will give an overview of what I found, from the period before arrest to arrest to interrogation to sentencing to imprisonment to the release of political prisoners. I will also discuss attempts by the Government of the Republic of Vietnam (GVN) to avoid releasing political prisoners, new arrests, and concealment of the prison situation from the world outside.

This presentation today is drawn from 1,300 pages of handwritten notes and over 1,000 pages of documents collected in Saigon. It is corroborated by documentation totalling several thousand pages from dozens of foreign observers and several hundred Vietnamese. A list of many of these people and written documentation available from our office will be submitted for the printed record of these hearings.

#### GVN ATTEMPTS TO AVOID RELEASE OF ITS POLITICAL PRISONERS

The GVN is clearly attempting to avoid the release of the vast majority of its political prisoners, in clear violation of the Paris Accord.

Independent estimates of the number of political prisoners vary from 40,000 to 200,000. While in Saigon, I was given a prison by prison breakdown totaling 202,000 political prisoners prepared by the Committee to Reform the Prison System. The Committee, led by the Catholic Father Chan Tin, is made up of leading Saigon intellectuals and students. Its estimates are based on interviews with former prisoners, relatives who visit prisoners, sources within the prisons, and official documents. Many other Saigon leaders, such as the Deputy Ho Ngoc Nhuan, also use a figure of 200,000. I personally found it to be best source.

Amnesty International, a London-based research group on political prisoners, estimates 100,000. Journalists in Saigon tend to estimate between 40,000 and 60,000.

Whatever the actual overall figure, however, it is clear that the GVN intends to release but a small percentage. Its official position since the ceasefire has been that it only holds 5,081 civilian detainees to be turned over to the Provisional Revolutionary Government (PRG). It has already released 1,500 or so, leaving about 3,500 still to be released. Its position is that all prisoners besides these 3,500 are common-law criminals who are not covered by the Paris Accords.

By all independent estimates, the GVN thus intends to hold 10s of 1,000s, probably 100s of 1,000s, of its political prisoners.

These prisoners come from a wide variety of occupational backgrounds. Current political prisoners whose relatives and friends I interviewed, for example, fell into the following job categories: high school or college student, writer, bank employee, electric or railroad worker, civil servant, Buddhist or Cao Dai monk, teacher, soldier, accountant and lawyer. Working in Saigon, I did not have the opportunity to interview relatives or friends of peasants. All ex-political prisoners I spoke with, however, stated that the majority of the prison population comes from the peasant class.

It appeared clear that the prisoners I learned about were entitled to release in GVN areas under the Paris Accords. All had grown-up in GVN territory. Most had been active in demonstrations for peace or against President Thieu's one-man election. In a number of cases I was shown official GVN documents listing their prison number followed by "MTCT" signifying that they were political prisoners. All had denied membership in the PRG and demanded to be returned to their families. All had been sentenced by either a military court or security committee, the two bodies which judge civilians accused of political offenses. Many had been accused of such offenses as "weakening the spirit of the army and people", clearly a political charge.

The main device used by the GVN to justify holding political prisoners has been reclassification. This has been an attempt to change their status to that of common-law criminals, a category of prisoner whose release is not covered by the Paris Accords.

Re-classification began before the ceasefire and has continued since. It has been reported in letters from prisoners smuggled out of all the prisons, 4 women whom I talked to in a prison hospital ward, for example, told me that the Military Field Court had come to Tan Hiep prison shortly before the ceasefire and carried out mass re-classifications of political prisoners. The U.S. Embassy in Saigon confirmed this practice to Senator Kennedy in a letter dated April 3, 1973.

In actual fact, common-law criminals are supposed to be sentenced by civil courts according to the South Vietnamese constitution. Common-law criminals comprised a tiny portion of the prison population before the ceasefire, according to a judge, several lawyers, and ex-prisoners I interviewed.

This widespread re-classification is proof in and of itself that the GVN is holding large numbers of political prisoners in violation of the Paris Agreement. Any PRG member who had not been held on common-law charges at the time of arrest is clearly entitled to release as a "civilian detainee" as defined in Article 8c. Any non-PRG member not held on common-law charges at time of arrest is just as clearly entitled to release under Article 11 which guarantees freedom of political action to all Vietnamese.

#### NEW POLITICAL ARRESTS IN VIOLATION OF THE PARIS ACCORD

While in Saigon I learned that the political prisoner problem has actually been increasing since the Paris Accords. Not only has the GVN steadily continued to arrest people on political grounds, but it has even begun arresting members of groups which had not been touched since 1965.

During my stay in Saigon I could only discover two groups which had not undergone political arrests before the ceasefire: labor leaders and Catholic priest. Three months after the ceasefire, however, the GVN arrested 4 labor union leaders: Messrs. Nguyen Thua Nghiep, Dang Tan Si, Nguyen Van Cung, and Pham Van Hi. I learned in June from released prisoners that Mr. Pham Van Hi had been tortured to death in prison. This was later confirmed by the *New York Times* on September 4, which also reported that the other men had been sentenced to 18 months by a military court.

The trial of these men illustrates that the GVN continues to arrest on political grounds, but now sentences on common-law grounds to avoid complying with the Paris Agreements. During the trial Messrs. Ngheip, Si and Cung were charged with participating in a Communist plot to subvert the Saigon labor movement. But they were charged with "acting as accomplices to wrong-doers", a common-law offense.

I was also given a list of 33 University students arrested after the ceasefire. All had been candidates on slates for University elections opposing pro-GVN student slates. Interviewing University professors and relatives of some of the arrested students, I found that they had been moderates who had not been involved in student politics before.

These arrests of labor union leaders and moderate students were taken quite seriously by Deputies and Senators interviewed. They felt that these arrests meant that the GVN was committed to an ever-widening circle of political arrest for the indefinite future.

NATIONWIDE SURVEILLANCE

The story of political prisoners begins with the nationwide surveillance to which all South Vietnamese are subjected today. I learned in Saigon that all Vietnamese over the age of 15 are required to carry ID cards on pain of imprisonment. These cards are linked to a central computer containing biodossiers of more than ten million Vietnamese. Every family is required to keep a "Brown Book" listing all people staying in the house. Surveillance is carried out by 120,000 uniformed and plain-clothed political police, as well as tens of thousands of part-time informers who spy on friends neighbors and fellow employees.

I regularly saw uniformed police on every street corner waving down passerbys to check their ID cards. When visiting non-communist lawyer Tran Ngoc Lieng, I saw two plain-clothed police perched on Hondas in front of his home. He told me they follow him about Saigon on his daily rounds. A Catholic University professor reported that he has several dozen students in his class who have been required to report on him or be forced into the army. A 16 year old textile worker described his amazement when arrested to find that the police had compiled a dossier on him dating back to when he was 14. A labor union leader described being called into the police and shown photographs which had been secretly taken of him while he had been visiting families of political prisoners.

I encountered this surveillance apparatus first-hand one night as I lay sleeping two hours after the midnight curfew. I was suddenly awakened by a loud banging on my door, the ringing of my doorbell, a flashlight shining in my eyes and a voice shouting "Police. Police. Open Up." When I opened the door, two policemen marched in without a warrant or explanation. As one checked my closet, bathroom and rifled through my papers, the other demanded my ID. After they left my room, they continued on from room to room throughout the large apartment house where I was staying.

Talking with long-time foreign residents and Vietnamese I found out that this is a typical early-morning occurrence for the Vietnamese. Every night after curfew thousands of police fan out through the cities and hamlets of Vietnam conducting similar raids.

ARRESTS

36 prisoners and relatives of prisoners reported that arrests can take place anywhere. At school, the market, work. People had been snatched off Hondas, picked up strolling down the street.

Most arrests, however were at night after curfew. Over 20 people described the same general pattern: 20 or 30 police entered their homes in the early-morning hours. After searching the home thoroughly, they arrested one or more family members. 4 police remained behind, staying in shifts for periods ranging from 2 weeks to 2 months in one case.

The police refused in all cases to tell the families what had happened to the family member who had been arrested. In some cases they finally found out from released prisoners or by receiving letters, usually after 6 months to a year. In other cases, they have never found out.

The mother of 18 year old student Nguyen Phuoc Quynh Tien, for example, last received news of her son three days after his arrest on January 14, 1969. She has had no news of his whereabouts since. Although she knows he was arrested, police deny all knowledge of him.

Reasons for arrest vary widely. Mrs. Pham Van Hi was the only wife of the arrested labor leaders to be imprisoned. Friends assume it was because her husband had been murdered and did not want her to protest it. The 16 year old textile worker mentioned above was told he had been arrested because of an anti-American poem which had appeared in a magazine he edited. Father Minh, a Catholic priest, believes that his father, an accountant, was arrested in retaliation against Father Minh's activities for peace.

In most cases, however, it is peasants who are arrested during mass sweeps. Father Tran Van Thong, Catholic chaplain of Chi Hoa and a firm supporter of the GVN, told me that most of the political prisoners at Chi Hoa had simply been hapless victims in mass sweeps through their villages. A former Phoenix adviser, and U.S. army officer, told me that U.S. officials had set monthly quotas for arrest and assassination by district during his Phoenix service in 1969. He believed that most prisoners were taken indiscriminately by Vietnamese officials trying to meet their monthly quotas. This point was also repeatedly made by former political prisoners.

INTERROGATION

All prisoners interviewed said that after being arrested they were taken to an interrogation center. Kept there on an average of two months, all reported that during this period they had no contact with the outside world. They were not allowed to contact lawyers, relatives or friends. All were kept in dark, airless isolation cells for a portion of their interrogation.

All prisoners reported that they had been repeatedly tortured during the interrogation period. The most frequent of the many tortures described were:

(1) The electric torture, where they said they were given electric shocks to the ears, limbs or genitals. All said that these electrical shocks had affected their nervous system and hearts. Visitors and doctors at Quang Ngai hospital report that prisoners in the prison hospital ward frequently have prolonged seizures where they relive the experience of being tortured with electricity. This was not the case among the people I interviewed, however.

(2) The water torture, in which water would be poured down the throat, inducing a sensation of drowning. The interrogator would then jump on the stomach, forcing the water out through the mouth and nose, producing a feeling of drowning.

(3) Various forms of beatings. Prisoners would be beaten with clubs, kicks or rubber truncheons while lying prone, tied to a chair, or suspended from the wall with arms tied behind backs.

In addition, women interviewed described being stripped naked by interrogators and being subjected to various sexual indignities.

In general, torture sessions would last for several hours—though in some cases they might go on for a day or longer. They would be interspersed with meetings with police who would demand that the suspect admit working for the NLF, and accuse friends, acquaintances or relatives of doing so.

In every case the torture period was ended by the prisoner signing a confession prepared by the police. The suspect would also be forced to sign a statement saying that he or she had not been tortured.

Amnesty International has written in a recent report on political prisoners in South Vietnam: "Torture during interrogation, or as a disciplinary measure within prisons, is no longer even motivated by a desire to gather 'intelligence' . . . torture is widely used as an instrument of intimidation but as an end in itself . . . in many instances torture has become no more or less than a matter of habit."

This statement was borne out by many of the prisoners I interviewed. Mr. Tran Van Hien, for example, was a blind ex-prisoner when he was re-arrested on May 4, 1972. Even though blind, he was tied to a chair, beaten and tortured with electricity repeatedly. During questioning periods police constantly demanded that he admit to both working for the NLF and a non-communist group called the Students' Committee For the Right To Life. He at first refused to admit membership in the NLF, pointing out that he was blind. He also denied being a part of the Students' Committee. Finally, though, he says he could not withstand the torture any more and was willing to sign anything the police put in front of him. When it came time for him to sign he says that they did not bother to accuse him of being a member of the Students' Committee after all.

Mr. Hien says he saw a sign on the wall of his interrogation chamber during his first arrest which read. "If you are not guilty, we torture you so that you admit guilt; if you are guilty, we torture you so that you do not commit your crime again."

All ex-prisoners stressed that torture was a matter of course. It often was not accompanied by specific demands until the end.

SENTENCING

I was particularly interested in the legal process during my stay. In addition to interviewing political prisoners, I also talked to a great many lawyers, a judge and attended a trial.

Article 7.4 of the Constitution states that "No citizen can be tortured, threatened or forced to confess." Article 7.6 holds that "A defendant has the right to a defense lawyer for counsel in every phase of the interrogation, including the preliminary investigation."

All prisoners stated that they had been tortured and denied the presence of a lawyer during the interrogation period. All lawyers interviewed stated they have never been allowed by the government to assist clients during the preliminary interrogation period. All showed me letters written to the Minister of the Interior asking the whereabouts of a political prisoner during interrogation periods. None had ever been answered.

Political prisoners are sentenced either by Security Committees of Military Field Courts.

The Military Field Court is a special court of 5 military officers appointed by President Thieu. It is empowered to sentence people to as long as life in prison. A substantial number of political prisoners have been tried by the Military Field Court, though less than those sentenced by the Security Committees.

The Military Field Court was found illegal by the South Vietnamese Supreme Court on May 5, 1970. The Supreme Court ruled that the Military Field Court denied defendants due process of law and access to lawyers during the interrogation period and thereby violated Article 77 and article 7, paragraph 6 of the Constitution.

Despite this ruling the Military Field Courts have continued functioning up until the present day.

On July 3, 1973, I attended a session of the Military Field Court. Although no political prisoners were sentenced that particular day, the process is the same for them as the military defendants I witnessed.

The court disposed of some 20 defendants that morning. Each was brought before the judge and interrogated on his written confession for 5 minutes or so. Then the prosecutor took over, screaming at the defendant if he did not admit to all charges in his confession before the court. This would also take about 5 minutes. A young public defender just out of law school would then step up and beg the mercy of the court for his defendant. The entire process took about 10–15 minutes per defendant. At the end of the morning the judges retired to their chambers and returned after a short period to read off the sentences for all 20 defendants.

No evidence was presented, for or against. There were no witnesses, no cross-examination.

I could only discover one case where political prisoners were found innocent by the Military Field Court. This was on November 18, 1972, when the Saigon Military Field Court found 4 young members of the Young Catholic Workers innocent and ordered them acquitted. Despite this, the young men were not released. They were detained by the Security Committee, and later sent to Con Son island on December 26, 1972.

The province and urban Security Committees are quite separate from the Military Field Courts and civil courts. They are, in fact, not courts but administrative bodies. Made up of representatives of the police, military, province chief and public prosecutor, they are empowered to imprison anyone for up to "two years, renewable."

I interviewed a judge and former deputy, both of whom had attended Security Committee meetings. They told me that the Security Committee meets every few weeks. At its meetings, the police chief will usually read off the accusations for several dozen people, recommending a sentence for each. The other members perfunctorily agree, rarely asking questions or attempting to determine the evidence against the accused. Defendants are almost never brought before a Security Committe. Nor is a lawyer present to represent them.

About half the ex-prisoners I interviewed had been detained by the Security Committees. In most cases they had only found this out months or even years after the hearing had taken place. In some cases they did not find out until after being released from prison.

The Phoenix program, under Ambassador William Colby, used the Security Committees as the main organ for imprisoning people swept up by Phoenix. As a result, the Security Committees are probably responsible for the sentencing of most political prisoners in jail in South Vietnam today.

Testifying before the House in July, 1971, Ambassador Colby admitted to Congressman Ogden Reid that defendants have no right to counsel when being sentenced by the Security Committee. He also stated that the Security Committee is "an administrative proceeding, not a trial . . . As I said, I do not think they meet the standards I would like to see applied to Americans today."

People sentenced by the Security Committees are often known as An Tri detainees. The U.S. Embassy stated in a letter to Senator Kennedy on April 3, 1973, that "the procedural safeguards (in Security Committees) are somewhat less that those which obtain in the military courts. On the other hand, the penalties imposed are generally less severe. An Tri detainees need not be accused of committing a specific criminal act . . ."

To sum up, it may well be possible that no political prisoner has ever been *proven* guilty according to due process of law as established by the South Vietnamese constitution or minimum international standards.

### IMPRISONMENT

The political prisoner is jailed as soon as the interrogation period has ended. Most of the ex-prisoners I interviewed were in jail for periods ranging from a few months to a year or two before being sentenced.

All prisoners interviewed stated that they were denied adequate food, water and medical treatment. They were generally fed only a few hundred grams of poor quality rice a day, and given a small amount of water to drink. Disease was frequent, and many prisoners died as a result of being refused adequate medical care.

All prisoners interviewed stated that they protested such conditions regularly. Protests were all non-violent, and usually consisted of hunger strikes or loud calling out.

Most protests took place in response to an unusual event. Since the ceasefire, for example, prisoners have protested the death of inmates due to torture, beatings and/or lack of medical care; the disappearance of political prisoners from their cells; the attempt by authorities to break up cells with groups of political prisoners who have lived together for years; forced fingerprinting and reclassification.

Ex-prisoners described a wide variety of what they called "repressions" or punishments. Sometimes these punishments were in response to protests, sometimes they happened spontaneously in response to minor events such as a few prisoners for refusing to salute the GVN flag setting off a chain reaction.

Some of the most frequently mentioned punishments were:

(1) Shackling in cells, for periods up to 9 years in the case of one man I interviewed. Several people I met had been shackled to iron rods, in the "Tiger Cages" at Con Son, including one man whose legs had atrophied and were paralyzed completely. Shackling does not occur only in the "Tiger Cages" or on Con Son island, however. It is a common form of punishment.

(2) Beatings administered by common-law criminals. These criminals received favored treatment from guards in return for beating political prisoners with rubber truncheons and clubs. Prisoners were usually defenseless when such beatings were administered, either being tied down or too weakened from hunger to resist. Beatings were often given to whole cells at a time, and the wounded then left to lay for days afterward without medical care.

(3) Firing of tear gas shells, throwing of lime into cells. These would be carried out by prison guards or military police. Once again, political prisoners were left to choke from the gas or burn from the lime without medical care or water after such punishments.

In addition to these punishments, tortures such as the electric shock and water tortures described above were also meted out regularly to political prisoners while in prison. Such torture was usually carried out as a punishment, though in some cases since the ceasefire it has been meant to force certain prisoners to change their confessions.

Father Chan Tin described to me a rather typical example of prison punishment * * * December 1972, prison authorities at Chi Hoa began removing political prisoners from cells, attempting to break up close groups of people. Students protested. Combat police were brought in who forcibly transported a few dozen students to a dark room. There their clothes were removed and they were shackled by chains so they could not move their arms or legs. Bitten by mosquitoes, given rice with sand in it and water in buckets used for defecation, they were forced to lie on a sand floor which irritated their skin for more than three weeks. They were not allowed to bathe during this period.

A Doctoral thesis submitted at Hue University describes the following medical problems among prisoners at Con Son: beri beri, "black leg" disease, exhaustion, broken bones, paralysis, convulsions, stomach uler, worms, malaria, amoebic and bacterial dysentery, typhoid and tuberculoises.

The 16 ex-political prisoners I interviewed, who had been in all of South Vietnam's major jails, all said that their health had been permanently damaged by their stay in prison. The most common ailments mentioned were tuberculosis, damage to the nervous system and heart caused by electric shocks, permanent damage to limbs, and malnutrition.

All stated that damage to their health was due to deliberate mistreatment by prison authorities. They described their stay in prison as one of constant hunger, thirst, and illness, repeatedly punctuated by beatings and torture.

The problems encountered by political prisoners do not end with their release from prison. All ex-prisoners interviewed reported that they were unable to find employment, forced to report to the police regularly, and harassed and surveilled by police agents.

The offices of the Young Catholic Workers, inhabited by 4 members who had been released from Con Son in May, 1973, were broken into one night in July 1973. Former students reported that they were not allowed to begin their studies again at the university, former teachers said none would hire them. Several ex-political prisoners had not been re-issued the all important ID card without which it was dangerous to leave their homes.

3 political prisoners who had been released from Con Son in February 1973 all told me that police had forbidden them to return to their home areas or talk with American journalists. All said they expected to be re-arrested.

This did in fact happen to several other Con Son inmates who talked with the Catholic Bishop Thomas Gumbleton in April 1973. As soon as Bishop Gumbleton left South Vietnam, they were picked up and placed under preventive detention.

Knowledgeable foreign observers told me that it is most difficult for former political prisoners who are peasants. *Life after prison* is almost as bad as in jail. Police chiefs kept released prisoners under constant surveillance, their movement was curtailed, fellow villagers were afraid to hire or become friendly with them for fear of attracting suspicion, and they were often prevented from returning to their home villages. Several reports of suicides committed by released political prisoners came to me.

### GVN CONCEALMENT

GVN attempts to conceal the political prisoner situation is one of the most serious aspects of the issue.

President Thieu told the American people on April 3, 1973, that "anyone" was free to visit the prisons. In a White Paper issued in early July, the GVN stated that: "Periodically . . . the International Red Cross send(s) inspection teams which visit the centers and subsequently submit reports about their respective conditions."

In Saigon I found that such statements were absolutely untrue. In fact, the GVN was pursuing a deliberate policy of saying publicly its prisons were open while in reality keeping them closed.

Red Cross officials told me they had unilaterally suspended visits to prisons since March 1972, because they were not given freedom of access to and conversation with political prisoners in private. I was given a Red Cross press release stating that ". . . Because of the restrictions imposed by the Government of Saigon to the visit of its delegates in the places of civilian detention, notably the refusal to allow discussions with detainees without witnesses, (the Red Cross) decided in March 1972 to suspend these visits." Red Cross officials also mentioned that even before March 1972, they were not given unrestricted access to political prisoners as their rules demand. Their last visit to Con Son island was in January 1969, and was restricted to military prisoners.

Numerous journalists told me they had requested to visit specific prisons and had been refused by the GVN. Throughout my stay in Saigon the GVN kept setting new dates for a proposed press visit to Con Son. Continually delayed, it has not yet taken place.

Committee To Reform the Prison System members were most distressed at indications that the GVN was attempting to falsify Con Son's image for the foreign press. They noted reports, for example, that paralyzed prisoners from the Tiger Cages were being transfered to other prisons on the mainland during July. "We had always hoped that the people of Vietnam and the world would one day see for themselves the full truth of Con Son," one member told me. "We hope they will not be deceived by a staged visit to impress the journalists," he added sadly.

Red Cross officials told me that they regard the following conditions as appropriate for one of their visits to a prison:

(1) Freedom to go throughout the prison, interview the prisoners at random

(2) Freedom to talk with the prisoners selected in private, out of the presence of prison authorities, using an independent interpreter selected by the Red Cross

(3) The ability to pay repeated visits to the prison in question, ideally on a regular basis.

It is clear that unless these conditions are carried out, particularly the first two, any visit by the press or other outside observers will be hampered in its quest for the truth.

I also discovered that since the ceasefire the following groups or individuals had formally requested and been denied permission to visit the prisons: A staff team of the U.S. Senate Subcommittee on Refugees, Bishop Thomas Gumbleton of Detroit, Bishop Guy Belanger of Canada, Professor George Lebel of Quebec University Law School, a group of Buddhist monks representing the An Quang pagoda, and members of a Vietnamese Senate Committee delegated to deal with prisoner affairs.

### CONCLUSION

The U.S. Congress is seen in Saigon as the hope for the release of political prisoners.

The Nixon Administration, all sources felt, was clearly committed to continuing to impose the Thieu government upon the people of South Vietnam. The fact that 90% of Administration Aid proposals are for military and police aid, that police funding continued under such guises as Public Works, and that U.S. Embassy officials deny prisoner mistreatment, were all regarded as evidence that the Administration also does not intend to push for prisoner release. People also frequently mentioned the fact that while U.S. representatives on the Four Party Joint Military Commission in Saigon frequently raise the issue of U.S. Missing in Action, they have never spoken out about South Vietnamese political prisoners.

Indeed, many people stressed that it was the Nixon Administration which had pushed the police effort and developed it enormously since 1969. The GVN, all also agreed, was of course committed to continuing new political arrests.

Congress, it was felt, could realistically do three things on political prisoners:

(1) It could immediately send a delegation to visit Saigon prisons, interview prisoners in private, chosen at random, with independent interpreters. GVN refusal to permit such a trip would raise the most serious of questions about its treatment of political prisoners. Acceptance of such a visit would help settle claims and counter-claims once and for all.

(2) Congress could cut military and police aid, maintain or increase the present minuscule funding for humanitarian programs. Congressional staff personnel could be sent to ensure that money was not taken from humanitarian programs to replace cuts in military or police aid.

(3) Congress could allocate aid to the GVN, but make it conditional upon the release of political prisoners and restoration of freedom of the press, vote, assembly.

Many Vietnamese I talked with felt that the above Congressional alternatives were too mild. Most politically prominent Third Force personalities I talked with favored an immediate halt in all aid to the present GVN. They basically argued that the long term gains to Vietnam by producing peace would outweigh any short-term difficulties such an action might cause.

None of the Vietnamese I talked with felt that Congressional action on behalf of the political prisoners would be "meddling in the internal affairs" of South Vietnam. They stressed that Congress was already massively interfering by supplying 90% of President Thieu's budget and paying for a million-man army, 120,000 strong police force, and 600 admitted prisons. They argued that Congressional action to promote freedom in South Vietnam would permit the Vietnamese to exercise their right to self-determination. This would by definition make them more independent from present U.S. "meddling".

I personally agree with such arguments. I also agree with those Vietnamese who urge an immediate end to all aid to the Thieu government.

Failing this, I cannot convey strongly enough my belief that Congress must at least take the more moderate steps of sending a delegation to investigate the GVN's prisons, cut military and police aid, and make any aid allocated to the GVN conditional on its release of political prisoners and restoration of basic democratic freedoms.

It is not only that such Congressional action is an urgent necessity for Vietnam. It is also that such steps are an urgent American national interest.

There is a general consensus in this country today that our major interest in Vietnam is military disengagement. I have found no one who believes that we should continue spending billions annually to support a military dictatorship in South Vietnam geared only for war.

And yet this is precisely what we are doing.

The present Administration aid request does not only mean that $2 billion in badly needed domestic funds will go to South Vietnam this year. For these funds will not make refugees and war-victims self-sufficient; they will not rebuild South Vietnam's economy. They will feed a self-perpetuating military machine which will need $2 billion to survive next year. And the year after that.

And where will it end? All sources interviewed in South Vietnam felt that the GVN refusal to allow its opponents to compete politically would ensure that they would do so militarily. The release of the political prisoners, freedom of the press, free elections could, it was felt, lead to a political solution. No one knew for sure. Everyone agreed, however, that the present situation was leading to more war, not less.

We are back to 1964. Congress can fund war, masked as economic aid, and watch our military involvement grow. It can, for example, passively pass aid requests and wait in what may be a vain hope that two or three years from now the Executive will not present it with a request for renewed U.S. bombing in the wake of a military threat to the GVN.

Or Congress can learn from the history of the past 20 years in Vietnam. It can finally realize that the funding war only produces more war. It can turn to funding peace, act for the release of political prisoners, and finally see true disengagement from Vietnam.

Congress can serve an even deeper American interest, moreover, in acting for the release of political prisoners.

Anyone who goes to Saigon today must ask him or herself: What kind of mentality could produce this nationwide police apparatus, this attempt to control and surveille 18 million people?

The answer is clear. And unsettling. It is a mentality which regards people as objects, objects to be watched, traced, controlled. It is a mentality which arrogates to itself the right to arbitrarily remove anyone it judges a threat from the general population. It is a mentality which uses the language of freedom in public . . . even as it sets monthly kill quotas in private.

And it is a mentality which grows daily—as the Executive branches of today's superpowers turn increasingly to methods of police control abroad and at home. You see it in the Soviet Union and Czechoslavakia. You see it in Thailand and the Philippines. And you see it at the Watergate.

You see it in U.S. Public Safety documents detailing plans to issue ID cards linked to central computers to 10 million adults in Vietnam. And you see it in the wiretapping of high officials and private citizens in the United States. You see it in U.S. Phoenix directives ordering detention without trial in Vietnam. And you see it in Presidential memoes ordering illegal entry into private homes in this nation.

For years now many Americans have ignored the lack of democracy in Vietnam in the belief that it would not affect their own lives. Today we see the mentality which planned Phoenix assassinations and built the prisons in South Vietnam firmly in control of the highest Executive agencies of this nation. Let us not delude ourselves any longer that we can destroy freedom in Vietnam and yet build it here at home. Let us see that the release of South Vietnamese political prisoners is inextricably linked to the preservation of our own liberty.

The release of Vietnamese political prisoners is not only an urgent political necessity, however.

It is above all one of the great *human* imperatives of our time, a human crisis transcending politics, ideology and race.

Available statistics are a measure of this human drama. Amnesty International estimates that there are 100,000 political prisoners in South Vietnam. This is *three times* its 31,000 estimate for the Soviet Union, Brazil, Turkey, Spain, Ceylon, Portugal, Angola, Mozambique, Czechoslavakia, East Germany and South Africa combined. If the United States followed the same policy at home as it does in South Vietnam, there would be over one million Americans in jail for their political beliefs today.

Such statistics, however, provide but a faint reflection of the human realities of life in South Vietnam today.

How is one to measure the feelings of countless mothers who have had their sons or daughter taken in the middle of the night, never to see them again? What numbers can convey the sentiments of tens of thousands of human beings caught up in an endless twilight world of beatings, electric shock, rape, shackling, tear-gassing, hunger, thirst and illness? Is there a scale to weigh the desperation felt by millions of other Vietnamese who do not dare speak openly or trust neighbors for fear of being hauled away in the dead of night?

I do not know. I know only that one must grope back to the darkest memories of this century to recall a time of similar mass round-ups of men, women and children, midnight arrests by uniformed police, and brutalization of unarmed civilians for their political beliefs.

And I know it must be stopped.

The Committee to Reform the Prison System has issued a call to world conscience in these words:

"Forty years ago did not great western writers, religious leaders, and jurists raise their voices to denounce Franco's treatment of Republican prisoners? Were not voices raised more recently to plead the cause of prisoners held by the authoritarian regimes of Greece and Brazil?

"When will a voice like that of Dom Helder Camarra rise up in the name of the students, peasants, monks, trade unionists, peace activists, journalists, professors and workers, indiscriminately imprisoned throughout South Vietnam?"

The time for such a voice to arise in Congress and other high places in this nation has come.

For let us be clear.

We have entered a climactic period in the age-old struggle for political freedom. Rulers have dreamed for centuries of finding the means to assert total political control over their populations. Today for the first time they have the technology to do so.

There are certain threats against humanity which transcend national frontiers, political ideologies, racial differences. The attempt by the American Executive to control the political behavior of 18 million South Vietnamese is not only one of these, it is the greatest such threat of our time.

The release of Saigon's political prisoners will not only mark a turning point in the history of Vietnam. It will long be remembered as a landmark in the struggle for freedom of all humanity.

## DEFENDERS DAY IN MARYLAND

Mr. MATHIAS. Mr. President, September 12 is Defenders Day in Maryland, a day that marks the anniversary of one of the most important events in our State's history. This was the 159th anniversary of the battles of North Point and Fort McHenry. In those two conflicts, the citizens of Baltimore successfully defended their city against the British. The engagements were a turning point in the War of 1812. Those events 159 years ago are a proud chapter in the history of Baltimore and our State. They are constant reminders that Americans are ready to defend themselves and their homes in the cause of peace and freedom. As each year we proudly observe Defenders Day in Maryland, let us never forget its significance.

## THE ESTABLISHMENT OF PRIORITIES IN SPACE

Mr. MOSS. Mr. President, the establishment of priorities is a continuing problem for all of us. It is even of concern in the Committee of Aeronautical and Space Sciences where we are mindfull of the need for balance between NASA's aeronautical and space research efforts, and between elements of aeronautical research. The National Aeronautics and Space Administration has taken steps this year to assess and assure better balance of the aeronautical research programs under their responsibilities. These steps included establishment of an Office of General Aviation Technology under the direction of Roger Windblade.

A description of this activity is carried in the September issue of Pilot, the official magazine of the Aircraft Owners and Pilots Association.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### NASA AT WORK FOR GENERAL AVIATION

NASA is the acronymic wonderland of spacemen, satellites, rocket ships and skylabs. It's the federal forum for the Flash Gordon revue. The production has been an awesome one and has captivated all mankind. The men of NASA were assigned the seemingly impossible, yet they pried open the doors to eternity. We earth men will never recover from the sight. "Well done" is a meager salute.

But again to those letters: NASA. They stand for the National Aeronautics and Space Administration. "Aeronautics," not "space," comes first in the name, making for a bit of juxtaposed irony. Aeronautical research has been a very poor second to matters of outer space during NASA's 15-year history.

Even so, some men within the agency have been studying aeronautics from the start. That research has involved transport and military aircraft primarily, but now general aviation has come into its own as well.

Earlier this year the agency opened a General Aviation Technology Office responsible for developing and coordinating lightplane-related research, some of which has been under way for several years. Although the office's 1974 budget of $4.6 million is measly when compared with the overall $3 billion plus allocated to the agency, it does mark unprecedented interest by NASA in lightplane technology.

Head of the general aviation office is Roger Windblade, an engineer with excellent piloting credentials. Windblade has been NASA's in-house lightplane authority for some time, but the new formal recognition of his office now gives him better leverage to get things done.

NASA's current work within general aviation covers the gamut of light-aircraft activity. Studies are under way concerning uncharacteristics, spoilers, airfoils, low-cost jet engines, noise reduction, collision avoidance systems, flight control systems, crashworthiness improvements, and visual approach aids, to name a few. The results of this research can range from the exotic—for example, an entirely new lightplane wing design akin to the supercritical wing—to the simple, such as a diamond painted on the end of a runway to give the pilot immediate glidepath reference.

Some projects are still on the blackboard, one of Windblade's favorite tools, but the research on others is well advanced. NASA publishes results of most of its studies while the projects are still in progress. These reports are available to all for the asking.

A detailed analysis of the status of all NASA's general aviation projects would be a difficult undertaking, but some of the most current ventures follow:

NASA contracted Cessna Aircraft Co. to modify a push-pull prototype twin by placing a shrouded prop on the rear. The aircraft, similar to the Cessna Skymaster, will undergo a series of wind-tunnel tests, using various blades and shrouds, at various power settings. The aircraft will be powered by an electric engine during the tunnel tests at NASA's Langley Research Center in Hampton, Va. Those tests are scheduled to begin near the end of the year.

Windblade said the purpose of this testing is to determine whether a shrouded prop can reduce noise without an undue loss of overall efficiency. "You could make a terribly quiet engine that has zero horsepower," he explained. "So, while our objective is noise reduction, it has to be efficient enough to be viable."

If the shrouded-prop tunnel tests prove successful, the prototype's electric rear engine will be replaced with a rotary combustion engine and then the aircraft will be flight-tested. If the flight tests take place, they will probably begin some time next year.

Piper Aircraft Corp. has provided NASA with 16 brandnew planes that were ruined in last year's flood at Lock Haven, Pa. NASA's general aviation men have taken over the Lunar Landing Research Facility at Langley and have strapped slings onto the huge open-girder structure already there. The Piper planes will be suspended from the slings and then released, swinging freely into controlled crashes on the cement floor below. The crashes were planned to be of relatively minor impact at first, with the speeds and intensity increased with each new crash. Dummies may be seated in some of the doomed aircraft.

The purpose of this testing is to document in detail just what happens in a lightplane crash. Relatively little such data now exists. Eventually NASA hopes it can find ways to increase the plasticity or shock absorbency of the lightplane and suggest additional ways to improve passenger safety in a crash. The crash testing was scheduled to begin in August.

NASA's Langley facility is also a center for stall/spin research effort. That such research is warranted is supported by government figures which show that stalls and spins are factors in about 35 percent of all general aviation fatalities. Up until now NASA has been using both its horizontal and vertical wind tunnels and several radio-controlled model aircraft for all the project's data. The studies involve high- and low-wing light aircraft with some 40 different tail designs.

A prototype of the Grumman American Yankee has been brought to Langley. A new tail has been added to the aircraft, and new instrumentation is being installed. Flight tests using two or three different tails on the prototype will be made to "validate the data generated by the model program." The flight tests may begin at the end of the year. A high-wing plane will undergo similar flight testing, but no particular aircraft has yet been selected.

Windblade said he hopes the stall/spin research will be completed within two or three years. He said the data gained during the research will tell future airframe designers exactly what stall/spin characteristics to expect from any tail configuration on any aircraft design.

One project for which Windblade shows considerable enthusiasm is the "advanced technology airfoil." The project involves an all-new lightplane wing that is shorter, lighter and thicker than the conventional wings of today. The advanced wing was designed by Langley's Dr. Richard Whitcomb. Wind-tunnel tests on the new airfoil suggest it may be a real breakthrough. Windblade said test results indicate the new wing has more docile and more predictable stall characteristics, greater lift, more fuel space, and better cruise performance than existing lightplane wings.

NASA plans to install the new wing on a Piper Seneca and begin flight testing some time next year. Windblade hedged on any predictions about the impact of the new wing on the general aviation fleet of the future, saying "we'll feel a lot more confident once we put [the wing] on an airplane and demonstrate that, yes, it does work."

Should the wing and the other general aviation projects all prove successful, Windblade and his NASA associates still can't claim any laurel wreaths until Cessna or Piper or Beech or Grumman American or Rockwell International or Bellanca, et al., start incorporating the NASA findings in the aircraft they build and sell. That's the whole idea behind the NASA research. The agency doesn't develop products per se; it originates concepts or "technologies." If the planes that private pilots fly in the future are unaffected by NASA's efforts, then those efforts have been for naught.

Said Windblade, "If the results of our work do not show up in the planes people buy and use, then our job has been useless. Well, maybe not useless; we've created work for librarians." To avoid such fruitless endeavor, the NASA people confer with manufacturers and the FAA throughout each project. Not only must there be a need for any project undertaken, but the end product must be within the grasp of the general aviation community.

For example, several years ago NASA developed a superautomated flight control system and installed it in a Piper Twin Comanche. The system was so automated and so accurate that a nonpilot was able to fly precision ILS courses in the bird. The system also cost about $750,000, making it totally impractical for general aviation. NASA has since teamed up with University of Kansas engineers, and they plan to install a substitute, less complex, system on a modified Beech 99 airliner. Should flight tests next year prove encouraging, the commuter airline fleet may be adding this system to its planes in years to come.

Such research is expensive, and Windblade said the general aviation manufacturers have not been able to devote the money or manpower to the kind of experimentation NASA is now doing. And, he said, too often the advances made in air transport and military aircraft over the years were inapplicable to lightplanes because of high costs involved. Consequently, lightplane design advances have been slow to unfold.

Now, with NASA's General Aviation Technology Office in the game, that pace may quicken. NASA can afford to tackle the more abstruse light plane research. And NASA can afford to be wrong. Said Windblade, "If something doesn't work—that's why we're in the business. We don't have to show a profit."

All NASA has to show is that it is making a difference in lightplane development. The "profit" sheet on that is still years away.

## MRS. BARROS ELECTED PRESIDENT OF AMERICAN SOCIETY FOR MEDICAL TECHNOLOGY

Mr. CRANSTON. Mr. President, Mrs. Annamarie Barros, a prominent medical laboratory technologist in California, has recently assumed the duties of president of the American Society for Medical Technology.

In addition to holding a position of administrative technologist-department manager for the laboratory at the Good Samaritan Hospital of Santa Clara Valley in San Jose, Calif., Mrs. Barros has been able to devote a large portion of her time to furthering the interests of her profession. As president of the American Society for Medical Technology, she will be leading the largest national professional society representing a wide range of laboratory personnel. The society's major purposes are increasing technical knowledge, providing means by which members can elevate and improve their performance, and educating students entering the various levels of laboratory practice. The ultimate goal of the society is to provide the best possible care to the patient at economically sound levels.

In her service to the society, Mrs. Barros has been cochairman, panelist, discussion leader, and moderator of a large number of professional conferences, workshops, and seminars in California and throughout the Nation.

In 1970, Mrs. Barros was honored as outstanding technologist of the year in California. She has served as State president; regional director for California, Nevada, Hawaii, and Arizona; and as a member of the natonal board of directors.

A graduate of the College of Holy Names in Oakland, Calif., and the O'Connor Hospital School of Medical Technology in San Jose, Mrs. Barros is a licensed medical technologist in California and an active member of the California Association of Medical Laboratory Technologists. Mrs. Barros and her husband, Richard, are residents of Los Gatos, Calif. With her background of service and interest in the field of medical technology, it seems appropriate that she be voted to such an important position.

As her fellow Californian, I am proud of her outstanding achievements.

## STUDENTS' FILM SHOWS FIRE DANGERS

Mr. MATHIAS. Mr. President, the Applied Physics Laboratory of the Johns Hopkins University has long been engaged into the causes of fire and into the reasons why people die in them. The studies are supported by the Research Applied to National Needs—RANN—program of the National Science Foundation.

As part of its effort to bring a message on fire danger to the attention of the public, the Applied Physics Laboratory went to Walter Johnson High School in Montgomery County, Md., and asked it to help bring the message to young people. Out of the collaboration of the laboratory's film group and the Walter Johnson High School cinematography class came a film with a strong impact. This most worthwhile project was recently the subject of articles in the Washington Star-News and the Montgomery Journal. I ask unanimous consent that they be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Montgomery Journal,
Aug. 16, 1973]

### Students Premiere Film

(By Constance Walker)

"Don't Get Burned," a film produced by Walter Johnson High School students under the direction of the Johns Hopkins University Applied Physics Laboratory Film Group was premiered this last week at the Laboratory's Parson's Auditorium. The film, intended for mass distribution in secondary schools throughout the country, has as its target audience high school age teenagers who have "turned off" Smokey the Bear-type messages, yet who are still ignorant of good fire protection techniques.

The film is a spinoff of a three-year study by the JHU/APL scientists, working under a grant sponsored by the Research Applied to National Needs (RANN) office of the National Science Foundation, on the causes of death during fire. The scientists had been aided in this study by Montgomery County Fire Marshal Robert B. Smith's office and it was Smith's suggestion that the laboratory make a film explaining fire prevention techniques to teenagers.

JHU/APL scientists, under the direction of Dr. Walter G. Berl turned the idea over to the Laboratory's film group and one of its members, Benjamin Walker, came up with the idea of fighting fire with fire, or in this case using high school students to alert peer groups to fire hazards.

Walker learned that Walter Johnson High School in Bethesda had a cinematography class and approached its teacher, Mary Ann DiPaola, about involving the class in the movie. Ms. DiPaola was enthusiastic and assigned the film's production to the students as a class project.

The students wrote the scenario and filmed and produced "Don't Get Burned" within a six month period in January when volunteer fire departments burned an old house in Rockville the teenage crew was on hand to film the sequence.

Done in documentary style the 22-minute movie is made up of situations applicable to teen-age life including baby sitting sequences, smoking in bed, candle burning, and even a segment using pom-pom waving. "Arsonette" cheerleaders.

Fire Marshall Smith particularly singled out a false fire alarm episode in the film for praise. Smith said the number of false fire alarms in Montgomery County is on the rise and alerting students to the consequences of sounding these alarms could be beneficial in combating the situation.

The premier was attended by approximately 150 people including fire department personnel from surrounding areas, Montgomery County school administrators, Walter Johnson HS students and their parents, and representatives of various fire research agencies.

Involved in the class project were students Robert Bowering, William Commins, Bill Gorman, Liz Keehan, Lindsay McGuire, Paul Pearson, Christopher Rounds, and Peter Swanson.

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[From the Washington Star-News,
Aug. 18, 1973]

### Students' Film Bridges the Gap

(By Pat Lewis)

Every junior high and senior high school student in America is familiar with that education staple—the film. Usually 20 to 30 minutes in length it could tell of the hazards of drugs, the spread of communism, the life of a spider, driving safety, speeches by great Americans, and on and on and on.

Today's youths seem to be turned in to mass communication and, where other methods may fail, this seems a way to "get to them."

The Montgomery County Fire Department and some scientists at Johns Hopkins university were having that problem—how to get to teenaged youths about fire prevention.

Fire Marshall Robert B. Smith admitted, "We had a red-necked approach to this age group. And they couldn't relate to our blue-suited, brass-buttoned, regimented way of doing things."

All those fears, apprehension and misconceptions disappeared when a cinematography class at Walter Johnson High School took on the communication problem. They wrote, directed, acted in and filmed a 22-minute movie on fire prevention.

Advice, equipment and endless rolls of film came from Johns Hopkins University's Applied Physics Lab working through a National Science Research project.

The resulting product has been so well-accepted by scientists, fire and education officials, that arrangements are being made to distribute the film nationwide.

The youths, now graduated from Johnson, feel they benefitted as much as the fire prevention people "We'd never used more than an 8 mm." Pete Swanson said. "We worked with the best 16 mm cameras, lighting and sound equipment. It was the greatest experience we could get as high school film students."

The movie, entitled" Don't Get Burned," is about the Johnson students making a film. It shows them discovering the ideas, writing them, filming, editing. At the same time, they act out the script: giving tips on fire prevention at home, emergency care for the burned, how to spread concern for fire prevention, fire hazards and how to avoid them.

The lucky break for authentic and dramatic shots in the film came when fire officials agreed to let the youths film a controlled burning of an abandoned house. It was used to train firemen. But they let the house burn to the ground so the youths could film it.

Walter Johnson officials also cooperated by holding a fire drill, emptying the school and calling the fire department.

The project was brought to the class last December. They planned and filmed until the end of the spring semester. Two full weeks were used for nothing but shooting. From six to 10 times more film was used than is in the finished movie.

"It was a lot of fun," said Liz Keehan. "It's different watching it after you've seen it made. It may look easy but it took a lot of takes and after awhile people tend to get bored and irritated."

The students also saw the film for the first time this week and couldn't help but laugh quietly at seeing themselves and each other. They said some parts of it seem a little corny now.

"It's cliche," Lindsay McGuire said. "But I don't think you could avoid it. We had to reach a lot of people, so we wanted to make it straight-forward."

At time the work became tedious. There is a scene with a babysitter and three children. The smallest child cried through the whole thing which wasn't in the script.

One student was supposed to come out of a fire with burning clothing. The makeup to his shoulder and face was so authentic he almost got sick. "He kept getting paler and paler. The pallor added to the appearance of looking like a victim," the students said.

One of the Hopkins film advisors saved his Christmas tree to use in the film. He kept it in his yard for two months and let the brittle needles get browner and browner. The scene was set up and the tree lit, but it wouldn't burn. His wife had put syrup in the tree's water to keep it from burning at Christmas time. A cardboard tree was made and substituted in the film.

Another scene shows an arsonist in a construction area. The students asked permission to film in a shopping center being built. They were refused permission, but went in to shoot anyway. Officials came to run them off just before the last frame was finished.

"This is a real movie set," Lindsay said. "It's not faked, it's not a pretend thing."

The film has been submitted in two contests, but the real success of the project already can be measured: Whether or not other high school students fall for the film, they will at least be reminded that most fires can be prevented. Twenty youths at Walter Johnson High School know the work and rewards of filmmaking and several are on their way to careers in film. And the brass-buttoned, blue-suited fire officials have new blue-jeaned friends.

## GEORGE TODD, EAGLE SCOUT

Mr. BIDEN. Mr. President, on October 7, I will have the pleasure of attending the installation of George Todd of Laurel, Del., as an Eagle Scout.

Gaining the rank of Eagle Scout is an honor for any young man. But for a 17-year-old young man with cerebral palsy, it is an achievement of highest merit.

For approximately 7 years, George has been a member of Scout Troop 278 of Dover, Del. In that time he along with other handicapped or retarded youngsters, have joined in all phases of scouting activities, including weekend camping and community service.

His parents, Mr. and Mrs. Ralph Todd, are understandably proud of their son's scouting success. So proud, that even after the family moved from Dover to Laurel, they continued to make the 44-mile round trip each Monday night so that George could continue with his scouting.

George, who became interested in scouting through a classmate at the Howard Ennis School for the trainably retarded, earned his Eagle status by completing over 20 merit badge projects in such areas as camping, community service, first aid, home carpentry, metal work, and bike safety. In addition to the merit achievements, George was also elected to the Order of the Arrow, where membership is chosen by community vote.

George's parents explain that part of the philosophy of the Scout troop is to allow the young men an opportunity to grow on their own, to become self-sufficient and able to care for themselves in various situations.

I would like to express my admiration for this young man for his strength and perserverance, and I look forward to offering my personal congratulations to George in the coming month. The daily news brings us an unrelenting stream of dire events, but these obscure the real strengths of America, one of which is the grit-and-heart of George Todd.

## THE SECURITY OF EUROPE

Mr. TAFT. Mr. President, the security of Europe remains one of the primary considerations of our foreign and defense policies. It is, therefore, with great interest that we all are following the process of negotiations on mutual balanced force reductions. Hopefully, these negotiations will result in maintenance of NATO security at a reduced cost and permit withdrawal of some of our forces from Europe for a concomitant reduction of Soviet forces in Central Europe.

We are encouraged by Soviet willingness to hold the main conference on MBFR on October 30; however, several points remain to be settled before any substantial agreement on phase I MBFR reductions or stationed forces in Europe can be reached. One of these questions concern the status of Hungary at the October 30 conference and the inclusion of Soviet stationed forces in Hungary in the agreement. Hungary certainly is a Central European country and has more than 40,000 elite Soviet forces stationed on her territory. Without granting her the status of a full participant, these Soviet forces would be excluded from the agenda of the conference—in contrast to Soviet forces in the German Democratic Republic, Poland, and Czechoslovakia.

In May 1973, at the preliminary conference in Vienna the NATO powers accepted a compromise excluding Hungary and Soviet forces in Hungary from these talks. However, the declarations of the NATO participants, made by Ambassador Quarles Bryan van Ufford and by the Hungarian representatives on May 14, 1973, make the participation of Hungary in some of the future decisions and agreements possible.

There is, however, considerable opposition on the part of the Soviet Union to the inclusion of Hungary in the talks as a full participant because such a step would result in including Soviet forces in Hungary under the restrictions of a MBFR agreement.

The issue of participation by Hungary in the talks will undoubtedly again be considered, and I am, therefore, urging the administration to stress the importance of inclusion of Hungary in the talks. It is important to consider inclusion of Soviet troops in Hungary under the verification controls and constraints of a MBFR agreement, as omission of such troops in Hungary from an agreement would grant the Soviet Union a sanctuary in Central Europe for the deployment of troops and materiel. Further, such an omission would offer the U.S.S.R. the opportunity to employ the threat of direct intervention in case of a post-Tito Yugoslav political crisis.

In this regard I am joining several of my colleagues who, before the summer recess, spoke out on this issue in a similar vein, and also 62 Members of the House who wrote on August 3, 1973, to the Secretary of State urging the maintenance of a firm position during the Vienna conference in October.

## SENATOR GOLDWATER OFFERS A VALUABLE PERSPECTIVE FOR ALL CONSERVATIVES

Mr. HELMS. Mr. President, the distinguished junior Senator from Arizona (Mr. Goldwater) wrote a thoughtful article which was published September 12, 1973, on the opp-ed pages of the New York Times. The Senator was writing about Watergate. His comments are particularly illumined by his own personal experience in running for President in 1964, by his firsthand knowledge of what happens when you run for that high office. He enriches the debates by sharing with us that experience.

But I particularly want to call attention to the Senator's judgment about the root causes of the situation we now call Watergate. Mr. Goldwater says:

> The Nixon administration would not find itself in the situation it does today if it had been manned at the top by staff people strongly committed to the principles of conservatism. It was not the existence of conservative ideology in the White House or in the Committee To Re-elect the President which brought on the stupidities and the irregularities of the Watergate. Rather—and let me emphasize and underline this assertion—it was the lack of ideology and the lack of experience and the lack of a deeply rooted philosophy of life which brought on the unfortunate and unforgivable activity that has been uncovered in the Watergate investigation

Senator Goldwater has spoken well and to the point. I commend him for zeroing in on this critical issue and stating it so clearly and succinctly. The Senator is exactly right in his analysis.

Mr. President, I ask unanimous consent that the article by Senator Goldwater from the New York Times be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Needed: Conservatives at the Top

(By Barry Goldwater)

Washington.—Like most public scandals of great magnitude, Watergate has spawned many collateral vices, not the least of which is the offense which has become known to the American public as McCarthyism.

As most readers will recall, "McCarthyism" was the label given to the practice of making (for publication) unsubstantiated charges against men in public life. In the McCarthy instance, the allegations dealt with persons in government whom Senator Joseph McCarthy of Wisconsin claimed to be Communists, Communist sympathizers, or outright traitors. One practice which the press found especially distasteful was called "guilt by association." This had to do with allegations that people who associated with Communists must somehow have acquired a political coloration of similar hue.

In the case of Watergate, the charges involve burglarly, obstruction of justice, and a whole list of similar charges growing out of the 1972 Presidential campaign. And throughout the months of investigaton and revelation, scores of individuals have been named in public without formal charges being lodged.

The whole business of "Watergate McCarthyism" very possibly will be seen in later years as one of the more questionable operations of the press and other elements of the news media in this nation's history.

It should be understood that raising this question in no way excuses the scandalous illegalites and irregularities of the Watergate episode. But neither should it be seen as an unqualified vote of confidence in the news media.

I do not intend to go into all the examples of "McCarthyism" which have occurred and are still occurring in connection with the Watergate scandal and related activities. I merely plan to illustrate my point on a personal note. For my money, the cheapest shot of the year so far as the Watergate coverage is concerned was one published in The Washington Star on July 3. It was a column by Mr. Bruce Biossat distributed to some 200 newspapers by the Newspaper Enterprise Association. I can only say that this was "Watergate McCarthyism" in the raw, which did a great disservice to millions of honest and honorable people who supported my candidacy for President in 1964. Mr. Biossat informed his readers that "it is not really a far stretch to say that, even though Senator Barry Goldwater lost the Presidency, 'Goldwaterism'—seen as a narrow, rigid, vengeful way of conducting government—has triumphed after all."

At the outset let me make it very plain that the "seeing" of something called Goldwaterism," in this instance, was entirely one man's vision—that of Mr. Biossat. With similar prescience, he saw a Goldwater Administration liberally sprinkled with hot-eyed backers of my campaign.

Of course, "guilt by association" can be carried to ridiculous and illogical extremes. I have no doubt that my campaign was supported by some "hot-eyed" individuals who argued "you are either with us or against us." But as one who saw and talked with many thousands more of these people than any single reporter or group of reporters, I can claim absolutely that the extreme and radical types did not predominate or even come to my attention very often. And while we are at it, let me say that I am convinced that my campaign, Lyndon Johnson's campaign, and every other national campaign ever conducted has probably been supported by murderers, rapists, child beaters and thieves.

And this brings me to a subject I refer to as the Ideology of Watergate. I am convinced beyond any question of a doubt that the Watergate scandal is being used by many diehard liberals to try and rescue an outmoded philosophy of government which has failed us for forty years.

I believe, as I told a recent convention of the Young Americans for Freedom, that an attempt is being made to use Watergate to discredit everything the Administration achieved or promised which runs counter to the liberal thesis of unlimited government, endless engineering in the area of social welfare, unilateral disarmament and a policy of isolationism in foreign affairs.

Because the Nixon Administration is more conservative than liberal, of course, attempts already are being made to try and equate the irregularities of the Watergate affair with conservative principles generally. This is the thing we must guard against and fight against. This is the "big lie" being used by liberal politicians to take maximum unjustified advantge of the Watergate crimes.

I want to be absolutely clear on what I am saying. I am in no way condoning or justifying or excusing the crimes committed in the Watergate break-in and related activities. I see these activities as directly opposed to the principles which I believe conservatism incorporates.

The Nixon Administration would not find itself in the situation it does today if it had been manned at the top by staff people strongly committed to the principles of conservatism. It was not the existence of conservative ideology in the White House or in the Committee to Re-elect the President which brought on the stupidities and the irregularities of the Watergate. Rather—and let me emphasize and underline this assertion—it was the lack of ideology and the lack of experience and the lack of a deeply rooted philosophy of life which brought on the unfortunate and unforgiveable activity that has been uncovered in the Watergate investigation.

No sincere conservative that I know would ever adopt the idea that the end justifies the means as seems to have been the case in the Watergate fiasco.

Actually, that premise belongs to the other side. It was used on me in 1964. And that was the premise which led the liberals in the academic world and in the media to defend or pooh-pooh Dr. Ellsberg's theft of confidential and classified government material.

That premise also was the one that led to the virtual enshrining by the liberals of Angela Davis, the Berrigan brothers, the peace rioters and the war dissenters even though serious violations of the law were involved.

It was the liberals, not the conservatives, who promoted the idea that dissenters should choose what laws they would obey and which they would ignore. It was the liberals, not the conservatives, who urged the burning of draft cards and cheered the desertion of military men because they felt the war in Vietnam was special and illegal and because they disagreed with its objectives.

Even so, the existence of this vicious double standard in no way excuses the crimes of Watergate. Nor does it obscure the fact that conservatives are now in the position where they will have to fight and fight hard to retain the ground they have won over the last ten to fifteen years.

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## FOOD FOR PEACE—A PROVEN PROGRAM

**Mr. DOLE.** Mr. President, when the Congress passed the Agricultural Trade Development and Assistance Act of 1954—Public Law 480, 83d Congress, it set the following policy:

> SEC. 2. The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing counties, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States.

If we are to continue to implement this policy, the agricultural and technological resources of this country must be committed to a war on hunger and malnutrition. There is tragic evidence that vitamin and protein deficiencies are robbing many people throughout the world of their productive capacities.

### HUNGER RETARDS YOUTH

Malnutrition takes its worst toll in the first 5 years of human growth, blunting the physical development of preschool children, and very often retarding their mental growth as well. In countries where food shortages are both chronic and widespread, this irreversible process affects up to 50 percent of the infant population.

Millions of youngsters in many lands are alive today as a result of American compassion and American know-how—and as a result of a unique partnership between the public and private sectors of this country.

These youngsters are growing stronger and more resistant to childhood diseases that take an abnormal toll among the young in most developing countries.

They have a better chance of survival to adulthood and a productive useful life; and, as a result, their countries have a greater hope of economic progress—and the world a greater hope of peaceful existence.

### SUPPLEMENTS VOLUNTARY PROGRAMS

They are the youngsters fortunate enough to be included among the organized child-feeding activities of America's great voluntary agencies for overseas relief and rehabilitation, organizations such as CARE, the Protestant Church World Service and Lutheran World Relief, Catholic Relief Service and its Charitas counterparts, the American Jewish Joint Distribution Committee, and a number of similar privately supported humanitarian organizations helping to carry out the U.S. Government's food-for-peace program.

The latest reports indicate that these programs are now reaching, for at least some supplemental feeding, some 45,000,000 school-age children and another 10,000,000 preschool infants, and pregnant or nursing mothers, scattered around the world in some 100 countries.

Even that is just scratching the surface. Related to need, only a dent has been made.

The President's Science Advisory Committee panel on World Food Supply estimated than 269,000,000 out of the 667,000,000 children under 14 years of age in the less-developed countries were malnourished.

We need to advance to the goal that has been sought by all men since before the dawn of human history. Long before men formulated slogans—indeed, before they had developed much use for words—they sought to allay hunger. Thus, the policy we set forth in P.L. 480 is to fill one of the most basic needs common to all mankind.

### TEACHES PEACE AS IT HELPS

Through much of recorded history men and nations have sought to increase their own changes to achieve freedom from hunger at the expense of their neighbors. They have struggled for the fertile valleys and the flood plains. Wars have been fought to gain enough territory to insure enough food. People have migrated into new, forbidding, sparsely occupied areas of the world when population pushed too hard against the supply of food.

It was left to our period of history for mankind to develop a concern to combat hunger throughout the world.

The desire to make use of our agricultural productivity to provide food for those who need it throughout the world was back of the launching by the United States of our food-for-peace program.

The drive to eliminate hunger from this earth has become international and well nigh universal. This development in an age-old drive in itself offers great hope to the people of the world.

Within the United States this potential abundance has in many respects become a reality. Certainly American agriculture has demonstrated its potential. Millions of farmers, spurred by the incentive and pride of ownership inherent in the American family farm economy, have applied new discoveries and new methods to their own operations to produce a dramatic increase in productivity that overshadows increases in other major sections of our economy.

### NATIONS DEPEND ON PROGRAM

Developing countries have been and are dependent upon concessional sales and international contributions of food, especially from the United States, and other surplus producing areas of the world to alleviate their food deficits. These food programs administered by national, international, and religious agencies throughout the world formed the cornerstone, the foundation, of numerous health, social, and economic programs directed at upgrading the self-sufficiency and productivity of these countries. These programs are having their impact. These programs and the institutions involved in them cannot be permitted to falter or surely these nations will backslide into mass hunger, violent upheaval, and social disintegration. Even if the developed countries must tighten their belts, or curtail their ambitious national dietary programs, food supplies and the food supply systems between the surplus producing and deficit areas of the world must be kept viable.

It is in the national interest of the developed countries to do so.

It is in the interest of humanity to do so.

And it is in the interest of world stability to do so.

In the case of the United States, Public Law 480, title I and title II, must continue to function. It is by this authority that food is made available to the needy of the world. It provides the major portion of food distributed in the developing countries. World food programs and organizations involved in them are dependent upon these supplies. They must be made available to them.

### ONLY "SURPLUS" HUMANITARIANISM?

We are now in a position of relatively tight supplies for many commodities plus a tight budget situation. Are we going to implement the Public Law 480 policy statement only when we have plenty? Are we going to be humanitarian only in times of surplus? The answer must be no. The challenge is clear.

The September 1973 crop report reflects improved production for many crops, such as wheat, corn, grain sorghum, and soybeans. It is obvious that dollar export demand relative to supply for some of these crops is greater than for others. To implement announced policy, we should tailor the availabilities under Public Law 480 to those commodities in relatively better supply, even though they are not in surplus.

### TEST OF RELIABILITY

The food for peace program and its supporting structure is not the kind of program that can be turned off and then turned on at some indefiinte future date. Our real test as a Nation comes at a time when our sharing is not the easy one of relieving us of surplus. This Nation and the world has benefited from our beneficence. Other developed nations should be urged to do more or to share in the costs. But, whether they do or do not, this Nation should stand firm in the course which Congress set forth in the policy enunciated for the food for peace program.

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## RECYCLING OF SOLID WASTE

Mr. BIDEN. Mr. President, one of the most important issues facing modern society is seeking means of dealing with the ever-increasing amounts of solid waste that we are generating. It is my strong belief that we should no longer look to the old techniques such as landfilling. Instead we must use our imagination to develop new processes that will permit reuse in some form of as much of the waste products as possible. The Environmental Protection Agency is conducting some experimental projects and I look forward to seeing the results. However, I do feel strongly that the Executive branch has not taken the initiatives that are required to get such programs into operation in a nationwide basis. While the solid waste problem is basically a local one, Federal assistance is going to be required to establish programs and avoid duplication of research efforts.

In this connection, I was interested in an article that appeared in the Washington Star-News on September 7. If the concerns expressed in the article are correct, Congress must shortly act to establish a national solid waste program. I ask unanimous consent that the article, "Recycling Is Aground on the Reef of Profit" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### RECYCLING IS AGROUND ON THE REEF OF PROFIT

(By Ann McFeatters)

The basic technology exists to recycle just about everything from mice to used clothes, but the economics and public reaction to recycling are unfavorable and markets for such goods are lacking.

These were the major frustrations voiced by most of the 350 recycling experts who met here yesterday. And many of them blamed the federal government for the sluggish pace of recovering and reusing glass, plastic, metal, textiles and paper.

A key expert on solid waste, Samuel J. Hale, Jr., deputy assistant administrator for solid waste programs in the federal Environmental Protection Agency, said there's a definite increase in federal recycling efforts but "if any one thing is lacking, it's a sense of urgency on the part of the Nixon administration."

Sen. Marlow W. Cook, R-Ky., author of one of 12 recycling bills pending in Congress, lashed out at the administration and said its "policy and inaction have stifled recycling growth."

Robert S. Kahn of Pittsburgh's Keystone Metal Co., said leadership at the federal level is lacking: "The whole thing is so fragmented we're getting nowhere."

Industry and environmental interests are lobbying for reduced freight rates for recycled goods. It costs $2 more per ton to ship recycled metal than virgin metal and $3 more per ton for recycled paper.

They also are seeking tax incentives to create a market for recycled products. Now it's usually cheaper to build a manufacturing plant to use virgin materials than recycled ones.

Enthusiasm was boundless among these experts. But optimism that recycling will become accepted soon was mixed.

Harry B. Locketz of Cyrogenic Recycling International of Lacrosse, Wis., said millions of laboratory mice in Madison, Wis., used to be buried when they died. Now the bodies are pulverized and made into high-protein food for other mice.

Herbert Elish, New York City sanitation commissioner and environmental chief, said that by 1985 the city will have exhausted its landfill dumping place and already the Bronx "mountain" is too high for trucks to get up. "Recycling solid waste is no longer a vague question," he said. "It's a problem of municipal services which will turn to riots in New York if it's not solved."

Richard L. Lesher, president of the National Center for Resource Recovery, said a shortage of raw materials will give major cities the incentive to solve their solid-waste problems in 10 years.

But M. J. Mighdoll, executive vice president of the National Association of Secondary Material Industries, which sponsored the meeting, said such optimism is unfounded. For example, he said only 20 percent of paper waste is recycled although it's a well known process and paper accounts for one-half of all solid waste.

Opinions about public attitudes also were divided. One recycler said, "Everyone in this country is geared to virgin everything. We have to educate people to realize recycled wool or glass or metal is just as good."

Elish said New York City intends to separate and sell $65,000 worth of newsprint next year but expects problems. "We can't even get people in New York to use garbage cans half the time, let alone separate their newspapers," he said.

But Max Rittenbaum, who owns an Atlanta wiping-cloth company, said the recycler is a hero now. "When I grew up I was laughed at as a rag picker's son. Now mothers of sons in my business proudly announce their sons are textile-reclamation engineers."

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## THERE IS A SOLUTION TO DISRUPTION CAUSED BY FORCED BUSING OF CHILDREN

Mr. HELMS. Mr. President, all over the country, schools have been reopening, and in many areas parents face once more the likelihood of educational disruption caused by compulsory busing to achieve so-called racial balance. In some areas, this disruption is coming for the first time. Parents will be looking to their elected representatives to do something to bring relief.

I have introduced one solution, the Public Schools Jurisdiction Act of 1973 (S. 2336), which would provide for a speedy return of public school systems to local control after they had met specific definitions of a unitary school system. My proposal is written within the constraints of recent Supreme Court decisions, and has received favorable response from many sections of the country.

I am proud to say that my hometown of Raleigh is the source of one such response. WRAL–TV, on its "Viewpoint" program recently featured a temperate editorial appraisal that takes stock of my bill and points out that northern communities can soon be expected to be seeking relief from court-imposed busing. The editorial was written and delivered by William P. Cheshire, the editorial director of WRAL–TV.

Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### WRAL–TV Viewpoint

> Schools will begin to reopen in North Carolina next week, and public attention in many communities will be riveted again on the stubborn issue of busing. Nothing much has changed since school let out last spring. There has been a lot of talk about busing, but little action, and so the buses will roll this fall just as they did last fall and the fall before that.
>
> Now is a proper time to take stock to see if there are signs on the horizon to give hope that our schools may be salvaged yet.
>
> As it happens, there are hopeful signs. One might mention the bill recently introduced by North Carolina's Sen. Jesse Helms. Whether it will pass remains to be seen, but if it does, no community's schools would be required to remain in the perpetual custody of a federal judge, which is the handicap many school systems now labor under.
>
> Under the Helms bill, the federal court's supervision would end once a local jury determined that a school system has operated for a year under a court-approved integration plan. This would not automatically stop extravagant busing schemes, but it would make things less trying for local communities. It is a useful stop-gap.
>
> Nothing is likely to give permanent relief but a constitutional amendment to prohibit forced busing. Several draft amendments are now before Congress. They have gone to committees in both the House and Senate—those large burial grounds wherein many earlier drafts now rest in peace.
>
> But there is hope still, even here, that good sense will assert itself in time. There is, for instance, a recent court decision involving Denver schools. In that case, the Supreme Court held 7 to 1 that "all-out desegregation" may be required in communities *outside the South* when official acts of deliberate segregation can be established.
>
> What this means in practice is that Northern communities—already wary of busing, pairing, and other disruptive devices—can be expected to become even warier in the months ahead. They will find, in some instances, that their own children, too, must take those lonely rides to the other side of town for the sake of pleasing the foolish and the zealous.
>
> This cannot help but crank up Congressional enthusiasm for a busing antidote—and it is to Congress that one must look for relief.
>
> The tools are available, if Congress will use them. The only question is whether Congress can be forced to forget the professional civil rights activists and attend to the interests and desires of harassed constituents. There is no assurance that Congress will do so, but it may. When all is said and done, Congress responds eventually to public opinion. And on this issue, the judge by every available shred of evidence, the public, black and white, is fed up.

## THE COUP IN CHILE

Mr. HUMPHREY. Mr. President, the coup in Chile has ended Latin America's longest democratic tradition. It is especially tragic that a leader who condemned violence, on the left as well as the right, has been violently overthrown by the military.

While I disagree with many of Allende's actions, and while I believe that he often pursued policies which did not have the support of the majority of his people, it must be remembered that he chose the difficult road of democracy over the violent revolution advocated by many of his followers. He has been quoted as saying:

> A victory by the electoral route will be difficult for us, but it is the best way by far for Chile.

In a country where the military has not intervened in politics for 46 years, martial law and censorship of the press have been declared. Leaders of the party which supported President Allende have been rounded up "for questioning." The newspapers that supported him have been closed down.

As a Washington editorial this morning stated:

> Perhaps the Chilean military can return their country in a reasonable time to its democratic heritage. The experience of others is not encouraging. That is what is so regrettable about the failure of the Allende experiment. It is an outcome likely to harden both Latin left and Latin right in the view that social change in a democratic context doesn't work.

With workers and the military still fighting in Santiago, many fear that this coup will not bring the "law and order" its leaders promised but a long, violent struggle between the political factions of Chile.

Edwin M. Martin, Assistant Secretary of State for Inter-American Affairs during the Kennedy administration, wrote in 1963:

> The United States opposes the overthrow of constitutional and popular democratic governments anywhere.
>
> This is especially true in Latin America, with whose people we have such close historical ties and whose aspirations for political and economic freedom we support wholeheartedly.
>
> Democracy is a living thing which must have time and soil and sunlight in which to grow. We must do all we can to create these favorable conditions. . .

While I do not believe that many of Allende's policies deserved the support of the United States, I believe we could and should have done more to support him in his effort to keep democracy alive in Chile.

I would hope that this experience has taught us to be more sensitive to the legitimate desire of Latin Americans to have some control over their own economies. I would hope that it has taught us the weakness of a policy which entails giving massive military assistance to a country while hampering its government's efforts to develop economically. Finally, I would hope that it has taught us that the "spirit of détente" must be extended to the lesser powers in our own hemisphere as well as to the greater powers in others.

Mr. President, democracy is a very fragile thing—especially in Latin America, where it is subject to the extreme pressures of rapid social and economic change. According to yesterday's New York Times, Chile was one of only five civilian governments left in Latin America.

Few Marxist leaders are so dedicated to democratic principles as was Allende. At a time when our detente with the Soviet Union was clouded by that country's suppression of individual freedoms, we should have seen Allende's dislike for one-party governments and his belief in Chile's democratic traditions as a valuable alternative model to authoritarian Marxism.

For these reasons, I believe that the United States must express deep regret at the military overthrow of a democratically elected government. We must make it clear that we firmly believe the military regime must give way to a freely elected government as soon as possible. And we must urge the leaders of the coup to respect the right of all Chileans to peacefully express their political convictions.

## UNITED STATES-MEXICO RELATIONS

Mr. BENTSEN. Mr. President, yesterday, the Senate passed H.R. 8916, the State-Justice-Commerce appropriations bill for fiscal year 1974. In the original bill was a little noted provision but one of potentially far-reaching significance which provided funding for the "maintenance, care, detention, surveillance, parole, and transportation of alien enemies and their wives and dependent children." This language is a leftover from World War II when those persons suspected of supporting our enemies were interned in what amounted to prison camps. With the thawing of the cold war and the age of détente upon us, there is no reason in the world, Mr. President, to retain this language on the books, almost 30 years after the end of World War II. I expressed my concern over this provision to the Immigration and Naturalization Service as well as the State, Justice, Commerce, Judiciary Appropriations Subcommittee. I am gratified that the Appropriations Committee, supported by the entire Senate, has seen fit to delete this unfortunate language, and I wholeheartedly support this move. I urge the House conferees to accede to the Senate position and remove this language once and for all from our statutes.

Also of grave concern to many Americans, particularly to friends of Mexico, was language providing for "acquisition of land as sites for enforcement fence and construction incident to such fence." There has been some misunderstanding as to what such funds are to be used for and I think it is appropriate to take this opportunity to clarify this language.

The Immigration and Naturalization Service has assured me that such funding is simply to provide for an extension of border patrol capability to monitor the illegal entry of aliens into the United States. Immigration statistics point out that the use of this electronic equipment has been highly successful in reducing the incidence of illegal border crossings. Better border patrol enforcement could have a significant influence on reducing drug smuggling and this country cannot afford to relent in its efforts to get at the foreign sources of drug trade. A thoughtful editorial in the Houseton Post recently pointed out in regard to the electronic system that—

> It would allow a better organized and more efficient apprehension of suspects, which would reduce the chances for violence or unexpected confrontations and would also reduce the demands on the limited manpower of the border services. It should perhaps be noted that these mobile electronic detection devices are detectors only—there is nothing lethal or injurious about their function, and the only thing they can damage is the successful completion of an illegal operation.

These mobile electronic sensor devices work to the mutual benefit of both Mexico and the United States. They help us to prevent criminal elements from infiltrating into Mexico while at the same time they help our border patrol and Bureau of Customs agents in detecting and apprehending persons engaged in illegal traffic on our long, unguarded border.

Mr. President, it is propitious for me to reiterate that Mexico and the United States have a wide-open border, that is to say, we enjoy a policy, custom and system of long standing which permits practically free and unrestricted border crossings of our citizens through the many border stations where both nations provide the necessary services of immigration and customs to facilitate the international flow of commerce and visitors.

It is the criminal element from both countries whom we seek to deter in their surreptitious attempts to enter either country in furtherance of their illegal goals.

Mr. President, I am sure all of us concur in the desire of the border patrol to curb the entry of illegal aliens and the international drug traffic. However, I think it is of the greatest importance that a full and complete explanation be made to the Government of Mexico. The Government of Mexico has expressed concern over this electronic detection device and I urge the Department of State and the Immigration and Naturalization Service to render a complete clarification of the detection system, its mode of implementation, and its purpose.

The United States enjoys with Mexico one of the longest unprotected borders in the world—2,000 miles. Our tradition of peace along that border without the presence of armed troops is an enviable one. Certainly United States-Mexico friendship is a major stabilizing factor lending stability to hemispheric relations. I beleve it is imperative that nothing be done to jeopardize those relations.

## STURGEON IN THE DELAWARE RIVER

Mr. BIDEN. Mr. President, both because of my interests and my work on the Air and Water Pollution Subcommittee of the Committee on Public Works I have spent a great deal of time on the effects of pollution on our marine life. Sometimes things look dark and discouraging, so it is pleasant, for a change, to read an article like "Sturgeon—Alive and Well" that appeared recently in the Delaware Conservationist. Although there is still much to be done to clean up the Delaware River, it is at least encouraging to know that at least one species has survived. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Sturgeon Alive and Well

(By Robert A. Beck)

(Note.—Sturgeons sometimes are called living fossils as they are still much like their ancestors of the upper Cretaceous period that were abundant over 100 million years ago. With their horny skeleton on the outside protecting the soft body flesh, they have a forbidding appearance.

(Like the shad and herrings, the sturgeon moves up the tidal streams to fresh water in the spring to spawn.

(As the ventral mouth suggests, sturgeons are bottom feeders and use many different kinds of organisms as food. The fish are very slow growing and appear to require 15 to 20 years to reach sexual maturity. Due to the slow growth rate, it is believed that some of the sturgeon caught in the Delaware River measuring 10 to 12 feet could be 100 years old or more.)

"I repaired to Delaware City, Delaware, a very important center of the sturgeon fishery, in order to collect data respecting the fishing; also to study the variations presented by the individuals of common sturgeon; to determine the number of species taken in the Delaware River; their food, relative abundance and value; and to find out, if possible, if artificial propagation might be successfully carried on. •The latter part of the month of May and nearly the whole of June 1888 were devoted to these objects."

This introduction was written by John A. Ryder in a report he submitted to the U.S. Commissioner of Fish and Fisheries in late 1888. It pinpoints Delaware City and the Delaware River as a major sturgeon fishery of the Atlantic Coast.

Also, the introduction outlines a very intensive study of the Delaware sturgeon and its industry. After reviewing Mr. Ryder's report and conclusions, it indicated that the Delaware River and the sturgeon might be in trouble for the first time.

The following paragraph is part of the conclusion of Mr. Ryder's report:

"On the eastern coast, the Delaware River is now the principal resort of the common sturgeon and the seat of the only profitable fishery of this species, unless the Florida sturgeon should prove to be the same form. The amount of capital invested in boats, nets, and small sloops engaged in this business on the Delaware is very considerable. The experience of the dealers and fishermen shows that a steady falling off has occurred in the catch within a few years. This coupled with the circumstance that the fishery is now only profitably conducted south of Wilmington and that Delaware now has the only profitable sturgeon fishery north of Florida, is sufficient to prove that it is high time that something was being done to stay the extinction of this fish. The total value and enormous yield of eggs of the Delaware fishery may be inferred from the fact that a single caviare packer collected and shipped. . . ., about 50 tons of this product to Europe during the season of 1888. The great demand for caviar has, within a very recent period, made the fishery profitable to the fishermen, many of whom own their boats and gill nets. From all information that I can gather, it is safe to assume that the annual value of the sturgeon fishery of the Delaware must be somewhere between $100,000 and $200,000 per annum. This industry may be maintained by prompt and efficient action, and this end it is the hope of the writer that the foregoing account of experiments, results, and observations may successfully contribute. The only means of maintaining and increasing this industry is through the artificial propagation of this fish, which I have every reason to think may be successfully accomplished at a comparatively insignificant outlay."

It is very clear in Mr. Ryder's conclusions that his greatest concern was for the overfishing of the sturgeon, and eventual extinction if his warnings were not heeded. The most important event that was indicated in this report, but not considered at that period of time, was the drastic decline in sturgeon habitat. Mr. Ryder stated "that the fishery is now only profitably conducted south of Wilmington. History shows that in the early 1800's sturgeon was abundant throughout the whole Delaware River below the falls line at Trenton, New Jersey.

Even in those early years, pollution and poor water quality could have been having its effect on the fishes that went up the Delaware River in the spring to spawn, particularly the sturgeon which is strictly a bottom feeder and is dependent upon the various forms of small bottom organisms which are produced in the clean fresh waters of the Delaware River.

It is reported in the U.S. Corps of Engineers "History of Delaware River Dredging" that coal silt in the upper Delaware River was one of the major pollution problems from the years 1820 to 1940 and to quote Mr. Ryder: "It is quite certain from what has proceeded that if the minute life upon which the sturgeons subsist were exterminated, the sturgeon would also become extinct.

It could also be concluded from interviews with older residents of Delaware City and Port Penn that the great sturgeon industry in the Delaware River was in trouble. From 1888, the catch went down rapidly from hundreds of fish a season for the individual fisherman to two or three roe fish a season, if they were lucky.

An example of this rapid decline in the fishery can be documented from an article from a Wilmington newspaper dated June 12, 1923 in the column titled "25 Years Ago Today." It stated that Mr. John [Uncle Jack] Tugand of Delaware City had caught a 450 lb. sturgeon off Delaware City (1898). The article carried this footnote: "Sturgeon have been rare in the Delaware River in the past few years." This decline continued until the early 1930's.

It was during this time that the fishermen of the area could no longer depend on the sturgeon for a living and, so, the nets were stored away in attics and garages until better days. But the better days never came for these old timers. Some of the nets are still there, rotted and mouse-eaten and most of the old-timers have passed away. They are not forgotten by their families or people like me who sat by the hour and listened to the tales of fishing in the great Delaware River. Nor can I forget the influence these men had on me in my younger years.

I used to beg them to let me go fishing for the day or night, and most of the time they did. They would sit me up in the bow of the skiff and ordered me to stay there. I would watch them put the great nets overboard and we would drift, watching every float, every minute of the drift. Even then, as young as I was, I could tell from their talk and expressions how exciting and important it was to see 5 or 6 of those big floats go under water and the swirl of the entangled giant sturgeon breaking the surface of the water. This meant a good season's pay if the fish was a big one. It also meant that the fascination and thrill for this fish and the fishery had gotten in my blood at a very late hour for the resource was badly endangered.

The demise seemed to happen at once—the put-put of the old one and two cylinder boat engines could no longer be heard in the Delaware City Canal; the nets drying on rocks disappeared and the once sturdy skiffs lay on the banks of the canal splitting in half from neglect.

After returning home from serving in World War II in late 1945, I began to hear rumors that sturgeon were being seen jumping in the river in rather large numbers. With the great fascination I had for this fishery since childhood, I did not hesitate in ordering a new sturgeon net, something that had not been done for years in this area. At the same time I was busy talking my brother into joining me in this venture, which he did. So, on Labor Day of 1946, we had the boat and net ready and we set out into the Delaware River in hopes that I could fulfill a dream I had had for years. After the first day's fishing, it seemed obvious that something or someone had done something right, either mother nature or man because we caught one sturgeon that day, and thirteen the day after and observed many fish jumping throughout the river. Since then, I have fished practically every year with a very good friend of mine, Carl Morris, whose love for sturgeon fishing is every bit as strong as mine.

Fishing for this fascinating marine creature is both exhilarating and exhausting, for you fish every tide—no time for sleep during the sturgeon run. Carl is a very avid conservationist and as we lay out in the river fishing, we would discuss our views on the downfall and comeback of the common sturgeon. We have in past years caught as many as 199 fish in our two-week vacation period. We have wanted someone to study the sturgeon at this time, but have not succeeded in getting anyone interested enough in this once almost extinct species of fish. We are both grateful that we did have the opportunity to relive and be a part of this once great industry, and we firmly believe that in the future the sturgeon will be again a great industry in Delaware if man continues to protect and safeguard our great Delaware River and Bay system.

## DEATH OF EX-SENATOR HERBERT S. WALTERS

Mr. BROCK. Mr. President, recently a former Senator and fine gentleman passed away.

Herbert S. "Hub" Walters died at 81 in Knoxville, Tenn. Senator Walters served in this Chamber from 1963 to 1965, having been appointed to fill the vacancy caused by the loss of Senator Estes Kefauver. He served for 18 months until the next regular election, in which he did not run.

It was understandable that Senator Walters not seek reelection, for that was not the nature of his service to the people. Indeed, in all his life, he ran for election only once, winning a seat in the Tennessee General Assembly in 1933.

It would be a mistake, however, to construe the fact that he was not a frequent candidate for office to mean that he was not a tireless and dedicated public servant. He held numerous key appointive positions in Tennessee State government, and to each of them brought uncommon ability and great integrity. As such, he became a leading figure in the political life of one State, a man whose counsel was often asked, and whose contributions to good government and to the people of his State are too numerous to mention.

He was the son of a minister, and it may thus have been at an early age that he learned the values of public service, giving counsel and helping people.

He said:

> I follow the golden rule. I like to see the other fellow treated as I want him to treat me.

Hub Walters lived the golden rule every minute of his life. He was a gentleman of many fine qualities, and a credit to his party, his State and the Senate.

Tennessee will miss him greatly.

## MAURICE BISGYER, OUTSTANDING LEADER IN AMERICAN-JEWISH AFFAIRS

Mr. HUMPHREY. Mr. President, many Members of Congress were sorrowed to learn on return from the recess that Mr. Maurice Bisgyer had died on August 12.

He was a friend and inspiration to many Members of Congress, just as he was to literally thousands of community leaders throughout the United States and dozens of other countries.

He was a friend of Presidents of this country and many world leaders. He was one of those responsible for bringing together President Truman and the world Zionist leader. Dr. Chaim Weizmann, Israel's founding President.

He was one of those invited to the White House to witness President Truman's signing of the documents giving official recognition by the Government of the United States of the State of Israel.

These were just some of the highlights of Maurice Bisgyer's unique and varied career.

We knew him officially as executive vice president of B'nai B'rith for more than a quarter of a century, but he had so many other achievements in community and international life, from being one of the founders of the Community Chest, which later became the United Givers Fund, to participating as a member of the ad hoc Jewish delegation of the United Nations Charter.

I am proud to have been a friend of Maurice Bisgyer and count myself fortunate to have known this remarkable man.

Mrs. Humphrey and I wish to convey our sympathy to Mrs. Hoda Rosenberg Bisgyer and his family.

Mr. President, I ask unanimous consent to print in the RECORD an article which appeared in the Washington Post of August 13, 1973.

There being no objection, the article was ordered to be printed in the RECORD as follows:

### EXECUTIVE OF B'NAI B'RITH DIES

(By Jean R. Hailey)

Maurice Bisgyer, 75, an outstanding leader in American-Jewish affairs for most of his life, died yesterday at George Washington University Hospital after suffering a stroke.

As executive vice president of B'nai B'rith for 27 years, he helped the worldwide Jewish service organization grow from a membership of 46,000 to 500,000.

Earlier, as executive director of the Jewish Community Center here, he helped to bring about construction of its first building.

Mr. Bisgyer was the friend of presidents of this country and of other world leaders. He served on numerous U.S. government bodies and participated in top-level meetings that took him on extensive travels throughout the world.

Mr. Bisgyer was dedicated mainly to two things: Good fellowship between Christians and Jews and bettering the opportunities for the young people of the world.

David M. Blumberg, international president of B'nai B'rith, yesterday described Mr. Bisgyer's career as "spanning the era of both Jewish cataclysm and triumph . . . the Holocaust and the rebirth of Jewish statehood . . . and the maturing of a native-born American Jewry, a close-up seat to Jewish history in the making. He helped make much of that history, too."

One of the highlights of his career occurred in 1949, when he was invited to the White House to witness President Truman's signing of the de jure recognition of the state of Israel.

Mr. Bisgyer was one of those responsible for bringing together Mr. Truman and world Zionist leader Dr. Chaim Weizmann, the first president of Israel.

A personal friend of Dr. Weizmann, he made several personal appeals to President Truman for the meeting and then in March drove the ailing and near-blind Zionist leader to the White House. This country's official recognition of the new independent state of Israel came two months later.

Another highlight of his career came earlier, when he went to San Francisco as a member of the ad hoc Jewish delegation as a consultant on the United Nations charter.

"Having a front seat at the birth of the United Nations was one of the most thrilling experiences of my life," Mr. Bisgyer said later.

Born in Brooklyn, Mr. Bisgyer graduated in 1918 as a Phi Beta Kappa from New York University where he later earned a master's degree.

His career in Jewish social work began in 1919 when he became executive director of the Jewish Education Alliance of Baltimore.

In 1922, he became director of the Young Men's Hebrew Association in Trenton, N.J., and came to Washington a year later as an official of the Jewish Community Center here.

Actually, there was no center as such, so Mr. Bisgyer raised $500,000 to build one. It was constructed at 16th and Q Streets NW.

He arranged for President Coolidge to deliver the address when the cornerstone was laid in 1925. The building served for many years as a central point of activities for the entire community, particularly for youth activities. The organization moved in recent years to Rockville and the old building is now part of Federal City College.

Mr. Bisgyer joined B'nai B'rith in 1937 as its chief administrative officer with the title of national secretary. The title later was changed to executive vice president.

Not only did the membership increase vastly under his guidance, but eventually a new and spacious building was constructed at 17th Street and Rhode Island Avenue NW through his resourcefulness in raising funds.

Mr. Bisgyer, small in stature, exerted great energy on assorted programs, community services and philanthropies.

When he wasn't traveling, he was dictating letters, at one point an estimated 10,000 a year, to noted personalities throughout the world.

Both Presidents Hoover and Roosevelt had appointed him to serve on the National Advisory Committee on Education. Later he was secretary-general of the Coordinating Board of Jewish Organizations to the U.N. Economic and Social Council.

He also had served on the Attorney General's Committee on Juvenile Delinquency. He traveled to the U.N. Paris assembly as a nongovernment consultant in 1948.

Immediately after World War II, when all B'nai B'rith lodges had been destroyed on the European continent, he made two trips to Europe to aid in reconstruction of the lodges.

He went to Israel, where he met with Dr. Weizmann and David Ben-Gurion and then returned to this country to direct a B'nai B'rith emergency appeal which shipped $4 million in food, clothing, medicine and other supplies to the new country.

He administered the millions of dollars raised for B'nai B'rith to use as emergency relief funds in foods, fires and hurricanes.

He participated in meetings with government leaders and Popes John and Paul on issues affecting the Jewish community.

In 1958, Mr. Bisgyer received the B'nai B'rith President's Medal, the organization's highest award. In 1962, its members collected $50,000 to contribute in his name to B'nai B'rith youth service programs.

When he retired in 1964, he described his long career, which had taken him to more than 600 American cities and to 42 countries in this way:

"You're in El Paso for a conference one afternoon, on your way next day to organize a fund-raising campaign in Chicago.

"A week later you might find yourself in Amsterdam, having tea with Queen Juliana, or in West Berlin with Mayor Willy Brandt, or perhaps in Rome for a discussion on Jewish-Catholic relations at the Vatican.

"Not exactly an orderly existence. But I wouldn't call it dull, either."

Mr. Bisgyer summed it all up in a book, "Challenge and Encounter," which was published in 1967.

His honors were many. He was recognized for his tireless efforts in working for the Community Chest, the forerunner of the United Givers Fund. The Hebrew Union College-Jewish Institute of Religion awarded him an honorary degree of doctor of humane letters.

He is survived by his wife, Hoda Rosenberg Bisgyer, of the home, 5500 Friendship Blvd., Chevy Chase, Md.; a son, Dr. Jay Bisgyer, and a daughter, Mrs. Robert Freed, of Bethesda; a brother, Samuel S., of Brooklyn; two sisters, Rose Solomon, of East Orange, N.J., and Mayne Franklin, of New York, and seven grandchidlren.

The family suggests that expressions of sympathy be made in the form of contributions to the B'nai B'rith Foundation.

## THE COMING CRISIS IN FERTILIZER SUPPLIES

Mr. DOLE. Mr. President, although I sometimes find grounds to differ with the news policies of the Washington Post, this morning's lead editorial touches a subject over which I and many others have been expressing serious concern for some time.

The editorial describes the critical importance of fertilizer in the economic policy—fuel crisis—food production—international trade complex of issues which confronts us today. It is prefaced by an eloquent and compelling letter from a Sumner County, Kans., farm wife who sums up the entire matter quite well by saying "excuses will not grow crops."

There will undoubtedly be much more attention—of a crisis variety—in the coming months. I commend Mrs. Dixon's letter and the Post editorial to my colleagues as good, basic explanations of this subject and its broad importance to the entire American people.

I ask unanimous consent that the text of the letter and the editorial be printed in the Record.

There being no objection, the letter and editorial was ordered to be printed in the Record, as follows:

### Post Editorial

A number of people here in Washington have begun to see the danger in the fertilizer shortage, but no one has put the case better than Mrs. Dixon. Her letter arrived the other day from southeastern Kansas, where the ground is now being prepared for planting the wheat. Fertilizer supplies this month will affect not only grain prices next summer, but beef prices next spring. Modern fertilizers enable farmers like the Dixons to graze beef cattle all winter on the growing wheat, sell the cattle in the spring, and a few weeks later harvest a normal wheat crop. But that takes a lot of nitrogen in the soil.

The Dixon family's troubles are a brilliantly clear illustration of the desperate dilemmas into which the country has fallen in its struggles with food and prices. The Nixon administration is trying to hold down the cost of food by expanding production. The Dixon's wheat acreage this October will be 30 per cent greater than last year's. Bigger crops require more fertilizer and the producers cannot meet the soaring demand. Nitrogen fertilizer is made from natural gas, already severely in shortage.

In the Dixon's area, one major supplier is W. R. Grace and Co., which operates a plant nearby in Joplin, Mo. The plant manager, D. E. Warren, says that his gas supply was cut off 46 days last winter and was reduced by 9 per cent last month. Since his gas suppliers have warned him to expect similar disruptions again this winter, Mr. Warren is installing propane tanks for supplementing the natural gas flow. But, he points out, propane is also in shortage and it is six times as expensive as natural gas.

The domestic price of nitrogen fertilizer is held down to $40 a ton by the federal price controls. But the export price is uncontrolled and it is now about $75. That is why manufacturers give preference to foreign buyers. Mrs. Dixon complained to her congressman, Joe Skubitz (R-Kans.), who talked to the Agriculture Department. Subsequently a large oil company made some unexpected deliveries in Mr. Skubitz's district, but that was only temporary relief. Mr. Skubitz favors decontrol of the price, on grounds that his constituents would rather pay more than be crippled by shortages in the crucial planting weeks.

The real crisis is coming next spring, when fertilizer demand will reach its annual peak. American farmers will need about 10.1 million tons of nitrogen fertilizer for the year ending next June, the Agriculture Department estimates, but supplies will be only about 9.1 million tons. This means a shortage of 1 million tons here in the United States. Meanwhile our exports are projected at 1.7 million tons.

Sens. Hubert Humphrey (D-Minn.) and Robert J. Dole (R-Kans.) called a meeting last Monday at which they pressed the administration and the industry for a solution. Senator Humphrey asserted that a million-ton shortfall of fertilizer would reduce American production of feed grains next year by 20 million tons: "If this occurs," he said, "the effects will be catastrophic. Retail prices will go into the stratosphere." The Agriculture Department is supposed to come up with an answer. But, in truth, the possibilities are neither numerous nor attractive. Decontrol would contribute to inflation immediately. Continued price control would mean shortages now, causing further inflation later. The only other choice would be export controls which, as the administration has learned, are fearfully destructive of our relations with other nations that count on us for vital supplies. Senator Humphrey took the issue into the hearings on the confirmation of Henry Kissinger as Secretary of State. Dr. Kissinger apparently had not anticipated questions on fertilizer. But he may discover that it has more to do with his work over the coming years than many of the more conventional preoccupations of diplomacy.

When the Nixon administration began to push for maximum farm production, no one gave much thought to fertilizer requirements. Now that the industry needs more gas, the government still is not prepared to say who should have less. Nobody in Washington worried much about rising fertilizer exports until the word of shortages began to trickle back from the farm states. City dwellers, bewildered and outraged by the cost of food, are demanding explanations. Those explanations might well start with the Dixon family, scouring southeastern Kansas for dealers able to sell them anhydrous ammonia for their fields before the winter wheat goes in.

### A Letter From the Wheat Belt

September 3, 1973.

Dear Sir: My husband and two sons farm approximately 2,000 acres of wheat land in Sumner County, Kansas. We are not big farmers, nor are we small.

There is now a widespread and critical shortage of fertilizer and planting time is near. If we do not get enough fertilizer, we will not be able to produce much wheat. Thousands of farmers are in the same boat. (Also we cannot get, at any price, tractors, tractor tires, rims, wheat drills, baling wire, machinery parts, to mention a few, and we are rationed on gasoline—altho, as a housewife, I can fill up at any major station 20 miles away with no questions asked.)

Oil companies make fertilizer. We are told by our suppliers that they cannot get fertilizer (anhydrous ammonia) because: 1. There is a shortage of natural gas needed to make it. 2. Forty-five per cent of the fertilizer is being shipped overseas at much higher profits. (A dealer of some 30 years told us that when he sent his trucks to Houston, the supplier refused to fill them while his driver watched the fertilizer being loaded on ships for export.) 3. The railroads are weeks delivering carloads that should arrive in days.

Excuses will not grow crops.

Meanwhile, you city people had better get off your office chairs and start writing your congressmen too (or anyone else that you think might help) or next year there may not be *any* food.

Respectfully,

S. J. Dixon.

## TRUTH IN FOOD LABELING

Mr. HARTKE. Mr. President, in these days and weeks of rising food prices, the consumer is paying more attention to the food she buys at the supermarket. Each of us wants to get the most food for our money, but we are also concerned about the quality and the nutritional content of our food. These are concerns which are long overdue.

Earlier this year, I introduced the Food Consumers Protection Act, S. 1197, commonly called the Truth in Food Labeling Act. This legislation is designed to tell the consumer about the quality, ingredient *content*, nutritional content and freshness of the food she buys. These are basic facts which we all should know about food, and I urge my colleagues to give this legislation their careful consideration.

Mr. President, I ask unanimous consent that an article on this subject which appeared in the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THERE'S LESS HERE THAN MEETS THE EYE

(By Robert Reno)

Every consumer advocate knows that store brands are a good thing, that a can of peas or a refrigerator with a store's own label on it is usually cheaper and often as good as a nationally advertised brand.

But there is another side of the coin that suggests the American consumer, by embracing the store-brand system so enthusiastically, will end up surrendering a lot of his rights including, above all, the right to know who makes what he buys.

Right now, largely unknown to the general public, industry is engaged in a titanic struggle over the whole subject. And, depending on who wins, the American marketplace as consumers have known it for several generations may never be the same again.

In the extreme, what could happen in 10 years is that virtually all merchandising will be conducted in superstores owned by giant chains. Shelves will be lined almost exclusively with the store's own brand. There may be little or no choice other than size. There will be one kind of peas, one brand of bourbon, and one brand of toilet paper—all the store's brand.

Although most stores will guarantee and service their own products, you won't be able to go to the manufacturer with your gripes because you won't know who the manufacturer is. The refrigerators in a given store may be manufactured by Westinghouse one year and General Electric the next. And although both will bear the same brand name, one size refrigerator may be manufactured by Frigidaire while another is made by Philco. This is, admittedly, an extremist view.

And there is no question that the people who hold this view, the offenders of the nationally advertised brand-name philosophy, have a strong economic interest in seeing brand names survive. They include Madison Avenue, which is paid to advertise brand names, the media that get rich off brand-name advertising, and manufacturers that own the famous brands from Tide to Coca-Cola to Bayer aspirin. A brandless society would probably mean that there would be less advertising. It would also mean that the great manufacturer-marketers, like Procter and Gamble, General Foods and Goodyear would be reduced to the role of suppliers simply filling orders to chain store specifications.

A Sears, Roebuck store is already an example of what a brand-less society would be like. Virtually everything Sears sells is labeled with a Sears' brand, one of the company's own such as Coldspot or Kenmore, or by no brand at all.

* * * * *

Just by looking at all the different items a shopper might conclude that Sears, the world's largest retailer, is one of the world's largest manufacturers. But Sears * * *

The housewife who swears by her Sears washing machine and who would not have a Whirlpool washer if you gave it to her, might be surprised to know that Whirlpool makes most of Sears' home appliances. A spokesman for Sears says the company will not tell a customer who manufactures any of its products.

He disagrees that consumers have any basic right to know who manufactures what they buy. "We stand behind everything we sell and we service it," he says. "There isn't any reason for the consumer to know who made it."

Moreover, he says, all Sears-labeled products are manufactured to Sears' own specifications. Industry sources say, however, that depending on the store, many store brands are identical to nationally advertised brands, with a few cosmetic changes to make them look different.

New York City Consumer Affairs Commissioner Betty Furness, who recommends store-brand foods as a way of saving money, says her department has found that the contents of store-brand packages are often identical to the contents of famous brand packages right next to them.

Most stores treat names of suppliers as closely guarded secrets. In addition, most manufacturers won't tell you what stores they manufacture for.

A recent survey showed that Westinghouse makes appliances and TV sets for B. F. Goodrich stores, W. T. Grant and Montgomery Ward. It found the Hotpoint made J. C. Penney's refrigerators, while Kelvinator made Montgomery Ward's washing machines and Whirlpool made Sears' washers.

To the consumer who has definite or even adamant opinions about the relative quality of Westinghouse, Kelvinator, Norge, Hotpoint and Whirlpool appliances, information about the manufacturer would be of vital importance.

The consumer's recourse in the case, for instance, of tires, might be to buy one Gulf tire and one Goodyear tire, put them on opposite wheels, and compare their performance. If Goodyear made Gulf's tires the performance might be identical. The consumer could do the same with coffee, buying one can of Maxwell House and one can of A&P. This method gets exepnsive, however, if you try to do it with refrigerators.

While Sears maintains that it isn't important to know who makes a product but who sells it, an incident last year proved how important it can be. A New York man died after eating a can of Bon Vivant brand vichyssoise because the same company made vichyssoise under 21 other labels for different stores.

Another result of brandless shopping is that the socially conscious shopper cannot retaliate against manufacturers who pollute the environment or do business in South Africa or pay substandard wages.

While the price advantages of store-brand buying are usually unquestionable, the larger question seems to boil down to this: On any items where craftsmanship, care, quality and materials are important, what is more important—who made it or who sold it to you?

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## APPROPRIATIONS COMMITTEE APPROVES BIBLE-ERVIN RIDER

Mr. ERVIN. Mr. President, I congratulate the Appropriations Committee in its action on the appropriation for the Federal Bureau of Investigation, in the State, Justice, and Commerce Appropriation bill, H.R. 8916. The committee has adopted a rider proposed by the senior Senator from Nevada (Mr. BIBLE) and myself. The so-called Bible-Ervin rider is designed to fill the vacuum of authority left by the decision in the case of *Menard* v. *Mitchell*, 328 F. Supp. 718 (1971).

The Menard case was decided by the District Court for the District of Columbia on June 15, 1971. The ruling prohibited the FBI's dissemination of arrest and fingerprinting records to non-law-enforcement agencies. The court based its decision upon an interpretation of section 534 of title 23 of the United States Code, the provision which the Justice Department has relied upon as authority for its collection of fingerprint and arrest record information. The petitioner, Menard, had argued that inasmuch as he was never convicted, the maintenance and use of his arrest record violated the presumption of innocence, due process, the right of privacy, and freedom from unreasonable search and seizure. Although the court refused to expunge the record in Menard on these constitutional grounds, it recognized that section 534 had to be interpreted narrowly to avoid constitutional infirmities. In the court's words:

> Viewed in this light, it is abundantly clear that Congress never intended to or in fact did authorize dissemination of arrest records to any state or local agency for purposes of employment or licensing checks.

This decision had the effect of bringing the FBI's fingerprint operation to a standstill. However, within a few months Senator BIBLE succeeded in attaching a rider to a supplemental appropriations bill (H.R. 11955) suspending the order in the Menard case. Since this legislation was part of an appropriations bill, it could only be temporary in nature and when the fiscal 1973 appropriations bill for the FBI was introduced in 1972, it also contained the Bible rider. When it came time to vote on the 1973 appropriations bill in the House, Congressman DON EDWARDS was sustained on a point of order striking the rider as violative of a House rule prohibiting substantive legislation in an appropriations bill.

Although the House bill came to the Senate containing no language authorizing the fingerprint distribution, the Senate Appropriations Committee reinserted the Bible language. When the appropriations bill came to a vote in the Senate, I suggested to the proponents that I planned to make the same point of order as Mr. EDWARDS had made on the House side since the Senate has a similar rule prohibiting substantive legislation in an appropriations bill.

In lieu of making that point of order Senator BIBLE and I agreed to additional language in the Bible rider. I proposed a proviso at the end of the Bible rider which allowed continued dissemination outside the Federal Government but limited such dissemination to arrest records which also indicated that the defendant had pleaded guilty or was convicted of the crime for which he was arrested. The Senate adopted unanimously the Bible-Ervin language.

There is a great deal of confusion as to what happened to the Bible-Ervin amendment in the House-Senate conference. According to Senator HRUSKA who did serve on the conference, the only change in the Bible-Ervin amendment was to be the addition of the word "hereafter" so that it would be clear that my proviso would only apply from the point of enactment of the appropriations bill to the end of the fiscal year when the appropriation expires. This was designed to protect the FBI from any civil liability for distribution of arrest records without convictions which had been taking place since the Bible rider was enacted in the fall of 1971.

However, the conference report suggested that the conference committee dropped the Ervin proviso leaving the Bible language. This of course left the FBI in the same position as it had been after the first Bible rider was enacted in the fall of 1971. The Menard order was again temporarily suspended and there was nothing that Congressman EDWARDS or I could do to strike the language because a point of order did not appear available on the conference report.

At the time the Senate considered the conference report, I expressed my dismay at what the conference had done but pointed out that the language was only temporary and promised next year to make the point of order I had been dissuaded from making in 1972. Congressman EDWARDS said essentially the same thing when the conference report was considered on the House side. Therefore, the only legislative history on the provision suggests that it has the effect of suspending the Menard order but only temporarily, that is, until the appropriations legislation expires at the end of the 1973 fiscal year.

However, when the administration presented its fiscal 1974 budget it took the position that the word "hereafter" in the Bible amendment makes the amendment permanent legislation and that the Menard order has been permanently repealed by the conference's action. Of course, this is contrary to the legislative history and in light of the case law interpreting appropriations riders suggests that the fingerprint operation would rest upon an infirm foundation at the end of this fiscal year if the Bible rider, or the Bible-Ervin rider is not again added to the FBI appropriation for fiscal 1974.

As soon as I found out about the administration's position on this matter I wrote to the chairman of the Senate Appropriations Committee (Mr. McCLELLAN). That letter sets out my concern on this matter and reflected my research on the effect of the addition of the word "hereafter." That research confirmed my conclusion that the conference committee's action, last year did not permanently enact the Bible rider and that additional authority would be necessary this year if the fingerprint dissemination and National Crime Information System were to continue to operate this year. I ask unanimous consent that my letter to the chairman of the Appropriations Committee be printed in the RECORD at the conclusion of my remarks.

I am pleased to see that the committee not only concurs with my views as set out in that letter but that it has also inserted the Bible rider with my proviso, in H.R. 8916. In doing so, the committee assures that the invaluable fingerprint dissemination service operated by the Bureau can be continued and also protect innocent people from being harmed by the colllection and dissemination of this information.

Obviously, the Federal Government has no business distributing arrests records to help private enterprise in its hiring practices. Private industry has its own means of checking on applicants, and whom they hire is none of the Government's business. The distribution of an applicant's arrest record almost invariably means that he will not get the job he seeks. The FBI Identification Division receives over 11,000 requests for record searches each day. We cannot know how many times Americans have been denied jobs even though they were found innocent of charges, or the case was dropped, or the original arrest was a mistake, or illegal, or even unconstitutional. Simple justice means that a man should not be denied employment because of an arrest record unless a complete trial record shows he was found guilty by a court of law.

The only way to correct this problem is for Congress to enact legislation defining and controlling the power of the Justice Department to collect and disseminate criminal history information. I recognize that there are legitimate uses for arrest information by law enforcement officials. But I must admit I have trouble seeing any legitimate use whatsoever in a bare record of an arrest which is not followed by a conviction. And I certainly think it improper to provide such information for employment purposes. The Justice Department should not be allowed to engage in such a practice until we have thoroughly considered the problem here in Congress.

I am preparing legislation on this question and I understand that the Justice Department is doing the same. Last year similar legislation was referred to the Subcommittee on Constitutional Rights. As chairman of that subcommittee, I hope that we can have hearings on this matter in the near future. Then we can finally resolve this problem and the Bureau will no longer have to await anxiously each appropriation bill to see whether it can continue its fingerprint service and the dissemination of similar records by the National Crime Information Center. The Appropriations Committee and the Senate itself in adopting the Bible-Ervin rider on yesterday facilitates that process, and I hope the conference committee will ratify the Senate committee's and the Senate's wise action.

There being no objection, the letter to Senator McCLELLAN was ordered to be printed in the RECORD, as follows:

MAY 15, 1973.

Hon. JOHN L. McCLELLAN,
*Chairman, Appropriations Committee,*
*U.S. Senate.*

DEAR MR. CHAIRMAN: In recent years, the Administration has requested in its budget certain language regarding the distribution of criminal records by the Justice Department. The so-called "Bible rider" is language which has been added to the FBI's appropriation for the past few years as a temporary authorization for the Bureau to continue operation of the National Crime Information Center and the collection and dissemination of fingerprint records and "RAP sheets" by the Identification Division of the Bureau. The language is necessitated by the outstanding order in the case of *Menard* v. *Mitchell*, 328 F. Supp. 718 (1971). That order prohibits distribution by the FBI of such criminal records outside the Federal government until the Congress enacts legislative standards designed to protect the security and confidentiality of the information and to protect innocent people from being harmed by its collection and dissemination.

It has been generally recognized that, as Senator Bible described it, the rider is a "stopgap" measure which allowed the FBI to continue its dissemination on a temporary basis until the Congress has enacted the legislative standards required by the *Menard* case. Last year the Senate agreed to a modification I proposed which limited dissemination to records which indicated a conviction. Under the modification, the FBI could continue the dissemination of this information without harming innocent individuals while Congress prepared more precise legislative guidelines.

When H.R. 14989 came from conference the modified rider was dropped, and the original language was retained. When the conference report was before the Senate I announced my determination to object to such improper legislative provisions in any future appropriation bill. My determination has been strengthened by learning from Senator Hruska that the conference has indeed agreed to retain my modification but that this was somehow now reflected in the formal report. Senator Hruska has confirmed his recollection of this unfortunate discrepancy. If the Bible rider or any similar language is proposed again this year, I plan once again to raise a point of order to it as "legislating in an appropriation bill" and, therefore, violative of Senate Rule 16.

In its proposed budget for the coming year, the Administration has not renewed its request for the Bible rider. As a consequence, the temporary authority in P.L. 92–544 to distribute arrest records will expire at the end of the fiscal year since it is settled precedent that provisions such as this do not become general authority unless the clearest intent is expressed at the time.

The Justice Department takes the position that conference committee's addition of the word "hereafter" makes the Bible language a permanent part of substantive law and that the rider is no longer necessary. However, the legislative history of the Bible rider does not suggest such an intent and the courts have required that Congress be explicit when it intends to amend substantive law with a rider to an appropriations bill. The debate surrounding the bill in committee or on the floor must clearly reflect an intent to permanently change existing substantive law. *United States* v. *Dickerson*, 310 U.S. 554 (1940), *National Labor Relations Board* v. *Thompson Products*, 141 F. 2d 794 (9th Cir. 1944). Aside from the actual debates the court will look to the legislative language itself which must manifest a clear intent to change statutory law and to the location of the rider—whether it appears in a separate provision, labeled in such a manner as to denote a change in substantive law, or whether it is simply a proviso of an appropriations item in which case the language is generally not given permanent effect. *Roccaforte* v. *Mulchaey*, 169 F. Supp. 360 (D. Mass. 1958), aff'd. 262 F. 2d 957 (1st Cir. 1958), *United States* v. *Vulte*, 233 U.S. 509 (1914), *National Labor Relations Board* v. *Thompson Products*, *supra*.

For the following reasons I believe that the simple addition of the word "hereafter" by the conference committee would not meet the above requirements for permanently amending statutory law via an appropriations rider:

First, the conference was never, in all the Congressional discussion of the appropriation bill (H.R. 14989), entrusted with the duty of considering the duration of the Bible rider; on the contrary, all that was ordered for the conference to study were the amendments as they stood. [*Congressional Record*, vol. 118, pt. 16, pp. 21035–21089].

Second, the *inclusion* of language which may indicate permanence is not sufficient to establish the *Menard* rider as permanent legislation. The word "hereafter" is not clear on its face as to whether it denotes the rider's effect as extending until the end of the life of the appropriation bill or permanently "Hereafter" is a minor terminology change and cannot be seen as indicating any change in the duration of the rider absent Congressional debate.

Third, Congressional discussion seems to lead one in the other direction as Senator Bible indicated that the *Menard* rider was "in the nature of a stopgap". Congressional Record, volume 118, part 16, page 21080. Indeed, Senator Bible noted that the Federal Bureau of Investigation was granted its power to disseminate records each year in Department of Justice appropriation bills and that the 1973 *Menard* rider would have to be approved as the 1972 rider reversing *Menard* would soon expire. (Congressional Record, volume 118, part 16, page 21080).

Fourth, the location of the *Menard* rider in the provision for "Salaries and Expenses" of the FBI indicates the desire to have the rider's effect last only until the termination of the appropriation bill.

Fifth, the Conference reported no debate, no discusison of the added word "hereafter" or the permanency of the rider. *Conference Report,* House Report No. 92-1567, 92nd Cong. 2nd Sess. (October 10, 1972). In light of the Senate rules, it would appear that "hereafter" if it constituted a major change in the rider would have to be noted in the report and would have subjected the report to a point of order.

Since the Bible rider must be viewed as temporary authority, it is therefore necessary for the Congress to move swiftly on arrest record legislation because the FBI's authority to operate the National Crime Information Center and the collection and dissemination of "RAP sheets" will end on June 30. I am preparing legislation on this question and I understand that the Justice Department is doing the same. Last year similar legislation was referred to the Subcommittee on Constitutional Rights and this year such legislation has been jointly referred to the Subcommittee and to your Subcommittee on Criminal Laws and Procedures. Since we chair these two Subcommittees, I suggest that the staffs of those two Subcommittees begin arrangements for swift joint action on this question so that the FBI does not have to shut down this valuable law enforcement service.

I respectfully request that this letter be made a part of the State, Justice and Commerce Subcommittee's record on the FBI appropriation.

With kindest wishes,
Sincerely yours,
SAM J. ERVIN, Jr., *Chairman.*

## MUTUAL BALANCED FORCE REDUCTIONS

Mr. DOMINICK. Mr. President, perhaps none of the recent conferences will have a more immediate bearing on the security of Western Europe and the United States than the coming talks in Vienna on mutual balance force reductions, or as they were rebaptized in June, the Conference on Mutual Reduction of Forces and Armaments and Associated Measures. They open on October 30.

These talks aim at arriving at both an equilibrium of forces at a lower manpower and cost level to both alliances. Politically they serve as confidence-building measures, as they will have to establish troop movement constraints and verification procedures. On our side, we hope that the concomitant reduction of tensions and withdrawal of Soviet forces will help east-central Europe to regain a modicum of independence from the preponderant Soviet Union.

Yet, in our negotiations we must be acuately aware of three elements: First. We should not permit the Soviet Union to gain unfair military advantage in any agreement, as Warsaw Pact forces already outnumber NATO troops by 2 to 1 in central Europe and any further deterioriation of the balance would invite rash and dangerous Soviet reactions in the long run.

Unfortunately, this principle was compromised with at the preliminary conference where the NATO powers accepted an observer status for Hungary and thereby excluded until further notice any discussion of the withdrawal of any Soviet forces from Hungary at the coming conference.

However, the same compromise includes the provision that the West retain the right to raise the issue of the status of Hungary at the outset of the October conference and under certain circumstances the Hungarian delegate also declared his Government's willingness to participation in some of the decisions and agreements of the conference.

I take this opportunity to urge the administration, as did 8 of my colleagues in late July and early August and 62 Members of the House in a common letter to then Secretary Rogers in August to utilize every diplomatic means at its disposal to insure that the Soviet forces in Hungary are included into any future agreement on mutual force reductions.

May I point out that this inclusion can and must be twofold. First, we must under any circumstances prevent Hungary from becoming an uncontrolled Soviet sanctuary in Europe. Such a state of affairs would negate the value of any mutual force reduction agreement and would be fraught with great danger for Yugoslavia as well. It is my understanding that our negotiators are well aware of this aspect of the problem. Yet, a reduction of Soviet forces in Hungary would also be in our interest because of its political and psychological impact. Omitting Hungary from troop withdrawals at a time when Poland, Czechoslovakia and East Germany would experience such reductions would be putting Hungary into a different category of satellite which would then be condemned to live with more direct Soviet influence and occupation than the others in Europe. This would create a feeling of despair and abandonment in Hungary which the brave and gallant people of Hungary which rose successfully in 1956 against Soviet occupation do not deserve. It would also create potential tension which would impair the chances for further detente.

Second, we must take care that undiminished security of all participating parties does not become an empty slogan and that withdrawals are proportionate and take into consideration the much smaller distances to which Soviet forces would be withdrawn as compared to ours.

Third, we must remember that the ultimate test of MBFR is whether we can maintain NATO cohesion and unity during this conference. Close consultation and the building of a consensus before talking to the WTO nations must be achieved if the Vienna conference is to avoid a progressive disintegration of NATO. Fortunately, the record of the preliminary conference was adequate, but we are already faced with some criticism of aiming at a superpower deal in Europe and also in regard to our Hungarian compromise.

At this point I would like to urge again caution and a resolute stand by our negotiators under the able leadership of Ambassador Jonathan Dean so that Hungary's status may be changed and that proportionate withdrawals secured at the conference.

## DELAWARE WELCOMES SENATOR ERVIN

Mr. BIDEN. Mr. President, the University of Delaware has developed a new lecture series, "The Crisis in Confidence," in response to the widespread dissatisfaction with recent governmental performance. An in-depth series featuring over 26 speakers, the university has effectively established a public forum for the discussion of topics that concern us all. I congratulate the university on their efforts in this area of public confidence, and if last night is any indication, the new series will be phenomenally successful.

The first speaker in "The Crisis in Confidence" lecture series was my distinguished colleague and friend, Senator SAM ERVIN. It was my great privilege to accompany the Senator to my home State and to offer some introductory remarks in his behalf. Receiving a tremendous standing ovation upon entering, and leaving several thousand stranded outside, Senator ERVIN stole the hearts of all those present who subsequently adopted him for their own. The response Senator Ervin generated was simply fantastic, and I am convinced that he would experience no difficulty in retaining his senatorial seat if he ever moved to Delaware.

Attracting almost 10,000 people, the largest crowd ever to attend a lecture in the history of Delaware, Senator ERVIN addressed himself to the question of personal liberty. Stressing the Constitution of the United States throughout his remarks, the Senator demanded that more than lipservice be paid to the guarantees of our freedom found in the first and fifth amendments. At one point in his remarks, Senator ERVIN stated:

> Freedom is civilization's most precious value and must be preserved no matter what the cost.

Ralph Moyed, writing in both the Wilmington, Del., Morning News and Evening Journal, and Gary Hindes in the Delaware State News on September 14, 1973, captured the flavor of Senator ERVIN's appearance. I ask unanimous consent, Mr. President, that the three articles in their entirety be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### The Gospel According to Ervin Ignites U.D.

(By Ralph S. Moyed)

Sen. Sam Ervin's appearance opening a major lecture series at the University of Delaware succeeded far too well last night.

About a third of the crowd that turned out to see the new star of daytime television was turned away from the Carpenter Field House. More than 4,500 persons, mostly adoring young people, filled the seats to witness the wit and wisdom of the North Carolina senator.

About 2,500 strung out in a line extending a half mile around the big area, were shut out. The doors were closed 20 minutes before Ervin arrived.

When the waiting crowd heard the news that the auditorium was filled, scores surged towards the doors pleading to be admitted and demanding that microphones be set up outdoors. They were told that there was no suitable outdoor public address system.

When Ervin entered he was greeted by a tumultuous standing ovation and was introduced by Sen. Joseph R. Biden Jr., D-Del.

Ervin proceeded through an introductory lecture on the Bill of Rights and repeated his oft-voiced opinion that the Watergate scandals are a result of lack of confidence in the American people's commitment to freedom and official fear of the exercise of freedoms.

"Men in high position have doubted the American people's commitment to freedom," he said.

"Freedom is civilization's most precious value and must be preserved no matter what the cost."

He said an example of the attitude of government leaders was the military surveillance of private citizens that was undertaken in the late 1960s and was continuing even into this year.

The proposals for preventive detention laws by the Nixon Administration and its first attorney general, John N. Mitchell, displayed "the Gestapo mentality" that has existed in Washington in recent years.

Ervin said preventive detention bills have been stalled in his Senate Judiciary Committee and will remain there "until the last echo of Gabriel's horn fades into eternal silence."

Ervin was more circumspect than usual in his comments on President Nixon's stands regarding the Watergate tapes, but he said, "The Power to interpret the Constitution belongs to the Supreme Court, not the President."

In response to a question, he said he thinks the President will obey an order from the Supreme Court to turn the tapes over to Ervin's Senate Watergate Committee or to special prosecutor Archibald Cox.

Asked whether he believed that the American people were tired of the Senate Watergate investigation, he said "I have a conviction that you can't found a stable government on the suppression of truth."

And in response to an expression of appreciation from one young member of his audience. Ervin said, "The young people know much better what's involved than some White House aides."

Earlier Ervin was entertained by the president of the University of Delaware, E. A. Trabant, at a private dinner at the University's Blue and Gold Club.

Trabant opened the lecture series by announcing that the crowd in attendance last night was the largest group ever to attend a single lecture in the state.

The lecture series will be concerned with "The Crisis in Confidence," in the nation and will feautre such speakers as Dr. Daniel Ellsberg, and Supreme Court Justice William O. Douglas.

After last night's speech, Ervin appeared at a public reception at the university's student center.

Garry Wills, nationally syndicated columnist and author of "Nixon Agonistes," will speak in the series Monday night.

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### Uncle Sam Wows Them

(By Gary E. Hindes)

NEWARK.—U.S. Sen. Sam Ervin told a wildly enthusiastic crowd of 4,500 persons last night America's "crisis in confidence" exists because there are people who "doubt the wisdom of America's commitment to freedom."

Ervin, chairman of the Senate's special Watergate Investigating Committee, was the kickoff speaker before a special University of Delaware lecture series entitled "The Crisis of Confidence."

Ervin, nursing a cold and frequently using nasal spray, told the crowd "the founding fathers esteemed the freedom of the individual as the most precious value a civilization could have."

The 78-year-old North Carolina Democrat added that the founding fathers incorporated those basic human rights in the Constitution, and "these are rights which the founding fathers thought were inherent and should not have to be submitted to a vote."

Ervin received applause when he commented that today's college students and young people "understand what's at stake far better than, say, certain former White House aides."

Ervin kicked off his half-hour speech with a few humorous anecdotes for which he is well known.

He then introduced Delaware's freshman Sen. Joseph R. Biden Jr. (D-Del.), who he said would be not only one of Delaware's greatest United States Senators, but also one of the nation's finest.

Ervin said over the past several years he has seen "much doubt" about America's protecting individual freedoms.

He said that as far as he was concerned, one of the darkest chapters against personal freedom was written when John Mitchell, then attorney general, attempted to have passed legislation which would allow criminal suspects to be held without bail in cases other than murder.

Ervin told of action taken during "the first year of the first administration, namely during the tenure of George Washington" when Congress passed the Judiciary Act.

Under that law, every person not charged with a capital offense must be given an opportunity to post a bond and thus be released.

"And yet Mitchell asks Congress to pass a bill providing for preventive detention," Ervin commented.

He also said that claims by many persons that criminals who are released on bail only commit the crime again are basically untrue.

He cited a study done in Washington, D.C. which indicated that only five per cent of persons who are suspects out on bond commit another crime during that period.

Fortunately, I can report that that bill never got out of my committee," Ervin said, "and I can guarantee you the bill will stay there until the last echo of Gabriel's horn is heard from the north to the south."

Ervin also took issue with Mitchell's no-knock proposal in which police officers could enter a person's home without warning.

Ervin cited an old English law which he has recited often during the course of the Watergate Committee hearings in which it is said, in effect, that although floods and fire may enter a man's home, the King of England can not.

"And what the King of England can not do, neither can the President," Ervin said.

As for the response to this "crisis in confidence", Ervin suggested the reason America has survived this long is "because in every generation we've had some people who were eternally vigilant. We must dedicate ourselves to the proposition that freedom is the most precious asset our civilization has."

At a later question-and-answer session, Ervin could not be pinned down on the issue of impeachment.

"I don't think it's fair for me as a senator who might have to decide the President's guilt in an impeachment trial to comment on his guilt or innocence before that time," he said.

Ervin said the Army spied on dissenters "too much" during the period of 1967–68.

"At one point, 67 persons were arrested for demonstrating against the war in Vietnam," Ervin said, "and 52 of them were Army intelligence officers."

He also cited another case in which Army intelligence officers could not tape record a parade they went to because six Army helicopters overhead were making too much noise.

Ervin said that "loosely worded" memos in Army files suggested that at the time, "it was the Army's business" to spy on all dissenters.

He also said that U.S. Sen. Adlai Stevenson III (D-Ill.) was spied on during his campaign in 1970.

Among other points made by Ervin were:

President Nixon should take the Dale Carnegie course, "How To Win Friends and Influence People";

The Supreme Court would hopefully reverse its decision which requires reporters to turn over the names of their sources when ordered to do so;

On campaign finance: "I think we have the mechanism now to finance campaigns in an honest way";

On a debate with President Nixon, as suggested by Sen. Barry Goldwater (R-Ariz.): "That would be right interesting."

On the volunteer Army and the possibility of a military takeover here in the event the President should refuse to comply with a Supreme Court order to turn over the tapes: "I don't think that will happen, but I was not for the volunteer Army; I like to keep our military where a lot of people are always going in and out."

On the equal rights amendment: "I'm against it because I love the women."

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### Senator Ervin Speaks

(By Ralph Moyed)

It was as if Gene McCarthy, Bobby Kennedy and Angela Davis had returned to the campus scene last night.

The man who won the roaring adulation of the student crowd was Sen. Sam J. Ervin Jr., Democrat of North Carolina, the 76-year-old slayer of the Watergate dragon, champion of civil liberties and critic of President Nixon's concept of presidential privilege.

It was his crowd before he could utter a word. The cheers went up the moment his eyebrows hove into view in the Delaware Field House on the University of Delaware campus.

With nearly 5,000 in the auditorium, it was according to Dr. E. A. Trabant, the university president, the largest audience ever to hear a lecture in the State of Delaware. Trabant was not counting the 2,500 who couldn't get in, who protested loudly outside the building, who banged on the doors and then turned angrily away.

The cheering rose to a roar inside the building. "We don't even get this kind of thing for a basketbal game," said one chunky male student.

What the audience—mostly young people, but including a fair number of the middle-aged—heard was a distillation of the Ervin view of freedom, the homilies and hominy of the chairman of the Senate Watergate committee. Nothing new, nothing electrifying, but enough of pure Ervin to maintain the young people's attention through a long evening.

As if to make up for the shut-out at the field house, Ervin repaired to the university Student Center where he answered questions for about 90 minutes after completing his formal lecture.

The scene at the Student Center recalled even more vividly the campus visits of then-Sen. Eugene McCarthy.

Low-keyed and more relaxed than in his appearance at the field house, Ervin told his stories of ministers and politicians in North Carolina, answered a few questions directly, and heard not a single hostile remark.

Yes, he said, he'd like to hear from Martha Mitchell, although he was not sure how informative her testimony would be. "It would be entertaining," he said. He had some misgivings, he said, because the only other person to volunteer to testify was "a man from Kentucky who said he had been told by the Lord to step forward." That, he said, might constitute hearsay testimony.

Yes, he would vote to confirm Henry A. Kissinger as secretary of state because he is satisfied that the national-security adviser to President Nixon played only a secondary roll in White House wiretapping.

Yes, he had formed some conclusions on what led the well-educated, well-spoken White House aides and campaign staffers to break the law. It was, he said, because of a cultural conformity—a desire to be team-players—and because of an exaggerated concept of the value of success.

No, he didn't know if any of the witnesses before the Watergate committee might be charged with perjury. The question, he said, could best be answered by the tapes that Nixon refuses to turn over to the committee or special prosecutor Archibald Cox.

If the committee does get the tapes, and the tapes prove to be relevant to the investigation, he told the student crowd, "you can rest assured you will hear them on television."

It was after 11 p.m. before Ervin finally was detached from his adoring audience, signed a few autographs and returned to his motel.

The university, which had used Ervin to launch its lecture series on "The Crises of Confidence," had gotten its money's worth.

Ervin had been scheduled to speak last spring on the campus, before his appearance on daytime television had vaulted him into the public eye and more than double his regular lecture fee. His spring appearance was flooded out.

## IN MEMORIAM, FRANK TODD MEACHAM

Mr. BROCK. Mr. President, I know of no way to pay adequate tribute to a man like Frank Todd Meacham. For 71 years he gave so unstintingly of himself to his family and friends, to his faith and philosophy, and we shall miss him very much.

He first joined the Young Men's Republican Club in Chattanooga in 1923. Twice a candidate for the U.S. Senate, he knew well the frustrations of being a member of a minority party in a one-party State. Yet he never faltered in his dedication and his efforts to build his party.

Todd brought dignity to politics. His great ability, his integrity, and his respect for all men were traits which made him truly beloved particularly for those of us who were younger and inexperienced, he was more than a supporter. He was counselor and friend.

It was such a pleasure to talk to him and learn. We tend so often to think of our problems today as unique, something no one has experienced before. Todd would remind his younger friends of similar problems, similar occasions in the past—telling his story with a quiet grace and ever present sense of humor in such a way as to restore their spirit. His was the perspective of history. It lent him a special quality of patience and tolerance that can only come in faith

On the 8th of September, our Republican State executive committee was to meet in Chattanooga, to express our deep gratitude to Todd Meacham, our general counsel emeritus. We met instead in memoriam, for he passed away just 2 days earlier. While there was an air of sadness about this occasion, there was also a sense of gratitude that we had been so blessed by this man, his life, and his spirit

Our hearts go out to his beloved ones who meant so much to him. They, like we, will miss Frank Todd Meacham more than we can say.

## MEXICO

Mr. BENTSEN. Mr. President, I want to take this opportunity to extend to the people of Mexico my warmest greetings and congratulations. On September 16, the United States of Mexico, under the able leadership of President Luis Echeverria Alvarez, celebrated the 163d anniversary of its independence from Spain. It was on that day that Father Miguel Hidalgo uttered the "grito de Dolores" that sparked the end of 3½ centuries of Spanish colonial rule in Mexico and gave birth to a new and great nation.

This was the same spirit of independence and love of liberty which had characterized our own struggle for independence just a few years previously, but is only one of the many things we share in common with our neighbors to the south of which both nations can be justly proud—our 2,000-mile-long border is one of the longest unguarded borders in the world; we share a long tradition of cultural interchange which has had a unique influence on our own cultural traditions; the Spanish language has enriched our own language; and the influence of Mexico's art and architecture is obvious to anyone who has been privileged to live in or visit the Southwest of the United States. Our countries have joined together in various common ventures—in boundary and water agreement, in the promotion of border industrialization, in combating communicable diseases, and in controlling the illegal drug trade, to cite a few. However, perhaps our most important commonly shared belief is a devotion to freedom, democracy, and the betterment of our peoples.

I know the entire Senate joins me in extending to Mexico our sincerest congratulations on the 163d anniversary of its independence. We look forward to as many more years of close cooperation and friendship with the distinguished people of Mexico.

## USED CARS

Mr. HARTKE. Mr. President, people place little confidence in used car dealers and for good reason. Too many dealers will employ high pressure tactics and outright deception to sell a car. The result is that the buyer gets stuck with a car which is defective, and the public has another car on the road which is dangerous.

Since the introduction of my Used Car Warranty Act (S. 1881), I have received countless letters from people who tell me that they purchased a used car, soon found it to be defective, and were unable to get satisfaction from the dealer.

We cannot legislate unscrupulous used car dealers out of existence, but we can make it unprofitable for them to continue to operate by taking advantage of the public. S. 1881 gives the purchaser of a defective automobile a recourse. He can get his car repaired at dealer cost within a reasonable period of time, or else he gets his full purchase price back. S. 1881 requires that a dealer live up to the full terms of his guarantee. Finally, S. 1881 requires that a dealer tell a prospective purchaser about repairs he has made to the car and any defects he knows to exist in the car.

Mr. President, I believe we can put the shady car lots out of business with this legislation. I ask unanimous consent that the last two articles in a series by Chicago Today Reporter Howard S. Marks be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### BLACK FRIDAY AT SHADY CAR LOT

(By Howard S. Marks)

Friday, July 13—Today almost turned out to be black Friday. It was bad enough that some cars wouldn't start or would run out of gas. The car I was showing a customer today damn near exploded!

The jinxed car was a '67 Ford Fairlane that we were featuring for $250.

I got my customer down to the lot by telling him that I was the Don Adams mentioned in the classified ads and that he should ask for a salesman who is using the name of Howard [me].

"This guy Howard . . . really gives fantastic deals," I told him and I should know because I'm Don Adams [no such person, of course, exists].

The Fairlane had a black hood with a salmon colored roof and doors. It was really ugly. But my customer, carrying around an out of date blue book [showing recommended prices] said the car should be selling for $405.

The car had been repossessed and supposedly only had 31,427 miles on it, altho it was at least six years old.

We opened the hood and found no battery. There were no keys, the air cleaner was missing, the grille needed replacement, and the molding from the center piece of the steering wheel was missing.

The windshield was cracked, the bent-off antenna was lying on the front floor and the dash board caved inward.

I checked with Oscar [not his real name], the manager, who said the car had to be sold for at least $250, because we had $50 sunk into the car.

We hot wired the car [there were no keys] and it sounded like a jet taking off. The engine roared into full power.

I ran about 20 feet and crouched behind the door of a Pontiac.

One of the two porters who hot wired the car ran for another section of the lot.

A second porter and my customer bravely continued to hover over the wildly vibrating engine. Both knew what had gone wrong—the car didn't have an accelerator spring.

We pirated one from another car [cannibalization of equipment from one car to another is quite common] installed it, and the thing stopped shaking.

This car had a stick shift and we managed to stall twice when the clutch and gears stuck as we crept along 76th Street, Maplewood Avenue, and 77th Street on the test drive.

After we chugged back to the lot, about a gallon of water cascaded from the radiator onto the asphalt.

Asked what this meant, I answered it was nothing to worry about.

Unsatisfied with my terse reply, the customer said he wanted the car for $150. I checked with Frank who said $200 was the minimum.

My customer left the lot, but returned three hours later to buy the car.

Later I was told that the police stopped him not long after he headed down Western Avenue. I wonder why.

Frank told me that "the car was worth nothing to us," but I still made only $17.50 or half commission on the sale because "we have to get at least $200 on each car."

During slow periods on the lot, the salesmen sometimes gathered at the outdoor table and chairs in front of the one-story wooden office.

The conversation usually centered on the customers and the cars, and it was apparent my colleagues had a contempt for both.

"It's the rats [the people] versus the rats [the cars]," I was told. "We get very few Gold Bonds [people who pay their bills] here, only people who tried everywhere else in town come here; they know it and so do we," one of the more successful salesmen told me.

Henry told me that he didn't know the difference between the makes of cars and had his own way of telling what year model the car was. "I tell the year by looking at the rear tail light," he said.

I also learned about a favorite gimmick of the salesmen when they were confronted with a stubborn customer who had a beef about a car he'd been sold and couldn't get any satisfaction.

"As a last resort," said Gordon, "I'd tell the guy that I'm not the best person to see because I know I'm going to be fired. I don't have any clout anymore."

I guess this ploy worked, because most of the other salesmen said they used it, too.

Today our enlightening discussion was broken up when a couple approached me about a '67 Mustang. They said they would pay only $900 for the car and I knew it had to be sold for at least $1,050.

I asked for Oscar's help. He told them that red cars sell for $100 more than nonred cars, but they didn't buy the argument.

After they left, Oscar turned to me and said "900 is all the car is worth."

I goofed later, too—allowing a couple to walk off the lot just because they couldn't agree on which car to buy. They had $125 and I could have put them in a $995 car.

Frank chewed me out for letting them leave with money in their pocket. Time and again I was told that if a person came on the lot not to let them get away.

"Get someone else to help you, if you can't sell them, don't let them walk off the lot," was Frank's standard lecture.

Still a beginner, I had difficulty coping with the customers with $200 in their pockets, a wad of unpaid bills at home, but still wanting to drive home a $5,400 Cadillac.

Saturday, July 14—A bad engine did me in again today, as I blew a "sure deal." A white youth came to look at a '67 Buick for $1,195. He said he could put down $200 and his father, a truck driver, would be the co-signer.

I was already counting the $35 commission—but then came the test ride. The car died four times, including an unscheduled stop across the westbound lanes of 79th Street as we turned north on Western Avenue.

My customer said he would drive the car with his feet on the brake and the gas pedal. He told me the car needed a new exhaust, brake shoes, and shocks.

When I went inside to see if I could arrange a lower price, he bolted for Western Avenue and peeled away in his father's car.

After I returned to the office, I found my fellow salesmen chuckling over the sale of the day—an advertised special for $395.

"The guy who bought the car had to be a real goof ball," said one salesman. "It was the worst car on the lot. It needs a new muffler, valves, and a ring job.

"When I saw the car move down the alley, I could hardly believe it."

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### Car Financing No Fun But Lots of Games

(By Howard S. Marks)

Monday, July 16—There's a game they play at Car Credit that demonstrates just how intricate the financing of a used car can be. It's a fascinating game that pits the salesmen against the customer and the finance company.

All credit deals must be approved by a Bob White of Overland Bond & Investment Corp., 4701 W. Fullerton Av. Overland is owned by Car Credit.

White ordinarly visits Car Credit only four times a year. He isn't well liked by the salesmen because of his super-conservatism in extending credit.

Gordon, one of the wilier salesmen, pulled me aside to explain that a salesman is expected to manipulate Car Credit management as well as the customers to be a success.

Gordon said if a customer only has $200 in his pocket and a short time on the job, it's easier to convince Overland Bond to okay the deal if you increase the price of the car from $1,295 to $1,495.

"They make more profit this way and are more willing to take a risk," Gordon said, but added the tactic is rarely used.

Gordon confided that he makes up phony references from the phone book if the customer couldn't come up with good ones.

"It's like a game," he said. "You hold back information from White as bargaining power."

Bargaining power includes job letters, Social Security forms, and co-signer agreements.

In any event, one of the billers checks out all the information with a major credit bureau. During the time I worked at Car Credit the checks showed the applicants lying about half the time.

The only difference was that we could check thru the Credit Bureau if the customer was trying to "bush us," but the customer had no way to check if Car Credit was lying to him.

I had one customer who claimed he had no debts. The Credit Bureau check turned out at least 14 places where he owed money.

After a few days, I really believed "it was the rats versus the rats."

Larry, another top salesman, told me that "these cars are all rats. I've had customers buy cars, and then the next day they will come back to complain that their engines fell out. The company will give them a refund. But if they return the car a week or a month later the customer is in trouble."

Larry said all the cars were overpriced. The '67 Buicks are selling for what the '69 Buicks should be selling. A person may buy a '67 Buick for $1,595 on credit and then discover several weeks later that the car needs a $300–$400 transmission, he said.

Rather than pay the money, "he will kiss his down payment goodby and let the car be repossessed."

"The major problem is that the credit bureau will now list him as a risk when it really isn't his fault, because the smart thing to do was to stop making payments."

"He might even get his money back because of pressure from the Attorney General's office, but he will still have a bad credit rating."

A woman came in to complain that her brother's '66 Ford, for which he paid more than $600 in April, needed a new master cylinder and brake lining at a cost of $150.

"We were never told there wasn't a guarantee," she said. But like most customers, she never bothered to ask about it either.

Jerry estimated the value of the car at zero, altho the brother still owed $558 on the car. The car was bought in April, and this was only July.

The speed in which cars depreciated at Car Credit continued to amaze me during my 11 days on the lot.

The owner of a '66 Olds which cost him $1,727.76 11 months ago, including $210.51 in finance charges, came in for an estimate because he wanted a trade-in. Granted, the front end needed body work, but Oscar told him the car had no value.

One veteran salesman said he lost a sale because one of the managers wanted to give $200 to a customer for a car that had to be worth at least $300.

Pat, one of the best salesmen, said the guarantee is known as "the bush."

He said the customer winds up paying four times the price for work that he would pay anywhere else at one-half of the quality.

"We're supposed to tell the customers that the work done in the Enco station is done at cost," Pat said, "and that work done in other stations would cost them more because others are only interested in making a profit."

Another salesman said that we should try to get $75 to $125 for the guarantee. He said the customer usually winds up paying the full cost "so that way we can't lose."

When I sold that Buick on credit, Ted, one of the managers, offered my customer a 90-day, 50-50 guarantee for $100 to cover the "motor, transmission, and the rear end." The customer turned down the deal.

The police had to move in again when the owner of a '68 Cadillac showed up to complain that the car had a broken water pump. The customer bought the car late Saturday afternoon and put down $1,000 cash.

He said the car broke down while he was en route home from Car Credit on the Dan Ryan Expressway at 87th Street and repairs cost him $78.

The customer called the police when Frank refused to give him a refund, but did promise to repair the car at no cost. A policeman told Frank that the customer would be arrested "if he made any more trouble."

I'm getting the impression that this is a rough business. One salesman predicted that if the customer didn't get his grand back there would be broken windows tomorrow.

The man got his money back, altho Frank wouldn't give him the $78 he paid to get the car running.

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### Shady Car Dealers Shrug It Off

(By Howard S. Marks)

Tuesday, July 17—It's really amazing that people will take as much abuse as they do—especially from the used car business.

Or that there isn't more of a violent kickback from the cheated customers.

Pat loves to tell the story about the $1,600 '68 Chevy Malibu that caught fire at 79th Street and Western Avenue on a test drive. Pat extinguished the flames and told the customer that a faulty spark plug ignited excess gas that seeped up from the carburetor.

The customer bought the argument and the car, but came back three days later with a gun. He was switched to another car.

Larry's favorite is the CTA bus driver who bought the $1,195 '64 Chevy that had a hole in the floor and windows that couldn't be closed.

"The snow was blowing up through the floor and windows when we went for the test drive, but he still wanted the car," Larry said.

Some kids even bought a car that was on blocks ready to be junked. "They asked if they could have it and I said, 'Sure for $200.' "

Another customer brought his own mechanic and he worked on the car for a week on the lot.

A favorite story of Larry's is the young man who was successfully persuaded that he would be smart not to have a $165 motor for the convertible top of the $1,595 '68 Tempest he was about to purchase. The motor had burned out.

"I told him that he would actually come out ahead because he wouldn't have to worry about the motor burning out and could always open and close the top by hand."

"He actually bought the car," Larry said.

Wednesday, July 18—Disaster struck today. A customer with $1,000 cash in his pocket came to look at the '68 Eldorado Cadillac priced at $1,295 and advertised as being "firemist blue"—with no mention of the smashed-in front.

I kept him waiting for 45 minutes until a porter jumped the battery. We started the engine, but the cable over the engine began to smolder and white smoke engulfed the engine.

The customer's view was blocked by the hood, so he couldn't see the minifire.

I told him the smoke meant nothing. I ran to Frank who authorized me to tell the customer we would put in a new cable [of course, we had to; the old cable had just burned up.]

I lost what could have been a sure sale.

[I later found the same type of car with no body damage at $45 less at another used car lot on the North Side. The Caddy was later reduced in price by Car Credit.]

Somewhat frustrated, Gordon told me some additional pointers. "Never volunteer to show a customer anything he hasn't asked about. If you turn on the radio, it might not work; if you open the trunk it might not have a spare tire or a jack.

"Once you get the guy in the office and close the deal, you might sneak out and look in the trunk. If it has a good spare and jack you might open the trunk and remain silent while the customer admires his good spare."

Gordon said I shouldn't be reluctant to "lowball a customer by quoting lower price than allowed. "Once he's in the office, you can explain that you can't sell him the car because of his poor credit, but you can show him something he can afford."

Walking down the corridor of the main office I heard a familiar encounter between Frank and a disgruntled customer.

It usually goes like this:

Q. I can't seem to get my car fixed.

A. Did you see Bob Sweet [Car Credit's garage boss]?

Q. Yes, but he told me to see you.

A. I can't help you, you'll have to go down there again.

Q. But you've said that before.

A. Have you been to Overland Bond?

Q. But they said for me to come back here.

The dialog changes from customer to customer, but remains the same: It's called the royal runaround. It slowly grinds the customer into submission. No one ever says, "No" or "Get lost." The customer is just told to see someone else.

Larry, an ace salesman, said, "Sweet will tell people that the valves or carburetor aren't part of the motor and thus aren't part of the guarantee."

"People just get tired of coming back and not getting their cars properly fixed," Larry said.

Sylvester, the mechanic, said a favorite argument by Sweet is to tell the driver he was responsible for the mechanical problem because he "raced the car" or "didn't drive it properly."

About 6:30 p.m., I closed my first deal of the week. I sold two blacks a Gore line [no value] '66 Olds Cutlass station wagon which was selling for $195.

The Olds had beat up interiors and looked filthy. The engine died three times while my customers were looking at the engine.

I was afraid to take them on a test drive for fear the car would stall.

"You whites are always trying to take advantage of us Negroes," one man told me. I replied that I wasn't going to get involved in a racial argument and that if he didn't like it he should take the CTA for $300 a year.

The customer had only $150 in his pocket. Frank O.K.'d the deal at $150, but cautioned I would receive only $17.50, half commission.

Jack E., one of the billers, closed the deal, altho one of the men didn't have a driver's license. His companion was driving on traffic tickets.

They shelled out their money, not even noticing a complaint from the Better Business Bureau lying on the edge of Jack E.'s desk.

After they left, Jack E. sat me down.

"I don't know how to tell you this, Howie, but we can't use you any more. Business has been slow and other salesmen will be let go, too."

As I was leaving the lot, my customers were furious over a defect they found in the car. They didn't have a spare, but Jack E. gave them a ticket to get one. The spare would come from a junk yard, Sylvester told me.

Still unsatisfied, they kept haranguing me for help.

It suddenly dawned on me that I was all thru. I remembered the other salesmen telling me how to get rid of a beef—just say you're about to get the ax.

So I told the two complainers: "Sorry, fellas, I can't help you. I just got fired."

This time it was the real thing—not the old con game.

## LET'S RESTRICT WIRETAPPING

**Mr. BIDEN.** Mr. President, the Senate Foreign Relations Committee has been attempting to determine the justification for the series of wiretaps in which Secretary of State-designate Kissinger participated. I am encouraged by the committee's efforts in this direction, because I believe the practice of making wiretaps should be scrutinized and restricted. Although there may be occasions which warrant wiretapping, the number and questionable character of those in recent years have become intolerable.

James Reston, writing in the New York Times on September 12, 1973, discusses the wiretapping issue and notes the constructive views of Attorney General Richardson. At one point in his article, Mr. Reston states:

> Everybody from Mr. Kissinger and Attorney General Richardson to President Nixon has said some noble things about the right to privacy and some nasty things about the dangers of tapping people's phones, but these philosophical generalities are not quite good enough.

I join with Mr. Reston in his hope that these views will be translated into policy changes to avoid the abuses of wiretapping. I ask unanimous consent that the text of James Reston's article, "Get Off the Phones," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### GET OFF THE PHONES

(By James Reston)

WASHINGTON, September 11.—The Senate Foreign Relations Committee seems determined to find out Henry Kissinger's role in wiretapping his own officials and newspaper reporters a few years ago but less determined to get at the main thing, which is to get hold of this wiretapping mania in the future.

Everybody from Mr. Kissinger and Attorney General Richardson to President Nixon has said some noble things about the right of privacy and some nasty things about the dangers of tapping people's phones, but these philosophical generalities are not quite good enough.

What we need now is a clear and explicit statement of policy by the Administration that it will henceforth not subject its own citizens to unreasonable searches and seizures or tap their telephones without prior judicial approval.

Undoubtedly, cases will arise in the future that would justify the Executive in seeking a court order to tap private telephones in the interests of national security, but such an order would be easily available in genuine national security cases. What is pernicious in the present situation is the Administration's assertion of its right to wiretap without a court order on its own judgment that national security questions may be involved.

The Administration continues to defend this authority both in its public statements and in various court suits. Contrary to the implications of some of the Administration's statements, the Supreme Court has not held that warrantless wiretaps initiated for foreign policy reasons are legal. It has clearly stated that warrantless wiretaps for domestic reasons are unconstitutional, but it left the constitutionality of warrantless wiretaps for foreign policy reasons open for later resolution.

The Supreme Court decision in *United States v. United States District Court* (407 U.S. 297 . . . 1972) stated: "We emphasize . . . the scope of our decision . . . this case involves only the domestic aspects of national security. We have not addressed, and express no opinion, as to the issues which may be involved with respect to activities of foreign powers or their agents. . . ."

In this context, and given the uncertain legal situation, the Foreign Relations Committee was undoubtedly justified in trying to get assurances from Mr. Kissinger that he didn't intend to go around tapping his associates or bugging the National Press Club; but even as Secretary of State, he cannot guarantee the privacy of other people's phones. Other agencies of the Government, from the F.B.I. and the Secret Service to the Army Signal Corps can do the job; in fact, Kissinger has not even been sure of the security of his own private telephone calls.

Attorney General Richardson, however, could improve the present situation by issuing new regulations or guidelines putting limitations on the Executive's use of the wiretap power, particularly the need for a prior court order when U.S. citizens are involved. Better still, the President could add this to the shopping list of legislation he wants from the Congress by the end of November, preferably on Thanksgiving Day.

In his speech to the American Bar Association last month, Mr. Richardson made some reassuring remarks:

"It is imperative—not only morally requisite but practically requisite—that our democratic rhetorical commitment to fairness-across-the-board be matched by consistent performance. . . .

"We cannot allow ourselves to foster or to preserve practices which undermine respect for the capacity of the system to treat people—all the people—fairly under law. . . .

"Reporters have a primary responsibility to the public, just as we [in Justice] do. This responsibility can lead them into controversial situations. But the prosecutorial power of the department should never be used—not even by indirection or innuendo—in a way that could weaken the exercise of the First Amendment rights."

These sentiments by the new Attorney General have already produced a new spirit and atmosphere at the Justice Department, but as long as other men in the executive branch speak in a different spirit and argue for a continuation of their right to wiretap on their own suspicion or excuse of national security matters, without prior approval of the court, more specific regulations or laws are essential

The Foreign Relations Committee is not in a mood to hold Mr. Kissinger responsible for policies beyond his control, or to hold up his confirmation until it gets specific assurances that the wiretap problem will be brought under control of the courts. But even now the seventeen officials and reporters whose phones were tapped don't know what private information was gathered and have no assurances that they won't be tapped again.

The Administration's excuse for tapping the seventeen was that it wanted to "stop the leaks," and nobody can blame officials for trying to secure official lines of communication; but it is not only information but freedom that has been leaking around here, and if Attorney General Richardson means what he says, the practice will be stopped.

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## PUBLIC FINANCING OF PRESIDENTIAL CAMPAIGNS CAN WORK IN 1976 IF EMPLOYERS WILL HELP

Mr. HUMPHREY. Mr. President, the public's understanding of the need for reform in the financing of political campaigns is, indeed, increasing. The Senate has passed some significant reforms in the areas of disclosure and limitations on contributions which it is hoped the House will act on soon.

Moreover, many Members of Congress, with strong public support, will be pushing for new reforms in the area of public financing of political campaigns, with strong controls or limitations on private contributions.

Mr. President, the attention now focused on political campaigns because of the Watergate scandals and other revelations is building public support for public financing. This is a fundamental reform, which will help significantly to rationalize our democratic political processes, remove undue influence from special interests and the wealthy few, drastically cut spending for political campaigns, and make it possible for candidates to devote their time to issues of importance to the public rather than to fundraising.

The most important reform achieved so far in the public financing of political campaigns is, of course, the voluntary, nonpartisan, $1 tax deduction which a taxpayer may designate each year on their tax return for the financing of Presidential campaigns.

As Senators know, this designation or checkoff is made without adding to the person's tax due or reducing their refund. In a joint return, $2 may be designated for the fund.

The designation of a dollar per taxpayer, voluntarily, to the Presidential financing fund is intended to develop a nonpartisan reserve of funds which will be distributed according to formulae with equal distribution to the two major parties, based on the number of registered voters nationally, set by law, and with assistance to the minor parties according to a formula based on their national vote in the previous campaign.

Unfortunately, the public did not understand this system well in its first year of scheduled operation, 1972. Despite repeated urgings from myself and other Members of Congress and public groups, the Internal Revenue Service did not promote public understanding and utilization of the dollar checkoff. In fact, the IRS so constructed its treatment in the individual income tax brochure that most taxpayers were left unaware of the existence of this opportunity to support public financing of Presidential and Vice Presidential political campaigns, or were discouraged from participation.

Mr. President, these IRS policies have been changed, in part as the result of the amendment which I offered to the Debt Ceiling Act earlier this year and which, with amendments, was enacted.

This amendment requires the IRS to place information about the dollar checkoff on the first page of the tax return or on the page bearing the taxpayer's signature.

I have seen a draft of the tax returns for use by taxpayers next year, covering their taxes for calendar year 1973, and it does, indeed, raise the question of this voluntary contribution to the fund on the first page of the tax return, with a box to be checked. Moreover, while the amendment as adopted does not require a publicity campaign, the IRS has promised to engage in one.

Mr. President, I am pleased to announce that the IRS has approved a suggestion I have made to it for promoting public understanding of the dollar deduction system. This suggestion was made to me by President Jerry Wurth and the staff of the American Federation of State, County, and Municipal Employees.

On August 10 I wrote the Commissioner of the Internal Revenue Service to ask if the IRS would permit employers who wish to do so to include a public service notice about the dollar checkoff with the 1973 W–2 forms which they mail to their employees. I proposed that this notice would call attention to the dollar deduction plan, point out that it is voluntary and nonpartisan, describe how to participate and encourage such participation.

The Internal Revenue Service has replied that it would, and I quote—

> have no objection whatever to employers including a public service notice about the dollar checkoff with the 1973 Forms W–2 they mail to their employees.

If employers will cooperate in this way, the voluntary dollar deduction plan for public financing of Presidential campaigns could become a firm success in 1976.

The dollar deduction plan could result in a fund of from $50 to $75 million in 1976, with this employer cooperation and the placement of the dollar checkoff question on the front page of each taxpayer's tax return, as required by my amendment enacted by the Congress earlier this year.

The IRS letter goes on to say that while they are planning an extensive publicity campaign on the taxpayer's right to make campaign fund designations, the IRS assumes that in the voluntary program I have suggested, the employers would produce as well as distribute the proposed notice.

I think this is an excellent opportunity, given IRS approval of this additional means of calling taxpayer attention to the campaign fund and the dollar deduction, for employee groups and employers to work together to see that W–2 forms contain the notice suggested.

I urge employers and employee groups across the country to devote attention to this opportunity and to act immediately to see that these notices are planned for, written, reproduced and mailed with the W–2 forms.

I wish to express my appreciation to the staff and leadership of AFSCME for originally proposing this suggestion.

Mr. President, I ask unanimous consent to have printed in the Record at the close of my remarks my letter of August 10 to the Internal Revenue Service and the reply I received dated August 17, 1973, signed by Mr. Claude D. Baldwin, Director, Research Division, Internal Revenue Service.

I sought from the responsible committees of Congress and the Internal Revenue Service an official layman's description of the Presidential Election Campaign Fund Act as amended, an official text of the complete, consolidated provisions of the law concerning the Fund, and any relevant administrative regulations.

None of these are available from these sources, as yet.

Mr. President, I, therefore, ask unanimous consent to have printed in the Record an unofficial statement of the law relating to the Presidential election campaign fund, which consolidates provisions of law approved in 1966, 1971, and 1973, noting that the 1973 provisions are contained in section 9006, and in section 6096 which is printed at the end of this material.

There being no objection, the material was ordered to be printed in the Record, as follows:

AUGUST 10, 1973.

Mr. JOHNNIE M. WALTERS,
*Commissioner, Internal Revenue Service,*
*Washington, D.C.*

DEAR MR WALTERS: I am encouraged by the progress I understand is being made to place the notice to taxpayers concerning the dollar check-off on the front page of each tax return.

The Administration and the Congress appear now to be solidly behind this plan for voluntary public financing of Presidential campaigns. Wide-spread participation by millions of Americans in the dollar check-off system clearly is needed to promote open and free democratic election of the President and the Vice President.

In this connection, I write to ask if the Internal Revenue Service would permit employers who wish to do so to include a public service notice about the dollar check-off with the 1973 W2 forms which they mail to their employees. This notice would call attention to the dollar deduction plan, point out that it is voluntary and non-partisan, describe how to participate and encourage such participation.

I would appreciate being informed as soon as possible if such voluntary action by employers would be permissible.

If, in your opinion, it is not permissible, would you advise me precisely why so that I may know exactly what must be done to make such action possible. Many thanks for your assistance.

Sincerely,

HUBERT H. HUMPHREY.

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INTERNAL REVENUE SERVICE,
*Washington, D.C., August 17, 1973.*

Hon. HUBERT H. HUMPHREY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HUMPHREY: This is in response to your August 10 letter to former Commissioner Walters.

The Service would have no objection whatever to employers including a public service notice about the dollar checkoff with the 1973 Forms W-2 they mail to their employees. We have made plans to extensively publicize the taxpayer's right to make Campaign Fund designations; however, these plans do not include our furnishing to employers a document for distribution to their employees. We assume that in the voluntary program you have in mind, the employers would produce as well as distribute the proposed notice.

The Service will, of course, be delighted to have any assistance that employers may provide in assuring that the public is well informed on this matter.

Sincerely,

CLAUDE D. BALDWIN,
*Director, Research Division.*

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### PROVISIONS OF THE INTERNAL REVENUE CODE OF 1954 AMENDED

### PRESIDENTIAL ELECTION CAMPAIGN FUND ACT

### *"Subtitle H—Financing of Presidential election campaigns*

"Chapter 95. Presidential election campaign fund.

"Chapter 96. Presidential election campaign fund advisory board.

"Chapter 95—Presidential Election Campaign Fund

"Sec. 9001. Short title.

"Sec. 9002. Definitions.

"Sec. 9003. Condition for eligibility for payments.

"Sec. 9004. Entitlement of eligible candidates to payments.

"Sec. 9005. Certification by Comptroller General.

"Sec. 9006. Payments to eligible candidates.

"Sec. 9007. Examinations and audits; repayments.

"Sec. 9008. Information on proposed expenses.

"Sec. 9009. Reports to Congress; regulations.

"Sec. 9010. Participation by Comptroller General in judicial proceedings.

"Sec. 9011. Judicial review.

"Sec. 9012. Criminal penalties.

"Sec. 9013. Effective date of chapter.

"SEC. 9001. SHORT TITLE.

"This chapter may be cited as the 'Presidential Election Campaign Fund Act'.

"SEC. 9002. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'authorized committee' means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Comptroller General. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"(2) The term 'candidate' means, with respect to any presidential election, an individual who (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States. For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term 'candidate' means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'eligible candidates' means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

"(5) The term 'fund' means the Presidential Election Campaign Fund established by section 9006(a).

"(6) The term 'major party' means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

"(7) The term 'minor party' means, with respect to any presidential election, a political election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

"(8) The term 'new party' means, with respect to any presidential election, a political party which is neither a major party nor a minor party.

"(9) The term 'political committee' means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

"(10) The term 'presidential election' means the election of presidential and vice-presidential electors.

"(11) The term 'qualified campaign expense' means an expense—

"(A) incurred (i) by the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both (ii) by the candidate of a political party for the office of Vice President to further his election to such office or to further the election of the candidate of such political party for the office of President, or both, or (iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices,

"(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

"(C) neither the incurrment nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in such proportion as the Comptroller General prescribes by rules or regulations.

"(12) The term 'expenditure report period' with respect to any presidential election means—

"(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the presidential election; and

"(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such presidential election under subparagraph (A).

"SEC. 9003. CONDITION FOR ELIGIBILITY FOR PAYMENTS.

"(a) IN GENERAL.—In order to be eligible to receive any payments under section 9006, the candidates of a political party in a presidential election shall, in writing—

"(1) agree to obtain and furnish to the Comptroller General such evidence as he may request of the qualified campaign expenses with respect to which payment is sought,

"(2) agree to keep and furnish to the Comptroller General such records, books, and other information as he may request.

"(3) agree to an audit and examination by the Comptroller General under section 9007 and to pay any amounts required to be paid under such section, and

"(4) agree to furnish statements of qualified campaign expenses and proposed qualified campaign expenses required under section 9008.

"(b) MAJOR PARTIES.—In order to be eligible to receive any payments under section 9006, the candidates of a major party in a presidential election shall certify to the Comptroller General, under penalty of perjury, that—

"(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under section 9004, and

"(2) no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11) have been or will be accepted by such candidates or any of their authorized committees.

Such certification shall be made within such time prior to the day of the Presidential election as the Comptroller General shall prescribe by rules or regulations.

"(c) MINOR AND NEW PARTIES.—In order to be eligible to receive any payments under section 9006, the candidates of a minor or new party in a Presidential election shall certify to the Comptroller General, under penalty of perjury, that—

"(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004, and

"(2) such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the Presidential election as the Comptroller General shall prescribe by rules or regulations.

### "Sec. 9004. Entitlement of Eligible Candidates to Payments.

"(a) In General.—Subject to the provisions of this chapter—

"(1) The eligible candidates of a major party in a Presidential election shall be entitled to payments under section 9006 equal in the aggregate to 15 cents multiplied by the total number of residents within the United States who have attained the age of 18, as determined by the Bureau of the Census, as of the first day of June of the year preceding the year of the Presidential election.

"(2) (A) The eligible candidates of a minor party in a Presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding Presidential election.

"(B) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding presidential election and received 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of section 9003 (a) and (c) shall be treated as eligible candidates entitled to payments under section 9006 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for the office of President in the preceding Presidential election. If eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

"(3) The eligible candidates of a minor party or a new party in a Presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties. In the case of eligible candidates entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

"(b) Limitations.—The aggregate payments to which the eligible candidates of a political party shall be entitled under subsections (a) (2) and (3) with respect to a Presidential election shall not exceed an amount equal to the lower of—

"(1) the amount of qualified campaign expenses incurred by such eligible candidates and their authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidates and such committees, or

"(2) the aggregate payments to which the eligible candidates of a major party are entitled under subsection (a) (1), reduced by the amount of contributions described in paragraph (1) of this subsection.

"(c) Restrictions.—The eligible candidates of a political party shall be entitled to payments under subsection (a) only—

"(1) to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees, or

"(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses.

### "Sec. 9005. Certification by Comptroller General.

"(a) Initial Certifications.—On the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 9007, the Comptroller General shall certify from time to time to the Secretary for payment to such candidates under section 9006 the payments to which such candidates are entitled under section 9004.

"(b) Finality of Certifications and Determinations.—Initial certifications by the Comptroller General under subsection (a), and all determinations made by him under this chapter, shall be final and conclusive, except that they are subject to examination and audit by the Comptroller General under section 9007 and judicial review under section 9011.

### "Sec. 9006. Payments to Eligible Candidates (As Amended July 1, 1973)

"(a) Establishment of Campaign Fund.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Presidential Election Campaign Fund'. The Secretary shall, as provided by appropriation Acts, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous Presidential election) to the fund by individuals under section 6096.

"(b) Transfer to the General Fund.—If, after a Presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.

"(c) Payments From the Fund.—Upon receipt of a certification from the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Comptroller General. Amounts paid to any such candidates shall be under the control of such candidates.

"(d) Insufficient Amounts in Fund.—If at the time of a certification by the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement."

(c) Sections 9003(b) (2), 9007(b) (3), and 9012(b) (1) of the Internal Revenue Code of 1954 are each amended by striking out "9006(c)" and inserting in lieu thereof "9006(d)".

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1972. Any designation made under section 6096 of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1973) for the account of the candidates of any specified political party shall, for purposes of section 9006(a) of such Code (as amended by subsection (b)), be treated solely as a designation to the Presidential Election Campaign Fund.

Approved July 1, 1973.

### "Sec. 9007. Examinations and Audits; Repayments

"(a) Examinations and Audits.—After each presidential election, the Comptroller General shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

"(b) Repayments.—

"(1) If the Comptroller General determines that any portion of the payments made to the eligible candidates of a political party under section 9006 was in excess of the aggregate payments to which candidates were entitled under section 9004, he shall so notify such candidates, and such candidates shall pay to the Secretary an amount equal to such portion.

"(2) If the Comptroller General determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, he shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary an amount equal to such amount.

"(3) If the Comptroller General determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006 (c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), he shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary an amount equal to such amount.

"(4) If the Comptroller General determines that any amount of any payment made to the eligible candidates of a political party under section 9006 was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses, he shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary an amount equal to such amount.

"(5) No payment shall be required from the eligible candidates of a political party under this subsection to the extent that such payment, when added to other payments required from such candidates under this subsection, exceeds the amount of payments received by such candidates under section 9006.

"(c) NOTIFICATION.—No notification shall be made by the Comptroller General under subsection (b) with respect to a presidential election more than 3 years after the day of such election.

"(d) DEPOSIT OF REPAYMENTS.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

### "SEC. 9008. INFORMATION ON PROPOSED EXPENSES.

"(a) REPORTS BY CANDIDATES.—The candidates of a political party for President and Vice President in a presidential election shall, from time to time as the Comptroller General may require, furnish to the Comptroller General a detailed statement, in such form as the Comptroller General may prescribe, of—

"(1) the qualified campaign expenses incurred by them and their authorized committees prior to the date of such statement (whether or not evidence of such expenses has been furnished for purposes of section 9005), and

"(2) the qualified campaign expenses which they and their authorized committees propose to incur on or after the date of such statement

The Comptroller General shall require a statement under this subsection from such candidates of each political party at least once each week during the second, third, and fourth weeks preceding the day of the presidential election and at least twice during the week preceding such day.

"(b) PUBLICATION.—The Comptroller General shall, as soon as possible after he receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information which he deems advisable, in the Federal Register. Such summary shall not include any information which identifies any individual who made a designation under section 6096.

### "SEC. 9009. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Comptroller General shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

"(1) the qualified campaign expenses (shown in such detail as the Comptroller General determines necessary) incurred by the candidates of each political party and their authorized committees;

"(2) the amounts certified by him under section 9005 for payment to the eligible candidates of each political party; and

"(3) the amount of payments, if any, required from such candidates under section 9007 and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) REGULATIONS, ETC.—The Comptroller General is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 9007 (a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as he deems necessary to carry out the functions and duties imposed on him by this chapter.

### "SEC. 9010. PARTICIPATION BY COMPTROLLER GENERAL IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCE BY COUNSEL.—The Comptroller General is authorized to appear in and defend against any action filed under section 9011, either by attorneys employed in his office or by counsel whom he may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation he may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) RECOVERY OF CERTAIN PAYMENTS.—The Comptroller General is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of examination and audit made pursuant to section 9007.

"(c) DECLARATORY AND INJUNCTIVE RELIEF.—The Comptroller General is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Comptroller General, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"(d) APPEAL.—The Comptroller General is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which he appears pursuant to the authority provided in this section.

### "SEC. 9011. JUDICIAL REVIEW.

"(a) REVIEW OF CERTIFICATION, DETERMINATION, OR OTHER ACTION BY THE COMPTROLLER GENERAL.—Any certification, determination, or other action by the Comptroller General made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Comptroller General for which review is sought.

"(b) SUITS TO IMPLEMENT CHAPTER.—

"(1) The Comptroller General, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this chapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

### "SEC. 9012. CRIMINAL PENALTIES.

"(a) EXCESS CAMPAIGN EXPENSES.—

"(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggegate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(b) CONTRIBUTIONS.—

"(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002 (11).

"(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

"(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(c) UNLAWFUL USE OF PAYMENTS.—

"(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(d) FALSE STATEMENTS, ETC.—

"(1) It shall be unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this chapter; or

"(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

"(2) Any person who violates paragraph

(1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(e) Kickbacks and Illegal Payments.—

"(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candiates or their authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

"(f) Unauthorized Expenditures and Contributions.—

"(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding $1,000.

"(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(c) which is exempt from tax under section 501(a) in communicating to its members the views of that organization.

"(3) Any political committee which violates paragraph (1) shall be fined not more than $5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(g) Unauthorized Disclosure of Information.—

"(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"Sec. 9013. Effective Date of Chapter.

"The provisions of this chapter shall take effect on January 1, 1973.

"Chapter 96. Presidential Election Campaign Fund Advisory Board

"Sec. 9021. Establishment of Advisory Board.

"(a) Establishment of Board.—There is hereby established an advisory board to be known as the Presidential Election Campaign Fund Advisory Board (hereinafter in this section referred to as the 'Board'). It shall be the duty and function of the Board to counsel and assist the Comptroller General of the United States in the performance of the duties and functions imposed on him under the Presidential Election Campaign Fund Act.

"(b) Composition of Board.—The Board shall be composed of the following members:

"(1) the majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives, who shall serve ex officio;

"(2) two members representing each political party which is a major party (as defined in section 9002(6)), which members shall be appointed by the Comptroller General from recommendations submitted by such political party; and

"(3) three members representing the general public, which members shall be selected by the members described in paragraphs (1) and (2).

The terms of the first members of the Board described in paragraphs (2) and (3) shall expire on the sixtieth day after the date of the first presidential election following January 1, 1973, and the terms of subsequent members described in paragraphs (2) and (3) shall begin on the sixty-first day after the date of a presidential election and expire on the sixtieth day following the date of the subsequent presidential election. The Board shall elect a Chairman from its members.

"(c) Compensation.—Members of the Board (other than members described in subsection (b)(1)) shall receive compensation at the rate of $75 a day for each day they are engaged in performing duties and functions as such members, including traveltime, and, while away from their homes or regular places of business shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

"(d) Status.—Service by an individual as a member of the Board shall not, for purposes of any other law of the United States be considered as service as an officer or employee of the United States."

Amendment approved July 1, 1973

(Sec. 6. (a) of Public Law 93–53).

(Note.—This replaces similar provisions in the original law approved in 1966, as amended in 1971.)

Sec. 6. (a) Section 6096 of the Internal Revenue Code of 1954 (relating to designation by individuals of income tax payments to Presidential Election Campaign Fund) is amended to read as follows:

"Sec. 6096. Designation by Individuals.

"(a) In General.—Every individual (other than a nonresident alien) whose income tax liability for the taxable year is $1 or more may designate that $1 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of $2 or more, each spouse may designate that $1 shall be paid to the fund.

"(b) Income Tax Liability.—For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under sections 33, 37, 38, 40, and 41.

"(c) Manner and Time of Designation.—A designation under subsection (a) may be made with respect to any taxable year—

"(1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or

"(2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary or his delegate.

Such designation shall be made in such manner as the Secretary or his delegate prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature."

## INTERIOR DEPARTMENT REPORT CONFIRMS NEED FOR MANDATORY FUEL ALLOCATION PROGRAM

Mr. RIBICOFF. Mr. President, last week I released the results of a survey—conducted by my Subcommittee on Reorganization, Research, and International Organizations—which pointed up the failure of the administration's voluntary allocation program to assure a fair distribution of heating oil to all the Nation's consumers this winter.

The survey showed that at the start of the home-heating season on October 1, the major oil companies will have their east coast storage tanks filled to 82 percent of capacity, which is 14 percent more than they had on hand at this time last year. But the east coast independent dealers, who must rely on the major companies for most of their heating oil supply, will be at only 25 percent of capacity—or half of the inventory they had 1 year ago. Some 65 percent of the Nation's heating oil is burned in the east coast district.

A detailed analysis of the data provided by the major oil companies themselves tells the story behind the incredible imbalance between what the majors have, and the independents have not, in their east coast storage tanks. Of the 20 independent fuel terminal operators who are supplied by the major producers along the east coast, 15 have received less heating oil than they did 1 year ago, 2 have received more, and 3 are receiving an equal amount. No less than 11 of these 20 independents are being kept dangling by prolonged and incomplete negotiations with the majors over contracts that will fix the amount of heating oil to be supplied.

The results made clear a situation of critically short supply only among the independent dealers, who ironically have to deliver most of the heating oil to homes in the Northeast. For the major oil producers, the supply is tight, but manageable.

To find out why the adminisrtation's voluntary program has failed to manage that supply in an equitable way and why a mandatory system should not be imposed immediately, the subcommittee invited former Gov. John A. Love, Director of the President's Energy Policy Office, to testify on the problem last Thursday, September 13. Governor Love conceded that he was having problems in making the voluntary program work. But he insisted that he needed more time to analyze the comments of the oil industry on a proposed mandatory system before making a final recommendation to the President on whether to put the mandatory system into operation.

In the meanwhile, Governor Love reported that:

> We believe with normral weather, a reasonable level of refinery output, and imports somewhat above last year's level, we will have no major problems, possibly some localized, temporary shortages.

However, today I have obtained and am releasing a report prepared by the

Department of the Interior for Governor Love's office which not only challenges his overoptimistic view of the heating oil problem, but makes clear that time has run out for him to do something about it. I ask unanimous consent that the text of the report, "The Distillate Fuel Oil Situation, Winter 1973–74", be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, the report makes the following basic points in summarizing a grim heating-oil supply situation for the Nation this winter:

First. Demand for heating oil this winter will be 10.4 percent greater than it was during last year's warmer-than-normal winter.

Second. Rising distillate fuel needs cannot be met from U.S. refineries which are constrained by both limited refinery capacity and limited quantities of acceptable quality crude oil.

Third. It may not be possible to increase imports to needed levels. Distillate imports of 650,000 barrels a day will be needed to meet expected demand for heating oil and gasoline this winter, assuming temperatures will be normal and domestic refineries will operate at 91.7 percent of capacity. But a maximum of about 550,000 barrels a day may be available to the United States from world markets. Last year's winter imports averaged 400,000 barrels a day.

Mr. President, the precarious, if not perilous, supply situation as outlined in this report should make it clear to the administration that it can no longer put off implementing a mandatory system of allocating the available supply of home heating oil. There are two basic reasons for a mandatory system:

First, only by requiring the major oil companies to allocate their supply to independents on the same basis as last year can the administration assure that all sections of the country will receive a fair share of the total supply, regardless of how tight that supply may be.

Second, a mandatory system not only would assure the independents and their customers getting a fair share of the available supply, but it also would necessitate the major producers buying oil on the world market to add to their depleted heating-oil stocks. The superior purchasing power of the major producers, especially from their own overseas affiliates, should assure a greater quantity of imported oil, at lower prices and lower sulfur content, than the independents could obtain on their own.

The supply situation is especially ominous because under the voluntary allocation program the independents now have been guaranteed only 35 percent of their heating oil supply from domestic sources, compared with 80 percent from domestic sources at this time a year ago. This means that unless mandatory allocation is imposed immediately, the independents will have to try to import 65 percent of their heating oil, compared with only 20 percent last year. The net result will be higher prices and dirtier oil in those areas of the country that rely most heavily on independent suppliers for heating oil—especially in New England, where independents handle 40 percent of the wholesale customers and up to 90 percent of the retail customers, including homeowners.

Mr. President, simple logic, not to mention social equity, dictates an immediate switch to a mandatory allocation system. Each day's hesitation by the administration brings the Nation a day closer to the morning when millions of Americans will awaken to find that they have been left out in the cold.

EXHIBIT 1

## THE DISTILLATE FUEL OIL SITUATION—WINTER 1973–74

(By the Department of the Interior, September 15, 1973)

### FOREWORD

On August 9, 1973, John A. Love, Director of the Energy Policy Office, requested the Department of the Interior to prepare an assessment of the heating oil situation for the coming winter.

Data and analysis were provided by the Office of Energy Data and Analysis, the Office of Oil and Gas, the Bureau of Mines and the Office of Economic Analysis within the Department of the Interior. The report would not have been possible without previous studies and the direct assistance provided by the Department of Commerce, Department of Treasury, Environmental Protection Agency, and Federal Power Commission.

### SUMMARY

U.S. requirements for distillate fuel oil in the coming winter will increase greatly over last year. A projected 10.4 percent increase over last winter reflects last year's warmer-than-normal weather, historic growth trends and additional requirements for oil in lieu of natural gas. As gas production has ceased to increase, supplies are frequently unavailable to new customers and its deliveries to established industrial and utility users are being curtailed.

Rising distillate fuel needs cannot be met from U.S. refineries which are constrained by both limited refinery capacity and limited quantities of acceptable quality crude oil. Increasing gasoline requirements compete with distillate fuel for a portion of this limited refinery output.

If both gasoline and distillate fuel needs are to be met, domestic distillate fuel supplies will need to be supplemented by a very high level of imports. With normal winter temperatures, distillate imports of 650 thousand barrels a day will be needed—assuming refineries will operate at 91.7 percent of capacity and distillate yields will be 22.4 percent. Warmer weather, higher than anticipated refinery operating rates or a decision to maximize distillate yields at the expense of other products could reduce these requirements to 450 thousand barrels a day or less. Colder weather or an inability of refineries to operate as anticipated could increase imports to over 800 thousand barrels a day. If a concerted national effort at energy conservation is implemented and successful, import needs can be reduced by upwards of 100 thousand barrels a day.

It may not be possible to increase imports to needed levels. Last year, imports had averaged only 400 thousand barrels a day during the winter. A maximum of about 550 thousand barrels a day may be available to the United States from world markets. This is slightly more than the record volume imported in the first quarter last year. This availability of distillate fuel for import will depend upon normal winter temperatures worldwide, no crude oil or distillate curtailments by exporting nations, sulphur variances similar to last year, and U.S. price control regulations which allow cost pass-throughs.

### OVERVIEW OF THE ANALYSIS

This study focuses on the supply/demand picture during the coming winter for distillate fuel oil. Distillate fuel oil is the general classification for products known as No. 1 and No. 2 heating oils, normally used in heating homes, and light diesel fuels. No. 4 fuel oil is also included in this category, although it is a blend of distillate fuel oil with heavier residual fuel oil.

For the purpose of this study the winter heating season extends from October 1, 1973 through March 31, 1974. The present study focuses principally on the winter heating season, although the gasoline situation next summer must be taken into account in developing the forecast.

To forecast the winter situation for distillate oils is a complex task. By definition, supply and demand will ultimately be in balance, even if there is a "shortage." In fact, if projected supplies and consumption are not in balance, this means that adjustments, sometimes severe and often localized, will occur. The result will be a curtailed demand in spite of what the consumer might originally desire.

To estimate the potential problem with distillate fuel oil requires a careful assessment of not only domestic distillate production and expected demand, but also imported distillate, which makes up a significant percentage of our total supply. And of course, our ability to obtain foreign produced distillate is dependent on foreign supply capacity and foreign demand. Finally, inventories of distillate are also crucial to reducing possible shortages. Because distillate demand is seasonal (high in the winter and low in the summer), inventories are built up in the off season and then drawn down during the peaks in demand. As a consequence, the measure of a shortage is not whether production can meet demand, because during the peak times production is always exceeded by demand, but rather when inventories are reduced to a level which is insufficient to cover the gap between current production and market requirements. As inventories are drawn down below the required level, shortages do not develop simultaneously everywhere, but rather are usually seen in local areas, often those which are farthest from the source of supply.

The analysis which follows will first look at the composition of domestic distillate demand and its probable level this winter. Secondly, domestic capability to produce distillates will be estimated, considering available crude supplies, refinery capacity, probable operating rates and yields. Actual distillate production will also be balanced against minimum production of other petroleum products, such as gasoline, to assure a tenable gasoline situation this coming summer. Given the domestic demands and lesser domestic supplies, import requirements will be derived to assure that demand is met and inventories do not drop to a dangerously low level. Finally, the feasibility of reaching the projected import levels will be assessed in light of the world supply/demand picture.

### DEMAND FOR DISTILLATE FUEL OIL

Distillate fuel oil is used primarily for space heating in homes and commercial buildings and for the production of process heat in industrial facilities. It is also heavily used by diesel trucks and buses. More recently there has been an increasing use of distillate in electric utilities.

#### *Historical Demands and Growth*

Historic trends in the major uses of distillate fuel and rates of growth by sector are compared in Table 1 and 2. While the use of all petroleum products grew 3.5 percent a year between 1960 and 1970, demand for distillate increased at a 3 percest annual rate. Competition from natural gas and electricity for heating purposes has been the dominant influence in restraining the historic growth of distillate heating oil demand.

The most persistent growth has been recorded by the highway use of diesel fuel, where it is used principally by large tractor trailers. About 5 years ago, significant amounts of distillate fuel began to be used at electric power plants. While small volumes of distillate have always been used as "start-up" fuels and in internal combustion generators, the surge in power plant use of distillate is now attributable principally to its use in turbine generators. However, distillate is also being used to some degree as a substitute for residual fuel oil in order to meet current more rigid sulphur specifications, as required by air quality laws and regulations.

While distillate demand for all uses increased about 3 percent a year during the 1960's, 1972 use increased 9.6 percent over the 1971 level. Two major factors, cold weather and a growing scarcity of natural gas, caused this large increase. Weather in the first and fourth quarters of 1972 averaged 5.8 percent colder than normal and 7.5 percent colder than the same period in 1971.

### *Projected Demand Growth*

As indicated in Tables 1 and 2, distillate demand in calendar 1973 is projected to rise 3.4 percent above 1972. A further 8.8 percent demand growth is projected for 1974.

The 1973 demand increase is not as large as might be expected, due to heating below that in calendar 1972. This is explained by 1972's abnormally cold weather, a warm January through March of 1973 and assumed normal weather during this coming winter.

Though highway diesel fuel requirements will continue their strong upward trend, the largest percentage demand gains in both 1973 and 1974 are expected to occur in the industrial and electric utility sectors, due not only to normal growth but also as these customers seek low sulphur oil in lieu of curtailed natural gas.

Natural gas production has not increased significantly in the last 2 years and significant gains are not expected through 1974. As a result, there have been increasing curtailments of gas supplies to historic consumers and very little gas available for new customers. During the 1972–73 winter, gas deficiencies against firm requirements amounted to 422 billion cubic feet. The Federal Power Commission Bureau of Natural Gas estimates 629 billion cubic feet of inter- and intrastate curtailments of firm customer sources will occur with normally cold weather during the 1973–74 heating season. These curtailments will be almost exclusively in the industrial and utility sectors. See Table 3.

While it is difficult to translate these curtailments into distillate oil requirements, FPC estimates indicate that during the coming winter over 130,000 barrels a day of distillate oil demand may be due to curtailments of firm gas sales. Additional quantities of distillate may be required to replace greater than usual quantities of interruptible gas as gas availability diminishes.

These annual forecasts for 1973 and 1974 can be translated into the 1973–1974 winter heating season. Table 4 compares this coming winter with last year. The distribution between the quarters in 1973 and 1974 is derived from the seasonal distributions during the last several years. Ideally these distributions should be done separately by sector. Unfortunately demand data by quarter is not available. As indicated in the table the winter's demand is estimated to be 10.4 percent above last winter. Last winter's heating season experienced unusually cold weather before the turn of the year and unusually warm weather in the first three months of 1973. Taken together, the two winter quarters were 3.3 percent warmer than normal. This adjustment from a colder winter, normal sector growth rates and increased use of distillate to replace natural gas account for the large projected increase.

### *Effects of the weather*

For a variety of reasons, it is difficult to translate data on winter severity into changes in demand for distillate fuel, especially when variations are as wide as they have been recently. Weather conditions other than temperatures principally humidity and wind velocity also affect heating requirements.

Regional weather variations are also important. For example, if it is very cold during a particular winter in New York, the impact on heating oil is much greater than from a similarly cold season in Tennessee. Not only do each of these areas have different populations, and hence different demand for heating oil, but may rely on very different fuels to meet their needs.

Despite these limitations, it is possible to estimate the effect of abnormally cold weather on the demand for heating oil. Table 5, developed by the National Oceanic and Atmospheric Administration of the Department of Commerce summarizes the impact of weather on heating fuel demand. For example, on average, once every 5 years temperatures will be sufficiently cold to increase heating oil demand by 3.9 percent above the normal consumption levels; this translates into a 120,000 barrels a day increase in demand during the winter. This measures only the direct impact of temperatures on heating oil demand and does not include the increased demand for oil which would be generated by the insufficiency in gas supplies to meet requirements associated with colder than normal weather.

## THE SUPPLY OF DISTILLATE

The supply of distillate fuel oil to meet U.S. needs is composed of domestic production and foreign imports.

U.S. production of distillate is determined by supplies of domestic and imported crude oil, refinery capacity available to refine these crudes, percent of refinery capacity actually used, and the proportion, or yield, of distillates produced from crude oil and other materials which are refined.

### *Crude Oil Availability*

U.S. production of crude oil and lease condensate peaked in 1970 and has declined gradually since that time. In 1972 production averaged 9,451 thousand barrels a day and it is expected to continue to decline to 9,240 thousand barrels a day in 1973 and 8,973 in 1974. To meet expanding demand, import of crude oils has been growing rapidly. Preliminary data indicate crude imports of nearly 3.3 million barrels a day in the second quarter of 1973. For 1972 imported crude oil was 18.8 percent of all crude oil refined domestically. This may increase to nearly 30 percent by 1974.

Table 6 shows that our foreign sources of crude supply are principally Canada. Venezuela, North Africa and the Middle East. As imports from the Western Hemisphere are currently near maximum levels, most of our incremental crude oil imports will come from the Middle East. While Middle East reserves are large, facilities are little more than adequate to produce and handle growing world crude oil requirements. For purposes of this study, it is assumed that needed crude imports can be sustained through the winter. However, producing nations are beginning to weigh the economic and political significance of their petroleum resources, and there is a potential for selected curtailments or interruption of oil flows from foreign sources.

Even though imports can be available, the substitution of foreign for domestic crude oil may adversely affect the ability to use our domestic refineries to the greatest possible extent. Much of the Nation's refinery capacity is designed to process only the low sulfur crudes which are predominantly produced domestically. Some refineries are incapable of processing the high-sulfur crude which may be available for import.

### *Refinery operations*

Actual domestic production of distillate is most strongly affected by domestic refinery capacity and its rate of utilization.

Following a prolonged period of excess refining capacity, the United States now finds itself with insufficient capacity to refine all the petroleum products which it requires. Lagging refinery construction has been attributed to a variety of factors including public protests against their construction on environmental and aesthetic grounds, lack of economic incentives, and uncertainty with respect to needed incremental volumes of crude oil under previous crude oil imports controls.

As of early this year, no construction was underway, and no firm plans announced, for any new refinery in the United States despite projections of demand growth of nearly a million barrels a day each year. Major revisions in oil import controls in April were designed to induce refinery construction. They quickly elicited a number of announcements of new facilities or expansions. However, none of these will be in operation during the coming winter.

A number of refineries are debottlenecking and expanding existing facilities, and these generally can be accomplished more expediently than new construction. The Office of Oil and Gas estimates that refineries nationwide had capacity to process 13.6 million barrels of crude oil in the third quarter of this year.

About 150,000 barrels a day of capacity may be added in the next six months. A year from now capacity may approximate 14.0 million barrels a day. Clearly, significantly increased refining capacity is not expected during the coming winter. The key factor then during the coming winter is the rate at which we utilize our existing refining capacity. Table 7 summarizes historical and expected refinery operations and the levels of refinery capacity use. While refinery rates hovered around 85 percent during most of 1971, during 1972 rates increased dramatically—reaching almost 94 percent during the 3rd quarter of 1973. However, it is unlikely that these rates can be maintained throughout the winter because:

These rates are achieved by deferring current maintenance and units may need to be shut down in the near future for maintenance;

Attainment of high operating rates depends on avoidance of unexpected capacity losses from events such as hurricanes, floods, fires and equipment failures. Such events, though unpredictable, do occur. Indeed, equipment failures seem to increase in frequency when high operating rates are maintained for prolonged periods; and

Increased dependence on sour imported crudes will result in the underutilization of refineries which are not designed for sour crudes. Some refineries will operate only to the extent to which sweet crudes are available Others, in an effort to utilize available crudes, will experience capacity reductions and increased maintenance.

In this forecast of domestic distillate production, refinery operating rates have been projected by a regional analysis of refining capacity and crude oil availability. A winter season United States operating rate of 91.7 percent, will be used for the base case. Furthermore, it is assumed that the operating rate will continue to decline through 1974 so that the rate in the Spring quarter will be less than that in 1973.

Under fortuitous circumstances this rate might be as much as 2 percent higher. Refiners usually have an economic incentive to operate at higher rates provided they can obtain appropriate quality crudes. Less fortunate circumstances could readily reduce operations 2 percent or more. Hence, 2 percent higher and lower than the projected rate are considered as alternate possibilities later in the supply analysis.

A word of caution is needed in evaluating these operating rates. They are calculated using specific procedures and definitions of the U.S. Bureau of Mines. Capacities used herein denote a refinery's capacity to process crude oil. However, these same distillation units also are commonly used to process other oils, generally natural gas liquids and unfinished oils. Capacity so used, of course, is not available for crude oil processing. When U.S. refineries in aggregate process crude oil at 92 percent of capacity, their distillation facilities may be as much as 98 percent utilized.

Regardless of the percent of refinery capacity use, refiners can still vary their output of petroleum products. Distillate fuel is but one of a wide range of products produced from crude oil. About 23 percent of crude oil processed is refined into distillate fuel; a little less than half is produced as gasoline. Refiners have some capability to alter their processing to vary these proportions and maximize specific products such as distillate fuel oil. However, such decisions will be based not only on distillate needs, but also needs for other petroleum products—the most important being gasoline. In the base case forecast, it is assumed that distillate yields will not be increased to a point beyond which gasoline production would be insufficient to meet gasoline demand through next summer. The following assumptions were used in estimating gasoline production:

A 5.9 percent increase in 1974 requirements through next summer. This compares with a 6.0 percent increase in calendar year 1972 and an estimated 6.6 percent in 1973;

Imports reaching 150,000 barrels per day, up from 68 thousand barrels a day in 1972; and

Inventories of gasoline by the end of the summer not dropping to less than 202 million barrels, the level of stocks that are expected to be needed to avoid widespread shortages.

Given these assumptions, refinery gasoline yields in Districts I–IV are estimated at 49 percent of crude and unfinished oils processed in the 1974 summer quarters and unusually high yields of 47.4 percent and 48.1 percent, respectively, in the fourth and first quarters this winter.

These high gasoline yields plus historical yields of other products such as kerosene and jet fuels, cannot be produced without some sacrifice in the production of distillate fuels. Under the conditions outlined above, distillate yields during the winter are expected to average 22.4 percent. This compares with a yield of 23.4 percent in the year-earlier period. These yields will be used for the base case. However, distillate yields can be increased at the expense of other products. It is estimated the maximum distillate yields through the winter in Districts I–IV might exceed 26 percent. This yield will be used in the sensitivity analysis of this forecast.

Given these factors it is possible to forecast domestic distillate production throughout the winter. The production of distillate through the winter is shown in Table 8.

### THE WINTER FORECAST

The demand forecast derived previously, combined with the refinery production estimates above can be combined to estimate the supply/demand situation this winter. As previously indicated, all of these forecasts will show that demand exceeds supply by some margin and must be made up by imports. The following section estimates needed imports under a base case and also for several alternative outcomes. The section following assesses the likelihood of obtaining these imports.

### *Winter situation and import needs*

Inventories as of August 24, 1973, are 173.4 million barrels. If refinery capacity is used as expected and inventories by the end of March 1974 are to be maintained at 101 million barrels (to assure no shortages due to insufficient inventories) imports of distillate must average more than 650,000 barrels per day during the winter season.

Table 8 summarizes the overall supply/demand situation for the base case—91.7 percent refinery use and a normal winter.

Table 9 summarizes the net effect on imports given different assumptions about the weather, refinery use and yield ratios. The table only looks at PADs I–IV (The U.S. east of the Rockies)—this area is of most importance due to its great reliance on imported distillate. As indicated, if refinery use can rise 2 percent above the base projection (Case A) imported distillate needs would be reduced by 200,000 barrels per day. This is because both crude runs and yields of distillate are increased due to sufficient gasoline already being produced.

On the other hand if capacity use drops by 2 percent distillate (Case B), import needs will rise to 681 thousand barrels per day. Case B gasoline imports will also need to increase by 65 thousand barrels a day to 215 thousand barrels a day during the first three quarters of 1974 because base case gasoline production could not be sustained at the lower refinery operating rates. Imports of other products will also have to be 85 thousand barrels a day higher than in the base case to offset lower domestic production.

An additional option would be to increase distillate production at the expense of other products. If distillate yields were increased to maximum historic levels in each refinery district, yields in Districts I–IV would average 26.2 percent for the winter. Under these operating conditions, distillate production would be increased 256 thousand barrels a day. The increased production could be used either to meet higher demand or to replace a like volume of imports. Case C shows that if demand were held constant imports could be reduced to 375 thousand barrels a day.

Of course, if refining operating rates could not be increased, the lower production of other products which would result would have to be offset by increased imports of other products. In Case C, other products would need to rise 256 thousand barrels a day of which more than 100,000 barrels a day would need to be gasoline. As it would be extremely difficult to attain these import levels, there would be an increased probability of a summer gasoline shortage.

The effects of weather are also shown. If weather is abnormally warm (5-year average) and refinery throughput can be kept at the higher rate, distillate import needs would be 301 thousand barrels during the winter. This compares with 400 thousand barrels a day of imports during the last winter. On the other hand, a cold winter and low refinery use rates could together increase import needs to 803 thousand barrels a day during the winter, an 88 percent increase over the previous winter. Clearly, even under the most fortuitous circumstances, imports must approximate last year's level and under less favorable conditions, greatly increased imports are necessary.

### *Availability of imports*

Table 10 summarizes the sources of U.S. distillate imports in 1971 and 1972. During 1971 and 1972, 80 to 85 percent of U.S. imports were from the Caribbean, with most of the remainder from Europe. In response to a cold fourth quarter of 1972 and eased import restrictions, imports (during the first quarter of 1973) jumped to 533 thousand barrels a day, over one-third of which came from Europe. The first quarter surge raised the average import rate for the winter to 400 thousand barrels a day. A peak of 672,000 barrels a day was attained in February 1973. Controls on distillate imports were suspended effective January 1, 1973.

For the coming winter, distillate imports must again come from these same sources—Europe and the Caribbean.

Current data on foreign operations and product availability are sketchy, but a reasonable estimate can be approximated for both the Caribbean and Europe.

Runs to stills in Venezuela and the Netherlands West Indies may average about 2.2 million barrels a day. Yields of distillate are low, after allowances for distillate blended with residual fuel. About 9 percent of crude runs result in distillate available for export. Thus, total availability may approximate 200 thousand barrels a day. Historically, about 40 percent of available distillate is shipped to the United States.

With revised import rules in the United States this percentage could be increased but only by diversion of shipments from other markets. A 60 percent U.S. share appears to be the highest reasonable estimate and would result in imports from current production of some 120 thousand barrels a day. By comparison, imports in the first quarter of 1973 averaged 151 thousand barrels daily. However, some of this was from inventories. Some inventory drawdown is likely in the 1973–74 winter, but stocks could be a lesser factor than they were a year ago. For purposes of this forecast, about 120 to 150 thousand barrels a day seems to be a range of imports.

Imports from elsewhere in the Caribbean, Central and South America, including Puerto Rico averaged 61 thousand barrels a day in 1971 and 66 thousand last year. Receipts from these areas rose to 162 thousand barrels daily in the first quarter of 1973. Runs aggregating about 1,730 thousand barrels a day, at a 15 percent distillate yield would produce 260 thousand barrels daily of which 50 will be required for blending. If 80 percent of available supplies are shipped to the United States our imports would approximate 165 thousand barrels a day. An additional 40 thousand barrels a day may be available from the Bahamas in the last half of the season when new capacity becomes operational. Inventory drawdowns could add to this rate, but those may be offset by rising quantities reserved for local consumption, particularly in Puerto Rico.

Europe presently obtains a distillate fuel oil yield of 28 to 29 percent on crude runs. This has risen from 25 percent 4 or 5 years ago, undoubtedly reflecting the increased use of light African crudes. Refinery yields have been increasing in direct proportion with indigenous demand for distillate in each succeeding year.

Europe imports more distillate fuel oil than it exports. Imports total about 300 thousand barrels a day. The largest single supplying area is Eastern Europe, although the Caribbean is still a significant source. Until recently exports of distillate fuel oil from continental Europe have averaged only about 30 to 40 thousand barrels a day.

U.S. distillate fuel imports from Non-Communist Europe have recently occurred in the following volumes:

| | Thousands of Barrels Daily |
|---|---|
| 1970 | 5.8 |
| 1971 | 12.5 |
| 1972 | 13.2 |
| 1973 (1st Qtr.) | 167.8 |

As volumes rose sharply early in 1973, U.S. importers tried selectively to obtain lower sulphur distillates derived from African crudes. Nonetheless, it was necessary to import significant amounts of distillate in the 0.4 to 0.5 percent sulphur range and the average distribution was about the same as last year. Some of this was blended in the U.S. while the rest was used in areas where sulphur specifications were not restrictive.

The large volume of distillate fuel shipments from Europe to the U.S. in the early part of 1973 was facilitated by the mild winter in Europe. In view of the fairly well matched balance between refinery production and demand in Europe, it is doubtful that any large increase of distillate fuel exports could be expected. A maximum availability in the last quarter of this year and the first quarter of 1974 may be about the 165 MB/D rate experienced earlier this year. A cold winter would sharply reduce this availability. Very possibly European supplies may be conserved for local use in the early part of the winter with excesses being released for late season export if weather does not prove to be unusually cold.

This estimate assumes a refinery operating rate of about 85 percent, approximately equal to estimates of current operations. It further assumes that Common Market Countries will remain on schedule in their efforts to raise petroleum inventories to 90 days' supply by the end of 1974.

After allowances for other imports from minor supply sources, total foreign distillate available to the U.S. may approximate 550 thousand barrels a day. Use of these supplies will necessitate minor sulphur variances similar to those experienced last winter.

With European cooperation, exports to the United States could be increased by raising refinery operating rates (assuming crude oil availability) or by postponing European inventory objectives.

Summarizing the above and making allowances for relatively small imports from other areas, it is estimated that 550 thousand barrels a day of distillates may be available for import into the United States. It must be stressed that these estimates are potential volumes under normal temperature conditions worldwide. They assume that U.S. importers can maintain their buyer position in world markets, that U.S. price regulations will provide sufficient incentives for imports, and that high sulphur oils, particularly from Europe and the Middle East can be accommodated in the U.S. market. They indicate in total that we may be able to maintain approximately the same level of imports throughout the winter that we obtained for our highest quarter imports last year.

### *Possibility of reduced import availability*

There can be no assurance that 550 thousand barrels a day of distillate fuel will be available for import to the United States. Among factors which could reduce this availability are insufficient worldwide crude oil supplies, lower-than-assumed refinery operating rates, colder-than-normal weather in Western Europe, or a conscious policy of European nations to conserve available oil supplies in general and of low-sulphur fuels in particular.

As indicated, the projection of 165 thousand barrels a day from Europe assumes an 85 percent refinery operating rate. While this is a reasonable figure, slightly higher than the 84.8 percent rate attained in 1971, it is nonetheless considerably higher than the 79.8 percent rate indicated by preliminary 1972 data. If operations should average only 82 percent, it is probable that no distillate fuel would be available from Europe.

European demand for distillate fuel may approximate 4.7 million barrels in 1974, more than 40 percent more than U.S. demand. As a lesser portion is used for space heating, heating demand may not be greatly different from that in the United States. Accordingly, a moderately cold winter might reduce availability of U.S. shipment to a quarter of the base case estimate. A considerably colder winter could eliminate European exports and intensify European competition for supplies from the Caribbean. If the United States retained only its 40 percent position in supplies available from Venezuela and the Netherlands West Indies, rather than the 60 percent projected in the base case, our receipts from the area would be reduced by 50 thousand barrels a day. A combination of moderately cold weather and reduced refinery operating rates could have a similar impact. Cold weather in Eastern Canada could also increase competition for Caribbean supplies.

Overall, it is not unrealistic to recognize that circumstances could eventuate which would reduce U.S. access to distillate fuel imports to some 335 thousand barrels a day, 270 thousand barrels a day less than projected base case requirements.

Table 12 presents the range of import potentials. It shows (1) supplies equal to the 1972–73 winter, (2) lower import levels which could eventuate from higher European requirements or lower European production, (3) "most likely" availability, and (4) maximum supplies which could be generated relaxed sulphur specifications and economic incentives.

### *Possibilities of increased import availability*

Sulphur levels for both distillate and residual fuel may play an important role in our ability to import higher levels of distillate this winter.

Low sulphur residual oil production in the Caribbean is in part met by blending distillate fuel oil with residual. This blending is also used to improve other characteristics of the oil. While estimates vary, there are indications that between 75 and 200 thousand barrels of distillate might be made available from the Caribbean at the present time, if the residual fuel with which this distillate is now being blended can be sold instead with a higher sulphur specification.

Increasing the level of sulphur allowable in distillate can also increase our capability to import the quantities of distillate to meet demand.

The sulphur in the distillate imported last winter was:

[In percent]

| | 0.3 S or below | 0.3–0.5 S | 0.5–1.0 S | Over 1.0 S |
|---|---|---|---|---|
| 4th quarter 1972 | 70 | 25 | 5 | (1) |
| 1st quarter 1973 | 71 | 26 | 3 | (1) |

[1] Below 1 percent.

### EXHIBIT 1

Quite obviously our demands are being placed on the lowest sulphur production. Table 11 indicates that there are only a few areas where even lower sulphur fuels will be required this year as compared with last year. Therefore the distribution of aggregate demand by sulphur content will not change appreciably.

Much of Europe's unused refinery capacity is in Italy where refineries operated at only 70 percent capacity in 1972. Italian refineries could produce up to 51,700 B/D of distillate per 5 percent increase in capacity, based on Arabian Light crude. Other products, especially high sulphur residual fuel, would also be produced and it might be difficult to dispose of them. This in fact could become the actual constraint on greatly increased Italian production. The incremental crude would probably have to come from the Middle East as shortage of North African crude is a contributing reason for their current low operating rates. Tanker movements of crude from the Middle East to the Eastern Mediterranean, and of products to New York would be expensive and the distillate would contain about 0.8 percent sulphur.

In summary, modest local relaxations of sulphur standards will be needed to permit utilization of the 550 thousand barrels a day projected as a base case. More significant relaxations of sulphur standards will be needed, however, if additional quantities of distillate, which are now blended with residual fuel to reduce its sulphur content, are to be freed for import and use as distillate. Lower sulphur standards for distillate will also be needed if we are to utilize greater distillate supplies from Europe, especially from Italy, which some extraordinary measures might make available.

World distillate prices already exceed ceiling prices for domestically produced product. It is essential, therefore, that price regulations clearly permit higher import costs to be "passed through." Without this, importers will lack incentives to seek and import foreign supplies.

Given an early and sufficient relaxation of sulphur regulations and sufficient economic incentives, imports might be increased by as much as 400 thousand barrels a day, divided equally between the Caribbean and Italy. However, estimated supplies from neither of these sources can be increased readily.

### *Potentials for reduced demand*

A significant potential exists for balancing supplies and requirements through a more efficient use of fuels.

Assuming that imports of 550 thousand barrels a day are attainable the United States winter distillate requirements could be met in full if weather proved to be moderately warmer than normal or if refinery operations are sustained at unexpectedly high rates. On the other hand, shortages could exceed 270 thousand barrels a day with cold weather and reduced refinery rates; if imports were only at the lowest project rate, the distillate shortage would approximate 500 thousand barrels a day. The base case indicates a 105 thousand barrel shortage.

Any shortage of fuels can create disturbing dislocations in the distribution system and can be extremely discomforting to those who are unfortunate enough to live or work in the areas in which they occur. Nonetheless, these projected shortages must be kept in perspective when remedial options are evaluated.

A shortage of 105 thousand barrels a day is only 2.6 percent of projected U.S. distillate demand; an extreme shortage of 500 thousand barrels a day is more than 12 percent of demand.

A national determination to conserve fuels could quickly eradicate a 2.6 percent shortage and could reduce even the larger figure to manageable proportions. Some imprecise but indicative calculations demonstrate the potentials for energy conservation.

In oil heating areas, normal weather in October through March averages 5,230 degree days. If all heating customers reduced indoor temperatures only two degrees for each of the 182 days in those months, 364 degrees of heat, or almost 7 percent of the normal season total could be saved. The seasonal fuel saving would approximate 210 thousand barrels a day.

Savings of the same order of magnitude could be achieved if storm windows and doors were added to all heated structures now lacking them. Further savings are possible through improved thermal insulation.

Heat conservation measures need not be limited to users of oil heating. Fuel savings in gas space heating would reduce levels of gas curtailments, thereby reducing the call upon heating oils to replace gas.

Additional savings of distillates are possible through the substitution of other fuels which are more readily available. The President has called for greater use of coal and proposals are currently being considered to curtail conversions to low sulphur oils from other fuels where such conversions are not needed to meet primary air quality standards. Further refinery operations are flexible enough that to some degree each barrel of gasoline saved would permit the production of an additional barrel of distillate.

A serious fuel conservation effort, enlisting the participation of all citizens, could greatly reduce the threat of fuel shortages, except under extreme conditions, for 1974. Patently, such a volunteer effort cannot be expected to be fully effective, but conservation nonetheless has an obvious and important contribution to make in any national energy program.

TABLE 1.—U.S. DISTILLATE DEMAND

[1,000 barrels/day]

| | Heating | Industrial | Electric utilities | On highway diesel | Other | Total |
|---|---|---|---|---|---|---|
| 1960 | 1, 196 | 94 | 11 | 100 | 471 | 1, 872 |
| 1965 | 1, 304 | 116 | 10 | 202 | 524 | 2, 156 |
| 1966 | 1, 295 | 129 | 10 | 223 | 561 | 2, 218 |
| 1967 | 1, 373 | 123 | 8 | (1) | (1) | 2, 272 |
| 1968 | 1, 395 | 125 | 23 | 339 | 504 | 2, 386 |
| 1969 | 1, 402 | 116 | 33 | 380 | 536 | 2, 467 |
| 1970 | 1, 428 | 120 | 68 | 408 | 516 | 2, 540 |
| 1971 | 1, 435 | 136 | 97 | 449 | 544 | 2, 661 |
| 1972 [2] | 1, 535 | 155 | 150 | 506 | 571 | 2, 917 |
| 1973 [3] | 1, 505 | 185 | 200 | 535 | 590 | 3, 015 |
| 1974 [3] | 1, 555 | 220 | 300 | 575 | 631 | 3, 281 |

[1] Not available.
[2] Estimated.
[3] Forecast.

Source: Bureau of Mines.

TABLE 2.—U.S. DISTILLATE DEMAND—PERCENT ANNUAL GROWTH

| | Heating | Industrial | Electric utilities | On highway diesel | Others | Total |
|---|---|---|---|---|---|---|
| 1960 to 1965 | +9.0 | +23.4 | −9.1 | +2.0 | +11.3 | +15.2 |
| 1966 | −.7 | +11.2 | 0 | +10.4 | +8.0 | +2.9 |
| 1967 | +6.7 | −6.4 | +20.0 | (1) | (1) | +2.5 |
| 1968 | +1.6 | +1.7 | +187.5 | (1) | (1) | +5.1 |
| 1969 | +.5 | −7.2 | +43.5 | +12.1 | +6.3 | +3.4 |
| 1970 | +1.9 | +3.5 | +106.1 | +7.4 | −3.7 | +3.0 |
| 1971 | +.5 | +13.4 | +42.7 | +10.0 | +5.4 | +4.8 |
| 1972 [2] | +7.0 | +14.0 | +54.7 | +12.7 | +5.0 | +9.6 |
| 1973 [3] | −1.9 | +19.4 | +33.3 | +5.7 | +3.3 | +3.4 |
| 1974 [3] | +3.4 | +19.0 | +50.0 | +7.5 | +6.9 | +8.8 |
| 1960 to 1970 | +19.4 | +27.7 | +518.2 | +308.0 | +9.6 | +35.7 |

[1] Not available.
[2] Estimated.
[3] Forecast.

Source: Calculated from Bureau of Mines data.

TABLE 3.—ESTIMATED IMPACT OF NATURAL GAS CURTAILMENTS ON FINAL CONSUMERS, WINTER 1973-74

[Billions of cubic feet]

| Future requirements committee region | Firm | | | | Interruptible | | |
|---|---|---|---|---|---|---|---|
| | Residential | Commercial | Industrial | Electric utility | Industrial [1] | Electric utility | Total |
| New England | 0 | 0 | 2.0 | 0 | 7.8 | 0.6 | 10.4 |
| Appalachian | 0 | 0 | 26.9 | .4 | 38.9 | 18.6 | 84.8 |
| Southeast | 0 | 0 | 5.7 | 2.4 | 30.8 | 10.7 | 49.6 |
| Great Lakes | 0 | .4 | 19.0 | 3.5 | 34.9 | 8.3 | 66.1 |
| Northern Plains | 0 | 0 | 0 | 0 | 0 | 5.8 | 5.8 |
| Midcontinent | 0 | 0 | 0 | .7 | 5.7 | 30.7 | 37.1 |
| Gulf Coast | 0 | 0 | 115.8 | 129.4 | 34.5 | 0 | 279.7 |
| Rocky Mountain | 0 | 0 | 0 | 0 | .1 | 0 | 0.1 |
| Pacific Southwest | 0 | 0 | 0 | 0 | 0 | 95.3 | 95.3 |
| Pacific Northwest | 0 | 0 | 0 | 0 | .1 | 0 | .1 |
| Total | 0 | .4 | 169.4 | 136.4 | 152.8 | 170.0 | 629.0 |

[1] Includes minor volumes of curtailments to commercial consumers.

Note: Customers are listed from left to right in descending order of priority.

Source: Federal Power Commission, Bureau of Natural Gas.

TABLE 4.—U.S. DISTILLATE DEMAND BY QUARTERS AND WINTER SEASON, 1971 THROUGH 1974

[Thousands of barrels daily]

| | 1971 | 1972 | 1973 | 1974 |
|---|---|---|---|---|
| 1st quarter | 3, 695 | 3, 788 | 3, 885 | 4, 570 |
| 2d quarter | 2, 258 | 2, 406 | [1] 2, 500 | 2, 630 |
| 3d quarter | 1, 886 | 2, 011 | [2] 2, 150 | 2, 264 |
| 4th quarter | 2, 955 | 3, 458 | 3, 538 | 3, 680 |

| Winter season | Thousands of barrels daily | Percent increase |
|---|---|---|
| 1971-72 | 3, 369 | 3.7 |
| 1972-73 | 3, 668 | 8.9 |
| 1973-74 | 4, 048 | 10.4 |

[1] Estimated.
[2] Forecast thereafter.

TABLE 5.—NATIONAL TOTAL HEATING FUEL DEMAND BY FUEL TYPE IN PERCENT OF 42-YEAR AVERAGE DEMAND

| Criterion | Gas | Oil | Electricity | LPG |
|---|---|---|---|---|
| Coldest year— | | | | |
| In 100 | 109.7 | 110.6 | 109.6 | 111.4 |
| In 10 | 105.4 | 105.9 | 105.3 | 106.3 |
| In 5 | 103.5 | 103.9 | 103.4 | 104.1 |
| Warmest year— | | | | |
| In 5 | 96.5 | 96.1 | 96.6 | 95.9 |
| In 10 | 94.6 | 94.1 | 94.7 | 93.8 |
| In 100 | 90.3 | 89.4 | 90.4 | 88.6 |

Note: Data are based on fitted Gaussian normal probability distributions, for probability points corresponding to criteria listed in 1st column. Decimal digits are tentative.

Source: National Oceanic and Atmospheric Administration, Aug. 20, 1973.

TABLE 6.—SOURCE OF U.S. CRUDE IMPORTS

[Percent by country of origin]

| | Canada | Venezuela | North Africa | Middle East | Indonesia |
|---|---|---|---|---|---|
| 1966-69 | 35.2 | 28.0 | 10.3 | 16.8 | 5.4 |
| 1970 | 50.7 | 20.3 | 9.2 | 12.8 | 5.3 |
| 1971 | 42.9 | 18.0 | 10.7 | 20.2 | 6.6 |
| 1972 | 38.5 | 11.5 | 20.2 | 19.2 | 7.4 |

Note: Calculated from Bureau of Mines data.

TABLE 7.—U.S. REFINERY CAPACITY AND CRUDE OIL PROCESSING RATES, 1971-1974

[Thousands of barrels a day]

| | Refinery capacity | | | Crude oil runs to stills | | | Crude runs as percent of capacity | | |
|---|---|---|---|---|---|---|---|---|---|
| | Districts I-IV | District V | United States | Districts I-IV | District V | United States | Districts I-IV | District V | United States |
| 1971: | | | | | | | | | |
| 1st quarter | 10,799 | 2,012 | 12,811 | 9,419 | 1,717 | 11,136 | 87.2 | 85.3 | 86.9 |
| 2d quarter | 10,875 | 2,047 | 12,922 | 9,404 | 1,734 | 11,138 | 86.5 | 84.7 | 86.2 |
| 3d quarter | 10,950 | 2,082 | 13,032 | 9,543 | 1,777 | 11,320 | 87.2 | 85.4 | 86.9 |
| 4th quarter | 11,027 | 2,116 | 13,143 | 9,465 | 1,737 | 11,202 | 85.8 | 82.1 | 85.2 |
| 1972: | | | | | | | | | |
| 1st quarter | 11,215 | 2,143 | 13,358 | 9,532 | 1,833 | 11,365 | 85.0 | 85.5 | 85.1 |
| 2d quarter | 11,215 | 2,148 | 13,353 | 9,672 | 1,831 | 11,503 | 86.3 | 85.2 | 86.1 |
| 3d quarter | 11,188 | 2,159 | 13,347 | 10,119 | 1,853 | 11,972 | 90.4 | 85.8 | 89.7 |
| 4th quarter | 11,167 | 2,175 | 13,342 | 10,052 | 1,895 | 11,947 | 90.0 | 87.1 | 89.5 |
| 1973: | | | | | | | | | |
| 1st quarter | 11,250 | 2,204 | 13,454 | 10,305 | 1,888 | 12,193 | 91.6 | 85.7 | 90.6 |
| 2d quarter | 11,319 | 2,214 | 13,533 | 10,459 | 2,005 | 12,464 | 92.4 | 90.6 | 92.1 |
| 3d quarter[1] | 11,388 | 2,225 | 13,613 | 10,651 | 2,095 | 12,746 | 93.5 | 94.3 | 93.6 |
| 4th quarter[2] | 11,456 | 2,236 | 13,692 | 10,524 | 2,080 | 12,600 | 91.9 | 93.0 | 92.0 |
| 1974: | | | | | | | | | |
| 1st quarter | 11,521 | 2,246 | 13,767 | 10,491 | 2,089 | 12,580 | 91.1 | 93.0 | 91.4 |
| 2d quarter | 11,624 | 2,256 | 13,880 | 10,438 | 2,095 | 12,533 | 89.8 | 92.9 | 90.3 |
| 3d quarter | 11,719 | 2,265 | 13,984 | 10,475 | 2,105 | 12,580 | 89.4 | 92.9 | 90.0 |
| 4th quarter | 11,811 | 2,275 | 14,086 | 10,530 | 2,120 | 12,650 | 89.2 | 93.2 | 89.8 |

[1] Estimated.

[2] Forecast by the Office of Oil and Gas.

Source: Historic data from Bureau of Mines.

TABLE 8.—U.S. DISTILLATE FUEL DEMAND, WINTER 1972-73 AND PROJECTED WINTER 1973-74

[Thousands of barrels a day]

| | 4th quarter 1972 | 1st quarter 1973 | Winter 1972-73 | 4th quarter 1973 | 1st quarter 1974 | Winter 1973-74 | Percent increase |
|---|---|---|---|---|---|---|---|
| Domestic demand | 3,458 | 3,885 | 3,669 | 3,538 | 4,572 | 4,048 | 10.4 |
| Exports | 4 | 6 | 5 | 4 | 4 | 4 | |
| Total demand | 3,462 | 3,891 | 3,674 | 3,542 | 4,576 | 4,052 | 10.3 |
| Stock change | −391 | −478 | −434 | −152 | −905 | −524 | |
| Refinery production | 2,800 | 2,880 | 2,840 | 2,864 | 2,883 | 2,873 | 1.2 |
| Imports | 271 | 533 | 400 | 526 | 788 | 655 | 63.8 |
| Total supply | 3,071 | 3,413 | 3,240 | 3,390 | 3,669 | 3,528 | 8.9 |
| Runs to stills | 11,947 | 12,193 | 12,068 | 12,600 | 12,580 | 12,590 | 4.3 |
| Distillate yield from crude and unfinished oils | 22.9 | 23.8 | 23.4 | 22.2 | 22.7 | 22.4 | |

Source: Office of Oil and Gas.

TABLE 9. WINTER DISTILLATE FUEL SUPPLIES IN DISTRICTS I-IV

[Thousand barrels daily]

| | Demand | Supply | | | | | |
|---|---|---|---|---|---|---|---|
| Winter | Including exports and transfers | Total | Refinery production | Other domestic | Imports | Stock change | Million barrels of ending stocks |
| 1971/72 | 3,122 | 2,530 | 2,264 | 14 | 252 | −592 | 89.4 |
| 1972/73 | 3,388 | 2,970 | 2,560 | 11 | 399 | −418 | 101.5 |
| Projected 1973/74: | | | | | | | |
| Base case: 91.7 percent refinery operations | 3,707 | 3,120 | 2,579 | 10 | 631 | −537 | 90.0 |
| Case A: plus 2 percent refinery operations | 3,707 | 3,120 | 2,789 | 10 | 421 | −537 | 90.0 |
| Case B: minus 2 percent refinery operations | 3,707 | 3,120 | 2,529 | 10 | 681 | −537 | 90.0 |
| Case C: 91.7 percent refinery operations, maximum distillate yields | 3,707 | 3,120 | 2,835 | 10 | 375 | −537 | 90.0 |
| Case D: plus 2 percent refinery operations, 1 year in 5—warm weather | 3,587 | 3,000 | 2,789 | 10 | 301 | −537 | 90.0 |
| Case E: minus 2 percent refinery operations, 1 year in 5—cold weather | 3,829 | 3,243 | 2,529 | 10 | 803 | −537 | 90.0 |

Source: Office of Oil and Gas.

TABLE 10.—U.S. IMPORTS OF DISTILLATE FUEL

[Thousands of barrels daily]

| | 1970 | | 1971 | | 1972 | | 1973 1st quarter | |
|---|---|---|---|---|---|---|---|---|
| | MB/D | Percent of total | MB/D | Percent of total | MB/D | Percent of total | MB/D | Percent of total |
| Caribbean: | | | | | | | | |
| Bahamas | 0.5 | | 6.5 | | 3.9 | | 18.8 | |
| BWI | | | | | 2.1 | | | |
| NWI | 26.7 | | 35.2 | | 33.8 | | 70.1 | |
| Panama | .5 | | .5 | | .1 | | 1.3 | |
| Puerto Rico | 15.1 | | 22.9 | | 26.0 | | 36.6 | |
| Venezuela | 58.0 | | 60.7 | | 49.2 | | 80.6 | |
| Virgin Islands | 12.0 | | 15.5 | | 23.9 | | 81.3 | |
| Trinidad and Tobago | 10.7 | | 15.4 | | 7.6 | | 12.3 | |
| Subtotal | 123.5 | 84 | 156.7 | 84 | 146.6 | 81 | 301.0 | 57 |
| Other Western Hemisphere: | | | | | | | | |
| Canada | 13.5 | | 7.3 | | 6.2 | | 7.4 | |
| Colombia | .7 | | .5 | | 2.1 | | 5.0 | |
| Brazil | 0.1 | | | | 0.4 | | 6.3 | |
| Subtotal | 14.3 | 10 | 7.8 | 4 | 8.7 | 5 | 18.7 | 4 |
| Europe: | | | | | | | | |
| Noncommunist | 5.8 | | 12.5 | | 13.2 | | 167.8 | |
| Communist | 3.5 | | 5.4 | | 8.6 | | 29.8 | |
| Subtotal | 9.3 | 6 | 17.9 | 10 | 21.8 | 12 | 197.6 | 37 |
| Middle East | | | 2.0 | 1 | 3.3 | 1 | 13.7 | 2 |
| Other | .3 | | 1.5 | 1 | .4 | 1 | 1.5 | |
| Total | 147.4 | 100 | 185.9 | 100 | 180.8 | 100 | 532.5 | 100 |

Source: Office of Oil and Gas.

TABLE II.—EXPECTED CHANGES IN STATE SULFUR STANDARDS[1]

| State AQCR or area[2] | Distillate regulations | |
|---|---|---|
| | 1972-73 | 1973-74 |
| Maine: Metropolitan Portland | 2.5 | 1.5 |
| New York: Suffolk County | 1.0 | .2 |
| Nassua-Rockland-Westchester | .36 | .2 |
| Pennsylvania: City of Philadelphia | .3 | .2 |
| Michigan: Wayne County (Detroit) | ([3]) | ([3]) |
| Tennessee: Davidson County (Nashville) | 2.0 | 1.0 |
| East Tennessee (excluding Knox County) Tennessee River valley—Cumberland | | 4.8 |
| Mid Tennessee (excluding Davidson County) West Tennessee; Memphis | | 4.8 |
| South Dakota | | 2.7 |

[1] Based on interpretation of State implementation plans.

[2] These areas represent approximately 13 percent of the U.S. residual oil consumption and approximate 7 percent distillate consumption (excluding Detroit which has no change in distillate regulations).

[3] No change.

Source: Environmental Protection Agency.

## THE BIG PICTURE: FOCUS ON HAWAII

**Mr. INOUYE.** Mr. President, 3 months ago Mr. William "Pat" Patterson, editor-in-chief of the Saturday Review, delivered an address at the 68th Annual Membership Meeting of the Hawaii Visitor's Bureau.

Pat Patterson is acknowledged throughout the industry as one of tourism's most articulate and astute observers. Through his travels, he has developed a keen analytical mind which dissects industry problems in a way that every one can understand.

In his address to the Bureau, Mr. Patterson recognized both the potential of and the dangers to our Nation's tourist industry. The United States is engaged in a global competition to attract visitors from abroad, and Mr. Patterson correctly warns us to preserve those beauties which make the several States of the United States such natural visitor destinations.

I ask unanimous consent that Mr. Patterson's remarks be printed in the the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### THE BIG PICTURE: FOCUS ON HAWAII

(By William D. Patterson)

HONOLULU, HAWAII,
*June 15, 1973.*

Mr. Chairman, Members of the Royal Court, Senator Inouye, Lieutenant Governor Ariyoshi, members of the State Legislature, distinguished guests and friends of travel, especially friends of Hawaii tourism.

Let me say first of all that this beautiful luncheon spectacle could not happen anywhere in the world except in Hawaii. Here I am, a malihini, sitting between two keiki o kaainas, and observing the truly exotic entrance of the Royal Court to the dramatic calls of the Royal Crier, and to me it was watching the coming true of a dream of the ancient days in the islands. I am reacting to this as one who knows Hawaii fairly well and who has been here a number of times. I want to say this is an extraordinary setting for a very important occasion, an absolutely beautiful affair that could only happen in Hawaii.

I am delighted to be here and I say to you, "Aloha, Shalom, Shalom".

That blend of two of the world's most famous greetings reveals that, in fact, I have come to this luncheon almost directly from Israel, a twelve-hour time change from Tel Aviv to Honolulu. According to my Circadian rhythms it is now one o'clock in the morning and this party is starting to swing. La heim, Welakahao.

In that spirit let me confess that I tore up an orderly and reasonably well-structured speech last night that I had prepared for this important luncheon. Instead, last night I took a few surviving shreds and sought to stitch them together into a possibly more urgent focus: A Big Picture of Hawaii and World Tourism as I see them today, with some critical new dimensions. I shall try to open up a larger and more demanding vision of Hawaii and its tourism role as they seem to me to be taking shape and emerging. In this connection I found particularly helpful the very interesting tourism forums and panels held here yesterday. I found them highly professional, informative and stimulating.

In Jerusalem and Tel Aviv I was attending the Third Prime Minister's Economic Conference. It was dedicated to the continued economic development of Israel. I had the privilege of chairing the U.S. Tourism Delegation to the conference. Tourism was a major part of the Conference's deliberations.

There were 120 delegates to the Tourism Section alone, from 14 countries. There were over 1,000 delegates, of which some 250 were from the United States, to the entire Conference. The reason that tourism occupied so much attention at this important Conference, only the third in the 25 year history of Israel, was that tourism is the single largest earner of net foreign income for Israel and is a vital sinew of its nationhood.

Tourism, as we all know, is a world wide phenomenon, involving expenditures of over $30 billion last year for 198 million foreign visits to the globe's leading tourist destinations, expenditures that again made tourism the largest single item in world trade. Israel, against this background, has proved to be a useful vantage point for me to start focusing in a fresh way on tourism in Hawaii.

Israel has to be one of the most exciting countries in the world to visit. The Israelis are marvelous people of seemingly inexhaustible energy who have been struggling for 25 years to create a nation in a harsh desert land surrounded by implacable enemies. Their achievement is breathtaking. Progress is evident on every side, including traffic jams, no parking space, inflation, congested airports, pollution and erosion of the environment, a beautiful Mediterranean beachfront that has been built up heavily with highrise hotels by world famous names as they have also done in Waikiki and Miami Beach. There is a growing feeling among the people of Israel that the country is being over-run by foreign visitors rather than Arabs.

One remarkable tribute to Israel and the peaceful powers of tourism is the fact that more than 150 thousand Arab tourists from neighboring Moslem lands visited Israel peacefully last year. And they are pouring in in even larger numbers this year to witness the miracle of Israel's 25th anniversary and enjoy the country's myriad recreational resources as well as visit the holy Moslem shrines in Jerusalem. Yet the Arab governments, which permit although they do not welcome this traffic, refuse all other forms of peaceful cooperation offered by the Israelis for the mutual economic development of this region in the interest of Israelis and Arabs alike. Only the peaceful thrust of tourism has been able, to date, to cut through the miasma of hate, fear and ignorance that haunts the Middle East and the world as we enter a critical new phase with the Arab Oil powers that Defense Minister Dayan referred to at the conference as a new drama titled, "Oil and Sympathy". At the same time Israel's Ministery of Tourism was battling a widespread sense of complacency that tourism is automatically assured of growth and need not be continuously promoted and nurtured to reap its rich and essential benefits.

I hope that some of these things I have mentioned about Israel sound familiar to some of you here in Hawaii. I said to an Israeli Official, "What is it about Man that makes him turn presumably pure ideal progress into a mixed blessing?" Perhaps Oscar Wilde was right when he said, "Experience may be the best teacher, but it only teaches us those things we least want to know".

In a wide ranging analysis of current global political situations Foreign Minister Abba Eban argued that the most significant trend in the world today is the visible shift by the great powers from a strategy of military pressures and ideological confrontation to a strategy of economic cooperation and peaceful competition as the best means of achieving the national goals and the well-being of their people. In a shrinking atomic world, adventurism has become too dangerous a game to play seriously. Trade, communication and negotiation, instead of confrontation, seem to offer the world's leaders the only feasible alternatives in the continuing struggle to enhance their influence and improve the standard of living their constituents more and more insistently demand.

Reflecting upon Eban's impressive analysis last night, it seemed to me to translate inexorably into a powerful message for this luncheon today and for all leaders of tourism at this moment of historic change and challenge in the world.

The Chinese ideograph for change combines the characters of danger and opportunity. That combination seems to me the prospect confronting Hawaii and other major travel destinations involved today in the seamless webb of tourism and trade being spun irresistibly around the globe by the commercial jetliners and the socio-economic evolution of contemporary society with its greater leisure, higher education and increasing income.

We are here to reason together frankly as friends and colleagues. So let us look frankly at the mixture of danger and opportunity confronting the people in this room. As economic competition becomes a basic factor in global strategy today, the peaceful force of tourism must move boldly and consciously on to the world's stage. It is too powerful a force for economic progress and peaceful communion to stand on the sidelines of history. Your own Senator Inouye has been a perceptive student of this trend as the super-economic powers in the globe maneuver for position in a world of political detente and developing opportunity for economic benefits.

The European Common Market, Japan, the Soviet Communist community and the United States are the super-economic powers today, with China presumably standing in the wings. The impact of this mounting competition and rivalry is already felt by the dollar: devalued and vulnerable because of U.S. payments, trade and travel deficits. Today's papers also reported the impact on Japan of the economic struggle going on in the world with Japan's first modern trade deficit and Tokyo's decision to lift their recent voluntary restraints on the export of Japanese products, particularly to the United States.

One of the resources we have for the coming economic struggle is the commitment of the United States to the freedom of travel and the preeminence of the United States as the world's number one destination, for which Hawaii is a remarkable two-way bridge and peaceful gateway to some to the most crucial areas on the globe, as the current visit here of Chinese journalists and diplomats is dramatizing.

In the modern context of global tourism, from which the U.S. with the help of Hawaii earned over $3 billion in foreign visitor payments last year, an all-time record for any nation, Hawaii should also think of itself as one of the world's major tourist destinations—a sort of nation state. After all, overseas tourism for Hawaii is the foundation of your largest industry: an industry employing directly and indirectly over 40,000 of your citizens, with a record 1,245,000 visitors pouring at least $755 million into your economy, benefiting all sectors of your private industry and agriculture, generating $106 million in taxes for public services, and significantly shaping the character and quality of life for your citizens. Tourism, in fact, probably generates close to $1 billion in activity in Hawaii. I have been discussing this with Economist Tom Hitch, who is engaged in a fresh and imaginative study of the enormous role of tourism in the Hawaiian economy. We feel in looking at some of the aspects of this activity that it is certainly over $1 billion a year.

This is the social and economic force that the people in this room are managing. You are custodians, whether in the private or public sector, of a fundamental life force for Hawaii; for its peaceful, cultural and economic development. This is part of the change going on in the world which is actually under-the-surface news of greater significance than the daily headlines of war, inflation and social turbulence.

Man's relationship with his world environment, his social institutions and himself is changing dramatically. Obviously, change in travel, as a major human institution, must be part of this process. It is no more immune to change than other great human endeavors and social institutions are today. And its freedom must be protected from restrictive pressures by eternal vigilance. The United Nations has said, "Travel is a basic and most desirable human activity deserving the praise and encouragement of all governments and all pople". That is a noble statement and it indicates a new direction in which nations and governments are now moving. A direction in which, in my judgment, Hawaii must move. Tom Hamilton this morning examined most interestingly in his conference remarks the historical difficulty tourism has suffered in gaining the measure of public understanding and official acceptance its vast scope would clearly seem to deserve.

My thought is that tourism has suffered from the very outset from the widespread attitude that tourism only involves the frivolous marginal playtime activities of the idle rich, of the beautiful people of the jetset. An image doesn't have to be true to be persuasive or pervasive.

In a society traditionally governed by the Puritan work ethic, it has been hard to take seriously a business based on people holidaying away from work even though the people in the industry worked hard and most of travel for many years was business travel. Today tourism is a basic part of the ongoing social upheaval sparked by our youth. A leisure ethic is emerging in which life enrichment and life experiences are more important elements in the new life style than materialism or things, which were the traditional value benchmarks of the long dominant work ethic.

Tourism is at the heart of the leisure ethic for it offers the widest possible range of personal enrichment through varied experiences with many cultures and peoples in different lands. It is a fundamental part of our nation's new life style, as the work ethic learns to live side by side with the leisure ethic; and we are learning. For example: it has been estimated that the spending in 1972 for travel, recreation equipment, second homes and other leisure time expenditures reached a total of $105 billion in the United States. Professor Barzun of Columbia University, in a seminar on central influences in American life, pointed out that in the last decade we have seen the beginning of the institutionalization of a leisure ethic. A leisure-time industry has sprung up to help organize this time period for the individual. Many Americans, due to the nature of their jobs in our automated economic system, find little personal satisfaction in their work and many are now searching for individual fulfillment through the use of free time.

When meaning is not found either in work or recreational pursuits, the outcome is likely to be boredom or restlessness. And boredom or restlessness for all generations can be a disruptive, dissatisfying and dangerous experience. Recently, I know the Secretary of Commerce, Frederick Dent, has been giving major consideration to this problem of job satisfaction for the workers of America in recognition that the leisure ethic, indeed, has to be meaningfully blended with the work ethic in our society and in our economy. It is this leisure ethic, as Professor Barzun so perceptively noted, that is basic as a moral rationalizer in our current society, with its Puritan inheritance, for the new life style that makes travel an urgent and necessary part of the good life.

These new critical factors of the leisure ethic and global economic competition, in which tourism has a major role to play, are at least two of the reasons I believe tourism is finally beginning to enjoy the status and public recognition it has long deserved and which many of the serious discussions at this impressive HVB Marketing Conference have exemplified.

Let me say, Jack Simpson, I have attended many meetings like this around the globe and the quality and the seriousness of purpose in the contents of this discussion were outstanding. I congratulate you and Bill Foster and others who organized this Conference. It was stimulating from beginning to end.

Another part of this serious new recognition of tourism that I referred to is the fact that Senator Inouye is the Chairman of the first Committee on Tourism and Foreign Trade in the history of the United States Senate or Congress. It is a great honor to his leadership in this field, but also it is part of the recognition that I referred to that this industry is gaining.

Hawaii has a major role to play for the United States in this era of peaceful though, stern, economic competition among the world's super-economic powers.

The National Tourism Resources Review Commission, established by the Congress and appointed by President Nixon, will report later this month the results of an exhaustive and, I think, really unprecedented two-year study of the total role of tourism in American life and our national economy. I have had the honor of being Co-Chairman of this Commission and your long associate in Hawaii in tourism, Ed Hastings, has been an active and valued member of the Commission. Senators Inouye, Javits, Magnuson and other Congressional leaders, as well as the Departments of State, Interior, Transportation and Commerce and the White House have been keenly concerned and very actively involved with the Commission study. Our scrutiny of the growing economic impact of foreign and domestic tourism on the United States national economy indicates it will rise from a $50 billion a year activity this year to a more than $100 billion a year activity by 1980. That's only 7 years away—only really day after tomorrow.

What this can mean for Hawaii, if your unique government-industry partnership through the HVB does its job, seems fantastically clear in terms of employment and living standards and the island's socioeconomic progress.

Let me suggest another more immediate prospect for Hawaii. The carefully developed forecast of the Department of Commerce indicates between 5.7 and 6.1 million overseas' visitors to the United States during 1977. And about 19 million visitors from Canada and Mexico. This vast volume is only 4 years away. And we already feel the thrust in 1973. Hawaii must help produce this growth as well as serve and benefit from it. This will be part of the major role of tourism in the coming world struggle for greater foreign exchange earnings. Such earnings are essential to the United States, to the stability of the dollar and the maintenance of our economic power and leadership. These are some of the new parameters of the great opportunity confronting Hawaii's tourism that I reflected upon last night. You are a key part of a great engine of peaceful economic progress for the United States.

But remember, I also spoke of danger.

The first danger is complacency in the government and in the industry that this will happen without a continuing major effort on your part. This is not so. You and the United States are in a fiercely increasing competition with the rest of the world, including Europe, Japan, Asia, South America, Canada, Mexico, Bermuda, the Bahamas, the Caribbean, Israel, the Middle East and the Soviet Communist area and eventually China for our share of this rich traffic which includes our own American market.

Your competition—our competition—is global.

And the stakes are so high, especially as the energy crisis and the need for Arab oil compound the Western and Asian world's need for foreign exchange earnings, that our best efforts will be required.

Complacency in Hawaii would be a crippling blow to our national interest as well as to Hawaii's own best interests, and to your great role as a peaceful bridge to the Far East and to the world for America. There's a grave danger that in the midst of this international stress you may not defend your most precious asset—your unique environment and the understanding warmth of the people of Hawaii and the Aloha spirit that set these islands apart. This will require wisdom, imagination, sensitivity and willpower, especially wisdom, on the part of both government and industry. The dangers of complacency in terms of marketing initiatives and the equally urgent need to protect your environment from the impact of growth cannot be too heavily stressed. Hawaii, of course, will and must continue to be a great recreational resource for the American people as well as its own residents.

At the same time, let me remind you that consumerism is a new political force, a powerful new marketing factor in the United States and around the world. Consumers are price sensitive and value conscious today especially the young. They refuse to be packaged like corn flakes or herded like cattle in tour groups, as your speakers stressed yesterday. Tourist consumers are seeking the fulfillment of a dream. Are you serving or exploiting that dream? You had better not forget that consumers are voters. They won't forget and your government won't, and I refer to both your Federal and State Governments. Remember, consumer-minded tourists are willing to pay for value but will challenge prices and services that do not reflect true value. This is just as true for adults as for the young and Jack Simpson's report on declining visitor's satisfaction in Hawaii yesterday flew some very important red flags on danger for all of us.

Living in Hawaii you have been granted one of the most beautiful places on earth to enjoy and to share with your visitors. But you also must protect and preserve it for yourselves now and in the future.

Are your government and your industries, including tourism, really working together to protect your land and beaches and sea and air? Or to exploit them?

Do you feel that the decision to delay construction of a new jet runway until its environmental impact can be further studied was a defeat for progress or a victory for Hawaii's unique environment?

Are you as government and industry leaders prepared to be custodians today for Hawaii's tomorrow, realizing that the health and variety of your beautiful environment are the basic asset without which tourism could no longer function as one of the islands' indispensable socio-economic assets?

Do you believe that anything that harms or debases or diminishes the ecology of Hawaii is an irreparable injury to Hawaii's tourist economy? Do you believe that hau and monkey-pod trees have as much rights as buildings and shopping malls?

Government is an indispensable partner of industry in tourism today. Government in this new age of enviromental awareness and concern must protect the environment even as it struggles to maintain the complex infrastructure needed to serve the tourist industry. And tourist leaders as Tom Hamilton said, cannot afford to deny or minimize the potential adverse impact of tourism on the physical, social or economic environment of Hawaii if you do not carefully plan together in the total interest.

Is government receiving the willing, wise, generous and public spirited cooperation of private industry in this great task that is absolutely vital to the future quality of life and the sustained success of tourism in Hawaii?

Your tomorrow is here today and you had better begin to worry about it this afternoon.

The pressures of life in America, the mounting need for tranquility and privacy as a surcease from the congestion and noise level of American society, require public use and enjoyment of our natural beauty and open spaces; but these open spaces, your beaches, your parks, your valleys and mountains—and I worry and even weep as I view the concrete clutter starting to envelop Diamond Head—must be protected from over-building, over-exploitation, over-use, from being turned into tropical honky-tonks or popcorn playgrounds on a dying island of eroded beauty and vanished tranquility.

These issues, these questions cannot be avoided. Your response will require the wisdom, the magnanimity, the sensitivity, the imagination of all sectors, public and private, in Hawaii's tourist industry to resolve. Are you prepared to make short-term sacrifices necessary to procure long-term rewards? Without this capacity to weigh the future in the present, no civilization or tourist destination can long survive.

As I noted a moment ago, Jack Simpson's thought-provoking report to the conference on some emerging trouble spots in Hawaii's visitor satisfaction reports should suggest to you that those issues and questions are already larger than the shadow of a hard-rock band on Waikiki's famous Hawaiian ambience.

These issues and questions can only be faced successfully by a partnership of industry and government, of tourism and environmental leaders, of financial and promotional experts. Tourist leaders must freely recognize their responsibility to Hawaii's environment, and environmental leaders must understand the massive stake Hawaii's standard of living and public amenities have in a healthy, prosperous tourist industry. The government must be the wise partner of all, insisting on quality in tourism while helping meet the need for reasonable growth. Down that road lies the common good.

For 100 years the American Indian has been reminding us that the earth is our mother—not our business partner. We must learn that lesson, take it to heart and put it into practice as a state and a nation. We must above all, it seems to me, do this in this tourist nation state of Hawaii, this unique piece of Eden.

It is interesting, incidentally, to recall that at the 1973 workshop of PATA, the entire workshop was devoted for the first time to development of an environment ethic. That is how important this struggle on behalf of the tourism environment within the industry has become.

That was at Kyoto. Then in Tokyo, to carry out and implement this ethic and also continue to stimulate the development of tourism in the Pacific, the PATA conference voted to undertake a basic reorganization of the association after 10 years of impressive growth. The leaders of Hawaiian tourism, in the HVB as well as government and industry, are cooperating in this important project. This again is part of the role Hawaii must play on behalf of the United States to protect the environment of the Pacific, and indeed the global tourism environment, and also to help promote this extraordinary Pacific tourist market—representing $1.5 billion a year today and a surging future potential—to a greater degree than ever before for the United States.

We realize, of course, that tourism is a complex state of tension that's rarely if ever in equilibrium.

Hotel capacity is usually ahead of or behind visitor traffic.

The demands on marketing and promotional funds are almost always greater than the budget available. There are always many and varied ideas for the best use of those traditionally inadequate funds. (Hawaii's record, by the way, for the efficient and effective marketing use of its modest promotional budget is outstanding in the global tourist industry, an industry in which many of your major competitors are now deploying much larger promotional budgets than Hawaii and are making serious inroads in your historic markets as well as your primary new growth markets.)

The pressures on the people and the environment of a great destination are remorseless. They must be coped with and quality preserved; often, if need be, at the price of quantity and unbalanced growth.

The people and the environment, again and again I say, must be protected at all costs in order to preserve the destination and the tourist industry based on it. This is particularly true in Hawaii where your aloha spirit is such a wonderful asset.

You see these familiar problems in Israel; just as you see them in Hawaii.

You see these problems in Europe, on the mainland of the United States, and with terrible urgency in the Caribbean where the deteriorating attitudes of the people and the cheapening of the environment are gravely undermining the original charms of those islands.

Let me remind you that Italy, Spain, France, Puerto Rico (the Chairman spoke so rightly of the tourism catastrophe in Puerto Rico), Mexico and the Caribbean in recent years have seen their tourism business suffer grievously because of the failure to market and promote adequately due to the deadly sin of complacency; because they failed to plan properly or to protect their people and their environment from the exploding pressures of tourism growth. George Bernard Shaw said, "If all economists were laid end to end, they would not reach a conclusion". And sometimes it seems that can also be said of government and industry tourist officials. Yet the truth is Hawaii has no choice except to plan today for tomorrow and tomorrow for the future of tourism in these islands.

I say to you, "You are part of the emerging drama of global tourism in the greatest age of mobilism in human history. You cannot escape either the fate or the responsibility that history and geography have created for these islands. The people of Hawaii, adults and the young, must be helped by the people in this room to understand two basic truths about these lovely islands."

One: tourism and Hawaii are inextricably intertwined in a marriage of mutual destinies. They can never be divorced. Tourism will never just sort of fade away or become a minor, barely noticed activity in the life of this state without destroying the state. You are too deeply involved, whatever your environmental critics say. You have no choice in your own prudent self-interest but to protect, improve and enrich this archipelago's union of natural beauty and physical location at the crossroads of some of the world's greatest trade and tourist routes. You must protect and strengthen the remarkable partnership between government and industry that has helped build you into such a truly extraordinary tourism destination. You must recognize and respect the simple truth that these islands have become a unique and remarkable tourism phenomenon that is outstanding in the long vista of man's mobilism on earth.

Two: you are being summoned by history onto a world stage where more than ever economic resources and forces, for well or ill, will shape our age through detente and negotiation in the final half of the 20th century.

You are a vital part of the peaceful economic arsenal of the United States in the most complex and crucial time, a real junction point of history. The United States must see its total economic resources and energies mobilized peacefully and powerfully behind our vision of the kind of world we believe in. Only our economic power will enable even our wisest national leadership to produce the kind of world our country wants in terms of the good society and a sane civilization. Our economic powers, as I have repeatedly emphasized, depends on our foreign exchange earnings and a sound balance of payments. Tourism has an essential role to play in this great global drama for it is a unique economic, social and cultural resource for the United States. You are part of the historical evolution in the newly recognized role of tourism that is taking place.

I was glad to learn during one of the final panel sessions of the conference this morning that Hawaii is starting to look to all corners of the globe for tourist visitors to these islands. The growth of tourism from Japan—now the largest source of foreign visitors to the United States—has encouraged your government and industry tourism leaders to look as far afield as a prosperous Europe for visitors to Hawaii. Europe's strong currencies plus a devalued dollar make such a trip not only a beautiful dream but a realistic prospect. I can remember when an early architect of British tourism, John Bridges, decided it was possible to persuade the residents of sunny California to cross a continent as well as an ocean to visit foggy Britain in profitable numbers. His colleagues were not only skeptical but scoffed loudly at such a preposterous notion. But Bridges knew he had the Tower of London and Piccadilly, British history and culture on his side. Today California is the second state in the Union in sending tourists to Britain. Perhaps there is a lesson in this experience for Hawaii. After all, nearly 60 per cent of your mainland visitors are now coming from East of the Mississippi. Perhaps it was a benign infection and positive portent that John Bridges, now in retirement, spent what he called two of the happiest years of his life as a visiting lecturer on tourism at the University of Hawaii a few years ago.

Hawaii and its remarkable tourism resources, as I have said, are being summoned to a historic task in this new age of economic competition, an age in which the foreign exchange earnings from foreign visitors are more urgently important to our national economy and our world posture than ever before.

If the people in this room don't respond, who will? Let me emphasize how glad I am that leaders of Hawaii's Senate and House of Representatives are here; because you will have to respond to the challenge of these times for Hawaii as well as lead your constituents into Hawaii's future, that special mixture of danger and opportunity I have referred to. I am also glad that U.S. Senator Inouye is here so that I can acknowledge publicly the debt that I owe him as the inspiration and source of many of my ideas about the critical era of unprecedented economic competition confronting the United States today. However, please do not hold him responsible for my actual remarks today. He really is not to blame.

To conclude, this is a unique moment when your private interest wisely administered can serve a great public interest. In wishing you well as you face this challenge with its mixture of danger and opportunity, to use the freedom of travel to serve freedom, I feel I am wishing America well, and indeed the whole world well. Success in this great endeavor will not only enrich your purses but ennoble your lives.

Mahalo. Aloha.

## DR. ARCHIBALD RUTLEDGE, POET LAUREATE OF SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, one of South Carolina's greatest sons, Dr. Archibald Hamilton Rutledge, is dead. South Carolina has lost its poet laureate. America has lost a distinguished man of letters. And thousands of people, myself included, have lost a close and wonderful friend. We are all the poorer for his passing.

Archibald Rutledge was both poet and teacher. The poetry in his heart gave form to the brilliance in his mind. Out of this interaction of heart and mind came some of America's finest poetry and writing. He leaves a legacy of some 100 books—books of vision, of wisdom, of humanity.

Dr. Rutledge made no secret of his disenchantment with modern, so-called avant-garde literature. He commented on the poets of the last decade:

> They have little to say, and they say it profoundly.

His approach was quite the opposite—he always had much to say, and he said it simply—and beautifully. He wrote:

> My formula is to find a subject worth writing about and then to make the writing simple, and then to make it clear and then to make it reach the heart and then to make it beautiful.

He aspired to a high standard, and he achieved a high standard. The high volume of his output always maintained the quality of highest excellence.

Archibald Rutledge was born in McClellanville, S.C., nearly 90 years ago. He began his formal education in the schools of Charleston, and graduated in 1904 from Union College in New York. Shortly thereafter, he became a member of the faculty at Mercersburg Academy in Pennsylvania. He found the life of teaching both productive and fulfilling, and remained on the Mercersburg campus for 33 school years. He retired as head of the Department of English.

Through all these years, Archibald Rutledge remained at heart a Carolinian. As he said:

> I was transplanted to the mountains of Pennsylvania, but my roots and heart remained in the Lowcountry of Carolina.

His writings, too, focused on life along the Carolina coast, although it is well to point to their universal appeal in terms of the experiences of life and love and spirit about which he wrote. These have no geographical boundaries.

When he retired, Dr. Rutledge returned to the plantation of his ancestors—"Hampton"—near McClellanville. And here, in this historic and beautiful setting, he continued a life of great productivity.

Archibald Rutledge was, of course, known far and wide. The pride and esteem of his native State was shown in 1934 when the late Governor Blackwood appointed him "poet laureate" of the State. He was the first South Carolinian so honored. His fame continued to spread, and in 1958 he was requested by the Library of Congress to prepare for the archives tape recordings of 75 of his poems. He was one of only five American poets so honored.

Over the years it was my pleasure to visit with Dr. Rutledge on many occasions. He was always a man of great charm and bearing. He opened his heart freely and he expressed what he felt simply and movingly.

Today we mourn his passing. We extend our sympathy to the surviving members of his family. And we pause in gratitude that we were fortunate for so many years to have the benefit of this good and wise man's knowledge. He has bequeathed us a rare legacy—a legacy of writings that will continue to inspire as long as man yearns to know the truth of his being. And a legacy of dedication, discipline, and true compassion that inspired Archibald Rutledge throughout his life.

He remains, in a sense, among us still—as teacher, as poet. The fruits of his labor will continue to inform and inspire from generation to generation.

I am proud to have had Archibald Rutledge as my friend.

South Carolina is proud that he chose to live among us.

And America is proud of the humane contribution he made to the letters, and the life, of our great land.

## RADIO FREE EUROPE AND RADIO LIBERTY

Mr. TUNNEY. Mr. President, the Senate recently adopted S. 1914, the Board for International Broadcasting Act. This bill extended U.S. Government funding for Radio Free Europe and Radio Liberty for another year. I was, unfortunately, required to be absent for that vote, but I wish to make my views on this important measure known.

Serious people are questioning whether it is worthwhile or proper for the United States to keep these two broadcasting organs alive. It is pointed out that we are now in an era of détente with the Soviet Union, and it is an unfriendly act to continue to fund these radios. Others question the value of such an expenditure, when there are so many unmet needs of our people at home. A Presidential Study Commission on International Broadcasting—the Eisenhower Commission—recently completed a study of the future of Radio Free Europe and Radio Liberty, and concluded that they deserved further support from the American taxpayer.

On the whole, I agree with that conclusion, and have indicated my support for the bill by being paired on the vote. The right of freedom of opinion, and the right to receive and impart information and ideas through any medium, regardless of international frontiers, are embodied in the Universal Declaration of Human Rights, adopted by the United Nations General Assembly. For many years, of course, these rights have been denied to people living in the Soviet Union and Eastern Europe. Despite growing détente between the governments of the U.S.S.R. and Eastern European states with those of the United States and other Western nations, the internal rigidity of the Eastern European and Soviet societies has not abated, and has in many areas been tightened. It is clear that these nations regard ideological relaxation as a threat to their rule, notwithstanding the apparent shifts in ideology which have marked the external relations of these governments. In the Soviet Union, dissident writers and scientists are jailed, Jews and other minorities are harassed and prevented from emigrating if they so choose, and most recently, spectators at the World University Games who favored the Israeli teams were beaten and abused by army personnel. Our détente in external relations with Russia does not mean that we must condone such activities.

The Soviet Union has placed great importance on the Conference on Security and Cooperation in Europe, which just ended its preliminary session in Helsinki. The Soviets are interested in obtaining formal recognition of the political situation in Eastern Europe since World War II, a fact which the West will not dispute. In return for this, however, the Western states have placed on the agenda a number of items where the Soviets must be willing to compromise, including discussion of steps toward freer exchange of persons and ideas across international borders in Europe. Any real growth of European cooperation must involve some such relaxation of controls by the Eastern states.

In light of the present restrictions on the free flow of information into Eastern Europe and the Soviet Union, and its value in promoting more peaceful relations between people throughout Europe, I consider it important for Radio Free Europe and Radio Liberty to continue at this time. This is not the time for the United States to abandon unilaterally an important element in the difficult process of maintaining a minimal exposure of ideas in the nations of Eastern Europe.

This view is fairly widely held in Western Europe, too. I am chairman of the Education, Cultural Affairs, and Information Committee of the Atlantic Assembly, an organization of parliamentarians from the NATO countries. My contacts with my colleagues from European nations have convinced me that their governments are also interested in seeing the work of these radio stations continue. The Education, Cultural Affairs, and Information Committee voted informally in favor of continuation of Radio Free Europe and Radio Liberty at their last meeting in May.

I do not, however, agree with all parts of the bill S. 1914, and of the Eisenhower Commission report. I would like to add to my statement in support of the bill some comments on aspects of the radios' future which need to be more fully explored.

Although I agree with the need for continuation of Western radio broadcasts to the Soviet Union and Eastern Europe, it is necessary for the supporters of Radio Free Europe and Radio Liberty to more fully explain why the Congress should support these two radios, rather than channeling the same money into Voice of America, for instance. Radio Free Europe and Radio Liberty, besides having an ongoing operation and expertise, and very well-developed research and intelligence sources, have differed from more directly governmental radios in concentrating on internal developments of the nations to which they broadcast. Such broadcasts should continue. But we must also recognize that the earlier history of these radios reflected implacable opposition of the governments in Eastern Europe and the U.S.S.R., and the radios were heavily influenced by emigrees from those nations, indeed, the very names of the stations bespeak hostility toward the recipient governments. While continued access of free information is important, ideological bias in the radios of the kind which existed years ago is improper for an arm of U.S. policy, which these radios will now become. It is significant that the U.S.S.R. continued to jam Radio Liberty even when it ceased jamming of all other foreign broadcasts. It is most important, therefore, for the future operations of these radios, now with U.S. funding, to be carefully divorced from the earlier cold war propaganda which is associated with their names. I would hope that the new Board for International Broadcasting keeps tight reins on the radios' tone and content, to assure that their broadcasts do not interfere with the important and legitimate détente policy of the U.S. Government. The board may also wish to consider whether it would be useful to change the names of the radios or take other action to signal to the governments involved that a real change has taken place.

The second area for really hard review is the matter of funding. Fifty million dollars is a small portion of our Federal budget, but it should not be voted by this body unless we are convinced it is needed. Small authorizations add up; we must be consistent in examining the value of all programs which the taxpayer is asked to subsidize.

Figures from within the last year show that foreign broadcasting stations beamed some 227 hours per day into the Soviet Union and Eastern Europe. This was a combination of official radios from the United States, Britain, Germany, Israel, as well as RFE, and RL. But RFE and RL alone made up 153 of those hours, well over half. The other radios are effective; they are listened to by larger audiences than RFE and RL. I think the new board should carefully consider the need for this enormous broadcasting schedule, in light of the alternative radios now available and the changed international scene. It seems to me that some economizing is possible.

More importantly, I think there should be sharing of the funding of these radios. Private sources in the United States and Europe must be tapped, and serious efforts are being begun. But this will not raise more than $1 million or so, at least at the start. The big source must be from foreign governments. The Eisenhower Commission report concluded that the radios should remain an arm of U.S. foreign policy, and that international funding of operations would make life too difficult for the radios.

I am not convinced by those arguments. The interest in free flow of ideas and information is shared by all the Western European nations, along with the United States. The interest shown by the Atlantic Assembly is proof of that. And I am not convinced that the possibility of some slightly more difficult coordination is enough to outweigh the advantages to the United States of shared funding. This is a time when we are asking Europe to share more fully in the costs of defense efforts through NATO, and I believe it is fully appropriate for those governments to contribute just a few million dollars to the operation of RFE and RL. I should also note that it will be much easier to obtain continued funding for these radios by the United States if our share of the operational budget is lowered. We cannot, after all, be certain that the Congress will maintain its support for this program ad infinitum, as costs go up, particularly since this program represents almost completely a drain on the U.S. balance of payments.

I understand that private fundraising efforts are being started in a major campaign both in the United States and Europe. I also understand that the State Department is approaching foreign governments for contributions to the research portion of the radios' activities. I wish these efforts much success, and I hope they will be expanded so that the U.S. contribution to these radios' budget is gradually reduced. Although the Fulbright amendment did not succeed, there is great interest in this body for sharing of costs—significant sharing—by Western European governments, and observers should not be overly enthusiastic about the defeat of the Fulbright amendment. The sentiment behind it lives, and may emerge successful in future years. I hope the private groups, the Board for International Broadcasting, the radios' leadership, and other governments all act now, so that a Fulbright amendment of the future is not necessary.

## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## COMMEMORATION OF 100TH ANNIVERSARY OF THE CABLE CAR IN SAN FRANCISCO

Mr. HATHAWAY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 776.

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate the amendment of the House of Representatives to the bill (S. 776) to authorize the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco, which was to strike out all after the enacting clause, and insert:

> That, in commemoration of the one hundredth anniversary of the invention of the cable car, the Secretary of the Treasury shall strike and deliver to the San Francisco Cable Car Centennial Committee not more than one hundred and fifty thousand medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury after consultation with the committee. The medals, which may be disposed of by the committee at a premium, shall be delivered at such times as may be required by the committee in quantities of not less than two thousand, but no medals shall be struck after December 31, 1974. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368) except that for the purposes of this Act some or all of such medals may be struck by the superintendent of the coining department of the assay office at San Francisco, under such regulations as the superintendent, with the approval of the Director of the Mint, may prescribe. Medals struck at the assay office may bear the legend "Struck at the San Francisco Mint".
>
> SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for the full payment of such costs.
>
> SEC. 3. The medals authorized to be struck and delivered under this Act shall be of such size or sizes and of such various metals as shall be determined by the Secretary of the Treasury in consultation with the committee.

Mr. HATHAWAY. Mr. President, I move that the Senate concur in the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

## SUBSTITUTION OF A CONFEREE

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the Senator from Texas (Mr. TOWER) be excused from service on the conference on S. 1141, to provide for Bicentennial Coinage and that the Senator from Massachusetts (Mr. Brooke) be appointed in his place.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. CURTIS. Mr. President, I yield 10 minutes on the bill to the distinguished Senator from Delaware (Mr. Roth).

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. ROTH. Mr. President, I rise to urge my colleagues to support Senate bill 1179, the private pension reform legislation.

This bill is the amalgam of many different proposals, heard jointly by the Senate Labor Committee and the Finance Committee, on which I have the privilege to serve. In my opinion, it represents a major breakthrough in retirement security for the millions of American workers who are now covered by corporate or self-employed plans. With its passage and enactment, we will be affirming our promise to insure that economic disaster does not befall those who have worked to earn their pensions.

American labor has provided the backbone of American prosperity. Our collective and individual rewards stem from a feeling that hard work provides not only short term satisfaction, but also long term security. When business conditions threaten to jeopardize the expected retirement income, the Congress cannot be a passive spectator. We must use the initiative that is constitutionally ours to right the wrongs which have occurred in the past.

There are five basic precepts included in the bill. Each is designed to protect the rights of the worker who now participates in a private pension plan.

First, the committee bill seeks to liberalize the vesting practices of companies by establishing a new minimum standard with which companies must comply. This issue of eligibility has all too often been used to the disadvantage of individuals who are approaching their date of participation. Every year, loyal workers are summarily dismissed from service just before they are to become vested beneficiaries. To the man who is on the eve of receiving his rights, this 11th hour news can wipe out years of expected income, and put him back at square one.

Likewise, I have added my support to minimum safeguards for funding pension plans, a step designed to insure that there will be enough money to pay the guaranteed rights of retiring employees.

After all, the Federal Government long ago took steps to make sure that applicants for jobs not suffer discrimination in hiring, and that once on the job, reasonable health and safety standards would protect them from many occupational hazards. I feel it is high time we did something to protect the hard earned pensions which employees have come to depend on more as the high cost of living makes personal saving progressively difficult.

When I served on the Senate Banking Committee, we spent many hours reviewing the insurance funds which now protect the savings deposits and securities investments of the American public.

Banks and brokerage houses contribute to government supervised insurance pools, to protect depositors and customers from the disaster of a bank or brokerage house failure.

I do not see how we can continue to neglect pension plans any longer. While we now protect the more than $300 billion in savings institutions, we provide no safeguard at all for the more than $200 billion in pension assets that now exist. In a highly mobile economy, as companies merge or liquidate, plan terminations can cause economic panic in the lives of those who worked under the honest assumption they would have a "nest egg" with which to retire; 12,000 employees last year forfeited pension benefits because the plans in which they were enrolled ceased to function.

But, simple statistics on pension failures should be no consolation to us when we realize they are of no help to the families who livelihoods are jeopardized by the sudden termination of their plan.

We must always be cognizant of the temptation to misuse others' money. And for this reason, I am pleased to see this legislation include new language on the administration of pension trust funds. The bill's fourth objective is to make sure that trust is restored to the management decisions which affect the vast pool of pension savings. I certainly feel that new guidelines are necessary to clarify congressional intent. We must guard these moneys from unscrupulous manipulation or imprudent risk.

Lastly, the bill seeks to triple the amount a self-employed individual can contribute in his own behalf to an annual pension savings program. The familiar Keogh plan has been accepted as landmark legislation, but the economic facts of life have made its $2,500 ceiling inadequate after years of persistent inflation. We have also included further language which would permit workers not covered by pension to set aside $1,000 per year, tax free, from their earnings. This contribution to their retirement would share the same preferential treatment that company contributions now enjoy.

I am confident that these constructive measures will not become a burden to the private economy. In recognizing only half the American working population is covered under pension plans, we must make sure that the enormous growth of these retirement benefits is not stifled by unduly harsh regulations. I feel that we must do something to induce more people to rely on private savings as a foundation for retirement. Social security benefits can only hope to supplement income received from pension or annuity savings built up over a person's working life.

Mr. President, I call on the Senate to take quick action on this bill, and to urge the House of Representatives to act with dispatch. Every day's delay places additional uncertainty on workers and employers alike. I would hope that this first session of the 93d Congress could be remembered as the time when we at last assured the millions of workers now covered, that their pensions will be ready for them when they are ready to retire.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that I may request a quorum call without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. NELSON. Mr. President, how much time does the Senator need?

Mr. HATHAWAY. Five minutes.

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Maine on the bill.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HATHAWAY. I thank the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HATHAWAY. Mr. President, the bill which is now before the Senate, in particular amendment No. 497, which we are at present discussing, involves various provisions of the tax code which have been designed to encourage individuals and corporations to make donations to pension plans which will have the social advantage of supplementing the social security benefits which the employees of these corporations will receive upon retirement.

However, it does something indirectly, just as many other provisions of the tax code do things indirectly, and it is something which I think could be much better done directly. This comes within the ambit of what is called backdoor spending. We have many examples of this in the tax code. It is estimated that $80 billion is spent every year through the backdoor for what in some cases are worthwhile social purposes. In other cases, however, the social purposes are a little difficult to glean, and in nearly all cases more are benefited than were intended to be benefited. Here that is quite apparently the case, because in most of these pension plans those who are in the upper brackets of income are allowed to deduct sums they want to put away for their own retirement. These are people who undoubtedly could put these sums of money away after they have paid their taxes on them, but their deductions—the deductions are justified on the ground that they are made to encourage these individuals to provide pension plans for employees who could not afford to make deductions on their own. In this way we get some social benefit, according to this argument. But I would think that the estimated $4.2 billion in lost revenue which we would have under these pension plans including plans for Government employees could be better spent directly to cover those people in the country who are making, say, up to $10,000 a year, and limit the coverage to those people. By adding this money to the social security trust fund, this would accomplish the social benefit better than what we are doing under the present law, and also by what we would be doing under the law as it would be amended by what we are discussing here today and will continue to discuss tomorrow.

However, I think any amendment I might offer to eradicate retirement savings completely would receive very little support, and in an effort to be realistic, I am not going to offer such an amendment, but I do think that certain amendments should be offered that would make Amendment No. 497 more equitable than it is at the present time.

I understand that the Senator from Wisconsin (Mr. NELSON) is going to offer amendments tomorrow that will make the benefit structure more equitable by making it run across the board, and by reducing the maximum amount from, I think, $75,000 to $45,000.

I think these amendments are worthwhile, and when they are offered I shall be happy to support them.

I also think there are some other inequities in the bill that should be corrected. Under the provisions of the bill, each partner would be limited to a $7,500 a year deduction for contributions to a pension plan, but the bill allows other partners who have the same $7,500 deduction to attribute their deduction to one of the other partners. In this way, another partner could get as much as $15,000, $22,500, or more as a deduction by accumulating deductions from the other partners.

Ostensibly the purpose of this is to allow a partner who is, say, 55 years of age, and who cannot, under the $7,500 deduction, accumulate enough money in the 10 years he intends to work, to provide a retirement income that is commensurate with the salary he is earning, and perhaps——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. I yield 5 minutes from the bill to the Senator.

Mr. HATHAWAY. I thank the Senator from Wisconsin. I will try to stay within that 5-minute limit.

Perhaps that is a worthwhile objective, although I think anyone in an income bracket that permits him to deduct $7,500 and put it into a pension plan could also pay taxes on it and put it into the pension plan.

Nevertheless, there is no such restriction on the partnership contribution. A partner does not have to be a certain age. All three partners, for example, could be 25 years of age, and two of them could contribute their share of the $7,500 to the one partner, which would enable the third one to retire at age 55 at an enormous annuity which was provided out of tax-free income.

Mr. NELSON. Mr. President, will the Senator yield momentarily at that point?

Mr. HATHAWAY. Yes.

Mr. NELSON. That provision of the partnership, if my recollection is correct, is opposed by the Treasurer to accomplish the purposes to which the Senator has referred. That is to say, if there were a senior partner, or two or three, or there was not that flexibility, it was the feeling of the Treasury, as I recollect it, that probably no pension plan would be established at all.

I personally am not satisfied as to the merits of that proposal, one way or the other. I would think that, if it remains in the bill, on the House side there ought to be some hearings and some further evaluation; but I am not prepared to agree or disagree with the position of the Senator from Maine, because I am not perfectly satisfied, myself, as to the merits of this proposal.

Mr. HATHAWAY. I take it from the Senator that there were no hearings on the Senate side with respect to this provision, but that it was rejected by the Treasury at the last moment.

Mr. NELSON. I will not say there were not. I missed part of the hearings. I do not recollect any testimony. That proposal was not in S. 4 when it came out of the Labor and Public Welfare Committee, and it was not in the bill of the junior Senator from Texas (Mr. BENTSEN). I do not think it was in the bill offered by the senior Senator from Indiana (Mr. HARTKE). So I think the Senator is correct. I do not believe there were hearings on that exact provision, and I think I am correct in saying it was opposed by Treasury mainly for reasons already suggested by the Senator from Maine.

Mr. HATHAWAY. I thank the Senator. There are two other points I would like to cover.

One is the number of employees and the type of employee coverage required in order for a pension plan or profit-sharing plan to be accepted by Treasury for purposes of making deductions. Under the present law a corporation does not have to include all of its employees. It can include just a segment of them. Many pension plans include only salaried employees and do not include those working on an hourly wage.

I understand that since the plan cannot be weighted in favor of those who are making a high income, certain salaried employees who are not in the high income bracket have to be included. Nevertheless, all of the employees in the establishment do not have to be included.

In some cases, where the hourly employees are represented by a labor union, the labor union has a pension plan of its own, and would opt out of a plan the employer might offer; but there are many instances of moderately sized firms throughout the country, those employing 100 to 300 or 400 people——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. I yield the Senator another 3 minutes.

Mr. HATHAWAY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY [continuing]. Where the employees are not represented by a labor union and where those on an hourly wage are not included in any plans.

If our social purpose is really to supplement social security income, which many of our low-paid employees will be receiving at the time of their retirement, then I think some effort should be made—maybe not all at once—to require a company that adopts a pension plan to include all of its employees. Perhaps this could be done by some mechanism whereby a certain percentage of the employees not now covered would be covered every year. If this were done at a rate of 10 percent more a year, it would take just 10 years to reach our objective of having 100 percent of the employees in a company covered.

Another provision of the law that I think ought to be changed is that portion which allows——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is speaking?

The PRESIDING OFFICER. Let us have order in the Senate. Let the well be cleared.

The Senator from Maine.

Mr. HATHAWAY [continuing]. That provision of the law which allows an employer to deduct for the contribution he is making for his employees beyond that payment which he is already making for the Social Security benefits.

If this method of financing pension plans is truly to be supplementary to the social security system, then I do not believe it is very equitable to allow the employer to count as a contribution for the employee's plan whatever he is now paying toward that employee's social security.

Although I realize that it might be a hardship to eliminate that all at once, certainly I think that we should consider eliminating a portion of it, say 50 percent of it this year and 50 percent or a lesser percentage over the years to come, so that in a short space of time, say 3 or 4 years, it would be eliminated altogether and the law would truly provide for a supplementary method of financing employees' pension plans.

I thank the Senator from Wisconsin for allowing me to speak on the points I have covered. I hope that they can be cleared up before the final passage of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I wish to engage in a colloquy with the Senator from Wisconsin and the Senator from New Jersey, if they are prepared to do so. The colloquy relates to pension plans for engineers who are self-employed.

Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, I would like to inquire of the managers of the bill concerning the interpretation of a provision added to the bill in committee with respect to "comparability of plans".

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for an additional 5 minutes.

Mr. JAVITS. Mr. President, I refer specifically to section 221(c) of the bill, which would amend section 401(a) of the Internal Revenue Code by inserting at the end of paragraph (5) of section 401 (a) the following:

> "For purpose of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary or his delegate to take account of the differences in such rates the plans shall not be considered not to satisfy such requirements merely because of the differences in such rates."

It is the substitute of the Finance Committee which is now pending before the Senate as original text of the bill. I ask the Senator from Wisconsin, and I would also appreciate the attention of the Senator from New Jersey whether I am correct in my assumption, which I base upon the language of the accompanying committee report, Senate Report No. 93-383, beginning at page 53 of the report, that this amendment was adopted in response to a problem described in testimony by various engineering societies?

Mr. NELSON. The Senator from New York is correct.

Mr. JAVITS. Mr. President, I read the testimony of the professional engineers, which appears beginning on page 319 of part 1 on the hearings, and particularly the testimony of their lawyer, Frank Cummings, on pages 322 and 323 of part 1 of the hearings, to the effect that they would like to set up a pension plan run by the professional societies on a multiemployer basis. I would like to ask the manager of the bill if I am correct in my interpretation of 221(c) that this section is designed to permit engineering societies, and professional organizations of other types of employees similarly situated, to establish multiemployer pension plans on behalf of their members?

Mr. NELSON. Mr. President, the Senator is correct. May I say to the Senator, this provision was designed to permit employees—such as engineers, but not limited to engineers or other professionals—to in effect trade off some of their benefits in exchange for earlier vesting. It is so designed that it can be used, for example, whether a single employer maintains two separate plans or maintains one plan for some of his employees and joins in a multiemployer plan for others of his employees, so long as there is an appropriate relationship between the rates of vesting and the levels of contributions or benefits.

As the Senator well knows, the problem of this group is that many of them contract to go to work on an engineering project and work for 1 year, 2 years, or 3 years, and the employer for whom they work does not have vesting until the end of 5 years. So, they could spend their lifetimes going from employer to employer without at any time getting any pension benefits.

Therefore, this amendment would provide that they could have earlier vesting; but at the sacrifice of comparable equal value pension benefits at retirement time.

Mr. JAVITS. Mr. President, am I correct in stating that, under this section of the bill, if an engineering society goes to an employer who already has a corporate pension plan for all of his employees, and if the engineering society persuades the employer to transfer that employer's engineers out from under the employer's own pension plan and into coverage under the society-run multiemployer pension plan, the employer will then be providing pension coverage under "two plans considered as a single plan," and that qualification of those two plans considered as a single plan now becomes possible under this new section of the Internal Revenue Code?

Mr. NELSON. The Senator is again correct. However, I note that he suggests that because of this amendment the qualification now becomes possible. Present law is unclear on this point and it may be that this could be done under present law. The bill clarifies this point for the future without deciding whether this sort of trade-off could be accomplished under the antidiscrimination provisions of present law.

Mr. JAVITS. Mr. President, I have one final question. I see that there are two sentences in this provision. The first sentence refers to comparability of contributions, and the second sentence seems to refer to comparability of benefits. I know that the engineering societies have a specific pension plan in mind, and so I wish to determine whether that particular type of pension plan is one which would meet the requirements of this section. Assume that an employer already has a defined benefit plan. Assume further that an engineering society has established a money-purchase plan, where contributions are established, and the benefits are simply whatever is in an individual employee's account when he retires. Am I correct in stating that under those circumstances, section 221(c) would require that the two plans, considered as a single plan, meet the requirements only of the first sentence of the section, and that the second sentence of the section is included to deal with another situation—where both the society and the employer have defined benefit plans?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, would the Senator from New Jersey yield me an additional 2 minutes so that we do not use up all of our time?

The PRESIDING OFFICER. There is only 1 minute remaining on the amendment. That minute remains to the Senator from New York.

Mr. JAVITS. Mr. President, the Senator from New York yields himself 1 minute on the amendment and 2 minutes on the bill.

I yield now to the Senator from Wisconsin.

Mr. NELSON. The Senator is correct. The first sentence of section 221(c) was included to permit, among other things, the qualification of a multiemployer society-run pension plan for engineers or others similarly situated, in circumstances where the employer has a corporate defined benefit pension plan for his employees, and the society has a money-purchase plan for its members. And it was our intention, in adopting this amendment, to permit among other things an employer to provide pensions for his engineers under the society's multiemployer money-purchase plan, while providing pensions for his other employees under his own defined benefit plan, and to make it possible for the employer, nevertheless, to meet the requirements of the code with respect to nondiscrimination, notwithstanding the fact that the engineers, who tend to be more highly compensated and more highly mobile, are covered by a plan with earlier vesting. The way the bill's language on this point is drafted, if forfeitures in the slower-vesting defined benefit plan result in reductions in the employer's contribution to that plan, then the employer may also have to reduce his rate of contributions to the money-purchase multiemployer plans. The bill's language clarifies the effect of the antidiscrimination provisions. It does not water down the protection afforded by those provisions.

Mr. JAVITS. Mr. President, I thank the Senator, and I am sure that this explanation will help clarify the legislative history of this provision of the bill, and avoid any unnecessary controversy in its interpretation.

Mr. President, I join in the explanation of the ranking minority member on this side. At the same time, I wish to say that the Frank Cummings referred to in this colloquy was my administrative assistant.

I think we all, and especially I, owe to him the origination of the idea of this bill, which he picked up from a report that the committee used in the Kennedy administration. He really started me on this effort to bring about pension and welfare reform, which has since been carried on by his successor, Mr. Mike Gordon.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Beginning on page 14, on amendment 496, line 3, strike everything through and including line 7 and insert in lieu thereof the following:

"(A) YEAR OF SERVICE—the term 'year of service' means a calendar, plan, or fiscal year during which the employee is employed by the employer or the anniversary date of his employment (whichever is applied on a consistent basis under the plan): *Provided, however,* that in determining whether or not the employee has completed one year of such service, a period of 5 months or more in any such calendar, plan, or fiscal year shall be aggregated."

Mr. CURTIS. Mr. President, if I may have the attention of those who are assisting in managing the bill, my explanation of this amendment is very brief.

I offer a perfecting amendment to section 201 of the bill. Section 201 adds a new section 410 to the Internal Revenue Code to prescribe minimum standards relating to participation.

The present language would require an employer to include in the plan part-time employees who work as little as 5 months in any calendar, plan, or fiscal year. The net result is to give the part-time or seasonal employee an advantage over the regular full-time employee.

For example, if an employee worked from July 1 to November 30 in 2 different years, he would be credited for 2 years of service for having worked 10 months; whereas the full-time employee who worked the 24 months of the 2 years would only receive the 2 years' credit.

My amendment would modify the definition of "service" in two ways. First, it would allow the plan to provide that the 1 year service requirement may be measured by the anniversary date of the employee's employment. This is in keeping with current practice. Second, it would provide that periods of employment of 5 months or more in any one calendar, plan, or fiscal year shall be aggregated to determine whether or not the employee has completed 1 year of service. Thus, it preserves the right of part-time employees to participate but it would avoid the advantage they have over the regular employee under the present bill.

It seems to me, Mr. President, that if the greater share of the employees must work 12 months in order to participate for a year, that should be the rule applied to all. At the same time, I think a part-time or seasonal employee, if he works 5 months now and then 5 months in another year, or perhaps more, should be able to aggregate those periods so that he would get full credit for the time he does work.

This is in the nature of a perfecting amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry. Who controls the time in opposition?

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from New Jersey controls the time.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield me 3 minutes?

Mr. WILLIAMS. I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, to explain this situation so that Members may understand it—and I shall be opposed to the amendment although the experts say that it may not make that much difference—it does change the fundamental thrust of the bill as it came out of the Finance Committee and I feel pledged to stand with the committee agreement. So, without in any way being violent about it, let me at least explain to the Senate, as I understand it, what is at stake.

This particular amendment relates to the qualification of an individual to come under a plan. In other words, as it was made clear in the question and answer period a little while ago, an individual must serve a year and be 30 years of age to come under a plan. When he does come under a plan, he gets the benefit of whatever service he has accumulated, but to be qualified as a beneficiary, he must have 1 year of service and be 30 years of age.

The question is, what is defined by 1 year of service? The bill, on page 14, line 3, defines that as 1 year during which the employee is employed by the employer for more than 5 months.

So if he works 5 months or more in that year, he is qualified. However, the question is, is he qualified for the plan and does he get vesting for a full year?

So, for example, when he qualifies and he has already been working 2 years and he has only worked 5 months in each of those 2 years, does he have 2 years of service?

The answer is found on page 20, line 9 of the bill where it says that until 1981 we give the Administrator—to wit, the IRS—the power to determine whether he should get the benefit of that kind of service when he does qualify to be a beneficiary under the plan. This amendment does not affect that question, but what the amendment of the Senator from Nebraska (Mr. CURTIS) does, as we understand it—and Senator CURTIS will correct me if I am wrong—is to say that when we set a year we give him a year. Therefore, the 5 months is not enough but he must have 1 year of service even if he aggregates that year in more than 1 calendar year before he attains the age of 30, so that he would have not only to be 30 years of age, but actually to have served in his job for an actual year or a 12-month period rather than 5 months as we have specified under the bill.

In my judgment, as that makes the requirements for qualifications more stringent than the bill now purposes—as I say, it is not an Earth-shaking proposition—I would feel constrained to oppose the amendment.

Mr. HARTKE. Mr. President, will the Senator from New Jersey yield me 3 minutes?

Mr. WILLIAMS. Mr. President, how much time is there, by the way?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. WILLIAMS. I yield 3 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3 minutes.

Mr. HARTKE. Mr. President, the Senator from New York correctly states the proposition before the Senate. This is a weakening amendment. In effect, what the Senator from Nebraska would do would be to say to a person who worked for 11 months in a year that he would not qualify. That would delay the vesting time and affect the whole procedure. The net result of this amendment would be to go ahead and weaken what I consider already to be a mediocre, weakening provision on coverage and vesting. Although it is not directed toward vesting, the effect of that would be to delay the time when it could be considered, so that the net result would be to go ahead and take away from an individual who had worked 5 months or more in a year the coverage for him and also would effectively delay the time when vesting could begin.

So I would think that if we want to weaken the bill, vote for the Curtis amendment; but if we want to keep the bill in its present weakened condition, we should oppose the amendment.

Mr. WILLIAMS. Mr. President, I am impressed with the argument of the Senator from Indiana (Mr. HARTKE). I believe the amendment would be retrogressive in a sense. Even now, under the Internal Revenue Code, in the provisions that deal with nondiscrimination, the 5-month period is the period designated for purposes of eligibility under a pension plan. So I am inclined to be opposed to the amendment, too.

We are checking out to see whether I am accurate, whether the present Internal Revenue Code language is similar to the language of the bill. Even if the present code is not, as I believe it is, I would oppose the amendment, because I do not believe that we should make it harder for eligibility for coverage.

Mr. CURTIS. Mr. President, I yield myself such time as I may use.

The question here is, How long must an employee serve in order to be eligible to participate in a retirement plan?

The Finance Committee decided on 1 year. As a matter of fact, the administration's proposal called for 3 years, because we are dealing with minimum requirements. The parties can enter into an agreement for everyone the first day, if they want to. But we are laying down the minimum requirements and the decision arrived at by the Finance Committee was 1 year.

Now, in another section, or elsewhere in the bill, a year is defined as 5 months. The definition of 5 months constituting a year may have been discussed in the Finance Committee. I do not think it was discussed at any time when the junior Senator from Nebraska was present.

Most of the employees will serve a full year. In explaining this bill up to now, we all have been informed that one must be 30 years of age and have served a year. By definition, we find that a year is not a year, but is 5 months.

Upon reflection, I believe that we should adopt this amendment, because many people do not think the 5-month rule is wise—I do not think the unions think it wise—because it is my understanding that that is the reason why the unions asked that it be handled by regulation until 1981.

I do not think that someone who serves 5 months should lose that time if another calendar year goes by. Therefore, my amendment provides that a year's service shall be calculated from the beginning of the employment, in the aggregate, so that after the employee has worked 5 months, and then has worked 7 months more, he has worked a year. I believe this is the commonsense rule.

It is my understanding that a commitment has been made that there will be no rollcall votes today. Therefore, Mr. President, I ask unanimous consent to withdraw the amendment, without prejudice to offering it tomorrow.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—I shall not object—would the distinguished Senator agree to setting a time on tomorrow morning for a vote on his amendment, with the understanding that there would be, say, 20 minutes, equally divided, before the vote, so that another explanation of the amendment could occur at that time?

Mr. CURTIS. It is a very brief amendment. I do not think we would take 20 minutes to present it. Since they have raised some question about it, I would prefer to withdraw it at this time. I understand that I do not need unanimous consent to do that, but I want to do it with the understanding that it is without prejudice to offering it tomorrow.

Mr. ROBERT C. BYRD. It is my understanding that the Senator would not want to agree to a time limitation at this time.

Mr. CURTIS. I would prefer to withdraw it, with the understanding that no objection would be raised if I chose to offer it tomorrow.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The amendment is withdrawn. Who yields time?

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. NELSON. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I yield 10 minutes to the distinguished Senator from New York on the bill.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I wish to make a few comments on the pending legislation. I send to the desk an amendment. I do not intend to call up the amendment until tomorrow, but I do wish to have it printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

AMENDMENT No. 504

On page 2, beginning at line 19 and ending at line 21, strike "exceed an amount equal to the lesser of $1000 or his earned income paid or accrued for such taxable year." and insert "be less than the lesser of his earned income paid or accrued for such taxable year up to a deduction of $1,000, nor more than 15% of his earned income paid or accrued for such taxable year, up to a deduction of $7,500."

Mr. BUCKLEY. Mr. President, I would like to express concern over an institutional problem illustrated by the history of this most important legislation. I believe that most Senators agree that the time has long since come to establish minimum protection for those who have labored for years with the understanding that on retirement, they will actually receive the pensions agreed upon under their contracts of employment.

This is a complex matter and the legislation will affect innumerable millions of our citizens. It is a bill that requires careful thought. Two committees have reported legislation covering the same field: One, of course, was the Committee on Labor and Public Welfare, and more recently the Committee on Finance.

The report of the Committee on Finance became available on August 22, 1973, when we were on our summer recess. We were not able to determine its contents until after our return 2 weeks ago. Many of us have received inquiries from constituents concerned over certain features in the Finance Committee bill. Many of us have spent long hours trying to master its complexities, and then, the latter part of last week the Committee on Finance rewrote a significant portion of this legislation and the new version did not become available to us until just hours ago. Yet we are operating under a time limitation agreement allowing 6 hours on the bill.

I am concerned over certain inequities that appear in this legislation. We seem to be arranging for three or four categories of individuals, depending upon whether they work for large firms or small firms, whether they work for incorporated professional groups, or whether they are individuals not currently covered by any form of pension.

In one instance, 15 percent of earnings may be set aside, without any ceiling. In another instance there is a provision for a top limit of $75,000 a year. In still another instance we have a top limit of $7,500 a year. In yet another category, there are those not otherwise covered by a pension plan, who would be allowed to set aside up to $1,000 per annum. In other words, we are allowing our citizens different tax benefits even though the tax burden, in terms of the postponement of taxation on current earnings, must be shared by all.

It had been my intention to offer an amendment that would seek to achieve parity of treatment for all Americans in their ability to set aside a portion of their earnings tax free against their retirement years.

I was advised, however, that because of the complexities of the Internal Revenue Code it would be impossible to draft an amendment to achieve this result in less than 2 or 3 weeks' time.

I would hope that in the future when we are dealing with legislation of such complexity and such importance, the leadership would see to it that after the last committee proposal has been issued, adequate time would be allowed before debate for the legislation and report to be studied, not only by Members of the Senate, but also by the public. I hope we would be allowed 2, 3, or even 4 weeks to study and analyze this legislation in order to be able to understand it, to draft amendments, and to circulate those amendments in sufficient advance time for them to be evaluated by our colleagues.

The amendment I have sent to the desk and which I intend to call up tomorrow would seek to alleviate the unequal treatment accorded those who under the present proposal are entitled to set aside only $1,000 a year. I propose to raise that upper limit to $7,500 in order to at least give these individuals the same ability to provide for their own future that is allowed employees of so-called proprietary corporations.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. THURMOND. Mr. President, I send to the desk two amendments, the cosponsors of which are Senators EASTLAND, HELMS, GOLDWATER, BARTLETT, TOWER, FANNIN, BROCK, HOLLINGS, BELLMON, COOK, BUCKLEY, DOLE, and GRAVEL, and ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

On page 35, line 6, strike out "72(n)".

On page 35, line 7, strike out "101(b)(3),".

On page 41, lines 11–12, strike out "or a proprietary employee (within the meaning of section 412(b)(1))".

On page 72, lines 9–10, strike out "or a proprietary employee within the meaning of section 412(c)(1) of such Code".

On page 83, lines 21–22, strike out "or a proprietary employee within the meaning of section 412(c)(1)".

On page 87, lines 3–4, strike out "or a proprietary employee within the meaning of section 412(c)(1)".

The PRESIDING OFFICER. The Chair inquires whether these amendments are the amendments on which the Senator has 2 hours.

Mr. THURMOND. Mr. President, 2 hours have been allotted to me for an amendment. This portion of my amendment is separate. I ask unanimous consent that I may reserve the remainder of my time in case I offer any other amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina. The Chair hears none, and it is so ordered.

Mr. THURMOND. Mr. President, I have conferred with the managers of the bill concerning these amendments. I simply want to say first of all that the first amendment bestows equal tax treatment in lump sum distributions and the $5,000 death benefits.

The second amendment would permit the proprietary employees to have the same access to the central portability fund that the employees of large corporations have.

Mr. President, I think that more or less explains what the amendments are.

I have conferred with the managers of the bill, and I will be pleased to hear from them at this time.

Mr. NELSON. Mr. President, we have examined the amendments offered by the distinguished senior Senator from South Carolina. They provide, among other things, that the portability provision is to be available for the proprietary employees.

Since this provision provides that the portability provision is to be available to regular corporate employees, there is some logic for not extending the portability provision to proprietary employees.

The second provision is that providing for 15-year averaging for lump-sum distributions. This is extended to proprietary employees. We do not object to that. The third provision under the Senator's proposal extends the $5,000 death benefit provision to proprietary employees. I see no objection to making their status the same as the status of regular corporate employees.

So, we are prepared to accept the amendments offered by the senior Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the Senator from Wisconsin for agreeing to accept the amendments.

Mr. GRAVEL. Mr. President, I am in favor of the amendment offered by the senior Senator from South Carolina to delete from the pension bill the provisions applying to proprietary corporations.

My tax philosophy is equal treatment for all individuals. I do not support, and will work to remove, many of the loopholes in our current tax laws that allow the rich to reduce their effective tax rate. Furthermore, I support, as I am sure most of my colleagues do, our progressive rate structure. If the loopholes are closed, this progressive rate structure will allow us to tax individuals equitably.

I believe that closing the loopholes is the only fair way to make taxes more equitable. If Congress wants to make the tax system more equitable, it should close them rather than imposing other unfair restrictions on individuals, particularly with regard to pension benefits.

An individual should be taxed on income at the time at which he uses such income for personal benefit. I strongly support pension programs, and believe that an individual should be able to put money aside for retirement and pay taxes on it when he draws it out during retirement. This is not tax avoidance, but tax equity.

In considering tax legislation, we must remember that we can only effectively tax individuals. We do not really tax businesses as this tax is passed on to the consumer. Therefore, whether the tax is imposed on an individual per se, a small business, a corporation, or a proprietary corporation—a new "person" established by this bill, we must insure that there is equal treatment for the individual. In the case of pension plans, I believe that equal treatment means insuring that all individuals have an opportunity to provide for a retirement benefit equal to their income at the time of retirement, and not pay taxes on that money until it is drawn out at the time of retirement. The tax equity is still present as the money is taxed at the regular progressive rate when it is withdrawn.

S. 1179 would provide discriminatory treatment for the retirement plans of small business and would furthermore act as a serious deterrent to the growth of our private retirement system. I cannot support such treatment. I hope that my colleagues will support this amendment so that on final passage they will not be forced to choose between providing adequate standards such as vesting, funding, and portability, and providing an equitable tax structure.

The goal of S. 1179 is commendable. All of us deplore the loss of benefits that had been promised to an employee. These benefits must be protected and S. 1179, by providing minimum standards for vesting and funding, by providing for termination insurance, by providing for a system of voluntary portability, will insure that pension benefits will be available to all employees that have a pension plan. We must be careful, however, to insure that we do not provide a disincentive to starting pension programs, for standards are meaningless to those that are not covered by one.

S. 1179 creates a new person, known as a proprietary employee. He is the owner or part owner of a small corporation. Based solely upon this legal status—ownership and corporate size—his retirement benefits must therefore be less than those of a large, publicly owned corporation.

The reduction of these tax benefits is inconsistent with the goal of S. 1179—providing for a superior private retirement system. S. 1179 provides for many restrictions to be placed upon retirement plans of small companies—restrictions not applicable to corporate giants. Some of these restrictions are:

First. S. 1179 will permit an employee who switches employers to transfer any vested retirement benefits he may have in his first employee's retirement plan, either to his second employee's retirement plan or to a special portability fund which is to be created under the terms of the bill—the transfer would be tax free and these funds would not be taxed to the employee until retirement. As a result, a corporate executive will be able to switch from his present job to a better position without having his retirement benefits prematurely taxed.

This provision will not, however, be available to proprietary employees. As a result, even though the proprietary employee may transfer his retirement fund to a new employer and, therefore, not derive any personal benefit from these moneys, he will be currently taxed, thereby reducing the proprietary employee's ability to better himself if an opportunity arises.

Second. Under the present law, which is not changed by S. 1179, a distribution of up to $5,000 paid to a specific beneficiary by reason of the death of an employee may be excluded from income. S. 1179 would knock out the $5,000 death benefit exclusion for beneficiaries of proprietary employees, hitting at the foundation of the private pension system.

Third. S. 1179 provides for a new tax computation for lump-sum distributions from qualified retirement programs. Thus, distributions attributable to years after 1973 will be ordinary income subject to a 15-year averaging computation. The committee provision recognizes the fact that this distribution represents compensation which generally is received spread out over the taxpayer's life beginning with the time he retires. This commendable and logical approach, however, is not available to proprietary employees. Instead, this distribution will be taxed based upon a 5-year averaging formula.

Since when is life expectancy a function of corporate ownership?

Mr. President, these limitations which do not apply to all corporations are inappropriate. They represent discrimination against the small business of our country and as such they should be eliminated from S. 1179.

Mr. JAVITS. Mr. President, we have examined the amendments of the senior Senator from South Carolina. As far as I am concerned, like the Senator from Wisconsin, we are willing to accept the amendments.

Mr. CURTIS. Mr. President, I have no objection to the amendments.

Mr. NELSON. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I reserve the remainder of my time that has been allotted to me under the previous agreement.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Mr. JAVITS. Mr. President, may we understand what the Senator means by his statement that he reserves the remainder of the time allotted to him?

The PRESIDING OFFICER. The Senator had 2 hours under the prior unanimous consent agreement, and he wants to reserve it.

Mr. JAVITS. Mr. President, is not a unanimous consent agreement required for that in view of the fact that he has been allotted time?

The PRESIDING OFFICER. It has already been granted.

The question is on agreeing en bloc to the amendments of the Senator from South Carolina.

The amendments were agreed to.

### AMENDMENTS NOS. 505 AND 506

Mr. NELSON. Mr. President, I send to the desk two amendments which I will very briefly explain in a moment.

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table.

Mr. NELSON. I shall offer these amendments as amendments to S. 4 as amended by No. 497, which contained only provisions that came out of the Finance Committee. They involve a provision in the Finance Committee measure with which I do not agree.

The first amendment which I will call up tomorrow would establish a limitation of $45,000 as a maximum amount that may be paid in annual pensions through the use of tax deductible contributions to the pension fund. In other words, I will be offering an amendment to the Finance Committee proposal which provided that the maximum pension that may be paid shall be 75 percent of the average annual income over the highest 3 years of income received by the beneficiary with the calculation of 75 percent to be against a maximum based on $100,000.

The Finance Committee's proposal provides that one may receive a maximum pension of $75,000 a year. The Senate Finance Committee's proposal is based on a formula which provides that one can receive 75 percent of his average compensation of his highest 3 years, regarding any salary in excess of $100,000.

My amendment would simply reduce that maximum amount of compensation from $100,000 to $60,000, allowing therefore a maximum pension, paid for by tax deductible dollars, of $45,000 a year.

The amendment would apply the $45,000 limitation to all corporations, the large ones, the small ones, proprietary corporations, closely held corporations—all of them would be held to the same limit.

I am making this proposal because I think there ought to be some reasonable limit to the amount of money that can be contributed to pension plans with tax deductible dollars for purposes of providing annual pensions for individuals. There is no particular magic in the amount that I have selected, but I find it hard to defend excessive amount of tax-deducted pension benefit for high paid corporate executives. Some corporations are setting aside tax deductible dollars to pay for pensions amounting to $100,000, or $150,000, a year. Those pensions are being paid for, in part, by low-paid and middle-income employees in this country who do not receive any pensions at all. The cost of the pension plans now in effect, for the tax deductible features in those pensions, is now $4 billion a year.

If General Motors, ITT, or any other large corporation wishes to pay more than $45,000 a year to its employees, then I think they ought to make that contribution out of taxable income.

I might point out that this amendment is the same as the Finance Committee amendment in respect to the tax, in that it provides a limitation on the amount of the pension that can be paid annually, not the contribution to the pension. That is to say, if a new pension plan is created and the senior corporate executive is 55 years of age, adequate contributions may be made into that plan so that by the time he is 65 years of age he can have a pension of $45,000 a year, if he has contributed enough into the pension plan. Of course, the same formula applies to those in income brackets below the $60,000. They also are entitled to a pension of 75 percent of the highest 3 years of their earnings.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. NELSON. Mr. President, I ask unanimous consent that the amendment (No. 505) which I have just discussed be the pending business at 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin? Without objection, it is so ordered.

Mr. NELSON. Mr. President, if the first amendment which I have just discussed, which will be called up at 10 o'clock in the morning, should fail, then I ask unanimous consent that immediately following my first amendment a second amendment (No. 506) be taken up at 11 o'clock tomorrow, with, of course, the 1 hour limitation; my second amendment would establish the $75,000 a year limitation, as a limitation upon large corporations as well as a limitation on the closely held and proprietary corporations, as is now provided for in the Finance Committee amendment No. 497.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I believe the unanimous-consent agreement should accommodate amendments to the amendment, and instead of being conditioned upon a time should be conditioned upon an event.

In short, I have no objection if the Senator asks unanimous consent that the first order of business tomorrow be his amendment, that is, the $45,000 amendment, but when that is disposed of, together with all amendments thereto, the next order of business should be his $75,000 amendment; because I think if he fixes his time, he might be cut off.

Mr. NELSON. The Senator is absolutely correct. I would amend that to request that immediately following the disposal of my first amendment, whatever the time may be, my second amendment would become the pending business.

Mr. JAVITS. Still reserving the right to object, Mr. President, I think the attention of other Senators with amendments ought to be called to the fact that they would then have to wait their turn, which might be as late as noon. That is entirely agreeable to me, but I think other Senators ought to be alerted.

Mr. THURMOND. Mr. President, reserving the right to object, and I shall not object, if we can have it understood that my amendment on this same subject will follow the amendment of the distinguished Senator from Wisconsin, after the vote on his second amendment, whether his second amendment fails or passes.

There is a possibility that if his second amendment passes I shall withdraw my amendment, but I do not wish to commit myself at this time.

Mr. President, I ask unanimous consent to amend the request of the Senator from Wisconsin to that effect, that my amendment follow the vote on his second amendment. Will the Senator accept that?

Mr. NELSON. I agree.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, what is the multiple request?

The PRESIDING OFFICER (Mr. BARTLETT). That at 10 a.m. the Nelson amendment be made the pending amendment. If it fails, the second Nelson amendment will then be made pending, and following the consideration of one or both Nelson amendments, the Thurmond amendment would be made pending.

Mr. ROBERT C. BYRD. If called up by Mr. THURMOND.

The PRESIDING OFFICER. That is correct.

Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I again ask unanimous consent that we may have a quorum call without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, will the Senator withhold that?

The PRESIDING OFFICER. A quorum call is in progress.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, so that these brief amendments, each with a brief explanation, may follow my extemporaneous remarks, I send to the desk the two amendments that I have discussed. I ask unanimous consent that the amendments be printed in the RECORD, and that a brief explanatory statement attached to each of them be printed in the RECORD, along with a more extensive statement on this issue.

There being no objection, the amendments and explanatory statements were ordered to be printed in the RECORD as follows:

### AMENDMENT No. 505

In section 702(a) of S. 4 adding section 401(j)(2) of the Internal Revenue Code of 1954 and section 704(a)(1) of S. 4 adding section 404(c)(4)(C) to the Internal Revenue Code of 1954 delete the figure "$100,000" and insert in lieu thereof "$60,000".

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### EXPLANATORY STATEMENT, AMENDMENT No. 505

#### 1. PURPOSE

This amendment will end any discrimination against small corporations by treating all corporations alike and will place a limit on how much tax deductible income can be contributed for deferred compensation for high income individuals.

#### 2. EXPLANATION

This amendment provides that a pension benefit shall not exceed 75 per cent of the average of the employees highest three years of compensation, disregarding average compensation in excess of $60,000. The maximum annual pension benefit is to be funded over a period of not less than 10 years. In the case of a profit-sharing or money-purchase plan, the amount contributed on behalf of any employee would be subject to limitation corresponding in substance to the limitation on contribution on behalf of any employees under a stated benefit plan.

#### 3. EXAMPLE

If a 55-year-old owner-employee earning $60,000 a year or more establishes a qualified plan for his corporation, this limitation will still allow him to make contributions, if he desires, that will result in his receiving upon retirement at 65, a pension benefit of $45,000 a year.

#### 4. CONCLUSION

This amendment would end the totally indefensible practice of using tax deductible dollars for the purpose of creating practically unlimited pension benefits for a selected group of high paid executives. There are many examples of corporations paying annual pensions of $100,000 or $200,000 a year to executives at the expense of the average American taxpayer. This kind of excessive compensation should be paid from corporate funds, not from the U.S. Treasury. The amendment would still provide ample tax incentive for corporations to adopt qualified plans and profit-sharing plans for their employees.

S. 1179, as reported, contained a provision under which proprietary employees were made subject to the same limitations for deductible contributions as are imposed on the self-employed under H.R. 10 plans, that is 15 percent of earned income, or $7,500 per year to a defined contribution plan, with corresponding limits for a defined benefit plan. On Friday, the Finance Committee approved an amendment allowing proprietary employees, as an alternative, to fund a pension of up to 75 percent of his average compensation for his 3 highest years, up to a maximum on this contribution base of $100,000 per year. My amendment provides that the contribution base may not exceed $60,000 per year, which would allow a self-employed person to fund a pension plan for himself of up to $45,000 per year. My amendment places a reasonable limit on the pensions of proprietary employees with very large incomes. It would limit such people, in effect, to an annual pension of $45,000.

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### AMENDMENT No. 506

Section 706 of S. 4 is amended by redesignating subsections (f) through (n) as subsections (g) through (o) respectively and adding the following new subsection (f) which reads as follows:

(f) Limitation on Deduction for Contributions on Behalf of Corporate Employees.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new subsection:

"(g) Limitation on Deduction for Contributions on Behalf of Corporate Employees.—Notwithstanding the provisions of subsection (a), no deduction shall be allowed for a contribution made for or on behalf of a corporate employee to or under a defined benefit plan or a defined contribution plan if the amount of such contribution or if the benefit provided under the plan exceeds the amount specified as an alternative limitation on deduction or benefits for proprietary employees in subsection (e)(4) and section 401(j)(2), whichever is applicable."

### EXPLANATORY STATEMENT—AMENDMENT 506

On Friday, the Finance Committee approved an amendment which provided that a proprietary employee of a corporation could fund for himself a maximum pension of 75 percent of the average of his high three years of compensation up to the first $100,000 per year. The amendment which I now offer would apply this same rule to executives of all corporations, by providing that there could be no deduction for an employer for contributions in excess of those necessary to provide an employee with a pension in excess of these limits. In other words, no deduction would be allowed for a contribution which would provide a defined benefit pension for the executive in excess of 75 percent of his average high three years compensation, with a $100,000 limit, or for contributions by the employer under a defined contribution plan in excess of an amount which, together with earnings on the contribution, would be sufficient to provide the employee with a pension in excess of these limitations.

Mr. NELSON. Mr. President, the amendment that I will be offering tomorrow would place a limit on the amount of tax deductible contribution that a corporation can make for high paid executives. Briefly, this amendment will limit the maximum possible pension benefit to $45,000 a year.

There are times when I suspect that our tax laws are deliberately written to be incomprehensible to the average taxpayer. If they were clearly written, it would be obvious to all that almost every page contains an assault on common sense. No elected representative could successfully defend the proposition that in order to provide some retirement benefit for low income workers it is necessary to provide an unlimited amount of deferred compensation to highly paid executives. As indefensible as this proposition may be, it is in fact embodied in our existing tax law for pensions. For example, if a president of a large corporation earns $250,000, and the company provides a pension equal to 70 percent of pay, it can pay its president $175,000 a year from its qualified plan.

A random selection from the 1972 Securities Exchange Commission's files shows that this example is not just a theoretical possibility, but an actual abuse. Tax-free deductions are being made for some corporate executives which will allow them to enjoy an estimated pension benefit of more than $100,000 each year. The average pension benefit for the individuals shown is $61,000 a year.

So that we may see some of the pension benefits provided for some highly compensated employees in corporate pension plans, I ask unanimous consent to insert in the CONGRESSIONAL RECORD at this time a random selection from the 1972 SEC's files. I do not suggest that the recipients of higher pensions are not worth that amount to their respective corporations. I simply suggest that these large pensions should not be funded by tax deductible income. There should be a reasonable maximum set on the amount of tax deductible dollars that may be used in funding pensions.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SOME COMPARABLE FIGURES FOR HIGHLY COMPENSATED EMPLOYEES IN CORPORATE PENSION PLANS

| Corporation and name of officer | Annual compensation | Estimated annual retirement plan benefits | Benefit as percent of compensation |
|---|---|---|---|
| Columbia Broadcasting Corp.: | | | |
| Clive J. Davis | $122,885 | $59,073 | 48 |
| Harvey L. Schein | 57,500 | 42,277 | 74 |
| Dow Chemical Co.: | | | |
| Donald K. Ballman | 190,120 | 88,000 | 46 |
| C. B. Branch | 322,247 | 157,400 | 49 |
| Carl A. Gerstacker | 184,698 | 94,800 | 51 |
| Singer Co.: | | | |
| Lloyd L. Kelly | 106,667 | 48,908 | 46 |
| Donald G. Robbins, Jr. | 99,792 | 55,249 | 55 |
| RCA: | | | |
| Anthony L. Conrad | 154,167 | 119,687 | 77 |
| Charles M. Odorizzi | 70,000 | 44,093 | 63 |
| Robert L. Werner | 132,500 | 65,345 | 49 |
| TWA: C. P. Meyer, Jr. | 67,800 | 32,434 | 48 |
| Tenneco, Inc.: W. E. Scott | 173,150 | 64,135 | 37 |
| Union Electric Co.: | | | |
| Charles J. Dougherty | 145,000 | 66,087 | 46 |
| W. E. Cornelius | 86,250 | 45,516 | 53 |
| Loews Corp.: Lester Pollack | $70,055 | $42,952 | 61 |
| Western Bancorporation: Sherman Hazeltine | 88,700 | 50,724 | 57 |
| IBM: | | | |
| Arthur K. Watson | 113,904 | 50,000 | 44 |
| Albert L. Williams | 100,000 | 41,250 | 41 |
| Raytheon Co.: Thomas L. Phillips | 231,131 | 101,391 | 44 |
| Bell & Howell: Everett F. Wagnor | 115,000 | 45,000 | 39 |
| Allied Stores Corp.: Theodore Schlesinger | 100,000 | 35,000 | 35 |
| Abbot Laboratories: | | | |
| Charles S. Brown | 82,431 | 36,048 | 44 |
| George R. Cain | 162,404 | 76,944 | 47 |
| Edward J. Ledder | 146,070 | 61,068 | 42 |
| ABC: | | | |
| Everett H. Elerick | 157,200 | 41,699 | 27 |
| Simon B. Siegel | 49,948 | 33,110 | 66 |
| Average | | 61,000 | 50 |

Source: From SEC filings selected at random.

Mr. NELSON. Mr. President, it is absurd to maintain that only by allowing highly paid corporate executives such lavish annual pensions will large corporations be willing to establish plans covering most of their workers. I believe that even the highest paid corporate executive would find some value in a much more modest annual pension.

It is hard to see, particularly in light of severe restraints imposed on Federal expenditures generally how we can justify a tax expenditure to help finance a pension of more than $100,000 a year to one individual, particularly one who should be well able to provide for his own retirement. It is this kind of tax preference that makes proposals to raise taxes on the average American taxpayers particularly outrageous. How can anyone possibly contemplate raising taxes without first reforming some of the most egregious loopholes which favor the rich and penalize the poor.

The present tax treatment of pensions results in an annual loss of revenues to the Treasury of $4 billion. While taxpayers generally bear the revenue loss, less than half of the work force—and a lesser fraction of the total population—receive the benefit. These taxpayers must pay increased taxes for the tax reductions granted to others. According to latest estimates only 42 percent of the private nonfarm work force are presently covered by pension plans.

Mr. President, I ask unanimous consent that a table showing the estimated number and proportion of employees currently covered by pension plans be inserted in the CONGRESSIONAL RECORD at this time.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—ESTIMATED NUMBER AND PROPORTION OF EMPLOYEES CURRENTLY COVERED BY PENSION PLANS

[In millions of employees]

| | Total nonfarm | Private nonfarm[1] | Federal[2] | State and local[2] |
|---|---|---|---|---|
| Employees | 75.5 | 61.9 | 2.6 | 11.0 |
| Covered by pension or profit-sharing plan | 36.5 | 26.0 | 2.3 | 8.2 |
| Percentage covered | 48.0 | 42.0 | 95.0 | 75.0 |

[1] Excludes self-employed.

[2] Coverage estimated on the basis of the proportion covered in 1969. In that year, the latest for which actual data is available, there were 3,000,000 Federal workers of whom 2,800,000 or 95 percent were covered and 9,500,000 State and local employees of which 7,200,000 or 75 percent were covered.

Mr. NELSON. Mr. President, ironically, it is likely to be the low income workers who are not covered by pension plans and whose taxes consequently must be increased to pay for the generous tax treatment afforded higher paid workers covered under pension plans. An analysis of who is and who is not covered prepared by the Bureau of Labor Statistics in 1968 leads to this obvious conclusion: the uncovered one-half is heavily drawn from employees of small companies who tend to be at the lower end of the wage scale. For example, the survey shows that for companies where the average earnings of all employees in the company is less than $5,000, the percentage of workers covered is 30 percent, while if the average earnings are over $10,000, the percentage rises to 78 percent.

It was these obvious inequities that induced the Senate Finance Committee to place certain limitations on some corporate plans. These limitations based on a formula involving amount of ownership and amount of benefits derived from the pension would have ended both the present stampede by many members of the medical and legal professions to incorporate to enjoy the substantial benefits provided under a corporate pension plan and the present tax discrimination against lawyers and doctors providing the same professional service without incorporating.

While the original Senate Finance Committee proposal was less than ideal and needed to be reworked, the committee's second decision is a total abandonment of any meaningful attempt to limit the amount of pension benefits enjoyed by wealthy individuals. It allows, for example, a possible maximum pension of $75,000 a year funded by tax deductible dollars. I fail to see what defensible principle is being established by such a ludicrously high ceiling.

An argument against the committee's original proposal was that it discriminated against small corporations as contrasted to larger corporations. This was, of course, true because it was impossible for owners-employers of large corporations with a substantial number of workers to enjoy 25 percent of the benefits derived from the pension plan. I have always felt that there should be an across-the-board limitation on corporate plans and, therefore, propose to end this subtle discrimination against small corporations by applying my amendment to all corporate plans. I do not consider this amendment to be the first step to tax reform, but rather the first step to sanity.

My amendment provides that a plan shall not exceed 75 percent of the average of the employee's highest 3 years of compensation, disregarding average compensation in excess of $60,000. Hence, the maximum pension benefit permitted any employee would be $45,000. This maximum benefit is to be funded over a period of not less than 10 years. In the case of a profit-sharing or money-purchase plan, the amount contributed on behalf of any employee would be subject to limitations corresponding in substance to the limitations on contributions on behalf of any employees under a stated benefit plan.

In considering placing some limitation on the pension benefits, one should remember the extraordinary series of tax preferences already granted deferred compensation plans which represent a substantial departure from the general rules of taxation and which are of greatest benefit to high-income taxpayers.

Generally, compensation paid to employees is deductible only if the employee would include the payment of the income at approximately the same time.

The one exception to this rule is for pension and profit-sharing plans that "qualify" under section 401 of the Internal Revenue Code. Contributions to such plans are deductible while taxation to the employee is delayed until actual distributions from the plan, most often after retirement.

Deferral of taxation until after retirement can, of course, have the effect of reducing the tax which will have to be paid in those case where the worker will be in a lower tax bracket in his post-retirement years.

In essence, the deferral of tax amounts to an interest-free loan from the Treasury to the employee.

It is clear that for each dollar of retirement benefits purchased, the higher the tax bracket the greater the "loan." For example, assume at a given age it will take a set-aside of $1,000 per year, each year until retirement, to finance a life annuity of $5,000. If the employee is in the 25 percent bracket, the Treasury's interest-free loan is $250 per year; for the employee in the 50 percent bracket, the loan is twice as much, or $500 per year.

Moreover, it is not "discriminatory" in

favor of higher paid employees to provide a larger pension for suih employees than for the lower paid as long as the ratio of pension to pay is the same. Thus, a plan providing all employees with a pension of 50 percent of pay would qualify for the special tax treatment, increasing the tax advantage to higher paid employees. A principal tax advantage of private plans is that once contributions are made to it the earnings on these invested funds are not taxed. It is this more than anything else that has caused the assets of pension funds to increase by about $12 billion each year.

Further tax advantages granted deferred compensation plans are:

### FIRST. APPRECIATION VALUE OF EMPLOYER'S STOCK NOT TAXED

In certain cases, an employee or his beneficiary may receive a distribution from a trust which includes securities of the employer. In such distribution, unrealized appreciation in the value of the securities of the employer is not included in the employee's income at that time. This means that an executive whose profit-sharing plan consists of his own firm's stock may not pay tax on the full appreciation in value until he sells the stock.

### SECOND. NO ESTATE TAX OF DEATH BENEFITS

Death benefits paid by employees' plans generally take the form of an annuity or a lump-sum payment. Ordinarily, the value of such an annuity or payment would be included in the employee's gross estate for Federal estate tax purposes. But, under a qualified plan, that part of a death benefit which is attributable to employer contributions is excluded from the gross estate and, thus, is not subject to estate tax.

### THIRD. CAPITAL GAINS TREATMENT OF LUMP-SUM DISTRIBUTIONS

Although pensions are considered to be a form of compensation, pension received in the form of lump-sum distributions were taxed, until 1969, as capital gains. The Finance Committee changed this to give capital gains treatment to all appreciation received up to the end of 1973, and thereafter, any gain would be taxed as ordinary income, but modified by a 15-year averaging calculation. Once again, pension benefits are taxed at a lower rate than salaries or wages.

These and other tax preferences are justified because the private pension system as a whole supposedly provides for the retirement income of a substantial number of low income workers.

In practice, however, this is not always true. A corporation can have a qualified pension plan regardless of how few persons besides the owner it employs.

Lack of wide coverage is particularly true of professional corporations. In just the 4-year period of 1968 to 1971, the number of corporate tax returns filed by physicians and surgeons increased from 1,600 to 20,000, while the number of such tax returns filed by legal service firms rose from 158 to over 3,000. One-man professional corporations are common.

Furthermore, while a pension plan cannot discriminate in favor of high paid employees and benefits as a percentage of compensation must be the same for all covered employees, there are many ways to reduce the effectiveness of these requirements. One means by which the lower paid receive relatively less benefits from a qualified plan is the practice of integrating such plans with social security. In general, this permits the employer to treat a portion of social security benefits as part of his plan and to reduce the benefits he pays accordingly.

For example, the benefit formula may be 50 percent of pay reduced by 83 percent of the primary social security benefits. For low-income people this will mean little or no benefit from the private plan. For high-income individuals, the social security offset will have relatively little effect.

Allowing employers to count their social security contributions as part of their pension contributions strikes at the very heart, and justification for pension plans. Integration clearly encourages discrimination in favor of highly paid employees which is supposedly not allowed. This is recognized by authorities in this area. For example, a 1971 Commerce Clearing House publication entitled "Professional Corporations Handbook" states:

> A professional corporation can increase the percentage of contributions to a qualified plan distributed for the benefit of highly paid employees (shareholders, etc.) by integrating the plan with Social Security benefits . . . Thus, a professional corporation pension plan may integrate its private plan with the Social Security retirement plan by providing that all employees below a salary level covered by Social Security are to be excluded from the plan.

Pension benefits given to low-paid employees as an abstraction are taken away in the fine print of the income tax code.

Two years ago, the situation was even worse. Before 1971, even a worker who had retired could have his pension reduced by increases in the social security. I do not think, however, that most Members of Congress will be relieved that social security increases will now only cause reductions in future pensions. I fail to see the justification for such a result. Congress improves social security to reduce poverty among the elderly, not to reduce a worker's promised pension. Little is known about the full implication of integration, but in a May 27 Los Angeles Times article by Ronald Soble, it was estimated that perhaps as many as 2 or 3 million Americans' private pension benefits are offset by increases in social security benefits, and that as many as 20 million other workers work for companies that use social security as a basis for calculating private pension plans.

Also, pension plans may qualify even though coverage is limited to employees who are within a prescribed age group, have been employed for a stated number of years, have been employed in certain designated departments, or are in other classifications.

Some of these ways of excluding low-paid employees will be limited to some extent by the pension bill being debated today, but other methods remain completely untouched. For example, a plan for salaried employees only will qualify for favorable tax treatment and be found not too discriminatory in favor of highly compensated employees even though a majority of the company's low-paid employees are excluded from the plan. In one salaried-only plan where 11 out of 26 participants were either officers, shareholders, supervisors or highly compensated employees, and the compensation of the remaining 15 participants was substantially the same as that of the 85 excluded hourly employees, the nondiscriminatory coverage requirement was satisfied regardless of whether the excluded employees were covered under a similar or comparable plan.

In this plan, only 23.9 percent of all employees were covered; but 42.3 percent of the covered employees were highly compensated.

These are just some of the methods used to exclude low-paid employees.

In the pension area, we find a consistent pattern of real tax advantage for the wealthy but illusionary pension benefits for the average worker. The bill before us does a great deal to make pensions real for the American worker, but it does little to end tax favors for the wealthy. The present tax treatment of the deferred compensation of corporate executives is an abuse that cannot be defended. I urge the Senate adoption of my amendment placing a ceiling on excessive benefits enjoyed by few and paid by many.

Mr. **HARTKE**. Mr. President, will the Senator yield 30 seconds to me?

The **PRESIDING OFFICER**. The Senator from Indiana is recognized.

Mr. **HARTKE**. Mr. President, the amendments offered by the Senator from Wisconsin are improvements to the bill. I would hope that, during the night, Senators will have the opportunity to review the amendments and will be able to understand what the Senator from Wisconsin is attempting to do, which is to provide some kind of equity to what at this moment is an unfair pension system in this country.

I want to congratulate the Senator and tell him that I intend to support his amendments.

Mr. **NELSON**. I thank the Senator from Indiana very much. I am in agreement with him, in that there are a number of inequities in the present pension law and inequities in the current law, in the sense that we do not correct some matters that should be corrected. The limitation that I will be proposing at least is one step in the right direction in terms of putting more equity into this proposal.

Mr. **HARTKE**. What the Senator is directing his attention to are certain types of advantages which go to individuals under present law and under the proposed law, so that tax advantages would prevent a pension from having full utilization of funds from accruing to an individual. We are not doing anything to destroy the opportunity for pension rights here. The only difference is whether the country at large will pay for it or whether the producing individual or the producing corporation will pay for it.

Mr. NELSON. That is correct. A corporation can establish any pension system it finds desirable as long as its plan is nondiscriminatory. The purpose of this is to set some real limitation on the amount of any contributions on tax-deductible money.

Mr. HARTKE. Some people might say that the whole tax program for pensions could become a tax loophole and Congress will be putting its stamp of approval on a big tax loophole. But that is neither here nor there.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask for the yeas and nays on my amendment, which will be the pending business at 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Unanimous consent is necessary for it to be in order to ask for the yeas and nays.

Mr. NELSON. I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. I ask for the yeas and nays.

The yeas and ways were ordered.

Mr. NELSON. Mr. President, I ask unanimous consent to have printed in the RECORD an analysis of the substitute amendment to S. 4, my amendment No. 496.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

### ANALYSIS OF AMENDMENT NO. 496

#### 1. ADMINISTRATION

Several parts of the amendment are to be administered by the Internal Revenue Service. In this respect, the amendment follows the provisions of S. 1179, by creating within the Internal Revenue Service a new office, to be known as the Office of Employee Plans and Exempt Organizations. This office would have the responsibility within the Service for enforcing the tax law requirements with respect to pension plans and also charitable foundations and other tax-exempt organizations.

This new office in the Internal Revenue Service will improve the administration of the tax laws on pensions by putting all of the pension specialists under a single roof. This new office, headed by an Assistant Commissioner of Internal Revenue, will decide questions concerning whether the plan is qualified, the deductibility of contributions to the plan, the taxation of annuities, the minimum funding standards, and the new rules on prohibited transactions, and will see to it that these provisions are enforced.

To finance the cost of administration of qualified employee retirement plans as well as exempt organizations, the amendment would authorize appropriations equal to the collections from a new $1 per participant audit-fee-excise tax, as well as one-half of the collections from the existing 4-percent excise tax on the investment income of private foundations.

To assist employees in actually receiving the plan benefits to which they are entitled when they retire, the amendment requires the plan administrator of any qualified plan or government plan to file an annual statement with the Secretary of the Treasury regarding any individual who leaves his job with a deferred vested retirement benefit. The statement is to include the amount of the individual's vested benefits. This information will be furnished by the plan administrator to the participant and will also be furnished by the Internal Revenue Service to the Social Security Administration.

When an individual applies for Social Security benefits, he will be notified of any information which the Social Security Administration has relating to any of the worker's vested retirement benefits, including the name and address of the person to contact to receive those benefits. This will help ensure that no worker will lose his pension rights through inadvertence, because he has forgotten that he has a right to a pension, or does not know where to write to receive his benefits.

#### 2. PARTICIPATION AND VESTING

The provisions concerning participation and vesting are crucial to the protection of pension rights. Without adequate safeguards in those areas, millions of workers may be denied the right to participate in a pension plan of their employer. Additionally, even where they participate, without vesting safeguards the pension benefits which have been built up over the years can be completely lost if the employee loses or leaves his job before retirement. Both S. 4 and S. 1179 include substantial protection in the areas of vesting and participation, and the amendment combines the best features of both these bills.

Under S. 1179 and the amendment, the employer could not require as a condition of participation a period of service greater than one year or attainment of an age greater than 30 years. (However, neither the amendment nor the bills require plans for owner-employees—so-called H.R. 10 plans—to change their participation and vesting rules, which are: all employees with at least 3 years of service must be participants, and their benefits must be 100 percent vested immediately.) Under this rule, coverage under private pension plans will increase significantly without imposing an undue burden of cost on the employer.

Under present law, where employees in a collective bargaining unit prefer current compensation or other benefits to a pension plan, employers are sometimes unable to establish a plan for other employees because the coverage and antidiscrimination requirements of the tax law cannot be satisfied. This situation can result in hardship where all employees of an employer are forced to forego the benefits of a pension plan merely because those employees who included in a collected bargaining agreement choose nonpension benefits. On the other hand, an employer should not be able to exclude his union employees from a pension plan without compensation for this in the form of other types of benefits.

Therefore S. 1179 and the amendment provide that collective bargaining employees may be excluded for purposes of applying the coverage test of the tax laws where there is evidence that retirement benefits have been the subject of good faith bargaining between the union employees and the employer in the negotiations relating to the most recent contract. However, the mere fact that the union didn't choose pension benefits in one bargaining session would not prevent it from raising the issue again in connection with a later contract.

With respect to vesting, S. 4 provides that an employee must be 30 percent vested after 8 years of participation in the plan, with 10 percent additional vesting each year thereafter, so that there is 100 percent vesting after 15 years of service. S. 1179 provides that there must be 25 percent vesting after 5 years of service, plus 5 percentage points a year for each of the next 5 years and 10 percentage points a year thereafter. This is the rule which is in the amendment. This rule has the advantage of providing some vesting (at least 25 percent) at a relatively early point (after 5 years of service), while keeping the feature of S. 4 which requires full 100 percent vesting after 15 years of service. Also, under the amendment, an individual who becomes a participant in a qualified plan is permitted to count up to 5 years of preparticipation service (plus any other preparticipation years for which the employee made contributions to the plan or the employees made contributions to the plan with respect to that employee's service) for purposes of determining his vesting. Therefore, if a man begins working at age 25, and becomes a participant in the plan at 30, those 5 years of prior service will count for vesting purposes.

Also, both S. 4 and S. 1179 recognize the importance of having the vesting requirements apply to all accrued benefits, including those which accrued before the effective date of the provision. The amendment also takes this approach. Without such a rule, employees who are now older would receive the advantages of the vesting requirement only for the pension benefits which they would be able to build up in the future. Without this rule, these older employees would receive no vesting protection for benefits which they have already accrued; in the case of the older employee this would usually be the bulk of the benefits earned during his lifetime. No benefits would be accrued for preenactment service by the employee unless the employee had been a participant in the plan before enactment.

Many pension plans provide that the employee will be 100 percent vested after 10 years of service. Both bills took the position that it was appropriate to give these more liberal plans special recognition. Under the amendment, any plan which, on the date of enactment, provides for 100 percent vesting of employer contributions by the end of the tenth year in which the employee is a participant, will be able to retain this vesting schedule. However, to meet this provision the plan must be amended, if necessary, to provide that the employee must be 100 percent vested after 10 years of service with the employer, rather than 10 years of service with the employer, rather than 10 years of participation in the plan.

The term "year of service" will be defined under regulations jointly prescribed by the Department of Labor and the Department of the Treasury for years beginning prior to January 1, 1981. After that, "year of service" will be defined as any year where the employee has more than 5 months of service, with at least 80 hours of work each month.

The amendment provides further protection with respect to vesting by imposing excise tax on the employer where it is found that, even though the plan contains a vesting schedule which is consistent with the requirements of the bill, the employer is deliberately not meeting these requirements in practice.

Both the Department of Labor and the

Department of the Treasury are to help enforce these provisions. For example, if the Secretary of Labor were to find a consistent pattern of violating the vesting rights of employees under a plan, he might proceed in the courts for equitable remedies (i.e., mandamus, removal of trustee) and also he would certify this fact to the Secretary of the Treasury. The Treasury would then make its own review of the situation, and ordinarily would then impose the tax, based on the value of the vested rights unlawfully denied to the employees.

Combining the elements of both bills, the amendment provides that plans generally (whether or not qualified, whether or not with more than 25 participants, whether or not for owner-employees) are to be subject to these requirements. For example, certain "pay-as-you-go" pension plans are not qualified for purposes of the Internal Revenue Code because they are not funded, are not covered by S. 1179 but are to be covered by the amendment. Under the amendment, the Secretary of the Treasury is to have the authority to go into court to enjoin any plan from operating in violation of the requirements under this bill. Generally, this would force the employer to restructure his plan on a qualified basis. In any event, the employer would be barred under the law from making pension promises to his employees which might not be kept because there was, e.g., no funding of the plan.

This provision would not prevent an employer from maintaining a deferred compensation arrangement for his executives which is quite common in certain businesses. In general, executives do not need the protections provided under this amendment for the average worker.

In addition, the amendment provides certain further protections with respect to vesting. Under the amendment, for example, there could be no retirement plan with a normal retirement age later than 65. Also, the amendment follows S. 4 by providing that the pension rights of an employee cannot be assigned. However, if the plan made a loan to a participant, the employee's interest in the plan could be security for the loan.

Furthermore, under present law, there is no requirement that a qualified retirement plan must offer the option of a survivor annuity. This can result in hardship where an individual primarily dependent on his pension as a source of retirement income is unable to make adequate provision for his spouse during her retirement years should he predecease her. To correct this situation, the amendment requires that a joint and survivor annuity be offered as an option which can be exercised by the employee upon his retirement with respect to any benefit under a qualified plan which is payable as an annuity.

Also, the amendment carries forward provisions of S. 4 and S. 1179 which are designed to provide special protection to the very highly mobile employee who might not receive rights even under the vesting provisions of the bill. S. 4, for example, authorizes the Secretary of Labor to develop recommendations for modifications of Federal procurement regulations to insure that professional, scientific and technical personnel in occupations employed under Federal contracts will be protected against forfeitures of their retirement benefits. S. 1179 contains a provision which would authorize highly mobile employees to trade off high benefits which might be available under one pension plan of their employer for the right to participate in another plan with somewhat lower benefits but very rapid vesting. The amendment contains both provisions.

Generally, the vesting and participation provisions under the amendment are to apply to plan years beginning after the date of enactment. In the case of a plan already in existence, the provisions will apply in plan years beginning after December 31, 1975. However, if the Secretary of Labor should find that implementation of the vesting requirements will impose "substantial economic hardship" on the plan, he will certify this fact to the Secretary of Treasury and the effective date may be postponed for a period of up to 6 years, as recommended by the Secretary of Labor.

### 3. FUNDING

Retirement plans cannot provide financial security to workers unless sufficient amounts of money have been contributed to them to pay the benefits promised. However, it is clear that a significant portion of retirement plans are not adequately funded. As a result, many workers who are now promised benefits on their retirement may not actually receive these benefits because the necessary funds will not be available.

Both S. 4 and S. 1179 have similar provisions to correct this problem. Both bills recognize that, for the financial safety of workers, contributions must be made each year so that the plan will accumulate sufficient funds to pay benefits. At the same time both bills recognize that retirement benefits involve substantial costs and employers must be allowed to gradually fund the cost of retirement benefits. S. 4 and S. 1179 are in substantial agreement regarding funding, and often these bills are almost identical. The amendment generally follows the format of S. 1179; where there are differences between the bills, they have been combined and the best of each bill has been used in the amendment.

Under most plans, a covered worker earns retirement benefits for each year of his current service. Both S. 4 and the amendment require that amounts to fund these "current service costs" be contributed on a current yearly basis by the employer.

Also, under many plans a covered worker is given credit for his service that took place before the plan went into effect. In this case, the plan will have an initial past service cost liability in addition to the current service costs Under S. 4 and S. 1179 and this amendment, initial past service costs must be amortized by the employer in no less than equal payments over no more than 30 years. It is recognized, however, that multiemployer plans may be more financially secure than single employer plans, and so the amendment allows a longer funding period—40 years—for multiemployer plans. In addition, if the Secretary of Labor finds that this would impose substantial economic hardship to more than 10 percent of the employers in any plan, the 40-year period may be extended (to as much as 50 years for that plan).

The funding requirements of this amendment, as well as the funding requirements of S. 4 and S. 1179 are only minimum requirements. If an employer wishes to contribute more than the minimum he may do so. Furthermore, an employer who contributes more than the minimum will be given credit for his increased contribution based upon the additional income which his larger contribution will earn in the plan. On the other hand, to protect the revenues of the Government, the existing rules governing the maximum tax deductions available for contributions to a plan generally are not changed. However, contributions needed to meet the minimum funding requirements are to be deductible.

The minimum funding requirements of both S. 4 and this amendment apply to all accrued plan benefits, and not merely to vested benefits.

Past service costs may be established by plan amendments also, for plan amendments often increase benefits for older workers based on their prior service. S. 4 and S. 1179 and the amendment require amortization over no more than 30 years of substantial increases in past service cost through plan amendment. (As noted above, a longer period is allowed for multiemployer plans). The amendment also provides an objective definition of the term "substantial," as 5 percent or more of the past service cost existing on the date of amendment of the plan. In other cases of plan amendment, increases in past service cost would be amortized over the shorter of 15 years or the average remaining service life of the covered workers. Additionally, plan amendments that reduce benefits would be treated symmetrically with amendments that increase benefits.

The costs of defined benefit pension plans are estimates, because many future events affect the pensions that eventually are paid out, and affect the value of the assets of a pension plan. Of course, estimates and experience rarely are the same and therefore plans frequently have experience losses and gains. S. 4 and S. 1179, and this amendment require that experience losses be amortized over a specific period. The amendment follows S. 1179 and requires that amortization be over the shorter of fifteen years or the average remaining service life of covered workers. This period of time will provide adequate funding to protect employees while at the same time protecting employers from potentially harsh financial burdens arising from events they cannot control, such as fluctuations in the stock market. Additionally, it is expected that this period is sufficiently long to prevent possible discrimination against certain pension plans that increase benefits as pay increases (such as "final pay plans"), and thus generally are desirable from the viewpoint of workers. Experience gains are to be treated symmetrically with experience losses.

In connection with experience losses (and for other purposes), the amendment values plan assets by using a moving average over 5 years (or over a consistently used shorter period of time, at the choice of the plan). In this way, short-run fluctuations in market value will be averaged out to reflect the long-range value of plan assets.

Both bills and this amendment recognize that at times an employer will not be able financially to meet the minimum funding requirements, and relief must be provided. In the case where there is only a single employer involved in funding the plan, the amendment provides that the minimum funding requirements generally may be waived upon a showing that otherwise the employer would incur substantial business hardship. Any amounts waived must be amortized by the employer over no more than 10 years not less rapidly than in at least equal annual payments and these makeup payments themselves cannot be waived. No more than 5 waivers may be granted in any 10-year period, and the plan cannot be amended to increase benefits as long as there are any unpaid waived amounts.

Both bills and this amendment include similar special funding rules for plans that are funded through individual insurance contracts. Also, both bills and the amendment relieve fully funded plans of the minimum funding requirements, as long as they remain in fully funded status.

Pension plan costs may vary greatly depending upon the actuarial assumptions and methods used. Consequently both bills and this amendment require standards of competence to be set for actuaries who are enrolled to practice with respect to pension plans. Actuaries also are to be held to a standard of reasonableness in choosing the methods and assumptions used in determining planned costs. In addition, enrolled actuaries must periodically certify the costs and the funding method and actuarial assumptions of pension plans.

Under this amendment, the minimum funding standards are to be enforced through the tax laws. If an employer fails to contribute the minimum required amounts to the plan each year, he is to be subject to an initial 5-percent excise tax on the funding deficiency. In addition, if the funding deficiency is not corrected within the period allowed after notice from the Internal Revenue Service, the employer is to be subject to a tax of 100 percent of the funding deficiency. In case of a multiemployer plan, if there is a funding deficiency for the plan as a whole, taxes would first be imposed on those employers who are delinquent in their payments to the plan. Neither of these taxes are to be deductible.

To help the employer meet the minimum funding requirements and to help the Internal Revenue Service enforce these taxes, most plans will be required to keep a new account that will show the amounts that must be funded each year and also the amounts contributed by the employer. In addition, this amendment authorizes appropriations of the receipts from these taxes to be paid to the Pension Benefits Guaranty Corporation, to strengthen the insurance program.

Under the amendment, the minimum funding standards are to have the same effective date as the vesting provisions. These requirements are to be effective upon enactment for new plans established after enactment. For existing plans, they are to apply to plan years beginning after 1975. However, on a finding by the Secretary of Labor that substantial economic hardship would otherwise result, the application to a plan of all or part of the funding requirements may be delayed as much as 6 years.

### 4. PORTABILITY

The mobility of workers in the United States has been increasing steadily. However, employees who move from job to job not only have difficulties earning pension benefits but also have difficulties collecting benefits which they have earned. On retirement, these employees must deal separately with each employer to arrange for benefits; additionally, they may have difficulty in contacting their former employers because of changes of name or address, or because of their own insufficient records.

Both S. 4 and S. 1179 include several provisions to help solve these problems. As with other provisions, the amendment includes the best of both bills in the portability area. Both bills and this amendment have very similar provisions to establish a voluntary central portability fund. Under S. 4, S. 1179, and this amendment, where the employers agree, workers who change jobs may have their vested retirement credits transferred to the central fund. Under the amendment, the fund would be operated by the Pension Benefit Guaranty Corporation. The fund is to establish an account for each worker on whose behalf it receives money, invest its assets, and pay each participant a benefit on retirement. Alternatively, the worker may have the amount in his account transferred to a retirement plan of his new employer. Transfers to plans of new employers are to buy actuarially equivalent benefits in the new plan. However by not requiring that these benefits be vested, the amendment gives the worker the maximum flexibility in acquiring retirement benefits in the plan of his new employer. (For example, he may trade off full vesting in the transferred funds in exchange for being treated as having additional creditable years of service.)

Under the amendment, transfers to the central fund and transfers from the fund to the plan of a new employer are to be on a tax-free basis. Also, income earned by the central fund is to be tax free until it is paid out to participants or beneficiaries. Payments to participants and beneficiaries from the fund generally will be treated for tax purposes as payments from a tax qualified retirement plan.

This portability program will be wholly voluntary, for both employers and employees. A plan need not pay any assets to the central fund unless it voluntarily registers to participate in the central portability program. Additionally, moneys will not be paid to the central fund on behalf of a worker covered under a registered plan unless the worker, individually and voluntarily, requests that this payment be made.

The portability program provided in this amendment also includes some tax features of S. 1179 in addition to those described previously. Under this amendment, if an employee receives a complete distribution of his interests in a tax qualified retirement plan, he generally will not be taxed on the distribution if he contributes the amount received to the central portability fund or to another qualified plan. To be eligible for this special treatment, the amount received must be recontributed within 60 days after receipt. In this way, employees who receive a lump sum distribution on leaving employment before retirement will be able to keep these moneys in a tax qualified plan until they retire.

In addition, the provision described above that requires plans to report to Social Security regarding employees who leave employment with vested retirement benefits is an integral part of the portability program. In this way, employees who have earned vested retirement benefits from a number of employers will be able to acquire sufficient information on retirement so they can contact their previous employers to claim the retirement benefits they own.

### 5. PLAN TERMINATION INSURANCE

Despite the accelerated funding of pension plans that would be required under the bill, workers might not receive all the benefits they have been led to expect if the plan terminates before all the funds for those benefits have been provided. Such a termination might occur, for example, if an employer sells his business or simply stops business. About 19,400 workers lost benefits in 1972 because of pension plan terminations. For that reason, a method of ensuring that employees receive all their vested benefits should be included in the law.

Both S. 4 and S. 1179 provide systems of plan termination insurance which, despite certain differences, are substantially similar in most respects.

Under both bills, most pension plans are required to fund the insurance with premiums paid by the employer. Limits on the amounts of insurance payable to each plan participant are set to prevent the depletion of the insurance fund by excessive payments to highly paid employees. In order to prevent pension plans or additional benefits from being created solely for the purpose of taking advantage of the insurance system, plans are required to remain in operation for certain periods before they would be covered by the insurance. Employers are required, when they are solvent, to reimburse the insurance fund for its losses, up to certain limits, as a precaution to prevent employers from terminating plans to take advantage of the insurance. Except for relatively technical matters, such as the amounts of the limitations, both bills were alike as to these and other provisions.

This amendment combines the features of the two bills and adjusts their differences so as to provide an improved system of plan termination insurance. S. 4 would have had the insurance provisions administered by the Secretary of Labor, while S. 1179 provides for a separate corporation to be administered by three directors, the Secretaries of the Treasury, Labor, and Commerce, with the Secretary of the Treasury to be the Chairman of the Board of Directors unless the directors should prefer another director as the chairman. Under this amendment, the program would be administered under a separate corporation within the Department of Labor with the Secretary of Labor as the chairman.

S. 4 would have based the rate of premiums payable by each plan upon a percentage of its unfunded vested liabilities. S. 1179 generally imposes a tax of 50 cents per year per plan participant. In order to avoid problems caused by actuarial mistakes or the fluctuations in value of plan assets, the amendment provides for a premium of $1.00 per year per participant. To eliminate some of the costs of collection, these premiums are to be collected as taxes by the Internal Revenue Service.

S. 4 provided that insurable benefits could be covered by the insurance upon the effective date of the insurance title (one year after date of enactment of the bill), while S. 1179 would delay coverage for three years after that time in order to enable the insurance fund to be built up by collection of premiums. Under this amendment, all plans would be covered after two years of premium collections—sooner if the insurance corporation decides before that time that it has enough funds to begin coverage earlier. Generally, premium taxes are to be payable by employers beginning in 1975. Therefore, coverage would generally begin not later than 1977.

A difference existed in the two bills as to the extent of the employer's liability to the insurance corporation to reimburse it for losses caused by its coverage of that employer's terminated plan. Under S. 4, the liability would have been limited to 50 percent of the employer's net worth. S. 1179 limits liability to the lesser of 50 percent of the net worth or 10 percent of the loss. Under this amendment, the employer's contingent liability is limited to 100 percent of the loss up to 30 percent of his net worth. It is believed that this contingent liability will be sufficient to prevent employers from terminating plans to take advantage of the insurance for themselves and their employees.

This decision also permits the elimination of the "phasing-in" schedule of S. 1179, which would have permitted only gradual coverage of newly created plans and benefits.

Under S. 1179, employers would be given the option of avoiding their liability for the insurance corporation's losses by paying an extra payment of 20 cents per participant per year. Under the amendment, the insurance corporation would decide, initially and from year to year, the amount of the surcharge that employers must pay to avoid extra liability. Since that extra charge would be voluntary for employers, it would not be collected as a tax, and the employers could, if they should so desire, elect instead to obtain protection against liability from the private insurance sector.

To prevent the creation of new plans and benefits in order to take advantage of the insurance, in cases where the employer has contingent liability for losses, S. 1179 would provide a three-year waiting period before vested rights under newly created plans and plan amendments granting additional benefits could obtain the insurance protection. Where employers seek to eliminate contingent liability by paying the extra charge, a five-year waiting period would apply. In general, these waiting periods would be retained in the amendment.

Under S. 1179, even if an employer chose to pay the additional charge to avoid employer liability, he would remain liable to the insurance corporation if he stayed in business or was a party to a reorganization after the termination of his plan. This provision was believed necessary to prevent an employer from arranging to have the insurance proceeds eliminate his funding deficiency, by terminating the plan, and then remaining in business and possibly starting a new pension plan. Since S. 4 did not provide an avenue by which an employer could escape liability, there was no analogous provision in S. 4.

Under the amendment, this provision would be retained in its general intent. However, S. 1179's one-year period following termination during which an employer would retain liability if it returned to business or was a party to a reorganization, would be lengthened to three years.

Since under the amendment the employer's contingent liability would not exceed 20 percent of net worth, it would obviously be collectible only from solvent employers. However, if the employer should contract with the insurance corporation to pay his liability in installments (as he might do under both bills), the question might eventually arise as to whether the lien created by the liability is superior to some other creditor's lien. Both bills provided that this lien would always be inferior to tax liens, but S. 1179 also provided that this lien would be inferior to the claims of a general creditor that existed as of the termination. The provision of S. 1179 is intended to protect the credit status of employers. The amendment retains the provision, but only as to claims perfected by the filing of liens not later than 30 days following the termination.

The sponsors of both bills recognized that withdrawals of substantial employers could weaken multiemployer plans. To protect against this, S. 1179 introduced a number of provisions. Employers who had been contributing a specified portion of the plan's premiums would be required to pay into escrow their share of any potential employer liability, or to post a bond, upon their withdrawal from the plan. If the plan terminated within five years thereafter, the payment or the bond would be turned over to the insurance corporation. If there were no termination in that period, the bond or escrowed amount would be returned. Upon the actual termination of a multiemployer plan, the liability of each employer would be calculated in accordance with his proportion of the contributions for the total premiums paid into the plan during the previous five years.

Under the amendment, these rules would be retained, together with a provision from S. 4 allowing the insurance corporation to separate a multiemployer plan into two or more plans whenever it determines that employer withdrawals have endangered the rights of the employee-participants. The employers in the plan would, under the amendment, also be given the option of entering into reciprocal indemnification agreements among themselves to protect the participants ad beneficiaries and the insurance corporation by requiring contributions toward eventually determined employers' liabilities from previously withdrawn employers. The amendment gives the insurance corporation the right to waive both of these provisions where it is satisfied that the members of the multiemployer group have entered into a satisfactory indemnification agreement that will protect against plan failure or at least insure that liabilities will be paid in the event of plan failure.

S. 4 provided that benefits of participants and beneficiaries derived from vested rights would be insured. S. 1179 stated that all ancillary benefits to which a participant or his beneficiary would be entitled upon occurrence of a contingency would also be insured. Under the agreement, it would be made clear that any vested ancillary benefit would be protected by the insurance system, to the extent of the coverage limitations to be discussed later.

Both bills provided that premium rates, after the first three years of operation of the fund, could be reset by the insurance corporation based upon its loss experience. S. 4 gave each House of Congress the right to veto a change; S. 1179 provided that no change would go into effect until approved by both Houses by concurrent resolution. The amendment generally follows S. 1179, but requires that all proposed adjustments are to be transmitted to both the House Ways and Means Committee and the Senate Finance Committee, and to the House Education and Labor Committee and the Senate Labor and Public Welfare Committee.

It was recognized that employers might be tempted to create new benefits for themselves or for favored employees, terminate their plans, and then (in accordance with provisions of their plans) allocate existing plan assets to these benefits. Since the benefits would be new, they would not yet have survived the three-year (or five-year) waiting period during which they would not be insured. However, because assets that might have been used to cover the insurable benefits were used instead to cover uninsurable benefits, the insurance corporation would suffer an additional loss.

To protect against this problem, S. 1179 provided for a required system of allocation of plan assets upon termination that would be applicable only in insured terminations. It required plan assets to be allocated first against insured benefits, and, to prevent allocation for ongoing pension payments which had been increased in anticipation of the termination, it required that the allocation for such payments be based on their level three years prior to the termination. S. 4 included a more general requirement of allocation upon termination that was applicable whether the insurance provisions came into effect or not. Under the agreement, the general S. 1179 allocation provision will be applied to all terminations, but the special three-year limitation on benefits already in pay status would not be applied unless the termination resulted in insurance losses.

As another precaution against abuse of the insurance program, S. 1179 allowed the insurance corporation to recapture payments made by the pension plan within the three years prior to its termination to the extent the payments exceeded the limitations on the amounts of insurance payments. This rule would be retained under the amendment; but, as in S. 1179 no payments could be recovered in the event of death or disability.

Although the limitation on insurance payable to a plan participant is essentially similar in that both bills limited the payment to 50 percent of the recipient's average monthly wage in his highest-paid five years (in S. 4, during the highest-paid five years after the registration of the plan under the Act), the additional limitation of $750 monthly proposed in S. 1179 would be accepted in place of S. 4's $500 monthly.

S. 1179 denied coverage to unqualified plans or to plans that lost their qualification. Since, under the amended bill, most plans must qualify under the Internal Revenue Code, this provision is no longer needed. As a result, employees will not lose coverage because of the transgression of their employers.

Certain provisions of S. 1179 that are, for the most part, of a technical nature are included in substantially the same form in the amendment. For example, the amendment names the insurance fund the Pension Benefit Guaranty Fund and names the corporation the Pension Benefit Guaranty Corporation; it allows the corporation to borrow up to $100 million from the Treasury as a safeguard against unforeseen financial problems; it specifies that all ancillary and retirement benefits payable with respect to any one employee may not exceed the limitation set (generally, the lesser of $750 monthly or 50 percent of the participant's average monthly wage) on payment of insurance benefits.

Furthermore, under the amendment, plans with 25 or fewer employees would be covered by the insurance, as is provided under S. 1179, although not under S. 4. It is believed that the technical safeguards against abuse of the insurance program that are introduced from S. 1179 permit small plans to be covered without endangering the insurance program.

For much the same reasons, persons owning substantial interests in employing firms who are also employees will be covered under the amendment. However, the limitation on insurance payments to these participants would include a subtraction for pro rata shares of any accumulated funding deficiency.

In accordance with S. 1179, the amendment will require a successor employer to incur the liability of its predecessor for liability to the Guaranty Fund. Such a successor employer comes into being when its predecessor ceases to exist because of a change of identity, a liquidation, or a reorganization. In such a case, the periods of existence of both the predecessor and the successor may be lumped together in determining the passing of the three-year waiting period required before plans or new benefits are insurable.

Also, as under S. 1179, the amendment authorizes the Guaranty Corporation to terminate a plan if the corporation, upon notification from a plan administrator that his plan is to be terminated, determines that the plan assets will be insufficient to discharge all insured benefits. The corporation may also terminate a plan upon learning of certain specified conditions that, in general, indicate that the financial status of the plan has reached the point at which the employees' pension benefits are endangered. To prevent an arbitrary termination by the corporation, judicial review of contested terminations by the corporation is provided.

Certain technical provisions in the amendment that peculiarly relate to the tax aspects of the situation are also taken from S. 1179. For example, a beneficiary may claim a refund of tax imposed upon him for a previous tax year if the Guaranty Corporation subsequently recaptures a pension distribution made to him in that previous year. These recaptures are generally permitted, in order to avoid abuses of the insurance system, if excessive distributions are made during the three years preceding a plan termination. A remedy is given the person from whom the distribution is recaptured by allowing him a year after the recapture in which he may file a refund claim, even if he otherwise would be barred from filing a claim by the statute of limitations. The claim would be for the tax he paid on account of the recaptured distribution when it was originally distributed to him from the plan.

### 6. FIDUCIARY STANDARDS

To ensure that workers covered by employee benefit plans receive the benefits they are promised, both S. 4 and S.1179 include new Federal standards of conduct for fiduciaries who deal with plan assets and for persons who are parties in interest with respect to the plans. In the area of fiduciary standards the amendment takes the best parts of both bills to establish an effective set of rules governing the conduct of fiduciaries and parties in interest.

Generally, under the amendment, the Secretary of Labor will have primary responsibility for administering standards of conduct with respect to fiduciaries. Under the amendment fiduciaries must administer employee benefit plans solely in the interest of participants and beneficiaries. In addition, following S. 4, fiduciaries must act as would a prudent man in a like capacity and familiar with such matters. Also, employee benefit plans are to be subject to certain restrictions regarding investments in employer securities, and investments abroad. Where fiduciaries breach these standards of conduct, the Secretary of Labor (and participants and beneficiaries of the plan) may bring civil actions to surcharge the fiduciaries for the losses incurred by the plan or profits which they have gained as a result of the breach. Civil actions also will be available to enjoin fiduciaries or otherwise remedy a breach of conduct.

The amendment also includes certain specified prohibited transactions involving employee benefit plans. These prohibited transactions will be enforced both by the Secretary of Labor and the Internal Revenue Service. Under the amendment, as under S. 4, the Secretary of Labor will have primary responsibility for enforcing these rules with respect to fiduciaries. The Internal Revenue Service will have primary responsibility for enforcing prohibited transactions with respect to parties in interest, through an excise tax as in S. 1179. (This reflects the division of responsibilities between the two departments in S. 1179, and also follows the focus of enforcement shown in S. 4.)

Under S. 4, fiduciaries are required to discharge their duties (with regard to investment and other matters) with the care of a prudent man acting in a like capacity and familiar with such matters. The prudent man rule of S. 4 is included in the amendment instead of the corresponding "jeopardizing income or assets" provision in S. 1179.

Both bills included limitations on the acquisition and holding of employers' securities by employee plans. Under the amendment, these rules will be administered by the Secretary of Labor through the civil action provisions. The two bills differed on the limitations on acquisition of employers' securities; for the most part, the provisions of S. 4 were followed in this respect. Under the amendment, not more than 5 percent of the assets of a pension plan may be in employer securities. This limitation generally is not to apply to profit-sharing and stock bonus plans. In addition, the rules of S. 4 regarding diversification of investment by profit-sharing and stock bonus plans are included in the amendment.

Transactions involving real property leased between employee benefit trusts and employers are treated similarly to acquisitions of employer securities. The 5-percent limitation is an overall limit that applies both to employer securities and leases.

If, on the date of enactment, a plan has more employer securities or leased property than is allowed under the bill, the plan must divest itself of this excess pursuant to the rules of S. 4. One-half of the excess must be divested within 5 years from enactment, and all of the excess must be divested within 10 years from enactment.

The prohibition in both S. 4 and S. 1179 against investment of assets outside the United States also will be administered solely by the Labor Department, under the amendment.

The amendment includes the rules of S. 4 that govern civil actions to be brought by the Secretary of Labor, and by participants and beneficiaries of the plans. Therefore, the amendment includes the S. 4 rules regarding the civil liability of a fiduciary for breach of his responsibility, and the S. 4 rules regarding liability of joint fiduciaries, prohibition of exculpatory clauses, service and venue, and other similar provisions.

S. 1179 provides that parties in interest (as well as fiduciaries) who participate in a transaction shall, under certain circumstances, be personally liable to the plan for any losses incurred by the plan or profits realized by the parties in interest as a result of a fiduciary breach. This provision is included in the amendment.

The amendment includes the rules in S. 4 regarding the prohibition against certain persons convicted of specified crimes holding positions with retirement plans.

Both S. 4 and S. 1179 include a number of specific prohibited transactions in addition to the general rules regarding fiduciary responsibility. Under S. 1179, these prohibited transactions are to be enforced both by civil actions brought by the Secretary of Labor (and others) and by the Internal Revenue Service through an excise tax. The main focus of the excise tax in S. 1179 is on the party in interest. This contrasts with S. 4, which puts primary responsibility for avoiding prohibited transactions on the fiduciary. These two provisions of S. 4 and S. 1179 are brought together in the amendment by providing that the Secretary of Labor may bring civil actions against fiduciaries for breach of the prohibited transactions, and the Internal Revenue Service will enforce the prohibited transactions with respect to parties in interest. (Consequently, the provisions of S. 1179 that impose an excise tax on fiduciaries are not included in the amendment.) In addition, while the party in interest is to be subject to an excise tax, payment of this tax will not relieve the party in interest from his obligation to the plan for any losses it has incurred and any profits he has made through participation in a prohibited transaction.

The prohibited transactions specified in S. 4 and S. 1179 are very similar, and in several instances are identical. In general, the format of S. 1179 is followed in the amendment, with appropriate changes.

In several cases, S. 1179 defined a prohibited transaction in terms of dealings involving the "income or assets" of the plan. Under the amendment, the term "income" has been deleted to remove any inference that this rule prohibits investment in growth assets that provide little current income. On the other hand, since "income" constitutes "assets", no distinction is to be made between the prohibited transaction rules regarding employee benefit plans and the corresponding self-dealing rules regarding private foundations.

S. 1179 specifically prohibits payment of compensation or reimbursement of expenses to a party in interest by a trust. This has been deleted from the list of prohibited transactions solely because the substance of this rule is included in other prohibited transactions specified in the amendment.

The prohibition against a fiduciary dealing with the trust on his own account generally follows the version of S. 4, which is broader than that of S. 1179.

The prohibition in S. 1179 against investments which jeopardize the income or assets of the plan has been eliminated, since the amendment investment standards will be governed by the prudent man rule and enforced by the Secretary of Labor.

The anti-kickback rule of S. 1179 is broadened to include the receipt of consideration by a fiduciary or a party in interest from any party dealing with the trust in connection with a transaction involving the trust.

Both bills and the amendment include a number of special rules and exceptions to the prohibited transaction provisions. Under S. 4, the Secretary of Labor may provide exceptions or variances from the prohibited transaction rules by classes of transactions or by individual transactions, pursuant to regulations or individual rulings. The amendment also allows such variances. Under the amendment, regulations and rulings allowing variances from the prohibited transaction provisions are to be issued jointly by the Secretaries of Labor and the Treasury. Variances will be provided only where both Secretaries find that the plans involved will not be impaired, the variance does not present serious administrative problems, and adequate safeguards are provided for participants and beneficiaries.

In the usual case, a variance will not meet the administrative requirements if it would depend on the transaction occurring at a fair price. However, if a recognized standard market price is available, such as the mean price for the day of the transaction of a stock traded on a national exchange, and if this would be an appropriate price for all cases covered by the variance, this could meet the administrative requirements.

Regulations providing variances will be issued only after full public hearings. Similarly, it is contemplated that interested parties will be allowed to intervene in any request for an individual variance, and it is contemplated that there will be sufficient notice of application for such a variance so that this right of intervention will be effective.

The amendment includes the provision in S. 1179 that prevents avoidance of the prohibition against sale or exchange through mortgaging property. The amendment also includes the provision in S. 1179 that allows loans by a plan to parties in interest who are plan participants. However, the amount of the loan is not to be limited to the party's vested interest, and the nondiscrimination rule is clarified so that loans to highly compensated employees are not to be in amounts greater than loans to other employees. Additionally, the prohibition of loans to owner-employees and proprietary employees is retained.

The provision in S. 1179 that allows parties in interest to guarantee loans to a trust by an independent party is not included in the amendment. (However, guarantees could be allowed by variance.) The exception in S. 1179 allowing compensation for goods, etc., furnished to the trust also is not included in the amendment. However, there is another exception allowing payment to a fiduciary for his services. Also, the exception allowing provision of goods, etc., by a trust to a party in interest is eliminated from the amendment, since it is not appropriate in the context of employee benefit trusts.

Under S. 1179, certain reorganizations and other corporate transactions are not treated as prohibited transactions. This exception is not included in the amendment; acquisition of securities in such transactions must conform to the general rules relating to acquisitions of employer securities, or could be allowed by variance.

The provision of S. 4 allowing compensation to a fiduciary for services rendered to a trust is included in the amendment, instead of the comparable provision in S. 1179. The provision in S. 1179 allowing fiduciaries and parties in interest to receive benefits to which they are entitled under the plan is included in the amendment, but additional language that merely stated the obvious is removed.

Finally, with respect to special rules, the S. 1179 provisions allowing fiduciaries to serve in other offices, and the S. 1179 provision regarding exclusions from the prohibited transaction rules are included in the compromise amendment.

To prevent undue hardship, S. 1179 provides transition rules for situations where employee benefit trusts are now engaging in activities which do not violate current law but which would be prohibited transactions under the bill. All of the S. 1179 transition rules are included in the amendment, except for the rule that grandfathers the holding of bonds described in section 165(g)(2)(C) of the Internal Revenue Code. These bonds will be treated as employer securities and will be subject to the general rules governing the acquisition and holding of employer securities.

The Secretary of Labor and the Secretary of the Treasury will jointly issue regulations for the prohibited transaction provisions. In addition, following the lead of S. 4, an agency cannot audit a plan more than once a year with regard to the fiduciary responsibility provisions, unless the appropriate Secretary finds there is reasonable cause to audit more frequently. However, this does not affect the existing rules governing the Internal Revenue Service with respect to the audit of a plan for vesting, funding, nondiscrimination, and other provisions.

Under the amendment, all rules governing fiduciary standards except the prohibited transaction rules will be effective on January 1, 1974. The prohibited transaction rules will be effective January 1, 1975.

### 7. ENFORCEMENT

The amendment embodies the provisions of S. 1179 which are intended to provide additional opportunities for redress in case of disagreement with the decisions of the Internal Revenue Service on pension matters. Both employees and employers will be allowed to appeal determination letters issued by the Internal Revenue Service to the United States Tax Court after exhausting their remedies under the Internal Revenue Service's administrative procedures. Employees as well as employers are to be allowed to participate in the Service's administrative proceedings. If either the employer or the employee exercises his right of appeal and requests the Tax Court to issue a declaratory judgment, the other party is to have the right to intervene in the proceedings.

Under this provision all interested parties to the controversy are to have an opportunity to participate in the administrative determination of the matter and to have an opportunity to contest the Internal Revenue Service's determination of the matter.

A second enforcement procedure under the amendment requires an arbitration procedure to be provided in each employee benefit plan, for settlement of claims under the plans. The Department of Labor will prescribe regulation for the type of arbitration provisions which are to be included in the plans.

The amendment also provides, as does S. 1179, that a $1 audit-fee-excise tax is to be imposed on the employer for each plan participant in a qualified employee plan to provide for Internal Revenue Service costs of administering the pension provisions. For purposes of administration and collection of this tax, the employment tax provisions of the tax law are to be applicable. However, this tax is to be deductible as a trade or business expense. The tax is with respect to participants of plans which are qualified under the tax laws and does not apply to agencies or instrumentalities of the United States, a State, or political subdivision.

**Mr. TUNNEY.** Mr. President, the pension legislation pending before the Senate today ranks among the most crucial measures this body has considered in the past decade. Today more than 30 million American workers participate in private pension plans with assets now totaling approximately $150 billion; it has been estimated that these figures will grow to 42 million workers and over $210 billion by 1980. Pension plans today represent the largest unregulated financial institution in the Nation.

The price for that inattention has been high—too high. There are workers today who labored for 20, 30, and even 40 years for a company and have never received a dollar in pension benefits because the company went bankrupt or otherwise went out of business. Other lose their pension rights due to fraud and mismanagement of the pension funds and the absence of standards governing their administration. Still others are denied these rights because, for one reason or other, they change jobs and thereby forfeit all the benefits they had accumulated over years of service. These inequities must be eliminated.

It was for this reason that I was pleased to cosponsor S. 4, the Retirement Income Security for Employees Act of 1973.

Experts have long recognized that any comprehensive pension reform must encompass a minimum of five areas: First, vesting; second, funding; third, fiduciary standards; fourth, reinsurance; and fifth, portability. The proposed legislation addresses each of these issues.

Vesting refers to the guarantee of a pension to a worker who works for a particular business over a specific period of time. The bill before the Senate today provides minimum vesting requirements which ensure that workers will acquire a vested, nonforfeitable right to 25 percent of their accumulated benefits after 5 years of service, and a full 100 percent after 15 years' service.

Funding provisions are provided to insure that the necessary assets to pay a vested pension are always available.

Portability refers to the ability of employees to transfer pension rights when they change jobs. The bill before the Senate establishes a central fund which will greatly expand pension portability in the United States.

Reinsurance involves the preservation of pension rights for employees of businesses which terminate their pension plans. Under the bill, a pension plan termination program must be created to insure that vested pension obligations will be met in the event a plan is terminated and the assets are insufficient to protect employees' vested rights.

Finally, this bill creates fiduciary standards to guard against fraud and mismanagement. There are simply too many examples of businesses investing the assets of pension funds in the stock of the company itself—or even worse, tampering with those assets when the company suddenly needs extra cash. This bill sets forth tough rules of conduct for the trustees of these funds to insure that decisions are made in the interest of the employees.

There are other problem areas which this bill addresses as well. Existing law imposes a discriminatory limitation on the efforts of self-employed individuals to establish pension plans for themselves and their employees, a limitation which is not applicable to corporations. This inequity should be eliminated and parity should be established between corporation and self-employed pension programs. The pending bill will partially alleviate this problem by raising the tax-deductible limitation on self-employed plans from $2,500 or 10 percent of earned income—whichever is less—to $7,500 or 15 percent, whichever is less.

Finally, the bill recognizes the special problems of workers in the defense and aerospace industries.

It calls for an immediate review of Federal procurement regulations and potential alternatives to current regulations to insure that the Government is utilizing its own great purchasing power in a maximum effort to protect the pension rights of these workers.

Mr. President, this reform of the Nation's private pension system is long overdue. This bill represents the product of two distinguished Senate committees following years of hearings and intensive study. I strongly urge the Senate to act favorably and swiftly on this landmark legislation.

**Mr. ROBERT C. BYRD.** Mr. President, how much time remains to all sides on the unfinished business?

**The PRESIDING OFFICER.** The Senator from New Jersey (Mr. WILLIAMS) has 60 minutes remaining, the Senator from Wisconsin (Mr. NELSON) has 67 minutes, the Senator from New York (Mr. JAVITS) has 68 minutes, and the Senator from Nebraska (Mr. CURTIS) has 65 minutes.

**Mr. ROBERT C. BYRD.** This is time on the bill?

**The PRESIDING OFFICER.** That is correct.

**Mr. ROBERT C. BYRD.** In other words, are we to understand that the Senate has only consumed less than 2 hours today on the bill?

**The PRESIDING OFFICER.** The Senator is correct.

**Mr. ROBERT C. BYRD.** I thank the Chair.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 902. A bill to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended; and

S. 1352. An act to require loadlines on United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes.

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## EXTENSION OF TIME FOR COMMITTEE TO FILE ITS REPORT ON S. 2410

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to have until midnight tonight to file its report on S. 2410, to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

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## ORDER FOR MESSAGE FROM THE HOUSE ON HOUSE JOINT RESOLUTION 719 TO BE HELD TEMPORARILY AT THE DESK

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that the message on House Joint Resolution 719, to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes, received today from the other body, be held temporarily at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT OF LEAD BASED PAINT POISONING PREVENTION ACT

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared with the ranking minority member, the Senator from New York (Mr. Javits).

On behalf of the Senator from Massachusetts (Mr. Kennedy), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 607.

The PRESIDING OFFICER (Mr. Stevenson) laid before the Senate the amendment of the House of Representatives to the bill (S. 607) to amend the Lead Based Paint Poisoning Prevention Act, and for other purposes", which was to strike out all after the enacting clause, and insert:

That (a) section 101(a) of the Lead Based Paint Poisoning Prevention Act is amended by striking out "units of general local government in any State" and inserting in lieu thereof "public agencies of units of general local government in any State and to private nonprofit organizations in any State".

(b) Section 101(b) of such Act is amended by striking out "75 per centum" and inserting in lieu thereof "90 per centum".

(c) Section 101 of such Act is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is also authorized to make grants to State agencies for the purpose of establishing centralized laboratory facilities for analyzing biological and environmental lead specimens obtained from local lead based paint poisoning detection programs.".

(d) Section 101 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) No grant may be made under this section unless the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided and (B) Federal funds made available under this section for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program described in this section, and will in no event supplant such State, local, and other non-Federal funds.".

Sec. 2. (a) Section 201 of the Lead Based Paint Poisoning Prevention Act is amended by striking out "units of general local government in any State" and inserting in lieu thereof "public agencies of units of general local government in any State and to private nonprofit organizations in any State".

(b) Section 201(a)(2) of such Act is amended to read as follows:

"(2) the development and carrying out of procedures to remove from exposure to young children all interior surfaces of residential housing, porches, and exterior surfaces of such housing to which children may be commonly exposed, in those areas that present a high risk for the health of residents because of the presence of lead based paints. Such programs should include those surfaces on which non-lead-based paints have been used to cover surfaces to which lead based paints were previously applied; and".

(c) Section 201 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any public agency, of a unit of local government or private nonprofit organization which receives assistance under this Act shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for purposes of audit and examination, any books, documents, papers, and records that are pertinent to the assistance received by such public agency of a unit of local government or private nonprofit organization under this Act."

Sec. 3. Section 301 of the Lead Based Paint Poisoning Prevention Act is amended to read as follows:

"FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

"Sec. 301. (a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

"(b) The Chairman of the Consumer Product Safety Commission shall conduct appropriate research on multiple layers of dried paint film, containing the various lead compounds commonly used, in order to ascertain the safe level of lead in residential paint products. No later than December 31, 1974, the Chairman shall submit to Congress a full and complete report of his findings and recommendations as developed pursuant to such programs, together with a statement of any legislation which should be enacted or any changes in existing law which should be made in order to carry out such recommendations."

Sec. 4. (a) Title III of the Lead Based Paint Poisoning Prevention Act is amended—

(1) by adding at the end thereof the following:

"FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

"Sec. 302. The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall establish procedures to eliminate as far as practicable the hazards of lead based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Such procedures shall apply to all such housing constructed prior to 1950 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed, and (2) assured notification to purchasers and tenants of such housing of the hazards of lead based paint, of the symptoms and treatment of lead based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead based paint. The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this section. Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation."; and

(2) by inserting after "PROGRAM", in the caption of such title, a semicolon and the following: "FEDERAL HOUSING ADMINISTRATIONS REQUIREMENTS".

(b) The amendments made by subsection (a) of this section become effective upon the expiration of ninety days following the date of enactment of this Act.

Sec. 5. Section 401 of the Lead Based Paint Poisoning Prevention Act is amended by inserting ", in consultation with the Secretary of Housing and Urban Development," after "Secretary of Health, Education, and Welfare".

Sec. 6. Section 501(3) of the Lead Based Paint Poisoning Prevention Act is amended by striking out "1 per centum lead by weight and inserting in lieu thereof "five-tenths of 1 per centum lead by weight".

Sec. 7. (a) Section 503(a) of the Lead Based Paint Poisoning Prevention Act is amended (1) by striking out the word "and" and inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following:
"and $20,000,000 for each of the fiscal years 1974 and 1975".

(b) Section 503(b) of such Act is amended (1) by striking out the word "and" and inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $30,000,000 for each of the fiscal years 1974 and 1975".

(c) Section 503(c) of such Act is amended (1) by striking out the word "and" and by inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $2,500,000 for each of the fiscal years 1974 and 1975".

(d) Section 503(d) of such Act is amended by striking out all matter after the semicolon and inserting in lieu thereof "and any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year.".

(e) Title V of the Lead Based Paint Poisoning Prevention Act is amended by adding at the end thereof the following new sections:

"ELIGIBILITY OF CERTAIN STATE AGENCIES

"Sec. 504. Notwithstanding any other provision of this Act, grants authorized under sections 101 and 201 of this Act may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose.

"ADVISORY BOARDS

"Sec. 505. (a) The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, is authorized to establish a National Childhood Lead Based Paint Poisoning Advisory Board to advise the Secretary on policy relating to the administration of this Act. Members of the Board shall include residents of communities and neighborhoods affected by lead based paint poisoning. Each member of the National Advisory Board who is not an officer of the Federal Government is authorized to receive an amount equal to the minimum daily rate prescribed for GS–18, under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of the Board. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(b) The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development, shall promulgate regulations for establishment of an advisory board for each local program assisted under this Act to assist in carrying out this program. Two-thirds of the members of the board shall be residents of communities and neighborhoods affected by lead based paint poisoning. A majority of the board shall be appointed from among parents who, when appointed, have at least one child under six years of age. Each member of a local advisory board shall only be reimbursed for necessary expenses incurred in the actual performance of his duties as a member of the board.

"EFFECT UPON STATE LAW

"SEC. 506. It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and units of local government insofar as they may now or hereafter provide for a requirement, prohibition, or standard relating to the lead content in paints or other similar surface-coating materials which differs from the provisions of this Act or regulations issued pursuant to this Act. Any law, regulation, or ordinance purporting to establish such different requirement, prohibition, or standard shall be null and void.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished senior Senator from Massachusetts (Mr. KENNEDY), I move that the Senate disagree to the amendments of the House on S. 607, agree to the conference requested by the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. STEVENSON) appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. MONDALE, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, and Mr. TAFT conferees on the part of the Senate.

## TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INVOCATION AT DEDICATION OF RECTOR FIELD HOUSE AT VIRGINIA TECH

Mr. HARRY F. BYRD, JR. Mr. President, on Saturday, September 8, a new fieldhouse was dedicated at the Virginia Polytechnic Institute and State University at Blacksburg, Va. The invocation at that ceremony was given by Alfred C. Payne, counselor for religious affairs at Virginia Polytechnic Institute and State University. I was very much impressed with the invocation and I wish to invite the attention of the Senate to it.

Mr. President, I ask unanimous consent that the invocation may be printed in the RECORD at this point.

There being no objection, the invocation was ordered to be printed in the RECORD, as follows:

### INVOCATION

For a University which seeks to develop the whole person,
In body, mind, and spirit;
We give Thee thanks, O God.
For public servants who place principle above party;
We are indebted and greatly inspired.
And for generous alumni, loyal friends, and dedicated staff;
We are truly grateful.

Guide us, we pray, as we dedicate this building, to put its purpose in large perspective; to see its role in total education; and to translate the playing field into the reality of experience.

Help us to see more clearly: the importance of excellence, in a time of eroding standards; the significance of rules, while individuals want their own way; teamwork, in a day of self-centeredness; participation, when people fear to get involved; discipline, in an era of easy virtue; and confidence, in a period of distrust.

As we strive to develop stronger bodies,
Let us also cultivate strength of character;
And, as we teach sports,
May we demonstrate cleaner living.
In all these endeavors, O God,
Keep before us the important truth
That in building bodies,
We are building temples of the Holy Spirit. Amen.

## U.N. SANCTIONS AGAINST RHODESIA

Mr. HARRY F. BYRD, JR. Mr. President, yesterday the New York Times published an editorial on United Nations sanctions against Rhodesia. In the course of the editorial it was stated:

> The Council—namely, the Security Council of the United Nations—had invoked sanctions after Rhodesia had unilaterally declared independence from Britain.

The Times makes a big point of the fact that Rhodesia unilaterally declared her independence. Well, how would a nation get independence in the absence of an agreement with the colonial power unless it was done unilaterally? It was 200 years ago come 1976 that the United States of America did precisely the same thing.

If the New York Times were publishing in 1776 and if the United Nations had been an organization in 1776 these would not be the free United States of America. The United States of America in 1776 did precisely what Rhodesia is seeking to do now. They are seeking their independence.

I do not say whether Rhodesia should be independent of Great Britain or whether Rhodesia should continue to be a colony of Great Britain. It seems to me that it is a matter to be decided by those two countries. Yet the United States has voluntarily injected itself into this issue.

I strongly opposed sanctions against Rhodesia which were decreed by the United Nations in 1966, and put on unilaterally insofar as the United States is concerned by President Johnson in 1967. Congress did not vote these sanctions against Rhodesia. One person put them on, President Johnson. They were put on unilaterally by one man in this Nation.

Every single vote Congress has taken on this issue has been in the direction of taking off sanctions, not putting them on.

I rise today because I am somewhat amused at the Times editorial which, as I just pointed out, states that Rhodesia unilaterally declared her independence. Well, if a nation wants to be independent of another nation and the other nation does not want her to be, how is she going to achieve her independence unless she takes unilateral action?

I say again I do not pass judgment on those problems that exist between Great Britain and Rhodesia. I do say it does not appear to be wise for the United States to attempt to put pressure on that small country which is seeking to do precisely what the United States itself did nearly 200 years ago.

## GOVERNOR CARTER OF GEORGIA TAKES ISSUE WITH NIXON ADMINISTRATION

Mr. HARRY F. BYRD, JR. Mr. President, yesterday the Governor of Georgia, Gov. Jimmy Carter, spoke in Norfolk, Va. He addressed about 1,500 Virginia local government officials attending the 68th annual convention of the Virginia Municipal League. In the course of the address Governor Carter took strong issue with the Nixon administration. He took issue particularly with respect to the revenue sharing proposal which the President advocated and which Congress approved last year.

Governor Carter called the so-called revenue program a "cruel hoax." Those were his words.

I do not apply such a term to the so-called revenue-sharing plan or proposal. I do apply the word "foolish" to it. I think it was a foolish thing for the Congress to pass a $30 billion so-called revenue-sharing plan at a time when the Government had no revenue to share.

We do not have anything but deficits around Washington. For the current fiscal year the deficit is projected to be $18 billion in Federal funds. It was $25 billion last year. It was $29 billion the year before. It was $30 billion the year before. It was $13 billion the year before. We have nothing but deficits around Washington.

I do not use the term that Governor Carter of Georgia used in calling the revenue sharing program a "cruel hoax." I do say that, in my opinion, it was a very foolish thing to do, because this Government has no revenue to share.

All we have done by turning back funds to 38,000 different localities and 50 States all over this country is to increase the already smashing deficits. It is because of these deficits that we have the heavy inflation that is eating so heavily into every wage earner's check and into every housewife's grocery dollar.

I notice that some of the States have tremendous surpluses. I was in California during the recess. The newspapers there report that California has an $850 million surplus. And yet we are taking money out of the Treasury of the Federal Government and shoveling it back to the various States and the 38,000 or 39,000 localities all over this country.

No one knows how those funds are being handled.

It just occurs to me that it is not a very wise or desirable thing to do. The funds that go back to the localities and the States are going to get imbeded in the budgetary processes, and then when the appropriation for this $30 billion runs out, it is going to create very chaotic conditions, unless the Federal Government continues to plow more and more money into this program.

The way to share revenue is not to take it from the States in the first place. That is the way to share the revenue. It is not satisfying anyone. I have not read a speech much more bitter than Governor Carter's speech calling it a "cruel hoax." I imagine that many of the mayors and Governors feel the same way.

**The PRESIDING OFFICER.** The Senator's 3 minutes have expired.

**Mr. ROBERT C. BYRD.** Mr. President, if the Chair will recognize me, I will yield my 3 minutes to the Senator from Virginia.

**Mr. HARRY F. BYRD, JR.** I thank the Senator from West Virginia.

I felt it necessary to oppose that popular program. I did not like to do it. No one likes to oppose popular programs, but I just felt that it was a very irresponsible thing for both the Congress and the administration to say that we are going to take $6 billion a year for 5 years out of the Federal Treasury—money we do not have, money we have to go out and pay 9 percent interest to get—and channel it back to 39,000 different localities and to the 50 States to use for all sorts of projects or whatever projects they may want, without any accounting whatsoever to the tax levying process.

I think that the tax levying process and the spending process must go together. There must be some responsibility for those who spend the money. There must be some responsibility for raising the money.

Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. TUNNEY.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ATTEMPTS TO DEFEAT AMATEUR ATHLETIC ACT OF 1973

**Mr. TUNNEY.** Mr. President, during the last month we have witnessed a massive lobbying effort by a few amateur athletic groups, which are spreading misinformation in an attempt to defeat the Amateur Athletic Act of 1973.

The bill is an attempt to protect amateur athletes and the public from the jurisdictional battles between such groups as the NCAA and the AAU, and to strengthen U.S. participation in the Olympics. The bill has been approved by the Senate Commerce Committee, and is expected to be voted on by the full Senate later this month.

I am shocked by the amount of misinformation, misinterpretation, and conjecture being spread by opponents of a bill that enjoys the overwhelming support of amateur athletes, sports commentators and writers, and sports fans.

I can only surmise that the groups in opposition are more concerned with perpetuating their own bureaucratic power than with the best interest of amateur athletic competition and the public.

This bill, has bipartisan Senate support and Senators MARLOW W. COOK, MIKE GRAVEL, WARREN G. MAGNUSON, JAMES B. PEARSON, STROM THURMOND, and HUBERT H. HUMPHREY have joined me as cosponsors.

It provides for: Establishment of an Amateur Sports Board as an independent Federal Agency to issue charters to sports organizations as the principal governing bodies for various sports. This provision is designed to end the jurisdictional wrangling that often prevents amateur athletes from participating in open competitions.

Review of United States participation in the Olympic games with recommendations to be submitted in time to strengthen U.S. participation in the 1974 Olympiad. This provision is aimed at improving the administration and support of U.S. participation to avoid the kind of coaching blunders and disqualifications that have marred our participation in the past.

Creation of a National Sports Development Foundation to formulate a national sports development program and provide matching funds to local communities for development of athletic facilities.

During 1973 we have seen an intensification of the bickering and power struggles that have plagued amateur athletics in this country.

A recent example was the refusal of the NCAA to allow athletes at member schools to participate in the U.S.-Soviet basketball games arranged by the AAU.

The NCAA relented only after intense public pressure and the plea of 58 U.S. Senators to permit the athletes to play.

These organizations have little or no representation in their decisionmaking by the athletes themselves. But they have virtual dictatorial control over who can compete and where. As long as this continues, athletes, the public, and the quality of competition will continue to suffer.

The Commerce Committee over a period of 10 years has suggested voluntary reforms and enlisted the aid of such distinguished Americans as Douglas MacArthur and Archibald Cox. But the reforms have not been forthcoming.

Now, in an effort to defeat a bill which attempts to give the public and the athletes a voice in the management of amateur sports, these groups have resorted to spreading a range of misinformation about the legislation.

As examples:

Myth: The bill would override the athletic rules and policies of high schools and colleges.

Fact: The bill specifically assures educational institutions of their right to protect students from excessive demands on their educational pursuits.

Myth: The act would lead to the expulsion of the United States from the Olympic games.

Fact: Nothing in the bill conflicts with the rules governing international competition. Therefore, talk of U.S. expulsion is totally unfounded.

Myth: The bill would create a massive Federal bureaucracy.

Fact: The bill would establish a minimum structure to protect the rights of amateur athletes and the public.

Myth: The bill would inject the Federal Government into amateur sports at all levels down to neighborhood sandlot games.

Fact. The only Federal involvement will be in granting charters to national sports associations which control sports at the international level. Intercollegiate, interscholastic, and club sports will not be covered by this bill.

Mr. President, I cannot understand why the NCAA, the AAU, and other groups would continue to tell such falsehoods regarding the nature of this legislation which hopefully will be brought up next week on the Senate floor for debate and a vote.

I have had the opportunity to speak to various representatives of the groups. In speaking to them, they seem reasonable and understanding, and they seem to be interested in the best interests of athletes. Yet, from the press releases and the stories one reads in print concerning what is being said regarding the bill and the fact that lies and falsehoods are being spread on the public record regarding it, I can only assume that the left hand does not know what the right hand is doing or that the tongues of some of these spokesmen are disconnected from their brains.

I just think that over the next week as this bill has an opportunity to be considered on a private basis by all Senators, the facts will be looked at and the committee report will be evaluated as well as the legislation itself, because from the widespread public support that this legislation has engendered, as I have indicated, from the athletes and from sports fans and from sportswriters, it seems clear that it is legislation which is going to be of benefit to the public at large.

Although there may be, to a degree, a clipping of the wings of some of these athletic associations which have exercised dictatorial control over amateur sports in the past, this legislation, if passed, is still going to have tremendous, manifold benefits for everyone else.

I would hope that when this measure is brought up for consideration that those spokesmen for these athletic associations who have been spreading lies on the public record would recant and retract these untruths and recognize that these falsehoods are not going to be left unchallenged.

**Mr. GRIFFIN.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO 9:15 A.M.

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stand in adjournment until the hour of 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECOGNITION OF SENATOR BARTLETT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Oklahoma (Mr. BARTLETT) be recognized tomorrow morning for not to exceed 15 minutes immediately following the recognition of the two leaders or their designees under the standing order and prior to the recognition of the Senator from Texas (Mr. BENTSEN).

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 9:15 a.m. Immediately after the recognition of the two leaders or their designees under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators BARTLETT, BENTSEN, and BAKER.

Upon the conclusion of the aforementioned orders, the Senate will resume the consideration of the unfinished business, S. 4. Time will begin running on amendment No. 505 offered by the Senator from Wisconsin (Mr. NELSON). The yeas and nays on this amendment have already been ordered.

If this amendment is agreed to, it is my understanding that the Senator from Wisconsin (Mr. NELSON) may not call up amendment No. 506. However, if amendment No. 505 is rejected, it is my understanding that the Senator from Wisconsin may call up amendment No. 506.

Upon the disposition of the Nelson amendment or amendments, the Senate will proceed to take up the Thurmond amendment. So, there will be yea-and-nay votes tomorrow.

If the pension bill is disposed of by 4:30 tomorrow afternoon, it is the intention of the leadership to call up a conference report on which a time agreement was entered into some time ago. The conference report is on S. 1636, the International Economic Policy Act.

Presumably there would be a yea-and-nay vote on the adoption of the conference report.

As I say, it is hoped that action will be completed on the pension bill tomorrow. And there is every reason to believe that this will occur.

The military procurement authorization bill would then be made the first order of business on Thursday.

### ADJOURNMENT TO 9:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and at 5:47 p.m., the Senate adjourned until tomorrow, Wednesday, September 19, 1973, at 9:15 a.m.

### CONFIRMATIONS

Executive nominations confirmed by the Senate September 18, 1973:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for the terms indicated:

For the remainder of the term expiring December 17, 1974: Bradford Mills, of New Jersey.

For a term expiring December 17, 1975: Allie C. Felder, Jr., of the District of Columbia.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE MARINE CORPS

Maj. John V. Brennan, U.S. Marine Corps, for permanent promotion to the grade of lieutenant colonel in the U.S. Marine Corps, in accordance with article II, section 2, clause 2, of the Constitution.

# HOUSE OF REPRESENTATIVES—*Tuesday, September 18, 1973*

The House met at 12 o'clock noon.

Rev. Robert K. Foster, United Presbyterian Church, Oxford, Ohio, offered the following prayer:

Almighty God, bless, we pray Thee, the leaders of our Nation. Abide ever so close to the Representatives in Congress assembled. Guide them, fill them with Your Spirit, enabling them to do what is right.

Forgive them, O Lord, for the mistakes they have made. We know that You are anxious to forgive because of the love You have for them. May they have the courage to lead the people of this Nation rather than striving to follow public opinion.

Give to them that commonsense and a selflessness that leads to thoughtful service and not of gain.

May the courage of the early morning's
dawning,
And the strength of the eternal hills,
And the peace of the evening's ending,
And the love of God,
Abide in their hearts today and forever.

Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8916. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8916) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PASTORE, Mr. MCCLELLAN, Mr. MANSFIELD, Mr. HOLLINGS, Mr. MAGNUSON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. HRUSKA, Mr. FONG, Mr. BROOKE, Mr. COTTON, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1141) entitled "An act to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. WILLIAMS, Mr. HATHAWAY, Mr. TOWER, and Mr. TAFT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2419. An act to correct typographical and clerical errors in Public Law 93-86.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair has been advised that the electronic voting system which was not functioning yesterday is now in order. Technicians thoroughly tested the system this morning and have assured the Chair that it is fully operable.

The Chair will therefore direct that its use be resumed as of today.

### PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT TO FILE CERTAIN PRIVILEGED REPORTS

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports which are in the process of being prepared now.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

## CORRECTIONS HEARING

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, has over the past 2 years conducted in excess of 30 days of public hearings and received testimony from hundreds of witnesses on issues in the field of corrections.

I am pleased to announce that on Thursday, September 27, at 10:30 a.m., in room 2237, Rayburn House Office Building, the subcommittee will be privileged to hear testimony from one of the most important witnesses to date. The distinguished Representative from Florida, the Honorable CLAUDE PEPPER, chairman of the Select Committee on Crime, which was created by the 91st Congress and functioned until June 30, 1973, will testify before the subcommittee on the findings and recommendations of the select committee on corrections issues.

The work of the select committee in this area was most productive and the subcommittee looks forward with great interest to hearing the testimony of the distinguished gentleman from Florida.

## PROABORTION RULING BY SUPREME COURT

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker, the proabortion ruling by the Supreme Court has generated as much controversy and concern as any ruling I can recall during my 13 years in the U.S. Congress.

I strongly opposed this decision on the grounds that the Court had forsaken its role of interpreting the Constitution and the laws and entered into the legislative function of making laws. For this reason I introduced a constitutional amendment to return to the States their rights under the Constitution to pass State laws regulating or prohibiting abortions.

A number of organizations in the State of Missouri and in my congressional district have been working very hard on this matter. Mrs. Edmund A. Eller of Washington, Mo., has forwarded to me a number of petitions circulated by the Four Rivers Fight for Life Committee containing almost 2,000 names from Franklin County, Mo., urging the Judiciary Committee to hold public hearings on the human life amendment, House Joint Resolution 261.

Mr. Speaker, I am today forwarding these petitions to my good friend and colleague from New Jersey (Mr. RODINO) and urging his immediate consideration of the same.

## APPOINTMENT OF CONFEREES ON S. 1141, TO PROVIDE NEW COINAGE DESIGN FOR BICENTENNIAL OF THE AMERICAN REVOLUTION

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1141) an act to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this just permission to go to conference?

Mr. PATMAN. Mr. Speaker, it is.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Mr. PATMAN, Mrs. SULLIVAN, Messrs. FAUNTROY, MITCHELL of Maryland, BARRETT, GONZALEZ, YOUNG of Georgia, STARK, MOAKLEY, WIDNALL, WYLIE, Mrs. HECKLER of Massachusetts, Messrs. MCKINNEY, RINALDO, and RONCALLO of New York.

## WITHDRAWAL OF APPOINTMENT AS CONFEREE AND APPOINTMENT AS CONFEREE ON S. 1141 TO PROVIDE NEW COINAGE DESIGN AND DATE COMMEMORATING BICENTENNIAL OF AMERICAN REVOLUTON

Mr. PATMAN. Mr Speaker, prior to the Speaker's appointment of conferees on the bill S. 1141 today I had inadvertently recommended that the Delegate from the District of Columbia (Mr. FAUNTROY) be named as a conferee.

I therefore ask unanimous consent that the Speaker designate a Member as a conferee in lieu of the Delegrate from the District of Columbia

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none and appoints the gentleman from New York (Mr. KOCH) as a conferee.

## PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

## MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## LEONARD DIAMOND

The Clerk called the bill (H.R. 2771) for the relief of Leonard Diamond.

There being no objection, the Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Leonard Diamond, doctor of philosophy, Camarillo, California, the sum of $4,080 in full settlement of all his claims against the United States arising out of the destruction by fire of his personal possessions, which occurred in July of 1963 while being stored by the United States Army in Alexandria, Virginia.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 1, line 6: Strike "$4,080" and insert "859.57".

Page 1, line 12: Strike "in excess of 10 per centum thereof".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## RICHARD BURTON, SFC

The Clerk called the bill (H.R. 3533) for the relief of the estate of the late Richard Burton, SFC, U.S. Army (retired).

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## ROGER STANLEY AND HAL IRWIN

The Clerk called the bill (H.R. 4589) for the relief of Roger Stanley, and the successor partnership Roger Stanley and Hal Irwin, doing business as the Roger Stanley Orchestra.

There being no objection, the Clerk read the bill as follows:

H.R. 4589

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the State of New York the sum of $3,729.87 on the condition that it will be used by the State of New York as a credit against the liability for tax under the New York State unemployment tax laws of the Roger Stanley Orchestra of New York, New York, for the taxable years 1959, 1960, and 1961, and will extinguish all liability of the said Roger Stanley Orchestra, under such laws for such taxable years. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of the preceding sentence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, lines 4 and 5, strike "any money in the Treasury not otherwise appropriated" and insert "the Employment Security Administration account in the Unemployment Trust Fund".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 2508) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## GUIDO BELLANCA

The Clerk called the Senate bill (S. 464) for the relief of Guido Bellanca.

There being no objecton, the Clerk read the Senate bill as follows:

S. 464

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purposes of the Immigration and Nationality Act, Guido Bellanca shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act.

With the following committee amendment:

That, for the purposes of section 101(a)(27)(B) of the Immigration and Nationality Act, Guido Bellanca shall be held and considered to have been a returning resident alien at the time of his admission to the United States on June 3, 1971.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## SLOBODAN BABIC

The Clerk called the Senate bill (S. 666) for the relief of Slobodan Babic.

There being no objection, the Clerk read the Senate bill as follows:

S. 666

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Slobodan Babic shall be held and considered to be the natural-born alien son of Petar Babic, a citizen of the United States: *Provided,* That the natural mother of the beneficiary, shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## AUTHORIZING SECRETARY OF THE INTERIOR TO SELL RESERVED MINERAL INTERESTS

The Clerk called the bill (H.R. 7087) to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Missouri to Grace F. Sisler, the record owner of the surface thereof.

There being no objection, the Clerk read the bill as follows:

H.R. 7087

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized and directed to convey, sell, and quitclaim all mineral interests of the United States in and to the property situated in the State of Missouri and described in section 2 of this Act to Grace F. Sisler, of Dexter, Missouri, the record owner of the surface rights thereof.

SEC. 2. The property referred to in the first section of this Act is more particularly described as follows:

The northeast quarter southwest quarter section 15, township 25 north, range 10 east, fifth principal meridian, Missouri.

SEC. 3. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

SEC. 4. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

SEC. 5. The term "administrative costs" as used in this Act, includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

SEC. 6. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## ROBERT F. FRANKLIN

The Clerk called the bill (H.R. 1352) for the relief of Robert F. Franklin.

There being no objection, the Clerk read the bill as follows:

H.R. 1352

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated, to Robert F. Franklin, a former employee in the Foreign Service of the United States Information Agency, the sum of $3,849 in full satisfaction of his claim against the United States for compensation for personal property lost in 1967 while performing his official duties. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 7, strike "$3,849" and insert "$349.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## EDGAR P. FAULKNER AND RAY H. NEW

The Clerk called the bill (H.R. 1948) for the relief of Edgar P. Faulkner.

There being no objection, the Clerk read the bill as follows:

H.R. 1948

*Be it enacted by the Senate and House of Represetaives of the United States of America in Congress assembled,* That, on such terms as it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of Edgar P. Faulkner, as Postmaster at the Tucker, Georgia, Post Office, to the United States for the loss resulting from the burglary at that post office on the night of June 19, 1969.

With the following committee amendments:

Page 1, line 6: After "the" insert "joint and several".

Page 1, line 6: After "master" insert "and of Ray H. New, as Assistant Postmaster.".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

"A bill for the relief of Edgar P. Faulkner and Ray H. New."

A motion to reconsider was laid on the table.

### HAZEL W. LAWSON AND LLOYD C. JOHNSON

The Clerk called the bill (H.R. 1949) for the relief of Hazel W. Lawson.

There being no objection, the Clerk read the bill as follows:

H.R. 1949

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, on such terms as it deems just the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of Hazel W. Lawson, postmaster of the Avondale Estates Post Office, Avondale, Georgia, to the United States for the loss resulting from a burglary at that post office on July 3, 1967.

With the following committee amendment:

Page 1, line 5, after "the" insert "joint and several", and after "postmaster" insert ", and of Lloyd C. Johnson, Assistant Postmaster,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Hazel W. Lawson and Lloyd C. Johnson."

A motion to reconsider was laid on the table.

### CORNELIUS S. BALL AND OTHERS

The Clerk called the bill (H.R. 2213) for the relief of Cornelius S Ball, Victor F. Mann, Jr., George J. Posner, Dominick A. Sgammato, and James R. Walsh.

There being no objection, the Clerk read the bill as follows:

H.R. 2213

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following individuals, their heirs and assigns shall not be pecuniarily liable in any amount to the United States or to any department, agency, or office thereof as a result of the sale of postage stamps on September 13, 1969, to a person purporting to represent the Allison Mailing List Corporation, 329 Park Avenue South, New York, New York.

Cornelius S. Ball, postmaster, Rye, New York 10580.

Victor F. Mann, Junior, postmaster, Harrison, New York 10528.

George J. Posner, postmaster, Mamaroneck, New York 10543.

Dominick A. Sgammato, postmaster, Mount Vernon, New York 10551.

James R. Walsh, postmaster, Larchmont, New York 10538.

With the following committee amendments:

Page 1, strike all of lines 2 through 9, inclusive and insert:

That on such terms as he deems just, the Postmaster General is hereby authorized to compromise, release, or discharge in whole or in part, the liability of—

Page 2, line 10, delete the period at the end of the sentence and add the following: to the United States resulting from the sale of postage stamps on September 13, 1969, to a person purporting to represent the Allison Mailing List Corporation, 329 Park Avenue South, New York, New York.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### JAMES EVANS, PUBLISHER OF THE COLFAX COUNTY PRESS, AND MORRIS ODAVARKA

The Clerk called the bill (H.R. 3044) for the relief of James Evans, publisher of the Colfax County Press, and Morris Odavarka.

There being no objection, the Clerk read the bill as follows:

H.R. 3044

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That James Evans, publisher of the Colfax County Press, a newspaper published in Clarkson, Nebraska, is hereby relieved of all liability for repayment to the United States of the sum of $1,300, representing the amount of a postage deficiency assessed against the said James Evans as a result of the mailing of certain supplemental publications, together with a regular issue of the Calfax County Press, at second-class rather than third-class postage rates, such assessment having been made after the said James Evans had received and relied upon an oral ruling by the Postmaster at Clarkson, Nebraska, that the mailing of such supplemental publications with the newspaper would be permissible under the newspaper's second-class mail permit.

SEC. 2. Morris Odavarka, of Clarkson, Nebraska, is hereby relieved of all liability for repayment to the United States of the sum of $1,300, representing the amount of a postage deficiency charged against his account as postmaster of Clarkson, Nebraska, by reason of the facts referred to in the first section of this Act.

With the following committee amendments:

Page 1, line 6, strike "$1,300" and insert "$1,342.48".

Page 2, line 5, after "SEC. 2.", strike the balance of line 5, and strike all of lines 6 through 10, and insert the following:

That on such terms as it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of Morris Odvarka, postmaster at the Clarkson, Nebraska, post office, for the amount of the postal deficiency charged against his account by reason of the facts referred to in the first section of this Act.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of James Evans, publisher of the Colfax County Press, and Morris Odvarka."

A motion to reconsider was laid on the table.

### EUGENIA C. LYTTLE

The Clerk called the bill (H.R. 3530) for the relief of Eugenia C. Lyttle.

There being no objection, the Clerk read the bill as follows:

H.R. 3530

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Eugenia C. Lyttle of Manchester, Kentucky, is relieved of her indebtedness to the United States which resulted from the loss of postal funds, United States Savings Stamps, and the stamp stock from the Manchester Post Office while Mrs. Lyttle was the postmaster of such post office. The United States General Accounting Office held Mrs. Lyttle liable for the value of such lost funds, stamps, and stock because of the manner of their storage in such post office. The amount of indebtedness so relieved shall be $13,208.46, representing the value of such funds, stamps, and stock. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which indebtedness is relieved by this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

That, on such terms as it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of Eugenia C. Lyttle, former postmaster at the Manchester, Kentucky, Post Office, to the United States for the loss resulting from a burglary at the Manchester Post Office on the night of May 11 and 12, 1969.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### ROBERT J. BEAS

The Clerk called the bill (H.R. 3544) for the relief of Robert J. Beas.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

### JOHN B. CLAYTON

The Clerk called the bill (H.R. 5379) for the relief of John B. Clayton.

There being no objection, the Clerk read the bill as follows:

H.R. 5379

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) John B. Clayton, an employee of the Department of the Army, Fort Richardson, Alaska, is hereby relieved of liability to the United States in the sum of $1,066.09 representing the amount expended by the Government for travel and transportation expenses of his dependents incident to home leave travel. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John B. Clayton, an amount equal to the aggregate of any amounts paid by him or withheld from sums otherwise due him by reason of the liability referred to in this Act. No part of the amount appropriated in this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 2, lines 6 and 7: strike "in excess of 10 per centum thereof".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## SWIFF-TRAIN CO.

The Clerk called the bill (H.R. 6007) for the relief of Swiff-Train Co.

There being no objection, the Clerk read the bill as follows:

H.R. 6007

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Swiff-Train Company of Corpus Christi, Texas, is hereby relieved of liability to the United States in the amount of $1,671.48 representing that portion of increased duties assessed in connection with the importation at Houston, Texas, of items covered by consumption entry numbered 106–C dated February 2, 1956, which was assessed on the basis of an error in appraisement of such items. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Swiff-Train Company an amount equal to the aggregate of the amounts paid by the company or withheld from sums otherwise due the company, with respect to the amount of indebtedness to the United States specified in the first section of this Act.

(b) No part of the amount appropriated by subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 8, strike "February 2," and insert "February 23.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## MURRAY SWARTZ

The Clerk called the bill (H.R. 6411) for the relief of Murray Swartz.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## ALVIN V. BURT, JR., EILEEN WALLACE KENNEDY POPE, AND DAVID DOUGLAS KENNEDY, A MINOR

The Clerk called the bill (H.R. 6624) for the relief of Alvin V. Burt, Jr., and the estate of Douglas E. Kennedy, deceased.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the gentleman from California?

There was no objection.

## MICHAEL A. KORHONEN

The Clerk called the bill (H.R. 7089) for the relief of Michael A. Korhonen.

There being no objection, the Clerk read the bill as follows:

H.R. 7089

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any statute of limitations, lapse of time, bars of laches, or any proceeding, jurisdiction is hereby conferred upon the United States District Court for the District of Alaska to hear, determine, and render judgment upon any claim filed by Michael A. Korhonen, of Juneau, Alaska, against the United States for compensation for injuries and damages suffered by him due to the crash on June 15, 1967, of a United States aircraft in which the said Michael A. Korhonen was riding as an authorized observer on a search-and-rescue mission, such crash having occurred as the result of the alleged negligent operation of the aircraft by United States Coast Guard personnel.

SEC. 2. Suit upon any such claim may be instituted at any time within one year after the date of enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of such claims over which such court has jurisdiction under section thereon, shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1346(b) of title 28, United States Code.

With the following committee amendments:

Page 1, line 4: After "proceeding", insert "or the operation of section 2680(k) of title 28, United States Code."

Page 2, line 7: After "United States" insert—

Any such claim in the District Court shall be determined according to the substantive law which would apply in such a case if the crash had occurred within the State of Alaska.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## WILLIAM M. STARRS

The Clerk called the bill (H.R. 8406) for the relief of William M. Starrs.

There being no objection, the Clerk read the bill as follows:

H.R. 8406

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to William M. Starrs, of Savannah, Georgia, the sum of $4,600.11 in full settlement of all his claims against the United States arising out of the special separate maintenance allowance leave which was erroneously granted to him in June 1969, while he was serving as a civilian employee of the Department of the Army.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 6: Strike "$4,600.11" and insert "$1,332.10".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## RESOLUTION TO REFER THE BILL (H.R. 7209) FOR THE RELIEF OF ESTELLE M. FASS TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

The Clerk called the resolution (H. Res. 362) to refer the bill (H.R. 7209) for the relief of Estelle M. Fass to the Chief Commissioner of the Court of Claims.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

## J. B. RIDDLE

The Clerk called the bill (H.R. 1376) for the relief of J. B. Riddle.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## JOSEPH C. LEEBA

The Clerk called the bill (H.R. 2207) for the relief of Joseph C. Leeba.

There being no objection, the Clerk read the bill as follows:

H.R. 2207

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Joseph C. Leeba (formerly Joseph C. Lejba), station superintendent of the West Side Postal Station, Youngstown, Ohio, is hereby relieved of liability for payment to the United States of the sum of $2,283.81. Such sum represents the amount being charged to Joseph Leeba, as the station superintendent, for the loss of certain postage stamps and savings stamps taken from such postal station in a burglary which occurred on February 22, 1969. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) If any part of the amount specified in the first section of this Act has been received or withheld from Joseph C. Leeba, the Secretary of the Treasury is authorized and directed to pay such amount in reimbursement, out of any money in the Treasury not otherwise appropriated, to the party from whom such amount was received or withheld.

(b) No more than 10 per centum of the amount appropriated by this Act shall be paid to or received by any agent or attorney on account of services rendered in connection with this claim. Any person violating the provisions of this section shall be fined not more than $1,000.

With the following committee amendment:

Strike all after the enacting clause and insert: That, on such terms as it deems just, the U.S. Postal Service is hereby authorized to compromise, release, or discharge in whole or in part the liability of Joseph C. Leeba, Superintendent of the West Side Postal Station, Youngstown, Ohio, to the United States for the loss resulting from the burglary at the postal station on February 22, 1969.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## HAROLD C. AND VERA L. ADLER, DOING BUSINESS AS THE ADLER CONSTRUCTION CO.

The Clerk called the Senate bill (S. 396) for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## MRS. NAOYO CAMPBELL

The Clerk called the Senate bill (S. 84) for the relief of Mrs. Naoyo Campbell.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## KUAY TEN CHANG (KUAY HONG CHANG)

The Clerk called the Senate bill (S. 89) for the relief of Kuay Ten Chang (Kuay Hong Chang).

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## ROSITA E. HODAS

The Clerk called the Senate bill (S. 155) for the relief of Rosita E. Hodas.

There being no objection, the Clerk read the Senate bill as follows:

S. 155

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Rosita E. Hodas, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## MANUELA C. BONITO

The Clerk called the Senate bill (S. 278) for the relief of Manuela C. Bonito.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## RITA SWANN

The Clerk called the bill (H.R. 1342) for the relief of Rita Swann.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

## EMILIA MAJOWICZ

The Clerk called the bill (H.R. 1463) for the relief of Emilia Majowicz.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## ROSA INES TOAPANTA

The Clerk called the bill (H.R. 1955) for the relief of Rosa Ines Toapanta.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

## RAPHAEL GIDHARRY

The Clerk called the bill (H.R. 2533) for the relief of Raphael Gidharry.

There being no objection, the Clerk read the bill as follows:

H.R. 2533

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in the administration of the Immigration and Nationality Act, Raphael Gidharry shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed in his behalf, pursuant to section 204 of such Act, by Mrs. Howard M. Johnson, a citizen of the United States. The natural brothers and sisters of said Raphael Gidharry shall not by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 4, strike out the name "Raphael Gidharry" and insert the name "Raphael Johnson".

On page 1, line 8, after the words "The natural" insert the words "parents or".

On page 2, line 1, at the end of the bill and the following:

The provisions of section 245(c) of the Immigration and Nationality Act shall be inapplicable in this case.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Raphael Johnson."

A motion to reconsider was laid on the table.

## EDITH E. CARRERA

The Clerk called the bill (H.R. 6828) for the relief of Edith E. Carrera.

There being no objection, the Clerk read the bill as follows:

H.R. 6828

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Edith E. Carrera may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Nelda Burnett, citizen of the United States, pursuant to section 204 of the Act and the provisions of section 245(c) of the Act shall be inapplicable in the case: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the further reading of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## CONFERENCE REPORT ON H.R. 8070, VOCATIONAL REHABILITATION

Mr. BRADEMAS. Mr. Speaker, I call up the conference report on the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 13, 1973.)

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I am pleased to rise at this time to urge support for the conference report on H.R. 8070, the Rehabilitation Act of 1973. This report, Mr. Speaker, is the culmination of 3 years of intensive activity in the Select Subcommittee on Education which I have the honor to chair, the Committee on Education and Labor, and on the floor of the House and the Senate.

The bill before us today, Mr. Speaker, represents an extraordinary degree of bipartisan cooperation both in the House and the other body.

H.R. 8070 was approved in the House on June 5 by the overwhelming vote of 384 to 13, and the corresponding measure in the Senate was approved by a voice vote.

Just last week, Mr. Speaker, the Senate approved the conference report we are considering today by a vote of 87 to 0.

Mr. Speaker, I must here express my warm appreciation to the distinguished chairman of the Committee on Education and Labor, Mr. PERKINS of Kentucky, as well as the distinguished ranking minority member of the committee, Mr. QUIE of Minnesota, who have labored long and hard on this legislation to better the lives of handicapped people.

And I would be remiss, Mr. Speaker, if I did not also thank the gentlelady from Hawaii, Mrs. MINK, the gentleman from Washington, Mr. MEEDS, the gentleman from Idaho, Mr. HANSEN, along with the gentleman from Pennsylvania, Mr. ESHLEMAN for their fine efforts in seeing this legislation successfully through the House and the conference.

Mr. Speaker, we all know that the bill before us today represents the third attempt by Congress to develop a measure which would expand programs for the handicapped and, at the same time, win the support of the President. I am confident that we will be successful this time.

Just last Thursday, Mr. Speaker, on September 13, the Honorable Caspar Weinberger, Secretary of the Department of Health, Education, and Welfare, issued a statement in which he said:

> I strongly urge the Congress to adopt the conference committee version of the vocational rehabilitation bill, H.R. 8070.

Said Secretary Weinberger:

> H.R. 8070 . . . authorizes a generous level of funding and a solid program. It deserves the support of every Member of Congress.

### NEED FOR REHABILITATION SERVICES

Mr. Speaker, let us not forget as we consider this measure what the rehabilitation program is designed to accomplish.

The Vocational Rehabilitation Act has often been the difference between poverty and financial independence, between despair and hope. Successful as the program has been, however, there is still much to be done to insure the rehabilitation of the handicapped people of this country. Despite the millions who have successfully completed rehabilitation services, there are even more millions who have not received any services at all. The simple fact is that, contrary to what many people think, the total number of seriously disabled people in the United States is increasing every year. As medical skills improve, persons who in years past would have succumbed to certain types of illness and injuries are today surviving to live lives of disability. An example of this is the thousands of disabled young men who have come out of the Vietnam war. Because of advances in evacuation techniques and treatment of catastrophic injuries, men who would have died on the battlefield in earlier wars are surviving in this war. Of the 400 Americans with spinal paralysis carried off the battlefields of World War I, 90 percent were dead within a year of receiving their wounds. Today soldiers receiving spinal cord injuries are surviving to live long lives in wheelchairs.

The single fact is, Mr. Speaker, that we have only begun to scratch the surface in meeting the needs of our disabled fellow citizens. The bill before us today contains provisions that will enable us to improve and enlarge the work of rehabilitating physically and mentally handicapped persons to enable them to return to their places in their families and communities.

### GENERAL PROVISIONS

Before turning my attention to the specific provisions of this measure, Mr. Speaker, I should just emphasize that the funding authorized by the conference report, $1.54 billion over fiscal year 1974 and fiscal year 1975, represents a responsible and defensible authorization.

That figure is, for example, a substantial reduction from the $2.6 billion, contained in S. 7 which President Nixon vetoed earlier this year.

So I repeat, H.R. 8070, which authorizes $1.54 billion over 2 years, plus such sums as Congress deems necessary for certain programs, represents the reasoned judgment of the House and Senate conferees as to the needs of vocational rehabilitation in the years ahead.

So let me briefly outline for my colleagues the major provisions of the conference report.

The bill, as written, replaces the current Vocational Rehabilitation Act and contains substantially intact all current provisions of the present law, while adding several new sections grouped according to title.

I should, at the outset, stress that H.R. 8070 continues unchanged the current formula of allotting funds to States for the basic rehabilitation program.

And I want to also emphasize for my colleagues, Mr. Speaker, that H.R. 8070 upgrades the Office of the Commissioner of the Rehabilitation Services Administration by requiring that the Commissioner be appointed by the President, rather than the Secretary, and by giving the Rehabilitation Services Administration statutory authority to carry out the research, training, and service provisions of this act.

### BASIC PROGRAM—TITLE I

Title I of H.R. 8070, Mr. Speaker, extends the present section 2 program of basic support grants for the States to provide a variety of vocational rehabilitation services.

The bill authorizes $650 million for the basic program for fiscal year 1974, and $680 million for fiscal 1975.

In addition, Mr. Speaker, title I provides $37 million for fiscal 1974, and $39 million for fiscal 1975, plus such additional sums as Congress deems necessary, to fund both part C and part D of the title.

Part C authorize expansion and initiation services for those with the most severe handicaps, and part D requires the Secretary to conduct a comprehensive study, including research and demonstration projects, of the feasibility of expanding services to the severely handicapped.

### TITLE II——RESEARCH AND TRAINING

Title II, Mr. Speaker, authorizes $25 million for fiscal year 1974, and $25 million for fiscal year 1975, and such sums as Congress deems necessary for succeeding year, to conduct research and training programs.

These funds are to be used for the establishment of rehabilitation research and training centers as well as rehabilitation engineering research centers to focus the talents of scientists and engineers on biomedical engineering projects to improve prosthetic and other mobility devices.

I want to particularly note, with regard to research, Mr. Speaker, that the bill provides specifically for research on spinal cord injuries, end-stage renal disease, as well as international research.

Mr. Speaker, I cannot overemphasize the importance of research and training if we are to adequately address the problems confronting handicapped Americans.

Out of these programs will come the new scientific and technical knowledge we need to cope with handicapping conditions, as well as the specialists so desperately needed to assist handicapped individuals achieve their goals.

### TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Title III, Mr. Speaker, "Special Federal Responsibilities," authorizes:

The construction and initial staffing of much needed rehabilitation facilities;

Special projects and demonstrations to improve services for individuals suffering from spinal cord injuries, as well as older blind people, and deaf individuals; and

Uniform grant and contract requirements for programs assisted under this title.

### TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Title IV, Mr. Speaker, requires the Secretary to provide technical assistance to States, offer short-term training in technical areas relating to rehabilitation services, and to disseminate information relating to such services.

This title also requires the Secretary to measure and evaluate the programs authorized by the Rehabilitation Act so as to determine their effectiveness in achieving their stated goals.

Such sums as the Secretary may require, but not to exceed $1 million, are authorized to be appropriated for the evaluation required by this title.

With respect to title IV, Mr. Speaker, I should also point out that it requires the Secretary to conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals.

### TITLE V—MISCELLANEOUS

Finally, Mr. Speaker, I should tell my colleagues that title V provides for the establishment of an Interagency Committee on Handicapped Employees to provide a Federal focus for the employment of handicapped individuals, as well as an Architectural and Transportation Barriers Compliance Board, to insure compliance with the Architectural Barriers Act of 1968, and similar legislation dealing with architectural and transportation barriers to the handicapped.

### BASIC PROGRAM UNCHANGED

Mr. Speaker, I want to stress once again that the basic State program for vocational rehabilitation services continues unchanged under the provisions of the conference report we are considering today, and this report also provides for several new and innovative programs to meet the needs of disabled Americans.

And I want to stress, as well, that the bill we are now considering represents the prudent and responsible view of the conferees on the needs of disabled Americans.

Mr. Speaker, our handicapped fellow citizens have had to wait too long for this extension and improvement in rehabilitation legislation.

I therefore strongly urge my colleagues to support the conference report before us.

Mr. Speaker, at this point I would like to yield to the distinguished gentleman from Kentucky, the chairman of the Committee on Education and Labor, such time as he may consume.

**Mr. PERKINS.** Mr. Speaker, first I want to compliment the distinguished chairman of the subcommittee (Mr. BRADEMAS) for the outstanding and untiring job he has done.

Likewise I would like to compliment the distinguished gentleman from Minnesota (Mr. QUIE) and several on that side of the aisle.

Mr. Speaker, after more than a year of conflict, we are at a point where there is full agreement on a vocational rehabilitation bill. In my view, the previous two rehabilitation bills which the Congress had overwhelmingly approved were meritorious and they should have become public law. But as my colleagues know, unfortunately this was not the case.

We have now ironed out another agreement which will end the controversy and place the rehabilitation program back on its feet. May I initially compliment the distinguished chairman of our subcommittee (Mr. BRADEMAS) for his determination to obtain a compromise bill which would not compromise the goals and objectives of the rehabilitation movement.

The ranking minority member of the committee (Mr. QUIE) and members of the subcommittee on both sides of the aisle are also to be complimented for their work.

Mr. Speaker, this is not all that I would have preferred in a rehabilitation bill. I strongly preferred the previous versions. Nevertheless, it is a good bill, and follows a pattern established during the last three decades.

In 1943 and in 1954, significant rehabilitation legislation was approved by the Congress. In the 1960's we seized upon what President Johnson described as "a rare moment of opportunity and challenge" and authorized bold new steps in the rehabilitation field with enactments in 1965, 1967, and 1968.

It was a privilege for me to actively support and sponsor a number of these measures. I refer my colleagues to the debates here in the House on July 29, 1965, August 21, 1967, and May 6, 1968. On two occasions within the last year—March 20, 1972 and March 8, 1973—we approved excellent rehabilitation bills.

The bill under consideration today does not measure up to these former bills. It will allow, however, for necessary growth in the rehabilitation effort over the next few years. It will also, I am confident, insure the continued integrity of the rehabilitation programs we have known and applauded in the past.

Mr. Speaker, I do wish to take this opportunity to discuss a matter of crucial importance. There has been understandably great confusion and uncertainty in the States about the future of the rehabilitation program.

If successive vetoes of two excellent bills were not enough, there has recently emerged an HEW planning document which raises serious questions about this administration's plans for the future of vocational rehabilitation. Further, rehabilitation programs were operated in fiscal year 1973 under a continuing resolution, and they have been operating under a continuing resolution so far in this fiscal year.

The combination of these factors has prompted deep concern on the part of State and local officials. Matters have reached a point in some areas of the country where administrators have curtailed program operations.

Mr. Speaker, while I understand and share these concerns, there is really no justification for curtailing the basic rehabilitation program. By virtue of the supplemental appropriations we approved, the program today is better off than at this point last year. The basic program is operating at the authorized level of $590,000,000—as compared to $560,000,000 at this time last year.

I strongly urge Federal administrators and State administrators to do everything possible to see to it that the rehabilitation program is operated in every part of the country at the level provided for by this Congress. We have heard of programs being reduced by 50 percent or more. There is absolutely no need for such curtailment or reduction. As I have indicated, the program is in better shape than it was at this time last year.

As to the future of the vocational rehabilitation program, let me point to one or two items in the conference report as a way of indicating congressional determination that this program be continued and expanded. First, let me mention a matter which I know is of great concern to people in Kentucky and I am sure to those in the rehabilitation field across the Nation. The conference report establishes statutorily a Rehabilitation Services Administration with statutory responsibility for administering the vocational rehabilitation programs.

Second, there were those who were concerned that we would tear up the proven and successful pattern of funding of the basic program. I am pleased to report to my colleagues that this conference report continues the existing system of funding which as we all know targets aid where aid is most needed.

Third, some of the uncertainties which may have occurred in the past can be once and for all overcome in that the conference report provides authority for advance funding of the rehabilitation programs. I urge the administration and the appropriations committees to honor this new authority for it will do much to assist in orderly planning at state and local levels.

Mr. Speaker, this conference report not only continues but also improves the rehabilitation effort. I urge unanimous approval of the conference report.

**Mr. QUIE.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleagues are aware this vocational rehabilitation legislation has encountered considerable difficulty during the past year and a half. I believe that the compromise bill that we bring before the House today represents a substantial modification of the original bill but one which I feel still strengthens and improves the basic program and will add a new dimension to vocational rehabilitation programs throughout the country.

First, I would like to stress that this bill represents a compromise developed jointly by the House, the Senate, and the administration. The gentleman from Indiana (Mr. BRADEMAS) quoted a recent statement by Caspar Weinberger, Secretary of HEW which I urge you to refer back to.

The Senate, when it voted on this conference report last week, affirmed the fact that this bill represents a joint agreement and passed it 88 to 0. I am hopeful that we will pass the legislation unanimously here today in the House.

As I have said on many occasions, the most important item to me in the legislation is the priority for serving those individuals with the most severe handicaps. This provision, coupled with the new requirement for an individualized written plan for each handicapped client will, I feel, significantly alter and improve existing rehabilitation programs and open up enrollment opportunities in vocational rehabilitation for many individuals who heretofore had been denied services. In my floor speech on March 20, 1972—CONGRESSIONAL RECORD, volume 118, part 7, pages 8980–8981—I spoke about how we arrived at this priority as well as the need to eliminate quotas and case balancing and, more importantly, to eliminate "creaming" of a client population in order to gain "easier rehabs." I also expressed my concern that the existing program emphasis which has been placed on welfare recipients, public offenders, and other socially disadvantaged persons by RSA should be changed and that the focus would be returned to those who are severely physically or mentally handicapped. The language in the conference report does just that and I feel the significance of both this new priority and the new written plan will truly change and improve the lives of many Americans for years to come.

For the sake of establishing legislative history I think it is important for me to touch on some points on which there might be some confusion or misinterpretation. Although there was no difference between the House and Senate versions on section 406 of the bill which requires the Secretary to conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payment in sheltered workshops, I feel that some clarification is necessary.

I am aware that Public Law 92–28, the Wagner-O'Day amendments, required a study on sheltered workshops but it is important that it be clearly understood that the requirement in this bill calls for a new separate, independent study to be conducted by individuals or groups who do not have a financial or direct interest in sheltered workshops. I think that the Wagner-O'Day study being conducted by the Labor Department is important and provides valuable focus and emphasis on part of the sheltered workshop problem, but it is also important that the Rehabilitation Services Administration conduct its own independent study pursuant to the requirements as set down in this bill.

One other matter, during the conference last week there was extensive discussion on section 112, Client Assistance. Agreements were reached which are stated in the report we are voting on today, but, as you know, there is a limit as to what is generally put into reports as far as clarifying language or true intent. Therefore, for the sake of establishing legislative history I feel it is important to clarify my understanding of the discussions as well as the agreements.

This section calls for a minimum set-aside of $500,000 with a maximum of $1.5 million for fiscal year 1974 and the sum of not less than $1 million and up to $2.5 million for fiscal year 1975. Unlike most setasides for funding which normally come off the top of the dollars available, this one comes off the bottom and is only in effect after more money is made available under section 303 for funding special projects and demonstrations than was available for fiscal 1973.

It is on the interpretation of this section that there appears to be some disagreement among the conferees. As anyone who has participated in a conference knows, decisions are made on the data that is available at the time the discussion takes place. The discussion was focused upon the set-aside coming after the amount obligated for carrying out section 303 which to my understanding was $14,306,000. The way the language from the conference comes out, the words "from appropriations under the Vocational Rehabilitation Act" have been added, which will mean a lower figure could be used. My concern during the conference and now is that the $13.7 million which has been requested for this section by the administration for fiscal year 1974 be protected and that no dollars be expended for the client assistance section unless more dollars are appropriated over this amount. I feel that I was very clear in my concerns on this point and I hope that the Secretary of HEW in developing his regulations will view the total 1973 dollar obligations as the basis from which he would then have to add money to fund the client assistance projects.

I must point out why I was so concerned about this provision. It is my belief that programs of this type if not adequately safeguarded open the door for individuals to just go out and attack the existing system whether it is working or not. I felt the provision as originally written in the Senate bill offered the possibility that we would be given to individuals with little knowledge of the program a mandate to destroy the vocational rehabilitation programs. I was concerned that individuals employed in the client assistance projects would simply be advocating their own philosophical ideas at the expense of the existing programs as well as the very clients that they would be professing to help. The vocational rehabilitation program is a good one and it works.

I believe that there is room for improvement. The improvements will come through the priority for serving those with the most severe handicaps first, along with the individualized plan in which both counselor and client will jointly develop. These components of the bill, and not client assistance advocacy programs, will hopefully lead to the rehabilitation and eventual employment of handicapped individuals. The program works because it is basically a good one and the men and women who serve as counselors throughout the country have the best interests of rehabilitation clients at heart. Therefore, any program of client assistance should be established on the basis of mutual cooperation of all parties involved in the rehabilitation process rather than setting up an adversary system. In this regard the modification giving States a role in client assistance programs if they so choose and the provision that projects may be created only upon the request of any concurrence by the State agency was added. These changes along with the provision that the project be afforded reasonable access to policymaking and administrative personnel as long as the State agency has a participating role in the projects, if they are ever funded, will have more potential to be successful.

Finally, I think it is essential that I clarify my concept of the term "project area." The statement on the part of the managers, item No. 4, says:

> The employees of the projects may not be presently serving as staff or consultants or receiving benefits of any kind from a rehabilitation project, program, or facility in the project area.

As we discussed it in the conference, the project area was the specific place where the client is being served and was not to be considered as the entire State or region where the project is being conducted. It seemed foolish to prohibit a counselor who was doing an outstanding job in one area of a city or State from being brought into another area to work with a client who needs help or services. Obviously, if a client is having difficulty with a counselor, that counselor or his supervisor would not be the person who would be called upon to provide assistance, but that with the reservoir of good counselors in a given State or area, the State should be able to decide which person or persons should be used and how they should be used.

I am hopeful that when the Secretary of HEW prescribes regulations for this program that he take such steps as necessary to provide for a substantial role for the States and encourages the maximum use of any individuals within a given State or area to participate in this program so long as those individuals can make a significant contribution to the rehabilitation of the client being served.

The vote today I am confident will be unanimous and I hope, with the unanimous vote, that the message to all handicapped persons throughout the Nation will be clear that we care about you and we want to work with you as you take your rightful place in society.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GERALD R. FORD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 34, as follows:

[Roll No. 459]

YEAS—400

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.

Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

### NAYS—0

### NOT VOTING—34

Anderson, Ill.
Badillo
Blatnik
Boggs
Buchanan
Burke, Fla.
Burleson, Tex.
Chappell
Culver
Davis, Ga.
Delaney
Gettys
Gray
Hanna
Hansen, Idaho
Jones, Tenn.
Landrum
Lujan
McEwen
Maraziti
Mills, Ark.
Mizell
Nix
O'Neill
Patman
Rooney, N.Y.
Rostenkowski
Sandman
Schroeder
Stanton, James V.
Stephens
Symington
Wilson, Charles, Tex.
Young, Tex.

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Anderson of Illinois.

Mr. Rooney of New York with Mrs. Schroeder.

Mr. Rostenkowski with Mr. James V. Stanton.

Mr. Delaney with Mr. Burke of Florida.

Mrs. Boggs with Mr. Symington.

Mr. Nix with Mr. Badillo.

Mr. Burleson of Texas with Mr. Lujan.

Mr. Jones of Tennessee wth Mr. Maraziti.

Mr. Hanna with Mr. McEwen.

Mr. Gray with Mr. Buchanan.

Mr. Young of Texas with Mr. Sandman.

Mr. Culver with Mr. Mizell.

Mr. Blatnik, with Mr. Chappell.

Mr. Davis of Georgia with Mr. Mills of Arkansas.

Mr. Gettys with Mr. Stephens.

Mr. Landrum with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## SAN CARLOS, ARIZ., MINERAL STRIP PURCHASE

Mr. MELCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7730) to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip, as amended.

The Clerk read as follows:

H.R. 7730

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized, in his discretion, under such regulations as he may prescribe, to acquire through purchase from permittees or lessees having grazing rights within the so-called San Carlos Mineral Strip as of January 24, 1969, any or all of their privately owned property, both real and personal, located with such area, taking title thereto in the name of the United States in trust for the San Carlos Apache Indian Tribe.

SEC. 2. The Secretary of the Interior is authorized and directed to compensate the owners of range improvements of a permanent nature placed, under the authority of a permit from or agreement with the United States, on the lands restored to the tribe for the reasonable value of such improvements, as determined by the Secretary. Persons whose grazing permits, licenses, or leases on lands within the area restored to the San Carlos Apache Tribe were canceled because of such restoration shall be compensated in accordance with the standard prescribed by the Act of July 9, 1942, as amended (43 U.S.C. 315q).

SEC. 3. Nothing in this Act is intended or shall be construed to alter, modify, or amend the Act of June 28, 1934 (48 Stat. 1271), as amended, providing that the granting or issuance of a grazing permit shall not create any right, title, interest, or estate in or to the lands. The provisions of this Act shall be construed and are intended to be an exception based on the unique circumstances on the San Carlos Indian Reservation, Arizona.

SEC. 4. (a) There are authorized to be appropriated for the purposes of this Act not to exceed $2,500,000, to be available without fiscal year limitation. In the event that the amount appropriated is not sufficient to make the payments required by section 2 and to make the purchases authorized by section 1, the available funds shall be used for the payments under section 2 on a pro rata basis if necessary, and the balance shall be available for purchases under section 1. In no event shall any claimant receive total compensation under sections 1 and 2 of this Act in excess of $200,000.

(b) For the purposes of this section the term "claimant" means any person eligible for compensation under sections 1 and 2 of this Act.

The SPEAKER. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MELCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. MELCHER. Mr. Speaker, the San Carlos Reservation was created in November of 1871 and December of 1872 by Executive orders of President Ulysses S. Grant.

Early in 1896 the Federal Government negotiated with the San Carlos Apaches to cede 232,000 acres to the United States. This was ratified by an act of Congress on June 10, 1896. The reason for the ceding of the land to the United States was because there was a belief that the area was rich in mineral deposits. The San Carlos Apaches agreed on that basis.

The 232,000 acres became known as the San Carlos mineral strip. Under the appropriate Federal laws any mineral developments that resulted would bring royalties to the San Carlos Apache Indian Tribe and under appropriate Federal laws mineral exploration went forward. Although there were no substantial minerals in the San Carlos strip and only a few thousand dollars resulted in royalties or leases for the San Carlos Apaches, there was better use made of the land by white ranchers who patented title to some of the land and grazed cattle there. From 1896 to 1931 the tribe only received $12,433 net revenues from mineral leases on lands in the mineral strip. In March of 1931 the First Assistant Secretary of the Interior withdrew the lands in the mineral strip from all forms of entry or disposition. In 1934 the Secretary of the Interior directed that all undisposed lands of certain reservations including the San Carlos be formally withdrawn from disposal of any kind until the matter of their permanent restoration was settled. The permanent restoration was intended to be tribal ownership, and appropriate action taken on that basis to again give title of the land back to the San Carlos Apaches.

In 1936 the Assistant Commissioner of Indian Affairs and the Acting Director of Grazing agreed and established on a temporary basis the operation of the mineral strip under the provisions of the Taylor Grazing Act until final disposition was made.

Mr. Speaker, this was formalized in 1941 in an order from the General Land Office which in effect kept the land administered under the Taylor Grazing Act. Meanwhile the San Carlos Apaches were not unaware that the land really belonged to them. At this particular time they did not vigorously object to the arrangements made to administer the land under the Taylor Grazing Act. And the ranchers who had come into the strip in the early 1900's accepted the operation of their leases under the Taylor Grazing Act as being fair. Some of the ranches were bought and sold on the basis of how much deeded land there was as a base ranch and how many grazing rights were available under the Taylor Grazing Act. Eventually, the Bureau of Land Management became the agency handling these leases and as is customary with them, the leases are made for 10-year periods, and when a ranch is sold, the leases are transferred to the purchaser subject to the approval of the Secretary of Interior. This does give a base of stability to the ranching operations.

By the late 1960's it became clear that the San Carlos Apache cattle operations were expanding. In 1969, Secretary of Interior Udall signed an order which restored the mineral strip land to the tribe subject to valid existing rights.

These valid existing rights have been considered by the committee, and H.R. 7731 is our determination of what the rights in equity are.

I say, "rights in equity," because existing law does not adequately permit payment to the ranchers who are abruptly displaced by returning the land to the rightful owners in equity, the San Carlos Apaches.

After the land was ceded to the United States by the San Carlos Apaches, some land was deeded to the State of Arizona for school purposes. Therefore, Arizona has valid rights.

Mr. Speaker, to settle that, the committee recommends other suitable Federal lands of equivalent value be deeded to the State of Arizona if they relinquish their land on the mineral strip. Arizona, its Governor, other State officials, and the State legislature all endorse this procedure and this bill in its entirety.

The valid rights of the ranchers have to be considered. Under the circumstances and conditions of the settling of the mineral strip, these ranchers find what they have for generations been assured was their legal right is not their right, and they are suddenly going to be dislodged from their ranches.

They are going to have to leave their ranching operations on the strip.

The committee believes that equity requires that these ranchers be reimbursed for their land, their improvements, and the loss of their grazing rights.

An overall gross value of the private lands and improvements and grazing permits is estimated at $3.2 million. However, the cost of this bill is limited to $2.5 million, with a limit of $200,000 to any individual. Twenty-eight grazing permits were held singly or in combination by 32 different individuals, 7,560 acres of private land are held by 12 individuals, 3,276 cattle are now grazed there, with a total AUM of 30,179.

Mr. Speaker, this bill affects a few individuals and treats them justly and equitably. The bill is backed by the San Carlos Apache Indian Tribe.

Mr. Floyd Mull, a member of the San Carlos Apache Tribal Council, testified asking "justice for all parties involved in this unfortunate situation." I further quote his testimony as follows:

> We recognize that in a real sense it is very difficult, if at all possible, to compensate a person who is forced to leave his home, to walk away from his possessions. From a purely financial sense, the goods can be paid for and in a sense replaced. But from an emotional standpoint, regardless of the size of the lump in his wallet, it is difficult to remove the lump in his throat.

Mr. Speaker, that is quoting Floyd Mull, a member of the San Carlos Apache Tribal Council, saying that the bill cannot relieve the feeling of loss that is being experienced by the dislodged ranchers.

However, Mr. Speaker, the bill does propose an equitable financial settlement for them.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 7730, is no more than a private relief bill for a group of ranchers whose grazing permits are being canceled by the San Carlos Indian Tribe in east central Arizona. I will tell my colleagues that if we pass this piece of legislation, and it becomes law, we will have undermined the entire management structure of our public grazing lands. We have a long and well established policy that grazing permits on public lands confer a privilege which can be taken away or withdrawn at any time.

To be sure, section 3 of H.R. 7730 tries to sugarcoat the destruction it will cause, but in spite of the sugar the destruction will prevail. Let me read section 3:

> SEC. 3. Nothing in this Act is intended or shall be construed to alter, modify, or amend the Act of June 28, 1934 (48 Stat. 1271) as amended, providing that the granting or issuance of a grazing permit shall not create any right, title, interest, or estate in or to the lands. The provisions of this Act shall be construed and are intended to be an exception based on the unique circumstances on the San Carlos Indian Reservation, Arizona.

If this bill passes and is signed into law it will be a precedent regardless of what the authors say about the unique circumstances on the San Carlos Indian Reservation. If we pass this bill we are saying that grazing permits do convey a compensable right to the holder. While we are told that this case is to be seen as a unique one, is not every case unique to its own circumstances? But why, I would ask, are these circumstances so unique or so pressing?

According to the report, the tribe, in June of 1970, had declared its intention to terminate the grazing leases on the mineral strip land as of June 30, 1971. It is now September 1973. There was an extension of time from June 1971 until June 1973. Why did not the ranchers make provision to meet what was about to face them? Why must the taxpayers of this country bail out grazing permittees who have known from the very start that the grazing permits could have been cancelled at any time.

To this point in time the United States has granted only one exception to the rule that grazing permits confer no vested rights. In 1942, during World War II, the Congress enacted a narrow exception limited to cancellation of grazing privileges because of war or national defense needs and no other exception has been made in the subsequent 30 years.

The report says that enactment of H.R. 7730 "will permit the equitable settlement of a long standing problem created by the reconveyance of the land to the San Carlos Tribe and the termination of Federal grazing leases." This statement would appear to imply that the reconveyance of the 232,320 acres in the mineral strip to the San Carlos Tribe created a problem for the 12 individuals holding base properties within the mineral strip. I have checked both the 1963 order which conveyed the subsurface rights to the San Carlos Tribe; and I have checked the 1969 order which conveyed to the San Carlos Tribe the surface rights in the 232,320 acres to the San Carlos Tribe. In both orders I found the same statement:

> *This order shall not apply to any patented lands or any interest in any patented lands located within the mineral strip.* (Emphasis added.)

Neither secretarial order touched the surface or the subsurface estates of the private landowners within the Mineral Strip area. Their lands and their rights remain intact. Should any of the base property holders desire to move out of the reservation there already exists authority for them to make land transfers or exchanges with both the tribe and the Interior Department. This is exactly what the committee has told the State of Arizona to do. Let me read from page 4 of the report:

> In addition to the approximately 8,000 acres of privately held land within the Mineral Strip that is considered under provisions

> of H.R. 7730, as amended, the Committee is also aware of the State of Arizona's land ownership within this area. It is the Committee's considered opinion that a program of land exchanges under existing exchange authority, can and should be worked out between the State Land Department and the Bureau of Land Management and the Bureau of Indian Affairs. Such an exchange program will protect the interests of all parties involved and will avoid the necessity of additional legislative action.

In addition to the unanswered questions of the State of Arizona lands in the Mineral Strip, there is also the unanswered question of the 12,000 acres of Coronado National Forest Land. Were these lands restored? Has the committee left this question unanswered with the two permittees who use the national forest land for grazing? A check of the list of people holding grazing permits in the Mineral Strip shows the two Forest Service grazing permittees also have BLM grazing permits. If the Secretary buys out their base properties and their BLM permits, do they also buy out their Forest Service permits?

It is not difficult to empathize with those ranchers who, in good faith, and legally, put their life's work into developing the area. They undertook the labor on the belief that they would be able to use both their private lands and the Federal grazing permits as a supplement to their base properties. And we are all aware that, in the West where Federal grazing privileges are involved, the value of the base or fee property is customarily considered in relation with, and is largely governed by, the size of the Federal grazing privilege. In other words, the base property may have little or no value if it does not have the privilege to graze nearby Federal lands. This appears to be the case with the San Carlos Mineral Strip ranchers.

Despite this use of grazing privileges to determine ranch property values, the ranchers using Federal grazing permits are well aware that they can be canceled at any time. But this threat appears to be one that never really seems to arrive. Most mortgage company lenders lend money for ranch property based on the amount of Federal grazing that goes with the base property. The point is that built into the lease and permit system is a great deal of assurance that the permits will remain in force and effect for a long period of time. We have here simply a case where the ranchers not only knew the basic law of no vested rights in the grazing permits, but proceeded to borrow and invest in their ranches.

The Taylor Grazing Act—43 U.S.C. 315b—is very explicit regarding compensation for lost grazing privileges when it states that—

> The issuance of a permit pursuant to the provisions of this Act shall not create any right, title, interest or estate in or to the lands. (43 U.S.C. 315b).

To now create an exception for a specific group of ranchers by compensating them for termination of their permits and purchasing their base ranches would establish a dangerous precedent which could expose the United States to substantial liability whenever it declares public land to use with which grazing is inconsistent such as a national monument or wildlife refuge. The precedent could also inhibit the future granting of grazing permits in many areas where the projected use is uncertain, as there would be a desire to avoid exposure to liability based on subsequent determinations.

Another dangerous precedent is compensating ranchers for improvements made on public lands. This is also contrary to a well recognized principle. Compensation should not be granted for improvements associated with the grazing permits. The provisions and requirements of the grazing permit and associated cooperative agreements and special use permits clearly set forth arrangements for ownership of range improvements. The ownership of such an improvement is either with the United States or with the permittee. Generally, improvements owned by the permittee can be removed by him upon the cancellation of the permit. Improvements owned by the United States are not removed upon the cancellation of a permit, and the permittee is not entitled to compensation. Granting of compensation for such improvements would be a windfall for permittees, and provide benefits beyond those actually agreed to under the permit.

The final precedent which should be viewed with alarm would authorize the acquisition of private inholdings for addition to the reservation. Congress has prohibited this practice in some States because it has the effect of taking land off the State tax rolls. The primary concern, however, is that many other reservations contain sizable private inholdings. I know of no particular justification for acquiring inholdings on behalf of this tribe as opposed to any other tribe similarly situated.

I find no justification to destroy the entire established system for managing our public grazing lands for the private benefit of 30-some-odd permittees in east central Arizona. They are no better off and certainly no worse off than any other ranchers holding Federal grazing permits in the West. I oppose the passage of this destructive legislation and urge its defeat by this House.

Mr. MELCHER. Mr. Speaker, I have no requests for time.

Mr. SAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, I take this time—and I shall not use it all, I know the House will be overjoyed to know—simply to point out that the gentleman from Pennsylvania in his careful analysis of the bill was burdened by the fact that his loyalty to the administration's position is well known in this House, and the recognition of the fact that that same loyalty to the administration made it impossible for him to attend any of the hearings on this matter because of their assignment of him to more important places.

I should like to point out to the Members of the House that had the gentleman from Pennsylvania been able to attend the hearings, he would have learned that the real factor in this is one which places in serious jeopardy the relationships between the Indian community and the non-Indian community in this area. Through a unique action of the Federal Government in the taking of these lands that were in litigation, the non-Indian ranchers have been required by the Federal action to leave the lands which many of them have had as their homes for 70 years.

As most of the Members who come from small communities will understand, this generated a great deal of resentment in the non-Indian community. That resentment improperly was aimed at the Indian community. The Indian community, recognizing the need for equity here, has strongly supported this bill. They have traveled to Washington at their own expense. They have testified for the bill, and they have supported the ranchers in their attempt to get reimbursement. It is this alliance of the Indian and non-Indian community for the future development of the Indian community that concerns most of us on this bill.

I do very seriously respect the opinions of the gentleman from Pennsylvania. The point he makes about the precedent on grazing leases is, indeed, a valid one. I will simply tell the House that in my view the very serious human factors involved in this situation are such that they cannot be remedied by any other device.

I would urge that this bill be supported.

Mr. Speaker, at this time I yield to my good friend, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. I thank the gentleman for yielding.

I ask my good friend and colleague, the gentleman from Arizona, if it is not true that a grazing permit in the West really has much more sanctity and permanence than it appears to have on the face of the law. The gentleman from Pennsylvania was absolutely accurate when he said a grazing lease can be canceled, but as a matter of practice in the West a grazing lease is practically never canceled. Sometimes it is found necessary to cut down the number of animals that can be grazed but as a matter of fact the lease itself is almost never canceled and is handed down from generation to generation, or sold or pledged, and in every way treated as the property of the lessee.

That is the situation here. So as far as the customs of the West and the cattle industry are concerned, actually these people are losing lands which both they and the community have felt was theirs.

Mr. STEIGER of Arizona. I think the gentleman is absolutely correct. The fact is that both banks and insurance companies lend money on the leases and neither of those institutions are noted for their generous actions.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I want to underline what my two Arizona colleagues said earlier and explain my strong support for this bill. It is supported by every single Member of the Arizona delegation in both Houses and cosponsored by all of us. It is the product of careful hearings. The Governor of our State and the State legislature have gone on record in support of it.

Mr. Speaker, this would avoid what could be a very serious conflict between the white ranchers and the Indians.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. STEIGER of Arizona. I thank the gentleman.

Mr. Speaker, at this time I yield to the gentleman in the House in whose district this particular situation lies, the gentleman from Arizona (Mr. CONLAN).

Mr. CONLAN. Mr. Speaker, I thank the gentleman for yielding.

I would like to say that in essence what has happened is the Department of the Interior some 40 years ago made a decision to open up these lands for ranchers to graze cattle. This is not rich land. It is semiarid. What do they run to the acre?

Mr. STEIGER of Arizona. They would do well to average two head to a section.

Mr. CONLAN. It is submarginal desert land and after 40 years, after they came in and built fences and dug out roads by plows, now the Department of the Interior has come and said Interior made a mistake and they are going to give the land back to the Indians.

The SPEAKER. The time of the gentleman from Arizona (Mr. STEIGER) has expired.

Mr. STEIGER of Arizona. Mr. Speaker, I ask unanimous consent that I may proceed for 2 additional minutes.

Mr. SAYLOR. Mr. Speaker, I have the time. I would like to reply to the gentleman who made some remarks about me because I did not attend a meeting because of the death of a very dear friend, that I see no reason to yield further to the gentleman from Arizona.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. CONLAN) in whose district this problem arises.

Mr. CONLAN. Mr. Speaker, I thank the gentleman from Pennsylvania for his courtesy.

Mr. Speaker, I am glad to join my other distinguished colleagues from Arizona in support of H.R. 7730.

In order to understand why the Congress should pass this legislation and authorize the Secretary of the Interior to compensate Arizona cattle ranchers for land they have lost on the San Carlos Mineral Strip, it is first necessary to understand the history of the situation that led to the eviction of non-Indian ranchers from the strip, and the resulting loss of property and permanent improvements they had made to the land during the several decades they and their forebears had occupied the land.

The San Carlos Indian Reservation in Arizona, which includes 232,320 acres of land now known as the San Carlos Mineral Strip, was established by Executive order of November 9, 1871, and December 14, 1872.

In the late 1800's, non-Indian interests exerted substantial pressures to take the mineral strip from the Indians because they believed the lands contained valuable mineral deposits, particularly coal. As a result, an item in the Appropriations Act of March 2, 1895, authorized negotiations with the San Carlos Indians for the cession of the area in question. These negotiations led to the agreement of February 25, 1896, which was ratified by the act of June 10, 1896, whereby the Indians ceded the San Carlos Mineral Strip to the United States.

No payment was made for the land, but the United States agreed to place in the U.S. Treasury, to the credit and for the sole benefit of the San Carlos Indians, the net proceeds accruing from the disposal of rights to the land.

The 1896 act ratifying the agreement provided that the lands would be "open to occupation, location, and purchase under the provisions of the mineral land laws only."

Subsequent use of this area was not restricted, however, to the development and exploitation of its mineral resources. The Federal Government allowed the lands to be homesteaded, patented, and grazed by individuals and deeded to the State for school grant selection and indemnity bonds under the Arizona Enabling Act.

From 1896 until 1931, the tribe received net revenues amounting to only $12,433 from disposition of lands in the mineral strip under the mineral land laws. Because of the insignificant financial returns, the First Assistant Secretary of the Interior, on March 30, 1931, withdrew the lands in the mineral strip from all forms of entry or disposition.

On September 19, 1934, the Secretary of the Interior directed that all undisposed lands of certain reservations, including the San Carlos Reservation, be formally withdrawn from disposal of any kind until the matter of their permanent restoration to tribal ownership could be given appropriate consideration.

On November 17, 1936, the Assistant Commissioner of Indian Affairs and the Acting Director of Grazing stated in a letter to the Secretary of the Interior concerning undisposed lands of the mineral strip that these lands are within the exterior boundaries of Arizona Grazing District No. 4, established February 14, 1936, and agreed that they could be placed under temporary range management according to provisions of the Taylor Grazing Act until they were finally disposed of.

In a memorandum from the Assistant Commissioner of Indian Affairs, the Commissioner of the General Land Office, and the Director of Grazing, approved by the First Assistant Secretary of the Interior on June 21, 1941, it was stated:

> In order to clarify the administrative authority of the General Land Office and the Division of Grazing in the temporary administration of the ceded lands of the San Carlos Reservation, it is hereby agreed that the ceded lands . . . which lie within an established grazing district shall be placed temporarily under range management by the Grazing Service and that the ceded lands which do not lie within an established grazing district shall be temporarily administered under lease by the General Land Office, pursuant to conditions set forth in the letters of Nov. 17, 1936, and Aug. 12, 1937.

Subsequently, the Bureau of Land Management administered 199,561 acres and collected grazing fees on it under the authority of the Taylor Act.

The San Carlos Tribal Council passed a resolution on May 8, 1945, pointing out that since homestead entries had inadvertently been permitted on the strip, and problems of patented land and appropriated waters made the balance of range land inaccessible to the Indians, the tribe was not in a position to administer the land itself.

The tribe requested the General Land Office to administer the land and credit rentals to the tribe, until Congress approved payment of $277,966.37 for the land, as proposed in a then-pending Senate bill to rectify the Federal Government's error in allowing the land to be homesteaded.

This resolution did not result in any significant congressional action, and so in March 1958 the San Carlos Apache Council adopted another resolution asking for restoration of the surface and subsurface rights to the mineral strip under the Wheeler-Howard Act.

Upon learning of this resolution, ranchers holding grazing permits on the strip began, naturally enough, taking steps to protect their holdings. As a matter of course, they contacted their Representatives in Washington.

Senator Carl Hayden said on August 11, 1959, in response to an inquiry from Keith Smith, one of the ranchers, that he had the assurance of the Secretary of the Interior that no action was then scheduled on the San Carlos Mineral Strip, and that—

> Before any action is taken, everybody concerned will be given an opportunity to make his suggestions and recommendations.

In 1960, a hearing on the matter was held by the Secretary of the Interior in Globe, Ariz. At this hearing, Royal Marks, attorney for the Indians, conceded that the ranchers were on the land "in good faith," and that they were, in his eyes, "legal squatters"—that they were there "under leases and permits by the Bureau of Land Management," but "certainly without the consent of the tribe."

The Indians indicated at this hearing that they wanted only the mineral rights to the land, not the grazing privileges. They suggested that the ranchers might be willing to lease the ranges from the tribe. Certain ranchers owning interests in the mineral strip, as well as Arizona State officials, appeared and voiced opposition to the proposed restoration.

On November 28, 1962, in spite of opposition, the Solicitor of the Department held that vacant, unappropriated, and undisposed of portions of the mineral strip were "surplus lands" within the meaning of section 3 of the Indian Reorganization Act, and that the Secretary had discretionary authority to restore them to tribal ownership.

In December 1962, the Secretary of the Interior referred the 1958 Indian request for restoration of the strip to Under Secretary James K. Carr for a decision. It was originally intended to take immediate action to restore all rights, both surface and mineral, to the Indians. But when faced with an injunction to prevent restoration, the idea was abandoned.

Under Secretary Carr stated that he

no longer had the Indian request for surface rights under consideration, but was thinking only of restoring the mineral rights.

Before any decision had been reached on the tribal request contained in resolution No. 58-7, the tribal council, on April 2, 1963, adopted another resolution requesting restoration of the subsurface rights only. This resolution directed that the earlier resolution was to be held in abeyance by the Interior Secretary until reactivated by the San Carlos Apache Council.

On June 17, 1963, Under Secretary Carr issued an order restoring all "mineral, oil, and gas resources" in the mineral strip to the tribe, "subject to any valid existing rights" and excluding any patented lands and subsurface interests therein.

Realizing that if the Interior Department could restore subsurface rights in this matter it might also restore the surface rights, the ranchers began a series of legal moves to test whether or not the Department in fact had the authority to restore such mineral rights.

In his letter of September 18, 1963, Ozell M. Trask, attorney for the ranchers, reported to Guy Anderson the results of a preliminary hearing on the matter to the effect that a court in the District of Columbia under Judge Alexander Holtzoff had ruled that—

> The lands in the Mineral Strip have not been an Indian reservation since 1896, and are not now an Indian reservation.

Also that—

> The lands of the San Carlos Indians, including the lands in the Mineral Strip, have not been and are not now held under individual allotment or the allotment system.

This ruling was important because it indicated that the lands, not being "surplus Indian lands" within the meaning of the Wheeler-Howard Act, could not be restored to the Indians under that act. Unfortunately, the issue was never finally tested, as the judge before whom the action was to be considered, ordered the case dismissed.

In ordering the dismissal, the court reasoned that there was no controversy because, first, the tribe had withdrawn its application for restoration of the surface, and second, the Interior Department order of Under Secretary Carr had been made subject to existing rights and had also specifically excluded patented lands and the surface of the mineral strip.

All remained relatively calm until September 12, 1968, when the tribal council enacted yet another resolution asking restoration of the ceded area. No notice of the request was given to either the ranchers or the State.

However, the resolution was used by outgoing Interior Secretary Stewart Udall as the basis for his action on January 16, 1969, without notice to those involved and without a hearing of any kind, restoring the mineral strip to the San Carlos Apache Tribe.

This order was filed January 23, 1969, and published in the Federal Register on January 24, 1969.

When the action finally became known, the general reaction in Arizona, except among the Apaches, was one of shock and outrage.

On February 2, 1969, the Arizona Association of County Supervisors and Clerks requested that the new Secretary of the Interior reverse the order of his predecessor. A month later, the Arizona House of Representatives, by a vote of 50 to 9, also passed a resolution asking the Secretary to rescind the order, set a hearing at which all interested parties could present their views, and ordered a study of the case to find a more equitable settlement.

Gov. Jack Williams and Attorney General Gary Nelson also asked the Interior Secretary to rescind the order so that "public hearings can be held in accordance with the law."

Unfortunately, these efforts were to no avail.

Representative SAM STEIGER then met with the tribe's attorney, Royal Marks, to discuss the problem. He reported to Max Layton on May 27, 1969, that Marks had assured him that the Indians were willing to negotiate a cash payment for the surface rights.

Senator BARRY GOLDWATER also talked to Marks with similar results. In a letter to Layton on June 3, 1969, Senator GOLDWATER reported that Marks had stated that the Indians were in a frame of mind to accept a cash settlement.

Marks was quoted in the Arizona Republic on March 9, 1969, as saying that—

> The Indians are not going to take action against the ranchers as far as I can see. . . . I'm sure they'll be agreeable to continuing the present leases as far as the law allows.

At the time of the restoration of the surface, the grazing of the mineral strip lands was being supervised by the Bureau of Land Management. The San Carlos Agency subsequently assumed administration of grazing on the mineral strip. All of the grazing permits provide that such permits are terminable and revokable in whole or in part.

They also provide that any part of the area covered by the permit may be excluded from the range unit by the superintendent at his discretion, whereupon the permit shall cease and it will be determined which range units have been eliminated.

However, various individual ranchers, over a period of about 73 years, paid grazing fees to the government according to regulations, bought and sold range rights and leases, and homesteaded or bought land within the strip. To the best of their knowledge, this was all done legally and honorably.

Some of the land changed hands several times through such transactions, and ranchers typically invested their total resources. They improved the land by developing reservoirs, springs, trails, fences, roads, ranch buildings, and dwellings.

The San Carlos Apache Tribe decided last year that the restored mineral strip lands were needed by the tribe and its members for grazing their cattle. The notice sent to non-Indian users provided that improvements on the land should be left there when the property was vacated.

The results of the action thus far taken are decidedly not equitable or fair. The ranchers have, for all practical purposes, lost their homes and businesses and their entire life savings.

The ranchers do not hold the Indians to blame for the situation. They do feel that the Federal Government is almost entirely responsible for the conditions that are leading to their eviction and resulting losses. They were on the land as a result of legally constituted actions by the Federal Government.

Since the error was without question made by the Federal Government, it would seem that compensation to innocent injured parties should be provided by the Federal Government.

Mr. Speaker, we do not offer H.R. 7730 as a precedent, but rather as an essential exception to general policy.

The precarious relationship of Indian and non-Indian people living side-by-side in my district is at stake in what we do here today.

I urge my colleagues to pass H.R. 7730 to provide necessary fair treatment to these dispossessed non-Indian ranchers.

Mr. SAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I would say to the gentleman from Pennsylvania (Mr. SAYLOR) that whatever the reason he did not have to attend the hearings to ascertain that this is a bad bill. I would say that this bill qualifies for that category known as "u-clipped-us" bills.

Mr. SAYLOR. Mr. Speaker, all I can say is that this bill is not in the budget, and all departments of the Government reported adversely.

Mr. Speaker, I yield to the gentleman from Nevada (Mr. TOWELL).

Mr. TOWELL of Nevada. Mr. Speaker, I rise to join with my good friends from the State of Arizona and throughout the West who are trying to do something in a constructive manner, not only to help our native Americans, the Indians of Arizona, but also the cattle ranchers in this situation.

This legislation originated in the Public Lands Subcommittee, of which I am a member, and I can certainly attest that it has received every consideration.

The prospect of throwing long-established ranchers off land that, when it was made available for lease, was well within the bounds of the law and was acquired at the urging of the Federal Government, is unthinkable.

The Congress has been keenly aware of its obligations to remunerate our Indian people when the Government seeks to reverse a long-standing policy and to acquire certain parcels of ground. The same obligation exists when the people affected are cattlemen.

This is a fine bill, and I completely support it and urge its passage here today.

Mr. MELCHER. Mr. Speaker, we have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Montana (Mr. MELCHER) that the House suspend the rules and pass the bill (H.R. 7730) as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SAYLOR. Mr. Speaker, I object to

the vote on the ground that a quorum is not present and make the point of order a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 164, not voting 34, as follows:

[Roll No. 460]

### YEAS—236

Abdnor
Adams
Addabbo
Alexander
Andrews, N. Dak.
Arends
Badillo
Bafalis
Baker
Barrett
Bell
Biaggi
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Ohio
Burgener
Burke, Calif.
Burton
Byron
Camp
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Conable
Conlan
Corman
Cronin
Danielson
Davis, S.C.
de la Garza
Dellenback
Denholm
Dent
Derwinski
Diggs
Dorn
Dulski
Duncan
Edwards, Ala.
Edwards, Calif.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Fisher
Flood
Flynt
Ford, Gerald R.
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.

Griffiths
Gubser
Gude
Guyer
Haley
Hamilton
Hansen, Wash.
Harsha
Hastings
Hébert
Hicks
Hinshaw
Holifield
Holtzman
Horton
Hosmer
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jordan
Kazen
Keating
Kemp
King
Kluczynski
Kuykendall
Kyros
Landrum
Leggett
Lehman
Long, La.
McCloskey
McCollister
McCormack
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mallary
Martin, Nebr.
Mathias, Calif.
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Mink
Minshall, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Mosher
Murphy, N.Y.
Myers
Nedzi
Nelsen
O'Brien
O'Hara
Owens
Parris
Patten
Pepper
Perkins
Pettis
Pike
Podell
Preyer
Price, Tex.
Quie
Quillen
Railsback
Regula

Reid
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Roush
Rousselot
Roy
Runnels
Ruth
Ryan
Sarbanes
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Waggonner
Waldie
Walsh
Wampler
Ware
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

### NAYS—164

Abzug
Anderson, Calif.
Andrews, N.C.
Annunzio

Archer
Armstrong
Ashbrook
Ashley
Aspin

Bauman
Beard
Bennett
Bergland
Bevill

Biester
Blatnik
Broomfield
Brown, Mich.
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Butler
Carey, N.Y.
Carney, Ohio
Carter
Chisholm
Clark
Clay
Cleveland
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conte
Conyers
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellums
Dennis
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
du Pont
Eckhardt
Erlenborn
Esch
Evans, Colo.
Findley
Fish
Flowers
Foley
Ford, William D.
Forsythe
Fountain

Gaydos
Gilman
Goodling
Grasso
Gross
Grover
Gunter
Hammerschmidt
Hanley
Hanrahan
Harrington
Harvey
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hogan
Holt
Howard
Huber
Hudnut
Hungate
Hutchinson
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Karth
Kastenmeier
Ketchum
Koch
Landgrebe
Latta
Lent
Long, Md.
Lott
McClory
McDade
Macdonald
Mahon
Mailliard
Maraziti
Martin, N.C.
Mathis, Ga.
Mayne
Mazzoli
Michel
Milford

Minish
Mitchell, Md.
Moorhead, Pa.
Moss
Murphy, Ill.
Natcher
Passman
Peyser
Pickle
Poage
Powell, Ohio
Price, Ill.
Pritchard
Randall
Rangel
Rarick
Rees
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncallo, N.Y.
Rosenthal
Roybal
St Germain
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Smith, N.Y.
Snyder
Steele
Steelman
Stokes
Studds
Thone
Thornton
Tiernan
Treen
Vanik
Vigorito
Whalen
Whitehurst
Wolff
Wydler
Wylie
Yates
Yatron
Young, Ga.

### NOT VOTING—34

Anderson, Ill.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Chappell
Culver
Davis, Ga.
Frelinghuysen
Gettys
Hanna
Hansen, Idaho

Jones, Ala.
Jones, Tenn.
Litton
Lujan
McEwen
Mann
Mills, Ark.
Mizell
Nichols
Nix
Obey
O'Neill

Patman
Rooney, N.Y.
Rostenkowski
Ruppe
Sandman
Stanton, James V.
Stuckey
Symington
Wilson, Charles, Tex.
Young, Tex.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Anderson of Illinois.
Mr. Burleson of Texas with Mr. Obey.
Mr. Rostenkowski with Mr. Broyhill of Virginia.
Mr. Hanna with Mr. Frelinghuysen.
Mr. Chappell with Mr. Buchanan.
Mr. Jones of Tennessee with Mr. Lujan.
Mr. Young of Texas with Mr. Sandman.
Mr. Patman with Mr. Burke of Florida.
Mr. Culver with Mr. Nichols.
Mr. Symington with Mr. Jones of Alabama.
Mr. Davis of Georgia with Mr. Mizell.
Mr. Gettys with Mr. Ruppe.
Mr. Rooney of New York with Mr. Stuckey.
Mr. Charles Wilson of Texas with Mr. Mann.
Mr. Nix with Mr. James V. Stanton.
Mr. Mills of Arkansas with Mr. Litton.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## ENDANGERED AND THREATENED SPECIES CONSERVATION ACT OF 1973

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 37) to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes, as amended.

The Clerk read as follows:

### H.R. 37

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act, with the following table of contents, may be cited as the "Endangered and Threatened Species Conservation Act of 1973".

### TABLE OF CONTENTS

Sec. 2. Findings, purposes, and policy.
Sec. 3. Definitions.
Sec. 4. Determination of endangered species and threatened species.
Sec. 5. Land acquisition.
Sec. 6. Cooperation with the States.
Sec. 7. Interagency cooperation.
Sec. 8. International cooperation.
Sec. 9. Prohibited acts.
Sec. 10. Exceptions.
Sec. 11. Penalties and enforcement.
Sec. 12. Endangered plants.
Sec. 13. Conforming amendments.
Sec. 14. Repealer.
Sec. 15. Authorization of appropriations.
Sec. 16. Effective date.

### FINDINGS, PURPOSES, AND POLICY

SEC. 2. (a) The Congress finds and declares that one of the unfortunate consequences of growth and development in the United States and elsewhere has been the extermination of some species or subspecies of fish, wildlife, and plants; that serious losses in species of wild animals with educational, historical, recreational, and scientific value have occurred and are occurring; that the United States has pledged itself, pursuant to migratory bird treaties with Canada and Mexico, the Migratory and Endangered Bird Treaty with Japan, the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, the International Convention for the Northwest Atlantic Fisheries, the International Convention for the High Seas Fisheries of the North Pacific Ocean, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and other international agreements, to conserve and protect, where practicable, the various species of fish, wildlife, and plants facing extinction; that a key to more effective protection and management of native fish and wildlife that are endangered or threatened is to encourage and assist the States in developing programs for such fish and wildlife; and that the conservation, protection, restoration, or propagation of such species will inure to the benefit of all citizens.

(b) The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, protected, or restored, to provide a program for the conservation, protection, restoration, or propagation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to protect endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.

### DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora

signed on March 3, 1973, and the appendices thereto.

(2) The term "endangered species" means any species of fish or wildlife which is in danger of extinction throughout all or a significant portion of its range.

(3) The term "fish or wildlife" means any wild member of the animal kingdom, whether or not raised in captivity, including without limitation, any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, or crustacean, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(4) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(5) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(6) The term "person" means (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(7) The term "plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

(8) The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970: except that with respect to the enforcement of the provisions of this Act and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

(9) The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(11) The term "take" means to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to harass, pursue, hunt, shoot, wound, kill, trap, capture or collect.

(12) The term "threatened species" means any species of fish or wildlife which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(13) The term "United States", when used in a geographical context, includes all States.

### DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

Sec. 4. (a) The Secretary shall by regulation determine whether any fish or wildlife is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease of predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(b) (1) The Secretary shall make determinations required by subsection (a) of this section on the basis of the best scientific and commercial data available to him and after consultation, as appropriate, with the affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the fish or wildlife concerned is normally found or whose citizens harvest such fish or wildlife on the high seas; except that in any case in which such determinations involve native species of fish or wildlife, the Secretary shall consult with and consider the recommendations of each State concerned before adding such species to, or removing such species from, any list published pursuant to subsection (c) of this section.

(2) In determining whether or not any fish or wildlife is an endangered species or a threatened species, the Secretary shall take into consideration those efforts, if any, being made by any nation or any political subdivision of any nation to protect such fish or wildlife, whether by predator control, protection of habitat and food supply, or other fish or wildlife conservation or management practices, within any area under the jurisdiction of any such nation or political subdivision.

(3) The Secretary shall give full consideration regarding whether or not fish or wildlife which have been designated by any foreign country, or pursuant to any international agreement, as requiring protection from unrestricted commerce are endangered species or threatened species.

(c) (1) The Secretary shall publish in the Federal Register, and from time to time he may by regulation revise, a list of all fish or wildlife determined by him to be endangered species and a list of all fish or wildlife determined by him to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(2) The Secretary shall, upon the petition of an interested person under subsection 553(e) of title 5, United States Code, also conduct a review of any listed or unlisted species of fish or wildlife proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only when he finds and publishes his finding that, to his satisfaction, such person has presented substantial evidence to warrant such a review.

(3) Any list in effect on the day before the date of the enactment of this Act of species of fish or wildlife determined by the Secretary of the Interior, pursuant to the Endangered Species Conservation Act of 1969, to be threatened with extinction shall be republished to conform to the classification for endangered species or threatened species, as the case may be, provided for in this Act, but until such republication, any such species so listed shall be deemed an endangered species within the meaning of this Act. The republication of any species pursuant to this paragraph shall not require public hearing or comment under section 553 of title 5, United States Code.

(d) Whenever the Secretary lists a species of fish or wildlife as an endangered species or a threatened species pursuant to subsection (a) of this section, he shall issue such regulations as he deems necessary and advisable to provide for the conservation, protection, restoration, or propagation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9 (a) of this Act with respect to endangered species; except that with respect to native species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 6(c) of this Act only to the extent that such regulations have also been adopted by such State.

(e) For the purpose of facilitating the enforcement of this Act, the Secretary may from time to time, by regulation, treat, to the extent he deems it advisable, any species of fish or wildlife or of any plant which is not listed pursuant to section 4 of this Act as an endangered species or threatened species, if such species so closely resembles in appearance, at the point in question, a species of fish or wildlife or plant which has been so listed that substantial difficulty is posed to enforcement personnel in attempting to differentiate between listed and unlisted species or subspecies of fish or wildlife or plants, and this difficulty poses an additional threat to an endangered species or threatened species.

(f) Section 553 of title 5, United States Code, shall apply with respect to any regulation issued pursuant to this Act.

### LAND ACQUISITION

Sec. 5. (a) The Secretary shall establish and implement a program to conserve, protect, restore, or propagate (A) fish or wildlife which are listed as endangered species or threatened species pursuant to section 4 of this Act or (B) plants which are included in Appendices to the Convention. To carry out such program, the Secretary—

(1) shall utilize the land acquisition and other authority under the Migratory Bird Conservation Act, the Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act, as appropriate; and

(2) is authorized to acquire by purchase, donation, or otherwies, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him.

(b) Funds made available pursuant to the Land and Water Conservation Fund Act of 1965, as amended, may be used for the purpose of acquiring lands, waters, or interests therein under subsection (a) of this section.

### COOPERATION WITH THE STATES

Sec. 6. (a) In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species.

(b) The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation, protection, restoration, or propagation of endangered or threatened species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).

(c) In furtherance of the purposes of this Act, the Secretary is authorized to enter into cooperative agreements to provide financial assistance to States, through their respective fish and wildlife agencies, which maintain or establish adequate and active programs to manage and protect endangered and threatened species. In order for any State to qualify for assistance under this subsection, the Secretary must find annually that under the State program—

(1) authority resides in the State fish and wildlife agency to manage and protect native species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(2) the State fish and wildlife agency has established acceptable management pro-

grams, consistent with the purposes and policies of this Act, for all species of fish or wildlife indigenous to the State which are deemed by the Secretary to be endangered or threatened;

(3) the State fish and wildlife agency is authorized to conduct investigations to determine the status and requirements for survival of indigenous species or subspecies of fish and wildlife;

(4) the State fish and wildlife agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for protection and management of endangered or threatened species; and

(5) provision is made in such programs for public participation in designating indigenous species or subspecies of fish or wildlife as endangered or threatened.

(d) (1) Funds appropriated annually for purposes of assistance under subsection (c) shall be available to the Secretary for allocation to the States under cooperative agreements to assist in development by States of programs for management and protection of endangered and threatened species of fish or wildlife including research, censusing, law, enforcement, and habitat acquisition or improvement. The Secretary shall make an allocation of appropriated funds to the States based on consideration of—

(A) the international obligations of the United States to protect a species;

(B) the national significance of a species found to be endangered or threatened within a State; and

(C) the potential for preventing extinction of a species and restoring such species to nonendangered or nonthreatened status.

So much of any appropriated funds allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this Act.

(2) Such cooperative agreements shall provide for (A) the actions to be taken by the Secretary and the States; (B) the benefits that are expected to be derived in connection with preservation and restoration of endangered or threatened species; (C) the estimated cost of these actions; and (D) the share of such costs to be borne by the Federal Government and by the States; except that—

(i) the Federal share of such program costs shall not exceed 66⅔ per centum of the estimated program costs stated in the agreement; and

(ii) the Federal share may be increased to 75 per centum whenever two or more States, having a common interest in a program that the Secretary deems to meet the criteria of paragraph (1), enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement.

(e) Any action taken by the Secretary under this section shall be subject to his periodic review at no greater than annual intervals.

(f) Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered or threatened species is void to the extent that it may effectively (1) permit what is prohibited by this Act or by any regulation which implements this Act or (2) prohibit what is authorized pursuant to an exemption or permit provided for in this Act or in any regulation which implements this Act. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve and manage migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered or threatened species may be more restrictive than the exemptions or permits provided for in this Act or in any regulation which implements this Act, but not less restrictive than the prohibitions so defined.

(g) The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

(h) There are hereby authorized to be appropriated for the fiscal years 1974, 1975, and 1976 such sums as may be necessary to carry out the purposes of this section.

### INTERAGENCY COOPERATION

SEC. 7. (a) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purpose of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the protection of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

(b) The Secretary of Agriculture is authorized, notwithstanding the provisions of any other law, to bear the full cost, or any lesser amount that he, in consultation with the Secretary, may determine desirable to accomplish the objectives of the Act, of the cost of installing any practice, measure, work of improvement, facility, or other developmental, protective, or management systems on private land, the primary purpose of which is to enable landowners to comply with the regulations, or other recommendations, of the Secretary pertaining to the conservation, protection, restoration, or propagation of such species. The Secretary of Agriculture, in carrying out the purposes of this subsection, shall utilize his authorities to conduct research and investigations into vegetative and structural methods and other methods and practices, measures, works of improvement, and facilities most appropriate or effective in the protection, control, management, or enhancement of such species. If determined desirable, the Secretary and the Secretary of Agriculture may jointly carry out such research and investigations. The Secretary may transfer to the Secretary of Agriculture such funds as may be necessary to carry out the purposes of this subsection.

### INTERNATIONAL COOPERATION

SEC. 8. (a) As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation, protection, restoration, or propagation of any endangered species or threatened species listed by the Secretary pursuant to section 4 of this Act. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 15 of this Act.

(b) In order to carry out further the provisions of this Act, the Secretary, through the Secretary of State, shall encourage—

(1) foreign countries to provide for the protection, conservation, restoration, or propagation of fish or wildlife including endangered species and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such protection, conservation, restoration, or propagation; and

(3) foreign persons who directly or indirectly take fish or wildlife and plants in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out, with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife and plants and their habitat.

(c) After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the protection, conservation, restoration, or propagation of fish or wildlife and plants; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife and plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

(e) The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, where appropriate, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention. The President shall also designate those agencies which shall act on behalf of and represent the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

### PROHIBITED ACTS

SEC. 9. (a) Except as provided in section 10 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(1) import into, or export from, the United States any endangered species listed pursuant to section 4 of this Act;

(2) take any such species within the United States or the territorial sea of the United States, upon the high seas, or in any foreign country, except that this paragraph shall apply within any State which has entered into a cooperative agreement pursuant to section 6(c) of this Act only to the extent

that the taking of any such species is contrary to the law of such State;

(3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of paragraph (2);

(4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and for commercial purposes, any such species;

(5) sell or offer for sale in interstate or foreign commerce any such species; or

(6) violate any regulation promulgated by the Secretary pursuant to section 4(d) of this Act.

(b) (1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof.

(2) Any importation into the United States of fish or wildlife shall, if—

(A) such fish or wildlife is not an endangered species listed pursuant to section 4 of this Act but is listed in Appendix II to the Convention,

(B) the taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied, and

(C) the applicable requirements of subsections (d) and (e) of this section have been satisfied,

be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act.

(c) (1) It is unlawful for any person to engage in business as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered or threatened species, and (B) are imported for commercial purposes or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants without first having obtained a permit from the Secretary.

(2) Any person required to obtain a permit under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, or plants made by him and the subsequent disposition made by him with respect to such fish, wildlife, or plants;

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish, wildlife, or plants and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

(C) file such reports as the Secretary may require.

(3) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(d) It is unlawful for any person importing or exporting fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered or threatened species, and (B) are imported for commercial purposes or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this Act or to meet the obligations of the Convention.

(e) (1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for commercial purposes or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary. For the purpose of facilitating enforcement of this Act and reducing the costs thereof, the Secretary, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the fish or wildlife or plants, or for other reasons if, in his discretion, he deems it appropriate and consistent with the purpose of this subsection.

(2) Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc–4(d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

(f) It is unlawful for any person subject to the jurisdiction of the United States to attempt or conspire to commit, or cause to be committed, any offense defined in this section.

EXCEPTIONS

SEC. 10. (a) The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 9 of this Act for scientific purposes or to enhance the propagation or survival of the affected species.

(b) (1) If any person enters into a contract with respect to a species or subspecies of fish or wildlife or plant before the date of the publication in the Federal Register of notice of a proposed listing of that species as an endangered species and the subsequent listing of that species as an endangered species pursuant to section 4 of this Act will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 9(a) of this Act to the extent the Secretary deems appropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove such hardship; except that (A) no such exemption shall be for a duration of more than one year from the date of publication in the Federal Register of notice of a proposed listing of the species or subspecies concerned, or shall apply to a quantity of fish or wildlife or plants in excess of that specified by the Secretary; (B) the one-year period for those species or subspecies of fish or wildlife listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275); and (C) no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used for primarily commercial purposes.

(2) The Secretary shall publish notice in the Federal Register of each application for an exemption which is made under this subsection. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(c) The Secretary may grant exemptions under subsections (a) and (b) of this section only if he finds and publishes his finding that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of this Act.

(d) Any taking by an Indian, Aleut, or Eskimo of any marine mammal (as defined in section 2(5) of the Marine Mammal Protection Act of 1972) which is listed pursuant to section 4(a) of this Act as an endangered species or threatened species shall not be deemed to be in violation of this Act or any regulation issued pursuant thereto if such taking is lawful under section 101(1) of the Marine Mammal Protection Act of 1972.

PENALTIES AND ENFORCEMENT

SEC. 11. (a) (1) Any person who violates any provision of this Act, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a) (1), (2), (3), (4), or (5), (b), (c) (other than a regulation relating to recordkeeping or filing of reports), (e), or (f) of section 9 of this Act may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. Any person who knowingly violates any provision of any other regulation issued under this Act may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secrtary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) (1) Any person who knowingly commits an act which violates any provision of this Act, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a) (1), (2), (3), (4), or (5), (b), (c) (other than a regulation relating to recordkeeping or filing of reports, (e), or (f) of section 9 of this Act shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Any person who knowingly commits an act which violates any provision of any other regulation issued under this Act shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than six months, or both. Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the fine incurred but not to exceed $2,500 to any person who furnishes information which leads to a conviction for a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this Act or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this Act, or any regulation, permit or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(c) The several district courts of the United States including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any actions arising under this Act. For the purpose of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the Disrict of Hawaii.

(d)(1) The provisions of this Act and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary or the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce this Act may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4)(A) All fish or wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this Act, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any fish or wildlife or plants in violation of this Act, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to section 11(b)(1) of this Act.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(e) The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act, including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of fish or wildlife or plants and evidentary items seized and forfeited under this Act. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(f)(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(B) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(g) The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act with the administration of the animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this Act or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles and no proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture.

(h) Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, without limitation, section 527 of that Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

### ENDANGERED PLANTS

SEC. 12. The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of providing adequate protection to such species, and to report to Congress, within one year after the date of the enactment of this Act, the results of such review including recommendations for new legislation or the amendment of existing legislation.

### CONFORMING AMENDMENTS

SEC. 13. (a) Subsection 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(c)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered species and threatened species listed by the Secretary pursuant to section 4 of the Endangered and Threatened Species Conservation Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of that Act, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system."

(b) Subsection 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224, 16 U.S.C. 715i(a)) and subsection 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s(a)), are each amended by striking out "threatened with extinction," and inserting in lieu thereof the following: "listed pursuant to section 4 of the Endangered and Threatened Species Act of 1973 as endangered species or threatened species,".

(c) Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601—9(a)(1)) is amended by striking out:

"THREATENED SPECIES.—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction."

and inserting in lieu thereof the following:

"ENDANGERED SPECIES AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5(a) of the Endangered and Threatened Species Conservation Act of 1973, needed for the purpose of conserving, protecting, restoring, or propagating endangered species of fish or wildlife or plants."

(d) The first sentence of section 2 of the Act of September 28, 1962, as amended (76 Stat. 653, 16 U.S.C. 460k–1), is amended to read as follows:

"The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

(1) incidental fish and wildlife-oriented recreational development,

"(2) the protection of natural resources,

"(3) the protection of endangered species or threatened species listed by the Secretary pursuant to section 4 of the Endangered and Threatened Species Conservation Act of 1973, or

"(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps."

(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) is amended—

(1) by striking out "Endangered Species Conservation Act of 1969" in section 3(1)(B) thereof and inserting in lieu thereof the following: "Endangered and Threatened Species Conservation Act of 1973";

(2) by striking out "pursuant to the Endangered Species Conservation Act of 1969" in section 101(a)(3)(B) thereof and inserting in lieu thereof the following: "or threatened species pursuant to the Endangered and Threatened Species Conservation Act of 1973";

(3) by striking out "endangered under the Endangered Species Conservation Act of 1969" in section 102(b)(3) thereof and inserting in lieu thereof the following: "an endangered species or threatened species pursuant to the Endangered and Threatened Species Conservation Act of 1973"; and

(4) by striking out "Endangered Species List, authorized by the Endangered Species Conservation Act of 1969," in section 202(a)(6) thereof and inserting in lieu thereof the following: "endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered and Threatened Species Conservation Act of 1973".

### REPEALER

SEC. 14. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa—668cc–6), is repealed.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 15. Except as authorized in section 6 of this Act, there are authorized to be appropriated—

(A) not to exceed $6,000,000 for fiscal year 1974, not to exceed $8,000,000 for fiscal year 1975 and not to exceed $10,000,000 for fiscal year 1976, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

(B) not to exceed $1,500,000 for fiscal year 1975 and not to exceed $2,000,000 for fiscal year 1976, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.

### EFFECTIVE DATE

SEC. 16. This Act shall take effect on the date of its enactment.

The SPEAKER. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Michigan and the gentleman from Pennsylvania will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I yield to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentlewoman from Missouri, such time as she may require.

Mrs. SULLIVAN. Mr. Speaker, H.R. 37 should be enacted at the earliest possible moment. It represents hours of intense committee consideration and of painstaking analysis by members and staff of the committee.

H.R. 37 revises and extends existing law—law which was proposed by this committee in earlier years. As far as it went, the earlier legislation has been valuable—even invaluable—but that law did not go far enough. That defect we hope to remedy today.

H.R. 37 comes on the heels of and implements, an important international convention, which produced a treaty providing for the protection and preservation of endangered species of plants and animals. That Convention, signed by the United States on March 3 of this year, has been submitted to the Congress for approval by the Senate and was in fact approved 5 months later. That is pretty fast action and I would hope that we can reciprocate by moving promptly on H.R. 37 today.

That additional protection for endangered species of plants and animals is necessary is indisputable. Within the past few years, it was necessary for the Department of the Interior to place eight species of whales on that list, and as many species of "spotted cats": leopards, tigers, cheetahs, et cetera.

For the most part, the principal threat to animals stems from the destruction of their habitat. The destruction may be intentional, as would be the case in clearing of fields and forests for development of resource extraction, or it may be unintentional, as in the case of the spread of pesticides beyond their target area. Whether it is intentional or not, however, the result is unfortunate for the species of animals that depend on that habitat, most of whom are already living on the edge of survival. H.R. 37 will meet this problem by providing funds for acquisition of critical habitat through the use of the land and water conservation fund. It will also enable the Department of Agriculture to cooperate with willing landowners who desire to assist in the protection of endangered species, but who are understandably unwilling to do so at excessive cost to themselves.

Another hazard to endangered species arises from those who would capture or kill them for pleasure or profit. There is no way that the Congress can make it less pleasurable for a person to take an animal, but we can certainly make it less profitable for them to do so. H.R. 37 makes it a Federal offense to violate the act or regulations published pursuant to the act, and prescribes penalties and fines of up to $20,000 for persons convicted of violations.

I should point out, however, that in our desire to create unpleasant consequences for those who violate the act, we have at the same time been very aware of the need to assure due process for anyone accused of violating the act. There are requirements for public hearings on violations, with a full opportunity for the defendants to review the evidence against them, and judicial review of decisions which are felt to be unjust.

Protection of endangered species is, as the gentleman from Michigan has already indicated, far more than a matter of esthetics. As our report on the bill points out, endangered species of plants and animals possess genetic characteristics which cannot be replaced or artificially reproduced. Once the passenger pigeon disappeared, it was gone. It will not, and cannot, ever be back. The loss of the passenger pigeon is unfortunate; it may or may not be tragic. The loss of the blue whale, on the other hand, might very well be tragic: It is possibly the largest mammal ever to have existed on the face of the Earth, and it may be the most efficient harvester of tiny marine life that exists today. In a protein-hungry world, the loss of huge potential sources of food is not an occasion which can be lightly considered.

When we threaten endangered species, we tinker with our own futures. We run risks whose magnitude we understand dimly, if at all. And we do so, for the most part, for reasons that can be described most charitably as trivial.

The purpose and intent of the bill before you is to bring into focus the costs of further endangering the plants and animals of this world. I believe that we have achieved this objective, and I support the bill strongly, and urge the support of my colleagues.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I strongly urge enactment of H.R. 37, a bill to protect and encourage endangered and threatened species of fish and wildlife. This bill has been considered at length by our committee in the course of hearings during this and the previous Congress. It has been unanimously endorsed by members of our subcommittee and by members of the full Committee on Merchant Marine and Fisheries. It should be enacted today.

H.R. 37 amends and extends laws now on the books: Endangered species legislation enacted in 1966 and 1969. The existing laws are sound, as far as they go, but later events have shown that they do not go far enough. Present laws need to be made more flexible, to adapt themselves to the needs of the animals themselves and to deal with problems which did not exist until a few years ago.

There is a further need, which enactment of this legislation will meet. In March of this year, representatives of 80 nations met in Washington, in response to an earlier congressional directive, and negotiated a comprehensive convention for the protection of endangered species of plants and animals. On August 3, that convention was approved by the Senate, making this country the first to approve the convention. That it will utlimately be in force—which will take place after the 10th ratification takes place—is not questioned by anyone. Enactment of H.R. 37 will take all the steps which must be taken by this country in order to fully implement the requirements of this convention. It will place us in the forefront of the nations of the world that have expressed interest and concern for this problem.

The principal changes to be effected by passage of H.R. 37 are:

First, it extends protection to animals which may become endangered, as well as to those which are now endangered.

Second, it extends protection to animals which are in trouble in any significant portion of their range, rather than threatened, and they must now be, with worldwide extinction.

Third, it makes taking of such animals a Federal offense.

Fourth, it eliminates existing dollar ceilings on acquisition of critical habitat for such species. The present ceiling, which has been almost exhausted, is $15 million.

Fifth, it gives to the Department of Commerce the authority to manage endangered and threatened species which were transferred to them under Reorganization Plan No. 4 of 1970.

Sixth, it authorizes the use of counterpart funds for programs involving foreign countries, wherever this is appropriate.

Seventh, it authorizes and encourages the State governments to adopt and enforce laws and regulations which are consistent with those adopted by the Federal Government.

Eighth, it clarifies and extends the authority of the Department of Agriculture to assist landowners, wherever they are willing to carry out the purposes of the act.

Ninth, it directs that a study be made of the problems associated with the domestic regulation of trade in endangered species of plants.

For a more extended discussion of these and other changes which will be accomplished by passage of this bill, I invite the attention of the House to our committee's report on H.R. 37 (H. Rept. 93–412).

I would like to address for a few moments the issue of the relationship of the State and Federal governments under this act. Let me begin by putting to rest one story that has circulated from time to time: H.R. 37 does not preempt the States from enacting endangered species legislation.

Rather it declares a national policy that endangered species should be protected, and prescribes what amounts to a Federal floor to regulate the taking of such species. The States are free, just as they are now, to adopt stricter rules except to the extent that these contravene specific Federal permits or prohibitions, and to enforce these.

The bill goes further and provides a mechanism whereby the State and Federal governments may develop cooperative agreements governing the research, management and/or enforcement of regulations involving endangered or threatened species. The bill also provides for the Federal Government to contribute to the financial costs of State endangered species programs on a matching basis.

I might say that we have given this troublesome question of State and Federal relationships a great deal of thought and consideration. On the basis of this review, I am satisfied that the formula which we have developed is the best and most workable possible. I do not feel that it would be proper or desirable to place a heavy burden upon the Federal agencies to make findings that State programs are not consistent with the Federal plan before allowing that plan to be instituted. I say this principally because I am aware, as we all are, that there is considerable inertia involved in getting Government agencies and agency programs moving, and I feel that that inertia should not operate to the detriment of the species of animals with which this legislation is concerned. It makes far more sense, in my view, to provide an existing framework of rules and then to encourage the States to work cooperatively with the Federal Government in developing regulatory procedures which are consistent with that framework.

It may well be that some States have laws and regulations on their books that will allow them to negotiate and sign cooperative agreements soon after this bill becomes law. This is certainly to be encouraged, and I have received firm assurances from the agencies concerned that there will be prompt and good faith consultations at an early date to see that such agreements are rapidly developed. It is not our intention to encourage a long and dragged-out process of bureaucratic review and delay and we do not feel that H.R. 37 can be used in this fashion.

As a further inducement to the development of such agreements we have also provided for the furnishing of financial assistance to state wildlife agencies to assist their carrying out endangered species programs along the lines of the act. There is an open-ended authorization for this purpose in the act, and we have been informed that under no circumstances would the funds requested under this authorization exceed $10 million in any year.

H.R. 37 has been attacked by some as a anti-hunter bill; it has been attacked by others as a prohunter bill. In reality, it is neither—it is a bill which has been carefully drafted to encourage State and foreign governments to develop healthy stocks of animals occurring naturally within their borders. If these animals are considered valuable as trophy animals, and are not endangered, they should be regarded as a potential source of revenue to the managing agency and they should be encouraged to develop to the maximum extent compatible with the ecosystem upon which they depend.

I have been informed by the Department of the Interior that they will carefully review the status of animal stocks in foreign countries and that where nonendangered trophy animals are being managed in such a way as to assure their continued and healthy existence, no barriers will be placed upon the continued harvesting of those animals by the government. This is as it should be, because it is only in the understanding that these animals have a real and measurable value that many of the less developed countries will agree to take steps to assure their continued existence.

There is language in the legislation which incorporates a presumption of validity as to export permits issued by governments of foreign countries for animals which are not on appendix I of the international endangered species convention. This will allow persons subject to U.S. jurisdiction to accept export permits from these countries for animals which have legitimately been taken as trophies without the fear that the U.S. Government will arbitrarily refuse to accept those permits as valid.

We are assured by representatives of the Government that this is what they would do in any case, but we felt it best to spell out just what could and should be done at this time, in order to avoid future misunderstandings.

After the question of State versus Federal responsibilities, I would say that the most troublesome issue which confronted the committee was that of the best way to deal with endangered species of plants. This is a subject that has caused a considerable degree of concern among botanists, to which too little attention has been devoted in the past. Plants and plant species are particularly sensitive to variations in habitat; for the most part, the small and peculiar species of plants are that way because of particular variations in the habitat and range in which they have evolved. Our interest in preserving these species is more than esthetic: they may hold answers to questions which we have not yet learned to ask, and to lose these answers for all time involves a decision which should be made only upon careful consideration of all the facts.

We had great trouble in attempting to spell out the implications of national control over these species of plants. Internationally, the convention requires such control and it is not difficult to develop a scheme to screen plants as they enter the country; as a matter of fact, such a system is already in effect, involving inspections by agents of the Department of Agriculture. The problem area involves interstate regulation of transit, sale, and taking—and here there are no mechanisms to deal with the problem. Ultimately, the committee concluded that the best approach would be to designate an independent agency to study the problem and to report back to the Congress within a year with suggestions on the proper ways to deal with it. We selected the Smithsonian Institution as the best agency to handle this issue, principally on the basis of its independence and lack of commitment on ways of handling such questions. It is not at all unlikely that the Smithsonian will contract out for part of this study to the Agriculture Department, since that Department has much of the expertise and experience that must be developed in order to achieve an understanding of the problem. We felt, however, that since that Department has an interest in the matter, and since there are strong indications that it has made some prejudgments on the question, it would be better not to have them in charge of the study.

Mr. Speaker, the bill before the House, H.R. 37, represents considerable effort on the part of the committee, and considerable imagination in dealing with a number of complex and highly charged emotional issues. It is supported by most major conservation organizations, sportsmen's organizations, and environmental groups. The bill and the report (H. Rept. 93–412) have been available for review for over a month and I have yet to hear a whisper of opposition to its passage at the earliest opportunity. A similar bill has passed the Senate and is now on the Speaker's table. We are ready to go to conference, and hopeful that a good bill can be produced and sent to the President quite soon.

I urge that H.R. 37 be enacted.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 37, a bill designed to strengthen and improve the existing Endangered Species Act of 1969. H.R. 37, as reported out by the committee unanimously, embodied the vast majority of the proposals of the administration in H.R. 4758 and is somewhat similar to the version which passed in the other body on July 24, 1973, by a vote of 92 to 0.

The first Endangered Species Act became law in 1966 and authorized the Department of the Interior to establish a conservation program of native species threatened with extinction and expanded its authorities under the National Wildlife Refuge System.

This basic act was amended extensively in 1969 by requiring the publication of an endangered species list by prohibiting the importation of species on that list, permitting selected taking of such species for scientific and educational purposes, providing for a 1-year economic hardship exemption from the prohibitions, prohibiting the sale or purchase of such endangered species by U.S. citizens, and increasing the authorization levels for land acquisitions designed to conserve such species.

Since 1969, the lessons learned from implementation of the act on a Federal and State level have prompted the need for basic and comprehensive revisions. Experience has taught us that, under existing laws, the Federal Government was unable to adequately provide conservation and protection measures to those species which had not yet met the legal and technical definition of "extinct", but due to a variety of factors were closely approaching that population level. H.R. 37 broadens the concept of "endangered species" by vesting authority in the Secretary to list those species which are "likely within the foreseeable future to become threatened with extinction". Thus, both Federal and State authorities can regulate trade, prevent taking, and provide for habitat acquisition for those species before they actually become extinct. The bill contemplates the promulgation of two lists; one designating actually endangered or extinct species, and the other listing those which are threatened. Regulations would be promulgated to protect the species based upon their individual status. Greater flexibility is provided while at the same time additional means of protection, conservation, and management is permitted and required.

The bill also implements the recently signed Convention on International Trade in Endangered Species of Wild Fauna and Flora, requires the Smithsonian to study methods to protect endangered plants, vests agency responsibility for plants in the Department of Agriculture, establishes a closely-woven Federal/State relationship in the form of financial assistance programs to the States to assist in the management and conservation of such species, provides for cooperative agreements between the Federal Government and the States, and permits the States to enact laws which may be more restrictive than the Federal law. The measure also recognizes the important environmental role of the Department of Commerce in protecting marine plants and species, eliminates existing dollar ceilings on acquisition of critical habitat areas, and makes the taking of such species a Federal offense punishable both on a civil and criminal basis.

There is urgent need for enactment of this legislation. In the United States alone, there are 109 species listed as endangered. On the foreign list, there are over 300 species. The list of those species which are threatened but not yet actually extinct is even longer. We are dealing with the future of many species of fish and wildlife, species which are or may become extinct due to carelessness, lack of human concern, inadequate Federal, State, and local laws, and loss of habitat areas. These animals are part of our natural resources, our history and heritage, and deserve the favorable action of this body.

It is my understanding that the administration does not oppose enactment of H.R. 37, for it embodies to a great degree provisions of the administration's bill, H.R. 4758.

The SPEAKER. Does the gentleman have further requests for time?

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I should like to address a question to the gentleman from Michigan primarily because he has been kind enough to come to our State and hold hearings concerning a bill that is similar to this. There is a provision in the Marine Mammal Protection Act that has caused some confusion and misunderstanding. It is due to the Department of Commerce's regulations rather than to the act itself. It was discussed at some length in the subcommittee hearings recently held at Anchorage and across the State.

I should like to ask the gentleman from Michigan if he can explain and clarify the situation as I see it today.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Michigan.

Mr. DINGELL. I would say to the gentleman that we did discuss this question in the course of our recent oversight hearings in Alaska. I do not read the Marine Mammal Protection Act as specifically requiring that subsistence hunters meet the requirements which relate to native handicrafts. I do think that the Secretary of Commerce has the authority which he needs to assure that those who claim to be subsistence hunters are in fact subsistence hunters, but those requirements cannot and should not be unreasonable.

We heard, for example, of cases in which sealskins taken from animals killed for their meat and blubber were left to rot on the beach instead of being sent to commercial tanners for processing. In my view, this makes no sense at all, and it does not conform to the Marine Mammal Protection Act.

I am, further, happy to note that the Department of Commerce has finally chosen to allow the processing of skins by tanners. This allows the processing of skins by tanners which are taken by hunters under the subsistence section of that act.

I would repeat, however, that the Secretaries of Commerce and Interior clearly have adequate authority to regulate subsistence hunters to the extent that such regulation is reasonably necessary to determine whether that hunting is taking place for subsistence purposes, and not as a subterfuge for other purposes.

If the gentleman will yield further, I will observe that there is an interrelation between this statute and the Marine Mammal Protection Act in that where actions which are allowed under the Marine Mammal Protection Act are not inconsistent with the purposes of this proposed statute, then they may be engaged in under this statute. If I recall correctly that was the amendment offered by the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for his interest and clarification of this matter.

I want to point out that I am sure that at any hearings on this bill, if there are any questions, they will be clarified.

Mr. Speaker, in regard to this provision in section 10(d) which pertains to the taking of marine mammals by Alaska Natives in accordance with the provisions of Marine Mammals Protection Act of 1972; it has come to my attention that there has been a distinct difference between the intent of section 101(1) of the Marine Mammal Protection Act of 1972, and the interpretation of this section by the Department of Commerce as promulgated in the regulations printed in the Federal Register, volume 38, number 158, dated August 16, 1973, page 22136, section 216.23(b)(1).

Section 101(1) of the act appears to place no restriction on how the subsistence taker may us or dispose of the skins of such animals as were taken for human consumption, whereas section 216.23(b)(1) of the regulations of the Department of Commerce clearly places unintended conditions upon such use and disposition.

This issue was considered during the course of hearings recently conducted by the Subcommittee on Fisheries and Wildlife Conservation in Anchorage, Alaska.

This situation has been interpreted counter to the best interest of those people the act intended to protect, and has worked a distinct hardship upon them.

I would like to solicit further comment upon this situation by the gentleman from Michigan and I thank the gentleman from Michigan for yielding his time.

The SPEAKER. Does the gentleman from Michigan have further requests for time?

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GROVER).

Mr. GROVER. Mr. Speaker, I rise in support of passage of H.R. 37 and wish to associate myself with the remarks of the gentleman from Michigan (Mr. DINGELL) and the gentleman from Pennsylvania (Mr. GOODLING), the ranking minority member of the subcommittee.

This committee has had under consideration major revisions of the existing Endangered Species Act of 1969, as amended, since the last Congress. H.R. 37 and similar bills were introduced at the beginning of this Congress and represented the committee's efforts and findings up to that date. After extensive and lengthy hearings on the administration's bill and others, during which significant testimony and amendments were proposed by wildlife and environmental organizations, State agencies, and Federal agencies affected, the committee amended H.R. 37 accordingly.

Endangered species occupy the total spectrum of the Earth's habitats from the Arctic regions to the equator, including all the eco-types from alpine to marine. Enactment of H.R. 37 will prevent or regulate the taking of species found on the endangered and threatened lists. It will permit administrative, economic, and legal actions designed to increase the population levels of these affected species wherever they may live and restore them to a meaningful role in their and our environment.

When one realizes that half of the recorded extinctions of animals over the past 2,000 years have occurred in the most recent 50-year period, it may well be that we are too little, too late, in terms of adequate enforcement mechanisms and actual appropriations for acquisition of habitat for species preservation purposes.

There are two key elements in this bill which I would like to emphasize.

First, the United States appears to have been the determining factor in conveying and obtaining worldwide agreement on a new international convention designed to more strictly prohibit and control international trade in endangered and threatened species. This bill updates our Federal laws on the basis of our own past experience for such need and in recognition of the U.S. actions and signature to this new international convention, currently pending ratification in the other body.

Second, we have adequately protected legitimate State interests, powers, and authorities, in H.R. 37 by providing for concurrent Federal/State jurisdiction and permitting the States to enact their own, more restrictive laws, if so desired. Such fine acts as New York State's Mason Act, which prohibits the sale of some species not on the Federal list, will not be superseded by this bill to the extent that such State laws are more restrictive. It is imperative to realize, as the committee did, that the greater bulk of the enforcement capability concerning endangered species lies in the hands of the State fish and game agencies, and not the Federal Government. It is on a State level that most of the game agents are located; it is on the State level that habitat areas will be located; it is on a State level that this new Federal law will be implemented, subject to overall Federal criteria and guidelines. For those States which have taken a strong and active role in the protection and conservation of endangered species, I commend them and say that their interests and activities are well preserved. For those States which have been lax in assisting the Federal Government in meeting the national goals in prior laws on endangered species, the bill provides for State financial assistance under cooperative agreements once specified Federal criteria are met. If a cooperative program for species management does not exist in a State, the State law will be void and Federal law, rules and regulations shall apply. Thus, we have provided for a strong incentive to the States to assist the Federal Government in protecting endangered species, while, at the same time, recognizing legitimate State interests and authorities.

I know of no opposition to H.R. 37 and urge its immediate passage. As the House is aware, the other body has already taken action on this subject by passing S. 1983, with amendments, by an overwhelmingly favorable margin.

Mr. PRICE of Illinois. Mr. Speaker, the life cycle is the most natural and most inevitable of happenings. Without this cycle there could be no change, and without change the world would not be as we know it today.

This never-ending cycle, then, is a good thing for man, but unfortunately man has taken this natural situation and twisted it so that nature would not recognize it. Man has disturbed the balance of nature killing directly or indirectly hundreds of species of plants and animals, and continues to do so heedlessly. Though we see what this senseless slaughter is doing to the balance of nature—exterminating animals and destroying valuable resources—still we are doing little to voluntarily stop while there is still a chance to recoup our losses.

To protect man from himself is the main thrust of H.R. 37, the Endangered and Threatened Species Conservation Act of 1973. This bill provides for the extension of protection to animals threatened with the danger of extinction, as well as those already on the way to extinction. In addition, H.R. 37, would protect species threatened in any significant portion of their range, rather than only those threatened with worldwide destruction, and makes the taking of these animals a Federal offense.

More and more species of animals are on the way to extinction, as living conditions for them deteriorate. Pollution is driving animals out of their natural ranges, and those that have not yet been threatened by impure air and water face increasing danger from those entrepreneurs who find a profit in trapping and selling endangered animals.

In Illinois, there are numerous species of animals threatened. According to some experts, as many as 100 kinds of mammals, birds, fish, reptiles, and amphibians indigenous to the State may be considered endangered. In my district, the 23d, a species of black heron is nearly gone, in addition to many other species of birds and reptiles.

I am sure that my colleagues will agree that we cannot allow the balance of nature to continue to be upset in the way we have done. The world is not as large as our fathers thought. We know now that there are limits even to the bounty of this Nation—and that we are rapidly approaching the bounds of those limits. If the slaughter of species continues, we will have no one to blame but ourselves, and I am sure that we here are not prepared to take the responsibility of jeopardizing future generations with a come-what-may attitude.

For these reasons I would like to take this opportunity to extend my support to the passage of H.R. 37, and to urge other Members concerned with the future of this country and the world at large to do likewise.

Mr. LEGGETT. Mr. Speaker, the bill we are considering today represents another step forward in our continuing efforts to preserve the natural character of the world we inhabit. Members are no doubt aware of our previous actions in this area in the 89th and 91st Congresses which have served as models for the rest of the world in wildlife protection. This previously passed legislation was also directly responsible for the very successful international meeting here in Washington which resulted in the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which was signed on March 3 of this year.

While the acts of 1966 and 1969 laid the framework for an increasingly effective program for conservation of endangered species, our efforts have progressed to the point where existing law just does not provide the kind of management tools we need to act early enough to save a vanishing species. For that reason we must act here today to expand our previous efforts.

A few things in this bill should be pointed out as being worthy of more than passing interest. First, the bill addresses the fact that some States have already recognized the need for active conservation programs and have acted to meet that need. It provides that no State laws in this area will be superseded where they are more restrictive than the provisions of this bill. Furthermore, States are free at any time in the future to adopt more stringent regulations than we are enacting. What we are discussing here are minimum standards to be met in conserving endangered plant and animal resources.

Another item I would like to point out is the authorization in the bill for the use of the land and water conservation fund to acquire habitat areas of endangered species. You may recall that in his initial budget, the President asked for an appropriation of only $55,223,000 of the $338,500,000 available in the fund. I felt at that time, and I still feel, that there are legitimate, important uses for the money in that trust fund, and that we should use as much of it as possible for its intended purposes. This bill gives us a constructive outlet for those moneys, and makes much less justifiable any future attempts at a raid on this most valuable trust fund.

This farsighted legislation also contains a continued mandate for international cooperation which has proved invaluable in our efforts at conservation. It not only provides for implementation of the recently signed convention, but also authorizes and directs the Secretary to encourage international collaboration in efforts to preserve endangered species. Here again we have a chance to assure our continued leadership in this area of evergrowing concern.

There is no objection that I know of to the aims of this bill. It is the product of some very good mutual cooperation between the administration and our committee, and deserves the favorable consideration of every Member of the House.

Mr. BIAGGI. Mr. Speaker, I want to express my support for H.R. 37 and strongly urge its passage.

The need for this bill is manifest; our hearings in the Merchant Marine and Fisheries Committee clearly established the serious danger to many species in our environment.

But I also want to recommend the bill, which I cosponsored with many of my colleagues on the committee, for another reason: It represents a sound approach to tackling environmental problems. We are doing three things in this bill which are important and which should be models for future environmental legislation.

First, we are defining the problem as broadly as possible. Instead of merely protecting those species which are now in danger, we are developing a concept of protection which will have continuous force. We are including those species which, at some future date, might become endangered. This is a long range and comprehensive approach to the problem of environmental protection, and this is as it should be. The seriousness of the problem amply justifies such action.

Second, we are making the killing of animals in the protected class a Federal offense. This approach is also fundamentally important. If we are going to have effective environmental legislation we must write tough penalties for violation of the law. Again, no other approach does justice to the seriousness of the problem.

Third, the bill eliminates existing dollar ceilings on the acquisition by the Federal Government of critical habitat areas. This provision represents an important philosophy in environmental legislation—namely, that if we are serious about preserving our environment we are going to have to spend some real money. It is not a question of saying that cost is no object, but of determining that unwise cost restriction now may do damage that will later cost far more, and may not be correctable at all.

Mr. Speaker, I urge all my colleagues to support this bill. What it does is right, and the way it does it is right. And so is the time.

Mr. HARRINGTON. Mr. Speaker, by polluting the air and water, destroying natural habitats, and catering to commercial demands for items like rare furs, man unnaturally interferes in the natural process of evolution. H.R. 37, the Endangered and Threatened Species Act of 1973, is designed to rectify the harm that has been done.

The legislation changes and enlarges the scope of existing conservation law by extending protection to animals which may become endangered, as well as those now endangered; by making the killing of such animals a Federal offense; by eliminating existing limitations on the acquisition of critical habitat area; by allowing States to adopt more restrictive legislation than the Federal Government if they wish; and by mandating the Secretary of the Smithsonian Institution to study any plant species in possible danger of extinction, with the objective of recommending further action that Congress should take to protect endangered plant life.

It seems to me that man may lose more than he thinks, if he does not act to correct his interference with nature. A particular animal or plant species contributes much more to the world than general esthetic pleasure; it contributes to that much-used but little-understood phrase "the balance of nature." If man is going to grow sufficient food for himself; find cures for the diseases that plague him, and expand his understanding of how his own body functions, he will have to derive much of the needed knowledge from his fellow species.

In his effort to guard the Earth from his own awesome technological capacity, man has yet to learn that an instinct for self-preservation is not enough. He must direct both his intellect and ability to plan for the future toward insuring his self-preservation, as well. H.R. 37 represents recognition of this imperative.

Mr. ANNUNZIO. Mr. Speaker, H.R. 37—legislation for which I am a cosponsor. Passage of this measure today will be one more significant step toward righting a serious wrong. Simply stated—many of the thousands of animal species which have disappeared from the face of the Earth have gone because of the interference of mankind. Nearly a thousand species are endangered today because of man's interference with natural habitats, because of his greed, and because he fouls the air and the waters. We have filled the Red Book of the International Union for the Conservation of Nature with mammals, birds and fishes who are running out of places to go to escape human carelessness.

Historically the evolution of new species and the decline of others was a natural process—the result of various natural forces. However, as man emerged as a more dominant life form, things began to change. Our powerful technologies and our blind desire for "progress" enabled us to interrupt the rhythm of nature.

In the name of fashion, we have stalked our big cats and birds with showy plumage until they are gone forever from the face of the Earth—or threatened with extinction. In the name of science and education, we have shipped—and killed through poor and unregulated shipping regulations—countless animals.

Each year our growing world population places greater and greater stress on wilderness areas and national parks. We have crowded many species to the point where their numbers are too slight to insure survival in their natural habitat. Often, that habitat is threatened by land development.

We have mistreated our wildlife—one of nature's greatest gifts—and we are paying a high price. We have made attempts to stop the ravage of wild animals, but unless we do more, the price we pay will be still higher. Already we have denied our children and all generations that follow the wonder of some of our animals. We must not, as an international people, hesitate any longer, or we will seal the fate of grizzly and polar bears, spotted cats and so on. The balance of nature, on which we depend for our survival, depends on the survival of our wildlife.

Any action we take now will, unfortunately, be too late to save some species presently on the list. But we still have a chance to save thousands and thousands of species. We can still cut the Red Book list back drastically and increase our own well-being at the same time. Not all, but certainly some of the wrongs man has perpetrated on wildlife, can still be righted. I think the measures which we are considering today can help in that direction.

The United States has long been a leader in the effort to protect our animals. Enactment in 1969 of an important Endangered Species Act led the way to a more sane approach to caring for our living resources. But it has not proved to be enough.

We were, as a Nation, eager to participate in the Convention on International Trade in Endangered Species of Wild Fauna and Flora held in February of this year. That convention represents a significant turning point in the history of endangered species conservation, and especially in international cooperation to achieve protection for threatened animals. The measure we are considering today would speed formal U.S. participation in that convention.

H.R. 37 would extend maximum protection to the animals of this Nation which are endangered, or are likely to become endangered. It will assure active participation, by the States, in programs responsive to the needs of endangered animals found within the State.

One of our greatest needs is the acquisition of essential wildlife habitat. Our experience in wildlife management has taught us that the availability of habitat is a key factor in protection and restoration. H.R. 37 would remove the current ceiling imposed by law for the acquisition of essential wildlife habitat with land and water conservation fund moneys.

H.R. 37 would strengthen the protection afforded to endangered species by restricting import and export of endangered species.

There are many other provisions of H.R. 37 which are vital to the protection of endangered and threatened wildlife the world over. Those provisions have been carefully studied by conservationists, hunters, preservationists, ecologists, and by Members of the House and Senate. Strong support has come from all circles. As a cosponsor of this measure, I urge prompt passage of H.R. 37 and early enactment of an effective Endangered Species Act of 1973.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 37, the Endangered and Threatened Species Conservation Act of 1973.

The need for this legislation is overwhelming. Current laws designed to protect species of fish and wildlife are no longer adequate to meet today's expanded needs. Recent research and studies have indicated that the pace of disappearance of species is rapidly accelerating and threatening the world's ecological balance. At present, the Department of the Interior recognizes more than 100 species of fish and wildlife which are threatened with extinction within the United States alone. The number threatened in the world as a whole reaches more than 400.

In addition to expanding our efforts to protect and conserve species which are already endangered, this legislation goes one step further. The most important feature of the bill is the provision extending protection to animals and plants which may become endangered within the foreseeable future.

In the past, little action was taken until the situation became critical and the species was dangerously close to total extinction. This legislation provides us with the means for preventive action.

As I am certain everyone will agree, it is far wiser to take such preventive steps to keep a species or subspecies from reaching this critical point than to stand idly by until emergency action is necessary which may not in every case be successful.

In my opinion, this bill is a milestone in this Nation's attempt to preserve its natural environment by altering slightly the philosophy we have adopted to protect and perpetuate our natural heritage.

I hope, Mr. Speaker, that H.R. 37 will be speedily enacted into law.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 37, the Endangered and Threatened Species Conservation Act under consideration today.

Fish and wildlife are extremely sensitive to any environmental changes. With our rapidly advancing technology causing topographic and climatic changes, we must not be insensitive to the potentially damaging effect those changes may have upon wildlife.

We have begun to recognize the delicate balance between wildlife and its habitat. In 1970, while I served in New York State Assembly, we made some gains in protecting wildlife by legislating New York State's first endangered species bill. In 1971, we improved upon that legislation by strengthening existing regulations.

Today we are involved in a similar process. The original Federal endangered species law needs to be tightened. The measure now before us, H.R. 37, puts some teeth in our efforts to provide a program for the conservation and protection of endangered wildlife.

A particularly important provision in this measure is our State grant program. By offering an incentive to those States making serious efforts at formulating endangered species legislation, we will be encouraging our States to take worthwhile action in this often neglected area. We should not have to foreever compensate for environmental changes resulting from excessive pollution, poor farming and forestry practices and other technologically destructive occurrences. Having begun the battle in this area, let us continue to move forward.

H.R. 37 also includes provisions for extensively expanding our endangered species listings. In approving this legislation, we will be giving authority for the inclusion of those species which are not presently endangered but which might be threatened by extinction in the near future.

Such foresight will help avoid the regrettable plight of repairing damages already incurred. By heeding the warnings of possible extinction today, we will prevent tomorrow's crisis.

Accordingly, I urge and join with my colleagues in resoundingly adopting this measure so that we may begin to implement the provisions of this important conservation measure, the Endangered and Threatened Species Conservation Act.

Mr. YOUNG of Florida. Mr. Speaker, I rise to express my support for H.R. 37, the Endangered and Threatened Species Conservation Act of 1973.

On January 6, 1973, I introduced H.R. 1461, the Endangered Species Conservation Act of 1973, a bill very similar in content and purposes to H.R. 37. On February 8 I testified on behalf of my bill before the Subcommittee on Fisheries and Wildlife Conservation and Environment of the House Merchant Marine and Fisheries Committee. At that time I expressed my strong support for legislation which would allow us to conserve not only those species of wildlife now threatened with extinction, but also those which are diminishing at a rapid rate, such as the eastern timber wolf, the wolverine, and the cougar.

I would like to congratulate the members of the subcommittee for the outstanding job which they have done in developing the bill which we have before us today. H.R. 37 pulls together a number of elements into a comprehensive and well-integrated whole: The legislative concerns of the many Members who introduced legislation on this subject, the provisions of the recently approved International Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the administrative structures and authorities of three separate agencies. The final package is one which is designed to allow maximum efficiency and impact in protection of our endangered fish, wildlife, and plant species.

Moreover, H.R. 37 clearly demonstrates that the Congress is fully capable of designing legislation which hits hard at a problem by providing a long-range environmental conservation program, and yet has minimal impact on taxpayers' wallets. By drawing upon and expanding existing areas of authority and competency in the Departments of Interior, Commerce, and Agriculture, the committee has been able to expand greatly our important efforts to protect species threatened with extinction to include those species which may become endangered, whether on a large scale or within a part of their habitat only. In the traditional spirit of Federal-State partnership, the States are given the opportunity for maximum participation, and H.R. 37 protects the all-important right of the States to make a law which is even stronger environmentally than the Federal law.

Mr. Speaker, I am proud to cast my vote in favor of the Endangered and Threatened Species Conservation Act of 1973.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 37, as amended.

The question was taken.

Mr. GROVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 12, not voting 31, as follows:

[Roll No. 461]

YEAS—391

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard

Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley

Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McClory
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard

Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.

Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.

Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall

Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Zablocki
Zwach

### NAYS—12

Abdnor
Collier
Crane
Gross

Landgrebe
Nelsen
Price, Tex.
Rarick

Runnels
Satterfield
Steiger, Ariz.
Symms

### NOT VOTING—31

Anderson, Ill.
Archer
Buchanan
Burke, Fla.
Burleson, Tex.
Chappell
Culver
Davis, Ga.
Gettys
Hanna
Hansen, Idaho

Jones, Tenn.
Leggett
Lujan
McCloskey
McEwen
Mills, Ark.
Mizell
Nix
O'Neill
Patman
Rostenkowski

Sandman
Shriver
Stanton, James V.
Steelman
Symington
Teague, Tex.
Wilson, Charles, Tex.
Young, Tex.
Zion

So (two-thirds having voted in favor thereof), the rules were suspended and the bill as amended was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Anderson of Illinois.

Mr. Burleson of Texas with Mr. James V. Stanton.

Mr. Rostenkowski with Mr. Teague of Texas.

Mr. Hanna with Mr. Archer.

Mr. Chappell with Mr. Buchanan.

Mr. Jones of Tennessee with Mr. Lujan.

Mr. Young of Texas with Mr. Sandman.

Mr. Patman with Mr. Burke of Florida.

Mr. Culver with Mr. Hogan.

Mr. Symington with Mr. Nix.

Mr. Davis of Georgia with Mr. Mizell.

Mr. Gettys with Mr. Zion.

Mr. Steelman with Mr. McCloskey.

Mr. Leggett with Mr. Shriver.

Mr. Mills of Arkansas with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for the conservation, protection, restoration, or propagation of endangered and threatened species of fish, wildlife, and plants, and for other purposes."

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 37) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a similar Senate bill (S. 1983) to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes, and ask for immediate consideration of the Senate bill.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

### S. 1983

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Endangered Species Act of 1973".

### DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve and protect to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation, protection, restoration, and propagation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish and wildlife.

(b) PURPOSES.—The Congress hereby declares that the purposes and policy of this Act are to—

(1) provide an effective means to conserve, protect, and restore the ecosystems upon which endangered and threatened species of fish or wildlife depend;

(2) provide a viable program for the conservation, protection, restoration, and propagation of endangered and threatened species;

(3) take all appropriate steps to implement the Nation's international commitments with respect to endangered and threatened fish or wildlife; and

(4) insure that all departments, agencies, and instrumentalities of the United States seek, within the scope of their authority and administrative jurisdiction, to protect endangered and threatened species.

### DEFINITIONS

SEC. 3. As used in this Act—

(1) "Conservation" and "management" mean the collection and application of bio-

logical information for the purposes of increasing and maintaining the number of animals within species and populations of endangered and threatened species at the optimum carrying capacity of their habitat. Such terms include the entire scope of activities that constitute a modern scientific resources program, including, but not limited to research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the protection, propagation, conservation and restoration of such species, including regulation and taking necessary to these ends.

(2) "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(3) "Endangered species" means any species of fish or wildlife which is in danger of extinction throughout all or a significant portion of its range, other than a species of the order insectica determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

(4) "Fish or wildlife" means any living member of the animal kingdom and the remains of any dead member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, or any part, egg, or offspring of any such member, or any product produced from any part or parts of the remains of any such member.

(5) "Foreign commerce" includes any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish or wildlife involved are moving in any country or countries outside the United States.

(6) "Import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(7) "Optimum carrying capacity" means the ability of a given habitat to support the optimum sustainable population of an endangered or threatened species in a healthy state without diminishing the ability of the habitat to continue that function.

(8) "Optimum sustainable population" means, with respect to any of endangered or threatened species, the number of such species will result in the maximum productivity of the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent part.

(9) "Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(10) "Plant" means any member of the plant kingdom, including seeds, roots, or other parts of any such member.

(11) "Secretary" means, except as otherwise provided, the Secretary of the Interior or the Secretary of Commerce in the same manner in which program responsibilities are vested under Reorganization Plan Numbered 4 of 1970. With respect to enforcement of the provisions of this Act and of the Convention, which pertain to the importation of plants, the term means the Secretary of Agriculture.

(12) "Species" includes any subspecies or other group of fish or wildlife of the same species or lesser taxa in common spatial arrangement that interbreed when mature.

(13) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(14) "State agency" means the State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish and wildlife resources within a State.

(15) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(16) "Threatened species" means any species of fish or wildlife which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(17) "United States", when used in a geographical sense, includes all States.

### DETERMINATION OF ENDANGERED OR THREATENED SPECIES

SEC. 4. (a) GENERAL.—The Secretary shall by regulation determine whether any fish or wildlife is an endangered or threatened species as a result of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(b) BASIS FOR DETERMINATIONS.—(1) The determinations required by this section shall be made on the basis of the best scientific and commercial data available to the Secretary, including any recommendations that have been made by the Advisory Committee established under subsection (d) of this section and after consultation, as appropriate, with all interested persons and organizations, including affected or knowledgeable Federal, State, and foreign government agencies. In any case in which such determinations involve an indigenous species, the Secretary shall consult with and consider the recommendations of each State involved. In any case in which determinations involve a species which is normally found on the high seas, in lakes, or other waters off the coast of a State of which are customarily harvested by citizens of such a State, the Secretary shall consult with and consider the recommendations of each State involved. In any case in which such determinations involve a species which is normally found in a foreign country or countries or which is harvested from the ocean by citizens of such country or countries, the Secretary shall (where practicable) with the assistance of the Secertary of State, consult with and consider the recommendations of such country or countries.

(2) Fish or wildlife which have been designated as requiring protection from unrestricted commerce by any foreign country, or pursuant to any international agreement, shall receive special and full consideration by the Secretary to determine whether each is an endangered or a threatened species.

(c) LISTS.—(1) The Secretary shall publish in the Federal Register a list of all fish or wildlife determined by him by regulation to be endangered species and a list of all fish or wildlife determined by him by regulation to be threatened species. Such lists may be amended, modified, or revised periodically by regulation. Each list shall refer to each species of fish or wildlife named therein by scientific name and common name or names and shall specify the portion of its range over which it is endangered or threatened.

(2) The Secretary shall, upon the petition of an interested person under subsection 553 (e) of title 5, United States Code, conduct a review of any listed or unlisted species of fish or wildlife proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review.

(3) Any list of species of fish or wildlife determined to be threatened with extinction, by the Secretary of the Interior pursuant to the Endangered Species Conservation Act of 1969, which is in effect the day before the date of enactment of this Act shall be republished to conform to the appropriate classifications under this Act. Pending reclassification as endangered species or threatened species and republication, any species listed pursuant to the Act of 1969 shall be deemed an endangered species within the meaning of this Act. Such reclassification and republication should not require a public hearing or comment under section 553 of title 5, United States Code.

(d) ADVISORY COMMITTEE.—(1) The Secretaries shall establish an Advisory Committee on Endangered and Threatened Species to consult with, advise, and make recommendations to him and to the States. The Advisory Committee shall consist of not more than eleven members including a Chairman who shall be appointed by the Secretary from lists of qualified individuals submitted by State fish and wildlife agency administrators, universities, nongovernmental organizations concerned with conservation, and scientific societies. Five of the members shall be regularly employed by State governments or political subdivisions thereof. The terms of office shall be so arranged by the Secretary that each year at least three new members shall be appointed to fill vacancies caused by the expiration of terms of office.

(2) The Advisory Committee shall periodically, but not less than once each year, make recommendations to the Secretary with respect to removal from, addition to, or reclassification within the list maintained pursuant to subsection (a) of this section, and may, with the approval of the Secretary, perform other functions in furtherance of the purposes of this Act. A member of the Advisory Committee who is not otherwise a Government employee may, in the discretion of the Secretary, receive not more than $150 per diem when engaged in the actual performance of his duties. Each member may receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

(e) PROTECTIVE REGULATIONS.—Whenever the Secretary lists a species of fish or wildlife as a threatened species, pursuant to subsection (a) of this section, he shall issue such regulations as he deems necessary and advisable to provide for the conservation and management of such species. With respect to any threatened species, the Secretary may by regulation prohibit any act prohibited with respect to an endangered species under section 10(a) of this Act.

### LAND ACQUISITION

SEC. 5. The Secretary shall establish and implement a program to conserve, protect, restore, and propagate fish or wildlife which are listed as endangered or threatened species pursuant to section 4 of this Act. To carry out such programs, the Secretary—

(a) shall utilize as appropriate the land acquisition and other authorities conferred upon him under the Migratory Bird Conservation Act, the Fish and Wildlife Act of 1956, and the Fish and Wildlife Coordination Act;

(b) may acquire by purchase, donation, or otherwise any lands, waters, or interests therein necessary for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species. Such authority shall be in addition to any other land acquisition authority vested in him; and

(c) may use funds made available under the Land and Water Conservation Fund Act of 1965 or under this Act to acquire such lands, waters, or interests therein.

### COOPERATION WITH THE STATES

SEC. 6. (a) GENERAL.—In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. In addition to all other obligations, the Secretary shall consult with the affected State before the acquisition of any lands, waters, or interests therein for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species.

(b) MANAGEMENT AGREEMENTS.—The Secretary may enter into an agreement or agreements with any State for the administration and management of any area established for the conservation and management of an endangered or a threatened species. Any revenues derived from the administration of such areas under such agreements shall be subject to section 401 of the Act of June 15, 1935 (16 U.S.C. 715s).

(c) FINANCIAL ASSISTANCE.—The Secretary is authorized to enter into a cooperative agreement in accordance with this subsection to provide financial assistance to any State which establishes and maintains an adequate and active program for the conservation and management of endangered and threatened species. Before the Secretary may enter into or renew such a cooperative agreement to provide financial assistance to a State, he shall make, justify, and publish in the Federal Register a finding that such agreement would further the policy of this Act and that such State has a program under which—

(1) the State agency has statutory and regulatory authority and administrative jurisdiction to manage and protect any species of fish or wildlife which is determined by such agency or the Secretary to be endangered or threatened;

(2) the State has established a State plan, including a management program under the State agency, for all species of resident fish or wildlife which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(3) the State agency during the first year of the existence of such agreement—

(A) will issue protective regulations;

(B) will employ sufficient trained and qualified personnel; and

(C) will maintain investigation, enforcement, and public education programs,

which are adequate, in the Secretary's judgment, for the conservation and management of species of endangered and threatened fish or wildlife;

(4) the State agency is authorized and plans to conduct studies to determine the status and requirements for survival of species of resident fish or wildlife and agrees to transmit a copy of the findings of such studies to the Secretary;

(5) the State agency is authorized and plans to establish programs, including the acquisition of lands, waters, or interests therein, for the conservation and management of endangered and threatened species; and

(6) provision is made for public participation in designating species of resident fish or wildlife as endangered or theatened.

(d) ALLOCATION OF FUNDS.—(1) Funds appropriated for financial assistance pursuant to subsection (c) of this section shall be available to the Secretary for allocation to the States under cooperative agreements. The purposes for which such funds may be used include, but are not limtied to, conservation and management. The Secretary shall allocate appropriated funds to such States upon the basis of—

(A) the international commitments of the United States to protect endangered or threatened species;

(B) the readiness of a State to proceed with a conservation and management program consistent with the objectives and purposes of this Act;

(C) the number of endangered and threatened species within a State;

(D) the potential for restoring endangered and threatened species within a State; and

(E) the relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of the survival of the species.

Funds allocated to a State but unexpended or unobligated at the close of the fiscal year shall remain available for expenditure by such State until the close of the succeeding fiscal year. Any funds remaining unobligated or unexpended at the close of the second fiscal year shall remain available to the Secretary for the purpose of this section.

(2) Each cooperative agreement between a State and the Secretary shall provide for—

(A) the actions to be taken by the Secretary and the States;

(B) the benefits that are expected to be derived in connection with preservation and restoration of endangered or theatened species;

(C) the estimated cost of these actions; and

(D) the share of such costs to be borne by the Federal Government and by the States, except that—

(i) the Federal share of such program costs shall not exceed 50 per centum of the estimated program costs stated in the agreement; and

(ii) the Federal share may be increased to 66⅔ per centum whenever two or more States, having a common interest in a program that the Secretary deems to meet the criteria of paragraph (1) of this subsection, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement. For the purposes of this section, the non-Federal share may, in the discretion of the Secretary, be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money.

(3) The Secretary is authorized to issue such regulations as may be appropriate to carry out the provisions of this section with respect to financial assistance to States.

(4) For the purposes of this section, there is authorized to be appropriated through the fiscal year ending June 30, 1977, not to exceed $10,000,000.

(e) PERIODIC REVIEW.—The finding made under subsection (c) of this section and any action taken by the Secretary under this section shall be subject to his periodic review, including the consideration of comment from interested persons, at no greater than annual intervals. Upon ninety days' notice in writing to the affected State, the Secretary may terminate in his discretion any cooperative agreement entered into under this section.

(f) STATE ACTION PERMITTED.—Nothing in this Act shall be construed as superseding or limiting the power of any State or political subdivision thereof to enact legislation or regulations more restrictive than or consistent with the provisions of this Act with respect to an endangered or a threatened species: *Provided*, That any State law or regulation regarding the import or export of or the interstate or foreign commerce in an endangered species listed pursuant to section 4 of this Act is void to the extent that it may effectively permit what is prohibited by this Act or its implementing regulations, or prohibit what is authorized pursuant to an exemption or permit provided for in this Act or its implementing regulations. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve and manage migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife.

### INTERAGENCY COOPERATION

SEC. 7. The Secretary shall review all programs administered by him and utilize such programs in furtherance of the policy of this Act. All other departments, agencies, and instrumentalities of the Federal Government shall, in consultation with and with the assistance of the Secretary—

(a) carry out such programs as are practicable for the protection of species listed, pursuant to section 4 of this Act, as endangered or threatened;

(b) take such action as is necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or modification of any habitat of such species which is determined by the Secretary, after consultation to the extent appropriate and necessary with affected States, to be a critical habitat of such species.

### INTERNATIONAL COOPERATION

SEC. 8. (a) FINANCIAL ASSISTANCE.—As a demonstration of the commitment of the United States to the worldwide protection of endangered and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation, protection, restoration, or propagation of any endangered or threatened species listed by the Secretary pursuant to section 4 of this Act: *Provided*, That no funds other than foreign currencies available for expenditure only within such foreign country shall be used pursuant to this section. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section upon such terms and conditions as he deems appropriate.

(b) ENCOURAGEMENT.—In order to carry out further the provisions of this Act, the Secretary, with the assistance of the Secretary of State, shall encourage—

(1) foreign countries to provide for the protection, conservation, restoration, or propagation of fish or wildlife, including endangered and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements for foreign countries to provide for such protection, conservation, restoration, or propagation; and

(3) foreign persons, who directly or indirectly take fish or wildlife in foreign countries or on the high sea for importation into the United States for commercial or other purposes, to develop and carry out, with such assistance as he may provide, conservation practices designed to enhance such fish, wildlife and plants and their habitat.

(c) PERSONNEL.—After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the protection, conservation, restoration, of propagation of fish or wildlife; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife or plant management, research, and law enforcement, and to render professional assistance abroad in such matters.

(d) INVESTIGATIONS.—After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

(e) CONVENTION IMPLEMENTATION.—The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention.

### REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

SEC. 9. (a) REGULATIONS.—The Secretary shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final, except that in case of an emergency the Secretary may publish such regulations not less than thirty days prior to the time when such regulations shall become final if at the same time he publishes in the Federal Register detailed reasons why emergency action is necessary. The Secretary shall also publish in the Federal Register a notice of all petitions received pursuant to this Act and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Secretary shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Secretary until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Secretary may make application thereto. Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(b) PROCEDURE.—Except as expressly modified by this section, the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.) shall apply to proceedings conducted by the Secretary under this Act: *Provided*, That the provisions of this section shall not apply to the extent necessary to permit emergency action by the Secretary Notice of and reasons for such action shall be published prior to such action in the Federal Register.

(c) JUDICIAL REVIEW.—(1) Any judicial review of final regulations promulgated under this Act and final actions under section 5(c) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(A) with respect to regulations promulgated under section 4 or 6 of this Act, the findings of the Secretary as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(B) with respect to relief pending review, no stay of an action may be granted unless the reviewing court determines that the party seeking such stay—

(i) is likely to prevail on the merits in the review proceeding, and

(ii) will suffer irreparable harm pending such proceeding.

(2) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either that—

(A) the information is material and was not available at the time of the proceeding before the Secretary; or

(B) failure to include such evidence in the proceeding was an arbitrary or capricious act of the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendations, if any, for the modification or setting aside of his original order.

(d) AUDIT—(1) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in paragraph (1) of this subsection of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a).

### UNLAWFUL CONDUCT

SEC. 10. (a) PROHIBITED ACTS.—Except as provided in section 11 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(1) import into, or export from, the United States any endangered species which has been listed pursuant to section 4 of this Act;

(2) take any such species within the United States or in the territorial sea of the United States or upon the high seas;

(3) possess, sell, deliver, carry, transport, ship, or receive, by any means whatever, any such species which are taken in violation of paragraph (2) of this subsection;

(4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and for commercial purposes, any such species;

(5) sell, distribute, or offer for sale in foreign commerce, interstate commerce, or activity affecting interstate commerce any endangered species of fish or wildlife;

(6) attempt to commit, solicit another to commit, or cause to be committed, any act prohibited by paragraphs (1) through (5) of this subsection;

(7) engage in any trade in any specimens of fish, wildlife, or plants, contrary to the provisions of the Convention, or possess any specimens traded contrary to the provisions of the Convention, including the definitions in article I therein;

(8) violate any regulation which is promulgated by the Secretary pursuant to section 4(e) of this Act; or

(9) import into or export from the United States except at a port or ports designated by the Secretary, any fish or wildlife, except nonendangered and nonthreatened shellfish and fishery products which are imported or exported for human or animal consumption, or fish or wildlife taken for recreational purposes pursuant to applicable Federal or State laws and regulations in waters under United States jurisdiction or on the high seas. To facilitate enforcement of this paragraph and to reduce the costs of enforcement, the Secretary, with the approval of the Secretary of the Treasury and after notice, and opportunity for public hearing, may, by regulation, designate ports and change such designations. Upon such terms and conditions as he may prescribe, the Secretary may permit such importation at nondesignated ports in the interest of the health or safety of the fish or wildlife or for any other reasons he deems appropriate. Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc–4 (d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under this paragraph until such time as the Secretary otherwise provides.

(b) SIMILARITY OF APPEARANCE CASES.—The Secretary may, by regulation, and to the extent he deems advisable, treat any species of fish or wildlife as an endangered or threatened species even though it is not listed pursuant to section 4 of this Act if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.

(c) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—The provisions of this section shall not apply to any species held in captivity or in a controlled environment on the effective date of this Act if the purposes of such holding are not contrary to the purposes of this Act.

### EXCEPTIONS

SEC. 11. (a) GENERAL.—Upon a finding that the excepted conduct will not adversely affect the regenerative capacity of the involved species in a significant portion of its range or habitat or otherwise affect the survival of the wild population of such species, and upon such terms and conditions as he may prescribe, the Secretary may issue permits authorizing the importation, exportation, taking, or transportation, by persons found to be qualified, of any fish or wildlife which is listed as an endangered or threatened species pursuant to section 4 of this Act for—

(1) for scientific purposes in furtherance of the purposes of this Act; or

(2) to enhance the propagation or survival of the affected species including the prop-

agation of such species in captivity or in a controlled habitat.

(b)(1) Hardship.—The Secretary may except from the application of section 10(a) of this Act any person if the failure to grant such exception will cause undue economic hardship: *Provided*, That such exception shall be granted any non-Native resident of an Alaska Native village unless such resident is found by the Secretary not to be primarily dependent upon the taking of fish and wildlife for consumption or use in a Native community or for creating and selling authentic Native articles of handicrafts. The extent and duration of such exception shall be such as the Secretary deems appropriate: *Provided*, No such exception shall be for a duration of more than one year from the date of publication in the Federal Register of notice of proposed listing of the involved species. No exception shall apply to a quantity of fish or wildlife in excess of that specified by the Secretary. No such exception shall be granted unless such person, except non-Native residents of Alaska Native villages who are primarily dependent upon the taking of fish and wildlife for subsistence purposes, applies to the Secretary in writing and furnishes with such application such information as the Secretary may require to prove hardship. The one year period for those species of fish or wildlife which were listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275). No such exemption may be granted for the importation or exportation of a specimen listed in appendix I of the Convention which is to be used for primarily commercial purposes.

(2) As used in this subsection, the term "undue economic hardship" shall include, but not be limited to:

(A) Substantial economic loss resulting from inability caused by this Act to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of a proposed listing of such species as an endangered or threatened species.

(B) Substantial economic loss to persons who, for the year prior to the listing of a species under this Act derived a substantial portion of their income from the lawful taking of any listed species which taking would be made unlawful under this Act; or

(C) Curtailment of subsistence taking made unlawful under this Act by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

(c) Procedure.—(1) The Secretary shall publish a notice in the Federal Register of each application for an exception. Each notice shall invite the submisison from interested parties, within thirty days after the date of the notice, of written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(2) The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds, and publishes such finding in the Federal Register, that such exceptions were applied for in good faith and if granted and exercised will not operate to the disadvantage of such endangered or threatened species and will be consistent with the policy of this Act.

(d) Alaska Natives.—(1) The provisions of this Act shall not apply with respect to the taking of any endangered or threatened species by any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska if such taking is for the purpose of consumption or use in a native community or for the purpose of selling or creating for sale in interstate commerce authentic native articles or handicrafts and clothing: *Provided*, That in each case such taking is not accomplished in a wasteful manner. As used in this paragraph—

(A) "consumption or use in a native community" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(B) "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking by Indians, Aleuts, or Eskimos is an endangered or threatened species and that such taking materially and negatively affects the threatened and endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, or Eskimo. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishng such regulations and consistent with the policy of this Act. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 103 of the Marine Mammal Protection Act of 1972, and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared: *Provided*, That no such regulation shall be established which is in contravention of any provision of the Marine Mammal Protection Act of 1972.

### PENALTIES AND ENFORCEMENT

Sec. 12. (a) Civil Penalty.—(1) Any person who—

(A) knowingly violates any provision of this Act or any regulation or permit issued under this Act, which prohibits the taking, importing, exporting, shipping, receiving, or otherwise moving in interstate or foreign commerce of any endangered or threatened species of fish or wildlife, or commits any act made unlawful under section 10(a) of this Act, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation;

(B) commits any act made unlawful under section 10(a) of this Act, or violates any other provision of this Act, or any regulation or permit issued under this Act, may be assessed a civil penalty by the Secretary of not more than $1,000 for each violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each prohibited act is a separate violation. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may by his own attorneys institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action solely on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Criminal Violations.—(1) Any person who knowingly and willfully violates any provision of this Act, or of any regulation or permit issued thereunder, shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted under paragraph (1) of this subsection may immediately modify, suspend, or revoke such lease, license, permit, or other agreement. The Secretary may suspend, cancel, or refuse to issue for a period of up to one year Federal hunting or fishing permits or stamps with respect to any person who is convicted under paragraph (1) of this subsection. The United States shall not be liable to pay any compensation, reimbursement, or damages in connection with any such modification, suspension, or revocation made pursuant to this section of any lease, license, permit, stamp, or other agreement.

(c) Rewards.—Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(d) Enforcement.—(1) The provisions of this Act and any regulations or permits issued under this Act shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all Secretaries. Each such Secretary may utilize, by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, in furtherance of the enforcement of this Act may execute and serve any arrest warrant, search warrant, or other warrant of civil or criminal process

issued by any officer or court of competent jurisdiction. A person so authorized may search and seize, with or without a warrant, to the extent authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection, except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4) All fish or wildlife, or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported or imported contrary to the provisions of this Act, any regulation issued under this Act, or any permit issued thereunder, and all guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting or importing of any fish or wildlife, or plants in violation of this Act, any regulation made pursuant thereto, or any permit issued thereunder shall be subject to forfeiture to the United States.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions fo this Act. The powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(e) Registration.—(1) Any person who engages to any extent in business as an importer of fish or wildlife must register with the Secretary of the Treasury his name and the address of each place of business at which, and all trade names under which, he conducts such business.

(2) Any person required to register with the Secretary of the Treasury under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish or wildlife except nonendangered and nonthreatened shell fish or fishery products which are imported or exported for human or animal consumption or recreational purposes, made by him and the subsequent disposition made by him with respect to such fish or wildlife and

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish or wildlife and the records required to be kept under subparagraph (A) of this paragraph and to copy such records.

(3) The Secretary of the Treasury, after consultation with the Secretary, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(f) Enforcement Regulations.—(1) The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and to charge reasonable fees for expenses to the Government connected with permits authorized by this Act, including processing applications and reasonable inspections, and the transfer, board, handling, or storage of fish, wildlife, or plants and evidentiary items seized and forfeited under this Act. All fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) Citizen Suits.—(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(B) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(3) (A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(h) Coordination.—The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act with the administration of the animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this Act or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles. No proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, but not limited to, section 527 of such Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

### ENDANGERED PLANTS

Sec. 13. The Secretary of Agriculture, in conjunction with other affected agencies, is authorized and directed to review species of plants which are endangered or threatened, and methods of providing adequate protection including legislation for such species. He shall report the results of such review to Congress, not later than one year after the date of enactment of this Act. For purposes of this section, there is authorized to be appropriated not to exceed $250,000.

### CONFORMING AMENDMENTS

Sec. 14. (a) Section 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd (c)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered and threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of such Act nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the System."

(b) Section 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224, 16 U.S.C. 715i(a)) and section 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s (a)) are each amended by striking out "threatened with extinction," and inserting in lieu thereof the following: "listed pursuant to section 4 of the Endangered Species Act of 1973 as endangered or threatened species,".

(c) Section 6(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9(a)(1)) is amended by striking out:

"Threatened Species.—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction."

and inserting in lieu thereof the following:

"Endangered and Threatened Species.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5 of the Endangered Species Act of 1973, needed for the purpose of conserving, protecting, restoring, or propagating endangered or threatened species of fish, wildlife, or plants."

(d) The first sentence of section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 460k–1), is amended to read as follows:

"Sec. 2. The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

"(1) incidental fish- and wildlife-oriented recreational development,

"(2) the protection of natural resources,

"(3) the conservation of endangered or threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973, or

"(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps."

(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) is amended—

(1) by striking out "Endangered Species Conservation Act of 1969" in section (1)(B) thereof and inserting in lieu thereof the following: "Endangered Species Act of 1973";

(2) by striking out "pursuant to the Endangered Species Conservation Act of 1969:" in section 101(a)(3)(B) thereof and inserting in lieu thereof the following: "or threatened

species pursuant to the Endangered Species Act of 1973";

(3) by striking out "endangered under the Endangered Species Conservation Act of 1969" in section 102(b)(3) thereof and inserting in lieu thereof the following: "an endangered or a threatened species pursuant to the Endangered Species Act of 1973"; and

(4) by striking out "Endangered Species List, authorized by the Endangered Species Conservation Act of 1969," in section 202(a)(6) thereof and inserting in lieu thereof the following: "endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973".

(f) Section 2(1) of the Federal Environmental Pesticide Control Act of 1972 (Public Law 92-516) is amended by striking out the words "by the Secretary of the Interior under Public Law 91-135" and inserting in lieu thereof the words "or threatened by the Secretary pursuant to the Endangered Species Act of 1973".

### REPEALER

Sec. 15. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa—668cc-6) is repealed.

### APPLICABILITY WITHIN STATES

Sec. 16. (a) State Plan.—By the end of the first year after the date of enactment of this Act, a State may establish a plan for endangered and threatened species in accordance with this Act. A plan is in accordance with this Act if it meets or exceeds the requirements set forth in section 6(c) of this Act and represents an effective response to the Nation's need to conserve, protect, restore, and propagate endangered and threatened species of fish or wildlife. Upon the establishment of such a plan, the Governor or the head of the State agency shall promptly transmit a certified copy to the Secretary.

(b) Determination by Secretary.—Within ninety days after the Secretary receives a certified copy of a State plan established under subsection (a) or subsection (d) of this section, the Secretary shall make a determination whether such State has established a plan for endangered and threatened species in accordance with this Act. Unless the Secretary determines, pursuant to this section, that a State plan is not in accordance with this Act, the plan shall go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect less than three months or more than nine months after the date of its establishment.

(c) Periodic Review.—The Secretary shall periodically, but not less than once every three years, review each State plan for endangered and threatened species which has been approved under subsection (b) of this section and for which there is experience, to determine whether such plan is still in accordance with this Act and to evaluate the success of such plan in terms of the policy of this Act. To facilitate such review, the Governor or the head of the State agency in each such State shall submit to the Secretary periodically all information relevant and requested by the Secretary. The Secretary shall report to the President and Congress simultaneously each year on the results of such reviews, including any recommendations for legislation.

(d) No State Plan.—Except as species listed in Appendix I of the Convention, the provisions of this Act regarding the management and taking of any State's resident species shall become applicable in their entirety within a State fifteen months after the date of enactment of this Act unless, prior to such date, the Secretary has made a determination under subsection (b) of this section that such State has established a plan for endangered and threatened species in accordance with this Act: *Provided*, That if, within fifteen months of the date of enactment of this Act, the Secretary finds that a State which does not prevent the taking of a species listed by him as endangered does not provide adequate protection for that species, he may by regulation implement the provisions of subsection 10(a) of this Act with respect to that species in that State. If, at any time thereafter, the Secretary upon petition makes a determination, pursuant to subsection (b) of this section, that a State has established a plan for endangered and threatened species in accordance with this Act, such plan shall go into effect and the provisions of this Act regarding the conservation and management of any species shall cease to be applicable or in effect within such State on a date to be designated by the Secretary. If, after a State plan in accordance with this Act is in effect within a State, the Secretary makes a determination, pursuant to subsection (c) of this section, that such plan is no longer in accordance with this Act, the provisions of this Act regarding the management and taking of any species shall go into effect within such State and such plan shall cease to be in effect on a date to be designated by the Secretary.

(e) Procedure.—(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(2) The Secretary shall notify in writing the Governor of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter V of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within sixty days from the date on which the determination made by the Secretary is published in the Federal Register.

(f) Effective Date.—Except as otherwise provided in this section, the provisions of this Act shall become effective in their entirety upon the date of enactment of this Act.

### MARINE MAMMALS ACT

Sec. 17. Conflicts.—Except as otherwise provided in this Act, no provision of this Act shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972.

### AUTHORIZATION FOR APPROPRIATIONS

Sec. 18. For purposes of this Act, other than section 6 and section 13 of this Act, there are authorized to be appropriated such sums as are necessary, not to exceed $3,960,000 for the fiscal year ending June 30, 1974; not to exceed $6,660,000 for the fiscal year ending June 30, 1975; and not to exceed $8,870,000 for the fiscal year ending June 30, 1976.

Sec. 19. (a) That, in accordance with section 3(b) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(b)), those lands in the Daniel Boone National Forest, Kentucky, comprising the Pioneer Weapons Hunting Area and consisting of approximately seven thousand three hundred acres, are hereby designated as wilderness.

(b) As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committee of the United States Senate and House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made. A copy of such map and description shall be on file and available for public inspection in the offices of the Chief, Forest Service, United States Department of Agriculture.

(c) The wilderness area designated by this Act shall be known as the Cave Run Wilderness and shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(d) Nothing in this Act or the Wilderness Act shall be construed as precluding the construction of a Zilpo recreation site access road generally on a route extending northward from Forest Development Road Numbered 129 generally skirting the eastern boundary of the Pioneer Weapons Hunting Area, or as affecting or modifying in any manner the 1962 Cooperative Management Plan between the Department of Fish and Wildlife Resources of the State of Kentucky and the Department of Agriculture involving the designation of the Pioneer Weapons Hunting Area within the Daniel Boone National Forest.

### MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dingell moves to strike out all after the enacting clause of S. 1983 and insert in lieu thereof the provisions of H.R. 37, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the conservation, protection, restoration, or propagation of endangered and threatened species of fish, wildlife, and plants, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 37) was laid on the table.

## PERSONAL EXPLANATION

Mr. ZION. Mr. Speaker, I was unavoidably detained when the House debated and voted on the bill H.R. 37, the Endangered and Threatened Species Conservation Act. I was working on a problem involving a veteran's home from my district. Had I been here I would have voted "aye."

## APPOINTMENT OF CONFEREES ON S. 1983, ENDANGERED AND THREATENED SPECIES CONSERVATION ACT OF 1973

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1983) to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none and appoints the following conferees: Mrs. SULLIVAN and Messrs. DINGELL and GOODLING.

## NONCONTIGUOUS TRADE

Mr. CLARK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7395) to amend section 607(k)(8) of the Merchant Marine Act, 1936.

The Clerk read as follows:

H.R. 7395

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 607(k)(8) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(k)(8)), is amended by striking that entire portion of section 607(k)(8) which follows the lowercase roman numeral "(ii)", and inserting in lieu thereof "trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions."

The SPEAKER. Is a second demanded?

Mr. MAILLIARD. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. CLARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the capital construction fund, set forth in section 607 of the Merchant Marine Act, 1936, as amended, generally provides that U.S.-flag operators can defer taxes on certain deposited funds if used for the construction of U.S.-flag vessels to be operated in the U.S. foreign, Great Lakes, fisheries, or noncontiguous trades.

Under the present definition of "noncontiguous trade," set forth in section 607(k)(8) of that act, it is clear that a vessel may be constructed with capital construction fund moneys for operation in the interisland Hawaiian trade. However, it would appear that vessels cannot be similarly constructed for trade between the islands of Alaska, or the Alaskan mainland and Alaskan islands, or between the contiguous 48 States and ports in Alaska, Puerto Rico, or a insular territory or possession.

This oversight when the Merchant Marine Act of 1970 was enacted creates an obvious inequity. H.R. 7395 would remedy this oversight by amending the definition of "noncontiguous trade" so as to extend the benefits of the capital construction fund to those trades arguably not now included in this definition.

For example, several companies that operate between the contiguous 48 States and Alaska have entered into capital construction fund agreements. There is no question that under such agreements, these operators can operate between the lower 48 and Alaska, but the question arises whether they can pick up and deliver cargo between Alaskan ports as part of the overall voyage. As more and more vessels are constructed with capital construction funds, such incidental service could actually be curtailed. The primary need for this legislation is to insure that the scattered coastal communities of Alaska, Puerto Rico, and the insular territories and possessions of the United States do not lose the vital local services of vessels trading primarily with the 48 contiguous States.

The hearings and departmental reports clearly demonstrated that this is a sound piece of legislation, without cost to the Government, and I am unaware of any opposition to it. H.R. 7395 is identical to S. 902 that passed the Senate on June 30, 1973.

Mr. Speaker, after careful consideration of the entire record, your committee reported the bill unanimously. I strongly urge the House to support H.R. 7395 so that the citizens of Alaska, Puerto Rico, and our noncontiguous territories and possessions can receive the full benefits of the Merchant Marine Act of 1970.

Mr. Speaker, I now yield such time as she may consume to the distinguished chairman of our full committee, the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, I rise in support of H.R. 7395 which would amend the Merchant Marine Act of 1936 to clarify the meaning of the term "noncontiguous trade" in section 607(k)(8), so that trade between points in Alaska and wholly within other offshore States or possessions can qualify as a permissible trade in which to operate vessels which are built with capital construction funds. Enactment of this measure would enable offshore operators of vessels built with capital construction funds to deploy these vessels in the most efficient manner without contravening the act.

It was made clear in the 1970 act that the tax deferred funds device should apply to the interisland Hawaiian trades, but as now written, operators of vessels between points in Alaska, Puerto Rico, or in U.S. territories and possessions are denied these tax benefits.

Mr. Speaker, I wish to emphasize the limited scope of the bill before us. The definition of "noncontiguous trade" contained in section 607 of the legislation enacted as the Merchant Marine Act of 1970 is:

First, trade between the contiguous 48 States on the one hand and Alaska, Hawaii, Puerto Rico, and the insular territories and possessions of the United States on the other hand.

Second, trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions, and

Third, trade between the islands of Hawaii.

The bill, H.R. 7395, would only permit such vessels to trade within the noncontiguous States of Alaska and Hawaii, or Puerto Rico, or territories or possessions of the United States.

The failure to include Alaska and the other offshore territories and possessions may well have been a legislative oversight which will be corrected by H.R. 7395. Such a correction will be of great benefit to the commerce of Alaska, Puerto Rico, and the territories, and for this reason, I ask my colleagues to support this legislation.

Mr. MAILLIARD. Mr. Speaker, I am pleased to join my colleague, the distinguished chairman of the Merchant Marine Subcommittee (Mr. CLARK) in support of H.R. 7395.

One of the primary purposes of the Merchant Marine Act of 1970 was to extend to all segments of the U.S. merchant marine the right to enter into a ship construction or modernization program with the Secretary of Commerce which would utilize moneys deposited in a capital construction fund on a tax deferred basis. Prior to the Merchant Marine Act of 1970, this right was extended only to those liner operators who were the recipients of operating differential subsidy.

By the terms of their subsidy contracts, they were under a statutory obligation to provide for the replacement of their ships on an orderly basis. The deposit of earnings on a tax deferred basis pursuant to section 607 of the 1936 Merchant Marine Act was the principal means for generating the owners share of the cost of periodic vessel replacement, the balance being covered by title XI ship mortgage insurance and construction subsidy.

The ability to deposit tax deferred earnings, coupled with construction subsidies and title XI mortgage coverage, enabled those liner companies operating on essential trade routes to maintain modern fleets throughout what were otherwise the lean years of the fifties and sixties for the American merchant marine generally. Nonsubsidized liner operators in foreign trade, bulk carriers and carriers which serve our noncontiguous domestic trade were not eligible under section 607.

As I have indicated, the 1970 Merchant Marine Act remedied this serious deficiency. Section 607 was completely rewritten by your committee with the technical assistance of the Joint Committee on Internal Revenue Taxation. As passed by the House, section 607 did not attempt to define the term noncontiguous trade, leaving this and many other such details to the joint rulemaking authority of the Secretaries of Commerce and Treasury.

The other body, however, amended the House-passed bill to incorporate the definition which we are now amending. The attempt to define this term as broadly as possible did not succeed, it now appears, and there is a serious question regarding the right of a ship built with tax deferred funds to engage in interport trade within a noncontiguous State, territory, or possession.

As I understand it, the problem is particularly acute in the State of Alaska where many villages and towns are totally dependent upon water transportation. Ships serving these ports from the lower 48 States, may be precluded from picking up cargo to be delivered to another port within Alaska, a result which was certainly not intended by either House when the present section 607 was enacted into law. I, therefore, urge my colleagues to support passage of this remedial legislation.

Mr. Speaker, I yield such time as he may use to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I have introduced this bill on behalf of myself and the Congressman from Washington to clarify an ambiguity which could have the unfortunate effect of denying the citizens of Alaska the full benefit of certain provisions of the Merchant Marine Act of 1970. As Congressmen will recall, the 91st Congress enacted a historic new maritime program to revitalize our Merchant Marine. The Merchant Marine Act of 1970, amended the Merchant Marine Act of 1936, to, among other things, extend the coverage of certain tax deferral privileges previously available only to one small segment of our fleet.

The act also recognizes the unique dependence of the citizens of Alaska, Hawaii, Puerto Rico, and the noncontiguous territories and possessions on Marine transport, and provided tax incentives decreasing the cost of building vessels for these trades, and thus the cost of marine transportation.

This provision was intended to provide long overdue relief to the people of our noncontiguous States and territories. Unfortunately, the definition of "noncontiguous trade" in section 607(k)(8) is ambiguous with respect to whether incidental intrastate carriage between ports in Alaska would qualify for this benefit, even though it clearly provides that similar carriage between the islands of Hawaii does.

Also, the privileges apply to similar carriage on the Great Lakes. Given the clear public policy of these provisions of the act, it seems to me that incidental intrastate carriage between ports in Alaska could be permitted by administrative interpretation. However, there has been an understandable reluctance to so interpret the literal words of section 607 (k)(8), even though such an interpretation would be clearly consistent with the objectives of the act. Consequently, I have introduced this legislation to remedy the situation.

The bill would amend the Merchant Marine Act of 1936, to clarify the meaning of the term "noncontiguous trade," in section 607(k)(8), so that trade between points wholly within an offshore State or possession can qualify as a permissible trade in which to operate vessels which are built with capital construction funds. Enactment of this bill will enable offshore operators of vessels built with such funds to move these vessels in the most efficient manner without violating the act.

"Noncontiguous trade" is presently defined in section 607(k)(8) to mean:

> First, trade between the contiguous 48 States on the one hand and Alaska, Hawaii, Puerto Rico, and the insular territories and possessions of the United States on the other hand, and second, trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and third, trade between the islands of Hawaii.

As now structured, this definition of "noncontiguous trade" is susceptible to uncertainty regarding the status of ocean shipping within Alaska, Puerto Rico, or the insular territories and possessions of the United States.

Although trade between the islands of Hawaii is clearly noncontiguous—clause (III) of section 607(k)(8), it is not altogether clear that trade between points in Alaska, for instance, can similarly be regarded as "noncontiguous trade" as that term is presently defined. Alaska's reliance on water transportation as economically as possible dictates that section 607(k)(8) be amended to include intra-Alaska trade within the meaning of "noncontiguous trade."

For example, a few carriers—mostly tug and barge operators—serve the offshore domestic trade between the contiguous 48 States and Alaska. In the course of a voyage between Seattle and Alaska, cargo may be carried to a number of Alaskan ports. In serving these ports, incidental cargoes may also be carried from one Alaskan port to another Alaskan port. From the carrier's point of view, the carriage of these incidental intrastate cargoes represents the most efficient use of its equipment.

Although these cargoes are minor in volume compared to the major intrastate trade, they are also very important to Alaska shippers since there is no regular privately owned service operating only between ports in Alaska. The interstate movement is clearly within the scope of section 607(k)(8), but the incidental intrastate movement is arguably outside the definition of "noncontiguous trade."

If Alaskan operators, for example, were forced to abandon incidental intrastate carriage in order to benefit from the capital construction fund program, the intrastate shippers dependent on water transportation would obviously be injured; and since there would be an irreplaceable loss of freight from this movement, the interstate shipper might have to pay increased rates in order to offset the loss of intrastate revenue. The proposed amendment would relieve the carrier from having to choose between the benefits of the act and the efficient use of its equipment.

Another reason for specifically including intra-Alaska—also intra-Puerto Rico, intra-Guam, and so forth—trade within the scope of the act arises from Congress inclusion of interisland Hawaiian trade—wholly intrastate—in the definition of "noncontiguous trade." It was apparently recognized that Hawaii's dependence on ocean shipping, even for intrastate movement, dictated that Hawaiian carriers, shippers, and consumers should benefit from the construction of water transport equipment with capital construction funds.

For the same reason Congress extended the benefits of the act to the interisland Hawaiian trade it should extend the benefit of the act to intra-Alaskan trade. For instance, there are 6,640 miles of general coastline in Alaska and 33,904 miles of coastline if all of its islands are included. There are more islands in Alaska than in any other State. Alaska and the insular territories are just as heavily dependent on water transportation as is Hawaii.

An equally important reason to extend the act is to encourage the growth of the board buildings industry in Alaska. With its wealth of natural materials, particularly timber, so close to so many potential customers, Alaska is a State particularly advantageously situated for the development of a boat building industry. The largest accessible stands of good lumber are in southeastern Alaska, close to many potential customers. This bill will, incidentally, encourage the shipbuilding industry in Alaska. Of course, it will also encourage the domestic Alaska shipping industry which is, as I have indicated, still, like Alaska shipyards, relatively small and in need of assistance.

The proposed legislation accomplishes the objectives set forth above. In addition, the wording of the bill also encompasses the meaning of original clause (II) to section 607(k)(8):

> Trade between Alsaka, Hawaii, and Pureto Rico and such territories and possessions.

I urge that H.R. 7395 be passed.

Mr. MAILLIARD. Mr. Speaker, I yield such time as he may use to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I cosponsored this bill because I believe it would correct an oversight in the definition of "noncontiguous trade" as presently defined in section 607(k)(8) of the Merchant Marine Act of 1936, as amended.

While the bill itself is relatively short and straightforward, it deals with a very complicated subject: merchant marine capital construction funds.

Section 607 of the act provides for the establishment of tax-deferred capital construction funds by American vessel operators pursuant to agreements entered into with the Secretary of Commerce. The purpose of the tax deferment is two-fold: First, to facilitate interstate, intrastate, and foreign trade between those U.S. possessions and States which must, to a larger extent, depend on the shipping industry; and, second, to serve the Nation's interest in the revitalization of the U.S. foreign and domestic shipping industry, as well as the U.S. shipbuilding industry.

In order to make withdrawals from the capital construction fund the vessel operator must agree that the vessel to be built will be operated in U.S. foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States. Currently the definition of "noncontiguous trade" in section 607(k)(8) explicitly allows intrastate trade between the Islands of Hawaii, but overlooks intrastate trade within Alaska and between islands in Alaska.

H.R. 7395 would provide similar treatment for Alaska as is presently provided for Hawaii. The bill would allow vessels built under the capital construction fund provision of the Merchant Marine Act of 1936 to operate in intra-Alaska trade.

The current definition of "noncontiguous trade" works an undue hardship on those vessel operators who operate vessels between Seattle and Alaska, and yet wish to pick up and deliver small amounts of cargo between Alaskan ports. Substantial penalties could result from the use of vessels constructed with capital construction funds in intra-Alaska trade. The definition contained in section 607(k)(8) forces diseconomies on the operators of vessels constructed with such funds. H.R. 7395 would cure such diseconomies and allow vessel operators to carry intrastate Alaskan cargoes incidentally to the carriage of interstate cargoes.

Mr. DOWNING. Mr. Speaker, I rise to join the distinguished chairman of the Merchant Marine Subcommittee to request the strong support of the House for H.R. 7395.

Mr. Speaker, for many years the Merchant Marine Act of 1936 has contained tax deferral provisions to encourage the construction of modern U.S.-flag vessels. The Merchant Marine Act of 1970 made comprehensive amendments to the Merchant Marine Act of 1936. One such amendment was to provide for the capital construction fund in lieu of two previous tax deferral funds. The capital construction fund is a technically complex subject that is fully explained in the report on the bill.

The bill before us this afternoon, H.R. 7395, concerns one small element of the capital construction fund; the definition of "noncontiguous trade" contained in section 607(k)(8) of the Merchant Marine Act of 1936. As you will recall, there was no definition of "noncontiguous trade" in the Merchant Marine Act of 1970 as it passed the House. The definition was inserted by the other body. There would now appear to be some confusion with respect to this definition that the legislation before us this afternoon is intended to resolve.

Mr. Speaker, after full and careful consideration of the entire record, your committee concluded that the definition of "noncontiguous trade" should be amended to expressly include trade between points within Alaska, Puerto Rico, and the insular territories and possessions of the United States. Capital construction fund moneys could then be used with respect to the construction, reconstruction, and acquisition of vessels employed within and between all points in our noncontiguous States, territories, and possessions. These areas rely to a great extent on water transportation. Enactment of this bill would encourage the construction of modern vessels to serve the needs of the noncontiguous States, territories, and possessions.

Your committee further concluded that H.R. 7395 would correct an obvious inequity in the existing statute, under which one islandic community, Hawaii, is eligible for the benefits of the capital construction fund, while other communities, also islandic and no less dependent on waterborne transportation might not.

I strongly urge the House to support H.R. 7395.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 7395, legislation to amend the Merchant Marine Act by expanding the definition of "noncontiguous trade."

The bill would clarify the Merchant Marine Act Amendment of 1970 which extended the capital construction fund benefits for ship construction to Hawaii, Alaska, Puerto Rico, and the noncontiguous American territories and possessions. This was done in recognition of the great dependence on these States and areas on merchant marine shipping as an essential element of transportation.

Under the 1970 act, U.S. citizens are given an incentive to acquire, construct, or reconstruct ships for the noncontiguous trade. Section 607 of the act permits the setting aside of a tax-deferred fund for this purpose, thereby making such ships more economically viable. The principal effect of the 1970 legislation is to encourage U.S.-built shipping in the noncontiguous trade.

Our 1970 bill, however, left unclear the definition of "noncontiguous trade" as applied to areas other than Hawaii. Thus, the act specifically permitted trade between the islands of Hawaii but did not expressly include trade between one point in Alaska and another point in Alaska, or trade between one point in Puerto Rico and another point in Puerto Rico, or trade between one point in an insular territory or possession and another point in the same insular territory or possession.

H.R. 7395 would correct this ambiguity by defining noncontiguous trade as "trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions." The change will have no effect on the application of the 1970 act to Hawaii but will instead benefit only Alaska and American territories and possessions by giving them equivalent benefits.

Thus, trade qualifying for the capital construction fund benefit of section 607 could take place between one point and another on an island of Hawaii or points between islands of Hawaii, and between points in Alaska or the territories and possessions. It could also continue to take place between points in Hawaii and Alaska, or between these States and the territories and possessions.

Such an effect was our goal in 1970 when Congress enacted amendments to the Merchant Marine Act of 1936. We had sought to extend the full benefits of the capital fund provision to Hawaii, Alaska, Puerto Rico, and the American territories and possessions. Adoption of H.R. 7395 would more fully carry out this intent on behalf of our areas which rely so heavily on water transportation. Because of this more equitable treatment, I urge the adoption of H.R. 7395.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. CLARK) that the House suspend the rules and pass the bill H.R. 7395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. CLARK. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 902) to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended, an identical Senate bill to that just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 902

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 607(k)(8) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(k)(8)), is amended by striking that entire portion of section 607(k)(8) which follows the lower case roman numeral "(ii)", and inserting in lieu thereof "trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions."

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

An identical House bill (H.R. 7395) was laid on the table.

## GENERAL LEAVE

Mr. CLARK. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 7395.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## COAST GUARD OMNIBUS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9293) to amend certain laws affecting the Coast Guard, as amended.

The Clerk read as follows:

H.R. 9293

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title 14, United States Code, is amended as follows:

(1) Section 83 is amended by inserting the words "in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States," between the word "navigation" and the word "without" in the first sentence thereof.

(2) Section 85 is amended—

(A) by deleting the words "on fixed structures" from the catchline;

(B) by inserting the words "and floating" between the word "fixed" and the word "structures" in the first sentence thereof;

(C) by deleting the word "navigable" between the word "over" and the word "waters" and by inserting the words "subject to the jurisdiction" between the word "waters" and the words "of the United States"; and

(D) by adding the following words at the end of the first sentence thereof: "and in the high seas for structures owned or operated by persons subject to the jurisdiction of the United States".

(3) Section 86 is amended by deleting the word "any" preceding the words "navigable waters" and substituting therefor the word "the" and by inserting the words "or waters above the continental shelf" between the words "navigable waters" and the words "of the United States" in the first sentence thereof.

(4) The analysis of chapter 5 is amended by deleting the words "on fixed structures" in item (section) 85.

(5) The second sentence of subsection (d) of section 214 is amended by changing the period at the end thereof to a comma and by adding the following to the sentence: "or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.".

(6) Subsection (a) of section 283 is amended by inserting the words "has completed at least 20 years of active service or" between the word "he" and the word "is" in paragraph (3) thereof.

(7) Section 285 is amended by inserting the words "he has completed at least 20 years of active service or is" between the word "if" and the word "eligible" in paragraph (1) thereof.

(8) Section 288 is amended—

(A) by deleting in subsection (a) the words "if not earlier retired," and substituting therefor the words "unless retired under some other provision of law,";

(B) by adding at the end of subsection (a) a new sentence as follows: "An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.".

(9) Section 656 is amended—

(A) by amending the catchline to read:

"§ 656. Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters";

(B) by redesignating subsections (a) and (b) as subsection (b) and (c), respectively; and

(C) by inserting a new subsection (a) as follows:

"(a) Funds appropriated to or for the use of the Coast Guard for acquisition, constuction, and improvement of facilities, for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters shall remain available until expended.".

(10) Section 657 is amended—

(A) by deleting from the catchline the semicolon and the words following "children";

(B) by designating the existing section as subsection (b); and

(C) by inserting a new subsection (a) as follows:

"(a) Except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), the Secretary may provide, out of funds appropriated to or for the use of the Coast Guard, for the primary and secondary schooling of dependents of Coast Guard personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of those dependents.".

(11) Chapter 17 is amended by adding the following new section after section 657:

"§ 658. Confidential investigative expenses

"Not more than $15,000 per annum appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.".

(12) The analysis of chapter 17 is amended—

(A) by amending item (section 656) to read:

"656. Use of moneys appropriated for acquisition, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters.";

(B) by amending item (section) 657 to read:

"657. Dependent school children.".

(C) by adding the following after item (section) 657:

"658. Confidential investigative expenses.".

(13) The last sentence of subsection (a) of section 760 is amended by deleting therein the figure "$300" and substituting therefor the figure "$600".

(14) Chapter 21 is amended by adding after section 764 the following new section:

"§ 765. Enlistment of members engaged in schooling

"To permit the enlistment of Reserve members without interruption of full-time schooling in which they are engaged, the four-month initial period of active duty for training requirement of subsection (d) of section 511 of title 10, United States Code, may be divided into two successive annual periods of not less than two months each.".

(15) The analysis of chapter 21 is amended—

(A) by inserting the following after item (section) 764:

"765. Enlistment of members engaged in schooling.";

and

(B) by inserting the following after item (section) 795:

"796. Failure of selection for promotion.
"797. Promotion; acceptance; oath of office.
"798. Rear admiral; maximum service in grade.".

(16) Section 832 is amended by adding at the end thereof a new sentence as follows: "The performance of a specific duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary."

SEC. 2. Paragraphs (5) and (8) of section 1 of this Act are effective as of the original date of enactment of the sections thereby amended.

SEC. 3. Subsection (a) of section 2683 of title 10, United States Code, is amended by deleting the words "of a military department" in the first sentence thereof and substituting therefor the word "concerned".

The SPEAKER. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the three pieces of legislation we will now consider have been requested by the administration through executive communications. They include H.R. 9293, the so-called omnibus Coast Guard bill, which is designed to modernize, streamline, and provide more efficient administration of this service: H.R. 9575, to provide for the enlistment and commissioning of women in the Coast Guard Reserve and to eliminate the concept of Women's Reserve as a separate branch within the Coast Guard Reserve: and, H.R. 5384, which provides that existing law, which requires load lines on certain vessels of 150 gross tons or more, would be supplanted for new vessels by load line requirements based on a vessel's length.

### H.R. 9293

We will consider first, H.R. 9293. The various changes proposed in H.R. 9293 would affect the Coast Guard's authority relating to aids to maritime navigation, to Coast Guard personnel matters concerning housing, promotion, the Coast Guard Reserve, and the Coast Guard Auxiliary, and enact into permanent legislation certain provisions which now appear annually in appropriations bills. These provisions are related to the continuing availability of construction funds, authority for schooling of dependents outside the United States when not otherwise available, and authority for the payment of confidential investigative expenses.

The bill contains three amendments to update and expand Coast Guard aids to navigation authority. The proposed amendments to sections 83, which makes it unlawful to establish aids to navigation without Coast Guard authority; 85, which authorizes the Secretary of the Department to regulate aids to maritime navigation on fixed structures; and 86, which authorizes the Coast Guard to mark obstructions, of title 14, United States Code, extends the Coast Guard's jurisdiction under those sections to additional waters within and without the territorial boundaries of the United States.

Sections 83 and 85 changes involve the extension of jurisdiction to the high seas for persons and instrumentalities subject to the jurisdiction of the United States, and to internal waters subject to the jurisdiction of the United States which are not navigable waters of the United States. The Coast Guard does not seek authority to establish aids to navigation in waters subject to the jurisdiction of the United States which are not navigable waters. However, it is necessary for the Coast Guard to be able to exercise regulatory control over any aids to navigation established in those waters consistent with their safety responsibilities under the Federal Boat Safety Act of 1971.

The proposed amendment to section 86 would make that section parallel to section 81 of Title 14, United States Code. Under section 81, the Coast Guard has general authority to establish aids to navigation beyond the navigable waters in waters above the Continental Shelf. This includes the marking of obstructions.

The extension of section 86 is necessary to enable the Coast Guard to recover the costs of marking obstructions in those waters beyond the territorial sea.

The amendments in the bill to sections 214, 283, 285, and 288, of title 14, United States Code, deal with situational and legal problems that have developed in recent years with officer personnel as a result of experiences with previous revisions of Coast Guard personnel laws. These include anomalies such as reductions in pay after promotions, denial of retirement after 20 years service because of a 10-year requirement of commissioned service, and a reduction in career life because of selection for early promotion.

The amendments to sections 656 and 657 of title 14, United States Code, relate to the continuing availability of construction funds, authority for schooling of dependents outside the United States when not otherwise available, and for payment of confidential investigative expenses and are the result of past congressional requests to the Coast Guard for permanent legislation to replace substantive provisions which inappropriately appear in appropriation bills.

The amendment to sections 760 and 832, of title 14, United States Code, would provide greater protection to members of the Coast Guard Auxiliary when performing duty for the Coast Guard. This includes increases in disability benefits and injury and death benefits for accidents which occur traveling to and from assigned duties.

The proposed new section 765 of title 14, United States Code, would permit enlistment of Reserve members with a minimum of interruption in their full-time schooling. This would be accomplished by authorizing the Coast Guard to split the 4-month initial period of active duty required by section 511(d) of title 10, United States Code. This would permit the training of new members of the Reserve without interrupting their education. This additional flexibility will be of help to the Coast Guard in reducing the recruiting problems the service is now facing in the no-draft environment.

The proposed amendment to title 10, United States Code, would allow the Secretary of Transportation to relinquish to a State legislative jurisdiction of the United States over lands under his control in that State. This amendment is necessitated by a situation that has arisen at the Coast Guard Academy in New London, Conn. Within the Academy grounds there are two plots of land which are subject to exclusive Federal jurisdiction. These areas are in the more populous sections of the Academy reservation and, within those areas, State and municipal criminal statutes and common law do not apply. While the Coast Guard considers it desirable on occasion to seek the assistance of the New London Police Department within these areas, they—the police—are prohibited from entering or assisting Academy officials by the fact that exclusive Federal jurisdiction exists in these areas. This amendment permits a solution to that problem.

The total budget implications for this proposal will be less than $25,000 for 1974, and can be absorbed within available funds.

During 2 days of hearings held on this bill on July 31 and August 1, 1973, Coast Guard witnesses testified that the legislation would be beneficial to the service in terms of both efficiency and effectiveness. There were no witnesses opposed to the bill, and I urge Members to support this legislation in view of the benefit this legislation will have for the Coast Guard.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the remarks of the distinguished gentleman from New York.

I do wish to convey to the Members and for the purposes of legislative history, some salient points pertaining to the committee's intentions on several provisions of the bill.

First, your committee is not normally inclined, in amending laws, to provide for their retroactive application. However, in the case of the retroactive application of the amendment pertaining to the pay computation of 40 career warrant officers in the Coast Guard—it was felt that the basic inequities permitted such retroactive application at a very minor cost to the Federal Government; that is, no more than $25,000. As your committee indicated in its report, if the costs in applying this amendment may exceed $25,000 we expect and require the Coast Guard to immediately inform the committee of this fact and the reasons therefor so we can take appropriate remedial action, if necessary, to insure that costs are kept at a minimum.

To clear up any confusion in relation to the amendment to title 10, which authorizes the Coast Guard to relinquish "legislative authority" to the State over Federal areas controlled by the Coast Guard, I wanted to point out that the term "legislative authority" does not relinquish any control of the Federal Government or of Congress in and to these lands. It simply means that the Coast Guard, like the other services, would be able to authorize the State to assist in law enforcement activities by adopting the State civil and criminal laws to that particular Federal area.

The SPEAKER. Does the gentleman from Michigan have any requests for time?

Mr. RUPPE. Mr. Speaker, I have no requests for time.

The SPEAKER. Does the gentleman from New York have any requests for time?

Mr. MURPHY of New York. I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 9293 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed, H.R. 9293.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## WOMEN IN THE COAST GUARD RESERVE

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9575) to provide for women in the Coast Guard Reserve, and for other purposes, as amended.

The Clerk read as follows:

### H.R. 9575

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 3 of title 14, United States Code, is amended as follows:

(1) Subsection (a) of section 41a is amended—

(a) by striking the comma in the second sentence following the words "Retired officers" and inserting in lieu thereof the word "and";

(b) by striking from the second sentence the following phrase ", and officers of the Women's Reserve".

(2) Subsection (e) of section 42 is amended—

(a) by striking the comma in the second sentence following the words "Coast Guard Academy" and inserting in lieu thereof the word "and";

(b) by striking from the second sentence the phrase ", and of the Women's Reserve".

SEC. 2. Chapter 21 of title 14, United States Code, is amended as follows:

(1) Subsection (e) of section 755 is amended by striking in the first sentence the words "of the Treasury to be exercised with respect to the Coast Guard when the Coast Guard is operating under the Treasury Department."; and inserting in lieu thereof the words "of Transportation to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) Section 762 is repealed.

(3) Subsection (a) of section 771 is amended to read as follows:

"(a) This subchapter applies only to the Coast Guard Reserve.".

(4) Subsection (f) of section 775 is repealed.

(5) Subsection (c) of section 780 is amended as follows:

(a) In the first sentence by striking the word "high" and inserting in lieu thereof the word "higher".

(b) in clause (1), by striking the word "male" and by adding the word "and" following the semicolon.

(c) in clause (2), by striking the word "male", and by changing the semicolon to a period.

(d) by replacing clauses (3) and (4).

(6) Subsection (i) of section 780 is repealed.

(7) Subsection (a) of section 787 is amended by striking at the beginning thereof the words "Officers of the Women's Reserve in the grades of lieutenant (junior grade) and lieutenant failing of selection for promotion to the next higher grade, and all other".

(8) Subsection (c) of section 796 is repealed.

SEC. 3. Effective upon enactment of this Act, all members of the women's branch of the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank, or other benefits earned by their prior service.

The SPEAKER. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, H.R. 9575 provides for the enlistment and commissioning of women in the Coast Guard Reserve.

This legislation will afford equal treatment to all members of the Coast Guard, regardless of sex. The bill would create one Coast Guard Reserve composed of both male and female members. Allow female citizens to serve either on active or inactive duty, would subject women officers to the same regulations concerning "integration" from the Reserve into the regular service as their male counterparts, and remove any legal distinction between males and females in any component of the Coast Guard Reserve.

When the Coast Guard Reserve was initially authorized in 1941, its membership was limited to male citizens. In 1942, the Women's Reserve was established as a branch of the Coast Guard Reserve. Subsequent to World War II, in 1947, the act authorizing that establishment was repealed, and all of the women then in the Coast Guard Reserve were separated from the service.

In 1949, the Women's Reserve as a branch of the Coast Guard was reestablished, but their function and authority were specifically limited by the provisions of section 762 of title 14, United States Code. Some of these limitations currently in existence, are that members of the Women's Reserve can only exercise military authority over other members of the Women's Reserve and that such members may be assigned to duty only in the United States, its territories, and possessions. This bill would eliminate from title 14, the concept of a Women's Reserve as a separate branch within the Coast Guard Reserve.

Since the enactment of section 762, the law has been unclear on the authority of the Coast Guard to commission or enlist women into the regular Coast Guard. The repeal of this section will clarify the law on this point and both male and female citizens could serve either on active or inactive duty and would be subject to the same regulations concerning integration as are now applied only to male reservists.

Coast Guard plans call for the utilization of around 500 enlisted women and 100 female officers on active duty over the next 5 years.

Mr. Speaker, the distinguished chairman of the House Merchant Marine and Fisheries Committee has an interest in this legislation, and I would now defer to her to further explain the desirability of this bill.

Mrs. SULLIVAN. Mr. Speaker, I urge the support of the Members for H.R. 9575, to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes. The most desirable feature of this legislation is that it would remove any legal distinction between males and females in any component of the Coast Guard Reserve.

At present, officers and men are commissioned or enlisted in the regular Coast Guard to serve on active duty. Officers and men of the Coast Guard Reserve may serve on either active or inactive duty. While normally serving on inactive duty, some reservists do serve on active duty. Reserve officers serving on active duty may apply for integration into the regular Coast Guard and if selected, are commissioned or enlisted into the regular Coast Guard and would then qualify for the same career benefits, that is, length of service, retirement, et cetera, as do other regular members.

Members of the Women's Reserve may also serve on either active or inactive duty but under present law do not have the same "integration" rights as do male members of the Reserve.

Enactment of this legislation would take what seems to me the long overdue step of eliminating the Women's Reserve as a branch of the Coast Guard Reserve by repeal of section 762, which established the Women's Reserve and contains specific limitations on the functioning of the Women's Reserve. As a result of enactment of H.R. 9575, the Coast Guard Reserve would be composed of both male and female members, serving on either active or inactive duty and subject to the same regulations concerning integration as are presently applied only to male reservists. Following passage of the bill, the Coast Guard intends to enlist women into the regular Coast Guard.

Mr. MURPHY, chairman of the Coast Guard Subcommittee, has already explained this legislation, so I have already spent enough time on details of the bill. However, I would urge all my colleagues to vote in support of this legislation since it would go a long way toward making the contributions of men and women equal in the work of the Coast Guard. I do not believe that women working in the Coast Guard necessarily must perform all the functions of men, but I do think there are many, many areas in which they can serve capably and well and this legislation would make it possible for the women to make a greater contribution to the worthwhile efforts and programs of the Coast Guard.

Mr. GROSS. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I yield to the gentleman from Iowa.

Mr. GROSS. Is this legislation designed to out-Zumwalt Admiral Zumwalt?

Mrs. SULLIVAN. I do not believe he has had anything to do with this.

Mr. GROSS. I wondered. It is true that for training purposes at least these women could be used on the combat ships of the Coast Guard?

Mrs. SULLIVAN. This is going to be up to the Coast Guard to make their decision because all of the Coast Guard will be equal for any appointment the Coast Guard feels they should have.

Mr. GROSS. Are we going to leave it to some man in the Coast Guard to determine whether women serve aboard combat ships?

Mrs. SULLIVAN. Until they make a woman the admiral and probably the Commandant of the Coast Guard, which might be possible, then we would have to leave it to the men to determine whether women are on the ships.

Mr. GROSS. That will be the day.

Mr. MURPHY of New York. I might say the Coast Guard is a more conservative parent than the Navy, and at this time women will not be allowed to be yeoman's mates or boatswain's mates.

Mr. GROSS. They will not be allowed to?

Mr. MURPHY of New York. They will be allowed to be yeomen, but we thought this might be termed the equal berth for women in the Coast Guard.

Mr. GROSS. I was wondering about that, too. Well, I will not go into that.

Mr. RUPPE. Mr. Speaker. I rise in support of H.R. 9575, a measure designed to remove certain inequities within the U.S. Coast Guard Reserve pertaining to service of women therein.

The basic point which this bill would accomplish would be to eliminate the concept, now existing under the law, of a separate Coast Guard Women's Reserve. At the present, the Coast Guard is not permitted by law to either commission or enlist those women serving in the Reserve into the regular Coast Guard; nor can women exercise command authority over men; nor can women reservists serve outside the United States.

Enactment of this measure will remove all of these inequities and place women on the same par with men.

The measure is an administration bill, with no cost to the Federal Government and received overwhelmingly favorable support from all witnesses. The committee unanimously reported out the bill.

The gentlemen from New York has presented an excellent summary of the bill's provisions and I concur in his remarks. I urge the bill's immediate passage.

Mr. BIAGGI. Mr. Speaker, I rise to express my support for H.R. 9575, which will remove all legal distinctions between men and women in the U.S. Coast Guard.

I was one of the original cosponsors of this legislation because I believe that discrimination based on sex has no place where employment opportunity is involved.

The equal rights amendment, which I also cosponsored, seeks to achieve this objective. But it is not yet the law of the land. In the meantime, the Congress has a moral responsibility to remove any and all barriers to women in the areas under its control.

This bill would go a long way toward meeting this responsibility by insuring that the Coast Guard is indifferent to sex in all of its regulations and practices.

By making equal treatment in the Coast Guard the rule, we will be taking one more step toward making that rule the principle of American society, which it should be.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 9575, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 9575, just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

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## REQUIRING LOADLINES ON U.S. AND FOREIGN VESSELS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5384) to require loadlines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes.

The Clerk read as follows:

H.R. 5384

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "International Voyage Load Line Act of 1973."

Sec. 2. The Secretary of the Department in which the Coast Guard is operating (hereinafter referred to as "Secretary") shall enforce the provisions of this Act and prescribe regulations to carry out its provisions. With the consent of the Secretary of the Treasury, the Secretary may utilize officers of the Bureau of Customs to enforce this Act and the regulations established hereunder.

Sec. 3. Definitions.—As used in this Act—

(1) "new ship" means a vessel the keel of which is laid (or which is at a similar stage of construction) on or after July 21, 1968; and

(2) "existing ship" means a vessel which is not a "new ship".

Sec. 4. Applicability.—(a) This Act applies to vessels which—

(1) arrive at any port or place within the jurisdiction of the United States from foreign ports;

(2) make voyages between foreign ports (except foreign vessels engaged in such voyages); or

(3) depart from any port or place within the jurisdiction of the United States for a foreign port.

(b) This Act does not apply to—

(1) ships of war;

(2) pleasure craft not used in trade or commerce;

(3) fishing vessels;

(4) existing ships of less than one hundred and fifty gross tons;

(5) new ships of less than seventy-nine feet in length;

(6) vessels which navigate exclusively on the Great Lakes; or

(7) vessels operating on sheltered waters between ports of the United States and neighboring countries as provided in any treaty of the United States.

(c) A vessel which voluntarily obtains loadlines shall be treated as a vessel subject to this Act until its loadline certificate is surrendered and its loadline marks removed.

(d) This Act does not abrogate any provisions of treaties or conventions in effect, which are not in conflict with the International Convention on Loadlines 1966, and to which the United States has acceded.

Sec. 5. Determination of Loadlines; Issuance of Certificate; Prohibition.—(a) The Secretary shall prescribe loadlines, the marking thereof, and associated condition surveys for vessels subject to this Act to indicate the minimum freeboard to which each may be safely loaded, giving due consideration to and making differentials for, the service, type, and character of each vessel, and in conformance with applicable international treaties or conventions to which the United States has acceded.

(b) Loadlines shall be permanently and conspicuously marked and maintained in the manner prescribed by the Secretary. Upon completion of survey requirements and a finding that the loadline is positioned and marked in the manner prescribed, the Secretary shall issue a loadline certificate, to the master or owner of the vessel, which shall be carried on board the vessel.

(c) A loadline shall not be established or marked which, in the judgment of the Secretary, authorizes less than the minimum safe freeboard. At the request of the owner a loadline may be established or marked to indicate a greater freeboard than that which the Secretary determines is the minimum safe freeboard; any such loadline shall be the prescribed loadline for purposes of section 9.

Sec. 6. Appointment of Surveyors; Revocation.—(a) The Secretary shall appoint the American Bureau of Shipping, or such other United States nonprofit corporations or associations for the survey or registry of shipping which he approves, to determine that a vessel's condition is satisfactory and whether its loadline is positioned and marked in the manner prescribed by the Secretary and thereupon to issue a loadline certificate.

(b) The Secretary may appoint for the purpose of this section:

(1) any officer of the United States, or

(2) at the request of a shipowner, any other corporation or association for the survey or registry of shipping which he approves.

(c) The Secretary may revoke an appointment under this section at any time.

Sec. 7. Exemptions.—When a vessel subject to this Act is shown to be entitled to an exemption from the provisions of this Act by an international agreement to which the United States has acceded, a certificate of exemption shall be issued to the vessel, and carried in lieu of the certificate required by section 5 of this Act.

Sec. 8. Recognition; Nonapplicability.—(a) When it is found that the law and regulations in force in a foreign country relating to loadlines are equally effective as this Act and the regulations hereunder, or when a foreign country has acceded to an international loadline agreement to which the United States has acceded, the markings and certificate thereof of a vessel of the country shall be accepted as complying with the provisions of this Act and regulations hereunder. The control of such vessels shall be as provided in the applicable international agreement.

(b) Subsection (a) does not apply to vessels of foreign nations which do not similarly recognize the loadlines prescribed under this Act.

Sec. 9. Loading Restrictions; Recordation.—(a) No vessel subject to this Act may be so loaded as to submerge the prescribed loadline, or to submerge the point where an appropriate loadline under the Act and the prescribed regulations should be marked.

(b) The master of a vessel subject to this Act shall, after loading but before departing for a voyage by sea from any port or place in which this Act applies, record in the official logbook or other permanent record of the vessel a statement of the relative position of the prescribed loadline mark applicable at the time in question with respect to the water surface, and of the actual drafts of the vessel, forward and aft, at the time, as nearly as they may be ascertained.

Sec. 10. Detention of Vessels.—(a) When the Secretary has reason to believe that a vessel is about to leave a port in the United States or its possession in violation of this Act or the regulations hereunder, the Secretary may, upon notifying the master or officer in charge of the vessel, order the vessel detained.

(b) Clearance required by section 4197 of the Revised Statutes, as amended (46 U.S.C. 91), shall be refused or withdrawn from any vessel so detained until correction of deficiencies.

(c) The master or officer in charge of a vessel may petition the Secretary, in a manner prescribed by regulation, to review the detention order.

(d) Upon receipt of a petition the Secretary may withdraw the detention order, modify it, or require independent surveys as may be necessary to determine the extent of deficiencies. Upon completion of his review, including results of any required independent surveys, he shall affirm, set aside, or modify the detention order.

(e) The owner of a vessel is liable for any costs incident to a petition for review and any independent surveys if the vessel is found to be in violation of this Act or the regulations hereunder.

Sec. 11. Penalties for Violations.—(a) Except as otherwise provided in this section, the owner and the master of a vessel found in violation of this Act or the regulations thereunder are each liable to a civil penalty of not more than $1,000 for each day the vessel is in violation.

(b) Each person, if the owner manager, agent, or master of a vessel, who knowingly allows, causes, attempts to cause, or fails to take reasonable care to prevent the violation of subsection 9(a) of this Act or the regulations thereunder, is liable to a civil penalty of not more than $1,000 plus an additional amount of not more than $500 per inch of unlawful submergence.

(c) For any violation of subsection (b) of section 9 of this Act or the regulations thereunder, the master of the vessel is liable to a civil penalty of not more than $500.

(d) Any person who knowingly causes or permits the departure of a vessel from any port or place within the jurisdiction of the United States or its possessions in violation of a detention order pursuant to section 10 of this Act, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(e) Any person who causes or allows the concealment, removal, alteration, defacement, or obliteration of any mark placed on a vessel pursuant to section 5 of this Act and the regulations thereunder, except in the event of a lawful change or to escape enemy capture in time of war, shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(f) For any penalty under this section the vessel is also liable.

(g) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General.

Sec. 12. Act, March 2, 1929 (C. 508, 45 Stat. 1493); Act, May 26, 1939 (C. 151, 53 Stat. 783); and section 1 of Act, August 31, 1962, (Public Law 87–620, 76 Stat. 415), are hereby repealed.

The SPEAKER. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5384 will safeguard life and property at sea by preventing shipowners or operators from overloading vessels to a point beyond safety. The legislation requires that ships be marked on the side showing the limits of safety and implements the provisions of the International

Convention on Load Lines of 1966, to which the United States is a party and which came into force on July 21, 1968. The bill makes it unlawful for a vessel to be so loaded as to submerge the prescribed loadline and allows for the detention of a vessel about to depart in an overloaded condition.

The convention and the bill recognize the developments in the maritime industry since the drafting of the 1930 International Convention Respecting Load Lines. The bill would replace the existing authority commonly known as the Foreign Load Lines Act.

Existing law requires load lines on certain vessels of 150 gross tons or more. This would be supplanted for new vessels by load line requirements based on a vessel's length starting from 79 feet. This is the major substantive change contained in the bill.

The legislation would also authorize the Secretary of the Department in which the Coast Guard is operating to prescribe regulations for determining loadlines. He would also enforce the provisions of the act and could use officers of the Bureau of Customs, with the consent of the Secretary of the Treasury.

Application of the bill is limited to ships on international voyages and specifies exemptions such as coastal or Great Lakes vessels.

Civil penalties are provided for violations of the several sections of the act. It would be a criminal act to knowingly permit a vessel to depart from any port in violation of a detention order and to cause or allow the alteration of prescribed loadline marks.

The enactment of this bill will provide the Coast Guard with the necessary authority to fully implement the International Convention on Load Lines of 1966, to which the United States has acceded and which has actually been in force since 1968. I urge Members to support this necessary safety measure.

**Mr. RUPPE.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5384 and the remarks of the gentleman from New York (Mr. MURPHY).

Ever since the 1800's, the United States, in the form of the 1929 Load Line Act, has provided for the safety of seamen by limiting the amount of cargo which could be carried in vessels on the basis of their design, configuration, and cargo-carrying capacity. This domestic act implemented the International Load Line Convention which, for once and all, did away with the practice of sailing "coffin ships" or those who were overloaded so that the vessel would break up under heavy seas and stress and thus sink with its cargo—thereby enabling the owners to recover exorbitant insurance claims. Fortunately, this practice was universally condemned and now international law and domestic law prohibit this practice.

In 1966, as a result of newer advances in ship design and technology, the convention was amended and the annexes were updated. This bill repeals the outdated Load Line Act of 1929 and conforms domestic U.S. law to the 1966 convention changes. The measure was proposed by the administration, has absolutely no opposition, represents no costs to the Federal Government, and was unanimously reported out by your committee. I urge its adoption. Upon passage of H.R. 5384 by this body, your committee shall move to vacate its passage and pass S. 1352, which has already passed the other body. The measures are identical and adoption of this action will send the bill to the President for signature and subsequent enactment into law.

**The SPEAKER.** The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 5384.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

**Mr. MURPHY of New York.** Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 1352) to require loadlines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes, a bill identical to the bill just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

**The SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1352

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "International Voyage Load Line Act of 1973".

SEC. 2. The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as "Secretary") shall enforce the provisions of this Act and prescribe regulations to carry out its provisions. With the consent of the Secretary of the Treasury, the Secretary may utilize officers of the Bureau of Customs to enforce this Act and the regulations established hereunder.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "new ship" means a vessel the keel of which is laid (or which is at a similar stage of construction) on or after July 21, 1968; and

(2) "existing ship" means a vessel which is not a "new ship".

APPLICABILITY

SEC. 4. (a) This Act applies to vessels which—

(1) arrive at any port or place within the jurisdiction of the United States from foreign ports;

(2) make voyages between foreign ports (except foreign vessels engaged in such voyages); or

(3) depart from any port or place within the jurisdiction of the United States for a foreign port.

(b) This Act does not apply to—

(1) ships of war;

(2) pleasure craft not used in trade or commerce;

(3) fishing vessels;

(4) existing ships of less than one hundred and fifty gross tons;

(5) new ships of less than seventy-nine feet in length;

(6) vessels which navigate exclusively on the Great Lakes; or

(7) vessels operating on sheltered waters between ports of the United States and neighboring countries as provided in any treaty of the United States.

(c) A vessel which voluntarily obtains loadlines shall be treated as a vessel subject to this Act until its loadline certificate is surrendered and its loadline marks removed.

(d) This Act does not abrogate any provisions of treaties or conventions in effect, which are not in conflict with the International Convention on Loadlines, 1966, and to which the United States has acceded.

DETERMINATION OF LOADLINES; ISSUANCE OF CERTIFICATE; PROHIBITION

SEC. 5. (a) The Secretary shall prescribe loadlines, the marking thereof, and associated condition surveys for vessels subject to this Act to indicate the minimum freeboard to which each may be safely loaded, giving due consideration to, and making differentials for the service, type, and character of each vessel, and in conformance with applicable international treaties or conventions to which the United States has acceded.

(b) Loadlines shall be permanently and conspicuously marked and maintained in the manner prescribed by the Secretary. Upon completion of survey requirements and a finding that the loadline is positioned and marked in the manner prescribed, the Secretary shall issue a loadline certificate, to the master or owner of the vessel, which shall be carried on board the vessel.

(c) A loadline shall not be established or marked which, in the judgment of the Secretary, authorizes less than the minimum safe freeboard. At the request of the owner a loadline may be established or marked to indicate a greater freeboard than that which the Secretary determines is the minimum safe freeboard; any such loadline shall be the prescribed loadline for purposes of section 9.

APPOINTMENT OF SURVEYORS; REVOCATION

SEC. 6. (a) The Secretary shall appoint the American Bureau of Shipping, or such other United States nonprofit corporations or associations for the survey or registry of shipping which he approves, to determine that a vessel's condition is satisfactory and whether its loadline is positioned and marked in the manner prescribed by the Secretary and thereupon to issue a loadline certificate.

(b) The Secretary may appoint for the purpose of this section:

(1) any officer of the United States, or

(2) at the request of a shipowner, any other corporation or association for the survey or registry of shipping which he approves.

(c) The Secretary may revoke an appointment under this section at any time.

EXEMPTIONS

SEC. 7. When a vessel subject to this Act is shown to be entitled to an exemption from the provisions of this Act by an international agreement to which the United States has acceded, a certificate of exemption shall be issued to the vessel, and carried in lieu of the certificate required by section 5 of this Act.

RECOGNITION; NONAPPLICABILITY

SEC. 8. (a) When it is found that the law and regulations in force in a foreign country relating to loadlines are equally effective as this Act and the regulations hereunder, or when a foreign country has acceded to an international loadline agreement to which the United States has acceded, the markings and certificate thereof of a vessel of the country shall be accepted as complying with the provisions of this Act and regulations hereunder. The control of such vessels shall be as provided in the applicable international agreement.

(b) Subsection (a) does not apply to vessels of foreign nations which do not similarly recognize the loadlines prescribed under this Act.

### LOADING RESTRICTIONS; RECORDATION

SEC. 9. (a) No vessel subject to this Act, may be so loaded as to submerge the prescribed loadline, or to submerge the point where an appropriate loadline under the Act and the prescribed regulations should be marked.

(b) The master of a vessel subject to this Act shall, after loading but before departing for a voyage by sea from any port or place in which this Act applies, record in the official logbook or other permanent record of the vessel a statement of the relative position of the prescribed loadline mark applicable at the time in question with respect to the water surface, and of the actual draft of the vessel, forward and aft, at the time, as nearly as they may be ascertained.

### DETENTION OF VESSELS

SEC. 10. (a) When the Secretary has reason to believe that a vessel is about to leave a port in the United States or its possessions in violation of this Act or the regulations hereunder, the Secretary may, upon notifying the master or officer in charge of the vessel, order the vessel detained.

(b) Clearance required by section 4197 of the Revised Statutes, as amended (46 U.S.C. 91), shall be refused or withdrawn from any vessel so detained until correction of deficiencies.

(c) The master or officer in charge of a vessel may petition the Secretary, in a manner prescribed by regulation, to review the detention order.

(d) Upon receipt of a petition, the Secretary may withdraw the detention order, modify it, or require independent surveys as may be necessary to determine the extent of deficiencies. Upon completion of his review, including results of any required independent surveys he shall affirm, set aside, or modify the detention order.

(e) The owner of a vessel is liable for any costs incident to a petition for review and any independent surveys if the vessel is found to be in violation of this Act or the regulations hereunder.

### PENALTIES FOR VIOLATIONS

SEC. 11. (a) Except as otherwise provided in this section, the owner and the master of a vessel found in violation of this Act or the regulations thereunder, are each liable to a civil penalty of not more than $1,000 for each day the vessel is in violation.

(b) Each person, if the owner, manager, agent, or master of a vessel who knowingly allows, causes, attempts to cause, or fails to take reasonable care to prevent the violation of subsection 9(a) of this Act or the regulations thereunder, is liable to a civil penalty of not more than $1,000 plus an additional amount of not more than $500 per inch of unlawful submergence.

(c) For any violation of subsection (b) of section 9 of this Act or the regulations thereunder, the master of the vessel is liable to a civil penalty of not more than $500.

(d) Any person who knowingly causes or permits the departure of a vessel from any port or place within the jurisdiction of the United States or its possessions in violation of a detention order pursuant to section 10 of this Act, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(e) Any person who causes or allows the concealment, removal, alteration, defacement, or obliteration of any mark placed on a vessel pursuant to section 5 of this Act and the regulations thereunder, except in the event of a lawful change or to escape enemy capture in time of war, shall be fined not more than $2,000 or imprisoned not more than two years or both.

(f) For any penalty under this section the vessel is also liable.

(g) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General.

SEC. 12. Act. March 2, 1929 (C. 508, 45 Stat. 1493); Act, May 26, 1939 (C. 151, 53 Stat. 783); and section 1 of Act, August 31, 1962 (Public Law 87-620, 76 Stat. 415), are hereby repealed.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

An identical House bill (H.R. 5384) was laid on the table.

## GENERAL LEAVE

**Mr. MURPHY of New York.** Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill H.R. 5384.

**The SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

## HISTORICAL RESTORATION OF FORT SCOTT, KANS.

**Mr. HALEY.** Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7976) to amend the act of August 31, 1965, commemorating certain historical events in the State of Kansas, as amended.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4 of the Act of August 31, 1965 (79 Stat. 588), is amended to read as follows:

"SEC. 4. In addition to those funds heretofore authorized and appropriated, there are authorized to be appropriated for the purposes of this Act not more than $1,420,000. Such sums, when appropriated, shall be available for planning, site rehabilitation, development, and marking of historic sites pursuant to the provisions of this Act."

**The SPEAKER.** Is a second demanded?

**Mr. SKUBITZ.** Mr. Speaker, I demand a second.

**The SPEAKER.** Without objection, a second will be considered as ordered.

There was no objection.

**The SPEAKER.** The gentleman from Florida will be recognized for 20 minutes, and the gentleman from Kansas will be recognized for 20 minutes. The Chair recognizes the gentleman from Kansas.

**Mr. SKUBITZ.** Mr. Speaker, H.R. 7976 provides for the authorization of funds—$1,420,000—for the continuation and completion of the restoration and preservation of various sites of historical significance in the State of Kansas.

While several separate sites are involved, the most notable one and the primary focal point for funding and restoration work in Fort Scott.

This bill amends Public Law 89-155 which was passed by the Congress in 1965—by providing additional funding authorization for a project well on its way.

Numerous buildings which were part of the original fort already have been restored to a likeness of their original condition of a century ago. The flavor of the original fort is being recreated.

Funds authorized by the 1965 act have also been used to purchase lands which were part of the original fort and which had since fallen into private ownership.

At the time the 1965 act was passed it was difficult to estimate what the actual cost to complete this restoration project would be.

As is so often the case, as years have passed it has become apparent that the amount originally estimated—nearly all of which has now been expended—has fallen short of the mark; for a number of reasons the cost has increased.

Inflation and time and costs of research and restoration work have proved to be considerably higher than originally estimated.

A fire seriously damaged one of the buildings and its contents a year or so ago.

Upon purchase and removal of private homes located on the site—a number of buildings—part of the old fort which were not considered in the original instant have now been determined worth preserving.

All of these things combined have made necessary the need for this additional authorization.

A most important aspect of this project is the devotion and intensity of community participation in this preservation and interpretation effort.

The city of Fort Scott has contributed $265,000 worth of land to the project—a value of over one quarter of the full authorization of the 1965 act—and the city is by law responsible for the maintenance and operation of the restored fort.

The community is very much a part of this effort. It has undertaken an urban renewal project—the focal point of which is the clearance of old buildings adjacent to the fort and reconstruction of the business section so that it harmonizes with the old fort and its times.

Last week Fort Scott was designated as one of three cities in Kansas to participate in the Bicentennial.

Kansas asks your support so that we too will be ready in 1976.

I urge all Members of the House to vote favorably on this bill so that the fine work which has been accomplished can be carried on to completion.

**Mr. TAYLOR of North Carolina.** Mr. Speaker, the bill now before the House is H.R. 7976 by our colleague from Kansas (Mr. SKUBITZ). It is neither a complicated nor a controversial measure. It simply authorizes additional appropriations to complete the restoration and reconstruction program at Fort Scott.

### BACKGROUND

In 1965, the Congress recognized the historical significance of certain events which took place in the State of Kansas prior to, and during, the Civil War. Since that time, some of the most significant sites have been marked and some of the historic structures at Fort Scott have been restored, but work on the project cannot be completed within the existing authorization limitation.

Mr. Speaker Public Law 89–155 authorized the appropriation of $805,700. Almost all of this amount has been appropriated and expended. Part of this money was used to erect historic markers, but most of it has been spent to acquire lands and to develop plans and restore the historic structure at Fort Scott.

### NEED FOR ENACTMENT OF H.R. 7976

At the time that we authorized this undertaking, we hoped that it could be completed within the authorization limitation, but cost increases which have affected all phases of American life have also affected projects such as this. In additional to normal inflationary pressures which have increased costs, detailed studies of the area have resulted in some project changes which will require an additional investment.

In order to make Fort Scott more meaningful to the visiting public, the plan now contemplates the authentic restoration or reconstruction of several structures closely associated with the early history of the fort and ground outlines for various others. In addition, the plan calls for the installation of interpretive facilities and general landscaping and other improvements of the grounds.

Without further assistance, this project cannot be completed. In spite of the historic significance of this old fort, the city of Fort Scott cannot finance the cost of the needed restoration and reconstruction work; however, it has agreed to undertake the responsibility of maintaining the historic area for public visitation in perpetuity so that once the physical facilities are completed no further Federal costs are to be incurred.

### RECOMMENDATION

Mr. Speaker, as chairman of the Subcommittee on National Parks and Recreation, it is a pleasure for me to join with the gentleman from Kansas in supporting this legislation. Without it, work at this area will have to be terminated; however, if H.R. 7976 is enacted and the funds are promptly requested in the budget and approved by the Congress, then we believe that the project can be completed within the limitation established by the terms of the bill.

I recommend the enactment of H.R. 7976, as reported, and urge its approval by the Members of the House.

Mr. **HALEY**. Mr. Speaker, I have no further requests for time.

The **SPEAKER**. The question is on the motion offered by the gentleman from Florida (Mr. HALEY) that the House suspend the rules and pass the bill H.R. 7976, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

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## CALL OF THE HOUSE

Mr. **DICKINSON**. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

Mr. **KAZEN**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 462]

Anderson, Ill.
Ashley
Barrett
Blatnik
Buchanan
Burke, Fla.
Burleson, Tex.
Carey, N.Y.
Chappell
Chisholm
Clark
Clay
Culver
Davis, Ga.
Diggs
Dingell
Esch
Evins, Tenn.
Ford, William D.
Gubser
Hansen, Idaho
Hansen, Wash.
Jarman
Jones, Ala.
Lujan
McEwen
Mills, Ark.
Mitchell, Md.
Mizell
Murphy, N.Y.
Nix
O'Neill
Patman
Quie
Rees
Regula
Reid
Rosenthal
Rostenkowski
Sandman
Stanton, James V.
Symington
Veysey
Wampler
Ware
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Young, Tex.

The **SPEAKER**. On this rollcall 386 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

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## CONGRESSIONAL INTERN PROGRAM

Mr. **THOMPSON** of New Jersey. Mr. Speaker, I move to suspend the rules and agree to House Resolution 420, to establish as part of the congressional internship program an internship program for secondary school teachers of government or social studies in honor of President Lyndon Baines Johnson, and for other purposes, as amended.

The Clerk read the resolution, as follows:

H. RES. 420

*Resolved*, That (a) until otherwise provided by law and notwithstanding any other provision of law, each Member of, Delegate to, and Resident Commissioner in, the House of Representatives is authorized to hire for two months in any year one additional employee to be known as a Lyndon Baines Johnson congressional intern in honor of the former President. Each such intern shall be a student or a teacher and certified as such under subsection (b) of this section. Each such Member, Delegate, or Resident Commissioner shall have available for payment of compensation to such intern a total allowance of $1,000, to be payable to such intern at a rate not to exceed $500 per month, out of the contingent fund of the House. Such intern and such allowance shall be in addition to all personnel and allowances made available to such Member, Delegate, or Resident Commissioner under other provisions of law or other authority.

(b) No person shall be paid compensation as a Lyndon Baines Johnson congressional intern who does not have on file with the Clerk of the House of Representatives, at all times during the period of his employment as such intern, an appropriate certificate which is applicable to his intern status, as described below:

(1) if the intern is a student, a certificate that such intern was during the academic year immediately preceding his employment, a bona fide student at a college, university, or similar institution of higher learning; or

(2) if the intern is a teacher, a certificate that such intern was, in the year immediately preceding his employment, a bona fide teacher in government or social studies at a secondary school or a postsecondary school.

(c) The Committee on House Administration shall prescribe such regulations as may be necessary to carry out this section.

SEC. 2. H. Res. 416, Eighty-ninth Congress, adopted June 16, 1965, and enacted as permanent law by section 103 of the Legislative Branch Appropriation Act, 1967 (80 Stat. 369; Public Law 89–545; 2 U.S.C. 60g–2), shall not be effective in the Ninety-third Congress on and after the effective date specified in section 3 of this resolution; and, effective on the date of enactment of the provisions of this resolution as permanent law, such H. Res. 416, Eighty-ninth Congress, is repealed.

SEC. 3. The provisions of this resolution shall become effective on January 1, 1974.

The **SPEAKER**. Is a second demanded?

Mr. **DEVINE**. Mr. Speaker, I demand a second.

The **SPEAKER**. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **THOMPSON** of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is legislation initiated by our distinguished colleague, the gentleman from Florida (Mr. LEHMAN), which was reported out of the Committee on House Administration by voice vote. It is really extremely simple in its content. Under the existing law each Member is entitled to $750 per year for no more than two summer interns per year. The purpose of this resolution is to create a summer internship for those who desire to avail themselves of it in honor of the late President Lyndon Baines Johnson. It increases the amount available to each Member for interns from $750 to $1,000. The total cost increase over the existing program would be $109,750, proceeding on the assumption that each Member, Resident Commissioner, or Delegate were to avail himself or herself of it.

It makes another change which I think is salutary in light of the fact that many educational institutions are on three-semester programs, in that under the existing law the internships have been restricted to the summer months. If this resolution passes Members may have one intern for a period of 1 month during any month at a salary not to exceed $500, and that is just one at a time anytime during the year.

It is completely optional as to whether the Member designates an intern as a Lyndon Baines Johnson intern or whether he simply has an intern at anytime during the year.

Experience has shown the committee that a great many Members have secondary schoolteachers in government and the social sciences available at times other than during the summer, so that they could have an intern in April, for instance, or in May, as distinguished from the present law.

What I have just said reflects the only substantial change. A great degree of flexibility is allowed the Members. For instance, it is not necessary that an intern be paid $500 per month. The legislation says at a rate not to exceed $500 per month. The total would not be allowed to exceed $1,000 per year. So there is a degree of flexibility.

The intern, if a student, must file a certificate with the Clerk of the House that he or she was during the academic year immediately preceding his or her employment a bona fide student at a college.

Or, if the intern is a teacher, a certificate that such intern was in the year immediately preceding his employment a bona fide teacher in Government or social studies at a secondary or post-secondary school, which would mean that college level teachers could be included under the term "post-secondary school."

The committee examined this legislation, held hearings on it and made some modifications. As I say, it has bipartisan and unanimous support from the committee. I consider it to be very modest in cost, and certainly very meritorious in its content.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I will be glad to yield.

Mr. KAZEN. Mr. Speaker, let me ask the gentleman this question. Is there anything in this resolution which will prohibit a Member of Congress, if this bill should pass, from having an intern in his district office rather than up here in Washington?

Mr. THOMPSON of New Jersey. Yes. Under the law, the intern must be at the Washington office.

Mr. KAZEN. We could not have one of these interns in our district?

Mr. THOMPSON of New Jersey. No, sir.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, does this supplant the present intern program?

Mr. THOMPSON of New Jersey. Mr. Speaker, I will say to my friend from Iowa that it does not supplant it, but it augments it in two ways. It adds $250 per member, delegate or commissioner per annum to be used or not to be used at his discretion.

Second, it permits those who choose totally on their own, based on their own judgment, to name one of their interns or both of their interns Lyndon Baines Johnson Memorial Interns.

Mr. GROSS. Mr. Speaker, let me ask this question: Would it be possible to name this intern, let us say, the Dwight D. Eisenhower Intern, the Richard Milhous Nixon Intern or the Franklin Delano Roosevelt Intern?

Mr. THOMPSON of New Jersey. I would say there is no prohibition. A gentleman could name one the Doctor Durward Hall Intern if he wants to. At least, I am going to name one of mine that and the other a Lyndon Baines Johnson Intern.

Mr. GROSS. Since the gentleman is confessing what he is going to do, let me confess that I am not going to have any interns.

Mr. THOMPSON of New Jersey. Mr. Speaker, I wish the legislation would allow transfer so that I could avail myself of the gentleman's money, but I cannot do that.

Mr. GROSS. Why not save $435,000 per year by abolishing this entire program until we reach some kind of fiscal sanity in Congress and in the country. I do not intend to have any part of this program.

I am trying to get at what the intent of it is. So, it would be possible to use some person's name, other than Lyndon Baines Johnson, is that correct?

Mr. THOMPSON of New Jersey. I would see no prohibition.

Mr. GROSS. The forms they will have to file, would not prohibit that sort of thing?

Mr. THOMPSON of New Jersey. Use anyone's name.

Mr. GROSS. The name designation would be wide open, is that right?

Mr. THOMPSON of New Jersey. Yes. The object, of course, is to honor the late President, who had a great interest in this area. His widow, Lady Bird Johnson, has written her strong approval and support of this legislation. It is simply a very small opportunity for those who choose to do so, to call their interns the Lyndon Baines Johnson Interns.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, my situation might be unique. I have a large district and a large amount of mail. I hope we do a reasonably adequate job in taking care of our business. I have two or three interns every summer. I have no trouble paying them out of my regular clerk-hire funds.

Mr. THOMPSON of New Jersey. Good. I am glad to hear that the gentleman will not have to avail himself of this if he does not wish to do so.

Mr. GROSS. Mr. Speaker, will the gentleman yield further?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Iowa.

Mr. GROSS. They can be put on during campaigns, is that right?

These interns can be put on during a campaign?

Mr. THOMPSON of New Jersey. Yes, while the House is in session. The answer to that is "yes."

Mr. GROSS. Are they limited to the time the House is in session?

Mr. THOMPSON of New Jersey. No. They can be put on during any month. The gentleman's office operates 12 months a year and 18 hours a day.

Mr. GROSS. And they can be used to further a Member's campaign if they are working in the office in Washington, D.C.; is that correct?

Mr. THOMPSON of New Jersey. I would suppose so. There is no restriction on what they do. It is a matter of what the Members want them to do. If the gentleman has an intern and he wants him to put stamps on to say, "Reelect H. R. Gross to Congress," that is up to him. I do not believe the gentleman needs that, but if he wants to do it, fine.

Mr. GROSS. Well, it is always helpful.

Mr. THOMPSON of New Jersey. I knew the gentleman would recognize that.

Mr. DEVINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I shall take just a few moments in order to clarify the legislative history on this.

House Resolution 420, as originally introduced by the gentleman from Florida (Mr. LEHMAN), has been considerably altered by the Committee on House Administration. It is primarily to memorialize our late President Lyndon Baines Johnson.

In answer to the question posed by the gentleman from Iowa (Mr. GROSS) about whether one has to call this person a Lyndon Baines Johnson intern, the resolution merely establishes this as the Lyndon Baines Johnson intern program. The gentleman can call the intern anything he wants to under this program.

This does replace the current intern program. A Member may have two interns during any one year.

The student or teacher who is employed as an intern must be a student or teacher in government or the social sciences and be situated in the Washington, D.C., office.

In direct answer to the question of the gentleman from Iowa, when he asked whether or not this man could be used for campaign purposes, I believe the legislative history should be clear that all employees of a congressional office are presumed to function doing official Government business. The gentleman, of course, can control the employee within his office, and I will control mine.

I hasten to add that I, like the gentleman from Iowa, have not availed myself of the intern program. We are able to operate well within the normal clerk hire allowance.

I know the gentleman from Iowa is always vitally concerned about the expenditure of public funds. The cost figure as it relates to this is $1,000 for a 2-month period, but not more than $500 for any one month. They can only be employed one at a time, and not more than two in any 2-month period.

This does not affect the statutory clerk-hire or the maximum number of employees authorized by the Congress.

The increase in cost overall, if all Members should avail themselves of this program—and I am sure many of us will not—would be a total maximum cost of $82,000 per annum.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. The gentleman referred to the intern as a "man." Did the gentleman mean by that that women are not to be considered as interns? Is this limited to the male of the species?

Mr. DEVINE. I certainly did not mean that. I believe that might be classified as a Freudian slip. The intern may be either a man or a woman.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. That was more a Bobby Riggsian slip than a Freudian slip.

If I may respectfully correct the gentleman on one thing, the student intern need not be a student of government or the social sciences. That applies only to the teacher.

Mr. DEVINE. That is right.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I rise in support of House Resolution 420.

It is a resolution that to me makes good sense.

The justification for our current congressional intern program is based on two concepts:

First, it teaches our young people about our political system by actually involving them where the legislative action is; second, it spreads throughout the country by means of these students, the message about the importance of our legislative branch.

Mr. Speaker, I believe we should complete the program by including those who instruct our young people. House Resolution 420 opens the door for social science teachers. It brings those who daily teach our children about our republic into personal contact with the realities of the U.S. democracy.

Presently thousands of these teachers have not had this experience. They must teach about our political system without having had the practical experience of being involved in it. They are similar to a football coach who has never played varsity football.

This resolution would correct that situation.

Mr. Speaker, in the brief time I have been a Member of this body, I have come to see my colleagues as individuals of more personal conviction, who work harder, have more integrity and are more dedicated than is generally believed.

I would like to see the teachers in our communities gain this knowledge of Congress and Congressmen by working up here shoulder to shoulder with them.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN. Yes, I will yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I just wish to compliment the gentleman from Florida concerning the changes in this legislation. I believe they are very important, and I can think of no better way of bringing our teachers into the situation with Congress and assisting them in understanding what is going on than what the gentleman has suggested, and I trust the gentleman's position will receive unanimous support.

Mr. LEHMAN. Mr. Speaker, I thank the gentleman from New York very much for his remarks.

In closing, I would like to share with my colleagues a portion of a letter I received concerning this legislation from Lady Bird Johnson. The quotation is as follows:

> While I have felt that it would be inappropriate for me to involve myself in proposals of this type, I believe Lyndon would have been in favor of such a proposal.

I believe that our recent President, Lyndon Johnson, was the only President we have had who had actually been a schoolteacher in the public schools of our country.

Mr. Speaker, I wish to thank the esteemed gentleman from New Jersey, the chairman of the subcommittee (Mr. THOMPSON), and the gentleman from Ohio (Mr. HAYS), the chairman of the committee, for their understanding and help in their committee work for this resolution.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I commend the gentleman from Florida (Mr. LEHMAN) for his sponsorship of this measure.

President Johnson was a teacher by profession. He is known as the "Education President."

Mr. Speaker, I believe this bill is in further recognition of the many contributions President Johnson has made to the Nation, particularly to the young people.

Mr. Speaker, I support this measure with pride.

Mr. HARRINGTON. Mr. Speaker, I rise in support of H.R. 420, the congressional intern program resolution. However, I have several reservations about the bill which I would like to point out.

The bill authorizes each Member of Congress to hire for 2 months one additional employee who shall be a student intern or a secondary schoolteacher intern. While I feel that a teacher can gain valuable firsthand experience and knowledge from a congressional internship, I also believe that it creates a rather unfortunate situation. The Congressman is now forced to discriminate between the student and the teacher. Both teacher and student have different things to offer and to learn in a Congressman's office. They should not be forced to compete against one another.

Second, I feel that the range of students who can realistically spend a summer as an intern deserves to be broadened. Many interns are volunteers. Quite simply, lower- and middle-class students often cannot financially afford to spend their summer as a volunteer. The bill before us today is a step in the right direction. In accordance with a 34-percent increase in the cost of living since the internship program began, H.R. 420 authorizes a compensation increase from $750 for 2½ months to $1,000 for 2 months for the additional intern. However, it does not go as far as earlier bills I introduced, which would have authorized payment for two additional student interns.

There are enormous benefits to an internship program. It presents the intern with an opportunity to observe the workings of Congress close up, to separate what the Government can and cannot do, what sort of pressures a Member must deal with, and what it takes to put a new idea into practice. I have had 125 interns since I have been in Congress and have found them a welcome addition to my permanent staff, helping in research, drafting legislation, and dealing with constituent problems. They are a valuable supplement to my staff, and one I would hate to do without.

Despite my criticisms of H.R. 420, it represents at least a financial improvement over the existing program, and I urge my colleagues to join me in its support.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and agree to the resolution (H. Res. 420) as amended.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 64, not voting 25, as follows:

[Roll No. 463]

YEAS—345

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Aspin
Badillo
Bafalis
Baker
Barrett
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Dickinson
Diggs
Donohue
Dorn
Downing
Drinan

Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Hungate
Hunt
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Lehman
Lent
Litton

Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush

Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zion
Zwach

### NAYS—64

Arends
Armstrong
Ashley
Bauman
Beard
Bennett
Broomfield
Byron
Camp
Cederberg
Chamberlain
Collier
Collins, Tex.
Conable
Conlan
Daniel, Dan
Davis, Wis.
Devine
Dulski
Findley
Fisher
Flynt
Froehlich
Goodling
Gross
Hammerschmidt
Henderson
Hicks
Holt
Huber
Hudnut
Hutchinson
Ichord
Jarman
Jones, N.C.
Ketchum
King
Landgrebe
Landrum
Latta
Michel
Miller
Minshall, Ohio
Moorhead, Calif.
Poage
Rarick
Rhodes
Rousselot
Satterfield
Saylor
Scherle
Shuster
Sikes
Skubitz
Snyder
Stubblefield
Symms
Taylor, Mo.
Teague, Calif.
Treen
Waggonner
Whitten
Winn
Young, S.C.

### NOT VOTING—25

Anderson, Ill.
Buchanan
Burke, Fla.
Burleson, Tex.
Chappell
Culver
Davis, Ga.
Dingell
Hansen, Idaho
Jones, Ala.
Lujan
McEwen
Mills, Ark.
Mizell
Nelsen
Nix
O'Neill
Patman
Regula
Rostenkowski
Stanton, James V.
Sullivan
Symington
Wilson, Charles, Tex.
Young, Tex.

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Young of Texas.

Mr. Symington with Mr. Mills of Arkansas.

Mr. Rostenkowski with Mr. Burke of Florida.

Mr. James V. Stanton with Mr. Nix.

Mr. Dingell with Mr. Anderson of Illinois.

Mr. Burleson of Texas with Mr. Nelsen.

Mr. Jones of Alabama with Mr. Lujan.

Mrs. Sullivan with Mr. Buchanan.

Mr. Culver with Mr. Mizell.

Mr. Charles Wilson of Texas with Mr. McEwen.

Mr. Davis of Georgia with Mr. Chappell.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Resolution establishing the Lyndon Baines Johnson congressional intern program for students in institutions of higher learning and for teachers of government or social studies in secondary or postsecondary schools, and for other purposes."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## THE NATION'S 100 TOP BLACK BUSINESSES

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MITCHELL of Maryland. Mr. Speaker, on September 12, 1973, I submitted for the Record a report on black financial institutions. These institutions impact significantly on black businesses because they are the principal sources of capital for these businesses. Today, I submit a report on the Nation's 100 top black businesses as reported in the June 1973 edition of Black Enterprise. I believe my colleagues will share the thought that the examination of the Nation's 100 top black businesses is "both sobering and enlightening":

### The Nation's 100 Top Black Businesses

There have been few times in the nation's history when black Americans have been more aware of their position in the economy, or more accurately, their lack of participation in it than they are today. The results of a special study conducted by the Department of Commerce in 1969 inform us that as America's gross national product soared beyond the trillion dollar mark, gross receipts for black-owned firms were fractional. How black-owned or controlled firms have fared since that fateful period when "black capitalism", that much abused and misunderstood phrase, became a battle cry for black participation in the economic mainstream of America, is the subject of the following pages. The examination, we believe, is both sobering and enlightening.

In a survey of emerging black businesses, conducted independently by Black Enterprise, hundreds of service and manufacturing companies were found and interviewed concerning their histories, operations, markets and—most importantly—their prospects.

In all likelihood these companies are just a slice of several hundred that have survived the last decade. On the other hand, possibly thousands of tiny minority-owned businesses opened and closed during the same period, unable to gain a footing.

Like most private companies, they were reluctant to talk in specific terms about their performances.

But the 100 companies showed gross revenues of $473.4 million last year, ranging from one million to $40 million. These companies tended to be for the most part concentrated in big urban centers such as New York (13), Los Angeles (10), Chicago (10), Washington-Baltimore (7) and Detroit (7). They seemed attracted to the centers of black population and the sources of capital.

The following significant points about the companies emerged from the Black Enterprise survey.

(1) Although they are small, like grains of sand in today's trillion-dollar economy, the new businesses are not "Mom and Pop" stores. Their goods and services span an imaginative and broad range, from retail and fast foods to at least one defense industry supplier with customers mostly in Europe.

(2) The majority of the emerging businesses were founded or, as with Luther Prince, taken over in the period from 1968 to 1970. But some are "old-timers", such as Atlanta's Paschal's Motor Hotel, which grossed $1.5 million in 1972, that goes back to the 1940's. Few, however, predate Washington's Greenwood's Transfer & Storage Company which got started in 1922.

(3) Automobiles, both new and used, were the basis for the businesses of 13 respondents to the survey, including Vanguard Volkswagen in St. Louis, said to be the only black owned VW franchise in the world. Financing plans from automakers make dealerships attractive, but Vanguard's 49-year-old James Hurt started with his own money, an SBA loan and "encouragement" from Volkswagen.

(4) Employment among the emerging black-owned businesses tends to be relatively small, ranging from 15 or so to 200 employes. Employers report that where possible they try to hire blacks but must sometimes hire white employes with special skills. Al Johnson Cadillac of Chicago, with sales of $14.5 million a year, has 104 employes, 30 per cent of whom are black.

(5) In terms of market, companies that are consumer oriented tend to have a primarily black market but companies that operate on the wholesale level or that act as suppliers to large industrial corporations have a predominantly white market. Chester Carter's Capital City Liquor in Washington, which sells $12.5 million in liquor wholesale annually, has 350 stores among its regular clientele, but only 100 of them are black-owned.

On the other hand, Baltimore's Super Pride Market has 58 employees—all black—and serves the heart of the black community, with gross annual revenues of $1.5 million. Madison-Madison International, a well-regarded architectural and engineering company in Cleveland ($1 million to $2 million), serves black and white corporations and even governments.

Samuel Gorman, 41, owner of Clipper International Corporation in Detroit, has one of the most unusual operations among the respondents surveyed. While most black entrepreneurs, for example, start by trying to make it on the block where they are located, Gorman began with an order from the North Atlantic Treaty Organization (NATO).

The order for $290,000 in equipment parts, including tank firing controls, was used to leverage the loan that put Gorman, a mechanical engineer, into business. Today, doing $2 million to $3 million worth of business a year, Clipper is an important supplier to the Italian Government and other European military forces.

It was not until the Detroit riots in 1965 that American businesses began to turn to Clipper. Today, in addition to the international business, Clipper is a supplier of parts to the auto industry in Detroit. But the major income is from Europe.

"We have always had a better reception in Europe," Gorman said. "People there seem to be accustomed to dealing with all sorts of people and they don't bother about the social and racial factors that we deal with here."

"In Europe, everything's down front," he said. If you deliver according to specifications, you get paid."

With regard to the domestic side, Gorman raises an often heard complaint. His business and precision engineering seem to be dominated by families, and it is closed to outsiders regardless of race.

Just as Gorman benefited from Detroit riots, unrest in other cities spawned uncounted businesses, at least indirectly.

Fighton, Inc. of Rochester, New York, which made $1.6 million in its fiscal year, got its impetus from the riots of 1964. An organization called Fight, counseled by the late civil activist Saul Alinsky and supported by the local council of churches, got help from Xerox in setting up a general manufacturing company—after Kodak had refused.

The Fight Organization has moved on into housing, drug rehabilitation and other projects, but still owns 48 per cent of Fighton, Inc. The controlling interest is in the hands of the 85 employes, 90 per cent of whom are black, with the rest Spanish-speaking.

The company is a supplier to such companies as Xerox, IBM, Kodak, General Electric, Delco and Goodyear—and has one of the steepest sales curves seen in the survey. For example, sales in 1969 were $97,000; in 1970, $683,000; in 1971, $1.7 million and last year $1.6 million.

While most survey respondents said they were not inclined to go public, even though they were undercapitalized, William McGhee, chief executive of Fighton, says his company will go to the equity market in two or three years.

"It's difficult to have a black-community oriented company," said Mr. McGhee in a prime example of understatement. "Training programs for disadvantaged blacks cut into the cash, and the Labor Department subsidization funds are being cut back or discontinued, which affects personnel."

In summary, there are hundreds of black businesses around that were not there 10 or even six years ago. But they are small and in a struggle for survival. Even where they have become viable, they tend to be more vulnerable than most to turns in the market, direct competition and just plain business quirks.

Financing, as usual, is the chief problem.

Significantly, even companies with trouble that won't seem to go away prefer to go deeper into debt rather than try the equity route. The explanation is simple. With a shortage of black investors, they know they can only surrender black ownership—and this point is important to them.

In a word, they are willing to pay the price for black ownership—they are less certain that they will have the chance to pay it.

### THE TOP 100

The 100 leading black-owned or managed businesses represented on the charts that appear on the following pages are the result of more than a year of intensive research by the staff of Black Enterprise magazine to identify firms whose sales volume for the calendar year 1972 was in excess of one million dollars

In compiling this comprehensive list of the top 100 black manufacturing and service companies in the country, we enlisted the assistance of every major minority economic development organization in the country, as well as such national organizations as the National Business League, the National Urban League, and the Interracial Council for Business Opportunity. Governmental agencies such as the Department of Commerce, the Department of Treasury and the Federal Reserve Board System have also been of invaluable assistance.

For the most part, these businesses are substantially different from businesses usually found on such national listings. With two exceptions, they are privately, not publicly owned. As such, their gross income—and particularly their net profits—is a private matter.

In developing this list, we have respected that privacy.

It is unavoidable that many will attempt to compare this "Black Enterprise 100" with similar listings of major white-owned corporations. Such comparisons would be wholly inappropriate. Though many of the companies listed have been in operation for several decades, many of them have come into being in the past four years giving rise to the thought—and the hope—that they represent a trend toward an increase in sustained economic growth for black entrepreneurs.

As the analysis shows, clearly we have a long way to go. But considering the obstacles, the men and women represented here obviously are a special breed who deserve our thanks and commendation for their sustained and successful efforts.

In compiling this list, we have not included individuals, professionals, athletes or entertainers who have amassed significant personal weatlh. We hope at some future time to focus on their efforts.

We plan annually to salute the nation's 100 top black businesses so that our readers and all of America will be able to measure the progress we are making toward economic development. Our 1973 listing gives us every confidence that in the years ahead, black businesses will continue to grow at a more accelerated rate.

| Name of company and location | Chief executive officer | Type of business | Year started | Number of employees | Sales 1972 (millions) |
|---|---|---|---|---|---|
| Motown Industries, Los Angeles, Calif | Berry Gordy | Manufactures master recordings, disc and tape recordings. | 1949 | 325 | $40.0 |
| Johnson Publishing Co., Inc., Chicago, Ill | John H. Johnson | Publisher of "Ebony," "Jet," "Black World," "Black Stars," "Ebony Jr." | 1942 | 245 | 23.1 |
| Fedco Foods Corp., New York, N.Y | J. Bruce Llewellyn | Supermarket chain | 1969 | 450 | 23.0 |
| F. W. Eversley & Co. Inc., New York, N.Y | Frederick W. Eversley | General contractor and developer | 1964 | 85 | 20.6 |
| Bowers Realty & Investment Co., Detroit, Mich | France Bowers | Real estate | 1968 | 30 | 18.0 |
| Johnson Products Co., Inc., Chicago, Ill | George E. Johnson | Manufactures hair care products and facial cosmetics. | 1954 | 300 | 17.5 |
| Al Johnson Cadillac, Inc., Chicago, Ill | Albert W. Johnson, Sr | Retail sale and service of new and used Cadillacs. | 1967 | 104 | 14.5 |
| H. G. Parks, Inc., Baltimore, Md | Henry G. Parks | Processes sausage and pork products | 1951 | 265 | 13.8 |
| Capital City Liquor Co., Inc., Washington, D.C | Chester Carter | Wholesale distributor of wines and liquors | 1970 | 60 | 12.5 |
| Garland Foods, Inc., Dallas, Tex | Mildren M. Montgomery | Meat processor | 1969 | 180 | 12.0 |
| Taw International Leasing, Inc., New York, N.Y | Thomas A. Wood | International leasor of capital equipment | 1968 | 38 | 10.6 |
| Wright Ford Sales, Inc., Marina Del Rey, Calif | A. Gordon Wright | Automobile dealership and service | 1967 | 89 | 10.3 |
| Stax Record Co., Inc., Memphis, Tenn | Al Bell | Manufactures records | 1959 | 150 | 10.0 |
| Myers Century Chevrolet, Inc., Upper Darby, Pa | Robert Myers | Automobile dealership | 1971 | 60 | 8.0 |
| E. G. Bowman Co., Inc., New York, N.Y | Ernesta Procope | Insurance brokerage agency | 1953 | 18 | 7.5 |
| Conyers Ford, Inc., Detroit, Mich | Nathan Conyers | Automobile and truck dealership | 1970 | 74 | 7.1 |
| VIP Lincoln-Mercury, Inc., New Rochelle, N.Y | Daniel E. Brown, Ronald Wayne | Automobile dealership | 1965 | 30 | 7.0 |
| Wilson-McIntosh Buick, Inc., Washington, D.C | Maurice McIntosh, Joseph Wilson. | do | 1970 | 75 | 7.0 |
| Drummond Distributing Co., Inc., Compton, Calif | Lancelot Drummond | Wholesale liquor distributor | 1969 | 33 | 6.0 |
| Bill Nelson Chevrolet, Inc., Richmond, Calif | Bill Nelson | Automobile dealership | 1969 | 60 | 6.0 |
| P. B. Development Co., Inc., Tucson, Ariz | Nathaniel Russell, Peggy Brown | General contractor and project developer | 1970 | 20 | 6.0 |
| H. J. Russell & Co., Atlanta, Ga | H. J. Russell | General contractor and project developer | 1959 | 500 | 6.0 |
| Trans-Bay Engineers & Builders, Inc., Oakland, Calif | Ray Dones | General contractor | 1969 | 70 | 6.0 |
| Sussex Records, Inc./Interior Music Corp., Los Angeles, Calif | Clarence Avant | Manufactures records, publishes music | 1970 | 14 | 5.3 |
| Porterfield Wilson Pontiac, Inc., Detroit, Mich | Porterfield Wilson | Automobile dealership | 1972 | 52 | 5.3 |
| A. L. Nellum & Associates, Inc., Washington, D.C | Albert Nellum | Management and urban consultants | 1964 | 100 | 5.0 |
| W. T. Syphax Engineering & Construction Co., Arlington, Va | William T. Syphax | General contractor and developer | 1953 | 12 | 5.0 |
| Tuesday Publications, Inc., New York, N.Y | W. Leonard Evans, Jr | Publisher of Tuesday and Tuesday at Home magazines. | 1965 | 41 | 5.0 |
| Watts Manufacturing Corp., Lynwood, Calif | Mark E. Rivers | Manufactures fabrics and metal products | 1966 | 325 | 4.9 |
| All-Pro Enterprises, Inc., Pittsburgh, Pa | Brady Keys | Hamburger and chicken franchise | 1967 | 675 | 4.5 |
| Clarence S. Carter Chevrolet, Inc., Detroit, Mich | Clarence S. Carter | Automobile dealership | 1970 | 43 | 4.5 |
| Willie Davis Distributing Co., Los Angeles Calif | Willie Davis | Wholesale beer distributor | 1970 | 35 | 4.5 |
| Joe Louis Milk Co., Inc., Chicago, Ill | Mr. and Mrs. George Jones | Wholesale dairy distributor | 1935 | 35 | 4.2 |
| Friendly Chrysler Plymouth, Inc., Los Angeles, Calif | Herbert Stephenson | Automobile dealership | 1970 | 52 | 4.0 |
| Fiesta Lincoln-Mercury, Inc., New York, N.Y | William Phillips | do | 1971 | 29 | 3.5 |
| Travis Realty Co., Inc., Chicago Ill | Dempsey Travis | Real estate | 1949 | 40 | 3.5 |
| T.W.O./Hillman's Inc., Chicago, Ill | Lawrence W. Carroll | Supermarket | 1970 | 50 | 3.3 |
| Tinsley Buick, Inc. Redwood City, Calif | Bill and Donald Tinsley | Automobile dealership | 1971 | 38 | 3.1 |
| AFRO-American Newspaper Co. of Baltimore, Baltimore, Md | Frances L. Murphy, II | Publisher of "The Afro-American" newspapers. | 1892 | 200 | 3.0 |
| California Golden Oak Products, Inc., Los Angeles, Calif | William M. Alexander, Jr | Manufactures wooden office furniture | 1968 | 130 | 3.0 |
| Roberts Motels, Inc., Chicago, Ill | Herman Roberts | Owns and operates motel chain | 1960 | 450 | 3.0 |
| Renmuth, Inc., Detroit, Mich | Robert Renfroe | Manufactures metal stampings and fabrication. | 1969 | 110 | 2.8 |
| Alliance Food Corp., Los Angeles, Calif | Robert E. Bell | Drive-in restaurants | 1970 | 200 | 2.5 |
| Barrett Group Corp., New York, N.Y | Frederick E. Barrett | Manufactures military and commercial electrical equipment. | 1968 | 87 | 2.5 |
| Bertie Industries, Inc., Windsor, N.C | Melvin Gillian | Manufactures garments | 1966 | 90 | 2.5 |
| Clipper International Corp., Detroit, Mich | Samuel Gorman | Manufactures mechanical and electrical components. | 1962 | 75 | 2.5 |
| The Vanguard Bond & Mortgage Co., St. Louis, Mo | James Hurt | Manages multifamily housing for Federal programs. | 1968 | 8 | 2.5 |
| Amnews, Inc., New York, N.Y | Clarence B. Jones | Publisher of "The New York Amsterdam News." | 1909 | 125 | 2.4 |
| Futon Corp., Columbus, Ohio | Howard Spiller | Machine shop operation and drafting service. | 1970 | 44 | 2.4 |

| Name of company and location | Chief executive officer | Type of business | Year started | Number of employees | Sales 1972 (millions) |
|---|---|---|---|---|---|
| Lowery Distributing Co., Inc., Chicago, Ill | Mannie Lowery | Wholesale beer distributor | 1969 | 16 | 2.4 |
| AVI Manufacturing, Inc., Gardena, Calif | E. E. Barrington | Manufactures aircraft, electrical and mechanical subassemblies. | 1971 | 125 | 2.3 |
| Ebony Oil Corp., New York, N.Y | Lawrence J. Cormier | Retail fuel and oil | 1954 | 47 | 2.3 |
| Electorque Associates, Inc., New York, N.Y | David Blaine | Electrica contractor | 1968 | 72 | 2.3 |
| Lawndale Packaging Corp., Chicago, Ill | William Franklin | Manufactures corrugated boxes | 1970 | 55 | 2.3 |
| Horace Noble Lincoln-Mercury, Inc., Chicago, Ill | Horace Noble | Automobile dealership | 1971 | 33 | 2.3 |
| Progress Aerospace Enterprises, Inc., Philadelphia, Pa | Fred Miller | Manufactures electronic and mechanical assemblies and cable design. | 1968 | 150 | 2.3 |
| Robert S. Abbott Publishing Co., Inc., Chicago, Ill | John H. Sengstacke | Publisher of "The Chicago Daily Defender." | 1905 | 65 | 2.0 |
| R. A. Banks Construction Co., Inc., Atlanta, Ga | Rubin A. Banks | General contractor | 1965 | 18 | 2.0 |
| Campbell & Macsai Architects, Inc., Chicago, Ill | Wendell J. Campbell | Architectural firm | 1970 | 35 | 2.0 |
| Central News-Wave Publications, Los Angeles, Calif | Chester L. Washington | Publisher of "The Southwest Wave" and 7 other newspapers. | 1971 | 80 | 2.0 |
| Glopak Corp., Passaic, N.J | Harold Martin | Manufactures plastic bags | 1966 | 50 | 2.0 |
| Henderson Travel Service, Inc., Atlanta, Ga | Jacob R. Henderson | Travel agency | 1955 | 18 | 2.0 |
| Hollingsworth Group, Inc., New York, N.Y | Edward Lewis | Publisher of "Essence Magazine" | 1970 | 28 | 2.0 |
| Inter-City Contractors Service, Inc., Gary, Ind | Larry Webb | General contractor | 1969 | 12 | 2.0 |
| Lance Investigation Service, Inc., New York, N.Y | Ralph Johnson | Security service | 1962 | 300 | 2.0 |
| Magnificent Products, Inc., Los Angeles, Calif | Wilbur Jackson, Dennis Taylor | Manufactures cosmetics | 1965 | 42 | 2.0 |
| Summit Laboratories, Inc., Indianapolis, Ind | Melvin Carroll | do | 1957 | 86 | 2.0 |
| Superior Tool, Inc., Fort Worth, Tex | Otis J. Martin | Machine shop | 1970 | 30 | 2.0 |
| W. T. Syphax Management Co., Arlington, Va | William Syphax | Apartment management | 1950 | 20 | 2.0 |
| True Transport, Inc., Newark, N.J | Leamon McCoy | Interstate trucking | 1968 | 55 | 2.0 |
| Vassall Motors, Inc., Philadelphia, Pa | Ivan Vassall | Automobile dealership | 1969 | 47 | 2.0 |
| One America, Inc., Washington, D.C | Elaine B. Jenkins | Management and urban consultants | 1970 | 22 | 1.9 |
| All-Stainless, Inc., Boston, Mass | Mr. and Mrs. Albert Livingston, E. V. Roundtree. | Distributor of stainless steel products | 1952 | 30 | 1.8 |
| Clean-Rite Maintenance Co., Inc., Washington, D.C | Nathaniel D. Williams | Janitorial maintenance service | 1969 | 155 | 1.8 |
| Ault, Inc., Minneapolis, Minn | Luther Prince | Manufactures electrical components and custom systems. | 1960 | 125 | 1.7 |
| Earl G. Graves Publishing Co., Inc., New York, N.Y | Earl G. Graves | Publisher of Black Enterprise magazine | 1970 | 30 | 1.7 |
| Vanguard Volkswagen, St. Louis, Mo | James Hurt | Automobile dealership | 1970 | 23 | 1.7 |
| Enterplastics Industries, Inc., San Francisco, Calif | Dr. Henry Lucas | Manufactures industrial plastic moldings | 1969 | 25 | 1.6 |
| Fighton, Inc., Rochester, N.Y | William M. McGhee, Jr | Manufactures electronic equipment, metal stampings and special orders. | 1968 | 85 | 1.6 |
| Ozanne Construction Co., Inc., Cleveland Ohio | Leroy Ozanne | General contractor | 1956 | 8 | 1.6 |
| Competition Motors, Ltd., Inc., Chicago, Ill | Robert P. Neal | Automobile dealership | 1967 | 17 | 1.5 |
| J. W. M. Corp., Philadelphia, Pa | J. J. Williams | Manufactures microcircuit components and custom systems. | 1969 | 135 | 1.5 |
| Paschal Brothers Enterprises, Atlanta, Ga | James and Robert Paschal | Hotel, restaurant and lounge | 1947 | 110 | 1.5 |
| Super Pride Market, Baltimore, Md | Charles Burns | Supermarket | 1970 | 58 | 1.5 |
| Yeatman Central City Foods, Inc., St. Louis, Mo | James Hurt | Retail food | 1969 | 25 | 1.5 |
| Component Concepts Corp., Omaha Nebr | Joseph W. Saunders | Manufactures electronic components | 1968 | 47 | 1.4 |
| Grove Fresh Distributors, Inc., Chicago, Ill | Cecil Troy | Fruit juice, salad and dessert distributor | 1961 | 23 | 1.3 |
| Inner-city Broadcasting Corp., New York, N.Y | Carl McCall | Radio station | 1972 | 32 | $1.3 |
| Sam Persley Construction Co., Kansas City, Mo | Sam Persley | General contractor | 1964 | 20 | 1.3 |
| Progress Laboratories, Inc., Los Angeles, Calif | Clarence Lofton | Manufactures and distributes pharmaceuticals. | 1968 | 50 | 1.3 |
| Stull Associates, Inc., Boston, Mass | Donald Stull | Architectural firm | 1966 | 40 | 1.3 |
| Shindana Toys, Los Angeles, Calif | Phil Gilyard | Manufactures black dolls | 1968 | 80 | 1.2 |
| Bell Broadcasting Co., Inc., Romulus, Mich | Dr. Wendell Cox | Radio stations | 1956 | 40 | 1.0 |
| Bryant & Bryant, Architects & Planners, Washington, D.C | Charles and Robert Bryant | Architectural firm | 1965 | 28 | 1.0 |
| Glade Paint & Coatings, Gladewater, Tex | Michael Rutherford | Manufactures industrial paints and coatings | 1970 | 16 | 1.0 |
| Greenwood's Transfer & Storage Co., Inc., Washington, D.C | Catherine Greenwood | Household moving and storage and government contract moving. | 1922 | 150 | 1.0 |
| Image, Inc., Compton, Calif | Edward Ellis | Manufactures printed circuits | 1969 | 63 | 1.0 |
| Madison-Madison International, Inc., Cleveland, Ohio | Robert P. and Julian C. Madison | Architectural and engineering firm | 1954 | 38 | 1.0 |
| Nostrand Travel Bureau, Inc., Brooklyn, N.Y | Clinton Greene, Trevor Spence | Travel agency | 1961 | 12 | 1.0 |
| Terry Manufacturing Co., Inc., Roanoke, Ala | Roy Terry | Manufactures women's uniforms, hospital gowns, and sportswear. | 1963 | 75 | 1.0 |

## PRESIDENTIAL ADDRESS ON HOME RULE—THE PRINCIPLES OF OUR FOREFATHERS ARE MAINTAINED WITH REASON

(Mr. NELSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. NELSEN. Mr. Speaker, I include the following address of President William Howard Taft, which was given at a banquet in his honor on May 8, 1909, in the RECORD on this date in its entirety.

It can be seen from President Taft's speech that he loved this city in an intimate and personal way, both in its capacity as a place to bring up his children and the capacity this city serves as the Nation's Capital.

I think the statement which President Taft made in his speech is of particular significance and applies equally, if not more so, today than it did at the time he gave this excellent address. Those particularly significant portions I wish to call to your attention:

> Washington intended this to be a Federal city, and it is a Federal city, and it tingles down to the feet of every man, whether he comes from Washington State, or Los Angeles, or Texas, when he comes and walks these city streets and begins to feel that "this is my city; I own a part of this Capital, and I envy for the time being those who are able to spend their time here." I quite admit that there are defects in the system of government by which Congress is bound to look after the government of the District of Columbia. It could not be otherwise under such a system, but I submit to the judgment of history that the result vindicates the foresight of the fathers.
>
> Now, I am opposed to the franchise in the District; I am opposed, and not because I yield to any one in my support and belief in the principles of self-government; but principles are applicable generally, and then, unless you make exceptions to the application of those principles, you will find that they will carry you to very illogical and absurd results. This was taken out of the application of the principle of self-government in the very Constitution that was intended to put that in force in every other part of the country, and it was done because it was intended to have the representatives of all the people in the country control this one city, and to prevent its being controlled by the parochial spirit that would necessarily govern men who did not look beyond the city to the grandeur of the nation, and this as the representative of that nation.
>
> I have gotten over being frightened by being told that I am forgetting the principles of the fathers. The principles of the fathers are maintained by those who maintain them with reason, and according to the fitness of the thing, and not by those who are constantly shaking them before the mass of the voters when they have no application.

The speech follows:

PRESIDENTIAL ADDRESSES AND STATE PAPERS OF WILLIAM HOWARD TAFT FROM MARCH 4, 1909, TO MARCH 4, 1910

### VII.—ADDRESS OF PRESIDENT TAFT AT THE BANQUET GIVEN IN HIS HONOR BY THE BOARD OF TRADE AND CHAMBER OF COMMERCE OF WASHINGTON, D.C., AT THE NEW WILLARD (MAY 8, 1909)

Mr. Chairman and the Solid Men of Washington: I wish to thank you from the bottom of my heart for the courtesy that you have extended to me this evening in this magnificent banquet, and in your coming here to take part in this occasion. I am proud of it, if it be the case, and I must believe it from the assurances given to-night, that this is the first time that a President of the United States has ever had the pleasure of meeting on such an occasion and under such circumstances, the business men of Washington. I hope for close intimacy; I hope that we may come together and we may discuss these things, because certainly we need it. I take the utmost personal pride in the City of Washington. It thrills my heart every day to look out of the back windows of the White House—for the short time I have been there—and whenever I get the opportunity, to see this beautiful city in which we are permitted to live—these avenues and streets constructed on a magnificent plan, looking forward for centuries; these trees planted with great foresight to make every part of Washington a park; these vistas into which always creeps unbidden that beautiful shaft that marks the memory of the founder of the city.

I have not been here very long in the City of Washington, as some men count it long. I was here two years between 1890 and 1892; four years from 1904 to 1908—but that is a little bit longer than Justice Stafford. I have been a tax-payer; I have invested some money in land in Washington and have not seen a dollar come out of it; I have sent my children to the public schools; I have hung to straps in street cars, going both ways to the Capitol; I have bathed in the Potomac mud—in a bathtub; I have lunched at Harvey's on those steamed oysters, and I have been a fan with my friend "Sunny Jim" at the base-ball park and have had a love, and cultivated it with him, for tail-enders. And therefore, I claim that I have been through experiences that ought to give me some of the local atmosphere and some of the local feeling of Washington. And yet, with all that, gentlemen, as I look about here into these smiling faces, these somewhat rotund forms that give evidence of prosperity, it is a little difficult for me to realize that it was about those "caitiffs" and those "slaves" that Mr. Justice Stafford spoke.

In spite of my experience in Washington, I am a nationalist. This city is a home of the government of a nation, and when men who were just as much imbued with the principles of civil liberty as any who have come after, Washington at the head, put into the Constitution the provisions with reference to the government of the District of Columbia, they knew what they were doing, and spoke for a coming possible eighty millions of people, who should insist that the home of the government should be governed by their representatives; and that if there were in that eighty millions of people men who desired to come and share in the grandeur of that capital and live in a city of magnificent beauty as this was and enjoy all the privileges, then they come with their eyes open as to the character of the government that they are to have, and they must know that they must depend not upon the principles ordinarily governing in popular government, but that they must trust, in order to secure their liberty—to get their guaranties—they must trust to the representatives of eighty millions of people selected under that Constitution.

I want to say, with deference to this discussion, that if this meeting (or subsequent meetings) is to be devoted to securing an amendment to the Constitution, by which you are going to disturb the principle of two Senators from every State, and you are going to abolish the provision that was put in there *ex industria* by George Washington, you will not get ahead in the matter of better government in Washington by such meetings. I do not want to seem to be abrupt, but I believe it is possible by such meetings as this to arouse the interest of Congress and the Executive to the necessity of consulting the people of Washington, to let them act as Americans act when they don't have the right of suffrage—let them act by the right of petition; and are they not exercising that right all the time? Isn't it possible to determine on the part of the committees of the House and the Senate what the attitude of the Washington citizens is? Why, the government that we have today in Washington everybody admits is a good government. Has it not been brought about through the aid of those very committees in the House and Senate who you say know nothing about Washington, and who make their knowledge, or lack of knowledge, ridiculous by showing it? We are all imperfect. We can not expect perfect government, but what we ought to do is to pursue practical methods, and not, I submit with deference to Justice Stafford, make it seem as if the people of Washington were suffering some great and tremendous load and sorrow, when as a matter of fact they are the envy of the citizens of other cities.

Washington intended this to be a Federal city, and it is a Federal city, and it tingles down to the feet of every man, whether he comes from Washington State, or Los Angeles or Texas, when he comes and walks these city streets and begins to feel that "this is my city; I own a part of this Capital, and I envy for the time being those who are able to spend their time here." I quite admit that there are defects in the system of government by which Congress is bound to look after the government of the District of Columbia. It could not be otherwise under such a system, but I submit to the judgment of history that the result vindicates the foresight of the fathers.

Now, I am opposed to the franchise in the District; I am opposed, and not because I yield to any one in my support and belief in the principles of self-government; but principles are applicable generally, and then, unless you make exceptions to the application of those principles, you will find that they will carry you to very illogical and absurd results. This taken out of the application of the principle of self-government in the very constitution that was intended to put that in force in every other part of the country, and it was done because it was intended to have the representatives of all the people in the country control this one city, and to prevent its being controlled by the parochial spirit that would necessarily govern men who did not look beyond the city to the grandeur of the Nation, and this as the representative of that nation.

I have gotten over being frightened by being told that I am forgetting the principles of the fathers. The principles of the fathers are maintained by those who maintain them with reason, and according to the fitness of the thing, and not by those who are constantly shaking them before the mass of the voters when they have no application.

Now, the question arises: What shall we do with the government of Washington? Shall we have the present board of three; shall we have one or shall we have some other form? I confess I do not know. My predecessor has recommended a change of the present form so as to give the responsibility to one, with the view to visiting that one with the responsibility. On the other hand, it is said that three have worked well; that it gives more opportunity, possibly, for counsel, and that it takes away the bureaucratic character of the government. As I have said, I have reached no conclusion as to what recommendation I shall make to Congress on the subject. I fully concur with Justice Stafford in thinking that it would be most unwise to introduce into the District what I understand to be a bureaucratic form of government. That is right.

A bureaucratic form of government is one which, as he very well described it, would make the War Department look after the streets; Dr. Wiley, possibly, look after the health—the Agricultural Department through him—and the Treasury Department look after the finances. And so as to each branch of the government you should go to the head of that particular department in the general government. I think that would be a very burdensome, a very awkward, a very clumsy system of government. I am strongly in favor of retaining the municipal form, so that everything which shall affect the city of Washington shall be done under the chief executive of that city, and by that chief executive. In other words, I would give an entity to the city of Washington, or the District of Columbia, and take all of that entity out of the operation of the bureaus of the general government. That is what I understand to be the government today, and the only question that has been mooted is really whether one man should be put at the head of that government as a mayor, or whether you should have three. I agree that probably three men are better, where you have real legislative functions to perform. I am inclined to think that, where the legislative functions are reduced to a minimum and consist in little more than mere executive regulation, possibly the one-headed form is the better, for executive purposes and to fix the responsibility; but I am only thinking out loud, and only because we are here talking right out in meeting I am telling you the reasons as they have been brought to me.

Now I want to talk about the future. And the future of Washington! What an enormous development is before us! Why I am not an imaginative man, but I would like to come back here a hundred years hence and see the beauties of which this city is capable! right here, under our noses for a time, under our very eyes, are those beautiful Potomac flats that are going to make as fine parks and parkways as there are in the world! Those parks ought to be connected with the Rock Creek Park by means of the mouth of Rock Creek, or otherwise; and then through them all there ought to be carried a park clear around, including the Soldiers' Home, and completing the circuit with Rock Creek at the other end. Then, too, there is the development in Anacostia and along the Eastern Branch. Then, the opportunities for playgrounds that there are in Washington.

It just makes my mouth water for my poor city of Cincinnati, when I look out and can see clear down to the Potomac and see six and seven baseball matches going on with all the fervor of Young America, and nobody to say them nay! And to think—to think that we had a genius a hundred years ago, almost, in his way, as matchless as Washington, to make the plan for a great Capital, whose remains were buried here the other day, and whose plans were hardly changed in the new plan made by Burnham and his associates. I know there has been discussion as to that plan. There has been a feeling that perhaps it was slipped on to us at one time, and at another; but we all know, even my dear friend, good old Uncle Joe, knows, that we are going to build up to that plan some day. It is not coming at once, but we ought to thank God that we have got a plan like that to build to so that when we go on with the improvement every dollar that we put in goes to make Washington beautiful a hundred years hence.

Then, Justice Stafford, in his very eloquent remarks, called attention to the fact that in 1846—I am sorry to say it ought to be characterized, at least as far as that is concerned, as a day of small things—when the Congress could have recited this: "Whereas, no more territory ought to be held under the exclusive legislation given to Congress over the District, which is the seat of the general government, than may be necessary and proper for the purposes of such a seat. Therefore"—we give back all that we got from Virginia. It is true the early statute said that no buildings should be put on anything but the Maryland side of the river, and perhaps they felt that as we were not going to use that side for buildings, they did not need it at all. I have never been able to satisfy myself that that retrocession was within the power of Congress to make. They did attempt to settle it once in the Supreme Court, but the Supreme Court has a facility in avoiding the main question, born of long practice.

And when a gentleman who is paying taxes on this side asks that they be extended to the other side, on the ground that that retrocession did not carry Virginia, so that he might have his taxes reduced, the Supreme Court says that he can not do it in a collateral way; says that, as both parties to the transaction seem to be satisfied up to this time, they do not intend to investigate or seek any burdens that their salaries do not require them to meet. We have never had that question tested. I believe we ought to look forward to a great city of Washington, and while the Anglo Saxon—and especially the Anglo Saxon in Virginia—holds on to territory as long as he can, it might be possible by agitating the question in a legal way to induce another settlement by which we should get the only part of that that we really would like to have, the part that we own now in fee, the eleven hundred acres of the Arlington estate, and a great deal that is unoccupied, leaving Alexandria out, and Falls Church, and taking in only that that is uninhabited, so that we may have in this District, under our fostering control, where we can build roads and make the District still more beautiful, that bank of the Potomac on the other side, as you go up toward Cabin John Bridge. We will need it; the city will continue to grow. It may be, as Justice Stafford has said, that there will be inaugurated a protest by the people living here that they have not political power; but I think that the Justice will find, when he comes to looking into the hearts of the American people, that they will not be convinced when they come to Washington that the Washingtonians are suffering to that degree that requires a reversal of the policy adopted, with entire clearness of mind by the framers of the Constitution. Washington, who doubtless inserted that particular provision in the Constitution, through his influence, also had L'Enfant draw the plans of Washington, and the plans of Washington were not adapted to a village like Alexandria and the village that was in the District at the time we came here—that was adapted to a city of magnificent distances, and to a city of millions of inhabitants; and therefore the clause was adopted, knowing that just such a city we would have here, and just such a city would have to get along, relying upon the training in self-government of the representatives of eighty millions of people to do justice by it and its residents.

Now, my dear friends, I want to say to you that I have got into a constitutional discussion here that I did not anticipate, but I hope it has not clouded my meaning, which I intended to make as clear as possible, that I am deeply interested in the welfare of the District, I am deeply interested in securing good government to every man, woman and child in this District, and to secure so far as is possible, with the original plan under the Constitution, such voice as the people of the District may require in their local matters. But, when it comes to defining how that is to be given, I can not be more explicit than to say it must rest ultimately on the right of petition. I do not see how you can do anything else. I am sure that if you will constantly agitate, and if you will have as eloquent an orator as Justice Stafford talk to the committees of the House and Senate every year, he will rouse them to such a desire to save you from the "slavery" that he has pictured, that you will get the attention you deserve.

## ELIMINATING GI BILL TIME LIMITATIONS

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, recently it has been brought to my attention that on May 31, 1974, hundreds of thousands of Vietnam era veterans are going to lose their GI bill education benefits even if they have not had the opportunity to use them.

Under the Vietnam GI bill, veterans have 8 years from the date of discharge to take advantage of the educational assistance program. it has been argued by the Veterans' Administration that the purpose of the GI bill is to encourage people to go into training directly after discharge from the service, in order to get trained and acclimated for fitting back into society. Thus, any extension of the 8-year limit is unnecessary and undesirable.

Most veterans do use their benefits during this 8-year discharge period, but there are many whose financial position makes it impossible to use these GI benefits until later. Should these veterans be forced to give up the benefits they have earned, simply because their timing does not fit with ours?

I am sure every caseworker on the Hill has dealt with several instances where a veteran fully intends to take advantage of the education opportunity which Congress has legislated, but cannot use up the benefits within the specified time period.

Just last week I heard from another veteran in this situation. This woman, a former Marine Corps member, is the mother of five children and the wife of a serviceman who retires in 2 years.

She would like very much to get her teaching degree and take up a new career now that her children are of school age, but she has discovered that her GI bill benefits will run out next May, leaving her with 9½ months of benefits left. She finds that four other members in her teaching program are in the same boat.

Attending school for this woman has been difficult, due to her family obligations, but she has persisted in order to achieve something she really feels is important. To be honest, I was embarrassed to have to tell this woman there was nothing that could be done to extend her benefits, despite her particular circumstances. I could only promise to try to get the rules changed.

I have already sponsored legislation which would remove completely any time limits on GI benefits, and I sincerely hope the House Veterans' Education Subcommittee will give this measure its enthusiastic approval. I can see that it might be cheaper in the short run to try to limit the usable time for collecting GI benefits, but in the long run, I think this is a miserly and petty attitude on the part of the U.S. Government.

As a member of the Veterans' Affairs Committee, I have learned that the GI bill program has been a good economic investment in the long run. The VA spends about $6,300 sending a veteran with full benefit due to school for 4 years. Armed with a college degree, a veteran can expect to earn about $213,000 more in his lifetime than with just a high school degree. This additional income creates some $40,000 of additional Federal taxes which can be collected off these veterans—about six times the initial GI bill investment.

Based on these statistics, I just think it is pound foolish for the Federal Government to insist upon an idle rule which requires benefits be claimed within any specified time period.

The results of rushing the utilization of these earned benefits are all negative: It deprives many of the opportunity to finish their training; it creates economic hardship among those who attempt to match the Government's timetable rather than their own economic requirements; it encourages some veterans to try to use up their benefits on such nondegree work as flying lessons; and it creates substantial ill feelings among veterans who feel they have been cheated of what is rightfully due them.

I would respectfully urge quick action to remedy this flaw in the Government's fine GI program and would ask that my colleagues who have run into this same problem notify the Veterans Education Subcommittee of their concern and desire for the elimination of this onerous time requirement.

## MAYOR ACTS TO CURB SPIRALING DISTRICT OF COLUMBIA COSTS

(Mr. REES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. REES. Mr. Speaker, as chairman of the Subcommittee on Revenue and Financial Affairs of the House District Committee, I welcomed last week's announcement by Mayor Walter Washington that all District agencies should begin planning now for the serious financial difficulties the city may face next fiscal year.

Initial projections of funding requirements and available resources by District officials show that if the city maintains current service levels with revenues expected from current sources, there will be a funding gap of more than $80 million in our Nation's Capital due to pay raises, debt service, pension payments, and other difficult-to-control expenditure increases. Because of this, District agency heads have been asked to prepare their next year's budget at amounts 5 to 10 percent lower than this year.

The benefits of this approach should be a thorough reassessment of the need for and value of present city programs. The result should be a budget that directs city resources to programs that can provide the greatest benefits at maximum dollar impact.

At the same time, the city is considering new revenue measures, including some form of tax on nonresident income and a possible increase in the Federal payment. These measures, which will come before my subcommittee, should be developed in a comprehensive manner with all possible alternatives fully explored. I continue to believe that piecemeal tax measures as gap-fillers are not the answer to the city's revenue difficulties. I trust a broad-based approach will be undertaken this year.

The continued reexamination of the use of District resources must be encouraged if we are to keep the Federal payment and the tax burdens borne by citizens within tolerable limits. I trust the planning guidelines issued by Washington, D.C.'s Mayor last week will move the District in the direction of carefully examining viable long-term solutions to the expenditure-revenue squeeze facing the Nation's cities.

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## ADVISORY COMMITTEE ON PRIVACY AND CONFIDENTIALITY

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the House will be interested to learn that the Census Bureau's 15-member advisory committee on privacy and confidentiality met in Washington yesterday. However, one of its star members was missing. His name is Tom Charles Huston, who in 1970 devised the now-discredited plan for the White House to intensify Government surveillance in the name of improving domestic security. As you may recall, the plan was briefly approved by President Nixon despite its unconstitutionality and objections from FBI Director J. Edgar Hoover. President Nixon later rescinded that approval in response to protests from Mr. Hoover.

Just what Mr. Huston is doing serving as a member of a Government advisory committee on privacy and confidentiality is a mystery to me. Fortunately, I understand that his term of appointment will soon end—the earlier the better. In fact, I think he should resign immediately and permit the appointment of a true advocate of privacy and confidentiality so that the American people may be assured their constitutional rights are being safeguarded.

One of Mr. Hoover's concerns with the domestic security plan was that the—and I quote Mr. Huston—"civil liberties people may become upset." I think it would be a darn good idea if one of those civil liberties people was appointed to fill Mr. Huston's place on the advisory committee.

Following are the texts of memoranda prepared by Mr. Huston on increased domestic intelligence gathering:

### RECOMMENDATIONS

(Top Secret: Handle via Comint Channels Only.)

### OPERATIONAL RESTRAINTS ON INTELLIGENCE COLLECTION

A. Interpretive Restraint on Communications Intelligence: Recommendation: Present interpretation should be broadened to permit and program for coverage by N.S.A. [National Security Agency] of the communications of U.S. citizens using international facilities.

Rationale: The F.B.I. does not have the capability to monitor international communications. N.S.A. is currently doing so on a restricted basis, and the information is particularly useful to the White House and it would be to our disadvantage to allow the F.B.I. to determine what N.S.A. should do in this area without regard to our own requirements. No appreciable risk is involved in this course of action.

B. Electronic Surveillance and Penetrations: Recommendation: Present procedures should be changed to permit intensification of coverage of individuals and groups in the United States who pose a major threat to the internal security.

Also, present procedures should be changed to permit intensification of coverage of foreign nationals and diplomatic establishments in the United States of interest to the intelligence community.

At the present time, less than [unclear] electronic penetrations are operative. This includes coverage of the C.P.U.S.A. (Communist Party, U.S.A.) and organized crime targets, with only a few authorized against subject of pressing internal security interest.

Mr. Hoover's statement that the F.B.I. would not oppose other agencies seeking approval for the operating electronic surveillances is gratuitous since no other agencies have the capability.

Everyone knowledgeable in the field, with the exception of Mr. Hoover concurs that existing coverage is grossly inadequate. C.I.A. and N.S.A. note that this is particularly true of diplomatic establishments, and we have learned at the White House that it is also true of new Left groups.

C. Mail Coverage:

Recommendation: Restrictions on legal coverage should be removed.

Also, present restrictions on covert coverage should be relaxed on selected targets of priority foreign intelligence and internal security interest.

Rationale: There is no valid argument against use of legal mail covers except Mr. Hoover's concern that the civil liberties people may become upset. This risk is surely an acceptable one and hardly serious enough to justify denying ourselves a valuable and legal intelligence tool.

Covert coverage is illegal and there are serious risks involved. However, the advantages to be derived from its use outweigh the risks. This technique is particularly valuable in identifying espionage agents and other contacts of foreign intelligence services.

D. Surreptitious Entry:

Recommendation: Present restrictions should be modified to permit procurement of vitally needed foreign cryptographic material.

Also, present restrictions should be modified to permit selective use of this technique against other urgent security targets.

Rationale: Use of this technique is clearly illegal: it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful tool and can produce the type of intelligence which cannot be obtained in any other fashion.

The F.B.I., in Mr. Hoover's younger days, used to conduct such operations with great success and with no exposure. The information secured was invaluable.

N.S.A. has a particular interest since it is possible by this technique to secure material with which N.S.A. can break foreign cryptographic codes. We spend millions of dollars attempting to break these codes by machine. One successful surreptitious entry can do the job successfully at no dollar cost.

Surreptitious entry of facilities occupied by subversive elements can turn up information about identities, methods of operation, and other invaluable investigative information which is not otherwise obtainable. This technique would be particularly helpful if used against the Weathermen and Black Panthers.

The deployment of the executive protector force has increased the risk of surreptitious entry of diplomatic establishments. However, it is the belief of all except Mr. Hoover that the technique can still be successfully used on a selective basis.

E. Development of Campus Sources:

Recommendation: President restrictions should be relaxed to permit expanded coverage of violence-prone campus and student-related groups.

Also, C.I.A. coverage of American students (and others) traveling or living abroad should be increased.

Rationale: The F.B.I. does not currently recruit any campus sources among individuals below 21 years of age. This dramatically reduces the pool from which sources may be drawn. Mr. Hoover is afraid of a young student surfacing in the press as an F.B.I. source, although the reaction in the past to such events has been minimal. After all, everyone assumes the F.B.I. has such sources.

The campus is the battleground of the revolutionary protest movement. It is impossible to gather effective intelligence about the movement unless we have campus sources. The risk of exposure is minimal, and where exposure occurs the adverse publicity is moderate and short-lived. It is a price we must be willing to pay for effective coverage of the campus scene. The intelligence community, with the exception of Mr. Hoover, feels strongly that it is imperative the [was unclear] increase the number of campus sources this fall in order to forestall widespread violence.

C.I.A. claims there are not existing restraints on its coverage of over-seas activities of U.S. nationals. However, this coverage has been grossly inadequate since 1965 and an explicit directive to increase coverage is required.

F. Use of Military Undercover Agents:

Recommendation: Present restrictions should be retained.

Rationale: The intelligence community is agreed that the risks of lifting these restraints are greater than the value of any possible intelligence which would be acquired by doing so.

### BUDGET AND MANPOWER RESTRICTIONS

Recommendation: Each agency should submit a detailed estimate as to projected manpower needs and other costs in the event the various investigative restraints herein are lifted.

Rationale: In the event that the above recommendations are concurred in, it will be necessary to modify existing budgets to provide the money and manpower necessary for their implementation. The intelligence community has been badly hit in the budget squeeze. (I suspect the foreign intelligence operations are in the same shape) and it maybe will be necessary to make some modifications. The projected figures should be reasonable, but will be subject to individual review if this recommendation is accepted.

### MEASURES TO IMPROVE DOMESTIC INTELLIGENCE OPERATIONS

Recommendation: A permanent committee consisting of the F.B.I., C.I.A., N.S.A. D.I.A. [Defense Intelligence Agency] and the military counterintelligence agencies should be appointed to provide evaluations of domestic intelligence estimates, and carry out the other objectives specified in the report.

Rationale: The need for increased coordination, joint estimates, and responsiveness to the White House is obvious to the intelligence community. There are a number of operational problems which need to be worked out since Mr. Hoover is fearful of any mechanism which might jeopardize his autonomy. C.I.A. would prefer an ad hoc committee to see how the system works, but other members believe that this would merely delay the establishment of effective coordination and joint operations. The value of lifting intelligence collection restraints is proportional to the availability of joint operations and evaluation, and the establishment of this interagency group is considered imperative.

(Top Secret)

### ANALYSIS AND STRATEGY

Memorandum for: H. R. Haldeman
From: Tom Charles Huston
Subject: Domestic intelligence review

### *1. Background*

A working group consisting of the top domestic intelligence officials of the FBI, CIA, DIA, NAS, and each of the military services met regularly throughout June to discuss the problems outlined by the President and to draft the attached report. The discussions were frank and the quality of work first-rate. Cooperation was excellent, and all were delighted that an opportunity was finally at hand to address themselves jointly to the serious internal security threat which exists.

I participated in all meetings, but restricted my involvement to keeping the committee on the target the President established. My impression that the report would be more accurate and the recommendations more helpful if the agencies were allowed wide latitude in expressing their opinions and working out arrangements which they felt met the President's requirements consistent with the resources and missions of the member agencies.

### 2. *Mr. Hoover*

I went into this exercise fearful that C.I.A. would refuse to cooperate. In fact, Dick Helms [Director of Central Intelligence] was most cooperative and helpful, and the only stumbling block was Mr. Hoover. He attempted at the first meeting to divert the committee from operational problems and redirect its mandate to the preparation of another analysis of existing intelligence. I declined to acquiesce in this approach, and succeeded in getting the committee back on target.

When the working group completed its report, Mr. Hoover refused to go along with a single conclusion drawn or support a single recommendation made. His position was twofold:

(1) Current operations are perfectly satisfactory and (2) No one has any business commenting on procedures he has established for the collection of intelligence by the F.B.I. He attempted to modify the body of the report, but I successfully opposed it on the grounds that the report was the conclusion of all the agencies, not merely the F.B.I. Mr. Hoover then entered his objections as footnotes to the report. Cumulatively, his footnotes suggest that he is perfectly satisfied with current procedures and is opposed to any changes whatsoever. As you will note from the report, his objections are generally inconsistent and frivolous—most express concern about possible embarrassment to the intelligence community (i.e., Hoover) from public disclosure of clandestine operations.

Admiral Gayler and General Bennett were greatly displeased by Mr. Hoover's attitude and his insistence on footnoting objections. They wished to raise a formal protest and sign the report only with the understanding that they opposed the footnotes. I prevailed upon them not to do so since it would only aggravate Mr. Hoover and further complicate our efforts. They graciously agreed to go along with my suggestion in order to avoid a nasty scene and jeopardize the possibility of positive action resulting from the report. I assured them that their opinion would be brought to the attention of the President.

### 3. *Threat Assessment*

The first 23 pages of the report constitute an assessment of the existing internal security threat, our current intelligence coverage of this threat, and areas where our coverage is inadequate. All agencies concurred in this assessment, and it serves to explain the importance of expanded intelligence collection efforts.

### 4. *Restraints on Intelligence Collection*

Part two of the report discusses specific operational restraints which currently restrict the capability of the intelligence community to collect the types of information necessary to deal effectively with the internal security threat. The report explains the nature of the restraints and sets out the arguments for and against modifying them. My concern was to afford the President the strongest arguments on both sides of the question so that he could make an informed decision as to the future course of action to be followed by the intelligence community.

I might point out that of all the individuals involved in the preparation and consideration of this report, only Mr. Hoover is satisfied with existing procedures.

Those individuals within the F.B.I. who have day-to-day responsibilities for domestic intelligence operations privately disagree with Mr. Hoover and believe that it is imperative that changes in operating procedures be initiated at once.

I am attaching to this memorandum my recommendations on the decision the President should make with regard to these operational restraints. Although the report sets forth the pros and cons on each issue, it may be helpful to add my specific recommendations and the reasons therefor in the event the President has some doubts on a specific course of action.

### 5. *Improvement in Inter-Agency Coordination*

All members of the committee and its working group, with the exception of Mr. * * * imperative that a continuing mechanism be established to effectuate the coordination of domestic intelligence efforts and the evaluation of domestic intelligence data. In the past there has been no systematic effort to mobilize the full resources of the intelligence community in the internal security area and there has been no mechanism for preparing community-wide domestic intelligence estimates such as is done in the foreign intelligence area by the United States Intelligence Board. Domestic intelligence information coming into the White House has been fragmentary and unevaluated. We have not had, for example, a community-wide estimate of what we might expect short or long-term in the cities or on the campuses or within the military establishment.

Unlike most of the bureaucracy, the intelligence community welcomes direction and leadership from the White House. There appears to be agreement, with the exception of Mr. Hoover, that effective coordination within the community is possible only if there is direction from the White House. Moreover, the community is pleased that the White House is finally showing interest in their activities and an awareness of the threat which they so acutely recognize.

I believe that we will be making a major contribution to the security of the country if we can work out an arrangement which provides for institutionalized coordination within the intelligence community and effective leadership from the White House.

### 6. *Implementation of the President's decisions*

If the President should decide to lift some of the current restrictions and if he should decide to authorize a formalized domestic intelligence instruction, I would recommend the following steps:

(A) Mr. Hoover should be called in privately for a stroking session at which the President explains the decision he has made, thanks Mr. Hoover for his candid advice and past cooperation, and indicates he is counting on Edgar's cooperation in implementing the new report.

(B) Following this Hoover session, the same individuals who were present at the initial session in the Oval Office should be invited back to meet with the President. At that time, the President should thank them for the report, announce his decisions, indicate his desires for future activity, and present each with an autographed copy of the photo of the first meeting which Ollie took.

(C) An official memorandum setting forth the precise decisions of the President should be prepared so that there can be no misunderstanding. We should also incorporate a review procedure which will enable us to ensure that the decisions are fully implemented.

I hate to suggest a further imposition on the President's time, but think these steps will be necessary to pave over some of the obvious problems which may arise if the President decides, as I hope he will, to overrule Mr. Hoover's objections to many of the proposals made in this report. Having seen the President in action with Mr. Hoover, I am confident that he can handle this situation in such a way that we can get what we want without putting Edgar's nose out of joint. At the same time, we can capitalize on the good will the President has built up with the other principals and minimize the risk that they may feel they are being forced to take a back seat to Mr. Hoover.

### 7. *Conclusion*

I am delighted with the substance of this report and believe it is a first-rate job. I have great respect for the integrity, loyalty, and competence of the men who are operationally responsible for internal security matters and believe that we are on the threshold of an unexcelled opportunity to cope with a very serious problem in its germinal stages when we can avoid the necessity for harsh measures by acting swift, discreetly, and decisively to deflect the threat before it reaches alarming proportions.

I might add, in conclusion, that it is my personal opinion that Mr. Hoover will not hesitate to accede to any decision which the President makes, and the President should not, therefore, be reluctant to overrule Mr. Hoover's objections. Mr. Hoover is set in his ways and can be bull-headed as hell, but he is a loyal trooper. Twenty years ago he would never have raised the type of objections he has here, but he's getting old and worried about his legend. He makes life tough in this area, but not impossible—for he'll respond to direction by the President and that is all we need to set the domestic intelligence house in order.

(Top Secret)

DECISION MEMORANDUM

THE WHITE HOUSE,
*Washington.*

JULY 15, 1970.

(Top Secret)

(Handle via Comint Channels only)

Subject: Domestic Intelligence.

The President has carefully studied the special report of the Interagency Committee on Intelligence (ad hoc) and made the following decisions:

### 1. *Interpretive restraint on communications intelligence*

National Security Council Intelligence Directive Number 6 (NSCID–6) is to be interpreted to permit N.S.A. to program for coverage the communications of U.S. citizens using international facilities.

### 2. *Electronic surveillances and penetrations*

The intelligence community is directed to intensify coverage of individuals and groups in the United States who pose a major threat to the internal security. Also, coverage of foreign nationals and diplomatic establishments in the United States of interest to the intelligence community is to be intensified.

### 3. *Mail coverage*

Restrictions on legal coverage are to be removed, restrictions on covert coverage are to be relaxed to permit use of this technique on selected targets of priority foreign intelligence and internal security interest.

### 4. *Surreptitious entry*

Restraints on the use of surreptitious entry are to be removed. The technique is to be used to permit procurement of vitally needed foreign crytographic material and against other urgent and high priority internal security targets.

### *5. Development of campus sources*

Coverage of violence-prone campus and student-related groups is to be increased. All restraints which limit this coverage are to be removed. Also C.I.A. coverage of American students (and others) traveling or living abroad is to be increased.

### *6. Use of military undercover agents*

Present restrictions are to be retained.

### *7. Budget and manpower*

Each agency is to submit a detailed estimate as to projected manpower needs and other costs required to implement the above decisions.

### *8. Domestic intelligence operations*

A committee consisting of the directors or other appropriate representatives appointed by the directors, of the F.B.I., C.I.A., N.S.A., D.I.A., and the military counterintelligence agencies to be constituted effective August 1, 1970, to provide evaluations of domestic intelligence, prepared periodic domestic intelligence estimates, carry out the other objectives specified in the report, and perform such other duties as the President shall, from time to time, assign. The director of the F.B.I. shall serve as chairman of the committee. Further details on the organization and operations of this committee are set forth in an attached memorandum.

The President has directed that each addressee submit a detailed report, due on September 1, 1970, on the steps taken to implement these decisions. Further such periodic reports will be requested as circumstances merit.

The President is aware that procedural problems may arise in the course of implementing these decisions. However, he is anxious that such problems be resolved with maximum speed and minimum misunderstanding. Any difficulties which may arise should be brought to my immediate attention in order that an appropriate solution may be found and the President's directives implemented in a manner consistent with his objectives.

TOM CHARLES HUSTON.

(Top Secret)

(Handle via Comint Channels Only)

## ORGANIZATION AND OPERATIONS OF THE INTERAGENCY GROUP ON DOMESTIC INTELLIGENCE AND INTERNAL SECURITY (IAG)

### *1. Membership*

The membership shall consist of representatives of the F.B.I., C.I.A., D.I.A., N.S.A., and the counter-intelligence agencies of the Departments of the Army, Navy, and Air Force. To insure the high level consideration of issues and problems which the President expects to be before the group, the directors of the respective agencies should serve personally. However, if necessary and appropriate, the director of a member agency may designate another individual to serve in his place.

### *2. Chairman*

The director of the FBI shall serve as chairman. He may designate another individual from his agency to serve as the FBI representative on the group.

### *3. Observers*

The purpose of the group is to effectuate communitywide coordination and secure the benefits of communitywide analysis and estimating. When problems arise which involve areas of interest to agencies or departments not members of the group, they shall be invited, at the discretion of the group, to join the group as observers and participants in those discussions of interest to them. Such agencies and departments include the Departments of State (I & R, Passport); Treasury (IRS, Customs); Justice (BNDD, Community Relations Service); and such other agencies which may have investigative or law enforcement responsibilities touching on domestic intelligence or internal security matters.

### *4. White House liaison*

The President has assigned to Tom Charles Huston staff responsibility for domestic intelligence and internal security affairs. He will participate in all activities of the group as the personal representative of the President.

### *5. Staffing*

The group will establish such subcommittees or working groups as it deems appropriate. It will also determine and implement such staffing requirements as it may deem necessary to enable it to carry out its responsibilities, subject to the approval of the President.

### *6. Duties*

The group will have the following duties:

(A) Define the specific requirements of member agencies of the intelligence community.

(B) Effect close, direct coordination between member agencies.

(C) Provide regular evaluations of domestic intelligence.

(D) Review politics governing operations in the field of domestic intelligence and develop recommendations.

(E) Prepare periodic domestic intelligence estimates which incorporate the results of the combined efforts of the intelligence community.

(F) Perform such other duties as the President may from time to time assign.

### *7. Meetings*

The group shall meet at the call of the chairman, a member agency, or the White House representative.

### *8. Security*

Knowledge of the existence and purposes of the group shall be limited on a strict "need to know" basis. Operations of, and papers originating with, the group shall be classified "top secret handle via Comint channels only."

### *9. Other procedures*

The group shall establish such other procedures as it believes appropriate to the implementation of the duties set forth above.

(Top Secret)

## A BUREAUCRATIC SOLUTION

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, gasoline dealers throughout the Nation are caught in a squeeze applied by an agency of the U.S. Government. Despite administration-approved increases in the wholesale cost of gasoline, the dealers are prohibited by the Cost of Living Council from passing on such increases to the consumer, a potentially ruinous situation.

In the San Diego area—a part of which I represent—dealers tried to dramatize their plight last week with a 1-day slowdown that resulted in about half the service station operators in the county shutting down their pumps for the day.

Unfortunately, the CLC seems to be reaching to this crisis in the classic fashion of uninspired bureaucrats everywhere.

What follows is hard to believe, but true: Rather than take decisive action, the Council is responding by quizzing dealers on their attitudes.

Imagine! Reams of paper flowing around the country while the gasoline pumps grind to a halt. Dealers who can stand it are asked to pick up these questionnaires at their local IRS offices, fill them in, and send them back to the Cost of Living Council. The CLC, plugging relentlessly on, indicated to my staff it hopes to finish tabulating this strange poll within 2 weeks to determine how dissatisfied the dealers are.

The sad truth is that while all this paper shuffling is taking place, stations could be closing down, for good, in your district and mine.

The obvious result of such closures would be less competition, higher prices, and another black eye for the customer.

Clearly, a situation which now threatens tens of thousands of small gasoline dealers and which eventually and inevitably would have dire consequences for tens of millions of motorists must not be allowed to continue.

Prompt and effective remedial action is urgently needed. Why fool around with questionnaires and 14-page explanations to Members of Congress, as the CLC is doing?

Why not do something positive instead? Sending windy explanations of the gasoline pricing policies to my troubled constituents, as the CLC suggests, is about the same as tossing a drowning man a treatise explaining the effect of water on the lungs.

It does not take piles of questionnaires and computer technology to determine if retail gasoline dealers are unhappy.

Everyone already knows they are.

Let us get on the ball and figure out a fair and realistic pricing arrangement.

## AMERICAN PEOPLE SHOULD SAY "NO" TO COST OF LIVING COUNCIL

(Mr. SYMMS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SYMMS. Mr. Speaker, the time has come for the American people to not only say "no," but "hell no" to the Cost of Living Council.

December 19, 1773, our ancestors dumped tea in the harbor in Boston because of repression from the King's government—our Government today has grown to such giant disproportion that they are now dictating to the people instead of protecting them.

For example, the retail gas dealers are being asked to operate their service stations at a loss. We cannot get any responsiveness from this bunch of dictatorial bureaucrats and I think it is time for the gasoline service station operators to start dumping tea. They could do it by telling the Cost of Living Council to "go to hell"—and tell their elected officials to repeal the Economic Stabilization Act of 1970 and do it now.

## PERSONAL PRIVACY AND THE SOCIAL SECURITY NUMBER

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

**Mr. GOLDWATER.** Mr. Speaker, I recently articulated my concern about the lack of safeguard requirements in computer technology, and explained that I had introduced legislation which would help provide the individual protection from encroachment upon his personal privacy relating to information recorded about him in data banks.

Of equal concern to me, and I am sure to my colleagues, is the increasing use of the social security account number that could lead to its use as a standard universal identifier. This permanent number becomes a way in which the individual and all his activities can be identified, from the cradle to the grave. Therefore, the use of this number also becomes an efficient and expedient way to exchange information about him, from one data bank to another.

Therefore, the social security number, used as a standard universal identifier, encourages the exchange of information, and could also encourage the Federal Government and certain types of private organizations to develop dossiers on much the Nation's citizenry. This kind of activity must be avoided.

I have introduced a bill, to amend the Social Security Act, which requires that the use of the social security number be limited by law to those purposes that are mandated by Federal statute.

The bill would also require that Federal agencies and departments not request or promote the use of the social security number except to the extent justified by Federal law. Additionally, the bill would permit any person to refuse to disclose his social security number except to the extent justified by Federal law, and it would prohibit the exchange of the number by any unauthorized group.

Mr. Speaker, I would like to include the text of my bill as a part of my remarks for the interest and consideration of my colleagues:

### H.R. 9968

A bill to amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that (unless so required) no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance program

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 1106(a) of the Social Security Act is amended by striking out "shall be made except as the Secretary may by regulations prescribe" and inserting in lieu thereof "and no disclosure of the social security account number or other identifying number of any individual to whom (or to whose wages and self-employment income) any such file, record, report, paper, or information relates, shall be made by the Secretary or any such officer, employee, or person except with the express written permission of such individual (or as provided in subsection (c))".

(b) Section 1106(b) of such Act is amended by striking out "which is authorized by regulations prescribed pursuant to subsection (a)" and inserting in lieu thereof "which is permitted by the individual to whom (or to whose wages and self-employment income) it relates as described in subsection (a)".

SEC. 2. (a) Section 1106 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) Social security account numbers (or other identifying numbers) issued to individuals under title II shall be issued solely for purposes of the old-age, survivors, and disability insurance program established by such title, and (except to the extent specifically necessary for the conduct or administration of the old-age, survivors, and disability insurance program) no individual shall be required to include the number issued to him on any form or return prescribed for purposes of any Federal, State, or local law or to be required to disclose or furnish such number to any public officer or employee, or any other person, in connection with the conduct or administration of any program or activity under any Federal, State, or local law, unless the inclusion, disclosure, or furnishing of such number is specifically required by a provision of Federal law.

"(2) It shall be unlawful for any person to require an individual to disclose or furnish his social security account number (or other identifying number) issued under title II, for any purpose, in connection with any business transaction or commercial or other activity, or to refuse to extend credit or make a loan to or enter into any other business transaction or commercial relationship with an individual (except to the extent specifically necessary for the conduct or administration of the old-age, survivors, and disability insurance program) wholly or partly because such individual does not disclose or furnish such number, unless the disclose or furnishing of such number is specifically required by a provision of Federal law.

"(3) Whenever it appears to the Attorney General that any person has engaged, is engaging, or is about to engage in acts or practices constituting a violation of this subsection he may bring an action, in the district court of the United States for any district in which such person may be found, to enjoin such acts or practices; and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The court in any such action shall issue such orders as may be necessary to compel such person to comply with the provisions of this subsection.

"(4) Any person who willfully and knowingly violates this subsection shall be liable to the individual whose social security account number (or other identifying number) is involved, in an action brought in the district court of the United States for the district where such individual resides or for any district where such person may be found, in an amount equal to the sum of—

"(A) any actual damages sustained by such individual as a result of such violation;

"(B) liquidated damages in such amount (not less than $1,000) as the court may allow;

"(C) punitive damages in such amount as the court may allow; and

"(D) in the case of a successful action, the costs thereof together with reasonable attorneys' fees as determined by the court.

"(5) Any person who willfully and knowingly violates this subsection shall be fined not more than $10,000 or imprisoned for not more than one year or both.".

(b) The heading of section 1106 of such Act is amended by adding after "DEPARTMENT" the following: "; PROHIBITION AGAINST COMPULSORY DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBERS".

SEC. 3. The amendments made by this Act shall take effect on the date of the enactment of this Act.

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## KANSAS IS FANTASTIC

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

**Mr. SKUBITZ.** Mr. Speaker, I insert in the CONGRESSIONAL RECORD the text of an editorial that appeared in the September 12 issue of the Journal-Free Press of Osage City, Kans.

The editorial enumerates the advantages and virtues of living in Kansas. It does so without rhetorical flourish or flowery adjectives but rather in matter of fact terms. It is not intended as a come-on for tourists to the wheat State nor as inducement for citizens to settle in our cities or on our magnificent prairies. Rather it is not too subtle a response to an article that appeared some weeks ago in the Wall Street Journal listing somewhat satirically Kansas' attractions for tourists.

It is quite clear to Editor Jim Reed of Osage City that the New York writer had become so inured to breathing the polluted air of that metropolis that the fresh air of the prairies made him dizzy, so habitated to the darkness of the skyscraper-lined streets that viewing the sun in the sky blinded him to the flowers and the grass and the waving fields of grain. In short, the Wall Street writer had eyes that sparkle with the view of dollar signs and dull when exposed to a pollution-free environment of clean land and air.

I feel sorry for him and those like him condemned to live out their lives in the Wall Street milieu. I commend the Osage Journal-Free Press for a well written and well timed editorial.

The editorial follows:

### KANSAS IS FANTASTIC

A few weeks ago a young writer penned a piece on Kansas for the Wall Street Journal. It was a tongue-in-cheek essay designed to poke fun at Kansas' tourist attractions, and he listed such things as the world's largest ball of twine at Cawker City, the world's largest hand-dug well at Greensburg, a concrete Garden of Eden at Lucas and Mont Bleu, the ski hill near Lawrence.

The writer, Eric Morgenthaler, chuckled as he wrote the article and punctuated the piece with such parenthetical expressions as (Laughter.) (Snickers.) (Yecch.) Big deal.

New York readers of the Wall Street Journal probably got off a few guffaws when they read the article because they have a warped sense of humor. Living in New York City is no laughing matter. And whenever he can find something that sounds worse than what he's stuck with, your average New Yorker will actually snicker out loud.

So, the article brightened an otherwise dull day for New Yorkers.

It also sent Kansas editors to their typewriters. The governor, seeing this as an opportunity to pick up a senate vote or two, fired off a letter to the editor. The governor's ire ricocheted off the director of the Kansas Department of Economic Development, and trickled on down to underling after underling. Everybody got caught up in the "let's cancel our subscription spirit."

It probably should be pointed out here for the record that Docking hasn't done much to promote tourism in Kansas. In fact, the whole KDED budget is ridiculously low.

As one Kansas editor pointed out, this hassle comes at a time when at least two States, Oregon and Colorado, are trying to keep tourists out. And Oregon has made it clear that new residents will not be welcome.

Coloradans and Oregonians have seen California and Florida. They say they don't need more growth, more people, more clutter, more problems.

It's just natural for Kansas to rise up in anger when someone kicks our State. We're all like the mother of a child. She spanks his bottom when he needs it, but she doesn't want anyone else to lay a hand on him.

It's a fact that Kansas does not have mountains since we gave Pikes Peak to Colorado, nor does it have ocean beaches, giant redwoods or national parks. Neither does it have the smog of Southern California, the crime rate of Washington, D.C., the foul air of Gary, Indiana or the innumerable problems of New York City.

And there's quite a contrast between the sereneness and beauty of our rolling Flint Hills and the muggings in New York's Central Park . . . between our sunsets and the view from Chicago's "EL" train as it rumbles through tenement districts . . . between a pantry in Kansas and an empty cupboard in Newark's skid row.

Kansas is far from a joke, especially at mealtime. All America eats bread made of Kansas wheat, and now Russians and Chinese are getting a taste of the good bread. With our amber waves of grain, Kansas is sort of a golden page in the middle of the American album.

Kansas is rich in history. The Civil War started here. The Oregon, Santa Fe and Chisholm trails traversed our prairies and Gunsmoke was born here.

As William Allen White, one of Kansas' many famous sons, once wrote, "There are scenes in Kansas—all over Kansas, more enthralling than the rugged grandeur of the mountains." Actually, Kansas is a kind of open window through which one can look and really see America. Every portion of the state has its own particular attractiveness, and every season paints a new picture.

A greater variety of wildflower life is found in Kansas than anywhere else in the nation, there is excellent hunting and fishing and water sports, our educational institutions rank high, our industries produce quality products for consumers of the world, our weather is a big factor in the longevity of our citizens, and our health facilities are such that a prominent author once wrote, "If I had to be sick, I'd rather be sick in Kansas."

But the state's greatest asset is its people. Few have too much, fewer have too little. The firmness of their handshake and their neighborliness is unmatched. The pioneering spirit still exists in Kansas today, as it did before Chevrolets and Cadillacs replaced the Conestogas. Kansas has been in the forefront in scores of social and health movements, leading the nation in granting suffrage to women and electing the first woman mayor in the world. The story of Kansas would fill volumes, but 14-year-old Peggy Dunlay of Pennsylvania summed it up pretty well in this letter to the Wall Street Journal:

"I am visiting my uncle in Prairie Village, Kan., and happened to read your article. I feel you are very much mistaken about Kansas.

"I am 14 years old and live in Pittsburgh, Pa. It is really nice to smell fresh air, see lots of land and see wheat fields and corn fields for miles and miles. For an Easterner, it is interesting and educational to hear stories about and see Indian artifacts. There seems to be no end to all the new schools, churches, homes and shopping centers. Also, Kansas is a very clean place to live. I think Kansas is fantastic."

So do we.

## POOR PEOPLE USED AS PAWNS FOR GOVERNMENTAL AGENCY

(Mr. SCHERLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SCHERLE. Mr. Speaker, this morning I visited the Victoria Apartments here in Washington. This housing project, operated by a Government body known as the Redevelopment Land Agency and funded by the Department of Housing and Urban Development, encompasses 360 acres of land. Over the past few years, the Federal Government has poured $28 million into this "model" project.

This morning I saw what that $28 million bought. The Victoria Apartments is a model, all right—a model of inefficiency, neglect, and shame. Never in my life have I seen such a total degradation of human dignity. The Victoria Apartments—home for about 80 people—is a dilapidated six-story firetrap, and the Federal Government is its slumlord. These people, living in squalor, pay rent to the Federal Government. In return, they receive nothing. Even the roof over their heads leaks. Paint is peeling from the walls and ceilings, and the small children get lead poisoning from eating the flakes. The heating system does not work on cold days. Trash litters the halls. Rats haunt the children's beds. The front door is boarded up in violation of all fire codes, and the fire escape is rickety. Outside, muggings occur on the doorstep, junkies and pushers roam free. Prostitutes use the hallways.

All this, Mr. Speaker, takes place under the loving eyes of the Federal Government. It is incredible. Ever since the Government took over this operation, the Victoria Apartments have gone downhill. Maintenance has deteriorated to insignificance, services are inoperative. In short, living conditions for these people are far worse today than they were when citizens owned the building. If a private landlord owned the Victoria Apartments, the Government would hail him into court tomorrow. It would take a platoon of lawyers a week to draw up the list of health, fire, and zoning code violations. Yet the Government ignores its own shortcomings. When the Government is the slumlord, a double standard apparently prevails.

As usual, it is the poor who suffer, the poor who are used as pawns, the poor who are forgotten in this bureaucratic nightmare. Once Federal money is obtained, the needs of the poor are ignored. Their homes are torn down and in their place in some distant future high rise apartments will be erected—too rich for the people who once lived in the neighborhood. And in the meantime, the poor are shuttled from ghetto to ghetto.

Mr. Speaker, this is a national disgrace, which might have gone unnoticed if it were not for the alert reporting of the probe team headed by Clare Crawford of the Washington Star-News and WRC-TV. Something should be done about it, and today is the day to start.

## RESOLUTION EXPRESSING CONCERN AT THE SUPPRESSION OF DISSENT IN THE SOVIET UNION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am today introducing a concurrent resolution expressing the sense of Congress that the President take "immediate and determined steps" to—

First, impress upon the Soviet Government the grave concern of the American people with the intimidation of those within the Soviet Union who do not adhere to prevailing ideology;

Second, call upon the Soviet Government to permit the free expression of ideas and free emigration by all its citizens in accordance with the Universal Declaration of Human Rights; and

Third, use the medium of current negotiations with the Soviet Union as well as informal contacts with Soviet officials in an effort to secure an end to repression of dissent.

Mr. Speaker, as a result of our current negotiations with the U.S.S.R., we have a unique opportunity to join with millions of Americans across the land, and many nations of the world, in expressing our outrage at the persecution of Soviet citizens whose only crime has been that they have openly criticized their government or tried to exercise other basic human freedoms, such as the right of emigration.

We have heard the eloquent appeals of Nobel Prize Laureate Alexander Solzhenitsyn and nuclear physicist Andrei Sakharov. We have witnessed the public humiliation of historian Pyotyr I. Yakir and economist Viktor A. Krasin, whose crime was publishing a newsletter and maintaining contacts with the outside world.

But these outrages have done more; they have served to illuminate the plight of hundreds of thousands of Soviet citizens.

For these repressions reach not only leaders of the intellectual community, but into the homes of ordinary citizens.

Mr. Speaker, we are all aware of the particular problem facing Soviet Jews wishing to leave the country. But as Mr. Sakharov so eloquently told Congress in his recent open letter, members of many other groups suffer as well.

Mr. Speaker, we in this country take our basic human freedoms as a matter of right, spelled out in the Bill of Rights in our Constitution. But if a Soviet citizen chooses to exercise freedom of expression, he or she may be subject at worst to charges of treason or long imprisonment, and at best, be the target of a public tribunal to extract a forced confession of guilt.

These repressions of human freedom today haunt our own country's attempt to formulate new trade agreements with the Soviet Union. Indeed, there are some who in effect suggest that expanded trade between the United States and the U.S.S.R. is more important than individual human dignity, that liberty must be subordinated to economics.

But, Mr. Speaker, I do not believe the United States can lay claim to being the guardian of liberty if we turn our back on the opportunity to extend the hand of human compassion to Soviet dissidents.

In this connection, Mr. Speaker, I would urge Members of the House of Representatives to give their support to the Jackson-Mills-Vanik amendment to the foreign trade bill which would withhold most-favored-nation treatment from any country that denies its citizens the right or opportunity to emigrate or imposes more than a normal tax on would-be emigrants.

But I also urge the House to adopt this resolution so that the Congress of the United States can stand with such leaders as West Germany's Chancellor Willy Brandt and Austria's Chancellor Bruno Kreisky to protest the persecution of these brave individuals who have spoken out for fundamental civil and political liberties.

Mr. Speaker, I include in the RECORD Mr. Sakharov's letter to Congress of September 14, 1973:

### OPEN LETTER TO THE CONGRESS OF THE UNITED STATES FROM ANDREI SAKHAROV, MOSCOW, SEPTEMBER 14, 1973

At a time when the Congress is debating fundamental issues of foreign policy, I consider it my duty to express my view on one such issue—protection of the right to freedom of residence within the country of one's choice. That right was proclaimed by the United Nations in 1948 in the universal declaration of human rights.

If every nation is entitled to choose the political system under which it wishes to live, this is true all the more of every individual person. A country whose citizens are deprived of this minimal right is not free even if there were not a single citizen who would want to exercise that right.

But, as you know, there are tens of thousands of citizens in the Soviet Union—Jews, Germans, Russians, Ukrainians, Lithuanians, Armenians, Estonians, Latvians, Turks and members of other ethnic groups—who want to leave the country and who have been seeking to exercise that right for years and for decades at the cost of endless difficulty and humiliation.

You know that prisons, labor camps and mental hospitals are full of people who have sought to exercise this legitimate right.

You surely know the name of the Lithuanian, Simas A. Kudirka, who was handed over to the Soviet authorities by an American vessel, as well as the names of the defendants in the tragic 1970 hijacking trial in Leningrad. You know about the victims of the Berlin Wall.

There are many more lesser known victims. Remember them, too!

For decades the Soviet Union has been developing under conditions of an intolerable isolation, bringing with it the ugliest consequences. Even a partial preservation of those conditions would be highly perilous for all mankind, for international confidence and detente.

In view of the foregoing, I am appealing to the Congress of the United States to give its support to the Jackson Amendment, which represents in my view and in the view of its sponsors an attempt to protect the right of emigration of citizens in countries that are entering into new and friendlier relations with the United States.

The Jackson Amendment is made even more significant by the fact that the world is only just entering on a new course of detente and it is therefore essential that the proper direction be followed from the outset. This is a fundamental issue, extending far beyond the question of emigration.

Those who believe that the Jackson Amendment is likely to undermine anyone's personal or governmental prestige are wrong. Its provisions are minimal and not demeaning.

It should be no surprise that the democratic process can add its corrective to the actions of public figures who negotiate without admitting the possibility of such an amendment. The amendment does not represent interference in the internal affairs of socialist countries, but simply a defense of international law, without which there can be no mutual trust.

Adoption of the amendment therefore cannot be a threat to Soviet-American relations. All the more, it would not imperil international detente.

There is a particular silliness in objections to the amendment that are found on the alleged fear that its adoption would lead to outbursts of anti-semitism in the U.S.S.R. and hinder the emigration of Jews.

Here you have total confusion, either deliberate or based on ignorance about the U.S.S.R. It is as if the emigration issue affected only Jews. As if the situation of those Jews who have vainly sought to emigrate to Israel was not already tragic enough and would become even more hopeless if it were to depend on the democratic attitudes and on the humanity of OVIR [the Soviet visa agency]. As if the techniques of "quiet diplomacy" could help anyone, beyound a few individuals in Moscow and some other cities.

The abandonment of a policy of principle would be a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall.

Such a denial would lead to stronger repressions on ideological grounds. It would be tantamount to total capitulation of democratic principles in face of blackmail, deceit and violence. The consequences of such a capitulation for international confidence, detente and the entire future of mankind are difficult to predict.

I express the hope that the Congress of the United States, reflecting the will and the traditional love of freedom of the American people, will realize its historical responsibility before mankind and will find the strength to rise above temporary partisan considerations of commercialism and prestige.

I hope that the Congress will support the Jackson Amendment.

(Signed) A. SAKHAROV.

Mr. Speaker, I insert at this point in the RECORD the text of the concurrent resolution to which I have referred:

### CONCURRENT RESOLUTION

*That* physicist Andrei Sakharov, novelist Alexander Solzhenitsyn, historian Pyotr Yakir, economist Viktor Krasin, and other citizens of the Soviet Union have demonstrated enormous courage and intellectual honesty in advocating and defending the importance of fundamental civil and political liberty, the necessity for the free and unrepressed dissemination of ideas, and the meaning of basic human decency although faced with increasing harassment and imminent danger of criminal sanction;

*That* the intensive and thorough campaign of the Soviet Government to intimidate and deter those who have spoken out against repression of political and intellectual dissent profoundly offends the conscience of a free people; and

*That* recent incidents of Soviet Government-sanctioned anti-Semitism violate internationally agreed-upon principles of human rights, including free emigration and free expression of ideas.

*It is, therefore, the sense of the Congress that the President should take immediate and determined steps to—*

(1) impress upon the Soviet Government the grave concern of the American people with the intimidation of those within the Soviet Union who do not adhere to prevailing ideology;

(2) call upon the Soviet Government to permit the free expression of ideas and free emigration by all its citizens in accordance with the Universal Declaration of Human Rights; and

(3) use the medium of current negotiations with the Soviet Union as well as informal contacts with Soviet officials in an effort to secure an end to repression of dissent.

## THE 186TH ANNIVERSARY OF U.S. CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CRONIN) is recognized for 15 minutes.

Mr. CRONIN. Mr. Speaker, yesterday was the 186th anniversary of the signing of our U.S. Constitution.

The great occasion was commemorated by Constitution Day ceremonies at the U.S. Civil Service Commission Auditorium here in Washington. Highlight of the affair was the principal address delivered by my good friend and colleague from Massachusetts, Representative SILVIO O. CONTE.

Mr. CONTE's remarks were extremely well received and, because of their relevance to our country and its future, I would like to share his thoughts with all my colleagues on this Constitution Day.

I now submit for the RECORD, Mr. CONTE's Constitution Day speech:

### REMARKS OF THE HON. SILVIO O. CONTE

It is a great honor for me to take part in this ceremony commemorating the 186th anniversary of the signing of our Constitution. But I must admit I was a bit surprised to be invited. I thought for sure that Senator Sam Ervin would have this honor after all the publicity he's gotten this year with his pocket Constitution.

In fact, I guess you could say that Senator Sam has done for the Constitution what Howard Cosell has done for Monday night football.

Of course, it is not enough simply to quote the Constitution, just as it is not enough to gather once a year to mark its anniversary.

For our Constitution is not merely a document; its significance is not universally associated with one day—September 17th. It will not make men free, nor keep them free. It does not guarantee peace, tranquility or happiness. By itself, our Constitution does nothing. Its value exists only to the degree that the citizens of this country and its institutions of government follow the principles it incorporates.

Where our Declaration of Independence is an eloquent and inspired statement of our goals and beliefs, our Constitution is the brilliant but demanding and difficult blueprint for achieving those goals. It works only when we work at it.

Through 186 years we have learned that it is not an easy thing to follow the precepts of self-government which our Constitution lays out. It is not a simple thing to follow the will of the majority while, at the same time, protecting the rights of the minority. We have failed this and other tests presented by our Constitution many times. Yet, in spite of our failures, our nation's journey is marked by success unrivalled in the history of civilization.

Certainly we have prospered materially. We have accumulated wealth, power and influence to a degree that nearly defies the imagination.

But, more importantly, we succeeded in renewing and improving upon those noble goals laid out for us so long ago.

In 1857 the British statesman and writer Macaulay said of our Constitution that it is "all sail and no anchor."

But Franklin Delano Roosevelt, addressing himself to the same point years later, noted that our Constitution "has proved itself the most marvelously elastic compilation of rules of government ever written."

What Macaulay missed but Roosevelt understood was that the framers of our Constitution did not set out to lay down inflexible dogma. Were that the case, our Constitution would have failed us generations ago.

The aim of our forefathers was to give us the means for constant renewal and rebirth—a tool to be used by succeeding generations to fit their needs as they saw them. They gave us the foundation for our national structure—a foundation firmly grounded in the bedrock of liberty and democracy. But it was for succeeding generations to build on that foundation.

Where has our Constitution led us? Where are we, as a nation, today? On many levels, the answer is that we built well on our foundation. For those who despair of this, we must only look at the original Constitution.

When the delegates of the Constitutional Convention in Philadelphia signed the product of their labors 186 years ago today, that Constitution granted the vote only to those fortunate enough to own land. Slavery was permitted. United States Senators were selected by their state legislators rather than by popular vote of the people. Voting rights for all adult male citizens were still nearly 100 years away, and it was nearly 150 years before those rights were granted to women. And the Bill of Rights—the first 10 Amendments to our Constitution—was still four years away.

Progress in these areas represent only a few of the milestones that marked our growth toward a better democracy. In these areas, and in thousands of others, our nation has proved that it has the means to change, to improve, to step ever closer to the ideals of freedom and justice.

Yet, in spite of a record of achievement unequalled in the world, there seems to be loose in our land a great number of people with little faith in our ability to deal with the challenges now facing us.

The sheer number of our problems and their complexity in this technological and densely populated society seem to fuel this pessimism, this lack of faith. Because our victories are seldom clear-cut anymore, because we bear greater worldwide responsibility than ever before in our history, the confidence Americans traditionally held in our system of self-government appears to be eroding.

We have, in this year of 1973, a graphic example of that increasing lack of faith. A searing government scandal is uncovered and immediately the doomsayers are busy predicting the failure of our system.

In part, the scandal occurred because some people in important positions did not have that needed faith in our system. But some of the reaction to this affair also gives evidence of a lack of faith—faith that this nation is strong enough to survive such a blow to its confidence.

Let us recognize the strength of a country like this—a country that can wash its dirty linen in public that has the machinery and the will to correct its mistakes, that can bear heavy criticism and not come apart at the seams.

Let us remember that while we face grave problems in 1973, we also can claim some important progress. Have we, for example, forgotten that this was the year that marked the end to the most tragic and costly war in our history? Have we forgotten the pride we felt in the return of our POW's—600 Americans who underwent the most brutal tortures and never lost their dignity nor their belief in America?

And, while speaking of things we may have forgotten, I would like to interject here a few words about another, larger group, that is not getting the recognition it is due.

When was the last time you heard anyone talking about the six million Vietnam veterans who, in the most difficult of circumstances, elected to do their duty and serve their country? Whatever our individual feelings about that war, there should be no disagreement over the debt we owe those who bore the burden of the fighting and dying for us.

I recently completed nearly a year's work and study on the plight of the Vietnam veteran. Just last week, I presented to the Congress a "white paper" containing the findings of that effort which took me across the nation.

As the national chairman of that inquiry—which was carried out in connection with the National League of Cities—U.S. Conference of Mayors— I can tell you that there is concrete proof that we are not providing our young veterans with educational and other benefits to match those which I and millions of other World War II veterans received a generation ago.

You who have gathered here today have a deep appreciation for our Constitution, what it has meant to our Nation, and the promise it holds for our continued greatness.

The six million young Vietnam veterans may not be as conscious of that; they may not take the time to articulate their belief; but they have proven by their service that they are willing to pay the ultimate price in defense of those principles. This Nation can do no less than to match their commitment.

But this challenge, as all the other countless challenges this Nation has faced over the years, cannot be met unless our institutions of government are functioning with the full participation and support of the people.

Ours, of course, is a government of laws, not of men. And I have made that point many times in debate on difficult issues in the Congress. But unless the people maintain confidence in the institutions created under our Constitution, those laws and those institutions will mean nothing. And the great experiment in democracy that is the United States will find itself going the way of all the great civilizations of the past.

As you know, we are now approaching our bicentennial. It will be a great and important milestone in the life of our nation, but it is also a time to put a microscope on our nation, to examine its inner strength and its potential for the future.

Recently I read an article devoted to this theme:

"The average age of the world's great civilizations," it said, "has been 200 years. These nations progressed through this sequence:

From bondage to spiritual faith—from faith to great courage;

From courage to liberty—from liberty to abundance;

From abundance to selfishness—from selfishness to complacency;

From complacency to apathy—from apathy to dependence;

From dependence back again to bondage."

In a few years the United States will be 200 years old. This cycle is not inevitable. But it depends on us.

We do not face an insurmountable task. We face only the latest of many challenges to our dedication to the goals of our forefathers; the latest of many challenges to our ability to meet and overcome new problems created by new and difficult times.

We should know that we have the tools to meet these challenges, just as Abraham Lincoln knew when, in the midst of a bloody civil war he wrote:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthral ourselves, and then we shall save our country."

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## ELECTION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota, (Mr. Frenzel) is recognized for 60 minutes.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

### GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Speaker, at the beginning of May of this year, the House Republican Research Committee appointed a task force to work in the field of election reform. This committee worked diligently through the months of May, June, and July, and produced a report which was printed in the Record on July 31, on pages 27038–27042.

The committee report is long, and I shall not ask that it be reproduced here today, Mr. Speaker, but I would remind Members of the House that it contained 17 recommendations. At this point, I would like to reinclude for the Record those 17 recommendations along with the members of the task force who labored so diligently in preparing what I think is a first rate report.

I think it is important to understand that the report of the task force does not represent the first choice of any single member of the force. It simply is a compromise which all of the members could agree on more or less, and it is especially interesting to me because it does not start from a negative point of view.

What we tried to do was to establish what we thought the goals of a good election system should be, and then to tailor the existing law by certain changes to achieve those objectives.

I am very proud of the report which has been adopted by this task force.

Today, there are a number of Members who would like to comment on it because some of their specialties, and some of their special comments go beyond the scope of the report as recorded in the Record.

The House Republican Research Committee's Task Force on Election Reform has developed a set of recommendations, the adoption of which could significantly improve the operation of our political system.

It is important to note that the task force did not approach its task from the negativistic standpoint of condemning the system for its failure to achieve perfection but, rather, the approach was a positive one of "How may we improve on what is essentially the best system of political decisionmaking in the history of mankind."

I rise today to speak specifically on the second point of the recommendations which reads:

> Each candidate in any Federal election shall designate a single committee as his authorized campaign committee which shall designate a single depository of its funds. In a general election, all major party presidential candidates must designate the national committee of his or her political party as his or her authorized campaign committee.

Accountability is the most important provision of the single account concept. Implementation of the single account at each level of Federal election campaign, that is, congressional, senatorial, and Presidential, should provide for the strengthening and enforcement of accountability even as the size of the campaign operation increases.

The single account concept can be implemented at all levels of Federal election campaigns through a series of local campaign committees all accountable to one centralized depository. Just as a single account at the congressional campaign level is responsible for the collection and disbursement of all funds for the campaign, and should be responsible to the GAO and the Federal Elections Commission, so a single account in a senatorial or a Presidential campaign would centralize accountability for the same at either the State or the National level.

In senatorial and Presidential campaigns the State or National campaign committee would handle collections and disbursements of funds. Organizations at the local level could raise funds, but all moneys must be reported to either the State campaign for senatorial elections, or the national campaign for Presidential elections. In return, local campaign organizations would receive funds from the State or national campaign to handle necessary local expenses.

In establishing one reporting body for all campaign moneys, it is not necessary for all expenses to be paid from that body. Our recommendation should allow campaign committees flexibility to disburse funds through local—State, county, or city—campaign organs. However, records of disbursements should be maintained at the State level, for senatorial campaigns, or at the national level for Presidential campaigns. A series of local committees all financially accountable to a centralized single account actually strengthens accountability by having several points of control.

It is a pleasure to urge favorable consideration on this and the other recommendations, because I sincerely believe that our political system will be strengthened and improved.

Mr. Speaker, the members of the task force and their recommendations are as follows:

### TASK FORCE MEMBERS

Bill Frenzel, Chairman; Edward Biester; Clarence Brown; Clair Burgener; Caldwell Butler; Philip Crane; David Dennis; Louis Frey; and Harold Froehlich.

James Hastings; Margaret Heckler; John Hunt; Edward Hutchinson; William Keating; Trent Lott; Matthew Rinaldo; and James Harvey.

### TASK FORCE RECOMMENDATIONS

The House Republican Task Force on Election Reform after extensive deliberations and debate, makes the following recommendations:

1. An independent Federal Elections Commission should be established to supervise the Federal Election Campaign Act. The FEC would have all the powers of the existing supervisory authorities and in addition, the power to subpoena. Prosecuting powers shall be left to the Justice Department. If the Justice Department fails to act when violations are referred by the Commission, the Commission may request the Justice Department to give information as to what action is expected, and if none, why not. The Justice Department shall make a complete response which shall be public information, within 90 days.

2. Each candidate in any Federal election shall designate a single committee as his authorized campaign committee which shall designate a single depository of its funds. In a general election, all major party presidential candidates must designate the national committee of his or her political party as his or her authorized campaign committee.

3. All campaign expenditures shall be made by the candidate's authorized campaign committee, except that expenditures may be made on behalf of any candidate by political party organizations but such expenditures will be considered as a contribution to the candidate's authorized committee and will be subject to the limitations in No. 5.

4. No authorized committee may accept contributions from other than individuals or political party organizations. It may receive contributions from other organizations acting as agents of individual contributors provided the individual contributor so designates and the contribution is identified as to the original donor.

5. Except in those instances in which a contributor has expressly designated or earmarked a contribution for the benefit of a particular candidate, a political party organization may contribute to an authorized committee without identification of the original contributors.

6. No authorized committee of a candidate for Federal office for the House and Senate shall accept more than $5,000 from any individual contributor for any Federal election contest. No authorized committee of a candidate for President shall accept more than $25,000 from any individual contributor for any Presidential election contest.

7. All amounts knowingly contributed or knowingly accepted in excess of the amounts designated in recommendations 5 and 6 shall, upon the determination of their illegality, be paid over to the Treasury of the United States.

8. No authorized committee of a candidate for the House of Representatives, Senate and President may spend more than $150,000 or 25¢ per eligible voter, whichever is greater, for any election.

9. No checks or other campaign funds shall be drawn on foreign banks.

10. No authorized committee or political party organization shall accept contributions from non-resident aliens.

11. No authorized committee shall accept cash contributions made in excess of $100.

12. (a) General election day shall be a national holiday.

(b) Primary elections for the House and Senate shall be held no earlier than August 1.

(c) Polls should close simultaneously throughout the country in Presidential elections.

(d) Presidential primaries shall be held no earlier than May 1.

13. The Equal Time provision of the Communications Act of 1934 shall be repealed for all federal candidates.

14. Congress shall make a study of Federally issued scrip. This scrip should be serially numbered, computerized, containing names and addresses of donor, recipient and redeemer, and available at post offices and Federally insured financial institutions. It should be the only valid medium of exchange in all Federal primary and general elections for all expenditures by or on behalf of candidates and for all contributions in excess of $100.

15. The Federal Election Campaign Act shall preempt individual state laws wherever they are in conflict.

16. The penalty for violation of the Federal Election Campaign Act shall be increased from $1,000 and/or 1 year to a maximum $25,000 and/or 1 year.

17. The Task Force reiterates its endorsement of President Nixon's proposed Non-partisan Commission on Federal Election Reform to study the entire pattern of campaign practices and recommend a comprehensive set of reforms and regulations.

Mr. Speaker, I yield to the distinguished gentleman from New Jersey (Mr. HUNT) a diligent member of this task force.

Mr. HUNT. Mr. Speaker, I take this opportunity to compliment the gentleman in the well on his astute leadership in working on this very difficult piece of legislation.

Mr. Speaker, I am extremely pleased that our distinguished colleague, Representative BILL FRENZEL, chairman of the House Republican task force on election reform, has taken this special order. The 17-member committee has put a great deal of time and constructive thought into its report and I, as a member, commend them.

Our Nation possess the most unique system of government the world has ever seen. It has made the United States in 200 short years the strongest, stablest, and most democratic nation in the world today.

During the last decade or so, there has been a growing awareness toward some of the imperfections of our political system. This by no means implies that political imperfections are solely the property of our generation, they have always been with us. Rather, it shows that more and more people at the grassroots level are becoming involved and are beginning to ask thoughtful questions. And, this is the way it should be.

It is time to end the big money contributions; the anonymous donors, the slush funds, and the watering of campaign donations. The influence of vested interests must be reduced. Political participation should be welcomed from all, rich and poor, black and white. But it has to be responsible participation, honest and aboveboard.

We are at a critical juncture in our political process. Election reform should be a priority. It is time to restore the confidence of the American people in our political process and in our elected officials. A year ago, in November 1972, a Harris poll showed that only 27 percent of those sampled expressed a great deal of confidence in those running the executive branch of Government. Closer to home, 21 percent said they had confidence in their congressional leaders. Figures like these should be of utmost concern to all of us. But a couple of banner headlines, and whamo—all politicians are corrupt.

The job ahead is great. But, it must be done. The committee is continuing its work. A good deal of effort was put into the initial recommendations, and while we may not agree on all points, they are a starting point for constructive debate.

Politics and law enforcement have been my life and I have approached both with respect, dignity, and integrity. It troubles me deeply when a few try to corrupt them.

I am confident that this Congress can rise to the challenge of preserving the integrity of our electoral process.

Mr. FRENZEL. I thank the gentleman from New Jersey.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. Biester) another important member of the task force.

Mr. BIESTER. Mr. Speaker, I also would like to join in commending the gentleman in the well for his leadership in this task force report. As the gentleman from New Jersey indicated, we had many sessions, and sometimes there appeared to be impossibility of achieving a consensus, yet the thoughtful leadership of the gentleman from Minnesota made it possible for all the members of the task force to achieve at least an agreement with respect to the fundamental purposes and measures which we recommended.

This field is a very difficult field to enter into, but in my opinion the American people are demanding and are entitled to election reform, so that they might achieve a higher level of confidence not only in the political system but also in American Government itself.

I commend the gentleman from New York (Mr. Conable) the chairman of the research committee, for appointing the gentleman from Minnesota (Mr. Frenzel) chairman of this special task force.

I believe it should also be noted that the task force continues its work in several related fields, and will be submitting, as I understand it, additional reports from time to time.

Mr. Speaker, although a general consensus has existed in recent years that certain campaign and election abuses and faults require legislative attention, comprehensive reforms have been slow in coming. The Federal Elections Campaign Act of 1971 met certain concerns—those of adequate candidate contributor disclosure and limitations on campaign media expenditures—but it left many other areas untouched. It took the incidents and campaign activities surrounding the Watergate episode to shock the Nation into the need for substantive campaign and election reform. Watergate, despite all its tragic and deplorable aspects, has served as a catalyst to crystallize problem areas demanding our attention and to draw in support around steps to correct them.

In response to this need, a task force on election reform was organized from among the Republican House membership, and its report and recommendations were released and carried in the Record on July 31.

Under the very able direction of the gentleman from Minnesota (Mr. Frenzel), the task force has first focused on the question of campaign financing, and it considered an extensive list of suggested improvements in this general area. The membership reflected all shades of thinking on this matter, and many different viewpoints were actively and frankly discussed during the course of this examination.

The recommendations which were agreed upon are realistic and sound reforms to help restore public confidence in the electoral system. These recommendations serve as a starting point—a generally agreed upon set of proposals which can have a substantial corrective influence on the conduct of campaigns and elections in this country. Some of us on the task force favor the adoption of stronger or additional restrictions, but the recommendations outlined in the report will lay the foundation we urgently need.

Basic to the recommendations are the concepts of candidate financial accountability and increased financial responsibility. Their thrust is to limit the exhorbitant costs of political campaigns and reduce the influence of money and the opportunities for misuse of funds. At the same time, the role of the political party is strengthened and the importance of the campaign period and election day itself are enhanced.

The creation of an independent Federal Elections Commission is a key element in insuring the success of the proposals. For my own part I feel it should have its own power to prosecute. In order to discourage any attempts to circumvent the law, it would also be necessary to increase the penalties attached to violations of the 1971 act. Presently, the fine is $1,000 and/or 1 year per violation—a small token to pay for most companies, unions, or wealthy contributors. Obviously, a greater deterrent is in order, and the task force recommendation of a maximum of $25,000 and/or 1 year is much more realistic.

While the steps advocated by the task force would help considerably in restricting the dominant role money plays in financing our elections, I believe we can and should go further in assuring cleaner campaigns. Public financing of elections would serve to relieve elected Federal officials of reliance on private sources of money and whatever obligations such dependence too often can entail. I personally favor the Federal financing of elections as a truly far-reaching reform and have introduced legislation to this end. Public financing would go to the root of these campaign problems we are trying to resolve, and although the task force did not adopt the Federal financing position it was agreed that such a proposition merits further study.

The task force has not yet completed all of what it set out to do, and additional aspects of the electoral process are being analyzed. Currently, we are studying recommendations of measures to improve the voter registration system, and I anticipate this endeavor will also produce an appropriate legislative response.

Mr. FRENZEL. I thank the gentleman from Pennsylvania for his contribution.

I would add, Mr. Speaker, it is the hope of this task force that the House will proceed in evaluation of the various election reform proposals which are pending before various committees. The Senate has already acted, having done so prior to the August recess. It is now appropriate, I believe, for the House to begin its consideration in this vital field in which, as the gentleman from Pennsylvania correctly indicated, there is great, and at the moment particularly great, public interest.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I thank my good friend and colleague from Minnesota.

Mr. Speaker, I am pleased to join today with my colleagues on the House Republican Task Force on Election Reform for this special order to report on the activities of the task force. My good friend Congressman Bill Frenzel, who has acted as chairman of our study, deserves special credit and commendation for his leadership during the many weeks of hard work which went into the preparation of our recently released report and recommendations on campaign finance reform.

While events of the last year have certainly provided sufficient public demand for campaign reform to make our efforts seem selfless, in reality there has also been a selfish motivation in everything we have done. Selfish because no one knows better than a professional politician that the best way to gain reelection is to run an honest campaign. To the extent that we can draw guidelines which help assure that end, we enhance our own careers. Nevertheless, this has primarily been the public's work, and we believe that this Republican task force has risen to the challenge with which it was charged—the development of a legislative proposal designed to insure the integrity of our democratic process.

My own greatest efforts as a member of the task force were directed toward the adoption of report recommendations 3, 4, and 5. Briefly, I want to describe and explain these three proposals in hope that better congressional and public understanding of them will promote their early enactment into law.

Mr. Speaker, basically these three points address themselves to the problem areas involved in the donation of "group" contributions to a political campaign and the expenditures of "group" funds to influence elections. The key ingredient in honest politics—as in almost anything else—is accountability. If the public knows who gave or spent what on whom, it can be trusted to make rational judgments in selecting its elected officials. But the system breaks down when there are secret supporters and covert lines of influence. The answer, then, is to account for campaign finances.

Mr. Speaker, recommendation No. 3 provides as follows:

"All campaign expenditures shall be made by the candidate's authorized campaign committee, except that expenditures may be made on behalf of any candidate by political party organizations but such expenditures will be considered as a contribution to the candidate's authorized committee, and will be subject to the limitations in other areas of the recommendations."

Under existing legislation any special interest group—whether it be business, labor, ideological, or otherwise—may spend unlimited amounts of money to influence the outcome of political contests. Sometimes this practice is accomplished openly and the sources are disclosed, but more often than not these expenses are hidden. They take a multitude of forms—free printing, gratuitous telephone banks, and the like. Presently a candidate is required to report these services as donations "in kind," but if he or she does not know or chooses not to know about them, they are not reported and accountability is ignored. Recommendation No. 3 would cure this defect in the law. It would prohibit campaign expenditures by an entity other than a candidate's campaign committee or a political party organization. In either case, the beneficiary campaign committee must make a full disclosure of the expenditures, and they become a part of the aggregate spending limitation imposed in recommendation No. 8.

From a practical standpoint, enactment of this recommendation results in a comprehensive listing of all campaign spending in one place—the candidate's campaign committee Federal filing form.

In my opinion, such complete disclosure will provide the accountability which is presently lacking in our laws.

Recommendation No. 4 provides as follows:

"No authorized committee may accept contributions from other than individuals or political party organizations. It may receive contributions from other organizations acting as agents of individual contributors provided the individual contributor so designates and the contribution is identified as to the original donor."

It is a known fact in Washington that a small number of business, labor, and professional organizations exert influence on the Federal Government far out of proportion to the constituency which they serve. The manner in which they accomplish this is through the accumulation of large amounts of cash collected in relatively small donations from their members. By zeroing in on key political contests and politicans with large campaign contributions, they are able to keep "friendly ears" in Washington for their parochial interests. While in theory there is nothing essentially wrong with the expression of a common viewpoint through a collective campaign donation, in practice there are serious flaws. More often than not, donation decisions are made by Washington-based executive committees with little or no input from the individual member of the organization, whether it be union, professional organization, or business group, who is the original source of the money. In essence these people are asked to pour money into the wide mouth of a funnel without any real idea of where the spout comes out. The only thing they know is that "it will help the cause." This, I think is wrong. It frequently corrupts the individual's donation in ways which he would never understand or approve. It makes a mockery of the "informed electorate" concept by encouraging boss-type politics. If funds are to be aggregated for a particular use, it should be the result of a conscious decision on the part of the individual contributor and not a result of the independent machinations of Washington lobbyists.

Mr. Speaker, recommendation No. 4, therefore, provides that group contributions may be accepted by a candidate's committee only if the group's individual contributors have indicated in writing that they wish their money given to support that specific candidate. In essence, it forces the individual to decide how his political donation should be spent.

Summarizing, this provision would thus serve to tighten the group's accountability to its members, and the politician's accountability to the individuals who supported his election.

(Mr. BROWN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman from Ohio who was, as he stated, the chief architect of perhaps the most creative sections of this report, sections 3, 4, and 5, for his contributions to the task force and for his contribution today.

As he has said, some of the areas of our report—the recommendation for a Federal elections committee, the single authorized committee expense limitations, contribution limitations including the limitation of cash and restriction on foreign banks, and the like—are well known to the Members of this House and are by now simply matters of judgment. But the area that the gentleman from Ohio provided leadership in is particularly interesting, because it does try to stimulate the individual responsibility of every citizen of the country. It tries to stimulate the party responsibility of all parties. Finally it tries to reduce the impact of special vested interests on election campaigns.

Mr. BURGENER. Mr. Speaker, the House Republican Research Committee's Task Force on Election Reform has developed a set of recommendations, the adoption of which could significantly improve the operation of our political system.

It is important to note that the task force did not approach its task from the negativistic standpoint of condemning the system for its failure to achieve perfection but, rather, the approach was a positive one of "How may we improve on what is essentially the best system of political decisionmaking in the history of mankind."

I rise today to speak specifically on the second point of the recommendations which reads:

> Each candidate in any Federal election shall designate a single committee as his authorized campaign committee, which shall designate a single depository of its funds. In a general election, all major party presidential candidates must designate the national committee of his or her political party as his or her authorized campaign committee.

Accountability is the most important provision of the single account concept. Implementation of the single account at each level of Federal election campaign, that is, congressional, senatorial, and Presidential, should provide for the strengthening and enforcement of accountability even as the size of the campaign operation increases.

The single account concept can be implemented at all levels of Federal election campaigns through a series of local campaign committees all accountable to one centralized depository. Just as a single account at the congressional campaign level is responsible for the collection and disbursement of all funds for the campaign, and should be responsible to the GAO and the Federal Elections Commission, so a single account in a senatorial or a Presidential campaign would centralize accountability for the same at either the State or the National level.

In senatorial and Presidential campaigns the State or National campaign committee would handle collections and disbursements of funds. Organizations at the local level could raise funds, but all moneys must be reported to either the State campaign for senatorial elections, or the National campaign for Presidential elections. In return, local campaign organizations would receive funds from the State or National campaign to handle necessary local expenses.

In establishing one reporting body for all campaign moneys, it is not necessary for all expenses to be paid from that body. Our recommendation should allow campaign committees flexibility to disburse funds through local—State, county, or city—campaign organs. However, records of disbursements should be maintained at the State level for senatorial campaigns, or at the National level for Presidential campaigns. A series of local committees all financially accountable to a centralized single account actually strengthens accountability by having several points of control.

It is a pleasure to urge favorable consideration on this and the other recommendations, because I sincerely believe that our political system will be strengthened and improved.

Mr. CRANE. Mr. Speaker, I am pleased to participate in the special order on election reform sponsored by our distinguished colleague from Minnesota, Mr. FRENZEL.

In a series of weekly meetings this summer, the task force under Mr. FRENZEL's direction labored diligently to come to grips with the many serious dilemmas which face the Congress in the area of campaign reform. For the most part the report of the task force articulates the concerns of our membership with respect to the broad field of ethics and campaign reform.

However, there are two points I wish

to raise with respect to the report. First, I regret that the report does not address itself to the very serious problem of the political use of compulsory union dues and other involuntarily raised funds. Second, 16 of the 17 points in the report deal properly with campaign reform. Point 12, however, deals exclusively with State election laws and calls for Federal preemption of those laws. I believe that this is an unfortunate trend which will encourage the opposition of many State legislators.

As to the first point, many of our Members will recall that in the last Congress I introduced an amendment to the Hays-Abbitt bill (H.R. 11060) which would have prohibited the use of any dues, fees, or assessments which are a requirement for membership in a national bank, corporation, or labor organization from being spent for a political purpose. My amendment was designed to restore to millions of union members the right to determine whether their hard-earned money would be used to support political causes of their own choosing, or to support the causes dictated by union bosses. Of all of the campaign reform proposals to come before the Congress in recent years, I believe that this amendment would have done the most to guarantee the political civil liberties of American workers. Without this amendment, our efforts at campaign reform are almost meaningless.

The Crane amendment would have clarified and broadened the terms "contribution" and "expenditure" as used in title 18, section 610 of the United States Code. Under this new definition it would be perfectly clear that labor organizations, as well as banks and corporations, could not have made any direct or indirect payments or provide any services or any other thing of value to any candidate, campaign committee or political party or organization, or to make any expenditure related to get-out-the-vote activities in connection with Federal election campaigns, if such funds were involuntarily raised.

At the same time, the amendment also made clear that this section would not prohibit a union from organizing and administering a separate contributory fund for political purposes if all contributions, gifts, or payments to such fund are made freely and voluntarily, and not related to dues or fees required as a condition of employment. Enactment of this provision as an amendment to the existing Federal Campaign Act of 1971 would clarify the intent of Congress to distinguish between voluntary contributions and the unwarranted use of compulsory union dues for political purposes.

My second point deals with item 12 of the task force report. I recently testified in opposition to the post card voter registration bill partially on the grounds that that bill would preempt very complex and widely diverse election codes in the several States. Diversity is needed at the State level so that States will have the necessary flexibility to adapt to local conditions. Although we have a common national election day throughout the country, the dates of primaries have heretofore been under the control of the States. A great many States have congressional primaries in the spring so as to coincide with primaries for other offices. My own State of Illinois has a March primary. Although I might agree with the desirability of shortening campaign periods, I am not sure that this measure would in fact accomplish that end and in any case I believe that this matter should remain the prerogative of the State legislature.

Item 12(c) calls for the simultaneous closing of the polls across the country in a Presidential election. There is of course the obvious 5-hour time differential between the Atlantic seaboard and the State of Hawaii which might in itself render this proposal impractical. In addition, there is very little reliable data that I know of which proves that voters in the West are influenced by early eastern returns in a Presidential election. Lastly, I again feel that this is and should remain a local matter of judgment.

Finally, item 12(d) would prohibit Presidential primaries prior to May 1. It would again seem that this is a State matter. The meaning of Presidential primaries varies greatly from State to State in that some are legally binding upon convention delegates and others are merely popularity contests which have no legal standing. Are we to penalize the primary States by allowing convention and caucus States to select their delegates prior to May 1? Again, would this idea in fact shorten a Presidential campaign? I doubt that it would.

Mr. Speaker, I do not in any way intend to belittle the efforts of the House Republican Task Force on Election Reform but simply wanted to take this opportunity to raise some pertinent questions in this area. I know that the task force members worked hard on this report and deserve the utmost commendation for their labors.

Mr. HARVEY. Mr. Speaker, like most Americans I attach great importance to a careful examination and reform of the practices under which political campaigns are financed. I, therefore, welcomed the opportunity to become a member of the House Republican Task Force on Election Reform in order to help formulate strong and effective legislation in this vital area. We must restore public confidence in our election and campaign processes.

I firmly believe that at long last campaign finance reform is an idea whose time has come. My distinguished colleagues will recall that this Chamber has had opportunities in the past to reform the process of financing political campaigns only to lose sight of them. I urge that the Members of the 93d Congress seize upon the current climate and use this task force report and its recommendations on campaign reform to once and for all achieve meaningful reform.

One of the more important recommendations that the task force has made concerns the establishment of an independent Federal Elections Commission to supervise the Federal Election Campaign Act. In 1971, as part of a sweeping campaign reform bill which I introduced, I sought the establishment of such a commission. And I have again this year cosponsored similar legislation to establish an independent commission. Its creation is one of the most important changes needed in the 1971 Federal Election Campaign Act as it would consolidate three agencies into one. As an independent entity, its application of the rules and regulations can be viewed by the public as being equal and fair.

Furthermore, I support the spirit of the task force recommendations which seek to limit the excelerating costs of campaigning in the 1970's. The best political finance system is the one that is based on relatively small contributions from large numbers of citizens. We certainly must discourage the practice of some larger contributors of trying to "buy" an election for an individual candidate since such a practice can and sometimes does wield an unhealthy pressure at the expense of the public interest.

The recommendations presented by the task force applies just standards to both the challenger and the incumbent. It also leaves intact the basic and inherent right to support the candidate or the party of one's choice, and remains an effective vehicle through which constructive improvements in the election campaign process can be made.

I join with my colleagues on the task force in urging that serious consideration be given to the task force's recommendations on campaign reform.

Mr. HASTINGS. Mr. Speaker in the wake of Watergate and its erosion of public confidence in our political system, the need for election reform today is greater than ever.

The system is the most unique in the world and the heart of our democratic process. While not perfect, it has been the basis of our survival for the nearly 200 years of this Nation's existence.

Safeguarding the soundness of this system, especially during these times of public disillusionment, must take precedence.

The House Republican Task Force report, the first of three to be made to this body, contains 17 recommendations for widespread reform in the area of campaign financing.

The major goal of these recommendations is to reduce the influence of vested groups with an access to a super-abundancy of money; to increase to the greatest degree possible individual voter participation; and to develop greater public trust in the efficacy and responsiveness of the political system.

Clamor over secret funds and suspect financial dealings makes the issue of campaign financing and expenditures of prime importance.

But this is not all. Public disclosure as required by the 1971 law, permits the public to learn who is giving what to whom. However, there are few workable rules which effectively halt the mushrooming cost of electioneering thus raising the specter that the pursuit of public office could be restricted to only the very wealthy and to those with access to big money.

The recommendations made by the task force in this area may be subject to debate on the limits of contributions and expenditures, but I know we are all agreed on the need for reform.

Admittedly, it is difficult to determine limits which are not only reasonable but which also can be realistically enforced.

Nevertheless, it is essential that fundamental changes be made if we are to eliminate suspicion and the threats of abuses which currently pervade the political system.

The task force has addressed itself to these matters in a most diligent manner. Its chairman, Representative BILL FRENZEL, is to be commended for his wise and patient leadership in the development of this report, and I urge its close scrutiny by all.

**Mr. RINALDO.** Mr. Speaker, I am greatly pleased at the opportunity to join with my colleagues on the House Republican Task Force on Election Reform in discussing the recommendations of the task force with respect to campaign finance reform—a subject, I suggest, which is as prominent in the minds of the American people as any other problem we face today.

In doing so, I want to express my appreciation to my fellow members of the task force, and especially to our chairman, the distinguished gentleman from Minnesota (Mr. FRENZEL), for their openmindedness, patience, and willingness to listen to junior members of the group. I was deeply impressed with the thoroughness of the task force's work, the comprehensiveness of its study, and the many, many long hours which members invested in this important undertaking.

The report, Mr. Speaker, speaks for itself. The recommendations embrace every aspect of campaign finance reform. They are farsighted and practical. And they will be effective. Being effective, they can go far to restore the confidence of our people in the process by which we elect our public officials—a process which, unfortunately, is in substantial disrepute because of wholesale violations of public law and morality.

Since the recommendations of the task force were printed in full in the RECORD of July 31, I will not repeat them in detail. Several, however, deserve special emphasis. The limitations on individual contributions and on a candidate's total expenditures will permit adequate financing of campaigns and, at the same time, impose the kind of restrictions that will discourage undue influence and prevent excessive spending. The requirements that candidates designate a single campaign committee authorized to receive funds and that such committees accept contributions only from individuals or party organizations will raise substantially the levels of accountability and responsibility and eliminate the evils of "laundered" campaign funds and multiple committees. And the independent Federal Elections Commission will make possible the kind of supervision and enforcement which has been sadly lacking to date.

Of special significance to me, however, was the endorsement given by the task force to a full-scale study of my proposal to substitute scrip for money in Federal election campaigns. The scrip plan is not designed to take the place of any other campaign finance reform proposal. It is designed to make any such reform work effectively. By replacing money—which is virtually impossible to trace in political campaigns—with federally issued, serially numbered scrip by means of which each transaction can be recorded, computerized, and publicly reported, both disclosure and limitations can be made enforceable.

Under my plan, Mr. Speaker, scrip would be specially designed, issued, and redeemed by the U.S. Treasury, and serve as the sole medium of exchange in Federal elections. It would be issued in the same denominations as money and be available for purchase and redemption at all U.S. post offices and all federally regulated financial institutions.

Each individual piece of scrip would be identifiable by a serial number and would contain a brief form on its reverse together with a detachable certificate for the purpose of recording the purchaser, the candidate or committee to which it is contributed, the purpose for which it is spent, and the person or company receiving it in payment for goods or services.

At each step, from purchase to redemption, the information would go to a Government computer which would produce comprehensive, cumulative weekly public reports. Disclosure—perhaps the single most important objective of reform—would thus be assured on virtually an automatic, year-round basis. Enforceability, too, would be maximized by virtue of the prohibition in the plan against paying or accepting anything but scrip in return for goods and services.

Although I am personally convinced, on the basis of discussions with a number of qualified authorities, that the scrip plan is technologically feasible, it was the judgment of the task force that more detailed study was required. Therefore, when appropriate election reform legislation is considered in the House, I plan to offer an amendment directing the relevant executive branch agencies to conduct such a study and report to the Congress within a specified period of time.

The thrust of the task force recommendations go very much in the direction recognized and desired by most students of the election process: maximum individual participation, greatly reduced influence of special interests, and full disclosure and accountability. I urge our colleagues to study the task force report and to take up the effort to implement these objectives in effective legislation.

## BILL TO SETTLE HOPI-NAVAJO SURFACE RIGHTS DISPUTE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 5 minutes.

**Mr. OWENS.** Mr. Speaker, at the request of some of the interested parties I have today introduced a bill providing a compromise solution to the problem of disputed land rights between the Hopi and Navajo Tribes.

I have introduced the bill so that the compromise it offers may come before the House Subcommittee on Indian Affairs. I do not consider myself bound by its provisions, although, as a member of that subcommittee, I may support its approach.

## TO PROVIDE HOSPITAL AND MEDICAL TREATMENT TO SO-CALLED CIVILIAN PRISONERS OF WAR

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. HARVEY) is recognized for 5 minutes.

**Mr. HARVEY.** Mr. Speaker, I am today introducing legislation which would provide hospital and medical treatment in Veterans' Administration facilities to so-called civilian prisoners of war.

During the years of the Vietnam conflict, the plight of the POW was dramatically brought to the attention of the American public. As these brave men returned to American soil, their medical needs were provided for by the Veterans Administration system. However, those Americans who were not associated with the U.S. military and yet became POW's cannot receive the medical care provided by the VA on their return.

Who became civilian prisoners of war? They are primarily doctors and missionaries who seek to provide their skills in the name of humanity.

Let me illustrate the need for this legislation by citing the case history of a citizen of the Eighth Congressional District of Michigan, Father Anthony Thoma.

In 1939, Father Thoma went to Guam to work with the native Chamorros. A few weeks after the attack upon Pearl Harbor, the Japanese interned Father Thoma and nine fellow missionaries. Together with other civilians and servicemen, Father Thoma and his colleagues were taken to Japan on January 10, 1942. He was liberated on September 8, 1945.

Father Thoma's treatment was humane and at no time according to the father was he ever mistreated. Yet, the food was very inadequate, Father Thoma suffered various ailments of which some were treated while others were not. Since the time of his release from the prison camp in Japan, he has suffered an uncommon number of health problems.

Father Thoma has been unsuccessful in obtaining medical assistance from the Saginaw VA Hospital for his current ill health. Ironically, the good father is chaplain for the VA hospital in Saginaw. I firmly believe that former civilian POW's should be allowed the use of the VA facilities. In their own way, these civilians have served the United States beyond the call of duty.

According to the Library of Congress, the Korean war lists seven released civilian POW's while the Vietnam war lists 24 released civilians, making a total of 31 U.S. citizens who would be eligible for VA benefits under this legislation for these two wars. Unfortunately, the Library does not have the capability to determine surviving civilian POW's for World War I and II. However, I do not believe that the number of returned civilian POW's can be so large as to prohibit the serious consideration of extending VA hospital and medical benefits to these citizens.

I respectfully urge the members of the Veterans' Affairs Committee to seriously consider this legislation.

I include a copy of the bill:

H.R. —

A bill to amend title 38, United States Code, to provide hospital and domiciliary care and medical treatment in Veterans' Administration facilities to former prisoners of war who are not veterans

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subchapter I of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 603. Care and treatment of former prisoners of war who are not veterans.

"Any citizen of the United States who is not a veteran but who, while a citizen of the United States, was interned during a period of war by the armed forces, agents, or allies of any foreign country engaged in hostilities with the United States during such period is entitled to hospital and domiciliary care and medical treatment under this chapter for any disability incurred or aggravated during such internment. For purposes of this section, (1) the term 'citizen of the United States' does not include any person who (A) served in the active military, naval, or air service and who was discharged under dishonorable conditions, or (B) any person who is an officer or employee of the United States while such person is so employed, and (2) the term 'interned' does not include imprisonment or confinement resulting from conviction for the commission of criminal offenses."

(b) The analysis of such subchapter is amended by adding at the end thereof the following:

"603. Care and treatment of former prisoners of war who are not veterans."

## GAS BUBBLE—VI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last week the Coastal States Gas Corp. entered into a consent decree, wherein the company agreed to cease certain practices which the SEC charged it with. Although entering into a decree does not admit that the charges of the SEC are true, I think everyone agrees that Coastal would not have submitted to the decree unless their position had been indefensible.

The terms of this decree are most interesting because their intent is to change the whole direction and philosophy of the company. To put it bluntly, the decree aims to make Coastal States an honest company by taking it away from the control of its founder, chairman and chief executive officer, Mr. Oscar S. Wyatt, Jr. Specifically, the decree requires Coastal to elect seven new directors who shall be independent. These directors would be a majority of the board and would have to be acceptable to the SEC before they could be elected. In addition to this, the decree establishes a new executive committee to manage the affairs of Coastal and specifically excludes Mr. Wyatt from becoming chairman of this committee. Furthermore, the executive committee has to consist of a majority of outside directors. Going beyond that, the decree requires that if it should ever appear that Coastal is going to regain control of its Texas subsidiary, LoVaca, the directors of that company must also be a majority of independent persons designated by the court and satisfactory to the SEC.

Evidently, Coastal realizes that everything I have said is true. The company has misrepresented its reserve situation and vastly overstated its capacity to deliver on long-term commitments. In the name of making short-term profits, the company entered into a whole series of short-term deals which made it increasingly clear that Coastal could never fulfill its long-term obligations. The slight of hand simply caught up with Wyatt, as the customers of Coastal know all too well.

The net effect of the consent decree is to at least attempt insulating Coastal from the insidious judgments and actions of Wyatt and his kind. Evidently the SEC and the court feel that Wyatt simply cannot be trusted—and they are right. Apparently, even Coastal recognizes now that Wyatt has wrecked the company and taken with it thousands of shareholders whose securities have dwindled steadily in value during the last few years. But what is worse than that, Wyatt's frantic efforts have led to the discomfort and discomfiture of hundreds of customers who rely on Coastal to supply vital natural gas. Had he been an honest man, they would not be suffering now, nor would they be obligated to spend billions of dollars for new utility equipment and fuel supplies. Wyatt could be as wealthy as Midas and never repay all the damage that he has done to these innocent customers. The very least the SEC can do is to guarantee that Wyatt never has any voice in, or control over, the future conduct of Coastal States Gas. As long as his kind are in the business, nobody is going to be safe and no one will be able to say that a contract is a binding obligation, because to Wyatt contracts were a means to an end and the end was to make him king over Texas energy. A more corrupt nor least trustworthy person could hardly be imagined.

It is up to the SEC to see that Wyatt and his pals never again have anything to do with the natural gas and petrochemical industry. It is time to retire his kind and I hope that the SEC will see that Mr. Wyatt is retired. Let us have done with him and get on with the business of trying to rescue and rebuild the hundreds of communities and companies that he has wrecked.

## LIBERALS MUST SPEAK OUT AGAINST SOVIET REPRESSION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, it has been gratifying for me to observe the rising tide of American protest against the vicious treatment of intellectuals, Jews, and members of other religious sects in the Soviet Union. Last week, the National Academy of Sciences issued a strongly worded warning to its Soviet counterpart suggesting that further harassment of Russian physicist Andrei D. Sakharov must stop before American cooperation in joint scientific projects can take place. The Academy's outrage was echoed by the American Psychiatric Association's call for Moscow to allow American psychiatrists to examine inmates of Soviet mental hospitals who claim a link between their confinement and political activity. This is an important challenge to the heavily documented pattern of such detention experienced by known Soviet dissidents. In addition, the editorial pages of the New York Times and the Washington Post have recently featured sharp denunciations of the accelerated Soviet campaign against religious and intellectual freedom. I have introduced these editorials in the Congressional Record of September 12.

In spite of these displays of genuine concern for Soviet freedom, the American response to this tragic situation has not been commensurate with its seriousness. I have been especially puzzled by the late and lukewarm support for men like Sakharov displayed by some American liberals. One would expect those who have been devoted to the protection of individual liberties to be the leaders in the campaign against Soviet oppression. Yet it must be admitted that many liberals have, at best, been hesitant followers.

I have noticed that I am not alone in this judgment of American liberals. The courageous Soviet novelist Aleksandr I. Solzhenitsyn has issued a detailed commentary addressing a similar theme. The New York Times article reporting his statement is printed in the Congressional Record of September 12. In noting what he called the "deep hypocrisy of American political life," Solzhenitsyn spoke of a blatantly dual standard employed by political leaders who find it far easier to denounce oppression in rightist dictatorships than in the Soviet Union. While admitting that Mr. Solzhenitsyn may have missed the mark in his specific instances of hypocrisy, I must say that his message struck a particularly sensitive nerve with me. I, too, find it difficult to understand the timidity of some American liberals in facing up to the fact of Soviet repression. They seem guilty of the same error committed by some conservatives who cannot muster the distaste for right-wing dictatorships that they reserve for Soviet totalitarianism. It is high time for liberals of both parties to reexamine their deepest feelings on the question of Soviet oppression. Can they say with confidence that they will move to protect individual liberty wherever it is threatened? Or must they finally concede that they have burdened the "right" with a morality from which they exempt the "left"?

Americans should not doubt that their words are heard in Moscow. The New York Times of September 14 reports that public denunciations of Dr. Sakharov were halted "as the Kremlin apparently realized it was endangering its policy of easing relations with the West." Yet we must not be fooled by the mere appearance of Soviet response. The Times article goes on to say that the campaign against dissidents continues out of public view. If this facade of liberalization succeeds in quieting American critics, then hope for Russian freedom will vanish. This demands that all liberals lend their voices now to the outcry against the brutal policies of the Soviet government. They can do so by giving their full support to the Jackson-Mills-Vanik bill to deny the President discretion to establish most-favored-nation trade terms with Russia if it continues to deny its citizens the right to emigrate. Passage of this bill would put the Soviets on notice that Americans will not purchase detente at the price of the liberty of Soviet citizens. Liberals must demonstrate that their respect for the rights of man can stand the test of consistency.

## AUGUST RECRUITING RESULTS UNDER THE VOLUNTEER CONCEPT

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, on July 1 of this year our Nation embarked on an experiment to test the concept of maintaining a ready defense in the absence of induction authority. For more than a generation such authority had existed but, with the beginning of this fiscal year, we moved onto new ground.

It will be my intent to insert in the CONGRESSIONAL RECORD periodically information about the experience—and, hopefully, the success—of this program. To that end, the August report is attached and commended to my colleagues. I respectfully request it be placed in the RECORD.

### AUGUST RECRUITING RESULTS

Assistant Secretary of Defense for Manpower and Reserve Affairs William K. Brehm announced today that all Services combined obtained 33,314 non-prior service male enlistments during August—nearly 1,000 more than were obtained in July. This was 89% of the target for August.

Mr. Brehm stated that the quality of August enlistments, over-all, was encouraging. About 91% of all enlistments were in Mental Category I–III, which are the average and above average groups; only 9% were in Mental Category IV, the below average group. Nearly 69% of enlistments were high school graduates.

During August the Air Force exceeded its objective of 6,762 enlistments, obtaining a percentage of 101; the Navy achieved 100% of its target of 8,100, the Marine Corps recruited 83% of a 5,665 target; and the Army obtained 81% of its 17,000 target.

MALE NONPRIOR SERVICE ENLISTMENTS (AUGUST)

| Service | Enlistments | Target | Percent of target |
|---|---|---|---|
| Army | 13,694 | 17,000 | 81 |
| Navy | 8,091 | 8,100 | 100 |
| Marine Corps | 4,684 | 5,665 | 83 |
| Air Force | 6,845 | 6,762 | 101 |
| DOD total | 33,314 | 37,527 | 89 |

The Services substantially met their August enlistment objectives for military women. In round numbers the enlistments of women for August were:

| | |
|---|---|
| Army | 1,000 |
| Navy | 600 |
| Marine Corps | 100 |
| Air Force | 800 |
| DOD total | 2,500 |

Mr. Brehm announced that the recruiting objectives for September are about the same as for August, except for a lower objective in Air Force. The September objectives are:

| | |
|---|---|
| Army | 17,800 |
| Navy | 8,300 |
| Marine Corps | 6,500 |
| Air Force | 5,600 |
| DOD total | 38,200 |

### ENLISTMENT OF MILITARY WOMEN

Each of the Services met its August enlistment goals for military women.

NONPRIOR SERVICE FEMALE ENLISTMENTS

| | August | | Enlistments fiscal year 1973 | Objectives fiscal year 1974 |
|---|---|---|---|---|
| | Objectives | Enlistments | | |
| Army | 1,000 | 1,000 | 8,700 | 12,000 |
| Navy | 600 | 600 | 4,900 | 5,000 |
| Marine Corps | 100 | 100 | 1,100 | 1,200 |
| Air Force | 800 | 800 | 6,200 | 8,000 |
| DOD total | 2,500 | 2,500 | 20,900 | 26,200 |

Further increases in FY 1974 are under consideration.

All women accepted for military service are high school graduates or better, and are average or above average in mental abilities—a higher standard than is followed for male enlistees. All Services expected to enlist the quality and quantity of women they desire in FY 1974.

### ARMY'S GROUND COMBAT ENLISTMENTS

Army's ground combat arms enlistments in August totalled 2,836—1,364 below the 4,200 objective desired by Army. Half of the combat arms enlistees (1390 or 49%) were bonus enlistees—men who were high school graduates with above average mental ability willing to sign up for a four year initial enlistment.

The Army's recruiting shortfall of 1,364 can be offset by the assignment of some of the 2,500 enlistees recruited in August who entered service with no specific assignment guarantee. This group of men along with draftees provided Army with the bulk of its ground combat enlistees in prior periods.

### BLACK ACCESSIONS

During June-August 1973 the Military Services combined to recruit 20,700 black males into the enlisted ranks of the Active Forces. This represents a 4,500 decrease below the black enlistments and inductions for the corresponding three-month period one year ago. The percentage increased from 16.2% to 20.2% during the same period.

BLACK ACCESSIONS, JUNE–AUGUST

| | 1972 | | 1973 | |
|---|---|---|---|---|
| | Enlistments and inductions | Percent of total | Enlistments | Percent of total |
| Army | 13,800 | 17.5 | 12,300 | 29.6 |
| Navy | 4,700 | 13.0 | 2,500 | 10.3 |
| Marine Corps | 3,500 | 20.3 | 2,700 | 17.5 |
| Air Force | 3,200 | 15.7 | 3,200 | 15.2 |
| DOD total | 25,200 | 16.2 | 20,700 | 20.2 |

AUGUST 1973 ENLISTMENTS

| | Black enlistments | Percent of total |
|---|---|---|
| Army | 4,100 | 29.7 |
| Navy | 800 | 9.9 |
| Marine Corps | 900 | 19.1 |
| Air Force | 900 | 13.2 |
| DOD total | 6,700 | 20.1 |

Note: Black data for inductees, Marine Corps and Air Force enlistees were estimated to be 90 percent of all nonwhite accessions.

### REENLISTMENTS

Early indications are that the number of first-term and career reenlistments will be more favorable in the all-volunteer environment than in the draft environment of previous years.

Preliminary results that are subject to minor changes when final results are available indicate that except for imbalance in certain skill areas, all Services are substantially on plan for July.

REENLISTMENTS—JULY 1973

| Reenlistments | Army | Navy | Marine Corps | Air Force | DOD |
|---|---|---|---|---|---|
| 1st-term | 1,500 | 1,100 | 400 | 1,500 | 4,500 |
| Career | 3,200 | 2,800 | 700 | 5,300 | 12,000 |
| Total | 4,700 | 3,900 | 1,100 | 6,800 | 16,500 |

### MANNING THE SELECTED RESERVE

Although strength in the Guard and Reserve continues to decline, there are signs that the intense effort by unit commanders and by the parent Services are resulting in an improved picture of recruiting and retention. The total shortfall at the end of July was 64,469 against a mobilization manning objective of 971,066. This is a shortfall of less than 7 percent.

The net decrease in strength during July was about 9,000 for all DOD Guard and Reserve Components, but the Army National Guard went against the trend with a gain of 237, its second consecutive month with an increase in actual strength. Also, the Army Guard reported 2,126 non-prior service enlistments during July, exceeding its program by 20 percent.

Both prior service accession and retention rates have improved in all components. Prior service accessions during FY 1973 were 65 percent greater than the number which were programmed for the year. Non-prior service accessions, while far below the numbers required or the numbers attained during the years of high draft motivation, indicate a significant improvement in recruiting effectiveness. Non-prior service enlistments in the third quarter of FY 73 were 95 percent higher than the number of true volunteers recruited in the third quarter of FY 72 while the increase in the fourth quarter was 103 percent over the same period in the previous year.

Minority recruiting also improved with an increase during FY 73 of 67 percent in the number of black members in the Selected Reserve and an increase of 56 percent in the number of women participants. The gain during the past two years was 131 percent in black members and 84 percent in women members.

FISCAL YEAR 1974 SELECTED RESERVE STRENGTHS

| | ARNG | USAR | USNR | USMCR | ANG | USAFR | DOD total |
|---|---|---|---|---|---|---|---|
| Mobilization manning objective | 411, 979 | 260, 554 | 116, 981 | 39, 488 | 92, 291 | 49, 773 | 971, 066 |
| Actual strength June 30, 1973 | 385, 600 | 235, 499 | 126, 104 | 37, 509 | 90, 371 | 43, 785 | 918, 968 |
| Actual strength July 31, 1973 | 385, 837 | 233, 758 | 119, 915 | 36, 688 | 89, 891 | 43, 442 | 909, 531 |
| Net change from previous month | +237 | −1, 741 | [1] −6, 289 | −821 | −480 | −343 | −9, 437 |
| Net short/over mob manning objective | −26, 142 | −26, 796 | +2, 934 | −2, 800 | −2, 400 | −6, 332 | −64, 469 |
| Percent short/over | −6 | −11 | +3 | −7 | −3 | −13 | −6.6 |
| Prior service accessions: | | | | | | | |
| Fiscal year 1973 program | 24, 000 | 9, 800 | 13, 663 | 2, 208 | 7, 128 | 14, 735 | 71, 534 |
| Fiscal year 1973 actual | 41, 119 | 28, 467 | 25, 772 | 3, 042 | 9, 244 | 10, 767 | 118, 411 |
| July 1973 program | 2, 220 | 2, 500 | 1, 523 | 261 | 890 | 633 | 8, 027 |
| July 1973 actual | 4, 921 | 1, 063 | 1, 983 | 361 | 663 | 670 | 9, 661 |
| Nonprior service enlistments: | | | | | | | |
| Fiscal year 1973 program | 56, 625 | 23, 700 | 23, 891 | 8, 500 | 9, 450 | 4, 253 | 126, 419 |
| Fiscal year 1973 actual | 27, 300 | 9, 403 | 19, 858 | 8, 074 | 4, 139 | 1, 605 | 70, 379 |
| July 1973 program | 1, 765 | 800 | 477 | 756 | 850 | 353 | 5, 001 |
| July 1973 actual | 2, 126 | 184 | 85 | 425 | 218 | 96 | 3, 134 |

[1] Major portion of Naval Reserve decrease due to screening out of nonparticipants who are not obligated to train in Selected Reserve.

Note: All figures are unaudited preliminary reports from services.

SELECTED RESERVE RECRUITING TRENDS

| | 3d quarter, fiscal year 1972 | 3d quarter, fiscal year 1973 | Percent change | 4th quarter, fiscal year 1972 | 4th quarter, fiscal year 1973 | Percent change |
|---|---|---|---|---|---|---|
| Nonprior service recruiting: | | | | | | |
| Total NPS accessions | 17, 361 | 9, 396 | −46 | 12, 152 | 10, 690 | −12 |
| True volunteers | 4, 810 | 9, 396 | +95 | 5, 249 | 10, 690 | +103 |

| | June 30, 1971 | June 30, 1972 | Percent change, fiscal year 1972 | June 30, 1973 | Percent change, fiscal year 1973 | Percent change, fiscal year 1971–72 |
|---|---|---|---|---|---|---|
| Minority participation: | | | | | | |
| Black members | 16, 792 | 23, 240 | +38 | 38, 800 | +67 | +13 |
| Women members | 3, 975 | 4, 679 | +18 | 7, 311 | +56 | +84 |

## THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1973

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BARRETT. Mr. Speaker, I introduced yesterday, H.R. 10300 entitled "The Housing and Community Development Act of 1973," prepared for our consideration by Mayor John V. Lindsay of New York City.

As Members know, Mayor Lindsay served as our colleague in the House prior to his election in 1965 as the mayor of New York City. During his service in the House, he established himself as a dedicated and committed Member, with an outstanding record for promoting progressive legislation.

Mayor Lindsay recently sent me for consideration by the Housing Subcommittee a proposal for merging Federal housing and community development activities, an approach he strongly believes is urgently needed to cope with problems of our large cities. The proposal reflects the substantial experience Mayor Lindsay has had during 8 years as chief executive of the Nation's largest city, a city whose housing and community development problems are of a critical nature.

Mayor Lindsay's proposed legislation would establish a program of single block grants combining funds for housing and community development. Its basic objective is to eliminate the difficult situations where cities may have ample funds for acquiring and clearing sites, but no funds available to build housing on those and other sites.

The legislation he proposes has many other important features which are explained in the fact sheet and section-by-section summary at the end of my remarks. Some of the basic concepts are similar to those contained in H.R. 10036, the Housing and Urban Development Act of 1973, introduced by me and Mr. ASHLEY of Ohio on September 5.

I urge all Members of the House to give careful consideration to the concepts contained in Mayor Lindsay's proposal.

The material referred to follows:

FACT SHEET: NEW YORK CITY PROPOSED HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1973

For the last few months New York City has been working to develop a proposal for Federal housing and community development legislation which improves on existing law, following the lines generally proposed by the Administration and Congress for community development revenue sharing.

1. *Innovations in the Proposed Legislation:*

(a) *Combines housing and community development programs at the local level:* In place of categorical grants or separate block grants for Community Development (urban renewal, open space and the like) and Housing, the funding system proposed calls for a single block grant covering both Housing and Community Development activities. *The distinction in earlier programs between housing subsidies on the one hand and renewal activities on the other will be eliminated.* For instance, there will no longer be years in which cities have money to clear dozens of sites, but no housing subsidies to build on any of them. It will allow the cities to coordinate their own housing and renewal programs and to determine the appropriate mix of activities from year to year.

(b) *Provides for greater flexibility in the use of funds:* The proposal maximizes the funding choices for the recipient. Each government unit may choose the type of payments or the combination of payments desired. For example, a City or local government unit could elect to take one-half of its funding in immediate cash grants while drawing down the other one-half over 40 years in the form of an annual subsidy similar to the present Section 236 program.

(c) *Provides for greater stability and continuity in funding:* The proposed bill is designed to eliminate unpredictable and erratic funding for those local applicants which, like New York City, have the ability to execute an ongoing program. The bill does this by providing a guaranteed allocation, by formula, to cities, counties, and other units of general local government within a Standard Metropolitan Statistical Area, alone or in combination.

*To provide for continuity in local planning and execution, the proposed legislation requires that a three year action plan be submitted by the applicant, and that federal funds be committed for the same three year period, rather than on an annual basis, as at present.*

2. *Other Major Features of the Proposed Legislation:*

(a) *Uses of Funding:* Under the proposed legislation, the continuation of a local activity would no longer hinge on categorical funding through a Federal program. Money could be used for sewers, open space or housing depending on local needs at the time. The present grant categories would be eliminated.

All aspects of physical development, including land acquisition, housing and housing subsidies, and other existing programs will be eligible for funding, with determination of funding and subsidy mechanism left up to the applicant.

(b) *Funding mechanism:* The proposed bill establishes three "pots" out of which funds will be distributed.

1. 60% of the authorized funds will be distributed by formula *directly to cities, counties and other units of general local government* within Standard Metropolitan Statistical Areas.

2. 20% of the authorized funds will be reserved for states and for direct grants to cities, counties and other units of general local government outside Standard Metropolitan Statistical Areas, with funds to be distributed at the discretion of the HUD Secretary.

3. 20% of the authorized funds plus any unused portion of pots 1, and 2, form a discretionary "pot" for distribution to any eligible unit of government under categories 1 and 2 at the discretion of the HUD Secretary.

(c) *Funding formula:* The formula for distribution of the 60% pot includes four major factors: population, poverty, degree of overcrowding and construction costs. More specifically, the allocation to each eligible applicant will be determined by the ratio of (i) the population, (ii) extent of poverty, and (iii) the amount of overcrowded housing within the applicant's area to that of the United States, *as well as a construction cost factor relating to cost of constructing housing within the applicant's area to average construction costs for the country.*

The funding mechanism will include a "hold-harmless" clause that assures applicants that they will receive allocations which are no lower than the total of the average of the applicant's three highest funding years from fiscal year 1968–73, for Community Development and Housing categorical grant programs combined.

(d) *Planning Requirements:* Each applicant will be required to submit for approval a three year Action Plan, plus a projected plan for the subsequent three years. An adequate level of community participation is required as is compliance with the Civil Rights Act, the National Environmental Policy Act and the Uniform Relocation Act.

3. *How This Proposal Differs From Other Bills:*

The proposed legislation differs from the legislative proposals by the Administration and Congress in that it is:

The only proposal that combines community development and housing funding into a single grant;

The only proposal permitting flexible use of funds on an immediate (cash grant) or deferred (annual subsidy) basis;

The only proposal including a construction-cost factor in the grant allocation formula to assure higher cost areas an equitable formula share.

FISCAL MECHANISM: BASIC CONCEPTS

The proposed block grant approach, which combines short-term funding and long-term commitments, raises two problems: 1) how to combine immediate and long-term subsidy into a single sum; 2) how to reconcile the desirable flexibility resulting from a choice of short- or long-term subsidies with the requirement of orderly federal budgeting.

To deal with the first problem recipients would be allowed to divide their allocation between immediate cash subsidies and deferred payment subsidies by discounting gross deferred payments at a rate approximating the cost of money to the Treasury based on the average rate on Treasury obligations of comparable maturity. At the present time, these rates range from 5 percent to 7 percent, depending on various measures of Treasury borrowing.

For example, if a city were allocated a total subsidy of $100 million for the three year period, the city might choose to take $50 million in immediate cash subsidies and $86 million in annual payments (at 6% discount) of $4.3 million per year over 20 years. The first year the city would get $54.3 million. Gross payments would amount to $136 million.

Alternatively, the City might choose $75 million in cash and $42 million in annual payments, or $117 million in gross payments. If all of the $100 million were taken in deferred payments, gross payments over 20 years would be $174 million or $8.7 million per year.

DISTRIBUTION OF $100,000,000 BLOCK GRANT SUBSIDY—(6 PERCENT DISCOUNT RATE)

| | Amount in cash | Annual payment for 20 yrs | Discounted value of annual payments | Gross payments |
|---|---|---|---|---|
| Alt. No. 1 | 0 | $8,700,000 | $100,000,000 | $174,000,000 |
| Alt. No. 2 | $50,000,000 | $4,300,000 | 50,000,000 | 136,000,000 |
| Alt. No. 3 | 75,000,000 | 2,100,000 | 25,000,000 | 117,000,000 |
| Alt. No. 4 | 100,000,000 | 0 | 0 | 100,000,000 |

In rendering such flexibility to the cities, the Federal government would initially have no way of knowing how much cash it will need for its annual budget. This problem could be solved by requiring cities to submit their plans one year prior to initial funding. However, if immediate cash subsidies were overwhelmingly preferred, the totals might not be acceptable under near term budgetary guidelines. Initially, therefore, it might be necessary to limit overall cash requests to a certain percentage of total requests. The proposed Act empowers the Secretary of H.U.D. to limit the amount to be paid to any recipient in any year and to limit the portion of any grant that may be deferred in the form of annual payments.

It should be clear that this proposed block program assumes the continued payment of previous contractual obligations under housing and community development programs. There would be an interim period during which expenditures from previous commitments would be phased out and expenditures from new commitments phased in.

PROPOSED AUTHORIZATIONS

The proposed three year authorization totals $29,932 billion of which $13,732 is expected to be paid in annual sums over an average of 20 years. These amounts appear to be larger than totals for housing and community development appearing in previous federal budgets *because they include the total present and future cost of the commitments made during the three year period.*

While it is difficult to make strict cost comparisons due to variations in program assumptions, Tables 1–3 compare the proposed authorizations with the fiscal year 1972 appropriations base—the last full year of federal activity before the freeze on housing and community development programs. Table 3 shows that the total cost of commitment authority enacted in 1972 was $36,315 billion which is $6,383 billion or 18% higher than the proposed authorizations. Adjusting further for comparability so that all future commitments are discounted to present value, 1972 authorizations are seen to be $12,482 billion or 34% higher than the proposed authorizations.

The reasons for this reduction in total federal commitments under the proposed authorizations are:

1. The proposed authorizations assume only a modest growth in the annual level of community development programs—from $2,130 billion in 1972 to $2,333 annually during the three year funding period.

2. The proposed authorizations assume that only 300,000 housing units will be funded annually during the three year funding period compared with more than 500,000 funded in 1972. A subsidized housing level of 300,000 annually is about all that can now be sustained without severe economic dislocations and the breakdown of administrative processes to guard against corruption and program abuses.

3. The proposed authorizations assume that deferred annual housing subsidy payments will average only 20 years, compared with almost 40 years for the programs funded in 1972 and only sixty percent of the subsidized units will receive deferred payments at all; thus, total subsidy payments are less under the proposed legislation. However, this is somewhat offset by the assumption that annual payments will average $1,500 per unit per year compared with a slightly lower figure for the 1972 programs. Confronted with the choice of more money per year for fewer years or less money year for more years, it is expected that many housing sponsors will choose the shorter subsidy period. Thus, the 20 year average appears sound.

In conclusion, the proposed authorizations are fiscally responsible in two respects: First, they include the total present and future cost of all commitments made during the three year period. The whole iceberg, not just the tip, is revealed. Previous attempts to disguise total housing subsidy costs have lead to confusion and disillusionment. The proposed authorizations represent honest budgeting. Second, the proposed authorizations do not attempt to fund subsidized housing at the frenetic level achieved immediately before the freeze; rather, they provide stable funding for a level that is high enough to have real immediate impact on the housing needs of low and moderate income families but low enough to be sustained over a number of years without unfortunate and self-defeating economic political repercussions.

TABLE 1.—1972 APPROPRIATIONS EQUIVALENTS OF PROPOSED AUTHORIZATIONS

[In millions of dollars]

| | Fiscal year 1972 appropriations base | Total payments contracted for | Discounted to present value at 5 percent | 3-year equivalent |
|---|---|---|---|---|
| Community development: | | | | |
| Urban renewal | $1,250 | | | |
| Rehabilitation loans | 90 | | | |
| Water and sewer grants | 500 | | | |
| Open space grants | 100 | | | |
| Neighborhood facilities grants | 40 | | | |
| Model cities grants | 150 | | | |
| Subtotal | 2,130 | | | $6,390 |

TABLE 1.—1972 APPROPRIATIONS EQUIVALENTS OF PROPOSED AUTHORIZATIONS—Continued

[In millions of dollars]

| | Annual payments[1] | Total payments contracted for | Discounted to present value at 5 percent | 3-year equivalent |
|---|---|---|---|---|
| Housing subsidies: | | | | |
| Public housing[2] | $174 | [3] $6,960 | $2,986 | |
| Sec. 236 rental housing | 200 | [3] 8,000 | 3,432 | |
| Sec. 235 home ownership | 170 | [4] 5,100 | 2,613 | |
| Rental supplements | 55 | [3] 2,200 | 944 | |
| Subtotal | 599 | 22,260 | 9,975 | $29,925 |
| Totals | | | 12,105 | 36,315 |

[1] Contracts for annual subsidy payments.

[2] New production and rehabilitation only.

[3] Assumed to be 40 yr.

[4] Assumed to be 30 yr.

TABLE 2.—PROPOSED AUTHORIZATION

[In millions of dollars]

| Community development | Annual basis | Proposed 3-year authorization |
|---|---|---|
| Housing subsidies (300,000 units per year): | | |
| 1. Immediate payment basis[1] | $2,333<br>5,611 | $7,000<br>16,833 |
| Subtotal | | 23,833 |
| 2. Deferred payment basis[2] | (9,000) | |
| 3. Mixed basis: | | |
| 40 percent immediate payment ($2,244)[3]<br>60 percent deferred payment ($5,400)[4] | (7,644) | |
| 4. Add on for mixed basis: No. 3 and No. 1 | 2,033 | 6,099 |
| Total | 9,977 | 29,932 |

[1] Assumes lump sum payment of $18,700 per unit. This is equivalent to $1,500 paid each year for 20 yr., discounted to present value at 5 percent.

[2] Assumes all units receive $1,500 per year for 20 yr.

[3] Assumes 120,000 units receive lump sum payment of $18,700 per unit.

[4] Assumes 180,000 units receive $1,500 per year for 20 yr.

TABLE 3.—COMPARISONS OF AUTHORIZATIONS, 1972 APPROPRIATIONS BASE VERSUS PROPOSED AUTHORIZATIONS

[In millions of dollars]

| | Annual | 3 yrs. |
|---|---|---|
| 1972 base | $12,105 | $36,315 |
| Proposed authorization | 9,977 | 29,932 |
| Proposed authorization, adjusted for comparability with 1972 base[1] | 7,944 | 23,833 |

[1] Assumes all housing subsidies on a discounted present value basis for both 1972 base and proposed authorizations. Proposed authorizations include full funding of annual payments for 20 yrs. for 180,000 units in each year while 120,000 units are assumed to be funded on an immediate (present value) basis.

## A SECTION-BY-SECTION SUMMARY OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT 1973

What follows is a summary, section by section, of proposed legislation to establish a new federal aid program, for housing and community development. The program's innovative elements are to be found mostly in sections 101 through 701.

Sec. 101. Statement of Findings and Purpose: The goal of a decent home in a suitable living environment for every American is reaffirmed. Progress toward that goal is now to become the responsibility of the States, counties, municipalities and other units of general local government, which are to be free to devise solutions to their own problems without substantial federal legislative or administrative constraints. Federal financial assistance in support of such solutions is to be provided for longer than one-year periods (sections 601–603 provide for three-year grants), with the grant recipient able to choose to receive the grants on an immediate or deferred basis over a period of forty years. The distinction in earlier programs between housing subsidies on the one hand and renewal activities on the other is eliminated.

Sec. 201. Definitions: Certain important terms used in the legislation are defined.

Section 301, Uses of Funds: Funds under this act may be used for: activities undertaken in the preparation of the initial and any subsequent application pursuant to this act; the acquisition of real property determined to be in need of redevelopment, preservation, rehabilitation or required for other public purposes; the clearance or removal of buildings; the rehabilitation or improvement of buildings, whether publicly or privately owned, including buildings that house families of low or moderate income; the development of public works facilities, including water and sewer facilities, neighborhood facilities, utilities, streets, lights and the like; the elimination of building code violations; relocation payments or assistance; immediate or deferred payments or loans to low and moderate-income homeowners; rent certificates, immediate or deferred, to members of low or moderate income households; assistance to lenders in support of improvement activities relating to the housing conditions or low or moderate income people; any other activity deemed by the Secretary to be in keeping with the purposes of this Act, including but not limited to, activities for which grants were authorized under the Demonstration Cities and Metropolitan Development Act of 1966. A grant recipient may use its funds granted under this Act as its matching share under any other federal grant program that has a matching-fund requirements.

Secs. 401–402. Requirements for Grant Applications: Sec. 401 establishes four categories of eligible applicants: (1) Cities, counties, or other units of general local government within a Standard Metropolitan Statistical Area; (2) any combination of contiguous counties, cities or other units of general local government with a combined population of not less than 100,000 provided that the combined units are within the same Standard Metropolitan Statistical Area; (3) States; (4) and any city, county, or other unit of general local government outside a Standard Metropolitan Statistical Area. An applicant's chief executive officer is to submit the application to the Secretary.

Section 402. The application is to include a plan of action for three years and a tentative plan for the next three years. Before adopting a plan of action for submission to the Secretary, the applicant must publish the proposed plan and conduct a public hearing on it not less than 30 days after publication. The applicant will then adopt the plan with appropriate modifications and submit it to the Secretary. The submitted plan must include: a schedule for receiving grant payments; a program of compliance with the applicable provisions of specified Federal laws; and a statement of the applicant's goals in housing and community development, including the goal of ameliorating the housing and neighborhood conditions of persons and families whose incomes are below the median of all persons and families residing in the applicant's jurisdiction; and a specification of policy and programs for meeting such goals.

Sec. 501. Authorizations: Obligations for $23.833 billion in grants are authorized, which amount shall remain available until obligated. An additional $6.099 billion is authorized to pay for the increase in deferred housing subsidy payments subject to special accounting procedures described in sec. 701.

Sec. 601, 602, 603, 604 and 605. Allocation of Funds:

Sec. 601, 602, 603, 604 and 605. Allocation of 60 percent of the $23.833 billion in authorized funds is to be allocated by formula directly to cities, counties, and other units of general local government within Standard Metropolitan Statistical Areas, alone or in combination. Funds are to be allocated in such a way that each applicant will be eligible to receive the greater of its formula amount or its hold-harmless amount. Subsection (B) defines the formula amount, relating it to the size of the applicant's population, and the amount of poverty and overcrowded housing. An adjustment is also made to reflect differentials in the cost of constructing housing. Subsection (C) defines the hold-harmless amount, relating it to the amount of federal aid from which the applicant benefitted under earlier programs that are being discontinued. In computing a county's hold-harmless amount, the hold-harmless amounts of the other grant recipients in the county are deducted from the county's full hold-harmless amount. Subsection (D) establishes a discretionary ceiling that the Secretary may impose on the formula entitlement. Subsection (E) provides that funds not applied for under section 601 are recaptured for discretionary grants under section 603. Each grant shall be for a funding period of three years.

Sec. 602. Under section 602, 20 percent of the $23.833 billion in authorized funds is to be granted at the discretion of the Secretary of HUD to applicants not eligible for formula/hold-harmless allocations, i.e., cities, counties, and other units of general local government outside Standard Metropolitan Statistical Areas, and States. Each grant shall be for a funding period of three years.

Sec. 603. Under section 603, 20 percent of the authorized funds is to be granted to applicants eligible for either mandatory formula/hold-harmless grants or discretionary grants. These funds are also to be granted at the discretion of the Secretary of HUD. Each grant shall be for a period of three years.

Sec. 604. In exercising his discretion, the Secretary must consider the recipient's ability to carry out its plan; the plan's expected success in addressing the housing needs of poor and moderate income people; the recipient's need for funds given the size of its population and the extent of its problems; the relative cost of constructing housing; and the recipient's need for technical assistance under section 1101.

Sec 605. No grant under this Act shall be conditioned on the provision of a matching grant.

Sec. 701. Payments: The Secretary is required to make grant payments in accordance with a schedule established by the recipient. Deferred payments are discounted to their value at the time of the first payment. Subsection (B) gives the Secretary control over the payment schedule as may be necessary under federal budgetary considerations.

Sec. 801. Loans: The borrowing power of local governmental units is unimpaired by this Act.

Sec. 901. Nondiscrimination: Discrimination in any program or activity funded under the Act is prohibited. Enforcement powers are given to the Secretary of H.U.D. and the Attorney General.

Sec. 1001. Labor Standards: The Davis-Bacon Act is made applicable to certain construction projects financed with funds granted under this Act.

Sec. 1101. Technical assistance: Up to $10 million of the discretionary funds to be granted by the Secretary under section 603 may be used to provide technical assistance requested by an applicant.

Sec. 1201. Records, Audit, and Reports: Grant recipients are required to account properly for grant funds they receive. Recipients must allow access to their books and records to the Secretary and to the General Accounting Office for audit.

Sec. 1301. District of Columbia: The District of Columbia is empowered to participate under the Act.

Sec. 1401. Interstate Agreements: The Congress consents to interstate compacts made for cooperative efforts under the Act.

Sec. 1501. General Provisions: The Secretary shall prescribe rules and regulations to carry out the Act and shall evaluate the Act in his annual report to the President.

Sec. 1601. Conforming and Technical Amendments: This Act is effective upon enactment. No new grants or loans may be made under specified existing programs after June 30, 1974.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Chappell (at the request of Mr. O'Neill), for today, on account of illness in family.

Mr. Burke of Florida (at the request of Mr. Arends,) on account of death in family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Dent, for 30 minutes, on September 19; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Heinz) and to revise and extend their remarks and include extraneous matter:)

Mr. Cronin, for 15 minutes, today.

Mr. Frenzel, for 60 minutes, today.

Mr. Hastings, for 15 minutes, on September 19.

Mr. Roncallo of New York, for 60 minutes, on September 19.

Mr. Harvey, for 5 minutes, today.

(The following Members (at the request of Mr. Mezvinsky) to revise and extend their remarks and include extraneous material:)

Mr. Owens, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Alexander, for 30 minutes, September 19, 1973.

Mr. Reuss, for 10 minutes, September 19, 1973.

## EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mitchell of Maryland and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $783.75.

Mr. Barrett and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $470.25.

Mr. Taylor of North Carolina (at the request of Mr. Haley) was granted permission to revise and extend his remarks on the bill H.R. 7679.

(The following Members (at the request of Mr. Heinz) and to include extraneous matter:)

Mr. Conlan in five instances.

Mr. Esch in two instances.

Mr. Robison of New York.

Mr. Bowen.

Mr. Steiger of Wisconsin in two instances.

Mr. Pritchard in five instances.

Mr. Whalen.

Mr. Minshall of Ohio in two instances.

Mr. Keating.

Mr. Zwach.

Mr. Frenzel.

Mr. Cohen.

Mr. Whitehurst.

Mr. Robinson of Virginia.

Mr. Wyman in two instances.

Mr. Hudnut.

Mr. Gude in five instances.

Mr. Dellenback.

Mr. Derwinski in two instances.

Mr. McKinney.

Mr. Shriver.

Mr. Symms.

Mr. Heinz.

Mr. Duncan.

Mr. Burgener in two instances.

Mr. Goodling.

Mr. Huber.

Mr. Roncallo of New York.

Mr. Steele.

Mr. Don H. Clausen.

Mr. Gilman.

(The following Members (at the request of Mr. Mezvinsky), and to include extraneous matter:)

Mr. Moorhead of Pennsylvania in 10 instances.

Mr. Studds.

Mr. Dominick V. Daniels.

Mr. Harrington in five instances.

Mr. Obey in four instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Biaggi in five instances.

Mr. Fisher in three instances.

Mr. Hungate.

Mr. Leggett in two instances.

Mr. Flynt.

Mr. Waldie.

Ms. Abzug in 10 instances.

Mr. Rooney of New York on the subject of Jim Farley's warning.

Mr. Annunzio.

## JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 17, 1973, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 695. A joint resolution authorizing the President to proclaim the period of September 15, 1973 through October 15, 1973, as "Johnny Horizon '76 Clean Up America Month."

## ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 19, 1973, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1352. A letter from the Attorney General, transmitting a draft of proposed legislation to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts of omission of U.S. employees and for other purposes; to the Committee on the Judiciary.

1353. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

### Received From the Comptroller General

1354. A letter from the Comptroller General of the United States, transmitting a report on ways for the Department of Defense to reduce its administrative costs of awarding negotiated contracts; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MATSUNAGA: Committee on Rules. House Resolution 545. Resolution providing for the consideration of H.R. 981. A bill to amend the Immigration and Nationality Act, and for other purposes (Rept. No. 93–513). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 546. Resolution providing for the consideration of H.R. 9256. A bill to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes (Rept. No. 93–514). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on

Rules. House Resolution 547. Resolution providing for the consideration of H.R. 9281. A bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes (Rept. No. 93–515). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 548. Resolution providing for the consideration of H.R. 9715. A bill to authorize appropriations for the U.S. Information Agency (Rept. 93–516). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 549. Resolution providing for the consideration of S. 1914. An act to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes (Rept. No. 93–517). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 10315. A bill to prohibit Federal assistance to rental housing projects where tenants are not allowed to have pets, or to local governments which do not permit pets in rental housing; to the Committee on Banking and Currency.

By Mr. BREAUX (for himself, Ms. Abzug, Mr. Bergland, Mr. Bevill, Mr. Bowen, Mr. Brown of California, Mr. Byron, Mr. Cleveland, Mr. Cohen, Mr. Edwards of California, Mr. Gude, Mr. Ginn, Mr. Hechler of West Virginia, Mr. Johnson of California, Mr. Kyros, Mr. Leggett, Mr. Long of Louisiana, Mr. McCormack, Mr. Moss, Mr. Murphy of New York, Mr. Preyer, Mr. Rarick, Mr. Reuss, Mr. Rodino, and Mr. Roe).

H.R. 10316. A bill to amend the Duck Stamp Act with respect to the treatment of moneys received from the sale of migratory-bird hunting stamps, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BREAUX (for himself, Mr. Rose, Mr. Seiberling, Mr. Towell of Nevada, Mr. Walsh, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Zwach, and Mr. Sarasin):

H.R. 10317. A bill to amend the Duck Stamp Act with respect to the treatment of moneys received from the sale of migratory-bird hunting stamps, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BURGENER:

H.R. 10318. A bill to exclude from arbitrage bond classification obligations issued during the period beginning January 1, 1967, through December 31, 1971, by a State, a territory, a possession of the United States, or any political subdivision of any of the foregoing, or by the District of Columbia; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 10319. A bill to amend section 203 of the Economic Stabilization Act of 1970 to permit the passthrough of certain cost increases; to the Committee on Banking and Currency.

By Mr. DIGGS (for himself, Mr. Fascell, Mr. Seiberling, and Mr. Won Pat):

H.R. 10320. A bill to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes; to the Committee on District of Columbia.

By Mr. DULSKI:

H.R. 10321. A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers to such products to passthrough increased costs; to the Committee on Banking and Currency.

By Mr. EILBERG (for himself, Mr. Andrews of North Carolina, Mr. Dulski, Mr. Edwards of California, Mr. Eshleman, Mr. Fish, Mr Froehlich, Mr. Fuqua, Mr. Gubser, Mr. McEwen, Mr. Studds, Mr. Ullman, Mr. Vigorito, and Mr. Wyatt):

H.R. 10322. A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to passthrough increased costs; to the Committee on Banking and Currency.

By Mr. GOLDWATER:

H.R. 10323. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 10324. A bill to amend the Clean Air Act to provide for greater flexibility in implementing national ambient air quality standards; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS:

H.R. 10325. A bill to provide for the control and eradication of noxious weeds, and the regulation of the movement in interstate or foreign commerce of noxious weeds and potential carriers thereof, and for other purposes; to the Committee on Agriculture.

By Mrs. HOLT:

H.R. 10326. A bill to amend title 5, United States Code, to provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HOWARD:

H.R. 10327. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

H.R. 10328. A bill to amend the Internal Revenue Code of 1954 to increase the corporate surtax exemption in the case of small business concerns; to the Committee on Ways and Means.

By Mr. HUDNUT:

H.R. 10329. A bill to exclude from gross income the first $750 of interest received on deposits in thrift institutions; to the Committee on Ways and Means.

By Mr. ICHORD:

H.R. 10330. A bill to amend the act of September 30, 1950 (Public Law 874, 81st Cong.) relating to financial assistance for schools in areas affected by Federal activities to provide for a phasing out of certain entitlements under that act, and for other purposes; to the Committee on Education and Labor.

By Mr. LONG of Maryland (for himself, Mr. Diggs, Mr. Rangel, Mr. Carney of Ohio, and Mr. Mitchell of Maryland):

H.R. 10331. A bill to amend title 18 of the United States Code to require the consent of all persons whose communications are intercepted under certain provisions relating to certain types of eavesdropping; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 10332. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. McSPADDEN:

H.R. 10333. A bill to amend the act of April 12, 1926, regarding the applicability of Oklahoma law to Indian land disputes; to the Committee on Interior and Insular Affairs.

H.R. 10334. A bill to provide that the special cost-of-living increase in social security benefits authorized by Public Law 93–66 shall take effect immediately; to the Committee on Ways and Means.

By Mr. MARAZITI:

H.R. 10335. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Government Operations.

By Mr. MICHEL (for himself and Mr. Bowen):

H.R. 10336. A bill to amend the Truth in Lending Act to eliminate the inclusion of agricultural credit; to the Committee on Banking and Currency.

By Mr. OWENS:

H.R. 10337. A bill to authorize the partition of the surface rights in the joint use area of the 1882 Executive order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 10338. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

H.R. 10339. A bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

H.R. 10340. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 10341. A bill to amend title II of the Social Security Act to reduce from 60 to 50 the age after which a widow or widower may remarry and still receive at least a reduced widow's or widower's insurance benefit; to the Committee on Ways and Means.

By Mr. UDALL (for himself Mr. Blatnik, Ms. Chisholm, Mr. Corman, Mr. Maraziti, Mr. Miller, and Mr. Nix):

H.R. 10342. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. VANIK (for himself and Mr. Ashbrook):

H.R. 10343. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. WALSH:

H.R. 10344. A bill to create an Office of Emergency Fuel Allocation, to authorize a system for the allocation of crude oil and refined petroleum products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BOB WILSON:

H.R. 10345. A bill to amend title 10, United States Code, to realine naval districts, and for other purposes; to the Committee on Armed Services.

By Mr. WOLFF:

H.R. 10346. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 10347. A bill to authorize the Secretary of Agriculture to permit the use of DDT to control and protect against insect infestation on forest and other agricultural lands; to the Committee on Agriculture.

H.R. 10348. A bill to provide for the continued operation of the Public Health Service hospitals; to the Committee on Interstate and Foreign Commerce.

By Mr. WYLIE (for himself and Mr. Devine):

H.R. 10349. A bill amending section 203 of the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. COLLINS of Texas:

H.J. Res. 725. Joint resolution authorizing the President to proclaim the first Saturday in October of each year as "Children's Day"; to the Committee on the Judiciary.

By Mr. DIGGS (for himself, Mr. Howard, Mr. Mosher, Mr. Podell, and Mr. Roybal):

H.J. Res. 726. Joint resolution to protect U.S. domestic and foreign policy interests by making fair employment practices in the South African enterprises of U.S. firms a criteria for eligibility for Government contracts; to the Committee on the Judiciary.

By Mr. MAHON:

H.J. Res. 727. Joint resolution making further continuing appropriations for the fiscal year 1974, and for other purposes; to the Committee on Appropriations.

By Mr. MALLARY:

H.J. Res. 728. Joint resolution requesting the President to issue a proclamation designating the week of October 8, 1973, as "National Morgan Horse Week"; to the Committee on the Judiciary.

By Mr. RARICK (for himself, Mr. Vigorito, Mr. Melcher, Mrs. Hansen of Washington, Mr. Foley, Mr. Baker, and Mr. Sikes):

H.J. Res. 729. Joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year; to the Committee on Agriculture.

By Mr. WHITEHURST:

H.J. Res. 730. Joint resolution asking the President of the United States to declare the 13th day of October 1973, and the 13th day of October of each succeeding year "Animal Welfare Day"; to the Committee on the Judiciary.

By Mr. WYLIE (for himself, Mr. Archer, Mr. Bevill, Mr. Blackburn, Mr. Bray, Mr. Burgener, Mr. Burke of Massachusetts, Mr. Camp, Mr. Clancy, Mr. Collier, Mr. Collins of Texas, Mr. Conlan, Mr. Dan Daniel, Mr. Dent, Mr. Devine, Mr. Duncan, Mr. Eshleman, Mr. Fisher, Mr. Flood, Mr. Gettys, Mr. Goodling, Mr. Gross, Mr. Haley, Mr. Hammerschmidt, and Mr. Harsha):

H.J. Res. 731. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. WYLIE (for himself, Mr. Hays, Mr. Henderson, Mr. Hinshaw, Mr. Hogan, Mrs. Holt, Mr. Hudnut, Mr. Hunt, Mr. Ichord, Mr. Johnson of Pennsylvania, Mr. Jones of North Carolina, Mr. Keating, Mr. Kemp, Mr. Ketchum, Mr. Latta, Mr. Lott, Mr. McCollister, Mr. McEwen, Mr. Mathis of Georgia, Mr. Milford, Mr. Miller, Mr. Mizell, Mr. Mollohan, Mr. Montgomery, and Mr. Morgan):

H.J. Res. 732. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. WYLIE (for himself, Mr. Murphy of New York, Mr. Parris, Mr. Perkins, Mr. Poage, Mr. Randall, Mr. Rarick, Mr. Robinson of Virginia, Mr. Scherle, Mr. Schneebeli, Mr. Sikes, Mr. Snyder, Mr. Taylor of North Carolina, Mr. Treen, Mr. Ware, Mr. Whitten, Mr. Bob Wilson, Mr. Winn, Mr. Wright, Mr. Yatron, Mr. Young of Florida, Mr. Zablocki, and Mr. Zion):

H.J. Res. 733. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H. Con. Res. 300. Concurrent resolution expressing the sense of the Congress regarding the free emigration and expression of ideas by citizens of the Soviet Union; to the Committee on Foreign Affairs.

By Mr. EVINS of Tennessee:

H. Con. Res 301. Concurrent resolution providing for the printing as a House document, "A History and Accomplishments of the permanent Select Committee on Small Business of the House of Representatives"; to the Committee on House Administration.

By Mr. RANGEL (for himself and Miss Jordan):

H. Con. Res. 302. Concurrent resolution expressing the sense of Congress that certain economizing and tax reform measures shall be taken to assure through a fiscally responsible Federal budget for fiscal 1974 effective action to promote national security, stable prices, tax justice, full employment, quality education and health care, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunity for all Americans; to the Committee on Government Operations.

By Mr. HARRINGTON (for himself and Mr. Moakley):

H. Res. 550. Resolution to investigate the involvement, if any, of the U.S. Government in the overthrow of the Allende Government of Chile; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SMITH of New York introduced a bill (H.R. 10350) for the relief of John H. Ryan, which was referred to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## STATEMENT BY SENATOR LLOYD BENTSEN BEFORE THE DEFENSE APPROPRIATIONS SUBCOMMITTEE

### HON. LLOYD BENTSEN

OF TEXAS

IN THE SENATE OF THE UNITED STATES

*Tuesday, September 18, 1973*

Mr. BENTSEN. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks the statement I made before the Defense Appropriations Subcommittee on September 12, 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR LLOYD BENTSEN

Mr. Chairman, I am pleased to have this opportunity to appear before the Senate Appropriations Committee to discuss the defense budget with you. As a former member of the Armed Services Committee, I know what a difficult task you face in attempting to appropriate adequate funds to provide for National security while at the same time keeping a lid on Federal expenditures so as not to wreck our National economy.

This is a delicate balance to strike and I feel that these hearings are a definite sign that defense expenditures are being carefully scrutinized and that no Federal agency, including the Department of Defense, has carte blanche access to the Federal Treasury as some have suggested.

Today, however, I am here to speak to you about a specific program that concerns me and many Texans, which is Project Sanguine. Project Sanguine is a Navy communications program which is contained in the Research and Development portion of the Defense budget. The Navy is requesting $16.7 million this year to continue the validation phase for Project Sanguine which was approved by the Secretary of Defense in January 1973.

My concern here arises from the fact that the State of Texas has been mentioned as a prime site for the location of Project Sanguine. News of the possible location of this project in the Hill Country of Central Texas has caused an unprecedented public furor and has raised serious questions concerning the location of the project in Central Texas.

The opposition to Project Sanguine in my State stems from three principal sources.

First, there is considerable controversy over the possible effects Project Sanguine might have on the environment and economy of the Texas Hill County. As you may know, this Project would involve a buried grid of radio antennas over a 1,500 square mile area of the Llano uplift in Central Texas. [Refer to map] Transmitters would be buried at a depth of thirty feet along the grid and the cable for the antenna would be buried at a depth of six feet. This grid, grounded upon the dry non-conductive rock of the Llano uplift, would then form an electromagnetic field for the purpose of transmitting extremely low frequency (ELF) radio signals. Texas citizens are rightly concerned about what effects such a mammoth system might have on the local environment and what effects any such system would have on the use of this land for ranching and development purposes.

On a second point, the consideration of a Texas site was prompted by a decision in January of 1973 by Secretary of Defense Laird that the project should be located at a site elsewhere than the present test site in northern Wisconsin. Quite frankly, considering the opposition I have heard from many Texas residents to the program, I am not surprised that Secretary Laird preferred to have it somewhere else than in his own home area of Wisconsin. My point is that the same characteristics that made Sanguine extremely unpopular in Wisconsin have also stirred the citizens of Texas as well. If Wisconsin is the preferred site for the program, as Navy tests have clearly indicated, then Wisconsin should be the site chosen—not Texas as a second choice on political grounds.

Finally, I would say a word about the region in my State being considered for this project. The Texas Hill Country was settled early in the history of our State and has been held with special regard and tenacity by those who claimed this land from nature and who have passed it from generation to generation for over a century. Land is more than just a means of income here, it is a bedrock and a heritage which the owner cherishes and which one who has not shared a similar experience often fails to comprehend. The Texas Hill Country has been the site of some of Texas' most historic moments and the home of some of her most distinguished sons. It has a unique topography which has attracted thousands of tourists to its lakes and scenic routes.

Many of you recall the fondness which President Johnson had for this area of Texas and his ranch, by the way, is near the proposed site. I would only suggest to this Committee that many serious questions must be answered and a great many doubts allayed before a spade of Hill Country dirt will be turned on this Project. I and the citizens of this region do not intend to see it marred and perhaps irrepairably damaged by an unproven, high risk, program which may very well go the way of so many other such schemes that have emanated from the Department of Defense in the past.

I would hope that this Committee, in its report language would restrict the Navy from any new developments at the Central Texas site until all the many serious questions concerning this program have been fully answered. In addition, I would hope that this Committee will seek independent research and analysis concerning the possible effects of this Project before approving its construction.

As with too many such programs, it appears that much of the data available from the Department of the Navy is aimed at selling the Congress rather than objectively informing us.

Mr. Chairman, I appreciate this opportunity to discuss this matter with you. I know that Project Sanguine is a small portion of the total budget you must consider this year but it is the single most controversial item to the people of Texas that has been before you in many years. Any assistance you might offer would be greatly appreciated.

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## EQUAL OPPORTUNITY FOR ALL

### HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. STEIGER of Wisconsin. Mr. Speaker, those trying to prove the new All-Volunteer Army concept is not working have pointed as one indication of this to the high rate of black enlistees in the Army since the end of the draft.

The statistics which have been cited are, indeed, accurate. Increasing numbers of young blacks have joined the military. That this should be seen as cause for alarm is most unfortunate. Rather, it should be viewed as an indication that these young men and women are recognizing the opportunities provided by a military career.

As the volunteer Army has been implemented, salary levels have been raised to comparability with the civilian sector, reforms have been made in daily military life, and emphasis has been put on educational and other benefits. The military—to put it simply—has been doing a better job than its civilian counterparts in showing these potential "employees" the advantages of becoming members of its workforce.

The Philadelphia Inquirer, in an August 16 editorial, presented an excellent discussion of why young blacks are enlisting in greater numbers. The editorial follows:

EQUAL OPPORTUNITY FOR ALL: SERVICEMEN AND CIVILIANS

Washington officials both in and out of the Pentagon are justifiably worried—but perhaps for the wrong reasons—about the high rate of black enlistments in the Army since the Vietnam truce last January brought an end to the draft and a test of the all-volunteer concept.

Latest statistics, for the end of July, show that blacks comprise 18.6 percent of Army enlisted men but only 13.5 percent of American males of enlistment age. More significant is the trend, which shows rapidly increasing black enlistment. More than 25 percent of Army enlistees in the four months ending June 30 were blacks. In July the number jumped to 34 percent.

There is a parallel trend in re-enlistments. Latest figures show a 62-percent re-enlistment rate for blacks compared to 47 percent for whites.

Less than four percent of Army officers are black, however—raising the prospect of a predominantly black Army led by an overwhelmingly white officer corps. Unlike enlisted men, the officers have no dramatic trend toward more blacks. A decade ago nearly 3.5 percent of Army officers were black.

A "remedial" step reportedly under discussion in the Pentagon is to intensify recruiting programs for enlisted men in predominantly white sections of the country while quietly reducing recruitment efforts in black communities. That would be an outrageously discriminatory tactic. Equal opportunity for enlistment in the military service regardless of race is a right that must be scrupulously upheld in practice as well as principle.

More to the point would be a re-examination of opportunities for blacks to become Army officers. A fully integrated Army should be precisely that at all levels of command. Promotions, as enlistments, should be color blind—not by quota but by equality of opportunity based on merit irrespective of race.

Despite the low ratio of black officers, blacks are enlisting in the Army in disproportionately large numbers that reflect economic realities. Opportunities to acquire vocational skills, to earn promotion in the enlisted ranks, to acquire eligibility for educational benefits under the G.I. bill after return to civilian life—all of these factors may be a more compelling motivation than a love for military life.

To put it bluntly, if there were more educational and vocational opportunities for blacks in civilian life maybe not so many would be joining the Army. A need for universal equal opportunity, outside the military service as well as in, is the crux of the matter—and the Pentagon can't be blamed for that problem.

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## AN "ERA OF GOOD HOPE" DAWNS IN PUERTO RICO

### HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. LEGGETT. Mr. Speaker, on July 25 Puerto Rico observed the 21st anniversary of Commonwealth. This was truly an occasion to celebrate, both for Puerto Rico and for the United States, for Commonwealth has proven to be an honorable and enormously beneficial relationship between our two countries.

Over the past 21 years, Puerto Rico has achieved a development that is remarkable. Political awareness and constructive activism are flourishing where once passivity predominated. Economically, Puerto Rico has developed. Tremendous strides have also been made toward securing the rights and benefits of a developed society for all Puerto Ricans.

Yet the work has only just begun. A complex set of problems still remain to be dealt with and resolved. In an address delivered on the Commonwealth of Puerto Rico's anniversary, the Honorable Rafael Hernández-Colón cited these problems and expressed his confidence that they could be overcome. He christened the coming years as an "Era of Good Hope" and stated the intention of creating a "new Puerto Rico."

The Governor's address particularly concentrated on the subject of future political development. Reiterating the central principles of Commonwealth—

> Liberty to govern our own life and our own destiny in association with the United States in such a way that we may grow, develop, and mature to the limit of our ability as individuals and as a people.

He announced his country's firm desire, enunciated in an electoral mandate, that the political development of the Puerto Rican people be fulfilled within the scope of the permanent union with the United States which is established by common market, common currency, common defense, and common citizenship.

Specifically, the Puerto Rican people have mandated that the Commonwealth be carried to the maximum of self-government.

To achieve this purpose, Governor Colón has proposed to President Nixon that an ad hoc committee be formed. The functions and duties of this committee, the Governor outlined as follows:

> In defining how the development of the Commonwealth will achieve a maximum of self-government, the Ad Hoc Committee will be able to address itself to a series of immediate problems which create difficulties within the present relationship, such as the problem of Air and Maritime freight rates; the regulation on income allocation for tax purposes by the Internal Revenue Service; the minimum wage problem; the application of the regulations of the federal Environment Protection Agency to Puerto Rico as well as other limitations on our self-government. The committee may also study alternate forms of participation which the people of Puerto Rico ought to consider together with the Presidential Vote, to determine how they wish to take part in federal affairs, in harmony with Commonwealth status.

The ad hoc committee promises to be one of the primary tools for continuing the overall progress which has marked Puerto Rico's past 21 years and for dealing with the many problems which presently confront the country. Formation of this vitally important committee should be undertaken with all possible speed.

I congratulate Puerto Rico on the anniversary of its Commonwealth. I share the pride its people take in their progress and the confidence they feel for the future. Let all Members of Congress urge the President to implement this progress by forming the Ad Hoc Committee on Puerto Rican Redevelopment.

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## PROBLEMS OF U.S. NAVY ON FAST SURFACE SHIPS

### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ASPIN. Mr. Speaker, cost increases and technical problems are plaguing the Navy's efforts to build super-speedy ships that may someday skim across the water on a cushion of air at speeds up to 100 knots. I have publicly released documents which show that the cost of the program has increased considerably and the two 100-ton test prototype ships have both encountered serious technical difficulties.

It is interesting to note that the cost of research and development for the so-called surface effects ships has increased from $210.6 million to nearly half a billion dollars. While some of the increase is the result of building two 100-ton prototype ships instead of one, there is clearly a problem of cost overruns and mismanagement in the program. At least $69 million of the cost increase had nothing to do with building the extra prototype and raised serious questions about the management of the program. The $69 million increase is a result of contract cost overruns, cost of correcting technical problems, and inflation.

The documents which I have released indicate that the engines of one of the ships has, in the Navy's words, "suffered repeated failures."

The Navy says that the failures has "seriously impeded the ongoing test program on this craft."

Naturally, the Navy claims that "corrective measures are being taken."

The second test boat has also encountered difficulties in its electrical and hydraulic system and "mechanical defects in the propulsion transmission."

The next step in the Navy's $500 million program will be the building of two larger—2,200 tons—ships.

Frankly, Mr. Speaker, I am fearful that the Navy was pushing forward with the building of larger boats in the program even though all of the technical difficulties had not been corrected. While I favor the development of these super-speedy ships the cost must be kept within reason. At a certain point it is simply foolish to continue to spend money on high risk technology when the payoff in terms of real new weapons systems will be minimal.

It is interesting to note, Mr. Speaker, that the Navy has refused to estimate the cost of a fully equipped surface effect ship. I am calling upon the Navy to come clean on the total cost of the program.

Rather than tell Congress in a piecemeal fashion what the cost would be, the whole truth should come out now so that a full and complete judgment can be made on the cost of this program.

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## NECESSITY OF RAIL SERVICE

### HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. STEELE. Mr. Speaker, in remarks inserted in the August 3 CONGRESSIONAL RECORD, I made the point that many businesses, both in my State of Connecticut and throughout the Northeast, would suffer substantial and sometimes irreparable damage should the railroad services they utilize shut down. Without the rails to ship in bulk items—which would be too costly to ship by truck—many Connecticut manufacturers would be unable to obtain necessary raw materials. And in reverse, many finished projects which normally move out of Connecticut by rail either would not be shipped or would be forced onto the State's already over-congested highways, increasing not only congestion but also fuel consumption, pollution, and shipping costs.

Today, I am placing in the RECORD the text of a letter I received recently from Earl W. Couch, chairman of the board of the LEA Manufacturing Co. This letter vividly describes the ways in which one Connecticut business depends on the continued operation of the railroads. The LEA Co., however, is only one of the many interests that could not absorb the loss of rail services without severe hardship. I believe that it is incumbent on this Congress to insure that rail services, such as those described in this letter, be maintained.

The text of the letter follows:

Our business is a small one compared with many industrial giants in this vicinity. However the matter of the Pennsylvania Railroad and its poor circumstances has always bothered us. We understand now that there is a deadline of October 1, which is the critical date as to whether the Pennsylvania Railroad will continue operating or not.

The tonnage which we bring into our plant from our private railroad siding is relatively small (approximately 8,000,000 lbs. per year). However it is a fact that without the railroad we could not do business in Connecticut. We bring in a good many raw materials via truck but this is largely due to the fact that many of our raw materials are purchased at a price which includes delivery to our plant; hence the vendor may choose the carrier. Sometimes the vendor uses his own trucks; otherwise a common carrier truck. However, wherever we can specify to our vendors from whom we buy in carload lots, we always specify rail because the rail rate is so much less than truck rate. We have our own two car private siding to accommodate incoming rail car shipments. It is popularly considered in some quarters that the trucks can do anything the railroads can and faster and better. So far this is correct. However they cannot do it cheaper than the railroad. The raw materials which we bring into Waterbury are relatively inexpensive powders largely from the eastern part of the country and the Middlewest as far as Missouri and in most instances the carload/railroad rate is virtually one-half of what the truck rate would be. Hence, we cannot use trucks with this volume of incoming shipments, or we could not compete and since our market is highly competitive, this is a critical factor. Our products are sold extensively throughout the continental United States.

In writing you, we do so in the belief that we are not alone. Obviously, many, many small industries in Connecticut depend on the railroad for incoming and probably outgoing shipments and would feel the pinch severely, and in many cases probably could not be competitive should the railroad be discontinued.

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## HOBOKEN, A GOOD PLACE TO LIVE

### HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. DOMINICK V. DANIELS. Mr. Speaker, my mother was a native of Hoboken, N.J., and much of my childhood was spent in that fine old community known locally as "the mile square city." I have many happy memories of that time. Unfortunately, in recent years the city fell upon hard times and much of the city became blighted. The trend however, has been reversed and today Hoboken seems to be on the verge of a great renaissance. Property values in Hoboken are rising and suddenly the old city has become fashionable again. People are beginning to learn that living in Hoboken has many charms as well as conveniences. With its unrivaled location at the entrance of New York Harbor and its easy accessibility to midtown Manhattan, Hoboken is a good place to live.

Elizabeth Parks of the Dispatch, September 12, 1973, has written a most interesting account of the revival of interest in brownstone townhouses which has caused once depressed neighborhoods to take on a new look. New Yorkers looking for a better place to live might well give Hoboken a glance.

Mr. Speaker, at this point in the RECORD I include Ms. Parks' excellent article:

#### BROWNSTONE BRINGS FAMILY BACK TO CITY

(By Elizabeth Parks)

The old romantic townhouse look in the 1800's is now undergoing a revival in Hoboken.

Hoboken has been called, by an enchanted resident, a city of variety and charm and a good deal of her charm seems to emanate from a large number of old-fashioned brownstones built around the turn of the 19th century.

Brownstones are attached rows of city houses built generally between 1780 and 1820 to replace farmhouses. One recent proud buyer of a Hoboken brownstone, Mrs. Maureen Singleton of 926 Bloomfield av., calls them "the forerunners of tract development."

### QUALITY BUILDING

Brownstones were built, however, as Mrs. Singleton points out, before mass production did away with the concept of "quality craftsmanship."

They were also built before such items as mahogany and marble became an ecological scarcity.

"Houses today," says Mrs. Singleton, "aren't built with the kind of care that was lavished on brownstones. A typical brownstone has floors of oak, teak, or rosewood. "They have 12-foot corniced ceilings, mantles of delicately carved marble and slate; banisters and woodwork of mahogany and walnut and cherry and chestnut. There are built-in fireplaces and mahogany shutters. The materials that they used then simply aren't available today."

### CHARM OF COMMUNITY

In addition to the charm of the house itself, Mrs. Singleton also likes the charm of the community the house is situated in.

"Hoboken," she said, "is a very underrated city."

According to Mrs. Singleton, Hoboken has the best of two worlds. Only a square mile in area, it has all the advantages of a small town with a small town atmosphere plus all the best features of city living combined with what Mrs. Singleton calls "urban charm."

In addition to all that, Hoboken is only a mere 10 minutes to midtown Manhattan.

Before moving to Hoboken three years ago, the Singletons and their three children lived in the suburbs of Lake Shawnee.

### TIRED OF COMMUTING

Tired of commuting and of what they describe as "the suburban rut," the Singleton decided to try city living.

After looking at brownstones in New York City and Brooklyn, the Singletons decided on Hoboken because they found the environment less threatening and more congenial.

Mrs. Singleton considers Hoboken's diversity one of its most winning features. She points out that Hoboken is racially and ethnically mixed. Its population includes Puerto Ricans, Irish, Italians, Yugoslavians, and East Indians.

Hoboken also has a growing artists and writers colony which has already produced one hit Broadway musical, "Hair," written by two men while they were tenants in a local brownstone.

In the basement is the kitchen, playroom and an extra room which the Singletons rent out.

"In a brownstone," says Mrs. Singleton, "a family has room to live without its members tripping all over each other."

When the Singletons bought their house three years ago, they got it for less than $30,000 and invested another $10,000 in renovating.

"If we had done the work ourselves," says Mrs. Singleton, "it would have been less."

Mrs. Singleton still thinks brownstones, even at today's prices, are one of the best buys on the market and points out that half of Hoboken, from Hudson to Willow av., is attached brick and stone buildings.

"As things stand now, though," she adds, "we're reaching the point where there are going to be more buyers than brownstones."

It seems the past has more than just nostalgia in its favor; it has value.

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# SHE MISSED THE POINT ABOUT COYOTE PROBLEM

## HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. SYMMS. Mr. Speaker, in view of the fact that the sheep in Idaho are rapidly becoming an endangered species thanks to the vigor of the coyotes who graze on our sheep I thought the following article regarding a heated argument between two sides of the coyote coin.

The article follows:

### SHE MISSED THE POINT ABOUT COYOTE PROBLEM

(By Sam Kindrick)

John Ross clipped an item from the Sierra Club Newsletter following a big and heated meeting in El Paso between ranchmen who want to exterminate all coyotes, and conservationists who want to preserve the small wolves.

It's too good to keep.

One ecology-minded woman at the meeting stood up and suggested that all male coyotes trapped be castrated and then released.

She was answered by a grizzled, old ranchman who stood up and said: "Lady, you're missing the point. Them thar coyotes ain't rapin' our sheep. They're eatin' 'em!"

This is reminiscent of an Oliphant cartoon—this one didn't run in the Express—which dealt with the fight in Wyoming to preserve the eagle.

It showed a dude, rifle in hand, emerging from a helicopter which bore this huge sign: "Operation Eagle Kill."

Standing nearby was a panic-stricken ranchman, for, as he emerged from the chopper, the gunman said: "We finally solved the eagle problem. I shot all the sheep."

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# THE NEW ENGLAND FISHERY: AN INDUSTRY THAT'S RUNNING OUT OF RAW MATERIALS

## HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 17, 1973*

Mr. BURKE of Massachusetts. Mr. Speaker, I wish to commend the following article, "The New England Fishery: An Industry That's Running Out of Raw Materials" to the attention of my colleagues. This extremely valuable and worthwhile article, written by one of the Nation's most outstanding journalists, David B. Wilson, clearly outlines the severe problems which the New England fishing industry faces. The problem is easily identified—it is the result of direct and wholesale incursions into our traditional fishing territory by foreign fishing fleets. The situation has reached crisis proportions.

Mr. Wilson, who has thoroughly researched the situation, is firm in his praise for our colleague, GERRY E. STUDDS. Representative STUDDS' initiative in introducing forceful and vitally needed legislation to save our fishing industry clearly demonstrates why he is being considered as one of the outstanding freshman Congressman of the 93d Congress.

The article follows:

### THE NEW ENGLAND FISHERY: AN INDUSTRY THAT'S RUNNING OUT OF RAW MATERIALS

(By David B. Wilson)

Early in the afternoon of last July 24, Eddie Fleming, fisherman, noticed a school of 10 blackfish, small whales, following the Boston stern trawler MV Tremont as the ship moved through the open ocean on the northern edge of Georges Bank about 200 miles due east of Boston.

Horsing and leaping and rolling through the waves, the blackfish spurted puffs of vaporous breath as they closed, fascinated, on the yellow nylon lure of the cod end of Tremont's drag net. They snapped vainly at this trailing end as it was hauled up the stern ramp, to be emptied of its 1000-pound catch of mixed cod and pollock.

On the bridge, Wilson Spinney, the mate, watched them through a web of steel cable.

"The poor devils are desperate," he said. "All the herring's gone.

"They expect to find the herring here when they migrate down from the north. But the big seiners, the Russians, the Poles, the Germans, everybody, have taken it all. They're starving."

The blackfish followed Tremont all afternoon, sometimes astern, at other times circling the boat and later leading the way through the long swells, following a big bull whale who was the leader. There were several small calves, not much bigger than porpoises.

At sunset, around 7:30 they veered off to the south, making a pattern of black crescents across the red-gold path that led to where the sun met the edge of sea and sky.

All around that horizon stood the Russian ships, two 7000-ton motherships, tankers, supply ships, seiners and stern trawlers. More than a dozen could be seen easily and 25 appeared on the Tremont's radar screen.

It is imperfectly understood that they have every right to be there. In international law, the waters at the edge of the Continental Shelf of North America are open ocean. The United States traditionally asserts the principle of freedom of the seas. European vessels, legally, have as good a claim to the haddock on Georges Bank, what's left of them, as boats from Gloucester, New Bedford and Boston.

But unless something is done to curb the relentless fishing pressure imposed mostly by the vast, subsidized and magnificently equipped fleets of the Soviet Union and other European countries, it is predicted with confidence by those who study these matters that a food resource which has nourished the world since before Columbus sailed will be destroyed.

With world demand for protein outracing supply, this is no abstract or theoretical issue. For New England, it bears a disheartening message for the long term.

For seafood, fresh fish, is as integral a part of the quality of life here as Concord Bridge or the White Mountains. Returning to Skokie, Pasadena and Shaker Heights, the inhabitants regale their less fortunate relatives with tales of the quantities and qualities of seafood they have consumed hereabouts.

New Englanders, no longer required by habit or conviction to eat fish on Fridays, are generally unaware that most of the fish they eat—one estimate is 95 percent—is imported, the larger proportion of the imports being from Canada. They also are slow to recognize that fresh ocean fish, untreated and unfrozen, is a delicacy, a luxury food.

The scrod haddock bought from the Tremont at the Fish Pier auction at 20 cents a pound turns up in supermarkets (if the chains make the effort to get it) at $2.29 a pound. And a piece of codfish worth about a nickel on the dock fetches $3.85 broiled downtown as "Boston scrod."

The margins in addition to profit represent jobs, capital utilization, land values, tax revenues—in a word, wealth—and many impartial analysts believe that the American fishery, with the exception of small, inshore boats, is dying for one reason or another. There is virtually unanimous agreement, however, that unless preciptious trends of fish depletion are reversed, discussion of the other industry problems will soon become academic.

Carl E. Spinney of Lynnfield, a rangy, athletic, dectptively mild-mannered man in his late 40s, is captain of the Tremont. The mate, Wilson Spinney, is his brother. Their father was a fishing captain, and his father before him. In fact, their father chartered his boat to the film company that made the classic Spencer Tracy-Freddie Bartholomew picture "Captains Courageous" out of Gloucester in the 1930s.

Sipping a mug of fresh-brewed coffee on the Tremont's bridge, he estimates that 10 years ago, before the Russians and others arrived, he could have gotten four times the fish the boat catches today, given the same vessel and gear.

"There are whole areas here," he says, pointing on a chart to waters around The Leg and Cultivator Shoal on Georges, "where we could always count on getting haddock. It was the traditional fishing ground for Boston vessels. Now it's a desert, just an underwater desert."

Ten years ago, he says, a captain would not consider returning to port with less than 100,000 pounds of fish in his holds for an offshore trip. Now, a 50,000-pound trip is about good-average, and only a scarcity-supported price makes the voyage worthwhile.

Ashore, this means less fish of poorer quality at higher prices and an expanding market for fish trucked in from the Maritime Provinces of Canada, where costs are lower.

Landings at Boston's decaying Fish Pier are so sparse these days that it is the supply of Canadian fish rather than the volume of landings from Boston boats that ultimately determines price. Virtually all of the Boston catch goes to the hotel, restaurant and specialty fish market trades.

The Tremont, a Federally subsidized vessel built as an experiment three years ago, is anything but characteristic of New England's weary fishing fleet, an armada of rust and rot demoralized and outclassed by the Russians.

Tremont is big for an American trawler, 130 feet long, 311 tons, drawing 15 feet, with capacity—never yet utilized—to store 360,000 pounds of fresh iced fish in her holds. A 1200-horsepower General Motors diesel drives her at a cruising speed of 12 knots.

Galley and mess are separate rooms, which makes extra steps for Cook Arthur Doyle of Milton, but which will be recognized as luxury by anybody familiar with the amenities of the average dragger, where a half-dozen berths, dining table, stove, ice chest and food and gear lockers are all jammed together in a foc's'l head smaller than the average onshore kitchen.

Bunks forward are in staterooms and two deep instead of the usual four, and there are flush toilets and hot, fresh-water showers.

The tanks and tubs in the after compartments, where fish are eviscerated and rough-dressed as soon as they are caught, are gleaming stainless steel, with pressurized fresh and salt-water plumbing. A motorized endless belt moves the cleaned fish to holds amidships for ice-down.

Tremont's bridge is more like that of a yacht or Naval vessel than the bridge of a fishing boat. She carries two radars, digitally expressed loran, two pen-track fish-finder sonars and electronic equipment to guide a new $20,000 mid-water trawl net with which she hopes to catch herring—if the Russians have left any out there.

She also carries two conventional dragnets of synthetic fiber, towed over the stern on inch-thick steel cables called "wires." While one is being fished, the other is constantly being repaired.

The dragnet is the classic weapon of the trade, 160 feet long, almost half as wide at its mouth, towed at low speed over the ocean floor, its bottom held down by heavy rollers, its top held up by galvanized metal floats and its edges stretched wide by steel-bound, oaken "doors."

As the net moves along the bottom, everything in its path is swept in and back into the bag in its tail, called the "cod end." Hauled aboard after a run, this bag, secured by a knot like a hangman's noose, can be opened to release the catch, which pours through a hydraulically operated deck hatch into the holding bins below.

There is an endless fascination to the catch, a repetitive climax to the steady rhythm of setting the drag, slow cruising, hauling back the net and dressing the fish, a continuous process in summer interrupted only by hangups (in Maine, they call them hang-downs) of gear on rocks, pinnacles and wreckage on the bank 40 fathoms or so below.

In addition to the cod, haddock and pollock which form the bulk of the catch, there are squid, mackerel, monkfish, hake, lobsters, ocean catfish or wolffish, skate, dogfish, sand dollars, crabs, flounders and even an occasional stray halibut.

A haul can be worth $1000. Or it can be worthless, like the 3000 pounds of wriggling, ugly dogfish. (Oddly, dogfish are an esteemed eating fish in many countries and once formed 40 percent of the fish in English fish and chips. But US vessels discard them.)

How bad, in fact, is the fish resource exhaustion off New England? Even allowing for the traditional overtones of "fish story," the answer seems to be: very bad, indeed, potentially worse than the angry fishermen say it is, and much, much worse than most landsmen believe it to be.

And the quota agreements of the International Commission for the Northwest Atlantic Fisheries, the 19-nation consortium which has been attempting to control catch, are due to expire at the end of this year, with no alternative regulation clearly in view.

New England fishermen are virtually unanimous in support of the Studds-Magnuson Bill, filed by US Rep. Gerry Studds (D-Mass.) and US Sen. Warren G. Magnuson (D-Wash.), which would have the United States declare unilaterally a 200-mile limit and take over and manage the fishery for maximum sustainable yield.

This radical departure from traditional policy might severely damage the climate of detente between the United States and the Soviet Union. It also would collide with Great Britain's interest in the Icelandic cod fishery and the interests of United States tuna and shrimp boats which ply coastal waters off Latin America.

But, given the official ICNAF figure (which American fishermen damn as wholly unreliable), the alternative seems to be no fish for anybody within a few years.

In 1954, when the fishery from Greenland south to New Jersey was dominated by Canada and the United States, the catch totaled 1,846,000 metric tons.

By 1968, the peak year, this figure had risen to 3,906,000 metric tons, or more than 100 percent. But the United States share, for a variety of reasons, had declined from 513,000 tons to 307,000 tons, a factor of about 40 percent. Three years later, the US catch was down to 259,000 tons, less than a third of the Soviet Union's 902,000 tons.

More significant than national comparisons, from the point of view of the resource, however, is the decline in total catch in the northwest Atlantic since 1968, despite continually intenstifying fishing pressure. This figure dropped almost 25 percent, from the above-mentioned 3,906,000 to 3,280,000 metric tons.

This news is as bad or worse for the hungry and inflation-plagued people of Europe as it is for the fishermen of New Bedford.

The statistics by species are perhaps even more disturbing. The peak catch of codfish came in 1968 with 1,861,000 metric tons, along with 922,000 of herring, particularly prized in Russia and Scandinavia. Three years later, the cod fishery was virtually cut in half, down to 1,055,000 tons and the herring catch was off 22 percent, down to 705,000.

Marine biologists fear accelerating declines as the capacities of species to recover are destroyed by overfishing.

The haddock story deserves separate mention. Haddock's peak year was 1965, as Soviet and other European pressure reached its fullest expression. The figure was 249,000 tons in that year and only 49,000 in 1971.

In Massachusetts' traditional fishing grounds of Georges Bank, Brown's Bank and Nantucket Shoals, the story is even worse, with the haddock catch down from 56,988 tons in 1967 to a mere 6,648, or almost 90 percent dropoff, in 1972.

Figures can get tedious. But they are necessary convincingly to document the concern of the experts. The numbers must be read in the context of escalating effort—more boats, more and more sophisticated gear and more men seeking fish.

The concept of maximum sustainable yield or MYS is crucial here. Richard Hennemuth of the National Marine Fisheries Service at Woods Hole defines MYS as 'the greatest weight of fish on average per species that can be taken annually without depletion of the resource. He finds most disturbing the estimate that between 1971 and 1972, when the fishery experienced a 25 percent increase in effort, total landed tonnage was almost a constant.

United States representatives, in ICNAF meetings in Copenhagen and Rome earlier this year, proposed to curtail overfishing either alloting each nation a certain number of vessel-days or a certain set of species quotas. The Europeans balked, and the Americans walked out.

There will be an effort in Ottawa in October to revive the now almost moribund ICNAF quotas, but United States interests are pessimistic.

The anticipated breakdown could bring in 1974 what the marine biologists fear most—an accelerated, unmonitored and unrestricted free-for-all among fishing nations to grab off as much fish as they can before the other boats do.

And in such a scramble, everybody would lose in the long run. In the short run, the United States, which has the greatest national interest at stake, would be the most severe loser, for this country simply does not have the men or the boats or the gear to compete.

Not a bitter man, John N. Fulham, Jr., who with his brother Thomas owns the Tremont and her sister ship, the Old Colony, is bitter about ICNAF's performance to date, calling the commission "a cynical mask for the Europeans to wear while they are beating the hell out of us."

"The Romanians, Poles and Russians took 400,000 tons of mackerel last year among them and expect to do the same in 1973 and 1974, and they insist the resource is not being depleted," he relates. "This, in the opinion of American fishermen, is the bunk."

At 3 o'clock in the morning, Tremont moves through thick, swirling fog which almost obscures the floodlighted deck below the wheelhouse. The ship's contact with the rest of the world is the electronic radar pulse that spots some 25 other vessels, Russians from the pattern, spread out across the sea dead ahead, and the sonar pen which traces the outline of the bottom 40 fathoms down.

At the wheel, Wilson Spinney follows the curve of the northern edge of Georges Bank as traced by the flying pen on the sonar paper. When black dots appear above the outline of the bottom, schools of fish are indicated. A mental calculation relating time spent trawling to density of fish sign on the sonar determines when the trawl net is hauled.

But on this dog watch, there is time for reminiscence and reflection, and Wilson recalls Depression days of fishing under sail out of Rockland, Me., Lunenberg, N.S. and St. John's Nfld. Fishermen have a kind of dual citizenship—one on land and one at sea. Arthur Doyle, the cook, started out 50 years ago as a sealer in Newfoundland and has put four children through college with the money he earned as a fisherman.

In a job for which there are no educational requirements, fishermen make good money, but they make it the hard way. Tremont's 10-man crew is divided into two watches. Each works six hours on, six off, for a 12-hour day. At sea, there are no weekends or holidays.

A fisherman gets no medical insurance worth the name and no paid vacation. More important, he must live apart from the comforts of home, the company of women, the color television, the local barroom, the shops and games and pleasantries of onshore life.

And the job is hard and dangerous. A flying 30-pound steel hook at the end of a line can fracture a skull, a loop of line can break a leg or carry a man overboard. Dressing the fish is hard muscular, doublehanded physical labor in stifling oilskins and gloves—grab a 20-pound codfish from the pile, one stroke of the knife across the throat, out with the gills, then down the belly to spill out the innards, hundreds and hundreds of times until a ton of fish is dressed.

Nick Cucuru, whose family name in Gloucester is to fishing what Adams is to statesmanship and Lowell to banking in Boston, is a master at this.

Built like a baby bull, he carries aboard memories of lugging a 4.2 mortar tube around Hue for the 82nd Airborne in 1968, and he handles the fish and the knife the way some people handle a typewriter. Busy purposeful strokes and the job is neatly done.

The worst hazard on deck in decent weather is the possibility of a cable break. The weight of the boat lunging against the drag of the net puts incredible tension on the steel cables that haul in the fish. And when a cable lets go, it lashes across a deck like a murderous whip with a force to take a man's head or arm off.

Working the cod end, the fisherman stands at the edge of the stern ramp, which pitches at a 35-degree angle down to the sea. Tremont was built to fish the year around, in any weather short of a hurricane, and the fisherman must combine the grace and agility of a ballet dancer with the nerve of a high-wire aerialist to survive.

Why do they do it? It is impossible really to know, from a week on board in fine weather. The money is a part of it, and the freedom to work or not work or change boats. Nobody pushes a fisherman around. There are few forms to fill out and nobody to placate.

"We are a family," Nick said once, looking around the mess at Frank Ryan and Ken Bradbury of Dorchester and Engineer Ordway Duncan of Gloucester.

It is true. A fishing boat has community of interest, and those aboard her get to know each other pretty well. If you don't fit in, you move on, to another boat or to a job on land.

The food, which the crew pays for, is merely great. One trawler breakfast during the week this writer was aboard offered orange juice, choice of cantaloupe or honeydew melon, dry cereal and oatmeal, blueberry muffins, toast, bacon, sausage and fried bologna, eggs and pancakes with syrup. Unless you are working hard, a trawler is a poor place to lose weight.

But above all these things in the continuing interest of the fishing itself. It is not unlike golf, where even the duffer has a chance at a hole-in-one, and the hope of one good iron shot keeps him marching along past blown three-foot putts, divots, hooks and slices.

Some trips are useless, getting little or no fish. But there is always the chance of a good catch coincident with a favorable price, which means a bundle of cash on the pier.

And a man with a reflective or philosophical turn of mind, a taste for reading or an interest in natural phenomena can find a comfortable place on board.

The Peak of Georges Bank is too far out for harbor gulls. The cloud of seafowl that followed Tremont was mostly shearwaters, which the fishermen call "hags," and Wilson's petrels, which they call Cary (Mother Carey's) chickens.

These latter are a small blackish bird with a white spot at the base of the tail and tiny webbed feet, about the size of a fat English sparrow. They spend their entire lives after hatch at sea, and when they are blown aboard a trawler, they literally do not know how to take off from a hard surface. The fishermen pick them up and free them with a toss toward the sky.

A haddock is a silversided fish with a dark lateral stripe and a small mark, the size of a thumbprint, just behind the gills.

"The devil caught the haddock once long ago," says Francis Ryan, who almost believes it, "and left his mark, the thumbprint. But the haddock got away."

There is a grave question whether the haddock can wriggle free from the devil of herring seines and whiting nets and floating canneries and fishmeal factories and the pulse fishing that sends a couple of dozen Russian boats across the water to decimate an entire school of fish.

John Fulham says the Tremont lost $55,000 last year and the sister ship Old Colony lost $75,000. Each cost about $1 million to build and fit out, and ought to earn $100,000 a year to justify the investment in this high-risk business.

But the demand for fish is rising, powered by the shortage of fish itself, the meat scarcity and an increasingly sophisticated public taste. And there is hope for new fisheries, the herring, mackerel and redfish are becoming increasingly desirable, and even dogfish, skate and squid present marketing opportunities. All, however, depend on preservation of those delicate balances of nature which have for centuries been producing a no-longer-inexhaustible supply of good food off New England.

In the pre-dawn darkness of Thursday, July 26, Tremont, with 65,200 pounds of fish in her holds, headed into the Boston Fish Pier.

There was a waning moon, just a silver, ducking among the spars and cranes over her wake, and a blush of dawn above and below the horizon to the southeast.

Coming into Boston at such a time, the first landward signs are the lights, Boston, The Graves, Deer Island and Minot's off Scituate, each with a characteristic signal, beckoning and warning.

Then there are the low outlines of the harbor islands, lonely and wasted, and finally, beyond, the towers of Boston, seeming to rise over the horizon out of the sea itself, a great and exciting city asserting its profile at the margin of land.

In seven days on Georges, The Tremont had seen only four other American boats. In one over flight earlier this year, the Coast Guard counted 312 foreign vessels from 17 nations. In the seven days, Tremont had seldom been out of visual range of a Russian boat.

There are few young men around the Fish Pier. At 6:30 a.m. there are few young men around anywhere in the United States. The fish is sold on landing at auction in the old Fish Exchange building on the end of the dock, and the haddock, the key price, goes for 40 cents a pound, down from the 70 cents paid two weeks before, the crew's hope of striking it rich.

The seven days fishing grosses—the trade word is "stocks"—a total of $12,229, and the "lay," the split, is $6400 for the crew and $4900 for the boat and owners, after deducting certain expenses. Each fisherman's share is $490.55, but that is before deductions, withholding and social security.

It doesn't sound bad for a week's work, until you realize that the week is 84 hours, straight time, so to speak, for seven days uninterrupted by a weekend or the sight of a woman's face. A man can do better at construction with less risk, and his children get a chance to see him once in a while.

And yet they keep going back, drawn by something older than civilization itself, something mysteriously insusceptible to description in words. And the food, the good food, keeps coming in from the sea.

The question now is: How long is it going to be there? And the answer, tragically, is that unless the United States acts soon to protect it, which is unlikely, there will be no New England offshore fishery for anybody.

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## FUEL OIL EXPORTS

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ASPIN. Mr. Speaker, despite an approaching major fuel crisis, some U.S. oil companies are exporting hundreds of thousands of barrels of refined fuel oil to Europe.

These exports are an incredible disservice to the average American consumer and must be halted immediately. The American consumers are sick and tired of being the oil companies' sucker while oil profits soar.

News of the large exports is contained in the Oil Buyer's Guide dated September 17, 1973. The industry trade newsletter calls the exports "a most unusual move."

"At least four or five cargoes of domestically produced No. 2 fuel oil have been sold to European markets for shipment from the United States to Northwest European ports," according to the Oil Buyer's Guide.

These oil companies are receiving higher prices by shipping their fuel to Europe which amount to nothing less than windfall profits.

I am calling today upon the Federal Trade Commission to investigate these exports which are occurring while a critical shortage approaches.

It is my understanding that most of these exporters are independent refiners. They claim that the current phase 4 rules for gasoline and fuel oil forced them to begin exporting their products.

According to the regulations, fuel oil prices are frozen at the May 15 level with an allowance for increases because of higher crude oil prices. Obviously the phase 4 rules do not apply to export products.

I am calling today upon the Cost of Living Council to rebut the independent's charges that the rules are forcing them to export fuel oil. If they cannot refute these charges, then the rules should be changed to prevent the export of fuel oil during a crisis.

As some of my colleagues may know, I have sponsored legislation which would prohibit all petroleum exports, including fuel oil exports, during the current shortage. But the passage of this bill is not necessary. President Nixon has the authority today to clamp down export. I hope that President Nixon will prohibit the export of fuel oils until the current crisis ceases. Exporting during the shortage only increases prices, hurts the economy, and ultimately gouges the consumer.

## SPECIAL GRAND JURY REPORT ON HEROIN TRAFFICKING AND DRUG ADDICTION

### HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. FLYNT. Mr. Speaker, on June 8, 1972, the U.S. District Court for the Northern District of Georgia empaneled a special Federal grand jury to investigate organized heroin trafficking in Atlanta and North Georgia. After serving continuously for a period of 1 year, returning more than 90 indictments on more than 200 defendants and hearing from some 242 witnesses regarding the drug epidemic and treatment of addicts, the special grand jury rendered its report to the court on June 26, 1973.

As we seek to find solutions to the drug problem, wisdom dictates that we seek and carefully consider the advice of those who have studied the problem and are most intimately aware of all of its ramifications. The conclusions and recommendations of the men and women who served on this grand jury are most interesting and informative and, I believe, are worthy of careful attention from all Members of Congress. Therefore, I submit the following special grand jury report to my colleagues for their consideration:

### GRAND JURY REPORT

The Special United States Federal Grand Jury was empanelled by order of the United States District Court for the Northern District of Georgia on June 8, 1972, and has served continuously for a period of one year. The purpose of this Grand Jury, with the assistance of the Office for Drug Abuse Law Enforcement, U.S. Department of Justice, was to investigate organized heroin traffic in the Northern District of Georgia. During our tenure, we have returned more than 90 indictments for sale or possession of heroin or other hard drugs on more than 200 defendants. We have indicted the higher echelon traffickers for Federal tax violations, perjury, and other unlawful acts we found that they committed. In conjunction with our decisions on these indictments, we also had the function of being an investigatory body and heard from some 242 witnesses regarding heroin traffic and treatment of addicts. In our efforts to understand the drug market and traffic in northern Georgia, we have heard testimony from many police, medical and legal professionals, as well as individuals related via criminal activity, taken tours of treatment facilities, and become what we consider a well-informed body with regard to the drug problem. From the testimony of these witnesses and our observations, we formed the basis for this, our Grand Jury Report.

Evidence seen and heard has clearly demonstrated that heroin and other hard drugs are readily available to our community. The illegal drug business, being a lucrative venture, spurs greedy and ruthless individuals to distribute them and to prey on the misery and degradation of others, many times resulting in utter tragedy for the victim. We have testimony that estimates conservatively thirty-six million dollars as the annual expenditure by addicts for heroin in Atlanta. It may cost an addict between $40 and $200 a day to support his habit. While addicted or under the influence of drugs, few are able to hold down a job; therefore, he has to resort to crime to pay for his habit. This basically is the reason for the increased crime rate we are and have been experiencing. Among the crimes most often cited is that selling drugs; however, robbery, burglary, and other crimes against property are committed when the addict needs his money. The problem of addicts selling heroin to support their need creates the dilemma of addiction breeding addiction and the resulting pyramiding of crime and drug abuse. This the community cannot withstand; inevitably we will become a nation dominated by criminals and addicts if this spirial is allowed to continue.

It is obvious from the testimony that some youth in our schools are using hard drugs and that it is readily available to them. They are confronted with some type of abusable drug on almost a daily basis. We do not go so far as to say that all schools in northern Georgia have a drug problem; however, we do say that the extent of the use in schools at both the lower and high school levels is alarming and should be dealt with by responsible school officials, firstly by realizing that drug problems do exist in their institutions, followed by the implementation of realistic approaches to the problem, instead of the present "lip service" treatment that is being given. Secondly, the initiation of an effective liaison with local police, school detectives, and in particular, narcotic agents, is needed to effectively cope with this problem. If the epidemic of drugs in our schools continues unchecked, then almost surely the foundation of our society, the youth, will crumble altogether.

There are estimates of from 10 to 12 large suppliers of heroin in Atlanta, each with his lieutenants and his innumerable street pushers. These drug merchants do not seem to be controlled by any single organization but rather the control comes with a loosely configurated nexus of people seeking monetary gain.

No evidence was received which indicated the presence of any traditional organized crime "family" operating drug rings in Atlanta. Evidence showed that at least two Atlanta drug dealers contacted individuals who are believed to be associated with one of the "families" in New York on several occasions. More typically, however, the out-of-town source tended to be ethnically Afro-American or, occasionally, Spanish American. Further, the major Atlanta dealers appeared to have and use a number of out-of-town connections depending on who was "up" at the time drugs were needed. Usually the connections were located in New York, Los Angeles, Detroit, or Miami.

Many popular conceptions of drug sellers were found not applicable at least to Atlanta traffickers. The age and racial composition of individuals arrested by DALE Agents is shown below:

| | Percent of those arrested | Average age (years) |
|---|---|---|
| Negro males | 53 | 28.3 |
| White males | 29 | 23.4 |
| Negro females | 11 | 27.0 |
| White females | 7 | 23.5 |

Most had at least high school degrees and many, including several of the major dealers, had no previous criminal record. Those with arrest records usually had their previous encounter with police over drugs or crimes against property. The vast majority of those arrested abused either heroin, cocaine, or marijuana. Most drug rings were comprised of individuals of the same race or who shared a similar background or life style. The notion of a "family" organization popularized by current literature on the "Mafia" is emulated to some degree by many drug rings here.

At the present time it is estimated that there are from five to seven people in Atlanta who regularly traffick in heroin who might be able to obtain, pay for, and efficiently distribute heroin in kilo quantities. (A kilo is 2.2 pounds. In 50% purity, it might sell for $20,000–$25,000.) Evidence indicated that these five to seven traffickers seldom participate in such a large transaction. When they do, often they are purchasing the amount for themselves and for others.

More typically the Atlanta trafficker purchases heroin in multi-ounce quantities. The larger dealers will then retain all or most to be cut and bagged for sale by his pusher organization but will sometimes sell off the remainder in packages typically weighing from one to two ounces. Generally, however, even the larger dealers in the area do not resell heroin in bulk form but instead sell it already packaged for the street.

The person with the connection cuts the purity of the heroin by adding quinine, lactose, and procaine. He and/or others then package the heroin for the street by putting a very small amount into a glassine bag and then the bags are bundled into lots of 15 called "half-loads." The dealer then begins to supply his street pushers by dropping off two to twenty "half-loads." The pusher will sell these for about $65 each or at the rate of about $7 per bag. In turn, he repays the dealer at from $45–$55 per "half-load" and is then resupplied. Often half-loads sold on the street are broken into bags by the user who sells a portion to finance his habit.

The risk in the drug business is high. Seizures by law enforcement officials, robbery of dealers by addicts, uncollectible debts, and the purchase of bogus drugs ("turkey" or "rip-off") change the fortunes of dope peddlers quickly. Also many, including some of the major ones, will sell small as well as large quantities. For these reasons, no one can determine the scope of a dealer's past or present operations or future potential based solely on the amount of heroin he sold or possessed on one given occasion.

In addition to the infrequent kilo transactions involving Atlanta dealers cited above, evidence showed that a number of other transactions involving substantial quantities of heroin were consummated in Atlanta for distribution in other cities. Further, the evidence showed that suspected members of two of the country's largest black drug rings regularly come to Atlanta. Several own expensive homes, other property, or legitimate businesses here.

The attraction of Atlanta to the black racketeer from the large Northeastern cities is an interesting phenomenom. Many of this set of underworld figures come to the city regularly either for pleasure or to "lay-low." Some felt that many of these individuals' first introductions to the social life of Atlanta came at the time of the Clay-Quarry fight in 1970. Others, while products of Northern ghettos, have Southern roots and thus family and friends in the area.

While most of the heroin traffic in Atlanta was controlled by confederations of blacks, some substantial white dealers were found. These usually have connections either in the Cuban community of Miami or in Southeast Asia.

Access to cocaine connections by local dealers is about evenly divided among the races. This area is considered to be one of the nation's supply points for amphetamines and hallucinogens and is on a major supply route for marijuana. The traffic in these drugs is dominated by whites of either the "hippie" or "bootlegger" life styles.

A considerable body of evidence existed to the effect that many lottery men in the area were financing a part of the heroin traffic and that some with a record or reputation for bootlegging were directing their energies and resources toward heroin and/or marijuana and amphetamines.

The obvious insult to law enforcement personnel and to the general population is the dispensing of drugs by street peddlers. This is often seen by the ordinary citizen who cannot understand why or how these individuals can operate. We have found in the vast majority of cases that this availability of drugs is not due to the lack of diligence or integrity of law enforcement officers but more often to the lack of sufficient numbers of unrecognizable narcotic undercover agents and the extensive block communication system of the street pusher. We have observed that when a new, experienced undercover agent, unknown in the community, attempts to obtain drugs on the street, while making his case he finds virtually no barriers and can move among drug traffickers with relative ease. Therefore, it is highly recommended that new and additional funds be made available to recruit and support these undercover agents who have proven the most effective means of apprehending street pushers. We feel that the city and county governments have not funded their narcotic squads adequately in the past.

Recent testimony before our Grand Jury by former addict inmates revealed that narcotic drugs are as available in the city and county jails and state prisons as on our streets. This fact seems almost inconceivable since prisoners live and work in somewhat of a closed and controlled environment. These witnesses explained that sophisticated supply channels exist between visitors, prison personnel, and ultimately the inmates themselves. The Grand Jury, therefore, implores penal authorities to implement new and more stringent screening methods of its own personnel, prison supply contractors, and visitors to prevent further abuse.

Because the drug traffic exists only where there is a demand by addicts, we directed inquiry into what was being done to treat those with a habit.

When the heroin epidemic became nationwide, the State of Georgia was in the forefront in adopting and rapidly making available accepted forms of treatment for addicts here. These included the dispensing of methadone to maintain but stabilize the habit of the addict and methadone detoxification, a gradual medicated withdrawal. Methadone, a synthetic narcotic, is administered daily on an outpatient basis. Also, therapeutic communities were supported where addicts who have been quickly detoxified live for many months as they try to change their life style.

These programs have helped many people considerably. Further, while many of the patients have not ceased to use heroin while receiving methadone, the availability of the "legal fix" has no doubt kept some from committing a crime when heroin became scarce or expensive.

With some reservation we feel that the commitment of state, local, and Federal funds for the bricks, mortar, and hardware of treatment facilities was sufficient and that the performance of the staff was acceptable, considering the treatment methods which were adopted. Some problems were noted.

The treatment centers seemed to become meeting points for many who wish to exchange information about the source of drugs. Many participants seemed to continue to abuse heroin and other drugs and were either not dropped from the rolls or easily and quickly readmitted after a "binge." Sanctions were not effectively used to give incentive to "stay straight" while receiving treatment. Some addicts were heard to complain of the lack of effectiveness of counselors. The combined programs did not seem to be able to attract and retain more than 15-25 percent of the estimated addict population in Atlanta.

We heard from a number of witnesses from the treatment area both a year ago and recently regarding success rates and projected success rates. The most optimistic projection which we heard for addicts remaining drug free after being out of treatment for five years was one in three. One program stated that of 300 addicts they had seen in the past two years, only 36 completed or remained in the last stage of their program. Their highest success rate has been with drug users who are under court order to detoxify, a fact which reenforces this Jury's belief that mandatory commitment is the most effective means to overcome the overwhelming drug problem.

With virtually every witness from the treatment area, the statement was made that the largest source of treatable patients was diversions from the criminal justice system. Only these patients, it was said, have sufficient motivation or compulsion to fully take advantage of the treatment program.

We are persuaded that addiction is spread by those already addicted. We do not believe that the success of present treatment methods is at all acceptable. These do not perceivably reduce the number of addicts within the population at large. For this reason we feel that more direct measures should be taken at every level of government, either to furnish sufficient motivation for the addict to detoxify and remain drug free or, in the alternative, to remove the unreclaimed addicts from the society which he preys upon and contaminates.

It is to this end that we propose the following system. This suggested approach is felt to be sufficiently stringent to greatly reduce the demand for drugs and proportionately the addict-associated criminal activity.

We would require registration of narcotic addicts. We have categorized registration as either voluntary or involuntary and have affixed different approaches to each. Under voluntary registration.

(a) All registrants would be given a 90-day opportunity to withdraw from addiction in a supervised environment via methadone detoxification, or if he chooses, without medication;

(b) The withdrawal, whether it be with or without medication, would begin immediately;

(c) Jointly funded, State operated treatment programs would be responsible for follow-up counseling and examination of each registrant over a two-year period; and

(d) Entire voluntary withdrawal might be on an outpatient basis unless the registrant desires or needs inpatient treatment.

The involuntary aspect is for those users or addicts who do not abide by the registration requirement or who after having voluntarily registered continue to use heroin.

(a) Heroin users who fail to register would be forced to withdraw without medication within a thirty-day period of time to be followed by not less than 11 months confinement to an institution having treatment facilities.

(b) Heroin users who voluntarily registered were treated and subsequently became addicted after detoxification would be treated as a first offender non-registrant as in above.

(c) Second offender non-registrants would be subjected to a thirty-day non-medicated withdrawal to be followed by imprisonment for at least three years but not more than five.

(d) All involuntary class violators would be treated on an inpatient basis.

The objectives of the foregoing recommendation are principally (1) to attempt the rehabilitation of the addicted individual which hopefully would lead to his eventual restoration as a self-sustaining member of society, a virtually unattainable goal as long as he is drug-dependent, (2) to remove the addict from the community where his presence is a menace to society as a source of contamination to others, (3) to halt the criminal acts of addicts against innocent members of the community, and (4) to halt the profitable drug traffic by eliminating the narcotics consumer.

To implement the registration and commitment programs recommended by this Jury would require extensive expansion of the already established treatment centers. A coordinated treatment program for use by all agencies, whether city, county, state, or Federal, is what is envisioned. Referral for treatment of all known addicts should be mandatory for all agencies, whether government or private.

Whenever possible the program should be carried out in cooperation with the addict's personal physician. Also, parents and other family members should be involved in the program, particularly as regard to the follow-up counseling, which is an integral and most important aspect of the overall treatment. The objective of the counseling would be to help the former addict reorient his goals and life style toward worthwhile recreational, cultural, religious, and service opportunities. He must establish a sense of worth. Once the treatment program has been successfully completed and the individual is found to have remained drug free for an extended period of time, the individual's record should be classified so that it will not jeopardize his future opportunities and welfare.

Treatment facilities (both inpatient and outpatient) should be established geographically in such a pattern that no community would be at too great a distance to make use of a center for follow-up treatment.

Statistics indicate that between 50-80 percent of persons arrested on felony charges show drugs in their systems when given a urine test. Therefore, the programs to identify and treat addicts in jails and prisons must be accelerated. This Jury recommends that all felon arrestees be given urine analysis tests to detect possible drug use and, when results are positive, immediate withdrawal should take place.

This Jury does not advocate heroin maintenance by distribution of free heroin on any basis. Such a program (1) does not alleviate the problem of addiction, (2) offers no rehabilitation or hope for the addict to become free from the slavery of drug dependency, (3) does not give promise of fewer addicts in the future, since addicts breed addicts, (4) has met with very limited success in other countries where the addiction problem is less widespread and the number of addicts much smaller than in the United States, and (5) is impossible to administer without abuse. This Jury believes that the most humane approach to the problem, commensurate with protection of society, is withdrawal. The danger to the addict is minimal, and certainly not nearly as great as the danger of death from overdosage or from disease contracted by drug use related causes. In addition, the menace to society from the free movement of addicts among others, especially our youth, make it essential that he be either isolated or withdrawn from his habit.

In conjunction with our concept of registration, we are of the opinion that the only effective deterrent for drug offenders who possess or distribute heroin is to deal with them as harshly and sternly as good conscience allows. If the penalties we recommend are enacted into law by our Congress on a non-parolable basis, we feel that individuals will think twice before they attempt to associate with the drug culture. Therefore, we urge our elected officials to adopt the following recommendations:

(a) Heroin possession for first offenders will result in imprisonment for at least two years but no more than 15 years;

(b) Heroin possession for second offenders will result in imprisonment for **at least 10** years but no more than 25 years;

(c) Heroin distribution for first offenders will result in imprisonment for at least five years but no more than 25 years plus a fine of at least $1,000 but no more than $100,000.

(d) Heroin distribution for second offenders will result in imprisonment for life and a fine of at least $5,000 but no more than $1,000,000.

Distribution violations will include manufacturing, dispensing, or possession with the intent to distribute, manufacture, or dispense. The business of dealing drugs does not deserve to be lightly treated. It is the opinion of this Grand Jury that they be held in nonparolable status.

We, the Grand Jury, have chosen a wide range of imprisonment in order to give the court great latitude in penalizing individuals so that matters such as previous criminal record, amount of drugs involved, and a person's stability may be taken into account. The mandatory minimum insures that all violators will obtain similar penalties regardless of their social standing or variance in philosophies within the judiciary. We have also recommended a very harsh punishment for second offender crimes since obviously that person has not learned by his past mistakes. Likewise, we included a wide range of fines for violators so that individuals who are wealthy as a result of their drug involvement will be forced to return their wealth to society.

Presently the sentences handed out seem too short to us. Of the 59 defendants we have indicted, who have been sentenced for involvement with heroin and cocaine, the average has received a sentence of approximately three years. Today, the criminal knows that he has the possibility of receiving a very light sentence. Therefore, the deterrent effect of law enforcement is diminished greatly.

In our investigatory capacity and pursuant to our authority to investigate the activities of appointed public officials, a matter concerning the Georgia State Board of Pardons and Paroles' grant of an early release of a drug offender from the sentence handed down by the Fulton County Superior Court was considered. The case involved the distribution of $18,000.00 worth of heroin by two individuals who were convicted. One defendant, a Vietnam veteran, came from a relatively modest background and the other, a twenty year old youth, was the son of a successful Atlanta real estate broker. Both were sentenced to five years' imprisonment.

In Georgia, persons serving felony sentences of less than twenty-one years are normally eligible for parole consideration after nine months service or at the expiration of one-third of their sentence, whichever is greater. The five year sentence in the above case would have required that both **defendants** serve at least one-third of their sentence before they were eligible to apply for parole. The Vietnam veteran did serve the mandatory one-third requirement. However, the twenty year old youth was granted an exception and given an early release some six months prior to his normal eligibility date. The basic reason given for this release was that the sentence handed down by the Court was excessive although it did not appear to us to be. The exception was granted in the face of opposition by the Fulton County District Attorney and without full Board consideration or vote on the matter.

Testimony by the Board member who initiated the procedures which led to the early release action indicated that prior to voting on the early release, he had conversations with the youth's father regarding property in which the Board member owned an interest. The Board member indicated that he wanted the father, a real estate broker, to buy or develop the property. The Board member even sent the father a plat of the land prior to the vote. The Board member stated that he had not solicited this from other brokers. When asked if he considered this a conflict of interest when considering the grant of an early release on the youth, the Board member replied in the negative. The Grand Jury disagrees with that sort of action by public officials, especially those having power commensurate with that of the State Board of Pardons and Parole. We feel it necessary that they conduct themselves in a manner so as to not compromise their decisions.

A Constitutional referendum in November of 1972 granted the Georgia General Assembly the power to enact new procedures for the State Board of Pardons and Parole. This the General Assembly did in March of this year resulting in the present rules and regulations of the State Board of Pardons and Paroles calling for a five-member Board and the vote of all Board members on all early releases.

We are encouraged to believe that the drug epidemic in this country can be brought under control and that drug abuse can be largely eliminated. To accomplish this does require a multipronged attack, however.

At the heart of the matter lies the ignorance, apathy, and morality of the general public. The strong fundamental creeds have largely been forgotten, abandoned, or made unpopular. One generation trades off pills for principle and the Almighty for alcohol, and another follows the lead and simply endeavors to find other drugs to give them tranquility or excitement. Older people "don't want to get involved" and even decent young people will not reveal the identity of drug sellers among them.

We must again have a country where men live by the principles they preach and thus validate these guidelines to the young by their own example. We, as citizens, must again accept our responsibility for abiding by and enforcing the laws we have caused to be put on the books. We must report all evidence we have of the commission of crimes and stand willing to publicly accuse the lawbreaker. We must make certain that all have the facts about drugs and the consequences of their abuse. There is in short much that individual citizens and religious and service groups in the private sector can do to achieve the goal of a drug-free society.

We urge all in the public sector, whether part of executive, legislative, or the judicial branches of government, to take a firm, no-nonsense approach to wiping out drug abuse. We have heard much from social theorists about rehabilitation of criminals, treatment of addicts, and the necessity of many social programs to improve the quality of life. To effect these programs the taxpayers have spent billions of dollars. We are largely unimpressed with what has been accomplished by all of this. The failure has not come from the lack of commitment by those in rehabilitation, treatment, and other social agencies. The shortcoming is in the state of the art of social planning.

Until the theorist can show better results, the nation, if it wants to do away with drug abuse absolutely, must deal in absolutes. People who sell drugs must absolutely go to jail for a long time. People who are unreclaimed addicts or chronic abusers must be absolutely removed from society. This approach, we believe, will end the drug epidemic in this country.

## RESULTS OF QUESTIONNAIRE PUBLISHED IN SPECIAL REPORT

### HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HEINZ. Mr. Speaker, I recently mailed my second annual questionnaire to my constituents in the 18th District of Pennsylvania. Over 22,000 responses have been received and tabulated, and these results have been published this month in a special report to my constituents.

In the hopes that this information might be of value to my colleagues, this special report is herewith reprinted:

**Dear Friend**: I recently asked constituents to share their opinions on the vital issues facing us by answering my second annual questionnaire which was mailed to every household in the 18th District. The results have been tabulated and the breakdown of responses to the questions printed here for your information. Figures represent percentages.

| | Yes | No | Undecided |
|---|---|---|---|
| 1. Which reflects your feelings about the energy crisis? | | | |
| (a) Little Government can or should do | 7 | | |
| (b) Let fuel prices rise or fall by lessening government regulations | 18 | | |
| (c) Government should enforce conservation even if auto and air travel is restricted or use of electricity is curbed | 75 | | |
| 2. Do you favor Presidential Amnesty Commission to grant amnesty, order alternate service, or recommend prosecution for those who refused military induction? | 53 | 39 | 9 |
| 3. Do you favor legislation preventing the President from committing troops to hostilities for more than 30 days without congressional approval? | 81 | 16 | 3 |
| 4. Do you favor Federal tax credits to reimburse parents for part of the cost of parochial school tuition? | 52 | 44 | 4 |
| 5. Would you pay more for products and services if they could be made virtually pollution free? | 55 | 31 | 14 |
| 6. Do you favor funding for programs providing day care for children of working mothers? | 42 | 48 | 10 |
| 7. Which reflects your feelings on no-fault insurance? | | | |
| Federal Government should require States to act | 51 | | |
| States should decide for themselves | 34 | | |
| Opposed to no-fault auto insurance | 15 | | |
| 8. Do you approve of the President's program returning more responsibility to State, local governments? | 78 | 18 | 8 |
| 9. If a family qualifies for food stamps, should it be denied stamps because wage earner is on strike? | 36 | 57 | 7 |
| 10. Do you favor constitutionally outlawing abortion? | 38 | 55 | 7 |
| 11. Do you approve of proposed budget cuts by President to hold spending to $269,000,000,000? | 52 | 28 | 20 |

Note: Responses were tabulated from the following samples: Age: (18 to 34) 24 percent; (35 to 54) 42 percent; (55 and over) 36 percent. Party: Republican 44 percent; Democrat 52 percent; other 4 percent. Religion: Protestant 39 percent; Catholic 58 percent; other 3 percent. Union member in household: Yes 36 percent; No 64 percent.

The statistical sample was drawn from the 11,000 questionnaires returned, reflecting some 20,000 responses since "his" and "her" answers were requested. I am tempted to say such answers give me a clear indication of how to vote, but that isn't true. The bills that come before me and my colleagues in the House of Representatives are rarely if ever the one-sentence statements I asked to be answered in the questionnaire. Most bills are complex, going far beyond any of my questions in language, purpose and intent. However, replies are helpful in that they give me an understanding of my constituents' basic feelings and sometimes reveal my need for additional information on an issue. On occasion, answers also signal the need to share with you relevant information that has come to my attention.

### DEDICATION TO CLEANER ENVIRONMENT CLEARLY STATED

Two questions and part of a third dealt with the energy crisis and/or the environment. A total of 75% said the government should enforce conservation measures, even if it meant limiting travel. 55% said they are willing to pay more if products can be made and used virtually pollution-free. These answers, plus the 65% who felt the government should spend more on environmental protection, clearly reveal a dedication to a cleaner environment. It also reveals, at least on paper, that most people are willing to put their money where their mouth is to achieve it. I must comment, however, that as reassuring as these figures might be, we are all guilty of underestimating the true cost to us as individuals in achieving a cleaner environment. It will be tough to deal with the crunch of a job loss, restrictions on where and when we drive, especially to work, and, if you're a businessman, to cope with a drop in sales because new traffic patterns take away potential customers. We must find a way to make progress in cleaning up our environment, but in a way that no one bears burdens less fairly than others. Policies must not discriminate . . . or indiscriminately cause hardship.

### AMNESTY QUESTION CAUSES SOME CONFUSION

It's hard to read what the responses mean to the question on amnesty. Some scratched out "grant amnesty" and answered "yes". I feel most favor a commission to order alternative service or recommend prosecution, but not grant amnesty. Perhaps the establishment of such a body would encourage some who fled to return and take their chances.

It is surprising, what with the large number of Catholic respondents (58%), that 55% of all those responding said "no" to a Constitutional amendment outlawing abortion. Would those who said "yes" change their answer if the question were to "totally ban therauptic abortions in rape, incest or imminent threat to mother's life"? Taken as a whole, I believe the 18th District feels life must be respected but we should avoid adding any simplistic words to the Constitution.

I felt, and continue to feel that despite enormous State subsidies, urban school districts like Pittsburgh and Philadelphia are in too many cases failing to educate our children. In answering the 48% who said "no" to funding day care programs for children of working mothers, I believe we must re-direct our efforts to reach potential dropouts at a much earlier age. The hidden costs of welfare, drugs and crime are enormous, which is why I supported last year's Child Development Act as a strong, preventative measure.

It is obvious my constituency supports food stamps for strikers if the family qualifies. Those who voted "yes" to deny such stamps when the bill was before us, were probably concerned that these stamps might be a subsidy that could prolong a strike at taxpayers' expenses. It is true the food stamp program has suffered from abuses, but the Agriculture Department has made real progress to clean it up in the last six months.

The single largest agreement (81%) on any question dealt with granting war powers. Such a bill passed the House July 18 with my strong support. My concern is that the President may veto it. However, I have brought to the attention of President Nixon and the Congressional leadership the large, bipartisan feelings of my constituents.

### NO-FAULT RESPONSES REVEAL DRIVERS' FRUSTRATION

Some form of no-fault auto insurance is clearly favored, with 51% wanting Federal requirement for states to adopt a no-fault plan and 34% saying states should decide for themselves. There is obviously tremendous interest in no-fault and I interpret the 85% total as representing a high level of frustration over lack of action by states, including my own Pennsylvania.

A high 74% approved of President Nixon's program to return more responsibility to state and local governments. I am pleased that interest in local government is this high, but I wonder if this also reflects lack of confidence in Congress and other Federal branches in the wake of Watergate and Congressional inaction on a spending ceiling and other legislation. 52% approved of the President's proposed budget cuts to hold spending to $269 billion. It's obvious the President and those of us who believe spending must be held down are on the right track. I suspect the high undecided response shows uncertainty about the specifics of the proposed curtailments. I, too, agree with some, have alternatives for others.

My information was provided to the question on where the government should be spending more, less or the same. Space doesn't permit full comment, except to say I believe we generally have the same priorities, agreeing that our tax dollars should be spent on human needs, here at home, with greater attention paid to trimming wasteful military and overseas expenditures without sacrificing a strong national defense. The breakdown:

[In percent]

| | More | Less | Same |
|---|---|---|---|
| Agriculture/farmers | 25 | 53 | 22 |
| Weapons systems | 15 | 59 | 26 |
| Education | 59 | 20 | 21 |
| Environment | 65 | 13 | 22 |
| Foreign aid | 2 | 89 | 9 |
| Health | 75 | 7 | 18 |
| Housing | 42 | 29 | 29 |
| Job training | 51 | 24 | 25 |
| Military pay/benefits | 28 | 34 | 38 |
| Public works | 35 | 28 | 37 |
| Social security | 63 | 9 | 28 |
| Welfare reform | 36 | 33 | 31 |

No question, inflation is the No. 1 concern when constituents are asked to list what should be Congress' top priorities. Phase III and the following freeze were dismal failures for the Administration. Food prices are higher than ever and supplies of beef and other items tighter than even during the rationing days of the 40's. High interest rates make it impossible to build or buy a home or anything else needing financing. We in Congress must put a lid on government spending and just recently, I acted in your behalf to amend the anti-impoundment bill to make sure the spending ceiling is always in force at the same time as anti-impoundment requirements. As a result, our spending ceiling-impoundment bill passed by a sufficient margin that may guarantee enactment of badly-needed legislation. Second and third ranking priorities were striving for honesty in government and tax reform, respectively. I agree wholeheartedly.

To wind up, the results of my job performance question indicate a majority of my constituents (84% were more or less complimentary) are pleased with my efforts to act in their behalf. Most seemed interested in receiving my new Special Reports in addition to quarterly Newsletters.

Many thanks to those who took the time and effort to return the questionnaire. Your help and advice is highly valued by me and my staff.

JOHN HEINZ,
*Your Congressman.*

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## VETO NOT ALL CRUEL

## HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ZWACH. Mr. Speaker, the people of our Minnesota Sixth Congressional District are deeply concerned about the minimum wage bill.

In reading the editorials on this subject in our rural press, I find the editors in quite general agreement that the minimum wage bill passed by Congress is not the best for our people.

Typical of this editorial comment is the following from the Redwood Gazette, published by one of our State's most outstanding weekly newspapermen, Scott Schoen, which, with your permission, and for the information of my colleagues, I would like to insert into the RECORD:

### VETO NOT ALL "CRUEL"

President Nixon "was cruel" in vetoing legislation which would have raised the minimum wage from $1.60 to $2.20 per hour, some politicians contend, and they have a case where persons drawing $1.60, the present minimum, might merit and get the 60 cents per hour boost.

They ignore, however, those employees who barely qualify, if that, for the present minimum figure and would be replaced or their job would be eliminated if the bill were to become law.

They disregard, too, the beginning worker seeking to fill in between semesters or between high school and college, with no intention of becoming permanent and no interest in the job, other than the weekend paycheck.

They could be accused of cruelty themselves in that seven to eight million workers not presently covered by minimum wage legislation would have been included, to face an uncharted future since their employers have not yet had occasion to react to this particular form of coercion. A million, and perhaps several million, might benefit, but certainly a guess that half would continue in their jobs at the higher figure is hazardous.

No one quarrels very much with a minimum wage law which gets deserving employees their just deserts where circumstances have been a deterent. This is, however, a hazy field where the overkill is more than likely to be a net loss of employment and income.

A truly concerned congress might have hesitated because any increase in the price of anything feeds the inflation flame. No one will put more fuel on that fire than congressmen and other public officials when they accept more remuneration for jobs on which the price tags were wholly adequate when they were candidates or appointees. Increasing the minimum wage was the sort of sop needed to make a boost in congressmen's pay a trifle less unacceptable.

## CONGRESSMAN SHRIVER REPORTS FINAL TABULATIONS IN 1973 KANSAS FOURTH DISTRICT OPINION POLL

## HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. SHRIVER. Mr. Speaker, it has been my practice since coming to the Congress in 1961 to seek the views of my Kansas constituents on several issues involving domestic and foreign policy. Early this spring approximately 140,000 questionnaires were mailed to each household in the Kansas Fourth District.

More than 15,000 questionnaires have now been returned and tabulated. Today I wish to include in the Record the final tabulations of this 1973 opinion poll.

It is very helpful and reassuring to get this response and to note the sincere interest of the people in such vital issues as inflation, economic controls, farm programs, education, and health. Representative government is dependent upon a two-way communication between the people and their Congressman. The questionnaire provides an opportunity for many who otherwise might not do so to register their opinions.

Many people took the time to write additional comments and further outline their thinking on some of the problems affecting them. My evaluation of the many comments and responses to this year's questionnaire reveals that my constitutents are greatly concerned about inflation and high prices. They favor strict economic controls and reduced Federal spending. They generally are satisfied with the manner in which the Watergate investigations are being conducted. They are strongly opposed to aid to North Vietnam under any circumstances.

There also is strong sentiment for regulation of small handguns and restoration of the death penalty for certain major crimes. A majority indicated their support for some form of national health insurance but were oppposed to a program of tax credits for private school tuition.

As an indication of the differing views of constituents on the same issues, I would call your attention to a random sample of a few of the comments included with the questionnaires.

On Watergate, there were calls for Presidential impeachment or resignation while at the same time others indicted the press for "blowing the whole affair out of proportion to try to get back at the President."

On defense spending, one said:

> America needs to keep up her defense, build all the latest arms she can, so that we are not caught again like we were at Pearl Harbor.

Another one said defense spending should be reduced.

On the matter of gun control, one constituent wrote:

> Toy guns are a bad influence on children and should be outlawed.

Mr. Speaker, I wish to include the following tabulations of the 1973 Kansas Fourth District opinion poll.

### Congressman Shriver's Annual Fourth District Opinion Poll

1. Do you think wage-price controls should be:

a. More strict, 65%.

b. Less strict, 3%.

c. Kept as they are, 17%.

d. Removed, 14%.

2. With regard to balancing the budget, should the government:

a. Maintain the deficit at the level proposed by the President, 15%.

b. Increase federal spending and increase the deficit, 2%.

c. Bring the budget into balance by increasing taxes, 7%.

d. Reduce spending, 76%.

3. Current farm support programs expire this year. Which alternative do you prefer?

a. Extend and make present programs permanent, 14%.

b. Enact 3-year phase-out of farm programs, 50%.

c. More rigid controls, 9%.

d. More flexible controls, 27%.

4. The United States should consider funds to help rebuild North Vietnam:

a. Under no circumstances, 65%.

b. If other nations help in reconstruction, 22%.

c. As an investment in peace, 13%.

Please respond Yes or No to the following:

5. Do you think the President should be compelled to spend all funds appropriated by Congress?

Yes, 29%. No, 71%.

6. Do you favor a constitutional amendment which would reinstate the death penalty for certain major crimes?

Yes, 77%. No, 23%.

7. Do you favor tax credits to reimburse parents for part of the cost of private school tuition?

Yes, 38%. No, 62%.

8. Do you feel that a national health insurance program is needed?

Yes, 51%. No, 49%.

9. In view of the President's recent speech to the nation, action by the Grand Jury, the Senate investigation and appointment of a special prosecutor, are you satisfied that the Watergate matter is now being handled properly?

Yes, 66%. No, 34%.

10. Should the Federal Government enact legislation regulating "Saturday-night special" small handguns?

Yes, 65%. No, 35%.

11. Do you believe the Federal Government should yield more responsibility to local and state governments in the area of spending?

Yes, 80%. No, 20%.

## ABOLITION OF PLEA-BARGAINING

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BIAGGI. Mr. Speaker, a special Commission set up by the Justice Department to study our judicial system has urged the abolition of plea-bargaining.

During the summer, I addressed this body urging precisely the same thing, pointing out the terrible distortion of justice this practice causes. I cited at the time, a New York City case in which 187 counts of rape and robbery against three defendants is whittled down to three counts of simple robbery.

Plea-bargaining, at one time may have had a place in our judicial system, as a temporary means of speeding up trials for minor crimes; but its continuing abuse by prosecuters cries out for the abolition of the practice. Better courts, better judges, and better law enforcement will reduce the case load and speed up the administration of justice.

I sincerely hope that the recommendations of the Commission in this respect will be adopted by all Federal, State and local government. The result can only be a better and more efficient judicial system in the United States.

## COMBINE HENRY FORD AND THOMAS EDISON AND YOU GET—LEO SCHATZL

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BROWN of California. Mr. Speaker, it is a recognized fact that the automobile is the primary cause of smog in this country. Many people, both in and out of Government, are working to solve this problem, and I would like to tell you of one such case.

Leo Schatzl, a resident of Ontario, Calif., has designed and built his own electrical car, which he uses every day to drive to and from his job in the electrical shops at Kaiser Steel in Fontana. The Ingott, a Kaiser in-house publication, reported the details in their September issue, in an article which I will enter in the Record at this time:

### Gas Shortages Do Not Worry Him

Leo Schatzl gets the worst gas mileage in town—and he wouldn't have it any other way.

The repairman in Montana's electric shops and field department is fighting pollution in his own personal way, by designing and driving an electric car from Ontario to work.

Powered by five batteries and driven by a 10-horsepower jet starter/generator, Schatzl's auto whirrs to a maximum speed of 36 mph, which he claims is perfect for a commuter vehicle. "I designed this car expressly for driving back and forth to work," he said.

"Everyone was talking about automobile pollution, but not many were doing anything about it," Schatzl added.

Schatzl began developing plans for his project more than six months ago by purchasing a 1960 NSU Prinz which, at 1,200 pounds, is the lightest car on the market. After installing four six-volt and one twelve-volt heavy-duty golf cart batteries, he experimented with various types of motors which would operate in the 24-volt system.

Although one might assume expense in building an auto would be considerable, Schatzl was able to complete construction for approximately $500. Of that amount, $400 was spent on batteries, which he believes will perform for three to four years.

Operating costs are minimal, and Schatzl claims the car can be driven for just 1.5 cents per mile. Plugged into a regular house outlet, the car can be fully charged overnight for a round-trip to the plant.

Schatzl earned his master's degree from an electrical college in Linz, Austria, and has studied transistor theory and computer techniques at the Solar Electronics School in Pasadena. He has been an employee at Kaiser Steel for 15 years. In that time he has submitted 32 idea proposals which have been implemented.

Mr. Speaker, I will be offering legislation within a few days in the field of pollution-free or reduced-pollution automobiles. Many of us here in Congress have introduced legislation in this area before, but I hope that my approach will meet with more success than previous efforts. I will have more to say on this subject later.

## ISSUES OF PUBLIC CONCERN

### HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. COHEN. Mr. Speaker, during the August recess most Members spent a great deal of time in their districts finding out what is on the minds of constituents.

Washington Post reporter David Broder covered the recess activities of two of our colleagues, Congressmen RON SARASIN and ROBIN BEARD. His article provides a great deal of insight into the issues that most concern the public at this particular time. It also illustrated the dedication of these two hard-working Members of Congress. Because many of our colleagues were out of town when the article appeared, I include it in the RECORD:

### ISSUES OF PUBLIC CONCERN

(By David S. Broder)

FRANKLIN, TENN.—The members of the Rotary Club had enjoyed their roast pork and beans at the Holiday Restaurant. They had heard their congressman, freshman Republican Robin Beard, tell them about his "exciting" new job in Washington, his assignment to the Armed Services Committee, his doubts about the volunteer army, his fear that "Phase IV will not work in any way, shape or form to reduce prices," and his own determination to cut government spending—even by casting "protest votes" against highway beautification, the Peace Corps and the Bicentennial Commission.

"Now," said Beard, "you'll want to know what I think about this Watergate situation. Sure, I'm concerned. The worst of it is that it damages what little credibility people felt toward their officials. Most of the elected officials in both parties are honest.

"But I think we have here a situation in which some people, through total naivete or stupidity or whatever, made some just unbelievable decisions. There were some bad mistakes made.

"But I'll tell you right now, I believe in standing behind the President. I believe in giving him the same rights we give the Ellsbergs and Angela Davises of this world.

"And I think when this case is all through the system will be stronger. This little cancerous growth will be removed. We'll survive."

As the members filed past Beard to shake his hand after the speech, one said: "Tell 'em to get off old Spiro, now."

Another: "Tell 'em it's time to close up that damned Watergate, Robin."

And a third: "Watch yourself up there, Robin, you don't get wet in that Watergate."

Twenty-four hours earlier, and almost 1,000 miles away, another group of Rotarians had gathered at Dominic's El Dorado in Danbury, Conn., to hear Rep. Ronald A. Sarasin, another freshman Republican.

Sarasin, too, announced that his new job was "the most exciting thing I've ever done in my life." Then, giving no formal speech, he asked the Rotarians what was on their minds.

The questions came. On revenue-sharing allotments, highway fund diversions to mass transit, the status of urban renewal, the prospects for pension reforms, the danger of a fuel-oil shortage and even the likelihood of conversion to the metric system.

Finally, with time running out, Sarasin brought up Watergate himself. "No one can be very proud of what the Watergate hearing shows. But we are learning a lesson from it—that our system of law works, and that no one is above the law, not those involved in Watergate and not those on the other side of the political spectrum who break into draft boards or steal papers from the Pentagon," he said.

"I'm not crazy about these hearings. As a lawyer, I'd prefer to see these questions settled in court. But I'm glad the story's come out, it's become clear that this is not a Republican operation; that it was done by some of these clowns in the Re-election Committee and apparently the White House.

"I consider myself a professional politician and I'm proud of both words. And as a professional political, I'm offended by what took place.

"But I want to say this to you. I'm not willing to condemn the President at this point. I think he's entitled to the presumption of innocence that everyone's entitled to. And anybody seems to give him that. We keep waiting for him to prove his innocence. Well, that burden isn't on anyone in this country. And it isn't on him."

Sarasin sat down to loud applause, and later told aides: "I think maybe Watergate has run its course. Just a couple weeks ago, you wouldn't have gone anywhere without getting a Watergate question. I brought it up myself today, because I don't want anyone to think I'm afraid to talk about it. Frankly, I don't think there's any reason to be."

August has become the pulse-taking month for American politicians. The annual congressional recess sends the members rushing home to check the mood of their constituents.

This August, many Republicans faced that prospect fearfully. The euphoria of the 1972 Nixon landslide had been battered by a barrage of bad news—inflation, Watergate and spreading commodity and food shortages.

Washington troubles seemed to dog their trials at home. Sarasin was doing a radio call-in show on Wednesday morning, when the station joined its network for five minutes of news. The opening news item said the Justice Department was refusing comment on payoff charges reportedly facing Vice President Agnew. The closing item said the Agriculture Department was predicting that increases following Monday's start of Phase IV would send the food price index for the year up 20 per cent over the January level.

"Terrific," said Sarasin.

Of all those on the firing line, none would seem to have more cause for apprehension than the 44 freshman Republicans, many of whom were carried into office last November on President Nixon's coattails.

No pair of freshmen are "typical," but 38-year-old Ron Sarasin and 33-year-old Robin Beard share many of the characteristics of the group.

Both are energetic, ambitious young products of state government who decided in 1972 to tackle well-entrenched incumbents in reapportioned districts with long Democratic voting histories.

Sarasin took on a seven-term veteran in Connecticut's Fifth District, which ranges from the industrial towns of the Naugatuck valley down to the suburban affluence of New Canaan.

Beard ran against a four-term incumbent in Tennessee's Sixth District, a huge, largely rural territory, with most of its population at opposite ends of a 220-mile line stretching from the outskirts of Nashville to the suburbs of Memphis.

Both applied miles of shoeleather and thousands of handshakes to dislodging older men they accused of "forgetting" the constituents who had sent them to Capitol Hill.

Both strapped the weight of George McGovern to the shoulders of their uncomfortable opponents. Both joined hands firmly with the popular President.

Sarasin handed out "at least 70,000" cards with a color picture of him shaking hands with Mr. Nixon. Beard recalls that "in almost every speech, I said I thank the good Lord everyday that I am running with Richard Nixon and not George McGovern."

And both saw their efforts pay off—thanks, in no small part, to the Nixon coattails. The President carried Beard's district by 65,000 votes, and Beard won by one-fourth that margin. In Connecticut's Fifth, Mr. Nixon's majority was 56,400; Sarasin's, 5,400—just one-tenth as much.

Both men know they are high on the Democrats' target list for 1974. But if the impressions gathered in their districts last week are accurate, the Watergate scandals will not sink them.

A far greater danger to their chances lies in the rampant inflation and the fear of growing fuel and food shortages.

There is little they can do to protect themselves directly against that economic backlash, so their best hope is the old salesman's remedy: Get out and hustle. That is exactly what Sarasin, Beard and dozens of other Republicans were doing last week.

Topic A for their constituents, for weeks, has been the worry over rising prices and threatened scarcity, both men say. And on this topic, neither man offers a word to justify past policies or to promise future relief.

Sarasin spent Wednesday in Danbury, where Sen. Abraham A. Ribcoff (D-Conn.), himself facing re-election next year, had come the previous day to spread the word that the administration's energy policies would cause a serious heating oil shortage in New England next winter.

As Sarasin toured the same radio stations and newspaper offices Ribicoff had visited, he agreed with the forecast, if not the laying of blame.

A member of the "energy task force" of the House Republican Conference, Sarasin said he saw no short-term solution, but has cosponsored a bill for a "crash program" to develop new energy sources.

As for Phase 4 and prices, he told a cable television interviewer: "When we remove the freeze, there's no question we'll see higher prices, but over the longer haul, the only way to bring prices down is to increase the supply."

"Are you just telling the harried housewife to bide her time?" asked interviewer Chris Silva.

"I wish I had better advice, but there isn't a practical solution in sight," Sarasin said. "Price freezes don't solve problems. We have tinkered with the economy and every time we have, we've loused it up a little bit more."

Down in Franklin, Beard took almost the same line. "I wish I could say I see some relief in sight," he said on station WAGG, "but my fear is prices are going up even higher. I wish I knew what the answer is, but I think we're going to have to rely on supply and demand."

Beard and Sarasin both believe that Congress has shucked its own responsibilities for economic management, and both try to remind the voters that the President should not carry the whole burden of blame.

Sarasin drew a good response from the Rotarians when he recounted the "ridiculous" amendments offered on the House floor by grandstanding Congressmen, when the Economic Stabilization Act was up for renewal last spring.

"Someone said we should roll back prices to last year," he said. "Someone said we should go back to 1929. Somebody said we should amend the law to reduce the gestation period of cows by half. So we ended up just handing the problem to the President."

"Why doesn't Congress set a budget and live with it?" a Rotarian asked.

"I don't know," Sarasin said. "They don't want the responsibility. It's much easier to demagogue."

Beard, too, told his Rotarians that "Congress talks fiscal responsibility, but they don't vote it." But in interviews, neither man sees much political hope in Mr. Nixon's pre-Watergate tactic of focusing public anger at the "big spenders" in Congress.

"I don't think it will work any more," says Beard. "The Democrats will talk about hospitals and schools and say, 'We're for the things that are good for the people.' "

In fact, though both men are generally found in the President's corner on House votes, both have broken away to vote for spending for their districts on airport development, vocational rehabilitation, impacted schools aid and public works, which Mr. Nixon has opposed.

Both have fought their battles with the Office of Management and Budget. And when local editors last week congratulated Sarasin for springing $700,000 for the Still River project and Beard for restoring funds for the Columbia, Tenn., dam, neither refused to take credit.

Above all else, Robin Beard and Ron Sarasin see their political salvation in being visible, accessible and accommodating servants of their districts. When news director Charles Dibrell of WIZO told Beard on the air, "Your constituents are more aware of what Robin Beard is doing than any Congressman we've ever had," Beard replied, "You've made my day."

Neither man has ever stopped campaigning. Beard has been home all but five weekends since January; Sarasin, whose family still lives in Connecticut, has not missed a one.

Sarasin has converted his campaign bus into a "mobile district office," and is now completing his second circuit of his 26 towns, holding office hours in each.

Beard has been holding office hours in the courthouse of each of his counties, and both say that compared to the urgency of the personal problems the constituents bring to these sessions, Watergate and its ramifications seem remote and abstract.

Beard sat for two hours at the Williamson County courthouse Thursday, listening to a stream of problems and requests: an oil man angry about the independents' propaganda against his company, a naval academy applicant; two families whose homes are in the route of a parkway; a committee seeking a levee for the town creek; several social security and disability claimants; two men seeking help on getting jobs with the state; the wife of a government employee being "harassed" by his supervisor; a young man seeking to have his "undesirable" discharge reviewed; even some rural residents, who thought the Congressman could get the phone company to stop charging long distance rates for calls to the county seat.

Of the 50 to 60 people who came by, exactly one, a woman, wanted to talk about Watergate. "What I want to ask you," she said, "is what's the sense of having twelve men ask one man the same question twelve times in one day. What's the sense of that? Don't they have anything else to do up there?"

Although their districts and personal political stances differ, with Beard and his constituents more conservative than Sarasin and his, the two freshmen have hit on the same way of dealing with the Watergate situation.

Both say they will not condone the "mistakes" or the "stupid things" that occurred. Both say that the Watergate crimes are not part of politics as they understand it.

But both come down clearly on the President's side of the issue—without demanding any further explanation from him.

On the question of the tapes, Sarasin told a Danbury interviewer: "The lawyer in me says he doesn't have to give them up. The inquisitive part of me says I'd like to hear him. I don't know what the answer is, but the President has an obligation that goes beyond himself, to protect the prerogatives of the presidency. I think that's what he's doing.

"My own feeling is he did not know about Watergate or the coverup, that he was lied to by the people around him. I see a lot of people who shouldn't have been in those positions, who decided they were above the law. And the good thing about this is that we're demonstrating that no one is above the law. . . ."

On a similar interview program in Franklin, Beard said, "I believe in standing behind the President. He's still popular down here. The majority of the people I've talked with say if they had it to do all over again today, they'd vote for Mr. Nixon again, 'cause the man has done a good job for us—made fantastic inroads in our foreign policy."

Both seized on the impeachment move of Rep. Robert Drinan (D-Mass.) as device for disassociating themselves from the President's more rabid critics. Sarasin hurried out a press release opposing the move. Beard told a radio interviewer, "I cannot tolerate such people as Father Drinan having the gall to say, 'Let's impeach the President.' This is the same type of guy who screamed on behalf of the constitutional rights and civil liberties of bums like Ellsberg, Angela Davis and people like that. I say it's a two-way street. . . ."

While backing the President, both men are taking steps to avoid being caught in the Watergate backlash they see demeaning all politicians in the public's eye.

Mindful of the unfavorable impression many of the lawyer-witnesses have made during the hearings, Sarasin makes a point of noting in every speech or interview that "I gave up my practice, partnership, association and income" when elected to Congress. "My full-time job is to represent this district."

Beard has gone much further, developing a long monologue about his fears of becoming the victim of "Potomac fever," which he says develops in Congressmen who have served in Washington so long they have been forgotten by their constituents.

"So, I'm putting the monkey on your back," he told the Rotarians, "to see I don't become one of these great world statesmen who you see up there. I'll be back here, lookin' you in the eye, and tellin' you how I cast the only vote you got on the floor of the House. But I can't read your minds. You got to tell me what you think and what you want me to do, and if you help me that way, I'll stay the most hustlin', hard-workin' Congressman you've ever had."

Ironically, while both Beard and Sarasin feel it is politically safe in their districts to speak up unequivocally for Mr. Nixon, they must thread their way carefully around the controversies surrounding the Republican Senators from their states who serve on the Watergate committee.

To judge by their comments, the problem of being in the same party as Richard Nixon is less worrisome than that of sharing a party label and a state with Sens. Lowell P. Weicker Jr. or Howard H. Baker Jr.

Publicly, Sarasin told the Rotarians that he is "proud of our own Senator Weicker, who has pointed out that this was not a Republican Party operation at all." Privately, he says that Weicker's stance has helped the Senator with independents and Democrats, "but it's aggravated a lot of Republicans."

Beard says the attitude toward Baker "is fairly rough. People feel like he's been a little bit too rough, that he's overacting in some of his questioning."

Publicly, however, he defends the senator, saying, "He's handled himself well in a very difficult situation." Beard compares it to the time he had his brother in his own Marine platoon and "I had to give him the roughest treatment of all, to show I wasn't partisan to him."

"I think Howard Baker has tried to do an objective job, and compared to other members, has handled himself extremely well."

As they tour their districts this August, these freshmen Republicans, of course, are thinking about 1974 and what it may bring. They may be wrong, but they do not see any great peril in Watergate.

When a friendly journalist told Sarasin his likely Democratic opponent "is going to run on Watergate," Sarasin said flatly: "That won't be the issue," and let the matter drop."

Beard told a radio interviewer: "Without any question, anyone who tries to use Watergate as an issue against me, a congressman representing a district in Tennessee, is going to be a pretty weak candidate."

"He can take my voting record and tear it up as much as he wants to; that will be a legitimate campaign. But for anyone to have the gall to run against me on the basis of Watergate, well, the people are just better informed than that. They won't put up with it. It will backfire on him." A Democratic editor Beard met later in the day told the congressman he agreed completely on that proposition.

Both men were asked if they would want President Nixon or Vice President Agnew to campaign for them now. Sarasin said, "I think it would be a help. People want to come out and see them. They're certainly a drawing card. But I am trying to do the job I was elected to do, and if I can get that point across, hopefully I can be re-elected on my own."

Beard replied: "I'd like to think that through good, hard work I can win on my own. I'm realist enough to know this is a Democratic district, and I have to sell myself."

Are there any pluses in being a Nixon man? Sarasin said, "Well, yes. This being a Republican administration, there are people I can deal with in the executive branch who might perhaps be a little more kind to me than they might be to a Democrat. I don't look on being a Republican as a disadvantage."

Beard said, "I don't know. Personally, I think he's done a good job, but I don't consider myself totally a Nixon man. Whether there are pluses now, I don't know. I'm just looking for Robin Beard pluses, trying to let 'em know what I'm doing."

Beard and Sarasin may not be typical. But if you were to generalize from their experiences at home this past week, their attitudes, you would say:

There's little likelihood today that the Republican congressmen will come back to Washington on Labor Day ready to raise hell with the President about Watergate. They will want—but don't really expect to get—reassurances from him about the economy. Some of them may well tell their Senate colleagues it's time to shut down the Watergate hearings.

They will come strengthened in their belief that they are on their own for 1974. That may well be reflected in more deviations from the administration line on coming votes. Faced with a choice of voting their district or helping the President, most will vote their district.

Unless these men and the constituents, editors and broadcasters they met are all mistaken, Watergate itself will not put their Democratic opponents in office next year. And if most of the Republican freshmen are working for re-election as hard and as early as Ron Sarasin and Robin Beard are, any Democrats who beat them will know they have been in a fight.

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## THE WOMEN'S EDUCATIONAL EQUALITY ACT

## HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Ms. ABZUG. Mr. Speaker, today I had the privilege of offering testimony on the Women's Educational Equity Act before the Equal Opportunity Subcommittee of the Committee on Education and Labor. I am inserting my remarks in support of this excellent and much needed legislation into the RECORD at this point along with three relevant newspaper articles appearing in today's press:

TESTIMONY OF CONGRESSWOMAN BELLA S. ABZUG IN SUPPORT OF H.R. 208—THE WOMEN'S EDUCATIONAL EQUITY ACT

I am delighted to testify in support of H.R. 208, the Women's Educational Equity Act introduced by my friend and distinguished colleague from Hawaii, Patsy Mink. My only regret is that this legislation, like other legislation designed to give women equal opportunity to succeed in our male-dominated society, is so long overdue. It is a tragedy to consider the millions of wasted woman-hours throughout the history of our country—hours, days and years in the lives of bright and creative women who were channeled exclusively into the domestic sphere by a society that considered women as fit only for home and hearth.

The Women's Educational Equity Act is a recognition that women's traditional roles as mother, wife, nurse, elementary teacher, domestic worker will remain limited and confined as long as society's attitudes toward women and girls limits them to these roles. It is critical that the attitudes be challenged, broken-down, and that new attitudes replace them. The only effective method of changing attitudes is to reach individuals at an early age both at home and at school. The Women's Educational Equity Act provides federal funding to encourage the development of new techniques in curricula, educational texts and materials, personnel, guidance counselors, parents, conferences and workshops, physical education for women and non-sexist counseling. Through the promotion of these projects and activities, the federal government will be playing a role in bringing about a major social revolution—the equality of women.

Dr. Matina Horner, noted psychologist and President of Radcliffe College, has done outstanding work in the field of attitudes affecting the academic success of women. Through her studies she has discovered a deep-seated fear of success prevalent in women, which results in "the motive to avoid success." This motive to avoid success is instilled in girls at an early age, but becomes most noticeable during the high school and college years, where women who are "too smart for their sex" are socially ostracized, while women who "play dumb" are readily accepted by their male classmates.

"We asked Phil, a bright sophomore, to tell us a story based on one clue: After first-term finals, John finds himself at the top of his medical school class. Phil wrote: John is a conscientious young man who worked hard. He is pleased with himself. John has always wanted to go into medicine and is very dedicated. . . . John continues working hard and eventually graduates at the top of his class.

"Now consider Monica, another honor student. She, too, has always done well, and she, too, has visions of a flourishing career. We give her the same clue, but with 'Anne' as the successful student. . . . Instead of identifying with Anne's triumph, Monica tells a bizarre tale: Anne starts proclaiming her surprise and joy. Her fellow classmates are so disgusted with her behavior that they jump on her in a body and beat her. She is maimed for life.

"The glaring contrast between the two stories illustrates important differences between men and women in reacting to achievement. . . . In response to the successful-male cue, more than 90 per cent of the men in the study showed strong positive feelings, indicated increased striving, confidence in the future and a belief that this success would be instrumental to fulfilling other goals such as providing a secure and happy home for some girl. . . . Fewer than 10 per cent of the men responded at all negatively. . . . On the other hand, in response to the successful-female cue, 65 per cent of the girls were disconcerted, troubled or confused by the cue. Unusual excellence in women was clearly associated for them with the loss of femininity, social rejection, personal or societal destruction, or some combination of the above. Their responses were filled with negative consequences and affect, righteous indignation, withdrawal rather than enhanced striving, concern, or even an inability to accept the information presented in the cue. For example:

"Anne will deliberately lower her academic standing the next term, while she does all she subtly can to help Carl. . . . His grades come up and Anne soon drops out of medical school. They marry and he goes on in school while she raises their family.

"Anne is a code name for a nonexistent person created by a group of med students. They take turns taking exams and writing papers for Anne.

"Aggressive, unmarried, wearing Oxford shoes and hair pulled back in a bun, she wears glasses and is terribly bright."

The fear of success so common to women undergraduates is the result of a life-long education aimed at shaping women according to society's expectations—marriage, motherhood and ideally no career, but if a career is necessary let it be as a secretary, nurse, seamstress or teacher.

In a survey of college seniors released September 7 by Educational Testing Service it was disclosed that 44.6 percent of the men but only 29.4 percent of the women planned to go to graduate and professional schools—even though the women generally had better grades. The study indicated that a major factor behind these statistics was that the women had a lower level of self-confidence than the men and received less encouragement from their friends and relatives to pursue advanced work. The differences in aspirations between men and women were found to be so compelling that almost as many men with C plus or lower grade averages planned to pursue doctorates as women with B plus or A averages.

Attitudes develop early. Little girls enter school eager to learn and more capable than boys their age, since they are as much as a year to eighteen months ahead of boys developmentally. As Florence Howe, noted feminist educator, has observed, girls can easily please their teachers, since their mothers have taught them to be neat and quiet, to follow directions. They have had practice in watching and waiting—typical classroom activities—rather than bouncing around, questioning, being curious or aggressive in the manner of boys. As the years roll by girls grades remain better than boys' with the exception of sex-typed subjects like math and science. The problem that begins to plague the girls is not achievement at all, but motivation and aspiration.

Aspiration is remarkably low throughout a girl's lifetime compared to a boy's. When 700 fourth, fifth, and sixth graders were asked what they wanted to be when they grew up, girls' responses fell mainly into four categories: teacher, nurse, secretary, mother. Significantly, there was no fantasy; they are the roles prescribed in the literature and curriculum of schools and in their immediate surroundings at school. On the other hand, 15% of the boys' responses are pure fantasy, the rest a broad selection of vocational possibilities. In high school, girls' commitments to careers decline, and in college, women become increasingly interested—between their freshman and senior years—in becoming housewives and mothers. By now we all know the statistics that report the discrepancy between the proportions of women going to college (42%) and those who complete graduate degrees (13%) or enter a profession like law or medicine or engineering (1%–7%). Despite both intelligence and achievement, one can only conclude from the literature and the statistics that girls and women are *programmed* for attrition.

The Women's Educational Equity Act is an attempt to destroy the programming of children from preschool through graduate education and professional schools. Every human being deserves a chance to become whatever he or she desires. Girls must be encouraged to seek professions, business, sports, industrial arts, auto mechanics. Boys must be freed to learn and enjoy cooking, sewing, home management and elementary teaching. As society confines women to the home, men are confined to the job. Though the barriers to a woman seeking a profession are great, the barriers to a man desiring to stay home and care for the children are doubtlessly greater. These changes will take time and effort; non-sexist textbooks showing youngsters how mommy, a doctor, goes to her office, while daddy, a writer, stays home to look after his baby; sensitive guidance counselors to make all options available to students; athletic activities where girls' sports is given equal treatment with boys' sports; and reeducation of parents as to the need for and rationale behind these programs.

My main criticism of the act is that it does not go far enough. $80 million over a 3 year period can only make a *dent* in the educational system as we know it. In addition, I would like to see certain programs carried out on a national level. For example a National Board to review and rate all textbooks, educational materials and standard curriculums according to their treatment of sex roles. These ratings could then be distributed throughout the country as a means of keeping school boards up to date on available materials, programs and new ideas.

I also object to the grant limitation of $15,000 a year per grant for innovative approaches to womens' educational programs. This sum would hardly be adequate for an extended full time project that necessitates a professional director and office help. I would like to see a mechanism established whereby larger grants would be made available on a showing of need.

Aside from these minor criticisms, The Women's Educational Equity Act is a fine piece of *legislation*, and I commend Representative Mink, the Subcommittee on Equal

Opportunity, and the Committee on Education and Labor for an excellent job in anticipating the great need for such an act. It is crucial that woman power be encouraged not stifled; that women learn to welcome success, not run from it; and that women gain confidence in their diverse abilities. The Women's Educational Equity Act opens the door to a vast source of untapped talent. I eagerly await its prompt passage by the 93d Congress as a vital force in bringing educational equity to a new generation of women and girls.

### Unlearning "Dick and Jane"

(By Geri Joseph)

Sugar and spice and everything nice—is that what little girls are made of? Not lately. Maybe not ever, although a lot of little girls grew up trying. It was a phony image anyhow, full of "you can't" and "you shouldn't" and limiting a girl's horizon from babyhood.

Just how girls came to be seen in this unreal and restrictive light is one of those "it's-always-been-this-way" stories. But important chapters undoubtedly were supplied by the free, public education system that most American boys and girls enter at age 5 and leave at 18, taking with them some basic ideas about themselves and each other. As a matter of fact, some experts claim that by age 8 there is 99 per cent agreement among children of both sexes as to which sex does which job, what kind of person a girl or boy should be and what the limitations and expectations are.

Eight years old—that seems ridiculously young for either a boy or girl to be settling neatly into a rut, even if it is hallowed by tradition. In the last few years, a rebellion sparked by the women's-rights movement has been trying to break the old, imprisoning mold, trying to bring the real world into the educational process.

The rebellion finally reached the halls of Congress last year. Rep. Patsy Mink (D-Hawaii), a tough-minded lawyer, introduced a bill to provide $80 million over a three-year period for special programs and materials to improve education for women. Called the Women's Education Act (H.R. 208), it nevertheless treats men as equals. "Nothing in this Act," it reads right there at the beginning, "shall be construed as prohibiting men from participating in any of the activities funded."

At hearings in July, the House subcommittee on equal opportunities got a generous sample of ways in which public education short-changes girl children.

There were documented charges that vocational education for girls provides far fewer job-training opportunities than for boys, although women now number 40 per cent of the U.S. labor force. All too often, girls are channeled into "acceptable" if limiting courses in typing, cooking, sewing.

Sports and physical-education programs also were raked over the coals at the July hearings. One study denounced school athletics as "pervasively discriminatory." Swimming pools, tennis and basketball courts are generally far less available to girls, measured on dollar, per-capita basis of interested participants.

But among the many charges of sex discrimination in schools, none was more thoroughly aired than complaints against elementary-school textbooks. What? Even Dick and Jane? Yes, and a plethora of studies unanimously says so. The National Organization of Women (NOW) has had task forces around the country pouring over children's readers, and numerous reports have come from university professors. They show that more than two-thirds of all stories studied are about boys or men or male animals, and most deal exclusively with male adventures. Boys are shown as active and creative, using their wits, solving problems for girls and even mothers. Girls, on the other hand, walk, read or dream and universally admire the prowess of boys. Seldom are girls seen doing anything athletic, not even riding a bicycle.

In still another report, the author remarked that she could not find a single description or picture of a woman driving a car, and she found only one picture book about working mothers, Eve Merriam's "Mommies at Work." But even that book has a cop-out ending. It says sweetly, "All mommies love the best of all to be your very own Mommy and coming home to you." Why, asks the author of the report, do we not feel the need to say about Daddy that he loves his children more than his work? "Couldn't Mommy matter-of-factly like working and baby, too?"

It is possible that Rep. Mink's bill, if passed, might provide the financial incentive to push text-book publishers a little faster into the modern world. They have complained in the past that it takes half a million dollars to launch a new series and a few millions more before the publisher makes a profit.

In testimony before the subcommittee, Arvonne Fraser, national president of the Women's Equity Action League (and mother of six, four of them girls), summed up what this rebellion is all about:

"Our educational system has given boys and men first place long enough," she said. "Traditionally, we have looked at education of girls as a kind of life insurance—something they need 'just in case'—just in case their husband can't support them, in case they can't find a husband or in case they need to support themselves while looking for a husband. We want children to be educated as individuals, not as assigned members of a group."

Rep. Mink's bill will not achieve a perfect world of educational equality. But it can provide some small beginnings. Here's hoping it makes it through the Congress. And the White House.

### Study Cites School Bars to Women

(By Bart Barnes)

Women account for the largest untapped supply of superior intelligence in the nation, the Carnegie Commission on Higher Education said yesterday.

In an exhaustive study of opportunities for women in higher education, the commission said women face a host of barriers along the educational ladder. These range from female stereotyping in grade school to deliberate exclusions from some college faculties.

Among faculty at the level of post-secondary education, the commission said, women are both underrepresented and underpaid, earning on the average between $1,500 and $2,000 less than men in comparable situations.

And, it added, it is unlikely that a reversal of inequalities in the addition of women to college and university faculties can be achieved soon.

Despite pressure from the federal government, the number of women faculty members is still low and the pool of qualified applicants limited, the commission said. In addition, enrollment growth in higher education has been declining for the last few years, causing a subsequent decrease in the number of new appointments each year.

"The situation is not entirely unlike that of trying to add to the number of women railroad conductors . . . it will take until the year 2000, under reasonable assumptions, before women are likely to be included in the national professoriate in approximately the same proportions as they are in the total labor force."

Even if colleges and universities put a freeze on hiring of all men and hired only women to their faculties, it would be the mid-1980s before women constituted half the faculty in higher education, the commission said.

At each level of advancement within the American educational system, the commission noted, the percentage of women declines. They are 50.4 per cent of high school graduates, 43.1 per cent of college graduates, 24 per cent of faculty, 13.4 per cent of these holding doctors degrees and 8.6 per cent of the full professors.

At the graduate school level, the commission argued, many faculty members display negative attitudes toward women. For many of their students, this serves to increase emotional stress and decrease their commitment to remain in school.

To help correct the inequalities, the commission urged stepped up effort to locate talented women and improve their training. It noted that women are now on college and university faculties at about half their extent of participation in the general labor force.

At the pre-college level, the commission urged more mathematical training for women to enable them to enter fields, such as engineering, often thought to be reserved for men. It also called for career counseling free of outmoded concepts of male and female careers.

It also suggested efforts at the college level to increase the pool of women who hold Ph. D's and to increase opportunities for women to return to college for advanced training after they have started families.

A reduction in the severity of nepotism rules that bar a husband and wife from serving on the same facility, increased child care facilities and allowing more part-time appointments for women with children would also increase women's participation in higher education at the faculty level, the commission said.

### Study Finds Women Academicians' Salaries Lag

(By Iver Peterson)

More women graduate from American high schools than men, they receive better grades in college, and they apply themselves as diligently to their work, but they do not achieve anything near parity with men in academic rank and salary, according to the latest report by the Carnegie Commission on Higher Education.

Because women are under-represented in the labor force generally and in the upper reaches of academic life in particular, the commission, in a summary of the report, called them "the largest unused supply of superior intelligence in the United States."

The report, entitled "Opportunities for Women in Higher Education," will be published in book form in October.

The central theme of the study holds that in the academic world, the percentage of women declined at successively higher levels. It cites Government figures showing that women comprise 50.4 per cent of the country's high school graduates, 43.1 per cent of those who receive bachelor's degrees, 36.5 per cent of those with advanced degrees. However, only 24 per cent of campus faculties are women and just 8.6 per cent of the country's full professors are women.

#### LOWER WAGE SCALE

The report also cites evidence that women faculty members earn, on average, $1,500 to $2,000 less a year than do men in comparable jobs. It asserts that this comes to between $150-million to $200-million in wage differentials a year for the whole country.

The commission found that the barriers to women's unhindered advancement arise from several subtle and largely traditional cultural preconceptions about the role of women in this country. It notes the argument that as young girls, women have tended to be steered toward domestic, or, at best part-time occupations; that they have lacked strong female success models on whom to pin their ambitions, and that the country as a whole—and more markedly than European countries—has a strong habit of seeing careers in terms of their suitability for men or for women.

The Carnegie study also reported, however, that changing social attitudes and legal pressure from the Government and from feminist groups had reduced the gap between male and female opportunities for career attainment.

### IMPROPER BARRIERS

In order to speed this progress, the commission urges the removal of "all improper barriers to the advancement of women, an active search for their talents, and special consideration of their problems and for their contributions."

For example, the panel recommends more generous maternity and child rearing rules, particularly in academic work. It cited evidence that such on-and-off employment of women does not impair a woman faculty member's job performance.

The commission also urged more training in mathematics for pre-college girls as a way of opening up their access to the "hard" sciences, engineering and design.

It noted that one reason for the under-representation of women in advanced campus positions is the relatively small number of women holding the necessary advanced degrees. A solution, the report suggested, would be to expand efforts to increase the number of women with Ph.D.'s.

### A GENERATION OF EFFORT

The panel also came out in favor of continuing the existence of colleges for women only—despite a recent trend toward co-education—because the single-sex colleges offer "diversity" and "an additional option" for women.

The report predicts that, given the small number of women qualified by training for high campus positions, and the slowing of enrollments in higher education, "it will take until about the year 2000, under reasonable assumptions, before women are likely to be included in the national professoriate in approximately the same proportions as they are in the total labor force—this is a task for a generation of effort."

The study added that the time needed to achieve "a satisfactory level of absorption of women into faculties" will be lengthened by the concurrent need to bring more minority group members into campus careers as well.

RACIAL CHARACTERISTICS OF FACULTY MEMBERS AND COLLEGES IN PUBLIC AND PRIVATE UNIVERSITIES, 1969

| | | Percent | | |
|---|---|---|---|---|
| | Total | White | Black | Other |
| Public: | | | | |
| Men | 30,700 | 94.3 | 3.8 | 1.8 |
| Women | 7,000 | 90.7 | 7.1 | 2.2 |
| Private: | | | | |
| Men | 19,000 | 95.0 | 3.5 | 1.5 |
| Women | 4,900 | 90.2 | 9.0 | .8 |

Source: Carnegie Commission.

## EXTENDING THE PROTECTION OF ANIMALS

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. WHITEHURST. Mr. Speaker, it is only in recent years that Congress has enacted animal protection legislation. Much has been done over the past 7 years. The bill that is before us today, H.R. 37, provides another opportunity. I believe it is significant, and to modern man's benefit, that he has awakened to the need to preserve and protect other forms of life.

I intend no minimization of the importance of this legislation, but it is not the final definitive answer to the problem of endangered species. I make that statement to bring to the forefront of our attention the fact that so very much more needs to be done. This bill is most certainly a move in the right direction. I have 15 bills, and have cosponsored 2 others, which would take action against factors threatening endangered animals, expand protection to such animals, or determine the status of certain species so that Congress can legislate from a position of knowledge.

There is much to be accomplished, and in many cases so little time in which we must act if we are to provide protection at all. The public has the attention of Congress regarding animal legislation. I urge those supporting such activity to renew their efforts, use the momentum generated by H.R. 37 to encourage Congress to act further, and to create in this country an animal protection legislative package that will lead the way in fostering an attitude of respect for the rights of animals. For if man learns to revere animal life, how much more the life of a fellow human being?

I am today introducing a joint resolution asking the President to declare the 13th day of October 1973, and the 13th day of October of each succeeding year as Animal Welfare Day. The resolution recognizes that nonhumans are deserving of respect and love. It emphasizes the obligations of man to guarantee that no undue harm shall be inflicted upon nonhumans by humans. It encourages preservation of the individual wild animal, and prevention of cruelty to all animals, wild or domestic. And it calls upon all citizens to refrain from participating in activities which lead to such cruelty.

Mr. Speaker, I support H.R. 37, the Endangered and Threatened Species Conservation Act of 1973. The legislation expands Federal protection to fish and wildlife threatened with extinction. The 89th and 91st Congresses enacted bills supporting protection of endangered species. I urge my colleagues to vote for approval of H.R. 37.

## A BILL TO ENCOURAGE INCREASED SAVINGS BY INDIVIDUALS

### HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HUDNUT. Mr. Speaker, today I am introducing a bill to encourage savings deposits by way of providing an income tax exemption on the first $750 of interest earned on savings accounts in all thrift institutions.

In my view, this is meritorious legislation since it would give an incentive to save and provide a type of tax break for individuals in lower tax brackets. Persons in higher brackets generally are the ones who benefit from capital gains investments and I feel there should be greater incentives for savings by those in the lower brackets.

This legislation would also serve the purpose of attracting more money into the market for use in home loans, thereby helping to ease the present credit crunch in this area at a time when many Americans are having tremendous difficulty securing home mortgages, due to high interest rates and lack of funds available for long-term lending, a bill like this seems very much in order. Also, it would be helpful in curbing inflation by encouraging individuals to put money into savings accounts rather than spending it.

It is my hope that this bill will receive early and favorable consideration.

## MOST-FAVORED-NATION STATUS

### HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues an article by my constituent, Tedis Zierins, that appeared in the Community Publication of Chicago on September 12, 1973.

In view of the fact that very soon the trade bill from the Ways and Means Committee will reach the House floor for consideration, that for many months we have been deliberating on "Most Favored Nation" status for Russia, and that 285 Members of this body, including myself, have cosponsored the Jackson-Vanik proposal opposing "Most Favored Nation" status for Russia, I am greatly concerned over reports indicating that our position is going to be compromised by including an amendment in the Trade Bill conferring modified most-favored-nation status on Russia.

This, of course, would be a means of circumventing the original Jackson-Vanik proposal, and as one of the cosponsors of the Jackson-Vanik proposal, I feel that the following article reemphasizes the continuing inhumane treatment of human beings behind the Iron Curtain on the part of Soviet Russia. We should not—indeed we cannot—confer most-favored-nation status until Russia assumes her rightful place in the world by recognizing human needs and human dignity. The article by Mr. Zierins, which follows, underscores the harassment, persecution and deprivations which continue unabated behind the Iron Curtain:

### SOVIET RELATIONS

(By Tedis Zierins)

It sounds very nice that lately many Soviet delegations are visiting our country and we are told that these visits are promoting better understanding, friendship and peace between Soviets and our nation.

It sounds very nice that recently 38 Soviet youth (of age up to 30 years) could visit America to see our country and discuss problems with American students in order to build better understanding between nations.

But when I met them in front of YMCA hotel in Chicago Saturday morning, Aug. 25 and reminded them about another young man Daniels Bruveris, a musician and piano tuner (age 26) who has been on a hunger strike for more than four weeks because he is not permitted to leave Soviet-ruled Latvia and join his wife Rudite, I got a strange answer and reaction.

Rudite is a young student (age 22) living in West Germany. Two years ago she visited Riga, capital of Soviet occupied Latvia and met Daniels. Last January she had an opportunity to return for another short visit and she married Daniels there. Both are devout Christians.

When later Daniels asked Soviet officials for permission to join his wife in West Germany he was told to forget her or be thrown in jail. Letters by Daniels and Rudite and their relatives and friends to Soviet officials have brought no results. On July 21, in great despair, Daniels started a hunger strike but Moscow ignores that also.

A telephone call to Riga informed me that after four weeks he is so weak that he could not get up from his bed. But Daniels has faith in God and he has decided to continue his hunger strike until he gets permission to join his wife or until he meets death.

When I met the Soviet youth at YMCA hotel, I carried a sign saying: "Show your love. In the name of God and humanity ask Soviets: Let Daniels Bruveris join his wife Rudite." My sign also showed two hearts separated by hammer and sickle.

I told them that they are welcome here and asked them to bring the problem of Daniels and Rudite to their officials.

Despite all my explanations a Soviet youth leader answered: "If the Soviet government does not give him permission to leave, that means that he maybe does not want to leave."

Knowing the facts one could laugh about such an illogical answer, if the situation was not so tragic. After that I was told that they didn't want to discuss this, because they had come to discuss problems concerning building better understanding among people.

How can we build better understanding and true peace if Soviet officials are so cruel that they don't want even to let two young people who are very much in love and married to join each other? Is it too big a demand to ask for this most basic human right or has the world changed so much that nobody cares.

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## UNITED CEREBRAL PALSY ASSOCIATIONS, INC.

## HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BURGENER. Mr. Speaker, the United Cerebral Palsy Associations, Inc., adopted a policy statement on "Transportation for the Handicapped," which deserves the attention of every Member of this House. It sets forth an approach which would be in our minds as we consider the various proposals that bear on transportation policy or services for the handicapped.

For this reason, I would like to enter the policy statement in the RECORD at this time.

### POLICY STATEMENT ON TRANSPORTATION FOR THE HANDICAPPED

In our mobile society, the achievement of human rights is heavily dependent upon transportation. It is the aim of United Cerebral Palsy Associations, Inc., to assure that all persons with cerebral palsy and other handicaps have the opportunity to enjoy life as normally and as fully as possible. The availability and accessibility of transportation suitable for use by the handicapped is essential to this pursuit.

Therefore we urge that:

Existing transportation systems be modified to meet the needs of persons with limited mobility.

Future public transportation systems be designed, constructed and operated to be accessible to, and to accommodate handicapped persons, including those who use wheelchairs.

Special transportation services be made available to persons whose disabilities are so severe that they cannot use any public transportation system or who live or work in localities where there is no public transportation or where appropriate modifications to accommodate the handicapped have not been made. The principle of subsidization which obtains for public transportation must also apply to those special services.

Handicapped drivers and drivers for the handicapped be given due consideration in such matters as parking privileges, driver education programs, licensing, insurance regulations, safety standards for adaptive equipment and highway rest areas.

All public and private agencies providing and/or funding programs for the handicapped, including United Cerebral Palsy affiliates, include appropriate transporation as a generic component of the implementation of such services.

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## SURVIVAL AT SEA

## HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. STUDDS. Mr. Speaker, during fiscal year 1972 the U.S. Coast Guard responded to 60,328 calls for help from both commercial and private boaters saving more than 4,200 lives. But almost 1,400 lives were lost in Coast Guard reported incidents pointing out the need for continued education of our boating public to the dangers of the sea. Last week a boat with six persons aboard was lost for 3 days off the island of Nantucket in my district before being rescued by the Coast Guard.

Mr. Thomas Giffin, editor of the Nantucket Inquirer and Mirror, has interviewed the captain of this pleasure boat and has come up with a number of sound suggestions for safer boating and survival at sea. In the interest of boating safety I now offer Mr. Giffin's exceptional article in the hope that my colleagues will pass it on to their local boating clubs and organizations:

### BOATING MISHAP PROVIDES SAFETY LESSONS

(By Tom Giffin)

Last week a 19-ft Mako outboard fishing boat with six people aboard got lost in the fog offshore and was the object of an intensive air-sea search before being found three days later, all occupants alive and reasonably well. One of the fishermen was William E. Carlton, a patrolman on the Nantucket police force. An interview with Carlton Tuesday provided some insights into the safety aspects of the episode which can be of value to other boatmen.

Thoughts on such a misadventure can be divided into three categories—Prevention of the mishap in the first place; increasing the rapidity of rescue secondly; and insuring survival in the meantime.

#### PREVENTION

This boat missed her landfall because a portable radio receiver was occasionally put down too near the boat's magnetic compass. This is a common occurrence in many boats in clear weather when the compass is not being used, and the habit can become dangerous in fog. Ferrous metals (those containing iron or nickel) and electric circuits affects a compass, and the closer they are within six feet, the greater the error they cause. The compass can be compensated for wiring and metal which is a permanent part of the boat. Nonpermanent equipment of this kind should be kept at least six feet from the compass if possible. If it must be stowed closer, the compass card should be checked for movement when the equipment is stowed or taken out to see if the card moves. If the card reacts to the equipment, it is too close.

Proper charts are essential to identify buoys which are sighted in fog. The Mako carried a No. 265 chart of Nantucket and surrounding waters, a favorite of local fishermen because it gives the best detail of inshore fishing spots. However, the only buoy they sighted was Bell No. 2 in Muskeget Channel, which is outside the scope of a 265 chart. Had they carried a No. 1209 chart of Nantucket Sound and Approaches, extending from Nobska to Rose and Crown Shoal, they could have quickly identified the buoy and made the beach on Chappaquiddick with their remaining fuel. If a Nantucket boat carries any charts at all, a 1209 should be included.

Anchors and line. The Mako was unusually well equipped, as small boats go, with two anchors and about 125 feet of line, including spare line, and was able to anchor in forty feet of water when fuel ran out. Proper ground tackle enables a boat without power (either through fuel exhaustion or engine trouble) to anchor in a known place and avoid drifting to unknown areas, and perhaps more important, it can keep a boat safe uptide of a dangerous rip. A drifting boat can be carried, sooner or later into a tiderip or other sea condition which can swamp or capsize the boat.

An anchor is absolutely essential, and it must be adequate to hold the boat. The normal "working" anchor rope is often kept short for convenience, to avoid handling excessive lengths of line. In this case enough spare line should be carried to bend on to the regular rope to give at least three times the depth of water one might encounter. It is more important for an anchor rope to be long enough than for it to be overly heavy, and extra length gives it more "give" to absorb the shock of a pitching boat. One of the types of plastic rope which float, don't deteriorate in storage and resist abrasion are especially good for spare line.

#### RESCUE

The Mako lay to an anchor for nearly three days, usually but not always in fog, at times with unknown land just barely visible to the north through the heavy haze. During this time a number of boats passed within hearing, and once they thought they heard a boat following the usual search procedure of running, then stopping engines and listening—but they were not detected. Their $CO_2$-powered foghorn was apparently not heard above the sound of the other boats' engines. Their kit of small flares was inadequate and in any event was useless in the fog. (Carlton recommended that flares carried should be of the type fired aloft by a flare pistol).

If the Mako had carried a working radio transmitter with the appropriate frequencies, she could have summoned help in short order. Larger boats generally carry proper radio—but even so, radios do not always work and are subject to all sorts of damage, as well as needing electric power and an antenna. A backup is necessary, and on boats too small to carry duplicate radio gear, and especially on boats too small to be a good radar target, the backup is clearly a radar reflector.

Had the Mako carried even a small radar reflector hung up on an oar or fishing rod, they probably would have been picked up at least one day sooner, perhaps two.

Collapsible radar reflectors are available from both Hardy's and Grey Lady of the Sea for about $7. They stow in a space 12 inches square and an inch deep. They should be on any small wood or fiberglass boat, power or sail, which ventures beyond the jetties.

Radar reflectors can be homemade, or sometimes improvised on the spot. You need three metal or metal foil surfaces at right angles, like the corner of a box, open toward the radar source. Screen or mesh will do nicely and lets the wind through. Two rules: any mesh must be smaller than the smallest radar wavelength—3 centimeters, or about an inch and an eighth; and the three metal-covered or mesh surfaces must each be longer than the longest radar wavelength—9.4 cm., or about 3½ inches. This larger figure is the radar frequency of the Coast Guard HH-3 rescue helicopters and is therefore especially important. Most yachts and fishermen use 3-centimeter radar, as do the Coast Guard 44-footers.

Radar reflectors also constitute good health insurance against being run down by large boats in fog.

Over and above the basics of a radio if practicable, and a radar reflector in any event, are emergency lights and a flare pistol with flares. Portable spotlights which are waterproof and buoyant and float with the beam up are both good tools and potential lifesavers. However, any light which is used often should have a fresh battery tightly sealed in a plastic bag somewhere on board. Pairs of flashlight batteries can be bought this way and should be carried.

### SURVIVAL

In considering survival, the boat comes first, the people second, because without the boat the people won't last long, if that.

Getting and keeping water out of the boat independently of a dead engine is primary. Hand pumps are good. Sometimes a good bailer is better, either a bucket or one cut from a two-quart plastic bottle. And again, a good anchor with enough spare line. Protection against heavy spray and the tops of seas coming aboard is afforded by a canvas weather cloth building up the gunwales. These were carried (after bitter experience) in all U.S. World War II lifeboats, and can be improvised from spare canvas carried on board.

With the boat safe, the people must be kept alive in the face of exposure, thirst and, eventually, hunger. All, repeat all, boats sailing the Sound or fishing the rips should carry some water. The heavier plastic containers of bleach or antifreeze are suitable if kept away from sharp metal edges that can cut them (and when empty they can provide emergency flotation). One quart for each two people carried seems a reasonable minimum. A note here: Seasickness takes a person well down the road to dehydration, and once victims have their sealegs back they will need additional amounts of water.

Permanent emergency rations present more of a problem, but boats which go offshore regularly might consider carrying them. Short of official rations, a few cans of precooked meats in a plastic bag (to deter rust) don't take up much space. Day-sailors certainly shouldn't hesitate to add an extra box or two of cookies or whatever to the regular lunch. Anything might cause a delay, and the food will be welcome.

Exposure to sun by day and cold by night must be guarded against, by proper clothing and, in an open boat by weather cloths and awnings. Carlton said their party improvised this protection by slitting open the boat's buoyant cushions and sewing the covers together with a straightened fish hook and fish line, and he emphasized the desirability of having some spare canvas (or an old sail) aboard for this. In a disabled powerboat, canvas can also be used to juryrig a small sail so the boat can sail to leeward if desired, with some command over her course. A ditty bag with a leather palm (you can use a block of wood), a couple of sail needles, a ball of sail twine and some wax is handy in working canvas.

Suntan lotion should be carried, although passengers often bring it with them. A properly maintained first aid kit ought to be in any boat, and doubly so if she's going offshore at all. Motion-sickness pills of some standard sort should also be carried, as they are in the liferafts on modern merchant ships, to minimize dehydration.

Lastly, Carlton referred to the morale problem as time stretches out without rescue. During the war it was recommended that sailors' "abandon ship kits" carry a pack of cards to help pass the endless hours. Many did. Even in the shorter periods, hours instead of days, which might be spent nowadays awaiting discovery, a congenial and unobtrusive means of passing the time would be of value.

Modern boats are generally well designed and built, and in the hands of a competent boatman they are generally quite safe. However, the unexpected can happen to anyone, and the waters of Nantucket Sound and the nearby Atlantic can be dangerous under the wrong circumstances and on very short notice. Therefore the prudent boatman equips himself and his boat to handle the unexpected and come through it with minimum harm to passengers, crew and boat.

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## TAIWAN ECONOMY

## HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 13, 1973*

Mr. STARK. Mr. Speaker, I too am impressed with the economic progress of the Republic of China. This tiny country has experienced a phenomenally high growth rate over the past decade.

I also recognize that the Republic of China has been strongly pro-United States. However, I must hasten to point out to my colleagues that this nation is as totalitarian a state as the People's Republic of China. It may be that developing countries require a strongly controlled economy in order to progress. But once the standard of living reaches the high level which appears to be enjoyed by the people of Taiwan, one should expect a loosening of such tight controls over the lives of the people. There is no room for secret police tactics and military dictatorship.

I am pleased to note that Premier Chiang Ching-Kuo has eased some of the restrictions imposed by his father, President Chiang Kai-shek. Premier Chiang has also reduced the ranks of the quite large military force and has begun to bring native-born Taiwanese into the government.

The Premier should be commended for these efforts. I fervently hope that the people of Taiwan will now begin to enjoy a boom in the growth of freedom equal to the impressive boom in the economy. I hope it will become the kind of free country that America can welcome into the all too slim ranks of democratically elected governments.

I would like to insert an article in the RECORD for the benefit of my colleagues which aptly describes Taiwan's rapidly growing economy.

The article follows:

[From the New York Times, July 2, 1973]

### TAIWAN IS BUOYED BY A BOOMING ECONOMY IN AN UNCERTAIN WORLD

(By Tillman Durdin)

TAIPEI, TAIWAN.—The stable and flourishing domestic situation on Taiwan is in marked contrast with the uncertain international future facing this subtropical island 120 miles off the China coast.

A cheerfulness, even euphoria, bred of a steadily rising standard of living pervades the predominantly youthful population of more than 15 million.

Expanding private and public construction is renovating cities, adding new factories every month and creating an impressive new array of highway, conventional and nuclear power stations, railways, ports and other utilities across the island.

With foreign trade regularly soaring to new heights, the whole economy is expanding by annual leaps of more than 11 per cent.

Despite heavy defense expenditures and a yearly population growth rate of almost 2 per cent, per capita income climbs steadily. It has doubled to $400 annually in the last six years and should reach $1,000 in the next five.

### POLITICAL TENSIONS REMAIN

Domestic conditions are not without political tensions and sectors of poverty but with Premier Chiang Ching-kuo now in the leadership role formerly exercised by his sick, incapacitated father, President Chiang Kai-shek, the Nationalist Government is today functioning more effectively and is more highly regarded by the people than at any time since it retreated from the China mainland in 1949.

Yet the Government is without membership in the United Nations or any other major international political grouping and is recognized by only one big power, the United States, and 36 countries in Latin America and Africa, slightly more than a quarter of the United Nations members. United States recognition, moreover, is compromised as Washington has exchange liaison missions with the Peking Government, which now occupies the United Nations seat formerly held by Taipei, and is gaining increasing acceptance and prestige around the world.

As long planned by his failing 86-year-old father, Chiang Ching-kuo has, at age 63, inherited his father's political power, which he yields as Premier, a position he assumed a year ago.

### CRACKDOWN ON CORRUPTION

It has been a smooth transfer of power. The younger Mr. Chiang, who over the years as chief of security, defense minister and deputy premier carefully saw to the appointment of reliable men in key Government, military and party posts, has now taken firm hold of affairs. Younger men have been favored and oldsters who formed a clique around the President eased aside. So far officers of the armed forces have accepted his leadership with good grace despite a 10 per cent cut ordered in the oversized 600,000-man defense forces.

Premier Chiang has improved the structure of the Government, cracked down on corruption, fostered measures facilitating domestic and foreign investment, encouraged private enterprise and given stronger emphasis than before to social welfare.

Many of his new appointees are graduates of American universities. Some have been called from professional posts in the United States. He has also put many Taiwanese into important positions in the Government and the ruling Kuomintang, or Nationalist party, apparently in the belief that the long-range future of Taiwan lies mainly with the majority, native-born Taiwanese, instead of those who came with the Government from the mainland.

He has also raised his standing with the ordinary people by visiting farmers, laborers and office workers and making frequent platform and television appearances. His Government still has secret police underpinnings, but he has considerably softened and liberalized it.

"Economically and in every other way Taiwan has proved its qualifications to be an independent state," said an important Taiwanese, "but we are pawns in a big game. Right now the old man and the young man [President Chiang and his son], Peking and Washington are all against it. So it's best we wait and see."

### LIVING STANDARDS RAISED

By raising living standards Taiwan's remarkable economic growth has made a major contribution to defusing social and political dissatisfactions. At the same time the expansion is beginning to give Taiwan, with its big favorable balance of payments and a dollar so strong it was recently revalued upward, real strength in international affairs.

The gross national product this year will be around $8-billion and foreign trade, with exports heavily exceeding imports, will rise, on the basis of 1973 performance so far, by around 50 per cent and total almost as much as the entire G.N.P.

Trade with the United States alone reached $2-billion last year and this year may total $3-billion, with a surplus in Taiwan's favor of $1-billion. Textiles, millions of television sets and other electronic products, footwear, machinery, processed foods, plywood, fishery products, bicycles, sugar, pork and other items are pouring into world markets in ever-increasing volume.

"Taiwan is having the highest rate of growth in foreign trade of any significant trading nation in the world," says William B. Morrell Jr., economic counselor of the United States Embassy here. "In the next ten years Taiwan will be among the first 15 trading nations and will move to sixth place, with a $6-billion two-way trade, in exchange with the U.S."

### WAGES RISING STEADILY

Wages are rising steadily but so far industrious, low-cost labor combined with stable government, a generally high level of education, attractive investment laws and reasonable taxation have sparked the current expansion. Manufacturers are moving from light, labor-intensive to heavy, more technologically advanced, capital-intensive industries. An integrated million-tons-a-year steel mill, more petrochemical plants, enlarged shipbuilding facilities, automobile manufacturing and nuclear power plants are major new ventures already under way.

In its strategy for survival the Government is counting heavily on Taiwan's trade and growing economic potential. Hopes are that through building a social system, an economy and a world trade both big and successful, with foreign investors and entrepreneurs heavily involved, world nations will ultimately uphold Taiwan's right to remain outside Chinese Communist control.

So far, $350-million has already been invested here by major concerns, in electronics and other manufactures, and more is on the way. Americans are the biggest foreign investors in Taiwan, but the Japanese are not far behind and Europeans are becoming increasingly interested.

With armament and equipment being upgraded, the armed forces, despite manpower cuts, remain capable of making a strong defense of Taiwan, sufficient to give the militarily stronger Chinese Communists pause.

With this as the first string in the Nationalist bow and economic power the second, Nationalist leaders continue to regard Taiwan's potential for a separate existence as considerable.

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## THE PLIGHT OF ONE BLACK HANDICAPPED PERSON WHO IS FEMALE INSTEAD OF MALE, A VETERAN OF BENIGN NEGLECT AND NOT THE VIETNAM WAR

### HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. YOUNG of Georgia. Mr. Speaker, seldom have I heard a more poignant and tragic account of a human experience than the one told by Miss Mae F. Johnson, a constituent of mine.

In a moving letter, Miss Johnson tells how she was educated through the graduate level, became a social worker, and then was stricken by illness which left her paralyzed. Today, at 28, this young black woman can find no meaningful employment in her profession, and no training for work in other areas of her interest.

Miss Johnson raises some difficult questions in her letter. Sadly, our society has not yet produced satisfactory answers to these questions. As she says:

> The social attitude which rejects the physically handicapped affects our lives socially, emotionally, environmentally, culturally and economically. It limits our vocational potential and in a way makes it seem as if we are at your mercy to decide not what we are capable of doing but what you decide we should do. Case closures, statistics, seem to be more important than the preservation of life and integrity. Get a job, any job, it need not be what you want to do, what you are capable of doing, it need not provide you with adequate income—but because you are doing something, we are finished with you. So it has been with me.

Mr. Speaker, I submit for the RECORD Miss Johnson's letter, which I hope will stimulate fresh thinking and commitment to developing an enlightened, humane and intelligent approach to the problems of the physically handicapped.

The letter follows:

NATIONAL PARAPLEGIC, INC.,
*Atlanta, Ga.*

Congressman ANDREW YOUNG,
*Washington, D.C.*

DEAR CONGRESSMAN YOUNG: I want to very explicitly cite a situation, my own, which should be given some attention and serious consideration since you are now in a position where you can act as a change agent.

This is just one example of the plight of one Black handicapped person who, seemingly unfortunately, is female instead of male, a veteran of benign neglect and not the Vietnam war.

I became ill four years and a few months ago and as a result of the illness I am now paralyzed—confined to a wheelchair, mobile by car and in good health with no complications which would keep me from performing a job.

I have my high school diploma, a B.A. degree in Sociology and a M.S.W. degree in Social Work, and two years of work experience in that area. I have not yet been able to say that all these credentials have worked in my favor.

Firstly no one felt I was able to return to social work—their decision, not mine. Because I had those degrees I was not eligible for training in another area although I expressed interest to do so as a court recorder and transcriber, a braille reader and transcriber, an interpreter for the deaf, a library archivist, or in some area of journalism. I have had work experience as a library archivist and an interest in the other areas. I assumed if I could get training in some of these areas there would be no legitimate reason for any employer to reject me as a prospective employee. I am still interested in these areas. If you have any idea who I might contact to get additional information, please respond.

In my struggle to become self sufficient again I have gone the complete gamut; welfare, social security, medicaid, etc. Employment rejections are too numerous to mention. I am not naive to the point where I would apply for jobs which I could not perform well. I have had all of the qualifications for the jobs for which I have applied.

The social attitude which rejects the physically handicapped affects our lives socially, emotionally, environmentally, culturally and economically. It limits our vocational potential and in a way makes it seem as if we are at your mercy to decide not what we are capable of doing but what you decide we should do. Case closures, statistics, seem to be more important than the preservation of life and integrity. Get a job, any job, it need not be what you want to do, what you are capable of doing, it need not provide you with adequate income—but because you are doing something, we are finished with you. So it has been with me. There is no valid reason why I should not be working in the area for which I am qualified.

Insurance companies will not insure me because I am considered a high risk, the job I am holding now will not cover any preexisting condition until a six month period passes.

My earning power is less than ½ of what it would have been if I had not become paralyzed. My living expenses have increased because I am having to pay all my medical expenses. Can't find any assistance because the $80.00 I take home a week make me ineligible for assistance. I have gone without necessary medical attention because I have been unable to pay. I have not been able to shop for groceries in months—have been relying on vitamins, fruits, juices, very select foods which are not too expensive. If it were not for the availability of getting a lunch at work for 63 cents my diet would be even more deficient.

I am 28 years of age, quite capable of working but still unable to provide for myself without assistance from my family. This situation is taking its toll on me physically and emotionally. If my brother did not share expenses with me I would not be able to do what I am doing now.

I have been told that I am a very rare case being that I have the qualifications to perform many tasks well and I am capable of thinking for myself and making decisions which are most compatible with my situation.

My inquires are these:

1. Is there any medical assistance I am eligible for?

2. What ways are available to fight job discrimination against the handicapped?

3. Why are we asked just as ex-cons, ex-mental patients, ex-anything to prove ourselves all over again? Who decided to set that precedent and how do you get rid of it?

4. Why are we rejected for coverage by insurance companies and yet are not eligible for any other medical assistance?

5. Why can't we get other kinds of training if we find employment difficult in areas already trained for whether it be college level or graduate level?

6. Are there State and Federal monies available for further study for handicapped persons?

Please accept my sincere thanks for the assistance you are able to give. Would you believe I would receive more benefits on Social Security than I am receiving now? Why can't social security payments be adjusted until work potential is at maximum capacity?

Sincerely,

MAE F. JOHNSON, *Secretary.*

P.S. I am not just speaking for myself. I am a member of the Ga. Chapter of National Paraplegic Inc. Any information you have which you feel will be beneficial to us—we feel there is hope, but we need all the help we can get.

## BEAUTIFUL TRIBUTE BY CANADIAN COMMENTATOR TO AMERICAN GENEROSITY WITH NO APPRECIATION AND NO RECIPROCITY

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. EVINS of Tennessee. Mr. Speaker, the current edition of Human Events contains an excellent article by Commentator Paul Harvey quoting comments made by Gordon Sinclair, a Canadian commentator, with respect to the generosity and hospitality which the United States has shown other nations.

Mr. Sinclair points out that the United States came to the rescue of a number of other nations following World War II and following economic crises in those nations—with the Marshall plan and foreign aid program—but that when the United States ran into a problem with the valuation of the dollar, no nation stepped forward to return the favor.

The Canadian commentator also pointed out that—

> Germany, Japan, Britain and Italy were lifted up from the debris of war by Americans who gave billions in aid and forgave billions in debt.

He said further that when earthquakes and disasters occur in other nations, the United States provides assistance but "this year, 59 communities in the United States were devastated by tornadoes" and "not one peso, pound, franc or lira came back—not one."

Mr. Sinclair adds:

> I can name 5,000 times when Americans have raced to help other people in trouble; they have to be the most generous and the least appreciated people on earth.

Because of the interest of my colleagues and the American people in this matter, I place this article in the RECORD.

The article follows:

WHERE'S THE THANKS FOR AMERICA'S AID?

(By Paul Harvey)

Gordon Sinclair is a Canadian commentator.

If he were a dues-paying American he'd be labeled a selfish isolationist.

But he's a Canadian who may see us even more clearly from that distance.

He says:

"Sixty years ago when I first started reading newspapers I was reading of floods on the Yellow River and the Yangtze. And who was rushing in with men and money to heal the hurt and repair the damage and feed the hungry? Americans.

"In the days before the dams, there were devastating floods in the Nile delta. And who went without even waiting to be asked? Americans.

"And when there were floods along the Amazon or the Niger or the Ganges? Americans to the rescue.

"This year, 1973, the floods came along the bottom lands of Middle America. Which of their foreign friends offered to help bail the Americans out? No one.

"Germany, Japan, Britain and Italy were lifted up from the debris of war by Americans who gave billions in aid and forgave billions in debt.

"When the French franc was threatened with collapse in 1956, American dollars raced to the rescue. The only reward Americans ever received for that selflessness was to be insulted and swindled in the streets of Paris.

"When the earthquakes happen elsewhere American dollars, expected, arrive. As in Managua, Nicaragua, recently.

"This year, 59 communities in the United States were devastated by tornadoes. Not one peso, pound, franc or lira came back. Not one.

"The Marshall Plan and the Truman Doctrine pumped billions of American dollars into defeated and discouraged countries, into miserable, backward, or mismanaged countries.

"Now the newspapers in those countries are making jokes about our diluted dollar which dissipated its strength on them.

"Technocracy to Japanese means radios.

"Technocracy to the Germans means cameras and cars.

"Technocracy, American-style, puts men on the moon. And then shares with the world the precious harvest of knowledge.

"But when America stubs her toe, her public scandal uglies her image on the front pages of the world. In the same nations American labels were removed from gratuitous foreign aid.

"When Americans get themselves out of this bind—and they will—I'd not blame them if they said:

"'Let somebody else build foreign dams, buy Israeli bonds, redesign foreign buildings so they won't shake apart in a quake.'

"I can name 5,000 times when Americans have raced to help other people in trouble; they have to be the most generous and the least appreciated people on earth.

"And when they get their government reorganized and their dollar revitalized, I wouldn't blame them if they just said 'To hell with the rest of the world.'!"

But they won't.

## 102 MEMBERS SPONSOR MIA RESOLUTION

### HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HUBER. Mr. Speaker, back in July, I introduced House Concurrent Resolution 271 in an effort to get something started to resolve the one big and most important problem remaining in Southeast Asia for the United States—that of our MIA's. It has taken time, but the response has been good from my colleagues and at the present moment I have 102 cosponsors for this measure. If this goodly number accurately reflects the concern of this body on the matter of MIA's, and I have no reason to believe it does not, in my view, it is high time to get the legislation moving and this is what I intend to concentrate on in the days ahead.

Since the Congress recessed in August, nothing further has been achieved on this matter and meanwhile the anguish and bitterness of the next-of-kin of those who sit and wait for results grows deeper and deeper. Secretary of State-designate Henry Kissinger, himself, recently confirmed that not an inch of progress has been made. In my view, the passage of this House concurrent resolution would bolster his hand, focus public opinion on the issue again, and perhaps persuade the North Vietnamese and Vietcong that they have one small ounce of humanitarianism in their Marxist bones. Almost anything would be better than what the Congress is now doing about the issue, which is almost nothing at the moment. Neither the American people nor the North Vietnamese and Vietcong should be allowed to forget their unfulfilled obligations. I, for one, do not intend to let the matter rest.

## INVESTIGATIVE REPORTING

### HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. WALDIE. Mr. Speaker, the integrity, resourcefulness, and toughness of the working press has been demonstrated to us quite frequently during recent months of the Watergate investigation. I strongly feel the efforts of these publishers, reporters, and editors have contributed much to the understanding and strengthening of press rights granted under the Constitution.

Too often, citizens receive this reawakening of understanding concerning freedom of the press through the ambitious efforts of large metropolitan daily newspapers or network television stations. Smaller media outlets are often overlooked and receive little praise for exhibiting the same type of reportorial diligence which resulted in the aforementioned Watergate disclosures.

It is a pleasure for me to bring the attention of the House to one such newspaper, the County Employee, a publication of the Los Angeles County Employees Association.

In its August 15 issue, the Employee published a story disclosing the fact that electronic bugging devices had been placed in a division office of the Los Angeles County Clerk. The story aroused the concern not only of public employees but citizens throughout the Los Angeles County area. The story was developed by Assistant Editor Zita Ginsburg. Ms. Ginsburg's article triggered followup stories by several radio and television outlets in California and brought statewide attention to the unethical question of eavesdropping on employees during their working hours.

Her effort certainly is a tribute to individual effort and motivation. But it also again illustrates to me the great asset the Nation has in a probing press.

It could most certainly be a standard for all reporters, in any segment of our vast national media, to follow.

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## THE FIGHT FOR JUSTICE IN NORTHERN IRELAND

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BIAGGI. Mr. Speaker, the fighting in Northern Ireland continues with more killings of innocent people and destruction of the rights of citizens. While English troops occupy the province virtually under martial law, most countries of the world have taken a standoff attitude. It is particularly disturbing here in America that our Government does not protest this denial of human and civil rights in Northern Ireland.

One great American, Luis Kutner, of Chicago, an attorney who has dedicated his life to fighting for the rights of the poor, the illegally convicted and incarcerated and the oppressed, has taken the case of the persecuted minority in Northern Ireland to the European Commission of Human Rights.

This summer I included in the CONGRESSIONAL RECORD his brief before that Commission detailing the flagrant abuses on the part of the British and the regular denial of civil and human rights to Ulster citizens.

The Commission chose to ignore the call for justice made by Attorney Kutner and declined to consider his brief based on technical grounds.

To further enlighten my colleagues on the terrible travesty of justice and human rights occurring in Northern Ireland, I will include in the RECORD at this point the first part of Mr. Kutner's brief in rebuttal made on a motion to reconsider his initial case:

### MOTION TO RECONSIDER RULING BY EUROPEAN COMMISSION OF HUMAN RIGHTS OF JULY 25, 1973 AND BRIEF IN SUPPORT THEREOF

Now comes Luis Kutner, pursuant to individual Powers of Attorney by Applicants herein and makes this Motion to the European Commission to Reconsider its Rulings in response to Applicants' Motion and Brief of 21 June 1973, for the following reasons:

1) That the European Commission has arbitrarily based its decision on procedural grounds in derogation of the substantive grounds alleged by the Applicants, and

2) That the Ruling of the European Commission is based on inaccuracies and in clear repudiation of the relevant Articles of the Statute of the Council of Europe and its particular clauses relating to Human Rights and to International Treaties, Covenants, Declarations and Protocols on Human Rights.

The Commission decided—

"... to maintain its decision of 1 June 1973 not to proceed with its examination of these applications until you have submitted the detailed information with regard to each one of the applicants previously requested; . . ."

In response to the above, the Applicants reiterate that each and every individual Power of Attorney on file adopted, in toto, the sworn allegations of Applicant Patrick Brendan McDonnell and that of his mother, Brigid Toolan McDonnell and all allegations of the Application filed 12 July 1972.

Applicants, individually and collectively, adopt all allegations and Memoranda of Law in all previous pleadings herein filed in the same manner and form as if set out here in in haec verba.

The Application filed 10 July 1972 repudiates the position taken by the Commission. All the detailed information required is painstakingly itemized in the Class Action Petition for the Writ of Habeas Corpus filed in the City of Belfast, Northern Ireland, High Court on or about 20 September 1971, the Petition filed and served on Her Majesty Queen Elizabeth of the United Kingdom, Prime Minister Edward Heath, the then Home Secretary Reginald Maudling, and on the then Prime Minister of Northern Ireland, Brian Faulkner, and others in the government of Northern Ireland.

Patrick Brendan McDonnell's mother's Affidavit, specifically adopted by each and every Applicant in spelling out the justifiable allegations for invoking the habeas corpus function of the Commission and for compensation for wrongful imprisonment, physical and psychological torture, under Article 5(4), Article 5(5), and seeking compliance with Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, Article 13 and Article 14 further repudiates the position of the Commission on the issue of specificity in detail.

If the European Commission is truly concerned with fulfilling its voluntarily assumed obligations under the Human Rights clauses of the Statute of the Council of Europe, they are directed to do so under the high sounding Preamble, wherein the High Contracting Parties:

"Reaffirm their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy. . . ."

Article 3 requires that every Member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of Human Rights and fundamental freedoms and collaborate and effectively participate in the realization of the aim of the Council as specified in the Statute.

### II

The Commission indicates "that if the detailed information requested is not furnished (which it has) they will assume the paternal attitude to safeguard the interests of the Applicants to write directly to the Applicant to explain the situation regarding the submission of his case . . ."

In response to that position, counsel for Applicants welcomes the initiative suggested by the Commission. The time is long overdue for the Commission to do something which the Applicants have been seeking ever since the Black Day of August 9, 1971, when the Respondents subjected the Applicants to arbitrary arrest, physical and psychological torture, inhuman and degrading treatment and punishment.

### III

The Commission further rules that it derives its competence solely from the Convention and its own Rules of Procedure and that it has not yet decided to communicate these cases to the respondent Government (sic, Governments) for observations on their admissibility and whether or not to do so when it has received the detailed information mentioned above . . .

In response to this, counsel for Applicants points out that the snail's pace justice of the European Commission is further proof that the existence of the Commission and the European Court of Human Rights and the passage of the Convention are despairing and endless tunnels of futility and decries every valid reason for its continued existence.

More than 99% of all applications filed with the Commission since its origination have been rejected. It is the consensus of world scholars that the creation of the Commission and the European Court are a judicial-political hoax and a grim betrayal of the hopeless and helpless victims of totalitarian oppression.

Inquiry is justifiably made as to what real purpose the European Commission of Human Rights can possibly serve. Based on the assumption that the Commission was established to act for Applicant-Claimants who could not find satisfaction in international courts as supported by the Commission's own Charter, it may be deduced that the Convention is a sham, that the Commission is a farce, and that the European Court of Human Rights is a mockery. Given the data that more than 6000 applications have been filed over a period of 20 years, that action was served upon a mere 10 before the European Court and that some 50 cases were settled extralegally—it is patent that mischief, deceit and immorality are afoot.

The Commission's self declared insensitive apathy and disability to act can only further the attitude of distrust of the victims who are skeptical in many cases of the "political judicial system of justice." Human Rights scholars are concerned that the Commission should be the exact opposite of its tergiversating intentions and practical effects. It is clear, beyond any peradventure of doubt, that the Commission sees fit to continue the role of condoning governmental oppression. It is obvious that if a judicial forum chooses not to become part of a solution then it becomes a part of the problem.

The Commission fails to fulfill the maxim "amicus humani generis" (friend of the human race).

Counsel for Applicants is constrained to observe that the Commission, with unerring self serving lucidity, disobliging insight, idiosyncratic approaches and bleak non sequiturs, occupies the pinnacle of "Deum cole regem serva" (worship God and save the Queen).

In the past 20 years, and particularly in its procrastinatory approach to become involved in the situation in Northern Ireland since 9 August 1971, and with the allegations filed by the Republic of Ireland on or about 10 November 1971 and the six applications filed by attorneys Kevin Boyle and Hurst Hannum on or about March 1972 and the Applications herein, the evidence is clear and overwhelming that the Commission gives more than tacit approval for humanicide, the systematic oppression and human rights decimations of whole minorities.

This evidence is found in the Commission's docket record of inactivity in the light of the serious need for multinational persuasion for true and substantive justice.

Counsel for applicants suggests that this alone points out to those in the world concerned with implementation of Human Rights that the Commission's true purpose is that of giving retired English Lords and Magistrates a forum to foul the winds of change while maintaining the status quo which furnishes the opportunity to discharge irresponsibility for the offending Governments of Europe.

IV

The search for tacit approval is rather superfluous however, when the Commission rules: (regarding the eight particular requests of counsel dated 21 June 1973)

As to 1: "the applications cannot be proceeded with as one collective application,

As to 2: "the Commission has no competence itself to receive any such petitions for *habeas corpus*,

As to 3: "the Commission has no power to issue any directives to the respondent Government of the kind suggested, (since) it is not clear how the names of "all persons arrested detained or interned from August 10, 1971 to the present are relevant to the allegations of the present individual applicants,

As to 4: "that the Commission is not concerned in the present cases with the conditions of detention in the various detention centres in Northern Ireland in general, . . . that most of the applicants were released from detention prior to the introduction of any of the present applications . . . and, that the Commission cannot appoint delegates to obtain information . . . (even though legal aid has been requested because counsel for Applicants has been acting without fee and spending substantial sums of money on behalf of the Northern Ireland retainees as an obligation to world public interests),

As to 5: "that the Special Powers Act regulations have already been repealed at the date of April 2, 1973—(an untrue and inaccurate statement as will be demonstrated subsequently),

As to 6 and 7: "that counsel for applicants is reminded that the cases have not been communicated to the respondent Government,

As to 8: "that the Commission has not yet taken any decision as to the admissibility of these applications and therefore has not reached the state of adopting a report under Articles 30 or 31 of the Convention."

V

The Commission further objects to the fact that a journalist in Strasbourg has received documents relating to the case and abjures counsel that proceedings before the Commission are confidential. The Commission further sets up its self-exculpatory position to ultimately declare the Petitions inadmissible by reserving the right to consider them inadmissible based on the abuse of the right of petition.

The Commission further objects to unauthorized publicity which might be considered a basis for procedurally dismissing the petitions.

In response, counsel refers to the issue of publicity. Applicants aver on behalf of themselves and all other Irish internees currently in prisons and those imprisoned and released, that despotic governments function with great success under the midnight cloak of secrecy. The Commission is reminded of the maxim "alitur vitium vivitque tegendo," (the taint is nourished and lives by being concealed).

Since vice thrives by conspiracy, counsel for Applicants takes exception to the astringent comments and rambling permutational procedural techniques of the Commission. The Commission's exudation of cold disparagement is chilling and abhorrent.

The Commission seems to be beating around the bush looking for illusory game of inadmissibility when the game of truth stalks the hunter—and in broad daylight nonetheless. One wonders what human rights concern the Commission. The ages of Manifest Destiny have past, as have the days of Benevolent Authoritarianism.

If the Commission is calling for individual Applications, when each Applicant has adopted specifically the Affidavit and Application of Patrick Brendan McDonnell and his mother, it would appear that this is a ploy, and rather a poor one at that, so that the Commission members might excuse themselves respectably and later voice their dismay at the turn of events of the Nazi conditions prevailing in Northern Ireland.

One would observe that the members of the Commission speak in no tongues of religious and mystic piety; but they speak a distinct Cockney.

The Commission should hear the tongues of the suffering men who are tortured and illegally detained. They speak the language of human and inhumane experience. The ears of the world have heard and are hearing their cries.

VI

With reference to the Commission's ruling that it has no habeas corpus competency, counsel for Applicants disagrees.

The rights under Articles 5 and 6 of the Convention, pertaining to criminal proceedings, are among those which are most frequently invoked before the Strasbourg organs. The *habeas corpus* function of the Convention tends to predominate. This is confirmed by the applications declared admissible by the Commission and especially by the nature of the cases brought before the European Court of Human Rights. Of the eight cases decided by the court, all, except the case concerned with Belgium's linguistic problem, have had to do with some phase of criminal law and procedure: detention on the remand in Ireland; forms of punishment and proceedings in cassation in Belgium; the requirements of a fair trial in Denmark; the reasonable length of criminal proceedings and some aspects of the "equality of arms" in Austria; and the reasonable length of detention on remand in Germany and Austria.

The Convention anticipates a "common standard" of fair administration of justice in the member states of the Council of Europe, for in the last paragraph of the preamble the Convention is described as an expression of the common European heritage. This demonstrates the conviction of the draftsmen of the text of the Convention that the different systems of criminal proceedings in force in the member states of the Council of Europe are compatible with the Convention. Nevertheless, an examination of the texts of the various codes of criminal procedure reveal remarkable divergencies, even of provisions which are or at least should be influenced by the framework of the Convention. This scheme, as some sort of European basic law, opens new possibilities for comparative law studies in the fields directly affected by the Convention, and furthermore, could be the beginning of new efforts on the part of states in harmonizing or even unifying their laws. The prospects and potential in this regard suggest that the Convention could even be regarded as a forerunner to an international bill of procedural rights.

The Convention has contributed a great deal to the humanization of criminal proceedings, and to the protection of the individual against the exercise of arbitrary power by police authorities and penal systems in general. The rights of the defense under Article 6 of the Convention, and the principle that any serious doubt left in the mind of the judge by a gap in the evidence must inevitably result in an acquittal, will help to avoid the conviction of one who is innocent. On the other hand, trial safeguards must be prevented from finally becoming what has sometimes been said to be true of codes of criminal procedure in general, namely the "Magna Carta of criminals." Human rights scholars warn of the dangers of an isolated consideration of human rights without regard to the requirements of public safety and order.

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## SCRIPPS-HOWARD CALLS FOR VETO OVERRIDE ON MINIMUM WAGE

## HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the Pittsburgh Press, a Scripps-Howard newspaper, published an editorial, on September 10, calling for the Congress to "summon up the courage to override" the President's veto of the minimum wage bill.

When we vote Wednesday on the motion, I hope we bear in mind the millions of American workers who are not covered under any minimum wage laws and the millions of others that work, but for wages that barely allow sustenance.

I would like to include that editorial in the RECORD at this time:

### Minimum-Wage Veto

Anyone familiar with the cost of living must wonder how President Nixon can justify his veto last week of a bill that would raise the $1.60 minimum hourly wage to $2 an hour in November and to $2.20 an hour next July.

The President argues that the $2.20 figure would represent a 37½ per cent raise for the lowest-paid workers in less than one year.

But consumer prices have risen so rapidly that a worker who earned $1.60 an hour in 1968 (when the minimum was last raised) would need well over $2 an hour today just to keep pace with inflation.

Mr. Nixon would like to spread out the increase by raising the minimum to $1.90 an hour now and to $2.30 an hour over the next three years so that marginal workers—especially young ones—won't wind up getting fired in a job squeeze.

But this go-slow approach to helping the lowest-paid workers is hard to defend when the cost of living is skyrocketing and the latest wholesale-price increase is the sharpest since 1946.

The President contends that a lower minimum wage for teen-agers would encourage employers to hire more out-of-school young people, many of whom are wandering around with nothing to do.

An answer to that is more temporary jobs. But once a young person enters the full-time job market he should be paid the same wages for unskilled work—whether it be serving a hamburger or digging a ditch—as anyone else doing the same job.

Of course, the motives of labor leaders who support minimum-wage bills are not entirely altruistic.

Some no doubt see a higher minimum as a wedge to jack up the wages of union workmen all along the line. Also, higher wages often mean higher union dues.

Nor is it necessarily wise to bring easily displaced workers, such as household domestics, under the minimum-wage umbrella, as the vetoed bill would do.

Nevertheless, Congress should summon up the courage to override this veto.

And if it doesn't, as now seems likely, the President should come up with a compromise proposal that may not satisfy all sides but will not deprive millions of Americans of a decent minimum wage.

## WE MUST OVERRIDE THE PRESIDENT'S VETO OF THE MINIMUM WAGE BILL TO PROVIDE A LIVING WAGE FOR AMERICAN WORKERS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. RANGEL. Mr. Speaker, tomorrow, the House is scheduled to vote on the question of overriding the President's veto of H.R. 7935, the Fair Labor Standard Amendments of 1973.

This will be an historic occasion. For the first time in U.S. history, a President has vetoed such a measure which was designed to increase the wages for the Nation's worst-paid workers. The President, in his veto message, stated that such a measure would cause widespread inflation and unemployment. However, past experiences and reports issued from the President's Cabinet have shown that this would not be the case.

As we all know, the minimum wage for most workers has not been adjusted for 5 years. During this time, inflation has caused prices to skyrocket. As a result, even with the proposed increase, minimum wage earners would gross only $4,000 a year, $200 below the annual net income deemed as the poverty level. Without such an increase, these same workers will earn $1,000 below this designated figure. Considering these published statistics, it appears to me that the President's action in vetoing this bill was not only unnecessary but cruel, and will lead, inevitably to an increase in the welfare rolls. Therefore, I urge my colleagues to join with me in voting to override the President's veto.

I am taking the liberty of enclosing excerpts from some of the hundreds of letters I have received from constituents, organizations, and labor unions, urging me to vote to override Mr. Nixon's veto. I believe that the sentiments expressed in the following paragraphs clearly represent the attitudes of the American people toward the President's recent action:

"I oppose across the board sub-minimum wages for students would sharply cut students earning power and ability to pay for the rising cost of education."

"That veto condemns millions of American workers to something very close to hunger."

"That veto strikes at the very heart of our educational achievement. A hungry boy or girl can neither be taught nor learn even basic fundamentals."

"Higher minimum wages lowers welfare payments."

"Equity and decency demand an increase in the minimum wage for the poorest paid."

"There has been no increase in the Federal minimum wage for 5½ years and the present minimum of $1.60 an hour for most covered workers is totally inadequate. The present level forces thousands of American citizens onto the welfare rolls and, tragically, some into crime. In human and economic terms, these costs alone are far higher than we as a nation can afford."

"Those who earn least and suffer most from inflation cannot be made to sacrifice further in the false name of fighting inflation."

"With the rising prices and profits, I don't see how this legislation can be called inflationary. The workers who would benefit need the extra income badly.

"We do not honor the work ethic when we allow the rewards of work to be less than the rewards of welfare."

"I am a worker who needs more money not less money."

"I think it is absolutely inhuman for Congress to allow the President to get away with the veto . . . He has the audacity to say it is inflationary, what about high prices, how does he expect us to live?

"The poorest workers of our nation cannot hope to keep pace with the increasing cost of living without this sorely-needed and long overdue legislation."

"It places the onus for inflation on the very people who have suffered most. It blames the victims for the crime."

"This nominal increase would assist these workers in coping with a cost of living increase of 33% since the last amendment in 1966."

"In vetoing this long overdue wage increase for the worst-paid workers in America, the President deliberately perpetuated many myths about the working poor. . . . Frankly, we had hoped for better leadership from the President of the United States than a presidential endorsement of myths which are the well-spring of racial and class prejudice. President Nixon is the first president in history to veto a minimum wage increase."

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## BABE RUTH

### HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. WHALEN. Mr. Speaker, that towering personality of baseball is once again in national prominence. The life and times of Babe Ruth are being recalled not only because Hank Aaron may soon surpass the Babe's career home-run record but also because last month marked the 25th anniversary of his death.

One of his former Red Sox and Yankee teammates, Waite Hoyt, can relate stories about him with a flair and affection that is unequaled. Mr. Hoyt recently shared his reminiscences with Ritter Collet, sports editor of the Dayton Journal Herald. Although Mr. Hoyt retired a number of years ago as the "voice" of the Cincinnati Reds, his stories, as written down by Mr. Collett, retain his genius of holding the listener spellbound by the force and complexity of the Babe's personality.

For the thousands of Reds fans who remember Mr. Hoyt's broadcasts and for baseball fans around the country who never had the opportunity to hear him, I insert several of these articles at this point in the RECORD:

#### HOYT'S FIRST MEETING WITH RUTH: "STRIKINGLY IMPRESSIVE"

It was a humid August day in New York City, made even more uncomfortable by the crush of humanity inside St. Patrick's Cathedral.

The funeral mass for Babe Ruth had just ended and as an honorary pallbearer, I was lined up on the Cathedral steps awaiting the procession bearing the casket toward the hearse. Behind us, a throng of 75,000 or more New Yorkers waited in a light rain for a glimpse of the last outing involving the Babe.

My old Yankee roommate of other days, Jumping Joe Dugan, was shifting his weight from one foot to the other beside me.

"Gee, it's hot," he muttered in a stage whisper. "I wish I had a cold beer."

Just then the bronze casket moved past us at its slow measured pace.

"So would he," I whispered to Dugan, nodding toward our old friend.

In my mind, time was rushing back nearly 30 years to the day I first met him in the clubhouse of Fenway Park in Boston.

It was July of 1919. He was 24. I was a couple of months away from my 20th birthday.

Ed Barrow, the manager of the Red Sox, was introducing his new, young pitcher to his teammates. I had met Sad Sam Jones . . . Stuffy McInnis . . . Ossie Vitt . . . Harry Hooper . . . Mike McNally . . . and now we came to Ruth's locker.

The big fellow had his back to us, pulling up the heavy socks we wore in those days. When he turned and looked up, I saw a wide, swarthy, rather homely face, expectant eyes and a wave of black, curly hair that dripped down over his forehead like a bottle of spilled ink.

"This is Waite Hoyt, our new pitcher," Barrow said.

Babe cracked, "A little young to be up here, aren't you?"

"I'm the same age you were when you got here, Babe," I retorted, trying to be matter of fact about it all.

"Good luck, keed," he said, with a trace of a smile as he turned back to getting dressed.

Ruth was not yet a national figure. True, he was in the process of switching from the pitching mound, where he had already established himself by, among other things, pitching and winning three World Series games. But there was little indication of what he was destined to do.

Yet as we moved on that day, I realized I had experienced contact with a strange, dominant personality. There was a vivid transmission of force in the man . . . unpolished, almost crude, yet strikingly impressive.

In the next decade of close, almost intimate contact if you will, he was always as much of a hero figure to his contemporaries as he was to the public. We never ceased being fascinated by the man.

Ruth was at the same time simple and straightforward, yet ever so complex and unfathomable.

In later years, Babe's detractors and even some of his admirers who never knew him, came to grief trying to characterize him. The truth is you couldn't characterize him. Ruth did not have the pipe-stem legs so many modern writers have attributed to him and the pot belly appeared only in his last few years.

Another impression is that he was often out of condition, but it simply wasn't so. He seldom missed a game and was a very alert player.

There was a two-year period during our days with the Yankees during which we didn't speak. It was the result of a misunderstanding that eventually led to a fist fight in the clubhouse, a not uncommon thing in those rough and ready years.

The breach was healed with typical Ruthian flair . . . one of unpredictable quickness and without motivation.

It was the Babe's habit of having 30 or 40 full racks of spare-ribs plus gallons of home brew delivered to the train on Sunday evening when the Yankees were leaving hellishly hot St. Louis during the summer months.

The Babe had his refreshments set up in the ladies lounge of our Pullman car. Of course there were no ladies to use it and the

Babe took over. He used to share his refreshments, charging us 50 cents for all we wanted, the charge being his idea of a joke.

I stuck my head in the door this evening and Ruth thrust a jug of the home brew in my direction.

I shook my head in a negative response even though the temptation was overwhelming.

"Ah, go on," he said, "it won't hurt you."

The ice was broken and the episode that caused the rift, which should have long since been forgotten, was never mentioned again.

Ruth's days in Boston were numbered when I arrived. Even though he was still taking his turn as a pitcher, he broke his first major league home run record late in that 1919 season.

The home run had never been overly prominent in baseball up to that time. The major league record was 27, stroked by a forgotten player named Ned Williamson for the old Chicago National League team back in 1884.

The most Ty Cobb had ever hit to that point was nine, and the great Cobb was well along in his career.

On Sept. 20, 1919, the city of Boston and the Knights of Columbus staged a "Babe Ruth Day" which was observed via a doubleheader with the Chicago White Sox, enroute to the World Series and their date with an infamous destiny for allegedly "throwing" that Series.

Claude "Lefty" Williams, a top pitcher, was our opponent in the first game. It was a 1–1 tie until the ninth when Babe powered one of Lefty's curves over the left field fence to win the game.

Now this was the era of the "dead ball" and it wasn't thought possible that a man could hit a homerun over the fence to his opposite field. The White Sox players were astounded and spent much of their time between games talking with Ruth and the rest of us about the feat.

This was Babe's 27th, tying Williamson.

A few days later, he hit one over the right field roof in the Polo Grounds in New York to break the record. It helped me win a ball game as I was the pitcher. But he hit that one, of course, off the Yankees—a predestined bolt of lightning.

### NEW YORK MOVE "MADE" RUTH

(By Waite Hoyt, as told to Ritter Collett)

In 1920, the New York Yankees had not yet won their first American League pennant.

Col. Jacob Ruppert, the brewery magnate, and Col. Tillinghast Huston had purchased the club in 1915 and were in the process of trying to build it to championship level. It was to be Ruppert's destiny to overshadow his partner and eventually secure control.

By either a stroke of sharp judgment or pure luck, Ruppert discovered the formula that was to launch the Yankee dynasty—the purchase of Babe Ruth and subsequent other talent (including a pitcher named Hoyt a year later) from the Red Sox.

Harry Frazee, the man who owned the Boston franchise, was more of a theatrical man than a baseball man.

He needed money badly about that time, and the generally accepted report is that he had obtained a $350,000 loan from Ruppert.

In the winter of 1920, it was announced that Ruth had been sold to the Yankees for a reported $125,000, a fabulous figure for an athlete in those days. Whether the Babe was, in fact, a sizable payment on Frazee's loan is immaterial.

One of the shows Frazee was seeking cash to back was one that was to be a fabulous hit . . . "No, No Nanette," which had the great song "Tea for Two" in it.

Baseball fans in Boston were outraged at the departure of the pitcher-slugger and there was talk of a boycott.

Even Ruth himself was somewhat hesitant about making the switch to New York. He felt secure in Boston, and security was an elusive thing for him through much of his life despite the fame and fortune that was ahead.

But the offer of a $20,000 contract and a great deal of favorable publicity eased his mind.

No one had any idea of how decisive a year 1920 was to be for baseball. All of a sudden, the baseball itself took on a new dimension. It began to fly out of parks around both leagues at an astonishing pace.

Who created the "lively ball" is still a matter of some argument. But there's no argument about the man who benefitted most by the change.

Playing in the Yankee outfield, Babe hit 54 home runs in that season, wiping out any former concept of power hitting and creating a dynamic new interest in the game.

Sports writers were jousting with each other to sing his praises. Such names as "Sultan of Swat" began to emerge.

To say that Ruth was unprepared for a sudden surge to fame is stating the case mildly.

The big town took Babe to its heart, and the Babe tried to take the town.

Ruth was indulgent beyond the ordinary. He had a tremendous appetite for all ordinary pleasures, and pursued them hard. His lack of parental guidance was all too evident. Babe had to establish his own values, and they varied greatly.

I had met Babe's first wife in Boston. Helen Ruth was not only a lively girl, but a person who could have been a source of strength and guidance for a lesser figure.

But Helen was destined to fight a losing battle in attempting to keep pace with her husband. She was in effect competing against New York and the world, and for her, the end meant only failure and tragedy.

In 1922, Babe and Helen announced the adoption of a little girl. The fact found a warm response in Babe's public.

In the middle 1920's, however, there came a separation. Helen, in failing health, went back to Boston. One morning she was found in her apartment having burned to death. She had apparently lighted a cigarette and dozed off.

Babe's popularity was a phenomenon in American sports.

The so-called Golden Age of Sports in the 1920s was just forming. Red Grange had not yet burst upon the college football scene. Jack Dempsey was still widely disparaged as a draft dodger.

But Ruth was caught up in an avalanche of hero worship. Fan mail poured into the Polo Grounds (this was before Yankee Stadium) and a telephone was installed in the clubhouse for his use.

In the winter of 1921–22, Babe had gone to Hollywood and made the first of several motion pictures in which he would be involved. This first film, hardly an epic, was called "Babe Comes Home"—a baseball story in which he pretty much played himself.

The movie was less important to him than the opportunity to sample the delights of Hollywood.

Among others who entertained him were the most famous performers of their time, Mary Pickford and Douglas Fairbanks, who were then engaged but not yet married.

In the spring of 1922, they were married and took off on a highly publicized wedding trip to Europe. They were in New York several days before sailing.

One afternoon, there was a call for Babe in the clubhouse.

He picked up the receiver. We heard him rattling off the usual "Yeahs . . . yups . . . whaddaya know . . . how about that" and his usual expressions. "Sorry," he said with a note of finality, "can't make it. Gotta meet a party."

Afterwards someone asked him about the call.

"Oh, I had to be polite," he said. "They were a couple of movin' picture people I met on the Coast. I can't think of their names . . . they were married a while back."

"You don't mean Pickford and Fairbanks?" asked Whitey Witt.

"Yeah, that's them," Babe said. "They wanted me to come down to their hotel for dinner. But I'd go nuts trying to go out with everybody."

### RUTH FORCED SHOWDOWN

(By Waite Hoyt, as told to Ritter Collett)

Although the two of them admired each other in their own way and eventually became friends, it was inevitable that Babe Ruth and Miller Huggins, the smallish manager of the first Yankee dynasty, were on a collision course.

After the Yankees captured their first pennant in 1921, it was apparent Ruth's stature as a performer exceeded that of Huggins as a manager, and the matter of control over the Babe remained a concern for the latter until the great showdown of 1925.

In the drive to the pennant in 1921, during which Ruth hit an astonishing 59 home runs and drove in 170 runs, all went fairly well.

The pennant did not come easily. At one stage in August, the Yanks were short of pitchers in a critical series against the hardhitting Detroit club.

In a clubhouse meeting, Huggins explained the situation and said he was open to suggestions.

"I'll pitch, Hug," Ruth spoke up, even though he hadn't pitched in a Yankee uniform. But he turned in a creditable six innings, striking out Ty Cobb twice, and we won the game.

A bad elbow, caused by a painful boil, had the Babe under par for his first World Series as a Yankee. Bear in mind that an infection of this sort was serious a half century ago. He hit the first of his 15 Series homers, but couldn't start the last three games and the Giants beat the Yankees in the first of many all New York World Series.

By 1922, Ruth was indulging in all sorts of fancies. He had to have the biggest car—the biggest of everything.

He bought a 12-cylinder Packard roadster, a huge, custom-built maroon job. We named it the Ghost of Riverside Drive. New York didn't have traffic lights in those days and the Babe looked upon that thoroughfare as his own version of the Indianapolis Speedway.

We could hear him coming long before he arrived at the Polo Grounds parking lot, often with the radiator steaming.

The Yankees won the pennant in 1922, but it was a turbulent year. Huggins was battling Ruth, and in the front office the owners, Col. Jake Ruppert and Col. *Tillinghast* Huston, were at each other. The latter did not have a high regard for Huggins.

The little manager, who weighed but 145 pounds, had many an argument with Ruth about the Babe's nocturnal habits.

"If you don't like it, why don't you send me somewhere else?" Ruth would challenge.

"If you don't want to play for the Yankees, why don't you go home?" Huggins would retaliate.

Ruth often threatened to get the manager's job, but never out of real malice. It came up during the heat of their arguments. "You won't be here next year," Ruth would yell. "It's you or me."

Huggins, as it turned out, managed the Yankees until he died in 1929, and his position was fortified when Col. Ruppert bought out his partner at the end of the 1922 season. The Teutonic brewer had the good sense to give Huggins the full backing of his position.

Ruth's turbulent ways weren't helped by the problems he was having with his first wife. After the separation, his momentum increased. It must be understood that Babe didn't just frequent the night spots, but made his rounds with actors and other celebrities and was a house guest of many famous people.

On the road, the Yankees used to provide him with a hotel suite in which he entertained, the idea being that at least they knew where he was.

But the Babe had over-evaluated his salary and was spending it faster than he made it. He had also over-evaluated his importance, and would submit to no authority. With the Yankees winning and Ruth contributing, Huggins couldn't bring himself to the ultimate challenge.

But in 1924, the Washington Senators slipped by the Yankees and won the pennant by two games.

The next season turned into a nightmare. Huggins was seeing his team fall apart, and 1925 was the year Ruth was slapped with a dramatic $5,000 fine and suspended for the rest of the season after playing in 98 games.

The ultimate blowoff came in St. Louis, and I was the only witness because I was scheduled to pitch and was in the clubhouse.

Ruth had missed batting practice, which he had done on occasion before. Huggins was extremely agitated as it got within an hour of game time. The manager came into the locker room and sat down in a corner. I knew that he was gunning for Ruth and had been on the whole trip. The Babe was keeping wild hours even for him, in direct challenge of the manager's authority.

Suddenly the Babe burst through the clubhouse door, coat over his arm and jerking his necktie off.

"You don't have to dress today, Babe," said Huggins, and I remember the conversation as if it were yesterday.

"Yeah, how come?"

"Because I have suspended you," continued Huggins, his voice shaking in spite of himself. "I am fining you $5,000 and sending you back to New York."

"What kind of crap is this?" demanded Ruth. "What are you suspending me for?"

"You know what for, Babe."

"Why you blankety-blank little runt," Ruth was bellowing by now. "You'll never get away with this."

Huggins, who had already gotten the support of Col. Ruppert and general manager Ed Barrow, smiled grimly. "We'll see."

The Babe made a menacing gesture, towering over Huggins. "I made you, you little so-and-so, and I ought to kill you," he ranted.

"I wish I weighed 200 pounds too," said Huggins not adding that he might have made his move earlier. "But there's nothing more to say. Your ticket is ready. You'll leave for New York tonight."

Ruth didn't go to New York. He rushed to Chicago demanding to see Commissioner K. M. Landis. But the venerable judge refused to intervene.

The Babe then headed for New York and was greeted at his apartment by a horde of reporters and a process server. He nearly bowled over the latter, storming through the pack like a child in a tantrum—an apt description.

The Yankees finished seventh without him, but wouldn't have done much better with him. The mighty had taken an awesome tumble.

## MURDER BY HANDGUN: THE CASE FOR GUN CONTROL—NO. 21

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HARRINGTON. Mr. Speaker, Earl Wise is dead. No one knows why. But we do know he died from a bullet fired into his neck from a handgun. Handguns kill thousands of people every year. These deaths can be stopped, with immediate gun control legislation. It will never be too early for gun legislation, but every day we delay is a day too late for people like Earl Wise. At this time I would like to include the September 13 article from the Washington Post:

### Northeast Man Killed By a Gunshot

A 41-year-old Northwest Washington man was shot and killed during an altercation in the 1300 block of Corcoran St. NW early yesterday, metropolitan police reported.

Earl Wise, of 115 Rhode Island Ave. NW, was taken to Freedmen's Hospital, where he was pronounced dead, police said. He had been shot once in the neck with a hand gun at about 12:30 p.m. and was found on the sidewalk in front of 1341 Corcoran St. NW, according to the police report.

Homicide detectives were searching for a suspect yesterday afternoon.

## WAITE HOYT REMINISCES ABOUT BABE RUTH

## HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. KEATING. Mr. Speaker, one of my constituents is the renowned baseball commentator, Waite Hoyt. For many years Waite broadcasted the Cincinnati Reds games and delighted his listeners with his personal stories about the great Babe Ruth.

On the occasion of the 25th anniversary of the Babe's death, Waite retold to the sports editor of the Dayton Journal Herald, Ritter Collett, many of the tales about Ruth with which he had entertained Reds fans. In fact, the day Ruth died, Waite did a 2-hour, unrehearsed reminiscence of Ruth over the Reds radio network.

As a longtime fan of Waite's, I am pleased that he, with Mr. Collett, has put his recollections in writing so that all baseball fans will be able to enjoy them. In tribute to Waite, I place examples of his stories here in the Record:

### Walsh Changed Ruth

(By Waite Hoyt, as told to Ritter Collett)

After his suspension for the remainder of the 1925 season, Babe Ruth needed a helping hand and real guidance in the worst way.

It was his personal manager, ex-sports writer Christy Walsh, who helped put the Bambino's world back in order. Walsh had been handling his business affairs to a degree, but now he took full charge.

Christy convinced him it was time to make amends, saying he would never play for Huggins again.

Through it all, the Yankees hadn't changed their position. It was up to the Babe to swallow a little pride and make the first move, which he did.

As a result, he was summoned to Col. Ruppert's office at the brewery where the club owner conducted all his business, including baseball. The rush of reporters to the scene resembled the start of a revolution in a banana republic. They gathered outside of Ruppert's richly-panelled office, where I negotiated my salary contract a number of times.

Finally, the Colonel emerged with the Babe and general manager Ed Barrow behind him and announced, "Mr. Root (he always pronounced the Babe's name that way) has changed his mind. He wants to play for the Yankees. Isn't that right, Root?

The Babe could only nod his head in agreement and mutter a few harmless phrases.

But there was more. Barrow announced that the Babe's return was dependent on Huggins. The authority of the manager was clearly established over his superstar.

"You can come back, Babe," the manager said the next day in private, "but the fine sticks. You have something to prove to me."

Walsh followed by arranging a banquet for the press at which no less a celebrity than Jimmy Walker, the mayor of New York, a great sports fan and the savior of Sunday baseball, would be the speaker.

Beau James was a superb politician and interested in helping New York teams. He knew what was expected of him and turned it on in masterful style.

This unique, public soul-saving of a sports celebrity could have been a disaster, because a great many people were cynical about the whole matter of Ruth's sincerity at the time.

Walker turned himself into Marc Anthony in paying tribute to Ruth. He pictured the Babe as the nation's greatest sports headliner who, because of an urge to taste life and all its wonders, had succumbed to the temptation to turn his back on the man in the grandstand.

Walker called upon Babe to raise his private life to the elevation he enjoyed as the nation's most dominant sports figure.

"The dirty faced kids in the street look up to you, Babe," Walker concluded his talk. "Don't fail them."

The mayor had not only won over the press, he had gotten through to Ruth who was, unbelievably, in tears. The Babe's speech was simple and to the point—he was sincerely sorry.

The best part of the whole thing is that he did an about-face. This isn't to say he became an All-American boy, but he was much more discreet thereafter, much less defiant of authority and Walsh made sure that the Babe's genuine regard for kids became a matter of public knowledge. In all honesty, he was a man changed for the better.

The Yankees rebounded on the field in a big way in 1926. With Lou Gehrig coming into his own at first base and Tony Lazzerri joining him at second base, the club won three penants in a row and captured both the 1927 and 1928 World Series without losing a game. The Yankee dynasty was established.

Ruth enjoyed his new role as a superstar, business man and good will ambassador. He was still a big kid—but his habits had moderated.

Christy Walsh was in charge of all his outside interests. The Babe no longer got a salary check. This went into a fund under Walsh's supervision. Although the Babe merely drew expense money, he was still a lavish spender and Christy didn't tighten the reins too much because the income—from all sorts of sources—was absolutely enormous.

The year 1927 was to be Babe's zenith, and yet it created no sensation at the time comparable to what the Roger Maris attack on his record generated in 1961.

The Yankees had been edged by the St. Louis Cardinals in a dramatic seven-game World Series after the 1926 pennant. This was the Series in which Grover Cleveland Alexander strolled out of the St. Louis bullpen with an awesome hangover to strike out Lazzerri with the bases loaded.

That was in the seventh inning of the final game, which I had started.

Old Alex was still hanging onto that 3–2 lead when Ruth came up with two men out in the ninth. Alex didn't give the Babe anything at all to hit. Each pitch was masterfully close to the strike zone, but still outside it. Ruth walked as the pitcher made it clear he preferred to take his chances with Bob Meusel.

But Meusel never finished his turn at bat. Ruth was thrown out on a close play trying to steal second—and nary a Yankee second-guessed his effort. The big guy could run and he was gambling to get the tying run into scoring position.

The 1927 pennant race was a lark and even though Babe was having a great year, it didn't appear he would break his own home run mark. He had 57 with only two games to play.

But he hit a pair against the Washington Senators in the next-to-last game to tie his record set in 1921.

"I'll bet anybody ten bucks I hit one," he challenged in the clubhouse before the final game. Lazzerri was the only man to call his bet.

Tom Zachary, a veteran with a lot of slow stuff and good control, was the Washington pitcher. He fooled the Babe three times, but on his last try Ruth delivered. The historic 60th was a soaring smash into the distant bleachers.

In the 1928 Series, the Yankees evened things with the Cardinals for 1926. It was a four-game sweep but a tough four games. I pitched the last one and Ruth, playing left field in the old park in St. Louis, made a great running catch of a foul fly off the bat of Frankie Frisch for the final out.

The Babe had far to come but he never broke stride, running dangerously parallel to the low grandstand railing.

I can still see him on the run—a magnificent performer at the very peak of his powers.

### "Names" Never Fazed Babe

(By Waite Hoyt, as told to Ritter Collet)

On Memorial Day in 1930, Mark Koenig and I were traded by the Yankees to the Detroit Tigers.

It meant the end of a wonderful decade in Yankee uniform and an 11-season association with Babe Ruth.

As I made the rounds of the clubhouse saying goodbye to the gang, both Mark and I more or less saved the Babe until last.

"So long, Gidge," I said, thrusting my hand toward his and using the nickname by which he was known in the clubhouse. Gidge was an odd contraction of his given name, George.

"The best to you, keed," he said, pumping my hand, "So long, Walter."

I departed in amazement that the man really couldn't recall my name after all these years. But it came as no surprise. Early in my association with him, I had become aware that this was his nature and eventually, anyone who knew him, would have to accept it.

Many people on meeting Ruth for the first time assumed he was totally indifferent to them and a very rude man.

Actually, he wasn't indifferent at all, but even before he became occupied with the pressure of being a national hero, he never seemed able to concentrate. Could this have been a residue from his early childhood in a Baltimore orphanage? Very likely, but nobody ever got close enough to Babe to perform an accurate psychoanalysis.

Stories about Ruth's problems with names are legend. Many are true, as I know from experience.

There was the time the great French hero of World War I, Marshal Foch, was brought to the old Polo Grounds to be introduced to baseball. The Yankees were lined up to meet him . . . with Ruth, as always, saved for last.

Babe leaned over the railing, stared at the rows of ribbons and medals on the stiffly erect Frenchman's chest and finally said, "Hiya, Gen . . . they tell me you were in the war."

Later on, when Calvin Coolidge was president, the great stone-faced chief executive, visited Yankee Stadium.

"Hot as hell, ain't it Prez?" was Babe's greeting to the taciturn Vermonter.

During the summer of 1928, when the presidential race was shaping up between Al Smith and Herbert Hoover, the campaign manager of the latter arranged to have Hoover meet Ruth and have their picture taken together. The Babe, an admirer of Smith, sent word if Hoover wanted to meet him, he could come to the locker room without photographers.

But he was in no real way concerned with politics or many serious matters.

Later on, he was a guest at the White House where, by this time, Franklin D. Roosevelt was installed.

FDR was delighted at having such a notable guest and asked him, "Mr. Ruth . . . may I call you Babe?"

"Go right ahead, Prez," he responded with his customary magnanimity.

At this point the president told a lengthy story of having been on the campaign trail back in 1920 when Ruth's popularity was taking shape. The campaign train and the train bringing the Yankees into Cleveland arrived at about the same time and a large crowd was on hand.

"You know, Babe," President Roosevelt said laughingly, "I thought that crowd was there to see me until one of my aides told me they were there to greet You."

"That is funny, Prez, but you know, it happens all the time," said Babe, innocently putting down the chief executive, who was by this time guffawing.

Much of Ruth's stability in later years was provided by his second wife, Clair Hodgson Ruth.

Clair had been an actress, and was a very beautiful girl. She was a wonderful and intelligent person who took her time making up her mind that she did love the big guy. Their marriage, which took place in 1929, endured.

I would like to pay tribute to Clair Ruth for her continued interest in baseball over the years and her eagerness to participate in public appearances.

In his earlier days, Babe had been a flashy dresser, but after his second marriage, he was always stylish as well as impeccable.

By 1930, when he signed his $80,000 two-year contract, by far the biggest salary ever paid a sports figure to that time, his career had levelled off. Connie Mack's Philadelphia A's had displaced the Yankees as American League champions.

But the Babe had at least one more date with destiny. That came in the 1932 World Series (his last) when he called his home run against Charley Root and the Chicago Cubs.

Babe had gone into the Series angry at the Cubs because they had voted Koening, his onetime teammate who had helped them win, only a half share of the Series pool.

Legend has it that Ruth pointed with his bat to the center field seats in Wrigley Field—with two strikes on him—and proceeded to hit his second home run of the game.

I wasn't a witness to that feat, but several times before I saw Babe call his shots on home runs.

Once he silenced a noisy heckler in Fenway Park in that manner. Another time, in Chicago, with the game tied, he heard road secretary Mark Roth complain to manager Miller Huggins that the Yankees were about to "blow a train" and would have to stay overnight. "I'll take care of that," said the Babe.

There is also the story about Johnny Sylvester. By the late 1920's, Ruth was a frequent visitor to hospitals to see children. Johnny Sylvester was a boy in New Jersey who was so ill the doctors had given up on him. The Babe visited the boy at his home and promised to hit a home run for him that day—and did.

The episode received much publicity and Johnny Sylvester recovered.

A year or so later, one of the boy's relatives got into the Yankee dugout and told the Bambino how well Johnny was doing and profusely thanked him for his interest.

After the man left, Ruth sat down and with a puzzled expression, asked of no one in particular, "Who in the hell is Johnny Sylvester?"

### Managing in Majors Ruth's Dream

(By Waite Hoyt, as told to Ritter Collett)

Babe Ruth was 40 years old and in his 21st season in the majors when his playing career came to a somewhat low key conclusion in 1935 with the lowly Boston Braves in the National League.

Even then, he had enough of the old strength and magic left to hit three home runs in one game in Pittsburgh a week before he called it quits.

Although he enjoyed financial security and a happy home life with second wife Clair, the remaining years of his life found the big fellow mostly restless and often frustrated.

He never managed to reconcile himself to the fact there was no place for him in baseball.

There were numerous offers, but none of them gave the big guy what he wanted—a chance to manage in the big leagues. He served a brief and ill-fated term as a coach with the Brooklyn Dodgers in 1938.

The truth is that Ruth was too awesome a figure for most of the situations in which he could be fitted.

The Babe hadn't done much in the way of preparing himself for the day he could no longer play and late in his career assumed that he would some day be given a chance to manage—as had superstars Tris Speaker, Ty Cobb and others against whom he had played.

After the death of Miller Huggins, Babe took the offensive and made known his desire to manage the Yankees.

But Col. Jake Ruppert, the owner, knew he had a worthy successor to Huggins in Joe McCarthy and rebuffed the Babe in a typical, blunt Ruppert way.

In their discussion, Ruppert said, "Babe, most of your life you haven't been able to manage yourself, how could you manage other men?"

Ruth was considered for the Detroit Tiger job which catcher Mickey Cochrane got in 1934, and the Yankees did offer him a chance to manage their farm club at Newark, a big-time operation in those days—but still the minor leagues. The arrangement by which Ruth went into the National League in 1935 was "sugar coated" from all angles.

The truth is the Yankees gave him his unconditional release to become a "playing vice-president" with the Braves, who were not only a bad team but financially strapped as well.

But Ruth's aching legs and the discovery that his "vice-presidency" was something of an embarrassment to Manager Bill McKechnie led to his retirement.

Babe lived out his years with Clair in a huge Riverside Drive apartment that was a virtual museum of trophies, souvenirs and other mementoes of his fabulous career.

The success of the Yankees, who won four straight pennants in the 1936–39 span with Joe DiMaggio as a new superstar, created an excitement in New York of which Babe wasn't a part.

His impact on the scene, however, was felt in 1939 when his erstwhile teammate, Lou Gehrig, came down with his fatal illness. On July 4th, the Yankees staged a day in Lou's honor to which all of his old teammates were invited.

In all honesty, Ruth and Gehrig had never been close personal friends because of a great difference in life styles and temperament. Lou had been a "loner" all his life. But on this instance, Babe shed genuine tears, embracing Gehrig after Lou had made his amazing "I'm the luckiest guy in the world" speech.

Little did any of us realize it would be only nine years later when the cancer-ridden Babe would play his own farewell scene in the stadium.

The occasion was the 25th anniversary party for Yankee Stadium on June 13, 1948, but it turned out to be Babe's party.

His voice reduced to a hoarse whisper and the old Yankee uniform unable to conceal his shrunken frame, Ruth dragged himself to home plate to a tearful standing ovation.

Babe's battle with cancer had been a long one. His incredible physical strength kept him going for a long while. He had been on heavy medication for nearly two years before he died. The same stamina that enabled him to hit home runs with no trace of a hangover or fatigue despite his nocturnal forays in his heyday helped prolong his final struggle.

When modern day players root for Hank Aaron to break the Babe's record, I concede their right to do so and join them in paying tribute to Aaron, a truly fine player and person.

But I wish there were a way of making the modern athlete understand what Babe Ruth meant to baseball.

Public confidence in the game was at a low ebb when Babe came into his own. The scandal that developed in the 1919 World Series could have destroyed the game.

Ruth not only helped prevent that but projected the game to new heights by his own achievements.

There is no way the moderns can appreciate what a magnet Babe was at the gate. On spring training barnstorming trips, entire southern towns would close down and overflow parks to see Ruth play.

More to the point, the Bambino rarely missed playing or attempting to give the crowd a show.

In those pre-television days, Ruth could make a lot more on October barnstorming tours than he could playing in a World Series—unbelievable as they may be.

During the team meeting to allocate shares for the 1927 World Series, there was a move to limit a young pitcher, who had helped the Yankees win after joining the team in June, to a half share.

"Cut him in all the way or I'll go on a trip of my own," snorted an angry Ruth. 'I'm the only one of you bums losing money by playing in this thing."

The man literally was bigger than life . . . and, in a sense, always was in a class of his own.

I've known and watched most of the baseball greats of the 20th century. The Babe was always the one towering above the crowd.

## ANNIVERSARY OF A TRAGIC DAY IN POLISH HISTORY

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. DERWINSKI. Mr. Speaker, I wish to bring to the attention of the Members, the anniversary of a tragic day in the history of Poland. September 17, 1939, was the date that resulted in the downfall of Poland, when the Soviet Union, as agreed in the secret protocol of the German-Soviet Nonaggression Treaty of August 23, 1939, attacked Poland. Unable to fight in two fronts, the brave Polish Army had to capitulate within a week.

I insert into the RECORD a letter to the editor of Chicago Tribune, carried in the August 26 issue, written by Mr. Francis Berzins, an active leader in the Latvian-American National Committee and in civic political organizations.

The letter follows:

NAZI-SOVIET PACT

FLUSHING, N.Y.—The European Security Conference and the Russian demand to legalize the present boundaries in Europe remind one of the Ribbentrop-Molotov Pact.

On Aug. 23, 1939, this shameful document was signed between Nazi Germany and the Soviet Union. This document, known also as the German-Soviet Nonaggression Treaty, opened the way for Hitler's invasion of Poland, followed by the Soviet attack on Poland that Sept. 17.

As soon as the Soviet invasion of Poland was completed, the Soviet Union demanded a military basis in the Baltic states. Several months later, the Soviet Union occupied all three Baltic states and annexed them to the Soviet Union.

Hitler's Germany has been defeated and Mr. Ribbentrop hanged, but the other partner of the treacherous pact, the Soviet Union, still survives unpunished and continues its imperialistic policy.

The European Security Conference must abolish this Nazi-Soviet pact and demand the restoration of independence for the Baltic states. With the defeat of Nazi Germany, all treaties concluded with Hitler became void.

F. BERZINS.

## LEE HAMILTON'S WASHINGTON REPORT ENTITLED "U.S. TROOP LEVELS IN EUROPE"

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my recent Washington Report entitled, "U.S. Troop Levels in Europe":

U.S. TROOP LEVELS IN EUROPE

One of the distinctive features of this 93rd Congress is the increasing attention the Congress has shown to the size, purpose and cost of U.S. troop levels abroad.

There is broad agreement that reductions can be made in the over 600,000 American troops overseas. The sharpest aspect of this debate focuses on the troop levels in Europe. It costs the United States directly about $7 billion each year to maintain our forces in Europe and about $2 billion of the American balance of payments deficit flows from the troop commitment. Our allies spend about $35 billion annually on their military forces and they devote 4 percent of their gross national product to defense, compared to 7½ percent in the United States. From these efforts the U.S. Joint Chiefs of Staff have concluded that a "rough" military balance has been struck in central Europe.

The question arises, "Why should over 300,000 American forces be in Europe 28 years after World War II?"

Proponents of a substantial unilateral reduction in the number of American troops in Europe stress the prosperity of European countries which makes them able to carry a greater burden and the lessened tensions resulting from the recent moves toward East-West accommodation. They also emphasize that every dollar is needed at home to meet domestic needs. In their view fewer American troops could still show the Europeans our genuine intentions to help defend Europe and unilateral withdrawals by the United States could stimulate a similar response from the Soviets.

While I support mutual and balanced force reductions, I have opposed the unilateral reduction of American troop levels in Europe for several compelling reasons:

SECURITY

European independence is vital to our security. The United States maintains forces in Europe for its own security, not just the security of Europeans. The economic, technological, military and cultural strength of NATO Europe is second only to the United States itself in strategic importance to the non-communist world. The independence of Western Europe is dependent upon the maintenance of a credible deterrent, and U.S. forces play a vital role in that deterrent. Militarily, the effect of a reduction in NATO force levels would be to require the use of nuclear weapons sooner in the event of a Soviet attack. The Soviet threat to the West may have declined, but it has not disappeared, as the massive military establishment of the Warsaw Pact shows.

POLITICAL

Unilateral reductions of U.S. forces would jeopardize several important and favorable political developments.

Maintaining current American troop levels in Europe will enable the U.S. to influence events in Europe and avoid the risk of undermining West Germany's opening to the East and West Europe's efforts toward greater cohesion, if not integration. A unilateral U.S. troop withdrawal would have an adverse psychological impact on Western Europe and might allow Europeans to drift toward neutralism or even accommodation with the Soviet Union.

A unilateral withdrawal would cripple the U.S. position in three current and vital negotiations: Mutual and Balanced Force Reductions, the Conference on European Security and Cooperation, and Strategic Arms Limitations Talks.

Just as the NATO policy of strength is succeeding is not the appropriate time to junk it. The entire atmosphere of detente that has characterized East-West relations in recent years could be jeopardized.

Although the withdrawal of American troops from Europe would not result in substantial budgetary savings, since the troops presumably would be kept on active duty in the U.S., every effort must be extended to assure that NATO's European members share fully the cost of defense. The U.S. is now paying more than its "fair share," according to the Secretary of Defense. Encouragement can be taken from the fact that our allies are contributing more and more and now provide 90 percent of NATO ground forces, 80 percent of the air strength, and 75 percent of the naval forces.

## JIM FARLEY'S WARNING

### HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ROONEY of New York. Mr. Speaker, on June 1 last there was published in the Herald-News of Passaic, N.J., an interesting editorial entitled, "Jim Farley's Warning," which should be brought to the attention of every voter. The editorial reads as follows:

JIM FARLEY'S WARNING

James A. Farley, one of the last of the giants of the Franklin Delano Roosevelt era of American politics, reached the age of 85 this week. In a birthday interview, he was asked a question about the Watergate affair.

The query was inevitable because of Mr. Farley's stature in American politics. He was the one person most responsible for winning the Democratic nomination for FDR in 1932. Mr. Roosevelt, the beneficiary of two years of work by Mr. Farley, went into the convention with a majority of the delegates. However, he needed two-thirds for the nomination. Mr. Farley made the political deals which swung the delegates of Texas and California to FDR and gave him the nomination.

In 1932, he directed the Roosevelt campaign. He predicted FDR would run 7½ million votes ahead; he was only a half-million too optimistic. In 1936, he ran the campaign again. He predicted FDR would carry every state but Maine and Vermont; he was exactly right. In 1940, he opposed a third term, and he and FDR came to a partiing of ways. If there are elder statesmen in American politics, Jim Farley is in the front rank.

His reply to the query about Watergate therefore carries weight. He said:

"I hope nothing develops to the point where any consideration is given to impeachment. And if it does, I hope it won't happen. It would divide the country in a way that, in my judgment, it has never been divided before."

Mr. Farley is a Democrat. He has no reason to be generous to a Republican. However, he has always been more than a partisan politician. His opposition to breaking the two-term precedent set by George Washington demonstrated that. His sober judgment that impeachment "would divide the country in a way . . . it has never been divided before" should be heeded by the politicos in Washington. Because Mr. Farley has voiced a fear which haunts many other Americans.

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## NACOA'S NOTICE OF PARTIALLY CLOSED MEETING

### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. OBEY. Mr. Speaker, the National Advisory Committee on Oceans and Atmosphere — NACOA — announced today in the Federal Register that it will hold a 3-day meeting next week, September 27 through 29, and that the first day's session will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration. I have two comments to make about this proposed closure:

First, it does not appear to comply with the Federal Advisory Committee Act—Public Law 92-463. While the law permits closure if it be determined that a meeting will be concerned with matters which the Freedom of Information Act exempts from mandatory disclosure, it also requires that "any such determination shall be in writing and shall contain the reasons for such determination." While the announcement says such a determination was made and that it was cosigned by General Counsel, the announcement itself does not give any reasons. I submit that it is not enough to prepare a determination containing the reasons for closing a meeting and then file it with the advisory committee secretariat at the Office of Management and Budget. The reasons, if any, should be published.

Second, even if NACOA did have lawful reasons for closing the first day's session, I cannot see why it should want to do so. The announcement says the agenda for Thursday, September 27, is "discussion of pending legislation affecting the organization of oceanic and atmospheric affairs and congressional testimony by various NACOA members." Now compare that with the following expression of concern from NACOA's second annual report to the President and the Congress, filed just last June 29:

> NACOA finds that national management and organization of the Federal roles and missions concerning marine and atmospheric affairs is improving too slowly if, indeed, it is improving at all. There are too many actors, too many separate chains of command, too many crosscutting policies, too many separate budgets appropriations, and programs. In this confusion, national priorities have no perspective and neither the executive branch nor the Congress is in a position to lead effectively, much less enforce accountability for results. Important leadtime has therefore already been lost and we are less able to deal with the problems of the '70s than we should be.

That is tough talk, so it is more than a little difficult to understand why NACOA would want to retreat behind closed doors on September 27 to discuss pending legislation. Why not an open meeting on problems it brought into the open in hard-hitting style?

Mr. Speaker, I include the text of the NACOA meeting announcement:

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

NOTICE OF PARTIALLY CLOSED MEETING

SEPTEMBER 13, 1973.

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 3-day meeting on September 27-29. The first session, Thursday the 27th, will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration, in a determination dated September 7, 1973, and cosigned by the General Counsel, which finds that the session is concerned with matters listed in section 552(b) of title 5, United States Code. The other two sessions will be open to the public. All sessions will be held in room 6802 of the U.S. Department of Commerce Building, 15th and Constitution NW., Washington, D.C. The Thursday session will commence at 10 a.m., the others will begin at 9 a.m.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments industry, science, and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971. Its duties are to: (1) Undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration.

A general agenda consists of the following topics:

Thursday the 27th—discussion of pending legislation affecting the organization of oceanic and atmospheric affairs and congressional testimony by various NACOA members.

Friday the 28th—development of a committee work plan for the coming year and presentation of agency briefings on marine pollution.

Saturday the 29th—further agency briefings on marine pollution.

At open sessions, the public will be admitted to the extent of the very limited seating available on a first come, first served basis. Questions from the public will be permitted during specific periods announced by the Chairman. Persons wishing to make formal statements must notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration or oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 967-3343.

DOUGLAS L. BROOKS,
*Executive Director.*

[FR Doc.73-19943 Filed 9-17-73;8:45 am]

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## NEED FOR NONSMOKER PROTECTION CONTINUES

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. YOUNG of Florida. Mr. Speaker, the mail continues to flow into my office in support of my bill, H.R. 1309, the Nonsmokers Protection Act. This legislation requires the Secretary of Transportation to prescribe regulations ordering certain modes of transportation in interstate commerce to reserve some seating capacity for persons who do not smoke. Many of those who have written me provide examples of their unpleasant experiences in being forced to inhale the smoke of others.

The Civil Aeronautics Board took a pioneering step in public protection of nonsmokers when it issued regulations requiring a certain seating area to be set aside for nonsmokers on all domestic airline flights. But this was but one area of commerce; the Congress must act to back up the CAB and provide the impetus for similar action by the Department of Transportation. In the absence of a strong declaration of congressional intent to protect the nonsmoker in interstate travel, the administrative regulations may be more often honored in the breach than the observance.

As but one example of such a breach, Mr. Speaker, I would like to draw my colleagues' attention to the following letter of complaint against United Airlines for violation of the CAB's regulations. This letter, from the Lung Association of Mid-Maryland, points up the need for a strong statute which would motivate compliance with regulations to protect nonsmokers.

LUNG ASSOCIATION OF MID-MARYLAND,
*Rockville, Md., August 29, 1973.*

OFFICE OF CONSUMER AFFAIRS,
*Civil Aeronautics Board,*
*Washington, D.C.*

DEAR SIR: Mrs. Bernice Reed, National Park Service, Architecture Rm. No. 102, 1400 Wilson Blvd., Arlington, Virginia, has informed me that United Airlines has willfully violated a Civil Aeronautics Board ruling (Part 252) entitled "Provision of Designated 'No-Smoking' areas Aboard Aircraft Operated by Certificated Air Carriers." As a professional member of an organization deeply concerned about nonsmokers protection and rights, I wish to convey the following information to you for further investigation and possible prosecution by your agency.

On August 10, 1973 Mrs. Reed a passenger on United Airlines flight No. 610 from Knoxville, Tenn. to Washington, D.C., specifically requested to be seated in the nonsmokers section. About midway in the flight, a gentleman seated in front of her (also in the nonsmokers section) proceeded to smoke a cigarette. Mrs. Reed asked the Stewardess to enforce the regulation (S. 252.3) which required "no smoking" in that particular section. The stewardess offered an excuse and said since there was only a few more minutes remaining on the flight she didn't feel it was necessary to stop the gentleman from smoking. The gentleman continued to smoke for the remainder of the flight. I wish to call two sections of the recent Civil Aeronautics Board regulation (ER-800) to your attention.

S. 252.2—*Carriers to provide specially designated "no smoking" areas in which smoking is prohibited.*

Carriers subject to this part shall provide a "no-smoking" area or areas for each class of service and for charter service. Each carrier shall adopt procedues, pursuant to this section, which shall insure that a sufficient number of seats in the "no-smoking" areas of the aircraft are available to accommodate persons who wish to be seated in such areas.

S. 252.3.—*Carrier to insure smoking not permitted in "no-smoking" areas and to enforce its rules for the segregation of smokers and nonsmokers.*

Each carrier shall take such action as is necessary to insure that smoking is not permitted in "no-smoking" areas and to enforce its rules with respect to the segregation of passengers in "smoking" and "no-smoking" areas.

As is evident by these two sub-sections, United Airlines is either negligent in not providing enough seats for the non-smoking sections or guilty of not enforcing a no-smoking ban in the nonsmokers section. However, since Mrs. Reed claims to have asked for the nonsmokers section and the stewardess by her response seemed to be cognizant of the violation, it would appear that United Airlines is derelict in its responsibility to abide by regulation S. 252.3 of the Civil Aeronautics Board.

CAB stated in its "enactment of Part 252" report, "Smoking plainly causes annoyance and discomfort to nonsmokers to a degree warranting separate placement of smokers." I certainly agree with the Board, however, I would go one step further and claim that not only are we talking about physical comfort but also a matter of the protection of the health of the nonsmokers. Numerous scientific studies support this assumption that second hand tobacco smoke causes health related damage to the nonsmoker. (see enclosed information sheet)

If these nonsmokers regulations are to be effective in the protection of approximately 75% of the total population who are in fact nonsmokers, then the CAB must scrupulously investigate and if warranted prosecute all possible violators. Please keep me informed as to the disposition of this complaint.

Thank you for consideration of this matter.

Sincerely,

GREGORY J. WALLING,
*Program Consultant.*

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## CHILD ABUSE STILL INCREASING

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BIAGGI. Mr. Speaker, the tragic incidents of child abuse continue to mount in the United States. A particularly gruesome case occurred recently in New York City when a man was accused of beating to death the 2-year-old son of his girlfriend. An autopsy performed indicated that this child had been the subject of numerous beatings before succumbing to the fatal one. The further tragedy in this case is that the child had been reported to the New York City Welfare Agency as a neglected child, yet authorities had found no basis for removing the child from his home.

In an attempt to combat the growing numbers of child abuse cases, the State of New York recently initiated a program under which persons can report cases of child abuse by simply dialing a phone. I applaud this action by New York State but I still feel this alone is not the answer. What is needed is strong Federal legislation, such as my bill, H.R. 5914. The National Child Abuse Prevention Act of 1973, which will seek to direct the full Federal resources to rid the American Nation of the wicked scourge of child abuse.

At this time, Mr. Speaker I wish to include two news items, printed in the New York Times and the New York Daily News, which elaborate on the problems of child abuse today:

[From the New York Times, Sept. 6, 1973]

### Child Abuse Calls to Agencies Rise

(By Grace Lichtenstein)

The city and state are learning of many more incidents of child abuse and neglect since new systems for reporting such cases went into effect, spokesmen for two government agencies said yesterday.

According to James S. Cameron, director of Child Protective Services for the State Department of Social Services, incidents involving 92 children have been called in during the first 72 hours of a new child abuse "hot line."

Under the system, which began last Saturday, anyone can report a case of child abuse outside New York City by calling the toll-free number (800) 342-3720. Within New York City, the number is 431-4680.

Mr. Cameron said two-thirds of the initial calls had been from average citizens rather than police departments or institutions, indicating that "people who have stored up concern about this now have found a way to get the information out."

#### CITY GETTING MORE CALLS

Meanwhile, the city's Human Resources Administration, which has had its child-abuse hot line for three years, has recorded more cases in the first seven months this year than it did in all of 1972.

Through July, the department had registered 10,6000 cases, compared with 10,500 for 1972. In 1971, the first year of the program, the figure was 8,000.

A spokesman for the Human Resources Administration attributed the increase to the improved reporting system for child abuse cases, the greater publicity given to the hot line and the fact that "people are more educated about the need to report child mistreatment."

Both the city and the state have found that the majority of cases involved neglect and maltreatment, rather than physical abuse of children. The city agency spokesman said that seven of 10 cases dealt with children left alone, improperly fed or clothed, or allowed to be truants from school.

#### FOUR SEXUAL ABUSE CASES

Mr. Cameron said that most of the complaints telephoned to the state involved such problems as children left alone, parents holding wild parties and so on.

Mr. Cameron said there were four reports of alleged sexual abuse. In one case, he said, a girl now 15 years old was reported to have had sexual relations with her mother's boyfriend from the time she was 9.

In Brooklyn, a 2½-year-old boy, an apparent victim of child abuse, was pronounced dead on arrival at St. John's Hospital late Tuesday night.

The police said that the boy's mother, Rose Marie Washington, of 831 Monroe Street in the Bedford-Stuyvesant section, brought in the child, whom she said had been beaten by her male companion.

The man, Elliot Dunlap, 24 years old, was later arrested and charged with having assaulted Mrs. Washington. The police said other charges relating to the boy's death were pending.

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### Tot Beaten to Death; Agency Failed To Act

(By Bryant Mason and Jesse Brodey)

A 24-year-old unemployed laborer was accused of beating his girl friend's 2-year-old son to death yesterday. Records showed that the boy, whose body bore scars of previous beating, had been reported to the city welfare agency as a neglected child, but social workers apparently found no basis for removing him from the home.

The mother, Rosemarie Washington, 29, of 831 Monroe St., Brooklyn, quoted her boy friend, Elliot Dunlap, 24, as saying that he had beat the child because he wet himself, police said.

Police sources disclosed that the medical examiner's report on the case said that the child, Richard Washington, died of a ruptured spleen, among other injuries, and listed him as a "battered child," yet another victim of a national child-abuse problem which annually brings death to 50,000 children and injuries to 300,000.

Dunlap was arrested at 4 a.m. in bed in the Monroe St. apartment and charged with assault for an alleged beating given the mother last Friday, and later with homicide.

The Welfare Department confirmed that Richard and a younger brother, aged 1, were reported as neglected children to the Human Resources Administration's Child Protective Services Office on July 3.

Social workers located the family on July 5, but apparently found no basis for removal of the children from the mother, who is on relief. She has four other children, aged 10, 9, 7 and 4. Two of the children are in foster care and two are with relatives, the welfare spokesman said.

Police said the boy's body and legs showed scars from earlier beatings, apparently with a strap.

Police said the mother told them she had left her son at 8 p.m. Tuesday in the care of Dunlap in the second floor apartment they shared at 831 Monroe St. When she returned at about 9 p.m., she found the boy dazed, with a puffy left eye and bruises on the right arm, she told Detective Louis Robles of the 14th Homicide Squad. She tried to revive the boy with a cold towel, she told police.

Finally, with the help of another friend, she took the boy to St. John's Hospital, where, a few minutes after his arrival in the emergency room at 10 p.m., he died.

## FEDERAL AID TO BLACK COLLEGES

## HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. DELLENBACK. Mr. Speaker, as college students begin another year, we are reminded of the great diversity in American postsecondary education which distingushes our system from most other countries. Part of our heritage has been the unique contributions of over 100 predominantly black colleges.

Although these public and private institutions are open to students of any race, they traditionally have been committed to providing educational opportunities of excellence for black students.

I was pleased to note a recent press release pointing out that Federal aid to these colleges has increased 124 percent over the past 4 years. The Department of Health, Education, and Welfare, and especially the Office of Education, should be commended on the many ways in which they have demonstrated the Federal Government's commitment to strengthening these institutions. The announcement on the most recent figures follows:

Federal aid to the Nation's predominantly black colleges and universities increased 124 percent over the past four years, HEW Secretary Caspar W. Weinberger announced today.

The increase, Weinberger said, from $108 million in fiscal year 1969 to $242 million in fiscal year 1972, "represents a clear demonstration of this Administration's continuing efforts to assure the well-being of a vital segment of the Nation's postsecondary resources."

The Secretary disclosed highlights of an annual study of Federal program aid to black colleges conducted by the Federal Interagency Committee on Education (FICE), of which Assistant Secretary of Education Sidney P. Marland, Jr., is chairman.

According to the study, predominantly black institutions enrolled 2.6 percent of all college students in academic year 1972–73 and received 5.5 percent of Federal funds going to higher education.

During the 1972–73 academic year, the year in which the major portion of fiscal year 1972 funds were spent, the 114 predominantly black schools enrolled 246,219 of the 9,297,787 students in all colleges and universities.

Black colleges received 82 percent of their Federal funds from HEW, according to the FICE study. In contrast, other colleges and universities received only 71 percent of their Federal support from HEW.

In all, 15 Federal departments or agencies provided approximately $4.4 billion to the Nation's colleges and universities.

Of the $197 million provided predominantly black institutions by HEW, the Office of Education allotted $165 million. The Office of Education assistance to black colleges represented more than half of all Federal support to these institutions.

The next largest amount in HEW came from the National Institutes of Health, which provided almost $21 million.

Outside HEW, the primary sources of Federal aid to black colleges were the Department of Agriculture and the National Science Foundation. The Department of Agriculture provided over $13 million, and the National Science Foundation provided more than $9 million.

Eighty-four of the black colleges—74 percent—received more than $1 million each in Federal funds, according to the study. Nationally, less than 20 percent of all colleges and universities received more than $1 million in Federal funds.

The FICE report, Federal Agencies and Black Colleges, Fiscal Year 1972, will be published later this year.

The ten black colleges receiving the most Federal aid during fiscal year 1972 are listed in the following table:

*Top 10 black college recipients of Federal program funds, fiscal year 1972*

| *Institution and Location:* | *Amount of support* |
|---|---|
| Howard University, Washington, D.C | $15,226,400 |
| Meharry Medical College, Nashville, Tenn | 12,616,600 |
| Tuskegee Institute, Tuskegee, Ala | 10,290,100 |
| Southern University, Baton Rouge, La | 7,125,300 |
| North Carolina A & T State University, Greensboro | 5,718,800 |
| Bishop College, Dallas, Tex | 5,123,800 |
| Virginia State College, Petersburg | 5,089,500 |
| Tennessee State University, Nashville, Tenn | 5,060,200 |
| Spelman College, Atlanta, Ga | 4,984,700 |
| Alabama A & M College, Normal | 4,839,700 |
| Total | 76,075,100 |

Source: Federal Interagency Committee on Education.

## THE PURPLE KNIGHTS

## HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. McKINNEY. Mr. Speaker, as I am sure my colleagues from California, Texas, Alabama, Michigan, Nebraska, Ohio, and other regions will agree, professional football is hard-pressed to rival the excitement and partisan fervor generated by American collegiate football competition. Last year alone, 30 million fans paid to attend college football games across the country, while millions more watched on television. I believe that this popularity is not based on the national publicity and big-time approach which draws fans to our great professional teams, but rather it is caused by the discipline, sacrifice, cooperation and excellence which all college sports programs, large and small, instill.

At the outset, Mr. Speaker, I mentioned the names of several States and I am sure my reasoning is plain to all for within their boundaries, they—and others—can boast of some of the finest college football teams in the Nation. With all deference, however, I would like to bring to the attention of the House the achievements of a college football team which has its home in Connecticut's Fourth Congressional District. Mr. Speaker, I refer to the University of Bridgeport football team, the Purple Knights, who will enter this season holding the longest current collegiate winning streak in the country—21 consecutive victories spanning two seasons, including two victories in the National Collegiate Athletic Association's 1971 and 1972 Knute Rockne Bowl in Atlantic City.

In just two seasons, Head Coach Ed Farrell and his staff have molded a winning attitude and a winning team at UB which last year set 27 individual and team records.

UB quarterback Roy Ferreira and split-end Lloyd Cornell combined for 17 new school records while gaining 2,145 yards through the air. In addition, Ferreira, an honorable mention Little All-American, finished eighth nationally in total offense.

The members of the UB roster exemplify that determination and spirit which is the mark of all champions. Following, Mr. Speaker, are the names of those whose dedication and sacrifices have helped bring national honors to UB:

Fazio Bagnoli, Len Bisciglia, Carmine Bove, Evan Breitman, John Burnside, Chris Cochran, Chuck Cornell, Bob Corvina, Vin Detore, James Droke, Anthony Esposito, Roy Ferreira, Art Gigantino, Donald Grassi, Anthony Guarascio, Mike Guiliano, John Hebert, Brian Hogan, Don Darnas, Keith Kawecki, Bob Kershaw, Ed Lane, Eustace Lewis, Daniel Luciano, Thomas Lynch, Anthony Maiello, Pat Martin, Ron Mason, Al Mastroianni, Frank Mata, Ralph Mayo, Lou Metaxatos, Mark Metler, Keith Molchan, Joseph Molinari, Mike Moran, Dave Mosser, Jim Mullen, Brian Munnelly, Carl Novak, Dennis Paldin, Richard Palmer, Andrew Peluso, Don Perry, Robert Peters, Rich Piazza, Mitchell Sanders, Cliff Schwenke, Jim Tully, Harvey Wallace, Homer Wanamaker, and George Williams.

Mr. Speaker, I know you join with me and the rest of the Members of the House in congratulating the Purple Knights of the University of Bridgeport and wishing them continued success.

## FARM PROBLEMS, DEMANDS OFTEN ARE NOT UNDERSTOOD

## HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. STEIGER of Wisconsin. Mr. Speaker, I noted with interest an article entitled "Farm Problems, Demands Often Aren't Understood" which appeared in the July 28 Milwaukee Sentinel.

High food prices are of concern to

**Congress, consumers, and farmers alike. Only recently have most American farmers, however, begun to receive commodity prices in line with the inflationary cost pressures they have experienced ever since World War II.**

**I am concerned over the fact we Americans tend to view annual wage hikes as necessities while refusing to spend an equivalent portion of our absolute take home pay on the real necessities of life. Even at present prices, which will undoubtedly subside as we go back to a market supply-demand situation, food is still America's best buy.**

**The points raised by Gene Divine illustrate the schism that has developed between rural and urban America over this and related issues. On the assumption it is this type of misunderstanding we must all work to resolve, Mr. Speaker, I submit this article for the information of my colleagues:**

### FARM PROBLEMS, DEMANDS OFTEN AREN'T UNDERSTOOD

(By Gene Divine)

Once upon a time 50 years or more ago nine of every ten Americans were farmers and when they talked they all understood each other.

Today one of every 20 Americans is a farmer and 19 are consumers of the fruits of his labors. Most of the 19 are generations removed from the land.

Few consumers are knowledgeable about how the bounty they enjoy arrives at the supermarket, but this year, as prices have escalated and shortages developed, they are suddenly taking a new interest in the minority group out on the land beyond the Hudson and Potomac Rivers.

Farmers have been talking about their problems for years, but consumers haven't been listening. Now they are listening, but they don't understand what they are hearing.

#### CHARGE MONOPOLY

Some consumers consider 40,000 daily farmers organizing to bargain for higher wages a monopolistic practice, but 800,000 laborers forming the United Auto Workers Union is not.

If the farmers succeed, the price of milk will probably be increased a penny or two a quart and consumers think that is bad.

If the union succeeds, the price of cars, tractors, trucks, buses, ambulances—and all of the things they haul—will probably go up, but consumers understand, expect and accept that.

At the annual meeting this week of the Mid-States region of the Associated Milk Producers, Inc., in Arlington Heights, Ill., the Mid-States president, Paul Affeldt of Sparta, Wis., pointed out the communication gap.

#### "NEW THINKING" URGED

Departing from the usual, staid, president's report format about how things were last year, Affeldt called on his members (one of every three Wisconsin dairy farmers) to "embark on a new policy that calls for some new thinking by farmers and their cooperatives."

In a nutshell, Affeldt said that consumers don't understand farmers because farmers don't talk their language.

"When a labor union announces a wage settlement calling for a cost of living increase, virtually little or no sensational comment or prolonged howls of anguish come from the media or the consumer," Affeldt said. "But let the dairy farmers announce a milk price increase and all hell breaks loose.

"Price supports do have a bad connotation with city folks. They think they are subsidizing agriculture here in the US, but in effect, price supports, in my opinion, actually subsidize dairy imports," he continued.

Consumers may think the government is handing farmers taxpayer dollars through the price support program. But actually the program is a minimum wage guarantee to farmers to assure consumers of adequate supplies of wholesome food, Affeldt contended.

Price increases are cost of living adjustments, he added.

"Certainly consumers and housewives can understand these terms because their husbands themselves are also bargaining for cost of living increases," Affeldt said.

"We in the dairy industry should start explaining needs for a minimum wage for dairy farmers that includes a cost of living increase—an escalator clause," he said.

Noting that the Chicago Teamsters union members have a contract of $6.50 an hour. Affeldt asked any of the 1,200 dairy farmers present who earn that sum to stand. Nobody rose.

If Affeldt keeps talking like that, the next thing you know dairy farmers will be asking for a 40 hour week, paid vacations, pensions, medical insurance and time and a half for overtime.

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## LET THEM EAT PROMISES

## HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BRASCO. Mr. Speaker, in recent weeks, as I traveled across my congressional district, speaking to as many of my constituents as possible, several phenomena stood out again and again. Anger and frustration over rising prices for necessities was one reaction I got from almost every citizen. In all candor, the average workingman and woman is having a difficult time feeding, clothing, and housing an average family. Without two incomes, in many cases, it would be an impossibility.

As a result many women are becoming, against their wills, working mothers, in order to provide a second income. Many homes contain children who return after school to empty rooms instead of a parent in the house. The cost of such a syndrome in terms of social effects is presently impossible to measure.

It can and will be argued that these people will be able to weather much of the rising economic storm. That can be disputed. However, there is little room for argument agains the thesis that the elderly are being whipsawed in an unheard of manner by inflation.

Rising food prices have forced many retired people on fixed incomes to eat fewer meals. Some have had to resort to inferior foods and cut vitamins. Again and again I have heard stories of personal difficulty and degradation that stain the name of our country.

It must be borne in mind that many of these people are too proud to seek out the welfare system and take advantage of its provisions. Many of these same people have just about used up their meager savings in recent years. Social security simply cannot fill the needs they have, which so often are minimal, yet specialized.

Many thousands of such senior citizens receive under $100 monthly in social security benefits. Often apartments cost between $110 and $150 monthly. Rents have risen astronomically, and in New York City, the situation is worse than in any other city in the Nation in terms of a place for elderly people to live.

For a couple, food costs average about $100 monthly. The arithmetic is simple. A number of these elderly people would not be able to survive if not for charitable organizations and some benefits provided by them.

Hardship comes in many forms. Innumerable elderly Americans cut from their diets what we have considered necessities. Newspapers have become a luxury to them, as many families take them only a few times a week rather than on a daily basis.

Another tragic syndrome emerging is shoplifting. What do these poor people steal? A can of tuna fish. A bottle of vitamins. A small package of meat. Many food chains have reported a number of such cases.

Rarely have I ever beheld or been told of a more tragic situation. How can America allow such a state of affairs to come into being?

I remember a time when we had vast agricultural surpluses and reasonably priced food. No one expects an immediate return to the day of cheap food. But what is transpiring today is not rational or reasonable, and the public will not stand for much more of it.

Certainly they would not stand still for another Russian grain deal. Or another soybean shortage. Or a corner on wheat by the major grain companies who perpetrated the Soviet grain steal at taxpayer and consumer expense with the cooperation of the Agriculture Department.

In light of what seems to be taking place among many of our elderly citizens, an investigation by the Social Security Administration is very much in order. Certainly it is not out of line to try and ascertain how many elderly Americans have been reduced to such straits. Surely we can find out the true state of affairs and do something about it.

If the situation is found to merit added Government involvement, a surplus food program should be set up to tide over needy elderly people so that life is a bit easier for them.

If we do less, we shall emerge shortly as the shame of the developed world.

One thing is certain. They cannot eat promises.

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## DON'T COMPROMISE ON FREEDOM OF EMIGRATION

## HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. RONCALLO of New York. Mr. Speaker, I rise today in support of the original language of the freedom of emigration amendment to the 1973 trade bill.

The Vanik amendment—of which I am proud to say I am a most enthusiastic cosponsor—would prohibit extending most-favored-nation treatment, or any credits, to any nonmarket economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees as a condition of emigration.

I am steadfastly opposed to the Cormann-Pettis so-called compromise language which would permit the President to grant most-favored-nation status to those countries and merely require that the President make an annual report to Congress on how the affected nation or nations are making progress in human rights. They say that this is a compromise and preserves the intent of our original proposal. I say that the only things being compromised are our moral values. This is a blatant attempt to completely undercut the intent of more than a majority of the Congress.

It is hard to take seriously those who argue that the Vanik amendment constitutes undue interference with the internal affairs of another nation. The Vanik amendment is comparable to FDR's proclamations against Nazi anti-Semitism. The Soviet regime, or any other nation contemplating similar action, would be placed on notice that unless it can modify one of its particularly disagreeable policies it will hurt itself economically. If it chooses to injure its citizens, and especially its Jewish citizens, rather than help its economy, there is nothing we can do about that. But if they want to deal with the United States, that is another story. We can make them choose and it is our duty to do so.

At the heart of the Vanik amendment is an attempt to remind both the United States and all nation-states of their support of the Universal Declaration of Human Rights prepared by the United Nations Commission on Human Rights. The United States after World War II realized that domestic laws must be brought into accord with the spirit and intent of its international obligations. The Vanik amendment does so since it supports article 13 of the Universal Declaration, which states:

> (1) Everyone has the right to freedom of movement and residence within the borders of each state.
>
> (2) Everyone has the right to leave any country, including his own, and to return to his country.

While the Soviets are not a signatory to the Universal Declaration, this same provision is included in article 5 of the racial discrimination convention of which they are a signatory. The Soviet Union is no less obligated to respect the Universal Declaration.

By the very terms of the Universal Declaration we are morally bound to remind ourselves, as well as all other nation-states, of common international obligations. There is one thing we should never do: We must never negate the intent and spirit of our international obligations just because we are unwilling to offend a dictatorship that is a good customer. Many individuals in this country would attempt to sustain an improved economic relationship with the Soviets at the expense of the Soviet citizen. This kind of amoralistic U.S. foreign policy cannot be encouraged. It is for this reason I will continue to support the Vanik amendment to the trade bill.

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## HEALTH CARE DELIVERY SYSTEM

## HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. CONTE. Mr. Speaker, I would like to draw my colleagues' attention to an excellent article written by Merritt B. Low, M.D., of Greenfield, Mass., in which he offers a very candid review of our present health care delivery system. With all of us here deeply involved in the daily chores of maintaining viable legislation in this area, I think it good for us to detach ourselves once in a while to see what we are doing and where we should be going. Dr. Low's article does much to aid us in that pursuit. Though dealing mainly with his specialty, pediatrics, many of his remarks can be applied to the health professions in general. Last, his observations on the future role of the physician, while being very provocative, are also very enlightening. The article follows:

### Physicians and Consumers: Partnerships for Child Health

(Note.—The following article is based on a speech presented June 19 to the annual meeting of the Maine Chapter of the American Academy of Pediatrics. The speech was presented by Merritt B. Low, M.D., chairman, AAP District I, and member of the Academy's Executive Board.)

The nature and delivery of health care have changed more in the past 40 years than in several centuries before. The population explosion, the communications explosion, changes in transportation, the advent of antibiotics, and new medicines and techniques have provided problems and opportunities we could scarcely have dreamed of in the foreseeable (really unforeseeable) future of the 1920's.

#### PROGRESS AND PROBLEMS

The erstwhile doctor/patient relationship—where comfort was the main ingredient of the physician's armamentarium—has come to an inevitable demise. Replacing this is a sophisticated, enlightened, hopefully still individualized evaluation and use of multiple options.

The practitioner often has to struggle with too much, too many patients to care for, too little time to do it. The costs of starting in private practice and providing for a young family have skyrocketed and require a financial base much greater than in the old days.

We all are looking for simple solutions to complex problems and wondering if we have the desire and competence to solve these problems. Illness and infant mortality have had large social and economic components. The doctor and the patient have each in his way become "fragmented out" as individuals, and "fragmented in" to team mosaics of cross-modalities.

We are implored to solve educational and social problems by medical means usually not likely or possible. The consumer and the government have entered the whole arena, at least part of which had previously been earmarked as the exclusive domain of the doctor. Instead of trying to define the separate and relative roles of public and private efforts it seems apparent that we should try to meld the two in a cooperative partnership. Let us examine some of the past, the present and its problems, review our progress, and formulate some predictions and possible plans for the future.

#### MEDICAID, EPSDT

There are several current examples of the kind of public-private partnership I have in mind.

Social Security—the most common example—is here to stay, and present day public-private health efforts began under the public assistance titles of the Social Security Act of the nineteen-thirties. Out of this background came Medicaid.

The immediate objective of Medicaid was to encourage individual states to establish unified medical assistance programs. The long-term goal was liberalization of the eligibility standards and expansion of care to include comprehensive services for all who meet eligibility standards. There were federal guidelines, but federal financial public assistance titles ended when a state began a program of Medicaid or in any event by December 31, 1969.

Currently being implemented at the state level, is EPSDT—Early and Periodic Screening, Diagnosis and Treatment of persons eligible for Medicaid under the age of 21. The program is designed to ascertain physical or mental defects, and, as may be covered in the regulations, determine such health care, treatment, and other measures necessary to correct or improve defects and chronic conditions which are discovered through examination.

This in a way presently constitutes "a plan without a program." Anxieties are rising about of quality of care, increasing and momentous costs, fragmentations, screens as sops and soothers, personnel delivery problems, and red tape, non-personalized regulations.

The American Academy of Pediatrics is committed to help eliminate some of these problems, and to improve the effectiveness of the EPSDT program. There are unmet needs, and we must all try to cope with them. A manual on "How to Screen" is in preparation for ultimate utilization in EPSDT programs. Other guidelines may be developed. If we do not provide them, government and the consumer will, and lack of empathic concerned cooperation will end in frustration and failure.

Liaison between physicians and the programs at state and regional levels is presently in limbo. This liaison must be established if there is to be sound EPSDT implementation. If non-medical people break loose with the ball, the touchdown may be a "wrong way" one. Four points relating to EPSDT should be reemphasized: it is mandatory, the fees are state-established, someone is going to do it, and the AAP is currently preparing a manual on "How to Screen," along with other guidelines.

#### HEAD START

Head Start has been another specific area for partnership and cooperation at the community level. There have been many criticisms of this program, and many compliments as well. Whatever else we may say about Head Start, it has been a model (for modification), an experiment and a teacher.

It has opened windows for examination of techniques for preventive medicine and health education, for screening, for program self-evaluation, for community-health councils. In some areas it has given visibility to a health appraisal which has elevated the standards for private care. The American Academy of Pediatrics can take justifiable pride in its contribution to quality of care through its Head Start Medical Consultation Service and its contributions at the local medical director level.

Other examples of public-private partnerships include the Regional Medical Programs (now dead) and Comprehensive Health Planning. The AAP's programs of expanded health services to children currenly being developed through a federal grant represent yet another pluralistic approach. So far, such programs have attempted to provide access to primary health care in areas where adequate medical care facilities and personnel to deliver medical care do not exist.

Such needed access to a source of primary health care—the reasons for most of the public-private programs now in existence—is the result of a number of trends. These include crisis orientation, complex technological developments and increasing costs, maldistribution of physicians, and sheer numbers of people.

Pluralistic approaches to deal with these trends are under way, and include special assistance and service plans, neighborhood health centers, local programs, Public Health Service programs, recruitment and placement, relocations, and mobile health units. Quality of care, evaluation and accountability will be the keystone barometers of these services if they are to survive and be models for expansion.

### LIFTING HORIZONS

The problems and contributions of the segments of our coming plural sector or partnership projects should now be examined. If we are truly interested in quality of life, surely we should start with our children. The pediatrician knows this and knows that he must lift his horizons from the bread-and-butter area of well child check-ups and antibiotic remedies for children who are up-to-date on all their shots, growing well, living well—but have problems nonetheless.

The pediatrician sees the child, and knows that the mother is involved, then the family, then the community, and soon he is involved in the interdependencies of psycho-social pediatrics and community services.

The quality of life for all depends on the quality of life of the poorest members. Community services means serving the unmet needs of the poor, but it also means enriching the life of every member of a community, by taking advantage of all the resources and opportunities available for all the people. Local health councils, multi-disciplinary in approach, are needed to accomplish this goal, for the advocacy of "the whole child."

### QUALITY AND EQUALITY

How to ensure continuity of care, avoid fragmentation, maintain "freedom of choice", control costs, and cater to the rising will of the consumer to dictate his own "time of choice," are daily problems we all face. What we must strive for—at each local level—is a basic standard of nutrition, accident prevention and health care and quality of life for all children. We must pay attention to the special needs of the handicapped, and pay particular attention to those children whose health needs are conditioned by social needs. Equality is a key to the quality.

Private and public efforts must mutually come to grips with our problems in the areas of standards, funding, and delivery of health care. Government can help set up standards (with the primary aid of physicians for the standards themselves and the public sector for aid in enforcement). Funding should probably still be left in the areas of pluralistic approaches until we find out more. Delivery of health care must be left to the professionals and paraprofessionals under quality professional supervision.

"Consumerism" may indeed by salutary, if we can only take enlightened approaches which combat hostility and polarization, and oversimplified solutions to complex problems. The answer appears to be largely in better communication, understanding, and teamwork. The public sector and approach have helped identify unmet needs, assisted markedly in funding, aided in the concepts of regionalization, demonstrations, and models, and have been very beneficial in identifying consumer desires and needs.

The so-called middle class health system has had to be scrutinized. The leap from "crisis orientation" to preventive medicine has so far proved to be too big for most. The private sector, we like to think, has made some invaluable contributions in the areas of efficiency (open to some question in some of its aspects), cost control, personalization, economy of time, healthy competitiveness, and establishment of appropriate fee schedules. It rejects the uncanny ability of the bureaucracy to turn human beings into abstractions.

In three of our almost overwhelming problem areas—overcoming alienation, coping with "transientism" and the changes in the family unit—there are contributions from both the individual and institutional approaches, though commitments need much firming up in these vital aspects of our nation's health. Relating to others becomes much more important than what we can do for ourselves, rationalize the latter how we may.

### PARTNERSHIPS FOR HEALTH

It appears that the American Academy of Pediatrics and its own individual members can have much to do with our children's future in a partnership for health and quality of life. Education and continuing education for ourselves and our families and patients (i.e. "the consumer") appears to be top priority items. Equality of care and opportunity for all is also primary. Helping keep the abrogation of central government authority from swinging too far toward complete default seems to be critical. Abrogation by the private sector of participatory policy making and planning for the future must equally be decried.

Pluralistic approaches in delivery and financing should be encouraged as we grope along. Health planning councils at various levels and with various disciplines involved, should be implemented in the interests of quality, lack of duplication, inter-agency and inter-medical and group cooperation, and economy, and a multi-faceted approach to delivery. The challenge of unmet needs must be faced and solved; and special groups of at-risk families and children must be identified and helped—including those at-risk because of poverty, race, lack of home and legal residence, chronic illness and handicaps.

Techniques for the solution of the problem of the maldistribution of physicians and their more effective use have to be examined at state and local levels. A national health insurance program that will ensure comprehensive coverage for all children, with primary attention to catastrophic illness, is advocated. Perhaps we should call it a system in place of a non-system. Individual responsibility and personal relationships should be built into this system.

### FUTURE PEDIATRICIANS

How will the pediatrician of the future fit into this maze or mosaic? What will he be? This is the "64 dollar" question which taxes the foresight of us all. I am quite sure things will be for the better. Change even for the better, however, can be uncomfortable. Who knows?

My own crystal ball vaguely reveals four potential roles for the pediatrician of the future:

(1) The pediatrician whose group delivers care around the clock, with each member of the group having his own group of families where he is advisor and coordinator. There may be other family advisors too, some families having advisors other than the professional medical group;

(2) The pediatrician who is at the top of a health-maintenance team or ladder which delivers care;

(3) The hospital pediatrician who will function in the intensive care units which will give the sophisticated treatment necessary for the acutely ill child (as in our I.C.U. neonatal set-ups now);

(4) The sub-specialist consultant type of physician.

The solo practitioner is not there: he rests and remains in pieces.

### CONCLUSION

We have no choice but to help work out an improved system of health care delivery for children. This will require cooperation with the consumer and the government. We cannot man the whole boat ourselves. Government can help most in the areas of long-range planning, funding, use of national resources, identification and service to areas of unmet needs, regulation, avoidance of duplication through enlightened regionalization, and help with standards.

Pediatricians can help most in insisting on and producing quality care, improving cost-consciousness and peer review, cooperating with complicated administration now difficult for physicians to understand thoroughly and grasp, accepting a team role and balanced consumerism, and standing firm on the principle of one-to-one relationships for the sick with the elasticity necessary in the new order of things.

Realistically speaking, the concept of "physician of choice" gets pretty stretched in the new group practices where "times off" are facts of life, and emergency room services are used for instant care. The patient appears often nowadays to focus more on instant care (perhaps a reflection of the value of "modern" medicaments) and "time of choice" (for him) rather than "physician-of-choice."

Hospitals too will have to update their policies, prerogatives, and perspectives as they are quite properly examined by the consumer. They may be one of the models for future health care at the community level. Education too, of ourselves and of our patients, will have to be revised.

The way the private sector responds will ultimately determine its role in the coming partnership. The public share in the current 83 billion dollar health expenditure (1972) is 40 per cent. This in itself furthers inextricable meshing of social and health and public-private efforts in these areas.

Part of our problem is that we are in the midst of cultural change and of necessity are faced with the individual ethical concerns which we are unable to fit into a value system now in flux and not yet redefined—sort of like judges without laws.

As we do go along, however, we must participate in the facts and joys of imperfection rather than the constrictions of perfectionism.

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## MORE UNEMPLOYMENT

## HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HANRAHAN. Mr. Speaker, the pros and cons of the proposed minimum wage law have been debated extensively here in Congress. We have been told that higher wages are a necessity. Indeed, it is vital that we pay fair and reasonable wages for a job done. However, we should also be concerned how a drastic increase in the minimum wage will affect our economy and unemployment rate. The Southwest News-Herald, one of the fine papers serving Chicago's Southwest Side communities, has recently directed one of its editorials to this very subject. They make the point, and I concur in their viewpoint, that to increase the minimum wage may in fact reduce the availability of jobs, rather than provide new ones, I submit the News-Herald's editorial for the information of my colleagues:

MORE UNEMPLOYMENT

One of the most important decisions facing Congress this year is to accept or reject a new minimum wage law. From all indications, legislators will probably pass a law for a higher base wage, knowing full well that it will create more unemployment.

Business and industry have consistently proven their contention that a higher minimum wage means more jobs lost, especially for young people without experience and handicapped persons with limited abilities.

However, legislators seem to listen more to the loud demands of union labor, whose purpose and tactics we have questioned in the past.

From our own experience and from discussion with union people, we gather that organized labor is concerned only with getting the most possible for its own membership without regard for what it may do to the nation's economy.

The chances are that you have teenagers in your home or you know of young people in your block who have not been able to find jobs this summer. The answer is simple—there are no jobs available.

In their blind rush to satisfy union demands, legislators don't seem to understand that there are many menial tasks in this country which are not worth $2 per hour to get done. There are many jobs still worth $1 to $1.50 per hour to have them done.

When the government forces a business man to pay $2 per hour to get any job done, the business man simply eliminates the job or does it himself. The result is fewer jobs for young people.

This is unfortunate, because to deny young people the excitement of their first job, the dignity of being a wage-earner in society, and the pride of doing a hard day's work, will only build up more frustrations within our society.

We repeat what we've said here before. We'll never come close to solving unemployment problems if we keep raising the minimum wage to eliminate more jobs each time . . . and we can't understand why legislators don't realize this.

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## EDUCATION OF THE HANDICAPPED

### HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ESCH. Mr. Speaker, the House Education and Labor Committee, of which I am a member, is in the process of deliberating very important legislation affecting all elementary and secondary schoolchildren in this country. The basic thrust of this legislation is to insure equal educational opportunity for all, and I share the committee's concern that Federal support should be directed to the most educationally disadvantaged.

I do not believe, however, fair consideration has been given to one group of really educationally disadvantaged children—the handicapped.

The facts are that of nearly 7 million handicapped in this country, according to the U.S. Office of Education statistics, only 41 percent are receiving any form of special education services. About 1 million children of school age are denied any opportunity for a free public education. Some States have recognized the need to insure educational opportunity to all. I am proud to point out that my home State of Michigan implemented a law 2 years ago guaranteeing the right of a free public education to every handicapped child in the State. Others have followed suit, but I believe it should be the policy of the Federal Government to encourage all States to work to bring education to all its handicapped children.

Accordingly, today in committee markup, I offered an amendment which provides that States receiving funds under the Education of the Handicapped Act, will be required to submit to the Commissioner of Education for approval a State plan to insure the education of all handicapped children within its boundaries. The State plan will have to detail the policies and procedure for:

First, identifying and evaluating all the handicapped children in the State;

Second, insuring the confidentiality of this information;

Third, establishing a detailed timetable for providing full educational opportunity for all handicapped children; and

Fourth, allowing the public to comment on any State plan before the submission to the Commissioner.

I believe this amendment gets to the fundamental needs of every handicapped child, and I am happy to report that my colleagues voted unanimously to adopt my amendment. I urge my colleagues to follow the committee's lead and pass this legislation when it reaches the floor.

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## A TRIBUTE TO THE CHOCOLATE CHIP COOKIES OF MS. MARION SILVER

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BROWN of California. Mr. Speaker, any regular reader of the Congressional Record would have to conclude that each Member of Congress firmly believes that the best of everything can be found in his or her home State or district. Each Senator or Representative extols the virtues of the people, the produce, the weather, the cities, and the manufactured goods that are found within the area in which his or her constituents reside. It is possible, Mr. Speaker, that some cynics could come to believe that such speeches are made for purely political reasons, and do not actually reflect the true feelings of the Members involved.

I would like to take this opportunity to stand up for the integrity of Congress by pointing out that I personally believe that the best chocolate chip cookies I have ever tasted were made, not in my own 38th District of California, but rather in the 26th District represented by our distinguished colleague, Mr. Rees. I first sampled these wonderful cookies last spring when Ms. Marion Silver made a batch and sent them to her son, Ronald, who was working in my office at the time. My staff and I were so enthusiastic in our pleasure at the taste of these cookies, which Ron graciously shared with us, that Ms. Silver recently sent us another batch, even though her son is now back in Los Angeles with her and her husband, Dr. Harry Silver.

Mr. Speaker, I do not wish to imply that no one in the 38th Congressional District makes acceptable chocolate chip cookies. I have tasted some fine cookies which were baked by residents of the 38th, and I have never even sampled the baked goods of the vast bulk of my constituents. However, until I have found evidence to contradict it, my statement must stand: I have never tasted better chocolate chip cookies than the superb treats baked by Ms. Marion Silver.

To be fair, Mr. Speaker, I will add that anyone wishing to provide me with such evidence may mail their cookies to my office, 301 Cannon Building, Washington, D.C. 20515, and I will report back here on the floor with the results.

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## THE LATE ROBERT W. SMART

### HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. FISHER. Mr. Speaker, on last Saturday, September 15, death claimed the life of Bob Smart. He served with great distinction as chief counsel of the House Armed Services before retiring from that position in 1963. In that position he was one of the most respected and effective staff members who has ever served in the Congress. And, following that, he was tremendously successful in the private sector.

Through the practice of rigid integrity and a friendly disposition, he made lasting friends and was universally revered by those with whom he was associated and by those who knew him. I have never known a more honorable man.

As a retired brigadier general, a former vice president of North American-Rockwell, and as a president of the Air Force Association, Bob Smart was preeminent. A sizable book could be written of his life and his good works.

Mr. Speaker, Mr. Lou Stockstill, husband of Mrs. Oneta Stockstill, the latter executive secretary of the House Armed Services Committee, prepared a release concerning the life of Bob Smart:

### Brig. Gen. Robert W. Smart, U.S. Air Force Reserve, Retired, Former Government, Industry Official

Brigadier General Robert W. Smart, USAFR-Ret., former Vice President of North American-Rockwell, and long time Chief Counsel of the Committee on Armed Services, U.S. House of Representatives, died September 15 at the age of 66 in West Palm Beach, Florida.

Widely known throughout Government and industry circles, General Smart had also served as President of the Air Force Association from 1967–1969, and at the time of his death was still an active member of the Board of Directors of that organization.

During more than 16 years on Capitol Hill, he had earned a reputation as one of the most influential and gifted lawyers serving the Congress. He joined the professional staff of the Armed Services Committee in 1947 when the Committee was first created and was named Chief Counsel in 1951, a post he held until his retirement from Government in 1963. He had been intimately involved in writing numerous landmark laws, including the Articles of War and the Uniform Code of Military Justice. In the military field, he was the senior staff member of the U.S. Congress and the friend and confidant of many ranking members of the House and Senate, as well as Cabinet officers, senior officials of the Defense Department, and top commanders of the Armed Forces.

He had served as Chief Counsel of the House Committee on Armed Services under four different Chairmen: Walter G. Andrews (R-N.Y.), Carl Vinson (D-Ga.), Dewey Short (R-Mo.), and L. Mendel Rivers (D-S.C.).

After leaving Government service, he joined the North American Rockwell Corporation in El Segundo, California, as Vice President for Governmental Relations, and later returned to the Washington office of the firm and served as a Corporate Vice President until retirement in October 1972.

Born in Crane, Mo., on May 20, 1907, General Smart was graduated from Missouri University, earned his LLB at Cumberland University, Lebanon, Tennessee, and briefly entered politics to be elected Prosecuting Attorney of Lawrence County, Mo. He resigned eight months after the U.S. entered WWII, to enlist in the Army; completed officer candidate training at Ft. Sill, Okla., and served as a Field Artillery platoon leader, battery executive, battery commander, and eventually as a military government legal officer. Following the war, he remained active in the Army Reserve until 1949 when he switched to the Air Force. He was promoted to the rank of full colonel that year, and to Brigadier General in March 1961. He retired from military service in 1967.

His awards and decorations include the Legion of Merit, the Reserve Officer Association's "distinguished service" citation for "outstanding contributions to national defense", and the Air Force Association Citation of Honor.

General Smart is survived by his wife, the former Alice Tolerton, of the home address 134 Lake Shore Dr., Old Port Cove, North Palm Beach, Fla.; a daughter, Mrs. David R. Lee of Vicksburg, Miss.; a sister, Mrs. Virginia Hamilton of Clearwater, Fla.; and one granddaughter, Sharon Woodman Lee.

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## SLOVAK WORLD CONGRESS

## HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. MINSHALL of Ohio. Mr. Speaker, in June 1970, representatives of Slovak organizations from throughout the free world met in New York City to form the Slovak World Congress. I had the honor of attending the banquet that marked the birth of this organization that speaks for all the Slovaks on this side of the Iron Curtain.

My good friend, Joe Trubinsky, U.S. secretary of the Slovak World Congress, with whom I have cooperated on many ethnic and heritage projects, has brought to my attention the last issue of the Press Service of the Slovak World Congress, where past and present problems of the Slovak nation are discussed in the light of the fifth anniversary of the occupation of Czechoslovakia by Soviet and Warsaw Pact armies.

Because I follow very closely the quest of our various ethnic groups for freedom and independence of their homelands, and have a particularly special feeling for the brave and patient Slovak nation, I would like to record the observations of the Slovak World Congress for my colleagues in the Congress to share:

### Slovak World Congress

AUGUST 21, 1968–AUGUST 21, 1973

Five years ago during the night of 20–21 August 1968 the armies of the Warsaw Pact crossed the border of Czecho-Slovakia. This was considered by all government bodies in Czecho-Slovakia as an act of aggression breaking not only the principles of the relations between the socialist countries (to which Czecho-Slovakia even then belonged) but negating even the basic norms of International Law and violating the United Nations Charter.

The whole world then condemned this unheard of crime committed against two small nations by the USSR and its satellites. The Soviet Union with its 250 million of population used 600,000 armoured troops to prevent the democratization and freedom of Slovakia and Bohemia.

Until August 1968 the occupation armies of the USSR stayed in Poland, Hungary and Eastern Germany. They were not in Czecho-Slovakia. But during the last five years they have been also there. With them came back the totalitarian system dictated by Moscow. If necessary, the Soviet occupation army is now ready to intervene in every city, every bigger town.

Even after five years of occupation one hears the voice from the Eastern Block:

"Aggression and occupation could have been avoided."

"Dubcek (Slovak) is responsible."

"Slovaks have caused it all."

### WELL, WHAT HAVE THE SLOVAKS REALLY DONE?

Who actually are the Slovaks? Where is Slovakia? It is not shown separately on maps!

High Tatra . . . ? Is that Slovakia? Yes, these beautiful mountains range over the whole of northern Slovakia!

Bratislava . . . ? Is that Slovakia? Yes, this metropolis on the Danube, 60 kilometres from Vienna, is the capital of Slovakia.

Is Dubcek Slovak? Yes, he is a Slovak patriot of the sixties.

And what of the present General Secretary of the Communist party of Czecho-Slovakia, is he Slovak? Yes, Husak is also Slovak. But in Czecho-Slovakia there are two nations—the Slovak's and the Czechs. And how can a Slovak rule the Czechs? Husak does not really rule, either Czechs or Slovaks. They are under the dictate of Moscow.

### A FEW WORDS ABOUT SLOVAKIA

Slovakia is often presented falsely as "Bohemia" or "Czechia." The Western historian Professor K. Glaser in his critical works writes "that no other country spreads such false information about itself throughout the world as Czecho-Slovakia." He continues: "The Slovaks inhabit the eastern part of Czecho-Slovakia and are a separate race by virtue of their language, culture, history, religion, political make-up, folklore and thinking. Their proportion to the Czech population is 5:8, and the rest of the population are minorities."

Slovaks are mentioned in Czech sources in the year 548. Their first known historically Christian church was built by the Slovak Prince Pribina around 830 in Nitra. On the invitation of King Ratislav (under whom Slovaks had their own state in 863), the Apostles St. Cyril and Metodius came to Slovakia and translated the Bible into the old-Slovak language which thus became the fourth liturgical language of Christianity.

In another reference the historian Glaser writes: "Slovaks are a race in the heart of Europe who for centuries have been fighting for freedom, international recognition, autonomy and their own state."

Around the year 1000 Slovakia became part of Hungary and Bratislava was for a long time its capital. Under Hungarian rule the Slovaks were in danger of subjugation and national extinction especially towards the end of the last and the beginning of the century. Hundreds of thousands of Slovaks were leaving their country and settling in the U.S.A., Canada and elsewhere.

After 900 years of Hungarian rule the Slovaks again expressed their desire as they had done before to have their own state according to the principle of self-determination. The first real opportunity came with the fall of the Austro-Hungarian Empire after the war of 1914–1918.

### THE STRUGGLE FOR THE INDEPENDENCE OF SLOVAKIA

The foundations for the Independence of Slovakia were prepared abroad during the First World War especially in the U.S.A., Canada and France where hundreds of thousands of Slovak emigrants were settled. At the head of this struggle was the Slovak scientist and world-renowned astronomer, Dr. Milan Rastislav Stefanik, who during the war lived in France. In the French army he commanded special Slovak battalions and he became a French General.

The American Slovaks, in an effort to obtain independence for their faraway homeland, were prepared to cooperate with the Czech emigrants and exiles under the condition that an independent Slovakia and independent Bohemia will after the war form a Federative Union in which would be recognized the individuality of each nation and each would have its own parliament, its own state and finance administration. The Slovaks and the Czechs embodied their principles in two written agreements, in the Cleveland agreement of 1915 and the Pittsburgh agreement of 1918.

The Pittsburgh agreement was signed among others by T. G. Masaryk, later the first President of Czecho-Slovakia in order to obtain recognition by the American government. Masaryk did not honour this agreement and already in the first government had no real position of importance for Stefanik. Although the war was over, Stefanik was given the post of "Minister of War." And when Stefanik as French General recognized by Slovaks as their hero, was returning home by plane, it was shot down near Bratislava. After this tragedy instead of a federation of "Czecho-Slovakia" a centralistic state was formed with the aim to czechisize Slovaks. During the Masaryk rule another three hundred thousand Slovaks emigrated. The Prague government filled the offices in Slovakia with Czechs. In Slovak schools and at the Slovak University in Bratislava many Czech Professors taught.

This situation lasted a full twenty years until March 1939 when Hitler occupied Bohemia and Moravia. The Slovaks became surrounded by fascist regimes and tried to save as much independence as possible for their country. The Slovak Parliament elected constitutionally on December 18, 1938 unanimously declared Slovakia on March 14, 1939 an independent State, a Slovak Republic. The first president elected was Dr. Josef Tiso. The Slovak Republic lasted during the whole of the Second World War. In spite of the six years of war the Slovaks were making considerable economic progress. Politically they tried to stay clear of national socialism and fought against communism (Slovak Army in Russia) as well as against German fascism (Slovak National Uprising 1944).

### RESTORATION OF CZECHO-SLOVAKIA

After the end of the War in 1945 the Slovaks were forced into a restored Czecho-Slovakia in view of the geographical situation, international treaties concluded by the Allies, through the activities of Dr. Behes and his government in exile as well as through new Czech promises of equality for the two nations, the Slovaks and the Czechs.

In the new government programme (known as Kosice Agreement) of April 4, 1945 it is stated:

"The government will make all efforts based on the recognition of Slovaks as a nationally independent people to apply the principle of equality between Czechs and Slovaks. Thus recognising that Slovaks are to govern their Slovak fatherland, equally Czechs are to govern their Czech homeland, and that the Czecho-Slovak Republic shall be recreated as a state of equal nations, the Czech and the Slovak . . ."

The first general elections after the war in 1946 were won by communists in Czech Lands, and the Democratic Party gained an overwhelming majority of Slovakia. Two years later communists took over the government in Prague. They were headed by Klement Gottwald, a loyal follower of Stalin. The government in Prague coined the slogan: "The Soviet Union is our example!" While Stalin ordered the deportation of millions of innocent people to Siberia, mass arrests, trials and persecution started in Czecho-Slovakia. The situation reached a point when communists murdered communists. President Gottwald himself signed the death sentences of his former comrades, assistants and friends. The political representatives from Slovakia were branded nationalists by Prague. Foreign minister Vladimir Clementis, a Slovak, was sentenced to death and executed. Dr. Gustav Husák, present Secretary General of the CP was sentenced to life imprisonment and he spent eight years in jail. In the 50's stalinism in Czecho-Slovakia had been responsible for sentences on 127 thousand people, many thousands from that number hung and shot. In this situation Slovaks were a considerable minority in all governmental and party bodies, and they did not have a say in anything. After Gottwald's death the presidents were Zapotocky and Novotny, and neither was a wellwisher as regarding Slovaks.

### ALEXANDER DUBCEK—SLOVAK PATRIOT

In 1963 the Slovak party official from Bratislava Alexander Dubcek appeared on the scene in Prague. He criticised almost too fearlessly the Prague's centralist tendencies, the asymmetrical model of the Czechoslovak state system, which did not give Slovaks equal rights as a nation, rights guaranteed by the Constitution and by what is known as "Government's Kosice Programme". "Slovakia," said Dubcek, "is only a Czech colony." The struggle of a small group of Slovaks in Prague headed by Dubcek and supported from Bratislava lasted five years. It was a struggle for natural rights, which in January 1968 lead to the downfall of Novotny's dictatorial regime. Alexander Dubcek, a Slovak, became the Secretary General of the Communist Party of Czecho-Slovakia, the first man in the country! He promised the rehabilitation of innocent victims of trials, the abolition of censorship, the freedom of expression and a more democratic society. Thus Dubcek, Slovak, gained enormous popularity among Czechs. He said:

"The government is there to govern people, not to dictate to them. Socialism needs a human face, otherwise it has no meaning." In April 1968 Dubcek spoke about the need for equality of the two nations in Czecho-Slovakia: "An asymmetrical state system is the basic fault. Czech government is identified with the state-Slovakia is a periphery. This necessitates the establishment of two state units with equal rights".

Czechs realised too, that in the last twenty years Slovaks had to suffer injustices, and they accepted the federal system. During the rehabilitation of innocent people sentenced in the Stalinist and post-Stalinist period it has been disclosed that behind the staged trials were Soviet "advisers", that on many occasions people were shot, hung and put to prison on direct orders from the Kremlin. Moscow did not like either the general democratisation of society or Dubcek's new model of socialism, because there is only one socialism and it can have only one face a Soviet one!

The process of democratisation of society in Czecho-Slovakia lasted seven months. This short period saw many wrongs undone. Some of the innocent people tried and sentenced were rehabilitated. The rest needed patience. It is not possible to return honour to the people, freedom to the nation and independence to the country overnight.

The public at every rally chanted: "Long live Dubcek!" His name flew round the globe.

### AGGRESSION OF THE WARSAW PACT TROOPS—OCCUPATION

The people of Czecho-Slovakia sleeping peacefully on the night from 20th to 21st August 1968 were woken-up by great noise. They tuned their radios and heard this report: "Yesterday on the day of August 20th, 1968 about 23,000, armies of Soviet Union, German Democratic Republik, Poland, Hungary and Bulgaria crossed the borders of Czecho-Slovakia. It happened without prior knowledge of the President of the Republic, the President of Nationale Essembly, the Prime Minister or the First Secretary of the CP, and of these bodies. The Presidium of the Central Committee of the CP considers this action contradictory to all principles guiding relations between countries, and a denial of all basic norms of international law, breach of the U.N. Charter. . . ." The invaders captured Dubcek and took him forcibly to the Soviet Union together with several other leading politicians. . . .

Five years ago not only Slovaks and Czechs, but also the rest of the world condemned the invasion of the sovereign territory of Czecho-Slovakia by Warsaw Pact armies with the direct result of occupation and disruption of normal political and civil life. Blood had been shed in the streets of towns and villages, the intruders killed innocent people of Czecho-Slovakia. Responsibility and shame for this crime rests with Soviet imperialism.

### WHAT IS THE GUILT OF ALEXANDER DUBCEK?

What is it Slovaks have done?—What have they caused?

What is Dubcek's guilt?

Dubcek tried something unacceptable to the Soviet conception of a totalitarian system and it was therefore practically impossible. He wanted to give a human face to an inhuman stalinist socialism. He wanted to replace dictatorship by democracy. Together with the democratisation of society he demanded a just federal system for his Slovak nation, he demanded the same rights, which the Czech nation enjoyed in the common state.

A federal constitution succeeded in spite of the Soviet occupation. On 30th October, 1968 the leaders of Czechoslovakia signed in Bratislava a constitutional law on the federation. Since then there is the Slovak Socialist Republic and the Czech Socialist Republic constituting Czecho-Slovakia. But the occupation of the country continues and neither Dubcek, nor the Slovaks or the Czechs have caused it.

Based on the military occupation the Soviet Union achieved an important political goal—acceptance of Brezhnev's doctrine of limited sovereignty for (socialist) countries, and an important strategic success leading to the planed gradual Soviet domination in Western Europe by overwhelming power. Current activity of Moscow, Brezhnev's visits in the West, the trade agreements, all are only tactical steps with the aim to divert attention of the world from the main task of Communism. The main task of communism remains the same: gradual world supremacy!

### SLOVAKS IN THE WORLD

After Soviet invasion five years ago many thousands of Slovaks left their country for a free world. Most of them were educated people: scientists, doctors, journalists, engineers, lawyers, artists. In Slovakia today there are four and a half million people. According to the latest statistics there are over two millions more Slovaks living in exile in the free world. They are asking the question: Why do we have to spend our lives in exile?

The institutions of exiled Slovaks in the free world are associated in the Slovak World Congress. The Slovak World Congress met for the first time in 1970 in New York and it was definitely constituted in 1971 in Toronto. The aims of this joint Slovak world institution are: encouragement and support for cultural, scientific, political, religious, social and economic development of the Slovak nation and of all people of Slovak extraction; to be a representation of Slovaks in the world and to claim the rights of the Slovak nation to self-determination and national independence. The headquarters of Slovak World Congress are the headquarters of United Nations. The supreme body of the Congress is the General Assembly, which elects its representatives. The President of Slovak World Congress is Mr. Stefan B. Roman of Canada, a known industrialist. The latest session of the Slovak World Congress has been in Chicago, USA from 29th June till 1st July 1973. Among other things Slovak representatives from all countries of the free world insisted on the natural right and duty of the Slovak World Congress to represent Slovakia and the Slovak nation in all institutions and movements which work for European unity. Congress drew again attention to the 5th Anniversary of the occupation of Czecho-Slovakia, as well as to the problem of the whole subjugated Central Europe. The delegates of the Congress appealed to the whole free world it should not forget the main aim of Soviet imperialism: power domination in Europe and gradual ideological domination over the whole world as outlined in the theory of marxism-leninism!

We consider our foremost task to remind all nations about these facts. Sensible man learns from other people's mistakes to avoid them.

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## NEW PACEMAKER

## HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. GUDE. Mr. Speaker, during the congressional recess, on August 7, the Johns Hopkins University announced a significant step forward in medical technology—an electronic heart pacer which is rechargeable and is thus designed to remain in the human body for 20 years without removal.

This pacemaker is a product of a collaborative biomedical program of the Johns Hopkins Medical Institution and the Applied Physics Laboratory, in Silver Spring and Howard County.

This report from the Montgomery County Sentinel tells the story quite well:

### From Silver Spring Comes a Rechargeable Pacemaker

(By Jean Alexander)

Using space age technology, a Silver Spring resident has led a Johns Hopkins research team in the development of a new, rechargeable heart pacemaker which is being demonstrated publicly this week.

Previous pacemakers have been sucecssful in returning 150,000 people to active lives, but they have had several drawbacks. Their size and weight caused discomfort for many patients and prevented their being cosmetically hidden in his or her body. Patients have had to undergo additional surgery about every two years for replacement of pacemakers, mostly due to battery failures.

A rechargeable cardiac pacemaker has been developed under the technical direction of Robert E. Fischell of Silver Spring, chief engineer of the Space Department of The Johns Hopkins University Applied Physics Laboratory, in collaboration with Dr. Kenneth B. Lewis, cardiologist of The Johns Hopkins School of Medicine in Baltimore.

Under development and test for nearly six years as part of a biomedical engineering program, the new unit, employing technology adapted from NASA's space programs, is smaller and lighter and permits easier and faster implantation procedures than other similar devises now in use

Helen Chambers, 76, of Baltimore, received the first implant of the new pacemaker at Johns Hopkins Hospital in February. Three other implants have been made there since then and the program has been expanded to other medical centers.

The pacemaker is implanted in the same manner as other units—usually under the skin in the upper left or upper right portion of the chest, or sometimes in the abdomen. The pacer itself is one part of a system that also includes a lead wire and charger console.

Because of its small size—2¾ inches by 1¾ inches by one half inch thick—this pacemaker can be hidden within the patient's body. Other pacemakers are approximately three times as large in volume and weigh twice as much as the new one.

The new unit is encased in a metal enclosure so that no body fluids can penetrate the device to affect its performance or shorten its life.

Some conventional pacers implanted in humans have stopped operating when exposed to electrical interference from microwave ovens, car ignitions and radars. The Hopkins pacemaker is so immune to electrical interference that it will not be turned off even inside an operating microwave oven.

The rechargeable cardiac pacemaker has a power cell circuit which could last for many decades. A new lead wire has been developed to match its longevity and which allows for easier implantation procedures.

Recharging the pacer is done by the patient using a portable charging console which he or she receives upon leaving the hospital. A small charging head, which is held in place by a triangular shaped vest, is placed over the pacemaker and charge energy is transmitted through the skin to charge the cell of the implanted pacer.

The procedure is simple and the low frequency alternating magnetic field supplies the energy with no sensation to the user. A weekly cycle of 90 minutes is recommended, according to Dr. Lewis, but since the pacer stores enough energy for eight weeks, the patient does not need to worry about skipping a week.

A unique feature of this system, Fischell said, is that it is the first pacemaker to send out information. A green light appears on the charging consol to tell the user that the system is functioning properly. A flashing yellow light and buzzer give warning when the pacemaker is not being properly charged. The charging is automatic and a blue light and continuous tone come on to advise the patient when the process is complete.

Fischell, who joined the Applied Physics Laboratory in 1959, is also principal staff physicist and group supervisor in its Space Development Department. He has been project scientist on many Johns Hopkins satellites since the early days of the United States space program.

He worked on early adaptation of nickel-cadmium batteries for powering experimental navigation satellites and engineered power and altitude control systems in satellites. He has received many patents and awards for accomplishments in the fields of engineering and science.

It was Fischell's suggestion that batteries developed by NASA for use in satellites that go out into space where they are completely out of reach for repairs be used in human implants. Work on the pacemaker program he directed was done at both the Silver Spring and Howard County laboratories of Johns Hopkins. The pacemaker is being produced for public use by Pacesetter Systems Inc., Sylmar, Calif.

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## A CRY FOR HELP

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BIAGGI. Mr. Speaker, I would like to bring to my colleagues' attention an article by Dr. Ronald E. Keeney that is the second in a series of articles that appeared in the Non-Commissioned Officers Association Monthly News dealing with child abuse.

The article is a vivid example of human misery, and how beating a child almost to the point of death created the horrible outlet for a father's frustrations. Dr. Keeney examines the way in which this problem can be dealt with and how the therapeutic measures can provide a sound solution. My bill, the National Child Abuse Prevention Act, H.R. 5914, has specific provisions dealing with therapeutic measures.

The article follows:

### Parent and Child

### A Cry for Help

(By Dr. Ronald E. Keeney)

William was a 17 year old underprivileged male. He lived in the center-city attempting to support two girl friends and three children he may or may not have fathered They had, as means of support, a miscellany of sporadic, unpredictable odd jobs for which he received no more than the minimum hourly wage. He was denied the right to hold a steady job because he was not yet 18 years old. When jobs and "bread" became scanty he and one of his girl friends would go out on petty food stealing forays while the other girl friend attended to the children. His recently begun heroin addiction became distasteful to him. "I could feel my body deteriorating" so he "cold-turkeyed" his way out of it. "It took three of my friends to hold me down." He was 6 ft. 5 in. tall and weighed about 270 lbs. He had learned that to make it he must fight, and fight he did.

He had multiple "convictions" in juvenile court for theft, assault and battery, attempted murder, carrying a concealed weapon and possession of dynamite and hand grenades. Then he got a break. A construction company hired him at non-union wages, but better pay than usual, and promised him steady work hours. After 6 weeks of steady work he felt he was beginning to see a dim light at the end of what had been a very long and dark tunnel. Then came the bomb. Mismanagement and bad weather had reduced his employer to bankruptcy and there was no more work until a new job could be found. Feeling cheated for having done his part and yet failing because of another's ineptitude he returned home early in the day resolving to find another job soon. Now that he had "experience" and a letter of recommendation from his late boss, he felt optimistic.

However, he was dejectedly approaching the end of the want ads with no prospects of a job when his 8 month old son, suffering with one of the many fevers that so commonly assault the young, began to fuss more and more persistently and finally began crying continuously. Attempts at consoling the youngster had been met with failure, and now it became time to take some definitive action. As everyone knows a child has to be "made" to obey and when the child failed to respond positively to William's reprimands he picked up a large comb or hairbrush (no one seems to remember which) and began to "spank" the child on his legs.

William became seized by an uncontrollable rage which subsided only when its fullest expression had been met. The comb, or brush, or whatever, was forgotten as it was dropped to the floor relieving William's huge fists of all restriction. The ensuing beating which is said to have lasted perhaps 30 minutes was indescribable as to horrible detail. Almost as suddenly as the rage erupted it became spent leaving William silent, ashamed and scared; scared that he was in serious trouble and oh so scared he had seriously injured, perhaps killed his young son, the son whose existence assured William of his own manhood and who would never have to "fight like I did if I have anything to say about it," William had declared on many occasions.

As William's wits returned there was no question as to what must be done. A doctor must be consulted and the child must be treated, to hell with what might happen to William. His child's life was at stake. What followed was the usual investigation by people attempting to help the family. A court hearing determined that the child must be placed temporarily in a foster home for his own protection and William and the child's mother (who was by now 4 months pregnant) must undergo psychotherapy to help them become more stable parents and to teach them how to utilize available resources to help themselves.

The court hearing lasted 12 hours over a 3-day period. At the end of the ordeal William was asked by the judge, "do you think these people have tried to help you?" William's answer after a short pause and through tears was, "No." One week later, however, he called the primary physician and said, "after the hearing I was pretty confused, and felt betrayed and cheated. Since then I have thought a lot about it though, and realize you were really trying to help. I just called to say thanks, doc."

The above is a true story (except for William's name) and displays many of the trials seen in parents who abuse their offspring. However, it must be emphasized that child abuse is not limited to the underprivileged or the poverty-stricken in our society. All socioeconomic levels, races, religions, and educational levels are permeated by this illness which results in the beaten child as the major symptom.

William represents an extreme personality in regard to the kind of person it takes to abuse his own child. Even a cursory review of William's past and "one good look at him" would make one certain that he was capable of beating his defenseless child. Likewise it would be apparent that a "dope fiend" or a "drunk" should be expected to beat their children mercilessly. And surely these categories must encompass the scope of types of parents who would perpetrate such heinous crimes against their own offspring. NOT SO! Most parents who beat their children severely are just like "you and me" on the surface, and often have well constructed explanations of the child's injuries. Under the surface, however, one discovers an isolated, insecure, immature individual who lacks impulse control and is hair-triggered set off by sometimes seemingly mundane problems. A role reversal occurs in which the child becomes expected to satisfy emotional needs of the parent instead of vice versa. These parents are often isolated from other relatives physically and emotionally, avoid becoming acquainted with neighbors and have little or no escape from the 24 hour, day by day monotony which often develops. They also lack the ability to efficiently utilize community resources and services to improve their efficiency of living and interacting.

Parents who beat their child are often found to have been beaten during their own childhood. This generational cycling is likely to continue indefinitely unless appropriate intervention (to be discussed in future columns) is achieved. Thus, the abused become abusers from having learned no more appropriate techniques of discipline. It is well recognized that when young people become parents they consistently use disciplinary techniques learned from their parents.

Abusive parents are often ignorant of normal child behavior and feel it is not only their right, but their obligation to "make the child mind." The result is often a severely injured 6 month old who "wouldn't stop crying when I told him to," or the 9 month old who "just keeps making a mess of his food after I tell him to stop," or any of a variety of other severely beaten children.

When William and many other parents like him come to the hospital or doctor they are often saying "look what I have done to my child. I love my child and am afraid I will lose control again. I NEED HELP." As discussed last month, the response to that cry for help will help to determine whether William can some day have his son back so he can become the father he had hoped he would be.

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## VIETNAM VETERANS—AMERICA'S UNPAID DEBT

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. BROWN of California. Mr. Speaker, I would like to return to a matter which I first raised on this floor on August 3—namely the shabby treatment which we in America have accorded our veterans of military service in Southeast Asia. I would refer those who would question my use of the word shabby to my remarks of that day and the letter from a young veteran, Mr. James Lynch, which I entered into the Record at the time. Perhaps I am being euphemistic.

Today I would like to insert in the Record an article printed in the Los Angeles Times a few months ago, on June 3. This article was written by Vietnam veteran Pete Rios, with the assistance of Chicago Daily News writers Rob Warden and Terry Shaffer. Mr. Rios, who was crippled by the bullet which hit him as he tended to the wounded in the midst of a battle—he was a medic—has had 7 years to think about the way we have treated our veterans, and his thoughts deserve our attention. The article reads as follows:

### THE VIETNAM CASUALTIES ARE PRISONERS OF WAR—FOR LIFE

(By Pete Rios)

They say you never hear the bang of the bullet that kills you, but I think you always hear the one that just wounds you.

Of all the shots fired in a battle, one sounds different from the rest and you know, instinctively that that bullet has your name on it.

I know this because I was a U.S. Army medic in Vietnam. I heard it over and over from the guys I patched up on the battlefield.

And I know because I definitely heard the bullet that got me. Rifles and machine guns were blazing all around, and one crack was more distinct than any other. It was for me.

I had been in Vietnam six months. The life expectancy of a medic was only three or four months. So every time I came out of a battle in one piece, I was breaking the law of averages.

I had several close calls that made me extremely aware of the odds.

Once I had driven a Jeep out four or five times to bring out the wounded after a skirmish. I was going again when a sergeant said I'd been in enough. He sent someone else, who drove the Jeep to the same spot. The guy was blown to pieces by a mine. Not until then did we realize we had been in a mine field.

I finally got it on July 19, 1966, two days before I was scheduled to leave Vietnam for a rest period. We were in a reaction platoon, intended to back up another group on a search-and-destroy mission.

We were waiting when suddenly the radio man from the other platoon screamed over the horn, "My God, there's VC all over the place." Then we went into the main battle in choppers. We landed in a mine field. We lost complete ships carrying men. It was complete chaos.

I was moving cautiously from body to body, carrying my aid bag, looking for the few who weren't beyond help.

I was on one side of a dirt bank in a rice paddy and the first sergeant yelled to me to get a man lying on the other side. I told myself I would count to three and jump over, and I did. One. Two. Three.

Crack! I heard the one that got me.

When I fell to the other side, I was paralyzed. Already, my body was drawn up, twisted, and I hurt all over. Even my lips and my tongue hurt. My eyebrows hurt. It was just one tremendous charleyhorse.

The first sergeant grabbed me and I remember him shaking me and screaming, "Doc, Doc, you okay?" Then he turned, and I will never forget the words, "Oh, my God, Doc's dead."

I wasn't dead. I wasn't. I kept thinking, I'm alive, save me." But I couldn't talk or move and the sergeant moved on to someone else. I never saw him again.

Charlie—that's what the GIs called the Viet Cong—came over and took my .45, my aid bag and some other equipment. He kicked me in the left hand to see if I was alive. God, my heart was pounding so loud I know he would hear it. But he didn't.

I couldn't see what was happening around me, but I heard moans and cries for help from others in my platoon. And I heard shots. Then all was still.

The man who saved me was named Grayson, a black man from Ohio who, a little earlier had been my very first patient in that skirmish when he caught some shrapnel in the chest.

Although he was badly hurt, he managed to drag me about 80 feet to a bush area.

I don't know how we could laugh when we were lying there about to die, but we did. Grayson was making wisecracks. I'm a Mexican-American and I broke up when this black guy says, "Lookit, of all the guys, who do I gotta die with you—a member of a minority group?"

Off in the distance we could see a chopper, just a speck in the sky. But we didn't know if it would come down for us.

It was a famous trick of Charlie to wipe out a unit and then dress up in the uniforms they took off the dead to get a chopper down. Then they'd blast the hell out of it.

For some reason Charlie didn't try that in this case. But we couldn't expect the guys in the chopper to know that.

That's when Grayson really used his head to save our lives. He ripped off my fatigue jacket and took his off. Then he put his body across mine, forming a black and white X visible from the air.

The purpose of this was to show the pilot he was black. "I know he never did see a Nigger Charlie," Grayson said. We laughed some more. "With my luck," he went on, "he'll be a Southern pilot and he won't take me."

When the chopper flew over us, we could see it was just an observation ship, carrying two men, and we knew it couldn't take us. But the pilot signaled that he would send someone back for us.

I had no sense of time, so I don't know how long we were there before the other chopper came. But they got us out of there, God bless them. As we were being taken out, I could hear the ping of rifle bullets hitting the bottom of the helicopter.

Grayson and I were the only ones who came out of there alive, and this created a great psychological bond between us. We absolutely went bananas—crying and screaming—when they tried to separate us. The doctors understood and even let us go to surgery together, not separating us until the anesthesia took over.

After a little while in the field hospital, they flew us to Saigon and we were in a big military hospital there.

A lieutenant colonel came in our room right after we got there to present us with the Purple Heart. Passing out Purple Hearts probably was his main job. He had dark glasses, just like Gen. MacArthur's, and a cigaret holder. His khakis were starched so much I don't think he could bend over and the nurses were around him like bees on honey.

He gave us a little talk about how we had served with honor, and said he was proud of us.

What disillusioned me—and it was to be the first of many disillusionments—was that they misspelled my name in the award. Although I always go by "Pete," my real name is Adolphe. They spelled it "Adolfe."

I guess it's not important. But it seemed to me that if a colonel is going to come in and tell you what a great credit you are to your country, they at least ought to go to the trouble to find out how to spell your name.

A week later we were flown to Travis AFB, Calif., and psychologically we were in pretty bad shape because we knew we were permanently disabled. But we had adjusted enough that we could be put into different rooms.

We were to spend only one day at Travis and go to Andrews AFB in Washington to be treated at Walter Reed Army Hospital.

When I woke up, the doctors at Travis gave me a strong sedative. Then they told me Grayson had died during the night.

It was a tremendous shock. He was the best friend I ever had or will have and, you know, I don't even know his first name.

At Andrews I was greeted by another lieutenant colonel. So help me, they must print those guys. This one didn't look like he could bend over either, and he repeated almost word for word the little speech I had heard in Vietnam.

But the program at Walter Reed was fantastic. They made you do things for yourself. For instance, I had to feed myself from the start. The first day, I held a bowl of corn flakes with my chin on my chest and spilled most of them all over my neck. But I got better at eating corn flakes as time went on.

By the end of the first week, I could operate a wheelchair. I went to physical therapy for as long as I could take it, up to eight hours some days. By the end of my two-month stay, I could walk with leg braces and crutches.

Then I was discharged from the Army, which made me ineligible for further treatment at Walter Reed but qualified me for veteran's benefits. I left Walter Reed on Oct. 19, 1966, to come to the Hines VA Hospital near Chicago, my home town. It was another world.

Two days after I arrived at Hines, I had my first physical therapy appointment and I was looking forward to it because of the progress I had made at Walter Reed. That morning, I put my braces on, put my pants on and walked on my crutches down to the physical therapy room.

The doctor took one look at me and said, "I thought you were a young (recent) injury." I told him that was right, that I had been wounded just a little more than three months earlier.

"Well, it's impossible for you to walk," he said.

"What do you mean?" I demanded, "You can see I'm walking, can't you?"

"Young injuries," he informed me, "never walk so soon."

So I walked back to my room, took off the leg braces, stood the crutches up in the corner and went back to physical therapy in my wheelchair.

That seemed to please the doctor very much.

I suppose the main thing I object to is always being categorized as "a patient." There is a nurse, a patient. There is a doctor, a patient. Never Pete Rios. You are in a wheelchair, so you are "a spinal-cord injury"—not a person. You are 30 years old, and you've had more than your share of experiences, but you are treated as if you were a child.

For instance, an aide brings you a menu before meals. The menu has no purpose. If you don't like something, you don't mark it on the menu. But you get it anyway. "This is good for you," the nurse says.

You get a monthly allotment check from the government because of your disability. You are legally entitled to the money and don't owe an accounting to anyone. But that doesn't stop a social worker from coming around to ask how you spent it.

Since you are "a patient" and expected not to think, you should not ask questions about your own body. You don't need to know why your bowels won't work, why you can't have sexual relations, why you are spastic, why one foot is colder than the other one, why you have pain.

Oh, we have had classes and a nurse puts an anatomical chart on the wall. "This is your spinal cord," she says, pointing to the chart. "This is where you are injured." In sum, you are to accept pain because you are supposed to have pain. Lesson concluded.

When I came to Hines, it seemed that people who can't get jobs digging holes on the outside come to work for the VA. Some of them even demanded bribes from the patients in return for such services as turning a patient over in bed or emptying urine bags.

It's understandable why some employes are inclined to look for payola. Some of them have families and they earn no more than $550 a month before deductions. They see the helpless patients they're allegedly caring for as easy marks. A totally disabled man with a service-related injury gets about $1,400 a month from the government, tax free.

Some of the employes supplement their incomes by acting as "rum runners" for patients. Only a few will do this, and they'll do it only for patients they trust completely. Otherwise, their necks would be in a noose. The way it works, essentially, is that if you want a half-pint that costs $2.50 in a liquor store, a runner is at your service for a total price of $5.

Narcotics and even prostitutes are available through the same system. I admit this isn't extremely wide-spread, but I personally regard it as a serious scandal. The hospital officials contend that, since there are about 14,000 patients at Hines, a small society, it shouldn't be astonishing that you find essentially the same vices and problems that exist in the larger society.

I stay away from the runners myself. Not because I'm some kind of angel, because I'm not, to say the least. And it's not that I don't have any interest in some of the things they offer. It's just that I don't need these bastards. Besides, I don't think the runners would trust me, because I have a renowned tendency to scream a lot when I think I'm getting screwed.

I have been disappointed to find that the public seems cognizant only of the fact that many Americans (about 47,000) were killed or missing in Vietnam and that the remaining hundreds of thousands who served there came home. Nobody seems to think of the fact that 153,000 were wounded or that 7,750 came back blind or with missing or useless legs.

Sure, you read in the newspaper that a dozen or so were killed from time to time, but that doesn't convey what really happened. If you want to see the aftermath of Vietnam, take a stroll through the second-floor spinal injuries section at Hines.

Few Americans, to be sure, considered Vietnam a noble conquest, and we certainly didn't come back to ticker-tape parades. It was different from World War II and Korea when, so I understand, all America seemed to be shouting, "Hooray for the veterans!"

People not only don't give a damn today, but some of them are downright antagonistic toward you.

Once when I was out of the hospital, I went with a young lady to a downtown restaurant where there was a long line of people waiting to be seated.

A waiter came over to us and said, "I have a table ready for you." He wheeled me around several couples who had been waiting longer than we had.

The restaurant had a special section set aside for wheelchairs—not to put you where you wouldn't be seen, but a place where you could be comfortable and still not feel shunted aside. I thanked the waiter. But then a woman who had been waiting in line a long time came up to me and said something about respecting your elders. She berated me for being disrespectful to her and asked, "How did you get hurt anyway?"

I said I was shot in Vietnam.

"Well," she said, "you certainly deserved it." And this is only one of many examples.

Where do you suppose are the people and the flags? They were greatly in evidence for the returning prisoners of war. But their absence now goes to show, I think, that either you were killed in Vietnam, you were a prisoner, or you just don't count.

Most severely disabled veterans, frankly, are not overly impressed that an American prisoner spent 22 years in China or eight years in Hanoi. We're glad, of course, that they came back.

But now we are the only POW's.

Guys who are blind or crippled are going to be POWs as long as they live.

There is no time limit—not eight years, nor 22—on that kind of imprisonment.

Mr. Speaker, there is little I could add to those words, and little that I would want to add. I hope that every Member of this body will consider the debt which we owe to Pete Rios, and the others similarly victimized by our involvement in Southeast Asia, during our next vote on veterans' benefits. And I expect that I will have more to say on this important subject at some point in the future.

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## ECONOMIC STABILIZATION ACT OF 1970

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## HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. EILBERG. Mr. Speaker, the President's Cost of Living Council has placed an unfair burden upon thousands of independent gasoline retailers.

Recently, a penny a gallon increase was granted to wholesale gasoline firms, but the Council prohibited retailers from passing this increase on to the consumer. This action will force a large number of independent service station owners to go out of business. These gasoline retailers are the only businessmen with less than 60 employees who are subject to phase IV restrictions.

It is evident that, unlike independent gasoline service stations, the 32 major oil companies are able to absorb this 1 cent a gallon increase in wholesale prices as their average profit increase was up 39 percent during the first 6 months of 1973.

It is also clear that the administration's interest lies in these big oil companies at the expense of the small independent firms.

For this reason, I am introducing legislation which would roll back the 1 cent per gallon wholesale price increase. This would protect retailers from bankruptcy and consumers would find prices almost exactly the same as they were all summer.

Basically this measure:

Returns the base price of retail gasoline to the freeze price in effect this summer;

Permits retailers to pass through any increases in their actual costs;

Wards off such increases and saves money for consumers. The bill would roll back the 1-cent-per-gallon price increase announced by several major oil companies within the past week; and

Provides for notification by the Cost of Living Council 15 days in advance of any future price increase in the wholesale cost of gasoline, diesel fuel or home heating oil.

At this time, I enter into the RECORD a copy of the bill:

H.R. 10322

A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to pass through increased costs

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k)(1) Not later than 30 days following the date of enactment of this subsection, the President or his delegate shall issue an order—

"(A) stabilizing the wholesale prices of petroleum fuels at the September 7, 1973, levels;

"(B) requiring wholesalers of such fuels to notify the President or his delegate of any increase in the wholesale price for any such fuel at least 15 days prior to the date on which such increase is put into effect;

"(C) establishing base prices for retail sales of each such fuel at the freeze price levels; and

"(D) permitting a passthrough of any cost increase incurred by retailers of such fuels.

"(2) As used in paragraph (1)—

"(A) 'freeze price' means the highest lawful price charged by a retailer of petroleum fuel for such fuel during the period June 1, 1973, to June 8, 1973, or in the case of a retailer who had no transactions during such period, during the nearest preceding 7-day period in which he had a transaction; and

"(B) 'petroleum fuel' means gasoline, diesel fuel grade number 2-D, and heating oil grade number 2."

## THE ENERGY CRISIS

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ASHBROOK. Mr. Speaker, an article by Earl W. McMunn on the energy crisis appeared in the July issue of the Ohio Farmer. I believe it presents a sensible analysis of our Nation's energy needs and the environmental issue. As Mr. McMunn points out, we must take steps to protect our environment. Our Nation cannot, however, allow "over-zealous activists (to) destroy the economy and with it our ability to support the people of this country."

The article follows:

### LET'S REASON TOGETHER

### IMPOSSIBLE "DEMANDS" AND THE FUEL CRISIS

(By Earl W. McMunn)

If we're to have a favorable environment, we must tip the balance of nature in favor of people. This is something the rabid environmentalists have overlooked. In their zeal for returning everything to the hands of nature, they ignore the most important consideration of all. It is that our country is swarming with people.

Mother nature, working alone, has harsh but effective methods of keeping populations under control. But the people are here, thanks to the bounty of our production system. We can do a better job of cleaning up the environment. We have already made giant steps in this direction. But we can't let over-zealous activists destroy the economy and with it our ability to support the people of this country.

Already, there are signs that people in increasing numbers are getting the message. It is that there are trade-offs in almost everything we do. A price tag is always attached. There are undesirable waste products from every production operation. This is true whether it is a cattle feedlot, or a giant industrial plant. We must handle these waste products in an acceptable manner. But we dare not demand such sterility that we force the entire operation to close.

There is little question but what irresponsible demands of ill-informed activists were a big factor in creating the energy crisis. These demands slowed down development and production of energy just at a time when it was needed most. Now, many of the same critics are trying to point the accusing finger at someone else.

An example is Ralph Nader, the so-called "consumer watchdog." Passing through Columbus recently, he declared that the big gasoline companies have created the gasoline shortage to win concessions from Washington. And, that their goals are to gain tax breaks and win permission to build the Alaskan pipeline.

There is need for economic reward if we are to have adequate fuel supplies. Some of this may take the form of tax incentives. And, the Alaskan pipeline is no doubt needed to bolster our domestic fuel supplies. But, the energy crisis is the result of soaring demand which has outstripped our ability to produce—at least within our present pattern of costs.

What has happened is that we have used a large share of our cheap energy. We have had abundant supplies of coal, oil, and gas. Some of the coal has been converted into electric power. These fuels powered our automobiles, ran our industrial plants and transformed farming into a power operation.

The energy crisis was no doubt triggered by the Federal Clean Air Act of 1970 which called for drastic action to remove polluting substances from the atmosphere. Under standards called for in the act, much of the nation's soft coal was no longer suitable for generating electric power—largely because of the high sulphur content. This caused some electric power companies to turn to oil and gas.

Car manufacturers were also required to meet rigid emission standards. The standards were met, but at the expense of greater fuel consumption. During the same period, a greater number of affluent Americans were also adding to the number of cars on the road. These and other factors all helped trigger the energy crisis.

But whatever our feelings about clean air, there is good evidence that present stringent regulations are adding to the energy crisis. Alan G. Loofbourrow made this point when he spoke recently at a symposium on the energy crisis at the Battelle Memorial Institute in Columbus. He is vice-president for engineering and for research of the Chrysler Corporation and estimated that catalytic devices to control nitrogen oxides in automobile exhausts will add $42 billion to the U.S. oil import bill between 1975 and 1985.

The question is how much of the cost is really justified. Loofbourrow said: "If the health of the nation were at stake, then there would be no doubt that any control system would be worth almost any cost. But as the National Academy of Sciences said, the standards have been set without any apparent regard to the health effects of automotive emissions."

The engineer pointed out that the yield of gasoline is less when producing unleaded gasoline, and that cars running on this kind of fuel have higher fuel consumption. "The Office of Emergency Preparedness puts the penalty in the range of 15 to 20 percent," he said.

We still have massive coal supplies. But demand was shifted from sulphur-bearing coal and fuel oil to natural gas. This created shortages where none had existed before.

It is also true that demand is so great that we have been exhausting our cheap and easily-available supplies of oil and gas. One shortsighted policy of the federal government was regulation of natural gas prices at the well head by the Federal Power Commission.

This price regulation was started in 1954. It held prices to artificially low levels. It increased the demand for gas, but reduced the incentive to take risk in drilling to explore for new supplies. The result was predictable. Demand now exceeds the available supply.

It is a safe bet that fuel costs must continue to rise. We have used up much of the supply which is easiest and cheapest to reach. New environmental regulations are making coal mining more expensive. The same applies to off-shore drilling for gas and oil. Some groups even attempt to block oil imports because of the danger that there may be a spill at sea. And it is clear that we must draw an increasing share of our oil supplies from overseas sources. Here we run into problems of balance of payments and uncertainty of supplies.

Figures from various agencies studying the energy situation confirm the expectation of higher costs. The National Petroleum Council, for instance, predicts that oil prices will rise from 60 to 125 percent between now and 1985. This is in terms of constant dollars. It is also estimated that natural gas may go up by 80 to more than 200 percent in price. Coal and uranium are likely to increase by 25 to 30 percent.

So it's clear that the people of this country have some choices to make. It is a question whether we will do the things that are needed to increase supplies of oil, gas, coal and nuclear energy. A basic question is whether suppliers are permitted to operate in an economic climate which offers the chance for a profit. Oil drillers react to price controls in the same manner as cattle feeders. In both cases, controls result in less production, not more.

Our nation runs on purchased energy. This is true for farming just as it is for the rest of the economy. We can live with reasonable efforts to improve the environment. We can't tolerate the demands of those who are against every effort to increase our energy supplies.

Secretary of the Interior Rogers Morton said it well in recent testimony on the energy crisis:

"Give us an energy policy, they say, that will provide the consumer with the type of fuel he wants in the amounts he needs—at the time he must have it—and at the lowest possible price. Assure us this energy will be from secure and reliable source.

"But don't drill offshore on my coastline—don't build any pipelines across my land—don't strip any coal—don't build any refineries or storage facilities in my area—abolish the oil import program—but don't move oil in by tanker for this might pollute our waters.

"Give us an energy policy that guarantees protection of the environment and where use of energy does not intrude upon our aesthetic values or damage the ecology of the land. Give us an energy policy that will maximize national security—and yet not impinge upon normal trade between nations."

## SCIENTISTS GET NEW LOOK AT SUN

## HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. TEAGUE of Texas. Mr. Speaker, all too often we grow to accept outstanding achievement as routine. Such is the case with the performance of Skylab. With three outstanding astronauts now orbiting the Earth, it is easy for us to forget that new knowledge and greater benefits will be, and are being, derived from this series of pioneering flights. The sun, which controls the condition of Earth, is one of the major objects of study of the Skylab program. Mr. Edwin G. Pipp, aerospace writer of the Detroit News, describes in the August 20, 1973 edition of that paper a number of the more significant facts which are being uncovered in the current Skylab mission.

This well written article is another example of the manifold benefits being derived from our national space efforts.

The article follows:

[From the Detroit News, Aug. 20, 1973]

### SCIENTISTS GET NEW LOOK AT SUN VIA SKYLAB TELESCOPES, CAMERAS

(By Edwin G. Pipp)

Scientists are getting a new—and closer—look at the sun via sophisticated cameras and telescopes aboard Skylab.

In the past few weeks they have learned it is more active than they believed. And they have seen areas where, in seconds, temperatures jumped from 50,000 degrees to two or three million degrees.

They have defined areas at the north and south poles where it is not as hot as at other areas—only 50,000 degrees.

They have discovered that small solar flares come and go in a matter of seconds.

They have found "cool" areas where temperatures are far below what they expected, dubbing them "coronal holes" because at this time they have no explanation for the phenomenon.

This new information is coming from 17,377 photographs of the sun taken for the first time by men above earth's dense atmosphere which acts as a screen for earth-based telescopes.

These photos were taken by the first Skylab crew aboard the space station in a 270-mile-high earth orbit. The second crew is now getting more data.

They are using eight telescopes specially designed to probe the sun from space. Pictures taken by the first crew now are being distributed to solar experts throughout the United States.

"I sometimes think that with these experiments we have recorded more solar information and better solar information than everything we did before, rolled together," said Dr. Richard Tousey, of the Naval Research Laboratory.

The biggest surprise to the elated scientists who gave a preliminary report on Skylab solar data is the unexpected activity on the sun.

"The corona (the hot outer area of the sun) is a dynamic beast," said Dr. Robert M. MacQueen, of the High Altitude Observatory at Boulder, Colo. It changes much more than we would have expected."

To get photos of the solar atmosphere, one Skylab telescope photographs X-ray emissions from the corona.

"This way we're able to get essentially what amounts to pictures of the sun in X-rays—the hot portion of the solar atmosphere," said Dr. Guiseppe Vaiana, of the American Science and Engineering Corp., Cambridge, Mass.

Scientists have known the sun has north and south poles which appear different from other solar areas, but the Skylab photos for the first time show details of these polar areas.

"There is a great dark region surrounding the south pole which has been called a coronal hole. It is a hole that extends down well into the lower atmosphhere and the temperature is, say, only 50,000 degrees.

"So it's really a fundamental hole in the sun's outer atmosphere that goes right down to the bottom of the outer atmosphere and perhaps to the temperature minimum."

The Skylab photos show that while areas at the pole remain colder than much of the sun, there are other cold areas that in a matter of seconds can develop small flares where temperatures soar to three million degrees.

"This is something that to my knowledge has not been observed before," said Dr. James Underwood of Aerospace Corp.

Big solar flares extending hundreds of thousands of miles into the atmosphere have an effect on radio signals, sometime knocking them out. Scientists have no explanation for these solar eruptions.

A number of small solar flares and one big one are shown in the Skylab pictures taken a few seconds apart so scientists can follow the activities.

Underwood said a study of the many small flares may lead to understanding of the big ones, although at this time it is not known if they are from the same cause.

The new photos may give scientists data about the unusual rotation of the sun around its axis. Observations from earth indicate that it does not rotate as a rigid body—that its rotation is faster near the equator than at the poles.

"We've been able to look at the limbs (outer edges) of the sun and the various parts of the sun to see rotation," said Dr. Edward M. Reeves, of Harvard College Observatory.

"You can see the difference in velocity from one side of the limb to the other," he said. "This gives us great faith that the instrument can be used to make velocity measurements."

Reeves said preliminary studies of the photos indicate velocity shifts in large areas of the sun that have never been seen before.

The scientists emphasize they have had only a "peek" at the data and it will take months, perhaps years, to analyze all information.

"Many, many secrets hidden within the data have to be extracted and interpreted," said William C. Keathley, chief of the solar experiments at the National Aeronautics and Space Administration (NASA) Johnson Space Center at Houston.

"The data has to be correlated from one instrument to the next. The analysis of the data, the interpretation, is very time-consuming," he said.

Although earth would die without the sun, very little is known about the sun because, until recently, all observations have been from earth and were handicapped by the atmosphere.

A primary goal of the Skylab mission is to study the sun to aid in solving such earth problems as pollution, weather forecasting and perhaps learn enough so that solar radiation can be harnessed to ease the present energy crisis.

"There are five or six steps in applying any kind of knowledge," Underwood said. "First you define your problem, then you propose the theories, then you collect the data, then you verify the theories and only then you apply the theories.

He said the scientists are now in the process of collecting the data provided by Skylab to verify theories about the sun.

"There are observatories all over the world that have been generating programs on a day-to-day basis which they feel will be a help in analyzing the Skylab data," Underwood said. "And the Skylab data will be a help in analyzing their own programs.

"We have scientists in Europe, Germany, and England, and rocket experimenters looking at solar X-rays and solar particles, solar gamma rays and solar ultraviolet rays.

"Very great advances . . . maybe the greatest advance will come from the joint analysis and study of all these sets of data jointly by all these astronomers throughout the world."

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## MORE LEADERSHIP NEEDED IN GOVERNMENT

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HARRINGTON. Mr. Speaker, the September 1973 issue of the Government Executive carried an editorial by C. W. Borkland which appropriately pointed out the need for greater application of technology in Government. Although I am an attorney, I agree with the editor that more leadership and less legalistic nicety is needed in the Government. He raises the legitimate point that in this period of overwhelming national problems, we need the advice and counsel of more goal-oriented, not just problem-oriented men and women. I would encourage each of my colleagues to read the editorial and give it their careful consideration.

The text of the editorial follows:

### GOVERNMENT NEEDS LEADERS, NOT LAWYERS

Publishing this magazine for five years has been a frustration. And, after talking last month to Lord Corporation President Don Alstadt and after attending the 12th Annual Conference of the National Contract Management Association, we harkened back to Sir Charles Snow's "The Two Cultures and the Scientific Revolution." We think we have a fix on why the frustration.

It is that an awful lot of people in Government and industry who urged us to start this magazine five years ago were urging us to dive into an unexplored river when they, themselves hadn't decided yet whether they were even willing to put on a bathing suit or not. Put another way, as we sit astride this communications link between governments (Federal, state and local) and between Government and industry, we keep hearing from people who seem to have an awful lot of trouble talking to each other.

That's what Snow said was happening and what he said would be the downfall of our civilization—as it regularly has been of others before us—if it, the communications, is not vastly improved.

Two loosely labeled, informally congregated, responsibly situated groups in this country need to change their attitude toward each other—not for our parochial benefit, though we would profit by it, too, but because the inevitable, predictable result of their continued, mutual aloofness is going to be a tragedy for this Nation.

One of those conglomerate groups is Government, at all levels. Its root affliction is that it has running it vastly too many lawyers who fear technology and too few leaders willing to advocate what is right and farsighted instead of what they hope is politically acceptable.

And the other is a crowd who claims, in simplest form, that the technology promoted and propagated mostly in its original form, in Defense and space research programs can be exploited to help solve domestic ills. They say that, but their ailment is they say it mostly in bland language and largely to themselves. In sum, this syndrome they've got—that they "have to keep a low profile"—is for the birds.

They would be far better off, we think, taking the advice of one of their best customers. Warned Air Force Chief of Staff George Brown in *Government Executive* some months ago, "We (meaning Defense and its industry suppliers) spend too much time talking to the choir and not enough talking to the congregation."

Alstadt reports, for instance, that when he speaks to college students, they routinely tell him: "Our chief criticism of Business is that you guys don't fight for your rights like labor unions and others. Instead, you send your paid emissaries." Translate "paid emissaries" to read "Industry Associations."

And when they don't speak up, either, the facts of a public issue as a company or an industry sees them are going to be heard in the highest halls of Government about as well as a whisper in a windstorm. On the other hand, says Alstadt, "The whole world loves a fighter, even when they don't agree with what he's fighting for."

We applaud people like GE's Borsch, Henry Ford, Westinghouse's Burnham, Government types like Reagan, Art Sampson, Defense's Clements, and some other leaders who mount a public podium and blaze away when they believe somebody in or out of Government has his head screwed on wrong about things like technology and the potential utilization of it.

We applaud the State Farm and Aetna insurance companies, the Atlantic Richfields, Weyerhausers, Alcoas, IBMs, Control Data, Univacs, Garretts, LTVs, Raytheons and some others who spend at least a part of their sales promotion dollars pinpointing a national problem or project and spelling out what they are, or are capable of doing about it with Government guidance.

But there aren't nearly enough of these leaders. And what there are run smack dab into another problem: Government is run too much by lawyers and not enough by leaders. We do not refer to that parade of lawyers from high Government places involved in the Watergate business. Taking care of them simply means heeding the advice of Association of Trial Lawyers of America President J. D. Lee. Says he: "We must . . . pronounce them as unfit and unworthy and initiate disbarment proceedings against them."

We don't even refer to the group which would be affected by proposed "full disclosure" legislation now pending in at least two states. (Of those laws, if passed, one observer in the state of Washington said: "No lawyer could afford to hold public office.")

What we do refer to is that legislatures in this country are populated predominantly by the legal profession. By contrast, says Alstadt, in Britain, less than five percent of the English parliament are lawyers because "The British don't consider legal training as an adequate background to conceptualize new laws."

Lawyers by training and experience are problem-oriented, not goal-oriented, people. So, says Alstadt, are most, if not all, of the schools today which teach business administration. They turn out graduates who make pretty good executives for problem-oriented industries like the insurance business. But they are poorly prepared for the goal-oriented industries which are based on exploiting and advancing technology.

Yet we live in a technology age. The British recognize it. So do the French and the Japanese. And some people even do in the U.S., which inspired this whole technological revolution. All of which is why Alstadt is encouraging at least two universities, one in the East and one in the West, to set up business schools that will produce managers and supervisors for technology-based companies.

And, says Alstadt, if it's a five-watt problem in industry. "It's a 500,000-watt problem in Government." In Sweden, they run courses for parliament so it can make better decisions in a technology age. When somebody tried to organize the same thing for Congress recently in the U.S., nobody showed up.

Congressional staffs mostly don't have a comfortable familiarity with technology, either. Upshot of it all is, our problem-oriented governments tend to be reactive rather than provocative and concerned mainly about their public image. Technology types generate a "learning" attitude, are geared to accept and encourage change. Lawyers, to be good ones, are required to "know."

We are not so naive as to think the country is suddenly going to quit electing lawyers. Lawyers seem to be about the only ones who can take the time to run for public office in the first place.

What we do think is necessary, indeed vital, is that they actively seek the advice and counsel of the "learning" people, instead of apprehensively glowering at them as though they were stray dogs of uncertain origin. Which leads us back to the first group we mentioned. Until they start insisting on a fair and equitable audience, they, their programs, and in final analysis the Nation, are going to continue to suffer.

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## VIRGINIA'S SENATOR SCOTT

## HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ROBINSON of Virginia. Mr. Speaker, our former colleague, Bill Scott, appears to have adjusted with ease to the climate of the other body, where he is continuing his distinguished record of service to Virginia.

A view of Senator Scott appeared in the September, 1973, issue of The Virginia Cardinal which I believe would be of interest to his many friends in the House, and I include it under leave to extend my remarks, as follows:

### A Conversation With Senator Bill Scott—Virginia's Freshman Senator Ponders His Election, His Job, and His People

(By Phil Gaffin)

His office was alive with action. Doors opened and closed. Knots of important-looking people conversed in low tones and waited. A friendly staff made us comfortable. Bill Scott, Virginia's new National Senator, is a busy man. Our appointment was for eleven. At exactly that time the door opened. A firm handshake and a striking man met us.

He was dressed in red, white and blue, but in a very muted way. His graying hair made for a very distinguished looking Senator. In the busy day's schedule we had half an hour for our interview; so as the clock ticked we talked.

How had Bill Scott, who readily admits that a year before his election name identification was a problem outside his district, ended up in his present post. "I think hard work; we had thousands of people that helped in the campaign." His campaign was a collage of approaches to the voting public, a mixing of old and new. The last minute media campaign had helped but long before that he and his wife had toured the state getting to know precinct captains and members of the county committees. His serving on the State Central Committee had been of assistance in knowing people in all parts of the state.

In a year of a Presidential landslide, I queried, could the President have helped more in the campaign? "The President could have been more helpful . . . no doubt about that." He did write letters of endorsement but had he appeared in Richmond or Norfolk it would have been more helpful. Senator Scott felt that Vice-President Agnew's appearances with him at various rallies were of assistance in the campaign. In fact, Scott viewed the Vice-President's appearance at Richmond the night before the election (on the Senator's behalf) as "the highlight of the campaign." It is after the fact now, but the blend of approaches to the public must have been successful because Scott was elected in November receiving 51.5 per cent of the votes in a three-way race.

Election to office was nothing new to Bill Scott. He admits that "over the years we've (his wife and himself) politicked more than anything else." Before his present election as Senator, he had served as Congressman from Virginia's Eighth District. And is there a next campaign to look forward to? "We'll wait and see" was the comment.

Now sitting in a sunlit office with a large window (which he constantly looks out of), he tries to maintain close contact with the constituents in his state. A periodic newsletter, "Your Senator Bill Scott Reports," is one vehicle for this contact. In it he reports on committee action and on legislation that he has sponsored or co-sponsored. A second approach is the opening of a state office in Richmond to hear from the Virginia people in that area. The office located in the Federal Building there, is open five days a week. Senator Scott makes periodic visits to the office, preceded by announcements throughout the area of his up-coming visit. In connection with the visit, he holds a news briefing for the media in that section of the state. Further news briefings are held in the Washington area for media in that section.

Reaching the people directly and on their own ground is important to the Senator and thus he does a great deal of speaking to colleges, veterans' groups and other Virginia population segments. News releases help to amplify the Senator's views on current issues and bring these to the public.

The front pages of the newspaper talk of constantly changing issues so in our conversation we tried to discuss broad topics. I asked what his opinion of D.C. home rule was and why? "Well I don't know if it should come about at all . . . this is a Federal Capitol . . . this is a Federal City." He further felt that the District should be kept as a neutral territory but would have no objection to having the commissioner and council being elected rather than appointed. As to local matters those should be decided by local people.

The major issue facing Congress in Scott's opinion is the present economic problem. He feels that people are greatly concerned about the high cost of government and the high cost of living. An erosion of power from the Congressional sector to the Executive and Judicial Branches has occurred in Senator Scott's view, and he foresees efforts by Congress to recover this. One such action has been his recent introduction of a proposal to transfer the Office of Management and Budget from the White House to Congress. In this way Congress would have more control and say in the cost of government!

Another current interest of Senator Scott's is busing. He recently testified before the Senate Judiciary Committee on a proposed constitutional amendment to bar school busing. He further introduced a bill that would give jurisdiction over all issues and controversies involving the public schools to the State courts rather than the Federal courts. He feels that the State courts are more attuned to local situations and to "the feelings of local citizens than Federal judges."

And what of Watergate type situations in government? Senator Scott who is a lawyer and had in the past been a trial attorney for the U.S. Department of Justice feels, "that we're wrong to try the people in the newspapers; that's what our courts are for. We ought to exercise restraint in making allegations against people." He further feels that "the whole thing was a stupid operation" and that the media have exaggerated this out of proportion. "Confidence in our system of justice" will bring out the truth. "Anytime there is an allegation of wrong doing, it hurts the image of government officials generally and creates distrust in the political process."

After a week on the "Hill", how does the Senator relax? Since it is just he and his wife at home now in Fairfax County (his three children are grown), they do a lot of traveling. And where "politicking" used to be a major time consumer, he and his wife now can look forward to five more years without a campaign. He can work very hard physically and be relaxed and does a great deal of yard work at his house that provides this type of relaxation for him.

11:30 by the clock and the interview ended . . . "Well it was good to see you," as if he'd known me for years.

And what had I learned of Bill Scott, National Senator from Virginia, in our short half hour of conversation. First and foremost that he is a politician in a good sense of the word. He knows who his constituents are and goes to them for advice on how to represent them well in Congress. Second would be that he is a conservative (whatever that means as of September 1973) and a Republican. Still his election would have been doubtful without Democratic support in Virginia. And third that he is your neighbor . . . the man next door working with the rhododendrons on the weekend who reminds you of a favorite uncle.

As the Senator left the room quickly to talk with a staff member, I surveyed the office and noticed on the window sill elephants of all sizes and materials. There were carved wood ones, cloth ones and even a small brass one. They almost seemed to form an orchestra on the sill, fifteen strong. It made Bill Scott, the Senator, seem more like Bill Scott, a friend from Fairfax County who just happened to be selected to represent his friends in Congress.

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## EAGLE SCOUTS

### HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. DUNCAN. Mr. Speaker, I would like to take this opportunity to recognize before my colleagues the fine young men of Troop 116 in Athens, Tenn., who recently achieved the rank of Eagle Scout. In reaching the highest goal of the Scouting program, these young people displayed a dedication to our American principles and ideals which will prepare them to take on the responsibility and leadership of guiding our Nation in the future. My own sons were in Scouting, and I personally know of the great value of this organization to young men. I have listed these new Eagle Scouts below:

Stephen Turbyfill, son of Mr. and Mrs. Basil Turbyfill; David Webb, son of Mr. and Mrs. Marvin Webb; Jeff McCall, son of Mr. and Mrs. Smith McCall; Jerry Weir, son of Mr. and Mrs. Don Weir; Larry Miller, son of Mr. and Mrs. M. C. Miller; Mark Kettenbeil, son of Mr. and Mrs. D. H. Kettenbeil; Gerald McLendon, son of Mr. and Mrs. Gerald McLendon; Franklin Snyder, son of Mr. and Mrs. George Snyder; and Leslie Dooley, son of Mr. and Mrs. Tom Dooley.

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## SENATOR MONDALE COMMENTS ON CAMPAIGN FINANCING REFORM

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. FRASER. Mr. Speaker, in today's Washington Post, Senator Walter F. Mondale makes some timely observations about the serious defects in the present campaign financing system. Senator Mondale presents a persuasive case for public financing of election campaigns.

The article by Senator Mondale follows:

[From the Washington Post, Sept. 18, 1973]

#### Paying for Politics

(By Walter F. Mondale)

In 1519, Charles V, King of Spain and all of 19 years old at the time, decided it would be a nice thing to rule the Holy Roman Empire. Emperors were elected in those days—four princes and three archbishops made the decision—and, not surprisingly, two other kings also decided they would make good emperors. Charles was not to be denied, however, and he settled on a winning strategy. He amassed a campaign fund of $40 million and simply bribed five of the seven electors. Needless to say, he was elected.

In 1972, Richard Nixon was not to be denied either. He put together a slightly larger campaign fund and, while his campaign tactics were somewhat more subtle than Charles', he was equally successful. No one has accused the President's campaigners of trying to buy votes, but some of the methods they employed were only slightly distinguishable. It was unquestionably the most outrageous use of money in the history of American politics.

Perhaps even more outrageous than the way in which that money was used, however, was the way in which it was raised. Consider these examples:

Financier Robert Vesco, in apparent trouble with the Securities and Exchange Commission, personally delivered $200,000—in $100 bills—to the Nixon campaign. Then Attorney General John Mitchell arranged for Vesco to see the head of the SEC just two hours later to discuss his difficulties.

Herbert Kalmbach, one of Mr. Nixon's chief fund-raisers, approached American Airlines board chairman George Spater at a time when American had a merger plan pending before the Civil Aeronautics Board. Kalmbach, who was not only the President's personal counsel but also attorney for United Airlines—American's principal competitor—indicated that a contribution of $100,000 was "expected." American responded to the tune of $75,000, most of it in the form of clearly illegal corporate funds.

At least three major oil companies—Ashland, Gulf and Phillips—have each admitted contributing $100,000 of corporate money to the Nixon campaign, again in violation of the law.

The pattern is unmistakable: the Nixon people deliberately set out to collect huge campaign contributions from those who had the most to gain—or lose—from specific government actions or policies. There is every indication that they developed what amounted to a shakedown list of firms most vulnerable to the pressure and subtle intimidation they subsequently employed in soliciting large contributions.

Perhaps nothing was done in return for many large contributions. In fact, some large givers, expecting preferential treatment but never receiving it, have themselves been victimized by the system. But it shouldn't be necessary to prove compromise or corruption, or even corrupt intent in every instance. It should be sufficient that the *appearance* of improper influence is enough to undermine public confidence in government.

Despite the incredible tales of Mr. Nixon's 1972 fund-raising activities now unfolding, no one can pretend that they represent a problem unique to Republicans. My own party's fundraising record—while never in Mr. Nixon's league—has not always been as open and as forthright as I would like it to have been.

The chief fault lies in the system itself—a system that puts government virtually up for sale by forcing candidates to rely on excessively large contributions if they hope to compete successfully in a modern campaign. The single most important reform that can result from Watergate, in my judgment, is a fundamental change of this system. This can be accomplished only if Congress eliminates the corrosive and corrupting influence of big money in politics and replaces it with a system of public financing of campaigns.

Public financing is not a new idea—Teddy Roosevelt first proposed it in 1907—but it is a far-reaching one. If candidates receive the bulk of their campaign funds from public instead of private sources, it follows that once in office they are less likely to be influenced by private interests.

For a variety of reasons, however, some people still believe that it is improper to finance political campaigns with the taxpayer's dollar. It would cost too much, they say, at a time when there are higher priorities. But what is the cost to us, individually and as a nation of cost overruns and shoddy workmanship by incompetent government contractors, of improper anti-trust settlements, of tax loopholes that refuse to close, of regulated industries that go unregulated?

Other reservations are expressed, many of them legitimate and some of which I share. Yet they are all overcome by one inescapable conclusion: if we are to effectively limit the amount anyone may contribute to a candidate, at the same time permitting that candidate to spend enough to run an intelligent, informative and effective campaign, there is no real alternative to some form of public financing.

What form should it take? How would it work? There are any number of different approaches, but in Congress and elsewhere there is a growing consensus that if it is to be fair, workable and effective, a public financing system must:

Limit severely the amount individuals and groups may contribute to a candidate, but encourage a greater number of small private contributions;

Limit the amount candidates may spend in both primary and general elections;

Provide public funds for primary as well as general elections;

Use as a base for public financing the already existing dollar check-off system adopted under Sen. Russell Long's (D-La.) leadership but undermined last year by the administration;

Treat fairly minor, new and third-party

candidates without encouraging obviously frivolous candidates;

Provide strict enforcement of campaign financing regulations by an independent agency, preferably a federal elections commission.

With the support of Common Cause, Sen. Richard Schweiker (R-Pa.) and I have introduced a bill that we believe will accomplish these goals for presidential elections. It provides tax incentives for a larger number of small private contributions but strictly limits the amount any one person or organization may give; during the pre-nomination period, any private contribution up to $100 would be matched by the government; and for the general election it substantially strengthens the dollar check-off system by providing from public funds approximately two-thirds of the amount a candidate is permitted to spend. If implemented in 1976, it would cost approximately $100 million for the presidential election.

Whatever form public financing utimately takes, there is a growing bipartisan recognition that now is the time to act. Watergate has provided one of those unique moments in history when it is actually possible to effect fundamental change. According to a recent Gallup Poll, 58 per cent of the American people now favor public financing of federal elections. For the first time since it was seriously proposed nearly 70 years ago, the idea of meaningful public financing is beginning to achieve a momentum of its own. Whether that momentum can translate the idea into law will probably be known in the next few months. In the end, it will turn on the determination of the American people to reclaim their government.

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## CLEMENTE MEDALS NOW AVAILABLE TO PUBLIC

## HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, earlier this year, the Congress approved and the President signed legislation introduced by myself and several of our colleagues, authorizing the Treasury to strike a commemorative gold medal, and 200,000 copies, in honor of Roberto Walker Clemente, the great Pittsburgh Pirate baseball player killed in a New Year's eve mercy flight to earthquake ravaged Nicaragua.

The Greater Pittsburgh Chamber of Commerce is the official sponsor for sales of the Clemente medal. All proceeds from medal sales will go to the Roberto Clemente Memorial Fund which is administered by the Pittsburgh Pirate baseball club and has as its major goal the building of a sports city complex in Puerto Rico for youngsters.

The sports complex for young people was a Clemente dream which the superstar had just begun working on when he died.

The medal was officially presented to the public today in a press conference at Three Rivers Stadium in Pittsburgh.

The medals, both a 3-inch bronze and a 1$\frac{5}{16}$-inch gold-plated bronze pendant with removable loop, are available through the Chamber of Commerce of Greater Pittsburgh, Pittsburgh, Pa., 15219 at a cost of $10.50 each.

I would like to include in the RECORD at this time information issued by the Pittsburgh chamber on the Clemente medal:

### ROBERTO WALKER CLEMENTE: THE MAN, THE ATHLETE, THE HERO

This special, nationally legislated commemorative medal has been struck by the United States Mint in honor of Roberto Walker Clemente for his outstanding contributions to, and achievements in, athletic, civic, charitable and humanitarian endeavors.

Commissioned by the Chamber of Commerce of Greater Pittsburgh to memorialize "The Great One" and to aid his humanitarian causes, the Roberto Walker Clemente Commemorative Medal was designed by Virgil Cantini, world-renowned Pittsburgh artist and sculptor. Mr. Cantini loved to watch Clemente play baseball, and had great respect for his professionalism. He also admired him deeply for his concern for others, for his generous spirit and for his abiding sense of compassion. Roberto Clemente's records as a baseball player and his achievements as a man are designed symbolically into the medallion with sensitivity and clarity by Mr. Cantini.

The lines of Clemente's handsome profile, sculpted into the obverse side of the medallion along with the incused curves of the baseball seam, represent the symmetry between this great man and his profession. On the reverse side of the medal, multiple baseballs crash through a symbolic barrier, representing in the artist's concept the explosive impact of the Clemente heart and arm on his fellowman's conscience.

The medallion also carries a line of a poem written by Maria Cantini, the artist's daughter, in tribute to the beloved sports figure. The line—"You shared your joy with the less than joyful lot"—serves as a poignant remembrance of Clemente's unselfishness.

Up to a maximum of only 200,000 commemorative medals are authorized to be minted under the special legislation enacted by the Congress of the United States of America and signed into law by President Richard M. Nixon on May 14, 1973.

The legislation which authorizes the minting of the medallion exclusively for the Chamber of Commerce of Greater Pittsburg also directs that profits derived from the sale of the medal shall be contributed to the Roberto Clemente Memorial Fund. The Fund, which is administered by the Pittsburgh Baseball Club, was created to fulfill Clemente's envisaged Youth Sports City in Puerto Rico and to carry on his work in the relief of the victims of the earthquake that devastated much of Nicaragua in 1972.

Roberto Clemente's spectacular career with the Pittsburgh Pirates began in the 1955 season after he was drafted from the Triple-A Montreal Club of the Brooklyn Dodgers on November 22, 1954.

He batted over .300 in thirteen of his eighteen Pirate years and had a lifetime .317 batting average.

He won four National League batting titles—in 1961, 1964, 1965, and 1967.

His back-to-back five-hit games against Los Angeles, August 22 and 23, 1970, remains a National League record for the most hits in two consecutive games (more than eighteen innings).

He was awarded the Golden Glove for fielding excellence twelve times.

He was the National League's Most Valuable Player in 1966. He played in eleven All-Star games, with illness preventing his play in the twelfth.

He led his Pittsburgh Pirate teammates to victory in the 1971 World Series, in which he was named the outstanding player.

His final regular-season hit on September 30, 1972, a double, was his 3,000th—an achievement recorded by only ten others in major league history.

On August 6, 1973, Roberto W. Clemente was inducted into the Baseball Hall of Fame to which he was elected less than three months after his death, becoming only the second player ever admitted to the baseball shrine without the customary five-year waiting period.

He had become a hero in two worlds. He was known not only as a baseball superstar, but also as a man of great compassion who devoted much of his own precious time, as well as money, to help others who needed help.

Roberto Clemente did not live to see one of his fondest dreams realized—the creation of a sports city for Puerto Rican youth, a 600-acre site near the San Juan International Airport.

About 230 acres will be devoted to open field and indoor sports, 50 acres to water sports and 300 to passive recreation.

Clemente died a hero's death on December 31, 1972 at the age of thirty-eight in an airplane crash while on a mission of mercy to deliver supplies from Puerto Rico to earthquake victims in Nicaragua.

His death stunned hundreds of thousands of people who had watched his consistently exemplary play on the major league baseball fields. Clemente had matured into a ball player who could "do it all" and make it seem so effortless—hit, run, field, and throw so powerfully and unerringly that perhaps no other outfielder ever matched his arm.

The fatal plunge of the aircraft into the waters off the coast of Puerto Rico was reported throughout the world and millions more mourned the loss of Clemente as his quiet, private humanitarian activities came to light in newspapers and magazines, by radio and television and from one person to another wherever people would congregate in disbelief—overtaken by sorrow at the abruptly extinguished life of this man, this athlete, this hero.

Long revered by both young and old in his native land of Puerto Rico, in the United States and throughout the Americas, the world will remember him long and well as a man who gave so much of himself to others.

### ROBERTO CLEMENTE COMMEMORATIVE MEDAL: MARKETING-BACKGROUND INFORMATION

The Chamber is legislated as the exclusive distributor of the medals. Not more than 200,000 are authorized to be minted. None will be minted after 31 December 1974.

Initially, the medal will be offered in two sizes: 3" bronze and 1 5/16" gold plated bronze pendant with removable loop.

The medallions will be produced by the Philadelphia Mint and will bear its symbol "P." Purchases, reserved solely to the Chamber, will be in lots of 2,000 per size or style of medallion.

Only the 3" size will be serially numbered. Public sales price will be $10.50 per medal. Sales price is subject to 6 percent sales tax where applicable. The 1 5/16" pendant style medal will be sold at $10.00 per each, also subject to Pennsylvania sales tax.

The engraving and die-cutting costs are underwritten by Sears, Mellon Bank, Pittsburgh National Bank, Gimbels, Hornes and Kaufmanns.

A descriptive folder will accompany each medal sold. Text will be in both English and Spanish. Costs for this are underwritten, in part, by Gulf Oil Corporation and Atlantic-Richfield Company.

The Chamber will service inquiries/orders from buyers located outside the local marketing area. Local sales will be handled by Sears, Pittsburgh National Bank, Gimbels, Hornes and Kaufmanns.

Each sales outlet will develop and operate its own sales procedure. Each sales outlet will conduct point of sales promotion. Each sales outlet will also feature a medal order coupon in its newspaper advertisements to the extent possible and feasible.

The sales outlets and the Chamber will cooperate with respect to transferring medals between and among themselves to accommodate sales demands.

The Chamber's Public Relations staff will work with radio and TV stations for public service promos.

To help minimize workload for the sales outlets as promotional activity begins but before the medals are actually available for sale, the Chamber will provide two of its telephone lines for recorded information. The numbers are 391-3409 and 391-3412. Participating underwriters of the engraving charge will be featured as local sales outlets.

The symbolism designed into the medal was conceived and created by Virgil Cantini, internationally known Pittsburgh born sculptor and artist.

The legislation authorizing the U.S. Treasury to strike the commemorative medal was signed into law by President Nixon on May 14, 1973.

Exclusive right to reproduce, exhibit, feature or otherwise use the likeness of Roberto Clemente in the uniform of the Pittsburgh Pirates in the design, production and marketing of the commemorative medal was granted to the Chamber by the Pittsburgh Baseball Club and the Roberto Clemente Memorial Foundation on February 26, 1973.

All proceeds (less expenses) generated from the sales of the Medal will be remitted to the Clemente Memorial Fund, c/o The Pittsburgh Baseball Club, as soon as practicable after 31 December 1974.

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## USE OF DRUG FORMULARIES IN HMO'S AND HOSPITALS

## HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. OBEY. Mr. Speaker, the American Pharmaceutical Association and the Group Health Association of America are sponsoring a 3-day conference in Chicago next week—September 24-26—on pharmaceutical services in health maintenance organizations.

The portion of the program dealing with formularies is designed to consider ways in which an HMO—through its pharmaceutical services component—can influence the quality and economy of health care as it relates to rational drug therapy.

Included on the program are:

Albert H. Angelini, area supervisor for pharmaceutical services, Kaiser Permante Medical Care program, who will discuss the formulary concept;

Dr. Thomas Dunphy, associate clinical director at the Hunter Foundation for Health Care, Lexington, Ky., who will discuss the development of more effective drug prescribing and utilization; and

Dr. David A. Knapp, professor of pharmacy administration at the School of Pharmacy, University of Maryland, who will discuss manual drug utilization review systems.

Because of its relevance, I should like to include an interesting paper, "Effects of a Hospital Formulary on Drug Prescribing by Physicians in Private Practice," which appeared in the August, 1973, number of Hospital Pharmacy:

### EFFECTS OF A HOSPITAL FORMULARY ON DRUG PRESCRIBING BY PHYSICIANS IN PRIVATE PRACTICE

(By Barry A. Bunting,* BS, Brandt Rowles,** Ph. D., and Albert I. Wertheimer, * * * Ph. D.)

A survey of the literature of the past 10 years reveals an odd assortment of publications on the topic of hospital formularies. A substantial number describe methods of establishing them, either by the use of electronic data processing or by manual modification of the American Hospital Formulary Service or other formulary list. There is a good deal of discussion about the role of the Pharmacy and Therapeutics Committee in the implementation of a hospital formulary, but most authors subjectively or anecdotally show how well the formulary system works in the hospital in which they practice. There seems to be little doubt that the formulary system is well accepted by those who publish papers on the characteristics of their particular hospital pharmacy.

With so much subjective praise in print, it is difficult to objectively document whether or not a formulary does what it is intended. Even the term formulary can be misleading, as it has been used to describe anything from the simple drug list of a hospital stocking almost every brand of nearly every drug product to the very limited and strictly controlled formularies of certain large university hospitals. The ideal formulary should be comprised of a select few drugs of choice for each therapeutic category.

In this manner, those who prepare lists may minimize drug costs by avoiding excessive inventory duplication and by encouraging manufacturers to submit their lowest bids for specific formulary listed drugs. Equally important, they should use formularies to help raise the level of patient care by assuring that quality drugs having the greatest rationale for use within their various therapeutic categories are used.

#### STUDIES ON COST REDUCTION

It is well accepted that the formulary has a definite role in the control of drugs and drug costs within the hospital. In a questionnaire survey, Bowles [2] showed that of the 142 largest nonfederal acute care hospitals in each state whose representatives responded, 85% stated that the pharmacy was given authority to dispense "generic equivalents." Foulkes [4] was able to demonstrate a 66% decrease in the cost of antibiotics dispensed within a hospital by having physicians fill out a special cost-comparison requisition form if they wished to prescribe expensive antibotics. It was observed that the largest decrease in drug costs was allowed by the physicians' willingness to cooperate with a pharmacy-based drug control procedure.

Rosner [7] studied the financial effects of formularies in hospitals and showed that restricting the inventory of drugs in the hospital pharmacy definitely reduced costs. Although he cautioned that the mere existence of a "formulary" would not guarantee this, generic equivalent dispensing consent agreements were shown to be highly influential in decreasing drug costs. As would be expected, as hospital size increased, financial performance improved.

In hospitals using formularies, there appears to be widespread physician acceptance of the arrangement. It is a controversial point as to whether an extremely rigid formulary is advisable. Archambault [3] suggests that rigid formularies are an annoyance and that procedures such as utilization review would lessen abuses of prescribing outside the formulary. The pharmacist and the Pharmacy and Therapeutics Committee should take whatever steps are necessary to assure physician cooperation with the formulary chosen.

Footnotes at end of article.

The noted clinician Walter Modell [6] affirms the validity of a hospital based formulary system, giving credence to its potential benefit to practitioners of medicine. Julien [5] discussed some disadvantages of the formulary system, such as sacrifice of brand choice and habit, but stated that the resulting gains in economy and drug information were well worth the sacrifice.

In an article discussing the new Massachusetts law requiring physicians to include the chemical or generic name when writing for certain branded drugs. Allan [1] discussed the advantage of inventory simplification. He further stated that there would be less confusion than that caused by multiple names for a single drug.

#### DO FORMULARIES AFFECT PRESCRIBING? A STUDY

There is evidently little, if any, controversy about the fact that a formulary can reduce drug costs within an institution. The literature provides adequate information on this point. However, it is difficult to show that the level of patient care is raised by the use of a limited choice of drugs. We believed that one way to show this would be to see if physicians operating under a formulary system had enough faith in the drugs used in their hospital to prescribe them in their private practice.

We wished to formulate a study on this question and publish the results. If someone in a hospital with an active Pharmacy and Therapeutics Committee, large medical staff, and a clinically oriented and dynamic pharmacy staff were to design a formulary based on the concept described, it would be logical to assume that the chosen drugs would represent the best clinical judgment of the staff.

Such a hospital was chosen for our study—an approximately 350-bed general hospital with a fairly open medical staff and a limited and controlled formulary. The hospital carries only 342 different chemical entities, including all dosages forms and strengths; a total of 540 items are stocked.

If the drugs in the formulary were drugs of choice for their various therapeutic categories in the daily medical routine of the hospital, it is reasonable to assume that they would also be so in the staff physicians' private practices. The question we asked in our study is: "Can a formulary be effective in guiding a staff physician's private prescribing habits?"

Eleven hospital staff physicians were chosen as the research sample. The sample included four emergency room physicians, because they would be extremely familiar with the formulary items inasmuch as a small but complete stock of them is carried in the emergency room. Table 1 shows a breakdown of the physicians studied.

TABLE 1.—PHYSICIAN PROFILES

| Physician | Age in 1973 | Type of practice | Board certified |
|---|---|---|---|
| A[1] | 44 | Full-time general practitioner | No. |
| B[1] | 41 | Occupational medicine | Yes. |
| C[1] | 51 | Full-time general practitioner | No. |
| D[1] | 42 | General practitioner (secondary specialty, pediatrics). | No. |
| E | 41 | Full-time general practitioner | No. |
| F | 44 | do | No. |
| G | 60 | do | No. |
| H | 49 | do | No. |
| I | 52 | do | No. |
| J | 49 | do | No. |
| K | 42 | do | No. |

[1] Emergency room physician.

It may be seen that the typical physician is a general practitioner—the type of physician who would generally prescribes a broader range of drugs because of the broader spectrum of illnesses seen by him.

### FINDINGS OF THE STUDY

The prescription records of two community pharmacies near each of the sample physicians' offices were audited for the months of June, July and August 1972. The results are seen in table 2.

TABLE 2.—PRESCRIPTIONS WRITTEN IN PRIVATE PRACTICE BY SAMPLE PHYSICIANS DURING 3 MONTH PERIOD

| Doctor | Total RXS written[1] | Not in formulary | Percent in formulary |
|---|---|---|---|
| A | 35 | 15 | 57.1 |
| B | 45 | 0 | 100.0 |
| C | 27 | 9 | 66.7 |
| D | 38 | 2 | 94.7 |
| E | 247 | 38 | 84.6 |
| F | 406 | 30 | 92.6 |
| G | 323 | 29 | 91.0 |
| H | 49 | 7 | 85.9 |
| I | 135 | 28 | 79.3 |
| J | 109 | 21 | 77.1 |
| K | 79 | 10 | 87.3 |
| Total | 1,493 | 189 | 87.3 |

[1] As found in closet 2 pharmacies to physician's private practice location.

The drug products prescribed by the sample physicians in their private practices followed the hospital formulary list with remarkable accuracy. The prescribed drugs which did not coincide with the hospital formulary fell into four categories. (1) combination products, (2) costlier brands of formulary drugs, (3) drugs for rare illnesses and/or products not usually used by inpatients, and (4) nonformulary items. After examination of the findings, we found that the hospital formulary has an impact upon medication prescribing in private practice well beyond the indicated 87.3% compliance rate. The reasons for this statement stem from analysis of the nonformulary items encountered.

Nearly 50% of the nonformulary products prescribed were for branded antibiotics and antibiotic combination products, whose ingredients were in the formulary. Nearly 40% of the nonformulary products prescribed were for combination products that appeared individually in the hospital formulary. The remaining 10% of products found in the private practice prescription audit were for products that may be used for specific situations not routinely handled in the hospital. Such products included some long-acting sulfonamide preparations, muscle relaxants, antiobesity products, and cough and cold remedies.

The results of this study indicate that a fairly rigid formulary can be an accurate predictor of private practice drug dispensing. The proof of physician acceptance of a hospital drug formulary must be his use of formulary items in private practice and the study showed a very surprising adherence to the hospital formulary. General practitioners tend to prescribe a wide range of drugs; therefore, they are deluged by sales representatives and professional samples. The fact that the physicians in the study showed at least an 87.3% private practice compliance rate with the hospital formulary is little short of astounding. It might be argued that the formulary contained only the top 342 most commonly prescribed products, so the high compliance rate would be expected. However, the formulary is far from being such a list, as only certain representative drugs from the most popular drugs are included. An obvious benefit of such a formulary is the elimination of the considerable duplication of branded names for a single generic drug. Evidently, the sample physicians looked upon the formulary as an aid to good patient care. If they viewed it as a necessary evil or an impediment, one would anticipate different drug orders to be written for their private patients.

Not only are costs lowered, but physicians accepted the formulary concept to the point of using it outside the confines of the institution. It may be concluded that hospital formularies can be all they are promoted to be, if properly administered by the pharmacy service and the P&T committee.

### FOOTNOTES

*Hospital Pharmacist, St. Lawrence Hospital, Lansing, Mich.

**Associate Professor of Pharmacy, Ferris State College, Big Rapids, Mich.

***Pharmacy-Related Programs Branch, Nat'l. Center for Health Services R & D, U.S. Dept. of HEW, Rockville, Md.

[1] Allan, F. N.: Generic drug names required by Massachusetts law. *N. Engl. J. Med.* 285: 405, 1971.

[2] Archambault, G. F.: The hospital pharmacy and drug utilization: Procedural realism. *Hosp. Formulary Management* 3:37, (Feb.) 1968.

[3] Bowles, G. C. Jr.: Pharmacist specifies hospital's drugs. *Med. Hosp.* 118:108, (Jan) 1972.

[4] Faulkes, R. C.: Can hospitals control drug costs? *Hosp. Admin.* (Canada) 13: 19, 24, (Jul) 1971.

[5] Julien, J. Y.: Pharmacopoeia (formulary): Working tool of hospital pharmacy. *Hosp. Admin.* (Canada) 13:55, 58, (Apr) 1971.

[6] Modell, W.: Drug equivalence and fixed combinations. *Mod. Med.* 39:42, (Sept) 1971.

[7] Rosner, M. M.: The financial effects of formularies in hospitals. *Am. J. Hosp. Pharm.* 23:673, 1966.

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## THE LATE DONALD BLAKE COOK

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. HUNGATE. Mr. Speaker, this country has recently lost a dedicated and valued public servant, Mr. Donald Blake Cook.

Mr. Cook recently retired from the Bureau of Educational and Cultural Affairs—frequently referred to as "CU"—of the U.S. Department of State. So outstanding was he that he was nicknamed "Mr. CU" by his colleagues. Having joined the Department of State in 1946, he was one of the principal pioneers of the worldwide educational and cultural exchange programs initiated by the Fulbright Act. He had the unique distinction of receiving two Presidential appointments—one to serve as Staff Director of the U.S. Advisory Commission on International Educational and Cultural Affairs, 1957–60; and the other to serve as executive secretary of the Board of Foreign Scholarship, 1956–57 and 1962–65.

At the request of the USIA, Mr. Cook served as special assistant to the Ambassador in Yugoslavia, where he helped to establish and monitor the first binational Fulbright academic agreement with a Communist country. Later, in his capacity as an educational and cultural specialist on the oversea inspection staff, he served in areas all over the globe.

During his years with the exchange program, Donald Cook occupied virtually every high-level position which CU and its predecessor organization offered including that of senior program adviser to the Assistant Secretary of State.

Upon his retirement from the State Department, Mr. Cook received the superior honor award, citing his—

> Last contributions to the breadth and depth of the educational and cultural program and to its increasing effectiveness in meeting foreign policy objectives.

Donald Blake Cook was a remarkable man, and his passing is a great loss to the programs he championed. I extend to his family my deepest sympathy.

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## THE AMERICAN WAY

## HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. GOODLING. Mr. Speaker, in many respects an American is an imponderable human quantity.

While he seeks peace, he will wage war with a fury, and after the dust of battle is settled, he will help his former enemy to get back on his feet. While he is an alert and adept businessman, he has a history of being the most generous type of individual to be found anywhere in the world through the many gifts he has given to unfortunate peoples all over the globe. When he likes to criticize his Government and keep it on track, he will fight to the death against anyone who seeks to harm or destroy it.

Just recently, the Hanover Evening Sun, a prominent daily newspaper in my congressional district, carried an editorial by John MacRay Baker entitled "What Americans Are." Because this article throws a very interesting light on the character and nature of a true American, I insert it into the RECORD and commend it to the attention of my colleagues.

The article follows:

### WHAT AMERICANS ARE

(By John MacRay Baker)

Americans are perhaps as confused about the future of their country as they have been in the lifetime of those living today. Many seem to have forgotten that nations undergo growing pains and that periodic adjustments have to be made in the best social, political and economic systems. This is a time for remembering just what Americans are.

A great nation is more than a geographical location; it lives in the hearts and minds of its people. Its life blood is nationalism, which is pumped through its vein by its heart, which is patriotism.

There are those who blame nationalism for all evils of man, this is because they do not really understand the nature of that phenomenon. A country, like a family, exists only so long as there is a consciousness, a deep-rooted feeling of pride, belonging and uniqueness. It is this feeling that makes a nation and sets it apart from mere grouping of persons. Nationalism is an evil only when it becomes extreme and one people visualize themselves as a master-race destined to rule the world.

Patriotism is love of one's own country, nothing more. It is not immoral to place the welfare of your own nation first anymore than it is evil to give priority to the welfare of your own family. Frustration and discouragement are constant companions for Americans today. My evaluation of the vast majority, young and old, sustains for me an optimism which transcends my fears. Americans are unique. What are we, exactly?

An American is a person who is often weak in his understanding of his heritage, not because he is indifferent but because he would rather look forward than back. He is impatient only because he is never content with things as they are. He wants something better.

An American is a person who typically strives to improve the lot of all mankind and to elevate humanity in general to the lofty heights his own nation has achieved. He is eager to learn almost anything at almost any age; he is willing to try almost anything even when the chances of success are not in his favor.

An American is a person who loves freedom so much that he often takes it for granted. He has a strong sense of responsibility and has little patience with those who want everything done for them instead of seeking opportunity to do things for themselves. Each day sees those who have contrived some new way to make usefulness pay. A good American refuses to admit that there are no frontiers; he believes there will ever be new ones. Even while professing pragmatism he is the world's greatest idealist. He does not hide his country's defects, drawbacks and dreams turned into nightmares. Most Americans have an abiding faith in the wisdom of the Founding Fathers who had an abiding faith in Almighty God. The system of government their wisdom created is so right that there is no need to conceal its blemishes and imperfections. The American has—and the system encourages—a nearly fanatical urge to correct that which is not perfect. This unique creature, the American, has created a hard-headed, practical nation but one which is generous and sentimental. He has been fearful but has never lacked the courage to overcome his fears. He has been cockey but has always had a soft heart. He longs for a world of nations among who there is understanding, prosperity, friendliness and mutual confidence.

Except in times when he is afraid or angered, the American has never been one to wear his heart on his sleeve, he is often embarrassed and awkward when called upon to display the patriotism which is deep in his soul and spirit.

Today, a few who call themselves Americans have lost sight of their own heritage and forgotten that every generation owes a debt to the past. These few have forgotten that this is a country of freedom only because men and women who lived in the past had the courage to fight and the will to sacrifice. Without their vision, their savings and their hard work; we would not have our great industries, our unmatched standard of living, our vast system of universal education, or our leisure. We are gradually awakening to the fact that we have an obligation to pass on the freedom and opportunities we inherited. Most Americans are seeing, more clearly, that no generation has a right to live for itself alone. None has the right to squander the nation's resources, to live beyond its means and to eat up earnings of generations yet unborn. The present must not steal from and enslave the future. Each generation must pay, to the future, a debt which it owes to the past.

Those who refuse to see these truths may be citizens of The United States and our political system allows them to be wrong, but they are not Americans in the philosophical sense. They are misguided. They want something for nothing. They are like small children who fret and cry when they cannot tie their shoes, they must be taught. The process of their education requires the patience of a loving parent who sees a weakness in his child but will not cater to it.

Real honest-to-goodness Americans will keep faith with our heritage and, in time, the spasm of internal strife and divisions among us will pass. This nation will resume its pursuit of greatness. That is our destiny.

This is a time for calm determination to make the system work when it is right, to change it only if it is wrong. It is a time for level-headed appraisal. The only thing that will destroy us is panic. When the chips are down, history reveals that Americans do not panic, they pull together and win.

Our republic will survive and become greater because most of us are Americans in the finest sense of the word.

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## MINNESOTA PROGRESS

## HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. FRENZEL. Mr. Speaker, a recent article in the magazine, Minnesota Progress, reports the successes of a particular venture capital firm in Minnesota. The firm, First Midwest Corp., was the first Small Business Investment Co. licensed by Congress in 1959. Its founder and president, Mr. Alan K. Ruvelson, has been a pioneer in the venture capital field. He has guided his firm well and been a leader in improving SBIC's to the point where they are now a dynamic member of the financial community.

Congress intended that SBIC's function as an alternative money source for growing businesses unable to secure funds through existing sources. During the present credit tightening, SBIC's may find that they have an expanded role to play in financing new enterprises. First Midwest Corp. is an example of a firm ready to meet that demand.

The article follows:

### FIRST MIDWEST CAPITAL CORP. IS—A VENTURE CAPITAL FIRM THAT GAMBLES ON BUSINESS SUCCESS

On the 16th floor of the IDS Tower in Minneapolis is a supply of a commodity for which there should be an enormous demand.

The commodity is money.

Bud Ruvelson and Andy Greenshields are almost always busy, but they are also surprised that they are not busier.

They are venture capitalists. Their business is investing in small, growing companies that need working capital. Over the years they have invested in many firms, in Minnesota, Wisconsin, Michigan and Missouri. There are always at least half a dozen firms in their portfolio.

And even though they are highly selective about the firms in which they invest, they don't understand why there isn't a line at the door, particularly in these days of tight money.

Alan K. Ruvelson, president and founder of First Midwest Corporation, is a pioneer—perhaps THE pioneer—in the small business investment field. First Midwest Capital Corporation, now a subsidiary, was the first Small Business Investment Company licensed by Congress in 1959.

Andrew J. Greenshields, vice president, now directs the activities of the venture capital firm.

As high risk investors, Ruvelson and Greenshields are gamblers—but gamblers who understand the odds, who study the horses, the riders and the condition of the track.

They take risks by making loans that banks will not make; unsecured loans; debentures protected only by the general credit worthiness of the company. Typically, there are warrants attached to the debentures, which permit First Midwest to purchase a minority stock interest at an agreed-upon price.

Ruvelson and Greenshields, in other words, speculate on the success of the companies in which they invest, as do all investors, in a sense. What makes a venture capital company different is that it provides a sizeable pool of capital to firms that do not have it available elsewhere.

Venture capital firms serve as a source of long term unsecured financing that banks, by law, cannot provide. Rather than compete with banks, such firms usually work closely with them, supplying equity capital that strengthens the base of a growing company and makes it eligible for a more favorable line of commercial credit from the bank by virtue of being subordinated to the bank's position.

Similarly, venture capital investments support Municipal Industrial Revenue bonds, which provide capital for the brick and mortar while venture funds provide the necessary working capital.

A case in point is Crown Auto Stores, a retailer of automotive parts, which has just financed a new headquarters building and warehouse facility through a $1,345,000 Minnesota Municipal Industrial Development Bond.

First Midwest Capital Corporation has been an investor in Crown since 1966, providing capital which has made it possible for the firm to expand and grow. At the time of its investment the young retail firm had a net worth of $200,000 and liabilities of more than $500,000.

With the equity provided by First Midwest, Crown was able to improve its bank credit situation and accelerate its growth pattern.

The 12-year-old firm now has 35 retail stores throughout Minnesota, and employs 320 people.

Crown has outgrown its office and warehouse facilities in the Twin Cities three times. Through the industrial revenue bond, it has just completed construction of a 70,000-square-foot distribution center and headquarters in Eden Prairie.

Such funding would have been impossible if Crown Auto Stores had not achieved financial strength through venture capital and supporting bank financing. Nor would increased facilities have been necessary, for without venture capital Crown would not have been able to achieve the rapid rate of growth it now enjoys.

Venture capital is usually invested in young, emerging companies that are trying to grow, but need additional funding. Their profits, if any, are typically not sufficient to simultaneously pay the additional costs of expansion, new markets, increased inventories, adequate staffing, new product development, R & D, quality control, etc.

These are good companies, with considerable potential, or the venture capital people wouldn't touch them. They have good products, and most important, capable management.

"We look very closely at management," said Greenshields. "We aren't going to be running the company; its management is. And that management has to know where it's going, and how to get there."

A company can raise money by going public, of course, but that's a pretty big step all by itself. It's hard to grow and go public at the same time.

And there are days when going public isn't a particularly attractive way to raise capital. The last few years have been replete with such instances. Secondary offerings on the local market have also had limited appeal.

Such venture capital firms as First Midwest have, at more favorable times, rendered considerable assistance to portfolio companies wishing to go public, just as they've helped portfolio companies get favorable bank loans and insurance company money.

When a venture capital firm makes an investment, it helps its client in any way it can, just to protect that investment. If the company doesn't succeed and grow and prosper, there will be no capital gain.

The venture capital company also serves as an interested third party, a sounding board to which management can go for advice on financial matters, marketing strategy, lease or buy decisions and other subjects.

CSC Corporation, Maple Plain was a company with a negative net worth when First Midwest invested in it. With the help of venture capital and a local development bond backed by the Small Business Administration, CSC was able to expand its premium business.

Expansion and additions to its facilities have meant increased employment in the area, and, because of the volume of mail the premium business generated, Maple Plain now has a First Class post office.

These—and Interplastic and St. Croix Corporation and many others—are the success stories, of course. There are also failures in this high risk business. But the venture capital companies that can't pick winners aren't around very long.

Across the United States, Small Business Investment Companies have provided the working capital for such diverse enterprises as three major mini-computer firms, Farrell's ice cream parlors, Marine World, and Lion Country Safari.

In these days of unstable market conditions and tight money, it should be good news to a lot of companies that there is money available in the Small Business Investment Company program—money assured by an amendment to the Small Business Administration Act passed last year.

The necessary capital is there, for the right venture.

## THE HOSPITAL BUILDING FRENZY

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. MICHEL. Mr. Speaker, I am sure most of my colleagues are aware of the series of articles entitled "Our Unplanned Hospitals" which were carried by the Washington Post beginning late last month.

Last week, during our debate on the HMO legislation I referred to that series in making the point that "hospital" has been a magic word in this chamber for too many years. No one feels he can justify an "antihospital" vote to the folks back home.

It has been so easy to associate better health care with new hospitals, because buildings are so highly visible. There they are—eye-catching, concrete examples of how much we really care about our sick and our poor, and how much we are doing for them. It is easy, but it is a copout.

I made the point then that the Post series could be written about many other parts of the country, as well as this area. We are over-building hospitals, and in the areas that need them least. The effect is just exactly the opposite of what we say we want. These unneeded hospital beds result in higher health costs, increased insurance costs, higher taxes and deterioration of the quality of health care provided—points that were well documented in the Post articles.

This morning the Post printed a letter from the Under Secretary of Health, Education, and Welfare, Frank C. Carlucci.

Mr. Carlucci has some very pertinent comments about the series and about that sacred cow known as the Hill-Burton program. I think his letter speaks for itself and I commend it to the attention of my colleagues.

It is time to stop taking the easy way out in the field of health care, and start looking further beyond the bricks and mortar that seem to hold such fascination for this body. The letter follows:

THE HOSPITAL BUILDING FRENZY

Post reporter Victor Cohn's excellent series exposing the health and inflation dangers inherent in this area's current hospital building frenzy illustrates, in fact, a national rather than simply a local problem.

As Mr. Cohn's articles amply documented, the medical "edifice complex" will not result in better medical care. Rather, it will lead inevitably to higher costs with no guarantee of improved care. It, in fact, has the potential for generating a deterioration in the quality of medical care.

The entire nation can be the beneficiary of this perceptive reporting if members of the Congress also read, and heed, the message in the articles. For the truth is that this area's experience with hospital over-construction and its resultant cost-push is being duplicated in communities, large and small all across the nation.

Empty hospital beds drive up prices in two ways. First and most obvious, the price of occupying beds must be increased to cover the cost of maintaining empty beds. Second and most subtly, the existence of the surplus contributes to utilization of hospitals when less costly care would suffice. This might be termed the "Mt. Everest fixation"—doctors use hospitals, the most expensive health care facility, "because they are there."

Hopefully, the Post series will be remembered as a lesson that over-construction of hospitals is not only a hospital or medical care problem—it is a basic pocketbook issue. Every citizen bears the brunt of over-building, either through higher insurance premiums or out-of-pocket expenses, or through higher taxes.

On a national basis, since 1966 the total expense per patient day in a hospital has more than doubled—from $48 to $130. And preliminary findings by the Maryland Health Services Cost Review Commission indicate that $19 or 17 per cent of each patient's daily hospital bill goes to support the cost of empty beds in that state.

In far too many cases in the past, I am sorry to relate, the federal government—through the Medical Facilities Construction Program, or Hill-Burton as it is better known—has contributed to the growing national excess in hospital beds by subsidizing unneeded hospital construction. President Nixon's budget for the current fiscal year proposed terminating Hill-Burton. The decision was made on the basis of a nationwide surplus of hospital beds—a surplus we estimated at about 200,000.

In our view, Hill-Burton is a classic example of the difficulty of phasing out a long-entrenched federal program even when its praiseworthy original goals have not only been met but exceeded. Such programs over the years build up large constituencies and groups of supporters, within the bureaucracy, the Congress and the general public. This is certainly true of Hill-Burton, which the Congress has voted to fund for still another year despite overwhelming evidence that it contributes to over-construction and the inflationary spiral now afflicting the entire medical care system.

In addition to proposing an end to Hill-Burton, the administration is moving on other fronts to counter hospital building excesses.

One major tool, as the articles reported, is the Comprehensive Health Planning (CHP) program, in which grants are made to states and communities to underwrite area-wide planning of the kind and scope necessary to assure maximum use of existing facilities, and to block over-construction of hospitals and other unnecessary facilities.

We have asked for $38 million for Comprehensive Health Planning agencies in fiscal 1974, a boost of $3 million over 1973 and $12 million above the 1972 budget figure. And under 1973 Medicare legislation, as Mr. Cohn noted, state health planning agencies will be empowered to recommend cut-off of Medicare and Medicaid interest and depreciation reimbursements for new hospital construction of expansion which they judge to be unnecessary.

But we do not pretend to be satisfied with the CHP program, and far more than increased funds is needed. CHPs need to be invigorated with a new sense of mission, and endowed with new powers and governmental support at all levels. They must get in there and do a job, rather than just write periodic reports mostly for internal consumption.

And, a bit further down the road we will report to the Congress and make recommendations for reform of all the federal programs involved in health planning and resource allocation.

Obviously, it is high time for the federal government and all segments of the health care industry to begin working together to assure quality care to all Americans—at a price they, and their country—can afford to pay.

FRANK C. CARLUCCI,
*Washington.*

## CHARTER FLIGHTS

### HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. ESCH. Mr. Speaker, I know that my colleagues and I want to see to it that the public is offered the safest, most dependable, and most economical air transportation possible. However, I rise today to indicate my deep concern over legislation under consideration in both Houses which would virtually allow supplemental air carriers—charter flights—to fly the routes of scheduled airlines at cutrate costs.

This bill, S. 1739, introduced by Senator CANNON, would lift the restrictions currently imposed by the Civil Aeronautics Board on supplementals by permitting the nonscheduled to sell directly to the public. In addition, this bill would authorize the CAB to let supplementals fly what amounts to individually ticketed, regular service in the United States and to countries abroad.

At first glance, this would appear to be a boon to the traveling public. Why not allow cheaper air transportation between our major cities? Why not allow the advantages of reduced charter fares to be available throughout the country?

The answer is that if enacted, this bill would endanger the very survival of our scheduled airlines, and would ultimately cost the public plenty in both convenience and increased fares. The question naturally arises as to how can this happen?

Today, more than one-half million people will fly aboard the U.S. scheduled airlines. Before the day has ended, the traveling public will have used at least 1 of nearly 14,000 scheduled airline flights to more than 500 airports, serving thousands of cities and towns in the United States and more than 130 points abroad.

About the same number did so yesterday and about the same number will do so tomorrow and every single day of the year. By the end of 1973, the scheduled airlines will carry more than 200 million passengers.

This has been made possible because the Congress and the responsible Federal agencies have carefully regulated the routes airlines can fly. The Government requires that the scheduled airlines serve many cities although it is unprofitable for them to do so. One large airline, for example, loses money on 40 percent of its routes but manages to break even on 40 percent and make a profit on the remaining 20 percent. The money lost in the name of public service, safety, and convenience, is made up in the profit made on heavily traveled routes. If these profitable routes were to become unprofitable, the scheduled airlines would be in serious trouble, as many already are. The proposed legislation would do just this. By allowing reduced fare charters to compete on normally scheduled routes would force airlines to curtail their unprofitable routes and raise their fares or be in danger of going out of business. The result would be less scheduled airline service to many communities, less choice in departure times, harder to get reservations, and higher air transportation costs.

Mr. Speaker, I do not believe that Congress would ever intentionally upset the fine balance of our air transportation system, but the enactment of S. 1739 or legislation similar to it would do just this.

I urge the members of the Interstate and Foreign Commerce Committee to carefully review this proposal. I do not believe there is one among us who would wish to see the excellent service provided by our scheduled airlines curtailed or eliminated through the enactment of poorly thought out legislation.

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## JAMES CAREY DIES, A DEDICATED TRADE UNIONIST

### HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Ms. ABZUG. Mr. Speaker, on September 11, James B. Carey, one of the foremost figures in the trade union movement in the United States, and a devoted fighter for freedom and democracy, died in Silver Spring, Md. During his distinguished career in trade unions, Mr. Carey founded and served as the first president of the International Union of Electrical, Radio, and Mechanical Workers, and helped to build the CIO, the AFL–CIO, and the International Confederation of Trade Unions. James Carey also turned his liberal ideals into political reality by becoming involved in electoral politics, civil rights and government movement. James B. Carey was a great man who devoted his life to furthering humanitarian ideals. I insert in the RECORD an obituary for James Carey which appeared in the September issue of the IUE News:

The orbituary follows:

1911 JAMES B. CAREY 1973

James B. Carey, a founder, first president and giant of IUE, is dead. Carey died suddently of a heart attack at his home in Silver Spring, Md., on Sept. 11. He was 62.

Less than 48 hours before, he had returned from the AFL–CIO Industrial Union Dept. Convention in Atlanta, where he received a standing ovation as the IUD's past secretary-treasurer.

"Jim Carey was a giant in his devotion to the well being of workers, in his concern for the oppressed, and in his dedication to free and democratic trade unionism," IUE President Paul Jennings said. "All IUE members deeply mourn his death. We owe him more than words can express."

The tart-tongued, diminutive, courageous Carey was a major figure in the growth of industrial unionism in the U.S. He helped build the IUE, the CIO, the AFL–CIO and the International Confederation of Free Trade Unions. He helped lay the groundwork for, and was an early leader in, the U.S. civil rights revolution. He was a vigorous and effective fighter against union domination by outside forces. He was an advocate of union political action and a campaigner for liberal candidates, from Franklin D. Roosevelt to Lyndon B. Johnson.

Born in Philadelphia into a large, union-oriented family, Carey joined his first union as a teen-aged move projectionist. As a Philco employee in the early 1930s, he helped lead a successful strike of 5,000 workers in 1933, chaired the commitee that negotiated a first contract and became a leader of the AFL Federal Labor Union that eventually became IUE Local 101.

At the age of 21, Carey was elected first president of the first electrical, radio and machine industrial union in the U.S., the Radio and Allied Trades National Labor Council. In the following year, 1934, he was named an AFL general organizer. Two years later, he was elected first president of a new industrial union, the United Electrical, Radio and Machine Workers.

During this period, Carey helped promote the industrial unionism that was sweeping the country. Recognition of his role was affirmed in 1938, when he was elected secretary (later secretary-treasurer) at the founding convention of the Congress of Industrial Organizations.

As a vigorous opponent of communism and supporter of FDR's foreign policy, Carey was defeated for reelection as UE president in 1941. During the next eight years, he campaigned against Communist domination of unions. He was a leader in the UE Members for Democratic Action whose national meeting in Dayton May 7–8, 1949, marked the beginning of IUE.

Later that year, the CIO ousted the UE and chartered the IUE–CIO. Carey was named chairman of the administrative committee and later first president.

Carey served for 15 years as president. During this period, the IUE negotiated major chain-wide contracts, scored breakthroughs in pension, severance pay and other areas, and demonstrated its commitment to human and civil rights.

Carey also played a key role on the committee that laid the groundwork for the AFL–CIO merger. In 1955, he was elected a federation vice president.

He also represented the CIO at the founding of the United Nations and in the establishment of the non-communist ICFTU.

He frequently testified before Congress, pressing for union rights and for decent treatment of working people. He served on numerous government commissions, including President Truman's Committee on Civil Rights.

Carey was proud of his work on the committee, was proud to be a leader in the historic March on Washington for Jobs and Freedom in 1963, and was proud to be at Selma, Ala., with Martin Luther King in 1965.

It was the union democracy for which he stood that produced Carey's defeat for reelection as IUE president. After Jennings' victory in the 1964 membership vote was affirmed by the Labor Dept. early in 1965, Carey resigned the presidency.

He lent his assistance to Jennings whenever called upon in the ensuing years. During this period, Carey served one of the causes he loved, as labor representative of the United Nations Assn. He retired from that post last year.

Speaking to the International Executive Board just prior to the 1972 IUE Convention, Carey urged the union to continue to fight for the rank and file of the world in the spirit of the CIO. And of himself, he added: "I have pleasant and happy memories."

DEDICATION

Jim Carey's sudden death brought tributes from many.

AFL–CIO President George Meany said, "We are shocked and saddened at the news of Jim's death. He was a staunch supporter of the rights of workers, a consistent voice for liberalism and he made a unique contribution to the cause of trade unionism."

Former District 1 President Harry Block, a close associate of Carey's for many years, said, "There would not have been an IUE if it had not been for Jim, Mass production workers in the electrical industry have lost their leader and minority groups also lost a leader because he was in the forefront of their fight."

Secretary-Treasurer David J. Fitzmaurice said, "Jim Carey's dedication to working people contributed tremendously to the nuity and advancement of organized labor. He was never afraid of the big boys, be they anti-union bosses or bigots. His record eloquently speaks for itself."

Msgr. George Higgins, secretary for research of the U.S. Catholic Conference, said, "Jimmy Carey was one of the most dedicated trade unionists I have ever met. The problems he encountered in his later years do not in any way minimize his many contributions to the cause of social justice both at home and abroad. . . . I am going to miss him very much. May he rest in peace."

Carey is survived by his wife, the former Margaret McCormick; a daughter, Patricia Ann; a son, James B., Jr.; 6 sisters and 2 brothers.

Carey's funeral was scheduled Sept. 13 in Silver Spring, Md. Msgr. Higgins was to officiate and the announced pallbearers included: IUE President Paul Jennings, Block, Fitzmaurice, Jennings' assistant and former Secretary-Treasurer George Collins, IUE COPE and Legislative Director John Callahan and Howard Holman of IUD.

## PHILLIP NILES—A QUADRIPLEGIC HERO

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## HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 18, 1973*

Mr. LEGGETT. Mr. Speaker, during the last decade, starting with Vietnam and continuing through the Watergate disaster, disillusionment and cynicism have become widespread in our country. One of the effects of these emotions is the frequent claim that America no longer breeds heroes. Today I would like to draw the attention of the House to one of my constituents, Phillip Niles, of Vallejo, Calif., whose extraordinary physical and moral courage disproves this claim.

Phillip Niles was recently named the California Department of Rehabilitation's Pleasant Hill rehabilitant of the year. In 1961, at the age of 15, Mr. Niles broke his neck and back in an automobile accident. The result of this catastrophic injury is that he was doomed to live life as a quadriplegic-paralyzed in all four limbs.

Quadriplegia is one of the most disabling of all medical conditions. The psychological blow is sometimes even more severe than the tangible physical effects. In order to achieve any rehabilitation, the quadriplegic must maintain morale while almost totally helpless.

For almost 3 years after his accident, Phillip was given intensive medical treatment. In May of 1964 he applied for help at the Department of Rehabilitation. Here, for the past 9 years, he has received extensive services aimed at his rehabilitation, including counselling, academic training, transportation, school supplies, and a van modified for driving.

With the help of his counsellor, Bridget Glidden, Phillip has come a long way toward achieving his goals of independence and employment. Now 27 years old, he has an A.A. degree from Diablo Valley College, drives a motor vehicle, and is employed at Robin-aides, Inc. a medical prosthetics group in Vallejo, Calif. as director of sales promotion.

Phillip Niles' 12-year struggle to overcome the handicaps imposed by quadriplegia has required an almost superhuman amount of courage, perseverance, and dedication. Without these qualities, all the help and services in the world would have done him little good. It is these qualities which characterize a hero. A person who stands above his peers. It is the demonstration of these qualities by Phillip Niles which proves that heroism is not dead in America.

I would like to congratulate Phillip Niles on his being named the California Department of Rehabilitation's Pleasant Hill District rehabilitant of the year, and express my unbounded admiration and respect for the qualities he has displayed in deserving this honor.

A description of the Pleasant Hill Rehabilitation District follows:

THE STATE OF CALIFORNIA, DEPARTMENT OF REHABILITATION, PLEASANT HILL DISTRICT

The Department helps disabled persons who have difficulty gaining or keeping employment. Such persons might include a carpenter who injured his back and can no longer work in his trade; a former teacher who, because of an automobile accident and brain damage cannot talk clearly; a high school student who is in special classes and because of birth defects has not learned to read or write, or a person who might have lost employment due to alcoholism, drug addiction, or emotional problems.

Last year the Department worked with persons who had every imaginable type of disability, helping over 15,000 of them return to employment. It helped them by evaluation of their problems and developing with them plans for overcoming their disabilities and for gaining employment. Such plans might include: counseling, training, transportation, the purchase of tools and work clothing, licenses, auto repairs, and other similar services, when these services are not elsewhere available or cannot be afforded by the client.

The activities of the Department are paid for by a return of money to the State through the taxation of income gained by the persons rehabilitated. In addition, millions of dollars are saved in reduced welfare benefits. The average cost of supporting a disabled person on Public Assistance for the rest of his life is over $100,000. The average cost of rehabilitation is under $3,500 per person.

The chief product of the Department is not, however, a saving in money . . . its primary accomplishment is the restoration of disabled individuals to live a full and productive life.

The local Pleasant Hill District of the Department of Rehabilitation provides service to over 3,000 residents of Contra Costa, Napa and Solano Counties. Offices are located in Napa, Vallejo, Richmond, San Pablo, Pittsburg and Pleasant Hill.

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# HOUSE OF REPRESENTATIVES—*Wednesday, September 19, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Wait on the Lord; be of good courage and He shall strengthen your heart.*—Psalms 27: 14.

Once again, our Father, we take Thy holy name upon our lips; once again we thank Thee for Thy goodness which has attended us all our days; once again we come to Thee for the uplifting experience of Thy presence.

Our prayer is not only that we may do our work, but that we may do it well; not only that we do what is right, but that we like to do what is right; not only that we be genuinely good, but that we enjoy being genuinely good.

Help us to take this bit of Thy creation we call the United States of America and mold it into a greater country, making life on this land a better and brighter experience for all our people. To this end may Thy strength support us, Thy wisdom make us wise, and Thy love keep us good. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 776. An act to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 607) entitled "An act to amend the Lead Based Paint Poisoning Prevention Act, and for other purposes," agrees to the conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, MR. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. MONDALE, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, and Mr. TAFT to be the conferees on the part of the Senate.

The message also announced that Senator BROOKE was appointed as a conferee in the place of Senator TOWER on S. 1141, to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars.

### MAKING IN ORDER CONSIDERATION OF CONTINUING RESOLUTION

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order on Monday of next week, or any day thereafter, to consider a joint resolution making further continuing appropriations for the fiscal year 1974 beyond September 30, which is the expiration date of the present continuing resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to ask the gentleman, would the continuing resolution be open to amendment, and under what parliamentary procedure would debate be had on the resolution?

Mr. MAHON. I will say to my friend, the gentleman from Iowa, it will be proposed to consider the measure under the 5-minute rule. There will be opportunity to amend the continuing resolution.

The principle of the continuing resolution, of course, is to enable the Government to continue to operate in areas where appropriations have not been enacted into law. So we would propose only to change the date of the present continuing resolution. There is nothing proposed which is dramatic or different from the usual procedure.

Mr. GROSS. The resolution would be subject to amendment?

Mr. MAHON. The gentleman is entirely correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT SEPTEMBER 20, 1973, TO FILE A REPORT ON A JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1974

**Mr. MAHON.** Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tomorrow to file a report on a joint resolution making further continuing appropriations for the fiscal year ending June 30, 1974, and for other purposes.

Mr. CEDERBERG reserved all points of order on the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## PERMISSION FOR SELECT COMMITTEE ON SMALL BUSINESS TO SIT DURING MEETINGS OF HOUSE TODAY AND TOMORROW

**Mr. HUNGATE.** Mr. Speaker, at the request of the House Select Committee on Small Business I ask unanimous consent that the committee may sit during meetings of the House today and tomorrow, September 19 and 20.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## LOWER RIO GRANDE AND COLORADO RIVERS

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

**Mr. DE LA GARZA.** Mr. Speaker, as Representative from the 15th District of Texas, which lies on the international boundary between the United States and Mexico, I am encouraged by the news that the Department of the Interior is ready to implement the agreement entered into on August 30 by the two countries to provide lasting benefits for water users on both sides of the boundary.

To be sure, this agreement does not directly affect my district. It has to do with improving the quality of the water which the United States delivers to Mexico in the Colorado River. The significance of the agreement, so far as I am concerned, is that it resolves a problem which has plagued United States-Mexican relations for years and demonstrates the willingness of the United States to work with Mexico in removing inequities in relations between the two countries. And it shows that through mutual effort and with good will on both sides, deeply conflicting interests between nations of this hemisphere can be reconciled constructively and amicably.

These are factors of great importance to the people of my district. We have our own problems with the Lower Rio Grande which adversely affect the agricultural producers of south Texas. I am hopeful that the agreement reached with respect to the Colorado River is an indication that the appropriate agencies will move on to deal with our problem in south Texas and that the same atmosphere of cooperation and good will can prevail.

## FEDERAL HOUSING POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-152)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Banking and Currency and ordered to be printed:

*To the Congress of the United States:*

Six months ago, in my State of the Union Message on Community Development, I announced a sweeping study of Federal housing policy. I said then that its results would be used in formulating new Administration recommendations in this extremely important field.

That study has been completed—and my recommendations are ready. In keeping with the breadth of the issues involved in housing, both the study and my proposals cover a wide spectrum.

- —Some of the actions discussed in this message are designed to ease the tight credit conditions in the current housing market.
- —Others are intended to improve prospects for potential homebuyers to obtain mortgages over the longer term.
- —Some of these proposals reflect my conviction that the housing needs of lower income families require a different approach than we have taken in the past.
- —Still other actions are designed to meet other special needs and to update and improve current Federal programs which have been working.

The measures I suggest today can bring us closer to a long-established goal. As I indicated in my message last March, this Administration will not waver in its commitment to the objective of the Housing Act of 1949: "a decent home and a suitable living environment for every American family." While our Nation has made tremendous strides toward that objective in the quarter-century since it was first enunciated, those very strides have carried us into new terrain, presenting new problems and new opportunities. The nature of the challenge has been changing—and our response must change accordingly.

### A PROUD RECORD

The housing record of recent decades should be a source of pride for all Americans. For example, the proportion of our people who live in substandard housing dropped from 43 percent in 1940 to only 7 percent in 1970. During the same period, the proportion of Americans living in houses with more than one person per room dropped from 20 percent to 8 percent and the proportion of our housing which is considered "dilapidated" fell from over 18 percent to less than 5 percent.

To be sure, these indicators are imprecise—and we need to improve the ways we collect housing data. But all of these measures, however crude, point to an inescapable conclusion: very substantial progress has been made in the housing field and the benefits have been shared by Americans of all races and economic groups in all regions of the country.

In recent years, housing production in America has reached unprecedented levels. The average number of housing starts in the last twelve months was more than double the average for the previous two decades and we expect the next twelve months to be another excellent year for housing.

The ability of our economy to provide vastly expanded housing has been one of the strongest indications of its fundamental vitality. Our people have been able to match their growing desire for housing with growing purchasing power. Our housing industry has been able to expand its production and update its product. And our credit institutions have been able to finance this massive wave of construction in a way which has enabled a broad cross-section of Americans to participate in its benefits.

The state of America's housing will continue to depend on the state of America's economy more than on any other factor. Specific policies aimed at housing can help. But—as our housing study concludes—the forces which will do the most to shape the future of housing in America will be the forces of the marketplace: families with sufficient real income and sufficient confidence to create an effective demand for better housing on the one hand, and builders and credit institutions able to respond to that demand on the other.

But even as good housing has become a reality for most Americans, it is clear that certain important problems still exist. Two are especially significant. First, we are facing certain problems in providing adequate housing credit—and we must move promptly to resolve them. Second, too many low-income families have been left behind: they still live in substandard, overcrowded and dilapidated housing—and we must help them meet their needs. This message and the legislation I will seek from the Congress focus primarily on these two challenges.

### I. MAKING HOMEOWNERSHIP EASIER

Credit is the life-blood of housing. Without an adequate supply of credit repayable over an extended period of time at reasonable interest rates, very few families could afford to purchase their own homes. Nor could landlords either develop an adequate supply of rental housing or make it available at reasonable rental charges.

One of the most important actions the Federal Government has taken in the housing field was its decision in the

1930's to restructure our housing credit system. The introduction then of Federal insurance for low downpayment, long-term mortgages—first by the Federal Housing Administration (the FHA), and later by the Farmers Home Administration (the FmHA) and the Veterans Administration (the VA)—encouraged lenders to provide home mortgages on attractive terms to millions of American families.

At the same time, the Federal decision to insure savings deposits meant that billions of additional dollars began to flow into our banks and into thrift institutions, such as savings and loan associations. Other Federal policies led these institutions to invest most of this money in housing loans, creating vast new pools of housing credit.

Although these systems have served us well for a long time, the need for improvement has become increasingly evident in recent years. More and more, we find ourselves facing either feast or famine with respect to housing credit.

When interest rates are relatively stable, we find that we have an abundance of mortgage credit available on reasonable terms, as was true in 1971, 1972 and earlier this year. Whenever interest rates move up rapidly, however, mortgage credit becomes extremely scarce. This occurred in 1966 and 1969 and it has been happening again in recent months. As a result, it has become more difficult for an American family to buy or sell a home. Even where credit is available, the combination of higher interest rates and higher downpayment requirements is pricing too many of our families out of the housing market.

Why does this feast or famine situation exist?

As I pointed out in my message of August 3d on the reform of financial institutions, one principal reason is the fact that our thrift institutions are unable to compete effectively for depositors' funds when interest rates rise quickly. The problem is a structural one: savings and loan associations are now required to invest most of their deposits in residential mortgages, which carry fixed interest rates over long periods of time. When other interest rates rise rapidly, the interest rates on their mortgage portfolios cannot keep pace—and as a consequence neither can the rates they pay to their depositors. The result is that depositors often draw their savings out of the thrift institutions—or at least cut down their rate of saving leaving the thrift institutions with much less money to invest in housing. I believe this special problem can be met through the recommendations I described in my message of August 3d.

But structural difficulties are only part of the problem. A number of additional factors also help explain why mortgage money is becoming so expensive.

One major cause is the housing boom itself, which has led to unprecedented demands for credit—and rising costs for money. In addition, inflationary fears have influenced lenders to raise their interest rates as a matter of self-protection. Finally, the Federal Reserve Board has been working to restrict the money supply in order to fight inflation. Such restrictions are important, for without them we might win the immediate battle in housing but lose the long-range war in the rest of the economy, including the housing field.

But even as we pursue a responsible monetary policy, we must avoid choking off the consumer credit which families require to meet their needs. That would also be dangerous to the economy. I am particularly concerned that the burdens of fighting inflation not fall unfairly on those who want to buy a home—or sell one.

We have a delicate and difficult balance to maintain. We cannot relent in the fight against inflation, which is our No. 1 domestic problem. Nor can we expect to insulate housing from the effects of that effort. In fact, all of our measures to control inflation—including our efforts to hold down Federal spending—are essential in keeping down both the price of housing and the price of money in the long run. This requirement necessarily limits what can be prudently done to stimulate housing credit in the short run.

Nevertheless, there are some actions that can be taken on the credit front—and I intend to take them. In fact, we have already launched a number of efforts. The Committee on Interest and Dividends has instituted voluntary guidelines designed to encourage banks to keep up their levels of mortgage lending. The Federal Reserve Board has engaged in similar efforts. The Federal National Mortgage Association has stepped up its mortgage commitment and purchasing operations to free up funds for further lending. The Federal Home Loan Bank Board has lowered the reserve requirements for lending operations of its member institutions and has stepped up its advancement of funds to them.

I am today announcing a number of additional administrative actions and legislative proposals designed to do two things: first, to help alleviate the immediate housing credit problem; and second, to improve for the longer term the supply of housing credit and the ability of our people to use it.

### EASING CURRENT CREDIT CONDITIONS

1. *Increasing the incentive for savings and loan associations to finance housing construction.*

As money has become tighter, savings and loan institutions have become increasingly reluctant to commit housing construction loans for delivery at future dates. The reason is their uncertainty as to whether they will have enough funds to lend then at the interest rates which exist now.

Accordingly, the Federal Home Loan Bank Board will authorize a new program of "forward commitments" to savings and loan associations, promising to loan money to them at a future date should they need it to cover the commitments they now are making. This authority will cover up to $2.5 billion in loan commitments.

2. *Providing interest rate assistance to Federally insured borrowers.*

The Department of Housing and Urban Development will also join in the effort to ease the current mortgage credit problem by reinstituting the so-called "Tandem Plan" under the auspices of its Government National Mortgage Association. Under this plan, the GNMA will provide money for FHA-insured mortgages at interest rates somewhat below the market level. To encourage new construction, only mortgages on new housing starts will be eligible for this assistance. Up to $3 billion in mortgages for new housing will be financed under this arrangement, making loans available at attractive rates to tens of thousands of American homebuyers.

3. *Increasing the size of mortgages eligible for Federal insurance.*

The Federal Government presently encourages lenders to put money into housing by insuring mortgages involving low downpayments and long repayment periods. The Government guarantees, in effect, that lenders will be protected in the event of a default on the loan. Such mortgage insurance, whether it is provided by the Federal Government or by private institutions, is particularly important in making mortgages available to younger families and others who do not have enough savings to make a large downpayment or enough income to make the higher monthly payments that come with shorter mortgage terms.

The Congress periodically sets limits on the size of a mortgage loan which the FHA can insure and adjusts the downpayment requirement. The last time this was done was in 1968. Although realistic then, the current ceiling and downpayment terms are unrealistic in today's housing market. As a result, FHA insurance for multifamily units has been completely cut off and FHA-insured financing is impossible for any home purchase in a large and growing number of areas across the country.

To remedy this problem, I ask the Congress to authorize the FHA to insure larger housing loans on a low downpayment basis both for single and for multifamily dwellings.

Such a change would revive Federal insurance activity in areas where it has been curtailed. In addition, it would permit at least a partial resumption of housing loan activity in certain States where anachronistic usury laws impose interest ceilings lower than current market rates and thefefore shut off mortgage lending. Many of these States exempt Federally-insured loans from such interest ceilings—which means that Federal insurance is a prerequisite for obtaining a housing loan in these jurisdictions. This makes it all the more important that the Congress act promptly on my proposal to expand the reach of our Federal mortgage insurance programs.

### MAKING LONG-TERM IMPROVEMENTS IN THE CREDIT SYSTEM

1. *Permitting homebuyers to pay market-level interest rates and still be eligible for Federal insurance.*

In an effort to hold down the cost of borrowing, the Congress has limited the interest rates which a home mortgage can carry and still be eligible for FHA and VA insurance. Unfortunately, setting the interest rate below market rates does not accomplish this intended purpose.

The reason is that lenders will simply not make their money available for housing at a lower rate than they can get from a comparable investment elsewhere. If the Government's interest limit for a mortgage is set below the general market level interest rate, the lender who still puts money into housing will supplement this artificially low interest rate by requiring a special additional payment. This payment—which is really prepaid interest—is made in a lump sum at the time the loan is made and is commonly called "points."

Although points are usually charged to the seller of a house, they are generally added to the selling price and thus are paid by the buyer just the same.

This practice can have a number of unfortunate side-effects. By raising the overall price of the home, points can also raise the size of the downpayment. Moreover, when the price of a house goes up, so does the cost of insuring that house, of paying property taxes on it and of making monthly mortgage payments. An added inequity arises when a home is resold before the mortgage term has run its course—which is the usual case. Since the points were paid to compensate the lender for what he would lose on interest over the full term of the mortgage, the lender can reap an unfair profit when the mortgage is paid off early.

In short, the ceiling on interest rates does just the reverse of what it was intended to do. To end this practice, I again urge the Congress to allow the FHA and the VA to insure mortgages carrying market rates of interest. This proposal would end the need for charging points; indeed, it would prohibit charging such prepaid interest points on these insured mortgages. Hopefully, those States which also have ceilings on mortgage interest rates will take similar action to eliminate their ceilings.

2. *Authorizing more flexible repayment plans under Federally insured mortgages.*

Many innovative changes in housing finance have been introduced by the Federal Government. It is important that we continue to pursue such innovation—and one area that is particularly ripe for new experiments involves the schedule for repaying mortgages.

To further such innovation, I will seek legislation permitting the Secretary of Housing and Urban Development to allow greater flexibility in repayment arrangements for Federally insured loans on an experimental basis.

One possibility which would be tested under this authority is that of gearing the level of repayments to expected changes in family income. Rather than making the same flat payment over the life of the loan, families would make smaller payments in the earlier years—when they are hardest pressed—and larger payments later on—when their incomes are higher. This provision could help younger families purchase homes earlier in life than they can today and it could help them make an earlier purchase of the home in which they will eventually live, rather than making frequent moves from one home to another as their incomes rise.

3. *Establishing a mortgage interest tax credit.*

As another means of ensuring a steady supply of housing credit, I will propose legislation which would allow investors a tax credit on the interest they earn when they put their money into residential mortgages. This proposal would make investment in housing loans more attractive in two ways: first, it would make them more attractive to those institutions which traditionally have provided mortgage money; and second, it would give organizations which pool mortgages a better chance to compete for funds in the so-called "secondary market"—from pension funds, insurance companies, various State institutions and the like.

Under my proposal, a tax credit of up to 3½ percent would be provided on interest earnings to financial institutions which invest a certain percentage of their investment portfolio in residential mortgages. The greater the proportion of the portfolio invested in mortgages, the higher the tax credit on interest earned by all the mortgages in the portfolio. When at least 70 percent of a portfolio was invested in mortgages, the tax credit on the interest those mortgages earn would be 3½ percent—the equivalent, at current interest levels, of an additional interest yield of more than one-half of one percent.

4. *Furthering the development of private mortgage insurance companies.*

Another significant proposal in the credit area concerns private mortgage insurance companies. These companies perform a function similar to that of the FHA, the VA, and the FmHA—they insure residential mortgages with lower downpayments and for longer terms than would ordinarily be available. However, the premiums they charge for such insurance are much lower than those of the Federal agencies. Such private mortgage insurance companies have become a significant factor in the housing market in recent years and we should encourage their continued development.

To help further this objective, I recommend that the Congress—along with the Administration—consider ways of allowing private mortgage insurance companies to purchase inexpensive Federal reinsurance. To this end, I will submit legislation which can provide a basis for this discussion. Such insurance would provide added protection to the owner of a mortgage and could speed the acceptance of private mortgage insurance, especially in secondary markets. It could thus make available even more sources of low downpayment, long-term home financing for prospective home buyers.

### II. THE CHALLENGE OF LOW-INCOME HOUSING

Since 1937, the Federal Government has tried to help low income families by providing housing for them. Over the years, nearly $90 billion of the taxpayers' money has been spent or committed for public housing projects and other subsidized housing programs.

These programs have been particularly active during the past few years. Since 1969, the Federal Government has subsidized nearly 1.6 million units of new housing and over 400,000 units of existing and rehabilitated housing. These 2 million units will cost taxpayers an estimated $2.5 billion in each of the next few years and could cost us close to $50 billion altogether.

### THE FAILURES OF FEDERAL HOUSING PROGRAMS

But what have we been getting for all this money?

Federal programs have produced some good housing—but they have also produced some of the worst housing in America. Our recent study makes this clear—and so does my own experience.

I have seen a number of our public housing projects. Some of them are impressive, but too many are monstrous, depressing places—run down, overcrowded, crime-ridden, falling apart.

The residents of these projects are often strangers to one another—with little sense of belonging. And because so many poor people are so heavily concentrated in these projects, they often feel cut off from the mainstream of American life.

A particularly dramatic example of the failure of Federal housing projects is the Pruitt-Igoe project in St. Louis. It was nominated for all sorts of awards when it was built 17 years ago. It was supposed to house some 2,700 families—but it simply didn't work. In fact, a study of this project was published two years ago with the appropriate subtitle: "Life in a Federal Slum."

Last month, we agreed to tear down this Federal slum—every unit of it. Almost everyone thought it was the best thing we could do.

Pruitt-Igoe is only one example of an all too common problem. All across America, the Federal Government has become the biggest slumlord in history.

But the quality of Federally-assisted housing is by no means the only problem. Our present approach is also highly inequitable. Rather than treating those in equal circumstances equally, it arbitrarily selects only a few low income families to live in Federally supported housing, while ignoring others. Moreover, the few often get a *new* home, while many other families—including those who pay the taxes to support these programs—must make do with inferior older housing. And since recipients often lose their eligibility for public housing when they exceed a certain income level, the present approach can actually reward dependence and discourage self-reliance.

The present approach is also very wasteful, for it concentrates on the most expensive means of housing the poor, new buildings, and ignores the potential for using good existing housing. Government involvement adds additional waste; our recent study shows that it costs between 15 and 40 percent more for the Government to provide housing for people than for people to acquire that same housing themselves on the private market.

One of the most disturbing aspects of the current approach is the fact that families are offered subsidized housing on a "take it or leave it" basis—losing their basic right to choose the house they will live in and the place they will live. Too often they are simply warehoused together wherever the Government puts them. They are treated as a class apart, with little freedom to make their own decisions.

### DEVELOPING A BETTER APPROACH

Leaders of all political persuasions and from all levels of government have given a great deal of thought in recent years to the problem of low-income housing. Many of them agree that the Federally-subsidized housing approach has failed. And many of them also agree on the reasons for that failure.

The main flaw they point to in the old approach is its underlying assumption that the basic problem of the poor is a lack of housing rather than a lack of income. Instead of treating the root cause of the problem—the inability to pay for housing—the Government has been attacking the symptom. We have been helping the builders directly and the poor only indirectly, rather than providing assistance directly to low income families.

In place of this old approach, many people have suggested a new approach—direct cash assistance. Under this approach, instead of providing a poor family with a place to live, the Federal Government would provide qualified recipients with an appropriate housing payment and would then let them choose their own homes on the private market. The payment would be carefully scaled to make up the difference between what a family could afford on its own for housing and the cost of safe and sanitary housing in that geographic area. This plan would give the poor the freedom and responsibility to make their own choices about housing—and it would eventually get the Federal Government out of the housing business.

Not surprisingly, our recent housing study indicates what others have been saying: of the policy alternatives available, the most promising way to achieve decent housing for all of our families at an acceptable cost appears to be direct cash assistance.

Our best information to date indicates that direct cash assistance will in the long run be the most equitable, least expensive approach to achieving our goal of a decent home for all Americans—a goal I am committed to meeting. It appears to be a policy that will work—not a policy where success will always be a mirage. However, it may develop that the advantages we now see for direct cash assistance will be outweighed by other factors not presently foreseen or that such advantages may be obtainable in alternative ways which offer additional advantages. In that event, I would, of course, reexamine the situation in partnership with the Congress before moving ahead. But right now, in my judgment, our principal efforts should be directed toward determining whether a policy of direct cash assistance—with first priority for the elderly poor—can be put into practical operation.

As we proceed with new policies for aiding lower income families, we must also move with caution. Too often in the past new Federal programs have been launched on a sea of taxpayers' dollars with the best intentions but with too little information about how they would work in practice. The results have been less than what was promised and have not been consistent with the Government's obligation to spend the taxpayers' money as effectively as possible.

One particular problem is that past efforts in one area of assistance have tended to ignore programs in other areas, resulting in an inequitable hodge-podge activity which satisfies no one. In this regard, the relationship between housing programs and welfare payments is particularly critical. We must carefully consider the ways in which our housing programs will relate to other programs which also assist low income persons.

Some field work has already begun with respect to direct cash assistance in the area of housing for those with low incomes. In 1970 the Congress authorized housing allowance experiments involving over 18,000 families and costing over $150 million. We expect preliminary data to emerge from these tests in the coming months and we intend to use these data as we evaluate the possibility of further efforts.

This work should help us answer some important and difficult questions.

What, for example, is the appropriate proportion of income that lower income families should pay for housing? Should this level be higher or lower for different kinds of families—for young families with children, for example, or for the elderly, or for other groups? Should families receiving Federal aid be required to spend any particular amount on housing? If they are, and the requirement is high, what kind of inflationary pressures, if any, would that produce in tight housing markets and what steps could be taken to ease those pressures? In the important case where poor families already own their own housing, how should that fact be weighed in measuring their income level? How should the program be applied in the case of younger families who have parents living with them?

All these questions are critical—and they deserve close examination.

In addition, I am also asking the Congress for authority to take two other steps to help us test the cash assistance approach.

First, we need to expand our experimental programs to test additional techniques for administration.

Second, we need to develop and put into effect the appropriate mechanisms for measuring the cost of safe and sanitary housing in various parts of the country. Sound, reliable cost information of this kind would be of vital importance to a fully operational program.

If these steps can be taken in the near future, then I believe we will have the basic information needed to make a final decision concerning this approach late in 1974 or early in 1975.

### A CONTINUING NEED FOR LIMITED CONSTRUCTION PROGRAMS

During the period in which a new approach is being developed, there will be a continuing need to provide housing for some low income families. We must recognize that in some areas of the country there will simply not be a sufficient supply of housing for the foreseeable future. I therefore propose that the Federal Government continue to assist in providing a limited amount of construction for low income housing—though I would expect to use this approach sparingly.

To eliminate the many tangled problems which attend the delivery of subsidies under current construction programs, I am recommending a new approach to construction assistance by the Federal Government. Under this approach, the developer would make newly constructed units available at special rents for low income families and the Government in return would pay the developer the difference between such rents and fair market rents.

During the remainder of fiscal year 1974, the Department of Housing and Urban Development will continue to process subsidy applications for units which had moved most of the way through the application process by January 5 of this year. In addition, the Department will process applications in cases where bona fide commitments have been made.

I am advised by the Secretary for Housing and Urban Development that one of the existing construction programs—the Section 23 program under which new and existing housing is leased for low income families—can be administered in a way which carries out some of the principles of direct cash assistance. If administered in this way, this program could also provide valuable information for us to use in developing this new approach.

Accordingly, I am lifting the suspension of January 5 with respect to these Section 23 programs. I am also directing the Secretary of Housing and Urban Development to take whatever administrative steps are available to him to eliminate any abuses from such programs and to bring them into line as closely as possible with the direct cash assistance approach.

Altogether, in order to meet bona fide commitments requiring action during this fiscal year and to carry out the Section 23 program, authorization has now been given to process applications for an additional 200,000 units, 150,000 units of which would be new construction.

### IMPROVING THE OPERATION OF PRESENT PUBLIC HOUSING

There was a time when the only continuing Federal expense connected with public housing after it was built was paying the debts incurred in building it. Other expenses were met from rental income.

As time went on, however, laws were passed making the Federal Government liable for operating deficits. In recent years, as the operating costs of public housing projects has increased and as the income level and rent payments of their occupants have decreased, the cost of such projects for the Federal Government has gone up at an alarming rate. The Federal bill for operating subsidies has grown more than eightfold since 1969—from $33 million annually to $280 million annually—and an additional $1 billion has been obligated for capital improvements.

Moreover, as efforts have been made in recent years to prevent tenants from paying too much of their incomes for housing, some housing managements have been persuaded that some tenants should pay nothing at all. The Federal Government then picks up a good part of the tab, adding considerably to the costs of maintaining these projects.

This growing financial burden for the Federal Government is only one of many problems relating to public housing. Because the local housing authority is responsible for the management of public housing projects while the Federal Government is responsible for project deficits, including those due to poor management, the local authority has little incentive to improve management standards.

There are also indications that even with improved management and a more realistic approach to rents, current Federal subsidies may need to be adjusted to provide for continued operation and maintenance of these projects.

In view of these many problems, I have asked the Secretary of Housing and Urban Development to develop a set of recommendations addressing each of these problems. One of our goals will be to achieve a more equitable sharing of responsibility among the Federal Government, local communities and residents.

## III. ADDITIONAL ACTIONS TO MEET OUR HOUSING NEEDS

### NEIGHBORHOOD PRESERVATION

Simply providing Federal housing assistance to families without proper regard for the condition of the neighborhood as a whole too often results in unmet expectations for the families, added burdens for the municipality and a waste of the taxpayers' dollars. It is important, therefore, that all of our efforts in the housing and community development field be carried out as a partnership venture of the Federal Government, the local government, local financial institutions and the citizens of the neighborhoods involved.

Added resources such as those which would be available under my proposed $2.3 billion Better Communities Act can provide important support for these efforts. To smooth the transition to the Better Communities Act, I am directing the Department of Housing and Urban Development to make available up to $60 million in section 312 rehabilitation loans in the current fiscal year. Priority will be given to those communities which need these loans to complete present projects or where complementary local rehabilitation efforts have already been launched.

In addition, I have directed the Secretary of Housing and Urban Development, using his research and demonstration funds, to pursue promising approaches to neighborhood preservation which might be adopted by communities on a broader basis.

### IMPROVING RURAL HOUSING

The problems of providing good housing in our rural areas are especially challenging, not only because the proportion of substandard housing is greater in rural areas but also because these areas often lack the resources to foster greater economic development—and better housing. Of course, many of our housing programs and proposals are designed to assist all families, urban and rural alike. But there is also a special need to address in a special way the rural housing challenge.

Our recent housing study concludes that the basic housing problem in many rural areas is that our major financial institutions are not represented in these areas and that credit is therefore inadequate. The Farmers Home Administration has done a great deal to help change this picture—but further efforts are needed. At my direction, the Department of Agriculture and the Department of Housing and Urban Development will seek additional ways of correcting this situation and increasing credit availability in rural areas.

In my Community Development Message last March 8th, I emphasized that "in pursuing a policy of balanced development for our community life, we must always keep the needs of rural America clearly in sight." I mentioned then my continuing support for a revenue sharing approach for rural development, acknowledging that the Rural Development Act fell short of what I preferred in this regard. I went on to indicate my intention, after fully evaluating the effectiveness of this act, to seek whatever additional legislation may be needed. I repeat that pledge today.

### A SUITABLE LIVING ENVIRONMENT

The housing we live in and the environment surrounding that housing are inextricably linked. In the final analysis, the quality of housing depends on matters such as transportation, proximity to educational and health services, and the availability of jobs and shopping. It also depends on economic factors which are shaped by the larger community. One important finding of our housing study was that the costs of the land on which new housing is located has risen faster than any other cost component of housing.

The Congress, too, has recognized these relationships in its finding "that Federal programs affect the location of population, economic growth, and the character of urban development [and] that such programs frequently conflict and result in undesirable and costly patterns of urban development which adversely affect the environment and wastefully use our natural resources."

It is clear that housing policy cannot be considered separately from other policies related to the economic, social and physical aspects of community development. The next Report on Urban Growth, which I shall submit to the Congress in 1974, will further address these crucial relationships.

### ASSURING EQUAL OPPORTUNITY

Over the last several years, great strides have been made toward assuring Americans of all races and creeds equal and unhindered access to the housing of their choice. As I stated in 1971:

> At the outset, we set three basic requirements for our program to achieve equal housing opportunity: It must be aimed at correcting the effects of past discrimination; it must contain safeguards to ensure against future discrimination; and it must be results-oriented so its progress toward the overall goal of increasing housing opportunities can be evaluated.
>
> The administration is embarked upon this course. It must and will press forward firmly.
>
> The chief components of such a program include the firm enforcement of laws relating to equal housing opportunity, the development of appropriate equal housing opportunity criteria for participation in programs affecting housing, the development of information programs, and the development of policies relating to housing marketing practices.

Each of these components has been put into operation and we are continuing to move ahead. It is important that all Federal agencies vigorously pursue a wide range of efforts to enforce fair housing and equal opportunity laws—and all members of my Administration will continue to be particularly vigilant in this regard.

The availability of mortgage credit has also been restricted in many instances on the grounds that the applicant's financial resources, which would otherwise have been adequate, were deemed insufficient because the applicant was a woman. These practices have occurred, unfortunately, not only in home mortgage lending but also in the field of consumer credit. I shall therefore work with the Congress to achieve legislation which will prohibit lenders from discriminating on the basis of sex or marital status.

### FURTHER PROPOSALS

A number of other proposals which have grown out of our recent housing study will be included in the legislation I will submit to the Congress. They include efforts to encourage home improvements and to facilitate the purchase of mobile homes; measures to ease the Federal burdens in disposing of the large and still growing number of properties returning to the Government upon default; and steps to streamline and reduce the processing time for FHA applications, including a proposal that would move toward the Veterans' Administration technique of coinsurance. I urge their prompt consideration.

The American dream cannot be complete for any of us unless it is within the reach of all of us. A decent home in a suitable living environment is an essential part of that dream.

We have done a great deal as a people toward ensuring that objective for every American family in recent years. Our success should not be a reason for complacency, however; rather, it should reinforce both our determination to complete this work and our confidence that we can reach our goal.

The measures I have discussed in this message can make a significant contribution to that great undertaking. I look forward to working closely with the Congress in advancing these efforts.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1973*.

### CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 464]

Ashley
Badillo
Barrett
Blatnik
Brown, Ohio
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Carey, N.Y.
Clark
Clay
Dellums
Dulski
Eckhardt
Esch
Gray
Hansen, Idaho
Kemp
Litton
Lujan
McEwen
Milford
Mills, Ark.
Obey
Powell, Ohio
Rooney, N.Y.
Roy
Staggers
Steiger, Ariz.
Stokes
Symington
Teague, Tex.
Ware
Wilson, Charles, Tex.

The SPEAKER. On this rollcall 400, members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

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### FAIR LABOR STANDARDS AMENDMENTS OF 1973—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is: Will the House, on reconsideration, pass the bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Pennsylvania (Mr. DENT) for 1 hour.

Mr. DENT. Mr. Speaker, I yield 5 minutes to the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, once again, this House has an opportunity to examine fairly and honestly, the question of the minimum wage rate. We ought to make the most of that opportunity.

The Members of the House know perfectly well that there is nothing sacrosanct about the $1.60 hourly rate which we established in February 1968.

It was not carved in stone and handed down to us from on high by some infallible authority. It was hammered out in the familiar legislative process in 1966 in the committee rooms and debating chambers of this Congress—by men and women Members of the Senate and the House.

No thundering voice from Mt. Olympus told us: "This is noninflationary."

This year, again acting in our legislative capacity, we made a decision to raise the rate to $2 on November 1, and $2.20 next July 1. Those are reasonable figures which the economy can absorb and which the country does accept.

Now, the President contends in his veto message that H.R. 7935 is inflationary. He is entitled to his view, but I submit that the Congress has no obligation to roll over and play dead in the face of it. We have responsibility to do a little thinking of our own.

The immediate issue is a minimum wage of $2 an hour, beginning in about 6 weeks.

Now, the Congress should recall that earlier this year, the President's own Cost of Living Council administratively washed its hands of hourly wages of less than $3.50 on the ground that they had little or no impact on the inflationary pressures in the economy.

If $3.50 an hour is not inflationary, how can it be that a $2 an hour rate is suddenly going to fuel inflation, cause unemployment, and "hurt those who can least afford it"?

Mr. Speaker, nearly half of the States provide higher amounts in welfare payments plus food stamps to a family of four, than the minimum wage rate allows the wage earner of the family to earn in the course of a year. Anyone who can call that kind of minimum wage inflationary has a strange view of economics.

When the present minimum of $1.60 became effective in February 1968 the Consumer Price Index—commonly known as the Cost of Living Index—stood at 102.3. In February 1969 it was 107.1. In February 1970 it was 113.9. In February 1971 it was 119.4. In February 1972 it was 123.8. In February 1973 it was 128.6. And in July 1973 it was 132.7, and climbing.

This is an increase of 29.7 percent in the last 5½ years—and the minimum wage remains pegged at $1.60, apparently right where the President wants it.

Mr. Speaker, what $1.60 purchased in February 1968 required $2.08 to take home in July 1973 the last month for which I have figures. The requirement would be greater today, and will be greater still by the end of the year, even by administration estimates.

These figures from the Department of Labor illustrate how cruelly the low income families of the Nation have suffered because of inflation. And they illustrate the inequity of maintaining an unrealistic minimum wage rate.

It appears we have been more willing to hand out welfare payments than to guarantee a decent wage to people willing to work and lucky enough to have a job.

Mr. Speaker, I was particularly disappointed that the President saw fit to base part of his disagreement with this bill on the absence of a special or lower minimum wage for young people.

This has a strange sound in a period in which we have heard shouted from the rooftops, "Equal pay for equal work."

If young people work at the same level of competence as other employees, then they are surely entitled to the same pay. To refuse them this right is to be guilty of discrimination on account of age.

It is about as logical to provide a lower minimum wage for young people as it would be to provide a lower rate for those in our society who are over 60. It would be about as logical as providing a lower pay scale for our young men in the Army and Navy and Air Force, simply because they are under a certain age.

To my way of thinking, this argument has no standing, and I think the Congress should reject it out of hand.

Clearly, Mr. Speaker, the time has come to increase the minimum wage to the modest levels prescribed by H.R. 7935. I urge the Members to take that step now by repassing the bill over the President's veto.

Mr. DENT. Does the gentleman from Minnesota wish to have time?

Mr. QUIE. Yes; I should like some time, if the gentleman would yield. How much time does the gentleman plan on yielding to the minority?

Mr. DENT. I had planned on about 20 minutes in the hope that we could work it out that someone would take less time, because I have requests by three speakers on this side.

Mr. QUIE. Will the gentleman yield 20 minutes to me so that I can yield to others? Right now will the gentleman yield to me 4 minutes?

Mr. DENT. I yield the gentleman from Minnesota 4 minutes, and will reserve his 16 minutes.

Mr. QUIE. Mr. Speaker, I urge my colleagues to vote to sustain the President's veto on the minimum wage bill. We all have different reasons for this, and I am going to tell the Members my reasons and then let some of the others tell theirs.

It is my feeling that there are some very strong reasons why this bill was vetoed and ought to have been. One of the strongest is the effect it would have on State and local governments and the increase there would be on the taxes of State and local governments. I am not speaking about bringing State and local employees under the minimum wage, but putting them under the overtime provisions. That is where the real damage to local governments would occur, increasing their necessity to increase taxes.

As far as I am concerned, it was quite acceptable to bring State and local employees under the minimum, but we should not have put them under the overtime provisions, because this ought to be left to the State and local governments and is being worked out by them now.

When this bill came from conference I spoke out strongly at that time saying that we should not have adopted the conference report, because even some of the improvement that was made in the House bill on the youth differential was dropped in conference. It would be my hope we should be able to have a better youth differential than is in this bill that was vetoed.

Most concern is over the rate. Personally I really can't see why we should get that excited about $2 an hour minimum wage immediately for those who are covered prior to 1966, $1.80 for those who are covered afterwards, and $1.60 for agricultural employees.

Really the difficulty I could see in the increase that the administration referred to should not be that starting rate but rather how fast it jumps. This bill says that by July 1 of next year the $2.00 would go to $2.20, which would mean it is really a 60-cent increase from the time this program goes into effect until July 1, 1974, if we had a little bit of stretchout, I think this program might not have been vetoed.

There are three areas of concern I mentioned: that the increased rate to $2.20 is too fast; second, that we put State and local employees under the overtime provisions; and third, that we could not even hold onto the improvement in the youth differential that was in the House-passed bill.

Mr. BURTON. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. BURTON. Mr. Speaker, as the gentleman from Minnesota knows, we chose the July 1 date to prevent the Republicans from stalling the effective date for the future step increases. We were asked to delay reporting the bill until the Secretary of Labor appeared before the committee. If we had not had that 3 to 5 week delay, then July 1 would have been the anniversary date of the enactment of the bill. So the majority agreed to this delay in reporting the bill, provided that the delay would not result in harming the poor on the second step and following step increases of the increase.

It was the administration that asked for the delay of 3 to 5 weeks—and the majority who agreed, as a courtesy—so the accelerated date for the future steps was caused by the Republicans—not the Democrats.

Mr. QUIE. Mr. Speaker, I will not yield any further because I get the gentleman's point now.

There is no way we can put the increase in the minimum wage into effect before the bill becomes law, and the Department of Labor needs some time afterward in order to get guidelines out to the employers. That takes some time. The legislation, no matter what we pass, will take about 60 days to put into operation, and we cannot blame the minority because the legislation does not come to the floor until now. We have had the opportunity really of considering this legislation all the time this year. The delay is certainly the responsibility of the majority—the Democrats.

I would say we ought to get back to this bill as soon as we sustain the veto and get a good minimum wage bill out.

Mr. DENT. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Speaker, I think it is very important that we consider the possibility of really overriding this veto today and I will try to enlist the support of the Members at this late hour today by speaking on the basis of their humanitarianism rather than on the basis of the talk about inflation that will come in the next few minutes on this measure.

There are 900,000 women in this country who are domestics and over 200,000 of these women are heads of families. When we speak of putting them in the provisions of this act we are ultimately speaking of putting them by July 1, 1974, into a position where these women will be making $88 per week. Many men in this Chamber will recognize that this sum does not even cover the cost of food in many of their own households on a weekly basis and yet many of the domestics have to assume the responsibilities of providing the basic necessities of life, including food, clothing, and shelter.

We can speak of inflation, but pertaining to these individuals we have to recognize how the inflation affects this particular group of persons in our Nation today, these people who will only be earning $88 per week.

We have been hearing a great deal about the work ethic. People who are poor have a great deal of pride and want to make a contribution to this Nation. Therefore I make an appeal to the Members on the basis of humanitarianism and not on the basis of whether or not this is inflationary, because if we talk about inflation we must also talk about increases in the bank rates and the depreciation allowance and all those other categories in our society who have been getting relief by the Congress precisely because of inflation but they fall into one of the favored categories of the current administration.

Yet, one particular segment in America which merely desires to secure the basic necessities of life has not been able to get any kind of consideration. Members of the House, I am speaking only about asking the Members to override the veto so that 900,000 persons who are maids in this country can at least make $88 per week—$88 per week.

Mr. CEDERBERG. Mr. Speaker, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I had a schoolteacher call me. She hires a lady because she has children going to school. This woman comes in to be there when the children go to and come back from school and does some domestic work around the house while the teacher is away. She does not have a husband. She pays this lady $50 a week

This lady is the wife of a retiree and is not old enough to draw social security. This $50 supplements their retirement. She enjoys her work very much.

If she is covered under this minimum wage, this schoolteacher obviously cannot pay her and she will lose her job and lose the supplement to her husband's retirement. There are many thousands in this same situation.

To me, this is basically wrong.

Mrs. CHISHOLM. Mr. Speaker, we have all got to recognize that there are thousands of ladies who have the sole responsibility for taking care of their families and will not be able to adequately support their families. What Mr. CEDERBERG speaks of is an individual who does not have the sole responsibility for a family's upkeep.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise to urge my colleagues to sustain the veto of the President of this legislation. I voted for a minimum wage bill when it left the House of Representatives. I think that ought to establish the fact that I am not opposed in principle to a minimum wage, for I am not. I realize the validity of many of the arguments which have been made with reference to the rise in the cost of living, but I noted with great interest a remark which was made by the distinguished chairman of the full committee when he said that he was disappointed, and he regretted the fact that the President had mentioned the lack of adequate provisions in this bill for youth employment as an important reason for his veto.

That is the substantive reason why I am going to vote to sustain this veto, because of my disappointment, my frustration over the fact that even after voting for this when it left the House with the hope and expectation that somehow out of the conference would come an acceptable provision with respect to the minimum wage for young people 16 and 17 years old, unemployed teenagers; that this did not happen.

I would say to the Chairman that when he stands before this House and says that we are in derogation of the principle of equal pay for equal work and that those with equal competence ought to get equal pay, that I agree with him 100 percent, but he misses the whole point. It is the fact that we do have thousands and thousands of 16 and 17 year old unemployed teenagers who do not have the competence now to carry on useful employment until they get some on-the-job training and experience.

So, we wish to give them 6 months of that kind of experience at 85 percent of the minimum wage in order to try to bring down the unconscionable rates of teenage unemployment that exist, up to 35 and 40 percent in some of the ghetto areas of our country.

This, I submit, is not an unreasonable objective. If for no other reason—if for no other reason, I think it warrants sending this committee back to the drawing boards to come up with a better bill. There is time to fashion an acceptable bill that can become law. We should have a bill, but it is important that it be a bill that does not throw away an opportunity to aid the cause of youth employment.

Mr. DENT. Mr. Speaker, I yield myself 1 minute in order to correct a statement just made.

Mr. Speaker, present law on youth labor provides 85 percent of the minimum wage already. It provides it for students. However, the present law also provides that the Secretary of Labor can set the minimum wage at any figure he deems advisable and proper for any unemployed youth. That is at any wage level the Secretary feels would be proper, if he is a learner, a beginner, or an apprentice.

I have understood the argument of the gentleman from Illinois from the very beginning. The people who want this subminimal youth labor provision in this act do not need learners, and the Secretary has so determined. The hash slingers, the hamburger servers to the great youth employers of this country do not need training the law requires.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield for a question.

Mr. ANDERSON of Illinois. The point is, I say to my dear and distinguished friend from Pennsylvania, I have it on excellent authority that under the provisions as they emerge in the conference report this is unworkable, yet the gentleman can say, as he has said, that there are provisions which would permit employing young people at 85 percent of the minimum wage. The restrictions with respect to certification are so cumbersome that the practical value, the practical effect, is nil.

Mr. DENT. Mr. Speaker, I yield myself 1 additional minute to answer the rather well-defined question.

Very seriously, we are talking about a provision of law. We did not amend that section dealing with beginners and learners. We did not say anything in the report, which said that a young person out of school, a dropout, could not have a training period to prepare himself.

The problem is that there are 4,910,000 students getting loans and grants in this country. We knew, and every person in this room knows, that those individuals are trying to better themselves, trying to keep from being dropouts. So we provided a mechanism whereby they could. We provided the mechanism for a subminimal wage against the opposition of every labor organization in this country. This Congress had the courage to set that up.

But no one can ask us to put youth in the full-time labor market in competition with their fathers, who now number 7,955,000 drawing unemployment compensation. This is putting them into the full-time labor market at 20 percent less, giving them a magnificent wage of $1.60 an hour. The $1.60 has now been reduced to $1.25 in buying power, which means these boys would have a buying power of about $1.

We cannot hide behind any "fakery" in this legislation.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, I urge the House to sustain the President's veto of the minimum wage bill.

May I say, as I have listened to the debate of those who have argued we should pass this bill it seems to me very difficult to fully understand or comprehend their rationale.

There are basically four reasons why I believe this bill needs to be redrawn, and why I hope that when the House sustains the President's position the Committee on Education and Labor will find it possible to bring back another bill we can consider.

In the first place, the rate of increase is simply too rapid.

In the second place, there is not, the gentleman from Pennsylvania notwithstanding, an adequate, effective, viable youth differential to recognize the needs of young people in the labor market.

In the third place, it is going to be, I believe, on balance, disruptive in the economy because of the mandated increases applicable to State and local governments in terms of overtime and because of the effect on seasonal industry by repealing the exemption that now exists in the seasonal industries which, over the long run, I believe will heighten the already difficult food supply situation.

In the fourth place, and perhaps as important as any other single reason, the telegrams, the letters, the personal telephone calls all of us are getting from local men and women in the trade labor councils, in my district and districts across this country, make the point—and it is a valid one—that there should be an increase in the minimum wage. I, for one, do not argue that there is in fact a need to increase the minimum wage. But I believe at the very time this Congress is dealing in the Rules Committee and in the Bolling-Martin committee with problems of how we should handle budget control and how we should act to achieve a lesser rate of inflation, the total impact of this bill, in my judgment is one that will certainly far accelerate the already complex problems we have in the economy of this country.

Mr. Speaker, I simply cannot justify the rapid rate of increase in the minimum wage at this point in our history, and I believe it would be a mistake if we were to override the President's position. The President is correct; I believe the House conferees on our side were correct in their analysis of this bill.

The position of the House, I trust, will be to support the President so that the Committee on Education and Labor will be forced to come back to this House with a bill that makes economic sense and makes human being sense as well. This bill fails on both counts.

Mr. DENT. Mr. Speaker, I yield myself 30 seconds in order once again to clear the record.

Mr. Speaker, the gentleman said that he does not mind increasing the minimum wage, that it is a question of time, and it is a question of the rapidity of the increases.

Well, it might interest the gentleman to know that with last year's Erlenborn bill and the Anderson amendment, we would have had the minimum wage at $2 today; and yet it is said that it is too fast, and now it is a year later.

Mr. Speaker, I did not defeat that bill. The bill was defeated by the Republicans, who have not passed a minimum wage bill in their history in these United States of America.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I vote to override the President's veto of the minimum wage bill. This is a long overdue wage increase for the worst paid workers in America. This bill (H.R. 7935) would require wage increases for 4 million of the Nation's worst paid workers and would extend minimum wage coverage to 7 million additional employees, including domestic employees, government employees, certain employees of conglomerates, retail and services employees of chain stores, and others.

I strongly disagree with the veto message's contentions that H.R. 7935 would cause unemployment, would be inflationary and would hurt those who can least afford it. The message predicts that the effects of H.R. 7935 would be a "significant decrease" in jobs, particularly for the young, minority group members, the elderly and women. The President labeled a 25 percent increase in the minimum wage as "too much." Nonetheless, the President has not labeled as "too much" the 38 percent increase in food prices since February 1968, the last time the minimums were increased. The President's contentions are not supported by the studies of the Secretary of Labor. Those reports have all shown substantial benefits and only rare, isolated instances of adverse employment effects from an increase in the minimum wage. The Bureau of Labor Statistics standards on unemployment show that minimum wage increases do not result in unemployment.

The Department of Labor early this year redefined the poverty threshold for a nonfarm family of four in the continental United States to $4,200 in annual net income. A minimum wager working 40 hours per week for 50 weeks during the year receives $3,200 in annual gross income. This worker enjoys less purchasing power than he had with the pre-1966 minimum of $1.25. The cost of living has risen one-third since 1966. Even to keep pace, the minimum wage would have to be raised to $2.13 immediately, rather than to $2 in November.

The veto message of the President referred to three groups of employees "especially hard hit" by the bill before us today. The President said:

> The ones who would be the first to lose their job because of a sharp increase in the minimum wage would frequently be those who traditionally have had the most trouble in finding new employment—the young, members of racial and ethnic minority groups. . . .

Aside from the absence of evidence to support the idea that low wages create jobs, studies have found that minimum wage rates have had no adverse effect on employment opportunities for teenagers. The administration strongly desires a subminimum for broad categories of young workers. Yet the Congress has considered the concept and rejected it in favor of a limited subminimum for full-time students working in certain occupations. Further, the law already exempts learners and apprentices from the minimum. The Congress has determined that a general youth subminimum would violate the basic objective of the law, that is, the raising of wages of the poorest paid who are in no position to bargain for themselves.

I believe that the administration's youth subminimum wage would exploit youth and threaten the jobs of breadwinners and heads of households, thereby moving unemployment to the older age group. The President's notion of a special minimum wage rate for all teenage youth, simply because they are young, evidences a lack of understanding about the role of wages in our economy and the problem of youth employment.

This bill will attempt to raise the pay and dignity of domestic work by extending coverage to 935,000 such workers and requiring the $1.80 minimum in November 1973 to $2.20 by July 1975. I support this raise in pay for private household workers. Similarly, I support the extension of coverage to employees of establishments which are part of a chain or a conglomerate.

The AFL–CIO persuasively states that 22 States have higher monthly welfare benefits than the breadwinner for a family of four can earn on the Federal minimum wage. The higher minimum wage would permit some of the lowest paid workers, whose income is now supplemented by welfare, to go off the welfare rolls, thus reducing welfare costs.

I urge my colleagues to vote to override the President's veto, to assure the well-being of millions of workers and their families who reside on the lower rung of our economy.

Mr. DENT. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I hope that we will override the President's veto today. It makes poor sense, and it is a mockery to say that increasing wage levels from $1.60 to $2 and eventually to $2.20 is inflationary—"inflationary" to merely sustain life when corporate profits are at the highest level in history.

A 25-percent increase in the minimum wage is "too much," the President says. That is what we are asking. And yet the President has allowed, through his mismanagement of the domestic economy, a 38-percent increase in the cost of food since 1968, the last time we passed legislation on the minimum wage issue.

Mr. Speaker, the leadership on the other side of the aisle is aware of the fact that there is only one major item in this bill, as I understand it, with which the President is upset and which is given as the reason why the President vetoed the bill, and that is the 18-year-old limitation.

Labor will not concede on this point. Labor will not give 1 inch on this, and labor should not give an inch on this issue.

Mr. Speaker, let us discuss the youth differential. The President argues that the youth differential will be a spur to more jobs, that H.R. 7935 will only drive teenage unemployment rates higher.

This is what the record really shows: Putting money in the hands of low-wage earners is the most direct way of creating purchasing power and providing additional jobs. Studies have shown that minimum wage rates have had no adverse effect on employment opportunities for teenagers.

Let us just look at the statistics. There were 1,170,000 people unemployed during the last year who were between the ages of 16 and 19. Now, only 731,000 of those people wanted a full-time job.

Mr. Speaker, the interesting fact is that 880,000 American youths between the ages of 20 and 24 were unemployed as of August of this year.

Now, the truth of the matter is this: If one can hire a 16- or a 17-year-old employee to do the same work that a 20- or a 21-year-old person will do, and he can hire him at a cheaper rate, then whom is he going to hire? He is going to hire the 16-year-old boy or he is going to hire the 17-year-old boy instead of the the 20- or the 21-year-old young man. And as I say, in that age group between 20 and 24, there were 888,000 unemployed in America as of August of this year.

It is unfair to that group. It is unfair to the older people, those who are unemployed, those who do that type of work, as provided in the minimum wage bill.

Mr. Speaker, I believe that it is a fair piece of legislation, and I agree with labor that they should not yield on this matter at all. This is a matter of principle.

A man should be paid equal wages for equal work. That is the only thing, as I understand it, that is holding up the signing of this bill.

I think in fairness to the people of America we ought to override the veto in this matter.

Mr. DENT. Mr. Speaker, I yield to the gentleman from South Dakota (Mr. DENHOLM), such time as he may use.

Mr. DENHOLM. Mr. Speaker, the compelling evidence of increased costs of living in recent months render it impossible to sustain the Presidential veto in this matter.

In 1971, the President asked for and the Congress gave him a $16.5 billion corporation tax reduction. I voted against it. We should have then increased taxes during the "wind-down" of the war.

In 1972, the President asked for and the Congress gave him a "revenue sharing" program when we had no revenue to share. I did not support and I did not vote for Federal revenue sharing in 1972.

The tax writeoff and revenue sharing errors totaled about $50 billion—and so the President asked for and the Congress gave him and increase in the National debt ceiling in comparative amounts. I voted against it.

In less than 15 months the President reduced the value of the dollar 30 percent and the cost-of-living index spiraled upward like an Alaskan thermometer in the Bahamas.

Postwar years resulted in corporate profits unequaled in recent history—and most working people in America are employed and continue to be employed by corporations at 1968 wage-rate levels.

I submit major economic policy decisions of the Nixon administration have been inflationary.

The working people of this country react to increased costs of living and they do not cause it. They are victims of inflation—not the villians. All people—the aged, the blind, the crippled, the poor, the sick and all that are retired or trying to "make ends meet" on savings or fixed incomes are the victims of the most vicious tax of all—inflation.

And so, when the President for years has adamantly refused to support essential tax reform or increase taxes for essential revenue to administer this Government—he has unwittingly pursued a course of public policy that has produced a series of events of unfair, unjust and unreasonable penalties against all of our people that are least prepared to absorb the economic consequences.

Now, these acts by the President and by the Congress have embittered many—they are all lessons of how not to "run a railroad" and none have worked to the advantage of America.

Mr. Speaker, I voted against the enactment of this legislation and all amendments thereto. Today, I shall vote for it. The doubletalk of the message by the President on the veto is too much for me. He cannot recommend an increase in the minimum wage from $1.60 per hour to $2.30 per hour and veto the act of the Congress that provided for an increase to $2.20 per hour next July—July 1, 1974. He cannot have it both ways when it is clear that he does not want either way.

The greatest mistake of this Congress is the failure to increase the minimum wage level more often instead of waiting so long. It is far easier for employers to adjust to a slight increase in payroll overhead than to accept long-delayed "big jumps" in a short interval.

Mr. Speaker, I will vote against the action of the President today. I do so for all of the reasons that I have mentioned—and more. But most of all because there is a need for adjustment in the level of the minimum wage—and the will of this Congress must be sustained in the interest of the people at a reasonable level consistent with the rising costs of living unjustly imposed upon every American family by rampant and uncontrolled inflation. I urge all reasonable men and women to do likewise.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I rise in opposition to the motion to override the President's veto of this amendment to the Fair Labor Standards Act. I support strongly and enthusiastically good wages, high productivity and efficient results as a basis for a strong and sound economy. But we cannot pay high wages when the other two elements are missing and still expect to survive in a free, private, personal enterprise system.

The announced aim of minimum wage laws is to help eradicate poverty. According to 1971 Bureau of the Census figures nearly half of poor family heads and two-thirds of unrelated poor persons did not work at all. These persons are mostly elderly, disabled or mothers with young children. So the economic cause of poverty is not so much low wages, but nonparticipation in the labor force. The majority of the poor thus would receive no possible benefit from a higher minimum wage because they have no family member employed.

Most of those workers who might be helped by a higher minimum wage would not qualify as poor by Government standards because they are mostly secondary wage earners—the wives or teenage children of a family head. A recent survey in Philadelphia found that 5 percent of the labor force was earning less than $1.60 an hour. The majority of these workers were close relatives of a family breadwinner. The average income of a family in which the wife was earning less than $1.60 an hour was $9,249. The average income of a family in which some other relative was receiving wages of less than $1.60 an hour was $10,108. These families were thus not poor; they had, in fact, just about average incomes. Again, assuming that these workers do not lose their jobs, an increase in the minimum wage will not lift their families out of poverty since they are already well above the poverty line.

Most academic economists say that higher minimum wage laws reduce the employment opportunities for marginal workers, especially the elderly, women, and teenagers. In addition, Andrew F. Brimmer—the only black member of the Federal Reserve's Board of Governors—has said that the severe youth unemployment problem "is being aggravated by federally imposed wage legislation." He asserts that the evidence suggests that changes in the minimum wage law during the past decade have impelled employers not to hire younger workers because the minimum wage was higher than their worth to the firm. While the overall unemployment rate last year was 5.3 percent, workers between 16 and 19 had an unemployment rate of 15.6 percent. For black youths the rate was 35.9 percent and for white youths it was 13.2 percent.

I am sure that all my colleagues have been receiving the same mail I have about this vote on overriding the veto. The strongest demand for the minimum wage here comes from the big labor union bosses who know better than anyone else that an increase in the minimum wage boosts wages all along the line. No one can question the inflationary pressure of higher costs of labor along with every other increase in the cost of doing business. The working men and women of this Nation are the people who bear the heavy burden of inflation. I strongly challenge any segment of society—Congress, big labor, or whoever—when they contend that a federally imposed minimum wage is the answer to eliminating poverty.

Mr. DENT. Mr. Speaker, I yield 3 minutes at this time to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Speaker, I have no illusions that anything I say this afternoon will change any Member's mind about minimum wages. I do hope, however, that some of you will at least think about the rationale behind the President's veto and weigh it against the facts.

The President gives a laundry list of reasons for his veto, and it is a suspiciously long and tortured explanation. Let us examine a few of them. He states in his veto message that the vetoed bill would have increased the minimum wage too fast and created unemployment as a result. This is fear and not fact. It is scare tactic not reason. The Department of Labor has reviewed the impact of every previous increase in the minimum wage and has never found any significant increase in unemployment attributable to minimum wage increases.

Next the President charges that the vetoed minimum wage increase is inflationary because employees earning more than the minimum wage will have to get comparable wage increases. It is difficult to believe that every employee in the country will soon be receiving 37 percent wage increases. Although some upward adjustment in pay scales for lower level employees may be necessary, it is extremely unlikely that such increases would affect enough employees to have an inflationary impact. The President must have realized the impossibility of pinning an inflationary charge on the minimum wage increase itself, so he tried, unsuccessfully, to pin the blame on proximate wage increases. I submit that this too is fear and not fact.

I cannot resist pointing out, Mr. Speaker, that the Cost of Living Council, the President's principal agent for controlling inflation, does not tamper with wage increases until wages above the level of $3.50 per hour, far above the proposed minimum wage of $2.20 an hour. There is recognition here of the lack of inflationary impact of these wage levels, and of the fact that it would be insufferable for the Government to refuse to allow workers to climb up the economic ladder to at least the poverty level.

The President then turns to predicting increased unemployment for young people, and domestic household workers. His alternative is a subminimum wage for youth, despite the fact that exemptions from minimum wage coverage for those in training or apprenticeship programs already exist. Further, there is no evidence that lower wages create employment opportunities for youth. I think such large employers of young people as McDonald's hamburger stands do so not simply because they can pay them less but because they work well too.

Employment in the field of domestic work has been declining for some time, largely because of the poor wages and the lack of advancement. Applying minimum wage coverage to domestic workers would give some semblance of dignity to this menial labor.

Finally, the President complains that the provision extending coverage to State and local government employees "is an unwarranted interference with State prerogatives." Yet city governments have not complained about this provision, and the Supreme Court has held that such action is well within the Congress power.

Mr. Speaker, I would hope that the President would have more substantive reasons for vetoing such a major bill. I hope my colleagues agree with me that the shallow justifications advanced in the veto message demand a vote override.

Mr. DENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, many people feel that the United States is rapidly becoming a welfare state. Many of those people elected Richard Nixon to the office of President because they felt that he represented the work ethic, that he represented the traditional American ideal of a decent wage for an honest day's work. Many of those people resent the welfare recipient who they feel would "go out and get a job" if he had any degree of self-respect and self-interest.

Today we are here to consider a bill for the workers of America, those people whom President Nixon has called the "backbone of our economy," those people whom President Nixon extols for staying off the welfare rolls and those people whom President Nixon is thoroughly content to have live below the Department of Labor's established level of poverty.

The Department of Labor, earlier this year, set the poverty threshold for a nonfarm family of four in the continental United States at $4,200 annual net income. A worker earning the minimum wage working 40 hours a week, 50 weeks a year, receives $3,200 annual gross income.

The poverty level for a farm family of four in the continental United States is $3,575 annual net income. A worker earning the minimum wage in agriculture, working 40 hours a week, 50 weeks a year, receives $2,600 annual gross income.

The President of the United States is thoroughly content to allow the 11,000 workers in question to remain substantially below the level set by the administration itself as the point at which the barest essentials of living can be met. The minimum wage amendment would succeed in raising 11,000 workers, not to the poverty level, but in reasonable distance of it.

You know, I am ashamed. I am ashamed to have to stand here before you pleading for the right of our citizens, our own countrymen, to be able to live "within a reasonable distance below a poverty level." This, in a country whose 1973 gross national product was $1,194,-900,000,000—one trillion one hundred and ninety-four billion nine hundred million dollars.

President Nixon talks about the value of work as opposed to the scrouge of welfare. Do you know that 20 States and the District of Columbia provide higher amounts in welfare payments and food stamps to a family of four than the minimum wage rate provides to that family's breadwinner? And in over half of those States the welfare payments are higher even without the food stamps. And this is not, I can assure, as can anyone with an even passing knowledge of the welfare system, because welfare payments are so high.

If one reads the President's objections to the minimum wage bill, one would have to doubt whether or not he has even read the bill. He objects to the inclusion of youths who are in job training programs although the bill specifically exempts this group. He objects to the inclusion of employees in small retail and service establishments. Yet the bill clearly exempts this group as well.

The President speaks of "studies" which support his statements. Yet one wonders which studies these are, since the official reports of the Bureau of Labor Statistics state conclusively that, following the minimum wage increases of 1949, 1961, and 1967–68, unemployment decreased.

The President objects to the inclusion

of domestic workers under this bill. He tells us that domestics will suffer because of mass dismissals if their jobs finally command a decent wage. The fact is that in the past decade domestic employment has dropped by 1 million, not because of a lack of demand, but because increased awareness of self-worth has caused a lack of supply. Surely, I do not have to tell the President, our greatest exponent of the work ethic, that nothing will attract a laborer and insure his efficient production, so much as the assurance that he will receive a decent salary at the end of his labors. And nothing will alienate him faster and more completely than the demand that he contribute his labors to support a trillion-dollar economy which will, without a doubt, allow his family and himself to exist in a constant state of hunger, in a constant state of physical neglect, with inadequate shelter and insufficient clothing. And this is a man or woman who works 40 hours a week.

How many times a week do you hear yourself asking, "What's in it for me?" What do you suppose the minimum wage earner hears when he asks himself the question, "What's in this society for me?" I'll tell you. He hears a resounding "nothing."

And what loyalty can a man or woman feel to a society which gives him nothing?

The workers of this country will only stand for so much. They are only human; or perhaps I should say "they are human," for we have consistently condemned them to a life which falls below our declared standards for the lowest level of human existence.

It is imperative that we override the Presidential veto of H.R. 7935. It has been factually proven on the floor today that the President's reasons for vetoing are invalid. It has been proven that the provisions of the bill are in accord with the principles upon which this country was founded. And it has been asserted that the working class of this country will be thoroughly justified in revolting against their oppressors, unless they are admitted into the trillion-dollar state of our Union.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware, Mr. du Pont.

Mr. du PONT. Mr. Speaker, I urge that we sustain the President's veto on this bill, and I do so for a number of reasons. One is the lack of an effective youth differential. Another is the rapid rise in the minimum wage. But those points have been covered by others.

I would like——

Mr. BURTON. Mr. Speaker, would the gentleman yield?

Mr. du PONT. I will not yield.

Mr. Speaker, I would like to focus on a point that has not been made, and that is the taking away of exemptions by this bill. The taking away of firemen and policemen's exemptions, for example, which is causing me to get calls from mayors of the cities in Delaware telling me how much money it is going to cost them.

The taking away of exemptions for public employees, which basically has nothing to do with the Federal Government, and ought to be within the jurisdiction of the State and local governments.

The taking away of the exemption for transit workers when the transit industry all across the country is in trouble, as we all know.

So I believe that this bill attempts to do too much, not in the raising of the minimum wage for the people covered, but in the removal of exemptions that are going to cost the State and local governments a lot of money, and the removal of exemptions in areas where the Federal Government has no business in interferring.

Mr. DENT. Mr. Speaker, I yield 2 minutes to the gentleman from California, Mr. Burton.

Mr. BURTON. Mr. Speaker, I am pleased to inform my colleagues that the gentleman who just spoke in the well is the gentleman from Delaware (Mr. du Pont)—I think the previous speaker's name is well known throughout the land—if the gentleman from Delaware would explain how the working people have to try to live on $1.80, $2 or $2.20 an hour.

How does Mr. du Pont suggest that any working man or woman support a family on the current $1.60 an hour minimum wage?

Mr. Speaker, President Nixon's veto must be overriden. He is the only President in American history to be so cruel and vicious as to veto an increase in the minimum wage.

The following communications indicate the vital concern expressed by organized labor on this issue.

American Federation of Labor
and Congress of Industrial
Organizations,
September 12, 1973.

Hon. Phillip Burton,
*U.S. House of Representatives,*
*Washington, D.C.*

Dear Congressman Burton: The AFL–CIO strongly urges you to vote September 19 to override President Nixon's veto of the minimum wage bill.

In vetoing this long overdue wage increase for the worst-paid workers in America, the President deliberately perpetuated many myths about the working poor. These myths were first propounded by this who have always endeavored to keep workers, the poor, the minorities "in their place."

Frankly, we had hoped for better leadership from the President of the United States than a presidential endorsement of myths which are the well-spring of racial and class prejudice. President Nixon is the first President in history to veto a minimum wage increase.

The President branded a 25% increase in the minimum wage as "too much." The 38 percent increase in food prices—the key item in the budget of every low-income family—since February 1968, the last time the minimums were increased, shows how distorted is the President's reasoning.

Washington supermarket ads for that week, compared to this past week, make the case. In 1968 a loaf of bread cost 17 cents; last week it was 25 cents—a 47 percent increase. A half gallon of milk cost 51 cents then and 66 cents last week—a 28 percent increase. Ten pounds of potatoes cost 39 cents in 1968, $1.29 last week—a 231 percent increase. A dozen eggs went from 45 to 89 cents—a 98 percent increase. Frying chickens went from 26 cents a pound to 59 cents—a 127 percent increase.

We have attached a compendium of the myths endorsed by the President and the facts are reported by the government in its official documents and statistics. We urge you to give it serious consideration.

In view of the preponderence of evidence and statistical data cited in my enclosure, it is obvious that President Nixon has not presented one single factual justification for vetoing the minimum wage increase.

He has made no substantive economic, moral or ethical argument. Rather, he has presented a collection of myths and distortions of fact.

The AFL–CIO, on behalf of millions of working Americans, respectfully urges you to vote to override the veto.

Sincerely,

George Meany,
*President.*

Enclosure.

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### Myths Versus Facts: Analysis of President Nixon's Veto Message on Minimum Wage

In his veto message to the Congress on minimum wage, President Nixon presented many myths totally unrooted in fact. Following are the myths endorsed by the President and the facts as reported by the government in its official documents and statistics. The AFL–CIO believes the facts add up to compelling proof of the need to override the President's veto.

Myth No. 1.—"No one knows precisely what impact such sharp and dramatic increases would have upon employment, but my economic advisors inform me that there would probably be a significant decrease in employment opportunities for those affected."

The Facts.—Every time the Congress has increased the minimum wage or expanded coverage, the spectre of decreased employment and increased unemployment has been raised. Yet every time the Congress increased the minimum wage or expanded coverage—as a review of the employment—unemployment statistics of the Bureau of Labor Statistics clearly shows—employment increased and unemployment rates declined, with the sole exception of 1967. The trend in nonagricultural employment after each change in the minimum wage since 1949, compared with unemployment trends (seasonally adjusted) for nonagricultural workers in the private sector is shown below:

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### EMPLOYMENT AND UNEMPLOYMENT (AVERAGE)

I. Jan. 25, 1950—Minimum wage increased from $.40 to $.75.

1950, 45,222,000 employees; Jan. 1950, 3.3 million unemployed (7.8%).

1951, 47,849,000 employees; Jan. 1951, 1.9 million unemployed (4.3%).

II. Mar. 1, 1956—Minimum wage increased from $.75 to $1.00.

1956, 52,408,000 employees; March 1956, 2.2 million (4.7%).

1957, 52,894,000 employees; March 1957, 2.0 million (4.2%).

III. Sept. 3, 1961—Minimum wage increased from $1.00 to $1.15.

1961, 54,042,000 employees; Sept. 1961, 3.6 million (7.4%).

1962, 55,596,000 employees; Sept. 1962, 3.1 million (6.2%).

IV. Sept. 3, 1963—Minimum wage increased from $1.15 to $1.25.

1963, 56,702,000 employees; Sept. 1963, 3.0 million (5.9%).

1964, 58,331,000 employees; Sept. 1964, 2.7 million (5.3%).

V. Feb. 1, 1967—Minimum wage increased from $1.25 to $1.40.

1967, 65,857,000 employees; Feb. 1967, 2.1 million (3.8%).

1968, 67,915,000 employees; Feb. 1968, 2.2 million (4.0%).

VI. Feb. 1, 1968—Minimum wage increased from $1.40 to $1.60.

1968, 67,915,000 employees; Feb. 1968, 2.2 million (4.0%).

1969, 70,284,000 employees; Feb. 1969, 2.0 million (3.4%).

President Nixon's principal economic advisor, Treasury Secretary George P. Shultz, reported to the Congress in 1970, when he was Secretary of Labor:

"In the retail, services and State and local government sectors—where the minimum wage had its greatest impact in 1969, since only newly covered workers were slated for Federal minimum wage increases—employment rose substantially."

In his veto message, the President has failed to produce one scintilla of evidence that this year's proposed minimum wage increase would have any different effect on employment and unemployment.

Myth No. 2.—"Sharp increases in the minimum wage rate are also inflationary."

The Facts.—The facts simply do not support the President's contention.

In 1949 the minimum wage was increased 87½ percent, from 40¢ to 75¢ an hour, effective January 25, 1950. This "sharp" increase in the minimum wage did not cause inflation. On the contrary, in 1950 the annual inflation rate—as reflected in the Consumer Price Index—was only 1 percent.

The 1955 amendments increased the minimum wage 33.3 percent, to $1.00 an hour, effective March 1, 1956. This "sharp" increase in the minimum wage did not cause inflation. In fact, in 1956 the annual inflation rate was only 1.5 percent.

The minimum wage was increased 15 percent in 1961 to $1.15. The 1961 annual inflation rate was 1.0 percent, but, since the increase went into effect late in the year, the 1962 rate should be considered—it was 1.1 percent. By 1964, when the minimum wage had been increased to $1.25 an hour, the annual inflation rate was only 1.3 percent.

In 1966, the minimum wage was increased to $1.40 effective February 1, 1967. Inflation for that year was 2.9 percent. For 1968, when the minimum wage went to $1.60, inflation shot up 4.2 percent. The then Secretary of Labor W. Willard Wirtz reported to the Congress:

"The increased minimum wage levels set in 1966 have not contributed to the current inflationary spiral to an extent which permits reasonable questioning of their net value in strengthening both the position of low-paid workers in particular and the economy in general."

Thus, when the minimum wage increases were the "sharpest"—to use the President's term—inflation was the most modest. Similarly, the sharper the minimum wage increase, the sharper the decrease in unemployment.

For the President to deny the lowest-paid workers an increase in their minimum wage on the basis it is "inflationary" or would cause unemployment is a shocking distortion of the facts.

Dr. Richard S. Landry, administrative director of the Economic Analysis and Study Group of the Chamber of Commerce, told the Senate Subcommittee on Labor on June 9, 1971:

"We (the Chamber) do not contend, unlike some of the witneses that appeared before you apparently, that the minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages."

Myth No. 3. "Frequently workers paid more than the minimum gauge their wages relative to it. . . . An increase in the minimum therefore increases their demands for higher wages—in order to maintain their place in the structure of wages."

The Facts. Even a cursory reading of the minimum wage impact studies transmitted to the Congress by the Department of Labor since 1954 proves the fallacy of this statement. This is what the Department has said: "No general upward pressure on the wage structure." "Increases confined to raising wages of those paid less than the new minimum." "Little or no evidence of a bumping effect of the wage increase." "Increases limited almost entirely to the lowest wage brackets."

Myth No. 4. "The ones who would be the first to lose their jobs because of a sharp increase in the minimum wage rate would frequently be those who traditionally have had the most trouble in finding new employment—the young, members of racial and ethnic minority groups, the elderly, and women who need work to support their families."

The Facts. Again, the President has propounded a myth that is in direct contradiction with the facts of what has happened in the past when minimum wage rates were increased.

Witness the following table of annual unemployment rates (underlined years are years and months in which minimum wage increases took effect):

[In percent]

| | Teenagers | Women (over 20) | Minorities (all ages) | 65 years and older | |
|---|---|---|---|---|---|
| | | | | Male | Female |
| 1949 | 13.4 | 5.3 | 8.9 | 5.1 | 3.8 |
| 1950 (January) | 12.2 | 5.1 | 9.0 | 4.8 | 3.4 |
| 1951 | 8.2 | 4.0 | 5.3 | 3.5 | 2.9 |
| 1955 | 11.0 | 4.4 | 8.7 | 4.0 | 2.3 |
| 1956 (March) | 11.1 | 4.2 | 8.3 | 3.5 | 2.3 |
| 1957 | 11.6 | 4.1 | 7.9 | 3.4 | 3.4 |
| 1961 (September). | 16.8 | 6.3 | 12.4 | 5.5 | 3.9 |
| 1962 | 14.7 | 5.4 | 10.9 | 4.6 | 4.1 |
| 1963 (September). | 17.2 | 5.4 | 10.8 | 4.5 | 3.2 |
| 1964 | 16.2 | 5.2 | 9.6 | 4.0 | 3.4 |
| 1966 | 12.8 | 3.8 | 7.3 | 3.1 | 2.8 |
| 1967 (February). | 12.9 | 4.2 | 7.4 | 2.8 | 2.7 |
| 1968 (February). | 12.7 | 3.8 | 6.7 | 2.9 | 2.7 |
| 1969 | 12.2 | 3.7 | 6.4 | 2.2 | 2.3 |

Nearly every time the minimum wage was increased, the unemployment rates dropped for the groups of workers specifically cited by the President. The only increases were minor, and, significantly, were reduced the following year. On the basis of the facts, as compiled by the BLS, the President's contention doesn't hold water.

*Myth No. 5*—"H.R. 7935 would only drive (the teenage unemployment) rate higher."

*The Facts*—Once again, the President is dealing in fantasy, unsupported by fact. He has made a statement his own Secretary of Labor labeled in 1971 as unsupportable. In his report to the Congress, Secretary Hodgson took note of an exhaustive study of the relationship of minimum wages to youth unemployment—a study, conducted under the auspices of the President's current chief economic advisor—and concluded: "A significant finding was that it was difficult to prove any direct relationship between minimum wages and employment effects on young workers."

There is little need for me to repeat the AFL–CIO's absolute, total and irrevocable opposition to a youth subminimum wage. However, let me make the two observations:

1—According to the BLS employment statistics released the day after the President vetoed the minimum wage bill, less than half of the 16 and 17-year-olds looking for work were seeking full-time work (150,000 vs. 574,000).

2—Of the 1.17 million 16 to 19-year-olds counted as unemployed in August, only 731,000 wanted full-time work. But there were 888,000 unemployed 20 to 24-year-olds seeking full-time employment. If a subminimum wage for teenagers were in effect, these "older" workers would be at a severe disadvantage in competing with teenagers for jobs that pay the minimum wage.

It boggles the mind that government policy should be designed so as to move 16–17 year olds to the front of the hiring line, with 18 and 19-year-olds just behind them, by allowing employers to pay them substandard wages, thus placing a competitive disadvantage on the 20–24 age group as well as on older unemployed workers who are not only more numerous but who are typically seeking full-time work.

Myth No. 6.—Extending minimum wage coverage to domestic household workers "would be a backward step."

The Facts.—It is absolutely incomprehensible to say that paying domestic workers a living wage will somehow hurt them. In truth, the number of domestic workers has declined by one million in the past decade, while the demand has continued to increase. Domestic household work is one of the least attractive fields of employment. The pay is deplorable—31 percent are paid less than 70 cents an hour; nearly 50 percent receive less than $1 an hour. The workers are generally excluded from unemployment and workmen's compensation; they rarely receive such commonly accepted benefits as sick leave and vacations. And, of course, they have no protection against arbitrary actions of their employer.

We believe that if domestic workers were covered by the minimum wage and given protections enjoyed by other workers, that the supply of workers would increase to fill the demand, not the reverse.

Myth No. 7.—By extending coverage to employees in small retail and service establishments "thousands of such establishments would be forced to curtail their growth, lay off employees, or simply close their doors altogether."

The Facts.—The bleak picture painted by the President is completely fallacious. The minimum wage bill he vetoed would simply treat all employees of presently-covered large chains the same, regardless of the size of the particular store in which they work. The extended coverage would not mean closing the "Mom and Pop" corner groceries, because they are not covered by the amendments.

Further, in 1971 Secretary Hodgson said ". . . it is significant that employment in retail trade and services—the industries where the newly covered group is largely concentrated and hence most likely to manifest some impact from the wage increase—faired better than industrial unaffected by the statutory escalation in the minimum wage."

The proposed extension of coverage would protect medimum size shopkeepers, who are covered by the law, from being undercut by retail or service establishments which may be part of multimillion dollar enterprises, yet are exempt from the minimum wage and pay subminimum wages. Thus, the President's veto would protect the largest companies, not the smallest as he would have the Congress believe.

*Myth No. 8*—"For Federal employees, (minimum wage) coverage is unnecessary—because the wage rates of this entire group already meet the minimum . . ."

*The Facts*—54,000 federal employees presently covered by the minimum wage currently earn less than $2 an hour; another 10,000 earn less than $2.20 an hour.

*Myth No. 9*—"Extension of Federal minimum wage and overtime standards to State and local government employees is an unwarranted interference with State prerogatives . . ."

*The Facts*—The President's contention is similar to one proposed by Charles Alan Wright of Austin, Texas, as attorney for the State of Maryland when Maryland challenged the 1966 extension of minimum wage coverage to employees of state schools and hospitals. In a definitive 6 to 2 decision, the Supreme Court rejected that contention.

### OTHER OBJECTIVES

The President states that he would sign a minimum wage increase "which would be consistent with the Nation's economic stabilization objectives. . . ." We submit that the bill he rejected was categorically within the stabilization objectives.

1—The Congress specifically amended the Economic Stabilization Act to exempt from wage controls those workers earning less than $3.50 an hour, correctly recognizing that the poorest paid workers are the victims, not the cause, of inflation.

2—The minimum wage increase voted by the Congress is within the 5.5 percent wage standard of the President's Cost of Living Council. If workers earning the statutory minimum wage had received a 5.5 percent yearly wage increase, then the federal minimum wage would be $2.18 an hour in November 1973 and $2.26 in July 1974.

3—If the federal minimum wage had been increased to account for the inflation so long uncontrolled by this Administration, it would have reached $2.08 an hour in July, 1973. And when the wholesale price increases announced on the day after the President's veto reach the retail level there is no telling how high the minimum wage would have to be to keep pace with declining buying power.

4—The President is ignoring some basic economic facts. In a more than trillion dollar economy, increasing the minimum wage is little more than a drop in the bucket. In fact, if the increase to $2 an hour were to go into effect in October, it would only increase the nation's total wage bill four-tenths of one percent, the U.S. Department of Labor has reported.

In stating that "we cannot allow millions of America's low-income families to become the prime casualties of inflation," the President has missed the point. Low-income families already *are* the Number One victims of inflation. Examine what has happened to the $1.60 minimum wage since it went into effect 5½ years ago.

The Agriculture Department's "economy food plan" for a family of four has increased more than 40 percent, from $21.80 a week at the beginning of 1968 to $30.60 in July of this year.

Put another way, the family of four whose income is no greater than $1.60 an hour must spend 48 percent of its budget for food.

Rents have increased 21.5 percent; public transportation up 38.5 percent; apparel and upkeep up 20.2 percent; medical care up 29.1 percent; Social Security taxes up 33 percent.

In conclusion, the AFL–CIO firmly believes that no one, working full-time, year-round should be forced to rely on welfare for subsistence. Presently, 22 states have higher monthly welfare benefits than the breadwinner for a family of four can earn on the federal minimum wage. A higher minimum wage would permit some of the lowest paid workers, whose income is supplemented by welfare, to go off welfare rolls, thus reducing welfare costs.

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DEAR CONGRESSMAN: Enclosed you will find a copy of a resolution adopted by the Industrial Union Department, AFL–CIO Convention, in Atlanta on September 7, 1973. Not only was it adopted unanimously, but with a strong showing of earnest and enthusiastic support on the part of our delegates who represented 56 international unions, with membership totaling more than six million workers.

It is bitterly ironic to learn that President Nixon's minimum wage veto is the *first* in the 35-year history of the Minimum Wage law. And this covers an era involving both Democratic and Republican presidents.

The saddening fact is that it comes at a time when there has never been a greater need for liberalization of the law. Inflation has eaten into the very essence of life for the working poor.

It makes poor sense, indeed if not mockery, that increasing wage levels from $1.60 per hour to $2 and ultimately to $2.20 is inflationary. *Inflationary, to pay enough wages to merely sustain life!* Inflationary, while corporate profits are at the highest level in history!

Further, the suggestion that a youth wage differential will be a spur to more jobs is a mirage. At best, it will not make for more jobs, but morely likely will create the situation in which the young son may be hired at the expense of the father's job.

In the name of common decency and humanity as well as the greater national interest, we urge upon you the overriding of the President's veto. We ask this of Democrats and Republicans alike. Assuring the well-being of millions of workers and their families who reside on the lower rung of our economy is not partisan. The President is terribly wrong and his error should be reversed before it does incalculable damage to the lives of too many Americans.

Thank you for your friendly consideration of this issue.

Sincerely,

I. W. ABEL,
*President, Industrial Union Dept., AFL–CIO.*

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UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
*September 14, 1973.*

The Honorable PHILLIP BURTON,
*House of Representatives,*
*Washington, D.C.*

MY DEAR CONGRESSMAN BURTON: On September 19th, the House will face the issue of overriding President Nixon's veto of the Minimum Wage Bill (H.R. 7935). This veto was a cruel blow to millions of Americans who populate the bottom rung of the economic ladder. I refer not to "Welfare Chiselers," but rather to America's "Working Poor." They number over four million Americans who work every day, but presently earn less than $2.00 an hour.

Anyone who has ever had to earn wages for a living knows full well that the current minimum wage of $1.60 an hour is as unrealistic as it is unfair. The purchasing power of the dollar has eroded some 35% since that increase to $1.60. Indeed, wholesale prices jumped 6.2% last month alone, and grocery prices are easily expected to pass 20% for the year, as you well know.

The Administration defense of this veto is almost visibly shoddy. Only the cost of postage would prevent me from including study after study that have shown that minimum wage laws do not generate unemployment or that youth rate differential is meaningless.

In the course of a Congressional session many pieces of Legislation really are inflationary, or overfunded, poorly drawn or simply unnecessary. This bill is none of these. We urge you to support the veto override of the Minimum Wage Bill.

Sincerely yours,

CHARLES E. NICHOLS,
*General Treasurer, Director.*

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INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS-WAREHOUSEMEN & HELPERS OF AMERICA,
*Washington, D.C., September 17, 1973.*

The Honorable PHILLIP BURTON,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN BURTON: On behalf of over two million members of the International Brotherhood of Teamsters, I strongly urge your support in passing H.R. 7935, the 1973 Amendments to the Fair Labor Standards Act.

As you know, the President disapproved this measure on September 6, 1973. We believe this action to be in error in two major respects.

First, it is our view that the specter of inflation cannot be used as the basis for disapproving a measure which is specifically designed to rescue millions of workers from the inequities they have already suffered as a result of our current economic situation.

Second, we do not believe H.R. 7935 hurts those who need help the most. This legislation has been developed over the course of three years and Congress arrived at fair and equitable solutions to extremely difficult issues. Thus, extension of minimum wage coverage to domestic household workers, the absence of a "youth differential," and the phasing out of the agricultural processing industry's overtime exemption are excellent examples of viable compromises that should be contained in the law.

In closing, we would again urge your support in securing passage of H.R. 7935. It is of critical importance to the International Brotherhood of Teamsters as well as millions of other members of the nation's work force.

Thank you for your consideration in this matter.

Sincerely yours,

FRANK E. FITZSIMMONS,
*General President.*

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SEIU COMMITTEE ON POLITICAL EDUCATION,
*Washington, D.C., September 17, 1973.*

DEAR CONGRESSMAN: The working poor of our nation are begging you to vote for the minimum wage bill on Wednesday.

Please vote to override the veto. Give a vote to the poor.

Sincerely,

GEORGE HARDY,
*International President.*

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[From the Washington Post, Sept. 14, 1973]

### HOUSE OF REPRESENTATIVES MEMBERS: VOTE TO OVERRIDE THE MINIMUM WAGE VETO—MINORITY GROUP WORKERS NEED YOUR HELP

The facts are well-known: members of minority groups—blacks, the Spanish-speaking—bulk large in the unskilled, low-paid portions of America's work force.

They are among the working poor who most need a more equitable minimum wage.

Nearly half those in domestic service earned less than $1 an hour in the latest survey presented to the Congress by President Nixon's Secretary of Labor. The Minimum Wage Bill veto denies them minimum wage coverage under the Fair Labor Standards Act.

Only two of every five farm workers are presently covered by the federal minimum wage; and those who are covered are guaranteed 30 cents an hour less than non-farm workers. The Minimum Wage Bill veto denies them the right to reach parity with other covered workers.

President Nixon proclaims in his veto message the often disproved myth that a rise in the minimum wage would make it harder for those at the bottom of the economic scale to find jobs. He even goes so far as to propose a different, lower minimum wage for teenagers.

If his logic were correct, he should then propose a lower minimum wage for women or for Vietnam returns—who have a high unemployment rate.

The facts easily contradict the myth. Nearly every time the minimum wage has been increased since World War II, unemployment rates have dropped for teenagers, women, members of minorities, and older workers.

The effect of this veto on minority-group worked incomes is clear. President Nixon's own Department of Commerce reports that blacks constitute 10 percent of the working population—but 17 percent of service workers, 20 percent of laborers, and about 50 percent of private household workers—the very groups who most need the added purchasing power of a more reasonable minimum wage.

That is why civil rights organizations support the Minimum Wage Bill. That is why the Leadership Conference on Civil Rights asks you to vote to override President Nixon's veto.

The conscience of America demands that the working poor be given an opportunity to earn a decent wage with their labor. Please extend that opportunity by overriding President Nixon's veto of the Minimum Wage Bill.

Leadership Conference on Civil Rights.

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[Advertisement from the Washington Post, Sept. 15, 1973]

### Members of Congress: Vote To Override the Minimum Wage Veto—Young Americans Need Your Help

President Nixon claims—despite proof to the contrary—that raising the federal minimum wage would drive the teenage unemployment rate higher.

Young Americans forced to leave school and go to work in their teens are among the working poor who would be most directly benefited by an increase in the federal minimum wage and an extension of its coverage. Contrary to the President's claim, official Bureau of Labor Statistics figures show that unemployment rates for teenagers almost always drop after a rise in the minimum wage rate.

Moreover, President Nixon's own Secretary of Labor took note in 1971 of an exhaustive study that contradicts the President. Former Secretary Hodgson, commenting on the study, said: "A significant finding was that it was difficult to prove any direct relationship between minimum wages and employment effects on young workers."

The Administration also is pushing a proposal to pay a lower minimum wage to job seekers aged 16 to 17. Why should these young workers be forced to work for less than other workers? Why should an employer be encouraged to fire a father so he can save 40 cents an hour by hiring a son or daughter?

These young workers already suffer the disadvantages of inexperience and lack of skills. Many of them gravitate to the lowest-paying jobs available—and are stuck at the bottom of the economic ladder.

If 16-year-olds need a special substandard pay rate because their unemployment rate is high, why not a substandard rate for Vietnam veterans or women, who also have high unemployment rates? The bill that President Nixon vetoed already provides a compromise on pay for part-time student employees at the behest of small business, as well as other compromises.

America's working youth deserves better than this. They want to pay their own way in the world. They need a decent chance at a reasonable wage to do so.

That's why youth organizations support the Minimum Wage Bill. That's why the National Student Lobby urges you to vote to override President Nixon's veto of the Minimum Wage Bill.

National Student Lobby.

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[Advertisement from the Washington Post, Sept. 16, 1973]

### Members of Congress: Vote To Override the Minimum Wage Veto—Don't Be Misled by the "Lost Jobs Myth"

In his unjust and unjustified veto of the Minimum Wage Bill, President Nixon tries hard to screen the inequity of his action by repeating the oldest myth about the working poor—that raising the minimum wage will harm those who need it most.

He uses the discredited argument of those who oppose paying a decent wage to the hard-working poor—that an increase in the minimum wage will result in lost jobs. Department of Labor statistics clearly contradict the President's statement.

Increasing the minimum wage or expanding its coverage has resulted in higher employment every time since 1949 and declining unemployment in all but one year. Even more to the point, teenagers, women, minority group members and the elderly—those who most need increased income to obtain the bare necessities of life—showed a drop in unemployment rates nearly every time the minimum wage increased.

In fact, Treasury Secretary Shultz, President Nixon's chief economic advisor, told the Congress three years ago, when he was Secretary of Labor:

"In the retail, services and state and local government sectors—where the minimum wage had its greatest impact in 1969—employment rose substantially."

In a time of unprecedented rises in the price of food . . . in a time when a family of four existing on the minimum wage must use almost half its income on food . . . at a time when the cost of the necessities of life continually increases, the American conscience must demand justice for its lowest paid workers.

There are rational, moral, economic or ethical justifications for increasing the minimum wage especially since 22 states pay more in welfare each month for a family of four than a father or mother can earn by working full time at the federally guaranteed minimum wage.

That is why organized labor strongly urges you to vote your conscience and the conscience of America—vote to override the Minimum Wage Bill veto. We believe in the dignity of labor—as do all the millions of poor Americans who struggle to feed, shelter, and clothe themselves on a totally inadequate minimum wage.

American Federation of Labor and Congress of Industrial Organizations.

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[Advertisement From the Washington Post, Sept. 17, 1973]

### Members of Congress: Vote To Override the Minimum Wage Veto—Underpaid Workers Need Your Help

Many of the men and women who process the food we produce can't earn enough to provide decent, nourishing meals for their families.

It is intolerable that in an affluent twentieth century society there should remain exploited laboring groups in any type of industry, required to work long hours for less than a subsistence wage. With giant Agribusiness employers earning 15 percent, 20 percent and even more in profits, there can be no excuse for their workers and their families to lack sufficient income to provide adequate nutrition, shelter, health care and the basic essentials of life.

For example, the Minimum Wage Bill vetoed by President Nixon would have corrected certain injustices to workers in some food processing industries. It would have phased out the overtime exemptions for processors of fruits, vegetables and some other foods by Jan. 1, 1977. It would have given a first partial overtime protection to sugar processing workers.

Two of President Nixon's Secretaries of Labor have supported this type of action.

Former Labor Secretary George P. Shultz (still a favorite advisor of President Nixon) and present Labor Secretary Peter J. Brennan argued in favor of modifying these overtime exemptions as no longer necessary. Secretary Shultz noted that automation and other technical advances have reduced the possibility of spoilage, the major excuse for the original exemptions in the law.

The undersigned organizations urge Members of Congress to override the President's veto of the Minimum Wage Bill. Simple justice demands that all workers, whether they be in manufacturing, in service industries or in any type of work—who contribute so much to our national standard of living—be given a chance to enjoy a decent standard of living for themselves and their families. They do not want welfare. They should be paid fairly for their services.

The National Farmers Organization.
The National Farmers Union.

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Hon. Phillip Burton,
*Rayburn House Office Building,*
*Washington, D.C.:*

The International Chemical Workers Union, 110,000 members strong, urges you to vote yes to override President Nixon's veto of the minimum wage bill. Thousands of America's working poor need Federal legislation to help them out of the low wage/high price crunch. Your support will be appreciated.

Thomas E. Boyle,
*President.*
Frank D. Martino,
*Secretary-Treasurer.*

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Hon. Phillip Burton,
*House Office Building,*
*Washington, D.C.:*

The International Brotherhood of Electrical Workers with its 950,000 members is very much concerned about the long awaited increase in the minimum wage for the lowest paid workers in America. We strongly supported this legislation and were very upset by President Nixon's veto.

We strongly support the position of the AFL–CIO as stated in their letter to you on September 12, 1973 and urge you to vote to override President Nixon's veto of the minimum wage bill.

Sincerely yours,
Joseph D. Keenan,
*International Secretary.*
Charles H. Pillard,
*International President, IBEW.*

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International Union of Electrical, Radio, and Machine Workers,
*September 17, 1973.*

Dear Representative: The International Union of Electrical, Radio and Machine Workers (IUE) urges you to support the effort to override President Nixon's veto of the minimum wage bill. This action is desperately needed by millions of your fellow citizens who are the working poor of this country.

There has been no increase in the federal minimum wage for 5½ years and the present minimum of $1.60 an hour for most covered workers is totally inadequate. The present level forces thousands of American citizens onto the welfare rolls and, tragically, some into crime. In human and economic terms, these costs alone are far higher than we as a nation can afford.

It is a fact that nearly every increase in the minimum wage since World War II has been followed by reduced unemployment for teenagers, minority groups, older people and women. These are the Americans who need help the most and it is tragic for our country to force them to continue to bear this unfair burden while others reap the profits.

Those at the bottom of our economic ladder have waited far too long for relief. The current shocking inflation hits these people hardest. They must not be asked to wait any longer. We, as a nation, simply cannot afford to turn away from them.

As you know, the minimum wage bill passed the Senate 62–28 and the House 253–152. It is clear that a substantial majority of Americans favor this measure, as written.

IUE strongly urges you to support overriding the veto when this issue comes before the House of Representatives.

With best wishes,
Sincerely,
Paul Jennings, *President.*

PHILLIP BURTON,
*The House of Representatives,*
*Washington, D.C.:*

DEAR CONGRESSMAN BURTON: Equity and decency demand an increase in the minimum wage for the poorest paid.

On behalf of the more than 250 members of the American Federation of State, County, an Municipal Employees, AFL–CIO, in your district, I urge you to vote to override the President's veto of the minimum wage bill.

Many of the public employees will be direct beneficiaries of the bill's overtime pay provisions. I know they are counting on your support, as I am.

JERRY WURF,
*International President, American Federation of State, County, and Municipal Employees.*

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Hon. PHILLIP BURTON,
*House Office Building,*
*Washington, D.C.*

The American Postal Workers Union strongly urges you to vote on September 15 to override President Nixon's veto of the minimum wage bill. The President called the 25 percent proposed increase in the minimum wage bill as "too high". The 38 percent increase in food prices—the key item in the budget of every low income family—since February, 1968, the last time the minimums were increased, shows how completely unrealistic is the President's reasoning. The American Postal Workers Union on behalf of millions of working Americans and their families respectfully urges you to vote to override.

FRANCIS S. FILBEY,
*General President, American Postal Workers Union, Washington, D.C.*

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[From San Francisco (Calif.) Chronicle, Sept. 11, 1973]

JUD JOAD WANTS A MINIMUM WAGE

(By Arthur Hoppe)

"Good News, Maude!" cried Jud Joad as he shuffled up the dirt road from Appalachia Corners to his ramshackle cabin. "The President's done struck a mighty blow against high prices."

Maude appeared on the porch, wiping her hands on her flour sack apron, eagerness in her old eyes. "Does that mean I can get me my gingham curtains, Jud?" she asked. "They gone to $8.98 in the catalogue, but if'n they come down to like, say, $1.98, do you reckon I could . . ."

"Now it ain't going to happen overnight, Maude," said Jud, sinking in his rocker. "Them big spenders in Congress, see, voted to raise the minimum wage to $2 an hour . . ."

"Two whole dollars!" said Maude with awe. "Why, you could earn me them curtains in an hour, Jud, if'n you had a job."

"Now hold on there, Maude. What the President done, see, was to veto those there big spenders in Congress. Like he said, we all got to fight inflation. And if we had to pay folks $2 an hour to make gingham curtains, you never would be about to afford 'em. Don't that make sense?"

"I reckon," said Maude with a sigh as her thin shoulders sagged. "Tell me, Jud, what's the maximum wage these here days?"

"Truth to tell, I don't rightly know," said Jud, frowning. "It never did concern me much. Why you asking, Maude?"

"Well, I was just wondering," said Maude thoughtfully, "if the President done lowered it, too, that's all."

"Now why for would the President want to do a thing like that?" asked Jud, surprised.

"Well, now," said Maude, "if'n keeping the minimum wage low is going to make prices go down, stands to reason that lowering the maximum wage would do likewise."

"Well . . ." said Jud dubiously.

"The President, he must make the maximum wage," said Maude, pressing her point. "Why, if I was a betting woman, I'd bet my bonnet he must make leastwise $10 an hour. Not that I'm saying for a minute, he ain't worth it. But if'n he could see his way clear to taking maybe $8 and giving you $2, none's the harm."

"I don't know, Maude," said Jud, scratching his elbow. "The President says if'n folks had to pay me $2 an hour, they couldn't afford it. So I'd be out a job, if'n I had one to be out of. See? He's fighting unemployment for us, too."

"Then if he took only $8, he'd be helping hisself keep his own job," said Maude triumphantly. "If he lowers the maximum wage, a passel of rich folks'd find jobs, too."

Jud shook his head. "He can't afford it, Maude. He's got parties to give and airplanes and limousines and yachts to keep going and half a dozen houses to fix up . . . No, sir, when it comes to fighting poverty and unemployment, you got to leave it up to rich folks like the President, who knows what it's all about."

"I reckon you're right, Jud." said Maude. "But it don't seem fair somehow."

"Now, don't fret, Maude," said Jud, reaching over to take her hand. 'When it comes to fighting poverty and unemployment, Presidents always got to draw the line somewhere."

"I know," said Maude. "But how come they always draw it at us? How come I got to give up my gingham curtains and the rich folks don't have to give up their yachts?"

"That's on account of Presidents want to be fair to everybody in this great land of ours, Maude, and we ought to count our blessings," said Jud firmly. "After all, it's a dang site easier to give up a pair of gingham curtains than a fine big yacht."

Mr. DENT. Mr. Speaker, I yield two minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, the administration's rationale as to what is inflationary and what is not is about as consistent as their support for the Vice President.

On the one hand, personal luxuries such as swimming pool heaters and gazebos are in the national interest. Wheat deals in which a select few reap windfall profits are in the national interest. The remodeling of the Presidential aircraft solely to satisfy someone's decorating designs is, by all means, in the national interest. Maintaining seaside villas at all points of the globe, at public expense of course, is, again, in the national interest.

But, when it comes to helping the poorest of the poor earn a subsistence wage, we are bombarded with cries of inflation. When it comes to helping those who need our help the most, the Congress is accused of feeding the fires of inflation.

When it comes to helping the casualties of the administration's economic game plans, we are charged with attempting to create a fresh surge of inflation.

In the past, the administration has been eager to release the public's reaction to proposed or completed actions. Today, where are the administration's polls? Where are all the letters and calls in support of the veto?

The President says that raising the minimum wage from $1.60 an hour—or $3,320 annually—to $2.20 an hour—or $4,576 a year—would "allow millions of America's low income families to become the prime casualties of inflation." He says it would "penalize the very people who need help most." The bill would "cause unemployment."

Mr. Speaker, the people I talk to appreciate the President's concern, but are prepared to become "casualties," and will accept the "penalty" of an increased minimum wage, as they feel it is in the national interest.

I urge my colleagues to stand by the workers of this country and give them this increase in the minimum wage by voting to override the President's veto.

Mr. DENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CARNEY).

Mr. CARNEY of Ohio. Mr. Speaker, I rise to speak in support of the minimum wage bill passed by Congress, and to strongly urge my colleagues to vote to override the President's ill-advised veto.

By stating that his veto of the minimum wage bill is necessary to control inflation, President Nixon is placing the heaviest burden for controlling inflation on the backs of the poor. Congress cannot, in good conscience, allow this to happen.

This minimum wage bill, which was vetoed by the President, would increase the wages of approximately 3.8 million workers—fewer than 1 out of every 20 employed Americans—from the present $1.60 an hour to $2 an hour in November, and $2.20 an hour in July 1974. It would increase the Nation's total wages by only four-tenths of 1 percent.

Under the current minimum wage, a person working 40 hours a week and 52 weeks a year earns an annual income of $3,320. The current poverty level for a family of four, as defined by the U.S. Department of Labor, is $4,300. Even at $2.20 an hour, a family of four probably still will be living below the poverty level by next July.

Taking into account the increase in the cost of living since the last minimum wage bill now before the Congress is inadequate. If Congress only wanted to maintain the same minimum wage rate as in 1967, we would have to increase the minimum wage to $2.32 immediately, rather than $2.20 by next July.

Mr. Speaker, the people who are opposing this increase in the minimum wage rate are the same people who have opposed food stamps for the poor and welfare benefits for the poor. They cannot have it both ways. They must choose between a decent, fair, and reasonable minimum wage on the one hand, or a substantial increase in the number of people on welfare on the other. People cannot be expected to work 40 hours a week for a meager $64, when they can receive approximately the same amount of money on welfare without working.

Of all the bills vetoed by President Nixon to date, most of them good, sound legislation which the Congress deliberated on for many months, the President's veto of this minimum wage bill is by far the most unjustified.

Mr. Speaker, there are many Americans who work full time, but are living in poverty. The only time their wages are increased is when Congress raises the minimum wage. I urge my colleagues to be compassionate toward these working Americans and their families. Let us show poor people who are trying to help themselves that we care by overriding the President's veto of the minimum wage bill.

Mr. QUIE. Mr. Speaker, may I inquire how much time does each side have remaining?

The SPEAKER. The gentleman from Minnesota has 7 minutes remaining, and the gentleman from Pennsylvania has 19½ minutes.

Mr. QUIE. Could we use some more of the gentleman's time?

Mr. DENT. I expect to yield to myself the balance of my time.

Mr. QUIE. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. ARENDS).

Mr. ARENDS. Mr. Speaker, I trust that no one in this House will for one moment believe that anyone on this side of the aisle is anti-labor. We are not. I would hate to have that impression gotten out.

I am reminded of what happened during the time of the passage of the Taft-Hartley bill. But few Members are here today who were Members on that occasion. Twice in the history of my service in this Congress we have been deluged by mail, once at the time of the Supreme Court packing proposal back in the Roosevelt days, and the second time on the occasion of the passage and our override of the Taft-Hartley Act. On that occasion, believe me, the mail carriers were going down the halls delivering mailbags full of mail to an extent unprecedented. People were truly concerned and I mean concerned.

The Taft-Hartley bill was passed. President Truman vetoed it. The House then overrode the veto. The end result was that we did labor a favor, and it is so recognized by the laboring man today. Some labor leaders were disappointed but not the rank and file of labor.

I trust no one is going to feel that those of us who vote to support the President today in sustaining his veto are anti-labor. We are not.

Mr. DENT. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON of New Jersey. Mr. Speaker, I simply rise to take exception to the statement of my distinguished friend, the minority whip, the gentleman from Illinois, that organized labor is so happy with this so-called Taft-Hartley Act. As a matter of fact, it is not, and it has really no right to be. There are sections of that act that have been terribly inhibiting on the American working people. I think a discussion of that vis-a-vis the minimum wage is irrelevant.

I hope the consideration due the American people will be given them and that this veto will be overriden.

Mr. DENT. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding.

I just was reading a report on the ticker that:

> **The Indian Government proposes tentatively to accept a settlement of its $3 billion debt to the United States for $100 million in cash and $900 million to be spent on U.S. operations in Indiana and aid to neighboring countries.**

In other words, it would be a $2 billion giveaway by the U.S. Government. Is this not inflationary? How can anyone vote to sustain the President's veto and condone this?

Mr. DENT. Mr. Speaker, I yield to the gentlewoman from New York (Ms. ABZUG) such time as she may consume.

Ms. ABZUG. Mr. Speaker, I support the overriding of this veto.

Mr. Speaker, in his minimum wage veto message, President Nixon returned H.R. 7935, calling for balance and moderation and asking Congress to enact a compromise minimum wage bill. Who do we compromise? The very lowest paid workers among us, whom we wish to sacrifice against an inflation generated by big business and the administration itself. How dare we ask those earning $4,000 or less to tighten their belts "in the national interest."

Who do we compromise? Women who are socially and economically desperate—women over 50, the single, divorced or widowed, minority women and women with limited education who have raised families and kept house, and women who are domestic workers? It is inconceivable to me that including one and a half million domestics, living far below the national poverty line, could be labeled "a backward step." What sort of perverse economic reasoning could justify inflicting further hardship on those Americans who, for so long have been locked in the cycle of poverty and despair?

Who do we compromise? The youth of this country whom we deny equal pay for equal work and whom we pit against adult workers, reminiscent of child labor undercutting the employment of mothers and fathers?

Who do we compromise? Those who receive the lowest pay in the Federal scale and have had their wages frozen for 6 years while prices, interest rates and the cost of living have exploded by almost 30 percent? Has any thought been given to these hard working Americans, without whom the Government would soon come to a screeching halt?

No my dear colleagues, it is you who will vote to sustain the veto who compromise yourselves by blindly following the seat of power against the interests of the ordinary American.

Mr. DENT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise in opposition to the veto.

Mr. Speaker, I urge my colleagues to override this tragic veto.

Mr. Nixon's veto message indicated that by advancing the minimum wage, Congress promotes additional unemployment and inflation. Here is a man who for 5 years has wreaked incredible economic havoc and caused an era of unprecedented high unemployment and high inflation. With the cancer of Nixonomics all too visible, how dare this administration lecture anyone on economic policy.

This is one more example of the outrageous priorities of this administration. In the 7 years since the present minimum wage went into effect, the cost of living has reached the highest level in this Nation's history. Those persons working full time at the present minimum wage, now find themselves below the poverty level set by the administration's own Department of Labor.

The Nixon veto also means nonextension of minimum benefits to workers involved in domestic service and agriculture. This blatant inequity has nothing to do with inflation and unemployment, as Mr. Nixon has claimed; the executive branch's own statistics prove this.

Overriding the veto and extending minimum wage benefits to these groups means simply that this Congress will not support an administratively mandated policy of economic genocide being practiced on the poor and unpowerful. Fellow Members, again I urge you to repudiate this veto.

Mr. DENT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I rise in opposition to the veto.

Mr. Speaker, thank you for giving me the opportunity to state the reasons why I believe my colleagues in the House of Representatives should vote to override Mr. Nixon's veto of the Fair Labor Standards Act of 1973.

At the present time, 8 million people are working at or near the minimum wage level, earning only $64 for a 40-hour week. Further, there are over 16 million poor who, under the present law, are not even included in the minimal protection offered by the minimum wage. Therefore, as a result of the huge increases in the cost of living, it has become more profitable for these workers to quit their jobs and go onto the welfare rolls for their financial benefits would be much higher. The additional cost to the taxpayers, however, would be immense.

And yet, the President states that this bill, which would still leave a large majority of these workers earning less than the designated poverty threshold, is inflationary and would cause massive unemployment. I have been unable to find any facts to justify his assumptions. Instead, if the present minimum wage level is maintained, I fear that there will be massive unemployment and a sharp increase in the welfare rolls. How can we expect a man to work long hours at a grueling job only to earn less than his neighbor who is on relief? How can we say to these people who have been the hardest hit by the skyrocketing cost of living that we cannot grant such an increase because it would be inflationary, a statement which contradicts all statistical reports which have been issued?

Over the past several years there has been a great deal of emphasis placed on devising plans to get people off the welfare rolls. President Nixon has committed his administration to finding a solution to this grave problem. And yet, when he is presented with legislation designed to make it more profitable to work than to be on welfare, Mr. Nixon vetoes such legislation for reasons which cannot even be substantiated by reports issued from his own Cabinet. Any student of the U.S. economy could only be impressed by the boosts which past raises in the minimum wage have given to our economy.

The President has continually vetoed legislation designed to improve the lives of the poor, the elderly, the sick and the young on the basis that such legislation was inflationary. Yet at the same time, the President has attacked Congress for not acting swiftly enough on legislation designed to greatly increase the already overblown defense budget, increases which greatly exceed the total of those requested by legislation previously vetoed as inflationary. We are told that it is more important that we have missiles than food to feed the hungry, jobs for the unemployed, and health care for the sick and elderly.

It is up to Congress to insure that the American people do not continue to suffer from an administration which ignores their needs and desires. I urge you, therefore, to join with me in vetoing to override President Nixon's veto of the minimum wage bill.

For your further information, I am submitting an analysis of President Nixon's veto message compiled by the International Leather Goods, Plastics and Novelty Workers Union. I feel certain that after studying this analysis, you will believe it to be unnecessary and cruel to sustain Mr. Nixon's veto of this important and much needed legislation.

The material follows:

### MYTHS VERSUS FACTS: AN ANALYSIS OF PRESIDENT NIXON'S VETO MESSAGE ON MINIMUM WAGE

In his veto message to the Congress on minimum wage, President Nixon presented many myths totally unrooted in fact. Following are the myths endorsed by the President and the facts as reported by the government in its official documents and statistics. The AFL-CIO believes the facts add up to compelling proof of the need to override the President's veto.

*Myth No. 1*—"No one knows precisely what impact such sharp and dramatic increases would have upon employment, but my economic advisors inform me that there would probably be a significant decrease in employment opportunities for those affected."

*The Facts*—Every time the Congress has increased the minimum wage or expanded coverage, the spectre of decreased employment and increased unemployment has been raised. Yet every time the Congress increased the minimum wage or expanded coverage—as a review of the employment-unemployment statistics of the Bureau of Labor Statistics clearly shows—employment increased and unemployment rates declined, with the sole exception of 1967. The trend in nonagricultural employment after each change in the minimum wage since 1949, compared with unemployment trends (seasonally adjusted) for nonagricultural workers in the private sector is shown below:

EMPLOYMENT AND UNEMPLOYMENT (AVERAGE)

I. Jan. 25, 1950, Minimum wage increased from $.40 to $.75:

1950, 45,222,000 employees; Jan. 1950, 3.3 million unemployed (7.8%).

1951, 47,849,000 employees; Jan. 1951, 1.9 million unemployed (4.3%).

II. Mar. 1, 1956, Minimum wage increased from $.75 to $1.00:

1956, 52,408,000 employees; March 1956, 2.2 million (4.7%).

1957, 52,894,000 employees; March 1957, 2.0 million (4.2%).

III. Sept. 3, 1961, Minimum wage increased from $1.00 to $1.15:

1961, 54,042,000 employees; Sept. 1961, 3.6 million (7.4%).

1962, 55,596,000 employees; Sept. 1962, 3.1 million (6.2%).

IV. Sept. 3, 1963, Minimum wage increased from $1.15 to $1.25:

1963, 56,702,000 employees; Sept. 1963, 3.0 million (5.9%).

1964, 58,331,000 employees; Sept. 1964, 2.7 million (5.3%).

V. Feb. 1, 1967, Minimum wage increased from $1.25 to $1.40:

1967, 65,857,000 employees; Feb. 1967, 2.1 million (3.8%).

1968, 67,915,000 employees; Feb. 1968, 2.2 million (4.0%).

VI. Feb. 1, 1968, Minimum wage increased from $1.40 to $1.60:

1968, 67,915,000 employees; Feb. 1968, 2.2 million (4.0%).

1969, 70,284,000 employees; Feb. 1969, 2.0 million (3.4%).

President Nixon's principal economic advisor, Treasury Secretary George P. Shultz, reported to the Congress in 1970, when he was Secretary of Labor:

"In the retail, services and State and local government sectors—where the minimum wage had its greatest impact in 1969, since only newly covered workers were slated for Federal minimum wage increases—employment rose substantially." (Emphasis added.)

In his veto message, the President has failed to produce one scintilla of evidence that this year's proposed minimum * * *.

*Myth No. 2*—"Sharp increases in the minimum wage rate are also inflationary."

*The Facts*—The facts simply do not support the President's contention.

In 1949 the minimum wage was increased 87½ percent, from 40¢ to 75¢ an hour, effective January 25, 1950. This "sharp" increase in the minimum wage did not cause inflation. On the contrary, in 1950 the annual inflation rate—as reflected in the Consumer Price Index—was only 1 percent.

The 1955 amendments increased the minimum wage 33.3 percent, to $1.00 an hour, effective March 1, 1956. This "sharp" increase in the minimum wage did not cause inflation. In fact, in 1956 the annual inflation rate was only 1.5 percent.

The minimum wage was increased 15 percent in 1961 to $1.15. The 1961 annual inflation rate was 1.0 percent, but, since the increase went into effect late in the year, the 1962 rate should be considered—it was 1.1 percent. By 1964, when the minimum wage had been increased to $1.25 an hour, the annual inflation rate was only 1.3 percent.

In 1966, the minimum wage was increased to $1.40 effective February 1, 1967. Inflation for that year was 2.9 percent. For 1968, when the minimum wage went to $1.60, inflation shot up 4.2 percent. The then Secretary of Labor W. Willard Wirtz reported to the Congress:

"The increased minimum wage levels set in 1966 have not contributed to the current inflationary spiral to an extent which permits reasonable questioning of their net value in strengthening both the position of low-paid workers in particular and the economy in general."

Thus, when the minimum wage increases were the "sharpest"—to use the President's term—inflation was the most modest. Similarly, the sharper the minimum wage increase, the sharper the decrease in unemployment.

For the President to deny the lowest-paid workers an increase in their minimum wage on the basis it is "inflationary" or would cause unemployment is a shocking distortion of the facts.

Dr. Richard S. Landry, administrative director of the Economic Analysis and Study Group of the Chamber of Commerce, told the Senate Subcommittee on Labor on June 9, 1971:

"We (the Chamber) do not contend, unlike some of the witnesses that appeared before you apparently, that the minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages."

*Myth No. 3*.—"Frequently workers paid more than the minimum gauge their wages relative to it. . . . An increase in the minimum therefore increases their demands for higher wages—in order to maintain their place in the structure of wages."

*The Facts*.—Even a cursory reading of the minimum wage impact studies transmitted to the Congress by the Department of Labor since 1954 proves the fallacy of this statement. This is what the Department has said: "No general upward pressure on the wage structure." "Increases confined to raising wages of those paid less than the new minimum." "Little or no evidence of a bumping effect of the wage increase." "Increases limited almost entirely to the lowest wage brackets."

*Myth No. 4*.—"The ones who would be the first to lose their jobs because of a sharp increase in the minimum wage rate would frequently be those who traditionally have had the most trouble in finding new employment—the young, members of racial and ethnic minority groups, the elderly, and women who need work to support their families."

*The Facts*.—Again, the President has propounded a myth that is in direct contradiction with the facts of what has happened in the past when minimum wage rates were increased.

Witness the following table of annual employment rates (underlined years are years and months in which minimum wage increases took effect):

[In percent]

| | Women Teenagers | (over 20) | Minorities (all ages) | 65 yrs. and older | |
|---|---|---|---|---|---|
| | | | | Male | Female |
| 1949 | 13.4 | 5.3 | 8.9 | 5.1 | 3.8 |
| 1950 (January) | 12.2 | 5.1 | 9.0 | 4.8 | 3.4 |
| 1951 | 8.2 | 4.0 | 5.3 | 3.5 | 2.9 |
| 1955 | 11.0 | 4.4 | 8.7 | 4.0 | 2.3 |
| 1956 (March) | 11.1 | 4.2 | 8.3 | 3.5 | 2.3 |
| 1957 | 11.6 | 4.1 | 7.9 | 3.4 | 3.4 |
| 1961 (September) | 16.8 | 6.3 | 12.4 | 5.5 | 3.9 |
| 1962 | 14.7 | 5.4 | 10.9 | 4.6 | 4.1 |
| 1963 (September) | 17.2 | 5.4 | 10.8 | 4.5 | 3.2 |
| 1964 | 16.2 | 5.2 | 9.6 | 4.0 | 3.4 |
| 1966 | 12.8 | 3.8 | 7.3 | 3.1 | 2.8 |
| 1967 (February) | 12.9 | 4.2 | 7.4 | 2.8 | 2.7 |
| 1968 (February) | 12.7 | 3.8 | 6.7 | 2.9 | 2.7 |
| 1969 | 12.2 | 3.7 | 6.4 | 2.2 | 2.3 |

Nearly every time the minimum wage was increased, the unemployment rates dropped for the groups of workers specifically cited by the President. The only increases were minor, and, significantly, were reduced the following year. On the basis of the facts, as compiled by the BLS, the President's contention doesn't hold water.

*Myth No. 5*—"H.R. 7935 would only drive (the teenage unemployment) rate higher."

*The Facts*—Once again, the President is dealing in fantasy, unsupported by fact. He has made a statement his own Secretary of Labor labeled in 1971 as unsupportable. In his report to the Congress, Secretary Hodgson took note of an exhaustive study of the relationship of minimum wages to youth unemployment—a study, conducted under the auspices of the President's current chief economic advisor—and concluded: "A significant finding was that it was difficult to prove any direct relationship between minimum wages and employment effects on young workers."

There is little need for me to repeat the AFL-CIO's absolute, total and irrevocable opposition to a youth subminimum wage. However, let me make the two observations:

1—According to the BLS employment statistics released the day after the President vetoed the minimum wage bill, less than half of the 16 and 17-year-olds looking for work were seeking full-time work (250,000 vs. 574,000).

2—Of the 1.17 million 16 to 19-year-olds counted as unemployed in August, only 731,000 wanted full-time work. But there were 888,000 unemployed 20 to 24-year-olds seeking full-time employment. If a subminimum wage for teenagers were in effect, these "older" workers would be at a severe disadvantage in competing with teenagers for jobs that pay the minimum wage.

It boggles the mind that government policy should be designed so as to move 16–17 year olds to the front of the hiring line with 18 and 19-year-olds just behind them, by allowing employers to pay them substandard wages, thus placing a competitive disadvantage on the 20–24 age group as well as on older unemployed workers who are not only more numerous but who are typically seeking full-time work.

*Myth No. 6*—Extending minimum wage coverage to domestic household workers "would be a backward step."

*The Facts*—It is absolutely incomprehensible to say that paying domestic workers a living wage will somehow hurt them. In truth, the number of domestic workers has declined by one million in the past decade, while the demand has continued to increase. Domestic household work is one of the least attractive fields of employment. The pay is deplorable—31 percent are paid less than 70 cents an hour; nearly 50 percent receive less than $1 an hour. The workers are generally excluded from unemployment and workmen's compensation; they rarely receive such commonly accepted benefits as sick leave and vacations. And, of course, they have no protection against arbitrary actions of their employer.

We believe that if domestic workers were covered by the minimum wage and given protections enjoyed by other workers, that the supply of workers would increase to fill the demand, not the reverse.

*Myth No. 7*—By extending coverage to employees in small retail and service establishments "thousands of such establishments would be forced to curtail their growth, lay off employees, or simply close their doors altogether."

*The Facts*—The bleak picture painted by the President is completely fallacious. The minimum wage bill he vetoed would simply treat all employees of presently-covered large chains the same, regardless of the size of the particular store in which they work. The extended coverage would not mean closing the "Mom and Pop" corner groceries, because they are not covered by the amendments.

Further, in 1971 Secretary Hodgson said ". . . it is significant that employment in retail trade and services—the industries where the newly covered group is largely concentrated and hence most likely to manifest some impact from the wage increase—fared better than industries unaffected by the statutory escalation in the minimum wage."

The proposed extension of coverage would protect medium size shopkeepers, who are covered by the law, from being undercut by retail or service establishments which may be part of multimillion dollar enterprises, yet are exempt from the minimum wage and pay subminimum wages. Thus, the President's veto would protect the largest companies, not the smallest as he would have the Congress believe.

*Myth No. 8*—"For Federal employees, (minimum wage) coverage is unnecessary—because the wage rates of this entire group already meet the minimum . . ."

*The Facts*—54,000 federal employees presently covered by the minimum wage currently earn less than $2 an hour; another 10,000 earn less than $2.20 an hour.

*Myth No. 9*—"Extension of Federal minimum wage and overtime standards to State and local government employees is an unwarranted interference with State prerogatives . . ."

*The Facts*—The President's contention is similar to one proposed by Charles Alan Wright of Austin, Texas, as attorney for the State of Maryland when Maryland challenged the 1966 extension of minimum wage coverage to employees of state schools and hospitals. In a definitive 6 to 2 decision, the Supreme Court rejected that contention.

### OTHER OBSERVATIONS

The President states that he would sign a minimum wage increase "which would be consistent with the Nation's economic stabilization objectives . . ." We submit that the bill he rejected was categorically within the stabilization objectives.

1—The Congress specifically amended the Economic Stabilization Act to exempt from wage controls those workers earning less than $3.50 an hour, correctly recognizing that the poorest paid workers are the victims, not the cause, of inflation.

2—The minimum wage increase voted by the Congress is within the 5.5 percent wage standard of the President's Cost of Living Council. If workers earning the statutory minimum wage had received a 5.5 percent yearly wage increase, then the federal minimum wage would be $2.18 an hour in November 1973 and $2.26 in July 1974.

3—If the federal minimum wage had been increased to account for the inflation so long uncontrolled by this Administration, it would have reached $2.08 an hour in July, 1973. And when the wholesale price increases announced on the day after the President's veto reach the retail level there is no telling how high the minimum wage would have to be to keep pace with declining buying power.

4—The President is ignoring some basic economic facts. In a more than trillion dollar economy, increasing the minimum wage is little more than a drop in the bucket. In fact, if the increase to $2 an hour were to go into effect in October, it would only increase the nation's total wage bill four-tenths of one percent, the U.S. Department of Labor has reported.

In stating that "we cannot allow millions of America's low-income families to become the prime casualties of inflation," the President has missed the point. Low-income families already *are* the Number One victims of inflation. Examine what has happened to the $1.60 minimum wage since it went into effect 5½ years ago.

The Agriculture Department's "economy food plan" for a family of four has increased more than 40 percent, from $21.80 a week at the beginning of 1968 to $30.60 in July of this year. Put another way, the family of four whose income is no greater than $1.60 an hour must spend 48 percent of its budget for food.

Rents have increased 21.5 percent; public transportation up 38.5 percent; apparel and upkeep up 20.2 percent; medical care up 29.1 percent; Social Security taxes up 33 percent.

In conclusion, the AFL–CIO firmly believes that no one, working full-time, year-round should be forced to rely on welfare for subsistence. Presently, 22 states have higher monthly welfare benefits than the breadwinner for a family of four can earn on the federal minimum wage. A higher minimum wage would permit some of the lowest paid workers, whose income is supplemented by welfare, to go off welfare rolls, thus reducing welfare costs.

Mr. DENT. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BIAGGI), a member of the committee.

**Mr. BIAGGI.** Mr. Speaker, as a member of the Education and Labor Committee and as a person acutely aware of the hardships imposed on our working poor by the ravages of inflation, I cannot, in good conscience, vote to sustain the President's veto of the minimum wage bill. More important, I urge my colleagues to consider the serious implications of the President's action and the impact it will have on millions of those in our society who have elected to work for a living even if their wages are substandard.

I cannot understand the rationale used by the President when he vetoed the minimum wage, and more confusing are the reasons he gave us for doing so. In my judgment, the President's veto, and a vote to sustain that veto by this body, if we so decide, represent a callous disregard for the economic well-being of low- earners in our country.

The President's claim that the bill would be inflationary and would create unemployment is a rash judgment founded on nonexistent facts.

Unemployment is certainly one of the more serious problems of our Nation. We all deplore its existence and we all want to do something to bring down the rate of joblessness as much as possible. However, unemployment should be attacked with sound and effective programs such as manpower development and training, job-creating programs, and an overall economic plan that assures steady overall economic growth and expansion.

Unemployment, above all, should not be a war cry against the earning potential of workers who now receive less than the officially set poverty level of $4,275—a rate which, at this moment, is already too low as the cost of basic living items has surged in the past year since that figure was formulated.

And, although the $4,275 level is 1 year old, it is a level even the $2 minimum wage rate set for 1973 in the bill passed by Congress will not achieve.

Mr. Speaker, the claim that our minimum wage bill would cause unemployment is further in doubt when we examine the employment data for each year after minimum wage increases were enacted in the past.

In every year after enactment of a minimum wage rate increase, that is, in 1949–50, 1956–57, *1961–1962*, and 1966–67, unemployment did not rise but in fact went down in all but 1 year, 1956, when it stabilized.

The second problem, and the most crucial, is inflation. It is a problem for most Americans and indeed for peoples of almost every developed country of the world. Congress and the administration must continue to take bold and direct actions to fight rapidly rising prices. However, the working poor of America should not be made undeserving victims of national policy to fight inflation. Anti-inflation programs should concentrate on those elements of our industrial society which contribute most to galloping inflation. Runaway prices, excessive rates of profit under a loosely administered economic stabilization program, and high wages and salaries in certain concentrated industries should be targets of national policy rather than the subsistence—or less than subsistence—wages of the working poor.

Mr. Speaker, the price decisions of the Cost of Living Council have added billions of dollars to the economic flow in this and last year. Yet, by the administration's own computation, the vetoed minimum wage bill would add only 0.4 percent to the 1973 wage bill of the 53 million workers covered under the provisions of our bill.

Even more convincing of the noninflationary aspects of the bill would be an examination of the impact the bill would have on the total economy in 1973. In terms of national personal income, the minimum wage bill would add only $1.6 billion to the more than $1 trillion—yes, $1,000 billion—in total personal income generated in our economy in July 1973.

If we were to take into account the overtime effects of the bill and the so-called ripple effect the impact on our economy of the 1973 increases mandated by the bill would be so infinitesimally small that it would hardly be noticed much less be considered an inflationary force in today's otherwise violent economy.

The claim that the minimum wage increase is excessive is also spurious. Under the bill, the largest increase for most workers occurs in the first phase. It raises the $1.60 rate to $2 an hour for those covered under the law prior to 1966—a 1-year increase of 25 percent. Over the total time period stipulated in the bill, the increase amounts to 37.5 percent.

Yet, these increases, although large, would go to only a very small part of the civilian labor force. The increase would actually be enjoyed by less than the 5 percent of the 85 million employee workers in our Nation—workers who are now earning a wage below the rates proposed in the bill.

And, while the increases seem high, it must be noted that the Consumer Price Index has increased by more than 35 percent since the last Fair Labor Standards Amendments were enacted in 1966. Mr. Speaker, the ironic situation is obvious: Increases mandated by our bill—and vetoed by the President—have already been canceled out by the upward movement of prices occurring during the last 6 or 7 years—a period in which no major changes in minimum wages were enacted except those carried over from the 1966 law.

Mr. Speaker, I would like to add one more point to my plea to override. And that is the provision of our bill dealing with government employees. The arguments in favor of this provision are so obvious—in terms of justice and equality under the law that I will not repeat them. But I must single out the provision of the bill dealing with fire protection and law enforcement personnel of States and their political subdivisions.

Congress has seen fit to include them in both the overtime and minimum wage coverage of the law in our 1973 amendments. And there should be no argument against this decision. However, Congress has gone a step further and has recognized the uniqueness of the work these men perform and the unusual work scheduling involved in thier duties. The special overtime computation provision providing for a 28-day work period for overtime compensation purposes was included specifically in recognition of the scheduling problems of police and fire personnel. Yet, one fact is often overlooked. That is, the bill before us provides that a prior agreement must be reached between Government employers and employees before such an extended overtime computation procedure is implemented.

Mr. Speaker, fire and police personnel will be given a voice, finally, in determining some small portion of their working conditions—a democratic principal guaranteed by our labor laws to so many other workers in the private sector and one which I would like to see extended to our police and fire forces.

Mr. Speaker, in closing, let me state that to deny low-wage workers a minimum wage which is not even high enough to meet cost-of-living increases; to deny them a wage which does not meet the Government's poverty level; or to deny them a minimum wage which does not meet the increases granted to other workers through administrative and bargaining procedures, is a moral disgrace that must be avoided. We can take the first step in that direction today by overriding the President's veto of the Fair Labor Standards Act Amendments of 1973.

Mr. QUIE. Mr. Speaker, I yield 5½ minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I will vote against overriding President Nixon's veto of H.R. 7935, the minimum wage bill and I urge my colleagues to do likewise.

First, I believe we ought to sustain the veto because the bill would raise the minimum wage not too high but too fast. This bill provides a 60-cent increase in 9 months. This is an inflationary burden our economy cannot stand.

Second, the bill is also imprudent in its expansion of coverage to 6 million additional workers including employees of State and local governments and domestic workers. The State and local governments have enough budgetary and tax problems without our adding to them. The provision in regard to the domestic workers would promise much but because it is unenforceable it would deliver little except fewer jobs to those who need them badly.

Third, by removing the overtime exemption including those in seasonal industries, the bill would be a disruptive force involving working conditions which have evolved over the years and proven reasonably satisfactory.

Fourth, the bill lacks a youth differential which would be effective and which would allow youth in effect to serve a brief apprenticeship while they are learning the facts of working life.

A youth differential would help reduce the unemployment statistics where they are the highest. Fifth, if we compel employers to pay 60 cents an hour more to the lowest paid workers, we will compel workers making $2.50 or $3 or $4 to demand proportionate wage increases. This is the so-called ripple effect.

By arguing that we ought to sustain this veto, I do not mean to advocate that we do not pass the minimum wage bill. The opposite is true. I am for a minimum wage bill and President Nixon is for a minimum wage bill.

We could have had a minimum wage bill, and a good one, a year ago except that some of the people on the other side were stubborn. From the beginning, they have remained adamant and have been unwilling to compromise, even though the basic procedure of a legislature is to compromise. If we had passed that bill last year, $1.80 would have gone into effect; this year it would be $2; next year it would be $2.20, the same level that is in the bill before us vetoed by the President.

Why did we not get a bill last year? They say, "Oh, the Republicans killed it." The one thing we asked for was an honest conference. We said, "If you will send conferees to that conference to adjust the differences between the House and Senate instead of sending conferees there who are already committed to selling out the House position and let it go and write the bill," but compromise was not their way of thinking.

How can I say that is true? How can I guess what they would have done? What did they do this year? Exactly what would have happened last year, had the House not prohibited a loaded conference to take place. The gentleman from Pennsylvania together with myself in the Rules Committee agreed with the gentleman from Hawaii to put in a provision to take care of the pineapple growers. That was to extend minimum wage differential for youngsters so that they could be utilized as pineapple workers. When this was suggested that it be taken out of the bill in conference, the gentleman from Minnesota offered an amendment to protect the gentleman from Hawaii (Mr. MATSUNAGA). The people on the other side of the aisle voted to take out the provision Mr. DENT had agreed to put in the bill, so the gentleman from Hawaii does not have what was agreed to.

The House passed by a very large margin an amendment offered by the gentlewoman from Oregon (Mrs. GREEN). Did the conferees on the other side try to sustain the House position? They did not. They just could not wait to get to the conference to sell out the position of the House and deny to the gentlewoman from Oregon the amendment this House had adopted; one of the very few amendments that were adopted to the bill.

Mr. Speaker, we have a great deal of demagoguery which goes on concerning the minimum wage. I submit that for many it is more of a political issue than it is really feeling sorry for those who are subject to minimum wage. What they wanted was an election issue, and they were so happy when that bill did not get passed last year. They told us, "We will elect 40 more and pass the bill we want next year."

The Members will hear the same thing from the gentleman from Pennsylvania (Mr. DENT) today, he is going to say he will not even allow our committee to bring up another bill. Every week on this floor of this House from now until November of next year, I am going to call on him to report a minimum wage bill out of that committee.

We need a minimum wage increase and we are going to get a minimum wage increase, and the gentleman from Pennsylvania (Mr. DENT) will not be allowed to stop that.

Mr. DENT. Mr. Speaker, I yield to the gentleman from New York (Mr. REID).

Mr. REID. Mr. Speaker, I urge my colleagues to vote to override the veto, a veto which would not even allow millions of Americans to earn $4,000 which is below the poverty level and thousands of dollars below the minimum living standard budget.

I would point out, Mr. Speaker, to those who argue that increasing the minimum wage would be inflationary, that inflation has climbed 38 percent since the last minimum wage increase, a full 5 years ago, in 1968. The bitter irony is that this same minimum wage earner must exist on earnings which even under the vetoed bill do not bring his gross earnings to the poverty level of $4,200 net income. I simply cannot believe that it is inflationary to pay enough wages merely to sustain life, and I sincerely hope that the members of the House will not be lured into this type of "straw man" argument.

Furthermore, I cannot agree with the administration position that we must provide a "youth differential," refusing to pay the minimum wage for those under 18. I believe, on the contrary, that we must pay equal wages for equal work, and that it is blatantly unfair and unjust to pay a 40-year old twice as much as an 18-year old when both are doing the same job with the same level of competence.

Legislation to increase the minimum wage has been trying to wend its way through the Congress for 3 years. Now a reasonable increase has been passed, and for the first time in the 35-year history of the minimum wage law, it has been vetoed. I urge my colleagues to vote to override this veto, in the name of common decency and humanity as well as the greater national interest.

(Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, I urge the Congress to override the unfortunate veto of the long delayed legislation which would call for a moderate increase for the lowest paid segment of our population. It has been 6 years since the millions of our hourly paid workers received even a moderate assist in combating the most devastating inflation and rise in the cost of living in the history of our Nation.

The present $1.60 an hour, under today's high cost of food, housing, rents, interest, clothing, education, hospital and health care, and so forth, does not begin to cover the expense of individual wage earners much less wage earners with a wife and children to support.

On March 2, 1972, 19 months ago, when I was chairman of the Democratic Steering Committee, that committee, made up of 26 members representing all geographical regions of the Nation, unanimously passed the following resolution:

Whereas it has been six years since Congress acted to increase the minimum wage or broaden its coverage, and

Whereas the cost of living has increased 16 percent since the Nixon administration took office, and

Whereas the present minimum wage results in family income below the poverty line, and

Whereas raising the minimum wage and broadening its coverage will, by increasing consumer purchasing power, bolster the national economy without promoting inflation, be it

*Resolved* by the Democratic Steering Committee, That all Democratic Members of the House are urged to support and vote for H.R. 7130, the Fair Labor Standards Amendments of 1971.

Last year White House opposition helped defeat a minimum wage increase.

Mr. Speaker, since that resolution was passed, the cost of living has increased almost 38 percent from what it was in March 1972. Millions of hourly wage earners are carrying the greatest burden of this devastating inflation.

Our Nation learned a lesson back in the 1920's when the Government neglected the wage earner and unemployment became rampant because of low wages and lack of buying power. This led to the closing of factories and businesses, and resulted in the 5-year depression of the 1930's.

If this veto is overridden, protection of the law will be extended to an additional 6 million Federal, State, local, and domestic workers. It also will bring overtime coverage to millions of Americans now denied the benefits of premium pay for long hours of toil.

The buying power of workers on $1.60 an hour has now dwindled to approximately $1.19 an hour.

Mr. Speaker, I plead today with the Members of the Congress, especially those who represent rural areas, to override this ill-advised veto which the President has sent back to the Congress. During the August recess I spent a few days in the great grain-producing States of Minnesota and Iowa and saw miles and miles of the greatest crop of wheat and grain, which I was advised will exceed any harvest in modern times.

One year ago, the market for wheat was around $1.50 a bushel; and today the farmers are jubilant with the price of wheat ranging between $4.50 and $5 a bushel. Our rural friends should bear in mind that approximately 71 percent of the population of this Nation reside in the urban area, where the cost of living hits the workers with a blast on every paycheck. I hope the Representatives of the farming districts do not forget the almost $3.5 billion subsidy which the Federal Government has been distributing annually to a big percentage of American farmers.

As has been testified here on the floor of the House during the discussion on the annual agricultural budget over the years, some of the large farm operations were receiving this annual bonanza in six figures.

During the August recess, every Member of Congress, including myself, representing urban areas received an avalanche of protests against vetoes and Presidential impoundments which have practically paralyzed the low-income worker, especially those with families, who are struggling to survive financially and educate their children.

Of course, we all recall the vetoes which the President sent down during his first 4 years in office, especially concerning hospitals, health care, education, and so forth. During recent months, and especially beginning with his second term last January, the President has started a procession of vetoes and impoundments which has superseded and defied the Congress to a greater degree than at any time in the history of our Nation.

During this year the Congress has considered and enacted more legislation during its first 7 months than any Congress in history. I think it is well for the Members to be reminded today, when we are considering the Presidential veto on minimum wage, of some of the real facts of the activity of this Congress.

Mr. Speaker, the fact is, Congress has been handicapped with vetoes and impoundments of major legislation during this 93d Congress as recorded in the following rundown:

### CONGRESSIONAL ACTION—JANUARY 1973 TO PRESENT

Continuing Federal funding for rural water and sewer systems—Vetoed.

Vocational Rehabilitation Act—Vetoed.

OMB Director's confirmation required—Vetoed.

Emergency medical care bill—Vetoed.

Increasing Federal minimum wage—Vetoed.

Anti-impoundment bill to prevent President from sitting on funds authorized by Congress—Veto threat.

War powers bill—Veto threat.

Housing and community development legislation—Refused to spend money authorized.

Aid to schools—Impoundment.

Environmental legislation, such as water pollution control—Refused to spend money authorized.

During the 92d Congress 1971-72 the President vetoed the following legislation:

H.R. 3600—District of Columbia Police and Fire Department benefits.

S. 575—Applied Regulations and Development Act Amendments.

S. 2007—Economic Opportunity Act.

H.R. 56—Environmental Data Systems.

H.R. 13895—Certified Pay Revisions for Federal Employees.

H.R. 15417 and H.R. 16154—Labor-HEW Appropriations.

H.R. 12674—National Cemeteries Act.

H.R. 14424—National Institute of Aging.

H.R. 15657—Older Americans.

H.R. 13918—Public Broadcasting Corporation.

H.R. 16071—Public Works and Economic Development.

H.R. 15927—Railroad Retirement Annuity Increase.

H.R. 8395—Rehabilitation Amendments.

H.R. 10880—Veterans Medical Act.

S. 3755—Private Relief for Elmer Erickson.

S. 635—Mining and Minerals Policy Act.

S. 4018—Omnibus Rivers and Harbors Construction Act.

S. 2770—Water Quality Standards Act.

During the 91st Congress 1970 2d session, President Nixon vetoed the following:

H.R. 13111—Labor-HEW Appropriations bill.

H.R. 17548—HUD Appropriations bill.

H.R. 11102—Medical Facility Construction and Modernization Act. Hospitals, etc.

H.R. 16916—Education Appropriations bill.

H.R. 17809—Pay Scale for Federal Employees.

S. 3418—Family Medicine.

S. 578—Firefighters and Other Hazardous Occupations.

S. 3867—Manpower Act.

S. 3637—Political Broadcasting Equal Time.

Mr. Speaker, the above listed vetoes by the President do not include his vetoes and impoundments during his first year in office, 1969. In that year, inflation started on its devastating course, with increased interest rates, high food prices, soaring rents, and an uncurbed inflation of all commodities in the market. The building trades reported, at the end of 1969, that the construction of approximately 1 million houses was curtailed in President Nixon's first year in the White House.

In recent months, universities and colleges have been bombarding the Congress on curtailments and impoundments which are denying education to millions of our young high school graduates. The president of Purdue University in Indiana was in Washington before the August recess, visiting the Indiana congressional delegation and protesting, among other things, that all departments in Purdue must be curtailed and three departments would be abolished in the coming year because Purdue's allotment for this year will be approximately $2,400,000 less than in 1972. One of the three departments which would have to be abolished, he related, was the school for nurses.

Mr. Speaker, I mention these facts because the American public has not been sufficiently informed as to the double standard system of economy inflicted on the people by this administration through its refusal to halt the startling profiteering that has been going on through large corporation and conglomerates in the last few years. The newspapers and magazines in July reported that the first 3 months of 1973 the top 20 corporations and industries of this Nation reaped the largest profit of any 3 months in their history, and that the second quarter exceeded the first quarter of 1973.

Not one word has been contained in the President's numerous messages and press conferences regarding aiding the Congress on tax reform and eliminating the numerous depletion allowances, tax credits, unnecessary deductions, and so forth. Economists have estimated that between $15 billion and $20 billion could be brought into the Federal Treasury through the changing of these ridiculous tax loopholes which the powerful corporate interests have succeeded in putting on the Federal statute books over the years.

I mention these facts today because the Members of Congress and the American public should start now to look into the future and protect the millions of wage earners of this country against profiteering, high prices, high taxes, and curb the profiteers, tax dodgers, and special interest groups. The great majority of our 206 million Americans are the victims of this unfair policy of throwing the burden of suffering this inexcusable inflation on the masses least able to support this kind of an high inflation economy.

This unjustified veto should be overridden and classified near the top bracket of his other 38 vetoes since his inauguration in January 1969.

Mr. DENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. METCALFE).

Mr. METCALFE. Mr. Speaker, I strongly urge my colleagues to override the President's veto of H.R. 7935, to amend the Fair Labor Standards Act of 1938. Basically, the act provides for: First, raising the minimum wage rate from $1.60 per hour to $2.20 per hour by July 1, 1975; and second, including hitherto uncovered workers, among them domestic workers, and Federal and State and local government employees.

In his veto message, the President cites two major reasons for his action. First, he contends that a minimum wage rate increase and expanded coverage would cause "a significant decrease in employment opportunities for those affected." Second, he claims that such an increase would have an adverse effect on the economy; that the increase would heighten the present inflationary spiral mainly by causing most other workers to increase their wage demands. However, the President in his statement does not present one solid bit of evidence which would support his claims. It is not surprising that the President fails to present such evidence because such evidence, in fact, does not exist. However, very strong evidence does exist which disproves his claims.

As to the specter of increased unemployment, I commend his concern for the plight of this country's worst paid workers. However, statistics and statements of high Government officials indicate that his concern, while admirable, is misplaced. The President claims that the increased rates and expanded coverage will force many employers to cut back jobs and hours. In fact, Bureau of Labor Statistics data shows a contrary trend, that, with the exception of 1967, employment has increased and unemployment decreased when the minimum wage rate was increased or coverage expanded. Furthermore, in 1970, Secretary of the Treasury George P. Shultz, then Secretary of Labor, stated that:

> In the retail, services and State and local government sectors—where the minimum wage had its greatest impact in 1969, since only newly covered workers were slated for Federal minimum wage increases—employment rose substantially.

Further, the President, in his veto message, opposes expanding coverage to domestic workers and Government employees. Again, he does not present any evidence to support his position and, again, there is strong evidence which disproves his position. The President contends that extending coverage to State and local government employees is "an unwarranted interference with State prerogatives." However, a recent Supreme Court decision rejected a similar contention by a vote of 6 to 2. The President further claims that coverage for Federal employees is unnecessary because their wage rates already meet the minimum. Their wage rates may meet the current minimum, but they do not meet the proposed new minimum, 54,000 Federal employees currently earn less than $2.20 per hour. The President further claims that extending coverage to domestic workers "would be a backward step." When one considers that these workers cannot possibly move further back on this country's socioeconomic scale, the President's statement is indeed a callous one. The demand for domestic workers is increasing at a time when there is a shortage of such workers. Although competent domestic help is in high demand, the pay continues to be grossly inadequate. Thirty-one percent of domestic workers are paid less than 70 cents an hour; and nearly 50 percent are paid less than $1 per hour. Sylvia Porter, in her column which appeared in the Washington Star-News of August 26, 1973, states that:

> The median yearly earnings of year-round, full-time domestic workers is less than $1,800.

However, only one in six domestic workers works year-round, full time.

> The typical domestic household worker receives almost no fringe benefits—no paid holidays or vacations, no premium pay for overtime, no health insurance, no year-end bonuses, no pension plan—all of which add, on average, at least 25 cents to each dollar earned by other workers.

I cannot agree with Ms. Porter more than when she states:

> It's difficult to argue that barring these workers from the protection of our wage-hour laws is essential for the economic health of our nation.

Regarding the President's second major reason for vetoing H.R. 7935, once again, his veto message does not contain any solid evidence upon which to base his claim. In fact, two highly responsible spokesmen have disputed the President's contention.

Following the most recent minimum wage rate increase in 1966, then Secretary of Labor W. Willard Wirtz, stated:

> The increased minimum wage levels set in 1966 have not contributed to the current inflationary spiral to an extent which permits reasonable questioning of their net value in strengthening both the position of low-paid workers in particular and the economy in general.

Similarly, Dr. Richard S. Landry, administrative director of the economic analysis and study group of the chamber of commerce testified in 1971 that:

> We (the Chamber) do not contend . . . that the minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages.

Sylvia Porter stated my position on this issue quite succinctly when she wrote:

> As for inflation, it's vicious reasoning which translates a price spiral resulting from skyrocketing worldwide demands for goods and services into the need to keep a lid on wages and benefits of workers at the very bottom of the financial-social scale.
>
> How dare we ask the very lowest paid workers among us to stand in the first line of defense against an inflation fueled by the borrowing and buying of the affluent?

To fully comprehend the need for an increase in the minimum wage rate, and to also fully comprehend why the President's veto of H.R. 7935 is so deplorable, it is necessary to go beyond the economic arguments and abstractions and talk about the real life situation of those workers presently working for the minimum wage. The fundamental question is: can a family survive on the present minimum wage? The answer, of course, is an unequivocal no.

For a family of four, the Government has defined the poverty level at $4,275 per year. The breadwinner of such a family, if he were being paid the current minimum wage, would be earning nearly $1,000 less than the Government-defined poverty level. To look at the situation from a different perspective, the current minimum wage of $1.60 per hour, which was established in 1966, was worth only $1.19 in real buying power by April 1973. Since 1968, food prices alone have increased 38 percent, meaning that a family of four trying to survive at the current minimum wage must spend 48 percent of its budget on food. Finally, if we look at it from a third perspective, 22 States have higher monthly welfare benefits than the breadwinner for a family of four can earn on the current minimum wage. Increasing the salary of these workers would not only spare some of them the indignity of being forced to accept welfare, but also decrease welfare rolls and save Government money.

It is indeed a sad comment on our society and our ideals that, in this land of plenty, there is a group of hardworking men, women, and young people who are finding it difficult, and in too many cases impossible, to make a decent living. The present administration seems determined to punish them for the economic difficulties which are troubling this country. The economic policy of this administration is consistently inconsistent. Those who would benefit from the increase in the minimum wage should no longer be called upon to bear the brunt of this administration's maladroit handling of the economy. For these reasons, I deeply deplore the President's veto of H.R. 7935, and strongly urge my colleagues to overide the President's veto.

Mr. DENT. Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, I assume this responsibility today without any illusions whatsoever. Leopards do not change their spots. For some reason, parties do not change their principles.

I find it hard to digest when I hear a speaker from the other side protesting in fact how much they support labor. The Taft-Hartley Act was used as an example. It so happens that Taft-Hartley Act that they supported was a Taft-Hartley Act that labor opposed. It was a straitjacket and fettering chains for the workers of America.

Now I hear they are for the minimum wage. My worthy ranking minority Member says he is going to take time every week to call to the attention of the people that JOHN DENT is not for a minimum wage. I cannot swallow that from a man who never voted for a minimum wage in his life. I cannot swallow the tale of those who believe they ought to have a minimum wage increase, but not now.

Mr. Speaker, it has been that way since 1937. Every time a minimum wage bill has come up, it has been argued: "Not now. This is the wrong time. We are escalating too fast."

The gentleman from Illinois, the ranking member of my committee, says that it is a 60-cent raise in 9 months. That is not true. It is a 60-cent raise in 7 years—7 long years. That is how long it has been done.

Mr. Speaker, then we talk about calling to the attention of the people the fact that the Democrats defeated the bill last year.

Did we? Now, really did we?

Mr. Speaker, it was a pocket veto by the House of Representatives. For the first time in my 42 years of legislative service, we were denied the right to try to compromise, and then we are condemned because we did not compromise. The vote prevented us from compromising.

"No apologies are to be made," the Nation magazine says. And what does it say further:

> The President, Mr. Nixon, announced he would veto the bill passed by Congress setting the minimum wage at $2.20 an hour, a rate increase of 38 percent.

Mr. Speaker, that is not true. He gives out the fraudulent position that we are immediately increasing 38 percent. To gather in exactly the effect of living costs relating to wage increases given by the President of the United States to the civil servants, we would have had to go to 74.5 percent as an increase right at this moment.

We talk about these workers as if they were something apart from the American population. There is something that belongs somewhere in this position as to why we do not bring this issue out into the open and let the sunlight of truth be shed on the plight and the poverty that these people live in.

The President truthfully said—and let me state that it is the one point that I found to be truthful in his entire statement—as follows:

> The minimum wage in most workers has not been adjusted for 6 years. Sponsors of the bill recognize that rising prices have eroded the purchasing power of those who are still paying at the lowest end of the wage scale.

Then, Mr. Speaker, he proceeds to tell us that he does not want to put anything in the bill that is inflationary.

What is "inflationary"? Inflationary for the poor? Inflationary to those who give so much service and receive so little performance?

Right now, at this moment, as of October 1, nearly 3 million civil servants will receive an increase in pay, never having missed one increase since 1967, year in and year out. In the year 1967, they immediately received two increases in 1 year; they received increases in 1968 and 1969. There were two increases in 1 year, 10 percent for the first half of the year, and 5.2 percent for the second half of the year. The minimum wage boys and girls did not get it.

But what is the President going to do at the end of the month? I understand that he is going to increase the pay of workers receiving up to $36,000 a year. He is doing it unashamedly. Apparently there is no inflation there. The lowest income of the Federal worker in the group that will get an increase on October 1 in GS-1 is $6,238.

Yesterday, as I was riding the elevator in this Capitol Building, on this very floor, I spoke to one of the elevator operators. Many of them are teenagers. Their rate of pay is $6,970 a year for 4½ hours a day, 1 hour on Saturday, and 4½ hours every eighth Sunday. They are going to get an increase in pay to $7,300, and we approve it.

Yet, today's youngsters, most of them youngsters—I am not condemning the fact that they are getting it, but I cannot resolve in my mind what kind of conscience a man has that says a 20-cent rate of pay increase for the great majority of the workers in this country is wrong. It will be 20 cents. Less than 100,000 workers will receive 40 cents in the entire 18 million manufacturing work force, and of 52 million service, professional, and clerical work force in the United States, less than 100,000 will receive 40 cents an hour.

Do not talk about inflation. Here is the inflation charge. It is spelled out for you, if you wish to know.

Let me give you the inflation. Here is where the inflation is, in the lean and hungry bellies of the large families in this country that have to live on $1.60 an hour.

Let me see what the National Consumer League says.

This is what you ought to be reading, not these fraudulent messages based on fraud and not one ounce of truth in them. There is the statement in this message that cannot be borne out by the record; the statement on youth is a deliberate misrepresentation. Every youngster in this country, every teenager that wants to work can get a teenager's release, down to even 25 cents an hour, if the Secretary feels it is proper.

But I am not going to—at this stage in my life, after 42 years in public service in a legislative body, I am not going to start in motion to undo what it took 42 years to do in the work market, in the factories and in the mills and mines of this country with the youth.

I know. I started to work part time at the age of 7 and full time at the age of 12. Why? Because my father was a common laborer and could not earn enough to feed a family of 10. So no member of my family even got to go to high school.

What are they talking about, creating a situation that puts the poor families into a position where they have children who have to go to work in the factories at the age of 13? That is what the youth amendment is that the President wants, at the age of 13 or 14.

Well, whom will it hit? Those whom you are shedding crocodile tears over, the poor blacks. They are the ones that will go into the mills and shops of the country at a subminimum wage.

I am ashamed to serve in a body that would consider that as a legitimate and valid point to veto this bill.

I served with some great men in my time and some great men in this House, but I cannot conceive in my mind how any of you, no matter where you come form, what district you come from, or what your conditions of life may be, how you can ask this Congress to bring forth a bill that will put youth back into the dim, dark ages of the slave shop and the runaway-by-night-child-labor places, where there are millions of our young sons and daughters of the immigrants that made this country what it is and the blacks that came up from the South into the lofts in the textile industry dying from consumption before they were 40 years of age, into the coal mines at the age of 7, like I went myself.

A former Republican Governor of Pennsylvania was elected because it was in those days when labor was prominent and strong and he was a Republican. He started to work in the coal fields in anthracite at the age of 5, and he worked his heart out as Governor to put Pennsylvania's first anti-child-labor law on the law books. You are not emulating that man. You are not following in his footsteps. You are following in the narrow, very narrow and dark roadway of those who would exploit our young people.

Here I have before me—I do not use this stuff, but here I have before me a petition, an effort by the Student Council of the United States of America, begging this House not to put them in a secondary position in the labor market.

We have in this country 4,905,000 kids getting help from loans and grants in our education.

What did we do in this Congress? We made it possible for youngsters going to school and trying to help themselves, teenagers, college kids—and universities are so necessary—to work 20 hours a week while they are in school.

I ask you, any of you, fathers and mothers or guardians of children, would you want a young person to work more than 20 hours a week and still try to keep up his educational attainments? I do not think it can be done.

It has been said that this is the main issue today. When a youngster can work full time, 40 hours a week, he has to make a decision at some time, and that is whether he is going to be a 40-hour-a-week worker in a mill or a factory, or in a shop, or whether he is going to try to get an education.

This will wipe out 2 million-odd jobs that have been given under that provision of this act to students who are working their way through college, students who are working their way through high school, yes—and why will this occur? Because it will displace that fellow for 20 cents an hour less with a full-time dropout.

This Congress has voted billions of dollars in an effort to have youth camps, in an effort to have aid through the various OEO package deals trying to lift out of the poverty crowd, the permanent poverty crowd, the dropouts from our schools, and yet what are we doing today? Actually, and seriously, mind you, in the minds of a great number of the Members here—and I suffer from no illusion, I am a practical, hard-headed person, but I just want to say that I cannot believe that in this day and age of so-called enlightenment that we are behind even our neighboring country of Mexico. Mexico's minimum wage comes up for an automatic review 4 months from the 1st day of August, and on the 1st day of August the Mexican congressional deputies got together and they not only advanced that step 4 months, but they increased it. Why? Because—and this is a maximum and minimum wage, this one single little wage—because it could not sustain the worker.

Any Member in this room who is under any illusion whatsoever that I am going to bring out any kind of legislation that does not meet the responsibility of this Congress, should fall asleep on that idea because I will not, if I have to leave the Congress of the United States, I will not bring out a bill that puts our youth back into the mines, the mills, and the shops of this country of ours.

The SPEAKER. The time of the gentleman has expired.

Mr. PRITCHARD. Mr. Speaker, one of the most important pieces of legislation to be considered during this session of Congress, the minimum wage bill, was vetoed by the President. I supported the original minimum wage bill (H.R. 7935), as reported by the Committee on Education and Labor, for several compelling reasons. For these same reasons, I cannot vote to sustain the President's veto of this important measure.

It has been 7 years since the last time Congress amended the Fair Labor Standards Act to increase the minimum wage. The major changes that have taken place in the economy justify, I believe, a reconsideration of the level of minimum wage rates. The Consumer Price Index has risen 31 percent since the act was last amended. An increase in the minimum wage to $2.10 would just restore its 1966 purchasing power, if it were effective immediately. With a continuation of current rates of inflation, the administration's substitute bill, which would have established a $2.10 minimum in 2 years, would never restore the 1966 purchasing power. The vetoed bill, with a $2.20 minimum in 1 year, just would. The assumption is that the 1966 real value of the minimum wage is the appropriate benchmark.

A second approach toward setting minimum wage rates would restore the relationship between minimum and average wages prevailing at the time the act was last amended. The assumption is that the 1966 ratio is the appropriate one. Average hourly earnings in manufacturing have risen from $2.72 in 1966 to $3.99 in January 1973, or 47 percent. Average hourly earnings in the total nonagricultural private economy have risen 48 percent during the same period, from $2.56 to $3.39. Thus, an increase in the minimum wage somewhat greater than that indicated by the Consumer Price Index—to $2.35 and hour—would be required to restore the 1966 relationship between minimum and average wages.

The stated purpose of the Fair Labor Standards Act is to maintain a minimum standard of living necessary for health, efficiency, and general well-being of workers. Trends in the cost of living imply trends in the poverty line, which has come to be regarded as a third approach for setting minimum wages. The vetoed bill's provision of $2 an hour will still leave the low-wage worker below the Government-defined "poverty level" of $4,400 per year for a nonfarm family of four, assuming he works 40 hours a week for a full 52 weeks in the year. Not until 1 year after enactment would the increase to $2.20 an hour meet the poverty-level standard—if prices do not rise sharply during the interim.

As many of my colleagues know, wage rates are so low in some States that workers at the bottom end of the pay scale are better off to go on welfare. I believe this is bad for the worker, and bad for society. A sensible minimum wage level is essential to keeping these people on the job, and off the welfare rolls.

Mr. FRENZEL. Mr. Speaker, I intend to vote to sustain the President's veto of the Fair Labor Standards Act for reasons which are terribly important the people of my district.

I voted for the original House-passed bill, However, I cannot support the bill as amended by the Senate and agreed to by the Conference committee before the August recess. I voted against accepting the conference report.

My concern is with the provisions added by the Senate to extend overtime coverage to police and fire personnel. If these provisions were to take effect, it would be disastrous for municipalities in my district.

As most Members know, the House passed this bill with an overtime exemption for police and firefighters. The Senate was greedy, however, and added this mischievous amendment. It is a complicated 5 year plan which would require overtime pay for time in excess of 196 hours for each of 13 28 day work-periods for the first year. The maximum number of regular pay hours is reduced annually for 5 years so that by the fifth year, overtime must be paid for all time in excess of 160 hours per 28 day work period.

In my district, firefighters work 24 hours on duty, with 48 hours off. In each 28 day period, they work 228 hours. In the first year, each firefighter would accumulate at least 32 hours of overtime per 28 day work-period. Although Labor Department regulations allow sleep time on 24 hours shifts to be deducted, the frequent interruptions of nighttime fire-calls would cause this exemption to be lost.

During the August recess, I met with city officials in my district and discussed the potential costs of these overtime coverage provisions. The figures they showed me confirm that communities will be in trouble. The cost over the next 5 years for my district alone will be well into the millions of dollars.

St. Louis Park, a city of over 50,000 in my district, estimates that with normal annual cost-of-living wage increases and annual pension payments, the additional cost of maintaining the present level of service with 24 hour shifts would be approximately three-quarters of a million dollars over the next 5 years, providing they do not expand service.

If the city decided to switch to an 8 hour day, and wished to maintain the present quality of fire protection, it would have to hire more firefighters at an additional cost over 5 years of 1.9 million dollars. Their 1978 fire service personnel expenses would be 111 percent higher under this type of plan than under present situation.

The city of Edina indicates that without the overtime provisions, its 1974 personnel cost of $277,741 would rise to $344,350 by 1978. If the city had to pay overtime on the basis of the 24 hour shift scheduling, 1974 costs of $367,026 would rise to $562,529 by 1978. And if they went the route of 8-hour shifts and more firemen, their 1974 cost would be $405,155 and would rise to $643,699 by 1978, an 86 percent increase over the cost without any overtime at all.

In the city of Minneapolis it is reported that under these provisions, by 1978 they could be saddled with personnel costs approximately 5.5 million dollars more than under present pay regulations.

Mr. Speaker, if these communities are to pay such increased costs, then they would have to raise taxes significantly. Unfortunately, in Minnesota the State legislature imposed a strict tax-levy limitation on municipalities.

These cities which are already bumping up against their levy ceilings would not be able to increase taxes, and their only alternative would be to cut service. If first service cannot be sacrificed, then it would have to be playground maintenance or snow removal. Regardless, the choices are nearly impossible.

None of these cities have yet made determinations of what they will do if this legislation is enacted. It should be obvious that the problems will be immense.

An unfortunate sidelight to this dilemma is that the firefighters themselves are uncertain over these provisions and if cities decide to convert to the 8-hour day scheduling, firemen might lose their 48 hour "weekends" and the second jobs which they hold, as well as extended and frequent leisure time.

In summary, Mr. Speaker, it should be apparent that the existence of these overtime provisions will cause considerable problems for many cities which presently offer their taxpayers fire protection or hope to in the near future. These cities which are forced to cut back service will find that their citizens are paying higher fire insurance rates, too.

The veto should be upheld.

Mr. KASTENMEIER. Mr. Speaker, twice in the last week we have been called upon to face the challenge of meeting the needs of the people of this country. Last week this House faced that challenge and was found wanting. One week ago this body chose to deny the assistance that might have saved thousands of lives each year. We economized at the expense of human lives.

Today, we have an opportunity to guarantee to the lowest paid workers in this country the means of providing for the basic necessities of life. Will we tell those individuals for whom the "American Dream" has become the "impossible dream" that we simply cannot afford to guarantee them the minimum standard of living necessary for health and general well-being?

This is what the President would have us do. There is a tragic irony about one man, with a salary of $200,000 a year, three homes, and huge tax writeoffs, telling those who earn only $64 a week that we cannot afford to bring them above the poverty level. And, that tragedy is compounded if we sustain his judgment.

Who among us could live on the $64 a week the current minimuum wage pays a full-time worker? For that matter, who among us could live on the $88 a week proposed in the vetoed bill? Have we so lost touch with the needs of those who have been hurt the hardest by the rampant inflation that we would deny them a subsistence wage?

Mr. Speaker, the President says that this bill is inflationary. The facts simply do not bear out this contention. A study of previous increases in the minimum wage shows that when the minimum wage increases were the sharpest, inflation was the most modest. The Chamber of Commerce has said that "Inflation is not caused by minimum wages." The President's own former Secretary of Labor, Hodgson, stated in 1971 that:

> It is doubtful that changes in the minimum had any substantial impact on wage, price or employment trends.

Sylvia Porter, in a recent column, made perhaps the best argument against this reasoning when she said:

> How dare we ask the very lowest paid workers among us to stand in the first line of defense against an inflation fueled by the buying and borrowing of the affluent?

If we dare, our vision has been clouded and our consciences most certainly have ceased to respond.

The President says that this bill will cause unemployment, most particularly among those already facing the highest unemployment rates. How, then, does he explain the fact that nearly every time the minimum wage was increased, the unemployment rates dropped for teenagers, women and minorities, the very groups which have the highest unemployment rate? This is the same President who has vetoed several bills to create jobs which would have benefited these groups of people.

Mr. Speaker, about one-quarter of the poor and more than 30 percent of the children growing up in poverty are in families headed by a full-time worker whose wages are so low that his or her family is impoverished. The average yearly wage of a migrant farmworker in 1972 was $1,830; of a hired farmworker, $3,170; of a full-time domestic worker, about $1,200. How long can we expect them to believe in the "work ethic" if we continue to deny them subsistence wages? How dare we ask these people to sacrifice for the "national good" when at the same time we permit corporate profits to reach record levels. When do we start asking the monied interests to sacrifice for the "national good?"

In his new state of the Union message, the President said that he was adamantly opposed to further cuts in defense spending and would veto any bill that might "imperil our national security." But, national security means more than weapons and submarines. It also means providing for the well-being of our citizens. When is the President going to make that same commitment to individual security—to human security? I, for one, am weary of having to explain why we vote billions for bombs, but only pennies for human needs. I am tired of hearing the President and this Congress tell the most disadvantaged people in this country to wait a little longer for their due. They have already waited too long.

The President's own favorite football coach has a motto: "The time is now." The time for us to act is now. We can do no less for the powerless and voiceless people of this country than override this veto.

Mr. SHRIVER. Mr. Speaker, while I am today voting to sustain the President's veto of H.R. 7935, the Fair Labor Standards Amendments of 1973, it is essential that we quickly act to approve an appropriate increase in minimum wage rates.

Inflation has substantially reduced the purchasing power of the minimum wage rates established by the 1966 amendments.

On June 6, 1973, when this legislation was first considered in the House, I supported the bipartisan substitute offered by our colleague from Illinois (Mr. ERLENBORN) and when it was defeated I still felt that the House measure offered necessary and responsible increases for those affected by this legislation.

However, the measure as passed by the other body and the final version which came from conference, in my opinion, threatened job opportunities for many low wage earners and placed a very heavy burden upon small businessmen and farmers. I could not support the conference report, and believe it would be best to start anew with a compromise bill.

There is little question that a rapid rise in the minimum wage would be harmful to small businessmen and farmers. An increase in the minimum wage to $2.20 per hour, at this time, may very well cause small businessmen to eliminate minimal positions rather than pay the higher rate for low-skilled workers.

Another important deficiency in this legislation is that it denies thousands of students and teenage workers the employment opportunities they need because the youth differential provision was eliminated by the conference committee.

There also is an added financial burden upon local governments through a prescribed extension of Federal minimum wage and overtime standards which represent an unwarranted interference with local and State prerogratives and responsibilities.

These are a few of my objections to this legislation. However, I wish to reemphasize my support for an immediate increase in the minimum wage that will be in keeping with our efforts to achieve full employment and price stability.

Mr. HARRINGTON. Mr. Speaker, I rise to urge my colleagues to override the President's veto of H.R. 7935, the Fair Labor Standards Act amendments.

The bill provides for an increase in the Federal minimum wage from the present $1.60 an hour to $2.20 an hour according to a graduated schedule. Nonagricultural workers would receive an immediate boost in the minimum wage to at least $1.80, and by July, 1976, all would be covered by a minimum wage requirement of at least $2.20.

The legislation is critically important, not only for the increases it provides but for the categories of workers to which it extends minimum wage guarantees for the first time. Public employees, household domestics, agricultural processing workers, and farm workers would be assured livable wages. Congress' action in providing these guarantees to migrant agricultural laborers would be particularly fitting. For the most part, we in Congress have chosen to stand by as a beleaguered and valiant union the United Farm Workers, struggles for its organizational life. This legislation does not fully satisfy what I think justice requires of Congress in helping farm workers, but in bringing these people under the minimum wage, we would at least fulfill a basic objective of Cesar Chavez and the UFW.

The administration vetoed this bill because the President contends it would lead to inflation and unemployment. With regard to the first matter, Congress must not accept a false choice between inflation and inadequate wages. The administration's refusal to cut defense spending, close tax loopholes, and enforce a tough scheme of wage and price controls are genuine causes of inflation against which Congress should move. We can afford to pay domestics $2.20 an hour. We cannot afford to let Repulbic Steel go without paying any corporate income taxes, as it did last year.

The administration's contention that this legislation would lead to unemployment attracts no support from the labor unions who would supposedly be affected. The AFL–CIO, the Amalgamated Meatcutters, and the Leadership Conference on Civil Rights are among the groups whose concern about the fate of the marginally employed leads them to support both the hike in the minimum wage coverage to the additional categories of workers I have mentioned.

Mr. Speaker, I urge the House to override.

Mr. EDWARDS of California. Mr. Speaker, I strongly urge Members of the House to override the President's veto of the minimum wage bill. In his veto message, the President attempted to justify his action, but his justifications simply do not stand up under any close scrutiny of the facts.

First, unemployment would not grow as a result of increasing the minimum wage. This is a fear we hear expressed every time this body debates raising the minimum wage, but never has this fear materialized. Bureau of Labor statistics show that following every such increase in the past, overall employment in the Nation has not declined, but on the contrary, has grown larger. And furthermore, these same statistics show that employment of those workers most affected by any raise in the minimum wage, the elderly, women, minority, and teenage workers, has always increased after these raises.

Second, the extension of coverage to domestics and other workers cannot in any way be viewed as "a backward step." For an urban family of four with one member earning the minimum wage, the family is still nearly $1,000 below the poverty line established by the Federal Government. Current annual incomes for those workers not covered by the minimum wage are even lower and so it is impossible for these people to support themselves and their families.

Third, there is no evidence that inflation would be affected by increasing the minimum wage. Once again, Bureau of Labor statistics reveal that raising the minimum wage has no effect on the rate of inflation. In fact, when these increases have been the greatest, the country has experienced the most modest rates of inflation. If the minimum wage had an automatic cost-of-living escalator, we would see its levels near those established by this bill. And so, this bill just cannot be viewed as inflationary but only as providing an increase in the real purchasing power of covered and newly covered workers, enabling them to keep up with today's rampant inflation.

The President's veto of this bill was a callous act based on false assumptions. I again urge my colleagues to override the veto and insure millions of working Americans a more decent wage.

Mr. FINDLEY. Mr. Speaker, for the last several years, Congress has been considering welfare reform proposals designed to take, or force, people off the welfare rolls and into self-supporting jobs. The minimum wage bill before us today can truly be said to be such a welfare reform bill. More than any new Federal program we might invent to study and deal with the welfare problem, this bill is likely to encourage the poor to get and keep jobs.

It is ironic that our President, who is so genuinely committed to welfare reform and has sincerely tried to get a recalcitrant Democratic Congress to enact his proposals, has seen fit to veto the minimum wage bill before us. I would have thought that this bill might appropriately have been included by the President as one of the major sections of his own welfare reform proposal.

The fact is, if we want "workfare" instead of welfare, we must provide those on welfare with the incentive to get and hold jobs. In Illinois, it is currently more profitable for a family of four to stay on welfare than for the head of the household to take a job at the minimum wage. Cash welfare payments in Illinois for a family of four are $3,456 annually. Food stamps would raise the family's real income to over $4,000. The minimum wage would yield that same family only $3,320. It would be a rare parent who would be willing to sacrifice the income of his family simply for the sake of taking a job.

Illinois is not alone in making welfare more profitable than workfare. In almost half the States of the Union, the combination of welfare payments and food stamps is more than can be earned at the minimum wage. If we are ever to deal with the problem of poverty, this is where we must begin.

In this day, how can anyone reasonably expect a family of four—or even a family of two—to make ends meet on the current minimum wage of only $1.60 per hour?

The argument is made that despite the best of intentions, this is the wrong time to raise the minimum wage to the levels proposed by this bill because such an increase might be inflationary. Yet, those who make that argument also propose to raise the minimum wage substantially. Instead of raising it to $2 now, and $2.20 next July, as the bill before us provides, those who object would raise the minimum wage to $1.90 now, and to $2.30 over the next 3 years. In effect, they would save 10 cents an hour now, but later add an additional 10 cents an hour above the amount required by this bill. I suggest that it is impossible to determine which approach is less inflationary. Surely this is a very weak reed to support a vote against this bill.

In the final analysis, the only substantial objection which can be raised to this bill is its potential effect upon the employment of young people. When the bill was before the House, I voted for an amendment to provide a youth differential in the minimum wage for the first 6 months of employment. My reason for doing so was to encourage employers to give those under 18 years of age on-the-job training which could lead to rewarding long-term employment. Unfortunately that amendment was not accepted. In my judgment, however, that fact alone does not make the entire bill a mistake.

In my view, this bill is in the best interests of the Nation and in the best interests of those who are on the bottom rung of the economic ladder and least able to defend their own interests. I think it deserves support, and I shall vote to override the veto.

Mr. CULVER. Mr. Speaker, the increases in the Federal minimum wage law proposed by H.R. 7935 are essential if this Nation's workers are to receive an income which keeps pace with the increases in the cost of living. I strongly urge that the Presidential veto of this bill be overridden.

In his veto message, the President asserts that this bill will cause inflation. In fact, it is inflation which has caused this bill. It is the inflationary trends which have occurred in the nearly 6 years since the last change in the minimum wage law which make this bill necessary merely to bring the earnings of the full-time worker in step with present cost-of-living conditions.

No group of wage earners in this country has been victimized as much from our spiraling cost of living as have those who are compensated for their labor at the minimum wage rate. Even the President recognized in his veto message that "rising prices have seriously eroded the purchasing power of those who are still paid at the lowest end of the wage scale." While the minimum wage rate for most workers has been $1.60 an hour since early 1968, the purchasing power of that wage rate has been reduced to well below $1.25 an hour.

The increases in the minimum wage rate proposed by this bill will barely keep pace with these inflationary trends. The cost of living has risen one-third since 1966. To equal this increase, the minimum wage bill would have to be raised to $2.13 an hour immediately. Under the bill, the increase would only be to $2.00 an hour and not until November.

This bill will not even raise the worker's level of income to the poverty threshold level. The Department of Labor defines the poverty threshold for a nonfarm family of 4 as $4,200 in annual net income. Today, a minimum wage earner working 40 hours per week for 50 weeks during the year receives $3,200 in annual gross income. The minimum rate proposed by this bill would provide for a gross income which is still $200 below the net income considered to be the poverty threshold.

Under these circumstances, Mr. Speaker, I submit it is grossly unfair to expect those who are not even entitled to a minimum wage guaranteeing a poverty level income to accept a disproportional share of the hardships caused by inflation. By vetoing this bill, the President is asking our lowest paid workers to sacrifice the most while the administration continues its ineffective attempts to control rising prices.

Furthermore, the President has not made a convincing case for his contention that an increase in the minimum wage would necessarily be inflationary. Neither the views of the U.S. Chamber of Commerce, Secretaries of Labor Hodgson and Shultz, or most responsible economists; nor the policies of the Cost of Living Council support this contention. In fact, many experts feel the current inflation is being caused by excessive demands for goods and services, not by excessive costs of labor. This bill, as has been pointed out by others, would increase the annual wage bill for American workers by less than four-tenths of 1 percent and, in a trillion-dollar-plus economy, this is hardly an inflationary trigger.

The bill requires a wage increase for only 4 million of the Nation's workers. This is only 5 percent of the entire work force. The minimum wage rate would go from its present $1.60 an hour to $2.00 on November 1 and to $2.20 by July 1, 1974, on workers covered before 1966. Nonfarmworkers covered after 1966 would rise in four steps to $2.20 by July 1, 1975. Farmworkers would rise in four steps to $2.20 by July 1, 1976.

In addition, the bill extends minimum-wage coverage to 7 million additional employees, including Government employees, domestic employees, certain employees of conglomerates, retail and service employees of chain stores, and others. The bill seeks to improve the status and dignity of 935,000 domestic workers, most of whom are women, by requiring a $1.80 minimum wage in November and $2.20 by July, 1975. Today, half of all domestic workers earn less than $1 an hour.

Mr. Speaker, our vote to override the President's veto of this minimum wage bill will be as important as any vote cast this session of concern to the Nation's working poor. These low-income workers, who are doing their best, often under conditions of severe hardship, to make a living in our cities, rural areas, and farms during a time of severe inflationary pressure, are not seeking charity; they only ask a decent wage. By providing a firmer floor for low-wage workers, this bill will go a long way toward lifting millions of workers and their families out of poverty and providing them a minimum standard of living. I urge an overwhelming vote to override this tragic veto.

Mrs. GRASSO. Mr. Speaker, the President's veto of the minimum wage bill was a heartless, cynical action at the expense of the poorest workers in the Nation. In effect, those people to whom a few extra pennies an hour would mean the most are the ones who are denied it by this action. Congress, in seeking to lift the minimum wage from $1.60 to $2.20 hourly after a year, only sought to give millions of unskilled people who want to work a chance to keep their heads above the rising waters of inflation. Let it also be noted here that the situation afflicting these poorer workers in terms of inflation was directly brought into being and worsened by the actions and economic policies of this administration.

By allowing this measure to pass, Congress sought to guarantee these people, many of whom actually are supporting families, $88 weekly, which, as we all know, buys precious little in today's marketplace. In all truth, one can only attempt to support a family on $88 weekly. On less than that, there is no hope of doing so at all, which in turn removes any remaining incentive to persevere from the minds and motives of millions of working Americans.

Using the argument, as the President did, that the veto was to prevent inflation, only rubs salt into the wounds of those reduced to near acute want as a direct result of this administration's failure to stabilize prices.

Certainly America's employers are not hurting. To the contrary, as a direct result of the administration's incredible favoritism towards big business, corporate profits are at stratosperic levels, and all at the expense of the average wage earner.

Last year, America's corporations made after taxes profits of $55.4 billion. This year, after tax earnings may hit a breathless $70 billion. That is a mountain of money to be divided up among very few at the top, to the detriment of the pockets of the many at the bottom. Ironically, many of these dollars have been squeezed out of the sweat and travail of the poorest American workers, who in turn are deprived of this minimum wage hike by an administration who asks us to believe that the veto is motivated by a desire to fight the inflation their every action makes worse.

A poor woman working as a maid or dishwasher or waitress, struggling desperately to keep body and soul together, would find it difficult to comprehend the logic of administration arguments. A man, unskilled, striving as a day laborer or janitor or elevator operator and supporting several children on his meager earnings might be hard put to whip up enthusiasm for the President's reasoning.

Here is callousness and cynicism, wrapped up into one ball and hurled in the face of the Congress and the poorest people in the Nation. Here is an action which defies logic, tramples upon truth, and makes a mockery of the labor of millions of honest people.

I shall vote to override this veto, and fervently hope that the House will rise to the occasion and do what is right for the affected people. Certainly the failure recently to do the same on emergency medical services is almost as severe a blot on ourselves as a Congress as it was on the administration for bringing about the situation in the first place.

We have an opportunity to salvage something for the people. Let us not miss it.

Mr. TIERNAN. Mr. Speaker, today we in the House of Representatives have a chance to override the President's veto of the minimum wage bill which would raise the wages of millions of Americans who presently earn less than $2 per hour.

This act provides for an increase in

the Federal minimum wage from the present $1.60 per hour, $1.30 for agricultural workers, to $2.20 an hour according to the following schedule:

For Nonagricultural workers:

Covered before 1966: $2.00 immediately and $2.20 after June 30, 1974.

Covered by 1966 and 1973 Amendments: $1.80 immediately; $2.00 beginning July 1, 1974; $2.20 after June 30, 1975.

Agricultural Workers: $1.60 immediately; $1.80 beginning July 1, 1974; $2.00 beginning July 1, 1975; $2.20 after June 30, 1976.

The act also extends wage and/or overtime protections to public employees, household workers, employees of conglomerates and agricultural processing workers. The present exemption of agricultural processing workers from overtime pay would be phased out over a 4-year period.

The President vetoed this bill on the grounds that it would be inflationary and result in unemployment. Let us examine the administration's positions on price increases. Recently the administration allowed an increase in the price of steel although steelmakers' profits this year were much higher than previous years. The administration has also forced interest rates to unbelievable levels making the cost of living rise for all Americans. The Civil Aeronautics Board is considering raising air fares 5 percent. The administration supports deregulating natural gas and letting its price rise 40 percent. The administration has sold our wheat, corn, and soybeans overseas forcing up domestic prices. Yet the President has vetoed this modest increase for the working poor in America.

One wonders whether the President would veto the bill if his "friends" who illegally gave him millions of dollars for his most recent election would benefit from the increase.

For too long Congress has refused to make the President realize the limitations of his power. Today is the ultimate test. If we cannot muster sufficient votes to override this outrageous veto, the Congress will have lost great respect. If we abandon the poor while the President dictates which bill can become law, we are merely a tool—a rubberstamp of the Executive.

Each and every Member of this body who intends to support this veto should go out into his district and live with a family whose earnings are less than $80 a week. I do not think that many would have the courage or the fortitude to stick it out for even 1 day.

The price of food has risen 38 percent since 1968 when the present minimum wage was enacted. These workers deserve a 25 percent increase immediately. I urge the passage of this bill.

Mr. LEGGETT. Mr. Speaker, what kind of President have we? Last week he vetoed a bill that would have saved the lives of 60,000 Americans per year, at a cost of $1,000 per life. Now he vetoes a bill that would have given urgently needed assistance to those who need it most, who work hard at our society's lowest, meanest jobs in a desperate attempt to keep their heads above water.

Consider how desperate is the plight of the low-income worker. As of 1968, the minimum wage has been $1.60 per hour, which at that time was just enough to keep a family of four at the poverty line of $3,200 per year. But the minimum wage no longer can maintain a family at the poverty line. We have sustained enormous inflation, thanks in large part to Mr. Nixon's prolongation of the Indochina conflict and mismanagement of the economy, and the poverty line is now at $4,200 net. Moreover, inflation has occurred to a disproportionate extent in food prices—one third more than general prices—which hit the poor the hardest since the poor spend more for food.

And believe me, gentlemen, we haven't seen nothing yet. During the past 6 months the price of farm products has inflated at an annual rate of 108.1 percent. When this increase has finished expressing itself in the retail food market, God knows what will happen to the poverty line.

But this does not appear to impress Mr. Nixon. Here is a man who thinks nothing of spending hundreds of thousands of dollars of taxpayers' money to improve his properties. Here is a man whose wife thinks nothing of spendig $285,000 to redecorate the Presidential jet because she didn't like the way it was just decorated at a cost of $1.8 million.

This isolation from the American people shows in his policies.

Mr. Nixon's objections to this bill simply don't make sense.

He says it would throw low-income people out of work. But this has never happened before when we have raised the minimum wage, and there is no reason at all to assume that this time would be different. In fact, an increase in minimum wage tends to increase employment, since the new money is promptly spent, thus increasing consumer demand and production to meet the demand.

He says it would be inflationary. But we have been allowing union settlement of 5.5 percent per year, which if compounded over 6 years total 37.9 percent—even more than the 37.5 percent minimum wage increase we are proposing for the period 1968–74. And the minimum wage people need this increase a lot more than do the $10 per hour plumbers and electricians.

I cannot escape the thought that behind these transparent and unconvincing objections lies Mr. Nixon's real reason for the veto. Toward the end of his message, he says:

> Employees in small retail and service establishments. By extending coverage to these workers for the first time, H.R. 7935 takes aim at the very businesses least able to absorb sharp, sudden payroll increases.

In fact, the bill retains the exemption for these small businesses. But it extends coverage to small establishments owned by large chains or conglomerates. I cannot forget how hard McDonald's hamburger chain lobbied last year against extending full minimum wage coverage to its employees, nor can I forget this corporation's vigorous and tangible support of Mr. Nixon's reelection campaign. Perhaps I am being unduly cynical to suggest a connection between the two. I hope so, but this veto encourages cynicism.

In any case, the veto is unconscionable. It will condemn millions of Americans—working Americans, not welfare cases—to a miserable existence. We should override it.

Mr. MATSUNAGA. Mr. Speaker, today we will decide whether we will permit the poorest of America's hard-working wage earners to bear disproportionately the burden of our Nation's economic reverses.

In its attempt to justify its misguided action the administration has offered two basic claims—that raising the minimum wage will generate unemployment among the poor, and that it would be inflationary to the whole economy.

In making its claim that the poor themselves will be most adversely affected by raising their own meager incomes to subsistence levels, the administration ignores the official reports of the Bureau of Labor Statistics, which show clearly that the consequence of minimum wage adjustments in the past has never been a rise in unemployment. Indeed, in 1949, 1961, and 1967–68, unemployment actually decreased, after the minimum wage was raised immediately prior to those years.

Of course, the primary argument of the administration is that by raising the wages of the very poor, we will be adding to our admittedly serious inflation. The first response to this is that the administration's own Cost of Living Council has exempted from controls all wages less than $3.50 an hour. The minimum proposed in the vetoed bill is only $2 an hour immediately and $2.20 next year.

Second, it must be remembered that the administration has itself advocated raising the minimum wage from $1.60 to $1.90 immediately. It is difficult to comprehend why it so strenuously objects to the bill which provides only 10 cents more per hour immediately.

Indeed, in 1966, after the massive 28 percent increase in the minimum wage was legislated by Congress, Mr. Nixon's Secretary of Labor, James Hodgson, declared that the increase "had no discernible adverse effect on overall employment levels and on overall wage or price levels."

Today, Mr. Speaker, the current $1.60 per hour minimum will buy less than $1.25 purchased in 1966.

A wage earner paid at today's minimum wage earns only $3,200 gross income annually. If he supports a family of four, his gross income falls $1,000 below the poverty level of $4,200 net income for a family of four, as defined by the Labor Department. In my State of Hawaii, where the poverty level is somewhat higher, this means that if the veto is sustained, the worker earning today's minimum wage will be relegated to a gross income of $1,650 below the annual net wages of $4,850 needed to maintain only a poverty level existence for his family.

From these facts, it is difficult indeed to ascertain how the Nation's lowest paid wages kept low.

I strongly urge that the President's veto be overridden.

Mr. ASHBROOK. Mr. Speaker, no one can disagree with the purported objectives of H.R. 7935, the minimum wage bill. We are all for an adequate standard of living for every American and the elimination of poverty. The key issue, however, is whether the bill before us today will achieve these objectives. I contend that not only will it fail to achieve these results but that it will lead to further unemployment and inflation.

A Bureau of the Census report on low income characteristics shows that 35.4 percent of all poor families and 51 percent of poor unrelated individuals received no earnings in 1971. Approximately half of the poor family heads and two-thirds of unrelated individuals did not work at all. These statistics show that poverty is not so much a result of low wages as a result of no wages. An unemployed individual receives no benefit when the minimum wage is raised from $1.60 to $2.20 or even $22. Such an individual needs greater employment opportunities.

Rather than increasing employment opportunitiies, however, the high minimum wage proposed in this bill will hurt those who are unemployed by reducing the rate of new job creation for low skill and low productivity workers whose work output is less than the wages required to be paid. Particularly hard hit will be young people, especially those of minority groups and disadvantaged backgrounds.

In addition, the bill will add new individuals to the ranks of the unemployed by pricing marginal workers out of the market. Confronted with a 37.5 percent increase in the minimum wage in less than a year, some employers will be forced to lay off workers who otherwise would have remained on the payroll.

Finally, this bill will result in further inflation as businessmen will attempt to pass at least some of the higher labor costs onto the consumers.

With the high rate of unemployment and runaway inflation now besetting our Nation, we cannot afford the minimum wage set forth in this bill. Congress must act responsibly and not induce further instability into our economy.

Mr. BIESTER. Mr. Speaker, an increase in the minimum wage is long overdue. Congress has devoted an inordinate amount of time to this matter, and the resolution of differences has not been easily achieved. The compromise bill before us is a significant step toward assuring a small portion of the labor force that its wages will enable it to realize the basic necessities of daily life.

Concern has been expressed that provisions of the Fair Labor Standards Act amendment—specifically those increasing the minimum wage over a period of time—are inflationary and will cause unemployment. This concern, however, is not justified by available information. It appears to me that the facts underscore the need for a minimum wage increase which will bring such wages a bit closer to a decent level.

The persistently upward progression of the cost of living has affected us all, but it has most dramatically and cruelly hit those on low incomes and those on fixed incomes. The poverty threshold for a family of four is approximately $4,300. The cost of living has risen over one-third since the most recent minimum wage increase went into effect in 1968, and a worker at the present minimum of $1.60 earns almost $1,000 less than the designated poverty level. At $2.20 an hour a full-time worker would earn approximately $4,400 a year—barely above the poverty line. Today's $1.60 minimum has a lower purchasing power than the $1.25 minimum had in 1966. In fact, the former Secretary of Labor, James Hodgson, noted in 1971 that:

> The ratio of the minimum wage to average hourly earnings or to average hourly compensation per man hour is now lower than it was in 1950.

Today's minimum wage would approach $2.20 if a cost of living increase had been incorporated into the $1.60 minimum. Using the cost of living's 5.5 percent figure for wage increases within the wage and price control guidelines, if the minimum wage had been increased by 5.5 percent each year since the $1.60 wage went into effect in 1968 the minimum would be $2.20 in 1974, the figure set forth in this legislation.

Those workers and potential workers who would be affected by an increase in the minimum wage are already hovering near a subsistence livelihood. It can hardly be argued that the additional income they would realize would go toward purchases of a nature which would significantly fuel the rate of inflation. The people at whom this legislation is directed are at or very near the absolute bottom of the wage ladder. At the poverty level, a family of four spends one-third of its income on food. The increases in the costs of various basic foodstuffs—milk, grain products, vegetables and the most inexpensive cuts of meat—which have been a budget-balancing challenge to the middle income family have been more than the poor family can bear.

In almost half the States a family of four can receive more from welfare than it can by working full-time at the minimum wage. There certainly is little incentive for the welfare recipient to locate and accept an unskilled job at the current minimum when he can be better off financially by not working.

Past experiences with increases in the minimum suggests that the economy is capable of adjusting to such increases with only slight, if any, difficulty. Reporting on the 1968 increases, former Labor Secretary Hodgson stated in 1971 that:

> It is doubtful whether changes in the minimum had any substanital impact on wage, price or employment trends.

Similarly, a representative of the U.S. Chamber of Commerce testified in Senate hearings that the minimum wage is not inflationary.

The vetoed bill would increase the minimum initially by 40 cents and an additional 20 cents by 1974. The administration approves a 30-cent initial increase and an additional 40 cents, in two stages, by 1976. In either case, we are talking about wages which would be almost $1.50 an hour less than the level of wages at which the Cost of Living concerns itself for purposes of moderating inflationary forces.

If we accept the premise that inflation is a legitimate concern in discussion of this legislation, it is difficult to argue that the vetoed version could be appreciably more inflationary than the administration version. A minimum wage increase would affect only 5 percent of all employed Americans. With the economy more healthy than it has been in months and profits at record highs, an increase of the size proposed would not impair, in any substantive manner, our efforts to stabilize the economy.

The President, Congress, the business community, labor, and the American public will have to cooperate and compromise if inflation is to be checked. Concessions by and to all participants in economic life have been and are being made. This legislation affects only a small portion of the work force and one which has traditionally lacked an effective voice in decisionmaking affecting its future. Its economic position should not be slighted and its well-being should not be treated as expendable.

For these reasons, I will vote to override the veto, and I so urge my colleagues.

Mr. KOCH. Mr. Speaker, I rise in support of the House's effort today to override President Nixon's veto of the minimum wage bill. Not since 1966 has there been any increase in the basic minimum wage, though since that time the cost of living has risen 30 percent, with food prices figuring for 38 percent of this increase. Today, even at $2 an hour, the full-time worker would gross only $4,000 a year—an amount below the poverty level for an urban family of four. Even the pre-1966 minimum wage level of $1.25 an hour gave a worker more purchasing power than he has today.

The President has cited no real evidence for his statement that this increase would be inflationary; in fact, annual reports of the Labor Department on the impact of the last minimum wage increase have shown no adverse effects either in terms of employment or in terms of inflation. And the Cost of Living Council has recognized the noninflationary character of minimum wage increases by exempting wages below $3.50 from its rules. Minimum wage legislation does not, of course, require any expenditure of Federal funds and should actually result in a reduction of the number of Americans who have had to be added to the welfare rolls because their wage levels cannot match the increased cost of living. Nor should this legislation work a hardship on U.S. industry, with corporate profits soaring to a record high of $52.6 billion last year.

In addition to the increase in the minimum wage to $2 on November 1 and to $2.20 by July 1, 1974, I also welcome the provisions in the bill extending minimum wage coverage to 7 million additional workers, including domestic employees, Government employees, and service employees of chain stores. Almost one out of every three maids in private homes serves as the head of her household, and half of these have been earning less than $1 an hour. The typical domestic household worker, however, does not work full time and receives almost no fringe benefits in the form of health benefits, pension plans, or premium overtime pay—all of which, on the average, add at least 25 cents to each dollar earned by other workers. How can we begrudge these workers the opportunity to raise their families at a decent standard of living?

I cannot accept the President's proposal that a subminimum wage be allowed for a broad category of young workers. I strongly believe in the principle of equal pay for equal work, and I suspect that the effect of the President's proposal would be the displacement of large numbers of older workers.

What the President seems to want to do is to use the lowest paid workers in this country as a scapegoat for his own mismanagement of the nation's economy. It is his own handling of food exports and his reliance on the highest interest rates ever, rather than any increase in the minimum wage, that has produced the "enormous boost to inflation" that the President speaks of. We must remember that the workers who would benefit from this increase in the minimum wage are those who for so long have been the victims of inflation, rather than the cause of it.

Mr. DONOHUE. Mr. Speaker, I intend to vote to override the Presidential veto of this minimum wage bill, and I earnestly hope that a very great majority of this House will, in the national interest, reject this regrettable Presidential action. In my firm and considered judgment, the factual evidence in support of this limited minimum wage increase proposal is overwhelming.

Let us remember that there has been no increase in the minimum wage for 5½ years, and let us also remember that a person earning $1.60 an hour, working 40 hours a week and 52 weeks a year would only make an annual income of $3,320, which figure, according to our own U.S. Department of Labor, is well under the $4,300 per year, that this Federal agency proclaims to be the poverty level income for a family of four.

Let us further emphasize, however regrettably, that the cost of living in this country has risen more than 33 percent since the last minimum wage raise was granted in 1967, and if this minimum wage were to be raised only enough to keep up with the intervening cost of living, it would have to be placed at a figure of $2.13 per hour right now. In truth, the limited minimum wage raise recently granted by the Congress does not even keep pace with, let alone even out, the general rise of American wages during this period.

In view of these facts, and in the face of the ever-accelerating increases in the costs of basic living necessities and personal services, the highest corporate profits in modern history, the administration's astronomical defense budget and expanded foreign aid assistance requests and uncontrolled inflation, it is practically impossible to understand how anyone can attempt to justify the withholding of a marginal minimum wage increase to the millions of workers and their families, who are suffering extreme hardships from the inflationary plague that is raging, unrestrained, throughout this country.

May I also emphasize, Mr. Speaker, that the documented history of minimum wage increases very clearly demonstrates that, contrary to inflationary fears that are entertained in some quarters, every advance in the minimum wage since World War II has resulted in additional employment opportunities for older workers, men and women, for minority groups and for teenagers.

Mr. Speaker, I very deeply believe it is obviously discriminatory and unjust to use millions of our lowest-paid workers as scapegoats for our inflation affliction and it seriously undermines the imperative necessity of insuring that the sacrifices that must be made to overtake and overcome the inflationary curse must be equally distributed throughout every segment of our society.

If great numbers of our people ever become convinced that our Federal Government does not intend to apply the basic principle of equal treatment for all in our effort to stabilize our economy, then I think it is quite apparent there is a very grave danger that we will not only be unable to successfully resolve our inflation problem, but we will also be unable to resolve any of the other great domestic and international problems that threaten our continuing status as a first-class world power.

Mr. Speaker, for all these reasons, and because of the overwhelming evidence on record, I hope this House, this afternoon, will resolutely reaffirm our original approval of this minimum wage bill, and resoundingly reject, in simple justice, the Presidential veto.

Mr. ROYBAL. Mr. Speaker, the President's veto of the minimum wage bill passed by Congress after almost 3 years of serious deliberation and debate displays a disregard for the economic well-being of thousands of low-wage earners in our country. His claim that the bill would be inflationary and would create unemployment is a rash judgment founded on weak if not nonexistent facts.

First, the issues involved should be properly identified and separated before national policy is developed to deal with them.

Unemployment is one of the more serious problems of our Nation. It should be attacked with sound and effective programs such as manpower development, job-creation, and a steady growth in the total economy. Unemployment, above all, should not be a war cry against the earning potential of workers now receiving less than the officially set 1972 poverty level of $4,275—a level even the $2 rate of the vetoed bill would not achieve in 1973. In addition, past experience also belies the claim that, of itself, an increase in the minimum rate causes a rise in unemployment.

Certainly inflation has been a persistent dilemma in America and, indeed, in most developed nations of the world. Yet the working poor of America should not be made undeserving victims of national policy to fight inflation.

Economic policy dealing with rising prices is potentially broad and should concentrate on those elements of our industrial society which contribute most to its existence. Runaway prices, excessive profits under a loosely administered economic stabilization program, and high wages and salaries in certain concentrated industries should be targets of national policy rather than the subsistence wages of the working poor.

The decisions of the Cost of Living Council on price increases have added billions of dollars to the economic flow in this and the past year. Yet, by this administration's own computation, the vetoed minimum wage bill would add only 0.4 percent to the wage bill for affected workers. In terms of national income, the increase mandated by the bill would have even a lesser impact on the economy. In 1973, the bill would add only $1.6 billion to the approximate $1 trillion received as income by Americans. As such, the additional increase in the national income generated in 1973 by the minimum wage amendments—including overtime and the so-called ripple effects—would be so infinitesimally small that it could hardly be noticed much less considered an inflationary force in today's otherwise violent economy.

The claim that the minimum wage increase is excessive is also spurious. Under the bill, the largest increase for most workers occurs in the first phase. It raises the $1.60 rate to $2 an hour—a 1-year increase of 25 percent. Over this total time period stipulated in the bill, the increase amounts to 37.5 percent. Yet, these increases, although large, would go to only a small part of the labor force. That is, the increase would be enjoyed by less than 5 percent of the 85 million employed workers in our Nation now earning a wage below the proposed rates. And, while the increase seems high, it must be noted that the Consumer Price Index has increased by more than 35 percent since the last fair labor standards amendments were enacted in 1966. Consequently, the irony of the situation is obvious. Increases mandated by the bill have already been canceled out by the upward movement in prices occurring during the last 6 or 7 years. In addition, average hourly earnings in the private nonfarm sector have increased by more than 52 percent since 1966.

To deny those workers at the bottom of the income scale a minimum wage which is not even high enough to meet cost-of-living increases, or the Government's level of poverty, or increases granted to other workers in America is a social travesty which should be corrected by overriding the President's veto of the Fair Labor Standards Act Amendments of 1973.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I find it almost incomprehensible that this House should be taking up a resolution to override the veto of a bill which would merely make it possible for 25 million Americans to live, not particularly well, but merely with those necessities of life which make it possible to exist. The arguments used by the administration to justify its action rubs against the grain of every concept of economic and moral justice which we as public officials—and I include the President—are charged to uphold.

The justification for the veto, that increasing the minimum wage would be inflationary is no less than shameful. The inflationary spiral which has victimized every American, has injured most those at the bottom of the economic ladder. This round of inflation, one of the longest in American history, is not caused by high wages. Indeed, administration economists admit that wages have held the line in the face of constantly increasing prices. The Labor Department itself has studies in its own files showing that increases in the minimum wage have no effect whatever, no "ripple effect", throughout the pay ranks nor for that matter would it affect prices. So the argument that increasing the minimum wage is inflationary is at best specious.

Sylvia Porter, a highly regarded economic columnist eloquently gives the lie to the administration position:

> How dare we ask the very lowest paid workers among us to stand in the first line of defense against an inflation fueled by the buying and borrowing of the affluent? How can we possibly justify asking those already being pinched the hardest to accept an even stiffer pinch "for the national good?"

Miss Porter asks:

> What sort of distorted economics translates price pressures resulting from a worldwide boom and its soaring demands for goods and services into a wage curb on those who don't even earn enough to have normal, much less, "soaring" demands for anything?

Even if one does not agree with such arguments of economic justice, history fails to support the President's position that minimum wage increases are inflationary. No inflation was caused by the 87.5-percent minimum wage increase in 1950, by the 33.5 increase in 1956, by the 15-percent increase in 1961, or by any other increase thereafter. Even the U.S. Chamber of Commerce, representing business and industrial interests which would be out of pocket the increase, did not have the audacity to make the inflation argument. Dr. Richard S. Landry, a chamber of commerce economist testified that:

> The Chamber does not contend, unlike some of the other witnesses that appeared before you apparently, that the minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages.

Those who would lose most from our failure to override the veto would be white and black men and women workers at the bottom of the scale. For example, there is a large pool of domestic workers willing to enter the labor market who today simply cannot afford to do so. The costs of transportation, child care, and other necessities borne of such employment simply make it not worthwhile to enter the labor market. Ironically, there is a large number of persons who need domestic help and would be willing to pay if there were a pool of labor force from which to choose.

As Sylvia Porter said in another column:

> It's difficult to argue that barring these workers from the protection of our wage-hour laws is essential for the economic health of our country.

This administration cries out against welfare and demands that those on welfare go to work. Yet when the Congress provides the means to lower permanently the welfare rolls in the form of up-to-date minimum wage laws, in the form of day care, in the form of manpower training, and in the form of vocational rehabilitation, the administration takes the position that these measures are inflationary. Yet all of those measures would add to the tax rolls, create jobs, and smash the welfare spiral. More than being penny wise and pound foolish, the administration is following a policy of self-serving rhetoric rather than good economics. One suspects its interests are special; in no sense of the word are they popular.

Mr. CLEVELAND. Mr. Speaker, I support the veto of H.R. 7935, a bill I supported on initial passage. As I have said in connection with previous veto votes, a veto action by the President adds a new dimension to consideration of an issue. In this particular case, however, I also wish to add that I had regarded this piece of legislation with some reservations, as it finally passed. On one hand, there is no question that the minimum wage should be increased, as I remain confident it will. But the real issue is by how much, how fast, and who is covered.

As a supporter of the Erlenborn substitute I was extremely disappointed that the youth differential provision was rejected in initial passage of the bill. No amount of tortuous argument can conceal the shockingly high unemployment rate among our youth. We simply must deal with the problem of the young and inexperienced worker, and the plight of many small businesses which may represent their only employment opportunity. And we must consider the similar problems of the elderly whose ability to compete in the job market can be diminished by age and technological change.

Another objectionable feature of the vetoed bill is the manner in which we dictate wage levels to local governments. I had been under the impression that we in the Congress were embarked on a policy of greatly encouraging local governments to make their own decisions without dictation from the Halls of Congress.

I am not particularly impressed, however, by the argument that a 37-percent increase is inflationary. Those at the lower end of the earnings scale have some catching up to do. So I reiterate that I remain determined to support efforts to enact a reasonable minimum wage bill meeting some of the objections I have stated. I have voted to increase the minimum wage in previous years. But experience has shown that too abrupt an increase can be a disservice to the alleged beneficiaries thereof. Results have too often been to sharply reduce marginal jobs and to increase unemployment at the bottom of the economic ladder.

Mr. PEPPER. Mr. Speaker, I rise in support of overriding the President's veto of the minimum wage bill which is certainly not inflationary according to all the economic and social facts I have thoroughly examined; but quite to the contrary is designed to help some of our most exploited workers overcome the severe hardships that inflation is imposing on them.

I shall mention only one or two most significant economic facts which justify the passage of this legislation. First, there are only 3.8 million people in the work force of the 53 million who already are covered under the Fair Labor Standards Act who will benefit from this bill during the first year. The remainder of the 53 million workers are already receiving wages which are at or above the rates prescribed under the bill, and among these workers are most of the Federal, State, and local employees who are receiving $2 or more an hour.

Second, the actual cost of the benefits for these 3.8 million people is $1.7 billion, an infinitesimal part of our total national personal income which now totals $1 trillion a year when we include all wages, and salaries, and income from various kinds of investments. I understand further, this $1.7 billion cost is very close to the cost of two of the recent price increases which were permitted to the automobile industry and the steel industry by the Cost of Living Council.

This infinitesimal effect on our economy of this bill is further indicated by the fact that according to the Cost of Living Council, wage and salary increases below $3.50 are exempt from the economic stabilization program. This low-wage exemption, therefore, until the President's veto message, was recognized by his economic stabilization program officials to be in accordance with the standards and goals of the program.

I honestly cannot find any fact or logic to substantiate the President's veto of this bill. Therefore, I am compelled to recall the partisan history of opposition to minimum wage legislation that is too significant to ignore and that does provide a political reason for the veto. Since the very first minimum wage bill was passed in 1938, the record of voting in the House indicates that of the 26 recorded votes over the years, the Republicans in the House have steadfastly opposed minimum wage legislation by overwhelming margins of votes. In only eight cases since 1938, has the Republican party split on a minimum wage measure by any appreciable margin and supported passage of significant legislation.

I continue to be concerned about the recent publication of U.S. census figures on poverty in this country. They indicate the blacks, the elderly, and other minority groups are the most exploited in our society. Until such time as the House can override the President's and the apparent Republican party's opposition to far-reaching and necessary minimum wage legislation, we shall continue to perpetuate the ghetto life for workers among our minority youths and older workers particularly, and doom them to the squalor and hopelessness of the ghetto.

Mr. Speaker, since 1938 when the minimum wage bill was the issue in my campaign for the U.S. Senate in Florida, I believe I have been a Member of the House or Senate whenever a bill increasing the minimum wage has been passed except one in the 1950's. Every time the issue has arisen we have heard the same arguments against this legislation and we have had the same kind of opposition; we have had the same specious reasons given against it.

Yet, in specific instances we have passed these bills gradually raising the minimum wage from 25 cents an hour in 1938 to $2 an hour under this bill as we passed it. It has been a blessing to millions of our fellow countrymen who needed help; it has not had the dire consequences which those opponents have repeatedly asserted it would have; it has made America stronger and better. Yet now, for the first time, the President of the United States has vetoed a minimum wage bill and I think the President's party having about 192 Members of the House, and it only taking 146 votes sustaining a President's veto to prevent it from being overridden, I anticipate for the first time a Presidential veto will deny to millions of the lowest paid Americans a little better standard of living than they have had—a little better food on the table, a little better shelter and a little improvement in their clothes, a little better care for the health of the covered worker and his family, maybe a few items more of pleasurable recreation.

I personally could not get any satisfaction from denying these few benefits to the lowest paid of our fellow citizens-workers. If there are those who do, let them have their satisfaction in the sorrow of others. I would much prefer to know when I go to my comfortable home tonight, as all of us here will, when I lie down upon my pillow with the feeling that today I bettered tomorrow for many worthy working men and women of this country who are among the less fortunate of our fellow men and women. Whether that will be so will depend upon this vote.

I cast my vote proudly for better justice for the lowest paid working people of this country and for a better and stronger America.

Mr. FLOWERS. Mr. Speaker, this is a difficult vote for me, as I know it is for many of us here in the House of Representatives. On the one hand, I feel very strongly that it is time for an increase in the minimum wage. The current level has been in effect for a number of years, while the purchasing power of those earning minimum wages has been severely and adversely affected by inflation. Mr. Speaker, I definitely support a substantial and graduated increase in the minimum wage.

On the other hand, I believe the evidence clearly indicates that the levels imposed by this legislation would add to our problems of inflation and, perhaps, more importantly, be counter productive in the harmful repercussions on business and job opportunities across the land. The result being that many businesses, especially small businesses, would go under and many other positions of employment would be foreclosed.

For these and other reasons, and with the firm hope and resolve to work toward a better and more equitable bill to raise minimum wages in this Congress, I am constrained to vote against overriding the Presidential veto.

Mr. PRITCHARD. Mr. Speaker, one of the most important pieces of legislation to be considered during this session of Congress, the minimum wage bill, was vetoed by the President. I supported the original minimum wage bill (H.R. 7935), as reported by the Committee on Education and Labor, for several compelling reasons. For these same reasons, I cannot vote to sustain the President's veto of this important measure.

It has been 7 years since the last time Congress amended the Fair Labor Standards Act to increase the minimum wage. The major changes that have taken place in the economy justify, I believe, a reconsideration of the level of minimum wage rates. The Consumer Price Index has risen 31 percent since the act was last amended. An increase in the minimum wage to $2.10 would just restore its 1966 purchasing power, if it were effective immediately. With a continuation of current rates of inflation, the administration's substitute bill, which would have established a $2.10 minimum in 2 years, would never restore the 1966 purchasing power. The vetoed bill, with a $2.20 minimum in 1 year, just would. The assumption is that the 1966 real value of the minimum wage is the appropriate benchmark.

A second approach toward setting minimum wage rates would restore the relationship between minimum and average wages prevailing at the time the act was last amended. The assumption is that the 1966 ratio is the appropriate one. Average hourly earnings in manufacturing have risen from $2.72 in 1966 to $3.99 in January 1973, or 47 percent. Average hourly earnings in the total nonagricultural private economy have risen 48 percent during the same period, from $2.56 to $3.39. Thus, an increase in the minimum wage somewhat greater than that indicated by the Consumer Price Index—to $2.35 an hour—would be required to restore the 1966 relationship between minimum and average wages.

The stated purpose of the Fair Labor Standards Act is to maintain a minimum standard of living necessary for health, efficiency, and general well-being of workers. Trends in the cost of living imply trends in the "poverty line," which has come to be regarded as a third approach for setting minimum wages. The vetoed bill's provision of $2 an hour will still leave the low-wage worker below the Government-defined "poverty-level" of $4,400 per year for a nonfarm family of four, assuming he works 40 hours for a full 52 weeks in the year. Not until 1 year after enactment would the increase to $2.20 an hour meet the "poverty-level" standard—if prices do not rise sharply during the interim.

As many of my colleagues know, wage rates are so low in some States that workers at the bottom end of the pay scale are better off to go on welfare. I believe this is bad for the worker, and bad for society. A sensible minimum wage level is essential to keeping these people on the job, and off the welfare rolls.

Mr. QUIE. Mr. Speaker, since the increases in the minimum wage provided for in the 1966 amendments last took effect, the cost of living has gone up. Further, in the period which has intervened between the time we first began consideration of a new minimum wage and now, the ripple effect anticipated as a result of an increase in the minimum wage has in large part already taken place. I also want to point out that in the minimum wage bill which I joined in sponsoring in the last Congress, provided a minimum wage of $2 effective in 1972. This bill which would increase over time the minimum wage to $2.30 an hour is in line with the proposal of the administration. Accordingly, several of my colleagues and I are introducing this bill which would increase the minimum wage to $2 an hour on the first day of the second full month after its enactment. Thereafter, that rate for employees covered prior to 1966 is increased to $2.10 an hour 11 months after enactment. If an acceptable minimum wage bill had passed in July the next step would have occurred 11 months later. The reason why 11 months rather than a fixed date is used is to put pressure on the majority in Congress to take action as soon as possible and successively to $2.20 and $2.30 an hour on dates at 1 year intervals after the effective date of the $2.10 rate. On the same date the rate for employees covered after 1966 would be increased to $1.80 with increases thereafter to $2, $2.20, and $2.30 at the same intervals. For employees in agriculture the rate would start at $1.60 with increases to $1.80, $2, $2.20, and $2.30 at the same intervals.

With respect to State and local government employees, this bill would cover them for the purposes of the minimum wage, but not overtime.

Domestic workers would be covered by the Fair Labor Standards Act where they are regularly employed by an employer for 24 or more hours per week.

This bill would retain the $250,000 establishment sales test for those in the retail and service industries.

It would reduce the overtime exemptions in the agricultural processing and seasonal industries to 5 workweeks and 7 workweeks over a 2-year period.

Further, it would provide youth employment opportunities for those under the age of 18 or for full-time students by means of a rate differential:

Where the employer certifies that such employment will not create a substantial probability that other full-time employment opportunities would be reduced;

Where the Secretary of Labor does not disapprove such employment;

Where the period of employment for those not full-time students would not exceed 20 weeks; and

Where such employment is limited to six employees or 12 percent of the total number of employees employed by that employer, whichever is higher.

In all other respects this bill would retain the provisions of the conference report on H.R. 7935 intact.

Mr. DENT. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 259, nays 164, answered "present" 1, not voting 10, as follows:

[Roll No. 465]

YEAS—259

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Broyhill, N.C.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Chappell
Chisholm
Clark
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford, William D.
Forsythe
Fraser
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gude
Gunter
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hogan
Holifield
Holtzman
Horton
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Long, La.
Long, Md.
McCloskey
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mailliard
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Saylor
Schroeder
Seiberling
Shipley
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Steele
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Walsh
Whalen
White
Widnall
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki

NAYS—164

Abdnor
Anderson, Ill.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Blackburn
Bowen
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Butler
Byron
Camp
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fisher
Flowers
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Goldwater
Goodling
Gross
Gubser
Guyer
Haley
Hammerschmidt
Hanrahan
Harsha
Harvey
Hastings
Hébert
Hinshaw
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jones, N.C.
Keating
Kemp
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Lent
Lott
McClory
McCollister
Mahon
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Minshall, Ohio
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
Parris
Pettis
Poage
Powell, Ohio
Price, Tex.
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rousselot
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Wis.
Stephens
Stubblefield
Symms
Talcott
Taylor, Mo.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

ANSWERED "PRESENT"—1

Green, Oreg.

NOT VOTING—10

Burke, Fla.
Burleson, Tex.
Hansen, Idaho
Litton
Lujan
McEwen
Mallary
Mills, Ark.
Roy
Steiger, Ariz.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained, and the bill was rejected.

The Clerk announced the following pairs:

Mrs. Green of Oregon, and Mr. Mills of Arkansas for, with Mr. Burleson of Texas against.

Mr. Litton and Mr. Roy for, with Mr. McEwen against.

Until further notice:

Mr. Mallary with Mr. Burke of Florida.

Mr. Lujan with Mr. Steiger of Arizona.

Mrs. GREEN of Oregon. Mr. Speaker, I have a live pair with the gentleman from Texas (Mr. BURLESON). If he were present, he would have voted "nay." I voted "aye." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

## GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks and include extraneous matter on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

## PERSONAL EXPLANATION

Mr. MALLARY. Mr. Speaker, I arrived in the Chamber from a meeting in the Senate Office Building just as the final vote tally was being announced on this attempt to override the veto of H.R. 7935, amendments to the Fair Labor Standards Act to increase the minimum wage. I regret in the extreme my late arrival and my absence during this crucial vote. If I had been present earlier, I would have voted "yea." I would have voted to override the veto.

Earlier this year I voted for passage of minimum wage amendments to the Fair Labor Standards Act when they originally passed the House. Later in the session, I voted against accepting the conference report on this bill. At that time, I objected to the details of the extension of overtime provisions to State and municipal employees, particularly to firemen and policemen. I was under the impression that the nature of this extension would be to make impossible or prohibitively expensive certain working arrangements such as 24-hour shifts for firemen and the use of compensatory time off. These arrangements are relatively common and popular in many Vermont communities. Upon closer examination, I am now convinced that the conference version of the minimum wage amendments would allow such flexibility when viewed in conjunction with the Department of Labor Interpretative Bulletin, part 785 of title 29, which allows for counting of up to 8 hours in a 24-hour shift as nonworking time under certain circumstances.

I was very hopeful that the bill would provide a special subminimum wage level for students and other youths during a limited period while they were breaking into the job market. Statistical evidence clearly indicates that our greatest unemployment problems are among the younger members of our labor force, particularly the disadvantaged youth in our urban areas. I believe that special provisions to assist them in obtaining jobs and developing skills would have been constructive.

My primary concern with the final bill, however, and the reason why I voted against the conference report was because of my understanding of the extension of strict overtime provisions to State and Government employees.

On the basis of my own research into this matter, I am convinced this provision will not be as damaging as I had originally anticipated. Most of the other features of the act are not objectionable to me.

I am deeply concerned about the high rate of inflation which is wracking our country. My research does not confirm that an increase in the minimum wage to $2 an hour would be unjust or inflationary. The minimum wage was last raised in 1968. Since 1968, food prices are reported to have risen 38 percent. In view of this a 25-percent increase in the minimum wage from $1.60 to $2 is certainly warranted.

Under compromise legislation which I supported and was believed to have administration support last year, the minimum wage would have been raised to $2 an hour this year. The rationale for supporting such an increase last year is equally valid now. For these reasons, had I been present, I would have voted in favor of overriding the veto of H.R. 7935 and in favor of increasing the minimum wage.

## REQUEST TO CONSIDER S. 2419, CORRECTING TYPOGRAPHICAL AND CLERICAL ERRORS IN PUBLIC LAW 93-86

Mr. POAGE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2419) to correct typographical and clerical errors in Public Law 93-86.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CONTE. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

## U.S. INFORMATION AGENCY AUTHORIZATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 548 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 548

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9715) to authorize appropriations for the United States Information Agency. After general debate, which shall be confined to the bill and shall continue not to exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 9715, the Committee on Foreign Affairs shall be discharged from the further consideration of the bill S. 1317, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provision contained in H.R. 9715 as passed by the House.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 548 provides for an open rule with 1 hour of general debate on H.R. 9715, a bill to authorize appropriations for the U.S. Information Agency for the fiscal year 1974.

House Resolution 548 provides that after the passage of H.R. 9715, the Committee on Foreign Affairs shall be discharged from the further consideration of the bill S. 1317, and it shall then be in order in the House to move to strike out all after the enacting clause of S. 1317, and insert in lieu thereof the provisions contained in H.R. 9715 as passed by the House.

H.R. 9715 provides for an authorization of $203,279,000 for the fiscal year 1974. This figure includes the authorization for salaries and expenses of 9,572 employees—3,178 employed in the United States, 1,214 Americans overseas, and 5,180 local employees. This total represents an anticipated reduction of 264 positions from the previous fiscal year.

Mr. Speaker, I urge adoption of House Resolution 548 in order that we may discuss and debate H.R. 9715.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) has explained the provisions of the resolution.

Mr. Speaker, today we are considering House Resolution 548, the rule which provides for the consideration of H.R. 9715, U.S. Information Agency Appropriation Authorization Act. This is an open rule with 1 hour of general debate, and makes it in order to insert the House-passed language in S. 1317.

The primary purpose of H.R. 9715 is to authorize $224,054,000 for USIA for fiscal year 1974.

By way of comparison the fiscal year 1973 appropriation was $206,803,000 and the administration request for fiscal year 1974 was $240,054,000.

This proposed authorization includes salaries and expenses for 9,572 employees, 3,178 employed in the United States; 1,214 Americans overseas and 5,180 local overseas employees. This total represents an anticipated reduction of 264 positions from the previous year.

Section 3 of this bill authorizes Little League Baseball, Inc., to purchase copies of a film "Summer Fever" produced by USIA which shows events in Little League baseball in the United States. This provision is necessary because existing law prohibits USIA from disseminating any of its material in the United States.

I have had an occasion to view first hand the operations of the people at USIA in action—they do a great job.

Mr. Speaker, I urge the adoption of this resolution in order that the House may begin debate on H.R. 9715.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HAYS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9715) to authorize appropriations for the United States Information Agency.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9715, with Mr. BRINKLEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. HAYS) will be recognized for 30 minutes, and the gentleman from Wisconsin (Mr. THOMSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the bill before the committee (H.R. 9715) has only one purpose, namely, to authorize appropriations for the U.S. Information Agency—USIA—for fiscal year 1974.

This is the second year that the Committee on Foreign Affairs has presented to this committee an authorization measure for this Agency. Members will recall that previously the Agency had permanent authority to request such appropriations as it deemed necessary.

As in the case last year the Subcommittee on State Department Organization and Foreign Operations went over the Agency request in considerable detail. Our hearings cover more than 200 pages. A perusal of them will show that we made a concerted effort to find out the results the Government is getting for the money it spends.

I think there are parts of the Agency's operations that bear close scrutiny and we have served notice on it that next year we expect to inquire even more closely into these operations. I refer particularly to the publication and dissemination of the press wireless file. That particular publication may serve a purpose in countries that have no press representatives stationed here. But I find it difficult to justify in countries such as those in western Europe where the papers have correspondents in the United States and whose governments often run extensive information services.

Another activity that I think can be pruned without damage is the publication of numerous magazines and journals. I have no doubt that they are appealing to individuals overseas who receive them free of charge. But I am uncertain that all of the journals are really necessary for the Agency to accomplish its mission. I may say that the Advisory Commission on Information, an outside body of five individuals appointed to keep an eye on the Agency, has also raised questions about these publications. By next year I expect the Agency to be able to justify every one of its publications not on the grounds that they are simply desirable, but that they are imperative for the Agency's operations.

The bill authorizes a total of $224,054,000 for the next fiscal year. This is a reduction of $16 million from the Executive request. That reduction represents a deletion we made for a new radio facility in the Far East to replace the one we presently have in Okinawa. It will be necessary for us to give up the radio station in Okinawa by 1977 under the terms of the reversion agreement with Japan. It was the belief of the subcommittee that the choice of an alternate site should not be conditioned alone on its technical desirability but must take into account foreign policy considerations. We did not think that sufficient attention had been given to this latter point.

USIA, like the Department of State, proposed open ended language that would authorize it to seek appropriations to meet increased salary and employee benefits as well as devaluation costs. As in the case of the State Department, we rejected the open ended authorization and insisted upon the inclusion of specific dollar amounts.

As presented originally by the executive branch, the bill carried $4,125,000 for the special international exhibitions programs. These are authorized under the Mutual Educational and Cultural Exchange Act of 1961. The current focus of these programs is on East Europe, the Soviet Union, and Berlin. These are not trade fairs but exhibitions of a topical nature that focus on various aspects of American life and culture presented in an American environment as well as seminars conducted by American specialists. I have seen some of these exhibitions and have been impressed by the responses they draw from the local population. Before the subcommittee had completed action on this bill, President Nixon and Secretary Brezhnev concluded an agreement for another series of exhibitions this year in the Soviet Union. The administration requested an additional $1 million to fund this series and the subcommittee added this to the original request.

Finally, we added a new section to authorize Little League Baseball, Inc., a nonprofit corporation, to purchase copies of a USIA produced film called "Summer Fever" that shows Little League baseball in this country. This authorization is necessary since by law USIA cannot show any of its films in this country unless Congress authorizes each case. The showings cannot result in any profit to this organization. I recognize the value of a film of this type but I hope it will not result in additional requests for special legislation by other organizations.

Mr. Chairman. I urge the committee to pass this bill.

Mr. THOMSON of Wisconsin. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, I support passage of H.R. 9715.

The details of this bill have already been reviewed by the gentleman from Ohio (Mr. HAYS) so I will not repeat all of them. But I would like to emphasize that the subcommittee examined the U.S. Information Agency request very thoroughly, and I am convinced that this legislation is worthy of your support.

As the committee report noted, the $224,054,000 recommended by the committee is in five categories: Salaries and expenses, special international exhibitions, radio facilities, employee benefits, and devaluation costs. The largest item—$203 million—is for salaries and expenses of 9,572 employees. This includes Americans employed in the United States and overseas, plus local employees of the Agency overseas. The number of employees is down somewhat from last year, with a reduction of 264 positions anticipated.

The committee carefully reviewed the work of the Agency such as its special international exhibitions and the Voice of America. We denied funds at this time for construction of a new East Asia radio facility to replace the station now operated on Okinawa. While we recognize that the United States will have to cease operations from Okinawa within a few years as a result of the Okinawa reversion agreement with Japan, the committee did not believe sufficient study had yet been given to alternate sites for the new radio facility.

The bill reported by the committee would authorize Little League Baseball, Inc., to purchase prints of the USIA produced award winning film, "Summer Fever," which describes the Little League Baseball program in the United States. The film would be used by Little League in the United States to encourage adults to volunteer their services in working with the children who take part in the Little League Baseball program. At a time when there is concern over America's youth, this is certainly a constructive use of the film.

I urge approval of this legislation.

Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I am opposed to H.R. 9715, the pending bill, which would authorize another $224 million for the U.S. Information Agency for the next fiscal year.

I suppose that by comparison with other measures that Congress and the administration are endowing with money not to be found in the Federal Treasury, this may seem a rather small amount, but in the last 10 years alone this agency has spent almost $2 billion.

If Congress is interested in improving our balance of payments situation, the elimination of USIA is a good place to start. Successive dollar devaluations only run up the tab to keep it going in a manner to which it should never have become accustomed.

What are the objectives of this nationally subsidized public relations outfit? According to the law that created it, it is: "To promote a better understanding of the United States in other countries."

If one judges the results, better understanding has only resulted in reduced respect for this country. Would we be any worse off if others did not understand us? Would we be any better off? The policies we pursue in our relations with other countries have a more decisive effect on their understanding toward us than all the rhetoric the USIA could possibly turn out.

The basic law under which USIA operates states that the Secretary of State, now the Director of USIA:

> Shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate.

Has the Director ever tried to determine the adequacy of private information dissemination? No director has been stupid enough to do that; he might find himself without a job if he tried to.

Mounting appropriations for USIA give the impression that private information is drying up. If the foreign press corps in the United States, the diplomatic missions, and consular posts of foreign governments in the United States are doing their job, there is plenty of understanding available to foreign governments and peoples without this outfit.

Mr. Chairman, I propose to offer an amendment at the proper time to reduce the spending under this bill to the amount appropriated last year, which would be a cut of something less than $20 million. The appropriation last year was $260,803,000. I would like to see this bill defeated, but in the event it is approved, it ought to be brought back at least to the spending of last year.

Ms. HOLTZMAN. Mr. Chairman, it is with some regret that I oppose the $¼ billion authorization for the USIA. Although I support the theory that information about our country ought to be available throughout the world, at a time of pressing domestic needs the justification for spending such a substantial amount must be strong indeed. In the case of the USIA the justifications are not particularly weighty. The USIA's effectiveness has been marginal at best and its practices questionable at times.

It is not surprising that this agency has failed to promote confidence in the United States abroad by distribution of literature and similar materials. Actions speak louder than words. It is hard, therefore, to believe that foreign nations can be impressed by the strength of our economy when because of rampant inflation we find the senior citizens of this country reduced to stealing food from supermarkets and scrounging through garbage cans, and when we have a higher illiteracy and infant mortality rate than a number of countries in Western Europe.

It is difficult to convince people of our peaceful intentions by mere words when we have devastated much of Indochina at enormous cost to the United States in lives and dollars, and at staggering costs to the Indochinese themselves.

And finally, how can we by the mere distribution of pamphlets show the world that we are a model of democracy when our President himself has authorized illegal domestic surveillance, engaged in deliberate deception of the American public and condoned similar activities on the part of others.

In other words, it seems to me that at this time we might do more to strengthen our image abroad by spending the $¼ billion slated for the USIA on providing a stronger economy and decent standard of living for all Americans and rooting out corruption and immorality at home—rather than on this agency whose effectiveness has yet to be proved.

Mr. THOMSON of Wisconsin. Mr. Chairman, I have no further requests for time.

Mr. HAYS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### H.R. 9715

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1973".

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1974, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $203,279,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)", except that so much of such amount as may be appropriated for "Salaries and expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $5,125,000 for "Special international exhibitions" and "Special international exhibitions (special foreign currency program)", of which not to exceed $1,000,000 shall be available solely for the Eighth Series of Traveling Exhibitions in the Union of Soviet Socialist Republics; and

(3) $1,000,000 for "Acquisition and construction of radio facilities".

Amounts appropriated under paragraphs (2) and (3) of this subsection are authorized to remain available until expended.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated without fiscal year limitation for the United States Information Agency for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $7,200,000 for increases in salary, pay, retirement, or other employee benefits authorized by law; and

(2) not to exceed $7,450,000 for additional overseas costs resulting from the devaluation of the dollar.

SEC. 3. The United States Information Agency shall, upon request by Little League Baseball, Incorporated, authorize the purchase by such corporation of copies of the film "Summer Fever", produced by such agency in 1972 depicting events in Little League Baseball in the United States. Except as otherwise provided by section 501 of the United States Information and Educational Exchange Act of 1948, Little League Baseball, Incorporated, shall have exclusive rights to distribute such film for viewing within the United States in furtherance of the object and purposes of such corporation as set forth in section 3 of the Act entitled "An Act to incorporate the Little League Baseball, Incorporated", approved July 16, 1964 (78 Stat. 325).

Mr. HAYS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

### AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: Page 2, line 3, strike out "$203,279,000" and insert in lieu thereof "$192,678,000".

Page 2, line 9, strike out "$5,125,000" and insert in lieu thereof "$4,125,000".

Page 2, line 25, strike out "$7,200,000" and insert in lieu thereof "$5,000,000".

Page 3, line 3, strike out "$7,450,000" and insert in lieu thereof "$5,000,000".

Mr. GROSS. Mr. Chairman, my amendment would reduce this bill to the approximate figures for last year. It would reduce the salaries and expenses from the figure in the bill of $203,279,000, to $192,678,000. It would reduce the amount in the bill of $5,125,000 for special international exhibitions, and so on, to $4,125,000, a saving of $1 million. It would reduce the amount in the bill of $7,200,000 for increases in salaries, pay, retirement, or other employee benefits to $5 million, a saving of $2,200,000. It would reduce the figure of $7,450,000 for additional overseas costs resulting from the devaluation of the dollar to $5 million, or a saving of $2,450,000.

Let me say at this point, with respect to devaluation of the dollar, that if we are going to continue to increase the money in all of these bills, including the foreign aid bill, we are going to have nothing but a succession of bills providing funds to take care of the devaluation of the dollar around the world. There is $7,450,000 in this bill to take care of the devaluation of the dollar because Congress has spent far too much for too many years over and above tax revenues and put the dollar in jeopardy. Continue to spend increasing millions for the USIA, and all the rest of these glittering international organizations, as well as institutions here at home and we will have more inflation, more devaluations, and more money spent for taking up the slack due to the devaluation of the dollar.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. ICHORD. What is the total cut in the gentleman's amendment? How much money will the amendment strike?

Mr. GROSS. About $20 million.

Mr. ICHORD. Mr. Chairman, I commend the gentleman in the well for offering the amendment, and I support the amendment.

Mr. GROSS. I thank my friend from Missouri.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Texas.

Mr. MILFORD. I thank the gentleman for yielding. I support the gentleman's amendment, but I will go further and work to defeat the entire bill. I think a quarter of a billion dollars can be spent in a much better way.

Mr. Chairman, I rise to oppose H.R. 9715. This legislation is clearly contributing to our overseas financial outlay to the tune of one quarter of $1 billion. I would question, Mr. Chairman, our need for a massive bureaucratic overseas propaganda machine, as opposed to our need to help our folks at home by reducing deficit spending and inflation.

To me, at this time in our history, we are confronted with many complex problems which demand our attention, our time, and our money. Therefore, we who are in positions of responsibility must question our priorities on the national and international scene. I feel that questions like slum clearance, welfare reform, and pulling into line an already heavily laden national budget demand that propagandizing in foreign countries should rank low in priorities.

It is my considered opinion that the benefits from this program are inaccessible and dubious at best. The original law from which the USIA derives its authority states that its objective is to "promote a better understanding of the United States in other countries." I think that we can look at the past few years when the USIA buildings were sacked and burned and hazard a guess that perhaps we were not exactly accomplishing that goal. I think we can look at our national image throughout the world and conclude that this massive bureaucratic propaganda effort, which employs almost 10,000 people and has spent $1.8 billion over the past 10 years, has been a rather dismal failure. Now we are again asked to dole out one-quarter of a billion dollars for a failing propaganda effort.

Mr. Chairman, I must respectfuly refuse to cooperate with this spending activity.

In my campaign for election to this office, I promised to do everything in my power to cut back on the massive Federal bureaucracies and reduce unnecessary Government spending. I must, therefore, vote against this measure in any form.

Mr. Chairman, what our Nation needs, in all honesty, is not to be sold overseas, but to sell, sell, sell overseas. Then you will see our international "image" and the real respect that made this Nation the grandest in the world restored without gimmicks and tricks. Hardnosed Yankee ingenuity and trading ability are what we need—not some half-cocked propaganda effort.

To me, a healthy economy in a nation

of people functioning under wholesome and healthy environments would, indeed, be propaganda enough to the nations which USIA attempts to reach.

Thank you, Mr. Chairman.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. I wonder if the gentleman can tell the House the total cut in the gentleman's amendment of the amount.

Mr. GROSS. The gentleman knows there is $224 million in the bill, and if he will subtract the cuts I have made from the $224 million, he will get the figure, which would be approximately the actual appropriation for the USIA for last year, and that is $206,803,000.

Mr. MORGAN. The figure is about $17 million.

Mr. GROSS. All right, let us say $17 million. I am sure the gentleman would be glad to support a relatively small cut of $17 million in this bill.

Mr. MORGAN. Mr. Chairman, I do not rise to support the cut. I just rise to say I know the gentleman has a firm position of never making any overseas trips and never traveling to any foreign countries or to any of our missions around the world and seeing some of the work of the Agency.

I am a limited traveler myself; I make very few trips overseas. But in many of the countries I have visited I have been surprised at the amount of propaganda they are producing. I would hate to see the gentleman's intention of entirely killing this agency come to fruition because I personally have seen the great job the agency has done around the world in explaining the American way of life and American policy. I think the agency is worth every dime of the money we are asking for today.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. Gross was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, I take this time only to respond to my friend, the gentleman from Pennsylvania, the chairman of the Committee on Foreign Affairs, and to say to him I really do not need to take any foreign junkets as a Member of this Congress to find out that despite all the billions we have spent—some $249.5 billion on foreign aid in all its ramifications since we started in about 1947—we now have fewer friends in the world. I do not need a trip abroad to find out we have fewer friends in the world today than we had then.

Mr. MORGAN. I do not see that it has anything to do with the bill we are talking about today but this agency is helping spread the American way of life around the world.

Mr. GROSS. What is the American way of life? Sometime when it is raining or snowing outside I wish the gentleman would sit down and tell me about the American way of life as well as what constitutes our foreign policy. I do not know.

Mr. MORGAN. I am sure if the gentleman would take some time as do other Members of Congress to travel overseas he would find it helpful in his role as a Representative in the House.

Mr. DERWINSKI. Mr. Chairman, at this moment in time, we ought to be talking about strengthening the USIA—not about saddling it with further and crippling cuts. To be sure, world conditions have changed but the new situation in which we find ourselves is no less challenging than the old—in fact in many ways, our current problems are more complicated. One of the major elements in all this change is the revolution in communications, which means new opportunities for us—but also for those who are discrediting us, intentionally and otherwise.

Let no one believe that, for our competitors, détente means an end to these efforts. Brezhnev stated publicly this spring that successes in peaceful coexistence, as he put it, "do not signify in any way the possibility of relaxing the ideological struggle and the recent output of Soviet propaganda, both domestic and foreign, certainly reflects this view. Since early August, a trend toward greater criticism of the U.S. domestic scene has been noticed, following a lull at the time of the Soviet leaders visit here. Commentaries to Latin America, Africa, and Asia have not toned down Moscow's support for "anti-Western" movements, the "joint offensive against imperialism and capitalism" as the Soviet Party magazine Kommunist called it recently.

The U.S.S.R. of course is not alone in spreading misinformation about us. In the spring, Palestinian terrorists were broadcasting false charges that we were involved in the Israeli raid on Beirut and now others are spreading the falsehood that we played an active role in the Chilean coup. In Western Europe and elsewhere, many TV programs convey an image of America which is distorted in the extreme.

These distortions must be corrected. In part this can be done by presenting a balanced picture of America and its purposes and by explaining our policies and our values. In this connection it is increasingly important to communicate these as well as straight news to people in closed societies—even if this is criticized by some governments as "interference in domestic affairs." On freedom of information we cannot compromise and the criticism itself is a sign of effectiveness. I hope that the recent suspension of the jamming of VOA broadcasts to the U.S.S.R. will provide further opportunities to get our message across.

As has been recognized for many years, meeting all these challenges requires an official information and cultural program. We cannot rely on commercial United States and foreign media to do this vital job for us. They have, obviously, different interests and functions. All major countries have recognized that such a program is increasingly necessary as an instrument of foreign policy and most have greatly expanded their activities in this field. Meanwhile, the budget level requested by the U.S. Information Agency this year represents a decreased staff. In fact, over the last 6 years, USIA has had to reduce its staff by over 20 percent while its operating funds have been effectively reduced during the same period by 16 percent, owing to inflation.

Surely, at the present time, when we as a Nation are facing issues and negotiations which are vital to our people's interest, we can find the means to keep ourselves competitive in this field. I have seen USIA in action in many foreign countries and I know that, given the resources requested, USIA can do the job which has to be done.

Mr. Chairman, I oppose the amendment.

First of all I would like to call to the attention of the Members that generally I tend to agree with the gentleman from Iowa, but I think in offering his amendment the gentleman from Iowa actually demonstrates his support for the agency, because this cut about $17 million out of a budget figure of approximately $224 million. Usually the gentleman from Iowa tries to cut programs by one-third or one-half or three-quarters, and this rather gentle cut would indicate to me that down deep in his heart he knows the Information Agency and the Voice of America do a good job for our country.

In an age when there is greater and greater communication between peoples, I think it would be wrong for the United States to start pulling back in the area of communication. More than ever before we should tell the story of our country and our institutions. These cuts direct themselves to programs which would be adversely affected even though this amendment is not a very deep one.

For example, the gentleman from Iowa would cut $1 million from international exhibitions. What greater and what more effective way do we have of showing the people the virtues of our system of government and our way of life and our economic progress than to put exhibitions in the field?

Some of these cuts are directed at salaries and expenses. We in the Congress have mandated increases in salaries and expenses. There is nothing else the agency can do about it.

The effective administration overseas of agency programs could be very adversely affected by this amendment. I would suggest the chairman of the full committee made a proper point that the gentleman from Iowa who is one of our most dedicated Members, has always been so preoccupied with problems throughout this country and in Washington and in his district that he has not had the time to go oversea and see for himselve the real challenges. I would suggest when one travels about the world he finds the Voice of America is one of the most respected communications media in existence. It is welcomed especially in countries where people might be deprived of their freedom or access to news.

The subcommittee under the gentleman from Ohio (Mr. Hays) took a good, hard look at this budget request. Some years ago it had an automatic authorization and only the Appropriations Committee worked over this budget.

Under the gentleman from Ohio (Mr. Hays) we have taken a good, hard look at it, we have conducted a thorough review of every geographical area of the world. The figure that has come out is a good one. I urge rejection of the amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, as a member of the subcommittee I would like to commend the gentleman for his statement and urge that this amendment not be accepted.

I think it is particularly untenable to refuse to face up to the consequences of devaluation. The fact is that there are certain additional expenses which must be paid for in dollars if we are going to meet our obligations as a result of devaluation.

I think it is foolhardy to refuse to accept this, and imagine in some way that we are saving money as a result. I urge defeat of this amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my colleague from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Illinois (Mr. DERWINSKI) and urge defeat of this amendment.

I will just add further that in my opinion, the USIA and its dealings with the foreign press are extremely important in advancing the interests of our Nation.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, looking at that report on page 3, I notice that it says:

> During hearings on the bill members raised questions as to the worth of the press wireless file in areas such as Western Europe where the local press provides excellent coverage of the American scene. The Advisory Commission of Information, a body of five members appointed by the President and subject to Senate confirmation, has recommended a thorough review of the various publications produced by USIA. The committee believes that extensive savings could be effected through a careful and complete examination of these two activities. It will consider the results and recommendations at a future time.

I wonder, in view of that language, why the rather modest cut proposed by the gentleman from Iowa might not well be applied to that very point.

Mr. DERWINSKI. Mr. Chairman, may I point out to the gentleman that in the process of these hearings we told the executives of the Agency to further justify those figures and come back before us.

Also, the gentleman must keep in mind that the authorization machinery, and much more so, the appropriation machinery, is running far behind schedule. If we were to take drastic action in a meat ax fashion and cut off any part of the operation, there would be a damaging effect in the administrative responsibilities to face in the remaining 9 months of the Federal fiscal year. Our committee emphasized that in this concern over what might be termed overabundance of material in Western Europe, they make a very effective counterargument of the fact that it is in Western Europe where we are so often taken for granted and have to marshal our people and resources to tell our story.

Mr. CEDERBERG. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in my opinion this amendment would do very serious damage to the ability of the U.S. Information Agency to carry out its mission. I serve on the appropriations subcommittee handling the appropriations for the U.S. Information Agency under the very able chairmanship of my colleague from New York (Mr. ROONEY) who has done an excellent job. I am delighted to see that he is on the floor today.

I think if the Members read our hearings, they will see that we do go into great detail into the activities of the U.S. Information Agency. I submit to the Members that we have some great people serving us abroad in this Agency. Not only do we have some outstanding men serving us abroad, but we have some wonderful wives working alongside their husbands in some very difficult and trying positions.

I submit also that I believe that the Voice of America is doing a commendable job. As the Members know, the Soviet Union has been jamming the Voice of America, and I believe just recently lifted jamming of the Voice of America. To me, that is eloquent testimony in itself of the impact of this Agency.

I have just had the opportunity during the August recess to visit several of our areas in Europe and Eastern Europe. As a member of this subcommittee, I believe it is a responsibility that I do have, as other members do have, to get around the world and see the activities we are supporting here in the best interests, I say, of all the American people.

During this trip I visited the countries of Belgium, Holland, Finland, Poland, Czechoslovakia and Bulgaria. I visited cultural centers. I visited libraries in which we have cooperation from local people and our own people. One can go to our embassy in Warsaw and see the displays in front of our embassy and see the number of people attracted to them.

If the gentleman does not believe that, he can go to Sofia in Bulgaria. There he will find hundreds of people looking at our displays at the Embassy. It happened to be a space display, that is giving us, I believe, prestige and image.

I disagree violently with my good friend and colleague, that the U.S. image abroad is not good. I find that there is great respect for the U.S. Government in most every place I have been.

So far as the reduction is concerned, our people serving abroad have been faced with the problem of devaluation, and in many areas with increasing inflation, and inflation that is far greater than anything we know about here in the United States. In most of Europe inflation runs at least 10 percent per year. This has an impact on sending their children to school and it has an impact on their own living in those countries.

I believe the least we can do is to provide them with a decent opportunity to provide for themselves and their children while they are there.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

In the trips abroad, did the gentleman observe how much the USIA is doing so far as promoting the free market ideas of the United States is concerned?

Mr. CEDERBERG. The U.S. Information Agency is working in cooperation with the commercial officers. It is the commercial officers within the Agency who are fundamentally charged with this responsibility. I can say that they are doing well.

The language ability of these people is growing every day. I can remember, and I am sure the gentleman from Ohio can remember, when we really did not have much language capability either in the Foreign Service or in the USIA. I find now that in many areas with very difficult languages the husband and the wife both can converse in the language of the country. If the gentleman does not believe this is important, he ought to go over there to see.

Mr. SYMMS. Mr. Chairman, will the gentleman yield further?

Mr. CEDERBERG. I yield further.

Mr. SYMMS. A question I have often been concerned about is whether we are doing anything abroad through the USIA, such as promoting the distribution of the Sears, Roebuck catalog or the Montgomery Ward catalog, so that the people over there can see what we have over here.

Mr. CEDERBERG. We are doing a lot of that.

I was at the Trade Fair at Plovdiv, Bulgaria. The title of that Trade Fair was "Auto, U.S.A."

I can tell the gentleman, and I will tell him privately, some of the impact on some of the officials there. We had 9,800 people go through our pavilion before noon opening day. We had to close it at noon, because we were having a fair reception.

I will say this with all sincerity. The gentleman from Iowa, a Member of the Committee on Foreign Affairs, makes a very serious mistake in not going over there and seeing the contribution that some of these people are making, because it has an impact on Iowa and it has an impact on our farm commodities and all of that. I just believe the amendment would be a tragic mistake.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Maryland.

Mr. GUDE. I certainly want to commend the gentleman. I should like to associate myself with his remarks, and especially what he has outlined as of great benefit to the United States. I should also like to say that many of our great ethnic groups of our country also realize the importance of UOA and USIA.

For example, it is indeed heartening

and a source of great comfort to such groups as Baltic Americans to know that their brethren in Lithuania, Latvia, and Estonia are receiving information and news from the free world via the Voice of America. These broadcasts help keep alive the hopes of the Baltic people for national independence and a democratic way of life. Americans with friends and relatives abroad well appreciate the work of USIA and the Voice of America, many having at one time been their direct beneficiaries. I oppose this amendment, and urge my colleagues' careful consideration of the great benefits which accrue both here and abroad from the many fine programs of the U.S. Information Agency.

Mr. CEDERBERG. Let me just give an example.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. CEDERBERG was allowed to proceed for 2 additional minutes.)

Mr. CEDERBERG. Mr. Chairman, let me give an example of the Voice of America. I met with the Deputy Foreign Minister of Poland, and it happened to be the very day that Henry Kissinger was nominated to be the Secretary of State. I met with him in his office that morning and he said, "You know, every night before I go to bed I always listen to the news on the Voice of America, and for some reason I was tired last night and I missed it. What happened," he said, "was that I was being driven to work today, by my driver—" incidentally they have drivers over there, too—"and my driver asked me what I thought about the news." He said, "I missed it and I turned on the radio so that I could get the news. I missed it that one time that I failed to listen to the Voice of America."

At one time he was Ambassador to the United States from Poland.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to my good friend from Iowa.

Mr. GROSS. The gentleman suggests I should join him in junketing around the world?

Mr. CEDERBERG. I would be delighted to have the gentleman join me.

Mr. GROSS. Let me say to the gentleman that I probably could have made a trip to Moscow every other week, and the fact that I was there would not have averted the "sweetheart" wheat deal that was made last year.

Mr. CEDERBERG. That could well be true, but I can tell the gentleman we are never too old to learn. I would hope that the gentleman, in the days he has remaining in the Congress, would take advantage of this. I am very serious about it, because I believe it is a very important and necessary thing.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Indiana.

Mr. DENNIS. I am not so concerned about this $17 million one way or the other, but I know the gentleman serves on the Committee on Appropriations. We are all worried about cutting expenses.

Now, the big expenses are those things such as education, housing, welfare, social services, and defense. They are all very important. When we try to cut them, it is very, very difficult.

Mr. Chairman, I wish to ask the gentleman, where and how are we going to do any cutting at all unless we begin with these sort of fringe areas such as we are dealing with here?

Mr. CEDERBERG. Mr. Chairman, let me tell the gentleman that as far as these agencies are concerned, I can assure him that I hope we will live within the budget which has been presented by the President, and we can live within that in respect to all the agencies.

I do not happen to believe that anybody is trying to cut the increase.

What we are trying to do is determine what the increase is going to be over last year. I believe that if we cut this to last year's figure, we will be doing a very violent disservice to this agency, and this is an agency which does not deserve such treatment.

Mr. SYMMS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise for the purpose of asking the gentleman from Illinois (Mr. DERWINSKI) a question. I was not quite satisfied with the answer I got previously. The point is a little vague in my mind in relation to the points made by the gentleman from Michigan.

How much advertising goes on in these radio stations overseas. I have never had the opportunity to be over there and hear or see the USIA in action.

Mr. DERWINSKI. Will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Does the gentleman mean commercial advertising?

Mr. SYMMS. Yes, Commercial advertising—the kind we use in free enterprise.

Mr. DERWINSKI. None. This is in the nature of information, entertainment, and feature stories.

Mr. SYMMS. There is no advertising of American products?

Mr. DERWINSKI. No. That would be a practical use of the agency.

Mr. SYMMS. Mr. Chairman, let me ask the gentleman this question:

Would the gentleman not believe that if we would leave some of this money in the hands of private citizens and allow them to promote their products abroad, it would be beneficial and we would get more return from this people-to-people relationship instead of this bureaucrat-to-bureaucrat relationship that we always seem to develop?

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman for asking me this question, because I know that he will be voting with me against this amendment when he understands this.

The main purpose of this communication agency, first of all, to tell truthful stories of world events, especially as they relate to the U.S. image all over the world. This is an abnormally complex assignment.

Just to give the legitimate input of the news, just to penetrate the Iron Curtain, just to tell the exact story of what goes on in the United States takes time. It is not a question, when we speak of advertising, of advertising commercial products; it is educational material as well.

Mr. SYMMS. Mr. Chairman, I would just like to ask the gentleman:

If it makes too much sense to do this, but if our foreign policy advocates and our USIA would just promote Sears & Roebuck catalogs, for instance, would this not tell the American story about as graphically as anything that could happen? If we would put one of those on every newsstand in Russia and China, perhaps we would not have to be concerned about fighting them; we could simply bomb them with Sears Roebuck catalogs, and watch the reaction.

Mr. DERWINSKI. Mr. Chairman, one of the cuts offered by the gentleman from Iowa would adversely affect our presentation of exhibitions. These exhibitions are held to show American products, they put them on display in the countries, and generally after they are displayed, they have followup sale orders.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for his answer, and I appreciate his answer.

I will just say that I believe the point has been missed by the Members of this committee in relation to the amendment offered by the gentleman from Iowa. If the money is just left at home in the hands of our taxpayers, perhaps our business community and our private citizens would be able to promote their own products and help our balance of payments and spread the truth through people-to-people communications rather than through this Government participation all the time.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield further?

Mr. SYMMS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I will answer the gentleman and say that this is not the Government; this is communication with people.

Mr. SYMMS. Then why are we taxing the American people to pay for this?

Mr. DERWINSKI. We are not taxing the American people; we are helping to sell America.

I look upon this program as one of the most valuable uses of public funds. The gentleman knows that I am not a wild-eyed spender. I believe, if anything, that this program is probably budgeted too low.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for his answers.

I will just say to the gentleman that I know he is not a wild-eyed spender. However, I do believe that we are missing the point here in that we do not allow for the provision of private enterprise to sell their products abroad. If we would do this, we would get more good from our foreign policy in less time than all of our Government activity has gained.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WHALEN. Mr. Chairman, I rise in

opposition to the Gross amendment. As the world moves into a new era, characterized by changing relationships and more complex problems requiring broad cooperation and long-range negotiations, I believe that more than ever we need to communicate to others an account of ourselves—our policies, our society, our basic purposes. This need is highlighted by the revolution in communications which has dramatically expanded the capacity of people to receive information—and consequently the role of public opinion—in many parts of the world.

In this light, an official informational and cultural program is the opposite of "anachronistic," as is recognized by most major countries which devote proportionately more resources to such activities than we do. As the times change, so do the programs and the techniques. Thus USIA has recently been putting much more emphasis on economic issues as well as related problems of energy, the environment and other challenges of a modern society.

In the economic sphere, the USIA is engaging in an accelerated effort, in close coordination with other government agencies, to find the best means of enhancing understanding and support of our economic policies and interests—trade, monetary, and the rest. It is supporting the U.S. Travel Service in its tourism efforts. In collaboration with U.S. trade centers and with American business abroad it is assisting in the promotion of U.S. exports. It has launched a new quarterly—"Economic Impact"—to reach persons abroad who are influential in this field. It is using new techniques such as special thematic programs—a multimedia approach by information centers built around an important theme—and "electronic dialogues" between U.S. officials and key groups abroad, combining videotape recordings with direct telephone hookups for two-way discussion of issues.

On June 25, 1973, I had the privilege of participating in such a dialog. Through the medium of a film made in Washington I addressed 15 economists from four North German States and Denmark who gathered in Hamburg at the invitation of our Consul-General, John A. Brogan III. This meeting was chaired by our Embassy Minister-Consular for Economic Affairs, Charles G. Wootton, and was cosponsored by the Hamburg State Ministry of Economics and the Hamburg Institute for International Economics. After viewing this film, these economists, representing government, commerce, academia and the media, questioned me via transatlantic telephone.

As a former economics professor I have, of course, a particularly strong interest in these matters. However, it requires no special knowledge to see that economic issues—and the cooperation of other countries in their resolution—touch the vital interests of all our people. I think most of us would regret the damage to efforts in this and other spheres to gain international understanding and support of our position. I, for one, do not doubt that the proposed cuts in USIA's staff and operating funds, superimposed on prior reductions, would constitute such damage—even the level projected by the agency's current request represents a 20-percent staff reduction since 1967 and, allowing for the effects of inflation, a reduction of 16 percent in operating funds over the same period.

Many of us who have traveled abroad have had an opportunity to observe the impact of what people think and know. In my opening remarks at the African-American Legislators' Conference in Lusaka, Zambia, in January 1972, I noted in reference to a particular issue:

> Existing differences between the U.S. and African Governments stemmed primarily from a lack of understanding of our respective aspirations and problems.

Although I said this in a particular place and context, the point is really universal. Informational and cultural programs cannot of themselves solve all our problems in building understanding but they can make an important difference. It would surely be a major mistake to cripple them.

Mr. DENNIS. Mr. Chairman, will the gentleman yield to me?

Mr. WHALEN. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank my friend from Ohio for yielding.

I am not necessarily opposed to the U.S. Information Agency. I am asking more or less for information rather than as an argument.

I just wonder why with all the old-line agencies we have such as the Department of State, the Consular Service, the Commerce Department, to point out the things you were talking about, private enterprise, individual Americans, and so on, we need to go on proliferating additional specialized new bureaus and why we should not use the old-line departments that we have instead of adding to the budget all the time with these new programs. That is the question.

Mr. WHALEN. I would point out this is not a new agency.

Mr. DENNIS. Well, compared with those I am talking about.

Mr. WHALEN. It is an agency which possesses specialized knowledge and expertise which enables it to handle the job of communication better than some of the existing bureaus and agencies to which the gentleman has referred.

Mr. DENNIS. Yes, but the Department of State and the Department of Commerce certainly far outdate this agency, for instance.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Michigan.

Mr. CEDERBERG. This agency used to be in the Department of State.

Mr. DENNIS. Why should it not be put back there, then?

Mr. CEDERBERG. It should not be put back there because it has an entirely different kind of mission than your consular officer and Ambassador and so forth. They are under the Ambassador; they work with the Ambassador and other people in the agency. It is altogether different.

Mr. DENNIS. But it is proliferating.

Mr. CEDERBERG. No.

Mr. WHALEN. It possesses the expertise and works with a number of different departments I think it makes sense that this be separated from the Department of State.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes 10, noes 48.

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. HAYS

Mr. HAYS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYS: Page 3, immediately after line 18, insert the following:

SEC. 4. (a) After the expiration of any thirty-five-day period beginning on the date the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives has delivered to the office of the Director of the United States Information Agency a written request that the committee be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in the custody or control of such agency, and relating to such agency, none of the funds made available to such agency shall be obligated unless and until there has been furnished to the committee making the request the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested. The written request to the agency shall be over the signature of the chairman of the committee acting upon a majority vote of the committee.

(b) The provisions of subsection (a) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of the United States Information Agency or to any communication directed by any such officer or employee to the President.

Mr. HAYS. Mr. Chairman, I mentioned this amendment briefly when I presented the bill. As I said then, this is an attempt to informally work out some kind of a compromise between the Senate, which has language in the State Department authorization applying to all of these agencies, and the House.

I am not sure that I can work this agreement out.

I have had some informal talks with a good many people in the administration and other places who think that the sensitive area is the State Department, and I can understand their thinking.

If this amendment is agreed to and the Senate will go along on accepting it on the USIA and AID—and I do not think the USIA or AID, either one, make policy or have any very sensitive information that the Congress could not very well have, I will oppose applying it to the State Department, which they say is the sensitive agency. Then we can perhaps work out a compromise.

I say perhaps. Now, what is the result if we do not? The Senate has already passed the appropriations for State and for USIA, but with an amendment saying that none of this money can be spent unless an authorization is passed. My guess is we might well wind up without any authorization for State or for USIA. If that happens the State

Department would get along on $100 million less, which means they would have to make some drastic cuts, and USIA under a continuing resolution, would get along on the amount contained in the amendment offered by the gentleman from Iowa (Mr. GROSS) which would mean a severe cut.

I am simply trying to work out something in order to get all three of them passed and get them behind us.

I sincerely believe that the Director of the U.S. Information Agency, or AID, has no business withholding information properly requested by a committee.

If the Members paid attention to the reading of my amendment they will see that it is worked out carefully so that no Presidential communications are involved. It is also worked out carefully so that a majority of the committee have to approve the request. I could not send a letter down there, or the gentleman from Pennsylvania (Dr. MORGAN), could not send a letter, and no other individual could. It would have to have a vote by the committee and be approved by the majority.

I will say this: That as chairman of this subcommittee I have not been refused information by the USIA or AID.

I do not think I would be, because I do not make unreasonable requests of them. I received an anonymous letter from an individual down at USIA talking about all of the limousines they had. I sent a letter down last weekend and asked them to list the number of cars and send me up the log on where they had been and who had been in them. I think I sent that letter out on Wednesday night, and the answer was in my office Monday morning.

Since it was innocuous and did not seem to indicate that they had abused the two or three cars that they have, I have attached it to the hearings, because all of the cars they have, according to what they sent me, are a Mercury sedan for the Director and a Ford sedan for the Deputy Director, and two or three other cars which are used to haul around equipment.

I think this is an acceptable way to get out of this dilemma we are in, and get these bills passed. There is another dividend that I hesitate to mention which appeals to me, and it is that with that much more of the business of the House out of the way, we might hope that we can have some kind of adjournment sometime this fall.

I hope that the amendment will be accepted. I will keep my pledge to the Members. If we cannot get an agreement with the Senate on leaving it out of the State Department bin, I will just not agree to bring it in on anything, because we will have that difference between the two bodies.

Mr. THOMSON of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this, I think as far as the House is concerned, is an amendment of first impression. The amendment that we rejected in the State Department conference report about 2 weeks ago came to the House as a Senate amendment, the House had not acted on it, and the Speaker held that it was a nongermane amendment. So this amendment that is now presented is a matter of first impression in the House.

It goes to the very heart of the controversy that has been raging between the Congress and the executive agencies and the President. It presents some real, difficult problems.

I have not had an opportunity to make an investigation about the sensitivity of the materials that are used in the USIA programs. I have a feeling that some of those programs in certain areas or in certain countries are of a rather sensitive nature which perhaps the USIA and the executive might think would be inadvisable to make public. And I have a feeling that almost everything that comes up to the Hill is made public. Therefore, there might be a great deal of opposition to this proposal.

At the same time I have a considerable degree of sympathy for the desires of the gentleman from Ohio to get a resolution of the problems that are involved in the conferences that are being held on the State Department authorization. I certainly do not want to obstruct the successful passage of this bill and the completion of the authorization process.

I have no information that we will not be in another controversy with the President if we add this to the bill. I think it is a subject that needs some very serious, thoughtful research and approach to this issue that is creating untold problems in the Congress and with the Chief Executive, so I am not in any position to accept the amendment.

I have had no one on this side of the aisle come to me and say that they are willing to accept it. I think it is a very serious matter and a matter that perhaps should be considered by the committee before it is presented on the floor of the House. So, Mr. Chairman, I cannot accept the amendment.

I wish we had some forum in which we could resolve these matters where we could get some form of agreement so that we could eliminate the irritations that this type of a proposal presents to us.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. THOMSON of Wisconsin. I yield to the gentleman from Ohio.

Mr. HAYS. I will just say to the gentleman from Wisconsin that I am as concerned as he is. I have spent a good deal of time in a good faith effort to try to work out some kind of compromise before we could get all three of these bills passed. I think, as I said, that this may do it. If it does not, I will back off from it in conference.

As I said, that this may do it. If it does not do it, I will back off from it in conference. In other words, if we cannot sell the compromise I described, then I will not buy anything and we will start all over.

As the gentleman perhaps knows, the Senate committee yesterday agreed to report out a new authorization for the State Department including language that none of the funds for the State Department could be spent unless the Senate had sent up to it any information the committee asked for.

This is an attempt on my part to get this solved without having it made applicable to the State Department in it, which we are told the President will veto it and the hassle will last all fall. The House can take it or leave it, but if we do not take it there will be a legislative action which will cut everybody down severely.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Wisconsin has pointed out that we rejected language similar to this amendment in the House when the State Department authorization conference report was up. The language we rejected admittedly was broader. This would require the USIA, on the request of the Senate Foreign Relations Committee or the House Foreign Relations Committee, to hand over any information we may want.

It has been suggested that the gentleman from Ohio somehow singlehandedly—and I emphasize the fact that it seems to be singlehandedly—is trying to work out a compromise with the other body. In the first place I would think it would be the responsibility of all the House conferees to work out a conference agreement on a conference report with respect to the State Department authorization. I do not think that the price those House conferees should pay would be to accept a totally objectionable principle.

Whether there would be an effort made to include language that would make it unnecessary for the State Department to hand over sensitive material or not, acceptance of this language would establish a precedent that could easily be used as a basis for demanding that other executive agencies furnish sensitive information. The Senate has already approved such language, and the House has already rejected it.

I would hope also that the threat that there will be no authorization for USIA or the State Department if we should not accept this particular compromise would be one that would be recognized and rejected. It makes no sense in my opinion to say that the USIA is not a sensitive agency. Quite obviously the USIA has access to State Department material. It also receives National Security Council material and it might well be in just as sensitive a position as would be the State Department if a demand could be made upon it peremptorily to which they must respond.

The gentleman from Ohio says he never makes any but reasonable requests. I would just remind him that the Senate Foreign Relations Committee did make a request to the USIA which the President decided should not be honored and the information which they requested was not made available.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I would like to finish and then I will be glad to yield.

Mr. HAYS. The gentleman may never get that done.

Mr. FRELINGHUYSEN. I do not suppose we would be the losers if I did not yield to the gentleman from Ohio (Mr. HAYS).

The Senate has already asked for information which has been refused, so quite obviously this is a sensitive point with the Foreign Relations Committee. The USIA is a sensitive agency—experience has already proved that point. There has been a suggestion made on the floor during the debate that somehow the State Department or high officials of the State Department have given tacit or formal approval to this arrangement under a so-called pledge that the State Department will be not subjected to this kind of demand. I have not been able to contact the Acting Secretary of State personally on this point. However, I have had word from the State Department that there is a positive feeling on the part of the executive branch that this kind of language is undesirable and should be fought.

I think commonsense would suggest that that is the case. I hope that we will not buy a pig in a poke on the suggestion that somehow agreement on a lot of important things hinges on accepting this language. If we swallow that bait, we have lost the battle without securing a reasonable position for the legislature to be taking with respect to the executive branch of Government.

Mr. MAILLIARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to belabor this. I think the arguments have been made. It was about 8 days ago that we voted on the same issue in the House. If the gentleman's language were more restrictive, I would think we might have something we could discuss, but the way this language is drawn, the committees of the House that are designated here could insist on receiving all documents, any documents in the possession of USIA.

USIA handles as a matter of regular routine, highly sensitive material from both the State Department and NSC. Therefore, we could obtain indirectly what we could not obtain directly if the proposal the gentleman from Ohio has made were accepted.

As I said, I think we would have something to talk about if this were restricted to documents that actually belong to USIA, but when it is anything in their custody, this means anything they have got from any other agency, no matter how sensitive or delicate it would be.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I would like to make two points. I know the gentleman will be on the conference committee, and will have an opportunity to oppose the language in conference. The second point is that the crux of the debate the other day—and I remember the gentleman's argument very well—most of his argument was directed to the fact that a good deal of the Senate amendment was not germane because it applied to agencies in addition to the State Department. That argument about germaneness came up over and over and over again.

This is germane, and I say that if the gentleman has suggestions about how to make the language more palatable and safer, I certainly would listen to them and I think the conference committee would also.

Mr. MAILLIARD. Mr. Chairman, I appreciate the gentleman saying that, but he and I have been in conference with the Senate Committee on Foreign Relations often enough to know that when we are foolish enough to adopt amendments which they invented, they simply recede and concur before we have time to argue about them at all. That is precisely what will happen in this case, because it was a Senate amendment the gentleman is offering, and if we adopt it there is not any doubt in my mind as to what happens in conference. The Senate conferees collapse at once and we are struck with our own language as written. I do not think there would be any opportunity to change it.

What I am saying is that while ordinarily I would say that documents in nonsensitive areas should be made available and we ought to have provision in law so that we can obtain them—I think there has been much too much withholding of information just for convenience and not for any real reason—when we are talking about this particular agency, we are again dealing in matters that are highly sensitive in connection with some foreign government. We may have reports, for example, from political officers in USIA just as we do in the State Department, where the informaton is delicate and we would not want to see it spread on the pages of a newspaper or getting back to certain other governments.

I think that confidentiality in the field of foreign affairs is a very essential part of conducting relations between nations. I think that unless we can get language which spells out more clearly what kind of information and what kind of documents could be obtained under the circumstances, this amendment really should be rejected.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, the gentleman has kind of thrown me here just for a moment. If the purpose of USIA is to spread truth around the world, as has been stated on this floor, why would any security agencies be so involved in this, or why would there be any sensitive material that a Member of Congress should not have ready access to?

Mr. MAILLIARD. I would say to the gentleman that in my opinion in the normal business of the USIA there should be nothing they would feel necessary to conceal from a committee of the Congress. But I can see interrelationships among various Government activities abroad, which could bring into play certain things in the making of decisions as to what kind of emphasis to give in a particular country, which might get involved in the personalities of the leadership of a particular country and a lot of things they just should not be spreading upon the public record.

Mr. MILFORD. One of the concerns I have about this bill, and the main reason why I believe I will vote against it, is because of the action of security agencies, wherein the purpose of this agency was completely distorted. One means of protecting against that would be by the amendment on the floor at this time.

Mr. MAILLIARD. The gentleman is entitled to his views. I would be the last to say that there has not been activity on the part of this agency in days gone by of which I did not approve. I do not know of any currently. Still, I believe there is a basic principle involved here, and we ought to be very sure we know what we are doing. When we use language which says we can get any document in the custody of that agency, no matter what its classification or from where it came, I believe that is going too far.

Mr. KAZEN. Mr. Chairman, I move to strike the necessary number of words.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, we are getting right down to the crux of the matter. That is, does the Congress have the right to know what this agency is disseminating to other countries, or not? That is just about what it amounts to.

As an example of how ridiculous they can get, when they came before the subcommittee, and we asked the Director what he wanted with the $16 million, he said it was to build a new radio station. We asked, "Where?" and he said, "I cannot tell you; that is top secret and sensitive."

I happen to read the newspapers once in a while, and I had read in the Washington Post that they were going to build it in Korea. I said, "Well, it has been in the Washington Post. Do you mean that you cannot tell us?" He said, "No, I cannot tell you." I asked, "Would you want to comment on whether the Washington Post was right or wrong?" And he said, "Well, it was right."

How far around the barrel do we have to go to get information out of these agencies?

I am not trying to destroy the agency. I had one of the top men from the State Department in my office, and he said, "You have been one of the best friends I have had up here." I should be. I gave them everything they asked for.

I can understand what the gentleman from New Jersey (Mr. FRELINGHUYSEN) had to say, for he was not in on the conference, and that is his normal reaction.

I find it difficult to communicate with the gentleman from New Jersey (Mr. FRELINGHUYSEN). I was talking with a high Government official one time, and he said, "I lived in his hometown when I was a boy and one time I wanted him to come out to play baseball, and the butler said, 'Master Petar cannot come out; he is in the bawth.' "

That is about the kind of answer I get every time I try to get in touch with him.

I really do not try to communicate with him very much. I am sorry, but it is not easy, when one has to go through the butler.

I state that the Congress has certain rights. If we are going to legislate about this agency and if we are going to appropriate $224 million this year, and it goes up every year, I believe we have a right to know what they are doing and what they are spending the money for and what they are telling other people about America. We even have a right to know where they are going to build their next radio station.

Mr. KAZEN. Mr. Chairman, I rise in support of the amendment. I cannot understand why, if this agency is an information distribution agency and they are going to distribute whatever information comes into their possession to people all over the world, the Congress of the United States should not have access to the same information or to their activities.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, may I first say that this has been a very fine debate, in fact, more than a fine debate—an excellent debate.

After listening to the gentleman from Ohio (Mr. Hays), especially in his second statement which he made just a moment ago, I can well understand why he is unbeatable in his district, because, apparently, he can demolish any opponent who attempts to debate him.

I would just like to suggest, after listening to the entire debate, that the arguments just advanced by the gentleman were not all those which were advanced when he first proposed it.

I suggest that what we saw was a brilliant display of oratory, not logic in support of the amendment.

Mr. Chairman, let me just point out one or two items. I say this, regardless of the problems which our House conferees generally have with their Senate counterparts. And believe me, any of the Members who serve on any other committee and who think they have problems with their Senate counterparts, have no problems at all, compared to the headaches which the gentleman from Pennsylvania, Dr. Morgan, and the gentleman from Ohio, Mr. Hays, face when they are dealing with the members on the Senate Committee on Foreign Relations.

Notwithstanding that, just 8 days ago there was a clear-cut vote in this House on this subject. This amendment in effect, raises that same issue.

Furthermore, since I try to be objective, I listened to the gentleman's original argument for his amendment, and one of the things the gentleman said—and I will agree completely with him—was that he and the gentleman from Pennsylvania, Dr. Morgan, would very judiciously use this authority which they would be granted under this amendment in calling upon a majority of the committee to request information.

Mr. Chairman, I know they would. They are two of the finest, honorable, gentlemen in the House. But could the same thing be said of the chairman of the Senate Committee on Foreign Relations? How would he use or abuse the authority he would have under this amendment?

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the gentleman knows that I have to be judicious in the subcommittee, because normally there are more Republicans there than there are Democrats, so with the vote of the subcommittee, I would not have too much authority.

Mr. DERWINSKI. Mr. Chairman, the gentleman will admit that the Republicans have been very judicious, and we have not tried to use our majority that have been in attendance.

Let me say, by the way—and this is just a personal point that must be injected—that I appreciate the very friendly nature of the disagreements which occasionally surface between the gentleman from New Jersey (Mr. Frelinghuysen) and the gentleman from Ohio (Mr. Hays), and I know that the two of them are as close as any friends we have in the Congress. They occasionally convey areas of disagreement that do not seriously exist.

Mr. Chairman, may I also say that the gentleman from Ohio is always one of the calmest, most polite and most proper Members of the House except for those rare instances where he shows just a bit of temper, but that is so rare that I would say we may certainly forget it. The gentleman is certainly one of the fairest Members, and I appreciate the fact that he has so astutely handled this bill up to this point, except for this amendment.

I really suggest that the vote of 8 days ago should cover the conditions which exist today, and I would suggest that we reject this amendment.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my distinguished chairman, the gentleman from Pennsylvania (Mr. Morgan).

Mr. MORGAN. Mr. Chairman, I wish to disagree with the last statement made by the gentleman from Illinois, because the vote the other day, on the State Department authorization, covered a number of other agencies.

Now, if the conferees on June 29, when we settled this conference, had limited the provision to the State Department and eliminated all the rest under the Speaker's ruling, those two points of order made by the opposition last week on this bill would not have been in order and this amendment would have been in the State Department authorization.

Mr. DERWINSKI. But supposedly the gentleman from Ohio (Mr. Hays) did emphasize his position which is to guarantee individual Congressmen and members of the committee that they would receive information requested from the USIA. I have never had an instance, from 1959 up to today, when I did not receive specific scripts of a VOA broadcast or a USIA release that I requested. I have never had anything but cooperation, and have received all the information that was requested. I do not think they should be charged with deliberately, as a matter of policy, withholding substantial information from Congress.

Mr. DENNIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am not a member of the distinguished Committee on Foreign Relations. I had no anticipation of participating in a debate on this subject this afternoon; but the matter before us is not really a parochial matter for the distinguished Committee on Foreign Relations. The matter before us involves a very important point of constitutional law which concerns every Member of this Congress and on which I respectfully submit we ought not to act hastily on this bill or any other bill.

This is, indeed, exactly the amendment which was voted down the other day on the State Department appropriation bill.

Now, as far as I am concerned, and I imagine as far as most of you are concerned, I did not vote that down primarily on a point of order or on a matter of germaneness or anything of that kind.

I think it is a very fundamental question and a nonpartisan question, too, if you will. It is one we ought not to try to decide off the cuff on amendments of this character.

The question is as between the executive and the legislative branches, where and when, if at all, the so-called doctrine of executive privilege applies and when the Congress is entitled to get information.

It is a big question. It has been with us for 200 years and it is going to be with us after we have a Democrat in the White House again and maybe a Republican Congress. We ought to look at it from that point of view.

Now, as I pointed out, or tried to point out, in debate the other day, there are ways to get at this thing. It should not be done with the meat ax approach of trying to cut off money nor as a bargaining business that, "I will pass this bill if you pass that."

We ought to have some fundamental law on it and try it on a question of principle.

There is a statute on the books right now, today, which gives the Committee on Government Operations or a majority of its members a right to have information they should have or request.

I have a bill prepared—and the only reason it is not in the hopper is because I am getting some of the legal lights to pass on its technical points—which would extend that same statute to every committee of the Congress.

I think we ought to have it, and I would add to that statute a court procedure, if there is an executive refusal, for getting the documents and having the courts determine in these cases, when they come along, whether this is a properly privileged matter or whether it is not.

Now, I suggest to you that is the way, and it is the only respectable way, to resolve this kind of a question.

We should not try to decide it on this amendment today any more than we tried to decide it on the amendment the other day. We should decide this question on the basis of principle and common sense. I appeal to those on both sides of the House, let us get at this problem but let us get at it the right way and let us turn this amendment down.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. Of course, I yield to the gentleman.

Mr. HAYS. I would support the gentleman's bill. The gentleman must know, as well as I do, that if the bill passes and it is vetoed, there is no way in the world in this House that we can pass anything over a veto.

Mr. DENNIS. Well, I do not know. I have voted to override before, and I might again on something like that.

Let us give the ordinary parliamentary processes a chance instead of, if you will pardon the language, horsing around this way on this type of an amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Hays).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 35, noes 34.

RECORDED VOTE

Mr. MAILLIARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 178, not voting 16, as follows:

[Roll No. 466]

AYES—240

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clancy
Clark
Clay
Cleveland
Collins, Ill.
Conlan
Conyers
Corman
Cotter
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Fascell
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Gunter
Haley
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hays
Hechler, W. Va.
Helstoski
Henderson
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Long, La.
Long, Md.
McCloskey
McCormack
McFall
McKay
McSpadden
Macdonald
Madden
Mahon
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Randall
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ryan
St Germain
Sarbanes
Satterfield
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stark
Steed
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
White
Whitten
Wilson, Charles H., Calif.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki

NOES—178

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Baker
Beard
Bell
Blackburn
Bray
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Butler
Camp
Carter
Cederberg
Chamberlain
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Coughlin
Crane
Cronin
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Duncan
du Pont
Edwards, Ala.
Esch
Evans, Colo.
Findley
Fish
Fisher
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gilman
Goodling
Grover
Gubser
Gude
Guyer
Hammerschmidt
Harsha
Harvey
Hastings
Hébert
Heckler, Mass.
Heinz
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Keating
Kemp
Ketchum
King
Kuykendall
Landgrebe
Latta
Lent
Lott
McClory
McCollister
McDade
McKinney
Madigan
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Mosher
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Pettis
Peyser
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Ruppe
Ruth
Sandman
Sarasin
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steele
Steelman
Steiger, Wis.
Talcott
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Walsh
Wampler
Ware
Whalen
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, S.C.
Zion
Zwach

NOT VOTING—16

Burke, Fla.
Burleson, Tex.
Goldwater
Hansen, Idaho
Hawkins
Hillis
Litton
Lujan
McEwen
Michel
Mills, Ark.
Patman
Roy
Stanton, James V.
Steiger, Ariz.
Wilson, Charles, Tex.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Brinkley, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9715) to authorize appropriations for the U.S. Information Agency, pursuant to House Resolution 548, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 305, nays 108, not voting 21, as follows:

[Roll No. 467]

YEAS—305

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baker
Barrett
Beard
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Calif.
Burke, Mass.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dent
Derwinski
Dickinson
Diggs
Dingell
Donohue
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Frenzel
Frey
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harvey
Hastings
Hays
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hogan
Holifield
Howard
Hunt
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lent
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCormack
McDade
McFall
McKay
McKinney
Madden
Mahon
Mallary
Mann
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga

Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Rangel
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Seiberling
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

### NAYS—108

Archer
Arends
Armstrong
Ashbrook
Bafalis
Bauman
Bennett
Blackburn
Bray
Brown, Ohio
Burgener
Burlison, Mo.
Butler
Camp
Carter
Clawson, Del
Collins, Tex.
Conable
Conlan
Conyers
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellums
Denholm
Dennis
Devine
Dorn
Downing
Ford, Gerald R.
Forsythe
Frelinghuysen
Froehlich
Fuqua
Gilman
Goodling
Gross
Haley
Harrington
Harsha
Hechler, W. Va.
Hinshaw
Holt
Holtzman
Horton
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, Okla.
Kastenmeier
Ketchum
King
Landgrebe
Lehman
McCollister
McSpadden
Macdonald
Madigan
Mailliard
Maraziti
Martin, Nebr.
Milford
Miller
Minshall, Ohio
Mizell
Moorhead, Calif.
Myers
O'Brien
Owens
Patman
Pettis
Poage
Powell, Ohio
Price, Tex.
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Rogers
Rousselot
Runnels
Ruppe
Ruth
Satterfield
Saylor
Scherle
Schroeder
Sebelius
Shoup
Shuster
Snyder
Steiger, Wis.
Studds
Symms
Towell, Nev.
Treen
Whitten
Wiggins
Wilson, Bob
Young, Alaska
Young, S.C.

### NOT VOTING—21

Boggs
Burke, Fla.
Burleson, Tex.
Eckhardt
Fulton
Goldwater
Hansen, Idaho
Hawkins
Hillis
Litton
Lujan
McEwen
Michel
Mills, Ark.
Railsback
Rooney, N.Y.
Roy
Staggers
Steiger, Ariz.
Wilson, Charles, Tex.
Wylie

So the bill was passed.

The Clerk announced the following pairs:

Mr. Mills of Arkansas with Mr. Staggers.
Mr. Roy with Mr. Eckhardt.
Mr. Litton with Mr. Steiger of Arizona.
Mr. Burleson of Texas with Mr. McEwen.
Mr. Fulton with Mr. Hillis.
Mrs. Boggs with Mr. Goldwater.
Mr. Rooney of New York with Mr. Lujan.
Mr. Charles Wilson of Texas with Mr. Burke of Florida.
Mr. Hawkins with Mr. Wylie.
Mr. Railsback with Mr. Michel.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 508, the Committee on Foreign Affairs is discharged from the further consideration of the bill (S. 1317) to authorize appropriations for the U.S. Information Agency.

The Clerk read the title of the Senate bill.

### MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAYS moves to strike out all after the enacting clause of the bill S. 1317 and insert in lieu thereof the provisions of H.R. 9715 as passed, as follows:

That this Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1973".

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1974, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $203,279,000 for "Salaries and expenses" (special foreign currency program)", except that so much of such amount as may be appropriated for "Salaries and expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $5,125,000 for "Special international exhibitions" and "Special international exhibitions (special foreign currency program)", of which not to exceed $1,000,000 shall be available solely for the Eighth Series of Traveling Exhibitions in the Union of Soviet Socialist Republic; and

(3) $1,000,000 for "Acquisition and construction of radio facilities".

Amounts appropriated under paragraphs (2) and (3) of this subsection are authorized to remain available until expended.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated without fiscal year limitation for the United States Information Agency for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $7,200,000 for increases in salary, pay, retirement, or other employee benefits authorized by law; and

(2) not to exceed $7,450,000 for additional overseas costs resulting from the devaluation of the dollar.

SEC. 3. The United States Information Agency shall, upon request by Little League Baseball, Incorporated, authorize the purchase by such corporation of copies of the film "Summer Fever", produced by such agency in 1972 depicting events in Little League Baseball in the United States. Except as otherwise provided by section 501 of the United States Information and Educational Exchange Act of 1948, Little League Baseball, Incorporated, shall have exclusive rights to distribute such film for viewing within the United States in furtherance of the object and purposes of such corporation as set forth in section 3 of the Act entitled "An Act to incorporate the Little League Baseball, Incorporated", approved July 16, 1964 (78 Stat. 325).

SEC. 4. (a) After the expiration of any thirty-five day period beginning on the date the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives has delivered to the office of the Director of the United States Information Agency a written request that the committee be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in the custody or control of such agency, and relating to such agency, none of the funds made available to such agency shall be obligated unless and until there has been furnished to the committee making the request the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested. The written request to the agency shall be over the signature of the chairman of the committee acting upon a majority vote of the committee.

(b) The provisions of subsection (a) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of the United States Information Agency or to any communication directed by any such officer or employee to the President.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9715) was laid on the table.

## GENERAL LEAVE

Mr. HAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PERSONAL EXPLANATION

Mr. HOGAN. Mr. Speaker, on yesterday during the vote on H.R. 37, the Endangered and Threatened Species Conservation Act of 1973, I am recorded as not voting. I was present and voted in favor of the bill. I ask that my statement may appear in the RECORD.

## FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I have taken this time so as to announce the program for the remainder of today and the balance of the week.

Mr. Speaker, S. 1914, the Radio Free Europe bill, has been pulled from the program because of a request by the committee chairman. It is our intention to go forward today with the rule on the bill H.R. 9281, law enforcement and firefighter personnel retirement, and follow that with the rule on H.R. 9256, Federal employees health benefits.

We will go forward with the subject matter of these two bills on tomorrow.

The first item to be taken up tomorrow will be the conference report on the

Department of the Interior appropriations bill.

## PROVIDING FOR CONSIDERATION OF H.R. 9281, LAW ENFORCEMENT AND FIREFIGHTER PERSONNEL RETIREMENT

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 547 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 547

*Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9281) to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the customary 30 minutes to the minority Member, the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 547 provides for an open rule with 1 hour of general debate on H.R. 9281, a bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel.

H.R. 9281 provides for computing the retirement annuities of Federal law enforcement officers and firefighters at the rate of 2½ percent for each year of service not exceeding 20 years, and at 2 percent for each year of service in excess of 20 years. It also provides that basic pay for retirement deduction and annuity computation purposes shall include premium pay received by law enforcement officers for uncontrollable overtime.

The bill also requires the mandatory separation of law enforcement officers or firefighters at age 55 or upon completion of 20 years of service if such employee has not completed 20 years by the time he reaches age 55.

Enactment of the bill will create an additional $664 million unfunded liability in the retirement system.

Mr. Speaker, I urge adoption of House Resolution 547 in order that we may discuss and debate H.R. 9281.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I support this resolution which provides for an open rule with 1 hour of debate.

The primary purpose of H.R. 9281 is to provide improved retirement benefits for Federal law enforcement and firefighting personnel.

More specifically, the bill: First, provides for computing the retirement annuities of Federal law enforcement officers and firefighters at the rate of 2½ percent for each year of service not exceeding 20 years, and at 2 percent for each year of service in excess of 20 years; second, provides that "basic pay" for retirement deduction and annuity computation purposes shall include premium pay received by law enforcement officers for uncontrollable overtime; third, requires the mandatory separation of law enforcement officers or firefighters at age 55 or upon completion of 20 years of service if such an employee has not completed 20 years by the time he reaches age 55; and fourth, authorizes agency heads to determine and fix minimum and maximum age limits for purposes of original appointments to law enforcement and firefighter positions.

To partially support the increase in the normal cost of the retirement system which would result from the enactment of this legislation, H.R. 9281 prescribes a 7½-percent retirement contribution rate for law enforcement and firefighting personnel.

The proponents say the objective of providing improved retirement benefits and mandatory retirement at 55 is to make law enforcement and firefighting a "young man's service."

Enactment of this bill will create an additional $664,000,000 unfunded liability in the retirement system. Such increased deficit will require amortization in 30 annual appropriations of $41,100,000. The bill provides benefits for a small group of Federal employees at tremendous expense and to the detriment of all other Federal employees.

The committee report contains a letter from the Civil Service Commission opposing the bill in its present form. The Commission has no objection to mandatory early retirement, but does object to the proposed computation formula as excessively generous. The commission notes that hazardous jobs are already compensated by higher pay, which results in higher retirement.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GROSS. I think it would be well to point out to the Members as well that this is special privilege legislation affecting some 56,000 employees only, only 56,000 employees, that will result in a cost of a little better than $1 billion.

I thank the gentleman for yielding.

Mr. LATTA. I thank the gentleman from Iowa for his remarks.

He mentioned this before the Committee on Rules. I think he makes a good point. Beside the amounts of money involved here, $664,000,000 unfunded liability, it is quite astounding that the committee would report this legislation, but I am sure that this will be debated adequately when we get into the debate.

Mr. Speaker, I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. BRASCO).

Mr. BRASCO. Mr. Speaker, I rise in support of the rule and obviously in support of H.R. 9281. I might point out for the benefit of the Members that the purpose of this particular bill is not to reward our law-enforcement officers and firefighters for performing a dangerous duty, but is to recognize the everyday psychological stress they must endure. An equally important purpose of this legislation is to help to maintain a relatively young, vibrant, and effective work force in both areas. Let us see what we have done.

The law governing the retirement benefits of law enforcement personnel has not been altered for something like 25 years. The committee tried to take a most responsible position, and we did, I believe. What we did was increase the computation factor from 2 percent to 2½ percent for the first 20 years, and then reduce it back to 2 percent for anything over 20 years in an effort to induce people involved in these activities to retire.

We also did something that the Civil Service Commission approves, and that is to set a mandatory retirement age of 55 with an option on the part of the agency to hold any employee until age 60, if they so desire. Also, we give them credit in their retirement base pay for uncontrollable overtime.

We also give the agencies the option and the right to fix minimum and maximum entry ages, which, I understand, the Civil Service Commission also finds is a forward-looking step in this area.

To defer some of the costs of this bill, the Federal firefighters and Federal law enforcement officers who now contribute some 7 percent of their salary toward the retirement fund will be required to contribute 7.5 percent. I believe in the long run we will find that this legislation is not going to cost the Government anything but will result in a savings in terms of the young and vibrant force it is going to produce, which is sorely needed.

The strength of our society and of the communities across the land depends on effective law enforcement and firefighting, and these are two areas in which people are killed and maimed on a daily basis. Let me tell the Members what the President himself did in this connection. On October 26, 1970, he signed into law, Public Law 91-509, under which the Metropolitan Police Force, the District of Columbia Fire Department, the U.S. Park Police, the Executive Protective Service, and certain members of the U.S. Secret Service were given a 2.5-percent annuity computation factor, but at the end of 20 years, instead of being reduced, it goes up to 3 percent.

In addition, the widow or widower of any firefighter or law enforcement officer who dies during the performance of duty will receive a lump sum payment of $50,000. We do not do that under this legislation, but I believe the President, by his action in October 1970, recognized the needs of these firefighters and law enforcement officers.

I know many will talk about the cost of this bill, but we must look at the need for upgrading our performance in these areas. The cost is minimal.

One thing we found during the course of the hearings is that there is a definite need for the Federal Government to pay benefits at least equal to those given at the local law enforcement levels. We had testimony from Ed Kiernan, formerly head of the PBA of New York City. Very simply when we talk about improving law enforcement in this bill, we must consider that in New York City they are given free medical care, they are given free drug prescriptions, they are given eye care, they are given a $25,000 death benefit, and they are given a $15,000 benefit when they retire as a retirement gift, I suppose, from the city.

Beyond that, the city policemen contribute only 2.5 percent of their salary toward retirement. In the law enforcement agencies at the Federal level we require college graduates and we require them to have 2 years of business experience. They are assigned any place the agency needs their services, and in the case of dangerous drugs and narcotics agents the assignments may extend to foreign areas.

I think to defeat this rule or to do anything to disturb the responsible approach this committee has taken would be an injustice to those dedicated and loyal Federal law enforcement and firefighter personnel.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, I simply want to respond to the gentleman from Nebraska and his suggestion that the retirement fund is in some trouble.

It has an enormous surplus and that surplus has been contributed by billing the employees more than the law says they should be billed. They should be paying into the fund what is paid out of the fund, and that would result in total contributions of the Federal Government and its employees—of 13.1 percent of total payroll. In fact, the employees for years have been contributing more than has been taken out to the point where there is now roughly $450 million in surplus in the fund.

We ought to return that to the employees. But first, we ought not to permit that accumulation because the law does not permit it. It ought to be prevented by reducing the amount of contribution of the employees. However, since it has not been prevented, we ought to return the excess the employees are contributing and that is being applied to an existing deficit that occurred before the change in law saying that no contribution of employees shall be applied to existing deficits.

What we are dealing with is $150 million a year. The employees are contributing over and above what the law says they should. We ought to return that to them by increasing their benefits. This bill increases the benefits in a modest amount and results in a small return of that excess to them.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I was struck by the statement the gentleman made in connection with the unfunded liability of the retirement fund which is in the neighborhood of $50 billion, perhaps more. Is that not correct?

Mr. WALDIE. That comes about, as the gentleman will recall, because the Congress in its wisdom passed the Daniels bill changing the retirement program. That cost was assumed by the Government and not to be a cost of the employees at all.

Mr. GROSS. But that $50 billion is still an obligation of the Federal Government and the taxpayers?

Mr. WALDIE. It is an obligation under the pension plan of the employees, and to suggest that the pension plan is in trouble is simply not so.

Mr. GROSS. I am not saying it is. I am saying the retirement fund has an unfunded liability of $50 billion.

Mr. WALDIE. The gentleman from Nebraska did, and my attempt was to correct him.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, normally I would not take time under a rule, but since the two distinguished Members on the other side of the aisle were debating the dubious merits of the bill rather than the rule, I think it is only proper that I address myself to the subject.

My understanding is that we will just approve the rule this afternoon and debate the bill tomorrow. I wish to advise the Members that as the bill now stands, it is of such dubious merit that any objective Member would certainly vote against it. However, we are going to be offering amendments tomorrow which will clarify the situation and help the bill considerably.

I would respectfully suggest that overnight the Members review the minority views, which are very precise. I commend them to the attention of Members. I believe if they will study them objectively they will support our amendments tomorrow, and perhaps we can save some of the gentlemen who are supporting the bill in its present form from processing a very dubious legislative act.

I would suggest we also should keep in mind what we are speaking of here is a situation where these Federal employees are highly compensated in comparison with municipal employees who perform similar work. They are far better compensated and have many more fringe benefits than their counterparts in other levels of government.

I would suggest we keep in mind the need for fairness to individuals who are performing similar work for State and local agencies of government.

Tomorrow we will offer perfecting amendments. I am confident we can amend this bill to make it acceptable.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR THE CONSIDERATION OF H.R. 9256, FEDERAL EMPLOYEES HEALTH BENEFITS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 546 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 546

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Illinois is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. MURPHY of Illinois. Mr. Speaker, House Resolution 546 provides for an open rule with 1 hour of general debate on H.R. 9256, a bill to increase the contribution of the Government to the costs of health benefits for Federal employees.

H.R. 9256 increases the Government's contribution for Federal employees' health benefits plans from 40 to 55 percent beginning in 1973 with an additional 5-percent increase each year thereafter until 1977 when the Government contribution will reach 75 percent. The bill also allows annuitants who retired prior to July 1, 1960, and who are now covered under the Retired Federal Employees' Health Benefits Act to elect coverage under the health benefits provisions of chapter 89 of title 5, United States Code.

H.R. 9256 also requires a common carrier participating in the health benefits program to agree to comply with a Civil Service Commission decision in a health benefits claim dispute.

The cost for the section of the bill relating to pre-July 1, 1960, retirees, is estimated to be $1.9 million annually for each of the next 5 fiscal years. The costs for the remainder of the bill are difficult to determine. Estimates range between $675,000,000 and $722,900,000 for the fiscal year 1974.

Mr. Speaker, I urge adoption of House Resolution 546 in order that we may discuss and debate H.R. 9256.

Mr. LATTA. Mr. Speaker, I agree with the statement just made by the gentleman from Illinois (Mr. MURPHY) but I am opposed to the adoption of this rule and the passage of this bill.

I believe that we ought to take special note of the amount that the taxpayer is going to be forced to pick up in this bill over the next several years.

Mr. Speaker, based on the experience of the past several years, in 1974 this bill will cost the taxpayers of this Nation $231 million; in 1975 it will cost the taxpayers $335 million; in 1976 it will cost the taxpayers $454 million; in 1977 it will cost the taxpayers $571 million; and in 1978 it will cost the taxpayers $649 million.

Now, Mr. Speaker, I believe the taxpayers of this Nation ought to know what we are going to be voting on when this bill comes before the House. Certainly, in my humble opinion, I do not believe it ought to be coming before the House. In fact, I have not had one single piece of mail from my district asking for the passage of this type of legislation.

I might also say to the Members who are not informed on this bill that it takes care of benefits for Members of Congress. I have not had any letters from back home asking me to vote for any legislation to increase the benefits to Members of Congress. Mr. Speaker, these are all Federal employees. I believe that, with the Government in the condition that it is in fiscally, the Government should not be asked to pick up this additional cost.

This bill increases the Government contribution from 40 to 55 percent in 1973; there is an additional 5-percent increase each year until 1977, when the Government's contribution would reach 75 percent.

We have heard the argument before the Committee on Rules, Mr. Speaker, that private industry is now up to 75 percent on these contributions. However, trying to use this argument is a lame excuse for the passage of this kind of legislation.

Let me say this: Private industry can pass that cost down to the consumer, the person who buys the product being manufactured, but in this case the only thing we can do is pass the whole ball of wax right back to the taxpayer, and I do not think we ought to ask them to assume this burden under these circumstances.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, just a moment ago I advised the House that we would offer some amendments in an attempt to improve the previous bill on which a rule has been granted. May I say, with all due respect to the sponsors of this bill, that it cannot be improved. It is just bad, indefensible legislation. It is impossible to try to cure it by amendments, so we hope to beat it outright. It is a raid on the Treasury, one which is not solicited by the employees. It amounts to an excessive fringe benefit that defies the principle of comparability to salaries in private enterprise.

Mr. Speaker, I suggest that it would be a statesmanlike thing tomorrow for us to defeat the bill.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, we are paying less than 50 percent; we are paying 40 percent of the premium for our employees' health insurance. It hardly seems equitable for us to stand up and beat our breasts and say that the American worker is entitled to have the employer pay 75 percent of his health insurance premium when we ourselves are not willing to adhere to that standard. So in furtherance of the principle that we ought to be progressive employers, of the land, since we are the largest employer and since we have the nerve to call on the private employer to contribute 75 percent, I introduced a bill calling for the 75 percent in graded steps, as the President suggested. But I find that the President has said:

> Well, I did not mean for us to do that, but I meant for those other fellows to pay 75 percent; not for us as employers, because we have such excellent programs for our employees and other fringe benefits.

It is true we have one of the worst programs in terms of employer contribution to health insurance, but we have a supposedly wonderful retirement system. Well, now, the theory of that is if you have one good fringe benefit, therefore you need not provide another good fringe benefit. That would mean that our private employers should have called the President and said, "We have an excellent retirement program for our employees and, therefore, there is no reason for us to pay 75 percent of premiums as a national health program."

So it does seem to me the suggestion from the minority that this is such an outrageous program is a suggestion that the President has proposed an outrageous program for the private employers of the land. I do not believe that to be so.

Further, the suggestion that the employers and the employees of the Federal Government do not support this program is simply not the case. The members of the Post Office and Civil Service Committee who suggest that there is no call from the Federal employee for this increase in premium know better than that.

Every representative of every employees organization in the United States appeared before the Committee on Post Office and Civil Service in favor of the increase in the Federal contribution as reported by this bill, and to represent that the Federal employee does not care or is not interested in this increase is not a correct representation of what are the facts.

Finally, it would seem to me that this bill, in terms of a proper approach to a major problem of this country, which is the inflationary aspects of medical care, is a reasonable approach that one segment of the administration has already adopted.

You will recall the issue last year that we fought as to whether postal employees should be included in this bill. The House agreed they should be, and the Senate rejected that contention. The gentleman declared the House last year passed this bill overwhelmingly, including postal employees by an amendment adopted on the floor. This year the postal administration negotiated with the postal employees and granted them more generous benefits in terms of health insurance premiums than this bill provides. It granted an immediate increase in their contract from 40 to 55 percent, and next year postal workers get an additional 10 percent. They will go up to 65 percent contributed by the Government employer in 2 years, whereas if we pass this bill, we will go up to 60 percent; less generous in fact than the administration's Postal Service has granted its employees.

So to suggest that this is a giveaway is to suggest two things: First, that the President espoused a giveaway program in terms of the private sector of the economy in his health message; and, second, the postal administration espoused a giveaway program to its employees. I suggest that neither contention can be justified.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield willingly and enthusiastically to the gentleman from Illinois, my most favored and respected colleague on the Committee on Post Office and Civil Service.

Mr. DERWINSKI. I thank the gentleman for yielding.

I am sure we do not mean to disagree. We were making a point. There is no great demand for, let us say, a feeling of absolute necessity on the part of the Federal employees for this bill. Obviously they are interested in it, since it would be of benefit to them, but it is not a life-or-death or essential thing. I think the Federal employees today are more than well satisfied.

The SPEAKER. The time of the gentleman has expired.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. WALDIE).

Mr. DERWINSKI. Will the gentleman permit me to comment and ask a question?

Mr. WALDIE. I yield to the gentleman.

Mr. DERWINSKI. It is slightly not germane to the immediate subject, but I know the gentleman walked the State of California in the month of August in the pursuit of higher office. May I inquire at this time as to his health and stamina and his feelings for the future?

I know the gentleman from California has worked hard in the last month, and I am very interested in the gentlemans' well-being, and the gentleman's political future.

Mr. WALDIE. Mr. Speaker, I appreciate the remarks of the gentleman from Illinois. It is suggested that I should respond by saying that my health equals that of the gentleman from Illinois, and that if I had traveled where the gentleman from Illinois has traveled, and had walked, I would not be back yet.

Mr. DERWINSKI. I traveled to West Virginia.

Mr. WALDIE. I thank the gentleman from Illinois for his solicitude.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, so that the record is absolutely clear as to the position of the administration and what this Congress has done in the last 2 years in this regard, I would like to call the attention of the Members to page 14 of the report, which reads as follows:

> In 1971, the Government's contribution was almost doubled to approximately 40 percent of premium. The Commission cannot favor a further increase in the Government contribution at a time when the Administration is trying to exercise financial restraint.

So the administration is opposed to this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. Mr. Speaker, in response to the remarks made by the gentleman from California, I would like to make two points.

First of all, when management and labor sit down to bargain for a new contract they do not look at only one fringe benefit, they look at the entire package of fringe benefits.

As the gentleman from California (Mr. WALDIE) pointed out, the fringe benefit package for Federal employees is considerably better than that which exists in private industry today. The retirement benefits for civil service employees, the paid vacations, the sick leave, as well as the hospitalization insurance, as a package are better than in private enterprise.

So, Mr. Speaker, you have to look at the entire package when one is making a determination as to whether this increase is proper or not.

The second point I would like to make is that the gentleman from California spoke about the negotiations between the postal workers and the Postal Service, whereby the amount that the Postal Service will pay for hospitalization insurance goes to 55 percent, and then to 65 percent. All right, if the Congress comes along and increases this for civil service employees to 75 percent over a 5-year period, then you can bet your boots that the Postal Union is going to come back and say, "Well, here the civil service employees are now going to receive 75 percent on this insurance package, and we have only 65 percent. We want to go up to 100 percent."

Then the gentlemen on the Committee on Post Office and Civil Service will come back and say, "Well, the Postal Service employees are getting 100 percent, so we have to enact legislation to give our employees the 100 percent." So there is no end, I would point out, Mr. Speaker, to the cost of this legislation.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Chair understands there is some problem with the lights in connection with the bell signals.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken, and there were—yeas 312, nays 81, not voting 41, as follows:

[Roll No. 468]

YEAS—312

Abzug
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bauman
Bennett
Bergland
Bevill
Biaggi
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cleveland
Cohen
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hogan
Holifield
Holt
Holtzman
Howard
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Keating
Kemp
Kluczynski
Koch
Kyros
Leggett
Lehman
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mailliard
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price, Ill.
Quie
Railsback
Randall
Rangel
Rarick
Rees
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zion

NAYS—81

Abdnor
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Blackburn
Bray
Breaux
Buchanan
Butler
Camp
Clancy
Clawson, Del
Cochran
Collier
Collins, Tex.
Crane
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Duncan
Ford, Gerald R.
Goldwater
Goodling
Gross
Hanrahan
Hébert
Hinshaw
Hosmer
Huber
Hudnut
Hutchinson
Ketchum
Kuykendall
Landgrebe
Latta
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Mayne
Milford
Moorhead, Calif.
O'Brien
Passman
Poage
Powell, Ohio
Price, Tex.
Quillen
Regula
Robinson, Va.
Rousselot
Runnels
Saylor
Scherle
Schneebeli
Sebelius
Shuster
Skubitz
Smith, N.Y.
Steed
Steiger, Wis.
Stratton
Symms
Taylor, Mo.
Towell, Nev.
Treen
Veysey
Whitten
Wiggins
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.

NOT VOTING—41

Adams
Bell
Biester
Broomfield
Burke, Fla.
Burleson, Tex.
Collins, Ill.
Daniel, Robert W., Jr.
Diggs
Edwards, Calif.
Evins, Tenn.
Fraser
Green, Pa.
Hansen, Idaho
Hastings
Hawkins
Hillis
Horton
Johnson, Colo.
Jones, Ala.
Kastenmeier
King
Landrum
Lent
Litton
Lujan
McEwen
Michel
Mills, Ark.
Murphy, N.Y.
Patman
Podell
Pritchard
Rosenthal
Roy
Steiger, Ariz.
Talcott
Teague, Tex.
Wilson, Charles, Tex.
Wylie
Zwach

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Bell.

Mr. Teague of Texas with Mr. Dan Daniel.

Mr. Adams with Mr. Biester.

Mr. Kastenmeier with Mr. Hastings.

Mr. Mills of Arkansas with Mr. Johnson of Colorado.

Mr. Burleson of Texas with Mr. King.

Mr. Evins of Tennessee with Mr. Broomfield.

Mr. Rosenthal with Mr. Lent.

Mr. Hillis with Mr. Lujan.

Mr. Green of Pennsylvania with Mr. Burke of Florida.

Mr. Pritchard with Mr. McEwen.

Mr. Roy with Mr. Steiger of Arizona.

Mr. Hawkins with Mr. Horton.

Mr. Hansen of Idaho with Mr. Michel.

Mr. Charles H. Wilson of California with Mr. Wydler.

Mr. Litton with Mr. Talcott.

Mr. Podell with Mr. Wylie.

Mr. Edwards of California with Mr. Zwach.

Mrs. Collins of Illinois with Mr. Fraser.

Mr. Patman with Mr. Diggs.

Mr. Jones of Alabama with Mr. Landrum.

Mr. WALSH changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL ANNOUNCEMENT

Mr. DANIELSON. Mr. Speaker, I was unavoidably absent on Monday, September 17, when the vote was taken on passage of H.R. 7265, to provide for the operation of programs by the ACTION Agency. Had I been present, I would have voted "aye."

## MILITARY DISCHARGE SYSTEM SHOULD BE CHANGED

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am seeking today, by the introduction of legislation, to correct certain injustices to which servicemen have been subjected by the military discharge system.

Under existing law, there are five kinds of discharges: honorable, general, undesirable, bad conduct, and dishonorable. The first three discharges are administrative in nature and the last two are deemed punitive and are rendered only after court-martial proceedings. The only discharge which under the law categorically bars veterans benefits is that of the dishonorable discharge. The bill I am introducing will eliminate the five discharge categories and provide for three categories; to wit, honorable discharge, general discharge, and discharge by court-martial.

At the present time, when the Armed Forces desires to discharge an individual, it can do so by the use of an administrative discharge such as "general" or "undesirable" and not have to establish, under evidentiary safeguards, a case against the individual as is required if a bad conduct or dishonorable discharge resulting from a court-martial is awarded. Where administrative hearings are held and an undesirable discharge is given, the serviceman does not have the right to confront and cross-examine all witnesses whose testimony is being used against him; the administrative board does not have subpena power, and, furthermore, the burden of proof on the prosecution is not of establishing guilt beyond a reasonable doubt, as is the case at a court-martial, but simply one of establishing a case by a preponderance of the evidence. That the armed services will use this easier way to eliminate men from the service is demonstrated by the fact that during the Vietnam war six out of seven men receiving discharges which were less than honorable were given "undesirable" discharges.

While under the law anyone discharged under conditions other than dishonorable is eligible to apply for Federal benefits, the Veterans' Administration has discretion with respect to awarding such benefits. The effect of the use of that discretion is that most men who have received undesirable and bad conduct discharges and who are not barred by statute from receiving benefits, have been excluded from receiving veterans benefits. The impression that such veterans are ineligible to receive benefits is so pervasive that most veterans in the category of less than honorable discharges do not even apply. I understand that 93 percent of the veterans having undesirable and bad conduct discharges who have applied for education benefits have been refused. What this means is that the VA has effectively rendered undesirable and bad conduct discharges as onerous as a dishonorable discharge, which is clearly contrary to the intent of Congress. I understand that of the 4,000 veterans who applied for unemployment compensation during the first 5 month period of 1972, 3,400 were denied these benefits by the Veterans' Administration.

In order to correct what I consider to be abuses by the armed services in the granting of discharges and by the Veterans' Administration in refusing benefits to veterans, I am introducing today the bill which would provide for the three discharges which I first described and it further provides that all VA benefits shall be available to those receiving an honorable discharge and a general discharge. The general discharge is retained because I believe that there should be the separation of an individual from the armed services without the need for or gross stigma of a court-martial. I believe, however, that anyone being made subject to a general discharge shall have the right to demand a board hearing to determine whether or not he is eligible for an honorable discharge or whether he should receive any discharge at all.

Mr. Speaker, that the Army recognizes that a general discharge under honorable conditions could result in damning a young man for life and is in fact a gross stigma on one's record is clearly demonstrated. Before a serviceman receives such an administrative discharge, he is required to sign the following statement before exercising or waiving his right to a hearing:

> I understand that I may expect to encounter substantial prejudice in civilian life in the event a general discharge under honorable conditions is issued to me. I further understand that as a result of the issuance of an undesirable discharge under conditions other than honorable I may be ineligible for many or all benefits as a veteran under both Federal and State laws and that I may expect to encounter substantial prejudice in civilian life.

The following are the figures received from the Department of Defense on the types of discharges for fiscal year 1973:

| | |
|---|---|
| Honorable | 653,838 |
| General | 39,120 |
| Undesirable | 29,442 |
| Bad Conduct | 2,906 |
| Dishonorable | 434 |
| Total | 725,740 |

Mr. Speaker, as you see from these figures, an inordinate percentage of servicemen discharged receive undesirable discharges. Under the present situation, a soldier who goes before an administrative board for an undesirable discharge is not entitled to the legal defense he would automatically receive in the case of a court martial, where the rules of evidence must apply and where the Government must prove its case. He is at the mercy of a board stacked against him before he ever pleads his case.

I believe this bill will go a long way to correct the inequities in the current discharge system.

## NATIONAL OPEN BEACHES ACT

(Mr. GUNTER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GUNTER. Mr. Speaker, today I am joining my distinguished colleague from Texas (Mr. ECKHARDT) in cosponsoring the National Open Beaches Act, which guarantees public use of our Nation's shoreline.

Currently, only 5 percent of the recreational shoreline of the United States is available for public use. The rapid deterioration of this natural resource cannot be allowed to continue, and I believe that this legislation will once and for all clearly establish for our citizens the right to free and unrestricted use of the beaches of America. In passing this bill, the Congress will aid the millions of Americans who are increasingly threatened with the loss of these areas for recreational use by the private and industrial fencing-off of access roads and land adjacent to public beaches.

This bill will establish a Federal-State partnership to protect the public right of enjoyment of our beaches for present and future generations. The bill provides for Federal assumption of 75 percent of the costs of acquiring easements, as well as purchasing land to obtain access through condemnation proceedings. The Justice Department is given power in the bill to initiate litigation in order to clarify existing land titles and to protect the rights of the public.

Property rights will not be adversely affected by this legislation. The bill merely protects the right of the people of this country to gain access to the public shoreline without violating the property rights of others. Surely, this is a goal we all want to see accomplished.

In Florida, we have the advantage of hundreds of miles of beautiful beaches. With the rapid growth of population and industry in our State, the use of this precious resource is constantly being restricted; thus I believe we must take a stand to stop this potential loss to our people.

The Governor of Florida, the Honorable Reubin Askew, is in full agreement with this legislation. I believe the Governor speaks for a vast majority of our concerned citizens in his support of this important bill. He sent me the following letter which I request permission to insert in the RECORD at this time.

STATE OF FLORIDA, *March 16, 1973.*

Hon. BILL GUNTER,
*House of Representatives, Congress of the United States, Washington, D.C.*

DEAR BILL: Thank you for your request for my opinion on the bill to be introduced in Congress providing for access to and use of public beaches.

The Bureau of Beaches and Shores of the Florida Department of Natural Resources has reviewed the draft and based upon their comments, I feel the proposed bill represents a landmark in legislation benefiting the public interest.

The State of Florida strongly supports this proposed bill, especially in light of the current user pressures becoming more and more evident on existing public beaches.

With kind regards,

Sincerely,

REUBIN,
*Governor.*

## SELLING CRUDE OIL IN NAVAL PETROLEUM RESERVE

(Mr. KETCHUM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KETCHUM. Mr. Speaker, today I have introduced legislation which would permit the Federal Government to sell a portion of the crude oil contained in Naval Petroleum Reserve No. 1 to independent refiners on a short-term, emergency basis. The current disastrous effects of the fuel shortage on the indepedent oil refiners, and the lack of alternative solutions to this critical problem, make this step necessary if we are to save the independents and provide vitally needed petroleum products to their clients.

We are all aware of how great a problem the fuel shortage is. Americans are using more petroleum than ever before, and the demand for these products will continue to increase in the years ahead. But we cannot forget that the supply of these products is finite. Nature has taken millions of years to create the world's supply of crude oil and man has taken less than a century to bring us to the point where we must envision the depletion of our crude oil resources. Demand for gasoline alone is rising at 6 percent per year. Americans drove 1.25-trillion miles last year, thus burning up 47-million barrels of oil a week, while domestic suppliers of oil produced only 43-million barrels a week. It is obvious that our demand for oil exceeds our capacity to produce it. The unhappy truth is that only 52-billion barrels of oil remain easily recoverable in the United States—a 10-year supply at current levels of consumption.

Of course, there are alternative methods of obtaining crude oil to meet domestic needs. We can, indeed must, increase our oil imports. The United States may eventually decide to rely heavily on oil from the Middle East, but this is a policy fraught with problems of trade deficits and hard political and diplomatic choices that may take years to reconcile.

We also have the great oil reserves of the North Slope of Alaska to fall back on, a proven reserve of 10 billion barrels with the possibility of millions more contained in unexplored territory. With the final approval of the trans-Alaska pipeline, we expect that 2 million barrels a day of Alaskan oil will find their way into our crude oil-hungry market. But even this oil cannot reasonably be brought down to the continental United States before 1977. We are left with the hard fact that several years shall pass before we are free of the fuel shortage, years of increased oil demand and shrinking oil supply. Were we to wait until 1977 to act, it would be far too late to save the independent oil refiners who have been hit hard by the crude oil shortage.

The existence of independent oil refiners is vital if we are to retain price competition in the fuel market. According to the Federal Trade Commission, we now have only about 20 large companies that are fully self-sufficient, with the assurance of in-house supply. These major companies market about 80 percent of our crude oil. The remaining 20 percent is distributed through hundreds of small independents. These independents are totally dependent on the majors for their crude supply and must settle for whatever amount the majors are willing to sell them. When there is less supply to be had, the independents are on the short end, since the major companies have a natural desire, understandably, to keep the precious oil that does exist for themselves.

The net result of this system is that the independents are being squeezed out of the market and the consumers who rely on them for their fuel needs must go without. The Nation's farmers are particularly hit by this cutback in supply, since they depend heavily upon independent-refined and supplied oil. After last spring's disastrous weather, farmers worked round the clock to plant their crops and last spring's fuel requirements for farms were up 25 percent. This fall, with increased production, farmers will need more fuel than ever to harvest and dry their crops, while the independent dealers are simultaneously running out of fuel to sell them. Similar shortages are adversely affecting the trucking and construction industries, both of which rely heavily on independents for their supply.

My proposed legislation seeks to help the independents in the most practical manner—by providing them with a supply of crude oil not under the major companies' control.

This bill amends the present laws governing the Naval Reserve No. 1 at Elk Hills, Calif., and directs the Secretary of the Navy to prescribe procedures for the sale of crude oil to independent oil refiners. Since this legislation is designed to address an emergency problem, the lease of the crude oil would be on a short term, once only, emergency basis of 3 years. When this time period expires in 1977, we expect that the Alaska pipeline will be carrying down sufficient oil to satisfy both major and independent oil companies on the west coast.

The naval petroleum reserve at Elk Hills includes over 1.2 billion barrels of known recoverable oil. According to the U.S. Navy, however, only about half of the 17 miles long by 5 miles wide preserve has been explored and developed, so the actual amount of crude under the surface could be much more. My proposal is to permit independent refiners to purchase 60,000 barrels a day from these reserves for a period of 3 years. The total amount of crude oil thus removed from the Elk Hills preserve would be 65,700,000 barrels, or only 5.1 percent of the known crude oil reserves. We could thus help our independent refiners and their customers with only a minimal reduction in the naval petroleum reserves.

As stated in my bill, independent refiners are defined as companies with an operating refinery capacity of 100,000 barrels per day or less on January 1, 1973.

In order to be eligible to purchase crude oil from Elk Hills, the independents will be required to establish their inability to obtain sufficient crude oil to operate their refineries at capacity. Moreover, purchases of crude oil will be limited to those additional amounts required by each company to operate the refineries at full capacity during the 3-year period.

In summary, Mr. Speaker, this legislation provides the best possible short-term solution to the serious crisis affecting our independent refiners and their clients. It brings a new untapped source of crude oil into the marketplace. More importantly, it provides the independent refiners with a source of crude oil that is not under the direct control of the major companies, and assures them that they shall be able to operate at capacity levels through this worst phase of the fuel shortage.

## UNITED STATES SUBSIDIZES INTEREST RATE FOR MASSIVE SOVIET CONSTRUCTION PROJECT—WHILE MONEY CRISIS CONTINUES AT HOME

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, it had just been announced that Bank of America and nine other major American banks have put together a loan of $180 million to finance construction of a fertilizer complex in the Soviet Union. The taxpayer supported Export-Import Bank has made a preliminary commitment of another $180 million, while the Soviets have put up $40 million for the construction by Occidental Petroleum of the $400 million fertilizer complex south of Moscow.

The terms of the Export-Import Bank loan are an outrage to the American public. While the $180 million loaned by American banks will be at the prime interest rate plus five-eighths percent or 10 to 12 percent, the Export-Import Bank will loan $180 million at 6 percent. In the period of this single loan, the taxpayer subsidy could range between $50 million and $75 million.

Assuming that one-half of the $400 million cost will result in $200 million in U.S. exports, the taxpayers of the United States might end up spending $75 million in interest subsidies to sell $200 million in American-made merchandise. This appears like a costly and stupid business adventure.

A further examination of the deal reveals that the risk in the $400 million financing arrangement is not equally shared by the private banks and the Export-Import Bank. The arrangement provides that the private American banks will get all of their money back before any payments are made on the Export-

Import Bank's portion of the loan. During the 6 years in which the private banks are being paid back, the Export-Import Bank is standing in the wings, waiting, while it receives a yearly commitment fee of one-half of 1 percent of the outstanding balance.

Under this arrangement, the private banks get almost double the interest rate of the Export-Import Bank and dispose of their risk 6 years in advance of the Export-Import Bank.

Mr. Speaker, the present policies of the Export-Import Bank are financial madness. The American taxpayer should not be made to support an interest dole of these dimensions to support export sales.

Since projected loan commitments for fiscal year 1974 exceed the $20 billion ceiling, the Bank is currently attempting to increase its lending authority to $30 billion.

The Congress should look at this request with a jaundiced eye. If those who must borrow to educate their children must pay interest rates in excess of 10 percent, if those who buy homes must pay interest rates almost as high, how can we continue to loan money to foreign purchasers at 6 percent to buy at the bargain-basement prices created by devaluation.

The final insult is that we are taxing the American people to build a fertilizer plant in Russia while American farmers are finding it impossible to plant because of vast shortages of fertilizer in America.

## THE LATE HONORABLE WESLEY D'EWART

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from Montana (Mr. Shoup) is recognized for 60 minutes.

### GENERAL LEAVE

Mr. SHOUP. Mr. Speaker, I ask unanimous consent that all Members be allowed 5 legislative days in which to extend their remarks concerning my special order on the late Honorable Wesley D'Ewart.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. SHOUP. Mr. Speaker, many Members of this body of Government remember former Congressman Wes D'Ewart and his dedicated work. On September 2, 1973, Wes passed away at the age of 83 in his home in Wilsall, Mont.

Wesley Abner D'Ewart was an honest man of strong personal conviction. The land was his first love and he was devoted to better land management regardless of sentiment. He labored long and hard in Congress between 1945 and 1955 as Chairman of the Subcommittee on Public Lands in the House Interior Committee during the 83d Congress, he authored and succeeded in passing important pieces of land use legislation.

Wes also served as Assistant to the Secretary of Agriculture and Assistant Secretary of the Interior in the Eisenhower administration where his knowledge of the land and agricultural problems was respected and relied upon by his associates. Wes then served as a special representative to the Secretary of Agriculture from 1956 until 1958. He then came back to his adopted home of Wilsall, Mont.

A native of Worcester, Mass., Wes came to Montana fresh out of Washington State University in Pullman, Wash. In 1910 he moved to Wilsall and started working for the U.S. Forest Service. Before tossing his hat into the political arena, Wes was a successful rancher, farmer, and businessman in Park County, Mont. In 1937 he launched what was to be a highly successful political career by winning a seat in the Montana House of Representatives and served two biannual terms in that body. Wes next won the State senate seat in Park County in 1941 and served there until he was appointed a Member of the U.S. Congress in 1945 to fill the vacancy left by the death of James F. O'Conner.

Wes' final position before becoming retired full time was as a member of the Wester States Water Council, from 1966 through 1969.

Last June, the Montana Republican Party sponsored a testimonial dinner for Wes to honor his many years of dedicated service to Montana and his country—a timely and fitting honor. It is only fitting that we, as Members of Congress, pause in reflection, for Wes D'Ewart typified the great American man from the frontier—strong, rugged, bluntly honest with a backbone of steel and unrelenting in his work. Wes has earned himself a place in history in the great American tradition. Although Wes is no longer with us, we can be thankful that he chose to serve the public in so many ways. For a man of his conviction, ability, and dedication to decide against a life as a public servant would have been unfortunate. But we were fortunate, very fortunate indeed.

As a former pupil of Wes' in the realities of politics and public service I will be forever grateful for his guidance, his assistance, and his patience.

Wes D'Ewart will not be forgotten—his edifice will be the landmark land use legislation he produced.

Mr. GERALD R. FORD. Mr. Speaker, I join my colleagues in mourning the death of former congressman Wesley D'Ewart, who died September 2 at the age of 83.

Wes D'Ewart was a stockman, farmer, and businessman in Park County, Mont., who was first elected as a Republican to the 79th Congress to fill a vacancy. He was subsequently reelected to the 80th and three succeeding Congresses and left Congress after making an unsuccessful run for the Senate in 1954. Wes came to the House after 6 years in the Montana legislature.

I remember Wes well. He was a good friend, a fine gentleman and an outstanding legislator. After departing the Congress, he served as an Assistant Secretary of Agriculture and an Assistant Secretary of the Interior.

Mr. Speaker, death has taken a fine American from our midst. I regret greatly the passing of Wes D'Ewart.

Mr. GROSS. Mr. Speaker, it was with genuine sadness that I learned of the death of my friend, Wes E'Wart.

He was a stalwart in the cause of fiscal sanity and responsible government during the decade that he served Montana and the Nation in this House.

After he left the House in 1955, he served as assistant to the Secretary of Agriculture and, later, as Assistant Secretary of the Interior. In later years he was active in the Western States Water Council.

Wes D'Ewart was a servant of the people in the finest meaning of that term and his wise counsel and warm friendship will be missed by all who knew him.

Mr. ARENDS. Mr. Speaker, how can we adequately describe the loss of a friend? Words fail, but we attempt to express ourselves as best we can. The loss of Wes D'Ewart is a severe blow to those of us who served with him in this House and counted him a friend.

Wes was one of those solid individuals who earned our respect as a colleague and as a man. His zest for life was contagious. To be with Wes was to be with a man who focused on realities. He was a practical man, unmoved by the blandishments of myopic theorists, and dedicated to the attainment of goals which would enhance the greatness of our beloved Nation. He was a true patriot. Always could we look to Wes for sound judgment. His qualities were such that he was sorely missed when he ended his 10 years of House service in 1955.

Mr. Speaker, as we say farewell to our friend, Wes, we pay heartfelt tribute to his memory. We know that his was a full life and well spent.

Mr. SAYLOR. Mr. Speaker, it has been some time since Wes D'Ewart graced the Halls of Congress but many of us, particularly those on the Republican side of the aisle and present and former Members of the House Interior and Insular Affairs Committee, remember him well and with special affection. Our former colleague passed away on September 31 just prior to his 84th birthday.

Providently, the Republican Party of Montana in June of this year, gave a special testimonial for our distinguished former colleague. He was honored then for his 10 years service in the House of Representatives, his contributions to the political party of his choice, but most importantly, for his untiring efforts as a public official and private leader in the protection and enhancement of the natural areas of his beloved Montana. Though born in another State, educated in a second, Wes D'Ewart was truly a "son" of Montana.

Wesley D'Ewart was a native of Worcester, Mass., but felt the yearning to go West at an early age and after high school, enrolled in Washington State University. Following college he became a ranger in the U.S. Forest Service and was stationed in Montana. At that time he married Marjorie Cowee, also of Worcester, a friend from high school days who had attended and graduated from Wellsley College.

Shortly thereafter, the young couple bought a small ranch near Wilsall, Mont., and set up housekeeping in a cabin near the creek that ran through the property. Both worked hard; they had a dairy herd and beef cattle, and they prospered. Wes added to his land holdings when he could afford it and presently became a leading citizen in Park County, Mont. He was an early organizer and long-time director of the Park County Electric Cooperative, one of the first REA ventures in Montana. He became a member and later president of the Montana Cattlegrowers Association and the Montana Reclamation Association. He was elected to the Montana State Senate and served there several terms before he came to the Congress. In later years he served as a director of the National Reclamation Association and was in demand as an expert and speaker throughout the West.

As a politician, D'Ewart brought a new style to Montana. His congressional district consisted of 39 Montana counties, a total area larger than all of New England. He insisted on visiting every town and hamlet in the district every year, election or not—and this was in a day before politicians used airplanes. D'Ewart and his administrative assistant would establish an itinerary covering the district in a clockwise manner. Mrs. D'Ewart and the Congressman's secretary, Molly Clasbey, would start out in the opposite direction. In his fourth run for office, D'Ewart carried every county in his district—a truly remarkable feat in Montana.

During his first term in the U.S. House of Representatives, Congressman D'Ewart became a fixture on the floor of the House throughout every session learning the rules. His diligence and understanding gave him, in the 80th Congress, a voice in leadership seldom won by a sophomore representative. In the 83d Congress be became the chairman of the Public Lands Subcommittee of the House Interior and Insular Affairs Committee and in that capacity established two records that I recall. He guided to enactment more constructive legislation for the National Park Service than any other Member before him. And he had more bills vetoed by President Truman than any Member before or since as far as I know—the number was more than 15.

Wes D'Ewart's interests in Congress reflected the interests of his State and region. He was an expert in irrigation and reclamation programs, in Indian affairs, and in the problems of the public lands. In other legislation he was a convinced conservative. His votes against bills that exceeded budget limitations probably contributed to his eventual retirement from elective office, but he voted his convictions.

My most vivid recollections of Wes D'Ewart come from Interior Committee work on irrigation and reclamation bills. I will never forget the colloquy between Wes and a nabob from the Bureau of Reclamation in a subcommittee hearing dealing with well-digging in Idaho. The pertinent part of the testimony went something like this:

> Wes. I see you have a figure in this estimate of 5 percent for contingencies.
>
> Witness. Yes, sir.
>
> Wes. Can you describe 'contingencies' for me?
>
> Witness. Well, this is to cover problems we do not foresee or errors in calculation, to give us some leeway.
>
> Wes. Do you mean that contingencies cover mistakes you might have made in planning.
>
> Witness. Well, not precisely, but——
>
> Wes. Well, what I would like to know is the reason for including this 5 percent figure in the estimate for 89 identical wells. Do you expect to make the same mistake 89 times?

In 1954, D'Ewart challenged Montana's Senator James Murray and lost by a margin of 1,700 votes after a bitter campaign. President Eisenhower subsequently appointed him to the position of Assistant Secretary of the Interior in charge of Public Lands, a post in which he served with distinction for a year. His final confirmation in the post was blocked in the Senate by his opponent in the 1954 election. Thereafter, he served as a Special Assistant to the Secretary of Agriculture for several years before "retiring" to private life in Montana.

No brief recapitulation of the life of Congressman Wes D'Ewart would be complete without reference to his wife Marj, a wise and outgoing woman who could win as many votes and hearts as her husband. Politics came naturally to her as her father had been Democrat candidate for Senator from Massachusetts more than once. I have personally known few women with her strength of character; perhaps a single story will illustrate the point.

Mrs. D'Ewart was expecting Wes to return from a trip before their first baby was due, but Wes did not return and Marj sensed the time had come. She had the hired man hitch up a buggy and they started out in bad weather for the hospital in Livingston, Mont., about 30 miles from their cabin home. Something spooked the horses and they bolted, overturned, and wrecked the buggy, and the hired man wound up in the ditch with a broken leg. Marj D'Ewart, heavy with child, dragged the hired man to a fence post, put splints on his leg, tied him there so he could be found, rounded up one of the horses, and rode to the hospital where their son Bill arrived a day later.

Wes D'Ewart's personal life was punctured with tragedy but he bore each new tragedy without outward sign. When first on the ranch, their young daughter drowned in the creek near the house; while campaigning for office many years later, he learned that a grandson had died the victim of a tractor accident; his son Bill, in his fifties, passed away without warning from a heart attack; and his beloved Marj was taken after a sudden illness several years ago.

Throughout these years, a pillar of strength and the object of his great devotion has been his daughter-in-law, now Mrs. Willard Francis, who cared for Wes in his late years. To her, and to her daughter, and to Wes' granddaughter, Mitzi, we extend our deepst sympathy.

I think it must be said that few men pass from this world with more reason to feel fulfilled and satisfied than our late colleague. He was a good farmer and rancher, a good husband and father, and he contributed his best in every kind of civic and public endeavor, in and out of Government service, for many years.

He lived a full life, without illness, and death came after only a brief stay, his first, in a hospital. The world is better for his having been here; I hope as much can be said for all of us when we leave this Earth to meet our Maker.

Mr. RHODES. Mr. Speaker, it was with a real sense of personal loss that I learned of the passing of my good friend and our former colleague, Wesley A. D'Ewart, on September 2.

Wesley D'Ewart was a dedicated and capable statesman, who served his country with distinction and great wisdom. I feel privileged in having had the good fortune of serving with Wes during his last term in the House of Representatives, the 83d Congress. My close association with him during that period led to a deep respect for his overriding concern for his fellowman, admiration for his legislative ability, and a warm affection for him as a personal friend.

My sincere sympathy is extended to Mrs. Wendall Francis and to his granddaughter, Mrs. Duane Vincent, in the loss of their loved one.

Mr. JOHNSON of California. Mr. Speaker, it is with sadness that I rise today to join my colleagues in paying tribute to Wesley A. D'Ewart, who served the State of Montana and the Nation so well in the House of Representatives.

I was privileged to serve with this fine gentleman on the Committee on Interior and Insular Affairs. I found him to be knowledgeable, capable, and dedicated in his efforts to serve his constituents, his State, and the Nation. He will be missed by those who were privileged to know and work with him.

Mrs. Johnson joins me in extending deepest sympathy to his family.

## THE PSYCHOTROPIC SUBSTANCES ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Hastings) is recognized for 15 minutes.

Mr. HASTINGS. Mr. Speaker, today, I am joined by several of my colleagues in introducing the Psychotropic Substances Act of 1973 a measure which will have substantial impact on the international illicit traffic in dangerous drugs.

This legislation is a result of an international conference, which the United States took the lead in organizing and that I attended as a delegation member. This new Convention on Psychotropic Substances could bring about worldwide control and regulation of the movement of such drugs as LSD, barbiturates, and amphetamines. These controls are similar to those which have been applied for decades to the narcotics and opium commerce. This bill is needed to make those changes in our own laws so that the United States may become a member of the Convention.

International drug traffic is a matter which has long been of vital concern to each and every Member of Congress. We have all devoted a substantial part of our time to this problem, and several of us have traveled around the globe to find out firsthand the facts which the Congress needed. Much progress has been achieved by the Government in recent years, and a great deal of it has come about because of our accelerated international initiatives—both in diplomacy and enforcement.

This is true particularly in the case of heroin and narcotics. Successful agreements have been worked out with key nations, such as France, Turkey, Mexico, and Southeast Asian countries. For the first time in several years, the Justice Department's Drug Enforcement Administration reports that there is an actual shortage of heroin in the Western part of the United States. But, this success also results in greater diversion and abuse of other drugs, particularly those which are legitimately produced for legitimate medical needs. We must assume and expect that the same trend will also occur on the international level, which is why new controls in this area are essential.

The international situation is particularly critical because of a near total lack of any legal controls over the so-called psychotropic substances. Already, we have evidence that hundreds of pounds of barbiturates and amphetamines are being diverted from European manufacturers and smuggled into the United States. An outstanding example of this is the glut of barbiturate capsules called red devils which have infested the Southwestern United States since the spring of 1970. Although these "red devils" have been clandestinely manufactured, the Justice Department has strong evidence that the actual barbiturate powder came from legitimate European firms. But, it would be wrong for us to blame these firms themselves, or any specific nation. This atmosphere of haphazard and unregulated commerce of which the drug traffickers take advantage, is a condition which the nations of the world have permitted.

The Drug Enforcement Administration believes that much of the problem can be solved by putting this treaty into force; and enactment of the Psychotropic Substances Act of 1973 will make possible the United States ratification of the treaty. Moreover, the price for us as a nation is an exceedingly small one—nearly all of the controls which the treaty will impose are already applied in this country. We are really seeking a means of insuring that other nations of the world exercise standards of care and judgment similar to our own. Let me mention briefly the changes which it will make in existing Federal law.

The most significant change relates to the present procedures which are used to determine the controls of new drugs or a change of controls over existing drugs. Under the terms of the treaty, drugs are controlled in schedules similar to those of our own Federal law. The international body has the power to add new drugs under the treaty after being advised of scientific and medical findings by the World Health Organization. Should such a case arise, the United States would be obliged to apply some minimum measures regardless of the drug's current status under our law. These relate almost exclusively to matters concerning international commerce.

This bill will insure that the views of the Secretary of Health, Education, and Welfare are heard and represented in the international body by our chief diplomats.

In any case, the Secretary, in conjunction with the Attorney General, will determine and apply the minimum legal controls necessary to satisfy our obligations. In the most extreme situation, this would only mean placing the drug in one of the lowest schedules of control under existing Federal laws. These might require in some circumstances the issuance of import and export permits or the filing of annual production reports by manufacturers.

The Psychotropic Substances Act of 1973 is also careful to spell out areas in which the treaty, in and of itself, cannot require our action. It will make clear that the Congress is not to be preempted in determining the penalties and punishments for various drug violations. It will make clear that the treaty cannot be construed to impose new restrictions on the research, marketing, or advertising of such drugs for legitimate purposes. These provisions should allay any fears that we might be giving away too much control in such a vital area.

Indeed, the facts are just to the contrary. At the moment, it is the United States which has the most to gain from this treaty since it is the greatest single victim country of the illicit traffic in all kinds of drugs. These changes which we are required to make are generally always less than those which must be made by other countries. Through enactment of this bill, we will be making a large step forward in our drug suppression program at the price of small efforts.

### SUMMARY—THE PSYCHOTROPIC SUBSTANCES ACT OF 1973

#### I. PURPOSE OF THIS ACT

To permit the United States to become a member of the international Convention on Psychotropic Substances.

As a result of United States diplomatic initiatives, a conference was convened in Vienna in the spring of 1971 for the purpose of drafting an international convention to provide for the control of commerce in psychotropic substances. Although narcotic drugs have been subject to international controls since 1912, the international movement of psychotropic substances, being principally the depressants, stimulants, and hallucinogens, continues without regulation. A treaty was successfully negotiated and signed by 30 nations subject to final ratification by their respective Governments.

On June 29, 1971, the President requested the Senate to give its advice and consent to the convention, and hearings were held on February 4, 1972. It was determined by the Department of Justice that compliance with the terms of the treaty would require amendment of existing Federal drug laws (the Controlled Substances Act of 1970), and appropriate legislation was introduced on February 2, 1972. Thereafter, the Senate Committee on Foreign Relations determined that ratification of the treaty should be held in abeyance pending Congressional action on the necessary amendments to domestic law.

No further action was taken by the 92nd Congress, and a modified version of this bill is now being introduced. These modifications are concerned with insuring protection of legitimate medical and research interests and limiting other changes to the minimum necessary for full compliance with the treaty. The bill expressly states that it is the intent of Congress that the provisions of this Act together with existing law will satisfy all legal requirements of the United States necessary to become a member of the Convention on Psychotropic Substances.

#### II. PURPOSES OF THIS TREATY

To impose controls on the international movement of psychotropic drugs and to eliminate their diversion into illicit channels.

The Convention on Psychotropic Substances, which this bill is designed to implement, will restrict the manufacture, distribution and use of these drugs to legitimate medical and scientific purposes. The treaty lists 32 substances in four separate Schedules depending on the extent of their potential for abuse and therapeutic usefulness. Provision is also made for the adding, deletion, or movement of substances within these Schedules based on subsequent social and scientific findings as determined by the World Health Organization and the United Nations Commission on Narcotic Drugs.

Under its terms, member nations would be required to license all manufacturers and distributors of controlled substances and require them to keep records of such manufacture and distribution including imports and exports. Member nations must issue specific import and export permits for drugs in Schedules I and II and must require the use of a special import-export declaration in the case of drugs in Schedule III. In addition, all psychotropic substances must be subject to prescription requirements; and member nations must make arrangements for the suppression of illicit traffic in them "having due regard to their constitutional, legal, and administrative systems".

These and similar provisions of the treaty will aid the United States' enforcement and diplomatic initiatives aimed at curbing the traffic in drugs diverted from international commerce. This has become an increasingly important problem with regard to stimulant and depressant drugs legitimately manufactured in European countries and subsequently smuggled into this country. In addition, failure to promptly ratify a treaty placing controls on drugs which we manufacture constitutes a source of embarrassment to our efforts in non-manufacturing nations where we are seeking the imposition of tighter controls on the cultivation of opium and other narcotic crops. Thus far, we have succeeded in our efforts to strengthen the Convention on Narcotic Drugs; but ratification of these amendments by other nations may prove impossible to procure if the United States fails to accept stronger controls over non-narcotic drugs.

#### III. PROVISIONS OF THIS ACT

This Act consists of 13 sections, the principal provisions of which are as follows:

*Sections 1 and 2* consist of title and declaration of Congress.

*Section 3* provides that the Secretary of State shall promptly notify the Secretary of HEW of any activity of the World Health Organization under the Convention which could lead to changing of controls over a substance and thereafter transmit the views of the Secretary of HEW to that body. Also, the Secretary of State shall promptly advise the Secretary of HEW of the fact that the Commission on Narcotic Drugs is reviewing the controls over a substance, and the Secretary's views will be binding on the U.S. representative before that body.

*Section 4* provides that when the U.S. receives notification of a scheduling decision affecting the control of a drug, the Secretary of HEW, after consulting with the Attorney General, shall determine whether existing legal controls are adequate to satisfy the obligations of the U.S. If they are not, the Secretary of HEW shall recommend the appropriate scheduling action to the Attorney General. The Secretary of HEW may also request that the U.S. appeal the scheduling decision of the international body.

If action on the drug as required by the scheduling decision of the international body cannot be completed within the time required by the treaty (180 days), the Attorney General, after consulting with Secretary of HEW, shall issue a temporary order controlling the drug in the lowest possible Schedule of the Controlled Substances Act, (either IV or V). A final order will be issued after consultation with the Secretary of HEW and the exhaustion of all desired appeals.

*Section 5* requires that manufacturers make periodic reports to the Attorney General respecting psychotropic substances so that the U.S. may supply the information required under the Convention.

*Sections 6 and 7* required that import and export permits be obtained with regard to any substance which may hereafter be listed in Schedules I or II of the International Convention. Such permits are already required under domestic law for the more dangerous categories of drugs.

*Section 8* provides that nothing in international treaties shall be construed to require specific punishment for offenses involving either narcotic or psychotropic substances.

*Section 9* provides that nothing in any international treaties shall be construed to interfere with the confidentiality of patient records.

*Section 10* provides that the International Convention shall not be construed as imposing any additional restrictions on research.

*Section 11* provides that nothing in the International Convention shall be construed to require keeping of records of drugs administered or dispensed beyond that which is already required by domestic law (Section 307c of the Controlled Substances Act).

*Section 12* provides that nothing in the International Convention shall be construed to prevent drug price communications to customers, and

*Section 13* provides that the Act shall become effective on the date that the International Convention enters into force.

## LAND USE PLANNING ACT WOULD DESTROY HOME RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York, Mr. Roncallo, is recognized for 60 minutes.

### GENERAL LEAVE

Mr. RONCALLO of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RONCALLO of New York. Mr. Speaker, I have taken this special order today to warn of the irretrievable damages which the proposed Land Use Planning Act would wreak upon the great American principle that the citizens of a given locality are best equipped to decide for themselves the purposes for which privately held lands may be utilized. Although S. 268, which passed the Senate on June 21, and H.R. 10294, the clean bill just reported to the full House Interior Committee, are dressed up as environmental measures, they would provide State officials and regional planners with a powerful weapon against the environment.

Stated very simply, the House bill as currently drafted would provide grants to each State for the purpose of developing and implementing a comprehensive statewide land use planning program. This program would have to include, among other things, a State veto power over local government zoning decisions. If a State fails to come up with a plan acceptable to the Federal Government, the Department of the Interior will impose their own rules.

What is worse, the House bill, unlike the measure passed by the other body, mandates sanctions against States which prefer to chart a course different from that of the Washington bureaucracy. The price these States must pay for the right of self-determination is very high: Up to 21 percent of their Federal grant funds for highways, airports, and conservation. This is the "big carrot and the big stick" approach and engenders an atmosphere of doubt and mistrust into the proposed system right from the start. Even the State Governors who are backing the plan because it will increase their centralized power vis-a-vis local government, are opposed to sanctions. Through the National Governors' Conference they declared:

> The national land-use policy should refrain from the imposition of economic sanctions against states which are unable to comply with federal land-use policy requirements. Because of the highly sensitive nature of land-use control, major accommodations will have to be made between state and local governments before such controls can be exercised equitably and judiciously. Furthermore, sanctions generally have proved an ineffective tool in bringing about desired change.

In addition to all their other faults, the proposed sanctions affect areas of legislation under the jurisdiction of other committees of the House, and their ramifications are certainly not within the competence and expertise of the Committee on Interior and Insular Affairs.

It is not popular these days to oppose any legislation labeled as environmental by its sponsors. In this bill the word "environment" is a libel, not a label. In a few minutes I will go through various sections of the bill which I consider antienvironmental, but first I must wonder how any person interested in protecting the environment will find it easier to travel to his State capital or to Washington than to his local town hall. What makes him think he will have any easier time trying to influence a State bureaucrat than his local officials?

More importantly, I do not believe that an appointed State official should be empowered to make local zoning determinations, rather than local officials who must answer to the electorate for their actions and who must live, day in and day out with the visible results of their decisions. I fully subscribe to the principle that the level of government closest to the people governs best. I also happen to have a great deal of respect for the level of intelligence of the citizens of this great country and believe that they are the ones most qualified to decide for themselves how the land around them may be used. Who are we to substitute the judgment of a few civil servants for the will of the people? At least a local government official who does not respond to the needs of his constituency will soon find himself a private citizen once again. Who is going to control the State zoning czar sitting on top of his power pinnacle? A Federal bureaucrat even further removed from the man on the street.

Moreover, this bill is illegal under the Constitution of my home State and I suspect many others. The New York State Constitution mandates that publicly elected municipal officials determine zoning policy for their jurisdictions. The State government constitutionally cannot step in and veto local decisions just because the Congress passes a bill and the President signs it into law. This bill would attempt to threaten the citizen with higher taxes for highways, airports and, most ironically, land and water conservation, unless he agrees to vote away his present constitutional rights. The best word in the English language that fits this sort of technique is "blackmail."

At this point in my remarks, I should like to include for the Record a memorandum prepared by the Nassau County Village Officials Association which eloquently outlines some of the evils of this legislation:

Nassau County Village
Officials Association,
*Williston Park, N.Y., September 4, 1973.*

Memorandum on Federal Legislation (i.e. H.R. 2942, and H.R. 6460), to induce the States to adopt a land use policy, etc., involving regulations at State and regional levels and not by local governments

According to recent information from the Committee on Interior and Insular Affairs, to which the above bills were referred, H.R. 2942 is identical to the bill [S. 268] passed June 21, 1973 by the Senate, and H.R. 6460 is a refinement of H.R. 2492. Federal legislative drafting and revising of such Federal-State induced land use policy is now actively in progress. It is imperative that the Federal legislators now become fully informed of established, State (and particularly New York State) policy in the entire field of land use development and regulation by local governments such as villages, towns and cities.

The purpose of this brief memo is to summarize such long-established N.Y. State land use policy and jurisdiction in the matter of regulation and control by local governments in the exercise of the police power to provide for the continued orderly growth and development throughout the State of local communities. Such exercise through legislation and regulation by publicly elected municipal legislators of their local home rule powers derived from the State constitution and implementing State statutes. And then this memo seeks to relate such State law, policy and practice to these Federal legislative proposals. And further, this memo seeks to clarify and differentiate certain areas of environmental policy which have been used by legislative tacticians, both Federal and State, to confuse the total picture in the hope of effecting a radical change in Local Government Home Rule powers and jurisdiction over zoning and development of local communities by establishing State and Regional Agencies which, staffed by regional government and planning employee appointees, would take over from the local governments these powers and functions.

First, land use control and environmental planning are two separate and distinct matters. In New York State, local governments have, through their publicly elected legislative bodies, exercised their home rule powers and have, through such legislation provided for the orderly growth and development of their communities. Thus, land use policies have been adopted, updated and revised by local governments to serve the needs of their particular communities. In recent years, these local governments have engaged professional planning consultants, have utilized the information and advisory services of other available agencies, public and private, State and regional such as State and County offices of planning services. In this way the local governments have fully utilized the data and opinions of the hired planning experts and have, through their local legislation and regulations, provided for any changes desired by the affected local communities in the guiding policies relating to land use policy.

In the last several years in N.Y. State, the so-called planning experts have repeatedly but unsuccessfully tried to induce the State legislature to establish State and Regional regulatory agencies which would establish land use policy and regulation. Some of these State legislative bills were comprehensive programs, covering the total range of regulation of zoning and community development. When these bills failed to gain any support in the legislature, the sponsors tried to achieve the same result through piecemeal legislation, dividing the defeated comprehensive bill into three or more separate bills dealing with various parts of the comprehensive regulatory scheme. These piecemeal proposals were not acceptable to the State legislators.

The State offices which were the main sponsors of such regional government restructuring of local government have been the State Office for Local Government and the State Office for Planning Services. Also, the State Environmental Commission staff, as reflected in its recent report labelled as a State Environmental Plan, supports this regional government theory of land use regulation under the guise of environmental planning. The regional government theory advocates, as staff employees or consultants to the Wagner Commission (Temporary Commission on the Powers of Local Government), have adopted that theory in their recent report.

Opposition to such regional government theory and regional government land use regulation comes from all the Villages and Towns and probably all the other local governments in the State, where local home rule powers and functions would be taken away and transferred to the State and regional agencies. The N.Y. State Conference of Mayors, whose membership includes well over 400 Villages, and the N.Y. State Association of Towns, are strongly and unalterably opposed to such regional government takeover.

The extent and depth of the State legislators' support for Local Government Home Rule Powers and Functions as to local planning and regulation of land use development is indicated by the fact that all of the State legislators from Nassau County share this support.

A Position Paper on this issue has been issued by the Nassau County Village Officials Association, with a membership of 63 villages having a population of about 450,000 residents. In August of this year, the NCVOA discussed this matter with the representatives of the Westchester County Village Officials Association, and those representatives indicated that their 22 villages, with a population of about 300,000 residents, fully support the views expressed in that Position Paper.

How does this clear and established policy and law in N.Y. State relate to the Federal legislative proposals mentioned in the opening paragaphs of this memo? That relationship is simple: these proposals reflect and incorporate the regional government theory of land use regulation and control, contra to the established law and practices in N.Y. State and the overwhelming views of the people and the legislators of N.Y. State. In other words, the same regional government advocates and planning experts who comprise the main support of State legislative proposals for regional government take-over are collaborating and supporting the Federal proposals to the same end. The technique of the Federal scheme is simple: First, dress up the proposal as an environmental measure, thereby hoping to camouflage or conceal the plan relating to land use policy and regulation. (In fact, the Federal bills have received little or no publicity except as environmental measures.) And second, make it appear that the inducements to the States, by financial hand-outs and similar inducements, are generally in line with State policy or land use planning and control and that such regional approach is the only sound approach for land use planning and regulation. This theory behind the Federal proposals is both contra to the facts and contra to the established State policy.

Specifically, the Federal bill, Land Use Policy and Planning Assistance Act (S. 268), is an 80-page, comprehensive, regulatory scheme which, under the incentive of financial grants, is designed to compel the States to abandon completely their own statutory plans and programs for land use policies and legislative by local governments, described above, and to adopt a restructuring of local governments as to these matters by establishing new governmental agencies, at both state and regional levels, to take over from the local governments their present powers and functions as to these matters.

The Federal bill proceeds on the basis of findings which are, as far as New York State is concerned, wholly unsupportable and unacceptable. The entire bill is simply a Federal statutory version for a State-regional land use planning function which N.Y. State, through its legislature and at the polls on proposed State constitutional change, has repeatedly and decisively rejected.

The Federal bill lays down as requirements for an eligible State land use program or process that there be established by the State a single land use planning agency, with primary authority and responsibility for the development and administration of a state land use program. This fundamental change in the N.Y. State law with respect to the powers and functions of local governments as to land use planning and development is not to any extent acceptable to the local governments and their residents. It is therefore of no purpose to point out the numerous other substantive provisions of the bill which are equally objectionable. The bill should be completely re-written so as to encourage the States to carry out their own laws and programs for land use planning and community development, with due consideration for environmental and considerations.

In addition to considerations of home rule, I believe that this legislation could be construed by the courts to mandate the unconstitutional taking of private property for public benefit without just compensation. Certainly the major value of a great deal of private property, purchased for development under existing local zoning regulations and contributing to the local tax base, will be destroyed despite the bill's rather contradictory disclaimer that it does not "enhance or diminish the rights of owners of property as provided by the Constitution of the United States." The right thing for a State to do when it is forced by this legislation to prohibit any development of a given property would be to condemn it under its right of eminent domain and compensate the owner with its fair market value. The bill, however, specifically prohibits States from expending the funds it would grant for the acquisition of any interest in real property. The concepts embodied in the bill tend to mitigate against our free enterprise system and the private ownership of land for productive purposes. At a critical time in our Nation's history, when we need greater land productivity—especially in the fields of energy and food—this legislation would encourage States to go overboard in designating areas of "critical environmental concern" for fear of losing other, unrelated, Federal grant funds.

What are we going to charge the taxpayer for the doubtful privilege of giving up his right to locally determine the environment in which he wants to live? Well first of all, we are going to create a couple of new Federal agencies complete with branch offices through the country at an initial administrative cost of $10 million per year. Then we are going to authorize an additional $106 million per year for grants to the States. Not a dollar of these funds are in any way productive in our economy. They can only be used to pay the salaries, expenses and studies of a whole new power pyramid of State and Federal bureaucrats. This all adds up to a total of $878 million authorized for the first 8 years of the act, not including administrative funds after the third year. With those included the cost will run somewhere between $900 million and $1 billion. In addition we would force the taxpayer to shell out an additional 25 percent in State matching funds. Heaping taxes upon taxes, the bill would also reduce local government revenues by lowering property values throughout the Nation. So not only do we tax away the value of a citizen's property, but we tax him to death as well at all three levels of government.

I promised earlier that I would expose specific provisions of H.R. 10294 which would prevent local governments from using their powers to protect the environment and would, in fact, force anti-environmental land use upon our local communities. Let me start stripping bare this wolf from its sheep's clothing right at the beginning, with the congressional findings.

Section 101(b)(5) finds that "the selection and development of sites for development and land use of regional benefit are being delayed or prevented." What clearer call for rapid development in a region at the expense of the local environment could you ask for?

Section 101(b)(8) finds that "significant land use decisions are being made without adequate opportunity for members of the public to be informed about the impact or of the alternatives for such decisions, or to become involved in such decisions in meaningful ways." Yet this bill would reduce such opportunities by even further removing the decision-making process from local citizen control.

Section 101(b)(10) finds that "poor

and unwise restrictions upon the use of land can create undesirable housing conditions, can raise the cost of shelter, reduce competition, adversely affect employment and business conditions and impair Federal and local tax revenues, often leading to or requiring more Federal programs and greater Federal expenditures." This bill, however, would intensify exactly the same problems. Note, if you will, that this finding bemoans restrictions on land use, rather than excess development.

Let me go on to the heart of the bill. Section 104(g)(3) mandates that in developing its master plan, a State must consider, among other things, urban development, an adequate supply of housing, the continued development of expanding areas, the economic diversification of communities which possess a narrow economic base, and rural development. Let me tell you that we have villages in my suburban home district which like their narrow economic base and in fact have no commercial property at all. They prefer a clean and healthful environment to lower taxes. We have other villages and a city which have conversely chosen to allow development of private lands along a rational course acceptable to their citizens. I do not think the State has any right to come in and upset these local decisions, but this section says that they must.

The same powers that this bill would give to the States to restrict runaway development can be used to push development on a municipality which prefers to zone its land with more concern for the environment. If you do not believe me, read section 105(e), perhaps the most antienvironmental section of the bill. It requires that the State master plan must provide methods to "assure that local regulations do not unreasonably restrict or exclude development and land use of regional or national benefit." The name of regional and national priorities is invoked to override local proenvironment considerations. If a property owner wants to build a high rise apartment house—remember that a so-called adequate supply of housing must be taken into consideration—in an area of single-family suburban homes, and is unsuccessful in getting a downzoning from his local village or town, he can go to the State to overturn the zoning. If he has enough influence with State officials, and is perhaps a large political contributor, the State can turn around and say to the local government that it will not accept the local land-use zoning plan unless that apartment house is built. The State has this power under 105 (e).

Mr. Speaker, the Land Use Planning Act is one of the worst and most dangerous pieces of legislation to come down the pike in many years. It would destroy the very fabric of home rule democracy. I sincerely urge that all Members go home and ask their constituents if they want to give up local control of zoning to an appointed State and Federal bureaucracy. I am confident that having done this, the House will soundly reject this legislation.

Mr. CRANE. Mr. Speaker, the land-use bill purportedly will subsidize individual State policies charting out the best means to use each State's land. But this bill is actually an inevitable, inexorable step toward a national land-use policy. If we really wanted each State to tailor its own land-use policy, we could wait until each State came to the conclusion that a statewide checkerboard is desirable—as some have already done. However, contemporary Washington chauvinism dictates that State and localities are not competent to come to such an important decision themselves, a decision which is by its very nature a local and State matter. So, with the appropriate sanctions, Congress now considers "encouraging" the States to come around to Washington's point of view. We may get a national land-use policy, but in the process, we will be treating State legislators as vassals of the Federal Government.

Just what is Congress authority to enact a bill to remap the United States? The Federal Government derives all its power from the people with whom all power originally resides. According to constitutional theory, the Federal Government has only so much power as the people delegate to the Federal Government through the States by the process of constitutional ratification and amendment. A perusal of article I, section 8 of the Constitution, the principal enumeration of Congress powers, shows that the people have given no such power. There is no constitutional mandate for Congress advising States and certainly not coercing States, with respect to certainly one of the State's most basic concerns. If we are to maintain any fidelity at all to Congress constitutional power, we would somehow have to fit the land use bill into the constitutional scheme. Since land is commercial, regulation of interstate commerce seems the only possible constitutional justification which could possibly be wrenched out of article I. But this would assume that land travels from State to State.

However, the advocates of the land-use bill are not citing the Constitution. The reason a Federal land-use bill may seem so compelling is that only the Federal Government has the power to force every American to follow one mandate. It is indeed sad to see land misused. But to insist on Federal action simply because only the Federal Government has the power to order nationwide land-use planning is to assert the old end-justifies-the-means argument. This is a pure power argument—might makes right. Especially in today's political climate, we fatigue of this expediential line of sophistry.

Of the States which are pursuing statewide land-use policies, most have opted for an amount of local input. If a State opts either for centralized control or an amount of local control, that fact does not threaten another State. To say that the Federal Government must tell every State to adopt one type of land-use planning is to ignore the very nature of Federal Government. The States are, as Justice Harlan put it, the laboratories of social experiment. The House land-use bill subsidizes statewide planning. What this actually means is that the Secretary of the Interior can, with aid of veto power and cuts in airport funds, Federal highway funds, and land and water conservation funds, decree a national policy of land use. Soon the only people interested in State boundaries will be Rand and McNally.

Mr. SYMMS. Mr. Speaker, I marvel at the callous enthusiasm Government planners have for regulating the lives of our citizens. Having succeeded in regulating production, transportation, personal safety, communication, and our moral lives, Uncle Sam is now exploring the possibility of tying up private land in a jumble of redtape. Supporters of the measure—including a surprising number of conservatives—maintain that the bill is a voluntary grant-in-aid program intended merely to encourage the States to develop their own zoning programs—not an attempt by the Federal Government to force a national program upon the States. I find this hard to believe. Every bureaucratic measure enacted has started out under a similar guise.

You see, the catch is that this so-called voluntary process entails so many specific provisions that are subject to Federal approval. Instead of carrying out their own zoning plans, the States will soon find themselves acting as mere agents for the Federal Government. For example, one provision requires Federal supervision to insure that the State planning process conforms to Federal guidelines. Another provision requires each State to have a planning agency with authority to carry out the will of the Federal Government. There is also a requirement that the States regulate land sales.

Proponents of this measure are parading their plan through the Congress under the banner of environmental protection. Look at the bill closely. I seriously question whether it is land we are protecting. I suspect what is being asked of this Congress is to protect the collectivist schemers who would return this civilization back to the days of serfdom. Who is being served by section 105(e)?—

> To assure that local regulations do not unreasonably restrict or exclude development and land use of regional or national benefit.

Are the collectivists trying to tell us that local people are not free to pursue peaceful and productive activities in Homedale, Idaho, if the city of Seattle has greater need of that land for recreation purposes? Who the devil bought and paid for that land in Homedale? Who has any right to tell those people what to do with that land for the public good of all Americans? Do you realize what that section of the land-use bill H.R. 10294 is telling us gentlemen? It is saying—loud and clear—buy the ugliest piece of undesirable property you can find. That is your only guarantee against Federal planners snatching away your home and your individual liberty for the good of that great unknown quantity—the people.

Land-use planning in the sense that this bill spells out "progress" is not an objective process subject to the concerns and decisions of local people. Oh, no. The Federal Government spells out very clearly what is good planning, what is bad planning. There is a coy little phrase encouraging the States to "develop an adequate data base for comprehensive land use planning"—and then blunders right on to tell them what this data base shall be. It continues in section 104 (G–3) to spell out the categories of productivity or use to which land may be put, implying that Federal/State planners shall decide the highest and best use of a parcel of land. I assume the next extension of the law would be in rounding up private citizens and staking them down to that plot "for the good of the people." Again, I am reminded of the serfs of early European history. They mounted a full-scale revolt. I am hoping that sentiment will develop in this Congress—before we push off this land-use fraud on the American people. With the heavy hand of Federal enforcement hanging over their heads, the people are much less prepared to fight for their rights and liberty than we are here in Congress. In case some of you have forgotten, we were elected to this Congress to protect their lives and liberty.

I want to move on to this subject of enforcement, but first let us look at another section of the bill—section 110. It is lengthy and obtuse, so I will not try to quote the language to you. It was designed to be obscure in the first place, but with a little thought, you can see through to the underlying threat. It starts out, and I quote:

> Where any major Federal action significantly affecting the use of non-Federal lands is proposed . . .

Some 150 words later they have gotten the point across that if the individual State has chosen to ignore the Federal planners, these bureaucrats will hold a hearing and proceed with what they have determined to be the best use of non-Federal lands. That is a terrific little example of freedom in action, gentlemen. It comes close to being the biggest slash at our Constitution that this Government has ever tried to negotiate.

As a final blow to freedom, the bill sets forth a provision to "insure the timely siting of development, including key facilities necessary to meet national or regional social or economic requirements." Now what in the world do you suppose they mean by that? My guess, gentlemen, and I am quite sure I am right, is that the States will not be allowed to not develop. Our friend Governor Hatfield of Oregon will certainly have a tough time swallowing that little gem. His State has earmarked a lot of money to stop certain kinds of development. Oregon is a relatively pristine example of open land and beautiful scenery. We feel the same way about the State of Idaho, but it appears that the land-use bill will now dictate how many people we shall support, where we shall house them, and what kinds of production they shall engage in "for the good of the people." I am beginning to wonder just who these "peepul" are that the land-use bill refers to. They sure are not my friends and neighbors—those good people are anxious to make their own decisions through local government. I doubt that they are your friends and neighbors either. Before we take another step forward with this land-use bill, maybe we better get the people we are saving more clearly identified.

And so what happens if a State chooses to ignore Federal planners? Unlike the serfs, you can not just go around hanging States in this day and age. So, you design "sanctions" against uncooperative States—States, I presume, where the people still hold to that old-fashioned idea that men can make their own decision. In reading the sanctions proposed by H.R. 10294, one thought came to mind—"You really know how to hurt a guy." Failure to enact a land-use planning program that satisfied the Federal Government within 5 years can wipe out up to 21 percent of your Federal funds for airport and airway development. It also wipes out the same amount from your Federal-aid highway funds. In case that does not stir up the taxpayers enough, they also chop 21 percent of your State's share of the land and water conservation fund. That is not legislation. That is plain old-fashioned blackmail.

In my letters to the citizens of Idaho who are appalled by this bill, I have said that it is an erosion of constitutional guaranteed property rights. I have often questioned at what point erosion becomes a flash flood. The fifth and 14th amendments to the Constitution of the United States provide that private property shall not be taken for public use without just compensation. Thus, the critical issue is how far the use of property can be restricted without compensating the property owner for diminution of value. This bill forbids the States from expending any grant of money for compensations of this nature.

There is one last aspect to this bill that strikes me as very clever indeed. We are not proposing to just strip the American people of their rights to private property. We are going to let them finance the operation to the tune of $878 million over an 8-year period—assuming we can grind this monster to a halt at the end of 8 years. If you think the American people are going to take that lying down, you are wrong. You are backing the golden goose into the corner, gentlemen, and those of you who fail to block passage of the land-use bill will be caught with a lot of feathers in your mouth. You will be an easy target for the new breed of American serfs.

Mr. BURGENER. Mr. Speaker, too often we find ourselves listening to only one side of an argument. Such is the case with the current drive for a national land-use policy.

Recently the proponents of a national land-use policy have been carefully dropping the word "national" from their discussions, in what I assume is an attempt to placate some of their critics and to assure easier passage through the Congress.

It is true that the legislation that passed the Senate in June and the legislation before the Interior Committee do not call for national land-use policies per se, but this legislation does exert very strong Federal controls over how this country will develop its urban, suburban, and rural lands in the future.

This is nothing less than the opening of the door. We may not have total national control over the use of our land immediately if this legislation passes in its current form, but it will lead us in that direction.

To insure that we head in that direction the Senate-passed bill mandates a 3-year study by the Council of Environmental Quality to determine and recommend what the proposals for national land use should be.

This is to be an in-depth study and the bill sets down 12 specific policies that must be fully considered. It is my understanding that the Interior Committee is also considering similar language.

We are being constantly assured by the proponents of this legislation that the States will have almost total control in developing their land-use plans and that the Federal Government will just be there overseeing their activities. A close study of the actual wording of these bills reveals the unlikeliness of these assurances.

Many specific and lengthy Federal guidelines and regulations are set down in the bills for States to follow, and the States must comply with these guidelines to be eligible for Federal grants. In other words, the Federal Government will be saying to the States—we do not care how you arrive at your land-use goals as long as you follow these regulations and if you do not follow them, you will not be eligible for any of our money. That is what is known as the stick approach. The Federal Government is going to be clubbing the States over the head with this legislation. I hope the Members here in the Congress realize what is really going on with this legislation and act appropriately before the people of this country start coming up here to club us over the head for taking their property.

Mr. RUNNELS. Mr. Speaker, I would like to take this opportunity to express some of my thoughts on the land-use legislation which we will probably be acting on later this session.

I am concerned about the lack of understanding of the basic issues involved in this legislation. I fear that this lack of understanding prevails not only in the average citizen of the United States, but also to the elected officials of the people—here in Washington and on the State and local levels.

The land-use legislation which passed the Senate this past June is another example of "good-sounding" legislation which would be hard to oppose if only the title were read. No one wishes to see our land desecrated but neither should we allow the Federal Government to become the force that decides how an individual's private property is to be used.

Throughout our history, the fifth amendment has guaranteed the citizens of America that their private property would not be taken without just compensation. With the passage of the Senate bill and with reports such as the Rockefeller Task Force Study on land use coming out, this right is under attack.

The Rockefeller report is concerned about the traditional views that the Supreme Court has taken on these guaranteed rights of property owners and hopes that the Court will begin to reconsider its past decisions and come up with a more "modern" approach. By this the task force means that from now on development rights on private property should rest with the community, instead of with property owners.

This is a dangerous approach—it not only challenges the meaning of private property rights as we have known them but could well destroy them.

I urge my colleagues in the House and especially the members of the Interior Committee to carefully consider the implications involved in this issue and to make well thought-out decisions in determining the future existence of private property rights in the United States.

Mr. ROUSSELOT. Mr. Speaker, it is indeed ironic to think that the government that was formed some 200 years ago to protect the private property of individuals in a new, free country is now making a power grab for that property.

Proposed land-use legislation poses an insidious threat to private property ownership. The bill, which would authorize Federal grants to the States, which agree to set up their own land-use policy, is accompanied by Federal requirements copious enough to destroy individual and State autonomy with regard to property ownership.

Although we may have a pollution problem in the more densely populated parts of the Nation, it behooves us, as a body concerned not only with the present moment, but with the fate of our children and grandchildren, to consider the dire ramifications of land-use legislation precipitously passed under the label of "environmental preservation."

The land-use bill offers the States grants over an 8-year period for use in the development of statewide zoning programs. I believe that the Federal Government has no right to encourage statewide zoning in return for Federal funds, especially in States that do not have statewide zoning.

As is the case with so much of our far-reaching Federal legislation, the land-use bill extends the fingers of Federal Government into the very fabric of our tradition of local control and private property ownership.

Prof. Murray N. Rothbard in his book "For a New Liberty" writes:

> Property rights are human rights, and are essential to the human rights which liberals attempt to maintain.

Yet, if we pass the land-use bill we will be foregoing this very basic right in return for a vague promise of environmental preservation, regulated by the Government.

Although we may in this country be beset by our share of environmental problems, it is only fair to the individuals whose rights we must safeguard, to keep these questions within the framework of a proper perspective. If private property is indeed the key to individual freedom as our history, back to and beyond Magna Carta, indicates then we will indeed be giving away basic rights by passing the proposed land-use bill.

Mr. ROBINSON of Virginia. Mr. Speaker, the American concept of private property ownership may be in serious jeopardy if this legislative body elects to make law a Federal land-use bill, which would permit the Federal Government almost unlimited freedom with regard to the use of undeveloped property.

The land-use bill would pay large Federal grants to those States which agree to a statewide zoning plan which would be carried out under the supervision of a State planning agency designed to wreak on the State the will of the Federal Government.

Once a State has agreed to the Federal plan, it is likely that sanctions—such as withholding of highway funds—will be meted out to those who do not comply closely enough with the will of the Government.

The bill leaves it up to the Interior Department to determine which lands are "areas of critical environmental concern" and which should therefore undergo restricted development. Thus serious limits would be imposed on an individual property owner—or a State for that matter—with regard to the use of property.

Under this bill there is a great deal of concern expressed for environmental quality, but very little for the rights of the individual or the autonomy of local government. The fact that this bill serves as a door opener for further threats to private property and individual freedom is a statement by Senator EDMUND S. MUSKIE:

> This is something like the psychology of a second shoe falling. The bill is the first shoe, and it will give a clear indication, if adopted, to the states that Congress is serious about this business. If the states do not respond effectively, Congress is thinking of sanctions in 3 years.

Freedom is never taken away without a good reason. That is why the burden rests upon us legislators to examine the stated reasons for removing a particular freedom and ask ourselves, "Is this worth the abolition of basic rights?" Few things are. We, as a body, should be concerned with preserving property rights by preventing government from encroaching on the individual. If we pass the land-use bill, we would be giving away what we should strive to preserve. It would certainly symbolize a regressive step upon the long road to individual freedom we have traversed since the 13th century and Magna Carta.

The German free enterprise economist, Wilhelm Roepke, describes quite eloquently the importance of private property to a nation of free men:

> If property, together with its inseparable concomitant, the law of inheritance, ceases to be one of the natural and primary rights which need no other justification than that of law itself—then the end of free society is in sight.

Mr. RARICK. Mr. Speaker, the tax-supported Council on Environmental Quality, a segment of the executive branch, has called land use control the "quiet revolution." It is, indeed, a revolution. The reason that it is quiet is that the American public has not been informed of the depth and consequences of this "revolution."

Land use control and legislation advancing its end threaten the right of private property, the very basis of our economic system. This is an emotionally charged issue that confronts all Americans. Historically land ownership has been equated with freedom in America. By limiting the use that an individual can make of his land, the Federal Government is in actuality limiting his personal freedom.

Just a few days ago, the President said:

> Land use control is perhaps the most pressing environmental issue before the Nation. How we use our land is fundamental to all other environmental concerns.

The President went on to say—

> I urge the Congress to enact my proposal for land use control, a proposal which would authorize Federal assistance to encourage the States—in cooperation with local governments—to protect lands of critical environmental concern and to control growth and development which has a regional impact.

Mr. Speaker, the President is wrong in his basic assumption: We do not own our land. An individual owns his land. What the President proposes is to place the collective right over and above the individual right of land ownership.

Mr. Speaker, we have seen other societies—such as Cuba, Chile, the Soviet Union and Red China—take similar collectivist actions in the name of land reform. The issue then, Mr. Speaker, is clear: Are we to have a free society with individual ownership and the right of private property, or are we to live in a collectivist state? Once freedoms are surrendered to governments, they are never willingly returned by that government to its people. History is clear on this.

We all share the President's concern over environmental quality. We must not, however, allow scare tactics employed in the name of environmental preservation to force us into actions that threaten the constitutionally secured freedoms of the individual. We must not allow our concern for the environment to blind us to the fact that basic freedoms are placed in jeopardy from this concept.

The recently passed Federal flood insurance bill is a prime example of the problems involved with land use legislation. We will recall, Mr. Speaker, that piece of legislation was advanced as giving greater flood insurance coverage to more Americans; however, it was, on the face of it, a compulsory land use bill. A close examination of this bill revealed a powerful Federal blackjack which would prevent any Federal officer or agency from approving any financial assistance in areas which fail to submit to Washington's directives on land use.

These include highway funds, Small Business Administration loans, grants to education, disaster assistance, money for health facilities, and most other forms of Federal moneys. This Federal club is clearly intended to bludgeon local communities into submission to Federal edict. This moves far beyond the original intent of a Federal flood insurance program which I have in the past supported. Mr. Speaker, the loss of private property rights is too high a price to pay for increased flood insurance coverage.

Mr. Speaker, the Constitution clearly

indicates the importance our Founding Fathers placed on the right of private property. The fifth amendment to the Constitution clearly says that—

> No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

This is a right that must be preserved for all Americans.

A related newsclipping follows my remarks:

[From the Washington Star-News, Sept. 7, 1973]

### Bill on Land Use Ominous

(By James J. Kilpatrick)

Scrabble, Va.—Some years before he became the Father of Our Country, George Washington spent the summer of 1749 surveying in Northern Virginia. On July 24 he laid out the town that eventually would bear his name and become the county seat of Rappahannock County. That was the last significant planning done in our county until last Thursday evening, when everybody went down to the courthouse to talk about a zoning law.

I mention our local situation by way of backing into some observations on the Federal Land Use Policy and Planning Assistance Act. The bill passed the Senate by a vote of 64–21 on June 21. The House Interior Committee has completed its own hearing on a batch of similar bills, and a House version will reach the floor in a couple of months.

In its present form, the Senate bill may be a mildly useful bill. Potentially, in terms of our political values, it is the most dangerous and destructive piece of legislation ever passed by the Senate.

At the moment, the bill is no more than an enabling or authorizing bill. It would provide $100 million a year for the next eight years in federal grants to the states. The money would be used to foster the development of comprehensive plans within each State for the use of land. If this is truly all there is to the bill, about the worst that could be said of it is that it is obviously expensive and probably unnecessary. If Rappahannock County, Va., pop. 5,199, can finally get around to a zoning law, no community in the nation need despair of local action. We are not what you would call impetuous up here.

But I suspect there is vastly more to this bill than meets the eye. This bill has a nose like a camel; it has an edge like a wedge. I listen to the fervent declamations of its sponsors, whooping it up for states' rights. What I hear is the squeak of a door opening; I hear the first shoe falling.

Back in June, when the bill was before the Senate, a little amendment was offered. It was an amendment "to provide additional encouragement to states to exercise states' rights and develop state land-use programs." The additional encouragement went this way: If the states failed to adopt land-use programs in line with ideas of how land should be used, the states would lose part of their federal aid for highways and airports. In parliamentary jargon, this device was described as a "crossover sanction." What it was, was extortion.

The amendment failed, but failed by only eight votes. It is a fair assumption that his "sanctions" will be urged anew in the House, for such compulsions lie at the very heart of the liberal's view of the federal role. Such a liberal sees the countryside as unplanned, ugly, inefficient, helter-skelter and disorderly; he longs to impose professional planning that is rational, sensible, balanced, orderly, prudent and sound.

The need for wise planning in the use of our land is self-evident. It has been self-evident since Augustan Rome, when zoning laws first were decreed. But cherished principles of private property will be undermined and solid safeguards of federalism will be destroyed if ever we leave it to a federal bureaucracy to say what planning is wise. Except where regional interests truly are involved, such decisions ought to be made down at the courthouse on a Thursday night.

Democracy is a charming form of government, Plato remarked, "full of variety and disorder." This element of "disorder" is vital to freedom. I do not want our beautiful country despoiled by the ticky-tacky Monopoly houses of a sub-divider—I pray our new law will prevent this—but neither do I want the use of our land determined, in effect, not in Washington, Va., but in Washington, D.C. Senate liberals insist that this is not what they have in mind. So be it. They may not have it in mind for right now, but be forewarned: They have it in mind for later on.

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## AID TO SMALL COMMUNITIES PROVIDED UNDER "THE HOUSING AND URBAN DEVELOPMENT ACT OF 1973"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, I wish to commend to Members of the House a very comprehensive and progressive piece of legislation proposed recently by our colleagues, Mr. Barrett and Mr. Ashley of the Housing Subcommittee. Their bill, H.R. 10036, the "Housing and Urban Development Act of 1973", attempts to meet many of the perplexing problems involved in Federal housing and community development activities. Mr. Barrett and Mr. Ashley should be congratulated by all Members of the House for their continued leadership in this area.

While I have not studied the entire bill, I have looked carefully at the provisions of the legislation which would provide assistance for housing and community development activities to small communities, of under 50,000 population, primarily in our rural areas. In my opinion, the bill is most commendable in this area, providing substantially increased funds for smaller rural communities in both housing and urban development than is now the case under existing HUD programs.

The principal aid for smaller communities is contained in chapter I of the bill, which proposes a program of block grants for community development and housing activities. The community development block grant program in this proposal is very similar to that contained in the Small Communities Planning, Development and Training Act, which I first introduced in the 92d Congress.

As my colleagues in the Congress know, the 1972 omnibus housing bill, which failed to receive favorable action by the Rules Committee due to the lateness of the session, contained a program of block grants for community development which was in most respects virtually noncontroversial. The block grant program would have provided $2.5 billion during the first year of the program for block grants for a variety of community development activities. Five hundred million dollars of this would have been allocated to small rural communities outside of the Nation's metropolitan areas. These funds would have been in addition to any sums for rural development activities authorized by legislation under the jurisdiction of the House Agriculture Committee on which I serve.

Chapter I of H.R. 10036 contains the community development block grant proposal originally in the 1972 bill. It would provide $8.25 billion for community development activities over a 3-year period beginning in fiscal year 1976. Of these funds $1.65 billion would be allocated to smaller communities in rural areas. Again, these funds would be in addition to any sums provided pursuant to legislation under the jurisdiction of the Agriculture Committee. The $500 million allocated to smaller communities in the first year of the program is substantially more than these communities receive annually under the various HUD programs.

By comparison, the administration's special revenue sharing bill, entitled "The Better Communities Act," provides $2.3 billion annually for community development activities, but does not allocate any funds specifically for smaller rural communities. Approximately 20 to 25 percent of the funds would be available for all communities under 50,000 both in and outside metropolitan areas. In my opinion, smaller communities will receive substantially more assistance under the Barrett-Ashley bill than under the Better Communities Act.

These community development funds may be used for a great variety of purposes by smaller communities. In general, any activity that may be undertaken under existing HUD programs—urban renewal, water-sewer facilities, open space land acquisition, rehabilitation loans and grants, advance acquisition of land, and health, social, counseling, and training services carried on under the very broad model cities program—may be carried on by small communities under the bill. In addition, a community could include in its community development program the construction of facilities or the undertaking of other activities now funded by other Federal agencies and use part of its community development funds to pay the local share required under the non-HUD program.

For example, a locality's program could involve the following activities:

First, eliminating slum and blight in the downtown business district, acquiring land, and reselling the land for new commercial, industrial, or other uses;

Second, carrying on a code enforcement program in a deteriorated area of the community;

Third, purchasing land for small parks or recreational areas;

Fourth, purchasing and reselling land needed for housing construction;

Fifth, building new or extending water-sewer lines to serve newly developed areas;

Sixth, purchasing land for future use for a public facility planned for later construction; and

Seventh, building a waste treatment facility using a 50-percent Department of Interior grant or a hospital using a 50-percent HEW grant.

Under the bill HUD would finance, through the community development block grant program, the full cost of these activities approved as part of the locality's program. In the case of the Interior and HEW grants, the HUD funds would pay the full local 50-percent share required under the Interior and HEW programs.

It is obvious that hundreds of smaller communities throughout the country would benefit greatly through adoption by the Congress of these important provisions.

Chapter I of the bill includes a new housing assistance block grant program, which I believe merits the most careful consideration of all Members of the House. Members will recall the bitter controversy in 1972 over the future of existing Federal housing subsidy programs. That controversy led to the administration's unilateral suspension of these programs in early January of this year. Since January 5, 1973, HUD has refused to permit the construction of thousands of urgently needed housing units for low- and moderate-income families throughout the country.

The housing assistance block grant program is an important and innovative effort by Mr. BARRETT and Mr. ASHLEY to resolve the controversies which have called into question all Federal efforts in this area. I plan to give these provisions the most careful study possible.

In brief, the bill would authorize $2.25 billion for housing assistance programs over a 3-year period beginning in fiscal year 1976. The funds would be distributed in substantially the same manner as the community development block grant funds. Five hundred and sixty-two and a half million dollars would be allocated directly to smaller communities in rural areas. Again, and this is most important, these funds would be in addition to the substantial funds authorized for rural housing activities under the Farmers Home Administration program.

Housing block grant funds would be available for the same kinds of activities now permitted under the existing housing subsidy programs; that is, subsidizing interest rates as under the sections 235 homeownership and 236 rental assistance programs, making rent supplement payments as under the rent supplement program; making rehabilitation loans and grants as under the urban renewal program; and providing seed money loans to nonprofit housing sponsors. Housing assisted under the block grant program could be sponsored by private builders and nonprofit organizations and local housing authorities.

A significant feature of the bill is the effort to make community development and housing programs mutually supportive. Any community which applies for a community development grant must present a housing plan covering a 3-year period. The Secretary of HUD would make housing assistance funds available to that community as a condition of granting community development funds. However, the bill wisely recognizes the urgent housing assistance even in those cases where community development funds are not being requested.

Obviously, these provisions are very far reaching and require careful study by all Members. I believe that the provisions hold great promise for fulfilling the housing and community development needs of rural areas.

I urge all Members to read the bill and the explanations provided by Mr. BARRETT and Mr. ASHLEY carefully.

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## ALL FDIC-INSURED BANKS REQUIRED TO MEET FEDERAL RESERVE SYSTEM RESERVE REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, I have introduced a bill today to make all FDIC member banks subject to the reserve requirement regulations of the Federal Reserve Board.

Under present law, only Federal Reserve member banks must meet these requirements. Nonmember banks are exempted, regardless of whether the deposits they hold are federally insured. Nearly 60 percent of the Nation's approximately 14,000 banks—or more than 8,000 banks—are now exempt. H.R. 10381 would bring all but about 200 uninsured banks under the Reserve Board's reserve requirement regulations.

H.R. 10381 will not require these newly covered banks to join the Federal Reserve System. They will only have to meet its reserve requirements, phased in over a 5-year period. Immediately upon enactment, reserve requirements for newly covered banks will be 25 percent of those of member banks, going to 40, 55, 70, 85, and 100 percent in the next 5 years.

Federal Reserve authorities have said that their control over the growth of the Nation's money supply is seriously limited by nonmember banks' not being subject to reserve requirements. At present, 21 percent of demand deposits and 24 percent of time deposits are exempt, and these percentages have been increasing about one-half of 1 percent per year. Under H.R. 10381, only about one-half of 1 percent of both demand and time deposits would be exempt from Federal Reserve Board reserve requirement regulations.

I believe that H.R. 10381 provides a missing link in the chain connecting the supply of reserves to banks and the supply of money. It will permit the Federal Reserve to exercise better control over money supply, and contribute to the achievement of more stable economic and financial conditions.

A section-by-section analysis of H.R. 10381 and the text of the bill follows:

### SECTION-BY-SECTION ANALYSIS OF H.R. 10381

Subsection (a) of section 1 of the bill amends section 8(a) of the Federal Deposit Insurance Act (relating to termination of status of insured banks) to include the violation by an insured bank of section 19(k) of the Federal Reserve Act (added by section 2 of the bill and requiring insured nonmember banks to maintain the same ratio of reserves against deposits as comparably located member banks maintain) as a reason for termination of status as an insured bank.

Subsection (b) of section 1 of the bill amends section 8(b) of the Federal Deposit Insurance Act (relating to termination of status of insured banks) to permit appropriate Federal banking agencies to issue cease-and-desist orders against insured banks which violate section 19(k) of the Federal Reserve Act (added by section 2 of the bill).

Section 2 of the bill amends section 19 of the Federal Reserve Act by adding a new subsection at the end of it which requires nonmember insured banks to maintain the same ratio of reserves against deposits as comparably located member banks maintain pursuant to section 19(b) of the Federal Reserve Act. There is a 5-year phasing-in period to effect such result.

Section 3 of the bill provides that the amendments made by the bill shall take effect on the thirtieth day beginning after the date of its enactment.

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### H.R. 10381

A bill to amend the Federal Deposit Insurance Act and the Federal Reserve Act to require every bank insured under the Federal Deposit Insurance Act to maintain reserves against its deposits in the same manner and to the same extent as are member banks under the Federal Reserve Act, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) The second sentence of section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended by inserting ", or section 19(k) of the Federal Reserve Act or any rule prescribed thereunder," immediately after "or any written agreement entered into with the Corporation,".

(b) The first sentence of section 8(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(1)) is amended by inserting ", or section 19(k) of the Federal Reserve Act or any rule prescribed thereunder," immediately after "or any written agreement entered into with the agency,".

SEC. 2. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(k)(1) Except as provided by paragraph (2) insured banks (other than member banks) shall maintain the same ratio of reserves against deposits as comparably located member banks maintain pursuant to subsection (b). The reserves held by any such bank to maintain such ratio shall be in the form prescribed by subsection (c), except that each such bank shall maintain balances for purposes of this subsection in the Federal Reserve bank of the district in which the principal office of such bank is located.

"(2)(A) During the twelve-month period beginning on the effective date of this subsection, any insured bank (other than a member bank) shall satisfy the requirements of paragraph (1) by maintaining 25 percent of the reserves against deposits maintained by comparably located member banks pursuant to subsection (b).

"(B) During the twelve-month period beginning at the close of the twelve-month period described in subparagraph (A), any insured bank (other than a member bank) shall satisfy the requirements of paragraph (1) by maintaining 40 percent of the reserves against deposits maintained by comparably located member banks pursuant to subsection (b).

"(C) During the twelve-month period beginning at the close of the twelve-month period described in subparagraph (B), any insured bank (other than a member bank) shall satisfy the requirements of paragraph (1) by maintaining 55 percent of the reserves against deposits maintained by comparably located member banks pursuant to subsection (b).

"(D) During the twelve-month period beginning at the close of the twelve-month period described in subparagraph (C), any insured bank (other than a member bank) shall satisfy the requirements of paragraph (1) by maintaining 70 percent of the reserves against deposits maintained by comparably located member banks pursuant to subsection (b).

"(E) During the twelve-month period beginning at the close of the twelve-month period described in subparagraph (D), any insured bank (other than a member bank) shall satisfy the requirements of paragraph (1) by maintaining 85 percent of the reserves against deposits maintained by comparably located member banks pursuant to subsection (b).

"(3 For purposes of this subsection, the term 'insured bank' shall have the meaning given it by section 3 of the Federal Deposit Insurance Act.

"(4) The Board shall prescribe such rules as may be necessary to carry out this subsection."

SEC. 3. The amendments made by this Act, shall take effect on the thirtieth day beginning after the date of enactment of this Act.

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## THE FUTURE OF THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, one of the most difficult votes I have had to cast in this House was the one today on sustaining the veto of the minimum wage bill. I voted to sustain that veto. I did so, because it was the only parliamentary process available under the Constitution to force a compromise between the Congress and the President on this matter. The minimum wage bill, as passed by the Congress, as vetoed, as sustained, is now dead. But the issue is not.

I believe it is certainly the time for a rise in the minimum wage floor. I am for such a raise; in fact, I can support a $2 per hour immediate level. But, I could not support the entirety of the provisions contained in the legislation which was vetoed.

I want to emphasize that my vote to sustain the veto of this legislation should not be construed as an endorsement of the administration's overall program to curb inflation or tacit concurrence with the specious argument that the minimum wage increases are inflationary.

Mr. Speaker, this Nation is in dire fiscal straits. The dollar is weak, and it shows no encouraging signs of rejuvenation in the world markets. A third devaluation could destroy the backbone of the already declining confidence—at home and abroad—in the dollar. And, that could produce a recession of no small consequence, wiping out many, if not most, of the jobs which the Congress thought it was enhancing by passing a minimum wage increase. We must, in my opinion, approach the issue of a minimum wage increase with a spirit of cooperation which has not, of late, characterized relations between the administration and the Congress.

Many working people in my district, many of whom are personal friends, called to ask that I vote to override the veto. It is always difficult to be put in a position which appears on the surface to be a vote against a segment of the work force with which you have common aspirations for the community. But this issue cannot be resolved on either an emotional plane or upon first impressions of the merits and demerits of this legislation. Some of the proponents of overriding the veto today spoke in tones which can accurately be described only as scare tactics. Yet, the fact remains that the existing minimum wage remains in effect. And, if reason rather than partisan rhetoric prevails, there is ample time to hold additional hearings, if necessary, to have the administration send forth a message to the Congress on a proposed solution, and for the Congress to act. This can all be done before the end of the current session. After all, it took about 2 days for the Congress to lift the "blackout" of pro football games.

### CONCERNS WHICH SHOULD BE EXAMINED

Mr. Speaker, as I indicated at the outset, I support an increase in the minimum wage, if that increase is reasonable, properly timed, contains appropriate exemptions for those work forces which have been proved to be hurt by increases in the minimum wage—mostly the marginal worker and young people in part-time jobs, and for a duration of time which permits the Congress to reexamine it before locked-in additional increases would go into effect. We hardly know what the state of our domestic economy will be these days within months; thus, it is not unreasonable to oppose automatic increases which will take place in the far distant future.

What are these concerns, in summary?

First, one-third of America's poor families, and one-half of the individual poor with no families, have no traceable source of monetary income. What are the prospects for these unskilled, hard-core unemployed? Studies indicate that during the 10-year period from 1959 through 1968, low-skill jobs increased at less than 10 percent of the rate at which other jobs increased in the manufacturing, retail, and service industries. We must be mindful, therefore, that minimum wage legislation, if too high, may be mandating an hourly wage for nonexistent jobs. In discussing young people who are also members of minorities, whose position in the job market could have been doubly threatened by the vetoed bill's lack of a youth differential, Paul Samuelson, the noted economist, asked:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that much keeps him from getting a job.

Second, by proposing to have raised the general wage floor, the vetoed legislation would have primarily benefited only those employees already securely entrenched in the labor market by giving them greater leverage at the bargaining table. This "ripple" effect could have a disruptive effect on the entire employment picture and the wage structure of the Nation. A sensitivity to prevailing economic conditions dictates a gradual phase-in of the increase, as was done under the 1961 and 1966 minimum wage amendments.

Third, we must be ever mindful that the worth of a man's services cannot be increased simply by making it illegal to offer him anything less than a lawfully defined sum. Wage floors determined by legislation run the risk of depriving the marginal worker of his right to earn the amount that his situation and abilities would permit him to earn and at the same time depriving the community of the services he is capable of rendering.

Fourth, the fact that inflation has eroded the minimum wage levels established in 1966, when the Fair Labor Standards Act was last amended, is adequate justification for enacting only a reasonable increase in minimum wage rates at this time.

Fifth, the vetoed bill would have violated the same basic economic principle which the administration has disregarded in its economic stabilization program. That program is based on the imprecise premise that artificial price levels set below the true market value of a commodity will bring the consumer relief from rising prices. Experience has demonstrated that price controls generate shortages in those items for which there is a high demand. Elimination of the profit incentive destroys the impetus to meet consumer demand. Conversely, overpricing of items not in demand would result in surpluses. The consumer is the best arbiter of prices. The same argument is applicable to the arbitrary establishment of wage rates at a level higher than the market will bear. The consumers, in this case, employers, cannot afford to buy at those prices.

Sixth, while it is admittedly difficult to accurately measure the impact of minimum wage adjustments on unemployment, there are several highly regarded studies demonstrating that minimum wage increases result in corresponding increases in unemployment rates—at least for marginal workers. Economist John M. Peterson and Charles T. Stewart, Jr., in their study, "Employment Effects of Minimum Wage Rates," published by the American Enterprise Institute for Public Policy Research, conclude:

> Both theory and fact suggest that minimum wage rates produce gains for some groups of workers at the expense of those that are the least favorably situated in terms of marketable skills or location.

Within low-wage industries, higher wage plants gain unfairly at the expense of the lower wage plants. Small firms tend to experience profit losses and a greater share of plant closures than large firms. Teenagers, nonwhites, and women—who suffer greater unemployment rates than workers in general—tend to lose their jobs, or to be crowded into less remunerative noncovered industries, or to experience more adverse changes in employment than other workers. Depressed rural areas, and the South especially, tend to be blocked from opportunities for employment growth that might relieve their distress. Given these findings, the unqualified claim that statutory minimums aid the poor must be questioned. The evidence provides more basis for the claim that while they help some workers, they harm those who are least well off.

Lastly, those most perversely affected by this minimum wage bill are disadvantaged youth. Annually, hundreds of thousands of unskilled teenagers are seeking entry into the labor market for the first time and are unable to find jobs. It is self-evident that it costs more to hire a teenage worker than an adult. He needs more supervision, more training, and more time to learn his job. Employment opportunities for young people would be greatly enhanced by a minimum wage bill that included a significant youth differential. It is essential for the novice to the labor market to acquire skills which will increase his productivity and enable him to take his full place in the labor force.

### TIME IS AVAILABLE FOR ACTION

Mr. Speaker, earlier this session, vetoes of the Vocational Rehabilitation Act and the Older Americans Act resulted in compromise legislation which will substantially relieve the plight of the handicapped and the elderly. It is in the spirit of the reasonable compromises which arose in those two cases, that I, for one, voted today to sustain the veto of the minimum wage bill. I urge the President to come forth at the earliest possible moment with a new message, stating what the administration perceives to be the acceptable compromise. If hearings are necessary—and I hope they are not, for they are time consuming, and the Members of this and the other body, know the issues sufficiently—they should be immediately scheduled. I hope that the leadership of the committee will bring compromise legislation to the floor at the earliest opportunity. Certainly, there is no reason for a compromise bill not to become law before the end of this session.

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## LEFTIST INFLUENCE IN WEST GERMANY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 20 minutes.

Mr. BLACKBURN. Mr. Speaker, recently, a remarkable statement has come to my attention. It was made by Dr. Hans Josef Horchem, Assistant Secretary of State of the city-state of Berlin—Senatsdirektor—at a NATO conference in Oslo, Norway, during June of this year.

The statement is remarkable not only because it documents leftist infiltration and influence in West Germany but because Dr. Horchem is a member of the Social Democratic party—SPD. In the statement he lays out in cold terms the plans of the radicals to take over democratic institutions. This outline has profound significance for the entire free world. I would hope that in particular, our State Department would take cognizance of this pronouncement, and in particular, I would like to call it to the attention of Dr. Henry Kissinger, who is the chief architect of our policy of détente with the Communists. Therefore, Mr. Speaker, I insert the Horchem report, both the English translation as well as in the original German transcript, in the RECORD.

[From Staatliche Pressestelle Hamburg
August 8, 1973]

### EUROPE AND MARXISM

I. War has weakened societies in the past. The Communists have seen this and have been able to exploit it. Today they believe that world war might mortally weaken their own society. Therefore they have searched for and found what they hope may prove to be an alternative means of weakening the fibre of our society. And it has the great advantage that it does not carry with it the dangers which war would bring to their own society.

That means is economic, diplomatic and political subversion, all forming part of a single, many-sided but unified assault. It is 'peaceful', yet its intention is as lethal as war itself. This is what 'peaceful co-existence'—'the peaceful competition between different forms of society'—means to the Communists, and it is vital that the non-Communist world should realize this.

II. Particularly political subversion is getting a new dimension in the past few years. Today it is easier for Communists to influence political questions and even to gain strongholds in certain institutions of our democracy than it was ten years ago. One of the main reasons for the greater possibility of success for communist subversion is a revival of Marxism which the Western World has been experiencing since the late '60s.

Europe's students today are reading Lefebvre on Marx, Fromm on Marx, Lukács on Marx, Gramsci on Marx, Althusser on Marx, Gorz on Marx—even Marx on Marx. They are packing university courses in Marxist philosophy, political science, sociology and economics—even at Catholic institutions such as Louvain in Belgium and Nijmegen in Holland. In some universities—for example, West Germany's Bremen, West Berlin's Free University and the "Red" French universities of Nanterre and Vincennes—Marx-oriented studies dominate the curriculum.

Whatever the differences in their goals and tactics, the Marxists of Western Europe remain united in one long-range aim that is faithful to Marx's philosophy: to bring down the capitalist system in Western Europe. In this respect, the democracies of Western Europe face the most serious and widespread domestic threat since the rise of fascism in the early '30s and the Communist bid for power in Italy in 1948.

What makes all this enthusiasm astonishing is the fact that Marxism has not lately won any notable victories or demonstrated any lasting doctrinal success. On the contrary, Marx's major prophecies—the inevitability of Communism's triumph over capitalism, the impending outbreak of the worldwide workers' revolution—totally failed to be realized. His theory of dialectic materialism ignores the realities of human nature by arguing that economic forces alone shape the fates of men and nations.

He failed to comprehend the depth of emotional allegiance that nationalism could command in many people. He underestimated the vitality and adaptability of capitalism. He was unable to resolve realistically the contradictions inherent in his thesis that the dictatorship of the proletariat could bring with it untrammeled human freedom. Marx's writing was so turgid that even today few people are able to wade all the way through what Marx considered his crowning work, "Das Kapital".

But one profound aspect of Marxism has endured. As the French Critic Raymond Aron puts it: "If Marx is as strong today as he has ever been, it is because of his questions, not his answers." The early Marx asked many of the same questions about the nature of society that today so trouble young people throughout the world. Like them, he was living through a turbulent transition—from the agrarian to the industrial age—and he feared what the new machines were doing to the human spirit. One of his most lasting themes dealt with man's "Entfremdung", literally his "estrangement", or "alienation". It was not so much that the economic processes of the industrialized society "exploited" man, he argued, but that they estranged him from his essential humanity. They turned him into just another "tool" of technology, which now controlled him. In Marx's view, man's historic striving has always been toward greater freedom. The constrictions of technology prevented him from creating a more perfect and freer society.

It is in some ways an appealing line of reasoning. And among many Western Europeans there is a pervasive disenchantment with capitalism. The young often become quickly sated and bored with the affluence in Today's Europe. Their malaise first surfaced violently in the May 1968 troubles in Paris and, if anything, that conviction has grown stronger. For one thing, young people tend to compare the realities of the capitalist experience with a perfectly idealized version—and often highly exaggerated vision—of a Communist society. Not surprisingly, capitalism comes off a poor second!

"What do we offer as a counterbalance?" asks Cologne University Sociologist Erwin Scheuch. "Pragmatism and technocracy. These can be exciting within a framework of ideology, but in an ideological vacuum they are dry stuff." Ernest Mandel, the Belgian Marxist, agrees: "Western Europeans feel that there are fundamental shortcomings in contemporary society. Western European youth has rediscovered Marxism as a philosophy of rebellion and not as a state religion." Beyond this there is the essential appeal of humanitarian Marxism, a world that offers security in 'feeling correct' about a political line, a world that demands sacrifice. And the younger generation today wants to sacrifice. They want to belong, and there is a definite sense of belonging in Marxism.

Still, the influence of Marxism in Western Europe has been uneven. In some areas it is as yet little more than an intellectual fad, while in others it has become a growing political factor.

Marxism has made few inroads in Britain, where the tradition of civil and individual liberties has rendered institutions invulnerable to the demanding disciplines of the far left.

In Scandinavia, the various Marxist factions have so far been only a nuisance but a busy, burrowing, active one. In Sweden, for example, Marxists have adopted hit-and-run tactics to provoke wildcat strikes among auto and shipyard workers, but so far with no success. Danish Marxists went too far at Aarhus University, where they captured control of the student government and demanded the right to determine the curriculums.

But it is not in Scandinavia, with its spiritless welfarism, that the Marxist struggle is significant; the action is in Western Europe's three most populous nations: West Germany, France and Italy.

III. Marx has returned to Germany with a vengeance, pitching the country into a fierce often physically violent debate over its political future. And out of this debate three groups are carrying out an attack on democracy:

1. The New Left, whose theories of a radical change of "system" are already influenc-

ing youth groups of the Free Democrats (FDP) and the Social Democrats (SPD).

2. The anarcho-terrorist groupings, which have in part developed out of the New Left.

3. The orthodox Communists.

Whatever the esoteric persuasion, West German Marxists have laid siege to just about every major institution in the country. Businessmen, who once prided themselves on having turned their war-wrecked country into a model of economic prosperity, are now indiscriminately denounced for all manner of social ills, real or imaginary. The Social Democratic Party, the senior partner in our center-oriented coalition, has been invaded by young Marxists. Just prior to the last SPD-congress, the Jusos, the party's youth wing, passed an action plan that would have radically altered West Germany's economic system and overturned its Atlantic foreign policy. Brandt defeated the Jusos' proposals, but the radicals managed to increase their number from two to ten on the 35-seat executive committee.

The Marxists have already succeeded in throwing most West German universities into a state of perpetual turmoil. Though only 15% of West Germany's 670,000 students are politically engaged, most of the activists are Marxists. Under the command of the Communist Student organization they have gained control of the national student-government organizations, and dominate almost all of the student councils in the country's 67 universities and technical institutes. At 28 universities, the left-wing students have managed to gain a direct influence on university policy, and now even some full professors fear for their jobs. At nearly all universities, the Marxists have a voice in setting up the curriculums.

Like their counterparts throughout Western Europe, West German Marxist students are supremely intolerant. At West Berlin's Free University—founded in the late 1940s in protest against Communist domination of the old Berlin University in the Soviet sector—Marxist students cruise the campus offering student "guidance" on which professors are "progressive" and hence worth listening to, and which are reactionary and to be ignored. Typical commentary on one professor and his liberal arts course: "Valid in terms of Marxist Leninism, but we urge you to boycott his lectures because the student tutor is a sergeant in the reserve of the aggressor Israeli army." Says a West Berlin professor: "If you are not a Marxist professor, you don't get the students. The organizations see to that." There are no such conflicts at West Germany's newest university in Bremen, for professors and students alike are thoroughly Marxist.

IV. Against this background one can describe the strength and methods of the three groups which are carrying out the attack on democracy as following:

1. The New Left.

The New Left's aims are: Socialism (whatever may be understood by that term) or power for its own sake. It follows that the Social Democratic Party, above all, is exposed to infiltration. The lines of approach can be detected, but the degree of success cannot yet be estimated. Ideological infiltration is evident from the arguments used by the Young Socialists as their starting point in the basic contradiction in the "capitalist order of society", which can be resolved only by a "Socialist economic and social order". They demand the organization of a "trades union opposition" and hope to achieve the conquest of "Socialist positions of power" by means of a "two-pronged strategy". The groundwork—one prong of the double strategy—is to concentrate on propaganda in the factories, in local politics, and in education. Success in these areas would put pressure on the party to include the aims of its young followers in the official party programme. This tactic is described as "system-changing reform".

The organization of German Young Democrats (DJD) presented the infiltrators with a different problem. There was no chance of persuading the FDP to include Socialist aims in its programme. Instead the DJD made use of the "critical Model" developed by the New Left, to force the leaders of the FDP on to the defensive with the aim of stepping into their shoes. This is a very clear example of the way a combination of revolutionary conviction and calculated tactics can gain power and influence in an organization.

2. The anarcho-terrorist groupings.

There is no tradition of political Anarchism in Germany. It could never have established itself in the thinking of the New Left. The overriding trend in the movement is for the reorganization of society on the model of their own ideologies. Anarchist political conditions cannot last very long in Germany: a society in which the people are deeply afraid of falling victims to anarchy themselves very soon turns to those political forces which promise liberation from chaos and a return to order. Anarchists outbreaks, terrorist attacks and violent demonstrations will occur in the future, as they have in the past. World-wide means of communication ensure that they will not go unnoticed. Political fanatics must draw attention to their causes, and do not measure their actions by their material successes, but according to their success in providing optical propaganda. The attacks will cause emotional outbursts, but they will not result in any lasting political changes. They must be thought of as one thinks of traffic accidents, as something with which a technically organized world must live.

3. The orthodox Communists.

In the long run neither the New Left nor the Anarchists will be a real danger for our democracy. It is true that the Young Socialists are suffering an increasing influence of Marxism. But it is to be hoped that the force of integration of the old Social Democratic Party is still stronger than the revolutionary impact of its young members. The New Left has not reaped the benefit of its initiative. Other forces have used it to penetrate the institutions, and that is the orthodox Communists.

The DKP is almost completely dependent on the SED, for both material and ideological support. It has also taken over from the SED the conceptual analysis of "State monopoly capitalism" in the Federal Republic. It follows not only the long-term policies of the SED, but also the day-to-day tactics, and is now simply the SED's mouthpiece in West Germany. It does not hide its political aim, which is to establish a Marxist-Leninist regime in West Germany, in the form which the "Socialist" countries have already adopted. This political platform has no chance of success in the short term. It is nevertheless precise, and presents a radical alternative to the free democratic order. It quotes East Germany frequently as a model to be followed.

In improving the starting-point to achieve this objective the DKP has managed to infiltrate the universities and to build up strongholds within certain institutions of our democracy, particularly within the field of education. A growing number of our students, professors and teachers are becoming members of the DKP.

The New Left created "The Long March through the Institutions", but the orthodox Communists are using it. They are favored in this attempt by the fact, that a lot of young Marxists are bored by the fruitless discussions about the aims and methods of revolution or by anarchist actions for actions only. They are feeling a certain nostalgia for order and discipline, and the only organization with long-range revolutionary aims to offer this is the DKP.

V. What are the prospects?

The small groupings of Anarchists are not constituting a real threat to our security. They are under close supervision and even in a period of tension it is unlikely that they will be capable to evaluate actions of sabotage against the armed forces. The prospects of success of the exteme-left and communist organizations to infiltrate the armed forces with the aim to destroy them from within are also very small. The main battlefield of subversion is still the area of politics. And here the first concern is whether the far left and the established Communist parties could ever work together to gain power. In Western Europe's present political climate, that seems unlikely. As the far leftists join the established parties, they are either integrated or they change its character and frighten away the moderate voters, whom the big parties seek to enroll.

But even if they fall short of gaining government power in Western Europe, the Marxists pose a number of distinct threats to the development of free and prospering societies. Despite their protestations of independence, the Communist parties all echo official Soviet opposition to the common Market and NATO, bulwarks of Western Europe's security. West German leftists continually agitate for the withdrawal of all U.S. troops from the Federal Republic, but they ignore the presence of 20 combat-ready Soviet divisions in East Germany.

The overriding question is how Western European governments in particular and society in general will react to the Marxist challenge.

Regarding the Federal Republic one can be sure that West Germany is not at present seriously endangered by political extremism. Its political institutions are viable. Its stability depends to a large degree on the personalities who represent those institutions.

The potential which organized extremism possesses is limited and therefore can be kept under observation. Controversy with extremists must remain public and free, and must above all be kept in the political plane.

The controversy will be successful only if it is conducted self-confidently and with restraint. The superiority of the democratic system must show itself by its representatives' refusal to parley with extremist ideas.

A basically new situation would be created, however, if the ideological extremists are allowed to continue their march through the institutions. This would lead to decay from within; the institutions would become sick and in the end would cease to function. Free democracy subject to the rule of law would no longer be viable.

Such a situation cannot be created overnight, because its prerequisites include a long period of preparation. The leaders of German democracy must see very clearly that it is this preparation which those forces wish to initiate, who urge political indoctrination into the general political debate, and who combine this with the infiltration into the institutions. They can succeed only if democrats play their game and thereby prove that they are neither willing nor able to defend the institutions of democracy with confidence.

## SELECT COMMITTEE ON PRIVACY

The SPEAKER. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, one of the most serious problems facing America today is the unrelenting assault on one of our most precious freedoms—the right to privacy.

The horror stories can fill volumes: Children fed drugs to modify their behavior; psychosurgery permanently mutilating the brains of old people, women and children; women being forced to sign an oath that they will not become pregnant as a condition to qualify for a loan; black women made to undergo involuntary operations to make them sterile.

The right to privacy demands priority consideration by the Congress. For this reason, I am introducing a resolution today to create a Select Committee on Privacy within the House of Representatives.

To help underline the importance of the problem and the urgent need for such a select committee, I am putting into the Record for the information of the Congress my resolution and a copy of a speech I made on the issue September 14 before the Northeast Conference of American Women in Radio and Television. The article follows:

### Speech by Congresswoman Margaret M. Heckler

I am delighted at the opportunity to speak before such a distinguished group of newspersons—the Northeast Conference of American Women in Radio and Television. I can think of no more meaningful group to address on one of the most serious problems facing our nation today.

I'm talking about the problem of narcotics agents bursting into homes at night, smashing property and terrorizing innocent families. About children being fed drugs to modify their behavior. About women being forced to sign agreements that they will not become pregnant as a condition to qualify for a loan. About black women in the South forced to undergo involuntary operations to make them sterile.

I am talking about the right to privacy, and what has happened to this cherished possession in America today and what, perhaps, can be done to turn from the dangerous direction we have taken.

In my opinion, the problems associated with the concept of privacy are going to continue to increase, particularly as we try to assess ways to make Watergate into a impetus for change rather than an orgy of recriminations.

I do not intend to wallow in Watergate tonight, or remind you of the break-in of Daniel Ellsburg's psychiatrist's office, for the assault on privacy that makes up Watergate is familiar to everyone here.

But another casualty of Watergate is that at a time when intelligent and experienced people should be offering solid legislation on the issue of privacy, our attention is diverted to the more sensational aspects of the affair. So it strikes me as an obligation of us all, the Congress and the public, to become aware of the sweeping range of our problems, to try to understand what has happened and why.

But before defining the problem further, let's define our terms. What is privacy and why is it so important to civilized life and the survival of our freedoms? Hundreds of scholarly articles have been written on the concept of privacy, but I believe New England poet Robert Frost said it better than anyone else—in five simple words. Frost said: "Good fences make good neighbors."

I take this to mean that when there are rules which determine what each person and each family can keep to itself, can keep free from unauthorized prying and insensitive snooping, then society works. But when people or government break those rules, knock down parts of the fence which is largely embodied in the American experience by the Bill of Rights, then neighbors and citizens become suspicious, afraid, hostile—they do not respect a government which does not respect them.

While privacy is not mentioned by name in the Bill of Rights, the beautiful words of the Fourth Amendment seem to me to erect a very good fence against the many intrusions which seem to be on the front page of our newspapers every day—intrusions which unless they are forbidden, condemned and controlled will put the American system of political freedom back on the obituary page.

Let me quote the Fourth Amendment: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

There are the limits. What a lovely fence the Fourth Amendment makes, both to keep personal rights IN and to keep Big Brother OUT.

But as women, we are constantly reminded of the wholesale violations of our rights to privacy. What more vicious invasion of that right is there than to require women to sign an oath that they will not become pregnant? That is just one of a host of discriminations against women, and I am sure most of you are aware of my efforts in the Congress to guarantee equal credit rights for women.

The horror stories can fill volumes. The collected works of Charles Dickens could not contain them all. And every time an invasion of privacy appears in the press, there is an immediate call that something be done in the Congress.

Why doesn't the Congress act? Mainly, I believe, because there is no single body within the Congress charged with this responsibility, no body tirelessly reasserting the human values which are apt to be swept aside in the interest of short-range efficiency and economy.

References to privacy cut across jurisdictional lines of Congressional committees and since the concerns of privacy are often seen by program managers and others in the Federal Establishment as interfering with immediate solutions, privacy is afforded a very low priority.

For this reason, to give privacy the priority attention it so desperately deserves, I intend to propose the creation of a Select Committee on Privacy within the House of Representatives. Ironically, there once was a House Privacy Subcommittee which was abolished in 1971. In reviewing its history, I am struck by how effective this small group had been. Although it received only $75,000 from its parent Committee on Government Operations during the seven years of its existence, it initiated Congressional consideration of the credit industry; disclosed that some 300,000 grammar school children were being given behavior-modification drugs; publicized the first information on the return of psychosurgery—a surgical procedure which permanently mutilates healthy brain tissue in people who are alleged to deviate from the norm—and, perhaps most important in today's context, gave the citizen a place to go when he felt his privacy had been invaded.

A proposal for a Select Committee on Privacy was brought to the floor of the House on February 8, 1972, where it was defeated by a vote of 216 to 168. Its defeat stemmed from the opposition of the widely respected dean of the House, Congressman Emanuel Cellar of New York who felt the select committee would invade the jurisdiction of his own House Judiciary Committee.

Two events have occurred since then, however, which lead me to believe a Select Committee on Privacy could now win in the House. First, Mr. Cellar was defeated in the 1972 Primaries and, second, the events which have taken place since the bill was defeated have opened a virtual floodgate of concern about privacy.

Most of the 164 members who voted in favor of a select committee are still in the Congress, and despite the traditional unwillingness of senior House members to support select committees generally, I feel the time is right for a successful effort.

I am convinced that a focus on the issue of privacy, such as a select committee would give, would be an immense benefit in helping restore citizen confidence in our government.

For as troubling as individual violations may be, it is the sum of them which has a far greater impact. And this impact cannot help but destroy respect for government.

The House of Representatives, that branch of government traditionally closest to the people, must have a formal body to consider the dangerous developments in the area of privacy, developments which alarm our people and threaten our society.

How great is that danger today? In 1971, 300,000 children were being given behavior modification drugs. Now, I am informed that the best estimate is that 600,000 children are being given amphetamines and other stimulants such as Ritalin, allegedly to make them more "teachable" in the schools.

Psychosurgery continues unabated. Old people, women, children are having their brains permanently mutilated. Yet only one day of Congressional hearings—and that focus was only partly on psychosurgery—has been held in a year and a half since the spread of this procedure was exposed.

The lives of over 150 million Americans are now in data banks, and often this information is incomplete, misleading or in error. This misinformation is repeated and magnified as data banks talk to each other. There are about 800 personal data systems controlled by over 50 Federal agencies, all too many of which not only lack express legislative authority but do not even afford the most basic safeguards to our basic rights of privacy.

The problem is beginning to be understood thanks in no small measure by the actions of our Governor and State Legislature in pushing through a law to prevent the misuse of criminal records against Massachusetts citizens, and in particular the misuse of such things as stale information, mistaken arrests and isolated youthful indiscretions.

Under Massachusetts law, I am proud to note, citizens are allowed to see their records and to petition to have distortions or inaccuracies erased. I pray that the same rights may eventually be extended to the citizens of the other 49 states.

Data banks must be made to serve people, not the reverse. And one of the first chores undertaken by a new Select Committee on Privacy should be the establishment of guidelines on the use of these immensely valuable systems in a manner that does not trample on individual rights.

So much is at stake: there is no greater cause than the preservation of the individual's right to privacy.

The whole issue was brought into clear focus in a moving statement by Pastor Neimuller, a German Lutheran who spent years in Hitler's concentration camps. As he recalled his early lack of action in the face of the gathering horrors of Nazi Germany, he made a powerful argument for all of us to vigorously resist every effort to erode our precious right to privacy.

Pastor Neimuller said: "When they came for the Jews, I did not protest because I was not a Jew. When they came for the union leaders, I did not protest because I did not belong to a union. When the came for the Catholics, I did not protest because I was not a Catholic. But when they came for me, there was no one left to protest to!"

Maybe each of us, personally, feels that our individual right to privacy has not been violated. But with each assault on a precious freedom, whether directed against us or against another, we must stand together in a roar of protest.

For if we don't, we may find like Pastor Neimuller, when they come for US, there will be no one left to heed our protests. . . .

H. Res. 555

Whereas the development of technology is advancing at an unparalleled rate of speed and is rapidly coming to affect every level of American life; and

Whereas the full significance and the effects of technology on society and on Government are largely unknown; and

Whereas, behavior modification has become the subject of increasing citizen concern and the Congress has yet to understand or set guidelines to control these applications; and

Whereas computers, other technological innovations and surveillance aid in the gathering and centralization of massive information on all kinds of individuals in data banks and, consequently, call into question the effect of technology on the right of privacy; and

Whereas Congress needs a committee ready and able to evaluate the effects of technology on the operations of Government, on the democratic institutions and processes basic to the United States, and on the basic human rights of our citizens: Now, therefore, be it

*Resolved,* That there is hereby created a select committee to be known as the Select Committee on Privacy to be composed of nine Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of the development and proliferation of technology in American society, plus the use of technology, drugs, surgery and other scientific and medical advances which would claim to alter the basic personality of the individual. The committee shall also study the use of computers and other technical instruments in gathering and centralizing information on individuals in data banks and the effect of such activity on human rights.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places and within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary; except that neither the committee nor any subcommittee thereof may sit while the House is meeting unless special leave to sit shall have been obtained from the House. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

## BIG SKY COUNTRY'S CLEAN ENVIRONMENT: NOT TO BE SACRIFICED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. Melcher) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, President Nixon's recent energy message, suggesting that we relax sulfur emission controls and expand research for coal mining "not too destructive to the environment" has caused concern in Montana where energy companies are building huge coal-fired generating stations or plan gasification plants based on our large strippable coal resources.

That concern is very ably expressed by Steve Jessen, editor of the Forsyth (Mont.) Independent, in the leading editorial in the September 13 issue of his paper.

We are extremely concerned in the area which faces extensive exploitation of coal resources with the preservation of our "Big Sky" environment, and that includes our pure air, our productive lands, and safeguarding our water supplies.

President Nixon's energy message must not be used by industry as justification to sacrifice the clean environment qualities of Montana and the West.

I offer Steve Jessen's editorial as a protest against that premise, and as the view of a moderate person not opposed to development, but insistent that environmental standards be maintained:

[From the Forsyth (Mont.) Independent, Sept. 13, 1973]

### On Losing Control

Last weekend President Nixon laid it on the line with respect to what his administration intends to do about the energy crisis now being faced by the nation. What he said in his energy message will have an impact on this area, not because we are short on energy, but because we will be expected to play one of the roles in furnishing energy in the form of coal to our energy-poor fellow citizens.

In his message the President asked Congress to speed up action in bills which would authorize strip mining of the coal resources of the western states. It is estimated that one third of the world's coal lies under United States territory, most of it in the west.

Nixon also said that among the steps to be taken administratively without the action of Congress would be to relax sulphur emission standards on industrial plants and to expand research on extracting coal in a fashion that would be "not too destructive to the environment."

On first hearing and reading of the substance of Nixon's proposals, my reaction was that this brings the prophesy of the North Central Power Study a little closer to reality. This realization also brought a sense of despair which comes with the loss of what little control local residents had over what will happen to our area since it appears conceivable under the presidential statement that part of this county is a likely candidate for the sacrificial altar of energy.

I cannot agree with the eco-freaks who have visited this area to investigate the sins of the coal miners and power companies and have left to continue their campaign to halt progress. However, I have listened to the true ecologists who recognize that there is in the means of today's technology the possibility of converting coal into electricity in a relatively clean way. I have looked on the latter type of person as a balance to the nation's energy companies whose aim it is to first turn a profit and then worry about the environment.

Rosebud County would be in terrible shape today if it were not for the ecologists and their restraints on the energy companies, for without their protestations and the resulting public pressure there would not be any reclamation programs at our mines, or pollution control devices planned for our power plants.

So while not advocating unrestrained development, the president's statement weakened the bond which controls the extent of energy development and which is held by the people who must live next to the power plants and mines.

I would hope that Montana Power Company and those affiliated with them in the construction of the two plants at Colstrip and the plants currently being contemplated, will not use the President's message as a carte blanche to fall back on the planned anti-pollution controls on their plants. Rather I would hope that all devices planned for plants one and two will be installed and that even more sophisticated devices will be contemplated for plants three and four.

I would hope that in opting to encourage mining in the West, the administration will not relax its requirements on reclamation and other studies on areas proposed for mining. I hope that the mining companies will continue their programs to reclaim the land with an eye for what will come after they are gone.

It is difficult to judge from the President's words just how much control we have lost over the powers eyeing this part of Montana. I still believe that those currently at work in the Colstrip area are doing so in a responsible manner. How they react to the weakened governmental controls will increase or decrease the respect I have for these companies. To the degree that these companies continue to heed responsible criticism, we will know whether the government's loosened reins is a good thing or not.—S. Jessen.

## DEFENSE DEPARTMENT LIMOUSINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Hamilton) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, I was astounded to learn recently that the Defense Department spends about $676,000 a year to provide 43 officials with chauffeured transportation to and from work. I am introducing legislation today to correct this misuse of Federal funds.

While I am pleased that the number of DOD officials accorded this privilege has fell from 63 to 43 since I began to correspond with the Department on this matter, there is still considerable room for improvement.

Both former Defense Secretary Richardson and Secretary Schlesinger have commented on the need to have some belt-tightening in Defense expenditures. Schlesinger remarked on July 3, the day after he was sworn in, that "There are luxuries that we shall have to do without." I would certainly include chauffeured sedans among those luxuries, and one where a cost savings would be entirely consistent with the President's barebones budget and the "concerted effort to control Federal spending" referred to in his budget message.

A reduction in the number of persons allowed full-time use of a chauffeured car as commuter transportation would also be consistent with a strict interpretation of the appropriate Federal statute governing this use of Government-owned cars: 31 U.S.C. 638a(c)(2). According to a legal study of this matter prepared at my request by an attorney at the Congressional Research Service, the departmental secretary and the three service secretaries are the only DOD officials logically entitled to the regular use of a Government car and driver to get to and from work.

The other 39 officials have been given this privilege on the basis of the Department's own interpretation of the statutes, an interpretation that is open to question.

To insure compliance with the statutes, as strictly interpreted, I am introducing a bill today to limit DOD use of chauffeured Government cars as commuter transport to the four officials mentioned above. I hope that this measure will receive the prompt attention of the House Armed Services Committee.

Some related background information follows:

THE SECRETARY OF DEFENSE,
*Washington, D.C., April 26, 1973.*

Memorandum for: Secretaries of the Military Departments, Chairman, Joint Chiefs of Staff; Director, Defense Research and Engineering; Assistant Secretaries of Defense; General Counsel; Assistants to the Secretary of Defense, and Directors of Defense Agencies.

Subject: Use of Government Transportation Between Residence and Place of Employment.

Section 638a. of Title 31, United States Code, requires that Government-owned passenger motor vehicles and aircraft be used exclusively for official purposes. It further provides that official purposes shall not include transportation of officers and employees between their domiciles and places of employment except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in field work the character of whose duties make such transportation necessary and only as to such latter cases when approved by the head of the department concerned. This same statute exempts from this limitation any motor vehicles or aircraft for official use of the President, the heads of executive departments enumerated in 5 U.S.C. 101, ambassadors, ministers, charge d'affaires and other principal diplomatic and consular officials.

A list of those officials employed with the OSD, JCS, and Defense Agency and Departmental Headquarters within the Washington, D.C. area who meet the above statutory criteria and thus are authorized transportation between residence and place of employment is attached. Any other individual so employed may not be authorized such transportation without the approval of this office.

Government vehicles and aircraft may not be used for personal errands. Further, such vehicles are not available for family use unrelated to the official duties of the individual to whom the vehicle is assigned.

A person in an "acting" capacity in an office subject to Presidential appointment who is not himself a presidential appointee may not be authorized home-to-work transportation.

Appropriate disciplinary action will be taken in any case of improper use of government vehicles or aircraft.

DOD Directive 4500.36, subject "Administrative Use Motor Vehicles" will be modified to reflect the contents of this memorandum and to update authorizations for use of vehicles outside the seat of government.

OFFICIALS EMPLOYED WITH THE OSD, JCS, AND DEFENSE AGENCY AND DEPARTMENTAL HEADQUARTERS IN THE WASHINGTON, D.C., AREA AUTHORIZED TRANSPORTATION BETWEEN RESIDENCE AND PLACE OF EMPLOYMENT

1. The Secretary of Defense.
2. The Deputy Secretary of Defense.
3. The Secretary of the Army.
4. The Secretary of the Navy.
5. The Secretary of the Air Force.
6. Chairman, Joint Chiefs of Staff.
7. Chief of Staff of the Army.
8. Chief of Naval Operations.
9. Chief of Staff of the Air Force.
10. Commandant of the Marine Corps.
11. Director of Defense Research & Engineering.
12. Assistant Secretary of Defense (C).
13. Assistant Secretary of Defense (H&E).
14. Assistant Secretary of Defense (I&L).
15. Assistant Secretary of Defense (I).
16. Assistant Secretary of Defense (ISA).
17. Assistant Secretary of Defense (M&RA).
18. Assistant Secretary of Defense (PA).
19. Assistant Secretary of Defense (LA).
20. Assistant Secretary of Defense (T).
21. General Counsel of the Department of Defense.
22. Under Secretary of the Army.
23. Under Secretary of the Navy.
24. Under Secretary of the Air Force.
25. Vice Chief of Staff of the Army.
26. Vice Chief of Naval Operations.
27. Vice Chief of Staff of the Air Force.
28. Assistant Commandant of the Marine Corps.
29. Assistant Secretary of the Army (FM).
30. Assistant Secretary of the Army (I&L).
31. Assistant Secretary of the Army (M&RA).
32. Assistant Secretary of the Army (R&D).
33. Assistant Secretary of the Navy (M&RA).
34. Assistant Secretary of the Navy (I&L).
35. Assistant Secretary of the Navy (FM).
36. Assistant Secretary of the Navy (R&D).
37. Assistant Secretary of the Air Force (I&L).
38. Assistant Secretary of the Air Force (R&D).
39. Assistant Secretary of the Air Force (M&RA).
40. Assistant Secretary of the Air Force (FM).
41. Chief of Naval Materiel.
42. Director, Joint Staff.
43. The Special Assistant to the Secretary and Deputy Secretary of Defense.

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OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE,
*Washington, D.C., June 4, 1973.*

Hon. LEE H. HAMILTON,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. HAMILTON: This is in further response to your letter of May 17, 1973, to Secretary Richardson requesting additional information concerning transportation provided certain officials in the Department of Defense.

Data concerning our vehicle operations are not maintained in such a way that we can identify the cost of providing transportation between residence and place of employment for the forty-three departmental officials referred to in your letter without considerable effort. However, we estimate that it costs approximately $676,000 a year to procure, operate, and maintain, the ten limousines, thirty-one medium sedans, and two light sedans provided for the full-time use of these officials, as follows:

| Category | Limousine | Medium sedan | Light sedan |
|---|---|---|---|
| rcurement | $1,000 | $953 | $44070 |
| Poeration and maintenance | 778 | 414 | 330 |
| Opauffeur salaries (including Chovertime) | 16,200 | 13,700 | 13,700 |
| Total | 17,978 | 15,067 | 14,4 |

All of the forty-three officials are assigned chauffeurs.

We appreciate your interest in this matter and trust the foregoing will be useful to you.

Sincerely,

PAUL H. RILEY,
*Deputy Assistant Secretary of Defense, Supply, Maintenance, and Services.*

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## THE HONORABLE JAMES FARLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, while reading through a recent edition of the Scranton Tribune, I came upon a most interesting feature article by my old friend Tom Phillips, city editor emeritus. In his "Top o' The Mornin'" column, Tom has written an inspiring, thorough article on my distinguished friend of many years, the Honorable James Farley of New York.

In this day and age when the very rudiments of politics are being reevaluated, Mr. Phillips' review of Jim Farley's attitudes on government and party politics are well worth our consideration.

I present herewith for the RECORD, Mr. Speaker, Mr. Phillips' story on a truly great American:

### TOP O' THE MORNIN'

(By Tom Phillips)

The signature was in traditional green ink and the script was strong and steady. It was the same signature that James A. Farley has been using all his mature life and hasn't changed an iota even though he's past his 85th milestone.

It's always interesting when Jim Farley sends a memo to his friends throughout the country. He maintained probably the most prolific personal correspondence of anybody in America today. It developed over a span of almost 60 years and continues to grow.

Jim's letter was, among other things, to recall frequent sessions in his suite in the Waldorf-Astoria Towers or over a breakfast table in the Waldorf coffee shop. And hopefully looking for more of the same in the future.

The former Postmaster General makes it a point on the second Saturday of December when Pennsylvanians hold their Pennsylvania Society of New York dinner in the Waldorf to mix by the hour with his longtime friends from Pennsylvania. He knows them by the hundreds and on first-name basis.

Always in the forefront of his memory is Joseph J. "Jo Jo" Lawler of Jessup who served as an assistant postmaster general and Jim Law, of Wilkes-Barre, for years Democratic County chairman in Luzerne.

Last December, while breakfasting with Lawler, Law, Frank Loch, vice president of Pennsylvania Gas & Water Co., and the writer, the conversation turned to Watergate and Farley commented:

"I hope nothing develops to the point where any consideration is given to impeachment. And if it does, I hope it won't happen. It would divide the country in a way that, in my judgment, it has never been divided before."

Big Jim, he's six-feet, three inches tall, is a Democrat. He has no reason to be generous to a Republican. However, he has always been more than a partisan politician. His opposition to breaking three two-term precedent set by George Washington demonstrated that in his resignation as Franklin Roosevelt's two-term Postmaster General when FDR wanted to run, which he did and was elected, for a third term.

When he hit his 85th milestone on Memorial Day Farley said in the interview "I intend to take my birthday in stride." He did indeed. He was at the New York office, as he is almost daily, of Coca Cola Export Corp. He is honorary chairman of the board.

More than half of the nation's population was not on the scene when the name of James Aloysius Farley was a preeminent one in American politics.

He was among the earliest and most adamant supporters of FDR and floor manager for him at the Chicago convention when Roosevelt was nominated for the first time. He played a key part in swinging the Texas and California delegations, pledged to John Nance Garner, to put FDR over the two-thirds required for nomination.

Farley has had many thrills, he admits. Among them, he recalls, is when he predicted FDR would not only win the election but would carry every state of the union with the exception of Maine and Vermont. That was the precise result of the 1936 campaign. Farley made his forecast while in the role of Democratic National Chairman. Future generations may never see that prediction equalled or surpassed.

Farley says he never had regrets over breaking with Roosevelt on the third-term issue. He says, however, that his personal relationship with Roosevelt was always "delightful." He said he saw FDR only briefly—on four or five occasions—after his retirement from politics in 1940.

Asked at one time what persons most impressed him during his political career, Farley said:

"Franklin D. Roosevelt, Vice President John Garner of Texas, Harry S Truman, Lyndon B. Johnson, Secretary of State Cordell Hull, Al Smith and Jimmy Walker, one-time mayor of New York City. Of course, they were all Democrats.

Outside the realm of politics, the most impressive person, he revealed was Pope Pius XII, who he first met in 1933, when the future Pontiff was Secretary of State for the Vatican.

Subsequently he had many private audiences with Pope Pius at the Vatican. Some of the audiences were arranged by Archbishop Martin J. O'Connor, a Scranton native attached to his Vatican offices, and of whom Farley speaks with great affection.

Recently in discussing current politics, Farley observed the two-party system will prevail in the United States despite the party switches of such individuals as Mayor John V. Lindsay of New York and John Connally of Texas.

"I can't see Republican leaders in the north going for Connally as a presidential candidate," said Farley.

"Neither can I see any political future for Lindsay after the poor administration he has given the city of New York in the last eight years."

Farley's career symbolizes the American belief in the ability of a man to rise from adversity. He was born in Grassy Point, N.Y., in 1888. He recalls after his father died his mother bought a small grocery store and saloon in his home town and as a boy he tended bar before and after school. His mother asked him not to smoke or drink and he never did. He said he is grateful that he kept his promises to his mother. As a youth he played first base on the semi-professional teams at Grassy Point and nearby Haverstraw. His formal education ended after two and one-half years in high school when he was 17.

"I never went to college," he remarked, but I have received 25 honorary degrees throughout the United States.

Nostalgically, Farley recalls his impressions when he came from Grassy Point to New York City.

"I liked the theater and I vividly recall seeing the show business notables of those days at Hammerstein's and the Ziegfeld Follies, such as Fanny Brice, Harry Lauder, John McCormack and Caruso.

"The first show I took my wife, Bess, to see was a musical called "The Chorus Lady" at the old Academy of Music. His wife died in 1955.

After entering politics, Farley was elected to the New York General Assembly in 1925. Gov. Al Smith appointed him a member of the New York State Athletic Commission, a post he held many years.

His advice today to young men and young women entering politics is his life story:

"Never take a dime and never tell a lie."

## MINIMUM WAGE INCREASE NEED NOT BE A CAUSE, BUT A RESULT, OF INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, millions of American workers enjoy some protection from the disastrous inflation we suffer in this country through cost-of-living clauses in their labor contracts. Perhaps the word "enjoy" is inappropriate. A more accurate statement would be that these workers suffer somewhat less.

We have recognized in the Congress that cost-of-living increases are necessary and we have provided the machinery for applying them to social security benefits, Federal retirement programs, and so on.

But for America's least fortunate and most deserving workers, those on minimum wage, the White House has said through this veto, there will be no immediate relief. This despite the fact that there is no cost-of-living escalator for the minimum wage which has not increased in over 5½ years.

Since the last increase, in February of 1968, food prices have skyrocketed almost 40 percent while the overall cost of living has increased almost 31 percent over that time.

The President went to some length to outline the objections to this bill in his veto message. These objections have been rather roundly criticized on a broad front with one commentator terming the veto "a mean, contemptible act which further oppresses and disheartens the Nation's poor." While I do not for a moment believe the President's intent was to be either "mean" or "contemptible" I do feel the veto is oppressive and disheartening.

In short, I believe the Congress is right on this matter and the President is undeniably and irrefutably wrong.

The arguments in support of the Congress were skillfully outlined and presented on September 8 in an editorial in the Nashville Banner entitled "Congress Is Right on Minimum Wage."

Mr. Speaker, I include the editorial in the RECORD at this point and commend it to the attention of my colleagues:

### CONGRESS IS RIGHT ON MINIMUM WAGE

The minimum wage bill passed by Congress would fix it so most working people in the United States would have to make at least $2 an hour.

In this day and time, $80 a week is hardly a windfall.

Nevertheless, President Nixon has vetoed the minimum wage bill as too inflationary. We think the President made a mistake.

In our opinion, the President has not given enough weight to the other side of the coin. In considering inflation, the President failed to take fully into account the shrinking effect inflation has had on workers' take-home pay.

The minimum wage bill passed by Congress is needed because of inflation, not in spite of it.

Sen. Harrison A. Williams Jr., D–N.J., chairman of the Senate Labor and Public Welfare Committee, put it this way: "I do not believe that a successful anti-inflation program depends upon keeping the income of American workers below officially estimated poverty levels."

As passed by Congress, the bill would increase the minimum wage from $1.60 to $2 an hour Nov. 1 and then to $2.20 July 1, 1974.

President Nixon also favors an increase in the minimum wage but on a more gradual basis. His plan calls for an hourly wage hike to $1.90 immediately and $2.30 over the next three years.

So what is at issue here is not the concept of minimum wage, which both the President and the Congress favor, but the procedure for implementing the new minimum wage. We think the congressional plan, because it offers more help sooner, is better for the working person.

The congressional version would also extend minimum wage coverage to about 6.7 million additional workers, mainly state, local and federal employes and domestic workers such as maids.

One of the reasons that able-bodied persons are drawing welfare checks rather than working is that they can make more off goverments handouts than they can by toiling for a minimum wage.

The government should not sanction that by holding down the minimum wage and further penalizing those who are willing to work.

An attempt will be made later this month in Congress to override the presidential veto. The effort is fully justified and is badly needed by the working people of this nation.

## INTERIOR IGNORING CONGRESSIONAL MANDATE ON SUWANNEE RIVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, I want to take a few moments today to bring a matter of much personal concern to the attention of my colleagues. This issue concerns, among other things, a clear violation of congressional intent and smacks of bureaucratic arrogance.

Before coming to the House floor today, I wrote to Secretary of the Interior, Rogers Morton and requested that the Congress be provided a study report on the feasibility of including the Suwannee River in the national scenic rivers system. This report, incidentally, will be 3 years overdue on October 2 of this year and is the substance of my concern.

In 1965 a large number of bills were introduced that would have included several rivers in a national wild and scenic rivers system. One of these measures would have included the Suwannee in an active category along with other rivers that, as opposed to the Suwannee, traversed through Federal lands. There was considerable public outcry about the proposal because local and State governments, property owners and other interested parties were concerned about the impact of such a designation on the Suwannee. Every possible effort was made to obtain for myself and for my people the ramifications of this measure. These efforts were unproductive as I was unable to get any written information, and on several occasions, officials of the Department of the Interior gave conflicting responses to specific questions posed to them. I then requested that a large public meeting be conducted so that my constituents could better understand the ramifications of the legislation. The hearing generated many more questions than there were answers. Thus, we sponsored a series of hearings throughout my congressional district at which the National Park Service attempted to answer local concerns. After these hearings were held in the counties through which the Suwannee flows, it became evident that there were many perplexing questions about the proposed administration of lands along the banks of the Suwannee—questions that the National Park Service was unable to answer.

The House of Representatives considered national wild and scenic rivers legislation during the 90th Congress, 1967–68, and I submitted testimony on the measure before the House Interior and Insular Affairs Committee in March of 1968. This was the first opportunity that I had to testify in the House on the wild and scenic rivers legislation. I would like to excerpt one portion of my testimony to illustrate the volatile nature of the controversy which was brewing between those in favor of the proposal and those opposed:

> Many who have never read the bill demand that we blindly support the measure, while others opposed, demand that we see that it is removed from consideration. I think that the gentlemen on the committee know as well as I that I do not have the power to accomplish the latter. What I do hope to accomplish is to commend the idea of preserving certain of our nation's streams in their natural state. This concept has my support.

I provide this background for my colleagues so that you can appreciate the very sensitive nature of this matter and to underscore the impact of later actions, or rather nonactions, of the Department of the Interior and the Office of Management and Budget.

As many Members of this body will remember, Public Law 90–542 authorized a national wild and scenic rivers system to be administered by the Department of the Interior. This act gave 6 rivers or sections of rivers immediate recognition as components of the feasibility of including 28 other rivers, including the Suwannee, in this same system. On September 12, 1968, this body favorably considered the legislation and it was subsequently signed into law on October 2, 1968.

When the measure was before the House, I offered an amendment to require the Secretary of the Interior to complete the study and report on the Suwannee River within 2 years after enactment rather than the 5-year period which was authorized for other rivers under the bill. I felt that the preservation of the Suwannee River and the interests of my constituents were too important to wait 5 years for the report. The reason I felt that this study was essential initially was so that we could obtain hard data on the ecological, social and economic consequences of designating the Suwannee River as a national wild and scenic river. My amendment was adopted in the House and incorporated in the final bill. The report was, therefore, to be completed and submitted to the President and to the Congress by October 2, 1970.

I might mention that Secretary Morton was then a Member of this body and voted in favor of the bill on final passage, thus approving of my amendment which had been adopted previously.

With this background in mind, I am certain that the Members can appreciate the great concern I have about the refusal of the Department of the Interior and the Office of Management and Budget to send this report, as mandated by Federal law, to the Congress.

Shortly after the report was scheduled to be sent to the Congress, I wrote to the Department and asked why the report had not been released as required by my amendment. I reminded the Secretary that once the report had been received we would be out of the realm of rumor and innuendo and would have a factual basis from which sound administrative and legislative decisions could be made. The Department indicated retrospectively that the wisdom of conducting a feasibility study was then recognized and that their zeal to develop a model report was the reason for the delay:

> As the Suwannee will be the first wild and scenic river report to be submitted by this Department, we have given special attention to the review and coordination procedures to ensure that the views of all concerned interests have been carefully considered, and that, as a prototype, future studies may be completed, reviewed and transmitted in as expeditious a manner as possible.

Although I was not particularly happy with the continued delay, I was pleased that such plans were being taken to insure the development of a meaningful and factual report and recommendations.

After a prudent period, I again contacted the Department of the Interior and requested that the report be released. This inquiry met with a like rebuff as did several other efforts.

About a year after the report was scheduled to be sent to Congress, I began to get information from various groups that the Department of the Interior would propose that the Suwannee River be included in the national wild and scenic rivers system and that some $30 million of Federal funds be spent for land acquisition and development. Rumor had it that the initial report proposed that there be a joint administrative effort between the local, State, and Federal Governments with coordination coming from a Suwannee River Commission. Again, I was unable to determine from the Department of the Interior whether this proposal was being actively considered or whether there were other alternatives of equal likelihood.

In April of this year, I again contacted the Department and demanded that the report be released so that we could go forward. This response, received safely after the 1972 Presidential elections, indicated that whatever the original proposal might have been, the Department was directed by OMB to reconsider its position:

> At the request of this Department, the Office of Management and Budget has returned the Suwannee report in order for us to reexamine the proposal with a view to determine whether the proposed acquisition and development can be reduced while still preserving the values associated with the establishment of a wild or scenic river. Also, we are exploring with appropriate State officials the possibility of obtaining greater State participation in this program.

So here I was not knowing what proposal the Department was to reexamine, what acquisition and development was to be reduced, what values were to be preserved, and what State participation was to be increased. Greater State participation than what?

Again, the purpose in placing the Suwannee River in a study category was to avoid the rhetoric and uncertainty of making policy decisions without the benefit of hard facts.

That the report might soon be released was brought to my attention by a reporter in my congressional district who has been diligent in ascertaining the status of the report. He has been helpful to me in knowing about statements released from the Department from time to time, and I value his assistance.

Most recently, this reporter informed a member of my staff that the report will soon be returned to the regional office of the Department for final adjustments prior to release sometime later this fall. In response to this telephone call, my staff called the Department and learned that the information was accurate and that the Secretary might well recommend that virtually all Federal participation be eliminated and that the State of Florida carry the burden of any future protection for the Suwannee.

The Department of the Interior, however, informed the reporter that there are four alternatives receiving attention by the Secretary. The first alternative would be full Federal support of the project and Federal administration. The second would provide for a joint Federal/State partnership also calling for Federal expenditures. The third alternative would be for full State administration with virtually no Federal participation. The last alternative would be that no action would be taken.

I have news for the Department of the Interior. These are the very alternatives which faced it the day the scenic rivers legislation was enacted. If it takes the Department 5 years to frame the issues, I believe that we have more problems than we know.

It is apparent now that whatever the final recommendations of the Department of the Interior, a grave misjustice has been done the people of my great State.

If the Department of the Interior or any other Federal agency can arbitrarily ignore a clear congressional mandate, as was given in this case, Congress has truly relinquished its position in the governmental separation of powers. It is my opinion that the administration has politicized what was otherwise a legitimate effort to obtain much-needed information.

I will report back to my colleagues on the content of the Secretary's response to my letter requesting the report, and I encourage you to join with me in resisting heavy-handed administration tactics such as have been employed in this case.

## THE ENERGY SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, as we are all aware, our country faces a long-term energy shortage. The role of automobiles in our energy dilemma is highlighted by the fact that between 40 and 50 percent of all crude oil production is consumed by cars, trucks, and buses. To make matters worse, the energy shortage is particularly acute for the refined petroleum products used by these vehicles.

A major cause of our immediate problem in supplying the energy demand of our motor vehicles is the immense technical problem of reducing air pollution without increasing per mile energy consumption. As all of us who have recently bought cars are painfully aware, it is costing us twice, and in some cases, three times as much to get from home to work and back again as it cost just a few years ago.

For almost a decade, the American people have been asking the auto industry to produce cleaner cars. Over the past couple of years, under the pressure of the Clean Air Act, the industry has made some progress toward cleaner cars.

As the cars have become cleaner, however, they have become more and more inefficient. Emission controls on the 1973 cars, for example, exact an average fuel penalty of somewhere between 5 and 10 percent, while safety features and luxury options have extracted an additional, even larger, fuel penalty.

We have recently learned to our dismay that the auto industry will not be able to meet the cleanup schedule for its cars for 1975 and 1976. This is a schedule that the auto industry agreed to as long ago as 1969. It has asked for and received the 1-year extension provided for in the Clean Air Act. Now it is bringing immense pressure upon the Congress to amend the Clean Air Act, to relax the emission standards by 40 percent for hydrocarbons and 50 percent for nitrogen oxides.

In my judgment, the reason for the failure of the auto industry to meet its schedule and solve the related technical problems is a failure on our part to mass the technical resources of the country to aid the auto industry in this effort.

For a number of reasons the auto industry has attempted to meet the clean air standards by developing the catalytic converter as an add-on device to put in the auto engine's exhaust system. Not only will this unit raise the price of 1975 cars by $100 or more and make the car owner liable for a maintenance charge of up to $150 when the catalyst fails, but the catalytic converter will create air pollution of its own. John Moran, program manager of an EPA project to investigate emission problems resulting from emission control actions, announced only a few days ago that the use of catalytic converters resulted in the emission of sulfuric acid and particles containing metals such as platinum or palladium used in the converters.

The adoption of the catalytic converter is particularly astonishing in light of the finding by the National Academy of Sciences that the catalytic converter approach is "the most disadvantageous with respect to first cost, fuel economy, maintainability, and durability" of all of those proposed.

Looking further ahead, the auto industry is now telling us that it sees no way to meet the reduction in emissions of nitrogen oxides required by the Clean Air Act.

This depressing outlook, I must point out, results directly from the auto industry's dependence on the internal combustion engine.

All technical experts agree that it is inherent in the internal combustion engine—be it Wankel, diesel, stratified charge, or conventional—that the conditions which favor reduction in either hydrocarbons or $NO_x$ also favor increases in the other. In addition, the cleaner the internal combustion engine becomes, the more inefficient and energy consuming it becomes.

It is significant that this law of nature does not apply to external combustion engines such as the steam engine and the gas turbine.

Unfortunately the auto industry has more or less ignored the external combustion engine. Despite general recognition that engines of this design concept can readily meet and even substantially better the 1976 statutory emission standards, General Motors Corp. told Congress only a couple months ago:

> In 1973 our only activity with respect to Rankine cycle (steam) engines is to maintain cognizance of developments outside GM.

Our country must be able to do better. In 1972, GM netted $2.2 billion in profit. In the first quarter of 1973, GM netted $800 million. Despite the record profits, GM announced they were doing no R. & D. on the most promising of the clean, efficient external combustion engines.

Private industry is not solely to blame. The Government has done little or nothing to help or encourage industry to solve the technical problems associated with meeting the clean air standards and the corresponding energy shortage.

Mr. Speaker, it is in recognition of these facts that I am introducing today a bill to assign to the National Aeronautics and Space Administration the job of developing fuel-efficient, low polluting engines for automobiles, trucks, and other light vehicles. This bill would capitalize on NASA's recognized preeminence in both high technology itself and the management of advanced technology development programs. It would take advantage of our underused national laboratories which have for 50 years helped private aircraft industry develop the best aircraft engines in the world.

The advantages of this approach are obvious. As NASA's R. D. Ginter told the Subcommittees on Space Science and Applications, and on Energy last May:

> The scientific and engineering disciplines employed (in R&D on ground propulsion units) are the same in principle as those required for providing energy and power in space. Systems engineering pervades NASA research and development. Its function is to translate mission requirements and constraints such as size, weight, lifetime, and costs . . . into detailed statements of required technical performances.

NASA is experienced in high temperature materials, high temperature lubricants, conversion of energy from one form to another. NASA has a long history of providing technological support to other agencies. And NASA already has ongoing programs in external combustion engine technology and in the nature of the combustion process itself. In fact, NASA, at EPA's request, is cooperating with EPA's Advanced Automotive Power System Office in this technological area. Just last Monday, the New York Times reported that a NASA laboratory is helping industry to develop a hydrogen additive to gasoline that may help to meet clean air standards.

I cannot emphasize too strongly, Mr. Speaker, the urgency of the Nation's need for an energy-conserving, low-polluting alternative to the internal combustion engine. You have heard, I am sure, that the air is getting cleaner as a result of actions taken over the past several years under the Clean Air Act.

Yet, Mr. Speaker, the 100 million Americans suffering for 12 days under the foul air across the whole eastern half of the United States would dispute that. Experts also dispute that, pointing out that regional monitoring systems are woefully inadequate.

A recently reported series of tests by EPA has shown that cars in the hands of the average American motorists soon begin to pollute more heavily than when new. With the newer cars, this tendency is more serious than with older ones, because there are more of them, each driven more miles on the average than older cars, and they burn more gasoline per mile for reasons of weight and luxury options.

Significant recent evidence indicates that removing hydrocarbon from the air without removing the nitrogen oxides will not help the smog problem and may even make it worse. Thus, it may be technically impossible for any internal combustion engine to reduce nitrogen oxide emissions. As a result of this technical dilemma, the auto industry and the EPA have been laying the groundwork for easing the $NO_x$ emission standard for new cars and for questioning the primary ambient air quality standard for $NO_x$. This would be unnecessary if alternative propulsion systems were available.

Finally, Mr. Speaker, the auto industry's impending use of catalytic converters will have a dramatic impact on crude oil consumption. These converters require lead-free gasoline. Lead-free gasoline requires more crude oil per gallon of gasoline of a given octane rating. I estimate that this added consumption will be between 4 and 5 percent for each gallon of lead-free gasoline. Is it not ridiculous, Mr. Speaker, to move toward such greater demand for crude oil at exactly the time when oil industry sources insist that we are desperately short of crude oil.

In conclusion, Mr. Speaker, I believe that the Government must do its part to aid industry in the research and development needed to clean up our air with energy conserving, low polluting ground propulsion systems. My bill will accomplish this by enabling NASA to develop and evaluate a range of alternative systems in cooperation with private industry.

In view of the gravity of our energy and clean air crisis, I urge expeditious handling of this bill and put to use our most effective problem solving technical organization: NASA.

Mr. Speaker, I have here the New York Times article to which I earlier referred, and for the further information of our colleagues I include it to be printed in the Record following my remarks. In addition I include the text of my bill, cosponsored by Mr. Symington and Mr. McCormack to be printed in the Record at this point:

### New NASA Aim: Clean Air

(By Richard Witkin)

New York.—A radical system aimed at meeting the legal limitation on auto-engine emissions is being developed by the National Aeronautics and Space Administration.

The concept involves the use of hydrogen as an additive to gasoline in modified versions of standard internal combustion engines.

It has shown "promising" results in laboratory tests but won't be tested in an auto for another two months.

The development is being carried out by the space agency's Jet Propulsion Laboratory, whose Ranger and Surveyor vehicles scouted the moon as a prelude to the manned lunar landings.

Engineers at the Pasadena Calif., facility stressed that the work was in its early stages. Numerous difficult technical details are still to be worked out, said Harry Cotrill, the project manager, in a telephone interview.

Starting today, representatives of the nation's major auto manufacturers were to visit the laboratory for a series of demonstrations of what has been accomplished so far.

Dr. William H. Pickering, the laboratory's director, said the companies had been invited "to assess the utility of this system with a view to the possibility that they might wish to work cooperatively with us."

The space agency has allocated $600,000 for the first six months of the effort. Pickering estimates that it might take a total of $4 million to $5 million to meet the emission standards for 1976 and 1977 under the Federal Clean Air Act.

A key component of the system, based largely on research conducted by an engineer named Jack Rupe, is a hydrogen generator that could be carried aboard the car.

Cotrill predicted that a fully developed research vehicle able to meet the emissions standards could be running about two years from now.

"But after that," he said, "it would have to be engineered for mass production. It wouldn't be ready yet for the little old lady from Pasadena."

The laboratory has bought two Chevrolet Impalas to be used as the research vehicles.

A prime advantage of the approach, its proponents contend, is that it would meet auto-pollution requirements without attaching catalytic devices to engine exhausts, as planned by the major car makers.

It would improve fuel consumption and it would operate with low-grade petroleum or synthetics, besides gasoline, its proponents claim.

Hydrogen has been increasingly looked upon as the most promising long-term answer to the world's power needs as fossil fuels become exhausted, but it has several obvious drawbacks.

For one thing, hydrogen can be very dangerous in a day-to-day consumer environment because of its extreme volatility. It takes up a great amount of space in gaseous form, and in more compact liquid form it must be kept at minus 423 degrees Fahrenheit. Its use would require major changes in auto design and in service station facilities.

The laboratory's concept aims to circumvent these complications in two ways: By perfecting and installing in autos a generator that would produce hydrogen as needed, and by using hydrogen not as the main fuel but as an additive.

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### H.R. 10392

A bill to amend the National Aeronautics and Space Act of 1958 to authorize and direct the National Aeronautics and Space Administration to conduct research and to develop ground propulsion systems which would serve to reduce the current level of energy consumption

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Section 1. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (d) as subsection (e), and by inserting immediately after subsection (c) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration to also be directed toward ground propulsion systems research and development. Such development shall be conducted so as to contribute to the following objectives—

"(1) the development of energy conserving ground propulsion systems;

"(2) the development of ground propulsion systems with clean emission characteristics, economical per unit cost, and low per mile energy consumption;

"(3) the improvement of efficiency, safety, performance, and usefulness of ground propulsion systems; and

"(4) the most effective utilization of the scientific and engineering resources of the United States already in existence, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication and waste of effort, facilities, and equipment."

(b) The subsection of section 102 of such Act redesignated as subsection (e) by subsection (a) of this section is amended by striking out "(and) (c)" and inserting in lieu thereof "(c) and (5)".

Sec. 2. Title II of the National Aeronautics and Space Act of 1958 is amended by adding at the end thereof the following new section:

"GROUND PROPULSION SYSTEM DEVELOPMENT

"Sec. 207. (a)(1) In addition to its other functions the Administration shall develop ground propulsion systems which are energy conserving have clean emission characteristics, and are capable of being produced in large numbers at a reasonable mass production per unit cost.

"(2) Such ground propulsion systems must meet or better all air quality standards set by or under the National Emission Standards Act, the Clean Air Act, and the Air Quality Act of 1967, while substantially reducing per mile energy consumption.

"(3) The Administration shall conduct research in alternative energy sources for use in the ground propulsion systems developed under paragraph (1) and shall develop such alternative energy sources for use in those systems.

"(b) In connection with the performance of its functions under subsection (a), the Administration shall evaluate and make a continuing comparative assessment of all ground propulsion systems presently in use, or in a conceptual or development stage.

"(c) There is authorized to be appropriated to carry out this section not to exceed $40,000,000 in the aggregate for the fiscal years 1974 through 1977."

Sec. 3. Section 103 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding after paragraph (2) the following new paragraph:

"(3) the term 'ground propulsion system' means the engine, transmission, or drive, and associated controls, necessary to power automobiles, trucks, trains, buses, and selected light marine vehicles."

## GRAZING PERMIT BILL INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. Owens) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, today I am introducing legislation in behalf of the stockmen of our country. The administration of the public lands grazing permit program requires change to alleviate certain inequities.

In the 11 coterminous western public lands States, the Federal Government owns and administers over 270 million acres on which grazing is allowed. At various times during the year, domestic cattle and sheep graze on about half of these lands. The public lands are used more for this purpose than any other economic activity. As important as grazing has been to the western scene, this is one area where the Federal Government has allowed an indefensible policy to become a gross abuse.

The Taylor Grazing Act of 1934 requires a permit holder to be compensated for his range improvements when his permitted land is allocated to another person. The grazing permit is recognized as acceptable collateral security in sale and mortgage transactions, and the Internal Revenue Service imposes an estate tax on the value of the permit when it is transferred at death. In addition, anyone remotely familiar with rangeland real estate knows that the value of the stockman's private range (or base property) with a public lands permit is substantially higher than without a permit.

In all of these examples, the grazing permit is recognized as an asset. Except for defense purposes, however, the Federal Government extends no compensation to a canceled permit holder whenever the permitted lands are diverted to other public uses. It is time this inconsistency is corrected—it is time that stockmen who own grazing permits are guaranteed fair treatment from the Federal Government.

I am introducing a bill which provides compensation to permittees when permits are canceled to satisfy other public uses. The statutory and administrative policies of the Government have contributed to the concept of the "permit value," whether or not the permit has the attributes of a property right. Loss of the permit prior to its expiration should therefore be compensated, and the compensation standard should take into consideration the value of the base property with and without the permit.

My bill would also establish a fixed statutory term for the grazing permit. This provision would provide administering agencies with some guidance for planning public land use and would replace the current practice of making decisions on a largely ad hoc basis. Permittees would have greater assurance of use during the life of the permit. Removing the uncertainty would allow stockmen to graze the public lands more efficiently. In these times of beef shortages, such an improvement in efficiency, and hence in beef production, would benefit all consumers.

Both provisions of this bill would establish more stability of tenure for permittees, but compensation for termination of the permit does not confer on permit holders propriety interest in the public lands as critics of similar legislation in the past have argued. The grazing permit is granted to persons having a priority right by virtue of ownership of the commensurate base property. When a stockman's grazing permit is canceled, the value of his base property is reduced. It is crucial to recognize that reimbursement would be based on the deflated value of the base property.

The landlord and tenant relationship between the Federal Government, stockmen, and other users is a matter of great concern to the people of the West where livestock grazing is a dominant industry. In every other case where property is taken, the Government pays the owner for the value of the property. There is no apparent reason why the same practice could not be applied to grazing permittees on Federal lands.

Mr. Speaker, I solicit my colleagues to join me in redressing the unfair treatment imposed on our country's stockmen by the Federal Government.

## CUBAN JURISTS IN EXILE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on September 1 in Miami there was a great dinner commemorating 12 years of the National Federation of Cuban Jurists in Exile. The long time and distinguished president of this meaningful organization is Dr. Francisco Alabau Trelles.

The National Federation of Cuban Jurists in Exile is made up of magistrates, judges and members of the Cuban judiciary in exile in the United States. Among those attending the dinner were two former Justices of the Supreme Court of Cuba. This eminent group of jurists, so dedicated to the law and to the cause of freedom that they fled the tyrrany of Castro and communism in Cuba, have kept alive their love and respect of the law through 12 years of notable service to this great organization. It was a moving experience to hear Dr. Francisco Alabau Trelles, the president, tell in eloquent words how many judges had lost their lives through Castro's persecution. We all honor these men who have endured the dangers and hardships they have experienced in order to preserve the law for they know that the law is the shield of liberty and freedom for the people that live under the law.

On this occasion a movingly eloquent address was delivered by Dr. Manolo Reyes, formerly an eminent lawyer in Cuba who had to flee from Castro's persecution and has for many years now been a distinguished news editor and commentator for channel 4 in Miami. Dr. Reyes stirred his audience with his appeal that the former members of the judiciary and all who love law and freedom and have had to flee from Cuba would keep ever bright the flame of freedom in the United States and in their hearts a firm resolve to continue to try to destroy the rule of Castro and communism in Cuba and to restore that beautiful island to its former beauty and glory.

Mr. Speaker, I commend Dr. Manolo Reyes' able address to my colleagues and to my fellow countrymen and include it in the Record following my remarks.

### Speech by Dr. Manolo Reyes

Ladies and Gentlemen: By definition, the true sense of law is that which interprets the inalienable rights of a country. That is why the law has its roots with the people.

When these roots do not come from within the people, it is not true law. A nation without law is like a ship without a captain. This has happened in my beloved country: Cuba.

In Fidel Castro's regime, the laws are made for the benefit of a handful while tyranny is imposed over many.

This is the reason why I find such a great importance in this act of denouncement, mainly directed for future generations and to those who have turned their backs on the Cuban reality.

I want to give my deepest thanks to Dr. Francisco Alabau Trelles, President of the National Federation of Cuban Jurists in Exile. This prestigious organization is made up of Magistrates, Judges and members of the Cuban judicial power in exile which Castro destroyed. This Institution has just reached its 10th year in exile and now boasts membership of distinguished Cuban jurists.

It represents a fortress in which the general principles of Cuba's judiciary powers are preserved.

Today, all forms of law and justice have dissappeared in Cuba and that is the reason why 7 million Cubans are today imprisoned in one of the largest concentration camps . . . Cuba. There is no Parliament, no Congress and no Senate in Cuba today. But worst of all, there is no judiciary power.

Just today, in the worst farce in history, Castro's communists made the announcement that they were re-opening the courts of justice. I ask myself how can the courts of justice operate in all fairness when the only requirements needed to become a "revolutionary" judge are to be over 21 years of age and a good communist? With these meager qualifications, the person ends up with a complete ignorance in matters of law.

We have witnessed on one occasion where a "revolutionary judge" signed a death sentence with just his fingerprint since he was unable to read or write. Commander Humberto Sori Marin was tried by a revolutionary court whose members were of a lower rank than himself. In addition to this insult on his status, Commander Marin died in front of a firing squad.

From the year 1959, Cuba's political prisons have been the tombs of heroes and martyrs—of courageous Cuban men who faced death by opposing the communist regime. Another example of these acts, is the one concerning Pedro Luis Boitel. After spending 12 years in prison he died weighing only 60 pounds. He did not give in one inch in his ideals and will therefore always be remembered as one of the great men in history.

Ever since January 1972 those political prisoners who do not give into the communist regime coaction when their terms in up, are again condemned to another 3 years of imprisonment. It is like a continuous life sentence until they either give in or die.

Precisely, we are denouncing these violations of human rights so that the cause for a free Cuba will not end up unheard and unnoticed. A myriad number of international organizations and people all over the Hemisphere do not tell the real truth about Cuba.

These people are cowards and I say this because those who label the sufferings of a country as "propaganda" can only be called cowards in the worst sense. This so-called propaganda is strewn with the blood of the best Cubans. Many people would like to have half as much courage, dignity and love for their country as these Cubans had when they gave everything they possessed, including their lives, to regain their country's freedom.

Everyday we see pages written in magazines and newspapers all over the Hemisphere citing examples of Cuba's wonders.

The people that write these stories were probably invited to Cuba by Castro because nobody can enter the Island without his permission or visa. We wonder if these people have seen the firing squads or any of the miseries the Cubans are going through right this minute? Let's not be fooled.

All these acts have been denounced by many institutions in exile and by personalities such as Dr. Humberto Medrano, Dr. Roberto Ruiz Lavin and through the Pedro Luis Boitel Committee. But, Castro is still in power. Several days ago I wrote: "When the Cuban people regain their freedom once more, they will say with sadness: "We called and were not heard". Let history be the witness of the pain of my people. And let history too, be the witness of the guilty silence of those who can end these sufferings and are not doing it.

Recently, the Decolonization Committee at the United Nations declared Puerto Rico as a colony of the United States. I immediately submitted a paper to this Committee citing proof of the Russian domination in Cuba . . . and asked that Cuba be declared a Colony of the Soviet Union in the American Continent.

Silence was the answer.

Last week, two leaders of Puerto Rico's independence cause, were officially permitted to appear before this Committee. Based on the precedent established I ask for a hearing in which as a Cuban exile has the right to demonstrate before this Committee proofs of how the Soviet Union has complete hold over Cuba through Fidel Castro's treason. I am rightfully afraid that a new silence will follow, but it will not defeat us. On the contrary—it will strengthen our will power and will make us renew our efforts to keep on fighting for Cuba's liberty . . . until we die.

Liberty, like life itself . . . is made up of bundles of rights. All these rights have disappeared from Cuba under international communism.

Moral degradation, the exploitation of man by man and incompetence are many of the consequences resulting from a lack of law and the lack of liberty in Cuba. There is no habeas corpus or parental rights. Total anarchy is reflected in all corners of the Island, protecting only the minority who are in power. Cubans are subject to all the obligations and have no rights at all.

The man has been set above the law. That is why there is no nation. Our aspirations are to form a nation and a state of rights, where the law will be above men and be equal to all men . . . with equal opportunities for all, a country where the people's will and liberty are the most important rights.

Let's point out a very important detail, so there will be no doubt in anyone's mind.

We are going to achieve Cuba's liberty because the truth is on our side; because the law and the truth are our goals. But let it be known that to achieve liberty we will under no circumstances deny our principles. We will never be subject to negotiations or to co-existence, which would be degrading to those who gave their lives on behalf of Cuba's liberty.

We are direct descendants of Marti . . . but also of Ignacio Agramonte . . . and of General Maceo, who would rather die than surrender. And to negotiate . . . coexistence, is to surrender.

Surrender is for the communists.

For the Cubans: Liberty!

## PROTECT STATES' TAX RIGHTS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it is my privilege to call to the attention of our colleagues the testimony presented recently by one of Florida's most distinguished and dedicated public servants to the Senate Finance Committee's Subcommittee on State Taxation of Interstate Commerce.

The Honorable Ralph D. Turlington is eminently qualified to comment on this vital legislation by his long and brilliant service in our State legislature and by his position as chairman of the Committee on Finance and Taxation of the Florida House of Representatives. In addition he speaks as chairman of the Government Operations Task Force of the National Legislative Conference.

In his testimony, Representative Turlington makes the following points:

First. Any Federal legislation must incorporate proper safeguards to protect the States' right to tax.

Second. Jurisdictional standards need to be amended to provide a sales volume test for nexus.

Third. "Nowhere income" must be eliminated, that is, all taxable income must be subject to State taxation.

Fourth. All taxable income should be apportioned among the States on the basis of the three-factor formula.

Fifth. Dividends of all types must be part of the tax base of corporate income.

Sixth. Consolidated returns must be allowed. Section 209 of the bill is not an administratively feasible alternative to consolidation.

Seventh. Exemption registration procedure in section 304 of the bill will undermine the State's ability to enforce its sales and use tax law.

Eighth. Court of claims, as presently constituted, does not appear to be the appropriate court to try disputes arising under this bill and Public Law 86–272, as amended.

Ninth. Congress should grant its consent to the Multistate Tax Commission.

Mr. Speaker, in view of the importance of this subject and the excellence of Representative Turlington's presentation, I insert at this point the text of his statement:

The Subcommittee on State Taxation of Interstate Commerce of the Committee on Finance, September 19, 1973

Mr. Chairman and Members of the Committee:

I am Ralph D. Turlington, Chairman, Committee on Finance & Taxation of the Florida House of Representatives and Chairman, Government Operations Task Force of the National Legislative Conference. I appear here today to testify with respect to S–1245 introduced by Senator Mathias. Having been a legislator for 23 years, a former Speaker of the House and currently Chairman of Finance & Taxation Committee of the Florida House of Representatives, I feel that I am quite familiar with the issues involved in S–1245. In addition, I am currently Chairman of the Government Operations Task Force of the National Legislative Conference.

The Florida Legislature enacted a corporate income tax in a special session in November, 1971. As Chairman of the Committee on Finance & Taxation, I was the chief sponsor of this legislation. During the drafting stage and at committee hearings on this important measure, we fully considered and debated all of the issues involved in S–1245 which deal with the corporate income tax. After extensive hearings and debate, Florida decided to pursue the full apportionment route, by which all taxable income, based upon a three-factor formula of sales 50%, property 25% and payroll 25%, is apportioned among the states. Florida decided to piggyback the Internal Revenue Code using federal "taxable income" thereby including dividends received as part of the taxable income to be apportioned. Florida also decided to allow consolidated returns for affiliated groups on the same basis as the U.S. Internal Revenue Code. Florida, as you probably know, deviates from a complete piggyback of the Federal Code by taxing interest on government securities and exempting foreign income.

I believe that federal legislation setting jurisdictional guidelines and methods for the apportionment of taxable income, with proper safeguards to protect the state's right to tax, are desirable in order to achieve uniformity for state taxation. Furthermore, the federal legislation should protect the multistate business from having more than 100% of its taxable income being subjected to taxation in the various states in which it does business. In order to support federal legislation in this area, however, the states must be assured that all corporations will actually report all of their taxable income to the states. The states need a mechanism to insure that all taxable income is subject to taxation, while at the same time, corporations need assurance that not more than 100% of their income will be subject to state taxation. Federal legislation must provide for either multistate audits to be performed under the Multistate Tax Commission or provide that some federal agency, such as the Internal Revenue Service, will ensure that corporations are in fact reporting all of their taxable income for proper apportionment among the states. This will protect corporations from the unfair competition of other corporations which do not properly report their income as well as ensure the states that they are receiving all of the tax to which they are rightfully entitled.

As presently drafted S–1245 does not achieve equity for the states and, for this reason this bill may not be best vehicle. This bill restricts the states right to tax without seeking equity among the taxpayers. The jurisdictional guidelines follow essentially the concept of Public Law 86–272. But in so doing, this bill has permitted two large tax loopholes.

First, section 101 of the bill sets forth jurisdictional standards which must be satisfied before a state may impose a corporate income tax on the corporation. These jurisdictional standards focus only on the way a corporation conducts business in a state and not on the amount of business done in a state. A corporation could establish a regional office and warehouse in one state and solicit orders from surrounding states. Regardless of the amount of business derived from the surrounding states S–1245, as presently drafted, would not subject that corporation to tax in any states but the ones in which the regional office and home office are located. This emphasis on form of conducting business fails to recognize the right of a state to tax a corporation which is earning substantial amounts of income within the state.

I would propose that this section be amended to provide that a corporation with total sales volume of approximately $2,000,000 per year which derives sales in excess of approximately $300,000 per year from a state be subject to tax in that state. This would not cause any compliance problems for a truly small business since these volume figures hardly describe a small business. This volume test is valid in that a corporation doing this volume of business in a state is using the state as a market and is eligible to receive valuable state services and protection while doing business in that market. I repeat—the present draft places a premium on the form of conducting business and not on the corporations size or market effect within a state—which is not equitable to the states.

Second, S–1245 does not solve, or attempt to solve, the problem of "nowhere income" Under S–1245 all taxable income is apportioned to the various states on a sales destination basis. But, if the state to which the income is apportioned does not have sufficient nexus to tax this income then, because there is no provision for throwback rule in the bill, the income so apportioned escapes taxation. Two important concepts of taxation are:

(1) that all income of a corporation should be subject to taxation and,

(2) that all taxable income should be apportioned among the states able to impose a tax because of the nexus rules.

This can be accomplished in either of two ways. The bill should provide for either a throwback rule, or the sales factor in the bill should be amended so as to provide for the exclusion of sales in both numerator and denominator that are deemed to be made in states not having sufficient nexus to tax this corporation.

Notice, this does not mean that all income will in fact be taxed, but simply that all income will be subject to tax. This "nowhere income" really discriminates against small, intrastate business which must compete with the large, interstate business. The income of the intrastate corporation is all subject to tax, whereas, because of the way in which it conducts business, the interstate corporation may not be subject to tax in the state due to the lack of nexus. This bill, in reality, creates unfair competition in favor of the large, multistate corporations as opposed to the small, intrastate business.

Probably the most controversial area in respect to the taxation of corporate net income is in the area of the taxability of dividends. Dividends constitute a source of income from a variety of investment forms, and the problems of dividend taxation cut across industry lines in many different ways. Dividends arise principally from payments received from "controlled" (wholly-owned or partly-owned) subsidiary corporations; from foreign corporations which remit to their U.S. parent; and from pure "investment" sources, such as the dividends received by corporations investing their idle cash in corporate securities.

The federal treatment of dividends is basically dependent upon the dividend source. If a corporate taxpayer receives dividend income from a domestic (U.S.) corporation, the Internal Revenue Code grants an automatic deduction for 85% of that dividend receipt (100% if the paying and receiving corporations are members of an affiliated group).

This deduction eliminates severe double taxation at the federal level, since the dividend-paying corporation has earned income subject to U.S. tax and did not receive a deduction for its dividend payment in computing its federal taxable income.

Intertwined with the taxability of dividends is a fundamental principle of state taxation which should be explored to some extent at this juncture. Historically, states have "allocated" or assigned to one particular state 100% of certain types of income derived from corporate activities. Typically dividends, interest, rents, royalties, and capital gains were "allocated" in full to the state of "commercial domicile" of a corporation. What this simply means is that the dividend income received by a corporate taxpayer would be "allocated" by almost every state in which it does business so as not to be taxable in those states, while being subject to tax in full in the one place where it has its commercial domicile. Of course the state of commercial domicile could, and in many cases does, choose not to tax dividend income at all. As a result, if all states "allocated," no dividend income received by such a corporation would be taxed anywhere.

In contrast to the "allocation" of certain items of income (the most significant of which is dividend income), the balance of operating income derived by corporations doing business in more than one state is typically "apportioned." That is, dividends are apportioned among the states in which the business is conducted. The methods of apportionment vary, but a three-factor formula based on payroll, property and sales is the method most widely accepted.

The Florida Corporate Income Tax Code does not attempt to allocate any items of income to the commercial domicile of a corporate taxpayer. It endeavors to apportion 100% of corporate net income, from whatever source derived, and to attribute to Florida its apportionable share of all of that net income. This method of state taxation is sometimes called "the new Massachusetts approach," since that state recently changed from the allocation/apportionment method to 100% apportionment.

When business representatives discuss the dividend question they tend to operate in the frame of reference with which they are familiar in most other states—namely, that dividend income is "allocated" to a particular jurisdiction rather than being subject to tax in a multiplicity of places. This historical practice has, I think, tended to result in an allocation of certain types of income to a very few states where commercial domicile is concentrated. New York, California, and Illinois are the major commercial domicile states.

Obviously under "allocation" procedures, corporate taxpayers need only convince one legislature—the legislature in their commercial domicile—that dividend income should not be subjected to taxation. Thus, one finds that some commercial domicile states exempt, in fact, all or a major portion of the dividend income received by their corporate taxpayers.

The arguments against taxing dividends are persuasive. Dividends constitute the one type of corporate income which does not have a corollary deduction for the paying corporation. So there is a definite potentiality for double taxation in the federal tax scheme. As previously indicated, however, Congress alleviated double taxation at the federal level.

On the other hand the subcommittee should be aware that there are reasons why dividend income from various sources should not all be treated alike. Dividends from foreign, corporate activities might well be excluded from taxable income in the states on the grounds that they should not extend their tax base to the international operations of the corporate community. Similarly, a case can be made from excluding from income dividends which are received from "controlled" corporate affiliates—such as those which are 100%-owned or 80%-owned—on the ground that these corporate entities are merely an extension or "branch" of the parent, and not a suitable subject for double taxation. (An elimination of dividends within a controlled group can also be achieved through the filing of consolidated returns.)

A less persuasive case can be made for excluding dividends which are received from ordinary investment activities since dividends received from this source enter into the general operation, finances, and activities of corporate taxpayers to the same extent as their other operating receipts.

Opponents of dividend taxation suggest that dividends should be taxed to no greater extent by the states than by the federal government. This essentially means that all foreign dividends, and at least 80% of all dividends received from domestic corporations, would be removed from the state tax base. As to the latter it is well to consider the probably rationale for the federal tax policy, which I believe is a rationale for the federal tax policy, which I believe is a reluctance to tax the same income twice. It does not follow from this reasoning, however, that the states should be forced to adopt the federal tax treatment. It is not true that income received by corporate taxpayers in a state, or even income apportioned to a state from out-of-state corporate entities, would have been taxed first by that state at the subsidiary level. It would be coincidental if that were, in fact, the case. And although the operating income of the subsidiary may have been taxed by another state, that in itself does not provide a reason for the states to relinquish taxability of the parent if it is a corporation doing business in the state.

S-1245, therefore, should be amended to allow full taxation of income from whatever source, including dividends, with full apportionment among the states having nexus. There is no reason for a holding company to escape taxation as it performs very valuable management services which create income in the subsidiary. They also receive the services and protection of commercial domicile in the state. Most of the dividend income problems can be solved by allowing consolidated returns. And S-1245 should so provide.

The provision of S-1245 as contained in Section 209 is not workable at the state level and is thus not a substitute for the consolidation question. The provision is akin to Section 482 of the Internal Revenue Code which even the Internal Revenue Service has great difficulty in utilizing. The states just do not have the administrative expertise to enforce this type of provision.

Apportionment of taxable income should be based upon the well accepted three-factor formula. However, the apportionment formula should be applied to all taxable income, including dividends. If the nexus standards continue to allow for taxable income to be apportioned to states without the right to tax such income—then, as previously stated, the apportionment formula must be revised to provide for either a throwback rule or, in the alternative, deletion from the numerator and the denominator of the sales factor of sales made in these states. The "distinction concept", determining where a sale is located, is workable. But, without these changes in the sales factor the bill cannot achieve accountability of all income for taxation.

In the area of sales and use taxes S-1245 purports to codify existing jurisdictional standards arrived at through court decisions. This codification is nullified somewhat by section 101(4) which relieves the seller, with no business situs within the state, from collecting or paying the sales or use tax if he obtains a registration number (section 304) from the purchaser. This would seem to open the door to relieving solicitation-only, out of state sellers, from collecting use tax from in-state, non-retail buyers, and thereby undermining the state use tax system with tremendous tax losses.

Also, removing the acceptance of this exemption certificate by the out-of-state seller "in good faith" can be very disastrous to the administration of these taxes. This good faith requirement has long been a major tool for protecting the state against an out-of-state seller accepting a resale certificate with respect to sales of items which he knows, or should have known, were not purchased for resale. The difficulties of audit which would be created by this exemption certificate provision as now contained in S-1245 are staggering to contemplate. This provision must be changed to coincide with existing state laws.

Section 401 of S-1245 would grant jurisdiction to review *de novo* any issues relating to a dispute arising under this act or under Public Law 86-272, as amended. This implies to me that by enacting this section, Congress would be saying that state courts are not competent to arrive at just results. If this the intent of Congress I cannot accept it. It is insulting to the states. I am not persuaded that there is a need for a federal court for this purpose.

I would also request that this subcommittee support the Multistate Tax Commission. The Commission represents the cooperative effort of twenty-one (21) member states and fifteen (15) associate member states, working together to resolve the problems of state taxation. The Commission has recently made great progress in trying to arrive at uniformity of state action in this area. In order to achieve this highly desirable uniformity of taxation and efficiency of tax administration, the states need the continued benefits that flow from the joint and cooperative efforts that this Commission has encouraged and achieved. The states need the Commission to conduct legally cooperative audits for the states so as to protect the honest taxpayers who are properly reporting all of their income, as opposed to the other taxpayers who are attempting to slip some of their income between the cracks. Continued success of the Commission may well depend upon the encouragement of the Congress through congressional consent to its activities.

Thank you for the opportunity you have granted to me to be heard on this very important tax measure.

## PAKISTAN'S PRIME MINISTER IS WELCOME HERE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, America should extend a warm welcome to Pakistan's Prime Minister Zulfikar Ali Bhutto. His visit is a reaffirmation of the longstanding tradition of friendship between Pakistan and the United States. Pakistan has been making positive progress toward economic stability after a shattering series of incidents which would have been disastrous to any but a people determined to maintain their identity as a stable, cohesive country. There has been the very difficult aftermath of a disastrous war in which India joined in the dismemberment of the country. The long and difficult problem of obtaining release of 93,000 Pakistani prisoners of war, including women and children, produced additional serious problems. Now apparently that has been resolved and there are other hopeful signs of a more cooperative relationship between Pakistan, India, and Bangladesh. Recent disastrous floods in Pakistan have complicated that country's problems.

There will be a need for understanding and assistance on the part of the United States, particularly for economic assistance for emergency food supplies and credits for use in rebuilding the country's productive capacity. Mr. Bhutto has turned Pakistan in the direction of parliamentary democracy and is prepared to play an important part in the security of South Asia and the Middle East. In these matters his government and his country deserve encouragement and support from the Western powers. It should be remembered that Pakistan has been a warm and steadfast friend to the United States for many years. Now Pakistan needs evidence that this friendship is reciprocated.

## WHY SIHANOUK?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it may be purely accidental or it may be careful planning, but whatever the reason, we see and hear altogether too much of Sihanouk on American television programs. Why Sihanouk? He is a deposed ruler who was hostile to the United States when in office and who can be expected to continue that hostility if he is returned to power. Why do we not see Lon Nol or members of his government? Theirs has been a government friendly to the United States. Cambodia is fighting for its life against Communist forces backed, supplied, and advised by the North Vietnamese, and Sihanouk has no plans for coalition or compromise with the members of the present Government of Cambodia. Communists execute those whom they defeat.

Sihanouk has been called a neutralist, apparently to improve his image in the United States. It was Sihanouk who refused to continue relations with the United States, who opened the Port of Sihanoukville to full use by the Communists, with a short supply route across his country for Communist supplies for their forces in South Vietnam. That is a strange kind of neutrality.

It would be preferable if we could see friends of the United States and of democracy instead of enemies on the Nation's networks.

## PRESIDENT URGED TO RECONSIDER PRINCIPLES AND STANDARDS ANNOUNCED BY WATER RESOURCES COUNCIL

(Mr. JOHNSON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. JOHNSON of California. Mr. Speaker, in the Federal Register for Monday, September 10, 1973, there appeared an announcement by the Water Resources Council of the establishment and adoption of principles and standards for the analysis of water resource development projects, to become effective on October 25, 1973. These are criteria by which all Federal and federally assisted water and related land resource programs are to be examined to determine whether or not they warrant the support of the executive branch of our Government. The authority to promulgate rules of this character was contained in the Water Resources Planning Act of 1965; a statute designed to clarify and standardize the role of the Federal Government in water development and otherwise assure a viable continuing program.

The principles and standards have been under consideration for more than 4 years. They were initially developed by a task force of career individuals at the agency level. A number of interim releases have been made, public hearings have been conducted and most interested persons have had an opportunity to review and comment about them. The principles are represented by the administration as a progressive step in public policy, designed to assure that more beneficial and justifiable water programs will result in the future and that the relatively few excesses and mistakes that have happened in the past will not be repeated.

There is no question that the administration's stated objective is a commendable one. The Congress and Executive, alike, have no higher responsibility than constantly to survey our institutions and procedures in the interest of assuring their applicability in times of change. The question, Mr. Speaker, is whether the new principles and standards will, indeed, accomplish change for the better or the worse. While I concede that sincere people may differ with my appraisal, I cannot escape the conviction that the adminstration's adoption of the new principles and standards represents a step in the wrong direction. It is wrong because it is virtually certain to limit and constrict badly needed economic development over the long haul and will probably stop it completely for the length of time required to install and perfect the new concepts.

There are three aspects of the principles and standards that give me serious concern. The first and most immediate problem is the sheer complexity of the new analytical system. The statement in the Federal Register extends to more than 165 pages of text and illustrations of highly technical economic discussion. In addition, the procedures for implementing the principles and standards are yet to be developed by the action program agencies. It occurs to me that months, if not years, will be required to develop the implementing procedures and standardize them among the affected programs before the operating offices of the several departments can be given the green light to proceed under the new system.

There is an allied question concerning the extent to which completed work must be revised. The standards suggest that authorized programs are subject to reanalysis and that portions of projects already under construction may be subjected to further study under the new ground rules and guidelines. As a minimum, there can be no doubt that the standards and principles, in their total scope, afford the authority to an administrator to selectively delay any proposal almost indefinitely, without regard to its economic and financial merits or its level of public support.

On a more detailed level there are two aspects of the principles that have the very likely effect of limiting justification. The most visible of these is the adoption of a new formula for determining the discount rate for benefit-cost evaluation. In this connection, I quote in its entirety the section of the principles having to do with discount rates.

> The discount rate will be established in accordance with the concept that the Government's investment decisions are related to the cost of Federal borrowing.

Of all the input factors that influence justification, the most crucial is the rate selected for discounting benefits. Considering this to be the case, it is surprising to note that 23 words out of a statement extending to 167 pages have been devoted to this topic. Examining the above words closely, it seems clear that the statement could hardly be less precise. Compared to previously prevailing criteria, the adopted language may be interpreted administratively to suit the predisposition of any person's point of view.

Representatives of the executive branch have stated that the current rate deriving from the new formula will be 6⅞ percent. I am not at all certain how this amount has been derived, what borrowings it purports to include or who made the computations. Surely, the authors of the principles and standards could tell us a little more about this than they have seen fit to do. So far as the outside observer can tell, the executive branch has adopted a discount rate formula that will enable its analysts to select any percentage that it cares to choose.

On the philosophical level, I am greatly concerned that the Water Resources Council has seen fit to override its task force and eliminate considerations of regional development and the well-being of people from the array of objectives it seeks to accomplish through water and related land resource development. The reliance on national economic development effects as the only affirmative justification for public investment puts public decisionmaking in the same basis as is used by profitmaking free enterprise. I believe in the free enterprise system but hasten to add, there are many worthwhile things to be accomplished in the public interest that cannot and will not be undertaken by private capital. This is the role of Government; to do those things that private enterprise cannot afford to do or cannot take the risk to accomplish. Very early in my congressional career, this creed was publicly announced by the late President Eisenhower who said that he was borrowing this bit of philosophy from President Lincoln. In between these forward-looking leaders, the same principles governed Theodore Roosevelt to bring the Federal reclamation program into being—and Herbert Hoover to support the Boulder Canyon project, the major structure of which now bears his name.

Had these predecessors of our present brand of republicanism subscribed to the notion that public decisionmaking must conform to the rules of private enterprise, most of our Western development from the transcontinental railroad system, to the great benefit producing water and power systems, of the arid West, would never have happened or, at best, would have been long delayed.

Mr. Speaker, in this era of changing values and problems, America cannot afford to tie its own hands, to limit its ability to foster economic growth through development—and to turn its back on its potential for improving the standard of living of its citizens. I fear this to be the effect of these ill-conceived principles and standards and urge the President to reconsider them in the interest of not only the West, but of all society.

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## MHD—A REALISTIC CONTRIBUTION

(Mr. HANNA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANNA. Mr. Speaker, the public visibility of the energy crisis in its most symptomatic expressions seems to increase with each new issue of the weekly news magazines. While public awareness is to be applauded, it is unfortunate that the public dialog rarely gets below the level of gasoline prices or current supply of heating oil. In this atmosphere our constituents rightly ask: "What is being done about it?" The facts are that research and development on energy is advancing on many fronts. Both public and private funds are advancing knowledge in nuclear, solar, and geothermal energy.

I wish, at this time Mr. Speaker, to call to the attention of my colleagues in the House some new developments in MHD—Magnetohydrodynamic—energy production. This process is under development both in the United States and the Soviet Union. The following is a report prepared by Lionel D. Edie & Co., an economics consulting firm, with the assistance of Chemalloy Minerals, Ltd., Avco Everett Research Laboratory, Inc., and the Avco MHD Steering Committee. The committee members are:

W. M. Irving, chairman, Boston Edison Co.

Dr. R. A. Bell, Consolidated Edison Co. of New York, Inc.

Dr. L. Weiss, Consolidated Edison Co. of New York, Inc.

R. H. Meyer, Northwest Utilities Service Co.

C. G. Parker, New England Gas & Electric Association, Cape & Vineyard Electric Co.

C. A. Powell, Baltimore Gas & Electric Co.

Dr. R. J. Rosa, Avco Everett Research Laboratory, Inc.

J. H. Salomon, United Illuminating Co.

John Endres, EPRI—EEI.

Dr. Harold Lurie, New England Electric System.

The material follows:

### MHD—A REALISTIC CONTRIBUTION TO SOLVING THE ENERGY CRISIS

Gas rationing, service and plant shutdowns, expensive conversions from natural gas to low-sulfur oil, and rising energy costs constitute the price the American consumer pays for the shortsighted policies of the past that have brought about the present so-called energy crisis. In addition, increasing US dependence on Mid East oil exports has caused the economic power of Arab states to also increase—this Arab power can and recently has been used to speculate against the dollar and contribute to international currency disruptions.

The energy crisis is really a planning crisis—a human phenomenon and not a nasty act of nature. The requirement, therefore, is circumspect planning—setting of national goals that can blend the economic, political and environmental pressures into a balanced program of growth for the US.

#### FACTS

1. The worldwide demand for fuel increases rapidly—threatening to exhaust our known and anticipated reserves.

2. Time is not on our side. Billions of years are needed to regenerate our basic oil, coal, and natural gas resources. Given present consumption levels, the oil supply will run out in 20 years; our natural gas will be used up in 30 years; while coal's life span has been estimated at 400 years worldwide if the population and per capita energy consumption were to double in that time, or 200–300 years if coal is used to synthesize oil and gas.

The message is clear. We must supplement our domestic oil supply and speed up the use of coal.

We are burning the candle at both ends. Strict environmental standards in the US increase fuel consumption, further reduce the supply by excluding high-sulfur fuels as unacceptable, and thereby force electric utilities, industry, motor vehicle owners, and homeowners to scramble for the remaining limited supply. This trend will spread worldwide. With coal use and production in a downslide, and with natural gas restricted to home heating use, electric utilities and industry find themselves increasingly dependent on oil. This reshuffling has upset normal supply-demand balances.

#### RELIEF

Two corrective measures are needed: conservation of resources and greater conversion efficiency—and a well-directed, well-coordinated national program for developing and using our resources in an efficient manner. The President has pointed the way by appointing a coordinator and single energy authority who will report to him.

#### COAL AND MHD

It is common knowledge that the vast coal resources can provide a solution to our energy crisis. The conclusion is that "only coal, the giant fossil fuel, can be considered a substitute for oil or gas." New coal technology emanating from this precept focuses on four processes: coal gasification; coal liquefaction, coal hydrogenation; and direct conversion of coal into electric power—MHD.

What is MHD?

MHD (magnetohydrodynamics) is an aerodynamic method of converting fuel directly and efficiently to electricity by the interaction of a flowing ionized gas with a magnetic field. Fuel is burned to produce the ionized gas, which acts as a conductor of electricity as it passes through a channel in a magnetic field. This interaction induces a current in the gas; the current is gathered by electrodes through the channel walls. The heat may come from any fuel—fossil or nuclear. We are interested in the use of coal for MHD. Combustion gas from burning coal must be heated to the plasma state—temperatures of 2000–2500° C, the temperature of rocket engine exhaust gas—and seeded with potassium and/or cesium to increase electrical conductivity for the conversion process. The Bureau of Mines has established that the most efficient and least expensive seeding is with a combination of 85% potassium and 15% cesium. Using the hot gas stream directly as a generating unit simplifies the process of converting heat energy to electrical energy. After the MHD conversion process the gas is still hot enough to operate a waste heat boiler and a convention steam turbine "bottom" plant, to generate even more electricity.

MHD is the only process capable of the very high operating temperature needed to improve energy conversion efficiency. Since the MHD conversion process incorporates neither prime moving parts nor centrifugal field, the MHD generator can operate with water cooled walls at extremely high temperature. This leads to efficiency. Conventional steam turbine plants, fired with fossil fuel, have about reached the theoretical 40% conversion efficiency limit imposed by the relatively low feasible operating temperature of the steam turbine. Nuclear fueled plants are less efficient—about 33%—due to the limit on temperatures attainable in nuclear reactors. Gas turbine plants, with a steam "bottom" plant absorbing the waste heat in the gas turbine exhaust, have conversion efficiency in the 40–45% range. "First generation" MHD plants, with design based upon MHD technology already well understood, will have a 50–55% conversion efficiency, and an increase to 60% appears possible after further development of MHD. Some of the materials and the high-temperature technology needed for MHD have already been made available by the US high-heat space technology.

The Economics of MHD:

The two-stage nature of electricity generation in the MHD process increases the efficiency—and holds down the cost—of coal conversion; in addition, the ability to recover up to 99.5% of the potassium-cesium seed not only makes the economics of MHD competitive with existing conventional coal-powered utility plants but also gives it an economic advantage over other processes for using coal and over other methods of generating electricity. Cost studies conducted by the Bureau of Mines Research Center in Pittsburgh indicate the following:

*Power source and capital costs per kilowatt*

Conventional Coal: $280 (includes $55 per KW for a stack scrubber).

Nuclear: $500 (includes $15 per KW for cooling).

MHD: $250.

While the breeder reactor is still years away, its cost is estimated at several times that of the nuclear plant.

Operating costs tabulated for 1970 show a similar advantage. While conventional plant costs are approximately 10 mills per KWH, MHD is a little lower (9.1 mills) and nuclear is higher (11.5 mills). Savings can also be calculated from the higher efficiency of MHD plants. A 1500 megawatt conventional plant consumes 3.5–4 million tons of coal. Assuming MHD's efficiency at 52%, coal use should drop 23% for a saving of 800,000 tons of coal per year. At $8 per ton, the annual savings for a 1500 megawatt plant would be $6.4 million. As efficiency grows to 60%, coal could reach 33%, or $9.2 million per year for a single 1500 megawatt plant.

There are other factors. The NOx in the MHD process can be converted into nitrate fertilizer; high-temperature combustion chemistry can offer many other possibilities for by-product and auxiliary use.

Thus the economics justify further funding, emphasis and support for MHD by all sectors—government, utilities, coal producers, and other suppliers to the utility industry.

Why MHD?

Electric power is most convenient. It is safe, clean at the point of use, and required everywhere. Generation depends largely on the use of coal, oil and gas. Coal was the major fuel until the recent advent of environmental strictures; oil and gas are now used in larger volumes and in 1973 nuclear power beagn to appear in significant quantities. Federal Power Commission forecasts (below) indicate that by 1990—when power demand will be four times that of 1970—47% of the electric power generated will use fossil fuels, including coal, oil, and gas, while nuclear power will account for about 53%.

PERCENT DISTRIBUTION OF FUEL SOURCE FOR ELECTRIC POWER GENERATION

| | 1960 | 1970 | 1980 | 1990 |
|---|---|---|---|---|
| Coal | 68 | 54 | 41 | 30 |
| Natural gas | 24 | 29 | 14 | 8 |
| Oil | 8 | 15 | 14 | 9 |
| Nuclear | | 2 | 31 | 53 |

It is risky to rely on nuclear power for more than half the requirement for 1990. Nuclear plants keeps running into trouble, which can persistently disrupt our electric power supply. Site location, development of fast breeder reactors to assure nuclear fuel supply, safe handling of radioactive wastes, and reduction of thermal pollution must be achieved before we can count on the above projections of nuclear fuel use. We need some "insurance"—in alternative and supplementary processes—such as MHD.

While the FPC forecasts less reliance on fossil fuels than on nuclear as a percent of total (under the unlikely assumption that nuclear plants can be completed on schedule) the fossil fuel requirement will, nonetheless, double in volume. In addition, electric utilities will have to think about maintaining the capacity represented by their existing fossil fuel plants.

Moreover, increased fuel conversion efficiency becomes a major goal for the US as well as for the rest of the world. The anticipated expenditure of $500–$750 million for MHD will not only provide insurance; it also will:

Permit the US to use its abundant coal efficiently. Because of the two stage nature of MHD power generation, conversion can be increased from the present 40% ceiling in conventional fossil fuel plants to 50–55% in the first generation MHD plants, to 60–65% in a second generation plant.

Permit the use of high-sulfur coal as its basic feed; coal with a sulfur content of 4% is usable in this process with minimal air pollution.

Reduce sulfur dioxide ($SO_2$) emissions to practically zero (5 parts per million).

Reduce emissions of nitrogen oxides (NOx) to 0.1%—well within EPA standards of 0.7% for future coal-fired plants.

Reduce thermal pollution to one-half or one-third that of present fossil-fuel power plants. Even this level of thermal pollution could be virtually eliminated by combining an MHD generator with a supplemental gas turbine. This combination would have no steam condenser, and would thus obviate the need for cooling water, except for the channel.

We have the opportunity to exploit the most significant improvement in energy conversion technology since the 1896 invention of the steam turbine. It will enable us to use dirty coal without fouling up the air. It will mean a 30–50% reduction in coal needed per KWH of electricity. It will relieve the need for burning scarce oil and gas to generate electricity. Depending on acceptance by the Electric Utilities, substantial savings in fuel costs can begin by 1985, and grow to $6 billion by 2000. Savings in petroleum imports by 2000 can be an impressive $20 billion.

### TIME AND MONEY

Unfortunately, there is no immediate cure-all—any of the proposed solutions would take time and money. Coal gasification has captured the American imagination—funding for both R&D and a pilot plant has been provided by government and industry. But MHD, the most efficient way to convert fuel energy into electric power production, has been relatively neglected and has limped along with dribbling support. The reason is that popular opinion has pegged MHD as "far off and way out." This is a surprising attitude for a country that has learned to make things happen.

While the US has made the most of only $5 million allocated to MHD in fiscal 1973 from combined government and industry sources—Russia has built and started up a pilot plant designed to deliver 25 megawatts of power to the Moscow grid. The motivating factor for the Russians is not a dwindling fuel supply; rather, it is the desire to increase conversion efficiency. For the Russians, MHD is the answer. Their pilot plant is the prelude to 1000 megawatt plants that can pour forth power for the growing need. The US has agreed to cooperate with the Russians; but our need is more immediate than theirs, and our funding is a small fraction of theirs. We should begin our own pilot plant immediately.

While the Russians proceed with an enthusiastic approach to a well-thought-out program with promise of prompt results, our technology and performance in MHD keep falling behind—due to lack of substantive support from the government and industry. We are ready to start a 60 megawatt pilot plant, but Congress drags its feet on the necessary appropriations.

A plan:

A program, presented to the Senate Appropriations Committee, shows how an expenditure of $533 million can result in a fully operational commercial size (1000 megawatt) plant in 1983, with construction started in 1980. The table below was derived from the testimony presented in May 1973, to the Subcommittee on Department of Interior and Related Agencies, Committee on Appropriations, United States Senate.

SUMMARY OF MHD DEVELOPMENT COST PLAN[1]

[Millions of dollars]

| Fiscal years[2] | 1973 | 1974–77 | 1978–80 | 1981–83 | Total |
|---|---|---|---|---|---|
| Research and development | $3 | $31 | $20 | $17 | |
| Pilot plant | | 94 | 43 | 8 | |
| Commercial plant | | 1 | 38 | 278 | |
| Total | 3 | 126 | 101 | 303 | $533 |

[1] 1973 dollars.

[2] Year ended June 30.

This MHD development program can be broken down into three phases:

Phase I: Phase I encompasses R&D over the next five years. Outlays now at $3 million should be scaled up to $8 million a year to permit thousands of hours for testing the life of components and for experimenting with various combinations of components. After that R&D outlays can be reduced.

Phase II: This phase, beginning in 1974, and overlapping Phase I, will involve the design and site selection for a pilot plant similar to the Russian U–25, but with the capability of delivering 60 megawatts. This should prove that the system as a whole can work and would permit the selection of the best combination of components resulting from the R&D in Phase I.

Phase III: The construction of a 1000 megawatt plant—that can deliver electricity at low cost and high efficiency—can begin in 1978 with full operational capability by 1983.

Speeding up the Plan: The technology of MHD is old (13 years) and proven. Fifty scientists and engineers in about fifteen US institutions have shown that the components work in a laboratory situation. Russia, Japan, and Germany have availed themselves of our technology and have been using it in their own program. Development work should not require much more money. Therefore, it is reasonable to expect that an acceleration of the above program could further help us to bring the MHD process into useful engineering reality—within a more positive—and more suitable—time frame. If the proposed total outlay of $533 million were to be spread evenly over 8–10 years, a large scale plant should be in use by 1980–81, thus lopping off two years. This would mean an annual expenditure of $53 million—about 2% of the AEC's annual budget. Furthermore, MHD veterans indicate that the time could be shortened by two more years—by beginning Phase III earlier—for two reasons. First, the Russian experience with the U–25 should speed up our time table for evolving a commercial process. Second, MHD can be sited with some existing coal-fired steam plants—where coal supply and network connections are already available. An increase to $750 million total should accomplish this.

The initial thrust must come from US government appropriations, with private industry making significant contributions at later stages of proven development. Alert manufacturers are likely to make proprietary contributions to the technology: as these occur, the private firms are likely to fund the development necessary to protect their contributions. Individual utility companies—or groups of companies—can be expected to aid in the funding of pilot plants which will serve their customers. This has generally been the pattern of funding energy conversion, as in the development of nuclear power generation and methods of coal gasification and liquefaction.

Now is the time—to accelerate our own work, take full advantage of the experience the Russians are ready to share with us, and get the earliest possible reward—from this important advance in energy conversion technology.

Mr. Speaker, a unique and recent contribution in the American research on MHD was made by Aveco. Their research has shown that seeding the hot gas plasma with cesium allows for two advantages. First, it increases the conductivity in the chamber which lies in the heart of the magnet. Second, it is recoverable and recyclable. In both respects cesium improves efficiency. It should be noted that Chemalloy of Canada has discovered large deposits of cesium and can provide this element at reasonable prices.

This past July, Mr. Speaker, the Science and Astronautics Committee's Subcommittee on International Cooperation in Science and Space went to Moscow and, among other things, saw the Soviet MHD research facility and talked with their researchers. I would like at this time to insert in the Record the subcommittee's report on that aspect of the trip. I am confident that it will reinforce the urgency of pursuing MHD in the manner suggested by the Avco/Edie report:

Moscow, Russia

Our delegation visited the Magnetohydrodynamic (MHD) Pilot Plant, designated U–25 which is located on the outskirts of Moscow. We were greeted by the Plant Manager, Professor A. D. Sheyndlin, Director of the Institute for High Temperatures, USSR Academy of Sciences. The meeting with Professor Sheyndlin and his staff lasted approximately two hours.

Professor Sheyndlin opened the meeting by stating that the Institute for High Temperatures, which he referred to as the "MHD Institute," was established in 1961; it is, therefore, the youngest institute of the USSR Academy of Sciences. He indicated that the Institute traces its origins to the introduction, during the previous decade, of nuclear and rocket research and development. These efforts had generated many technical problems, the solution to some of which had a bearing upon energy conversion, and therefore led naturally to the development of the MHD technique of power generation.

In 1961, the feasibility of the MHD technique was demonstrated from a theoretical standpoint, and a decision was made to undertake a research and development program covering many years. The main stages of that program were described as follows: During the years 1961 and 1962, the main effort was in "physical research." In 1963 and 1964, the first pilot plant, designated U–02, was built on the site of an old electric power generating plant in the heart of Moscow, not far from the Kremlin. In 1965, the U–02 plant began operation, and has been operating continuously since that time. According to Professor Sheyndlin, the U–02 plant had been designed to generate a maximum of 2000 kilowatts of electrical energy, and has provided good experimental data, up to that range, during the past eight years.

Professor Sheyndlin stated that the U–02 plant has performed for more than 15,000 hours; that the air heater has achieved temperatures up to 2,000 degrees centigrade; and that the MHD channel, the heart of the system, has operated for approximately 300 hours. He also stated that an appropriate method has been developed for conversion of DC current produced in the MHD channel into AC current which is utilized in the commercial Moscow network.

The fourth stage of the Research and Development program involved the construction of the U–25 plant in the outskirts of Moscow. Design of this plant was begun in 1964, construction was undertaken in 1966, and the facility was completed in March of 1971.

The initial phase of operation of the U–25 pilot plant was accomplished some two months ago, in May of 1973. During the preceding two-year period, the U–25 plant achieved power generation in the 4,500 kilowatt range for periods of one to three hours of operation. The power thus generated has also been utilized in the system which supplies electricity to Moscow.

The second phase of operation of the U–25 plant is expected to be completed in 1975, and the target is to achieve power output in the 25,000 kilowatt range.

During the period 1973–1975, the MHD Institute will undertake the fifth stage in the program, the design of a huge MHD power station capable of producing approximately one megawatt of electrical energy. Assuming the experimental work projected for the U–25 plant through 1975 satisfactorily resolves existing technical problems, construction of the huge powerplant will be undertaken in 1975 or 1976 with a completion date between 1982 and 1984.

Professor Sheyndlin stated that construction of the huge MHD power plant will be very expensive, and that it will not be easy to acquire the necessary resources for several reasons. To begin with, during the next decade large-scale investments will have to be made in conventional and nuclear energy generating systems, so that there will be competition for limited resources. Furthermore, there is always resistance to innovations such as MHD, especially innovations that have not been fully proven. Therefore, it is essential for the U–25 plant to demonstrate the real advantages of the MHD technique, and to solve all remaining technical problems.

Accordingly, the program has progressed in careful, well thought-out steps. Since there are risks involved, Professor Sheyndlin's staff is undertaking only the preliminary design of the huge MHD power plant, a relatively inexpensive first step; actual construction must await the successful completion of the U–25 experiments. He stated that while he hopes the program will not lose momentum, he acknowledged that there are a number of technical uncertainties and engineering problems that must be solved before the enormous investment in the one megawatt plant can be justified.

Professor Sheyndlin then launched into an explanation of the MHD technique. He stated that the MHD method involves burning a fossil fuel with enriched air (about 40 percent oxygen), raising the temperature to as high as 2,600 degrees centigrade in a rocket-type high-pressure combination chamber, and seeding the resulting gas plasma with potassium carbonate ($K_2CO_3$) which promotes the ionization of the plasma.

This extremely hot ionized plasma is then expanded through a channel which is surrounded by a large electromagnet. The passage of the plasma through the magnetic lines has an effect similar to the crossing of magnetic lines by copper wires in a conventional generator. The electrical current that is produced thereby is bled off by electrodes that are fixed to the inside walls of the channel. There are fifty such pairs of electrodes in the U–25 MHD channel, and each pair of electrodes is connected to "invertors" used to convert the current from DC to AC.

Once through the MHD channel, the hot exhaust is used to generate steam in a boiler which runs a conventional turbine. Thus, electrical emergy is generated at two points in the U–25 plant, first in the MHD channel, and then by the conventional steam turbine.

Professor Sheyndlin stated that it is now possible to achieve approximately 40 percent operating efficiency in a conventional power plant, but when a MHD facility is operated in conjunction with a conventional plant during peak periods, the combined efficiency is in the neighborhood of 55 percent. The use of an MHD facility eliminates the need for the gas turbines which are now typically used in conjunction with conventional steam turbine plants during peak operation. Since gas turbines are only 20–25 percent efficient, the overall efficiency of a typical plant during peak operation is reduced, while the use of the MHD technique has the opposite effect.

Naturally, there are certain disadvantages to the MHD type facility. Professor Sheyndlin pointed out that construction costs are somewhat higher than for the conventional power generation plant. The capital investment required for a conventional plant in the Soviet Union runs between 120 to 130 rubles per kilowatt of capacity, whereas the construction costs of an MHD plant are estimated to be from 130 to 140 rubles per kilowatt. On the other hand, the greater efficiency of the MHD technique more than makes up the difference, and the cost of power from an operational MHD plant would be about 10 percent less than a conventional plant according to Professor Sheyndlin.

Professor Sheyndlin stated that fuel costs present something of a problem in the Soviet Union. He indicated that his nation is blessed with plenty of oil, gas, and coal. He explained that any fossil fuel can be used in an MHD power generation plant. He believes that all three should be used at various locations since the cost of fuel in the Soviet Union varies widely depending upon the proximity of the source.

He stated that Soviet government policy presumes the use of fossil fuels for energy for many years, until perhaps the year 2000 A.D. Following that, it is expected that nuclear power plants will predominate, and especially in those regions where fossil fuels are especially expensive because of high transportation costs.

He noted that one of the main reasons nuclear power generation plants are unlikely to be widely used in the U.S.S.R. in the foreseeable future is that construction costs are very high, approximately twice as much as construction costs for conventional power plants.

Professor Sheyndlin estimates that the Soviet Union is from three to five years ahead of the United States in experimentation with MHD. He stated, however, that the United States could catch up rather quickly if it were willing to spend sufficient money to do so. He indicated that although the Soviets are ahead of the United States, he would nevertheless urge a cooperative effort because the solution to several difficult engineering problems will, in his opinion, be achieved much more quickly if both the United States and the Soviet Union work on them simultaneously. He mentioned that some small-scale MHD research had already been done in the United States by AVCO Corporation, Stanford Research Institute, and MIT, among others.

Among the basic technical problems are: first, construction of long-duration MHD channels that can withstand the intense heat generated in the combustion chamber. Temperatures are so elevated that the state of the art in materials and structures evidently must be advanced. Second, MHD combustion has been carried on only for relatively short periods; combustion chambers must be demonstrated for extended periods and in combination with the MHD channel. Third, the entire system must be demonstrated for extended periods.

Research and development must also be undertaken to improve the electrodes that line the inside walls of the MHD channel. Thus far, experiments have been conducted with three types of electrodes. The first called cold electrodes, are made of copper and are water cooled. The problem here is that by cooling the electrodes, the plasma which passes through the channel is also cooled and, therefore, the efficiency of the whole system is reduced. The second type are called warm electrodes. These are made of tungsten or certain types of ceramics, must be cooled to some extent, and have worked fairly satisfactorily for short periods. The third type, the so-called hot electrodes, must be made of some sort of advanced ceramic material that has the capability to withstand the intense heat without being cooled, and these are not yet developed. The lifetime of all types of electrodes to date has been relatively short.

It was learned that approximately 2,500 personnel are employed by the Institute for High Temperatures 1) operating the U-02 plant in the center of Moscow, 2) operating the U-25 plant in the outskirts of Moscow, 3) conducting research, and 4) designing the huge MHD plant projected for the future. Of these 2,500, more than 300 personnel are reported to be highly trained scientists and engineers.

## MIDDLE EAST POLICY

(Mr. HANNA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANNA. Mr. Speaker, the winds of change are casting a chill on our present Middle East policy, and it seems to be a propitious time to evaluate and assess where we are as to where we should be and to discuss the principles upon which any change should rest.

Thomas Jefferson, as America commenced the Revolutionary War, maintained that we were not "acting for ourselves alone, but for the whole human race." We should remember that our originally small and relatively weak Nation espoused a moral position of freedom and dignity for every individual. This stand contained such moral strength that it brought down tyrants by the very force of the idea and without the use of military intervention.

Today, as we pass the middle of a troublesome century, we have brought our military and economic power to the forefront of our actions in Europe and in Asia. We have sublimated our moral right to stand for the rights and freedom of all. The United States has approached each new crisis in the relations between nations on the basis of picking the "good guys" over the "bad guys" in an oversimplistic and unhumanistic manner that resembles a Western movie plot.

In this historic transition, we lost the active commitment to the principles that made us stand unique among nations. Our Government has been pursuing militaristic policies supporting economic aims in a manner not too different from those countries our forefathers fled and from which they sought to be freed.

In writing to Lafayette after the establishment of the new Republic, Jefferson expressed his idea of our foreign policy to his friend as follows:

> It seems to be our policy to help the situation in which nature has placed us to observe a strict neutrality, and to furnish others with these good things of subsistence which they may want.

In the Middle East, I fear we have been offending both of Jefferson's expressions relating to the basic and historic American policy. Our credibility suffers when we claim to act for the whole of the human race in a situation where we appear to be taking sides. It serves neither world peace nor our national interest to distort our moral influence by seeming to favor one faction of the human family as against another. How far from Jefferson's expressions we have moved.

By ignoring human needs and placing undue emphasis on military demand, our posture in the Middle East has heightened acrimony rather than lessened tension. It is axiomatic that when you favor militant activists on one side, you are assuring the strength and are making dominant the militant activists on the opposite side. We should now initiate a policy firmly based on a constructive and active response to providing "these good things of subsistence" which both parties in the Middle East may want. Such a policy would be consistent with our national interest and with our historic purpose. If we are willing to help solve the problems of poverty in this area and provide encouragement for rightfully held expectations, then we encourage a leadership in both Israel and in the Arab States which will be more interested in peaceful improvements than in military adventures.

There are two ancient peoples in the Middle East, the Jews and the Arabs. Both are rich in culture and heritage, and can contribute much to the human family. While we have a moral commitment to assure the integrity and continuance of the new state of Israel, this should not preclude support and encouragement for both Arabs and Jews to move in paths of peace and to formulate programs of progress. As things now stand, the Arabs have the heaviest loads of poverty, and the greatest of economic needs. An objective measurement of their plight demonstrates tremendous opportunities for the use of superior technology and financial know-how to assist those Arab leaders who are sensitive to their people's suffering—those leaders who would bend both policy and budget to increase education, to broaden communication, to improve health, and to make more productive the agriculture which would assure food for their peoples' tables. Why should our policy have the appearance of division when it could reflect the stronger moral roles of continuing to act within the family of man?

Mr. Speaker, if we are, as I believe, facing the challenge of change, then we should soberly reflect upon the warnings issued by President George Washington in his Farewell Address, in which he cautioned—

> Excessive partiality for one foreign nation and excessive dislike of another, cause those whom they actuate to see danger only on one side . . . Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

We are not suggesting that our first President's comments are entirely pertinent to our present policy in the Middle East, but the warnings of excesses are still germane. In all areas of the world, and in all of the determined uses of American influence we should resolve to present the moral posture of our country as the means and ends of our policy. Nowhere is this resolve more necessary than in our stances toward situations where nations are in conflict.

## UNWIELDY, UNBALANCED FEDERAL BUDGET FEEDS INFLATION

(Mr. YOUNG of South Carolina asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. YOUNG of South Carolina. Mr. Speaker, during the August recess all of us were made aware that inflation and the high cost of food are the No. 1 concerns of our people. An unwieldy, unbalanced Federal budget has led and fed the growth of inflation. Almost 5,000 of my constituents have responded to a questionnaire I sent to all of them last month, and 84 percent of them are so concerned about the budget that they would support a constitutional amendment requiring us to balance it each year.

I went further, and asked "How much personal inconvenience are you willing to bear to balance the—Federal—budget?" Only 10 percent said "none"; 76 percent said "some, if equally shared"; and 14 percent even said "a great deal."

My people are ready to bite the bullet. They realize that we cannot have a fiscally responsible Government unless we are willing to stop demanding that the Federal Government gratify all our worldly wants through endless giveaways. We cannot have both. The people of the Sixth Congressional District of South Carolina are both intelligent enough and mature enough to admit this. I think your people are too; it is time we all faced up to our responsibilities to them.

## THE FUEL SHORTAGE

(Mr. WALSH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WALSH. Mr. Speaker, very often when a crisis is averted, another takes its place. In working hard to prevent one disaster, another manifests itself.

This is what has indeed happened these past few months. Early this summer, everyone anticipated a severe shortage of gasoline. Every attempt was made to avert this problem and the result was a minor shortage and considerable chaos in the petroleum industry.

It was last winter that many sections of the country, especially east of the Rocky Mountains, began to experience severe supply shortages. And it was in April of this year, that the gasoline shortages developed in numerous areas and became acute in some sections.

The response to this was a voluntary allocation procedure for petroleum products. It was soon seen that this procedure, although desirable, was not the solution to the crisis at that time nor is it the proper solution now. The past shows us that certain segments of the oil industry were not going to comply with the voluntary procedures and nothing since then shows a change of heart. Under the voluntary system the Government has the power to urge compliance but not mandate or enforce.

In the period since the voluntary allocation procedure went into effect the attention of the petroleum industry has been in the direction of gasoline production. This production of gasoline has been at the expense of the heating fuel needs and demands. This will cause another and possibly a more serious crisis.

Gasoline for automobile fuel is for the individual primarily. In the heating season ahead not only is the individual threatened, but so, too, will be the total society, including institutions such as hospitals, schools, and other facilities.

A mandatory fuel allocation system will assure the public that their year-round needs will be taken care of rather than the needs that the oil companies want to take care of at the moment. This summer the oil companies had a crisis in the automobile fuel area, and this was combated at the expense of heating fuel production. If mandatory, rather than voluntary, allocations were in existence then, this system of constantly revolving crises might have been halted.

In 1972, the demand for distillate oil east of the Rockies rose at an astonishing rate of 10.2 percent. With this increase in demand it was reported that the major oil companies were working at near full operating capacity. Along with this report came reports from the independent producers that they were operating below capacity because of crude oil shortage.

There is here a seeming contradiction, but the fact is that the major producers control 80 percent of the total crude oil production. These major companies have the crude oil while the independents do not.

The independents, however, are of major importance. Along the east coast they serve 25 percent of all consumers and in certain areas these percentages are much higher. But it is these producers who do not have the fuel to sell to their customers.

In a recent survey made by the Independent Fuel Terminal Operators Association it was shown that of a total distillate fuel capacity of 14 million barrels, the associations members had on hand, as of June 1, 1973, less than 1.1 million barrels. This is compared to 3.1 million barrels at the same time in 1971 and 1972.

The independent oil producer who does business under the flag of a major producer is the one without the crude oil and is not producing to his full capacity as is the major. The major producers argue that they do not treat the independents unfairly but at least 1,000 of them have been permanently forced out of business. Many of the independents contend that not to follow the ideas of the majors on pricing, profits, service and company promotions is unwise.

Last year the American Petroleum Institute was running an advertising campaign with the slogan of: "A Nation That Runs on Oil Cannot Afford To Run Short." At the same time the oil producers were operating at 85 percent capacity.

Mr. Speaker, I am today introducing legislation designed to foreclose the possibility of a major heating oil shortage this winter and to prevent many of the independents from being forced out of business.

Voluntary programs are not working. If we do not act in the next 2 or 3 weeks, a major crisis may be forced upon us. The weather is turning cold in many parts of the country and soon people will be turning to the oil furnace to heat their homes.

In 1970 while serving as a member of the New York State Public Service Commission, that commission adopted mandatory restrictions on the use of natural gas and at that time issued repeated warnings about an impending electrical and oil shortage. Unfortunately, no action resulted on the Federal level and today we find ourselves faced not with an energy problem as some would indicate, but with a full-blown energy crisis.

The mandatory controls we adopted in New York State in 1970 for natural gas worked then and they are continuing to work now and it is for this reason that I am proposing mandatory fuel regulations.

I believe they will work and will prevent grave hardship this winter as our Nation continues to find itself in short fuel supply.

If we do not act soon, there will be no fuel to fire the furnaces. I sincerely urge my colleagues to act with the same speed at which the football blackout ban was lifted. This is a vastly more important matter and deserves the same speedy recognition.

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## COMPARABILITY PAY

(Mr. DULSKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DULSKI. Mr. Speaker, this administration's action in delaying the comparability pay raise for Federal employees from October 1 to December 1 is indicative once again of the disregard for the rights of more than two million dedicated civil servants.

To date, the President has acted three times under the Federal Pay Comparability Act of 1970, and three times he has manipulated this law to the detriment of the Federal work force.

There is no justification for Federal employees to be subjected by the Executive to extraneous considerations, which have no basis either in law or in fact.

I have given serious thought to taking steps to nullify this latest move by the President by way of a resolution of disapproval. Unfortunately, a sounding of my colleagues indicates that this action has no chance of success in the House.

Rather than exerting our energies in this seemingly impossible endeavor, I have decided that a complete review of the Federal Pay Comparability Act of 1970 is in order. In fact, I believe it is necessary by reason of the fact that the law, as administered by the President, is not being implemented as it was intended by the Congress.

Our Subcommittee on Retirement and Employee Benefits has announced its intention to review the workings of the act within the next few weeks. The committee will await the results of this study and upon its completion, I will institute whatever legislation is necessary to effect revisions in the law. This, I believe, will insure implementation of the policy of full comparability for Federal employees—a principle confirmed by the Congress time and time again.

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## IN OPPOSITION TO DR. HENRY KISSINGER AS SECRETARY OF STATE

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, on Friday, September 15, a number of organizational representatives appeared before the Senate Foreign Relations Committee concerning the confirmation of Dr. Henry Kissinger as the new Secretary of the Department of State. Appearing for Pro America, a patriotic organization founded in 1933, John D. Hemenway, a former Foreign Service officer, Rhodes scholar and Naval Academy graduate, raised a number of objections to Dr. Kissinger's suitability to fill the job as Secretary, let alone wearing a second hat as head of the vital National Security Council. Mr. Hemenway's prepared statement which was summarized by him at the hearing appears here in full.

### ON THE CONFIRMATION OF DR. HENRY KISSINGER TO BE SECRETARY OF STATE

(Witness: John D. Hemenway, 4816 Rodman St. NW., Washington, D.C. Before the Senate Foreign Relations Committee, September 14, 1973.)

Mr. Chairman.

The National Association of Pro America, founded in 1933, is an educational, patriotic, volunteer organization whose membership consists of Americans with moderate middle-of-the-road views. You may be interested in the fact that, among our many chapters in about twenty states we have a chapter in Birmingham, Alabama.

Pro America opposes the confirmation of Dr. Henry Kissinger as Secretary of State for a number of valid reasons. For your convenience I shall summarize these reasons by category and then provide several illustrative examples in the following material.

### SUMMARY—EVIDENCE SUGGESTING THAT DR. KISSINGER SHOULD NOT BE CONFIRMED

#### *I. Dr. Kissinger's professional judgment is poor*

The disastrous grain deal with the Soviet Union is merely the most recent example—and not the most disastrous. His confused doctrine of "non-interference" in internal affairs is another.

#### *II. Dr. Kissinger's foreign policy appears to have no strategy*

It is based on highly dubious assumptions for which there is little or no evidence. Three premises which are crucial to and underlie most of the Kissinger foreign policy are so unsupportable that they must be considered premature:

(1) the premise that the Soviet Union has ceased to be a revolutionary power and now is a *status quo* power interested in playing according to the rules;

(2) the assumption that increased commercial and cultural ties will accelerate the conversion of the USSR into a *status quo* power to provide us with "peace in our time".

(3) the assertion that the Sino/Soviet split is permanent and so severe that US policy and a new balance of power can be built upon it.

Not only is there little evidence to support the above basic assumptions underlying Dr. Kissinger's foreign policy, there is a considerable body of evidence to the contrary.

### *III. Serious constitutional and institutional problems*

Arise in connection with Dr. Kissinger's confirmation.

### *IV. Dr. Kissinger's administrative ability is unproven*

At a time when the Department of State badly needs reform, selection of a number of persons by Dr. Kissinger to sensitive tasks provides evidence that there is something wrong. I have in mind Mr. David Young, now indicted; Mr. Helmut Sonnenfeldt, whose confirmation as Treasury Under Secretary has been held up for a number of valid reasons; and the selection of Mr. Armand Hammer to be US Ambassador to the Soviet Union. Mr. Hammer, a friend of Lenin and about every other leader in the Communist Pantheon, had the foresight to decline the appointment.

For the reasons summarized on the previous page, Pro America believes that Mr. Kissinger's nomination as Secretary of State should not receive the advice and the consent of the Senate.

Last Saturday, September 8, due to the fact that the Senate Foreign Relations Committee was examining the credentials of Dr. Kissinger, a seminar of ten experts was convened to consider US foreign policy, under the auspices of the University of Plano (Plano, near Dallas, Texas). As Dr. Morris, President of the University of Plano explained, the various senators questioning Dr. Kissinger were not coming to the essence of US foreign policy. Pending the publication of a monograph on the seminar, a summary for the press was prepared and distributed for the use of each senator/member of the Foreign Relations Committee on 11 Sept. A copy is submitted as an attachment to this testimony.

The seminar findings reveal an astonishing similarity between the concerns regarding US foreign policy and peace expressed by Alexander Solzhenitsyn on September 11 and those voiced three days earlier by the ten experts meeting on Capitol Hill. Dr. Morris pointed to this similarity in a telegram sent yesterday, September 13, to Solzhenitsyn. A copy is attached for your information.

With the conclusion now of these preliminary remarks, a more detailed examination of the evidence suggesting that Dr. Kissinger should not be confirmed follows:

### I. UNFORTUNATE DECISIONS POSSIBLY REFLECTING BAD JUDGMENT

(1) The Grain Deal With the Soviet Union is so bad that no one I have met in Washington wants to defend it. Mr. Helmut Sonnenfeldt acknowledged on May 15 at his confirmation hearing that the administration erred (i.e., Kissinger/Sonnenfeldt erred) in concluding the arrangements. Recent statements by Federal Reserve Chairman Burns and Secretary of the Treasury Shultz indicate that bad judgments and faulty policy assessments were involved for which Dr. Kissinger is responsible.

The Soviet grain deal was handled as a foreign policy matter and National Security Adviser Kissinger was responsible for its execution.

This blunder has cost us many billions of dollars, so far, and it has endangered our national food supply for the first time in our history. It has permitted our own food to be used as a political weapon against us in a decade when food is increasingly important as a weapon for peace.

The financial losses incurred by Dr. Kissinger in this one calculation would be sufficient to run the Department of State for the next 15 years, at the present budgetary levels. In fact, you could run the Department of State on the interest on that money alone, calculating at current rates of at least 8%, without ever using up capital.

As early as January 31, 1972—one and one-half years ago—Dr. Kissinger formally notified the Secretaries of State, Commerce and Agriculture of the Soviet interest in buying large quantities of U.S. grain. He permitted no effort to inform U.S. farmers and the general public, thereby insuring secret negotiations with the Russians. It is odd that President Nixon, who is said to admire President Wilson ("Open covenants, openly arrived at") has a chief of staff who covets such secrecy.

In effect, we have permitted the Soviet Union to have the luxury of both guns and butter. If the housewife must pay high prices and suffers from the rampant inflation, she should know that evidence suggests that it was triggered by the grain deal. If Moscow outstrips us in the arms race and can also maintain her marginal standard of living, it is because the West provided the resources—on credit. Dr. Kissinger has set up a Marshall Aid program for the preservation of Communism which was in one of its periodic agricultural crises.

A memorandum being circulated by Senator Jackson has been quoted in the press as saying:

"The grain sale brought food to the Russians, huge profits to a few grain corporations, and more inflation to the American people.

"Selling twenty-five percent of our wheat crop created a demand situation and a sympathetic price rise of other grains which, in turn, created other shortages such as soybeans. . . . These higher grain costs pyramided into higher costs for feeding poultry and livestock and eventually the large increases were reflected in prices to consumers in higher costs of meats, eggs, poultry, butter and other commodities."

The Soviets shrewdly have accomplished what many traders in commodities have tried and failed to do—they cornered the market—and Dr. Kissinger helped them. It is now the Russians who have surplus grain to offer to the world, not the nation whose economic system produced that grain. It is inevitable that this grain will be used as a political weapon against our own freedom and that of people all over this globe. The Soviets will be able to make political adventures involving grain pay handsomely, as well, for their grain, purchased on credit for $1.50 per bushel is now worth $5.00 per bushel. By selling far below world prices they can use it for political purposes and still make a handsome profit. The United States, for its part, now has a stake in the stability of the current Soviet leadership, to which it has a loan outstanding.

It is said that, for all of Dr. Kissinger's impressive academic background, he is weak in economics. Perhaps his staff can compensate for him? One of his principal assistants (for Europe and the Soviet Union) is Mr. Helmut Sonnenfeldt, who, as Dr. Kissinger's protege, was nominated to be Under Secretary of the Treasury to direct East-West trade matters. At his May 15, 1973 confirmation hearing, Mr. Sonnenfeldt did not know the current U.S. discount rate, what the U.S. government must pay for the money it borrows to service our own debt, and he could not state the interest rate which had been given to the Soviet Union. In other words, Dr. Kissinger's immediate staff was ignorant of the basic facts needed to conclude such arrangements wisely. Is it any wonder that the President is ill advised?

(2) Mr. Kissinger's Confused "Non-interference" Doctrine.

Mr. Kissinger takes the position that the United States should avoid interfering in the internal affairs of another state. This appears to be the principal given reason for not trying to bring some relief to persecuted minority groups in the Soviet Union such as Soviet Jewry and intellectuals such as Sakharov and Solzhenitsyn.

"Non-interference" is a favorite State Department theme and therefore a comfortable posture for Mr. Kissinger. But as a doctrine it is dead wrong.

By contrast, the Soviet Union interferes constantly in American domestic affairs. For example, during his visit to the United States, Brezhnev received his comrade in revolution, the Secretary General of the American Communist Party. The American Communist Party is dedicated to the overthrow of the government of the United States by any means, including violence, if that is expedient.

Surely Kissinger must know the primitive fact that the purpose of any nation's foreign policy is to influence the domestic affairs of other nations, at least to the degree necessary to stimulate a foreign policy responsive to our own needs. Dr. Kissinger's assertions before this Committee that the US could not interfere in behalf of Soviet scientists Sakharov and Solzhenitsyn was identified by a panel of ten experts on foreign policy as the application of a moral double standard. At these same hearings (Friday, 7 September) Dr. Kissinger supported a move to repeal the Byrd amendment. In effect, he thereby advocated direct interference in the internal affairs of another nation, an act he takes at the jeopardy of US strategic interests. The Congress passed the Byrd amendment because, by refusing to buy chrome ore from Rhodesia, we cut off our noses to spite our faces. Deprived of Rhodesian ore by our own actions, we were forced to buy chrome ore of an inferior quality from the Soviet Union, the only other source of ore needed for strategic purposes. Not only was the Soviet ore more expensive, it was of a lower quality. The Soviet Union, which was not encumbered by "non-interference" compunctions of Mr. Kissinger and the US Department of State, purchased its own chrome ore from Rhodesia at a lower price and at higher grades than its own ore.

Mr. Kissinger is also on record as opposing the Jackson amendment which is supported by Senator Buckley of New York and others, presumably because of this "non-interference" doctrine. This measure is calculated to make some small gesture in behalf of oppressed minorities, although Soviet Jews probably would be the most immediate beneficiaries.

From my two years service in Moscow as a US diplomat, I know a little about this problem. In fact, I was denounced by the Soviet Union in an anti-Semitic tract called "Judaism Without Embellishment". The book was translated, in part by B'nai Brith and awakened such ugly memories in the West that the Soviets decided to withdraw it. It was one of my official duties to keep track of the official State policy in the Soviet Union of persecuting various religious minorities, whether they were Roman Catholic, Jews, Uniates, or Orthodox—all suffer from various degrees of persecution.

Americans expect to try to help people in distress. Americans everywhere can be expected to reject Dr. Kissinger's view that we should turn away—at least turn our official face away. These injustices should concern us and trouble us. If we do not admit that we are our brother's keeper, we are less civilized than we all would like to believe.

Personally, I cannot understand why Mr. Kissinger turns his official back on his coreligionists and the other groups being persecuted in the Soviet Union. If I were sitting on this Committee, I would be afraid that this might reflect a character flaw.

Press reports claim that Metternich is a hero of Dr. Kissinger's. Metternich suppressed the liberties and freedom of minority groups for the entire 40 years he was Foreign Minister in the Austrian Empire. As he suppressed liberty everywhere, he also lied and maneuvered his way through the councils of Europe in the name of "stability" and "peace."

Frankly, Senators, if Metternich is Dr. Kissinger's hero, I believe the American public would like a Secretary of State with a hero whose principles are more compatible with American ideals. I am reminded that when Dr. Kissinger came to work in the White House we used to couple the words "peace" and "freedom". Now we seem to be searching only for "peace". Whatever happened to "freedom"?

(3) Kissinger's Attempt To Give Away US Naval Nuclear Propulsion Technology.

Admiral Hyman Rickover must be one of the greatest Americans of our generation. As much as any single American Admiral Rickover must be credited with providing us all in the free world with adequate security. For years, however, Admiral Rickover has had to guard US nuclear secrets from misguided American officials who wish to win praise or some other intangible benefit by offering to share US nuclear propulsion technology with our friends overseas.

Dr. Kissinger supported one such scheme. A specific proposal supported by the State Department and Kissinger/Sonnenfeldt was resisted by the Pentagon. There was a fight at every level of the NSC machinery. Admiral Rickover himself deplored this give-away project in unclassified testimony he gave before the Joint Committee on Atomic Energy. The matter finally reached the ear of the President, thanks to the vigilance of then Presidential Counselor Clark Mollenhoff and the President simply over-ruled the State Department view favored by Kissinger and Sonnenfeldt. Every bureaucratic trick was used by those persons who control the NSC machinery to promote their partisan view.

Everyone makes mistakes and sometimes what comprises error is capable of interpretation. According to Stephen Graubard in "Kissinger, Portrait of a Mind", for example, "Kissinger opposed any recognition of the East German regime . . . and had to support German unification, whatever its misgivings." Since formal recognition appears to be around the corner, Dr. Kissinger's own view on that subject must have changed. Many Americans, myself included, consider the change a mistake. There are other illustrations, such as the 1971 decision to give the Soviet Union a mission in Berlin without any compensating gesture from the Soviet Union at all. This "achievement" has paved the way for the permanent *de jure* partition of Germany, in violation of our solemn treaty obligations.

### II. U.S. FOREIGN POLICY UNDER KISSINGER APPEARS TO HAVE NO STRATEGY

Close examination reveals that US policy has no underlying strategy. Further, the Senate Committee has not probed for any broad strategy underlying Dr. Kissinger's policy. In their questioning, Dr. Kissinger has protected himself by attempting to limit his response to a specific problem faced under specific conditions. It is obvious that in the foreign policy world of the "pragmatists" around Dr. Kissinger, we go from crash landing to crash landing.

On September 12, news commentator Howard K. Smith summarized our South American policy by saying, "There is no policy." Four days earlier, the ten foreign policy experts discussing U.S. foreign policy on the eve of the Kissinger confirmation hearing had come to that same conclusion with regard to U.S. policy world wide. Under Dr. Kissinger's direction, the panel members concluded, U.S. foreign policy stands for no principles that can be clearly identified; the policy is merely an *ad hoc* reaction to events.

In the case of Germany, as I have stated, four years ago (and 20 years before that) we stood for the reunification of Germany in peace and freedom. We now are about to permit *de jure* division of the country by the recognition of East Germany. This is no brave new innovation or new initiative on our part; the evidence suggests that this simply is a mistaken course. As long as I can remember, there have been persons who wanted to recognize East Germany, or Communist China.

Trips to Moscow or Peiping; recognition game plans for Mongolia and Albania; normalization of relations with Cuba all have been subjects for "think pieces" for years. The novelty of these actions does not make them wise.

Nowhere is the lack of a general strategy of foreign policy more evident than in Asia. Great gains are claimed as accruing from the President's trip to Peiping. Is it not fair to ask just exactly what are these great gains? On the other hand any claimed advantages of the President's trip to Red China have been more than offset by serious long-lasting disadvantages that include;

(1) a general setback to democracy in Asia;

(2) near collapse of the friendly Sato government in Japan;

(3) expulsion of the Republic of China (Taiwan) from the U.N.;

(4) the war or imminent collapse of Cambodia;

(5) the necessity to introduce martial rule in the Philippines.

Solzhenitsyn's writings have recalled Munich and it might be well to reflect on that. In the mid-thirties, Stanley Baldwin had to confess to the House of Commons that he had not called for rearmament against Hitler because the Baldwin government would have fallen as a consequence. The United States has now slipped to second place militarily, and the strategic balance has shifted against us. What has become of the Nixon strategy of parity and "bargaining from strength"?

Clearly the Nixon Doctrine is not a strategy for peace.

The Nixon Doctrine can justly be criticized for its imprecision. It provides yet another indication that there is no identifiable U.S. foreign strategy. How can anyone believe that the Paris Agreements actually produced "Peace With Honor", a claim advanced for this Agreement which permits North Viet Nam to keep hundreds of thousands of its troops in the territory of South Viet Nam? In fact, is not the Kissinger policy simply to "get out", i.e., to abandon our allies, but, if possible, without evident embarrassment to the administration?

### III. SERIOUS CONSTITUTIONAL AND INSTITUTIONAL PROBLEMS

This nation has been through several crises in recent years; it is now in the midst of a Constitutional crisis.

Senator Javits has noted that Mr. Kissinger is ineligible for the Office of the Presidency. This means that, even if he is second in line in the named succession after Speaker Albert, should the President and Vice President be removed from office, he could not serve.

Pro America always has followed constitutional issues with deep concern. We feel that the Senate should weigh carefully possible consequences of confirming a man to a position high in the order of succession who is not a "natural born citizen" as required by Article II, Section 1 of the Constitution.

The NSC machinery poses another problem. There really is no way for solving inter-Departmental disputes at any level except to appeal them to the next higher level.

The real reason Dr. Kissinger seeks to hold two positions, Advisor to the President and Secretary of State, simultaneously has not been stated unequivocally. Let us bring it out into the open. The reason goes to the manipulation of the endless conferences and governmental machinery arising from the NSC machinery. The final arbiter has been Dr. Kissinger, the President's Advisor, in most cases.

Whenever a Department feels its own vital interests are threatened by a matter in which its view does not prevail, it escalates the fight in an attempt to reach the President—or Dr. Kissinger speaking for the President. That is why the President is such a busy and harassed man; that also is why Dr. Kissinger is such a powerful man.

That also is why Dr. Kissinger wants to hang on to his second position. It represents power. Archimedes wanted only a place to stand and a lever long enough to move the world. Dr. Kissinger as both (a) Secretary of State, and, (b) Presidential Advisor on National Security Affairs would have a place for both feet.

A pertinent question, perhaps is this: would Dr. Kissinger move the world in the right direction?

### IV. DR. KISSINGER'S ADMINISTRATIVE ABILITY IS UNPROVEN

One critical test of a good executive is the ability to select subordinates wisely. If only for that reason, one must consider Dr. Kissinger's selections of subordinates. The wisdom of his choices is not always apparent.

(1) David Young. Can one ignore Dr. Kissinger's selection of David Young to be his appointments secretary? Now that Mr. Young is under indictment, the American public will have to presume that the Senate Foreign Relations Committee has thoroughly looked into that matter in executive session, because it is clear that it has not been examined thoroughly in public sessions.

(2) Armand Hammer. The selection of Mr. Armand Hammer as a candidate to be US Ambassador to the Soviet Union is even more mystifying. That the post was offered to Mr. Hammer in fact was confirmed by the Washington Post on August 27, 1973 (p. A–28) when a spokesman for the Occidental International Corporation informed the press that the post had been offered to Hammer, but that he could not accept such a post because of obligations to his company and its stockholders. Armand Hammer has had a close relationship with top Soviet leaders since 1921. A personal friend of Lenin, Hammer's father was one of the founding members of the American Communist party. Armand Hammer is an "insider" with the present Soviet regime and its top leadership and he always has been. Surely Dr. Kissinger, the president's advisor on National Security Affairs had to approve this choice before it was made. Why did he permit such an unwise selection? Mr. Hammer showed better judgment in rejecting the offer than did those who offered him the post. Conflict of interests, if not ideology, are obvious. There is no point in dwelling on this case which I use only as an illustrative example of trouble in the personnel department. As Secretary of State, Dr. Kissinger will have responsibility for many such appointments.

(3) Helmut Sonnenfeldt. The failure of Kissinger's aide Sonnenfeldt to receive confirmation as Under Secretary of the Treasury because of lack of qualifications (see, for example, Congressional Record of 23 May, 1973, page 16853) and certain security charges is a matter of record. Details of the alleged security breaches were published in *Human Events* (August 25, 1973, p. 3) and there is no need to go into them there.

Taken together—and there are other examples—these cases suggest that personnel selection is not Dr. Kissinger's talent—yet that is what he will have to do as Secretary of State.

(4) The Mollenhoff/Kissinger Stand-off. There is a far more serious matter in personnel/administration involving deep-seated attitude toward service under the President (I refer to the office, not the man). I now refer

to a series of clashes, recorded in the press, that took place between Mr. Clark Mollenhoff, when he was Counsel to the President, and Dr. Henry Kissinger.

The evidence strongly suggests that Dr. Kissinger is guilty of wrongdoing.

It is a matter of record that the Second Session of the 85th Congress (Concurrent Resolution No. 175) set forth a Code of Ethics for Government Service which states, in part:

"Any person in Government service should: . . . uphold the Constitution, laws, and legal regulations of the United States . . . and never be a party to their evasion . . . expose corruption wherever discovered."

A chronology of events recorded for the most part in the press tells a story suggesting that Dr. Kissinger does not welcome impartial inquiries:

*Date and event*

Two occasions prior to March 1, 1970—Mr. Clark Mollenhoff informs Dr. Kissinger and also Gen. Haig (who was promoted from colonel to four star general in three years) of serious security charges against Helmut Sonnenfeldt. There is no record of any action having been taken on the basis of Mr. Mollenhoff's information.

March 11, 1970—Name of Helmut Sonnenfeldt, Dr. Kissinger's principal aide is forwarded to the Senate for lateral admission into the career diplomatic service as an FSO-1. (This is equivalent to entering the army as a major general.)

March 19, 1970—Press reports that Dr. Kissinger is "upset" by Presidential Counselor Mollenhoff's inquiry into Biafra. Mollenhoff is investigating reports that persons in the Department of State or NSC are defeating the President's desire to give aid (food) to Biafra.

March 26, 1970—Senator Thurmond opposes the Sonnenfeldt nomination which he calls "strange" and in violation of career principles. (Congressional Record, vol. 116, pt. 7, p. 9619.)

May 18, 1970—Presidential Counselor Mollenhoff requests a copy of anti-Administration petitions signed by 250 employees of the Department of State and related agencies who signed it to demonstrate their opposition to US involvement in Cambodia. *Deputy Under Secretary Macomber refuses to give Presidential Counselor Mollenhoff a copy of this unclassified document.*

May 30, 1970—Mollenhoff announces his resignation, effective July 1.

August, 1970—Senate confirms Sonnenfeldt *after* Mollenhoff leaves the White House.

subsequent (?)—Dr. Kissinger's appointments secretary David Young begins work that leads to his indictment.

subsequent (?)—Mr. Hunt, with no White House rank, requests and gets top secret sensitive cables from the State Department. *Deputy Under Secretary Macomber provides Hunt with highly classified documents.*

December, 1971—(1) Request made of Sonnenfeldt to appear at a hearing under oath to clear up contradictory statements (Hemenway Hearing). (2) High aid of Dr. Kissinger takes what appears to be an attempt at reprisal against Hemenway, an employee at the Pentagon.

May 15, 1973—First Day of Confirmation Hearings for Helmut Sonnenfeldt to be Under Secretary of the Treasury. Hemenway introduces evidence that his entrance into the Foreign Service was fraudulent and records security violations. (See Congressional Record of May 23, 1973, page 16853; May 24, 1973, page 16955; May 24, 1973, page 16934; May 29, 1973, p. 17183; Aug. 3, 1973, p. 28320.)

In the light of the revelations of the Senate select committee hearings it seems evident from even this partial record that Counsellor Mollenhoff's efforts to pursue an investigation in the name of the President was being defeated by officials who were applying two sets of standards simultaneously. The evidence seems to suggest that Dr. Kissinger was obstructing him in this effort.

Deputy Under Secretary Macomber, who was in a position to play a key role in Helmut Sonnenfeldt's fraudulent lateral entry into the Foreign Service, also appears to have blocked legitimate inquiries for Dr. Kissinger when they were initiated by Mr. Mollenhoff. The question remains why this would be done, since both men were working for and supporting the President.

Evidently Dr. Kissinger did not always feel like a supporter of the President. In 1968, just after Mr. Nixon had defeated Mr. Rockefeller decisively, Rockefeller supporter Kissinger is reported by Bernard Collier in the Boston Globe to have said, "That man Nixon is not fit to be President." Serving President Nixon with much zeal would appear to have required a great deal of flexibility from Kissinger.

In evaluating the worth of the above chronology, it might be useful to recall the statements in praise of Clark Mollenhoff made by two senators (Congressional Record, vol. 116, pt. 13, p. 17848):

Mr. Curtis. I wish to add a word of praise to Clark Mollenhoff who has displayed honor, integrity, and great ability. I hope the time comes when he will again consent to serve in public office. As a reporter, he was diligent and a thorough investigator. He is fair and he is honest. . . .

Mr. Williams of Delaware. . . .the suggestion was made that there would be those in certain quarters who would be glad Mr. Mollenhoff was leaving this position because they feared him. I have known Clark Mollenhoff for a number of years. I will state that no man in America need have any fear of Mr. Mollenhoff unless—I emphasize unless—he had heretofore done—or had contemplated doing—something that was unethical as far as government is concerned. In that instance Clark Mollenhoff would be a most dangerous man to have in public office because he would expose such activities regardless of who or what political party would be involved.

You will recall that just over two years ago this Committee heard testimony from me to the effect that the Department of State personnel system was "sick and corrupt." This very Committee refused to confirm the Director of Personnel of the Department of State to an ambassadorial assignment at that time because of facts brought out in the hearing.

There is ample evidence to suggest that the man before you today also is not worthy of the trust that this high post demands.

Then, in addition to the personnel matters just discussed, there is the record of foreign policy; let's look at Dr. Kissinger's record in foreign policy.

### A ROUND-UP OF DR. KISSINGER'S RECORD IN FOREIGN POLICY

For the last 25 years, i.e., ever since the end of WWII, when the United States emerged as a "super power" conscious of its international role in international affairs, the USSR has set certain goals for itself vis-a-vis the West.

For much of this time Soviet policy has been conducted within the framework of "peaceful coexistence." According to the Philosophical Encyclopedia (in Russian), III, 452-454, Peaceful coexistence is defined as:

"a specific form of class struggle between socialism and capitalism in the international arena . . . The policy of peaceful coexistence which is carried out by socialist countries represents a powerful factor hastening the global revolutionary process . . . Peaceful coexistence does not exclude revolutions in the form of armed uprisings and just national liberation wars against imperialist oppression which takes place within the framework of the capitalist system."

With regard to the United States and the west an eminent Soviet affairs expert summarized the goals of "peaceful coexistence" as follows:

(1) The Soviet Union has demanded that East Germany be recognized and given status equal to that of West Germany;

(2) Moscow has demanded talks to demilitarize or limit the military powers of the NATO military powers;

(3) The Soviets have demanded the removal of US forces from Europe;

(4) The Soviets have demanded of France the neutralization and expulsion of NATO from French territory;

(5) The Communists have demanded an American retreat from South-east Asia;

(6) Soviets have demanded a general program of reducing US military capacity and superiority; and

(7) The Soviets have demanded generous commercial credits and economic assistance from the west.

For years Moscow's ideologies have claimed that the accomplishment of these goals would be a tremendous victory for the peaceful coexistence doctrine of communism. And, in truth, today all of these goals appear to have been very nearly accomplished. Yet Dr. Kissinger and certain of the media who support his foreign policy present the achievement of these *Soviet* goals as "concessions", and US giving in to these long term Soviet goals is viewed as a US "victory".

We can not stand too many "victories" of the peaceful coexistence kind. Most of the above "victories" have been achieved during Dr. Kissinger's period of stewardship over U.S. Foreign Policy. For the last four years Dr. Kissinger has been Secretary of State in all but name.

In determining how he will cast his vote in the matter of the confirmation of Henry Kissinger, each senator need ask himself only one question: Is the policy we have seen for the past four years the policy of a Metternich, building up the strength and influence of his nation from that of a second rate power, or is this a policy of a Chamberlain or Baldwin converting his nation from a great power into one that is second rate.

We would do well to heed the warnings of Soviet Scientist Sakharov who specifically addressed the foreign policy being pursued by Henry Kissinger. Mr. Sakharov urged the West to make detente conditional on democratization of the Soviet system:

"Detente without democratization, a detente, when the West in fact accepts our (Soviet) rules of the game in this process, such a detente would be dangerous. It would not solve any of the world's problems and would mean a capitulation to our (Soviet) real or exaggerated strength. By liberating us (the U.S.S.R.) from problems we can't solve ourselves, we could concentrate on accumulating strength. And as a result the whole world would be disarmed and facing our uncontrollable bureaucratic apparatus." (Wash. Eve. Star-News, Aug. 22, 1973.)

Since Henry Kissinger will not heed Mr. Sakharov's level-headed warning, the Senate should.

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## LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to:

Mr. Rhodes (at the request of Mr. Gerald R. Ford), for the period September 20 to 27, on account of official business.

Mr. Adams, for September 20, 1973, on account of business.

Mr. Lujan (at the request of Mr. Gerald R. Ford), from September 10, on account of official business.

Mr. Pepper, for Thursday, September 20, 1973, on account of official business in district.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PICKLE, for 1 hour, on September 26.

(The following Members (at the request of Mr. O'BRIEN) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 10 minutes, today.

Mr. BLACKBURN, for 20 minutes, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Mr. MEZVINSKY) and to revise and extend their remarks and include extraneous matter:)

Mr. MELCHER, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HAMILTON, for 5 minutes, today.

Mr. FLOOD, for 10 minutes, today.

Mr. FULTON, for 5 minutes, today.

Mr. FUQUA, for 10 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mr. RUNNELS, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ASHBROOK and to include extraneous matter notwithstanding the fact it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $627.

Mr. HANNA and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $522.50.

Mr. ROUSH and to include extraneous matter in two instances.

Mr. MALLARY, immediately following the vote on the veto today.

(The following Members (at the request of Mr. O'BRIEN) and to include extraneous matter:)

Mr. FREY.

Mr. TREEN in two instances.

Mr. YOUNG of South Carolina.

Mr. ZWACH.

Mr. CEDERBERG.

Mr. WYMAN.

Mr. SHRIVER in two instances.

Mr. ANDERSON of Illinois in two instances.

Mr. STEIGER of Wisconsin.

Mr. YOUNG of Florida in five instances.

Mrs. HOLT.

Mr. BIESTER.

Mr. BRAY in two instances.

Mr. BROYHILL of Virginia.

Mr. HASTINGS.

Mr. FINDLEY.

Mr. FISH.

Mr. MCCOLLISTER in three instances.

Mr. MCCLORY.

Mr. ASHBROOK in three instances.

Mr. BOB WILSON.

Mr. GERALD R. FORD.

(The following Members (at the request of Mr. MEZVINSKY) and to include extraneous material:)

Mr. CHARLES H. WILSON of California.

Mr. JOHNSON of California.

Mr. PATTEN.

Mr. DE LA GARZA in 10 instances.

Mr. STOKES.

Mr. OWENS in 10 instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. FLOOD.

Mr. PREYER.

Mrs. BURKE of California.

Mr. PICKLE.

Mr. SISK.

Mr. HÉBERT.

Mr. JONES of Tennessee.

Mr. WALDIE in two instances.

Mr. PEPPER in two instances.

Mr. HARRINGTON in four instances.

Mr. DE LUGO in two instances.

Mr. ANDERSON of California in four instances.

Mr. WILLIAM D. FORD.

Mr. ECKHARDT.

Mr. BIAGGI in five instances.

Mr. BRECKINRIDGE.

Mr. STAGGERS.

Mr. DAN DANIEL.

Mr. EDWARDS of California.

Mr. ADAMS.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2419. An act to correct typographical and clerical errors in Public Law 93-86; to the Committee on Agriculture.

## ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 8070. An act to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 155. An act for the relief of Rosita E. Hodas;

S. 776. An act to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco;

S. 902. An act to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended; and

S. 1352. An act to require loadlines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes.

## BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 8070. An act to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes.

## ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p.m.) the House adjourned until tomorrow, Thursday, September 20, 1973, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1355. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend sections 3202 and 8202 of title 10, United States Code, to exclude certain Reserve officers from the authorized strengths of the Army and Air Force in officers on active duty in certain commissioned grades, and for other purposes; to the Committee on Armed Services.

1356. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the selective continuation of certain regular commissioned officers on the active lists of the Army, Navy, Marine Corps, and Air Force upon recommendation of a selection board, and for other purposes; to the Committee on Armed Services

1357. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report covering the last quarter of fiscal year 1973 on Federal contributions to States for civil defense equipment and facilities, pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1358. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report covering fiscal year 1973 on Federal contributions to States for civil defense personnel and administrative expenses, pursuant to section 205 of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1359. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a corrected copy of the previously submitted annual report of the Bank for fiscal year 1973; to the Committee on Banking and Currency.

1360. A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to provide for the addition of certain eastern national forest lands to the National Wilderness Preservation System, to amend section 3(b) of the Wilderness Act, and for other purposes; to the Committee on Interior and Insular Affairs.

1361. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to discharge obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances; to the Committee on Interstate and Foreign Commerce.

1362. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, requesting the withdrawal of a previously transmitted case involving suspension of deportation under section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1363. A letter from the Adjutant General, Military Order of the Purple Heart, transmitting the report of the audit of financial statements of the Order for the fiscal year ended July 31, 1973, pursuant to section 14(b) of Public Law 85–761; to the Committee on the Judiciary.

1364. A letter from the Administrator of Veterans' Affairs, transmitting the report of an independent study of the operation of the post-Korean conflict program of educational assistance currently carried out under title 38 of the United States Code in comparison with similar programs that were available to veterans of World War II and of the Korean conflict, pursuant to section 41 of Public Law 92–540; to the Committee on Veterans' Affairs.

1365. A letter from the Secretary of Health, Education, and Welfare, transmitting the report of the Health Insurance Benefits Advisory Council on the results of its study of the methods of reimbursement for physicians' services under the medicare program, pursuant to section 224(b) of Public Law 92–603; to the Committee on Ways and Means.

### RECEIVED FROM THE COMPTROLLER GENERAL

1366. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1973, pursuant to 31 U.S.C. 1174; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POAGE: Committee on Agriculture. H.R. 9205. A bill to amend the Agricultural Adjustment Act of 1938 with respect to peanuts; with amendment (Rept. No. 93–518). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 10351. A bill to regulate commerce and conserve gasoline by improving motor vehicle fuel economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California (for himself, Mr. COTTER, Mr. YATRON, Mr. ROSENTHAL, Mr. BROWN of California, Mr. BAFALIS, Mr. RODINO, Mr. DRINAN, Mr. DE LUGO, Mr. WALSH, Mr. RONCALLO of New York, Mr. WALDIE, Mr. HELSTOSKI, Mr. METCALFE, Mr. STOKES, Mr. EDWARDS of California, Mr. WILLIAM D. FORD, Mr. LEGGETT, Mr. HOGAN, Mr. WON PAT, Mr. LEHMAN, Mr. DANIELSON, Mr. CONYERS, Mr. ROE, and Mr. ROYBAL):

H.R. 10352. A bill to provide for a 7-percent increase in social security benefits beginning with benefits payable for the month of January 1974; to the Committee on Ways and Means.

By Mr. ASPIN:

H.R. 10353. A bill to amend title 13, United States Code, to eliminate the granting of preference on the basis of political affiliation or recommendation by any political organization in the hiring of temporary or part-time employees to carry out censuses, surveys, and other work of the Bureau of the Census; to the Committee on Post Office and Civil Service.

By Mr. CRONIN:

H.R. 10354. A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to passthrough increased costs; to the Committee on Banking and Currency.

By Mr. DONOHUE:

H.R. 10355. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize reduced fare transportation on a space-available basis for persons who are 65 years of age or older; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN:

H.R. 10356. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 10357. A bill to provide that energy-saving time shall be observed on a year-round basis; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER (for himself, Mr. DIGGS, and Mr. ANDREWS of North Carolina):

H.R. 10358. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesia chrome and to restore the United States to its position as a law-abiding member of the international community; to the Committee on Foreign Affairs.

By Mr. FREY:

H.R. 10359. A bill to extend the period of continuing appropriations for the Federal Cuban refugee program; to the Committee on Appropriations.

By Mr. GAYDOS:

H.R. 10360. A bill to authorize the disposal of copper and zinc from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. GREEN of Pennsylvania:

H.R. 10361. A bill to amend title 5 of the United States Code (relating to Government organization and employees) to assist Federal employees in meeting their tax obligations under city ordinances; to the Committee on Post Office and Civil Service.

By Mr. GUDE:

H.R. 10362. A bill to amend certain provisions of Federal law relating to explosives; to the Committee on the Judiciary.

By Mr. HARRINGTON (for himself, Ms. COLLINS of Illinois, Mr. GUDE, Mr. HECHLER of West Virginia, Ms. HECKLER of Massachusetts, Mr. ROE, Mr. RONCALIO of Wyoming, Mr. RYAN, and Mr. STARK):

H.R. 10363. A bill to amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency; to the Committee on Armed Services.

By Mr. HARVEY:

H.R. 10364. A bill to amend title 38, United States Code, to provide hospital and domiciliary care and medical treatment in Veterans' Administration facilities to former prisoners of war who are not veterans; to the Committee on Veterans' Affairs.

By Mr. HASTINGS (for himself, Mr. HORTON, Mr. FREY, Mr. SYMINGTON, and Mr. PREYER):

H.R. 10365. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to discharge obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances; to the Committee on Interstate and Foreign Commerce.

By Mr. HÉBERT (for himself, and Mr. BRAY) (by request):

H.R. 10366. A bill to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution; to the Committee on Armed Services.

H.R. 10367. A bill to amend section 269(d) of title 10, United States Code, to authorize the voluntary assignment of certain Reserve members who are entitled to retired or retainer pay to the Ready Reserve, and for other purposes; to the Committee on Armed Services.

H.R. 10368. A bill to amend chapter 73 (survivor benefit plan) of title 10, United States Code, to clarify provisions relating to annuities for dependent children and the duration of reductions when the spouse dies; to the Committee on Armed Services.

H.R. 10369. A bill to amend title 37, United States Code, to provide entitlement to round-trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port; to the Committee on Armed Services.

H.R. 10370. A bill to amend title 37, United States Code, to refine the procedures for adjustments in military compensation and for other purposes; to the Committee on Armed Services.

By Mrs. HECKLER of Massachusetts:

H.R. 10371. A bill to establish a direct loan program to assist in meeting the needs of the elderly for adequate housing, and to encourage and facilitate in other ways the effective provision of more and better housing designed to meet these needs; to the Committee on Banking and Currency.

By Mr. HOGAN:

H.R. 10372. A bill to facilitate fresh pursuit of criminals in the District of Columbia; to the Committee on the District of Columbia.

By Mrs. HOLT:

H.R. 10373. A bill to establish a national homestead program under which single-family dwellings owned by the Secretary of Housing and Urban Development may be conveyed at nominal cost to individuals and families who will occupy and rehabilitate them; to the Committee on Banking and Currency.

By Mr. JOHNSON of Pennsylvania:

H.R. 10374. A bill to establish a National Environmental Bank, to authorize the issuance of U.S. environmental savings bonds, and to establish an Environmental Trust Fund; to the Committee on Banking and Currency.

H.R. 10375. A bill to increase veterans education assistance rates by 10 percent; to the Committe on Veterans' Affairs.

By Mr. KETCHUM (for himself, Mr. ANDERSON of California, Mr. BURGENER, Mr. HICKS, Mr. JOHNSON of California, Mr. LEGGETT, Mr. MEEDS, Mr. RHODES, Mr. ROUSSELOT, Mr. TOWELL of Nevada, Mr. VAN DEERLIN, Mr. VEYSEY, Mr. DON H. CLAUSEN, Mr. MCCORMACK, and Mr. REES):

H.R. 10376. A bill to provide for the sale of crude oil from the naval petroleum reserve No. 1; to the Committee on Armed Services.

By Mr. KOCH:

H.R. 10377. A bill to provide that members of the Armed Forces may be separated or discharged from active service only by an honorable discharge, a general discharge, or discharge by court martial, and for other purposes; to the Committee on Armed Services.

By Mr. MACDONALD:

H.R. 10378. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 10379 A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 10380. A bill to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes; to the Committee on interstate and Foreign Commerce.

By Mr. REUSS:

H.R. 10381. A bill to amend the Federal Deposit Insurance Act and the Federal Reserve Act to require every bank insured under the Federal Insurance Act to maintain reserves against its deposits in the same manner and to the same extent as are member banks under the Federal Reserve Act, and for other purposes; to the Committee on Banking and Currency.

By Mr. SHRIVER:

H.R. 10382. A bill to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. STUCKEY:

H.R. 10383. A bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. SYMMS (for himself, Mr. Rousselot, and Mr. Ashbrook):

H.R. 10384. A bill to repeal the Economics Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. VANDER JAGT (for himself, Mr. Blackburn, and Mr. Thone):

H.R. 10385. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. VANDER JAGT:

H.R. 10386. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY:

H.R. 10387. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

By Mr. VEYSEY (for himself, Mr. Vander Jagt, Mr. Bob Wilson, Mr. Beard, Mr. Gude, Mr. Miller, and Mr. Duncan):

H.R. 10388. A bill to provide reduced retirement benefits for Members of Congress who remain in office after attaining 70 years of age; to the Committee on Post Office and Civil Service.

By Mr. WAGGONNER:

H.R. 10389. A bill to amend the Internal Revenue Code of 1954 to provide for a distribution deduction in the case of certain cemetery perpetual care fund trusts; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 10390. A bill to provide that the special security benefits enacted by Public Law 93–66 shall become effective immediately, and for other purposes; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 10391. A bill to amend the Economic Stabilization Act of 1970, to exempt stabilization of the price of gasoline at the retail level from coverage under the act; to the Committee on Banking and Currency.

By Mr. BROWN of California (for himself, Mr. McCormack, and Mr. Symington):

H.R. 10392. A bill to amend the National Aeronautics and Space Act of 1958 to authorize and direct the National Aeronautics and Space Administration to conduct research and to develop ground propulsion systems which would serve to reduce the current level of energy consumption; to the Committee on Science and Astronautics.

By Mr. de la GARZA:

H.R. 10393. A bill to amend section 203 of the Economic Stabilization Act of 1970 relating to petroleum fuels; to the Committee on Banking and Currency.

By Mr. ECKHARDT (for himself, Mr. Dingell, Mr. Ashley, Mr. Murphy of New York, Mr. Metcalfe, Mr. Sarbanes, Mr. Udall, Mr. Burton, Mr. O'Hara, Ms. Mink, Mr. Buchanan, Mr. Won Pat, Mr. Seiberling, Mr. McCloskey, Mr. Forsythe, Mr. Steelman, Mr. Matsunaga, Mr. Gibbons, Mr. Corman, Mr. Preyer, Mr. Gonzalez, Ms. Jordan, Ms. Holtzman, Mr. Moss, and Mr. Harrington):

H.R. 10394. A bill to amend the act of August 3, 1968, relating to the Nation's estuaries and their natural resources, to establish a national policy with respect to the Nation's beach resources; to the Committee on Merchant Marine and Fisheries.

By Mr. ECKHARDT (for himself, Mr. Pepper, Ms. Abzug, Mr. Brown of California, Mr. Carney of Ohio, Ms. Chisholm, Mr. Conyers, Mr. Danielson, Mr. de Lugo, Mr. Eilberg, Mr. Fascell, Mr. Frenzel, Mr. Gunter, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Mann, Mr. Podell, Mr. Rees, Mr. Rosenthal, Mr. Roybal, and Mr. Charles H. Wilson of Texas):

H.R. 10395. A bill to amend the act of August 3, 1968, relating to the Nation's estuaries and their natural resources, to establish a national policy with respect to the Nation's beach resources; to the Committee on Merchant Marine and Fisheries.

By Mr. WILLIAM D. FORD (for himself, Mr. O'Hara, and Mr. Nedzi):

H.R. 10396. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. HOLIFIELD (for himself, Mr. Horton, Mr. Rosenthal, Mr. Wydler, Mr. Fuqua, Mr. Mallary, Mr. Edwards of California, Mr. Corman, Mr. Danielson, Mr. Steelman, Mr. Roybal, Mr. Rangel, Mr. Conte, Mr. Don H. Clausen, Mr. Hinshaw, Mr. Wright, Mr. Railsback, Mr. Vander Jagt, Mr. Gude, and Mr. Brown of Ohio):

H.R. 10397. A bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes; to the Committee on Government Operations.

By Mr. EILBERG (for himself, Mr. Bergland, Mr. Biaggi, Mr. Conyers, Mr. Drinan, Mr. Fisher, Mr. Helstoski, Mr. Kazen, Mr. Martin of North Carolina, Mr. Michel, Mrs. Mink, Mr. Morgan, Mr. Owens, Mr. McClory, Mr. Symington, and Mr. Waldie):

H.R. 10398. A bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to passthrough increased costs; to the Committee on Banking and Currency.

By Mrs. HECKLER of Massachusetts:

H.R. 10399. A bill to amend the Internal Revenue Code of 1954 to provide that pensions paid to retired policemen or firemen or their dependents, or to the widows or other survivors of deceased policemen or firemen, shall not be subject to the income tax; to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 10400. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

By Mr. NELSEN (for himself, Mr. Steelman, Mr. Pettis, and Mr. Shoup):

H.R. 10401. A bill, Emergency Medical Services Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. OWENS:

H.R. 10402. A bill to amend the Taylor Grazing Act to provide compensation to the holders of grazing permits when such permits are canceled, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROGERS:

H.R. 10403. A bill to amend the Public Health Service Act to provide for the protection of human subjects who participate in biomedical or behavioral research programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 10404. A bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes; to the Committee on Government Operations.

By Mr. SARASIN (for himself, Mr. Breaux, Mrs. Collins of Illinois, Mr. Giaimo, Mrs. Grasso, Mr. Hudnut, Mr. Johnson of Pennsylvania, Mr. McKinney, Mr. Nichols, Mr. Steele, Mr. Studds, Mr. Walsh, Mr. Yatron):

H.R. 10405. A bill to impose a 6-month embargo on the export of all nonferrous metals, including copper and zinc, from the United States; to the Committee on Banking and Currency.

By Mr. GERALD R. FORD:

H.J. Res. 734. Joint resolution to authorize and request the President to call a White House Conference on Library and Information Sciences in 1976; to the Committee on Education and Labor.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.J. Res. 735. Joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran; to the Committee on Armed Services.

By Mr. O'NEILL (for himself, Mr. Gerald R. Ford, Mr. McFall, Mr. Anderson of Illinois, Mr. Pickle, Mr. Stephens, and Mr. Pettis):

H.J. Res. 736. Joint resolution to provide for a feasibility study and to accept a gift from the U. S. Capitol Historical Society; to the Committee on Public Works.

By Mr. ROYBAL:

H.J. Res. 737. Joint resolution to designate the third week in April of each year as "National Coin Week"; to the Committee on the Judiciary.

By Mrs. COLLINS of Illinois (for herself, Mr. ANNUNZIO, Mr. KLUCZYNSKI, Mr. METCALFE, Mr. MURPHY of Illinois, Mr. ROSTENKOWSKI, and Mr. YATES):

H. Con. Res. 303. Concurrent resolution expressing the sense of Congress concerning the administration of a provision of the Federal Water Pollution Control Act; to the Committee on Public Works.

By Mr. FISH:

H. Res. 551. Resolution creating the Select Committee on the Cost and Availability of Food; to the Committee on Rules.

By Mr. HARRINGTON (for himself, Mr. BROWN of California, Ms. CHISHOLM, Ms. COLLINS of Illinois, Mr. EILBERG, Mr. HECHLER of West Virginia, Ms. HECKLER of Massachusetts, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. ROE, Mr. RONCALIO of Wyoming, Mr. RYAN, Ms. SCHROEDER, Mr. SEIBERLING, and Mr. STARK):

H. Res. 552. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Central Intelligence Agency, and for other purposes; to the Committee on Rules.

By Miss JORDAN:

H. Res. 553. Resolution providing for the creation of congressional senior citizen internship; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. MOAKLEY, Ms. ABZUG, Mr. BROWN of California, and Mr. DRINAN):

H. Res. 554. Resolution to investigate the involvement, if any, of the U.S. Government in the overthrow of the Allende government in Chile; to the Committee on Rules.

By Ms. HECKLER of Massachusetts:

H. Res. 555. Resolution creating a Select Committee on Privacy; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McKINNEY:

H.R. 10406. A bill for the relief of Fillimana Colonaino; to the Committee on the Judiciary.

By Mr. VEYSEY:

H.R. 10407. A bill for the relief of Terry J. Kirkland, Thomas R. Rogers, Robert W. Lay, and Robert K. Bell; to the Committee on the Judiciary.

By Mr. WYATT:

H.R. 10408. A bill for the relief of L. B. & L. Logging Co.; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 10409. A bill for the relief of Bill Ray Co.; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

283. The SPEAKER presented a petition of the Board of Chosen Freeholders, Union County, N.J., relative to financial assistance to disaster victims; to the Committee on Banking and Currency.

# SENATE—*Wednesday, September 19, 1973*

The Senate met at 9:15 a.m. and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our hope is in Thee, for Thou art our Creator, Redeemer, and Judge. Make us thankful for all Thy mercies, humble under Thy corrections, fearful to offend Thee. Work in our hearts a true faith, a pure love, an unfailing trust in Thee, zeal in Thy service and reverence in all that relates to Thee. May our passion for men proliferate more than our weapons, and may the power of love overcome all evil forces. May we labor with quiet confidence until our tasks are completed. Then grant us the accolade "Well done, good and faithful servant." Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., September 19, 1973.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. CLARK thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 18, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## PRESERVING GRIZZLY BEARS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in view of the importance of the question involved, to have printed in the RECORD a commentary by Mr. Lewis Regenstein which appeared in the Washington Post of September 11, 1973, under the title "Preserving Grizzly Bears," and a letter addressed to the chief of the editorial page of the Washington Post by Nathaniel P. Reed, Assistant Secretary of the Interior, under date of September 12.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### PRESERVING GRIZZLY BEARS

(By Lewis Regenstein)

For centuries, the grizzly bear was the dominant animal of the West. But hunting, trapping, and government "management" programs are steadily pushing it to extinction.

The grizzly is North America's largest and most awesome land mammal—nearly 1,200 pounds of muscle, claws, and teeth, with gargantuan strength, lightning quick reflexes, and an insatiable appetite. When standing on its haunches, a full-grown grizzly may attain a height of eight to 10 feet. It is capable of sprinting at 30 miles per hour, and can kill a bull moose with one blow of its mighty paw.

Probably the strongest land mammal in North America, the grizzly is a highly intelligent animal as well, ranking near the chimpanzee on intelligence tests. Although the bear's high degree of intelligence has not been widely recognized, its ferocity has, and it has unjustly gained the reputation as an aggressive, dangerous animal.

Few if any, animals have been subjected to as cruel, intense, and unjustified persecution as the grizzly. Fully 16 different species and subspecies of grizzly have been slaughtered into extinction.

It was the invention of high-powered rifles that marked the beginning of the end for the grizzly. Steel traps—which often maimed or crippled the bears—and poisons were later added to help finish off the species. From 1937 to 1972, the U.S. Department of Interior claims credit for having shot, trapped or poisoned about 25,000 bears, a significant percentage of which were surely grizzlies.

At the present time, the outlook for the grizzly is bleak indeed. The Interior Department estimates that there are no more than 700-1,000 grizzlies left in the entire lower 48 states: about 10 each in Idaho and Washington: "a few" in Colorado; 300 in Wyoming; and 375-700 in Montana. Thus, in little more than 100 years, the white man has reduced the grizzly population from about 1.5 million to probably less than 800.

Until recently, the largest concentration of grizzly bears remaining in the United States was found in the ecosystem of Yellowstone Park. Although ostensibly protected there, the grizzly population of Yellowstone is seriously threatened by an extermination campaign (euphemistically called a "management" plan) being carried out by Interior's National Park Service (NPS).

The situation in Yellowstone is particularly tragic, since this is the last large refuge of the grizzly in the United States. In an effort to remove grizzlies from the garbage dumps at which they have become accustomed to feeding for almost 100 years, NPS—in a plan supported by Assistant Interior Secretary Nathaniel Reed—precipitously closed down the dumps, instead of gradually phasing them out and luring the bears into remote areas. This not only disoriented the bears and threatened many with starvation, but also presented a danger to campers in the Park.

The bears that continue to frequent campsites and populated areas of the Park are shot by rangers. As a result, the death rate of the Yellowstone grizzlies in 1970-71 was double the birth rate, with 91 bears dying, more than half the estimated Yellowstone population. And according to Frank and John Craighead, consultants to the Interior Department who are recognized as the world's foremost authorities on the grizzly, "The present NPS management program, if continued, will very probably exterminate, or nearly exterminate, the Yellowstone grizzly population in about 20–25 years."

But most incredible of all, the Interior Department has inexplicably removed the grizzly from its list of endangered species and refuses to reinstate it. Moreover, the U.S. Forest Service still allows hunting of grizzlies in the national forests of Wyoming and Montana, even though only small remnant populations remain there.

As far back as 1913, naturalist William Hornaday warned that the grizzly was becoming endangered, and pointed out that Yellowstone Park was the only area where the bear was protected. Now, in the last three years, even Yellowstone has been destroyed as a refuge. The grizzly bear is a part of our nation's wildlife heritage, the embodiment of wilderness, and a reminder of what early America must have been like. It is the most spectacular carnivore that walks the earth. If it is to have a place in the wildlife heritage of future generations, action must be taken now to save the grizzly.

U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., September 12, 1973.*

Mr. PHILIP GEYELIN,
*Editor, Editorial Page, Washington Post, Washington, D.C.*

DEAR MR. GEYELIN: The National Park Service Bear Management Policy and Program for Yellowstone National Park has come under inaccurate and emotional criticism in the daily and conservation press.

It may be of help to your readers in finding their way through the recent rhetoric as exemplified by Mr. Regenstein's article of September 11 to outline in brief the status of the National Park Service Bear Management Program.

In September 1969, the National Park Service Science Advisory Committee composed of Dr. A. Starker Leopold, University of California at Berkeley; Dr. Stanley A. Cain, University of Michigan; Dr. Charles E. Olmsted, University of Chicago, and Sigurd Olsen, Ely, Minnesota, recommended the present policy of closing of the dumps in Yellowstone National Park and reestablishing a population of free ranging grizzlies in Yellowstone.

When I took office in May 1971, I was warned by some of America's best known biologists that I would be criticized by well-meaning bear lovers and the perpetual Park Service critics if I reaffirmed the policy. I was also advised that if I had the courage to follow through with the policy that after an initial loss of bears which could not adjust to living in a non-garbage dump ecosystem a healthy natural population would evolve that were free roaming, fully self sustainable and indeed wild. Frankly I do not consider that Yellowstone National Park, the mother park, should be the show place of garbage-dump bears. I reaffirmed that recommendation. This committee had the advice of Dr. Frank C. Craighead, Moose, Wyoming; Dr. John J. Craighead, University of Montana; Dr. Fredrick C. Dean, University of Alaska; and Dr. Albert Erickson, University of Minnesota.

By scrupulously removing human food from the bear's diet, through dump closures and through regulation of food handling in campgrounds, the bear-people interaction has been reduced considerably, and bear-people encounters have occurred only through the carelessness of people. As a matter of fact there appear to be more cubs this year than before; the population seems quite healthy and no bears have had to be destroyed this season thus far.

Due to the controversy, which Starker Leopold has called "one of the most complex and difficult biological decisions of our day," I fielded a study team consisting of a researcher from each of the Federal agencies involved in the Yellowstone area—the U.S. Forest Service, the Bureau of Sport Fisheries and Wildlife and the National Park Service. I assigned overall direction of this research team to Dr. Charles Loveless, Assistant Director of the Bureau of Sport Fisheries and Wildlife and Chief of Research. Dr. Loveless is recognized by his peers as an objective, honest and highly reliable researcher. The team is completing its first summer's work not only in Yellowstone National Park but in the adjacent lands of the Yellowstone ecosystem.

As further evidence that we are concerned and responsible managers of our Nation's wildlife resource, Secretary Morton requested the National Academy of Sciences to study the population dynamics of the Yellowstone grizzly population. This committee is under the chairmanship of Dr. Ian McTaggart Cowan, Dean, Faculty of Graduate Studies, University of British Columbia, and includes Dr. Douglas G. Chapman, University of Washington; Dr. Robert S. Hoffman, University of Kansas; Dr. Dale R. McCullough, University of Michigan; Dr. Gustave Swanson, Colorado State University; and Dr. Robert B. Weeden, University of Alaska. This study committee is charged with reviewing all the population data on the grizzly in Yellowstone area and determining insofar as possible the status of the grizzly population. This committee's findings and recommendations will be forthcoming later this year and will be made public by the Secretary. I look forward to receiving factual information on which to base policy from the field team and the National Academy's Review Committee.

The grizzly is not on the Endangered Species List. It is found in sizable populations in certain Canadian Provinces and Alaska. Its status in the lower 48 is far less encouraging as it takes literally thousands of acres per bear to provide the natural foods on which it exists. Man has invaded much of his former domain and man has been very hard on the grizzlies. Legal hunting seasons have been regulated by the states which still have grizzly bears to insure a continuation of this species.

I hope this reply indicates my personal concern and the Department's concern for one of the great American animals. It is time to put rhetoric aside and allow non-biased experts the opportunity of making their findings and appraisals available to us and the public. I am not interested in name callings. I am vitally interested in the Yellowstone grizzly bear.

Sincerely yours,
NATHANIEL P. REED,
*Assistant Secretary for Fish and Wildlife and Parks.*

## FINAL AMERICAN TOLL IN INDOCHINA

Mr. MANSFIELD. Mr. President, lest we forget, I note in the most recent issue of the U.S. News & World Report, for September 24, 1973, a commentary entitled "Final Toll for U.S. in Indochina." I have not marked the list as to which State, on a percentage basis, had the most casualties in that ill-begotten, ill-starred, dreadfully tragic war, but I do note that my own State of Montana ranks among the very highest—third or fourth, I believe—on the basis of deaths per 100,000 population. The figure for my State is 35.2 percent. That is 35.2 percent too many. So far as all the States are concerned, it is 100 percent too many.

Mr. President, I ask unanimous consent that this story, which indicates that 56,371 Americans died in the tragic and unnecessary war in Indochina, and the accompanying tables, be printed in the RECORD.

There being no objection, the article and table were ordered to be printed in the RECORD, as follows:

### FINAL TOLL FOR U.S. IN INDOCHINA

Now that the U.S. role in the fighting is over, it is possible to add up the final American toll of the war in Indo-China.

From Defense Department records:

Of the 56,371 American dead since Jan. 1, 1961, 6 out of every 10 were in the Army, nearly 3 of the remaining 4 were Marines. More than 60 per cent of those killed had been in uniform less than two years. More than 500 were recruits with less than six months of service when they fell. Fewer than 13 per cent had been in the military for more than five years.

As the accompanying charts illustrate, the largest number of deaths, 14,053, occurred among 20-year-olds, and 12 servicemen were only 17 when death struck. Of the total, 69 per cent were 21 years old or younger when they died; fewer than 8 per cent were 30 or older. Servicemen of the rank of private or corporal accounted for 69 per cent of the deaths.

The bulk of combat deaths, 39 per cent, resulted from rifle or other small-arms fire, and 2 out of every 10 deaths—a total of 10,306—were from accidents and other noncombat causes.

Defense officials estimate that 1 in 3 of those who died was a draftee. Some 12 per cent—7,192—of the Americans killed were blacks.

Still to be resolved is the fate of 1,249 servicemen who remain listed on official Defense Department rolls as captured or missing.

### DEATHS IN COMBAT AND FROM NONHOSTILE CAUSES

*By branch of service*

| | |
|---|---|
| Army | 37, 772 |
| Marine Corps | 14, 621 |
| Navy | 2, 323 |
| Air Force | 1, 648 |
| Coast Guard | 7 |
| | 56, 371 |

*By rank*

| | |
|---|---|
| Officers | 5, 533 |
| Warrant officers | 1, 227 |
| Noncommissioned officers | 25, 044 |
| Enlisted men | 24, 567 |

*By cause of death*

Death was from a variety of causes. Most common:

| | |
|---|---|
| Enemy small-arms fire | 19, 498 |
| Booby traps, other multiple fragmentation wounds | 9, 510 |
| Grenades and mines | 7, 424 |
| Aircraft crashes and losses | 7, 318 |
| Artillery and rocket fire | 4, 880 |

*By age*

| Age: | *Deaths* |
|---|---|
| 17 | 12 |
| 18 | 3, 093 |
| 19 | 8, 246 |
| 20 | 14, 053 |
| 21 | 9, 660 |
| 22 | 4, 765 |
| 23 | 3, 461 |
| 24 | 2, 609 |
| 25 | 1, 961 |
| 26 to 30 | 4, 091 |
| 31 to 40 | 3, 761 |
| Over 40 | 659 |

CASUALTIES, STATE BY STATE

| | Deaths | Deaths per 100,000 population |
|---|---|---|
| Alabama | 1, 179 | 33. 6 |
| Alaska | 54 | 16. 6 |
| Arizona | 599 | 30. 8 |
| Arkansas | 575 | 29. 1 |
| California | 5, 398 | 26. 4 |
| Colorado | 597 | 25. 3 |
| Connecticut | 583 | 18. 9 |
| Delaware | 119 | 21. 1 |
| District of Columbia | 235 | 31. 4 |
| Florida | 1, 886 | 26. 0 |
| Georgia | 1, 537 | 32. 6 |
| Hawaii | 270 | 33. 4 |
| Idaho | 204 | 27. 0 |
| Illinois | 2, 858 | 25. 4 |
| Indiana | 1, 496 | 28. 3 |
| Iowa | 808 | 28. 0 |
| Kansas | 599 | 26. 5 |
| Kentucky | 1, 032 | 31. 3 |
| Louisiana | 863 | 23. 2 |
| Maine | 328 | 31. 9 |
| Maryland | 984 | 24. 3 |
| Massachusetts | 1, 290 | 22. 3 |
| Michigan | 2, 584 | 28. 5 |
| Minnesota | 1, 034 | 26. 5 |
| Mississippi | 626 | 27. 7 |
| Missouri | 1, 366 | 28. 7 |
| Montana | 253 | 35. 2 |
| Nebraska | 383 | 25. 1 |
| Nevada | 141 | 26. 8 |
| New Hampshire | 216 | 28. 0 |
| New Jersey | 1, 428 | 19. 4 |
| New Mexico | 389 | 36. 5 |
| New York | 4, 002 | 21. 8 |
| North Carolina | 1, 554 | 29. 8 |
| North Dakota | 187 | 29. 6 |
| Ohio | 2, 999 | 27. 8 |
| Oklahoma | 965 | 36. 6 |
| Oregon | 678 | 31. 1 |
| Pennsylvania | 3, 045 | 25. 5 |
| Rhode Island | 199 | 20. 6 |
| South Carolina | 875 | 32. 8 |
| South Dakota | 186 | 24. 3 |
| Tennessee | 1, 261 | 31. 7 |
| Texas | 3, 292 | 28. 3 |
| Utah | 344 | 30. 6 |
| Vermont | 98 | 21. 2 |
| Virginia | 1, 259 | 26. 4 |
| Washington | 1, 004 | 29. 2 |
| West Virginia | 711 | 39. 9 |
| Wisconsin | 1, 128 | 25. 0 |
| Wyoming | 116 | 33. 6 |

Note: Population is U.S. Census Bureau estimate for mid-1972.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the minority leader desire to be recognized?

## MEMBER OF PHILADELPHIA ORCHESTRA RETURNED HOME

Mr. SCOTT of Pennsylvania. Mr. President, I am very glad to report that working with a number of people we have been successful in our efforts to get a member of the Philadelphia orchestra out of the People's Republic of China to return home because of the tragic death of his 9-year-old daughter from leukemia. Mr. Phillips' departure is being expedited through the courtesy of officials in the People's Republic of China and officials in Washington and we are all grateful for that act of compassion.

## NOMINATIONS OF U.N. DELEGATES

Mr. SCOTT of Pennsylvania. Mr. President, there are some names reported from the Committee on Foreign Relations having to do with the membership of our delegation on the United Nations. I have asked that those be held temporarily because I am informed that a quorum was not present at the time this action was taken. I think we should proceed in order in these matters. On behalf of the Senator from Minnesota (Mr. HUMPHREY) and myself we are very much opposed to the action taken by the committee. I did not know the action was going to be taken. I left the committee hearings at noon and I was not aware that this restriction would be imposed at that time. I blame no one; this is my own fault and certainly it is my responsibility.

I feel that the rights of ambassadorship to certain persons named should not be removed, particularly because the No. 3 person did have the rank of ambassador, but on being promoted to No. 2 the rank was taken away. This is an Alice in Wonderland procedure. I am not at all certain that that was the intent. At some point I wish to discuss this matter. I have not had a chance to talk to the chairman of the committee because this situation arose, or I was aware of it yesterday afternoon. But I hope we can arrange for the committee to recall these names in fairness to the persons involved because the action of the committee has been a great shock to them and it has vastly affected the morale of our delegation in New York. I hope the full committee will consider this matter carefully, because I do not believe this is the wish of the majority of the committee, if we can get it to a vote with the full committee present.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I yield.

Mr. GRIFFIN. Mr. President, I join the Senator in his remarks. I, too, am a member of the committee and I happened to be present when the subject was discussed. I urged that, rather than seeking to establish this principle by taking action in connection with particular named individuals, that we proceed by considering some resolution that would apply prospectively in the future if there were a desire to limit the number of ambassadorships, after having hearings and after having established what is the practice and procedure in the United Nations so far as the counterparts of these people are concerned.

The minority leader is correct. The committee did proceed and vote the nominations out, without the rank of ambassador. There was a feeling that there was some need to move expeditiously because the United Nations now has assembled and has undertaken its work.

I hope that the action which the minority leader is suggesting, that there will be a followthrough quickly by the committee would be followed because it is important that our representatives there be confirmed as soon as possible.

Mr. SCOTT of Pennsylvania. I thank the distinguished Senator from Michigan. Can the Senator advise me whether at the time the action was taken a quorum was or was not present?

Mr. GRIFFIN. It would be my recollection that a quorum was not actually present.

Mr. SCOTT of Pennsylvania. I was not told the action would be taken. I understood the Senators suggested we debate this as a prospective possibility rather than sending a shock wave through our delegation in the United Nations. After all, we are all a part of the United States.

Mr. GRIFFIN. I also wonder about the parliamentary situation. The question arises in my mind as to whether or not in the exercise of our power of confirmation we can in this way actually change the scope of the nomination that has been sent to the Senate. It is not a question on which I have done any research but it would seem to me it would be up to the Senate to confirm or not to confirm a particular nomination and not change the scope or the titles involved.

Mr. SCOTT of Pennsylvania. I would think that if a man's name is sent up as Deputy Attorney General or Under Secretary of Defense, the committees in charge would hardly consider naming him as Assistant Attorney General or Assistant Secretary of Defense; and yet a committee has taken unto itself the responsibility of changing the designation of the appointees and the rank to be held.

Mr. GRIFFIN. Unless an office were established by law and then, of course, it could be changed by law.

Mr. SCOTT of Pennsylvania. Of course.

Mr. GRIFFIN. But not by action of the committee.

Mr. SCOTT of Pennsylvania. I thank the distinguished Senator.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with new reports.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar beginning with new reports will be stated.

## INTERNATIONAL ATOMIC ENERGY AGENCY

The second assistant legislative clerk proceeded to read sundry nominations in the International Atomic Energy Agency.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

## DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

## OVERSEAS PRIVATE INVESTMENT CORPORATION

The second assistant legislative clerk read the nomination of Marshall Trammell Mays, of South Carolina, to be President of the Overseas Private Investment Corporation.

Mr. THURMOND. Mr. President, today we are considering for confirmation the nomination of Mr. Marshall T. Mays as President of the Overseas Private Investment Corporation. He has been associated with OPIC since its creation in 1971, serving with distinction as General Counsel and more recently as Acting President. Previously, from 1969 to 1971, Mr. Mays joined the Agency for International Development and began to reshape the AID program for private investors abroad into the program which was created by legislation 2 years ago.

He has done such a fine job as General Counsel at OPIC, displaying the characteristics of great talent and leadership, that he is now being proposed by the administration for promotion to President. The Nation has truly benefited by the outstanding services of this dedicated American, and his confirmation for the top job in the agency he serves will bring even greater rewards to our country.

Mr. Mays is a graduate of the U.S. Naval Academy and the University of South Carolina Law School and has done graduate work at Harvard Law School. Following service in the Navy, he engaged in the practice of general civil law and served for a time in the South Carolina House of Representatives. Mr. Mays has also rendered excellent service to a number of civic, charitable, and public institutions.

Mr. Mays is a man of immense ability and dedication, and his confirmation as President of OPIC will be a service to the country. I hope the Senate will promptly confirm him.

Mr. President, I ask unanimous consent that a more detailed biographical outline of Mr. Mays' career be printed in the RECORD.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

### MARSHALL TRAMMELL MAYS

#### PERSONAL

Born 21 July 1924 Greenwood, South Carolina.

Married 5 June 1953 to Jane Brooks Marshall Mays.

Three sons, ages 13, 11, 9.

Religion: Episcopal, vestryman and warden.

Fraternities: Sigma Alpha Epsilon (social); Phi Delta Phi (legal); Omicron Delta Kappa (leadership).

#### EDUCATION

Public schools, Greenwood, South Carolina.

The Citadel, Charleston, South Carolina 1941–42.

U. S. Naval Academy, Annapolis, Maryland 1942–45, B.S.

University of South Carolina School of Law, 1947–50, LL.B.

Harvard Law School, 1950–51.

#### PROFESSIONAL

General civil practice of law.

Mays, Featherstone & Bradford, Associate 1951–52, Partner 1954–56.

Mays & Mays, Partner 1956–68.

University of South Carolina School of Law 1947–50; Editor in Chief, South Carolina Law Quarterly 1950; Wig and Robe (scholastic society); and Phi Delta Phi.

Harvard Law School 1950–51, special graduate student, Lincoln's Inn.

South Carolina Bar Association; Committee on Grievances 1956; Chairman, Special Committee on Revision of Corporation Law, 1960–62; Annual Review of Law, South Carolina Law Quarterly, Sections on Corporations and Partnership, 1957–60; and

Chairman, Committee to Study Revision of State Constitution.

American Bar Association: Section on Real Estate, Probate and Trust Law; Committee on Trust Law; Committee on Mortgage Law.

#### MILITARY SERVICE AND TRAINING

Midshipman, USN, 1942–45.

Ensign, USN, 1945–47, stations: USS Randolph (CV15); Staff, Commander Carrier Division SLX, Communications Watch Officer.

Lieutenant, USNR, active duty, 1951–54; stations: Staff, Commander in Chief United States Naval Forces Eastern Atlantic and Mediterranean, Communications Watch Officer and Legal Assistance Officer.

Staff, Commander in Chief, U.S. Forces, Europe, Foreign Military Rights Branch (negotiating bi-lateral agreements concerning status of forces with allied governments).

Lieutenant Commander, USNR, Commanding Officer, Naval Reserve Electronics Division 6–40, Greenwood, S.C., 1959–62.

National Resources Conference, Jacksonville, Florida 1957.

Industrial College of the Armed Forces, correspondence course, "Economics of National Security" 1960.

#### GOVERNMENT AND POLITICAL

Member, South Carolina House of Representatives 1958–60 (did not seek re-election).

Judiciary Committee.

Labor, Commerce and Industry Committee.

Special Committee to Investigate Insurance Rates (drafted report).

Co-author of legislation which reorganized S.C. Insurance Department.

Republican candidate for Lieutenant Governor 1966.

Alternate, Republican National Convention 1968.

Republican Coordinating Committee, Task Force on Crime and Delinquency 1967–68.

#### BUSINESS

Officer and Director of various closely held corporations.

Trustee, individual trusts approximating $750,000.00.

#### CIVIC

Junior Chamber of Commerce 1954–57 Distinguished Service Award, "Young Man of the Year, 1959".

Greenwood Chamber of Commerce, Director 1959, 1957–68.

Greenwood Rotary Club, 1955–68, Director 1957.

Advisory Board, Juvenile and Domestic Relations Court (Greenwood County) 1955–56 (initial board establishing court).

Board of Trustees, Greenwood City and County Public Library, 1957–58 (building committee for new library), 1967–68.

Director, Greenwood County Crippled Children Society 1954–56.

Greenwood Little Theatre, President, 1955; Director 1968.

Greenwood County Historical Society President 1959.

Cambridge Academy, Director 1968.

#### TRAVEL AND LANGUAGE ABILITY

United States and Canada; Caribbean; Mid-Pacific, Mediterranean, and Europe, Naval Service in Naples, Italy, Frankfurt, Germany, and Paris, France.

Casual knowledge of Italian and German, fair translation and interpretation of French.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The second assistant legislative clerk read the nomination of Herbert Salzman, of New York, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The second assistant legislative clerk read the nomination of Anthony J. Jurich, of Virginia, U.S. Negotiator on Textile Matters, to be minister.

Mr. MANSFIELD. Mr. President, for the information of the distinguished Republican leader, I think that this is worthy of note. We are overburdened with ambassadors nowadays, but to have a man appointed minister is, indeed, not something unusual any more. I just wish to note that we have at least one minister, not to a country, but with a title to go with his position as a U.S. negotiator on textile matters. I make that statement for the record. We have one minister I know of and we should have more ministers and fewer ambassadors.

Mr. SCOTT of Pennsylvania. If we are going to do this we should do it with full notice to the agency affected and after full debate. We should do it prospectively rather than to have the Committee on Foreign Relations sit as a committee on titles and let the committee decide who is going to have what title. We hear so much about executive privilege, we have legislative power and legislative privilege and I am very seriously in doubt as to whether the committee has the right to do this in the first place, and certainly the Senate has the right to reverse it if it wishes.

Mr. MANSFIELD. The rank of minister was not allocated by the Committee on Foreign Relations.

Mr. SCOTT of Pennsylvania. I am not speaking of the minister here; I am speaking of the ambassadors that I referred to in my previous remarks.

Mr. McGEE. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I am prepared to withdraw it.

Mr. SCOTT of Pennsylvania. No; we are not asking them to be withdrawn; we are just trying to get something on the record.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McGEE. Mr. President, I withdraw the objection.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## INTERNATIONAL MONETARY FUND

The second assistant legislative clerk read the nomination of Arthur F. Burns, of the District of Columbia, to be U.S. Alternate Governor of the International Monetary Fund.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT; INTER-AMERICAN DEVELOPMENT BANK; AND ASIAN DEVELOPMENT BANK

The second assistant legislative clerk read the nomination of William J. Casey, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development, Inter-American Development Bank, and Asian Development Bank.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## UNITED NATIONS

The second assistant legislative clerk proceeded to read sundry nominations to the United Nations.

Mr. MANSFIELD. Mr. President, I ask that all the nominations to the United Nations go over.

The ACTING PRESIDENT pro tempore. The nominations will go over.

Mr. MANSFIELD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

## ABORTION

Mr. BARTLETT. Mr. President, the distinguished Senator from New York, (Mr. BUCKLEY) has, in his introduction of the human life amendment, dealt eloquently with the various aspects of the recent Supreme Court decision on abortion. As a cosponsor of the amendment, I add my voice to his and present my personal feelings on the Court's decision.

Though Chief Justice Burger says:

> Plainly the Court today rejected any claim that the Constitution requires abortion on demand.

The first and most important point to be observed is that the decision does pave the way for abortion on demand for the first 6 months of pregnancy or until viability. In the first 3 months, or first trimester, according to the Court, the abortion question is totally up to the woman and her attending physician. In the second trimester, the State may regulate, but not proscribe, the abortion procedure—and so for the second trimester, the decision of the pregnant woman and her physician is compelling. In the final trimester, the State suddenly takes on a "compelling interest" in the matter, and may proscribe abortion except "where it is necessary for the preservation of the life or health of the mother." But the Court then accepts a definition of health which includes "psychological as well as physical well-being," that is, "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being" of the mother.

In other words, Mr. President, a woman now has a constitutional right to pursue the abortion of her unborn child if giving birth would be socially inconvenient, or would make her emotionally upset. The right to life is no longer a right, but is now dependent on the comfort and well-being of the mother. A human being is reduced to an expendable social convenience.

How did the Court arrive at such a position? It did so by a gross distortion of history, of the Constitution, and of the nature of man. Basically, the Court based the decision on its conclusions that abortion is historically neither wholly uncommon nor unlawful; the right of privacy includes the decision of a woman to terminate her pregnancy as she and her doctor desire; and the fetus, regardless of "potential" human status, is not a legal person and thus is not entitled to human rights.

Now it is true that abortion has been practiced, legally and illegally, throughout history. But slavery has been practiced throughout history, too. Should we, therefore, repeal the laws which proscribe slavery?

The Court was content merely to list periods in history where abortion was sanctioned, and thus saw only what it wanted to see. Justice Blackmun, for example, was impressed with the fact that "Roman law afforded little protection to the unborn."

Mr. President, our history is the story of a progression, though imperfect and unsteady, from barbarism to civilized society. Though the Romans were more civilized than other ancient cultures, they were barbaric in that they did not understand the sanctity and dignity of human life. And thus Seneca, the Roman philosopher, argued:

> Mad dogs we knock on the head; the fierce and savage ox we slay; sickly sheep we put to the knife to keep them from infecting the flock; unnatural progeny we destroy; we drown even children who at birth are weakly and abnormal.

This is the voice of barbarism, and in a society which accepted slavery, crucifixion, and the killing of newborn children, we should not expect the killing of a fetus to seem abnormal.

The Judeo-Christian philosophy, with its emphasis on human rights and individual freedom, emphasized the basic dignity and sanctity of human life. The Didache, an analymous Christian writing of the early second century, includes under the "second commandment of the teaching" the precept. "Thou shalt not procure abortion." And this precept has continued as a basic concept of our Western civilization for almost 2,000 years. The advancement of our culture, measured by the increasing recognition of the rights of the unborn, is evidenced historically in the increasing protection by law of unborn life.

Mr. President, the Supreme Court decision is applauded by some as "progressive," but in reality it is regressive, a throwback to the primitive and barbarian past when human life was without innate value. The Court's interpretation of history is one-sided, and this is documented in a comprehensive brief filed by the attorneys in the Byrn against New York City Health and Hospitals Corp. case which was on appeal to the Court at the time the Court handed down its decision on abortion.

Perhaps an even greater misinterpretation, Mr. President, is found in the Court's discovery of a constitutional right to privacy which includes the right of a woman to destroy her unborn child. Not surprisingly, there was much disagreement among the members of the Court as to where this right of privacy is situated—some found it in the ninth amendment; others found it in the first, fourth, or fifth, even the entire Bill of Rights. However, the majority "felt," to use its own language, that this right is contained in the 14th amendment's concept of personal liberty and limited government.

In order to find this right in the 14th amendment, the Court has had to totally ignore the expressed intent of the Framers. Justice Rehnquist in his dissenting opinion pointed out that at the time of the adoption of the 14th amendment there were 36 laws enacted by State or territorial legislatures limiting abortion, and he declared—

> The only conclusion possible from this history is that the drafters did not intend to have the Fourteenth Amendment withdraw from the States the power to legislate with respect to this matter.

Obviously, this also applied to the amendments adopted prior to the 14th amendment.

The intent of the framers, as pointed out in the Byrn brief, was clearly to—

> Protect every live human being regardless of age, stage, condition of wantedness.

Congressman John Bingham, who sponsored the 14th amendment in the House, stated that it was "universal" and applied to "any human being," and his Senate counterpart noted that the amendment covers "the humblest, the poorest, the most depised of the race." Even a cursory glance at history shows that the opinion and mood of the age were unquestionably opposed to abortion. Are we to assume, Mr. President, that the framers did not mean what they said? In the words of dissenting Justice White:

> The Court simply fashions and announces a new constitutional right for pregnant mothers and with scarcely any reason or authority for its action invests that right with sufficient substance to override most existing state abortion statutes.

Finally, after misinterpreting history and the Constitution, the Supreme Court has thrown both established scientific fact and commonsense out the window by declaring that the fetus is not a legal person and thus not entitled to human rights.

The Court is unequivocal on this matter:

> . . . The word "person", as used in the Fourteenth Amendment, does not include the unborn.

And they are aware that the validity of their case hinges on this point:

> If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life is then

guaranteed specifically by the Fourteenth Amendment.

**Given these conditions, one would expect a thorough and cogent analysis. What is evidenced in the decision, however, is a jumble of illogic and confusion. The basic question to be resolved, before one can even begin to consider the rights of unborn children, is the issue of when human life begins.**

**But the Court chose to totally disregard this matter by saying:**

> When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer . . . We need not resolve the difficult question of when life begins.

Now, as a matter of fact, there is considerable agreement among scientists, biologists, philosophers, and theologians as to when human life begins. It begins at the moment of conception: when the ovum is fertilized by the sperm—forming that unique genetic organism called the zygote—fetus—which 7 days later implants itself in the womb.

But let us assume, for the sake of argument, the Court's uncertainty about when life begins. Now, when there is doubt about the possible effects of an action, commonsense dictates that one take the safer course. Thus, if there is a possibility that abortion is the taking of human life, one would naturally forbid abortion until the matter can be decided conclusively one way or the other. The Supreme Court, however, does not concern itself with the issue of whether or not abortion is murder. It closes its eyes to this all-important issue and, busying itself with sophistry, discusses only the purely legal issue of the definition of "person" in the 14th amendment.

Yet even this slender reed falls before the historical evidence which shows that the framers, in harmony with the common law and moral sentiment of their age, intended the 14th amendment to apply to unborn children. I quote from the Byrn brief:

> The Framers intended that every live human being, every member of the human race, even the most unwanted, fall within the aegis of the Due Process and Equal Protection Clauses. History does not support the proposition that the Framers intended to exclude unborn children.

Moreover, from a strictly logical standpoint, the argument that the unborn child is not a human being or "person" and is not entitled to human rights is a manifest absurdity. A principal argument of proabortionists is that before birth the fetus is merely a part of the mother's body, like any other organ or appendage. Because it is common practice to remove an organ or appendage when it becomes dangerous to the mother, we are therefore asked to sanction abortion as we would sanction the removal of a gangrenous leg or diseased kidney. The extermination of a living being whose heart beats at 3 weeks, who moves after 6 weeks, and who by 12 weeks is sucking his thumb, swallowing, digesting, and urinating is to the proabortionist no different than an appendectomy. By virtue of its dependence on the mother for survival, then, the fetus is deemed an expendable part of the body.

While a mother may claim that a fetus is a part of her body, it is interesting that the umbilical cord attaching the fetus to the mother is produced by the fetus, and not by the pregnant woman.

But for months and years after birth the child is also dependent on the mother for survival. By the logic of the argument of whether the child is dependent on the mother, we could also exterminate newborn children and, by extension, the elderly and sick who are unable to take care of themselves. It is true that the fetus lives inside of a womb and a child outside—but why should this factor be at all relevant? Scientists and theologians alike agree that birth, the severing of the umbilical cord, is an arbitrary point in the development of the child.

The absurdity of this dependency argument becomes clear as we progress to its logical conclusions. The court assumes that birth is the point at which the child becomes a person. Is he not a person when one-third of the way out, as well as a person when two-thirds of the way out? Is the baby a human being which may be destroyed 1 second before birth begins, and a "person" possessed of inalienable rights 1 second after birth begins?

A guarantee of the conditions of life for a human being during the first 9 months are perhaps more important than those of any succeeding 9 months.

If a human being's life is terminated in the first 9 months, he is absolutely denied all of his inalienable rights and has no second chance to regain them—ever.

Mr. President, the Declaration of Independence states:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness.

The Supreme Court is apparently now prepared to say that some men are not created equal, and that the desire, convenience, health, or comfort of some give them the power of life or death over others. This value system, denying the inalienable right to life of an unborn child until some arbitrary state of development, is a shameful regression to the barbarism which ignores human dignity and value.

It is the mentality by which Stalin massacred millions of innocent Russian peasants, and Hitler exterminated millions of innocent Jews. And now, in our time, this doctrine is loosed with full force upon the most innocent of all beings: the defenseless unborn child.

What is there to say about a court which cares more for the life of a convicted murderer than the life of an unborn child?

Justice Douglas, in his concurring opinion, said that—

> A woman may be deprived of a preferred life style and have forced upon her an "undesired future" because the vicissitudes of life produce pregnancies which may be unwanted.

Pregnancy is not some mysterious accident over which human beings have no control. I thought they were teaching in our high schools that sexual intercourse between a man and a woman causes pregnancy. He is saying that man is no longer a free and autonomous being, no longer capable of controlling his destiny so as to become a businessman, a doctor, a father, a farmer, a poet—that, stripped of dignity and responsibility, man is now a mere biological organism which floats passively on the tide of events, tossed about by the "vicissitudes of life." Given this view of humanity, it is inevitable that human beings should be reduced to expendable social utilities and conveniences.

Some will protest that to draw such implications from this Supreme Court decision is imprudent. I ask them to examine the wording of the Court's decision. The Court states that the unborn are not recognized by the law as "persons in the whole sense," and uses as a prerequisite for human status the criterion that one be "capable of meaningful life."

What does this mean? Quite simply, it means that human life may not have value; that it is subordinate to other considerations. What are such considerations? For instance, that the mother may have to—

> . . . Abandon educational plans; sustain loss of income . . . (and) endure the discomforts of pregnancy.

It is for the "discomforts of pregnancy" that the Court is now willing to sacrifice innocent human life. The right to life is no longer an inalienable right, but a matter of chance.

Mr. President, as soon as one questions the value of human life, there is nothing in principle that prevents him from expanding the circumstance under which human beings may be exterminated. It is only a matter of degree to shift from the extermination of the fetus to the extermination of children with birth defects to the extermination of the elderly, the sick, the crippled, and others who are "less than whole persons."

Mr. President, one must always value human life. The right to life is not the gift of a state, a judiciary, or any other organization or individual. It is innate in the nature of man.

The decision of the Supreme Court is a direct attack on this fundamental human right. It is offensive not only to commonsense and established scientific fact, but to that precious moral tradition which is the product or ages of human endeavor—a moral tradition which has culminated in the American philosophy. It places the rights and liberties of each individual and all human life ahead of the state.

To hold that many of us can solve our problems only by killing others is a blow to human development and justice.

Mr. President, I urge my colleagues to join me in supporting the human life amendment. Nothing less is at stake than that respect for the dignity and sanctity of human life which is the prime characteristic of a free and civilized society such as ours.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment the bills (S. 155) for the relief of Rosita E. Hodas and (S. 666) for the relief of Slobodan Babic.

The message also announced that the House insists upon its amendments to the bill (S. 1141) to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Patman, Mrs. Sullivan, Mr. Koch, Mr. Mitchell of Maryland, Mr. Barrett, Mr. Gonzalez, Mr. Young of Georgia, Mr. Stark, Mr. Moakley, Mr. Widnall, Mr. Wylie, Mrs. Heckler of Massachusets, Mr. McKinney, Mr. Rinaldo, and Mr. Roncallo of New York were appointed managers of the conference on the part of the House.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8070) to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Tennessee (Mr. Baker) be recognized for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks Senator Baker made at this point on the introduction of S. 2437, dealing with a study of the reallocation of military manpower, are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

## DEATH OF TOM VAIL

Mr. MANSFIELD. Mr. President, I wish to announce to the Senate that one of the officials attached to this body, Mr. Tom Vail, passed away last night. Those of us who knew Tom, who was general counsel of the Committee on Finance, had a great admiration for his capacity, for his integrity, his intelligence, and his sense of fairness. He was a gentle man; he was a good man.

I understand that the distinguished chairman of the Committee on Finance is at the present time visiting at his home and he left to go there as soon as he heard what had happened to a trusted confidant.

We will all miss this gentle, this good man, and we are very sorry to see him leave when he was really in the prime of life. May his soul rest in peace.

Mr. CURTIS. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. CURTIS. Mr. President, I thank my distinguished friend.

Mr. President, I wish to express my sorrow at the death of Tom Vail. Tom Vail was a very faithful public servant. He was knowledgeable in the field of taxation. He worked long and hard. He was faithful to his task. He was always courteous; he worked under stress, and sometimes there would be several Senators trying to get his attention or asking questions but his even temper helped him carry along. He was an eager man with an excellent mind.

Some months ago he was stricken with an illness and spent many months in the hospital. During that time he continued to be interested in his work. His conversation was cheerful and forward looking.

I wish to extend to his wife and his children and his other loved ones sympathy and our prayers that their faith will carry them through these days.

Our chairman, the distinguished Senator from Louisiana (Mr. Long) called my home early this morning. I had already gone to another engagement when this note was passed to me. "Tom Vail passed away last night." It is signed by Senator Long. I know that he would like to be here to share in these remarks at this time. However, as has already been stated, he is with the Vail family now. So in behalf of Chairman Long and all the other members and former members of the Committee on Finance, I wish to express our deep concern and the offer of prayers to Mrs. Vail and the family.

Mr. BENTSEN. Mr. President, I wish to say a few words expressing my regret as to the untimely death of Mr. Tom Vail, chief counsel of the Senate Finance Committee.

Tom Vail served the Finance Committee with competence and dedication for almost 10 years. Tom's service with the committee was marked not only by his professional capabilities but also by his human qualities and his concern for others. He was a decent, compassionate man whom we all will greatly miss. I wish to extend my special sympathy to his wife and children and to his mother who resides in San Antonio, Tex.

Mr. TALMADGE. Mr. President, with the passing of Mr. Tom Vail, the chief counsel of the Committee on Finance, the U.S. Senate has lost an unselfish and dedicated servant.

Much will be said today and in the future about Mr. Vail's contributions in the development of legislation involving billions of tax dollars and affecting the welfare of millions of Americans. Much will be said about Mr. Vail's conscientious efforts to protect the Public Treasury and his heartfelt concern for the needy and the disadvantaged. Much will be said about the exemplary manner in which Mr. Vail discharged his duties as chief counsel and the loyalty and respect he earned and commanded from the Senators and professional staff of the Committee on Finance. Much will be said about Mr. Vail's devotion to his lovely wife, Nancy, his four children, his church, and his community. I will simply say that Mr. Tom Vail was my friend. He was the most capable and most dedicated public servant I have known.

Indeed, Mr. President, much will be said about the generous quantities of intelligence, vigor, integrity, and compassion with which our Maker endowed Tom Vail. These cannot be overstated but, somehow, words fall short of adequately describing all of the things Tom Vail was and what he meant to us.

However, let us never forget that because our Maker was generous in endowing Tom Vail with these qualities, He was also exceedingly generous to those of us who knew and worked with Tom. Moreover, He was generous to those whom Tom ultimately served—the American people, who have not known, but whose lives have been influenced by Tom's work.

We mourn his passing today, but we can take consolation in the fact that Tom Vail was with us and that he touched our lives in a very special way.

Mr. FULBRIGHT. Mr. President, I join my colleagues in expressing my sorrow at the death Tuesday of Tom Vail, chief counsel of the Committee on Finance, at the age of 45.

For 22 years he dedicated himself to the service of Congress and the American public and he excelled in his work. Since 1965 he had been chief counsel of the Finance Committee and it was in this position that I came to know him and to rely on him. Tom was always willing to be of assistance to me and to members of my staff, and he had a thorough knowledge of the diverse and important subjects with which the committee deals.

In addition to his exceptional professional ability, Tom Vail was exceptional on the personal level as well, a man who was not only well respected but well liked. He was truly an outstanding man and served well this Senate.

Mrs. Fulbright joins me in extending condolences to Mrs. Vail and the family.

Mr. BIBLE. Mr. President, it is with great regret that I learned today of the death of Thomas L. C. Vail, who served the Senate as chief counsel of the Senate Finance Committee. In my many years in the Senate, it has been my continuing impression that Mr. Vail stood on the very highest rung of the ladder as far as professional competence and service to the Senate and the public.

His modest character is indicated by his two-line biography in the Congressional Staff Directory noting his residence, his marriage, and the award of his LL.B. from George Washington University.

Although his time and counsel were sought from every quarter, Mr. Vail was never too busy to give some of these precious commodities to the improvement of the tax laws and tax proposals for small business. His good counsel contributed materially to the enactment of the Small Business Investment Tax Credit Amendment of 1966 and to the formulation of the Small Business Tax Simplification and Reform Act of 1973 which is now before the Committee on Ways and Means.

Thus, small businessmen all over the country owe a debt of gratitude to Mr.

Vail. Beyond this, his sterling qualities as a man and as a staff aide to the U.S. Senate have made this a better country. Our deepest sympathies go to his wife and children. I hope that they are comforted by the thought that we in the Senate will also miss Tom Vail very much.

Mr. FANNIN. Mr. President, it was with great sadness that I learned today of the death of Tom Vail, chief counsel of the Committee on Finance.

My colleague from Louisiana, Chairman Long, paid an eloquent and fitting tribute to Tom Vail, and I certainly concur in these statements.

The Senate and the Nation has lost a valuable and dedicated public servant, a man of great warmth and firm principles.

As a member of the Finance Committee it had been my privilege to work with Tom Vail on many occasions over the years.

He had an immense knowledge concerning the many complex issues of vital importance to the American people which have come before our committee.

He was held in the highest of esteem by the minority as well as the majority members of the Finance Committee. Because of his expertise, his administrative ability, and his great integrity, we relied fully and confidently on his guidance regardless of our political philosophy or party affiliation.

He was a fine gentleman, and we shall miss him greatly.

I join the Senate in extending condolences to Mrs. Vail and their children.

Mr. ROTH. Mr. President, I join my colleagues on the Senate Finance Committee in my great sorrow at the death of our chief counsel, Tom Vail.

Though I am a new member of that panel, and knew Tom for only a brief period, I have a great appreciation for the reputation he leaves behind. As a truly professional staff counsel, he earned the respect and confidence of Senators from both sides of the aisle.

My very distinguished predecessor, John Williams, culminated his career as ranking minority member of the Finance Committee, and his admiration for Tom was profound. In my mind, no man could earn a higher recommendation.

Tom stood for, and achieved, the highest standards of nonpartisan ethics in his many years of service to the committee and to the Senate as a whole. His excellent example of careful thought and clear presentation is one we were proud to enjoy, and should be anxious to emulate.

My deepest sympathy goes to Tom's family, and friends who have lost so much.

I ask unanimous consent to have a statement by Senator Williams printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

### Statement by Senator Williams

Tom Vail was a highly respected and trustworthy public official. I had the privilege of working with Tom in his capacity as Chief Counsel of the Senate Finance Committee and I never knew a more dedicated public servant.

Tom was recognized by members of both parties as a young man of high integrity and his wise counsel on complicated problems coming before the Finance Committee was invaluable.

With his passing I have lost a personal friend and I extend my sympathy to all the members of his family.

Mr. MONDALE. Mr. President. I was deeply saddened to learn of the death last night of Tom Vail.

I was just appointed to the Finance Committee earlier this year, so my relationship with Tom was relatively brief. During that time I found him to be unfailingly able, professional, courteous, and fair. Even though Tom was seriously ill and in the hospital for much of this year, the committee staff continued to maintain the high professional standards that he set. That is a tribute to both him and them.

Tom will be sorely missed by all of us. I extend my deepest condolences to his wife and family.

Mr. HANSEN. Mr. President, I want to take this opportunity to express my profound regret at the passing of Tom Vail. I am familiar with the feelings and the sentiments held by every member of the Committee on Finance and those other persons with whom Tom Vail worked so closely.

Over the years, as the distinguished chairman of the Finance Committee well knows, Tom Vail was instructed to recruit a nonpartisan staff, a staff of professional people who were competent and who could be objective and provide the kind of information that would be most helpful to those in whose hands rest the responsibility of deciding many issues of extreme importance to this country of ours. As a member of the other party, I say to my distinguished chairman that I found Tom Vail to be extremely eager and desirous to discharge that responsibility. He had people who respected him and admired him just as much on the Republican side of the aisle as he was respected and admired by those on the Democratic side of the aisle.

Tom Vail was an unusual person. He had a great many interests. His knowledge and professional competence amazed me—that anyone could have taken the time to have learned so much in the relatively few years that he pursued problems of enormous proportions.

He was competent in any number of extremely complicated and involved areas of professionalism that would have been a worthy assignment for several people.

Tom Vail, though, will be remembered by his family as a devoted, kindly, and loving father and husband.

I am sure that his family must know how deeply cherished was his friendship by those of us on the Finance Committee.

I share the profound regret that has been expressed by my chairman, Senator Long, in noting the passing of this very distinguished and dedicated public servant.

Mr. LONG. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Finance be accorded the privilege of the floor: Michael Stern, Jay Constantine, Robert Willan, Rose Marie West, Jeanne Abrams, and Helen Donelan; and from my office, Marsha Schramm; and from the joint committee staff, Larry Woodworth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, it is with a deep feeling of sadness that I take this time to inform my colleagues of the passing of Tom Vail, chief counsel of the Committee on Finance. Mr. Vail, who was well known to the Members of this body, died last night in Northern Virginia Doctors' Hospital at the age of 45.

It is no overstatement for me to say that Tom Vail was the most gifted and dedicated public servant I have encountered in my 25 years as a Member of the Senate. For a moment I would like to review the many contributions Mr. Vail made to the Finance Committee, to the Congress, and to this country.

When I assumed the chairmanship of the Finance Committee, the committee was virtually without a professional staff. The committee was relying primarily on external sources for staff support. Mr. Vail, who had joined the committee staff in 1964, represented the committee's sole professional staff member. My predecessor as chairman, the late Harry Byrd, Sr., father of the distinguished Senator from Virginia, had named Mr. Vail chief counsel in 1965.

It had long been my view that the Finance Committee should have its own individual professional staff in addition to these other sources of information and assistance. Upon assuming the chairmanship, I reappointed Mr. Vail chief counsel and directed him to recruit a nonpartisan professional staff to assist the committee in its work. Mr. Vail was uniquely qualified to undertake this assignment. From 1951 to 1964, he had been a member of the staff of the Joint Committee on Internal Revenue Taxation, a staff with a well-deserved reputation for professional competence in the field of taxation.

In the months and years that followed, Mr. Vail recruited such a professional staff. More importantly, he instilled in them a tradition of objectivity and professional excellence which became a valuable asset not only to the members of the committee, but to the Senate and to the Congress as a whole.

Tom Vail's great gifts as an administrator, however, are matched by his many contributions as an individual professional staff member. Over the years, Senators who were members of our committee, and Senators who served on other committees, came to rely on Tom Vail for advice and counsel in the many areas which fall within the Finance Committee's jurisdiction. Whether the subject was trade legislation, tax policy, medicare, or social security, welfare reform, the public debt, or even questions concerning the financing of political campaigns, Tom Vail possessed not only a tremendous reservoir of knowledge, but also an extraordinary ability to present policy issues for decision.

Let me give a few examples:

In 1965, the Congress established the medicare and medicaid programs and directed that they begin operation the following year. As might have been expected in the initiation of such large new programs, problems were encountered in their implementation. At the committee's request, and under Tom Vail's direction, the committee staff undertook a year-long comprehensive study of the medicare and medicaid programs and prepared a staff report detailing the problems which were being encountered and suggesting alternatives for their solution. This staff report formed the basis for subsequent legislation to improve the administrative quality, and cost control in the medicare and medicaid programs. In this work Tom Vail made a very large contribution not only to the administration of these programs, but also to the health and well-being of millions of Americans.

Similar examples of Tom Vail's contributions to the legislative process and to public policy can be found in the fields of social security, welfare reform, taxation, trade and the other areas within our committee's jurisdiction. These examples illustrate Tom Vail's competence as a professional staff member and as an administrator with the committee staff, but also, I think, his unusual dedication to public service.

Mr. Vail's extraordinary value to the Finance Committee was not only his ability to master the technical details of legislation, but also his ability to present, in an objective manner, the questions to be decided in the context of our country's domestic and foreign policies. It was this unusual ability to take the broader perspective, as well as the depth of his technical knowledge, that earned Tom Vail the genuine respect of Senators of both parties, of the heads of agencies in the executive branch, and of other participants in the legislative process.

More important than his many professional achievements were the personal qualities Tom Vail brought to his daily dealings with other people. Tom Vail elicited the best in others. He was a leader, who led through personal example. He was a kind and sensitive man who fully realized that the work of the committee directly affects the lives of millions of people. Tom Vail was a man of generous, unselfish nature, a man who personally and professionally enjoyed the respect and admiration of all who knew him. Tom was a man of the highest moral character and his personal and professional integrity were without question. These were qualities which Tom never lost, despite the pain and anxieties brought on by his illness of the past 2 years.

His loss is mourned not only by the past and present members of the Finance Committee and of the Senate, but also, and more especially I believe, by the members of the committee staff who were privileged to serve under his leadership and to learn from his example. His untimely death tragically curtails a 22-year career as an outstanding employee of the Congress.

Mr. President, Tom Vail's recognized talents caused him to be sought after throughout private industry. He declined numerous offers of attractive positions in the private sector because he felt so strongly about the contributions he could make with the Finance Committee and, the Congress for the general welfare of the country.

Tom Vail was a loving husband and devoted father. He thoroughly enjoyed his homelife with his wife Nancy and their four children. This was most apparent in his conversations. His idea of an enjoyable weekend was camping and hiking with his family. He had a tremendous interest in young people and frequently took boy scouts on weekend trips to share with them his knowledge and love of the outdoors.

His loss will be felt not only by those of us here in the Senate but also by his many friends and neighbors who knew him so well. It has been said that the greatest legacy a man leaves to his fellow man is that of a shining example. Truly Tom Vail leaves that with all of us.

Mrs. Long joins me in expressing our deepest condolences to Mrs. Vail and to their four very fine children.

Mr. President, it took some doing to persuade the Department of Defense to make an exception to a recent regulation which restricted the number of former servicemen who could be interred at Arlington.

I am happy to say that just the day before Mr. Vail passed away, this consent from the Department of Defense, for Mr. Vail to be buried alongside his brother in Arlington, came through.

This is a fortunate circumstance, because those of us in the Senate, I am sure, will want to find ways to make Arlington Cemetery available to more of our dedicated public servants who have been excluded from Arlington by the pressure of circumstances in recent years. I believe there are ways we can meet that problem, and will.

In Mr. Vail's case, I recall him telling me that after the Civil War, the Reconstruction Congress had confiscated all the properties of Robert E. Lee and fearing that future Congresses might feel more kindly toward that former general of the U.S. Army and restore these confiscated properties to his heirs, they decided to make that a burial ground for Yankee soldiers.

Tom pointed out to me that while Congress did not have Robert E. Lee's interest at heart, no higher honor could have been paid him because many of the Nation's greatest patriots and servicemen, including former Presidents, were, in the future, buried there.

It is fortunate that we were able to obtain the cooperation of the Department of Defense so that Tom Vail can be there with a great number of other Americans who, likewise, gave far beyond the call of duty for their country.

Mr. President, I ask unanimous consent that the permanent RECORD remain open for a period of 2 weeks so that Senators who wish to extend their remarks in the RECORD, or make additional statement on behalf of Tom Vail, may do so.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. LONG. Mr. President, I would like for the RECORD to show that present with us in the Chamber at this moment are Robert Hunter of my office, who did a great deal of work in collaboration with Tom Vail and worked so hard to make possible the interment of Tom Vail at Arlington. Also Wayne Thevenot of the committee staff who also had the privilege of working with Tom Vail for a number of years.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The PRESIDING OFFICER (Mr. ABOUREZK). Under the previous order the Senate will now proceed to the consideration of the unfinished business, S. 4, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on amendment No. 505 to amendment No. 497 by the Senator from Wisconsin (Mr. NELSON), which the clerk will state.

The assistant legislative clerk read as follows:

> In title VII, on page 30, line 13, strike "$100,000" and insert "$60,000".
>
> On page 47, line 22, strike $100,000" and insert "$60,000".

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, amendment No. 505 is designed to put a ceiling on the amount of pension that may be supported by tax deductible dollars. The Senate Finance Committee bill provides first, that there is, for all practical purposes, no limit on a pension that may be paid to a corporate executive of an ordinary corporation as contrasted with a proprietary or closely held corporation.

More precisely the limit is 100 percent of his salary but, of course, there is no limit on salary of corporate executives. The Finance Committee leaves that aspect of the law alone. So the amendment that was reported by the Finance Committee does not affect or change the current law respecting ordinary corporations but it does set a $75,000 limit on pensions for the proprietary and closely held corporations.

Therefore, first, the bill discriminates against proprietary and closely held corporations as contrasted with General Motors and all other ordinary corporations. Secondly, I consider $75,000 limit on a pension paid out of tax-deductible dollars to be excessive. The question then is, What should the limit be? The amendment I have offered to the Finance Committee bill provides two things: First, it places a limitation of $45,000 on the pension that can be paid to anyone from tax deductible dollars; and second, the limitation applies across the board. It applies to professional or proprietary corporations—doctors and lawyers when they are incorporated; it applies to all other ordinary corporations, large or small. So the limit proposed in my amendment treats the largest and the smallest corporations exactly alike.

There have been many complaints in the tax law regarding pension discrimination against small businessmen. In order to make the tax code as equitable as possible and considering how much taxpayers' money we are giving away here, I think all corporations ought to be treated the same.

The second aspect of my amendment simply reduces the limit on the maximum pension that can be paid. Instead of allowing 75 percent of compensation up to a maximum of $100,000—in other words, instead of a maximum pension of $75,000 a year—my amendment would provide for a maximum pension of $45,000 a year that could be paid by tax deductible dollars.

A feature common to this amendment and to the Finance Committee provisions is that a pension fund could be established by an older manager or by an owner of a business, say 55 years of age, and the business could still pay into the pension fund a sufficient amount of money to pay that 55-year-old executive a pension of $45,000 a year for him at age 65. The pension would have to be funded over a 10-year period.

I consider that to be certainly a very fine and adequate pension. If the individual is 45 years old. The corporation can put enough money in so that within 15 years the tax-deductible dollars put into the pension fund will be sufficient to pay that individual at age 65, a maximum of $45,000 in pension per year.

What we are talking about here is a very fundamental principle. How many dollars—tax-deductible dollars—should we allow to be set aside to pay pensions for highly salaried executives? That is the question.

One might argue that nothing should be set aside from tax-deductible funds, or $10,000 should be the maximum pension, or $30,000, or $40,000, or $75,000, or 100 percent of the final salary, which could go as high as $200,000 or $300,000 a year in pension.

I think $45,000 a year in a pension funded by tax deductible dollars is quite high enough, if not too high, but certainly it is a very fine pension.

Private pensions now cost the Treasury $4 billion a year. Some 40 million employees in this country are not covered by any private pension plan at all, but they are paying taxes and they have to pay taxes to make up the $4 billion Treasury loss from the part of the pension fund that is supporting high salaried executives, as well as middle income and lower salaried employees. If General Motors or IBM or IT&T or any of the rest of the great American corporations want to pay $100,000 a year or $200,000 a year in pensions, they are free to do so. We let them put in tax deductible dollars sufficient to pay up to $45,000 a year in pensions, and if that is not sufficient, if they consider the executive they have hired or desire to hire worth much more, fine. He may very well be worth much more money. But they ought to take that from money on which they pay taxes.

There are many people that corporations figure are worth more than $45,000 in pensions. I have a list here of random examples of pensions provided certain executives. Dow Chemical, for example, paying one of their executives an annual salary of $322,257, is making contributions which will allow him to have an annual pension of $157,400. I have no complaint about that as long as it is not a pension paid from tax deductible dollars in excess of $45,000. That is what the debate is about.

I would not like to be on a platform before any audience of American citizens and try to defend the use of tax deductible dollars to pay pensions of $137,000 a year. It is unconscionable to spend that amount of tax deductible dollars for pensions.

The whole tax structure is shot through with gaping loopholes, and this is another huge loophole.

No wonder the American public is losing confidence in Congress, in public officials, in the whole political system. If we allow this gaping loophole to remain, they will lose even more confidence in Congress.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Wisconsin has 18 minutes remaining.

Mr. NELSON. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

Mr. President, if I could have the attention of the distinguished Senator who has offered this amendment, I would like to ask him a few questions.

Would the Senator tell us what group would be affected by the Senator's pending amendment? Does it affect all corporations?

Mr. NELSON. Yes. In my amendment the maximum pension that may be paid to any individual is 75 percent of $60,000—75 percent of the highest 3 years of earnings computed against an income that may not be more than $60,000.

Mr. CURTIS. I understand what the figures are. My question is, To what corportations does the Senator's present amendment apply?

Mr. NELSON. All of them. It applies to professional corporations, proprietary corporations, closely held corporations—all corporations, large and small, are to be treated alike under this amendment.

Mr. CURTIS. I think there is a serious question about that. I believe the distinguished Senator's amendment does not affect any of the corporations that he alluded to with these high retirements. I believe that the Senator has amended that section of amendment 496 which deals only with some of the so-called smaller corporations.

Mr. NELSON. Mr. President, counsel advises me that the Senator may be right.

Mr. CURTIS. Yes. I think that the amendment we are being called upon to vote on would not touch any of those corporations the Senator has mentioned in his remarks. However, I would like to ask the Senator for some information.

Mr. NELSON. Mr. President, if it does not, we will amend it so that it does.

Mr. CURTIS. Mr. President, I would like to ask another question or two. Is it not true that wages and salaries paid in a business are tax deductible?

Mr. NELSON. The Senator is correct.

Mr. CURTIS. Mr. President, would the Senator regard a salary—whether it is low or medium or high—as tax subsidized due to the fact that it is deductible from gross income for the taxpayer?

Mr. NELSON. A salary is deductible, if it is reasonable in amount, because it is paid out to the employee and because under the tax laws this is classified as a deductible business expense. But in the case of amounts set aside for pensions which the amount is not currently paid over to the employee, the tax law in several respects limits the deduction. In the case of a professional corporation we are talking about a person, or group of persons, earning income for services performed, doctors, lawyers, or whatever they may be. So, the salary that that executive receives himself in reality is out of what would in any event be his own personal income.

Mr. CURTIS. Frankly, I know of no Nebraska complaint against fixing a limit perhaps even below the Senator's suggested figure for retirement because we do not have that kind of retirements.

However, I think the issue involved here is whether the Government shall embark upon a program of determining what retirement benefits shall be. If we say that pension contributions can be regulated because the contributions are tax-deductible, then it follows that the Government can put a ceiling on salaries because they are tax deductible. So, I think what we have to weigh is tolerating some abuses on the one hand that we propose the directors, in a sense proprietary and others, will or do something about embarking upon a policy of putting a ceiling on salaries.

Perhaps that should be done. I do not know. I am not advocating it. However, are we to say to our potential geniuses, whether they are 15 years old, 5 years old, 25 years old, that the Government of the United States is not going to have the sky as the limit, but that this is going to be the limit. That is the issue involved.

Mr. BENTSEN. Mr. President, would the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. BENTSEN. Would the Senator from Nebraska advise the Senator from Texas if it is not correct that if a justice of the Supreme Court who has been in the service of the Supreme Court and in Government service for 15 years can retire at age 65 and retire at full salary, $60,000, and the Chief Justice can retire at full salary, $62,500, the net result of this amendment would be to impose more restrictive limits in the retirement plans of private enterprise than are imposed on pension plans for retiring public officials?

Mr. CURTIS. I think the Senator has put his finger on something that is very important. Certainly the Government should impose on its own employees that which we impose on nongovernment employees.

If there is a ceiling on salaries for everyone else, there should be a ceiling for the President of the United States. There should be a ceiling for a President's widow. There should be a ceiling for the Justices of the U.S. Supreme Court. I believe their retirement would be beyond the ceiling contained in the Senator's amendment. There should be a ceiling for the members of the Supreme Court.

I thank my distinguished friend, the Senator from Texas, for bringing out that point.

Mr. BENTSEN. Mr. President, would

the distinguished Senator from Nebraska yield for another question?

Mr. NELSON. Mr. President, would the Senator yield for the purpose of my offering a correction to my amendment. Mr. Woodworth advises me that the Senator was correct in saying my earlier amendment omitted the feature which relates to covering all employees. This was an unintentional omission.

Mr. BENTSEN. Mr. President, I do not have control of the time.

Mr. CURTIS. Mr. President, I am happy to yield to the Senator for that purpose.

Mr. NELSON. Mr. President, I ask unanimous consent that the text of amendment No. 506 be added at the end of amendment No. 505. That will correct the error of omission which the distinguished Senator from Nebraska pointed out. If these two separate amendments are considered together, what I intended to do will be accomplished.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

The amendment, as modified, is as follows:

In title VII, on page 30, line 13, strike "$100,000" and insert "$60,000".

On page 47, line 22, strike "$100,000" and insert "$60,000".

In title VII, on page 60, after line 17, add the following:

"(f) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS ON BEHALF OF CORPORATE EMPLOYEES.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new subsection:

"'(g) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS ON BEHALF OF CORPORATE EMPLOYEES.—Notwithstanding the provisions of subsection (a), no deduction shall be allowed for a contribution made for or on behalf of a corporate employee to or under a defined benefit plan or a defined contribution plan if the amount of such contribution or if the benefit provided under the plan exceeds the amount specified as an alternative limitation on deduction or benefits for proprietary employees in subsection (e) (4) and section 401 (j) (2), whichever is applicable'.".

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Mr. President, in that event, would it be possible to call for a division and have a separate vote on each of the two parts of the Senator's amendment?

The PRESIDING OFFICER. The Chair will rule that the amendment is still subject to division because it was not asked by the sponsor of the amendment that it be considered en bloc.

Mr. NELSON. Mr. President, a parliamentary inquiry.

Mr. CURTIS. Mr. President, I yield for that purpose.

Mr. NELSON. Mr. President, I wonder about the ruling. Any amendment is divisible if it is a separate issue.

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. Mr. President, that is the rule. It is not because this amendment was offered at this stage that it becomes divisible?

The PRESIDING OFFICER. No.

Mr. CURTIS. There may be some here who feel that the larger corporations, some of which were involved in the illustrations or examples cited by the distinguished mover of the amendment, should have a ceiling, but they are not ready to disturb the ceiling for the small corporations.

I do not know at this time whether I will call for a division of the amendment. However, there are two propositions to be considered here.

Mr. BENTSEN. Mr. President, would the Senator from Nebraska yield?

Mr. CURTIS. I will be happy to yield in a moment.

The PRESIDING OFFICER. The 10 minutes of the Senator have expired.

Mr. CURTIS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 additional minutes.

Mr. CURTIS. Mr. President, I want the record to show clearly here that I am not speaking here in favor of any high, unreasonable retirement. I do not think that is the issue. I think that some of the retirement benefits are too high.

I think the issue is whether the Congress should undertake to put a ceiling on compensation. A retirement benefit is compensation.

If we are to assume that all money belongs to the Government, and therefore if something becomes tax-deductible it thus becomes a subsidized operation, if that is our premise, then we must assume that all income to a corporation belongs to the Government, and if the corporation pays out something in a salary and gets a tax deduction, that that is a subsidized salary.

Maybe we should have a ceiling on compensation. Conceivably, I could vote for it after there been a public hearing on the subject, and we go into it and have a formula presented here that would meet the situation and do justice. But there has been no hearing on whether the Government should limit compensation.

I yield to the distinguished Senator from Texas.

Mr. BENTSEN. Mr. President, I say to the distinguished Senator from Nebraska that I share his concern and that of the distinguished Senator from Wisconsin about excessive pensions with a tax-deductible feature; but I also have some concern that if we impose limits on the retirement benefits of company executives that are too restrictive we would encourage these executives to reduce retirement benefits for all employees down the line. We might thus have a rippling effect, and hurt the very people we do not want to hurt, the employees.

I think that is a matter of concern that we ought to carefully consider because the average, low-income man who works as an employee of a corporation is the very person who most needs an adequate retirement benefit and who we are trying to protect with comprehensive pension legislation.

Mr. CURTIS. I thank the distinguished Senator for his contribution. I believe also we should go into this with our eyes open. If we can place a ceiling on compensation for executives, we can place a ceiling on compensation for workers. It is entirely possible. Public sentiment might be mobilized in certain instances where the demands of a particular group of workers were considered excessive, unfair to consumers, and unsound public policy.

Are we to move in and regulate compensation by law? In raising that question, I repeat, I am concerned about the principle involved, and I am not speaking up in defense of anyone's retirement compensation that is excessive, unreasonable, or out of line with what it ought to be. I am raising some questions about what the right approach should be.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Doesn't the present wage and price control program limit compensation? Mr. President, the distinguished Senator from Nebraska makes the argument that setting a limit on pensions somehow is not defensible. I would just like to point out, as the Senator well knows, that we are not setting a limit on pensions. General Motors or anyone else can pay pensions of $100,000, $200,000, or $300,000. What we are setting a limit on is the annual pension that may be paid for from a pension fund funded by tax deductible dollars. If employers want to pay more, let them just pay the taxes on their net income.

I am a little bit puzzled by the argument, because the Senator himself, in the Finance Committee, voted for exactly the same principle, except at the level of $75,000. The Finance Committee adopted a principle precisely the same as in this amendment, and the Senator from Nebraska supported it. The only difference was in the total amount of the limitation.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. NELSON. Yes, on the Senator's own time.

Mr. CURTIS. I introduced a comprehensive bill on this entire subject. It contained no limitations. The committee subsequently fixed a $7,500 limitation on small corporations, which I did not favor. The affirmative vote that I cast was to liberalize what the committee had already done.

Mr. NELSON. In any event, exactly the same principle is in the Finance Committee bill, setting a limitation on the amount of pension that can be paid from a pension fund funded by tax-deductible dollars. Furthermore the distinguished Senator from Nebraska makes the argument that the source provision should apply to Government employees as well as private employees.

So far as Congress is concerned and all Federal employees, except Federal judges whom Congress as a matter of policy and for reasons they thought sufficient treated differently, there is a maximum on pensions that can be paid to Federal employees. That maximum for Members of Congress is $34,000. You can have a pension of a maximum of 80 percent of $42,500 after some 32 or 33 years of service. That is $11,000 less than the $45,000 limitation in this amendment.

So, in order to meet the argument of the distinguished Senator from Nebraska we would have to take my amendment and bring it down to $34,000. I also might point out the Federal pension plan is a contributory plan with Federal employees making contribution to their own pension with after-tax dollars.

The distinguished Senator rests most of his argument on the ground that we should not set a limit on salaries. I think it is a very fine argument, but it has nothing to do with this amendment, because we are not setting any limits on salaries. We are just simply saying we are not going to ask the working man, who is making $7,000, $9,000, or $12,000 a year, to make up the billions of dollars of deficit in the Treasury through supporting pensions of $137,000 a year. It is as simple as that.

You cannot have any system that is perfect, but I want to see anyone justify taxing a man or a woman who makes $7,000, $8,000, or $9,000 a year in order to pay some one else a pension of $137,000 a year. That is absolutely unconscionable, and I do not think it could be defended in any forum in America. The only reason that this injustice exists in our tax law is because it is so complicated that few ever figure out what is done, but the people are going to find out if I can get my voice heard, because I do not think anyone in his heart and soul can defend it. How much more do you want?

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I ask the Senator from Nebraska, may I have a moment to speak?

Mr. CURTIS. I am very happy to yield my chairman some time. But, Mr. President, I think this is a rather important subject and I wonder whether, following the remarks of my chairman, we could have a quorum call with the time not to be charged to either side.

Mr. ROBERT C. BYRD. Mr. President, I am going to have to object to quorum calls today not being charged to either side. We did that all day yesterday. Over 4 hours remain on the bill. That time can be used.

Mr. CURTIS. Mr. President, I should like to plead a little bit with our distinguished leader. It is not a question of how many quorum calls we have or how much time we consume but the question of whether we carry on the legislative process. I rather think that Senators would like to know what they are voting on and would like to make some little contribution to this debate.

Mr. ROBERT C. BYRD. The distinguished Senator can charge time against the bill. He has ample time if he wishes a quorum call.

Mr. CURTIS. Mr. President, I yield to my Chairman such time as he desires.

Mr. LONG. Mr. President, the amendment offered by the Senator from Wisconsin is offered on the basis of tax equity and uniformity. As a practical matter, if we are talking about raising revenue from those who are able to pay in order to reduce the tax burden on the rank and file taxpayers, it is worth noting that, in any event, whether we take the Nelson amendment or the committee amendment, we are not going to raise enough money to wad a shotgun in terms of fiscal support of the government.

If we want to raise a large amount of money by reducing the deductibility or the nontaxability of the amounts deferred for pension funds, one would take the amendment which the committee agreed to in the first instance, which would reduce the amount that could be set aside and deducted for pensions for people in incorporated law practices, incorporated medical practices, owner-manager corporations, to about $7,500 a year. That is what the committee proposed in the first instance. Why is it not here now? That would raise about $125 million, which would partially offset the increased tax deferment proposed for self-employed people under the H.R. 10 type of retirement plan. One provision would raise revenue to partially offset the other.

But why did not the committee bring out the $7,500 limitation for proprietary employees of corporations? The reason we did not is that we heard so much protest and so much complaint from across the land, and so much expression of dissatisfaction addressed to Congress, including the committee, that we met a second time and decided we would not limit it to $7,500 for the reason that we did not think we could sustain it on the floor of the Senate.

So far as I am concerned, that was a rather pragmatic decision, to say that if we could limit the tax deferment to $7,500, let us see on what basis we could put a lid on it.

The provision regarding proprietary employees of corporations that we now bring to the Senate will not raise any great amount of money—just about $10 million—but we do limit the deferment to 75 percent of the first $100,000 of compensation, which means that a person could defer enough income to put into his pension plan to have a retirement of $75,000 a year.

One can say, "Well, that is a very liberal amount to let a person set aside." And it is. But, one should keep in mind that the alternative under present law would let him set aside any amount. A person could set aside $1 million a year toward his own retirement if he owned his own corporation, which offends us all, in the sense of tax equity and social and economic justice. So what the committee proposed was simply to place a limitation on the amount that could be set aside on the owner-manager corporations.

One could say, "Why do we not do the same thing with regard to large corporations?" The answer is that that is not where the problem exists. If the president of General Motors, say, wanted to set aside $1 million a year for a pension fund for himself, I am sure that many shareholders would file a shareholders' lawsuit on the basis that that was an excessive compensation for that officer.

In addition, he would also have to provide a similar retirement benefit for the other salaried employees, all of which would have to be approved by the board of directors and the shareholders at their meetings and they would have to pass on it.

In addition, when labor went to negotiate the next contract, they would insist on their retirement plan being brought in line for their wage employees to conform to what had been made available to the salaried employees.

So that, as a practical matter, it is conceivable that large corporations could do something like that. But, it cannot be done as a practical matter. The facts of life about large corporations do not permit any executive to set aside the entire earnings of a corporation in a retirement plan for himself. But where one owns 100 percent of the stock in a corporation, he can take all the earnings of his corporation and put them aside in a pension plan for himself and there is no shareholder to sue him.

So the abuses that could occur among owner-manager type corporations, incorporated law practices, and incorporated medical practices—things of that sort—caused the Finance Committee to say that there should be a limitation placed on it.

As I say, there was a tremendous amount of protest against what the Finance Committee had originally recommended, which we thought was equitable and would put the owner-manager type of corporations and incorporated law practices and incorporated medical practices on the same basis as self-employed lawyers and self-employed doctors. We were convinced that we could not sustain that position so we recommended the position that we thought we could sustain.

I have since been informed that the Association of General Contractors supports that recommendation of the committee. By no means all of the members of the association support it. Some have a more generous retirement plan which they will have to forego, or pay taxes on part of that money set aside for retirement, but they are willing to support the recommendation that we have here. That is about as good a cross section of small business as one can look to, generally speaking, the general contractors of the country. I suppose there will be a few who will complain about it—not a great number—very few.

Now what the Senator from Wisconsin wants to do is to go beyond what the committee recommended and reduce the amount that could be provided under "regular" corporate pension plans. I think that would serve very little purpose. The amount of revenue that would be raised is small, so that it would seem to me that if we are going to try to restrict contributions and benefits more than what the committee did, we should reserve that for some future date and consider trying to go back to what the committee recommended to begin with—that is, that one could not set aside more than $7,500 a year and make it tax exempt. But what the Senator recommends would raise little revenue. It would not achieve the objective already there, which is that there should be a lid on what can be set aside. It is a mere gesture in the direction that we might want to go at some future date when we get a substantial reduction down to perhaps $7,500, which the committee recommended to begin with.

So, I say, very little would be achieved by the amendment. There is broad support now for the position the committee recommended and I hope very much that the committee position will be supported by the Senate.

Therefore, Mr. President, regrettably, I say that I do not feel I can support the amendment.

The PRESIDING OFFICER (Mr. HOLLINGS). Who yields time?

Mr. CURTIS. Mr. President, may I inquire how much time I have left on the amendment?

The PRESIDING OFFICER. Five minutes remain.

Mr. CURTIS. I reserve that time.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, will the Senator from Nebraska yield me 1 minute?

Mr. CURTIS. I yield 2 minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator.

Mr. President, I just want to raise a question for the purpose of clarification.

If we limit the permitted contributions to $45,000 for a top paid member of the plan, do we not limit the percentage of compensation that can be paid to all other members of the plan as well? Therefore, are we not in effect cutting back on the level of participation of all members of the plan? The Internal Revenue regulations as I understand, call for a like percentage contribution on all participants in the plan.

Mr. NELSON. The regulation is that you cannot discriminate against the highly paid employee. You may discriminate in favor of the low paid one.

However, as to the precise point raised, if an executive desires, under my amendment, to achieve a pension of $45,000, he can have a pension that is 75 percent of $60,000. In achieving that, he has to set aside a higher percentage for lower paid employees than if that percentage were applied against $100,000. It takes 15 percent of $100,000 to get $15,000. It takes 30 percent of $50,000 to achieve it. So if he is going to give the same percentage to everybody, the ceiling I have put on here is beneficial to the low paid employee.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. CURTIS. Mr. President, I yield 3 minutes on the amendment and 2 minutes on the bill, a total of 5 minutes, to the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT).

Mr. SCOTT of Pennsylvania. Mr. President, the difficulty with establishing categories, aside from being discriminatory, and the difficulty of establishing limits is the same, and that is a diversity of treatment of Americans, depending on the degree to which they have been able to climb the economic ladder and the degree to which they have been able to establish their executive competence.

For example, I am sure that any attempt here now to limit pensions of wage earners would immediately run into collective bargaining difficulties. Yet, it is argued that we can limit the pensions of one group of wage earners, but the limitations are different on the pension benefits of another group. Congress generally abhors discriminatory legislation, and I think it should be so here.

For example, in the search for talent in this country, people who are looking for executives engage in a highly competitive examination, and they also make competitive offers to the most talented executives in the country. Take the ball-bearing industry, where many of us are concerned with imports from abroad, which are a very considerable percentage—some 34 percent. I can conceive of the search for an executive of a ball-bearing company who is best able to cope with this whole import problem. What is he trying to do? He is trying to make ball bearings in America. He is trying to employ as many people as possible; 17,000 people have lost their jobs in this industry already, including the States of New Hampshire, South Carolina, New York, and Pennsylvania, and we are meeting on it. Other States are involved.

In this search for talent, these ball-bearing companies need the best executive they can find. Some are small companies, some are large. If they cannot offer him a competitive pension, they will not be successful in obtaining his services, because wages today in executive areas are not the whole consideration, as any employee will point out. It is the fringe benefits that are negotiated for in collective bargaining. It is the same with an executive. He negotiates for the fringe benefits. If we are going to say here that he cannot have the fringe benefits beyond a limitation, what are we saying to him? We are saying, "Don't take the job." I will tell Senators why.

I saw some statistics today on our own salaries. For anyone who earned $40,000 3 or 4 years ago, it is necessary to earn $52,500 today to stay even. Yet, there are Members of Congress who are extremely delicate about the question of increasing their own salaries, even though they have suffered approximately a $12,500 disadvantage in the economic race, because salaries have not been raised for 5½ years, and many people are afraid that the public will invoke all sorts of sanctions on them. So we go along here at the salary of $42,500, and that means that $53,000 or $54,000 is what we ought to have to stay even with where we were 3 or 4 years ago.

The same thing is going through the mind of the executive. If his pension is limited now in 1973 dollars, in 1977 and 1980 and 1983 he is going to have a great deal less in constant dollars. That is the trouble with dollar limitations of this kind. It should be left to the competitive operations of the market. Therefore I am opposed to the amendment.

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Who yields time?

Mr. NELSON. Mr. President, how much time does my side have remaining?

The PRESIDING OFFICER. Ten minutes on the amendment.

Mr. NELSON. How much time remains on the bill?

The PRESIDING OFFICER. The Senator from Wisconsin has 67 minutes on the bill.

Mr. NELSON. Mr. President, I should like to make a brief response to the comments of the distinguished minority leader.

He objects to setting limits on pensions to be paid, and he objects to discrimination. The bill before the Senate, which was reported by the Finance Committee, sets a limit. The question is, What should the limit be? There are some, of course, who do not want any limit. But the Finance Committee bill says that the maximum compensation shall be 75 percent of the highest 3 years of earnings, not to exceed 75 percent of $100,000—therefore, a maximum of $75,000 a year. My amendment simply says that the maximum shall be $45,000 a year. So the principle in both bills is exactly the same.

On the question of discrimination, the Finance Committee bill does clearly discriminate. The Finance Committee bill sets the $75,000 limitation on pensions that can be paid, applicable to proprietary corporations, professional corporations, closely held corporations, but does not set that limit on General Motors or other ordinary corporations.

So, in one respect both measures are the same, in the sense that they both set a limitation throughout a different level. This amendment goes one step further and eliminates the discrimination in the bill between the various types of corporations.

I am really astonished to hear the arguments here that we have to allow unlimited pensions to be paid for out of tax-deductible dollars. There is no limit in this bill on deferred income that can be paid after retirement or on total amount of pension.

If they want to pay a pension of $100,000 or $200,000, they can do it. But they can only pay the first $45,000 out of a pension plan supported by tax-deductible dollars. That is what this is all about. Who in this country is getting this kind of break? The most affluent, the richest, the most privileged people are those getting the $100,000 pensions. Should middle and low income people pay taxes to support a deficit in the Federal budget caused by high pensions paid with tax deductible dollars? I think not.

This is the same old argument we have been hearing for years. Back in the thirties they talked about the trickle down theory of economics. The trickle down theory was the concept that if the privileged people in society are provided with great abundance the surplus crumbs will fall off the table and trickle down to the little people who will be greatly benefited thereby. I heard that discussed time and time again. I heard the theory explained at a picnic at Balsam Lake, Wis., back in the depression when the speaker discussed the theory to a large audience of farmers. He said the trickle down theory argues that "If you want to make the sparrows healthy and happy, feed the horses more oats."

Mr. CURTIS. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT of Pennsylvania. Mr. President, at some time in every debate we get into the trickle-down theory and we shed tears, crocodile tears over the damage we are doing to the poor people while we visibly conceal the protection we are affording ourselves. For example, the

$45,000 limitation—75 percent. Every Member of Congress is entitled to 80 percent but we say to the people in the country that Congress only gets 75 percent.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I know what the Senator is going to say. We make taxpaying contributions, and I agree, and we are worth every cent, I agree. On the trickle-down theory the Senator is worried about, the Chief Justice gets a pension of $65,000, the Justices get $60,000, the President gets $60,000, and the President's widow gets $20,000. Members of Congress, if they stay here long enough through the courtesy of their constituents, can get 80 percent of $42,500, which is $34,000.

Why does the Senator not make his proposal for $30,000 and penalize every Member of Congress $4,000. Then I will believe in the trickle-down theory.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield myself whatever time is necessary.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, it is a very interesting argument, but when the distinguished Senator gets to the end, what he is saying is that Congress is limited to a maximum of $34,000 even if a Member of Congress stays here for 40 years. My amendment allows $11,000 more to be paid in the private pension field than the maximum in Federal pensions.

I think this amendment is very generous. What this amendment will allow is a maximum pension of $45,000, which is $11,000 more than the maximum authorized for Federal employees except for the President and the Federal court.

Another factor I think is overlooked here is that one can start a pension plan at age 55 and fully fund it in 10 years to achieve a maximum of $45,000 per year in pension benefits. In other words you can put enough money, tax-deductible dollars, into that pension plan annually so that in 10 years, just 10 years, you can have a retirement pension of $45,000 a year. That is a sufficient amount to fund with the free dollars.

So we are saying to the corporate executive, "You can take out of your corporation, off the top, tax deductible dollars in 10 years, enough money to create a fund of about $500,000, all tax free so you can pay yourself a benefit of $45,000 a year." Is that hard in any way? I should think not.

If he wants to pay himself $100,000 let him take it out after the corporation has paid the taxes. That is what the argument is about. How far are we going to go? We agreed on a limit. It is in the bill. This is simply a lower more justifiable limit.

Mr. SCOTT of Pennsylvania. Mr. President, will the Senator yield to me for 2 minutes?

Mr. CURTIS. I yield.

Mr. SCOTT of Pennsylvania. Mr. President, the Senate is the greatest magic show in the world. We ought to charge admission because of what we are engaged in here is this act of prestidigitation—now you see it, now you do not. I expect to see my distinguished friend from Wisconsin pull more rabbits out of the hat, more canaries out of his pocket, and more silver coins out of the hair of his colleagues, because what his amendment proposes to do, it does not do, and the reason his amendment does not do it is simply because he forces those people who have to arrange the pensions to go the deferred payment or deferred income system, and it simply eliminates the pension plans of many people throughout the country. By the Senator's own admission this can be done any way but it would have to be done in deferred payments.

What we are trying to do is to bring about a workable system in which everyone can be enveloped who wishes to be in the system. Just as we Senators sit here, fat and high on the hog, enjoying the pension system, at the same time we would force these people into the deferred plan. It is magic; it is magic; it is red, white, and blue pinwheels; but it does not change what would happen in the long run except to force people into a different way of doing it.

Mr. TAFT. Mr. President, will the Senator yield to me for 2 minutes?

Mr. CURTIS. I yield.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, I thank the Senator for yielding. I wish to comment on the reply of the Senator from Wisconsin a moment ago to the question I asked about percentages limitations. His reply was interesting and it was probably accurate under the current Internal Revenue regulations.

Mr. President, only one-half to one-third of the employees in this country today are covered by private pension plans, and the creation of such plans is entirely voluntary. Management decides whether to set up a plan.

If we add a provision which automatically reduces the compensation to the executives who set up the plan, I believe the practical affect will be to reduce benefits to all employees and discourage creation of new plans.

The percentage of compensation allowed to all should be the same. That is one of the incentives of such a plan. We are trying to increase the number of pension plans in this country. This amendment would decrease new plans being created and would decrease the possibility of benefits being increased under present plans.

Mr. CURTIS. Mr. President, I yield myself 5 minutes.

There are several observations I wish to make. Again I repeat that I am not here to defend excessively high retirement or unreasonable retirement income. I want to direct the attention of the Senate to what this amendment does and what it does not do, as well as the principle involved. A retirement benefit is part of the employee's compensation, and so this is a decision that involves placing of a ceiling on compensation.

Salaries and wages are tax deductible, just as a payment into the retirement fund is to the taxpayer. Both are compensation. So we embark upon fixing ceilings on compensation. It would also fix a limit below what the Government pays. It would affect the small corporations. The distinguished Senator from Wisconsin has not cited a single abuse. The list from which he read was of the larger corporations.

Also, some persons might gather from this argument that the head of a company can just go in and fix himself a retirement and get it all tax free, and that is that. Corporation management cannot do it unless they provide the same percentage for all of their employees covered under the plan.

There is only one exception. An allowance can be made for age in defined benefit pension plans. If there are older people in the company who worked long before it had a retirement system, more money has to be paid in than it has to be for the younger persons.

Even if one believed that we should embark on a system of limiting compensation, let us do it after a hearing. The distinguished Senator from Wisconsin is a member of the Committee on Labor and Public Welfare. They brought a bill in here. It did not have one line in it which made a limit. The Labor and Public Welfare Committee did not have a single witness to recommend such a limit. But the Senator proposes it. Somebody should hold a hearing.

Here is another thing: This amendment has already been doctored up once. It was first offered against the so-called smaller corporations, the professional and proprietary corporations. No abuses were cited there. They may exist; I do not know. It was amended then to include the others. Well, it needs a little more doctoring, aside from bringing Government pensions down.

The law business is pretty good in some places. I know of a referee in bankruptcy who had to beg around and look for some people, even though he was offering $30,000 to young lawyers starting out in that specialty. It is not unreasonable to expect that a young lawyer, aged 25, might establish an H.R. 10 system for himself and put in $7,500 a year. If he did that at 25 years of age and kept it up until age 65, do Senators realize he would accumulate $1,160,700? That would provide him an annuity of about $120,000 a year.

I am not here suggesting what a pension shall be. I am here suggesting that if we adopted the distinguished Senator's amendment, it would end up placing a ceiling on some people's retirement—less than 50 percent of what others could provide.

What does that mean? It means that if we are going to undertake this business, we ought to have a hearing. We ought to have something drawn that would be the result of the necessary legal research. The affected parties ought to be given a chance to present their case.

Maybe there is something to the theory expounded by the distinguished Senator from Pennsylvania (Mr. SCOTT), our minority leader, that we should call witnesses and ask them.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. Mr. President, I yield the floor.

Mr. NELSON. Mr. President, how much time have I remaining on the amendment?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. NELSON. I yield myself 5 minutes—3 minutes on the amendment and 2 minutes on the bill.

Mr. President, on the argument made by the Senator from Nebraska on the question of discrimination—that is to say, that no employer in this pension field can grab a big bundle for himself and discriminate against his employees—I think the Senator should know that under the law a doctor can contract for secretarial and other services and avoid employing many employees.

Mr. CURTIS. Mr. President, will the distinguished Senator tell us whether his amendment would cover a doctor practicing individually? It would not.

Mr. NELSON. He can incorporate.

Mr. CURTIS. But if he chooses not to incorporate, he will not be touched by the Senator's amendment.

Mr. NELSON. The Senator is absolutely correct; there is no argument about that. He is limited to $7,500 a year.

Mr. CURTIS. He can build up a $120,000 pension payment under that limitation.

Mr. NELSON. Yes, but to do that he must set aside $7,500 for something like 40 years. In the more normal period of 25 years for building up a pension at $7,500, he is able to retire at age 65 at about $41,000 a year.

Mr. CURTIS. Between age 25 and age 65, he can have $125,000.

Mr. NELSON. That may well be.

Mr. CURTIS. And the Senator's amendment would not touch him.

Mr. NELSON. No; I simply point out that he can incorporate; he can contract for the service; he can have even one employee or none. He can pay a very high salary, set aside 50 percent. He could have an income of $200,000. He can set aside $100,000, tax free.

He can then have a stenographer to whom he pays $9,000 and set aside 50 percent, $4,500, a magnificent tax loophole.

All I am trying to do is to provide some equitable limitation on what the taxpayer should have to pay to support tax plans for the affluent.

Mr. President, I assume that my time on the amendment has expired.

The PRESIDING OFFICER. It has.

Mr. NELSON. I am prepared to yield back the remainder of my time and to vote.

The PRESIDING OFFICER. All time has expired, unless the Senator desires time on the bill.

Mr. NELSON. No.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Wisconsin, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel) and the Senator from Michigan (Mr. Hart) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) is absent on official business.

I also announce that the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Kansas (Mr. Pearson) are absent because of illness.

The result was announced—yeas 32, nays 59, as follows:

[No. 395 Leg.]

YEAS—32

Abourezk
Allen
Bayh
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Eagleton
Ervin
Fulbright
Hartke
Haskell
Hathaway
Hughes
Humphrey
Kennedy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pell
Proxmire
Stevenson
Symington
Williams

NAYS—59

Aiken
Baker
Bartlett
Beall
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cannon
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eastland
Fong
Griffin
Gurney
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mathias
McClellan
McClure
Montoya
Nunn
Packwood
Pastore
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—9

Bellmon
Bennett
Fannin
Goldwater
Gravel
Hansen
Hart
Pearson
Saxbe

So Mr. Nelson's amendment, as modified, was rejected.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 506

The PRESIDING OFFICER (Mr. Hollings). Under the previous order, the Senator from South Carolina is recognized to call up his amendment.

Mr. NELSON. No, under the previous order the other amendment of the Senator from Wisconsin is the pending business, by unanimous-consent agreement.

Mr. THURMOND. That is correct.

The PRESIDING OFFICER. Amendment No. 506 was combined with amendment No. 505 on the vote we just had.

Mr. NELSON. I call up amendment No. 506.

The PRESIDING OFFICER. Does the Senator from Wisconsin offer that amendment separately?

Mr. NELSON. Yes.

The PRESIDING OFFICER. The clerk will state amendment No. 506.

The assistant legislative clerk proceeded to read the amendment.

Mr. Nelson's amendment (No. 506) is as follows:

In title VII, on page 60, after line 17, add the following:

"(f) Limitation on Deduction for Contributions on Behalf of Corporate Employees.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new subsection:

"'(g) Limitation on Deduction for Contributions on Behalf of Corporate Employees.—Notwithstanding the provisions of subsection (a), no deduction shall be allowed for a contribution made for or on behalf of a corporate employee to or under a defined benefit plan or a defined contribution plan if the amount of such contribution or if the benefit provided under the plan exceeds the amount specified as an alternative limitation on deduction or benefits for proprietary employees in subsection (e)(4) and section 401(j)(2), whichever is applicable'.".

Mr. NELSON. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on all rollcalls from now on there be a time limitation of 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NELSON. Mr. President, now that the Senate has done its duty and taken care of the rich and the affluent with the defeat of the last amendment, let us adopt this amendment that at least says you cannot raid the Treasury for any more money than it takes to pay a $75,000 a year pension.

This amendment (No. 506) simply provides that the provision in the Finance Committee bill which says that pensions for closely held corporations and professional corporations are limited to a maximum of 75 percent of the highest 3 years of earnings, not to exceed $100,000 average earnings—in other words, the maximum is 75 percent of $100,000 that can be paid in pensions from funds supported by tax deductible dollars—shall apply to all corporations.

That limitation of $75,000 now applies to professional corporations and to closely held corporations, but it does not apply to any other corporations. So the limit that we place on the small corporations and closely held corporations does not apply to General Motors, Westinghouse, IBM, ITT, or any other major corporation in the country.

If we are going to allow a pension this high, let us set the limit to apply equally across the board. Heaven knows, if the Senate is prepared, as it has just demonstrated, to raid the Treasury and make the little people of this country pay taxes for pensions above $45,000, let us at least limit it to $75,000. That is all this amendment is about.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. I yield the Senator from New York whatever time he needs.

Mr. JAVITS. Mr. President, this amendment goes to that part of the bill which is authored by the Committee on Finance rather than that part of the bill which is authored by the Committee on Labor and Public Welfare, which has been the special care of the Senator from New Jersey (Mr. Williams) and myself. Therefore I am not speaking for this one as manager of the bill with the Senator from New Jersey (Mr. Williams) on the side of the bill as it came out of our committee, but I am speaking as an individual Senator. I shall vote for the amendment although I voted against the last one. I lay aside Senator Nelson's heartfelt, I am sure, denunciation of our action allegedly favoring the rich. I consider it no such act whatever. I think that the vote on the last amendment simply shows that we realize it takes two to make an economic system—that is, labor and management; and that we do not want incentive taken away from management any more than we want incentive taken away from labor.

If his argument for the $45,000 should be a valid one, then we should go the way that Franklin D. Roosevelt the elder wanted us to go, that is, to limit all incomes to $25,000 a year, or maybe even less. The average yearly wage of the rank-and-file worker in this country today is something in the area of $12,000. Obviously, that is not done in this society. It certainly has not worked in any other society either. So that I think the Senator acted properly in what it did respecting an artificial roof on everything.

There are many other safeguards in the bill as to equality, nondiscrimination, limitation of tax deductibility, and so forth. But this particular amendment falls in a different category. For the Finance Committee has maturely considered this issue and has decided it is a fair limitation when applied to a given class—to wit, a participant in what is called the proprietary corporations. That has been a loophole in the law as contrasted with the limitation of $75,000 for the individual self-employed person. The Finance Committee, therefore, having come to a considered, factual decision on this issue, I think that the Senator from Wisconsin (Mr. Nelson) is right, that if the fact is it is a good decision for the proprietary corporations, then it is a good decision for other corporations as well.

So I hope that the majority of the Senate, laying aside whatever the Senator from Wisconsin (Mr. Nelson) has said about the rich and the poor, which is hardly calculated to win friends or influence people right now, considering the previous vote, will, nonetheless, look at the substantive objective of the amendment, which is justified and I shall vote for it.

Mr. LONG. Mr. President, will the Senator from Nebraska yield me 5 minutes in opposition to the amendment?

Mr. CURTIS. I yield to my distinguished chairman such time as he may need.

The PRESIDING OFFICER (Mr. Haskell). The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the logic of this amendment is that in view of the fact we have set a limit on incorporated law practices, incorporated medical practices, and small business corporations at $75,000 for pensions for purposes of deductibility and tax deferral, the same thing should apply to General Motors.

So, here is the argument, then.

We say, well now, $75,000 a year for a pension should be as much as a man can defer for his retirement as in the case of an individual practicing law in the corporate form since we have even tighter limits on lawyers practicing law in a partnership. Similarly, we thought there should be some limitation on a doctor who has incorporated his private medical practice, since there are restrictions on doctors practicing outside of a corporation. Such a $75,000 limit is appropriate where the corporation is earning money largely for this man alone, or for a group similarly situated. However, the same limit should not apply to a man running a corporation and directing his activities toward the making of money for 5 million shareholders. In other words, just because a man working largely for himself is limited to a $75,000 pension for tax deferment purposes, the argument is made that same limitation should apply to a man making money for 5 million families in this country.

What kind of sense does that make? None at all. It would seem to me that we should be willing to let a man making money for many millions of people have a little more consideration than someone only making money for himself. Furthermore——

Mr. PASTORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. In a moment.

Now, Mr. President, the Senator from Wisconsin has not cited the first case of abuse. We legislated with regard to the small business corporations, the incorporated law practices, and the incorporated medical practices, because we were familiar with abuses in a number of cases involving these situations. But with regard to the larger corporations, there has not been one case of pension abuse cited.

Mr. President, I hold in my hand a list which is a cross-section—and about the best that could be provided for us by the Treasury Department, because it comes from public sources—and I ask unanimous consent that the list be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

SOME COMPARABLE FIGURES FOR HIGHLY COMPENSATED EMPLOYEES IN CORPORATE PENSION PLANS

| Corporation and name of officer | Annual compensation | Estimated annual retirement plan benefits | Benefit as percent of compensation |
|---|---|---|---|
| Columbia Broadcasting Corp.: | | | |
| Clive J. Davis | $122,885 | $59,073 | 48 |
| Harvey L. Schein | 57,500 | 42,277 | 74 |
| Dow Chemical Co.: | | | |
| Donald K. Ballman | 190,120 | 88,000 | 46 |
| C. B. Branch | 322,247 | 157,400 | 49 |
| Carl A. Gerstacker | 184,698 | 94,800 | 51 |
| Singer Co.: | | | |
| Lloyd L. Kelly | 106,667 | 48,908 | 46 |
| Donald G. Robbins, Jr | 99,792 | 55,249 | 55 |
| R.C.A.: | | | |
| Anthony L. Conrad | 154,167 | 119,687 | 77 |
| Charles M. Odorizzi | 70,000 | 44,093 | 63 |
| Robert L. Werner | 132,500 | 65,345 | 49 |
| T.W.A.: C. P. Meyer, Jr | 67,800 | 32,434 | 48 |
| Tenneco, Inc.: W. E. Scott | 173,150 | 64,135 | 37 |
| Union Electric Co.: | | | |
| Charles J. Dougherty | 145,000 | 66,087 | 46 |
| W. E. Cornelius | 86,250 | 45,516 | 53 |
| Loews Corp.: Lester Pollack | $70,055 | $42,952 | 61 |
| Western Bancorporation: Sherman Hazeltine | 88,700 | 50,724 | 57 |
| I.B.M.: | | | |
| Arthur K. Watson | 113,904 | 50,000 | 44 |
| Albert L. Williams | 100,000 | 41,250 | 41 |
| Raytheon, Co.: Thomas L. Phillips | 231,131 | 101,391 | 44 |
| Bell & Howell; Everett F. Wagnor | 115,000 | 45,000 | 39 |
| Allied Stores Corp.: Theodore Schlesinger | 100,000 | 35,000 | 35 |
| Abbot Laboratories: | | | |
| Charles S. Brown | 82,431 | 36,048 | 44 |
| George R. Cain | 162,404 | 76,944 | 47 |
| Edward J. Ledder | 146,070 | 61,068 | 42 |
| A.B.C.: | | | |
| Everett H. Elerick | 157,200 | 41,699 | 27 |
| Simon B. Siegel | 49,948 | 33,110 | 66 |
| Average | | 61,000 | 50 |

Source: From SEC filings selected at random.

Mr. LONG. Mr. President, Senators will note that on this list there are such corporations as the Columbia Broadcasting Corporation; RCA; Tenneco, Inc.; Raytheon; Bell & Howell; Allied Stores; Abbot Laboratories; ABC; Dow Chemical; Singer Sewing Machine Co.—it shows that the average pension retirement works out to $61,000, which is below the amount we agreed to that people in the incorporated law practices could provide for themselves.

Mr. PASTORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. PASTORE. I think that the Senator overlooks a very important point. It may be true, the chances are that the president of General Motors is working with people who work in factories making automobiles.

But why is it not just as important for Dr. Salk who makes serum that saves human lives?

What is the Senator doing, balancing automobiles against humanity? Doctors serve humanity. There may be another Dr. Salk who will create a serum to cure diseases, just as Dr. Salk created the serum that eradicated polio. Now you say to Dr. Salk, "You do not hire people. It is just you, one individual, with one brain. You are only serving yourself." The fact is that Dr. Salk is serving humanity, yet the Senator is saying that the president of General Motors deserves this benefit, because he makes automobiles. That just does not make sense.

Mr. LONG. Dr. Salk, of course, is a very exceptional person and certainly has served humanity as few people have. Despite this, as far as his income is concerned, this serves Dr. Salk. Actually, I do not believe that Dr. Salk in his great work was motivated either by income or by a pension.

Mr. PASTORE. But the Senator will agree that he works for all humanity, does he not?

Mr. LONG. Of course, he has been serving humanity, but we are talking about a tax deduction for retirement reserves from the income of that man or any other man.

Mr. President, there are a lot of limitations that apply to large corporations that do not apply to individuals and there are limitations which apply to closely held corporations which do not apply to other corporations.

For example, if a corporate executive sets up a retirement plan which is excessive when viewed in conjunction with his salary any shareholder can take him to court and say that the combination is excessive. In addition, he has to provide the same kind of benefits for other employees so the retirement program is nondiscriminatory. Furthermore, when he goes to negotiate with labor, labor is entitled to take a look at that pension plan and demand the same thing for themselves.

Here is the list I previously referred to. I have placed it in the RECORD. Take a look at the names of the officers in these corporations. It may be that perhaps we should look into this thing and see if there should be some limitation on the corporate plans, but unless someone will produce one single example of abuse—just one—then I do not think, Mr. President, that we are justified now in legislating across the board with regard to a problem when, at a maximum, it may deserve further consideration.

Now, the largest proposed retirement allowed anywhere in this list would be for Mr. C. B. Branch of the Dow Chemical Co., at $157,000. The second largest proposed retirement on the list would be Anthony L. Conrad of RCA, at $119,000. But all these plans have been approved by not just the man who set it up for his benefit, but by the directors of the corporation; and every shareholder has a right to challenge it.

I submit, Mr. President, that any abuse in this area has not been demonstrated. Of the proposed pension retirement plans, the average for the executives of large corporations submitted to us by the Treasury Department works out to $61,000, which is less than the $75,000 which we would limit to incorporated law practices, incorporated medical practices, and small business corporations.

Mr. President, I submit that before we raise the taxes of people, it is only fair that those people be accorded a hearing, an opportunity to present their case, to tell their side of the argument, to make suggestions as to what they think would be fair and proper under the circumstances. It would be appropriate for the Treasury to have the opportunity to make its suggestions, as the Treasury would like to do. The Treasury has informed me that the problems that exist in this area are much greater and deserve much more consideration than those which exist with regard to smaller corporations.

So I hope that this amendment will not be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I am prepared to yield time to anyone who wishes to comment on the bill.

I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against each side on the bill.

Mr. CURTIS. Mr. President, I object, and the responsibility has to be on the majority leadership. They have declined to let us have quorum calls with the time not to be charged, and I think they are wrong in doing so. Therefore, I am going to object. We have very little time.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, may I say that at the close of yesterday, 4 hours and 20 minutes remained on the bill. That is ample time, it seems to me, to allow for quorum calls. But if the Senator wants to object to an equal division of the time for a quorum, I suggest to the distinguished Senator from Wisconsin that he simply ask for the quorum out of his own time.

Mr. NELSON. That is generous of the Senator. [Laughter.]

Mr. President, I am the one who is being courteous to the distinguished Senator from South Carolina, on the other side of the aisle, and his side objects to the time being charged equally.

Mr. THURMOND. Charge it against my 2 hours.

Mr. NELSON. The distinguished Senator from South Carolina suggests that the time be charged against the remainder of the 2 hours he did not use yesterday.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the remainder of the time on the amendment of the Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll. The time will be charged against the remainder of the time of the Senator from South Carolina (Mr. THURMOND).

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

## FEDERAL HOUSING POLICY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HASKELL) laid before the Senate a message from the President of the United States, which was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

*To the Congress of the United States:*

Six months ago, in my State of the Union Message on Community Development, I announced a sweeping study of Federal housing policy. I said then that its results would be used in formulating new Administration recommendations in this extremely important field.

That study has been completed—and my recommendations are ready. In keeping with the breadth of the issues involved in housing, both the study and my proposals cover a wide spectrum.

- Some of the actions discussed in this message are designed to ease the tight credit conditions in the current housing market.
- Others are intended to improve prospects for potential homebuyers to obtain mortgages over the longer term.
- Some of these proposals reflect my conviction that the housing needs of lower income families require a different approach than we have taken in the past.
- Still other actions are designed to meet other special needs and to update and improve current Federal programs which have been working.

The measures I suggest today can bring us closer to a long-established goal. As I indicated in my message last March, this Administration will not waver in its commitment to the objective of the Housing Act of 1949: "a decent home and a suitable living environment for every American family." While our Nation has made tremendous strides toward that objective in the quarter-century since it was first enunciated, those very strides have carried us into new terrain, presenting new problems and new opportunities. The nature of the challenge has been changing—and our response must change accordingly.

### A PROUD RECORD

The housing record of recent decades should be a source of pride for all Americans. For example, the proportion of our people who live in substandard housing dropped from 43 percent in 1940 to only 7 percent in 1970. During the same period, the proportion of Americans living in houses with more than one person per room dropped from 20 percent to 8 percent and the proportion of our housing which is considered "dilapidated" fell from over 18 percent to less than 5 percent.

To be sure, these indicators are imprecise—and we need to improve the ways we collect housing data. But all of these measures, however crude, point to an inescapable conclusion: very substantial progress has been made in the housing field and the benefits have been shared by Americans of all races and economic groups in all regions of the country.

In recent years, housing production in America has reached unprecedented levels. The average number of housing starts in the last 12 months was more than double the average for the previous two decades and we expect the next 12 months to be another excellent year for housing.

The ability of our economy to provide vastly expanded housing has been one of the strongest indications of its fundamental vitality. Our people have been able to match their growing desire for housing with growing purchasing power. Our housing industry has been able to expand its production and update its product. And our credit institutions have been able to finance this massive wave of construction in a way which has enabled a broad cross-section of Americans to participate in its benefits.

The state of America's housing will continue to depend on the state of America's economy more than on any other factor. Specific policies aimed at housing can help. But—as our housing study concludes—the forces which will do the most to shape the future of housing in America will be the forces of the marketplace: families with sufficient real income and sufficient confidence to create an effective demand for better housing on the one hand, and builders and credit institutions able to respond to that demand on the other.

But even as good housing has become a reality for most Americans, it is clear that certain important problems still exist. Two are especially significant. First, we are facing certain problems in providing adequate housing credit—and we must move promptly to resolve them. Second, too many low-income families have been left behind: they still live in substandard, overcrowded and dilapidated housing—and we must help them meet their needs. This message and the legislation I will seek from the Congress focus primarily on these two challenges.

### I. MAKING HOMEOWNERSHIP EASIER

Credit is the life-blood of housing. Without an adequate supply of credit repayable over an extended period of time at reasonable interest rates, very few families could afford to purchase their own homes. Nor could landlords either develop an adequate supply of rental housing or make it available at reasonable rental charges.

One of the most important actions the Federal Government has taken in the housing field was its decision in the 1930's to restructure our housing credit system. The introduction then of Federal insurance for low downpayment, long-term mortgages—first by the Federal Housing Administration (the FHA), and later by the Farmers Home Administration (the FmHA) and the Veterans Administration (the VA)—encouraged lenders to provide home mortgages on attractive terms to millions of American families.

At the same time, the Federal decision to insure savings deposits meant that billions of additional dollars began to flow into our banks and into thrift institutions, such as savings and loan associations. Other Federal policies led these instiutions to invest most of this money in housing loans, creating vast new pools of housing credit.

Although these systems have served us well for a long time, the need for improvement has become increasingly evident in recent years. More and more, we find ourselves facing either feast or famine with respect to housing credit.

When interest rates are relatively stable, we find that we have an abundance of mortgage credit available on reasonable terms, as was true in 1971, 1972 and earlier this year. Whenever interest rates move up rapidly, however, mortgage credit becomes extremely scarce. This occurred in 1966 and 1969 and it has been happening again in recent months. As a result, it has become more difficult for an American family to buy or sell a home. Even where credit is available, the combination of higher interest rates and higher downpayment requirements is pricing too many of our families out of the housing market.

Why does this feast or famine situation exist?

As I pointed out in my message of August 3rd on the reform of financial institutions, one principal reason is the fact that our thrift institutions are unable to compete effectively for depositors' funds when interest rates rise quickly. The problem is a structural one: savings and loan associations are now required to invest most of their deposits in residential mortgages, which carry fixed interest rates over long periods of time. When other interest rates rise rapidly, the interest rates on their mortgage portfolios cannot keep pace—and as a consequence neither can the rates they pay to their depositors. The result is that depositors often draw their savings out of the thrift institutions—or at least cut down their rate of saving—leaving the thrift institutions with much less money to invest in housing. I believe this special problem can be met through the recommendations I described in my message of August 3rd.

But structural difficulties are only part of the problem. A number of additional factors also help explain why mortgage money is becoming so expensive.

One major cause is the housing boom itself, which has led to unprecedented demands for credit—and rising costs for money. In addition, inflationary fears have influenced lenders to raise their interest rates as a matter of self protection. Finally, the Federal Reserve Board has been working to restrict the money supply in order to fight inflation. Such restrictions are important, for without them we might win the immediate battle in housing but lose the long-range war in the rest of the economy, including the housing field.

But even as we pursue a responsible monetary policy, we must avoid choking off the consumer credit which families require to meet their needs. That would also be dangerous to the economy. I am particularly concerned that the burdens of fighting inflation not fall unfairly on those who want to buy a home—or sell one.

We have a delicate and difficult balance to maintain. We cannot relent in the fight against inflation, which is our number one domestic problem. Nor can we expect to insulate housing from the effects of that effort. In fact, all of our measures to control inflation—including our efforts to hold down Federal spending—are essential in keeping down both the price of housing and the price of money in the long run. This requirement necessarily limits what can be prudently done to stimulate housing credit in the short run.

Nevertheless, there are some actions that can be taken on the credit front—and I intend to take them. In fact, we have already launched a number of efforts. The Committee on Interest and Dividends has instituted voluntary guidelines designed to encourage banks to keep up their levels of mortgage lending. The Federal Reserve Board has engaged in similar efforts. The Federal National Mortgage Association has stepped up its mortgage commitment and purchasing operations to free up funds for further lending. The Federal Home Loan Bank Board has lowered the reserve requirements for lending operations of its member institutions and has stepped up its advancement of funds to them.

I am today announcing a number of additional administrative actions and legislative proposals designed to do two things: first, to help alleviate the immediate housing credit problem; and second, to improve for the longer term the supply of housing credit and the ability of our people to use it.

### EASING CURRENT CREDIT CONDITIONS

1. *Increasing the incentive for savings and loan associations to finance housing construction.*

As money has become tighter, savings and loan institutions have become increasingly reluctant to commit housing construction loans for delivery at future dates. The reason is their uncertainty as to whether they will have enough funds to lend then at the interest rates which exist now.

Accordingly, the Federal Home Loan Bank Board will authorize a new program of "forward commitments" to savings and loan associations, promising to loan money to them at a future date should they need it to cover the commitments they now are making. This authority will cover up to $2.5 billion in loan commitments.

2. *Providing interest rate assistance to Federally insured borrowers.*

The Department of Housing and Urban Development will also join in the effort to ease the current mortgage credit problem by reinstituting the so-called "Tandem Plan" under the auspices of its Government National Mortgage Association. Under this plan, the GNMA will provide money for FHA-insured mortgages at interest rates somewhat below the market level. To encourage new construction, only mortgages on new housing starts will be eligible for this assistance. Up to $3 billion in mortgages for new housing will be financed under this arrangement, making loans available at attractive rates to tens of thousands of American homebuyers.

3. *Increasing the size of mortgages eligible for Federal insurance.*

The Federal Government presently encourages lenders to put money into housing by insuring mortgages involving low downpayments and long repayment periods. The Government guarantees, in effect, that lenders will be protected in the event of a default on the loan. Such mortgage insurance, whether it is provided by the Federal Government or by private institutions, is particularly important in making mortgages available to younger families and others who do not have enough savings to make a large downpayment or enough income to make the higher monthly payments that come with shorter mortgage terms.

The Congress periodically sets limits on the size of a mortgage loan which the FHA can insure and adjusts the downpayment requirement. The last time this was done was in 1968. Although realistic then, the current ceiling and downpayment terms are unrealistic in today's housing market. As a result, FHA insurance for multifamily units has been completely cut off and FHA-insured financing is impossible for any home purchase in a large and growing number of areas across the country.

To remedy this problem, I ask the Congress to authorize the FHA to insure larger housing loans on a low downpayment basis both for single and for multifamily dwellings.

Such a change would revive Federal insurance activity in areas where it has been curtailed. In addition, it would permit at least a partial resumption of housing loan activity in certain States where anachronistic usury laws impose interest ceilings lower than current market rates and therefore shut off mortgage lending. Many of these States exempt federally insured loans from such interest ceilings—which means that Federal insurance is a prerequisite for obtaining a housing loan in these jurisdictions. This makes it all the more important that the Congress act promptly on my proposal to expand the reach of our Federal mortgage insurance programs.

### MAKING LONG-TERM IMPROVEMENTS IN THE CREDIT SYSTEM

1. *Permitting home buyers to pay market-level interest rates and still be eligible for Federal insurance.*

In an effort to hold down the cost of borrowing, the Congress has limited the interest rates which a home mortgage can carry and still be eligible for FHA and VA insurance. Unfortunately, setting the interest rate below market rates does not accomplish this intended purpose.

The reason is that lenders will simply not make their money available for housing at a lower rate than they can get from a comparable investment elsewhere. If the Government's interest limit for a mortgage is set below the general market level interest rate, the lender who still puts money into housing will supplement this artificially low interest rate by requiring a special additional payment. This payment—which is really prepaid interest—is made in a lump sum at the time the loan is made and is commonly called "points."

Although points are usually charged to the seller of a house, they are generally added to the selling price and thus are paid by the buyer just the same.

This practice can have a number of unfortunate side-effects. By raising the overall price of the home, points can also raise the size of the downpayment. Moreover, when the price of a house goes up, so does the cost of insuring that house, of paying property taxes on it and of making monthly mortgage payments. An added inequity arises when a home is resold before the mortgage term has run its course—which is the usual case. Since the points were paid to compensate the lender for what he would lose on interest over the full term of the mortgage, the lender can reap an unfair profit when the mortgage is paid off early.

In short, the ceiling on interest rates does just the reverse of what it was intended to do. To end this practice, I again urge the Congress to allow the FHA and the VA to insure mortgages carrying market rates of interest. This proposal would end the need for charging points; indeed, it would prohibit charging such prepaid interest points on these insured mortgages. Hopefully, those States which also have ceilings on mortgage interest rates will take similar action to eliminate their ceilings.

2. *Authorizing more flexible repayment plans under Federally insured mortgages.*

Many innovative changes in housing finance have been introduced by the Federal Government. It is important that we continue to pursue such innovation—and one area that is particularly ripe for new experiments involves the schedule for repaying mortgages.

To further such innovation, I will seek legislation permitting the Secretary of Housing and Urban Development to allow greater flexibility in repayment arrangements for Federally insured loans on an experimental basis.

One possibility which would be tested under this authority is that of gearing the level of repayments to expected changes in family income. Rather than making the same flat payment over the life of the loan, families would make smaller payments in the earlier years—when they are hardest pressed—and larger payments later on—when their incomes are higher. This provision could help younger families purchase homes earlier in life than they can today and it could help them make an earlier purchase of the home in which they will eventually live, rather than making frequent moves from one home to another as their incomes rise.

3. *Establishing a mortgage interest tax credit.*

As another means of ensuring a steady supply of housing credit, I will propose legislation which would allow investors a tax credit on the interest they earn when they put their money into residential mortgages. This proposal would make investment in housing loans more attractive in two ways: first, it would make them more attractive to those institutions which traditionally have provided mortgage money; and second, it would give organizations which pool mortgages a better chance to compete for funds in the so-called "secondary market"—from pension funds, insurance companies, various State institutions and the like.

Under my proposal, a tax credit of up to 3½ percent would be provided on interest earnings to financial institutions which invest a certain percentage of their investment portfolio in residential mortgages. The greater the proportion of the portfolio invested in mortgages, the higher the tax credit on interest earned by all the mortgages in the portfolio. When at least 70 percent of a portfolio was invested in mortgages, the tax credit on the interest those mortgages earn would be 3½ percent—the equivalent, at current interest levels, of an additional interest yield of more than one-half of 1 percent.

4. *Furthering the development of private mortgage insurance companies.*

Another significant proposal in the credit area concerns private mortgage insurance companies. These companies perform a function similar to that of the FHA, the VA, and the FmHA—they insure residential mortgages with lower downpayments and for longer terms than would ordinarily be available. However, the premiums they charge for such insurance are much lower than those of the Federal agencies. Such private mortgage insurance companies have become a significant factor in the housing market in recent years and we should encourage their continued development.

To help further this objective, I recommend that the Congress—along with the Administration—consider ways of allowing private mortgage insurance companies to purchase inexpensive Federal reinsurance. To this end, I will submit legislation which can provide a basis for this discussion. Such insurance would provide added protection to the owner of a mortgage and could speed the acceptance of private mortgage insurance, especially in secondary markets. It could thus make available even more sources of low downpayment, long-term home financing for prospective home buyers.

### II. THE CHALLENGE OF LOW-INCOME HOUSING

Since 1937, the Federal Government has tried to help low income families by providing housing for them. Over the years, nearly $90 billion of the taxpayers' money has been spent or committed for public housing projects and other subsidized housing programs.

These programs have been particularly active during the past few years. Since 1969, the Federal Government has subsidized nearly 1.6 million units of new housing and over 400,000 units of existing and rehabilitated housing. These 2 million units will cost taxpayers an estimated $2.5 billion in each of the next few years and could cost us close to $50 billion altogether.

### THE FAILURES OF FEDERAL HOUSING PROGRAMS

But what have we been getting for all this money?

Federal programs have produced some good housing—but they have also produced some of the worst housing in America. Our recent study makes this clear—and so does my own experience.

I have seen a number of our public housing projects. Some of them are impressive, but too many are monstrous, depressing places—rundown, overcrowded, crime-ridden, falling apart.

The residents of these projects are often strangers to one another—with little sense of belonging. And because so many poor people are so heavily concentrated in these projects, they often feel cut off from the mainstream of American life.

A particularly dramatic example of the failure of Federal housing projects is the Pruitt-Igoe project in St. Louis. It was nominated for all sorts of awards when it was built 17 years ago. It was supposed to house some 2,700 families—but it simply did not work. In fact, a study of this project was published 2 years ago with the appropriate subtitle: "Life in a Federal Slum."

Last month, we agreed to tear down this Federal slum—every unit of it. Almost everyone thought it was the best thing we could do.

Pruitt-Igoe is only one example of an all too common problem. All across America, the Federal Government has become the biggest slumlord in history.

But the quality of Federally-assisted housing is by no means the only problem. Our present approach is also highly inequitable. Rather than treating those in equal circumstances equally, it arbitrarily selects only a few low income families to live in Federally supported housing, while ignoring others. Moreover, the few often get a *new* home, while many other families—including those who pay the taxes to support these programs—must make do with inferior older housing. And since recipients often lose their eligibility for public housing when they exceed a certain income level, the present approach can actually reward dependence and discourage self-reliance.

The present approach is also very wasteful, for it concentrates on the most expensive means of housing the poor, new buildings, and ignores the potential for using good existing housing. Government involvement adds additional waste; our recent study shows that it costs between 15 and 40 percent more for the Government to provide housing for people than for people to acquire that same housing themselves on the private market.

One of the most disturbing aspects of the current approach is the fact that families are offered subsidized housing on a "take it or leave it" basis—losing their basic right to choose the house they will live in and the place they will live. Too often they are simply warehoused together wherever the Government puts them. They are treated as a class apart, with little freedom to make their own decisions.

### DEVELOPING A BETTER APPROACH

Leaders of all political persuasions and from all levels of government have given a great deal of thought in recent years to the problem of low-income housing. Many of them agree that the Federally-subsidized housing approach has failed. And many of them also agree on the reasons for that failure.

The main flaw they point to in the old approach is its underlying assumption that the basic problem of the poor is a lack of housing rather than a lack of income. Instead of treating the root cause of the problem—the inability to pay for housing—the Government has been attacking the symptom. We have been helping the builders directly and the poor only indirectly, rather than providing assistance directly to low income families.

In place of this old approach, many people have suggested a new approach—direct cash assistance. Under this approach, instead of providing a poor family with a place to live, the Federal Government would provide qualified recipients with an appropriate housing payment and would then let them choose their own homes on the private market. The payment would be carefully scaled to make up the difference between what a family could afford on its own for housing and the cost of safe and sanitary housing in that geographic area. This plan would give the poor the freedom and responsibility to make their own choices about housing—and it would eventually get the Federal Government out of the housing business.

Not surprisingly, our recent housing study indicates what others have been saying: of the policy alternatives available, the most promising way to achieve decent housing for all of our families at an acceptable cost appears to be direct cash assistance.

Our best information to date indicates that direct cash assistance will in the long run be the most equitable, least expensive approach to achieving our goal of a decent home for all Americans—a goal I am committed to meeting. It appears to be a policy that will work—not a policy where success will always be a mirage. However, it may develop that the advantages we now see for direct cash assistance will be outweighed by other factors not presently foreseen or that such advantages may be obtainable in alternative ways which offer additional advantages. In that event, I would, of course, reexamine the situation in partnership with the Congress before moving ahead. But right now, in my judgment, our principal efforts should be directed toward determining whether a policy of direct cash assistance—with first priority for the elderly poor—can be put into practical operation.

As we proceed with new policies for aiding lower income families, we must also move with caution. Too often in the past new Federal programs have been launched on a sea of taxpayers' dollars with the best intentions but with too little information about how they would work in practice. The results have been less than what was promised and have not been consistent with the Government's obligation to spend the taxpayers' money as effectively as possible.

One particular problem is that past efforts in one area of assistance have tended to ignore programs in other areas, resulting in an inequitable hodge-podge activity which satisfies no one. In this regard, the relationship between housing programs and welfare payments is particularly critical. We must carefully consider the ways in which our housing programs will relate to other programs which also assist low income persons.

Some field work has already begun with respect to direct cash assistance in the area of housing for those with low incomes. In 1970 the Congress authorized housing allowance experiments involving over 18,000 families and costing over $150 million. We expect preliminary data to emerge from these tests in the coming months and we intend to use these data as we evaluate the possibility of further efforts.

This work should help us answer some important and difficult questions.

What, for example, is the appropriate proportion of income that lower income families should pay for housing? Should this level be higher or lower for different kinds of families—for young families with children, for example, or for the elderly, or for other groups? Should families receiving Federal aid be required to spend any particular amount on housing? If they are, and the requirement is high, what kind of inflationary pressures, if any, would that produce in tight housing markets and what steps could be taken to ease those pressures? In the important case where poor families already own their own housing, how should that fact be weighed in measuring their income level? How should the program be applied in the case of younger families who have parents living with them?

All these questions are critical—and they deserve close examination.

In addition, I am also asking the Congress for authority to take two other steps to help us test the cash assistance approach.

First, we need to expand our experimental programs to test additional techniques for administration.

Second, we need to develop and put into effect the appropriate mechanisms for measuring the cost of safe and sanitary housing in various parts of the country. Sound, reliable cost information of this kind would be of vital importance to a fully operational program.

If these steps can be taken in the near future, then I believe we will have the basic information needed to make a final decision concerning this approach late in 1974 or early in 1975.

### A CONTINUING NEED FOR LIMITED CONSTRUCTION PROGRAMS

During the period in which a new approach is being developed, there will be a continuing need to provide housing for some low income families. We must recognize that in some areas of the country there will simply not be a sufficient supply of housing for the foreseeable future. I therefore propose that the Federal Government continue to assist in providing a limited amount of construction for low income housing—though I would expect to use this approach sparingly.

To eliminate the many tangled problems which attend the delivery of subsidies under current construction programs, I am recommending a new approach to construction assistance by the Federal Government. Under this approach, the developer would make newly constructed units available at special rents for low income families and the Government in return would pay the developer the difference between such rents and fair market rents.

During the remainder of fiscal year 1974, the Department of Housing and Urban Development will continue to process subsidy applications for units which had moved most of the way through the application process by January 5 of this year. In addition, the Department will process applications in cases where bona fide commitments have been made.

I am advised by the Secretary for Housing and Urban Development that one of the existing construction programs—the Section 23 program under which new and existing housing is leased for low income families—can be administered in a way which carries out some of the principles of direct cash assistance. If administered in this way, this program could also provide valuable information for us to use in developing this new approach.

Accordingly, I am lifting the suspension of January 5 with respect to these Section 23 programs. I am also directing the Secretary of Housing and Urban Development to take whatever administrative steps are available to him to eliminate any abuses from such programs and to bring them into line as closely as possible with the direct cash assistance approach.

Altogether, in order to meet bona fide commitments requiring action during this fiscal year and to carry out the Section 23 program, authorization has now been given to process applications for an additional 200,000 units, 150,000 units of which would be new construction.

### IMPROVING THE OPERATION OF PRESENT PUBLIC HOUSING

There was a time when the only continuing Federal expense connected with public housing after it was built was paying the debts incurred in building it. Other expenses were met from rental income.

As time went on, however, laws were passed making the Federal Government liable for operating deficits. In recent years, as the operating costs of public housing projects has increased and as the income level and rent payments of their occupants have decreased, the cost of such projects for the Federal Government has gone up at an alarming rate. The Federal bill for operating subsidies has grown more than eightfold since 1969—from $33 million annually to $280 million annually—and an additional $1 billion has been obligated for capital improvements.

Moreover, as efforts have been made in recent years to prevent tenants from paying too much of their incomes for housing, some housing managements have been persuaded that some tenants should pay nothing at all. The Federal Government then picks up a good part of the tab, adding considerably to the costs of maintaining these projects.

This growing financial burden for the Federal Government is only one of many problems relating to public housing. Because the local housing authority is responsible for the management of public housing projects while the Federal Government is responsible for project deficits, including those due to poor management, the local authority has little incentive to improve management standards.

There are also indications that even with improved management and a more realistic approach to rents, current Federal subsidies may need to be adjusted to provide for continued operation and maintenance of these projects.

In view of these many problems, I have asked the Secretary of Housing and Urban Development to develop a set of recommendations addressing each of these problems. One of our goals will be to achieve a more equitable sharing of responsibility among the Federal Government, local communities and residents.

## III. ADDITIONAL ACTIONS TO MEET OUR HOUSING NEEDS

### NEIGHBORHOOD PRESERVATION

Simply providing Federal housing assistance to families without proper regard for the condition of the neighborhood as a whole too often results in unmet expectations for the families, added burdens for the municipality and a waste of the taxpayers' dollars. It is important, therefore, that all of our efforts in the housing and community development field be carried out as a partnership venture of the Federal Government, the local government, local financial institutions and the citizens of the neighborhoods involved.

Added resources such as those which would be available under my proposed $2.3 billion Better Communities Act can provide important support for these efforts. To smooth the transition to the Better Communities Act, I am directing the Department of Housing and Urban Development to make available up to $60 million in Section 312 rehabilitation loans in the current fiscal year. Priority will be given to those communities which need these loans to complete present projects or where complementary local rehabilitation efforts have already been launched.

In addition, I have directed the Secretary of Housing and Urban Development, using his research and demonstration funds, to pursue promising approaches to neighborhood preservation which might be adopted by communities on a broader basis.

### IMPROVING RURAL HOUSING

The problems of providing good housing in our rural areas are especially challenging, not only because the proportion of substandard housing is greater in rural areas but also because these areas often lack the resources to foster greater economic development—and better housing. Of course, many of our housing programs and proposals are designed to assist all families, urban and rural alike. But there is also a special need to address in a special way the rural housing challenge.

Our recent housing study concludes that the basic housing problem in many rural areas is that our major financial institutions are not represented in these areas and that credit is therefore inadequate. The Farmers Home Administration has done a great deal to help change this picture—but further efforts are needed. At my direction, the Department of Agriculture and the Department of Housing and Urban Development will seek additional ways of correcting this situation and increasing credit availability in rural areas.

In my Community Development Message last March 8th, I emphasized that "in pursuing a policy of balanced development for our community life, we must always keep the needs of rural America clearly in sight." I mentioned then my continuing support for a revenue sharing approach for rural development, acknowledging that the Rural Development Act fell short of what I preferred in this regard. I went on to indicate my intention, after fully evaluating the effectiveness of this act, to seek whatever additional legislation may be needed. I repeat that pledge today.

### A SUITABLE LIVING ENVIRONMENT

The housing we live in and the environment surrounding that housing are inextricably linked. In the final analysis, the quality of housing depends on matters such as transportation, proximity to educational and health services, and the availability of jobs and shopping. It also depends on economic factors which are shaped by the larger community. One important finding of our housing study was that the cost of the land on which new housing is located has risen faster than any other cost component of housing.

The Congress, too, has recognized these relationships in its finding "that Federal programs affect the location of population, economic growth, and the character of urban development [and] that such programs frequently conflict and result in undesirable and costly patterns of urban development which adversely affect the environment and wastefully use our natural resources."

It is clear that housing policy cannot be considered separately from other policies related to the economic, social and physical aspects of community development. The next Report on Urban Growth, which I shall submit to the Congress in 1974, will further address these crucial relationships.

### ASSURING EQUAL OPPORTUNITY

Over the last several years, great strides have been made toward assuring Americans of all races and creeds equal and unhindered access to the housing of their choice. As I stated in 1971:

> At the outset, we set three basic requirements for our program to achieve equal housing opportunity: It must be aimed at correcting the effects of past discrimination; it must contain safeguards to ensure against future discrimination; and it must be results-oriented so its progress toward the overall goal of increasing housing opportunities can be evaluated.
>
> The administration is embarked upon this course. It must and will press forward firmly.
>
> The chief components of such a program include the firm enforcement of laws relating to equal housing opportunity, the development of appropriate equal housing opportunity criteria for participation in programs affecting housing, the development of information programs, and the development of policies relating to housing marketing practices.

Each of these components has been put into operation and we are continuing to move ahead. It is important that all Federal agencies vigorously pursue a wide range of efforts to enforce fair housing and equal opportunity laws—and all members of my Administration will continue to be particularly vigilant in this regard.

The availability of mortgage credit has also been restricted in many instances on the grounds that the applicant's financial resources, which would otherwise have been adequate, were deemed insufficient because the applicant was a woman. These practices have occurred, unfortunately, not only in home mortgage lending but also in the field of consumer credit. I shall therefore work with the Congress to achieve legislation which will prohibit lenders from discriminating on the basis of sex or marital status.

### Further Proposals

A number of other proposals which have grown out of our recent housing study will be included in the legislation I will submit to the Congress. They include efforts to encourage home improvements and to facilitate the purchase of mobile homes; measures to ease the Federal burdens in disposing of the large and still growing number of properties returning to the Government upon default; and steps to streamline and reduce the processing time for FHA applications, including a proposal that would move toward the Veterans Administration technique of coinsurance. I urge their prompt consideration.

The American dream cannot be complete for any of us unless it is within the reach of all of us. A decent home in a suitable living environment is an essential part of that dream.

We have done a great deal as a people toward ensuring that objective for every American family in recent years. Our success should not be a reason for complacency, however; rather, it should reinforce both our determination to complete this work and our confidence that we can reach our goal.

The measures I have discussed in this message can make a significant contribution to that great undertaking. I look forward to working closely with the Congress in advancing these efforts.

Richard Nixon.

The White House, *September 19, 1973.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Haskell) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

## ORDER FOR ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REMOVAL OF INJUNCTION OF SECRECY AND REFERRAL OF CONVENTION TO COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the convention between the United States of America and the Union of Soviet Socialist Republics on matters of taxation, with related letters, signed at Washington on June 20, 1973—Executive T, 93d Congress, first session—transmitted to the Senate today by the President of the United States, with accompanying papers, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the message will be printed in the Record.

The message is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention between the United States of America and the Union of Soviet Socialist Republics on Matters of Taxation, with related letters, signed at Washington on June 20, 1973.

For the information of the Senate, I transmit also the report of the Department of State with respect to the Convention.

The primary purpose of this Convention is to promote economic and cultural relations between the two countries by eliminating tax barriers to the extent possible. The general content of the Convention is similar to conventions between the United States and other countries on the avoidance of double taxation on income. However, because of dissimilarities between the tax systems of the two countries and the limited experience of each with the tax system of the other, in this Convention somewhat more emphasis than usual is given to tax exemptions.

Through its system of exemptions, the Convention should largely insulate the entities and citizens of the respective parties from income tax in the other state. As with most tax conventions, a principal benefit is to free to a great extent the companies and persons involved from the compliance and administrative problems of dealing with a foreign tax system. This, in turn, can be expected to contribute to the smooth development of United States-Soviet Union trade, cooperation, and exchanges. I recommend that the Senate give prompt consideration to the convention and consent to its ratification.

Richard Nixon.

The White House, *September 19, 1973.*

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. JACKSON. Mr. President, I ask unanimous consent that an unprinted amendment which is at the desk may be offered following the amendment or amendments to be offered by the distinguished Senator from South Carolina (Mr. Thurmond).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

### Statement by Senator Bellmon

I would like to commend the Finance Committee and its Chairman, Mr. Long, and the Labor and Public Welfare Committee and its chairman Mr. Williams for the work and effort which they have exerted on behalf of working people across this nation. S. 4 as amended by the Nelson Amendment No. 496 and No. 497 is an extremely fine and detailed piece of legislation which has the potential to begin regulation of private pension funds, whose assets are currently about $160 billion.

While it is becoming increasingly clear that private pensions are necessary to supplement other forms of retirement benefits such as social security and other government pensions, it is also clear that the private pension plans as currently established are burdened with abuses and inadequacies. As presently structured, private pensions have been nothing but a hoax on the working people of America. Workers have contributed funds for many years only to find out that they had no entitlement because they didn't work long enough, because they changed their unions, because they were laid off or changed jobs, because they became disabled before a certain age, because the company they worked for went out of business or merged with another corporation, or because the pension fund terminated after retirement. The reform measures presented in this legislation are aimed at revamping this system.

S. 4 as amended will extend the coverage to many employees not currently covered under a private pension plan. It will strengthen the vesting requirements of private pension plans so that contributing workers will not lose the value of their investments as readily as they do now. Further, it will assure that when people receive private pension benefits these will be substantial in amount and not a mere token payment, as many plans presently provide. Further, dependent widows or widowers rights will be strengthened under this reform. And finally, those who control pension plans will be held to a tighter fiduciary standard than previously existed, thus insuring wise investments in controlled equities and income producing notes and bills. Therefore, this bill will correct the inadequate coverages, the inadequate vesting, the inadequate funding, the loss of pension benefits due to plan terminations, misuse of pension funds, and discrimination against individuals not covered by pension plans. Because S. 4 as amended will rectify this situation, it is a vital and extremely necessary piece of legislation, and I support the efforts of these committees with one reservation.

That reservation involves the so-called "proprietary employee" provisions, listed in Sections 702, 704, and 706 of Amendment No. 496. Lest you believe that these are insignificant provisions, the Treasury has estimated that 90% of all pension profit sharing plans in effect today will be adversely affected if these are approved. The effect of these provisions is to limit the tax deductibility of contributions to private pension plans in the amount of 15% of the employee's income, not to exceed $7,500 per year. Because of this discriminatory nature of this provision and other inadequacies of the provision, I would urge the Senate to support the amendment of the distinguished Senator from South Carolina, Mr. Thurmond, which would delete all reference to the proprietary employee concept and which would impose the same contribution limitations for all employees of corporations, whether large or small.

As presently structured, this provision of the bill discriminates against small, closely held corporations in favor of large corporations which have no vesting limitation. It discriminates unreasonably against employees and particularly older employees of small corporations. Actuarially, it prevents older persons from funding adequate retirement plans, because in the early years of establishing a business, owners, must plow back earnings into the business and are only able later in life to invest in a retirement plan. So older owner managers of corporations will not be able to build up an adequate retirement plan in a limited number of years with the limitation of this provision.

Further, existing owners of small corporations will be discouraged from offering an ownership position to key employees with already accrued retirement entitlement, and such employees will refrain from seeking the same.

The provision as currently structured encourages the assimilation by big corporations of small corporations, where owners do not desire to lose their retirement benefits.

Currently this provision discriminates in favor of unincorporated businesses over small corporations, by permitting larger contributions for self-employed persons than for the owner-employee of a business which is identical in all ways except that it is unincorporated. Therefore, because of this patently unfair discrimination and unequal treatment, I would urge the Senate to adopt Mr. Thurmond's amendment and delete the proprietary employee provisions of S. 4 as amended.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged against all sides equally.

Mr. CURTIS. I object.

The PRESIDING OFFICER. Objection is heard. The time will run equally against both sides unless time is otherwise yielded.

Mr. NELSON. Mr. President, I did not hear the request.

The PRESIDING OFFICER. The Senator from Nebraska objected to the quorum call being charged equally against both sides. The objection was heard and the Chair stated that unless someone yielded time the quorum call time would be charged equally against both sides.

Mr. NELSON. Mr. President, the Senator from Wisconsin asks that the time be charged against the amendment of the Senator from South Carolina. That unanimous consent request was agreed to.

The PRESIDING OFFICER. That was done prior to the quorum call. The Senator from West Virginia asked for the suspension of the quorum call.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, can time on the Thurmond amendment which is not pending be used for time on the amendment of someone else?

The PRESIDING OFFICER. By unanimous consent it may.

Mr. LONG. Well, I want to enter my objection to using time on the Thurmond amendment or any other amendment. In the event that request is made again I hope the leadership will protect me if I am not in the Chamber. If we provide 2 hours on a particular amendment, that time should be used on that amendment. I am willing for time on the bill to be used to debate an amendment but I think this could get completely out of hand.

Mr. ROBERT C. BYRD. The Senator is correct. I have stated repeatedly that there is ample time on the bill for quorum calls, and I hope the distinguished Senator from Nebraska will not object to charging quorums to time on the bill.

Mr. CURTIS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President it seems as though we took too much time to confer yesterday. Now, one of the amendments is 275 pages and the other is almost 100 pages long.

One amendment was 227 pages long. The other was 71 pages long. The record shows that these were not available until after we started consideration of the bill yesterday morning.

Of course, there had to be a slow-up. None of us had ever read it, and the normal course of procedure today seems to be objected to on the ground that we took time out yesterday.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. I yield myself 1 additional minute.

If we are asked to enact 300 pages that the human eye has never seen, and we take time out to read it, and it displeases my distinguished friend from West Virginia, I hope that he is in the minority.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Wisconsin, I yield myself 1 minute on the bill.

It does not displease the Senator from West Virginia. I am sorry the distinguished Senator from Nebraska is displeased. All day yesterday we had quorum calls and did not charge the time to either side. The leadership did not have any objection to that. It acceded to the request of the distinguished Senator from Nebraska yesterday that we go over until today, that we not complete action on the bill on yesterday. The leadership assured the Senator from Nebraska that the bill would not be completed on yesterday, that Senators would have time overnight to read printed copies of the bill. So the leadership did not object yesterday to the time not being charged to either side.

As I indicated to my distinguished friend, there is ample time on the bill to which quorums can be charged. If we get to the end of the day and he needs more time, I am sure the leadership will try to accommodate him.

Mr. CURTIS. I have no objection to what the Senator did yesterday; it is the fact that the Senator reversed his position that is not in the public interest.

Mr. ROBERT C. BYRD. Occasionally we have to reverse ourselves in the interest of the country, in the interest of the Senate, and in the interest of expediting the business of the Senate.

The PRESIDING OFFICER. Who yields time? Since time is not yielded, it will run equally against both sides.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana (Mr. HARTKE) may speak for not to exceed 30 minutes at this time, without the time being charged against either side on the bill. This will give the proponents and opponents of the amendment time to work out their differences, without the time being charged to anyone.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that this statement appear in context in continuity, even though it may be interrupted for other actions.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PENSION REFORM: THE TIME IS NOW

Mr. HARTKE. Mr. President, for nearly a decade I have called upon Congress to enact meaningful pension reform. At stake is the welfare of millions of American workers who have invested their lives to make this country strong. They deserve to know that their work will not have been in vain and that their retirement years will not be ones of desperation and despair.

### I. THE DEMAND FOR PENSION REFORM

The American people know that private pensions need reform. They know that they cannot get by on social security benefits which are their mainstay. They know that more than half the working people in the country do not have any type of private pension plan coverage whatsoever. They know that the overwhelming majority of plan participants will not obtain benefits for their plans. They know that it takes too long to qualify for benefits that the majority of working men and women, that nonunion employees, especially white-collar and management people can now be fired with impunity to defeat their pension eligibility and do not have a chance to qualify. That at best only one job rather than their lifetime of work pays off in a pension, that even vested rights may be hollow for lack of plan funds: that widows seldom get pension benefits, that inflation destroys the value of benefits, and that the retired and widows are the people most ravaged by inflation.

They know this because they live it. The people of South Bend, Ind., lived through the tragedy of the Studebaker shutdown, and that occurred under one of the best plans in the United States. People all over the country have lived through plant shutdowns, departmental discontinuances, lay-offs that are permanent, pension plans with insufficient funds, firings shortly before pension eligibility. And they found out that these were not just freak failures—they are built into the system. They learned that in June 1971 from CBS's "Sixty Minutes;" in September 1972 from NBC's award-winning report "Pensions—the Broken Promise"; in March 1973 from PBS's special: "From Immeasurable Syndicated and Regional Newspaper Stories"; from Nader's best-selling book "You and Your Pension"; from national columnists like Sylvia Porter. The people know and they are looking to Congress for a remedy. They will hold us accountable for making private pensions work fairly to provide the families of this country with the supplement to social security that all need. And the people are beginning to hear that what has been served up as pension reform is inadequate. Read William V. Shannon's "Pension Pretense" of September 6, 1973—which I put in the RECORD on September 10. He said of the Finance Committee and Labor Committee bills that were combined—after a fashion—to make the bill now before the Senate:

> There is only one thing wrong with these reform bills. Neither of them does much reforming.

Read the "Statement on Pension Legislation" of September 12—to be found in the RECORD of September 13—issued by some of the Nation's leading experts on labor relations, economists, and income maintenance. Former Secretary of HEW, Wilbur Cohen, joined in the statement which details the urgent needs of pension reform but concluded that—

> The Williams-Javits bill, the Senate Finance Committee bill, and the Dent bill—all fall short of rectifying these (plan) shortcomings and thereby fall short of the needed reforms.

Others who joined in this statement include Dr. Juanita Kreps, a distinguished economist who has specialized in income problems of the elderly; Dr. James Schulz of Brandeis University, a labor economist specializing in projecting the income prospects of the aged; Profs. Newton Bernstein and Father Paul Harbrecht whose books on pension problems in the early 1960's helped draw attention to the need for reform; Dean Charles Schottland, former Commissioner of Social Security, for decades an expert on income maintenance systems; and Harvard economics professor, Otto Eckstein, formerly a member of the Council of Economic Advisers; Dr. James Morgan of the University of Michigan, one of the Nation's leading researchers on income problems; Dr. Henry Aaron of the Brookings Institution, an authority on social insurance; Dr. Harold Sheppard of the Upjohn Institute, who has worked with several Senate committees on problems affecting the elderly. These are disinterested and sober experts who warn that the measures before us fall short of the need of the working people of the country.

### II. THE FATAL DEFECT—FEW WILL OBTAIN PENSIONS

#### A MAJORITY NOT COVERED BY PLANS

Many aspects of pension plans have been oversold. In the early 1960's both private and government sources "assumed" that 20 to 23 million working people had plan coverage. Each year the figure got bigger—as if to say that no plans failed, as if no one retired, as if no one was separated from plans—although all of these things did happen. The figures creeped up and up until recently the figure of 35 million came into common use. At least one pension student constantly questioned these data, pointing out that a 1969 Labor Department sampling of plans under the Welfare and Pension Plan Disclosure Act found little more than 19 million—not 33 million, as had been reported—participants. Only this year did the inflation of plan coverage obtain official recognition. The Treasury Department's interim report on its study of pension plan termination reported—in a footnote—that pension plans—not including profit-sharing plans—covered 23 million active workers. The Social Security Administration reported no figures but declared that earlier estimates overstated coverage and would have to be reduced.

Mr. President, I hope that the managers of the bill will understand that they are not talking about coverage for people who are ultimately going to get benefits. What they are claiming is that these are people in the pension plans who will ultimately receive little or no return.

The sober truth is that contrary to over a decade of claims, private pension plans cover decidedly less than half of the civilian work force.

This means that at any one time fewer than half of American workers have the opportunity to earn pension credits. In turn, that means that when one loses a pension-covered job, the chances of finding another job with a pension is not very good—which belies the conventional apology that one needs not worry about pension losers—they are just young workers who flit around from job to job and finally come to rest in a safe pension haven. Actual studies of the fate of Packard and Republic aviation workers indicate that the contrary is true—blue collar workers separated from pension-covered jobs are in all age brackets, that many—a majority at Republic—had fewer than 10 years service there, that older workers have a devil of a time finding and folding new jobs, and that substantial proportions—most in the Packard study—end up with lower pay jobs unlikely to carry pension coverage. The chances of working long enough at more than one company to earn vested credits are greatly reduced by the spottiness of coverage. Small companies especially lack plans even in industries in which plans are common. Even in companies with plans, low pay and part-time workers are frequently not covered, a common fix especially for women.

If private pensions are to do their job—providing a retirement income supplement to social security—for all working people, the first essential is to extend pension plan coverage.

Let me say that there is not one single contention by any proponent of this compromise bill that the bill will in any fashion whatsoever provide inducement to increase the numbers of individuals covered. Quite the contrary is true. The result of this pension bill will be a marked reduction in the number of people covered by any pension plan whatsoever.

My portability clearinghouse amendment would go far to facilitate voluntary extension of coverage—as I shall explain more fully later in this presentation.

This is the remarkable thing about portability. This type of provision is opposed by all major employers. They would like to have indentured slavery; that is, they would like to freeze people into a position where they cannot move from their jobs. That is an attribute of the Japanese pension plan system. Anybody who goes into a particular factory has to stay in that factory for the remainder of his life, because the expense of changing coverage under a pension plan is such that he cannot afford to leave.

Actually, the unions do not want workers to have portability, either. If the worker has portability, the union loses its dues-paying members. So portability will be opposed by the unions and by the leaders of organized labor. I find no fault with this, except that I am just saying this happens to be a fact of life.

Now let me talk for a moment about length of service requirements as hurdles to eligibility.

Private pension plans now are designed to pay only to a minority of their participants—they usually require at least 10 years and often 15 or 20 years of service to qualify for benefits. This results from several basic ideas. One is that an employer is obligated only to long-term employees. The fact of the matter is that when we started discussions in the Finance Committee, every member of the committee said it would be a good idea to force employees to stay with their employers for long periods of time. But that is not American.

In turn this derives from two other notions—that pension plans constitute proper corporate expenditures because they bind employees to the firm. These notions go back 30, 40, 50 years before the World War II and Korean war surge in pension plans.

With a controlled economy, wage and price controls, there is an upsurge in the number of pension plans, because this is one way to avoid a sharp increase in wages themselves. If there are wage controls, it is better to give them a little bit more money as a fringe benefit. One fringe benefit is the opportunity to participate in a pension plan. But we find that only 4 percent, as of this moment, will ever really actually participate in the benefits of those plans.

The post World War II participation was quite different. The mineworkers, autoworkers, and steelworkers pressed for private pension plans because social security was so dreadfully inadequate in the 1940's. That was the major basis for the 1949 steel factfinding decision recommending pension plans in that industry.

This justification for private pension plans—the need to supplement social security—continues even today. The design of pension plans to pay off to a few lucky ones conflicts with that justification. Practically all plans today are so inadequate as to be almost meaningless. Practically all need that supplementation and so pensions should provide it. Indeed, the people who lose pension-covered jobs need social security supplementation more than the lucky ones who stay on the job, whose earnings continue uninterrupted, who have a chance to save, and whose health insurance coverage continues.

And people who lose pension-covered jobs—and that happens to working people at all ages—frequently have difficulty finding new jobs at equal pay and with equal fringes. Studies of the Packard and Republic aviation shutdowns show that most do not get equally good jobs, and many blue-collar workers end up in service jobs where pension coverage is rare. Recent experience in the aerospace industry shows that engineers, chemists, mathematicians, and other highly skilled persons and managers and executives find themselves in the same fix.

In sum, it will not do to shrug off pension credit losses as not especially significant because—supposedly—later jobs will make up for the loss. Hard experience shows that often is not the case—and there is only conjecture that it works out that way.

In addition, most single employer plans vary benefits in direct proportion to credited service. A person who loses out under several plans because of age and service requirements and luckily gets that last job that does pay off obtains benefits only for those years on the last job. If it is only 10 or 12 years, that means small benefits.

There is a very significant study which was made by the Subcommittee on Labor of the Committee on Labor and Public Welfare of the Senate under the date of November 1971, made pursuant to Senate Resolution 35, section 4, which is available to the Senate and was available to the committees which passed upon the bills—I say bills because we really have here a conglomerate bill before us. It was available to all of them, it was read by all of them, and its data and conclusions were ignored.

When a person loses out under several pension plans, and obtains benefits only for those late years—on page 26 of this welfare and pension plan study of 1971—we are freezing into the pension plan when we adopt this bill. It shows that the average monthly median payment under this bill will be $100 a month; $1,200 a year. That is what we are calling a giant stride forward? Mr. President, this is a crawl. This makes a sham of reform. And when the American people realize the fraud that has been perpetrated against them, our institutions will loose even more credibility.

Here is the statement:

A summary of the median payments by all plans and by size of plan for normal, early, and disability benefits is presented below. The questionnaire circulated by the Subcommittee requested data concerning the average benefit paid to retirees. (The term "median benefit" as used in this study refers to the average monthly benefit paid by all plans represented by the analysis, "median" denoting the average amount separating the upper half from the lower half of the averages.) The summary shows that the median payments for all plans and all benefits, taken together, were less than $100 a month.

The study also shows that for plans with less than 1,000 participants—I might state, for the benefit of the press gallery that this includes them—that 80 percent of them will be paid the very smallest benefits. You can look forward to your old age with horror. You people writing and communicating the news are going to be frozen into your pensions at the status quo of about $100 a month.

I just received this report: A United Press International reporter, such as we have in the galleries, receives $240 a month as a pension after 65. They have a 5-year vesting plan, with no portability. If they leave the wire service, they have to start all over again.

Not too long ago, the case came to my attention of a prominent political reporter for UPI who died, and the pension circumstances are such that this man's widow is getting the trifling sum of $102 a month to live on. This compromise bill will not care for your wives.

Let us go back, then. As an example of that, under a typical blue-collar plan, a monthly benefit of about $60 would result; for a white-collar worker, 12 years might generate a benefit of 18 or 25 or 30 percent of his final salary.

Compare, if you will, the Senate Finance Committee provisions permitting pension benefits of 100 percent of final salary for high paid executives—that was the measure on which we are interrupting the vote at this moment but they will get 100 percent of the final salary—which seems to say that such a measure is socially justifiable and warrants the favorable tax treatment accorded by the Internal Revenue Code. In my judgment, 100 percent is rather rich. But compare the congressional retirement system which contemplates benefits equal to 50 percent of final salary. Pension experts agree that low-paid workers need a larger percentage of wage replacement than do high earners because a much larger percentage of a small budget goes to essentials—food, clothing, and shelter.

Mobility of labor and capital constitute great strengths for the American economic system. It enabled us to mobilize for World War II, demobilize in amazingly short order, rearm for Korea, execute the largest public works program with private contractor employees in recorded history—the interstate highway program—I dare say one that can work a maximum of 3 years—redeploy men and women repeatedly in the post-World War II years. This mobility is essential but private pension plan design—this system on the floor of the Senate—does not fit it.

Enterprises constantly adapt to new circumstances by opening new plants and shutting down or selling existing ones. The distinguished Senator from Maine (Mr. MUSKIE) now in the chair understands that as well as anyone I know.

Mr. President, I ask unanimous consent that an excerpt from "The Future of Private Pensions," by Merton C. Bernstein, showing how one company adapted to changing circumstances be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### A COMPANY-WIDE PATTERN—OLD AND NEW PLANTS

(From Merton C. Bernstein, The Future of Private Pensions 97 (1964))

The complexities within a single business are vividly illustrated by the recent history of one large manufacturing company. The brisk business in plant openings and closings, from 1939 through 1955, accompanied by product diversification and installation of new machinery, affected its twelve plants (*A–L*) as shown in Table IV–3. Out of a dozen plants, only three operated throughout the 16 years, in 1939 six plants, in 1947 ten plants, and in 1955 eight plants were operational. Plant *L* closed after six years of operation.

Throughout this period executive, administrative, technical, sales, and clerical employment held steady or rose; meanwhile production employment, after reaching a high around 1947, declined both in numbers and in relation to total employment.

The company's pension plan contained a vesting provision; but to qualify, 15 years of service were required. Obviously satisfaction of that condition would be extremely difficult.

Other concrete examples of plant shutdowns with large scale loss of pension credits are presented in Chapter V in the context of legal doctrines. Suffice it to observe here that such occurrences obviously are not rare.

PLANTS OF 1 COMPANY IN OPERATION AT 3 SELECTED DATES

| 1939 | 1947 | 1955 |
|---|---|---|
| Plant A | Plant A | Plant A. |
| Plant B | Plant B | Plant B. |
| Plant | Plant C (started 1944) | Plant C. |
| Plant | Plant | Plant D (acquired 1950). |
| Plant E | Plant E | Plant E. |
| Plant | Plant F (acquired 1945) | Plant F. |
| Plant | Plant G (acquired 1945) | Plant G. |
| Plant | Plant | Plant H. |
| Plant I | Plant I | Closed 1954. |
| Plant J | Plant J | Closed 1953. |
| Plant K | Plant K | Closed 1950. |
| Plant | Plant L (acquired 1945) | Closed 1951. |

Source: Derived from a file in a study by Samuel Hill and Frederick Harbison, which resulted in their Manpower and Innovation in American Industry (Princeton, N.J.: Princeton University Press, 1959).

Mr. HARTKE. Mr. President, obviously, most of that companies employees could not satisfy a 10-year, let alone a 15-year service requirement for vesting. One west coast auto plant shut down a mere 6 years after it opened. The famed Kaiser automobile experiment did not last 5 years. All of us know of towns in our States where plants shut down leaving former workers stranded without jobs, without job prospects, and that frequently means without credits and no prospects of getting them in a later job.

In 1950, 1951, 1954, plants were opening and closing so rapidly that it was hard to keep up with them. A man certainly could not be qualified for a 10-year period, let alone a 15-year period, under these circumstances. I know of one plant which opened and closed in 6 years. We all remember the Kaiser enterprise in automobiles, an experiment that did not last 5 years.

There is not a Member of the Senate or House who does not know of towns in the States and communities where plants shut down leaving the farmers or the workers stranded without jobs or any job prospects, which frequently meant no credit or prospects of getting any credit toward any pension in later jobs.

Is it any wonder, then, that the Senate Labor Committee's study—the preliminary report on private pension study, 1971—of a large group of pension plans covering 6.9 million employees spanning the 19 years from 1950 to 1969—that is, the best, the most stable plans—showed that only 4 percent—253,118—of their participants attained benefit eligibility.

This, I think, is amazing when we see that this bill goes a long way toward reform or rectifying these problems and this is the Labor Committee's own report. In other words, 96 out of 100 plan participants did not obtain any benefits—press release of Senators WILLIAMS and JAVITS, April 1, 1971. This compromise bill before the Senate, being hailed as pension reform, is only a pretense to reform. According to their own study, 6,700,000 individuals would obtain absolutely nothing out of the 6,900,000 people who are involved in pension plans. You call that pension reform? Hardly, and for those who left pension-covered jobs, this was the result reported by the Senate Labor Committee's interim report of February—1972:

> . . . 92 percent of all participants who left plans which required 11 or more years of service for vesting and 73 percent of all participants in the plans with ten years or less for vesting . . . Did not qualify for benefits" (page 15).

Most plans requiring 11 or more years for vesting in fact, require 15 years, and most plans requiring 10 or less in fact require 10.

This gives us some idea of the utility of 10 and 15 year vesting. S. 4, as amended, would provide 100 percent vesting after 15 years. In other words, it would require pay out to only 8 of every 100 people separated from pension-covered jobs. It would require 50 percent vesting—more on that formula in a moment—to those with 10 years service—in other words, it would salvage half the benefits earned for 27 out of every 100 employees separating.

I commend the leaders of the bill, Senators JAVITS, WILLIAMS, NELSON, and BENNETT for their efforts to bring this bill up which has not been read by anyone, as of yesterday. The compromise measure is being railroaded through the Senate without giving those of us familiar enough with pension plans to formulate opposition to it which would protect the American workers who have already suffered too much in the private pension plan system.

### TRAGEDY OF ALL TRAGEDIES

Even after 1981, for those with 5 years of service at separation, the bill would salvage something—but what? That is the tragedy of all tragedies in this bill.

### S. 4 VESTING PRODUCES MINISCULE BENEFITS

The more liberal vesting formula that would go into operation in 1971 calls for 25 percent of a regular retirement benefit for 5 years of service. Let us apply that to some realistic situations.

Take a plan that confers a $5-a-month benefit for every year of credited service. For an employee separated with 55 years of credits, that would yield a benefit of $6.25 cents a month—$5 times $5 times 25 percent—or $75 a year. That is what is being planned as a minimum standard. It will make it possible to guarantee retirement at $75 a year. It is hardly an amount worth the trouble—or worth the name of reform.

Such a benefit is subject to erosion by inflation. An employee separated at age 45 with a vested claim to $75 a year would end up at age 65 with a benefit worth $30—assuming a very modest rate of inflation—not the President Nixon–Agnew rate of inflation of 10 percent.

In the case of a white collar worker earning $10,000 under a plan giving a 2-percent benefit per year of service, it would work out to $10,000 times 2 percent times 5 times 25 percent or $250 for an entire year—and we are talking about 1981, not tomorrow—and since the 51-year proposal takes effect in 1981, between 1976 and 1981—a benefit of about $20 a month. Between 1976 and 1981 the vesting formula would yield even smaller amounts.

Normal retirement benefit formulas are none too adequate to begin with—to vest only one-quarter of the amount the same years earn for employees who are lucky enough to stay on the job reduces most vested benefits under the bill to worthlessness.

### III. WHO PAYS FOR PENSIONS?

This was a subject of great discussion. We spent a whole day before we finally came to the conclusion, which I will bring to the attention of the Senate now, that the taxpayer pays billions of dollars, and therefore plans should serve social purposes.

Out of that $150 billion in private plan reserves—I do not know whether the Senator from New York (Mr. JAVITS) is in the Chamber at this moment, but I want to call to his attention the fact that $100 billion of this $150 billion is now deposited in the banks of New York City. They are getting the 10 percent prime rate. Some people say that can go up to 20 or 25 percent, as well as capital investments. Pension reform is badly needed. Would the compromise bill correct this imbalance?

The PRESIDING OFFICER. The Senator's 30 minutes have expired.

Mr. HARTKE. Mr. President, I ask unanimous consent to proceed for another 15 minutes, under an agreement I have with Senator WILLIAMS, Senator CURTIS, Senator JAVITS, and a few other Senators who are in control of the time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HARTKE. I might say, parenthetically, that the truth is as I pointed out to the majority leader, that in this remarkable assignment of time on the bill, they assigned 6 hours to the bill—3 hours for the proponents from the Finance Committee and 3 hours for the proponents from the Committee on Labor and Public Welfare, with nothing for those who thought something might be wrong with this bill. I suppose that in Washington today, you are not supposed to object to anything.

Who pays for the pensions? Private plan reserves are estimated at $150 billion. Their net receipts in 1971 put at $10.3 billion.[1] Assuming earnings of 5 percent, the $150 billion in reserves would yield $7.5 billion which if taxable at average corporate rates of 50 percent would generate $3¾ billion a year in taxes. Those taxes are not collected for considerable periods, and when taxes are applied to pension benefits, the rates are much lower and in some cases nothing. These taxes foregone grow every year as the reserves are augmented. This subsidy—the equivalent of a $3.75 billion expenditure—can be justified only if it serves a high priority public purpose.

Whenever somebody avoids paying taxes—and this is a tax avoidance bill; some could call it a tax loophole bill and they would be right—somebody else has to pay the difference. That somebody else, generally speaking, is the individual who earns less than $12,000 a year, who pays most of the taxes in the United States.

### B. ALL EMPLOYEES UNDER PLANS PAY—ALL SHOULD COLLECT

I have heard on the floor of the Senate and in Finance Committee meetings, that the employer pays part of the pension. That is not so.

It is true that most pension plans today are noncontributory—that is, employers make all the contributions and employees make none. So one would think that the contention that the employer is paying the bill is true.

However, these plan contributions are not a net additional cost to employers. Anyone familiar with the daily newspapers—let alone collective bargaining—knows that when unions and management bargain, they bargain about a pay package which includes fringe benefits. The bargainers cost out the cents an hour equivalent of vacations, health insurance, and pensions. The sums devoted to these purposes come from the pay of all employees. If employers did not contribute to pension plans, they would pay out the same funds in the paycheck in some other employee benefit or direct pay. In other words, every employee gives up part of his pay in order to make employer pension contributions possible. They do not expect to lose that money—they do not expect to hand it over to other employees. But that is what occurs under current pension plan design.

Only vesting after brief service will turn the pension lottery into a pension savings system. Only early vesting will end the subsidy from the least fortunate to the most fortunate employees. In other words, every employee gives up part of his pay in order to make it possible for the employer to make his contribution to the pension plan. When they have that deduction from their paycheck, they do not expect to lose the money. They do not expect to hand it over to some other employees at their expense. But that is exactly what occurs under the current pension plan design, and that is what this bill is going to endorse.

Ironically, it is the pay of the least fortunate employees, those who lose their jobs, that adds to the pension benefits of the most fortunate employees who last the longest. Those fortunate employees are frequently and generally the company owners and managers, which is not too uncommon an occurrence in small companies.

I am going to read a few examples from the Labor Committee's own report, to demonstrate again the futility of saying that this bill does anything for the majority of the people of the United States. These case histories begin on page 17 of the preliminary report of the private welfare and pension plan study.

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[1] SEC, "Private Noninsured Pension Funds, 1971," Release No. 2599, June 28, 1972.

Case history No. 5: A large oil company with a pension plan that is 38 years old.

There are currently approximately 42,000 active employees and 6,500 retirees.

The plan's assets exceed $450 million.

This plan has 50 percent vesting after 15 years, increasing at five percent a year until there is 100 percent vesting after 25 years.

Of the 105,000 persons participating since 1950, more than 61,000 have left the scope of the plan with no benefits. Of that number, 13,430 had more than five years service and 3,680 had more than ten years service.

In the last five years, of 53,054 participants, 17,657 have left with no benefits, of whom 3,838 had more than five years service and 1,052 more than ten years service.

The total retirements since 1950 are less than 8,500.

I want to point out this: Since 1950, with 105,000 participants, 8,500 received benefits.

Case history No. 33: A large communications company with a pension plan that is 58 years old. I do not know whether this is one of the broadcasting industries or not. I suppose we could find out. The pension plan is 58 years old.

There are currently approximately 57,000 active employees and 3,100 retired.

The plan's assets exceed $229 million.

This plan has full vesting at age 40 with 15 years service.

That is about what this bill has.

This plan has very high forfeiture rates. Prior to 1969, the plan had no vesting provisions. Of the 320,124 persons participating since 1950, more than 231,000 have left the scope of the plan with no benefits. Of that number, 5,800 had more than 15 years service, 12,741 had more than ten years service, and 31,419 had more than five years service.

In the last five years, of 152,028 participants, 108,035 left the plan without any benefits, of whom 2,284 had more than 15 years service, 4,592 had more than ten years service and 8,778 had more than five years service.

I ought to read all these case histories into the Record. I wish Senators would have read them. I will say one thing: If Senators had to have their own pension plan adopted according to the standards of this bill, not one Senator would vote for it. The employees of the Senators would be so mad that they would not let the Senators come out of their offices to vote.

Case history No. 38:

This is a pension plan of a major aerospace company. It was established in 1957. The plan covers salaried employees only and has 36,903 active participants and 1,241 retired as of December, 1969.

In other words, in 12 years they had an average of 100 retirees a year.

Since the plan was established over 60,000 employees have participated with more than 20,000 employees having left the scope of the plan without entitlement to any benefit, over 5,000 of whom had more than five years of service.

Case history No. 39. This is a pension plan of a large data processing manufacturing firm. The plan presently has 169,030 active participants and has been in existence since 1945.

Under the bill before us with the provision for 50 percent benefits, it would say to this company which had 89,652 employees who left the scope of the plan and 82,326 who left with no entitlement to benefits that they would guarantee 50 percent of nothing. That is what this bill is attempting to sell as pension reform.

Mr. President, I ask unanimous consent to have printed in the Record case history No. 43.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Case History No. 43

This pension plan is applicable to a large bank and its affiliates. The current plan has been in existencee since 1954, superceding a prior plan established in 1941. There are 11,676 active participants.

There are two interesting facts concerning this plan:

1. The plan failed to report its liabilities, indicating that such information was not available; however, it gave a detailed accounting of its assets.
2. Of an estimated 11,000 employees who left the scope of the plan since 1954, an estimated 8,400 forfeited benefits (over 1,725 of this number had over five years of service and 1,000 had ten years of service).

Mr. HARTKE. Mr. President, in this case there are 11,676 active participants. Of an estimate 11,000 employees who left the scope of the plan since 1954, an estimated 8,400 forfeited benefits. That is what this bill would direct.

Mr. President, I ask unanimous consent to have printed in the Record, case history No. 45.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Case History No. 45

This pension plan is applicable to a large electrical power holding company. It has currently 11,765 active participants.

While this is a contributory plan which has been collectively bargained, the employees do not participate in the administration of the plan.

10,818 employees have left the scope of the plan since 1950. Over 50 percent have left without entitlement to benefits, and over 20 percent had more than five years of service.

Mr. HARTKE. In this case 11,818 employees left the scope of the plan since 1950 and over 50 percent have left without entitlement to benefits and over 20 percent had more than 5 years service.

Mr. President, I ask unanimous consent to have printed in the Record, case history No. 47.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Case History No. 47

This is a large pension plan in the communications industry covering many separate employers; therefore there are differing dates for when the plan was established for purposes of any one employer. However, the earliest participating employer date given is for 1937.

Of the approximately 277,000 participants in the plan since 1950, over 206,000 have left the scope of the plan and of that number 202,665 have left without entitlement to any vested benefit. Of the 202,665 over 17,000 had more than five years of service.

The plan has two provisions for vesting. The most liberal requires 15 years of service and, in addition, an age requirement of 40 years.

Mr. HARTKE. Mr. President, here is a large communications industry covering many separate employers. Of the approximate 277,000 participants in the plan since 1950, over 206,000 have left the scope of the plan and of that number 202,665 have left without any entitlement to any vested benefit and of the 202,000 over 17,000 had more than 5 years service. This plan has two provisions for vesting and the most liberal requires 15 years of service.

Mr. President, next I ask unanimous consent to have printed in the Record, case history No. 52.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Case History No. 52

This is a pension plan of a large aerospace firm; it was established in 1955 and has over 105,904 active participants. The plan is collectively bargained.

Of the over 81,000 employees who have left the scope of the plan since it was established, over 66,000 have left without entitlement to any benefit. None of the 66,000 had more than five years of service.

Mr. HARTKE. Mr. President, this is a pension plan of a large aerospace firm established in 1955 and it has over 105,904 active participants. The plan is collectively bargained. Of the over 81,000 employees who left the scope of the plan since it was established, over 66,000 have left without entitlement to any benefit, and none of the 66,000 had more than 5 years service.

Mr. President, I am surprised that the manager of the compromise bill argued one pension vesting plan for self-employed, saying because they take money out of their pocketbooks rather than paychecks they are entitled to 1 year vesting.

I am surprised they do not look at the teaching industry. The teaching industry is not the highest paid industry. It has portability throughout the United States and they are in that plan forever. If teachers of the United States can do it, then it can be done for everyone.

Only vesting after brief service will turn the pension lottery into a pension savings system. Only early vesting will end the subsidy from the least fortunate to the most fortunate employees.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARTKE. Mr. President, I ask for another 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARTKE. I yield to the Senator from Wisconsin.

Mr. WILLIAMS. That was understood to be under the opponents' time.

Mr. HARTKE. I do not know whose time I am using.

Mr. WILLIAMS. We are willing that the time be taken from the opponents.

Mr. HARTKE. I will have time under my amendments. All I am doing is taking the time of the proponents to try to educate them a little. I know they do not want to be educated. They want to pass the bill, but a little education does not hurt Senators. I do not agree with the statement that a little education is a bad thing. That is a gratuitous statement and said with lightheartedness.

Mr. President, to continue with my remarks, I turn to another aspect.

### IV. THE BIGGEST LOSERS: A. WORKING WOMEN

If private pension plans were designed to exclude women—and perhaps they were—they could not do the job more efficiently.

Women constitute about one-third of the work force. Single women, divorced women, and widows work to earn a livelihood. When they came to retire, those earnings require replacement—but social security benefits replace less than is needed.

About two-thirds of the women at work are married. What most do not realize is that among married couples, there are more families with husband and wife working, than families in which only the husband works. Table 346, 1972 Statistical Abstract of the United States 219. Almost 20 million married women work. They do so to raise and maintain family living standards. Their earnings require replacement upon retirement, otherwise the family's living standard declines seriously.

While it is common to stress that upon retirement, a couple's income needs shrink, they do not shrink as much as some may believe. Medical care costs go up and medicare meets only 40 percent of the medical expenditures of the elderly.

Although many own their own homes, those homes usually are older ones, requiring repairs that the elderly are less able to provide themselves as they once may have—in that area, income needs become larger. While it is common to count the costs of going to work as saved, what are the elderly to do with their new leisure time—simply watch television or wait for the mailman to come with third-class mail or to hear from children who seldom write. Their recreational and travel needs become greater. In fact, those needs generally are not met.

Indeed, many elderly people tell me that they give up taking the daily newspaper—if newspapers want to sell more newspapers they should get on our side on this issue.

Purchase old bread and rolls to save a few pennies, buy dented canned goods, flush the toilet as little as possible—because it takes eight gallons of water. That is what it means to be old for millions of Americans today.

Long years of work should earn a retirement of dignity and comfort—not worry and want. Long years of work should produce a pension substitute for earnings—for the tens of millions of women as well as men.

But they do not now achieve pension eligibility in substantial numbers.

Typically women work for shorter periods of time than men as the following tables show, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE A.—MEDIAN YEARS ON CURRENT JOB

| Age | All persons: Men | All persons: Women |
|---|---|---|
| 30 to 34 | 3.9 | 1.8 |
| 35 to 39 | 5.8 | 2.6 |
| 40 to 44 | 8.4 | 3.2 |
| 45 to 49 | 10.2 | 4.4 |
| 50 to 54 | 12.6 | 6.2 |
| 55 to 59 | 14.7 | 8.2 |
| 60 to 64 | 15.1 | 9.4 |

MEDIAN YEARS—SELECTED OCCUPATIONS

| | Men by age: 25–44 | Men by age: 45 yr over | Women by age: 24–44 | Women by age: 45 yr over |
|---|---|---|---|---|
| Manufacturing: | | | | |
| Durable goods | 4.5 | 14.3 | 2.4 | 8.3 |
| Nondurable goods | 5.3 | 15.4 | 2.8 | 9.1 |
| Wholesale and retail trade | 3.3 | 8.8 | 1.5 | 4.9 |
| Operatives and kindred workers | 3.8 | 12.8 | 2.1 | 7.7 |

Source: "Job Tenure" Monthly Labor Review 18–19 (September 1969).

Mr. HARTKE. These data show why pensions so seldom pay off for women. For example in wholesale and retail trade, where women so commonly work, the median years on the current job of women over 45 was 4.9 years as compared with 8.8 years for men. Women factory workers of 45 years or older had median time on the job of 7.7 years, as compared with 12.8 for men.

Most separated employees are in the lower seniority categories, so the bulk of them lose out—especially women who cannot meet the 15 and 10 years' vesting reqiurements.

Moreover, substantial numbers of women work part time and part year both because of family patterns and the availability of work regarded—and still regarded—as women's work.

If they are to participate in pensions in any meaningful way, credits for part-time and part-year pay must be mandated. Some plans do give such proportional credits, which demonstrates the feasibility of such an approach.

Section 202(c) of S. 4—as orginally reported—requires the Secretary of Labor to "prescribe standards, governing the maximum number of working hours, days, weeks, or months, which shall constitute a year of covered service." That does not do the job for part-time, part-year workers. It does not assure that adequite protection will be given to people on lengthy layoff.

But, if proportional credits are to be given, clearly vesting has to be liberal. For someone achieving one-half year's credit or a quarter-year's credit, a 5-year vesting provision that confers only 25 percent of a normal benefit is about useless.

### B. WIDOWS—THE FORGOTTEN WOMEN OF PENSION PLANS

If women as workers do badly under pension plans, women as survivors do even worse. Social Security Administration information indicates that no more than 2 percent of widows receive private plan benefits. Little wonder. Pension plan design excludes them as a practical matter.

Although options under which the plan participant elects to take a smaller retirement benefit and provide a survivor's benefit to a spouse are common—that is what is provided as a minimum in this bill—employees usually do not make the election. One major reason is that the election must be made affirmatively before retirement—sometimes as long as a year or two before. These procedural complexities are enough to discourage most plan participants. In addition, the reduction in benefit during the participant's lifetime discourages the election. In sum, women, who ordinarily outlive their husbands, receive no benefits from their pensions.

I see present on the floor the distinguished assistant majority leader, the Senator from West Virginia. I want to give him an example.

One woman, for example, in West Virginia writes that her husband worked for a company for 50 years, starting in his teens, his pension was paid for 13 months after he retired; then he died and the pension stopped—he had made no election, although his plan had one. He had told his wife that the company pension would take care of them. Whether he knew of the option, understood what he had to do to exercise it, his widow just did not know. But after that length of time and after he drew his pension for a few months, she was left with two teenage daughters and no pension.

### NEEDED—ASSURED WIDOWS' BENEFITS

Pension plans ought to provide a separate benefit for surviving spouses. Some few plans now do that, but most do not. Quite a few contain the joint and survivor options described, but some do not. The options are seldom exercised.

My amendment would require a joint and survivor option, assuring the spouse of at least a benefit equal to 50 percent of the retiree's unreduced benefit. In addition, the option would not be waived by failure to exercise it. Rather, waiver would require affirmative action in writing by the participant after being informed of the value of the option. In effect, this combines the survivor provisions of S. 4 and S. 1179, as they were reported, with one major difference—my amendment adds a 50-percent survivor benefit whereas, S. 1179 appears to provide for a survivor benefit of 50 percent of the amount payable to the participant, that amount being reduced in order to provide the survivor benefit. Under my amendment, in other words, not only the participant is protected, but so is his wife. Both benefits would be higher.

### THE NEEDED REMEDIES: A. VESTING

Vesting is the cornerstone of pension reform. The empty cupboard at Studebaker and the revelation that so small a percentage of pension participants achieve benefits caused the popular stir that led to this debate. Unless chances for qualifying are substantially increased, there will be no meaningful reform in the eyes of the public.

I would say to those looking forward to meeting their constituents that, if there is one bill that is going to haunt them, it is going to be this compromise bill. Their vote for this bill means that they give their stamp of approval to the status quo which is already an admitted failure.

Fairness and need dictate that vesting should be immediate and complete. In that way, savings for retirement would be spread over more years and the cost per year for any level of benefits would be lower. And the last employer would not bear the cost. But, until plans become more widespread, the added pension costs for separating employees could be larger than the offsetting savings for incoming employees with substantial savings. The American business and labor communities are not ready for such a radical step.

I would have hoped that the committee, after having made a good study and having such good information in their hands and after seeing the inadequacies of the present system, would have had the good judgment to present a meaningful reform bill.

But, in being expedient—which is what the proponents of the bill are implying, and what I suppose the Senate is going to say—I do not think we can leave the present system substantially unchanged. The American public finds present pension design impractical. So do the Labor and Finance Committees. The Senate Finance Committee report summarizes one aspect:

> At present, only one of every three employees participating in employer-financed plans has a 50 percent or greater vested right to his accrued retirement benefits. Moreover, 58 percent of covered employees between the ages of fifty and sixty and 54 percent of covered employees 60 years of age and over do not have a qualified vested right to even 50 percent of their accrued retirement benefits. As a result, even employees with substantial periods of service may lose retirement benefits on separation from employment.

To transform that monstrously impractical result, mandatory earlier vesting is required. The result described results from plans in which 10-year and 15-year vesting are the rule. Under one-quarter of plan participants are under plans with no vesting. But three-quarters are in plans that now have 10- and 15-year vesting—and not graded as S. 4 and S. 1179 propose.

No one now questions that 15 years of service under a plan should qualify for 100 percent vesting. All major bills before Congress so provide. The question is whether we will continue to permit the massive pension credit losses reported on April 1, 1971, by the Senate Labor Committee.

The original S. 4 formula of 30 percent vesting at 8 years would essentially perpetuate the present situation for three-fourths of those covered under plans. It would do little to salvage benefits for many others, because most of those separated from plans with 10-year vesting—most with 100-percent vesting at that point—have nothing to show for plan participation.

The S. 1179 formula, reportedly incorporated into the revised S. 4, would commence vesting after 5 years of service—but only for 25 percent of the value of a regular retirement benefit. As already noted, the amounts thereby salvaged are negligible.

What I propose—moving over a 5-year period to a 5-year 100 percent vesting requirement—would obtain more for employees, would produce a healthier pension system, would give people who worked, more assured income and less threat of being forced into welfare or some other form of dependency. It really is an extremely moderate proposal—really not enough to meet the need—but it would meet the need better. It is moderate enough to require only modest increases in cost according to the actuarial calibrations made by the same actuary using the same methods as produced the cost figures for the Senate Labor Committee.

The fact of the matter is that with just a two-tenths of 1 percent increase in payroll, we can have this major change. I would hope that the manager of the bill, the distinguished and progressive chairman of the Labor Committee, would examine his vesting proposal on that ground and not succumb to those people who put the dollar first and the people of his country last.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARTKE. Mr. President, I ask unanimous consent that I have an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I am talking about protection against improper job loss.

No vesting formula will produce real employee protection so long as employers are free to fire employees to defeat pension eligibility. Unfortunately, the Senate Labor Committee studies document many such occurrences. No statutory protection now exists to prevent such action.

I point out that most people start to work at the age of 18 and they will not become eligible until they reach the age of 30 under the provisions of the compromise bill. They have approximately 12 years of work before they become eligible.

These kids are entitled to more protection from Congress. We send them out to fight a no-good war and then get them back home and give them a no-good pension system.

Most collective bargaining agreements protect employees against discharge without good cause and provide effective enforcement machinery in arbitration proceedings whose results are enforcible under section 301 of the Labor-Management Relations Act. But roughly half of all pension participants are not unionized and so they lack such protection. Especially vulnerable are managers and executives whose substantial pension potentialities provide an incentive to their discharge before vesting. The managers of the bill ought to think twice, too. Discipline and discrimination can be so unpleasant as to amount to constructive discharge, a term used by the National Labor Relations Board. That can be the type of harassment which does not say that one is fired, but makes living such a hell that a person wishes he did not have to hang on and endure.

In recognition of that problem, section 610 of S. 4 as originally reported—made it illegal to "discharge, fine, suspend, expell, discipline or discriminate" against plan participants to defeat rights under the act or a plan. The language parallels section 8(a)(3) of the National Labor Relations Act and should do the trick—but only if an adequate enforcement machinery exists.

Section 610—as S. 4 was reported—relies on sections 602 and 603 for enforcement. Section 610 was added after 602 and 603 were drafted, and it was not redrafted to cover 610. They are limited to remedying unproprieties by fiduciaries, whereas section 610 makes illegal certain conduct by employees and unions.

In addition, sections 602 and 603 require court action. What employees need is easy access to an expert group which can rapidly bring their complaint before an administrative tribunal with some expertise in the subject. While many lawyers represent management and unions and fiduciaries, there is no so-called employees bar, little expertise among lawyers in pension matters.

Hence, I propose administrative machinery, subject to the Administrative Procedure Act, to hear complaints of violations of section 610 where a collective bargaining agreements' arbitration provisions cover the subject of the controversy and the situation meets the norms established by the National Labor Relations Board for deferring to arbitration, arbitration would be used. Otherwise the quasi-judicial machinery established by the Secretary of Labor could operate.

These are moderate proposals to meet urgent needs. The opportunity to act on them may be a long time in coming again. We ought to do the job right this time.

We ought to go straight to the heart of pension reform. Reform should be substantive rather than illusory. However, I do not find the heart in the Senate to deal with pension reform at this time. We have a case of cardiac arrest here, and it will kill the pension system in the long run. These reforms will fail to assuage the good judgement of the American people. They know that there are grave injustices which will not be corrected by this bill. The private pension plan system will ultimately have to succomb to a national system under the Social Security Administration.

Mr. WILLIAMS. Mr. President, would the Senator yield for a question?

Mr. HARTKE. I yield. I would like to thank first those Senators who yielded me time on the bill. I know that there was some confusion. I thank the assistant majority leader for helping to work out the matter.

Mr. ROBERT C. BYRD. Mr. President, the Senator is always welcome.

Mr. WILLIAMS. Mr. President, the Senator will offer various amendments.

Mr. HARTKE. Yes.

Mr. WILLIAMS. Does the Senator have an amendment that requires employers to have a private pension plan for the employees of the company?

Mr. HARTKE. No. However, I would be glad to submit one if the chairman of the Labor and Public Welfare Committee would agree to cosponsor it.

Mr. WILLIAMS. Mr. President, I just wanted to ask the question, because so much of what the Senator is going to propose would, I feel, really defeat the present system of private pension plans that are on a voluntary basis.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 additional minute.

Mr. WILLIAMS. Mr. President, until the Senator does impose upon employers the mandate to have pension plans, I would think that all of the provisions that the Senator would offer, put together, would just kill off any attitude on the part of the employers who do not have any pension plans to come on in.

Mr. HARTKE. Mr. President, first, let me say that it is to the contrary. I do not think that is true. I think it would provide more security. I think that the people who are able to afford the cost of pension plans are basically those in union organizations. There is nothing in the bill to encourage compliance.

What the Senator is doing is saying that we should put a stamp of approval on a no good pension plan in the United States, one that the people are fed up with. Only 4 percent of the people are actually participating in it, according to the committee's own study, and getting a maximum benefit of $100 a month. We are saying that we do not want to do anything to that program.

I find that we are surrendering. No wonder the welfare rolls are filled up when people do not want to do anything to correct this.

If we had a decent pension plan and a decent social security system, we would not have all of the hellish problems that we have today.

Mr. WILLIAMS. Mr. President, I share the concern of the Senator over the hellish problems and all other problems connected with poverty. However, this bill does really do something. I say most Members here feel very certain that it does do something, and we will get to a vote in a little while.

Mr. HARTKE. May I ask the Senator where the security is for the ordinary individual? What security does he have under the committee's own study?

Mr. WILLIAMS. As it is now, under the private pension plans, people can go for 20 years without any vesting. Under this bill, if it becomes law, there will be the first minimum vesting standards of benefits in the pension plan.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I think that the Senate is ready to return to the amendment now pending.

The PRESIDING OFFICER. Who yields time? The pending question is Nelson amendment No. 506. Who yields time?

Mr. THURMOND. Mr. President, I will yield myself time against the time allotted to me. I have 2 hours allotted on my amendment.

The PRESIDING OFFICER. The Chair will state that amendment is not before the Senate.

Mr. THURMOND. Mr. President, I have an amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that it be in order to offer it?

Mr. THURMOND. Mr. President, I ask unanimous consent that it be in order to offer this as an amendment to the amendment No. 506 of the distinguished Senator from Wisconsin (Mr. Nelson), and that I be shown as a coauthor of the resultant amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment, as amended, will be stated.

The legislative clerk read as follows:

In title VII, on page 60, after line 17, add the following:

"(f) Limitation on Deduction for Contributions on Behalf of Corporate Employees.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new subsection:

" '(g) Limitation of Deduction for Contributions on Behalf of Corporate Employees.—Notwithstanding the provisions of subsection (a), no deduction shall be allowed for a contribution made for or on behalf of a corporate employee to or under a defined benefit plan or a defined contribution plan if the amount of such contribution or if the benefit provided under the plan exceeds the amount specified as an alternative limitation on deduction or benefits for proprietary employees in subsection (e) (4) and section 401(j) (2), whichever is applicable'.".

On page 105, in lines 20–22, strike out "a proprietary employee (within the meaning of section 412(c) (1) of the Internal Revenue Code of 1954) or".

On page 120, in lines 3–5, strike out "or a proprietary employee (within the meaning of section 412(c) (1) of such Code)".

On page 191, in lines 20–22, strike out "or a proprietary employee within the meaning of section 412(c) (1)".

On page 35, lines 6 and 8, paragraphs (2) and (3) are redesignated (1) and (2) respectively.

On page 35, strike out lines 3 through 5.

On page 35, on line 6, strike out "sections 72(m) (4)," and insert "section" in lieu thereof.

On page 35, line 20, strike out ", (2), and (3)" and insert "and (2)" in lieu thereof.

Mr. THURMOND. Mr. President, my interest in this pension bill has been primarily to remove a discrimination against small businessmen. I feel that there should be equality between the small and large businessmen.

Yesterday, I offered two amendments to this most important private pension bill and these amendments were accepted without argument by the bill's supporters.

The first amendment would restore equal tax treatment of lump sum distributions and the $5,000 death benefit provisions to employers of both large and small corporations.

The second would permit employees who are also stockholders in small corporations to have the same access to the Central Portability Fund now provided in the legislation only for employees of large corporations.

I again commend the managers of the bill for their acceptance of these amendments. With the acceptance of the above mentioned amendments, the committee moved in the direction of equality of treatment concerning large and small businesses. However, we now have before the Senate another amendment: This amendment, as I explained earlier, will eliminate the "proprietary employee" limitations from the bill. Simply stated, a vote for my amendment will be a vote for equality among small and large corporations. A vote against this amendment will be a vote in favor of big business at the potential expense of small businessmen. I do not see how as representatives of all the citizens of our great Nation we can justify this discrimination against our small businessman.

Mr. President, the Comprehensive Private Pension Security Act of 1973 is in many respects a laudable bill and reflects an enormous amount of work on the part of both the Committee on Finance and the Committee on Labor and Public Welfare. Extensive hearings have been held by both committees, and the views of various interests have been heard. As a result, a bill has been produced which, if enacted into law, will go far to cure many of the inequities and potentials for abuse that are present in our private pension system today.

However, included in the bill was a provision which, in my opinion, represented a serious departure from the overall goal of strengthening and improving the private retirement system. I am referring to the limitations placed upon the plans benefiting a class denominated as "proprietary employees."

A proprietary employee is one who owns at least 2 percent of the stock of a corporation and who, when combined with all other such 2-percent stockholders, is found to own 25 percent or more in the aggregate of the benefits provided in a qualified retirement plan. Obviously such a definition would have included virtually all small corporations.

The limitations placed on the benefits available for such employees were quite extensive and were found in numerous sections of the bill. Senator Nelson and I have now agreed to amendments which will eliminate the restrictions of the original bill.

These limitations represented discrimination against small businesses—discrimination that this body has, to my recollection, never before sanctioned. Indeed, we have always taken great pains to encourage the continuation of small businesses and the creation of new business concerns. Competition is the goal to which we have dedicated our private economic sector, and the formation and continued existence of small businesses is an important spur to new competition. Without such, the continuous influx of new ideas and procedures may be curtailed and our economic growth could suffer.

To the best of my knowledge, the proprietary employee provisions were not the subject of any of the public hearings that led to the formulation of this bill. In my opinion, the concept represented the rankest type of discrimination. The primary impetus for reform of the private pension system came from a number of specific cases where long-term employees were disappointed in their pension expectations by virtue of inadequate funding, lack of adequate vesting and the other causes.

So far as I know, none of these cases involved small or closely held businesses. In addition, most owners of closely held businesses are resigned to the fact that the Internal Revenue Service imposes on them more restrictive rules regarding funding, vesting, and investment of funds than are imposed in the case of pension plans of larger, publicly held corporations. This made it particularly surprising to me that closely held businesses would be singled out for punitive treatment in the pension reform area.

No one has yet explained to me the tax equity or public policy reasons behind a rule that provides that the owner of a closely held business should be treated more harshly than a highly compensated executive of a publicly held business with regard to qualified retirement plans.

The committee report states that the proprietary employee limitations are a necessary segment of a package that provides for increasing the limits on contributions for self-employed persons and creating a new system of individual savings for retirement. While two-thirds of this package was commendable and was consistent with the announced purpose of the bill, the proprietary employee provisions represented a step backward.

The real purpose of increasing the H.R. 10 limits from $2,500 to $7,500 is to narrow the discriminatory gap existing between self-employed persons and corporations. While such an increase does narrow the gap, it does not eliminate the differences in rules applicable to retirement plans for the respective entities, nor does it totally eliminate the gap on contributions allowable. To impose similar restrictions on small corporations would have run counter to the overall objective of providing equality. It would have spread the discriminatory treatment to another vast pool of employees. Such an act would have simply divided the retirement benefit treatment into two segments—liberal treatment for corporate giants and restrictive treatment for small businesses. I strongly urge that the rules applicable to qualified plans should not be dependent upon the form or the size of a business organization.

Mr. President, our amendment will now erase these distinctions between employees of large and small corporations, because there is no justification for their continuation, and also because equal treatment of small corporations will tend to encourage these small businesses to institute the very retirement plans that are now lacking in the private sector of our economy.

The report of the Senate's Special Committee on Aging, released in January of 1970, states:

> The lack of pension coverage is obviously concentrated among small employee groups.

While it cannot be stated categorically that the limitations imposed on "proprietary employee" corporations would have directly caused a dearth of retirement plans in the small business sector, there can be little doubt that such limitations would not have encouraged such small businesses to set up retirement programs.

At both present and foreseeable levels, the social security system is not adequate in and of itself insofar as retirement income is concerned. Retirement benefits under social security are presently supplemented by pension and profit-sharing benefits by a vast number of large companies operating in this country. As a result, a gulf is rapidly developing in the financial status of retirees in this country caused primarily by the size of the company by whom the retiree had been employed. This situation is neither equitable nor desirable in our economy and any pension legislation should have, as one of its primary goals, the encouragement of more small businesses to institute retirement plans of both the pension and the profit-sharing type.

According to U.S. Department of Commerce statistics, over 90 percent of all businesses in this country employ fewer than 20 people. These businesses should be encouraged to adopt and implement retirement plans. However, the effect of the "proprietary employee" limitations would have been to discourage such action.

Mr. President, I emphasize that the "proprietary employee" restriction was not proposed in any prior bill introduced in the Senate or the House of Representatives, nor was it discussed in any detail in any testimony presented to the Subcommittee on Private Pension Plans during the lengthy hearings which were held on S. 1179.

An analogous situation occurred in 1969 during our debate of the 1969 Tax Reform Act. At that time, the Finance Committee had reported favorably a provision—which had no counterpart in the House bill—that would have limited contributions on behalf of shareholder-employees of professional corporations to the maximum amounts permitted under the H.R. 10 provisions. This particular provision was deleted from the bill during Senate debate by an amendment which was passed by an overwhelming margin. In many respects the "proprietary employee" limitation represents a resurrection of the "shareholder-employee" concept previously rejected by this body.

Mr. President, I urge that the "proprietary employee" limitations should be rejected. The amendment I am offering would do that.

Now, I want to take this opportunity to thank the following Senators who joined on my original amendment and who have supported the concept that small businessmen should be placed on the same basis as large businessmen:

Senators Tower, Fannin, Helms, Brock, Hollings, Bartlett, Bellmon, Goldwater, Eastland, Nunn, Gravel, Cook, and Mathias.

At the same time, I recognize that abuses have existed in the private pension area. Accordingly, I join Senator Nelson in sponsoring the overall limitation of $75,000 as a maximum annual pension benefit to employees of both large and small corporations.

Mr. President, at this time, I join the distinguished Senator from Wisconsin (Mr. Nelson) in offering this compromise amendment and urge my colleagues to support its passage.

I am very much pleased that we have been able to reach agreement on this matter which now will place the small corporations and small businessmen on the same basis as the large businesses and large businessmen. The Senator from Wisconsin has an amendment that places a $75,000 limitation to employees of both large and small corporations, and so we are merging the two amendments into one amendment, and we are becoming cosponsors of that amendment.

Mr. President, I yield the floor at this time, but reserve the remainder of the time allotted to me.

The PRESIDING OFFICER (Mr. Domenici). Who yields time?

Mr. NELSON. Mr. President, this is a simple amendment to amendment No. 506. I have examined it, and the staff has examined it. It eliminates some additional distinctions between proprietary corporations and general corporations which were not eliminated in the two major amendments offered yesterday. I am prepared to accept it.

Mr. JAVITS. Mr. President, we believe that the amendment which has been agreed to between Senator Thurmond and Senator Nelson carries out the fundamental thrust of the Nelson amendment, which I am for, and therefore I shall vote for it. But, in fairness to those who voted on the Nelson first amendment, I believe there should be a rollcall vote and therefore I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, may I inquire of the Senator from New York, he is asking for a rollcall vote on the amendment of the Senator from South Carolina to my amendment No. 506?

Mr. JAVITS. Yes as I understand it, it is one amendment now and the Senator has taken the amendment of the Senator from South Carolina.

Mr. NELSON. So the Senator is asking for a rollcall vote on amendment No. 506 as amended.

Mr. JAVITS. Exactly right.

The PRESIDING OFFICER (Mr. Domenici). The Senator from Wisconsin has not yet accepted the amendment of the Senator from South Carolina. He has not yet modified his amendment.

The pending question is on agreeing to the amendment of the Senator from South Carolina (Mr. Thurmond).

On this question the yeas and nays have been ordered——

Mr. NELSON. Then this is a vote on amendment No. 506 as amended by the amendment of the Senator from South Carolina, is it not?

The PRESIDING OFFICER. It has not been amended as yet.

Mr. JAVITS. If the Senator from Wisconsin will accept the amendment of the

Senator from South Carolina, then I ask unanimous consent that he may be permitted to modify his amendment accordingly.

The PRESIDING OFFICER. The Senator from Wisconsin has the right to modify his amendment. If he cares to do so, that is his privilege.

Mr. NELSON. Mr. President, I modify my amendment No. 506 in accordance with the amendment as offered by the Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The amendment is so modified.

Mr. JAVITS. Mr. President, now I ask for the yeas and nays on amendment No. 506 as modified.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, if it has not been requested, I ask unanimous consent that the name of the Senator from South Carolina (Mr. THURMOND) be added to amendment No. 506 as modified, as a cosponsor with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield 2 minutes on the bill to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. TAFT. Mr. President, I thank the Senator from New York for yielding me this time. I will support the Nelson amendment as modified by the amendment of the Senator from South Carolina because it is important to remove any discrimination that may exist between large and small corporations in this respect. I have many questions as a matter of principle as to whether it is correct to put a limitation on the benefits that may be paid other than those prescribed as reasonable compensation by regulations of the Treasury Department.

I would prefer leaving the entire question as to reasonableness of the pension contribution to the Internal Revenue Code. However, as a practical matter, it seems to me that the $75,000 limitation is agreeable at this point, at least, as an acceptable substitute.

I would hope that the Finance Committee, however, in considering any future tax legislation, would reexamine the desirability of imposing such a limitation at all. Perhaps such a limitation should vary with the particular circumstances of the type of plan involved.

A flexible approach may be more sensible than having Congress vote a flat limitation on pension contributions.

Mr. HOLLINGS. Mr. President, I rise in support of absolutely equal and equitable treatment of our big business people and our small business people, and of the people who work in our big business leviathans as well as our hometown enterprises, in this matter of pension reform. There is no reason in the world why the vice president of General Motors should be treated any differently than the president of John Q. Smith in Anytown, U.S.A. Nor should a worker in the one firm be singled out for more stringent regulation than a worker in the other. We have had enough of discrimination for, discrimination against, tilting toward, tilting away, favoring particular groups with all sorts of special incentives and ignoring the rest.

Now is the time to come clean. And we can come clean on pension reform by treating everyone alike—by giving each of them the opportunity to recruit the best talent and hold out to that talent the prospect of similar reward for a similar career of hard work. Any other approach is unfair and un-American. This country was built on free enterprise, but when we come to consider ridiculous limitations such as those we have heard proposed in recent hours, we are legislating unfree capitalism. We are legislating a stagnant state capitalism—or worse.

Any pension reform legislation must provide, first and foremost, equal protection of the law. That is the root of the question before us—shall we treat everyone alike, guarantee to everyone their right to equal protection under the law—or shall we instead legislate to help the favored few.

The amendment being offered by the distinguished senior Senator from South Carolina would see to it that the equal protection of the law comes first.

It is an equitable amendment, in that everyone receives the same treatment.

It is wise because it gives incentive, instead of taking us further down the road of Government by impediment and strangulation by degree.

And it is good because it is an amendment which benefits middle America—the hard-pressed men and women who take part in business activities in hundreds of thousands of American enterprises.

It seems every time we pass a bill, we put the burden on middle America. Well, here is a chance to repair some of the damage. Here is an opportunity to recognize our responsibilities to provide for the general welfare. Here is an amendment true to our people because it is true to those great principles of fairness, equity, and equal protection of the law.

Let us act for the working men and women of America who for too long, when they are not being burdened are only being forgotten. I urge immediate passage of this important amendment, and I commend the distinguished senior Senator from South Carolina for introducing it. I am proud to support this measure. It is the only fair thing to do.

Mr. HELMS. Mr. President, as a cosponsor of the amendment submitted by the distinguished Senator from South Carolina (Mr. THURMOND), I fully concur in the decision to consolidate the Nelson amendment with the Thurmond amendment. I feel that this is a reasonable compromise, certainly for the time being and under the existing circumstances.

However, Mr. President, I have some lingering concerns. I must say that I am opposed to the efforts being made in the Senate to impose new and inequitable limitations on the retirement benefits which will be available for a class of wage earners. My opposition does not concern whether a maximum of $45,000 a year, or $75,000 a year, or some other figure is adequate to provide retirement benefits for corporate employees. It springs from a more fundamental base.

This Government was founded upon a very strong philosophical foundation. The basis for that foundation is that all men are created equal, with the same natural rights. The corollary to that principle, of course, is the fact which was recognized by our Founding Fathers that all men are unequal in their natural talents and abilities and that a man should be secure in his right to earn and possess the property which his labor has produced.

Our tax laws must conform to this philosophy if they are to be consistent with the purpose of this American Government. The only legitimate reason, in my humble opinion, for the existence of our many tax laws should be to raise revenue. Instead, what we have been witnessing here on the Senate floor is an attempt to use the tax laws to equalize the economic means of Americans.

I submit that this is wrong and contrary to our American philosophy that a person is entitled to enjoy the fruits of his labor.

Who in this body has the right and the authority to determine what is just compensation between an employer and an employee? The answer is: No Senator—that decision belongs to the individuals concerned. There has been much talk of pension plan contributions in terms of a tax loophole. This is not a loophole; every penny which is paid into a pension plan will be taxed at its full rate when it is distributed.

It is my feeling that Congress should keep its hands off this matter of deciding what retirement income is appropriate and leave the decision to the employer and employee. Let's get the tax laws back where they belong, as originally intended, based on the need of the Government to raise revenue in support of its operations—and away from the policy of promoting social and economic equality.

### SMALL BUSINESS INTERESTS IN THE PENSION BILL RECOGNIZED

Mr. BIBLE. Mr. President, as chairman of the Select Committee on Small Business I would like to take a moment to pay tribute to the extraordinary work that has been done on the pending pension legislation by many Senators, committees, and staff members including the chairman of the Senate Finance Committee (Senator LONG); the Senator from Wisconsin (Mr. NELSON) who conducted the hearings on the tax aspects of pensions in the Finance Committee; the Senator from Texas (Mr. BENTSEN), who proposed S. 1179; the Senators from Utah and Nebraska (Mr. BENNETT and Mr. CURTIS), the ranking minority members of the Finance Committee and its Pension Subcommittee; the Senator from New Jersey (Mr. WILLIAMS), and the Senator from New York (Mr. JAVITS), the chairman and ranking minority member of the Senate Labor Committee and principal sponsors of S. 4.

Anyone who has had contact with deliberations on these bills must be impressed with the sheer volume of hard work forming the foundation of the bills brought to the Senate floor: S. 4, 102 pages; S. 1179, 283 pages.

Substitutes for S. 4: A. 496, 227 pages and A. 497, 71 pages.

Behind these bills stand some 1,700 pages of testimony and public hearings, panel discussions and summaries.

After this material was presented, the next step was a series of executive sessions where the policies and the language of the bills were actually hammered out. The judgments on matters of vesting, portability, termination insurance, fiduciary standards, enforcement, and retirement savings were many, exacting and difficult. The document reporting S. 1179 to the Senate extended to 157 pages.

Following the drafting process, Senators and staff were called upon to reconcile the two major proposals. This involved intensive consultation and an extra executive session of the Senate Finance Committee with long hours and tough drafting burdens for the Joint Committee on Internal Revenue Taxation and the Senate Legislative Counsel, among others.

Although there is probably much more to this story that is better known to the major participants, these things occur to me as worthy of mention—particularly in light of some statements recently made by the President to the effect that Congress has not snapped to attention and passed every bill recommended by his administration—some of which are at best questionable.

The pension bill, which we are debating, presently affects every worker in private employment and every business—large and small. It aims at extending the retirement security so that it is within reach of every worker. It seeks to improve and reform the administration of these plans, so that men who have labored for many years cannot be deprived of the retirement income they have well earned. It affects the entire structure of private retirement and is really a monumental bill.

Because of the impact on smaller business, the select committee is proud to have played a minor role in this legislative process.

The early proposal to extend the new self-employment limitations broadly to corporations raised widespread concern among small corporations and their professional advisers. As a consequence, our committee and several of its members received comment and information from a variety of sources including their small business constituents; accountants, such as Gilbert Simonetti of the American Institute of Certified Public Accountants; and lawyers such as Louis Diamond, Steffan Tucker and Sheldon Cohen. The thought and effort put into these many presentations, including much contributed in a spirit of public service, were greatly appreciated.

In an effort to discharge our committee responsibilities, we assembled this information and made it available to the Finance Committee and the Labor and Public Welfare Committee, as well as to other interested Senators. Today, we feel it would be useful to make this data generally available to Members of the Senate in connection with this debate and the various votes on the provisions for retirement savings on the part of small, self-employed businessmen and small corporations.

Therefore, I ask unanimous consent that a sample of our correspondence together with a memorandum and a study of the impact of certain proposals on small corporations be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIBLE. I take pleasure in pointing out that the Finance Committee and the Joint Committee on Internal Revenue Taxation were responsive to the varied and complex difficulties in the small business area. These were the subject of the additional executive session of the Finance Committee on September 14, which I have mentioned.

As a result, the committee amendment 497 largely resolves the small business problems of which we are aware. Some may wish for more and others less. However, all in all I believe the provisions on self-employed deductions, corporate limits, partnerships, and integration with social security are satisfactory to the small business community as far as indicated by the material which has come to us.

Further, the drafting of these provisions exhibit a sensitivity to the problems of new and growing businesses and a willingness of Senators and their staffs to shoulder the extra work involved to assure fair treatment for smaller firms as a part of this complicated and technical legislation.

I, therefore, salute all who had a part in bringing this pension legislation to the point of passage in the Senate, and I hope that the resulting bill will advance to consideration in the House and final passage in this 93d Congress.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

SEPTEMBER 14, 1973.

Hon. RUSSELL B. LONG,
*Chairman, Finance Committee,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I understand that the pension reform bills are now scheduled to be taken up on September 18 in the Senate and are currently under consideration by the Committee on Finance

During the past month certain information regarding the extension of the proposed new self-employed deduction limitations to corporations has come to the Select Committee. It has raised concern over the possible impact of this proposal on corporations not composed of professionals.

Because of our duties to the small business community, I thought it would be appropriate to pass this data along to Senators such as yourself and your colleagues who have the heavy primary responsibilities in connection with this legislation.

I hope this material, including a memorandum prepared by the staff, will be helpful in discussions by you and the Committee incident to the further advance of these bills.

Cordially,

ALAN BIBLE, *Chairman.*

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SEPTEMBER 14, 1973.

### MEMORANDUM

Subject: Extension of Self-Employed Pension Limitations to Corporations.

As examination of S. 1179, the pension reform bill reported by the Finance Committee, has developed over the past month, concern over the extension of self-employed limitations to corporations has mounted. Correspondence received by the Committee and several of its members has been analyzed, and the Committee sought further information on the possible effect of this proposal.

Attached is a study of five existing pension plans, not involving "professionals," in the active portfolio of a Cleveland pension consulting and managing firm: a funeral home, lithography printer, machine shop, a general contractor, and a wholesale firm.

### COVERAGE

Of course, we cannot judge the validity of the firm's assumptions, or its sample. However, it may be noted that the general construction and wholesaling firms do reflect how pensions of employees as well as owner-managers could be sizably reduced under such a rule. Although this is fragmentary, it is evidence of possible pressure to terminate an existing plan or reluctance to begin a new one, which may be generated by such a provision.

Since a significant proportion of the employees not now covered by pension plans are believed to work for smaller firms, discouraging coverage would be inconsistent with the thrust of the bill as a whole. It is estimated that small business accounts for about half of U.S. employment. The Daily Tax Report (BNE) of September 13, 1973, reports that for firms with less than 50 employees 28 percent are covered by retirement plans compared with 57 percent for 50–99 employee firms, 69 percent for 100–500 employee firms and 95 percent for 500 and over firms.

### ADVERSE COMPETITIVE IMPACT

This problem seems to become more acute when the definition of owner-manager or proprietary employee is in terms of 2 percent stock ownership.

Competitive disadvantages to smaller business may arise not only from the unlimited pension funding which would still be permitted to larger firms. In addition, such a rule might inhibit the willingness of small firms to offer stock of the company as an incentive for retaining key employees.

While it seems clear from the Finance Committee report (S. Rept. 93–383, p. 119) that professional corporations are the target of this provision, it may extend much further—perhaps to all but the publicly-held corporations.

### APPROPRIATENESS OF THE 2 PERCENT STANDARD

Existing analogies in the Internal Revenue Code to closely held corporations appear in section 6166(c) (i.e., 20 percent) and sections 1371(a) (suggesting 10 percent) and 1379(b) (re pensions, 5 percent). With regard to the probable structure of smaller manufacturing and service firms, possibly as illustrated by the attached examples, might not an ownership standard of 20 percent serve the purpose?

In considering this question, attention could be given to "whether self-employed persons and corporate employees . . . engage in substantially the same economic activities" (Tax Proposals Affecting Private Pension Plans, May 8, 1972, p. 8). The other variable in the formula (e.g., 25 percent of benefits) could still be adjusted to leave latitude to deal with undue concentration of benefits.

### POSSIBLE AVENUE TOWARD RESOLVING THE DIFFICULTY

An approach already considered in S. 1179 is in terms of limiting the ultimate pay-out of the pension to a suitable percentage of compensation. This approach has the advantage of accommodating the variable of age at the time of entry (which is considerable) and the increasing cost of living.

It has been brought to our attention that many businesses typically take several years to achieve the financial stability required to undertake a commitment to a fixed-cost plan, and thus probably enter the retirement-deferred compensation field with a profit sharing plan as to which contributions are voluntary from year to year. It would therefore seem that any rules in this area be uniform as between the various types of retirement plans.

S. 1179 adopted the position taken in Revenue Ruling 72-3 in which the Internal Revenue Service established the 100 percent standard administratively. However, if 100 percent of the highest three years of salary is deemed too high a ceiling for the statute, perhaps the Finance Committee could consider 80 percent or some other percentage. We are informed that 80 percent is the standard for Federal Government Civil Service Employees. There may be some problems with this, as the founder of the business may have many more years of past service at the time a plan is adopted. However, the technical competence of the Committees involved are more than equal to drafting a provision which would prevent unfair advantage.

This formula could also be coupled with an upper limit on the salary to which the 80 percent could apply—for example, the five exhibits attached would suggest a base in the neighborhood of $50,000.

### POSITION OF SMALL BUSINESS ORGANIZATIONS

Groups such as the National Small Business Association and the National Federation of Independent Business have already expressed their concern over what they feel are serious problems inherent in this proposal, and this correspondence is before other Senators as they enter the final stages of deliberation on this important measure.

MOSKAL, JARAS,
RICCHETTI & ASSOCIATES, INC.,
*Cleveland, Ohio, September 7, 1973.*

Re: Senate Finance Committee Pension Proposal which discriminates against small business corporations.

Hon. ALAN BIBLE,
*Chairman, U.S. Senate, Select Committee on Small Business, Old Senate Office Building, Washington, D.C.*

DEAR SENATOR BIBLE: Our organization is engaged in the design, installation and administration of small employer retirement plans. Our clients are exclusively small closely held corporations employing between 5 and 100 employees. Over the past several years we have had occasion to work with several hundred small employer pension and deferred profit sharing plans.

We are quite concerned about certain provisions of the Pension Reform Bill (S. 1179) recently reported out of the Senate Finance Committee. The objectionable provision *limits retirement plan contributions for "owner-manager" employees to a maximum of 15% of compensation or $7,500.00, whichever is the lesser.* "Owner-managers" have been defined in the bill to include anyone who owns two (2%) percent or more of the corporation where 25% or more of the plan contributions are for the benefit of the "owner-manager".

This proposed limitation is obviously directed against the "professional corporation". However, the Senate Finance Committee's "shotgun approach" hits every small business corporation in the country. The ultimate impact of this proposal, if it ever becomes law, could absolutely freeze the growth of the private pension system in the entire small business sector. Small companies without retirement plans will be discouraged from adopting new plans and those that already have retirement plans will be required to substantially cut back the benefits provided thereunder, or possibly to terminate their plans outright. Certainly, it cannot be the intent of our government to so impede the growth of the private retirement system.

We feel that the Finance Committee's proposal should be removed from the Bill for the following reasons:

1. The retirement pension benefit that can be purchased with a contribution of 15% of wages (maximum $7,500) is not adequate for those older workers. (age 45 and over)

2. Considering the ever present inflation which our country is experiencing and can be expected to experience in the future, what appears to be a reasonable retirement benefit in terms of today's value of the dollar may be wholly inadequate in terms of the value of the dollar at the time of retirement. Larger pension benefits should therefore be encouraged and not restricted.

3. The contribution restriction which the proposal advocates applies only to the small business corporation. It leaves the pension benefits of the executives of large publicly owned corporations virtually unlimited. This is clearly discriminatory against the small businessman.

Out of the hundreds of retirement plans our firm has worked with, less than ten (10%) percent involve "professional corporation" plans. The great bulk of the plans we work with cover employers in non professional type businesses. (i.e. small manufacturers, tool & die shops, construction companies, etc.)

In order to illustrated the impact of this proposal on existing small business corporation retirement plans, we have taken a sampling of 5 different retirement plans administered by our firm, and have illustrated the cut back in benefits and contributions that can be expected under the Senate Finance Committee proposal. While the cut backs illustrated are required to be applied only to the "owner-manager" employees, we believe that all rank and file employee pension benefits will be correspondingly reduced right along with the owner-manager's benefits. Human nature being what it is, it is most unlikely to expect that the employees' benefits will be provided under a more generous formula than is applicable to the boss's benefits.

Respectfully yours,
MOSKAL, JARAS, RICCHETTI & ASSOCIATES, INC.

P.S. We have also enclosed herewith our "Position Report" which contains a brief summary of other objections to the Senate Finance Committee proposal.

SMALL CORPORATION PENSION PLAN (NAME OMITTED) COMPARISON OF PLAN COSTS AND BENEFITS BEFORE AND AFTER SENATE FINANCE COMMITTEE CONTRIBUTION RESTRICTION

| Participants | Entry age | Retirement age | Annual salary | Under present law | | After finance committee contribution restriction | |
|---|---|---|---|---|---|---|---|
| | | | | Company contribution | Monthly pension [1] | Company contribution | Monthly pension [1,2] |
| Funeral home: | | | | | | | |
| Owner-manager | 56 | 69 | $26,352 | $5,536 | $593 | $3,953 | $423 |
| Employee No. 1 | 25 | 65 | 11,436 | 430 | 116 | 307 | 119 |
| Employee No. 2 | 43 | 65 | 12,024 | 1,053 | 181 | 752 | 129 |
| Employee No. 3 | 43 | 65 | 11,424 | 859 | 166 | 613 | 119 |
| Employee No. 4 | | | | | | | |
| Employee No. 5 | | | | | | | |
| Total company contribution | | | | 7,878 | | 5,625 | |
| Lithography—printing: | | | | | | | |
| Owner-manager | 55 | 65 | 50,000 | 9,324 | 666 | 7,500 | 536 |
| Employee No. 1 | 51 | 65 | 17,169 | 1,390 | 133 | 1,117 | 107 |
| Employee No. 2 | 34 | 65 | 15,717 | 318 | 93 | 256 | 75 |
| Employee No. 3 | 34 | 65 | 17,644 | 480 | 142 | 386 | 114 |
| Employee No. 4 | 37 | 65 | 19,126 | 642 | 165 | 516 | 132 |
| Employee No. 5 | 32 | 65 | 14,989 | 303 | 97 | 243 | 78 |
| Balance of covered employees | | | | 5,518 | | 4,436 | |
| Total company contribution | | | | 17,975 | | 14,454 | |
| Machine shop—jobber: | | | | | | | |
| Owner-manager | 44 | 65 | 26,000 | 4,788 | 821 | 3,900 | 669 |
| Employee No. 1 | 25 | 65 | 8,772 | 326 | 135 | 266 | 110 |
| Employee No. 2 | 36 | 65 | 7,044 | 492 | 142 | 401 | 116 |
| Employee No. 3 | | | | | | | |
| Employee No. 4 | | | | | | | |
| Employee No. 5 | | | | | | | |
| Total company contribution | | | | 5,606 | | 4,576 | |

SMALL CORPORATION PENSION PLAN (NAME OMITTED) COMPARISON OF PLAN COSTS AND BENEFITS BEFORE AND AFTER SENATE FINANCE COMMITTEE CONTRIBUTION RESTRICTION—Continued

| Participants | Entry age | Retirement age | Annual salary | Under present law | | After finance committee contribution restriction | |
|---|---|---|---|---|---|---|---|
| | | | | Company contribution | Monthly pension [1] | Company contribution | Monthly pension [1] [2] |
| Construction industry—general contractor: | | | | | | | |
| Owner-manager | 50 | 65 | $50,800 | $15,136 | $1,614 | $7,500 | $800 |
| Employee No. 1 | 38 | 65 | 20,117 | 2,460 | | 1,219 | 284 |
| Employee No. 2 | 24 | 65 | 9,291 | 356 | | 176 | 74 |
| Employee No. 3 | 30 | 65 | 7,894 | 312 | | 155 | 42 |
| Employee No. 4 | 37 | 65 | 5,742 | 270 | | 134 | 32 |
| Employee No. 5 | 28 | 65 | 8,403 | 329 | | 163 | 59 |
| Balance of covered employees | | | | 2,685 | | 1,330 | |
| Total, company contribution | | | | 21,548 | | 10,677 | |
| Wholesaler—screw products: | | | | | | | |
| Owner-manager | 64 | 74 | 25,000 | 13,626 | 900 | 3,750 | 243 |
| Employee No. 1 | 24 | 65 | 9,948 | 726 | 290 | 196 | 78 |
| Employee No. 2 | 44 | 65 | 15,600 | 2,850 | 455 | 770 | 123 |
| Employee No. 3 | 33 | 65 | 17,904 | 1,859 | 522 | 502 | 141 |
| Employee No. 4 | 34 | 65 | 8,580 | 937 | 250 | 253 | 68 |
| Employee No. 5 | 20 | 65 | 6,864 | 442 | 200 | 119 | 54 |
| Employee No. 6 | 50 | 65 | 5,928 | 1,733 | 173 | 468 | 47 |
| Total company contribution | | | | 22,173 | | 6,058 | |

[1] Per month.

[2] All employee benefits were proportionately reduced to correspond with the reduction required in connection with the "owner-manager" benefits.

The PRESIDING OFFICER. Who yields time,

Do Senators yield back their time on the amendment?

Mr. NELSON. Mr. President, I yield back the remainder of my time. How much time does the other side have?

The PRESIDING OFFICER. Thirteen minutes remain.

Mr. HANSEN. Mr. President, we yield back our time on this side.

The PRESIDING OFFICER (Mr. DOMENICI). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment No. 506 of the Senator from Wisconsin (Mr. NELSON), as modified.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Louisiana (Mr. LONG), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

I also announce that the Senator from Arizona (Mr. GOLDWATER), and Senator from Ohio (Mr. SAXBE), are necessarily absent.

I further announce the Senator from Utah (Mr. BENNETT) is absent on official business.

The result was announced—yeas 89, nays 2, as follows:

[No. 396 Leg.]

YEAS—89

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fong
Fulbright
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Buckley
Fannin

NOT VOTING—9

Bellmon
Bennett
Goldwater
Gravel
Hart
Long
Metcalf
Pearson
Saxbe

So Mr. NELSON's amendment No. 506, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 464) for the relief of Guido Bellanca, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 1983) to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mrs. SULLIVAN, Mr. DINGELL, and Mr. GOODLING were appointed managers on the part of the House at the conference.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1352. An act for the relief of Robert F. Franklin;

H.R. 1948. An act for the relief of Edgar P. Faulkner and Ray H. New;

H.R. 1949. An act for the relief of Hazel W. Lawson and Lloyd C. Johnson;

H.R. 2207. An act for the relief of Joseph C. Leeba;

H.R. 2213. An act for the relief of Cornelius S. Ball, Victor F. Mann, Junior, George J. Posner, Dominick A. Sgammato, and James R. Walsh;

H.R. 2533. An act for the relief of Raphael Johnson;

H.R. 2771. An act for the relief of Leonard Diamond;

H.R. 3044. An act for the relief of James Evans, publisher of the Colfax County Press, and Morris Odvarka;

H.R. 3530. An act for the relief of Eugenia C. Lyttle;

H.R. 4589. An act for the relief of Roger Stanley, and the successor partnership Roger Stanley and Hal Irwin, doing business as the Rogert Stanley Orchestra;

H.R. 5379. An act for the relief of John B. Clayton;

H.R. 6007. An act for the relief of Swift-Train Company;

H.R. 6828. An act for the relief of Edith E. Carrera;

H.R. 7087. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Missouri to Grace F. Sisler, the record owner of the surface thereof;

H.R. 7976. An act to amend the Act of August 31, 1965, commemorating certain historical events in the State of Kansas;

H.R. 8406. An act for the relief of William M. Starrs;

H.R. 9293. An act to amend certain laws affecting the Coast Guard; and

H.R. 9575. An act to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes.

## ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 155. An Act for the relief of Rosita E. Hodas;

S. 776. An Act to authorize the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco;

S. 902. An Act to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended; and

S. 1352. An Act to require loadlines on United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes.

The ACTING PRESIDENT pro tempore (Mr. CLARK) subsequently signed the enrolled bills.

## HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 1352. An act for the relief of Robert F. Franklin;

H.R. 1948. An act for the relief of Edgar P. Faulkner and Ray H. New;

H.R. 1949. An act for the relief of Hazel W. Lawson and Lloyd C. Johnson;

H.R. 2207. An act for the relief of Joseph C. Leeba;

H.R. 2213. An act for the relief of Cornelius S. Ball, Victor F. Mann, Jr., George J. Posner, Dominick A. Sgammato, and James R. Walsh;

H.R. 2533. An act for the relief of Raphael Johnson;

H.R. 2771. An act for the relief of Leonard Diamond;

H.R. 3044. An act for the relief of James Evans, publisher of the Colfax County Press, and Morris Odvarka;

H.R. 3530. An act for the relief of Eugenia C. Lyttle;

H.R. 4589. An act for the relief of Roger Stanley, and the successor partnership Roger Stanley and Hal Irwin, doing business as the Roger Stanley Orchestra;

H.R. 5379. An act for the relief of John B. Clayton;

H.R. 6007. An act for the relief of Swiff-Train Company;

H.R. 6828. An act for the relief of Edith E. Carrera; and

H.R. 8406. An act for the relief of William M. Starrs. Referred to the Committee on the Judiciary.

H.R. 7087. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Missouri to Grace F. Sisler, the record owner of the surface thereof; and

H.R. 7976. An act to amend the Act of August 31, 1965, commemorating certain historical events in the State of Kansas. Referred to the Committee on Interior and Insular Affairs.

H.R. 9293. An act to amend certain laws affecting the Coast Guard; and

H.R. 9575. An act to provide for the enlistment and commissioning of women in the Coast Guard Reserve, and for other purposes. Referred to the Committee on Commerce.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Washington is recognized.

Mr. JACKSON. Mr. President, I call up my unprinted amendment.

Mr. CURTIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order. The Senator from Washington has the floor and deserves to be heard. Senators will please be seated.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 19 of Amendment 496 strike lines 3 through 12 and insert the following:

(2) EMPLOYER CONTRIBUTIONS.—

(A) NONFORFEITABLE PERCENTAGE.—A plan satisfies the requirements of this paragraph if under the plan, after one continuous year of service with an employer, an employee has a right to a percentage of his accrued benefit derived from employer contributions which is nonforfeitable other than by reason of death. The percentage shall not be less than the percentage determined under the following table:

| *Years of Service* | *Nonforfeitable percentage* |
|---|---|
| 1 through 5 | 25 |
| 6 | 30 |
| 7 | 35 |
| 8 | 40 |
| 9 | 45 |
| 10 | 50 |
| 11 | 60 |
| 12 | 70 |
| 13 | 80 |
| 14 | 90 |
| 15 or more | 100 |

On page 75, on line 22 add:

An employer may register a qualified plan under this section with respect to less than all of his employees who are participants in that qualified plan if the group of employees is reasonably defined and the employer demonstrates with respect to that group of employees that maintaining records of plan participation for members of the group after their termination from the plan would be unreasonably burdensome in relation to the liability of the plan to members of the group.

On page 76, line 6 add:

The Corporation shall also accept for deposit into the fund any payment made from the assets of a qualified plan by and at the request of the administrator of that plan if the payment is made by a plan registered under the second sentence of section 305(c) to avoid unreasonably burdensome administrative expenses of maintaining plan participation records for terminated participants. Such payment shall discharge the existing liability of the plan to the participant with respect to the participation for which the payment was made, provided, that the plan shall be liable to the participant with respect to the participation for which the payment was made for the value of subsequent increments in the percentage of vesting of that participation.

Mr. JACKSON. Mr. President, I ask unanimous consent that Joel Merkel and Marian Troyer of my staff be accorded the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, if I might have the attention of the manager of the bill, I would like to address this question to the Senator from Wisconsin.

In relation to the $7,500 or 15 percent limit on tax deferable contributions to qualified pension plans by corporate stockholder-employees, I would appreciate knowing from the Senator from Wisconsin if this corporate stockholder-employee, who is on salary like the other employees and makes specified contributions to the same pension plan as his other employees, would be eligible to use the tax deferable deduction when the corporation of which he is a stockholder does not show a profit or sufficient profit to cover the 15-percent limit as amendment No. 497 is now written?

Mr. NELSON. The answer is an unqualified yes.

Mr. JACKSON. Mr. President, I yield to the Senator from Illinois and I would like to have the time taken from the bill.

Mr. PERCY. Three minutes on the bill.

Mr. JACKSON. I will give him 3 minutes out of my time.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. I thank my distinguished colleague from Washington. I shall be very brief.

Mr. President, I want to commend the members of both the Senate Finance Committee and the Senate Labor and Public Welfare Committee for the cooperation which has obviously marked the development of this legislation. Through the combination of some of the best thinking in the Senate in this area, a highly commendable pension reform package has emerged.

As an original cosponsor of the Retirement Income Security for Employees Act, introduced in this Congress as S. 4, I was very concerned that an adequate and effective administrative and enforcement mechanism be established to protect employees and pension beneficiaries.

My colleagues have no doubt heard of the case of the Elgin Watch Co. in Elgin, Ill., where ineffective enforcement of existing pension tax law has resulted in meager pensions for Elgin's retirees and the possibility of a tax-free bonanza for the reorganized Elgin Corp., which has since moved to another State. These events left me firmly convinced that our existing enforcement mechanism is inadequate, and I am pleased to say that I believe this compromise legislation will remedy this situation. The creation of a new Office of Employee Plans and Exempt Organizations within the Treasury Department and a new Office of Pension and Welfare Plan Administration within the Department of Labor will assure effective enforcement of both our pension tax laws and employee rights.

My own experience in business demonstrated to me the high incidence of discrimination against the employee who for one reason or another moves from one job to another. Our increasing mobility has made the presentation of a gold watch for 50 years of service obsolete. Without realistic vesting standards and the ability to transfer a pension fund from one job to another, most of today's employees will not be able to provide adequately for their retirement.

When I testified before the Senate Subcommittee on Aging in July of 1971, I stressed my own belief that full vesting should occur in a maximum of 10 years. Although this legislation provides for a maximum work period of 15 years, I understand the concern of the bills' authors that the expansion of pension plans not be discouraged, and that additional financial burdens not be suddenly imposed on employers. I will, however, work in the future for legislation to decrease this maximum period for full vesting to 10 years.

We hear almost daily of cases where persons who looked forward to a secure retirement face situations of despair when they lose their pensions or receive far less than they had anticipated. Mr. President, this legislation will protect the rights of over 31 million workers in the United States. I urge the same spirit of cooperation and common dedication in the House of Representatives that we have witnessed here in the Senate so that a truly effective pension reform package can be adopted during this session of Congress. We owe no less to today's employees and tomorrow's retirees.

Mr. President, if anyone feels that 15-year 100-percent vesting is too liberal, I can point out from personal knowledge that an $80 million pension fund with vesting for 10 years at 10 percent a year has worked out very well for the past 25 years. In addition, for 50 years Sears, Roebuck has vested for 5 years at 20 percent a year. They have no fear of giving flexibility to employees and the corporation. That pension is earned and it should be portable. Employees should not be required to stay in one company until they are 65 years of age.

This measure will move us in a giant step toward equity and fairness both toward employers and employees in this country. I commend my distinguished colleagues for their brilliant leadership in this field.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. JAVITS. Mr. President, I thank the Senator from Illinois for his fine words. This has been a long struggle for all of us who have been deeply engaged. I wish to thank the Senator for the expert witness he makes as a result of his enormous and successful experience as the head of one of our most successful corporations.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, was my amendment reported.

The PRESIDING OFFICER. The amendment has been reported.

Mr. JACKSON. Mr. President, on Monday I introduced my amendment number 488 to amend the vesting schedule of S. 4 to provide for earlier minimum vesting of pension benefits. I now call up a similar version of this amendment modified to reflect changes in the Senate Labor and Finance Committee compromise pension bill. My amendment would improve the vesting schedule of S. 4 by providing for 25 percent vesting of all pension credits from the 1st through the 5th year of participation in covered employment. The graded vesting schedule of S. 4 from the 6th through the 15th year is not affected. Minimum vesting is merely pushed back to the end of the first year of plan participation instead of the end of the 5th year.

I have also added a provision to allow pension plan administrators to transfer to the Portability Corporation the value of a terminated employee's participation in a pension plan if the employer can demonstrate that it would involve unreasonable administrative expenses in relation to the plan's liability to a worker to maintain records of his participation after his termination from the plan.

The lengthy study by the Senate Labor and Finance Committees on pension reform has demonstrated beyond doubt that the reasonable expectations of employees upon reaching retirement age fail to materialize in most instances. There are over 34 million workers participating in private pension plans. Statistics indicate that only 22 percent of such participants receive all the pension benefits which they have earned and which are rightfully theirs. The single most important reason for this shocking statistic is that unrealistic vesting standards often prevent the accrued pension credits of a worker from ever vesting.

A high degree of job mobility has become increasingly characteristic of our labor force. With high mobility it is impossible to adequately protect pension rights without early vesting. The economic success of this Nation and its high living standard is in large part the result of the mobility and adaptability of our labor force. And yet, these same workers—engineers, teachers, medical and laboratory workers, and many others—who contribute so greatly to our economic success are penalized when it comes to their pension rights because of the nature and demands of their employment.

A perfect example of how the highly mobile worker is injured by frequent job turnovers occurred in my home State of Washington. The Boeing Co. in Seattle terminated over 66,000 workers between 1969 and 1971 because of a decreased demand for commercial aircraft. Over 42,000 of the 66,000 employees terminated had been employed less than 5 years. Under the vesting schedule of S. 4, all of the accrued but unvested pension credits of these 42,000 workers would be permanently lost. I believe that a situation like this is just plain wrong and ought to be corrected. My amendment would correct this injustice by permitting a worker to preserve his earned but presently unvested credits. Without my amendment, mobile workers will continue to face the prospect of being left out in the cold in their retirement years.

The millions of highly mobile workers in America want and need early vesting. For example, I was pleased to note the following testimony of the National Society of Professional Engineers before the Senate Labor Committee:

> Vesting is really at the heart of the pension problem. For the engineer, whose life style of necessity . . . is one of high mobility and fast changing technological obsolescence, the results are predictable. The engineer is unable, in many cases, to stay at one place or with one employer long enough to accumulate any vested pension credits. . . . Engineers strongly favor immediate vesting. Then there would never be any lapse in the accumulative process.

Ultimately, early vesting or some similar means of preserving pension credits is the solution to the high mobility problem. I believe that S. 4 should address this question now rather than wait years for another pension reform bill to come along. I do not suggest that my amendment is the ultimate solution to high labor mobility. Indeed my amendment provides for a modest improvement in vesting. But it is a proposal that addresses the problem of high mobility in a positive way now. I believe it is important that S. 4 contain such a provision and I hope the Senate will adopt this amendment.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. PASTORE. Does this amendment on vesting apply to Government workers who have been involuntarily separated because of the closing of a base?

Mr. JACKSON. The answer would be "No," because the bill here, as I understand it, addresses itself only to the private sector.

Mr. PASTORE. Does not the Senator think, if we are going to be fair, we ought to include them here? I mean, what is the difference?

Mr. JACKSON. Yes; I think there ought to be a separate title to deal with that problem, but I would say it is my understanding that civil service pension rights, of course, can later be picked up. Government employees do not lose the 1 year or the 1 month that they put into a Government retirement program. They later have to get 5 years, but they do not forfeit, as they do now in the private sector, the money that has been set aside. Government pensions are protected, I believe.

Mr. PASTORE. But the practical result, as I understand it—and the Senator put his finger on it, because we cannot prove it—is that when a person has worked a number of years, let us say, either for the Government or for private industry, and he loses his job and he seeks another job, one of the impediments to his being hired is the fact that, for some reason, the matter of pension cost to the company is a deterrent in hiring that person in another task. But if we had the assurance that he carried, as a vested right, the former pension earned while working in the former job, it might alleviate the hardship of becoming engaged in a new industry.

We spend a great deal of money retraining, and after we retrain them, there is a reluctance to hire them because of that particular factor.

Mr. JACKSON. Let me give two particular examples. An employee is employed in a private plant. Under this bill, if he does not have more than 7-years' service, he does not have any vested right to the pension benefits he has accrued.

Mr. PASTORE. That applies even to Government workers.

Mr. JACKSON. No, no; there is a difference.

Mr. PASTORE. Yes.

Mr. JACKSON. I will stand corrected if I am wrong, but I believe, to be eligible for a civil service annuity at age 62, one must have 5-years' service. But suppose an individual served only a year. He can later go back to the Government. That 1-year's payment remains in his account unless he draws it out. He has a right to draw it out. But that 1-year's payment remains in his fund, and before age 62, or before retirement, if he can get the 5 years, he is eligible for the annuity.

Under this bill, in the private sector he would not be eligible to get the annuity, nor would he be eligible to move the 1 year or 2 years—anything less than 5 years—to another program. But one can do it under the Government program. He can take the first 5 years and move it into another part of the Government program.

Mr. PASTORE. I think we should hear from the manager of the bill. I think there is an ambiguity. I do not want to suffer any disadvantage. It strikes me that if an inequity is being perpetrated upon one who works for the Government, and he does not have a pension right—if he has a vested right and he can cash it in, there may be a reason for that—I would prefer to have him carry it along with him, because it may be easier for him to get a new job.

Mr. JACKSON. I am sympathetic with that.

I would like to be corrected if I am wrong on my interpretation of the civil service annuity provisions.

Mr. PASTORE. I would like to hear from the managers of the bill.

Mr. WILLIAMS. Mr. President, let me understand exactly what the question is. Are we talking about private employment, where an employee works for less than 5 years for a company and leaves the company? He has not established a vested right under this legislation. Now the Senator is suggesting that he comes back at a later time to the same company?

Mr. PASTORE. No; as I understood the Senator from Washington, he gave the case of the Boeing Co. in the State of Washington. He says that if a person worked for that company for 3 years, and for some reason, because they had no further work, they laid him off, his amendment would give him the right to carry his 3 years to his next employment. Is that correct?

Mr. JACKSON. He would have a vested right to a percentage of his accrued pension benefits which he could not be deprived of.

Mr. PASTORE. I have raised a question. I took the example of a person working at Quonset Point for the Government, and after 3 years he was laid off. What happens to him?

Mr. JACKSON. The question is——

Mr. PASTORE. No; I stated the question. I would like to get an answer.

Mr. JACKSON. Mr. President, is he going to work in the private or Federal sector?

Mr. PASTORE. He goes on to a private job or any job. He has been working for the Federal Government. If we are going to make it apply to some, I do not know why we should not apply it to the Government employee who lost his job through no fault of his own and then tried to get another job. What happens to him?

Mr. JACKSON. The Quonset Point employee has a vested right for the time he served.

Mr. PASTORE. Under the Senator's amendment?

Mr. JACKSON. No; under the existing law. His money stays in the civil service retirement unless he draws it out. However, in the private sector there is no vesting. He loses everything up to the first 5 years.

Mr. PASTORE. I understand the Federal law, that if one works for the Government, he has to work for the Federal Government 5 years before he has any rights under retirement.

Mr. JACKSON. The Senator is correct.

Mr. PASTORE. All right. I am talking about what happens after 3 years.

Mr. JACKSON. If he goes back to the Federal Government later and gets 5 years of employment, he is eligible for a pension.

Mr. PASTORE. What if he does not go back to the Government? What if he goes to Boeing?

Mr. JACKSON, Then he gets his money back.

Mr. PASTORE. I think it is unfair.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes and yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, innumerable vesting and funding proposals were presented to our committee. Some of these proposals provided faster vesting than the amendment of the Senator from Washington. What we had to balance off as far as we could was the desire to protect employee pension rights without deterring the establishment of new pension plans.

This is what we think we have accomplished. We have not drawn the ideal pension plan. If we tried to do that, I think there would be 100 versions of what one considers to be the ideal plan. In addition, we would find many employers who would be reluctant to put in new plans.

We have to remember that these are voluntary pension plans on the part of the employer. And one of the motivating reasons for putting in the plans is that employers want the employees to stay with them for a while, because they are going to spend money training those employees, as the Senator from Rhode Island said.

Then, we have to also look at the fact that if we require very early vesting, that means that the employer has to allocate more of his pension contributions to younger employees who have a higher turnover rate. As a result the older employees will be penalized. That will be the net result. More of the pension fund, under this kind of amendment, would be going to the younger employees who do not stay too long at their job, and it will be taken away from the older employees who do stay with the company.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BENTSEN. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Is it not true that if vesting is given to someone who has worked for as short a time as 1 year, it will be costly and additionally burdensome from the standpoint of the administration of the plan?

Mr. BENTSEN. That is another cost that is added on in that situation. The Senator is correct.

Mr. CURTIS. Mr. President, is it not also true that we would not be helping him very much?

Mr. BENTSEN. He is not going to have earned a substantial benefit after only 1 year. It would be a very small amount of money.

Mr. CURTIS. These plans are instituted for the purpose of building up a sum of money in the retirement fund. So, the amount would be rather small. But under this amendment, he would be entitled to 25 percent of it.

We should not confuse the need for retirement with the need for continued employment or unemployment compensation. They are two different problems.

Mr. BENTSEN. Mr. President, I agree with the distinguished Senator. Let me say that both the Labor and Public Welfare Committee and the Finance Committee looked at proposals to provide vesting formulas earlier than 5 years. Both committees turned these proposals down. The Labor and Public Welfare Committee approved a bill which did not provide vesting until after 8 years. The Finance Committee had 5 years. We have taken the more liberal of the two options decided on by the committees.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. PASTORE. Mr. President, would the Senator from Texas make a distinction between voluntary and involuntary separation? The Senator is actually talking about shiftless workers. I am talking about men who have been on the job and after some years, through no fault of their own, they are laid off and involuntarily separated from their jobs. Where are their rights? I am not talking about shiftless workers. I am talking about legitimate people who want to work, but who lose their jobs through no fault of their own. What do we do for them?

Mr. BENTSEN. I agree that this one piece of legislation does not resolve all inequities. However, we have taken a great step forward in pension reform.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 14 minutes remaining.

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 22 minutes remaining.

Mr. BENSTEN. Mr. President, I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, of course, I am not prepared to solve this question on the floor of the Senate. I realize that many of the amendments arrived at on the floor concerning this very important legislation will confuse many Members of the Congress. However, as long as we admit that there are inequities here, I would like to have some assurance that this matter will be looked into, and it should be looked into. I repeat that I am not talking so much of those who leave a job voluntarily and then get another job and go here and there. I know that it makes it most difficult for the employer.

I am talking about people who want to have a job and who lose their job through no fault of their own.

Mr. BENTSEN. Mr. President, I want to say in answer to the distinguished Senator that this will be a very important piece of reform legislation if we are able to get it enacted. And I am sure that in the future we will be looking at additional inequities and trying to correct some of them.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield 3 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3 minutes.

Mr. HARTKE. Mr. President, the Senator from Rhode Island says that this should be looked into. It has been looked into by the Labor and Public Welfare Committee. They have a report which I would be glad to show the Senator. That report demonstrates the very figure that the Senator is talking about under the present system. The Senator from Washington is attempting to provide for some type of vested interest after the money is taken out of his paycheck. It is his money, and not the employer's money. If he has some of his money in a pension plan, he ought to have a right to have a claim on the pension which he thinks he ultimately will get. At the present time he loses that money.

The pending bill places in effect all of the inequities the Senator is talking about. The Senator from Washington is trying to make a small step forward. I would go a great deal further than he would, quite honestly.

What is being done today? The Labor and Public Welfare Committee study shows that only 4 percent of the people of the United States are in the pension plan. And of 6,900,000 people in the plans, 6 million people never get a penny. That is what is wrong with the bill. This bill stamps the approval of Congress on the status quo. And the people in the marketplace are complaining about that. They are using their money and not the employers' money. The employer takes the employee's money out of his paycheck.

Let me refer to the system the teachers of the country have. Throughout this Nation, if we do what the teachers are doing, we will be much further along than what the Senator from Washington is talking about. The teacher pays for the first year. If a teacher then leaves the job or is fired, or whatever happens, that cannot be forfeited.

I think the Senator from Washington has made a good step forward. I do not see how anyone can be against it, except that they are complaining about the cost. Do not be misled on that feature: The difference between the cost of the bill with and without the amendment of the Senator from Washington is much less than with the one I have, and the one I have is only 0.2 percent of the payroll. So in cost it is minuscule, and the benefit would be great in proportion. It is a good amendment.

Mr. JACKSON. I thank the Senator.

Mr. President, I should like to modify the amendment so that, on the first page, where the table "Years of Service" appears, by adding under that item the following line: "1 through 4, on involuntary termination from the pension plan," and then the figure "25 percent." That would be in lieu of line 1.

It would cover the basic objective here that for the first 5 years it would apply only where involuntarily separated.

Mr. NELSON. Did I understand the Senator to say "involuntarily separated from the pension plan"?

Mr. JACKSON. Yes. It means the same thing.

Mr. NELSON. No, he would have to be in long enough to be covered by the pension plan to be separated from the pension plan.

The PRESIDING OFFICER. The clerk will state the modification.

Mr. JACKSON. Well, it should be "involuntarily separated from participation." I will modify it further to that extent. If the clerk will do that, "involuntarily separated from participation in the pension plan."

The assistant legislative clerk read the modified amendment as follows:

On page 19 strike lines 3 through 12 and insert the following:

(2) EMPLOYER CONTRIBUTIONS.—

(A) NONFORFEITABLE PERCENTAGE.—A plan satisfies the requirements of this paragraph if under the plan, after one continuous year of service with an employer, an employee has a right to a percentage of his accrued benefit derived from employer contributions which is nonforfeitable other than by reason of death. The percentage shall not be less than the percentage determined under the following table:

| Years of service: | *Nonforfeitable percentage* |
|---|---|
| 1 through 4 upon involuntary termination from participation in the pension plan | 25 |
| 6 | 30 |
| 7 | 35 |
| 8 | 40 |
| 9 | 45 |
| 10 | 50 |
| 11 | 60 |
| 12 | 70 |
| 13 | 80 |
| 14 | 90 |
| 15 or more | 100 |

The PRESIDING OFFICER. The amendment will be so modified. Who yields time?

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes in opposition to the amendment?

Mr. NELSON. I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I oppose this amendment.

The amendment gives us an opportunity to determine what really is the heart of this bill. Two important aspects of it have been mentioned. One is the statement by Senator HARTKE, "taking the money out of his paycheck," and the other is Senator JACKSON's very understandable and very proper plea for the special situation which affects engineers, like those at Boeing, who are separated from employment because of some decision of the United States or the phaseout of weapons——

Mr. JACKSON. Mr. President, will the Senator yield? This is all commercial business. This was the phaseout of the economy from 1969 through 1973.

Mr. JAVITS. Mr. President, I do not appreciate the interruption. If the Senator would follow the rules of the Senate, I would be happy to yield to him in a moment.

I said exactly what I meant. Boeing is a proper example. Engineers lost their jobs because the United States went to some other engineering program, or buyers did not buy the product, or whatever the case might be. In any case, they lost their jobs, were separated, or in some other way found themselves outside of Boeing's pension plan.

Let us look at the first case: "taking the money out of his paycheck." Anyone who has ever negotiated a labor contract knows that there are two parties on it. The employer has an interest in keeping the man on the job, and he is willing to pay something to keep a man on the job that he will not pay in hourly pay. That is why we have strikes involving pension plans, because the employer also has an interest. He wants a certain number of years of service, and he is paying more for that. That is why he does not put it in the paycheck.

Second, there is a problem about employees whose work phases out, or, because of some act of God, act of nature, or act of the U.S. Government, they are out of a job before they can vest.

That, for example, is why we have severance pay. That is a very different concept than vested pensions. The latter is a provision for retirement income. But we have lots of different kinds of payments. We have bonuses for production, if your produce over a certain minimum. We have profit-sharing. And we also have pension plans, severance pay, and other forms of fringe benefits.

Our bill takes account of that situation, and it also takes account of the problems of high mobility workers—such as engineers—because among other things, it calls upon the Secretary of Labor—I refer to page 70 of the bill section 282 to—

develop, in consultation with appropriate professional societies, business organizations, and heads of interested Federal departments and procurement agencies, recommendations for modifications of Federal procurement regulations—

This, of course, was intended to authorize the development of more adequate standards of protection against high forfeitures by aerospace scientists and engineers, as well as others similarly situated. Thus initiative—which I outlined—was designed to meet a unique problem. But it should be realized that pensions are not severance benefits, and we cannot let the problems of high mobility workers dictate maximum standards on vesting for everyone, when what we are doing is setting the minimum floor respecting vesting.

If an employer wants to do better by his employees, there is nothing to stop him under this bill. But to take the whole bill and change it over to the system which the Senator from Washington wants to change it over to will result in doing the following:

First, we will discourage, not encourage, the establishment of pension plans, and the whole theory upon which I, Senator WILLIAMS and others based our efforts was that we wanted more than 30 million workers covered. We want to encourage pension plans, and to encourage them you have to give the employer some little break, too. That means some continuity of employment.

Second, there is a law known as de minimis. How much is a man going to vest if he has 1 year's service? How much will be get out of his pension? By the time you get through keeping all those records and certifying them to the Secretary of Labor and the Social Security Administration, and paying them out as $1.89 checks, you will wish you had never heard of pension plans, and every employer knows that, just as I have stated.

So, for the practical reasons I have stated and those which have been argued by the Senator from Texas, we had to arrive at some kind of standard of vesting which made sense in the light of all those considerations.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. JAVITS. I yield myself another 5 minutes on the bill.

Now, Mr. President, as Senator BENTSEN has said, this is by no means the ultimate end product. The Senator from Indiana (Mr. HARTKE) has properly referred to the teachers' plan. It is a marvelous, successful pension plan, and there is no question about it. Apart from the fact that it deals with governmental entities, it includes private colleges, universities, and other organizations as employers, and that plan has gone on now since World War I. It is 50 years old.

I hazard a guess that we can improve the standards substantially when we have had 50 years of experience under this first reform in this whole field. After all, all the geniuses we heard on this subject did not think of coming in with what we are coming in with now, for all those years, until one of us came along and dreamed it up. Now we are doing something about it, and you have to give us a chance, too, to see how this thing works.

There is one other thing, and that is the continuity of employment. I think 5 years, for openers, is a very reasonable period within which to begin to vest. As a matter of fact, after all our investigation for the Committee on Labor and Public Welfare, we came to the conclusion that 8 years was a good starting period, though we started at a higher figure than 25 percent. But we accept the 5-year standard also.

I might say that, much as I deprecate the figures which represent pension realization now, they are not as low as those cited by Senator HARTKE. We spent a million dollars of the money the Senate gave us to investigate that, and the correct figure is approximately 16 percent qualified for benefits in the plans studied. That is no bargain, but it is 4 times 4 percent.

As to continuity of service, if Senators will refer to page 19, line 6, they will see that of the 5 years of service, the bill only calls for 3 that are consecutive. In addition, we have another provision that provides that if any employee returns to the same employer or employers contributing to the pension plan—he does not lose credit for his aggregate years of service.

When you tie together all the things that we have gone through and argued, both Senator BENTSEN and myself, with the insurance factor which is being put into the bill and with the fact that we are requiring vesting in State and local government plans and plans of tax-exempt organizations, we respectfully submit to our colleagues that we have gone about as far as we can go in all honesty and decency as to the terms. As I say, this is the first time any effort has been made in this field and we believe, to push the matter further, would break the camel's back in the sense of the effort to inaugurate a massive reform at this particular time.

Mr. PASTORE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Well, the Senator from New York has made a practical dissertation of his point of view and I applaud him for it. I do not seek to refute it in any way but merely would say that he speaks about severance pay and that is allowable even to those who have worked after 5 years. We talk about unemployment compensation and even those who work more than 5 years are entitled to unemployment compensation if they lose their job. But they have a vested interest in a retirement pension plan.

All we are saying is that there may be instances, and there are instances, of inequities so far as the people who, through no fault of their own, lose their jobs after 59 months and 10 days. In that case they are placed in a different position from someone who has held a job for 5 years and 1 day.

I would hope and I repeat, that the inequities will be studied thoroughly. What we are talking about is more cost than we are talking about equity. I would hope that we would put equity before cost.

Mr. JACKSON. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. JACKSON. First, as I attempted to indicate earlier in my statement, I made it clear, in the example I gave, of the 66,000 employees being laid off at Boeing, that that was not a cutback of defense work. As the Senator is aware, at its peak, Boeing had 106,000 employees with over 90,000 engaged in commercial work. The layoff of 66,000 employees were those engaged in commercial employment. They got stuck with the business cycle. Starting in 1969, the airlines got into economic trouble and canceled orders. That is what the layoff was all about. It had nothing to do with any cutback in defense work.

The Boeing company in the State of Washington had a smaller percentage of defense work than any major aerospace company. So I want the record to show that.

The other point I want to make is that I want to commend Senators WILLIAMS and LONG for getting the best bill which in their judgment could be obtained, and I say that to the ranking minority member on the Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS); but I must say that there is absolutely no logic to the argument that somehow or other we must start vesting only after 5 years. I see no logic in the contention that we must arbitrarily require 5 years of service.

I know that there are cost factors involved but one of the great problems we face in the labor force, and this is especially true in the skilled trades and professions not just in engineers alone, but for all highly skilled workers, these workers are becoming more and more mobile. They move from place to place. I must say that this is a matter that disturbs me greatly. The Senator has the same problem in New York, of engineers being laid off. After a short period of service, they go to another place. That is true of other skilled employees all over the United States.

The Federal Government, in its retirement program, permits a Federal employee who had less than 5 years service to keep the accrued pension benefits. It is true that in order to get an annuity, he must have served 5 years, but he does not forfeit the 1 year, 2 years, 3 years, or 4 years he has paid. All of us know that we frequently have people coming to Washington wanting jobs because they have had 4 years in Government service. They want to work 2 or 3 years to qualify for and obtain annuities.

So they have a tremendous advantage over an employee in the private sector who cannot preserve his short-term pension credits. My amendment is, I think, not unreasonable or arbitrary; I think it is completely logical. There ought to be vesting for those who are in the highly mobile category.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute, then I shall have concluded.

I think the various points of view on vesting have been accurately stated. However, whatever the situation of a single employer, we are talking about an enormous diversity of employers. We are talking about making vesting apply nationwide without going the route of social security. We are going the route of private enterprise, which we think will work out infinitely better. So both the employer and the employee will have a system for the future. So we lay that argument before the Senate as the reason why feel our route is better.

I urge the Senate to reject the amendment.

Mr. BENTSEN. Mr. President, I used to sell pension plans. Whom do you sell them to? To all kinds of companies. One of the reasons why employers establish pension plans is to encourage employees to remain with the company. But it is necessary to balance this off with a reasonable vesting formula, so that the employee does not become a slave or a chattel. That is the balance we have tried to achieve.

I do not think the Senator has offered an outrageous amendment. I think it is reasonable. We have already achieved that balance, and it will not act as a deterrent to the creation of new plans.

Again I say that the committee formula is a good one. I think we have an excellent bill. I hope that it will be passed.

Mr. JACKSON. Mr. President, I yield myself such time as I may require.

I appreciate the very fine statement of the able Senator from Texas. But we have a great many kinds of pension plans. Let us face it. Many of them have not been so good. One of the great tragedies I have to face is people coming to me who had 30 years of service, but they needed 32. They lost everything.

The committee, as I understand it, believes that this bill will bridge the bulk of that gap. But there is no logical reason why people who are mobile, by reason of their profession or their essentially high skilled trades, should be treated differently when they have served 4 years and then move to a different situation. There are people who are in the construction business who move from one location and work for a different contractor under a different pension plan. We want a highly mobile labor force. This is part of the genius of the American free enterprise system.

The bill sets the first 5 years as an exclusion. I have applied the first 5 years, under my modified amendment, only to those who are involuntarily separated—laid off. So we have made an adjustment as to the first 5 years.

I now yield to the Senator from Indiana.

Mr. HARTKE. Mr. President, what the Senator does, after he adds 5 years, does not modify the provisions of the bill before the Senate—which I think is extremely weak.

But the economic slavery argument, which the Senator from New York (Mr. JAVITS) and the Senator from Texas (Mr. BENTSEN) were involved in, is not involved in the Senator's amendment. The Senator is not talking about what is involved here. They are not talking about a man who is moving of his own volition; they are talking about a man who is involuntarily separated, who must be laid off. He is entitled at least to reap the benefits of what was negotiated for him and what was taken out of his paycheck. I do not think the Senator from New York would disagree that this is a diminution of his wages which goes into the pension fund.

All the Senator from Washington is saying is that the employee ought to be protected because he, himself, had no cause of action which separated him from his employment. He did not cause it. He is the victim of the economic system, and therefore he is entitled at least to have the protection under the pension plan of having his own money protected.

I do not think it is a very strong amendment. I am for it. I would like to go much further. This amendment is so weak that I cannot understand why the chairman will not accept it.

Mr. JACKSON. It is a modest amendment, and I hope the committee will accept it and take it to conferene.

If we are really going to do something for the mobile worker, we must at least take care of those who have been laid off or otherwise put on the unemployment list. We are making a special exception for the first 5 years, and I hope the Members of the Senate will realize that, as a matter of equity for those who are laid off in this category.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. NELSON. Mr. President, I agree wholeheartedly with the principle and the argument made by the distinguished Senator from Washington and endorsed by the distinguished Senator from Indiana and the distinguished Senator from Rhode Island.

As a matter of fact, the amendment, ideally, does not go far enough. Ideally, we ought to have vesting for every day anybody works, just as we have under the social security system. If somebody works 1 day, 5 days, whatever it is, he ought to be covered and vested, and it ought to be portable.

Our problem is that we are dealing with a voluntary plan. When we get to the time that we decide that we will dramatically—if we do—expand social security or go to a compulsory retirement plan, the principle that the distinguished Senator from Washington is talking about should be in the legislation; and I would go further and say, as I just did, that there ought to be vesting and coverage for every day worked.

However, having conceded that, that is not what we are dealing with. We are dealing with a pension plan in which the Labor Committee and the Finance Committee, after extensive hearings, extensive consideration, and extensive executive sessions, designed a bill which would set certain minimum standards—not an ideal bill.

Many pension plans in this country have much better provisions in every aspect than are required as minimum standards in this bill. We designed them as minimum standards, recognizing that if we designed a bill in which the cost was too much, the employers would not come under it, because they are not compelled to come under it.

At present, about 58 percent of the employees in this country, not counting those in agriculture, are not covered by pension plans. There are hardly any required standards at all, and still they are not covered. We have established them, and if we make the cost too high, those 30 million people are never going to be covered under a private pension plan.

What did we do about vesting? I think we should take a look at where we were and how far we have come. Under the law in existence today, there generally is no requirement for vesting until the day the employee retires from his work. So, under the present law, he could work for 40 years and then be fired or laid off, or leave his employment. He is 64 years old. Not even one day of vesting generally is required under the law.

So we have gone from a situation in which, under current private pension plans, 28 percent—just 28 percent—of all the employees in this country covered by a private pension plan have vested rights. What happens when this vesting provision goes into effect? The day it goes into effect, 83 percent of all the employees in private pension plans in this country will have vested rights. So we have gone from a position of 28 percent now covered with vested rights to 83 percent the day these provisions go into effect. We have gone from a situation in which the law generally does not require any vesting whatever to a position in which it requires vesting at the end of 5 years, given participation at age 30 with at least 1 year of employment.

My objection is not to the philosophy of it. My objection is to the fact that we are going to put costs in here that will make pension plans impossible or impractical, and employers will decide not to establish them. I think we ought to recognize that, on the cost factor alone, the additional vesting costs under this bill will vary from zero for an employer whose plan has vesting provisions as good as those in this bill up to a total of 58 percent of the total cost of a plan which now does not provide vesting before retirement. That is, there are plans whose costs will be increased by 58 percent when this vesting goes into effect.

So, although I agree 100 percent with the philosophy, the objective, and everything else, I think we have gone as far with the vesting as we can go under a voluntary bill. I am one of those who would like to see us move toward a bill that has everybody covered and everybody vested and accruing rights for every day of work. That would be ideal.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. PASTORE. Merely as a clarification, the Senator says that his proposal gives a vested right in all existing pension plans now. In other words, a person who has not reached the maximum years in age or time, who might ordinarily lose his right under present plans, has a vested right that is enforceable under the Senator's proposal.

Mr. NELSON. Yes.

Mr. PASTORE. Could an employer, under a voluntary plan, then drop the plan entirely?

Mr. NELSON. Yes. If an employer looks at the plan at any time under this measure if enacted and says, "I want to terminate the plan," he can do so.

Mr. PASTORE. He can still do it?

Mr. NELSON. He can still do it.

Mr. PASTORE. Does not the Senator think some provision should be in the bill that would not allow him to do this? He is getting some benefits under the Internal Revenue law.

Mr. NELSON. He has to pay off all the vested and accrued benefits, but he does not have to continue the coverage.

Mr. PASTORE. But there are many within that frame who have not achieved that vested right. How do we enforce their right under a contract that does not give them a right?

Mr. NELSON. Until we go to a compulsory plan, it cannot be done.

Mr. PASTORE. My point is that, rather than incur an additional cost of 58 percent, that employer could drop the plan entirely, and everybody would be out in the cold.

Mr. NELSON. Except that employees with vested rights would have to be paid the benefits owed them.

Mr. PASTORE. Does not the Senator think there ought to be a penalty under the Internal Revenue law for doing that? The employer gets concessions under the internal revenue law.

I realize that it is not mandatory, but the fact remains that they voluntarily engaged themselves in a contract that gave the people a semblance of some kind of rights under a pension plan. Now, because Congress passes a law that compels them to grant a vested right over and above the terms of that contract, they can drop the whole contract and leave everybody out in the cold. How can they do that with immunity?

Mr. NELSON. That is what the law is.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. JACKSON. Would the Senator indicate whether or not the committee's bill is retroactive and, if so, to what date, and what kind of coverage is provided?

Mr. NELSON. It is retroactive in the sense that it covers any past service for any existing plan.

Mr. JACKSON. So that someone who was denied a pension right, say, last year or the year before——

Mr. NELSON. No.

Mr. JACKSON. There are many of these cases—I know the Senator is familiar with them—in which an employee worked 30 years and needed to work 31 years, and he lost his pension on the last day. Will those situations be covered retroactively?

Mr. NELSON. Is the Senator talking about the tragic cases where the plan is not in effect?

Mr. JACKSON. No, the plan is in effect. The fellow is laid off the day before he is eligible.

Mr. NELSON. It would not cover some employees and they would have no vested rights unless they had the required minimum of 5 years.

Mr. JACKSON. It is not retroactive.

Mr. NELSON. It is for anyone covered by a plan.

Mr. JACKSON. But for the worker who is no longer employed. He is out of luck.

Mr. NELSON. It would not cover him for any rights he did not have at the time of his employment.

Mr. JACKSON. Then, the retroactive part does not mean much.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. PASTORE. The number of people in a pension plan controls the most of the plan. I have seen cases, and this is not a figment of my imagination, where a big conglomerate comes in and buys up an industry.

Mr. JACKSON. That is right.

Mr. PASTORE. Then they begin to look at the roster of people working there. They say, "This fellow has 5 years to run and this fellow has 2 years to run. Look at the money we can save on the pension plan if we drop them and bring in new employees."

They have done that time and time again. I would say that when a conglomerate comes in and buys up an industry and drops the old help because they are under the gun, there should be a penalty imposed on them under the Internal Revenue Code.

Mr. NELSON. The concern of the Senator from Rhode Island is covered in the bill.

Mr. PASTORE. In what way?

Mr. NELSON. We have plan termination insurance so that if a company went bankrupt and the fund, because of poor investments, did not pay off, or if for any reason that plant was closed down, the termination insurance would pay for the rights of those people.

Mr. PASTORE. The Senator said "bankrupt." What if a big conglomerate comes in and buys a small factory, for instance, in Rhode Island, with 50 people, and under the plan they have to reach the age of 65 and to work for 25 years but some employees are only 64 years of age and have worked for only 24 years?

Mr. NELSON. That is covered.

Several Senators addressed the Chair.

Mr. PASTORE. I would like to get the answer.

Mr. BENTSEN. We have tried to insure that those kinds of inequities are not repeated in the future. We had provided earlier vesting, but we have not taken it to the ultimate or as far as the Senator from Washington would require.

Mr. PASTORE. How about pension plans now in existence?

Mr. BENTSEN. There will be a short period of time before the bill is fully implemented.

Mr. JACKSON. Mr. President, will the Senator yield?

Several Senators addressed the Chair.

Mr. PASTORE. Mr. President, the question I propound is this.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. In an instance where there is an existing voluntary pension plan and a new company comes in and buys that company, and that new company discharges an individual who has worked 1 year short of the time limit and has reached an age 1 year short of the age required under the pension plan, in that particular instance, can this new company that comes in and buys the old company discharge that employee without paying anything under the pension plan?

Mr. BENTSEN. As a practical matter this becomes irrelevant once the bill becomes fully effective. It takes about 2 years for the vesting and funding provisions to be fully implemented and in effect.

Mr. PASTORE. Therefore, the answer to my question is yes, within 2 years, but not after 2 years.

Mr. BENTSEN. No.

Mr. PASTORE. What are we saying?

Mr. CURTIS. Mr. President, will the Senator yield to me?

Mr. PASTORE. This is getting more confused by the second.

Mr. BENTSEN. Mr. President——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. NELSON. Mr. President, I yielded to the Senator from Rhode Island to propound a question, not an answer.

Mr. PASTORE. I usually pose the question and if you do not have the answer, I give it to you.

Mr. BENTSEN. My understanding of our legislation is that generally on January 1, 1976, the vesting and funding provisions would become effective. These provisions would apply regardless of who came in to buy the company.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I yield.

The PRESIDING OFFICER. All time in opposition to the amendment has expired.

Mr. JACKSON. Mr. President, I yield on my own time.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, the Senator from Rhode Island has propounded a very important question. It is a series of questions but take the example of the man who is laid off after 30 years' service. He is out. He does not have a job any more. That company, as the Senator indicated, previously deducted the cost of the pension contributions from his taxable income as a cost of doing business. The worker gets within 6 months of retirement and is laid off.

I wish to ask the Senator from Wisconsin this question: Does this proposed legislation help that man who is no longer an employee but who worked all but a few months of achieving his 30-year requirement?

Mr. NELSON. Is the Senator talking about someone who worked for 30 years and is laid off before this bill becomes law?

Mr. JACKSON. That is correct. There are tens of thousands of them, and the employer was able to deduct the cost of covering them in the program as part of his pension plan; that is, he is able to deduct that amount from his overall taxable income.

Mr. NELSON. I think I am correct in saying no, he is not covered. The provisions of the bill do not go back and give rights to people prior to the applicable provisions of the law.

Mr. JACKSON. In other words, anyone who is laid off and is no longer employed prior to the time this bill becomes effective; anyone prior to that is stuck. Am I right or wrong?

Mr. NELSON. This bill does not retroactively convey rights to people who have been laid off from plants that closed prior to the effective date of the law.

Mr. JACKSON. That is all I asked and that is all the Senator from Rhode Island asked. Employers could get around this bill by taking those individuals off the job before they vest. They could be laid off and they would not be eligible for their pension.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. PASTORE. I think I can ask this question. I am not concerned about the situation existing today without the passage of this bill. I am going to vote for this bill. I want to know what happens once we pass this bill. The Senator indicated that in order to comply, existing pensions now might have to increase up to 58 percent.

Mr. NELSON. In some plans the vesting would add moderately to the cost, in others it would add 50 percent to the cost.

Mr. PASTORE. Fifty percent of the cost. Therefore, in that case the employer has a perfect right to drop the whole pension plan.

Mr. CURTIS. No; the plan cannot avoid the obligation to pay those accrued benefits that have already vested.

Mr. NELSON. Yes.

Mr. PASTORE. Somebody said yes and somebody else said no and you are all on the same committee.

Mr. CURTIS. But he cannot escape——

Mr. NELSON. He can terminate the plan. Whatever vested and accrued rights an employee has under the plan, he has an obligation to pay but he has no obligation to continue a pension plan and continue to pay into the fund or bring people in. He is obligated under the law for whatever is vested and accrued on the date the plan is terminated. Nothing here forces him to continue a plan.

Mr. PASTORE. And under that plan a person must have worked for 20 years and to the age of 65.

Mr. NELSON. Under the terms of that plan.

Mr. PASTORE. Under the terms of that plan. Now, this law is passed and we find after this law is passed that an individual has worked for 19 years and to the age of 64 and he is fired.

Mr. JACKSON. Prior to the enactment of the law.

Mr. PASTORE. After this act is passed. What happens in that case?

Mr. NELSON. Under this bill he is covered, and he will be paid his accrued, vested rights, fired or not.

Mr. PASTORE. In other words, this bill gives vested rights to existing pension contracts?

Mr. NELSON. That is correct.

Mr. PASTORE. That existed before the bill was passed?

Mr. NELSON. Yes.

Mr. PASTORE. The Senator from Texas is disagreeing.

Mr. BENTSEN. No. Remember the effective date of the legislation is important. These provisions will not become totally effective for about 2 years.

Mr. JAVITS. Mr. President, will the Senator use his microphone? We cannot hear him.

Mr. PASTORE. Mr. President, I think we ought to have a recess and try to get a consensus before we start getting any more answers.

Mr. NELSON. I answered the question.

Mr. PASTORE. Is it the Senator's answer that after two years—after this bill passes—a person has a vested right though he worked only 19 years and was 64 years of age; but before the two years, he can be fired and get nothing, and in that case there is no penalty against the company which took advantage of the revenue law?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. JACKSON. Mr. President, I ask unanimous consent that we may proceed for 2 minutes notwithstanding any previous order.

The PRESIDING OFFICER. There is time on the bill, if someone cares to yield it.

Mr. JACKSON. Mr. President, will the Senator from New Jersey yield me 2 minutes on the bill?

The PRESIDING OFFICER. The Senator from Washington will please suspend until we receive a message from the House of Representatives.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

## ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 8070) to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. JACKSON. Mr. President, will the Senator from Wisconsin yield me 2 minutes on the bill?

Mr. NELSON. Mr. President, how much time do we have left?

Mr. JACKSON. All time on the amendment has expired.

Mr. NELSON. Yes, I yield the Senator 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Washington is yielded 2 minutes on the bill.

Mr. JACKSON. Mr. President, first of all, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I just want to make one additional observation. There has been much publicity on this pension bill. I have commended the members of the committee for plowing new ground. I think they deserve a lot of credit, because we did not have a decent pension program before. But I want to point out that we are going to get letters from people who will say that they are no longer employed, that they worked 30 years and they lost their pension rights just a few moments before their eligibility date. They will point out that their employer was able to deduct all those premiums as a matter of doing business, and they will wonder why they get nothing.

I just mention this because I think it is going to be a real problem that is going to haunt all of us because of the wide publicity about this measure. The theme of it is that we are reconstituting pension rights that have been lost, and I think we will find it difficult to answer people who tell us they have worked 30 years and they got nothing, while someone who has worked 6 years will get a vested right, and I will refer the letters to the committee.

Mr. NELSON. I want to remind the distinguished Senator from Washington that his amendment does absolutely nothing about this at all for those people who lost their jobs, whose pension plans collapsed, where the corporations went bankrupt, who for 4 or 5 years——

Mr. JACKSON. Not in this amendment. I do not pretend to do that. I am dealing with this problem, however, with the same vesting of rights we gave to Federal employees, and would give them to the private sector starting with the first year. That is what I am doing. That is a separate issue.

Mr. NELSON. Mr. President, I yield to the Senator from Indiana.

## AMENDMENT OF RAIL PASSENGER SERVICE ACT OF 1970

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2016.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2016) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes which was to strike out all after the enacting clause, and insert:

That section 102 of the Rail Passenger Service Act of 1970 (45 U.S.C. 502), relating to definitions, is amended—

(1) by striking out paragraph (5), relating to the definition of intercity rail passenger service, and inserting in lieu thereof the following:

"(5) 'Intercity rail passenger service' means all rail passenger service other than commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations."; and

(2) by adding at the end thereof the following new paragraph:

"(9) 'Auto-ferry service' means service characterized by transportation of automobiles and their occupants.".

SEC. 2. (a) Section 303(a) of the Rail Passenger Service Act of 1970 (45 U.S.C. 453(a)), relating to the board of directors, is amended to read as follows:

"(a)(1) The Corporation shall have a board of directors consisting of seventeen individuals who are citizens of the United States selected as follows:

"(A) The Secretary of Transportation, ex officio.

"(B) Nine members appointed by the President, by and with the advice and consent of the Senate, to serve for terms of four years or until their successors have been appointed and qualified, of whom not more than five shall be appointed from the same political party.

"(C) Three members elected annually by the common stockholders of the Corporation.

"(D) Four members elected annually by the preferred stockholders of the Corporation, which members shall be selected as soon as practicable after the first issuance of preferred stock by the Corporation.

"(2) Any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection; except that any member appointed by the President under paragraph (1)(B) of this subsection to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed.

"(3) The board shall elect one of its members annually to serve as Chairman.

"(4) Not less than three members appointed by the President shall be designated by him, at the time of their appointment, to serve as consumer representatives, of whom service, and inserting in lieu thereof the not more than two shall be members of the same political party.

"(5) Each member not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the board he attends. In addition, each member shall be reimbursed for necessary travel and subsistence expenses incurred in attending meetings of the board.

"(6) No member elected by railroads shall vote on any action of the board relating to any contract or operating relationship between the Corporation and a railroad, but he may be present at meetings of the board at which such matters are voted upon, and he may be included for purposes of determining a quorum and may participate in discussions at any such meeting.

"(7) No member appointed by the President may—

"(A) have any direct or indirect financial or employment relationship with any railroad, nor

"(B) have any significant direct or indirect financial relationship, or any direct or indirect employment relationship, with any person engaged in the transportation of passengers in competition with the Corporation, during the time that he serves on the board.

"(8) Pending the election of the four members by the preferred stockholders of the Corporation under paragraph (1)(D) of this subsection, seven members shall constitute a quorum for the purpose of conducting the business of the board.

"(9) Any vacancy in the membership of the board of directors required to be filled by appointment by the President under paragraph (1)(B) of this subsection shall be filled by the President not more than one hundred and twenty days after such vacancy occurs.".

(b)(1) Notwithstanding any other provision of law, the term of each member of the board of directors appointed by the President under section 303(a) of the Rail Passenger Service Act of 1970 (as in effect on the day before the date of enactment of this Act) who is serving under such appointment on such date of enactment, shall expire on the thirtieth day after such date of enactment, except that each such member so serving shall continue to serve until his successor is appointed and qualified or until the expiration of the one-hundred-twenty-day period beginning on the thirtieth day after such date of enactment, whichever first occurs. No member of the board of directors referred to in the preceding sentence shall be ineligible for appointment as such a member after the date of enactment of this Act solely by reason of the enactment of such preceding sentence.

(2) Notwithstanding section 303(a)(1)(B) of the Rail Passenger Service Act of 1970, of the members of the board of directors first appointed by the President under such section 303(a)(1)(B), three shall be appointed to serve for terms of two years and three shall be appointed to serve for terms of three years.

SEC. 3. Section 305(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. 545(b)), relating to general powers of the Corporation, is amended by striking out the second sentence and inserting in lieu thereof the following: "In order to increase revenues and to better accomplish the purposes of this Act, the Corporation is authorized to modify its services to provide, as a part of the basic passenger services authorized by this Act, auto-ferry service characterized by the carriage of automobiles or other property belonging to passengers, except that nothing contained in this Act shall prevent any other person (other than a railroad) from engaging in such auto-ferry service over any route if—

"(1) such person establishes to the satisfaction of the Commission that such auto-ferry service—

"(A) will not impair the ability of the Corporation to reduce its losses or to increase its revenues, and

"(B) is required to meet the demands of the public; or

"(2) such auto-ferry service is being performed by such person on the date of enactment of this paragraph under contracts entered into before October 30, 1970.

Nothing in this section shall be construed to restrict the right of a railroad that has not entered into a contract with the Corporation under section 401(a) of this Act from performing auto-ferry service over its own lines. The Corporation is authorized to acquire, lease, modify, or develop the equipment and facilities required for the efficient provision of mail, express, and auto-ferry service, or to enter into contracts for the provision of such service.".

SEC. 4. Section 305 of the Rail Passenger Service Act of 1970 (45 U.S.C. 545), relating to general powers of the Corporation, is amended by adding at the end thereof the following new subsection:

"(c)(1) When the Corporation cannot acquire by contract, or is unable to agree with the owner of property as to the compensation to be paid for, any right-of-way, land, or other property (except right-of-way, land, or other property of a railroad or property of a State or local government or other public agency) required for the construction of tracks or other facilities necessary to provide intercity rail passenger service, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which the property is located, or in one such court in the event a single property is located in two districts.

"(2) The Corporation shall file with the complaint, or at any time before judgment, a declaration of taking, containing or having annexed thereto—

"(A) a statement of the public use for which the property is taken;

"(B) a description of the property taken sufficient for the identification thereof;

"(C) a statement of the estate or interest in the property taken;

"(D) a plan showing the property taken; and

"(E) a statement of the amount of money estimated by the Corporation to be just compensation for the property taken.

"(3) Upon the filing of the declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in the declaration, the property shall be deemed to be condemned and taken for the use of the Corporation and title shall vest in the Corporation in fee simple absolute, or in any lesser estate or interest as specified in the declaration, and the right to just compensation for the property shall vest in the persons entitled thereto. Just compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include, as part of the just compensation awarded, interest from the date of taking to the date of payment at the rate of 6 per centum per annum on the amount finally awarded as the value of the property on the date of taking. Interest shall not be allowed, however, on the amount deposited in the court.

"(4) Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in the proceeding. If the compensation finally awarded exceeds the amount of the money received by any person entitled to compensation, the court shall enter judgment against the Corporation for the amount of the deficiency.

"(5) Upon the filing of a declaration of taking, the court may fix the time within which, and the terms upon which, the parties in possession are required to surrender possession to the Corporation. The court may make such orders in respect to encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable.".

SEC. 5. Section 401(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 561(c)), relating to the prohibition against other persons conducting intercity rail passenger service, is amended by striking out "No railroad or any other person" and inserting in lieu thereof "Except as provided in section 305(b) of this Act concerning auto-ferry service, no railroad or any other person".

SEC. 6. Section 402 of the Rail Passenger Service Act of 1970 (45 U.S.C. 562), relating to facility and service agreements, is amended—

(1) by inserting immediately after the second sentence of subsection (a) the following new sentence: "In fixing just and reasonable compensation for the provision of service ordered by the Commission under the preceding sentence, the Commission shall, in fixing compensation in excess of incremental costs, consider quality of service as a major factor in determining the amount (if any) of such compensation."; and

(2) by adding at the end thereof the following new subsections:

"(d)(1) If the Corporation and a railroad are unable to agree upon terms for the sale to the Corporation of property (including interests in property) owned by the railroad and required for the construction of tracks or other facilities necessary to provide intercity rail passenger service, the Corporation may apply to the Commission for an order establishing the need of the Corporation for the property at issue and requiring the conveyance thereof from the railroad to the Corporation on reasonable terms and conditions, including just compensation. Unless the Commission finds that—

"(A) conveyance of the property to the Corporation would significantly impair the ability of the railroad to carry out its obligations as a common carrier; and

"(B) the obligations of the Corporation to provide modern, efficient, and economical rail passenger service can adequately be met by the acquisition of alternative property (including interests in property) which is available for sale on reasonable terms to the Corporation, or available to the Corporation by the exercise of its authority under section 305(c) of this Act;

the need of the Corporation for the property shall be deemed to be established and the conveyance of the property to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation.

"(2) The Commission shall expedite proceedings under this subsection and, in any event, issue its order within one hundred and twenty days from receipt of the application from the Corporation. If just compensation has not been determined on the date of the order, the order shall require, as part of just compensation, interest at the rate of 6 per centum per annum from the date prescribed for conveyance until just compensation is paid.

"(e)(1) Except in an emergency, intercity passenger trains operated by or on behalf of the Corporation shall be accorded preference over freight trains in the use of any given line of track, junction, or crossing, unless the Secretary has issued an order to the contrary in accordance with paragraph (2) of this subsection.

"(2) Any railroad whose rights with regard to freight train operation are affected by paragraph (1) of this subsection may file an application with the Secretary requesting appropriate relief. If, after hearing under section 553 of title 5 of the United States Code, the Secretary finds that adherence to such paragraph (1) will materially lessen the quality of freight service provided to shippers, the Secretary shall issue an order fixing rights of trains, on such terms and conditions as are just and reasonable.

"(f) If, upon request of the Corporation, a railroad refuses to permit accelerated speeds by trains operated by or on behalf of the Corporation, the Corporation may apply to the Secretary for an order requiring the railroad to permit such accelerated speeds. The Secretary shall make findings as to whether such accelerated speeds are unsafe or otherwise impracticable, and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required to make such accelerated speeds safe and practicable. After hearing, the Secretary shall issue an order fixing maximum permissible speeds of Corporation trains, on such terms and conditions as he shall find to be just and reasonable."

Sec. 7. (a) Section 403 of the Rail Passenger Service Act of 1970 (45 U.S.C. 563), relating to new service, is amended by adding at the end thereof the following new subsection:

"(d) The Corporation shall initiate not less than one experimental route each year, such route to be designated by the Secretary, and shall operate such route for not less than two years. After such two-year period, the Secretary shall terminate such route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system.".

(b) Section 404(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. 564(b)), relating to discontinuance of service, is amended—

(1) by striking out "July 1, 1973" in paragraph (1) and inserting in lieu thereof "July 1, 1974";

(2) by amending paragraph (2) to read as follows:

"(2) Except as otherwise provided in this paragraph and in section 403(a) of this Act, service beyond that prescribed for the basic system undertaken by the Corporation upon its own initiative may be discontinued at any time. No such service undertaken by the Corporation on or after January 1, 1973, shall be discontinued until the expiration of the one-year period beginning on the date of enactment of this sentence."; and

(3) by striking out "July 1, 1973" in paragraph (3) and inserting in lieu thereof "July 1, 1974".

Sec. 8. Section 601 of the Rail Passenger Service Act of 1970 (45 U.S.C. 601), relating to Federal grants, is amended—

(1) by striking out "There is authorized to be appropriated to the Secretary in fiscal year 1971, $40,000,000, and in subsequent fiscal years a total of $225,000,000, these amounts" in subsection (a) and inserting in lieu thereof "There are authorized to be appropriated to the Secretary $106,100,000 for the fiscal year ending June 30, 1974,";

(2) by striking out "There is authorized to be appropriated to the Secretary $2,000,000 annually," in subsection (b) and inserting in lieu thereof "There are authorized to be appropriated to the Secretary $1,200,000 for the fiscal year ending June 30, 1974, to remain available until expended,"; and

(3) by adding at the end thereof the following new subsection:

"(c)(1) Whenever the Corporation submits any budget estimate or request to the President, the Department of Transportation, or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Corporation submits any legislative recommendation, proposed testimony, or comments on legislation to the President, the Department of Transportation or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Corporation to submit its legislative recommendations, proposed testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.".

Sec. 9. Section 602 of the Rail Passenger Service Act of 1970 (45 U.S.C. 602), relating to guarantee of loans, is amended—

(1) by inserting "and with the approval of the Secretary of the Treasury," immediately after "prescribe," in subsection (a);

(2) by amending the first sentence of subsection (d) to read as follows: "The aggregate unpaid principal amount of securities, obligations, or loan outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $250,000,000."; and

(3) by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this Act, a guarantee may not be made of any security, obligation, or loan, the income from which is not included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.".

Sec. 10. Section 801 of the Rail Passenger Service Act of 1970 (45 U.S.C. 641) is amended to read as follows:

"Sec. 801. Adequacy of Service.

"(a) The Commission is authorized to prescribe such regulations as it considers necessary to assure that the quality of service and accommodations offered passengers on board trains and at other facilities used in intercity rail passenger service is adequate, taking into account the safety regulations applicable to the Corporation that relate to the scheduling or frequency of service, or the number or type of cars in a train, or that otherwise conflict with the service characteristics established by the Secretary for the basic system.

"(b) Any person who violates a regulation issued under this section shall be subject to a civil penalty of not to exceed $500 for each violation. Each day a violation continues shall constitute a separate offense."

Mr. HARTKE. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives to S. 2016 and request a conference with the House thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Office appointed Mr. Magnuson, Mr. Hartke, Mr. Stevenson, Mr. Cook, and Mr. Beall conferees on the part of the Senate.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. JAVITS. Mr. President, I yield myself 1 minute on the bill.

I believe the various points of view have been exposed, and, of course, we cannot relieve all the horror stories that caused us to bring this legislation before the Senate. That is why we spent $1 million for an investigation. Those already affected know we cannot do anything about them; they want us to help others similarly situated. But there is a provision in the bill that deals with the point the Senator from Rhode Island raised. It is section 669(A), on page 226 of the bill, which provides that, once the bill is passed, an employer cannot fire anybody with impunity to avoid pension responsibility. The Secretary of Labor will enforce that to protect the workers, I think that is introducing a totally new factor, and it is our effort to preserve the rights of whoever have the ability to have them preserved until this bill catches hold. That is why I think our plan is valid and the amendment ought to be rejected.

Mr. NELSON. Mr. President, I yield time on the bill to the Senator from Texas.

Mr. BENTSEN. Mr. President, the Senator from Rhode Island made an excellent point, wanting to know why the 2-year hiatus was in the bill before we effectuated this bill. The reason is purely a matter of mechanics. The Treasury testified it is going to take a great deal of time, on this major piece of legislation, to draw up all the regulations. We are talking about modifying a great many trust plans and pension provisions in this country. Two years is a short period to accomplish that and bring it to fruition. That is why we settled on 2 years. I would like it to be enforced tomorrow, to get rid of all the horror stories we heard before our committee, but we cannot act that fast.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. LONG. Is it not true that if we make this law too burdensome on business, they can terminate their plans and get rid of them?

Mr. BENTSEN. Certainly. If we make this too burdensome on businessmen, they are not going to install new plans, and we are going to deny millions of prospective pension plan participants the right to be in those pension plans and have retirement plans working for them.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. JACKSON. We have spoken a lot about voluntarily established pension programs. I recognize that sector in the pension business, but I would call to the attention of the Senate that a very large part, in terms of volume, of pension participation stems from the collective bargaining process. We are reminded of this by the recent settlement of the United Auto Workers with Chrysler. So let us not conclude that this is an all-voluntary matter. Pension programs are indeed a part of the wage settlements that take place. I noticed that in the case of the Chrysler agreement I believe it now provides for a 30-year retirement plan, regardless of age. I believe I am correct. This, I must say, is quite a substantial change.

I just wanted to make the point.

Mr. BENTSEN. No one is arguing that here, but the great balance of employees in the country are not represented by labor unions, and we are trying to get these people to have an opportunity to participate in pension plans. I do not think we are going to get them in if we make this bill too burdensome.

The PRESIDING OFFICER. All time on the amendment having expired, and the yeas and nays having been ordered, the question is on agreeing to the amendment of the Senator from Washington (Mr. Jackson) as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), and the Senator from Montana (Mr. Metcalf) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) is absent on official business.

I also announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Kansas (Mr. Pearson) are absent because of illness.

I further announce that the Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The result was announced—yeas 14, nays 78, as follows:

[No. 397 Leg.]

YEAS—14

Abourezk
Bible
Burdick
Hartke
Hollings
Jackson
Kennedy
Magnuson
McGee
Mondale
Pastore
Pell
Proxmire
Ribicoff

NAYS—78

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Griffin
Gurney
Hansen
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Hughes
Humphrey
Inouye
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Percy
Randolph
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—8

Bellmon
Bennett
Goldwater
Gravel
Hart
Metcalf
Pearson
Saxbe

So Mr. Jackson's amendment, as modified, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69 of Title VII after line 15 add the following subsection:

(c) it meets the requirements for a qualified trust which is a part of a defined benefit plan which provides benefits for employees, some or all of whom are employees within the meaning of subsection (c) (1) or proprietary employees within the meaning of section 412(b) (1), as those requirements are defined in subsections 401(j) and 401(k).

Mr. HATHAWAY. Mr. President, the purpose of this amendment is to remedy a loophole which I believe exists in title VII of the bill, which allows a partnership, in addition to deducting a maximum $7,500 for a contribution to a pension plan—

Mr. NELSON. Mr. President, may we have order? I cannot hear the Senator.

The PRESIDING OFFICER. The Senator will suspend until it is restored. The Senate will be in order. Senators will please take their seats. The Senator from Maine has the floor.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. HATHAWAY. I yield.

Mr. NELSON. I did not understand what the Senator said. Is he referring to the H.R. 10 $7,500 provision?

Mr. HATHAWAY. The Senator is correct. I will start over.

The purpose of this amendment is to remedy what I believe is a defect in title VII, which allows, in a partnership, each of the partners of which can deduct $7,500 one or more partners to give his deduction of $7,500 to another partner, so that if there were, say, two partners, one partner, instead of getting his limit of $7,500, could get $15,000; he could get the other partner's deduction; or, if there were more partners than that, he could theoretically get more.

I understand the purpose of this amendment, which was recommended by the Treasury Department, was to allow a partner, say at age 55, who was just starting the plan, to go over the $7,500 allowable amount to be deducted by taking a part or all of the share of younger partners, in order for the senior partner, who had only 10 years before retiring, to invest enough to give himself a satisfactory retirement income, based upon his current salary.

I have, really, no objection to that. The problem is that the section itself is not so limited. My amendment would simply limit the amount of benefits that any one partner could get to the $75,000 limitation which is now a part of the bill as a result of the amendment of the Senator from Wisconsin, which extends the $75,000 limitation which at first applied only to proprietary corporations to all corporations, so that, in effect, this limitation would apply to all pension plans, whether a partnership, a proprietary corporation, or a nonproprietary corporation.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield to the Senator from Nebraska.

## ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, while the majority leader is present, will the Senator from Nebraska yield for a moment, to permit him to answer a question concerning the program for the rest of the day, and how long we are likely to be here?

Mr. CURTIS. I will yield time for that.

## LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting Republican leader, we are going to make every effort to finish the pending business today, even if it means staying in late tonight. Then we would like to get on the military procurement bill, which is a pretty large bill and will take some time. In the meantime we hope, if I may have the attention of the distinguished Senator from Alabama (Mr. Sparkman), to schedule tomorrow morning first thing the conference report on the International Economic Act, or whatever the name is, to be followed by the procurement measure.

I hope also it will be possible to take

up the Kissinger nomination tomorrow afternoon or sometime soon. I have been making some inquiries among Senators on this side to see what the feelings of those in opposition to the nomination are, and they have indicated that they are not interested to any extent, at least those that I have seen, in speaking. I think there will be others who will want to speak, and I think we ought to be aware of the fact that we have a very heavy schedule this week, and we will have a lot of work to do from now on if we expect to get out by October. That may include Saturday sessions.

However, getting to the business at hand, it is our intention to stay in session as long as necessary tonight to finish this measure.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

## ORDER FOR THE YEAS AND NAYS ON THE KISSINGER NOMINATION

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from South Dakota (Mr. McGOVERN), as in executive session, I ask unanimous consent that it be in order to ask for the yeas and nays on the confirmation of Henry Kissinger to be Secretary of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The yeas and nays were ordered.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 19, 1973, he presented to the President of the United States the following enrolled bills:

S. 155. An act for the relief of Rosita E. Hodas;

S. 776. An act to authorize the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco;

S. 902. An act to amend section 607(k) (8) of the Merchant Marine Act, 1936, as amended; and

S. 1852. An act to require loadlines on United States vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. George Pritts of the staff of Senator FANNIN be accorded the privilege of the floor for the duration of the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. My question is this: Is it not true that the way the Senator's amendment is drawn, it is not limited to partnerships, but it affects everyone under what is commonly referred to as H.R. 10, or the Keogh plan, or what sometimes is referred to as self-employed?

Mr. HATHAWAY. Yes; that is true.

Mr. CURTIS. Is it not also true that those people who take advantage of H.R. 10, after meeting certain requirements not required of corporations, one of them is that they must take care of all employees, not just classes of employees, and another one is that they must give full vesting immediately? This amendment, the Treasury tells me, will add additional restrictions but will do very little, if anything, to prevent any abuses—maybe in one case out of 10,000.

I thank the Senator for yielding.

Mr. HATHAWAY. In answer to the Senator from Nebraska it would be difficult to determine the extent of abuses. Obviously, there could be abuses in that a partnership could pool its contributions in order to give one person a large pension. I do not see that it would be an onerous burden on the Treasury Department, nor would it be a burden on those participating in the plan.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). Is all time now yielded back?

Mr. NELSON. Mr. President this amendment puts a ceiling or a limitation on the amount of money that a partner in a partnership, for example, could use to transfer for the benefit of the senior partner, whereas under present law there is no such limit. My own point of view would be to limit it to $7,500 an individual, which was the original intent of the bill. This limitation, however, is better than nothing, but I think that the House should look at the proposition of limiting it more. It is a little better than the present situation.

Mr. JAVITS. Mr. President, I have no objection to the amendment.

Mr. NELSON. I have no objection and we are ready to accept the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Maine (Mr. HATHAWAY).

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield myself 3 minutes on the bill and would like to engage, if I may, in colloquy with the manager of the bill, the Senator from Wisconsin (Mr. NELSON).

I would like to inquire of the managers of the bill concerning the purpose of a provision added to S. 4 by the compromise amendment in the nature of a substitute. I refer specifically to section 424 entitled "Other Risks" which authorizes the insurance corporation to insure, subject to all the appropriate limitations, the payment of other classes of benefits under a plan wherever feasible, to prescribe the terms and conditions of such insurance and to establish and collect such premiums as may be necessary.

It is my understanding that this provision was adopted in order to deal with problems of certain plans which are negotiated in the basic metal, metal mining, and related industries.

Mr. NELSON. The Senator is correct.

Mr. JAVITS. I have been informed that in the basic metal, metal mining, and related industries, pensions are payable upon the permanent shutdown of a plant, facility, such as a mine or plant railroad, department, or subdivision thereof, to employees who are 55 years of age or older, if the sum of the age of the employee plus his years of service is 70 or more, or if, irrespective of his age, such sum is 80 or more. Further, even though, on the shutdown date, an employee may not meet the requirements, his service continues to accumulate, and, if in the 2 years from the date the layoff starts, which may be earlier than and in anticipation of the shutdown, he qualifies under the rule, and he would, if the plan were in force, be granted a pension.

The right to a pension under these circumstances does not become vested within the meaning of the bill since no employee who quits his employment may become entitled to a vested interest unless there has been a permanent plant shutdown. After such a permanent plant shutdown has occurred and the employee's pension has vested as a result, insurance coverage would of course apply under section 422(a). But sometimes—perhaps often—plant shutdowns and plan terminations may occur at the same time and under these circumstances insurance coverage would not attach because the vested pension had not been earned prior to plan termination, but in fact resulted from a plant shutdown which was coincidental with plan termination.

Mr. NELSON. The Senator is correct. He has put his finger on precisely the problem that we wanted to solve if it was feasible to do so by providing additional authority to the insurance corporation. It is, of course, very difficult to ascertain the dimensions of these risks since vested liabilities arise not as a result of the employee's length of service, but are rather triggered by permanent plant shutdowns which may or may not accompany plan termination. Since this was a rather unique type of situation which might not fit within the regular insurance framework established under the bill, we drafted a provision which would authorize the insurance corporation in section 424 to determine whether the insurance of this type of risk could be accomplished in a feasible manner and gave it discretion to establish the terms and conditions of such insurance and set such premiums as may be necessary.

Mr. JAVITS. I thank the Senator for his explanation. I am very glad that this provision was included. It would, in my judgment, be most unfortunate and inequitable if we were to permit a fortuitous sequence of events to determine the insurability of vested rights. In other words, one man would have his vested right insured because there was a permanent plant shutdown prior to plan termination, but the other man would not have his vested right insured because the plant shutdown occurred at the same time the pension plan itself was terminated. I commend the Senator from Wisconsin for his foresight in including such a provision that would enable the insurance corporation to deal with this problem.

Mr. AIKEN. Mr. President, may I ask the Senator from New York, does this proviso apply to Americans employed in mines in foreign countries?

Mr. JAVITS. The answer is that this provision applies to plans operating here. That is the essential test—that is, is the plan a U.S. pension plan? If it is, then it would be applicable under this particular section to which the Senator from Wisconsin (Mr. NELSON) has replied.

### AMENDMENT NO. 504

Mr. BUCKLEY. Mr. President, I call up my amendment No. 504 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, beginning at line 19 and ending at line 21, strike "exceed an amount equal to the lesser of $1,000 or his earned income paid or accrued for such taxable year." and insert "be less than the lesser of his earned income paid or accrued for such taxable year up to a deduction of $1,000, nor more than 15 per centum of his earned income paid or accrued for such taxable year, up to a deduction of $7,500."

Mr. BUCKLEY. Mr. President, I think that this amendment is self-explanatory. It would retain the existing provision allowing individuals not otherwise covered by pension plans to set aside out of their earnings up to $1,000 a year irrespective of the percentage of total earnings represented. I am suggesting that this be the minimum allowed and that the maximum allowed to be set aside be 15 percent of earnings up to a maximum deduction of $7,500.

My purpose here is to try to establish a greater degree of parity among the various categories of working Americans for which this and existing legislation provides.

Existing law provides a substantial tax benefit to millions of workers covered under pension plans by postponing the taxation of current earnings. I am not talking about the business deduction that the employer is entitled to but, rather, the fact that a wage earner is not required to pay taxes currently on the value of contributions made to a pension fund on his behalf. Rather, he will be paying taxes on this deferred income when received after his retirement, and of course he will then be in a significantly lower income bracket.

The other exemption, the other tax benefit that these workers receive, is the exemption of taxation on the income accruing on the money that has been set aside for their future use. To the extent that tax revenues are postponed on current income, there is imposed on all American taxpayers a real burden. Therefore, in a real economic sense, wage earners who are not covered by pension plans are helping to pay for those persons who are receiving the benefits of these tax provisions.

I believe that one of the most significant, constructive provisions in the bill we are now debating is the new provision that will allow individuals to deduct up to $1,000 a year if contributed to qualified individual retirement savings plans. But my concern is several fold. First of all, the $1,000 privilege, in itself, is a step in the right direction; but it falls far short of equalizing the net tax impact among all workers, all individuals, who are able to postpone taxation on current earnings.

Second, I believe that one of the purposes of the proposed legislation, which is to encourage more people to set aside earnings for their retirement years, is to a degree defeated by the thousand-dollar limitation, especially in the case of older workers.

Let us take somebody in his or her fifties who expects to retire or will be retired under a mandatory retirement employment contract at age 65. To be able to set aside $1,000 a year for 15 years does not really create a large enough principal amount to generate meaningful income in later years. Therefore, for these individuals I think the company provision fails to create a meaningful incentive for saving.

On the other hand, if my amendment were adopted and if somebody were earning in the vicinity of $35,000 a year, $5,000 a year could be set aside, and there would be a very real incentive to set earnings aside; because over a 10- or 15-year period, between $50,000 and $75,000 will have accrued, which would buy a significant annuity.

Mr. President, the reason why I selected $7,500 originally was to attempt to eliminate the disparity between the treatment of these individuals and the treatment provided for the so-called proprietary employees. The amendment of the Senator from South Carolina (Mr. THURMOND) in effect wiped out this particular distinction.

I understand that I have run into some resistance from members of the Finance Committee on some of these details. In the interest of comity, I would be happy to revise my figure downward drastically to $2,500, which would establish the principle of the entitlement of these individuals to a parity of treatment, and then let our actual experience with this new provision, and further studies conducted by the Finance Committee and by the Ways and Means Committee determine exactly where the figures ought to be set, what the conditions ought to be, in order to make sure that all Americans who are earning money and paying taxes get the same breaks insofar as providing for their retirement is concerned.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BUCKLEY. I am glad to yield.

Mr. LONG. Mr. President, this provision in the law is the type of thing that has been advocated by the Senator from Nebraska (Mr. CURTIS) for a long time. The committee felt that we should try this approach. We are told that the probable cost will be about $270 million to let every citizen not in a pension plan set aside for his own plan, for his own retirement. That is a lot of money. We have not had the first person come before us to ask for this. This is just a benefit that Congress voted for the taxpayer based on the same general argument that the Senator made.

Some of us were concerned about the cost. We were thinking about $1,000. We said we would see how that worked; and based on the experience we had with the $1,000 limit, we would decide whether the limit should be increased in the future. What the committee agreed to would result in a loss of revenue of $270 million.

What the Senator from New York is talking about would cost a billion dollars revenue a year. It would have a great deal of inflationary impact. The Government is spending too much revenue now. Think of it: a billion dollars.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, may I be yielded now a few minutes for the opposition?

The PRESIDING OFFICER. Does the Senator from New York yield the floor?

Mr. BUCKLEY. I yield the floor.

Mr. LONG. Mr. President, a billion dollars is a large amount, when we have yet to have the first person come to us to ask for it for himself. The only person who has asked for it is the Senator from Nebraska (Mr. CURTIS), who thought it would be a good idea in terms of tax equity for a person wanting to buy the insurance to participate in the program himself. The Senator from Nebraska offers that concept.

If we voted for an amendment in this fashion, we would be competing with that program. People would be asking, "Can you top this?" Someone would come in with the idea that this is a good program; why not let everybody get into the act? Before we could get it to the Senate, without the first proposed beneficiary ever asking for it, we would be raising the amount from $270 million to a billion dollars.

I would be willing to cooperate to the extent that the Government might be able to offer something along this line. In the spirit of compromise, I would like to have a chance to think about this. I would urge the Senator to accept a figure of $1,500, if he would be willing to settle for that. Then we could see how the plan worked. That would cost us $70 million beyond what we are estimating. It would run the cost up to $340 million.

But I think that to go beyond that point would be irresponsible on the part of the Senate and would certainly be irresponsible on the part of the Committee on Finance, which has to think about the fiscal capabilities of the Government in order to make its analysis, to go beyond that figure at this point. We could see how this proposal would work; and if the experience dictated that a great many people liked it, a great many people responded to it, and the experience was favorable under it, then we could consider increasing the amount at a future date.

After all, I would like to point out that the Senator from Nebraska has been fighting for this concept for many years. He offered a similar amendment on a pension bill several years ago. So if we do not go too far overboard to begin with I think there is a better chance to do something than there is when we become so ambitious in the beginning that those on the other side of the Capitol say we cannot afford it at all. The Treasury Department favors it but they would have to oppose the concept on the ground that we cannot afford that much.

Would the Senator be willing to settle for a lesser figure say $1,500?

Mr. BUCKLEY. I would be willing to consider a lesser figure but first I would like to clarify the Senator's estimate of the cost of my proposal. I think I have established in 2½ years some reputation for fiscal prudence. I have been listed as one of the six most frugal men around here. I did try to get an estimate of the cost from members of my staff who came up with a figure of $340 million at $7,500. That is a long way from $1 billion. Of course, the $1,000 proposal would cost $170 million. Therefore, my proposal would have doubled this cost.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I yield.

Mr. NELSON. What is the figure the Senator used for the cost, the Treasury cost at $7,500?

Mr. BUCKLEY. $340 million.

Mr. NELSON. I am advised by counsel that the cost is $270 million per $1,000. It would be $340 million for the $1,500 limitation with the 15 percent limit on all over $1,000.

Mr. BUCKLEY. Would the Senator please give me the last figure?

Mr. LONG. The staff of the joint tax committee estimates that in 1974 the cost would be $630 million in taxes, in 1976 it would be $870 million, and in 1977 it would be $1 billion a year. The reason it would move up is that each year more people would be inclined to use it than the year before so that the cost would keep pyramiding. Of course, against that, one has to recognize the committee recommendation would be $270 million but that would be $730 million less than the cost of the Senator's proposal, which is a great amount of money.

I hope that the Senator, having been one of our great conservatives in the Senate, and having decided to go for a liberal idea, has not decided to go to the ultimate extreme. I hope he will restrain himself somewhat.

Mr. BUCKLEY. Mr. President, if the Senator will yield, I believe that one of the great principles underlying conservative philosophy and thought is equity. Conservatives believe that in any system of taxation there is an obligation to maintain equity when the Government is extracting money that in the first instance belongs to the people earning it and not to the Government. So if it costs something to establish equity, this is something we must be ready to accept in upholding that principle.

I agree that a possible additional cost of as much as $1 billion strains even my insistence on equity, knowing that the Committee on Finance will be addressing itself to the problem of establishing equality of treatment in the months and years ahead.

Would the Senator settle for a figure of $2,000? Would that be acceptable to the Senator?

Mr. LONG. I hope the Senator will not insist on that. I have discussed this with some of my colleagues. We realize the Senator has very fine intentions in this regard. We would be willing to accommodate him to the extent of a 50-percent increase in what the committee recommended. We believe the Treasury will support that. We really feel that with the additional cost of this bill, such as the increase to which the Senator makes reference, that we are talking about a group of people who have not been asking for this, who would be surprised to see it, but I am sure they would be pleased to see it. If this works out as we believe it undoubtedly will, it will cause two things to happen: first, to raise this figure and, second, to reduce what others get.

We probably will have to withdraw some of the liberality we voted for others in order to accommodate people who are not in the pension system at all.

Mr. BUCKLEY. I would like to urge one other benefit, and that is in connection with fighting inflation. My amendment would encourage salting away another $700 million in savings, thus withholding from the economy.

Mr. LONG. It does go along that line, but along with some other things, there are other ways we can encourage savings. Other Senators have other suggestions.

I hope the Senator compromises with us on this matter. I would like to accommodate the Senator. I would appreciate it if the Senator would consider reducing his amendment to $1,500 with the understanding that we will consider it in a few years. It may be that if we can prevail and make this law, in due course perhaps we can raise it to $2,000 or $2,500.

Mr. BUCKLEY. Mr. President, I have learned from sad experience that any time the chairman does not accept an amendment, it has little chance of succeeding. Under those circumstances I agree to amend my amendment by striking the figure $7,500 in line 7 and substituting $1,500.

The PRESIDING OFFICER. The Senator has the right to amend his amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JAVITS. Mr. President, I counseled the Senator accordingly. It is a very wise course as far as I am concerned, and the amendment would be satisfactory to me. I do not know that it has been debated but we have a problem of revenue laws involved. We have an estimate of $170 million at the $1,000 figure. Now we have an estimate of $270 million. We add $80 million by this amendment and as we have argued on other amendments we have a problem of balancing the bill.

Mr. President, while I am on my feet I would like to congratuate my colleague for his enterprise and initiative in bringing up this matter. He has already achieved a remarkable concession and achievement. As far as I am concerned the admendment is acceptable.

Mr. BUCKLEY. I thank the Senator.

Mr. CURTIS. Mr. President, if the Senator will yield, as an original sponsor I thank my colleague for his contribution. I hope the time comes when it is raised 50 percent.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BUCKLEY. I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York as modified.

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I send to the desk a modification of my amendment, No. 485.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

Beginning on page 13, line 4, strike everything through and including page 37, line 2 and insert in lieu thereof the following:

"Sec. 201. (a) A pension plan shall not be an eligible pension plan unless the Secretary of Labor certifies to the Secretary of Treasury that such plan provides that participants shall be vested 100 per centum of the accrued portion of the normal retirement benefits of such funds attributable to covered service both before and after the effective date of this title—

"(1) after 10 years service under the fund, during the first three years following the date of enactment of this title,

"(2) after 8 years service under the fund, during the fourth and fifth years following the date of enactment of this title, and

"(3) after 5 years service under the fund following the end of the fifth year after the date of enactment of this title.

"(b) A pension plan may require as a condition of eligibility to participate, a period of service no longer than two years or age 25, whichever occurs later.

"(c) Any participant covered under a plan, for the number of years required for a vested right under this section, shall be entitled to such vested right regardless of whether his years of covered service are continuous, except that a plan may provide that—

"(1) three of the years required to qualify for a vested right under subsection (a) shall be continuous under standards prescribed under subsection (d).

"(2) service by a participant prior to the age of twenty-five may be ignored in determining eligibility for a vested right under this section, unless such participant or an employer has contributed to the plan with respect to such service, and

"(3) in the event a participant has attained a vested right equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, and such participant has been separated permanently from coverage under the plan and subsequently returns to coverage under the same plan, such participant may be treated as a new participant for purposes of the vesting requirements without regard to his prior service.

"(d) The Secretary shall prescribe standards, consistent with the purposes of this Act, governing the maximum number of working hours, days, weeks, or months, which shall constitute a year of covered service, or a break in service for purposes of this Act. In no case shall a participant's time worked in any period in which he is credited for a period of service for the purposes of this section, be credited to any other period of time unless the plan so provides.

"(e) Notwithstanding any other provision of this Act, a pension plan may allow for vesting of pension benefits after a lesser period than is required by this section.

### "VARIANCES—DEFERRED APPLICABILITY OF VESTING STANDARDS

"Sec. 202. (a) Where, upon application to the Secretary of Labor by plan administrator and notice to affected or interested parties, the Secretary of Labor may defer, in whole or in part, applicability of the requirements of section 201 of this title for a period not to exceed five years from the effective date of title II, upon a showing that compliance with the requirements of section 201 on the part of a plan in existence on the date of enactment of this Act would result in increasing the costs of the employer or employers contributing to the plan to such an extent that substantial economic injury would be caused to such employer or employers and to the interests of the participants or beneficiaries in the plan.

"(b) For purposes of subsection (a), the term 'substantial economic injury' includes, but is not limited to, a showing that (1) a substantial risk to the capability of voluntarily continuing the plan exists, (2) the plan will be unable to discharge its existing contractual obligations for benefits, (3) a substantial curtailment of pension or other benefit levels or the levels of employees' compensation would result, or (4) there will be an adverse effect on the levels of employment with respect to the work force employed by the employer or employers contributing to the plan.

"(c) (1) In the case of any plan established or maintained pursuant to a collective bargaining agreement, no application for the granting of the variance provided for under subsection (a) shall be considered by the Secretary of Labor unless it is submitted by the parties to the collective bargaining agreement or their fully authorized representatives.

"(2) As to any application for a variance under subsection (a) submitted by the parties to a collective bargaining agreement or their duly authorized representatives, the Secretary of Labor shall accord due weight to the experience, technical competence, and specialized knowledge of the parties with respect to the particular circumstances affecting the plan, industry, or other pertinent factors forming the basis for the application."

**Mr. HARTKE.** Mr. President, I ask unanimous consent that any technical changes necessary be made in the amendment to make it conform to the modified bill.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. HARTKE.** Mr. President, I propose that 100 percent vesting be achieved after only 5 years of service. These more progressive rules on vesting will open the way for more frequent job changes, increases in work satisfaction, a more mobile and a more effective labor force. We owe this to the working men and women of this country. In order to demonstrate graphically the superiority of the Hartke approach, I submit the following table and ask unanimous consent that it be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

| Age | Percent vested committee | Percent vested Hartke |
|---|---|---|
| 20 | 0 | 0 |
| 25 | 0 | 100 |
| 30 | 50 | 100 |
| 35 | 100 | 100 |

**Mr. HARTKE.** Mr. President, the table shows what would happen to a worker beginning his job at age 20. Under the Finance Committee proposal, this worker would not qualify for participation until age 30. After 10 years of work, he would be only 50-percent vested. This worker would be 35 before he was fully vested under the committee bill, but only 25 under the Hartke proposal.

It is assumed by many that the cost of these improved vesting standards will be prohibitive. This is just not true.

Citing the cost study of mandatory vesting provisions written by Donald Grubbs for the Senate Subcommittee on Labor, my more progressive vesting provision of 100 percent after 5 years or after age 25, would increase the cost to the employer of from one-tenth to four-tenths of 1 percent in the percentage of payroll. This is only two-tenths of 1 percent greater than the costs of the very weak vesting provision in S. 4 or S. 1179, or the modified bill which has come before us.

It should also be pointed out that this cost would be shared equally among employers. No company or firm would be placed at a comparative disadvantage vis-a-vis another.

Mr. President, under the Finance Committee proposal, a qualified plan must provide at least 25-percent vesting after 5 years participation, 5-percent additional vesting for each of the next 5 years, and 10 percent each year for the next 5 years thereafter. This formula would provide for at least 25 percent after 5 years participation, 50 percent after 10 years, and 100 percent after 15 years.

Progressive vesting rights are the heart of pension reform. Weak vesting clauses make for ineffectual and superficial pension legislation. The committee's proposal gives the illusion of reform without the substance. The vesting provisions are extremely weak and inadequate. Such a scheme would discriminate against women, seasonal workers, and workers in mobile or faltering industries. A recent Senate Labor Subcommittee study found that, for plans requiring 10 years' participation or less for vesting, 78 percent of those separated did not qualify for benefits. Under these same conditions, the committee proposal would provide 50 percent vesting after 10 years' participation for only 22 percent of those who separate. I do not consider such an approach acceptable.

Achieving vested rights for women is also difficult under the committee's proposal. Most women work at a job for shorter periods than men, and often work part-time or part-year. The committee has made no provision for part-time or part-year work. While men in manufacturing have a median of 14.3 years of service, women in their later years, have only 8.3 years of service. And in retailing, women over 45 had an average of 4.9 years. As a result, a woman would achieve only 40 percent of her vested rights. This is not a recent retirement benefit.

A moderately good benefit will give $5 a month for each year of credited service. A normal retirement for a woman would be 8 years of credited service or $40 a month. But the committee's proposal would provide only 40 percent of this or $16 a month—less than $4 a week. And that benefit is subject to erosion by inflation between the time it vests and the time it becomes payable.

I am especially aware of the situation in the aerospace industry, which fact we were alerted to by the Senator from Washington (Mr. Jackson), because aerospace is an example of a faltering industry in which many plants have shut down and many more will shut down in the future. A recent study found that 80 percent of the employees in this industry had completed fewer than 10 years of service.

At the very best, the committee's proposal would provide 50 percent vesting for these workers—too minimal a standard.

With no provision for part-year work, it will be virtually impossible for the seasonal worker to attain vested rights. Many cumulative years of service will add up to nothing in retirement.

The committee's vesting proposal would provide for little or no benefits for the majority of workers in this country. It ignores the overwhelming evidence which demonstrates that the weaker the vesting requirements, the less likely it is that the participant will ever receive his needed pension benefits.

## UNANIMOUS-CONSENT AGREEMENT ON S. 2410, TO AMEND THE PUBLIC HEALTH SERVICE ACT

**Mr. MANSFIELD.** Mr. President, will the Senator yield?

**Mr. WILLIAMS.** I yield.

**Mr. MANSFIELD.** Mr. President, insofar as it was possible to do so, all the interested parties have been contacted, and at this time I ask unanimous consent that S. 2410, a bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems, be laid before the Senate at an appropriate time—probably later this evening—with a time limitation of 30 minutes on the bill, 30 minutes on amendments, and 20 minutes on amendments to amendments, if any.

**Mr. JAVITS.** Mr. President, will the Senator yield?

**Mr. MANSFIELD.** I yield.

Mr. JAVITS. Thirty minutes seems a very short time to present this matter. Is the Senator from California (Mr. Cranston) agreeable?

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. Mr. President, if the Senator will yield, I might add that the only amendment we are aware of is one, or possibly two, by the Senator from Kansas (Mr. Dole), and this agreement as to time is fine with him.

Mr. JAVITS. Mr. President, may we know the time on amendments?

Mr. MANSFIELD. Thirty minutes on amendments and 20 minutes on amendments to amendments, in the usual form.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? There being no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is the present intention of the joint leadership to take this bill up on the disposition of the pending business.

Mr. JAVITS. And finish it tonight?

Mr. MANSFIELD. Yes.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. HARTKE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, how much time is left on the amendment?

The PRESIDING OFFICER. Twenty-nine minutes remain to the Senator from Wisconsin.

Mr. NELSON. Mr. President, precisely the same issue is involved here that was involved in the amendment proposed by the Senator from Washington.

I would like to see 100 percent vesting, as I said, not at the end of 5 years, but at the end of the first day of work—100 percent vesting and 100 percent accrued benefits. The problem is the same as the problem we discussed on the Jackson amendment, and that is cost. So reluctantly I am compelled to oppose the amendment.

I would point out, by the way, that the negotiated agreement between one of the biggest unions and most successful unions in America, if not the most successful one, and one of the most successful corporations in the country; namely, General Motors and the Auto Workers, provides for 100 percent vesting at the end of 10 years. So the proposal of the Senator from Indiana is a 100 percent vesting 5 years earlier than that proposed in the United Auto Workers contract. Furthermore, in fact, the United Auto Workers contract does not provide for any vesting for any employee until 10 years have expired, and then it is 100 percent vested immediately at the end of 10 years.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. NELSON. Mr. President, I yield whatever time the Senator may need.

Mr. JAVITS. Mr. President, we have debated the basic principle which is involved under the Jackson amendment. The results are in on that. If anything, it seems to me this amendment is less attractive even than that, which was based on giving vesting during the first 5 years upon severance or termination of employment.

I will say this, or I would not have taken the time of the Senate following the fine summing up of the situation by the Senator from Wisconsin (Mr. Nelson): The Senator from Indiana (Mr. Hartke) has been a stimulant in this matter. I said it in my original presentation. I say it again. No matter how the managers of the bill, including myself, become vexed over having to fight amendments, it is only his duty. He was one of the first on the scene with the effort to insure pension funds. He is pushing us hard on the matter of accelerating vesting time.

I am sure he will push us either now or later on another very difficult question which is the question of how to manage these enormous pension assets with the greatest social impact. That is a very big problem. He will push us on portability or transferability of pension rights through a pension bank. He will perhaps push us on many other matters. I welcome it. But as far as I am concerned, this bill is a fine beginning. I believe that in terms of work and morale, and the regularization of competition between employers to provide greater assurance of old-age income, we are starting off in an extraordinary way.

We have today quite a remarkable showing between the Finance Committee and the Labor and Public Welfare Committee on this subject.

We cannot accept Senator Hartke's approach. However, I will not for a moment denigrate his effort. The Senator is entitled to all of the credit in the world. However, we feel that we are not able to do what he wants.

Mr. HARTKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 24 minutes remaining.

Mr. HARTKE. Mr. President, the Senator from New York and the Senator from New Jersey have been champions in this field.

I will point out to the Senator from New Jersey that with respect to one matter which the Senator from Wisconsin was talking about when he said that this was the same issue as in the Jackson amendment, that that is not true.

The Jackson amendment was directed at involuntary cutoffs, involuntary disassociations from work by things such as plant shutdowns. Otherwise his amendment in no way was a modification of the bill or a modification of the committee amendment. However, the philosophy behind the amendment deals with the basic problem of trying to eliminate the threat that the welfare people will come up here and face us in the future.

As the committee report says, the median income in the present pension plan is $99 a month, less than $100 a month. That means that today, with social security, that a man is placed on welfare.

If we take the Grubbs case study for range of increase in the pension plan costs for mandatory vesting provisions, which study was made at the request of the Committee on Labor and Public Welfare, it shows the range of increase in cost as a percent of payroll that the committee proposal under part A, item 4, is 25 percent in 5 years and 100 percent in 15 years.

Mr. President, I ask unanimous consent that the entire study be printed in the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

RANGE OF INCREASE IN PENSION PLAN COSTS FOR MANDATORY VESTING PROVISIONS

[In percent]

| | Present vesting— None | Present vesting— Moderate | Present vesting— Liberal | All plans |
|---|---|---|---|---|
| Percentage of pension plan members covered under such plans | 23 | 56 | 21 | 100 |
| Range of present plan cost as a percent of payroll | 1.8-11.2 | 2.2-12.5 | 2.2-12.7 | 1.8-12.7 |
| Range of increase in cost as a percent of payroll: | | | | |
| A. No past service vested: | | | | |
| 1. 30 percent at 8 yrs., 100 percent at 15 | .2-.6 | 0-.2 | 0-0 | 0-.6 |
| 2. 25 percent at 5 yrs., 100 percent at 20 | .2-.5 | 0-.2 | 0-.1 | 0-.5 |
| 3. Same as No. 2, after age 30 | .2-.5 | 0-.2 | 0-.1 | 0-.5 |
| 4. 25 percent at 5 yrs., 100 percent at 15 | .2-.6 | 0-.2 | 0-.1 | 0-.6 |
| 5. 100 percent at 10 yrs | .2-.6 | 0-.2 | 0-0 | 0-.6 |
| 6. 100 percent at 5 yrs., after age 25 | .2-.7 | .1-.4 | 0-.2 | 0-.7 |
| 7. Rule of 50 | .2-.7 | 0-.3 | 0-.2 | 0-.7 |
| B. All past service vested: | | | | |
| 1. 30 percent at 8 yrs., 100 percent at 15 | .2-1.5 | .1-.2 | 0-0 | 0-1.5 |
| 2. 25 percent at 5 yrs., 100 percent at 20 | .2-1.5 | .1-.2 | 0-.1 | 0-1.5 |
| 3. Same as No. 2, after age 30 | .2-1.5 | 0-.2 | 0-.1 | 0-1.5 |
| 4. 25 percent at 5 yrs., 100 percent at 15 | .2-1.5 | .1-.2 | 0-.1 | 0-1.5 |
| 5. 100 percent at 10 yrs | .2-1.5 | 0-.2 | 0-0 | 0-1.5 |
| 6. 100 percent at 5 yrs., after age 25 | .3-1.6 | .1-.4 | 0-.2 | 0-1.6 |
| C. Past service vested for members age 45 and over: | | | | |
| 1. 30 percent at 8 yrs., 100 percent at 15 | .2-1.3 | .1-.2 | 0-0 | 0-1.3 |
| 2. 25 percent at 5 yrs., 100 percent at 20 | .2-1.3 | .1-.2 | 0-.1 | 0-1.3 |
| 3. Same as No. 2, after age 30 | .2-1.3 | 0-.2 | 0-.1 | 0-1.3 |
| 4. 25 percent at 5 yrs., 100 percent at 15 | .2-1.3 | .1-.2 | 0-.1 | 0-1.3 |
| 5. 100 percent at 10 yrs | .2-1.3 | 0-.2 | 0-0 | 0-1.3 |
| 6. 100 percent at 5 yrs., after age 25 | .3-1.4 | .1-.4 | 0-.2 | 0-1.4 |
| Range of increase in cost as a percent of present plan cost: | | | | |
| A. No past service vested: | | | | |
| 1. 30 percent at 8 yrs., 100 percent at 15 | 3.0-25.0 | 0-6.0 | 0-1.0 | 0-25.0 |
| 2. 25 percent at 5 yrs., 100 percent at 20 | 3.0-23.0 | 0-7.0 | 0-3.0 | 0-23.0 |
| 3. Same as number 2, after age 30 | 3.0-22.0 | 0-6.0 | 0-2.0 | 0-22.0 |
| 4. 25 percent at 5 yrs., 100 percent at 15 | 3.0-25.0 | 0-7.0 | 0-3.0 | 0-25.0 |
| 5. 100 percent at 10 yrs | 3.0-26.0 | 0-7.0 | 0-0 | 0-26.0 |

RANGE OF INCREASE IN PENSION PLAN COSTS FOR MANDATORY VESTING PROVISIONS—Continued

[In percent]

| | Present vesting— | | | All plans |
|---|---|---|---|---|
| | None | Moderate | Liberal | |
| 6. 100 percent at 5 yrs., after age 25 | 3.0–30.0 | 1.0–15.0 | 0–7.0 | 0–30.0 |
| 7. Rule of 50 | 3.0–28.0 | 0–12.0 | 0–5.0 | 0–28.0 |
| B. All past service vested: | | | | |
| 1. 30 percent at 8 yrs., 100 percent at 15 | 5.0–57.0 | 1.0–8.0 | 0–1.0 | 0–57.0 |
| 2. 25 percent at 5 yrs., 100 percent at 20 | 5.0–56.0 | 1.0–8.0 | 0–3.0 | 0–56.0 |
| 3. Same as number 2, after age 30 | 5.0–55.0 | 1.0–6.0 | 0–2.0 | 0–55.0 |
| 4. 25 percent at 5 yrs., 100 percent at 15 | 5.0–58.0 | 1.0–8.0 | 0–3.0 | 0–58.0 |
| 5. 100 percent at 10 yrs | 5.0–58.0 | 1.0–9.0 | 0–0 | 0–58.0 |
| 6. 100 percent at 5 yrs., after age 25 | 6.0–59.0 | 1.0–17.0 | 0–7.0 | 0–59.0 |
| C. Past service vested for members age 45 and over: | | | | |
| 1. 30 percent at 8 yrs., 100 percent at 15 | 5.0–47.0 | 1.0–6.0 | 0–1.0 | 0–47.0 |
| 2. 25 percent at 5 yrs., 100 percent at 20 | 5.0–46.0 | 1.0–7.0 | 0–3.0 | 0–46.0 |
| 3. Same as number 2, after age 30 | 5.0–45.0 | 1.0–6.0 | 0–2.0 | 0–45.0 |
| 4. 25 percent at 5 yrs., 100 percent at 15 | 5.0–48.0 | 1.0–7.0 | 0–3.0 | 0–48.0 |
| 5. 100 percent at 10 yrs | 5.0–48.0 | 1.0–8.0 | 0–0 | 0–48.0 |
| 6. 100 percent at 5 yrs., after age 25 | 6.0–49.0 | 1.0–16.0 | 0–7.0 | 0–49.0 |

Mr. HARTKE. Mr. President, under the present vesting, the rate of increase in cost as a percent of payroll is two-tenths of 1 percent. We are asking for that still. However, if we take item 6 under part A, it is 100 percent after 5 years, after age 25. That is the proposal as made. It is only four-tenths of 1 percent. The cost item should not be of great concern.

I am fully aware of what the UAW does. I find myself in a rather peculiar stance. If the employees of the UAW knew that they had a 10-year vesting, they might not be so happy in accepting the pension plan.

The UAW has the agreement presented to them. This part of the agreement is not presented to them. They have a lump-sum agreement. Therefore, they cannot accept a portability agreement. And here we have the employers of the Nation and the managers of the union who want the employees in this one particular industry to do this.

If we really believe in a philosophical approach and in mobility of the labor force, and if we really believe that we should not have economic slavery in the United States, we should not do this. The system should be changed. To come here and say that the Senate is going to put its stamp of approval on economic slavery is a far cry from that.

I know that in the committee the question was raised as to the employer needing this kind of leverage to make sure the employee stays with him. That is the contrary of what our country stands for. We have a democratic society where men should not be required to be an employee of any man.

I am fully aware that the committee and the managers of the bill have the votes to successfully take this measure down.

I believe in all good conscience that this is a position which should be taken and is one which is in the best interests of the Nation. It is not prohibitive in cost. It would be at the very heart of making this a true pension reform bill, instead of only advertising it as a pension reform.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute.

Mr. President, persuasive arguments have been made in favor of the amendment. We feel very consciously and earnestly that we will not have basic reform looking forward to even broader pension reform if this amendment is agreed to.

Not having any further requests for time, I yield back the remainder of my time.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. Hart) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) is absent on official business.

I also announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Kansas (Mr. Pearson) are absent because of illness.

I further announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The result was announced—yeas 9, nays 85, as follows:

[No. 398 Leg.]

YEAS—9

Abourezk
Bayh
Biden
Gravel
Hartke
Jackson
Kennedy
Magnuson
Metcalf

NAYS—85

Aiken
Allen
Baker
Bartlett
Beall
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Griffin
Gurney
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—6

Bellmon
Bennett
Goldwater
Hart
Pearson
Saxbe

So Mr. Hartke's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

## ORDER FOR CONSIDERATION OF THE NOMINATION OF HENRY KISSINGER TO BE SECRETARY OF STATE, ON FRIDAY NEXT

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I ask unanimous consent, as in executive session, that when the Senate convenes on Friday morning next, after the two leaders have been given the time which the Senate has allotted to them, if they use it, there be a period of 2 hours set aside and equally divided for the consideration of the nomination, as reported by the Committee on Foreign Relations, of Dr. Henry Kissinger to be Secretary of State, the time to be under the control of the majority and minority leaders, or whomever they designate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF HARRY F. BYRD, JR., OF VIRGINIA, ON FRIDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.) be recognized during the course of that debate for a period of 30 minutes. I do not think he will use it all. The debate itself will be for the period of not to exceed 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The Senate continued with the consideration of the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

Mr. HART. Mr. President, in July I introduced the Retirement Benefit Fund Act with the hope of making the point that pension reform begins rather than ends with the legislation we consider today.

Pension reform is a complicated business, and we can all understand a desire to put the subject behind us for a long time.

However, to do that would be to fail the many millions of American workers who will not benefit from the reforms we pass today.

That view does not detract from the importance of acting now on legislation setting vesting and funding requirements, fiduciary standards, and establishing portability and reinsurance programs.

Such provisions are needed to protect those long-service employees covered by pension plans who lose out, because their employer shuts the plant gates, or because the pension plan goes broke, or because of unduly restrictive qualification requirements.

Even a layman can understand, however, that these changes will not reform the basic approach of most of today's pension programs which says that many are not served so a few can benefit.

Even a nonexpert can understand the figures which show that as many as three of five workers in the private nonfarm sector do not participate in pension programs because they work for employers who do not have retirement plans—and that the proposed reforms will do little to improve these figures.

Neither will the legislation likely to pass Congress this year provide full equity for the worker who changes jobs often and for good reasons, nor for all survising spouses of pension programs participants.

The limitations of the reforms now being discussed in Congress are the limitations of a private system based on the premise that large numbers of persons must lose out if others are to benefit. The proposals under study seek to reduce the number of persons losing out by striking a balance between the interests of employees in more secure pensions and the cost to employers of providing such pensions.

We can argue whether the correct balance has been struck, but without challenging what some have called the "lottery" premise on which the present system rests, large numbers of people will continue to lose out.

Looking toward a future of an even more mobile work force and of an ever greater demand for adequate and secure retirement programs, even the layman begins to understand why we need a pension system based on including all rather than excluding many.

And we cannot get there unless we come up with a system that insures an employee that he will benefit from every pension contribution made on his behalf.

The Retirement Benefit Fund Act seeks to reach that goal while continuing a private pension system.

I will not take time today to review the explanation I made when the proposal was introduced.

But I do want to renew my plea that we understand that if we are to have a pension system which meets the needs of the future, the action we take today is the start and not the end of reform.

Mr. DOMENICI. Mr. President, today, I would like to urge my colleagues' support for the Retirement Income Security for Employees Act of 1973, a bill designed to protect the private pension of millions of American working men and women.

This bill is the amalgam of many different proposals heard jointly by the Senate Labor Committee and the Finance Committee, and, in my opinion, it represents a major breakthrough in retirement security for the millions of American workers who are now covered by corporate or self-employed plans. With its passage and enactment, we will be affirming our promise to insure that economic disaster does not befall those who have worked to earn their pensions.

For too long and for too many workers, the promise of pension benefits upon retirement has been an illusion and, indeed, a hoax.

For 3 years Congress conducted a comprehensive study of the private pension system in this country. The study was conducted by the Subcommittee on Labor pursuant to three successive resolutions of the Senate and was undertaken to ascertain the need for statutory protections for workers' pension programs and to formulate appropriate corrective legislation.

This measure is designed to eliminate the deficiencies which our study identified in the existing private pension system. Its basic goal is to assure workers that they will receive the promised pension benefits earned for their retirement during their working lives. It also responds to the proven need for a comprehensive and meaningful reform of our private pension system. It proposes fair, feasible, and effective regulatory measures which will fulfill the fundamental purpose of a pension.

The time for meaningful pension reform is long overdue. The bill now before the Senate is a critical first step toward assuring millions of Americans adequate retirement security.

This bill before us today, as I understand it, would make necessary reforms in vesting, funding, insurance, portability, fiduciary, and disclosure standards, as well as allowing for adequate remedies when a worker has been clearly abused. More specifically, the bill would—

Require a company pension plan to provide a right to a pension benefit after at least 5 years of service;

Require employers to put sufficient money in a plan to pay promised benefits;

Establish a Federal insurance program to guarantee payment of benefits if the plan was canceled without sufficient funds;

Make a start on a program to permit workers to transfer their pension rights from job to job; and

Establish strict standards of conduct for pension fund managers to prevent conflicts of interest and mishandling of funds.

At a minimum there are some 30 million workers affected by private pension plans and, in my judgment, that number will be expanded by the provisions of this bill to at least 10 to 20 million more, which would represent a very large majority of the work force of the United States.

While there can be no doubt that our private pension system has well served the needs of many workers, our study found that for countless others, the expectation of retirement benefits has proven to be built on sand.

One example of this type which has been called to my attention is that of a Mr. Robert Pratt of Hudson, N.Y., who in 1971 was laid off by his employer, the Gifford-Wood Co. Mr. Pratt had worked 47 years for this company and was to retire within 1 year at the age of 65.

However, in June 1972, Gifford-Wood was sold to another firm, and its pension plan was terminated—3 months before Mr. Pratt's 65th birthday. When he applied for retirement benefits, it is my understanding that Mr. Pratt was told he would receive no benefits although he had 47 years of service.

In addition, perhaps the most famous failure of all in the private pension system occurred in 1964 when Studebaker closed its plant in South Bend, Ind. In this case 4,500 employees lost 85 percent of their earned pension benefits. This was an economic catastrophe to the individuals involved and to the entire community of South Bend.

Each of us has specific cases in mind where some aspect of the private pension system has not worked the way it should. These examples reflect the difficulties that 23 percent of all workers covered by private pension plans—until the day they retire, if they are allowed to. Indeed, two-thirds of all pension plan participants at this moment have no vested right in their plan. They are not covered if the company they work for goes bankrupt or if the workers are laid off just prior to their receiving any retirement annuities. The simple fact is that at the present time, there is no law which guarantees that the pension promised in past years, for which workers have devoted a lifetime of loyal service, will be paid.

The time for meaningful pension reform is long overdue. The bill now before the Senate is a critical first step toward assuring millions of Americans of adequate retirement security.

### AMENDMENT NO. 484, AS MODIFIED

Mr. HARTKE. Mr. President, for the information of the Senate, I have four amendments to offer for a voice vote. They will not take very long.

I send amendment No. 484, as modified, to the desk and ask that its reading be dispensed with.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered, and further reading of the amendment will be dispensed with. The amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 64, strike out lines 8 through 20 and insert in lieu thereof the following:

"(11) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that a participant who is married will receive the benefit payable as an annuity under the plan in the form of a joint and survivor annuity unless in writing not to receive the benefit in such form, and that the survivor annuity payable will not be of the annuity which would have been payable to that participant had he so elected."

Mr. HARTKE. Mr. President, widows are the oldest and the poorest of the aged. Although social security benefits for widows have been improved, they—widow and widower benefits—still only average $155 a month—or $1,860 a year. That may exceed some bureaucrat's definition of poverty, but it surely fails to meet the actual needs of most widows.

What I seek to do is to see that the widow's benefit is 50 percent of her husband's annuity which has not been actuarily reduced. A family works as a single unit. The wife contributes support at home so the husband may work. Therefore, it is altogether fitting and proper that in the case of a deceased husband, the widow should receive 50 percent of his benefit.

The husband has earned his pension and his wife has a right to 50 percent of it.

Mr. President, there are two deficiencies here. One of them is that if the husband wants the widow to have any of his benefits he has to make an affirmative election in favor of that situation. That generally is not done. Two, at the present time, in order for the widow to receive any benefits there has to be a reduction in the amount of the benefits that the retiree himself will receive. This incorporates the situation the actual retiree will receive his benefits until he dies and the widow will receive 50 percent of the benefits as long as she lives.

Mr. WILLIAMS. Mr. President, I should like to describe to the Senate the provision that is in the bill before us. This does provide that no less than 50 percent is mandated to the widow. The only additional requirement is that if the participant does not want that to happen, he has to take affirmative action. In other words, if nothing is done, the survivorship benefit will be there.

Mr. HARTKE. What has happened in the bill?

Mr. WILLIAMS. On page 64——

Mr. HARTKE. What has happened is that there is an actuarial reduction of the retiree's benefits; is that not correct?

Mr. WILLIAMS. It could be. The plan could have a reduction where there is a survivorship provision. It does not demand it. The legislation does not say that.

Mr. HARTKE. I understand that. There are lots of things in the legislation that do it that way. These are minimum standards under the bill which provides simply that there shall be a 50-percent benefit——

Mr. WILLIAMS. There would be a survivorship benefit and of no less than 50 percent and that will prevail unless affirmatively waived and in writing.

Mr. HARTKE. Yes, but the difference is, simply, that there is permission for actuarial deduction of the retiree's benefits. These are precluded under the bill.

Mr. WILLIAMS. I have not seen the Senator's amendment where he provides that there should not be any reduction. Is that in the Senator's amendment?

Mr. HARTKE. That is right. In other words, under my amendment—and I would hope the Senate would want to accept it—what it provides for is that the retiree will receive his benefits without actuarially having them reduced.

Mr. WILLIAMS. I am advised by the staff that that automatically disqualifies the federal system.

Mr. HARTKE. Can the staff, can someone show me where it says that in the bill? I do not read it. I see no prohibition on any actuarial reduction.

Mr. WILLIAMS. That would be the effect of the Senator's amendment as we read amendment No. 484.

Mr. HARTKE. That is right. The effect would be to provide that there cannot be an actuarial reduction of the benefits and that the widow will receive 50 percent.

Mr. WILLIAMS. The Senator is out of step and incompatible with the Federal system which is considered to be a model in this regard.

Mr. HARTKE. All I am saying here is, even though the Senator may be talking about being out of step, that I am talking about what I want to do.

Mr. WILLIAMS. The Senator wants to get himself out of step with one of the best retirement systems we have.

Mr. HARTKE. All I am saying is that a retiree shall have his benefits and that 50 percent of the benefits which go to his widow shall not cause his own benefits to be reduced. Under the bill as it is written at the present time, the pension plan can call for an actuarial reduction of the amount of the bill. If that is what the Senator intends, all right, all he has to do is to accept the amendment.

Mr. WILLIAMS. Again, we are in a complicated area here. I believe that the effect of the Senator's amendment, since it says that the trust shall not constitute a qualified plan under section 401 unless it meets your provision. Now I am here from the Committee on Labor and Public Welfare and not too familiar with the tax jurisdiction of the Finance Committee, but as I understand it from the staff of the joint committee, your provision would raise serious questions about qualification of the Federal retirement system.

Mr. HARTKE. I am talking about this law. If the Senator does not want to accept the amendment just have a vote on it. That is rather elementary. I am not arguing that. All I am trying to do is to provide that the widow get her 50 percent and the retiree get his 100 percent of benefits. If the Senator does not want to do that, he does not have to.

Mr. WILLIAMS. This would reach out and disqualify some plans which are now qualified.

Mr. HARTKE. That is true of practically everything in the bill.

Mr. WILLIAMS. Including the entire Federal civil service plan.

Mr. HARTKE. There is hardly a plan in the United States that is not going to have to be changing its operations as a result of this legislation. What the Senator is saying is that this will require some changes in the plan. I agree with that. I am not arguing that. We are not passing this legislation just to pass the time of day, but to pass it, hopefully, with some improvements in the pension system. If the Senator does not care to include the pension system, there is no reason for the law.

Mr. WILLIAMS. This, it seems to me, is incomplete unless the Senator is prepared to back it up with changes in other basic law.

Mr. HARTKE. Like what?

Mr. WILLIAMS. The law governing the Federal civil service retirement system.

Mr. HARTKE. So far as I am concerned, all I am trying to do here is to write minimum standards for a pension plan, period.

Mr. WILLIAMS. In the process, the Senator is getting other laws confused——

Mr. HARTKE. I am not confusing anyone. This is not a confusing amendment. It says simply that a retiree is entitled to 100 percent of his benefits and his widow is entitled to her 50 percent of the benefits. Under some plans today, in order for the widow to get 50 percent of the retiree's benefits, the retiree's benefits are reduced in his lifetime, and I am saying, "No."

Mr. WILLIAMS. Mr. President, I am advised that the way this amendment is drafted, it would have an effect well beyond the simple and meritorious situation the Senator wants to reach, and it would disqualify many qualified plans, includng the Federal civil service plan.

Mr. HARTKE. I did not know that this would affect the Federal system in any way.

Mr. WILLIAMS. It would.

Mr. HARTKE. No. My understanding is that we are dealing with private pension plans.

Mr. WILLIAMS. It says that a trust shall not constitute a qualified trust, and the Federal civil service system is under the qualified trust provisions. So it would have an effect that I am certain the Senator does not want.

Mr. HARTKE. I am interested in private plans. What I want to do is to provide a hundred percent for the retiree, 50 percent for the widow, and not have his hundred percent affected. I am not trying to change the Civil Service system. I am dealing with private pension plans.

With respect to the argument that this amendment would affect some plans, if this bill does not change any plans, then the bill is a non sequitur if I have ever seen one. If anything will not be changed with this bill, then let us forget the legislation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I have read this amendment, and I really do not want to read it aloud, because I do not think it even says what the Senator from Indiana wants it to say. Words have been left out, and so forth.

Let us assume, if we understand it, that what the Senator wants is that the widow receive the same pension as the participant from whom she is widowed. Our answer to that is, "Sure," as the Senator from New Jersey has said. That would be delightful, except for all the same reasons that we cannot have a

100-percent vesting and many other things. In starting this effort, we cannot load it with this kind of provision, which the Senator wants—to wit, that the surviving widow would get exactly the same annuity as her deceased husband.

The answer is that it is not done for us, as Senators, under our own plan; it is not done under the Federal civil service plan; it is not done under the overwhelming majority of private plans.

Again, we have to draw a line somewhere as to what will inhibit private plans. We have reached out for what we consider to be an enlightened standard, which is a minimum of not less than 50 percent. That is the best we have been able to do. I think the Senator is right when he says that if we do not want to do what he wants to do, we should vote. I suggest that.

Mr. HARTKE. This proposal says that a trust shall not constitute a qualified trust under this section. It does not say anything about the civil service system. If a Senator does not want to do this, he should vote "nay." If he wants to do this, he should vote "aye."

Mr. TAFT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. TAFT. I should like to point out that this amendment would interfere with the individual rights of the pension participants. What is being proposed by this amendment, in my opinion, is that, in effect, we are telling the participants who come into a plan they have no choice on this point. They would be required to accept the approach in the amendment. This amendment would vastly increase the cost of pension plans and may result in such cost that would prohibit creation of any pension plan. Management and labor organizations prefer a life annuity approach.

Under the present law, joint survivorship provisions may be included. This amendment would prevent any discretion on this point.

Mr. HARTKE. In substance, what the Senator from Ohio is probably confusing is the fact that what I am saying here is that this would provide for a waiver as long as he does it in writing.

The fact is that if Senators vote for this measure, they are doing exactly what the Senator from Ohio is protesting against. What you are going to do on the vesting, on eligibility, on participation, and on funding is to make these pension plans qualify, or they will have to give up their tax benefit. This is a qualification of minimum standard.

The Senator from Ohio is arguing against any modification of the system, but he is really voting against the bill. He ought to vote against the bill.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was rejected.

Mr. HARTKE. Mr. President, I send to the desk a modification of my amendment No. 482.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 226, line 23, following "Act." strike all that follows and insert in lieu thereof the following:

"The Secretary of Labor is authorized and directed to hear and decide disputes between employees, retirees or survivors and the employer, union, or trustee arising under or in connection with plans relating to (1) alleged violations of this subsection and (2) questions pertaining to individual eligibility, entitlement to benefits, computation of credits or benefits or any other employee, retiree or survivor claim or allegation of improper conduct by his employer or any plan trustee jeopardizing employee, retiree or survivor interests provided that such a proceeding shall not displace the grievance-arbitration proceedings provided by a collective bargaining agreement if its procedure and proceeding would satisfy the arbitration deferral principles of the National Labor Relations Board were the dispute to constitute an unfair labor practice.

"Notice and Procedure—Upon the application of an employee, retiree or survivor for a proceeding under this section, the Secretary shall notify the employer, and/or union, and/or plan administrator concerned with respect to the matters complained of and the relief requested. The proceedings shall be held, on notice to the parties, at the time and place designated by the Secretary before hearing examiners appointed pursuant to the Administrative Procedure Act. The Secretary is empowered to promulgate rules and regulations for such hearings and proceedings pursuant to the Administrative Procedure Act. It shall be sufficient to record the formal hearing stage by tape recorder, provided that a transcript becomes available for use on appeal before the Secretary or appeals to the courts, which shall be governed by the Administrative Procedure Act.

"Powers—The Secretary shall attempt to secure voluntary compliance with any decision made by him under this section; but he shall have the power to issue an order directing a person who is a party to the proceedings to comply with the terms of any such decision. For the purpose of any hearing conducted by the Secretary under this section, he shall have the authority conferred by the provisions of sections 9 and 10 of the Federal Trade Commission Act (relating to the attendance and examination of witnesses and the production of books, papers, and documents). Any district court of the United States within the jurisdiction of which any proceeding under this section is held, may, upon petition by the Secretary, in the case of a refusal to obey a subpena or order of the Secretary issued under this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"The provisions of this section shall take effect 90 days from the enactment of this Act."

Mr. HARTKE. Mr. President, this amendment is intended to protect employees against improper employer or pension trustee action. The key to effective pension reform is early vesting, but a vesting provision is no better than the protection employees have against improper discharge—including layoff—discipline or other discrimination that puts an employee out of a job before vesting is achieved, thereby defeating his pension claim. In addition, substantive rights to promote pension eligibility, ample benefits, or other pension reform objectives are no better than the procedure available for their enforcement.

My amendment builds upon section 699(a) of the substitute amendment to S. 4 by providing a ready and inexpensive form of administrative relief for employees, retirees, and survivors who claim the violation of section 699(a) or other improper action jeopardizing pension rights.

Especially in the absence of union assistance, employees' pension rights cannot be asserted effectively if their vindication requires resort to the courts. Employees need relatively informal administrative procedure—much like the grievance-arbitration procedures now so common in industry—if they are to have a chance of asserting such rights effectively. Employees in nonunion situations do not have such protection, and many grievance-arbitration procedures do not cover the kinds of improper conduct governed by the bill and section 699(a) commonly, questions relating to pensions and pension eligibility are specifically excluded from arbitration. Where the collective agreement does cover the dispute, and the National Labor Relations Board would defer to arbitration if the alleged improper action constituted an unfair labor practice, arbitration would take place rather than the procedures provided by the amendment. The hearings and appeals would be governed by the Administrative Procedure Act.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. WILLIAMS. I yield myself 2 minutes.

Mr. President, this amendment would require the Department of Labor, as I understand it, to provide an administrative procedure for resolving disputes between plan participants and the trustee concerning entitlements to benefits.

Mr. HARTKE. The difference between this proposal and the way the bill reads at the present time is that one has to go to court for a remedy. A single employee has to go to court. Under this bill, the Secretary of Labor has to set up a procedure under the Administrative Procedure Act, without going to court.

Mr. WILLIAMS. On what kinds of cases?

Mr. HARTKE. Any type of discharge or arbitrating action, denying the employee his pension rights, being laid off, fired, discriminatory actions, improper discharge, discipline—things of that nature.

Mr. WILLIAMS. We do provide that the Secretary of Labor would have authority to bring suit to obtain relief in many of the areas to which the Senator refers. That is in the proposed legislation.

Mr. HARTKE. The difference is that the Secretary of Labor is authorized in the bill to bring suit. The procedures with respect to union employees would be handled by arbitration.

Mr. WILLIAMS. The bill also provides for arbitration within every pension plan.

Mr. HARTKE. That is correct, but that is not affected by this amendment.

Mr. WILLIAMS. And these are the kinds of situations that the Senator presented that need a decision. The question is whether to go this route with a new and very large bureaucracy within the Department of Labor or whether we should provide exclusively in this area, as the bill does, for arbitration within the pension plan itself.

Mr. HARTKE. No, that is not exactly correct.

Mr. WILLIAMS. This would require a great number of hearing officers, and the whole business.

Mr. HARTKE. There is no question about that. This is a common complaint. In the legal profession there is no lawyer who will accept most of these cases because the lawyer is going to represent the union, the company, or the pension fund. But when this man is laid off and is a nonunion employee, he will have trouble finding a lawyer. There is no one who will be pleading his case for him. My amendment would place the responsibility on the Department of Labor to look out for that nonunion employee.

Mr. WILLIAMS. I feel that the situation the Senator described can be met by both the Secretary of Labor and in other areas by the arbitration provisions in the bill. It seems to me to be a new layer of duplication, which is vastly expensive and complex, and it would create a great new bureau within the Department of Labor.

Mr. HARTKE. I hear what the Senator is saying.

Mr. WILLIAMS. The rights of the workers are fully protected under this bill.

Mr. HARTKE. I hear what the Senator is saying, but I hope that after this proposal is rejected and this reform law has gone into effect that the Committee on Labor and Public Welfare would make a study of the abuses of these people who work for 7, 10, 11, 12 years and who are not ready for pension plans and find themselves on the streets. Find a Secretary of Labor who is going to take that case to court. The Senator will not be able to find him.

Mr. President, I am ready to yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment as modified.

The amendment was rejected.

Mr. HARTKE. Mr. President, I send to the desk a modification of my amendment No. 483.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 19, beginning with line 13, strike all through and including page 20, line 19, and insert in lieu thereof the following:

"(B) YEARS OF SERVICE.—The Secretary shall prescribe standards, consistent with the purposes of this Act, governing the number of working hours, days, weeks, or months, which shall constitute a year or part of a year of covered service, or a break in service for purposes of this Act. In no case shall a participant's time worked in any period in which he is credited for a period of service for the purposes of this section, be credited to any other period of time unless the plan so provides."

Mr. HARTKE. Mr. President, this amendment provides pension credit for part-time employees.

In many industries, employees typically work only a part of a year, either because business regularly is seasonal or workers are laid off for a substantial period because of occasional slumps in demand, or because—in the case of women—family obligations or work opportunities dictate part-time and part-year employment. Nonetheless, the earnings generated by part-year or part-time work contribute to the family standard of living and require replacement in retirement. In addition, layoffs, illness, and withdrawal from the labor market all cause breaks in service that often are fatal to pension eligibility.

This amendment requires the Secretary to issue rules as to what amount of work will constitute a full year's pension credit and what amounts of part-time and part-year work will earn proportional part-year credits that can be accumulated toward eligibility for vesting.

Mr. President, this does not deal with the problem that the Senator from Nebraska (Mr. CURTIS) presented before dealing with participation.

Mr. JAVITS. Mr. President, I yield myself 5 minutes on this question.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, we do have provisions in the bill which give a full year of service for 5 months within the year worked, based on 80 hours of work a month. That would start in 1982. That provides a very fair measure of part-time work. It is only 20 hours a week. Before that time, the matter will be subject to regulation by the Secretary of Labor. We think this is an adequate provision to take care of part-time work that should be recognized under pension plans. I believe the amendment should be rejected.

Mr. HARTKE. Will the Senator from New York answer this question?

Mr. JAVITS. Yes.

Mr. HARTKE. Will the Senator refer, please, to page 19?

Mr. JAVITS. Of the bill?

Mr. HARTKE. Yes; page 19, subparagraph (i). The year will be whatever the Secretary decides.

Mr. JAVITS. Before 1982. That is correct.

Mr. HARTKE. On page 20, subparagraph (ii), after December 31, 1981, the year will be 5 months, if the employee is employed at least 80 hours in each of such 5 months.

Mr. JAVITS. That is correct.

Mr. HARTKE. Should these things be reversed, much more flexibility is offered. Why should they not be?

Mr. JAVITS. The reason why they should not be reversed is, as we do in so many other things, that we are entering into a new program with cost consequences. We had to allow for experience. That is why we believe we should have this approach. That is why I oppose the amendment.

Mr. HARTKE. In other words, there should be a difference of criterion.

Mr. JAVITS. It is simply like the criteria in so many other things. We had to defer title to vesting for 2 years. It is simply a pragmatic program. We are going ahead with a new program; we are going ahead with a new system.

Mr. HARTKE. Mr. President, I am ready to yield back the remainder of my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana (Mr. HARTKE). (Putting the question.)

The amendment was rejected.

### AMENDMENT NO. 508

Mr. HARTKE. Mr. President, the last amendment I offer is No. 508. I ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, the reading of the amendment will be dispensed with, and without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 71, beginning with line 8, it is proposed to strike out through line 23 on page 87, and insert in lieu thereof the following:

### TITLE III—PORTABILITY

SEC. 301. FINDINGS.

The Congress finds that it is necessary, in order to provide for the public welfare through the protection of the pension rights of American workers, to establish a program under which an individual's vested right to a deferred benefit under a pension plan may be transferred, upon his separation from employment, to a national program in which it will be held in trust for him payable upon death, disability, or his attaining normal retirement age, and to provide a limited national pension program of which certain small businesses may avail themselves.

SEC. 302. DEFINITIONS.

(a) For purposes of this title—

(1) "pension plan" means—

(A) a pension plan described in section 401(a) of the Internal Revenue Code of 1954;

(B) an annuity plan described in section 403 (a) or (b) of such Code;

(C) a bond purchase plan described in section 405(a) of such Code;

(2) "participant" means an employee who is covered by a pension plan;

(3) "administrator" means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act; and

(4) "State" means any of the States of the United States or the District of Columbia.

### Sec. 303. Proposals From Private Industry.

The Secretary of Labor is authorized to receive proposals during the first 9 months after the date of enactment of this Act for the establishment of a program meeting the requirements of section 301. Not later than the end of the 10th calendar month ending after the date of enactment of this Act the Secretary of Labor shall transmit an analysis of all proposals received under this section together with his comments on them and any recommendations, including recommendations for legislation, with respect to such proposals he may have to the Congress. The Secretary of Labor shall furnish copies of any such proposals to the Secretary of the Treasury whenever he receives them and the Secretary of the Treasury shall submit his analysis and comments with respect to such proposals to the Congress not later than the end of such 10th month.

### Sec. 304. Establishment of Program.

(a) In General.—If, within 60 days after the date on which the Secretary of Labor furnishes such proposals to the Congress, there is not reported from any committee of the Congress a measure for the establishment of such a program or, if within 90 days after such proposals are submitted the Congress has not passed and sent to the President a measure to establish such a program, the Secretary of Labor is authorized to establish and operate a program which meets the requirements of section 301.

(b) Elements of Program.—Under any program established by the Secretary under this section—

(1) any employer engaged in a trade or business in or affecting interstate commerce who maintains a pension plan shall register the plan with the program;

(2) an employee who has a vested right to a deferred benefit under a registered pension plan may request that the administrator of that plan transfer an amount equal to the value of that right to the program upon his separation from service with the employer who maintains the plan;

(3) the administrator of a registered pension plan shall transfer the entire amount described in paragraph (2) to the program upon request made by such an employee in not less than equal installments over a period of not more than 5 years together with interest thereon; and

(4) the amount of an employee's interest transferred to the program, together with any income thereon shall be payable to him or his beneficiaries only in the event of his attaining the age of 60 years, upon his death, or upon his becoming disabled (as determined by the Secretary of Labor).

(c) National Pension Plan for Small Businesses.—The Secretary of Labor is authorized to establish a pension plan, which shall meet the requirements of section 401(a) of the Internal Revenue Code of 1954, with such terms and conditions as he may determine to be appropriate, under which employers of not more than 300 employees may make contributions on behalf of their employees and under which such employees may make contributions.

(d) (1) Account established.—The Secretary shall establish and maintain a separate account for each separate payment received by the program on behalf of each participant.

(2) Items shown in account.—An account established under paragraph (1) shall identify the participant for whom it is established and shall show—

(A) the name and address of each registered plan which makes a payment under this title on behalf of the participant in whose name such account is established;

(B) the portion of each such payment which constitutes the amount treated under sections 72, 402(a), and 403 of the Internal Revenue Code of 1954 as the net amount contributed by the participant;

(C) any remaining portion of each such payment; and

(D) the amount which constitutes the income attributable to such account while in the custody of the program.

(e) Approval by Congress.—

(1) In General.—A program established by the Secretary of Labor under subsection (a) shall not be put into effect unless neither House of the Congress object to its being put into effect under this subsection within 60 days after its proposal. The Secretary shall notify the Congress of the establishment of such program and the 60-day period referred to in the preceding sentence shall begin on the first day in which both Houses of Congress are in recess occurring after the Secretary has so notified each House of the Congress.

(2) Exercise of rulemaking power of the Senate and the House of Representatives.—The succeeding paragraphs of this subsection are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (3); and they shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(3) Resolution.—For the purpose of the succeeding paragraphs of this subsection, "resolution" means a resolution of Congress, the matter after the resolving clause of which is as follows: "That the____________ does not favor the proposed pension portability program transmitted to Congress by the Secretary of Labor on ______.", the first blank space therein being filled with the name of the House in which the resolution is offered and the second blank space therein being filled with the date on which the Secretary's message proposing the program was delivered.

(4) Referral of resolution.—A resolution shall be referred to the Committees on Education and Labor and on Ways and Means of the House of Representatives of the Committees on Labor and Public Welfare and on Finance of the Senate.

(5) Discharge of committee.—If the committee to which has been referred a resolution has not reported it before the expiration of 10 calendar days after its introduction, it shall then (but not before) be in order to move to discharge the committee from further consideration of that resolution, or to discharge the committee from further consideration of any other resolution with respect to the proposed adjustment which has been referred to the committee. The motion to discharge may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same proposed rate), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposed rate.

(6) Consideration of resolution.—When the committee has reported, or has been discharged from further consideration of a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(7) Debatability of motions.—Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution and motions to proceed to the consideration of other business shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

### Sec. 305. Taxability of Transfers to or From Portability Programs

(a) Amendments to Sections 402 of the Intelnal Revenue Code of 1954.—Section 402 of the Internal Revenue Codc of 1954 is amended by adding at the end thereof the following new subsections:

"(f) Taxability of Transfers to Pension Portability Program.—A payment to a portability program established under section 304 of the Retirement Income Security for Employees Act by a pension plan of an amount representing not less a full discharge liability by that plan with respect to a participant shall not be includable in the gross income of such participant for the taxable year of such participant in which such payment is made.

"(g) Taxability of Payments From the Pension Portability Program.—Any amount paid on behalf of a participant from a pension portability program to or with respect to a participant shall be includable in his gross income for the taxable year in which paid to the extent that such amount exceeds the aggregate amount of the related payment to the pension portability program credited to the amount of such participant which is treated as contributed by such participant under subsection (a), section 72, or section 403.

"(h) Taxability of Mandatory Withdrawal From the Pension Benefit Portability Fund.—Any amount paid to a participant under the provisions of section 305(b) of the Retirement Income Security for Employees Act shall be includible in the gross income of such participant to the extent such amount constitutes the amount described in section 304(d) (2) (D) of such Act.".

(b) Mandatory Withdrawals.—The balance of any account of a participant shall be paid by the program to such participant within 30 days after notification to the Secretary, by the Secretary of the Treasury that the trust or plan (which made a payment credited to such account) has been determined not to be a qualified trust under section 401(a) of the Internal Revenue Code of 1954 or not to be a plan which satisfied the requirements of section 404(a) (2) of such Code at the time such trust or plan made such payment.

### Sec. 306. Investment Authority.

The Secretary of Labor shall enter into contracts with appropriate persons for the management of funds held in trust by the program for participants, and such persons shall invest such funds in securities of corporations organized within the United States and such other securities as those persons shall determine to be appropriate for the purpose of conserving such funds and producing reasonable amounts of income from their investment. Any income or losses produced from such investments shall be credited to or deducted from the accounts of participants in the program in appropriate amounts. Any voting rights derived from securities in which such funds are invested shall be exercised by a board of trustees elected annually, under the supervision of the Secretary of Labor, by participants in the program.

SEC. 307. ENFORCEMENT.

(a) IN GENERAL.—The Secretary of Labor is authorized to bring actions for equitable relief to prevent or restrain violations of duties imposed under this title and under any program established by him under this title.

(b) CIVIL PENALTY.—Any person who fails to perform any such duty shall be liable for the payment of a civil penalty of $500 for each act or omission constituting such a failure, and each day of continued failure shall constitute a separate offense.

(c) APPEARANCE OF COUNSEL.—In any action brought by him under this title the Secretary of Labor may be represented by counsel appointed by him.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out the provisions of this title.

### THE NEED FOR PORTABILITY

**Mr. HARTKE.** Mr. President, this amendment deals with the need for portability. The question is very simple. It concerns one of the very difficult problems we have in the whole field of pensions.

Vesting and portability are not the same. Vesting without portability will often prove inadequate because, first, employees will not feel the vested benefit alone is dependable and so may withdraw from the plan, thereby losing valuable credits and more importantly, second, without portability the value of vested credits can be seriously eroded by inflation, and third, a benefit that is vested but not portable is not available in the case of disablement.

### THE LIMITS OF VESTING

Vesting means a claim to a future benefit conditioned upon living to normal retirement age, and adequate funds in the plan. The uncertainties introduced by these conditions may persuade an employee in a contributory plan to withdraw his contributions thereby losing the larger value of the employer's contribution—the cash in hand is worth two in the employer's plan syndrome.

More importantly, without portability the value of a vested benefit can be wiped out by inflation When an employee separates from a job and is eligible for a vested benefit, the benefit is determined by the plan formula at the time of separation. This means that these years of credited service do not participate in the plan improvements that constantly take place in response to inflation, improved productivity, higher living standards and the difference between the usually conservative earnings rate on reserves assumed as compared with actual experience. As a result, existing employees may be separated involuntarily and receive less for the very same years of service than do employees who stay with the company.

Assume an employee separated with a vested benefit at age 45 payable at age 65—20 years later. Assume a modest annual rate of inflation of 3 percent—modest indeed by current experience. After 20 years, the vested benefit would suffer a 60-percent reduction in value. Put another way, the plan would pay out in dollars worth 60 percent less than when the credits vested.

### THE FUNCTION OF PORTABILITY

However, with portability, the plan would pay out the discounted value of the benefit at or soon after the employee separated. The usual low-interest assumption used by actuaries would favor the existing employee—the lower the interest rate assumption, the higher is the discounted sum necessary to produce any given level of benefits. When deposited to the employee's individual account in a clearinghouse, that sum would work to the employee's benefit. It would participate in the actual experience of the economy. Earnings rates would reflect inflation and help the benefit keep up with inflation. These better prospects, plus the account in the name of the employee, would encourage employees to opt for the several dollars of vesting versus the fewer dollars in hand at separation. Moreover, such benefits directly and currently credited to the employee would be available in the event of disability.

### HOW PORTABILITY WOULD WORK

Pension portability requires a national pension clearinghouse or regional clearinghouses which coordinate their activities. Its structure is described below.

### EMPLOYEE CREDITS

When an employee separates from a job with a vested right, the plan would inform the clearinghouse of that fact and pay over to the clearinghouse the present value of the vested benefit under rules and regulation governing such valuation promulgated by the clearinghouse. The rules should provide that large amounts would be payable in installments over a period of 5 years. In this way, the funding of vested benefits would not be unduly favorable to separating employees as compared with continuing employees. In the case of an unfunded plan, the clearinghouse could compel immediate or phased funding of the vested benefit.

The funds thus provided would be deposited to the account of the employee with the vested right and would work for him. The funds would be trust funds invested in common with other such funds with all earnings and improvements in value creditable to the individual. The highly successful Teachers Insurance and Annuity Association does just this for tens of thousands of professors and employees in higher educational institutions.

The employee's credits would be payable to him should he become disabled—an advantage not available with conventional vesting. Should the employee die, the credits would be payable as an annuity to his or her spouse or, if there is none, to his/her estate—an advantage not available with conventional vesting.

In most cases, the credits would provide annuity payments to the employee upon retirement and to the employee's survivor after his/her death. Unlike conventional vested benefit, the benefit would have increased in value and earnings by actively working as an investment for the employee. The erosion of benefits by inflation is becoming one of the most critical problems of pensions. And pensioners are the group in society hardest hit by inflation. Portability through the clearinghouse is the major means of offsetting the evaporation of value of vested benefits.

### THE CLEARINGHOUSE—PREFERABLY A PRIVATE UNDERTAKING

The proposed amendment would provide private groups the first opportunity to organize the clearinghouse contemplated. The amendment provides an 18-month period during which private groups would develop proposals. The Secretary of Labor is authorized to provide technical assistance in these efforts. The idea is to have a competition in which private enterprises, such as insurance companies, banks, pension and investment consultants, unions, and consumer groups, would seek to develop proposals that best protect retiree and survivor interests, best protect against conflicts of interest between the clearinghouse and the other enterprises conducted by the other institutions in which the clearinghouse stockholders have interests and—of great importance—provide for the dispersal of investment and the avoidance of undue concentration of investment power.

On the one hand, the enormous potential profits of the clearinghouse would attract the ingenuity, skill, and attention of the private sector. On the other hand, the need to persuade Congress that its proposal serves employee, retiree, and survivor interests best would tend to stimulate protective elements in the plans. The final protection for such interests is that if no plan is acceptable to Congress, the Secretary would be authorized to institute a federally operated plan. The Federal clearinghouse would be a last resort to be used only if the private sector fails to come up with a fair and workable plan. S. 4 and S. 1179, however, provide no opportunity for a private clearinghouse and, instead, propose clearinghouses that would not do the job.

After the private proposals are submitted to Congress, with the assessments of the Secretary of Labor and the Secretary of Treasury, the Senate Labor and Finance Committees and the House Labor and Ways and Means Committees would be required to hold hearings and to report a bill approving one of the proposals, or rejecting them all. As with the reorganization act, the reports would be required in 90 days and a floor vote would have to take place within 30 days thereafter. In this way, Congress would have to act. Of course, these periods might result in modifications of proposals provided some private group desired to make them, thus the competitive factor would continue to work.

### THE ADVANTAGES OF A PRIVATE CLEARINGHOUSE

A private clearinghouse would mobilize much of the varied talent of the private sector to promoting employee pension interests. A few years ago, a White House task force called upon private industry to devise an effective clearinghouse mechanism. This proposal not only echoes that sentiment, but provides the concrete occasion and incentive for that to be done.

It would permit flexible investment of reserves in all sectors of the economy—debt, equities, directly, in new enterprises, and wherever sound investment policy and the intersts of retirees lead. In contracts, the clearinghouses of S. 4 and S. 1179 are restricted to Government guaranteed obligations, savings bank, and savings and loan accounts. Such limitations hark back to the long outmoded and long discredited limitation upon trustee and insurance company investments. The sponsors apparently were so afraid of public body investment in the private sector that they hog-tied the clearinghouses in S. 4 and S. 1179—and the Dent bill has the same limitation. Such limitations upon investment would insure that the clearinghouse could not do its basic job—help the value of the vested credits keep pace with inflation and the growth of the economy.

### SPREADING PENSION PLAN COVERAGE

Spotty coverage constitutes the greatest weakness of the private pension system. According to the early 1973 "Interim Report—Study of Pension Plan Terminations, 1972" (page 18, note 1) private pension plans—not including profit-sharing plans—cover only 23 million active employees rather than the 30 or 33 million so frequently talked of. Material from the Social Security Administration points in the same direction—"Employee Benefit Plans, 1972" 36 Social Security Bulletins Nos. 1, 27, 28 (April 1973).

This means that decidedly less than one-half the private work force has pension coverage at any one time. It also means that when employees lose pension-covered jobs, as they constantly do, their chances of finding another pension-covered job are not good.

This is especially true of blue-collar workers who, studies show, frequently end up in poorly paid jobs which also tend to be nonpension-covered jobs. The same thing has been happening to engineers, physicists and executives in the recent past as hearings I held in South Bend, Ind., show.

Given the limitations of social security, almost all employees need a private or government pension supplement when they retire. Hence, real pension reform means spreading coverage. Hearings held by the Special Committee on Aging indicate that the largest gap in coverage comes in the area of small business. That is understandable. Small company officials have their hands full. They have neither the time nor the resources to deal with lawyers, accountants, pension consultants, banks or insurance company salesmen and officials—all of them now necessary to the "installation" of a private pension plan. Nor is he assured of a quality product and disinterested guidance. In addition, small companies tend to have short lives and so provide inadequate bases for private pension plans which assume corporate life of 30 or 40 years—as do the funding proposals of S. 4 and S. 1179.

If millions of employees working for thousands of small companies are to obtain dependable, low-cost coverage, they must have available some simple choices that are designed for their purposes and problems, meet their limited time and money budgets, and are dependable because promulgated by an institution of unquestioned probity—the clearinghouse provided for in my amendment.

The proposal would apply to any employer with 300 or fewer employees—which is, in pension terms, a small company. The amendment provides that once covered, a company could remain covered with the national—or regional—plan, so that successful companies that grow would not have to disrupt the established relationship but could do so if that seemed desirable.

The employer, on its own or pursuant to a collective bargaining agreement, would be able to pay over to the plan whatever amounts were to be devoted to pension purposes. The plan would credit them to each individual employee's account. The plan would give credits in proportion to the amounts deposited—just as TIAA does for different salary range groups in higher education.

The plan—whether private or public—could provide for immediate, 100 percent vesting as TIAA does, or condition vesting upon specified service within the requirements of law applicable to all plans.

When an employee separates from a participating company, his credits would already be in the clearinghouse and remain to his account—thereby avoiding the costs and difficulties and possible abuses associated with transferring the values to another employer's plan—as provided in S. 4 and S. 1179.

Simplicity, low cost, dependability, and growth make this proposal a promising means of extending coverage on a voluntary basis.

Mr. President, I really feel that I have discussed most of this subject previouly in connection with the different divisions of the bill.

I think I understand that there is unified opposition from the Finance Committee, the Labor and Public Welfare Committee, organized management, and possibly organized labor. Basically, this amendment helps nonunion labor.

Mr. WILLIAMS. Is this an amendment of the portability program?

Mr. HARTKE. Yes, it is.

Mr. WILLIAMS. I have not seen the amendment.

Mr. HARTKE. The difference between the amendment and the bill is that the bill has none of the provisions for voluntary portability.

Everyone who understands anything about pensions—and even the Senator from Ohio (Mr. TAFT) agreed to this fact—knows that the amount of money going into a pension plan is really the employee's money. But under the bill the employer makes the decision as to whether he is going to have or allow any portability.

Mr. WILLIAMS. What does the amendment say? That the Secretary of Labor will look over a lot of proposals and send them back to Congress?

Mr. HARTKE. This amendment provides for the private sector to submit to the Secretary of Labor an opportunity to create a portability fund. Then the Secretary would refer those back to Congress within a year's period. The bill provides for a year even under voluntary portability. If the Congress adopts what the Secretary recommends, that would be the plan. Otherwise there would be a mandatory portability fund.

Mr. WILLIAMS. We recognize the need for portability in the bill, and provide a mechanism for it to work. It is voluntary.

Again, this is an area where we are making a beginning, and it is a very complex area. I strongly suggest that the bill's provisions are very sound, and I stand with the provisions of the legislation before us.

Mr. President, I have no requests for time.

Mr. HARTKE. Mr. President, let me say one thing in answer to what the Senator from New Jersey has talked about. Voluntary portability is probably going to attract nothing. I do not think anyone is going to join it voluntarily. So I think what we have here is the nearest thing to nothing, if not nothing at all. Here is a situation where an employer would put himself in a position of assuming a responsibility which under the law he would not have to. So there would not be any incentive. After all, it is the employee's money, but the bill would give the employer the right to determine it. If we are going to protect anybody against inflation, portability is a must.

I yield back my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Indiana (Mr. HARTKE). (Putting the question.)

The amendment was rejected.

Mr. TAFT. Mr. President, I call up my amendment No. 480 as modified by the provisions at the desk.

The PRESIDING OFFICER. The clerk will read the amendment, as modified.

The legislative clerk proceeded to read the amendment, as modified.

Mr. TAFT. Mr. President, I ask unanimous consent that reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 176, line 10, strike "5" and insert in lieu thereof "7".

On page 176, line 12, strike "5" and insert in lieu thereof "7".

On page 176, line 25, strike "5" and insert in lieu thereof "7".

On page 177, line 12, strike "5" and insert in lieu thereof "7".

On page 178, line 9, strike "5" and insert in lieu thereof "7".

Mr. TAFT. Mr. President, this amendment can be very easily understood.

On page 175 of the amendment by the Senator from Wisconsin, now S. 4, the trustees of a pension plan are prohibited from engaging in certain transactions. There are exceptions from the prohibited transactions with a limitation on investments in securities of the employer, or employer-group, and lease and real property transactions of the employer or employer-group up to an amount of 5 percent of the assets of the pension trust.

When this matter was considered in the Committee on Labor and Public Welfare, the figure which was included in S. 4 was a 10-percent figure. The compromise that was struck with the Finance Committee was 5 percent.

Since that time I have had a chance to consider and discuss the 5-percent figure with quite a number of people. The effect of my amendment would be to change the figure from 5 percent back to 10 percent. I believe the 10-percent figure would provide an adequate safeguard against self-dealing. My amendment would also permit some pension trusts which have already invested in lease-back arrangements with the company, the opportunity of retaining such profitable investments.

Mr. LONG. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. LONG. Mr. President, I have been talking to some of my colleagues about this matter. I would feel that I would have to oppose a 10-percent amendment. I would be willing to suggest a compromise to the Senate and make it 7 percent.

Would the Senator be willing to compromise the figure to 7 percent? The committee was willing to go to 5 percent. They started out with zero. If the Senator would compromise it at 7 percent, I would like to support his amendment.

Mr. TAFT. Mr. President, appreciate the flexibility of the Senator. It is a Louisiana compromise of 7 percent—between 5 and 10—and I would suggest to the Senator that perhaps his 7 percent figure could go to 7.5 percent.

Mr. LONG. I may say to the Senator that we are moving a long way from the Finance Committee bill's position. Our position was zero.

Mr. TAFT. I would be glad to discuss that with the Senator. I think that the Finance Committee position is an unnecessary restriction on the powers of a trustee. They are already under fiduciary restrictions contained in S. 4. There are many companies which already have holdings of sizable amounts in employer stock and reality. I think a 10 percent limitation is a proper limitation. I see no reason to go below that 10-percent figure.

At the same time, I want to move ahead. I understood the Senator was going to be agreeable to the 10-percent figure. I appreciate that he has had a chance to talk with some members involved in this matter.

Mr. LONG. Mr. President, will the Senator yield, on the time in opposition?

Mr. TAFT. I yield.

Mr. LONG. The Finance Committee's attitude was that we do not object to having people putting their profits in the corporation's stock in a profit-sharing plan. If the corporation does well, the stock would do well, but if it is a pension plan, we are talking about and the corporation should fall on hard times, the proposed beneficiaries might lose out completely under existing law because the company went broke, and not only was the company not able to continue the plan, but the pension plan would go broke along with it.

Mr. TAFT. I appreciate that, but the Senator is talking only about a 10-percent factor.

Mr. LONG. Ten percent of the pension fund would be lost.

Mr. TAFT. Without taking some risk, the pension is going to be subject to the serious problems of inflation which have been in effect in recent years, and there is a prospect that it will be a factor in the future. Further S. 4 would establish termination insurance to protect the pension trust. Also there is no guarantee on the absolute safety of outside investments.

Mr. LONG. Diversifying the risk is the idea of a pension plan. When people are looking to a corporation both to put money into a pension plan and to keep it solvent and also relying on that corporation for employment, it more or less amounts to putting all one's eggs in one's basket, or moving in that direction, when the pension money is invested in corporation stock.

It would be better for the pension to have diversified investments rather than have the money invested in corporation stock. We understand some people have invested pension plan money in their stock.

I thought we could compromise and have a 7-percent figure. From the Finance Committee's position, that is 7 percent more than zero. From the point of view of the Labor Committee, it is a reduction from what the committee advocated; but the Finance Committee thought it should be zero.

Mr. TAFT. Perhaps I should not take the entire burden of this compromise. I wonder if the distinguished Senator from New Jersey or the distinguished Senator from New York would care to back the 10-percent figure. Since they were in the discussions, would they care to make their views known?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. JAVITS. We are sympathetic to the Senator. He is a member of our committee. We had a 10-percent figure, but we have already compromised on splitting the figure. The Finance Committee had nothing. We therefore compromised with them half way.

The Senator from Ohio is offering a proposition which, considering the Senator's view, is probably about the best that can be done. If the Senator wants a rollcall, in all honesty we are going to stand by our bill. So I hope very much the Senator can find a way to work it out.

Mr. TAFT. Mr. President, is the Senator from New Jersey willing to express an opinion as to whether he is of the same opinion?

Mr. WILLIAMS. Yes.

Mr. President, the figure to which the Labor Committee was committed was 10 percent. The figure of the Finance Committee was zero. We would require that plans holding in excess of that amount would have to divest themselves of a period of years down to the permitted amount.

The Finance Committee did not require a sell-off. We thought 5 percent on the whole question made sense.

The Senator from Louisiana is making it 7 percent. I think that we are getting a lot closer to the Labor Committee position than we otherwise would.

Mr. LONG. Mr. President, since we reached an agreement with the Labor Committee, we have looked into this matter to see to what extent this would affect people across the country. Very few corporations would be adversely affected, and even those who would be would not be required to sell off much of their stock, even at the 5-percent figure. And they would have 10 years to make that adjustment.

Mr. TAFT. Mr. President, I understand. However, this situation is not as simple as the Senator puts it. There are some specific instances with which I am familiar, especially with real estate investment that would be hurt by a 5-percent limit. They are good investments. However, they are subject to evaluation. There is a continuing evaluation by the Internal Revenue Department. Some of these investments are very good investments. Even if we enact the 10 percent figure on investments, we will call for a termination of some of those investments.

However, in view of the expression of opinion by the Labor Committee on the subject and the background as outlined by the distinguished chairman, I ask unanimous consent to modify my amendment from 10 to 7 percent.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio? The Chair hears none, and it is so ordered. The amendment is so modified.

The question is on agreeing to the amendment, as modified, of the Senator from Ohio (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 46, line 3, after "lesser," insert "the alternative limitation for proprietary employees described in paragrah (4),".

On page 46, line 4, strike out "(4)" and insert "(5)".

On page 48, line 22, strike out the closing quotation marks.

On page 48, between lines 22 and 23, insert the following:

"(5) Minimum deductible amount.—For purposes of this subsection, the minimum deductible amount for any employee is the lesser of—

"(A) $750, or

"(B) 100 percent of his earned income derived by him from the trade of business with respect to which the plan is established.".

Mr. HUDDLESTON. Mr. President, this amendment would permit a self-employed individual to contribute at least $750 per year to a qualified plan, regardless of his earned income.

Many self-employed individuals—athletes, entertainers, and others—never know in advance whether they will have a bad year or a good year. Under such circumstances, there is great potential for contributions and the administrative costs of determining at the end of the year whether or not there have been excess contributions to a master H.R. 10 plan can become prohibitive. Of course, the administrative cost of making this determination is particularly significant for plans which cover relatively low-income individuals since the administrative cost is substantial in relation to the amount left to fund pension benefits. In fact, because of this administrative cost, insurance companies and other such trustees of master plans have, on occasion, refused to establish a master plan for certain groups of individuals.

It is the purpose of my amendment to lower this obstacle to establishing master H.R. 10 plans for low-income self-employed individuals. It allows an individual to annually contribute the lesser of $750 or 100 percent of earned income. In other words, an individual can contribute up to $750 per year without having to worry about making an excess contribution, provided that that person has earned at least $750.

It seems to me that if an individual is contributing as little as $750 annually, we should do everything possible to keep administrative costs of the plan at a bare minimum. My amendment is directed toward that goal. Even under the individual retirement plan, which is a new plan, an individual can contribute up to $1,000 or 100 percent of earned income. The amendment I propose merely makes limitations on contributions to an H.R. 10 plan more like those under an individual retirement plan.

Mr. CURTIS. Mr. President, I think the amendment of the Senator from Kentucky has merit. I am perfectly willing to accept the amendment.

Mr. NELSON. Mr. President, we dealt with this question in the Finance Committee and adopted the principle contained in the amendment of the distinguished Senator from Kentucky, although in a different amount.

Our side has no objection to the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky (putting the question).

The amendment was agreed to.

Mr. STEVENSON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> On page 168, line 25, change the period to a comma and insert the following immediately thereafter: "three of whom shall be persons receiving benefits from a private pension plan.".

Mr. STEVENSON. Mr. President, in order to advise and assist the Secretary of Labor in the performance of his duties under the Welfare and Pension Plan Disclosure Act of 1962, that act establishes a 13-member Advisory Council. The act allocates 10 of the 13 seats to various groups interested in the administration of the act, including labor, management, the insurance industry, and the corporate trust field.

This bill expands the membership of the Council to 21 and provides for the representation of actuaries, accountants, and investment counselors, as well as the groups already represented under the 1962 act.

In short, everyone is guaranteed representation except the pensioners themselves. Throughout the 11-year history of the Advisory Council, the pensioners have been denied the opportunity to speak for themselves on issues which vitally affect their economic well-being; not one pensioner has ever been appointed to the Advisory Council.

This amendment gives pensioners the voice they want and need by allocating the remaining three seats on the Council to persons receiving benefits under a private pension plan.

I urge the adoption of this amendment and yield back the balance of my time.

Mr. President, I would hope that the managers of the bill might see the justice of the amendment and agree to accept it.

Mr. JAVITS. Will the Senator yield?

Mr. STEVENSON. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, it would make it very difficult as far as I am concerned for me to accept the amendment. The Senator provides that they should be pensioners themselves instead of representatives of those receiving benefits.

That is a very tough matter. We had the same experience in poverty.

If the Senator would revise his amendment so that it would provide that they should be representative of those receiving pensions, we would be happy to take it.

Mr. STEVENSON. Mr. President, I have no objection.

I modify my amendment.

Mr. JAVITS. Mr. President, may I suggest that it would then read:

> Three of whom shall be persons representing those receiving benefits . . .

Mr. STEVENSON. That is satisfactory.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

> On page 168, line 25, change the period to a comma and insert the following immediately thereafter: "three of whom shall be persons representing those receiving benefits from a private pension plan."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois as modified.

The amendment as modified was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. NELSON. Mr. President, I send to the desk a technical amendment, correcting clerical errors in amendment 496, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment reads as follows:

On page 1, beginning with line 3, strike out through line 5 on page 3, and insert in lieu thereof the following:

(b) Table of Contents.—

TITLE I—ADMINISTRATION

PART A—INTERNAL REVENUE SERVICE

Sec. 101. Establishment of office.
Sec. 102. Authorization of appropriations.

PART B—REGISTRATION

Sec. 151. Duties of plans.
Sec. 152. Duties of the Secretary of Health, Education, and Welfare.
Sec. 153. Effective date.
Sec. 154. Authorization of appropriations for Department of Labor.

TITLE II—PARTICIPATION; VESTING; FUNDING; CERTAIN BENEFITS

PART A—PARTICIPATION

Sec. 201. Minimum standards relating to participation.

PART B—VESTING

Sec. 221. Minimum standards relating to vesting.

PART C—FUNDING

Sec. 241. Minimum standards relating to funding.

PART D—OPTIONAL FORM OF BENEFIT; SPECIAL RULES

Sec. 261. Amendment of section 401.
Sec. 262. Prohibition against maintaining non-qualified plans.

PART E—PROTECTION OF PENSION RIGHTS UNDER GOVERNMENT PLANS AND CONTRACTS

Sec. 281. Duties of the Secretary of the Treasury.
Sec. 282. Duties of Secretary of Labor.

TITLE III—PORTABILITY

Sec. 301. Definitions.
Sec. 302. Program established.
Sec. 303. Establishment of fund.
Sec. 304. Registration.
Sec. 305. Acceptance of deposits.
Sec. 306. Individual accounts.
Sec. 307. Payments from individual accounts.
Sec. 308. Assistance to plan administrators.
Sec. 309. Amendment of Internal Revenue Code of 1954.
Sec. 310. Authorization of appropriations.

TITLE IV—PLAN TERMINATION INSURANCE

PART A—PENSION BENEFIT GUARANTY CORPORATION

Sec. 401. Definitions: Special rules.
Sec. 402. Pension Benefit Guaranty Corporation.
Sec. 403. Establishment of Pension Benefit Guaranty Fund.

PART B—COVERAGE

Sec. 421. Plans covered.
Sec. 422. Benefits covered.
Sec. 423. Contingent liability coverage.
Sec. 424. Other risks.

PART C—TERMINATIONS

Sec. 441. Termination by plan administrator.
Sec. 442. Termination by Pension Benefit Guaranty Corporation.
Sec. 443. Reportable events.
Sec. 444. Allocation of assets.
Sec. 445. Recapture of certain payments.
Sec. 446. Report by corporation.

PART D—LIABILITY

Sec. 461. Corporation liability.
Sec. 462. Liability of employer.
Sec. 463. Liability of substantial employer for withdrawal.
Sec. 464. Liability of employers on termination of multi-employer plan.
Sec. 465. Annual report of plan administrator.
Sec. 466. Annual notification to substantial employers.
Sec. 467. Recovery of employer liability for plan termination.

PART E—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954; EFFECTIVE DATES

Sec. 481. Amendments to Internal Revenue Code of 1954.
Sec. 482. Effective dates.

PART F—ALLOCATION OF ASSETS WHERE SECTION 444 DOES NOT APPLY

Sec. 491. Allocation of assets for plan terminations not covered.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

PART A—DISCLOSURE

Sec. 501. Authority to issue regulations.
Sec. 502. Amendment to Welfare and Pension Plans Disclosure Act.
Sec. 503. Annual reports.
Sec. 504. Investigations.
Sec. 505. Public information.
Sec. 506. Establishment of Advisory Council.
Sec. 507. Administration.

PART B—FIDUCIARY STANDARDS

SUBPART I—FIDUCIARY STANDARDS UNDER THE WELFARE AND PENSION PLANS DISCLOSE ACT

Sec. 511. Amendment to the Welfare and Pension Plans Disclosure Act.
Sec. 512. Effective Dates.

SUBPART II—FIDUCIARY STANDARDS UNDER THE INTERNAL REVENUE CODE OF 1954

Sec. 521. Qualifications and responsibilities of individuals.
Sec. 522. Prohibited transactions.

TITLE VI—ENFORCEMENT

PART A—DISPUTES RELATING TO THE QUALIFICATION OF CERTAIN EMPLOYEE PLANS

Sec. 601. Tax Court procedure.
Sec. 602. Determination of pension rights.

PART B—AUDITING, ETC.

Sec. 641. Excise tax for auditing; etc.

PART C—ACTUARIES

Sec. 671. Enrollment and reports of actuaries.

PART D—RESOLUTION OF DISPUTES GENERALLY

TITLE VII—RETIREMENT SAVINGS; LIMITATION ON PROPRIETARY EMPLOYEE CONTRIBUTIONS; TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS

Sec. 701. Deduction for retirement savings.
Sec. 702. Certain plans.
Sec. 703. Taxation of certain lump-sum distributions.
Sec. 704. Contributions on behalf of self-employed individuals and proprietary employees.
Sec. 705. Collectively bargained plans.
Sec. 706. Miscellaneous provisions.

(c) Amendment of 1954 Code.—Except at otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

On page 7, line 10, after "thereof" insert a comma.

On page 9, line 6, strike out "501(g) (11) of this Act", and insert in lieu thereof the following: "3(15) of the Welfare and Pension Plans Disclosure Act".

On page 11, beginning with line 9, strike out through line 22 on page 12 and insert in lieu thereof the following:

SEC. 154. AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF LABOR.

On page 21, line 3 after "Act" insert "and".

On page 21, line 9, after the period insert "A plan described in this subparagraph meets the requirements of this paragraph.".

On page 30, lines 11 and 12, strike "section 501(g) (11) of the Retirement Income Security for Employees Act" and insert "section 3(15) of the Welfare and Pension Plans Disclosure Act".

On page 15, line 22, strike out "have been" and insert "were".

On page 15, line 24, before the comma insert "during the most recently concluded contract negotiations which were the subject of bargaining between such representatives and the employer or employers".

On page 66, line 18, after "persons" insert "engaged in a trade or business which is in or affects interstate commerce".

On page 66, line 19, strike "in commerce".

On page 68, line 18, strike "; and" and insert a period.

On page 68, strike lines 19 and 20.

On page 72, line 10, strike "section 412(c) (1)" and insert "section 412(b) (1)".

On page 72, line 12, strike "section 501(g) (11) of this Act" and insert "section 3(15) of the Welfare and Pension Plans Disclosure Act".

On page 83, line 22, strike "section 412(c) (1)" and insert "section 412(b) (1)".

On page 87, line 4, strike "section 412(c) (1)" and insert "section 412(b) (1)".

On page 105, lines 21 and 22, strike "section 412(c) (1)" and insert "section 412(b) (1)".

On page 96, line 4, after "any" insert "one".

On page 120, lines 4 and 5, strike "section 412(c) (1)" and insert "section 412(b) (1)".

On page 139, lines 6 and 7, strike out "section 501(g) (11) of the Retirement Income Security for Employees Act", and insert in lieu thereof the following: "section 3(15) of the Welfare and Pension Plans Disclosure Act".

On page 215, lines 5 and 6, strike out "section 501(g) (11) of the Retirement Income Security for Employees Act", and insert in lieu thereof the following: "section 3(15) of the Welfare and Pension Plans Disclosure Act".

On page 216, lines 18, 19, and 20, strike out "section 501(g) (11) of the Retirement Income Security for Employees Act", and insert in lieu thereof the following: "section 3(15) of the Welfare and Pension Plans Disclosure Act".

Beginning on page 11, line 9, strike through line 21 on page 12.

On page 64, line 20, insert before the period the following: "and that such election may be made only after such participant receives a written explanation of the terms and conditions of such joint and survivor annuity and the effect of such election".

On page 142, insert between lines 11 and 12 the following:

AUTHORITY TO ISSUE REGULATIONS

Sec. 501. (a) The Secretary of Labor shall have authority to issue such rules and regulations as are necessary to implement the provisions of this Act and the Welfare and Pension Plans Disclosure Act.

(b) In order to avoid unnecessary expenses and duplication of functions among government agencies the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the Welfare Plans Disclosure Act and the functions of any agency, Federal or State, as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable or other basis the facilities or services of any department, agency, or establishment of the United States or of any State including services of any of its employees with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and to the extent permitted by law to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

On page 142, line 14, strike out "501" and insert in lieu thereof "502".

On page 149, strike lines 10 through 15 and insert in lieu thereof the following:

(i) Section 4(b) (4) of such Act is repealed.

On page 150, line 23, insert immediately before the quotation marks the following: "The Secretary shall prescribe by general rule simplified reports for plans which cover less than 100 participants and which maintain an employee benefit fund with less than $100,000 in assets, except that nothing contained herein shall preclude the Secretary from requiring any information or data from such plans where he finds such data or information necessary to carry out the purposes of this Act nor shall the Secretary be precluded from revoking provisions for simplified forms for any such plan if he finds it necessary to do so in order to carry out the objectives of this Act.".

On page 153, line 6, after the word "conducted" insert the words "subject to regulations of the Secretary and".

On page 165, line 12, add the following new sentence: "For the purposes of any investigation described in this subsection, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents,) of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officer designated by him. To the extent he considers appropriate the Secretary shall delegate his auditing and investigative functions under this section with respect to insured banks acting as fiduciaries of employee benefit plans to the 'appropriate Federal banking agency' as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (q)).

On page 165, insert between lines 15 and 16, "PUBLIC INFORMATION".

On page 170, insert between lines 18 and 19 the following:

"ADMINISTRATION

SEC. 507. Section 5108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) In addition to the number of positions authorized by subsection (a), the Secretary of Labor is authorized, without regard to any other provision of this subsection to place a total of 20 positions in the Department of Labor in GS–16 and 17.".

On page 172, insert between lines 13 and 14, the following:

"(2) A fiduciary is prohibited from engaging in the following transactions:

"(A) holding or purchasing on behalf of the fund any security which has been issued by an employer or employer-group whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, or employee-group, if such investment, which when added to such securities already held, exceeds 7 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 7 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to plan funds which may be invested in such securities. Profit sharing, stock bonus, thrift, or other similar plans, which are in existence on the date of enactment and which allow investment in such securities without explicit provision in the plan, shall remain exempt from the 7 per centum limitation until the expiration of one year from the date of enactment of this section. Nothing contained in this subparagraph shall be construed to relieve profit-sharing, stock bonus, thrift and savings or other similar plans from any other applicable requirements of this section. For the purposes of this subparagraph the leasing (or a purchase in connection with such lease) of real property and personal property related to such real property to an employer or employer-group by a plan shall be deemed to be a security of such employer or employer-group;

"(B) any fund other than a profit-sharing, stock bonus, thrift savings plan, etc., holding securities of an employer or employer group which employs participants in such plan, in excess of 7 percent of the fair market value of such fund on the effective date of this section shall, within 5 years after the effective date of this section, divest not less than 50 per centum of such excess and shall, not later than 10 years after the effective date of this section divest not less than 100 per centum of such excess.

On page 172, line 14, strike "(2)" and insert in lieu thereof "(3)".

On page 173, line 2, strike out the word "or".

On page 173, line 5, strike out the period and insert in lieu thereof "; or" and insert between lines 5 and 6 the following:

"(G) represent any other party with such fund or in any way act on behalf of a party adverse to the fund or adverse to the interests of its participants or beneficiaries.".

On page 173, line 6, strike "(3)" and insert in lieu thereof "(4)".

On page 173, line 10, strike "(2)" and insert in lieu thereof "(3)".

On page 173, line 18, add the following new sentence: "Prior to the granting of an exemption under this paragraph, the Secretaries shall give adequate notice which shall include publication in the Federal Register, to interested persons, of the pendency of such exemptions."

On page 173, line 19, strike "(2)" and insert in lieu thereof "(3)".

On page 174, strike lines 10 through 17.

On page 174, line 18, strike "(3)" and insert in lieu thereof "(2)".

On page 175, line 7, strike "(4)" and insert in lieu thereof "(3)".

Beginning on line 10, page 175, strike through line 15 on page 178.

On page 178, line 16, strike "(7)" and insert in lieu thereof "(4)".

On page 178, line 20, strike "(8)" and insert "(5)".

On page 178, line 23, strike "(2)" and insert in lieu thereof "(3)".

On page 178, line 24, strike "(9)" and insert "(6)".

On page 179, line 2, insert after the word "subsection" "(a) or".

On page 179, line 24, insert before the word "agreement" the words "by any".

On page 180, line 3, strike the words "unless specifically disapproved" and insert in lieu thereof "subject to regulations promulgated".

On page 180, insert between lines 7 and 8 the following:

"(h) no fiduciary shall permit any assets of the fund to be held, deposited, or invested outside the United States unless the indicia of ownership remain within the jurisdiction of a United States District Court, except as authorized by the Secretary by rules or regulations.

On page 184, beginning with line 8, strike through line 13 on page 186 and insert in lieu thereof "SEC. 521 FIDUCIARY STANDARDS.

On page 186, line 14, strike "(c)" and insert in lieu thereof "(a)".

On page 186, line 18, strike "the" and insert a period after the word "assistance" and strike the words "in the performance of the functions of the Secretary of the Treasury under this section.".

On page 186, beginning on line 26, strike through line 6 on page 188.

On page 188, line 7, strike "(3)" and insert in lieu thereof "(b) COOPERATION WITH REGARD TO INVESTIGATIONS.—".

On page 188, line 11, strike "(e)" and insert in lieu thereof "(c)".

On page 188, line 17, insert after the word "transactions" the words "under section 522 (d)(1)".

On page 191, line 1, strike the word "fiduciary" and insert in lieu thereof the words "party in interest".

On page 191, line 2, strike the words "income or".

On page 191, line 5, strike the word "from" and insert the word "by".

On page 191, insert between lines 8 and 9, the following:

"(A) Exemption.—The Secretary, in conjunction with the Secretary of Labor shall by rule or regulation provide for the conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the restrictions imposed by paragraph (1) of this subsection. An exemption granted under this section shall not relieve a fiduciary from any other applicable provisions of this Act. In granting an exemption under this paragraph, the Secretaries shall assure that such exemption is (i) administratively feasible, (ii) in the interests of the fund, (iii) protective of the rights, both contingent and vested, of participants and beneficiaries of such plan. Prior to the granting of an exemption under this paragraph, the Secretaries shall give adequate notice to interested persons, which shall include publication in the Federal Register, of the pendency of such exemptions.

On page 191, line 9, strike "(A)" and insert in lieu thereof "(B)".

On page 191, line 17, strike "(B)" and insert in lieu thereof "(C)".

On page 192, strike lines 7 through 15.

On page 193, line 8, after the word "the" insert the words "purchase and".

On page 194, line 15, strike the words "It is not a" and lines 16 through 21.

On page 197, line 21, insert after "(A)," a "(B),".

On page 198, line 9, insert after "(A)," a "(B),".

On page 203 strike lines 13 through 18 and on line 19 strike "(3)" and insert "(2)".

On page 210, beginning with line 14, strike through line 8 on page 212.

On page 218, line 9, insert the word "ENFORCEMENT:" immediately before the word "RESOLUTION".

On page 218, line 11, insert the word "pension" before the word "benefit".

On page 219, between lines 21 and 22 insert the following:

"(g) The Secretary shall prescribe rules and regulations necessary to carry out this section.".

On page 219, line 25, after the word "Act" insert "and the Retirement Income Security for Employees Act".

On page 220, line 9, after the word "Act" insert "and the Retirement Income Security for Employees Act".

On page 220, line 16, after the word "Act" insert "and the Retirement Income Security for Employees Act".

On page 220, line 15, strike "15" and insert in line thereof "16".

On page 222 strike line 17 through line 20 and insert in lieu thereof:

Sec. 695 (a) The jurisdiction of any court competent to hear an action brought by a participant or beneficiary under sections 693 or 694 shall be conditioned upon the service of a copy of the complaint upon the Secretary by certified mail, who shall have the right in his discretion to intervene in the action.

On page 226, line 2, strike the word "registered" and insert in lieu thereof the word "certified".

Mr. NELSON. Mr. President, I yield back my time.

Mr. JAVITS. Mr. President, I yield back the time on our side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

Mr. HRUSKA. Mr. President, the pending bill in its presently amended form provides long-needed progress in private pension plan reform. On balance, the improvements over the present law make it deserving of enactment.

The changes it contains are numerous, comprehensive, and intricate. They bring added benefits and coverage to many taxpayers, both those not covered now as well as those who are. They provide a large measure of equalizing treatment for different taxpayers, groups and classes. In addition to the increased coverage, many additional advantages and protections to the beneficiaries and their survivors are being provided.

While these changes are many, there is one in particular that I want to point out. It relates to provisions adding beneficial coverage for the millions of taxpayers who are not covered by any pension plan under the present law, and who would not otherwise be covered under the law as they would be following enactment of this bill. This aspect has been of special and persistent concern to my colleague from Nebraska, Senator CURTIS. He has urged action upon it through many Congresses, so it is gratifying that his loyalty and dedication to this idea are now being rewarded.

The problem comes about in this way: In spite of the rapid growth in pension plan coverage, only about one-half of all employees in private, nonagricultural employment in America are still without consideration or coverage. This is due to a number of reasons. Small business firms and agriculture rarely have pension plans now. Requirements for establishing plans and participating in them are often overly exacting. Age and duration of employment service requirements are often unrealistically limiting and restrictive. All of this has had a tendency to exclude many employees and individuals from advantages of a tax-benefit advantaged retirement fund for their later years.

The bill before us recognizes the need to grant to such individuals some of the tax advantages enjoyed by those who are covered by pension plans. It does so by providing a limited tax deduction—up to $1,500 per year—for such payments as they may make to a properly qualified retirement savings plan.

Such a plan could be one of a variety of plans. Some examples are: Annuity contracts sold by insurance companies, mutual funds, corporate securities, savings accounts, and special government retirement bonds which would be issued for this purpose. A choice of one of these methods would be at the option of the taxpayer. Contributions or payments to that end would not be taxable if they did not exceed the specified limit.

This arrangement is equitable. Heretofore that taxpayer has been called upon to pay income taxes first, before he could devote a portion of his earnings to retirement savings from the remainder of his paycheck; that is, from his paycheck after taxes.

It has been this inequity to which my Nebraska colleague has long addressed his energies and attention. He has fought repeatedly for some form or method whereby the 50 percent of the population not covered by pension plans would also receive some tax-relief advantage in the building up of a retirement base; an equivalent of the tax-relief consideration received by those taxpayers who are covered by pension plans. He had pursued this in his long years of service on the Ways and Means Committee of the other body where he had served for 16 years. He resumed the efforts in his long years of service on the Finance Committee. It should be recalled that his efforts on behalf of the Keogh plan H.R. 10, when it was being formulated and enacted for self-employed people, had as its basis the idea that similar tax relief grant should be extended beyond only those under pension plans. But of course as fine as H.R. 10 was, it did not go far enough, so Senator CURTIS persisted in his battle whenever occasion afforded. The pending bill contains provisions which see the happy and satisfactory conclusion to those efforts.

Of course there are many others in the Congress who are of similar mind, and the approval of the bill will bear this out; full credit should go to each. But the fact remains that the pioneering, early efforts and sustained force of my colleague from Congress to Congress to the present time were heavy factors for final achievement. His firm purpose, pursuit, and dedication have borne fruit.

It is for these reasons I note the event and express this salute.

But the entire bill is comprehensive in scope and detail. It required and received the wisdom, experience and energies of many Members to produce and process it. Commendations are due to each of them, and especially those serving on pertinent committees and their respective staffs, all of whom contributed much.

President Nixon in his message to the Congress on this subject of pension plan reform last April stated:

> The achievements of our private welfare and retirement plans have contributed much to the economic security of the Nation's workers. They are a tribute to the co-operation and activity of American labor and management. We can be proud of the system that provides them—but we must also be alert to the Government's responsibility for fostering conditions which will permit that system's further development.

Mr. President, I submit that the Congress will have shown well that alertness and discharged its responsibility to which President Nixon alluded in his message, upon approving, perfecting, and enacting the "Retirement Income Security for Employees Act."

### FAIRNESS TO SMALL BUSINESS IN THE PENSION BILL

Mr. McINTYRE. Mr. President, the pension bills the Senate considers today (S. 4 and S. 1179) will result in very important legislation.

Retirement security, which is important to every working man and his family, has increased in importance in proportion to longer life expectancy.

From the business side, deferred compensation is a significant management instrument. It enables companies to attract and retain key personnel, and their loyalties, so that an organization can be built and a higher quality job can be done for the ultimate consumer—whether this user is a Federal, State, or city government, a business or an individual buyer.

This far-ranging law with its economic and tax aspects thus deeply affects the terms of the social compact in our country between capital, management, labor, and the consumer.

Another aspect of these bills, which could easily escape notice, is their impact over 9 million individual businessmen, 900,000 partnerships, and the small stockholders of 1.7 million corporations. Small business constitutes 97½ percent of the total number of businesses in the United States and accounts for over half the employment and around 40 percent of the gross national product. They are the well-spring of enterprise, risk-taking and innovation in this country.

Accordingly, I wish to commend the Committees on Finance, Labor, and the Joint Committee on Internal Revenue Taxation, as well as the individual Senators who have worked so hard on this bill and their recognition of the needs of small business enterprise.

S. 1179 proposes to raise the limitations on deductions for self-employed persons, such as individual proprietors, to a maximum of $7,500 or 50 percent of income—from $2,500 or 10 percent. This is a much more realistic level, particularly in view of inflation. It will allow many more smaller firms to consider establishing pension plans. In turn, this should open up wider opportunities to financial institutions and consultants to develop this profitable business among a much larger clientele.

In the initial stages, the question also rose about the extent to which similar limits should apply to corporations. Many Senators and staff members had a part in the difficult work of trying to arrive at a fair resolution of this issue. The Select Committee on Small Business, on which I serve, under the leadership of the Senator from Nevada (Mr. BIBLE) played a role by collecting data on the effect which certain of the proposals would have on the existing plans of typical smaller corporations such as machine shops, general contractors and printers. This was made available to the Committees on Finance and Labor which bear the heavy responsibilities of presenting the bills which they believe will assure equitable treatment to all.

As a result of the work that was done and the conscientious consideration which was given these questions, particularly at an additional executive session of the Committee on Finance on September 14, I believe that most of the wrinkles have been worked out of the present legislation.

However, certain members of the committee feel that the permissible level of annual benefits could be better adjusted. The Senator from Wisconsin (Mr. NELSON) who held the public hearings on S. 1179 has such an amendment which I plan to support.

There also remains a concern over whether the equivalency formula will provide true equality of consideration for profit sharing, money purchase, and other plans, as well as insurance plans. The memorandum points out that:

> Many businesses typically take several years to achieve the financial stability required to undertake a commitment to a fixed cost plan and thus probably enter the retirement-deferred-compensation field with a profit-sharing plan as to which contributions are voluntary from year to year. It would therefore seem that any rules in this area be uniform as between the various types of retirement plans.

I believe we should make our congressional intention very clear, that no discrimination is intended against any sort of deferred compensation plan, and especially the plans which are most amenable to adoption by newer and smaller businesses.

We hope there is sufficient flexibility under the statute and the regulations so that the necessary adjustments can be made in behalf of unique small business problems such as integration with social security and the wide variations in earnings year to year which characterize many newer and smaller firms.

### NONDISCRIMINATION

Mr. MONDALE. Mr. President, for some months I have been deeply concerned with the need to insure that pension benefits are made available on a nondiscriminatory basis to all those who have earned them regardless of race, color, national origin, religion, or sex.

The chance to achieve economic security—based on merit—is the heart of the American dream; and where pension benefits are unfairly reduced or denied, the results are tragic for those who have earned a dignified retirement.

I had intended at this time to raise my amendment incorporating nondiscrimination based on race, color, national origin, religion, or sex into the basic requirements of the pending bill.

However, I understand that the distinguished Senator from New Jersey (Mr. WILLIAMS) is concerned that this approach runs counter to our actions last year in further consolidating equal employment jurisdiction in the Equal Employment Opportunity Commission.

Mr. WILLIAMS. The Senator is correct. Although I fully share your concern for full enforcement of nondiscrimination requirements affecting pension and profit-sharing plans, I believe that the thrust toward centralized administration of nondiscrimination in employment must be maintained. And I believe this can be done by the Equal Employment Opportunity Commission under terms of existing law.

Mr. MONDALE. Does the Senator agree that discrimination based on race, color, national origin, religion, or sex affecting participation in pension or profit-sharing plans, is presently prohibited under section 703(a) of the Equal

Employment Opportunity Act? That section provides, in part:

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religions, sex, or national origin—

**Mr. WILLIAMS.** I agree with the Senator's reading of the statute and I understand that the courts are following this view. The leading cases are: *Rosen* v. *Public Service Commission*, 477 F. 2d 90 (3 Cir. 1973); *Bartmess* v. *Drewrys*, 444 1186 (7th Cir. 1971) Cert. Denied 404 U.S. 939; *Fillinger* v. *East Ohio Gas*, 4 FEP 73 (E.D. Ohio 1971).

Again, I share the concerns of the distinguished Senator from Minnesota that the EEOC must view discrimination in pension plans as among the most serious forms of employment discrimination. And I will be glad to join the Senator from Minnesota in impressing this view on the new chairman-designate of the Commission, Mr. Powell, when he appears before the Committee on Labor and Public Welfare for confirmation.

**Mr. MONDALE.** Mr. President, the distinguished Senator from New Jersey, the chairman of the Committee on Labor and Public Welfare and of the Labor Subcommittee, is the principal architect of the Equal Employment Opportunity Act and of the pending bill. I deeply appreciate his judgment and his assistance.

In light of the Senator's views, and with the understanding that nondiscrimination in pension and profit-sharing plans is fully required under the Equal Employment Opportunity Act, I will not propose my amendment at this time.

**Mr. HANSEN.** Mr. President, the Senate has been considering a very important piece of pension reform legislation which will have far-reaching effects on every employed person in this country. The Senate Committee on Labor and Public Welfare and the Senate Finance Committee have actively coordinated their efforts in order to produce this timely piece of legislation. I would like to take this opportunity to commend the chairmen of these two committees for the degree of cooperation they have achieved.

I certainly agree that minimal standards are necessary in this area of private pension plans in order to insure employee security upon retirement. However, a few aspects of this bill still concern me because I think we might have gone a little too far for this first effort. I only hope that we have not created an administrative monster which could be counterproductive to our goal of encouraging the establishment of private pension plans.

I am primarily concerned about the type of termination insurance that has been adopted. A joint study by the Treasury Department and the Department of Labor indicates that very few employees are affected by plan terminations. In fact, this Treasury study showed that in a 7-month-period of 1972, only .04 of 1 percent of all pension plan participants suffered any losses—both vested and unvested. I am certainly concerned about employees who lose their rights to pension benefits after working many years for one company. I am not trying to minimize the tragedy or extent of their losses. However, the present legislation is calling for a massive and far-reaching program to help eliminate the losses of these few individuals. We have taken important steps in the pending legislation to insure adequate funding and early vesting. These two measures alone should help to substantially minimize any losses incurred by employees whose plans are terminated. Would not it be better to wait and see how effective these funding and vesting requirements are in eliminating termination losses before establishing a totally new bureaucracy which could dramatically increase government control of private pension plans.

The administration's pension reform proposal (S. 1631) of which I was a cosponsor, more closely represented the pension reform I thought was necessary at this point in time. It would have set minimum standards without stifling the growth of present plans or the establishment of new ones.

I would particularly like to mention one section of S. 1631, incorporated into the Finance Committee legislation, which will permit individuals not covered by qualified private pension plans to make tax deductible contributions of up to $1,500 per year for their own retirement. Employers who do not have established pension plans for their employees are also encouraged to contribute to these personal savings plans so long as the combined contribution does not exceed the $1,500 limitation. The employer is allowed a tax deduction for his share of the contribution.

This provision gives an employee not covered by another type of pension plan, the opportunity to put some of his money away for his own retirement and, at the same time, to receive some of the same tax benefits for doing so which are available to members of qualified pension plans. The people for whom this provision is intended are the ones presently discriminated against under the present tax law. They are taxed on income they put away for retirement as well as the interest on that income. This provision will eliminate the present disadvantage and encourage more people to save for their own retirement. Planning ahead for later years is essential, and this section of the bill certainly encourages an individual to do just that.

Other sections of this legislation dealing with vesting, funding, and fiduciary responsibilities have been carefully structured and should be of real benefit to all employee participants in qualified private pension plans. Although I do have some reservations about this legislation, I hope that the provisions adopted will encourage the establishment of additional private pension plans and will not unnecessarily restrict their growth. The number of private plans has been increasing rapidly, and employees contributing to these plans deserve some degrees of security regarding their future benefits.

### SURVIVORSHIP BENEFITS

**Mr. MONDALE.** Mr. President, I wish to congratulate the managers of the pending bill—Mr. Williams, Mr. Javits, Mr. Nelson, Mr. Long, Mr. Bentsen, and Mr. Bennett—for incorporating within the terms of the compromise proposal the essence of my amendment—adopted by the Committee on Finance—and the essence of the amendment of the Senator from New York (Mr. Javits)—adopted by the Committee on Labor and Public Welfare—regarding survivorship benefits to the spouses of pension plan participants.

Information about the extent and magnitude of survivorship benefits under existing pension plans is woefully inadequate. But we know that many plans do not provide any benefits to the surviving spouse of a deceased participant. This means that the death of a participant totally deprives a spouse of all pension support. Yet many pension participants strongly believe that they are building for the future security of their families.

Under section 221 of the compromise amendment, pension plans subject to the jurisdiction of this act must provide continuing benefits to the surviving spouse unless a specific, written election is made rejecting these continuing benefits within 2 years of retirement. These survivorship benefits are to be an actuarial reduction of the primary benefit which the plan participant would receive during his lifetime—and in no case is this benefit to be less than half the primary benefit which the participant would receive during his lifetime.

This action is crucially important. Although half our working force is covered by pension and profit-sharing plans, fewer than 2 percent of elderly widows receive any benefits at all. The Treasury Department estimates that 88 percent of the 23 million participants in fixed-pension benefit plans will have a dependent spouse as they approach retirement age. Section 221 of the compromise bill will go a long way toward assuring financial security and a dignified retirement for these persons.

**Mr. KENNEDY.** Mr. President, I rise to speak in support of the bill now before the Senate which seeks to establish fundamental reforms in the private pension system that now encompasses more than 30 million Americans.

Despite the sharp rise in pension plan participants from the 4 million covered in 1940, the 30 million participants now enrolled unfortunately still cannot look to their retirement with a sense of confidence or assurance.

Too often, we have seen the guarantees they thought were contained in their pension plan disappear with the closing of a plant and the discovery that the plan did not have enough funds to provide anyone the pension he or she had expected.

I was pleased to join with Senators Williams and Javits—who have led the fight to reform the pension system—in cosponsoring S. 4, the Pension Reform Act, last session and again this year. Building on the record of the Senate Labor Subcommittee's extensive inquiry into the private pension system during the 92d Congress, S. 4 was a fundamental attempt to address the evils of the system. At the same time, the excellent work done by Senator BENTSEN, Senator NELSON, and the Senate Finance Committee has now been melded into the legislation before us to produce a major step forward in pension reform.

These steps cannot be put off any longer. Too many men and women who worked in the factories and businesses of this Nation throughout their adult lives have found old age tarnished by the sudden discovery that they had no pension for retirement or a totally inadequate pension.

The witnesses testifying both before the Senate Labor Subcommittee and before the Senate Finance Committee brought unending tales of tragedy. For most of them, the time already had passed when their grievances could be redressed. But for millions of other Americans what we do this afternoon in passing this legislation may mean the difference between living in dignity and living in poverty.

The classic example remains that of Studebaker where 9,000 workers whose average age was 55 were declared surplus in December 1963 when the plant shut its doors. For those workers, the pension fund was their one remaining hope after absorbing the shocking news of Studebaker's demise.

But within a a few days, it was apparent that the pension fund had been short changed. The result was that all workers under 40 received nothing. For these workers, the pension plan that they had been paying into throughout their working life turned out to be an illusion.

Mr. President, I ask unanimous consent that some of these cases collected by the UAW be printed in the RECORD at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

### THIRTY-TWO YEAR SERVICE PENSION REDUCED TO $37.75

Mike Daly and Ed Daniel know well the fear of losing pension rights for which they have worked all their lives.

Both are victims of the pension plan termination at Gar Wood Division of Sargent Industries Inc. in Wayne, Mich.—Daly a retiree whose pension benefits were cut to a pittance, and Daniel, one of the firm's few remaining active workers, who will have no pension check at all to show for his 30 years on the job.

Daly, 71, chairman of the UAW Local 250 Retirees Chapter, remembers vividly the scene at a meeting in 1972 when the Gar Wood retirees were told that the firm was moving virtually all of its operations to other locations and was halting the pension plan.

"I saw heartbreak and fear in the people's eyes, and many broke down and were unable to speak," says Daly. "There were wives of retirees who came to voice their husband's despair, many who had never spoken in public before.

"Their lips moved and made no sound," he recalls. "The world dropped from under them.

"Where do they go? To the scrap heap? On welfare? To a mental institution? Sponge from relatives?"

Gar Wood's 231 retired workers suffered 60 per cent cuts in their pension payments. For Daly, who worked at Gar Wood for 32½ years as an arc welder, this meant that "my pension was reduced from $93 a month to $37.75.

"Our life insurance was cut from $1,000 to $403 in death benefits," he added. "Our hospital insurance will be discontinued Dec. 1."

At age 57, Daniel worries about the future, asking, "Who is going to hire me, even though I can do good work?"

An arc welder in the skeleton work force of about 40 remaining at Gar Wood, Daniel points out that some 500 Gar Wood active workers, like himself, had worked long enough to earn vested pension rights.

"They all thought that at the end of their working days—at age 60 or 62 or 65—that the money was there. Today they have no hope," Daniel says.

Gar Wood terminated the pension plan on July 31, 1972 and Daniel recalls that some of the retirees "didn't know anything about it until they got a check."

That check reflected the 60% pension cut.

"We pleaded with the company," says Daniel, president of Local 250. "We tried to get them to stay. But they wouldn't listen; they moved anyway.

"I think it's a shame when the old people by the thousands across this country, who have worked to build a great country, today have no pension—and our government will let this happen," he said. "If the congressmen and the senators of the United States could have been at Gar Wood and seen the faces of those people when they were told that no longer did they have pensions, I'm sure we would have better legislation than we have today. We'd have had something to protect these people."

Daniel is bitter about the contradictions in government policy and programs that, on one hand, allow firms to get tax breaks for putting workers' money into pension plans and, on the other, to terminate retirement plans at the expense of workers.

"I got not a dime after investing approximately 39 cents an hour into what I thought would be my pension," Daniel says. "We were never able to get Gar Wood to contribute one dime to our plan, not even one nickel.

"But under our governmental system, they got credit for putting the money into the plan: they got a tax rebate on it—out of our own money."

Daly points out that Gar Wood is "part of one of the new conglomerates that thrive on liquidation of small companies, with huge tax write-offs.

"These tax write-offs are made possible by act of Congress," he notes, adding: "I say to the members of Congress that it is time you gave protection to the people whose lives are destroyed by these write-offs."

Daly and Daniel agree emphatically that "pension should be guaranteed the same as bank deposits."

### GAR WOOD DIVISION: SARGENT INDUSTRIES—PENSION SLASHED BY 60 PERCENT

Gar Wood is one of the oldest and best-known names in the manufacture of refuse truck bodies in the entire nation.

Located in the city of Wayne, a west side Detroit suburb, the Gar Wood plant employed somewhere near 500 workers for the better part of three decades.

In 1969, Sargent Industries, a giant American conglomerate, purchased Gar Wood outright. As in many instances when corporate interests switch hands, workers at Gar Wood wondered how the change would affect them. It didn't take long to find out.

In January 1972 UAW was notified by Sargent that the Wayne plant would close. Since operations were to be phased out, contributions to the pension fund would, of course continue—at least until the work force dipped to under 100. Then, the corporation could—and did—terminate the plan.

The plant was never really large but it had an old workforce and most had long service. As a result, pension benefits were smaller than workers received at nearby Big Three auto plants. But if benefits were small before the plan was terminated, they became anemic after the ax fell.

Those who had the right combination of years of service and age were allowed to apply for benefits amounting to only 40% of what the plan had originally called for. Those already retired had their pensions slashed by 60%.

Workers with a third of a century on the job, but still too young to retire under the plan, received nothing. The entire fund had been used up in the purchase of annuities for those already retired or eligible to retire.

The tragedy of Gar Wood workers is another sickening example of long-term corporate promises which have not been kept. The pension plan, financed with capital which workers could have otherwise had included in paychecks, is gone.

### DORSEY DAY: AFTER 32 YEARS, AN UNCERTAIN FUTURE

Dorsey Day was barely old enough to vote when he first went to work as a clerk in Kensington Steel's pattern department in 1941. He grew up with the fledgling casting company, and knew just about everybody who ever worked there.

He was always a cautious man, and considered the security of his family in almost everything he did. It was more than ten years after he went to work at Kensington before Day and his wife began a family. With his family's security in mind, he became a key person in the organizing drive that gave birth to UAW Local 162.

He was likewise concerned about the security and well-being of his coworkers, and in recognition of this they elected him local president 12 years ago and have returned him to office in each succeeding election.

Classified now as an inspector, Day was floored when he was notified that Portec, a conglomerate which acquired Kensington about five years ago, had decided to discontinue operations and close the plant.

Now 51 and supporting two children who are away at college in addition to a 6-year-old daughter and his wife, Day is representative of what has happened to the average worker at the plant.

The typical Portec worker has 25 years of seniority and is 44 years old, which means that most were teenagers when they were first employed. Even if they are fortunate enough to land new jobs, their future is blurry.

The pensions they once thought they were building are gone, and they must now start from scratch. That is, if it is possible.

### THIRTY YEARS OF PENSION CREDITS DOWN THE DRAIN

When Vivienne Hampson went to work for Macoid Industries in Detroit during the booming war production period of 1942, little did she know what that job eventually would cost her.

The cost: 27 years of loyal service that led to 27 empty years for her retirement and pension hopes.

The tragic loss of her pension rights occurred when Macoid closed its doors in June 1969 and moved to Pennsylvania. A leader in Macoid's fabricating department, Mrs. Hampson, who is a widow, was stunned to learn that the pension plan was being terminated and her "vested rights" were worthless.

The average age of Macoid's workers was 44. Mrs. Hampson was 54 when the firm moved.

"We had 200 employes covered by what we thought was an adequate pension plan," she recalls. Of the 200, 30 were retired. And after allocating the money in the pension plan to those who were retired, there was nothing left for Mrs. Hampson and her coworkers.

A month after Macoid closed, the sprightly, determined Mrs. Hampson hired on with Procon Pump in Detroit, "and in 1971 that one moved to Franklin, Tenn.

"So I was then 57 years of age, and another three years down the line," she said. In March 1972, she began working as a welder at the Walway Corp.

To Mrs. Hampson "adequate protection will have to come through Congress" on guaranteeing that workers get the pension benefits they work for, expect and are entitled to.

Pointing to the immensity of the problem, Mrs. Hampson says that amalgamated UAW Local 985, which she has served as financial secretary since 1952, "lost 75 plants through closings and relocation from 1952 to 1972."

She told congressmen at a pension reform hearing in Detroit that "the lyrics of the tune have always been the same.

"The song is "Promises, Promises," she explained.

"We are tired of promises from all of you," she told the congressmen. "When you reach that age—54, 57, 58—you cannot get Medicare, and it becomes a toss-up then on whether you will eat or buy your hospitalization insurance. And with semi-private hospital rooms at $77 a day, gentlemen, let me assure you that the cost of individual hospitalization is terrific."

### Too Young for Pension Benefits

### WHEN STILL ANOTHER CONGLOMERATE BOUGHT, THEN CLOSED A PLANT

For over half the 19 years, Guadalupe Luna worked at a Los Angeles fixture manufacturing plant, he was building up the pension he and his wife, Mary, "knew" they'd get when he retired.

They'll never receive it. His pension went down the drain in 1970. That was when the conglomerate that had taken over the firm terminated the plan and shut down the plant.

"I was out of everything," Luna recalls. "No job. No health insurance; that stopped after 30 days. Nothing else. And I was too young for retirement benefits, even though I had over 10 years of credited service.

"It was like getting hit by a truck. You look on building up pension credits as a sort of payroll deduction. It's something you believe you'll have coming when you retire and need it. Then somebody decides no more plan, no more plant, and you're left with nothing."

Of the one-time peak employment of over 1,000 workers at the plant, Weber Showcase and Fixture Co., some 60 already had retired and were drawing benefits when the "parent" firm, Walter Kidde and Co., decided to shut it permanently.

Another 40 or so workers were added to the retirement list. But that was all. And Luna isn't among them. He was No. 60 on a final seniority list of about 260 workers, some with seniority dating back to 1940.

Luna had gone to work at Weber in 1951 as a punch press operator and later a structural assembler. As unit chairman of UAW Local 509, a post he held for some 10 years he helped negotiate the pension program which went into effect at Weber in 1960. He was a quality control inspector when the plant was closed ten years later.

Luna was fortunate. After being out of work for three months, he obtained a job at a small battery assembly plant about 30 miles from his home, But his new employer doesn't provide a retirement plan. Instead, there's only a profit-sharing program for long-time workers.

"But many of the others who lost everything at Weber still don't have work and are on welfare," he reported.

"For better than 90% of those thousand people and more who worked at Weber when it was at its peak, it looks like that pension plan just ceased to exist."

### Three Jobs, 36 Years and No Pension

It was July of 1964, and in another two months Leo Brocki would have attained vested rights to a pension with North American Rockwell in Los Angeles.

But Brocki abruptly was laid off from his job as a senior model builder. His pension hopes were dashed and Brocki's first priority quickly turned into the search for immediate employment to meet his family's needs.

Now, after more than 30 years of work in the aerospace industry, the 58-year old Brocki still is without a secured right to a private pension.

"Even the smallest pension would mean a great deal to me as I only have a few years to work," he says. "I know several persons who are going to receive nothing but Social Security after 30 years of service. I ask you, is this living?"

Brocki, who lives in Buena Park, Calif. with his wife, Anna, 52, began his aerospace career back in 1937 on the East Coast. He hired in as a trainee with the Glenn L. Martin Co. at Baltimore, Md., advancing to positions as a supervisor, planner and toolmaker. With massive drops in employment taking place at Martin in the 50s, Brocki took his wife and three sons to California where he began working as a model builder for North American Aviation in Los Angeles in 1954.

Less than 10 years later, hit by layoff, he hired in as a display model builder at the Douglas aircraft plant of McDonnell Douglas in Long Beach. This job lasted eight years until, in March of 1972, he was laid off because of a lack of work.

Since then, Brocki has found sporadic work again at North American Rockwell. For two months, he did antenna mock-ups on the B–1 Air Force bomber project until he was laid off. He was rehired for a month and a half, was laid off again, and was rehired once more in January of this year as a B–1 structures mechanic. Brocki is a member of UAW Local 887.

"We helped our country and industry to forge ahead while we were able," Brocki has told a congressman in a letter explaining his plight.

"Now let industry and our government help us when we need it, and not with welfare," he says.

### No Pension After Nearly 35 Years of Work

Various Moorman, 17 years old when he went to work at National Tool in 1939, is now 52, suffering from asthma but otherwise in good health. A member of Local 408, he's been a shipping and receiving leader at the plant.

With nearly 35 years of seniority, how much will he receive in pension benefits now that Lear-Siegler has swallowed National Tool Salvage?

Not one cent.

Someone suggests he'll draw Social Security, won't he?

Of course he will—starting ten years from now. That's a long time away.

Maybe he'll be lucky in landing another job, even though he's 52. He hasn't given up, not by a long shot.

But he had expected to receive some pension benefits, supposedly his, after putting in so many years at National Tool. You can feel the bitter pain in his gut when he says:

"Thirty-five years is a long time to build up for nothing."

### Joe Mansor

### $34.65 MONTHLY PENSION AFTER 32 YEARS ON JOB

Joe Mansor was a teenager in 1929 when he took a job at an Electric Autolite (Eltra) plant in Toledo.

For many years, Mansor would take a pencil and scrap of paper and compute his eventual pension entitlement by multiplying the base benefit by his total years of service.

It looked pretty good. After all, when a person spends his whole life with the same employer, the pension just has to be good. Right?

Wrong.

Eltra's Champlain Ave. plant in Toledo—with little advance warning—closed its doors and ended production in 1962. Twenty-five hundred Eltra workers were thrown out of work.

Since the pension plan was not sufficiently funded to provide full benefits to all employes, Mansor was entitled to only a fraction of what he thought he had earned.

So, after 32 years on the job, Mansor's total Eltra pension amounted to only $34.65 a month.

At the time of Eltra's closure, Mansor was only 50, which meant that he had to look for work until he became old enough to retire.

Unlike hundreds of less fortunate Eltra workers, Mansor landed another job, at the American Motors "Jeep" plant, also in Toledo, where he stayed until his recent retirement. His total pension from both jobs: $100 a month—with more than two-thirds of that coming from his relatively short-term job with American Motors.

If Mansor had been insured against loss of pension through federal legislation he would now be receiving a retirement benefit of about $400 a month.

### No Pension After 44 Years

Every time Walter Baldridge gets into his car, he is reminded of how 44 years of work have led to a day-by-day existence where there's rarely enough money to meet the needs.

The car is a 14-year-old Studebaker station wagon, made by the company that employed Baldridge from 1926 to 1970. It also is the firm that terminated its pension plan in 1964, when Studebaker stopped producing autos, leaving Baldridge without any hopes for a private retirement income.

Baldridge's next-door neighbors in South Bend, Ind., are retirees, too, but they had been employed by companies which are still flourishing. One drives a new Oldsmobile and winters in Florida on a retirement income of more than $600 a month from Social Security and the UAW Bendix pension plan. The other has a similar pension income from Uniroyal.

"They bug me when they ask me how long I am going to drive the old '59 Studebaker wagon," says Baldridge, a former Studebaker plant guard, "and I tell them until I have enough money to buy a new one.

"And I know I can't do that," he adds. "How would I ever pay for it?"

Baldridge notes that, "Both of those guys had less seniority in their plants than I had in mine. The difference is that their employers are still operating the plants they retired from."

Life today for the 68-year-old Baldridge and his wife, Berneice 64, means sacrifices. Their combined income from Social Security is a meager $331 a month.

"It's for sure that we can't go out to eat, of if we do it's for hot dogs or hamburgers—and we can't go to the movies hardly at all unless we go to the matinees when the prices are reduced," he says. "We just couldn't afford to pay the full price."

Baldridge was six months short of the 60-year age requirement set for a pension entitlement when Studebaker quit making autos and suspended the pension plan.

He received only a lump-sum settlement. But even though this was a long-term gain, the U.S. government taxed it as regular, annual income and Baldridge received little more than $500.

He stayed as a Studebaker employee, working in the parts department until he retired in 1970. Then, the only income was a $40 weekly compensation for unemployment, and a $90 monthly Social Security check.

Baldridge and his wife began withdrawing their bank savings to exist. Mrs. Baldridge, four years younger than he, was not then eligible for Social Security payments which would have helped alleviate the financial crisis.

"The bank savings were a one-way street," he says. "When everything comes out and nothing goes in, they don't last long." Mrs. Baldridge also was hospitalized and there was no health insurance to cover the costs. Later, the couple obtained Blue Cross insurance, but this cost a whopping $32 a month from their income.

Baldridge supplements his income by working as a handyman carpenter. Sometimes he finds work with Indiana University, remodeling old houses for use as offices on the South Bend campus. He also repairs old cars and is glad to get extra work around the UAW Local 5 union hall on election days and other special events.

His experiences had led Baldridge to believe that "fully protected pensions are the best insurance anyone can have. The main thing is being protected."

Mr. KENNEDY. Mr. President, Studebaker is the classic case. But it is far from the only case. At Studebaker, it was Walter Baldridge, who had worked at the plant for 44 years and was just a few months shy of retirement. He received a lump settlement of slightly more than $500. When he retired, there was only social security.

At the Eltra Corp., in Toledo, Ohio, it was Joe Mansor who had worked at the plant for 32 years. When it folded, he found out that the pension plan was not sufficiently funded. So instead of an expected $400 a month, he wound up with $34.65 a month.

In my own State of Massachusetts, the history of the past decade has demonstrated the need for far-reaching reforms. The factories and textile mills closed their doors and time after time, the workers were left with either no pension or only a pittance of the pension they had expected.

For those workers who were shy of the retirement age of 60, 62, or in some cases 65, there was no pension—not a single dime—because the plan was not adequately funded.

In Lynn, the J. S. Barnet Co., closed its doors in the mid-1960's and the men who were not yet at retirement age but who had worked for 10 years or more had nothing to fall back on.

In New Bedford, the same story was told over and over as textile plants closed down. Berkshire Hathaway plants in Fall River-New Bedford alone employed some 4,000 workers. For every worker who had not yet reached age 62, the shutdown left them without benefits.

What is more tragic and more of an indictment, is that these incidents continue today. In a Senate Labor Subcommittee study of 469 pension plans in 1970, one-third had assets covering only 50 percent of their liabilities. The assets in the plan barely covered 25 percent of their liabilities in 7 percent of the plans.

When those plants close, another million workers will find themselves shortchanged. Not only is there individual suffering that is the inevitable result but it is unnecessary suffering. Relatively little extra cost would be required on the part of employers to see that these funds are adequately funded.

The overall statistics have been all too well documented. In 1972 alone more than 15,000 pension plan participants lost all or a portion of their benefits because the plans terminated without sufficient funds to cover the plan's obligations. In several thousand cases, the workers lost evey dime of the pension they were rightfully entitled to.

Perhaps the most egregious violation of trust involves those funds where trustees act irresponsibly to siphon money off for their own purposes or invest funds in questionable ventures. In each case, it is the long-time worker who suffers.

There is yet another problem that we discovered during the lengthy hearings into this subject. Many of the plans established long years of service before the worker is entitled to any pension benefits. Then, all too often when the worker is approaching the time when his pension rights will be secured, he finds himself the victim of an abrupt termination.

Thus, the major problems with existing plans, beyond the obvious failure of more than half of all nonagricultural employees to be covered at all by any pension plan, are the following: Inadequate funding, loss of pension benefits due to plan terminations, inadequate vesting, and misuse of pension funds.

The bill before us treats each of these problems in a major way.

First, it demands that plans for which employers are entitled to tax deductions must meet minimum standards of funding to assure that the workers will find enough money in the plan at their retirement.

Second, it provides for required insurance to cover the situation where a firm closes its doors and has insufficient funds to meet its pension obligations. The insurance will provide the same kind of guarantee that a bank depositor has in the Federal Deposit Insurance Corporation.

Third, it provides for earlier vesting to provide that a worker will accrue guaranteed pension benefits of 25 percent after 5 years and 100 percent after 15 years.

Fourth, it includes tough disclosure requirements and adds a means by which an employee can demand the same arbitration procedure that most union-management contracts now contain.

Finally, it includes additional protections against the misuse of trust funds, limiting the kinds of investments that can be made and designed to eliminate the conflicts of interest that have arisen in the past.

Mr. President, I believe the legislation now before us carries us forward toward the protection of the pension rights of American workers and I strongly urge its adoption.

Mr. GRIFFIN. Mr. President, the Senate is on the verge of passing milestone legislation to protect the pension rights of working men and women.

Although different in some respects than a pension reform bill I have introduced in the last two sessions of Congress, the compromise legislation now before the Senate is similar thereto in many respects. And, certainly enactment of this compromise will represent a great step forward; it will be a significant victory for the American worker.

The need for such legislation has been well documented. As just one example, back in 1964, when the Studebaker Co. closed its doors, about 4,000 workers were left without pensions after they had worked many years to earn entitlement.

Of course, it will not be possible to go back and remedy all the tragedies of past years. But any further delay in correcting obvious defects and inequities that exist now would be inexcusable.

Ironically, there are laws on the books to insure and safeguard bank deposits and to protect lenders who loan money to such borrowers as Penn Central and Lockheed. But at present there is no law to insure payment of the hard-earned pension benefits to which American workers are entitled.

A recently completed study conducted by the Departments of Treasury and Labor reveals that no less than 1,227 pension plans were terminated in 1972, resulting in losses of pension benefits to over 19,000 workers. The average loss suffered by each worker exceeded $4,000.

These are grim statistics, but they do not tell the full story. In too many cases, a worker covered by a pension plan has worked 20 years or more for the same company, only to find that he still has no vested right to a pension. In fact, two out of every three covered workers today have no vested rights. Enactment of the pending compromise legislation will operate not only to insure payment of pension benefits once vested but it would also double the number of workers whose rights will be vested.

We are fortunate that a bill reported by the Committee on Labor and Public Welfare and a bill reported by the Committee on Finance are similar in many respects, and that a reasonable compromise has been worked out. While the compromise legislation is not perfect, I am pleased that it is stronger than either of the reported committee bills in a number of respects.

Much credit for the progress made so far should go to the distinguished senior Senator from New York (Mr. JAVITS) who has persistently and effectively fought for pension reform legislation over the years. In addition to supporting the efforts of the Senator from New York, I have long had my own version of comprehensive pension reform legislation before the Congress.

The bill I have introduced and reintroduced over the years has proposed—

Insurance protection for losses of vested pension benefits;

Vested pension rights for a worker after 10 years of employment under a pension plan;

Full disclosure of a worker's pension rights; and

Sanctions against mismanagement of pension funds.

I am pleased that the compromise legislation which is now nearing passage in the Senate does incorporate key features of my proposal, including provisions to give credit for past service.

This is particularly encouraging when one recalls that a bill reported last year by the Labor and Public Welfare Committee would have allowed credit toward vesting for past service only for those workers age 45 and older on date of enactment. In a speech delivered October 4, 1972, on the Senate floor, I emphasized the importance of recognizing past service for all covered workers in any bill to be enacted.

Unless credit for past service is recognized by the legislation to become law, any vesting provision would be only a cruel sham for millions of older workers who are nearing retirement at the present time. As a matter of fact, the Treasury Department estimates that 54 percent of the workers covered by pension plans who are over the age of 60 do not have vested rights to a pension.

Accordingly, I wish to commend the Labor and Public Welfare Committee for its action this year which has eliminated age distinction in the application of retroactive vesting.

Another important feature in the pending legislation is the requirement that employers who terminate a pension plan shall be liable for at least part of the losses which result from inadequate funding. Such liability will encourage more adequate funding and very careful consideration by management of the effects of terminating a plan.

Of course, there are areas of the pending legislation which could be improved. Of particular concern to me are the built-in delays in implementing the vesting and insurance requirements. As the compromise stands now vesting standards would not be effective until January 1, 1976, and pension benefits would not be guaranteed until January 1, 1977.

Under the proposal I have advocated both the vesting and insurance requirements would have been effective 1 year after enactment.

A 2-year delay in making the vesting standards effective could mean that thousands of workers will forfeit their hard-earned benefits during the waiting period.

A delay of 3 years before insurance is available means that 60,000 workers could lose a substantial portion, if not all, of their benefits. I am pleased, however, that the effective dates have been shortened considerably under the compromise amendment.

Although the compromise legislation provides partial vesting for less than 10 years of service, it provides for only 50 percent vesting after 10 years of employment under a pension plan. Full vesting is not required until 15 years of service, as compared with 10 years under my proposal. The 100 percent, 10-year vesting standard which I have proposed is already included in plans covering more than 21 percent of all pension plan participants.

Mr. President, while improvements could always be made, it is of utmost importance for Congress to pass this compromise because it appears to strike the best balance possible at the present time.

It has been 14 years since Congress approved any type of pension protection legislation. That action followed closely on the heels of the Landrum-Griffin Act in 1959. Additional reforms are urgently needed now.

I strongly urge the Senate to pass this legislation by an overwhelming vote.

Mr. PELL. Mr. President, I would strongly urge the Senate to pass S. 4, the private pension reform bill of 1973. This bill and some of its proposed amendments are the result of months of consideration and research, on the part of the Labor Subcommittee of the Labor and Public Welfare Committee of which I am a member, and also reflects the discussions I have had and letters I have received from hundreds of my fellow Rhode Islanders.

This bill will take a long and much needed first step in guaranteeing pension rights to tens of thousands of Rhode Island workingmen and women.

It will assure workers who retire, or who change jobs or employers, or whose employers go out of business, of a fair and equitable return on the pension contributions they and their employers have been making. Additionally, this bill will protect workers whose employers mismanage pension funds or go out of business without pension assets to meet their commitments.

Since I have been in the Senate, I have heard what I can only describe as horrible stories of private pension failure or mismanagement. I believe that today we have the opportunity to make pension systems more responsive to the needs and expectations of all of the workers of our Nation.

Mr. DOLE. Mr. President, private pension plans are an extremely important feature of the economic and social fabric of our country today.

Nearly 100 years ago, in 1875, the first formal private pension plan in the United States was established by the American Express Co. We have taken giant strides since that first plan was established. Today, more than 35 million Americans are participating in private pension plans. This number represents a sevenfold increase since 1940, and over the same period, the assets held by these plans have grown from $12.1 billion to more than $150 billion. More than 6 million retired persons now draw benefits from these plans. The outlook for the future indicates that private pension plans will continue to expand in importance as their participants increase and as they serve still more of the rapidly expanding retirement age group.

### GROWTH OF THE PRIVATE PENSION SYSTEM

The greatest period of sustained growth in the number of persons covered by private plans has occurred in the post-1942 period. A number of factors can be underscored as significantly stimulating this growth. However, the Revenue Act of 1942, which granted tax deductibility for contributions to fund past service credits for the first time, must be viewed as a key factor in the growth of our private pension system. As a result of this expansion in coverage of private pension plans, approximately 50 percent of our civilian, nonagricultural work force is now covered by such plans.

Expansion of our private pension system has been encouraged as an effective means of providing individuals from all walks of life with an adequate source of income after retirement. Putting aside a portion of earnings during a person's most productive years, is in keeping with the most basic American traditions of thrift, self-sufficiency, and concern for the future. It was recognized at an early date that many individuals' funds could be combined, managed, and administered effectively with the result that the whole is greater than the sum of its parts. And with the cooperation and participation of employers, a significant system of retirement security has been created by the private sector of the economy.

### LEGISLATION REPORTED

In favorably reporting S. 1179 to the Senate, the committee has proposed legislation which should continue to encourage the expansion of the private pension system as well as assure each participant of those benefits to which he is legally and equitably entitled.

### KEY PROVISIONS ADOPTED

The committee has adopted certain minimum standards which will apply to all qualified pension plans. To obtain increased participation, qualified plans will have to cover all employees who have completed 1 year of service or who have attained age 30—whichever occurs later. In addition, a system of graded vesting has been adopted to provide all employees with limited nonforfeitable rights to pension benefits funded by employer contributions after a minimum work period. Every employee covered under a qualified pension plan will accrue a vested right to 25 percent of employer pension contributions after 5 years of employment, a 5 percent per year additional interest in such contributions for the next 5 years, and a 10 percent per year additional interest in these contributions for the next 5 years. Thus, after 5 years an employee will have a 25-percent interest, after 10 years, a 50-percent interest, and after 15 years, a 100-percent interest in these contributions.

This provision will eliminate any recurrence of a situation possible under present law where an individual's employment can be terminated prior to his normal retirement date and such early termination disqualifies him from receiving any pension benefits from a qualified plan under which he may have been covered for some extended working period. This provision also recognizes the need for greater job mobility brought about by the shifting requirements of a high-technology economy.

The committee bill includes new funding requirements which are designed to afford greater protection for the rights of covered employees as well as to provide an orderly and systematic method for employers to meet their pension plan costs. These new provisions require an employer to fund the costs attributable to current plan operations—as under present law—and to amortize all unfunded past service liabilities in level payments over no more than a 30-year period.

Consistent with the provisions already explained, the committee has also adopted tighter fiduciary and reporting standards to insure proper management of pension funds required to be set aside.

### OTHER PROVISIONS

To my view, the vesting and funding provisions of S. 1179 are the heart of the bill. From the testimony of the many witnesses heard by the committee, numerous studies which have been conducted, and discussion during executive session consideration, I am persuaded that by strengthening and safeguarding the standards and requirements for the management and operation of private penson funds, the committee has taken important and wise steps toward reform of the private pension system. As far as further measures—particularly in terms of portability and plan termination insurance—are concerned, there is some question whether they are of the same order of importance or necessity. The private pension field is extremely complex and intricate. Congress should be cautious, lest it attempt to do too much to fast, for we do not want to risk defeating our basic objective which is to provide incentives for expanding and strengthening the entire system.

As I indicated, the vesting and funding provisions of the finance committee's bill are valuable and constructive initiatives which are overdue for enactment.

The vesting and funding provisions we have agreed upon may very likely—and it is our sincere hope—make pension plans so safe and secure that the risk of failure will become negligible and insurance against it unnecessary.

The concept of voluntary portability has been included in the bill, but I believe we must not lose sight of the fact that the private pension system is private. It has been established through agreements between employers and employees. It is not social security and as long as an individual has protection for his rights to benefits with any employer, I do not know whether portability adds much from the employee's point of view, and its administration certainly has many negative aspects for employers and in the creation of another bureaucracy to oversee it. In any event it should be noted that portability is voluntary and there is no intention of making it mandatory.

### GREATER EQUITY OF PENSION PLANS

The committee has also adopted a series of provisions designed to improve and bring greater comparability to the pension benefits available to individuals not covered by any qualified pension plan; to self-employed individuals covered by H.R. 10 type retirement plans; and to proprietary employees of closely held corporations covered by qualified retirement plans. These provisions basically provide:

First. An individual not participating in any pension plan will be permitted to set aside up to $1,000 per year of earned income in his own individual retirement fund and deduct the amount set aside in computing his Federal income tax liability each year.

I would emphasize that this portion of the bill—major credit for which should go to the Senator from Nebraska (Mr. CURTIS)—goes a long way toward eliminating a major instance of discrimination in our laws. Millions of Americans currently are not covered by any private retirement system which offers the tax benefits of corporate or H.R. 10 plans. By allowing these people to set up their own plans we will do a great deal to make their futures more secure and provide greater tax equity for all our citizens.

Second. A self-employed individual covered under an H.R. 10 type plan will be able to increase his tax deductible pension contribution from 10 percent of earned income, up to a maximum of $2,500 per year—current law—to 15 percent of earned income or a maximum of $7,500 per year—or $500 of earned income, if greater.

Third. Proprietary employees of closely held corporations are now made subject to pension plan limitations so as to treat them more similarly to self-employed individuals. This limitation, although originally identical to that imposed on a self-employed individual, has been modified by the committee because it was believed to be too restrictive.

However, the limitations were placed on the total amounts of benefits which could be funded, rather than on the contributions which could be made to provide those benefits.

The enforcement of these new pension plan requirements will be handled through the Internal Revenue Service. To insure that adequate enforcement activity is possible, a new Assistant Commissioner of Internal Revenue to deal with pension plans and other exempt organization is created under the bill. Employees are also provided with a statutory right to submit pension plan grievances to the Secretary of Labor for administrative decision.

Lastly, the committee bill revises the taxation of lump-sum distributions for qualified pension plans to simplify the computation of tax liability on account of such distributions. Under this provision all pre-1974 value is taxed as capital gain. The balance of such distributions are taxed as ordinary income under a separate tax schedule based upon 15-year averaging for such income.

In sum, this bill makes landmark changes in our private pension system which improve and insure the rights of all covered employees. This has been accomplished without increasing employer costs beyond manageable levels. The chairman and the other members of the Committee on Finance who have devoted so much time and effort to this bill are to be congratulated on their efforts and deserve the thanks of millions of Americans who will be favorably affected by this bill.

I also wish to indicate my support for several amendments offered on the Senate floor in addition to the amendment adopted by the Finance Committee on September 14.

Two, offered by the Senator from South Carolina (Mr. THURMOND) and which I sponsored, would provide greater equality between the pension benefits of proprietary employees and regular corporate employees. They would extend to proprietary employees the 15-year averaging for lump-sum distributions; as well as the $5,000 death benefits provision; and make the portability provision available, just as it is to regular corporate employees.

Another amendment, No. 506, offered by the Senator from Wisconsin (Mr. NELSON), extends the rule on limitations on maximum pension benefits to executives of all corporations, not just proprietary employees. This rule limiting benefits, rather than contributions, was adopted by the Finance Committee on Friday. And if it is a sound rule in the proprietary corporation setting, I believe it should also apply to the executives of any corporation.

I ask unanimous consent that the committee press release explaining the amendments adopted in executive session on September 14, be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

### PRESS RELEASE: FINANCE COMMITTEE APPROVES AMENDMENT TO S. 1179, PENSION REFORM BILL

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, today announced that the Committee on Finance had reconsidered, and approved amendments to, certain provisions of S. 1179 (Pension Reform Act of 1973). The principal amendments relate to the limitations on pension plan contributions for the benefit of corporate owner-managers, i.e., employees having a more than two percent ownership interest in the stock of a corporation, when all such persons in a particular corporation in the aggregate have more than a 25 percent interest in the benefit of the corporate pension plan.

1. *Limitation on contributions for owner-managers.*—S. 1179 provides that retirement plan contributions on behalf of such owner-managers, referred to in the bill as proprietary employees, are to be subject to the same limitations as apply to the self-employed plans. Under S. 1179, deductible contributions to a self-employed plan are permitted equal to 15 percent of earned income up to $100,000, but not in excess of $7,500. The Committee agreed to an amendment which would delete the contribution limitations on proprietary employees in S. 1179 and substitute therefor a rule expressed as a limitation on the stated pension benefit which may be provided a proprietary employee. The limitation is that the pension of a proprietary employee under a plan shall not exceed 75 percent of the average of the employee's highest three years of compensation, with a limitation that average compensation in excess of $100,000 will be disregarded. Hence, the maximum pension benefit permitted a proprietary employee is $75,000. This maximum benefit is to be funded over the remaining working life of the employee, but may not be funded over a period of less than 10 years. In the case of a profit-sharing or money-purchase plan, the amount contributed on behalf of a proprietary employee would be subject to limitations corresponding in substance to the limitations on contributions on behalf of proprietary employees under a stated benefit plan.

2. *Integration rules for plans keyed with Social Security.*—Under the provisions of S. 1179, as initially reported by the Committee, certain restrictions were imposed upon plans benefitting proprietary employees, including a limitation on the use of a formula which would integrate such plans with social security benefits. Upon further reflection, the Committee has determined that such a restriction would be counter productive and have the effect of dampening interest in the establishment of qualified pension plans by some corporations. Therefore, the Committee has decided to retain the provisions of present law which permit such cor-

porations to integrate their plans with Social Security.

3. *Special rule for partnerships.*—The Committee also agreed to a modification of the provisions governing contributions to qualified plans for self-employed individuals. In an effort to provide an additional inducement to partnerships to establish qualified pension plans covering individual partners and their employees, it was decided to permit the maximum pension plan contribution for each of the partners to be aggregated and allocated among the partners pursuant to an agreed upon formula. This provision will permit a contribution in excess of $7,500 to be made on behalf of an older partner to enable funding of a larger pension benefit than he would otherwise be able to fund were he limited to the maximum amount of $7,500 for any one individual. At the same time, this provision will not increase the total deduction for qualified pension plan contributions by the members of the partnership.

4. *Investments by profit sharing funds.*—The Committee also agreed to an amendment to the fiduciary provisions of S. 1179 which would permit a profit sharing fund to invest its assets in property of the employer under a sale and leaseback arrangement.

Mr. LONG. Mr. President, in a moment I will make a motion concerning further procedure on pension legislation. But first I would like to explain to the Senate what it is I intend to do.

In its action on S. 4, the Senate has approved major changes in our tax laws. If we were now to proceed to pass S. 4 under that number, the House would refuse to consider the bill on the constitutional grounds that revenue bills must originate in the House of Representatives.

The Senate may not originate revenue bills, but it may amend them. The Finance Committee has favorably reported H.R. 4200, a House-passed bill designed to continue the same tax treatment for survivors of servicemen and former servicemen under the recently enacted survivor benefit plan as formerly was available under the prior law.

I will move that everything the Senate has approved in its action on S. 4 be added as an amendment to H.R. 4200. In this way, we will meet any constitutional objections to House consideration of what we have done.

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## AMENDMENT OF INTERNAL REVENUE CODE

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4200, Calendar No. 370.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk as follows:

A bill (H.R. 4200) to amend section 122 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. LONG. Mr. President, I now offer the language of S. 4 as amended as an amendment to be added at the end of the pending bill (H.R. 4200).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I wish to state, for the benefit of the Senator from Texas (Mr. TOWER), since he is interested in offering an amendment to H.R. 4200, that I will assure him he will have the opportunity to offer his amendment and have it considered in connection with another revenue measure which we will report to the Senate as early as we possibly can, so that he will have an opportunity to have consideration of his amendment, which is not essential to H.R. 4200.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4200) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, if the Senate will bear with me, some of our colleagues are down at the White House at this moment. I would suggest, with the approval of the Senate, that we turn to the consideration of Calendar No. 373, S. 2410, and then have back-to-back votes on the two measures.

Mr. JAVITS. Mr. President, I thoroughly agree with the Senator, except that I should like to ask him, could he set a time to vote, so that we would not have further debate on the bill that has had third reading, but could still be debated?

Mr. MANSFIELD. No, no; it was my understanding that we were ready to vote on the other measure.

Mr. LONG. Would the Senator permit us to have third reading on H.R. 4200?

The PRESIDING OFFICER. The bill has been read the third time.

Mr. JAVITS. Mr. President, with the majority leader's consent, I ask unanimous consent that after the vote has been taken on the emergency medical services bill tonight, we will immediately proceed to vote on the bill now before the Senate.

The PRESIDING OFFICER. And that rule XII be waived?

Mr. JAVITS. And that rule XII be waived.

Mr. MANSFIELD. Yes, the regular procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on S. 2410.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, do we have the yeas and nays on S. 4200?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

## EMERGENCY MEDICAL SERVICE SYSTEMS ACT OF 1973

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, the clerk will proceed to the consideration of S. 2410, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2410) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area medical services systems.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments, on page 1, line 6, after the word "Services", to strike out "System" and insert "Systems"; on page 14, line 11, after the word "in", to strike "such"; and, on page 15, line 6, after the word "in", to strike "personnel facilities, and equipment of each public safety agency"; so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Medical Services Systems Act of 1973".

EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XII—EMERGENCY MEDICAL SERVICES SYSTEMS

"DEFINITIONS

"SEC. 1201. For purposes of this title:

"(1) The term 'emergency medical services system' means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

"(2) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(3) The term 'modernization' means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

"(4) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a).

"(5) The term 'section 314(b) areawide planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and the term 'section 314(b) plan' means a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b).

"GRANTS AND CONTRACTS FOR FEASIBILITY STUDIES AND PLANNING

"SEC. 1202. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects which include both (1) studying the feasibility of establishing (through expansion or improvement of existing services or otherwise) and operating an emergency medical services system and (2) planning the establishment and operation of such a system.

"(b) If the Secretary makes a grant or enters into a contract under this section for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under this section for such project and he may not make a grant or enter into a contract under this section for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

"(c) Reports of the results of any study and planning project assisted under this section shall be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe, and a final report of such results shall be submitted to the Secretary and such Committee not later than one year from the date the grant was made or the contract entered into, as the case may be.

"(d) An application for a grant or contract under this section shall—

"(1) demonstrate to the satisfaction of the Secretary the need of the area for which the study and planning will be done for an emergency medical services system;

"(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

"(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

"(e) The amount of any grant under this section shall be determined by the Secretary.

### "GRANTS AND CONTRACTS FOR ESTABLISHMENT AND INITIAL OPERATION

"Sec. 1203. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for the establishment and initial operation of emergency medical services systems.

"(b) Special consideration shall be given to applications for grants and contracts for systems which will coordinate with statewide emergency medical services systems.

"(c)(1) Grants and contracts under this section may be used for the modernization of facilities for emergency medical services systems and other costs of establishment and initial operation.

"(2) Each grant or contract under this section shall be made for costs of establishment and operation in the year for which the grant or contract is made. If a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan contained in his application (pursuant to section 1206 (b)(4)) for the first grant or contract.

"(3) No grant or contract may be made under this section for the fiscal year ending June 30, 1976, to an entity which did not receive a grant or contract under this section for the preceding fiscal year.

"(4) Subject to section 1206(f)—

"(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

"(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

"(5) In considering applications which demonstrate exceptional need for financial assistance, the Secretary shall give special consideration to applications submitted for emergency medical services systems for rural areas (as defined in regulations of the Secretary).

### "GRANTS AND CONTRACTS FOR EXPANSION AND IMPROVEMENT

"Sec. 1204. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

"(b) Subject to section 1206(f), the amount of any grant or contract under this section for a project shall not exceed 50 per centum of the cost of that project (as determined pursuant to regulations of the Secretary).

### "GRANTS AND CONTRACTS FOR RESEARCH

"Sec. 1205. (a) The Secretary may make grants to public or private nonprofit entities, and enter into contracts with private entities and individuals, for the support of research in emergency medical techniques, methods, devices, and delivery.

"(b) No grant may be made or contract entered into under this section for amounts in excess of $35,000 unless the application therefor has been recommended for approval by an appropriate peer review panel designated or established by the Secretary. Any appilcation for a grant or contract under this section shall be submitted in such form and manner, and contain such information, as the Secretary shall prescribe in regulations.

"(c) The recipient of a grant or contract under this section shall make such reports to the Secretary as the Secretary may require.

### "GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

"Sec. 1206. (a) For purposes of sections 1202, 1203, and 1204, the term 'eligible entity' means—

"(1) a State,

"(2) a unit of general local government.

"(3) a public entity administering a compact or other regional arrangement or consortium, or

"(4) any other public entity and any nonprofit private entity.

"(b)(1) No grant or contract may be made under this title unless an application therefor has been submitted to, and approved by, the Secretary.

"(2) In considering applications submitted under this title, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a).

"(3) No application for a grant or contract under section 1202 may be approved unless—

"(A) the application meets the application requirements of such section;

"(B) in the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as determined by the Office of Management and Budget) located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted;

"(C) in the case of an application submitted by an entity described in clause (4) of subsection (a), such entity has provided a copy of its application to each entity described in clauses (1), (2), and (3) of such subsection which is located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted and has provided each such entity a reasonable opportunity to submit to the Secretary comments on the application;

"(D) the—

"(i) section 314(a) State health planning agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

"(ii) section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the service area of such system,

have had not less than thirty days (measured from the date a copy of the application was submitted to the agency by the applicant) in which to comment on the application;

"(E) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this title; and

"(F) the application is submitted in such form and such manner and contains such information (including specification of applicable provisions of law or regulations which restrict the full utilization of the training and skills of health professions and allied and other health personnel in the provision of health care services in such a system) as the Secretary shall prescribe in regulations.

"(4)(A) An application for a grant or contract under section 1203 or 1204 may not be approved by the Secretary unless (i) the application meets the requirements of subparagraphs (B) through (F) of paragraph (3), and (ii) except as provided in subparagraph (B)(ii), the applicant (I) demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will, within the period specified in subparagraph (B)(i), meet each of the emergency medical services system requirements specified in subparagraph (C), and (II) provides in the application a plan satisfactory to the Secretary for the system to meet each such requirement within such period.

"(B)(i) The period within which an emergency medical services system must meet each of the requirements specified in subparagraph (A) is the period of the grant or contract for which application is made; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require.

"(ii) If an applicant submits an application for a grant or contract under section 1203 or 1204 and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in subparagraph (C) within any specific period of time, the demonstration and plan prerequisites prescribed by clause (ii) of subparagraph (A) shall not apply with respect to such requirement (or requirements).

"(C) An emergency medical services system shall—

"(i) include an adequate number of health professions, allied health professions, and other health personnel with appropriate training and experience;

"(ii) provide for its personnel appropriate training (including clinical training) and continuing education programs which (I) are coordinated with other programs in the system's service area which provide similar training and education, and (II) emphasize recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel in such area;

"(iii) joint the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which (I) utilizes emergency medical telephone screening, (II) utilizes, or, within such period as the Secretary prescribes, will utilize, the universal emergency telephone number 911, and (III) will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate emergency medical services systems;

"(iv) include an adequate number of necessary ground, air, and water vehicles and other transportation facilities to meet the individual characteristics of the system's service area—

"(I) which vehicles and facilities meet appropriate standards relating to location, design, performance, and equipment, and

"(II) the operators and other personnel for which vehicles and facilities meet appropriate training and experience requirements;

"(v) include an adequate number of easily accessible emergency medical services facilities which are collectively capable of providing services on a continuous basis, which have appropriate nonduplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system;

"(vi) provide access (including appropriate transportation) to specialized critical medical care units in the system's service area, or, if there are no such units or an inadequate number of them in such area, provide access to such units in neighboring areas if access to such units is feasible in terms of time and distance;

"(vii) provide for the effective utilization of the appropriate personnel, facilities, and equipment of each public safety agency providing emergency services in the system's service area;

"(viii) be organized in a manner that provides persons who reside in the system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system;

"(ix) provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring such services;

"(x) provide for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

"(xi) provide for a standardized patient recordkeeping system meeting appropriate standards established by the Secretary, which records shall cover the treatment of the patient from initial entry into the system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

"(xii) provide programs of public education and information in the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services) which programs stress the general dissemination of information regarding appropriate methods of medical self-help and first aid and regarding the availability of first aid training programs in the area;

"(xiii) provide for (I) periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency health care services provided in the system's service area, and (II) submission to the Secretary of the reports of each such review and evaluation;

"(xiv) have a plan to assure that the system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies; and

"(xv) provide for the establishment of appropriate arrangements with emergency medical services systems or similar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to such services would be more appropriate and effective in terms of the services available, time, and distance.

The Secretary shall by regulations prescribe standards and criteria for the requirements prescibed by this subparagraph. In prescribing such standards and criteria, the Secretary shall consider relevant standards and criteria prescribed by other public agencies and by private organizations.

"(c) Payments under grants and contracts under this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary determines will most effectively carry out this title.

"(d) Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) No funds appropriated under any provision of this Act other than section 1207 or title VII may be used to make a new grant or contract in any fiscal year for a purpose for which a grant or contract is authorized by this title unless (1) all the funds authorized to be appropriated by section 1207 for such fiscal year have been appropriated and made available for obligation in such fiscal year, and (2) such new grant or contract is made in accordance with the requirements of this title that would be applicable to such grant or contract if it was made under this title. For purposes of this subsection, the term 'new grant or contract' means a grant or contract for a program or project for which an application was first submitted after the date of the enactment of the Act which makes the first appropriations under the authorizations contained in section 1207.

(f)(1) In determining the amount of any grant or contract under section 1203 or 1204, the Secretary shall take into consideration the amount of funds available to the applicant from Federal grant or contract programs under laws other than this Act for any activity which the applicant proposes to undertake in connection with the establishment and operation or expansion and improvement of an emergency medical services system and for which the Secretary may authorize the use of funds under a grant or contract under section 1203 and 1204.

"(2) The Secretary may not authorize the recipient of a grant or contract under section 1203 or 1204 to use funds under such grant or contract for any training program in connection with an emergency medical services system unless the applicant filed an application (as appropriate) under title VII or VIII for a grant or contract for such program and such application was not approved or was approved but for which no or inadequate funds were made available under such title.

### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 1207. (a) (1) For the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975; and for the purpose of making payments pursuant to grants and contracts under sections 1203 and 1204 for the fiscal year ending June 30, 1976, there is authorized to be appropriated $70,000,000.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 15 per centum shall be made available for grants and contracts under this title for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 1203(c)(5)).

"(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

"(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for such fiscal year.

"(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 (relating to establishment and initial operation) for such fiscal year, and

"(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 (relating to expansion and improvement) for such fiscal year.

"(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

"(A) 75 per centum of such sums shall be made available only for grants and contracts under section 1203 for such fiscal year, and

"(B) 25 per centum of such sums shall be made available only for grants and contracts under section 1204 for such fiscal year.

"(b) For the purpose of making payments pursuant to grants and contracts under section 1205 (relating to research), there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and for each of the next two fiscal years.

### "ADMINISTRATION

"SEC. 1208. The Secretary shall administer the program of grants and contracts authorized by this title through an identifiable administrative unit within the Department of Health, Education, and Welfare. Such unit shall also be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under section 1203 or 1204.

### "INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 1209. (a) The Secretary shall establish an Interagency Committee on Emergency Medical Services. The Committee shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to emergency medical services and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and shall make recommendations to the Secretary respecting the administration of the program of grants and contracts under this title (including the making of regulations for such program).

"(b) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall incude (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, the National Academy of Sciences, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Each appointed member of the Committee shall be appointed for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Secretary shall make available to the Committee such staff, information (including copies of reports of reviews and evaluations of emergency medical services systems assisted under section 1203 or 1204), and other assistance as it may require to carry out its activities effectively

### "ANNUAL REPORT

"SEC. 1210. The Secretary shall prepare and submit annually to the Congress a report on the administration of this title. Each report shall include an evaluation of the adequacy of the provision of emergency medical services in the United States during the period covered by the report, an evaluation of the extent to which the needs for such services are being adequately met through assistance provided under this title, and his recommendations for such legislation as he determines is required to provide emergency medical services at a level adequate to meet such needs. The first report under this section shall be submitted not later than September 30, 1974, and shall cover the fiscal year ending June 30, 1974."

(b) (1) Section 1 of the Public Health Service Act is amended by striking out "Titles I to XI" and inserting in lieu thereof "Titles I to XII".

(2) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering XII (as in effect prior to the date of enactment of this Act) as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to such date), and references thereto, as sections 1301 through 1314, respectively.

### TRAINING ASSISTANCE

SEC. 3. (a) Part E of title VII of the Public Health Service Act is amended by inserting after section 775 the following new section:

### "TRAINING IN EMERGENCY MEDICAL SERVICES

"SEC. 776. (a) The Secretary may make grants to and enter into contracts with schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), especially training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act.

"(b) No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section shall make such reports at such intervals, and containing such information, as the Secertary may require.

"(d) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974."

(b) Section 772(a) of such Act (42 U.S.C. 295f–2(a)) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) establish and operate programs in the interdisciplinary training of health personnel for the provision of emergency medical services, with particular emphasis on the establishment and operation of training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act."

(c) Section 774(a)(1)(D) of such Act (42 U.S.C. 295f–4(a)(1)(D)) is amended by inserting "(including emergency medical services)" after "services" each time it appears.

### STUDY

SEC. 4. The Secretary of Health, Education, and Welfare shall conduct a study to determine the legal barriers to the effective delivery of medical care under emergency conditions. The study shall include consideration of the need for a uniform conflict of laws rule prescribing the law applicable to the provision of emergency medical services to persons in the course of travels on interstate common carriers. Within twelve months of the date of the enactment of this Act, the Secretary shall report to the Congress the results of such study and recommendations for such legislation as may be necessary to overcome such barriers and provide such rule.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, if the Senator will yield me 1 minute——

Mr. JAVITS. I yield to the majority leader.

Mr. MANSFIELD. I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

### S. 2410: THE EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 1973

Mr. CRANSTON. Mr. President, once again the Senate is considering legislation to support our communities in their efforts to establish comprehensive and integrated emergency medical services systems for their residents and visitors.

This is the fifth time this legislation has been before the Senate.

The Committee on Labor and Public Welfare has reported this legislation to the floor three times—in S. 3716 in the 92d Congress; as S. 504, earlier this session, and today as S. 2410.

The Senate voted to adopt the conference report on S. 504 on July 19 this year by a vote of 97 to 0. Then on the second of August, the Senate voted to override the President's veto of S. 504 by a vote of 77 to 16.

The full Committee on Labor and Public Welfare, under the leadership of the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health, moved with great speed to consider S. 2410 in executive session and last Thursday unanimously ordered it reported to the Senate by a 16-to-0 vote last Thursday, September 13, the day after I introduced it.

Mr. President, this bill is truly a matter of life and death—a matter of life and death for as many as 200 persons who die needlessly each day in emergency situations and whose lives could be saved in this Nation if we had area emergency medical services systems of the kind which would be supported under this legislation.

It is also a matter of pain and suffering. The pain and suffering and deep mental anguish of the 400,000 permanently disabled each year whose degree of disability could be significantly reduced by such EMS systems. It is also a matter of commonsense and dollars and cents, because persons whose lives are saved and persons whose disabilities are reduced will be able to earn, pay taxes, and contribute to the gross national product.

This is no pie-in-the-sky hope or conjecture, Mr. President. These are the facts. We have the science and technology, the transportation and communications know-how, and the medical sophistication to save these lives and prevent these disabilities.

What we do not have is a Federal program designed to pull together all of the divergent capabilities in local communities, regions, and States throughout the Nation so that they can develop and implement plans for EMS systems to make a comprehensive and coordinated approach to providing emergency medical care.

Mr. President, recent studies show that area EMS systems of the type to be assisted under this legislation could have a total of 67,000 lives each year in the following categories:

About 11,000 who would have died in traffic accidents;

About 16,000 children who would otherwise perish in accidents, many of them around the home;

A minimum of 35,000 who die needlessly from heart attacks; and

About 5,000 persons killed by other accidental deaths due to poisonings, drownings, and drug overdose.

### DELETION OF PHS HOSPITAL PROVISION

Mr. President, S. 2410 contains provisions relating to the encouragement and support of the development of emergency medical services systems identical to those contained in S. 504 as passed by the Congress on July 19 of this year, but does not contain the provisions relating to the continued operation of the Public Health Service hospitals.

During the debate in the House on September 12 on the President's veto message on S. 504, virtually all Members of that body participating in the discussion voiced their full support for the emergency medical services systems provisions in S. 504, but a sufficient number held reservations about the provisions regarding the PHS hospitals to sustain, by a scant five votes, the veto of the President on that ground only. Indeed, 67 of those who voted to sustain the President have cosponsored legislation during the last week identical to S. 2410.

Because of the urgency of the need in the Nation of developing systems to cope with medical emergencies and the substantial support in Congress for the emergency medical services provisions of the vetoed S. 504, I introduced S. 2410 as a means of providing support for the development of emergency medical services systems as soon as possible.

### BASIC PURPOSE OF THE BILL

Mr. President, the basic purpose of S. 2410 as reported is to authorize the Secretary of Health, Education, and Welfare to provide support to States, units of local government, combinations of local governments, or a public or nonprofit private entity under certain circumstances, to plan, improve, and expand comprehensive and integrated systems for providing emergency medical services. Such support would be premised on the development of a comprehensive plan for the establishment of a comprehensive and integrated emergency medical services system in the applicant community. The application would have to demonstrate how the applicant would meet, within a prescribed time period, specified requirements.

These requirements include opportunity for participation by all elements in the community—including consumers—having a relationship to emergency medical services in the development of the plan, and provision for certain essential components, including the training of necessary health care personnel—particularly paramedics—optimum utilization of existing facilities and other resources involved in the rendering of emergency care, both public and private, adequate provision for transportation of patients, and a communication network providing the necessary linkage from the point of the emergency through dispatch to a medical facility having the necessary specialized personnel and equipment. Other requirements of the plan to assure a comprehensive and integrated EMS system include assurances that anyone in need of emergency medical care will be provided such care without prior inquiry as to ability to pay for care; a program for coordinated and comprehensive public education and information; a plan for mobilization of resources to meet mass casualties arising from natural disasters; and provision for immediate access in terms of admission and transportation to specialized critical medical care units either within the community or in a neighboring community, as well as for a system to provide such followup care and rehabilitation—with consistent recordkeeping—as is necessary to bring about the patient's recovery.

Mr. President, the reported bill also establishes an interagency committee on emergency medical services at the Federal level to coordinate Federal programs and activities relating to emergency medical services. This committee is to advise, consult with, review, and make recommendations—in the same way as peer review panels operate for the National Institutes of Health to the Secretary on the administration of programs authorized by the reported bill.

The reported bill further provides for grants and contracts for the support of research in emergency medicine techniques, methods, devices, and delivery, and provides that such grants or contracts in excess of $35,000 must be subjected to an appropriate peer review panel modeled upon peer review panel operation within the National Institutes of Health.

Finally, Mr. President, the reported bill provides for grants and contracts to support training programs in the techniques and methods of providing emergency medical services, and especially training programs affording clinical experience in emergency medical services systems receiving assistance under the provisions of the reported bill.

It should be stressed that, although assistance is authorized to be provided under a grant or contract as necessary to support the carrying out of any requisite component of a plan, the basic thrust of the bill is to provide incentive payments for the development of a comprehensive and integrated system with maximum reliance for funding placed on acquisition of funds and resources under other Federal programs—especially for facilities, health manpower training, and transportation and equipment—through the Division of Emergency Medical Programs, Department of Transportation, and MAST, and on the generation of local funds. Provisions in the reported bill—subsections 1206 (e) and (f) make this explicit.

### SPECIAL PROBLEMS OF RURAL COMMUNITIES

Mr. President, I would like to emphasize the recognition the reported bill gives to the critical needs of rural areas for assistance in providing emergency medical services.

Testimony received at hearings in Washington and California described the particularly acute problems rural communities have in providing adequate emergency medical care and in making successful applications for grant support. Since statistics on deaths and disabilities demonstrate that the ratio of such tragedies is much higher in rural isolated areas in proportion to the number of emergency incidents, I felt special emphasis and support should be provided to the development of systems for rural areas. The bill as reported included a provision that not less than 15 percent of the sums appropriated each year for feasibility studies, and the planning, establishment, and initial operation, and expansion and improvement, of emergency medical services systems shall be available only for grants and contracts for such activities in rural areas. Today, I am pleased to cosponsor and accept Mr. Dole's amendment to increase this percentage to 17½ percent.

I am well aware, Mr. President, that some communities, particularly in rural areas, may not be able to provide the assurance that all components of the emergency medical services system can meet within the time prescribed, the standards prescribed by the Secretary to qualify for assistance under the new title XII. To avoid disqualifying such communities from consideration, the committee has provided that where an applicant demonstrates clearly that a particular component cannot meet standards within the period prescribed, a grant can be awarded on the assurance that such standards will be met within a period specifically prescribed by the Secretary for that community. In addition, the committee recognizes that some communities may not be able to meet a particular requirement within any specific period of time. In such event, where there is clear and convincing evidence that the requirement in question cannot be met, the community must provide the Secretary with a plan for achieving alternatives to the requirement in question, which plan must be acceptable to the Secretary.

In addition, the reported bill provides for a higher Federal ratio in matching grants of up to 75 percent for the first year, and 50 percent for a second year, for establishment and initial operation of an emergency medical services system in the case of applications which demonstrate an exceptional need for financial assistance.

In considering applications for this higher rate of Federal matching, the Secretary is directed to give special consideration to applications submitted for rural areas.

Again, today, I am pleased to cosponsor with the distinguished Senator from Kansas (Mr. DOLE) an amendment that would permit Federal matching of up to 75 percent for grants for expansion and improvement of emergency medical services systems in the case of applications which demonstrate an exceptional need for financial assistance. This provision will be of benefit to rural communities as well as to urban areas where financial needs are great.

I am also pleased to cosponsor the amendment with Mr. DOLE which would specify that, where appropriate, technical assistance shall be provided communities where it is necessary in the preparation of grant applications, with special consideration for the needs of rural areas.

Testimony presented before hearings I chaired, at the request of the distinguished Senator from Massachusetts, in California, demonstrated the difficulties rural communities have in competing for Federal grant support. The provision of technical assistance should enable eligible rural areas to be represented more equitably among successful EMS applicants.

The needs of rural communities have been recognized again in an amendment I am cosponsoring with Mr. DOLE, which would state that in awarding research grants in the delivery of emergency medical services, special consideration shall be given to proposals for research on the delivery of such services in rural areas.

Mr. President, I would like to summarize briefly the provisions of S. 2410.

### SUMMARY OF PROVISIONS

Mr. President, the bill as reported does the following:

First, Mr. President, S. 2410 authorizes the appropriation of a total of $160 million over a 3-year period for grants and contracts to, one, States; two, political subdivisions; three, regional arrangements, compacts, or consortiums—including at least a standardized metropolitan statistical area—SMSA—if any; or four, under certain circumstances, public or nonprofit private entities, for feasibility studies and planning, establishment and initial operation, and expansion and improvement of area emergency medical services systems, and requires that no less than 15 percent of the sums appropriated each year shall be made available for grants and contracts for rural areas. Makes clear that in determining the amount of funds to be provided for any component of a system under any such grant or contract, the Secretary shall insure that such assistance is provided only to the extent that alternative sources of financial support under other provisions of law for such a component are inadequate to enable it to meet standards and criteria prescribed in regulations the Secretary is required to promulgate.

Mr. President the total amount authorized, include research and training grants and contracts (see discussion under items 11 and 12 below), is $185 million over 3 fiscal years.

Second, Mr. President, S. 2410 provides that 15 percent of the amounts appropriated in fiscal years 1974 and 1975 shall be made available for grants and contracts for projects which will include both studying the feasibility of establishing, through the expansion or improvement of existing services or otherwise, and operating an emergency medical services system and planning the establishment and operation of such a system.

Third, Mr. President, S. 2410 provides that 60 percent of the amounts appropriated in fiscal years 1974 and 1975, and 75 percent in fiscal year 1976, shall be made available for grants and contracts for establishment and initial operation of emergency medical services systems to an eligible applicant submitting an application demonstrating how it will establish a comprehensive and coordinated areawide emergency medical services system meeting requirements which section 1206 requires the Secretary to establish.

Fourth, Mr. President, S. 2410 provides that 25 percent of the amounts appropriated for each fiscal year shall be made available for grants and contracts for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

Fifth, Mr. President, S. 2410 provides for Secretarial review and evaluation of the applicant's performance and prohibits renewal of assistance whenever the Secretary determines, in accordance with prescribed standards, that performance is not substantially in compliance with the plan included in the application.

Sixth, Mr. President, S. 2410 requires that the plan submitted with each application include evidence of appropriate community participation, and demonstrate how the system will include provision for coordinated training programs, communications systems, transportation systems, categorized and nonduplicative facilities, access to specialized medical care units; assurance that services will be available to all patients without prior inquiry as to ability to pay; provision for adoption of a plan for coping with mass disasters; provision for transfer to facilities and programs for followup care; provision for a comprehensive public information program; provision for continuing review and evaluation of the emergency medical services system; and provision for a standardized patient recordkeeping system. Specifies that standards and criteria for the plan requirements shall be prescribed by the Secretary in regulations.

Seventh, Mr. President, S. 2410 requires the Secretary to administer the program of grants and contracts authorized in the new title XII through an identifiable administrative unit within the Department of Health, Education, and Welfare, and makes such unit responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems.

Eighth, Mr. President, S. 2410 establishes the Interagency Committee on Emergency Medical Services composed of representatives of all Federal agencies having a relationship to emergency medical services, which committee is given responsibility for coordinating all Federal programs and activities for emergency medical services, and providing for the communication and exchange of information necessary to maintain such coordination and the effectiveness of such programs. Directs the Interagency Committee to make recommendations to the Secretary of Health, Education, and Welfare respecting the administration of programs authorized by the reported bill, including the making of all regulations to carry out programs under the new title XII.

Ninth, Mr. President, S. 2410 requires review of the grant application by 314 (a) and (b) agencies and an opportunity to submit nonbinding comments on such application to the Secretary, and the maintenance and submission of such records and reports as the Secretary determines are necessary.

Tenth, Mr. President, S. 2410 provides that a grant or contract for establishment and initial operation or expansion and improvement of an emergency medical services system may not be approved unless, among other things, the applicant demonstrates that the system will meet each of the specified component requirements within a specified period of time and provides a plan for meeting such requirements within such period; except that this demonstration and plan prerequisite will not apply in the case of any component requirement which an applicant has shown cannot be met by the applicant's emergency medical services system within any specific period of time. Specifies with respect to any such requirement that the applicant shall provide in his application a plan for undertaking activities in connection with the system to deal with the matters with which such requirement is concerned.

Eleventh, Mr. President, S. 2410 authorizes grants in the case of public or private nonprofit entities, and contracts in the case of private entities, for the support of research in emergency medicine techniques, methods, devices and delivery, authorizing the appropriation of a total of $15 million over a 3-year period for such research.

Twelfth, Mr. President, S. 2410 authorizes an appropriation of $10 million for fiscal year 1974 for grants and contracts for training programs in the techniques and methods of providing emergency medical services—including the skills required in connection with the provision of ambulance service—especially training programs affording clinical experience in emergency medical services systems receiving assistance under the provisions of the new title.

Thirteenth, Mr. President, S. 2410 amends title VII of the Public Health Service Act to include, in the sections for special project grants and health manpower education initiative awards, specific authorizations for grants for the interdisciplinary training of health personnel in the provision of emergency medical services.

Fourteenth, Mr. President, S. 2410 provides that where the sums authorized by S. 2410 are not appropriated and obligated at the full level of authorizations in any fiscal year, funds available under any other provision of the Public Health Service Act, except new section 1207 or title VII, may be expended only for new grants or contracts—grantees or contractees not previously receiving assistance—for the development or expansion of, or research in, emergency medical services systems or components of such systems in accordance with the requirements of the new title.

Fifteenth. Mr. President, S. 2410 requires an annual report to Congress on the administration of programs authorized by the new title, including an evaluation of the adequacy of the provision of emergency medical services throughout the Nation, and recommendations for legislation necessary to provide services adequate to meet such needs.

Sixteenth. Mr. President, S. 2410 directs the Secretary to conduct a study to determine legal barriers to the effective delivery of medical care under emergency conditions including consideration of the need for a uniform conflict of laws rule prescribing the law applicable to the provision of emergency medical services to persons in the course of travels on interstate common carriers.

Mr. President, I think there is no need to belabor this issue. I believe that all Members are familiar with the great need for this bill and the great support for its provisions throughout the country. The bill is cosponsored by the following Senators:

Mr. Kennedy, Mr. Schweiker, Mr. Williams, Mr. Javits, Mr. Beall, Mr. Dominick, Mr. Eagleton, Mr. Hathaway, Mr. Hughes, Mr. Mondale, Mr. Nelson, Mr. Pell, Mr. Randolph, Mr. Stafford, Mr. Taft, Mr. Magnuson, Mr. McIntyre, Mr. Stevenson, and Mr. Dole.

I urge my colleagues to approve S. 2410 by an overwhelming vote, and I am hopeful that the President will direct his advisors to review and reconsider the EMS provisions so that when this bill reaches him a second time, without the Public Health Service hospital provision, he will elect to sign it.

Mr. President, I understand that the distinguished Senator from New York (Mr. Javits), the ranking minority member of the full committee, would like to make a statement at this time, and I yield to him for that purpose.

Mr. JAVITS. Mr. President, this is an extremely desirable bill. We are all indebted to the distinguished Senator from California (Mr. Cranston) for the enormous struggle he has waged to get this matter into law notwithstanding the veto. I am completely for it.

Mr. President, I urge my colleagues to support the emergency medical services bill, S. 2410. This legislation is identical to the emergency medical services bill (S. 504) vetoed by the President on August 2, 1973, and overridden by the Senate, but does not contain the provisions relating to the continued operation of the Public Health Service hospitals.

The program authorized by this bill is not a large one, $185 million over 3 years. It is designed to allow communities to receive a start in EMS. First, seed money is authorized for planning of a proper program. Second, 1-year grant money is made available for a portion of the costs of establishment and initial operation of the EMS system. A second year's grant, at a lesser Federal contribution, is authorized if the EMS system is progressing satisfactorily. After that, the system is on its own. This is not a massive infusion of Federal money into local EMS systems, but rather represents a Federal commitment to allow deserving communities to plan and get started with effective emergency transportation and care.

Although the House did not override the veto, it was clear from the debate that the issue for the Members was not the necessity for the emergency medical services provisions of the bill. The issue was the unrelated PHS hospital provision in the bill. The evidence was overwhelming about the need for EMS legislation but there was a difference of opinion about the PHS hospitals.

The commitment on a bipartisan basis by the House to the EMS provisions of this bill is reflected in the words of Congressman Nelsen. Although he voted to sustain the President's veto, Congressman Nelsen said:

> Mr. Speaker, getting to the emergency medical bill, 50 of us have introduced the bill in its exact language. We have not changed a single period or a single word in that bill, because we believe it would not require a hearing. It could be brought back to the floor and passed.

We must accept political reality. Although I believe in the continued operation of the PHS hospitals—and am gratified by Secretary Weinberger's decision that—

> Accordingly, we have decided that the Staten Island hospital is to continue its operation unchanged, and the Department presently has no plan either completed or under development to transfer to community hospitals the care now provided there on an inpatient or outpatient basis.

I support the decision to accommodate the President and delete the PHS hospital provision from the bill. At the same time, since this was the only issue debated by the House in its decision to sustain the veto, I would urge the President—whatever his original reservations about the bill—in the spirit of compromise which he has urged the Congress and Executive to adopt, that this bill be enacted into law.

One of our Members has some amendments which, hopefully, we can agree to, and the bill should then move to passage within the next few minutes.

I would hope very much that the distinguished Senator from Kansas (Mr. Dole) could now propose his amendments.

The PRESIDING OFFICER (Mr. Hathaway). Does the Senator from California move that the committee amendments considered and agreed to en bloc at this time?

Mr. CRANSTON. Yes, Mr. President, I so move.

The motion was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send to the desk a series of amendments for myself and the senior Senator from California, Senator Cranston, as primary cosponsors, and also in behalf of Senators Dominick, Beall, and Tower. I ask that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendments will be considered en bloc.

The clerk will state the amendments.

The assistant legislative clerk read the amendments as follows:

> In subsection (b) of section 1204 in section 2 of the bill, insert "(i)" after "exceed", and insert before the period at the end thereof the following: ", or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs."
>
> At the end of paragraph (4) of subsection (b) of section 1206 in section 2 of the bill, insert the following new paragraph:
>
> "(5) The Secretary shall provide technical assistance as appropriate to eligible entities as necessary for the purpose of their preparing applications or otherwise qualifying for or carrying out grants or contracts under section 1202, 1203, or 1204, with special consideration for applicants in rural area.
>
> On page 18, line 14, insert the following: strike out "15 per centum" and insert in lieu thereof "17½ per centum".

Mr. DOLE. Mr. President, the amendments proposed several minor changes in the bill and are intended to make the emergency medical service program more readily available to rural communities and increase the level of assistance available to these communities. I wish to emphasize, however, that I support the bill in its present form and fully agree with the basic thrust of the legislation. The amendment is not intended to disturb the basic structure of the bill but rather is designed in the simplest way possible to add special provisions for rural communities and strengthen the existing provisions of the bill which relate to emergency medical services in rural areas. A similar amendment is being considered in the House and hopefully similar action on this issue in both Houses of Congress will remove the necessity of a conference on the bill and insure prompt passage.

Mr. President, I am sure my colleagues agree that there is great need for better emergency medical services in rural communities. The rural health problem is becoming more acute every day, not only in the area of emergency care but also in the other areas of general health care delivery. Smaller communities are having a difficult time attracting an adequate number of physicians and health care professionals. The health care facilities are struggling for economic survival.

It is the basic nature of these rural communities—the fact that a small population is scattered over large areas—which makes the delivery of primary health care so difficult. It is this basic nature which makes adequate emergency medical services systems in these communities so essential. Great distances often separate the citizens of these communities and the professional care and health facilities they might need to utilize in an emergency situation. A system which assures prompt communication of the medical need and provides immediate transportation of the patient under trained supervision to the closest emergency care facility is an essential element of the health care system of any rural community. The planning and development of a comprehensive EMS system is what this legislation is intended to encourage and assist. I can think of no situation in which a greater need exists and in which such a system would accomplish more good than it would in many of the rural communities of Kansas. The amendments I am now offering are intended to insure that these Kansas communities and communities like them across the country will receive a proportionate share of the assistance made available under this legislation.

I would now like to briefly discuss individually the changes I have proposed to the bill and offer a brief explanation as to why I feel they should be added to this legislation.

The first amendment when added to section 1206 of the bill would require that the Secretary of Health, Education, and Welfare provide technical assistance to eligible entities in rural areas to assist in preparing applications, qualifying the entities for grants and contracts, and in the development of the project itself.

I am aware of the provisions in the bill which require that an applicant under the EMS program to demonstrate to the satisfaction of the Secretary that it is qualified to plan an emergency medical services system. I do not disagree with this provision, but only ask that the technical assistance be provided through HEW to insure that a larger number of rural applications are prepared and qualify for assistance. We cannot afford as a nation to throw dollars at a problem hoping that in some magical way they will by their very presence provide a solution. But at the same time I feel it is incumbent upon the Federal Government to assist those most in need of Federal assistance so that they might have an opportunity to qualify and participate in the Federal programs. The qualifications which are a prerequisite to participation in this program need not be lowered, but by providing the technical assistance mandated in this amendment. HEW would be helping raise the technical ability of rural areas most in need of assistance and give them a better opportunity to qualify as participants in the program.

The manner in which the bill is drafted and the 3-year program as outlined makes it even more important that an applicant be able to gain approval of its contract during the first years of the program if it wishes to obtain any development and initial operational assistance in the following years. This formula may work a hardship on certain rural communities who do not possess the experience, expertise, manpower or resources required to submit an application as technical and comprehensive as will be required under this program. The technical assistance provided under this amendment is intended to help compensate for the handicap many rural communities will be operating under hurriedly developing an application during the first years of the program.

The second change requested by the amendment would alter section 1204, the expansion and improvement grant provision, so that the Federal share of grants for emergency medical services systems in areas of extreme need could go as high as 75 percent of the expansion and improvement cost for programs during the fiscal year. This change merely brings the legislative guidelines for the expansion and improvement program in line with those legislated under the 1203 establishment and initial operation program. In fact, the language of the amendment was extracted from section 1204 of the bill.

The amendment takes into consideration the limited financial capabilities of many rural and sparsely populated areas. It does not mandate that the EMS systems receive Federal assistance at a 75 percent rate, but merely permits such a level of funding should the Secretary determine the need exists.

The third amendment would add rural emphasis to section 1205 by requiring that special consideration be given applications for grants or contracts for research relating to the delivery of emergency medical services in rural areas. Research on emergency medical techniques, methods, and devices will produce discoveries which can be utilized in both urban and rural settings. However, in the area of delivery, which is a research topic listed in the bill, the rural systems have a unique and separate problem. They must provide services over a much broader area and develop communication links into many areas which do not already have a sophisticated communication system. They must meet these requirements with less personnel, professional manpower, expertise, and financial resources. The development of a comprehensive system which is mandated under this law given these limiting factors creates a unique problem in rural areas and deserves special consideration as a topic of research. New and more efficient and effective methods of delivery are essential to the success of rural emergency medical systems.

Mr. President, I would, perhaps at this point, ask the distinguished Senator from California (Mr. CRANSTON), does he have the bill before him?

Mr. CRANSTON. Yes.

Mr. DOLE. The fourth amendment would require that not less than 17.5 percent of the funds authorized under this bill be made available for grants and contracts for emergency medical services which serve or will serve rural areas.

Mr. President, I ask unanimous consent to modify the last of the series of my amendments to read: "Not less than 17½ percent."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. DOLE. Mr. President, I would ask the Senator from California if he would agree that the amendment establishes only the minimum amounts which are to be set aside for expenditure in rural areas. The amendment has no bearing on what might be expended if the rural applications are made and properly processed, and if the need is there.

I would say, in that regard, that there is a need in rural America. About 26 percent of the population resides in rural America and I understand that, about twice the number of serious accidents occur in rural areas that need emergency medical services. In addition, the people are more scattered in rural America which makes the delivery of emergency medical care more difficult. A combination of these factors justify the conclusion that there is a need for better emergency services.

So, therefore, I would ask the Senator from California if he concurs in the point, that the 17.5 percent is not a limitation, but a floor provision which insures that no less than that amount will be spent in rural areas.

Mr. CRANSTON. Mr. President, the Senator from California does concur with the Senator from Kansas. The set-aside is a minimum. If there is demonstrated need, more than that can be spent. We had hearings in California which showed clearly the great need in the rural communities. We are aware of other evidence to support that proposition. The Senator from California offered the original language to the bill which provided the 15 percent minimum for rural areas.

Mr. DOLE. Mr. President, I have no further comment on the amendments.

Mr. JAVITS. Mr. President, the Senator from Kansas has, I think, produced excellent amendments with regard to the world situation. I join in the legislative intent of the bill as explained by the Senator from California and I hope that the Senate will accept these amendments.

Mr. DOMINICK. Mr. President, will the Senator from Kansas yiled?

Mr. DOLE. I yield.

Mr. DOMINICK. I also want to congratulate the distinguished Senator from Kansas. I think these amendments are good. The figure of 17½ percent probably originated in my debate with the Senator from Massachusetts over the HMO bills. It seems to me to have been pretty successful so maybe we had better stick with it. But I want to say that I am grateful to the Senator from California for bringing this bill up so fast. I cosponsored the bill, and I am happy to be able to support this proposal.

Mr. CRANSTON. I thank the Senator from Colorado for his generous words and for his marvelously effective work on this bill. His contributions have been invaluable throughout the development of this legislation.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BEALL. Mr. President, I congratulate the Senator from Kansas for producing these amendments, which would provide technical assistance to rural areas.

I had occasion last Friday to be in Baltimore, at the University of Maryland Hospital, and participated in a ceremony in which a plaque was dedicated to the memory of two Maryland State policemen who lost their lives in a helicopter while providing emergency medical service a couple of months ago. Unfortunately, two other policemen were lost yesterday.

As a result of the initiative taken by the University of Maryland in our State, we are now working on a statewide communications network, preliminary to establishing a full medical service network throughout the State. The kind of amendment offered by the Senator from Kansas will go a long way in assisting our State to realize the dream of having a full, statewide network to provide emergency service. I am happy that the Senator offered these amendments, and I am happy to join in supporting them.

Mr. CRANSTON. Mr. President, before there are further comments from this side of the aisle on the amendment of the Senator from Kansas, I think the distinguished chairman of the subcommittee, Mr. KENNEDY, who has done such effective work on this bill and whose leadership in the health field has been so great generally, should be heard on the amendment.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from California. I, too, join in urging the Senate to accept these amendments.

During the course of our hearings, we determined that one of the most important and crucial need areas in the emergency medical service was in the rural communities. These amendments certainly comply with the intention of the Health Committee in insuring that the kinds of assistance that will come with this legislation—are going to be equally applicable on an equitable basis to the rural communities, which are in dire need of this type of assistance.

So I, too, commend the Senator from Kansas for these amendments. I think they strengthen the bill, and I urge their acceptance.

Mr. President, I am delighted, as chairman of the Senate Health Subcommittee, to support S. 2410, which was unanimously reported from my committee, to improve emergency medical services throughout the United States. I believe the passage of this bill is essential if we are to enable our health delivery system to meet the demands placed upon it by accidental injury and sudden death.

Accidental death is one of the great neglected diseases in our society today. In fact, the lack of adequate emergency medical service is the major cause of avoidable premature death today. It is the leading cause of death among all people between the ages of 1 and 38. Each year more than 52 million Americans are injured and of those, more than 110,000 die. Eleven million persons require hospitalization, and of them, 400,000 suffer lasting disability.

Of the more than 700,000 deaths each year from heart disease, the majority are due to acute heart attack and more than half of these deaths occur before the victim reaches a hospital.

The emergency rooms of this Nation's hospitals are terribly overcrowded. As a matter of fact, there has been a 600 percent increase in emergency room visits in the last 25 years.

There is a critical shortage, Mr. President, in adequately trained emergency health manpower. For example, 25 percent of the Nation's ambulance drivers have not had Red Cross training. And 10 percent of them have had no training at all.

Mr. President, the cost of emergency medical services is already exorbitant, and is still increasing. The use of an ambulance costs more than $75. And most health insurance policies do not cover such services.

The bill we are considering today has been designed to improve this deplorable situation. The bill will make assistance available to States and localities to enable them to design and implement emergency medical programs tailored to their own local needs. This is a 3-year bill which authorizes a total of $185 million. The original version of this bill, S. 504, passed the Senate by a vote of 79 to 13. The conference report on S. 504 was adopted in the Senate by a vote of 97 to 0. And the Senate voted to override President Nixon's veto of S. 504 by a vote of 77 to 16.

As we know, the other body did not override the President's veto.

As I understand it, the President's principal objection to the bill was the inclusion of a provision which would require the continued operation of the U.S. Public Health Service hospitals until such time as a plan had been made for their closure or transfer which had community and congressional sanction. I continue to support that particular provision. I believe that the administration's actions in attempting to abruptly terminate the operation of these hospitals has been outrageous. And I believe that the litigation which is now in progress which is intended to enjoin the administration from closing the hospitals will be successful.

Mr. President, S. 2410 is identical to the conference report on S. 504 except that it deletes the provisions respecting the Public Health Service hospitals.

I am hopeful that with this change the President will find it possible to sign this bill into law. It is, after all, consistent with the statement he made about the need for better emergency medical services in his 1972 health message to the Congress.

I urge my colleagues to support the bill.

Mr. CRANSTON. Mr. President, I join the distinguished Senator from Massachusetts in supporting the amendments. They are perfectly agreeable so far as we are concerned.

The PRESIDING OFFICER. Is all time yielded back on the amendments?

Mr. DOLE. I yield back the remainder of my time.

Mr. CRANSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Kansas.

The amendments were agreed to.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time on the bill.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, briefly.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), and the Senator from Montana (Mr. METCALF), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), is absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kansas (Mr. PEARSON), are absent because of illness.

I further announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. SAXBE), are necessarily absent.

The result was announced—yeas 93, nays 0, as follows:

[No. 399 Leg.]

YEAS—93

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—7

Bellmon
Bennett
Goldwater
Hart
Metcalf
Pearson
Saxbe

So the bill (S. 2410) was passed, as follows:

## S. 2410

A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency services systems

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

Section 1. This Act may be cited as the "Emergency Medical Services System Act of 1973".

### EMERGENCY MEDICAL SERVICES SYSTEMS

Sec. 2. (a) The Public Health Service Act is amended by adding at the end thereof the following new title:

### "TITLE XII—EMERGENCY MEDICAL SERVICES SYSTEMS

### "DEFINITIONS

"Sec. 1201. For purposes of this title:

"(1) The term 'emergency medical services system' means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

"(2) The term State includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(3) The term 'modernization' means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

"(4) The term 'section 314(a) State health planning agency' means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a).

"(5) The term 'section 314(b) areawide health planning agency' means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and the term 'section 314(b) plan' means a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b).

### "GRANTS AND CONTRACTS FOR FEASIBILITY STUDIES AND PLANNING

"Sec. 1202. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects which include both (1) studying the feasibility of establishing (through expansion or improvement of existing services or otherwise) and operating an emergency medical services system (and) (2) planning the establishment and operation of such a system.

"(b) If the Secretary makes a grant or enters into a contract under this section for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under this section for such project, and he may not make a grant or enter into a contract under this section for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

"(c) Reports of the results of any study and planning project assisted under this section shall be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe, and a final report of such results shall be submitted to the Secretary and such Committee not later than one year from the date the grant was made or the contract entered into, as the case may be.

"(d) An application for a grant or contract under this section shall—

"(1) demonstrate to the satisfaction of the Secretary the need of the area for which the study and planning will be done for an emergency medical services system;

"(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

"(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

"(e) The amount of any grant under this section shall be determined by the Secretary.

### "GRANTS AND CONTRACTS FOR ESTABLISHMENT AND INITIAL OPERATION

"Sec. 1203. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206 (a)) for the establishment and initial operation of emergency medical services systems.

"(b) Special consideration shall be given to applications for grants and contracts for systems which will coordinate with statewide emergency medical services systems.

"(c) (1) Grants and contracts under this section may be used for the modernization of facilities for emergency medical services systems and other costs of establishment and initial operation.

"(2) Each grant or contract under this section shall be made for costs of establishment and operation in the year for which the grant or contract is made. If a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan contained in his application (pursuant to section 1206(b) (4) for the first grant or contract.

"(3) No grant or contract may be made under this section for the fiscal year ending June 30, 1976, to an entity which did not receive a grant or contract under this section for the preceding fiscal year.

"(4) Subject to section 1206(f)—

"(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

"(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

"(5) In considering applications which demonstrate exceptional need for financial assistance, the Secretary shall give special consideration to applications submitted for emergency medical services systems for rural areas (as defined in regulations of the Secretary).

### "GRANTS AND CONTRACTS FOR EXPANSION AND IMPROVEMENT

"Sec. 1204. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

"(b) Subject to section 1206(f), the amount of any grant or contract under this section for a project shall not exceed (i) 50 per centum of the cost of that project (as determined pursuant to regulations of the Secretary), or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs".

### "GRANTS AND CONTRACTS FOR RESEARCH

"Sec. 1205. (a) The Secretary may make grants to public or private nonprofit entities, and enter into contracts with private entities and individuals, for the support of research in emergency medical techniques, methods, devices, and delivery. In making grants or contracts for research relating to the delivery of emergency medical services, the Secretary shall give special consideration to applications for such grants or contracts relating to such delivery in rural areas.

"(b) No grant may be made or contract entered into under this section for amounts in excess of $35,000 unless the application therefor has been recommended for approval by an appropriate peer review panel designated or established by the Secretary. Any application for a grant or contract under this section shall be submitted in such form and manner, and contain such information, as the Secretary shall prescribe in regulations.

"(c) The recipient of a grant or contract under this section shall make such reports to the Secretary as the Secretary may require.

### "GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

"Sec. 1206. (a) For purposes of sections 1202, 1203, and 1204, the term 'eligible entity' means—

"(1) a State,

"(2) a unit of general local government,

"(3) a public entity administering a compact or other regional arrangement or consortium, or

"(4) any other public entity and any nonprofit private entity.

"(5) The Secretary shall provide technical assistance as appropriate to eligible entities as necessary for the purpose of their preparing applications or otherwise qualifying for or carrying out grants or contracts under section 1202, 1203, or 1204, with special consideration for applicants in rural areas.

"(b) (1) No grant or contract may be made under this title unless an application therefor has been submitted to, and approved by, the Secretary.

"(2) In considering applications submitted under this title, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a).

"(3) No application for a grant or contract under section 1202 may be approved unless—

"(A) the application meets the application requirements of such section;

"(B) in the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as determined by the Office of Management and Budget) located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted;

"(C) in the case of an application submitted by an entity described in clause (4) of subsection (a), such entity has provided a copy of its application to each entity described in clauses (1), (2), and (3) of such subsection which is located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted and has provided each such entity a reasonable opportunity to submit to the Secretary comments on the application;

"(D) the—

"(i) section 314(a) State health planning agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

"(ii) section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the service area of such system,

have had not less than thirty days (measured from the date a copy of the application was submitted to the agency by the applicant) in which to comment on the application;

"(E) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this title; and

"(F) the application is submitted in such form and such manner and contains such information (including specification of applicable provisions of law or regulations which restrict the full utilization of the training and skills of health professions and allied and other health personnel in the provision of health care services in such a system) as the Secretary shall prescribe in regulations.

"(4) (A) An application for a grant or contract under section 1203 or 1204 may not be approved by the Secretary unless (i) the application meets the requirements of subparagraphs (B) through (F) of paragraph (3), and (ii) except as provided in subparagraph (B)(ii), the applicant (I) demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will, within the period specified in subparagraph (B)(i), meet each of the emergency medical services system requirements specified in subparagraph (C), and (II) provides in the application a plan satisfactory to the Secretary for the system to meet each such requirement within such period.

"(B) (i) The period within which an emergency medical services system must meet each of the requirements specified in subparagraph (A) is the period of the grant or contract for which application is made; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require.

"(ii) If an applicant submits an application for a grant or contract under section 1203 or 1204 and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in subparagraph (C) within any specific period of time, the demonstration and plan prerequisites prescribed by clause (ii) of subparagraph (A) shall not apply with respect to such requirement (or requirements) and the applicant shall provide in his application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

"(C) An emergency medical services system shall—

"(i) include an adequate number of health professions, allied health professions, and other health personnel with appropriate training and experience;

"(ii) provide for its personnel appropriate training (including clinical training) and continuing education programs which (I) are coordinated with other programs in the system's service area which provide similar training and education, and (II) emphasize recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel in such area;

"(iii) join the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which (I) utilizes emergency medical telephone screening, (II) utilities or, within such period as the Secretary prescribes, will utilize, the universal emergency telephone number 911, and (III) will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate emergency medical services systems;

"(iv) include an adequate number of necessary ground, air, and water vehicles and other transportation facilities to meet the individual characteristics of the system's service area—

"(I) which vehicles and facilities meet appropriate standards relating to location, design, performance, and equipment, and

"(II) the operators and other personnel for which vehicles and facilities meet appropriate training and experience requirements;

"(v) include an adequate number of easily accessible emergency medical services facilities which are collectively capable of providing services on a continuous basis, which have appropriate nonduplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system;

"(vi) provide access (including appropriate transportation) to specialized critical medical care units in the system's service area, or, if there are no such units or an inadequate number of them in such area, provide access to such units in neighboring areas if access to such units is feasible in terms of time and distance;

"(vii) provide for the effective utilization of the appropriate personnel, facilities, and equipment of each public safety agency providing emergency services in the system's service area;

"(viii) be organized in such a manner that provides persons who reside in the system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system;

"(ix) provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring such services;

"(x) provide for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

"(xi) provide for a standardized patient record-keeping system meeting appropriate standards established by the Secretary, which records shall cover the treatment of the patient from initial entry into the system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

"(xii) provide programs of public education and information in the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services) which programs stress the general dissemination of information regarding appropriate methods of medical self-help and first aid and regarding the availability of first aid training programs in the area;

"(xiii) provide for (I) periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency health care services provided in the system's service area, and (II) submission to the Secretary of the reports of each such review and evaluation;

"(xiv) have a plan to assure that the system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies; and

"(xv) provide for the establishment of appropriate arrangements with emergency medical services systems or similar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to such services would be more appropriate and effective in terms of the services available, time, and distance.

The Secretary shall by regulations prescribe standards and criteria for the requirements prescribed by this subparagraph. In prescribing such standards and criteria, the Secretary shall consider relevant standards and criteria prescribed by other public agencies and by private organizations.

"(c) Payments under grants and contracts under this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary determines will most effectively carry out this title.

"(d) Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) No funds appropriated under any provision of this Act other than section 1207 or title VII may be used to make a new grant or contract in any fiscal year for a purpose for which a grant or contract is authorized by this title unless (1) all the funds authorized to be appropriated by section 1207 for such fiscal year have been appropriated and made available for obligation in such fiscal year, and (2) such new grant or contract is made in accordance with the requirements of this title that would be applicable to such grant or contract if it was made under this title. For purposes of this subsection, the term 'new grant or contract' means a grant or contract for a program or project for which an application was first submitted after the date of the enactment of the Act which makes the first appropriations under the authorizations contained in section 1207.

"(f) (1) In determining the amount of any grant or contract under section 1203 or 1204, the Secretary shall take into consideration the amount of funds available to the applicant from Federal grant or contract programs under laws other than this Act for any activity which the applicant proposes to undertake in connection with the establishment and operation or expansion and improvement of an emergency medical services system and for which the Secretary may authorize the use of funds under a grant or contract under sections 1203 and 1204.

"(2) The Secretary may not authorize the recipient of a grant or contract under section 1203 and 1204 to use funds under such grant or contract for any training program in connection with an emergency medical services system unless the applicant filed an application (as appropriate) under title VII or VIII for a grant or contract for such program and such application was not approved or was approved but for which no or inadequate funds were made available under such title.

### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 1207. (a) (1) For the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975; and for the purpose of making payments pursuant to grants and contracts under sections 1203 and 1204 for the fiscal year ending June 30, 1976, there is authorized to be appropriated $70,000,000.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 17½ per centum shall be made available for grants and contracts under this title for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 1203(c)(5)).

"(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

"(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for such fiscal year.

"(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 (relating to establishment and initial operation) for such fiscal year, and

"(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 (relating to expansion and improvement) for such fiscal year.

"(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

"(A) 75 per centum of such sums shall be made available only for grants and contracts under section 1203 for such fiscal year, and

"(B) 25 per centum of such sums shall be made available only for grants and contracts under such section 1204 for such fiscal year.

"(b) For the purpose of making payments pursuant to grants and contracts under section 1205 (relating to research), there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and for each of the next two fiscal years.

### "ADMINISTRATION

"SEC. 1208. The Secretary shall administer the program of grants and contracts authorized by this title through an identifiable administrative unit within the Department of Health, Education, and Welfare. Such unit shall also be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under section 1203 or 1204.

### "INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 1209. (a) The Secretary shall establish an Interagency Committee on Emergency Medical Services. The Committee shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to emergency medical services and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and shall make recommendations to the Secretary respecting the administration of the program of grants and contracts under this title (including the making of regulations for such program).

"(b) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, the National Academy of Sciences, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Each appointed member of the Committee shall be appointed for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Secretary shall make available to the Committee such staff, information (including copies of reports of reviews and evaluations of emergency medical services systems assisted under section 1203 or 1204), and other assistance as it may require to carry out its activities effectively.

### "ANNUAL REPORT

"SEC. 1210. The Secretary shall prepare and submit annually to the Congress a report on the administration of this title. Each report shall include an evaluation of the adequacy of the provision of emergency medical services in the United States during the period covered by the report, an evaluation of the extent to which the needs for such services are being adequately met through assistance provided under this title, and his recommendations for such legislation as he determines is required to provide emergency medical services at a level adequate to meet such needs. The first report under this section shall be submitted not later than September 30, 1974, and shall cover the fiscal year ending June 30, 1974."

(b)(1) Section 1 of the Public Health Service Act is amended by striking out "Titles I to XI" and inserting in lieu thereof "Titles I to XII".

(2) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XII (as in effect prior to the date of enactment of this Act) as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to such date), and references thereto, as sections 1301 through 1314, respectively.

### TRAINING ASSISTANCE

SEC. 3. (a) Part E of title VII of the Public Health Service Act is amended by inserting after section 775 the following new section:

### "TRAINING IN EMERGENCY MEDICAL SERVICES

"SEC. 776. (a) The Secretary may make grants to and enter into contracts with schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), especially training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act.

"(b) No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section shall make such reports at such intervals, and containing such information, as the Secretary may require.

"(d) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974."

(b) Section 772(a) of such Act (42 U.S.C. 295f–2(a)) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) establish and operate programs in the interdisciplinary training of health personnel for the provision of emergency medical services, with particular emphasis on the establishment and operation of training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act."

(c) Section 774(a)(1)(D) of such Act (42 U.S.C. 295f–4(a)(1)(D)) is amended by inserting "(including emergency medical services)" after "services" each time it appears.

### STUDY

SEC. 4. The Secretary of Health, Education, and Welfare shall conduct a study to determine the legal barriers to the effective delivery of medical care under emergency conditions. The study shall include consideration of the need for a uniform conflict of laws rule prescribing the law applicable to the provision of emergency medical services to persons in the course of travels on interstate common carriers. Within twelve months of the date of the enactment of this Act, the Secretary shall report to the Congress the results of such study and recommendations for such legislation as may be necessary to overcome such barriers and provide such rule.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## AMENDMENT OF INTERNAL REVENUE CODE

The Senate continued with the consideration of the bill (H.R. 4200) to amend section 122 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will proceed to the consideration of H.R. 4200. The yeas and nays have been ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, as I understand it, the bill now being voted on——

The PRESIDING OFFICER. The Senator will suspend. The Chair cannot hear the Senator. The Senate will be in order.

The Senator may proceed.

Mr. JAVITS. Mr. President, the bill being voted on contains the amendments which were before us for the last 2 days as S. 4, the retirement security bill. Is that correct?

The PRESIDING OFFICER. The bill contains S. 4 as amended by the Senate.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the role.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

I further announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 93, nays 0, as follows:

[No. 400 Leg.]

YEAS—93

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—7

Bellmon
Bennett
Goldwater
Hart
Metcalf
Pearson
Saxbe

So the bill (H.R. 4200) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that S. 4 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the bill (H.R. 4200) be printed with the amendment of the Senate; and that in the engrossment of the amendment of the Senate to the bill the Secretary of the Senate be authorized to make all appropriate technical, clerical, and conforming changes and corrections, including corrections in section, subsection, and so forth, designations, and cross-references thereto, with appropriate changes in the table of contents.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. President, I withhold that motion at this time because I wish to discuss the matter with members of the Committee on Labor and Public Welfare, and I will send the motion to the desk at a later time.

The PRESIDING OFFICER. Without objection, action on the motion will be vacated.

Mr. LONG subsequently said: Mr. President, I move that the Senate insist on its amendments to H.R. 4200 and ask for a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. WILLIAMS, Mr. RANDOLPH, Mr. NELSON, Mr. BENTSEN, Mr. JAVITS, Mr. SCHWEIKER, Mr. BENNETT, and Mr. CURTIS conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that S. 1179, the bill that was used for procedural purposes in the course of the consideration of H.R. 4200, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## EMERGENCY MEDICAL SERVICE SYSTEMS ACT OF 1973—MOTION TO RECONSIDER ENTERED

Mr. MAGNUSON. Mr. President, the vote prior to this last vote was on the emergency medical services bill. When that bill passed the Senate previously by an overwhelming vote, I think by a vote of 80 to 2 or something like that, there was in the bill a provision to keep open eight public service hospitals.

It so happened that I presented the amendment that carried the Senate and carried the conference. We overrode the President's veto in the Senate by a tremendous vote. The bill went to the House and the vote on the measure lacked five votes of overriding the veto. In other words, the difference was three votes.

That provision should have been in the bill.

Mr. ROBERT C. BYRD. Mr. President, could we have order in the Senate while the Senator is speaking?

The PRESIDING OFFICER. The Senate will be in order. Senators will retire to the cloakroom to hold their conversations.

Mr. MAGNUSON. Mr. President, if we are to attempt to go back on the veto of that bill, that provision was one of the main parts of the emergency health services. Someone was very anxious to cut that out. Apparently they have no concern over the eight hospitals staying open or not.

Mr. President, I am going to ask unanimous consent that the motion to reconsider the vote, which was tabled, be vacated at this time so that I might present my amendment later on to the major part of the bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2410) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area medical services systems.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

The motion to reconsider is entered.

Mr. ROBERT C. BYRD. Mr. President, could we have an agreement as to time on the Senator's amendment when offered?

Mr. MAGNUSON. Yes; I think everyone knows what it is.

Mr. ROBERT C. BYRD. Mr. President, what would the Senator suggest—30 minutes?

Mr. MAGNUSON. I could present my amendment in 10 or 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill to which the distinguished Senator has reference is called back up by the leadership, there be a time limitation on the Magnuson amendment of 10 minutes, to be equally divided in accordance with the usual form.

Mr. MAGNUSON. Mr. President, I was

talking about my presentation. I suppose there could be some opposition. I would suggest that we have a limitation of a half-hour on both sides.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a half-hour. the time to be equally divided. The Senator has already said that the subject matter was well known and it has been discussed.

I make this request with the understanding that no other amendments will be offered.

Mr. GRIFFIN. Mr. President, I regretfully would have to object at this time. I have not had any opportunity to discuss this matter with those who would be interested on my side of the aisle. It has already been explained that that was a controversial part of the bill and was the main reason for the President's veto.

I just could not agree to any particular time limitation without some opportunity to discuss it with others on my side who had some interest in it.

Mr. MAGNUSON. Mr. President, I merely want to present the amendment.

Mr. GRIFFIN. I understand.

Mr. MAGNUSON. We all understand what it is about. It needs no discussion. In the meantime, the Senate Appropriations Committee is considering the money that is to be put in the HEW bill to keep open these hospitals.

I do not know what the subcommittee or the full committee will do, but I suspect they will approve the request. I merely want to present the amendment. I do not want to delay the Senate 5 minutes.

Mr. GRIFFIN. Mr. President, the agreement we had before was understood by everyone to be in relation to the bill, which did not include this feature. There was no indication that an amendment would be offered. So the agreement that was entered into before, was entered into with every Senator more or less understanding that this matter was out of the bill. Now that it is expected to be reoffered and reconsidered, I think we should have an opportunity to discuss it with Senators who are interested.

Mr. MAGNUSON. It was not out of the Senate bill. The vote was for it. It was not out of the bill in the vote to override the President. I forget what the vote was, but the veto message in the House was sustained by 5 votes.

I just want to keep going, so that we can get the hospitals open. I simply want to present the amendment. The Senate may turn it down. I am not sure what the vote will be. The same is true in the House, if the bill goes there. Three Members might change their votes. There might be more. I simply want to present our case.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished acting Republican leader agree to taking this measure up tomorrow, immediately following the disposition of the conference report, which has already been scheduled?

Mr. GRIFFIN. I really do not think I am in a position, by unanimous consent, to waive the rights of any Senator in this situation. This is the controversial part of the bill. It is the main reason why the bill was vetoed. There is no point in our agreeing to a time for a discussion of the bill. It would seem to me that we would be going around the circle again, knowing that there has been a veto.

Mr. MAGNUSON. When we lose by a nose, it may be that in the next day or so we are in better shape. I merely want to present my case. If the Senate turns it down, I will have to take action separately. Apparently those who handled the bill divorced this provision by their vote in the House. Three votes might change the situation.

Mr. ROBERT C. BYRD. I can certainly understand the position that the distinguished acting Republican leader takes. I hope that overnight all of us can think the matter over and perhaps get together and work out a time limitation.

The PRESIDING OFFICER. Does the Senator from West Virginia withdraw his request?

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

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## TRANSACTION OF ROUTINE BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine business, with no limitation on statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. It was my understanding that some Senators wished to deliver eulogies at this time. I would hope that they would be informed.

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## DOMESTIC VOLUNTEER SERVICE ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1148.

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1148) to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973":

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## TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

### PART A—VOLUNTEERS IN SERVICE TO AMERICA

#### STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

#### AUTHORITY TO OPERATE VISTA

SEC. 102. The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purposes of this part.

#### ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act and the Economic Opportunity Act of 1964, as amended.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d) the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

#### TERMS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their term of service, except for authorized periods of leave.

(b) Volunteers serving under this part may be enrolled for periods not exceeding two years. Volunteers may reenroll for such periods, not exceeding two years, as the Director may determine. No volunteers shall serve for more than five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504(j)): *Provided*, That persons legally residing within a State but who are not citizens or nationals of the United States may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter information regarding such procedure and the terms and conditions of their service.

#### SUPPORT SERVICES

SEC. 105. (a)(1) The Director may provide a stipend to volunteers under this part while they are in training and during their assignment. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a term of service; except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

#### PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title, shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

#### PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons' membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

### PART B—SERVICE-LEARNING PROGRAMS

#### STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for Action (UYA) program of full-time volunteer service by students enrolled in institutions of higher learning, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and related human, social and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their term of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short term service learning by secondary and post secondary school students to strengthen and supplement efforts to eliminate poverty and related human, social, and environmental problems.

#### AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION

SEC. 112. Except as otherwise provided in this part, the Director may conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of subsections (d) of sections 103 and 104, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

### SPECIAL CONDITIONS

SEC. 113. (a) Volunteers serving under this program shall be enrolled for one-year periods of service and may receive academic credit for such service in accordance with the regulations of the sponsoring institution.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institution in order to assist in meeting the needs of such poor persons.

(c)(1) In making grants or contracts for the administration of this program, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director in consultation with the institution may determine for no more than four additional years. Each such grant or contract shall stipulate that the institution will make every effort to assume an increasing proportion of the cost of continuing a program carrying out the purposes of this part while the institution receives support under this part or title VIII of the Economic Opportunity Act of 1964, as amended, or both.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health, Education, and Welfare of the extent of each such institution's compliance.

### SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 114. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provision of this part, to encourage and enable students in secondary, secondary vocational, and postsecondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Persons serving as volunteers under this section may receive a living allowance or stipend and such other support or allowances as the Director determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

## PART C—SPECIAL VOLUNTEER PROGRAMS

### STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of projects such as but not limited to—

(1) a program to provide alternatives to the incarceration of youthful offenders;

(2) a program to promote educational opportunities for veterans;

(3) a program to provide community-based peer group outreach and counseling for drug abusers. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

### AUTHORITY TO ESTABLISH PROGRAMS

SEC. 122. (a) The Director is authorized to conduct or make grants or contracts for special volunteer programs or demonstration programs designed to stimulate and initiate improved methods of providing volunteer services and to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part or to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts.

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

## TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

## PART A—RETIRED SENIOR VOLUNTEER PROGRAM

### GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with such regulations as he may prescribe, that—

(1) volunteers shall not be compensated for other than transportation, meals, and other out-of-pocket expenses incident to their services;

(2) only individuals aged sixty or over will provide services in the program (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating; and provides for the payment of the reasonable expenses of trainees; and

(4) the program is being established and will be carried out with the advice of persons competent in the field of service being staffed, and of persons with interest in and knowledge of the needs of older persons.

(b) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(c) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended, such agency itself is the recipient of the award or such agency has been afforded not less than sixty days in which to review the project application and make recommendations thereon.

(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever.

## PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

### GRANTS AND CONTRACTS FOR VOLUNTEER PROJECTS

SEC. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects designed to provide opportunities for low-income persons aged sixty or over to render supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

(b) The Director is also authorized to make grants or contracts to carry out the purposes described in subsection (a) in the case of persons (other than children) having exceptional needs, including services as "senior health aides" to work with persons receiving home health care and nursing care, and as "senior companions" to persons having developmental disabilities.

(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Director may determine.

(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever.

### CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a)(1) In administering this part, the Director shall assure that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a)(1) of the Older Americans Act of 1965, as amended, is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which subparagraph (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304 (a)(1) of the Older Americans Act of 1965, as amended, such agency has had not less than 45 days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency established under title II of the Economic Opportunity Act of 1964, as amended.

### PART C—GENERAL PROVISIONS

#### COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In administering this title, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.

#### MINORITY GROUP PARTICIPATION

SEC. 222. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

## TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY BUSINESS PROPRIETORS

#### STATEMENT OF PURPOSE

SEC. 301. This title provides for programs in which businessmen volunteer to assist persons, especially the economically disadvantaged, who are engaged in, or seek to engage in, small business enterprises, and make available their expertise, as volunteers to agencies carrying out programs authorized by, or of a character eligible for assistance under, this Act or the Economic Opportunity Act of 1964 (particularly title VIII thereof).

#### AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

SEC. 302. (a) The Director is authorized to establish and conduct, and to make grants or enter into contracts for the conduct of volunteer programs to carry out the purposes of this title, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE): *Provided, however*, That the services of volunteers who are assisting persons or enterprises seeking to obtain, or receiving financial assistance from the Small Business Administration shall be performed under the supervision of the Administrator of the Small Business Administration (hereinafter referred to in this title as the "Administrator").

(b) The assignment of volunteers enrolled in programs under this title shall be on such terms and conditions as the Director may determine. The Director shall consult with the Administrator before establishing the terms and conditions of service of volunteers who assist persons or enterprises seeking to obtain, or receiving financial assistance from the Small Business Administration.

(c) Volunteers under this title, while engaged in authorized activities shall be considered Federal employees for the purpose of the Federal tort claims provisions of title 28, United States Code.

(d) The Director is authorized to reimburse volunteers under this title only for such necessary out-of-pocket expenses incident to their provision of services under this Act as he shall by regulation determine, and, while they are away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for individuals serving without pay.

(e) Volunteers authorized by this title shall in no event provide services to a client of the Small Business Administration with a delinquent loan outstanding, except upon the written request for such assistance signed by the client.

#### AUTHORITY TO USE SMALL BUSINESS ADMINISTRATION FACILITIES

SEC. 303. The Small Business Administration shall permit volunteers under this title, or volunteer groups, such use of the office facilities and related materials and services of the Small Business Administration as he, after consultation with the Director, deems appropriate to carry out their tasks, including authorized meetings of groups of volunteers.

#### RELATIONSHIP TO SMALL BUSINESS ACT

SEC. 304. To the extent that programs authorized by this title are also authorized by section 8(b) of the Small Business Act (15 U.S.C. 637(b)(1)), they shall be carried out under this title.

## TITLE IV—ADMINISTRATION AND COORDINATION

#### ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such Agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such Agency four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Associate Director shall perform such functions as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director primarily responsible for programs carried out under title II of this Act, who shall be appointed by the Director.

#### AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the civil service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with the provisions of title 5, United States Code;

(2)(A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently while so employed; and (D) contracts for such employment under this clause may be renewed annually;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements.

(8) disseminate, without regard to the provisions of section 4154 of title 39, United States Code, data and information, in such forms as he shall deem appropriate, to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection;

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulation; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein, of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

### POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity, as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than 30 days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

### SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operations of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act

(f) Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this Act only to persons appointed or employed pursuant to clause (1) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons whom he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act.

(g) Notwithstanding any other provisions of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any other governmental program.

### NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

SEC. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than 25 members appointed by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after establishment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council, shall be entitled to receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than the date of enactment of this Act of each calendar year beginning with the calendar year 1974, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President of the Congress together with his comments and recommendations.

### LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276c).

### REPORTS

SEC. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal to the Congress a full and complete report of the activities of the ACTION Agency during such year.

### JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

### PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

### COORDINATION WITH OTHER PROGRAMS

SEC. 410. The director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act.

### PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

### APPEALS, NOTICE, AND HEARING PROCEDURES

SEC. 412. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

### DURATION OF PROGRAM

SEC. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

### DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of this Act will be distributed equitably between residents of rural and urban areas.

### APPLICATION OF FEDERAL LAW

SEC. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal offices and employees and Federal employment.

(b) Individuals serving in programs authorized by parts A and B of title I of this Act, and individuals enrolled for a period of at least one year and serving as full-time volunteers in programs authorized by part C of title I of this Act shall, with respect to such service, including training, (1) be deemed, for the purposes of subchapter III of chapter 73 of title 5, United States Code, persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be considered employees of the United States, and (4) for purposes of subchapter I of chapter 81 of title 5 of the United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS–7 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(c) Any period of service of a volunteer under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program of at least one year's duration established under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving pursuant to part A of title I of this Act, and volunteers serving pursuant to title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 299–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their term of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Numbered 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

### EVALUATION

SEC. 416. (a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) The Director shall develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

### NONDISCRIMINATION

SEC. 417. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, age, physical disability, or political affiliation.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subject to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

### LEGAL EXPENSES

SEC. 418. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers serving under this Act have been made parties.

### GUIDELINES

SEC. 419. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date.

### DEFINITIONS

SEC. 420. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION Agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. —): Provided, That in determining who is "poor" or "low-income" the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

### TITLE V—AUTHORIZATION OF APPROPRIATIONS

#### NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out title I of this Act: Provided, That not less than $22,300,000 be expended on programs authorized under part A of title I in each such fiscal year.

Any sums authorized to be appropriated for title I of this Act in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for part A of that title.

#### NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated, for grants or contracts under section 201 of this Act, $17,500,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively.

(b) (1) There are authorized to be appropriated for grants or contracts under subsections (a) and (b) of section 211, $32,500,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, of which—

(A) $26,500,000 for the fiscal year ending June 30, 1974, and $32,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211, and

(B) $6,000,000 for the fiscal year ending June 30, 1974, and $8,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection for fiscal years beginning after June 30, 1974, are not appropriated and made available in full for each such fiscal year, then such sums as are so appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 for the fiscal years ending June 30, 1975 and 1976, respectively, shall be used for grants or contracts for such fiscal years under subsection (a) of such section.

#### NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY BUSINESS PROPRIETORS

SEC. 503. There are authorized to be appropriated $208,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for the fiscal years ending June 30, 1975 and June 30, 1976, respectively, for the purpose of carrying out programs under title III of this Act.

#### ADMINISTRATION

SEC. 504. (a) There are authorized to be appropriated such sums as shall be necessary for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for the administration of this Act as authorized in title IV of such Act.

#### AVAILABILITY OF APPROPRIATIONS

SEC. 505. (a) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

### TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

#### SUPPRESSION OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

#### CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (— U.S.C. —)" after "Economic Opportunity Act of 1964."

#### REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

#### REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

And amend the title so as to read: "An Act to provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes."

Mr. MANSFIELD. Mr. President, I move that the Senate agree to the amendments of the House of Representatives to the bill (S. 1148) entitled "An Act to provide for operation of all domestic volunteers service programs by the ACTION Agency, to establish certain new such programs, and for other purposes," with an amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973":

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### PART A—VOLUNTEERS IN SERVICE TO AMERICA

#### STATEMENT OF PURPOSES

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted wth such problems.

#### AUTHORITY TO OPERATE VISTA PROGRAM

SEC. 102. The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

#### ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(4) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act or the Economic Opportunity Act of 1964, as amended (42 U.S.C. chapter 34) in furtherance of the purpose of this title.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or group served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

#### TERMS AND PERIODS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504(j)), except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

#### SUPPORT SERVICES

SEC. 105. (a) (1) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service, except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation. supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work of which such volunteer is assigned.

#### PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

#### PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

### Part B—Service-Learning Programs

#### STATEMENT OF PURPOSE

Sec. 111. This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service-learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems.

#### AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION PROGRAM

Sec. 112. Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of sections 103(d) and 104(d), and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

#### SPECIAL CONDITIONS

Sec. 113. (a) Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 104, and may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c) (1) In making grants or contracts for the administration of UYA programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part; (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health, Education, and Welfare of the extent of each such institution's compliance.

#### SPECIAL SERVICE-LEARNING PROGRAMS

Sec. 114. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provisions of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) The Director may provide volunteers serving under this section a living allowance and only such other support or allowances as he determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

### Part C—Special Volunteer Programs

#### STATEMENT OF PURPOSE

Sec. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

#### AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

Sec. 122. (a) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs or demonstration programs (such as but not limited to a program to provide alternatives to the incarceration of youthful offenders; a program to promote educational opportunities for veterans; and a program to provide community-based peer group outreach and counseling for drug abusers) designed to stimulate and initiate improved methods of providing volunteer services, to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts.

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

## TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

### Part A—Retired Senior Volunteer Program

#### GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

Sec. 201. (a) In order to help retired persons to avail themselves of opportunities for volunteer service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons.

(b) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304 (a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon.

### Part B—Foster Grandparent Program and Older American Community Service Programs

#### GRANTS AND CONTRACTS FOR VOLUNTEERS SERVICE PROJECTS

Sec. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to volunteers serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to serve as volunteers to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services by volunteers serving as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611 (a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by volunteers serving as "senior health aides" to work with persons receiving home health care, nursing care, or meals on wheels or other nutritional services, and as "senior companions" to persons having developmental disabilities or other special needs for companionship.

### CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a) (1) In carrying out this part, the Director shall insure that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024 (a)(1)) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted, in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 32024(a)(1)), such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837).

### PART C—GENERAL PROVISIONS

### COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In carrying on this title, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.

### PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

### MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

## TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESS AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

### STATEMENT OF PURPOSE

SEC. 301. This title provides for programs in which persons with business experience volunteer to assist persons, especially those who are economically disadvantaged, engaged in, or who seek to engage in, small business enterprises, and to make available their expertise as volunteers in programs authorized by, or of a character eligible for assistance under, this Act, the Economic Opportunity Act of 1964, as amended (42 U.S.C. chap. 34) (particularly title VII thereof), or the Small Business Act (15 U.S.C. chap. 14A). The purpose of this title is to utilize the skills and expertise of persons with business experience to assist persons in, or seeking to enter, business enterprises, or to carry out management and financial counseling activities in furtherance of the purposes of this Act.

### AUTHORITY TO ESTABLISH, COORDINATE, AND OPERATE PROGRAMS

SEC. 302. (a) The Director is authorized to establish and conduct, and to recruit, select, and train volunteers for (and to make grants or enter into contracts therefor), volunteer programs, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE) and programs in which SCORE and ACE volunteers expand the application of their expertise beyond Small Business Administration clients, to carry out the purpose of this title: *Provided, however,* That the services of volunteers who are assisting persons or enterprises seeking to obtain, or receiving, financial or management counseling assistance from the Small Business Administration shall be performed under the direction of the Administrator of the Small Business Administration (hereinafter referred to in this title as the "Administrator") pursuant to section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)).

(b) The assignment of volunteers engaged in programs under this title shall be on such terms and conditions as the Director may determine, except that he shall prescribe such terms and conditions in agreement with the Administrator with respect to the service of volunteers described in the proviso in subsection (a) of this section.

(c)(1) Such volunteers, while carrying out activities under this title and section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)), shall be deemed Federal employees for the purpose of the Federal tort claims provisions in title 28, United States Code.

(2) The Director is authorized to reimburse such volunteers only for such necessary out-of-pocket expenses incident to their provision of services under this Act as he shall determine, in accordance with regulations which he shall prescribe, and, while they are carrying out such activities away from their homes or regular place of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for individuals serving without pay.

(3) Such volunteers shall in no way (A) participate for the benefit of the Small Business Administration (rather than on behalf of their clients) in any screening or evaluation activities in connection with applications for loans from such Administraton, or (B) provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

(d) The Director and the Administrator shall cooperate in order to make available to such volunteers, or groups thereof, such use of the office facilities and related supplies, materials, and services of the Small Business Administration and the ACTION Agency as they deem appropriate to assist such volunteers to carry out such activities, including authorized meetings of groups of volunteers.

(e) Except as otherwise provided in this Act, activities authorized to be carried out both by this title and by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) shall be carried out under this title to the maximum extent feasible.

## TITLE IV—ADMINISTRATION AND COORDINATION

### ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency two Assoicate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. One such Associate Director shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this Act, and the other such Associate Director shall be designated "Associate Director for International Operations" and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.). There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of title I of this Act and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under title II of this Act, each of whom shall be appointed by the Director.

### AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5, United States Code;

(2) (A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expense (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his functions under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) accept voluntary and uncompensated services;

(7) allocate and expand, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as he shall deem appropriate, to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with Federal Claims Collection Act of 1966 (31 U.S.C. 951–53);

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulations; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments) as are necessary or appropriate to carry out the provisions of this Act; and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

### POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

### SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this Act only to persons appointed or employed pursuant to clauses (1) and (2) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act.

(g) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program.

### NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

SEC. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than twenty-five members appointed, not later than ninety days after the date of the enactment of this Act, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council other than those regularly employed by the Federal Government, while attending meetings of such Council shall receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Acts as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than January 1 of each calendar year beginning with the calendar year 1975, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President to the Congress together with his comments and recommendations.

### LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 492, as amended; 40 U.S.C. 276c).

### REPORTS

SEC. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President to the Congress a full and complete report on the activities of the ACTION Agency during such year.

### JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

### PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

### COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act.

### PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

### NOTICE AND HEARING PROCEDURES FOR SUSPENSION AND TERMINATION OF FINANCIAL ASSISTANCE

SEC. 412. The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this Act, whenever he determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

### DURATION OF PROGRAM

SEC. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

### DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

### APPLICATION OF FEDERAL LAW

SEC. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Individuals enrolled in programs under title I of this Act for periods of service of at least one year shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, and (4) for the purposes of subchapter I of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee, and subsections (a) and (b) of section 8113 of title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated.

(c) Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852 (a)(1)

of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirements for career appointment.

(d) Volunteers serving in programs for periods of service of at least one year under part A of title I of this Act, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

### EVALUATION

SEC. 416. (a) The Director shall periodically measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(d) The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

### NONDISCRIMINATION

SEC. 417. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, or political affiliation.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

### ELIGIBILITY FOR OTHER BENEFITS

SEC. 418. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to titles II and III of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

### LEGAL EXPENSES

SEC. 419. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act or section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1)) serving under this Act have been made parties.

### GUIDELINES

SEC. 420. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date.

### DEFINITIONS

SEC. 421. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d): *Provided*, That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

### AUDIT

SEC. 422. (a) Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this Act other, than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contacts, subcontacts, subgrants, or loans referred to in subsection (a).

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

### NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. (a) There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out title I of this Act. In each such year, of the sums appropriated pursuant to this title not less than $29,600,000 shall be expended on programs designed to eliminate poverty and poverty-related human, social, and environmental problems. Of this amount not less than $22,300,000 shall be expended on programs authorized under part A of title I in each such fiscal year.

(b) Any sums authorized to be appropriated for title I of this Act in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for part A of such title.

### NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1974, and $20,000,000 each for the fiscal year ending June 30, 1975, and for the fiscal year ending June 30, 1976, respectively, to be used for the purpose of carrying out programs under part A of title II of this Act.

(b)(1) There are authorized to be appropriated $32,500,000 for the fiscal year ending June 30, 1974, and $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, for the purpose of carrying out programs under part B of such title of which (A) $26,500,000 for the fiscal year ending June 30, 1974, and $32,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211, and (B) $6,000,000 for the fiscal year ending June 30, 1974, and $8,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals

$25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be used for grants or contracts for such fiscal years under such subsection.

### NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

SEC. 503. There are authorized to be appropriated $208,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary each for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, for the purpose of carrying out programs under title III of this Act.

### ADMINISTRATION AND COORDINATION

SEC. 504. There are authorized to be appropriated each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, respectively, such sums as may be necessary for the administration of this Act as authorized in title IV of such Act.

### AVAILABILITY OF APPROPRIATIONS

SEC. 505. Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

## TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

### SUPERSEDENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), 3, and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

### CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (— U.S.C. —)" after "Economic Opportunity Act of 1964".

### REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

### REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. (a) Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out "1973," and "1974," and inserting in lieu thereof" "1974," and "1975," respectively.

Mr. CRANSTON. I am delighted to be moving S. 1148 back to the House for its concurrence in the compromise version we have worked out between the two bodies and with the administration. I am able to assure the distinguished majority leader and the Members of this body that this is a good measure and that it has the support of the administration, as communicated to me yesterday by Presidential Assistant Melvin Laird.

I thank the leadership for scheduling Senate action so promptly after the House acted on its committee-reported version on Monday.

In accordance with prior arrangements between the House and Senate sponsors under this compromise, I will not speak at this time to describe the provisions of the compromise.

Instead, Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a joint explanatory statement on the S. 1148 compromise, which statement has been agreed to between the two committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

### JOINT EXPLANATORY STATEMENT REGARDING HOUSE/SENATE COMPROMISE ON S. 1148/H.R. 7265

1. With respect to section 104(b) regarding periods of service of VISTA volunteers enrolled under part A of title I, the Committees in both Houses wish to make clear that the language in the Senate bill "including or excluding periods of time devoted to training as the Director may determine", although not included in the compromise, is considered to be implicit therein and in section 113(a) which cross references section 104(b) as to the periods of service for UYA part B volunteers. Also, with respect to this subsection, the Committees wish to stress, and the agency concurs, that it is imperative that VISTA volunteer applicants be advised, at the time they receive invitations to training, of the length of service for which they are being invited. This will constitute a change in Agency procedures. It is necessary because of the varying periods of service authorized for VISTA volunteers under the subsection in the compromise.

2. With respect to the language in section 105(a)(1) in the compromise permitting the Director, as an exception, to provide stipends to VISTA volunteers under part A of title I for extended periods of service not totalling one year in individual cases, the Committees intend that such extended periods of service not be less than ten months (including or excluding training as the Director may determine).

3. With respect to section 112 in the compromise permitting payment of stipends to University Year for ACTION (UYA) volunteers serving under part B of title I in accordance with the provisions of section 105 in part A, the discussion in item 2 above also applies with respect to their "extended periods of service not totalling one year".

4. With respect to section 114(c) in the compromise regarding the payment of living allowances and the provision of other support and allowances as the Director may determine to short-term or part-time volunteers in special service-learning programs, the Committees have deliberately excluded the authority to pay stipends to any such volunteers. It is further intended by the Committees that the periods of service for volunteers in special service-learning programs under section 114 in the compromise may be of such length as the Director may determine without regard to any provisions of part A or B, and that the discussion in items 2 and 3 above with respect to payment of stipends, in individual cases, to VISTA and UYA volunteers serving extended periods of service has no application to section 114 volunteers whatsoever.

5. With respect to title III—National Volunteer Programs To Assist Small Businesses and Promote Volunteer Service by Persons With Business Experience—which represents technical improvements in the provisions of the Senate bill and the House amendment, the Committees wish to stress the following: (a) that the "assignment of volunteers" under such title refers to a work situation which has been explained to and accepted by the volunteer in question; (b) that the compromise in section 302(b) expressly requires the agreement of the Small Business Administration (SBA) Administrator to the terms and conditions of service prescribed by the ACTION Agency Director for SCORE/ACE volunteers with respect to their provision of assistance to persons or enterprises seeking to obtain, or receiving, financial or management counselling assistance from the SBA (which assistance is performed under the SBA's direction); (c) that the authority in section 302(c)(1) in the compromise to reimburse title III volunteers for necessary out-of-pocket expenses (which shall include, as under the Senate bill, parking and mileage in the event of appropriate uses of automobiles, meals, telephone calls, and the cost of necessary temporary secretarial services not available from either the ACTION Agency or the SBA) incident to their provision of services and the payment to them of travel expenses (including per diem in lieu of subsistence) while providing such services, includes the payment of such travel expenses for any necessary travel in connection with the performance of any such services, and that this authority is available without regard to the number of miles of such travel by such volunteers, in contrast to the limited authority in section 8(b)(1) of the Small Business Act which imposes a 50-mile minimum on the exercise of the SBA Administrator's travel-expenses payment authority; (d) that it is the intention and understanding of the Committees that SCORE/ACE and

other title III volunteers, while carrying out official activities pursuant to such title, are covered under the Federal Employees' Compensation Act (subchapter I of chapter 81 of title 5, U.S.C.) for work-related injuries as individuals providing services to the U.S. Government without compensation such as if they were on invitational travel orders, and further, that this same coverage logically extends to volunteers serving under title II—National Older American Volunteer Programs—while they are carrying out official activities pursuant to such title; (e) that a very appropriate application of the expertise of SCORE/ACE and other title III volunteers beyond the counselling of SBA clients would be for such volunteers, either separately or working in conjunction with title II (especially in the new Senior Companions program) and title I volunteers, to provide financial and investment counselling to senior citizens and others living on fixed incomes in order to enable them to make the maximum use of their limited resources.

The Committee also expect that the Agencies will consult with appropriate SCORE/ACE volunteers in carrying out the provisions of title III.

6. With respect to section 404 (f) in the compromise regarding the assignment or delegation of substantial responsibility for carrying out ACTION Agency domestic programs under the Act, the Committees do not intend the reference to clause (2) of section 402 in any way to authorize the delegation of authorities which may be otherwise prohibited to experts or consultants employed by the Agency under such clause. Further, the Committee stress that the substitution of the word "programs" for the word "functions" in the first sentence of subsection (f) and the deletion of the last sentence of the subsection, as contained in the Senate bill is intended to simplify and clarify the subsection and to carry out the same purpose intended by such language in the Senate bill—namely, that the provisions of the subsection have no application to persons carrying out administrative functions in support of other than program-related activities in the Agency, that is, no application to persons in the category characterized by the Agency as "Agency-wide support" (generally those persons who are carrying out staff and volunteer recruitment, selection, personnel, budget and finance, legislative, legal, and public information activities in support of both the domestic and international operations of the Agency).

7. With respect to section 405(a) in the compromise regarding the membership on the National Voluntary Service Advisory Council, the language "individuals interested in serving and benefited by programs" carried out by the Agency includes former Peace Corps, VISTA, and other former, volunteers under Agency programs, and also the persons served by such programs. Further, it is the expectation of the Committees that a full 25-member Council will be appointed and that in addition to appropriate representation on the Council of such international and domestic program beneficiaries, the Council will include at least one former Peace Corps volunteer and one former volunteer from each of the major domestic programs authorized under this Act.

8. With respect to section 419 in the compromise regarding the status of title II and title III volunteers with respect to eligibility for certain benefits, the Committees note that the inclusion of this section in the compromise in the form included in the Senate bill makes unnecessary the inclusion of subsections (d) in both sections 201 and 211, as included in the House amendment—these subsections are identical to subsections (d) of both section 601 and 611 of the Older Americans Act of 1965, as added by P.L. 93-29, included in title VI which would be repealed by section 604 of this Act—and that the subsections were thus not included in the compromise.

9. With respect to section 417(a) in the compromise regarding nondiscrimination in programs carried out under the Act, the reference to disability was not included in the compromise because of the difficulty of defining that term with precision and because it was believed to be inappropriate to legislate a distinction between physical and mental handicap or disability. The Committees expect and understand that there will be no discrimination based on physical or mental handicap in ACTION Agency programs when all eligibility and program criteria are met. Moreover, the Committees note that the subject of discrimination based upon physical or mental handicap in connection with Federal contracts or subcontracts and with Federal grants is fully dealt with in both House and Senate (S. 1875) versions of H.R. 8070, the proposed Rehabilitation Act of 1973, now pending in House/Senate conference.

10. With respect to the language of the compromise in section 501 regarding authorizations of appropriations for title I provisions, it is the understanding of the Committees in both Houses that the $29.6 million earmarked for poverty and poverty-related programs in subsection (a) will be expended in full and that the programs for which it will be expended will be full-time volunteer programs. The Committee also understand the Administration's view that these authorization provisions should not be considered as a precedent for other legislation.

Further, with respect to the language in subsection (b) requiring that if amounts are appropriated in excess of $37.6 million under title I, a "commensurate" increase be made in the sums made available for part A of title I, the Committee adopt as the meaning of the word "commensurate" as that term is used therein, the definition in *Webster's New International Dictionary Second Edition, Unabridged* (1955), on page 537 as follows: "1. equal in measure or extent; also proportionate; corresponding;".

11. With respect to section 504 in the compromise regarding authorizations of appropriations for the administration of the Act, the Committees note that the two administrative expenses limitations contained in subsections (a) and (b) of this section in the Senate bill were not included in the compromise in order to permit the General Accounting Office to complete its study, requested by the Senate Foreign Relations Committee and the Senate Special Subcommittee on Human Resources, regarding appropriate methods of allocating costs for Agency-wide support activities as between international and domestic program appropriations items. This treatment in the compromise is in line with actions of the Congress in deleting from H.R. 5293, the Peace Corps FY 1974 authorization Act (now P.L. 93-49), certain similar restrictive provisions regarding administrative expenses and personnel appointments. It is the intention of the Committees, after having received and reviewed this report of the General Accounting Office and after taking into consideration any comments thereon submitted by the Agency, to work together with the Foreign Relations and Foreign Affairs Committees in the respective bodies to develop and enact legislation providing for one administrative expenses funding mechanism (management fund) to support the Agency-wide administrative "support" functions. Moreover, the Committees urge that the General Accounting Office complete its report at the earliest possible date in order that this troublesome matter can be expeditiously resolved in the best interests of the programs administered by the Agency. The Committees further note that the Agency's operations under the figures included in the President's FY 1974 budget request will satisfy both of the administrative expenses limitations included in the Senate bill, and that they expect Agency-wide administrative support costs thereafter to continue to be less than 10 per cent of the total amount appropriated for domestic programs.

Mr. CRANSTON. Mr. President, I do wish, however, Mr. President, to make note of and express my deep gratitude for the great efforts to work out the differences between the two versions of the bill by the House principal sponsors, by the distinguished chairman of the Equal Opportunities Subcommittee of the Education and Labor Committee (Mr. HAWKINS), by the ranking minority member (Mr. STEIGER), and by the bill's distinguished sponsor (Mrs. MINK). We are also truly indebted to the great chairman of the Education and Labor Committee (Mr. PERKINS) and its ranking minority member (Mr. QUIE) for their indispensable assistance on this legislation on the House side.

It has been a great privilege to work with them all.

They were most ably assisted by Bill Beckham and Patsy Fleming for Mr. HAWKINS and the subcommittee majority, by Marty LaVor for the minority, by Dean Hewitt for Mr. STEIGER, and by Don Baker and Bill Cable for the chairman. They have provided the finest type of staff assistance to achieve this compromise and facilitate its passage.

On our side, Mr. President, I must again pay tribute to the truly bipartisan efforts and contributions of the ranking minority member of the Special Subcommittee on Human Resources, the Senator from Maryland (Mr. BEALL) and his very hard-working legislative assistant David Rust, as well as John Scales for the minority. Senator BEALL has been a great ally and partner throughout this venture.

I also want to thank the chairman of the full Labor and Public Welfare Committee and principal majority sponsor of S. 1148 (Mr. WILLIAMS) for his special assistance, and the ranking minority member of the committee (Mr. JAVITS). In addition, I want to express my appreciation for the support of the other sponsors of the bill—the Senator from West Virginia (Mr. RANDOLPH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and my colleague from California (Mr. TUNNEY). They and their staff have also been of great help.

For myself, I want again to thank for a job very well done Fran Butler and Jon Steinberg of the subcommittee who have been at work on this legislation for well over a year.

Finally, Mr. President, this has been a tripartite effort: Senate, House, and administration. The willingness of the administration to work with us to accommodate our differences on this measure has been a great example of the bipartisan and really nonpartisan nature of the volunteer programs under the ACTION Agency. That is the way these programs and that Agency should function. Thus, I want to pay tribute to Michael Balzano, Director of the ACTION Agency, Mel Laird at the White House, Paul O'Neill at OMB, and particularly to Eric Silberstein, the Agency's congressional liaison, for his very effective representation of the interests and position of the Agency and the administration and his knowledge of the legislative process.

Mr. President, the compromise amendment before us is essentially the same, as the provisions of S. 2364, which I introduced on August 3, when it became clear that the Congress would be unable to approve the compromise version prior to the August recess. A few technical and clarifying changes have been made with the concurrence of all parties involved.

Also, a new section—section 422—with respect to GAO and internal action agency audit of grantee and contractor operations and their recordkeeping, has been added as a result of a strong request submitted by the Comptroller General of the United States in an August 17, 1973, letter sent to both Houses of the Congress. This provision had not originally been included in the House version of the bill—H.R. 7265—as introduced.

I am grateful for the very gracious agreement on the part of the administration and all those involved in adding this technical provision to the compromise version. This section is virtually identical to section 423 in S. 1143 as passed by the Senate on July 18, 1972, except for clarifying changes to make clear that the recordkeeping and audit requirements would not apply to the activities of individual volunteers serving under the new act, but rather only to grantees, subgrantees, contractors, and subcontractors receiving assistance thereunder.

Mr. President, it is a very hopeful sign that this bill has been worked out without the need for a Presidential veto first. I wish we could do that more often. If the administration will only talk with us about the bills we are developing, I feel confident we can accomplish the kind of cooperation that has characterized our work on these bills. After vetoes, we have recently been able to work out acceptable compromises on a number of bills with which I have been closely involved: On S. 50, the Older Americans Comprehensive Services Amendments of 1973 (Public Law 93-29), on S. 59, the Veterans Health Care Expansion Act of 1973, a bill I authored which was signed by the President on August 2, on S. 49, the Veterans Cemeteries Act of 1973 (Public Law 93-43), and on S. 1875/H.R. 8070, the Rehabilitation Act of 1973, the vocational rehabilitation bill now on the President's desk. Senate and House leaders also successfully negotiated with the administration the August 15 Cambodia and Indochina bombing cutoff date.

In other areas, an accord was reached on the highway trust fund bill; the President signed two compromise health bills in June; and similar progress seems possible on other pending measures.

In contrast, although the President vetoed S. 504, the Emergency Medical Services Systems Act of 1973, which I authored, and which the Senate yesterday overrode 77-16, the House failed by only five votes to follow suit—273 to 144. But even on that bill, although, despite repeated invitations by me and my staff, the administration made no efforts whatsoever to work with us. There now are clear signs that the President will sign the bill without the Public Health Service Hospital provision, S. 2410 as I have introduced it and as the Labor and Public Welfare voted to report it last Thursday.

Coming up in committee this month are two measures I am deeply involved with, S. 1708, the Family Planning Services and Population Research Amendments of 1973, and the Legal Services Corporation legislation. Also, two very important manpower training and employment measures, S. 1559 and S. 1560, passed the Senate in July and should be in conference this fall; they are compromise measures already and should be signed by the President.

I fervently hope, Mr. President, that the administration will approach all these measures with the same reasonableness that has characterized their dealings on S. 1148 and recently at least, on S. 59, S. 49, S. 1875, and S. 50.

Saying "no" is the easiest way out of any difference of opinion.

I cannot believe any President likes to veto legislation, especially a President who has spent long years in the Congress.

What too often seems to have happened is that because of intractable staff and advisers, the President has been backed into a corner when confronted with a bill into which his administration has attempted to make little or no input. He has perceived no alternative other than to exercise the veto power.

There is another way, of course, and our responsibilities—here and downtown—are to do everything possible to avoid such impasses.

We have certainly done just that on this bill.

The President called for congressional cooperation in his second State of the Union submitted last week. In fact, he expressly called for prompt action to approve the compromise in the ACTION Agency legislation—the bill now before us.

We are responding with speed, and I expect the House to do its part tomorrow to accept the Senate amendment to the House amendment to the bill.

Compromise is democracy at work, and I stand ready to do everything I can to continue and facilitate the spirit of accord and accommodation.

The American people deserve no less.

Mr. JAVITS. Mr. President, as ranking minority member of the Senate Committee on Labor and Public Welfare, I support the amendment offered by the distinguished Senator from California (Mr. CRANSTON) to S. 1148, the "Domestic Volunteer Service Act of 1973," as amended by the House yesterday.

The amendment proposed by Senator CRANSTON follows the text of S. 2364, of the same title, introduced by Senator CRANSTON on August 3, with my cosponsorship, and represents a compromise worked out between the administration and Members of the Senate and the House just before the August recess.

After action here, the House is expected to concur in the Senate amendment to the House amendment.

The Senate passed S. 1148 on July 18, 1973.

Mr. President, this is an opportunity to implement one of the first instances of a "workable compromise" along the lines generally called for by the President in his "Second State of the Union" address of September 5, 1973. In that message he made specific reference to this legislation as follows:

> More than two years ago, in order to advance our tradition of voluntary action, I created a new Federal agency called ACTION. That agency is now responsible for directing federally funded domestic volunteer programs as well as the Peace Corps. ACTION has now proved to be an effective way of encouraging greater voluntary action here and abroad, and I am now anxious to place it on a more permanent footing. Accordingly, I ask that the Congress act this fall to provide legislative authority for this agency. Appropriate language for this legislation was agreed to prior to the August recess by a bipartisan group of sponsors in the House and Senate and by the Administration. I hope that this legislation will soon be sent to me for signature.

I hope that this method of proceeding will soon be followed in a number of other areas pending before the Congress, such as manpower training reform, the establishment of a legal services corporation, minimum wage legislation and other areas of importance.

With respect to this legislation, I commend Senator BEALL, the ranking minority member of the Subcommittee on Human Resources, and Senator CRANSTON, the chairman of that subcommittee, as well as the administration, for their great leadership in working out the compromise.

Mr. President, this amendment, like S. 1148 as passed by the Senate, would consolidate under one authority the domestic volunteer programs conducted by the ACTION agency under Reorganization Plan No. 1 of 1971; it consists of the following basic titles: title I—VISTA part A; University Year in ACTION, part B; special volunteer programs, part C; title II—retired service volunteer programs, part A and foster grandparent programs, part B; title III—SCORE/ACE programs; title IV—administrative provisions; title V—authorizations, by title and earmarks; title VI—repealer.

The principal distinction between this amendment and S. 1148 as passed by the Senate lies in the authorizations and ear-marking provisions for these programs, which have been reduced or changed to "such sums" in order to meet the concerns of the administration.

I am satisfied that these authorizations, while meeting the administration's concerns, are still adequate to carry on a very vital domestic volunteer program.

I ask unanimous consent that there be printed in the RECORD at this point a chart prepared by my office showing authorization and earmarking levels as compared to the levels of the last three fiscal years and the levels authorized under S. 1148, as originally passed by the Senate.

Mr. President, it is time that ACTION

be given a full authorization to conduct these vital domestic volunteer programs and I urge that the Senate pass this compromise proposal not only to give these efforts the legislative mandate they deserve, but to indicate to the President that we, too, are willing to seek a workable compromise on legislation in areas of crucial concern.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD an excerpt from the CONGRESSIONAL RECORD of July 18 including my remarks on S. 1148 as it passed the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Figures are in millions of dollars]

| Program | Appropriation[1] | | | Authorization[2] (under S. 1148, the "Domestic Volunteer Service Act of 1973") | | | | | | Authorization[3] (under S. 2364, the "Domestic Volunteer Services Act of 1973") | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1972 | 1973 | 1974 | 1974 | | 1975 | | 1976 | | 1974 | 1975 | 1976 |
| Title I | | | | | | | | | | $37.6 | Such sums | Such sums. |
| Pt. A—VISTA | 22.889 | 25.249 | 22.3 | 30 | (22.3) | 35 | (25) | 45 | (26) | Not less than $29.6 for poverty, poverty-related, social and environmental problems of which not less than $22.3 to be spent on title I, pt. A in each year ACTION.[4] | | |
| Pt. B—UYA | 4.281 | 8.498 | 7.3 | 12 | (7.3) | 15 | (8.5) | 20 | (8.5) | | | |
| Pt. C—Special programs | (*) | (*) | (*) | 8 | (8) | 11 | (10) | 11 | (10) | | | |
| Title II: | | | | | | | | | | | | |
| Pt. A—RSVP | 14.25 | 15.0 | 15.0 | 30 | | 40 | | 50 | | 17.5 | 20.0 | 20.0. |
| Pt. B—FGP | 24.081 | 25.0 | 25.0 | 45 | (25) | 55 | (25) | 65 | (25) | 32.5 | 40.0 | 40.0. |
| Pt. C—OACSP | (**) | (**) | (**) | 7 | | 8 | | 9 | | 211A (26.5), | (32), (8) | (32), (8). |
| Title III: SCORE/ACE | ***.117 | ***.132 | .208 | | 1.0 | | 1.5 | | 2.0 | 0.208 | Such sums | Such sums. |
| Title IV: Administration | 13.067 | 15.009 | 14.591 | 15 | | 16 | | 17 | | Such sums | Such sums | Such sums. |

[1] ACTION fiscal year 1974 budget submission to the Congress.

[2] Report of the Senate Committee on Labor and Public Welfare on the "Domestic Volunteer Service Act of 1973" (No. 93-311).

[3] S. 2364, the "Domestic Volunteer Services Act of 1973", title V.

[4] Any sums appropriated in excess of $37,600,000 shall be reflected in commensurate increases in sums for Pt. A of the title.

Note: Figures in ( ) are earmarks.

*Breakdowns not available, however Action advises that the total demonstration effort for fiscal 1973 was $3,500,000 and its request for fiscal 1974 is $6,750,000.

**Figures not available.

***Funds were appropriated to the Small Business Administration.

Mr. JAVITS. Mr. President, I am pleased to support S. 1148, the Domestic Volunteer Services Act of 1973, a bill to provide for operation of all domestic volunteer service programs by the ACTION Agency.

This bill would consolidate under one authority the domestic volunteer programs conducted by the agency under Reorganization Plan No. 1 of 1971; it consists of the following basic titles: Title I—VISTA, part A; University Year in ACTION, part B; special volunteer programs, part C; title II—retired service volunteer program, part A and foster grandparent programs, part B; title III—SCORE/ACE programs; title IV—administrative provisions; title V—authorizations, by title and earmarks; title VI—repealer.

### TITLE I

Mr. President, when Reorganization Plan No. 1 was considered in 1971 by the Committee on Government Operations, I, as a member of that committee and as the ranking minority member of the Committee on Labor and Public Welfare, sought to insure that in the transfer of VISTA and other domestic programs to the new ACTION agency the basic antipoverty thrust of the effort would be maintained. With that purpose in mind, and as a condition to my support of the reorganization plan, I elicited and received written commitments from George Shultz, then Director of the Office of Management and Budget, relating to the charter of new organization, its organizational structure and its disposition toward the continued participation of volunteers and beneficiaries in its programs; these commitments were set in a letter to me dated May 20, 1971, from Director Shultz.

I am very pleased that this bill by virtue of provisions that I and other members of the committee have supported, very closely reflects these same commitments.

First, the statement of purpose for parts A and B of title I—which deal with VISTA and the university year in ACTION programs—make clear that focus while recognizing that volunteer efforts in related problem areas such as lead base paint poisoning and rehabilitation of criminal offenders are also legitimate activities to be carried out by VISTA and university year in ACTION volunteers.

The committee quite properly resisted any diversion of volunteers to other efforts, which while important in themselves, do not maintain an antipoverty focus; these are covered under part C of title I.

Second, to further insure this focus the committee bill would ear-mark for part A of title I under which the VISTA program is operated, a minimum of $22.3 million in fiscal year 1974 and proportional amounts in the two subsequent years; the amount of $22.3 million is exactly the administration's own request for fiscal year 1974.

In his letter Director Shultz cited as the basic goal of the domestic and antipoverty component as one—

"To extend opportunities for volunteer services and to bring a wide range of volunteer groups to bear in a concerted attack on poverty-related problems."

These provisions I have noted will help to implement that commitment.

Fourth, the bill also includes provisions to insure the participation of beneficiaries of antipoverty programs, requiring the Director to take all necessary steps to establish a continuing mechanism for the meaningful participation of program beneficiaries. These provisions are also consistent with the commitment made by former Director Shultz in stating in the letter to which I referred:

"I wish also to affirm that as we implement the plan, we intend to ascertain and take into account the views of the people served and the volunteers themselves as to shaping the programs, providing the appropriate organizational structure, and their ideas about key personnel."

Fifth, under an amendment which I shall offer to this bill, the Associate Director for Domestic and Antipoverty Operations will have equal status with the Associate Director for International Operations and both will clearly have "line" authority vis-a-vis the Assistant Directors will serve a staff function in areas such as recruitment, placement, and other essentially supportive functions.

As I shall explain in offering that amendment, this stems too from a specific commitment by the administration.

Mr. President, in addition to these aspects I have mentioned, the committee bill includes an amendment which I offered to authorize the Director to establish special programs designed to stimulate and initiate improved methods of providing volunteer services for identification of particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts; these provisions will enable the Director to deal with problems of particular ethnic groups such as the Jewish poor in New York City who have heretofore been neglected under many of the antipoverty programs.

Also the bill includes a provision to which I contributed to insure that volunteer programs for youthful offenders apply both to youth under sentence and those awaiting trial. This authority will be a very meaningful authority to supplement other efforts such as the provision of manpower training services for this group which I have included in S. 1559, the "Job Training and Community Services Act of 1973," which Senator NELSON and I have coauthored.

### TITLE II

In addition, I strongly support the improvements to the foster grandparent and RSVP programs which are made by title II of the reported bill. While this ground was covered previously in the enactment of the Older Americans Comprehensive Services Amendments of 1973, the codification of these improvements within the ACTION framework is needed to reinforce the intent of Congress to make the ACTION Agency serve as the principal vehicle for domestic volunteer efforts in the aging area. I hope that any questions arising from any House-passed measure in this connection, and specifically with respect to the earmarking of funds, will be resolved expeditiously so that the overall pattern of authority for the ACTION Agency is clear and susceptible of effective implementation.

### TITLE III

Mr. President, title III of the bill concerns itself with two significant national volunteer programs which provide managerial and other assistance, at no cost, to small business proprietors, that is the Service Corps of Retired Executives—SCORE—and the Active Corps of Executives—ACE.

In addition to codifying the present division of authority between the SBA and ACTION, pursuant to the Reorganization Plan No. 1 of 1971, the bill requires the Director of ACTION to cooperate with the SBA Administrator in carrying out the various SCORE/ACE programs and authorizes the Director to utilize SCORE/ACE volunteers in non-SBA related activities. Title III also provides that SCORE/ACE volunteers be considered Federal employees for purposes of Federal tort claims, authorizes a reimbursement procedure for certain expenses and under certain circumstances, prohibits SCORE/ACE volunteers from participating in any screening or evaluation activities on behalf of the SBA in connection with loan applications and delinquent loans.

In effect this title clarifies the management and financial line of authority between the SBA Administrator and ACTION directors and allows for the expansion of the SCORE/ACE programs by locating new clients projects and programs, authorized under the OEO Act of 1964.

Mr. President, at this time I wish to note the leadership taken in respect to these matters by Senator CRANSTON, the author of this bill and by Senator BEALL, the ranking minority member of the Subcommittee on Human Resources as well as the efforts of the ACTION Agency itself, which I believe has been very diligent in carrying out its charter under the reorganization plan, which this authority would replace.

I ask unanimous consent that a copy of the letter from Director Shultz, dated May 20, 1971, be printed at this point in the RECORD as well as a chart prepared by my office comparing the authorizations under this bill with appropriations requests and allowances for each of the fiscal years 1972–74.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR JAVITS. I am pleased to have your views on ways to improve and clarify the organization and program direction of ACTION, the volunteer service agency proposed by Reorganization Plan No. 1 of 1971.

Your discussions with Arnold Weber have been most helpful in identifying a number of improvements which I agree should be made. These changes involve significant points of emphasis in the organizational structure of the new agency and other changes, in the level of executive positions which will be incorporated in legislation to be submitted by the Administration.

1. The Associate Director for Domestic Operations will be redesignated as Associate Director for Domestic and Anti-Poverty Programs to emphasize more visibly and forcefully the commitment of all of the elements of this organization to anti-poverty efforts.

2. The Associate Directors for Program Development, Administration, and Recruitment-Selection-Placement will be redesignated as Assistant Directors to indicate their staff role as supportive to the line Associate Directors who have primary program responsibility.

3. The formal organizational structure will be modified to underscore the fact that the two Associate Directors will be line operators of ACTION's programs and will be supported in a staff capacity by the Assistant Directors. The net result of these changes will be to show that the two Associate Directors will be the ACTION program operators. In that capacity, and in full recognition of their substantial responsibilities, I agree that they should be upgraded from Level V, as indicated in the Reorganization Plan, to Level IV. Because the Reorganization Plan as submitted cannot be modified, this change will be sought through legislation which we will submit shortly.

I also recognize the concern of you and others that the Associate Director for Domestic and Anti-Poverty Programs is committed to the importance of anti-poverty activity in ACTION's Program. I believe the organizational changes we have agreed to, give much stronger institutional recognition to this commitment. I wish also to affirm that as we implement the plan, we intend to ascertain and take into account the views of the people served and the volunteers themselves as to shaping the programs, providing the appropriate organizational structure, and their ideas about key personnel, including the Associate Director for the domestic and anti-poverty component. The Associate Director, of course, will have the special experience and insight necessary to carry out the basic goal of this component which is to extend opportunities for volunteer service and to bring a wide range of volunteer groups to bear in a concerted attack on poverty-related problems.

I appreciate your assistance in providing us with an opportunity to sharpen the Administration's commitment to the domestic program of ACTION, and to clarify our intent to support fully the use of volunteer resources in attacking the problems of poverty in local communities.

Sincerely,

GEORGE P. SHULTZ, *Director*.

Mr. BEALL. Mr. President, it is a pleasure to join in supporting this legislation. During the past several months, the subcommittee has diligently worked to bring before the Senate a bill that would codify the existence of the ACTION Agency—which was created by the President's Executive Reorganization Plan No. 1 in 1971—as well as authorize and expand the domestic volunteer program. On July 28, 1973, the Senate approved S. 1148 and forwarded it to the House of Representatives for their consideration. The Committee on Education and Labor of the House reported H.R. 7265 which was passed by the full House on September 17, 1973.

In recent weeks, Mr. President, I, as the ranking minority member on the Subcommittee on Human Resources, have worked closely with the subcommittee chairman (Mr. CRANSTON) and our counterparts from the other body—Subcommittee Chairman HAWKINS of California and the ranking minority member—Mr. STEIGER of Wisconsin. Our efforts to reach a reasonable compromise have been assisted at every step by the Honorable Melvin Laird, Counselor to the President; Dr. Michael Balzano, Director of the ACTION Agency; and Mr. Eric Silberstein, Assistant Director of the ACTION Agency for Congressional Affairs. The compromise, which we are offering today in the form of a Senate amendment to the House-passed bill, has the enthusiastic support of the appropriate committees of both Houses of the Congress, the ACTION Agency, and the White House. The President's strong support for this legislation was reflected in his September 10, 1973, state of the Union address to the Congress in which he said:

> More than two years ago, in order to advance our tradition of voluntary action, I created a new Federal agency called ACTION. That agency is now responsible for directing federally funded domestic volunteer programs as well as the Peace Corps. ACTION has now proved to be an effective way of encouraging greater voluntary action here and abroad, and I am now anxious to place it on a more permanent footing. Accordingly, I ask that the Congress act this fall to provide legislative authority for this agency. Appropriate language for this legislation was agreed to prior to the August recess by a bipartisan group of sponsors in the House and Senate and by the Administration. I hope that this legislation will soon be sent to me for signature.

In closing, Mr. President, I would like to observe that this compromise legislation represents the collective wisdom of both Houses of the Congress, the agency itself, and the White House. I think the working relationship reflected in this compromise represents our democratic institutions at their best. We have succeeded in shaping an excellent piece of legislation which will, when fully implemented, significantly further the cause of volunteerism in the United States. I am especially pleased that this objective will have been achieved without an unnecessary confrontation between the legislative and executive branches of our Government.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendments with an amendment.

The motion was agreed to.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, while we are waiting, I move that the Senate go into executive session to consider nominations on the Executive Calendar beginning with Calendar Order No. 308 and continuing through the remainder of the nominations following No. 308.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

## UNITED NATIONS

The assistant legislative clerk proceeded to read sundry nominations of representatives to the General Assembly of the United Nations, beginning with the nomination of John A. Scali of the District of Columbia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I am informed that there is no objection to asking that the President be immediately notified of the confirmation of these nominations, and, inasmuch as it is important that they be reported to the President as quickly as possible, I ask unanimous consent to that effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

The routine morning business transacted during the day is printed at this point by unanimous consent.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. CLARK) laid before the Senate the following letters, which were referred as indicated:

### PROPOSED LEGISLATION FROM DEPARTMENT OF DEFENSE

A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the selective continuation of certain regular commissioned officers on the active lists of the Army, Navy, Marine Corps, and Air Force upon recommendation of a selection board, and for other purposes (with an accompanying paper). Referred to the Committee on Armed Services.

A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend sections 3202 and 8202 of title 10, United States Code, to exclude certain reserve officers from the authorized strengths of the Army and Air Force in officers on active duty in certain commissioned grades, and for other purposes (with an accompanying paper). Referred to the Committee on Armed Services.

### REPORT OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Health Insurance Benefits Advisory Council on the results of its study of the methods of reimbursement for physicians' service under the Medicare program (with an accompanying report). Referred to the Committee on Finance.

### REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Ways for the Department of Defense to Reduce its Administrative Costs of Awarding Negotiated Contracts", dated September 17, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

### LISTS OF REPORTS OF GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office, for the month of August 1973 (with an accompanying list). Referred to the Committee on Government Operations.

### PROPOSED LEGISLATION OF DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to provide for the addition of certain eastern national forest lands to the National Wilderness Preservation System, to amend section 3(b) of the Wilderness Act, and for other purposes (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### FINANCIAL AUDIT OF MILITARY ORDER OF THE PURPLE HEART

A letter from the Adjutant General, Military Order of the Purple Heart, transmitting ing, pursuant to law, a financial audit report of that organization, for fiscal year 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

### STUDY OF OPERATION OF THE POST-KOREAN CONFLICT PROGRAM OF EDUCATIONAL ASSISTANCE

A letter from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a study of the operation of the post-Korean conflict program of educational assistance (with accompanying papers). Referred to the Committee on Veterans' Affairs.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. CLARK):

A resolution of the Trust Territory of the Pacific Islands. Referred to the Committee on Labor and Public Welfare:

"RESOLUTION No. 34–1973

"Whereas for over two years the Micronesia Legal Services Corporation has been providing needed legal services to the people of the Marianas Islands District; and

"Whereas there are many unresolved legal problems affecting the people of the Marianas Islands; and

"Whereas the Micronesian Legal Services Corporation has applied to the United States Office of Economic Opportunity for a grant of $748,000 for the year beginning September 1, 1973; and

"Whereas the Micronesian Legal Services Corporation received a grant of $600,000 for the year beginning September 1, 1972, and ending August 31, 1973; and

"Whereas the High Commissioner of the Trust Territory has proposed that Micronesian Legal Services Corporation receive not more than $367,000 for the fiscal year beginning September 1, 1973; and

"Whereas it is the feeling of the Marianas Islands District Legislature that such a drastic reduction in funds would severely curtail the ability of the Micronesian Legal Services Corporation to provide the legal assistance needed by the people of the Marianas Islands District and of Micronesia; and

"Whereas, the Mariana Islands District Legislature believes that the Micronesian Legal Services Corporation should be enabled to provide better services to more people, rather than lesser services to fewer people;

"Now, therefore, be it resolved by the 4th Mariana Islands District Legislature that the United States Office of Economic Opportunity be and is hereby urged to grant funds to the Micronesian Legal Services Corporation in the amount requested for the year beginning September 1, 1973, and, in any event, not to diminish the funding of the Micronesian Legal Services Corporation below its present level;

"And be it further resolved, that the President certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of the same to United States President, Speaker of the House, United States Congress, President of the Senate, United States Congress and Chairman of the Appropriation Committee, United States Congress, the Director of the United States Office of Economic Opportunity, to the Director of the Office of Legal Services in the United States Office of Economic Opportunity, to the Regional Legal Services Attorney for Region IX of the United States Office of Economic Opportunity, to the High Commissioner of the Trust Territory of the Pacific Islands, and to the Executive Director of the Micronesian Legal Services Corporation."

A resolution adopted by the Stamford Chapter No. 13, Disabled American Veterans, Inc., Stamford, Conn., supporting Senate Resolution 84, to restore voluntary prayer in the public schools. Referred to the Committee on the Judiciary.

A resolution adopted by the Board of Chosen Freeholders, Union County, Elizabeth, N.J., praying for the enactment of S. 1672, relating to disaster victims. Referred to the Committee on Public Works.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 1101. A bill to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Michigan for potential additions to the national wild and scenic rivers system (Rept. No. 93–398).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 6628. An act to amend section 101(b) of the Micronesian Claims Act of 1971 to enlarge the class of persons eligible to receive benefits under the claims program established by that Act (Rept. No. 93–400).

By Mr. NELSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 1391. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Wisconsin River for potential addition to the national wild and scenic rivers system (Rept. No. 93–399).

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Henry A. Kissinger, of the District of Columbia, to be Secretary of State (Exec. Rept. No. 93–15).

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. RANDOLPH, from the Committee on Public Works:

John R. Quarles, Jr., of Virginia, to be Deputy Administrator of the Environmental Protection Agency.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAKER (for himself, Mr. BENTSEN, Mr. MANSFIELD, and Mr. ROBERT C. BYRD):

S. 2437. A bill to establish a commission to conduct a study and investigation of the manpower requirements and utilization of the Department of Defense. Referred to the Committee on Armed Services.

By Mr. TAFT:

S. 2438. A bill to authorize the establishment of the Edison Birthplace National Historic Site. Referred to the Committee on Interior and Insular Affairs.

By Mr. HELMS:

S. 2439. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a potential component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

By Mr. METCALF:

S. 2440. A bill to amend the Agricultural Marketing Act of 1946 in order to give the Secretary of Agriculture additional authority to promote and stimulate development in rural areas, and for other purposes. Referred to the Committee on Commerce.

By Mr. BAYH (for himself and Mr. WILLIAMS):

S. 2441. A bill to amend the Act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization. Referred to the Committee on the Judiciary.

By Mr. McINTYRE:

S. 2442. A bill to amend the Export Administration Act of 1969 to prohibit the export of crude oil and petroleum products during any period when prices in the petroleum industry are subject to economic controls. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE:

S. 2443. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Upper Mississippi River in the State of Minnesota as a study river for potential addition to the wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. HUMPHREY, Mr. STAFFORD, and Mr. CRANSTON):

S. 2444. A bill to amend the Social Security Act to provide for prevention, identification, and treatment in cases of abuse or neglect of children. Referred to the Committee on Finance.

By Mr. MCINTYRE (for himself, Mr. BENTSEN, Mr. BIBLE, Mr. CLARK, Mr. COOK, Mr. MCGEE, Mr. NELSON, Mr. NUNN, Mr. TAFT, Mr. ROTH, Mr. TOWER and Mr. HUMPHREY):

S. 2445. A bill to amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes. Referred to the Committee on Finance.

By Mr. BEALL (by request):

S.J. Res. 156. A joint resolution to authorize and request the President to designate the period from June 16, 1974, through June 22, 1974, as "National Right of Way Week"; and

S.J. Res. 157. A joint resolution to authorize and request the President to issue a proclamation designating the week beginning March 10, 1974, as "National Adoption Week." Referred to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER (for himself, Mr. BENTSEN, Mr. MANSFIELD, Mr. ROBERT C. BYRD):

S. 2437. A bill to establish a commission to conduct a study and investigation of the manpower requirements and utilization of the Department of Defense. Referred to the Committee on Armed Services.

Mr. BAKER. Mr. President, I send to the desk a bill to be introduced for appropriate referral on my behalf, and on behalf of the Senator from Texas (Mr. BENTSEN).

Mr. President, the Senate will soon begin consideration of the military procurement bill as part of a $79 billion request for defense for fiscal year 1974. This is the highest request ever for defense and presumably represents the Pentagon's best estimate of what it costs to meet three basic defense objectives. Those objectives include a strong and credible nuclear deterrent, a well trained, well equipped, and properly deployed general purpose force, and a vigorous research and development program designed to keep the United States one step ahead of our closest rival in weapons technology.

Each and every one of these goals is essential to our defense posture; and in light of the current state of the economy, it is not surprising that they cumulatively require an exorbitant sum of money. I, for one, find that sum fairly reasonable in terms of the goals and policies of the present administration; but I can also understand the apprehension on the part of those who argue to the contrary. After all, how does one explain a substantial increase in defense spending after we have successfully extricated ourselves from the longest and most costly war in our history and achieved a unique rapprochement with our two foremost enemies?

This is the question which has prompted Members of both legislative bodies and their respective committees, to undertake a more extensive examination of the defense budget than usual and to recommend a variety of cuts in an effort to justify the expenditure of every dollar. I do not question the objective of such an exercise; in fact, it represents the essence of legislative oversight. But what I do question is an almost unavoidable tendency to devote the preponderance of our frugality to the most visible pieces of hardware in the defense budget. We do so almost to the exclusion of civilian and military manpower when manpower in the past 20 years has accounted for 93 percent of the increases in defense spending and 96.4 percent in the past 10 years.

This is not to say that I oppose the closest scrutiny of expenditures on all weapons projects, nor that I am unaware of attempts by the appropriate committees of Congress to deal with the issue of manpower; but rather that unless we attempt to come to grips with this complex issue with the same meticulous zeal that we have devoted to weapons in the past, then I fear we run the risk of eventually pricing our defense program virtually out of existence.

In the fiscal year 1974 budget, manpower constitutes 56 percent of the entire budget request, or roughly $44 billion. In only 10 years, that amount will most likely double with the possibility that total defense costs could reach a phenomenal $120 billion. Most will remember that at the height of the New Deal era in which the Federal Government was becoming increasingly involved in our individual lives, President Roosevelt proposed a budget totaling some $12 billion. Many found that shocking; and yet only 40 years later, we must entertain the prospect of spending 10 times that amount on defense alone.

In view of our defense commitments and the increased cost of living, what we are now spending on defense manpower may possibly represent the most reasonable approach to a very complex matter and is what budget analysts call "cost-effective." But then, perhaps it is not; and perhaps there are other means of meeting those objectives at a substantially reduced cost—means that we have never seriously considered. Admittedly, we cannot effectively compare the American Military Establishment to any other in the world in terms of global commitments and available technology; for despite the existence of a rough parity with the Soviet Union, our forces and weapons differ greatly.

However, I cannot help but observe that some of the more efficient and capable militaries in the world, the Israeli, British, and West German armed forces, all have command structures which differ significantly from the United States in that a great deal more responsibility is borne by younger, lower-grade officers or trained, upper-grade enlisted men. This does not mean that what is good for the Israeli army is necessarily good for the U.S. Army, but rather that there are other viable military force structures and that it would be well worth our while to examine some of those structures before manpower costs increase further.

Some have argued that by altering the ratio of enlisted men to officers, we could save substantial amounts of money without adversely affecting the ability of the military to discharge its responsibilities. Simple arithmetic shows that if we were to alter the ratio of enlisted men to officers from the present 6:1 to 12:1 over a period of a few years, we might save $6 billion. Moreover, it can be argued that by doing so, lower-rank individuals in the Armed Forces are compelled to assume greater responsibility and the competition for a limited number of senior officer positions is far more intense.

However, the Department of Defense disagrees and will quickly point out that first, the ratio of enlisted men to officers is an arbitrary and misleading yardstick of military manpower, and second, the ratio has not exceeded 9:1 since the end of World War II, or 8:1 since the end of the Korean War. Moreover, they contend that efforts to reduce the officer corps would work against the intent of the all-volunteer army by reducing the incentive for a career in the military; it would seriously damage the morale of the Armed Forces and significantly hinder their ability to fulfill their obligations; and finally, it would force enlisted men to assume many of the responsibilities now handled by officers, responsibilities which enlisted men are incapable of handling because of their technical nature.

All of these contentions are debatable, in my judgment, and should be considered in the context of what constitutes the most cost-effective military in light of our present and future defense objectives.

If there are adequate reasons why there are five times as many senior officers in the rank of colonel and above in proportion to the total number of officers today, than there were at the end of the Second World War, then I would like to know them. Or if there is sufficient justification for there being over 16,000 colonels in a total officer corps of 324,000, when at the end of World War II with a total officer corps of 1.2 million, there were only 15,000 colonels, then I would like to be made aware of it.

I realize that a great deal has changed in the last 30 years and some of it has been mandated by the Congress; but I am not at all sure how much could have been avoided, nor how much should be in the future, and this is the question which demands an answer. If there is a viable means of meeting current defense needs at a substantial reduction in cost, perhaps by altering the overall defense structure or better utilizing defense manpower, then I believe that we should be made cognizant of that means and given the opportunity to seriously consider it. It is for these reasons that Senator BENTSEN and I have called for the most comphensive and detailed study of the civilian and military manpower structure at the Department of Defense since the end of the Second World War.

How to best achieve this is another problem. We first considered directing the Pentagon to undertake a fundamental reassessment of their manpower needs and to submit their findings to the Congress at a date certain in the future. However, human nature makes it most difficult for individuals who are members of the present institutional arrangement to fathom major structural change when the rest of their time is spent defending the status quo. Thus, we rejected that notion and considered creating a joint committee of Congress to investigate the problem of manpower and to report back to both Houses with recommended legislation. However, this would be extremely time consuming and could result in a communications gap between the executive and legislative branches of the Government with possibly a restricted flow of vital information.

Consequently, we decided upon one of the most valuable and yet most abused sources of information and expertise available to the Federal Government—the advisory commission. The Commission which we propose would consist of seven individuals chosen from public life, none of whom were presently on active duty, employed by the Federal Government, or Members of Congress. Four would be chosen by the Congress, two by each House, and three would be appointed by the President. The duties of the Commission would be essentially five-fold. They would be required to study the requirement for and utilization of all active duty military personnel, the adequacy and equitability of the pay structure at all levels, including fringe benefits, the distribution of grades within each armed force and the requirements for advancement in grade, the consistency of the military retirement system with overall DOD requirements as well as its comparability to civilian retirement plans, and the cost-effectiveness and manpower utilization of the U.S. Armed Forces as compared to the armed forces of other countries.

Such a mandate is indeed ambitious, but necessary in our view if we are to effectively examine the full military manpower problem. Although civilian manpower at the Pentagon and elsewhere in the Defense Establishment is not specifically mentioned, it is hoped that by examining military requirements and utilization, we can indirectly get at the problem of civilian manpower as well.

The Commission shall be required to report simultaneously to the Congress and the President as often as the Commission deems necessary in order to influence legislative and administrative proposals under consideration regarding military manpower. However, the Commission is not accountable to the President to either accept or reject its report as has been the case with many of the so-called Presidential commissions. Instead, we have made this Commission responsible primarily to the Congress with the hope that it might provide valuable recommendations to the respective Armed Services Committees as they consider manpower in the future. This is part of the reason why we have proposed that four members be appointed by the Congress while three members are to be appointed by the President. Moreover, we have put the Commission on a strict time schedule so as to coordinate their work with the consideration of manpower issues in the Congress in the next 2 years. The only problem which might arise is that of cooperation between the Commission and departments and agencies of the executive branch. But we have attempted to deal with that by requiring the provision of such data, statistics, et cetera, as the Commission may desire upon request from the Chairman or Vice Chairman. Should this section prove to be inadequate, it might be necessary to consider the imposition of time deadlines for the gathering of such data. However, I am sure that the Department of Defense, as well as the White House, will do all in their power to facilitate the fulfillment of the Commission's mandate and that the findings of the Commission will prove invaluable to Congress in its effort to maximize the cost-effectiveness of all aspects of the defense budget in the crucial years ahead.

Mr. President, it is a great pleasure for me to join the distinguished Senator from Texas (Mr. BENTSEN) in offering this bill. I look forward to an orderly and thorough examination of the matters listed earlier in my remarks.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

### SECTION-BY-SECTION ANALYSIS

Section 2—Establishes 7-member Defense Manpower Commission. The Majority and Minority Leaders of each House appoint one member. The President appoints the remaining three. None of the members will be active duty military personnel, employees of the Federal Government, or members of Congress.

Section 3—Duties of Commission are to undertake a comprehensive study of Defense manpower requirements presently and for the next ten years and to determine how such manpower might be better utilized. Specifically, the Commission will consider:

(a) The requirement for and utilization of all active duty military personnel.

(b) The present pay structure, including fringe benefits, at all levels of the Armed Forces.

(c) The distribution of grades within each armed force and requirements for advancement in grade.

(d) The entire military retirement system.

(e) The comparability of U.S. armed forces to other armed forces in the world in cost-effectiveness and use of manpower.

(f) Such other matters as the Commission deems pertinent to their efforts.

Section 4—Authorizes Commission to hold hearings as may be required, to secure whatever information from other entities as may be useful to their study upon request of the Chairman or Vice Chairman, and to establish appropriate safeguards to protect all classified material entrusted to the Commission.

Section 5—Provides for standard compensation of Commission members when performing Commission functions, including travel and per diem.

Section 6—Provides for standard hiring and salaries for staff of Commission and authorizes the Commission to seek such additional professional advice as they deem necessary.

Section 7—Administrator of GSA shall provide administrative services for Commission on reimbursable basis.

Section 8—Authorizes Commission to submit interim reports to the Congress and President as it deems necessary to influence pending administrative or legislative proposals in this area. Also provides for a final report eighteen months after the appointment of Commission. The Commission ceases to exist 60 days after submitting report.

Section 9—Authorizes such funds for the Commission as may be necessary to carry out the provisions of this Act.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I am delighted to yield to the Senator from Texas.

Mr. BENTSEN. It is the understanding of the Senator from Texas, and I would like to inquire of the Senator from Tennessee on this manpower question, when we talk about the Assistant Secretary for Manpower, his duty really, is to try to find ways to encourage men to enter the service and to try to find ways to retain men in the service, but that, in effect, he is explicitly denied the right to try to do things in the way of curtailment; is that not correct?

Mr. BAKER. I thank the Senator from Texas and would say that his inquiry is correct. That is the primary function of that official in the defense establishment. It is probably an essential part, with prospects for success in a volunteer army, that that be his fundamental and primary responsibility. But, as the Senator suggests, I think an important aspect of that, to find out what is the maximum utilization of personnel, is clearly not within his mandate or responsibility.

Mr. BENTSEN. Congress itself is in the very difficult position of trying to make that kind of study. What we are asking is a nonpartisan commission to devote its time and attention and staff to one of the most pressing problems facing this Nation in trying to provide an adequate defense that this country can afford.

Mr. BAKER. I entirely agree. I indicated in my previous remarks that I am very much pleased and honored to join the Senator from Texas in sponsorship of this measure. I know that he shares with me a deep and abiding faith that this kind of analysis, from the standpoint of national security, can be undertaken entirely on a bipartisan or a nonpartisan basis. Even a synthesis of a bipartisan spirit will carry over in the composition of the commission; that is, representation by Congress and the executive departments. So, a synthesized, bipartisan commission——

The PRESIDING OFFICER (Mr. ABOUREZK). All time of the Senator from Tennessee has now expired.

Under the previous order, the distinguished Senator from Texas (Mr. BENTSEN) is now recognized for not to exceed 15 minutes.

Mr. BENTSEN. I thank the Chair.

Does the Senator from Tennessee desire any additional time?

Mr. BAKER. No, I thank the Senator from Texas but I believe that I have said at least all I can at this time.

Mr. BENTSEN. Mr. President, I am very much pleased to have this opportunity to join the distinguished Senator from Tennessee in sponsoring a bill to establish a Defense Manpower Commission.

Mr. President, the problem this Nation faces is that we are trying to walk an economic-military tightrope. We are trying to spend enough money to keep this country out of war and to be certain that we do not become a second-class military power.

At the same time, we are trying to be certain that we do not break the back of the economy of this Nation. That would be the objective of a commission like this, to find out the problem this Nation faces today insofar as defense spending on personnel is concerned. The defense budget today has about 56 percent of its cost going directly into personnel. If we add in the other additional costs, like hospital construction, and so forth, we are talking about something more akin to two-thirds of the defense budget going for that purpose.

Take a look at another nation, Russia. The best estimates we can get are that they are spending closer to 30 percent in that regard.

Mr. President, I count myself as one dedicated to a strong national defense, but I am also one who is concerned about recent trends in the defense policies of this country which could jeopardize both our economy and our ability to provide for the nation's security.

Specifically, I am referring to the increasing of both military personnel and the equipment they must use. Current estimates are that the defense budget will exceed $114 billion by 1980, a staggering figure—particularly when one considers that approximately two-thirds of that amount will be attributable to the direct and indirect cost of personnel.

This is a trend that has developed over the past 20 years and which has reached such startling proportions that serious questions must be asked about the entire structure of our military manpower policy.

Some of these figures, I think, illustrate the point.

During the 20-year period between 1954 and 1974, defense outlays increased by about $35 billion. Of that amount, 93 percent, or $33 billion, went for pay and operating costs, with only 7 percent going for capital investments such as weapons and construction.

Manpower costs have not only increased as a percentage of the defense budget, but we are actually paying significantly more in personnel costs for significantly fewer people. For example, Defense is paying $22 billion more in fiscal year 1974 than in fiscal year 1964 in pay and allowances for 400,000 fewer military personnel.

Get that figure. Paying $22 billion more in 10 years for pay and allowances for 400,000 fewer military personnel.

The average cost of maintaining a U.S. serviceman on active duty has increased from about $3,400 in 1950 to about $12,400 in 1974. That is an increase of 262 percent.

Now I am not urging that we can or should provide salaries for the military at the same rate we did in the 1950's. I am saying, however, that we cannot afford to utilize personnel today as we did when $75 per month paid a private's salary but, regrettably, that is too often the case.

The purpose of the Manpower Commission, then will be to examine the personnel pipeline of the Department of Defense—from recruitment to retirement—and to give the Congress specific recommendations on how reforms can be made and savings achieved.

The Commission will consider a number of different issues, but among its most important responsibilities will be the following:

Examine the utilization of manpower giving special attention to the disturbing increase in personnel required for headquarters staffs and support forces in relation to combat forces.

Examine the present grade structure with particular attention to the phenomenon of grade creep which results in more high-ranking officers to command fewer enlisted personnel.

If the Assistant Secretary of Defense is trying to achieve a reduction of manpower, where do they make the reduction? They make it on the input, the low-grade noncommission personnel coming in, rather than in the higher grade personnel. We are talking about this Commission giving special attention to the disturbing increase in personnel required for headquarter staffs and to support forces in relation to combat forces.

In this regard, the Commission is authorized to study the grade structure of other armed services and to determine why the United States requires an officer-to-enlisted-man ratio of 6 to 1 as compared to ratios of 12 to 1, for instance, for the Israel Army.

The Commission must also examine the means by which we compensate our military personnel. Questions such as whether pay and allowances should not be combined into a single, direct form of compensation will be considered. Also, whether or not greater flexibility for pay differentials within specific ranks might not be an improvement over the present system of rigid pay to grade ratios, should be of concern to the Commission.

Quite frankly, it is my hope that this Commission will view all these issues with a healthy dose of skepticism concerning our present system and with an open mind toward new ideas for changing that system.

In order to insure a fresh look at some very old and persistent problems, we have excluded members of the active-duty military, the employees of the Federal Government and Members of Congress from membership on the Commission. In effect, we have excluded from the Commission the so-called vested interests.

Congress will have authority, through the leadership of both Houses, to appoint four of the seven members. The Commission is further directed to report periodically to Congress on the various issues covered in its charter. It is our expectation that these reports will be timed with the consideration of military manpower issues by Congress. We certainly do not want another Commission which merely delivers a weighty volume at the end of its charter that is long on rhetoric and sensationalism and short on logic and practical recommendations.

In this regard, I am sure that there are some who will greet this proposal with the refrain of "Oh, no, not another Commission." So let me say a few words about why I so strongly feel a Commission is needed.

On this complex issue of military manpower, Congress finds itself between a rock and a hard place. If we attempt to cut force levels or drastically alter personnel policy without securing Department of Defense data and support, we are accused of being irresponsible and of jeopardizing the Nation's security. If, however, we rely on the Department of Defense for the necessary information and action to provide us with a new personnel system, we are constantly frustrated by delay and a commitment to the status quo that is impregnable to congressional assault. As one frustrated observer put it:

> They would rather give up a battleship than a billet.

Perhaps an exaggeration, but a good measure of the truth as well. As one who has been subjected to the Pentagon lobby, I can attest to their influence and their support and what they are able to generate in the way of pressure.

Faced with this dilemma, I feel that an independent Commission with a congressionally appointed majority and an adequate, full-time staff may give Congress both the impetus and the means for facing up to the toughest issue in the national defense sector that we face today.

I hope this will be the case, and I urge those who share this concern with the Senator from Tennessee and myself to join in this resolution and to give it their full support.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I believe I received a communication from the distinguished Senator from Texas this morning, and I told my office to call the Senator and tell him that I would like to be a cosponsor of this resolution.

It is my understanding that one of the responsibilities of this advisory group, as I believe it is called, would be to look particularly into the manpower situation as it affects computation, retirement, and excess personnel.

Mr. BENTSEN. The distinguished majority leader is correct.

Mr. MANSFIELD. Especially at the top, where we have more colonels and admirals and above, for a force of 2.2 million men today, than we had at the height of our strength in World War II, when we had 14.5 million men and women under arms.

Mr. President, I ran across some interesting statements in Forbes, a business magazine, under date of September 1, 1973. Under "Trends and Tangents," it states:

> According to the Defense Department, in fiscal 1973 the cost of the military retirement system is estimated at $4.4 billion. By the year 2000, according to present projections, it will exceed $25 billion.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "The Easy Chair," a commentary by John Fischer in Harper's magazine of recent date, a month or so ago, and a transcript of "60 Minutes," a TV program, in which Mr. Mike Wallace participates. This has to do with a segment entitled "Retirement, Military Style."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Harper's magazine]

### THE EASY CHAIR

(By John Fischer)

During the twenty years he has been in Congress, The Honorable Henry Publius has always voted to give the Pentagon everything it asked for. And every time he has been unhappy, not to say conscience-stricken, about his vote.

He knows that many of the billions he has voted for military appropriations have been wasted. He strongly suspects that most of the new weapons systems he will vote for this year will prove unnecessary or obsolete before they ever go into operation. He realizes that the military establishment is perhaps the most inefficient organization in American society, and the costliest—so featherbedded that it makes the railway unions look like paragons of public virtue. He yearns to use some of the money squandered by the Pentagon for things his constituents really need: schools, for example, and housing, and job training for out-of-work teen-agers. He is well aware that Congress has little hope of ending the destructive spiral of inflation unless it can get the military budget under control.

Yet he has never dared, up until now, to speak up against any of the demands for money by the Army, Navy, and Air Force—even though he is a more conscientious Congressman than most and really would like to do the best he can for his constituents and his country. Henry Publius has three reasons, or excuses, for his apparently irrational behavior:

1. He knows that the military has an awesome power to help its friends and punish its enemies. Congressmen it regards as "uncooperative" don't get many defense contracts for their districts; and if they become truly annoying, they may find that the airfields or naval bases in their bailiwicks are closed down. After all, the Pentagon has a lot more such installations than it really needs. Besides, it can always build a new installation in the backyard of a more understanding statesman.

2. If he were critical of the military budget, Publius is pretty sure that his opponent in the next election would accuse him of being unpatriotic and endangering the safety of the republic.

3. Above all, he doesn't know enough. The Honorable Publius, who is no coward, might take the first two risks if he could be sure he is right. But how can he tell whether the Air Force really does need to spend $40 billion over the next fifteen years to build and operate a new bomber fleet? How can he prove, to the voters and to his fellow Congressmen, that this project actually is a fly-boy's toy, as unnecessary as a squadron of sailing frigates and a million times more expensive?

For all the information he can get comes from the Pentagon itself. He has to accept it on faith, or challenge it in ignorance, as he has never had anywhere to turn for an independent and objective appraisal of the facts. The Armed Services Committees of Congress are of little help, because they traditionally have been spokesmen for the Pentagon, rather than cold-eyed examiners; and they too depend on The Brass, because they have no staffs capable of a searching scrutiny of the military budget. Neither, indeed, has the President's Office of Management and Budget. Ever since World War II, it and its predecessor, the Budget Bureau, have been in the habit of accepting the Department of Defense estimates without the careful line-by-line scrutiny to which all other federal agencies must submit. And outside the government, of course, there was no organization competent to look with informed and expert eyes at what the President was doing.

Until recently, that is. Today the notional Henry Publius and his colleagues on the Hill are, potentially, in a much stronger position for dealing with the military. For the first time they can now make intelligent decisions about the defense budget, because they at last have sources of independent and reliable information. If they choose to use this information in a courageous and responsible way, that could be the best news of the century for the American taxpayer.

For one thing, the Senate Armed Services Committee has begun to declare its independence from the Pentagon. Since Sen. John Stennis succeeded Richard Russell as chairman, the committee has built up a small but competent staff, which has recently been looking at military demands with surprising skepticism. It can now provide objective answers to many of Publius's questions.

Two other sources have developed outside the government. One of these is the Brookings Institution, a private research organization that has been making highly respected studies in economics, government, and foreign policy in the past fifty-seven years. Only in the past three years, however, has it concentrated a substantial part of its talent on investigation of the defense budget—with some quite startling results. Its analyses command respect because they are being prepared by a highly experienced staff under the direction of Charles L. Schultze, a former director of the Budget Bureau. Its latest findings are reported in two books that were published this summer—*Setting National Priorities: The 1974 Budget* by Schultze, Edward R. Fried, Nancy H. Peters, and Alice M. Rivlin; and *Strategic Forces: Issues for the Mid-Seventies* by Alton M. Quanbeck and Barry M Blechman. These are more provocative documents than their scholarly titles suggest.

At this point it is only fair to warn you that I am not a disinterested observer. I happen to be a trustee of Brookings, and a long-time friend of both Schultze and Kermit Gordon, the Institution's president (and incidentally another former director of the Budget Bureau). My confidence in the soundness and integrity of the Brookings studies is shared, however, by innumerable scholars and people in government, of all shades of opinion. The Brookings staff is in constant demand for consultation by Congress and the Executive Branch, under the Nixon Administration as well as earlier ones.

The other independent source of data on armaments is a comparative fledgling: the Center for Defense Information, which opened for business last year. Its director is a retired rear admiral, Gene La Rocque, and its staff of consultants includes an array of retired admirals, generals, physicists, and former Defense Department officials. It is a project of the Fund for Peace, one of the more conservative peace organizations; the Fund's chairman is Randolph P. Compton, a vice-president of the Wall Street brokerage firm of Kidder Peabody, and its board is sprinkled with Senators, university presidents, lawyers, and businessmen. Unlike Brookings, it is a propaganda and lobbying organization rather than one devoted to nonpartisan research; but it has produced some illuminating documents.

The findings of these two organizations offer scant comfort to the snow-white doves among us. They do not support George McGovern's claims, made during the past Presidential campaign, that defense spending could be cut by one-third virtually overnight. Nor do they give any underpinning to the arguments of the more radical critics of the military, such as Seymour Melman, who believes that more than $50 billion could safely be trimmed out of the military budget.

But for more moderate types like myself—people who want to see the country well defended at any cost, but wonder if the cost has to be all *that* high—these studies are a revelation. Anyone seriously interested in the subject will want to reach his own conclusions after reading the two Brookings publications mentioned earlier (available through any bookstore) and the various documents issued by the Center for Defense Information (201 Massachusetts Avenue, NE, Washington, D.C. 20002).

My own conclusions run about like this:

1. The Nixon Administration's demands for defense spending are overblown. It is asking for $85 billion this year; and if it gets the new weapons systems it wants, the cost will rise to at least $114 billion a year by the end of the decade. This program is likely to weaken the country, rather than strengthen it, as it will damage our already inflation-crippled economy.

2. At least $7 billion could be cut out of the military budget for fiscal year 1974, which Congress is now considering, without weakening our defense posture. By fiscal 1978, the savings ought to rise to about $26 billion a year. These are relatively modest sums, compared to the dreams of the superdoves, but they aren't chicken feed either. They would go a long way toward balancing the total federal budget and stabilizing the economy.

3. If military need were the only consideration, the cuts in the Nixon program could be a good deal larger. But there are persuasive diplomatic arguments against cutting back too fast. For one thing, massive reductions in defense spending might remove the Russians' incentive to bargain for mutual and balanced disarmament. Why should they bother, if we seem to be disarming on our own? Besides, such cuts might look more serious than they actually are, to enemies and friends alike. The Soviets might read them as a signal that we are weakening in our determination to defend our own vital interests, and our allies'. Hence the Kremlin might be tempted into dangerous adventures in, say, the Middle East, the Mediterranean, or the Indian Ocean. True enough, we have been getting a lot of sweet talk from Comrade Brezhnev recently, and at least the short-term interests of the Soviet Union would seem to argue against any hostile moves. But Brezhnev won't last forever; the basic ideology of the Kremlin remains apparently unchanged; and nobody can guess what his successors might do.

Among our friends, overly drastic cuts in defense spending might well raise doubts about our ability, or will, to help them in a moment of crisis. Germany, Japan, and Israel might then decide that they have to develop atomic weapons of their own—a step that could lead to world disaster. So timing is important. Our swollen military machine can, and should, be slimmed down—but at a pace that will not cause either alarm or temptation abroad.

4. For the first time in history, most military numbers don't mean anything.

No general ever lived who didn't want more men and weapons. And in the past this was understandable; one more battalion of artillery or an extra five thousand men could mean the difference between defeat and victory.

But the first atomic bomb blew up that kind of logic, along with Hiroshima—although most of our generals and some members of Congress are not yet willing to admit it out loud. For it is a simple fact that both Russia and America already have far more nuclear weapons than they need. Each nation can destroy the other many times over. An additional 1,000 warheads—or 10,000—could not make that destruction more complete. Nor can any weapon, known or imaginable, ward off that destruction, for either side.

This chilling situation was formally accepted by both countries when they signed the SALT agreement. Each promised, in effect, that it would not even try to defend its cities against a missile attack. Their joint policy is MAD—Mutually Assured Destruction—and on some sleepless midnights the acronym seems to me appallingly appropriate. Nevertheless, it is the only policy anyone has yet thought of for preserving a relatively stable peace.

Today the United States has about 6,000 strategic nuclear weapons. According to Admiral La Rocque's calculations, only 2,000 of these would be needed to wipe out every town in Russia of more than 20,000 population and to destroy virtually all its industry. The Soviet Union has only about 2,500 such weapons, but some of them carry larger warheads than ours so their destructive potential is probably about equal. Under these circumstances, it is a sheer waste of money for either side to heap up still more strategic weapons.

5. Yet the program the Administration is budgeting for would do just that. It would give us at least 12,000 strategic weapons by the early 1980s, together with new fleets of bombers and missile submarines for delivering them.

How does the Pentagon justify these plans? Well, the Joint Chiefs of Staff have a recurring nightmare. Someday, somehow, the Russians might develop an array of new weapons that could wipe out all of our strategic forces at one stroke—all our missiles in the underground silos, all our bombers (including those in the air at the time), and all our missile submarines scattered throughout the oceans. Then we would be helpless to hit back. And knowing that, the Soviets might therefore be tempted to strike first. Consequently, reasons The Brass, was have to keep multiplying our strategic arms indefinitely, to make sure that enough would always survive to destroy Russia—thus protecting the Kremlin from temptation.

To be sure, this nightmare does not look very probable. Russia does not have any antisubmarine force that can seriously menace our underseas weaponry, and there is no indication that she can develop one in the foreseeable future. Unless our whole Air Force decides to take a nap at the same moment, its bombers at all their widely scattered bases and in the air can hardly be blotted out simultaneously. The third member of our strategic triad—the land-based Minuteman missile—might someday become vulnerable to a first strike, *if* the Soviets aim the bulk of their missiles at that single target, and *if* they can improve considerably their accuracy and the mounting of multiple warheads. But that possibly is at least a decade away.

In sum, the military chiefs are asking us to spend vast sums because of their fear of imaginary weapons that the Russians don't have now and probably never will. Moreover, while contemplating this nightmare, the chiefs evidently are overlooking the fact that the enormous buildup in American nuclear weapons might make the Russians a little nervous, too. They might even get the notion that we are preparing a first strike of our own.

6. The Administration is embarking on a crash program to acquire a fleet of new bombers, a new generation of missile submarines, new aircraft carriers, and a new air defense system. The Brookings and the La Rocque studies demonstrate conclusively, it seems to me, that all of these are either totally unnecessary or premature.

The proposed B–1 bomber will be the most expensive plane ever built (at least $45 million a copy) but its performance will be only marginally better than that of our present B–52s, and its purpose is (to say the least) unclear. It is to be loaded with elaborate electronic gear to enable it to get through the anti-aircraft defenses that protect the Russian missiles. But since our basic assumption is that the Soviets would strike first, those missile silos would be empty long before the bombers arrive. As Peter J. Ognibene put it in a recent article in *The New Republic*, the B–1 is elaborately designed to bomb empty holes. Under the SALT agreement, Russian cities (with the exception of Moscow) must remain unprotected. For bombing them, the B–52 serves just as well as the B–1.

With some modernization, the late model B–52s (types G and H) could remain in service till the end of the century. By then, it should be possible to develop a much better and cheaper plane than the B–1: for example, a "standoff" bomber that could fire long-range missiles, and therefore would never have to get near the Russian anti-aircraft defenses.

The rush to develop a fleet of new submarines, called Tridents, is even harder to justify. They are designed to fire missiles with a longer range than those fitted into our present Polaris and Poseidon submarines; consequently the Tridents could roam around a wider area of the ocean and thus make it harder for an enemy to find them. But the longer-range missile could be adapted for use by our Poseidons, at far less cost. Besides, the Navy itself has boasted that the Russians cannot locate even one of our submarines, much less all forty-four of them simultaneously; and it has admitted that the Russians show no signs of developing a significant antisubmarine capacity. There is no apparent reason, then, for replacing the present fleet until it begins to wear out, perhaps ten years from now. The Senate Armed Services Committee, has in fact, recommended that the Trident program be slowed down, for a saving of $885 million in this fiscal year alone.

The Navy also wants a new attack carrier, to add to the fifteen it has now. Cost: with planes and escort vessels, at least $3 billion. Instead, it would make better sense to retire some of the carriers now afloat. They are highly vulnerable to missile, submarine, and air attack; they proved of limited value even in the Vietnam war; and they would add nothing to our strategic strength in a conflict with Russia. Perhaps their chief value is diplomatic: to intimidate weak countries, such as India and the Dominican Republic. And for that purpose, questionable as it is, we don't need fifteen of them.

Another proposal is for "modernization" of our air warning and defense systems against incoming Soviet bombers. Its purpose is a mystery, since we agreed in SALT not to try to protect our cities against nuclear attack. And if the Russians should attack, they obivously would use their missiles rather than their small fleet of obsolete long-range bombers. Indeed, the whole idea of "air defense" is almost comically antiquated, like the sky watchers who manned church steeples during World War II.

There are plenty of opportunities for minor economies—just a few billion here and there. For example, all our armed forces are top-heavy with officers. We now have one general or admiral for every 1,800 men of lower ranks; as recently as 1969, with a war on, the ratio was only one to 2,900. We have one colonel or Navy captain for every 143 personnel; during World War II we had one to 800. For every enlisted man, we have one officer or noncommissioned officer to supervise him. Ask any enlisted man if he really needs that much bossing.

Much larger savings could be made by modest cutbacks in the size of our armed forces and by the closing of unnecessary bases at home and overseas. With the end of the Vietnam war and a winding down of the cold war, a reduction in land forces from sixteen to eleven divisions and in the Navy from fifteen to nine carriers would seem entirely feasible.

There is no space here to spell out the billions that would be saved by each of the specific economies I have mentioned, or to give a detailed justification for each of the cutbacks in spending. Nor is there any need, because the figures, facts, and strategic scenarios are fully presented in the Brookings publications and the Center for Defense Information reports mentoned earlier.

My estimate of the total potential savings—$7 billion for the coming fiscal year, rising to $26 billion a year later on—is derived from these studies; but it is my conclusion, not that of either organization. Indeed, Brookings makes no single, specific recommendation. It merely sets forth a series of alternative military programs, of varying dimensions, together with their costs and probable consequences—leaving each reader to judge for himself which course might be most prudent. The cuts I have suggested fall in the middle range. If you care to examine the figures for yourself, you may feel that I have been too conservative.

Probably you don't—after all, that's a lot of figures—but your representatives in the House and Senate ought to, because that is what we pay them for. You may want to call these publications to their attention and ask what conclusions they come to. Your future tax bills might be a lot smaller as a result.

It might also be worth your while to mention these publications to your local newspaper, suggesting that some editorial analysis of military spending would be a major public service. Most Americans, I believe, have no idea what grandiose and unnecessary plans the Pentagon has put in motion—largely because there has been so little critical examination of military matters in the press. Not that the press is entirely to blame. Like the hypothetical Congressman Publius, it has never had a reliable source of independent information. But it does now, and the time has come to get alarmed.

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[From "Sixty Minutes" TV Show]

### RETIREMENT, MILITARY STYLE

WALLACE. If a soldier or sailor has served just twenty years he can retire on fifty percent of his basic pay. A Sergeant who retires today at the age of thirty-eight will get at least three hundred and seventy-three dollars for the rest of his life.

A colonel who quits after thirty years will get fifteen hundred and forty-six dollars for the rest of his.

And every time the cost-of-living goes up by three percent their pension goes up four. And if they get another job after they leave the service, they get their full pension just the same.

Commander Albert Pioso retired from the Navy at the age of fifty-one after thirty years. He used to be an intelligence officer making seventeen thousand dollars a year. Well, then he got himself a civilian job with Uncle Sam, still with Navy Intelligence. So now he collects two checks instead of one. A retirement check of fourteen thousand dollars, another for his Civil Service job, twenty-five thousand dollars. And he's one of more than seventy thousand retired military who are known as "double-dippers".

You're what is known as a "double-dipper" Mr. Pioso. . . .

Pioso. Yes, I've heard that word, Mr. Wallace.

Wallace. Do you object to that word?

Pioso. Not at all. No. I won't use that old cliche about names and sticks and stones.

Wallace. In a sense you're doing the same kind of job that you did in the Navy, you're getting paid more for it now, that same job, and in addition, you're getting fourteen to fifteen thousand dollars in retirement pay.

Pioso. That's a way of looking at it. However, we could also say that the first job that I have—had, is finished. It's over. I retired. Now I'm in a new career and this happens to be my new career in the United States—I'm still working for the United States Navy, working forty hours a week and earning the sum that we just talked about.

Wallace. You still are entitled to certain benefits. What benefits?

Pioso. I just recently had two cataract operations performed at the Bethesda Naval Hospital.

Wallace. How much did it cost?

Pioso. I believe the regulations call for paying for your food per day. I think my—the first cataract was around twelve dollars, the second was around twelve dollars because I was in the hospital approximately seven days and that was what I paid.

Wallace. Retired servicemen and their families can get at any military base, almost all the same benefits they enjoyed on active duty. It's hard to say whether there are so many military retirees in California and Florida and Texas because of the weather or because of all the bases in those states.

At Patrick Air Force Base Hospital, a senior citizen orders a prescription but no money changes hands. Because he and his dependents are entitled to free medical care and free drugs for the rest of his life.

Of the seventy-one thousand records at the Naval Hospital in Orlando, only thirty-five hundred are for active duty personnel. The rest are for retirees and their families.

At the Commissaries savings of twenty to thirty percent. Examples from a commissary in the Virginia suburbs: Milk forty-two cents a half-gallon. It's sixty-three cents at a nearby Safeway. Eggs are fifty-six cents a dozen. Sixty-nine cents in the supermarket. Chopmeat seventy-two cents a pound . . . at the Commissary. Ninety-five cents at Safeway. GE light bulbs marked at a dollar twenty-eight, they cost fifty-two cents here.

And the Base Exchange, well-stocked department stores but prices are up to twenty-three percent lower.

The golf course at Patrick is one of the busiest in Florida. Used mostly by retired careerists. Membership five dollars a month for a sergeant, six dollars for a general.

The Officers Club at Patrick, almost two-thirds of the three thousand members are retired. At a recent lunch shrimp salad was a dollar-and-a-quarter; rib-eye steak a dollar sixty-five.

The rationale behind the system is that the military retiree has put his life on the line. Has endured sacrifice and hardship, long hours at low pay. He is rewarded in retirement for what was denied him on active duty.

Former Chief Petty Officer Bob Knowland now draws retirement of two hundred eighty-nine dollars a month. He makes the case for the man in the ranks.

Knowland. I was on duty twenty-four hours a day if they needed me, and there was, of course, many times they needed me in peace time as well as wartime. I had no way to stay at home and build an equity, be part of the community life. We didn't have the family problem but the fellows who did were separated from their family, particularly in the Navy six to nine months deployments to the Western Pacific. So there are certain sacrifices that you make. Also, the pay I was drawing on active duty wasn't anything to write home about. Starting out at twenty-one dollars a month in 1941 and ending up three hundred and fifty dollars a month basic pay in 1962. And so you work and fulfill your career with the knowledge that Uncle Sam's holding back a little bit to pay you greater in retirement.

Wallace. Pay greater in retirement. Especially for those who retire on disability. Because their pensions are tax-free. Remember General John LaVelle? He was fit enough to command the U.S. Air Force in Vietnam, was relieved from command for unauthorized bombing of the North, he was then found disabled and today he enjoys a twenty-seven thousand dollar a year pension virtually tax-free. He didn't want to talk about it.

Now we're not talking about disabled veterans or career men given early retirement because of injuries rendering them unfit to serve. We're talking about high ranking officers, many with thirty years service, men who were certified for flight pay, now found officially disabled . . . on retirement. General Leo Benade, the Pentagon's expert on personnel and retirement affairs.

In 1971, General, 47.6 percent of all retiring generals compared with 11.5 percent of retiring colonels and 9.2 percent of retiring Sergeant-Majors, retired on disability. Now I know the attrition rate, I know how hard you work General, but it does seem strange that almost one out of every two generals in 1971 who retired . . . retired on disability and therefore to some extent, tax-free on their pension?

Gen. Benade. I think the figures are disproportionately high Mike, in favor of higher ranking individuals and I have no explanation for it.

Wallace. What all this talk of pension and benefit costs adds up to is that Washington is deeply worried about where the money is going to come from. Almost sixty cents of every defense dollar goes to pay people, people now in the service, people already retired. By the year 2000 retirement costs alone will total twenty-one billion dollars a year and there's a fight on to make it even bigger. A battle being fought under the banner of something called "recomputation". That means raising a retired soldiers pay every time the active forces get a raise. So that all retirees of the same grade and same years of service get the same pay.

Congressman Sam Stratton, a foe of recomp. Senator Vance Hartke, a prime sponsor of it.

Sen. Hartke. Is it right for a sergeant, for example, today, let me ask you this question, is it right for a sergeant today who retires today to have a bigger retirement than a sergeant who is now—who was sixty years of age now and retired say twenty years ago, is that fair?

Cong. Stratton. Well, it's fair for a Vice President of the General Electric Company who retired in 1940 to get less in retirement than one who retired in 1971 or '72.

Sen. Hartke. Let's take that—(crosstalk)—you want to go to General Electric. Take General Electric——

Rep. Stratton. We had to decide whether we were interested in the active duty or whether we were going to let the tail wag the dog and make our decisions on pay for the active forces on the basis of what it was going to cost us to pay the retirees?

Sen. Hartke. Number one, there's an awful lot of difference in taking a military career, it's a chancy career. In the first place they have this business of being involved in a military conflict and it's a lot different whether you're going to be a civilian employee for General Electric or whether you're going out there and risk your life for your country. Now maybe you don't think it makes any difference. I happen to think it makes a lot of difference whether you risk your life or whether you have a permanent job in a civilian occupation. (crosstalk.)

Rep. Stratton. Let's admit that most of those who risk their lives don't get in on the retirement system at all. Some of them are in Arlington Cemetery, they don't get in on retirement. And most of the rest of us got out when the war was over. So we don't get in on retirement. . . . So the idea that you're paying the fellows that carried the battle is a slight exaggeration.

Wallace. Privately, even sponsors admit that Recomp has little chance of becoming law. Later this year Congress will be taking a hard look at the whole military pension business. And the Pentagon itself is recommending major changes, more pay while serving, less in retirement.

A look at the so-called "Up or Out System" . . . keeping those service personnel who are useful in for more than twenty and even thirty years while giving others severance pay to get them out right now. That way the dead wood will be gotten rid of earlier so it doesn't hang around just to get in on retirement pay.

And many Congressmen would like to see these servicemen contribute toward their own retirement.

Mr. MANSFIELD. I hope these questions can be gone into thoroughly, on the basis of the proposal made by the distinguished Senator from Texas and the distinguished Senator from Tennessee, because when you get down to manpower, you are getting more and more costs, with less and less strength in the process, with less money being spent on weapons which are needed to back up the forces we have.

Mr. BENTSEN. Mr. President, with the great influence and prestige of the majority leader, I know that the addition of his support will mean much in the passage of this measure, particularly because he gets to his office to work in public service before many farmers get out in their fields. He has done his homework well, and he has our thanks this morning.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. BAKER. Mr. President, I should like to take this opportunity to add my thanks to those of the Senator from Texas for the cosponsorship of the distinguished majority leader, who has, in fact, done his homework on this and every other issue exceedingly well.

I think the great virtue of this inquiry and undertaking is its uniqueness in terms of the congressional representation on the Commission. I believe issues and observations of the sort that the distinguished majority leader alludes to will be thoroughly undertaken by such Commission, if it is formed and funded. There is a real opportunity here to think, not only in terms of the economy, but also in terms of a definite strengthening of our inherent defense capability.

I hope the Senate acts favorably and promptly in this matter.

I thank the Senator from Texas for his invaluable cosponsorship and for the bipartisan nature that we hope to bring to this matter. I look forward to working with him and others on the matter in the future.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, will the Senator yield first?

Mr. BENTSEN. I yield.

Mr. MANSFIELD. Mr. President, I ask consent of the two Senators and the Senate that I be added as a cosponsor of the bill.

Mr. BENTSEN. We are delighted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that throughout the day Senators be allowed to join as cosponsors of the bill of the Senator from Tennessee and the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

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By Mr. TAFT:

S. 2438. A bill to authorize the establishment of the Edison Birthplace National Historic Site. Referred to the Committee on Interior and Insular Affairs.

Mr. TAFT. Mr. President, I am pleased to introduce legislation which would authorize the establishment of the Edison Birthplace National Historic Site at Milan, Ohio.

I need hardly take the Senate's time to recount the achievements of Thomas Alva Edison, whose name has been a household word in America for generations. In summary, Mr. Edison was probably the greatest inventor in history. He had only 3 months of formal schooling, but he changed the lives of millions of people with such inventions as the electric light and the phonograph. Edison patented more than 1,100 inventions in 60 years. These inventions were important enough for Henry Ford to suggest that the period of Edison's life should be called "The Age Of Edison."

Edison defined genius as—

One percent inspiration and 99 percent perspiration.

He demonstrated this belief by working for days at a time, stopping only for short naps. Everything interested Edison. He experimented in the field of medicine and offered a program for farm relief. He came close to the invention of the radio, and he predicted the use of atomic energy. Edison always tried to develop devices that would work under ordinary conditions, could not easily get out of order, and were easy to repair. He also improved the inventions of other persons. These included the telephone, the typewriter, the motion picture, the electric generator, and electric-powered trains.

In my judgment, Thomas Edison's life truly symbolizes Americans' tremendous capacity for innovation and creativity, which has helped us meet so many important challenges in the past.

While Thomas Edison's career and works are illustrated at his home and laboratory in West Orange, N.J., which is already a national historic site, I feel that the addition of the Milan site to the national park system would add an important dimension to the public's understanding of this great man's personal life and character. The Milan site, which is presently listed on the national register of historic landmarks, does not simply consist of a dwelling where Mr. Edison was born. The surrounding land includes remaining evidence of the basin of an old canal which extended 9 miles to Lake Erie. In the 1840's, Milan was the canal town to which grain was brought to be shipped over the Great Lakes. It is my hope that in addition to the birthplace, the Interior Department would develop the canal basin and the rest of the adjacent area into a small park which could provide a symbol and information relating to life in the "canal era."

The expense to the taxpayers of establishing this site is unlikely to be excessive. The property is now owned by the Edison Birthplace Association, Inc., a nonprofit organization of which Madeleine Edison Sloane, Thomas Edison's daughter, is president and director. The association has generously offered to donate the property and a sizable endowment fund to the Government should the birthplace become a national historic site. Interest on the endowment fund has provided sufficient funds for the operation and upkeep of the birthplace and the curator's house. Therefore, the only governmental expense would be the development and maintenance of the surrounding lands.

The people of Ohio and the rest of the Nation will benefit if the Congress acts upon this legislation quickly. Particularly in view of the upcoming Bicentennial, what action could be more appropriate than the commemoration of a great American and an important era in American history?

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By Mr. METCALF:

S. 2440. A bill to amend the Agricultural Marketing Act of 1946 in order to give the Secretary of Agriculture additional authority to promote and stimulate development in rural areas, and for other purposes. Referred to the Committee on Commerce.

Mr. METCALF. Mr. President, I am today introducing a bill to increase the availability of transportation facilities for people and goods in rural America and thus encourage the improvement of rural communities and their more rapid economic growth by reducing the costs of transportation.

One of the major gaps in a complete rural community improvement effort that is not taken care of by provisions of the Rural Development Act of 1972 is the great inadequacy both in quality and volume of rural transportation services.

The bill I am introducing will not fully fill that gap. We will still need to do something to make convenient transportation available to rural people who are too old or too poor to operate or to own automobiles. We will still need to formulate and enact some kind of transitional subsidy for rural transportation that is deliberately developmental in purpose and intent, similar to the developmental highway idea included in the Appalachian program.

The bill I am introducing will just make a modest start.

For many years, a special unit in the Department of Agriculture has had the statutory job of analyzing the effects upon farm and ranch income, and upon the agricultural industry generally, of the freight rate and transportation structure in the United States and of proposed changes in freight rates.

The bill I am introducing would expand the responsibility and authorization of this unit to include consideration of all phases of rural community improvement and particularly the industrial and business components of rural development.

Section 1 of the bill refers to the objective expressed in the Rural Development Act of 1972 and expresses the purpose of Congress to improve rural transportation to promote and stimulate development of rural areas through, among other actions, establishment of special freight and passenger rates to and from and within rural areas.

Section 2 amends the Agricultural Marketing Act of 1946 to expand the responsibilities of the Secretary of Agriculture with respect to initiation and participation in actions before transportation regulatory bodies to include consideration of all nonfarm phases of rural living, business, and development in addition to strictly agricultural concerns.

Section 3 authorizes the Interstate Commerce Commission to give favorable consideration to developmental or experimental freight and passenger rates to and from rural areas to aid in the development and growth of rural communities.

Section 4 requires the Secretary of Agriculture, after consultation with the Chairman of the Interstate Commerce Commission, to submit an annual report to Congress that will indicate the reductions in freight and passenger rates, if any, that would be required to attain rural industrialization and other goals established by the Secretary under section 603 of the Rural Development Act of 1972 and the additional actions necessary to insure adequate passenger and freight service for rural areas and rural people.

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By Mr. BAYH (for himself and Mr. WILLIAMS):

S. 2441. A bill to amend the Act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization. Referred to the Committee on the Judiciary.

Mr. BAYH. Mr. President, today I am introducing legislation on behalf of myself and Senator WILLIAMS that would amend the act of February 24, 1925, incorporating the American War Mothers. Under its present charter, only the natural mother of a person who has served or is serving in the Armed Forces is eligible to become a member of the American War Mothers. Under my amendment certain stepmothers and adoptive mothers would be allowed to become members of this fine organization.

It was in my own State of Indiana, that the American War Mothers was founded on September 29, 1917—

> To keep alive and develop the spirit that prompted world service; to maintain the ties of fellowship born of that service and to assist and further any patriotic work; to inculcate a sense of individual obligation to the community, State and Nation; to work for the welfare of the Army and Navy; to assist in any way in their power, men and women, who served and were wounded or incapacitated in the World War; to foster and promote friendship and understanding between America and the Allies of the World War.

The American War Mothers was incorporated in 1925, but Congress has since amended its charter with the result that the blood mother of any person who has served in the Armed Forces is now eligible to be a member. Now the American War Mothers are requesting that Congress again amend their charter. Neither the original charter nor the amended version made provision for the membership of women whose stepsons or stepdaughters or adopted sons or daughters performed military service for the United States. The bill I am introducing today would correct that oversight.

Throughout its history, the American War Mothers have worked extensively to ease the specific and sometimes special problems faced by veterans. Their work has been most appreciated by those veterans who have suffered physical and emotional problems as a result of their service or who experienced severe financial or housing problems following their service.

Currently, the American War Mothers' principal work is in the Veterans' Administration hospitals. More than 2,500 of these dedicated women volunteer their time to provide the comfort and kindness which hospitalized veterans need and deserve. Moreover, the American War Mothers has donated televisions and radios for the use and enjoyment of hospitalized veterans; and, occasionally, it has even been able to contribute substantially to improving the medical facilities at these VA hospitals. For example, in 1968 the American War Mothers collected donations from across the country and purchased a kidney machine for the VA hospital here in Washington, D.C.

I sincerely hope that the Senate will take quick action on this significant improvement to the charter incorporating the American War Mothers so that more mothers will be able to participate in their many worthwhile public service projects.

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By Mr. McINTYRE:

S. 2442. A bill to amend the Export Administration Act of 1969 to prohibit the export of crude oil and petroleum products during any period when prices in the petroleum industry are subject to economic controls. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. McINTYRE. Mr. President, I am introducing legislation today which would prohibit the export of any refined petroleum product.

The failure of the President to establish a mandatory allocation system, coupled with the Cost of Living Council's phase IV petroleum pricing regulations, has resulted in the export in the last few weeks of substantial quantities of domestically refined home heating oil.

In the last month, over 42-million gallons of heating oil refined in the United States has been exported primarily to European markets. The export of this essential product and the failure to establish mandatory allocations will only assure a widespread heating oil shortage for this upcoming winter.

Mr. President, all indications are that this country will experience a heating oil shortage this winter. If mandatory allocations of petroleum products had been implemented earlier this summer then the needed heating oil supplies so essential to our country's health and safety would have been available for domestic use rather than being exported to overseas markets. This is an intolerable situation that cannot be allowed to continue.

Phase IV pricing regulations issued by the Cost of Living Council are literally riddled with loopholes and inconsistencies. We now face a situation where petroleum price regulations issued and enforced by the Federal Government are resulting in the substantial export of home heating oil while, at the same time, the President has refused to implement a mandatory allocation system.

The export of this essential commodity in such substantial quantities reflect the total failure of the voluntary allocation system for petroleum products instituted in May of this year.

If home heating oil exports are allowed to continue under the present circumstances, shortages of unbelievable magnitude will surely develop this winter.

In introducing this legislation, I also call on the President to exercise existing legislative authority to immediately impose a ban on the further export of home heating oil and other domestically refined petroleum products.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2442

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this Act, the authority conferred by this section shall be exercised to prohibit the export of crude oil and petroleum products during any period when crude oil or any petroleum product is subject to price controls under regulations or orders issued pursuant to the Economic Stabilization Act of 1970."

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By Mr. MONDALE:

S. 2443. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Upper Mississippi River in the State of Minnesota as a study river for potential addition to the Wild and Scenic Rivers System. Referred to the Committee on Interior and Insular Affairs.

Mr. MONDALE. Mr. President, I am today introducing a bill to designate the Upper Mississippi River in the State of Minnesota for study as a potential addition to the National Wild and Scenic Rivers System.

Originating at Lake Itasca in northwestern Minnesota, the Mississippi flows 2,350 miles south to the Gulf of Mexico. Its importance to the history and economic development of the United States is unsurpassed by any other river in our country, and the Mississippi has also won a special place in the hearts of all Americans through the celebrated writings of Mark Twain.

Since the early voyages of Lewis and Clark and the later stories of life on the river authored by Samuel Clemens, pioneering vessels have given way to the legendary paddlewheelers and today to modern ships and barges hauling millions of tons each day in cargo.

Nevertheless in Minnesota today, it is possible to canoe down stretches of the Mississippi's still serene waters to enjoy untouched forests and plains and to swim and fish without fear of pollution.

With fast mounting pressures for development, however, the scenic and recreational values of the Upper Mississippi may soon be lost. Potential threats to the river include the physical destruction of the river shorelands, especially the loss of protective vegetation, overdevelopment resulting from the construction of industries and housing projects along its banks, and the discharge of harmful effluents into its waters.

In recognition of these dangers, the State of Minnesota has adopted legislation such as the 1969 Shoreland Management Act, the Flood Plain Management Act, and most recently the 1973 Minnesota Wild and Scenic Rivers Act. Through a combination of these measures the State and local jurisdictions are making every effort to provide essential interim protection for the Mississippi River. But with heavy pressures for development, rising land values, and limited State and local resources, without Federal help there is a growing danger that critical stretches of the Upper Mississippi may soon be lost.

The National Wild and Scenic Rivers System was created to preserve rivers of outstanding historic, scenic, recreational, geologic, and other values. Utilizing a combination of zoning, easements, and and land acquisition, the system provides the financial and management tools needed to safeguard America's endangered wild, scenic, and recreational riverways.

I believe that there is ample evidence to show that the Upper Mississippi is worthy of addition to the National Wild and Scenic Rivers System. The bill I introduce today is designed to provide for a study to evaluate the qualifications of the riverway and to develop a preliminary plan for its preservation. This proposal includes the segment of the Upper

Mississippi from its source at Lake Itasca to the point where it borders the city of Anoka.

From nearly every standpoint in the criteria set forth in the 1968 Wild and Scenic Rivers Act, the Upper Mississippi merits national protection.

Winding from its source at Lake Itasca to the point where it meets the Crow Wing River, much of the Mississippi is forested with jack pine and hardwood forests with excellent stands of white and Norway pine in the heavier soils. Included in this region are three-fourths of the Chippewa National Forest, parts of 12 State forests, and the Leech Lake Indian Reservation. Itasca State Park embraces roughly 50 square miles of scenic wilderness at the source of the Mississippi. Downstream near McGregor, the river passes the Rice Lake Federal Wildlife Refuge. Existing parklands provide opportunities for hiking and camping; and the Chippewa National Forest is one of the finest recreational areas in the country, offering miles of clear northern water, excellent stands of pines, and an abundance of wildlife.

Downstream from Lake Itasca, the Mississippi crosses Winnibigoshish Lake, encompassing an area of 114,800 acres. On the shore are the Turtle and Snake Indian Mounds, the site of ancient battles between the Chippewa and Sioux in 1748.

Southeast of Lake Winnibigoshish, the Mississippi passes Ball Club Lake and then changes in character, becoming exceedingly tortuous. A double stream of water encloses a series of large islands in its sinuous folds.

Below White Oak Point, the Mississippi enters Schoolcraft State Park, named for Henry Schoolcraft, who on July 13, 1832, first discovered the source of the Mississippi at Lake Itasca.

Moving past Lake Pokegama, down Pokegama Falls and through the Kabikons Rapids, the Mississippi reaches Grand Rapids, the historic site of Grant's Northwest Company, and the ghost town of La Prairie. It next traverses the ancient bed of glacial Lake Aitken, where the river meanders widely across a broad, alluvial plain. The Aitkin area is famous for the steamboats that provided passenger and freight service from 1870 to 1920.

Near the point where Sandy Lake discharges into the Mississippi, the old Northwest Company trading post and an Indian village were located. This area was a region of utmost importance connecting closely with a branch of the St. Louis River that links the Mississippi with the Lake Superior Basin. This route was used by the early voyagers, and further south remains of ancient settlements can still be found. The area was a point of major commercial and even political importance long before the 1800's—and it was such at the pivotal date, 1763, in the history of the French-English occupancy of the Upper Mississippi.

Below Aitkin, the river channel is straight and the valley deeper, running parallel to the Cuyvna Iron Range. Just south of the Mississippi's confluence with the Crow Wing River is the old site of the town of Crow Wing, one of Minnesota's oldest ghost towns. Here were located the crossing of the Red River Oxcart Trail and a fur trading post, dating back to the 1700's.

Glacial till stretches along the Mississippi from this area south. Downstream the river reaches the site of Fort Ripley, Minnesota's second oldest military post, built in 1848.

At St. Cloud the banks of the river are more developed. The community's rich history provides more evidence of the early commercial importance of the Mississippi. St. Cloud was a crossing where fur traders rested their oxen, built campfires and spent evenings sharing stories of the adventures and perils of pioneer life in America. A stageline first operated in this area in 1851, and by 1859 it was extended west to the Red River country. Furs were loaded on steamboats after supplies had been discharged for the wilderness forts and distant Canadian posts of the Hudson Bay Co.

Downriver, the Mississippi meets the Elk River, named by Zebulon Pike for the herds of elk he sighted there. It passes within view of the Anoka Sand Plain, where fine sand through the years has formed dunes up to 20-feet high and is preserved today in the Sand Dunes State Forest and Game Refuge.

The area around Anoka is interspersed with groves of native timber, and here the Mississippi is crossed by the Rum and Sunrise Rivers. The Rum provided an important water route for Jonathan Carver, Sieur du Luth, and Father Hennepin.

Thus, bound in the grandeur of the Upper Mississippi is the ancient history of Minnesota, its glacial origins, Chippewa and Sioux cultures, early exploration, settlement and burgeoning new industries.

Today, the Mississippi carries canoeists through parts of 10 counties in north central Minnesota, offering opportunities for excellent fishing, swimming, powerboating, and for those who like to hike, camp, or simply enjoy the beauty and serenity of this magnificient river.

Mr. President, to prevent the loss of this remarkable resource, I am hopeful that the Upper Mississippi will be added to the National Wild and Scenic Rivers System, for I believe it is without a doubt one of the most priceless symbols of our Nation's great heritage.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2443

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following:

"(28) Upper Mississippi River, Minnesota: The segment beginning at its source at the outlet of Itasca Lake to the point where it meets the Northern and Western Boundary of the City of Anoka."

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By Mr. MONDALE (for himself, Mr. JAVITS, Mr. HUMPHREY, Mr. STAFFORD, and Mr. CRANSTON):

S. 2444. A bill to amend the Social Security Act to provide for prevention, identification, and treatment in cases of abuse or neglect of children. Referred to the Committee on Finance.

CHILD ABUSE AMENDMENTS

Mr. MONDALE. Mr. President, for several months this year, I have devoted a substantial portion of my time to the study of the horrifying and depressing subject of child abuse.

My Subcommittee on Children and Youth held hearings in Washington and in the field. We heard from doctors and lawyers, social workers and lay therapists, psychologists, and parents and many other concerned citizens. I personally visited victims of child abuse in several hospitals; and I read stories about and looked at pictures of child abuse victims until they made me sick.

The most important message that came through to me in the visits, the testimony, the conversations, was: We must act immediately, and we must do everything within our power to combat the horrors of child abuse.

I am highly gratified that the Senate voted on July 14 to approve the Child Abuse Prevention and Treatment Act, and that Representative JOHN BRADEMAS has indicated an interest in scheduled hearings on companion legislation before his House Select Subcommittee on Education this fall.

But I would also respectfully suggest to my colleagues that it is within our power to take another significant step toward eliminating this terrible problem. For that reason, I am introducing today the Child Abuse and Protective Services Amendments of 1973. The measures contained in this bill consist of amendments to title IV–A and IV–B of the Social Security Act, under which local social service agencies receive funds for a wide variety of human programs.

The purpose of the amendments is to buttress the efforts to combat child abuse already underway in these agencies; and to prod States that have not done all they could to strengthen and expand their programs. In order to support the additional activities which would be required by my amendments, I have personally requested that the Senate Appropriations Committee increase the funding level for protective services under title IV–B by $10 million—to $56 million—in 1974. This funding level would remain far below the authorized level of $211 million.

I would like to stress that the amendments I offer today are a logical complement to the programs authorized by the Child Abuse Prevention and Treatment Act which was approved by the Senate in July.

The purpose of the Child Abuse Prevention and Treatment Act is to provide support for any and all qualified agencies, institutions or individuals who are sincerely dedicated to improving current efforts to prevent, identify and treat child abuse. Under this legislation a school, a welfare department, a hospital, a nonprofit organization or other interested body could apply for funds to support an antichild abuse program. The program receiving the grant could be as broad as the multidisciplinary teams based in some hospitals or welfare departments around the country. Or it could be as narrow as a one-shot training session for law enforcement personnel or social workers, or the writing and publication of a pamphlet designed to inform the general public about child abuse.

The Child Abuse Prevention and Treatment Act also authorizes creation of a National Center on Child Abuse in the Department of Health, Education, and Welfare, for the purpose of collecting in one place all available research and information about child abuse, making it available to interested parties, and offering technical assistance.

The funding levels authorized in the bill are modest—$10 million for the current fiscal year and $20 million each for the next 4 fiscal years. Full funding of the bill would provide us with the beginnings of a significant national attack on child abuse—but it would not guarantee the successful handling or prevention of all child abuse cases all over the country.

But we do have in this country a structure which potentially could provide the kind of comprehensive, effective approach we need. This is our local and State social service agencies—whether they be called the welfare department or human resources department or something else. These agencies all receive some Federal funds through the Social Security Act which can be used for dealing with child abuse and neglect. In a period when funding for all human programs is in short supply, activities related to child abuse have not always received the support they deserve through these programs.

The amendments I introduce today are designed to make the existing mechanism for dealing with child abuse stronger and more effective. Specifically, the amendments would:

First, exempt protective services from the 90–10 matching requirement under title IV–A, the social services program;

Second, require that in addition to reporting child abuse and neglect, State agencies provide such multidisciplinary services as necessary to aid the prevention, identification and treatment of child neglect;

Third, require that in order to continue to receive funding for protective services under title IV–B of the Social Security Act, each State must establish:

Procedures for the discovery and reporting of instances of neglect or abuse of children;

Cooperative arrangements with all community agencies and resources dealing with child abuse;

A systematic method for receiving child abuse reports on a 24-hour basis; and

A central collection point for all data on child abuse and neglect.

Most of these requirements will not be a burden on most States. All States now have laws on the books which specify some sort of reporting procedure. The requirements in my bill follow closely the recommendations of the legislative workshop of the National Conference on Child Abuse sponsored by the District of Columbia Children's Hospital in Washington last June. Specifically, that workshop reported:

> It is recommended that each state designate one agency for the receipt of child protective services funds provided under the Social Security Act, and that agency will be responsible for seeking and encouraging cooperative arrangements with a broad range of public and private agencies. As a condition precedent to receiving federal funds, a state must submit a comprehensive plan incorporating . . . minimum standards in the areas of reporting, investigation, follow-up, judicial process and coordination.

Among the standards elaborated in the workshop report were establishment of a 24-hour reporting service and both interstate and intrastate coordination and communication on abuse and neglect.

The amendments I am introducing today also have the support of the Child Welfare League, an organization known for its deep commitment to the improvement of the quality of life for all children.

I am hopeful that my colleagues on the Finance Committee will consider and act on these amendments soon. I ask unanimous consent that a copy of the "Child Abuse and Protective Services Amendments of 1973" be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2444

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Child Abuse and Protective Services Amendments of 1973".

Sec. 2. Section 402(a)(16) of the Social Security Act is amended to read as follows:

"(16) provide—

"(A) that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or other agency, including law enforcement agencies, in the State providing such data with respect to the situation it may have, and

"(B) that the State agency will provide such multidisciplinary services (including, but not limited to, medical, legal, social, and other services) as necessary to aid the prevention, identification, and treatment of child abuse and neglect;".

Sec. 3. Section 422(a)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (B); and

(2) by adding at the end of subparagraph (C) the following new subparagraph:

"(D) provides for the establishment and implementation of effective procedures for the prevention, identification, and treatment of cases of child abuse or neglect including, but not limited to—

"(i) procedures for the discovery and reporting of instances of neglect or abuse of children,

"(ii) use of the full resources of local communities including public and nonprofit agencies and organizations which provide services and activities that would be beneficial to a child and his parents or guardians,

"(iii) a systematic method for receiving reports of suspected or known instances of child abuse or neglect on a 24 hour a day basis, and

"(iv) a central collection point for all data and information on child abuse and neglect, and".

Sec. 4. Section 1130(a)(2) cf the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by adding "and" at the end of subparagraph (E); and

(3) by adding after subparagraph (E) the following new subparagraph:

"(F) multidisciplinary services (including, but not limited to, medical, legal, social, and other services) as necessary to aid the prevention, identification, and treatment of child abuse and neglect,".

Sec. 5. The amendments made by this Act shall become effective six months after the date of enactment.

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By Mr. McINTYRE (for himself, Mr. Bentsen, Mr. Bible, Mr. Clark, Mr. Cook, Mr. McGee, Mr. Nelson, Mr. Nunn, Mr. Taft, Mr. Roth, Mr. Tower, and Mr. Humphrey):

S. 2445. A bill to amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes. Referred to the Committee on Finance.

### COMBINED OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE INCOME TAX REPORTING AMENDMENTS OF 1973

Mr. McINTYRE. Mr. President, I introduce for appropriate reference a bill which would amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes.

My bill would change the present quarterly wage reporting system for social security purposes—IRS Form 941—to an annual system utilizing the existing IRS Form W2. This bill would accomplish this by a series of some 40 amendments to the present Social Security Act and to the Internal Revenue Code of 1954, as amended. Many of the amendments I propose are technical in nature.

The main objective which I seek in this legislation is to reduce part of the most difficult and costly Federal paperwork burden on small business: the internal Revenue Service Form 941. This form, which falls most heavily on small- and medium-sized businesses, costs employers $235 million per year in clerical and accounting costs, according to the President's Advisory Council on Management Improvement. This particular form has been singled out by the National Federation of Independent Business as one of the most onerous of the paperwork forms imposed by the Federal Government. In an NFIB survey it was estimated by 64.9 percent of the businesses contacted that their overhead costs could be significantly reduced if this form were changed from a quarterly to an annual report.

The Federal Small Business Administration surveyed 1,200 other businesses. The SBA survey determined that 8 out of every 10 respondents favored eliminating Form 941 and using IRS Form W2 to obtain data for social security purposes. The vast majority of the businessmen surveyed said that the changeover of the reporting system from a quarterly to an annual one would significantly reduce their expenses.

Mr. President, the Federal paperwork burden of which form 941 represents a significant part, has been described as reaching crisis proportions. The Federal paperwork burden today is becoming the proverbial straw which is breaking the back of small business. Having neither the time nor the expertise to handle the large number of forms thrust on them by the Federal Government, many cannot afford to hire part- or full-time professional help to hack their way through the jungle of redtape. Oftentimes, the required paperwork is the "last straw" for a small businessman struggling to survive against big business on one hand and big government on the other.

For the past 2 years the Subcommittee on Government Regulation of the Senate Select Committee on Small Business has been conducting an extensive inquiry and public hearings into the nature and extent of the Federal redtape and paperwork burden and its effect on the economic viability of small businesses throughout the Nation. The testimony received from these hearings indicates that Federal paperwork is costing the 8½ million small businessmen of this Nation between $18 to $50 billion per year. The aggregate total dollars, however, do not reflect the real impact of the reporting burden on small business. For example, a small businessman must use a total of 100 man-hours or over 2 weeks of work-time per year to comply with Federal reporting requirements.

During hearings before the Subcommittee on Census and Government Statistics of the House Committee on Post Office and Civil Service in 1964 entitled "The Federal Paperwork Jungle," a small businessman in Falls Church, Va., testified that—

> Personally, I think Form 941A should be completely abandoned. If the IRS insists that it is necessary, I think it would be within the purview of this committee to demand precise and documented details on how many tax evaders were trapped by the use of this form, how much additional revenue was brought in, how much the investigative work cost, and how much it cost to administer Form 941A, and what the net profit was. . . . If the net profit was not in the order of many millions of dollars, I think it would be justifiable to abandon 941A and seek some more ingenious and efficient method.

Mr. President, the bill I am introducing today would accomplish this goal. The savings to both the business community and the Federal Government which processes approximately 175 million reports of wage payments per year would be significant, especially when the General Accounting Office calculates that the processing of paperwork costs the Federal Government over $15 billion a year.

This $15 billion per year accounts for approximately 6 percent of Federal expenditures in fiscal 1973. It now costs $7 billion more per year to process Federal paperwork than it did 6 years ago, and $11 billion more per year than paperwork costs in 1955. The astronomical rise in Federal paperwork costs serves to emphasize the urgency of the paperwork problem for small business.

On September 18, 1971, the President's Advisory Council on Management Improvement submitted a report which urged the President to consider establishing a system of annual reporting, and had this to say:

> A system of a single annual wage report, technically feasible and administratively adequate, would result in savings to business estimated in excess of $200 million annually; and in substantial net savings within the Internal Revenue Service and the Social Security Administration.

The President's Council in the conclusion of its report, went on to state:

> A study of the advantages of a single annual report against objections raised over the past twenty years indicates that:
>
> 1. Data processing systems have made tremendous strides since the initial proposal that a single reporting system is not only technically feasible but also administratively adequate.
> 2. The objections raised in the past are no longer of sufficient weight to continue the now obsolescent system.
> 3. The annual reduction in the number of reports submitted by business is estimated at approximately 18 million, with a savings in excess of 200 million dollars. Savings to the Federal Government would be reflected in a reduction in operating costs and increased compliance income, but accurate estimates of dollar savings will have to wait on the development of the system.

On July 20, 1973, Secretary of the Treasury George P. Shultz advised me that—

> One real opportunity for reducing paperwork is the proposal for limiting the duplication between Internal Revenue and Social Security reports on the wages of individual employees. The Office of Management and Budget has asked the Treasury and the Department of Health, Education and Welfare to work out means of accomplishing this. This work is in progress.

I feel certain that the administration as well as the business community wholeheartedly urges the reorganization of our quarterly wage reporting system into a simplified annual report.

I ask unanimous consent that a letter from George P. Shultz, Secretary of the Treasury, dated July 20, 1973, the bill, and a section-by-section analysis of it be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

### S. 2445

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Combined Old-Age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1973."

### TITLE I—AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT

#### VERIFICATION OF TAX DATA AND FINANCING OF THE COST THEREOF

SEC. 101. (a) Title II of the Social Security Act is amended by adding after section 231 the following new section:

#### "PROCESSING OF TAX DATA

"SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of Chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103 (a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury."

(b) Section 232 of the Social Security Act, as added by subsection (a) of this section, shall be effective with respect to statements reporting income received after 1973.

(c) (1) Section 201(g) (1) of such Act is amended to read as follows:

"(g) (1) (A) The managing trustee of the trust funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the trust funds into the treasury—

"(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

"(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the trust funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the trust funds, such amounts as the Congress may deem appropriate to pay the costs of administration of this title and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

"(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the cost incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the

Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the trust funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the managing trustee the amounts, if any, which should be transferred from one to any of the other of such trust funds, and the amounts, if any, which should be transferred between the trust funds (or one of the trust funds) and the general fund in the Treasury, in order to insure that each of the trust funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, of administration of this title and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The managing trustee is authorized and directed to transfer any such amounts in accordance with any certification so made."

(2) Subsection (g) of such section is further amended by adding at the end thereof the following new paragraph:

"(4) The Board of Trustees shall prescribe before January 1, 1977, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relates to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined."

(d) Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed, at rates fixed by the Board of Trustees, but not exceeding $100 per day and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(e) The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Security Act before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act with respect to the carrying out of the functions of the Department of Health, Education, and Welfare, specified in section 232 of such Act, which relates to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(f) Section 6103 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) Disclosure of Information to Secretary of Health, Education, and Welfare.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program."

### "CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR YEARS

SEC. 102. (a) Section 212 of the Social Security Act is amended to read as follows:

### "CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR YEARS

"SEC. 212. (a) For the purpose of determining average monthly wage, quarters of coverage, and coverage credits with respect to self-employment income derived by an individual during any taxable year which begins before 1974, the amount of such self-employment income shall be credited to calendar quarters as follows:

"(1) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

"(2) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

"(b) For the purposes of determining average monthly wage and coverage credits with respect to self-employment income derived by an individual during any taxable year which begins after 1974, the amount of such self-employment income shall be credited to calendar years as follows:

"(1) In the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year the self-employment income for such taxable year shall be credited to such calendar year.

"(2) In the case of any other taxable year the self-employment income shall be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year, including as one of such calendar months the month in or with which the taxable year ends, even though only part of such month is included in that taxable year."

(c) The amendment made by subsection (a) shall take effect January 1, 1974.

### QUARTER OF COVERAGE AND COVERAGE CREDIT

SEC. 103. (a) The heading of section 213 of the Social Security Act is amended to read as follows:

### "QUARTER, QUARTER OF COVERAGE, AND COVERAGE CREDIT"

(b) Section 213(a)(2) of such Act is amended to read as follows:

"(2) The term 'quarter of coverage' means a quarter, occurring before 1974, in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954 and before 1974) or for which he has been credited (as determined under section 212) with $100 or more in self-employment income except that—

"(A) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

"(B) if the wages paid to any individual in any calendar year equal—

"(i) $3,000 in the case of a calendar year before 1951,

"(ii) $3,600 in the case of a calendar year after 1950 and before 1955,

"(iii) $4,200 in the case of a calendar year after 1954 and before 1959,

"(iv) $4,800 in the case of a calendar year after 1958 and before 1966,

"(v) $6,600 in the case of a calendar year after 1965 and before 1968,

"(vi) $7,800 in the case of a calendar year after 1967 and before 1972,

"(vii) $9,000 in the case of a calendar year after 1971 and before 1973,

"(viii) $10,800 in the case of a calendar year after 1972 and before 1974,

"(ix) $12,600 in the case of the calendar year 1974, or

"(x) an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective.

each quarter of such year shall (subject to subparagraph (A)) be a quarter of coverage;

"(C) if an individual has self-employment income for a taxable year and if the sum of such income and the wages paid to him during such year equals—

"(i) $3,600 in the case of a taxable year beginning after 1950 and ending before 1955,

"(ii) $4,200 in the case of a taxable year ending after 1954 and before 1959,

"(iii) $4,800 in the case of a taxable year ending after 1958 and before 1966,

"(iv) $6,600 in the case of a taxable year ending after 1965 and before 1968,

"(v) $7,800 in the case of a taxable year ending after 1967,

"(vi) $9,000 in the case of a taxable year beginning after 1972 and before 1973,

"(vii) $10,800 in the case of a taxable year beginning after 1972 and before 1974,

"(viii) $12,600 in the case of a taxable year beginning after 1973 and before 1975, or

"(ix) an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974,

each quarter any part of which falls in such year shall (subject to subparagraph (A)) be a quarter of coverage;

"(D) if an individual has self-employment income in a taxable year which begins in 1973 and ends in 1974 and the sum of such self-employment income and the wages paid to him in such taxable year equals $10,800, each calendar quarter of calendar year 1973 any part of which is included in such taxable year shall (subject to subparagraph (A)) be a quarter of coverage;

"(E) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1974, then, subject to subparagraph (A)—

"(i) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200;

"(ii) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300;

"(iii) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and

"(iv) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more; and

"(F) no quarter shall be counted as a quarter of coverage before the beginning of such quarter.

If, in the case of any individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1974 the requirements for insured status in subsection (a) or (b) of section 214 of this title the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in subparagraph (E) of this paragraph, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die before January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 214(a)(3) of this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned."

(c) Such section 213 is further amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"Crediting of Coverage Credits

"(b) For purposes of this title—

"(1) To each calendar quarter, in a calendar year before 1974, which is a quarter of coverage (as defined in subsection (a)), there shall be credited one coverage credit.

"(2) In any calendar year after 1973 in which the total wages paid to an individual and the self-employment income credited to him under section 212 equals $100 or more, the number of coverage credits credited to such calendar year shall be the number appearing in column II of the following table on the line on which in column I appears the total of such wages and self-employment income.

| "I | II |
|---|---|
| "Total of wages and self-employment income for a calendar year | Coverage credits |
| $100 or more, but less than $200 | 1 |
| $200 or more, but less than $300 | 2 |
| $300 or more, but less than $400 | 3 |
| $400 or more | 4 |

"(3) Coverage credits which are credited to any calendar year after 1973 for any individual shall be deemed credited on the first day of such year; except that in the case of the following calendar years not more than one coverage credit may be credited before April 1, not more than two may be credited before July 1, and not more than three may be credited before October 1 and, in the case of any such year, no coverage credit may be credited after the date on which such individual died—

"(A) for purposes of section 214(a), the first year in which he both attained age 62 and would be a fully insured individual had his coverage credits for such year been credited on the first day thereof, or the year in which he died;

"(B) for purposes of section 214(b), the year in which such individual died or became entitled to old-age insurance benefits and the year immediately preceding such year;

"(C) for the purposes of section 216(i)(3), the year in which a period of disability could have begun for such individual if his coverage credits for such year had been credited on the first day thereof:

"(D) for the purposes of section 223(c)(1)(B), the year in which a waiting period could have begun for such individual if his coverage credits for such year had been credited on the first day thereof.

"(4) If an individual has self-employment income in a taxable year which begins in 1973 and ends in 1974 and the sum of such self-employment income and the wages paid to him in such taxable year equals $10,800, coverage credits credited to the calendar year 1974 shall be equal to not less than the number of calendar quarters in 1974 any part of which are included in such taxable year.

"(5) Notwithstanding the preceding provisions of this subsection, coverage credits may not be credited with respect to any individual to any calendar year any part of which is included in a period of disability (other than the initial and last calendar years of such period), or to any calendar year after the year in which he dies."

(d) The amendments made by this subsection shall take effect January 1, 1974.

### FULLY INSURED STATUS

SEC. 104. (a) Section 214(a) of the Social Security Act is amended to read as follows:

"FULLY INSURED INDIVIDUAL

"(a) The term 'fully insured individual' means any individual who had—

"(1) a number of coverage credits (whenever acquired) not less than one credit for each of the years elapsing—

"(A) after (i) December 31, 1950, or (ii) if later, December 31 of the year in which he attained the age of twenty-one, and

"(B) before (i) the year in which he died, or (ii) if earlier, the year in which he attained aged 62, except that in no case shall an individual be a fully insured individual unless he has at least six coverage credits; or

"(2) forty coverage credits; or

"(3) in the case of an individual who died before 1951, six coverage credits;

not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 216(i) of this title) except the calendar year in which such period began if two or more coverage credits were credited to such year, and the calendar year in which such period ended if two or more coverage credits were credited to such year."

(b) The amendments made by this section shall apply with respect to lump-sum death payments under title II of the Social Security Act in the case of deaths occurring after, and monthly benefits under such title II for months after, December 31, 1973, based on applications filed after such day.

### CURRENTLY INSURED STATUS

SEC. 105. (a) Section 214(b) of the Social Security Act is amended to read as follows:

"Currently Insured Individual

"(b) The term 'currently insured individual' means any individual who—

"(1) has not less than six quarters of coverage during the thirteen-quarter period ending with—

"(A) the quarter in which he died,

"(B) the quarter in which he became entitled to old-age insurance benefits,

"(C) the quarter in which he became entitled to primary insurance benefits under this title as in effect before enactment of this section, or

"(D) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits,

not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage; or

"(2) had not less than six coverage credits which were credited to the period consisting of—

"(A) the year in which he died,

"(B) the year in which he became entitled to old-age insurance benefits, or

"(C) in the case of any individual entitled to disability insurance benefits, the year in which he most recently became entitled to disability insurance benefits,

and the two calendar years immediately preceding such year, not counting as part of such three-year period any calendar year any part of which was included in a period of disability (as defined in section 216(i)) except, in the case of an individual who does not otherwise meet the requirements of this paragraph, the calendar year in which such period began or the calendar year in which such period ended if he would meet such requirements by reason of the inclusion of such year and the coverage credits credited to such year, or both such years if he would meet such requirements by reason of the inclusion of such years and the coverage credits credited to them."

(b) The amendments made by this section shall take effect January 1, 1974.

### PERIOD OF DISABILITY

SEC. 106. (a) Section 216(i)(3) of the Social Security Act is amended to read as follows:

"(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any day only if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on such day, except that the provisions of this subparagraph shall not apply in the case of any individual with respect to whom a period of disability would, but for such provisions, begin before 1951; and

"(B)(i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such day occurred, not counting as part of such 40-quarter period any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage; or

"(ii) he had not less than 20 coverage credits which were credited to the period ending on such day and consisting of that part of the year in which such day occurred up to such day and the nine calendar years immediately preceding the year in which such day occurred, not counting as part of such period any year any part of which was included in a period of disability except, in the case of an individual who does not otherwise meet the requirements of this clause, the calendar year in which such prior period began or the calendar year in which such prior period ended if he would meet such requirement by reason of the inclusion of such year and the coverage credits credited to such year, or both such years if he would meet such requirement by reason of the inclusion of such years and coverage credits credited to them."

(b) Section 216(i)(2)(C)(ii) of such Act is amended by striking out "of the first quarter thereafter in which" and inserting in lieu thereof "thereafter on which".

(c) The amendments made by this section shall take effect January 1, 1974.

### INSURED STATUS FOR DISABILITY INSURANCE BENEFITS

SEC. 107. (a) Section 223(c)(1)(B) of the Social Security Act is amended by inserting "(i)" after "(B)" and by inserting before the period at the end thereof the following: ", or (ii) he had not less than 20 coverage credits which were credited to the period ending on such day and consisting of that part of the year in which such day occurred up to such day and the nine calendar years immediately preceding the year in which such day occurred not counting as part of such period any calendar year any part of which was included in a prior period of disability except, in the case of an individual who does not otherwise meet the requirements of this clause, the calendar year in which such prior period began or the calendar year in which such prior period ended if he would meet such requirements by reason of the inclusion of such year and the coverage credits credited to such year, or both such years if he would meet such requirements by reason of the inclusion of such years and the coverage credits credited to them".

(b) The amendments made by subsection (a) shall take effect January 1, 1974.

### MISCELLANEOUS CONFORMING CHANGES

SEC. 108. (a)(1) Section 215 (d) (2) (A) of such Act is amended to read as follows:

"(A) with respect to whom at least one coverage credit was credited to years before 1951;".

(2) Section 215 (d) (2) (B) of such Act is amended by striking out "with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage" and inserting in lieu thereof "with respect to whom less than six coverage credits were credited to years after 1950".

(b) Section 205 (c)(1) is amended by adding at the end thereof the following new subparagraph:

"(D) The term 'period' when used with respect to self-employment income means a taxable year (as defined in section 211(c)) and when used with respect to wages means—

"(i) a quarter (as defined in section 213 (a)(1)) if wages paid to the individual were reported or should have been reported on a quarterly basis (a) on tax returns filed with the Commissioner of Internal Revenue under the Federal Insurance Contributions Act or regulations thereunder, or (b) on information returns filed by a State pursuant to an agreement under section 218 or regulations of the Secretary thereunder,

"(ii) a calendar year if wages paid to the individual were reported or should have been reported on a yearly basis on such tax returns or on such information returns, or

"(iii) the half year beginning January 1 or July 1 in the case of wages paid or alleged to have been paid during the calendar year 1937."

(c) Section 202(t)(4)(A) of such Act is amended to read as follows:

"(A) the individual on whose wages and self-employment income such benefit is based had not less than 40 coverage credits which were credited to the period ending with the year in which such month occurred, or".

(d) Section 202(u)(1)(C) of such Act is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(e) Clause (iv) of section 102(f)(2)(A) of the Social Security Amendments of 1954 is amended to read: "(iv) with respect to whom not less than six coverage credits (as defined in section 213 of such Act) have been credited to the period after June 1953, or".

(f) The first sentence of such section 102 (f)(2)(B) is amended by striking out "and with respect to whom not less than six of the quarters elapsing after June 30, 1953, are quarters of coverage" and inserting in lieu thereof "and with respect to whom not less than six coverage credits have been credited to the period after June 30, 1953".

(g) Clause (i) of the third sentence of such section 102(f)(2)(B) is amended to read: "(i) if the application is filed by such individual, for and after the twelfth month before the month in which the application therefor was filed by such individual but in no case for any month before the day as of which his sixth coverage credit in the period after June 30, 1953, was credited, or".

(h) The provisions of this section shall take effect January 1, 1974.

### DEFINITION

SEC. 109. As used in the provisions of the Social Security Act set forth in this title, the term "Secretary", unless the context otherwise requires, means the Secretary of Health, Education, and Welfare.

## TITLE II—AMENDMENTS PRESERVING RELATIONSHIP BETWEEN RAILROAD RETIREMENT AND OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SEC. 201. (a) Section 3(e) of such Act is amended by inserting after "quarters of coverage" where it first appears the following: "with respect to employment in any calendar year before 1974";

(b) Section 5(l)(5) of such Act is amended by inserting "and any coverage credit" after "quarter of coverage";

(c) Section 5(l)(9) of such Act is amended by changing the period at the end of the second proviso thereof to a comma and inserting thereafter the following: "except that for any calendar year after 1974, there shall not be excluded from this divisor that number of calendar quarters as equals the number of coverage credits, as defined in the Social Security Act, credited to him for such year."

SEC. 202. The amendments made by subsection (a) of section 201 of this title shall be effective upon enactment. The amendments made by the other subsections of such section 201 shall apply with respect to all annuities under the Railroad Retirement Act of 1937 accruing after 1973; and shall apply with respect to lump-sum benefits under section 5(f) of such Act on the basis of deaths occurring after 1973.

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THE SECRETARY OF THE TREASURY,
*Washington, D.C., July 20, 1973.*

Hon. THOMAS J. MCINTYRE,
*Chairman, Subcommitte on Government Regulation, Select Committee on Small Business, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of April 24 requesting the Treasury's views on pertinent parts of an attached report of the Senate Select Committee on Small Business dealing with the Federal paperwork burden.

We appreciate the opportunity to review the report.

Insofar as paperwork is increased by statutory complexities, I can assure you that it is the objective of both the President and the Secretary of the Treasury to develop and promote remedial legislation. In this connection, I think you will be interested in the statement that I made on April 30, 1973, to the Ways and Means Committee on this and related subjects. A copy is enclosed.

One real opportunity for reducing paperwork is the proposal for limiting the duplication between Internal Revenue and Social Security reports on the wages of individual employees. The Office of Management and Budget has asked the Treasury and the Department of Health, Education and Welfare to work out means of accomplishing this. This work is in progress.

The other comments of your Committee relate to administrative aspects of the Internal Revenue Service. I understand the Commissioner, Donald C. Alexander, has already given his views on these matters. I am enclosing a copy of his comments.

If we can be of further assistance to your Committee, please let me know.

Sincerely yours,
GEORGE P. SHULTZ.

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### SECTION-BY-SECTION ANALYSIS OF COMBINED OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE INCOME TAX REPORTING AMENDMENTS OF 1973

Section 101(a) would amend the Social Security Act by adding a section 232 entitled "Processing of Tax Data." The section directs the Secretary of the Treasury to make available to the Secretary of HEW tax returns filed pursuant to part III of subchapter A of chapter 61 of subchapter F of the Internal Revenue Code of 1954 (26 U.S.C. sections 6031–6056). Tax returns thus available are for the purposes of title II—Federal Old-Age, Survivors, and Disability Insurance Benefits—and Title XI—General Provisions—of the Social Security Act. The Secretary of HEW and the Secretary of the Treasury are empowered to enter into an agreement for the processing of information contained in such returns by the Secretary of HEW. The Secretary of the Treasury is required to provide to the Secretary of HEW any documents (e.g. withholding tax statements) they agree are necessary for such processing, notwithstanding the terms of section 6103(a) of the Internal Revenue Code of 1954 [26 U.S.C. § 6103(a)] respecting the conditions under which certain tax returns may be inspected. The Secretary of HEW is to process the information contained in the documents obtained pursuant to the agreement with the Secretary of the Treasury. Agreements between the Secretary of HEW and the Secretary of the Treasury are to remain in effect until modified or otherwise changed by mutual accord.

Section 101(b) would provide that section 232 of the Social Security Act as proposed by this bill will be in effect for tax information returns reporting income received after 1973.

Section 101(c) would amend sec. 201(g)(1) of the Social Security Act, 42 U.S.C. § 401(g)(1). This section generally provides for the payment of sums from the Trust Funds into the Treasury. The Managing Trustee of the Trust Funds, including both the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, is to pay from the Trust Fund into the Treasury the amounts he and the Secretary of HEW estimate will be expended from the general fund of the Treasury by the Department of HEW and Treasury for the administration of (1) titles II, XVI and XVIII of the Social Security Act, (2) subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and (3) chapters 2 and 21 of the Internal Revenue Code of 1954. The amounts so estimated are to be reduced by an amount determined by the Secretary of HEW—pursuant to methods to be established by the Board of Trustees prior to January 1, 1977—which will be expended, from moneys made available for expenditure from the Trust Funds during the three month period, in covering the cost of the Department of HEW in carrying out the functions specified in sec. 232 relating to the administration of provisions of the Internal Revenue Code of 1954 (other than chapters 2 and 21 thereof).

Payments so made by the Managing Trustee will be carried as the net amount of repayments due the general fund for reimbursement of expenses incurred in the administration of the aforementioned titles of the Social Security Act and Internal Revenue Code. A final accounting of such payments is to be made as soon as practicable after the close of the fiscal year. Expenditures are authorized from the Trust Funds in amounts that Congress deems appropriate to pay only for the cost of administering title II of the Social Security Act and the cost of administering the functions of HEW pursuant to section 232 of the Internal Revenue Code of 1954.

After the close of each fiscal year, the Secretary of HEW is required to apportion (between each Trust Fund and the general fund in the Treasury) the costs of administering titles II, XVI and XVIII of the Social Security Act and its costs in carrying out the functions specified in sec. 232. However, the amount to be borne by the general fund of the Treasury with respect to expenditures made as a result of carrying out the functions of sec. 232 shall be in accord with the method prescribed by the Board of Trustees before January 1, 1977. After such determination, the Secretary of HEW is to certify to the Managing Trustee the amounts which should be transferred between the various Trust Funds and the general fund of the Treasury to ensure that each fund bears its proper share of costs. The Managing Trustee is to make the appropriate transfers.

Section 101(c)(2) would add a new paragraph (g)(4) to section 201(g) providing that by January 1, 1977, the Board of Trustees will prescribe a method for determining the share to be borne by the general fund of the Treasury of the cost of administration by HEW of the provisions of the Internal Revenue Code of 1954 specified in sec. 232, other than certain provisions identified in amended sec. 201(g)(1)(A)(i). The Board of Trustees may modify the method of allocation whenever it deems it advisable.

Section 101(d) would permit the Board of Trustees in the performance of duties specified in sec. 101(c)(2) to employ necessary personnel without regard to civil service or classification laws. Remuneration is limited to a maximum of $100 per day and provision is made for travel expenses and per diem allowances.

Section 101(e) would prohibit the Secretary from estimating costs pursuant to section 201(g)(1)(A)(ii), before the Board of Trustees prescribes the method of determining cost mandated in sec. 201(g)(4). The allocation of costs, pursuant to section 201 (g)(1)(B), for the fiscal years prior to the time when the Board of Trustees prescribes such method, will be made after the method is prescribed. The Secretary of HEW is thereafter required to certify to the Managing Trustee amounts to be transferred from the general fund of the Treasury to the Trust Funds so that the general fund will bear its proper share of costs. The Managing Trustee is then required to make the appropriate transfers.

Section 101(f) would amend the Internal Revenue Code of 1954 by adding a new subsection (g) to section 6103 thereof [26 U.S.C. § 6103]. This new subsection specifically authorizes the Secretary of the Treasury, or his delegate, to make available to the Secretary of HEW tax information returns for the purposes of section 232.

Section 102(a) would amend section 212 of the Social Security Act. The section is retitled "Crediting of Self-Employment Income of Calendar Years." Part (a) of section 212 thus amended would provide that average monthly wage, quarters of coverage, and coverage credits derived from self-employment income for taxable years beginning before 1974 are to be determined on a basis of income credited to calendar quarters. The method of allocation between calendar quarters remains substantially unchanged. Part (b) of the amendment is entirely new and concerns determinations of average monthly wage and coverage credits derived from self-employment income for taxable years beginning after 1973. Income obtained in a taxable year which is a calendar year or wholly within a calendar year is credited to that calendar year. For all other taxable years, income is credited proportionately, that is, on the basis of time, between two calendar years in which the taxable year falls. The provisions of part (a) do not take effect until January 1, 1974.

Section 103(a) would amend the title of sec. 213 of the Social Security Act. The section is retitled "Quarter, Quarter of Coverage, and Coverage Credit."

Section 103(b) would amend section 213(a) (2) of the Social Security Act. The amendment limits quarters of coverage to quarters occurring before 1974. The exceptions thereto have been relisted, and the provisions regarding the minimum annual wage and self-employment income necessary for each quarter in the taxable year to be considered a quarter of coverage are updated with special formulae for such income derived after 1974. A special provision [§ 213(a)(2)(D)] is added dealing with persons having self-employment income in any taxable year overlapping both 1973 and 1974. It provides that, if any such person's income from wages and self-employment income equals $10,800, all calendar quarters of 1973 falling in whole or part within the taxable year are quarters of coverage. The quarters of coverage provisions for individuals paid wages for agricultural labor [§213(a)(2)(E)] is limited to the period between 1954 and 1974, but otherwise remains unchanged.

Section 103(c) would reletter section 213 (b) of the Social Security Act section 213(c) and would add a new section 213(b). The new section is entitled "Crediting of Coverage Credits." This section would allocate coverage credits for earnings before 1974 based on quarters of coverage and after 1973 on the basis of earnings during the calendar year. A maximum of four coverage credits may be received during any calendar year. Coverage credited for any calendar year after 1973 is deemed credited on the first day of that year. No person can be credited with more than one coverage credit before the end of the first quarter of the year, two coverage credits before the end of the second quarter and three coverage credits before the end of the third quarter in the following calendar years:

1. For purposes of section 214(a), that year in which a person first attains the age of 62 and would be a fully insured individual had his coverage credits for such year been credited on the first day thereof, or the year in which he died..

2. For purposes of section 214(b), the year in which a person died or became entitled to old-age insurance benefits and the immediately preceeding calendar year.

3. For purposes of section 216(i)(3), the year in which a period of disability could have begun, if coverage credits were credited on the first day of that year.

4. For purposes of § 223(c)(1)(B), the year in which a waiting period could have begun if the person's coverage credits for that year had been credited on the first day thereof.

Subsection 213(b)(4) would provide that persons having self-employment income, with wages and self-employment income equal to $10,800, during a taxable year overlapping both 1973 and 1974 shall be credited with coverage credits for 1974, equal to "the number of calendar quarters in 1974 any part of which is included in the taxable year."

Subsection 213(b)(5) would provide that coverage credits may not be credited for any calendar year any part of which is included in a period of disability—other than the first or last calendar years of the period of disability. Also, coverage credits shall not be credited for any year *following* the year in which a person dies.

Section 103(d) would provide that section 213(b) will take effect on January 1, 1974.

Section 104(a) would amend section 214(a) of the Social Security Act. This amendment redefines a "fully insured individual" in terms of coverage credits rather than "quarters of coverage." The age distinction between men and women for purposes of determining whether one is a "fully insured individual" is eliminated. Any person upon obtaining the age of 62 with the proper number of coverage credits is fully insured. The provision that any year which was included in a period of disability shall not be counted as an elapsed year is retained, but this provision does not apply to the first or last calendar year of a period of disability if two or more coverage credits were credited to such year.

Section 104(b) would provide that the terms of section 214(a), as amended, will apply with respect to lump-sum death payments under title II of the Social Security Act in cases of death occurring after December 31, 1973 and also with respect to monthly benefits under title II, based on applications filed after December 31, 1973.

Section 105(a) would amend section 214 (b) of the Social Security Act. The amendment retains the current definition of "currently insured individual" in subsection (b)(1) and adds a further definition based upon coverage credits. Generally an individual is currently insured if he has not less than six coverage credits credited during the year in which he died or the year of eligibility for either old-age or disability insurance benefits and the two preceding calendar years. If any of these calendar years was included in a period of disability, coverage credits shall not be counted towards the total for purposes of determining whether one is currently insured. However, if a person would meet the requirements of being currently insured, except for such a period of disability, the coverage credit attributable to either, or both, the calendar years during which the period of disability began or ended may be counted for purposes of determining currently insured status.

Section 105(b) provides that the amendments to section 214(b) will become effective January 1, 1974.

Section 106(a) would amend section 216 (i)(3) of the Social Security Act. The amendments to paragraph 3(A) thereof generally conform the paragraph to the revised definition of a "fully insured individual." The amendment to paragraph 3(B)(i) provides that for determining the number of quarters of coverage no quarter any part of which was included within a period of disability will be counted, unless such quarter otherwise was a quarter of coverage.

Section 216(i) (3) (B) (ii) is amended to provide that a person will satisfy the requirements prerequisite to a determination of disability if he has 20 or more coverage credits which were credited to the period ending on the day the disability arose and consisting of that part of the current calendar year up until the day the disability began and the nine prior calendar years. The coverage credits attributable to any prior year which included a previous period of disability would not be counted. However, if an individual would not otherwise be eligible because of such exclusion, then the coverage credits attributable to the years in which the period of disability began and ended could be counted.

Section 106(b) would amend section 216 (i) (2) (C) (ii) of the Social Security Act by striking out "of the first quarter thereafter in which" and inserting in lieu thereof "thereafter on which." The effect of the change would be to provide that if a person did not satisfy the requirements of paragraph (i) (3) on the day the disability began, the period of disability would commence from the time those requirements were fulfilled, rather than on the first day of the following quarter.

Section 106(c) provides that the amendments to section 216 will take effect January 1, 1974.

Section 107(a) would amend subsection 223(c) (1) (B) of the Social Security Act. The amendment relating to paragraph (c) (1) (B) (i) is unnecessary; the appropriate changes having already been effected. The amendment to paragraph (c) (1) (B) (ii) would redefine an optional eligibility requirement for an individual to be insured for disability insurance benefits. Redefinition is in terms of "coverage credits" and is identical to the amendment to section 216(i) (3) (B) (ii), discussed above.

Section 107(b) provides that the amendments to section 223 will take effect January 1, 1974.

Section 108(a) (1) would amend subsection 215(d) (2) (A) of the Social Security Act as follows: "(A) with respect to whom at least one coverage credit was credited to years before 1951." The effect of this change is to conform the terms of primary insurance eligibility to "coverage credits" rather than "quarters of coverage."

Section 108(a) (2) would amend subsection 215(d) (2) (B) of the Social Security Act by striking out "with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage" and inserting in lieu thereof "with respect to whom less than six coverage credits were credited to years after 1950." This likewise would change the terms of eligibility from "quarters of coverage" to "coverage credits."

Section 108(b) would amend section 205 of the Social Security Act by adding at the end of subsection 205(c) (1) a new subparagraph defining the word "period" to accord with the different contexts in which it is used.

Section 108(c) would amend section 202 (t) (4) (A) of the Act. The amendment provides that certain benefits shall be paid to individuals not citizens or nations of the United States who have amassed sufficient coverage credits.

Section 108(d) would amend section 202 (u) (1) (C) of the Act. The term "calendar quarter" is struck each place it appears and "calendar year" is inserted in lieu thereof.

Section 108(e) would amend clause (iv) of section 102(f) (2) (A) of the Social Security Amendments of 1954 (68 Stat. 1070). The clause is amended to read "(iv) with respect to whom not less than six coverage credits (as defined in section 213 of such Act) have been credited to the period after June 1973, or . . ." The term coverage credits is substituted for quarters of coverage.

Section 108(f) would amend the first sentence of section 102(f) (2) (B) of the Social Security Amendments of 1954, 68 Stat. 1071, by striking out "and with respect to whom not less than six of the quarters elapsing after June 30, 1953, are quarters of coverage" and inserting in lieu thereof "and with respect to whom not less than six coverages credits have been credited to the period after June 30, 1953."

Section 108(g) would amend the third sentence of section 102(f) (2) (B) of the Social Security Amendments of 1954, 68 Stat. 1071, to read "(i) if the application is filed by such individual, for and after the twelfth month before the month in which the application therefore was filed by such individual but in no case for any month before the day as of which his sixth coverage credit in the period after June 30, 1953, was credited, or . . ."

Section 108(h) provides that the amendments set forth in Section 108 will be effective January 1, 1974.

Section 109 provides that unless the context of this title, that is, title I of the "Combined Old-age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1973," requires otherwise, the term "Secretary" refers to the Secretary of HEW.

Section 201(a). The Act referred to in this and the following amendments is the Railroad Retirement Act of 1937, 45 U.S.C. § 228a et seq. This amendment would insert the phrase "with respect to employment in any calendar year before 1974" after the first appearance of the terms "quarters of coverage" in section 3(e) of the Act.

Section 201(b) would amend the definition of "wage quarter of coverage" contained in subsection 5(1) (5) of the Act by inserting "and any coverage credit" after the phrase "quarter of coverage."

Section 201(c) would amend the definition of "an employee's 'average monthly remuneration'" by changing the period at the end of the second proviso thereof to a comma and inserting thereafter "except that for any calendar year after 1974, there shall not be excluded from this divisor that number of calendar quarters as equals the number of coverage credits, as defined in the Social Security Act, credited to him for such year." This amendment provides that in the calculation of an employee's "average monthly renumeration" after calendar 1974 an individual employee obtains the benefit of full allowable coverage credits, irrespective of whether particular quarters of coverage were otherwise available for calculation purposes.

Section 202 would provide that the amendments contained in subsection (a) of section 201 shall be effective upon enactment, and that the amendments of subsections (b) and (c) of section 201 apply to all annuities occurring after 1973 under the Railroad Retirement Act of 1937 and they shall also apply to lump-sum benefits occurring after 1973 based upon section 5(f) of that Act.

Bruce P. Moore,
*Legislative Attorney.*

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

### S. 2147

At the request of Mr. Domenici, the Senator from Texas (Mr. Tower), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Cook), the Senator from Minnesota (Mr. Humphrey), the Senator from Pennsylvania (Mr. Scott), the Senator from Wyoming (Mr. Hansen), the Senator from Colorado (Mr. Dominick), and the Senator from South Dakota (Mr. Abourezk) were added as cosponsors of S. 2147, to conduct a study relating to the procurement and use by the Federal Government of products manufactured from recycled materials.

### S. 2217

At the request of Mr. Baker, the Senator from Rhode Island (Mr. Pell), the Senator from Minnesota (Mr. Humphrey), the Senator from Georgia (Mr. Talmadge), the Senator from New Hampshire (Mr. McIntyre), the Senator from Kentucky (Mr. Cook), the Senator from Michigan (Mr. Hart), the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from South Carolina (Mr. Hollings), the Senator from Kansas (Mr. Dole), the Senator from Iowa (Mr. Hughes), the Senator from New York (Mr. Javits), the Senator from Tennessee (Mr. Brock), the Senator from Utah (Mr. Moss), the Senator from Maryland (Mr. Beall), the Senator from Nevada (Mr. Bible), the Senator from Ohio (Mr. Taft), and the Senator from California (Mr. Tunney) were added as cosponsors of S. 2217, to provide for improvement in the treatment of animals in air transportation.

### S. 2354

At the request of Mr. Humphrey, the Senator from Utah, (Mr. Moss) was added as a cosponsor of S. 2354, authorizing U.S. participation in the African Development Bank.

### S. 2410

At the request of Mr. Cranston, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 2410, a bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive emergency medical services systems.

### S. 2415

At the request of Mr. Curtis, the Senator from Oklahoma (Mr. Bartlett) was added as a cosponsor of S. 2415, to amend section 203 of the Economic Stabilization Act of 1970 to permit the passthrough of certain cost increases.

### S. 2420

At the request of Mr. Bayh, the Senator from Nevada (Mr. Cannon) and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 2420, a bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to passthrough increased costs.

### SENATE JOINT RESOLUTION 147

At the request of Mr. McIntyre, the Senator from Nevada (Mr. Bible) and the Senator from Utah (Mr. Moss) were added as cosponsors of Senate Joint

Resolution 147, calling for a report on the People's Republic of China grain purchase.

## PROHIBITION OF DISCRIMINATORY BURDENS UPON INTERSTATE COMMERCE IN WINE—AMENDMENT

### AMENDMENT NO. 509

(Ordered to be printed, and referred to the Committee on Finance.)

Mr. PACKWOOD submitted an amendment, intended to be proposed by him, to the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes.

## DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—AMENDMENTS

### AMENDMENT NO. 510

(Ordered to be printed and to lie on the table.)

Mr. JACKSON (for himself, Mr. Nunn, Mr. Percy, and Mr. Brock) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

### AMENDMENT NO. 511

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (H.R. 9286), supra.

## DISABLED VETERANS AUTOMOBILE AND ADAPTIVE DEVICE ASSISTANCE ACT—AMENDMENT

### AMENDMENT NO. 512

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. CRANSTON. Mr. President, I send to the desk for printing an amendment to S. 2363, a bill to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces. Mr. President, this amendment to S. 2363, which I introduced along with Senator Hartke and Senator Randolph on August 3, is necessary due to an error in drafting the bill as introduced. In effect, Mr. President, what my amendment today will do is remove the artificial restriction between the individual who would be eligible for chapter 39 benefits while still a member of the Armed Forces on active duty, but who would lose that eligibility upon his discharge when he would assume veteran status.

Individuals who are still on active duty in the Armed Forces, who suffered—after August 4, 1964—a disability, total and permanent in nature, may apply for chapter 39 benefits and receive them provided that their injury was sustained in the line of duty. Under present law, after that individual's discharge, a more restrictive criterian is then applied. That criterion calls for the injury to have occurred in the direct performance of duty, as well as in the line of duty. My amendment today would correct that artificiality by making the individual eligible so long as his injury was not the result of willful misconduct and was incurred in the line of duty, regardless of when the injury was sustained.

In summary, Mr. President, the bill as amended would continue, as at present, to apply a single criterion for service connection to all veterans who retired from military service from January 31, 1955, until the present for disabilities that are total and permanent in nature. But the criterion applied would be the same line of duty criterion presently applied to veterans of prior service periods. And that same criterion would also be applied to all servicemen prior to discharge regardless of the date on which their disability was first sustained.

## ADDITIONAL COSPONSORS OF AMENDMENTS

### AMENDMENT NO. 487 TO H.R. 9286

At the request of Mr. Bayh, the Senator from Arkansas (Mr. Fulbright), and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of amendment No. 487 to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

### AMENDMENT NO. 494 TO H.R. 9286

At the request of Mr. Hartke, the Senator from California (Mr. Cranston), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of amendment No. 494 to House bill 9286, supra.

## NOTICE OF CHANGE OF HEARING DATE ON OIL AND GAS DEVELOPMENT IN SANTA BARBARA CHANNEL

Mr. METCALF. Mr. President, because of the holiday on October 8 I wish to inform all Senators and other interested persons that the hearings on S. 1951 and S. 2339, both dealing with the Santa Barbara Channel situation, previously scheduled for that day, will be held on Tuesday, October 9. The hearing will begin at 10 a.m. in room 3110, Dirksen Senate Office Building.

## NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 1

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amendments is scheduling hearings on electoral reform to consider Senate Joint Resolution 1, Direct Popular Election, and other proposed amendments which effect our electoral process. These hearings are scheduled for September 26 in room 2228, Dirksen at 10 a.m. and September 27 in room 457, Russell at 10 a.m. Any person wishing to appear or insert material into the hearing record should contact J. William Heckman, Jr., chief counsel, Subcommittee on Constitutional Amendments, room 300, Russell Senate Office Building, Washington, D.C. 20510.

Witnesses already scheduled to appear on September 26 include Senator Robert Dole, U.S. Senator from Kansas and former chairman, Republican National Committee, Robert Strauss, chairman, Democratic National Committee, Lucy Wilson Benson, president, League of Women Voters, and Prof. Paul Freund, Harvard Law School. On Thursday, September 27, the subcommittee is scheduled to hear Stephen I. Schlossberg, general counsel, UAW, John Feerick, American Bar Association, and Daniel A. Mazmanian, research associate, The Brookings Institution.

## NOTICE OF HEARINGS ON BILINGUAL COURTS ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery, I wish to announce hearings for the consideration of S. 1724, the bilingual courts act. The purpose of the bill is to implement the right of non-English speaking persons to have effective oral translation of court proceedings, both civil and criminal, to which they are a party. This legislation also requires consideration of the affect of the proposed bill upon judicial proceedings in the U.S. District Court for the District of Puerto Rico, where Spanish is the language most commonly spoken.

The hearings will be held on October 10 and 11, 1973 beginning at 10 a.m. in room 2228, Dirksen Office Building.

Those who wish to submit a statement for inclusion in the hearing record should communicate as soon as possible with the subcommittee staff, room 6306, Dirksen Office Building, extension 5-3618.

## NOTICE OF HEARINGS ON S. 2053 AND H.R. 8547

Mr. STEVENSON. Mr. President, the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 2053 and H.R. 8547, amendments to the Export Administration Act of 1969, and related matters, at 10 a.m. on Wednesday and Thursday, September 26 and 27, in room 5302 of the Dirksen Office Building. All persons wishing to testify should contact Stanley J. Marcuss, room

456, Russell building; telephone (202) 225-8813.

## ADDITIONAL STATEMENTS

### FEDERAL PROBATION SYSTEM

Mr. SCOTT of Pennsylvania. Mr. President, the Judiciary's appropriations bill passed Monday by the Senate contains funds for 340 new probation officers, the precise number requested in the budget. I am pleased that Congressman TOM RAILSBACK successfully offered an amendment on the House floor to restore the original request.

I have spoken on this subject for several years now, because I am troubled by the rate of recidivism—I am concerned that nearly three-fourths of first-time juvenile offenders who have gone to prison one time are going to be back in prison within a 5-year period.

Federal probation officers now carry caseloads in excess of 100—far too many for any officer to do an effective job. The optimum number is approximately 35 cases. Although the additional funds provided on the House floor will only bring the caseload down by approximately 20 cases, it is still an improvement.

The Federal probation system now has under its supervision some 50,000 individuals. The only effective way to deal with these people is to have probation officers assigned to these cases in a reasonable number. Statistics have shown that 60 percent of all adult felons are paroled, yet 35 to 40 percent of these individuals return to prison after a subsequent conviction. The revolving door must stop—and it can be stopped with a workable probation system.

If the Congress wants to do something about reforming our criminal justice system, then probation is the best place to start.

### PHASE IV REGULATIONS GOVERNING THE OIL INDUSTRY

Mr. BAYH. Mr. President, yesterday I placed in the CONGRESSIONAL RECORD the text of a letter being sent by a number of Senators to John Dunlop, Director of the Cost of Living Council, asking that the Council revise its regulations that have placed such a severe burden on home heating oil and gasoline retailers.

I can now report that that letter was signed by 42 Senators. To evidence the fact that this is not a partisan issue, I would like to note that both the majority and minority leaders signed this letter, and that of the 42 signers there were 26 and 16 Senators from the majority and minority parties, respectively.

Moreover, this is not a regional issue as the letter was signed by Senators from 30 States representing all regions of the country.

The situation confronting the small businessmen who retail the gasoline so essential to our economic well-being is so grave that the magnitude of the problem cannot be overstated. I recall the instance of a service station operator in my own State of Indiana who reported last week that every time a customer drives into his station the retailer loses an average of 11 cents. Obviously, he cannot remain in business very long under those circumstances.

The need for action to revise the phase 4 regulations governing the oil industry is obvious and the situation requires an immediate response on the part of the Cost of Living Council.

Because this position was so clearly and strongly evidenced by the letter sent to Dr. Dunlop by the 42 Senators, I request permission to include the text of the letter and list of signers in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 17, 1973.

Dr. JOHN T. DUNLOP,
*Director, Cost of Living Council,*
*Washington, D.C.*

DEAR DR. DUNLOP: We are persuaded that the Cost of Living Council's Phase Four regulations governing the oil industry have placed the nation's gasoline and home heating oil retailers in a totally unreasonable position. The combination of reduced mark-ups and curtailment in supplies will likely force many of these small businessmen out of business in a matter of weeks.

We did note that the Council has agreed to review these regulations. In this regard, we want to urge strongly that the Cost of Living Council immediately use its authority, granted by Congress in the Economic Stabilization Act, to revise those Phase Four regulations in a fashion that will ensure retailers of an adequate price mark-up. We recognize the desirability of holding down the price of fuel to consumers and will welcome anything that can be accomplished toward that goal within the framework of revised regulations protecting the legitimate interests of retailers.

Because of the urgency of this matter we request an immediate response.

Sincerely,

Mr. BAYH. The letter was signed by Senators BIRCH BAYH, THOMAS EAGLETON, CARL CURTIS, J. BENNETT JOHNSTON, MIKE MANSFIELD, HUGH SCOTT, J. GLENN BEALL, HENRY BELLMON, LLOYD BENTSEN, QUENTIN BURDICK, HOWARD CANNON, LAWTON CHILES, DICK CLARK, NORRIS COTTON, ALAN CRANSTON, ROBERT DOLE, PETE DOMENICI, PETER DOMINICK, MIKE GRAVEL, EDWARD GURNEY, CLIFFORD HANSEN, FLOYD HASKELL, ERNEST HOLLINGS, HUBERT HUMPHREY, CHARLES MATHIAS, GALE MCGEE, GEORGE MCGOVERN, THOMAS MCINTYRE, WALTER MONDALE, FRANK MOSS, GAYLORD NELSON, JENNINGS RANDOLPH, ABRAHAM RIBICOFF, RICHARD SCHWEIKER, TED STEVENS, ADLAI STEVENSON, STUART SYMINGTON, ROBERT TAFT, HERMAN TALMADGE, STROM THURMOND, JOHN TUNNEY, and LOWELL WEICKER.

### NANCY HANKS—A SUCCESS STORY

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in this morning's Washington Post.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NANCY HANKS: A SUCCESS STORY

Last week, the President called Nancy Hanks, the chairman of the National Endowment for the Arts, and some of her council members—among them actress Rosalind Russell, painter Jamie Wyeth, pianist Bill Taylor and opera singer Robert Merrill—to his White House office. He told her that he had nominated her for a second four-year term. "You are here," Mr. Nixon said, "because you have been able to get a 900 per cent increase [in federal funds for the arts] out of Congress."

We prefer to think that it is the other way around. We think Congress has authorized a spectacular and most gratifying increase in funds for the arts program because Miss Hanks was there.

With still relatively meager funds (last year the U.S. federal government spent 20 cent per citizen for the arts, in contrast to Canada's $1.40 and West Germany's $2.80); the Endowment under Miss Hanks' chairmanship, has not only assisted individual artists and touring companies, more importantly, its efforts have considerably increased private donations and local matching funds. It has established a firm and creative partnership between the federal program and ever-increasing state and local efforts to help the arts improve the quality of life in America. The Endowment puts great stress, for instance, on supporting and enhancing the country's rich cultural diversity by aiding the indigenous artistic expression of the people of Appalachia, blacks, Chicanos Indians, Puerto Ricans, Chinese, Japanese and other minortiy groups.

Under another program, the Endowment, together with state arts councils, has brought hundreds of dancers, musicians, poets, painters, sculptors, film-makers, craftsmen and actors into America's classrooms and community meeting halls. Nancy Hanks and her council now have an ambitious and important program underway to improve the esthetics of the many things government does that shape the appearance of America: The government's own buildings, graphics, landscaping, renewal projects and other public works that might as easily be well than poorly designed.

And contrary to earlier misgivings by conservatives and liberals alike that federal support of the arts might lead to federal control of the arts, the council has maintained a healthy and at times even scrappy independence. At its last meeting, on the basis of its congressional mandate "to foster a climate of artistic freedom of expression," the council urged artists and art oragnizations to help make sure that local zealots do not misuse the recent Supreme Court obscenity ruling to restrict or curtail valid artistic and creative freedom. A sheriff who would ban Playboy, might, after all, be persuaded to cover up a Rubens painting.) The council doesn't seek to provoke controversy when it strives to act as the nation's artistic conscience. But neither does it shrink from telling the U.S. Postal Service that some of its postage stamps are poorly designed or to tell museums to make sure that their buildings—with their imposing Greek temple stairs—are made easily accessible to the physically handicapped.

At that same meeting, the council expressed its delight at the re-nomination of its chairman, Nancy Hanks. So do we. We hope the Senate will act promptly to confirm her. And we are particularly delighted that the President has now charged the Arts Council to focus on the arts in the commemoration of the Bicentennial. We can think of no better way to give the planning for that event some much needed focus.

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## EXPERIMENTAL USE OF DRUGS ON HUMAN SUBJECTS

Mr. RIBICOFF. Mr. President, on October 20, 1972, as chairman of the Subcommittee on Executive Reorganization and Government Research, I asked the GAO to investigate the FDA's regulation of a number of investigational new drugs—drugs approved for testing but not for public sale—that had been administered in clinical experiments to human subjects. At the same time, I directed the staff of the subcommittee to supplement the GAO study with its own evaluation of the FDA's performance with respect to these drugs. I am today releasing the GAO report.

The GAO study discusses only 10 of the more than 6,000 drugs currently classified as investigational new drugs. But the results of the GAO study and the subcommittee staff findings strongly suggest that FDA regulation of investigational new drugs has been lax and has not adequately protected the patients who take these drugs. They also show a failure to adopt safe testing procedures by certain drug companies, as well as resistance to FDA regulation. The FDA and the companies involved have shown a disregard for public safety which is incompatible with their responsibility to protect and promote public health.

Specifically, the report found that in eight cases, FDA failed to halt human tests after receiving indications that the drugs were not safe. As a result, over 2,000 people were exposed to the hazard of unsafe drugs. GAO further found that the drug companies unnecessarily delayed reporting adverse drug effects to FDA and that once this data was received, FDA did not require necessary patient followup in six cases to protect the health of the people who had been given suspect or unsafe drugs.

### FDA LAW AND PROCEDURE

Since the passage of the Kefauver-Harris amendments of 1962, the law has required the FDA to regulate the use of all drugs shipped in interstate commerce for investigational use on human beings. Under FDA procedures established pursuant to this statute, FDA has required the sponsor—usually a drug company, but in some cases an institution, such as NIH—to submit an investigational new drug application before such shipment could take place. Prior to August 14, 1970, a sponsor could begin clinical experiments on human subjects immediately upon submission of its application—that is, prior to any FDA review of its data. Since August 14, 1970, however, FDA has required sponsors to wait 30 days after submission of an IND application before initiating human testing. No positive FDA approval is required once 30 days have passed, and sponsors may initiate such testing unless FDA has affirmatively directed them not to do so.

FDA's procedures for the testing of investigational new drugs are divided into three phases:

Phase I covers the first trials in human subjects. This trial is normally limited to a group of 20 to 50 healthy people. If the results are satisfactory, testing proceeds to phase II.

Phase II involves testing the drug on 100–200 patients with the disease the drug is expected to treat. If phase II results are satisfactory, testing may proceed to phase III.

Phase III involves expanded trials on a much larger group of patients. It is not uncommon for phase III testing to include several thousand patients.

Before an experimental drug may be administered to human beings, it must first be given to animals. Prior animal testing is required because there is often some correlation between the ability of a drug to produce adverse effects in animals and its ability to produce such effects in human beings. While the precise relationship between animal results and human results is often indeterminate, it is clear that a drug that has been shown to produce cancerous tumors in animals presents a greater potential risk to human beings than a drug that has shown no adverse health effects in animals.

Current FDA regulations require both substantial animal testing and substantial human testing before a drug is approved for general public sale, rather than investigational use. Under current FDA practice, a drug may be administered to human beings in phase I studies for up to 2 weeks after only 2 weeks of animal studies and prior to full evaluation of those animal studies. Human subjects in phase I and phase II experiments may be given the drug for up to 3 months after only 1 month of animal studies, and may be given a drug for an unlimited period after only 3 months of animal studies. Phase III subjects may be given the drug for an unlimited period after only 6 months of animal studies.

### GAO STUDY

The GAO study contains a comprehensive discussion of each of the drugs it reviewed. I ask unanimous consent that a summary of its report be printed at the conclusion of my remarks.

As a result of the study, GAO made three recommendations for changes in FDA regulation of investigational new drugs to the Secretary of Health, Education, and Welfare. They were that FDA should:

First. Make a written determination that a drug's benefits outweigh the possible risks of its experimental use, before allowing clinical tests to begin or continue when serious safety questions concerning testing drugs in humans arise.

Second. Institute a program to insure IND sponsors' timely performance and reporting of animal studies to FDA and emphasize to sponsors the need to proceed with clinical investigations in accordance with the Code of Federal Regulations.

Third. Establish (1) a patient followup policy which requires a written commitment in the IND application from the sponsor to provide appropriate followup before an IND exemption is granted and (2) guidelines describing adequate performance and reporting requirements for followup.

The Department concurred in the recommendations and has taken steps to implement them.

### ADDITIONAL RECOMMENDATIONS

After reviewing the GAO report, and the staff investigation, I believe HEW should promptly take the following additional actions:

First, FDA approval should be required before any testing of an investigational new drug can be done on human subjects. Affirmative FDA approval should also be required for each phase of human testing. The requirement that a sponsor wait 30 days after submission of its IND before beginning human testing should be extended to provide a sufficient period for medical, pharmacological, and chemical officers to do an adequate review of the IND application, including results of substantial animal testing, before human testing can begin.

The GAO survey showed a consistent pattern for FDA delay in reviewing the data submitted with the IND application. For Practolol, the delay was 3 months. For Triflocin, it was 8 months. In both cases, animals given the drugs developed cancerous conditions. For the other drugs reviewed, the delay ranged from 4 months to a full year. During this time, the drug companies routinely began human testing.

Second. FDA regulations should be modified to state clearly that any finding of nodules or tumors—even benign—in animals is cause for automatic suspension of all testing on human subjects until a full evaluation can be made of the data and further animal tests are made and evaluated.

The most dramatic example of FDA's failure to halt human testing after notice of evidence of cancer in animal tests is the drug Practolol, sponsored by Ayerst Labs. When the test data was reviewed, the medical officer concluded that "this study is indefensible and unacceptable." On March 11, 1970, FDA recommended to the sponsor than human testing be discontinued. Testing continued. On April 8, FDA again advised the sponsor to discontinue testing, but the sponsor refused. At that time, the sponsor submitted to FDA the results of a study showing that cancerous tumors had been found in mice. (Ayerst had notice and substantial documentation of the results of this study on August 14, 1969, but had failed to provide it to FDA until nearly 8 months later. By contrast, the Canadian Food and Drug authorities had had possession of the study since August 27, 1969.) Still, FDA took no effective action to terminate testing on human subjects.

In January 1971, FDA tried for a third time to persuade the sponsor to discontinue tests on human beings. Ayerst not only refused to discontinue the tests, but also refused even to make the finding of the mouse study—indicating cancerous tumors—available to the doctors who were conducting the experiments. Those doctors thus had no way of evaluating the risks to which their patients were being subject. Finally, on August 27, 1971, fully 17 months after FDA had first advised the Ayerst firm to discontinue testing, and afte ra fourth request from FDA to discontinue, the tests were stopped.

This case is not unique. Another similar case history is that of Oxprenalol Hydrochloride, sponsored by Merrell-National Labs. In this case, it took the FDA 6 months and two requests to stop human testing after tumors had been found in mice.

Third. FDA should require immediate evaluation by the drug companies of all animal and human testing. In addition, FDA should require immediate reporting of all such evaluations. As a sanction for failure to provide adequate testing information, FDA should rely primarily on cancellation of the IND, not on the cumbersome, and relatively ineffective, sanctions of the criminal law.

The GAO found that the time lag between discovery of the effects of human and animal tests and reporting them to FDA ranged from 40 days to 19 months. The case of Triflocin, sponsored by Lederle Labs, was typical. There, the sponsor took 7 months to analyze the results of a study which eventually showed bladder cancer in rats. Meanwhile, human testing was in progress. FDA concluded that the delay was "not unjustified because such delays were apparently standard operating procedure for this company." FDA stated that it "did not consider the delay unusual." The fact that the delay was not unusual, rather than supporting a finding that it was justified, seems to point to the very opposite conclusion.

With respect to Practolol, sponsored by Ayerst Labs, the sponsor failed for 8 months to supply FDA with the results of a study showing cancerous tumors in mice.

In the case of MK–665, an oral contraceptive sponsored by Merck, Sharp and Dome Research, the sponsor waited over a month before notifying FDA that cancer had been found in dogs treated with the drug. The Justice Department declined to bring a criminal prosecution in this matter.

Fourth. FDA should more closely monitor all human testing of IND so that it knows, in each case, precisely how many people have received the drug, how long each patient has been receiving the drug, the dosage each patient is taking, and the name and address of each patient. FDA regulations should be promulgated promptly to require at a minimum that each sponsor of an IND commit itself to do "such followup as the FDA may require." FDA should enforce this regulation vigorously. If further study is required before complete followup regulations are promulgated, an interim regulation should still be issued promptly to protect the rights of patients. FDA should disqualify from all IND investigations any medical investigator who fails to provide information or followup examinations. FDA regulations should provide that any company that fails to perform adequate followup should be disqualified as a sponsor of any investigational new drug.

Several of the cases reported by GAO illustrate the need for these steps. One of them was MK–665, sponsored by Merck, Sharp and Dome, which was shown to cause breast cancer in dogs. Only about one-third of the patients who received the drug in clinical tests have been examined.

Another is Hexobendine. When dogs which were given the drug developed cataracts, human testing was halted in September 1971. The sponsor, Merrell-National Labs, resisted an FDA request to do a followup on all patients who received the drug. As of December 22, 1972, 48 percent of the patients who had received followup eye examinations showed evidence of cataract development. While it cannot be said with certainty that this cataract development was drug related, as of March 1973, only 48 percent of the persons who had received Hexobendine had received eye examinations. The FDA regarded this followup as inadequate. (One problem the FDA encountered with respect to Hexobendine was that no one—neither FDA nor the sponsor—seemed to know precisely how many people had taken the drug, how long they had taken it, and when it had been administered.)

One of the most flagrant cases of a drug company's resistance to FDA with respect to followup is that of Cinanserin, sponsored by E. R. Squibb & Sons. Human testing had been discontinued in August 1969, because of the appearance of tumors in the livers of rats. In October 1969, Squibb informed FDA that it was not considering followup. According to a letter of July 30, 1970, from the FDA Commissioner Edwards to Squibb, the question of followup had been raised by FDA with Squibb in a telephone conversation of December 9, 1969, with Dr. Lawrence Marks, a Squibb vice president. According to the letter, "he—Marks—stated that he would investigate and call back in a week. There was no reply."

Squibb continued to resist FDA's suggested followup procedures. As a result of Squibb's refusal, FDA medical officers recommended a full evaluation of Squibb's qualifications to be a sponsor of any investigational new drugs, because of its failure to fulfill its responsibility to patients placed in jeopardy.

After several FDA letters had gone unanswered, FDA officials visited the Squibb facility in New Brunswick, N.J., on June 26, 1972. As of November 17, 1972, the FDA still considered Squibb's followup on Cinanserin inadequate. It is noteworthy, however, that throughout this protracted and sometimes heated disagreement, FDA relied exclusively on persuasion in attempting to require a followup. In the absence of regulations requiring followup, FDA apparently felt itself powerless to act more vigorously. FDA could have at any point, however, required followup as a condition of IND approval or required followup by regulation. Thus, the agency's inability to require followup was a direct result of its own inaction.

Fifth. FDA should adopt and enforce adequate rules on conflicts of interest for members of its advisory committees.

Realizing that its lack of followup regulations was leaving patients unprotected and that drug companies would not voluntarily perform adequate followup, FDA contracted with the National Academy of Sciences for a study to be conducted by an NAS committee. The committee was formed in April 1972. Its chairman was Dr. Lawrence Marks, the Squibb vice president who had participated in the controversy over followup on Cinanserin.

As mentioned previously, after receiving no reply to a series of letters asking Squibb to undertake further followup, on June 26, 1972, FDA officials visited the Squibb plant in New Brunswick, N.J. According to a memorandum dated June 29, 1972, by an FDA inspector, Dr. Marks telephoned the inspector from Squibb headquarters in Princeton while the inspector was at the New Brunswick plant. According to the memorandum, Dr. Marks advised the inspector of his position as chairman of the NAS committee studying the very question of followup. The memorandum continuse:

> In view of this, Dr. Marks did not feel that as a representative of Squibb, he should commit the firm to a followup procedure until such a procedure is standard throughout the industry. He further supports this belief in that he feels that the FDA is not completely sure as to what followup should be made as evidenced by the fact that they set up the NAS Committee. Dr. Marks said that he had advised Dr. Marion Finkel (an FDA official) of his position several weeks ago and questioned the need for our assignment.

Dr. Marks confirmed to the subcommittee his conversation with Dr. Finkel and stated that he does not remember the conversation with the inspector. It was confirmed, however, by the two other FDA employees. At the time of the conversation, June 26, 1972, Dr. Marks was still Chairman of the NAS Committee. He subsequently resigned in August 1972, for reasons unrelated to the Cinanserin followup problem.

It was poor policy for FDA to tolerate a situation where the chairman of a committee established and financed by FDA for the purpose of recommending followup procedures is at the same time personally attempting, on behalf of his firm, to dissuade FDA from requiring followup examinations in a particular case. It is clear that responsible officials at the FDA were quite aware of Dr. Marks' dual role.

Sixth. Congress should provide FDA with the resources to hire enough personnel to evaluate IND applications effectively.

One of the reasons for delays and other inadequacies in review is FDA's lack of manpower. A report prepared by one medical officer shows that in 1972 he was responsible for 251 Investigational New Drug files, most of which contain thousands of pages of material. In these circumstances, effective supervision of clinical experiments by the FDA is impossible. FDA must be given the resources to employ enough trained personnel to do an adequate supervisory job.

Mr. President, the GAO report is a strong indictment of FDA regulation of certain investigational new drugs and of the practices of several drug companies in carrying out their human and animal testing. I believe FDA must substantially tighten its supervision of drug testing and the companies must develop a greater sense of corporate responsibility to the thousands of people on whom they test their discoveries. The companies must also increase their cooperation with FDA, for effective drug regulation must be a joint effort of Government and the industry.

I am writing to FDA Commissioner Schmidt to inform him of my recommendations and requesting his comments on them.

Mr. President, I ask unanimous consent to have the report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL'S REPORT TO THE SUBCOMMITTEE ON REORGANIZATION, RESEARCH AND INTERNATIONAL ORGANIZATIONS—COMMITTEE ON GOVERNMENT OPERATIONS, UNITED STATES SENATE

SUPERVISION OVER INVESTIGATIONAL USE OF SELECTED DRUGS,

*Food and Drug Administration, Department of Health, Education, and Welfare B–164031(2)*

### DIGEST

### *Why the review was made*

The Chairman, Subcommittee on Reorganization, Research and International Organizations, Senate Committee on Government Operations, asked GAO to examine the Food and Drug Administration's (FDA's) supervision over the investigational use of selected drugs.

As agreed, GAO reviewed FDA records for 13 drugs designated by the Chairman's office. Also, as agreed, GAO obtained formal written comments on the report from the Department of Health, Education, and Welfare (HEW). Comments from drug companies on drugs discussed in this report were also obtained.

### *Basic information*

FDA administers the Federal Food, Drug, and Cosmetic Act (FD&C Act).

The FD&C Act requires that before a new drug may be introduced into interstate commerce it must be approved for safety and efficacy. Evidence concerning a drug's safety and efficacy is obtained, in part, from clinical (human) tests conducted by the sponsor (manufacturer or others seeking to distribute the drug in interstate commerce).

When clinical tests involve interstate shipment of an unapproved drug, FDA requires the sponsor to submit an investigational new drug (IND) application to exempt the IND from the ban on interstate shipment of unapproved drugs. The IND application must include data which demonstrates that clinical tests can be undertaken with reasonable safety.

Under procedures set forth in the Code of Federal Regulations, FDA can terminate the IND exemption and require the sponsor to recall unused supplies of the drug at any time. Conditions which could prompt this action include:

Omission of material facts from the IND application,

Existence of substantial evidence that the drug is unsafe or ineffective for the purpose intended,

Failure to follow the IND plan for investigational use,

Failure to submit accurate reports to FDA, or

Failure to promptly investigate and report to FDA any newly found serious or potentially serious hazards.

From June 1963, when sponsors were first required to submit IND applications, through fiscal year 1972, about 9,000 IND exemptions were granted. In fiscal year 1972, 982 exemptions were granted, and 3,617 exemptions were active at the end of the fiscal year.

### *Findings and conclusions*

#### Drugs in Which Major Safety Questions Arose Tested in Humans

In 10 of 13 cases reviewed, FDA raised questions concerning the safety of testing the drugs in humans because:

Data from preclinical animal tests, long-term animal tests, or early clinical tests indicated there were possibilities of major drug-related adverse effects in humans or

The preclinical or early clinical tests were inadequate.

In 2 of the 10 cases FDA experienced no problems in stopping the clinical tests after the safety questions arose. In the other eight cases, FDA permitted sponsors to begin (one case) or continue (seven cases) clinical tests after initial safety questions arose.

In four of the eight cases a causal association between the adverse effect and the drug was subsequently established and clinical tests were stopped. According to FDA, the association was related to additional safety questions which arose during long-term animal tests and was not related to the initial safety question except in one case. About 2,057 people were exposed to these 4 drugs.

In the other four cases the safety questions have not been completely resolved. In two of these cases, after considerable delay, FDA persuaded the sponsors to stop the clinical tests until the questions were resolved. In the other two cases, the questions were substantially resolved and the tests continued. About 2,498 people were exposed to these drugs.

FDA said it allowed tests for the eight cases because in each case it believed the drug's possible benefits outweighed the risks associated with the safety questions. Subsequently, in six cases, tests were stopped, according to FDA, when the benefit-risk ratio was no longer considered favorable.

In total, about 4,555 people were exposed to the 8 drugs. However, due to inadequate information in FDA files, GAO could not determine in all cases how many patients received the drugs after the safety questions arose. (See p. 12.)

In one case, although the sponsor had been allowed to start clinical tests, 13 months later in March 1970 FDA recommended to the sponsor that tests be discontinued until preclinical tests had been performed which would justify clinical testing. The clinical tests continued and in April 1970 the sponsor reported finding thymic lymphosarcomas (malignant disorders of lymphoid tissue invading the adjacent thymus gland) in mice during long-term animal tests. Proportionately fewer control mice had these disorders. FDA again advised the sponsor to stop clinical tests until the carcinogenicity question was resolved. However, the sponsor did not stop the tests until FDA threatened to withdraw the IND exemption in August 1971—16 months later. This drug had been given to about 194 patients during the tests. (See pp. 20 to 22.)

FDA advised GAO that:

Evaluating a drug's safety in clinical tests intimately involves the drug's proposed use and expected benefits. It has been and continues to be FDA's policy to evaluate INDs in terms of benefits versus risks (including serious health questions raised during animal studies) involved in the drug's experimental use.

The benefit-risk ratio is not a constant and factors such as the severity of the condition being treated or the availability of other treatment must be considered in evaluating the ratio.

Since 1970 procedures have been implemented to effect timely review of and decisions regarding INDs. (See p. 31.)

Because the 13 cases reviewed, which were not randomly selected, span about 9 years during which about 9,000 IND exemptions were granted, GAO recognizes that the conditions involving these cases may not be representative of FDA's processing of past and present IND cases. In addition, FDA's evaluation of INDs, in large part, is based on medical judgments about which GAO has no opinion. However, GAO believes that in several cases reviewed, the FDA actions appear to have lacked timeliness or aggressiveness.

Although FDA policy is to evaluate INDs in terms of benefits versus risks, the IND files reviewed did not contain documentation showing benefit-risk evaluations to support FDA actions. Rather FDA officials often differed in their opinions regarding a drug's safety and benefits. In some cases, FDA wrote sponsors expressing concern over a drug's safety while permitting clinical tests to continue.

GAO believes serious safety questions concerning testing drugs in humans should be resolved before allowing clinical tests to begin or continue, unless a written determination is made that benefits outweigh risks of its experimental use. (See p. 32.)

### *Reporting information on major drug-related adverse ecects was delayed*

The Code of Federal Regulations requires sponsors to promptly investigate and report to FDA any findings suggesting significant hazards and to immediately report alarming findings. Violations of these requirements may be referred to the Department of Justice for prosecution under section 301 of the FD&C Act.

Information on major drug-related adverse effects encountered in long-term animal tests of three drugs reviewed was not reported on a timely basis to FDA. The time lag between discovering the effects and reporting them ranged from 40 days to 19 months. (See p. 33.)

GAO believes that to maintain the integrity of the IND process, all requirements placed on IND sponsors must be strictly observed. In addition, FDA should institute a program to insure IND sponsors' timely performance and reporting of animal studies to FDA. (See p. 36.)

### *Policy on patient followup needed*

For those situations where clinical tests are discontinued because of major drug-related adverse effects, FDA has no formal policy on whether patient followup should be provided and no formal guidelines describing adequate followup. However, FDA officials said each division of its Bureau of Drugs has informal operating procedures which cover followup.

In April 1972 FDA contracted with the National Academy of Sciences/National Research Council (NAS/NRC) to perform a study which would include consideration of followup problems.

The NAS/NRC report was submitted to FDA in January 1973 and was under review as of March 1973.

According to FDA, the FD&C Act provides ample authority to require, as a condition to granting the IND exemption, a commitment from the sponsor to provide followup. FDA has required no such commitment.

When FDA has requested sponsors to provide followup, the requests were for such actions as informing patients of the major drug-related adverse effects, conducting physical examinations and tests, and advising patients of the need for continued examinations and tests. (See p. 37.)

In 6 cases about 2,781 patients were exposed to drugs which were later found to cause major drug-related adverse effects during animal studies. The effects were serious enough to stop clinical tests because it was determined that the drug's risks outweighed the benefits. In these instances FDA did not effectively insure that patients were provided satisfactory follow-up. (See p. 37.)

GAO believes FDA should establish, as soon as possible, (1) a formal policy stating that the sponsor should provide patient followup and (2) guidelines describing adequate followup. The policy and guidelines could be refined if warranted by FDA's evaluation of the NAS/NRC study. (See p. 48.)

### *Recommendations*

The Secretary of HEW should direct the Commissioner, FDA, to:

Make a written determination that a drug's benefits outweigh the possible risks of its experimental use, before allowing clinical tests to begin or continue when serious safety questions concerning testing drugs in humans arise. (See p. 32.)

Institute a program to insure IND sponsors' timely performance and reporting of animal studies to FDA and emphasize to sponsors the need to proceed with clinical investigations in accordance with the Code of Federal Regulations. (See p. 36.)

Establish (1) a patient followup policy which requires a written commitment in the IND application from the sponsor to provide appropriate followup before an IND exemption is granted and (2) guidelines describing adequate performance and reporting requirements for followup. (See p. 48.)

### *Agency actions and unresolved issues*

HEW concurred in GAO's recommendations and said it had initiated action to implement them. (See pp. 32, 36, and 48.)

### *Identification of coded investigational new drugs (IND included in report on supervision over investigational use of selected drugs—DHEW–FDA (B–164031(2))*

IND code, IND number, drug name, and sponsors:

A, 859, Pronethalol, Ayerst Labs.

B, 1959, Cinanserin, E. R. Squibb & Sons.

C, 5096, Triflocin, Lederle Labs.

D, 3784, Chlormadinone Acetate, Syxtex Labs.

E, 5486, Practolol, Ayerst Labs.

F, 6371 and 6878, Oxprenolol Hydrochloride, Merrell-National Labs.

G, 2905, Perhexiline Maleate, Merrell-National Labs.

H, 5185, Colestipol, Upjohn Co.

I, 64, MK–665, Merck, Sharp & Dome Research.

J, 4196, Hexobendine, Merrell-National Labs.

## DEATH OF DR. LEONARD CARMICHAEL, VICE PRESIDENT, NATIONAL GEOGRAPHIC SOCIETY

**Mr. SCOTT of Pennsylvania.** Mr. President, Dr. Leonard Carmichael, vice president of the National Geographic Society and former head of the Smithsonian Institute, died Sunday at the age of 74. The obituary in the New York Times speaks eloquently of the fascinating and illustrious career of Dr. Carmichael. What it does not reveal, however, is the warm, personal quality of the man—his keen perception, his skill, his integrity and judgment. He was a good friend. I will miss him greatly.

I ask unanimous consent that this New York Times article be printed in the RECORD.

### DR. LEONARD CARMICHAEL DIES; HEADED SMITHSONIAN INSTITUTION

WASHINGTON, Sept. 16.—Dr. Leonard Carmichael, a vice president of the National Geographic Society and former head of the Smithsonian Institution, died today of cancer at the Washington Hospital Center. He was 74 years old.

Dr. Carmichael, who had a long and distinguished career as a scientist and educator, came to the Smithsonian in 1953 after earlier declining the secretaryship. He declined, he later recalled, "because, like most other Americans, I didn't know what the Smithsonian was, really."

During his 11 years as the seventh secretary of the institution, Dr. Carmichael set about to revise the image of the Smithsonian as "the nation's attic." During his tenure, with the modernizing of exhibits and the building of the Museum of History and Technology, expansion of the Museum of Natural History and renovation of the National Zoo, the institution experienced a 500 per cent increase of visitors.

#### VERSATILITY OF INTERESTS

The versatility of his interests responded to the range of the collections. When he retired from the Smithsonian at the age of 65 in 1964, he recalled his fascination with tiny hummingbird eggs and the biggest dinosaur bone ever found; of unwrapping the Hope Diamond when it joined the collection; and of a formal letter from an Army official beginning "I am honored to transmit to you one fly" (a rare one).

His favorite exhibits included the Revolutionary gunboat Philadelphia; the Star-Spangled Banner from Fort McHenry; a pre-Columbian giant stone grasshopper, the work of a native Indian; and a newborn gorilla in the zoo.

Dr. Carmichael's role thereafter with the National Geographic Society was to head its research and exploration activities. Again this meant sponsoring an unusual range of activities including the late Dr. Louis S. P. Leakey's discoveries of new evidence bearing on man's descent in the Olduvai Gorge in Africa; Jacques-Yves Cousteau's explorations of the depths of the Mediterranean and Red Seas; and an expedition to the summit of Mount Everest.

Born on Nov. 9, 1898, in the Germantown section of Philadelphia, Dr. Carmichael graduated from Germantown Friends School and earned a bachelor's degree in 1921 from Tufts University. He later received his doctorate from Harvard and subsequently taught at Princeton, Brown and Rochester, where he was dean of the arts and sciences faculty.

While chairman of the department of psychology at Brown in the early nineteen-thirties, Dr. Carmichael and a colleague, Dr. Herbert Jasper, developed electroencephalography—the measurement of brain waves—at a time when many medical men in the country doubted that the brain emitted electrical impulses.

In 1938, Dr. Carmichael returned to Tufts to become, at 39, one of the youngest presidents in the school's history. He remained at the New England college until World War II, when he came to Washington to hold several Government posts. In one of these, director of the national roster of scientific and specialized personnel, he organized the recruiting of a million scientists to work on war-related research projects. After the war he returned to Tufts, where he remained until joining the Smithsonian in 1953.

#### HELD MANY HONORS

In addition to holding honorary degrees from 21 educational institutions, Dr. Carmichael received the Presidential Citation of Merit in 1942 for his work in World War II. In 1970 he was elected president of the American Philosophical Society, a position he held until April of this year.

Last year the National Academy of Sciences bestowed its highest award, the Hartley Public Welfare Medal, upon Dr. Carmichael "for eminence in the application of science to the public welfare."

Dr. Carmichael is survived by his widow, Pearl; a daughter, Mrs. S. Parker Oliphant, and two grandsons, all of Washington.

## TRUTH IN SAVINGS

**Mr. HARTKE.** Mr. President, for the past 2½ years, I have been urging my colleagues to extend the consumer movement to the savings industry. It is clear that there is a need for legislation which establishes disclosure standards so that consumer depositors know the rules by which savings institutions operate.

The initial response of some of the Federal regulatory agencies was that disclosure legislation was not needed. I introduced S. 1858, the Consumer Savings Disclosure Act, on which hearings were held in June of this year. By the time those hearings were held, most of the Federal regulatory agencies conceded the need for more disclosure, but felt that it could be done through regulation rather than legislation.

It is a fact that the regulatory agencies do have authority to require their member institutions to disclose more information to consumers, although the regulatory process does not reach as many savings institutions as does S. 1858. Nevertheless, despite the fact that this regulatory authority exists, I have noticed very little propensity on the part of the Federal agencies to use that authority to protect consumers.

Recently, however, the Federal Reserve Board invited comment by August 27 on regulations designed to provide persons placing time deposits in savings institutions with basic information about the requirements and penalties associated with such deposits. Without commenting on the substantive merits of the proposed regulations, I think it is noteworthy that, at least in one small part of the consumer savings picture, the Federal Reserve Board has moved to protect the consumer.

Mr. President, I ask unanimous consent

that the text of the proposed regulation be printed in the RECORD.

There being no objection, the proposed regulation was ordered to be printed in the RECORD, as follows:

### FEDERAL RESERVE SYSTEM

[12 CPR Part 217]

### INTEREST ON DEPOSITS

*Protection of Depositors*

The Board of Governors proposes to amend its Regulation Q to provide that (1) any advertisement, announcement, or solicitation relating to interest paid on time deposits by member banks include clear and conspicuous notice that Federal law and regulation prohibit the bank from paying a time deposit before maturity unless certain interest is forfeited, and (2) the bank customer shall be given, at the time that a time deposit is made, a disclosure statement which makes it clear that the customer has contracted to leave his funds on deposit for the stated maturity and which describes how the early withdrawal penalty applies to time deposits in the bank, in the event the bank, notwithstanding the contract provisions, permits payment before maturity. This amendment to Regulation Q would be made to the Board's authority under section 19 of the Federal Reserve Act to prescribe rules governing the payment and advertisement of interest on deposits in member banks.

To aid in the consideration of the matter by the Board, interested persons are invited to submit relevant views, arguments, or data. Any such submission should be addressed in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than August 27, 1973. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

To implement its proposal, the Board proposes to amend its Regulation Q (12 CFR Part 217) in the following respects:

1. § 217.4 would be amended by redesignating paragraph (e) as paragraph (f) and by adding a new paragraph (e) to read as follows:

§ 217.4 *Payment of time deposits before maturity.*

* * * * *

(e) *Disclosure of early withdrawal penalty.* At the time a customer makes a time deposit in a member bank, the bank shall provide a written statement of the effect of the penalty prescribed in paragraph (d) of this section, which shall (1) state clearly that the customer has contracted to keep his funds on deposit for the stated maturity, and (2) describe fully and clearly how such penalty provisions apply to time deposits in such bank, in the event the bank, notwithstanding the contract provisions, permits payment before maturity. Such statements shall be expressly called to the attention of the customer and shall contain arithmetic examples illustrating how the penalty provisions shall apply to specific time deposit contracts.

2. § 217.6 would be amended by redesignating paragraphs (e), (f), and (g) as (f), (g), and (h) and by adding a new paragraph (e) to read as follows:

§ 217.6 *Advertising of interest on deposits.*

* * * * *

(e) *Penalty for early withdrawals.* Any advertisement, announcement, or solicitation relating to interest paid by a member bank on time deposits shall include clear and conspicuous notice that Federal law and regulation prohibit the bank from paying a time deposit before maturity unless substantial interest is forfeited.

By the order of the Board of Governors, July 26, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

## THE ABA—MARIHUANA AND THE LAW

Mr. JAVITS. Mr. President, the state of the current law respecting criminal penalties for the personal, private, noncommercial possession and use of marihuana continues to be of growing concern to ever increasing numbers of Americans.

As the Senate knows, 2 years ago, President Nixon's National Commission on Marihuana and Drug Abuse—of which I and Senator HUGHES were members—published the most thoroughly documented study of marihuana ever undertaken, and recommended a comprehensive national policy on all aspects of marihuana, including an end to criminal penalties for its simple possession and use in private. Senator HUGHES and I introduced a bill in the 92d Congress and again this year to implement this recommendation without changing Federal law regarding criminal penalties which apply to the sale of marihuana for profit.

As I have previously indicated, many respected national organizations, newspapers, periodicals, radio and television stations, and others have supported our objective including to name only a few: The National Institute of Mental Health, the National Conference of Commissioners on Uniform State Laws, the American Medical Association, the New York State Bar Association, Consumers Union, "National Review," and the Los Angeles County Grand Jury.

Mr. President, last month at its annual convention here in Washington, the American Bar Association joined the ranks of those of us seeking to remove penalties for the simple possession of small quantities of the drug and "the casual distribution of small amounts not for profit." This support underscores once again the need for a national policy on this subject which serves several districts and important interests while recognizing the historical, social, and political contexts in which our policy in this area has been developed over the last 40 years.

The limited decriminalization of marihuana for private use in private will finally remove the stigmatization as criminals of the more than 26 million Americans who have used marihuana—which both the Commission and NIMH found after exhaustive research to be not seriously harmful to either the physical or mental health of the individual when taken in moderate amounts.

This proposal makes sense for the following four reasons:

First. It recognizes that criminal penalties for its use and possession in private are so disproportionate to the degree of mental and physical risk involved that there can no longer be any justification for their imposition in view of the Commission's findings. To equate the risk of using marihuana—which the Commission found to be a relatively benign drug—with the risk inherent in the use of hard narcotics is, in my view, totally indefensible. Yet in many jurisdictions throughout the country, this equation is written into the criminal law.

Second. It recognizes that casual marihuana usage is so common—the Commission found that 24 million Americans have tried marihuana at least once, and that 8.3 million are current users—that fair and impartial enforcement and prosecution are impossible. In some States, a first offender can be jailed for 10 or 20 years. In others, he may be placed on probation. In most, he will not enter the criminal justice system at all.

Third. It recognizes that use of the drug has reached such proportions that the present law is clearly ineffective as a deterrent.

Fourth. It recognizes that the "rhetoric and emotion" generated by the use of the criminal sanction in cases of personal marihuana consumption is severely impairing the fight against more dangerous drug abuse.

Mr. President, on October 5, Oregon will become the first State to remove completely criminal penalties for the private possession and use of marihuana. The new law reclassifies possession of up to one ounce as a "violation" with a maximum penalty of $100 fine. Violators will receive no criminal record.

Although this approach does not go as far as what is advocated in our bill, it is nevertheless an important step in the direction of an enlightened and commonsense policy on marihuana possession. I urge the Senate and the Congress as a whole to heed these developments and give serious consideration to this important issue. I believe that our bill will eliminate the potential for grave injustice while reinforcing national government policy aimed at discouraging the use of any drug or psychotropic substance for recreation rather than medical purposes.

## EPA IS SENDING DETROIT A MESSAGE

Mr. MOSS. Mr President, on June 20 I introduced a bill (S. 2036) to encourage the development of a more efficient automobile engine in order to conserve our dwindling energy supplies to minimize pollution and to make life a little less costly for the average American by reducing the cost of his gasoline bill.

I am delighted to note in the RECORD of September 18 that my colleague Senator PERCY has also introduced a bill which is quite similiar in nature.

Mr. President, I believe this is an important matter which the Senate should consider and I intend to urge the Committee on Finance, to which both bills were referred, to hold hearings immediately.

EPA, in a news story released to the Washington Post of September 19 has clearly shown us the hard facts about gas guzzling automobiles. Just how many miles to the gallon various 1974 cars will go on a precious gallon of gas, is becoming a vital matter. I ask unanimous consent that the newspaper story be printed in the RECORD for the information of the Senate. I think we should heed this message.

### EPA MILEAGE TESTS SHOW JAPAN AHEAD

(By George C. Wilson)

Japanese cars got more miles per gallon than any of their American and other foreign competitors among lightweight autos tested by the Environmental Protection Agency, according to a government report released yesterday on 1974 automobile models.

The bantam-sized Honda Civic beat all others tested by achieving 29.1 miles per gallon while the heavier Datsun B-210 and Subaru SW led in the 2,250 and 2,500-pound weight classes, respectively, by getting 24.9 and 22.7 miles per gallon.

In the luxury field, the 5,550-pound class, the Cadillac El Dorado led the way with 10.4 miles per gallon, and the Oldsmobile Toronado came in last in the economy test with 6.8 miles per gallon.

The tests come at a time when both the executive branch and Congress are urging American manufacturers to slim down their cars to improve gas mileage. A penalty tax for gas guzzlers is one proposal before Congress.

The test results released yesterday show a correlation between vehicle weight and miles per gallon, and Detroit's auto makers agreeing that they must move to lighter cars in the future.

Ford, for example, sees narrower, European style cars in its future, while General Motors is counting on the Wankel rotary engine, to go into its Vega next year, to save weight.

But while this switch to smaller cars will save gas, safety engineers point to studies showing that serious injuries from accidents go up as car sizes go down.

Riskier or not, the nation's fuel shortages have accentuated the government's effort to force development of smaller, more economical cars. Most 1974 models, at EPA's urging, will bear labels showing how many miles to the gallon they achieved in EPA tests.

Those tests amounted to putting a fully loaded car on dynamometer at EPA's Ann Arbor, Mich., laboratory and simulating a 7.3-mile trip in the city, with the top speed 57 m.p.h.

Other first-and-last-ranking cars in those economy tests, by weight class, were:

2,750-pound class—Chevrolet Vega Hatchback, 24.6 miles; Toyo Kogyo Mazda RX 2 coupe, 10.6 miles.

3,000-pound class—Chevrolet Vega Kammback, 20 miles; Ferrari Dino 246 GT, 9.2.

3,500-pound class—Ford Comet, 19.9 miles; Jaguar E Type III, 9.7 miles.

4,000-pound class—Ford E-100, 18.9; Ferrari 465 GTB-4, 6.3.

4,500-pound class—Chevrolet G-20 Sportvan, 12.4 miles; Oldsmobile Cutlass S, 7.3 miles.

5,000-pound class—Buick Century wagon, 16.7 miles; Plymouth FS, 7.4 miles.

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### HOW 1974 AUTOS DID UNDER TEST CONDITIONS

This is how many miles to the gallon various 1974 model year cars achieved when tested by the Environmental Protection Agency.

The EPA put the cars on a dynamometer at its Ann Arbor, Mich., laboratory and simulated urban driving, with the top speed 57 m.p.h.

The list does not show some mechanical factors which would affect gasoline mileage: automatic transmission, engine and carburetor sizes and axle ratios.

The cars are listed by weight class and in order of mileage achieved, with the best performer in each class listed first.

| *Manufacturer and Model* | *Mileage* |
|---|---|
| 2,000-POUND CLASS | |
| Honda, Civic | 29.1 |
| Toyota, Corolla-1 Coupe | 27.1 |
| Toyota, Corolla-1 Sed | 24.8 |
| Standard Triumph, Spitfire | 23.1 |
| Austin Morris BMC, MG Midget | 22.4 |
| Standard Triumph, Spitfire | 22.3 |
| Austin Morris BMC, MG Midget | 21.7 |
| 2,250-POUND CLASS | |
| Nissan, Datsun B210 | 24.9 |
| Toyota, Corolla-2 Sed | 22.6 |
| Nissan, Datsun B210 | 22.2 |
| Nissan, Datsun B210 | 21.9 |
| Saab, Saab 97 | 21.7 |
| Volkswagen, Karman Ghia 14 | 21.7 |
| Full Heavy Ind., Subaru Coupe | 21.7 |
| Volskwagen, VW 181 | 21.0 |
| Volkswagen, Deluxe Sedan 11 | 20.9 |
| Toyota, Corolla-2 Sed | 20.8 |
| Full Heavy Ind., Subaru Coupe | 20.8 |
| Saab, Saab 97 | 20.3 |
| Toyota, Corolla-2 Sed | 18.8 |
| 2,500-POUND CLASS | |
| Full Heavy Ind., Subaru SW | 22.7 |
| Volkswagen, Convertible 15 | 22.6 |
| Full Heavy Ind., Subaru SW | 21.5 |
| Toyota, Corolla-2 Stwg | 21.1 |
| Nissan, Datsun 710 | 20.7 |
| Nissan, Datsun 710 | 20.0 |
| Toyo Kogyo, Mazda 808 coupe | 20.0 |
| Opel, Manta Rallye | 19.8 |
| Toyota, Corolla-2 sed | 19.6 |
| Alfa Romeo, 2000 GTV | 19.1 |
| Renault, 12 sdn | 19.1 |
| Mitsubishi, Dodge Colt coupe | 19.1 |
| Toyota, Corolla-2 stwn | 19.0 |
| Toyo Kogyo, Mazda 808 coupe | 18.9 |
| Renault, 12 sdn | 18.8 |
| Austin Morris BMC, MGB Sports | 18.7 |
| Opel, Manta Rallye | 18.7 |
| Mitsubishi, Dodge Colt coupe | 18.7 |
| Toyota, Corona-2d sed | 18.4 |
| Toyota, Corona-2d sed | 18.4 |
| Opel, Manta | 18.2 |
| Opel, Opel 1900 | 18.2 |
| Alfa Romeo, 2000 GTV | 18.0 |
| Renault, 15 coupe | 17.9 |
| Renault, 12 sdn | 17.8 |
| Volkswagen, Roadster 914-4 | 17.5 |
| Volkswagen, Roadster 914-4 | 17.0 |
| Toyota, Corona-2d sed | 16.9 |
| Opel, Manta Luxus | 12.2 |
| 2,750-POUND CLASS | |
| Chevrolet, Vega Hatchback | 24.6 |
| Ford, Pinto | 22.8 |
| Mitsubishi, Dodge Colt SW | 22.8 |
| Renault, 12 St Wag | 22.2 |
| Renault, 17 Sport Coupe | 22.2 |
| Mitsubishi, Dodge Colt SW | 21.9 |
| Mitsubishi, Dodge Colt SW | 21.8 |
| Isuzu, Luv Pickup | 21.7 |
| Ford, Pinto | 21.0 |
| Nissan, Datsun 610 | 20.6 |
| Nissan, Datsun Pickup | 20.4 |
| Chevrolet, Vega Panel Exp | 20.0 |
| Ford, Capri | 19.8 |
| Nissan, Datsun 610 | 19.8 |
| Chevrolet, Vega Hatchback | 19.6 |
| Nissan, Datsun 710 | 19.5 |
| Nissan, Datsun 610 | 19.5 |
| Mitsubishi, Dodge Colt SW | 19.5 |
| Porsche, 911T | 19.1 |
| Saab, Saab 99 | 18.8 |
| Mitsubishi, Dodge Colt SW | 18.6 |
| Nissan, Datsun Pickup | 18.5 |
| Renault, 17 Sport Coupe | 17.8 |
| Isuzu, Luv Pickup | 17.5 |
| Renault, 17 TL Coupe | 17.5 |
| Porsche, 9115 | 17.2 |
| Ford, Capri | 16.9 |
| Porsche, 911S | 16.9 |
| Standard Triumph, TR-6 | 16.9 |
| Toyota, Corona Hrd. Top | 16.9 |
| Ford, Pinto | 16.7 |
| Toyota, Hilux Pickup | 16.3 |
| Porsche, 911T | 16.1 |
| Standard, Triumph, TR-6 | 16.0 |
| Ford, Capri | 15.5 |
| Chevrolet, Vega Panel Exp | 15.1 |
| Toyo Kogyo, Mazda RX3 Wagn | 10.8 |
| Toyo Kogyo, Mazda RX3 Coupe | 10.7 |
| Toyo Kogyo, Mazda RX2 Coupe | 10.6 |
| 3,000-POUND CLASS | |
| Chevrolet, Vega Kammback | 20.0 |
| Ford, Pinto Wagon | 19.6 |
| Toyota, Mark II Wagon | 19.4 |
| Chevrolet, Vega Kammback | 18.9 |
| Ford, Capri | 18.7 |
| Ford, Pinto Wagon | 18.2 |
| Volvo, 142 | 17.5 |
| Toyota, Hilux Camper | 17.1 |
| Peugeot, 504 Sedan | 17.0 |
| Peugeot, 504XN1 | 17.0 |
| Saab, Saab 99 LE | 17.0 |
| Volvo, 144 | 17.0 |
| Ford, Mustang | 16.9 |
| Peugeot, 504 Sedan | 16.8 |
| Peugeot, 504XN1 | 16.8 |
| Volvo, 142 | 16.7 |
| Ford, Pinto SW | 16.6 |
| Ford, Mustang | 16.5 |
| Austin Morris BMC, MGB GT | 16.3 |
| Nissan, Datsun 260Z | 16.2 |
| Saab, Saab 99 LE | 16.1 |
| Volvo, 144 | 16.1 |
| American Motors, Gremlin | 15.9 |
| Ford, Capri | 15.8 |
| Nissan, Datsun 260Z | 15.8 |
| American Motors, Gremlin | 15.6 |
| Ford, Comet | 15.5 |
| Toyota, Mark II Sedan | 15.4 |
| Toyo Kogyo, Courier Pickup | 15.2 |
| Toyo Kogyo, Courier Pickup | 14.3 |
| Toyo Kogyo, Courier Pickup | 14.3 |
| Toyo Kogyo, Courier Pickup | 14.2 |
| Ford, Maverick | 15.0 |
| Nissan, Datsun 260Z | 15.0 |
| Toyota, Mark II Sedan | 15.0 |
| Toyo Kogyo, Courier Pickup | 14.3 |
| Toyo Kogyo, Courier Pickup | 14.2 |
| Ford, Maverick | 14.0 |
| American Motors, Gremlin | 13.2 |
| Toyo Kogyo, Mazda Rotry PU | 12.8 |
| American Motors, Universal | 12.1 |
| American Motors, Universal | 11.5 |
| American Motors, Universal | 11.1 |
| Toyo Kogyo, Mazda RX4 Wagon | 10.4 |
| Toyo Kogyo, Mazda RX4 Coupe | 10.3 |
| Ferrari, Dino 246 GT | 10.0 |
| American Motors, Universal | 9.8 |
| Ferrari, Dino 246 GT | 9.2 |
| 3,500 POUND CLASS | |
| Ford, Comet | 19.9 |
| Volvo, 145 | 15.8 |
| Rover, 88 Land Rover | 17.7 |
| Ford, Mustang | 17.3 |
| Ford, Comet | 17.2 |
| Plymouth, Plymouth Comp | 16.7 |
| Ford, Maverick | 16.3 |
| Dodge, Dodge Comp | 16.0 |
| Volvo, 145 | 15.8 |
| Plymouth, Plymouth Comp | 15.7 |
| Ford, Maverick | 15.6 |
| American Motors, Sportabout | 15.5 |
| Chevrolet, Nova Hatchback | 15.2 |
| Ford, Mustang | 15.0 |
| American Motors, Hornet | 14.7 |
| Volvo, 164 | 14.5 |
| American Motors, Hornet | 14.3 |
| Ford, Bronco | 14.3 |
| Mercedes Benz, MB-115 | 14.3 |
| Ford, Bronco | 14.1 |
| Mercedes Benz, MB-114 | 14.1 |
| American Motors, Hornet | 13.8 |
| Volvo, 164 | 13.4 |
| American Motors, Javelin | 13.2 |
| Mercedes Benz, MB-114 | 13.1 |
| Ford, Mustang | 13.0 |
| Mercedes Benz, MB-115 | 12.9 |
| American Motors, Hornet | 12.5 |
| American Motors, Javelin | 12.1 |
| Ford, Maverick | 12.1 |

| Manufacturer and Model | Mileage |
|---|---|
| 3,500 POUND CLASS—Continued | |
| Volvo, 164 | 12.1 |
| Citroen, SM | 11.9 |
| American Motors, Hornet | 11.7 |
| Mercedes Benz, MB–114 | 11.3 |
| Citroen, SM | 11.2 |
| American Motors, Javelin | 11.1 |
| American Motors, Hornet | 11.0 |
| Mercedes Benz, MB–114 | 10.9 |
| Rover, 88 Land Rover | 10.9 |
| Ford, Pantera | 10.4 |
| Jaguar, E Type Ser. III | 9.7 |
| 4,000 POUND CLASS | |
| Ford, E–100 | 18.9 |
| Ford, F–100 | 16.4 |
| Chevrolet, Nova Hatchback | 15.7 |
| Ford, F–100 | 14.1 |
| Ford, Torino | 14.0 |
| Ford, E–100 | 12.0 |
| Ford, E–200 | 13.0 |
| IHC, 100 Pickup 2 WD | 12.7 |
| Toyota, Land Cruiser HT | 12.6 |
| Plymouth, Plymouth Comp | 12.5 |
| American Motors, Matador | 12.4 |
| Ford, E–200 | 12.4 |
| IHC, Scout 4 WD | 12.3 |
| Dodge, Dodge Truck | 12.1 |
| Ford, E–100 | 12.0 |
| Plymouth, Plymouth Comp | 11.8 |
| Ford, Torino | 11.8 |
| Chevrolet, C–10 Fleetside | 11.7 |
| American Motors, Javelin | 11.6 |
| American Motors, Matador | 11.6 |
| Plymouth, Plymouth Inter | 11.6 |
| Dodge, Dodge Sp Wag | 11.5 |
| Ford, F–100 | 11.3 |
| IHC, Scout 2 WD | 11.3 |
| IHC, 100 Pickup 2 WD | 11.1 |
| Plymouth, Plymouth Comp | 10.9 |
| American Motors, Javelin | 10.8 |
| Mercedes Benz, MB–107 | 10.6 |
| Ford, F–100 | 10.4 |
| American Motors, Wagoneer | 10.1 |
| Ford, Bronco | 10.1 |
| Pontiac, Ventura | 9.9 |
| Ford, E–200 | 9.6 |
| IHC, Scout 4 WD | 9.6 |
| Ford, Bronco | 9.4 |
| Pontiac, GTO | 8.9 |
| Pontiac, GTO | 8.9 |
| Ford, F–100 | 8.6 |
| Lamborghini, Jarama 400GT | 7.3 |
| Lamborghini, Espada 400GT | 7.2 |
| Ferrari, 365 GTB–4 | 6.5 |
| Ferrari, 365 GTB–4 | 6.3 |
| 4,500-POUND CLASS | |
| Chevrolet, G–20 Sportvan | 12.4 |
| American Motors, Matador SW | 12.3 |
| Ford, E–200 | 12.3 |
| Plymouth, Plymouth Inter | 11.8 |
| Chevrolet, C–10 Pickup | 11.6 |
| Ford, E–300 | 11.5 |
| Dodge, Dodge SP wag | 11.4 |
| Ford, Econoline | 11.2 |
| American Motors, Matador | 11.1 |
| Ford, F–100 | 11.1 |
| American Motors, Matador | 11.0 |
| American Motors, Ambassador | 10.8 |
| Ford, Torino | 10.8 |
| Ford, Ford | 10.7 |
| American Motors, Wagoneer | 10.6 |
| American Motors, Ambassador | 10.4 |
| Buick, Century 350 | 10.4 |
| American Motors, Truck | 10.3 |
| Oldsmobile, Cutlass Salon | 10.3 |
| Mercedes Benz, MB–116 | 10.3 |
| Buick, Century | 10.1 |
| Chevrolet, Impala Cust Coupe | 10.1 |
| Mercedes Benz, MB–116 | 10.1 |
| American Motors, Matador | 10.0 |
| Ford, F–100 | 10.0 |
| Chevrolet, C–10 Pickup | 10.0 |
| Ford, Torino | 9.9 |
| Chevrolet, Malibu Classic | 9.9 |
| Pontiac, Lemans | 9.9 |
| Mercedes Benz, MB–116 | 9.9 |
| IHC, 100 Pickup 2 wd | 9.9 |
| Ford, Torino | 9.8 |
| Toyota, Land Cruiser | 9.7 |
| Dodge, Dodge SP wag | 9.6 |
| IHC, Scout 4 Wd | 9.6 |
| IHC, 100 Pickup 2 wd | 9.6 |
| Ford, Cougar | 9.5 |
| Oldsmobile, Cutlass S | 9.5 |
| Oldsmobile, Cutlass Supreme | 9.4 |
| Pontiac, Lemans Sport | 9.4 |
| Ford, F–100 | 9.3 |
| IHC, 100 Pickup 2 wd | 9.3 |
| Plymouth, Plymouth Inter | 9.2 |
| Pontiac, Lemans Sport | 9.2 |
| Plymouth, Plymouth Inter | 9.1 |
| Ford, Montego | 9.1 |
| Buick, Gran Sport | 9.1 |
| Ford, Ranchero | 9.0 |
| Pontiac, Lemans | 9.0 |
| IHC, 100 Pickup 2 wd | 9.0 |
| Ford, Torino | 8.8 |
| Buick, Regal | 8.8 |
| Buick, Century 350 | 8.8 |
| Pontiac, Grand AM | 8.8 |
| Ford, F–100 | 8.7 |
| IHC, 100 Pickup 2 wd | 8.7 |
| Pontiac, Trans Am | 8.6 |
| American Motors, Truck | 8.5 |
| Plymouth, Plymouth Inter | 8.5 |
| Chevrolet, G–10 Beauville | 8.5 |
| IHC, Scout 4 wd | 8.5 |
| Pontiac, Grand Prix SJ | 8.4 |
| Pontiac, Lemans | 8.4 |
| Toyota, Land Cruiser SW | 8.3 |
| Chevrolet, Laguna | 7.6 |
| IHC, Scout 2 wd | 7.4 |
| Dodge, Dodge truck | 7.3 |
| Oldsmobile, Cutlass S | 7.3 |
| 5,000-POUND CLASS | |
| Buick, Century Wagon | 16.7 |
| Ford, Montego Wagon | 11.4 |
| Chevrolet, Impala Spt. Sed | 11.0 |
| Ford, Ford | 10.7 |
| Plymouth, Plymouth FS | 10.4 |
| Ford, Ford SW | 10.4 |
| Buick, LeSabre | 10.4 |
| Ford, Torino Wagon | 10.3 |
| Plymouth, Plymouth Inter | 10.2 |
| Ford, Ford | 10.0 |
| Buick, LeSabre | 10.0 |
| Plymouth, Plymouth FS | 9.9 |
| Ford, Montego | 9.9 |
| IHC, 100 Travelall 2 Wd | 9.8 |
| Buick, Century Lux Wag | 9.7 |
| Ford, Ford | 9.6 |
| Chevrolet, K–70 Blazer | 9.6 |
| Ford, Montego | 9.5 |
| Ford, Ford | 9.3 |
| Ford, Cougar | 9.3 |
| Pontiac, Catalina 4-dr. Sed | 9.2 |
| Chrysler, Chrysler | 9.1 |
| Ford, Montego | 9.1 |
| Ford, Ford | 9.1 |
| Buick, LeSabre | 9.0 |
| Oldsmobile, Delta 88 Royal | 9.0 |
| Chrysler, Chrysler | 8.9 |
| Plymouth, Plymouth FS | 8.9 |
| Chevrolet, C-10 Suburban | 8.8 |
| Chevrolet, Caprice CLS SP | 8.8 |
| Chrysler, Chrysler | 8.7 |
| Plymouth, Plymouth FS | 8.7 |
| Buick, LeSabre | 8.7 |
| Oldsmobile, Vista Cruiser | 8.7 |
| Plymouth, Plymouth FS | 8.6 |
| Ford, Cougar | 8.6 |
| Chevrolet, Caprice CLS Sed | 8.6 |
| Pontiac, Lemans Safari | 8.6 |
| Dodge, Dodge Sp Wag | 8.5 |
| Chrysler, Chrysler | 8.4 |
| Ford, Torino Wagon | 8.3 |
| IHC, 100 Travelall 2 Wd | 8.3 |
| Dodge, Dodge FS | 8.2 |
| Dodge, Dodge FS | 8.1 |
| Buick, LeSabre | 8.1 |
| Pontiac, Grand Ville | 8.1 |
| Dodge, Dodge FS | 7.9 |
| Pontiac, Bonneville | 7.8 |
| Buick, LeSabre | 7.6 |
| Plymouth, Plymouth FS | 7.4 |
| 5,500 POUND CLASS | |
| Cadillac, Eldorado | 10.4 |
| Chevrolet, Impala Est. Wag | 10.0 |
| Buick, Estate Wagon | 9.6 |
| Chevrolet, Caprice Wagon | 9.6 |
| Ford, Ford S.W | 9.5 |
| Buick, Estate Wagon | 9.3 |
| Chrysler, Chrysler S.W | 8.9 |
| Plymouth, Plymouth FS S.W | 8.9 |
| Cadillac, Deville | 8.9 |
| Chevrolet, Caprice Wagon | 8.8 |
| Ford, Ford S.W | 8.7 |
| Cadillac, Fleetwood 75LI | 8.7 |
| Pontiac, Stageway Coach | 8.5 |
| Pontiac, Grand Safari | 8.4 |
| Buick, Electra 225 | 8.3 |
| Oldsmobile, Toronado | 8.3 |
| Pontiac, Catalina Safari | 8.3 |
| Dodge, GE FS S.W | 8.2 |
| Cadillac, Fleetwood 75LI | 8.2 |
| Ford, Mercury | 8.1 |
| Buick, Estate Wagon | 8.1 |
| Plymouth, Plymouth FS S.W | 8.0 |
| Cadillac, Eldorado | 8.0 |
| Ford, Mercury S.W | 7.9 |
| Ford, Lincoln | 7.9 |
| IHC, 100T'all 2 wd | 7.8 |
| Buick, Electra 225 | 7.6 |
| Oldsmobile, Delta 88 Wagon | 7.6 |
| Oldsmobile, 98 Regency | 7.6 |
| IHC, 200T'all 4 wd | 7.5 |
| Chevrolet, C-20 Suburban | 7.2 |
| IHC, 100T'all 2 wd | 7.2 |
| Chevrolet, C-20 Suburban | 7.1 |
| Oldsmobile, Delta 88 Wagon | 7.0 |
| Oldsmobile, Toronado | 6.8 |

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## STATE TAXATION OF INTERSTATE COMMERCE

Mr. MATHIAS. Mr. President, yesterday the Subcommittee on State Taxation of Interstate Commerce of the Senate Finance Committee began hearings of great importance to individuals and businesses in every State of our Nation. I was privileged to testify before the subcommittee in support of S. 1245, which I introduced with Senators Ribicoff and Humphrey. Because of the significant benefit to all Americans that would result from simplifying the morass of State and local taxes now placed on interstate businesses, I would like to call the attention of the Senate to these hearings and to the testimony given before the subcommittee.

I would therefore like to ask unanimous consent that there be printed in the Record the statement made in support of S. 1245 by spokesmen for well over 100 business associations at the national, State, regional, and local levels, together with a copy of my own testimony.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Testimony of Charles McC. Mathias, Jr.

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today on a subject I believe can be described as one of the more pressing areas of "tax reform" demanding congressional attention.

I commend the subcommittee for holding these hearings and hope they will result in the enactment this year of much needed remedial legislation.

I think it is fitting that these hearings are being held by a subcommittee of the Committee on Finance, for it was this committee which initiated the legislation which became the first enactment in this important area, the so-called stop-gap legislation of 1959 (P.L. 86–272).

Since coming to the Congress in 1961 I have consistently introduced interstate tax legislation. The latest version is S. 1245, the Interstate Taxation Act of 1973. Senators Ribicoff and Humphrey have joined me as cosponsors of S. 1245.

The magnitude of the problem has increased manyfold since that initial legislation. When I served on the House Special Subcommittee on State Taxation of Interstate Commerce, we issued a four-volume report at the end of 1964. We found at that time, for example, sales and use taxes were levied by approximately 2,300 state and local units. Since that time there has been about a 250% increase. Commerce Clearing House reports that today there are more than 8,000 entities which levy sales and use taxes. And there are 46 different state corporate income tax laws, plus other laws of general applicability, such as gross receipts and capital stock taxes. The problem of determining liability with this vast number of differing taxes appear almost insurmountable particularly for the small businessman.

We do not claim that S. 1245 is the perfect solution but believe it provides a more than adequate basis for the development of legislation which would be satisfactory to both the business community and state and local governments. Your hearing schedule is crowded, so I will not attempt to describe S. 1245 in detail, for I know you will hear much about it, both pro and con, during these hearings. I would submit for the record, however, a section-by-section analysis of S. 1245 and a copy of the remarks I made at the time S. 1245 was introduced. The basic design of S. 1245 is to provide some certainty for the business community as to its liability for state and local taxes applicable to interstate business. I believe that its income tax provisions—for example, those applying to appointment of income or capital—are perhaps less controversial than the sales and use tax provisions. S. 1245 makes concessions to the views of the states in the apportionment area when compared with earlier versions of the legislation, such as that which I introduced in the 91st and 92nd Congresses.

I believe the sales and use tax provisions of S. 1245, however, would provide the most substantial relief for small business. In general, if a company, large or small, has a business location in the state, then it would be liable for collection of sales and use taxes as well as the payment of income taxes. If the business did not have a business location as defined in S. 1245, an interstate seller would be able to rely on a registration procedure as assurance that the business purchaser is liable for the payment of tax to the state in which he is located. Such a procedure would remove the liability for collection from the seller who makes only occasional sales, often with the cost of compliance exceeding the amount of tax due.

Having begun my government service at the state level, I am not unmindful of the needs of the states and localities for revenue. I think I have indicated this by my consistent support for revenue-sharing legislation. As I have said on a number of occasions we expect the states and localities to be responsible in their use of general revenue-sharing funds. But we must also expect them to act responsibly by breaking down tax barriers that impede the free flow of commerce among the 50 states. If we do not, then I fear that we face what a former Chairman of the House Judiciary Committee termed "balkanization" of the economy. Incidentally, it was this House Committee on which I served which initiated legislation which passed the House by overwhelming majorities in 1968 and 1969.

Actually, I believe that a proper registration procedure with adequate reporting to the states would in the long run increase sales and use tax revenues. With the growth of sophisticated tax collection methods, state and local governments would for the first time be able to compile a record of total sales from out of state. Therefore, they would be able to collect the maximum revenues from taxpayers from within the state rather than rely on the present selective method of collection from out-of-state sellers, principally large firms.

Major business organizations who will be appearing later in these hearings have worked with me in developing S. 1245. I know they also have been trying to reach an accommodation with the states. Of course, the most desirable course of action would be reporting legislation that is 100 per cent agreeable to all affected parties. I hope such an agreement can be reached. I think much progress has been made. If unanimity is impossible, I would urge the subcommittee to recommend legislation along the lines of S. 1245 at the earliest possible date so that the Senate can act on it in 1973.

If we delay much longer, I fear there will be an ultimate demand for Federal collection and distribution of most, if not all, state and local taxes. Existing laws have created a chaotic condition with widespread non-compliance due largely to lack of knowledge of liability, with always the possibility of a demand for years of back taxes plus penalties. Individual problems of businessmen have been described by their letters in support of this bill.

Perhaps the most succinct summary comes from a small businessman who wrote as follows:

"Even though it is our sincere intent to be a good corporate citizen, I know that we are in violation of some taxing legislation at some governmental level, but I don't know which one, where it is, or the extent of our liability. In some cases, the penalties for late filing or noncompliance are staggering.

"On the other hand, the cost of locating each taxing authority, filing, keeping up to date with the rules, regulations and rates, plus finding any new taxing authorities is even more costly."

I have a few more illustrations of the type of problems being faced on a day to day basis by those who operate in interstate commerce, but in the interest of time I will not read them but ask that they be included as part of my testimony.

". . . we have not had a sale in California since 1967 and we have not had a sale in Arkansas since 1968, yet we must still file an annual Sales Tax report with California and submit monthly reports to Arkansas; we have had no employees in Alabama since 1968, yet we must still file an Employers Quarterly Tax Withholding report; we have had no fuel purchases nor trucks in Nebraska since 1970, yet we must file a monthly report indicating zero activity."

* * * * *

". . . we are a small company employing 55 people . . . Sales are made to all types of businesses, schools, hospitals and government agencies in all 50 states through manufacturers representatives . . .

"We have no property or employees at any location other than in . . . As a practical matter we now have three people in our accounting department who probably spend as much time accumulating the information necessary for tax returns and preparing tax returns as they spend on the accounting necessary for the operation of our business . . .

"Our principal concern at this time is the State of . . . We were first contacted by the State of . . . in September of 1963. We did not apply for a sales tax permit because it appeared that there would be some Federal regulation to regulate interstate taxation . . . The Tax Commission did send an auditor in March of 1971 and I point out that this was nearly eight years after the first contact. We cooperated with the auditor and before he left he informed us that we would receive a determination of the tax due for the years prior to 1971 . . .

"The . . . tax people let the problem drag seven and one half years before the first audit. Over two years have passed between this audit and a date when we can expect a determination of tax for prior years. The prospects are that because of the delay the accumulated interest and penalty will exceed the tax . . .

"We are aware that if we receive a . . . Sales Tax Permit we will have to make regular returns—the worst part of which is that these sales will have to be reported by counties and special tax districts with special assessments for some of the tax districts. The auditor suggested that we might make use of a computer for this detailed accounting. We don't need a computer to run our business but it isn't hard to see where it would be useful for tax accounting. We are also mindful of the fact that there are 44 other states collecting sales and use taxes as well as innumerable counties, cities, and special tax districts."

* * * * *

"We are a small company, less than 50 employees . . .

"We do business in all 50 states . . .

"Most of our dealers do not buy from us daily or weekly. Many of them purchase only two, three or four times per year. According to individual State law some of these sales should be taxable, others are not. In some states a particular type of sale is taxable, in another state is not."

* * * * *

"Then there is the constant bickering with each State about income tax. Some say we owe it if we have a desk and phone in their State. Some base it on whether our sales representatives are local or out of state."

* * * * *

"In an attempt to determine what our tax status is in other states, we wrote exactly the same letter to 43 states, outlining the way we do business and inquiring if any of their state tax laws applied to us. After 60 days, we have received only 31 replies, of which only 5 gave an unqualified yes, that we were liable for collecting sales and use taxes, and 1 a probable yes. Seven gave an unqualified no, 2 a probable no, and 6 advised us to consult a private attorney, the remainder gave various indefinite answers or sent copies of their tax laws with no comments."

* * * * *

"The awareness of an unknown tax liability has plagued us for some time. We have subscribed to state tax services and tried in many ways to determine our tax liabilities accurately. However, from time to time we are confronted with a liability from some town or subdivision concerning a tax liability we knew nothing about.

"We have also discovered that the contents of local tax laws are not clear, leaving a great deal of discretion to the administrators which can change as administrators are replaced.

"We had been advised by our auditing firm and our own tax people that we were not liable for the business and occupation tax in the State of * * *. However, due to some insignificant technicality we were found liable and had to pay taxes for five years retroactive to 1966. During this investigation we also discovered that any local municipality could also tag on a piggyback tax if they so desired.

"In some areas . . . local taxation has made us raise our eyebrows and consider whether or not we wish to continue to sell in the area."

### INDUSTRY STATEMENT ON PROPOSED INTERSTATE TAX LEGISLATION

(Organizations Represented by This Statement)

#### NATIONAL ASSOCIATIONS

Committee on State Taxation of the Council of State Chambers of Commerce.

National Association of Manufacturers.

National Association of Wholesaler-Distributors.

National Small Business Association.

The Tax Council.

#### NATIONAL TRADE ASSOCIATIONS

American Footwear Industries Association.

American Machine Tool Distributors Association.

American Research Merchandising Institute.

Associated Equipment Distributors.

Association of Footwear Distributors.

Association of Institutional Distributors.

Association of Steel Distributors.

Automotive Service Industry Association.

Bearing Specialists Association.

Direct Mail Advertising Association.

Distilled Spirits Council of the U.S.

Federal Wholesale Druggists' Association.

Industrial Fasteners Institute.

Laundry and Cleaners Allied Trades Association.

Lawn and Garden Distributors Association.

Manufacturing Chemists Association.

Material Handling Equipment Distributors Association.

Millers National Federation.

National Association of Aluminum Distributors.

National Association of Container Distributors.

National Association of Glove Manufacturers, Inc.

National Association of Hosiery Manufacturers.

National Association of Photographic Manufacturers.

National Association of Sporting Goods Wholesalers.

National Association of Textile & Apparel Wholesalers.

National Association of Upholstery Fabrics Distributors.

National Builders' Hardware Association.

National Building Material Distributors Association.

National Council of Salesmen's Organizations.

National Electronic Distributors Association.

National Fastener Distributors Association.

National Frozen Food Association.

National Industrial Distributors Association.

National Locksmiths' Suppliers Association.

National Ornamental Metal Manufacturers Association.

National Paint Distributors, Inc.

National Paper Trade Association, Inc.

National Sash and Door Jobbers Association.

National School Supply & Equipment Association.

National Screw Machine Products Association.

National Swimming Pool Institute.

National Welding Supply Association.

National Wholesale Druggists' Association.

National Wholesale Furniture Association.

National Wholesale Hardware Association.

National Wholesale Jewelers' Association.

North American Wholesale Lumber Association, Inc.

Northamerican Heating & Airconditioning Wholesalers.

Paper Stationery & Tablet Manufacturers Association.

Petroleum Equipment Institute.

Pharmaceutical Wholesalers Association.

Point-of-Purchase Advertising Institute.

Power Transmission Distributors Association.

Scientific Apparatus Makers Association.

Shoe Service Institute of America.

Single Service Institute.

Society of American Florists.

Steel Plate Fabricators Association.

Steel Shipping Container Institute.

The American Association of Nurserymen.

The American Paper Institute.

Toiletry Merchandisers Association.

Toy Wholesalers Association of America.

Truck Equipment & Body Distributors Association.

Wholesale Florists & Florist Suppliers of America.

Wood Turners and Shapers Association.

Writing Instrument Manufacturers.

#### STATE ASSOCIATIONS

Alabama Chamber of Commerce.

Associated Industries of Alabama.

Associated Industries of Missouri.

California Beer Wholesalers Association, Inc.

Connecticut Business & Industry Association.

Delaware State Chamber of Commerce.

East Texas Chamber of Commerce.

Empire State Chamber of Commerce.

Florida State Chamber of Commerce.

Georgia Chamber of Commerce.

Greater South Dakota Association.

Idaho State Chamber of Commerce.

Illinois Manufacturers' Association.

Indiana State Chamber of Commerce.

Kansas Association of Commerce & Industry.

Kentucky Chamber of Commerce.

Maryland State Chamber of Commerce.

Michigan Manufacturers Association.

Michigan State Chamber of Commerce.

Minnesota Association of Commerce & Industry.

Montana Chamber of Commerce.

New Jersey Manufacturers Association.

New Jersey State Chamber of Commerce.

Ohio Chamber of Commerce.

Pennsylvania Chamber of Commerce.

Pennsylvania Manufacturers' Association.

South Texas Chamber of Commerce.

Texas Manufacturers Association.

Utah Manufacturers Association.

Virginia Manufacturers Association.

Virginia Soft Drink Association, Inc.

Virginia Wholesalers and Distributors Association, Inc.

West Texas Chamber of Commerce.

West Virginia Chamber of Commerce.

Wisconsin State Chamber of Commerce.

#### REGIONAL AND LOCAL ASSOCIATIONS

Associated Industries, Inc. (Gastonia, N.C.).

Associated Industries & Manufacturers (Sheboygan, Wisc.).

Associated Industries of Oshkosh (Wisconsin).

California Association of Employers (San Francisco).

Central Illinois Industrial Association (Peoria).

Central Piedmont Industries (Charlotte, N.C.).

Central Virginia Industries, Inc. (Lynchburg).

Greater Boston Chamber of Commerce (Massachusetts).

Industrial Association of the Mohawk Valley (New York).

Manufacturers Association of Berks County (Pennsylvania).

Manufacturers Association of Jackson (Michigan).

Manufacturing Association of Southern Connecticut, Inc. (Bridgeport).

Northeast Wisconsin Industrial Association (Manitowoc).

Piedmont Associated Industries (Greensboro, N.C.).

San Francisco Employers Council (California).

Small Business Association of New England.

Southern Industrial Distributors Association.

Southern Wholesale Hardware Association.

Southern Wholesalers Association.

The Naugatuck Valley Industrial Council, Inc. (Waterbury, Conn.).

West Branch Manufacturers Association (Montoursville, Pa.).

#### SUMMARY

1. The Report of the Special Subcommittee on State Taxation of Interstate Commerce (the Willis Committee) documented the need for Congressional action to correct: (a) "widespread noncompliance," (b) "overtaxation and undertaxation," and (c) "diversities and complexities in legal rules, the prevalence of returns in which the cost of compliance exceeds the tax. . . ." These defects found by the Willis Committee have not been refuted, but there has been no relief from their burden on interstate commerce and, in some respects, the situation has worsened in recent years.

2. S. 1245 provides remedies for the defects found by the Willis Committee by: (a) establishing a "business location" jurisdictional test for state and local imposition of net income, capital, and gross receipts taxes; (b) codifying the present case law on the liability of the seller to collect sales and use taxes, but providing some relief and protection for *small* business through a registration procedure; and (c) clearing up the present great uncertainty as to how corporate income from interstate sales is to be allocated and apportioned among the states.

3. Title II of S. 1245 establishes a "ceiling" which a state could not exceed in determining the amount of income or capital of an interstate business it can tax without placing an excessive burden on interstate commerce. As long as it does not exceed the ceiling, a state would still be free to tax such businesses as it sees fit.

4. Congressional action on state taxation of dividends and foreign source income is necessary because an undue, and very likely an unconstitutional, burden is being placed on interstate and foreign commerce. Moreover, state taxation of foreign source income improperly injects the state into foreign policy. S. 1245 would remedy this situation by making state taxation of dividends and foreign source income generally compatible with the Internal Revenue Code and by eliminating discriminatory taxation of foreign source income.

Any serious discussion of State Taxation of Interstate Commerce ought to begin with the 1964 Report of the Special Subcommittee of the House Judiciary Committee that became popularly known as the Willis Committee in recognition of the ability and dedication of its chairman. The Subcommittee and its excellent professional staff worked for four years during which time it held extensive hearings and compiled the only comprehensive and authoritatively documented survey of state taxes as they affect interstate commerce in the United States.

This was a landmark study in that it represented the first time in the history of our country that the Congress had undertaken to shoulder the responsibility to assure a proper relationship between interstate commerce and the tax systems of the states. The study, exclusive of appendices, contains well over one thousand pages and certainly is not susceptible to brief summarization. However, the basic thrust of the Report is indicated in the transmittal letter to the Hon. Emanuel Celler, Chairman, Committee on the Judiciary on May 25, 1964:

"I think it will suffice for me to say that the information contained in this report inevitably leads to the conclusion that the prevailing system of state and local income taxation creates, for companies engaged in interstate commerce, serious problems which it would be appropriate for Congress to attempt to resolve."

The Report found that the major problems are not confined to income taxes, but relate to all the taxes studied. It also found that the present system of state taxation as it affects interstate commerce works badly for both business and the states. Quoting from the Report, the major defects that pervade the present system are:

"First, it was found that the system is characterized by widespread noncompliance. This includes both a failure to file returns, especially where jurisdiction is asserted on the basis of something less than a place of business in the State, and a failure among companies which do file to comply accurately with the requirements of the prescribed system. For the States, the gap between what is prescribed and what is practiced means a loss of revenue. For business, the result is inequity among similarly situated taxpayers some of whom comply and most of whom do not. However, were noncompliance to be replaced by full compliance with all of the requirements of the prescribed system, it is likely that the inequities of haphazard taxation would be transformed into the burden of excessive compliance costs.

"A second defect of the current system is its tendency to give rise to overtaxation and undertaxation. Overtaxation is implicit in inconsistencies in the rules prescribed by the various States. These inconsistencies also give rise to undertaxation, which is augmented by noncompliance. The Subcommittee's studies confirm the fact that both of these departures from a coherent system do in fact occur.

"A third defect of the present system is the existence of provisions which are advantageous to locally based companies relative to competitors based elsewhere. While litigation might ultimately invalidate some of these provisions, the generally low level of State tax rates and the expense and uncertainty of the litigation process discourages taxpayers from seeking relief by that means.

"A fourth defect of the present system is the attitude which it has generated among taxpayers, especially small and moderate-sized companies. The diversities and complexities in legal rules, the prevalence of returns in which the cost of compliance exceeds the tax, the demand that a distant seller account for a local buyer's tax under circumstances in which taxability depends on what the buyer is to do with the goods—these and other aspects of the present system have produced widespread resistance to the assumption of taxpayer responsibility."

The existence of these defects was not challenged when the Report was issued and has not been refuted in the interim; but there has been no relief from their impact. What has happened is exactly what the Willis Committee predicted:

"There is every reason to believe that, without congressional action, the worst features of the present system will continue to multiply. For the company selling in interstate commerce the likelihood that it will be caught up in the troubles of the system becomes greater with increased exposure through the passage of time and the widening of its spread of activities."

On pages 11 through 14 of the Report the Subcommittee established that the courts cannot remedy the defects in the system. This inability is explained as follows:

"The reason for this inadequacy is completely unrelated to the ability or diligence of a particular court or of any particular judge. The inadequacy is entirely institutional."

The problem arises from the fact that a court deals in absolutes, and in this area an absolute decision in either direction is not likely to be satisfactory.

The inadequacy of the judicial process to deal with the problems of multistate taxation has long been recognized by members of the Supreme Court with widely different philosophies: Justices Jackson,[1] Rutledge,[2] Black,[3] Frankfurter,[4] Douglas,[5] and Clark.[6] Justice Frankfurter put it this way in his dissenting opinion in the *Northwestern States Portland Cement Co.* v. *Minnesota*: [7]

"At best this Court can only act negatively; it can determine whether a specific state tax is imposed in violation of the Commerce Clause. Such decisions must necessarily depend on the application of rough and ready legal concepts. We cannot make a detailed inquiry into the incidence of diverse economic burdens in order to determine the extent to which such burdens conflict with the necessities of national economic life.

* * * * *

"The problem calls for solution by devising a congressional policy. . . The solution to these problems ought not to rest on the self-serving determination of the States of what they are entitled to out of the Nation's resources."

It is obvious why the Subcommittee recommended Federal legislation in 1965. Its bill, H.R. 11789, provoked cries of anguish from all sides.

A spotlight had been focused on the parochial viewpoints and haphazard enforcement practices of the states and for the first time the matter was being moved out of the sphere of an academic exercise toward remedial action. The tax collectors were joined by certain taxpayers who felt that the proposed legislation injected the Federal Government into state taxation to an unnecessary degree. The Subcommittee was most receptive of constructive criticism and modified its legislative recommendation to remove most of the direct federal involvement. Nevertheless, many thought the states should be given a chance to reform the system so that federal legislation would be unnecessary and the states have had such an opportunity for the last eight years. The record is one of all the frustration, futility, and aggravation of the problems that the Willis Subcommittee foresaw.

This is not intended to be a criticism of the states. The inability of the states to cope cooperatively with the problems of commerce between themselves was apparent 200 years ago and resulted in the Commerce Clause in the Constitution, which places the responsibility for regulation of interstate commerce on Congress. There have been some state efforts toward reform—but, in all honesty, their vigor has been in direct proportion to the threat of federal action.

At first, the concept of a Multistate Tax Compact seemed to offer a promising vehicle. However, it soon became clear, even to some of its leaders, that effective action was impossible without federal legislation. More than half the states are not members of the Compact. The most significant action the Multistate Tax Commission has taken, from the point of view of taxpayers, is the adoption of regulations implementing the Uniform Division of Income for Tax Purposes Act. This renders 99% ineffective the provisions of the Act relative to allocation of income from investments, thereby destroying the considerable degree of uniformity that had previously existed as to the taxation of this type of income. In adopting these regulations, the Multistate Tax Commission rejected regulations recommended by its own Rules and Regulations Committee, regulations adopted by the National Association of Tax Administrators, and comprehensive and well-documented testimony by the business community that the intent of the drafters of the Uniform Act and the plain words of the pertinent provisions precluded the adoption of such regulations. After almost eight years of frustration and ineffectiveness, even the most die-hard "states-righter" must concede that the Willis Subcommittee displayed remarkable foresight when it predicted:

"Without congressional action, the worst features in the present system will continue to multiply."

There has been practically no disposition on the part of the states to relieve the plight of the small businessman that was so frankly and fully exposed in 1964. Taxpayer attitudes have not improved; taxpayer morale has been ignored; the free flow of commerce has been hampered by needless interference, particularly in the case of businesses which are too small to afford the burden of excessive tax compliance costs. The inequities in this unhappy situation have been magnified by the dramatic rise in state and local tax collections from $44 billion in 1962 to an estimated $111 billion. In 1972,[8] and the equally dramatic increase in compliance costs due to the proliferation of local taxation of interstate business.

There are two approaches to solution of this problem—the theoretical approach and the practical approach. It is hoped that the emphasis will be on the practical, but—above all else—we hope that, in the technical discussions that will take place during this hearing, the basic long-range objectives will not be lost sight of and that Congress can speedily reach, in the words of the Willis Committee, "a general solution which substitutes order and realism for chaos and impracticality."

We believe that S. 1245, introduced by Senators Mathias and Ribicoff, provides a practical approach toward the solution of the many problems existing in this area.

### I—JURISDICTION TO TAX

The Willis Committee found that efforts to impose state taxes and tax obligations on persons with no business location in the state create a situation where filing returns is rare and the state is incapable of systematic enforcement on an equitable basis. This situation is extremely undesirable for both taxpayers and tax administrators. Title I of S. 1245 provides the following remedy.

#### A. *Net income, capital stock and gross receipts taxes*

A "business location" in the state is the jurisdictional standard for net income, capital stock, and gross receipts taxes. A taxpayer has a business location in a state if he:

(1) owns or leases real property within the state; or

(2) has one or more employees located in the state; or

(3) regularly maintains a stock of tangible personal property in the state for sale in the ordinary course of his business; or

(4) regularly leases tangible personal property to others for use in the state.

An employee is not considered to be in a state if his only activities in the state are either solicitation covered by P.L. 86-272, or installation and repair activities which are incidental to an interstate sale of tangible personal property.

#### B. *Sales and use taxes*

S. 1245 also provides for two jurisdictional standards for sales and use taxes—one for nonbusiness customers, another for business customers. The standard for nonbusiness customers codifies the *Scripto* and *National Bellas Hess, Inc.* decisions, while overruling the *Miller Bros.* decision.[9] A person making interstate sales to nonbusiness customers may be required to collect and remit a sales or use tax if:

(1) he has a business location in the state; or

(2) regularly makes household deliveries

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Footnotes at end of article.

in the state other than by common carrier or U.S. Postal Service; or

(3) regularly engages in the solicitation of orders in the state for sale of tangible personal property by means of salesmen, solicitors, or representatives.

As for business customers, a seller without a business location within the state cannot be required to collect a sales or use tax when such seller obtains the buyer's registration number in writing. Every person with a business location within a state and purchasing goods in interstate commerce must obtain a registration number from that state.

One of the major problems in the interstate taxation matter has been the need to arrive at some reasonable federal jurisdictional standards with respect to the collection of state and local sales and use taxes on interstate sales. This concern dates back to the United States Supreme Court decision in the *Scripto* case, which required an out-of-state business to collect and remit use tax on sales within a state even though the business maintained no facilities in the state and handled all of its sales through independent contractors.

The establishment of a minimum jurisdictional rule for the collection of state sales and use taxes has been of particular concern to small and-medium-sized businesses. These businesses have been particularly anxious to eliminate the uncertainty about the liability for collecting these taxes—liability which in many cases is a small fraction of the compliance cost. The need for a reasonable jurisdictional standard was well documented during the hearings held about 10 years ago. Because of the proliferation of local sales and use taxes there is a substantial interest in the business community as a whole in establishing some reasonable minimum jurisdictional rules.

Prior to 1972, most of the business-supported bills restricted the power of the states to require an out-of-state seller to collect sales and use tax to instances in which the seller had a "business location" in the state or regularly made household deliveries, whereas the bills supported by state tax administrators, such as the Cranston-Talcott Bills, would codify the major U.S. Supreme Court decisions. In an effort to solve this impasse, the National Association of Manufacturers, the Committee on State Taxation (COST) of the Council of State Chambers of Commerce, and the National Association of Wholesaler-Distributors got together during 1972 and agreed to accept the states' approach with respect to sales and use jurisdictional standards provided it was coupled with some registration procedure. The registration procedure was advanced not as the only possible solution to the problem, but rather as one way to avoid the impasse. In fact, it is understood that some state tax administrators are working on an alternative solution to the problem.

As incorporated in Sec. 304 the registration procedure would provide that a seller without a business location in the state is not required to collect or pay a sales or use tax if the seller obtains the buyer's registration number in writing. The central thought of this approach is that the state would look to its home-based businesses for the tax rather than to an out-of-state vendor which has no business location in the state. In fact, in most cases the tax already is technically imposed on the in-state buyer. There are many who believe that the adoption of such an approach could result in the states obtaining revenue from some in-state buyers that they currently are not getting.

Some state tax administrators have argued that the registration procedure would result in the states having to register many business buyers not currently registered. But if this is the case, such a procedure could have the desirable effect of identifying on the tax rolls of the state buyers who would then be required to self-assess tax.

There has been some misunderstanding about the registration procedure which should be cleared up. It should be understood that this procedure would only apply to sellers that do not have a business location in the state. Also, the proposal does not mean that the states would have to look to most purchasers for the tax because in most cases the vendor who is selling to the purchaser does have a business location in the state and thus would be required to collect the tax. Let us say again that it is simply one attempt to help the small businesman compete in interstate commerce. We certainly would be receptive to consideration of an alternative means as long as it provided some effective relief.

Most of the other sales and use tax provisions included in S. 1245 are much less controversial and generally consistent with similar provisions included in other legislative proposals. Specifically, subsection 301(a) provides that a state or political subdivision may impose a sales or use tax only if the destination of the sales in that state or in a contiguous state or political subdivision of a contiguous state for which there is a reciprocal collection agreement. Subsection 301(b) provides for a use tax credit for tax previously paid to another state or locality on the same property and subsection 301(c) provides for a refund of use tax paid to another state on the same property. Subsection 301(d) imposes a limit on the credit for prior sales or use taxes paid which are measured by periodic payments made under a lease. Vehicles and motor fuels are exempted from the provisions of section 301 by subsection 301(e).

Section 302 precludes a state or political subdivision from levying a sales of use tax on household goods and motor vehicles brought into a state by a person establishing residence there if the goods were acquired and used by the person for 90 days or more before bringing the property into that state.

Section 303 would exclude from the tax base transportation charges incidental to an interstate sale provided such charges are separately stated in writing. The purpose of this section is to ease the compliance burden by establishing a uniform treatment for all states.

The purpose of Section 305 is to relieve a seller from liability for sales or use tax if the seller obtains a valid exemption certificate from the purchaser. Such certificate would have to include the name and address of the purchaser, his registration number if any, and the signature of the purchaser. The purpose of this section is to eliminate the many disputes which arise when a seller has obtained what he considers to be a valid exemption certificate but a state will not accept it because the state contends the seller did not use "good faith" in accepting the certificate.

The purpose of Section 306 is to deal with the current morass of local sales and use taxes. This section limits the requirements for collection or classification of interstate sales for political subdivisions to those instances in which the seller has a business location in or regularly makes deliveries other than by common carrier or U.S. Postal Service to the political subdivision. However, if the local tax is imposed in all geographic areas of a state upon like transactions at the same combined state and local rate, administered by the state, and applied uniformly so that a seller would not be required to classify interstate sales by geographic areas in the state, the tax shall be treated as a state tax and the jurisdictional standards for state tax purposes will apply. In order to give the states and localities adequate time to adjust to the limitations for collecting local sales and use taxes, subsection 531(b) provides that the effective date of these provisions will be for periods beginning on or after July 1, 1978.

### II—ALLOCATION AND APPORTIONMENT FOR PURPOSES OF DETERMINING MAXIMUM PERCENTAGE OF INCOME OR CAPITAL ATTRIBUTABLE TO A TAXING JURISDICTION

#### *A. General comments*

S. 1245 and H.R. 977 contain provisions which limit the percentage of income or capital of a multistate business enterprise that may be attributed to a taxing jurisdiction. S. 2092 contains similar provisions with respect to income only. What is the function of federal legislation limiting the amount of income or capital which a state or other taxing jurisdiction may subject to tax? A matter of jurisdiction as well as burden on interstate commerce is involved. It has been stated that:

"The due process clause of the Fourteenth Amendment both prevents a state from enforcing a tax in its courts against a person outside their jurisdiction and prohibits the taxation of persons or things whose relationship to the state is thought insufficient to sustain the particular exaction." [10]

It has been mistakenly assumed that the only issue involved with respect to those provisions in federal bills which prescribe allocation and apportionment methods is one of uniformity. It goes without saying that a limitation of the nature contained in the bills under discussion will protect interstate business against overtaxation and will have some effect on making state income and capital stock tax laws uniform. Nevertheless, the provisions are in the form of a limitation on the power to tax and do not prevent other methods of allocation and apportionment as long as the limit is not exceeded.

Although uniformity is important as a protection against overtaxation, it is even more important that multistate taxpayers be fairly treated and, at the very least, that they have all of the protections afforded by the due process requirement of the Fourteenth Amendment. Indeed, any provisions concerning allocation and apportionment must adhere to concepts of due process for it is without the power of the Congress to encroach on the protections afforded by the Fourteenth Amendment. It is equally important that the allocation and apportionment provisions do not go beyond the power of the Congress to restrict the power of the states to tax under the guise of regulating interstate commerce. If the states are taxing local incidents, even though engaged in by a multistate business enterprise, it is doubtful that the Congress can restrict such taxation. If a federal bill attempts to restrict a state in the amount of income it may subject to tax in favor of another state and the restriction on the first state fails on constitutional grounds, multistate business will be taxed on a part of its income in more than one state. This possibility is discussed in more detail in that part of the statement dealing with the treatment of dividend income.

Limiting the amount of income or capital which a taxing jurisdiction may subject to tax will protect the multistate taxpayer against overtaxation and duplicative taxation, will clarify the limits of due process with respect to taxation of income derived from sources outside the taxing jurisdiction or of extraterritorial values, will lessen the possibility of discriminatory treatment of out-of-state taxpayers, will provide a measure of certainty (particularly with respect to maximum tax liability) and will materially reduce the burden of litigation to resolve doubtful applications of state tax laws which otherwise would exceed the boundaries of due process or result in overtaxation.

Certain guidelines should be followed in drafting allocation and apportionment provisions. Such provisions should lend them-

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selves to ease of enforcement and compliance so that the least amount of interpretive effort is required. They should be neutral in their effect on different types of business enterprises and should not discriminate between corporate taxpayers. They should distribute fairly the tax burden of the state (or other taxing jurisdiction) among the corporate taxpayers having a presence, conducting activities or owning property within the borders of the state (or other taxing jurisdictions). Manipulation and avoidance schemes by taxpayers should be made as difficult as possible and, hopefully, impossible. Whatever method is adopted should be the least disruptive of existing state tax laws and practices.

B. *The need for limits on amounts of income or capital attributable to a taxing jurisdiction*

Federal legislation must include provisions limiting the maximum amount of income or capital attributable to the taxing jurisdiction. The present systems of allocation and apportionment in state taxation result in uncertainty, overtaxation and duplicative taxation, excessive compliance burdens, and an inefficient allocation of economic resources by reason of inefficient and unsound business practices that are required in order to avoid excessive taxes.

1. Uncertainty

A great deal of uncertainty exists today because the states cannot agree on a common interpretation of the Uniform Division of Income for Tax Purposes Act. The Uniform Act was drafted by the Commissioners on Uniform State Laws in 1957 upon consultation with representatives from the states and the business community. It was intended to reflect what had come to be generally accepted practices among the states with respect to allocation and apportionment of income for tax purposes.[11] Accordingly, sections 4 through 8 provide for specific allocation of rents, capital gains, interest, dividends and royalties to the extent that they constitute "non-business income." "Non-business income" is defined as all income other than "business income" and the definition of "business income" is an extraction from California decisional law.[12] It is quite clear from the material which bears on the intent of the Commissioners and those who participated in the drafting of the Act that the enumerated types of income would generally be assigned under the provisions of sections 4 through 8 but that in the less usual situations where such types of income could not be readily segregated from the "business income" of the taxpayer and more logically should be included with the "business income," they would be apportioned by formula.[13]

The Uniform Act, or its equivalent, is in effect in a majority of states including 20 of the 21 member states of the Multistate Tax Compact.[14] The Compact emerged in 1967 as a product of the Council of State Governments and the National Association of Tax Administrators. It was intended to bring uniformity and certainty to systems of allocation and apportionment in state income tax laws. The same motive prompted the adoption of the Uniform Act by the states. The impetus for the movement among the states toward uniformity and certainty was the Report of the Special Subcommittee on State Taxation of Interstate Commerce of the House Judiciary Committee (the Willis Committee) in 1964.[15]

The Report described the various attempts to achieve uniformity and noted their failure:

"The conclusion is inescapable that the voluntary adoption by the States of any kind of uniform system is a slow and halting process, if not a virtual impossibility. Efforts over many years have failed to achieve any marked degree of acceptance of uniformity of tax base or division-of-income rules. The result has been that highly regarded State tax administrators have themselves concluded that if uniformity is to be achieved, it can be done only by Federal action."[16]

It is an unfortunate fact that the enactment of the Uniform Act and the adoption of the Multistate Tax Compact by a significant number of states have not brought about uniformity and certainty with respect to the allocation and apportionment of income. Of particular importance to multistate business is the distinction between income to be specifically allocated ("non-business income") and income to be apportioned by formula ("business income"). There has been no consistency among the states or state associations or commissions in the application of the distinction between "non-business income" and "business income" as the following instances will show.

Although the Multistate Tax Compact came into being in 1967 and a Multistate Tax Commission was created and given authority to adopt uniform regulations, the Commission had not proposed uniform regulations as of April 1970 when the State of Illinois published proposed regulations under its Income Tax Act. The Illinois Act included the allocation and apportionment provisions of the Uniform Act. Those proposed regulations construed the definition of "business income" to include virtually all income. Only in rare instances would income of the types to be specifically allocated under the Uniform Act not be apportioned by formula. The regulations did not take into account the legislative history of the Uniform Act.[17] Instead, the authors of the regulations were unaware of that legislative history.

At about the time the State of Illinois was drafting regulations, the National Association of Tax Administrators (NATA) was engaged in the same task. At its annual meeting in Detroit in June of 1970, it released proposed regulations under the Uniform Act for consideration by the states. These proposed regulations differed significantly from the Illinois regulations but heavily favored apportionment of income in distinction to specific allocation under sections 4 through 8 of the Uniform Act. These regulations were eventually adopted by California, Oregon and Kentucky. Meanwhile, Illinois adopted its proposed regulations without substantial change.

In December 1971, the State of Indiana adopted regulations which followed rather closely the intent of the drafters of the Uniform Act. These regulations differ significantly from the Illinois regulations and those proposed by NATA with respect to the distinction between "non-business income" and "business income."

The Multistate Tax Commission established a Rules and Regulations Committee which worked closely with the NATA Regulations Committee. The Committee submitted regulations identical to those proposed by NATA to representatives of the member states for adoption. Hearings were held and the Hearing Officer recommended drastically different regulations with respect to the definition of "non-business income" and "business income." Again, the legislative history of the Uniform Act was ignored and reliance was placed on concepts in the Internal Revenue Code having to do with deductions and having nothing to do with allocation and apportionment of net income. At its meeting in September of 1971 (four years after the Compact had been in effect), the member states adopted uniform regulations which followed the recommendations of the Hearing Officer. The turmoil which this created is evident from the report of the Multistate Tax Commission describing the impact of the action taken by the member states.

"The vote appeared to constitute a stunning victory for the philosophy that all of a corporation's taxable income is "business income" and should, therefore, be apportioned. The new regulations shift to the taxpayer corporation the burden of establishing why, under the Uniform Division of Income for Tax Purposes Act (UDITPA), any of its income should be considered to be "non-business income" and, therefore, allocable to the state of the corporation's commercial domicile. The Multistate Tax Compact includes UDITPA in its entirety.

"In contrast to the regulations which were approved by the Commission, the proposal of the Rules and Regulations Committee accepted the position that, under UDITPA, certain of a corporation's income is "business income" and certain of it is "non-business income;" that the former is apportionable and the latter is allocable. In taking this position, the Committee believed that it was reflecting the interpretation of UDITPA which can generally be expected from the courts. The Hearing Officer disagreed with them on this score and the Commission supported him. Of course, the possibility exists that some courts will object that the regulations do not interpret the statute correctly."[18]

In a letter dated September 24, 1971 to the members of the Ad Hoc Committee drafting federal legislation, Eugene Corrigan, Executive Director of the Multistate Tax Commission, noted the adoption of the "full apportionment" concept in the Commission's regulations. He stated:

"While none of you apparently like to see full apportionment of all corporate taxable income, many of you on the business as well as the state side are concerned about the problems which may arise legally in making the change." (emphasis added)

The States of Alaska, North Dakota and, perhaps, Idaho adopted the Multistate Tax Commission regulations. At this point in time, multistate business was faced with four different applications of the definition of "non-business income" and "business income" in the Uniform Act, but that is not the end of the story.

In February 1973, the Multistate Tax Commission revised its regulations. Although the revised regulations are closer to the NATA regulations than those originally adopted, there are still significant differences. California has adopted the revised Multistate Tax Commission regulations with one notable exception involving dividend income. North Dakota and several other states have initiated steps to adopt the revised Multistate Tax Commission regulations. It is impossible to tell how many of the states will adopt the revised Multistate Tax Commission regulations or when they may do so.

Thus, in the period of time since the Willis Committee completed its comprehensive study there has been increased confusion, diversity and uncertainty. Concepts of allocation and apportionment are extremely important to the multistate business enterprise and the failure of the states to adhere to traditional concepts founded on constitutional principles and grounded on the determination of source of income has placed a heavy burden on interstate commerce. It is impossible, in many instances, to advise a multistate business on the proper way to allocate or apportion income for state tax purposes with any degree of assurance that the state will accept the method used in the tax return. The inclusion in a federal bill of allocation and apportionment provisions which operate as a limit on the amount of income which can be attributed to a taxing jurisdiction will reduce the uncertainty presently existing to manageable proportions.

2. Overtaxation and duplicative taxation

Overtaxation (or undertaxation) is implicit in the different methods of allocation and apportionment adopted by the states.

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The multistate business finds itself caught between different basic approaches to allocation and apportionment. For example, a number of states have established their right to tax all dividend income received by corporate taxpayers having a domicile within the state.[19] Under the MTC regulations, this same dividend income would be subject to formula apportionment and to tax in all states in which the recipient corporation is doing business.

There are not only differences between the states with respect to what is "non-business income" and "business income" under the Uniform Act but also in the application of the Act to related corporations. In *Chase Brass & Copper Company, Inc.* v. *Franchise Tax Board,* 10 Cal. App. 3d, 496 (1st Dist.), *cert. denied,* 400 U.S. 961 (1970), the California Supreme Court upheld the imposition of a combined report for the purpose of ascertaining the income tax liability of Chase Brass (a subsidiary of Kennecott Copper Corporation) which included the business income and apportionment factors of Kennecott and certain of its subsidiaries, while the Utah Supreme Court upheld a refusal to permit a similar report in Utah by Kennecott and permitted the State Tax Commission to use a separate accounting approach that treated one division of Kennecott as the taxpayer for Utah income tax purposes. *Kennecott Copper Corporation* v. *State Tax Commission,* 27 Utah 2d 119, *cert. denied,* 93 S. Ct. 323 (1972). The Supreme Court of the United States refused to intercede in spite of a representation in the Jurisdictional Statement of Kennecott to the effect that it was being taxed on more than 100% of its net income. Its refusal, no doubt, was due to the fact that the Court considered each method reasonable under the circumstances of the situation in each state, although the methods were not compatible with each other. As stated by Justice Frankfurter in his dissent in *Northwestern States Portland Cement Company* v. *Minnesota,* 358 U.S. 450, 476 (1959), "The problem calls for solution by devising a Congressional policy."

The Supreme Court also refused to review *Commonwealth* v. *Emhart Corporation,* 443 Pa. 397, 278 A.2d 916 (1971), *cert. denied,* 92 S. Ct. 451 (1971) although the Jurisdictional Statement alleged that the gain on the sale of securities which Pennsylvania included in the apportionable base of the Connecticut-domiciled taxpayer had been taxed in full by Connecticut on the theory that it did not represent business income.

In addition to the diversity that exists with respect to the interpretation and application of the Uniform Act, there is still considerable diversity in state income tax laws. As we have noted a number of states adopted the Uniform Act following the congressional study of state taxation of interstate commerce. More recently, there has been a trend away from the adoption of the Uniform Act in state income tax laws. Florida enacted a corporate net income tax law which adopts the full apportionment concept and contains a sales factor, which is weighted more heavily than the other factors of the formula. Ohio's recent corporate income tax law recognizes the federal dividend received deduction but apportions some dividend income. Wisconsin has just revised the sales factor of its corporation income tax law to provide for a method of assigning sales (other than of tangible personal property) contrary to the method prescribed by the Uniform Act and giving more weight to the sales factor than the other factors of the formula. Income tax laws have been approved by legislatures in New Hampshire and Washington which do not contain the distinction between "non-business income" and "business income" found in the Uniform Act. The Washington Act will not become effective unless the voters approve a constitutional amendment to authorize an income tax at the November 1973 elections.

There has been no attempt at uniformity in the apportionment of capital values for capital stock tax purposes similar to that with respect to income for state income tax purposes. As might be expected, there is considerable diversity in the formulas prescribed by state capital stock tax laws. As a result, there is the same potential for overtaxation and undertaxation inherent in this situation as there is with respect to state income taxation. The fact that many state capital stock tax laws contain a relatively low maximum tax or tax rate and that a number of states do not have such taxes probably accounts for the lack of attention heretofore paid the apportionment provisions in such laws. Also, the privileged nature of capital stock taxes has given them a different history in the development of the law. A Federal bill which contains a prescribed method of apportioning capital values beyond which a taxing jurisdiction may not go will relieve interstate commerce of the specter of overtaxation and will result in greater uniformity. It may be noted here that the multicorporate business enterprise is also faced with duplicative taxation if investments in and advancements to subsidiary or affiliated corporations are included in the capital stock tax base.

### 3. Unsound Business Practices

The attempt by some states to tax an apportioned part of dividends received by an out-of-state corporate taxpayer from a subsidiary corporation will have a profound effect on the way in which a multicorporate business enterprise is structured. Such a business will find it extremely beneficial to conduct its business in those states by means of separate subsidiaries which will have no dividend income to be taxed. It will give rise to the creation of pure holding companies in states that do not tax dividends for the limited purpose of receiving dividends from subsidiaries and investments. Multicorporate businesses may have to resort to filing consolidated returns as the only viable way to avoid an exorbitant tax burden thereby "impelling an unwarranted increase in the filing of consolidated returns" with all of the difficulties and inequities that such returns create.[20] On the other hand, if a multicorporate business cannot arrange its business affairs in order to reduce the duplicate effect of dividend taxation, it will find itself subject to a heavy and discriminatory tax burden. The present state of affairs lends itself to inefficient allocation of resources.

It is perfectly natural for a state to adopt a tax system that minimizes the impact on its citizens and, in effect, exports its tax burden. The incidence of taxation of dividend income or foreign source income of a multistate or multinational business will be distributed far beyond the borders of the state imposing the tax and will affect residents very little. The resulting shift in the state's tax burden may be desirable from the state's point of view but it is not in the national interest as evidenced by the manner in which those items of income are treated under the Internal Revenue Code. In order to minimize the deleterious effect of state taxation of intercorporate dividends, whether from domestic or foreign sources, this income should not be taxed at all but if taxed should be allocated to the state of the receipient's domicile.

### 4. Compliance Costs

State income and capital stock taxes are providing an increasingly large share of tax revenues, with an increasing number of states imposing such taxes. The magnitude of these taxes indicates the high cost to taxpayers and the burden on interstate commerce caused by diverse interpretations of tax laws, inconsistency in administration, and overzealous enforcement of inequitable tax laws. An example is the enforcement of "throwback" provisions contained in the sales factor of some income tax laws which present serious compliance and enforcement problems. The amounts involved in litigation before the courts today and in the assessments outstanding against multistate businesses bear mute testimony to the seriousness of this situation.

It is not possible to determine precisely the costs associated with the problems described above or to measure the economic impact those costs might have upon interstate commerce. Indeed, we may not be able to do so until it is too late and a proliferation and aggravation of the problems discussed above together with increasingly sharp foreign competition create a crisis for United States businesses. Few municipalities or other units of local government impose income taxes or capital stock taxes today. There is no reason why they might not do so in the future and all of the problems described above will be aggravated many times if that should come to pass. In the final analysis. the key question is whether the Congress is willing to permit the present condition in which interstate commerce must operate—a situation which is both chaotic and unpredictable—to continue; or whether the Congress will take this opportunity to create an orderly system of state taxation of interstate commerce.

### *G. How should limits on the amount of income or capital attributable to a taxing jurisdiction be determined?*

The attributes which well-drafted allocation and apportionment provisions should have are set forth in the General Comments at the beginning of this section. Allocation and apportionment provisions afford the multi-state taxpayer the protection of due process and comport with generally accepted concepts of fairness and equity. Due process is satisfied if there is a discernible connection between the income or capital attributed to a taxing jurisdiction and the presence, activities or property of the taxpayer within the boundaries of the taxing jurisdiction. If the method of attributing income or capital does not fulfill this requirement, there is taxation of extraterritorial values or events. While the measure of a tax is subject to less scrutiny when a franchise fee is involved, the policy consequences pertinent to franchise taxes are irrelevant to the proper limitations under a federal bill governing all state income and capital stock taxes. If extraterritorial values or unrelated income are attributed to a taxing jurisdiction, the taxpayer is being subjected to taxation without representation with all of the consequent harm resulting from such a situation.

It has been generally accepted that the income and capital values of a corporation may be attributed to a taxing jurisdiction by means of a formula. This is admittedly a rough measure of the income or capital values having a source or location in the taxing jurisdiction. In the absence of federal legislation, many different apportionment schemes have been permitted by the Courts. Nevertheless, the outer limits of permissible attribution have been set by the Courts. A profit which is the end result of a series of interrelated activities, such as purchase of raw materials, manufacturing and sale to wholesalers, is appropriately attributed to a taxing jurisdiction by means of a formula whose factors reflect the income-producing elements of the profit realized. Income from investment activities presents a more difficult problem of attribution. Courts have taken different approaches to the attribution of rents, royalties, interest and dividends. This subject will be explored further in the discussion of the treatment of dividend income.

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As a general proposition, attribution by means of formulary apportionment should comply with two fundamental principles: (1) there should be a relationship between the income or capital being apportioned and the factors of the apportionment formula; and (2) the factors of the apportionment formula should represent the activities or property of the taxpayer in the taxing jurisdiction. If the concept of source of income is adopted, due process is afforded the taxpayer and the criteria of appropriate attribution by formula will be met. To the extent that source of income is not recognized, there will be a departure from the principles outlined above and, if severe enough, a violation of due process.

The allocation and apportionment provisions of Title II of S. 1245 satisfy the criteria for appropriate limits on the amount of income or capital attributable to a taxing jurisdiction. The formula prescribed is one in common usage today in state income tax laws. Its application to capital stock taxes may be somewhat more controversial. A serious problem is avoided in this regard if there is little likelihood that there will be any significant amount of intangibles in the capital stock tax base. For this reason, S. 1245 includes investments in and advancements to subsidiary and affiliated corporations—the major item of intangibles in many corporate taxpayers' balance sheets.

S. 1245 describes an optional three-factor formula to be applied to a corporation's apportionable income, or to its entire capital (reduced by investments in and advancements to subsidiaries and affiliated corporations) as determined under state law for the valuation date at or after the close of the taxable year. In the case of a tax measured by income, the limit on the amount of income attributable to a taxing jurisdiction includes the amount of income apportioned to it by the formula and, in addition, income allocable to it. Apportionable income does not include foreign source income and divided income (dividend income will be treated as apportionable income if the taxpayer's principal business activity is dealing in securities). Dividend income, other than that which constitutes foreign source income, received from corporations in which the taxpayer owns less than 50% of the voting stock is considered allowable income and will be allocated to the state of commercial domicile of the taxpayer receiving such income.

The property factor is limited to the average value of the corporation's real and tangible personal property owned and used, or rented and used, during the taxable year and located in the United States. Owned property is valued at its original cost. Rented property is valued at eight times the net rents payable during the taxable year. Property leased to others is excluded. Inventory is included. The location of movable property is determined in accordance with rules set out in section 514 of the Act. These rules are identical to those suggested by the Special Subcommittee on State Taxation of Interstate Commerce of the Committee on the Judiciary in House Report No. 952, 89 Cong., 1st Session.

The payroll factor includes wages as defined for purposes of the Federal Unemployment Tax Act paid to employees located in the United States. The location of an employee for purposes of computing the amount of wages paid in a state is determined under the provisions of section 515 of the Act. Those provisions were adopted from the Model Unemployment Compensation Act which has been enacted in all the states so that a taxpayer will have readily available data to compute its payroll factor in any state.

The sales factor includes receipts from all sales and from the rental of tangible personal property. Sales of tangible personal property are assigned on a destination basis. Sales, other than sales of tangible personal property are assigned by reference to the income-producing activity. Rental receipts are assigned to the state in which the property is located. Only sales within the United States are included.

If the denominator of any factor is zero, that factor is disregarded in computing the apportionment fraction. If the denominators of all factors are zero, then all income is assigned to the state where the corporation has its business location.

Section 207(b) provides for adjustment of the apportionment factors to include property, payroll and sales attributable to sales of tangible personal property having an ultimate destination outside the United States if income from such sales is included in the apportionable base.

The most controversial aspects of the allocation and apportionment provisions of S. 1245 are those concerning the allocation of certain dividend income and the definition of the sales factor. This discussion will be limited to those two aspects of the bill with a few comments on the problem of rigidity that is inhernt in the prescription of a formula to be applied to many different kinds of business.

In S. 1245, that dividend income which is subject to state income taxation (dividends other than certain dividends constituting income from sources outside the United States and dividends from domestic corporations in which the taxpayer owns less than 50 percent of the voting stock) are specifically assigned to the state of commercial domicile.

There are several reasons why this method of assigning dividends appears to be appropriate. First, such income can be readily accounted for separately. Second, the activities which produce such dividend income normally take place at the taxpayer's headquarters, i.e., in the state of taxpayer's commercial domicile. Third, such dividend income typically has little or no economic connection with the states in which the business assets and activities of the taxpayer are located. More specifically, such income is not related to the three factors of the prescribed apportionment formula because such income is not the product of the tangible property used in the production or sale of the taxpayer's goods or services; very little, if any, of the taxpayer's payroll is associated with it; and there is seldom any relation to the state of destination of the goods or services generated by the taxpayer's direct business operations. Dividend income traditionally has been specifically allocated on a situs basis by state income tax laws, and it has been recognized by the courts that the state of commercial domicile has a strong claim to the taxation of dividend income.[21]

Although the Congress has full and complete power to regulate interstate commerce and this power has been broadly interpreted in other areas, such as labor relations,[22] different considerations are present when the taxing power of the state is involved. If taxation of dividend income received by one corporation from another is not of itself an impediment to interstate commerce, it is difficult to understand upon what basis of national interest a state in which a corporate taxpayer maintains its commercial domicile may be forbidden to tax all of the dividend income received by that corporation. Indeed, the state of commercial domicile in which the investments giving rise to the dividend income are managed and controlled is best able to support its taxation of such income on a valid economic foundation and in accord with the basic justifications for governmental taxing power. Congress should not attempt to restrict this taxing power of the state of commercial domicile except for strong and convincing reasons. It is submitted that no such reasons exist.

Assignment of all such income to the state of commercial domicile by the proposed federal statute will avoid Constitutional problems raised by the attempts of other states to tax portions of the same income or by the denial of the right of the state of commercial domicile to tax all of such income. Since attribution to the state of commercial domicile has been the general practice among the states until very recently, such treatment of dividend income by S. 1245 would not seriously affect state income tax revenues.[21]

The definition of the sales factor in S. 1245 includes the total sales of the taxpayer within the United States during the taxable year. Sales include receipts from the rental of tangible personal property. There is no question but what a sales factor should include receipts from all sales made in the ordinary course of business. Also, it is logical to include rental receipts. There does not appear, however, to be any basis for distinguishing between receipts from the rental of tangible personal property and from the rental of real property.

A more difficult problem is presented with respect to receipts from the investment of intangible property. In one sense, interest is the rent one receives for the use of his money and should be treated no differently than receipts from the rental of tangible personal and real property. Receipts from sales of intangibles should be included if tangibles are regularly sold by the taxpayer. Royalties and dividends, to the extent included in the apportionable base, should be included in the receipts factor. The problem is locating receipts from intangibles within and without the taxing jurisdiction. If the policy is to apportion such income, then the specific assignment of such income for purposes of developing the receipts factor counters the effect of including such income in the apportionable base.

The problem is essentially what to include in the apportionable base, rather than how to assign income in the receipts factor. If it is decided to apportion interest, royalties and dividends, then it must be determined that such types of income are appropriately assigned to a taxing jurisdiction on the basis of a taxpayer's tangible business assets, payroll and receipts from sales of its products or services. For the many reasons set out above, it is believed that dividend income cannot be appropriately assigned by means of a formula. The business community has reservations about the appropriateness of assigning interest, capital gains and royalties by formula but is willing to accept formulary apportionment of such types of income because they are more difficult to segregate and they will not likely represent a relatively significant amount of income to the taxpayer.

The sales factor in S. 1245 includes sales of real property as well as intangible property. These sales, however, are assigned to a state based upon the place where the income-producing activity is performed. Sales of real property logically should be located in the state in which the real property is located. The location of the income-producing activity may cause some difficulty with respect to sales of intangible property and it may be desirable to define more precisely the location of such sales.

The sales factor in S. 1245 does not include a "throwback" provision. Sales of tangible personal property are on a straight destination basis. A "throwback" provision requires sales to be reported to the state from which the property was shipped if either (1) the taxpayer is not taxable in the state of the purchaser, or (2) the purchaser is the United States Government.

In attempting to determine for each state how much of the taxpayer's income is attributable to that state, the philosophy should be to measure the activities being performed in that state which help generate the in-

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come—and not the activities of the taxpayer in some other state. For example, it does not seem appropriate that less income should be assigned to State A for 1973 compared to the amount assigned for 1972 if the taxpayer's activities in State A were exactly the same in both years but, because of additional activities in State B, the taxpayer became subject to the jurisdiction of State B during 1973. This is exactly what would happen if State A and the so-called "throwback" provision and a taxpayer who previously was not subject to the jurisdiction of State B to which he shipped did become subject to that state's jurisdiction.

The utilization of a "throwback" provision would also encourage taxpayers to adopt uneconomic routing procedures in order to minimize their taxes. For example, with the existing state tax rates, a taxpayer who has substantial foreign shipments might well find it economical to transfer all shipments to a place of business in a low-tax state and then make all of these shipments to his foreign customers from that state. Also, the use of a "throwback" or "recapture" provision increases the administrative complexities because of the dual test with most sales on a destination basis but others on an origin basis. These practical problems were recognized by the Special Subcommittee on State Taxation of Interstate Commerce. On page 244 of Volume I of their report they stated that:

"It should also be observed that the existing throwback rules add to the complexity of the system even if their applicability is clear. When a throwback rule applies, it will normally require the taxpayer to develop data in addition to that needed to comply with the primary division-of-income rules of the taxing State. When a destination State requires that certain sales be thrown back to the State of origin, for example, the taxpayer is required to determine the point of origin of each transaction subject to the throwback. The development of such information may materially increase the burden of compliance."

With respect to foreign sales, there is considerably less justification for a sales recapture provision because the tax laws in foreign countries are entirely different from those in the United States and P.L. 86–272 has no meaning in these foreign countries. There is nothing to prevent a foreign country from levying a tax strictly based on the fact that the shipment was made into that foreign country. In other words, the foreign country has the right to levy a tax if it so chooses, regardless of order activity, place of business, etc. Further, we believe it is in the national interest to encourage the exportation of products and the exclusion of foreign destination sales from the "throwback" rule does offer such encouragement. It sould be noted that the property and payroll factors will still work to apportion a substantial part of the income from such export sales to the various states. Apparently, those who worked on the Ad Hoc Bill (S. 2092) recognized many of these considerations and, therefore, that bill provides that there would be no "throwback" provision for foreign shipments, other than sales to the United States Government. In the analysis supporting the Ad Hoc Bill, the following comments were made concerning the "throwback" rule as it might apply to foreign shipments:

"Export sales, however, other than export sales to the U.S. Government, are assigned to the foreign destination. . . . The "throwback" provisions properly apply where the nationally imposed jurisdictional standards prevent the destination state from imposing tax, but such justification is lacking where sales have a destination in foreign countries, since such countries are subject neither to the jurisdictional standards nor the uniform apportionment formula imposed on the states."

It is safe to predict that the administrative problems both for the states and taxpayers will be increased substantially and numerous disputes will arise if a "throwback" rule is adopted with respect to foreign shipments.

As to sales to the U.S. Government, there appears litle justification for assigning such sales to the state from which they were shipped. This is true, particularly, when viewed from the standpoint of the many administrative complexities that result from a sales test which would require the accounting for some sales on a destination basis and others on an origin basis. It might be argued that sales to the United States Government differ from commercial sales in that more of them are transacted in Washington, D.C. or at the taxpayer's principal place of business. However, if such were the argument, then an order-activity type test would seem more appropriate than a point-of-shipment basis. On balance, however, the exception in treatment for sales to the United States Government does not seem to justify the administrative problems.

It should also be noted that a number of states, in adopting their laws, have not included the sales "recapture" provision, but rather have enacted a straight destination sales test.

There is rigidity in the prescribing of a formula in definite and specific terms and it may be that difficulty will arise in applying the prescribed formula to every type of business covered by the bill. This is a matter which needs further study. Such a study should not in any way delay prompt Congressional action.

### *D. State taxation of dividends and foreign source income*

The multicorporate business enterprise is also faced with duplicative taxation when states subject intercorporate dividends and foreign source income to taxation. Although few states that have any number of multicorporate and multinational businesses headquartered within their boundaries have subjected intercorporate dividends (particularly from subsidiaries) and foreign source income to taxation, the trend toward apportionment of dividend and foreign source income is likely to change this situation. It should be noted here that the result of such taxation by the states is the obstruction of the free flow of funds between affiliated corporations, unwieldy capital structures for subsidiaries, and the subjection of a single economic gain within an affiliated group to multiple taxation. The transfer of funds up a chain of affiliated corporations usually does not result in a change in beneficial ownership and should not be considered taxable events. There is also the matter of discrimination. State income tax laws should be neutral as far as the form which a business enterprise takes is concerned and should not penalize multicorporate enterprises unless there are sound reasons for discouraging multiple corporations. It is not practicable for some businesses to operate as a single corporate entity and the Congress should protect them against discriminatory taxation that requires them to bear a disproportionate share of a state's tax burden.[24]

Recognizing constitutional limitations, it is often the expressed intent of state income tax laws to tax only that income derived from sources within that state.[25] However, some of these same states are reaching well beyond that scope and taxing foreign source income by either taxing the foreign source dividends received by a taxpayer or, alternatively, by requiring that the income of foreign companies be included in the state's apportionable tax base, whether or not such income has been received by the taxpayer in the form of dividends.

In the view of many taxpayers, state taxation of dividends and foreign source income are the two most important elements in the current controversy in state taxation. It is also the view of many taxpayers that the sections of S. 1245 dealing with these items of income are needed to make state tax requirements compatible with present Internal Revenue provisions dealing with these types of income at the federal level.

In regard to the taxation of income, states generally take a different approach to the determination of the source of the income than does the Federal Government:

(1) States generally do not have provisions in their income tax laws comparable to those contained in Subchapter N of the Internal Revenue Code, which are generally known as the sourcing sections of the Code.

(2) Another important difference between state and federal tax rules is the fact that only one state (Alaska) provides a mechanism similar to the foreign tax credit provisions contained in Sections 901 through 906 of the Internal Revenue Code. In fact, many states do not even provide a deduction for foreign taxes paid.

(3) A few states aggravate further the burden upon taxpayers in regard to foreign source income by invoking the so-called unitary business concept of taxation. Under this concept, income of domestic companies related to a taxpayer with a business location in the state by application of a 50% ownership test will be included in that taxpayer's income base to be apportioned to the state. The same is true of foreign companies whether or not their income has actually been distributed in the form of dividends.

(4) Additionally, some state laws do not provide for the elimination of "gross-up" from the federal starting point in arriving at state income tax base. Since the amount "grossed-up" is equivalent to foreign taxes paid before the payment of dividends and is included in the Internal Revenue Code merely as a mechanism for arriving at the proper amount of income to which the foreign tax credit will apply, the inclusion of "gross-up" in state tax bases can result in the taxation of fictitious income.

It is the foregoing differences between the federal and state tax rules which create the need for compatibility, which can be achieved by the enactment of an Interstate Taxation Act by the Congress. We feel that it is within the power of Congress to act in this area because of the authority vested in it by Article I, Section 8, Clause 3 of the U.S. Constitution. Moreover, state taxation of foreign source income improperly injects the states into foreign policy, which is the sole jurisdiction of the Federal Government.

Section 207(a)(1) of S. 1245 prohibits the inclusion in "apportionable income" of income from sources without the United States, including dividend income. The prohibition against the apportionment of foreign source income, coupled with the prohibition against allocating such income in Section 208, results in a total exclusion from the tax base of income earned outside the United States. It is important to note that, by virtue of Section 522, the income to be excluded is that to which the foreign tax credit provisions of the Internal Revenue Code presently apply. Most states have not attempted to tax this income, but, because of the actions of a relatively few states, the S. 1245 prohibitions regarding foreign source income are necessary.

Section 207(a)(2) excludes all dividends, regardless of source, from apportionable income unless the taxpayer's principal business activity is dealing in securities. Indirect taxation of dividends, such as through the California "interest offset provision," is also forbidden. The purpose of this exclusion is the

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Footnotes at end of article.

elimination of double taxation by one or more states, and to make clear as to a single state that having taxed the earnings of a corporation, it cannot again tax those earnings as dividends to an affiliate. Thus, dividends from foreign sources and dividends from corporations in which the taxpayer owns 50 percent or more of the voting stock are not allocable to any state. However, by virtue of Section 208, "portfolio dividends," i.e., those from less than 50 percent-owned corporations, are allocable to the state of commercial domicile and that state will determine whether or not it desires to tax them.

The combined result of Sections 207 and 208 is to exclude from the tax base all dividends from affiliated corporations. This, too, is compatible with the taxation of intercompany dividends under the Internal Revenue Code. Under the Internal Revenue Code dividends passed among a consolidated group of U.S. corporations affiliated by stock ownership of at least eighty percent are eliminated from the tax base. To the extent that there is less than an eighty percent ownership of one U.S. corporation by another, eighty-five percent of the dividend income is eliminated by virtue of Internal Revenue Code Section 243 (dividend received credit). In the case of dividends from foreign affiliates, the tax on such dividend income is largely, if not wholly, eliminated by the foreign tax credit.

At this point, it may be beneficial to present, by way of an hypothetical survey, a comparison of the different approaches to taxation of dividends and foreign source income now prevalent among the various states. In our hypothetical case we have assumed a United States operating company domiciled in New York and also doing business in the states of Michigan, California and Maine. We have assumed that the corporation receives dividends from three wholly-owned foreign subsidiaries whose earnings are completely outside the United States. For the purpose of simplicity in comparing tax burdens in the four states, we have assumed identical operating favors (sales, payroll and property) in these states. Also, we have computed the state taxes at a standard rate of 10 percent, as well as showing the taxes at the actual rates.

The four states selected for our examples represent four different approaches to taxation of foreign source income by the states. The methods used and the resulting tax liabilities based on the assumed operating facts and a 10 percent tax in each state follow:

*Michigan* requires the inclusion of foreign subsidiary dividends in the income base to be apportioned. These foreign dividends are included in the denominator of the sales (receipts) factor in the computation of the apportionment percentage. In the attached example, $923,200 of income is apportioned to Michigan and, with a 10 percent tax rate, the tax liability would be $92.320.

*California* follows a technique known as the unitary concept, which requires the consolidation of all affiliated companies 50 percent, or more, owned by a common parent. As indicated by the attached example, many taxpayers are presently bearing an unreasonable burden in that state with respect to taxation of foreign source income. Based on the assumed operating facts, $1,485,000 of income is apportioned to California and the tax liability at a 10 percent rate would be $148,500.

*Maine* follows the practice of allocating dividends, including foreign dividends, to the state of commercial domicile. In the case of the U.S. parent company, which in our example is domiciled in New York, only the parent's domestic operating income would be apportioned to Maine. The apportioned amount under the assumed facts would be $250,000 and the tax at 10 percent would be $25,000. But if the parent company in the example were domiciled in Maine instead of New York, all of the foreign dividends would be included in the income base, together with the $250,000 apportioned operating income of the parent. The result would be a tax of $325,000, based on apportioned and allocated income of $3,250,000 and a 10 percent tax rate.

*New York* does not tax dividends received from subsidiaries more than 50 per cent owned. Other dividends are taxed in proportion to the payor's business done in New York State. Therefore, although the parent company in our example is domiciled in New York, only its domestic income is taken into the base for apportionment. This produces apportioned income of $250,000 and tax liability of $25,000 at a 10 percent rate.

PARENT COMPANY OPERATING ONLY IN THE UNITED STATES

| | Total | Operating in States, domicile | | | |
|---|---|---|---|---|---|
| | | New York | Michigan | California | Maine |
| Sales by destination | $10,000,000 | $2,500,000 | $2,500,000 | $2,500,000 | $2,500,000 |
| Payroll | 4,000,000 | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| Property: | | | | | |
| 1st cost | 8,000,000 | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 |
| Depreciation reserve | 4,000,000 | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| Net value | 4,000,000 | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| Net income before Federal income tax: | | | | | |
| Operating income | 1,000,000 | | | | |
| Foreign source dividends | 3,000,000 | | | | |
| Total | 4,000,000 | | | | |

FOREIGN INCORPORATED SUBSIDIARIES—100 PERCENT OWNED—FOREIGN OPERATING

| | Sub A | Sub B | Sub C |
|---|---|---|---|
| Sales—Foreign destination | $10,000,000 | $10,000,000 | $10,000,000 |
| Payroll—Foreign | 1,000,000 | 100,000 | 1,000,000 |
| Property—Foreign: | | | |
| 1st cost | 2,000,000 | 200,000 | 1,000,000 |
| Depreciation reserve | 1,000,000 | 100,000 | 500,000 |
| Net value | 1,000,000 | 100,000 | 500,000 |
| Net income before foreign income tax | 4,000,000 | 2,000,000 | 4,000,000 |
| Foreign income tax | 2,000,000 | 1,000,000 | |
| Net after tax income | 2,000,000 | 1,000,000 | 4,000,000 |
| Dividends paid to parent | 1,000,000 | 1,000,000 | 1,000,000 |

MICHIGAN

| Apportionment fraction | Numerator | Denominator | Percent |
|---|---|---|---|
| Sales: Parent | $2,500,000 | $10,000,000 | |
| Dividends: | | | |
| Sub A | | 1,000,000 | |
| Sub B | | 1,000,000 | |
| Sub C | | 1,000,000 | |
| Total | 2,500,000 | 13,000,000 | 19.23 |
| Payroll: Parent | 1,000,000 | 4,000,000 | 25.00 |
| Property: Parent, gross | 2,000,000 | 8,000,000 | 25.00 |
| Total | | | 69.23 |
| Average | | | 23.08 |

| Apportionment fraction | Numerator | Denominator | Percent |
|---|---|---|---|
| Income base: | | | |
| Operating income before Federal income tax | | 1,000,000 | |
| Dividends: | | | |
| Sub A | | 1,000,000 | |
| Sub B | | 1,000,000 | |
| Sub C | | 1,000,000 | |
| Total | | 4,000,000 | |
| | | | Amount |
| Apportioned to Michigan at 23.08 percent | | | $923,200 |
| Tax at 10 percent (hypothetical rate for comparison) | | | 92,320 |
| Tax at actual Michigan tax rate of 7.8 percent | | | 72,010 |

CALIFORNIA

| Apportionment fraction | Numerator | Denominator | Percent |
|---|---|---|---|
| Sales: Parent | $2,500,000 | $10,000,000 | |
| Sub A | | 10,000,000 | |
| Sub B | | 10,000,000 | |
| Sub C | | 10,000,000 | |
| Total | 2,500,000 | 40,000,000 | 6.25 |
| Payroll: Parent | 1,000,000 | 4,000,000 | |
| Sub A | | 1,000,000 | |
| Sub B | | 100,000 | |
| Sub C | | 1,000,000 | |
| Total | 1,000,000 | 6,100,000 | 16.39 |
| Property: Parent, gross | 2,000,000 | 8,000,000 | |
| Sub A | | 2,000,000 | |
| Sub B | | 200,000 | |
| Sub C | | 1,000,000 | |
| Total | 2,000,000 | 11,200,000 | 17.86 |
| Total | | | 40.50 |
| Average | | | 13.50 |
| Income base: | | | |
| Operating income before Federal income tax | | 1,000,000 | |
| Sub A: Income before foreign income tax | | 4,000,000 | |
| Sub B: Income before foreign income tax | | 2,000,000 | |
| Sub C: Income before foreign income tax | | 4,000,000 | |
| Total | | 11,000,000 | |
| Apportioned to California at 13.50 percent | | | $1,485,000 |
| Tax at 10 percent (hypothetical rate for comparison) | | | 148,500 |
| Tax at actual California tax rate of 9 percent | | | 133,650 |

MAINE

| Apportionment fraction | Numerator | Denominator | Percent |
|---|---|---|---|
| Sales: Parent | $2,500,000 | $10,000,000 | 25.00 |
| Payroll: Parent | 1,000,000 | 4,000,000 | 25.00 |
| Property: Parent | 2,000,000 | 8,000,000 | 25.00 |
| Total | | | 75.00 |
| Average | | | 25.00 |

MAINE

| Apportionment fraction | Numerator | Denominator | Amount |
|---|---|---|---|
| Income base: | | | |
| Operating: Before Federal income tax | | | $1,000,000 |
| Apportioned to Maine at 25 percent | | | 250,000 |
| Tax at 10 percent (hypothetical rate for comparison) | | | 25,000 |
| Tax at actual Maine rate of 4 percent | | | 10,000 |
| Domiciled in Maine: Apportionment fraction, same as above. | | | |
| Income base: | | | |
| Operating: Before Federal income tax | | | 1,000,000 |
| Income subject to apportionment | | | 250,000 |
| Dividends to be allocated to Maine: | | | |
| Sub A | | $1,000,000 | |
| Sub B | | 1,000,000 | |
| Sub C | | 1,000,000 | |
| Total | | 3,000,000 | |
| Apportioned and allocated to Maine | | | 3,250,000 |
| Tax at 10 percent (hypothetical rate for comparison) | | | 325,000 |
| Tax at actual Maine tax rate of 4 percent | | | 130,000 |

NEW YORK

| Apportionment fraction | Numerator | Denominator | Percent |
|---|---|---|---|
| Sales: Parent | $2,500,000 | $10,000,000 | 25.00 |
| Payroll: Parent | 1,000,000 | 4,000,000 | 25.00 |
| Property: Parent, net | 1,000,000 | 4,000,000 | 25.00 |
| Total | | | 75.00 |
| Average | | | 25.00 |
| | | | Amount |
| Income base: Operating income before Federal income tax | | | 1,000,000 |
| Apportioned to New York at 25 percent | | | 250,000 |
| Tax at 10 percent (hypothetical rate for comparison) | | | 25,000 |
| Tax at actual New York State tax rate of 9 percent | | | 22,500 |

The effect of these different approaches to taxation of our hypothetical U.S. corporation by the four states may be summarized as follows, using the standard 10 percent tax rate. New York excludes the foreign dividends from the income base as does Maine, with the result that the tax liability in both states would be $25,000. But if the parent were domiciled in Maine instead of New York, the Maine tax would be increased by $300,000 as a result of allocation of $3,000,000 dividends to that state. Because of bringing foreign dividends into the base for apportionment, Michigan's tax is increased by $67,320 above the $25,000 liability which would result with the dividends excluded. By including some of the foreign subsidiaries in applying the unitary concept to the U.S. parent company, California increases the tax liability by $123,500 above the $25,000 liability with foreign income excluded.

Of the above examples, the Michigan approach follows the regulations developed by the Multistate Tax Commission. As member states in the MTC adopt these regulations, they too can be expected to use the Michigan approach. While only Oregon has so far adopted the California unitary business concept, pressures are mounting in several other states to adopt it.

The examples illustrate how our foreign commerce and investment are burdened by state taxation of foreign source income, with the trend being for more and more states to tax such income.

It is the position of those who support S. 1245 that the enactment of sections 207, 208, 209, and 522 of that measure will accomplish the result of eliminating discriminatory taxation of foreign source income and achieving compatibility of state income taxes with federal income taxes under provisions of the Internal Revenue Code.

### *E. Consolidation-combined reporting*

The first step in any discussion of "consolidation" requires that it be reconciled with the phrase "combined reporting." Both terms refer to the joining of the income and factors of more than one related company for the determination of state income. While various distinctions have been made between the terms[26] (e.g., when only the income and factors of taxpayers within a single jurisdiction are joined, some states call it "combined reporting" and others "consolidation"), for purposes of this presentation the term "consolidation" is used to describe the concept regardless of scope.

The majority of states have statutes that authorize some degree of consolidation but, as a practical matter, less than a dozen states either require or permit consolidation of any type.

There are four general practices with respect to consolidation. They are:

(1) Prohibited.

(2) Permitted or required.

(3) Required but not permitted.

(4) Permitted but not required.

To the extent, if any, that federal legislation recognizes consolidation, identical options should be available both to taxpayers and states—consolidation must not be a one-way street.

The Willis Committee considered consolidation and made the following recommendations:

### THE TREATMENT OF MULTICORPORATE ENTERPRISES

Often corporations which are controlled directly or indirectly by the same interests are so mutually dependent on each other for their success that the books of an individual corporation cannot accurately reflect that corporation's contribution to the profitability of the entire multicorporate enterprise. In short, separate accounting among affiliated corporations is often as inappropriate and as troublesome as is separate accounting among the branches of a single corporate entity. As a result some States have formulated "unitary business" rules designed to treat the income of affiliated corporations in the same manner as though earned by a single business.

The present "unitary business" rules provide vague and sometimes unevenly administered standards for determining when the income of a multicorporate enterprise should be treated as a whole. In order to clarify this troublesome area and to provide standards which are both easy to apply and equitable in their effect the Committee recommends that State tax administrators be allowed to require consolidation in any case where two or more corporations are affiliated by common ties of more than 50 percent of stock ownership and at least one of the affiliates has realty or an employee in the State. Conversely, all such affiliated corporations should have the right to consolidate their income for the purpose of any State's tax. Thus, not only would administrators be able to obviate the inaccuracies that flow from separate accounting among members of a multicorporate group, but the multicorporate enterprise would be able to insist that its total liabilities to all States be no greater than if all

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Footnotes at end of article.

of its operations were conducted by a single corporate entity.

### CORPORATIONS WHICH OPERATE OUTSIDE OF THE UNITED STATES

In keeping with the basic structure of our Federal system, the Committee is of the view that international tax policy should be formulated by the Federal Government and not by individual States. Therefore, with respect to income earned by corporations which operate either wholly or partially outside of the United States, the Committee recommends that State apportionment rules be required to conform to the international policies that have been formulated for Federal income tax purposes.

Thus, if the immunity of any income from taxation by the United States results from its being considered to be from sources outside the United States, such income could not be attributed to any State of the United States. Likewise, no State would be allowed to require that such income be included in the consolidated income of a multicorporate enterprise for apportionment purposes. These prohibitions apply to corporations incorporated outside of the United States and are designed to eliminate inconsistencies which currently exist between Federal policy and the practice of a few States.

At the same time, if a corporation is considered to have income from sources outside the United States and that income is taxable by the United States, such income could be included in a State's tax base prior to apportionment and the State would not be required to include property or payroll located outside the United States in its apportionment formula. These rules would apply to corporations incorporated in the United States and are designed to make available for apportionment among the States all of the tax base available to the United States.

Before proceeding to consider the available consolidation alternatives, it must be emphasized that the treatment accorded dividends and foreign source income has a controlling effect as to any proposal. If such items are considered taxable to the States then consolidation must be available so that proper factor representation will more accurately affect the assignment of income to the taxing jurisdictions. However, we are strongly opposed to the taxation of dividends and foreign source income.

Assuming, as we believe correct, that such intercorporate dividends and foreign source income are exempt from taxation, then the following alternatives would be available:

The first alternative would be consolidation based solely on ownership. This is the basis in S. 2092. Its asset is simplicity of determination of companies included. Among the strong objections to this procedure are these:

(1) Consolidation would be mandated in every state in which any affiliate of a multicorporate organization is taxable.

(2) In the case of an affiliated group of corporations engaged in diverse businesses, consolidation would join unlike taxpayers with indefensibly distorted results.

(3) Since not a single state has a consolidation procedure based solely on ownership, this type of consolidation would be seriously disruptive of existing tax systems.

(4) This procedure would raise a serious question of constitutional due process since only the single thread of ownership could be offered to support the right to consolidate.

The second alternative would be consolidation based upon the unitary relationship of the consolidated corporations; i.e., only those corporations having an operational interdependence would be included. This unitary concept has the same degree of theoretical justification that applies to the taxation of a corporation with unitary divisions—it differs principally in the legal concept of "piercing the corporate veil." As a practical matter, however, the unitary procedure suffers the following defects:

(1) The determination of the affiliates to be included in the consolidation requires highly informed and sophisticated subjective judgments. This results in:

(a) Complex budget forecasting problems for states and taxpayers.

(b) Potential variances in the consolidated group among the states and attendant disputes resulting in litigation.

(c) Problems resulting from the high degree of sophistication required in making audit determinations involving such a consolidated group. Few, if any, states are currently staffed to perform such audits on a sustainable basis.

(2) Since only two states currently enforce the unitary consolidation procedure, its spread to other jurisdictions would produce essentially the same disruptive result previously mentioned under the bare-ownership theory.

The third alternative would be the "non-arms-length" concept presented in S. 1245. This confines the consolidation to those related corporations which are found to be engaged in non-arms-length transactions. Among the defects are:

(1) The states lack the expertise to audit.

(2) The states could claim that any sale between related parties is prima facie non-arms-length.

(3) The corporations could create non-arms-length transactions with affiliates desired in a consolidation.

(4) Complex budget projections for states and taxpayers.

A fourth alternative would confine consolidation to affiliates which are taxpayers in the State. This is the current practice of many states and affords corporations a potential to consolidate loss affiliates. To some, its principal defect is the lack of theoretical consistency with the use of the apportionment formula. An acceptable variant would be the consolidation of unitary affiliates which are taxpayers in the state.

The fifth alternative is a prohibition of consolidation. As previously mentioned, the alternatives are presented on the assumption that dividends and foreign source income will be exempt from state taxation, thereby limiting any consolidation to domestic corporations. Under these circumstances consolidation is not the panacea that some suggest. Consolidation does not necessarily produce income. Currently only five states (Washington, Texas, South Dakota, Wyoming and Nevada) do not have an income tax. It can be reasonably anticipated that the first three will fall from these ranks in the near future. What would domestic consolidation do then? It would not alter the income to be divided among the states—it would merely alter the reporting by adding to some states only what is taken from others.

Thirty-eight states had taxes measured by income at the time of the Willis study. Eight have enacted such taxes since then. The potential tax havens in Illinois, Ohio, Michigan, Florida, etc. have vanished. The variation in tax rates would not be adequate incentive for a corporation to shift its income, if such were possible.

This prohibition will cause the least disruption in current tax systems, since under current statute and practice the majority of states do not regularly require consolidation. The case of compliance, audit and budget projections would be greatest for both state and corporation.

### III—JURISDICTION OF FEDERAL COURTS

A federal law regulating the taxation by the states of interstate commerce should provide for a single federal court with exclusive jurisdiction to review disputes arising from its application or from P.L. 86–272.

The principle of federal review was included in the original Willis Bill, H.R. 11798, in 1965 (Sec. 522 (f) and (g), and in the Willis Report (Vol. 4, pp. 1162–63)). The reasons include these:

(1) *Uniform judicial interpretation*. Review by a single Federal court is far preferable to the creation of individual and inevitably conflicting bodies of precedential law in state courts. The most compelling recent example, already cited, is the treatment of Kennecott Copper Corporation and a subsidiary by the courts of California and Utah. In *Chase Brass & Copper Co., Inc.* v. *Franchise Tax Board,* California found Kennecott and its subsidiary, Chase Brass, to be unitary businesses and imposed its tax on a "combined" basis even though Kennecott did no business there. This produced far more revenue for California than if Chase Brass had been separately taxed. Soon thereafter, in *Kennecott Copper Corporation v. State Tax Commission,* the Utah Supreme Court upheld the Utah Tax Commission it its determination that, even though the same two companies were indeed unitary, they must file tax returns on a separate reporting basis. Utah's revenues also were greatly increased. The United States Supreme Court refused to review either case. This was inequitable treatment which mandatory review by a single federal court would have avoided.

(2) *Avoidance of Undue Litigation Burdens*. Taxpayers would avoid litigation of similar issues in numerous states, and thus save the expense of unnecessary and unjustifiable court actions.

(3) *Development of an Expert Court*. A single court hearing many cases and guided principally by its own decisions would produce results of higher quality than the judgments of numerous state courts charged only occasionally with deciding complex issues of interstate taxation.

(4) *Consistent Handling of Interstate Commerce Taxation*. The principal reason for federal legislation to mandate the method of taxing interstate transactions is to assure uniform treatment. Such legislation must be supplemented by uniform mandatory regulations. A third logical requirement is that the decision of judicially disputed issues be lodged in a single impartial tribunal.

This statement is concerned with the adoption of the principle of Federal review by a single court rather than with the details of its implementation. It is suggested, however, that either the Court of Claims or the Tax Court could perform this function. Either court could minimize the expense of litigation by hearings on circuit, and either could develop a consistent body of law based on expert knowledge.

We believe that a properly drafted bill could establish the jurisdiction of a federal court without violating the Eleventh Amendment. Although the Amendment and judicial interpretations provide that a suit shall not be commenced or prosecuted against a state in federal court by a citizen of any state (*Hans v. Louisiana,* 134 U.S. 1 (1890)), it is established that this immunity can be waived. The question whether a state may claim immunity from suit in federal court initiated by persons asserting federally created causes of action was considered in *Parden v. Terminal Railway of the Alabama Docks Department,* 377 U.S. 184 (1964) and *Employees of the Department of Public Health & Welfare v. Department of Public Health & Welfare,* (decided on April 18, 1973). These cases are concerned with the circumstances in which a state will be deemed to have waived its immunity from and consented to suit in federal court by an individual. Although some of the Supreme Court justices have philosophical differences over what constitutes consent by a state to suit in federal court, all would agree that consent, effectively given, properly vests jurisdiction in a federal court. The decisive question appears to be whether the Congress intends that a state must waive its immunity as a condition to functioning under the provisions of a federal law. We believe that the rationale of the *Parden* and *Public Health* cases would uphold jurisdiction in a federal court to consider interstate taxation disputes if the following, or a similar, provision were included in the statute:

"Any state, or subdivision of any state, that imposes any tax or the duty to collect a tax regulated by this Act, whether or not such tax or duty to collect shall have been imposed before the effective date of this Act, shall have waived its immunity from and consented to suit by any person in any duly designated Federal court concerning any issue relating to a dispute arising under this Act or under Public Law 86-272."

A hearing in the federal court should be de novo. While exhaustion of state administrative remedies is a proper requirement, the parties to the de novo proceeding should not be bound by the factual determinations of the administrative tribunals of the states. Therefore, the federal law should provide that additional evidence could be introduced before the designated federal court, to be considered by it together with, or to the exclusion of, findings of fact by state administrative tribunals.

FOOTNOTES

[1] *Northwest Airlines, Inc. v. Minnesota*, 322 U.S. 392, 306-07 (1944) (concurring opinion).

[2] *International Harvester Co. v. Department of Treasury*, 322 U.S. 340, 360 (1944) (concurring opinion).

[3] *McCarroll v. Dixie Greyhound Lines*, 309 U.S. 176, 188-89 (1940) (dissenting opinion).

[4] *McCarroll v. Dixie Greyhound Lines*, supra note 24, at 188-89 (dissenting opinion).

[5] *McCarroll v. Dixie Greyhound Lines*, 309 U.S. 176, 188-89 (1940) (dissenting opinion).

[6] *Northwestern States Portland Cement Co. v. Minnesota*, 358 U.S. 450, 457-58 (1959).

[7] *Ibid.* at 476-77.

[8] *Source:* Department of Commerce, Bureau of the Census. 1972 estimate by the Tax Foundation.

[9] *Scripto, Inc. v. Carson*, 362 U.S. 107 (1960), *National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois*, 386 U.S. 753 (1967), and *Miller Bros. Co. v. Maryland*, 347 U.S. 340 (1954).

[10] "Developments in the Law—Federal Limitations on State Taxation of Interstate Business" 75 *Harvard Law Review* 961-2, (1962).

[11] Pierce: "The Uniform Division of Income for State Tax Purposes," 35 *Taxes Magazine*, No. 10, 749 (1957).

[12] Peters: "The Distinction Between Business Income and Non-Business Income," 1973 *So. Calif. Tax Inst.* 251

[13] *Ibid.* p. 272 et seq.

[14] Article IV of the Compact Act adopts the Uniform Act as the Compact's rules concerning apportionment and allocation. Florida, while a member of the Compact, adopted a new corporate income tax law which repealed Article IV of the Compact.

[15] House Report No. 1480, 88th Cong., 2nd Sess. (1964).

[16] *Ibid.* p. 133

[17] Sarver and Hynes: "Proposal For a Uniform Regulation on Business Income Under UDITPA," 22 *The Hastings Law Journal* 31 (1970).

[18] *Multistate Tax Newsletter*, No. 30, September 1971.

[19] Opinion of the Attorney General, 1 CCH North Carolina Tax Cases, 201-470; *Southern Pacific Co. v. McColgan*, 68 Cal. App. 2d 48, 156 P. 2d 81 (1945).

*Cf. Atlantic Coast Line R.R. Co. v. Kentucky*, 302 Ky. 36, 193 S.W. 2d 749 (1946); *California Packing Corp. v. State Tax Commission*, 97 Utah 367, 93 P. 2d 463 (1939).

[20] Review and Status Report on Interstate Taxation Bills Pending in *Congress*. Paper prepared for National Association of Tax Administors Annual Meeting, June 14, 1973, in Atlantic City by Owen L. Clarke, Deputy Commissioner of Massachusetts Department of Corporations and Taxation.

[21] Cases cited in note 8. Also, 1941 Opinion of Attorney General of Louisiana, P-H State & Local Taxes (Louisiana 13,062); *Gulf Oil Corp. v. Clayton*, 267 N.C. 15,147 S.E. 2d 522 (1966); *Square D Company v. Ky. Bd. of Tax Appeals*, 415 S.W. 2d 594 (1967).

[22] *United States v. Darby*, 312 U.S. 100 (1941).

[23] The exclusion of intercorporate dividends with respect to subsidiaries will have a revenue effect in the few states that now tax such dividends, such as California, but that state has traditionally followed the practice of allocating dividend income to the state of taxpayer's commercial domicile. As to the general practice with respect to allocating dividend income, see Cohen, "Apportionment and Allocation Formulae and Factors Used by States in Levying Taxes Based on or Measured by Net Income, etc.; A Research Report Prepared for Controllership Foundation, Inc." (1954), and *Humble Oil & Refining Co. v. Calvert* (Tex. Civ. App.), 414 S.W. 2d 172 (1967).

[24] The Report of Hearings before the Committee on Finance, U.S. Senate, on H.R. 8300, 83rd Congress, Second Session, pages 1975-6, with respect to removal of 2 percent tax on consolidated returns of regulated public utilities.

[25] Section 63-8002 Idaho Income Tax Act, "Declaration of intent. -It is the intent of the legislature by the adoption of this act . . . to impose a tax on . . . the income of nonresidents which is the result of activity within or derived from sources within this state."

[26] As examples: Georgia will permit consolidation only where the companies involved are Georgia taxpayers reporting 100 percent of their income to Georgia and filing consolidated federal income tax returns. California, under similar circumstances, where all taxpayers involved report 100 percent of their income to California, does not permit combined returns. Another example is that California may require a combination of all unitary companies whether organized in the United States or in foreign countries even when only one affiliate may be a taxpayer in California. New York will permit or require combination where there are unitary features between related companies but will confine the combination to companies which are New York taxpayers.

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## GROWING PUBLIC SUPPORT FOR FEDERAL NUTRITION EFFORTS

Mr. HUMPHREY. Mr. President, on September 6, a special filmed document entitled "Prescription: Food" was aired on KMSP-TV in Minneapolis. This program dealt with the critical problem of poor nutrition faced by far too many American infants and children and steps that are being taken to alleviate it. A panel discussion on this problem in Minnesota followed a prerecorded film of efforts being made by citizens in Memphis, Tenn., to eliminate the problem of malnutrition among its infants and children and the unfortunate consequences of a failure to do so.

The response from those who viewed this program has been gratifying to all of us who participated in this program. It indicates a growing public awareness of and concern over this important public health problem. The great majority of the letters we have received indicate strong backing for expanded Federal support of programs to alleviate hunger and malnutrition in our Nation.

This program, and the subsequent response, further exemplifies the outstanding contribution that public service programing can make in bringing to the attention of our people serious problems that we face in this Nation but that may not be obvious to many Americans.

I believe that we should all take note of the growing public concern over the paradox of hunger and malnutrition in a nation with the most productive agricultural sector in the world.

For this reason, I ask unanimous consent that a sampling of letters responding to the "Prescription: Food" special, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

### Letters

Dear Sir: Just this evening I watched your broadcast of the film "Prescription Food" and was very moved.

I am the mother of a happy healthy 3-month old baby boy and feel very fortunate that I have the facilities available to me to provide him with the vitamins and proper food that it will take for him to grow to be a normal adult that may be an asset to society.

Just recently our baby was in Children's Hospital for surgery and in the bed next to him lay a six-month old baby that was suffering from malnutrition. The baby I'm sure weighed no more than 15 lbs., was bloated, had a respiratory problem and had a yellow-gray skin color. At 6-months of age this baby could hardly move in his crib, he never once smiled, and for the 6 days that I made daily trips to the hospital to see our baby, never once had his mother, or father, come to see him. I overheard the nurses and doctors concern for this baby—the fact that the damage already done to this baby's development could really never be repaired. What an awful waste!

I would so very much have liked to have helped him. The amount of time that I have to offer for volunteer work is limited, but please send me any information you can on anything that I may be able to do to help.

Send it to me at 2896 Lexington Ave., So., Eagan, Minn. 55121.

Thank you for presenting this problem. It's sad how blind we can become to problems such as this, when we don't have the concern of where we will get the money for our next meal. It's so easy to forget about the "other person".

Sincerely,

Mrs. Dennis G. Larson.

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*To Whom It May Concern:*

I watched the program on TV last nite and was very upset that malnutrition is so rampant among all of us. I want you to know that you have my full support on any malnutrition programs in the future. Sen. Hubert Humphrey is doing a good job and should have more support.

Please let me know if there is anything personally that I can do to help. I've been talking to neighbors and teachers. What else can I do?

Sincerely,

Mrs. David McLaughlin.

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St. Paul Association for
Retarded Citizens, Inc.,
*St. Paul, Minn., September 7, 1973.*

Prescription: Food, KMSP-TV,
*Minneapolis, Minn.*

Dear Sir: On behalf of the St. Paul Association for Retarded Citizens, I would like to convey our appreciation for your highly informative presentation of "Prescription: Food". One of the most frustrating problems we face today is malnutrition in our country often resulting in developmental retardation.

We salute your contribution to the community in pointing out this neglected problem and some of the solutions possible. Perhaps you have started enough people thinking to bring about change. Let us hope so!

Thank you.

Sincerely,

Mrs. Kathleen Pine,
*Program Coordinator.*

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Hopkins, Minn.

Dear Sirs: After watching your informative program, "Prescription Food," and having a 6-month-old child of my own, I was compelled to write.

Is there anything that a common citizen can do about this problem? It is too bad that our nation is so concerned about spending on defense when our people are starving. We need more Senators like Sen. Humphrey.

Your program was enlightening and I hope that more will have the reaction that I did. Please try to inform the public of their responsibility to prepare our children's America.

Sincerely,

Mrs. Roger Engle.

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Dear Sirs: I just finished viewing your program, "Prescription Food" and I congratulate you for showing it. I am in complete agreement with the presentation. We need more programs literature and action on the topic.

When we have taken proper care of all of our people, regardless of race, color, creed, income, "position" etc.; maybe then we have the right to call America as the greatest nation in the world.

Sincerely,

Marja Leena Bodin.

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September 7, 1973.

Gentlemen: After watching Prescription Food last night, I certainly had "Food for Thought."

It's truly hard to believe in this wonderful Land of Plenty of ours there are hungry children. I was not aware of the food retardation aspect.

Tell me what we as a nation and I as an individual can do about this appaling situation.

Sincerely

Mrs. Richard Hardesty.

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Dear Sirs: I want to thank you for showing the program "Prescription Food." It was excellent though very disturbing. That any child's potential for physical and intellectual development and future achievement is being stunted by malnutrition is scandalous and shocking. The cost to the individual and to the country is incalculable. The situation must be remedied—our priorities must be reordered. Please let me know if there is anything I can do to help.

Sincerely,

Mrs. Theodore Litman.

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September 7, 1973.

Prescription—Food, KMSP,
*Minneapolis, Minn.*

Gentlemen: Your program last evening focused on several important elements which continually concern the day care community: the relationship between mental and physical growth and good nutrition, the need to provide nutrition training for all ages, the inadequacy of the allotment for the school lunch program considering the rising cost of food. Equally important, as stated by Senator Hubert Humphrey, is the need to provide food universally without the need to prove poverty.

Malnutrition is no respecter of age, but observing young children who are hungry is especially painful.

We sincerely hope that those of your panel will do all in your power to (a) increase the daily allotment for the school lunch program and (b) remove the means test. Our society must be responsible for the provision of adequate food to its most important resource.

Very truly yours,

Edwina L. Hertzberg,
*Executive Director.*

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## ORGANIZATIONAL CONSULTING TO MENTAL HOSPITALS

Mr. JAVITS. Mr. President, we are all deeply concerned with the problems of mental hospitals. I would like to bring to the attention of my colleagues an interesting recent article, which proposes a reasonable response to the common framework of legal, social, and other constraints faced by these institutions.

The article, "Notes on Organizational Consulting to Mental Hospitals," is written by Dr. Kenn Rogers; his credentials follow:

Professor of Business Administration, The Cleveland State University, Cleveland, Ohio; formerly, Professor of Organizational Behavior, The American University, Washington, D.C. Dr. Rogers received his Ph.D. in psychology from the University of London, England, and is a member of the American Marketing Association, the American Psychological Association, the British Psychological Association, the British Market Research Society, the American Academy of Political and Social Science, the Academy of Management, the World Association of Public Opinion Research, and the Association of Voluntary Action Scholars.

I ask unanimous consent that the text of this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Notes on Organizational Consulting to Mental Hospitals

(By Kenn Rogers, Ph.D.)

#### INTRODUCTION

Mental hospitals, among the most complex of institutional systems, are frequently not well organized or administered. This circumstance may be attributed to the wide variety of services that must be integrated for the institution to perform effectively and efficiently. An important cause of internal problems seems to be psychotherapy itself—the anxieties that result from the staff's awareness of the uncertainties inherent in the treatment process along with their responsibility for the lives and welfare of their patients.

This paper presents a summary of organizational difficulties I discovered in four mental hospitals, together with some general interventions recommended and implemented during my work as a consultant in organizational behavior to these institutions from 1969 to 1972. One difficulty with developing a model from a sample of only four institutions is the necessity of generalizing from specific insights derived from single instances. Another difficulty is that a single consultant's perceptions are inevitably affected by the particular criteria he considers relevant to understanding an institution's problems. The complexity of institutional life, especially in a mental hospital, embraces a multitude of attitudes, beliefs, philosophies, hopes, and fears. In selecting those relevant to particular organizational phenomena, I do not deny the existence and importance of many others.

These four institutions, however, are not individually unique. All work within a generally common framework of legal, social, and other constraints; and all are keenly aware of the effects of these constraints on their institutional work. The four did differ in degree of staff coherence and task perceptions, relationships to patients and to external environment; and yet, these geographically-separated institutions did show impressive similarities in tasks, structure, and culture. Therefore, it seems justified to apply a specific, although heuristic, model of consulting, and then to examine its usefulness in helping to improve institutional task performance.

#### THEORETICAL CONCEPTS

The theoretical concepts underlying the consultancy model to be described and discussed are largely derived from those developed by Rice (1963, 1965, 1970), Miller and Rice (1967) and Jaques (1951, 1970). Other concepts are my own, derived from experience in numerous institutions. Still others are taken from organization and learning theories.

Critically important to this model are: (1) Bertalanffy's "open system concept" (1950, 1951, 1956) as applied by Rice to institutions (1963, 1965, 1970); (2) Rice's concepts of the "import-conversion-export process," "primary task" and "sentient groups," and the need to specify the boundaries of institutions and their parts, e.g., departments, roles; (3) the acceptance of the fact that organizational structures are mere tools for facilitating task performances and have no inherent value in themselves; and (4) a working philosophy, perhaps best expressed by the late President Kennedy, that what there is, is not good enough, and that we can do better.

Institutions and their parts are seen as "open systems" which, in order to maintain themselves, continuously interchange people, objects, materials and concepts with their environments. For example, a mental hospital *imports* moneys, equipment, staff members with different skills, patients with problems, etc. It exposes patients to a therapeutic environment designed to *convert* them by enabling them to gain greater insights and knowledge of their own behavior and that of others in their environment. Eventually, it *exports* patients, presumably better equipped to deal with life's problems; it also exports personnel, presumably better qualified through their work experiences; further exports are the knowledge and concepts presented in papers and other publications disseminated in the external environment. If those in the environment judge the export useful, evidenced by additional patient referrals, prestigious persons seeking employment, increased research and endowment grants, etc., the work of the institution proceeds as an "open system" pursuing the "import-conversion-export process."

A *primary task* is one that an institution must perform to survive and to justify its existence. An institution may have several primary tasks, the combination of which makes up its overall objective or mission (Selznick 1957). A mental hospital's primary task may be assumed to be the provision of therapeutic services to its patients. It will often also engage in education and research. In addition, some hospitals may provide hotel, catering, and other services. With this wide range of functions or tasks, the boundaries of these different services must be defined in clear operational terms to enable those concerned to integrate the various primary tasks—both of institutional and individual roles—with the aim of accomplishing the hospital's specific mission.

Carrying out this mission requires resources, both human and material. Primary tasks and the resources allocated for their implementation reflect the particular culture of that institution, the "customary and traditional way of thinking and of doing things, which is shared to a greater or lesser degree by all its members" (Jaques 1951, p. 251).

*Sentient groups* consist of members who demand of and give to one another loyalty in the context of that institutional culture.

One effect of this institutional culture might be that the various constituent parts of a mental hospital—the departments and their role occupants—may differ among themselves in the perception of their primary tasks and, therefore, in the ways of discharging their professional responsibilities. For example there may be differences in terms of "open" and "closed" hospital operations or in variations of these models; in terms of behavior modification, drug or psychoanalytically-oriented therapy or combinations thereof; or in terms of different priorities for the welfare of patients, staff or the institution as seen by doctors, residents, nurses, paramedical or research staff, maintenance personnel or business managers.

Such differences in attitudes and the resulting behavior make it difficult for various individuals to cooperate in integrated and effective institutional task performance. Thus, it is imperative to provide the various role occupants with clear boundaries of what they are responsible for and how they are to work with others in the institution. However, experience indicates that reliance on a structural approach in developing role specifications, while necessary, is not enough to bring about effective personal and institutional task performance. In fact, what is required more often than not is a change of the prevailing culture in the institution and a reconceputalization of some of its constraints. The understanding of these work problems in open-system institutions generally, and in mental hospitals specifically, is rarely complete and clear-cut. Consequently, dealing with such problems involves an open-ended process with its ensuing residues of personal frustrations which sharpens the need for administration and staff to accept and cope with such frustrations. Closely linked to this factor is another constraint—the present tools of psychotherapy do not insure certainty about the outcome of the treatment process. At best, a series of alternative approaches can be used, a rational assessment of which can only be made in part—aside from differences among the personalities involved. Thus, clear boundaries must be set—limits which define the clinical freedom to be exercised in the institution.

In this context, attempts to establish harmony where none exists are bound to fail; and an explanation of the psychological dynamics of the institution is necessary. For example, there is often the conviction in mental hospitals that the staff, as opposed to the patients, are "healthy"; but this view can readily be identified as a defensive idealization. The danger is believing that irrationality, i.e., nontask-oriented behavior, is limited to the patients alone, while irrational manifestations in the staff, such as scapegoating, rivalry, dependence, jealousy, futility, euphoria or despair, are denied.

Those directly involved usually find the task of integrating these differences into a constructive whole extremely difficult, pointing up the need for a consultant with particular skills. The skills are those of understanding group processes; the task is to increase group and individual awareness of these dynamics and, in the process, to highlight the conditions that impede effective task performance. The assumption is that these new insights will redirect the energies of the institution's staff toward desirable and requisite changes.

### THE CONSULTANCY APPROACH

I believe that the consultant's approach to working with institutional clients is essentially that of process consulting. Stated operationally, it is to help the client-system recognize and define the institutional processes that potentially or actually interfere with achievement of its primary tasks. Following this beginning, the consultant proceeds to help the client determine the necessary steps for dealing with these goal-impeding processes. The consultant's working skills, therefore, are his knowledge of processes or dynamics at the intra- and interpersonal level, as well as at the intergroup working level. His task is one of a joint organizational diagnosis with the client, while at the same time he conveys this diagnostic skill to the client-system—at first creating a synergy of client-consultant competence in organizational problem solving, and eventually eliminating the client's dependence on the consultant. Of course, the consultant may also have other skills, e.g., in business management or psychotherapy. However, barring exceptional circumstances, he will keep the communication of these skills out of his consulting efforts.

The rationale for this approach is embedded in the psychotherapeutic model and cautions against acceptance of problem descriptions as initially defined overtly by the patient. Too often the client describes his difficulties in trying to accomplish certain tasks instead of the real problem. Further analytic work, however, may reveal that the client has substituted symptoms for the problem or, in defense of his self-esteem, has stated a different problem from the one at issue. This state of affairs is to be expected; for if the client was able to be insightful and honest with himself, there would be little need for the consultant's services. Because the client is defensive, consciously or not, he wishes for and seeks dependence on the consultant. Specifically, the client may expect the consultant to "solve the problem" and perhaps also reward the client by sympathizing with him, expressing admiration for "having put up with the problem for so long."

Although such an approach by the client seems unlikely to remove impediments to institutional or individual task performance, it does highlight the consultant's responsibility to involve the client-system in a teaching-learning process leading to the acquisition of diagnostic and problem-solving skills. Throughout this process, members of the client-system will frequently find themselves frustrated in their wish for dependence which arouses their resistance to the process-consulting approach and often brings on an eruption of taboo feelings which previously were largely unconscious or at least nonverbalized.

This resistance, however, does provide useful material for demonstrating the client-system's practices in managing institutional conflicts. These practices often satisfy some of the staff's sadomasochistic wishes, but are not conducive to effective institutional task performances. Indeed, an institution's culture may cherish behavior, stressing standards in which politeness prevails at the expense of reality perceptions or honest convictions, such as "Don't rock the boat" or "Nice guys don't fight." Meanwhile, the real institutional conflicts, although often close to the surface, are not examined. They continue to fester and erode the effectiveness of the institution's work, eventually damaging even its substance for survival.

If the consultant were merely to tell the client what to do and the client were to try to implement this advice, the institution's defensiveness and resistance to change would remain untouched. Therefore, another persuasive reason for using the teaching-learning process in consultancy is that organizational problems dealt with by the client-system itself tend to be managed or resolved more effectively and to recur less frequently.

### GENERAL BACKGROUND TO THE CONSULTANT'S WORK

My initial contact as consultant to each of the four institutions was through an interview with the hospital's medical director. Similar to initial meetings between patient and therapist, such client-consultant encounters convey many symptoms and few clues to the causes of the problems. They also involve a great deal of testing of the consultant by the client, focused on the former's capacity for insight and professional integrity. The consultant should first try to determine how serious the client perceives the institution's problems to be and then to define operationally what the client-system expects of the consultant and how his work should be done. The consultant should also estimate how much time it will take and how many visits he will have to make to the institution in order to carry out his consultancy task. When he determines that he will be able to assist the client in bringing about desirable changes, the following two precepts will serve as a guide in the more detailed examination of the client's problems:

1. Organizational structures and delegation of authority to individuals in various roles represent tools for carrying out tasks of an institution. In themselves, neither structure nor roles have any value, and, therefore, either may be amended or even discarded if they conflict with the institution's efficient task performance.

2. All roles in a mental hospital by definition must have a common characteristic—caring for the interests of the patients. Consequently the work in all roles, whether or not in direct contact with patients, affects the therapeutic process and must be structured with that in mind.

### DIAGNOSIS OF THE INSTITUTIONS

In an attempt to formulate a diagnosis of the institutions' problems, I started field work (except for one instance in which there were overriding considerations) by interviewing all of the hospital staff who were willing to talk to me. I asked few direct questions in these interviews. Instead, I encouraged expressions of significant feelings, attitudes, fears, wishes and desires relating to the respondent, the institution, its staff, patients, and management by asking such questions as:

"What satisfaction might someone derive from holding a position similar to yours?"

"If I were to ask this question at different levels of the institution and also of patients, what kind of answers do you think I might get?"

"Psychotherapy, unlike physics, biology, or mathematics, which are thought of as 'exact sciences,' is often based on widely differing views and beliefs. How might this affect the work of a mental hospital and how might such differences be dealt with?"

In diagnosing each of the institutions' difficulties in task performance, I found their intraorganizational relationships were affected by various conflicts, overt and obscure. Essentially, these conflicts involved the authority and the responsibility vested in various organizational roles, and were aggravated by the personal power of the role occupants. These conflicts affected the hospitals' organizational structure, their work, their patients, and the communities in which these hospitals operate.

Some of the discord was caused by personality conflicts within a single person or between different individuals. For example, among the administrators were medical professionals who had discontinued their therapeutic practice, having decided that being an administrator conflicted with the role of a therapist. Conflict arose between these administrators and practicing therapists who saw the former as envious or jealous of the doctors who continued to treat patients. Although the administrators often defended their feelings in sophisticated ways, their task performance was, nevertheless, adversely affected. Therapists, on the other hand, often felt that administrators were preying on their authority and "clinical freedom." In short, the administrators' role and their previous professional identity created intrapersonal problems for themselves and interpersonal problems with therapists responsible to them.

In other instances, personality conflicts arose from the traditional relationship between nurse and doctor—with the nurse in a subordinate role, obeying every instruction and wish of the "managerial" doctor. Indeed, only occasionally were nurse and doctor viewed as partners in the task of treating patients. The nurse was seen as either revering or resenting the doctor's "authoritarian" attitudes; and the explicit acceptance of the doctor's obvious dependence on the nurse seemed to be taboo. The working relationships within the sentient groups of doctors and nurses were frequently affected by external pressures impinging on their task performance—specifically, the differential values society attributes to the work of men and women. At the overt interpersonal level, the doctor-nurse relationship was alluded to as having specific personal, sexual connotations, implying—and at times openly stating—that personal and nontask-related considerations superseded the institution's values. Covertly, doctors and nurses more often seem to be engaged in acting out unconscious collusions of a sadomasochistic nature.

In contrast, other conflicts between therapists, nurses, administrators, paramedical staff and maintenance personnel were caused by a lack of clarity in the organizations' structure or policy. Doubt was expressed about whether the administrator or a senior therapist was in charge of residents, what was the institution's accepted criteria for judging residents' or nurses' concern for patients, who was specifically charged with evaluating their work, etc. These doubts, fostered by the lack of organizational clarity, were expressions of concern about the authority assigned to various roles and the responsibility following the exercise of this authority. Individuals were not always certain about the authority of their roles, and personal power began to influence unduly the institution's working processes. Nonrequisite clashes of interest became manifest; serious problems were unattended and usually became even more serious. Needed organizational changes became difficult and often impossible because they clashed with individuals' interests; those changes that were accomplished were achieved only by manipulative persuasion or by those who recklessly threw their "weight" around. For example, during one particular staff meeting, it seemed obvious that some nurses knew which patient had slashed some furniture and draperies; yet, they preferred to remain silent, at least during the staff conference, and told me they had to "protect their patients." By being uncommunicative, the nurses exercised a power play which was readily noted by patients and was not likely to benefit the therapeutic process.

In short, the lack of clarity about organizational structure generally and the lack of definition of authority specifically provided fertile ground for personalities to become major determinants of institutional conflicts. Organizational splittng processes[*] occurred, frequently expressed in "double messages" among staff members and between staff and patients, most of them having the characteristics of a "double-bind," i.e., "damned if you do and damned if you don't."[†] Residents, paramedical staff, and nurses complained that senior staff members encouraged them to express themselves freely and, indeed, critically; yet, when they followed this encouragement—citing situations in which they questioned senior staff's "fuzzy directions," "contradictory policy statements," or "the differential status of psychiatrists and psychologists" regardless of their individual rank and experience—the senior staff member's tone of voice, and sometimes even choice of words, conveyed defensiveness, at times perceived as being "downright testy." Moreover, answers were not always clear; and the questioners became "uptight," "turned off," and saw themselves as forced to decide whom to approach subsequently for greater clarification.

The patients were not immune to the tense psychological atmosphere created by the staff's conflicts. The patients were keenly aware of the staff's "insoluble conflicts" and "double-binds"; and frequently patients and staff were involved in a process of mirroring, i.e., acting out an imitation of each other. The patients reacted emotionally, often with heightened irrationality, and at times felt like children caught in the middle of a family conflict. The tenor of the patients' complaints was expressed by one patient who said she was treated as a case about which the staff argued and who was shoved around, and not thought of as a human being for whom all had responsibility. This psychological atmosphere affected the treatment process, although its effects never seemed to appear in the hospital records. Yet, it might be speculated that some patients' undesirable reactions such as attempted or carried out suicides or premature termination of treatment might have been triggered by the staffs' conflicts.

The conflicts in the four institutions did not remain within the walls of each of the hospitals, but also affected the relations between the hospitals and the communities in which they operate—potentially affecting relations with doctors on whose referrals the hospitals depended, with other professionals whom the hospitals wished to recruit for their staffs, and with the communities in which the hospitals hoped to raise funds and other special benefits.

However, these four institutions did service the social and medical needs of their external environments as evidenced by the high utilization of the hospitals' capacities and by lengthy waiting lists of patients, residents, and nurses. Indeed, two of the four institutions enjoyed great professional prestige among practicing psychotherapists, universities, and the general public, even beyond their national borders. Clearly these were functioning institutions. However, their staffs felt that certain difficulties—difficulties which were vaguely defined—impeded the optimal use of their capacities.

### PRIMARY TASKS AND VALUES

When the various intrainstitutional relationships had been examined, it became important to arrive at operationally-defined models for all the primary tasks of the institutions, to specify the needs the institutions wished to satisfy, and then to create a coherent statement of the values guiding the institutions in the pursuit of their objectives. The clients at first resisted as "too difficult" the need to define the primary tasks operationally, i.e., feasible in terms of quality, quantity, time and expenditure. They preferred to define the hospitals' primary tasks in such broad terms as therapy, research, or education. The clients and I explored the usefulness of such inclusive definitions, and it became apparent that such headings clarified neither the specific nature nor the scope nor the quality of these activities. Moreover, when stated abstractly and in isolation from one another, these headings did not show how the tasks were to be integrated into a total and potentially effective institutional task performance.

This approach led finally to an operational definition of the boundaries of the roles and the work allocated to those roles, including those of the trustees, within the institutions' organizational structures. Role boundaries included the responsibilities of each role occupant—the institutional resources he is authorized to use in discharging responsibility in the role, the decisions he is authorized to make within the limits of the work allocated to this role, and how he is to cooperate with other role occupants in carrying out the tasks of his working unit or department and the task of the entire institution. The role definitions also specified the qualifications required for occupying specific roles and the potential career opportunities at the institution, e.g., promotions within projected time limits, additional qualifications needed for newly-defined roles, special working conditions required by these new roles, etc.

The role specifications made explicit the institutions' responsibilities to themselves and to their staffs. Having agreed to plan for their staffs' professional development, the institutions obviously had to plan their own growth and development. Moreover, since they were operating as open systems in which varying conditions affect the institutions' work, their planning had to be examined at varying time intervals and revised when necessary. Then, in this continuing evaluation of the entire institution's work, each role could be judged for requisite work content, for position in the hospital's organizational structure, for staffing, and, indeed, for justification of continued existence.

Before procedures and policies for work behavior were clearly defined, most role occupants had perceived their own and other roles individualistically and thus were confused about who was authorized to do what. Organizational inefficiencies and even breakdowns had followed, because of the frustration and failure of individuals to function effectively. However, the hospitals' definition of detailed responsibilities for specific task performances and determination of the authority and resources required to discharge such responsibilities also caused considerable anxiety among the staffs. This anxiety was usually expressed by a persistent defense of previous policies and structures, although the staffs seemed to be aware, consciously or not, that these policies had caused great disruption and were no longer suited to the current changing situation.

This defensive behavior, inappropriate to the institution's changing conditions in the "here and now," may be illustrated by a particular situation that occurred in one of the hospitals in which I was consultant that underwent the transitional process of changing its primary tasks and implementation of those tasks. Prior to this change process, the institution had seen its mission as providing therapeutic services to patients; as a welcome by-product, this therapy was also seen as enhancing the institution's goals by educating its staff and in related research. By contrast, the newly-defined mission of the hospital stressed an increased emphasis on research and education, through which it also improved the quality of its therapeutic services. Therapy was now seen as a primary task and *primus inter pares* among education and research.

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[*] Splitting, according to Melanie Klein (1948), represents two aspects of one's relation to the same object—love and hate. For example, clinging to the good while denying the existence of the bad preserves the belief in the good object and the capacity to love it. Although an essential condition for the infant to keep alive, splitting processes diminish in the normal, later development of the ego. However, it is suggested that in times of stress the childish parts of the personality emerge and use primitive defenses, among them splitting, to ward off anxiety and discomfort caused by contradictory impulses.

[†] For a discussion of the "double-bind" see Steinfeld (1970).

Although the explicit decision to change the hospital's mission in concept and implementation had been made and agreed upon, a contest of advocacy emerged between individual and community therapeutic approaches. Frequent arguments arose about the relative merits of "medical models" and "social models." At times, it sounded as if the "medical model" was restrictive, authoritarian, old-fashioned and "bad," while the "social model" was seen as democratic, growth-inducing, and "good." Indeed, various staff members experienced difficulties in defining these terms—difficulties which seemed manifestly different from the perplexity faced by those who tried to state explicitly what they meant implicitly and intuitively. It soon became apparent that these terms were used as shibboleths, barely concealing personal strivings for power positions in the institution. In short, the shibboleths were symptomatic expressions of deep-seated personal anxieties.

These phenomena appeared to be particularly acute when there had been recent changes in the institution's top-level management. Often these changes were linked with a revision of the hospital's therapeutic policy and methods, thereby affecting the previously-accepted limits of clinical freedom. Moreover, changes in the occupancy of the hospital's chief executive role implied changes in the institution's actual authority relations, which frequently extended through several tiers of the hierarchy. When these changes were not made explicit, the staff's perception of their own roles was blurred which, in turn, diminished the effectiveness of their task performances. In such cases, clusters of disciples of the new direction and adherents to the previous tradition seemed to live rather uncomfortably with each other. Clashing allegiances were found both at the inter- and intrapersonal levels. There were manifestations, explicit and implicit, conscious, of ambiguity and even bitterness about these changes and nostalgia for the good old days of the hospital.

### THE ROLE OF THE MEDICAL DIRECTOR

The chief executive in each of the institutions was a psychiatrist; in three instances his official role title was medical director. In all four institutions, discussions among the staff indicated that some of them had "doubts about the wisdom of having a medically-educated head of the organization rather than one experienced in business management." They argued that expertise in individual psychotherapy is an inadequate base for the administrative functions of a chief executive, i.e., integrating the various functions of a mental hospital—admissions, diagnosis treatment, rehabilitation, education, nursing, research, physical plants, hotel catering, finance—which are all linked to therapy in a complete way.

These arguments were found to represent mere screens for feelings the staffs had about their medical directors. For instance, various staff members were angry with their director because they felt they could not depend on him to run the institution smoothly and to their satisfaction. Indeed, the lack of organizational clarity induced staff members to regress into what Bion (1961) describes as a basic assumption culture of dependency, or fight-flight, in which the medical director became invested with quasi-magical power for good or bad. Since it was impossible for him to live up to such idealized expectations, his actions were frequently distorted in a paranoid way and frustration and further hostilities developed.

Subsequently, when this question of who should head a mental hospital, a layman or a therapist, was examined in the context of reality constraints, the staffs accepted the fact that all activities in a mental hospital have an impact on the therapeutic process and thereby on the patients' welfare and agreed that it makes little sense to have a nontherapist in charge of the institution. The clinching argument in each case was the consideration that medicolegal responsibility for the welfare of patients ultimately rests on the medical director who represents the institution. However, their doubts about the medical directors' "underdeveloped capacity" for optimal organization decision-making remained unresolved.

It is my judgment, as consultant, that the staffs' conclusion was justified, although not necessarily for the reasons they stated. Indeed, insisting on medical qualification, to the exclusion of other related professional qualifications, might well result in a serious error. It seems necessary to select as a candidate for the chief executive's role an individual with experience in any profession relevant to the institution's primary tasks. Most important, however, is the candidate's capacity to accept criticism, constructive and otherwise, and his capacity for critical self-assessment of the quality of services provided by the institution.

### THE WORKING-THROUGH PROCESS

The next phase of the work was directed at developing reality-oriented and up-to-date role specifications for the various professions, e.g., therapists, administrators, nurses, paramedical staff, maintenance personnel. Jobs were defined so the role occupants could understand where they fit into the organization and how they were expected to cooperate in providing the services that had been contracted between the institution and its patients—the primary task of the institutions.

In the process of defining their roles, individuals began to face their anxieties and gradually to "work them through," although in varying degrees. Underlying this process was a growing acceptance of the desirability of having full and free exchange of views, respecting technical competence and knowledge rather than personal preferences, and recognizing the inevitability of organizational conflicts. Indeed, in due course, the staffs welcomed open discussions of covert conflicts as opportunities to develop their own capacity to tolerate painful insights into such phenomena as scapegoating, rivalry, dependency, jealousy, futility, and despair—in short, to develop their capacity for dealing with reality.

Jaques (1951) points out that this kind of working through, adopted in modern management practices from psychoanalysis, means considerably more than just saying a full discussion has taken place. It means a serious attempt has been made to voice the unrecognized difficulties, often socially taboo, which impede a group's working on its task. Through this process, a group develops an awareness of the tensions which lower its effectiveness and develops a willingness to undertake open discussions to deal with these tensions. Such discussions are not listed on the agenda of a work group; however, once a group has developed the ability to recognize factors not related to its task—status, security, power, suspicion, hostility, memories of past events—these previously unconscious factors tend to lose their effect on the process and progress of the group's work. The group may then work more effectively on those issues which are on the written agenda.

That experienced and highly-qualified psychiatrists and clinical psychologists required an organizational consultant as a catalyst in this working-through process should not be surprising. Working through "organizational anxieties" is a process similar to that of working through personal unconscious anxieties; even the best psychotherapist may need someone else's professional expertise to help him see himself as subject to the same impulses, resistances, and "blind spots" in a working situation as other people, and then to help him accept the fact that intellectual knowledge of oneself may not always be available.

### CHANGING INSTITUTIONAL CULTURE

Development of a new and more reality-oriented structure, without efforts to change the institution's culture, seems unlikely to have any lasting, favorable impact on its task performance. Indeed, one effective way of changing the hospital's culture was to encourage all levels of staff to raise points of puzzlement or dissatisfaction with colleagues and superiors—the working-through process. In this process, I assisted, whenever feasible, in examining the reality content of the client's judgments which uncovered latent hostilities, revealed apparently incompatible attitudes, and aroused considerable anxiety among those involved. This approach not only increased staffs' insights but also led to some significant changes in their attitudes toward establishing and maintaining shared modes of professional and technical practices.

I do not mean to suggest that organizational problems and the inherent conflicts can always be resolved or even that it is desirable to do so. Conflicts are actually symptoms of organizational health, just as pain is often an important symptom of physical health. However, working through these conflicts does represent an effort to control and rechannel them for the benefit of individuals, institutions, and patients.

Another important way of facilitating change was the development of a common terminology that enhanced clear communication, and relevant concepts were defined operationally in terms of the needs of the staffs. These concepts, of course, were not presented as organizational principles or laws, but rather as a heuristic model designed to aid in the examination of institutional reality. When applied, however, these concepts cannot be accepted as free of error; each individual must exercise judgment and be responsible for the consequences; clients, therefore, become less dependent on consultants and recognize their status as mature, adult, responsible professionals.

When an individual accepts a position within an organization a working contract between the institution and the individual is negotiated. The institution, for its part, agrees to compensate the individual with pay, security, pension rights, social and psychological benefits, and other tangible and intangible rewards. In return, the individual agrees to accept the extent and limitations of the *authority, power,* and *responsibility* of the assigned role. These three concepts—authority, power, and responsibility—are organizationally important and inextricably intertwined and will be operationally defined and discussed as they affect institutional work.

#### *Authority*

Authority, organizationally defined, is the right to do assigned work—what one is authorized to do. It is an attribute of a role in an organization, and the occupant of this role exercises authority by accepting and carrying out the tasks assigned or delegated by a higher-level role occupant, i.e., manager to subordinate.

Managerial authority, then, is limited by delegation from a higher-level role on the one hand, and by consent of the lower-level role on the other. For example, manager A, a hospital's director of therapy, instructs therapist *B* to prepare a process report on a patient. *B* instructs his secretary *C*, subordinate to him, to type this report. *B* is authorized to do this work by *A*, and is is authorized to assign a part of this work, the typing, to *C*. *C* consents to do so, thereby enabling *B* to complete his authorized task.

#### *Power*

Power, organizationally distinct from authority, is the individual's capacity for carrying out work. It has physical, intellectual and emotional aspects; it is, therefore, an attribute of the person, e.g., one's skill, knowledge, experience, insights. Being personal, power remains within the individual whether or not the person actually occupies a role.

### *Authority and power*

Authority and power are distinctly different organizational concepts that are not interchangeable; yet, power is necessary for exercising authority. However, when power is exercised without authority, it is seen as illegitimate or unauthorized power. A medical practitioner, otherwise qualified but not licensed to practice in a given state or to treat a patient without that patient's consent, uses power without authority. Students rioting on campus or prisoners rioting in jail wield power without authority. The American colonists, throwing bales of tea into Boston Harbor, used unauthorized power.

There are similar instances wherein a role occupant has authority without the power necessary for the task. Examples might be a doctor who is incapacitated by illness and unable to attend his patients or a qualified doctor who has no patients. In either case, the doctor cannot exercise his authority to treat patients since he lacks the capacity or consent to do so. Organizationally-authorized managers who lack the necessary capacity for their tasks invite inefficiency and eventual anarchy. If this situation does not cause the institution's demise, it is likely that in an effort to compensate for their shortcomings these managers will either throw their "weight" around—rarely to the advantage of the institution—or they will abdicate, thereby permitting others to use unauthorized power. A secretary who tells her manager what to do or a trustee who unduly influences the therapy of a patient in whom he has a personal interest are all too well known examples of unauthorized power. Thus, when there is either authority or power without a balance of the other, malfunctions occur both organizationally and personally.

### *Responsibility*

Responsibility, organizationally defined, is the accounting that must be made for the resources that are used to carry out the assigned task. Minimally, this concept involves the employee's expended resource—time spent at work—and the institution's compensating resource—money for wages and salaries.

At another level, however, responsibility also includes an attitudinal accountability—making continuous efforts to be aware of problems related to one's work and committing oneself to deal with them not only within one's own value system. It is here that many in the so-called helping professions face a dilemma between organizational responsibility as determined by the institutional role and personal responsibility according to one's own system of values. This dilemma is psychologically and historically deep-rooted—difficult, if not impossible, to resolve—and one that affects individuals consciously and unconsciously with feelings of guilt.

Currently, this dilemma is taking on particular social and personal significance, for behavioral scientists such as Skinner (1971) are seriously suggesting new technologies for controlling human behavior; Kenneth Clark (1971) recommends the routine administration of drugs to political leaders; and Krech (1967, 1968) foresees chemical brain control agents that can be used without the knowledge of those affected by them. For those who work with patients in mental hospitals and who frequently suffer from heightened guilt and difficulties with responsibility, the problems of organizational clarity can assume special significance which reemphasizes the need for operational definitions of a mental hospital's mission, its value system, its policies, and the authority and responsibility assigned to each of its roles.

The last, but certainly not the least important, of my tasks as consultant was to help the medical director and his immediate staff become aware of their responsibility to create and maintain a milieu in which various individuals and groups could examine their anxieties, which implies a relative de-emphasis of comfortable resolutions of conflicts. Indeed, it often demands a nurturing by management of conflicts, potentially leading to greater clarity in task orientation of the organizational structure and its occupants. There was ample evidence that because of confusion about authority and responsibility in roles, top-level management had been spending a great deal of time in conciliation and *ad hoc* decision making. By contrast, when there was reasonable clarity later on about the various role functions, top-level management was able to direct its efforts increasingly toward delivery of the services that the institution had contracted to provide—its primary tasks.

In the instances described here, these psychiatrists in the role of chief executive of a mental hospital and most of their colleagues and organizational subordinates were emotionally and intellectually committed to carrying out successfully their institution's tasks. It seems reasonable to accept the fact that their professional medical education did not include preparation for dealing effectively with organizational problems; thus, they were handicapped by a lack of knowledge of modern organizational concepts, let alone expertise in the complexity of their application. They were, in a sense, gifted amateurs. While psychiatrists obviously know a great deal about anxiety at the intrapersonal level, this study surely indicates rather extensive gaps in their theoretical and applied knowledge of anxiety at the organizational level. Therefore, it may be well to consider adding to the curriculum of psychiatric education, and perhaps even to all medical education, course work, both theoretical and experiential, that will provide an understanding of the interrelation between organizational authority, leadership, and structure on the one hand, and the individual's behavior in organizations on the other.

## CONCLUSION

Organizational conflicts are often embedded in an "organizational unconscious," and diagnosing the "unconscious of an institution" requires a different kind of expertise than that traditionally provided in professional mental health training. My task as consultant was greatly facilitated by the fact that members of the client-systems were willing to adapt themselves to changed realities and were resilient to change. Furthermore, I had data derived from direct observation of the institutions' work, and I was able to draw from my own experience of many years as an executive administrator responsible for institutions of various sizes.

It is not altogether traditional, nor is it easy, to examine the structure and culture of a mental hospital in straight organizational terms. A variety of factors involved in the operation of a mental hospital complicate such an examination. Nevertheless, the appropriate application of these terms gave a base for this study. Thus, the structure of a mental hospital—as in other organizations—is seen as the strategy for carrying out tasks related to clients—in this case, the patients. The organizational culture can then be seen as the way in which the institution and the people it comprises—staff, patients, trustees, consultants—do or do not fall into a dynamic unity and the way in which they consciously and unconsciously use each other for their own and their institution's purpose, both constructively and otherwise (Rogers 1963). Yet, these considerations are by no means the only valid criteria for task performance. Among the numerous other constraints that impinge on the institution's task performance are: (1) relationships with and pressures from the institution's external environment; (2) technologies selected for the institution's tasks; (3) members' needs for professional, social, and psychological satisfactions; and, perhaps crucially important, (4) their needs for support in dealing with their own task-linked anxieties—guilt, doubt, uncertainty, feelings of impending crisis, frustration, loneliness, and hostility—often kaleidoscopically mixed with inordinate demands for acceptance, reassurance, and love.

The organizational structure, ultimately "worked through," will inevitably represent a compromise between the model and these constraints. The value of the model, however, lies in providing a basis against which to test the reality of the constraints and the need for the particular form of compromise and the degree to which the efforts of the institution are either directed toward the benefit of patients or dissipated in the organizational dislocations of administrative duplications, nontask-oriented disputes, and other confusions.

The application of organizational concepts is as important to mental hospitals as to any organization, particularly when one considers that, in the absence of clearly understood authority, decision making relies on personal power. The latter evokes in the institution's staff feelings of abuse and illegitimate authority, which, in turn, causes undue strain on the psychological system of individuals and the institution itself. As it is, there is often already enough of this kind of strain to carry, especially in mental hospitals. Of course, even when authority relations are clearly understood, psychological stress will not necessarily be removed. However, it will help to place the stress where it requisitely belongs in the organization. In short, clearly-defined roles—in terms of authority and overall integration in the goals and purposes of an organization—potentially reduce aggravation of personal problems, and, in so doing, enhance the probability of successful institutional task performance.

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## INTERSTATE LAND SALES

Mr. HARTKE. Mr. President, Congress attempted, 5 years ago, to put an end to the abuses which have plagued the interstate land sales industry. However, as time goes on, it becomes increasingly apparent that this attempt has not been as successful as might have been hoped. It is for this reason that I have introduced S. 1753, the Interstate Land Sales Act Amendments. The bill requires Federal licensing of all interstate land sales dealers.

Mr. President, an article by Paul Hoffman, which recently appeared in the Saturday Review gives an insight into the selling techniques used by these salespeople today. I request unanimous consent that this article be printed in the Record for the information of the Senate.

There being no objection, the article was ordered to be printed in the Record, as follows:

### About Those Land Hustlers You've Been Hearing From

(By Paul Hoffman)

By now, every man, woman, and child who's ever had his name on a mailing list must have received at least one invitation to a dinner-and-sales pitch from Alligator Gardens, Florida, or Culjones Canyon, Arizona, or some other chunk of Sun Belt real estate. And most, like me, must have chucked them into the waste basket.

But when one came from an outfit called Rio Rancho Estates, I got curious. What are such presentations like? I wondered. And what did I have to lose—provided I didn't sign anything?

So I mailed back the card and at the appointed hour showed up at Zwaaf's International restaurant on West 52nd Street (formerly Toots Shor's watering hole). I was ushered into a basement dining room, where a projector flashed faded color slides of western scenes onto the screen. About thirty people, ranging in age from their late twenties to sixty, were seated at five tables. At each table was a Rio Rancho salesman. Three of them were women—one in a broadbrimmed hat that made her look like a little league Bella Abzug.

At my table were three other couples in their thirties—two, like me, singles, the third, a doctor and his schoolteacher wife. One of the girls seemed interested only in getting a job with the company. I didn't get a chance to find out much about the others because our salesman, a fiftyish man named Jack Z. Greenberg, spewed a running spiel throughout the evening.

Rio Rancho Estates, it turned out, is an 86,200-acre development seventeen miles from Albuquerque. A former cattle ranch that borders the Rio Grande, its developer is a division of AMREP Corporation (formerly American Real Estate & Petroleum), which is listed on the Big Board, selling about a point under its 1972 high of 29½, and which has two smaller projects in Florida. Our hosts were the ATC Realty Corporation, a local AMREP subsidiary.

Greenberg spoke glowingly about the wonders of the Albuquerque area—the climate, the clean air, the booming job market, the recreational facilities. "There are only two sports you can't indulge in there—salt-water swimming and deep-sea fishing, unless the earthquake comes and California falls into the ocean." He seemed particularly proud of Rio Rancho's golf course, scheduled site of the Jimmy Durante–Dale Robertson Open.

He also stated the line we were to hear time and again throughout the evening: Albuquerque is hemmed in to the east by mountains and to the north and south by government-reserved land; its only area of expansion is to the west—and Rio Rancho is right in the path. So land values are bound to boom.

He pointed this out on a map among the pile of leaflets on our table. One of them was the offering statement (the real estate equivalent of a stock prospectus), which I started scanning.

"Hey! You're not supposed to read that until later!" Greenberg snapped.

I think he realized then that I was a "no sale."

In response to our questions, Greenberg said that he attended these dinners two or three nights a week, though most were smaller than ours. The invitations were mailed out by the Reuben H. Donnelley Corporation (the *Yellow Pages* people), and he had no idea of how many had been sent or why we were chosen.

Only a small portion of Rio Rancho was already developed, he explained, though gravel and dirt roads had been laid through the entire area. He didn't expect us to pack up and move out there right away; we should look on our purchase as an investment. Within six months of purchase, we could take a five-day package tour to Albuquerque for $450 per couple and, if we didn't like the property, trade it for another or get our money back—no questions asked. Or we could sell it to someone else.

"But wouldn't we be competing with you?" I asked.

Greenberg assured us that wouldn't be the case, since 90 per cent of the lots were already sold.

"How about water?" the doctor asked.

Greenberg said the water table was sufficient to supply one million people for the next 500 years.

The lots, he continued, were mostly a half-acre, though a few were larger.

"How much do they cost?" my companion asked.

"We'll get to that later," he said.

"But I want to know how much," she insisted.

We were interrupted by Rio Rancho's honcho for the evening, a Mr. Olivieri, a swarthy, perfectly programed organization man who would make Richard Nixon seem appealingly rough-hewn. He introduced the evening's first film—a bit of boosterism called *Albuquerque's West Side Story*, put out by the local chamber of commerce.

When it ended, he asked, "Well, how did you like it?"

There was a smattering of polite applause, led by the five salesmen.

Then the dinner, which was surprisingly good—fruit cup, Salisbury steak, mashed potatoes, green beans, and a delicious cheese cake. No liquor was evident, though I learned later there was a cash bar.

After dinner Olivieri introduced the second film—a straight half-hour commercial for Rio Rancho called *Your Golden Future*. It showed golf courses, rodeos, barbecues, pool parties and picnics, interviews with happy residents relocated from Middle America, and endless shots of Rio Rancho's ranch houses—on lots that seemed far smaller than the minimum half-acre and that reminded me of Malvina Reynold's "ticky-tacky." When it finished, there was another round of induced applause.

Then Olivieri made his pitch, repeating all the points that Greenberg had made in conversation and Your Golden Future had made on film. Meanwhile, a Xeroxed sheet was passed to each table, listing the twenty-four lots that would be up for sale that night. The smallest was three-fourths of an acre for $3,065, the largest, 3.11 acres for $11,430. Ten per cent down would reserve any lot.

As soon as Olivieri had finished, the salesmen jumped up and shouted their "options" for various lots. It sounded like the pledge call at a United Jewish Appeal dinner.

The other couples at our table soon departed without buying. Greenberg gave up on me, but he made a strong pitch to sell my companion a one-acre lot for $5,010—$505 down, $67 a month. What the Xeroxed sheet didn't show was that the payment stretched over eighty-nine months for a total of $6,468—which figures out to be 22½ per cent interest. For most customers that moment of truth would come only when the contract was thrust out for final signature.

Greenberg showed us on a larger map in which of Rio Rancho's twenty-six "units" the lot was located, but there was no plot map to indicate how it fitted into the overall scheme of development. No customer could learn that until he flew to Albuquerque.

By the time we left, only one lot had been "reserved"—the smallest one.

We weren't allowed to take any of the promotional flyers with us, but I, with assumed naïveté, asked if I could keep the offering statement.

"If I didn't let you have that, we'd be out of business," Greenberg said, though his tone clearly indicated that he wished I hadn't asked.

I could see why when I got home and perused the fine print at leisure:

Lots may be purchased for speculative purposes but such purchasers are advised that resale for a profit may be difficult for a number of years in view of the fact that water and utilities may not be available to certain lots for an indefinite number of years . . . and that in trying to make a resale the purchasers may be competing with the company, which has thousands of lots to sell.

Instead of the 90 per cent sold, as Greenberg had said, Rio Rancho, according to the statement, as of March 1 had 71,499 of its 86,176 lots for sale. In the better-developed areas, only 600 of 1,800 residential lots had been sold.

Rio Rancho's water table may be sufficient for 500 years, but its supplier, the Albuquerque Utilities Corporation, has facilities to serve the needs of only 8,000 homes and plans to install new equipment for only another 2,000 to 4,000.

More fine print: The possibility exists that no water service will be available to many of the lots for an indeterminate number of years. . . No representation is made that such service will ever be installed or rendered.

Olivieri had said that Rio Rancho lots were selling for far less than others in the Albuquerque area. If so, it would mean that the other real estate developers are even bigger profiteers than AMREP.

Rio Rancho's cash statement for fiscal 1971 showed that it was reselling the land for nearly ten times the original purchase price. Annual sales were $29.7 million—for land that originally cost $3 million. Interest added another $4.1 million in income. Rio Rancho's promotional costs outran land cost by nearly 3 to 1—$8.2 million.

The development's post-tax profits were $8.5 million—or 22 per cent. It had retained earnings of $37.7 million.

A few minutes of calculations showed that each 6,000 acres sold brought profits of about $8 million. And there are 71,499 lots left to go.

## RESOLUTIONS PASSED BY VFW AT 74TH NATIONAL CONVENTION

Mr. THURMOND. Mr. President, the 74th National Convention of the Veterans of Foreign Wars of the United States was held in New Orleans, La., August 17 through 24, 1973.

During this convention a number of resolutions were adopted which addressed our national security and other important issues presently before the Congress.

Mr. President, these resolutions approved by the membership of the influential VFW are well thought out and deserve the attention and consideration of the Congress and the Nation. I ask unanimous consent they be printed in the Record at the conclusion of my remarks.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

### Resolution No. 403: Postwar U.S. Policy Toward Southeast Asia

Whereas, the objective of U.S. policy toward Southeast Asia—supported by the last five American Presidents—is a durable peace in which peoples of the area do not have governments imposed upon them; and

Whereas, U.S. policy seeks to avoid a clash among the United States, the Soviet Union, and Mainland China in this part of the globe; and

Whereas, while the President has completed both U.S. troop withdrawals and the Vietnamization program, U.S. policy will continue to focus upon this area; and

Whereas, within their limited capabilities both Cambodia and Laos are resisting, along with South Vietnamese, the intrusion of regular North Vietnamese divisions within their national borders; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that our beloved country support the President of the United States as he steadfastly seeks a durable peace in Southeast Asia having boldly reduced the U.S. military presence therein; and

Be it further resolved, that the sense of the foregoing resolution be conveyed to the President, the Congress, the communications media, and the country at large by all means available to this organization.

Adopted at the 74th National Convention of the Veterans of Foreign Wars of the United States, held in New Orleans, Louisiana, August 17 through 24, 1973.

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### Resolution No. 404: U.S. Policy Toward Communist Cuba

Whereas, since the President's visits to Communist China and Communist Russia, many newspapers, TV stations, and other media have sent up "trial balloons" stating that, in their opinion, it is now time to "normalize" relations with Communist Cuba in the wake of the anti-hijacking agreement; and

Whereas, Communist Cuba's dictator, Fidel Castro, has, notwithstanding, kept thousands of Cuban citizens languishing in horrible conditions in filthy prisons and concentration camps; and

Whereas, the Cuban Communist regime has continued the repressive policy of no free elections, systematic withdrawal of all democratic freedoms, systematic spying on all citizens and coercion of all Cubans into the Communist system; and

Whereas, Communist Cuba has continued in its implacable hatred of the United States of America and has continued to send out Communist agents to other countries in this hemisphere and continued to train and inspire agents for sabotage and insurrection in various countries; and

Whereas, the United States of America has admitted hundreds of thousands of anti-Communist refugees from Cuban shores; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that we call upon the President and the Congress to continue the present policy of no trade with Communist Cuba and the policy of no diplomatic recognition of the Communist state for as long as it remains the policy of the Cuban Communist regime to retain the many harsh injustices now extant in that unfortunate land; and

Be it further resolved, that the U.S. Government grant no concessions whatsoever on the control or use of Guantanamo Bay.

Adopted at the 74th National Convention of the Veterans of Foreign Wars of the United States, held in New Orleans, Louisiana, August 17–24, 1973.

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### Resolution No. 406: "No Win" Wars

Whereas, during the wars in Korea and in Vietnam, the United States has engaged in widespread hostilities without willing the means to achieve victory; and

Whereas, the "No Win" Wars in Korea and Vietnam have divided and enfeebled our beloved country, there being no substitute for victory; and

Whereas, ever since the Bolshevik Revolution in 1917, whenever the Soviets have turned to force of arms, they fully achieved their objectives, most recently Czechoslovakia in 1968; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that should, in the future, the United States find it necessary to defend the nation or the nation's security interests by recourse to arms, that no obstacle be allowed to arise which would deny victory to our beloved nation in the shortest possible time.

Adopted at the 74th National Convention of the Veterans of Foreign Wars of the United States, held in New Orleans, Louisiana, August 17–23, 1973.

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### Resolution No. 408: The Panama Canal Zone

Whereas, Article II of the 1903 Convention between Panama and the United States, as modified in part by the 1936 Treaty between the two Governments, states:

#### ARTICLE II

"The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant . . .

"The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, namely Perico, Naos, Culebra, and Flamenco;" and

Whereas, the United States of America has fully met its obligations to Panama under has efficiently and responsibly accommodated an ever-incresing number of transits and existing treaty arrangements and, moreover, amount of tonnage through the canal; and

Whereas, the revolutionary government of Panama, a product of coup d'etat, has, since June, 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign of anti-American propaganda fueled in large part by Cuban and Soviet Communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama set to explode to the detriment of the United States and the world shipping community, as was the case in the abortion meeting of the UN Security Council in the Panama and the subsequent threat to the U.S./UN Ambassador; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. control and defense of the Panama Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty; and that

(d) the foregoing position be again communicated to both the President and to the Congress.

Adopted at the 74th National Convention of the Veterans of Foreign Wars of the United States, held in New Orleans, Louisiana, August 17–24, 1973.

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### Resolution No. 411: A Proper National Defense Posture

Whereas, it is the Constitutionally-ordained duty of our beloved country and its citizens "to provide for the common defense;" and

Whereas, the most crucial "social service" our beloved country can provide for her citizens is to keep them alive and free; and

Whereas, domestic problems with their increasing demands on the tax dollar have driven down the national defense portion of the budget from a recent high of near 10 percent of the gross national product to about six percent for fiscal year 1974; and

Whereas, the Soviet Union has, despite the May, 1972 Strategic Arms Agreement, continued to modernize and expand her strategic and tactical land, sea, and air deployments with a heavy concomitant investment in military research and development; and

Whereas, no ally or combination of allies have the will and capacity, without large scale U.S. support, significantly to enhance the freedom and safety of our beloved country and the rest of the Free World; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that

1. The Congress "raise and support" an Army structure to meet fully the many commitments world-wide it faces;

2. We support modernization and procurement of manned bombers, fighters and manned interceptors as major elements of our Nation's total air/space offensive/defensive team;

3. The Congress "provides and maintains" a combat/ready Marine Corps with sufficient funds to maintain a strength of at least four divisions and four air wings (one division and one wing as reserves);

4. The Congress "provides and maintains" the U.S. Navy as the world's most modern, powerful and versatile naval power;

5. The National Guard and Reserve be fully funded and supported in line with their enhanced importance under the "total force concept;"

6. We reaffirm our support of a U.S.-built, enlarged and modern Merchant Marine as a vital element of our nation's maritime policy to include needed subsidies;

7. We support strong and meaningful separate military departments under their respective Service Secretaries;

8. we advocate continued development of atomic and hydrogen weapons and the necessary testing of such weapons to sustain and preserve our role as the strategic guardian of the Free World;

9. we support a policy of central control and coordination of research and development, by the Secretary of Defense, that eliminates unnecessary duplication, but assures the benefits of constructive competition and experimentation of weapons appropriate to the missions of the military services. We continue to support the Congressionally-established basic roles and missions of the Army, Navy, Air Force and Marine Corps;

10. we support adequate U.S. forces under NATO and oppose any unilateral troop withdrawals from Europe;

11. we support every feasible public and private measure to restore and enhance discipline, morale, esprit de corps and professionalism in the Armed Forces;

12. we oppose any further reductions or constraints upon our strategic offensive forces in SALT II which are not more than offset by verifiable Soviet reductions;

13. we support a vigorous and professional ROTC and Junior ROTC program;

14. we note the early attainment of service recruiting goals under the "All Volunteer Forces Concept" during a period of no hostilities, but reserve definitive comment until this concept has met the test of time and hostile fire;

15. the United States maintain a viable and effective Selective Service System, specifically to include the authorization of the President to induct civilians into the Armed Forces, so that in time of national need, non-volunteer military forces may be raised quickly and effectively with equity; and, finally

16. we support the legislation sponsored by Chairman F. Edward Hebert of the House Armed Services Committee to establish a U.S. Military Medical University to provide medical officers for the armed services.

Adopted at the 74th National Convention of the Veterans of Foreign Wars of the United States, held in New Orleans, Louisiana, August 17–24, 1973.

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### RESOLUTION NO. 427: OPPOSE SENATE BILLS DEALING WITH CORRECTION OF DISCHARGES

Whereas, it has come to our attention that several bills have been introduced into the first session of the 93rd Congress dealing with the correction of discharges and other matters thereto; and

Whereas, we question whether these bills are a back door entrance to granting a type of amnesty or forgiveness for misconduct while in military service; now, therefore

Be it resolved, by the 74th National Convention of the Veterans of Foreign Wars of the United States, that we hereby go on record as opposing the passage by the Congress of the United States Senate Bills 1714, 1715, 1716, 1717 and 1718.

Adopted at the 74th National Convention of the Veterans of Foreign Wars of the United States, held in New Orleans, Louisiana, August 17–24, 1973.

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## THE REMARKABLE WORK OF NANCY HANKS AND THE NATIONAL ENDOWMENT FOR THE ARTS

Mr. MOSS. Mr. President, the Washington Post today praises the work of Nancy Hanks, Chairman of the National Endowment for the Arts. The outstanding accomplishments of the Endowment since its conception deserve wide notice.

Miss Hanks and her council members have brought new depth and vision to the task of improving and extending artistic programs throughout the country. President Nixon has shown wise judgment in renominating her as chairman of the National Endowment for the Arts.

This growth has been accomplished at a cost of no more than 20 cents per citizen—Vienna contributes $5.50 per person. Programs supported by the Endowment have brought a long list of cultural and artistic activities to all parts of my home State of Utah. These include support for the Utah Repertory Dance Theater, which travels over 250 miles to southern Utah to give performances, demonstrations, lessons, and lectures; the Utah Symphony Orchestra touring program; Ballet West Residential Professional Dance Co. program; artist and poet in residents programs; a minority art program called Utah Ballet Folklorico Co.; and a museum purchasing program to buy works of living artists.

Similar accomplishments have been repeated throughout every corner of America. In an age when the quality of our life has become a central point of discussion, the lift that comes through exposure to the many forms of art is sorely needed. Miss Hanks and her council are to be commended for all they have done to improve our lives through an expansion of the arts. I ask unanimous consent that the Washington Post editorial of September 19, 1973, "Nancy Hanks: A Success Story," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### NANCY HANKS: A SUCCESS STORY

Last week, the President called Nancy Hanks, the chairman of the National Endowment for the Arts, and some of her council members—among them actress Rosalind Russell, painter Jamie Wyeth, pianist Bill Taylor and opera singer Robert Merrill—to his White House office. He told her that he had nominated her for a second four-year term. "You are here," Mr. Nixon said, "because you have been able to get a 900 per cent increase [in federal funds for the arts] out of Congress."

We prefer to think that it is the other way around. We think Congress has authorized a spectacular and most ratifying increase in funds for the arts program because Miss Hanks was there.

With still relatively meager funds (last year the U.S. federal government spent 20 cents per citizen for the arts, in contrast to Canada's $1.40 and West Germany's $2.80), the Endowment, under Miss Hanks' chairmanship, has not only assisted individual artists and touring companies. More importantly, its efforts have considerably increased private donations and local matching funds. It has established a firm and creative partnership between the federal program and ever-increasing state and local efforts to help the arts improve the quality of life in America. The Endowment puts great stress, for instance, on supporting and enhancing the country's rich cultural diversity by aiding the indigenous artistic expression of the people of Appalachia, blacks, Chicanos, Indians, Puerto Ricans, Chinese, Japanese, and other minority groups.

Under another program, the Endowment, together with state arts councils, has brought hundreds of dancers, musicians, poets, painters, sculptors, film-makers, craftsmen and actors into America's classrooms and community meeting halls. Nancy Hanks and her council now have an ambitious and important program underway to improve the esthetics of the many things government does that shape the appearance of America: The government's own buildings, graphics, landscaping, renewal projects and other public works that might as easily be well than poorly designed.

And contrary to earlier misgivings by conservatives and liberals alike that federal support of the arts might lead to federal control of the arts, the council has maintained a healthy and at times even scrappy independence. At its last meeting, on the basis of its congressional mandate "to foster a climate of artistic freedom of expression," the council urged artists and art organizations to help make sure that local zealots do not misuse the recent Supreme Court obscenity ruling to restrict or curtail valid artistic and creative freedom. (A sheriff who would ban Playboy, might, after all, be persuaded to cover up a Rubens painting.) The council doesn't seek to provoke controversy when it strives to act as the nation's artistic conscience. But neither does it shrink from telling the U.S. Postal Service that some of its postage stamps are poorly designed or to tell museums to make sure that their buildings—with their imposing Greek temple stairs—are made easily accessible to the physically handicapped.

At that same meeting, the council expressed its delight at the re-nomination of its chairman, Nancy Hanks. So do we. We hope the Senate will act promptly to confirm her. And we are particularly delighted that the President has now charged the Arts Council to focus on the arts in the commemoration of the Bicentennial. We can think of no better way to give the planning for that event some much needed focus.

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## RECOMPUTATION OF MILITARY RETIREMENT ANNUITIES

Mr. DOMENICI. Mr. President, from the time of the Civil War until 1958, military retirement annuities were directly tied to active duty pay scales. Then 15 years ago, this tradition was abandoned by Congress in favor of a cost-of-living increase system. The new system has not proven to be beneficial for retirees.

Previous to 1958, retired pay was a function of years of service and merit, and today, it is dependent upon one's date of retirement. The inequities of this system are obvious. The differences between active duty pay and retired pay has widened each year. Older retirees now receive considerably less than their younger counterparts. In some cases, the disparity is as high as 50 percent.

I do not believe this is another Federal giveaway program; it is just compensation for dedicated service to the United States.

President Nixon said in 1968 that suspension of the recomputation system was "A breach of faith for those hundreds of thousands of American patriots, who have devoted a career of service to their country and who, when they entered the service, relied upon the laws insuring equal retirement benefits."

As President Nixon goes on to say:

> My Administration stands strongly behind the principle that the men and women who have served this country honorably will be served by this country as their needs dictate.

The fiscal 1974 budget includes a first-year recomputation cost of $360 million which is about $17 million more than this amendment asks for.

Mr. President, I urge my colleagues to

take prompt action by voting for this amendment and thus remedy this injustice.

I ask unanimous consent to have two letters with regard to this matter printed in the Record:

There being no objection, the letters were ordered to be printed in the Record, as follows:

March 21, 1973.

Hon. Pete V. Domenici,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Domenici: It is my understanding that in the near future, the Congress intends to consider various measures for recomputing military retired pay. The inequities in the present system are glaringly apparent, and I think it is a sad commentary on our moral values that such a condition is allowed to exist.

Neither I nor my husband are in a category that will benefit monetarily by any changes in the system, but as concerned citizens we feel we have a moral obligation to justly compensate those who have given their minds, bodies and years to the defense of our country.

Our tax money is now being spent on many welfare, relief, assistance, subsidy and other programs, some of which are good and necessary, others of little or no value. Many of the beneficiaries of these programs have never done anything for our country or themselves, will not work and pay no taxes, but we continue subsidizing them while ignoring others who have worked hard, paid their taxes, and continue paying taxes on the pittance received in retirement.

Some subsidization programs are of particular concern to us. We would much rather our money be used to equalize retired pay for the military, rather than have it used to increase our cost of living. Two prime examples of this are the agriculture and lumber industries. We pay them to enable them to get more money for their products, and then we have to purchase these products at their inflated prices. Because of this, food and building costs are completely beyond reason, and the underpaid military retiree of several years ago is today left hungry and cold.

The fact that a person retiring from the military today is paid 60% more than a person of the same rank and length of service who retired 10 years ago, speaks for itself. Because of this, we urge you to give your utmost support to passage of legislation granting the retired serviceman the just and equitable retirement pay he has earned and deserves.

Sincerely yours,

Barbara J. MacDonald.

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Placitas, N. Mex.,
*July 28, 1973.*

Hon. Pete V. Domenici,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Domenici: This is to bring your attention to a number of bills regarding recomputation of military retiree pay.

I am a military retiree, retired for permanent physical disability. This disability prohibits my engaging in any effort that will add to my income; consequently, I must depend on retirement pay for my bread and butter.

During my active duty years, it was universally accepted that upon retirement ones retirement pay would be increased whenever the basic pay of active duty personnel was increased. However, during the reign of MacNamara this was changed. By that time I was too far along in my career to consider resignation and a second beginning, so I remained in the service.

As you know, a cost of living provision was added that raises retired pay under some circumstances. While this has helped, it has not compensated for the general erosion of retired benefits and the additional cost of living. Such things as CHAMPUS helped, but did not, for instance, take the place of military medical care. Each change designed to replace some existing benefit has resulted in a decrease.

I am aware that the courts have ruled that we have no legal basis to demand recomputation of retired pay, but often there seems to be a difference between legal rights and ethical rights. I suspect that complete recomputation of military retiree pay may well carry a total price tag that is quite high. However, there should be a compromise that would provide a measure of relief and still be within the bounds of reason.

May I then ask that you not reject recomputation bills out of hand, but study them carefully. Keep in mind a reasonable compromise between what we were promised and the limits of ultimate costs. Please try to support a reasonable bill that promises to alleviate the problem.

Sincerely,

Stanley T. Major.

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Albuquerque, N. Mex.,
*June 9, 1973.*

Hon. Pete V. Domenici,
*U.S. Senate,*
*Washington, D.C.*

Sir: Thank you for co-sponsoring Senator Tower's Recomputation of Military Pay Bill S. 838. I appeal to you to also co-sponsor Senator Hartke's Bill S. 762 and support of the Administration's Department of Defense Recomputation Budgeted Measure.

I entered into the Army Air Corps, a volunteer military service in 1934 and served 10 years in the enlisted status, attaining the grade of Master Sergeant. I was commissioned as an officer from Officers Training School in 1944 and served 13 years as an officer and was promoted to the grade of Major after 9 years of commissioned service. I retired in 1957 after 23 years of continuous service.

When I entered the military service my pay scale started at $19.98 per month, then $21 per month. Promotions were infrequent and pay was small and each pay raise was accompanied with the comment that a percentage was withheld to support military retirement and recomputation of pay after retirement. My base pay when I retired was 41 percent of the comparable present grade and pay scale.

At the 13th year of my military career I seriously considered whether I should stay in the military or leave, recognizing that my military salary was substantially lower than the comparable civilian salary. There were two overriding reasons that motivated me to stay in the service. They were that my retired pay would be recomputed with future pay raises to compensate for low past base pay and that I liked what I was doing; my assignments were challenging and I was accomplishing something.

Recomputation was abandoned in 1958 without a saving clause. Hundreds of thousands of retired military personnel, predominately in the enlisted grades and lower six commissioned grades, having served before 1958 have suffered substantial financial loss as compared with today's retired scales.

The legislation that has been proposed can help correct a long overdue obligation. Thank you for your attention and cooperation in this issue.

Sincerely yours,

Lon E. Aucker,
*Major, U.S. Air Force, Retired.*

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## THE U.N.—A DREAM TURNED SOUR

Mr. ALLEN. Mr. President, the Montgomery, Ala., Advertiser on September 15, 1973, carried as its lead editorial an editorial entitled "The U.N.—A Dream Turned Sour," which reflects the views of a large percentage of the people of the Nation. I ask unanimous consent that it be printed in the Record, as a matter of interest and of information to Senators.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### The U.N.: A Dream Turned Sour

What has the United Nations done for me? Many Americans ask this question rhetorically and very few, except the most starry-eyed liberals, come up with anything close to an acceptable answer.

Surely it had great promise when it was being touted in the closing days of World War II. We'd had our fill of the horrors of armed conflict and the promises held out by UN advocates were exactly what war-weary nations wanted to hear.

Like Woodrow Wilson's League of Nations, however, the UN proved to be more a dream than a reality.

When UN critics begin assailing the world body, its apologists usually jump to the defense, saying it is a "forum for international discussion, for quiet meditation, for continuous contacts between nations."

The above are the words of Secretary General Kurt Waldheim, who is calling for renewed confidence in the organization in the wake of increasing criticism of its effectiveness over the past 28 years.

Beginning Monday on this page, Robert Alden of the New York Times will discuss the UN in a three-part series which leans heavily on its shortcomings.

While Alden finds plenty of areas to criticize, Waldheim is considerably less detailed in his assessment of the UN's accomplishments.

Some of the most "notable achievements" Waldheim said recently, must remain "highly confidential" if the organization is to continue in a trusted role as mediator among opponents.

This sounds like the veil of secrecy the Defense Department usually employs to conceal its blunders and failures. The UN, however, must drag out the secret stamp to conceal its successes, or so Waldheim would have us believe.

"When our efforts are not successful, the results are only too evident," he tells us. And we agree there has been plenty of evidence of unsuccessful UN ventures.

Waldheim explains that this is a situation that "does undoubtedly affect the public's view of the UN."

He is willing for the world body to take credit for the "gradual reduction of tensions between the major nuclear powers" and "the liberation of over a billion people from colonialism."

Well, perhaps.

However, we like to think President Nixon—with little help from the UN—played a far greater role in the lessening of tensions among the nuclear powers, notably the U.S., Red China and the Soviet Union.

As to the liberation of these billions of people from colonialism, this has been one of the weakening factors in the UN.

As Alden points out in his second installment, "There were 51 members when the UN was founded in 1945. Now there are 132 and by the end of the General Assembly session that begins later this month, there will be 135."

Each of these new members, some barely out of the bush, votes as an equal to any other nation, including the U.S., Great Britain, the Soviet Union and Communist China.

Many of these politically immature states tend to align themselves against the U.S. and other major powers, forcing the UN to concern itself with their own petty interests.

From our standpoint, the great UN dream has faded. Perhaps the Secretary General will be able to whip up renewed confidence in the organization, but for many Americans, the UN has yet to prove itself effective.

## CONGRESS AND THE PRESIDENT

Mr. THURMOND. Mr. President, President Nixon has called upon the Congress to leave Watergate to the courts and to return to the Nation's business. He has extended the olive branch to Congress and it is our responsibility to do the same.

This extension of cooperation is mandatory if we are to deal effectively with the multiplicity of problems confronting the country this year.

My attention was called to a recent editorial which expressed these views very well. In part, it said:

> Establishment of good communications and agreement to disagree within all segments of government can do much to get the country moving again.

Since this editorial is so timely, I would like to share it with my colleagues. Accordingly I ask unanimous consent that the editorial entitled "Getting Back on the Track," which appeared in the Greenville News of Greenville, S.C., September 14, 1973, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Getting Back on the Track

President Nixon's second State of the Union message can be considered a challenge to Congress to cooperate with him in making the federal government work as it ought to work. Congressional response to the challenge has been generally favorable.

There are indications that the destructive wall that has existed between the administrative and legislative branches can be broken down by a spirit of compromise and cooperation which is essential to the functioning of government. Mr. Nixon apparently is determined to break out of the self-imposed isolation which has hampered establishment by his administration of a working relationship with Congress.

The President's call for "creative cooperation" and his expressed willingness to compromise on solutions to many of the nation's pressing problems represent important steps toward getting on with "the people's business". And the agenda is loaded with urgent business.

The estrangement of the executive and legislative branches of government cannot be blamed completely on either Congress or the President. It has been, nevertheless, very real with the two branches acting not only separately, but also independently. As a result, government problem solving has become almost nonexistent.

Watergate may have broken the impasse. The President now seems more aware than at any other time in his administration that he cannot effectively govern without the cooperation of Congress. The Congress itself is in the process of assuming once again constitutional responsibilities that it has relinquished over several decades.

Most congressmen, just back from summer recess and talks with their constituents, realize that the American public, as a whole, is willing to let Watergate run its course through legal channels. This means working closely with the President to tackle some of the difficult problems that are hitting people where they live.

All of the proposals listed for action by the President cannot possibly receive consideration in the remaining four months of the current session. Given, however, a genuine atmosphere of cooperation between the administration and Congress, some of the country's most pressing issues can be faced.

At the top of the list are inflation, defense, the energy crisis and domestic-spending programs. Defense spending and Mr. Nixon's plans for more direct revenue sharing may well create the greatest confrontations between the President and Congress in the coming months.

The President is firmly committed to retaining defense spending to at least its present level, while many congressional leaders favor cutting it and placing more money in new domestic programs. Congress also has been extremely weary of turning more funds directly back to local governments.

The new drive for cooperation does not mean that Mr. Nixon and the Congress will be able to avoid head-on collisions on these and other issues. The hopeful thing about the President's message, as far as the American people are concerned, is that it clears the way for the executive and legislative branches of government to start talking to one another.

Establishment of good communications and agreement to disagree within all segments of government can do much to get the country moving again.

## MINNESOTA—A STATE THAT WORKS

Mr. MONDALE. Mr. President, I take great pleasure in calling to the attention of my colleagues in the Senate a recent cover story in Time magazine, entitled "The Good Life in Minnesota."

In attempting to identify and solve many of our Nation's most pressing problems, advocates of reform have at times been criticized for emphasizing what is wrong instead of what is right with America.

Although Minnesotans have frequently pressed for action to achieve greater social justice and a higher quality of life in our country, we are at the same time proud of what we have been able to accomplish, generally optimistic about the future, and confident of the ability of people working together to shape it for the better.

As Time points out:

> (Minnesota) is a State where a residual American secret still seems to operate. Some of the nation's more agreeable qualities are evident there: courtesy and fairness, honesty, a capacity for innovation, hard work, intellectual adventure and responsibility. The land is large (84,068 sq. miles), the population is small (just under 4,000,000). Nature is close (20 minutes from a downtown Minneapolis office building to a country lake) and generally well protected.
>
> Politics is almost unnaturally clean—no patronage, virtually no corruption. The citizens are well educated; the high school dropout rate, 7.6 percent, is the nation's lowest. Minnesotans are remarkably civil; their crime rate is the third lowest in the nation (after Iowa and Maine). By a combination of political and cultural tradition, geography, and sheer luck, Minnesota nurtures an extraordinary successful society.

I believe one of the primary reasons for Minnesota's success, as observed by Neal R. Peirce in "The Great Plains States of America," is that no special interest group has ever been able to take control of the State. Instead, people feel a sense of control over their own destiny and tend to participate actively in the processes of government.

While Minnesotans have few illusions about the complex challenges we face, I believe a sense of community, a spirit of cooperation, and an eagerness to become involved in the decisions of Government combine to make those challenges a great deal easier to meet.

Mr. President, I commend to my colleagues in the Senate Time's cover story, and I ask unanimous consent that it be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Minnesota: A State That Works

On an August Saturday afternoon, the scene is a slice of America's Norman Rockwell past. Barefoot children play one old cat and race their wagons down gently sloping sidewalks. Under the overhanging oaks, their fathers labor with hand mowers, and rakes. On one lawn up the street, a rummage sale is in progress. Station wagons, laden with children, groceries, dogs and camping equipment, and trailing boats, slide out of driveways, heading north for a week or two at the lake.

It could as well be Little Rock, Ark., or Great Barrington, Mass., or Portland, Ore., for the nation is in its easier summer rhythms. But the setting is the north side of Minneapolis, in Minnesota, a state where the Rockwell vision pertains with a special consistency. If the American good life has anywhere survived in some intelligent equilibrium, it may be in Minnesota.

It is a state where a residual American secret still seems to operate. Some of the nation's more agreeable qualities are evident there; courtesy and fairness, honesty, a capacity for innovation, hard work, intellectual adventure and responsibility. The land is large (84,068 sq. mi.), the population small (just under 4,000,000). Nature is close (20 minutes from a downtown Minneapolis office building to a country lake) and generally well protected.

Politics is almost unnaturally clean—no patronage, virtually no corruption. The citizens are well educated; the high school dropout rate, 7.6%, is the nation's lowest. Minnesotans are remarkably civil; their crime rate is the third lowest in the nation (after Iowa and Maine). By a combination of political and cultural tradition, geography and sheer luck, Minnesota nurtures an extraordinarily successful society.

The state harbors some of the nation's fastest-growing computer companies—Honeywell Inc., Control Data Corp., Univac—along with a diversity of such other corporations as 3M Co., General Mills Inc., Geo. A. Hormel & Co., Pillsbury Co., and Investors Diversified Services Inc., one of the world's largest mutual fund conglomerates. The University of Minnesota, whose alumni and faculty have included seven Nobel laureates, ranks among the nation's best. It helped to develop the Salk vaccine, open-heart surgery, blight-resistant wheat. The Mayo Clinic remains America's secular Lourdes. Minneapolis' Tyrone Guthrie Theater displays some of the most distinguished drama west of Broadway. The Minnesota Orchestra under Stanislaw Skrowaczewski is one of the finest in the country. The Twins, the North Stars and the Vikings have brought a state of natural participant sportsmen into the big leagues.

"I have traveled this world over thoroughly" says Harry Heltzer, chairman and chief executive of the St. Paul-based 3M Co., "but I've never seen a place I would rather live. I can be home in 20 minutes and feed deer, ducks and geese in my yard." Indeed, one personnel problem in the large corporations is that executives transferred to Minnesota are so reluctant to leave that they would often rather quit and find other work there than accept a transfer. Steve Scarborough, a young Honeywell engineer who turned down a promotion two years ago because it would have meant moving to Florida, says flatly: "Many places are nice, but none is better than Minnesota."

A lot of Minnesotans concur:

Orthodontist Richard Paulson, 39, lives with his wife Betty Ann and two daughters in the Minneapolis suburb of Golden Valley. In the woods behind his large rambling house, Paulson likes to take his children walking to see woodchucks, mallards, chipmunks and an occasional fox. They feed pheasant on their lawn. The Paulsons attend church ten minutes away in downtown Minneapolis, and in the summers vacation on the thickly wooded shores of sparkling, uncrowded Gull Lake, 2½ hours north of the Twin Cities. "I feel fortunate," says Paulson, "that we can still taste the things that 50 years ago people took for granted."

Theater buffs, the Paulsons have not missed a show at the Guthrie Theater since it opened in 1963. They occasionally attend the Minnesota Orchestra and frequently visit art shows at Minneapolis' Walker Art Center. "There is a certain peace in our existence," says Paulson, who admits, "You can lose yourself in this utopia. It's so easy not to be confronted by the needs of others." For that reason, the Paulsons have become social activists—working in local politics and serving as youth volunteers.

Chuck Ruhr, 36, owner of a Minneapolis ad agency, lives a long commute—by Minneapolis standards—from his office. But he can make the 25 miles of freeway in 30 or 40 minutes, likes to point out that within an hour after leaving work, he can be sitting on his pontoon boat in the middle of White Bear Lake, enjoying a drink and watching the sun go down. He and his wife and two children live in a 1912-vintage five-bedroom house on the shores of the lake, with their own beach and dock. His wife's optometry business is three blocks away; stores and schools are just as close. Says Ruhr: "There is a little less of the bad things here—drugs, pollution. Being way up here, people have had a chance to see the crest of the wave coming and react to it. There's an attitude, too, that we've got a nice little thing and let's keep it that way."

Arlene Kulis, 24, migrated to Minneapolis from Chicago seven years ago. At first, she did not like it; the winters were formidable; the people seemed a bit provincial. But then she began savoring the lack of traffic, the safety of the streets, the camping weekends. "No one ever bothers you on the streets," she says. "You listen to the news in the morning, and there aren't 20 million murders."

Blaine Harstad, 44, a Minneapolis lawyer, has never forgotten his farm upbringing. Like other Minnesotans, he remains drawn to the land. Three times a year, he returns to the family farm near Harmony in the southeast part of the state. He loves to listen to the school-closing notices on snowy mornings to see if Harmony is mentioned. The small-town flavor of the Twin Cities appeals to him. As Harstad points out, he knows just about every one of the 2,500 lawyers there, either directly or indirectly. "I can walk two blocks," he says, "and meet five people I know."

Minnesota has its drawbacks. Its winters are as hard as the Ice Age, and in the summers, mosquitoes often seem half the size of dive bombers. Unemployment outside the Twin Cities area is troublesome, and personal income taxes are the highest in the nation. Duluth residents worry about possible carcinogenic asbestos particles in their drinking water. At the same time, the Reserve Mining Co. is dumping thousands of tons of taconite talings into Lake Superior every day, polluting the once limpid waters. Contentment can sometimes amount to middle-class complacency. Once, in its years in the cultural wilderness, Sauk Centre, Minn., was Sinclair Lewis' *Main Street*, his symbol for a kind of porcine American self-satisfaction: "The contentment of the quiet dead . . . dullness made God."

Some argue that Minnesota works a bit too well and too blandly, that its comparatively open and serene population is a decade or two behind the rest of the U.S. The place lacks the fire, urgency and self-accusation of states with massive urban centers and problems. Minnesota's people are overwhelmingly white (98%), most of them solidly rooted in the middle class. Blacks rioted in Minneapolis in 1966 and 1967, but with only 1% of the state's population, they have not yet forced Minnesotans into any serious racial confrontation. Or at least, not an apocalyptic confrontation.

Minnesotans are proud of that. After the 1967 riots, in the intelligently direct style of most Minnesota politics, businessmen, civil rights leaders and educators met to organize the first Urban Coalition chapter in the country. Today blacks are often among the state's more enthusiastic boosters. Says Gleason Glover, executive director of the Minneapolis Urban League: "For a black, Minneapolis is one of the truly outstanding cities in the U.S. to live in. The problems here—housing, education, discrimination, unemployment—are manageable . . . There just isn't the real, deep-seated hatred here that blacks often encounter in other cities." Two black state legislators were elected last fall from predominantly white middle-class suburban districts.

The state's other significant minority, its 23,000 Indians, most of them Chippewa, are clearly the most poverty-stricken residents. About half of them live in the Twin Cities, mainly in Minneapolis, in a tight ghetto that is the only really shabby area of town. The other half live on seven reservations, also in poverty, but with considerably more dignity. The Red Lake Chippewa are developing a logging industry, a sawmill and a small fish cannery. At Grand Portage Reservation in Northeastern Minnesota, the tribe is planning a resort complex. Says Ernie Landgren, 38: "Now we've got more opportunities. Sure, unemployment is high on the reservations, but things are improving."

Minnesota's economy is a fairly well-balanced mix of manufacturing, agriculture and services. Fur, northern pine, wheat and iron ore once were the dominant forces. Manufacturing displaced farming as the major source of income in 1952. Though farm and forest products remain a vital part of the economy, the gap has been widening. Over the past ten years, Minnesota has become one of the nation's leading "brain-industry" centers—more than 170 electronic and related technical businesses now employ more than 70,000 people. Food companies, however, still lead the state in employment. Minneapolis-based companies produce more than half the cakes in the nation, for example. Minnesota leads the U.S. in butter production, is second in dry milk, third in meat production.

The state's per capita income of $4,032 ranks 19th among the 50 states. For all that, Minnesota has been attracting new population, notably from the neighboring Dakotas. Between 1960 and 1970, the population increased by 11.5%—slightly less than the overall national increase of 13.3%.

Minnesotans sometimes point to themselves as the reason for the state's success. "You just don't have people barking at you when you're walking down the street or sitting in a restaurant," says Jim Johnson, a former Princeton instructor and Muskie campaign worker who recently moved back home. At the Minneapolis Club, where corporation executives and political leaders gather, the waitresses are so friendly and informal that a guest almost expects one to sit down and share the meal she has just served.

Wayne E. Thompson, a transplanted Californian, is now a senior vice president of Dayton Hudson Corp., one of the Midwest's largest retailers. Says his wife Ann: "People are so nice here that for a while I thought they were putting me on. I would call the plumber or the electrician, and my problem became his problem. I found that hard to believe." Sometimes the slower Minnesota pace irritates Thompson: "When I get frustrated because a project isn't moving fast enough, I am tempted to bring in someone from the outside, a heavy." But he's never done so because "you just can't get mad at anybody here."

### THE LAND

Informality permeates business dealings as well as private life. Says Stephen Keating, president of Honeywell: "The nature of this community—its size, its cohesiveness, its informality—means that you can accomplish things at lunch, in the street, or your friends come by on the way home." A younger lawyer raised in New York City observes, "In New York, when you wanted a deposition from the other side in a lawsuit, you had to go through a heavy exchange of letters. Here I just pick up the phone and say, 'George, I need your client's deposition. Can we get together Wednesday?' So we do it then. No correspondence. No hassle." As Keating says, "There is a hell of a lot of mutual trust."

Much of the mood in Minnesota has to do with the comparatively unspoiled land. Southern Minnesota is an expanse of rolling countryside, a patchwork of rectangular fields, the loam that has made Minnesota the country's third largest corn producer (after Iowa and Nebraska), the soil that yields 100 bushels of corn and 40 bushels of soybeans to the acre. To the north and west, the land flattens into prairies that merge going eastward, with hills of nearly primeval forest. The northwestern lands are more sandy, but rich enough to produce ample crops of wheat.

Northeastern Minnesota, sometimes called the Arrowhead Country because of its shape, begins at the rugged Misquah Hills and Giants Range, a sharp granite ridge as high as 500 ft. To the southeast rises the Mesabi Range, a rocky belt that used to produce 82% of the nation's iron ore and still yields 63% in iron and taconite, the iron pellets sifted magnetically from huge loads of earth. Below the Canadian border stretch vast expanses of forests and lakes, a region of shaggy and pristine beauty. Timber wolves roam there. Moose can be seen feeding in the clearings. Sometims a bald eagle is spotted atop an enormous pine.

Such an abundance and accessibility of nature has much to do with the Minnesotans' sense of place and roots. More than almost any other Americans, they are outdoor people, and at least 50% of them customarily vacation within their own state. The seasons have their own sporting rhythms. On summer weekends, the traffic moves bumper-to-propeller out of the Twin Cities toward what has become a Minnesotan index of the good life—the "lake up north." The state's license plates advertise it as "Land of 10,000 Lakes," but that is an understatement. Actually, there are 15,291 lakes of ten acres or more, as well as 25,000 miles of rivers, including the Mississippi, which begins at Itasca State Park near the center of Minnesota. The lakes cover 5% of the state, remnants of the glaciers' departure a million years ago. Few Minnesotans are more than minutes from water. Minneapolis residents have 21 lovely quiet lakes within the city iself.

In the fall, Minnesota is a hunting society: 253,668 deer licenses are issued annually. But for all the gunfire, the deer population now numbers about 450,000, and seems stable. Other game includes duck and pheasant, moose, black bear and timber wolf.

Winter, which brings down ferocious cold from the polar icecap, used to be a comparatively closed-down season, a deep hibernation. Snowmobiles, for better and for worse, have changed that. Many Minnesotans now worry about the ubiquitous high-pitched snarls of snowmobiles churning across the winter landscapes. Still, snowmobiling is the state's fastest-growing sport. Some 340,000 vehicles are licensed now.

As a winter alternative, thousands of Minnesotans are rediscovering cross-country skiing, or snowshoeing, or ice-boating. Ice hockey is also something like an obsession in the state. Since the land was settled, Minnesotans have enjoyed ice fishing, sometimes in opulent style. In the Twin Cities' expensive suburban community around Lake Minnetonka, while their children skate, executives sit in their carpeted cabins on the lake ice, drinking bourbon, playing poker, occasionally pulling in a pike from one of the holes drilled in the ice.

Winters are hard but bracing: "Our best time of year," according to a Duluth mine worker. "They build character," says Frank Barth, a transplanted Chicagoan. "They are a great blessing to us. You don't get the weak-kneed beachboys here. They can take it for one winter, then leave." Dr. Ronald J. Glasser, a Minneapolis kidney specialist and author (*365 Days, Ward 402*) who grew up in Chicago, argues that Minnesota winters account for a lot of the social solidity and character of the state. Says he: "You have to be strong and productive to survive here."

Part of Minnesota's secret lies in people's extraordinary civic interest. The business community's social conscience, for example, is a reflection of the fact that so many companies have their headquarters in the state. The Mayo Foundation has offered to invest $1,000,000 in face-lifting the downtown district of Rochester. The IBM plant there has given employees leaves of absence, with pay, to work on public interest projects. At the Mayo medical complex itself, now in the midst of its largest expansion in history, Honeywell, 3M Co. and other big state-based corporations have been major contributors to a $100 million fund drive. The companies' concerns are reflected in their annual reports; most of them carry a section called "Social Concerns," or some such.

Even more important than corporate giving is personal funding raising. Fund drives currently under way or about to begin in the Twin Cities amount to a staggering $300 million, of which $136 million has already been raised. The business effort is twofold—one for cultural activities, one for social and civic affairs. The leading family in both is the Daytons, five brothers who are dominant stockholders in the Dayton Hudson Corp., which last year rang up $1.4 billion in retail sales.

As downtown Minneapolis was deteriorating in the 1950s, the Daytons elected to keep their huge department store there rather than move it to the suburbs. Cooperating with the city, they turned Nicollet Avenue into a shopping mall and built a system of skyways linking the buildings along the street. The project, spearheaded by Donald C. Dayton, 58, has stimulated more than $200 million in new downtown construction, reversing the familiar urban pattern of decay and turning the area into a bright and active commercial district. The new 51-story IDS tower, designed by Philip Johnson, is the tallest and most distinguished building between Chicago and San Francisco. Other adornments: Minoru Yamasaki's gracefully pillared Northwestern National Life Insurance Co. Building, and Gunnar Birkerts' Federal Reserve Bank, built along the sweeping lines of a suspension bridge.

The Daytons are best known as patrons of the arts. Kenneth Dayton, 51, is deeply involved in fund raising for a new $18.5 million music-center complex, which he hopes will rival Washington's Kennedy Center in architecture and acoustics. Bruce B. Dayton, 55, is raising $26 million for the Minneapolis Institute of Arts, with a new wing designed by Yamasaki. The Guthrie Theater is primarily the contribution of John Cowles Jr., head of the Minneapolis Star & Tribune Co. But the list of big business contributors and fund raisers is much longer.

MIGRATIONS

Minnesotans tend to be participants in their communities, perhaps because for so long they were comparatively isolated and developed traditions of mutual reliance. Citizens' lobbies are a real force. The most notable is the Twin Cities Citizens League. Funded by membership fees, foundation and business grants, it includes lawyers, bankers, laborers and company vice presidents. Each fall, the league settles on a variety of projects to study. Committees are formed and meet once a week to hear an expert on the subject under scrutiny. Among the league's pioneering recommendations that became law: the Twin Cities metropolitan council creating an urban regional government and also a tax-sharing program in the seven-county metropolitan area. Through the tax reforms, the effects of new development in one part of the area are shared by all, thus eliminating the pockets of poverty and boom that characterize other urban sprawls. Quite aside from its other accomplishments, the council signals the end of a long and frequently childish rivalry between St. Paul and Minneapolis.

Some of Minnesota's success can be traced to its ethnic traditions. The earliest pioneers were American Yankees. Then came the migrations—Germans after the Revolution of 1848, then waves of Irish and Scandinavians, later an admixture of Poles and Slavs and other groups. In many respects, the Scandinavians, long the largest single group in the state, have shaped Minnesota's character. They, together with its large Anglo-Saxon and German strain, account for a deep grain of sobriety and hard work, a near-worship for education and a high civic tradition in Minnesota life. Such qualities helped to produce the intelligent calm—and the stolidity—that characterize the efficient Minnesota atmosphere. It is telling that the University of Minnesota is probably the dominant and most prestigious institution in the state. Its president, Malcolm Moos, sees Minnesota as a felicitous mixture of the New England influence and the spirit of the frontier.

Arthur Naftalin, a brilliant mayor of Minneapolis during the '60s, points out that no single group—ethnic, religious or business—has ever been able to take control of the state. There were no Tammany machines to greet the immigrants. "With our great variety," says Naftalin, "we have always had to form coalitions."

The most notable was the Democratic-Farmer-Labor Party that Hubert Humphrey helped nail together in 1944 just before he became mayor of Minneapolis. The Farmer-Labor Party was radical in its origins, with mostly rural, Scandinavian Protestant members and roots in the antimonopolist, Greenback and Populist movements. The Democrats were mostly urban and more conservative, with strong Irish, German and Catholic elements. Within a decade of the merger, the D.F.L. emerged as the dominant force in Minnesota politics, breeding a remarkable collection of national figures like Humphrey, Orville Freeman, Eugene McCarthy and Walter ("Fritz") Mondale.

The Minnesota Republicans, once intensely conservative, have supported the liberal wing of the G.O.P. for more than a generation. The shift started with Harold E. Stassen, who took over as Governor in 1938, when he was 31. He later became a figure of fun as a perennial presidential candidate, but one of Stassen's many state reforms accounts for much of the honesty of Minnesota politics today. Stassen pushed through a comprehensive civil service law that abolished patronage. "By taking politics out of the back room and engaging thousands in political activity, from women to college students," observes Author Neal R. Peirce in *The Great Plains States of America*, "Stassen made the governmental process in Minnesota a superior instrument of the people's will." Says David Lebedoff, a Minneapolis lawyer and author: "Politics is an honorable profession in this state. In other states, people don't gamble away their best years in politics. Here it's expected, because we feel it is important enough."

Among the state's young citizen-politicians:

Martin Olav Sabo, 35, the son of Norwegian immigrants, worked his way through Augsburg College. In 1960, as he was preparing to go on to graduate school, a friend encouraged him to run for the state legislature. He did and won, several times. By 1969, at the age of 30, he was the youngest returning member of the house. But he had accumulated enough experience and respect from his colleagues to be elected minority leader. In 1972, he became speaker of the house. The job entitles him to a $700-a-year raise, but in order to support his wife and two daughters, he sells life insurance on the side. "My philosophy is to do your best wherever you can," says Sabo. Despite his prominence, he still campaigns by going around his district and knocking on doors.

Steve Keefe, 27, a Honeywell chemist, won a state senate seat from his south Minneapolis district last year, now spends more than half his time away from his job, politicking. "The company has been really good about it," says Keefe. "I come and go as I please and they reduce my salary accordingly. Frankly, I go more than I come." If he is sacrificing a promising and lucrative career for the vagaries of politics, Keefe has no regrets. "People in politics," he says, "are in it either for the power or they are idealistic. Most of the people I have met are the latter."

Al Hofstede, 32, grew up in the working class, ethnic neighborhoods of northeast Minneapolis. He worked his way through Saint Thomas College in St. Paul, eventually won a seat as a Minneapolis city alderman at the age of 26. Appointed chairman of the metropolitan council in 1971. Hofstede two weeks ago announced his candidacy for mayor of Minneapolis in a bid to unseat Charles S. Stenvig. "I would like to make politics my life," says Hofstede. "There is a purpose here."

A man who embodies the state's virtues as much as any other Minnesotan is the state's young D. F. L. Governor, Wendell ("Wendy") Richard Anderson, 40. The grandson of Swedish immigrants, a handsome former Olympic hockey player from a predominantly lower-middle-class Scandinavian neighborhood in East St. Paul, Anderson was elected in 1970 by 116,000 votes—nearly a landslide in Minnesota.

Like the state itself, Anderson can sometimes seem almost too good to be true. The son of a meat packer, he is something of a populist, and anti-elitist and egalitarian. He has athletic dash and youthful charm that make many of his constituents think of a Midwestern Kennedy. But Harry S. Truman, not J.F.K., is Anderson's hero. He is uncomfortable with great wealth. Says he: "I identify with Truman, Humphrey and Mondale. All of them were poor, close to working people and came from rural backgrounds. It's tougher for me to identify with F.D.R. and J.F.K."

After two terms in the state house of representatives. Anderson was elected to the senate and marked as a comer. In 1968, Hubert Humphrey chose him to be his Minnesota chairman in the presidential race. He began thinking about the governorship and accepting speaking invitations all over the state. In June 1969, when the legislature adjourned. Anderson started a full-time campaign for the D.F.L. gubernatorial endorsement. For months he criss-crossed the state, appearing wherever he could gather an audience. He would drive miles to some small town, make his pitch, have dinner and return home at 2 or 3 in the morning.

### TAX REFORM

It was a bold personal gamble. He had no money of his own, the campaign cost more than $100,000 and left him more than $30,000 in debt. Says his wife Mary, a bright and gregarious former Bemidji High School homecoming queen whom he married in 1963: "If we had lost, I think we would have had to sell the house, and I would be scrubbing floors today." Anderson was nominated on the sixth ballot. David Lebedoff, who served as his campaign manager, says, "This is a state in which a young guy without means or connections knows the sky is the limit if he runs for public office—and this is why so many do."

In the general elections, Anderson faced an attractive liberal Republican, Douglas M. Head, the incumbent attorney general. There were two pivotal points in the campaign. One was Anderson's appearance in TV spots. He is a startlingly effective TV performer, one of the best since John Kennedy. His frank blue eyes, framed by a rugged, rectangular face, came across and reversed the polls that had favored Head. The second crucial point was his endorsement of a tax-reform program suggested by the Citizens League, a plan calling for the state to take over a large share of the school-financing burden from local districts, mandating a huge increase in the state budget.

The Republicans thought that Anderson had blundered fatally. That they were wrong is an excellent example of the sophistication of the Minnesota voters. They were willing to elect a man who promised to raise some of their taxes in return for larger overall gains. When he took office, Anderson proposed a $762 million boost in state taxes—roughly a 30% increase in the biennial budget. Eventually, he got through a $588 million compromise package, with substantial increases in the taxes on liquor and cigarettes, and in corporate and personal income taxes, along with a 1¢ rise in the sales tax. With such state revenues he increased state aid for education from 43% to 63% in the first year, and now to 70%, thereby decreasing the real estate tax burden by an average of 11.5%.

It was a major piece of social legislation, for within a six-year period, it will virtually equalize the per pupil spending for education throughout the state and thus go a long way toward equalizing education in the cities, suburbs and rural areas. Anderson has had other victories. All legislative meetings of any kind must now be open to the public—no more private executive sessions in the legislature. A full-time ombudsman has been established in the corrections department. The magnificent St. Croix River has been added to the National Scenic River System. Voter registration has in effect been abolished. Anderson has also started a massive reorganization of the executive branch in Minnesota, establishing a department of state planning designed to decentralize and coordinate management of state's various agencies.

Astonishingly, the huge tax increases did little to diminish Anderson's popularity. Though detractors call him "Spendy Wendy," a recent Minnesota poll showed his level of approval at 50%—with 22% unfavorable.

Anderson's personal habits are conservative. His strongest expletives are "Sugar!" and "Son of a biscuit!" and the most damning thing he generally says—this time about a Democratic Senator—is that "he is a weak tinkler." Anderson still plays hockey in an old-timers' league, jogs daily, packs golf clubs for his out-of-town trips and likes to open the fishing season, although he has had little time for the sport otherwise. He is a staunch civil libertarian, and while he would not think of going to see *Deep Throat,* or even *Last Tango in Paris,* he would never consider trying to shut them down either, *Deep Throat,* in fact, has been playing for weeks in Minneapolis. When working, Anderson likes to have Chopin on the hi-fi. When relaxing, he likes to stretch out on the floor in his shorts, drink beer and watch television. His wife admits, "It is hard to think of him as the Governor then."

Some think that Anderson's future may be larger than Minnesota. Both of the state's Senators, Humphrey and Mondale, have sidelong presidential ambitions for 1976. If neither tries, then Anderson's path to the U.S. Senate is blocked—Humphrey, then 65, would be sure to run again in 1976, and Mondale is not due to run until 1978. Anderson himself faces re-election next year. If he wins well, he could become a serious contender for Vice President on the '76 national ticket—with anyone, of course, except a fellow Minnesotan. Being young, Midwestern, Protestant and a Governor, he might elegantly complement a Ted Kennedy candidacy although some might think it entirely too youthful a package. Or he might fit in well with a Muskie candidacy. Anderson insists, with a conviction he can afford at such an early age, that "I intend to do the best job I can for the state." It would be understandable of course if Wendy Anderson wanted never to leave Minnesota. Washington would not be half so pleasant.

Other states have more dramatic attractions, of course. To be in Ely or St. Cloud or even Minneapolis on a Saturday night and looking for excitement is to be conscious that nights are for sleeping. But there is something in the verdict of Chuck Ruhr: "California is the flashy blonde you like to take out once or twice. Minnesota is the girl you want to marry."

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## OUR MILITARY SPENDING MYTH—AND THE REALITY OF RUSSIA

Mr. DOMENICI. Mr. President, I presented testimony last week to the Senate Subcommittee on Defense Appropriations regarding the fiscal year 1974 defense budget. In my remarks I expressed my deep concern that we might be fooled into reducing our military spending and thus our military strength, because of détente—that is, a condition of improving relations existing between the United States and the Communist powers, particularly the Soviet Union.

I mentioned that there were documented indications of Soviet policy to use détente as a means to reduce the military preparedness of the United States while maintaining and even increasing their own military capabilities. An article in the Los Angeles Times, of September 14, 1973, by Mr. Ernest Conine reaches this same conclusion.

Mr. President, I urge my colleagues to consider carefully matters such as these as we approach the time to stand and be counted on the military procurement bill. The clear signs of Soviet policy to use détente to our detriment should cause all who are inclined to support blanket cuts in military spending, because of détente to reconsider the soundness of that course of action.

I request unanimous consent that Mr. Conine's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### OUR MILITARY SPENDING MYTH—AND THE REALITY OF RUSSIA

(By Ernest Conine)

When President Nixon told Congress the other day that he would veto any cuts in military spending that would imperil national security, Senate Democratic Leader Mike Mansfield grumped that "if we are not careful, we will 'defense' ourselves into bankruptcy."

It was an absurd assertion, as anybody knows who has bothered to look at the actual figures on federal outlays for military versus civilian purposes in recent years. But a myth has taken root that the Pentagon is spending the country into the poorhouse—and the myth will be cited again and again during the current Senate debate on military appropriations.

It would be ridiculous, of course, for Mr. Nixon or anyone else to claim that every item in the military budget is sacrosanct.

The services are top-heavy with admirals and generals, and Congress could do the country a favor by writing a formula forcing the Pentagon's top brass to do something about it. The proportion of servicemen who are actually combat personnel instead of cooks, clerks and bottle washers is astoundingly low. There is still a tendency to drive costs up through wasteful procurement practices.

Obviously there is water in the defense budget. Congressional pressure, sensibly applied, can help prod the Pentagon into providing a leaner, tougher and more cost-conscious defense establishment.

The trouble is, though, that too many politicians find it convenient to go much further, to pretend that military spending has been roaring out of control while outlays for health, education and other domestic programs have been kept on a cruelly short leash. It just isn't so, and perpetuating the myth that it is could prove a dangerous hoax on the American people.

This year's defense budget is about $80 billion—almost precisely the same as five years ago when President Nixon took office. If inflation is taken into account, it is almost a third less. As the President observed last Monday, "In constant dollars, our defense spending in this fiscal year will be $10 billion less than was spent in 1964"—a pre-Vietnam year when the military budget barely exceeded $50 billion.

Military spending this year will amount to less than 6% of our gross national product—the lowest level since 1950. In other words, the share of our national wealth going for defense purposes is decidedly down, not up.

Spending for nonmilitary purposes, meanwhile, has far outrun inflation. Chairman John L. McClellan (D-Ark.) of the Senate Appropriations Committee points out, "Twenty years ago, defense spending was nearly double that of all other federal agencies and departments combined. Today, the other federal agencies spend a total of more than twice as much as defense. Twenty years ago, defense spending was also nearly double that of all state and local governments combined. Today, state and local government spending is more than double that for defense."

Since 1964, overall federal spending has gone up by $15 billion. Of that increase, only 19%, or $28.6 billion, was for defense.

Looking at the Nixon years alone, spending for comunity development and housing has increased from $2 billion to almost $5 billion a year. Spending for education and manpower training has gone from $6.5 billion to $10 billion, and federal outlays for health have almost doubled from $11.2 billion to $21.7 billion. Military spending, while up about $3 billion over last year's level, is roughly the same as in fiscal 1969.

In short, if we are spending ourselves into bankruptcy, as Mansfield suggested, the military budget is nowhere near the top of the list of reasons.

Unfortunately, there is no sign that the same sort of reshaping of priorities is happening in the Soviet Union.

The London-based Institute for Strategic Studies, in its annual assessment of military power, observed that the Soviet Union is spending at least as much as the United States and perhaps more—this on a gross national product only half as large as ours. Furthermore, Russian soldiers are paid only a fraction as much as ours, meaning that the Kremlin has that much more to spend on new weapons—and is clearly doing so.

According to the institute, the Soviet Union is rushing to build the maximum number of long-range missiles permitted under the Phase 1 strategic arms limitaton agreement—2,359. The agreement limits the United States to 1,710 offensive missiles.

Three new types of long-range, land-based missiles are under development by the Russians, the institute says, and Soviet shipyards are already turning out submarines armed with missiles capable of traveling 4,600 miles. The U.S. Navy will have nothing to match before 1978—and not then, if the congressional emonomy bloc has its way.

The United States still has a big lead in warheads, but this may evaporate within a few years, too, now that the Russians have successfully tested multiple, independently targeted warheads of their own.

Obviously, it is extremely important to head off the arms race, so that we—and we hope, the Russians—can spend less for defense. That is the object of the Phase 2 SALT negotiations that get under way soon.

Mr. Nixon rightly points out, however, that it would be dangerous to confuse wish with reality—that, welcome as the seeming birth of a new era of detente with the Russians may be, it would be folly to call off the American half of the arms race without regard to whether the Soviet Union proves willing to call off its half.

## CIVIL SERVICE COMMISSION UPHOLDS A. ERNEST FITZGERALD

Mr. PROXMIRE. Mr. President, I am happy to report that today the Civil Service Commission ordered A. Ernest Fitzgerald reinstated with back pay to his former position with the Air Force.

The Fitzgerald case arose out of hearings held in November 1968, before the Economy in Government Subcommittee of the Joint Economic Committee. The hearings were part of the committee's investigation of waste and mismanagement in military procurement. In his testimony, in response to my direct questions, Mr. Fitzgerald confirmed the possibility that the cost overrun on the C–5A cargo plane might go as high as $2 billion. This figure subsequently proved to be accurate and Mr. Fitzgerald's testimony led to further disclosures showing that the Air Force had concealed the extent of the overruns from Congress and, in fact, misled Congress into believing there would not be a major overrun on the C–5A program. Mr. Fitzgerald's reward was to be fired by the Air Force in violation of his rights and in a transparent attempt to intimidate other Government employees.

The decision of the Civil Service Commission is a complete vindication of Mr. Fitzgerald and, in my judgment, severely chastises those Government officials who participated in the reprehensible effort to punish a civil servant for conscientiously performing his duties.

### DECISION SHOULD ENCOURAGE OTHER CIVIL SERVANTS

This decision should encourage other public servants who witness waste and inefficiency to come forward and tell their story. The Fitzgerald case should strengthen the Defense Department—and indeed all Government bureaucracy—by creating a greater consciousness that the public interest must be served.

This is a red-letter day for all those who believe in effective government. But above all, it is a red-letter day for Ernie Fitzgerald. I congratulate him, and I wish him well as he resumes his duties as a cost efficiency expert for the Pentagon.

The decision repudiates the Air Force attempt to gag one of its most dedicated and competent employees.

### THE PENTAGON SHOULD TAKE NOTE

I hope the lesson is carefully noted in the Pentagon. The proper course to take when waste is revealed is to eliminate the waste, not the courageous employee who discloses the waste.

The only regrettable aspect of the case is that it took so long and such a great personal sacrifice on the part of Mr. Fitzgerald before justice was finally done.

Think of the millions of dollars that could have been saved had Mr. Fitzgerald been on the job during the past 3 years.

I ask unanimous consent to print in the Record the complete text of the Civil Service Commission decision.

There being no objection, the text was ordered to be printed in the Record, as follows:

[U.S. Civil Service Commission, Appeals Examining Office, Washington, D.C. 20415]

### APPEAL OF A. ERNEST FITZGERALD UNDER PART 351, SUBPART I OF THE CIVIL SERVICE REGULATIONS

Appeal from the action of the Department of the Air Force in separating the appellant by reduction-in-force from the position of Deputy for Management Systems, CS–17, Step 4, $31,874.00 per annum, Office of the Secretary, Assistant Secretary for Financial Management, Washington, D.C. effective January 5, 1970.

### INTRODUCTION

By letter dated January 20, 1970 John Bodner, Jr. and William L. Sollee, Attorneys at Law, submitted an appeal to this office in behalf of Mr. A. Ernest Fitzgerald. Investigation was conducted and numerous lengthy submissions to the file were received from both the appellant and the agency. The appellant raised a question as to the bona fides of the reduction-in-force (RIF) as it was applied to him, contending that the RIF was used as a subterfuge to conceal the agency's action in firing him because of his November 13, 1968 testimony on the C–5A cost overruns. Since Mr. Fitzgerald was a preference eligible and the various submissions to the file did constitute a prima facie showing that the reduction-in-force may have been based upon an intention to separate the appellant for cause rather than for a nonpersonal reason, a hearing was scheduled to inquire into the circumstances surrounding the RIF.

The agency was requested and agreed to make available to testify Secretary of the Air Force Robert Seamans, Assistant Secretary Spencer Schedler, Administrative Assistant to the Secretary John Lang, Deputy Administrative Assistant Thomas Nelson, Air Force Chief of Staff General John D. Ryan, Comptroller of the Air Force Lieutenant General Duward Crow, Director of Office of Special Investigations (OSI) Brigadier General Joseph J. Cappucci, and Colonel James D. Pewitt.

In accordance with the Civil Service regulations in effect at that time, the hearing was not open to the public. However, a verbatim transcript of the proceeding was prepared by an independant court reporting firm. The hearing was conducted on May 4, 5; June 16, 17, 18 and 22, 1971. On the latter date the hearing was suspended in compliance with a temporary restraining order and subsequent injunction issued by the U.S. District Court for the District of Columbia relative to the issue of an "Open Hearing". The hearing, open to the public, resumed on January 26, 1973 after all litigation on this issue had been completed. Additional hearing sessions were held on January 29, 30, 31; February 2, 28; March 5, 6, 7, 20, 21, 22, 28, 30; April 3, 4, 5, 6, 19; and May 3, 1973.

Since the 1973 portion of the transcript begins again with page # 1, reference to the 1971 portion of the transcript will be shown as "L/N" while reference to the 1973 portion will be shown as "TR". On May 3 & 4, 1971 the agency submitted copies of documents previously furnished to the Justice Department. The pages are numbered consecutively from 1 to 117 with two (2) pages numbered 95. This submission will be referred to as the "Justice File" and the two pages 95 will be referred to as 95a and 95b. On June 25, 1970 the agency submitted 409 pages of documents in response to the appellant's request. This submission will be referred to as "AF–6/25/70". All agency submissions will be referred to as "AF–(date)" and all appellant's submissions will be referred to as "APP–(date)". Exhibits submitted at the hearings will be referred to as "M.Ex" for management and "A.Fx" for appellant. Senator William Proxmire was Chairman of the Subcommittee on Economy in Government of the Joint Economic Committee, Congress of the United States. This Subcommittee will be referred to as the "Proxmire Committee". The office of the Assistant Secretary of the Air Force for Financial Management will be referred to as "SAFFM", its Air Force symbol.

Final closing arguments, in the form of no reply written brief were received from the Air Force on July 16, 1973 and from the appellant on July 17, 1973. While the record was technically closed as of May 3, 1973 a newly discovered memorandum that had just surfaced in a Senate hearing was submitted by the appellant on August 2, 1973. No objection or comment was offered by the agency, therefore, the document was accepted into the record.

A verbatim transcript of the entire 26 day hearing proceeding is a part of the official record in this case. The appellant was represented at the hearing by his attorneys, John Bodner, Jr. and William L. Sollee. The agency was represented by Lieutenant Colonel C. Claude Teagarden, Office of the General Counsel, Department of the Air Force, and Hugh R. Gilmore, Assistant General Counsel, Department of the Air Force. Testimony at the hearing was obtained from the appellant and thirteen of the witnesses he requested. The agency called no witnesses and presented its case through the cross examination of appellant's witnesses, the introduction of new documents, and reliance on the material previously submitted.

### ANALYSIS AND FINDINGS

By letter dated November 4, 1969 the agency gave Mr. Fitzgerald notice of his proposed separation by reduction-in-force, effective January 5, 1970, due to the abolishment of his position, "necessitated by a reorganization under the current Air Force retirement program". This notice indicated that his assignment rights were to positions in the Excepted Service. The Standard Form 50 (SF–50), Notification of Personnel Action, effecting the separation on January 5, 1970, identified the position as being in the Excepted Service.

Mr. Fitzgerald contends that he was granted career tenure in the competitive service on September 20, 1968 and that it was improperly taken away from him on November 25, 1968 after he testified as to the cost overruns on the C-5A airplane. Accordingly, we will deal with this issue first.

The record reveals that on September 20, 1965 Mr. Fitzgerald received an Excepted-Conditional appointment to the position of Deputy for Management Systems, GS-301-17, in the Office of the Assistant Secretary of the Air Force for Financial Management (SAFFM). This position was excepted from the competitive service under Schedule A, Section 213.3109a of the Civil Service regulations. The appointment SF-50 clearly shows in items 12 and 28 that the appointment was to an Excepted Service position.

Effective September 20, 1968, upon Mr. Fitzgerald's completion of three (3) years in the Excepted Service a new SF-50 was issued. In item 12 the nature of the action was shown as a conversion to career tenure; in item 14, the Civil Service authority was shown as Reg. 315.202; and in item 28 the position occupied was shown as being in the Excepted Service. On November 25, 1968 a new SF-50 was issued correcting item 12 of the September 6, 1968 SF-50 to reflect conversion to Excepted appointment and correcting item 14.

Mr. Fitzgerald contends that based upon the September 1968 SF-50 he was converted from the Excepted to the Competitive service and that the corrected SF-50 of November 25, 1968 improperly took away his career tenure in the competitive service.

Section 6-5, Rule VI of the Civil Service Rules relating to excepted employees states:

"No person who is serving under an excepted appointment shall be assigned to the work of a person in the competitive service without prior approval of the Commission."

Section 315.701, Part 315 of the Civil Service regulations concerning conversion of incumbents of positions brought into the competitive service, states:

"(b) An agency, within the time limits set forth in paragraph (c) of this section, may recommend that the employment of an employee covered by paragraph (a) of this section be converted to career or career-conditional employment.

"(d) When the Commission approves the agency's recommendation submitted under paragraph (b) of this section, the employee becomes:

"(1) A career conditional employee . . .

"(2) A Career employee . . ."

It is clear from the evidence of record, and we so find that the Air Force did not request or receive approval from the Commission to move Mr. Fitzgerald from the excepted service to the competitive service or to move his position from the excepted to the competitive service (A.Ex #1; A.Ex #7, P 286-287; Justice File, P-7; AF-6/25/70, P-114; AF-1/30/70; and TR 2768-2769).

Contrary to the appellant's contention, the perfunctory forwarding of a file copy of every SF-50 to the Civil Service Commission is not an agency recommendation or request for prior Commission approval nor does this serve as the prior approval by the Civil Service Commission for any conversion from the Excepted to the Competitive Service.

Since the Air Force never recommended, requested, or received prior approval from the Civil Service Commission to convert Mr. Fitzgerald from the Excepted Service to the Competitive Service the Air Force was clearly without authority to take this action. Therefore, we find that the original conversion action of September 1968 was null and void, and that it was properly corrected by the agency on November 25, 1968.

The agency has contended that the initial SF-50 of September 1968 resulted from a computer error. This is borne out by the fact that item 28 of that SF-50 showed the position occupied to be in the Excepted Service. It is further borne out by item 14 which cited the Civil Service Authority as Regulation 315.202. Section 315.202 of Part 315 of the Civil Service regulations states:

"A career-conditional employee becomes a career employee automatically on completion of the service requirement for career tenure."

The service requirement for conversion from career conditional to career as set forth in Section 315.201 is three (3) years. Mr. Fitzgerald did not receive a Career-Conditional appointment, he received an Excepted-Conditional appointment. Therefore, he had no entitlement to the automatic conversion from Career-Conditional to Career that Section 315.202 provides.

In view of the foregoing, we find that Mr. Fitzgerald was properly in the Excepted Service at the time of his separation on January 5, 1970 and that he had no entitlement to Career tenure in the Competitive Service.

Turning now to the reduction-in-force action itself, the agency's position is that as part of Defense Department's Project 703, the Air Force was required to reduce expenditures one (1) billion dollars in fiscal year 1970. This involved large cut-backs in military and civilian personnel nationwide and in the headquarters staff of the Department. Each office in the Secretariat was given a specific number of reductions to be effected. SAFFM was assigned a net reduction of two (2) spaces. As part of a reorganization of that office five (5) positions were abolished and three (3) new positions were established. Of the five (5) positions abolished Mr. Fitzgerald's was the only professional position. The other four (4) were secretarial positions.

The agency contends that the abolishment of Mr. Fitzgerald's position, initiated by Assistant Secretary Spencer J. Schedler and approved by Secretary Robert Seamans, was based upon a valid management decision to reorganize SAFFM in order to improve its cost effectiveness capability and at the same time achieve the required reduction of two (2) spaces.

The agency further contends that Secretary Seamans and Assistant Secretary Schedler were not in office at the time of Mr. Fitzgerald's November 1968 testimony; that they alone were responsible for the decision to reorganize the financial management office; that the testimony Mr. Fitzgerald gave a year earlier was not the reason or a reason for their decision; and that neither had sought or received any instructions to abolish the appellant's position.

Mr. Fitzgerald contends that the RIF as applied to him was not for nonpersonal reasons and was, in essence, an agency adverse action based upon his November 13, 1968 testimony on the C-5A cost overruns.

The record reveals that out of the 80 positions abolished in the Office of the Secretary of the Air Force, Mr. Fitzgerald was the only employee who actually was issued a RIF notice and who was actually separated by RIF (L/N 723-724). As his part of the Project 703 reductions, Assistant Secretary Schedler was required to take a cut of two (2) spaces. He accomplished this by abolishing four (4) Secretarial positions plus Mr. Fitzgerald's position and creating three (3) new positions.

The Air Force, through the testimony of witnesses and documentary evidence, did show that a reorganization of SAFFM had taken place; that the appellant's position had been abolished and not recreated; and that there was some need to reorganize in addition to reducing the office staff by two (2) positions.

The appellant has not questioned the validity of the Project 703 reductions and the resultant reduction-in-force, only the agency's decision to abolish his position and include him in the RIF.

The reduction-in-force system as provided for by Statute and Commission regulations is a system for releasing employees from their competitive levels when their release is required because of lack of work, shortage of funds, reorganization, reclassification due to change in duties, or the exercise of reemployment or restoration rights. The system is predicated upon the concept of competition for retention based upon tenure, veterans preference, length of service and performance rating.

Reduction-in-force may be necessary because of conditions inside or outside the agency. Agency management may reduce certain phases of its work as the workload changes. Appropriations may be reduced or cut-off entirely, or the agency may be allowed to use only part of its appropriations. These and other factors occurring singly or in combination may make it necessary for the agency to have a reduction-in-force.

Reduction in force may require the separation of all employees in part of an agency or may require separation of some and shifting about of others. Small reductions may require no involuntary separations, when there are enough transfers, retirements, and other voluntary losses. Some reductions, in fact, require no reduction in the number of employees but are accomplished through reorganization.

Planning the work program and organizing the work force to accomplish agency objectives within available resources are management responsibilities. Only the agency can decide what positions are required, where they are to be located and where they are to be filled, abolished or vacated. The agency determines when there is a surplus of employees at a particular location in a particular kind of work. A surplus of employees in any part of an agency requires the agency to determine whether the employees will be assigned to vacant positions, be adversely affected for reasons related to performance or conduct or compete in reduction in force.

These are management responsibilities and the management determinations regarding these responsibilities are not ordinarily subject to review by the Civil Service Commission in a reduction-in-force appeal.

It would be a valid and proper exercise of its management prerogative for an agency faced with the necessity for reducing its force to select for abolishment those functions and/or positions that are least necessary to the accomplishment of, or are making the least substantive contribution to, the agency's mission.

In this situation the lack of substantive contribution may be due to a change in the agency's mission or its method or approach to the accomplishment of it's mission. It may also be that the lack of substantive contribution is due to the incumbent of the position.

Inherent in the Commission's reduction-in-force system and one of its fundamental precepts is that it be used only for reasons that are non-personal to the employees affected. The reduction-in-force system must not be used to remove inadequate or unsatisfactory employees in lieu of following the Commission's adverse action procedures set forth in Part 752 of the Civil Service regulations.

Federal Personnel Manual Chapter 351, Subchapter 1 states in part as follows:

"1-9. Improper use of reduction in force: There sometimes has been a tendency to distort the reduction-in-force system by using it to eliminate inadequate employees."

Thus, an allegation that the RIF was a subterfuge to conceal an agency removal action taken without following the adverse action procedures, when supported by a sufficient showing that the RIF action may have been based upon an intention to separate the appellant rather than upon a non-personal reason for reducing the force, goes directly to the question of the bona-fides of the RIF and will be reviewed on appeal.

In order to properly evaluate the propriety of the RIF action as applied to Mr. Fitzgerald it is essential that we review and analyze the circumstances leading up to and surrounding the decision to abolish his position and to include him in the Project 703 RIF.

From our review of the complete appellate record including all submissions by both parties and the transcript of the hearing (26 days), we find the circumstances to be as follows:

Mr. Fitzgerald received an excepted appointment to the position of Deputy for Management Systems, Office of the Assistant Secretary of the Air Force for Financial Management (SAFFM) on September 20, 1965 (AF–1/30/70. Attachment No. 4). While no specific time limit was established as to the length of this appointment, it is clear from Mr. Fitzgerald's testimony of his conversations with the then Assistant Secretary, Dr. Leonard Marks, that it was to be for only a few years (TR 2618–2621).

Assistant Secretary Marks resigned on December 31, 1967 and was succeeded by Thomas H. Nielsen who was appointed Assistant Secretary for Financial Management on January 1, 1968 (L/W 366). Mr. Nielsen submitted a proposed reorganization plan for his office dated January 9, 1968 (AF–6/25/70, P–253) focusing additional attention on cost performance, designating the appellant as the focal point for this effort and proposing increasing his staff.

Mr. Fitzgerald was first contacted by the Proxmire Committee in the Summer of 1968 to testify on the C–5A (TR 2720–2722). This request was put into writing by Senator William Proxmire on October 18, 1968 (APP–1/20/70, Attachment No. 2).

The file contains unrefuted allegations and testimony that there was high level Air Force and D.O.D. opposition to Mr. Fitzgerald testifying.

Mr. Fitzgerald did testify before the Proxmire Committee on November 13, 1968 and discussed possible cost overruns on the C–5A plans. This testimony received a great deal of publicity for it was the first public disclosure of cost overruns on that project.

In October 1968 Colonel James D. Pewitt, Special Assistant for Economic Analysis and Acting Executive Officer of SAFFM, was involved in conducting a cost review of the C–5A project. He testified that Mr. Fitzgerald used his (Pewitt's) figures in testifying before the Proxmire Committee (TR 1970); that Mr. Fitzgerald's testimony was accurate and that the numbers Fitzgerald used were the same numbers he would have used (TR 1969–1970).

On November 25, 1968 a new SF–50 was issued to Mr. Fitzgerald properly correcting an erroneous SF–50 issued on September 6, 1968 which had purportedly granted him carreer tenure.

By memo dated December 26, 1968, Mr. Fitzgerald furnished Assistant Secretary Nielsen copies of the September 6 and November 25, 1968 SF–50's regarding his tenure and pointed out that the November 25 revocation came less than two weeks after his appearance before Senator Proxmire's Subcommittee.

In response to a December 27, 1968 request from Assistant Secretary Nielsen, John A. Lang, Jr., Administrative Assistant to the Secretary of the Air Force submitted a memorandum explaining Mr. Fitzgerald's tenure situation (Justice File P–6). A copy of this memo was delivered to Mr. Fitzgerald by Major Metcalf on December 31, 1968 (M.Ex #7, 1/13/69 attachment).

On January 1, 1969 a front page newspaper article appeared in the Washington Post (attachment to M.Ex #7) clearly implying that the November 25, 1968 revocation of tenure was in retaliation for Mr. Fitzgerald's testimony on the C–5A on November 13, 1968.

In response to request for information (L/N 449–451) due to the implications in the January 1, 1969 Washington Post front page article, Acting Secretary of the Air Force, Dr. Alexander N. Flax sent a memo to the Secretary of Defense dated January 2, 1969, explaining Mr. Fitzgerald's tenure situation (AF–6/25/70. P 112–116).

On Friday afternoon, January 3, 1969, Mr. Thomas Nelson, Deputy Administrative Assistant to the Secretary of the Air Force, received a request from Colonel Gunderson of the Air Force Secretary's Office to prepare a paper bringing the Secretary of the Air Force up to date on what was going on with regard to Fitzgerald, and also a discussion of what his rights were, since the Secretary had been out of the office for a week to ten days (L/N 452–453). John Lang furnished this information to Secretary Brown by memo dated January 6, 1969 (M.Ex #44). Attached thereto was a copy of Dr. Flax' memo of January 2, 1969 to the Secretary of Defense. The January 6, 1969 memo is referred to as the "Lang Memo".

Mr. Nelson testified that he assumed the request, "What are his rights" meant what are his rights when he is going to be terminated (L/N 463–466). Mr. Fitzgerald received a copy of the "Lang Memo" from Assistant Secretary Nielsen (L/N 474, 476–477) on January 8, 1969.

The Lang Memo identifies three (3) possible means of effecting Mr. Fitzgerald's departure and states in part as follows:

"As an employee in the excepted service under Schedule A, with Veterans Preference, Mr. Fitzgerald has certain rights, which can be grouped in two categories:

"(1) *Adverse Actions*. Chapter 752 of the Federal Personnel Manual applies to discharges, suspensions, furloughs without pay, and reductions in rank or compensation taken by agencies against employees of the United States Government. Mr. Fitzgerald's rights are:

"(a) Adverse action may not be taken except for such cause as will promote the efficiency of the service;

"(b) He must be given at least 30 full days advance written notice, identifying the specific proposed action, stating the reasons supporting the proposed action, including names, times and places;

"(c) The notice must tell the employee that he has the right to reply, both personally and in writing and to submit affidavits in support of his answer;

"(d) Normally he must be retained in an active duty status during the notice period;

"(e) Full consideration must be given to his reply and if the decision is to effect the action originally proposed, or some action less severe, he must be given a dated and written notice of the decision promptly after it is reached;

"(f) The notice of decision must inform him of the effective date of the action, of his right to appeal the adverse action within the agency and to the Civil Service Commission, and of the time limits and procedures for making the appeals.

"(2) *Reduction in Force*. In the event his job is abolished, Mr. Fitzgerald is in Tenure Group I in the Excepted Service and has the right of full application of all reduction-in-force procedures insofar as "bumping" and "retreat" rights within his competitive level grouping. However, since he is the only employee in his compatitive level grouping and since he did not progress to this position from other lower grade positions, the net result is that he is in competition only with himself. He could neither "bump" nor displace anyone.

"These are the rights involved should charges be preferred or should his position be abolished. There is a third possibility, which could result in Mr. Fitzgerald's departure. This action is not recommended since it is rather underhanded and would probably not be approved by the Civil Service Commission, even though it is legally and procedurally possible. The Air Force could request converison of this position to the career service, utilizing competitive procedures, and consider all the eligibles from the Executive Inventory and an outside search. Using this competitive procedure, Mr. Fitzgerald might or might not be selected." If not, displacement action would follow.

"When Mr. Fitzgerald was appointed in September 1965 by Assistant Secretary Marks to fill the vacancy created by the departure of Mr. J. Ronald Fox, it was with a mutual understanding that this was to be a Schedule A appointment of two or three years duration. There is nothing in official records to support this understanding. Dr. Flax contacted Mr. Marks by telephone on January 2, 1969, and verified this understanding and reflected the conversation in his memorandum to the Secretary of Defense, a copy of which is attached. We have carefully screened all files and records and can find no formalized confirmation of this understanding."

Mr. Fitzgerald visited the Civil Service Commission on January 10, 1969 to complain of the alleged loss of tenure and his supervisor's statement that his usefulness to the Air Force was at an end. Therefore, Assistant Secretary Nielsen prepared a memorandum for record (M. Ex #7, 1/13/69 attachment). This memo states that Mr. Nielsen reviewed the entire matter of the tenure controversy with Mr. Fitzgerald who stated that he mailed a copy of the first SF–50 to the Committee immediately after the conclusion of the November 13, 1968 hearing and that when the second form was received it was mailed directly to the Proxmire Committee. The memo also states that Mr. Nielsen told the appellant "I felt his actions in this connection had ended his usefulness to the Air Force".

Secretary Seamans testified it was his belief that Mr. Fitzgerald released the SF–50's in the tenure controversy in order to obtain publicity and to place the Air Force in a bad light (TR 430–431, 435–437); that his actions inflamed the situation; exacerbated relations between Mr. Fitzgerald and people in the Secretariat; and "that's when it became much more of a confrontation" (TR 480–481). Secretary Seamans also stated that Mr. Fitzgerald was a celebrity and a controversial person at that tims as a result of the press releases concerning the tenure controversy (TR 438–439).

Colonel Pewitt testified that Assistant Secretary Nielsen gave Mr. Fitzgerald the "Lang Memo"; that Mr. Neilsen felt Fitzgerald "had betrayed a personal confidence" by the way the memo was handled; and that Mr. Neilsen lost confidence in the appellant and his usefulness to the Air Force (TR 1991–1992). Colonel Pewitt also stated that he thought Mr. Fitzgerald's days in the Air Force were numbered and that he might be leaving because of the tenure—non tenure publicity and the Lang Memo (TR. 2121–2122).

It is clear that the "Lang Memo" and Secretary Nielsen's declaration that Mr. Fitzgerald had lost his usefulness to the Air Force both stemmed from the Washington Post January 1, 1969 front page article erroneously implying that the appellant lost his career tenure in retaliation for his testimony on the cost overrun in the C–5A project. It is also evident that the Air Force considered Mr. Fitzgerald responsible for this erroneous implication reaching the news media.

Robert C. Seamans, Jr. took office as Secretary of the Air Force on February 15, 1969. Assistant Secretary Nielsen submitted new reorganization proposals to Secretary Seamans on February 26, 1969 (AF–6/25/70, P–292) and May 5, 1969 (M. Ex #11). Prior to submitting the February 26, 1969 reorganization plan, Mr. Nielsen told Secretary Seamans that Mr. Fitzgerald's usefulness to the Air Force was at an end (TR 526–527). Secretary Seamans testified that the February 26, 1969 proposal was similar to the one that Mr. Nielsen had submitted a year earlier except for changing the focal point for cost analysis capability from Mr. Fitzgerald to Colonel Pewitt (TR 530–531).

Secretary Seamans testified that on or about April 24, 1969 Mr. Fitzgerald was scheduled to give a talk to the American Management Association on the West Coast for the Air Force. He did not meet that commitment, apparently because he was giving a series of lectures up at the Capitol (TR 559–561; 570–572). As a result, Assistant Secretary Nielsen had to fulfill this commitment in the appellant's place.

On May 5, 1969 Mr. Nielsen submitted his final proposed reorganization plan for SAFFN (M. Ex #11). This plan did not provide for Mr. Fitzgerald's position of Deputy for Management Systems.

On May 7, 1969 Secretary Seamans testified before the House Armed Services Committee in Executive Session and made several accusations against Mr. Fitzgerald. The following quotations dealing with these accusations are taken from pages 2593, 2594 and 2596 of the Committee Hearing report for May 7, 1969 (APP–4/28/71 attachment).

"Secretary Seamans. I think if you are looking at the record that you should also note where he is spending time off duty as well as on Government time."

"Secretary Seamans. I am not saying this is wrong, mind you, but he is working with a group of staff people up on the Hill, among them Congressman Moorhead's chief of staff. He was scheduled to go and make a speech on the west coast, which I approved. He wanted to make the speech. I said go ahead. And then he backed out of it at the last minute because he was so busy up here doing his extracurricular work. We had difficulty filling the speaking assignment."

"Mr. Stratton. Mr. Fitzgerald is up there now, and has been for the last several weeks, as I understand it.

"Secretary Seamans. I'm not familiar with detail. I do know there is a group that engages in a so-called seminar. It may be perfectly appropriate, but it is not official Air Force business. It is nothing that has been scheduled with a committee through the Secretary of the Air Force or any other responsible Air Force official."

"Secretary Seamans. In my conversation, a little earlier, I was talking about some of the reports that came out of the Holifield committee, some of which are confidential, that as indicated by Congressman Moorhead, he received from Mr. Fitzgerald.

"Mr. Hunt. Did Mr. Fitzgerald have the permission of the Air Force to release that information?

"Secretary Seamans. He certainly did not.

"Mr. Hunt. What is being done about Mr. Fitzgerald, then?

"Secretary Seamans. I'm reviewing the case.

"Mr. Hunt. Will you advise us what you are doing with the case when you are finished?

"Secretary Seamans. I certainly will."

In addition, the following exchange took place between the Chairman of the Committee and Secretary Seamans:

The Chairman. Is he still on the Air Force payroll?

Secretary Seamans. He is still on the Air Force payroll, he works in the Financial Management Office.

The Chairman. If I had a fellow like that in my office, he would have been long gone. You don't need to be afraid about firing him."

Secretary Seamans testified at the Commission's hearing that he was not fully satisfied with Mr. Fitzgerald's performance; that he (Fitzgerald) was not taking his responsibilities to the Air Force seriously enough (TR 868–869); that he was not fulfilling his duties (TR 872–874); and that he (Seamans) had stated to the Committee on May 7, 1969 that Mr. Fitzgerald had leaked confidential documents (TR 882). Secretary Seamans testified that on the day after his May 7, 1969 testimony he learned that no security violation was involved (TR 636); that the word "confidential" did leave an ambiguity (TR 637); that some damage was done (TR 637); and that it wasn't until six months later that he apologized to the Committee for his remarks being interpreted as a security violation (TR 617, 637, 892).

Brigadier General Joseph J. Cappucci, former Director of the Air Force Office of Special Investigations (OSI), testified that on May 17, 1969 OSI opened a file, HDQ 24P–12052 and started a special inquiry based on conflict of interest charges made against Mr. Fitzgerald by a confidential informant. Subsequently three (3) more people volunteered information in June and July (TR 48–49). A number of checks were made (TR 61–62) to test the substance of the allegations. These were in Washington, D.C.; in New York, (TR 64); Boston, (TR 70); and in Los Angeles to interview Leonard Marks (TR 83–85). All the checks came back favorable (TR 111, 119) but this favorable information was not placed in the file (TR 111).

General Cappucci testified that when these checks came back favorable, instead of placing the favorable information in the file he closed it and was going to destroy the file when it was impounded (TR 112–113). All the favorable reports were destroyed (TR 115, 120).

We find no credible explanation for OSI retaining the derogatory allegations about Mr. Fitzgerald while destroying all of the results of the investigation which proved that these allegations were without substance. General Cappucci went to great lengths to try and distinguish between a "Special Inquiry" and an "Investgiation." However, it was a fruitless exercise in semantics in this case.

General Cappucci also testified that the June 24, 1969 memorandum report of interview with Leonard Marks (Justice File P–95), which clearly showed that there was no substance to the conflict of interest allegations, was not in the OSI file when he sent it to "The Hill" (TR 157–162). We find it unconscionable for OSI to have shown only the derogatory allegations without also showing the results of the investigation which laid to rest these allegations. We can only view this as an attempt to justify Mr. Fitzgerald's separation.

General Cappucci testified that he was not directed by anyone to open the special inquiry on Mr. Fitzgerald; that he did not disclose the fact that the inquiry was opened or the facts of that inquiry, to Secretary Seamans, Assistant Secretary Nielsen, Assistant Secretary Schedler or anyone else in the Executive Branch of the Government outside the OSI prior to November 4, 1969 (TR 193). General Cappucci also testified that Secretary Seamans first learned of the existence of the OSI file when the General gave the Secretary a few minutes briefing on November 17 or 18 [1969], the day before he testified before the Proxmire Committee (TR 154–155).

In his testimony before the Proxmire Committee on November 17, 1969, in discussing the reorganization of the SAFFM Office and Mr. Fitzgerald's resultant RIF, Secretary Seamans stated that he and Mr. Laird the Secretary of Defense made an effort for many months to find a way to use Mr. Fitzgerald in some other capacity; that they talked to him personally; and considered him for other positions in the Department of Defense but did not find a suitable solution (APP–2/9/71, Attachment 1, P 102–103).

Secretary Seamans testified that he first gave consideration to finding another job for Fitzgerald outside the Air Force about the middle of May. This was shortly after he learned that the appellant had transmitted documents to Congress and learned the appellant had not fulfilled his commitment to deliver the West Coast address (TR 707–708). Secretary Seamans believed that a job for Mr. Fitzgerald in DOD would be uncluttered by some of the unfortunate relationships that had arisen in the Air Force (TR 708).

Mr. Fitzgerald testified that he met with Secretary of Defense Melvin Laird on June 11, 1969; that the Secretary was very friendly but told the appellant that he had become a personnel problem in the Air Force, which the appellant conceded was probably true; and that he would have to go someplace else. They discussed what might be done in other areas of DOD (TR 2866–2871).

One of the positions under consideration was an assignment on the staff of the Fitzhugh DOD Blue Ribbon Panel (TR 714–723, 2872). Mr. Fitzgerald had meetings with Mr. Fitzhugh and Mr. Buzzard, the Staff Director, and then submitted an August 25, 1969 memo to these men (AF–6/25/70, P–118) which stated in part:

"On the second point, I am not the only action-oriented cost cutter now excluded from the business. Aside from publicity, my situation is unique only in that I have not gone away quietly as have most others of my experience and bent."

After receipt of this memo Mr. Fitzhugh informed Secretary Seamans that he was not going to recommend Mr. Fitzgerald for assignment to the staff (TR 728). Secretary Seamans properly considered the above quoted statement to be a fairly inflammatory kind of statement to put into a memo related to consideration for another position (TR 729–31). The Secretary considered that Mr. Fitzgerald had a chip on his shoulder (TR 729–731). It is clear that Mr. Fitzgerald was not interested in a position on the Fitzhugh Panel as evidenced by the tenor of his August 25, 1969 memo.

Spencer J. Schedler replaced Thomas Nielsen as Assistant Secretary of the Air Force for Financial Management on June 24, 1969. Mr. Schedler testified that he saw the "Lang Memo" in the summer of 1969. He testified that he considered Mr. Fitzgerald's performance deficient in regard to the instances of the preparation of a "Should Cost Primer" and his failure to have prepared a demonstration guide (TR 1633–1694). Mr. Schedler testified that he first decided to abolish Mr. Fitzgerald's position in late September or early October 1969 when it became evident to him that as a result of the Project 703 cutbacks he would not be able to add spaces to the SAFFM office to improve its analytical capability (TR 1791–1792).

On November 3, 1969 Mr. Schedler submitted a form 52 request to abolish Mr. Fitzgerald's position by reorganization. This request was approved by Secretary Seamans on the same day. Thereafter, by letter dated November 4, 1969, Mr. Fitzgerald was notified of his proposed separation by reduction-in-force which was effected on January 5, 1970.

On November 17 and 18, 1969 the Proxmire Committee held hearings on Mr. Fitzgerald's proposed termination by RIF.

Secretary Seamans testified at the Commission's hearing that between November 4 and 18, 1969, the date of his appearance at the Committee hearing, he saw and/or communicated with Republican Senators Jordan and Percy and Republican Congressmen Brown and Conable concerning Mr. Fitzgerald's RIF (TR 777–778, 857–858, 860). The Secretary admitted mentioning to Senator Percy that Mr. Fitzgerald was not a team player (TR 782) and that there had been difficulties in the relationship between Fitzgerald and the Air Force (TR 780). Secretary Seamans also told Senator Jordan of these relationship difficulties; however, he denied that they were the reason for the RIF; and he did not recall using the term "team player".

On May 7, 1973 former Senator Jordan was sent several written interrogatories. His written replies were received May 19, 1973. In answer to one question Mr. Jordan recalled Secretary Seamans stating Mr. Fitzgerald was a troublemaker, that he was not a team player and that he was terminated for economy reasons under a reduction in force designation.

In view of the above and the fact that Secretary Seamans did mention the team player situation to Senator Percy, we must conclude that he also used that term in talking to Senator Jordan.

Assistant Secretary Schedler testified that during the same period of time he visited Republican Senators Mundt and Murphy and Republican Congressmen Broyhill, Buchanan, Conable, Dickinson and Rhodes to explain Mr. Fitzgerald's RIF (TR 1377).

There is a conflict in the evidence as to whether or not Assistant Secretary Schedler told Congressman Dickinson that Mr. Fitzgerald was not a team player. Congressman Dickinson testified (TR 2285) that at their November 11, 1969 meeting Mr. Schedler used the term "not a team player" and the Congressman confirmed the accuracy of a November 19, 1969 newspaper article quoting him as saying that Mr. Schedler told him Mr. Fitzgerald was not a team player (APP-2/9/71, Attachment P1, P 202–203).

Michael L. Lehrman, a former fellow classmate of Mr. Schedler at Harvard, testified that he met Mr. Schedler at an Air Force Association Convention in September 1970. Mr. Lehrman testified that at this meeting Mr. Schedler made uncomplimenting remarks about Mr. Fitzgerald, stated that he was "a pain in the ———" and was not a "team player" (TR 2835–2896).

From all of the above we must conclude that Mr. Schedler did tell Congressman Dickinson that Mr. Fitzgerald was not a team player, or used words to that effect.

After carefully reviewing the complete appellate record we find the evidence of record does not support the appellant's allegation that his position was abolished and that he was separated by RIF in retaliation for his having revealed the C–5A cost overrun in testimony before the Proxmire Committee on November 13, 1968.

In summary, the record reflects that the C–5A contract was negotiated during a Democratic Administration. Secretary Seamans and Assistant Secretary Schedler were not in office at the time the contract was negotiated or at the time of Mr. Fitzgerald's testimony, before the Proxmire Committee on November 13, 1968. In fact, Secretary Seamans did not take office until February 1969 and Assistant Secretary Schedler not until June 1969, three (3) and seven (7) months later, respectively; and under a Republican Administration.

Secretary Seamans agreed that there was a large cost overrun on the C–5A project and that Mr. Fitzgerald was acting properly in testifying after being called by the Committee. In addition, a number of witnesses agreed with Mr Fitzgerald's estimate of the possible magnitude of the overrun.

As we have previously found, and as the Air Force knew, Mr. Fitzgerald was not entitled to career tenure. The Civil Service Commission had not been requested nor had it granted prior approval to the Air Force to convert Mr. Fitzgerald from the Excepted to the Competitive Service. The September 6, 1968, SF–50 was erroneously issued, obviously due to a computer error, and was properly corrected by the November 25, 1968, SF–50 to show that Mr. Fitzgerald was converted from "Excepted-Conditional" to "Excepted" upon completion of three years of service, effective September 20, 1963.

The Lang Memo of January 6, 1969, and Assistant Secretary Nielsen's January 8, 1969, comment to Mr. Fitzgerald, which Mr. Nielsen made the subject of a memo for record on January 13, 1969, that his usefulness to the Air Force had come to an end did not stem from his testimony before Congress on November 13, 1963. These two pronouncements resulted directly from the January 1, 1969, Washington Post front-page story that carried a clear but erroneous implication that Mr. Fitzgerald's career tenure had been revoked in retaliation for his November 13, 1963, testimony. Secretary Seamans, and others in the Air Force considered Mr. Fitzgerald to be a publicity seeker; that the appellant was directly or indirectly responsible for the erroneous January 1, 1969 Washington Post story; and that Mr. Fitzgerald had done this for the purpose of placing the Air Force in a bad light.

We find that the unjust publicity the Air Force received concerning this tenure controversy, which it considered Mr. Fitzgerald to be basically responsible for, was the prime factor in the deterioration of relationships and development of an adversary environment between Mr. Fitzgerald and the Air Force.

We note that Mr. Fitzgerald received his appointment in September 1965 during a Democratic Administration, and in his own words the appointment was to be for only a few years. Mr. Fitzgerald's position carried with it the qualifications requirement that he "be personally acceptable to the Assistant Secretary of the Air Force (Financial Management)" (A-6/25/70, P–145). By the end of December 1968 the appellant's "few years" had gone by; a Republican Administration would soon be coming into office; and thus it appeared that Mr. Fitzgerald could possibly soon be leaving.

While Mr. Fitzgerald has denied that he was "Senator Proxmire's boy in the Air Force", and he may honestly believe it, we find this statement difficult to accept. It is evident that the top officials in the Air Force, without specifically saying so, considered him to be just that. The statements that he was not a "team player" and "not on the Air Force team" go directly to that point. We also note that upon leaving the Air Force Mr. Fitzgerald was employed as a consultant by the Proxmire Committee and that Senator Proxmire appeared at the Commission hearing as a character witness for the appellant.

It is also clear that probably January 1969, and certainly no later than May 1969, Mr. Fitzgerald had achieved controversial status and was an Air Force personnel problem as his testimony concerning his meeting with Secretary of Defense Melvin Laird revealed.

Assistant Secretary Nielsen considered Mr. Fitzgerald's usefulness to the Air Force to be at an end as of January 8, 1969. Therefore, he obviously did not include Mr. Fitzgerald in his proposed reorganizations of February 26, 1969 and May 5, 1969. Mr. Nielsen's last proposal is essentially the same as the reorganization Assistant Secretary Schedler, with Secretary Seamans' approval, finally put into effect. This reorganization abolished Mr. Fitzgerald's position and led to his separation by RIF on January 5, 1970.

Mr. Schedler testified that he did not decide to abolish Mr. Fitzgerald's position until late September or early October 1969. However, Secretary Seamans and Secretary Laird came to the decision that Mr. Fitzgerald had to leave the Air Force much earlier than Mr. Schedler was willing to admit. They were busy looking for another position outside the Air Force for this appellant as early as May 1969. One of the positions under consideration was with the Fitzhugh Blue Ribbon Panel, previously discussed.

Secretary Seamans denied being instructed, directed or ordered by anyone to terminate Mr. Fitzgerald. However, he initially declined to respond to any and all questions concerning possible communications he may have had with, or any advice received from. the White House staff regarding Mr. Fitzgerald. This declination was based on the doctrines of Executive Privilege and privileged communications. Secretary Seamans was advised by this examiner (TR 499) as follows:

"Mr. Secretary, I am without authority to order you to answer the question. If the answer to the question becomes relevant and material, all I can do is to take into consideration your refusal to answer the question."

Secretary Seamans subsequently testified that at some point in time prior to Mr. Fitzgerald's job being abolished he did receive some advice from the White House; however, he refused to discuss it any further (TR 839).

By letter dated August 2, 1973, with a copy to the agency representative, appellant's attorney submitted a copy of a January 20, 1970 internal White House memo from Alexander Butterfield to Mr. H. R. Haldeman that had just been discovered. The agency was offered but declined the opportunity to comment. This memo states:

"You'll recall that I relayed to you my personal comments while you were at San Clemente, but let me cite them once again—partly for the record—and partly because some of you with more political horse sense than I will probably want to review the matter prior to next Monday's press conference.

"Fitzgerald is no doubt a top-notch cost expert, but he must be given very low marks in loyalty; and after all, loyalty is the name of the game.

"Last May he slipped off alone to a meeting of the National Democratic Coalition and while there revealed to a senior AFL–CIO official (who happened to be unsympathetic) that he planned to "blow the whistle on the Air Force" by exposing to full public view that Service's "shoddy purchasing practices". Only a basic no-goodnik would take his official business grievances so far from normal channels. As imperfect as the Air Force and other military Services are, they very definitely do not go out of their way to waste government funds; in fact, quite to the contrary, they strive continuously (at least in spirit) to find new ways to economize. If McNamara did nothing else he made the Services more cost-conscious and introspective—so I think it is safe to say that none of their bungling is malicious . . . or even preconceived.

"Upon leaving the Pentagon—on his last official duty—he announced to the press that 'contrary to recent newspaper reports' he was not going to work for the Federal Government, but instead, was going to 'work on the outside' as a private consultant.

"We should let him bleed, for a while at least. Any rush to pick him up and put him back on the Federal payroll would be tantamount to an admission of earlier wrongdoing on our part.

"We owe 'first choice on Fitzgerald' to Proxmire and others who tried so hard to make him a hero."

The information contained in the memo concerning Mr. Fitzgerald's May 1969 statements at a meeting of the National Democratic Coalition had not previously come to light in this proceeding. In the light of Secretary Seaman's refusal to furnish testimony on conversations he had with, or advice he received from, the White House Staffs' and our notification to the Secretary (TR 499), quoted supra, we must conclude and do hereby find that Mr. Fitzgerald's May 1969 statements were the subject of Secretary Seamans' discussion with the White House staff. We must also conclude and do hereby find that these statements by Mr. Fitzgerald were one of the underlying reasons for the decision to abolish Mr. Fitzgerald's position and to terminate his employment with the Air Force.

The "Lang Memo" previously quoted, set

out three (3) methods by which the agency could terminate Mr. Fitzgerald. Method No. 3 was not recommended. Method No. 1 was to follow adverse action procedures with all of the requirements for specified charges, opportunity to reply and appeals. Method No. 2, which the agency subsequently followed, was to abolish Mr. Fitzgerald's position and since his assignment rights would only be to Excepted Service positions, he would end up being separated. Secretary Seamans and Assistant Secretary Schedler both saw the "Lang Memo" prior to Mr. Fitzgerald's position being abolished.

Our findings, supra, reveal many instances of dissatisfaction with Mr. Fitzgerald. In addition, Secretary Seamans testified (TR 964) that:

"It is obvious from the testimony these past three days that I was not satisfied with Mr. Fitzgerald's performance. I made no pretense that I was."

After carefully reviewing the complete appellate record and in view of all of the foregoing analysis, findings and conclusions, we find that the agency's decision to abolish Mr. Fitzgerald's position and to include him in the Project 703 reduction-in-force improperly resulted from and was influenced by reasons purely personal to the appellant and was for the purpose of terminating his employment with the Air Force.

Secretary Seamans, in discussing his dissatisfaction with Mr. Fitzgerald, also stated (TR 964):

"But at the same time it does not give Mr. Fitzgerald immunity against having his job abolished, and the abolition of the job for improvement in our management capability was a separate and distinct step, or action."

It is true that an undesirable, inadequate or unsatisfactory employee is not immune from having his position abolished. However, the decision to abolish that employee's, or any employee's, position must be based solely on reasons not personal to the employee. These employees must be removed from their positions by other means because the spirit, intent, and letter of the Commission's regulations require that the reduction-in-force system be used for reasons that are not personal to the employees affected. The more an employee is deserving of being fired, the more inappropriate it is to abolish his position and separate him by reduction-in-force.

In the case at hand, where we have found from the evidence of record that the decision to abolish Mr. Fitzgerald's position and to separate him by reduction-in-force was influenced by, and resulted from, reasons that were personal to the appellant; and where the appellant was an employee entitled to the adverse action procedures set forth in Part 752-B of the Civil Service regulations; we find his separation by reduction-in-force to be improper, inappropriate and contrary to the spirit, intent, and letter of the Commission's regulations.

### RECOMMENDATION

Accordingly, we recommend that Mr. Fitzgerald be restored retroactively to January 5, 1970 to the position from which he was improperly separated, or to any other position of like grade, salary and tenure in the Excepted Service and with the same or similar qualifications requirements as his former position. Please furnish this office with a copy of the SF-50 accomplishing the recommended corrective action.

The appellant requested an award of damages, costs and reasonable attorneys' fees. The applicable statutes, Executive Orders and Commission regulations do not provide for any awards of damages, costs, or attorneys' fees by the Commission in a decision on an appeal. Therefore, the appellant's request in this regard must be denied. It should be noted that during the course of the proceeding the appellant's attorneys contended that they had volunteered their services and were performing without charge.

The appellant has also requested reimbursement for the compensation he would have received if he had not been terminated.

Retroactive corrective action as ordered by the Commission carries with it an entitlement to back pay in accordance with the provisions of the "Back Pay Act". However, the Commission does not determine the amount of the back pay entitlement, if any.

Unless this decision is further appealed within 15 calendar days of the day on which it is received, it becomes the final decision of the U.S. Civil Service Commission. Any further appeal of this decision must be sent directly to:

Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415.

Two copies of the letter of further appeal and all representations which the Board should consider beyond those now in the appeal file must be submitted within the 15 calendar day time limitation.

HERMAN D. STAIMAN,  
*Chief, Appeals Examining Office.*

## CLC REPEATS MISTAKES

Mr. McCLURE. Mr. President, the refusal of the Cost of Living Council to accept a court ruling voiding retail price controls for petroleum products is resulting in needless and unjust hardships for thousands of small businessmen, and the men and women that they employ. Perhaps we are becoming insensitive to Government-imposed injustices on American citizens, but I cannot tolerate, much less accept, the bureaucratic thinking which refuses to rescind a spur-of-the-moment decision which has been proven erroneous. If the administration is more intent on "saving face," rather than admitting a mistake and responding to reason and facts, then the Congress must act as the public defender. I urge that the legislation to correct this injustice, which I and many other Senators have introduced, be given immediate attention by the committees to which it was referred. Only then can the full Congress act.

Mr. President, I was visited this week by three citizens of Idaho—Mr. Marv Christensen, president of the Idaho Petroleum Dealers Association, Mr. Joseph Anderson, and Mr. John L. Boozer. These men came to Washington to present the facts. And, the facts show beyond question that the Cost of Living Council's decision means that petroleum dealers throughout Idaho will be forced to shut their doors, and the employment that they provide will be lost. An an illustration of the gravity of this visit, I ask unanimous consent that a list of names be printed in the Record of the individuals and organizations who helped pay for the trip of these men to Washington. This list is another indication to the administration of the widespread concern that this decision has created.

There being no objection, the list was ordered to be printed in the Record, as follows:

*Donations for trip to Washington, D.C., to appeal phase IV price controls*

| | |
|---|---|
| Bill and Mike's American | $5 |
| Rex Parris Truck Stop | 20 |
| Forde Johnson's Truck Stop | 20 |
| Cowboy Oil Co | 20 |
| Jim Herzog Automotive | 20 |
| Nyle Ward's Texaco | 20 |
| Jim Fleming Husky | 20 |
| Marv Christensen's Conoco | $20 |
| Motor Merc | 20 |
| Ray Jones Chevron | 20 |
| Steve's American | 20 |
| TBA Supply Co | 25 |
| Wynn's American | 20 |
| George Frost | 25 |
| John Valemity Texaco | 20 |
| Kerham Auto Parts | 20 |
| Mel's American | 20 |
| Vals Stodards | 20 |
| Wheaty and Jensen's Texaco | 20 |
| Marv's Chevron Service | 20 |
| Norm Smith Parts House | 20 |
| Art Latiners Union | 20 |
| Bob Willard's Conoco | 20 |
| Muffler Warehouse | 20 |
| Jim Bauns Texaco | 20 |
| Dale Kerhams Auto Supply | 20 |
| Bellmyers | 20 |
| Automotive Wholesalers | 20 |
| Dale Wellug's Chevron | 20 |
| Sam's Texaco | 20 |
| Fred Wellie's Conoco | 20 |
| Rex Larsen's Sinclair | 20 |
| Mel Facer's Conoco | 20 |
| Harold Buchan Conoco | 20 |
| V-Pump | 20 |
| Floyd Anderson's Conoco | 20 |
| Jack Webber's Chevron | 20 |
| Joe Anderson's Auto | 20 |

Mr. McCLURE. Mr. President, the Cost of Living Council's first mistake was to go ahead with the phase IV controls, despite the evidence against them. The second mistake was to appeal Judge Parker's decision, in which he found the controls to be "arbitrary and capricious." The third mistake is the attempt, now, to delay rescinding the controls, using the excuse of "having to study the problem further." The studying should have been done before the controls were imposed.

Now is the time for the Cost of Living Council and the administration to avoid another mistake. If they do not, then I urge immediate congressional action.

## THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been 25 years since the first nation signed the Genocide Convention. At that time the United States was in the forefront of those who sought to make genocide an international crime. In the intervening years over 75 nations have ratified this treaty but this body has yet to give its consent. Despite the passage of time it remains as imperative as ever that we do so.

Historically, the United States has been known as a champion of human rights. Our concern with preserving the right of racial, ethnic, and religious groups to coexist requires our signature to the Genocide Convention. The fact that we have not yet signed the convention puzzles our friends and delights our enemies. In fact, former U.S. Ambassador Charles Yost testified that our refusal to ratify the treaty was one of the most difficult and embarrassing things he has ever had to explain.

The psychological impact of U.S. ratification cannot be underestimated. International law grows extremely slowly. It requires the unanimous support of the world community to become established. Thus, as Mrs. Rita Hauser, former representative on the U.N. Human Rights Commission, has testified, it is hard to see how any international principle can become binding without the concurrence of the United States.

Likewise, if our country ratifies this treaty, it could well reawaken interest among the new nations to also add their signatures. It is imperative that the U.S. Senate give its consent as soon as possible.

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## THE MEANINGS OF DÉTENTE

Mr. BUCKLEY. Mr. President, the New York Times on Monday, September 17, 1973, carried an article, "United States Hears of Brezhnev Reassurance To Bloc That Accords Are a Tactic." The first two paragraphs of that article give the essential facts of the story:

> According to intelligence reports recently received here, Leonid I. Brezhnev, the Soviet Communist Party leader, has emphasized to Eastern European leaders that the movement toward improving relations with the West is a tactical policy change to permit the Soviet bloc to establish its superiority in the next 12 to 15 years.
>
> Although there is some question about the authenticity of the reports, they are contributing to a debate within the Administration over whether the current Soviet course really represents a basic change in intention or is merely a temporary shift. . . .

Mr. President, the only surprising thing about this disclosure is that it should surprise anyone. Taking into account even the fact that there is some question about the authenticity of the reports, there is a ring of truth about their basic substance and it is reported in the same article that specialists on the Soviet Union "accept the intelligence reports as probably accurate." What Mr. Brezhnev has obviously been whispering into friendly ears in Eastern Europe is nothing new; indeed, Communist leaders ever since Lenin have been proclaiming similar sentiments to the world.

To illustrate that point, allow me to have printed in the Record, the words of various Communist leaders and official publications on the subject of détente:

> The policy of peaceful coexistence . . . is a form of intense economic, political, and ideological struggle of the proletariat against the aggressive forces of imperialism. (N. Khrushchev, 1961)
>
> In the view of the Communists, peaceful coexistence is . . . an active and intense struggle, in the course of which socialism irresistibly attacks, while capitalism suffers one defeat after another. (Sovetskaya Estoniya, 1963)
>
> The policy of peaceful coexistence . . . has never been a policy based on the acceptance of the states quo in world relations. It has been and it remains a weapon of struggle—a struggle in which both hands are used. With one hand, the aggressive forces of world imperialism are held back; with the other, full support is given to the forces fighting for national independence, and to the peoples moving toward a socialist goal. (World Marxist Review, Moscow, 1965)
>
> The main direction of the world revolutionary process is determined by the struggle between the two opposite social systems . . . Since it is a question of two essentially irreconcilable lines of world development, all countries, classes, social strata, and political currents become involved in the struggle. . . . Our foreign political measures are restricting further and further the aggressive imperialist circles . . . They contribute to the creation of ever better international circumstances for the expansion of the struggle of the revolutionary forces the world over. (B. Ponomarev, general secretary of the Central Committee of the Soviet CP, 1971)
>
> Relations with the capitalist nations will remain the relations of struggle, however sucessful normalization and détente may be. . . . The essential question is what form that struggle will take. (G. Arbatov, director of the Soviet Institution for American Studies, March 1973.)
>
> Only naive people can expect that recognition of the principles of coexistence by the capitalists can weaken the main contradiction of our times between capitalism and socialism, or that the ideological struggle will be weakened. (Pravda, May 1973.)

Mr. President, after documentary evidence like this, can we really say we are surprised to learn that Mr. Brezhnev looks upon détente as simply one more weapon in the long protracted conflict with the West?

I ask unanimous consent that the following article "United States Hears of Brezhnev Reassurance to Bloc That Accords Are a Tactic," John W. Finney, New York Times, September 17, 1973, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### United States Hears of Brezhnev Reassurance To Bloc That Accords Are a Tactic

(By John W. Finney)

Washington, September 16.—According to intelligence reports recently received here, Leonid I. Brezhnev, the Soviet Communist party leader, has emphasized to Eastern European leaders that the movement toward improving relations with the West is a tactical policy change to permit the Soviet bloc to establish its superiority in the next 12 to 15 years.

Although there is some question about the authenticity of the reports, they are contributing to a debate within the Administration over whether the current Soviet course really represents a basic change in intention or is merely a temporary shift.

As summarized by Defense and State Department officials who have studied the intelligence reports, the Brezhnev explanation went like this:

To the Soviet Union, the policy of accommodation does represent a tactical policy shift. Over the next 15 or so years, the Soviet Union intends to pursue accords with the West and at the same build up its own economic and military strength.

At the end of this period, in about the middle nineteen-eighties, the strength of the Soviet bloc will have increased to the point at which the Soviet Union, instead of relying on accords, could establish an independent, superior position in its dealings with the West.

#### HOW UNITED STATES GOT REPORTS

The intelligence reports are for the most part third- or fourth-hand accounts of Brezhnev statements that have filtered through Eastern European sources to Western intelligence agencies and finally to the United States intelligence community.

The authenticity of one report of a Brezhnev conversation with an Eastern European leader last spring, before the Soviet leader met in June with President Nixon, was said to have been vouched for by British intelligence, which received the report and turned it over to the United States. American officials said that similar intelligence reports have been received concerning other such Brezhnev statements, both in Moscow and in Eastern European capitals.

The attitudes among specialists on the Soviet Union is to accept the intelligence reports as probably accurate. Differences have developed within the Administration over how to interpret the statements.

#### SUSPICIONS AMONG MILITARY

Some high-ranking military officials regard the intelligence reports as confirmation of their suspicions that the Russians are intent upon using accommodation as a way of disarming the West and establishing a military superiority that will permit a more aggressive Soviet foreign policy.

Most civilian analysts of the Soviet Union place less ominous interpretation on the intelligence reports. They tend to consider the reported Brezhnev statements an internal tactic designed to mollify the hardline opposition within the Communist camp as the Soviet leader pursues a policy of detente with the West.

The reports have had considerable impact on the Pentagon. When asked to document their contention that the Soviet Union was intent on establishing military superiority over the United States, high-ranking officers immediately cite the intelligence reports on what is coming to be known within the Pentagon as "the new Brezhnev doctrine."

#### "TURNING SCREWS ON UNITED STATES"

From the first concrete steps toward East-West accommodation, military officials have tended to suspect Soviet intentions, as reflected in the reservations of the Joint Chiefs of staff about last year's agreement limiting offensive strategic arms. A common military judgment is that the Soviet Union may be using accommodation in part to lower the guard of the West while it pursues a buildup in the 1980–1985 period to achieve military superiority.

This judgment tends to be supported by the intelligence reports on the Brezhnev statements about pursuing accords for 12 to 15 years. To United States military officials, the implication is that by the end of that period the Soviet Union believes it will be in an economic and military position at which it can begin, as one high officer put it, "to start turning the screws on the United States".

Perhaps not completely by coincidence, the reports began to appear at a time when the defense budget faced a serious challenge on the Senate floor. The Senate begins debate this week on the annual military procurement bill, with moves planned to cut away at various weapons-and-manpower programs.

In the face of a growing view in the Senate that accommodation should permit a reexamination of defense policies, the Defense Department has been going to considerable lengths to emphasize that détente does not permit cuts in the defense budget. In assailing moves to reduce defense spending, for example, Defense Secretary James R. Schlesinger emphasized recently that despite the hopeful atmosphere, Soviet bloc military strength was still growing. He characterized the Soviet Union as having "a mailed fist encased in the velvet glove of détente."

#### CIVILIAN-MILITARY DEBATE

It appears that the intelligence reports have contributed to the differences between military circles in the Pentagon and civilian circles in the State Department in assessing Soviet intentions.

Civilian analysts of the Soviet Union read the Brezhnev statements as emphasizing accommodation as a way of achieving an economic, rather than military, build-up of the Soviet bloc—not some long-range master plan for military superiority over the United States.

It was also the prevailing belief in civilian circles that the Brezhnev statements were motivated by internal political considerations within the Communist bloc.

Within the Communist party in the Soviet Union, as well as in some of the Eastern European countries, according to Soviet specialists, there appear to be some lingering reservations about the desirability of a cooperative policy with the West. The Brezhnev statements, therefore, were interpreted as an attempt to provide a rationale and justification that would permit all factions, including the ideological hardliners, to join behind a policy of cooperation with the West for 12 to 15 years.

As one Government specialist on Soviet affairs put it: "The self-proclaimed tactical shift is probably a tactic in itself."

## PROGRAMS HELPING COLLEGE STUDENTS

**Mr. PELL.** Mr. President, in the New York Times of Tuesday, September 4, 1973, there appeared a short, concise breakdown of Federal programs helping college students. It, in simple terms, discusses the Federal programs and how a student may apply for them.

I think that the many congressional offices which have contacted the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, may wish to see it.

I ask unanimous consent for this article to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 4, 1973]

### PROGRAMS HELPING COLLEGE STUDENTS

(Following are the five major programs administered through the United States Office of Education for aiding postsecondary school students and the major state-operated programs in the metropolitan area. In addition to these programs there are other specialized forms of Federal assistance, private loans and a wide variety of scholarships offered by foundations, agencies and the educational institutions themselves.)

#### BASIC EDUCATIONAL OPPORTUNITY GRANTS

Eligibility: Open to full-time freshmen at colleges, universities and vocational and technical schools who did not attend a post-secondary education institution prior to July 1, 1973.

How to apply: Applications are available from post-secondary institutions, high schools, post offices, state employment offices, county agricultural extension agencies and Box G, Iowa City, Iowa, 52240.

When to apply: As soon as possible for the academic year now beginning.

Criteria: Family income and assets determine who gets a grant, academic achievement having no bearing. Applicant must complete a detailed financial statement that is subject to comparison with the Federal income tax return that parents have filed with the Internal Revenue Service. In general, a student from a family of four with an income of $11,000 or more would not qualify for a grant. However, factors that can offset a higher income and enable a student to get a grant are a large family, brothers and sisters in college, both parents working and unusually large medical expenses.

Size of grant: Ranging from $50 to $452—the top grant going to a student from a family that according to its income and assets cannot afford to contribute anything toward the student's education.

Terms of repayment: This is a grant and there is no repayment involved.

Comments: No eligible student whose certifiable need meets the established criteria will be turned down by this program. Also, the grant will be awarded regardless of any other Federal grants or loans the student may receive. If a sufficient level of funding is authorized by Congress, the program is to be expanded to include all needy undergraduates, full-time and part-time. The top grant would be $1,400.

#### GUARANTEED STUDENT LOANS

Eligibility: Anyone enrolled as an undergraduate or graduate student in any of 8,200 participating colleges, universities and nursing, vocational, technical, trade, business or home study schools.

How to apply: Applications may be obtained from participating educational institutions, banks, savings and loans, credit unions and the United States Office of Education.

When to apply: At any time.

Criteria: All students are eligible, regardless of how high the family income. Only those with established need, however, can qualify to have the Federal Government pay the interest on the loan; others must pay their own interest. Those seeking interest-subsidized loans must fill out a needs analysis divulging income and assets. Such factors as a large family, brothers and sisters in college, both parents working and unusually large medical expenses are taken into consideration. The financial aid office of the educational institution processes the application, applying a mandated formula, and recommends to the potential lender the amount of the interest-subsidized loan (including a possible zero dollar recommendation) for which the student qualifies. Prior to March 1, a student from a family with an adjusted income of less than $15,000 could qualify for an interest-subsidized loan, but under new regulations many students who formerly qualified are finding themselves ineligible.

Size of loan: In general, loans may be for up to $2,500 a year—not to exceed $7,500 during an entire undergraduate career and $10,000 during the course of undergraduate and graduate education. The annual amounts and cumulative totals vary, though, in some states, including Connecticut and New York.

Terms of repayment: No payment on principal is required until nine to 12 months after the student leaves school or until after service in the military, Peace Corps or VISTA. Once repayment begins, it is to be completed over a period of not more than 10 years and not less than five years, or sooner if the loan can be paid off at a rate of $360 a year. In the event of default, the Federal or State guarantee agency will compensate the private lender and attempt to recover the money from the student.

Comments: While this program appears to be open to all applicants it has not worked out that way. All of the money being loaned belongs to private lenders who participate voluntarily and retain the ultimate decision about who gets a loan. The new needs analysis formula has had the effect of disqualifying many of the students who would have gotten interest-subsidized loans under the old rules. The lending institutions could go ahead and give loans through the program that are not interest-subsidized, but are reluctant to do so. Not only is this a time of tight money, but apparently the lenders do not want to get too much of their money tied up in loans on which payment on the principal is delayed until after the student leaves school.

Moreover, while a lender can bill the Federal Government in one lump sum for the interest on all the subsidized loans, students must be billed individually for interest on unsubsidized loans—making such loans unattractive to the lender because of the greater servicing costs. The March 1 regulations were ostensibly to make it easier for the middle-class to get the guaranteed loans, but the change has had the opposite effect. Congress has had hearings on the problems that have developed and there is a widespread opinion among authorities on the program that the law needs further changes if it is actually meant to be of use to students from a wide range of income groups.

#### SUPPLEMENTARY EDUCATIONAL OPPORTUNITY GRANTS

Eligibility: For undergraduates in colleges and universities and students in other approved post-secondary schools. Half-time as well as full-time students.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: For students of "exceptional need," who without the grant would be unable to continue their education. Final determination of need is up to the college's financial aid office. This grant is often given in combination with National Direct Student Loan and College Work-Study aid to form a single assistance package.

Size of grant: Not less than $200 or more than $1,500 a year. Normally, renewed for up to four years—or five years when course of study requires extra time. The total that may be awarded is $4,000 for a four-year course of study and $5,000 for a five-year course.

Terms of repayment: This is a grant and there is no repayment involved.

Comments: In the past, 72.7 per cent of these grants have gone to students whose family income is below $6,000; students from families with incomes in excess of $9,000 have received 4.2 per cent of the grants.

#### COLLEGE WORK-STUDY

Eligibility: For undergraduates and graduate students in colleges, universities and approved post-secondary schools. Half-time as well as full-time students.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: The offer of a job is based on need, as determined by the college's financial aid office. The Federal money is used to pay the wages. The job may be for as many as 40 hours a week at a nonprofit on-campus (cafeteria, library, laboratory) or off-campus (hospital, school, government agency) site. Usually awarded as a package in combination with Supplementary Educational Opportunity Grant and National Direct Student Loan.

Amount of pay: From $1.60 to $3.60 an hour. Average annual compensation being $600.

Terms of repayment: These are wages for hours worked and there is no repayment.

Comments: In the past, 56.7 per cent of the work-study jobs have gone to students whose family income is less than $6,000; students from families with incomes in excess of $9,000 have received 17.3 per cent of the jobs.

#### NATIONAL DIRECT STUDENT LOANS

Eligibility: For undergraduates and graduate students in colleges and universities and approved post-secondary schools. Half-time as well as full-time.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: The loan is based entirely on need, as determined by the college's financial aid office. Usually awarded as a package in combination with College Work-Study and Supplementary Educational Opportunity Grant.

Size of loan: Up to a total of $2,500 while enrolled in a vocational school or during the first two years of a degree program. Up to a total of $5,000 while studying toward a bachelor's degree and up to $10,000 during the entire undergraduate and graduate career.

Terms of repayment: Begins after leaving school or service in military, Peace Corps or VISTA. Interest of 3 per cent on unpaid balance of loan is charged when repayment period begins. Maximum length of repayment period is 10 years. Loan is canceled and no repayment necessary for teachers of the handicapped and teachers in inner-city schools and servicemen who spend one year in a combat zone.

Comments: This is the original of the Federal assistance programs for students, which began as the National Defense Student Loans in the late nineteen-fifties in the wake of the panic over the launching of the Soviet Union's first satellite. It was awarded on the basis of academic achievement, largely to students in the sciences and education. Academic achievement no longer figures in the loan and major field of study makes little difference. Students from families with incomes in excess of $12,000 get 10.6 per cent of the loans.

These are the major state-operated aid programs in the metropolitan area.

## THE ENERGY CRISIS

Mr. DOMENICI. Mr. President, at this point in our history, when we are beginning to realize that the fossil fuel barrel indeed has a bottom, other sources of energy are being seriously considered to fill the ever widening gap between demand and fossil fuel availability.

I am pleased to call to the attention of my colleagues the ingenious efforts of a family in New Mexico to find new solutions on an individual basis. Their work to harness and use solar and wind energy to provide their power needs has been described in an article in the Washington Post of September 16, 1973.

Their unusual experience and their skill and innovative spirit is to be admired and emulated. It is time, I believe, that such experiments should be introduced on a large scale. National policy should be established and funds appropriated to reach specific goals and objectives in this area. I urge Congress to move quickly in encouraging the research and development of such energy production.

I request unanimous consent that the article referred to above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### IT'S HEATED BY THE SUN AND ELECTRIFIED BY THE WIND

(By John Dreyfuss)

ALBUQUERQUE, N. MEX.—Eileen and Bob Reines live in the world's first home that can be totally heated by the sun and electrified by the wind.

They enjoy a standard of living only a little simpler than that of many middle-income Americans, and just about as comfortable.

They do it in a hemispherical home that is very different from that of the average American's—and almost everyone else.

A conventional structure the same size would require about 10 times the heat to maintain the same temperature, and use about five times as much electricity.

Bulbs totalling less than 150 watts brighten the house so one can read comfortably almost anywhere in it.

There are spaces for a kitchen, bathroom, office, bedroom, and living room-dining room.

Building the home and its energy systems cost Reines a promising Air Force career, enormous innovative effort and about $12,000.

"Our home is designed as a system to conserve heat, water and electricity," Reines said. "It needs less of nature's energy than any comparable house in the world because we make such efficient use of the energy we take."

Outside the Reines house looks like a glistening, white tipped-over teacup, 14 feet 5 inches high and 31 feet 6 inches in diameter at ground level.

Inside, the hemisphere creates an impression of soaring spaciousness seldom found in rectilinear homes.

Eileen and Bob Reines live in that spaciousness with their big Labrador dog, Bruce, their tiny alley cat, Spike, and their television, Hi-Fi, kitchen blender and other "extras" that have become a part of everyday life for most Americans.

Propellers on three wind-driven generators atop towers near the house hum as they spin, charging 16 high-capacity storage batteries, while simple solar collectors heat 3,000 gallons of water in a hill-side storage tank.

Wind-powered generators and solar heat have done for the Reineses what energy experts for years have said could not be done provided energy for a good standard of living without backup from commercial energy sources.

The key is the hemisphere. It wastes only a small fraction of the heat that escapes from conventional structures through cracks, poor insulation and doors opening and closing.

It is a dome of thin metal panels with insulation and rigidity provided by a 3-foam sprayed inside.

An airlock—two doors at opposite ends of a 7-foot-long hallway—keeps the home free of winter cold (which occasionally plummets to lower than 30 degrees below zero) and summer heat which climbs to more than 100 degrees).

Hot water for radiators flows from the 3,000-gallon tank. It contains a smaller tank for hot running water.

The system is heated by the sun beating down on black copper tubes through which is pumped a water-glycol solution. The tubes are run through the big water tank, heating its contents.

In summer, the temperature in the dome stays at 85 degrees or less, Reines said. "It could be reduced 10 degrees more by shading the skylight in daytime hours, and opening vents at night," he added.

"Next summer we plan to experiment with running the solar system at night to chill the big water tank, and cool the house during the day by running the cold water through the radiator."

The Reines hemispherical home is white, inside and out. Its popcorn-like wall surface escapes monotony because the foam insulation tends to show the shape of the metal panels and supporting rings to which it adheres.

At the top of the hemisphere, a 6-foot 1-inch skylight contains a dozen separate windows. Eleven windows are circular, ranging in diameter from 3 inches to 3 feet. The 12th is rectangular and opens to provide an air vent.

The walls are perforated with 19 irregularly placed portholes, each 8½ inches in diameter.

Enough light streams through the windows and skylight to keep the dome brighter than most homes well into the dusk hours, even on cloudy days. A large interior volume relative to floor space gives the hemisphere a spaciousness belying its relatively small 655-square-foot ground level area and 200-foot sleeping loft.

The ground level, which has a red and black brick floor, is about 60 per cent living room-dining area, with 10 per cent devoted to the kitchen, 10 per cent to the bathroom, 5 per cent to office space and 15 per cent to storage. Upstairs, a double bed, two dressers and a bedside table furnish an uncluttered sleeping area.

There are some problems: Condensation often drips from the skylight and makes the window opaque, privacy within the home is minimal and the windows are too small for an easy view.

Reines is quick to note he can eliminate the condensation with double pane windows and he is working on the other problems.

"But the big questions are already answered," he declared. "We got here from groundbreaking in 10 months—and this house, which we call Prototype I, is already obsolete. Prototype II is on the drawing boards."

Reines' voice rises an octave and several decibels with excitement when he looks ahead. "We've just scratched the surface," he said, using a favorite declaration which he tends to make four or five times a day.

"By 1974, we'll have developed a wind-solar powered home that anyone good with his hands can build. The solar collectors will be part of the hemisphere, the water tank will be out of sight, no longer an eyesore. It will be far more efficient home than Prototype I, 20 per cent less expensive, and have much greater window space.

"And if a buyer doesn't want to use wind power, he can hook up to conventional electric lines and watch his use of electricity drop 70 per cent from that of a normal home.

"We're looking hard at the esthetics and land use too. We don't want to drop these hemispheres in domino rows."

Reines is studying the storage capacities of his heat and electric systems to see just how long he can go without sunshine and wind.

"It's a fundamental question," he said. "Under normal energy use conditions we can last a week without wind or sun. Future systems will have vastly more storage capacity—about 20 days. Of course, by cutting back on energy needs, one could do much better than that."

Preliminary research indicates energy-efficient homes powered by the wind and sun could be used virtually anywhere in the United States with the possible exceptions of areas of the extreme Northwest and Northeast, Reines claimed.

Although he is almost totally dedicated to perfecting his hemispherical energy-efficient house, Reines knows it is not bound for immediate or universal acceptance.

He realizes adding a room can mean adding an entire dome and that hemispheres are limited to essentially single-story structures.

That means domes are not practical in densely populated cities requiring multistory apartment houses. Even in the suburbs, they use more land than rectilinear homes with the same ground-level floor space.

And domes are "different." People accustomed to box-like living spaces are likely to balk at change simply because they resist any radical departure from the norm in housing.

Reines is planning to construct several more domes in New Mexico about 120 miles from his completed structure.

These will be Prototype II and he has gathered a team of half a dozen helpers to aid in their construction.

Reines exhausted his own funds to build Prototype I, so he is looking for financial support. "I have some possible investors lined up," he said. "But I need more."

Beyond Prototype II, Reines envisions building a small city of hemispheres depending for their energy on the sun and the wind.

It would house 200 city planners, designers, architects, attorneys, anthropologists, educators and others who would help promote energy-efficient living.

From such a community, Reines hopes for a proliferation of minimum-energy homes through America, and then throughout the world.

It is an ambitious prospect. But so was constructing the world's first home that can be totally powered by the sun and the wind.

He began three years ago in the most unlikely of situations: As a lieutenant in the U.S. Air Force. Constrictions of the military establishment permitted him to make only a few small steps up his mountainside.

The first of many giant steps toward his goal was Reines' decision to ignore the Air Force. He plunged his entire $15,000 savings into his project, resigned his commission and set off up his mountain.

He is a demon for work. In his last five months as an Air Force officer, Reines spent 16 to 18 hours a day designing, pricing and developing an energy-efficient home in the New Mexico high desert.

He scoured the state for materials, rebuilt vehicles, repaired equipment, scrounged advice and labor and prepared the land for his hemispherical home.

Reines has built that home with no job, no assured future, and virtually no money in terms of today's research budgets.

But he is no dropout from society; quite the opposite. His goal is to serve society.

He believes such service demands solutions to new problems which are beyond the reach of existing institutions.

So Reines is exploring new ground, convinced that Americans must basically alter their housing requirements.

## NADER PRAISED BY HEAD OF CHAMBER OF COMMERCE

Mr. PROXMIRE. Mr. President, yesterday was a banner day for America in my view. Two remarkable events occurred. First the Civil Service Commission in a precedent shattering decision stood up loud and clear for a civil servant who had been kicked out of office by the administration. There have been few more controversial actions by any administration in recent years than the firing of Ernest Fitzgerald, which in turn followed a year of harassment of Fitzgerald, which immediatley followed his disclosure when asked pointblank by a congressional committee that the overrun on the C5A might be some $2 billion. For committing that truth, Fitzgerald was canned by the Air Force. Yesterday, after 3½ years of battling, he was given his job back with 3½ years of back pay.

So it was a glorious day for those who have the courage to speak out against waste in their agency, and a great day for taxpayers because reducing Federal spending depends on the willingness of some of the thousands who run our Government having the courage and will to speak out and tell the Congress, the public, and the press the truth, so we can act to eliminate waste.

The second event speaks volumes for the increasing maturity and statesmanship of American business. It is also a great "man bites dog" story. The president of the U.S. Chamber of Commerce spoke out in emphatic praise of Ralph Nader.

Mr. President, I have attended executive sessions in this body when some of my colleagues in the Senate spoke in the most disparaging and critical tones of Ralph Nader—as a scourge of American business, as a vicious foe of business success, and in even stronger language. The automatic assumption around here by too many has been that Nader is a worrisome, annoying, gadfly who has unfairly brought some great and good businesses into disrepute and indeed into court to atone for alleged shortcomings.

Well, yesterday Mr. Edward B. Rust, the new president of the chamber, called on businessmen to "look with fresh eyes at Ralph Nader and the kind of consumerism he represents" and said that far from being an enemy of the system that Nader is committed to making the system work.

Rust went on to point out that it is only when products do not live up to their advertising and to buyers' expectations that Nader seeks to have them regulated by the Government.

Mr. President, for years I have been saying that Ralph Nader has been doing the job that Members of Congress should be doing. It is good to have the organization that is perhaps more clearly identified with the business viewpoint than any other, recognize that Nader and consumerism represent what can be a great improvement in our free enterprise system, with an informed customer—more aware of the quality of what he is buying—and its effect on his health, his safety, and that of his family.

Mr. President, we are all aware of what a great country this is. We are all proud of it, but somehow it is only the scandals and crimes and other sins of our Nation that get attention. As a result, too many are developing the view that our country is sick, or even evil. And yet, all of us know that there are many more good and happy and successful developments in this country every day than evil. Perhaps the remarkable coincidence of two such events: the victory of Ernest Fitzgerald and the recognition by the head of the Chamber of Commerce of the great contributions of Ralph Nader will help us take a happier view of America.

Mr. President, I ask unanimous consent that a release on Mr. Rust's speech and the speech be printed in the RECORD.

There being no objection, the release and the speech were ordered to be printed in the RECORD, as follows:

### U.S. CHAMBER PRESIDENT URGES BUSINESSMEN TO TAKE FRESH LOOK AT NADER, CONSUMERISM

CHICAGO, Sept. 18.—Businessmen should "look with fresh eyes at Ralph Nader and the kind of consumerism he represents," the president of the Chamber of Commerce of the United States declared today.

"Nader has been described in some quarters as 'an enemy of the system,' but I think we are forced to the conclusion that his commitment is to make the system work," said Edward B. Rust in a speech here.

Rust described Nader as a man "who is singularly sensitive to the mood of the public and who also is unusually well-equipped to symbolize and express that mood."

He urged American businessmen to "look calmly and realistically at what consumerism is and what it is not, as represented by Mr. Nader."

Rust, who also is president of the six companies in the State Farm insurance group, made his comments in a speech before the National Association of Life Underwriters at the Palmer House.

Rust maintained that he was not siding with Nader against business because Nader "is not *on* the other side."

He added:

"If we look at the record, I think we will see a clear community of interest that Nader has with American business. The whole point of Nader—so obvious that it is often overlooked—is his single-minded dedication to making the free-enterprise system work as it's supposed to—to make marketplace realities of the very virtues the businessmen ascribe to the system.

It is only when products do not live up to their advertising and to buyer's expectations that Nader seeks to have them regulated by the government, Rust asserted.

"That . . . suggests a considerable degree of faith in the system and contrasts sharply with the revolutionary who would tear it down," he remarked.

The primary concern of every businessman should be the quality of the product or service he provides, said Rust.

"The manufacturer who landscapes the factory site but hedges the obligations in his product warranty has a misplaced sense of priorities," he added.

Consumerism, he observed, keeps business vigorous.

"I believe that it was inevitable that sooner or later someone like Ralph Nader would arise to focus and articulate the dissatisfactions and frustrations that are widespread among American consumers," he declared.

When business sees consumerism and its spokesman as its enemies, he continued, then "business is demonstrating its own failure to understand the healthy tensions and competing pressures that must always be present in that system if it is to survive."

Both business and the consumer must be realistic about the nature of their relationship, Rust stated.

"It is no more sensible for the consumer to expect perfection in everything he buys than it is for business to expect consumer acquiescence to all of its shortcomings," he declared.

Rust, who began his one-year term of office May 1, said most people in business, labor and government share a commitment to the welfare of the nation and its people. They differ only in the ways the commitment can be met.

In accepting the U. S. Chamber presidency, Rust said, he announced his intention "to focus on those things that bind us together rather than on our differences."

It is in that spirit, he emphasized, that he was urging American business to reassess its attitude toward consumerism.

### ADDRESS BY EDWARD B. RUST

SEPTEMBER 18, 1973.

Someone asked me shortly after I was elected president of the U.S. Chamber, "Well, how does it feel to be the spokesman for American business?" I replied that if that's what they elected me to be, they have elected the wrong man.

I don't propose to speak for all of American business, which would be presumptuous, but I would like to share with my fellow American businessmen some of the things I have learned and believe in as the result of managing one business for some 27 years.

There is an aspect to this business of insurance that you and I are in that has always intrigued me—and I am talking especially about those personal lines of insurance that protect the individual's life and his most important personal possessions, his home and his car. This is a unique business, totally unlike any other I know of, because of the nature of the relationship we have with our customers. We don't sell our customer a product and we don't, at least initially, sell him a service. What we sell him, instead, is a promise to deliver a service at some future time when he needs it. That's all the insurance policy is—it's a contract, setting forth promises that the insurer will fulfill for the insured under certain specified conditions.

It's really asking quite a lot of somebody that he should give us a substantial sum of money in exchange for that list of promises

You can see from the nature of the insurance company's relationship with its policyholders that the relationship depends upon credibility. The insurance buyer needs very much to believe that those promises will be kept. He, furthermore, needs to have a great deal of faith in his insurance company's financial strength, in the ability of its management to keep the enterprise alive and healthy, at least during the period of the insurance contract, so that the insurance company will be in shape to pay the claims that might arise under that policy in the months and years during which that contract is in force.

I think our democratic society is in a situation that is in some ways analogous to the insurance business. The society holds together because we make promises to each other, as individuals and as private and public institutions. To the extent that we keep those promises to each other, and to the extent that we have faith in the promises of others, the society functions rather well. When we begin to lose faith in each other and in our institutions, the social fabric begins to unravel.

We are all aware of the many problems that beset us today as a people—the energy crisis, environmental pollution, inflation, foreign trade deficits, and so on. It is not to dismiss these problems lightly that I say they are, to a degree, transient. They will pass in time, and others of equal urgency will arise to take their place. But there is another problem that, in my view, transcends all of these others. It is suggested by the phrase "credibility gap," which I suppose is just another way of saying we don't believe each other any more. We don't believe the businessman, we don't believe the political candidate or the office holder or the government agency or the newspaper or the news broadcaster.

Why?

Why has this essential confidence that we need to have—must have—in our institutions eroded so much in the last few years? This is not supposition on my part. It is measurable erosion, and the measurement has been made by the Louis Harris Polling organization. The Harris pollsters sought to gauge public confidence in various public institutions and organizations over a recent five-year period.

At the beginning of that period, of those queried, 55% said they had "a great deal" of respect for major companies. Five years later that figure had been halved to 27 percent. Moreover, three times as many respondents reported they had "hardly any" respect for major companies as said so five years earlier.

And it was not just business that suffered this damaging decline in the public's esteem. The survey also turned up a steep slide in the public's confidence in the military, scientists, educators, doctors and the press.

These are portentous findings, indeed. How can the society, we must ask, function if this decline continues? Can the trend be reversed?

I don't pretend to have the scientific background that would enable me to analyze for you the complex socio-psychological factors that underlie the declining confidence that more and more Americans seem to have in the many institutions that together make up our society. I can only offer the personal observations of an American businessman.

I would agree with Alexander Hamilton, who once said, "The vast majority of mankind is entirely biased by motives of self-interest." I don't know if Mr. Hamilton found that distressing. I do not. But the real problem arises in defining where our self-interests truly lie.

The answer to that question frequently depends upon how far into the future we are willing to look. If as businessmen we look only at tomorrow's profits, then self-interest will dictate that we act one way. But if our focus instead is on the long-range survival of the business enterprise, then we will act in quite another way.

There seems to be some confusion over the role of business in today's society. There is much talk these days about the social responsibilities of business and the need for involvement in social programs. And perhaps we should be doing more of this. But I personally feel that the first order of business is the competent management of business and that management's first priority should be the quality of the product or service it provides.

Please understand that I'm not suggesting we turn away from our obligations to the environment or from any of our social responsibilities. I am only reminding you that quality of product or service is itself a social responsibility with social implications far beyond profit and loss.

It seems appropriate to emphasize that point here today, at your Public Service Award luncheon. The public service program of the National Association of Life Underwriters has, over the years, contributed in countless ways to the well-being of America's communities, and it is vitally important that you continue this work in the future. But it is equally important to understand that the way we conduct our business also measures our sense of social responsibility. The professional life underwriter knows that, but elsewhere in the business community "social responsibility" and "public service" are sometimes discussed as if they were separate and remote from day-to-day business activities.

As businessmen, our focus must always be on the quality of the service or product we offer, simply because this is the first expectation people have of us. The manufacturer that landscapes the factory site but hedges the obligations in his product warranty has a misplaced sense of priorities. It's at this basic level that we must begin to rebuild faith in the institution of business. We need to regenerate a dedication to quality, to value and to service.

We need a commitment to excellence first of all in those things in which we are best equipped to excel. The business manager may need instruction in some of the new social roles that are being urged upon him—but he should need no instruction at all in bringing to the marketplace a product or service that meets whatever claims he is willing to make for it.

Above all else, he should know how to do that!

This, I believe, is what Ralph Nader and other consumerists are saying, and I find it hard to disagree with them on that point. You will notice that you rarely find consumerists criticizing a business for its failure to involve itself in social programs on the periphery of that business. Mr. Nader's focus is usually on the first business of business—its products and services. His primary insistence is on products that perform as they are supposed to, on warranties that protect the buyer at least as much as the seller, on services that genuinely serve.

In accepting the Chamber presidency, I expressed my belief that intelligent men of good will abound in all of our institutions, and that it doesn't make sense that we sit in our respective enclaves of business, labor or government and scream imprecations at one another across barriers of misunderstanding. I also said that most of us share a commitment to the welfare of our nation and of its people, and that we differ only in our perceptions of how to meet that commitment, and that as Chamber president I would focus on those things that bind us together rather than on our differences. It is in that spirit that I invite American business to look with fresh eyes at Ralph Nader and the kind of consumerism that he represents.

He has been described in some quarters as "an enemy of the system," but if we are willing to look objectively at his activities, I think we are forced to the conclusion that his commitment is to make the system work. I believe that it was inevitable that sooner or later someone like Ralph Nader would arise to focus and articulate the dissatisfactions and the frustrations that are widespread among American consumers. And so in him we see not an individual expressing his personal biases, but instead a man who is singularly sensitive to the mood of the public and who is unusually well-equipped to symbolize and express that mood.

Given the wide base of public appeal that Mr. Nader obviously has, I think it is unrealistic to come to any other conclusion. I think it is imperative that American business look calmly and realistically at what consumerism is and what it is not, as represented by Mr. Nader.

I hope you will understand that, as a businessman, I would hardly be siding with Mr. Nader against business. Rather, I simply insist that he is not *on* "the other side." If we look at the record, I think we will see a clear community of interest that Nader has with American business. The whole point of Nader—so obvious that it is often overlooked—is his single-minded dedication to making the free-enterprise system work as it's supposed to—to make marketplace realities of the very virtues that businessmen ascribe to the system.

It is not his style to mount street demonstrations, but it *is* his style to insist that products live up to their advertising and to buyers' reasonable expectation of them—and when they don't, to go to the regulatory authorities and say "Look here. Now regulate."

That kind of activity suggests a considerable degree of faith in the system, and contrasts sharply with the revolutionary who would tear it down.

But if you would say that he sometimes exaggerates, that he overdramatizes, that he is shrill, then I would have to agree—at the same time pointing out that this is the traditional way to gain attention in the clamorous and free American marketplace, as we who advertise our products and services should be well aware.

We in business sometimes complain that the public—and our young in particular—don't understand or appreciate the free enterprise system. But I must observe that when business sees consumerism and its spokesmen as enemies of that system, then business is demonstrating its own failure to understand the healthy tensions and competing pressures that must always be present in that system, if it is to survive.

The consumerist does not demand perfection of American business. I believe he perceives it as a human institution, susceptible to error. But he understands the difference between honest mistakes and deliberate deception—a distinction Nader is able to make with considerable force.

This brings me to a matter that I think is part of this problem of credibility—our self-perceptions. We need always to be aware of our humanity, and that awareness should produce enough honest humility within us to admit that we will make mistakes.

It should be part of the manager's overview of his job to expect mistakes. When he has that view, then he will also have his organization geared to deal with them efficiently and equitably.

It's an exercise in corporate egotism to pretend or assume that mistakes aren't made—to attempt to present to the public an image of godlike perfection, which no one can rightly expect of himself or of the institution he manages. That kind of attitude shows a lack of faith in the American people's capacity to understand that mistakes will be made and their readiness to forgive those who move promptly to correct them.

I think that these attitudes come about as an indirect result of the "giantizing" of our business institutions, to borrow a term from the sociologists. The small businessman cannot isolate himself from his customers, no matter how much he might wish to. But it is possible for the managers of big business to remove themselves from the abrasions of the marketplace.

The tendency is to encapsulate oneself in corporate limousines and executive suites and paneled boardrooms—an environment that in the long run will distort management's view of reality. It's entirely human and understandable, I suspect, that most of us seek to make our lives more comfortable, to escape in some measures the harsh realities of human existence.

But I suggest to you that it is an escapable part of the businessman's job to maintain direct personal touch with the realities of the marketplace. Market research is fine and necessary—but those neat charts and graphs can never give you the feel of product and user that you get from a direct confrontation with an angry or happy customer.

I was in an office conference the other day in Bloomington, Illinois, when a customer of ours in Houston got me on the telephone. He had a problem that I was able to help him with. When our telephone conversation concluded, one of the people in my office commented that an efficiency expert would be appalled that I would interrupt an important meeting to involve myself in the problems of one of our 20 million policyholders. It would strike him as an inefficient use of executive time. My response was—and I deeply believe this—that the day I refuse calls from customers is the day I should resign as head of the companies, because that is the day I will have begun to lose contact with the real world in which we operate.

Share this little fantasy with me—

Suppose every American product has a sticker on it, right up there where everyone could see it—smack in the middle of the car's dashboard, right on the side of the toaster, or in big letters by the dial of the TV set, and it read:

"If this thing doesn't work like we said it would, call our president," followed by his name and telephone number.

It's hard to imagine the impact this would have, but I can tell you a couple of things that would happen. Those consumer complaint statistics that come up in orderly columns from the computers would suddenly come very much alive, bristling with humanity, and in a very short span of time, the corporation president would acquire a very sure sense of reality—as well as an unlisted phone number.

You see, my name is on about 20 million insurance policies. If our service to our insured breaks down—as it sometimes does—or if misunderstandings arise that aren't cleared up elsewhere in the organization, the policyholder will sometimes look at the bottom line of the last page of his insurance contract, see my name and call me. And if he doesn't get me, he gets one of my assistants.

Quite often, he is irate and frustrated and has carefully marshaled the arguments he is sure he will need. But when I listen to his complaint, and if it's clear to me that he has not received what he has a right to expect from us, I apologize to our customer and tell him what I'm going to do to get things back on track for him. At that point, there is often stunned silence on the customer's end of the phone line, and I sometimes have to say "hello" two or three times to awaken him from shock.

Why should candor and a desire to correct error be such a startling experience for an American consumer to encounter in American business?

I have been told that these observations may make of me something of a parish in the American business community, but I'll take that risk because I have great faith in the reason and good sense of most business leaders and managers.

But just as business must be willing to calmly assess what consumerism is really trying to achieve—must be willing to distinguish between honest criticism and unproductive enmity—so do I believe that it is fair to ask the American consumer to look at business realistically. It is no more sensible for the consumer to expect perfection in everything he buys than it is for business to expect consumer acquiescence to all its shortcomings.

I sense a kind of perfectionist mood in some quarters of the society, an irascible intolerance for error of any kind. This is probably a by-product of our technology and our advertising. Too often, the latter leads people to expect what no product or service can possibly deliver. (I've yet to see the marriage that was saved by changing brands of coffee.)

Our technology presents us with a more subtle problem. We've all heard the nostalgic comment, "They sure don't build them like they used to," and in some instances, this may be true.

But there's another side to that coin. Not too many years ago, the fairly affluent American home could count no more than a half-dozen electrical appliances. Today, an inventory of electrical devices in most American homes would total in the dozens—electric razors, his and hers; electric toothbrushes, mixers, blenders, fry pans and broilers; electric can openers; electric knives.

If the average appliance—when there were only six in the home—operated six years without needing repair, the customer was going to the serviceman on the average of once a year. But if you have three dozen appliances in your home—and many homes would have at least a dozen more—then you are getting something repaired on the average of once every 60 days. In other words, even if the level of quality is the same, your service problems have increased six-fold, which is a pain in the budget and elsewhere.

Inflation, as well, heightens our expectations of products and services; the more you pay for something, the more you demand of it.

I think all of us—businessmen and their customers (and many of us are both)—need to abandon the cliches we too often use in talking and thinking about this thing we call "the system." The businessman sometimes behaves as if he were its sole proprietor, and the customer sometimes expects more of it than it can possibly deliver.

At best, perhaps the system can only be an uneasy partnership, out of which the consumer can expect reasonable satisfaction and out of which the businessman can expect reasonable profits.

I think most reasonable people would settle for that.

And I believe that reasonable people can make it happen just that way.

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## PROPOSED INCREASE IN CIVIL SERVICE RETIREMENT ANNUITIES

**Mr. DOMENICI.** Mr. President, today I would like to say a few words with regard to S. 1866, a bill which I strongly supported to increase civil service retirement annuities. This measure passed the Senate on September 11th.

On September 1 of this year, 1,208,006 people were covered under the present civil service annuities program—such as it is. These people have not received a significant increase in benefits since 1969. In fact, many individuals are receiving annuities as low as an abysmal $40 a month. S. 1866 would provide a minimum annuity of $84, equal to the recent social security benefit increase. The Gurney amendment to S. 1866, which I also supported, would also provide for a small monthly increase for those who retired before 1969 to equalize their benefits with those who retired after that time.

However, I believe that when this bill was being handled on the Senate floor a very serious mistake was made when an amendment, introduced under a 2-minute debate limitation and which dealt with social security annuitants, passed the Senate. Yes, I said 2 minutes. I voted against this amendment as it was not germane to the bill itself. I believe at that time, and my worst fears have been proven to be present fact, that this amendment would only make it very unlikely that our civil service retirees would receive the increase they so desperately need. Nor would the social security recipients receive their deserved increase earlier than previously planned.

Mr. President, sometimes, major issues are lost in the shuffle of the often complicated legislative process. I would like to explain how two important legislative proposals are now very much the victim of that process for the apparent lack of foresight.

The amendment which I reluctantly objected to would have allowed the social security annuitants to receive their 5.9 percent increase in October 1973 rather than wait for June 1974. I had previously voted wholeheartedly for this social security increase and am most assuredly behind advancing the "inaugural" date of that increase in view of the rapid rate of inflation.

In fact, Mr. President, a study of my past voting record would clearly indicate my strong support for expediting the social security increase. Late in July, just prior to the August recess, the Finance Committee released the debt limitation bill for Senate approval. At that time, the committee recommended several amendments including one to expedite the increased 5.9 percent social security annuities from June 1974 to January 1975. I voted for the amendment at that time inasmuch as I believed the bill with the amendment would quickly pass both Houses as the amendment was germain to the main bill. This bill is now Public Law 93-53. However, the conference bill finally agreed to by the House and Senate committees put the enactment date for this increase as June 1974.

I would certainly have voted for the earlier date of October had I thought S. 1866, with that amendment, would pass both the Senate and House in time to do any good to both civil service and social security recipients. However, I could not support this proposal haphazardly tacked on to this particular bill—risking the total failure of passing badly needed legislation for another group of retirees. As I stated before, regrettably this fear has become a reality.

Once S. 1866 passed the Senate, with my final support, it was reported to the House Committee on Post Office and Civil Service, the proper site of jurisdiction. But, because of the added social security amendment, that part of the bill is now pending action before the House Ways and Means Committee which has scheduled discussions only on tax and trade legislation for many months to come. The end result is that two committees are in charge of this bill rather than the usual one. As we all know, it is difficult enough to get any one committee to agree on a bill, but two committees coming together with a final piece of legislation borders on the impossible.

I am extremely disappointed with the lack of foresight in this matter. Now two very large, very deserving groups of elders in the country will suffer—but particularly the over 1 million civil service retirees will not receive an annuity increase in October, or next June—as social security recipients were guaranteed in any event—or perhaps not for another year. I would have supported the social security provision on almost any other bill, but not one which would so adversely affect our retired public servants.

I have a record of being interested in all our Nation's senior citizens. In view of this interest, I requested membership on the Senate Special Committee on the Aging when I first came to Washington in January—a request which was granted. I have long felt that a notice which forgets its elders is doomed. It would not be likely that with this basic philosophy I would willingly vote against a proposal to help all retired people in any way possible unless I felt that only more damage than good would be accomplished. Obviously, that is the case with the passage of the social security amendment to S. 1866.

I have received some inquiries in my office as to my vote on the social security provision. Hopefully, this explanation will show interested persons that my vote on the amendment is not contrary to my basic concern for the elderly, but rather, was intended to protect all our retirees.

Mr. President, I appreciate this opportunity to make my position on this important issue more clearly understood.

## AN ARTFUL EXCHANGE

Mr. PELL. Mr. President, in the Washington Post of August 25, 1973, there was an article by Mr. Paul Richard entitled "An Artful Exchange." This article spoke in most laudable terms of the "Impressionist and Post-Impressionist Paintings from the U.S.S.R." exhibition, which recently was seen at the National Gallery of Art.

Unfortunately, that article seemed to indicate that the Federal Government and Federal funds had little or no part in the mounting of the show. This is not the case. In fact, the National Endowment for the Humanities bore a substantial portion of the cost of the show's installation, borrowing expenses, insurance, the shatterproof glass mountings, return transportation to Russia, and expenses for the staff of Soviet experts accompanying the objects.

The article went on to imply that the pictures were sent to the cities of Los Angeles, Chicago, and Fort Worth by either Mr. Hammer or Madame Furtseva. This, too, is incorrect; the costs of the tour were also borne by the National Endowment for the Humanities.

It should be further pointed out that the exhibition itself consisted of more than the simple displaying of pictures on a wall. Virtually all aspects of this "full dress exhibition" from publications to lectures to film programs were paid for by the National Endowment for the Humanities.

While not wishing to denigrate the roles played by the parties mentioned in the Richard article, the full story of the exhibit must include the laudable initiative and work of the National Endowment for the Humanities, and its director, Ronald Berman. All too often the Government is criticized for doing nothing; therefore, it is distressing to see a report of an activity, which probably would not have taken place without Federal funds, in which no mention is made of the Federal role.

I ask unanimous consent that Mr. Richard's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### AN ARTFUL EXCHANGE

(By Paul Richard)

More than 700,000 people have already seen "Impressionist and Post-Impressionist Paintings from the U.S.S.R.," the loan exhibition that opened to the public here last April at the National Gallery of Art and has since been touring the United States.

The show, which includes 41 pictures from the Hermitage in Leningrad and the Pushkin Museum in Moscow has proved to be among the most successful of all U.S.-Soviet cultural exchanges. The Impressionists are extremely popular these days, and these are canvases of awesome quality. They are, in addition, the first works of Western art to be offered by the Russians to the United States. The exhibition's enormous popularity is therefore not surprising, but it was not foreseen.

The paintings were borrowed neither by the U.S. government nor by the museums which have shown them, but by Dr. Armand Hammer, a private citizen. It was initially expected that the pictures would be shown only in Knoedler's, Hammer's commercial gallery in New York.

The private New York showing had already been arranged when J. Carter Brown, the National Gallery's director, convinced Hammer that French pictures of such quality from Russian state collections deserved a full-dress exhibition in the nation's capital.

Hammer, a wealthy industrialist who has established close relations with both the Soviet leadership and the Washington museum, readily agreed. So did the Soviet government. Instead of going first to Knoedler's, the exhibition opened here.

Mme. Ekaterina Furtseva, the Soviet minister of culture, had apparently begun to gauge the show's enormous impact when, while in Washington for the opening she announced that it would visit an unspecified number of American cities following its exhibition in Washington and New York.

The exhibition, which includes major canvases by Matisse, Gauguin, Cezanne, van Gogh, Picasso, Rousseau and Monet, was on public view here throughout April.

That month 316,408 came to see the Russian pictures on display.

It then went to New York where it was on view at Knoedler's, 21 East 70th St., from May 2 to June 3. There, 110,000 people saw the show.

At the Los Angeles County Museum, where it was on exhibition from July 15 to July 8, it attracted 150,000 visitors. It then traveled to the Art Institute of Chicago where it was seen by 120,416 between July 18 and Aug. 12. Wednesday it opened at the Kimball Art Museum in Fort Worth, and by Thursday evening it had drawn 8,141 visitors there.

When it closes in Fort Worth Sept. 16, it will go to the Detroit Institute of Art where it will be on view from Sept. 25 to Oct. 21. It is expected that the paintings will be returned to Russia following their exhibition in Detroit.

## DEATH OF COL. WILLARD A. HAWKINS

Mr. FULBRIGHT. Mr. President, last month one of my State's outstanding public servants, Col. Willard A. "Lefty" Hawkins, died.

Most recently Colonel Hawkins served as director of the Selective Service in Arkansas. Prior to that time he served on the staffs of two Arkansas Governors and was active in civic affairs.

As the Arkansas Democrat said in an editorial about Colonel Hawkins, he was "a man of foresight and courage."

The Arkansas Gazette paid tribute to Colonel Hawkins' efforts to insure fair representation for blacks on Arkansas draft boards. The Gazette editorialized:

> The lasting monument of Colonel W. A. Hawkins of Little Rock . . . was that, as state Director Selective Service, he moved Arkansas from zero position on this score to the point where it now has the highest proportion of blacks sitting on draft boards of any state in the Union.

Colonel Hawkins had many friends in Arkansas and throughout the Nation and I join them in mourning his passing.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Arkansas Democrat of August 21 and a column by Bob Lancaster from the Arkansas Gazette of August 30.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Arkansas Democrat, Aug. 21, 1973]

### COL. WILLARD A. HAWKINS

With the death Saturday of Col. Willard A. Hawkins, Arkansas—and the nation—lost one of its outstanding public servants. And at a time when the term "public servant" has fallen into callous disrepute, this is a grave loss indeed.

Lefty Hawkins was a man of foresight and courage. As state director of the Selective Service for six years, he used these virtues to restructure the draft system in Arkansas in such a manner that it became the envy of many other states and was the pattern they followed.

When Hawkins took over the Selective Service leadership in 1967 Arkansas did not have a single integrated draft board. This was true in spite of the fact that in many counties the bulk of the young men being drafted were black. At the time the draft system ended earlier this year, all of this had changed. Arkansas had more integrated draft boards per capita than any other state and with them one of the fairest and most just draft systems in the country.

This was Lefty Hawkins' doing.

Justice never comes cheap or easy and it was thus with the draft system. It was not easy to open up draft boards. It was not easy to convince many old timers that changes had to be made and it was not easy to restore faith in the draft system during a period of rising anti-war sentiment that saw many young men head for Canada or don the see-through cloaks of conscientious objectors. Lefty Hawkins met these challenges and conquered them with the result being a system founded on trust and administered with an even handed fairness that was accepted and applauded by all.

In his time Lefty Hawkins performed well at a variety of jobs in both the private and public sectors and his honors were many. He was awarded the Legion of Merit twice. He was awarded the Air Force Association's Medal of Merit and he was presented the Freedoms Foundation's George Washington Honor Medal. He served on the staff of two Arkansas Governors, first Sid McMath and later Winthrop Rockefeller. He was a working member of many civic organizations and an officer in his church. He was a good family man and a firm friend to hundreds of persons in Arkansas and throughout the nation who will mourn his passing.

Many others who never met him also have cause to regret his death. They are the ones who found that when the draft system touched their lives that it did so in a manner both just and honorable, and for that they were thankful.

Few men can ask for, or deserve, a finer memorial than that.

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[From the Arkansas Gazette, Aug. 30, 1973]

### A Walk in the Cemetery

For the better part of a decade, Lefty Hawkins was a good friend of mine—not an especially close friend, but someone I made it a point to have coffee with every chance I got.

That friendship was a little bit improbable because we were separated not only by the generation gap but also by the ideological chasm that almost split the country in the 1960s.

I was one of those despised students-turned-newsmen who, (true to the stereotype) looked on the American military and its then-current Asian involvement with a mixture of apprehension and dismay, and Lefty was something of an embodiment of that military establishment.

Lefty was a dyed-in-the-wool military officer who had served with distinction in the cruel air war in the Pacific in World War II, and who had never forgotten it; and I was a hardship-deferred 3-A who was sweating it. Moreover, Lefty from 1967 was state director of the Selective Service, which meant (to me) that he was in charge of providing a monthly quota of Arkansas kids to throw into the Vietnam meatgrinder.

Lefty saw his role differently, of course. I can't say what his innermost thoughts were concerning the Southeast Asia war and his bureaucratic participation in it, but he circumspectly held to the official view of its necessity and propriety, and I held inofficiously to my notion that it was madness. He wasn't one to try to convert the unbelieving, or to disassociate himself from a friend who held heretical views, and for my part I tried to keep rein on my impulses to zealotry and self-righteous moralizing.

So when I ran into him at Walgreen's or somewhere, we'd pass off an hour or two talking about state-level politics or books that I ought to read or changing times or trying to get kids raised. Lefty kept his good humor, even after the emphysema began to advance on him, and I suppose he was responsible for a dozen or more columns I wrote over the years—always the humorous ones.

What I thought about when I heard he had died was a morning I spent with him out at the Little Rock National Cemetery three or four years ago. It was the eve of Memorial Day and he was out there arranging for some sort of service the following day. He had gathered some information for me on the Arkansas servicemen who had been killed in the Vietnam war, and I went out there to pick it up.

I found him walking out among the graves.

I walked around the place with him. We didn't say very much because the cemetery itself spoke for both of us. Each of us knew that it was a symbol that meant something altogether different to the other—a place that somehow, without contradiction, could affirm both our points of view, and yet also transcend them.

The cemetery was very nearly deserted. A group of grade-school children had been around earlier to plant a small American flag beside every one of the thousands of headstones, and, with rainclouds piling up quickly in the sky, only an occasional solitary visitor was arriving to leave fresh flowers at one of the fresher graves.

Lefty mentioned that this was not a bad part of town that had been set aside for the dead soldiers—that it seemed to maintain its attitude of dignity and restfulness despite the rude and hectic clamor of the city which pressed in on it from all directions. In concurrence, I said nothing.

We walked down row after row after row of headstones—every one the same almost, but not quite, as the one before—every row lined up as precisely as a drill team almost, but not quite. A redbird was singing in the top of a big cedar tree which interrupted the symmetry of the headstone arrangement—singing cheerfully, claiming the territory as his own.

We stopped at the graves of a couple of boys I'd grown up with, and told Lefty something about them. One had been the best natural pool shooter I'd ever seen, and the other had played in the defensive line beside me on our high school football team. Good guys, both of them. In concurrence, Lefty offered no comment.

I got the poop from him on the Vietnam casualties—neatly typed up, for use (he knew) in some sort of Memorial Day antiwar commentary. Then, when it started sprinkling rain, I left, walking back to my car across a grassy plot that I figured someday would be filled to capacity with the bodies of American warriors.

Lefty, who is buried in that plot now, was still walking among those headstones as I drove away.

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## MR. PHILIP HOFFMAN, REPRESENTATIVE TO UNITED NATIONS HUMAN RIGHTS COMMISSION

Mr. PELL. Mr. President, twice during the course of the hearings on Dr. Kissinger, I questioned him about the position of U.S. representative to the United Nations Human Rights Commission. Information has now come to me that suggests I may have unintentionally done a disservice to the present incumbent of the office. I wish to make the record clear that I did not mean any personal derogation of the incumbent; my point was rather that for reasons which merit an inquiry by Dr. Kissinger, there was and is so little visibility of this critical position that neither I nor the Secretary-designate could recall the name of the present incumbent.

I now find that the post is filled by Mr. Philip Hoffman, appointed last year by President Nixon, and that Mr. Hoffman does, indeed, bring to the post a long record of deep involvement in and great dedication to the cause of human rights. Until a few months ago, Mr. Hoffman was the president of the American Jewish Committee, a post he held for 4 years.

As my colleagues know, the AJC is the Nation's oldest human relations agency and has made real contributions over the years to a better understanding of and greater adherence to our commitment to human rights both at home and around the world.

At Tuesday's session, I was misinformed—and I apologize—when I stated that Mr. Hoffman is not included in Who's Who. In fact, his distinguished record is described in the current issue, and I ask unanimous consent that it be inserted in the Record following my remarks. The reason for my being misinformed was that the copy of Who's Who examined by the Foreign Relations Committee staff was dated in 1969 prior to Mr. Hoffman's inclusion.

So, the issue is not the personal qualifications of the present incumbent—but rather whether our Government has given proper attention and adequate resources to this important activity. I urge Dr. Kissinger to examine this problem and see what more can be done to make our voice in the promotion of international human rights as effective and productive as possible.

I am sure that this country still commands sufficient power and prestige that our example in demonstrating seriousness of purpose in our participation in the international human rights effort could elicit a positive response from other nations.

There being no objection, the Who's Who listing was ordered to be printed in the Record, as follows:

Hoffman, Philip Eisinger, lawyer, real estate co. exec.; b. N.Y.C., Oct. 2, 1908; s. David S. and Hildegarde (Eisinger) H.; A. B. cum laude, Dartmouth, 1929; LL.B., Yale, 1932; m. Florence L. Lehman, Sept. 9, 1933; children—David L., Lynne B. (Mrs. Roger L. Manshel). Admitted to N.Y. bar, 1933, since practiced in N.Y.C.; corp. law practice, 1933–42, 45—; partner Goodell, Hoffman & Spark, 1937–42, Hoffman & Tuck, 1962—; chmn. exec. com. U.S. Realty & Investment Co., Newark, 1962—, also dir.; dir. Comml. Mortgage Co., Ray Miller, Inc., Realty Capital Corp., Ltd., Toronto, Ont., Can. Mem. N.J. Commn. on Civil Rights, 1969—, Bipartisan Conf. on Civil Rights, 1960—, N.J. adv. com. U.S. Commn. on Civil Rights, 1964–69; chmn. Community Relations Council Essex County (N.J.), 1960–63; co-chmn. housing com. Com. of Concern Newark, 1967–69; asst. gen. counsel WPB, Washington, 1942–45; hearing commr. Nat. Prodn. Authority, 1950–53; mem. liaison com. Friends of Alliance Israelite Universelle; adult sponsor Youth Com. for Peace and Democracy in Middle East; chmn. coordinating com. Retail Jewelry Industry, 1954–60. Chmn. bd. govs. Am. Jewish Com., 1963–67, pres., 1969—, chmn. nat. exec. bd., 1967–68; hon. chmn. Appeal for Human Relations, 1962—; mem. exec. com. Nat. Community Relations Adv. Council, 1966—, Am. Israel Pub. Affairs Com., 1969—; mem. liaison com. Friends of Alliance Israelite Universelle; adult sponsor Youth Com. for Peace and Democracy in Middle East. Trustee Leonard M. Sperry Research Center, East Orange Gen. Hosp., Jewish Community Council Essex County. Recipient numerous awards in human relations field. Mem. Am. Bar Assn., Assn. Bar City N.Y., N.Y. County Lawyers Assn., Phi Beta Kappa. Jewish religion. Clubs: Essex, Down Town (Newark); Mountain Ridge Country (Caldwell, N.J.). Home: 218 N Woods Dr South Orange NJ 07079 Office: 972 Broad St Newark NJ 07102

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## EX PARTE CONTACTS WITH THE REGULATORY AGENCIES

Mr. KENNEDY. Mr. President, the publication of Dita Beard's memorandum last year reflecting some of the pressures and incentives used to bring about a settlement of the ITT antitrust case ushered in a new period of public focus on the subject of corporate influence on Government decisionmaking.

During the hearings on the nomination of Mr. Kleindienst to be Attorney General, over 30 secret contacts between ITT officials and representatives and administration officials were brought out; subsequently, further contacts came to light when ITT correspondence and the Colson memorandum were made public.

The Justice Department has recently determined, of course, that a reopening of the antitrust settlement is not warranted. Nevertheless, the disclosure of the heavy lobbying job done by the corporation on administration officials, of substantial White House involvement before the settlement, of the link between a contribution to the Republican Convention and settlement discussions—with complete secrecy cloaking all of these events—will continue to taint the Department's handling of the settlement beyond repair.

Other instances of influence wielding have also reached the front pages over the past year, including the dairy industry's efforts to have the Agriculture Department raise milk prices and Mr. Vesco's efforts to have the SEC called off of an investigation into his activities. Each example serves only to erode further the public confidence in our Government's processes and to undermine the integrity of those processes. Whether there is any link between seven corporations having made illegal campaign contributions last year and memorandums from regulatory agencies being found in files of the Committee To Re-Elect the President is yet to be uncovered.

Mr. President, the lessons to be learned from these instances do not only relate to campaign finance law reform, and they do not yet reflect a widespread willingness of Federal decisionmakers to yield to outside pressures. They do suggest that agency procedures can and should be developed to provide the strongest guard against attempts to influence decisions. One such procedure is outlined in Attorney General Richardson's Order No. 532–73, formalizing the Justice Department's practice for making and keeping records of contacts by outside parties. Under this order, Department employees are to place in the appropriate files a record of every communication with a "noninvolved party indicating an interest in the case or matter."

Unfortunately this does not insure any public notice of these contacts, and unless informers are involved there should be no reason to keep these contacts secret. But this procedure at least takes the first step of insuring that a record of the contacts is kept in the Department's permanent files, so that, for example, subsequent review of the file within the agency or by a congressional committee will turn up these memoranda. I hope the Attorney General will move toward public disclosure as the next step.

The Federal Trade Commission is currently involved in extremely important antitrust litigation against eight oil companies, perhaps more important than Justice's ITT litigation. Recent press reports reflected attempts on the part of Government officials outside the agency to present arguments relating to the case outside of the adjudicative process. I wrote the chairman indicating my support for the Commission's guarded and careful handling of ex parte communications; his assistant replied that he was "acutely aware of the full meaning and significance of" the Commission's rule regarding ex parte communications. In the correspondence enclosed it was clear that the Commission had followed its normal practice of placing such communications on the public record when the letter from Deputy Treasury Secretary Simon to Chairman Engman reached the Commission. While the newsstories did not reflect this, I was most pleased to see that the FTC had its guard up, and I commend the Commission for its handling of the attempted ex parte contacts.

In my letter to Chairman Engman I also suggested that the FTC consider adopting the Justice Department's procedures for handling ex parte communications below the Commission level. It is obviously my hope that the Commission would make a public record of these contacts. This suggestion has been referred to the General Counsel for his consideration and recommendation.

Mr. President, my Subcommittee on Administrative Practice and Procedure has generally been examining the area of ex parte communications with government agencies, and we will continue to monitor possible problems arising in this area, with an eye on the prospects for remedial legislative action.

I ask unanimous consent that my exchange of correspondence with the FTC, the Justice Department's Order, and an article from the Washington Post on this matter be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From The Washington Post, Sept. 1, 1973]

### White House, FTC Clash on Oil Case

(By James L. Rowe, Jr.)

In a rare disagreement within the federal government, the chairman of the President's Oil Policy Committee has written the chairman of the Federal Trade Commission to warn that an FTC antitrust case against major oil companies could worsen the energy crisis.

William E. Simon told FTC chief Lewis Engman that a suggestion that the oil companies might have to divest producing or refining operations "gives me a great deal of concern because of its implications for domestic energy supply in the next few years."

Simon, who is also deputy treasury secretary, asked to meet with Engman "to discuss this matter further and also provide you with our complete comments on the FTC staff recommendations before final commission action."

Simon's request was rebuffed by Engman's assistant, Robert J. Lewis, who replied that "any discussion by any commissioner of the complaint or its underlying legal or factual bases could give rise to charges of impropriety or unfairness or the appearance thereof."

Simon's letter to Engman, was dated July 30, and Lewis' reply came Aug. 10. Both letters came to light yesterday. An FTC official said Engman never saw the letter because he will someday have to pass judgment on the oil company case.

On July 17, the FTC staff filed a complaint charging the eight largest oil companies with monopolizing the refining of crude oil into petroleum products and having "maintained and reinforced a non-competitive market structure" in refining in the East and Gulf Coasts and parts of the mid-continent.

The final outcome of the FTC action will probably take years. The first step is a hearing before an administrative law judge, whose decision will be reviewed by the FTC's five commissioners. If the FTC rules against the oil companies, there probably would be court appeals.

The eight oil companies named in the complaint are Exxon, Texaco, Gulf, Mobil, Standard Oil of California, Standard Oil of Indiana, Shell and ARCO (Atlantic Richfield). Together their assets totaled $75.8 billion at the end of 1971, and their sales were $61.5 billion last year.

In his letter to Engman, Simon cited statements by James T. Halverson, who heads the FTC's Bureau of Competition, that the big integrated oil companies should be broken up. Halverson said he would force the oil companies to give up their pipelines, which bring the crude oil to refineries, as well as the refineries.

Integrated oil companies drill for oil, refine it into various products and sell those products such as gasoline and home heating oil.

Simon told Engman that since the President's April energy message oil companies have announced plans to build new refinery capacity of 2.5 million barrels of oil a day. "Some of these companies are now having second thoughts," he wrote.

The actual FTC staff complaint does not specify what remedies—such as divestiture—may be sought, but says that the commission "may order such relief as is necessary or appropriate . . . to restore competition in the relevant market or markets."

Simon also took issue with the FTC's contention that the "petroleum industry is not competitive." He said that in addition to the eight major companies, there are another 15 to 20 who are integrated and hundreds who are not integrated at all or are partially integrated.

He said that the independent refiners and marketers who are closing are not being forced out of business as "a result of deliberate anti-competitive actions by the integrated oil companies."

Instead, he said, the independents existed because there was a surplus of crude oil and refining capacity which they purchased at "relatively low prices . . . This surplus capacity is now gone and with it the primary source of independents' position in the industry."

Lewis' response to Simon said, "The issues which you raise regarding competition in the petroleum industry and the appropriateness of certain relief are questions basic to the action presently being prosecuted by the commission staff."

He said he forwarded the letter to Halverson.

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U.S. Senate,
*Washington, D.C., September 11, 1973.*

Re Docket 8934

Mr. Lewis A. Engman,
*Chairman, Federal Trade Commission,*
*Washington, D.C.*

Dear Mr. Chairman: On July 18, 1972, the Federal Trade Commission filed a complaint against eight major oil companies alleging that they had combined or agreed to engage in anticompetitive practices. The energy problem confronting our country today makes this action one of extreme importance to the American public, and of course the defendants perceive fully the substantial impact the success of such action would have on them.

As I am sure you are well aware, four years ago the Department of Justice embarked on a major course of litigation against a large conglomerate, seeking divestiture of a subsidiary considered to have been unlawfully acquired. The nature of the efforts of the corporation to retain the subsidiary, which ultimately proved successful, are largely documented in the Senate Judiciary Committee Hearings on the Nomination of Richard Kleindienst to be Attorney General and were further revealed in correspondence and memoranda subsequently made public.

Recent press reports suggest that actions by government officials and agencies—directed at persuading the FTC to drop its case against the oil companies—present some parallels to the situation referred to above. Coincidentally, they also involve the same agency that appeared to be active in pressing for settlement of the above-mentioned antitrust action. (See, for background, the discussion of "Treasury's Analysis" in the Individual Views on the Nomination of Richard G. Kleindienst, Exec. Rept. No. 92–19, part 4, at 64; and letter from William R. Merriam to Treasury Secretary John B. Connally, April 22, 1971: "Hal (Geneen) and I are most appreciative of the fact that you were able to see us the other day on such short notice. We are certain that you and Pete were most instrumental for the delay.")

I am in no way suggesting that any impropriety is reflected in the contacts with the FTC relating to the oil proceedings. I am writing this letter not to cast any shadow on the substance of the contacts between Commissioners and other government or outside officials, but to emphasize the extreme importance in this kind of situation of the FTC's rule, section 4.7, prohibiting ex parte communications with the Commission with respect to matters relating to an adjudicative proceeding. I do note in passing that press accounts (Washington Post, Sept. 1, 1973) on the communication from Deputy Treasury Secretary William Simon to you suggest that the handling of that letter was inconsistent with the Commission's present procedures.

In light of the increasing public concern about the integrity of governmental processes, I would strongly advocate that the Commission follow the Justice Department's lead and adopt guidelines similar to those promulgated by Attorney General Richardson in his Order of August 8, 1973, directing that memoranda reflecting all contacts with "non-involved parties" must be placed in permanent departmental files. (A copy of this memorandum is enclosed for your reference.) Adoption of these guidelines would go far toward reassuring the public of the insulation of the regulatory process from secret ex parte influence.

My interest in the FTC's practices and procedures relating to the handling of ex parte communications dates back a number of years. For example, in my Subcommittee hearings in September 1969, there was extensive discussion by each Commissioner on the problems raised by such communications with Commission members. (Federal Trade Commission Procedures, Hearings before the Subcommittee on Administrative Practice and Procedure, Sept. 12 and 16, 1969, pages 44, 78, 98, 103). In light of the significance of the Commission's present efforts, I thought it would be useful to share these thoughts with you.

Sincerely,

EDWARD M. KENNEDY.

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OFFICE OF THE ATTORNEY GENERAL,
*Washington, D.C.*

DEPARTMENTAL RECORDS OF OUTSIDE CONTACTS

ORDER NO. 532–73

The purpose of this order is to formalize and make uniform the Department's practice and procedure for making and keeping records of contacts made with departmental personnel by outside parties.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, it is hereby ordered as follows:

Section 1. *Records of contacts.* (a) Each Department employee shall record in memorandum form each oral communication (in person or by telephone) concerning a case or other matter pending before the Department with a non-involved party indicating an interest in the case or matter.

(b) For purposes of this order, "non-involved party" means one with whom the employee would not in the routine handling of the case or matter normally have contact. Non-involved parties include, but are not limited to, members of Congress and their staffs, officials in other government agencies and other members of the Executive branch not directly involved in the case or matter, and private persons not directly involved in the case or matter. Non-involved parties do not include Department employees or persons outside the Department with whom an employee necessarily must communicate in the normal course of handling a case or matter, such as an attorney for a party in a case, or an official in another government agency directly involved in the case or matter.

Sec. 2. *Distribution and retention of records.* The employee shall keep a copy of the memorandum and shall furnish a copy for permanent inclusion in the case or other appropriate file, or, if there is no file established, shall furnish a copy to the head of the organizational unit responsible for the matter, who shall retain it at least until two year after the final disposition of the matter.

Sec. 3. This order does not apply to communications of an employe that are protected by law, such as the right to petition Congress (5 U.S.C. 7102), or to an employee's communication with non-involved persons in seeking to protect his or her rights as an employee of the Department.

Sec. 4. The head of each organizational unit is responsible for informing all employees under his or her supervision of the provisions of this order.

ELLIOT RICHARDSON,
*Attorney General.*

Date: Aug. 8, 1973.

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FEDERAL TRADE COMMISSION,
*Washington, D.C., September 13, 1973.*

Hon. EDWARD M. KENNEDY,
*Chairman, Subcommittee on Administrative Practice and Procedure, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This will respond to your letter to Chairman Lewis A. Engman dated September 11, 1973, regarding the complaint filed July 17, 1973, by the Federal Trade Commission against eight major petroleum companies.

I can assure you that the Chairman is acutely aware of the full meaning and significance of Rule 4.7 of the Federal Trade Commission's Rules of Practice and Procedure regarding ex parte communications to the Commission. Since you refer specifically in your letter to a communication from Deputy Treasury Secretary William Simon to the Chairman concerning the FTC staff investigation of the petroleum industry, I have enclosed a copy of Mr. Simon's letter as well as my response thereto, along with a subsequent exchange of letters between Mr. Simon and me. I fail to see how the action taken with respect to Mr. Simon's letters has been in any way inconsistent with Rule 4.7 and Commission practice pursuant thereto. In fact, I am confident that, upon examination of these communications, you will agree that this Office acted in full compliance with Commission Rules and policy in the handling of this matter; and I regret that a contrary implication may have been suggested to you by newspaper accounts. As is evident from the enclosed correspondence, Mr. Simon has neither met nor talked to Chairman Engman regarding this matter, nor has the Chairman seen the correspondence from Mr. Simon which, as you will note, has been placed upon the public record.

Regarding your observations concerning guidelines recently adopted by the Department of Justice, a copy of your letter has been sent to the General Counsel for further consideration and recommendation.

I note that you have addressed copies of your letter to all Commissioners and all respondents in the petroleum case. In addition, since some of your comments are directed to matters presently being litigated, I have forwarded a copy of your letter to the Secretary to be placed on the public record pursuant to our Rules of Practice and Procedure and Commission policy concerning communications received by Commissioners while matters are in litigation.

Sincerely,

ROBERT J. LEWIS,
*Assistant to the Chairman.*

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## RESOLUTIONS PASSED BY AMERICAN LEGION AT 55TH NATIONAL CONVENTION

Mr. THURMOND. Mr. President, the 55th National Convention of the American Legion was held in Honolulu, Hawaii, August 21 through 23, 1973.

During this convention a number of resolutions were adopted which addressed our national security and other important issues presently before the Congress.

Mr. President, these resolutions are well thought out and deserve the attention and consideration of the Congress and the Nation. I ask unanimous consent they be printed in the RECORD at the conclusion of my remarks.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

### RESOLUTION NO. 29—NATIONAL DEFENSE AND RESEARCH DEVELOPMENT PROGRAM

Whereas, there are factions within the nation that seek to further reduce the level of our military capability; and

Whereas, our nation's defense spending is at its lowest point in constant dollars since 1951; and

Whereas, while we reduce our defense expenditures, the Soviet Union continues to modernize its strategic and conventional forces at an accelerated pace; and

Whereas, research and development is the backbone of America's continuation as a viable military force for peace in the world; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Honolulu, Hawaii, August 21, 22, 23, 1973, that we urge the Congress and the Administration to maximize research and development and to maintain the most modern military force our technology can provide, one large enough and versatile enough to assure its deterrent capability.

### RESOLUTION NO. 167—U.S. MILITARY STRENGTH AND CAPABILITY

Whereas, America's greatest safeguard to freedom is a strong national defense and only by retaining our position as the world's leading military power can we remain free and safe from nuclear attack; and

Whereas, military cutbacks have severely undermined our national defense budget to the point that we are now behind the Soviet Union in overall military capability, thus putting the status of the free world in doubt and grave jeopardy; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Honolulu, Hawaii, August 21, 22, 23, 1973, that we oppose the principle of "parity" in the national defense when dealing with an enemy that has never respected weakness. We have lived at peace with Russia for 25 years only because we have been stronger. We view a departure from a policy of strength to be uncertain and highly dangerous, and request Congress to provide sufficient funds to assure that we maintain a strong national posture.

## PERSON TO PERSON—BY TELEPHONE

Mr. MUSKIE. Mr. President, I am proud to see that the old ways of personalized dealings between people and new fangled mechanical inventions have been saved in Maine. Last week, the Maine Public Utilities Commission ruled that the citizens of Bryant Pond, Maine, can keep their comfortable, old hand cranked telephone system. The Maine Public Utilities Commission agreed that the hand cranked system has decided advantages over "the increasing depersonalization and indifferences which are a by-product of modern life."

This victory of people over depersonalization is reported in the Washington Star of September 6, 1973. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### CRANK CALLS SAVED BY BELL

Up in Bryant Pond, Maine, the old ways won a battle against modernization yesterday.

Bryant Pond is the last town in New England to have hand-cranked, magneto telephones. Subscribers to the Bryant Pond Telephone Co. service are told in their phone books to "signal the operator by turning the crank before removing the receiver."

A couple in South Paris, Maine, which borders Bryant Pond had complained to the Maine Public Utilities Commission that people calling them from outside the area had trouble getting through because they could not call directly.

But the Bryant Ponders rose up as a body to defend their system. Some 200 townspeople showed up at a hearing to support the old ways—the company has only 350 subscribers—and defended it as being perfectly adequate and more personal than modern, automated methods.

And yesterday the commission agreed.

"We have carefully reviewed the complaint in this case and are convinced that the problem the complainants are having with incoming toll calls is not with the Bryant Pond system but rather with the unfamiliarity of Bell System personnel with the magneto system," the commission said.

The commission added that the old system has decided advantages when placed in perspective with "the increasing depersonalization and indifferences which are a by-product of modern life."

## DR. LEONARD CARMICHAEL, FORMER SECRETARY OF THE SMITHSONIAN

Mr. FULBRIGHT. Mr. President, Dr. Leonard Carmichael, who served as Secretary of the Smithsonian Institution from 1953–64 and who had a distinguished scientific career, died earlier this week.

Leonard Carmichael was a true gentleman with whom I greatly enjoyed my association and along with his many friends I am saddened by his death.

The Smithsonian made great advances under his leadership and as a member of the Smithsonian's Board of Regents and of Congress, I well remember how his great personal persuasiveness helped secure during his incumbency $62 million for new buildings, including the $36 million appropriation for the National Museum of History and Technology.

He did not stop with just providing buildings. He saw to it that the exhibits in the Smithsonian buildings were brightened and modernized as a showcase for the public. He liked to call the Smithsonian the "magnet on the Mall" and, indeed, during his tenure, the visitor attendance rose from 3.4 million annually to 10.8 million annually.

Mr. President, the Smithsonian and the Nation benefited greatly from the service and leadership of Leonard Carmichael. I ask unanimous consent to have printed in the RECORD a statement by S. Dillon Ripley, current Secretary of the Smithsonian, about Dr. Carmichael and an article from the Washington Star-News of September 17.

Dr. Carmichael and his gracious lady Pearl exemplified the traditional virtues of our nations capital. My wife and I considered them good friends and we share the sadness of all his many friends at his departure from our midst.

There being no objection, the statement and article were ordered to be printed in the RECORD, as follows:

### STATEMENT BY S. DILLON RIPLEY, SECRETARY OF THE SMITHSONIAN INSTITUTION ON THE DEATH OF LEONARD CARMICHAEL

"It would be hard to overestimate the great contributions to the Smithsonian Institution that Leonard Carmichael made both as Secretary and in the years after, or the great sense of personal and professional loss that the entire Smithsonian family feels at his death. It has always been a great source of strength to me that three of my seven predecessors were still alive and actively involved in Smithsonian affairs, and I know that I speak for my two colleagues (Charles Greeley Abbot and Alexander Wetmore) in saying how greatly our little fraternity has been diminished by the loss of our friend.

"Dr. Carmichael presided over the Smithsonian at a time of great change for the Institution, and his accomplishments during that period are too numerous even to list briefly. The National Museum of History and Technology, the most-visited museum in the world, will be a lasting monument to his foresight and leadership. Washingtonians, and visitors to Washington, should always be grateful to him for saving the magnificent Old Patent Office Building from being leveled for a parking lot, and for beginning the work that turned it into the delightful home of the National Collection of Fine Arts and National Portrait Gallery.

"The tripling of annual visitorship to the Smithsonian during his tenure reflects the program he initiated to renovate and increase the appeal of all of the exhibits in the National Museum of Natural History. Less tangible, but perhaps even more important, than the new buildings and bureaus and increases in the collections was the inspirational leadership that he provided to the Smithsonian staff. Leonard Carmichael was exceptional—as a scientist, museologist, administrator, and, most of all, valued friend."

### LEONARD CARMICHAEL DIES; EX-SMITHSONIAN SECRETARY

(By Richard Slusser)

Leonard Carmichael, 74, a former secretary of the Smithsonian Institution who since 1964 had been a vice president of the National Geographic Society, died of cancer yesterday in Washington Hospital Center. He lived on Hoban Road NW.

Dr. Carmichael was the Smithsonian's seventh secretary. His death was the first of a secretary of the institution since the death of Charles Doolittle Walcott in 1927. He was secretary from 1953 until 1964.

S. Dillon Ripley, the present Smithsonian secretary, said that it "would be hard to overestimate the great contributions to the Smithsonian Institution that Leonard Carmichael made both as secretary and in the years after."

"He was a leader in establishing the Museum of History and Technology that today is the Smithsonian's most popular and the most-visited museum in the world.

As the National Geographic Society, Dr. Carmichael was vice president for research and exploration. The society's president, Melvin M. Payne, said yesterday that Dr. Carmichael was "a brilliant man of Renaissance proportions.

"His remarkable intellect, combined with his broad academic and scientific talents, contributed greatly to the society's success in achieving its objectives.

"No one in our organization who came to him for advice or guidance failed to receive his wise and deliberate counsel."

His projects for the society had involved him in many activities, including the work of Dr. Louis S. B. Leakey at Olduvai Gorge in Tanzania, the underwater explorations of Jacques-Yves Costeau and the successful expedition to the summit of Mt. Everest.

From 1970 to 1973, Dr. Carmichael was president of the American Philosophical Society, one of the most prestigious scientific organizations in the country. The society's former presidents include Benjamin Franklin and Thomas Jefferson.

Dr. Carmichael was president of Tufts College for 14 years before coming to the Smithsonian. He taught biology, physiology and psychology, but specialized in psychology. While he was chairman of the psychology department at Brown University in the early 1930s he and a colleague, Dr. Herbert Jasper, pioneered the development of electroencephalography—the measurement of brain waves—at a time when most medical men in the United States doubted that the brain emitted electrical impulses.

In an autobiography for volume five of A History of Psychology in Autobiography, Dr. Carmichael wrote: "I was born . . . in the Germantown section of Philadelphia . . . I come from a predominantly professional family. My father was a successful physician with a special interest in neuroanatomy and neurology. If his IQ had been measured, it would have been very high."

His mother, Emily Henrietta Leonard, majored in logic and psychology at Wellesley College and before marriage taught at Miss Porter's School in Connecticut. Later she was vice president of what now is the State Teachers College in Fitchburg, Mass., and for the last eight years before her death headed Philadelphia's recreation department.

Dr. Carmichael attended the Germantown Friends School, where, he wrote, "I certainly was not an outstanding athlete, but participating in sports meant much to me. I won school letters for playing on the first team in basketball, football and soccer. I was also editor of the school paper and president of my class. I was given a cane, an old tradition, by my class, as its most popular member. Many of my lifelong friendships were formed in this school."

He learned about flowers and vegetables from his family's gardener and woodworking and metalworking from his father's chauffeur. As a child, Dr. Carmichael read constantly, he said, especially Shakespeare and Thackeray. Anthony Trollope, his favorite writer, Dr. Carmichael said, "is the greatest psychologist among novelists."

In 1917 he entered Tufts, where his uncles had attended college and a grandfather had been a dean. He received a B.S. degree summa cum laude, standing second in his class.

"After America entered the war," Dr. Carmichael recalled in his autobiography, "I volunteered; but as soon as I put on my uniform as a private, I was assigned to help in a course in military sanitation and hygiene."

He was influenced most as an undergraduate, he said, by Jacques Loeb, a biological ultramechanist and the proponent of emergent evolution, C. Lloyd Morgan.

He next went to Harvard University to study for a Ph. D. His doctoral thesis, "An Analysis of the History of Technical Thought About Human and Animal Instincts," was published later as "Heredity and Environment: Are they Antithetical?"

Dr. Carmichael published many papers on reading and visual fatigue and on perceptual assimilation during his academic career. He also wrote of studies of a kitten's ability to land on its feet as well as other aspects of behavioral development related to the functions of the sense organs.

During World War II, Dr. Carmichael was chairman of the National Research Council's anthropology and psychology division, and advised Army intelligence on setting up a psychological warfare program.

Also during and after the war he was a member of the science committee of the National Resources Planning Board as well as other government committees on human resources, naval research and the Army Scientific Advisory Panel.

While Dr. Carmichael was president of Tufts, the school received some $14 million in special gifts. He said he was happy at Tufts and, after refusing the Smithsonian appointment for several weeks, finally decided to accept the position.

At the Smithsonian he did not leave the academic world, he said, because that institute, "in its areas of specialization, is as distinguished as the faculty of any university in the world."

The Smithsonian also received many gifts during Dr. Carmichael's 11 years as secretary—more than $32 million from foundations and other sources in additon to federal funds.

"My years in Washington have been most interesting," Dr. Carmichael said in his autobiography. "I have come to know quite well each of the presidents and many ambassadors who served here during this period. I have been, for some years, a vestryman of St. John's Episcopal Church. I am also a member of the Chapter of the Washington National Cathedral. I am a trustee of the National Trust for Historic Preservation."

Dr. Carmichael led in modernizing exhibits at the Smithsonian, which saw a 500 percent increase in the number of visitors during his tenure. This increase in popularity aided greatly in smoothing the path for congressional appropriations for the present Museum of History and Technology, two new wings for the Museum of Natural History, renovation of the National Zoo and other expansion programs.

He leaves his wife, Pearl, a daughter, Mrs. S. Parker Oliphant, of Washington, and two grandsons.

Services will be held at 2 p.m. Wednesday in St. John's Church, Lafayette Square.

Burial will be private in Washington Cathedral.

The family requests that expressions of sympathy be in the form of contributions to the Memorial Fund of the church.

## RENOMINATION OF NANCY HANKS

Mr. KENNEDY. Mr. President, the Senate will have the opportunity soon to act on the nomination of Nancy Hanks for a second 4-year term as Chairman for the National Endowment for the Arts. We in the Congress are all familiar with the outstanding job Nancy Hanks has done during the period of the last 4 years. Under her direction a unique partnership between Federal, State, and local governments and private groups has accomplished a rejuvenation of the arts across the Nation.

The "contribution to the human spirit" of which President Kennedy spoke in endorsing government support for the arts has been the hallmark of Nancy Hank's tenure as Chairman of the Endowment. In the Commonwealth of Massachusetts and in all of the other States, young creative artists have been encouraged and supported through the efforts of the Endowment. And as we look toward the Bicentennial celebration, we can look forward to a program from the Endowment which will highlight our growth and maturity in the field of artistic creation.

I would like to ask unanimous consent that an editorial from the Washington Post of today be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Nancy Hanks: A Success Story

Last week, the President called Nancy Hanks, the chairman of the National Endowment for the Arts, and some of her council members—among them actress Rosalind Russell, painter Jamie Wyeth, pianist Bill Taylor and opera singer Robert Merrill—to his White House office. He told her that he had nominated her for a second four-year term. "You are here," Mr. Nixon said, "because you have been able to get a 900 per cent increase [in federal funds for the arts] out of Congress."

We prefer to think that it is the other way around. We think Congress has authorized a spectacular and most gratifying increase in funds for the arts program because Miss Hanks was there.

With still relatively meager funds (last year the U.S. federal government spent 20 cents per citizen for the arts, in contrast to Canada's $1.40 and West Germany's $2.80), the Endowment, under Miss Hanks' chairmanship, has not only assisted individual artists and touring companies. More importantly, its efforts have considerably increased private donations and local matching funds. It has established a firm and creative partnership between the federal program and ever-increasing state and local efforts to help the arts improve the quality of life in America. The Endowment puts great stress, for instance, on supporting and enhancing the country's rich cultural diversity by aiding the indigenous artistic expression of the people of Appalachia, blacks, Chicanos, Indians, Puerto Ricans, Chinese, Japanese and other minority groups.

Under another program, the Endowment, together with state arts councils, has brought hundreds of dancers, musicians, poets, painters, sculptors, film-makers, craftsmen and actors into America's classrooms and community meeting halls. Nancy Hanks and her council now have an ambitious and important program underway to improve the esthetics of the many things government does that shape the appearance of America: The government's own buildings, graphics, landscaping, renewal projects and other public works that might as easily be well than poorly designed.

And contrary to earlier misgivings by conservatives and liberals alike that federal support of the arts might lead to federal control of the arts, the council has maintained a healthy and at times even scrappy independence. At its last meeting, on the basis of its congressional mandate "to foster a climate of artistic freedom of expression," the council urged artists and art organizations to help make sure that local zealots do not misuse the recent Supreme Court obscenity ruling to restrict or curtail valid artistic and creative freedom. (A sheriff who would ban Playboy, might, after all, be persuaded to cover up a Rubens painting.) The council doesn't seek to provoke controversy when it strives to act as the nation's artistic conscience. But neither does it shrink from telling the U.S. Postal Service that some of its postage stamps are poorly designed or to tell museums to make sure that their buildings—with their imposing Greek temple stairs—are made easily accessible to the physically handicapped.

At that same meeting, the council expressed its delight at the re-nomination of its chairman, Nancy Hanks. So do we. We hope the Senate will act promptly to confirm her. And we are particularly delighted that the President has now charged the Arts Council to focus on the arts in the commemoration of the Bicentennial. We can think of no better way to give the planning for that event some much needed focus.

## A PUBLIC VIEW OF AID

Mr. CHILES. Mr. President, I had the opportunity to speak last Thursday to the Washington Chapter of the Society for International Development about our foreign aid program. I think it is important for us in the Congress to make an effort to interpret American public opinion and translate that into some specific legislation which the public can feel reflects their views.

For reasons I state in the speech I think it is essential to have some time limitation on aid loans. I will put forward next week as the Senate considers the foreign aid bill an amendment requiring that the U.S. financial role in each aid project be limited to 3 years. This 3-year phaseout would change the basic thrust of AID from being a financial mechanism to becoming a means of stimulating the efforts of others. This will assure the American public that our aid is not an endless giveaway.

I ask unanimous consent to have printed in the Record the text of my speech on foreign aid.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### Speech on Foreign Aid to the Washington Chapter of the Society for International Development by Senator Lawton Chiles

I am pleased to have this opportunity to speak to this group of professionals in the development field. I am aware that the society for international development is a world wide organization with members from a variety of disciplines and nationalities, and that the Washington Chapter is the largest chapter of SID in the world. This certainly reflects the fact that Washington is a real center of international development institutions and attracts a high standard of development professionalism. So I am happy to have this opportunity to speak to you about United States Foreign Aid Policy.

I have been concerned since my election to the Senate in 1970 with what the United States has been doing with its aid and have tried to think some about what really makes sense to do now that the world has changed so dramatically and now that the American public seems to feel like it has carried the lion's share long enough.

Times have changed. The present program is rooted in the thinking of the years immediately after World War II. The Marshall Plan approach is not viable in the 1970's. We now have a new understanding of the limits of our own power. We find ourselves in very different economic circumstances where Europe and Japan have become strong competitors instead of friends in need. We are no longer the only big guy on the block with change in his pocket. We no longer find ourselves locked into a gang war with the Soviet Union trying to divide up the world between us.

With these changes in the U.S. position in the world, have come changes in the American public's view of aid. The basic instinct that has been expressed in the United States is that we can no longer afford as a Government to have a give-away program. This instinct against the idea of an international dole or a giveaway cuts across a broad spectrum of the American public.

And yet the American people are very idealistic. We are not a stingy people. We want to help people who are worse off than we are. The American people do not want to be left where they cannot reach out with what they have and lend a helping hand to those in need.

But there has been great disenchantment in the United States with trying to help. We have many times become so involved in helping that the people we are assisting don't know how to pick up where we left off. Helping has also gotten us overly involved in the public life of other nations and caused great political friction. And we have learned also that helping does not win friends, it does not always keep democracy alive, or always lead to economic growth or a better distribution of income, as we have wanted it to.

So the American public is confused. They don't want to say in effect—no we don't care—we will not help anymore. But also they don't want to go on paying for endless numbers of worthy projects all over the world, the results of which they can't see. They want to help but they don't want a giveaway.

These are the two prongs on which I have tried to base ideas on aid that I have put forward in testimony before the foreign relations committee earlier this year and that I have expressed in some amendments to the Foreign Assistance Act. I have tried to think of ways the aid policy of the United States could be reshaped so as to allow the American people to extend a helping hand without feeling that they are being taken advantage of.

### TYPES OF BILATERAL AID

It seems to me that the one aspect of our bilateral aid program which best combines these qualities is the emergency relief aid run by A.I.D. These relief efforts make a major impact abroad not only in the individual countries affected by national disaster but in the world at large. We are helping people in tangible ways when they are at their moment of most acute need. We move in efficiently with significant resources and skills. The United States is known as being a generous and effective contributor when disaster strikes. Our emergency relief programs carry out the American people's desire to be of help.

At the same time, these programs are not permanent giveaway programs which commit us as a government to financing an endless string of apparently worthy projects. When relief gives way to reconstruction, other sources of funds frequently are and should increasingly be drawn in. Relief aid can be the perfect trigger to a larger national effort toward development more broadly supported by diverse international agencies and different countries. I am hopeful that this will be the case in Nicaragua, for example.

So I very much feel that emergency relief is one area where our bilateral economic assistance should continue to be strongly supported.

Another type of assistance which does not provide a bottomless pit for our money to go down is technical assistance. Technical assistance is a way we can share the great reservoir of knowledge built up over the years in this country in government, in the private sector and in our universities without becoming a worldwide dole. Through technical assistance, problem areas can be pinpointed and new approaches can be suggested. The multiplier effects and trigger potential of technical assistance is very high. Through technical assistance, along with some seed money for pilot projects, we can lead others to the trough without being the major source of funds ourselves.

Technical assistance should play a determining role in where capital assistance goes rather than technical assistance complementing a capital project. Technical assistance should increasingly point the way for the financing. In this way it can be, like emergency relief, a means of getting other sources of financing involved.

I believe that technical assistance must relate to needs of the developing country and respond to requests by them rather than reflect the priorities of our Aid Agency. Again, it is only if there is some initiative within the host country to seek change in a particular area that change will actually occur. It is only if there is some leadership there in the country to use the technical assistance we offer and continue on after our assistance has ended that anything will really come of our efforts.

Unless technical assistance is responsive to in-country requests it is all too easy that it become paternalistic and bureaucratic. Also, if the host government were required to pay some portion of the cost of technical assistance this would assure that the request was real and the need valid rather than something trumped up to cover a requirement for in-country requests. All of this speaks to the need for a collaborative and cooperative style of assistance rather than the high-handed, we-know-what's-best-for-you style we have often adopted in the past.

Finally we can't just stop providing capital assistance altogether. We need to continue to have a capital assistance program to provide the trigger for other spending sources and to try out new approaches resulting from our technical assistance efforts.

Again I think we should be clear about what the restrictions should be on this kind of money. I don't think there should be any lump-sum transfers to other governments, or program loans to help them achieve their broad growth and import goals. We need to require that aid be more specific requiring the agency to link its loans to activities that generate the most jobs and help the most people. Our aid needs to be increasingly people oriented trying to reach people in poverty, hunger and disease. The American people are frustrated at being privileged in a world where the majority of mankind is poor and yet being unable to find a way to reach out to poor people abroad without interfering in the internal affairs of other countries or lining the pockets of the rich.

One way to reach poor people abroad is to focus more of our aid on health, nutrition, education, population, small farm agriculture and the like. This will bring more emphasis to the real problems affecting poor people abroad.

In this regard, I find myself very much in agreement with the priorities established in the foreign aid bill to be considered by the Senate next week. This bill among other things seeks to focus more priority on the areas I have mentioned. I strongly support the general philosophy and overall direction of the bill.

### AID POLICY

These are the types of assistance that I feel are consistent with the public's attitudes toward aid. But it is not enough to simply refocus aid and change the emphases given to different activities. There is also a question of policy which should guide the whole effort.

In the past I think we have been too ambitious and energetic in setting our goals and in the way we have worked towards implementing them.

Our economic assistance was born from the notion that we, the United States, could bring about change in the world if we only put some money, men and ideas to work on the world's problems. We could make the world safe for democracy with our military might and make the world economically viable through our wealth.

So the basic thrust behind our aid was that of achievement, problem-solving, organizing, and financing. While we wanted to work with developing countries, we took a large part of the effort upon ourselves. This is a very natural thing because in fact we are a Nation of doers. But now we have learned that development does not take place if we do it.

We have learned that the whole idea of development is to energize and activate people in ways which will enhance the quality of their lives. Paying, providing and pushing is not the way people and institutions from the outside can help. Only by getting people to act on their own behalf can our aid do any good. Otherwise we just leave a project in place but the people remain just as unable to change their own lives as before.

I strongly believe that future aid loans should be carefully designed for the purpose of triggering other sources of financing and effort. The role of our aid should be to bring other people and institutions to bear on an activity which would have otherwise gone unheeded. Our bilateral economic assistance should principally be "front end money" with someone else picking up on our initiative and making it their own. Successful development is self generated not foreign financed. Our aid can stimulate and assist. But it should not substitute for the effort others might make.

It seems to me that the only way to insure that this notion of aid is carried out is for the Congress to put some kind of limit on the number of years that aid can finance any project or activity. I have proposed an amendment to the foreign aid bill for a three year phase out of each aid loan. I feel that it is essential to have some mechanism in our aid legislation which will ensure that the aid policy of the United States is to stimulate the efforts of others rather than to do it ourselves. Our policy should be to elicit financing by national institutions and other development agencies rather than be a source of financing.

To change aid, to say that it should no longer be a financial instrument but solely a means to activating others is to change the whole nature of the institution. Whereas I can understand the administrative difficulties of having a three year phase out on each aid project, I am convinced that such a stringent requirement is essential to achieving this change in the basic policy of the institution. In turn this change in policy will make it clear to the American public that aid is not an endless give away—it is not an end in itself to establish, create, or achieve some fixed goal but is intended to get others started on something which will be carried on by them as we quickly step aside.

Linked to this proposal are two other concepts that I feel carry out the principles of not doing it all for them but providing a means for others to move on their own. I put forward an amendment to the Foreign Relations Committee which was supported by several of its members and adopted, to require that the receiving countries finance 25 per cent of the costs in any fiscal year of aid programs, projects or activities. This assures host country interest and priority in the areas in which we are providing assistance.

The other proposal I have made is to eliminate follow-on loans. These are loans which are made to complete a project started by a previous loan. For example, in Afghanistan A.I.D. financed a power house project. It is no good if you have a new generator with no transmission lines. The U.S. tried to get others to finance the transmission lines but ended up being the lender of last resort and financing the transmission facilities itself. Now this is clearly the kind of thing that is open to criticism for being a give away with no end in sight. So I have proposed that aid not be permitted to finance follow on projects because follow ons are consistent with a concept of aid as financing rather than a concept of aid as triggering the effort of others.

I am hopeful that these kinds of ideas can provide a means by which the American public can feel that they are reaching out to people in poor countries abroad but that they are not being taken to the cleaners in the process. If the public feels that its interests and instincts are being expressed in legislation and in aid policy, then I think we may have a more politically sustainable aid posture for the United States.

Thank you.

## ORDER FOR ADJOURNMENT UNTIL 9:15 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, has the order been entered for the convening of the Senate tomorrow at 9:15 a.m.?

The PRESIDING OFFICER. No.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATORS ROBERT C. BYRD, DOMENICI, AND JOHNSTON ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Mr. Robert C. Byrd, Mr. Domenici, and Mr. Johnston.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON S. 1636, INTERNATIONAL ECONOMIC POLICY ACT OF 1972, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the aforementioned orders on tomorrow, the Senate proceed to the consideration of the conference report on S. 1636, the International Economic Policy Act of 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR CONSIDERATION OF H.R. 9286, THE MILITARY PROCUREMENT AUTHORIZATION BILL, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report on S. 1636 tomorrow, the Senate proceed to the consideration of H.R. 9286, the military procurement authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:15 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. Robert C. Byrd, Mr. Domenici, and Mr. Johnston.

There will be no morning business at that time. The Senate will proceed then immediately to the consideration of the conference report on S. 1636, the International Economic Policy Act of 1972, as amended, under a time limitation. Presumably, there will be a yea-and-nay vote on the adoption of that conference report. A yea-and-nay vote conceivably could occur, then, very early in the day.

Upon the disposition of the conference report on S. 1636, the Senate will proceed to the consideration of H.R. 9286, the military procurement authorization bill. Senators who have amendments thereto are urged to be prepared to call up their amendment at any time. Yea-and-nay votes are expected.

Keeping in mind that the military procurement authorization bill—plus the military procurement appropriation bill, more than any other matter, so far as I can see at this time—can keep the Senate in session beyond October, it is possible, even probable, that there will be a Saturday session this week. The leadership will appreciate it if Senators who have amendments to the military procurement authorization bill will be prepared to call them up, so that the Senate can make as much progress on that bill as possible.

## ADJOURNMENT TO 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:15 a.m. tomorrow.

The motion was agreed to; and at 7:13 p.m., the Senate adjourned until tomorrow, Thursday, September 20, 1973, at 9:15 a.m.

## NOMINATIONS

Executive nominations received by the Senate, September 19, 1973:

In the Coast Guard

The following-named officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

David M. Donaldson
Harrison F. Deitrick
Harry A. Vaughan
George L. Ramsey, Jr.
Joseph J. Fontana
Terry L. Lott
James D. Manclark
Barry E. Erickson
William A. Dickerson, III
James H. Williams
Edward G. Webb
Lawrence H. Walter
Alexandre Legault
James L. McClinton
Charles W. Belsky
Edward M. Howey
Michael J. Haucke
Mark E. Charbonneau
Bernard P. O'Brien, Jr.
Jerry W. Degan
Gaetano Martini
Edward N. Spencer
Douglas R. Halsey
William E. Hensley
Robert A. Taylor
Jon A. Thulin

The following-named officer to be a permanent commissioned officer in the Coast Guard in the grade of chief warrant officer, W4 having been found fit for duty while on the temporary disability retired list:

Edwin H. Cornell.

The following-named Coast Guard Reserve officers to be permanent commissioned officers in the Regular Coast Guard to the grades indicated:

*Lieutenant commander*

William A. Mittag.

*Lieutenant*

David F. Cooper.
Rudolph L. Carpenter, Jr.

In the Coast Guard

The following-named officers of the Coast Guard for promotion to the grade of lieutenant:

John G. Cweik
Walter W. McDougall, Jr.
Richard E. Ford, Jr.
Edward D. Walsh, Jr.
Jeffrey J. Cotter
Eugene A. Miklaucic
Robert S. Varanko
Glenn G. Kolk
Gary R. McGuffin
Michael D. Allen
Frank J. Tintera, Jr.
David R. Moore
Charles R. Weir
Joel A. Thuma
John K. Kirkpatrick
David S. Belz
Donald R. Dickmann
Thomas L. Davis
Richard D. Crane
Douglas C. Phillips
James B. Frederici
Michael D. Gentile
Rooney L. Cook
James R. Beach
Timothy L. Terriberry
William B. Thomas
James G. Marthaler
Gerald A. Gallion
Robert D. Sirois
Harold G. Ketchen
Thomas L. Mills
Paul C. Jackson
James S. Carmichael
Kevin L. Ray
Richie M. Keig
Peter C. Olsen
Joseph L. Bryson
Michael D. Cooley
Gregory S. Voyik
William E. Kozak
Roy J. Casto
Alan F. Walker
Terrance M. Edwards
Mark A. O'Hara
Gale W. Fisk
Ronald A. Marcolini
Robert J. Williamson, Jr.
Thomas J. Zieziulewicz
Peter Q. Pichini
William H. Anderson
Lawson W. Brigham
John F. Hughes
Ernest J. Blanchard IV
Larry F. Lanier
Terry M. Cross
Dennis R. McLean
John E. Hodukavich
Ralph A. Yates
George P. Waselus
Horton W. Johnson
Jeffrey N. Compton
William L. Beason, Jr.
Ralph D. Utley
Thomas B. Taylor
Roger C. Cook
Henry J. Rohrs, Jr.
Anthony S. Tangeman
Richard W. Brandes

John R. Mitchell
Frederic N. M. Squires III
Douglas B. Steveson
Anthony R. Souza
Stephen R. Rottier
Paul L. Hagstrom
Philip E. Sherer
Anthony T. Mink
Edward J. Dennehy
George F. Johnson
Kenneth M. Zobel
Andrew Malenki III
Alan E. Spackman
Steven A. Macey, Jr.
John A. Gaughan
Charles R. Brown
Albert J. Sabol
William A. McDonough
Kenneth C. Kreutter
David T. Jones
Bruce B. Stubbs
Richard S. Muller
Allen K. Boetig
Myron F. Tethal
John H. Fearnow
John E. Quill
Melvin W. Garver
Terrance P. Hart
James S. Brown
Jonathan M. Vaughn
David B. Irvine
Dennis M. Pittman
Edmund F. Labuda, Jr.
Thomas M. Howard
Marc Pettingill
Kim I. MacCartney
John M. Murphy
David J. Maloney, Jr.
Frederick H. Sellers, Jr
John F. McGrath, Jr.
Guy T. Goodwin
James C. Olson
Samuel J. Apple
John L. Beales
David Dahlinger
Robert L. Pray
Donald G. Bandzak
Thomas B. Rodino
David G. S. Binns
Lawrence V. Kumjian
Thomas W. Purtell
Chester J. Walter
Donald B. Parsons, Jr.
William W. Pickrum
Richard M. Cool
Christopher Desmond
Robert J. Vollbrecht
Victor J. Guarino
Theophilus Moniz
Donald B. Erisman
Ernest C. Card
Douglas J. Arnold
James J. Rao, Jr.
Warren E. Dutton, Jr.
Richard J. Guhl
Bruce L. Blandford
James Perozzo
Jack D. Asbury
Donald T. McNulty
Paul T. Pelzer
William F. Meininger
Ronald T. Via
Wayne T. Shipman
Paul K. Bothmann

The following-named temporary officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant (junior grade):

Donald B. Erisman
Ernest C. Card
Douglas J. Arnold
James J. Rao, Jr.
Warren E. Dutton, Jr.
Richard J. Guhl
Bruce L. Blandford
James Perozzo
Jack D. Asbury
Donald T. McNulty
Paul T. Pelzer
William F. Meininger
Ronald T. Via
Wayne T. Shipman
Paul K. Bothmann

The following-named Coast Guard Reserve officers to be permanent commissioned officers in the Regular Coast Guard to the grades indicated:

*Lieutenant Commander*

William P. Huber

*Lieutenant*

James P. Sutherland
Joseph J. McClelland, Jr.
Robert J. Weaver
Ronald W. Tanner
Terence N. Carsten
Rick A. Sisek
Leo M. Kenney
Charles F. Guldenschuh
Michael J. Goodwin

IN THE ARMY

The following-named officer for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3036, 3284, and 3307:

*To be major general, Medical Corps*

Maj. Gen. Richard Ray Taylor, [redacted], Army of the United States (brigadier general, Medical Corps, U.S. Army).

## CONFIRMATIONS

Executive nominations confirmed by the Senate, September 19, 1973:

INTERNATIONAL ATOMIC ENERGY AGENCY

Dixy Lee Ray, of Washington, to be the Representative of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency.

The following-named persons to be alternate representatives of the United States of America to the 17th session of the General Conference of the International Atomic Energy Agency:

William A. Anders, of Virginia.
Clarence E. Larson, of Maryland.
Dwight J. Porter, of Nebraska.
Gerald F. Tape, of Maryland.

DEPARTMENT OF STATE

Ellsworth Bunker, of Vermont, to be Ambassador at Large.

Robert G. Neumann, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Roger Kirk, of Michigan, a Foreign Service Officer of class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Theodore L. Eliot, Jr., of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Afghanistan.

James E. Akins, of Ohio, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Carol C. Laise, of Vermont, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Marshall Trammell Mays, of South Carolina, to be President of the Overseas Private Investment Corporation.

Herbert Salzman, of New York, to be a member of the Board of Directors of the Overseas Private Investment Corporation for the remainder of the term expiring December 17, 1974.

MINISTER

Anthony J. Jurich, of Virginia, U.S. Negotiator on Textile Matters, for the rank of Minister.

INTERNATIONAL MONETARY FUND

Arthur F. Burns, of the District of Columbia, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT; INTER-AMERICAN DEVELOPMENT BANK; AND ASIAN DEVELOPMENT BANK

William J. Casey, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank.

UNITED NATIONS

The following-named persons to be Representatives of the United States of America to the 28th session of the General Assembly of the United Nations:

John A. Scali, of the District of Columbia.
W. Tapley Bennett, Jr., of Georgia.
William F. Buckley, Jr., of Connecticut.

The following-named persons to be alternate representatives of the United States of America to the 28th session of the General Assembly of the United Nations:

Margaret B. Young, of New York.
Mark Evans, of the District of Columbia.
William E. Schaufele, Jr., of Ohio.
Clarence Clyde Ferguson, Jr., of New Jersey.
Richard M. Scammon, of Maryland.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

UNITED NATIONS

The following-named persons to be Representatives of the United States of America to the 28th session of the General Assembly of the United Nations:

ROBERT N. C. NIX, U.S. Representative from the State of Pennsylvania.

JOHN H. BUCHANAN, JR., U.S. Representative from the State of Alabama.

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# EXTENSIONS OF REMARKS

## BILL SCOTT REPORTS

## HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Wednesday, September 19, 1973*

Mr. SCOTT of Virginia. Mr. President, our regular newsletter for September is being sent to constituents and I ask unanimous consent to have a copy of it printed in the Extension of Remarks for the information of my colleagues.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

BILL SCOTT REPORTS

CONGRESSIONAL RECESS

During the Congressional Recess, my wife and I visited the island of Taiwan which, as you know, has been the headquarters for the Free Chinese Government since the takeover of the Mainland by the Communists. We were the guests of the Asian Peoples' Anti-Communist League and I spoke on August 20 at its multiple-nation conference. A copy of my remarks will be furnished any constituent who would like to have it.

We found the people on Taiwan to be very industrious and friendly to Americans. As you may know, they have the highest standard of living of any of the Asian peoples except Japan and the 15½ million people have more import and export trade than the 750 million people in Mainland China.

We also flew to the island of Quemoy in a Republic of China military aircraft, skimming over the ocean to stay beneath Red China radar, and saw the fortifications and defense set-up of this island only 1½ miles from the Mainland. It was an informative and enjoyable trip made without any expense to the taxpayers. We also enjoyed informal conferences with the Foreign Minister, Premier and Madame Chiang Kai-shek, wife of the President of Free China.

HIGHWAY BILL

A prime objective of the recently enacted Federal-Aid Highway Act is to provide the flexibility required for the development and maintenance of an efficient transportation system. The Highway Act will assist Virginia in completing its interstate system. It includes more than $540 million for road construction over the next three years. This year, Virginia will receive $151 million from the Highway Trust Fund towards such construction.

Of major interest to Northern Virginians is my amendment to expedite the completion of I-66 from the Capital Beltway into Washington. The highway is an integral part of our overall balanced transportation system for the Washington area. The amendment requires completion of the draft environmental impact study by October 1, appropriate public hearings and final review of the project by the Secretary of Transportation by December 31. Interstate 66 has been under consideration for seventeen years and I am hopeful that construction of this vital highway can commence in the spring.

### RICHMOND OFFICE

Our Senate office in Richmond is staffed and open Monday through Friday of each week. I will be at the office on Friday, September 28 to meet with any constituent who cares to stop by and discuss proposed legislation or any problem he may have with the Federal Government. You may want to call our Richmond office secretary at 649–0049 to arrange an appointment but you can stop by the office in Room 8000 of the Federal Building, 400 North 8th Street, with or without an appointment.

### ENVIRONMENT

The Environmental Protection Agency has proposed transportation control plans for the Washington area in an effort to reduce air pollution. Some days ago the need for reduction of pollution was evident by the visible haze over the Capital City. Perhaps reduction of pollution can best be accomplished by making rapid rail transit and bus service so convenient that a large number of commuters and visitors to Washington will voluntarily choose mass transit rather than driving their cars into the city.

However, the tentative plans appear to be punitive in nature calling for the imposition of a parking tax and reduction of both on-street and off-street parking. I advised the Agency that the completion of the rapid rail transit system now under construction should have a salutary effect on the pollution problem as would the completion of Interstate Highway 66 between the Beltway and Washington. It seems obvious that free moving traffic does not pollute to the same extent as bumper to bumper traffic which must stop and start at traffic control signals and other places along a highway.

The Agency was also reminded that Congress exercises exclusive legislative jurisdiction over the District of Columbia and that only recently the Senate had forbidden the imposition of a parking tax in the D.C. Home Rule Bill.

The Deputy Administrator has now advised me that the tentative plan has been revised and the provision calling for a parking tax has been eliminated.

The President's nominee to head the Environmental Protection Agency, Russell E. Train, has recently been confirmed. While indicating a strong desire to protect our environment, he has also stated that proper consideration will always be given to the impact of any anti-pollution proposals upon our standard of living.

### STATE OF THE UNION

As you may know, the President has submitted a supplemental State of the Union message to the Congress and urged that attention be given to critical problems confronting the country. These problems relate to such important matters as government spending, inflation, energy shortages, and crime control.

It is interesting to note that 23 of the 50 bills which the President listed in his message, have already been passed by the Senate. Hearings have been had on a number of others and they are awaiting consideration in the Senate. However, it is hoped that serious consideration can be given to all of the President's recommendations. Having the Legislative and Executive Branch of the Government controlled by different political parties does present many problems but members of Congress are generally responsive to the views of their constituents regardless of their party affiliation.

You might be interested in knowing that we have had 383 roll call votes to date and that while consideration is being given to adjournment by November 1, past experience indicates that Congress will be in session well beyond this date.

### DEEPWATER PORTS

Earlier this summer, the Special Senate Committee on Deepwater Ports, of which I am a member, held four days of hearings to consider legislation that would authorize the development of deepwater ports. The President in his recent State of the Union message urged prompt action on this legislation by the Congress.

Deepwater port facilities are being considered as a method of helping to meet the energy needs of the country, including the Atlantic Coast Region by providing facilities for the docking of especially large tankers several miles from our coastline as a substitute for smaller tankers along the coast or in river estuaries.

Further hearings will be held to receive additional testimony and following this the special committee will meet in Executive Session to reach agreement on specific provisions of the legislation. I am hopeful that our Committee will favorably recommend this legislation prior to the end of the year.

### VETERANS MEASURES

On September 1 more than 50,000 additional burial places were made available around the country for veterans. These were Veterans Administration cemetery sites previously limited almost exclusively to those who died in VA facilities. Now, as a result of a new law, the National Cemetery System is under the jurisdiction of the Veterans Administration.

The law also authorized the VA Administrator, in conjunction with the Secretary of the Army, to study the future of Arlington National Cemetery, as well as the possible need for another National Cemetery in or near the District of Columbia, and report back to Congress. This could include consideration of my proposal for an auxiliary cemetery at or adjacent to the Manassas Battlefield Park.

The new law (P.L. 93–43), also provides a $150 plot allowance for veterans buried in private cemeteries, in addition to the existing $250 burial allowance, and carries funeral allowances up to $800 on behalf of veterans dying from service-connected causes.

Another recently enacted bill, of interest to veterans, provides a more flexible approach to veterans medical care. The committee fact sheet describing the bill in detail is available from the office upon request.

The Senate has passed S. 275 which would in effect restore about 80% of the pension cuts by the Veterans Administration as a result of the 1972 Social Security increase. It would increase veterans' pensions by 10 percent and raise the income limitation by $400.

### AGRICULTURAL BULLETINS

We will be glad to forward any of the following Bulletins to you upon request.

#### *Lawns*

G 89—Selecting fertilizers for lawns and gardens.

G 123—Lawn weed control with herbicides.

G 169—How to buy lawn seed.

#### *House*

G 82—Selecting and growing house plants.

G 184—Interior painting in homes and around the farm.

F 1889—Fireplaces and chimneys.

#### *Food*

G 40—Freezing combination main dishes.

G 161—Apples in appealing ways.

G 166—How to buy meat for your freezer.

### HOME RULE

Prior to the August recess, the Senate passed a D.C. Home Rule Bill. This is a controversial measure largely because of the dual nature of the City of Washington. It is both a city in which local citizens want self-government and the Nation's Capital with a Federal interest that needs to be protected.

An amendment I offered to bar the imposition of a parking tax was adopted by the Senate but another amendment to transfer jurisdiction over the penal institutions at Lorton in Fairfax County from the District of Columbia Government to the U.S. Bureau of Prisons was defeated by a 39–44 vote. Copies of my statements on these amendments are available upon request.

### WHAT IS YOUR OPINION?

We would like to get the feeling of the people of Virginia on a number of important issues confronting the Congress. Knowing your views helps me carry out legislative responsibilities. The results will be tabulated and reported in a subsequent newsletter.

(*Space provides for yes, no, and no opinion answers*)

1. To control inflation, would you:
   a. reduce Federal spending
   b. impose tough economic controls
   c. increase taxes
   d. tighten money supply
   e. expand supplies and productivity
2. U.S. troop strength in Europe should be:
   a. continued at present levels
   b. reduced through mutual agreements with Communist countries
   c. unilaterally reduced
   d. increased in number
3. Should Federal laws and regulations generally be strengthened in the following areas?
   a. occupational health and safety
   b. consumer protection
   c. environmental pollution controls
   d. small business activities
4. Do you favor efforts to increase U.S. trade with Communist China and the Soviet Union?
5. What action should the United States pursue regarding military spending:
   a. increase spending for military research and weapons
   b. increase benefits to active and retired servicemen and dependents
   c. reduce spending for military research and weapons
   d. reduce benefits to active and retired servicemen and dependents
   e. continue personnel benefits and weapons purchased at present levels

In the event you are not currently on our mailing list and would like to receive the newsletter on a regular basis, please fill out and return the following form. We would also appreciate being advised of any mistakes in names, addresses, or duplications.

Name ________________________________
Address ______________________________
_____________________________________
(city) ______________________ (zip code)

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## COMMUNITY NEWSPAPERS AND THE POSTAL SERVICE

### HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ROUSH. Mr. Speaker, a short time ago a weekly newspaper in my district went out of business. The Waterloo Press was the oldest paper in DeKalb County, Ind. Most prominent among the reasons the paper folded was its inability to comply with the complex restrictions placed upon it by the U.S. Postal Service.

Few institutions serve the cause of free press in this country as well as the community-based weekly newspaper. There are a score of such publications in my district and they provide a valuable service to their communities.

The U.S. Postal Service, in its effort to achieve its congressional mandate, poses greater and greater obstacles for these papers to remain in operation. I would like to share with the House some comments from an editorial which recently appeared in the Saint Joe News whose editor is Mr. T. E. Haberkorn, Jr.:

> You may have noticed a news item in the daily newspapers about a raise in postal rates for newspapers and magazines which goes into effect September 9 for items postmarked after 12:01 a.m. local time (they can't even leave Sunday alone when it comes to raising rates!). A raise had been set for July, but it was cancelled due to the President's Phase something-or-other guidelines. But now, according to the news release, "The Cost of Living Council ruled that the increases are exempt from Phase 4 price controls." Isn't that nice? If they need more money in Washington, they just say, "You're not exempt any more"!
>
> You'll have to forgive me if I speak sarcastically or cynically about this; I find it extremely difficult to keep a level temper in the matter because it relates to the continued existence of this newspaper and many others.
>
> It isn't just the increase in rates; it's also the mounting regulations. It is no exaggeration to say that the Postal Department could at any time put me out of business by demanding exact compliance with postal regulations as they have developed under postal reform. The Department has established how many subscribers I must have not more than six months in arrears in subscription payment. It has the power to demand payment of six cents per copy per week to mail those papers. Historically, newspapers have been granted special rates since the post office began, as a means of preserving freedom of speech, freedom of the press, and a readily accessible source of public use at the local level. For decades, weekly newspapers were mailed in their own county free of charge, an indication of the wisdom of our forefathers when they recognized the importance of having a means of disseminating information to the public, at public expense, to protect the public.
>
> But the idea that the post office should operate "in the black" was started a few years ago, a totally wrong idea in my opinion, and the Congress a couple of years ago made the Postal Department a so-called "independent" agency—which sounds fine except for one thing. The Department was ordered by the Congress to get "in the black" in five years. As a result, second and third class mailings were particularly considered in rate raises to the point where post office harassment over rates has put some papers out of business and others face the same fate—including The Saint Joe News. The free mailing privilege was eliminated several years ago without fanfare; I didn't even know it happened until a couple of years ago.

Mr. Speaker, I was not a Member of this House in 1970 when the Postal Reform Act passed. Had I been here I would probably have supported the Congress efforts at postal reform. At the same time, I feel that the Postal Service provides such an important community service—particularly such things as delivering community newspapers—that we should not be wedded to the proposition that the Postal Servcie pay its own way.

Mr. Haberkorn's editorial goes on to point out some of the ironies of Postal Service policies.

> While all this is going on, can you understand my upset when I read Jack Anderson's report of the plush offices being set up for the top brass in the Postal Department? While they dabble in thick carpet, their underlings are promoting "efficiency" by harassing guys like me about nickels and dimes in a little post office that is a disgrace to the community in physical appointments. While the public says it has a lower opinion of the Postal Department overall (you used it less last year than the year before), "efficiency" is being promoted by giving a smalltown paper a hard time about its private business affairs, such as when did John Doe pay his subscription. When I have told others about my plight, their first reaction was, "What does the government have to say about it—that's YOUR business!" That reaction came from Republicans AND Democrats.
>
> Don't get the idea that our new postmaster at Saint Joe is causing trouble for me; he isn't. In fact, he has been very helpful in trying to "negotiate" between me and his superiors in the matter. He's caught in the middle; he knows the unfairness of some of the regulations, but he has his job to do.
>
> I should say, too, that information about the matter has come from three or four sources within the Postal Department, not necessarily local. One postmaster told me he recommended the elimination of some four or five jobs in his post office to help cut down on expenses and increase efficiency. But he was overruled by a superior who was more concerned with creating jobs than with saving you and me money. And it was a Postal Department employee, not me, who said, "It is no longer a 'service' (referring to the postal system); it is a business matter aimed at getting receipts equal to costs."

Two months ago this House considered the rule on a bill which would have helped the small newspapers. I supported that measure and voted for the rule which would have allowed its consideration. Unfortunately, a negative majority was able to defeat the rule and we were never able to vote on those provisions. Perhaps it is time to consider such legislation again. If we do, I think the House should consider some of the recommendations that Mr. Haberkorn makes:

> Any action related to second class postal rates today ought to include re-establishing free in-county delivery of weekly newspapers paid for by general funds as a public responsibility in maintaining freedom of speech and freedom of the press.
>
> The balance of the newspapers ought to be distributed at the traditional low bulk rates to help keep the papers in business.
>
> Such action ought, too, to include simplification of bookkeeping procedures related to small weeklies. The present time-consuming and useless weekly report of numbers of copies and pounds to each mailing zone could be replaced with a single simple ledger, recording a report of numbers and pounds and the postage paid. For several years now I have been filing a marked advertising copy with the local post office each week, telling how much the papers weighed to each zone carried out to six decimal places! The ledger method would be simpler and would reflect trust in the postmaster to file an honest report for the government, and trust in the editor to report correct mailings.

The Saint Joe News editorial concludes in this way:

> For 25 years, I have attempted to treat my subscribers like friends, not taking them off the list when their time ran out, not billing regularly but oftentimes just waiting until they remembered to pay. I have sent free papers to servicemen, to newlyweds, if they wanted it or if I knew their address. I hoped it would be looked upon and considered as old-fashioned neighborliness, not "poor business practice" as the Postal Department suggested recently. Now, suddenly, I am supposed to change my ways because the government says so. I don't like that. I don't think it is right. And it is almost funny that the government, the worst business handler in the country, the most costly and inefficient example you could find, is telling ME what constitutes "poor business practice"! Good heavens!

Good heavens, indeed. I think this House should re-evaluate its position on the proposition that our Postal Service should make a profit at the expense of the free and independent community newspaper.

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## SIGNING OF CONSTITUTION—186 YEARS AGO TODAY

## HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. PREYER. Mr. Speaker, 186 years ago today, September 17, 1787, William Blount, Richard D. Spaight, and Hugh Williamson, three of North Carolina's forefathers, and 36 delegates from throughout our then small country, joined in Philadelphia to sign the Constitution as the supreme law of our land. Today I join with all Americans throughout our Nation, particularly the North Carolina Chapter of the Daughters of The American Revolution, in celebrating Constitution Week, September 17–23. In this special week, and especially in these troubled times, we should pause to study and rediscover our greatest document: the unifier for almost 200 years of a proudly diverse people.

For my State of North Carolina, history will report that the State ratifying convention in Halifax refused in 1776 to ratify the proposed Constitution until amendments were adopted to safeguard certain rights which they felt essentially inherent to all citizens of a free country. As Thomas Jefferson stated in a letter to his close friend, Adm. John Paul Jones, the dangers which lurked in the failure to guarantee these certain rights would be "permanent, afflicting and irreparable—in constant progression from bad to worse." The Bill of Rights of our Constitution fulfilled these desires of my State's leaders and many others throughout the infant States.

Upon reflection history may well report that they were correct in their demands to protect their rights as a free people for now we constantly look toward the Bill of Rights for safety and protection from threats to our well-being. But in our study of this part of our great history, we should not overlook the motive of those men 186 years ago to have a Bill of Rights. They demanded a document to state that these rights shall be always protected; they did not wish a document to create these rights. For they rightly believed then, as we do now, that these rights cannot be created by any document or any person, but are undeniably inherent rights to be enjoyed by all.

This is a week appropriate for us to pause, examine ourselves, and establish new directions for our country. This is a week to remember the greatness of our past and the greatness of our potential.

## CEDERBERG RELEASES POLL RESULTS

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## HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. CEDERBERG. Mr. Speaker, I wish to take this opportunity to announce the results of my recent poll in Michigan's 10th Congressional District. Questionnaires were mailed to 164,000 residents of this district and nearly 22,000 persons responded with their views.

A sampling of these returned forms were then tabulated by a commercial data processing firm in Springfield, Va. In order to insure the most representative sample possible, the sample itself consisted of responses from each county of the district in direct proportion to the total population of the district. Constructing the sample in this manner prevented the most heavily populated county from distorting, solely by its numbers, the actual views of the other, smaller, counties of the 10th District.

Mr. Speaker, I sincerely hope that my colleagues will review these results, as I believe they are most informative on issues of great interest to this Congress.

The total poll results as—percentages—are as follows:

| | Yes | No | Undecided |
|---|---|---|---|
| 1. Should the United States participate in postwar economic assistance in Southeast Asia? | | | |
| His | 16.58 | 61.97 | 21.45 |
| Hers | 14.40 | 55.70 | 29.90 |
| 2. Should the Federal Government provide a tax credit for parents of children attending private schools? | | | |
| His | 25.95 | 58.25 | 15.80 |
| Hers | 22.41 | 55.03 | 22.55 |
| 3. Should the United States grant amnesty, under any terms, to deserters or draft evaders? | | | |
| His | 14.52 | 67.41 | 18.07 |
| Hers | 15.19 | 58.27 | 26.54 |
| 4. Should the United States continue to improve its economic and cultural contacts with Russia and China? | | | |
| His | 72.13 | 8.76 | 19.11 |
| Hers | 63.01 | 9.62 | 27.37 |
| 5. Should the Federal Government furnish food stamp assistance to workers who are on strike? | | | |
| His | 13.50 | 71.06 | 15.41 |
| Hers | 13.40 | 63.26 | 23.31 |
| 6. Should we continue to expand social programs in the areas of health, education, and the environment even if it means an increase in taxes? | | | |
| His | 31.00 | 39.38 | 29.62 |
| Hers | 31.37 | 46.81 | 21.82 |
| 7. Do you support the Administration's efforts to lower Federal spending through freezing of funds appropriated by the Congress? | | | |
| His | 54.41 | 23.91 | 21.68 |
| Hers | 48.42 | 20.69 | 30.89 |
| 8. Would you favor an annual congressionally adopted spending ceiling even if it meant cutting existing programs? | | | |
| His | 67.20 | 10.25 | 22.55 |
| Hers | 56.88 | 10.37 | 32.75 |
| 9. (a) Do you favor the announced curtailment of a number of Federal programs? | | | |
| His | 59.58 | 15.33 | 25.09 |
| Hers | 50.46 | 15.47 | 34.07 |
| 9. (b) If you oppose these cutbacks, please indicate which of those being curtailed is the most significant to you. (Insufficient number of responses to be tabulated.) | | | |
| 9. (c) Would you support a tax increase to continue the program? | | | |
| His | 11.34 | 48.63 | 40.03 |
| Hers | 10.45 | 41.10 | 48.45 |

| | More | Less | Same | Blank |
|---|---|---|---|---|
| 10. Federal spending involves your tax dollars. Should we spend the same, more, or less on the following: | | | | |
| (a) Mass transportation: | | | | |
| His | 31.23 | 28.46 | 22.46 | 17.85 |
| Hers | 26.24 | 24.75 | 22.98 | 26.02 |
| (b) Crime control and prevention: | | | | |
| His | 57.70 | 4.11 | 23.25 | 14.93 |
| Hers | 53.55 | 2.95 | 21.55 | 21.95 |
| (c) Education: | | | | |
| His | 29.40 | 16.15 | 38.78 | 15.67 |
| Hers | 28.65 | 12.59 | 35.88 | 22.88 |
| (d) Foreign aid: | | | | |
| His | .84 | 75.32 | 8.89 | 14.95 |
| Hers | .70 | 68.02 | 9.09 | 22.90 |
| (e) Housing for the elderly: | | | | |
| His | 41.44 | 9.21 | 34.23 | 15.11 |
| Hers | 40.80 | 7.12 | 29.91 | 22.16 |
| (f) Pollution control: | | | | |
| His | 34.29 | 17.60 | 33.07 | 15.04 |
| Hers | 32.36 | 13.31 | 31.89 | 22.45 |
| (g) Defense: | | | | |
| His | 11.70 | 39.26 | 34.29 | 14.76 |
| Hers | 9.48 | 34.77 | 33.59 | 22.16 |
| (h) Consumer protection: | | | | |
| His | 30.30 | 16.99 | 37.42 | 15.29 |
| Hers | 28.69 | 11.34 | 37.17 | 22.79 |
| (i) Housing for the poor: | | | | |
| His | 19.01 | 31.16 | 34.54 | 15.29 |
| Hers | 17.83 | 26.79 | 32.50 | 22.86 |
| (j) Farm programs: | | | | |
| His | 14.36 | 44.59 | 26.18 | 14.85 |
| Hers | 15.17 | 34.70 | 27.69 | 22.43 |

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## UPHOLD THE VETO

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## HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BAUMAN. Mr. Speaker, I insert at this point in the RECORD an editorial from the "Marylander and Herald" published in Princess Anne, Md. The editor, James E. Byrd, Jr., is one of the most respected citizens in the lower eastern shore area. I think the Members of Congress should take heed to an interesting editorial, which he published on September 13, 1973 entitled, "Uphold the Veto."

It contains some thought for all of us to consider as we face voting on the Presidential veto of the minimum wage bill this week:

### UPHOLD THE VETO

By some misguided line of reasoning some members of Congress and various politicians of both major parties seem to think that the way to ease the plight of the poor is to raise the minimum wage law.

One element of that type of reasoning can be the endorsement of many influential major union leaders who use the device to create a cross-the-board raise for already well paid workers.

However, even the rank and file of organized labor have lost their enthusiasm for this artificial stimulation. They know full well that manufacturers are forced to install machinery to eliminate jobs to meet the raising costs and the inflation caused eats up any gains that they might have received.

By now the public is well aware that the higher the minimum wage goes the higher the products cost. You can not add to the national output by adding costs without adding extra production.

This illusion of helping the poor is a fantasy that has no foundation in fact. As the hourly costs advance jobs usually offered the untrained, the youth, the old and the handicapped are eliminated because the employer cannot pay the costs.

Ask any small businessman, those that yet survive, and he will tell you that with each raise in the minimum wage he has to raise all his labor costs, even those in the higher brackets, find new methods to produce work, eliminate jobs and make other efforts to stay in business. When a business fails . . . there goes the livelihood of several families.

The cruel thing is, the action taken in the worthy idea of helping the underprivileged, is in fact disastrous to many of the people it was designed to help. Just stop a minute and think of the many jobs that the average homeowner used to hire done that he can no longer afford . . . The growing "do-it-yourself" syndrome. At a fair price these jobs would still be available and with a workable welfare program, our social situation would be better. We might even find that this method would be a better way to ease the plight of our poor.

At least here would be an increase in self respect and a decrease in our many youth problems.

## ANOTHER STEP FORWARD FOR MINORITY BUSINESS DEVELOPMENT

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. RANGEL. Mr. Speaker, I was pleased to note in the August 31st, 1973 issue of the American Banker that the American Bankers Association has begun, in cooperation with the Office of Minority Business Enterprise in the Department of Commerce, a training program to help federally funded minority business corporations obtain necessary access to the financial resources and expertise of the banking community.

One of the problems of minority business development efforts has been their isolation from the sources of financial leverage such as are represented by the minority community by the American Bankers Association. The action taken by the American Bankers Association to close the gap between banks and minority business development organizations, and the businesses they represent, is praiseworthy and hopefully will be emulated by other finance industry groups.

I submit for the RECORD the story from the American Banker describing the new American Bankers Association government minority training program:

### ABA, GOVERNMENT TO LAUNCH MINORITY TRAINING

DENVER.—The American Bankers Association, in cooperation with the Commerce Department's Office of Minority Business Enterprise, soon will launch a training program to help Federally funded minority business development organizations—BDOs—work more effectively with banks in fostering the growth of these businesses.

The first of a series of four, two-day regional workshops, to be taught by bankers and each attended by approximately 50 BDO representatives, will be held Sept. 19 and 20 at the Westbury Hotel in San Francisco.

At these meetings, bankers experienced in minority loan operations will attempt to convey to these organizations—which provide loan packaging, business counseling, marketing and managerial expertise to entrepreneurs—what they look for in evaluating business loan applications.

Plans for the workshops were disclosed in an interview this week by Bruce M. Rockwell, chairman of the minority lending committee of the ABA's commercial lending division, who also is president and chief executive of the $421.9 million-deposit Colorado National Bank, Denver.

Details of the training program were discussed at a meeting of the committee here last week at which the group also approved dates and a hotel location of the banking industry's first national minority lending conference. It will be held Nov. 19–21 in New York at the Americana Hotel.

In another development, Mr. Rockwell related that the committee plans to send to a selected number of banks shortly a report suggesting policies and program for banks to implement in purchasing goods and services from minority businessmen.

The report was prepared by committee member Donald H. Alexander, assistant vice president of the $2.6 billion-deposit Seattle-First National Bank, and contains detailed information about such minority purchasing programs already in existence at some banks.

Mr. Rockwell also revealed that the committee is considering undertaking an in-depth inventory of what the actual experience of each of the nation's major banks has been in the minority lending area.

Such an inventory on a bank-by-bank basis, would include data on how the banks organized their minority loan functions and what their loan volume and their loss experience have been. No such data now exist, he said, and "We're going a little blind on what is going on."

Mr. Rockwell cautioned, however, that such an inventory would not be launched until after the New York conference is held and the last regional workshop for the BDOs is conducted.

The three other BDO workshops are tentatively slated for Oct. 24 and 25 in Norman, Okla., at the Hilton Motor Inn; Dec. 13 and 14 in Rosslyn, Va., at the Key Bridge Marriott, and Jan. 10 and 11 in Atlanta at the Marriott Hotel.

There are approximately 140 BDOs and 35 minority contractor assistance centers now funded by OMBE to prepare loan applications that are submitted to banks and mobilize capital, which will be eligible to send representatives to the workshops.

The purpose of the workshops, Mr. Rockwell explained, "is to assist the professional loan packaging people in performing their jobs. The problem now is that the personnel of the packaging houses generally are not experienced in commercial banking requirements and the financing requirements of small business."

This, at times, has resulted in loan proposals being submitted to banks which have no chance of meeting lending criteria or in proposals being made to banks that lack the proper information, resulting in the bankers themselves having to sit down with the prospect and work out this data—a very time-consuming task.

James H. Marx, director of capital development for OMBE, who was interviewed in Washington, said this week the goal of the training sessions is to expand the knowledge and capability of the BDO representatives to present "good practical packages" to banks.

"Obviously," he said, "if we can zero in better on what bankers want, we can save time by not preparing packages that bankers don't want and we can prepare better, fuller packages" on these projects they would be interested in.

Mr. Rockwell also made the point that if a loan package submitted by a BDO "is done right, we can behave as bankers, simply receiving and making an evaluation of a loan application."

Mr. Marx suggested there "has been a lack of clear communications between banks and BDOs" in the past that OMBE hopes will be narrowed through the workshops.

The second phase of the ABA–OMBE program is for the ABA to help bring those BDO representatives who complete the workshops into professional contact with bankers in their respective cities with whom they want to work.

The ABA, Mr. Marx said, has agreed to use its contacts to help bring about such meetings. To implement this goal, which Mr. Marx hopes will be accomplished within a month to six weeks after each workshop, "we will suggest to the ABA that the ABA regional, state and local committees arrange for meetings with appropriate people in the banks that the BDO people ask for."

The curriculum for the workshops was developed by a subgrouping of the minority lending committee headed by Thomas W. Stoddard, vice president of the $8.3 billion-deposit Wells Fargo Bank NA, San Francisco, and by Thomas Cordy, ABA staff associate for the commercial lending division.

Among the subjects it covers are the role of a commercial bank; interviewing loan applicants; screening credit packages; what credit applications are; terminology criterial and basic credit analysis; a banker's approach in financing small business; different kinds of loans; the analysis of a business package; different types of financing, such as buyouts and startups, and the role of professional people, such as lawyers. Cordy, ABA associate director for the commercial lending division.

The ABA will be paying for the expenses incurred by its own representatives while the BDO representatives will be paying for their own costs. The ABA had been offered a Federal grant to pay for the cost but "we declined to accept it," said Mr. Rockwell.

He said the two-day course "will not change the world, but it is a beginning." And Mr. Marx of OMBE observed, "we want the banking community to know that BDOs are continually improving their capabilities."

## "MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 22

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. HARRINGTON. Mr. Speaker, the tragedy in the freedom for anyone to own a gun, is that almost anyone, even a 16-year-old, can buy a gun and ammunition with no questions asked. In New York three teenagers used a hand gun in a holdup attempt, and the killing of the grocer Isaac Feit. Mr. Feit's life was not the only one that was destroyed when the bullet entered his neck. The lives of three boys who are charged with murder, and will probably spend much of their lives in prison, are also victims of the handgun. I ask now for immediate gun control legislation to save the victims of the handgun murder; the living and the dead. The article from the September 5 New York Times follows:

### GROCER KILLED DURING HOLDUP

Isaac Feit, a 58-year-old grocer, was pronounced dead on arrival at Kings County Hospital after, the police said, he was shot in the throat by one of three teen-agers who tried to hold him up in his store at 1695A President Street in Brooklyn's Crown Heights section. The youths allegedly ran from the store and were caught several blocks away. The police identified them as Roy Sanders, 19, of 241 Wortman Avenue, in the Brownsville section, and William Walker, 17, of 645 Lefferts Avenue, and Seth Dorby, 16, of 583 Maple Street, both in Crown Heights.

## COME TO THE FAIR

### HON. HARLEY O. STAGGERS

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. STAGGERS. Mr. Speaker, again it is my privilege and unspeakable pleasure to extend to you, Mr. Speaker, and to all our colleagues a most cordial invitation to come to West Virginia for an unusual and interesting weekend. And you all are well aware that cordial invitations from West Virginia are the acme of cordiality, spiced with the eager hope that you will come. Those who accept always go away satisfied, and good luck follows them thereafter.

The occasion is the annual celebration of National Hunting and Fishing Day. The day set for national observance is Saturday, September 22. But 1 day is not enough to show what we have to show. We begin a day earlier, Friday, September 21, and continue on the Sunday, September 23. Come any one of those days, or for all of them, and you will not be disappointed.

The place is Keyser, right on the Potomac River. It is reached by modern highway through Maryland, Routes 70 and 40, or through Virginia and West Virginia, Route 50. Keyser is my home town, and I am inordinately proud of it. It might be mentioned also that George Washington got his start in life by coming out to that neighborhood on a military expedition with a fellow named Braddock. Braddock did not do so well, but George did. Near Keyser is an old fort dating back to pre-Revolutionary days.

Our hosts for the occasion are the members of Mineral County Wildlife Association, under the competent leadership of an ardent wildlifer, Mr. Dave Brantner. They have prepared for you an array of exhibits from the leading Wildlife Conservation organizations of the State as well as from private collections. You will see full mounts of bears, wildcats and smaller native animals, and also a Kodiak Alaskan bear. There will be American Indian artifacts dating back beyond the Christian era, and paintings by modern artists of the wildlife fauna and scenes so popular today.

To illustrate the development of hunting and fishing equipment through the years there will be displays of antique and modern firearms, the most up-to-date fishing tackle, and the cannon netting method of trapping wild animals.

For those who will want to get into the act, there are muzzle loading shoots and archery shoots. Something to see and do for everyone.

The precise site for the show is the National Guard Armory in Keyser. But it is not necessary to confine your attention to the show at the Armory. Many interesting sites can be pointed out. Further, West Virginia is in the act of donning her fall wardrobe. Nothing could be more spectacular. The forests and the mountains are decking themselves in majesty and splendor.

I almost forgot to mention one thing—and how could I do that? West Virginia has more beauty queens than King Solomon ever dreamed of. Some of them will be on hand to greet you. So come to our party, Mr. Speaker, and bring all our nature-loving friends with you.

## A PRODUCER'S WORLD

### HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. SISK. Mr. Speaker, many words have been uttered regarding food costs, the problem of providing food to the world's hungry, and of this Nation's decision to barter away tons and tons of its feed grain stores.

The subjects have been bantered about quite freely and some with truth, others with emotion. But, in my estimation, no one has quite put the whole thing in perspective as well as Joseph Kraft did in Sunday's Washington Post and in other newspapers which may have printed his comments.

For those who may have missed I would like to have his comments reprinted here. The text of the article follows:

A PRODUCER'S WORLD

(By Joseph Kraft)

While bumper crops are now being harvested in this country, soaring food prices are fueling a record inflation here and abroad. How come?

The answer lies in a worldwide condition which we are just beginning to grasp. Producers are in the saddle everywhere, and widespread inflation is only one of the dimly understood consequences.

A good example of the general condition is protein foods. There is an over-all world shortage because of the convergence of a number of factors which are rarely examined together.

One is the catch of fish, a major source for livestock feed. Thanks to modern methods, the fish catch rose steadily and dramatically from 1948 through 1969. But after reaching nearly 70 million tons that year—up from only 20 million tons in 1948—the catch began to slump. There was a considerable drop in 1969, a slight drop in 1970 and a considerable drop again in 1972.

The reason for this fall-off is the excessive fishing which has caused so many nations to try to extend their claim to coastal waters. For example, there was a precipitate rise in the haddock catch from 1954 through 1965. Since then it has been dropping steadily. In 1970 it was only one-sixth the 1965 peak. Fisheries, in other words, are being exhausted, and it is going to take a long, slow effort to rebuild them.

A second factor to examine is per capita grain consumption in the Soviet Union. The record from 1955 through 1970 is one of ups and downs. Whenever there was a bad harvest, there was a tightening of belts expressed in a reduction of grain consumption. But the regime of Party Secretary Leonid Brezhnev is selling itself on the theme of the full breadbasket. Instead of asking Russians to eat less when the crop is bad, Moscow now imports grain from abroad.

Last year alone, the Russians imported 28 million tons of grain, which represents a terrific drain on the world market. The previous record import of grain was India's program duing the famine of 1966–67, when their imports reached only about one-third of last year's Soviet imports. Thus the change in Russia's attitude constitutes a major new drain on food resources unlikely ever to go away.

A third factor is the decline—largely because of population growth—in the capacity of many developing countries to feed themselves. A striking example is currently supplied by the famine now affecting the string of countries along the southern fringe of the Sahara Desert.

Population growth in those areas has brought a rise in grazing herds. As grasses and other vegetation have been eaten away, the quality of the soil has deteriorated. Accordingly, the desert is now spreading southward. There are food shortages in Chad, Niger and parts of the Sudan, and only a long-term program of reforestation can begin to restore the old natural balance.

The shortage of available foodstuffs has as its first consequence a scramble led by the richer countries for what is available. The immediate result is the simultaneous incidence of the worst inflation in years in the United States, Western Europe and Japan.

The pinch in foodstuffs, moreover, coincides for many of the same reasons with a shortage of other primary products. The prospective oil crisis is notorious, and many metals and fibers are also in short supply. So there are bound to be other results apart from inflation.

One result is that the underdeveloped countries rich in primary products—and not only petroleum—should have increased bargaining power. A second result is that the United States has a different kind of power in the world.

This country's great asset now is not the capacity to bomb Hanoi. It is the capacity to export wheat, soybeans and corn. So, far better deals than we have cut in the past should be arranged in the future in order to foster both American prosperity and this country's diplomatic influence.

But these are only the most obvious consequences. The central fact is that we are moving into a world nobody understands very well—a producer's world. Accordingly, it makes sense for all of us, and especially those in authority, to be cautious about what lies ahead.

## COMMENDS SUMMERTON, S.C., BOYS SCOUT TROOP

### HON. EDWARD YOUNG

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. YOUNG of South Carolina. Mr. Speaker, the Boy Scouts of America have over the years, played an invaluable role in building leadership for this country. I know that every Member of Congress was impressed by the caliber of the young men who came through Washington this summer on the way to the National Jamboree.

It gives me great faith in the future of this country to see such fine boys and men learning and growing together. The Scouts of Summerton Troop 382 are an outstanding example of the value of scouting.

A resolution commending Troop 382 follows:

A RESOLUTION COMMENDING SUMMERTON TROOP 382 OF THE BOY SCOUTS OF AMERICA FOR ITS EXCELLENT SHOWING IN THE NATIONAL BOY SCOUTS JAMBOREE AND EXPRESSING APPRECIATION OF THE COUNCIL TO CERTAIN MEMBERS AND OFFICIALS OF THE TROOP

Whereas, Summerton Troop No. 382 of the Boy Scouts of America attended the National Jamboree of the Scouts held in Mo-raine National Park in Pennsylvania and the Troop and Members thereof received of Summerton; and,

Whereas, the Mayor and Councilmen of the Town desire to commend the performance of Troop 382 and express the appreciation of the Town to the individual Scouts and to the officials for the honors received; Now, therefore,

Be it resolved by the Mayor and Councilmen of the Town of Summerton in Council duly assembled that the Town:

1. Expressly commends the entire membership of Summerton Troop 382 of the Boy Scouts of America for the excellent record of the Troop in participating in the National Jamboree;

2. That the Wolf Patrol of said Troop be expressly commended for its recognition as the outstanding patrol attending said Jamboree;

3. That the Flaming Arrow Patrol of said Troop be expressly commended for its recognition as being the Patrol showing most improvement in said Jamboree;

4. That Casey Thomas be commended for receiving the National Spin Casting and Surf Casting Award;

5. That Ryan Martin and Charles Strickland, Jr., be commended for receiving the National Day Honors in Spin Casting and Surf Casting;

6. That the Town Council expressly thanks each of the following individuals for his work with Troop 382, which made it possible for the Troop and the Members thereof to receive honors for their outstanding performance in the National Jamboree:

1. To Messrs. Edward M. Stuckey, as Scoutmaster, Lionel Stukes, as Assistant Scoutmaster, and R. P. Felder, Jr., as Assistant Scoutmaster;

2. To Thomas D. Ardis, Charles Strickland, Fred Barnes, Jr., Gene Failmezger, as Committeeman and Rev. W. T. Ferneyhough, as Committeeman and Chaplain;

3. To Scout Robbie Coleman, as Chaplain's Aid;

4. To Collins McLachlan for his excellent work with the news media;

5. To Congressman Ed Young for his kindness to the members of the Troop and their leaders during their stay in Washington;

Be it further resolved that the Clerk of the Town of Summerton be, and she hereby is, directed to present in person, or by mail, a certified copy of this Resolution to each of the persons hereinabove mentioned and to publish a copy of this Resolution in The Manning Times and The Clarendon Chronicle.

Done and adopted this 21st. day of August 1973.

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## FEDERAL HOUSING PROGRAMS

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Ms. HOLT. Mr. Speaker, much concern has been expressed by the Members of this body over the future of Federal housing programs. The Government's commitment to solving the problems of urban blight was amply demonstrated in the mid-1960's through the creation of the Department of Housing and Urban Development and the authorization of many new and innovative programs.

The moratorium on subsidized housing programs announced by the Secretary of Housing and Urban Development on January 5 of this year elicited many differing reactions, but almost everyone agreed that a comprehensive review and evaluation of these programs was needed.

I have always maintained that the vital ingredient of a successful housing program is the encouragement of private ownership. Community pride and community improvement only occur when residents have a stake in its future. Ownership provides an incentive which is completely absent from rental projects.

It is no secret that home ownership is an extremely expensive proposition today. Large downpayment requirements, high interest rates, and high settlement costs effectively prevent a large portion of our population from purchasing a home. Some of our housing programs, such as the HUD 235 program, have facilitated ownership through low downpayments and subsidized interest rates. These programs have had some beneficial effects, but they have made little headway in resolving the problem of abandoned housing; a severe problem which afflicts all of our metropolitan areas. Though potentially a resource, if allowed to deteriorate, abandoned dwellings provide a multitude of hazards, including susceptibility to fire, location of crimes, breeding grounds for disease-carrying rodents, death traps for curious children, and a general unaesthetic appearance.

This mounting problem can be turned into a real opportunity through the use of the American concept of homesteading. The same logic which led to the settlement and development of the West can also be applied to the reclamation of our urban areas. The principle of urban homesteading has been discussed before, but it has never been implemented on the Federal level.

Recycling of resource materials has been advocated as one of the solutions to our current environmental ills. I maintain that abandoned dwellings are as recycleable as scrap metal. Several local governments have recently initiated programs which deserve our scrutiny. The cities of Wilmington and Philadelphia give to a homesteader a city-owned abandoned house in return for $1 and a pledge to rehabilitate the house and live in it for 5 years. No property taxes are levied against the building during its first 5 years in the program.

The benefits of this program are many, including the restoration of badly-needed living quarters and a simple means of home ownership for people dedicated to the future of the community. In addition, I believe a program of homesteading could prove to be cost-effective. Currently, the Department of Housing and Urban Development is holding or has foreclosed on almost 80,000 housing units, the majority of which are single-family units. Taking over, refurbishing and selling a HUD-foreclosed house in itself produces a loss against the amount paid by HUD to the approved lender. Even when foreclosure is not necessary, operating and financing a housing subsidy program requires long term Federal involvement and substantial amounts of money. For example, HUD has estimated that under the 235 program the Federal interest subsidy on a typical unit can amount to as much as $24,700 in Federal funds over a 30-year period.

I have today introduced a bill entitled the National Homestead Act of 1973 which is designed to assist in alleviating the present shortage in decent housing and assist in the elimination of deterioration of urban areas. This bill authorizes the Secretary of Housing and Urban Development to make available to "homesteaders" HUD owned single family dwellings for a fee of $1 and a pledge to live in and rehabilitate the dwelling within a 5-year period.

I would like at this point to insert a copy of the text of this bill.

H.R. 10373

A bill to establish a national homestead program under which single-family dwellings owned by the Secretary of Housing and Urban Development may be conveyed at nominal cost to individuals and families who will occupy and rehabilitate them

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Homestead Act of 1973".

SEC. 2. It is the purpose of this Act to assist in alleviating the present shortage of decent housing for low- and moderate-income individuals and families through the more constructive use of Federally-owned residential property, while at the same time assisting in the elimination of deterioration and blight in urban and other areas and in the effective rehabilitation of those areas.

SEC. 3. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall—

(1) compile, maintain, and keep current a catalog of all unoccupied single-family dwellings in urban and other areas within the United States which are owned by him or his Department, and which would be suitable for occupancy and rehabilitation by qualified low- and moderate-income individuals and families under the national homestead program established by this Act; and

(2) take such steps as may be necessary or appropriate (by publication, advertisement, or otherwise) to assure that the residents of each community or area in which any of such dwellings is located will be fully and currently informed of (A) the existence, nature, and location of such dwellings, (B) the qualifications required for participation in the program under this Act, and (C) the terms and conditions on which such dwellings may be conveyed to qualified persons.

(b) The dwellings included in the catalog compiled under subsection (a) shall be offered to qualified low- and moderate-income applicants in accordance with this Act, without regard to their race, color, religion, sex, or national origin but with due consideration in each case of the suitability of the dwelling involved for the applicant's family (taking into account its size and composition and other relevant factors).

SEC. 4. An applicant is qualified, for purposes of participation in the program under this Act with respect to any dwelling, only if he or she—

(1) is 18 years of age or older;

(2) is the head of his or her household;

(3) is a citizen of the United States;

(4) has not previously participated in the program;

(5) is not the owner of any other real property; and

(6) possesses the financial, technical, and other resources which are necessary (as determined under regulations prescribed by the Secretary) to rehabilitate such dwelling in accordance with his or her agreement entered into under section 5.

Sec. 5. (a) The conveyance of any dwelling to an applicant under the program shall be made on a conditional basis, in return for the payment by such applicant of $1 and the execution by such applicant of an agreement as described in subsection (b).

(b) Each applicant for a dwelling under the program shall enter into an agreement, in such manner and form as the Secretary may require, that he or she—

(1) will reside in the dwelling (and maintain it as his or her principal residence) for a period of at least 5 years;

(2) will during such period rehabilitate and maintain the dwelling so that it satisfies all of the requirements of applicable State and local law, including building, plumbing, electrical, fire prevention, and related codes;

(3) will carry adequate fire and liability insurance on the dwelling at all times;

(4) will permit inspections of the dwelling to be made at reasonable times by agents or employees of the Secretary for the purpose of determining the progress of the rehabilitation; and

(5) will comply with such additional terms, conditions, and requirements as the Secretary may impose in order to assure that the purpose of this Act is carried out.

(c) Upon any material failure by the applicant to carry out his or her agreement entered into under subsection (b) with respect to the dwelling, the conditional conveyance of title to such applicant under subsection (a) shall be revoked, and all right, title, and interest in and to the dwelling shall revert to the Secretary; except that the Secretary may in his discretion grant the applicant, on the basis of need or otherwise, a specified period or extension of time not exceeding two years in which to come into compliance with the terms of the agreement and thereby avoid such revocation and reversion.

(d) After the applicant has resided in the dwelling for the required 5-year period and has rehabilitated and maintained it and otherwise complied with the terms of his or her agreement throughout such period, the Secretary shall convey to the applicant fee simple title to the dwelling (including the land on which it is situated).

Sec. 6. The Secretary shall prescribe such rules and regulations, including rules and regulations establishing standards and methods for the inspection of dwellings and the measurement of rehabilitation progress, as may be necessary or appropriate to carry out this Act.

Sec. 7. (a) The legal title to and ownership of any dwelling conditionally conveyed to an applicant under section 5(a) shall remain in the Secretary for purposes of all Federal, State, and local laws until fee simple title to such dwelling is conveyed to such applicant under section 5(d); and the conditional conveyance of such dwelling shall specifically so provide. During the period prior to fee simple conveyance such dwelling shall be subject to State and local property taxes only to the extent that other federally-owned real property is or would be subject to such taxes under similar conditions.

(b) To the extent he finds it feasible and desirable and consistent with the purpose of this Act, the Secretary may enter into agreements with State and local governments and agencies under which single-family dwellings owned by them may be included in the catalog compiled under section 2. Under regulations prescribed by the Secretary, modifying the provisions of this Act to the extent necessary or appropriate to take account of differences resulting from State or local ownership, any dwellings so included shall be offered and conveyed to qualified applicants in the same manner and on the same terms and conditions as dwellings owned by the Secretary.

Sec. 8. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

I strongly urge my colleagues to join with me in supporting this needed legislation.

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## TAYLOR WINES CITED IN ARTICLE

## HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. HASTINGS. Mr. Speaker, I would like to note that the Taylor Wine Co., which I am proud to say is located in my district in the town of Hammondsport, near Keuka Lake, and which has been a leading producer of high quality wines for almost a century, was the subject of an article published in the September 1973 issue of the Allegany Air System "Executive" magazine. The article credits the Taylor Co. and the other producers of New York State wines with "holding their own with the most highly touted European vintages."

The company, which began in 1880 with a small 7-acre vineyard, is now a major producer of fine wines, operating 350 acres of vineyards and purchasing more grapes from local farmers in the Hammondsport area. This dramatic growth is further evidenced by the fact that the company has nearly tripled its production in the past 10 years, producing 9.7-million gallons of quality wine in 1972, as compared to 3.8-million gallons in 1962.

The author of this article, Gay Nagle, in bringing to life the story of this fine local wine company, one of the largest in the Nation, also understands something which we in New York State have long known; namely, that our wines need not take a back seat to any from across the seas.

So that my colleagues may learn more about the operation of the Taylor Wine Co., I include this article, from the Allegany Air Systems "Executive" magazine:

### TAYLOR WINE CO.

(By Gay Nagle)

One of the largest producers of premium wines and champagnes in the U.S. reposes in rural splendor in possibly the most beautiful region in the Northeast, totally untouched by urban sprawl. The closest it comes to pandemonium here is the rush-hour traffic from the nearby Corning Glass Center.

A drive through this countryside is a visual and emotional return to the serenity of 1880, the year Walter Taylor, founder of Taylor Wine Co., decided that this was the time and place to spread his vines. He'd been a cooper by trade but figured he could make better money filling barrels instead of selling them.

Pressing ripe grapes to make wine is so old a practice that no one knows exactly when it was discovered, although it is mentioned in the Bible 165 times. What Biblical scholars and wise men couldn't foresee is that technology would render obsolete the human hand and human foot, hitherto essential to the picking and crushing processes. For centuries the basic procedures of winemaking remained the same. Men have tended their wines, often where poor soil has discouraged other crops. And after the grapes ripen, they are crushed for their juices which ferment naturally, then age as wine.

Home to Taylor wines is the village of Hammondsport on the western shore of Keuka Lake, in the Finger Lakes area of west-central New York. This beautiful region with its deep narow blue lakes and its steep hillsides is becoming as famous as the great wine regions of Old Europe. It is the heart of the quality champagne region of America and one of the prime vineyard areas of the world.

Keuka Lake itself is an important factor because its clear water acts as a moderator of temperature extremes. In the spring, the lake's frigid temperatures keep the buds dormant until danger from spring frosts has passed. In the fall, the lake's stored-up summer warmth prolongs the growing season and retards the early killing frosts.

It is stony land here—most vineyard soils are—similar to the Rhine or Moselle districts in Europe, and being steep, it is naturally well-drained. It was in this area of such natural receptivity that Walter Taylor and his bride of one year bought a seven-acre vineyard. Here his Catawba, Delaware and Concord grape vines would grow strong and healthy. Two years later the Taylor operation expanded when an adjacent 70-acre farm was bought. And in a small winery overlooking Keuka Lake, primitive but efficient methods were used to produce the first of Taylor's red and white dinner wines.

Taylor soon turned to his parents to join him in his growing business. At first, only grapes from his vineyards were crushed and their juices fermented and aged, but soon it became necessary to absorb the crops from neighboring vineyards, a practice which continues today. Within a short time, dessert wines were added, including New York State Port and White Tokay.

For years, management of the winery remained a family affair, owned by Walter Taylor's descendants and operated by his three sons. Taylor survived prohibition by selling concentrated grape juice and printing the recipe for making homemade wine on the sides of his barrels. The company incorporated in 1955, and in 1962 Taylor Wine Co., Inc., acquired its long-time neighbor and rival winemaker, Pleasant Valley Wine Co., with its Great Western brands. Management decided to continue operating the two companies as competitors, each with its own staff for growing, producing and marketing the wines. Great Western's reputation was built on champagnes, with still wines being a lesser factor in its product line. Walter Taylor and his sons had moved in the opposite direction—starting with still wines and later adding the sparkling wines. In 1962, Taylor went public and net sales since that time have jumped from $17 million to $43 million annually.

New York is a quality wine state. Although total output is small compared with that of California, gallon for gallon the average quality is said to be higher. (The grape crop of New York is approximately 100,000 tons compared to nearly three million tons harvested in California.) This is not to say that California does not produce some very good wines—indeed it does—but it also produces an enormous quantity of inexpensive *vin ordinarie*, and this tends to bring the average down, quality considered.

Wine drinking really began to take hold in the U.S. in the late 1960s and since that time overall wine consumption has increased by more than 50 percent. Taylor's production alone of wines and champagnes has now topped 3.5 million cases a year. There's a growing acceptance of wine not only at the table but as an all-occasion drink. In fact, a recent *Newsweek* article warned liquor industry executives to "look to a soaring interest in wine by drinkers of all ages as a primary contributor to liquor's slow rate of growth."

Last year wine consumption in the U.S. reached a new record high of 337 million gallons, almost exactly double the consumption 10 years ago. Wines from California, which make up between two-thirds and three-quarters of the entire U.S. consumption, just about paralleled the industry growth. For wines produced outside of California, consumption doubled during the 1962–72 period. Taylor grew from about 3.8 million gallons a year to 9.7 million gallons in the same 10-year period.

Today, Taylor's offerings in the premium wine category (Taylor defines "premium" as any wine costing over $1.50 a bottle) total 23. Newest entry is its Sangria, introduced in early spring. Sales are already beyond expectations. Great Western has 29 wines bearing its label. About 12 percent of Taylor's annual grape requirement come from 728 acres of company-owned vineyards on the shores of Keuka Lake. Another 53 acres are used as experimental vineyards for development of hybrid vines. The balance of Taylor's requirements are purchased from 350 local independent growers. Each acre of vineyard produces close to 5½ tons of grapes, and one ton of grapes produces 200 gallons of juice. It takes about 375 grapes to make a bottle of wine, about 500 grapes for a bottle of champagne.

Of course, all wines start in the vineyard where the grapes are nurtured. And when Mother Nature provides but once a year, nothing can be left to chance. Taylor's skilled vintners trudge from vine to vine during the winter season, carefully snipping off just the right amount of excess wood so the next season's fruit will develop to perfection. Deep in winter when the temperatures drop far below zero, these men are bright specks in fields of white, dressed in red thermal clothing for the daily snipping and shearing routine.

In the fall harvest season—early September to late October—the vineyards are alive with pickers, although close to 85 percent of this operation is now automated. Mechanical harvesters move up and down the rows of vines, picking and stemming the grapes. The grapes are then hustled to the winery where they are weighed, transferred to 10 stainless steel pressing machines and crushed, but ever so gently so that the seeds are not opened, which causes a bitterness in the wine. Now it is the turn of the press, so that the fresh juice is forced through sieves, through gleaming glass tubes, through cooling equipment to the huge fermenting vats.

Here begins nature's magic—with man's guiding hand in the process. The Taylor winemakers add a certain quantity of a special cultured wine yeast to the juice and it is this yeast which accomplishes the fermentation. When all the seething and boiling of fermentation is over, the juice has become wine. Its sugar has disappeared and in its place is nature's own alcohol, usually about 12 percent in strength. After fermentation the wine is placed in wooden storage casks—of white oak or redwood—for further cellar treatment to mellow and mature. Peak of maturity varies with wine types. Rosé takes about a year; champagne, several years. Blending, to achieve uniform quality, is carried on during this period and the blended wines are set aside to "marry" and mature. Careful blending results in every bottle of wine tasting exactly like every other of its type. Thus, year after year the uniform high quality of the product is insured and the ups and downs of vintage years are eliminated.

What accounts for the different tastes in wine, specifically for the differences in California and New York wines? First, of course, the grapes. Native grape vines were here with the Indians and maybe ages before. Their range covers roughly all the area of the United States east of the Rockies. At first, they were all wild grapes, some of which were "tamed" by careful selection and breeding. New and separate varieties were developed, such as the Concord and the Delaware, and as these improved varieties came into being, the wines made from them increased correspondingly in quality.

The New York State grape belt comprises the Finger Lakes, part of the Hudson River Valley along with the western area of the state bordering on Lake Erie and the southern shores of Lake Ontario. The grapes grown here are the native American type called *Vitis Labrusca*. These differ a lot in taste and aroma from the California varieties. It's more than merely the difference in taste but a general distinctive type and flavor peculiar to this region. "Highly flavored" and "fruity" would be the two best terms to describe the flavors of New York wines.

From the standpoint of chemical analysis, the Eastern-grown native grapes are higher in acidity and lower in sugar content than the California grapes. New York state wines are divided into the same five classes as other wines: appetizer wines, red dinner wines, white dinner wines, dessert wines and champagnes. Of the 52 wines produced by Taylor and Great Western, 20 are considered table wines. Most recent entries in the dinner wines category are Taylor's Lake Country Red, White and Pink. Immediate acceptance was, according to Taylor execs, indicative of the shift "to table wine at any time."

Last year, 125,000 visitors toured Great Western's and Taylor's wineries on free hour-long guided tours that told the intricate story from vine to wine. Highlight of each tour is the sampling of wines and hors d'oeuvres made with wine in special hospitality rooms at the two wineries.

No matter where the wine originates, it's safe to say that the vineyards of the United States are nurturing a product that is growing in popularity and acceptance daily. American wines have come of age and we can be justifiably proud of them. The best ones, coming from New York and California, can now hold their own with the most highly touted European vintages. And if you're an Easterner, it's more than just geography that sells a bottle of Taylor or Great Western. It's a quality beverage and it's guaranteed to please.

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## THE VIRGIN ISLANDS ACADEMY OF ARTS AND LETTERS

### HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. DE LUGO. Mr. Speaker, I am very pleased to note that the recently formed Virgin Islands Academy of Arts and Letters last month honored 40 Virgin Islanders for their artistic achievements. The academy is doing much to overcome the past neglect of our islands cultural heritage, and I look forward to its increasing success in making the rich and varied cultural life of the Virgin Islands known to all.

There follows a very interesting editorial from the Daily News commenting on the academy's activities:

STEP TOWARD PRESERVING OUR CULTURE HERITAGE

The world's impressions of a place and its people are based very much on its culture, and nations and localities are judged by the activities and achievements of individuals and groups. The artists, and writers of a country reflect the peoples hopes and goals, and in turn their writings, paintings and music became a part of the tradition and cultural heritage of the state. Russia is famed for Tchaikowsky and Tolstoi, and its people are justifiably proud of their nation for having produced such artistic giants. There as in other nations and localities the pride in cultural achievement links the past and the present, and the people and their artists form part of a continuing tradition and culture.

Here in the Virgin Islands, unfortunately, this has not always been the case and very few Virgin Islanders are aware of the artistic figures their homeland has produced. Many names have become lost in the mists of time and little has been done to preserve them, so that much of the cultural heritage and identity of our people has been lost to them.

How many, for example, are aware of Camille Pissarro, the father of French Impressionist painting who was born here. True the building he was born in bears his name, but ironically today it houses shops that sell imported trinkets to tourists who might be interested in Virgin Islands culture if Virgin Islanders themselves had made a greater effort to preserve it.

More recent examples are the poetry and music of Cyril Creque, the writings and paintings of J. Antonio Jarvis, the pen and brush mastery of Carlito Kean and the artistry of pianist Andres Wheatley. How many Virgin Islanders are aware of these men and their accomplishments, and how many take pride in their achievements? The answer has to be regrettably few, since so little has been done to preserve the memory and point up the achievements of such Virgin Islanders.

It is heartening to see that efforts are now being made to fill this gap. A few Virgin Islanders concerned over this situation have formed the Virgin Islands Academy of Arts and Letters, and last month it honored 40 Virgin Islanders—past and present, native born and those who brought their talents from elsewhere—for their artistic achievements. Life memberships in the academy were awarded those residing here, associate memberships to former residents, and posthumous memberships were awarded deceased Virgin Islanders in order to link up with the roots of our culture.

The formation of the Academy of Arts and Letters was a long step toward correcting a situation which saw the cultural heritage and traditions of these islands being neglected. We trust that as the academy continues its work it will be highly successful in its goals of promoting and encouraging arts and letters here, giving recognition to the achievements of our artists and authors, past and present, and transmitting humanistic knowledge and insight to the public.

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## THE NATION'S DEEPLY TROUBLED ECONOMY

### HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. PATTEN. Mr. Speaker, at a time when notable progress is being made in such important areas as industrial productivity and profits, exports, revenue collections, and the total number of persons employed in the Nation, it is sad to report so many economic problems, headed by the No. 1 issue in the district—the high and rising cost of living.

During the August recess, hundreds of constituents visited my office in Perth Amboy, and their problems were pathetic: Housewives complained about high prices; those who wanted to buy homes were unable to do so because of zooming interest rates; the unemployed were desperately looking for work; and senior citizens—and many others—could not "make ends meet." A few newspaper headlines during August tell the story of an economic malaise almost unparalleled in the Nation's history:

"Food prices: Out of control"; "Record interest rates keep climbing"; "Jobless figures up"; and, "Dow Jones average sinks lower."

These headlines cover key areas that affect every American: Food, housing, employment, and finance. It is therefore no exaggeration to say we are facing an economic predicament that makes joint action and cooperation imperative by business, government, and the public.

My concern over the state of the economy was discussed at a meeting with U.S. Commerce Secretary Frederick B. Dent recently, at which time I recommended some of the steps proposed by me later in this newsletter.

There is plenty of justification for national concern in the four vital areas mentioned above. Treasury Secretary George P. Shultz—a former economics professor—said it all when he called phase III's system of wage and price controls "the biggest failure in the history economics" in a speech before the Grocery Manufacturers Association.

### SOARING FOOD PRICES

The most unfortunate and far-reaching failure was in the administration's futile attempt to control soaring food prices. The Cost of Living Council is not the only group trying to find out why food prices increased so much in July when prices were supposed to be frozen. The housewives—and breadwinners—of the Nation would also like to know why that cruel paradox happened. A typical food basket went up 5.8 percent, or $208, from July of the previous year—an astounding increase under the circumstances. A poignant, but true story illustrates the anguish caused by the troubled economy: In Milwaukee, an elderly shopper did not have enough money to pay her grocery bill, so she removed a can of cat food from her order. A sympathetic clerk wanted to pay for the can out of his pocket, because, "I wouldn't want your cat to go hungry." With a weak smile, the customer replied, "I'm the cat."

### THE HOUSING DROP

Another victim of our sick economy is the housing field, with mounting costs and skyrocketing interest rates bringing new home building and small business construction to a virtual halt. One of the reasons for soaring costs is the amazing increase of some building materials. From April 1972 to April 1973, for example, the cost of soft plywood leaped 98.3 percent. But another major factor in almost stopping new building is record interest rates. Since January, rates have reached an all-time high—from 6 percent to 10 percent—a rise of over 66 percent. These rates are more than just outrageous—they are untenable. The end is not in sight, either, for rates as high as 10½ percent are predicted. Particularly hard hit in obtaining home mortgages at reasonable rates of interest are veterans and young married couples. Their dream of owning a home has turned into a nightmare.

### HIGH AND PERSISTENT UNEMPLOYMENT

When the Nixon administration started in January 1969, there were 13,500 unemployed persons in the Perth Amboy-New Brunswick labor area. The latest available figure shows 22,500 out of work—a shocking increase of 9,000 jobless persons—a rise of 67 percent. Because the Middlesex and Union County areas are so heavily industrialized, the impact has been unusually severe. To help the unemployed, I supported and voted for the Emergency Employment Act—EEA—which has provided public service jobs for over 1,300 persons in Middlesex County—from teachers to health aides. Over $6 million EEA funds has been spent in Middlesex County to aid the jobless. The administration wants to phase out the EEA, but I believe it should be expanded so that more of the unemployed can be helped. A bill I have cosponsored would do this. Another legislative measure I have helped sponsor that would aid the jobless is a new comprehensive manpower training program. Whenever I return to my Perth Amboy office on weekends, it is full of unemployed persons looking for work.

### THE DECLINING STOCK MARKET

Still another important area of growing concern is the sagging stock market, which dipped to a 20-month low on August 20. Not only has the falling market caused millions of investors to lose billions of dollars in stock values—it also threatens the existence of scores of brokerage firms. Besides heavy losses suffered by individuals, a declining market weakens the Nation's economic structure if it lasts long enough—and this one has lasted too long, although there has been some recovery in early September. Strangely enough, stocks should have strong appeal during periods of inflation, but the present economy is in such poor condition, investors are reluctant to buy in an uncertain market. Another aggravating factor is a lack of confidence in Government caused by the Watergate scandal, undermining the public's faith in our political system. However, it is not our system that has failed—a few have failed our system, which is still considered the best in the world.

### THE RISING COST OF FOOD SHOULD BE INVESTIGATED

Realistically, there are no panaceas for the serious economic problems we face. However, when I returned to Washington after the summer recess, I urged the chairman of the House Rules Committee to start hearings on a resolution I helped sponsor as far back as March 22 to create a select committee and investigate matters affecting the cost and availability of food. A legislative questionnaire I mailed to every home in the 15th Congressional District showed that 88 per cent of those who responded feel that the administration's phase 3 program of wage and price controls was a failure.

That feeling is understandable when one realizes that since the Cost of Living Council was established in 1971 and controls were applied, hamburger has increased about 24 cents a pound, a dozen large eggs has gone up 30 cents, bacon has climbed 41 cents a pound, and rents have reached almost impossible heights. The Agriculture Department estimates that food prices will rise by 20 percent this year—over four times more than the 1972 increase. Many believe they will go higher—and they probably will, for wholesale prices increased by a record 6.2 percent in August, and prices of farm products and processed foods and feeds soared by an incredible 19.3 percent—the largest increase for any month on record. The price of meat is so high and shortages so serious, that theft at meat counters keeps increasing—meat trucks are being hijacked—and ranchers are literally guarding their herds with rifles.

Besides conferring with the Rules Committee chairman, I have met with the chairman of the House Banking and Currency Committee, Representative WRIGHT PATMAN of Texas, who started hearings on September 11 to look into high interest rates which are hurting the economy so badly. Another meeting I plan to have is with Representative HENRY S. REUSS of Wisconsin, former chairman of the Economic and Tax Policy Force of the Democratic Study Group—DSG. As a former member of that task force, I will concentrate in the coming weeks on steps that will strengthen the economy.

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## INCREASE IN SOCIAL SECURITY BENEFITS

## HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. WALDIE. Mr. Speaker, today I am introducing a bill which would permit the 5.9 percent increase in social security benefits to take effect immediately.

Earlier legislation passed by the Congress stipulated such an increase in social security benefits, but opposition from the administration delayed its effective date until June of 1974 on the assumption that it was inflationary.

There is little need to document the spiraling inflation and the dent that it is putting into everyone's pocketbook. And it takes little imagination to appreciate the impact that this inflation has on those with limited fixed incomes. Surely there are few who really believe that present social security benefits are adequate—even this proposed increase is barely in line with the rise in consumer prices.

The feckless premise that this increase will be inflationary cannot be weighed against the reality that the already slender budget from which many of the elderly must survive is continually being diminished at an alarming rate. Other sources of income—savings, pensions, et cetera—are especially vulnerable to inflation. As the prices for the necessities of life rapidly rise, and by not passing this legislation now, we are implicitly asking the elderly with limited means to tighten their belts still further and to live in increasing humility.

I strongly believe that this is necessary legislation, and feel it to be incumbent upon the Congress to fulfill its intent to provide better living conditions for elderly Americans. The elderly are the fastest growing segment of our society, and they deserve to be treated with dignity and respect. The bill follows:

H.R. —

A Bill to provide that the special cost-of-living increase in social security benefits enacted by Public Law 93-66 shall become effective immediately, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsections (a)(2) and (c)(2) of section 201 of Public Law 93-66 are amended by striking out "May 1974" each place it appears and inserting in lieu thereof "the effective month of this section".

(b) Section 201 of Public Law 93-66 is further amended by adding at the end thereof the following new subsection:

"(e) For purposes of subsections (a)(2) and (c)(2), the effective month of this section is the month in which this subsection is enacted."

## A QUESTION OF PRIORITIES

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ZWACH. Mr. Speaker, in Minnesota, where winter temperatures drop to 30 degrees below and lower, and where we have weeks of subzero weather, the fuel crisis is very real.

Our people are deeply concerned over the availability of fuel to keep their homes warm, their industries operating, and their schools open.

The Murray County Herald at Slayton, in our Minnesota Sixth Congressional District, had an editorial on this subject which, with your permission, I would like to share with my colleagues by inserting it in the CONGRESSIONAL RECORD:

A QUESTION OF PRIORITIES—

President Nixon will no doubt encounter a great deal of opposition regarding his suggestion that the United States lower its pollution standards for the time being at least in order to alleviate the anticipated fuel shortage which we will be experiencing in the weeks ahead.

What the president suggests boils down to a question of priorities, and we feel that he is taking the only possible view. Environmentalists, naturally, will express great concern and opposition to the president's suggestion.

At this particular time, however, adequate fuel is more important to the nation than tough restrictions on its production. Surely, efforts must be made to clean up America—its lakes, waters, roadways and air—but common sense would indicate that a major attack on this very major problem may have to be postponed until other pressing problems are solved.

Nixon in most cases has demonstrated political courage during his administration. It appears to us that this is another example of that courage as he surely knew large numbers of Americans and powerful organizations within the country would register strong opposition.

America, however, cannot survive without fuel. At the present time, we would believe that this is the first priority.

It is easy to look backward—that famous hindsight is always the best. Had the nation taken steps regarding pollution control at every level a few years earlier we probably wouldn't be in this predicament today. It is also apparent that we had plenty of advance warning but failed to heed it.

This, however, is water over the dam. It seems clear that all we can do at the present time is go along with the suggestions of the president, and attack the pollution problem with much greater vigor when the fuel crisis of today is ended.

## PROTECT OUR ENDANGERED SPECIES

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. LEHMAN. Mr. Speaker, I was proud to support the passage yesterday of the Endangered and Threatened Species Conservation Act of 1973. H.R. 37 is designed to greatly strengthen our current laws to protect those animals which now face the possibility of extinction.

Since the passage of the first endangered species legislation in 1966, events have shown that additional protection is needed.

There are now 109 species of fish and wildlife in the United States whose existence is now threatened. The International Convention on Trade in Endangered Species has recently named 375 species of animals throughout the world as in imminent danger of extinction. An additional 239 species are seriously threatened. It is further reported that the pace of disappearance of species seems to be accelerating.

One of the major features of this new bill is that it provides a long-range and comprehensive approach to the problem by extending the protection of law to fish and wildlife which may become endangered at some future date, as well as to those which are now endangered.

Another important feature makes the killing of endangered species a Federal offense with persons convicted subject to fines of up to $20,000.

The new law recognizes that the greatest threat to endangered animals has been man's destruction of their habitat. Better means are provided to preserve those land and water areas which are critical to the survival of endangered animals.

Another major threat to endangered species is the deliberate killing of animals for the value of their fur. While the passage of H.R. 37 will not end all international traffic in pelts and skins, it does take a number of steps to curtail U.S. participation in such trade. This is a major step forward since the United States is a major market for rare furs and our example may set a precedent for the rest of the world.

Other provisions seek to protect animals threatened with extinction only in their home region. To prove that a certain dwindling species represents the last of its kind on the entire earth will no longer be required.

This law also puts an end to certain Federal-State conflicts by allowing States to adopt even more restrictive legislation than the Federal law.

As man extends his control over the surface of the globe, he must take special care not to destroy what he cannot replace. It is my firmest hope that the Endangered and Threatened Species Conservation Act of 1973 will at last provide the means to protect all of the irreplaceable creatures which share our world.

## RARICK REPORTS TO HIS PEOPLE: FREE SPEECH AND GOVERNMENT CONTROL

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. RARICK. Mr. Speaker, the intrusion of the Federal Government into the operations of the broadcasting industry has been escalating in recent years. It has increased to a point that the free speech of the broadcasting industry is endangered by government intimidation.

The role of the Federal Government in controlling the activities of the broadcasting industry began in 1934 when Congress passed the Communications Act, and established the Federal Communications Commission. The FCC was set up to make frequency assignments to radio stations. Since then it has grown into a large Federal bureaucracy with massive powers to control and limit the activities of every radio and television station in the country.

One area where the FCC exercises ironclad power over broadcasters is in the field of license renewal. It is by the granting, renewing or revoking of licenses to operate that the FCC has threatened the free expression of contrasting ideas on American airwaves.

Controversy and the free expression of ideas have always been at the heart of free speech in America.

Whether the speaker is agreed with or not, our people have always asserted that he has a constitutional right to speak his mind without fear of repression. However, a fear of repression from the FCC has caused an increasing number of broadcasters to limit the expression of controversial opinion on their stations.

A prominent case in point that has been making some headlines in newspapers recently is that of WXUR and WXUR-FM in Media, Pa. The stations are owned and operated by Faith Theological Seminary, whose President, Dr. Carl McIntire, is outspoken and thus regarded by some as a controversial minister. Reverend McIntire's battle with the FCC has been going on for several years, but reached a crucial confrontation when the FCC's refusal to renew the stations' license was upheld by the U.S. Court of Appeals.

The grounds the court used as the basis for its decision was the allegation that the stations made misrepresentations on their license applications. One judge disagreed, and said at the time that the decision meant "depriving a broadcaster of his constitutional right of free speech." He also said that the FCC action runs contrary to the Agency's own fairness doctrine by "depriving the listening public not only of a viewpoint, but also of robust debate on innumerable controversial issues."

One Supreme Court Justice, William O. Douglas, agreed, but the Supreme Court refused to give the stations a hearing. Justice Douglas is on the opposite end of the political spectrum from Reverend McIntire, but Mr. Douglas' view was that the first amendment right of free speech was involved in the case and it should have a fair hearing. In this instance, the position taken by Justice Douglas is eminently correct and I support it.

There is a greater threat implied here than just the revocation of the license of one small radio station. The broadcasting industry has come to a head-to-head confrontation with the awesome power of the FCC to manipulate the free flow of opinion and to silence dissent—and the American public stands to become the loser in the battle. The free speech of an entire industry is at stake. And the McIntire case may become the landmark—a precedent—for future actions.

By threatening radio and television stations with the revocation of their licenses, the FCC has intimidated the entire industry and diluted diversity of opinion. The broadcasting industry is watching the progress of this case closely. A precedent set here will undoubtedly be applied to other broadcasters.

I recently introduced a bill that directs the reinstatement of the stations' broadcast licenses, H.R. 10076. This will give the stations an opportunity to be heard before elected Members of Congress, rather than be forced to abide by the dictates of unelected bureaucrats at the FCC. This was one of my major considerations in introducing the bill.

Freedom of speech is too precious a right to be allowed to be taken away by the edicts of any Government agency. The imposition of restrictions on the free expression of ideas—no matter how controversial they may be—has a chilling effect on the coverage of news. Ultimately, this type of Government interference threatens freedom of the press itself. After all, freedom of speech and freedom of the press do not belong to the newspapers, radio, or TV stations. They belong to the people, as part of their right to be informed. By being informed our people can remain free. When Government restricts the rights of the press and broadcasters to present their readers and viewers with contrasting opinions and ideas, the American people's right to be exposed to divergent facts and to become informed is severely restricted.

FCC's fairness doctrine has diluted open and free expression of divergent opinions and views. What the bureaucrats have done is to back the broadcasters into a corner where they will either make the editorial content of their programs bland and without controversy, or stand the chance of losing commercial revenue or even their licenses.

The free marketplace of ideas like free enterprise is what the American dream is all about. Contrasting ideas tend to balance each other and in the free exchange, come closer to reaching truth. Our system of government has nothing to fear from the free expression of ideas. In fact, our society thrives on the free flow of opinion among an informed electorate.

Our country needs an unencumbered broadcasting industry, free to express the beliefs of the people, just as much as it demands a free press. But if government intimidation of broadcasters is allowed to continue unchecked, a clear and present danger exists to all forms of news media—including newspapers and news magazines. The same fairness doctrine-type approach was recently applied to a large daily newspaper in Florida. The State supreme court sustained a State law ordering newspapers to give political candidates the "right to reply" in equal space and positions to letters to the editor and editorials. This in effect gives anyone the status of an editor with the right to dictate the contents of a paper. This is a dangerous attempt by government to silence opinion in the free press.

The publisher of the Washington Post disclosed recently that the licenses of the two television stations owned by the Post were under challenge by the FCC because of the vigorous role the newspaper played in disclosure of the Watergate affair. The U.S. Attorney General threatened the newspaper with criminal prosecution for publishing documents, even after the Supreme Court had ruled that publication of the papers was legal.

The growing role of government in controlling a free press is clearly not a problem of broadcasters alone. It affects every journalist, editor, and, as we have seen in the case of Reverend McIntire, even radio evangelists—thus infringing on freedom of religion.

The printed news media have taken a concerned interest in the decisions being made in the McIntire case. Newsweek magazine interviewed me last week concerning my bill in behalf of WXUR; stories have appeared on the front page of the Post, in the New York Times, Chicago Tribune, Wall Street Journal and other large newspapers. These journalists realize that if the flow of opinion is silenced by government edict in radio, then newspapers are not far behind.

It is interesting to note that the story has been given little or no coverage on national radio or television. The same newscasters who vehemently defended their rights of free speech and free press against assaults by the Vice President of the United States are silent in this case. I cannot help but believe that at least part of the reason for their silence is a fear of retaliation from the Federal Communications Commission. The broadcasters who were courageous enough to take on the elected Vice President, now have applied a gag rule of silence to protect themselves from an unelected bureaucracy.

As I said earlier, the freedoms of speech and press do not belong to the news and opinion media; they belong to the people. When the press and broadcasters have their freedoms taken away by government pressures, we as citizens are the losers. The broadcasters may lose their financial investments, but we have lost two of our cherished liberties through political manipulation.

News and opinion by government edict has no place in a free society.

Mr. Speaker, I include related newsclippings:

[From the Atlantic City (N.J.) Press,
July 10, 1973]

### THE DEVIL AND MR. MCINTIRE

The largest daily newspaper in New Hampshire is the Manchester Union Leader, a paper of extremes that dominates the Granite State.

For one thing, according to the 1973 edition of Editor & Publisher's International Year Book, there are only eight other dailies in the state and some three dozen weeklies. The Union Leader tops all of them in circulation with 64,060. The Nashua Telegraph is second with 22,523.

For most persons, initial exposure to the Union Leader is usually an unforgettable experience.

Critics label its front-page editorials outrageous. Defenders call them hard-hitting. They are at least regularly provocative.

That last adjective also aptly describes the paper's president and publisher, William Loeb, who writes the editorials, lives across the border in Massachusetts and reportedly travels armed. He is an arch-conservative and friend of former Teamsters boss Jimmy Hoffa, who helped Loeb through some financially hard times a while back.

Loeb repaid the favor by lending his support to Hoffa in the latter's lengthy legal battle with the federal government and then by working vigorously to get the ex-labor leader out of prison after the government won.

In that he is outspoken, right-wing to the core and flamboyant, Loeb is a lot like the Rev. Carl McIntire, the fundamentalist pastor of the Bible Presbyterian Chuch in Collingswood, who appears to have lost what may be a significant battle with the Federal Communications Commission.

Last Friday, the FCC refused to stay an order shutting down his radio station, WXUR, in Media, Pa. McIntire, however, has talked of countering with "pirate" broadcasting from a ship at sea off Cape May that would be beyond the jurisdiction of the FCC.

Almost from the moment McIntire was first granted his radio license in 1965, the saga of WXUR has been marked by controversy. But trouble really arrived in 1970 when a U.S. Court of Appeals upheld the refusal of the FCC to renew the station's license on the grounds that he had misrepresented programming plans.

The renewal had been opposed by such liberal organizations as the Greater Philadelphia Council of Churches, the American Jewish Congress, the Anti-Defamation League of B'nai B'rith, the Catholic Community Relations Council, the National Association for the Advancement of Colored People and the AFL–CIO of Pennsylvania. In a petition to the FCC, they claimed that WXUR's programming was inflammatory, racist, anti-Catholic, anti-Semitic and "weighted on the side of extreme right-wing radicalism."

But H. Gifford Irion, an FCC examiner, declared after a nine-month hearing that those views were balanced by others. Furthermore, he offered the opinion that the public could cope with controversy and had a constitutional right to hear it. The FCC did not agree.

But Chief Judge David Bazelon, in dissenting from the 2-to-1 1970 appeals court decision, went along with Irion. He said that lifting the license of a radio station on the grounds of misrepresentations was "too narrow a ledge to cite" if it meant "depriving a broadcaster of his constitutional right to free speech."

He also said the FCC action ran counter to the agency's own Fairness Doctrine by "depriving the listening public not only of a viewpoint but also of robust debate on innumerable controversial issues."

And Spencer Coxe, executive director of the Greater Philadelphia branch of the American Civil Liberties Union, said the ACLU refused to join the opposition to WXUR's license renewal request because it "had serious reservations about the use of government power to silence any medium of communication on the basis of the content of its message."

While we concurred earlier in this space with Appeals Court Judge Edward A. Tamm that WXUR had broadcast with "more brazen bravado than brains," we think ACLU spokesman Coxe, FCC examiner Irion and Judge Bazelon all raised important questions that have not been answered adequately.

The fare served up by WXUR has hardly been to our taste, and the editorial policy of the Manchester Union Leader strikes us as irresponsible at best, but no one has forced us either to listen to the Rev. McIntire or read Mr. Loeb.

And so long as no one tries to, both men should be free to say what they wish as often as they wish to those who wish to think differently than we.

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[From the Wall Street Journal, July 13, 1973]

### ENCOURAGING CULTURAL PLURALISM

It isn't only politics that makes strange bedfellows. Whoever thought fundamentalist minister Carl McIntire would align himself with the nonpartisan but often liberal Brookings Institution in arguing that the Federal Communications Commission be divested of responsibility for broadcast quality and content?

The Brookings effort, a 342-page study financed by a Ford Foundation grant and authored by three economists, is an economic analysis of TV regulations. Mr. McIntire, on the other hand, has rejected the analytical approach. Instead, he plans a pirate radio station ("Radio Free America") in international waters off the south Jersey coast to denounce the FCC for withdrawing his license to operate a radio station in Pennsylvania. But they are in basic agreement that FCC regulation has stifled rather than encouraged a diversity of opinion.

That argument is not exactly original. Vice President Agnew, departing FCC Commissioner Nicholas Johnson, and any number of critics in between have championed a greater variety of program choice. The FCC itself claimed to be moving in that direction some years ago when it increased the number of UHF TV licenses available. But, as the Brookings study notes, many of the almost 1,100 channel assignments remain unused and almost all TV stations not affiliated with a major network lose money.

Consequently, the Brookings authors recommend abandonment of the unworkable FCC policy of encouraging local TV outlets in favor of doubling the number of major TV networks from three to six. Additionally, they recommend encouraging cable and pay-TV, along with ending government regulation for the industry except for engineering and technical aspects of station licensing.

The suggestions have an obvious surface appeal. Some 95% of American homes have TV sets and most of them are tuned for several hours a day to the 87% of all stations affiliated with networks. Even if one does not agree entirely with Mr. Agnew or Mr. Johnson, it is obvious there is a distressing homogeneity about network television that is bad—not bad in any sinister sense, but in the important sense of depriving the nation of any real cultural pluralism.

That, it seems to us, is the greatest failure of television, and the greatest failure of FCC regulation. The Commission ritualistically pays lip service to a broader range of programming but its major accomplishment has been to insulate license holders from too much competition, which scarcely strikes us as the way to foster diversity.

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[From the Today, Sept. 4, 1973]

### FEISTY PIRATE

Today is, and will always be, a staunch defender of "freedom of the press" as guaranteed in the U.S. Constitution. This stand is based on public interest and self interest—primarily the former.

We include all major forms of public communications in this "press" category. Although radio and television stations, because of the limited frequencies they occupy in the public airwaves, are subject to different regulations than are publications, the free press principle should apply as much as possible.

Some local supporters of controversial radio preacher Dr. Carl McIntire contacted Today editors several weeks ago to remind us of our oft-repeated "free press" defense and to ask why we had not come to Dr. McIntire's aid. They claimed freedom of the press was a key issue in the Federal Communications Commission's action that silenced WXUR-AM-FM in Media, Pa. The station was owned by Faith Theological Seminary, which is headed by the right-wing preacher and political activist, Dr. McIntire.

"You would defend his freedom of speech and freedom of the press even if you didn't agree with what he said, wouldn't you?" the Brevard supporter asked.

"Yes . . . without hesitation," we replied.

"Then why haven't you come to the aid of WXUR?" they asked.

We admitted that our surface knowledge of the case seemed to indicate that Dr. McIntire might be the victim of unjust governmental pressure, evoked by some of his political stands (such as his strong opposition to President Nixon's China trip and policies).

We promised to research the case further and would defend McIntire if the facts, in our opinion, warranted it.

The McIntire supporters said that the "fairness doctrine" violations leveled at the station were unfounded, as evidenced by the fact that the individual FCC examiner who reviewed the case ruled in the station's favor. The action to force the station off the air came on a rare instance in which the FCC board overruled its examiner and denied the station's renewal application.

WXUR has always offered time to groups with opposing views, as required by the FCC's fairness doctrine, the supporters said.

Our research seemed to bear this out. Even though Judge Edward Tamm, who wrote the appeals court decision, included the fairness doctrine element as a basis for the ruling, the other two judges, Chief Judge David Bazelon and Judge J. Skelly Wright, did not. They based their decision on a finding that the licensee (McIntire) made misrepresentations about its proposed programming in the initial application (eight syndicated news and religious commentary programs concerning controversial issues were substituted for entertainment programs).

Even if this program substitution did constitute a misrepresentation on the application, Today does not think that alone is sufficient grounds to put the station off the air.

Despite our strong disagreement with many of Dr. McIntire's stands, we think he is entitled to be heard as long as he offers those with opposing views a chance to use his slice of the airwaves in fairness.

Only a feisty man of deep conviction like Dr. McIntire would have the spunk and determination to fight back with a pirate offshore radio station. We admire him for that, but we may take issue with many of the "Radio Free America" broadcasts.

The case merits reconsideration.

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[From the Washington Post Sept. 19, 1973]

### "PIRATE SHIP" SET—MCINTIRE TO START BROADCASTS

(By Jules Witcover)

After two weeks of technical troubles and the exigencies of life at sea, the Rev. Carl McIntire's radio "pirate ship" is scheduled to start broadcasting today in defiance of Federal Communications Commission rules.

The ship, an old World War II minesweeper, is to head out beyond the three-mile international limit this morning from the port of Cape May, N.J., where it has been docked since last Friday when it lost its main anchor in a storm.

Harold Dennis, an aide to McIntire, said yesterday the anchor has been replaced and the ship will start broadcasting shortly after it gets back into international waters, sometime after noon today.

Technical problems with the transmitter have been rectified, he said. A special crystal has been installed and copper bands placed around the bottom of the ship to boost the transmitter's output to 10,000 watts, Dennis said.

McIntire, who was attending a church conference in Pennsylvania yesterday will be aboard for the opening broadcast, a sermon and hymn music on tape, McIntire's aide said.

A spokesman for the FCC said the commission will await the first unlicensed broadcast to determine whether the ship is in fact violating FCC rules. The U.S. Coast Guard at Cape May is watching the situation for the FCC, the spokesman said.

McIntire first sent the old ship, renamed "The Columbus," into the Atlantic over the Labor Day weekend, vowing to broadcast controversial programs from Maine to North Carolina and as far west as Ohio.

The project, called "Radio Free America," is McIntire's response to the FCC's refusal to relicense his radio station, WMUR in Media, Pa., on grounds it violated the FCC's fairness doctrine and was deceptive in indicating the programs the station would air.

McIntire is a prominent fundamentalist preacher and radio broadcaster and an outspoken right-wing champion, his programs at one point having gone out over an estimated 800 radio stations.

He has said he intends to make a test case of his radio ship, challenging the constitutionality of FCC licensing in the area of free speech. Should the FCC or Coast Guard move forcibly against him to close down the transmitter, he has said, he will not resist. But the FCC has said it intends to make its response to McIntire in the courts.

Crews of eight men, shuttled between shore and the ship by small power boat, are to man the ship around-the-clock, McIntire has said. The vessel was bought in Florida in August for $40,000, he has said, and fitted out with radio equipment—all from contributions raised by McIntire's church supporters.

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## ROY WILFORD RIEGLE—GRAND MASTER OF KNIGHTS TEMPLAR

### HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. SHRIVER. Mr. Speaker, on August 15, 1973, Roy Wilford Riegle of Emporia, Kans., was elected unanimously as Grand Master of the Grand Encampment, Knights Templar, U.S.A. This high honor caps a long career of service to Kansas and the Nation as a schoolteacher, soldier, lawyer, judge, and legislator.

It was my honor and pleasure to serve with Roy Riegle for a number of years in the Kansas Senate. I have also enjoyed my long association with Roy in connection with Masonic activities.

Any complete list of Roy Riegle's service to his home town, State, and country would be too long to include here. I will only mention a few of the highlights in the life of the new grand master.

Roy served with distinction in both World Wars, and he continued his service in the Kansas National Guard until 1954. He obtained five college degrees from Washburn University of Topeka, Kans., Washburn School of Law, and the Kansas State Teachers' College of Emporia.

He has practiced law in our State of Kansas since 1925 and served as probate and juvenile judge. He was elected to serve in the Kansas House and Senate for 18 years. He was majority leader in the Kansas House of Representatives in 1937–39, a member of the Kansas Legislative Council, 1939–41, and the Kansas Judicial Council, 1953–61.

In addition, Roy's record of service to civic, religious, social, judicial, and military organizations is unsurpassed. A partial list includes the Kansas State Historical Society, bar associations, the Kansas Day Club, the Lutheran Church Council and the Lyon County Council of Churches, Phi Alpha Delta, Tau Kappa Epsilon, Lions Club, American Legion, Veterans of Foreign Wars, and others.

Roy's service to Masonry and Templary is, of course, evident in his election as grand master. Kansas Templars will celebrate his advancement to this high office with a reception and dinner in his hometown of Emporia, Kans., on September 29.

Mr. Speaker, I requested permission for this brief insertion in the CONGRESSIONAL RECORD so that more people might know of the service of this good friend and fine Kansan. Our best wishes go out to Roy Wilford, Mrs. Riegle, and their three daughters as he begins his 3 year term as grand master of Knights Templar of the U.S.A.

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## NATIONAL SECURITY

## HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. DORN. Mr. Speaker, may I take this opportunity to congratulate the recently elected commander in chief of the Veterans of Foreign Wars, Ray R. Soden. Ray Soden will provide dynamic leadership for the Veterans of Foreign Wars. We are fortunate to have this great American lead this powerful and respected veterans organization. May I commend to the attention of my colleagues in the Congress, to the entire Nation and to our allies in the cause of freedom, excerpts from Commander Soden's superb address to the Veterans of Foreign Wars National Convention in New Orleans:

EXCERPTS FROM ACCEPTANCE SPEECH OF RAY R. SODEN

NEW ORLEANS, LA.,
*August 24, 1973.*

Turning to another important concern of the Veterans of Foreign Wars—the security of our beloved country—I will be blunt and to the point. The United States of America, the world's most prosperous nation—with the most to protect and preserve—is no longer the world's foremost military power. And that, my comrades is a cold, hard fact.

It is true that there are leaders in our government who philosophize that America and Russia have achieved a so-called military parity. They prattle about the deterrent of presumed equality.

The truth of the matter is that Russia is ahead of us in the great majority of military yardsticks by which national power is measured—more land and seabased ICBMs—more bombers—more home defense interceptors—more home defense surface-to-air missiles—more cruise missiles and attack submarines—and more ground troops.

And what do the proponents of "parity" tell us? They say we have more missile warheads than Russia. They guess that the quality of our weapons and the excellence of our research and development will offset superior Soviet numbers. In short, they place their faith entirely in that which cannot be verified.

Yet each year, for at least the past two years funds requested by the Department of Defense for additional research and development have been drastically reduced in the budget.

I say to you with the utmost candor: Our beloved country is in mortal danger unless we stop this headlong retreat into "parity" with Communist nations. The soft and misleading words of "détente" will not defend us from aggression.

We must turn this attitude of our national leaders around before it is too late. Now, more than ever, we must make our voices heard in the Councils of Government.

At the very least, we must fully fund and deploy the TRIDENT submarine; the B-1 bomber; and the two agreed upon ABM sites.

It is already apparent, as we originally predicted, that the "All Volunteer Military Forces" system is not providing either the numbers or the quality of servicemen and women essential to the defense of this nation.

We must display as a people, and a nation, the political guts and imagination to institute an equitable plan for truly universal military training. And when I say "universal training" I mean UNIVERSAL—not the unfair and discriminatory Selective Service operation that turned Vietnam into a rich man's war and poor boy's fight.

Any able-bodied American citizen who will not give two years of his life to "provide for the common defense" of his country can join the gutless wonders in Canada and Sweden who ran for cover when the chips were down in Southeast Asia.

As for NATO, and our continuing efforts in Europe, there are some in exalted positions of government who refuse to recognize success. For nearly a quarter of a century, NATO has kept the peace in Europe. Not one inch of free world territory has been lost to the Communists during that period of history. The commitment of some 313,000 U.S. troops has been the principal reason for this historic era of stability and progress.

Here at home, the reserve components of the armed forces are being asked to carry a sharply increased portion of the defense burden as the active duty forces decline in numbers. We must continue to support their worthy cause in the halls of Congress.

Now I suppose there are those who will say that the Veterans of Foreign Wars is anti-Russian. We are not anti-Russian as such. We are anti-Communist. We have always been anti-Communist. And we will remain anti-Communist as long as freedom and slavery must continue to exist side by side upon this planet.

Trust the Communists? Look at their long record of breaching treaties. Ask the Estonians, the Latvians the Lithuanians, the Poles, the Hungarians, and the Czechs if they trust Communist Russia.

In closing, I pledge to you, my comrades and sisters, that I shall give my total and unremitting effort to the end that America regains her rightful position as a military power second to none—fearing no power upon this earth, and only God above.

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## MINIMUM WAGE STATEMENT

## Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mrs. BURKE of California. Mr. Speaker, I would like to call your attention to one of the most important pieces of social legislation to come before the Congress this year.

The minimum wage bill passed earlier this summer by the Congress and vetoed by the President is an issue of simple justice. While inflation has raised the cost of living over 35 percent since 1966, the minimum wage paid America's poorest workers has remained the same at $1.60 an hour. If the minimum wage were raised only enough to keep up with the cost of living, it would have to be pegged at $2.16 today. Thus while the United States has made important economic progress overall in the last 7 years, the poor have not only been left behind, but as a result of inflation they are even further back today than they were in 1966.

Mr. Nixon vetoed the bill on September 6 as "grossly inflationary." His denunciation of the bill is particularly unfortunate in view of his own proposal, which would have nearly the same aggregate impact. The vetoed bill would raise the minimum wage from the present $1.60 an hour to $2 in November and $2.20 next July. Mr. Nixon's counteroffer would bring the minimum up to $1.90 now and up to $2.30 in steps over the next 3 years. The difference between these two scales, in terms of its inflationary impact, is hardly measurable.

Moreover the difference between the vetoed figure and the current one would increase the Nation's total wages only 0.5 percent in the first year and even less thereafter. That the bill is not in fact inflationary is all very clear, but the real reasons for Mr. Nixon's veto are not.

It would seem instead that the President is prepared to fight desperately against very small improvements in the income of the poor, while silently tolerating record profits for corporations and doing imaginatively little in meeting the real problems and causes of inflation.

Mr. Speaker, the bill presently before us is important, too, in its inclusion of persons and categories of workers not previously covered.

One of the most forgotten and ignored segments of America's labor force is the 1.5 million individuals privately employed as domestics. Of this number, 31 percent are paid cash wages of less than 70 cents an hour, 48 percent less than $1 an hour and 68 percent less than $1.50 an hour. It is shameful that the median annual income for domestics in 1969 who worked 50–52 weeks out of the year was only $1,400.

The significance of these figures are even more striking when one considers that 97 percent of all domestics are women and one-half to two-thirds are black. And among blacks, where 28 percent of the families are headed by women, one out of every five employed women works as a domestic. In sum, almost three-fifths of the families headed by domestics had incomes below the poverty line.

I will let the members draw their own conclusions in terms of discrimination against women, and blacks, but I think the facts speak plainly for themselves.

The administration opposes this extension of the minimum wage, arguing that the additional coverage would result in a "substantial decrease in employment opportunities" for domestic workers.

It is difficult to follow the logic of this argument, when one looks at the true facts. The real problem is that the total number of domestics, discouraged by poor wages and working conditions, has decreased from a total of 2.5 million workers in 1960 to but 1.5 million in 1970. There is no indication that this decline is caused by a smaller demand for services; indeed to listen to some people talk, just the reverse is true. Moreover, fewer and fewer young women are entering the profession. The median age for a domestic is presently 50 and rising; one out of every seven workers is over the age of 65. Rather than a "backward step" as claimed by the administration, the extension of minimum wage coverage to include domestic workers would seem just the antidote to revitalize an ailing profession. It would restore the dignity and self-respect of hundreds of thousands of workers in an honest profession. It would aid tremendously those brave women who both work and raise their families with incomes below the poverty level, rather than accept the alternative of welfare.

For the poor of this land, for the oppressed and the lowly paid, we must override this veto. That it is not inflationary is clear; that it is in the interests of simple economic justice is no less valid. To do otherwise would be a vote against human conscience.

## FEDERAL INTEREST PROTECTIONS OF H.R. 9682, DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT

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## HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ADAMS. Mr. Speaker, as we approach consideration of H.R. 9682 on the floor of the House of Representatives, a concern has been expressed by some Members as to whether the bill adequately protects the interests of the Federal Government. It is a concern which I, as chairman of the subcommittee which initially reported this legislation, as well as the other members of both the subcommittee and full committee shared during the hearing and markup process and one to which the committee gave a great deal of careful consideration. It is one which I—and I think it is fair to say, an overwhelming majority of the committee—now believe has been satisfactorily resolved.

Since this question of Federal interest protection is of such importance, however, it might be helpful to recount the highlights of committee consideration of this issue as well as to summarize those sections of H.R. 9682 which deal with and preserve the Federal interest.

First, even before the hearings were begun, the subcommittee solicited information from all Members of the House and expected witnesses on the Federal interest. In a series of questions on this and related subjects, the subcommittee asked: "What is the meaning and definition of the Federal interest? What is its effect on the governance of the District? To what extent and by what institution(s) should it be maintained?" Responses were received in the form of testimony, statements, and other communications and were carefully studied by Members and committee staff.

Second, members of the subcommittee questioned witnesses and sought further information as to where the line should be drawn between local and Federal interests and how potential conflicts could be avoided. Both supporters and opponents of greater self-government were questioned as to possible local infringement of the interests of the Federal Government in the areas of zoning, planning, taxation, transportation, and others.

Third, members of the subcommittee grappled in numerous markup sessions with this Federal interest question. Proposals were offered and discussed by members for limiting or denying local authority in certain Federal interest areas, creating special mechanisms—a Federal Interest Preservation Board, an arbitration panel, a special or joint congressional committee and others—for protecting the Federal interest, maintaining Federal appointees on certain local boards and Commissions, reserving varying degrees of congressional review and veto power over local legislative actions and continuing Federal agency review and control—GAO, OMB, NCPC, et cetera—over selected Federal and quasi-federal areas.

Finally, the subcommittee and the full committee drafted and approved numerous provisions which are designed to protect the interests of the Federal Government. One of the seven titles of the bill, title VI is solely devoted to the specific reservation of congressional and constitutional authority, and the majority of the other titles contain additional, enumerated restraints on the authority of the local government.

I might add, Mr. Speaker, that throughout considerations of this legislation members of the committee foresaw a strong, vigilant, and ongoing role for the Congress. Under any form of self-government, the Congress still retains—and must retain—its constitutional obligation to exercise exclusive legislative authority over the District of Columbia. Whether that requirement takes the form of oversight, investigation, negative veto of certain local actions or positive legislation to carry out its wishes, the Congress must act, where necessary, to protect the role of the Federal Government and to maintain the District of Columbia as the Capital for all American citizens.

Mr. Speaker, at this time, I would like to summarize briefly the protections of the Federal interest which the committee so carefully designed in H.R. 9682. The committee bill:

Reserves the rights of Congress to legislate for the District at any time and on any subject;

Retains in the Congress the appropriations power over the annual Federal payment;

Provides for a veto by either the House or the Senate over any alterations in the municipal charter;

Authorizes audits of the accounts and operations of the District government by the General Accounting Office;

Preserves the court system established by the Congress in the 1970 District of Columbia crime bill—with the exception of the judicial appointive process;

Prohibits the local Council from, among others, enacting a tax on nonresidents, increasing the height limitation on buildings, affecting the functions or property of the United States, regulating U.S. Courts in the District of Columbia, or increasing the Council's authority over the Washington Aqueduct, the National Guard, the National Zoological Park, or any Federal agency; and

Requires the local government to enact a balanced budget and to keep capital indebtedness within a congressionally imposed ceiling.

In addition, the Federal Government is granted a significant role in placing its Representatives on or having its nominees serve on important local agencies. Of the two nine-member judicial nomination and tenure Commissions, a majority of each—five members—are to be appointed by the Speaker, the President of the Senate and the President of the United States. Two of the five members of the Zoning Commission for the District of Columbia are to be Federal Representatives—the Architect of the Capitol, the Director of the National Park Service. And one of the three members of the Armory Board will continue to be the Commanding General of the District of Columbia Militia, appointed by the President.

Mr. Speaker, the issue of the protection of the Federal interest was carefully considered throughout all stages of subcommittee and committee deliberations; the protections which H.R. 9682 affords are an intimate and integral feature of the committee's product and of its recommendation to the House that "the bill do pass."

## CAMPAIGN FINANCE REFORM

## HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. FISH. Mr. Speaker, this summer, Mr. Roscoe Drummond, the nationally syndicated columnist, conducted an adult class on the "Political World" at Principia College. The participants, who represented a broad cross section of the American people, focused their attention on the financing of political campaigns.

What emerged from these sessions was a consensus on the need for concrete reform to correct some of the basic inadequacies in the laws governing the collection and disbursement of campaign funds. These included the illegal collection and use of campaign funds, inadequate reporting and accounting procedures, and poor enforcement of statutes already in force. I might point out that these are the same abuses that the Clean Elections Act, a measure I have cosponsored along with over 125 of my colleagues in the House, would attempt to remedy.

In addition, a number of proposals were offered by this group to deal with this serious problem. They range from the financing of Federal elections through a compulsory $1 payment by every American with the total amount of funds to be equally distributed among the political parties, to the imposition of a spending ceiling by Congress on the total amount a candidate would be allowed to spend in a campaign.

One of my constituents, Mrs. Margaret Peabody, who is a former Republican State Committeewoman from New York, attended this class, and has sent to me a copy of an article written by Mr. Drummond in which he presents the findings of his class. I believe that the article clearly indicates the extent to which the American people are concerned about this aspect of our American political life. This concern has been heightened by reports of the ever-increasing sums of money being spent by political candidates, and by the evidence of flagrant violations of the law that have been brought to light as a result of congressional and Federal inquiries into the Watergate break-in.

I insert in the RECORD the full text of Mr. Drummond's article:

### CONSTITUENTS REPORT TO CONGRESS

(By Roscoe Drummond)

ELSAH, ILL.

To members of the Senate and House:

(As you work on reforms to prevent future Watergates, don't stop—keep on going.

(I can assure you—from first-hand experience—that your constituents want tough, thorough, enforceable reforms equal to the need.

(For two weeks I have been participating in a class of over 150 adult students who were studying the post-Watergate world of politics here at the Principia College summer session. They came from every part of the country. They were a good cross-section of middle America.

(Here is their report. I hope you will welcome it.)

### THE PRINCIPAL ABUSES

Because of the sky-rocketing inflation of campaign costs, because of abuses by both major parties and because of the evidence of new violations of law and ethics in the Watergate offenses, we conclude that the most urgent reforms are essential in political financing of federal elections.

We have sought to focus practical proposals upon those areas of illegality and impropriety which have manifested themselves anew in recent months; namely, the illegal collection of campaign funds, the illegal use of campaigns funds, the inadequate reporting and accounting of campaign funds, and inadequate enforcement.

We would prefer to leave the campaign financing to volunteer efforts by and within the political parties, but we concluded that it is impossible to do so and still cope with the flagrant abuses which have come to light. There must be an end to buying ambassadorships, seeking legislative concessions, or seeking executive favoritism through large campaign donations. Neither the parties nor the presidential candidates should have to solicit nor be tempted to coerce either big business or big labor in order to carry out the highest act of democratic government—the election of those who are to govern and serve us all.

### THE PROPOSED REFORMS

We concluded, therefore, that there is no workable alternative to federal financing of federal elections. To this end we advance the following reforms:

I. We propose that federal elections be financed by the federal government through a compulsory $1 payment by every ctiizen on his income tax return with funds to be available equitably to the participating parties.

II. These campaign funds would be retained by a nonpartisan central clearing house created by Congress.

This central clearing house would be responsible for the receiving of such funds, for their accounting and for paying proper bills submitted to it by the participating political parties. Thus no money would be raised by the political parties and no money would go into the hands of the political parties. Donations to parties receiving federal financing would be forbidden.

III. We recommend a substantial reduction in the total allowable campaign spending, the ceiling to be determined by Congress.

IV. We propose that the "equal time" provision of the Federal Communication Act of 1934 be repealed so that the television and radio networks and stations can provide a reasonable amount of free time for political candidates.

V. We propose that the enforcement of all election laws be placed by Congress in the hands of a national election commission independent of either Congress or the executive.

VI. We propose the following changes in electoral procedures:

1. The federal government seek to bring about one nationwide date for holding primary elections in states which wish to hold them—the date not to be earlier than August 1.

2. The national political conventions to meet no earlier than Sept. 1, thus shortening the length of the campaign.

### THE MORAL IMPERATIVE

We are among those—and there are more than a few of us in many religious faiths—who believe deeply in the power of prayer to control for good the affairs of men and nations. We see wrongdoing in government and politics as providing an urgent impetus for cleansing and improving our political processes. But better laws will not alone do what is needed.

The need is to raise a standard of ethical and moral conduct in our political life to which all can repair, and we believe it must come from within ourselves as well as from within government. This is overridingly an individual responsibility. But we hope that every opportunity will be taken to utilize the home, the church, and our schools to restore to the highest place in our thinking and in our living, and also in the demands we put upon our elected political leaders, standards of conduct worthy of trust and confidence.

We pray for a government worthy of good people, and we pray to be a people worthy of good government.

CLASS OF THE POLITICAL WORLD PRINCIPIA ADULT SUMMER SESSION

P.S. I graded my class summa cum laude. I hope you do, too.

## THE MINIMUM-WAGE VETO

## HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. LEHMAN. Mr. Speaker, today the House voted to sustain President Nixon's veto of the minimum wage bill.

The minimum wage is now $1.60 an hour. This comes to $64 a week or $3,300 a year—well below the official definition of poverty for the average family.

The minimum wage has not been raised in 5 years. Yet during this same period, prices have risen more than 30 percent. The price of food has gone up more than 40 percent.

This minimum wage bill sought to raise the present wage floor to $2.20 an hour or $4,500 a year by next July. It is hard enough to try to feed and house and clothe a family on $4,500. It is next to impossible on the present $3,300.

Why should these wage earners, trapped between the skyrocketing cost of basic necessities and the veto of any wage increase, be the ones who must bear the brunt of the administration's disastrous economic policies?

Every time the minimum wage has been raised, there have been those who claimed that the result would be unemployment. The facts show that subsequent to the increases in 1949, 1961, and 1967–68, unemployment actually decreased, while in the 1956 increase, unemployment was unchanged.

Others say that the minimum wage increases have a ripple effect on higher wages, which in turn bring higher costs. But the Department of Labor has said time and time again that there is little or no evidence of such a general upward pressure after an increase in the wage floor.

Let us remember that the minimum wage is for people who want to work, for those who will accept the most menial tasks rather than go on welfare. The ravages of inflation have made the current wage level a cruel joke. How can we expect to break the cycle of poverty for those who do want to work unless we guarantee them a living wage?

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## A 7-PERCENT SOCIAL SECURITY INCREASE EFFECTIVE JANUARY 1974

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ANDERSON of California. Mr. Speaker, I am today introducing on behalf of my colleagues a proposal which would increase social security benefits by 7 percent, effective January 1, 1974.

As you know, under current law, benefits are scheduled to increase by 5.9 percent on June 1, 1974; but this amount is both too little and too late to keep up with the spiraling inflation that is eating away a the elderly's income.

The price of food, which takes 27 percent of the elderly's budget, has jumped by 20 percent since last year. As a result, social security recipients are forced to eat even less, and suffer even more.

Currently, the average annual benefit for retired recipients amounts to $1,980—$165 per month. And, for 1 out of 7 aged couples, and 2 out of every 7 elderly single persons, this amount represents 90 percent of their total income.

Under this proposal, average monthly social security benefits would be increased from $165 to $177 for retired workers; from $274 to $293 for aged couples; and from $158 to $169 for elderly widows. In addition, maximum benefits for elderly workers would be increased from $275 to $294 a month. The maximum amount for an elderly couple would be boosted from $412 to $441.

Mr. Speaker, we owe the greatest debts to our elderly—our living heritage. Most of those citizens retired today have shared the destiny of the United States for nearly one-third of our entire history. They have nurtured this great Nation to a prosperious maturity, sacrificing along the way so that we—their sons and daughters—could enjoy a better life.

Yet, our society is ignoring their basic needs at the time when they are most vulnerable to physical and financial reverses. While they are our links to the past, and the builders of the present, the elderly are often neglected or left very low on the list of priorities.

It is our responsibility as legislators, and as human beings, to reverse the trend of neglect, and instead insure that the elderly live out their remaining years in good health, without fear of want, and in dignity knowing that a grateful society appreciates their years of service and dedication to building America.

Mr. Speaker, we must act quickly to enact this proposal and grant a 7-percent increase—instead of 5.9 percent—that would go into effect January 1974—not June 1974.

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## BILL HUNT—NEWSMAN WITH A HEART

### HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. CHARLES H. WILSON of California. Mr. Speaker, in the sprawling metropolis known as Los Angeles there are many unique communities, all different in their demographic makeup—all populated with individuals who struggle, who hope, who work and who dream of a good way of life. The city of Gardena within this magalopolis is less different than some communities, more different than others. Gardena lies within a shallow valley, with a smattering of light industry and an abundance of well-kept homes in muted California colors. Gardenians are naturally proud of their landscaped gardens which reflect the heritage of their owners. Gardena has a gentle, quiet populace which also struggles, also hopes and works industriously with the dreams of good lives under the California sun.

At the top of narrow flight of stairs in a building not new but serviceable, is housed the voice of the city of Gardena, the Gardena Valley News. And behind an oaken desk overlooking bustling Western Avenue is the copublisher of the twice weekly newspaper.

Bill Hunt hears the sirens scream from the street below, and his quick thought is, "Now what?" A visit from a Gardenian about a local boy who just made Eagle Scout has his rapt attention, and Bill remembers when the boy was born and what it was like then. A call from Sacramento about current narcotics leigslation grips his insides, for such steps will have a bearing on all that happens in and to Gardena and neighboring communities. A police chief retires, and Bill knows there goes a good man, and once again things will be different.

A new postmaster is appointed to the city, and Bill sends the photographer over for a page 1 cut. And another call comes in which means the paper will have to be cut back again that week because the newsprint just is not available.

Others have problems, and Bill listens earnestly. He does what he can. Always with the attitude of how the paper can help. And how the paper can reflect what is going on and what makes things happen in these times.

His concerns lie with the younger generation, and all that goes on which will mold and shape their lives. His unflagging work to help shape a healthful life for young people knows no bounds. Encouragement is given unstintingly, care is given unceasingly, and always his own publishing problems are shoved away in the back somewhere when an issue which will affect people is to be decided.

His concerns lie with the constitutional considerations of absolute press freedom, for he knows that only with this guarantee will the rights of others also have guarantees. He cannot tolerate fetters which might still the voices which will speak out against wrongdoing in any strata of life, or which will limit the encouragement he can put to print when good is achieved.

Bill Hunt has a huge heart, and a warm heart. A journalist he is first and foremost, with a deep underlying humaneness second to none. And deserving of commendation for his untiring work for the good of his fellow Americans.

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## CONNALLY'S BAD ADVICE

### HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BRADEMAS. Mr. Speaker, I am sure that Members of Congress, both Democrats and Republicans, were shocked by the extraordinary statement by John B. Connally several days ago in which he said that President Nixon might be justified in ignoring the Supreme Court if the Court decided to order the President to turn over to the special prosecutor the tapes in dispute.

Apparently this is Mr. Connally's new interpretation of "law and order."

I insert at this point in the RECORD the text of an editorial from the New York Times of September 12, 1973:

#### CONNALLY'S BAD ADVICE

John B. Connally, who until recently was one of President Nixon's special advisers, has volunteered an extraordinary piece of special advice. He has suggested that Mr. Nixon may well be justified in ignoring the Supreme Court if it were to order the Presidential tapes of the Watergate conversations to be turned over to the special prosecutor.

"We're leading ourselves into believing the Supreme Court is the ultimate arbiter in all disputes and I don't believe it," Mr. Connally said. This interpretation of constitutional government, which Mr. Connally appears to have discovered on the way to his conversion to "law and order" Republicanism, raises the question whether any force other than raw power would be left as the ultimate arbiter of controversial national issues.

Even conceding that Mr. Connally for the moment appears to reserve for the President alone the right to ignore the Supreme Court, this redefinition of Presidential power strikes at the heart of democratic government as practiced in the United States for nearly 200 years. What would be left of the principle of checks and balances if a President, acting either unconstitutionally or unlawfully or protecting the unlawful actions of his subordinates, were free to ignore the Supreme Court? Would President Truman have been justified in ignoring the Court's ruling on seizure of the steel mills?

The Connally view of government appears to equate an efficient and supreme executive with the protection of the nation's stability. In reality, the consequences of a Presidency immune to judicial rulings would more likely be adrift into either extreme instability or extreme Presidential power.

If Congress were to become convinced that the President considers himself untouchable by any process short of impeachment, resort to impeachment would inevitably come to be thought of as a far less awesome step than has been the case in the past.

If the American people were to adopt the view that the President has the right to ignore the Supreme Court, then the Presidency will have been placed above the law. This would be the beginning of totalitarian rule.

## CHIEF EDWARD A. HAMILTON

### HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. JONES of Tennessee. Mr. Speaker, it is my privilege today to honor Edward A. Hamilton, chief of the Memphis, Tenn., fire department for 38 years, until his recent retirement.

Chief Hamilton, a native of Pine Bluff, Ark., moved to Memphis in 1924, where he attended Memphis public schools and took additional night training in business administration.

In 1935, at the age of 21, Eddie Hamilton was hired by the Memphis Fire Department. Whatever he might have lacked at that time in experience, he more than made up for in enthusiasm and ambition. Because of this drive and enthusiasm, he advanced in rank quite rapidly. He became driver in 1938, lieutenant in 1940, captain in 1944, and battalion chief in 1950. On October 29, 1958, he was promoted to deputy chief on June 3, 1960. Finally, on November 1, 1970, he became the first director-chief of the department, at the time of his last promotion, Chief Hamilton had held every rank in the force.

Under the expert direction of Chief Hamilton, the fire department has advanced from a class II fire department to a class I department. This has not only brought the fire fighting force to this high position but all other divisions of the department.

As well as being chief of the Memphis Fire Department, Chief Hamilton is a member and past president of the Tennessee Fireman's Association, a member of the National Fire Defense Advisory Committee, and a member of the Governor's Advisory Board on Emergency Medical Services.

Chief Hamilton is holder of the National Life Saving Award given by the American Red Cross bearing the name of Franklin D. Roosevelt. In November 1966, he received the award from optimist International for heroism as an individual and not in the line of duty as a fireman.

In 1968, Chief Hamilton was given the Memphis Rotary Club Civic Recognition Award for his efforts in advancing the civic and economic welfare of Memphis. This organization, which is sponsored by the Memphis Fire Department, promotes fire prevention and fire safety training in businesses, industries, and institutions in Memphis.

Chief Eddie Hamilton has been married to the former Mildred Mitchell for 37 years. The Hamiltons have two children and four grandchildren.

When Eddie Hamilton became chief, the Memphis Fire Department consisted of 765 men which formed 52 fire companies. Today's department has expanded to 103 companies with a total personnel of almost 1,650. Aside from this physical expansion, Chief Hamilton divided the firefighting force into two operational divisions, each commanded by a deputy chief. This resulted in closer top echelon supervision of the force.

Throughout his 38-year career with the department, Chief Hamilton has shown himself to be an outstanding servant of the people in the city of Memphis. It is indeed my privilege to extend my congratulations to Chief Hamilton, for a job well-done.

## OSHKOSH DAILY NORTHWESTERN ARGUES FOR UPHOLDING MINIMUM WAGE VETO

### HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. STEIGER of Wisconsin. Mr. Speaker, a great deal of controversy has been raised over the social implications of the President's veto of the minimum wage bill. I do not believe that anyone denies that we should do whatever is possible to uplift the earning power of our less fortunate citizens. However, as the following editorial from the Oshkosh Daily Northwestern points out, there are serious doubts as to whether this bill is one which will assist the worker by increasing his income and abating inflation:

CONGRESS SHOULD UPHOLD NIXON VETO

The insistence of Congress on a too liberal minimum wage bill is yet another example of why the American public may wonder as to which piper is Congress dancing.

The short-term benefit to Congress is a pat on the back—and presumably a campaign contribution—from the labor leaders who want to tell the boys down at the union hall that, sure George Meany got something for them.

But President Nixon is right, and the members of Congress who are not afraid to confront the issue on a statesmanlike basis ought vote to sustain the President: The minimum wage bill is inflationary at the time America needs no such stimulus to higher costs.

On top of that—and this is something laborers can well understand—a hefty hike in the minimum wage now would dry up further the job market for the young and the unskilled who are already hard-pressed to find employment.

Labor leaders who make a great deal of noise about getting the minimum wage rocketed upward are giving little thought to those unskilled, poorer educated, and in many instances, members of minorities, who would be jobless because many employers cannot afford to start out such people at wages they pay people with more skill, education or talent.

Labor's theory is apparently that if the lowest paid workers are forced to receive raises, the higher paid ones will get them too if merely to keep them from rebellion over the similarity of pay between themselves and the less skilled. This is the trickle-up theory.

A more realistic approach to boosting the minimum wage is a more gradual one so that the inflationary fires are not fanned, first of all, and so that the shock of added labor costs does not put such a burden on employers that they refuse to hire the unskilled workers, the ones who are most in need of employment.

## EFFECT OF PHASE IV GUIDELINES ON PETROLEUM INDUSTRY

### HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. McCOLLISTER. Mr. Speaker, when I was asked to testify about the effects of the phase IV guidelines on petroleum, I contacted the executive director of the Nebraska Petroleum Marketers for his reaction. He described the situation in the Midwest as a "tragedy."

He explained that no sooner had the guidelines gone into effect, than the suppliers began raising their prices to the oil jobbers and dealers. Under normal circumstances they could make up for those higher prices by selling more, but the shortage has made that impossible. The normal 4¼ cent margin for jobbers has been cut to 2 or 3 cents per gallon.

Another unfortunate decision by the Cost of Living Council was the January 10 price level. January is traditionally a very competitive month among dealers and Omaha was in the midst of a price war on January 10. During these periods the dealers do not expect to make a profit, assuming they can make up the difference later in the year. There has been no such opportunity since the shortage became critical. The May 15 base price date given to the major oil companies would have been a vast improvement, but June 8 or 15 would be even better. By that time gasoline markets were at more normal levels.

At the same time these profit margins have been cut way back, inflationary pressures have hit the dealers just as hard as any other small businessman. Rents and interest rates are up, but we continue to tell service station owners to absorb the losses and lower their prices. And because nearly all station owners qualify as small businessmen, they have not been given the exemption from phase IV other small businesses received.

Another problem we are still facing in the Midwest is the upcoming harvest. In Nebraska there is a bumper corn crop, but no reserve of propane for the drying process. We have a couple of million more acres in production than we had in 1972 and there is less fuel to harvest the crop.

And if that were not enough, unseasonably cool weather dropped last night's temperature into the thirties. This means Nebraskans are using heating oil that needs to be saved for winter.

A year ago in June the total gasoline imported to 76.7 million gallons. This year the figure was 81.6 million gallons—

an increase of 6 percent. However, the distribution of that product has not been in similar proportions. Integrated oil companies have been allocated 25.4 percent more than last year, while jobber-distributors find themselves with 3.2 percent less gas than in 1972. This clearly shows that the voluntary program is not working.

Another consideration in any allocation system should be the total amount of petroleum which was going into the State during the base period. As our small dealers continue to go out of business, their gallonage is not being sold to a station in the same area. Apparently, it is lost to the State if the refiner chooses to sell elsewhere.

For these reasons I urge the Cost of Living Council to reconsider its petroleum guidelines to keep from driving our dealers out of business; and I again ask that the administration implement a mandatory allocation system of petroleum products immediately. Both steps are overdue and vital to the survival of the industry in the Midwest.

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## THE CHILD WITHIN

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BIAGGI. Mr. Speaker, I would like to bring to my colleagues' attention an article by Dr. Ronald Keeny that was the third in a series on child abuse, printed in the "Non-Commissioned Officer's Association Monthly News."

This particular article examines the most tragic aspect of child abuse—the long range mental and physical effects. The statistical evidence provided by Dr. Keeny portrays the critical nature of the problem. It is something none of us like to hear but something we all must know about. This is yet another reason why my bill, H.R. 5914, the National Child Abuse Prevention Act, must be passed.

THE CHILD WITHIN

(By Donald R. Keeney)

In exploring the aspects of the problem of child abuse it is the abused child who is the most apparent victim of this illness that afflicts families. It is the intent of this article to explore the child who is abused—his role, his perceptions and his injuries. The beaten child is often focused upon as the primary problem, but it must be remembered that the damaged child is merely a symptom of an illness of his caretaker(s). Recognition of this latter fact will contribute to an appropriate approach to the management of the basic illness.

"Nobody didn't hit me! Nobody didn't hit me!" cried the half-starved, filthy 4 year old girl admitted to the hospital for multiple bruises and a ruptured urinary bladder. She had allegedly fallen from her swing landing on her back; and her black eye had allegedly occurred when her mother "accidentally" hit her eye with a belt buckle while disciplining her one day. Over the course of the first 4 days after her hospital admission she responded to friendly overtures and ultimately told quite a different story.

"When I was bad, daddy would hit me and kick me until Mommy would start to cry, then he would stop."

"What did he hit you with?"

"His fists."

"Where did he hit you?"

"All over.'

"Why would he hit you?'

"For not minding. Sometimes when he would get mad at mommy he would hit her too. I tried to stop him, then he hit me."

Very often the child who is being abused will "cover" for the parent(s) even to the point of fabricating stories spontaneously. They often feel that they are "bad" children and deserve such punishment. After all, isn't this concept what has been communicated to the child in his parents' behavior? Other children lie and cover up for the parent(s) out of fear of further injury.

The types of injury these children sustain are limited only by the scope of the human imagination. Most classically the injuries involve multiple bruises, fractured bones and bleeding into the space between the brain and inside of the skull. Injuries also include burns (often from cigarettes held against the skin), human bites, scratches, lacerations, damaged internal organs, and poisonings, to say nothing of the emotional traunia simultaneously inflicted.

It is often felt that child abuse represents a rather rare entity. However, from surveys conducted it would appear that possibly as many as four million incidents of child abuse occurred in the U.S. in one year. Actual reported cases in the U.S. in one year were 13,000 representing the apparent "above the surface" portion of a very sinister iceberg.

From the available statistics it is shown that at least 5% of all children beaten for the first time die as a direct result of the injuries and as many as 25% sustain permanent damage. On the other hand as many as 25% of children abused recurrently die and 50–90% suffer permanent damage of a serious physical and/or emotional nature. It should become readily apparent, then, that child abuse does represent a serious problem and should evoke an immediate appropriate response in any responsible adult with knowledge or suspicion that a child is being maltreated in his home. In fact, most states require that any responsible adult with such a suspicion report that concern to the appropriate agency—usually the child welfare unit in the given jurisdiction. At military installation in CONUS or abroad the report should be made to the local social service or community welfare agency in most instances.

It is important that all elements of society learn to recognize and respond to the problem of child abuse. It is the goal of the professionals who are made aware of specific incidents of child abuse to establish appropriate and effective therapeutic programs so that the involved parents may become the good parents they would like to be. The chief factor involved in developing good therapeutic efforts is the presence of a positive attitude within the community which will allow parents to recognize their weaknesses and ask for help when they begin to recognize dangerous and difficult to control impulses to injure their child. A punitive approach to these parents will only delay and often prevent a parent from seeking help before it is too late.

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## HEARINGS ON H.R. 10019

### HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ROGERS. Mr. Speaker, I am today announcing hearings by the Subcommittee on Public Health and Environment on H.R. 10019, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973. The hearings are scheduled for Wednesday, September 26 at 2 p.m. in 2123 Rayburn House Office Building.

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## IDEOLOGY COMES TO POLITICS

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. FRASER. Mr. Speaker, David S. Broder, of the Washington Post, is one of the Nation's most able political journalists. A former Nieman fellow, Broder's knowledge of and ability to popularize and utilize academic political science yields his readers great dividends.

A most recent example of this is "Ideology Comes to Politics," a lengthy Broder article that appeared in the Sunday, September 9, 1973, Washington Post. It is a report of a panel discussion that took place at the recent American Political Science Association—APSA—convention in New Orleans. The gist of the discussion, which focused primarily on a paper presented by Arthur H. Miller, of the University of Michigan Center for Political Studies, is summed up by a Broder quote from Miller's paper: In the 1972 election:

> Party identification was less important than the issues as an explanation of the vote.

If this development is confirmed by other scholars, a revolution in U.S. politics would be upon us. It is my sense that this study accurately reflects developments occurring within the electorate. Dave Broder's report deserves careful consideration by those of us who are concerned about the health of our political system:

IDEOLOGY COMES TO POLITICS

(By David S. Broder)

NEW ORLEANS.—In a sparsely filled hotel ballroom here last week, a young scholar from the University of Michigan quietly announced a revolution in American politics.

After applying the most rigorous analysis of voting behavior which the increasingly sophisticated techniques of political science allow, Arthur H. Miller of the Center for Political Studies in Ann Arbor declared that in 1972 the United States had held what can "most appropriately be labeled an ideological election."

That sounds like a simple statement, but its implications for American politics are every bit as profound as the Apollo scientists' 1971 announcement that, contrary to established opinion, the moon is not dead.

For decades, the firmly held view of both the practitioners and the observers of American politics has been that ours is a politics of interests, of personalities, of parties—but not of ideology.

Unlike the programmatic parties of Europe, the Democrats and Republicans have survived as shifting coalitions of local, regional, economic, ethnic and racial interest groups, held together by shared loyalties to party labels and party heroes, and a shared lust for office.

Whatever else they may have been called, no one has ever accused American politicians, parties or voters of being ideologues.

Nowhere has that pragmatic view of American politics been better-documented and more strongly argued than in Michigan's Center for Political Studies. Beginning with their classic study. "The American Voter," in the early 1950s, the Michigan scholars have drawn in massive detail a picture of an electorate, few of whose members could articulate a "liberal" or "conservative" philosophy, but who responded from election to election to the tugs of the candidates' personalities, and their own immediate concerns, on their inherited and stable party loyalties.

During the 20-year span of their studies, candidate after candidate has proclaimed that each succeeding election has offered the voters the clearest and most consequential choice of directions they have ever faced. Richard Nixon and George McGovern said the same thing last year.

But in 1972, the research shows, the voters for the first time acted as if they believed it. "Party identification," the inherited loyalty to donkey and elephant, "was less important than the issues as an explanation of the vote," the report says.

As Walter Dean Burnham, the Massachusetts Institute of Technology scholar who presided at the session remarked, the shift to issues politics "will have a very profound effect" on the future of the American party system.

The possibility that was most discussed by the political scientists was the chance that the new emphasis on ideology in the voters' decision-making may fuel the long-anticipated realignment of the Republicans and Democrats into clearly opposing conservative and liberal parties.

After intensive discussion of the evidence, neither Miller nor Burnham nor any of their colleagues was prepared to say that the hour of realignment has at last arrived.

But there was a broadly shared feeling that the point-of-no-return to the old and comfortably vague nonissue politics has been passed. Once the propulsive power of ideology has overcome the inertial forces of party loyalty, as it did in 1972, the structure of party politics will either shatter or be fundamentally reshaped.

This *"revolution"* was not born overnight, of course. "The increased polarization," the CPS scholars said, "coincides with an upgrading in the quality of political rhetoric and debate that has occurred since the 1960 campaign.

"The past 12 years have witnessed an increased articulation of the ideological differences between the parties, as well as profound social and cultural turbulence that has been immediately and widely transmitted by the mass media."

As Burnham, a student of past realignments pointed out, the Democratic "regulars" cannot blame it all on George McGovern. Barry Goldwater helped to put some ideological starch in the Republican Party in 1964, dividing its ranks. The comparable split in the Democratic Party occurred first, not in 1972 but in 1968, and it happened, not in reaction to the proposals of McGovern but to the war policies and the racial policies of the Johnson-Humphrey administration.

"The polarization among Democrats was already existent in 1968," the CPS study says, but was masked to some extent in the election returns of that year by the presence of two Democratic candidates—Hubert H. Humphrey and George C. Wallace.

In 1972, with Wallace sidelined, McGovern suffered only a 3 per cent defection from previous Humphrey supporters but lost 8 out of 10 Wallace backers to Mr. Nixon.

With the Republican President drawing 42 per cent of the vote of self-identified Democrats, "the ideological polarization . . . that pitted the left-wing Democrats against those of the right" was revealed for all to see.

The overriding significance of this fact makes the CPS scholars scornful of most of the popular interpretations of the Nixon landslide. With ill-concealed derision, the four signers of the 84-page study—Arthur Miller, Warren E. Miller, Alden S. Raine and Thad A. Brown—marshal their evidence against what they call the "myths" propagated by reporters and politicans in 1972. If their data and interpretations are correct, almost all the conventional wisdom about the last election is out the window.

Here, for example, are their unconventional answers to some of the most frequent questions about 1972:

Was George McGovern the candidate of an "elite" group unrepresentative of the Democratic Party? No. While the original McGovern backers in the primaries were "quite monolithic" in their views on the issues and "demographically distinct from those who voted for other Democratic primary contenders . . . they were not very dissimilar from the traditional Democratic coalition."

They tended to be somewhat younger, better educated, and wealthier than other Democrats, but they were also more likely to be from an urban background in the Northeast, to be Catholic and from a union household—hardly the cliche.

Did McGovern lose the Jewish vote because of his far-out economic proposals or suspicions of his devotion to Israel's independence? No. McGovern received 69 per cent of the Jewish vote, 3 per cent more than could have been expected. (The "normal vote" concept, fundamental to the entire CPS study, is a measure of the degree of support each party's presidential candidate could expect to receive from each sub-group in the electorate, if the short-term factors were causing an equal defection rate among Republicans and Democrats. In a "normal vote," the Democrat in 1972 would have won with 54 per cent of the vote.)

Was McGovern hit by a defection of middle-class blacks? No. Contrary to the current belief that as blacks are moving into the middle class they are also becoming more Republican, it appears that middle-class blacks were mostly staunchly Democratic. McGovern received 97 per cent of the black college-educated vote . . . He also received almost unanimous support, among blacks, from those under 30, from those with relatively higher incomes and from white-collar workers.

Did the Democratic convention television scenes alienate millions of normal Democratic voters and turn them away from McGovern? No. By asking voters when they decided on their choice, the CPS researchers found that "any effect of the convention would at best account for only 3 per cent of all Democratic defections . . . McGovern's proportion of the vote could have increased at most by only 2 per cent if the convention had been a maximally positive factor in the election."

Was it then, the Eagleton affair? There is evidence it had both direct and indirect effects on voters' judgments on McGovern, but "the impact of the Eagleton affair . . . has definitely been overstated . . . 60 per cent of the Democrats had already made their vote choice" and "among those who reacted negatively to the Eagleton question, only 4 per cent indicated it would affect their vote."

In rejecting some of these theories and minimizing the effect of others, the Michigan scholars do heavy damage to many of the contentions of the ABM (Anyone But McGovern) Democrats. But they also marshal convincing evidence against the McGovern camp's own favorite myth—his supposed appeal to the "alienated voters."

There has been an alarming increase in public distrust of government, they report, with more than half the voters believing that officials are more responsive to special interests than to the general good. "McGovern secured 27 percent more of the vote among the politically cynical than he did among those with a high degree of trust in the federal government," they say, but he failed to recognize or overcome "the ideological differences between the cynics of the left and the cynics of the right."

The "cynics of the right," many of them Wallace supporters, went heavily for Mr. Nixon; many more of the alienated simply stayed home.

The CPS team does not have much balm for McGovern's bruised feelings. He was, they say, "the most unpopular Democratic presidential candidate in the past 20 years." His opponent, Mr. Nixon, was less popular in 1972 than he had been in his losing race for President in 1960, largely because there had been "a marked decline in his appeal to Republicans."

Nonetheless, Mr. Nixon had a "substantially higher" rating than any possible Democratic candidate, including Sen. Edward M. Kennedy (D-Mass.) and "would have been a formidable opponent for even the most popular of Democrats."

What all these measures of the impact of personality and incidents on the 1972 race ignore, the Michigan scholars say, is that the election was really decided by issues.

When voters are classified by their policy stands, the main source of Mr. Nixon's strength becomes clear: "He alone was rated positively (above 50 degrees on a thermometer scale) by all three groups"—liberals, moderates and conservatives.

"That only a single political leader received a positive rating from all three groups is highly indicative of the political polarization existing in the United States today," they say.

With this observation, the study focuses on its main theme—the causes and effects of the emergence of ideology in American politics.

The survey found three big issues in 1972—Vietnam, governmental economic guarantees for minorities, and campus unrest. Four other issues had lesser impact—treatment of criminals, legalization of marijuana, busing and urban unrest.

Individuals' attitudes on these issues was consistent enough to support "an ideological interpretation of politics," with "a broad segment of the population . . . reacting to politics in 1972 in a rather sophisticated manner." Democrats and Independents react to politics more ideologically than do Republicans, the CPS team says, but the striking fact is the "stark issue differences between McGovern and Nixon voters."

Depending on the issue, the McGovern supporters "were anywhere from 19 to 41 per cent more liberal than Nixon supporters." On a Vietnam policy question, posing a choice between immediate withdrawal and military victory. "McGovern voters were 40 per cent more likely to prefer an immediate end to the fighting." Exactly half the Nixon voters call themselves conservatives; 54 per cent of the McGovern voters call themselves liberals; only one-third of each classify themselves as being in the center.

"The profound issue cleavages" shown by these figures "blaze forth with vivid clarity," the Michigan team writes with unacademic rhetoric. And that makes it even more remarkable that they found even greater differences between the two Democratic factions (those who supported Mr. Nixon and those who backed McGovern) than there were between Democrats and Republicans. "Even with respect to the liberal-conservative measure, the differences between Democrats and Republicans were less extreme than those between the two Democratic factions," they say.

In this important sense, their findings contradict the argument made by "Real Majority" authors Richard Scammon and Ben Wattenberg and by many anti-McGovern Democrats that salvation for their party lies in moving back to the middle.

The CPS data is more consistent with McGovern manager Gary Hart's contention that "there is no center" remaining in the Democratic Party, and that one faction or the other will inevitably prevail.

Overall, the Michigan scholars report "a liberalizing trend, not only in the ranks of the Democrats but in the population as a whole," and suggest that "McGovern's principal error may have been in overestimating the speed of the trend."

Nonetheless, the fact remains that in 1972 Mr. Nixon was perceived by the voters (including almost half the Democrats) as being closer to their own position on the leading issues than McGovern. McGovern, in fact, "was perceived as further left than any other political object."

It was these "perceived issues differences" or "proximity indexes" which really accounted for most of Democratic defections to Mr. Nixon in 1972.

Again, the figures are startling in their sharpness: McGovern received 75 percent of the vote from those who perceived him as the closer of the two candidates (to their own views) on the Vietnam issue; he obtained 44 per cent of the vote from those who placed him and Mr. Nixon equidistant from themselves, and only 13 percent among those who perceived Mr. Nixon as closer.

On a combined liberal-conservative scale of several issues, the slant is just as sharp: McGovern received 77 per cent of the vote from those who called him closer to their own position; 39 per cent of those who saw the candidates equidistant from themselves; and 9 per cent from those who believed themselves more in agreement with Mr. Nixon.

It is the gravitational pull of these ideological forces, overriding party loyalty and bending even the personal judgments of the two candidates' capabilities, that makes the 1972 election different from anything seen in the previous CPS studies.

But what does ideology mean? For younger voters, the authors say, the liberal-conservative spectrum in 1972 was measured largely by attitudes on the Vietnam war and on cultural issues—abortion, marijuana and the like. For older voters and for blacks, the difference was defined principally in terms of economic issues and social issues—crime and unrest.

That ideological differences may be rooted in cultural attitudes is suggested by the fact that "89 per cent of the Democrats voting for Mr. Nixon but only 55 per cent of those voting for McGovern were classified as" being "pro-establishment," rather than leaning to the counter-culture.

Thus, the picture emerges of an election determined, more than any other recent one has been, by the ideological and cultural division in the American society.

Is this the wave of the future? One fact that argues that it may be is the changing makeup of the electorate. Voting turnout rates among the less educated have been declining, to the extent that those who came to the polls in 1972 were 37 per cent college-educated, compared to only 26 per cent in 1964. And the authors say: "It is apparently far easier for college-educated individuals to directly translate issue attitudes into a vote decision than for the relatively less well educated."

None of those who discussed these trends here was prepared to guess whether the Democratic Party or the two-party system would survive this revolution in American politics. The CPS scholars called their study. "A Majority Party in Disarray." Others suggested that with the rise of Independents and the increasing habit of ticket-splitting, it is really the two-party system that is in disarray.

As Burnham commented "The more you mobilize the country along ideological lines, the more you decompose the two parties as representative institutions."

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## DAMAGED NIXON—HOME AND ABROAD

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. STOKES. Mr. Speaker, I again owe thanks to a distinguished citizen for bringing to my attention a revealing lead editorial from the Sunday Times of London. Mr. Cyrus Eaton and I concur that the Times, a strong supporter of the United States and our foreign policies, has correctly interpreted the actions and inactions of Mr. Nixon. Unfortunately, we must also concur that the ability of this particular President to exert the kind of leadership for the Western World, which we deeply expect and need, has been severely damaged. I hope the desire to prove his ability to lead does not send us charging in unwise directions. I commend the following article to my colleagues:

### DAMAGED NIXON

Mr. Nixon's television address last week about Watergate was a dismaying performance. After all the disclosures, and in spite of his concluding nod to "decency, honour and respect for the institutions that have sustained our progress," he showed himself incapable of appreciating the foulness of the actions done in his name. They were mere "abuses," to be dismissed again in an airy half-sentence: "over-zealous people in campaigns do things that are wrong." Yet these actions—the theft, the fraud, the bullying, the lies—were something more than the small change of campaigning. They were a concerted attempt to use the huge power of the American State in the service of one politician and his hangers-on. The men who committed these acts were not anonymous party workers: they were the President's chosen helpers, known to him for years—the very men who had helped get him elected and re-elected as the champion of law and order.

As an alternative defence, Mr. Nixon contended that his "few over-zealous persons" only learnt their tricks from the recent and contagious example of zealots of the Left. Yet as long ago as 1962, a California judge found two men to have engaged in fraudulent and disruptive tactics in the state governorship election. They were Mr. Nixon and Mr. Haldeman, his campaign manager. In 1972 Mr. Haldeman was White House chief of staff. He welcomed strong anti-Nixon protests because they allowed him to characterise all such sentiment as destructive and unpatriotic; and Mr. Nixon had nothing to say in censure of that.

The unanswered charges are more than electoral, and they lie against Mr. Nixon himself. He concealed the Cambodian raids. He pressed hard for systematic spying on Americans at home. He was re-elected President after a campaign during which his subordinates had cheated in every way they could think of. They fabricated evidence against his opponents' personal uprightness: they extorted illegal contributions from companies seeking federal favours: they arranged the burgling of the opposing party's headquarters: they bribed the burglars to silence. After the election, they spent huge sums of government money on refurbishing the President's private houses. Questioned about all this, they lied cheerfully and repeatedly. Through it all, Mr. Nixon was amazingly incurious about what they were up to. Yet at the same time he was suspicious enough of the world at large to tape-record every office conversation he had, without saying a word to his callers.

The argument about the release of those tapes is now set for a long run in the courts. Mr. Nixon's plea for the privacy of the executive is not without merit, though that privacy would have been better protected if the tapes had never been made at all. But politically the issue has moved on. The extent of Mr. Nixon's complicity in the crimes of his staff will probably never be established. The fact might as well be faced: Mr. Nixon is likely to remain President until his allotted span comes to an end in 1976. His calculation on American weariness with Watergate seems in the end well based. What will three more years of Mr. Nixon be like?

For America, they need not be all bad. Watergate has already roused the Congress from a long slumber: presidential power will be the better counter-balanced as a result. The manifold corruptions which flow from the high cost to candidates of campaigning for public office may at last be checked. American lawyers, like American judges and judicial agencies, show signs of a new awareness of their public responsibilities. American journalists may discover—though they would be unwise to count on it—a new appreciation of their importance to the country's political health.

For the West as a whole, there is not even that limited encouragement. Leadership of a kind may still come out of Washington; but international initiatives will be hampered by a broken-backed presidency for the next three years. That is the measure of Mr. Nixon's tragedy: he has allowed mortal damage to be inflicted on his own dearest hopes and he cannot even see that he has done it.

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## THIRST LITTLE CHILDREN

## HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BRASCO. Mr. Speaker, schools have opened around the country this week with the usual fanfare and comments. Everyone has had their say except the children, who usually have no say. They must abide by the wishes and decisions arrived at by adults. Occasionally those decisions remain unmade, and the children suffer accordingly. One such situation revolves about the Federal subsidy for milk programs.

More than 40 million children across the country are finding no milk on their lunch trays, unless local communities or their parents pick up the tab. The Federal subsidy last year for this undertaking amounted to $95 million. As of today, that assistance has been totally wiped out by the President's budget cuts and a lack of action by the Congress.

The President's budget requested only $25 million for this milk program, which comes to a reduction of some $70 million. That sum will barely provide milk for 6 million American school youngsters.

The House decided to go along with the cutbacks proposed by the President. The Senate chose to take different action, seeking a total expenditure of $97 million. Until the conference irons out the differences between the two positions, there will be no subsidized milk for school lunches. In schools possessing no lunch programs at all, the Department of Agriculture will continue to provide children with milk by utilizing leftover funds for day care centers and camps.

Such a lapse in the general school milk subsidy comes at the worst possible time imaginable. Now the price of milk and most other food products has risen to stratospheric levels we would have deemed unimaginable this time last year.

There are other considerations worth taking note of in this equation as well. Many millions of children come from homes where the food dollar is stretched perilously thin. It should be noted that millions of children will be receiving significantly less milk at home because of the unprecedented squeeze inflation has caused on family budgets. As a result, it is doubly imperative for milk to be made available to them in the schools. In the case of this program, a dollar for milk will go a very long, useful way. The overall nutrition of these children is at stake and we have the power to do something about it for the better.

To exacerbate the situation, there is a very real threat of a serious shortfall in the quantity of Government-donated food available to the school lunch program. Many former surplus items now have found their way onto the list of scarce items. Further, a number of food companies, once eager to obtain school lunch business when supply exceeded demand, are now delaying acceptance of local school board contracts in expectation of receiving more lucrative customers later on.

To date, the conferees have not even been appointed. The first steps toward resolving the legislative difficulty involved have yet to be taken here on Capitol Hill. It is sad enough that the difficulty originated with a parsimonious President who feels that it is somehow immoral for the Government to aid children obtain a balanced diet. It is inexcusable for us to compound the situation by allowing an already intolerable situation to drag on indefinitely while children do without one of the basic necessities of life for their growth, health, and well-being.

America possesses and prides itself on what may be called a self-congratulatory folklore. Part and parcel of such a folklore is the claim that we are a child-callous and at times a child-abusing society. Nowhere is this better illustrated than in the case of this milk program.

We beat our breasts and give vent to great indignation over immoralities abroad, ranging from defoliation to famine. All well and good. How, then can we be so indifferent to the well-being of the future of our society; the next generation?

It is the height of irresponsibility to delay conference action any longer.

## ED COMBATALADE SERVED OTHERS

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### HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. JOHNSON of California. Mr. Speaker, for more than a quarter of a century I have known and worked with one of the finest advocates of the wise utilization of our natural resources for the benefit of the public, Ed Combatalade for 26 years Public Information Chief of the Sacramento Municipal Utility District.

In a few days Ed will retire and tomorrow he will be honored for his public service at a testimonial dinner. While I wish that I could be on hand to personally pay my respects to this fine gentleman and dedicated community leader I cannot, and, therefore, I want to pay my respects in this fashion.

Ed Combatalade was known not only for his service to the Sacramento Municipal Utility District but for his untiring efforts in a host of other activities ranging from Boy Scouts to the Cancer Society and including most of all the Sacramento Camellia Festival. Ed was known as "Mr. Camellia" for his leadership in putting on the annual Camellia Festival, which was another tribute to the great city which is the capital of the Golden State, the city of Sacramento.

Ed was a tremendously busy man and yet he was never unwilling to take on a new assignment. Regardless of what the new assignment demanded he got the job done, as is expressed so well in an editorial published in the Sacramento Union last Thursday, September 13. So that I could share with my colleagues something of the meaurse of the man I would like to insert at this point in the CONGRESSIONAL RECORD that editorial entitled "Ed Combatalade Served Others":

ED COMBATALADE SERVED OTHERS

If you want to get the job done, assign it to the busiest member of your staff. This is an unwritten rule practiced by many executives. It gets results. And, it also works in terms of community service. Specifically, consider Ed Combatalade, who retired this month as SMUD's public-relations director and assistant secretary.

Indeed, there are few—if any—Sacramentans who can equal the track record in community service that Combatalade has chronicled in 27 years with SMUD. A human dynamo, he often resembled a juggler—with three or four projects going at the same time.

Combatalade's deep immersion in the mainstream of community affairs involved him in Boy Scouts, Salvation Army, the United Way (as far back as the Community Chest), Rotary Club, Sacramento Metropolitan Chamber of Commerce, Sacramento Historical Landmarks Commission, Sacramento Camellia Society, Sacramento chapters of the American Red Cross, the Cancer Society, the University of California Alumni Association, the UC Grid Club and Friends of the City-County Library.

Some retirees go to pasture gracefully and with no reluctance. Ed Combatalade, we suspect, isn't going to rust out. On the day of retirement, he indicated he had "two or three things in the wind." This means Sacramento County still can count on more of his dedicated service.

Each spring when camellias bloom and plans are readied for the Camelia Festival, Sacramentans fondly will remember Ed Combatalade and his many humanitarian contributions to this community. He has served the Capital City well.

To Ed, as he retires, I would like to urge him not to slow down too much and to keep active in the key community affairs in which his leadership has proved so valuable. We need people like Ed Combatalade.

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## STATEMENT ABOUT NIXON-BREZHNEV AGREEMENT BY GERMAN PARTY LEADER

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### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. CRANE. Mr. Speaker, Helmut Kohl, the new chairman of the Christian Democrats in West Germany, has made a significant statement on the recent Nixon-Brezhnev agreements and their impact on European thinking. Because this statement deserves to be studied by my colleagues in the House, I ask that it be included in the RECORD at this point:

CHALLENGE BY THE UNITED STATES

Helmut Kohl, chairman of the CDU, studies the new tasks for Europe following the conclusion of the agreement between Nixon and Brezhnev:

The changing relationship between the USA and the USSR implies chances as well as risks for Europe. There is danger to the future development of our continent if Western integration politics and all-German detente efforts are accorded the same political value and importance. A European policy looking into the future must therefore be aware of the essential differences that exist between these two elements.

The Western European efforts towards integration which are borne and desired by the governments as well as the populations, are based on an economic union and are determined by common liberal-democratic ideas.

The overall European detente policy, however, aiming at a decrease of tension, at cooperative armament control and at measures of cooperation as well as at a normalization of relations—whatever may be understood by that term—attempts to approach states to one another whose foreign-political considerations and social-political programs remain contradictory.

The debate on the "Nixon-Brezhnev Agreement" is contradictory because the meaning of that agreement for Western integration on the one hand, and overall European detente on the other is assessed very differently.

A halfway correct interpretation of the US-Soviet agreement has to consider the fact that the Atlantic Community does not exist merely to guarantee security, but to harmonize security with peaceful change. While those subjected to a detente euphoria have to watch out in order not to confuse detente efforts with practical realization of detente, the detente pessimists will have to learn that conflicts do not remain forever immutable.

Unlike the past, security in Europe therefore depends on the following interrelated components:

The balance of the military capabilities in Europe.

The peaceful and cooperative structure of the relations between the European nations.

National freedom for integration as an adequate condition for peaceful change in Europe.

The debate on the effect of the Nixon-Brezhnev agreement focuses in the main on the first element. This debate tends to ignore the fact that a military balance alone is no guarantee for security, for security for Europe today also means confidence in the partner's politics. Security for Europe is based on the prerequisite that suspicions be overcome and national egotisms be eliminated. Unfortunately, however, the European states have proved for years to be unable to view their security problem as a common concern.

This inability found its most recent expression in the reserved reactions of the Europeans to the United States initiative for a new Atlantic Charter. The stimulus has not been answered properly to date. Europe threatens to turn overmaterialistic and spiritually lazy. It is not quite without justification that the Americans consider the European defense contribution too little and put big question marks behind the security-political usefulness of the national obstinacies.

Against this background the Nixon-Brezhnev agreement should be soberly assessed as an expression of United States politics. At the same time, it should be clearly stated, however, that these developments have so far not changed the traditional power politics of the Soviet Union. That does not mean that the joint efforts of the West for its own security have become superfluous. On the contrary, the Alliance is more important today than ever.

For that reason the Western European states should consider a realistic reformulation of the security commitments between the USA and Europe and they should give a constructive answer to the concrete aspects of the United States equilibrium policy, i.e. the Nixon-Brezhnev agreement, as well as to the American initiative for a new Atlantic Charter.

In this area the CDU as a self-proclaimed pacemaker of European integration has played a special political role since Konrad Adenauer, for it will take up the idealistic and at the same time practical element of American equilibrium policy and include it in its debate. The new spiritual American challenge must not merely be answered by Europe with materialistic demands and political doubts, but the debate within the Alliance must proceed from a spirit of shared responsibility for the common values of the Alliance.

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## PROTECTION OF HUMAN SUBJECTS

### HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ROGERS. Mr. Speaker, on May 31, 1973, the House passed H.R. 7724, the National Biomedical Research Fellowship, Traineeship, and Training Act of 1973 by a margin of 361 to 5. On September 11 the Senate passed a companion measure. The Senate passed bill contains a new title, "Protection of Human Subjects" which has vast implications.

It is my strong feeling that the Subcommittee on Public Health and Environment should not confer with its Senate counterpart on a matter of such significance until we conduct hearings on the subject. However, it is not my desire to unnecessarily delay this important legislation. For this reason, I am today introducing a bill identical to title II of the Senate bill and announce hearings on this legislation for Thursday and Friday, September 27 and 28. In introducing this legislation, I want to make it clear that I am introducing it simply as a vehicle for hearings and do not necessarily advocate all of its provisions.

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## A COMMENT ON THE TREATY BETWEEN EAST AND WEST GERMANY BY FRANZ JOSEF STRAUSS

### HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. TREEN. Mr. Speaker, this past July a decision of tremendous historical importance was rendered by the West German Supreme Court. The decision interpreted the basic treaty which had been initiated between East and West Germany. The decision of the court gives no comfort to Moscow which has sought to obtain recognition of East Germany as an independent state, thus forever sealing the fate of the East Germans to the brutalities of Communist rule.

Now, Mr. Speaker, this decision is of momentous importance to the United States as well, on account of our position in West Berlin, as part of the four-party agreement. But despite the great significance of this issue there has been surprisingly little in our press about this subject. As a consequence, I am enclosing a commentary by Mr. Franz Josef Strauss, the leader of the CSU Party in Germany, which recently appeared in the "Bayernkurier." I think this will be of interest to my colleagues because it offers another viewpoint on the treaty between East and West Germany:

[From Bayernkurier, Aug. 4, 1973]

FRANZ JOSEF STRAUSS: THE VERDICT OF KARLSRUHE

The practice of deceiving the people is no novelty in German history. That is always especially popular at times when the state of the nation is approaching a dangerous point. Such a point has again been reached. The verdict of Karlsruhe will raise the question who won and who lost. The Federal Government will claim itself to be the winner. It needs optics. It has to pretend towards the citizens that it has a clear conscience. It has to hush up the difficulties it is in. It has to fend off the suspicion of corruption and involvement in unclear affairs which are shaking our state like an explosive almost day by day. It counts upon the citizen's forgetfulness. It praises parliamentarian democracy, but within the main government party tendencies increase towards socialization with Marxist features. Its parvenu functionaries belittle the institutions of a constitutional state whenever they are in their way and they refer to them with an expression of respectability on their faces when they find it useful to utilize them. Thus the government will try to turn the verdict of Karlsruhe—with the support of a thoughtless published opinion with a leftist make-up—into a great victory for Bonn's creators of the basic treaty, Bahr and Brandt. The truth, however, speaks a different language.

The victor of Karlsruhe is not Bahr whose political career aimed from the beginning at serving the Soviets more than the Federal Republic. The victor is not Brandt either whom the waves are beginning to engulf. The victor of Karlsruhe is not the basic law, but the loser is definitely the basic treaty. The victor is not the basic law because the court was put under pressure by the lectures of Ministers Bahr and Jahn, by the intimidating appearance of Mr. Bahlmann, and by the government's paper of June 2, 1973. It is very significant that the menacing parts of that paper with their unchecked and unprovable statements on the possible consequences were classified "not for the public". Thus the court was unable to apply the stringent provisions of the constitutionality on the basis of the principles earlier established by the constitutional court itself. However, the verdict of our supreme court does restitute—even though indirectly via the reasons for the verdict—the right order between the basic law and a dangerous treaty the effects of which do not only touch upon the root of our national existence but on the foundations of our constitution in general.

Why is the loser the basic treaty—and why are consequently Bahr and Brandt the losers? Firstly, the Bavarian government never expected an unqualifiedly victorious decision from the constitutional court considering its structure and the composition of the judges once enforced by the SPD. It was also not to be expected because the formal look of the claim as well as the underlying treaty problem raised questions that cannot be resolved by court.

If one were to pursue this thought, the question might come up whether the constitutional court due to its special structure can at all live up to the complexity of the tasks which are thrown at it every now and then from the fateful course of the political events. One might argue about the method of selecting the judges, for the only criterion for their selection should be the guarantee of independence of that court. One might furthermore go into some of the indiscretions leaked from sources of the neighborhood of the Chancellor and his staff the last few days and which raise again the question whether political decisions of such impact might not tend to overburden even the highest judicial body here and there. To have pointed this out is surely to the credit of those submitting the claim.

But let us forget about that. The respect of the advocates of the claim for the constitutional court is beyond doubt, which cannot be said with as much firmness of the Federal Government. If the loser of Karlsruhe is the basic treaty, it is because now the interpretations of the verdict block the Federal Government's political path in applying the basic treaty in favor of the Soviets who continue to cling rigidly to their old positions—this basic treaty which Bahr and Brandt had hoped to pass on to a fogged-in and paralysed German public without meeting with any resistance. That is a victory for Bavaria. I could also put it more solemnly: a Bavarian victory for the German constitution which was saved once more at a moment when it was already in danger of becoming undermined by a policy of giving-in-first gradually and then faster and faster—to the Soviets and their pendant, the "GDR", with ensuing and no longer surveyable consequences for our inner and outer fate and that of Western Europe. Now the Federal Government must breach the constitution if it wants to pursue that aim.

Once again: What was at stake? The Bavarian constitutional experts knew from the beginning that Bahr had provided the basic treaty with ambivalent formulas which guaranteed that a contradiction with the basic law would be hard to prove. Thus the objectives had to be quite different ones from the start: to confirm superiority of the basic law over the basic treaty by means of interpretation and clarification. It was not the letter that had to be destroyed, but the spirit in which it had been conceived.

The aim was not to liquidate the object as such, but to limitate its dangerous ambivalence in view of such parties to the treaty as Brezhnev and Honecker who in reality gave virtually nothing but were conceded decisive things by Bahr and Brandt. The basic treaty, a dubious agreement, whose immediate as well as long-range effects are probably worse than was originally anticipated by its opponents, has now been tied to an interpretative restriction which does not only leave the conception of Germany on the table of history, and which does not only bind future governments not to undermine the constitution as they please, but which also forces the present government to move from now on within the framework set up by Karlsruhe if it wants to avoid committing an open breach of the constitution. Thus Bavaria has struck a decisive blow against the ambivalent policy of Brandt and Bahr which had heretofore been pursued with great audacity, i.e. not really to defend its own interpretation against the "GDR" and hence to accept their interpretation while indignantly maintaining the opposite at home.

With that Bahr's negotiating basis which led to this treaty, is now hitting back at the Federal Government. The court has put Bahr and Brandt in an embarrassing situation; that has led the government into a rut from which an escape seems hardly possible. Limitation of the treaty by the constitutional court becomes evident when viewed against the background of the political intentions underlying this treaty. By a coexistence "à la German" the provisions of the basic law were to be undermined and suppressed to the point where the basic treaty would have begun to relieve the constitution and the Federal Republic would have become a joker of Soviet hegemony in a helpless Europe.

Why is the constraint to which Bahr and Brandt are going to be subjected in the future application of their treaty due to the stringent and binding limits of interpretation drawn in Karlsruhe, so meaningful? The background of the court's interpretation must make clear the extent to which the two German creators of the treaty have already deceived their own people. For use at home they maintained that the treaty leaves everything open, that it still enables reunification and upholds the right to self-determination. The Eastern party to the treaty, however, never went along with that interpretation. It left no doubt from the beginning that this kind of approach was wrong, i.e. not shared by the East, that neither the wording nor the spirit of the treaty permitted such an interpretation.

It is typical of the German eastern policy that it had to transmit to the communists with a twinkle of the eye that Bonn certainly agreed with them, while Bonn's assurances at home, on the other hand, were ignored by the East because they were so important for the relationship between the two sides. The constitutional court also had to cling exclusively to the government's treaty interpretation because it had no other choice in view of the damages threatened by the government. Of course, the court could not very well proceed from the public pronouncements of the Communist party to the treaty. Besides, forecasts and prophecies were transmitted to the judges not in the form of genuine information, but in the guise of world-political horror stories. For in a proceeding before the constitutional court the government did not have to prove the truth of its allegations, contrary to normal proceedings, but it demanded blind faith from the court in unproven statements—according to the motto: "We did the negotiating, not you. Only we know the political consequences if the court does not rule in our favor". That is coercion. For example, Bahr's contention that the United States would not have vetoed "GDR" admittance to the United Nations, but that the Soviets would have vetoed the FRG's entry, that thus in case of failure to conclude the treaty the communist side would have obtained everything while leaving Bonn out in the cold, would certainly not have held out in a civil proceeding.

By the way: Did it not occur to anyone that Bahr with that statement conceded bankruptcy of his policy and that he used the fact of bankruptcy as an extenuating circumstance to reach a verdict that would make him look good?

Bahr and Brandt will not be able to take things as easy as that anymore. Now they have to submit to the injunctions imposed by the constitutional court. And that will increase their embarrassment, vis-a-vis the Soviets, because the latter will naturally stick by the letter of the treaty and not join in the game which the government has in the past played to smoothen the grounds at home. There is no more ambiguity as far as the basic treaty is concerned. The basic law throws a binding light on this treaty. The special relationship between the Germans on both sides which the government tried to blur more and more to please Moscow, has been reconfirmed at least in part. Our constitution has not been murdered. It lives on. And it owes that to Bavaria.

Once again the German south has made a decisive contribution. To have been able to stop the Federal Government is a deed the political consequences of which cannot yet be surveyed. It is a pity that this deed was only Bavaria's great moment and not that of the entire opposition and all federal states ruled by the CDU. These have missed a historical moment in the fight against a policy that was dangerous from the start. Unfortunately, it was the formal-legal and civilian-legal thinking, the fear to lose which won the upper hand. But Bavaria had to act as it did. It also had to enforce employment of the Federal Constitutional Court against a dangerous policy, in order to avert greater damage from our people and its liberal system.

If the Federal Government were to treat the basic treaty even after this verdict as a treaty on division and recognition in accordance with past models and Bahr's doctrine of proclaiming "new truths" which must not be published before "advanced circumstances" allow for it, then it would commit a constitutional breach and could, would even have to, be again taken before the court. Without this verdict and the reasons for it, that means without Bavaria's claim the Federal Government would be freewheeling in its interpretation of the basic treaty and could act according to its not seldom used motto: Who cares about my interpretation of yesterday. Bavaria has reached its goal. History will give it credit for that.

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## WHERE WILL HENRY MOONLIGHT—AT STATE OR NSC?

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ASHBROOK. Mr. Speaker, regarding the confirmation of Dr. Henry Kissinger as the new Secretary of State, too little has been heard concerning his proposed dual role at the State Department and as head of the highly important National Security Council. The function of the NSC is to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. It goes without saying that, in the crisis-packed times in which we live, the vital importance of the NSC demands the efforts of a full-time head. The same is, of course, true at State despite the downplaying of that Department's role in foreign policy formulation in recent years.

Another possible problem with this dual-role proposal concerns legal implications. In a letter to Chairman William Fulbright of the Senate Foreign Relations Committee, Mr. John D. Hemenway, who appeared in opposition to the Kissinger confirmation last Friday, raises the question as to whether Dr. Kissinger can legally hold down these two major positions. This question may well be a matter for the Comptroller General, or at least, consideration of corrective legislation to insure that leadership roles in critically important governmental departments and agencies are not subjected to a new type of high-level moonlighting.

The Hemenway letter, a copy of which was addressed to me, follows:

Washington, D.C.,
*September 17, 1973.*

Senator J. William Fulbright,
*Chairman, Senate Foreign Relations Committee, U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: At his confirmation hearing, Dr. Henry A. Kissinger has indicated his intention to continue to exercise his present National Security functions in addition to the duties of Secretary of State (if confirmed).

It is evident from the confirmation hearing record that you are concerned over the implications of this concentration of power. I know that there are a number of members of the Congress in both houses who also are sufficiently concerned to ask the Comptroller General for his opinion on the legality of Mr. Kissinger's intentions to exercise the functions of both positions. Since your Committee has jurisdiction in this matter, it occurred to me that you might feel that it is prudent for the Committee to request the Comptroller General's opinion as to the legality of Dr. Kissinger's intentions prior to the vote on confirmation rather than afterwards.

Since I share an uneasiness over one man concentrating so much power in his own hands—especially, as you can judge from my testimony, Dr. Kissinger—I have drawn together some of the pertinent statutes that seem to suggest that there is *no legal way* in which Dr. Kissinger can continue to exercise his NSC functions when he becomes the Secretary of State.

Title 50 USC 402, which determines the composition of the National Security Council and designates an "executive secretary" who runs things, defines his power as appointing NSC staff members, assigning duties and salaries, among other things. Mr. Walt Rostow and Mr. McGeorge Bundy, like Kissinger, left the post of "executive secretary" vacant. *De facto*, each filled the post himself, but this was not inconsistent with Title 5 USC 3346 and other statutes that provide for filling vacancies on a "detail" basis.

It is quite another matter to transfer power and authority of this kind from one agency or branch of the executive to another. It simply is not true, as stated by Dr.

Kissinger to your Committee, that the President can assign him (as Secretary of State) to whatever duties in the national security field he wishes. The President must also follow the laws laid down by the Congress.

In fact, by proposing to execute the duties of two distinct jobs defined in statute, Dr. Kissinger indicates his clear intention to transfer certain duties to the operating head of the Department of State, i.e., himself. There is no way of reconciling such a practice with other statutes, which conflict with Dr. Kissinger's stated intention. Since Title 5 USC 5533 prohibits dual compensation, Dr. Kissinger's "double duty" will presumably go uncompensated, i.e., it will be voluntary extra duty. However, Title 31 USC 665(b) forbids the government to accept voluntary services, except in an emergency to save life or property.

Voluntary services being forbidden and double compensation being denied, the dual role desired by Dr. Henry A. Kissinger—believed to be a power grab by many people—appears to be illegal. No doubt, it was against just such untoward concentrations of personal power that the Founding Fathers designed the checks and balances of the Constitution of which your Committee's deliberations are a part.

Since I know that you would want your Committee to be cognizant of this problem, I have delivered this letter by hand to the Committee Hearing Room prior to the vote on 18 September, 1973.

Sincerely yours,

John D. Hemenway.

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## IMPORTANT CAMPAIGN RESOURCE

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. HARRINGTON. Mr. Speaker, I have introduced H.R. 10224, a bill to extend public financing to Senate and House elections. The bill had been previously introduced in the Senate on July 31, 1973, by Senator Edward Kennedy (D-Mass.), and has been endorsed by Senator Hugh Scott (R-Pa.), the Minority Leader of the Senate.

Under the present system of financing political campaigns, money clearly exercises undue influence. It is today's most important campaign resource. Since money is a way for relatively few people to maintain their control over politics, it often surpasses organization, volunteers, issues, and sometimes even good candidates in importance. Senator Kennedy has said we have the finest elections and representatives money can buy. I agree with him that this situation is a national disgrace.

One dramatic example of the influence of money is the general practice of appointing large campaign contributors to be ambassadors, the men and women who represent our country before foreign governments. Some of the more blatant practices of appointing large campaign contributors to ambassadorships are illustrated below in an excerpt from "Auction," a New York Times editorial appearing on April 4, 1973:

> It may be that Walter H. Annenberg, the current Ambassador in London, has been able to renew his lease by giving $254,000 last year.
>
> Arthur K. Watson was appointed to France in 1970 and resigned last fall. He donated $40,000 to the G.O.P. in 1968, $22,000 in 1970, and $300,000 in 1972. The new Ambassador to France is his brother-in-law, John N. Irwin, 2d, who gave only $14,000 in 1968, $16,500 in 1970, but $52,500 in 1972. As a former Under Secretary of State, Mr. Irwin is one bidder who might have made it by merit alone.
>
> John Krehbiel just obtained the embassy in Finland. He gave $5,500 in 1968, $1,000 in 1970, and $12,500 in 1972. Alas, not much for Finland.
>
> Anthony D. Marshall bid in Trinidad and Tobago for $25,000 in 1968, a mere $1,000 at midterm, and $49,505 last year.
>
> John P. Humes has Austria for $43,000 in 1968, $13,000 in midterm, and $103,500 last year. (If that seems a little high for Vienna minus the Hapsburgs, he may have been bidding discretely for Rome or even Paris.)
>
> Henry E. Catto, Jr. has El Salvador for $10,750 in 1968, $2,000 in midterm, but $26,000 last year.
>
> Vincent de Roulet obtained Jamaica in the 1968–69 auction for $44,500 then and $32,000 last year. But relatives can also bid. Mr. de Roulet's father-in-law is Charles S. Payson who gave $28,000 in 1968, $32,000 in 1970, and $88,000 last year. At first glance, that seems like an awful lot; but then Jamaica really is a gem of an isle. (At p. 40)

Then there is the case of Dr. Ruth L. Farkas, who, along with her husband, donated $300,000 to the Nixon campaign in 1972. For this, Dr. Farkas was named ambassador to the small nation of Luxembourg.

The enormous costs of modern-day campaigns illustrate the importance of money. Since candidates usually cannot personally finance these huge costs, they have to turn to large individual and special interest contributors. When an officeholder, however, receives large contributions from individuals or special interests, he or she may incur obligations. These large contributions lead to a pattern of influence whereby: First, the contributors gain access to the representative; second, the candidate wants to curry their favor and will will act accordingly; and third, there is a tendency to listen more often to what the contributor has to say. This influence of the large contributor may conflict with the representative's opinions or with the wishes of his constituents. As a result, the present system of campaign finance gives some people greatly disproportionate influence over public policy, and reduces the impact of the average citizen on his elected officials.

There are other drawbacks to the present system. First, the country is deprived of valuable political talent by excessive campaign costs. Many qualified men and women are discouraged from running by the high costs and by refusing to take money from special interests. Others are defeated by their lack of funds. Second, candidates are forced to spend an inordinate amount of their time personally raising money, either at cocktail parties and testimonial dinners, or by making phone solicitations.

The approach to reform of campaign financing, until recently, has been a negative, loophole-ridden one. Candidates have been prohibited from taking money from certain suspect sources and they have been forced to make public their sources of financial support. This latter effort was not completely successful in 1972. Some $10 million was received in a secret campaign fund by the Committee To Re-Elect the President before the 1972 campaign law disclosure provisions became effective and thus the public was prevented in many instances from knowing who contributed enormous sums of money to keep Richard Nixon in office. This traditional approach has a basic flaw, in that while it seeks to prevent candidates from taking money from some sources, it does not provide them with alternative sources.

The bill I have proposed with Senator Kennedy provides for the public financing of Senate and House election campaigns. It bars the option of private financing. Public finnacing will insure that great personal wealth, or access to it, will not be a shortcut to public office, and it will encourage elections in which there are genuine contests between men and women appealing to constituents for their votes in return for promised performance, rather than to the risk in return for special favors. With the public financing of campaign costs and the elimination of large private gifts, the critical defect in election financing—the forced financial dependence of candidates on a few wealthy individuals and special interests—will be corrected.

### ANALYSIS OF BILL

Except for the provisions enunciated below, the provisions of this bill are essentially identical to the provisions of the dollar checkoff now applicable to Presidential elections by Senator Russell Long's "Presidential Election Campaign Fund Act," Public Law 92–178, 85 Stat. 497, 562–575—December 10, 1971—as amended by the Debt Ceiling Act, Public Law 93–53, 87 Stat. 134, 138–139—July 1, 1973.

The Bill:

First, extends Senator Long's act to include public financing for general and special elections for the Senate and House, but not for primaries or runoff elections.

Second, bars the option of private financing by major party candidates in Presidential, Senate, and House elections by making public financing mandatory for major party candidates. Under the Long act, a Presidential candidate has the option of using either public financing or private financing for his campaign.

Third, establishes on the books of the Treasury a Federal Election Campaign Fund, to be funded through the dollar checkoff and general appropriations acts of Congress—which can under this bill appropriate funds to make up deficits after the operation of the dollar checkoff—and from which public funds will be made available to eligible candidates.

Fourth, increases the amount of the dollar checkoff from $1 to $2—$4 on a joint return.

Fifth, follows the basic formula in the dollar checkoff for allocating public funds among candidates of major and minor parties.

A major party is defined as a party which received more than 25 percent of the votes for the office in the preceding election. A Presidential or Senate candidate of a major party is entitled to receive public funds in the amount of 15 cents per eligible voter. In Senate elections, a floor of $175,000 is provided for major party candidates. A major party candidate for the House is entitled to $90,000 or an amount based on the average expenditure per voter in the two preceding elections in the district, whichever is greater.

A minor party is defined as a party that received between 5 and 25 percent of the vote in the preceding election. A minor party candidate will receive public funds in proportion to his share of the vote in the preceding election, with the possibility of increasing his funds on the basis of his performance in the current election.

A new party is defined as being neither a major or minor party. A candidate of a new party is entitled to receive public funds in proportion to his share of the popular vote in the current election, if he receives more than 5 percent of the vote in the election.

Sixth, makes funds available for expenditures by a major party candidate during the period of his nomination to 30 days after the election. Funds will be available for other candidates during the longest period in which they are available to a candidate of a major party.

Seventh, forbids individuals or committees not authorized by a candidate receiving public funds.

Eighth, will be administered by the Comptroller General—as is the dollar checkoff—and will go into effect for the 1976 congressional elections.

Ninth, has an estimated cost of $150 million in a Presidential election year and $100 million in the off-year congressional elections. Thus the bill will have an average annual cost of $60 million, spread over a 4-year election cycle.

### CONCLUSION

An open political system is our goal. To reach this goal, political candidates must be free from the damaging influences of big money. The bill will democratize the system by making candidates responsive to the electorate as a whole and not to a few large contributors.

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## HAWAII: MOST BEAUTIFUL SPOT ON EARTH CONTAINS WETTEST SPOT ON EARTH

### HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. MATSUNAGA. Mr. Speaker, it may surprise most people who have visited Hawaii, enjoying the faultless climate and our beautiful beaches, but the U.S. Interior Department's Geological Survey has just reminded us that the "wettest spot in the world" is located in Hawaii.

Annual rainfall on Mount Waialeale, on the island of Kauai, my birthplace, averages more than 450 inches. Ironically, only 14 miles away in the town of Waimea, it rains only 20 inches a year.

The islands of Hawaii, with their many distinct geological features, could comprise a continent in themselves. Many areas such as Mount Waialeale are veritable swamps, while adjacent lands could almost be classified as deserts.

The opportunities given by such natural laboratories are not to be missed. Our world population is exploding and research must be done to utilize all available lands for agriculture. One of the most crucial factors is that of rainfall. It is hoped that with further geological surveys such as this, we may achieve a better understanding of the complex hydrology of Hawaii and other mountainous, semitropical areas.

I trust that my colleagues and other RECORD readers will enjoy the Geological Survey news release about Mount Waialeale, which I offer for inclusion at this point:

### WORLD'S WETTEST SPOT IS IN UNITED STATES

Mt. Waialeale (pronounced why-ah-lay-ah-lay) on the Hawaiian Island of Kauai averages 451 inches of rain a year, making the 5,148 foot peak the wettest known spot on earth, according to U.S. Geological Survey, Department of the Interior, scientists.

Working in cooperation with the National Weather Service USGS hydrologists have been measuring rainfall on Mt. Waialeale for 62 years as part of a cooperative program of hydrologic data collection.

W. L. Burnham, hydrologist and Chief of the USGS Hawaii District, said: "The water supply problems in the Hawaiian Islands are not due to lack of rainfall but rather to large variations in the distribution of rainfall. For example, about 14 miles from the summit of Waialeale where it rains about 350 days a year, lies the town of Waimea which receives about 20 inches of rain a year."

The Geological Survey spokesman explained that the unique topography of Mt. Waialeale, the orientation of its sheer mountain walls, and its position approximately in the center of the 555-square mile Island of Kauai tends to concentrate and "wring" most of the moisture out of the prevailing trade winds, leaving little moisture for areas lying in the "rain shadow" of the mountain mass. "On a lesser scale, similar extreme ranges in annual precipitation within short distance exist on most of the major Hawaiian Islands," Burnham said.

"Mt. Waialeale is really a unique natural laboratory," Burnham said, "that gives us a chance to investigate an extreme condition—the world's wettest spot—in order to perhaps better understand the complexities of the hydrology of Pacific island environments."

Systematic rain gaging began on Waialeale in 1911, and in 1920 a cumulative storage gage was installed which permitted the beginning of a long-term record of average annual rainfall. Since 1920, the unadjusted records from the storage gage shows the mountain top has averaged 451 inches of rain a year, and in 1948 reached a record of 624 inches. "These average figures are certainly conservative." Burnham said, "because turbulent wind conditions around the mountain top and the generally severe climate tend to reduce the ability to record true total rainfall. Furthermore, runoff volumes from a small, instrumented catchment area beside the gage and data from a supplemental storage gage indicate that the long-term average figures may be several percent less than actual rainfall."

Although other areas have experienced some years with higher rainfall, notably the 905.12 inches that fell over Cherrapunji, India, in 1861, none are known to have recorded long-term average annual rainfall to equal Waialeale's. Cherrapunji, however, comes very close, according to the U.S. Army Natick Laboratory, with a long-term average annual rainfall of 450 inches, followed by Debundscha, Cameroon, with 405 inches. By comparison, the average annual precipitation in the U.S. is about 30 inches and Washington, D.C., receives about 40 inches.

Until quite recently, the rainfall on Waialeale was collected in a "super-gage", a four-foot high copper collector that could measure up to 960 inches of precipitation. The huge size of the rain gage was necessary not only because of the huge volume of rain, but also because the once arduous trip to the gage was only made about once each year. Until the mid 1960's, the gage was reached only after a 3-day slog on horseback and foot through sometimes belly-deep mud. Now the gage is visited by helicopter, but even these flights—made about four or five times a year—are restricted to temporary periods of clearing that sometimes require measurements to be completed within 15 minutes.

In March of 1968, USGS scientists installed a new automatic recording gage at the station an Waialeale. For the first time, records of rainfall on an hourly basis were being collected and analyzed. For example, they note that the greatest hourly rate of rainfall recorded by the new instruments is the 3.07 inches that fell on January 31, 1971. The highest daily total was the 20.01 inches registered during January 31, 1969, and the monthly high accumulation amounted to 90.07 inches during April of 1971. As of July 26 of the current measurement year, a total of 199.0 inchs of rain have been recorded over Mt. Waialeale.

For the past several years a number of areas in the Hawaiian Islands have been suffering moderate to severe drought conditions. This condition has also affected the world's wettest spot. The annual totals for 1971 and 1972 were 390.23 inches and 350.20 inches, respectively, which are well below the long-term average of 451 inches, but still a long way from being arid.

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## MEMORIAL TO T. R. ROOSEVELT IN BUFFALO IS EXPANDED

### HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. DULSKI. Mr. Speaker, nearly 7 years ago the Congress approved and the late President Lyndon B. Johnson signed into law authorization for preservation of the site in Buffalo, N.Y., where Theodore Roosevelt took the oath of office as President in 1901.

There was much to be accomplished, particularly by our local citizens, before this memorial could be dedicated. But with the sincere dedication of many individuals and organizations, the memorial was saved from demolition and has been restored.

On the anniversary this year, the continued efforts of many of these same people provided another restored portion of the structure which is known in Buffalo as the Wilcox Home.

The Junior League of Buffalo has spearheaded the restoration efforts and last week opened to visitors the carefully and authentically restored dining room.

The cooperation and support of our citizens in this project has been most gratifying. It has been truly a community effort.

As the sponsor of the enabling legislation, I am most pleased at the success of the project and include with my remarks two articles relating the latest developments:

[From the Buffalo Evening News, Sept. 14, 1973]

### Restored Dining Room Opens at Wilcox Home

A restored bit of Buffalo's past sprang to life today when the doors were opened to the refurbished dining room of the Ansley Wilcox mansion at 641 Delaware Ave.

The day picked for the ceremonial opening is the 72d anniversary of the inauguration of Theodore Roosevelt as President following the death earlier on Sept. 14, 1901, of President William McKinley.

The dining room was restored through the efforts of the Junior League of Buffalo, which two years earlier restored the home's library, the room in which President Roosevelt took the oath of office.

In both cases, the rooms have been restored through the use of photographs taken at the time of the history-making events of 1901.

The dining room has a large dining table and chairs, a handsome buffet and a small table from which Mr. Wilcox is said to have eaten his breakfast each day as he gazed at his garden.

Frank D. Leavers, president of the Theodore Roosevelt Inaugural Site Foundation, presided at today's brief ceremonies, declaring, "It's unbelievable—the number of hours the Junior League members have devoted to the research needed to restore this room."

Mrs. Jane Sanders, who heads the Junior League committee for the restoration project, responded that "the sheer fun of doing the job has been our reward."

Andrew J. Morrisey, registrar of the City Department of Vital Statistics, presented a certified copy of President McKinley's death certificate. Signed by Dr. H. R. Gaylord, it lists the cause of death as gangrene.

Mr. Morrisey noted that, with modern drugs and medical know-how, President McKinley probably would have recovered.

The Wilcox home now is known officially as the Theodore Roosevelt Inaugural Site Foundation and is managed by the National Park Service.

A reception for donors was held this afternoon by the Junior League. The Master Chorale of Western New York will present "An Evening With Theodore Roosevelt" in several performances between 7:30 and 9 this evening.

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[From the Buffalo Courier-Express, Sept. 15, 1973]

### Roosevelt's Elevation in 1901 to Presidency Marked Here

The 72nd anniversary of Theodore Roosevelt's ascendency to the presidency upon the death of President William McKinley, was commemorated Friday by the dedication of the dining room in the Wilcox Mansion, 641 Delaware Ave. Roosevelt took his oath of office as president in the mansion on Sept. 14, 1901.

The dedication, which included the unveiling of a plaque honoring donors to the mansion, a reception and an evening of music, also marked the second anniversary of the Junior League of Buffalo's efforts to preserve the historical site.

While the dining room itself has no special historical significance, it is directly next to the morning room, where Roosevelt, the country's 26th president, held his first cabinet meeting. Additionally, Mrs. Barbara Brandt, of the Junior League, reported there is no doubt that President Roosevelt ate in the dining room.

#### FAMILY PORTRAITS

The importance of the dining room, according to Mrs. Brandt, is its capturing of the atmosphere of 1901. Included in the furnishings of the room are portraits of the Wilcox family and authentic tea and silver services, donated by Wilcox family and friends.

The furniture in the room consists of reproductions of the Queen Anne period. Taken as a whole, Mrs. Brandt said the room gives a good picture of "the life and that time in Buffalo, at the turn of the century."

Efforts by the Theodore Roosevelt Inaugural Site Foundation will continue to restore other rooms in the house. Mrs. Brandt reported that no final decision has been made on which rooms will be next. Other rooms restored include the library where the warrior-politician took the oath of office and the morning room, where Roosevelt waited before being sworn in.

McKinley was shot Sept. 6, 1901, while shaking hands at the Pan-American Exposition. His assailant, a self-proclaimed anarchist, Leon F. Czolgosz, was executed Oct. 29, 1901, in Auburn State Prison. Roosevelt arrived in Buffalo 12 hours after McKinley's death and stayed in the home of attorney Ansley Wilcox.

#### 17 SONGS PERFORMED

The evening of music by the Master chorale of Western New York was entitled "An evening with Theodore Roosevelt." The 17 songs performed were written during stages in his life, and the music captured the man and the times in which he lived.

Musical director Carl Druba took his 35-member chorale through renditions of "The Battle Hymn of the Republic," "The Sidewalks of New York," and many other tunes which had the 100 persons in the audience tapping their feet and singing along with the chorale.

#### NARRATIVE HISTORY

In between the songs, a narrative history of Roosevelt's life, written by two chorale members and spoken by an assistant at the inaugural site, kept track of Roosevelt's heroics and accomplishments from his days at Harvard to his Nobel prize for securing the end of the Russo-Japanese War.

The high point of the one-hour concert came during a four-song segment depicting Roosevelt the Soldier. "The Rough Riders," "Ta-ra-ra-boom-de-a," "Hot time in the Old Town Tonight" and "Heroes of San Juan Hill" had the audience roaring its approval.

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## HAS MINIMUM WAGE LAW OUTLIVED USEFULNESS?

## HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. McCLORY. Mr. Speaker in connection with our consideration today of the veto by President Nixon of the so-called minimum wage bill, it seems most appropriate to consider the validity of this type of legislation both as a social and economic measure.

Mr. Speaker, the history of this legislation was reviewed recently in an article by Richard Nenneman of the Christian Science Monitor, which appeared in the Saturday, September 8, issue. The article indicates that this type of legislation—particularly as applied on a national basis—may have outlived its usefulness.

In my own case, I have opposed minimum wage legislation in reecnt years because of concrete factual information supplied to me directly by those concerned with the employment of high school and college age students, whose opportunities for partial self-support are oftentimes denied because of minimum wage laws. Enactment of a minimum wage, expected to increase shortly to $2.20 an hour, could well deprive many of those who most require employment of the chance to learn and hold a job.

Mr. Speaker, Mr. Nenneman's article is most convincing and it would seem most appropriate to include it in the Congressional Record on this day when the minimum wage bill was actively debated and the President's veto of the bill decisively sustained by the House of Representatives.

The article follows:

### Knocking Down a 1930's Prop

(By Richard Nenneman)

Is the minimum wage one of those intrusions of government into the free market economy that has outlived its usefulness?

President Nixon told his press conference this week that he would veto the current legislation Congress passed, increasing the minimum wage to $2.20 an hour. This amounts to an increase in the minimum wage of 38 percent, he noted. He claimed it would also have the effect of increasing joblessness and would hurt unskilled labor the most. (The jobless rate among the unskilled is higher than in other areas; yet it is those at this end of the economic ladder the minimum wage is designed to help.)

The excuse for most government economic regulation is that it is initiated to correct some weakness in the free system. Minimum-wage legislation in this country dates back to the depression days of the 1930's. Labor was superabundant, still largely unorganized, and easily taken advantage of.

The first minimum-wage legislation was contained in the Davis-Bacon Act of 1931, which applied a minimum wage to federal public-works projects. The first general minimum-wage bill to become law was passed in 1938, establishing a base pay of 25 cents an hour—if you can believe such a figure some 35 years later!

The present minimum of $1.60 an hour has been arrived at by many steps, most of which have also increased the number of workers covered by the law. The new law would have increased this to $2 an hour immediately, and to $2.20 by next July.

If the minimum wage does not keep pace with the general price level, it in time loses its significance. Thus the reason for the periodic increases in the rate.

On the other hand, there are other channels by which employers can be kept from paying unfair wages. Union workers represent only about one-fourth of the labor force in the country, but they have the means to call attention to unfair situations affecting workers in general. Public pressure can also be brought to bear through the media.

The negative side of the minimum wage is that it is at least claimed that it has tended to freeze marginal workers out of a job at all. It is certainly true that high labor costs tend to promote the introduction of labor-saving machinery.

This of course works two ways: Such machinery puts some workers out of a job, but gives other workers jobs in more sophisticated industries. The growth of the computer industry has had exactly such an effect. And it is true that this nation's competitive position is benefited by its ability to stay at the front of the high-technology line.

But we should all be disturbed by the fact that each period of economic boom since World War II has topped out with a slightly higher level of unemployment than the previous boom.

This seems to indicate that the U.S. economic machine, a combination of a free economy plus government intereferences of which the minimum wage is just one example, is not needing all of the labor force becoming available to it. And, in particular, it is not absorbing the younger and the unskilled as fast as it ideally should. Whether this is solely because of the level of the minimum wage is another matter, but it is probably at least partly due to that fact.

The exploitation of one human being by another, or by a corporate organization, is not something to be tolerated by a humane society. The continued existence of a viable democracy, in fact, depends on the relative satisfaction of its voters, who are also consumers and workers.

But the existence of the minimum wage also deprives some workers of jobs. One may say that anyone worth anything should get $2 or $2.20 an hour today, but that isn't the point. The minimum wage is a kind of base that sets the pace for many industrial wage rates that are much higher than it is. When the minimum goes up, they all climb too, albeit the adjustment is not automatic or immediate. And that is where many a marginal worker is frozen out of a potential job.

The job we have to do is balance the legitimate desire to prevent human exploitation with the chance for a job in a society that dignifies work.

What is difficult to prove, for those who want a freer economy, is to what extent the effects of regulations such as the minimum wage are negative as well as positive. C. Lowell Harris, economics professor at Columbia University, notes in an article in the current issue of the Intercollegiate Review:

"Somehow, one suspects, the weaknesses of the marketplace will continue to get publicity while the defects of regulation will be largely ignored or overlooked or rationalized. Naive faith in political processes seems to survive the lessons of experience."

President Nixon is basing his veto of this increase in the minimum wage on its immediate effects on inflation and unemployment; he thinks both would be negative. I think he is right on both counts.

But I would go one step further, a step no one in public life may find it feasible to take, and question whether this is not one of the social supports put in place a generation ago that no longer is needed to prop up the floor of our economic life.

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## ECKHARDT OPEN BEACHES LEGISLATION

### HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ECKHARDT. Mr. Speaker, in the past few years, there has been an increasing encroachment on what in the past has been considered a public right of use and access to the Nation's ocean shorelines. Despite centuries-old doctrines which favored public ownership and use of coastal areas, both private individuals and industries are removing massive amounts of beaches from public use by fencing off or enclosing the land in front of public beaches.

The urgency of the problem of the rapidly diminishing beaches is of such importance to the entire Nation that Federal and State joint action is necessary to solve the problem. The beaches of the United States are a heritage of all of the people of the Nation. Both the present and future generations of Americans should have the right to the enjoyment of this most important natural resource.

For these reasons, I have introduced the National Open Beaches Act. This act adds an additional title to legislation passed by Congress in 1968 which authorized the Secretary of the Interior, cooperating with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources. Following is a summary of the new title which will establish a national open beaches policy.

#### SECTION 201

The first section contains the definitions of various terms used within the legislation, including "sea" and "beach." "Beach" is that area along the shore of the sea affected by wave action directly from the sea. "Sea" includes the Atlantic, Pacific, and Arctic Oceans, the Gulf of Mexico, the Caribbean and Bering Seas, and the Great Lakes.

#### SECTION 202

The national interest in assuring that the public shall have free and unrestricted right to use the beaches of the United States is set out in section 201.

#### SECTION 203

Section 203 prohibits the construction or use of any obstructions or barriers which interfere with the right of the public to enter, leave or use the public beaches.

#### SECTION 204

This section provides that the U.S. Attorney General or a U.S. attorney may bring an action in a Federal district court to: first, establish and protect the public right to beaches; second, determine the existing status of title, ownership, and control, and third, condemn whatever easements are necessary to assure the public's right of access and use of the beaches.

Allowing the Federal Government to bring suits to establish and protect the public's right to beaches anticipates that through litigation existing State statutes can be clarified and expanded to clearly establish the public's right of access to the beaches. In most coastal States, the right of access to the beaches under common law is clouded. While statutes refer generally to public ownership of the beaches, they do not address the problem of the public's right of ingress and egress. Litigation invoking such doctrines as dedication, prescription, the public trust and custom could clearly establish the public's right of access through a more efficient and inexpensive manner than governmental condemnation.

#### SECTION 205

Currently when litigation is brought to establish a public right to the beaches, most States place the burden of proof of the public right on the party seeking to enforce that right. Section 205 creates a rebuttable presumption in favor of the public right to enter and use ocean beaches. Thus the burden of proof will be shifted to the party seeking to bar the public from entry.

#### SECTION 206

The authority of the States over their lands, including the control of the public beaches on behalf of the public, is safeguarded by section 206. Land recovered under this act shall come under the ownership and control of the State if the State provides 25 percent of the funds used to acquire land through condemnation.

#### SECTION 207 AND SECTION 208

Sections 207 and 208 recognize the importance of a Federal-State partnership in securing the public's right to the beaches. The Secretary of the Interior is given responsibility for the administration of this legislation and shall determine when court actions under this act shall be brought.

The Secretary of the Interior is also instructed to place the research facilities of the Federal Government at the disposal of the States. This section envisions inter-agency cooperation so that the historical, geological and geodetic information and research facilities of the Federal Government will be shared with the States.

#### SECTION 209

The Secretary is authorized to provide to the States 75 percent of the funds necessary to establish and implement open beaches projects. To obtain the Federal funds, the States must satisfy the Secretary that they have taken steps to secure the public right to the beaches.

#### SECTION 210

Section 210 authorizes the Secretary of Transportation to give financial assistance to states to develop and maintain transportation facilities necessary for the public access to the beaches.

A copy of the bill follows:

#### H.R. 10395

A bill to amend the Act of August 3, 1968, relating to the Nation's estuaries and their natural resources, to establish a national policy with respect to the Nation's beach resources.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources, and for other purposes", approved August 3, 1968 (Public Law 90-454;

82 Stat. 625; 16 U.S.C. 1221 et seq.) is amended as follows:

(1) by inserting immediately after the enacting clause the following:

"TITLE I"

(2) the first sentence of the first section of such Act is amended by striking out "That" and inserting in lieu thereof "Section 101."

(3) Sections 2 through 6 of such Act are renumbered as sections 102 through 106 respectively, including all references thereto.

(4) by striking out "this Act" each place it appears and inserting in lieu thereof at each such place "this title".

(5) by adding at the end thereof the following new title:

"TITLE II

"SEC. 201. As used in this title the term—

"(1) 'Secretary' means the Secretary of the Interior.

"(2) 'Sea' includes the Atlantic, Pacific, and Arctic Oceans, the Gulf of Mexico, and the Caribbean and Bering Seas, and the Great Lakes.

"(3) 'Beach' is the area along the shore of the sea affected by wave action directly from the open sea. It is more precisely defined in the situations and under the conditions hereinafter set forth as follows:

"(A) In the case of typically sandy or shell beach with a discernible vegetation line which is constant or intermittent, it is that area which lies seaward from the line of vegetation to the sea.

"(B) In the case of a beach having no discernible vegetation line, the beach shall include all area formed by wave action not to exceed two hundred feet in width (measured inland from the point of mean higher high tide).

"(4) The 'line of vegetation' is the extreme seaward boundary of natural vegetation which typically spreads continuously inland. It includes the line of vegetation on the seaward side of dunes or mounds of sand typically formed along the line of highest wave action, and, where such a line is clearly defined, the same shall constitute the 'line of vegetation'. In any area where there is no clearly marked vegetation line, recourse shall be had to the nearest clearly marked line of vegetation on each side of such area to determine the elevation reached by the highest waves. The 'line of vegetation' for the unmarked area shall be the line of constant elevation connecting the two clearly marked lines of vegetation on each side. In the event the elevation of the two points on each side of the area are not the same, then the extension defining the line reached by the highest wave shall be the average elevation between the two points. Such line shall be connected at each of its termini at the point where it begins to parallel the true vegetation line by a line connecting it with the true vegetation line at its farthest extent. Such line shall not be affected by occasional sprigs of grass seaward from the dunes and shall not be affected by artificial fill, the addition or removal of turf, or by other artificial changes in the natural vegetation of the area. Where such changes have been made, and thus the vegetation line has been obliterated or has been created artificially, the line of vegetation shall be reconstructed as it originally existed, if such is practicable; otherwise, it shall be determined in the same manner as in other areas where there is no clearly marked 'line of vegetation,' as in paragraph (3) (B) of this section.

"(5) 'Area caused by wave action' means the area to the point affected by the highest wave of the sea not a storm wave. It may include scattered stones washed by the sea.

"(6) 'Public beaches' are those which, under the provisions of this title, may be protected for use as a common.

"(7) 'Matching funds', as provided by a State, include funds or things of value which may be made available to the State for the purpose of matching the funds provided by the Federal Government for purchasing beach easements as, for instance, areas adjacent to beaches donated by individuals or associations for the purpose of parking. The value of such lands or other things used for matching Federal funds shall be determined by the Secretary. State matching funds shall not include any moneys which have been supplied through Federal grants.

"(8) 'Shore of the sea' includes those shores on the North American continent, or land adjacent thereto, the State of Hawaii, free commonwealths, unincorporated territories, and trust territories of the United States.

"SEC. 202. By reason of their traditional use as a thoroughfare and haven for fishermen and sea venturers, the necessity for them to be free and open in connection with shipping, navigation, salvage, and rescue operations, as well as recreation, Congress declares and affirms that the beaches of the United States are impressed with a national interest and that the public shall have free and unrestricted right to use them as a common to the full extent that such public right may be extended consistent with such property rights of littoral landowners as may be protected absolutely by the Constitution. It is the declared intention of Congress to exercise the full reach of its constitutional power over the subject.

"SEC. 203. No person shall create, erect, maintain, or construct any obstruction, barrier, or restraint of any nature which interferes with the free and unrestricted right of the public, individually and collectively, to enter, leave, cross, or use as a common the public beaches.

"SEC. 204. (a) An action shall be cognizable in the district courts of the United States without reference to jurisdictional amount, at the instance of the Attorney General or a United States district attorney to:

"(1) establish and protect the public right to beaches,

"(2) determine the existing status of title, ownership, and control, and

"(3) condemn such easements as may reasonably be necessary to accomplish the purposes of this title.

"(b) Actions brought under the authority of this section may be for injunctive, declaratory, or other suitable relief.

"SEC. 205. The following rules applicable to considering the evidence shall be applicable in all cases brought under section 204 of this title:

"(1) a showing that the area is a beach shall be prima facie evidence that the title of the littoral owner does not include the right to prevent the public from using the area as a common;

"(2) a showing that the area is a beach shall be prima facie evidence that there has been imposed upon the beach a prescriptive right to use it as a common.

"SEC. 206. (a) Nothing in this title shall be held to impair, interfere, or prevent the States—

"(1) ownership of its lands and domains,

"(2) control of the public beaches in behalf of the pubic for the protection of the common usage or incidental to the enjoyment thereof, or

"(3) authority to perform State public services, including enactment of reasonable zones for wildlife, marine, and estuarine protection.

(b) All interests in land recovered under authority of this title shall be treated as subject to the ownership, control, and authority of the State in the same measure as if the State itself had acted to recover such interest. In order that such interest be recovered through condemnation, the State must participate in acquiring such interest by providing matching funds of not less than 25 per centum of the value of the land condemned.

"SEC. 207. In order further to carry out the purposes of this title, it is desirable that the States and the Federal Government act in a joint partnership to protect the rights and interests of the people in the use of the beaches. The Secretary shall administer the terms and provisions of this title and shall determine what actions shall be brought under Section 204 hereof.

"SEC. 208. The Secretary shall place at the disposal of the States such research facilities as may be reasonably available from the Federal Government, and, in cooperation with the other Federal agencies, such other information and facilities as may be reasonably available for assisting the States in carrying out the purposes of this title. The President may promulgate regulations governing the work of such interagency cooperation.

"SEC. 209. The Secretary is authorized to make grants to States for carrying out the purposes of this title. Such a grant shall not exceed 75 per centum of the cost of planning, acquisition, or development of projects designed to secure the right of the public to beaches where the State has complied with this title and where adequate State laws are established, in the judgment of the Secretary, to protect the public's right in the beaches.

"SEC. 210. The Secretary of Transportation is authorized to provide financial assistance to any State, and to its political subdivisions for the development and maintenance of transportation facilities necessary in connection with the use of public beaches in such State if, in the judgment of the Secretary, such State has defined and sufficiently protected public beaches within its boundaries by State law. Such financial assistance shall be for projects which shall include, but not be limited to, construction of necessary highways and roads to give access to the shoreline area, the construction of parking lots and adjacent park areas, as well as related transportation facilities. All sums appropriated to carry out title 23 of the United States Code are authorized to be made available to carry out this section."

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## ANNOUNCEMENT OF HEARINGS ON H.R. 9783 AND H.R. 188

## HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. EDWARDS of California. Mr. Speaker, I announce that the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will hold hearings on H.R. 9783, to regulate the collection, storage, and dissemination of information by criminal data banks established or supported by the United States, and H.R. 188, to amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy. The hearings will be held on Wednesday and Thursday, September 26 and 27, 1973, at 10 a.m. in room 2226, Rayburn House Office Building.

On Wednesday, September 26, the subcommittee will hear testimony from Mr. Arnold R. Rosenfeld, chairman, Criminal History Systems Board of the Commonwealth of Massachusetts, on H.R. 9783.

The subcommittee will commence its hearings on Thursday, September 27, with testimony from Mr. Allen Sill, chief of police, West Covina, Calif. Mr. Sill will present testimony on H.R. 188 and H.R. 9783.

Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. 20515.

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## A SALUTE TO THE PASSING OF A GREAT AMERICAN

### HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. HÉBERT. Mr. Speaker, I am deeply grieved and saddened by the sudden passing of a very dear friend, the late Robert W. Smart.

Mr. Smart, better known to most Members of Congress as "Bob" Smart, served as a member of the professional staff of the Committee on Armed Services from 1947 to 1963. He succeeded Bryce Harlow as chief counsel of the committee in 1951, and remained its chief counsel until his voluntary retirement from the staff in 1963.

"Bob" passed away on Saturday, September 15, 1973, at West Palm Beach, Fla., the site of his retirement home.

I will include at the end of my remarks a brief summary of "Bob's" many accomplishments. He had a variety of careers, and distinguished himself in each. He was a lawyer, a soldier, an executive, a statesman, a great American—but most importantly, a wonderful human being. To those of us who had the gift of his friendship and the privilege of sharing with him our responsibilities, he was a tower of strength and an unfailing source of wise counsel.

To those of us who knew him best, the greatest single quality which distinguished him so visibly from many of his colleagues was his humility and his unselfishness.

"Bob" Smart left his indelible imprint on many of the most important laws enacted by the Congress during the post-World War II period, and particularly those affecting our national security. Many individuals received credit for these legislative enactments, but all of them knew that it was "Bob" Smart who had fashioned them into a meaningful expression of legislative intent.

I and many Members of Congress have lost a true and treasured friend. The staff of the Armed Services Committee had also requested that I reflect their sense of great loss with the passing of "Bob" Smart.

He leaves a great emptiness:

He went down
As when a lordly cedar, green with boughs,
Goes down with a great shout upon the hills,
And leaves a lonesome place against the sky.

In closing, I wish to take this opportunity to extend to Bob Smart's beloved wife Alice, his daughter Jan, his granddaughter Sharon, and their families, on behalf of my wife and myself, the members of the Committee on Armed Services and its staff, deep and heartfelt sympathy.

A brief summary of "Bob" Smart's various accomplishments follows:

BRIG. GEN. ROBERT W. SMART

Brigadier General Robert W. Smart, USAFR-Ret., former Vice President of North American-Rockwell, and long time Chief Counsel of the Committee on Armed Services, U. S. House of Representatives, died September 15 at the age of 66 in West Palm Beach, Florida.

Widely known throughout Government and industry circles, General Smart had also served as President of the Air Force Association from 1967–1969, and at the time of his death was still an active member of the Board of Directors of that organization.

During more than 16 years on Capitol Hill, he had earned a reputation as one of the most influential and gifted lawyers serving the Congress. He joined the professional staff of the Armed Services Committee in 1947 when the Committee was first created and was named Chief Counsel in 1951, a post he held until his retirement from Government in 1963. He had been intimately involved in writing numerous landmark laws, including the Articles of War and the Uniform Code of Military Justice. In the military field, he was the senior staff member of the U. S. Congress and the friend and confidant of many ranking members of the House and Senate, as well as Cabinet officers, senior officials of the Defense Department, and top commanders of the Armed Forces.

After leaving Government service, he joined the North American Rockwell Corporation in El Segundo, California, as Vice President for Governmental Relations, and later returned to the Washington office of the firm and served as a Corporate Vice President until retirement in October 1972.

Born in Crane, Missouri, on May 20, 1907, General Smart was graduated from Missouri University, earned his LLB at Cumberland University, Lebanon, Tennessee, and briefly entered politics to be elected Prosecuting Attorney of Lawrence County, Missouri. He resigned eight months after the U. S. entered World War II, to enlist in the Army; completed officer candidate training at Fort Sill, Oklahoma, and served as a Field Artillery platoon leader, battery executive, battery commander, and eventually as a military government legal officer in Korea. Following the war, he remained active in the Army Reserve until 1949 when he transferred to the Air Force. He was promoted to the rank of full Colonel that year, and to Brigadier General in March 1961. He retired from military service in 1967.

His awards and decorations include the Legion of Merit, the Reserve Officer Association's "Distinguished Service" citation for "outstanding contributions to national defense", and the Air Force Association Citation of Honor.

General Smart is survived by his wife, the former Alice Tolerton, of the home address 134 Lake Shore Drive, Old Port Cove, North Palm Beach, Florida; a daughter, Mrs. David R. Lee of Vicksburg, Mississippi, a sister, Mrs. Virginia Hamilton of Clearwater, Florida; and one granddaughter, Sharon Woodman Lee.

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## TRIBUTE TO THE MUSIC UNDER THE STARS PROGRAM IN MILWAUKEE COUNTY

### HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ZABLOCKI. Mr. Speaker, on August 4, 1973 I had the honor and pleasure to attend a concert in Milwaukee entitled "Salute to Poland" in commemoration of the 500th anniversary of Nikolas Kopernicus and his contribution to our "space age" as the father of the theory of the cosmic system.

In addition to many local, county, and State officials in attendance, the people of Milwaukee were honored to also have in attendance His Excellency Witold Trampczynski, the Ambassador of Poland, Mr. John Richardson, the Assistant Secretary of the Bureau of Educational and Cultural Activities of the U.S. State Department, and our friend and colleague, Representative HENRY S. REUSS. The "Salute to Poland" concert was taped by the USIA for replay in Europe, particularly Poland.

The "Salute to Poland" concert was presented under the auspices of the Music Under the Stars program, a series of musical concerts presented during the summer months for the visual and listening enjoyment of the residents of the metropolitan Milwaukee area. Under the cosponsorship of the Milwaukee County Park Commission and the Milwaukee Journal, the Music Under the Stars program has been available free of charge since 1970 for the general public to enjoy. These concerts symbolize a commitment by concerned citizens and local officials to promote and expand the cultural goals in Milwaukee County. During the summer of 1971 alone, some 297,000 people attended the Music Under the Stars-sponsored concerts.

Much of the credit for the success of the Music Under the Stars program and other county-sponsored cultural events must be given to Mr. John-David Anello, director of cultural activities of the Milwaukee County Park Commission, who also serves as musical conductor for some of the concerts.

The full cooperation and excellent performances of the Florentine Opera Co. and the Milwaukee Symphony enabled Mr. Anello to develop the Music Under the Stars program, offering the Milwaukee community a wide variety of concerts with special attention to ethnic and cultural preferences of the residents of the Milwaukee metropolitan area. Enthusiastic public support for the concerts is evidenced by the more than $14,000 donated this year from individual contributors, private business, and civic-minded institutions.

The principal sponsor, the Milwaukee County Park Commission, has appropriately received recognition for its promotion and sponsorship of the "Music Under the Stars" program. In 1971, the National Association of Counties designated Milwaukee County as the recipient of the "New County Achievement Award" for distinguished and continuing contributions in cultural activities sponsored by a county government in the United States.

Over the past 2 years, in anticipation of the celebration of the 200th anniversary of the founding of our country, the Milwaukee County Park Commission has planned appropriate concerts. For example, last year music and events from the turn of the century through 1972 were presented. This year, music and events from 1850 through 1899 were highlighted. Projecting into next year, the sponsors will present music and events from 1825 through 1849, continuing through 1975 and culminating in 1976, at which time the program will include a series of concerts representing the music and events of 1776, the founding year of our country.

The continued success of the free "Music Under the Stars" program, Mr. Speaker, has developed into one of the most important and fundamental cultural efforts in the Milwaukee area. The program brings to all the people of the Milwaukee area frequent opportunities to enjoy and appreciate the world's finest music, including opera and symphonic works. The program has most dramatically demonstrated that music knows no racial prejudices; that music makes no distinction between the affluent and less-affluent members of our society; that music establishes a common bond between all mankind regardless of race, color or creed.

Mr. Speaker, there is no doubt in my mind that the free "Music Under the Stars" program has served as a catalyst to the more than 1 million residents of Milwaukee County toward helping them to know and respect each other more fully. I congratulate Mr. Anello, the Milwaukee County Park Commission, the Milwaukee Journal, and the many private benefactors for their unfailing efforts in creating, promoting and sustaining a unique and rewarding cultural and musical program readily available to the general public.

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## KAISER STEEL TRAINS YOUNG MEN FOR FUTURE

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BROWN of California. Mr. Speaker, I would like to take a moment to commend the Kaiser Steel Corp., for an educational summer youth employment project which they conducted during this summer. Ten young men—Kevin Brooks, Terry Henderson, Benny Hernandez, Alvin Lewis, Garyling Lewis, Tony Luna, Javier Santos, Lance Sarrano, Joe Sassone, and Daryl Scott—worked with supervisor Sam Poindexter under this program, gaining first-hand knowledge of what it would be like to work in the construction industry.

The Ingott, a Kaiser Steel publication, offers additional information about this program in an article which appears in their September issue. For the information of the many Members of Congress who are concerned about summer youth employment I offer the article for insertion in the RECORD at this point. It reads as follows:

DISADVANTAGED TEENS: SUMMER YOUTH EMPLOYMENT OFFERS MORE THAN JUST JOBS

A curious-looking block building adjacent to the cafeteria and gymnasium has been under construction for several weeks. On any given day, young men have been seen scrambling along scaffolds hauling brick and mortar and carefully joining them to form the walls of the structure.

Although this may sound typical of a construction crew on site, there is one basic difference. The workers are boys who are being taught that a block house project can provide much more than just an area in which to store equipment.

Part of Kaiser Steel's Summer Youth Employment Program, 10 students from Fontana High School were selected by school officials and company representatives for nine weeks of summer employment. Constructing a block storage building provided a project for those who were not old enough to work in the mill, but who had a financial need.

Summer supervisor and work scheduler Sam Poindexter claims his part in the program was personally rewarding. "Organizing 10 boys for any project is a full-time job," he said.

"However seeing these kids learn how important teamwork is on a job, and picking up skills they might apply at home was really enriching. The real disadvantage they have suffered is that they never before had the opportunity to learn while working."

In addition to learning the basic concepts associated with punching time cards, receiving a paycheck and reporting to the job on time, each member of the crew gained first-hand experience of what it would be like to be employed in the construction industry.

Training representative Bill Bartlett explained how the program was begun. "The Youth Program was conceived and initiated in the summer of 1967 to afford young people from a disadvantaged environment an opportunity to experience a work and educational situation," he said.

"We tried to help each individual gain greater insight of self-identity while planning more realistic future goals. At the same time, we tried to develop leadership qualities while teaching the ability to follow direction."

Earning nearly $1,000 for the summer, each youth contributed to various phases of the construction project. For instance, some were tasked with forming part of the 3,500 necessary bricks, while others prepared the foundation and helped raise the walls.

Each day responsibilities were shifted so that each crew could experience all facets of the operation. At the end of the nine weeks, the students had completed the building, painted playground equipment, constructed planters around the gymnasium and finished a brick wall for a golf practice driving cage.

Mr. Speaker, I offer my congratulations to these 10 young men for their success in this program and my commendations to Kaiser Steel for their community spirit as shown by the fact that they conducted the program.

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## ENVIRONMENT—NEEDED STEPS TO PROTECT IT

### HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. FREY. Mr. Speaker, Interior Secretary Rogers C. B. Morton made some interesting observations on the environment and the steps needed to protect it during a speech in my congressional district on September 10, 1973.

I am sure my fellow colleagues will enjoy reading his speech made in Orlando, Fla.:

REMARKS OF THE HONORABLE ROGERS C. B. MORTON

This evening I would like to give you my views on a number of most pressing issues that all of us face together. Before doing that, however, I would like to reaffirm my belief that meeting the challenges of the environment rests ultimately on continuing cooperation between State and Federal agencies. No one individual, and no one agency, has a monopoly on enlightenment, or good sense.

ENFORCEMENT

One of the major areas for increased State and Federal cooperation is enforcement. I have asked Secretary Reed to expand Interior's enforcement efforts and to increase the field agents, special investigators, and officers in the field and at our ports of entry. The key fact, however, is that the Federal Government *cannot* and *should not* do everything.

Each of us face the same kinds of questions:

Are we protecting our wildlife populations?

Are our bag limits fair to the hunter and fisherman *and* to the future of our wildlife?

Are we doing enough to put an end to poaching, especially in view of the resurgence in deer poaching as result of food price increases?

Are our flyaway policies equitable not only to the hunters within individual States but to all the States?

Without commitment and positive action at the local level we will be unable to face these kinds of questions and to come up with solutions that work. Aside from that each of us faces the continuing—perhaps I should say growing need to put a maximum effort to stop the illegal or slob hunter who is ruining the heritage and sport of hunting and fishing in the out-of-doors.

ENDANGERED SPECIES

There is little question that endangered species has become the most dramatic symbol of America's environmental concerns. While some of you may not find this a cheering statement, the preservation of threatened species—and I mean habitat and everything that contributes to sustaining wildlife population—is still primarily a State responsibility. Let's not be mistaken, if the States fail to act positively, the American people are going to rightfully demand that the Federal Government move in and take over this vital program. I, frankly, believe you and your agencies are in the best position to safeguard our threatened species. You are closest to the problems—and the solutions.

LEAD SHOT

If there is one dimension of the lead shot controversy that everyone agrees upon, it is that too many birds—certainly millions—die each year because of crippling or lead poisoning. We have had documented evidence of both lead poisoning and crippling for decades, yet both problems remained largely unresolved.

Your association has given strong support in the field, and in the public media to bring this matter to a solution. I appreciate your efforts and frankly, hope you will continue to press at a working level for the early implementation of a national program to reduce needless deaths along our flyways.

I have instructed the Bureau of Sports Fisheries and Wildlife to prepare an environmental impact statement reviewing all aspects of lead shot, as well as our alternatives. It also is a matter of common knowledge and public speculation that I am actively considering the adoption of a conversion schedule from lead to iron shot in at least one flyway during the 1974 season, followed by mandatory nationwide use of iron shot in 1975. Certainly these options will be among the alternatives explored through the NEPA process.

Deriving a reasoned and unimpassioned end to the unnecessary loss of critical waterfowl populations is an item of the highest priority—and it is a matter that I can assure we will act upon without delay.

In my own view, far too much money has been spent in public relations. Far too much has been said about crippling—although I'm not going to deny that crippling is a major problem. But far too little has been said about putting lead poison into the environment. One thing I am convinced of, is that *all* of us use the word "toxic" too lightly. Toxic means poison. And it only takes two pellets in the craw to kill a duck. Let's not lose sight of that fact that shotguns are a lethal weapon at short ranges—under 45 yards. Regardless of the final action we take on lead shot, one thing is obvious, too many hunters lack an awareness of the effective range of their own weapons. And I suggest that anyone here who disagrees with me spend opening day in a duck blind on the Eastern Shore.

What we can and must do *now,* is to implement a positive campaign on Federal refuges, and State waterfowl areas, and at every possible level to educate the hunter on the range and most important, the limitations of the shotgun.

Until both problems are met with hard solutions, the future of our bird populations, and hunting as we know it, will be threatened.

### PREDATOR CONTROL

The President's Executive Order on Predator Control last year opened the direction to a reasoned and enlightened policy towards predator control. I believe that we are moving in the right direction in this area, and would especially like to express my appreciation to the Commissioners from the Western States for their cooperation in attempting to solve the predator dilemma.

### COASTAL ZONE

The aberration that wetlands, estuaries and coastal zones can be turned into "productive lands" by dredging, damming, and developing is, unfortunately, as old as the Republic. A number of historians, for example, have suggested that George Washington's entry into public service was the result of financial losses he sustained after a disastrous attempt to reclaim part of Virginia's Great Dismal Swamp for farming. The Swamp is still there, although much smaller than it once was.

Unfortunately, however, there is still too much development along our coastal zones, in spite of the fact that many States have passed land use and coastal zone legislation.

Too many of our marshes have been filled: too many of our swamps have been drained and filled; and too many of our estuaries have been dammed and channeled.

While there are limitations to the Federal Government's responsibilities and authority in the coastal zone—there is much you can do within your own State governments. We simply cannot afford to stand back idly while the vital habitat, and breeding grounds for our coastal fisheries are disturbed, or altogether destroyed.

### CONCLUSION

These issues are the very sinew of the challenges and opportunities in the environment. Regrettably, our ability to meet those challenges and grasp those opportunities continues to rely on economic values, technicalities of law, and brute political pressure.

Let's not be mistaken, change is hard enough to make when you're not running against well worn attitudes, and accepted values. As environmentalists, we're running against both. And if you don't believe me, look at the kind of delays we have faced in enacting vital environmental legislation:

America desperately needs land use planning to ensure that economic needs match with environmental needs in the way we use our most essential resource—our land.

America desperately needs mined land reclamation to ensure that we match environmental needs with energy needs, and put an end to despoiling the fragile character of our land and water.

America desperately needs a functional system of government that is sensitive to human needs and environmental needs. Without a Department of Energy and Natural Resources at the Federal level, all of us—and this impacts especially on the States—will continue to depend upon a management framework designed around old priorities to solve today's problems.

There is no question, our environment and our people have waited too long. Hopefully, a spirit of bipartisanship in the Congress, as well as strong support across the country will help us shape environmental concerns into new programs, new actions, and new values.

Aldo Leopold wrote in his insightful essay, "The Land Ethic": "Conservation is a state of harmony between man and land. Despite nearly a century of propaganda, conservation still proceeds at a snail's pace; progress still consists largely of letterhead pieties and convention oratory. On the back forty we still slip two steps backward for each forwards stride."

I believe that the current has changed and the tide of conservation is moving in the other direction. It's shifting because of your efforts, and the dedication and commitment of people in Washington like Nat Reed. Each of us knows what has to be done.

While the environmental issues we face may be more complex and more subtle than they were in Aldo Leopold's era, the gulf between pieties and action is still there. However, only by working together in a common spirit of cooperation and commitment, will we be able to bring the two together.

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## GOVERNMENT STYLE PRESS FREEDOM: "FAIRNESS" BY BUREAUCRATIC EDICT

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. RARICK. Mr. Speaker, harassment and intimidationof broadcasters by regulatory agencies of the Federal Government has reached alarming intensity in recent years.

In a speech before television executives delivered earlier this year by Robert W. Sarnoff, chairman and chief executive officer of RCA, he discussed the current impact of the Government on broadcasting and the other news media. This "impact," according to Mr. Sarnoff, consists of "the escalation of Government intrusion into broadcasting" coupled with "economic threats" and backed up with the big stick of license revocation.

We have had the unprecedented spectacle of high Federal officials attacking the national news media in general and television network news in particular. It is plainly an effort to impair the credibility of the news and to influence how it is reported. It seems aimed at a state of public information fed by Government handout and starved by official secrecy on matters that are the public's business. And in our society, which depends on an informed electorate and an open market of ideas, that would be a calamity.

As Mr. Sarnoff so aptly pointed out in his remarks, "an attack on one news medium is an attack on all." Broadcast journalists have long realized this to be true.

Unfortunately, it has taken their counterparts in the newspaper and news magazine fields a bit longer to realize the seriousness of the bureaucratic threats to their press freedom.

Print journalists have long regarded themselves as being above government control, cloaked in the protective covering of the first amendment to the Constitution. The freedoms of press and speech, guaranteed by this amendment, are rapidly being unraveled by bureaucrats at the highest levels of government, however.

Civil servants and political appointees have for years been telling radio and television stations what is fair and what is not fair for use on the airwaves. Government interpretation of what is or is not allowable constitutes a serious speech impediment for the broadcasting industry.

These exercises in government manipulation of television and radio news and opinion are done in the name of "fairness." This same "fairness" idea has already been applied to the print media to a small degree. However, the successes of the bureaucrats to silence and intimidate the broadcast opinion they find disagreeable have already led to efforts at controlling the printed media.

It should be pointed out, Mr. Speaker, that there is a great difference between a "fair press" and a "free press." A "fair press," with its government intervention, influence, and control, means a government press. We have already seen unelected bureaucrats dictate "fairness" to the broadcasters.

Unless more journalists and editors stand up for the rights of broadcasters to be protected against government usurpation, they can expect their own first amendment protection to wither away under government assault in the name of "the common good."

Mr. Speaker, I include a related magazine story and newsclipping:

[From the Tulanian, vol. 45, No. 3, Summer 1973]

### Government Style Press Freedom—An Emerging Picture

What I see as the essential problem of press freedom for our generation goes to the fact that the American government never had much of a chance to get hold of the American press *until now*. But now it does have a chance. It has a chance because the press has changed shape.

The television station has joined the local newspaper in dispensing news and comic strips to the community. It's a newscast instead of a front page, and it's Archie Bunker instead of Dick Tracy. But that new form of press, broadcasting, is not *specifically* protected by the First Amendment. The first Amendment doesn't call it by name; it says press, not media. And you've got to have somebody allocate broadcast licenses to keep multiple traffic off of the same frequencies. So the different shape of this new form of press and the license problem give the politicians a feeling that they can move in on electronic journalism, make their own rules for it, and tell it how to play the news (particularly the news that affects politicians).

I once heard a newspaper city editor in New Orleans end a telephone argument with a politically powerful city councilman by telling him to go to hell. Then he hung up. That editor may have been rude and ill-tempered, but he was a newspaperman and he had a deep sense of security about his independence from government.

My experience in broadcasting, 20 years' worth, is that broadcasters do say no to the politically powerful, but, even if provoked, they just don't allow themselves the luxury of strong language. You don't have that sense of security in an organization that's got to get a government okay every three years so stay in business. To their credit, the station managers generally tell their news directors to go ahead and air the news stories offensive to politicians, but they feel a compulsion at the same time to worry about the possible backlash. They can't help it. Regulation of editorial content builds in a timidity factor. What kind of First Amendment is that it's no kind of First Amendment.

Government guidelines obviously and inevitably abridge press freedom. Once you've accepted the value of government guidelines for one medium, the idea that such guidelines provide net benefits to the public, then you've quit really believing in the First Amendment, even if you don't realize it. You're on the way toward the next step, which is simple: having bought the idea that one medium has been improved by government guidelines, to set about improving other media the same way. If government can make television news fair and balanced, it can make newspapers fair and balanced. If the assumption is valid, the logic is impeccable.

I happen to think the assumption is wrong. I am convinced that government guidelines contribute little or nothing to fairness and balance in broadcasting. To the contrary, they contribute a great deal to blandness in broadcasting, to a tendency to duck tough issues so as to stay out of trouble with the government. The whole process of broadcast regulation is slowly selling the American people month by month, year by year, on that anti-First Amendment assumption: Government guidelines improve the news media. If you don't like a program, write your congressman a hot letter about it. If you want equal time, send a formal complaint to the Federal Communications Commission. It's up to the government to keep the networks in line. It's up to the government to see that every group, every faction, gets its share of media attention.

So, the country is looking to government to force good performance from broadcasters. The value of a fair press (government certified) is going up; the value of a free press is going down. The original meaning of the First Amendment—clean, complete independence of the media from government—is fading from the minds of Americans.

The whole regulatory process of the 1970's exerts a chilling effect on the broadcaster . . . and it's steadily increasing. Much of this regulatory structure was built, remodeled and added on to over the years by those happiest of regulators, the Democratic liberals. FCC commissioners, congressmen and senators, federal judges—men with the highest intentions—have constructed rules, laws and decisions designed to make a medium do right, be fair and responsible, especially to politicians. It started out around 50 years ago in the early days of radio when the new medium looked more like an entertainment box in the home than a source of news, and they've been tying government strings on broadcasting ever since. It's been happening so slowly, bit by bit, that nobody has stopped to recognize out loud what has now become obvious: that we have fashioned a powerful news and information medium for the first time in American history which is accountable to the government.

If you don't think this regulatory process affects the psychology of broadcasters, consider some of the problems with government the broadcaster faces and ask yourself whether the same conditions, if imposed on newspapers, might make publishers nervous and give them an uneasy feeling of having no First Amendment protection. The broadcaster must apply to a government body every three years for the right to stay in business. Special interest groups are increasingly challenging station licenses to force concessions in employment and programming. The broadcaster, in his decisions on political coverage, has to go beyond his own journalistic judgment to consider the attitudes of a government commission. For example, if a network carries in prime time Senator McGovern's announcement of Sargent Shriver to replace Senator Eagleton on the Democratic ticket, will the FCC agree it's legitimate news or call it an equal-time problem?

If a news program stirs up official or popular criticism, the broadcaster may get a letter from a government commission directing him to explain and justify the program within 10 or 20 days. The FCC sends out about 200 of those letters every year. The broadcaster is forbidden by law to present a debate among major candidates unless all fringe candidates, including the crackpots, are included. This is a law that's supposed to be in the public interest. What it actually serves is the politicians' interest as a law to hide behind when they don't feel like debating.

Believe me, with this much second guessing from government, a station manager soon begins to feel he needs every friend he can find inside the government, and he just may wind up less eager than a newspaper publisher to expose hanky panky in Washington or even in a governor's office.

Consider the plight of a documentary producer who, let us say, put out a controversial documentary one month ago. His boss, the station manager, caught a lot of flak as a result. He got an official fairness doctrine complaint from the FCC, to which a long, carefully documented reply had to be prepared. He got 240 letters from viewers, two thirds of them crying bias. He got protests from two congressmen. So, one month later, the station manager feels he has done nothing in the past four weeks other than defend that program, telephone Washington lawyers for advice, and write letters of appeasement and explanation. And at this point the producer comes into his office and says, "Look, I've got another good hot subject I want to do my next documentary on and I want to get your clearance." The station manager would be only human if he said, "Tom, for God's sake, why don't you do a travelogue-type thing this time and hold off on the tough subjects for awhile. I just feel I need a little rest before inviting the government to jump on my back again."

Fred Freed, an NBC producer, once said, "If you do something controversial, you know you will spend months defending yourself to the government. That's not conducive to doing something controversial."

These are chilling effects. They represent, whether intended or not, government inhibition of journalism. The climate of broadcasting's involvement with government, nervousness about government, provides the background against which the Nixon Administration has launched its efforts at intimidation. Vice President Agnew didn't confine himself to criticizing the networks, which he has every right to do. He brandished the licensing process at them. He said he did not advocate censorship and that answers to his questions had to come from the media. But, after describing broadcasting as "a monopoly sanctioned and licensed by government," he said two sentences later, ". . . perhaps it is time that the networks were made more responsive to the views of the nation and more responsible to the people they serve." He was telling, of course, about the views of the nation as interpreted by the Vice President. Then, when broadcasters accused him of threatening them, he replied that they were over sensitive to criticism.

The Administration is, of course, still whirling that power to license around in the air like a stone in a sling. There's a brand new office set up inside the White House called the Office of Telecommunications Policy. The man who runs it, Clay Whitehead, speaks for the President. He says the networks dispense what he calls "ideological plugola" and that local stations should be held responsible at license renewal time for stopping that sort of thing. He obviously borrowed Mr. Agnew's speechwriter. Mr. Whitehead declines to give any examples of "ideological plugola." But, I believe, if I were a station manager, I'd define it as anything that might anger the White House.

Anybody inclined to wonder whether Mr. Whitehead really meant to sound all that tough is free to contemplate the state to which the Administration has reduced public television. The government has broken through the insulation intended by Congress and gotten a firm hand on public TV. As a result, it is now half strangled and gasping for air. You can bet there will be less "ideological plugola" on public television next year, whatever that means, because the Corporation for Public Broadcasting seems intent on simply killing off most of its news and information programs.

Again, no political side has a monopoly on the instinct of the officeholder to use any leverage available against the media. Senator Muskie was rumbling about swatting the networks with legislation if they didn't start giving Democrats more time to answer the President. So, you have the party with majorities in both houses setting itself up as a better arbiter of what's news than the networks (just as the vice president did), with Senator Muskie threatening to use his party's muscle unless the networks begin treating Mr. Nixon, not as President, but as head of the Republican Party.

Despite all the myths and all the acceptance that have evolved around the kind of broadcast regulation we have now, the kind that gives politicians a weapon against journalists, there is no necessity for us to continue to put up with such an anti-First Amendment process. There is a form or regulation possible which is compatible with the First Amendment . . . It is, of course, a minimal form of regulation, almost no regulation at all. It would involve allocating station licenses on a permanent basis, licenses in perpetuity. They could be granted originally the way they are now, or they could be awarded by lottery, or they could be auctioned off, as suggested by economist Milton Friedman. But, once granted, each company would operate indefinitely on its assigned frequency—subject only to the technical requirement that it keep its signal on that frequency. At that point, broadcasting would become, quite simply, substantially as free as the printed press. It would be free of government harassment but not, as some would have it, irresponsible, because it would remain, like newspapers, amenable to the disciplines of competition, the trials of the market place, and the necessity of public acceptance for a mass medium.

Most of us have become so brainwashed over the years by the doctrine that broadcasting *must be guided* by government in its program content and news balance that the idea of genuinely free broadcasting hits us with some shock. All of the cliche arguments against genuine application of the First Amendment to broadcasting crown to mind: Anybody can start a newspaper; the public owns the air waves; television stations make too much money; some stations might abuse their freedom; the networks are too powerful. I wish I had time to analyze one by one these well-worn but empty articles of faith. If you can shake loose the habit of accepting them, and think about them, they do *not* stand up under challenge, especially against the background of where today's regulation is going: toward radio stations, television stations and networks answerable, not to a free journalistic conscience, but to the federal bureaucracy.

What it boils down to is that the public ownership of the air waves, whatever that means, need not be turned *against* the public. There is *nothing* the public can gain from those air waves more vital than clean channels of information, clear of government contamination. If we look straight-on at the *obvious press function* of broadcasting, (Senator Sam Ervin's comment) if we continue to believe in a *living* First Amendment, we can find a way—the Congress can, the courts can—to provide to these new media that essential vitality of almost-absolute independence from government. It makes no essential difference that some television stations, like some newspapers, may be highly profitable or may put on one-sided news. Democracy is not perfect, and they *would be* subject to the check of other stations and the newspapers. The danger is not that *any* network may be overly powerful. The danger is that our *power-gathering central government* may slowly domesticate and gradually take over *all* of the networks to provide us one day with one, single, official source of news.

The need to reverse this already begun process is beginning to come clear to concerned people, including some outside of broadcasting. Abe Rosenthal, managing editor of the *New York Times,* had a piece called "Save the First Amendment" in the *Times Sunday* magazine. It was about the fact that governmental standards of fairness for the press lead to governmental control of the press. He said this:

"Even in our own society . . . we have the phenomenon of civil servants and politically appointed officials telling television and radio, two of our most important news distributors, what's fair and what's not fair, and using the whip of licensing renewal to enforce conformity with government news standards. My own belief," Rosenthal continued, "is that this is unconstitutional, and it is sad to see the printed press being so bland about the growing incursion into the freedom of the electronic press and never seeming to hear that tolling bell."

Quoting one more paragraph from Rosenthal: "Certainly television and radio news broadcasts are press within the meaning of the First Amendment, but our society has accepted grievous pressures on electronic press freedom simply because it cannot yet figure a way out of the technological problem—not foreseen by the writers of the Constitution—that there are a limited number of air waves and channels. Some day cable TV or another breakthrough will vastly open up the number of channels, but will the freedom of the electronic press be restored? History is not full of examples of forfeited freedoms regained."

The present uneasy conditon of broadcasting—not quite free, not quite captive—will certainly change in one direction or another, toward greater freedom or toward a deeper captivity. If it slips down toward heavier obedience to government, I believe newspapers will find themselves slipping also . . . slowly . . . over a period of years and decades . . . down the same slope!

The present regulation of broadcasting subverts the First Amendment itself, undermines it, teaches every citizen who grows up in this atmosphere of regulation that the highest journalistic value is not a *free* press but a *fair* press. The concept of fair press is driving out the concept of free press. The two are incompatible, of course, because fair press, as anything other than an ideal, requires what its advocates do not yet recognize—government intervention in the media, government influence, eventually government control. *Fair press,* as a guaranteed right means *government press.*

If broadcasting continues slipping into government captivity, the stage will soon be set for a future crisis involving the First Amendment. It will involve a contest between the government and the printed media, and it may not be much of a contest. By then the government may be able to pressure the electronic media, from which people now get more than half their news, to stand by quietly as the battle rages or even to tilt to the government side. Today's broadcast journalists would *not* be so pressured, I assure you. I hope that will remain true tomorrow. But, given the mounting pressures, who can guarantee that the broadcast journalist of the year 2000 will not identify with government, will not see himself as a domestic Voice of America man?

Recently in Washington, at one of those familiar conferences on media and government, a former counsel of the FCC, Harry Plotkin, suggested that government is already exerting a not-so-subtle pressure on those newspapers which own broadcast licenses. A publisher with a TV station might *normally* have some concern about his relations with government. Today there is something else in the picture which Mr. Plotkin mentioned: People connected in various ways with President Nixon are challenging two different television licenses owned by the Washington Post company. Of 29 stations in Florida up for renewal, the Post stations are the only ones being challenged. The White House says they know nothing about it.

We already have people suggesting technical handles by which the government might get a *direct* hold on newspapers. One former FCC commissioner, Kenneth Cox, has predicted that the FCC will be able to fasten the fairness doctrine on the printed press once newspapers begin going into the home by electronic transmission.

There are college professors here and there working on an access doctrine which says individuals and groups have a right to a say in the media, a right to broadcast time and newspaper space. In effect, they are trying to re-interpret the doctrine of free speech as a battering ram against the doctrine of free press. And they do want to apply it to newspapers with government refereeing the process.

A federal appeals court recently ruled in favor of certain stock operations by directors of the Denver Post aimed at keeping the paper out of the hands of the Newhouse chain. The court arrived at that opinion by defining a newspaper as "a quasipublic institution."

The Supreme Court, in the *Red Lion* case, said that government rules of fairness now applied to broadcasting "enhance rather than abridge the freedoms of speech and press protected by the First Amendment." Think about that for a moment. The court said that the government judging what's fair in journalism was an "enhancement" of the First Amendment, not an abridgment. The court left wide open an implication that such an enhancement would also benefit the public if applied to print.

These are some of the reasons why I believe that the freedom of broadcasting *and* the freedom of the printed medium are *both* in trouble—one in immediate trouble, the other in long-range trouble. These are some of the reasons why newspapermen, unlike the situation of two or three years ago, are beginning to worry about *their* freedom and its interconnection with the freedom of broadcasting. It seems to me that what this country has got to develop is quite simply a multimedia free press. My belief is that either all media are free or eventually none will be free.

I believe, and hope, we're going to see . . . on a national scale in the years ahead, all journalists identifying with each other across media lines in active support of an indivisible press freedom. Also, I hope we get some backing in the upcoming struggle for independent journalistic media from the academic community, which has not been sensitive to the slippage of the First Amendment.

I don't want to be shrilly alarmist; I don't think broadcasting will be brought to its knees during this century. The way things are going, it seems to me there *is* a grim prospect of broadcasting, already entangled with government, becoming a little less free decade by decade, and a prospect of new cracks appearing in First Amendment protection for newspapers during our lifetime. Yet, I believe we can turn around this slide toward government capture of the media if we recognize it and work against it. I don't believe the American people, if the issue comes clear, want to go that route.

In this revved-up world, there are uncertainties about everything, including what kind of values we want to pass on to our children and grandchildren. I don't think any of us have any doubt that we would be leaving them a tremendous inheritance if we manage to pass on to them the First Amendment in the same condition it came to us . . . guaranteeing the uncontaminated, independent information that might enable the American people to maintain control of their powerful federal government . . . a clearcut freedom of the press, strong and intact going into the 21st century, relevant to all news media.

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[From the Chicago Tribune, July 26, 1973]

### A New Danger to the Press

A 1913 Florida statute, apparently never before invoked, has given rise to a new challenge to the rights of a free press under the First Amendment. The state Supreme Court, voting 6 to 1, reversed the finding of two lower courts that the law, requiring that newspapers give equal space and prominence to replies by politicians subjected to criticism, is unconstitutional.

The demand for a forced rejoinder was made by a losing candidate for the state legislature who was unfavorably assessed in two editorials in the Miami Herald. Unless the legislature acts affirmatively on a bill to repeal the law, the Herald plans to carry the case to the United States Supreme Court.

The sponsor of repeal says the law would force newspapers to open their columns to coerced replies to almost any kind of printed subject matter, such as letters to the editor. "Freedom of the press," he argues, "means freedom not to publish as well as to publish." The Florida decision, in fact, would give anybody and everybody the status of an editor who, for any frivolous reason, would be able to dictate the content of a newspaper.

The Florida Supreme Court completely ignored two United States Supreme Court decisions which, on their face, would seem convincingly to relieve newspapers of the onerous responsibility sought to be imposed by the Florida law. These involved libel cases in which the New York Times was sued by L. B. Sullivan, commissioner of public affairs in Montgomery, Ala., and against the Associated Press by Maj. Gen. Edwin A. Walker arising from reports of events during rioting against integration of the University of Mississippi.

In the Sullivan case the high tribunal held that a public official may not recover damages or a defamatory falsehood relating to his official conduct unless he proves that the statement was made with "actual malice"—that is, with knowledge that it was false or with reckless disregard of whether it was false or not.

In the Walker case the court extended this doctrine by asserting that an aggrieved plaintiff who is not a public official can recover damages from a newspaper or news agency only if he can prove malice as well as error. The court found that a private person is invested with a public character when he thrusts himself into the vortex of a controversy. He assumes this character thru views or actions with respect to public issues and events.

Certainly an election is a public event and any candidate for office, in the nature of politics and campaigning, projects himself into the public sphere when he places his name on a ballot and appeals for public support. As Sen. Sam Ervin has remarked of President Nixon in relation to the Watergate affair, anyone who seeks election or reelection is acting under no compulsion but his own.

Newspapers in Florida and elsewhere contend that the Florida Supreme Court decision, if sustained, would lead to similar legislation in many other states, politicians being notoriously sensitive to criticism or appraisal. The St. Petersburg Times has appropriately stated that the law of forced reply would "muzzle and manacle those too few newspapers which would stand up against the pressures of their own self-interests and tangle with the powerful politicians in their communities."

The Florida law is pernicious and would have a crippling effect. It should be expunged from the legislative books and if not done so by the legislature should be disposed of by the United States Supreme Court.

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## MISS IANTHE BLYDEN: NURSE FOR 53 YEARS

### HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. DE LUGO. Mr. Speaker, I am inserting in the RECORD an article from the Daily News on the career of a remarkable Virgin Islands lady, Miss Ianthe Blyden, who served for 53 years as a nurse at Knud Hansen Memorial Hospital on St. Thomas. Miss Blyden's comments reveal many of the vast changes that have taken place in the social and economic life of the Virgin Islands in the last half century, and particularly the evolution of her own profession in nursing.

However, throughout this change one factor which has been constant is Miss Blyden's love of humanity, and I am sure that the people she has so selflessly served have returned this love. Now she is enjoying a richly deserved retirement by traveling, and I wish her a future of happiness in this new found pleasure.

The article follows:

### STARTED NURSING IN 1916 FOR $5 MONTHLY SALARY

(By Jackie Petrillo)

When I first started nursing in 1916, we were paid $5 a month," said Ianthe Blyden, nurse at Knud Hansen Memorial Hospital for 53 years. "It's not like now, when you work for money."

Miss Blyden, retired now for four years, began her career under the Danes, when the hospital consisted only of many separate cubicles for patients. "In the early days," she says, you worked for the love of humanity."

Nurses, back in those days, worked for the first six months without any pay at all, but received only room and board at the hospital. Then they graduated to the $5 a month salary.

On these wages, Miss Blyden nursed through the typhoid epidemic of 1917. "Faith in God and wanting to help people pulled me through it," she states.

How do all the changes in not only the hospital (which recently underwent a nearly $4 million expansion and for which further renovation is now planned) but in an entire way of life, seem from her unique vantage point? How do they seem to one who learned nursing under the Danes at the age of 16 in 1916, and who retired after being head nurse at Knud Hansen for 37 years, at the age of 69 in 1969, the modern era?

"Well," she muses, "We've progressed in some ways, but we've lost the old tradition. We had a heritage. What will children growing up now have to look back on?

Miss Blyden does have praise for the convenience and modern facilities of the new extensions recently added to Knud Hansen. In particular, she marvels at new facilities and methods of treating psychiatric patients.

In the old days, she says, the only treatment for mental patients was to keep them sedated with drugs like sodium bromide and chloral hydrate. They would be allowed to go out when they were quiet and kept in their rooms when they were agitated. "Rehabilitation and psychiatry programs of today are very enlightening," she says, "and psychiatry helps a great deal. But I was able to talk to patients and had a good relationship with them by offering the old fashioned treatment of kindness and understanding."

She had a feeling for nursing from the beginning. In those days, children here left school at the age of 13. "By that time we had gone through all of the books they had," she says. Then, at the age of 15 she tried teaching in St. John for a year. Salary for teachers was $2.50 a month. "But that wasn't for me," says Miss Blyden. "I guess I always wanted to be a nurse."

The eldest of nine children, her mother Terecita, was a nurse-midwife in St. John for more than 20 years, so she had plenty of opportunity to observe nursing, first hand. And Terecita in turn had learned by relieving an aunt who had been trained in Copenhagen. So nursing was really a family tradition.

But the family offered not only a visible example of a satisfying life's work, but a way of life where the children had fun while they learned. She spent a great deal of time in St. John as a child, where her family owned Mary's Point and Annaberg. A great-uncle, Carl Francis, manufactured sugar at Annaberg and a mill was operated at Mary's Point by the family, also. After school, she said, they would drink the hot liquer, "muscavado," from the grinding of the cane.

How did they manage on such small incomes? It was easy she remembers. Each family raised their own gardens and animals, fished and also sold just a few things for cash, like sugar, or cornmeal, or charcoal. An apartment of two or three rooms was about $2.50 a month.

By the age of 16, after the unsuccessful teaching attempt, Ianthe was ready to go to the hospital to live and learn from the Danish doctors. Then, when the Americans purchased the Virgins in 1917, United States Navy nurses established a three year training course at the hospital.

At about the same time, between 1917–1919, the walls dividing the old cubicles for three patients each were torn down, and the hospital was reconstructed as one building, where the public health clinic is now located—in the area known as the old hospital. Then the patients were combined into individual wards of about twelve patients each.

Ianthe became a nurse-anesthetist, assisted in the pharmacy and laboratory and relieved her mother as nurse midwife of St. John, when her mother came to St. Thomas to take refresher courses. By the time of the malaria epidemic of 1932, she was appointed head nurse, the first native head nurse at Knud Hansen.

As the years went by, the name of her job kept changing, from head nurse, to chief nurse, to supervisor of nurses to director of nurses, but Ianthe's values never changed. Along with an active career, she managed to find time for those things which had the highest priorities in her life. "We must all have priorities,' she says. "We must decide what is essential and be willing to work for it."

She was active in the Memorial Moravian Church and was a member of the Virgin Islands Nurses Association and eventually, chairman of the Board of Examiners. Miss Blyden was even mentioned in "Personalities of the South, 1972."

Now that there's finally time for it, Ianthe has reordered her priorities and begun to enjoy traveling, a pursuit she always longed for but never had time for and has finally had time to complete a bedspread which took her 30 years to crochet, squeezing time out between her other pursuits.

She's taken a trip to another part of the world every year since retirement in 1969. In 1969, she went to Canada; in 1970 Hawaii, in 1971, to escort her niece, Daphne Harley, Carnival Queen to the Tournament of Roses in California; in 1972—Rome, Jerusalem, Lourdes, Bethlehem. Most of these trips are taken in the company of a friend, Evelyn Prince, a physiotherapist who is now on her way to Russia. This year Ianthe attended the International Council of Nurses meeting in Acapulco, Mexico. She takes movies of all the trips and enjoys showing family and friends how people in other parts of the world live. And the next plan is a trip to Expo in New York in 1974.

But it's always good to get to her Palm Strade home where she's lived since 1924. It's good to be home, but not to see the way her home has changed. "There is no order or respect these days," she sighs. "It makes you afraid. You used to feel safe, but not anymore."

## "HAP" MORRIS

## HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BRECKINRIDGE. Mr. Speaker, on Sunday, September 23, 1973, H. H. "Hap" Morris will celebrate his 63d birthday.

Over the years I have been indeed fortunate to know "Hap" in all of his varying capacities of service to the people of the Commonwealth of Kentucky and to the Members of this House. An article recently appeared in the Lexington, Ky., Sunday Herald-Leader, which outlined in some detail "Hap's" long and continuing career of public service. I believe that it is fitting that this article be published in the RECORD, not only by way of reminder to his many friends of his approaching birthday, but more importantly of his many contributions to this House and its Members.

Congratulations, "Hap," and many happy returns of the day.

The article follows:

### "HAP" MORRIS IS AUTHORITY ON POLITICS, UK ATHLETICS

(By William Peeples)

FRANKFORT, KY.—H. H. "Hap" Morris is a walking repository of Kentucky political history and of University of Kentucky athletic history dating back to the late 1920s.

Morris, 62, served as postmaster of the U.S. House of Representatives for 17 years, went to UK in the heyday of John Sims "Shipwreck" Kelly, and has been an avid Wildcat sports fan ever since.

Retired and living at Chimney Rock Village on Herrington Lake near Burgin, Morris still keeps his hand in the political process. He is working as a volunteer in the Democratic Party's re-registration effort at party headquarters here.

And he is looking forward to UK's football opener in the new stadium and another Big Blue basketball season.

"I've got season's tickets for football, but I'm on the waiting list for basketball tickets," he said, and then reminisced about the old days.

#### EVERYTHING'S CHANGED

"Everything's changed. I hardly recognize the place (UK) anymore. When I was there in 1929 and 1930, we had only about 4,500 students. When you walked around the campus you knew everybody. The local hangout then was the Tavern on Limestone across from Good Samaritan."

When Morris entered UK as a freshman in 1929, he was rushed by the SAE's, and "Shipwreck" Kelly was a sort of prize exhibit for the chapter during rush week. "I remember him well, although I later pledged Kappa Sig."

Kelly, of Springfield, was the star back then, but Morris remembers others on the team. "L. G. 'Floppy' Forquer of New Castle was the team captain in 1930. Bob Kipping of Carrollton was a tackle.

"Floppy and I went to Morehead in 1927 to make up some high school credits. They only had three buildings then, one of them an all wooden men's dorm. I remember the Morehead coach tried to talk Floppy out of UK and going to Morehead instead." But he failed, and Morris recalled the opening game a few years later.

"Back then UK used to open with schools like Maryville (Tenn.), and that year against Maryville, Kelly ran 70 yards for a touchdown the first time he handled the ball. He was very fast and explosive. They always had double-coverage on him when he went out as a pass receiver."

#### A LOT OF HAY

Afterward, Morris recalls seeing Kelly in Washington, when Kelly was barnstorming with a pro football group. "I ran into him in Union Station there, and we chatted awhile and Kelly looked around in the concourse, and said: 'By God, Hap, you could stack a lot of hay in here.' "

Morris' UK memories are not all of football. He worked in intramural basketball in 1929, and he remembers varsity players of the time such as "Carey Spicer, Paul McBrayer and Big and Little McGinnis."

Morris came to the University at the same time the great depression came to the country. He left after a couple of years and took a job with the Kentucky Highway Department, then got a position with the late Virgil Chapman, went to Washington in 1932, served as a doorkeeper in the House, and later as an assistant in the Democratic cloak room. In 1939 he became Chapman's secretary.

"I went over to the Senate in 1948 but didn't like it. My heart was in the House."

In 1952 he became secretary to the late John Watts in the House and stayed in that job until he was elected postmaster of the House in 1955. "We had four deliveries a day during the week, two on Saturday and one on Sunday. The only holiday was Christmas."

How did he get the nickname "Hap"?

"Chief Justice Vinson used to call me Happy, because he thought I always used to be in a happy mood. When A. B. "Happy" Chandler came to the Senate to avoid confusion they shortened me to "Hap."

Morris, of course, remembers and knew all the big names in Congress over the years. But it was inevitable that when he retired in 1972 he would come home to Kentucky (he was born in Carrollton) and settled down not too far from UK where it would be a short run to see his beloved Wildcats play.

"I've always been crazy about football," he said. "Even when I was in Washington, I used to see a high school game on Friday, a college game Saturday and the pros on Sunday."

Does he miss Washington?

"Not so much anymore. I enjoyed it when I was there, but Wright Patman (representative from Texas) is the only one still there in the House who was there when I first went to it."

Morris, a short, wiry man who still looks in good physical condition, says he likes living on Herrington Lake with his memories and with a lot of friends and acquaintances nearby. "But it's been seven or eight years since I've seen Shipwreck Kelly. He still looked good."

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## NIXON ACTS WISELY

## HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. SHRIVER. Mr. Speaker, today the House has an opportunity to again express its will in regard to minimum wage legislation. The President has found it necessary to veto H.R. 7935, the Fair Labor Standards Amendments of 1973. He has stated that the bill is inflationary and would cause unemployment among low wage earners, farmworkers, and young people.

Under the leave to extend my remarks in the RECORD, I include editorials from the McPherson, Kans., Sentinel, the Newton Kansan, and the Topeka, Kans., Capital-Journal which support President Nixon's actions. The editorials follow:

### MINIMUM-WAGE VETO WISE

President Nixon acted wisely in vetoing the bill which would have increased the minimum wage from $1.60 to $2 per hour this year and to $2.20 next July 1.

The President made it clear he does not oppose an increase in the minimum wage, but favors a boost to $1.90 an hour for nonfarm workers this year, and then $2.30 in steps over a three-year period.

The bill the President vetoed would have extended minimum-wage coverage to seven million more workers. The present law covers 49.5 million workers.

This is not to say that once a minimum wage increase is approved all of the 56.5 million workers would get wage increases. The vast majority already receive pay in excess of the minimum wage standards.

The minimum wage principle has been supported strongly by labor unions more because it places a floor on wages than for any true economic benefits that may accrue to the low-income workers.

The President was correct when he said the bill would be inflationary—the increase would amount to 37.5 percent—and would do more harm than good.

With regard to the latter, it is only good business for any employer to look over job applicants more carefully where no particular skills are required, yet the pay must be at least $2.20 per hour.

It is possible that jobs of questionable value to a company will be discontinued and the employe discharged if pay is not justified by the job requirements. This means that those who lack skills and experience will find employment more difficult to obtain with the higher minimum wage. In fact, the bill actually could harm the persons it seeks to help.

The House of Representatives has scheduled for Sept. 19 an attempt to override the President's veto. Since the bill passed the House by a vote of 253 to 152, it is possible the veto will be sustained.

It should be.

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### $2.20 WAGE MEANS HIGHER COSTS AND FEWER JOBS

Congress is determined to pass a law raising the minimum wage from $1.60 to $2.20 an hour. What will that do to you and me?

A raise from $1.60 to $2.20 is about 36 per cent. That big an increase in labor costs will push up prices of goods the workers produce. That big an increase cannot be absorbed by greater efficiency.

So the first result is that our living costs will jump higher again.

Then there is the second result. Many a store simply cannot afford to pay $2.20. They will either go out of business or reduce the number of employees. There goes your job if you are a store clerk today. And there goes more service to us, the customers. There just won't be as many people to help you when shopping.

Then think of the teenager and the retired person. Many a job will disappear. Who can afford $2.20 to mow the lawn? And who can afford $2.50 an hour for a janitor?

Workers in big industries seem about the only sure winners.

For one reason or another, you and I look like sure losers.

### NIXON ACTS WISELY

President Nixon acted wisely when he vetoed a bill that would have raised the minimum wage in the United States, and which would have added many more workers to its coverage.

Congressional leaders see little chance of over-riding the veto.

The President has consistently tried to

hold down both wages and prices to combat inflation. It would be inconsistent for him to sign a bill that would be contrary to the guidelines that he has set up.

Not only that, but every time the minimum wage is raised, some of the lower income people lose their jobs.

The boss decides that he cannot economically continue the job at the wages he must pay by government order, so he lops off personnel.

The work may be consolidated with other jobs, or it may be more economically to buy machines to do the work.

In other cases, employers may decide not to add workers to the payroll that would have been added had the minimum raise not been raised.

In theory, minimum wage raises may sound nice, but *when it comes* to the practical operation, they don't work like they are supposed to.

## AMTRAK: THE INTERAMERICAN

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. PICKLE. Mr. Speaker, today I would like to enter into the RECORD an entertaining and perceptive news column devoted to the Texas Chief, one of two Amtrak trains operating in Texas. Though Mr. Ashby's article deals with only one route, it is, I believe, indicative both of Amtrak's growing success and of several problems which the system is overcoming.

The column reflects a feeling that Amtrak is preserving and extending a traditional and valuable mode of transportation in America. More passengers are utilizing rail facilities, and Amtrak is steadily working toward self-sufficiency.

There is room for improvement in both routing and equipment, though performance with the facilities at hand has been admirable. Provisions in the Amtrak authorization bill passed by the House last week should make system improvements more feasible, enabling Amtrak to continue its metamorphosis from an experiment in rail transportation into a popular, self-supporting national passenger train system.

[From the Houston Post, Sept. 4, 1973]

ONLY WAY TO FLY

(By Lynn Ashby)

ABOARD AMTRAK.—This is a most civilized way to travel. A private room, private bath, pillows, cold beer, a good steak dinner only steps away, and no stewardess nipping about demanding that I put out my cigar. Indeed, a good railroad is the only way to fly.

This is The Texas Chief, which daily winds its way across Texas. It leaves Houston in the morning and gets to Fort Worth that afternoon, stopping off at all the biggie settlements along the way—Breham, Temple, McGregor, and Cleburne. And daily, another Texas Chief comes south.

I am not on the return trip southward, having already gone up to Fort Worth. Actually, I wanted to go to Dallas, but Big D remains the largest city in America without passenger rail service. Eat your heart out, Cowboys.

BOOZE SITUATION

As your native guide through the wilds of the west, I have made several scribblings on the back of an envelope in my best Lincolnesque manner which I shall now share with you. It goes along free with the paltry 15 cents you paid for this newspaper. I work cheap.

First, let us examine the booze situation. You can buy a beer on this line anywhere between Houston and Temple. This is, generally speaking, between 9:50 a.m. and 1:08 p.m. Not exactly the happy hour. And you can buy beer again when the train arrives in the Fort Worth terminal, and northward.

You will be happy to learn that, while they don't serve mixed drinks on the north-south run in Texas, Amtrak does have an open bar on the east-west run. I can't figure that out, but it probably has something to do with the legislature's one-track mind.

The cars are a bit dated. Neat, but dated. The lounge car, for instance, was built in 1941.

The reason there is not service between Houston and Dallas is that the line that got the rod, Southern Pacific, says the railbed is too rocky for speedy passenger service. SoPac wants $7 million to upgrade the track bed so the trains can move along. However, an Amtrak official says a Dallas television station went out and clocked the SoPac freight trains along the line—at 80 miles an hour.

The food is really quite good, and not as expensive as I remember it used to be. And it's nice to sit at a table with white tablecloth, silver, and plates instead of little plastic trays. Western civilization has not yet been completely wrapped up in a giant plastic bag.

"In many cases we have outstanding cooperation from the railroads and the unions," says an Amtrak official. "But not always."

One of the problems is that the lines get paid the same amount of money no matter how good or how bad they perform. The trains bill Amtrak for operating the passenger lines, plus 5 per cent for profit and another 4 per cent for insurance. Last year it came to $280 million, but the lines say that's still not enough, and are asking for a $125 million increase this year.

You can buy a deck of cards in the bar car for a buck.

This train has a lot of employees aboard—conductors, waiters, cooks, porters, bartenders.

In Houston, passenger traffic has picked up 25 percent since Amtrak took over on May 1, 1971, and nationwide, the number of passengers this summer is 10 percent higher than last. But they are all somewhere else. They're not on The Texas Chief today, which is fine with me. I hate crowds.

Next May, Amtrak will start a daily run east-west (Los Angeles to New Orleans). Right now it's thrice weekly.

They serve mixed drinks when this train crosses into Oklahoma. It seems unfair.

In the last fiscal year, Amtrak lost $124 million, but this year's loss should be only around $95.6 million.

According to the Amtrak time schedule, it takes six hours and 10 minutes to go from Houston to Fort Worth, but it takes six hours and 50 minutes to come back. There's got to be a reason for that—no doubt it has something to do with our liquor laws.

Actually, it doesn't make a whole lot of difference what the time schedule says, Amtrak is getting a reputation for lateness. Last year, Amtrak arrived within six minutes of the schedule three-fourths of the time. In May, it was down to 59.3 percent, in June it slipped to 53.3. Indeed, trains have troubles, yet they rarely have to land in Montreal when New York is fogged in.

There is a wall radio in my room, but it isn't hooked up. This car comes from another line that had a radio and was built in a time when people listened to it.

MILE-A-MINUTE

For some unknown reason, this route buttonhooks, coming down to the west of Houston, then winding in by way of Sugar Land, the Domed Stadium and so on. If they ever get the run to Dallas set, it will go straight north, then cut over to Bryan and up. They used to advertise, "260 miles in 260 minutes." And they hope to again, some day.

If there is no one in the bedroom next to yours, for a couple of bucks and a friendly smile, the porter will fold back the collapsible wall, thereby doubling your space and doubling your fun.

Ah, we are pulling into Houston now, only 40 minutes behind schedule. It's a real shame that railroads are not interested in carrying passengers. As I said, it's a most civilized way to travel.

## INFORMATION ON CIVILIAN AND MILITARY COMPENSATION

### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ASPIN. Mr. Speaker, a Library of Congress study prepared for my office shows that the current average military pay and benefits can amount to as much as $1,500 more than average civilian earnings.

According to the report, the average total compensation for a career soldier in 1973 is $12,062. A noncareer soldier, who does not receive retirement credit, gets $10,796.

The average civilian compensation, including wages and supplements such as retirement, unemployment, and insurance, is $10,566.

I believe that this study merits our careful attention. All along, we have been talking about giving the military "comparability." Now, as this study shows, it turns out that not only is the military pay comparable to the civilian pay, it is actually greater.

I believe this study leads to two important conclusions. First, it should be clear that at these prices the military can no longer afford to behave as if it were still a labor-intensive operation. No longer can we afford to employ soldiers of any rank in nonproductive or marginally productive jobs. This may have been permissible back in the days when we paid soldiers $50 a month, but it is not any longer. Second, this study indicates to me that our efforts to recruit a volunteer Army would be much more successful if we advertised the full amount of military compensation instead of just basic pay, which is just a fraction of the total.

A detailed breakdown of civilian and military compensation as prepared by the Congressional Research Service of the Library of Congress follows:

INFORMATION ON CIVILIAN AND MILITARY COMPENSATION

The civilian compensation table was constructed by updating a 1970 U.S. Bureau of Labor Statistics (BLS) estimate of hourly compensation (see attachment 1) with the Bureau's first quarter 1973 index of compensation per man-hour in the private nonfarm economy. We arrived at a figure of $5.08 for total compensation per hour. Assuming a worker is employed full time (2080 hours a year), his total annual compensation would be $10,566. We derived the dollar breakdown for particular items of compensation by applying percent estimates from the 1970 BLS survey on compensation.

THE 1973 AVERAGE ANNUAL MILITARY COMPENSATION, ALL OFFICERS AND ENLISTED MEN

*Table 1a.—Regular military compensation*

| | |
|---|---|
| Regular military compensation[1] | $9,097.55 |
| Basic pay | 6,587.14 |
| Basic allowance for quarters | 1,440.15 |
| Basic allowance for subsistence | 598.37 |
| Federal tax advantage[2] | 472.89 |

[1] Regular military compensation (RMC) is defined as basic pay, quarters, subsistence, and the tax advantage which accrues because quarters and subsistence are not subject to Federal income tax.

[2] At 1973 Federal income tax rates.

Source: U.S. Congress. House. Committee on Armed Services. Pay and Allowances of the Uniformed Services. Washington, U.S. Government Printing Office, 1973.

*Table 1b.—Other military compensation items*

| | |
|---|---|
| Special items[1] | $831 |
| Medical care[2] | 770 |
| Commissary and exchange[2] | 98 |
| Retirement credit[3] | 1,266 |

[1] Special items include incentive and hazardous pay, special pays like reenlistment bonuses, proficiency pay, and sea and foreign duty pay; allowances for clothing; and separation payments. This estimate for "special item" was derived by CRS by adding expenditures for the above categories and dividing their sum by all military personnel. See attachment 2 for basic expenditure and personnel data.

[2] Computed by CRS from Defense Department data.

[3] From Military Market Today.

(NOTE.—It should be kept in mind that many military personnel do not receive some or any of the benefits included in "special items". Also, less than 10% of those who enter the Armed Forces stay in long enough to qualify for retirement benefits.)

*Table 2—Estimated total compensation for a full-time worker in the U.S. private nonfarm economy—annual rates—first quarter, 1973*

| | |
|---|---|
| Total compensation | $10,566 |
| Wages and salaries[1] | 9,404 |
| Supplements to wages and salaries | 1,162 |
| Retirement programs | 687 |
| Life insurance and health benefit programs | 370 |
| Unemployment benefit programs | 74 |
| Miscellaneous benefits[2] | 31 |

[1] Wages and salaries include all direct payments to workers. They consist of pay for working time; pay for vacations, holidays, sick leave, and civic and personal leave, severance pay and nonproduction bonuses.

[2] Includes payments to vacation and holiday funds and payments to saving and thrift plans.

(NOTE.—Data in these tables are "rough" estimates made by the Congressional Research Service. They were derived by using information from a 1970 U.S. Department of Labor survey on employee compensation per man-hour. The survey was updated by using a Labor Department index on compensation per man-hour, and an annual compensation figure was derived by assuming a person worked full time (paid for 2,080 hours per year).)

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## THE ECONOMIC AND CULTURAL VALUE OF MIAMI'S CUBAN COLONY

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. FASCELL. Mr. Speaker, the county commission of Metropolitan Dade County, Fla., has recently adopted a resolution officially declaring Miami a bilingual city. This action is in recognition of the great change that has taken place in Miami in the last 10 years.

More than 300,000 Cubans have been forced to flee Castro's Communist-dominated Cuba, leaving behind their homes, relatives, friends, and all of their material possessions and have immigrated to this country, settling in Miami. Upon their arrival, this determined and hard working group immediately began to rebuild their lives with remarkable enthusiasm and results. Those results have been astonishing and, without question, south Florida and Miami have benefited greatly.

The economic, civic, cultural and social contributions made by the substantial Cuban population in Miami cannot be overestimated. They are extremely well chronicled in a recent article by one of the outstanding examples of the Cuban success story, Carlos J. Arboleya, Mr. Arboleya has become president and vice chairman of the board of the Fidelity National Bank of Miami. In his article entitled "The Cuban Colony—A 10-Year Span," Mr. Arboleya points to the accomplishments of Cuban Americans with pride, as he well should.

He recognizes as well, however, the necessity for joint effort in the future between native Americans and Cuban Americans if we are to make the most of this unique opportunity. With the sincere effort in behalf of both groups, Miami can become truly a bicultural and bilingual city, enjoying the advantages of both cultures. With this effort, Miami can become an even greater city.

I call to the attention of the Members of the House the Cuban success story, and thank Carlos Arboleya for his excellent statement of that story:

### THE CUBAN COLONY—A 10-YEAR SPAN

(By Carlos J. Arboleya)

A little over ten years ago a unique and explosive immigration came about through the door of our southernmost state, Florida. Miami, to be more exact, became the target of refuge of what is today said to be 350 thousand people. As this immigration began pouring into the Miami area, the city was experiencing, as were many others in the United States, a recession almost on the verge of a depression and the impact of the Cuban exiles, seeking freedom and democracy as they fled the Castro Communist regime, is often referred to today as a matter of shame-faced pride by the local business establishments, as they sit back and review the growth of the community.

At first relegated to menial jobs, the Cuban Colony claims today, among the many other accomplishments attained during this last decade, an annual gross income of over one billion dollars. This does not mean by any chance that the total credit of Miami's growth can be attributed to the Cuban influx; but without any doubt, a very large percentage of the credit can be claimed by this industrious and hard working group of immigrants.

As the freedom airlift sadly comes to an end, Miami is experiencing a slowdown in this boom. Many who complained at first and were concerned with the refugee airlift are the loudest today in its defense as they see the approximate 1,000 per week population input stop. What some pessimists at first labeled crisis and later praised, has sadly come to an end to the deterrent of our Country's growth.

As previously mentioned, from an almost penniless immigration that began in the 60's, we today see how this colony of over 350 thousand people generates over one billion dollars per year. This is almost three times per capita the income of any South or Central American Country, and of many states within our own United States.

More than one third, over 8,000 of the businesses in Miami are Cuban owned and operated. They range from million dollar firms listed on the stock exchanges to one man or family operated businesses and, it is interesting to point out, that these, rather than take away jobs from local residents, the new immigrant owned and operated organizations have created and provided jobs for the native Miamian as well as for the Cubans, Blacks, and other immigrants of our area.

The building and real estate market is a booming one. Over 40% of all new construction in Miami is being done by, or for, Cubans. Ranging from the tallest building in our city to the remodeling and rebuilding of old neighborhoods and the initiating of new ones.

We see thirty-nine Spanish newspapers and magazines being published. Of them, one is a daily publication that has a circulation of over 65,000 and is received, not only locally, but in other states where a large number of Cubans have relocated, as well as in South and Central America. Three television channels are broadcasting in Spanish; one full time and the others with 50% Spanish programming. Four full time radio stations fill the air waves for those who prefer to "hear it in Spanish," while five theaters show only Spanish films or American movies with Spanish subtitles.

Over twenty-five Cuban operated private schools are now operating in the Miami area and we see that they are more and more receiving the accreditation necessary for the admittance of their pupils to our universities.

The medical and hospital situation, rather than becoming a problem for the area has actually been solved by the many doctors who resettled in the area; approximately 1,200 have passed their boards and have established a local practice; it is estimated that there are another 2,200 doctors in the process of revalidating their boards in order to practice; over 15 out-patient clinics are in operation with some of them providing connecting facilities at hospitals for inpatient treatment. As a result of a lack of consideration by the governing body, Cuban dentists have not been as fortunate as the doctors and many find themselves doing menial tasks to the disadvantage of our community which would benefit from these professionals.

A similar situation has occurred with the Cuban attorneys, many of which are employed in other capacities. Here is the only area where circumstances and destiny have not been favorable; the law structure is different and the language a great barrier, however, many of the large law firms have employed these men, not as practicing attorneys but as consultants and researchers. This has proven beneficial since these firms have developed a large Spanish speaking clientele from the Miami area as well as from South and Central America.

Approximately 70% of the service stations in this area are owned or operated by Cubans. Eighty-five percent of the garment industry's factory operation is composed of Cuban labor. Hotels are almost entirely Cuban staffed and the construction workers percentage has reached almost 65%.

Let us compare some of these facts and figures with those of the Miami area and its economy. We see how Miami has become the new international center, displacing New Orleans. We see how eight of the major banking corporations in the United States have established offices in Miami under the "Edge act provision" to deal with Central and

South America. We see how over one hundred national corporations that deal in that market have established their regional or primary offices in the Miami area. The Department of Commerce reports that there are over 800 national corporations that have requested information in order to conduct studies with the idea of opening branches or subsidiaries in the area. At this point approximately 100 firms are now conducting surveys and making more detailed studies of the area.

The Miami International Airport has grown more than 200% in air passenger service within the last five years and well over 100% in air cargo. The Port of Miami has doubled its ship passenger traffic within the last five years now handling close to a million passengers a year. Waterborne tonnage is growing at a rate of 18% per year, or 60% in five years with its dollar value increasing over 250%. Exports from Miami to Latin America are averaging a 22% growth per year. This is one of the fastest growth rates of Latin American export trade of any region in the United States; and this works both ways, for the imports from South and Central America are also increasing at approximately the same rate. All of the above puts Miami in the lead in dealing with Central and South America resulting in Florida being one of the two states in the union that actively maintains a favorable balance of trade. Overall we can say that exports and imports are up close to 82% over the last five years.

Dade County now has approximately 70 banks; of those, we have found that five have Cuban presidents and thirteen have Cuban executive or senior vice presidents. Overall Cubans occupy fifty-seven vice presidential positions and over one hundred-fifty other officer or managerial positions within the banks. This does not take into consideration the very high percentage of Cubans employed in various other positions within the industry.

If we wonder why, we can analyze the background of this immigration; 36% have college education, 27% have high school education and 30% a grammar school education leaving only 7% not having completed grammar school. This background has been a great help in their accomplishments which of course result from the long hours and hard work eagerly and enthusiastically offered as they arrived in the United States and accepted a new challenge.

Upon their arrival in the United States, we saw how many of these refugees settled in other states; now as the years pass, they are returning to the Miami area, not penniless, as they originally arrived in the United States, but with $10,000; $20,000 or more after two to five years of working two or more jobs, ready to resettle and establish themselves in business in Miami. Why? The climate is very similar to the one they left in their homeland, but more so, the lifestyle. It is jokingly said that in Miami, you "can be born, or die and be buried Cuban style."

The tobacco industry is another of great importance in Miami. Over 19 cigar factories operate, employing approximately 300 workers.

Spanish restaurants and night spots number in the hundreds with some of the most exquisite food being served at nationally recognized Spanish restaurants in Miami, with the gaiety of the Latins being reflected in the night life for the Cubans have brought a musical history and excitement that the city lacked.

The fishing industry has also been heavily integrated by the Cubans. A large number of fishing vessels are owned and operated by them and provide a large amount of the seafood for the area as well as for export to other states.

Miami's Chief of Police, as well as Dade County's Sheriff have both repeatedly reported on the law abiding personality of the Cuban—crime was almost non-existent. A unique situation in a mass type of immigration such as this. It is now, after more than thirteen years of exile that some problems are being experienced, possibly due to a more relaxed or lenient attitude on behalf of the middle aged groups, and parents as opposed to the very strict Latin traditions maintained after the initial immigration.

As Miami now has been officially declared a bi-lingual and bi-cultural city, a greater emphasis is being placed on the language area. Grammar schools are conducting classes in Spanish as well as English with the result that the native American child is learning Spanish as the Cuban child learns English. Many other areas of benefit are and will be reaped from the bi-lingual, bi-cultural status that can only be an asset to our community.

The Cuban colony in Miami is composed of approximately 93,000 households. Each household now averages four persons, while ten years ago the average household housed under its modest roof six to ten people as they were beginning their new lives. Today we see that of the 93,000 households about 42% reside in their own homes and approximately 58% rent; of the 58% renting, it is significant that 28% are in the process of buying their own home. The inflationary market we are experiencing today has held many back in this endeavor.

The average income of the Cuban head of household is $10,000 per annum, and in the higher educated and professional group, $20,000 to $24,000 per annum. 20% receive over $15,000 per year, 62% over $7,000 and the unemployment figure is less than 2%. The welfare rolls show that there are only approximately 25,000 Cubans on welfare, 18,000 on regular state welfare and approximately 7,000 under the almost extinct Cuban refugee program. It has been established that these are elderly, disabled or children and none are ablebodied individuals.

Tradition and heritage are foremost with the Cuban. He strives to maintain his folklore, his heritage and traditions of his forefathers, we see numerous ballet studios and theatrical companies playing shows of the old country filling to capacity theatres and playhouses. The Dade County and City of Miami auditoriums as well as other theatres in the area provide the setting for these popular shows.

Social Clubs growing out of those from the old country have become a way of life for many and always claim large attendances by young and old. They provide many with the way and means of maintaining traditions and instilling pride in their heritage. An example of this desire is that out of the 93,000 existing households we find that in 88% Spanish is the language spoken within, although they, or their children may be fluent in the English language.

Almost 35,000 Cubans have become American citizens within the last five years thus placing the Cuban colony in a powerful and significant political position. These new citizens are being strongly encouraged to exercise their newly acquired precious right to vote. This is one area where there continues to be a lack of understanding towards the Cuban. Although the Cuban becomes an American citizen, he continues to proudly display his Cuban heritage for he believes that he is privileged to be able to love two flags. Once this is more readily understood by native Americans, there will be far fewer misunderstandings between them and the Cuban Americans.

Ninety-five percent of the Cuban population own their own car. Thirty-six percent own two and twelve percent own three or more cars. Television sets are found in 98% of the households; of those, 78% are color sets, and 48% had two or more sets. Sixty-seven percent were found to have three or more radios. No other ethnic group in the nation shows possessions with such high ratios.

We found it rather interesting to see how the Cuban population is divided by type of occupation. Twenty-nine percent are professionals, forty-one percent are salespeople, craftsmen, technical or clerical workers, twenty-four percent are service or blue collar workers, five percent are retired and only two percent are reported to be unemployed.

In the sports field, we find that baseball continues to be the favorite sport of the Cuban, and three little league academics where boys learn to play ball and subsequently enter into the Cuban sponsored little leagues are in operation. The Miami Cubans baseball team for the 18 to 21 age group has already won 7 international series and now officially represents the city of Miami in the U.S. Baseball Federation. The rosters of the baseball teams of the University of Miami and Miami Dade Junior College, North and South, are composed primarily of Cuban names. Football is gaining ground and although at the college level we see very few Cuban names, the high school scene is a different story. The younger generation is learning our No. 1 sport along with the English language and we see now predominantly Cuban names on the rosters of these teams.

Civic involvement has become a way of saying "thank you" to the United States; almost every civic, social and service club or organization has either a Latin division or has a large Cuban enrollment. We have recently seen two demonstrations of the strength of this community; a telemarathon for the needy Cuban refugee children in Spain produced $250,000 in 24 hours and when the Nicaraguan earthquake struck almost a month later $150,000 was raised in one day and over 15 plane loads of food, clothing and medicine were sent to Managua, Nicaragua, from the Cuban colony in Miami.

Agriculturally we see several sugar mills in operation in the state of Florida owned or operated by Cubans and oranges now share the fields with sugar cane. Sweet potatoes, tomatoes and other vegetables are being farmed by these new immigrants who have become equally strong in the cattle business locally as well as for export.

The city of Miami has a unique composition in its population. We have covered its institutional statistics, now let's analyze its population composition. Surprisingly it is a city where the majority is composed of minority groups—Blacks, Cubans, Puerto Ricans, Jews, South and Central Americans and other ethnic groups comprise 900,000 in a population of one million three hundred thousand, the Cuban group found to be the largest one of these minorities.

This group has become easily and comfortably settled and has established its own sub-cultures; the Cuban housewife carries out her activities without the need of the English language, she listens to Spanish radio, views Spanish television, banks at a bank with Spanish employees and buys food and clothing at Spanish stores. She prays in Spanish at Catholic masses or Protestant services conducted in Spanish since over 40% of all religious services in Miami are held in Spanish. Her children can play and meet at Cuban social clubs and play sports in Spanish sponsored leagues. The girls take dancing in Cuban ballet studios and go to Spanish sponsored public dances. This carries on and on to many other facets in the Spanish way of life. I assure you that there has never been an immigration that has so strongly retained its cultural, spiritual and language ties and heritage of the country that gave them birth. You will find few Cubans who will change their names as they become American citizens or will in any way deny the country of their birth and most will boast of their homeland which is hoped will someday again be free of the Communist yoke that today oppresses it.

It is important to emphasize that this does not mean that this Cuban community will not merge and blend with the cultures of our country, but it will take some time, one or two generations perhaps. This group is as I said before, unique, never before seen in our history of immigrants, and it will take the new generations who have been born, raised and educated in the United States to begin this, since its elders are very strong in passing on to them the pride of the country they left behind, not by choice but by destiny.

I can foresee some troubled times ahead. This I have said before, the Cuban influx has been well accepted and has merged into the Miami area without any significant incidents or problems. What happens now? A natural and logical human reaction of the native Floridian as he realizes that the Cuban colony is generating income of over one billion dollars per year; sees it generate voting power of over 100,000 within the next few years; sees 33% of the businesses owned by Cubans; sees 40% of the construction being done by them. We can go on but really, is his natural reaction to this the acceptance of the hard work and effort put forth or does he begin to have reservations? On the other hand, the Cuban must realize the human element that may be creating this in the native Floridian and must humbly and with understanding join with him as fellow Americans for their mutual benefit, to avoid any possible clash that may darken what has been referred to as the most beautiful and productive immigration to the United States.

The major newspapers of the country, English as well as Spanish, have the responsibility and must face this challenge. They, through their editorial power must not add fuel to the fire; but constructively work to blend these cultures through a mutual understanding and desire for what is best for our country, which will eventually come about.

Our new bi-lingual and bi-cultural city has many challenges ahead. This is without a doubt a two way street and this must be understood by both native Americans and Cuban Americans. Change for the sake of progress is necessary; change for the sake of change is not wanted. Native Americans must accept the fact that the Cuban Americans are just as much Americans as they are with one addition; they are Americans by choice. They pay the same taxes (they have, in fact paid in taxes five times the amount of federal monies allocated under the Cuban refugee program), they serve on juries, they have fought in Vietnam, they vote and participate in civic and social affairs and fulfill their obligations to the community and to their new country just as the native American does. He has, therefore, the same rights. But also, he brings to his new country his language, his culture and his traditions which the native American can embrace and take advantage of; on the other hand, the new Cuban American must also respect, accept and embrace the native American cultures, traditions and laws, and adjust himself to his new homeland and way of life.

To conclude, every immigration in this country has had its critics. Some with prejudice, some from a fear of job loss, some from a concern that our country is favoring foreigners over its own natives. Fortunately, most of the critics have changed their opinions and now look favorably toward the Cuban immigration, they now, to a large extent, understand that the Cuban refugee did not immigrate to this country to better himself economically, but to flee a Communist regime and to avail himself of the opportunity for a life of freedom and democracy. As a result, we have benefited from this large nucleus of educated, experienced and hard-working successful businessmen that have contributed much to the area and its economy. And although the "freedom flights" as such have been terminated, not by the United States, but by the Communist Castro government, still an input of new residents trickle in via Spain, and more important to our economy, many who had been located in the cold north are returning with their pockets full of hard earned money and ready to commence doing business. Yes, we hold the Cuban influx as a blessing for our area, there are faults as well as virtues, but I cannot end this ten year analysis of the Cuban immigration without a sincere plea to all native Americans and Cuban Americans to think as Americans, with a positive outlook toward the years ahead, which may be difficult, to accept the success of each with a pride and understanding and the faults with blessed forgiveness. If this can be accomplished it will make our newly declared bilingual, bi-cultural city an example of what the American dream is and offer proof that it is alive for all who wish to take advantage of its opportunities.

## THE LATEST MIDEAST ARMS ESCALATION

### HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. BINGHAM. Mr. Speaker, I believe that the purchase by Libya of a new French-built antiaircraft missile system signals an unfortunate escalation of the Mideast arms race, which should give pause to any who would have us lessen or abandon our commitment to Israel.

Arab leaders, including the vocal President Qaddaffi of Libya, have repeatedly called for the slackening of U.S. military support for Israel as the price for continued access to Arab oil. Yet, when the Arab States purchase arms from the Soviet Union, or, as in this case from France, they themselves create the atmosphere of conflict they accuse the United States of causing.

An article appearing in the Washington Post on September 14 details this latest surge in Mideast weaponry. The article follows:

#### LIBYA BUYS FRENCH MISSILE

(By Michael Getler)

In another stepup in the Middle East arms race, Libya has bought and begun deploying a new French-built antiaircraft missile system, according to U.S. officials.

The sale of the weapons by France was apparently carried out in considerable secrecy. Sources here indicate the first the United States knew about it was when the missile—normally transported on an armored car—showed up in a parade in Tripoli recently.

The purchase is viewed here as a further expression of the Arab regime's fear of some future Israeli air attack against Libyan airfields, which now contains sizable numbers of French-built Mirage jet fighter-bombers but which until recently have been largely unprotected from surprise air attack.

Continuing sales of new French arms to Libya have caused concern in some industry and government quarters here because the regime of Libyan President Muammar Qaddafi is viewed as revolutionary and volatile, having already ordered control of U.S. oil interests in Libya and demanded a slackening of U.S. support for Israel as the price for future oil deliveries.

But the purchase of the French Crotale missile is also of concern in the Pentagon, mostly because the missile is viewed as highly effective and the U.S. Army is considering buying some.

Having the missile in Libyan hands, some officials believe, would eventually mean that the Soviets would gather information on its performance and thus be able to counteract its effects in the hands of the U.S. Army.

On the other hand, other U.S. specialists say any American version of Crotale would be substantially modified to make it difficult for Soviet warplanes to evade.

In general, officials believe that the French sale to Libya could inject political considerations into what they consider to be an important military decision for the United States on whether to buy the missile.

Some Pentagon officials believe Crotale to be far superior to other existing European and U.S. air defense missiles, claiming it is cheap, accurate and mobile enough to be used in the field against enemy planes attacking at low altitude under virtually all weather conditions.

The weapon is seen as a complement to the Army's planned $4.4 billion SAM–4 air defense missile system, which is still many years from development.

Some officials believe SAM–D, which will be a large and not very mobile system, makes a good target and the Crotale may be necessary to defend SAM–D and to help in the tough problem of hitting planes flying at very low levels.

Most important, some specialists say, Crotale is available now and view it as probably better than the existing U.S. Hawk antiaircraft missile.

The SAM–D has been the target of sharp attacks in Congress in recent days by some senators seeking to cut it from the Pentagon budget.

U.S. sources estimate that only a handful of Crotale units, comprising perhaps three four-missile batteries, are operational now in Libya.

They are expected to complement the Soviet-built SA–2 missiles supplied to Libya by Egypt earlier this year. The SA–2 is primarily designed to shoot down planes at high altitude. Most of the Libya air defense missile build-up is said to be clustered around the old U.S. Wheelus Air Base.

The Libyans reportedly now have about 60 of the 110 French-built Mirage jets they ordered.

Earlier this year, Libya moved several of those jets to Egyptian bases, in a move U.S. officials generally regard as an attempt by Libya to get them off the then unprotected Libyan airfields.

At one point, Deputy Secretary of Defense William P. Clements, is known to have chastised the visting French air force chief of staff during a social luncheon in Clements' office over the alleged lack of French control over transfer of the planes.

The French military leader was reported to be highly annoyed over Clements' comments and questioned U.S. Middle East policy in the process.

## PINELLAS VFW POST 4364 EARNS COMMUNITY SERVICE AWARD

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. YOUNG of Florida. Mr. Speaker, though we hear a lot about the so-called generation gap, devotion to the ideals of this great Nation is a cause which spans that gap and brings together Americans of all ages. In my district, the Sixth Congressional District of Florida, the Pinellas Park Post 4364, Veterans of Foreign Wars, has been active since 1969 in presenting American flags which have been flown over the Capitol to Boy and Girl Scout units in the Pinellas area.

The importance of VFW Post 4364's youth activities/Americanism program recently received recognition at the national level. The national board of judges of the VFW voted unanimously to award the Pinellas Park Post with the VFW's Community Activities Award of Merit for its role in presenting 70 flags and instilling patriotism in local youth groups. I am sure that my colleagues will join me in congratulating Mr. Robert R. Wyand, community service chairman of Post 4364, and the other fine members of the post who worked hard for this program.

I would like also to draw my colleagues' attention to the following articles which appeared in local recognition of the VFW's Americanism program:

[From the St. Petersburg (Fla.) Independent, Sept. 9, 1973]

### VFW POST IS CITED

Commander-in-Chief Patrick E. Carr of the Veterans of Foreign Wars (VFW) of the United States has announced that Post 4364, of Pinellas Park, has won the organization's Community Activities Award of Merit.

This top national award went to the local VFW Post in recognition of a continuing program of obtaining and presenting the American Flag to local youth groups and other organizations as well as to Boy Scouts attaining the Eagle rank.

The VFW National Board of Judges, in making the award, praised the project noting that "Post 4364 has been involved in this program since 1969. The presentation ceremonies have been impressive and should help instill patriotism in the hearts of local youth."

Presentation of the Award of Merit was a unanimous decision by the judges. It is accompanied by a bronze plaque.

In congratulating local VFW members, Commander-in-Chief Carr praised them "for your inspiring zeal in conducting this patriotic program. We need such projects throughout the nation to make our citizens more aware of the principles and high ideals upon which America was founded."

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[From the Boy Scouts of America, Council No. 89, Seminole (Fla.) Reflector, Sept 1, 1973]

### VFW GETS NATIONAL MERIT AWARD

The Veterans of Foreign Wars of the United States has presented VFW Post 4364 with the organization's National Community Activities Award of Merit in recognition of their continuing program of obtaining and presenting the American Flag to local youth groups including Boy Scouts attaining the rank of Eagle.

VFW Post 4364 of Pinellas Park was cited by unanimous decision for its zeal in conducting this patriotic program. Of the 70 flags presented from the inception of this program 46 have been presented on behalf of the Scouting movement in the Pinellas Area.

19—New Eagle Scouts
14—Scout Troops
5—Cub Packs
5—Camp Soule
1—Thunderbird District
1—Osceola District
1—Knights of Dunamis

We of the Pinellas Area Council would like to extend our congratulations to VFW Post 4364 for this well earned recognition.

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## NASA'S TECHNOLOGY HELPFUL ON GROUND, TOO

## HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. TEAGUE of Texas. Mr. Speaker, Linda Cornett of the Huntsville News in an August 23, 1973 article in that publication pointed to a number of the many significant benefits being derived from our national space effort. These range from simple devices to complex managerial techniques. Practically no part of American life today is without some direct or indirect benefit derived from the technology of space. This article succinctly describes a number of the more significant contributions of our national space effort.

The article follows:

[From the Huntsville News, Aug. 23, 1973]

### NASA'S TECHNOLOGY HELPFUL ON GROUND, TOO

(By Linda Cornett)

To those who question the wisdom of spending monies for space exploration and ask "What good is it?" there are many answers, space advocates proclaim.

The spinoffs from research and development touch American lives—from aiding, for example, the Madison school system, to aiding paralytics to go into business, to innumerable assets achieved by Marshall Space Flight Center and the National Aeronautics and Space Administration.

Take, for example, a Los Angeles polio victim.

Paralyzed from the neck down, an LA woman is now operating a telephone answering service.

It was a by-product of developments made by NASA.

The astronauts needed a "Long arm" to perform maintenance on aircraft.

So, what was gained by NASA development, is now being used by the LA woman, one example of spinoffs from space work.

The woman, paralyzed for years by polio, deftly controls a motorized brace extending to her fingertips, flicking switches with her tongue. She has developed a telephone answering service from her home since she was outfitted with the mechanical muscles.

The elaborate brace, developed from metal "arms" operated from similar devices used by astronauts for long-distance maintenance, is just one of thousands of NASA projects adapted for public use.

"That's our main objective, helping to improve the public sector," according to Marvin Brown of Marshall's Technology Utilization Office.

The local office, established in 1962, began its work as simply a link between NASA technology and businesses across the country, providing condensed "tech briefs" to approximately 12,000 businesses, colleges, and individuals across the country.

Each of the briefs, Brown said, includes a picture of the machinery, a brief explanation of its workings, possible adaptations, and an offer of a hefty back-up package of detailed data.

The information dispensed is backed up by a broad system of computer filing, a "technology bank" of reports filed by eight technology utilization centers from coast to coast.

Through the computer link-up, Brown said, TU offices and companies hooked by their tech briefs, can borrow information on all areas of technology.

"We try to encourage private companies to take NASA technology and develop it to some profitable use for their own business," he said.

To keep track of the effectiveness of the program, TU headquarters has contracted with the Denver Research Institute to follow up on companies requesting in-depth information from branch offices.

Success, Brown said, seems to be pretty good.

In the past four years, however, the office has expanded its role to include research of its own. "We just didn't feel that with just paper work we were going far enough," Brown said. "We have gotten into doing part of the adaptation work ourselves. After a certain point we hope private businesses will take the ball."

Technology developed from NASA's need for rapid communications via satellite, is one of many off-shoots with a widespread effect. Next year, Madison County school teachers will receive college credit from the University of Kentucky for televised courses flashed off a NASA satellite to learning centers across the Appalachian region. The program, according to NASA officials, is being groomed for use in cutting down India's illiteracy rate.

ESSA satellite weather reports, flame-proof material for clothing, a forest fire "sniffer" and locator, oil slick sensors implanted in aircraft, and highly nutritious "mini-meals" are only a few of the adaptations from across the country.

One of the local programs being carried on by Marshall's TU office, under Juan Pizarro, will provide early detection of deafness in infants.

The unit, which measures the child's brain pattern, would allow doctors to determine deafness in infants early enough to compensate for difficulties in the learning process, Pizarro said. Presently, he said, deafness may not even be mistaken for retardation.

"We hope to be able to catch the problem before the child sets up a distorted pattern of perception," Pizarro said.

The unit which is awaiting miniaturized components before the final testing is done, will be a great improvement over most testing units now used in clinics and schools, Pizarro said. It will weigh approximately 15 pounds, and will cost under $1,000 compared with the $30,000 now required to purchase a testor.

NASA engineers from TU and other branches are developing the unit, assisted by professionals from the community, Pizarro said. Requests for units have begun to come in from universities and clinics across the country, he said.

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## MARGARET FAYE OF HAWAII AGING COMMISSION TO JOIN U.S. SENATE AGING COMMITTEE STAFF

## HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. MATSUNAGA. Mr. Speaker, it is a basic rule to almost every culture, especially those of Asia, that the elders of a society are to be honored and revered. Through her efforts in the Hawaii State Commission on Aging, Mrs. Margaret Faye has helped assure the senior citizens of our State comfort and security for their needs.

Mrs. Faye is leaving the staff of the commission to come to Washington, where she will be serving on the minority staff of the Senate Special Committee on Aging.

As a gesture of congratulating her, I ask unanimous consent that a resolution by the State commission on aging, honoring Mrs. Faye for her substantial contributions, be included in the RECORD at this point:

RESOLUTION NO. 47

Honoring Mrs. Margaret S. Faye, Program Specialist for the State Commission on Aging, on Her Appointment to the Minority Staff of the Special Committee on Aging of the U.S. Senate and for Outstanding Service to the State Commission on Aging and the Community

Whereas, Mrs. Margaret S. Faye was appointed as the Areawide Specialist on Aging by the Commission on Aging on March 6, 1972; and

Whereas, Mrs. Margaret S. Faye also assumed the position of Project Director for the Areawide Model Project—Honolulu, on May 1, 1972; and

Whereas, Mrs. Margaret S. Faye with her extensive knowledge of the needs of the elderly was a key leader in formulating a Plan of Action for Areawide Opportunities for Senior Citizens;

Whereas, Mrs. Margaret S. Faye has submitted her resignation as a staff member of the State Commission on Aging, effective July 15, 1973, in order to accept an appointment to the minority staff of the Special Committee on Aging of the United States Senate;

Now, therefore, be it resolved, That the State Commission on Aging does hereby extend its congratulations to Mrs. Margaret S. Faye on her appointment to the minority staff of the Special Committee on Aging of the United States Senate.

Be it further resolved, that the State Commission on Aging does hereby commend Mrs. Margaret S. Faye for her outstanding performance of her job and dedication to her work.

Be it further resolved, That this resolution be spread upon the records of the Commission on Aging and that true copies of this resolution be transmitted to Mrs. Margaret S. Faye, Hawaii's Congressional delegates, and other interested parties.

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## GAO RULES NIER IMPOUNDMENT ILLEGAL

## HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 19, 1973*

Mr. ANDERSON of Illinois. Mr. Speaker, the National Industrial Equipment Reserve—NIER—has been without funds for over 26 months. NIER is not only a reserve of machine tools to be used for defense production needs in times of national emergency, but is also the source of the popular "tools for schools" loan program which makes this machinery available to schools for vocational training purposes at no cost. Some 400 schools in 44 States presently benefit from the loan of some 8,000 pieces of NIER machinery, training some 35,000 youths and disadvantaged persons.

Because the Congress had inadvertently failed to appropriate funds for NIER in fiscal 1973, I, along with over 80 House cosponsors, offered an amendment to restore $1.8 million in supplementary appropriations for NIER, and that was adopted as part of the first supplemental in April of this year, and became part of Public Law 93–25.

Despite this expression of congressional intent to continue NIER, the Office of Management and Budget proceeded to impound those funds and issue a directive to the General Services Administration and the Department of Defense calling for the immediate dismantlement of NIER.

In response to my request, the Comptroller General has issued a legal opinion on the OMB actions and has found that OMB does not have the authority to direct the termination of NIER, its reasons given for impounding NIER funds are not valid, and the money appropriated for NIER cannot be used to implement the OMB NIER dismantlement directive.

Quoting from the Comptroller General's opinion:

> It is our opinion that the appropriation made by Public Law 93–25 requires that the NIER program be reactivated and carried on as provided for in the National Industrial Reserve Act. Accordingly, we conclude in general that there is no legal basis for OMB's plan to "redirect", "disinvest", or otherwise terminate NIER; nor do we believe that the appropriation may be impounded or diverted from its intended purposes in connection with the OMB plan.

Mr. Speaker, it is my understanding that OMB has released the impounded funds to GSA with the instructions that they be used to terminate NIER, and similar instructions have been issued to the Department of Defense. I would simply point out that the GAO has ruled that such an expenditure would be illegal, and the Comptroller General's legal decisions in such matters are binding on the executive branch as I read the authority vested in GAO by the Congress (31 U.S.C. 74).

I have, therefore, today called on the Comptroller General to inform GSA and DOD that these funds can not be expended as directed by OMB. I have also sent copies of the GAO ruling to the Secretary of Defense and the Administrator of the General Services Administration, respectfully requesting, in view of the GAO decision, that NIER be immediately reactivated; and I have today sent copies of the GAO decision to the chairman of our Appropriations and Armed Services Committees asking for their assistance in seeking compliance with the GAO ruling. I have, on an earlier occasion, forwarded a copy of the GAO ruling to the Director of the Office of Management and Budget, Mr. Roy Ash.

At this point in the RECORD, Mr. Speaker, I include the full text of the legal opinion rendered by the Comptroller General, Mr. Elmer B. Staats:

COMPTROLLER GENERAL OF
THE UNITED STATES,
*Washington, D.C., September 11, 1973.*

Hon. JOHN B. ANDERSON,
*House of Representatives.*

DEAR MR. ANDERSON: Your letter of August 15, 1973, raises several questions concerning executive branch actions and plans with respect to the National Industrial Equipment Reserve (NIER).

NIER was established by the National Industrial Reserve Act of 1948, approved July 2, 1948, ch. 811, 62 Stat. 1225, as amended, 50 U.S.C. 451–462, as a means whereby a nucleus of "excess industrial property"—defined therein as property, including machine tools and industrial manufacturing equipment, controlled by Federal agencies but not required for the immediate needs of such agencies—would be available for the immediate use of the military in a national emergency.

The Secretary of Defense is authorized and directed by the act to (1) determine which excess industrial property should become part of the reserve; (2) formulate a "national security clause" setting forth restrictions in the documents of lease or sale of such property in order to guarantee its availability when needed for national defense purposes; and (3) to consent to waiver or modification of the national security clause when he determines that specific property is no longer essential to national security or that a lesser interest will adequately fulfill the purposes of the act. 50 U.S.C. 453. Machine tools and industrial manufacturing equipment designated by the Secretary for inclusion in the reserve are to be transferred to the General Services Administration (GSA) for maintenance, repair and restoration and for leasing or other disposal by GSA. 50 U.S.C. 454(b), 455.

The Secretary of Defense is accorded general supervisory authority over GSA's treatment and disposal of reserve tools and equipment, including authority to permit and regulate the lending of such property to nonprofit schools when (a) he determines that a school's use thereof will contribute to national defense, and (b) the school agrees to make adequate provision for maintenance of such property and for its return to GSA if needed. 50 U.S.C. 456. The act also established an "Industrial Review Committee to annually review the justification for retention of property in the reserve and, among other things, to recommend to the Secretary disposition of property which it considers of insufficient strategic value to warrant retention in the reserve." 50 U.S.C. 459. 460.

Your letter to us states in part:

"* * * As you may know, prior to fiscal 1973, NIER was funded under and managed by the General Services Administration, acting on behalf of the Department of Defense. In fiscal 1973, however, when the Administration proposed that NIER funding be shifted to the DoD budget, the Congress balked and NIER was not provided for under either the DoD or GSA regular appropriation. GSA subsequently terminated its operation of NIER in December of 1972, closing down the two storage facilities at Terre Haute, Ind., and Burlington, N.J., and discontinuing its 'tools for schools' loan programs.

"In order to put NIER back on the track, I offered an amendment to the first supplemental appropriation bill of 1973 (H.J. Res. 496) to restore $1.8 million for NIER under the GSA budget. This was accepted in the House and Senate and thus became part of Public Law 93–25, enacted April 26th. Despite this clear indication of congressional intent with respect to the continuation of NIER, the Office of Management and Budget issued a directive to DoD on May 24, 1973, (copy attached) ordering the dismantlement of NIER. OMB has subsequently released $900,000 of the NIER supplemental appropriation to reimburse GSA for operating the reserve during the first half of fiscal 1973, and, according to testimony by GSA Assistant Administrator G. C. Gardner, Jr., OMB intends to release the other half for disposing of NIER machinery."

The memorandum from the Deputy Director of the Office of Management and Budget (OMB) to the Secretary of Defense dated May 24, 1973, attached to your letter, reads in pertinent part:

"The NIER program today does not serve as critical a defense need as it did in 1948. Continuation of the program in its current form does not seem necessary since:

"The number of tools in the reserve is insignificant to the total inventory of machine tools in the general economy—less than one-half percent.

"Hardly any of the reserve tools have been mobilized since GSA assumed operating responsibility for the program (an annual average of 218 items for the 1961–1971 period and

383 items for the Vietnam build-up period of 1964–1968 were transferred to defense contractors in support of military contract requirements). Other sources probably would have been used if the tools had not been available in the reserve inventory.

"The tools could be excessed with a national security clause which would permit effective recall in a national emergency. Further, under Title I of the Defense Production Act the President has the authority to take machine tools off production lines if shortages should jeopardize defense production priorities.

"Manpower training objectives would be met if the tools were surplused since they could then be donated on a priority basis to educational institutions.

"Alternatives to the present NIER program have been given careful consideration and were subsequently reviewed in light of the Congressional action on the 1973 supplemental appropriation. As discussed with members of your staff, we have determined that, rather than reactivate the NIER program, the tools should be declared excess so that they might be donated to schools for vocational training purposes. If appropriate, a national security clause should be placed on the excessed tools as a contingency for effective recall in time of emergency. Furthermore, if in your judgment some of these tools are required for defense purposes, they can be transferred to the Defense General Industrial Reserve.

"In order to assure early delivery of these tools to the schools, immediate steps should be taken to declare the tools excess and work out arrangements with the General Services Administration to assure an effective and orderly transition. Such arrangements should provide for Government disinvestment of the tools now in reserve as well as those in the future which would otherwise be added to the NIER inventory."

Also attached with your letter to us is a copy of your remarks appearing in the Congressional Record for August 3, 1973, at pages 27273–74. You state therein that a total of $900,000 of the appropriation for NIER made by Public Law 93–25 has now been released to GSA as reimbursement for expenses incurred in the operation of the program during the first half of fiscal year 1973. You also refer to testimony by GSA's Assistant Administrator for Administration indicating his understanding that OMB intends to utilize the remaining $900,000 of the appropriation to implement the alternative plan outlined in the OMB memorandum of May 24. See Hearings before a Subcommittee of the House Appropriations Committee on Treasury, Postal Service, and General Government Appropriations for Fiscal Year 1974 (Part 4), page 813. Finally, your remarks of August 3 quote from a letter to you from GSA, dated June 12, 1973, which describes the procedures which would be required under the OMB plan as follows:

"Implementation of the Office of Management and Budget (OMB) plan for termination of the NIER program would require, first that the NIER tools be declared excess to the needs of the Department of Defense (DOD). They would then be screened among the Federal agencies for possible Federal utilization. If no further Federal need for the tools were determined, the equipment would be declared surplus and be made available for donation by the General Services Administration through the Department of Health, Education, and Welfare (HEW).

"Under existing DHEW procedures the tools would be allocated to State agencies for Surplus Property, not directly to schools. The distribution to schools or other eligible donees within each State would be accomplished by the State Agency."

In view of the foregoing, you request our opinion (1) whether OMB has legal authority to direct the Secretary of Defense to declare all NIER machinery excess and dispose of it through the surplus property donation program, and (2) whether OMB can authorize the expenditure of funds appropriated for NIER for the purpose of abolishing NIER.

Our Office has had occasion to study the impoundment aspect of current executive branch actions with respect to NIER. The $1.8 million appropriation to GSA contained in Public Law 93–25 was made for the purpose of restoring and carrying on the NIER program, and was necessarily based upon a congressional determination that the program should continue—at least pending further congressional review. By contrast, it is clear that OMB's actions and plans with respect to NIER, discussed previously, amount to termination of the program envisioned and provided for in Public Law 93–25. Thus the congressional determination upon which the appropriation is based has been reversed by OMB.

OMB's most recent report pursuant to the Federal Impoundment and Information Act, as amended, submitted to the Congress and to our Office on July 16, 1973, indicates that as of June 30, 1973, $850,000 of the appropriation for NIER made by Public Law 93–25 has been placed in reserve, i.e., impounded. See page 31 of the itemized list of impoundments set forth therein. This impoundment is "explained" in the report by reference to two standard "reason(s) for reserve action." These reasons, which purport to invoke the authority of the so-called Antideficiency Act, 31 U.S.C. 665, read as follows:

"'To achieve the most effective and economical use' of funds available for periods beyond the current fiscal year (31 USC 665 (c)(1)). This explanation includes reserves established to carry out the Congressional intent that funds provided for periods greater than one year should be so apportioned that they will be available for the future periods." and

"Temporary deferral pending the establishment of administrative machinery (not yet in place) or the obtaining of sufficient information (not yet available) properly to apportion the funds and to insure that the funds will be used in 'the most effective and economical' manner (31 USC 665(c)(7)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specifications."

The NIER appropriation is available until expended, and is thus within the application of 31 U.S.C. 665(c)(1). However, in view of OMB's actions and plans, we do not understand how the $850,000 reserve from this appropriation can be justified as an effort to achieve the most effective and economical use thereof. We certainly do not believe that this reserve can in any sense be considered in furtherance of, or even consistent with, congressional intent. The second reason apparently refers to a deferral pending implementation of the OMB plan by the Secretary of Defense, since neither the appropriation nor the authorizing statute would seem to require the development of any elaborate plans, designs or specifications by GSA.

In our judgment, neither of the reasons cited by OMB provides any legal basis for the current impoundment of the NIER appropriation. It is clear that the Antideficiency Act does contemplate, and in fact requires, reserve or impoundment actions which are designed in good faith to promote the economical and efficient application of appropriations to the purposes for which provided. However, we have on several occasions expressed the opinion that the Antideficiency Act does not authorize impoundments based upon general economic, fiscal or policy considerations which are in derogation of the purposes of an appropriation. We believe that the NIER impoundment must be placed in the latter category as a policy impoundment whereby OMB has substituted its judgment as to the desirability of NIER for that of the Congress.

For the reasons stated above, it is our opinion that the appropriation made by Public Law 93–25 requires that the NIER program be reactivated and carried on as provided for in the National Industrial Reserve Act. Accordingly, we conclude in general that there is no legal basis for OMB's plan to "redirect," "disinvest" or otherwise terminate NIER; nor do we believe that the appropriation may be impounded or diverted from its intended purposes in connection with the OMB plan.

With specific reference to your first question, the OMB Deputy Director's memorandum to the Secretary of Defense, set forth previously herein, states that OMB has "determined" not to reactivate NIER. It is further stated that NIER tools should be declared excess so as to permit their donation to schools, although provision is made for transfer to the Defense General Industrial Reserve of any NIER tools which the Secretary determines are still required for defense purposes.

The OMB memorandum appears by its terms to afford the Secretary the option of either declaring items of NIER equipment excess or transferring them to the general reserve. On the other hand, it clearly deprives the Secretary of any discretion to retain any equipment in NIER. Such discretion is expressly committed to the Secretary under the National Industrial Reserve Act, and we do not believe that OMB has any authority to interfere with its exercise. The act does contemplate periodic reviews of NIER stores, and the Secretary clearly has authority to declare any or all NIER equipment excess to the needs of the Department of Defense or to transfer items to the general reserve. However, such determinations are by statute his alone. It might be noted that the Secretary has no authortiy to donate excess property to schools. As indicated in GSA's letter to you, such property would first have to be declared surplus to the needs of the Federal Government by GSA and then transferred through the Department of Health, Education, and Welfare to a State agency for donation by the State agency.

With reference to your second question, we believe for the reasons stated previously that the appropriation made by Public Law 93–25 is available for expenditure only in connection with reactivation and operation of NIER. No portion of the $1.8 million appropriation has been or apparently will be used for these purposes. GSA's letter to you indicates that the amounts apportioned thus far were treated as reimbursement to that agency's operating expense account for costs relating to NIER incurred prior to April 30, 1973. While this account was used in the past to finance NIER, it appears in view of OMB's plan that the funds apportioned will ultimately be used for some other activity serviced by the same account. We have no way of knowing precisely when or how these amounts will actually be disbursed. It is also unclear precisely how the remaining $850,000 of the appropriation now in reserve will be used even if the OMB plan is implemented. In this regard, GSA's letter to you states that additional funds would not be required to handle the normal offering of NIER tools for further Federal use or for donation, and that out-handling costs could be recovered from recipients. In any event, as stated previously, it is our opinion that the appropriation made by Public Law 93–25 is required to be used to implement the National Industrial Reserve Act, and is not available for any other purpose or activity.

Sincerely yours,

Elmer B. Staats,

*Comptroller General of the United States.*